CURRENT PERIODICAL SERIES

PUBLICATION NO: 2575

TITLE: FEDERAL REGISTER

VOLUME: 38

ISSUES: 170-188
pages 23765-27204

DATE: September 1973
Reel 9 of 12

Notice: This periodical may be copyrighted, in which case the contents remain the property of the copyright owner. The microfilm edition is reproduced by agreement with the publisher. Duplication or resale without permission is prohibited.

Xerox University Microfilms, Ann Arbor, Michigan

MICROFILMED — 1974

# VOL 38

# federal register

# index

SEPTEMBER 1973

Volume 38 Numbers 170-188

Pages 23765-27203




INDEX

XUM

The FEDERAL REGISTER INDEX is published monthly and annually. Entries are carried primarily under the names of the issuing agencies. Significant subjects are also carried.

A numerical finding aid keyed to the Code of Federal Regulations (List of CFR Sections Affected), is published monthly and is cumulated each month during the calendar year.

A list of pages and dates of publication in the FEDERAL REGISTER appears at the end of this INDEX.



INDEX


Page

## Additives:

COLOR. *See* Food and Drug Administration.
FOOD. *See* Environmental Protection Agency; Food and Drug Administration.
FUEL. *See* Environmental Protection Agency.

## Adhesives, Spray:

BANNED AS HAZARDOUS SUBSTANCES. *See* Consumer Product Safety Commission.

## Advertising:

*See* Interstate Land Sales Registration Office.

## Aged:

*See also* Aging Administration; Social and Rehabilitation Service; Social Security Administration.
HEALTH INSURANCE. *See* Social Security Administration.
MEDICARE. *See* Social Security Administration.
NUTRITION PROGRAMS for. *See* Food and Nutrition Service; Health, Education, and Welfare Department.
SUPPLEMENTAL SECURITY INCOME payment ..... 26804

## AGING ADMINISTRATION:

DEFINITIONS, etc., records, of grantees administrative requirements, etc ..... 26202
NUTRITION PROGRAMS FOR ELDERLY, postponement of certain requirements ..... 24900
RESEARCH AND DEVELOPMENT PROJECTS, interest on grant funds, termination of grant, etc.; certain revocations ..... 26202
STATE AND COMMUNITY PROGRAMS ON AGING, grants for:
  Cost sharing, termination of grants, etc ..... 26202
  Proposed rules ..... 23912
TRAINING PROJECTS, interest on grant funds, termination of grant, etc., certain revocations ..... 26202

## AGRICULTURE DEPARTMENT:

*See Commodity Credit Corporation.*
*Farmers Home Administration.*
*Federal Crop Insurance Corporation.*
*Food and Nutrition Service.*
*Forest Service.*
*Rural Electrification Administration.*
*Soil Conservation Service.*
ALMONDS:
  Marketing:
    California, 24911, 25668, 26181.
ANIMALS AND PRODUCTS:
  *See also* Meat and products; Packers and Stockyards Administration.
  Diseases:
    Exotic Newcastle disease in poultry, psittacosis, etc., 23940, 26904.
    Scabies in cattle, 24346, 26904.
  Hogs, live, designation of Mid-America Commodity Exchange of Chicago as contract market ..... 26219
  Import restrictions, swine, pork, and products ..... 25669
  Overtime services, imports and exports; travel time ..... 23934, 23940
  Swine:
    *See also* Diseases, *above.*
    Import restrictions ..... 25669
  Viruses, serums, toxins, etc. *See* Viruses, serums, etc. *below.*
APRICOTS:
  Standards for grades, canned, solid-pack; proposed rules, correction ..... 27068
ASPARAGUS, frozen:
  Standards for grades, proposed ..... 24910
AUTHORITY DELEGATIONS:
  By Secretary to various officials:
    Assistant Secretaries and Director of Agricultural Economics, committee management ..... 24633
    Commodity Exchange Commission Chairman, designation ..... 26744
  From General Services Administrator; appointment of uniformed guards as special policemen on Plum Island, N.Y ..... 23838

Page

BIOLOGICAL PRODUCTS. *See* Viruses, serums, toxins, *below.*
BIRDS, commercial, import restrictions; proposed rule, hearing ..... 26808
BUTTER, New York grade AA; equivalent price determination ..... 24670
CARROTS, frozen:
  Standards for grades, proposed ..... 24654
CHERRIES, tart:
  Marketing, tart, certain States ..... 24890
  Standards for grades, red pitted:
    Canned, proposed rule ..... 24904
    Frozen, proposed rule ..... 24907
COMMITTEES, boards, etc.:
  *See also* Meetings.
  Nitrites and Nitrosamines, Expert Panel on; establishment ..... 26397
COTTON:
  Exports, reporting requirements; proposed rules ..... 25690
  Marketing quotas, acreage allotments:
    Extra long staple, 1974 crop, 24911.
DAIRY PRODUCTS:
  *See* Butter; Milk and products.
EGGS:
  Shell eggs, grading standards ..... 26797
EXPORTS:
  Cotton, feed grains, oilseeds, wheat and wheat flour; reporting requirements, proposed rules ..... 25690
  Grapefruit, oranges, tangelos, and tangerines grown in Florida ..... 25665
  Overtime, travel time ..... 23934, 23940
FEDERAL SEED ACT, certifying Agency standards for certified seed ..... 25661, 26800
FEE SCHEDULE, Plant and Operations Office ..... 26742
FEED GRAIN:
  Exports, reporting requirements; proposed rules ..... 25690
FEES for licenses for marketing perishable commodities, proposed rule ..... 26207
FLOUR, wheat, reporting requirements; proposed rules ..... 25690
FRUITS:
  *See also specific fruits.*
  Processed, inspection and certification ..... 25165, 26903
GRAIN SORGHUM:
  Standards for grades, proposed rules ..... 23955, 25186
GRANT AND AGREEMENT REGULATIONS, policies and procedure ..... 24671
GRAPEFRUIT:
  Exports, grade and size ..... 25666
  Import restrictions ..... 26108, 26807
  Proposed rules ..... 26807
  Marketing:
    Arizona, 27068.
    California, 27068.
    Florida, 25665, 26454.
    Texas, 26384, 26614, 26615.
HOGS. *See under* Animals and products.
HOPS, domestic:
  Marketing; expenses and rates of assessment for 1973–74 year ..... 23771.
IMPORTS, restrictions, etc.:
  Birds, commercial, proposed rule, hearing, 26808
  Grapefruit, 26108, 26807.
  Milk, proposed rule, 24217.
  Oranges, proposed rule, 26807.
  Overtime, travel time, 23934, 23940.
  Swine, pork, and products, 25669.
LEMONS:
  Marketing:
    Arizona and California, 24345, 24890, 25908, 26443, 27052
MEAT AND PRODUCTS:
  Inspection regulations:
    Prohibited transactions, exceptions and vehicle sanitation; proposed rules ..... 27069
    Sausage products, cooked, frankfurter, weiner, knockwurst, etc., standards; postponement of effective date, correction ..... 24640
MEETINGS, advisory committees and boards:
  Hog Cholera Eradication, 26219.
  Raisin, 26476.
MILK AND PRODUCTS:
  *See also* Butter.
  Importation, proposed restrictions ..... 24217


XUM

## AGRICULTURE DEPARTMENT—Continued


MILK AND PRODUCTS—Continued
Marketing in certain States, orders proposed or adopted:
Arizona, 24216, 25282, 25388.
Arkansas, 24216, 25024, 25823.
Colorado, 24216, 25282, 25409.
Connecticut, 24216.
Delaware, 24216.
District of Columbia, 24216.
Florida, 24216.
Georgia, 24216, 25024.
Idaho, 24216.
Illinois, 23796, 24216, 25186, 25448, 25561, 25771, 25782, 25813, 26182, 27053.
Indiana, 24216, 25792, 25802.
Iowa, 24216, 24670, 25553, 25561, 25582, 25616, 25624, 25633, 25640.
Kansas, 24216, 24654, 25024, 25569, 26707.
Kentucky, 24216, 25024, 25792, 25834.
Louisiana, 24216, 25024, 25190.
Maryland, 24216.
Massachusetts, 24216.
Michigan, 24216.
Minnesota, 24216, 24670, 25542, 25552, 25598, 25607, 25624.
Mississippi, 24216, 25024.
Missouri, 24216, 25024, 25569, 25823, 25834.
Nebraska, 24216, 25582.
Nevada, 24216.
New Hampshire, 24216.
New Jersey, 24216.
New Mexico, 24216, 25282, 25409.
New York, 24216.
North Dakota, 24216, 25542.
Ohio, 24216.
Oklahoma, 24216, 25282, 25303, 25314, 25398.
Oregon, 24216.
Pennsylvania, 24216.
Rhode Island, 24216.
South Dakota, 24216, 25582, 25624.
Tennessee, 24216, 25024.
Texas, 24216, 25282, 25303, 25325, 25336, 25358, 25359, 25377, 25398, 25409, 26709.
Utah, 24216.
Vermont, 24216.
Washington, 24216.
Washington, D.C. *See* District of Columbia, *above*.
West Virginia, 24216.
Wisconsin, 23796, 24216, 25448, 25598, 25607, 25771, 26182.
Wyoming, 24216, 26729.

NUTS. *See* Almonds; Peanuts.
OILSEED:
Exports, reporting requirements; proposed rules 25690
OLIVES, ripe:
Marketing, 1973–74:
California, 24215, 24910, 27053.
Standards for grades, canned ripe olives 24344
ORANGES:
Exports, grade and size 25665
Proposed rule 26454
Import restrictions, proposed rule 26807
Marketing:
Arizona and California:
Valencia, 24215, 25431, 25907, 26353, 26601, 26903.
Florida, 25665, 26454.
Texas, 26384, 26614, 26615.
OVERTIME SERVICES, imports and exports:
Animals and products:
Travel time, commuted, 23934, 23940.
PACKERS AND STOCKYARDS ADMINISTRATION:
Deposting of stockyards 26621
PAPAYAS:
Marketing:
Hawaii, 24345.
PEANUTS:
Marketing, outgoing quality regulation and indemnification, 1973 crop 26949
PEARS:
Marketing, fresh:
Beurre D'Anjou, Beurre Bosc, etc.:
California, Oregon, and Washington, 26615.
PERISHABLE AGRICULTURAL COMMODITIES, marketing; proposed license fees 26207
PLANT QUARANTINE:
Domestic:
Cereal leaf beetle, termination, 25664.
Citrus blackfly, proposed rule, 26808.
PORK AND PRODUCTS, import restrictions 25669
POTATOES, Irish:
Marketing:
Colorado, 25667.
Oregon, 26384.
Research and promotion plan, representation on National Potato Promotion Board 26354
POULTRY AND PRODUCTS:
*See also* Eggs.
Inspection:
Dressed poultry, handling and marking; deletion of certain restrictions, inquiry 24374
Imported products, labeling of immediate containers; proposed rules 26458
Labeling and official marks of inspection, proposed rule 26455
Post mortem inspection, airsacculitis; proposed rule 26454
Records required to be kept, proposed rule 26458
Transactions, vehicle sanitation requirements; proposed rules 27070
QUARANTINE:
Animal diseases. *See* Animals and products.
Plants. *See* Plant quarantine.
RAISINS:
Marketing:
California, grapes from, 26729.
RICE:
Marketing quotas, acreage allotments, 1974 crop 27068
SEEDS:
*See also* Oilseeds.
Federal Seed Act, standards for certified seed 25661, 26800
SOIL SAMPLES, list of approved laboratories to receive samples for processing, testing or analysis 26739
SUGAR:
Conditional payments, commercially recoverable sugar, determination of rates of recoverability:
Beet sugar, 1973 crop, 26706.
Prices:
Sugarbeets:
1974 crop, 27100.
Wage rates:
Sugarbeets:
1974 crop, 27100.
TANGELOS:
Exports, grade and size 25666
Marketing:
Florida, 25665, 26454.
TANGERINES:
Exports, grade and size 25666
Marketing:
Florida, 25665, 26454.
TOBACCO:
Marketing quotas, acreage allotments, etc.:
Flue-cured:
1974–75, 1975–76, and 1976–77 marketing years, 23935.
TOMATOES, fresh:
Standards for grades 23931
TRANSFER OF JURISDICTION, Laurel River Lake, Ky., joint order by Secretaries of Army and Agriculture; correction 25457
VEGETABLES:
*See also specific vegetables.*
Processed, inspection and certification 25165, 26903
VIRUSES, SERUMS, TOXINS, etc.:
Biological products, licenses and permits; proposed rules 23958
Standard requirements, proposed rules:
Diagnostics and reagents 26118
Guinea pig safety test 26118
Inactivated biological products 26123
Live bacterial vaccines 26129
Mouse safety test 26118
WHEAT:
Exports, wheat and flour; reporting requirements, proposed rules 25690
Processor marketing certificate regulations; termination of program, correction 25665




## AIR FORCE DEPARTMENT:


*See also* Defense Department.
COURTS-MARTIAL MANUAL, implementation 26802
IDENTIFICATION CARDS, issue and control 23945, 25678
LEGAL ASSISTANCE PROGRAM 26801
MEETINGS, advisory boards, etc.:
Aircraft Structural Integrity Program, 26820.
Scientific, 23808, 24230, 25706, 26011, 26947.
NOTARIAL ACTS, authority of armed forces personnel to perform; Part deleted 26190
RECORDS, disclosure of, editorial changes 26190
RESERVES, appointment in commissioned grades 26891


## Air Pollution:


*See* Pollution.


## Air Quality:


*See also* Environmental Protection Agency.
HIGHWAY PROGRAM GUIDELINES. *See* Federal Highway Administration.


## Aircraft and Air Carriers:


REGULATORY AGENCIES. *See* Civil Aeronautics Board; Federal Aviation Administration.


## Airports:


FEES AND CHARGES by foreign governments for facilities and services. *See* Civil Aeronautics Board.


## ALCOHOL, TOBACCO AND FIREARMS BUREAU:


FIREARMS:
Federal Firearms Act, relief from provisions 26137


## Alcoholic Beverages:


INDIANS, legalization of sale or possession, Tulalip Indian Reservation, Wash 27099


## Aliens:


IMMIGRATION. *See* Immigration and Naturalization Service.


## Almonds:


*See* Agriculture Department.


## American Revolution Bicentennial Commission:


MEETINGS, committees:
Heritage '76; 23988.
Horizons '76; 24395.


## Animals:


*See also* Marine mammals; Wildlife and refuges.
DISEASES, stockyards, etc. *See* Agriculture Department.
DRUGS, FOOD ADDITIVES, etc. *See* Food and Drug
HORSE AND BURRO MANAGEMENT. *See* Land Management Bureau.


## Antidumping:


INVESTIGATIONS, DETERMINATIONS. *See* Tariff Commission; Treasury Department.


## Apricots:


*See* Agriculture Department.


## ARMY DEPARTMENT:


*See also* Defense Department.
CANAL ZONE regulations. *See main heading* Canal Zone.
ENGINEERS CORPS. *See main heading* Engineers Corps.
MEETINGS, advisory committees, etc.:
Junior Science and Humanities Symposia, 26217.
National Dredging Study, 26618.
Scientific, 26821.
TRANSFER OF JURISDICTION, Laurel River Lake, Ky., joint order by Secretaries of Army and Agriculture; correction 25457


## Arts and Humanities, National Foundation on:


MEETINGS, advisory panels, etc.:
Arts, 24936.
Planning Office, 24686.
Public Programs, 25235.
Research Grants, 23839.
Scientific Knowledge and Human Values, 23838.
Senior Fellowships, 25235.
Summer Seminars for College Teachers, 23990, 23991.


## Asparagus:


*See* Agriculture Department.


## ATOMIC ENERGY COMMISSION:


ENVIRONMENTAL PROTECTION:
Environmental statements. *See list at end of this agency.*
Licensed facilities, memorandum of understanding with Environmental Protection Agency 24936
INFORMATION:
Records, public, charges for provision of; proposed rules 27096
Unclassified activities in foreign atomic energy programs, production of special nuclear material 23953
MEETINGS, advisory committees, etc.:
General, 24937.
High Energy Physics, 25463.
Reactor Safeguards, 23814, 24937, 24938, 25711, 26224, 26398, 26755, 26953, 26954, 26955.
U.S. Nuclear Data, 23815.
NUCLEAR MATERIAL:
Byproduct material:
Licenses for use, manufacture and distribution of carbon-14 for in vitro clinical or laboratory testing 26813
Fundamental controls, proposed rules 26735
Production information, unclassified activities in foreign atomic energy programs 23953
Uranium enrichment services agreements, provision of facilities 24937
REACTORS AND CRITICAL EXPERIMENT FACILITIES:
Construction and/or operation:
Licenses, permits, applications, etc.:
*See also list at end of this agency.*
Application contents and conditions of licenses, operator requalification program; correction 26354
Export licenses, contents of applications to export utilization facilities; proposed rules 26815
RECORDS, public, charges for provision of; proposed rules 27096
REGULATORY GUIDES, availability, etc 26015
URANIUM. *See under* Nuclear material, *above*.
HEARINGS, LICENSES, PERMITS, ENVIRONMENTAL STATEMENTS, ETC.:
Alabama Power Co., 24675.
Cleveland Electric Illuminating Co., 26755.
Commonwealth Edison Co., 23814, 26014, 26954.
Consolidated Edison Co. of New York, Inc., 24937.
Consumers Power Co., 24395.
Dairyland Power Cooperative, 24395.
Delmarva Power & Light Co., 24396, 25710, 26481.
Duke Power Co., 25710, 26755, 27106.
Duquesne Light Co. et al., 24244.
Florida Power & Light Co., 26482, 26483, 27106.
Friends of the Earth, 23815.
Georgia Power Co., 24675.
Gulf Oil Corp., 26399.
Honeywell, Inc., 24396.
Iowa-Illinois Gas & Electric Co., 23814.
Jersey Central Power & Light Co., 26626.
Maine Yankee Atomic Power Co., 26147.


INDEX

XUM

## ATOMIC ENERGY COMMISSION—Continued

HEARINGS, LICENSES, PERMITS, ENVIRONMENTAL STATEMENTS, ETC.—Continued
Metropolitan Edison Co. et al., 24244.
Mississippi Power & Light Co., 25710.
Nader, Ralph, 23815.
Niagara Mohawk Power Corp., 26626.
Northern Indiana Public Service Co., 24397.
Northern States Power Co., 24937.
Pennsylvania Power & Light Co., 25711.
Philadelphia Electric Co., 24396, 25710, 26481.
Potomac Electric Power Co., 24397, 25711, 26481.
Power Reactor Development Co., 26399.
Public Service Electric & Gas Co., 25463.
Toledo Edison Co., 26755.
United Nuclear Corp., 26756.
Wisconsin Public Service Corp. et al., 26399, 26626.

## Automobiles:

*See* Motor vehicles.

B

## Banks:

*See* Federal Deposit Insurance Corporation; Federal Home Loan Bank Board; Federal Reserve System; National Credit Union Administration.

## Barley:

*See* Domestic and International Business Administration; Federal Crop Insurance Corporation.

## Biological Products:

*See* Agriculture Department.

## Birds:

*See* Agriculture Department; Fish and Wildlife Service.

## Black Lung Disease:

*See* Employment Standards Administration.

## Blind:

*See also* Blind and Other Severely Handicapped, Committee for Purchase of Products and Services of.
SERVICE PROGRAMS. *See* Social and Rehabilitation Service.
SUPPLEMENTARY SECURITY INCOME payment---- 26804

## Blind and Other Severely Handicapped, Committee for Purchases of Products and Services of:

PROCUREMENT:
1973 list, additions, deletions, etc- 23820, 24680, 26401, 27107

## Boats:

*See* Vessels.

## Bonds:

*See also specific agencies.*
SAVINGS BONDS. *See* Treasury Department.

## BONNEVILLE POWER ADMINISTRATION:

AUTHORITY DELEGATION by Administrators to Power Management Chief, Power Supply Branch-- 26011
ENVIRONMENTAL STATEMENTS, meetings regarding:
Hungry Horse Cloud Seeding Program, 25706.
MEETINGS, advisory councils:
Bonneville Regional, 24669.

## Bridges:

*See* Coast Guard;

## Butter:

*See* Agriculture Department.

C

## Canada:

BROADCAST STATIONS. *See* Federal Communications Commission.

## CANAL ZONE:

AIR NAVIGATION, general traffic circuit rules------- 26722
FORT GULICK ARMY RESERVATION, revision of boundary ---------- 25438
POSTAGE RATES, schedule change---------- 26775

## Carcinogens:

SAFETY AND HEALTH REGULATIONS. *See* Occupational Safety and Health Administration.

## Carrots:

*See* Agriculture Department.

## Cemeteries, National:

*See* Veterans Administration.

## Cherries:

*See* Agriculture Department.

## Children, Child Protection:

DEPENDENT CHILDREN, aid to families with. *See* Social and Rehabilitation Service.
PACKAGING STANDARDS. *See* Consumer Product Safety Commission.
POISON PREVENTION PACKAGING. *See* Consumer Product Safety Commission.
SERVICE PROGRAMS. *See* Children's Bureau; Social and Rehabilitation Service.
TOYS, hazardous. *See* Consumer Product Safety Commission.

## CHILDREN'S BUREAU:

GRANTS, ADMINISTRATION OF:
Applicability of, allowable costs, etc---------- 26201
Family planning services, special project grants, revocation of Part---------- 26201

## Cigarettes:

TESTING for tar and nicotine content. *See* Federal Trade Commission.

## CIVIL AERONAUTICS BOARD:

AIRCRAFT, wide-bodied, treatment of depreciation for rate purposes---------- 24643
AIRPORTS:
Dallas-Fort Worth Regional Airport investigation--- 26955
Fees and charges by foreign governments for airport facilities and services; proposed rules---------- 26561
CHARTER SERVICE:
*See also under* Economic regulations, *below.*
U.S./Europe, rate policy; proposed rule---------- 25454
ECONOMIC PROCEEDING, practice rules:
Liability and claims, hearing---------- 24923
Stale applications---------- 24895
ECONOMIC REGULATIONS:
Accounts:
Inspection, deletion of reference to Field Audits Division, Accounts and Statistics Bureau---------- 26601
Operating revenues and expenses, transport related; proposed rules---------- 24224
Uniform system:
Certificated air carriers:
Classification of operating revenues---------- 24352
Foreign government charges for airport and en route facilities and services, proposed rules ---------- 26461
Receivables due from air freight forwarders, etc.; proposed rules terminated---------- 24661





Air freight industry, uniform practices; proposed rules terminated---------- 24660
Charter operations:
U.S. carriers:
Travel group charters:
Definitions, reporting requirements, etc.; proposed rules---------- 24666
Classification and exemption:
Air taxi operators:
Registration, filing for; proposed rules---------- 24663
Reports on air safety, etc.; proposed rules------ 26616
Prior proposed rule:
Extension of time---------- 23805
Withdrawal ---------- 26616
Military transportation, exemptions minimum rates- 23775, 23777
Price stabilization program, special, provisions under; Part repealed---------- 26908
Supplemental air transportation:
Prohibited control, revocation---------- 24642
Tariffs of air carriers:
Publication of tariffs for various classes of service; proposed rules, extension of time---------- 23804
FEES AND CHARGES:
Foreign government charges for airport and en route facilities and services, reporting; proposed rules-- 26461
Special services, schedule of filing and license fees:
Proposed rules---------- 24663, 26113
Refunds ---------- 24895
HEARINGS, etc. *See list at end of this agency.*
HOUSEHOLD GOODS of Defense Department personnel, air freight forwarder investigation, temporary relief ---------- 26225
MEETINGS:
Chicago Department of Aviation, 23819.
MILITARY TRANSPORTATION:
Exemptions, minimum rates---------- 23775, 23777
Household goods of Defense Department personnel, temporary relief from air freight forwarder investigation ---------- 26225
ORGANIZATION AND FUNCTIONS:
Field Audits Division, Accounts and Statistics Bureau, deletion of references to---------- 26601

HEARINGS, ETC.:
Aerlinte Eireann Teoranta, 23988.
Aero Mayflower Transit Co., Inc., et al., 26225.
Air Freight Forwarders' charters investigation, 24922, 25214.
Air Traffic Conference of America, 23816.
Air Windsor, Ltd., 23819.
Alaska Airlines, Inc., 27107.
All Air Transport Inc. et al., 26827.
Allegheny Airlines, Inc., et al., 26626.
American Airlines Inc. et al., 25464, 25465, 26399, 26484.
Atlanta-Detroit/Cleveland/Cincinnati investigation, 23988.
Business Jets, Pty., Ltd., 26147.
California and Texas markets, interstate and intrastate fares in, 27107.
Chicago-Los Angeles fare reductions case, 23819.
Compagnie Nationale Air France et al., 24675.
Dallas-Fort Worth Regional Airport investigation, 26955.
Defense Department, 26225.
Eastern Air Lines, Inc., 24677, 25214, 25466.
Gateway Aviation, Ltd., 26627.
Great Western Airlines, Inc., 26400.
Haiti Air Transport, S.A.M., 26627.
Hughes Airwest, 26484.
IU Forwarding, Inc., 26627.
IU International Corp., 26627.
International Air Transport Association, 24679, 25466, 25711, 25712, 26015, 26147, 26484, 26627, 26956.
Kuoni Travel, Inc., 24922.
Kuoni Travel, Ltd. (Switzerland), 24922.
Luthi Aviation, Inc., 26400.
Mail rates:
Domestic priority and nonpriority service, 24245, 24248, 26148.
Miami-Los Angeles competitive nonstop case, 26017.
New England service investigation, 24397.
Ronson Corp., 26959.
Ronson Helicopters, Inc., 26959.
Seaboard World Airlines, Inc., 24677, 25214, 26756.
Sedalia, Marshall, Boonville Stage Line, Inc., 26629.
Starline Aviation Ltd., 24923.
Surinaamse Luchturacht Onderneming N.V., 25486, 26485.
Texas International Airlines, Inc., 26829.
Transatlantic route proceeding et al., 26957.
Trans World Airlines, Inc., 26309.
Universal Airlines, Inc., 25214.

## CIVIL RIGHTS COMMISSION:

MEETINGS, State advisory committees, etc.:
Arizona, 24398, 26485.
Connecticut, 26629.
Florida, 26830.
Indiana, 26629.
Maine, 26630.
Maryland, 24679.
Michigan, 24924.
Nebraska, 24923.
New Hampshire, 24679.
New Jersey, 26485.
New Mexico, 24398.
New York, 24923.
Ohio, 24679.
Pennsylvania, 26630.
Rhode Island, 24679.

## CIVIL SERVICE COMMISSION:

AWARDS, incentive, requirements, etc.; effective date-- 26601
EXCEPTED SERVICE:
Agencies with positions added, amended, or revoked:
Agriculture Department, 26675.
Arts and Humanities, National Foundation on, 26443.
Commerce Department, 24885, 26675.
Emergency Preparedness Office, 25907, 26353.
Environmental Protection Agency, 26443, 26675.
General Services Administration, 26353, 26797.
Health, Education, and Welfare Department, 24885.
Housing and Urban Development Department, 25165, 26181, 26675.
Interior Department, 26675.
Labor Department, 24344.
National Aeronautics and Space Administration, 26353.
National Labor Relations Board, 26797.
Selective Service System, 24885.
Transportation Department, 24885.
Treasury Department, 24885, 25165.
Veterans Administration, 26675.
EXECUTIVE ASSIGNMENT SYSTEM, NONCAREER:
Authorizations, revocations, or title changes; certain agencies:
Agriculture Department, 26225.
Commerce Department, 25214, 25215, 26017.
Defense Department, 26017, 26225.
Drug Abuse Prevention, Special Action Office for, 26226.
Export-Import Bank, 26226.
Health, Education, and Welfare Department, 26017, 26225.
Housing and Urban Development Department, 26017, 26226.
Interior Department, 25215, 26017.
Labor Department, 26226.
Navy Department, 25215.
Small Business Administration, 26226.
Transportation Department, 26226.
LEAVE, minimum charges, units; effective date--------- 26601
MANPOWER SHORTAGES, appointees to certain positions. *See* Travel and transportation expenses, *below.*
PAY REGULATIONS:
General Schedule, pay under:
Minimum rates, certain occupational groups or positions:
Civil engineer, Dover, Del., 24398.
Licensed practical nurse, Boston, Mass., correction, 25215.
Veterinarian, worldwide, 26630.
PERFORMANCE EVALUATION, effective date--------- 26601
PROMOTION, Agency programs; effective date-------- 26601
RESIGNATION, withdrawal; effective date---------- 26601
TRAVEL AND TRANSPORTATION EXPENSES, appointees to certain manpower shortage positions:
Machinist WG-10, Washington, D.C. SMSA and Dahlgren, Va., 26401.

## Coal Mines:

*See* Mines.


INDEX

XUM

## COAST GUARD:

AUTHORITY DELEGATIONS:
From Secretary of Transportation, representation of consumer interests before Connecticut Public Utilities' Commission — 26146
BRIDGES:
Drawbridge operation, rules proposed or adopted:
Alabama:
Alabama River, 24913.
Arkansas:
Red River, 24914.
California:
Corte Madera Creek, 24914.
Miner Slough, 26115.
Florida:
Gulf Intracoastal Waterway, 25438.
Louisiana:
Highway bridges not requiring constant attendance, 26038.
Red River, 24914.
New Jersey:
Rahway River, 24913.
New York:
Genesee River, 25455.
South Carolina:
Ashepoo River, 24913.
Washington:
Columbia and Snake Rivers, 25438.
DANGEROUS CARGOES:
*See also main heading* Hazardous Materials Regulations Board.
Transportation or storage of explosives or other dangerous articles on board vessels; corrosive materials, proposed rules — 23960
EQUIPMENT, CONSTRUCTION, AND MATERIALS; approval and termination of approval notices — 26140, 26142, 26143, 26145
HAZARDOUS MATERIALS, transportation of. *See* Dangerous cargoes, *above*.
MEETINGS, advisory councils, etc.:
Boating Safety, 26140.
New York Harbor Vessel Traffic System, 26480.
Science, 26146.
ORGANIZATION AND FUNCTIONS:
Marine Protection, Research, and Sanctuaries Act; correction — 24902
Retired Serviceman's Survivor Benefit Plan, rental housing; correction — 24902
SECURITY ZONES:
Specific areas:
Gravesend Bay, N.Y., 24898.
New London Harbor, Conn., 23804.
SPECIFICATIONS:
Lifesaving equipment:
Liferafts, inflatable, inspections and tests; proposed rule — 26939

## Color Additives:

*See* Food and Drug Administration.

## COMMERCE DEPARTMENT:

*See Domestic and International Business Administration.*
*Foreign Direct Investments Office.*
*Maritime Administration.*
*National Bureau of Standards.*
*National Oceanic and Atmospheric Administration.*
*National Technical Information Service.*
*Patent Office.*
*Social and Economic Statistics Administration.*
MEETINGS, advisory committees, etc.:
Management-Labor Textile, 26624.
NONDISCRIMINATION in federally assisted programs, correction — 23777
ORGANIZATION AND FUNCTIONS:
Communications Office — 25212
Domestic and International Business Administration — 26476
National Bureau of Standards — 25212
National Oceanic and Atmospheric Administration — 26477
Patent Office — 25213
TARIFF SCHEDULES of U.S., statistical requirements; information on all imports — 27100
VOTING AGE POPULATION, estimates as of July 1, 1972; correction — 23987

## COMMODITY CREDIT CORPORATION:

LOAN AND PURCHASE PROGRAMS:
1973 crops:
Corn, 23935, 26182, 26904.
Peanuts, 24634.
Rye, 25668.
Tung nuts, 26006.
PRICE SUPPORT PROGRAMS:
Sales of certain commodities acquired through price support operations, monthly sales list (fiscal year ending June 30, 1974) — 26011
Various programs:
Milk, 23939.
Tung nuts, 26006.

## COMPTROLLER OF CURRENCY:

MEETINGS, regional advisory committees on banking policies and practices:
Third National Bank Region, 23807.
Fourth National Bank Region, 26820.
Tenth National Bank Region, 25706.

## Conduct Standards:

*See specific agencies.*

## Construction Industry:

*See also* Employment Standards Administration.
PHASE IV regulations. *See* Cost of Living Council.

## CONSUMER PRODUCT SAFETY COMMISSION:

CHILD PROTECTION PACKAGING STANDARDS:
Prescription drugs, certain, requirements for; proposed rules — 25196
FLAMMABILITY STANDARDS:
Flammable Fabrics Act, institution of enforcement policy regarding — 24923
Mattresses:
Alternate sampling plan for mattresses and mattress pads, approval — 26757
HAZARDOUS SUBSTANCES:
Administration and enforcement regulations — 27012
Poison prevention packaging. *See under* Child prevention packaging standards, *above*.
Spray adhesives as imminent hazard, ban lifted on specific product — 25216
Toys and other electrically operated articles for use by children, requirements; transfer of regulations — 27032
POISON prevention packaging; requirements for certain prescription drugs, proposed rules — 25196

## Consumer Protection:

*See* Consumer Product Safety Commission.

## Contraceptives:

*See* Food and Drug Administration.

## Contractors:

*See* Defense Department.

## Corn:

*See* Commodity Credit Corporation; Domestic and International Business Administration.





## COST ACCOUNTING STANDARDS BOARD:

COST ACCOUNTING STANDARDS:
Allocating costs incurred for same purpose, consistency; definitions, proposed rule — 23977
Definitions, standards:
Actual cost, indirect cost pool, tangible capital asset; proposed rules — 23976
Directly associated, expressly unallowable, and unallowable cost — 24195
Estimating, accumulating, and reporting costs, consistency; definitions, proposed rule — 23977
Home office expense allocations, proposed rules:
Application techniques — 23977
Definitions — 23977
Exemptions — 23977
Tangible assets capitalization:
Definitions, proposed rules — 23977
Unallowable costs, accounting for — 24195
DISCLOSURE STATEMENT, proposed rules:
Basic requirements — 23974
Colleges and universities — 26072
PROCUREMENT PRACTICES, contract coverage, proposed rules — 23972

## COST OF LIVING COUNCIL:

AUTHORITY DELEGATIONS:
By Director to various officials:
Food Office Administrator, decisions on food price increases — 26226
Price Stabilization Office Administrator; decisions on prenotified price increases, exceptions, etc. — 26164
By Executive Secretary to National Commission for Industrial Peace Executive Director, meetings — 26226
CONSTRUCTION INDUSTRY:
Phase IV pay regulations, correction — 24214
Phase IV price regulations — 26612, 26917
FOOD INDUSTRY:
Phase III regulations — 24213, 24214
Phase IV price regulations — 24886
FREEZE REGULATIONS:
Purpose and scope — 24214
MEETINGS, committees, etc.:
Food Industry Wage and Salary, 24002, 24690, 26765.
Health Industry, 24924, 25712.
Labor-Management, 26765.
PAPER, price increases, hearing — 24917
PETROLEUM AND PETROLEUM PRODUCTS. *See* Phase IV price regulations, *below*.
PHASE III REGULATIONS:
Meat:
Ceiling prices, temporary, livestock slaughtering price rules — 24214
Gross margin rules, Stage A — 24213
PHASE IV PAY REGULATIONS:
Construction industry, correction — 24214
Executive and variable compensation, proposed rules, corrections — 23806, 24219, 24667
Preamble, correction — 23794
PHASE IV PRICE PROCEDURES:
Prenotifications, reports, purpose and scope — 24890
PHASE IV PRICE REGULATIONS:
Construction industry — 26612, 26917
Exemptions:
Price adjustments:
Postal rates — 23931
Retailing or restaurant activities, petroleum products — 26181
Small business:
Construction industry — 26612
Petroleum products — 26181
Food industry — 24886
Petroleum and products:
Covered products — 26181
Gasoline, diesel fuel, and heating oil retail sales — 23794, 25687
Refiners:
Increased costs, imports and domestic petroleum — 25687
Price rule — 25689
Scope — 24214
Steel prices, special rule — 25427
RECORDS, public access to; correction — 25427
RUBBER TIRES, price increase, hearing — 24917
SOAP AND DETERGENTS, price increase, hearing — 24917
STEEL, special price rule — 25427

## Cotton:

*See* Agriculture Department; Domestic and International Business Administration.

## Cotton Textiles:

IMPORT RESTRICTIONS. *See* Textile Agreements Implementation Committee.

## Cottonseed:

*See* Domestic and International Business Administration.

## Credit Unions:

*See* National Credit Union Administration.

## Cuba:

TRAVEL RESTRICTIONS. *See* State Department.
VESSELS, free world and Polish flag, arriving since January 1, 1963. *See* Maritime Administration.

## Currencies, Foreign:

*See* Customs Service.

## CUSTOMS SERVICE:

ARTICLES CONDITIONALLY FREE, subject to reduced rate, etc., editorial changes; proposed rules:
Bonds cancellation, etc — 25996
Forms of withdrawals, bonds — 27095
BONDS, CUSTOMS, proposed rules — 25996
Deletion of prior regulations — 25996
Extensions of periods for compliance with requirements of bonds and stipulations — 27095
BROKER'S LICENSE, CUSTOMHOUSE, cancellation with prejudice of license No. 4010 — 26618
CARNETS, cancellation of erroneous charges; proposed rule — 26004
CONSUMPTION, appraisement, and informal entries; form of entry, proposed rule — 27095
CURRENCIES, FOREIGN, certification of rates — 23808, 24388, 26137, 26820
CUSTOMS SERVICE, U.S., designation — 25171
ENTRY OF MERCHANDISE, proposed rules:
Contents of invoices and general requirements — 27095
Editorial changes — 26004
Entry papers, completion — 23954, 27095
EXAMINATION, SAMPLING, AND TESTING of merchandise; fruit juices, unconcentrated natural, Brix values, proposed rule — 25448
FINANCIAL AND ACCOUNTING PROCEDURE, proposed rules:
Filing identification number — 23954
Increased or additional duties or taxes, editorial change — 25996
LIQUIDATED DAMAGES, act or omission did not occur; proposed rule — 26004
MAIL IMPORTATIONS, entry of merchandise, proposed rule — 27096
ORGANIZATION AND FUNCTIONS:
Customs Service, U.S., designation — 25171
Field organization:
Region I — 24354
Region V, proposed changes — 24374
Region IX:
Proposed changes — 25185
St. Clair, Mich., Station — 25171
PACKING AND STAMPING, MARKING, labeling of wool, fur, and textile fiber products, editorial changes; proposed rules — 29596
PERMITS, SPECIAL, for immediate delivery prior to entry, bond, editorial change; proposed rule — 26004
SPECIAL CLASSES OF MERCHANDISE, editorial changes; proposed rules — 25996
VESSELS in foreign and domestic trades:
Equipment and repairs to American vessels, editorial changes; proposed rule — 27095
Foreign clearances, requirements — 24354


INDEX

XUM

## CUSTOMS SERVICE—Continued

Page

WAREHOUSE AND REWAREHOUSE entries and withdrawals, form of entry, etc.; proposed rules ..... 27096
WAREHOUSES, editorial changes, proposed rules:
Manufacturing, materials for use in ..... 27095
Smelting and refining, application to establish warehouse ..... 25996

D

## Dairy Products:

*See specific dairy products.*

## Dangerous Cargoes:

EXPLOSIVES, etc. *See* Coast Guard.

## DEFENSE DEPARTMENT:

*See Air Force Department.*
*Army Department.*
*Defense Supply Agency.*
*Engineers Corps.*
*Navy Department.*
AUTHORITY DELEGATION from General Services Administrator, representation of consumer interests before certain commissions:
Federal Communications Commission, 25722.
COMMITTEES:
*See also* Meetings, *below.*
Hemoglobinopathy Policy Review Advisory Committee; establishment and organization and functions ..... 26471
CONTRACTING, reporting procedures; contractors receiving negotiated contract awards of $10 million or more ..... 25990
EQUAL OPPORTUNITY, off-base housing program ..... 26720
MEETINGS, advisory committees, etc.:
Electron Devices, 24669.
Employer Support of Guard and Reserve, 26821.
High Energy Laser Review, 26217.
Science, 26471.
Wage, 26471.

## Defense Mobilization:

*See* Domestic and International Business Administration.

## DEFENSE SUPPLY AGENCY:

INFORMATION, official, availability to public; redesignation of Part ..... 24206

## DELAWARE RIVER BASIN COMMISSION:

COMPREHENSIVE PLAN, hearing ..... 26403

## Disaster Areas:

FEDERAL ASSISTANCE. *See* Federal Disaster Assistance Administration; Small Business Administration.

## Discrimination:

*See* Nondiscrimination.

## DISEASE CONTROL CENTER:

COMMITTEES:
*See also* Meetings, *below.*
Tuberculosis Control Advisory Committee, renewal ..... 26137
Venereal Disease Control Advisory Committee, renewal ..... 26137
MEETINGS, advisory committees, etc.:
Safety and Occupational Health, 24672.
Venereal Disease Control, 24672.
OCCUPATIONAL SAFETY AND HEALTH:
*For prior regulations see* National Institute for Occupational Safety and Health.
*See also main heading* Occupational Safety and Health Administration.
Gas detector tube units, approval:
Applications, schedule ..... 26223

## DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION:

Page

AGRICULTURAL COMMODITIES. *See under* Export control, *below.*
DEFENSE MOBILIZATION ACTIVITIES, ratification of certain Domestic Commerce Bureau actions ..... 25175
EXPORT CONTROL:
Commodity control list, short supply controls on agricultural commodities discontinued ..... 26908
Reporting requirements, agricultural commodities:
Forms, filing instructions and weekly reporting requirements ..... 23778
Optional sales, separate accounting for ..... 25446
Specific commodities:
Barley, 23778.
Corn, 23778.
Cotton, 23778.
Cottonseed and products, 23778.
Grain sorghum, 23778.
Oats, 23778.
Rice, 23778.
Rye, 23778.
Soybeans and products, 23778.
Wheat, 23778.
Short supply controls:
Agricultural commodities ..... 25184
Discontinuance ..... 26908
Ferrous scrap ..... 26206
EXPORT PRIVILEGES, revocations, etc.:
Even, Arthur W., correction, 24232.
IMPORTS:
Scientific articles, applications for duty-free entry:
American National Red Cross, 24231.
California State University, 26744.
California University, 24231, 24232.
Cornell University, 26744, 26746.
Desert Research Institute, 24230.
Einstein, Albert, College of Medicine, 24231.
Environmental Protection Agency, 24231.
Illinois University, 26747.
Mount Sinai School of Medicine, 24231.
National Cancer Institute, 24231.
National Center for Toxicological Research, 26744.
Nebraska University, 26744.
New York City University, 24231.
New York League for Hard of Hearing, 24230.
North Texas State University, 26747.
Oklahoma University, 26744.
Pennsylvania University, 26744.
Paterson, William, College of New Jersey, 26744.
Princeton University, 24230.
Rhode Island University, 26746.
Rochester University, 26744.
San Francisco State University, 26746.
Syracuse University, 24231.
Tulane Medical School, 24230.
Virginia Commonwealth University, 26744.
Wayne State University, 26744.
Yale University, 24230.
MEETINGS, technical advisory committees, etc.:
Computer Peripherals, Components and Related Test Equipment, 23811, 26476.
Computer Systems, 26822.
Metal Scrap Problems, 23811.
Semiconductor, 26219.
Semiconductor Manufacturing and Test Equipment, 23812, 24231, 24232.
Telecommunications Equipment, 26220.
ORGANIZATION AND FUNCTIONS ..... 26476

## DRUG ABUSE PREVENTION, SPECIAL ACTION OFFICE FOR:

INFORMATION, confidentiality of patient records; redesignation of Part ..... 26611

## DRUG ENFORCEMENT ADMINISTRATION:

EDITORIAL CHANGES, Agency references and Parts redesignation ..... 26609





Page

QUOTAS:
Aggregate production quotas for 1973:
Hallucinogens ..... 26472
Narcotics and cocaine ..... 26472
Stimulents ..... 26472
REGISTRATION:
Manufacturers, distributors, and dispensers:
Bulk manufacture:
Specific companies, applications, objections, hearings, etc.:
Lexington Economy Drug Co., 25210.
SCHEDULES of controlled substances:
Exempt chemical preparations ..... 26610
Schedule I, additions:
4-Bromo-2,5-dimethoxyamphetamine ..... 26448
2,5-Dimethoxyamphetamine ..... 26448
4-Methoxyamphetamine ..... 26448

## Drugs:

*See also* Drug Abuse Prevention, Special Action Office for; Drug Enforcement Administration; Food and Drug Administration.
CHILD PROTECTION PACKAGING STANDARDS, certain prescription drugs, requirements for; proposed rules ..... 25196

E

## ECONOMIC ADVISERS COUNCIL:

MEETINGS, advisory committees:
Women, Economic Role of, 23823.

## Economic Stabilization:

*See* Cost of Living Council.

## Education of Disadvantaged Children, National Advisory Council on:

MEETINGS ..... 23990, 26979

## Education and Educational Facilities:

*See also* Education Office.
SCHOOLS, public, records and reports. *See* Equal Employment Opportunity Commission.
STUDENTS, employment at special minimum wages. *See* Wage and Hour Division.
VETERANS. *See* Veterans Administration.

## EDUCATION OFFICE:

ACCREDITING AGENCIES AND ASSOCIATIONS, nationally recognized; additions to list ..... 24921
ADULT EDUCATION:
*See also* Higher education.
Special projects and teacher training, priorities for fiscal year 1974; proposed rules ..... 26788
State programs, guidelines for ..... 25652
ELEMENTARY AND SECONDARY EDUCATION, deprived children, projects for; comparability of services data ..... 26827
HIGHER EDUCATION:
Opportunity grant program, basic, expected family contribution for dependent and independent students, 1974–1975; proposed rules ..... 26660
MEETINGS, advisory councils, etc.:
Accreditation and Institutional Eligibility, 26013.
Developing Institutions, 24394.
Extension and Continuing Education, 25214.
Indian Education, 26826, 26827.

## Eggs:

*See* Agriculture Department.

## Elderly:

*See* Aged.

## Elections:

Page

*See* Labor Department.

## Emergency Areas:

AGRICULTURAL CREDIT. *See* Farmers Home Administration.

## EMPLOYMENT STANDARDS ADMINISTRATION:

BLACK LUNG BENEFITS:
Claims for benefits ..... 26042
Reduction, receipt of State or Federal benefits ..... 26066
Proposed rules ..... 26069
EMPLOYEE COMPENSATION under Longshoremen's and Harbor Workers' Compensation Act:
Administration and procedures ..... 26861
Extensions, special provisions for ..... 26877
Insurance regulations ..... 26873
Workmen's Compensation Programs Office; functions, definitions ..... 26860
INDEX to general wage determination decisions and modifications as of August 3, 1973 ..... 24574
MINIMUM WAGES for Federal and federally assisted construction, determinations for listed States:
Alabama, 25846.
Alaska, 24478.
Arizona, 24478, 25846, 26534, 27142.
California, 25846.
Colorado, 24478.
Delaware, 27142.
Florida, 24478, 27142.
Georgia, 25846, 27142.
Hawaii, 26534.
Idaho, 24478, 26534.
Iowa, 26534.
Kansas, 27142.
Kentucky, 27142.
Louisiana, 26534, 27142.
Michigan, 25846.
Mississippi, 27142.
Montana, 24478, 25846, 26534, 27142.
Nebraska, 24478, 26534, 27142.
Nevada, 25846, 26534.
New Mexico, 25846, 26534, 27142.
New York, 24478, 26534.
North Dakota, 25846, 27142.
Oklahoma, 25846, 27142.
Oregon, 24478, 26534.
Pennsylvania, 26534, 27142.
Puerto Rico, 26534.
Rhode Island, 24478.
Tennessee, 26534.
Texas, 26534, 27142.
Utah, 26534.
Virginia, 27142.
Washington, 24478, 26534.
West Virginia, 26534.
ORGANIZATION AND FUNCTIONS:
Workmen's Compensation Programs Office ..... 26860
PNEUMOCONIOSIS. *See* Black lung benefits.

## ENERGY POLICY OFFICE:

PROPANE, mandatory allocation program for; proposed rules ..... 23977

## ENGINEERS CORPS:

NAVIGATION REGULATIONS:
Massachusetts:
Weymouth Back River, 25176.
RELOCATION ASSISTANCE, highway and housing; responsibility for costs of improved standards ..... 27098

## ENGRAVING AND PRINTING BUREAU:

CONDUCT on building and grounds and annex, authority citation changes ..... 24898


INDEX

XUM

## ENVIRONMENTAL PROTECTION AGENCY:

Page

AIR PROGRAMS:
*See also* Motor vehicles and engines, *below*.
Ambient air quality:
National primary and secondary quality standards:
Sulfur oxides secondary standard ---- 25681
State implementation plans; preparation, adoption, approval, etc.:
Control systems, supplementary, use for attainment and maintenance of national standards, etc.; proposed rules ---- 25700
Supplementary plans, certain States; rules proposed or adopted, hearings, etc.:
Alaska, 24341.
California, 26462, 26760.
Colorado, 24341.
District of Columbia, 24341.
Florida, 24333, 24341, 26324.
Idaho, 24341.
Illinois, 24341.
Maryland, 24341, 26151.
Michigan, 24341.
New Jersey, 23805.
New York, 23823, 24341.
Oregon, 24341, 26462.
Pennsylvania, 23805.
South Carolina, 24341.
Tennessee, 24341.
Washington, 24321, 26390.
West Virginia, 24341.
Wisconsin, 24341.
Clean Air Act, administration of; Federal contracts, grants, and loans (Executive Order 11738) ---- 25161
Stationary sources of pollution:
Enforcement proceedings, hearings ---- 26403

ENVIRONMENTAL STATEMENTS:
*See also main heading* Environmental Quality Council.
Statements filed by various Federal agencies, EPA comments on, etc.:
Agriculture Department; 26148.
Atomic Energy Commission, 26146.
Commerce Department, 26148.
Defense Department, 26148.
Engineers Corps, 26148.
General Services Administration, 26148.
Health, Education, and Welfare Department, 26148.
Housing and Urban Development Department, 26148.
Interior Department, 26148.
Interstate Commerce Commission, 26148.
Labor Department, 26148.
Maritime Administration, 26148.
National Capitol Planning Commission, 26148.
Transportation Department, 26148.

FOOD ADDITIVES; pesticide residues in processed foods, packaging materials, etc.:
BHC, 25216.

FUELS AND FUEL ADDITIVES. *See under* Motor vehicles and engines, *below*.

GRANTS:
Water programs, State and local assistance:
Development and administration of programs ---- 26358
Treatment works, reimbursement grants ---- 26882

MEETINGS, advisory committees:
Air Pollution Manpower Development, 26151.
Antimicrobial Program, 26227.
Effluent Standards and Water Quality Information, 25217.

MOTOR VEHICLES AND ENGINES, emission standards for air pollution control:
Fuels and fuel additives, unleaded fuel labeling requirement, automatic shut-off requirement, etc ---- 26450

OIL POLLUTION:
Oil storage facilities for removal of discharges by U.S. Government, liability limits for small onshore facilities ---- 25440

PESTICIDE PROGRAMS, pesticides used on crops and raw agricultural products:
Exemptions from tolerance requirements, rules proposed or adopted:
Restricted use, specific pesticides:
Copper triethanolamine, 25440.
Sodium chlorate, 24668.
Unrestricted use, additions, deletions from list ---- 24918
Federal Insecticide, Fungicide, and Rodenticide Act:
Civil penalties proceedings ---- 26360
Federal Environmental Pesticide Control Act of 1972; inquiry, hearing ---- 26227
Labeling, prohibition of nontoxic claims ---- 26360
Memorandum of agreement with Food and Drug Administration, certain changes ---- 24233
Registration of products under Act:
Aldrin and dieldrin, registrations and tolerances, hearings ---- 26403
Cancellations of certain pesticide product registrations:
Mirex:
Determination and order ---- 23989, 24683
Hearing ---- 23823
Specific and temporary tolerances; rules proposed, adopted, or withdrawn:
Atrazine, 24683.
Benomyl, 26450.
Bluret, 24683.
O,O-Diethyl O-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate, 23781, 26913.
Dimethyl tetrachloroterephthalate, 25216, 25455.
Ethephon, 24682.
Oxytetracycline hydrochloride, 23806.
Parathion or its methyl homolog, 26450.
Succinic acid, 2,2-dimethylhyrazide, 24683.

RADIOACTIVE DISCHARGES from nuclear facilities, environmental effects of; understanding with Atomic Energy Commission ---- 24936

RODENTICIDES:
Calcium cyanide, strychnine, sodium nonfluoroacetate, and sodium cyanide, products containing, use; hearings ---- 26404, 26759

WASTE TREATMENT AND DISPOSAL. *See under* Water programs.

WATER PROGRAMS:
Effluent limitations guidelines, standards of performance and pretreatment standards for new sources:
Cement manufacturing category, proposed rules ---- 24464
Feedlots category, proposed rules ---- 24468
Phosphate manufacturing category, proposed rules ---- 24474
Grants, State and local assistance:
Awards, development, etc ---- 26358
Treatment works, reimbursement; eligibility requirements ---- 26882
Oil storage facilities for removal of discharges by U.S. Government, liability limits for small onshore facilities ---- 25440
Pollutant discharge elimination system, national:
State program elements, approval requests for control of discharges of pollutants into navigable waters:
Washington, 27107.
Pollutants, toxic, list ---- 24344
Treatment works, proposed rules:
Cost-effectiveness analysis ---- 24639
Pretreatment standards, pollutant in publicly owned treatment works; hearing ---- 24398
Reimbursement grants, eligibility requirements ---- 26882
Waste treatment planning areas and responsible planning agencies for problem areas ---- 25681
Water Pollution Control Act, administration of; Federal contracts, grants, and loans (Executive Order 11738) ---- 25161
Water quality, interstate standards proposed or adopted for navigable waters; applicability to certain States:
California, 26359.
Florida, 26359.
Hawaii, 26359.
Maryland, 26360.
Mississippi, 26360.
Missouri, 26360.
Puerto Rico, 26463.
South Carolina, 26360.
West Virginia, 26210.





## Environmental Quality, Citizen's Advisory Committee on:

Page

MEETING ---- 24252

## ENVIRONMENTAL QUALITY COUNCIL:

ENVIRONMENTAL STATEMENTS:
Availability. *See list at end of this agency.*
Continental shelf, oil and gas development; hearings ---- 24398

ENVIRONMENTAL STATEMENTS, AVAILABILITY:
Agriculture Department, 23820, 24680, 26018, 26960.
Air Force Department, 24681.
Atomic Energy Commission, 23820.
Commerce Department, 23821, 26020.
Defense Department, 23821, 24681, 26018, 26960.
Engineers Corps, 23821, 24681, 26018, 26960.
Environmental Protection Agency, 26019, 26402, 26961.
Federal Aviation Administration, 26019.
Federal Highway Administration, 23822, 24682, 26019, 26402, 26961.
Federal Power Commission, 24682, 26019, 26961.
Forest Service, 23820, 24680, 26018, 26960.
General Services Administration, 26019.
Housing and Urban Development Department, 26019.
Interior Department, 23821, 24682, 26019.
National Aeronautics and Space Administration, 23822.
National Park Service, 23822.
National Science Foundation, 24682.
Navy Department, 24681, 26961.
Reclamation Bureau, 23821.
Rural Electrification Administration, 24680.
Soil Conservation Service, 23820, 24681, 26018, 26960.
Sports Fisheries and Wildlife Bureau, 23821, 24682.
Transportation Department, 23822, 24682, 26019, 26402, 26961.
Urban Mass Transportation Administration, 26962.
Veterans Administration, 24682.
Water Resources Council, 26020.

## EQUAL EMPLOYMENT OPPORTUNITY COMMISSION:

SCHOOLS, elementary and secondary systems, districts, and individual schools; personnel and employment recordkeeping and reporting requirements ---- 26719

## Executive Office of President:

*See Economic Advisors Council.*
*Management and Budget Office.*

## Executive Orders:

*See* Presidential documents.

## Explosives:

TRANSPORTATION. *See* Coast Guard; Hazardous Materials Regulations Board.

## Exports:

*See* Imports and exports.

F

## Falconry:

MIGRATORY BIRDS. *See* Fish and Wildlife Service.

## FARMERS HOME ADMINISTRATION:

EMERGENCY LOANS, designation of eligible areas:
Texas, 25707.
Washington, 25458.
REAL ESTATE LOANS AND GRANTS:
Farm purchase and development loans to individuals:
Farm ownership loan policies, procedures and authorization ---- 27055
Final payment, authorization ---- 24346

## FEDERAL AVIATION ADMINISTRATION:

AIR CARRIERS and commercial operators of large aircraft, certification and operations:
Airports serving CAB-certificated air carriers, proposed rule ---- 26390
Crewmember and aircraft dispatcher training program, proposed rule ---- 23966
Crewmember qualifications; proficiency checks, proposed rule ---- 23966
Flight training requirements, proposed rules ---- 23967
Handicapped persons, inquiry, hearing, correction ---- 26811
Practical test requirements, proposed rule ---- 23964
Proficiency check requirements, proposed rules ---- 23969
Security:
Pilot compartment security, passenger carrying airplanes; proposed rules withdrawn ---- 26939
AIR TAXI and commercial operators:
Handicapped persons, inquiry, hearing, correction ---- 26811
AIR TRAFFIC AND GENERAL OPERATING RULES:
Flight rules:
Terminal control areas, ATC transponder requirements, correction ---- 24893
AIRMEN, certification:
Pilots, test requirements, transport pilot certificates, proposed rules ---- 23965
AIRWORTHINESS DIRECTIVES:
AiResearch, 26811.
Allison, 24640.
Beech, 24347, 26905, 27045.
Bell, 24641, 25170, 25669, 25670, 27045.
Boeing, 24641, 26358.
Cessna, 27045.
DeHavilland, 23941, 24349, 26800.
Fairchild, 25905.
General Dynamics, 26713.
Grumman, 23962, 25670.
Hiller, 26800.
Mitsubishi, 24349.
Nickel-cadmium batteries, 26713.
Pratt & Whitney, 24641.
AIRWORTHINESS STANDARDS:
Airplane:
Transport category:
Handicapped persons; inquiry, hearing, correction ---- 26811
Pilot compartment security, passenger carrying airplanes; proposed rules withdrawn ---- 26939
FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS:
Colored Federal airways ---- 26444, 26714
Continental control area, alterations ---- 26445, 26732, 26906, 27046
Control areas, alterations ---- 27046
Control zones, alteration ---- 23942, 24204, 25905, 25906, 25907, 26444, 26714, 26730, 26731, 26732, 26906, 26940, 27046
Reporting points:
Alaskan low altitude ---- 26714
Domestic:
Low altitude, alterations ---- 23804
Terminal control areas ---- 26906
Transition areas, alteration ---- 23942, 23969, 24204, 24222, 24350, 24641, 24892, 24914, 25171, 25195, 25424, 25433, 25451, 25452, 25670, 25696, 25906, 25907, 26007, 26112, 26389, 26444, 26445, 26732, 26733, 26734, 26801, 26812, 26813, 26940, 27046
VOR Federal airways:
Domestic ---- 23941, 25452, 25907, 26444, 26734, 26812, 26906, 27081.
HANDICAPPED PERSONS, air transportation for; inquiry, hearing, correction ---- 26811
HAZARDOUS MATERIALS, radioactive, transportation of, suspension of new rule ---- 26446
INSTRUMENT FLIGHT RULES:
Approach procedures, take-off and landing, alterations, etc ---- 24350, 26446, 26715, 26907
Particular routes and intersections ---- 24893
JET ROUTES AND AREA HIGH ROUTES:
Area high routes, alterations ---- 23804, 24204, 25171, 26715, 27081
Jet routes, alterations ---- 26715, 26735, 26907
ORGANIZATION AND FUNCTIONS:
Assistant Chief Counsel, title change from Associate General Counsel ---- 26444
Chief Counsel, title change from General Counsel ---- 26444
Deputy Chief Counsel, title change from Deputy General Counsel ---- 26444


INDEX

XUM

## FEDERAL AVIATION ADMINISTRATION—Continued

RESTRICTED AREAS over military installations, etc.:
Certain States, alterations:
Arkansas, 26732.
Kansas, 26445.
Louisiana, correction, 26445.
New Mexico, 26714.
Utah, 26906.
Virginia, 27046.
SECURITY, pilot compartment, passenger carrying airplanes; proposed rules withdrawn 26939
TECHNICAL STANDARD ORDER AUTHORIZATIONS, proposed deletions:
Emergency communications equipment, portable aircraft 25451
Landing flares order 25451
Position light flashers:
Air carrier aircraft 25451
Single circuit, non-air-carrier aircraft 25451

## FEDERAL COMMUNICATIONS COMMISSION:

AMATEUR RADIO SERVICE:
Repeater stations, licensing and operation, extension of license term 24211, 24924
AVIATION SERVICES:
General operator requirements 25685
CANADIAN BROADCASTING STATIONS:
Standard stations, list changes 26231
Television agreement, changes 26405, 26963, 26964
CITIZENS RADIO SERVICE:
New class, proposed creation; inquiry, time extension 26942
COMMERCIAL RADIO OPERATORS:
Operating authority 25684
COMMUNITY PROBLEMS, ascertainment of, by broadcast applicants; inquiry, time extension 27087
DOMESTIC PUBLIC RADIO SERVICES:
Applications accepted for filing 23824, 24683, 26020, 26485, 27108
Land mobile service, operations between 806 and 960 MHz; proposed rule, hearing, time extension 27082
EXPERIMENTAL BROADCAST SERVICES:
FM broadcast translator and booster stations, unattended operation 25992
Land mobile service, operations between 806 and 960 MHz; proposed rule, time extension 27082
Television:
Booster stations, deleted 26381
Instructional television fixed service, operating requirements, station identification 25991
Translator stations, unattended operation 25992
FREQUENCY ALLOCATIONS:
Call signs 25991
Definitions:
Maritime mobile service 25180
Table, changes:
224–225 MHz, 26944.
406–410 MHz, 24901.
806–960 MHz, 27082.
1427–1435 MHz, 26381.
HEARINGS, etc. *See list at end of this agency.*
INDUSTRIAL RADIO SERVICES:
Business radio service, frequencies available 25182, 26381
Land mobile service, operations between 806 and 960 MHz proposed rule, time extension 27082
INDUSTRIAL, SCIENTIFIC, AND MEDICAL EQUIPMENT:
Land mobile service, operations between 806 and 960 MHz; proposed rule, hearing, time extension 27082
INTERNATIONAL FIXED PUBLIC RADIO COMMUNICATION SERVICES:
Emission limitations, correction 24901
LAND TRANSPORTATION RADIO SERVICES:
Land mobile service, operations between 806 and 960 MHz; proposed rule, time extension 27082
Technical standards:
Transmitter licensing acceptability, radio-location equipment, time extension 24901
MARITIME RADIO SERVICES:
Land stations and Alaska-public fixed stations:
Definitions:
Maritime mobile service 25180
Limited coast stations, telephony, frequency available 24211
Radiotelephony:
Frequencies available 24211
Frequency coordination, proposed rule 26009
Station authorization:
Assignment of call signs 25991
Shipboard stations:
Applications, onboard stations 25181
Definitions:
Maritime mobile service 25181
Onboard communications, use of 25181
Operator requirements, waivers 25181
Radiotelegraphy, station identification 27052
Radiotelephony:
Frequencies available 25368, 25992
Remote control, maneuvering or navigation, proposed rule 25197
Standard technical requirements:
Onboard frequency, emission, transmission, modulation 25181
Station identification 27052
MEETINGS, committees, etc.:
Cable Television, 26229, 26963.
Marine Services, 26229.
Technical (Panel 3), 24925.
ORGANIZATION AND FUNCTIONS:
Chief, Broadcast Bureau 26724
Executive Director, editorial changes 24900
OVERSEAS COMMON CARRIER SERVICES, applications processing, new procedures trial 24403
PRACTICE AND PROCEDURE:
Broadcast applications and proceedings:
Educational, noncommercial, application Forms 340 and 342, inquiry and proposed rule 26212
Hearing proceedings, consolidations, mutually exclusive applications 26202
PUBLIC SAFETY RADIO SERVICES:
Land mobile service, operations between 806 and 960 MHz; proposed rule, hearing, time extension 27082
Technical standards:
Transmitter licensing acceptability, radio location equipment, time extension 24901
PUERTO RICO, TV/FM programming, dual language, inquiry 26464
RADIO BROADCAST SERVICES:
Educational broadcast, ascertainment of community problems and renewal of broadcast licenses, inquiry and proposed rule 26212
FM stations:
Channel assignments:
Arkansas, 26451.
Colorado, 26451.
Florida, 26211.
Idaho, 26390.
Illinois, 26203, 26465.
Indiana, 25991, 26451.
Kansas, 26465.
Kentucky, 26453.
Louisiana, 26451, 26465.
Massachusetts, 26465.
Michigan, 26204, 26451.
Mississippi, 26451, 26463.
Missouri, 26465.
New Jersey, 26465.
North Carolina, 26465.
Oklahoma, 26451.
South Carolina, 26451, 27086.
South Dakota, 25703, 26451.
Tennessee, 26451.
Vermont, 26465.
Virginia, 26203, 26380.
West Virginia, 26380.
Puerto Rico, programming, dual language, inquiry 26464
Sports events 26020, 26230
Land mobile service, operations between 806 and 960 MHz; proposed rule, hearing, time extension 27082





Standard broadcast stations:
Applications ready and available for processing 26407
Canadian stations. *See* Canadian broadcast stations, *above.*
Sports events 26020, 26230
Television stations:
Canadian TV stations; additions, changes, deletions 26405, 26963, 26964
Channel assignments:
South Carolina, 26008.
West Virginia, 26391.
Operating requirements:
Territorial exclusivity in non-network program arrangements 24367
Puerto Rico, programming, dual language, inquiry 26464
Sports events 26020, 26230
SPORTS EVENTS 26020, 26230
TELEPHONE AND TELEGRAPH COMPANIES:
Interstate and foreign message toll telephone service and wide area service, inquiry, time extension 24920
TELEVISION. *See* Radio broadcast services.

HEARINGS, ETC.:
Alabaster Carphone Co., 26227.
Amateur Repeater Stations, 24924.
American Telephone & Telegraph Co., 26761.
Belo Broadcasting Corp., 24924.
Bisbee Broadcasters, Inc., 26962.
Boston Broadcasters, Inc., 26764.
Columbia Broadcasting System, Inc., et al., 24399.
Common Carrier Services Information, 23824, 24683, 26020, 26485, 27108.
Dupage College, 26763.
GTE Satellite Corp., 25712.
Hawaiian Telephone Co., 26405.
Henderson Broadcasting Co. et al., 26406.
Hunt, William D., 24401.
ITT World Communications Inc., 26765.
International Record Carriers, 24399, 27110.
Lexington County Broadcasters, Inc., 24401.
Overseas Common Carrier Services, 24403.
Patrick, R. J., 25720.
Salem Broadcasting Co., Inc., et al., 26232.
Telerent Leasing Corp., et al., 25713, 26487.
Telpage, Inc., 26227.
Vaughn, Jack H., 25720.
Wadeco Inc., 24924.
Wrye Associates, 26962.

## Federal Court Appellate System, Commission on Revision of:

FEDERAL JUDICIAL CIRCUITS, realignment of; hearings 25467

## FEDERAL CROP INSURANCE CORPORATION:

FEDERAL CROP INSURANCE, 1974 crop:
Barley, 25907.

## FEDERAL DEPOSIT INSURANCE CORPORATION:

INTEREST ON DEPOSITS:
Maximum rates:
Ceiling-free time deposits in insured nonmember mutual savings banks 25432
NOW accounts, offering and use by banks in Mass. and N.H.; proposed rules 26391
Scope, advertisement and payment of interest on deposits in insured nonmember banks; Mass 26355

## FEDERAL DISASTER ASSISTANCE ADMINISTRATION:

DISASTER AREAS, Federal assistance:
New Hampshire, 24242.
Pennsylvania, 24242, 26624.
Texas, 26223.

## Federal Employees:

*See* Government employees.

## FEDERAL HIGHWAY ADMINISTRATION:

AIR QUALITY GUIDELINES for use in Federal-aid highway programs, proposed rules 23969
MOTOR CARRIER SAFETY REGULATIONS:
Hours of service of drivers:
Log, specimen, revision of 27049
Parts and accessories:
Brakes, frontwheel, automatic devices for reducing braking effort; proposed rule 25452, 26461
Lighting devices and reflectors, combination, trucks and buses; proposed rule 24223
Safe loading, protection against shifting or falling cargo 25183
Sleeper berths, dimensional requirements; proposed rule 25697
NOISE STANDARDS for highway noise levels, guidelines; inquiry 25696
ORGANIZATION AND FUNCTIONS 26805
STATE ACTION PLANS, considering economic, social and environmental effects of highway projects:
Availability, plans proposed or adopted:
Connecticut, 23987.
Iowa, 24674.

## FEDERAL HOME LOAN BANK BOARD:

BONDS AND DEBENTURES, transactions in consolidated bonds; book-entry procedures 26355
BOOK-ENTRY PROCEDURES, Federal Home Loan Bank securities 26355
FEDERAL HOME LOAN BANK SYSTEM:
Advances, terms of; amortization 26357
Definitions:
Transaction account as NOW account, etc.; proposed rule 26737
Rate of return limitations:
Certificate accounts of $100,000, percentage limitation 23940
Maximum rates on certificate accounts of less than $100,000 25433
Transaction or NOW accounts, returns paid in N.H. or Mass.; proposed rules 26737
FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION:
Board rulings, service corporation subsidiaries of insured institutions 26112
Cease-and-desist and suspension and removal orders, supervisory act with respect to service corporations 26112
Definitions:
Affiliate, service corporation, etc 26110
Lending territory, normal 26712
Operations:
Conversion of State-chartered mutual institution to stock type 24204
NOW accounts, exception for transaction accounts in N.H. and Mass 26713
Nationwide lending:
Approved lenders 26357
Lending territory, beyond normal 26712
Service corporation subsidiaries of insured institutions 26110
FEDERAL SAVINGS AND LOAN SYSTEM:
Conversion from Federal to State charter 24202
Operations:
NOW accounts, payments to third parties by withdrawal or transfer of savings accounts; N.H. and Mass 26710
Percentage-of-assets restrictions based on lending area 26711
Service corporations:
Investments approval, prior, by Board; proposed rules 24228
Joint ventures, proposed rules withdrawn 26133
Preapproving new activities 24201
SAVINGS AND LOAN HOLDING COMPANIES:
Regulated activities:
Acquisitions:
American Financial Corp., 23989.
United Dairy Farmers Investment Co., 23989.


INDEX

XUM

## FEDERAL HOUSING ADMINISTRATION:

GROUP PRACTICE FACILITIES:
Interest rate increase, maximum; on insured mortgage ---- 24638
Correction of prior document ---- 24896
Waiver of eligibility requirements for mortgage insurance, proposed rules ---- 26133
HOSPITALS:
Interest rate increase, maximum; on insured mortgage ---- 24638
Waiver of eligibility requirements for mortgage insurance, proposed rules ---- 26133
INTEREST RATE INCREASE, maximum; on insured mortgage ---- 24637
Correction of prior document ---- 24896
LAND DEVELOPMENT:
Interest rate increase, maximum; on insured mortgage ---- 24637
Correction of prior document ---- 24896
Waiver of eligibility requirements for mortgage insurance, proposed rules ---- 26133
MOBILE HOME LOANS and property improvement:
Claims, recordation; proposed rules ---- 24222
Inspections, factory, standards and procedure, proposed rules ---- 23803
Manufacturer's warranty ---- 25677
STRUCTURAL DEFECTS in homes covered by mortgage insurance, correction of ---- 25994

## FEDERAL INSURANCE ADMINISTRATION:

FLOOD INSURANCE PROGRAM, National:
Areas eligible and special hazard areas:
Arizona, 26367, 26968.
Arkansas, 24358.
California, 23945, 24360, 26113, 26367, 26368.
Colorado, 23944, 24358.
Connecticut, 23945, 24358, 24360, 26114.
Florida, 23944, 24357, 24358.
Idaho, 26113.
Illinois, 23944, 24355, 24357, 24358, 25677, 26114.
Kentucky, 26114.
Louisiana, 23944, 24358, 24360.
Maryland, 24357.
Massachusetts, 23944, 24358, 26367, 26368.
Michigan, 24355, 24357, 25677, 26113, 26114, 26367.
Mississippi, 23943.
Missouri, 23943, 23944, 24356, 24360, 25677, 26113, 26114.
Nebraska, 25094.
New Jersey, 24355, 24357, 24359, 24360, 26114.
New Mexico, 26113.
New York, 23945, 24356, 24359, 24360, 25677, 26114, 26368.
North Carolina, 23945, 26113.
North Dakota, 26113.
Ohio, 25677, 25678, 26114, 26368.
Oregon, 24357, 24360.
Pennsylvania, 23943, 23944, 23945, 24355, 24356, 24357, 24359, 24360, 25677, 25678, 26114.
South Dakota, 24357, 24361.
Texas, 23944, 24356, 25677, 26114, 26367, 26911.
Vermont, 23943.
Virginia, 23944, 25094, 26114.
West Virginia, 26114.
Wisconsin, 23944, 24357, 24361, 25677, 26114.

## FEDERAL MARITIME COMMISSION:

HEARINGS, agreements, licenses, etc. *See list at end of this agency.*
MARITIME CARRIERS:
Contract rate increases, adjustments due to changes in value of tariff currency; proposed rules, extension of time ---- 24228
Intermodal service and tariffs, petition for rulemaking ---- 26943
NONVESSEL OPERATING COMMON CARRIERS in domestic offshore trade with tariffs on file, failure to return questionnaire; show cause order ---- 25715
OIL AND HAZARDOUS SUBSTANCES, financial responsibility for removal of:
Certificates of responsibility issued or revoked ---- 25467, 25468
Proposed rules, extension of time ---- 23979
ORGANIZATION AND FUNCTIONS ---- 26965

HEARINGS, AGREEMENTS, LICENSES, CERTIFICATES, ETC.:
**AAAA Luther Moving & Storage, Inc., 26151.**
**American West African Freight Conference, 24925.**
Barber Lines A.S., 26831.
**Barone, A.B., Forwarding Inc., 24686.**
**Bi-State Development Agency, 23827.**
Bradbury Technical Co., 26964.
**Brady-Hamilton Stevedore Co., 26964.**
Coast Alaska Pacific, Ltd., 26831.
Delaware River Port Authority et al., 25217.
E.M.P. Ocean Freight Forwarding Co., 26831.
Far East Conference, 25217.
Farrell Lines Inc., 26831.
Global Forwarding Co., 26152.
**Globe Export Transfer & Moving, 26831.**
**Granite City Terminals Corp., 24253.**
**Herbelin, P. J., Forwarding Co., Inc., 24686.**
**Kambara Kisen Co., Ltd., 26831.**
Kennelly & Sisman Co., 26831.
Lavino Shipping Co. et al., 26831.
**Los Angeles, city of, et al., 24253.**
Matson Navigation Co. et al., 26407, 26832.
McCabe, Hamilton & Renny Co., 26407.
Med-Gulf Conference, 25469.
Memphis, city of, et al., 24925.
Montiel, Omar, 26831.
Moore-McCormack Lines, Inc., 23826
Powell, C. H., Co., Inc., 24686.
St. Louis, city of, 24926.
St. Louis Terminals Corp., 23827, 24253, 24926.
Sea-Land Service, Inc., 26964.
**U.S. Atlantic Coast/Brazil Southbound Pooling Agreement, 26832.**
United States Lines, Inc., 26971.
Wyatt, Thaddeus W., 26970.
Wyatt, T. W., Co., 26970.

## Federal Pay, Advisory Committee on:

MEETINGS ---- 24675, 26014

## FEDERAL POWER COMMISSION:

EMERGENCIES; fuel and power shortages, etc.:
Natural gas supply for 1973–1974 winter heating season, policy to ensure reliability, and adequacy of service ---- 26604
ENVIRONMENTAL STATEMENTS, availability:
South Carolina Electric & Gas Co., 24418.
Staten Islands project, Eascogas LNG, Inc., and Distrigas Corp., 24407.
HEARINGS. *See list at end of this agency.*
LAND RIGHTS, applications for changes:
Pacific Gas & Electric Co., 26237.
Pennsylvania Power & Light Co., 25473.
NATIONAL GAS SURVEY:
Advisory committees and task forces:
Membership ---- 26771
NATIONAL POWER SURVEY:
Advisory committees and task forces:
Meetings, agenda ---- 24405, 25228, 26645, 26972
Membership ---- 26236
NATURAL GAS ACT regulations, natural gas companies:
Reliability and adequacy of service:
1973–1974 winter heating season, measures to be taken, policy ---- 26604

HEARINGS:
Abercrombie, J. S., Mineral Co., Inc., et al., 24928.
Adobe Oil Co., 26488.
Alabama Power Co., 26631.
Algonquin Gas Transmission Co., 24254, 26232, 26488.
American Public Power Association, 26633.
Amoco Production Co., 25219, 26765.
Apexco, Inc., 24405.
Appalachian Power Co., 24254.
Arkansas Louisiana Gas Co., 24926, 26023, 26233, 26486, 26631.
Arkansas Power & Light Co., 24255, 26233.
Associated Gas Distributors, 24270.
Atlantic Richfield Co. et al., 26234, 26631.
Bahovec Power Project, 23828.
Ballard & Cordell Corp., 26489.
Beasley, Cody C., 24418.





Belco Petroleum Corp., 23828, 24406.
Beren Corp., 24255.
Boston Edison Co., 24256.
Bracken Oil Properties, Inc., 26971.
Brockton Taunton Gas Co., 26631.
Brunson & McKnight, Inc., et al., 26490.
California Co., 26413.
Castle, Inc., 25219.
Central Louisiana Electric Co., 25469.
Central Vermont Public Service Corp., 24257.
Cities Service Gas Co. et al., 23828, 25717, 26234, 26491.
Cities Service Oil Co. et al., 24404, 25717, 26023.
Clinton Oil Co., 24406.
Colorado Interstate Gas Co., 24258, 26632, 26975.
Connecticut Light & Power Co., 25469, 26023.
Consolidated Edison Co., 26632.
Consolidated Edison Co. of New York, Inc., 24927.
Consolidated Gas Supply Corp., 26491, 26632.
Consumer Owned System, 26633.
Consumers Power Co., 23830, 24258, 25220.
Continental Oil Co., 25720.
Cook, Joe Don, 26494.
Corpening Enterprises, 24407, 26491.
Dagger Draw Transmission Corp., 26234.
Dan River, Inc., 26238, 26506.
Dayton Power & Light Co., 24259.
Delmarva Power & Light Co., 25470, 26024.
Detroit Edison Co., 24258, 25220.
Devon Corp., 24259.
Diamond Shamrock Corp., 25220.
Distrigas Corp., 24407.
Duke Power Co. et al., 23830, 24927, 25470, 26491, 26632.
Dyco Petroleum Corp., 24260.
Eascogas LNG, Inc., et al., 24407, 26235.
Eason Oil Co., 25470, 25471.
Edison Sault Electric Co., 23831.
El Paso Electric Co., 24260.
El Paso Natural Gas Co., 23831, 24260, 24261, 24262, 24408, 24414, 25473, 26024, 26235, 26634, 26766.
Emerald Petroleum Corp., 26491.
Emerald Producing Corp. et al., 24408.
Exxon Corp. et al., 24263, 24927, 26492.
Florida Gas Exploration Co. et al., 26493.
Florida Gas Transmission Co., 25220, 25221, 25474.
Florida Power Corp., 26634.
Florida Power & Light Co., 24409, 24927, 26493, 26635.
Franks Petroleum, Inc., 26494.
Gas Marketing, Inc., 26235.
Georgia Power Co., 26635.
Gibson County Utility District, 27113.
Great Lakes Gas Transmission Co., 24928.
Green Mountain Power Corp., 26235.
Gulf Power Co., 26635.
Hamman, Blake, 24255.
Hannifin, D. L., 26494.
Henderson, Ky., city of, 23832.
Hoover & Bracken Oil Properties, Inc., 24409.
Huber, J. M., Corp., 24410.
Hunt, H. L., et al., 24410, 24418.
Hurley Petroleum Corp. et al., 24263.
Illinois Power Co., 26635.
Indiana & Michigan Electric Co., 26236.
Indianapolis Power & Light Co., 23832.
Inexco Oil Co., 26495.
Interior Department et al., 25471, 26643.
Interstate Power Co., 26972.
Iowa Southern Utilities Co., 24263.
Kaiser, Herman Geo., 24263.
Kansas-Nebraska Natural Gas Co., Inc., 23835, 25222, 26636.
Kansas Power & Light Co., 27111.
Kentucky Utilities Co., 23832.
Kerr-McGee Corp. et al., 25221.
Kissinger Petroleums Corp. et al., 24264.
Laclede Gas Co., 24928.
Lone Star Producing Co. et al., 25221.
Louisville Gas & Electric Co., 24274.
Lowell Gas Co., 24265, 26236.
MRT Exploration Co., 24411.
Maine Yankee Atomic Power Co., 26496.
Mallary, R. Dewitt, 26974.
Maloney, Gerald P., et al., 24928.
Marigold Transmission Co., 25225.
Marshall, Douglas B., et al., 24411, 26971.
McCracken Oil Trust, 25222.
McCulloch Oil Corp., 26024, 26972.
Mesa Petroleum Co., 24403.
Metropolitan Edison Co., 26972.
Michigan Power Co., 26766.
Michigan Wisconsin Pipe Line Co., 24265, 24274, 26496, 26636, 26973, 27113.
Midwest Oil Corp., 24412, 24929, 25472.
Midwestern Gas Transmission Co., 24265.
Mississippi River Transmission Corp., 26416, 26767.
Mobil Oil Corp. et al., 24265, 24412, 26644.
Mobley, O. B., 25473.
Monsanto Co. et al., 26636.
Montana-Dakota Utilities Co., 26637.
Mt. Carmel Public Utility Co., 26767.
Mountain Fuel Supply Co., 26973.
Munson, E. P., Jr., 24927.
National Exploration Co., 24414, 26497.
Natural Gas Pipeline Co. of America, 26236, 26638, 26767.
New England LNG Co., Inc., 24266.
Northern Indiana Public Service Co., 26639.
Northern Michigan Exploration Co. et al., 24267.
Northern Natural Gas Co., 23833, 23834, 24268, 24414, 26222, 25472, 25473, 26497, 26974.
Northern States Power Co., 23834, 24268, 24929.
Northwest Pipeline Corp., 23835.
Northwestern Public Service Co., 23835, 25222.
Occidental Petroleum Corp., 24415.
Ohio Edison Co., 24268.
Ohio Power Co., 26236.
Oklahoma Natural Gas Co., 23835.
Orange and Rockland Utilities, Inc., 25228.
Otter Tail Power Co., 25223.
Pacific Gas & Electric Co., 24269, 26237, 26498.
Pacific Gas Transmission Co., 26499.
Pacific Power & Light Co., 25223.
Panhandle Eastern Pipeline Co., 24270, 26499, 26639, 26767.
Pennsylvania Power & Light Co., 25473.
Pennzoil Producing Co., 24929.
Perry, Adams & Lewis, Inc., 24415.
Petroleum Corp. of Delaware et al., 24270.
Phillips Petroleum Co. et al., 23836, 26500.
Pioneer Natural Gas Co., 25224.
Portland General Electric Co., 26768.
Potomac Edison Co., 26768.
Producer's Gas Co., 24416.
Public Service Co. of New Hampshire, 25224, 26500.
Ragars Oil & Gas Co., 25224.
Raton Natural Gas Co., 26639.
Read, David D., 24927.
Rodman Corp., 26501.
Ryder Scott Management Co., Inc., et al., 24270.
Sea Robin Pipeline Co., 25224, 26025.
Seattle, Wash., city of, 24257.
Shenandoah Oil Corp. et al., 26501.
Signal Oil & Gas Co. et al., 23828, 26640.
Sklar & Phillips Oil Co. et al., 26502.
Sohio Petroleum Co., 26414.
South Carolina Electric & Gas Co., 24271, 24418.
South Texas Natural Gas Gathering Co., 26769.
Southern California Edison Co., 24271, 24272.
Southern Indiana Gas & Electric Co., 23836.
Southern Natural Gas Co., 26237, 26640, 26770.
Southern Services, Inc., 25473.
Southwest Gas Corp., 26026, 26770.
Southwestern Electric Power Co., 24418, 26237.
Stingray Pipeline Co. et al., 24419, 26503.
Sun Oil Co. et al., 24272, 24419.
Tartan Resources Corp., 24273.
Teel, Roy M., 26026.
Tenneco Inc., 26640.
Tenneco Oil Co., 25225.
Tennessee Gas Pipeline Co., 26237, 26238, 26640.
Terra Resources, Inc., 26026.
Texaco Inc., 25225, 26767.
Texas Eastern Transmission Corp., 25226, 25474, 26027, 26238, 26504, 26505, 26641.
Texas Gas Transmission Corp., 26027, 26505, 26641, 27113.
Toledo Edison Co., 25474.
Tomlinson Drilling Program, 26641.
Transcontinental Gas Pipe Line Corp., 23836, 25227.
Transwestern Pipeline Co., 25227.
Union Oil Co. of California, 26027.
United Gas Pipe Line Co. et al., 24929, 25227, 26642.
Utah Power & Light Co., 26770.


INDEX

XUM

## FEDERAL POWER COMMISSION—Con.

Page

HEARINGS—Continued
Valley Gas Transmission, Inc., 25228, 26974.
Vanderbilt Resources Corp., 24929, 24930.
Vaughn, Jack H., 25720.
Virginia Electric & Power Co., 24273, 24930, 25228, 26238, 26506.
Weimer, Robert Davis, 26640.
Western Massachusetts Electric Co., 26771.
Wisconsin Power & Light Co., 24931.
Wisconsin Public Service Commission, 26644.
Yates, Harvey E., Co., et al., 26415.

## FEDERAL REGISTER:

CFR CHECKLIST ..... 23771

## FEDERAL RESERVE SYSTEM:

BANK HOLDING COMPANIES:
Applications, requests for determinations, etc. *See list at end of this agency.*
CONDUCT STANDARDS, limitations on activities of former members and employees; proposed rules ... 26469
CREDIT:
Brokers and dealers, investment contract securities; proposed rule, extension of time ... 26009
Extension by Federal Reserve banks; advances and discounts, changes in rates ... 23772
Persons other than banks, brokers, or dealers, securities credit by; stock option and employee stock purchase plans ... 26905
INTEREST ON DEPOSITS:
NOW (negotiable orders of withdrawal) accounts, residents of Mass. and N.H.; proposed rule ... 26468
Time deposits, payment before maturity and advertising of interest; penalty for early withdrawals ... 26109
MERGERS of banks, applications, etc.:
FBT Bank, 26772.
Peoples Bank of Stark County, Canton, Ohio, 23837.
OVER-THE-COUNTER MARGIN STOCKS, list ... 24275
RESERVES of member banks:
Gross demand deposits, definition; proposed rule ... 25704
Percentages ... 25985

BANK HOLDING COMPANIES; APPLICATIONS, REQUESTS FOR DETERMINATIONS, ETC.:
Alabama Financial Group, Inc., 26407.
Atlantic Bancorporation, 26152.
Baldwin, D. H., 24933.
Bank of Virginia Co., 26408.
Bankshares of Laramie, Inc., 24274.
Barnett Banks of Florida, Inc., 25721.
Cegrove Corp., 24931.
Central Bancompany, 26152.
Chase Manhattan Corp., 26772, 26832.
Chemical New York Corp., 26506.
Citizens & Southern Holding Co., Inc., 24932.
Combanks Corp., 26772.
Commonwealth National Corp., 23837.
Continental Illinois Corp., 26152.
F & M National Corp., 26833.
Fidelity Corp. of Oklahoma, 26153.
Financial Data Systems, Inc., 26153.
Financial General Bankshares, Inc., 25230.
First Bancshares of Florida, Inc., 23837.
First Commercial Banks, Inc., 26975.
First International Bancshares, Inc., 26833.
First National Boston Corp., 26154, 26160.
First National City Corp., 26506, 26507.
First at Orlando Corp., 27114.
First Pratt Bankshares, Inc., 25231.
First Steuben Bancorp, Inc., 26155.
First Tennessee National Corp., 25721, 26976.
First Virginia Bankshares Corp., 23837, 24933, 26408.
First Western Corp., 24272.
Fort Worth National Corp., 26027.
Frost Bank Corp., 23989.
Greenwood's Bancorporation, Inc., 24934.
Hancock Group, Inc., 26976.
Illinois Neighborhood Development Corp., 26507.
Indian Head Banks, Inc., 27114.
Inland Financial Corp., 24934.
Jacobus Company, 24934.
Landmark Banking Corp. of Florida, 26834.
Lloyds Bank Ltd., 26155.
Manufacturers Hanover Corp., 24419.
Marine Midland Banks, Inc., 26155.
Mercantile Bancorporation, Inc., 24274, 26507, 26508.
Mercantile Bankshares Corp., 26979.
Midlantic Banks, Inc., 23989.
Multibank Financial Corp., 24934, 26977.
Northeast Bankshare Association, 25722.
Northwest Bancorporation, 27114.
Nortrust Corp., 26835.
OTC Margin Stock, 24275.
Old Kent Financial Corp., 26772.
Perpetual Corp., 26155.
Philadelphia National Corp., 26156.
Piedmont Carolina Financial Services, Inc., 25231.
Pierce National Life Insurance Co., 26155.
Quindaro Bancshares, Inc., 26408.
Republic National Bank of Dallas, 26157.
Southeast Banking Corp., 26159, 27115.
Southern Bancorporation, Inc., 26977.
Southwest Florida Banks, Inc., 26159.
Standard & Chartered Banking Group Ltd., 26159.
Swiss-Israel Trade Bank et al., 25232.
U.S. Bancorp, 24935, 26835.
Union Bancshares Co., 23837.
United Missouri Bancshares, Inc., 23838, 26508.
United Penn Corp., 24637.
Waverly Investment Co., 25233.
Wells Fargo & Co., 25234.
West Florida Bank Holding Co., Inc., 26509, 26773.
Wyoming Bancorporation, 26160, 27115.

## FEDERAL TRADE COMMISSION:

CIGARETTES, testing for tar and nicotine content ... 26161
FINANCIAL STATISTICS PROGRAM, QUARTERLY, confidential information from corporations ... 26162
ORGANIZATION AND FUNCTIONS:
Consumer Protection Bureau ... 24687
Executive Director Office ... 24687

PROHIBITED TRADE PRACTICES, CEASE AND DESIST ORDERS:
Alg, Max, 24353.
Argus, Inc., 25434.
Bernstein, Samuel, 24353.
Born Free, 24353.
Greater Kansas City Gas Furnace & Air Conditioning Co., Inc., 24634.
Herrick, Harvey C., 26602.
Hofmann Co., 24352.
Hofmann Construction Co., 24352.
Hofmann, Kenneth H., 24352.
Lerner, Harvey, 24353.
Miller, Richard D., 26602.
Modern Mobile Homes, Inc., 26602.
Mo-Mod Sales, Co., 26602.
Paussa, Alfred V., 26602.
Postage Stamp Service Bureau, Inc., 25435.
Sipe, John L., 26602.
Sipe's Mobile Homes, 26602.
Stretch-ees, Inc., 24353.
Struble, Carlton Lee, 25435.
Svejda, Dennis G., 24634.
Take-12, Inc., 24353.
Uniroyal Merchandising Co., Inc., 25436.

## Feed Grains:

*See* Agriculture Department.

## Firearms:

*See* Alcohol, Tobacco, and Firearms Bureau.

## Fish, Fishing:

*See also* Fish and Wildlife Service; National Oceanic and Atmospheric Administration.
INDIANS, on-reservation treaty, identification cards ... 23945
NATIONAL PARKS, certain, restrictions. *See* National Park Service.





## FISH AND WILDLIFE SERVICE:

Page

BIRDS. *See under* Taking, possession, exportation, etc.
FALCONRY. *See under* Taking, possession, exportation, etc., *below.*
TAKING, POSSESSION, EXPORTATION, etc., of wildlife:
Areas open to hunting and sport fishing. *See under* Wildlife refuges, *below.*
Migratory birds:
Falconry, permits; proposed rules, extension of time ... 23796
Hunting:
Annual season, limit and shooting hour schedules; correction ... 23793
Waterfowl, coots and gallinules, correction ... 26609
WILDERNESS PROPOSALS, hearings:
Nunivak National Wildlife Refuge, 24670.
WILDLIFE REFUGES, National:
Areas open to hunting or sport fishing, rules proposed or adopted:
Alabama, 24651.
Alaska, 25183.
Arkansas, 24652.
California, 25441.
Colorado, 24212, 24369, 25442, 25443.
Delaware, 26727.
Idaho, 24651.
Illinois, 24370, 25183.
Iowa, 26115.
Kansas, 23793, 23794, 25442, 25686.
Louisiana, 24652.
Maryland, 26115.
Massachusetts, 26382.
Michigan, 24373, 24652, 25443.
Minnesota, 24373, 25443, 26116.
Mississippi, 24372, 24652, 25444, 26728.
Missouri, 24371.
Montana, 25686.
Nebraska, 25444, 25445.
Nevada, 24651.
New Jersey, 26382.
New Mexico, 26381.
New York, 25443, 25444, 26115, 26727.
North Dakota, 24370, 24371, 24372, 24373.
Oklahoma, 26727, 26817.
Oregon, 25693, 25992.
South Carolina, 24369.
South Dakota, 26205, 26382.
Tennessee, 24372.
Texas, 24371.
Utah, 24370, 24650, 26383, 26917.
Virginia, 25445.
Washington, 25693, 27052.
Wyoming, 25443.

## Flammable Fabrics:

*See* Consumer Product Safety Commission.

## Floods:

INSURANCE. *See* Federal Disaster Assistance Administration; Federal Insurance Administration.

## Food Additives:

*See* Environmental Protection Agency; Food and Drug Administration.

## FOOD AND DRUG ADMINISTRATION:

ADDITIVES. *See* Color additives; Food additives, *below.*
ASBESTOS PARTICLES in food and drugs, limitations; proposed rules ... 27076
BOTTLES, PLASTIC, for carbonated beverages and beer; notice to manufacturers and distributors regarding requirement of environmental impact analysis ... 24391
CAROB BEAN GUM, transfer from GRAS list for direct human food use; proposed rules, correction ... 24374
COLOR ADDITIVES:
Specific additives:
D&C Brown No. 1, correction, 24206.
D&C Violet No. 2, external correction, 24206.
Ferric amonium citrate, 24643.
Pyrogallol, 24643.

COMMITTEES, advisory bodies, review panels, etc.: Page
Establishments, renewals, etc.:
Anti-Infective Agents, 25709.
Radioactive Pharmaceuticals, 25709.
Meetings. *See under* Meetings, *below.*
CONTRACEPTIVES, postcoital; patient labeling, proposed rules ... 26809
COPPER, restriction on levels in animal feed ... 25694
DIETHYLSTILBESTROL as postcoital contraceptive; patient labeling, proposed rules ... 26809
DIRECT HUMAN FOOD INGREDIENTS, GRAS or prior-sanctioned:
Inquiry, correction ... 24233
Review, availability of information; correction ... 24233
DRUGS:
Antibiotics:
Bacitracin combination, change of moisture determination; proposed rules ... 26006
Carbenicillin, potency assay method ... 25674
Approval procedures, agreement with EPA ... 24233, 27102
Asbestos particles, limitations; proposed rules ... 27076
Diethylstilbestrol, as postcoital contraceptive; patient labeling, proposed rules ... 26809
New drugs, adoption of international clinical research standards; proposed rules ... 24230
ELECTRONIC PRODUCT RADIATION, product identification and initial reports; proposed rules ... 26007
ENVIRONMENTAL IMPACT ANALYSIS, requirement, notice to manufacturers and distributors regarding plastic bottles for carbonated beverages and beer ... 24391
FOOD ADDITIVES:
Carob bean gum, transfer from GRAS list for direct human food use; proposed rules, correction ... 24374
GRAS (generally recognized as safe) list:
Carob bean gum, affirmation of status as indirect human food ingredient; proposed rules; corection ... 24374
Mannitol, affirmation of status as direct human food ingredient; proposed rules, correction ... 24375
Methyl paraben, affirmation of status as direct human food ingredient; proposed rules, correction ... 24375
Prior-sanctioned direct human food ingredients:
Inquiry, correction ... 24233
Review, availability of information; correction ... 24233
Propyl paraben, affirmation of status as direct human food ingredients; proposed rules, correction ... 24375
Sorbitol, affirmation of status as direct human food ingredient; proposed rules, correction ... 24375
Specific GRAS substances, petitions:
Carbohydrase and protease enzyme preparation, certain, 25214.
Copper, restrictions in animal feed, 25694.
Polyvinylidene fluoride resins, 25463.
Sodium sulfate, 25462.
Prohibited substances, proposed rules; correction ... 24374
Specific food additives:
Acrylonitrile styrene copolymers, modified, 24391.
Adhesives, 24354.
Alpha phenylindole, 26139.
Asbestos particles, proposed rules, 27076.
Benomyl, 26447.
Benzene hexachloride, 27046.
Chlortetracycline combination, 26909.
Copper triethanolamine, 25437.
2,2-Dibromo-3-nitrilopropionamide, 24234.
Diisooctyl adipate, 24234.
Diisooctyl phthalate, 24643.
Dodecylguanidine acetate, 26747.
Paper and paperboard and combinations, 26747, 26752.
Penicillin combination, 26909.
Plasticizers in polymeric substances, 24234.
Polyamide-epichlorohydrin water-soluble thermosetting resins, 26752.
Polymer modifiers in semirigid and rigid vinyl chloride plastics, 24391.
Polyurethane resins, 23813.
Silinicides, 24234.
Sulfamethazine combination, 26909.
Tri(nonylphenyl) phosphite-formaldehyde resins, 24354.


INDEX

XUM

## FOOD AND DRUG ADMINISTRATION—Con.


Page

FRUIT, canned:
Grapefruit, identity, quality, and fill standards; proposed rules, correction 26384
GRAPEFRUIT, canned. *See* Food additives; Fruit, canned.
HAZARDOUS SUBSTANCES:
Toys, electrically operated, for use by children; transfer of regulations 26910
LIMULUS AMEBOCYTE LYSATE, additional standards; proposed rules 26130
MANNITOL, affirmation of GRAS status of direct human food ingredients; proposed rules, correction 24374
MARGARINE and oleomargarine, identity standards and revocation of standard for liquid margarine 25671
MEETINGS, certain committees:
Anesthesiology Devices, 27102.
Anti-Infective Agents, 27102.
Antimicrobial Agents, 27102.
Biometric and Epidemiological Methodology, 27102.
Cardiovascular Devices, 27102.
Contraceptives and Other Vaginal Products, 27102.
Dental Drug Products, 27102.
Dentifrices and Dental Care Agents, 27102.
Diagnostic Products, 27102.
Drug, 27102.
Endocrinology and Metabolism, 27102.
Hemorrhoidal Drug Products, 27102.
Neuropharmacology, 27102.
Obstetrics and Gynecology, 27102.
Ophthalmic Drugs, 27102.
Radioactive Pharmaceuticals, 27102.
Surgical Drugs, 27102.
Topical Analgesics, 27102.
Veterinary Medicine, 25709.
Viral Vaccines and Rickettsial Vaccines, 27102.
METHYL PARABEN, affirmation of GRAS status as direct human food ingredient; proposed rules, correction 24375
MICROWAVE OVENS, petition to amend performance standard 25462
"MORNING-AFTER PILL" (diethylstilbestrol), labeling; proposed rules 26809
OVER-THE-COUNTER PREPARATIONS. *See list at end of this agency.*
PESTICIDES, approval procedures; agreement with EPA 24233
PROPYL PARABEN, affirmation of GRAS status as direct human food ingredient; proposed rules, correction 24375
RADIATION, electronic product, identification and initial reports; proposed rule 26007
SORBITOL, affirmation of GRAS status of direct human food ingredients; proposed rules, correction 24375
SUBSTANCES PROHIBITED FROM USE IN FOOD, proposed rules; correction 24374
SWEETENERS:
Nutritive, identity standards 25985
Sorbitol and Mannitol, GRAS status; proposed rules, correction 24375

SPECIFIC DRUG PREPARATIONS:
ANTIBIOTIC DRUGS:
Ampicillin trihydrate-probenecid, 25674.
Bacitracin and bacitracin-containing drugs, proposed rules, 26006.
Carbenicillin, 25674.
Nafcillin sodium monohydrate, 25675.
EFFICACY STUDY IMPLEMENTATION ANNOUNCEMENTS (DESI):
Azuresin with caffeine and sodium benzoate, 26137.
Estrogens, certain, 26824.
Hydrocortisone combination, 25462.
Iodochlorhydroxyquin combination, 25462.
Nithiazide, correction, 25437.
Nitralox Tablets, 26752.
Nysta-Cort Lotion, 25462.
Nystaform-HC Ointment and Lotion, 25462.
Nystatin combination, 25462.
Pathilon with Phenobarbital Tablets, 26138.
Pentaerythritol tetranitrate combination, 26752.
Pentaserpine Tablets, 26752.
Pentoxylon Tablets, 26752.
Phenobarbital combination, 26138.
Rauwolfia alkaloid combination, 26752.
Respet Tablets, 26752.
Tridihexethyl chloride combination, 26138.
NEW DRUGS:
Animal use:
Ampicillin trihydrate, 26183.
Chloramphenicol, 24355.
Chlortetracycline combination, 26909.
Clopidol, 25674.
Diethylcarbamazine citrate syrup, 25673.
Dimethyl sulfoxide, 26909.
Doxylamine succinate, 26183.
Ethylene oxide, 25213.
Hexylcaine hydrochloride, 24895.
Led-O-San, 24390.
Lincymycin, correction, 25676.
Monensin, correction, 25676.
Neostigmine methylsulfate, 26910.
Nitrofuran preparations, 23942.
Penicillin combination, 26909.
Phenylbutazone, 26910.
Prednisolone tertiary butylacetate, 24643.
Pyrantel tartrate, 25673.
Roxarsone, 25674.
Sodium pentobarbital, correction, 26183.
Sodium thiopental, correction, 26183.
Sulfadimethoxine, 25673.
Sulfamethazine combination, 26909.
Tetracycline oral, 24644.
Human use:
Aludrox S A suspension and tablets, 26479.
Anorectic combinations, 26748.
Butiserpine Tablets, 26477.
Cardiovascular preparations, 26477.
Estrogens, certain, 26825.
Ethylene oxide, 25213.
Gastrointestinal combinations, 26479.
Malgiyn Tablets and Compound, 26479.
Methoxyphenamine hydrochloride, correction, 26139.
Steroid-sympathomimetic nasal spray, correction, 26139.
Vastran Forte Capsules, 26752.
OVER-THE-COUNTER PREPARATIONS:
Antibiotic drugs, topical, 24391.
Antiperspirant products, 24391.


## FOOD AND NUTRITION SERVICE:


ELDERLY, nutrition programs for, donated foods; availability 24633


## Foreign Currencies:


RATES OF EXCHANGE. *See* Customs Service.


## FOREIGN DIRECT INVESTMENTS OFFICE:


FOREIGN DIRECT INVESTMENT REGULATIONS 26676
General Bulletin, 1973; interpretive analyses and statements 25909


## FOREIGN-TRADE ZONES BOARD:


BAYONNE, N.J., relinquishment of grant for zone 25722


## FOREST SERVICE:


ENVIRONMENTAL STATEMENTS, availability:
Alaska:
Chugach National Forest, communication sites, 26012.
Tongass National Forest:
Communication sites, 26012.
Construction and operation of recreation cabins in roadless areas, 26621.
Arizona, Mazatzal Wilderness, mineral exploration proposal, 25460.
California:
Huntington Lake North Shore, timber sales, 26219.
Lake Tahoe Basin National Forest, proposed land management plan, 25459.
Six Rivers National Forest, Fox Unit, land use plan, 25459.
Montana:
Burnt Fork Planning Unit, multiple use plan, 25458.
Cedar/Bassett Planning Unit, multiple use plan, 25458.
Flathead Wild and Scenic River proposal, 26821.
South Cottonwood Planning Unit, multiple use plan, 25461.
Spanish Peaks Multiple Use Management Unit, 25461.





Page

Nevada; Lake Tahoe Basin National Forest, proposed land management plan, 25459.
New Mexico; Apache, Gila, and Santa Fe National Forests, herbicides, vegetation control, 25460, 26012.
Utah; Pinyon-Juniper chaining program, 25460.
Wyoming; Big Horn National Forest, Cloud Peak Primitive Area, hearing, 26949.
MEETINGS, advisory committees, etc.:
California, El Dorado National Forest, 26219.
Cocónino National Forest, 26397.
Maine, Orono, Forest Research, 26742.
Modoc National Forest Grazing, 26821.
Oregon Dunes National Recreation Area, 24390.
Ottawa National Forest Multiple Use, 26742.
Pacific Crest National Scenic Trail, 23811.
Winema National Forest Grazing, 25211.
TIMBER, cancellation of contracts; correction 23948
VEHICLES, OFF-ROAD, use of 26723


## Fruits and Juices:


*See also specific fruits and juices.*
BRIX VAULES, certain fruit juices; proposed rule 25448
PROCESSED. *See* Agriculture Department.


## Fuel and Additives:


*See* Energy Policy Office; Environmental Protection Agency.


G

## Gas:


*See* Oil and gas.


## GENERAL SERVICES ADMINISTRATION:


*See Federal Register.*
*Public Buildings Service.*
AUTHORITY DELEGATIONS by Administrator to certain officials:
Agriculture Department Secretary; appointment of uniformed guards as special policemen on Plum Island, N.Y. 23838
Defense Department Secretary, representation of Federal agencies before certain commissions:
Federal Communications Commission, 25722.
Interior Department Secretary, appointment of uniformed guards as special policemen at Hoover Dam 23838
Justice Department, Attorney General; leasing of properties in Maryland and Northern Virginia suburbs of Washington, D.C. 26979
COMMITTEES, etc.:
*See also* Meetings, *below.*
Advisory committee management, policies and procedures 26604
Government Procurement, Commission on, recommendations; lead agency assignments 24279
FEDERAL PROPERTY MANAGEMENT REGULATIONS:
Supply and procurement:
General, desks with locks, 26604.
MEETINGS; advisory committees:
Industry and Professional Associations, 23990.
National Health Resources, 26773.
PAPER PRODUCTS, conservation procedures recommended and solicitation of cooperation 26773
PROCUREMENT:
*See also under* Federal property management regulations, *above.*
Federal:
Advertising, formal; bids, 26913.
Contract clauses, fixed-price, 26916.
Forms, 26916.
General:
Brand name or equal procurement, 24210.
Federal—Continued
General—Continued
Small business concerns, certificate of competency program, 26913.
Labor, standards for contracts involving construction; correction, 23791.
Negotiation, price, policies and techniques, 26914.
Patents, data, and copyrights; allocation of rights in inventions, 23782.
Government Procurement, Commission on, recommendations; lead agency assignments 24279


## GEOLOGICAL SURVEY:


GEOTHERMAL RESOURCES:
Operations on public, acquired, and withdrawn lands; proposed rules, extension of time 26807


## Geothermal Resources:


*See* Geological Survey; Land Management Bureau.


## Government Employees:


CIVIL SERVICE REGULATIONS. *See* Civil Service Commission.
CONDUCT STANDARDS. *See specific agencies.*
HOUSEHOLD GOODS, shipment for Defense Department personnel 26225
SAFETY AND HEALTH REGULATIONS. *See* Occupational Safety and Health Administration.


## Grain Sorghum:


*See* Agriculture Department; Domestic and International Business Administration.


## Grapefruit:


*See* Agriculture Department; Food and Drug Administration.


## Grazing:


HORSES AND BURROS, wild and free-roaming. *See* Land Management Bureau.


H

## Handicapped:


PRODUCTS AND SERVICES OF. *See* Blind and Other Severely Handicapped, Committee for Purchases of Products of.
SUPPLEMENTAL SECURITY INCOME payment 26804
TRANSPORTATION of handicapped passengers. *See* Federal Aviation Administration.


## HAZARDOUS MATERIALS REGULATIONS BOARD:


EXPLOSIVES and other dangerous articles, transportation of; rules proposed or adopted:
Commodity list, 23792, 24916.
General, matter incorporated by reference, etc., 23792.
Motor carriers, 23792.
Shippers, 24917.
Shipping container specifications, 23792.
RULEMAKING PROCEDURES, address changes 23791
SPECIAL PERMITS, issued or denied 24922


## Hazardous Substances:


*See also* Consumer Product Safety Commission; Hazardous Materials Regulations Board; Occupational Safety and Health Administration.
DANGEROUS CARGOES. *See* Coast Guard.
OIL, etc. *See* Federal Maritime Commission.
SPRAY ADHESIVES, etc. *See* Consumer Product Safety Commission.
TRANSPORTATION of hazardous materials. *See* Federal Aviation Administration.


INDEX

XUM

## HEALTH, EDUCATION, AND WELFARE DEPARTMENT:

Page

*See Aging Administration.*
*Children's Bureau.*
*Disease Control Center.*
*Education Office.*
*Food and Drug Administration.*
*Health Resources Administration.*
*Health Services Administration.*
*National Institutes of Health.*
*Social and Rehabilitation Service.*
*Social Security Administration.*

GRANTS:
Administration of, allowable costs, etc 26275
Applicability to certain grant programs 26194
HEALTH CARE FACILITIES AND HEALTH MAINTENANCE ORGANIZATIONS:
Federal participation, limitation for capital expenditures; proposed rule 26730
MEETINGS, committees, etc.:
Mental Retardation, 24242.
National Blood Policy, Implementation, 26140.
Postsecondary Education, Fund for Improvement of, 24672.
Professional Standards, 26140.
Women, Rights and Responsibilities of, 24674.
NONDISCRIMINATION on basis of sex, proposed rules 26385
ORGANIZATION AND FUNCTIONS:
Assistant Secretary for Administration and Management 26223
Assistant Secretary (Public Affairs) 24241
Social Security Administration 24672
PROCUREMENT:
Solicitation documents, negotiated procurement forms, 24644.
RETIREMENT, involuntary, commissioned officers 25684
SEX DISCRIMINATION. *See under* Nondiscrimination, *above.*
STERILIZATION GUIDELINES, HEW supported programs:
Person under 21 and persons legally incapable of consenting, sterilization of; proposed rules 26460

### Health Insurance:

*See* Social Security Administration.

## HEALTH RESOURCES ADMINISTRATION:

MEETINGS, advisory committees 25463, 26480, 27105

## HEALTH SERVICES ADMINISTRATION:

MEETINGS, advisory committees 26753

### Hearings and Appeals Office:

*See* Interior Department.

### Highways:

*See also* Federal Highway Administration; National Highway Traffic Safety Administration.
AIR QUALITY GUIDELINES. *See* Federal Highway Administration.
NOISE STANDARDS, highway noise levels. *See* Federal Highway Administration.

### Historic Places, National Register:

*See* National Park Service.

### Hogs:

*See* Agriculture Department.

### Hops:

*See* Agriculture Department.

### Horses:

GRAZING on public lands. *See* Land Management Bureau.

### Hospital and Medical Care:

Page

AGED, health insurance. *See* Social Security Administration.
FACILITIES:
Capital expenditures, Federal participation; proposed rule 26730
MORTGAGE INSURANCE. *See* Federal Housing Administration.

### Housing:

*See also* Federal Housing Administration; Housing and Urban Development Department.
EQUAL OPPORTUNITY, off-base housing program. *See* Defense Department.
PUBLIC, rent payments to agencies 26380
RELOCATION. *See* Engineers Corps; Housing and Urban Development Department.

## HOUSING AND URBAN DEVELOPMENT DEPARTMENT:

*See Federal Housing Administration.*
*Interstate Land Sales Registration Office.*
AUTHORITY DELEGATIONS:
By Assistant Secretary for Housing Management to Regional Administrators et al., property disposition 24243
By Regional Administrators and Acting Regional Administrators to certain officials:
Region IX:
Assistant Regional Administrator et al., Acting Deputy Regional Administrator designation 23987
Deputy Regional Administrator et al., Acting Regional Administrator designation 23987
By Secretary to certain officials:
Director of Urban Program Coordination, designation 23813
RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION:
Administration, proposed rules 26937
Grievance procedures:
Adequacy of replacement housing, claims review 26113
Claims and payments, purpose and review 25172
Payments:
Eligibility conditions, basic 25172
Proposed rules 26926
Policy statements, etc.; proposed rules 26924
Real property acquisition:
Proposed rules 26935
State agency's determination not to acquire 25172

### Hunting:

WILDLIFE REFUGES, hunting and fishing in. *See* Fish and Wildlife Service.

## IMMIGRATION AND NATURALIZATION SERVICE:

IMMIGRATION REGULATIONS:
Nonimmigrant classes; special requirements for admission, extension, and maintenance of status, transits without visas 24891, 26354
Transportation lines, contracts with; aliens in immediate and continuous transit 24891

### Imports and Exports:

AGRICULTURAL COMMODITIES, imports and exports. *See* Agriculture Department.
ANTIDUMPING ACT, imports; investigations and determinations. *See* Tariff Commission; Treasury Department.
CUSTOMS REGULATIONS. *See* Customs Service.
EXPORT CONTROL. *See* Domestic and International Business Administration.
OIL IMPORTS. *See* Oil and Gas Office.
SCIENTIFIC ARTICLES, duty free imports. *See* Domestic and International Business Administration.
TARIFF SCHEDULES of U.S. *See* Commerce Department; Tariff Commission; Textile Agreements Implementation Committee; Treasury Department.





## INDIAN AFFAIRS BUREAU:

Page

ALASKA NATIVE VILLAGES, land claims, eligibility:
Applications 26472
Final decisions 26217
FISHING, off-reservation treaty, identification cards 23945
FORESTRY, timber sales, contracts, etc 24638
IRRIGATION PROJECTS, operation and maintenance charges; proposed rules:
Ahtanum Project, Wash., 23954.
Salt River Project, Ariz., 26729.
Toppenish-Simcoe Project, Wash., 23955.
Wapato Project, Wash., 23955.
JACKSON RANCHERIA, Amador County, Calif., distribution of assets; proposed rule, correction 26118
TIMBER. *See* Forestry.
TRADERS:
Licensed, limits on trade with Government employees 25987
Navaho, Zuni, and Hopi Reservations, trade with Government employees 25988

### Indians:

*See also* Indian Affairs Bureau.
ALCOHOLIC BEVERAGES, legalization of sale or possession, Tulalip Indian Reservation, Wash 27099
CIVIL RIGHTS. *See* Justice Department.
FEED GRAIN donations to Spokane and Colville Indians 25211

### Insurance:

AGED, health insurance. *See* Social Security Administration.
CROP. *See* Federal Crop Insurance Administration.
DISABILITY. *See* Social Security Administration.
EMPLOYEE COMPENSATION. *See* Employment Standards Administration.
FLOOD. *See* Federal Disaster Assistance Administration; Federal Insurance Administration.
HOUSING mortgage insurance. *See* Federal Housing Administration.

## INTERIM COMPLIANCE PANEL, COAL MINE HEALTH AND SAFETY:

PERMITS FOR NONCOMPLIANCE:
Dust standards, permit applications, etc.:
Ashland Mining Corp., 23990.
Consolidation Coal Co., 26835.
Eastern Associated Coal Corp., 24280.
Mathies Coal Co., 24687.
Old Ben Coal Corp., 24687.
Pittsburgh Coal Co., 24687.
Smith and Stover Coal Co., 23990.
Electric face equipment standard, nongassy underground coal mines above watertable; proposed rules 24024

## INTERIOR DEPARTMENT:

See *Bonneville Power Administration.*
*Fish and Wildlife Service.*
*Geological Survey.*
*Indian Affairs Bureau.*
*Land Management Bureau.*
*Mining Enforcement and Safety Administration.*
*National Park Service.*
*Oil and Gas Office.*
AUTHORITY DELEGATION from General Services Administrator, appointment of uniformed guards as special policemen at Hoover Dam 23838
COAL MINE SAFETY. *See* Hearings and Appeals Office.
COLORADO RIVER WATERS, use on Federally owned lands in Arizona and California 24389
ENVIRONMENTAL STATEMENTS, availability:
California:
Fresno County, San Luis Water District, proposed irrigation distribution system, 24389.
Merced County, San Luis Water District, proposed irrigation distribution system, 24389.
Montana:
Flathead County, Hungry Horse Cloud Seeding Program, proposed, 27099.
Washington:
Cascade Irrigation District Rehabilitation and Betterment Program, supplement, 23985.
Wisconsin:
Horicon National Wildlife Refuge, proposed, 26739.
HEARINGS AND APPEALS OFFICE, coal mine safety standards:
Petitions for modification of coal mine safety standards:
Burgess Mining & Construction Corp., 26395.
Mountain Drive Coal Co., 26948.
Southern Electric Generating Co., 26396.
Procedures, Mining Enforcement and Safety Administration substituted for Mines Bureau 23948
HEARINGS AND APPEALS PROCEDURES:
Mining Enforcement and Safety Administration, editorial changes 23948
INDIANS:
Tulalip Indian Reservation, Wash., legalization of sale or possession of intoxicants 27099
MEETINGS, advisory committees, etc.:
Metal and Nonmetallic Mine Health and Safety, 26475.
PROPERTY MANAGEMENT:
Personal property, excess, performance reports, 26370.
Relocation assistance and real property acquisition policies, federally assisted programs, 24649.
RELOCATION ASSISTANCE, and property acquisition policies, federally assisted programs 24649
WILDLIFE REFUGES, wilderness areas, etc. *See* Environmental statements, *above.*

## INTERNAL REVENUE SERVICE:

AUTHORITY DELEGATIONS:
By Commissioner to various officials:
Assistant Commissioner (Stabilization) et al.; stabilization of prices, rents, wages, and salaries 26820
Regional Commissioners, et al.; time extensions for elections regarding casualty losses 25457
INCOME TAXES:
Accounting methods:
Accrual method, inventory valuation 26134
Inventories:
Cost 26185
Manufacturers 26185
Valuation 26184
Accounting period, annual change 26911
Deductions; medical, dental, etc., expenses 26918
Estates and trusts:
Currently distributable income, etc 26912, 26913
Deduction for distributions to beneficiaries 26912
Exempt organizations, substantial contributor defined, correction 24206
Gross income, business, inclusions, full absorption method of inventory costing 26184
Partnerships, tax liability, taxable years 26912
PROCEDURE AND ADMINISTRATION:
CFR correction 27047

## INTERSTATE COMMERCE COMMISSION:

EXPRESS CARRIERS, schedules and classifications, content of tariffs in book or pamphlet form, operating authority; correction 26905
FREIGHT FORWARDERS:
Applications for certificates, permits, and licenses 26998
Hearings, assignment of; various companies 26839
Tariffs and classifications, contents, operating authority; correction 26806
MOTOR CARRIERS:
Agreements under section 5a, applications for approval:
Florida Specialized Carriers Interstate Rate Conference, Inc., 24282.
Southern Motor Carriers Rate Conference, Inc., 24283.
Applications for certificates, permits, and licenses:
Brokers, lists of applicants:
Passenger carriers 26998
Property carriers 26998


INDEX

## INTERSTATE COMMERCE COMMISSION—Continued

Page

MOTOR CARRIERS—Continued
Applications for certificates, permits, and licenses—Continued
Operating authority, lists of applicants:
Intrastate carriers ... 24294, 26245, 26851
Passenger carriers ... 24432, 26998
Property carriers ... 24284, 24296, 24422, 24432, 25240, 25241, 25476, 26247, 26418, 26842, 26986, 26999
Temporary authority applications under section 210a(a) of Act:
State registration proposed rule ... 23979
Various companies ... 23998, 24290, 24691, 24939, 25484, 26033, 26165, 26251, 26254, 26845, 26848, 26849, 27123
Transfer proceedings ... 23998, 24289, 24696, 24942, 25243, 25483, 25725, 26165, 26416, 26510, 26782, 26844, 26985, 27122
Commercial zone:
Kansas City, Mo.-Kansas City, Kans., 24368.
Form OP-F 46, motor carrier and broker ... 26205
Hearings, assignment of; various companies ... 23839, 23997, 24282, 24421, 24691, 24938, 25237, 25483, 25725, 26032, 26244, 26416, 26510, 26645, 26782, 26839, 26984, 27121
Household goods:
Credit card plans, quarterly reporting required ... 26609
Information for shippers and estimation of charges, consumer protection; proposed rule, extension of time ... 26164
Tariffs and schedules; credit to shippers, extension by carriers of household goods ... 26726
Uniform rates for identical services ... 26608
Petitions:
Argo-Collier Truck Lines, Inc., et al., 26031.
Hagerstown Motor Express Co., Inc., 24283.
Schneider Transport, Inc., et al., 25244.
Routes, alternate; deviation notices ... 24283, 25238, 26245, 26840, 26841
Tariffs and schedules:
Credit to shippers, extension by motor carriers of household goods ... 26726
Freight rate, and classifications, contents, operating authority; correction ... 26805
Vehicles, lease and interchange, augmenting equipment:
Petition for temporary waiver of portion of regulations ... 25243
Proposed rule ... 24228
RAILROADS:
Agreement under section 5a, application for approval:
Burlington Northern, Inc., 25237.
Car service:
Authorization to use certain trackage:
Fort Worth & Denver Railway Co., 23793.
Kansas City Southern Railway Co. et al., 25685.
Norfolk & Western Railway Co., 24212.
Northwestern Oklahoma Railroad Co., 24902, 25183.
Penn Central Transportation Co., 23952.
Providence & Worcester Co., 23952.
Reading Co., 23792.
Texas Export Railroad Co., 23792, 23952.
Demurrage and free time:
Freight cars ... 26805
Ports ... 26805
Distribution of freight cars, etc ... 23829
Mandatory car service rules, exemptions:
Atchison, Topeka & Santa Fe Railway Co. et al., 24939.
Chicago, Rock Island & Pacific Railroad Co. et al., 24283.
Penn Central Transportation Co., 26037.
Seaboard Coast Line Railroad Co., 26417.
Disaster area, Oregon, transportation of hay ... 26117
Hearings, assignment of; various companies ... 25237, 25483, 26032, 26245, 26416, 26510, 26782, 27121
Practice and procedure:
Abandonment of lines, special procedures; correction ... 24902, 26726
Securities:
Expanded definition ... 23953, 24903, 25686, 26609
Offering circulars, form required for public sales of securities ... 25686
Rates and charges:
Commuter fares, intrastate electric train to and from Chicago ... 25238
Freight rates and charges, 1973 ... 24001, 25244, 26164, 26839, 26984, 27122
Long-and-short-haul charges, fourth section applications for relief ... 23998, 24691, 25238, 26032, 26511, 26839, 26984, 27122
Routing of traffic, authority to reroute or divert certain traffic:
Ann Arbor Railroad Co., 24938.
Canadian Railroads, 23997.
Green Mountain Railroad Corp., 24939.
Penn Central Transportation Co., 23952, 24942.
Reading Co., 24283, 25488.
St. Johnsbury & Lamoille County Railroad, 24942, 26033.
WATER CARRIERS:
Form OP-WC-20 ... 26205
Hearings, assignment of; various companies ... 23997, 24282, 25725, 26032, 26416, 26839

## INTERSTATE LAND SALES REGISTRATION OFFICE:

ADVERTISING, SALES PRACTICES, etc ... 23897
LAND DEVELOPERS, investigatory hearings, orders of suspension, etc.:
Specific developers:
Apple Valley Enterprises, Inc., 24394.
Eleuthera Island Club, 24243.
Headlands, 23813.
Highland Meadow Estates, 24243.
LAND REGISTRATION, required disclosures, statements of record and property reports ... 23875
ORGANIZATION AND FUNCTIONS ... 23874
PRACTICE AND PROCEDURE ... 23899

## Inventions:

*See also* Patents.
GOVERNMENT-OWNED, licensing. *See* National Technical Information Service.

J

## JUSTICE DEPARTMENT:

*See Drug Enforcement Administration.*
*Immigration and Naturalization Service.*
*Law Enforcement Assistance Administration.*
AIR POLLUTION CONTROL, Clean Air Act, enforcement of; Federal contracts, grants, and loans (Executive Order 11738) ... 25161
AUTHORITY DELEGATION from General Services Administrator, leasing of properties in Maryland and Northern Virginia suburbs of Washington, D.C ... 26979
INDIANS, assignment of matters regarding civil rights ... 26910
INFORMATION, National security; review procedures for declassification requests ... 26448
ORGANIZATION AND FUNCTIONS:
Civil Rights Division, matters regarding American Indians ... 26910
Land and Natural Resources Division, matters regarding, American Indians ... 26910
POLLUTANTS:
Consent judgments and proposed consent judgments in actions to enjoin discharges of:
Wheeling-Pittsburgh Steel Corp., effluent limitations, 24388.
Wire Rope Corporation of America, Inc., 26618.
Pollution control acts, air and water, enforcement of; Federal contracts, grants and loans (Executive Order 11738) ... 25161
WATER POLLUTION CONTROL ACT enforcement of; Federal contracts, grants, and loans (Executive Order 11738 ... 25161

K

## Korea, North:

TRAVEL RESTRICTIONS. *See* State Department.




L


## LABOR DEPARTMENT:

Page

*See Employment Standards Administration.*
*Labor-Management and Welfare-Pension Reports.*
*Labor Statistics Bureau.*
*Occupational Safety and Health Administration.*
*Wage and Hour Division.*
ADJUSTMENT ASSISTANCE, eligibility of certain workers:
BGS Shoe Corp., Manchester, N.H., 26031.
General Electric Co., Buffalo, N.Y., 26244.
Hubbard Shoe Co., Inc., Rochester, N.H., 24421.
COMMITTEES:
*See also* Meetings, *below.*
Women, Advisory Committee to Secretary; establishment ... 25476
ELECTIONS AND HEARINGS, granting of official time status to participants; proposed rules ... 26919
LABOR ORGANIZATIONS, conduct standards; granting of official time status to election observers, etc., proposed rules ... 26919
MEETINGS, advisory councils, etc.:
Federal Safety, 24421.
Manpower, 25725.
ORGANIZATION AND FUNCTIONS:
Assistant Regional Director for Labor-Management Services, title change ... 26449
Definitions, Assistant Regional Director for Labor-Management Services ... 26449
Terminology changes ... 24690
REPRESENTATION PROCEEDINGS, granting of official time status; proposed rules ... 26919

## LABOR-MANAGEMENT AND WELFARE PENSION REPORTS OFFICE:

MEETINGS, advisory councils:
Employee Welfare and Pension Benefit Plan, 24420.

## LABOR STATISTICS BUREAU:

MEETINGS, advisory councils:
Business Research, 24690, 24935.

## Laboratories:

*See* Occupational Safety and Health Administration.

## LAND MANAGEMENT BUREAU:

AUTHORITY DELEGATIONS:
By State directors and acting directors to various officials:
Alaska:
Management Services Division, State Office, et al.; contracts and leases ... 26738
Colorado:
Technical Services Division and Cadastral Survey Branch Chiefs, functions ... 27099
New Mexico:
Associate State Director, et al.; procurement, etc ... 24389
CLASSIFICATION of lands:
Desert Land Act:
Nevada, termination, 26395.
Exchanges:
Utah, 26947.
COMMITTEES:
*See also* Meetings, *below.*
Salem District Advisory Board, field tour ... 25458
GEOTHERMAL RESOURCES, leasing on public, acquired and withdrawn lands; proposed rule, time extension ... 26918
GRAZING:
Administration, wild horses and burros, reservation of forage, correction ... 24650
Tour, Salem District Advisory Board ... 25458
HOMESTEADS, lands open to entry:
Montana, 25706.
New Mexico, 26947.
HORSE AND BURRO MANAGEMENT; protection, etc., of forage, correction ... 24650
MEETINGS, advisory committees, etc.:
California State, 25211.
Grand Junction District Grazing, 25458.
Prineville District, 26739.
Roseburg District, 25706.
Worland District, 23982.
MINERALS MANAGEMENT:
Mining claims locations, rights, placer claims ... 24650
NATIONAL FORESTS, additions, etc.:
*See also under* Withdrawals, *below.*
Oregon:
Deschutes National Forest, proposed addition to ... 26395
ORGANIZATION AND FUNCTIONS:
Pacific Outer Continental Shelf Office, designation and opening ... 27099
RECREATION AREAS:
*See also* Withdrawals, *below.*
Deschutes River Recreation Lands ... 26474
WILDLIFE REFUGES, etc.:
Alaska:
Seward and Umiat Meridians, possible addition of lands to National Wildlife Refuge Systems (PLO 5388) ... 26370
WITHDRAWALS of lands for specified uses of Federal agencies, etc.:
Alaska:
Copper River Meridian:
Chugach Region, selections by village corporations (PLO 5393) ... 26373
Selection by village and regional corporations (PLO 5393) ... 26374
Fairbanks Meridian:
Selection by village and regional corporations (PLO 5396) ... 26376
Tanana Region, selections by village corporations, etc. (PLO 5391) ... 26372
Kateel River Meridian:
Selection by village and regional corporations (PLO 5389, 5395, 5396) ... 26371, 26373, 26375, 26376
Seward Meridian:
Bristol Bay Area, selections by village corporations and regional corporations (PLO 5390) ... 26372
National Wildlife System, additions to (PLO 5388) ... 26370
Selections by village corporations, etc. (PLO 5392, 5393, 5394, 5397) ... 26373, 26374, 26375, 26378
Umiat Meridian:
National Wildlife System, additions to (PLO 5388) ... 26370
Selection by village and regional corporations (PLO 5396) ... 26376
California:
Inyo County:
Amargosa Canyon-Dumont Dunes Natural Area; protect desert pupfish, flora and fauna ... 26473
San Bernardino County:
Amargosa Canyon-Dumont Dunes Natural Area; protect desert pupfish, flora and fauna ... 26473
Six Rivers National Forest; public purposes, proposed withdrawal ... 25457
Nevada:
Nye County, protection of desert pupfish (PLO 5387) ... 26370
Oregon:
Deschutes National Forest, proposed addition ... 26395
Josephine County, reclamation project; prior orders revoked in part; correction (PLO 5383) ... 25684

## LAW ENFORCEMENT ASSISTANCE ADMINISTRATION:

MEETINGS, advisory councils:
Private Security, 26217, 26947.

## Lemons:

*See* Agriculture Department.


INDEX

XUM

## LIBRARY OF CONGRESS:

Page

CONDUCT ON LIBRARY PREMISES, transfer of regulations ---------- 27049
PROCEDURES AND SERVICES, transfer of regulations ---------- 27049

## Loans:

AGRICULTURAL COMMODITIES. *See* Commodity Credit Corporation.
BANKS. *See* Federal Deposit Insurance Corporation.
DISASTER AREAS, emergency loans. *See* Farmers Home Administration; Federal Disaster Assistance Administration; Small Business Administration.
GUARANTEED, to Government of Brazil ---------- 25206
HOUSING. *See* Farmers Home Administration; Federal Home Loan Bank Board; Federal Housing Administration.
MOBILE HOMES. *See* Federal Housing Administration.
REAL ESTATE. *See* Farmers Home Administration.
VETERANS. *See* Veterans Administration.

M

## MANAGEMENT AND BUDGET OFFICE:

MEETINGS, advisory councils:
Federal Reports, 25475.

## Margarine:

*See* Food and Drug Administration.

## Marine Mammals:

*See* National Oceanic and Atmospheric Administration.

## MARITIME ADMINISTRATION:

CUBA, free world and Polish flag vessels arriving in, list ---------- 26822
ENVIRONMENTAL STATEMENT, availability:
Tanker construction program, 24921.
SUBSIDIZED VESSELS AND OPERATORS:
Construction differential subsidy applications:
American Trading Transportation Co., 26397.
Apollo Marine Shipping Co., 26622.
Bernuth, Lembcke Co., Inc., 26397.
Bethlehem Steel Corp., 26398.
Chestnut Shipping Co., 26398.
Cities Service Tankers Corp., 26396.
Exxon Corp., 26747.
First Pennsylvania Tanker I, Inc., 26398.
First Pennsylvania II, Inc., 26398.
Fuel Transport, Inc., 26398.
Gulf Oil Corp., 26398.
National Steel & Shipbuilding Co., 26398.
Seatrain Shipbuilding Corp. et al., 25707.
Superport Tankers, Inc., 23812.
Waterman Marine Corp., 26747.
Foreign construction cost computations, estimate; tankers:
40,000 to 60,000 DWT, 26622.
Operating differential subsidies:
Applications:
Atlantic Richfield Co., 26220.
Chestnut Shipping Co., 26622.
National Shipping Corp., 24390.
Prudential-Grace Lines, Inc., 26221.
United States Lines, Inc., 25708.
Waterman Steamship Corp., 24671, 25708.
Bulk cargo vessels carrying bulk raw and processed agricultural commodities from U.S. to U.S.S.R. 25707
U.S.S.R. and U.S., operating-differential subsidy for carriage of bulk cargo between ---------- 25707

## Meat and Products:

*See* Agriculture Department; Cost of Living Council.

## Medicaid:

*See* Social and Rehabilitation Service.

## Medicare:

*See* Social Security Administration.

## Migratory Birds

*See* Fish and Wildlife Service.

## Milk and Products:

*See* Agriculture Department; Commodity Credit Corporation; Tariff Commission.

## Mines:

*See* Interim Compliance Panel (Coal Mine Health and Safety; Interior Department; Mining Enforcement and Safety Administration.

## MINING ENFORCEMENT AND SAFETY ADMINISTRATION:

METAL AND NONMETALLIC MINE HEALTH AND SAFETY:
Underground mines:
Fire alarm signals and drills, first aid, check-in and check-out system, etc.; correction ---------- 23781

## Mint Bureau:

*See* Treasury Department.

## Mobile Homes:

*See* Federal Housing Administration.

## Monetary Offices:

*See* Treasury Department.

## Motor Carriers:

*See* Federal Highway Administration; Interstate Commerce Commission.

## Motor Vehicles:

AIR POLLUTION control, exhaust emission. *See* Environmental Protection Agency.
EQUIPMENT, special payment or reimbursement, veterans benefits; proposed rule ---------- 26394
INSPECTION STANDARDS. *See* National Highway Safety Administration.
OFF-ROAD motorized vehicles, use in national forest wilderness and primitive areas ---------- 26723
SAFETY STANDARDS. *See* National Highway Safety Administration.
USED CARS, inspection standards. *See* National Highway Traffic Safety Administration.

N

## NOW Accounts:

*See* Federal Deposit Insurance Corporation; Federal Home Loan Bank Board; Federal Reserve System.

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION:

ENVIRONMENTAL STATEMENTS, availability:
Kennedy Space Center, 24688.
MEETINGS, advisory council, etc.:
Infrared Telescope Site Evaluation, 26163.
Investigations on Second and Third High Energy Astronomy Observatory Missions, 25234.
Physical Sciences, 25235.
Research and Technology, 26835.
Space Program, 24420, 25722.
PATENT LICENSING, license granted to Precision Control Products Corp., Waltham, Mass ---------- 26028





## NATIONAL BUREAU OF STANDARDS:

Page

INFORMATION, availability, regarding Research Associate Program ---------- 25908
MEETINGS, committees, etc.:
Federal Information Processing Standards, 25211.
ORGANIZATION AND FUNCTIONS ---------- 25212
PRODUCT STANDARDS, voluntary:
Withdrawal of certain obsolete standards ---------- 23812, 25211, 26824
RESEARCH ASSOCIATE PROGRAM, information regarding ---------- 25908
SECURITY EQUIPMENT CATALOG and Directory of Security Resources, proposed development ---------- 24671

## National Commission for Industrial Peace:

AUTHORITY DELEGATION from Cost of Living Council Executive Secretary, meetings ---------- 26226

## NATIONAL CREDIT UNION ADMINISTRATION:

DIVIDEND RATE, maximum permissible; increase from 6 percent to 7 percent per annum for Federal Credit unions ---------- 26408, 26979
RESERVES, mandatory charge-offs; proposed rule ---------- 26216

## National Forests, Parks, etc.:

*See* Forest Service; Land Management Bureau; National Park Service.

## NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION:

INSPECTION STANDARDS, vehicles in use weighing 10,000 pounds or less, except motorcycles and trailers ---------- 23950, 25685
MOTOR VEHICLE SAFETY STANDARDS:
Controls and displays, accessibility and illumination of; proposed rules ---------- 26941
Exemptions, temporary, granted or denied:
Albany Motor Carriage Co., 26223.
Auto Sport Importers, 27106.
Avanti Motor Corp., 23987.
Intermeccanica Automobili, 26014.
Multipurpose passenger vehicle, definition; proposed rule ---------- 23804
Tires:
Pneumatic:
New, performance requirements ---------- 27051
USED CARS, inspection standards for vehicles weighing 10,000 pounds or less, except motorcycles and trailers ---------- 23950, 25685

## NATIONAL INSTITUTES OF HEALTH:

COMMITTEES:
*See also* Meetings, *below*.
Heart and Lung Program—Project Committee, renewal ---------- 27105
HEART, BLOOD VESSEL, LUNG AND BLOOD DISEASES AND BLOOD RESOURCES, National Research and Demonstration Centers for, requests for letters of intent ---------- 26754
MEETINGS, advisory committees, etc ---------- 24234, 24235, 24236, 24237, 24238, 24240, 24393, 24394, 24922, 25709, 26013, 26139, 26753, 26754, 26950, 26951, 26952, 26953

## NATIONAL MEDIATION BOARD:

FEES, administrative, deferral of imposition; proposed rules ---------- 27088

## NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION:

FISHERIES:
Commercial fisheries research and development ---------- 26116
Failure due to resource disaster, oyster resources in Alabama, Louisiana and Mississippi ---------- 25708
MARINE MAMMALS, imports, taking, etc.:
Exemptions:
Applications, letters of, etc.:
Fouke Co., 26221.
Kooyman, G. L., 26012.
Pleasant Point Passamaquoddy Tribal Council, 23812.
Quinlan Marine Attractions, 25461.
Scarpuzzi, Louis, Enterprises, Inc., 23812.
Permits for scientific research or public display; application, review, etc ---------- 26622, 26623
ORGANIZATION AND FUNCTIONS ---------- 26476

## NATIONAL PARK SERVICE:

AUTHORITY DELEGATIONS:
By Acting Director, Midwest Region, to Park Manager, Bent's Old Fort National Historic Site; procurement ---------- 26948
By Regional Director, Northeast Region to Superintendents et al., archeological investigations ---------- 26011
By Superintendent to certain officials:
Assistant Superintendent, Olympic National Park, et al.; procurement ---------- 26011
HISTORIC PLACES, NATIONAL REGISTER OF:
Additions, deletions, corrections ---------- 23808, 26618
MEETINGS, advisory committees, etc.:
Cape Cod National Seashore, 24921.
Honokohau Study, 24389.
Indiana Dunes National Lakeshore, 24670.
Minute Man National Historical Park, 24670.
National Parks, Historic Sites, Buildings, and Monuments, 26739.
Northeast Regional, 23808.
Sleeping Bear Dunes National Lakeshore, 26475.
Western Regional, 26474.
NATIONAL PARKS, etc.:
Amistad Recreation Area, concession permit ---------- 26948
Blue Ridge Parkway, parking and crossing permits for hunters; proposed rules ---------- 24912
Cape Hatteras National Seashore, fishing; proposed rules ---------- 25185
Cowpens National Battlefield Site, designation of boundary ---------- 26474
Glen Canyon National Recreation Area, concession permit ---------- 26948
Lake Meredith Recreation Area, concession permit ---------- 26948
National Capital Parks, public gatherings ---------- 24218
Shenandoah National Park, backcountry camping, proposed rule ---------- 23796
NATURAL LANDMARKS, National Registry of; revision of list ---------- 23982

## National Science Foundation:

MEETINGS, advisory panels:
Astronomy, 26774.
Atmospheric Sciences, 26774.
Experimental R&D Incentives, 26774.
Regulatory and Systematic Biology, 26774.

## NATIONAL TECHNICAL INFORMATION SERVICE:

INVENTION, GOVERNMENT-OWNED, availability for licensing ---------- 23986, 25211, 26221

## Navigation:

AIR NAVIGATION. *See* Canal Zone; Federal Aviation Administration.
WATERWAYS. *See* Coast Guard; Engineers Corps.

## NAVY DEPARTMENT:

*See also* Defense Department.
MEETINGS, advisory committees, etc.:
Audit, 25457.
Ordnance Hydroballistics, 26217.
Telecommunications (CIACT), 26738.

## Noise Pollution:

*See* Pollution.


INDEX

XUM

**Nondiscrimination:** Page

FEDERALLY ASSISTED PROGRAMS. *See* Commerce Department.
HOUSING, equal opportunity. *See* Defense Department.
INDIANS, civil rights issues. *See* Justice Department.
SEX. *See* Health, Education, and Welfare Department.

**North Korea:**

TRAVEL RESTRICTIONS. *See* State Department.

**North Vietnam:**

TRAVEL RESTRICTIONS. *See* State Department.

**Nursing Facilities:**

MEDICARE. *See* Social Security Administration.

**Nutrition Programs for Elderly:**

*See* Aging Administration; Food and Nutrition Service.

**Nuts:**

*See* Almonds; Peanuts; Tung nuts.

**O**

**Oats:**

*See* Domestic and International Business Administration.

**Occupational Safety and Health:**

*See* Disease Control Center; Occupational Safety and Health Administration.

**OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION:**

CARCINOGENS, environmental control, proposed rule 24375
COMMITTEES, standards advisory.
*See also* Meetings.
Carcinogens, proposed standard 24375
HAZARDOUS MATERIALS. *See under* Safety and health regulations, *below.*
LABORATORIES, testing; criteria and procedure for accrediting 25150
MEETINGS, standards advisory committees, etc.:
Noise, 24935.
SAFETY AND HEALTH REGULATIONS:
Federal employees, programs for Federal agencies; proposed rules 27070
Occupational safety and health standards:
Agricultural operations, anhydrous ammonia; proposed rules 26459
Environmental control:
Carcinogens; proposed rule 24375
Coke oven emissions, proposed rules 26207
Hazardous materials:
Dip tanks containing flammable or combustible liquids, determination of flash points 27049
Flammable and combustible liquids, definitions, determination of flashpoint, etc 27048
Variance applications, etc. *See list at end of this agency.*
Walking-working surfaces, proposed rules 24300
STATE STANDARDS, development and enforcement:
Changes to State plans, policy and procedures 24361
State developmental plans:
Colorado, 25172.
Illinois, 24281.
Indiana, 26837.
New Mexico, 26780.
Utah, 26449.
Virgin Islands, 24896.

**VARIANCE APPLICATIONS, ETC.:**

Burd & Fletcher Co., 26778.
Fisher Scientific Co., 26779.
Rollins College, 26781.
Sprague, 26781.

**Oceans and Atmosphere, National Advisory Committee on:** Page

MEETING 26163

**Oil and Gas:**

*See also* Oil and Gas Office.
EMERGENCIES, shortages of fuel and power supplies. *See* Federal Power Commission.
FUEL ALLOCATION, MANDATORY. *See* Energy Policy Office.
GAS COMPANIES. *See* Federal Power Commission.
IMPORTS. *See* Oil and Gas Office.
MOTOR VEHICLES, fuel and fuel additives. *See* Environmental Protection Agency.
PETROLEUM, price freeze extension. *See* Cost of Living Council.
POLLUTION. *See* Pollution.

**OIL AND GAS OFFICE:**

MEETING, committee:
Energy Conservation, 26984.
OIL IMPORT REGULATIONS:
Allocations and licenses:
Fees paid for imports of crude oil incorporated into asphalt, refunds; proposed rules 26005
Periods, supplemental allocations, etc 25437
Appeals, Oil Import Appeals Board:
Procedures 26103

**Oil Pollution:**

*See* Pollution.

**Oilseeds:**

*See* Agriculture Department.

**Oleomargarine:**

MARGARINE. *See* Food and Drug Administration.

**Olives:**

*See* Agriculture Department.

**Oranges:**

*See* Agriculture Department.

**P**

**Packers and Stockyards Administration:**

*See* Agriculture Department.

**Panama Canal Zone:**

*See* Canal Zone.

**Papayas:**

*See* Agriculture Department.

**Paper Products:**

CONSERVATION. *See* General Services Administration.
PRICE INCREASES 24917

**Parks, National:**

*See also* National Park Service.
CFR TITLE HEADING CHANGE 27049

**PAROLE BOARD:**

PROCEDURES for juvenile delinquents, youth offenders, and prisoners 26652

**Passports:**

*See* State Department.

**PATENT OFFICE:**

ORGANIZATION AND FUNCTIONS 25213





**Patents:** Page

*See* National Aeronautics and Space Administration; National Technical Information Service; Patent Office.

**Pay, Compensation:**

CONSTRUCTION INDUSTRY. *See* Employment Standards Bureau.
ECONOMIC STABILIZATION. *See* Cost of Living Council.
FEDERAL EMPLOYEES. *See* Civil Service Commission.
MINIMUM WAGES. *See* Employment Standards Administration; Wage and Hour Division.
PHASE IV regulations. *See* Cost of Living Council.
PUERTO RICO, minimum wages. *See* Wage and Hour Division.

**Peanuts:**

*See* Agriculture Department; Commodity Credit Corporation.

**Pears:**

*See* Agriculture Department.

**Pesticides:**

*See* Environmental Protection Agency; Food and Drug Administration.

**Petroleum:**

*See* Oil and gas.

**Plant Quarantine:**

*See* Agriculture Department.

**Pneumoconiosis:**

BLACK LUNG BENEFITS. *See* Employment Standards Administration.

**Poison Prevention:**

PACKAGING. *See* Consumer Product Safety Commission.

**Pollution:**

AIR. *See* Environmental Protection Agency.
NOISE. *See* Federal Highway Administration.
OIL. *See* Environmental Protection Agency; Federal Maritime Administration.
WATER:
*See also* Environmental Protection Agency.
Effluent limitations guidelines. *See* Environmental Protection Agency; Justice Department.

**Pork and Products:**

*See* Agriculture Department.

**POSTAL RATE COMMISSION:**

PRACTICE AND PROCEDURE:
Ex parte communications 24899

**POSTAL SERVICE:**

DOMESTIC SERVICES:
Classification and rates; rate increases, effective date 24002
ORGANIZATION AND FUNCTIONS:
Defense Department Liaison, Civil Preparedness 26193
PROCUREMENT:
Postal Contracting Manual, 26238.

**Potatoes:**

*See* Agriculture Department.

**Poultry and Products:**

*See* Agriculture Department.

**PRESIDENTIAL DOCUMENTS:** Page

EXECUTIVE ORDERS:
Air pollution control, Clean Air Act, administration and enforcement of; Federal contracts, grants, and loans (EO 11738) 25161
Upper Mississippi River Basin Commission, enlargement (EO 11737) 24883
Water Pollution Control Act, administration and enforcement of; Federal contracts, grants, and loans (EO 11738) 25161
MEMORANDA:
Turkey, Republic of, foreign assistance; memorandum for Secretary of State (Memorandum of August 17, 1973) 25903
PROCLAMATIONS:
Special observances:
Child Health Day, 1973 (Proc. 4244) 26179
Employ the Handicapped Week, National, 1973 (Proc. 4225) 26351
Fire Prevention Week, 1973 (Proc. 4243) 26101
Highway Week, National, 1973 (Proc. 4239) 24191
Hispanic Heritage Week, National, 1973 (Proc. 4241) 24881
Hunting and Fishing Day, National (Proc. 4242) 26099
Johnny Horizon '76 Clean Up America Month (Proc. 4246) 26441
United Nations Day, 1973 (Proc. 4240) 24193

**Price Control:**

*See* Cost of Living Council.

**Proclamations:**

*See* Presidential documents.

**Procurement:**

*See also specific agencies.*
BLIND-MADE PRODUCTS. *See* Blind and Other Severely Handicapped, Committee for Purchase of Products and Services of.
FEDERAL. *See* General Services Administration.

**Product Standards, Voluntary:**

*See* National Bureau of Standards.

**Propane:**

*See* Energy Policy Office.

**Public Assistance Programs:**

*See* Social and Rehabilitation Service.

**PUBLIC BUILDINGS SERVICE:**

WILDLIFE CONSERVATION, migratory birds, transfer of certain properties of National Guard Training Area, Fort Crowder, Mo., to Missouri 26162

**Public Gatherings:**

NATIONAL CAPITAL PARKS. *See* National Park Service.

**Public Property and Works:**

PARKS, FORESTS, AND PUBLIC WORKS, change in CFR Title heading 27049
VACATION OF CFR TITLE 27049

**Puerto Rico:**

MINIMUM WAGES, industry committees. *See* Wage and Hour Division.
RADIO BROADCAST SERVICES. *See* Federal Communications Commission.

**Q**

**Quarantine:**

ANIMALS, plants. *See* Agriculture Department.


INDEX

XUM

R

**Radiation:** Page

*See also* Atomic Energy Commission.
DISCHARGES from nuclear facilities, memorandum of understanding between Environmental Protection Agency and Atomic Energy Commission ---- 24936
ELECTRONIC PRODUCT RADIATION. *See* Food and Drug Administration.
TRANSPORTATION of radioactive material. *See* Federal Aviation Administration.

**Radio Communications:**

*See* Federal Communications Commission.

**Railroads:**

*See* Federal Railroad Administration; Interstate Commerce Commission.

**Raisins:**

*See* Agriculture Department.

**Recreation:**

AREAS. *See* Land Management Bureau; National Park Service.
WILDLIFE REFUGES. *See* Fish and Wildlife Service.

**Relocation Assistance:**

*See* Engineers Corps; Housing and Urban Development Department; Interior Department.

**RENEGOTIATION BOARD:**

EXEMPTIONS FROM RENEGOTIATION, MANDATORY:
Water common carriers ---- 24210
WATER CARRIERS:
Exemption, mandatory, from renegotiation ---- 24210
Persons holding prime contracts or subcontracts for transportation ---- 24281

**Reserves:**

*See* Air Force Department.

**Restricted Areas:**

AIRCRAFT over military installations, etc. *See* Federal Aviation Administration.

**Rice:**

*See* Agriculture Department; Domestic and International Business Administration.

**Rodenticides:**

*See* Environmental Protection Agency.

**RURAL ELECTRIFICATION ADMINISTRATION:**

ELECTRIFICATION AND TELEPHONE PROGRAM BULLETINS, proposed rules:
Telephone borrowers:
Building-out capacitors ---- 24660
Construction contract, labor and materials specifications and drawings ---- 26919

**Rye:**

*See* Commodity Credit Corporation; Domestic and International Business Administration.

S

**Safety:**

CONSUMER PRODUCT STANDARDS. *See* Consumer Product Safety Commission.
MINES, coal, etc. *See* Interim Compliance Panel (Coal Mine Health and Safety; Interior Department; Mining Enforcement and Safety Administration).

Page

MOTOR CARRIERS. *See* Federal Highway Administration.
MOTOR VEHICLES. *See* National Highway Traffic Safety Administration.
OCCUPATIONAL SAFETY. *See* Disease Control Center; Occupational Safety and Health Administration.

**ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION:**

SEAWAY RULES AND REGULATIONS:
Penalties, assessment, mitigation or remission; correction ---- 24210

**Schools and Schooling:**

*See* Education and educational facilities.

**Scientific Articles:**

DUTY-FREE IMPORTS. *See* Domestic and International Business Administration.

**SECURITIES AND EXCHANGE COMMISSION:**

ACCOUNTING MATTERS, treasury stock transactions, effect on accounting for business combinations ---- 24635
FINANCIAL STATEMENTS:
Balance sheets:
Compensating balances, disclosure; extension of effective date ---- 26183
Deferred credits, proposed rule ---- 27089
Income tax expense, proposed rule ---- 27088
Life insurance companies, proposed rules ---- 27091
HEARINGS. *See list at end of this agency.*
INFORMATION previously undisclosed, guidelines on utilization and dissemination; inquiry, extension of time ---- 24383
INVESTMENT ADVISERS ACT, 1940, life insurance policies, variable, exclusion of issuers, etc.; proposed rule ---- 26819
INVESTMENT COMPANY ACT, 1940:
Bonds, fidelity, of officers and employees of registered investment companies; proposed rule ---- 26134
Insurance company, definition; proposed rule ---- 26818
Treasury stock transactions, effect on accounting for business combinations ---- 24635
LITIGATIONS and administrative proceedings affecting professionals practicing before Commission; inquiry, extension of time ---- 26509
MEETINGS, advisory committee:
Broker-Dealer Model Compliance Program, 24379, 26241, 27115.
PUBLIC UTILITY HOLDING COMPANY ACT, 1935, treasury stock transactions, effect on accounting for business combinations ---- 24635
SECURITIES ACT, 1933:
Exemption of certain promissory notes directly secured by first lien on real estate, proposed rule ---- 24668
Treasury stock transactions, effect on accounting for business combinations ---- 24635
SECURITIES EXCHANGE ACT, 1934:
Affiliated person, interpretation ---- 26716
Exchange transactions in options, prohibition, except pursuant to effective plan; proposed rule ---- 26943
Forms, statements of banks and insurance companies; proposed rules:
10 ---- 27094
10-K ---- 27094
Market identification requirement, interpretation ---- 26358
Treasury stock transactions, effect on accounting for business combinations ---- 24635

HEARINGS, ETC.:
Aberle Industries, Inc., 26979.
Allegheny Power Systems, Inc., 23991.
Applied Fluidics, Inc., 26979.
Aztec Products, Inc., 24379, 26239, 26979.
BBI, Inc., 24379, 26239, 26980.
Banister Continental Ltd., 26028.
Beneficial Laboratories, Inc., 24379, 26239, 26980.
Brockton Edison Co., 24381.
CIC Industries, Inc., 24379, 26242.
CNA Association Members Fund, Inc., 26775.





Page

Central Power & Light Co., 23992.
Chicago Board Options Exchange Clearing Corp., 26775.
Chicago Board Options Exchange, Inc., 26775.
Citizens & Southern Capital Corp., 24380.
Coastal States Gas Corp., 24380, 26242.
Coastal States Gas Producing Co., 24380, 26243.
Co-Build Co., Inc., 26980.
Colorado Interstate Corp., 24381, 26241.
Colorado Interstate Gas Co., 24380, 26241.
Compusamp, Inc., 24688.
Connecticut Gas Co., 23992.
Connecticut Light & Power Co., 23992.
Continental Vending Machine Corp., 23993, 25235, 26408.
Counselors Investment Fund, Inc., 25236.
Diversified Earth Sciences, Inc., 26408, 26980.
Eastern Utilities Associates, 24381.
Equity Funding Corp. of America, 24381, 26241, 26980.
Esmark, Inc., 26029, 26030.
Excelsior Income Shares, Inc., 24382.
FDF 120 Accumulator Plan Financial Programs, Inc., 24382.
Faim Information Services, Inc., 26242.
First International Bancshares, Inc., et al., 26163.
First Leisure Corp., 24383, 26242, 26980.
Fluid Power Pump Co., 26980.
Giant Stores Corp., 24383, 26242, 26981.
Hersey, R. S., Fund, Inc., 26981.
Home-Stake Production Co., 23993, 25236, 26776.
Hubinger, Franz, A. G. Inc., 26408.
ICN Pharmaceuticals, Inc., 26030.
IDS Life Insurance Co., 24688, 26982.
IDS Life Variable Annuity:
Fund A, 24688.
Fund B, 26982.
Industries International, Inc., 24383, 26242, 26981.
Innoven Capital Corp., 24384.
Investors Diversified Services, Inc., et al., 26409.
Investors Variable Payment Fund, Inc., et al., 24384.
Jersey Central Power & Light Co., 26239.
Koracorp Industries, Inc., 24386, 25236, 26410.
League Life Separate Account No. 1; 24386.
Massachusetts Electric Co., 26410.
Merrill Lynch & Co., Inc., 26029, 26030.
Metropolitan Edison Co., 26243, 26836.
Mississippi Power Co., 26776.
Motorola, Inc., 26029, 26163.
Mutual Securities Fund of Boston, 24386.
Neuwirth Fund, Inc., et al., 23993.
North American Building Technology, Inc., 26242.
Ohio Edison Co., 26240.
PBW Stock Exchange, Inc., 26243.
Redwood Fund, Inc., 23994.
Rocky River Realty Co., 24386.
Royal Properties Inc., 24387, 25475, 26981.
Southern Company, 24387.
Stratton Group, Ltd., 25475, 26411.
Teleprompter Corp., 26029, 26244, 26411.
Triex International Corp., 24388, 26240, 26981.
Trionics Engineering Corp., 24388, 26241, 26981.
U.S. Financial Inc., 24388, 26240, 26982.
Wade Fund, Inc., 25475.
Woodpark Associates Fund, 26411.

**Security:**

AIR CARRIERS, restricted areas. *See* Federal Aviation Administration.
DEVICES AND EQUIPMENT Catalog, and Directory of Security Resources, proposed development for law enforcement purposes ---- 24671
PILOT COMPARTMENT SECURITY, proposed rules withdrawn ---- 26939
VESSELS, security zones. *See* Coast Guard.
VETERANS ADMINISTRATION property, security on ---- 24364

**Security Zones:**

*See* Coast Guard.

**Seeds:**

FEDERAL SEED ACT, etc. *See* Agriculture Department.

**SELECTIVE SERVICE SYSTEM:** Page

APPEALS:
Appeal boards, proposed rules ---- 26393
CLASSIFICATION:
All classes ---- 27115
Preparation for ---- 25198
Procedure, proposed rule ---- 26393
INDUCTION:
Allocation ---- 25198
Proposed rule ---- 26393
Delivery ---- 25201
Proposed rule ---- 26393
MEDICAL, DENTAL, OR ALLIED SPECIALIST categories ---- 25202
OFFICERS of Selective Service, signing of official papers; proposed rule ---- 25704
REGISTRANTS PROCESSING MANUAL ---- 25198
REGISTRATION:
Registrants, proposed rules:
Duties of ---- 26393
Examination of ---- 26393

**Sex Discrimination:**

NONDISCRIMINATION. *See* Health, Education and Welfare Department.

**SMALL BUSINESS ADMINISTRATION:**

AUTHORITY DELEGATIONS:
By Administrator to certain officials:
Associate Administrator for Finance and Investment ---- 26509
Associate Administrator for Procurement and Management Assistance ---- 26510
DISASTER AREAS requiring Federal assistance:
Indiana, 24935.
Montana, 26983.
New Hampshire, 25476.
Pennsylvania, 26983.
SMALL BUSINESS INVESTMENT COMPANIES:
Applications:
Licenses issued, surrendered or revoked:
American Inner Urban Investment Corp., 25476.
First Venture Capital Corp., 26983.
Frankford Grocery Small Business Investment Co., 26837.
Massachusetts Venture Capital Corp., 24281.
Risk Capital Funding, Inc., 23994.
Transfer of control:
Investcal Small Business Investment Co., 26412.
Conflict of interest, exemptions, etc.:
Viksburg Small Business Investment Co., 26777.
Proposed rules ---- 24029

**SOCIAL AND ECONOMICS STATISTICS ADMINISTRATION:**

MEETINGS, census advisory committees:
American Statistical Association, 24232.
Population Statistics, 25709.
Privacy and Confidentiality, 24921.
SURVEYS, annual, etc.:
Manufacturing area ---- 27101

**SOCIAL AND REHABILITATION SERVICE:**

*See Children's Bureau.*
AGED, service programs for. *See* Service programs, *below.*
BLIND, service programs. *See* Service programs, *below.*
FINANCIAL ASSISTANCE PROGRAMS:
Eligibility, coverage and conditions of:
Aid to families with dependent children (AFDC):
Age and school attendance ---- 26916
Continued absence of parent from home, mandatory definition; proposed rules ---- 23802
Dependent children of unemployed father, Federal definition, correction ---- 26608
Medical assistance programs, expiration ---- 26379
Need and amount of assistance, requirements ---- 25441, 26370
Residence requirements ---- 26379
Federal financial participation ---- 26380
Housing, public, agencies, rent payments to ---- 26380


INDEX

XUM

## SOCIAL AND REHABILITATION SERVICE—Continued

Page

HOUSING, PUBLIC, AGENCIES. *See under* Financial assistance programs, *above*.
MATERNAL AND CHILD HEALTH SERVICES, grants:
Administrative procedure, revocations 26201
Cost principles etc 26201
Family planning services, special project grants, revocation of Part 26201
MEDICAID. *See* Medical assistance programs, *below*.
MEDICAL ASSISTANCE PROGRAMS:
Fraud, false or excessive claims for Medicare benefits; proposed rule 26920
Inpatient hospital services, reasonable charges; proposed rules 25450
Sterilization procedures, requirements for Federal financial participation; proposed rules 26460
PUBLIC ASSISTANCE PROGRAMS:
Cost allocation plans 26804
Federal financial participation, specific limitations on 26379
Grants to States, administration of 26320
Program manuals, agency; availability 26378
REHABILITATION PROGRAMS, grants, administration of 26320
SERVICE PROGRAMS for families and children and for aged, blind, or disabled:
Foster care, health-related services for drug addicts and alcoholics, family planning services, legal services for paternity claims, etc.; proposed rules 24872, 27081
Grants, administration of 26320
STERILIZATION PROCEDURES. *See under* Medical assistance programs, *above*.

## SOCIAL SECURITY ADMINISTRATION:

AGED, Federal health insurance for (Medicare):
Hospital-based physicians, provider costs and services by, reimbursement principles:
Reasonable costs, charges lower than, or services provided without charge; proposed rules 25448
Inpatient hospital services:
Outside U.S., including physician and ambulance services; proposed rules 23803
Nursing facilities, skilled, designation of extended care facilities as 26718
Supplementary medical insurance:
Enrollment, restrictions preventing; proposed rules 26132
Premium rate, limits on increases; proposed rule 26616
MEETINGS, advisory committees, etc.:
Health Insurance Benefits, 24242.
Medicare Administration, Contracting and Subcontracting, 25214, 25214.
OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE:
Disability insurance benefits, lowering of waiting period requirement; proposed rules 26921
Evidence of right to receive benefits, facilitation of submission 26806
ORGANIZATION AND FUNCTIONS:
Administration Office 24672

## SOIL CONSERVATION SERVICE:

ENVIRONMENTAL STATEMENTS, availability:
Kentucky:
Narge Creek Flood Prevention Project Measure, Tradewater River Area Project, 23986.
Tennessee:
Hurricane Creek Watershed Project, Humphreys and Dickson Counties, 24230.
Red Boiling Springs Watershed Project, Macon and Clay Counties, 27100.
Texas:
Leona River Watershed Project, Uvalde County, 26950.
West Virginia:
Pocatalico River Basin Joint Survey, Interim Report, Roane, Jackson, Putnam, and Kanawha Counties, 23986.

## Soil Samples:

*See* Agriculture Department.

## Soybeans:

*See* Domestic and International Business Administration.

## Spray Adhesives:

BANNED AS HAZARDOUS SUBSTANCES. *See* Consumer Product Safety Commission.

## STATE DEPARTMENT:

MEETINGS, advisory councils, etc.:
Educational and Cultural Affairs, International, 26820.
Law, 23807.
Law, Private International, 26738.
Law of Sea, 25705.
North Pacific Fisheries, International, 25705.
Radio, 23807, 23981, 26011.
Science and Foreign Affairs, 23807.
Shipping Coordinating, 23981, 26471.
PASSPORTS, U.S., restrictions on use when traveling into or through certain countries:
Cuba, 25705.
North Korea, 25705.
North Vietnam, 25705.
SURPLUS PROPERTY, located in foreign areas, disposal; transfer of regulations 27049
TRAVEL RESTRICTIONS. *See* Passports.
TURKEY, Republic of, foreign assistance (Memorandum of August 17, 1973) 25903

## Sterilization:

*See* Health, Education and Welfare Department; Social and Rehabilitation Service.

## Stockyards:

PACKERS AND STOCKYARDS. *See* Agriculture Department.

## Students:

*See also* Education and educational facilities; Education Office.
MINIMUM WAGES. *See* Wage and Hour Division.

## Sugar:

*See* Agriculture Department.

## Surplus Property:

AGRICULTURAL COMMODITIES, sales. *See* Commodity Credit Corporation.

## Sweeteners:

*See* Food and Drug Administration.

## Swine and Pork Products:

*See* Agriculture Department.

T

## Tangelos:

*See* Agriculture Department.

## Tangerines:

*See* Agriculture Department.

## TARIFF COMMISSION:

ADJUSTMENT ASSISTANCE:
Workers' petitions, etc.:
Criterion Footwear, Inc., Brooklyn, N.Y., 24689.
Foramin Corp., Brooklyn, N.Y., 26777.
Gustin, Don, Shoe Co., Inc., Paterson, N.J., 24690.
Lauer, M., Inc., Long Island, N.Y., 26776.
Mather Co., Sylvania, Ohio, 26778.





Page

Workers' petitions, etc.—Continued
Moxees Shoe Corp., Auburn, Maine, 26778.
Nina Footwear Co., Inc., Long Island City, N.Y., 25237.
Zuckerman and Fox, Inc., New York, N.Y., 25237.
INVESTIGATION OF IMPORTS:
Ampicillin, 25723.
Base metal, expanded metal, from Japan, 26031.
Calcium pantothenate from Japan, 26030.
Catheters, disposable, 26244.
Chain door locks, 25236.
Color separating or sorting machines, electronic, from United Kingdom, 25723.
Game tables, convertible, 25236.
Milk, nonfat dry, 23995.
Pianos, 23995.
Steel wire rope from Japan, 25724.
TARIFF SCHEDULES of U.S.:
Collection of F.O.B. and C.I.F. data on imports 26030, 26837, 27100
Conversion into format of Brussels tariff nomenclature; inquiry, time extension 26777

## Tariff Schedules of United States:

*See* Commerce Department; Tariff Commission; Textile Agreements Implementation Committee.

## Taxes:

*See* Internal Revenue Service.

## Telephones:

*See* Federal Communications Commission; Rural Electrification Administration.

## Television:

BROADCAST STATIONS, etc. *See* Federal Communications Commission.

## TEXTILE AGREEMENTS IMPLEMENTATION COMMITTEE:

COTTON TEXTILES from various countries, import restrictions:
Brazil, 26959.
Costa Rica, 26630.
Ghana, 25466.
Haiti, 24679.
Korea, 26830.
Peru, 25487.
MAN-MADE FIBER TEXTILES from various countries, import restrictions:
China, Republic of, 25215.
Korea, 26830.
TARIFF SCHEDULES of U.S., merchandise imported in sets; statistical headnote 25216
WOOL TEXTILES from various countries, import restrictions:
China, Republic of, 25215.
Korea, 26830.

## Timber:

*See also* Forest Service.
INDIAN RESERVATIONS, sales. *See* Indian Affairs Bureau.

## Tobacco:

*See* Agriculture Department.

## Tomatoes:

*See* Agriculture Department.

## Toys:

HAZARDOUS SUBSTANCES. *See* Consumer Product Safety Commission; Food and Drug Administration.

## Trade Practices:

*See* Federal Trade Commission.

## TRANSPORTATION DEPARTMENT:

*See Coast Guard.*
*Federal Aviation Administration.*
*Federal Highway Administration.*
*Hazardous Materials Regulations Board.*
*National Highway Traffic Safety Administration.*
*St. Lawrence Seaway Development Corporation.*
*Urban Mass Transportation Administration.*
AUTHORITY DELEGATIONS:
By Secretary to Coast Guard Commandant, representation of consumer interests before Connecticut Public Utilities Commission 26146
MEETING, citizens advisory committee:
Transportation Quality, 24674.
ORGANIZATION AND FUNCTIONS:
Coast Guard, corrections:
Marine Protection, Research, and Sanctuaries Act 24902
Retired Serviceman's Survivor Benefit Plan, rental housing 24902
Federal Highway Administrator, highway relocation assistance 26805

## TRAVEL SERVICE, UNITED STATES:

MEETING, advisory board 26222

## Travel and Transportation Expenses:

APPOINTEES to certain positions where there are manpower shortages. *See* Civil Service Commission.

## TREASURY DEPARTMENT:

*See Alcohol, Tobacco and Firearms Bureau.*
*Comptroller of Currency.*
*Customs Service.*
*Internal Revenue Service.*
ANALYSIS AND SPECIAL STUDIES OF NATURAL RESOURCES AND ENERGY OFFICE, establishment 26217
ANTIDUMPING ACT, 1921:
Determinations, withholding of appraisement, etc.:
Calcium pantothenate; Japan, 24669.
Expanded metal, of base metal; Japan, 23981.
Hand-tools, non-powered; Japan, 26738.
Polypropylene strapping; Japan, 25457.
BONDS, U.S. Savings 24762, 26189
CLAIMS, PENALTIES, and forfeitures, authority respecting decisions 26395
LOAN, guaranteed, to Government of Brazil; invitation to bid 25206
MINT BUREAU, conduct in or on buildings and grounds 24897
MONETARY OFFICES. *See* Mint Bureau.
ORGANIZATION AND FUNCTIONS, Office of Analysis and Special Studies of Natural Resources and Energy; establishment 26217
TARIFF SCHEDULES OF U.S., proposed amendment to headnote; collection of F.O.B. and C.I.F. data on imports 27100

## Tung Nuts:

*See* Commodity Credit Corporation.

U

## Uranium:

*See* Atomic Energy Commission.

## URBAN MASS TRANSPORTATION ADMINISTRATION:

AUTHORITY DELEGATIONS:
By Acting Administrator to certain officials with respect to Urban Mass Transportation Program:
Assistant Administrators:
Program Demonstrations Office 26624
Program Operations Office 26624
Program Planning 26624


INDEX

XUM

## URBAN MASS TRANSPORTATION ADMINISTRATION—Continued

Page

AUTHORITY DELEGATIONS—Continued
By Acting Administrator to certain officials with respect to Urban Mass Transportation Program—Continued
Associate Administrators:
Capital Assistance 26624
Program Planning 26624
Research and Development 26624
Transit Planning 26624
Directors:
Civil Rights and Service Development Office 26625
Transit Management 26625

V

## Vegetables:

*See also specific vegetables.*
PROCESSED. *See* Agriculture Department.

## Vessels:

COAST GUARD regulations. *See* Coast Guard.
CUBA, list of free world and Polish flag vessels arriving in, since January 1, 1963. *See* Maritime Administration.
CUSTOMS regulations. *See* Customs Bureau.
NAVIGATION REGULATIONS. *See* Engineers Corps.
WATER CARRIERS. *See* Federal Maritime Commission; Interstate Commerce Commission; Maritime Administration; Renegotiation Board.

## VETERANS ADMINISTRATION:

ADJUDICATION. *See* Pension, compensation, *below.*
AUTHORITY DELEGATION by Administrator to Chief Medical Director, Medicine and Surgery Department; appointment of special policemen as investitors 24366
BURIAL. *See* Cemetery system, national, *below.*
CEMETERY SYSTEM, NATIONAL, acquisition 24281
COMMITTEES:
Meetings. *See* Meetings, *below.*
Merit Review Board for Alcoholism and Dependence Programs, etc.; establishment 23996
EDUCATION. *See* Vocational rehabilitation and education, *below.*
ENVIRONMENTAL STATEMENT, availability:
Rehabilitation/nursing home care building, Sepulveda, Calif., 26412.
LOAN GUARANTY, prepayment of mortgage loans interest charges 25678
MEDICAL:
Authority for disciplinary action, etc 24366
Automobile equipment, special, payment or reimbursement; proposed rule 26394
Grants and assistance for medical education, etc 26190
MEETINGS, advisory committees:
Career Development Selection, 23839.
Voluntary Service National, 26983.
MOTOR VEHICLE equipment, special, payment or reimbursement; proposed rule 26394
PENSION, COMPENSATION, dependency, income and estate; aged, blind, and disabled, supplementary security income for 26804
PROCUREMENT:
Forms, 26369.
Loan guaranty, education, and rehabilitation programs, 26369.
Special types and methods, 26368.
SECURITY, LAW ENFORCEMENT, AND CONDUCT STANDARDS on VA property, authority, applicability, etc 24364
VOCATIONAL REHABILITATION AND EDUCATION:
Entitlement charges 23948
Independent study program, payments; proposed rules 26944

## Vietnam, North:

Page

TRAVEL RESTRICTIONS. *See* State Department.

## Viruses, Serums, Toxins, etc.:

*See* Agriculture Department.

## Voting:

POPULATION ESTIMATES by age, correction 23987

W

## WAGE AND HOUR DIVISION:

PUERTO RICO:
Minimum wage rates and industry committees, various industries; rules proposed or adopted, hearings, etc.:
Children's dress and related products, 25988.
Corsets, brassieres, and allied garments, 25989.
Laundry and cleaning, 26718.
Women's outerwear, needlework, and miscellaneous fabricated textile products, 25989.
STUDENTS, full-time, employment at special minimum wages; certificates authorizing employment 23997, 26838

## Wages:

*See* Pay, compensation.

## Waste Disposal:

*See* Environmental Protection Agency.

## Water Carriers:

*See* Federal Maritime Commission; Interstate Commerce Commission; Maritime Administration; Renegotiation Board.

## Water Pollution:

*See* Pollution.

## Water Resources:

*See* Delaware River Basin Commission; Water Resources Council.

## WATER RESOURCES COUNCIL:

WATER AND RELATED LAND RESOURCES, principles and standards for planning 24778

## Wheat:

*See* Agriculture Department; Domestic and International Business Administration.

## Wildlife and Refuges:

*See also* Fish and Wildlife Services; Land Management Bureau.
CONSERVATION, fish and wildlife. *See* Public Buildings Service.
ENVIRONMENTAL STATEMENTS. *See* Interior Department.

## Women:

NONDISCRIMINATION. *See* Health, Education, and Welfare Department.

## Wool:

IMPORT RESTRICTIONS. *See* Textile Agreements Implementation Committee.




## TABLE OF FEDERAL REGISTER PAGES AND DATES

| Pages | Date | Pages | Date | Pages | Date |
|---|---|---|---|---|---|
| 23765–23922 | Sept. 4 | 25155–25420 | Sept. 12 | 26345–26433 | Sept. 20 |
| 23923–24184 | 5 | 25421–25654 | 13 | 26435–26593 | 21 |
| 24185–24326 | 6 | 25655–25895 | 14 | 26595–26668 | 24 |
| 24327–24625 | 7 | 25897–26091 | 17 | 26669–26790 | 25 |
| 24627–24874 | 10 | 26093–26171 | 18 | 26791–26883 | 26 |
| 24875–25154 | 11 | 26173–26344 | 19 | 26885–27038 | 27 |
| | | | | 27039–27203 | 28 |

INDEX

XUM

# INDEX

XUM

Federal Register

Code of Federal Regulations

# List of CFR Sections Affected

## January-September 1973

## Volume 38

## Numbers 1-188

Includes U.S.C.–C.F.R.
Table of Authorities




CODE

XUM

# LIST OF SECTIONS AFFECTED

## WHAT IT IS

The List of Sections Affected is designed to lead users of the Code of Federal Regulations to amendatory actions published in the Federal Register. Entries indicate the nature of the changes. Certain terms used are defined in the glossary below. Proposed rules are listed at the end of appropriate titles.

## CHANGE IN SIZE

The List of Sections Affected has been changed to the same size as the Code of Federal Regulations to improve the usefulness of this finding aid. It should be shelved with current Code volumes.

## HOW TO USE THIS FINDING AID

The Code of Federal Regulations, revised as of January 1, 1973, may be brought up to immediate date by the following steps:

1. Consult this List of Sections Affected for any changes, deletions, or additions published after January 1.
2. Check the "Cumulative List of Parts Affected" appearing at the end of the latest issue of the Federal Register for changes published after the last date covered by this issue of the List of Sections Affected.
3. If the edition of the Code of Federal Regulations as of January 1, 1973, is not available, use the previous year's edition and consult the 1972 Annual List of Sections Affected before beginning with step 1 above.

## GLOSSARY

**Amended**—A typographical unit of the CFR was partially set forth.
**Recodified**—Major portions of CFR were restructured or rearranged, or both.
**Redesignated**—A typographical unit or larger was renumbered and transferred from one place to another place in the CFR with no change in text.
**Removed**—A typographical unit was removed from the CFR.
**Revised**—A typographical unit of the CFR was set forth in full.
**Superseded**—An existing CFR unit was replaced by regulations appearing under another CFR unit.
**Suspension**—The entire CFR unit was not in effect for the period of time indicated.
**Suspension in part**—A portion of the CFR unit was not in effect for the period of time indicated.
**Technical amendment**—General amendment that may have no substantive effect on regulations.
**Typographical unit**—A numbered, lettered or undesignated entity appearing in the CFR.

## TABLE OF FEDERAL REGISTER ISSUE PAGES AND DATES

A finding aid has been included at the end of this issue which lists the page numbers with the date of publication in the Federal Register.

## INQUIRIES AND SUGGESTIONS

Future monthly issues of the List of Sections Affected also will appear in this format. The Office of the Federal Register hopes to bring about other changes which will improve the usefulness of the Federal Register and the Code of Federal Regulations. Inquiries concerning this and other publications of this office and suggestions for improvements will be welcomed by the Director, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

## SUBJECT INDEX

A subject index to the daily Federal Register is published monthly and annually for the calendar year.

CODE
XUM



1 CFR

Page

Page

## 1 CFR

### Chapter III


| | Page |
|---|---|
| Establishment of chapter | 16839 |
| 305 Added | 16839 |
| 305.68–1 Added | 19782 |
| 305.68–2 Added | 19782 |
| 305.68–3 Added | 19782 |
| 305.68–4 Added | 19782 |
| 305.68–5 Added | 19782 |
| 305.68–6 Added | 19783 |
| 305.68–7 Added | 19784 |
| 305.68–8 Added | 19784 |
| 305.69–1 Added | 19784 |
| 305.69–2 Added | 19784 |
| 305.69–3 Added | 19784 |
| 305.69–4 Added | 19784 |
| 305.69–5 Added | 19784 |
| 305.69–6 Added | 19784 |
| 305.69–7 Added | 19784 |
| 305.69–8 Added | 19784 |
| 305.69–9 Added | 19785 |
| 305.70–1 Added | 19785 |
| 305.70–2 Added | 19785 |
| 305.70–3 Added | 19785 |
| 305.70–4 Added | 19786 |
| 305.70–5 Added | 19787 |
| 305.71–1 Added | 19787 |
| 305.71–2 Added | 19787 |
| 305.71–3 Added | 19788 |
| 305.71–4 Added | 19789 |
| 305.71–5 Added | 19789 |
| 305.71–6 Added | 19789 |
| 305.71–7 Added | 19790 |
| 305.71–8 Added | 19790 |
| 305.71–9 Added | 19790 |
| 305.71–1 Added | 19791 |
| 305.72–2 Added | 19791 |
| 305.72–3 Added | 19791 |
| 305.72–4 Added | 19791 |
| 305.72–5 Added | 19792 |
| 305.72–6 Added | 19792 |
| 305.72–7 Added | 19793 |
| 305.72–8 Added | 19793 |
| 310 Added | 16841 |
| 310.1 Added | 19794 |


## 3 CFR

### Proclamations


| | Page |
|---|---|
| 863 Revoked in part by PLO 5378 | 22553 |
| 2033 See PLO 5342; incorrectly designated as Proc. 2032 | 8445, 22470 |
| 2290 See PLO 5333 | 7558 |
| 2372 See PLO 5342 | 8445 |
| 2929 See Proc. 4189 | 4935 |
| 3044 See Proc. 4188 | 4497 |
| See EO 11705 | 6135 |
| 3140 See Proc. 4189 | 4935 |
| 3279 Amended by Proc. 4178 | 1719 |
| See OI Reg. 1, Rev. 5, Amdt. 53 | 4259 |
| Modified by Proc. 4202 | 7977 |
| Modified by Proc. 4210 | 9645 |
| Modified by Proc. 4227 | 16195 |
| 3548 See Proc. 4177 | 7 |
| 3558 See Proc. 4177 | 7 |
| 3562 See Proc. 4177 | 7 |
| 3597 See Proc. 4177 | 7 |
| 3709 See Proc. 4177 | 7 |
| 3790 See Proc. 4177 | 7 |
| 3822 See Proc. 4177 | 7 |
| Amended in part by Proc. 4189 | 4935 |
| 3836 See Proc. 4177 | 7 |
| 3870 See Proc. 4177 | 7 |
| 3884 See Proc. 4177 | 7 |
| 3964 See Proc. 4189 | 4935 |
| 4026 See Proc. 4177 | 7 |
| 4138 See Proc. 4177 | 7 |
| 4177 | 7 |
| 4178 | 1719 |
| 4179 | 2319 |
| 4180 | 2321 |
| Suspended by Proc. 4188 | 4497 |
| 4181 | 2737 |
| 4182 | 2739 |
| 4183 | 2951 |
| 4184 | 2953 |
| 4185 | 2955 |
| 4186 | 3503 |
| 4187 | 3577 |
| 4188 | 4497 |
| 4189 | 4935 |
| 4190 | 5617 |
| 4191 | 5993 |
| 4192 | 6133 |
| 4193 | 6661 |
| 4194 | 6873 |
| 4195 | 6875 |
| 4196 | 6983 |
| 4197 | 6985 |
| 4198 | 7109 |
| 4199 | 7111 |
| 4200 | 7315 |
| 4201 | 7975 |
| 4202 | 7977 |
| 4203 | 8047 |
| 4204 | 8231 |
| 4205 | 9151 |
| 4206 | 9215 |
| 4207 | 9217 |
| 4208 | 9575 |
| 4209 | 9577 |
| 4210 | 9645 |
| See Proc. 4227 | 16195 |
| 4211 | 10065 |
| 4212 | 10067 |
| 4213 | 10241 |
| 4214 | 11433 |

## 3 CFR—Continued

### Proclamations—Continued

| | Page |
|---|---|
| 4215 | 11435 |
| 4216 | 12313 |
| 4217 | 12601 |
| 4218 | 14151 |
| 4219 | 14739 |
| 4220 | 15435 |
| 4221 | 15497 |
| 4222 | 15815 |
| 4223 | 15817 |
| 4224 | 15819 |
| 4225 | 15929 |
| 4226 | 15931 |
| 4227 | 16195 |
| 4228 | 17825, 19111 |
| 4229 | 19007 |
| 4230 | 19343 |
| 4231 | 22115 |
| 4232 | 22117 |
| 4233 | 22213 |
| 4234 | 22365 |
| 4235 | 22367 |
| 4236 | 22369 |
| 4237 | 22883 |
| 4238 | 23309 |
| 4239 | 24191 |
| 4240 | 24193 |
| 4241 | 24881 |
| 4242 | 26099 |
| 4243 | 26101 |
| 4244 | 26179 |
| 4245 | 26351 |
| 4246 | 26411 |

### Executive Orders

| | Page |
|---|---|
| July 2, 1910 See PLO 5355 | 20081, 22022 |
| See PLO 5358 | 20082 |
| Revoked in part by PLO 5379 | 22470 |
| July 11, 1911 Revoked in part by PLO 5327 | 2429 |
| July 10, 1913 Revoked in part by PLO 5327 | 2429 |
| July 22, 1913 Revoked in part by PLO 5379 | 22470 |
| December 15, 1914 Revoked in part by PLO 5327 | 2429 |
| February 23, 1915 Revoked in part by PLO 5327 | 2429 |
| August 22, 1919 Revoked in part by PLO 5379 | 22470 |
| 1929 Revoked in part by PLO 5337 | 7560 |
| 3256 See PLO 5323 | 735 |
| 6143 Revoked in part by PLO 5374 | 21168 |
| 6276 Revoked in part by PLO 5374 | 21168 |
| 6583 Revoked in part by PLO 5374 | 21168 |
| 8790 See PLO 5341 | 7561 |
| 8791 See PLO 5341 | 7561 |
| 10122 Amended by EO 11733 | 20431 |
| 10242 See EO 11725 | 17175 |
| 10296 See EO 11725 | 17175 |
| 10355 See PLO 5344 | 10457 |
| 10400 See EO 11733 | 20431 |
| 10421 See EO 11725 | 17175 |
| 10480 See EO 11725 | 17175 |
| 10494 See EO 11725 | 17175 |
| 10601 See EO 11725 | 17175 |
| 10634 See EO 11725 | 17175 |
| 10705 See EO 11725 | 17175 |
| 10900 See EO 11725 | 17175 |
| 10918 Revoked by 11710 | 9071 |
| 10952 See EO 11725 | 17175 |
| 10958 See EO 11725 | 17175 |
| 11051 Partially revoked by EO 11725 | 17175 |
| 11073 Superseded by EO 11721 | 13717 |
| 11157 Amended by EO 11716 | 10621 |
| Amended by EO 11728 | 18861 |
| 11173 Superseded by EO 11721 | 13717 |
| 11179 See EO 11725 | 17175 |
| 11227 Revoked by EO 11718 | 12797 |
| 11248 Amended by EO 11699 | 2323 |
| Revoked in part by EO 11708 | 7979 |
| 11277 Revoked by EO 11718 | 12797 |
| 11287 Amended by EO 11734 | 20433 |
| 11359 Superseded by EO 11737 | 24883 |
| 11371 Amended by EO 11707 | 6788 |
| 11415 See EO 11725 | 17175 |
| 11453 Revoked by EO 11702 | 2957 |
| 11490 See EO 11725 | 17175 |
| 11508 Superseded by EO 11724 | 16837 |
| 11526 See EO 11725 | 17175 |
| 11541 Superseded in part by EO 11717 | 12315 |
| 11548 Superseded by EO 11548 | 21243 |
| 11556 See EO 11725 | 17175 |
| 11560 Superseded by EO 11724 | 16837 |
| 11575 See EO 11725 | 17175 |
| 11582 See EO 11696 | 1722 |
| 11583 Amended by EO 11702 | 2957 |
| 11595 See EO 11702 | 2957 |
| 11598 Superseded by EO 11701 | 2675 |
| 11602 Superseded by EO 11738 | 25161 |
| 11609 Amended by EO 11713 | 10069 |
| 11635 Superseded by EO 11737 | 24883 |
| 11641 Revoked by EO 11727 | 18357 |
| 11642 See EO 11704 | 5619 |
| 11647 Amended by EO 11731 | 19903 |
| 11652 Amended by EO 11714 | 10245 |
| 11659 Amended by EO 11737 | 24883 |
| 11662 See EO 11725 | 17175 |
| 11676 Revoked by EO 11727 | 18357 |
| 11678 See EO 11725 | 17175 |
| 11694 | 729 |
| 11695 | 1473 |
| See EO 11723 | 15765 |
| See EO 11730 | 19345 |



| | Page |
|---|---|
| 11696 | 1722 |
| 11697 | 1723 |
| 11698 | 2207 |
| 11699 | 2323 |
| 11700 | 2325 |
| 11701 | 2675 |
| 11702 | 2957 |
| 11703 | 3579 |
| 11704 | 5619 |
| 11705 | 6135 |
| 11706 | 6663 |
| 11707 | 6877 |
| 11708 | 7979 |
| Amended by EO 11715 | 10246 |
| Amended by EO 11727 | 18357 |
| Amended by EO 11736 | 21387 |
| 11709 | 8131 |
| 11710 | 9071 |
| Amended by EO 11729 | 18863 |
| 11711 | 9483 |
| 11712 | 9657 |
| Superseded by EO 11726 | 17711 |
| 11713 | 10069 |
| 11714 | 10245 |
| 11715 | 10246 |
| 11716 | 10621 |
| 11717 | 12315 |
| 11718 | 12797 |
| 11719 | 13315 |
| 11720 | 13317 |
| 11721 | 13717 |
| 11722 | 15437 |
| 11723 | 15765 |
| Superseded in part by EO 11730 | 19345 |
| 11724 | 16837 |
| 11725 | 17175 |
| 11726 | 17711 |
| 11727 | 18357 |
| 11728 | 18861 |
| 11729 | 18863 |
| 11730 | 19345 |
| 11731 | 19903 |
| 11732 | 20429 |
| 11733 | 20431 |
| 11734 | 20433 |
| 11735 | 21243 |
| 11736 | 21387 |
| 11737 | 24883 |
| 11738 | 25161 |

### Presidential Documents Other Than Proclamations and Executive Orders

| | Page |
|---|---|
| Memorandum of November 8, 1968; amended by Memorandum of May 14, 1973 | 13319 |
| Memorandum of January 2, 1973 | 7211 |
| Letter of January 22, 1973 | 2677 |
| Memorandum of February 1, 1973 | 5235 |
| Reorganization Plan No. 1 of 1973 | 9579 |
| See EO 11725 | 17175 |
| Memorandum of April 26, 1973 | 12799 |
| Memorandum of May 14, 1973 | 13319 |
| Reorganization Plan No. 2 of 1973 | 15932 |
| Memorandum of May 14, 1973 | 16019 |
| Memorandum of May 21, 1973 | 16021 |
| Memorandum of June 13, 1973 | 18231 |
| Memorandum of June 29, 1973 | 20805 |
| Memorandum of August 17, 1973 | 25903 |

## 4 CFR

### Chapter III

| | Page |
|---|---|
| 303.5 Revised | 5455, 19831 |
| 304.3 Added | 5621 |
| 304.4 Added | 19831 |
| 331.3 (c) redesignated from 331.6 (c) and revised | 4238 |
| 331.6 (c) redesignated as 331.3 (c) | 4238 |
| 351.7 Corrected | 13321 |
| 400.1 (a) amended | 5318, 24195 |
| 403.80 Added | 7447 |
| 404 Added | 5321 |
| 404.80 Added | 12319 |
| 405 Added | 24198 |
| *Proposed Rules:* | |
| 331 | 23971 |
| 351 | 13385, 20101, 23971, 26072 |
| 400 | 23971 |
| 401 | 23971 |
| 402 | 23971 |
| 403 | 23971 |
| 404 | 23971 |
| 405 | 8278 |
| 406 | 21276 |

## 5 CFR

### Chapter I

| | Page |
|---|---|
| 210.102 (b)(7) revised | 22535 |
| 213.3102 (ff) added | 10151 |
| 213.3104 (a)(2), (3), (4), and (6), (b)(2), and (f) removed | 8448 |
| (e) removed | 16329 |
| 213.3105 (e)(1) revised; (g) added | 18540 |
| 213.3106 (b)(7) added | 3584 |
| 213.3107 (a)(1) revised | 3584 |
| 213.3108 (a)(1) revised | 3584 |
| 213.3109 (b)(1) removed | 1115 |
| 213.3110 Heading of (c) revised | 19111 |
| 213.3112 (h) added | 2741 |
| 213.3114 (i)(1) and (3) revised | 3585 |
| (d)(3) revised | 13475 |
| 213.3135 (d) added | 4499 |

CODE
XUM

## 5 CFR—Continued

### Chapter I—Continued


| | Page |
|---|---|
| 213.3182 (a)(1), (2), (3), and (11) through (18), (b)(3) through (14), (17), and (18) revised; (a)(19) through (27) and (b)(19) through (23) added | 22378 |
| 213.3199 (n)(1) revised | 11437, 18540 |
| 213.3209 (a) revised | 8584 |
| 213.3214 (c)(1) revised | 26675 |
| 213.3301b Added | 13633 |
| 213.3303 (i)(6) added | 8049 |
| (j)(6) added | 12801 |
| (a)(10), (11), (12), and (13) added | 14173 |
| (d)(6) added | 15717 |
| (a)(6) revised; (a)(14) added | 18445 |
| (a)(6) and (8) revised | 19111 |
| (a)(5) and (9) and (i)(1), (2), (5), and (6) removed | 21621 |
| 213.3304 (a)(13) added | 3037 |
| (q)(2) revised | 17179 |
| (e)(2) and (i) removed | 18359 |
| (x) added | 18540 |
| 213.3305 (a)(36) added | 1269 |
| (a)(37) added | 3037 |
| (a)(38) added | 4313 |
| (a)(23) revised | 4569 |
| (a)(39), (40), (41), and (42) added | 6879 |
| (a)(9) revised; (a)(40) corrected | 7447 |
| (a)(43) added (appears as (a)(41)) | 8448 |
| (a)(33) revised; (a)(41) correctly designated as (a)(43) | 9073 |
| (a)(44) added | 9793 |
| (a)(32) revised; (a)(45) added | 10437 |
| (a)(46) added | 18541 |
| (a)(21) and (27), (c)(3), and (f)(2) removed | 21621 |
| (a)(47) and (48) added | 24885 |
| (a)(49) added | 25165 |
| 213.3306 (a)(46) added | 1635 |
| (a)(47) added | 5621 |
| (a)(48) added | 5995 |
| (a)(49) added | 6879 |
| (a)(23) revised | 8164 |
| (a)(50) and (51) added | 10076 |
| (a)(2) and (10) revised; (a)(9) removed; (a)(52) added | 11337 |
| (a)(53) added | 12404 |
| (a)(7) and (34) removed | 13009 |
| (a)(1) and (13) revised | 13633 |
| (a)(46), (48), (52), and (53) and (e)(2) removed; (c)(2) revised | 21621 |
| 213.3308 (a)(1), (3), (4), (5), (6), (7), and (11) removed | 21621 |
| 213.3309 (a)(5) and (6) removed; (a)(7) revised | 21621 |
| 213.3310 (v) added | 5621 |
| (p)(1) and (5) removed | 11059 |
| (a)(4) revised | 14173 |
| (q)(3) added | 15499 |
| (a)(2), (3), and (7), (e)(4), and (r)(4) removed; (a)(4), (d)(1), and (s)(4) revised | 21621 |
| (a)(8) added | 22465 |
| (r)(5) revised | 22535 |
| 213.3312 (h)(3) revised | 3037 |
| (h)(4) added | 5621 |
| (a)(1) revised | 17179 |
| (a)(3), (5), (30), (31), and (34) through (39) revised | 18541 |
| (a)(1) effective date corrected | 21170 |
| (a)(1), (2), and (3), (b)(2), and (h)(3) revised; (a)(11), (14), (19), (22), (25), (32), (35), and (38), (i)(3), (j), (m)(2), and (o) removed | 21621 |
| (a)(42) added | 22535 |
| (a)(43) added | 23312 |
| (a)(5) revised | 26675 |
| 213.3313 (a)(28) added | 4313 |
| (a)(10) revised | 5621 |
| (a)(20) added | 6879 |
| (c)(6) added | 8049 |
| (a)(29), (30), and (31) added | 8448 |
| (a)(32) added | 9073 |
| (a)(33) added | 13475 |
| (a)(9) revised | 15717 |
| (c)(6) revised | 17827 |
| (a)(34) added | 18541 |
| (t)(1) added | 19111 |
| (a)(9) and (b)(4) revised; (a)(29) and (30), (h)(7), (k)(5), (p)(2), and (r) removed | 21621 |
| (a)(35) added | 21933 |
| (a)(36) added | 23312 |
| (c)(7) added | 26675 |
| 213.3314 (r)(3) added | 2327 |
| (a)(8) revised | 6879 |
| (d)(4) added | 12801 |
| (a)(14) removed | 13009 |
| (a)(26) added | 13321 |
| (a)(27), (d)(5), and (n)(3) added | 13633 |
| (d)(6) and (t) added | 14172 |
| (a)(28) added; (d)(2) revised | 15717 |
| (d)(1) removed | 17179 |
| (a)(29) added | 18445 |





| | Page |
|---|---|
| (f)(1) revised | 20065 |
| (a)(2) and (16), (j)(1), (m)(6) and (10), and (r)(1) revised; (a)(23) and (24), (d)(3), (j)(3), (l)(4), (m)(3), (5), (11), (12), (13), and (14), (n)(2) and (3), (q)(4), (5), and (6), (r)(2), and (s) removed | 21622 |
| (m)(15) added | 22535 |
| (n)(3) added | 24885 |
| 213.3315 (a)(30) added | 7393 |
| (a)(31) added | 9219 |
| (a)(8) and (29) revised; (a)(17) removed; (a)(32) added | 11337 |
| (a)(33) added | 14367 |
| (a)(22) revised | 15717 |
| (c) removed | 16023 |
| (a)(21) and (29) revised | 18541 |
| (a)(1) and (24) revised; (a)(12), (14), (20), (30), and (32), (e), and (i) removed | 21622 |
| (a)(8) and (22) revised; (a)(34) and (35) added | 21776 |
| (a)(22) revised | 22535 |
| (a)(36) added | 24344 |
| 213.3316 (a)(27) added | 4313 |
| (a)(28) added | 5621 |
| (a)(6) revised | 5995 |
| (m) added | 8049 |
| (a)(23) removed | 8233 |
| (g)(2) added | 11059 |
| (h)(11) and (r) added | 13475 |
| (a)(29) and (30) added | 14667 |
| (r)(2) added | 15499 |
| (o)(3) revised | 16023 |
| (a)(26) removed | 16329 |
| (a)(2), (11), (13), (16), and (24), (c)(1), (n)(2), (5), (9), and (14), (p)(3), and (q)(7) revised; (a)(7), (12), (17), and (21), (c)(4), (7), (8), (10), and (11), (f)(4) and (11), (h)(3), (4), (9), and (10), (k)(7), (8), (9), and (12), (n)(8), (10), and (11), (o)(7), and (p)(2) and (4) removed | 21622 |
| (r)(3) added | 23312 |
| (a)(31) added; (f)(10) revised | 24885 |
| 213.3317 (d) removed | 21622 |
| 213.3318 (c)(3) removed | 1269 |
| (a)(9) removed | 4313 |
| (a)(3) and (4) revised | 4499 |
| (h)(2) added | 9073 |
| (i) added | 18359 |
| (f)(1) removed | 21622 |
| (c)(4) added | 26443 |
| (a)(1) revised; (a)(10) added; (h) removed | 26675 |
| 213.3320 (e) revised | 17179 |
| 213.3322 (g) added | 13726 |
| (g) removed | 21622 |
| 213.3326 Heading of (n) revised; (n)(2) added | 19801 |
| (a)(1) and (3) revised; (b)(2) and (3) and (d) removed | 21622 |
| (f)(1) removed | 25907 |
| (n)(1) correctly designated from (n)(2) | 26353 |
| (n)(2) correctly designated as (n)(1) | 26353 |
| 213.3327 (a)(6), (7), and (8) added | 9485 |
| (b)(2) added | 16023 |
| (a)(9) added | 26675 |
| 213.3328 (b) added | 4313 |
| (i) added | 6879 |
| (f) removed | 21623 |
| 213.3329 (a) and (f) revised; (b) removed | 21623 |
| 213.3330 (f) and (g) added | 18541 |
| 213.3332 (a) revised | 3187 |
| (u) added | 9073 |
| (v) added | 14367 |
| 213.3337 (a)(9) removed | 953 |
| (a)(6) revised | 5621 |
| (a)(6) and (c)(2) revised; (a)(12) and (g)(2) removed | 21623 |
| (a)(13) added | 22215 |
| Heading of (a) corrected | 26353 |
| (c)(2) revised | 26797 |
| 213.3339 (c) added | 15499 |
| 213.3341 (h) added | 2327 |
| (c) and (e) removed | 21623 |
| (d) revised | 26797 |
| 213.3342 (d) removed | 21623 |
| 213.3344 (d) added | 1269 |
| (e) added | 3037 |
| (c) revised | 8448 |
| (e) removed | 10076 |
| 213.3346 (f) added | 10077 |
| (c) removed | 11059 |
| (a) removed; (g) added | 18359 |
| (h) added | 24885 |
| 213.3348 (e) and (f) removed; (p), (q), (r), (s), and (t) added | 26353 |
| 213.3350 (c) revised | 21623 |
| 213.3351 Removed | 21623 |
| 213.3354 (j) added | 7981 |
| 213.3359 (h) added | 2959 |
| (i) added | 4313 |
| (j) added | 9583 |
| (k) added | 17179 |
| (l) added | 20065 |
| (j) removed | 21623 |
| 213.3360 Added | 19957 |
| (b) and (c) added | 23395 |


20-120 O - 73 - 2



## 5 CFR—Continued


| | Page |
|---|---|
| 213.3501 (a)(1) revised | 21622 |
| 213.3502 (a)(1) revised | 21622 |
| 213.3503 (a)(1) revised | 21622 |
| 213.3504 (a)(1) revised | 21622 |
| 213.3505 (a)(1) revised | 21622 |
|

## 5 CFR—Continued

### Chapter I—Continued


| | Page |
|---|---|
| 213.3364 (h) added | 21776 |
| (i) and (j) added | 23395 |
| 213.3367 (a) revised | 21623 |
| 213.3368 (e)(5) revised; (f) removed | 1269 |
| 213.3371 Removed | 8049 |
| 213.3373 (a)(7), (e)(13) and (g)(2) added | 7216 |
| (a)(19) revised; (e)(5) removed | 21623 |
| 213.3374 Removed | 21623 |
| 213.3382 (c) revised | 21623 |
| (e) added | 26443 |
| 213.3384 (a)(32), (33), and (34) added | 5256 |
| (a)(35) and (36) added | 5995 |
| (a)(35) revised | 7981 |
| (a)(37) revised; (a)(43) and (44) added; (a)(1) and (d)(9) removed | 8448 |
| (a)(38), (39), (40), (41), and (42) added | 8588 |
| (a)(7) revised; (a)(45) added | 9073 |
| (a)(10), (23), and (25) revised; (a)(46) and (47) added | 9485 |
| (a)(4) removed; (a)(48) and (49) added | 11059 |
| (a)(50) added | 13633 |
| (a)(46) and (47) and (c)(5) revised | 14087 |
| (a)(26) and (27) revised | 16023 |
| (a)(8) and (31) revised; (a)(51) added | 16329 |
| (f)(5) and (h)(1) added | 17179 |
| (a)(52) added | 21170 |
| (a)(3), (15), (18), (28), (38), (39), and (45) and (e)(1) removed; (a)(12) and (26) revised | 21623 |
| (c)(5) revised; (i) added | 25165 |
| (a)(43) removed; (a)(53) added | 26181 |
| (j) added | 26675 |
| 213.3394 (a)(31) added | 4313 |
| (a)(32) added | 5995 |
| (a)(21) revised; (a)(33) and (34) added | 6879 |
| (a)(35) added | 7447 |
| (a)(11) revised; (a)(36) added | 8164 |
| (a)(37) added | 8588 |
| (a)(1) removed | 9219 |
| (a)(38) added | 9427 |
| (b)(4) added | 9485 |
| (a)(39) and (40) added | 9987 |
| (a)(41) and (42) added | 10437 |
| (a)(43) added | 20065 |
| (a)(11) revised; (a)(25), (34), (35), (37), and (42), (b)(4), (e)(1), and (f)(1) removed | 21623 |
| (a)(44) added | 21776 |
| (a)(45) added | 23312 |
| (a)(11) revised | 24885 |
| 316.201 Revised | 15617 |
| 335.103 Revised | 18445 |
| 351.204 Added | 2696 |
| 351.205 Added | 2696 |
| 352.601—352.608 (Subpart F) Added | 2327 |
| 352.605 (b) corrected | 3390 |
| 430 Revised | 18445 |
| 451.201 (a) revised | 18446 |
| 451.301—451.308 (Subpart C) Revised | 18446 |
| 451.309 Revised | 22535 |
| 511.201 (b) amended | 11337, 22536 |
| 531.501—531.517 (Subpart E) Revised | 14667 |
| 534.202 (b) amended | 11338, 22536 |
| 550 Subpart I Appendix A amended | 7115 |
| 550.361 Revised | 14261 |
| 591 Revised | 16850 |
| 591.202 Amended | 13726 |
| 591.203 Amended | 13726 |
| 630.206 (a) revised | 18446 |
| 630.506 Added | 18446 |
| 715.202 (b) revised | 18446 |
| 733.124 Amended | 7981 |
| 771.210 (a) revised; (i) added | 10247 |
| (i) revised | 13009 |
| 771.302 (a) revised | 22960 |
| 772.305 (c)(3), (4), and (5) revised; (c)(6) added | 10247 |
| 831.109 Added | 15717 |
| 870.501 (d) revised | 12404 |
| 871.401 (c) revised | 12891 |
| (c) corrected | 13547 |
| 900.401—900.412 (Subpart D) Added | 17920 |
| 900.501—900.510 (Subpart E) Added | 11059 |
| 1001.735-401 Revised | 20817 |


### Chapter XIV


| | Page |
|---|---|
| 2410 Revised | 22765 |


*Proposed Rules:*


| | Page |
|---|---|
| 900 | 4981, 4982 |
| 2410 | 13390 |


## 6 CFR

### Chapter I


| | Page |
|---|---|
| 101 Superseded in part by Part 130 | 1479 |
| 101.32 Revised | 962 |
| 102 Revised | 21973 |





| | Page |
|---|---|
| 102.21 Corrected | 25427 |
| 102.31 (a) corrected | 25427 |
| 102.50—102.54 (Subpart F) Added | 16025 |
| 102.71 (a) corrected | 25427 |
| 130 Added | 1479 |
| Subpart K Appendix added | 6284 |
| 130.1 (d) added | 6681 |
| (a) amended | 8589 |
| 130.3 Added | 4238 |
| 130.5 Added | 12746 |
| 130.6 Added | 14153 |
| 130.7 Added | 8589 |
| (c) revised | 12320 |
| 130.9 Added | 12201 |
| (b) redesignated as (c); new (b) added | 15935 |
| (b) revised | 16773 |
| 130.11 Revised | 15822 |
| 130.14 Added | 6681 |
| 130.15 Added | 12924 |
| (e)(1) and (2) revised; (e)(3) added | 16232 |
| 130.23 Revised | 12925 |
| 130.24 (b) revised | 12925 |
| 130.36 Added | 20461 |
| (b) corrected | 21170 |
| (d)(2) revised; (d)(3) added | 22961 |
| 130.40 (a)(2)(vi) and (vii) and (b)(2)(vii) and (viii) added | 8505 |
| (a)(2)(viii) and (b)(2)(ix) added | 15822 |
| (d) added | 16232 |
| (a)(2)(vii) and (b)(2)(viii) revised | 19682 |
| 130.51 Revised | 2763, 8506 |
| 130.56 (b) revised | 7317 |
| 130.57 Amended | 2763 |
| 130.57a Added | 2763 |
| Revised | 7317 |
| 130.57b Added | 2763 |
| Amended | 7317 |
| 130.57c Added | 2763 |
| Revised | 7317 |
| 130.57d Added | 7789 |
| Revised | 12609 |
| (c)(1) and (2) revised; (e) and (f) redesignated as (f) and (g); new (e) added | 19348 |
| (e)(1) amended; (e)(3) revised | 19957 |
| (e)(3) revised; (h) added | 24213 |
| 130.58 Text designated as (a); (b) added | 2763 |
| Revised | 8506 |
| (b) revised | 9826 |
| Introductory text of (b) revised; (c) added | 16877 |
| 130.58a Added | 8506 |
| Heading, (a), (b), and introductory texts of (c) and (d) revised; (g) added | 9826 |
| Amended | 19682 |
| Introductory text of (a)(3) revised; (h) added | 22961 |
| 130.59 Added | 3187 |
| 130.70—130.79 (Subpart H) Revised | 15822 |
| 130.72 Existing text designated as (a); (b) added | 5996 |
| 130.110 Amended | 2763, 2764, 7981 |
| 130.120—130.124 Subpart M) Added | 8507 |
| 130.121 (a) revised | 19348 |
| 130.122 Revised | 19348 |
| 130.123 Amended | 10077, 16028 |
| 130.124 Revised | 9024 |
| (e) added | 16028 |
| (f) added | 19348 |
| 130.125 Added | 16028 |
| 130.126 Added | 17236 |
| (a) revised | 19349 |
| 130.127 Added | 19349 |
| (a) and (b) amended | 24214 |
| 130.128 Added | 19349 |
| 130.129 Added | 19349 |
| (c) amended | 22791 |
| 130.130—130.132 (Subpart N) Added | 11062 |
| 130 Existing appendix designated as A | 6681 |
| Appendix B added | 6681 |
| Appendix C amended | 15936, 19802 |
| Appendix C amended | 15936 |
| Appendix I amended | 12608 |
| 140 Added | 15768 |
| 140.1 (d) revised | 18551 |
| (a) revised | 19349, 21934, 24214 |
| 140.2 Amended | 18441 |
| 140.14 Revised | 17490, 22791 |
| 140.15 Added | 17237 |
| 140.20 Revised | 16233 |
| (c) revised | 19349 |
| 140.33 Revised | 19905 |
| 140.34 Revised | 17237, 19350 |
| 140.35 Added | 19462 |
| 140.37 Added | 21592 |
| 140.40 (b) added | 18551 |
| 140.42 Revised | 18551 |
| 140.56 Revised | 18551 |
| 140.61 Added | 18551 |
| 140.80—140.85 (Subpart H) Added | 18551 |
| 140.91—140.99 (Subpart I) Added | 19350 |
| 140.93 (e)(2) revised | 19957 |
| (d)(1) revised | 22791 |
| 140.99 Revised | 19957 |
| 140 Appendix A added | 16329 |
| Appendix A amended | 16650, 16651, 16773, 16877, 17008, 17490, 17491, 17720, 17721, 18359, 18441, 18552, 18554, 19046, 19203, 20609 |

## 6 CFR—Continued


Page

**Chapter I—Continued**

150 Added ---- 19462
Subpart E Appendix added ---- 21604
Subpart J appendix added ---- 25427
Subpart K Appendix added ---- 21613
Amended ---- 24890
150.1—150.22 (Subpart A) Added ---- 21597
150.1 (b) revised ---- 21934, 24214
(f) amended ---- 22119
(b) amended ---- 24890
150.10 (a) and (b) amended ---- 22119
150.11 Existing text of (f) designated as (f)(1); (f)(2) added ---- 22119
150.31 (Subpart B) added ---- 21599
Amended ---- 22119
150.41 — 150.44 (Subpart C) Added ---- 21600
150.51 — 150.60 (Subpart D) Added ---- 21600
150.53 (b)(3) added ---- 21979
150.54 (f)(2) amended ---- 22119
(a) revised ---- 23931
(l) revised ---- 26181
150.60 (a)(2)(v) and (b)(2)(vi) revised ---- 26181
(a)(2)(iii) and (b)(2)(iii) revised ---- 26612
150.71 — 150.77 (Subpart E) Added ---- 21603
150.101—150.104 (Subpart F) Added ---- 21605
150.104 (b) amended ---- 22120
150.131—150.133 (Subpart G) Added ---- 21606
150.151—150.164 (Subpart H) Added ---- 21607
150.161 (b)(1) revised ---- 22119
150.171 (Subpart I) Added ---- 21609
150.201—150.220 (Subpart J) Added ---- 21609
150.201 (e) amended ---- 24890
150.205 (d) amended ---- 22120
150.301—150.313 (Subpart K) Added ---- 21611
150.303 Revised ---- 22120
150.306 (a)(3) revised ---- 22120
150.307 Removed ---- 24890
150.310 Amended ---- 22120
150.351—150.363 (Subpart L) Added ---- 22538
150.355 (b)(1) and (2) and (e) revised ---- 23794
(c) revised ---- 25687
150.356 Revised ---- 25687
150.357 Removed ---- 25689
150.358 (g) revised ---- 25689
150.401—150.415 (Subpart M) Added ---- 21979

Page

150.451—150.457 (Subpart N) Revised ---- 26612
150.501—150.502 (Subpart O) Added ---- 21981
150.551—150.553 (Subpart P) Added ---- 21613
150.601—150.609 (Subpart Q) Added ---- 24886
150 Appendix B added ---- 20463
Appendix B amended ---- 20464, 21170
152 Added ---- 23614, 23794
152.105 (b) corrected ---- 24215
152.107 (d)(2) corrected ---- 24215
155 Added ---- 21982
155.21 (b)(1) revised ---- 24890

RULINGS:
CLC 1972-121 ---- 1115
CLC 1973-1 ---- 1497

**Chapter II**

Chapter superseded in part by Part 130 ---- 1479

RULINGS:
PB 1973-1 ---- 1270

**Chapter III**

Chapter superseded in part by Part 130 ---- 1479
300.51 (l) added ---- 1377
300 Appendix II amended ---- 1173, 1270

RULINGS:
PC 1972-286 ---- 1115
PC 1973-1 ---- 1497
PC 1973-2 ---- 1497
PC 1973-3 ---- 1497
PC 1973-4 ---- 1498
PC 1973-5 ---- 1498
PC 1973-6 ---- 1498
PC 1973-7 ---- 1499
PC 1973-8 ---- 1499

**Chapter IV**

401 Terminated in part ---- 2983

*Proposed Rules:*
Ch. I ---- 24917
102 ---- 12413, 13490
130 ---- 3202, 19464
150 ---- 19464, 22797
152 ---- 23628, 23806, 24219, 24677


## 7 CFR

**Subtitle A**


2.4 Revised ---- 2697, 14944
2.5 Revised ---- 14945
2.7 Amended ---- 14945
2.17 (b)(10) and (13) amended ---- 14945
(a)(3)(xxix) revised ---- 22955
(f) added ---- 24633
2.18 (b)(1) and (2) amended ---- 14945





Page

2.19 (d) revised ---- 3951
Revised ---- 14945
(h) added ---- 24633
2.20 Revised ---- 14945
2.21 (d)(2) amended ---- 14948
(a)(30) revised ---- 22955
(e) added ---- 24633
2.22 (a)(4) removed ---- 22955
2.23 Added ---- 14948
(d) added ---- 24633
2.24 Added ---- 14948
2.25 (e)(9)(xvii)(c) and (f)(1)(iv) amended; (e)(10)(xii) through (xx) redesignated as (xiii) through (xxi) and (e)(10)(xxi) through (xxvi) redesignated as (xxiii) through (xxvi); new (e)(10)(xii) and (xxii) added; (g) revised ---- 14949
(g)(2) added ---- 24633
2.27 (e) added ---- 24633
2.29 Removed ---- 14949
2.30 Removed ---- 14949
2.31 (h) revised ---- 10795
2.32 Added ---- 2697
2.35 (a) amended ---- 14949
2.41 Revised ---- 10795
(a) amended ---- 14949
2.45 (a)(1)(ii) amended ---- 14949
2.50 (a)(3)(xxix) revised ---- 22955
2.51 (a)(13) amended ---- 14949
2.52 (a) amended ---- 14949
2.54 (a) amended ---- 14949
2.57—2.62 (Subpart G) Revised ---- 14949
2.61 Revised ---- 3951
2.65 (a)(30) revised ---- 22955
2.66 (a)(6) amended ---- 14952
2.70—2.72 (Subpart I) Added ---- 14952
2.75 (a)(7) added ---- 12809
2.77 (a)(3) added ---- 12810
2.78 (a)(9)(ii) amended; (a)(9)(xviii) and (xx) revised; (a)(10) (xvi) added; (a)(10)(xxiv) and (xxv) redesignated as (xxv) and (xxvi); new (a)(10)(xxiv) added ---- 14953
2.85 (a) amended ---- 14953
2.90—2.93 (Subpart L) Removed ---- 14953
5.2 Amended ---- 10795
5.4 Amended ---- 10795
6.16 Revised ---- 7122
Amended ---- 23312
6.32 Added ---- 9427
6.33 Added ---- 15966
6 Appendix 1 amended ---- 7122
10 Added ---- 963
15.1 (a) amended; (b) revised ---- 17925
15.2 (d) revised ---- 17925
15.3 (a) and (c) amended; (b)(1)(vii) and (6) added; (b)(3) and (4) redesignated as (b)(4) and (5); new (b)(3) added ---- 17925
15.4 (a)(1) and (2) and (b) revised; (e) amended ---- 17926
15.5 (b) amended ---- 17926
15.6 Amended ---- 17926
15.9 (d) amended ---- 17926
15.10 (g) added ---- 17926
15.12 (a) and (c) amended ---- 17927
15.51 Revised ---- 22465
15 Appendix heading revised ---- 17927
18.2 (c) revised ---- 14154
18.5 (f) and (h) amended ---- 14154
18.6 Removed ---- 14154
18.8 (c) removed; (d) redesignated as (c) ---- 14154
21 Revised ---- 10623

**Chapter I**

26.314 Revised ---- 21639
27.96 Revised ---- 10446
27.97 (a) revised ---- 10446
32.100 Added ---- 964
32.201 Revised ---- 965
32.300 Added ---- 965
32.301 Added ---- 965
32.302 Added ---- 965
32.402 Added ---- 967
32.403 Added ---- 967
51.38 Revised ---- 2439
51.49 (d) and (e) revised ---- 7448
51.59 (e)(8) revised ---- 7448
51.1520 (a) revised ---- 13321
51.1521 (a) revised ---- 13321
51.1537 Revised ---- 13321
51.1855—51.1877 (Subpart) Revised ---- 23932
51.2900—51.2908 (Subpart) Redesignated from 51.3325—51.3333 (Subpart) ---- 5622
51.3085—51.3104 (Subpart) Revised ---- 5252
51.3310—51.3327 (Subpart) Revised ---- 3391
51.3325—51.3333 (Subpart) Redesignated as 51.2900—51.2908 (Subpart) ---- 5622
51.4240—51.4250 (Subpart) Removed ---- 3393
51.4260—51.4267 (Subpart) Removed ---- 3393
52.1 (b) revised ---- 25166
52.2 Amended ---- 25166
Corrected ---- 26903
52.11 Amended ---- 25166
52.25 Amended ---- 25166
52.38 Revised ---- 25166
Corrected ---- 26903
52.42 Revised ---- 1640
52.47 Revised ---- 1640




## 7 CFR—Continued


Page

52.3763 Introductory texts of (c)





Page

56.522 Table I revised ---- 26799
58.1 Corrected ---- 4381

Page

215.1 Revised ---- 14956

## 7 CFR—Continued

### Chapter I—Continued


| | Page |
|---|---|
| 52.48 Added | 25168 |
| 52.49 Revised | 1640 |
| 52.50 Revised | 1640 |
| 52.52 Revised | 25168 |
| Corrected | 26903 |
| 52.53 Revised | 25169 |
| 52.54 Revised | 25170 |
| 52.56 Removed | 25170 |
| 52.81 Revised | 25170 |
| 52.82 Revised | 25170 |
| 52.83 Revised | 25170 |
| 52.84 Removed | 25170 |
| 52.85 Removed | 25170 |
| 52.86 Removed | 25170 |
| 52.87 Removed | 25170 |
| 52.201—52.210 (Subpart) Added | 10447 |
| 52.204 Corrected | 12729 |
| 52.205 (b)(4) corrected | 12729 |
| 52.207 (c)(5) corrected | 12729 |
| 52.209 (a)(1)(ii) and (b)(2)(ii) corrected | 12729 |
| 52.221—52.232 (Subpart) Added | 10450 |
| 52.225 (a) and (d) corrected | 12729 |
| 52.228 (a)(1) corrected | 12729 |
| 52.231 (a) and (c) corrected | 12729 |
| 52.232 (a) corrected | 12729 |
| 52.821—52.836 (Subpart) Revised | 13322 |
| 52.828 (a) corrected | 15617 |
| 52.1051—52.1065 (Subpart) Revised | 13327 |
| 52.1062 Introductory text of (c) corrected | 15611 |
| 52.1611—52.1625 (Subpart) Revised | 13330 |
| 52.1622 Table corrected | 15511 |
| 52.2541—52.2558 (Subpart) Revised | 13336 |
| 52.2547 Table corrected | 15511 |
| 52.2561—52.2577 (Subpart) Revised | 13341 |
| 52.2568 Table corrected | 15511 |
| 52.2601—52.2617 (Subpart) Revised | 13349 |
| 52.2608 Table corrected | 15511 |
| 52.2613 (f)(1) corrected | 15511 |
| 52.2614 (c)(3) and introductory text of (g) corrected | 15511 |
| 52.2821—52.2835 (Subpart) Revised | 13355 |
| 52.3753 (e), (f), and (g) redesignated as (f), (g), and (h); new (e) added | 24345 |
| 52.3754 (a), (b), and (c) amended | 24345 |
| 52.3761 Headings of (d)(1)(i), (e)(1)(i), and (f)(1)(i) revised | 24345 |
| 52.3762 (a)(2) amended | 24345 |
| 52.3763 Introductory texts of (c)(1)(i), (d)(1)(i), and (e)(1)(i) amended | 24345 |
| 52.3764 (b), (c), and (d) amended | 24345 |
| 52.3831—52.3845 (Subpart) Revised | 13359 |
| 52.4021—52.4034 (Subpart) Revised | 13363 |
| 52.6090 Table III revised | 19958 |
| 52 Table IV amended | 24345 |
| 53.1 (d), (e), (f), (jj), and (mm) amended; (pp) added | 23313 |
| 53.4 Revised | 23313 |
| 53.5 Revised | 23313 |
| 53.6 Removed | 23314 |
| 53.7 Removed | 23314 |
| 53.8 Revised | 23314 |
| 53.10 Revised | 23314 |
| 53.11 Amended | 23313 |
| 53.13 (a)(1)(vii) revised; (a)(1)(viii) redesignated as (a)(1)(ix); new (a)(1)(viii) added | 23314 |
| 53.16 Revised | 23314 |
| 53.19 (b), (c), and (d) revised; (f) added | 23317 |
| 53.29 (a) amended | 2209 |
| (b) amended | 23313 |
| (d) revised; (e) removed; (h) amended | 23317 |
| 53.30 Amended | 23313 |
| 53.31 Amended | 23313 |
| 53.100 Added | 4763 |
| 53.101 Added | 4763 |
| 53.102 Revised | 4764 |
| 53.103 Amended | 4763 |
| 53.105 Removed; new 53.105 added | 4767 |
| 53.106 Removed | 4767 |
| 53.202 Revised | 4767 |
| 53.203 Revised | 4767 |
| 53.205 Redesignated as 53.206; new 53.205 added | 4769 |
| 53.206 Removed; redesignated from 53.205 | 4770 |
| 53.207 Removed | 4770 |
| 54.101 (d) amended | 3188 |
| 56.1 Amended | 26797 |
| 56.3 Existing text designated as (a); (b) added | 26798 |
| 56.42 (b)(10) revised | 26798 |
| 56.43 (e) revised | 26798 |
| 56.76 (e)(8) revised | 26798 |
| 56.201 Revised | 26798 |
| 56.202 Revised | 26798 |
| 56.204 Revised | 26798 |
| 56.209 Revised | 26798 |
| 56.216 (b), (c), and (d) revised | 26798 |
| 56.217 Table I revised | 26798 |
| 56.221 (a) and (b) revised | 26799 |





| | Page |
|---|---|
| 56.522 Table I revised | 26799 |
| 58.1 Corrected | 4381 |
| 58.43 Revised | 4381 |
| 58.44 Revised | 4381 |
| 58.45 Revised | 4381 |
| 58.47 Added | 4381 |
| 58.2529 Revised | 5623 |
| 58.2554 Revised | 5623 |
| 68.42a Revised | 6285 |
| Table corrected | 7318 |
| 68.42c Revised | 9074 |
| 70.5 Added | 22130 |
| 70.91 (d) added | 22130 |
| 70.131 (d) amended | 3188 |
| 70.353 (f) revised | 22130 |
| 70.364 Undesignated center heading and new section added | 22130 |
| 201.2 (bb) through (mm) added | 25661 |
| (ii) corrected | 26800 |
| 201.46 Table 1 revised | 12730 |
| 201.47 (e) revised | 12731 |
| 201.48 (b) and (i) revised | 12731 |
| 201.50 Amended | 12731 |
| 201.51 (a)(1) and (5) revised | 12731 |
| 201.56–2 (a) revised | 12731 |
| 201.57a Revised | 12731 |
| 201.58 (b)(3) amended; (b)(7) removed | 12731 |
| (c) Table 2 revised | 12732 |
| 201.58a (c) added | 12733 |
| 201.58c Added | 12733 |
| 201.67 Added | 25662 |
| 201.68 Added | 25662 |
| 201.69 Added | 25662 |
| 201.70 Added | 25662 |
| Heading corrected | 26800 |
| 201.71 Added | 25662 |
| 201.72 Added | 25662 |
| 201.73 Added | 25662 |
| 201.74 Added | 25662 |
| 201.75 Added | 25662 |
| (a) corrected | 26800 |
| 201.76 Added | 25663 |
| Table 5 corrected | 26800 |
| 201.77 Added | 25664 |
| 201.78 Added | 25664 |


### Chapter II


| | Page |
|---|---|
| 210.2 (i) revised | 21777 |
| 210.4 (a), (b), and (c) amended; (a–1) added | 14955 |
| 210.5 (a) revised; (b), (c), and (c–1) removed | 14955 |
| 210.11 (b) and (b–1) revised; (b–2) amended; (f) and (g) removed | 14955 |
| 210.13 (e) added | 14956 |
| 210.14 (c) removed | 19661 |
| 210.15b Revised | 14956 |
| 210.20 (a), (b), (c), (d), and (e) revised | 6164, 17722 |
| 215.1 Revised | 14956 |
| 215.2 (l) and (y) revised | 14956 |
| (v) amended | 17723 |
| (l) revised | 21777 |
| 215.8 (a) and (b) revised | 17723 |
| 215.16 (a), (b), (c), (d), and (e) revised | 6165, 17722 |
| (e) revised | 14956 |
| 215 Appendix revised | 10632 |
| 220.2 (j) revised | 21777 |
| 220.4 (a) and (c) amended; (a–1) and (d) added | 14956 |
| 220.5 Amended | 14957 |
| 220.7 (e)(12)(iii) revised | 14957 |
| 220.8 (a)(1) amended | 21777 |
| 220.11 (b)(10) amended | 14957 |
| 220.11a Revised | 14957 |
| 220.24 (i) added | 14957 |
| 220.29 (a), (b), (c), (d), and (e) revised | 6165, 17723 |
| 220 Appendix revised | 13547 |
| 225.2 (a–1), (a–2), and (t) added; (n) and (p–1) revised; (p) amended | 11439 |
| (k) revised | 21777 |
| 225.5 (a) amended | 11439 |
| 225.7 Redesignated as 225.7b | 11439 |
| 225.7a Added | 11439 |
| 225.7b Redesignated from 225.7; (a), (a–1), (b), (b–1), and (c) revised; (b–2) removed | 11439 |
| 225.7c Added | 11440 |
| 225.8 Revised | 11441 |
| 225.9 (a) and introductory text of (b) revised; (b–1), (b–2), and (b–3) added; (f) amended | 11441 |
| (b)(1)(i) and (2)(i) amended | 21777 |
| 225.10 (a) and (b) revised; (b–1) added; (e) amended | 11441 |
| 225.11 Amended | 11441 |
| 225.18 (a–1) removed; (e–1) added | 11441 |
| 225.23 (a), (b), (c), (d), and (e) revised | 6165, 17723 |
| 225 Appendix revised | 16989, 21497 |
| 245 Technical amendments | 14957 |
| 245.1 Revised | 14957 |
| 245.2 (c), (d), (e), (f), and (g) revised | 14957 |
| 245.3 (b) amended | 14957 |
| 245.4 Removed | 14957 |
| 245.5 Introductory text and (a) revised | 14957 |
| 245.6 (a) amended; (c) revised; (d) removed | 14958 |
| 245.8 Revised | 14958 |
| 245.9 Revised | 14958 |
| 245.10 (a)(2) and (3) revised; (c) and (d) added | 14958 |





| | Page |
|---|---|
| 245.11 Revised | 14958 |
| 245.12 Revised | 14958 |
| 245.13 Revised | 14958 |
| 245.14 Revised | 14958 |
| 245.15 Revised | 14958 |
| 245.16 Revised | 14958 |
|

## 7 CFR—Continued


Page

**Chapter II—Continued**

245.11 (a), (d), (e), and (f) revised ---- 14958
245.12 Removed ---- 14959
246 Added ---- 18447
250.1 (a) revised; (b) (15) added ---- 24633
250.3 (j) revised; (t) added ---- 24633
250.8 (h) added ---- 24633
250.11 Revised ---- 6166, 17724
265.12 (g) revised ---- 6166, 17724
270.2 (s) revised ---- 22465
270.4 (c) revised ---- 8049
270.5 (b) (1) and (5) revised ---- 6166
(b) (1), (2), (3), (4), and (5) revised ---- 17724
271.1 (i) revised ---- 22465
271.3 (c) (2) (iv) added ---- 17845
(c) (1) (ii) (h) added ---- 21917
271.4 (a) (2) (iii) revised ---- 11338
271.6 (d) (2) revised ---- 8049
272.2 (b) revised ---- 22466
295.10 Revised ---- 6166
(b) revised ---- 17725

**Chapter III**

301.45 (a) revised ---- 8659
301.45–2 (a) amended; (b) revised ---- 8659
301.45–2a (a) amended ---- 843
(a) (1) amended ---- 8233
Introductory text of (b) revised; (b) amended ---- 8660
301.45–2c Revised ---- 10796
301.48–1 (o) corrected ---- 5878
301.48–2 (a) corrected ---- 5878
301.48–2b Revised ---- 6286
301.52–2a Amended ---- 6286
301.72 Revised ---- 10071
301.72–1 Revised ---- 10072
301.72–2 Revised ---- 10072
301.72–2a Amended ---- 10453
Corrected ---- 12320
301.72–2b Revised ---- 10071
301.72–3 Revised ---- 10073
301.72–4 Revised ---- 10073
301.72–5 Revised ---- 10074
301.72–6 Revised ---- 10074
301.72–7 Revised ---- 10074
301.72–8 Revised ---- 10074
301.72–9 Revised ---- 10074
301.72–10 Revised ---- 10074
301.80–2a Amended ---- 1725
301.81 Revised ---- 3393
301.81–1 Revised ---- 3393
301.81–2 Revised ---- 3394
301.81–2a Amended ---- 21639–21641
Corrected ---- 22885
301.81–2b Revised ---- 3396
301.81–3 Revised ---- 3394
301.81–4 Revised ---- 3395
301.81–5 Revised ---- 3395
301.81–6 Revised ---- 3395
301.81–7 Revised ---- 3395
301.81–8 Revised ---- 3395
301.81–9 Revised ---- 3395
301.81–10 Revised ---- 3395
301.84—301.84–10 (Subpart) Removed ---- 25664
319.12 Removed ---- 3603
319.29 Removed ---- 3603
319.37 (b) table amended ---- 3604
319.56–2k Added ---- 9005
331.3 Revised ---- 20088
354.1 Revised ---- 1377
354.2 Table amended ---- 5340, 9006, 20233, 22466, 23934

**Chapter IV**

401.101 Appendix amended ---- 1726, 12810, 12811, 17437, 25907
Appendix corrected ---- 18661
401.103 (a) table revised ---- 5878
(a) table amended ---- 15826
401.126 Table amended ---- 15826
401.136 Amended ---- 19811
401.138 Amended ---- 5878
401.148 Added ---- 5878
409.25 Amended ---- 21994
(g) and (i) corrected ---- 23511
411 Appendix amended ---- 12811

**Chapter V**

510 Revised ---- 12091

**Chapter VII**

711.10 Revised ---- 967
711.21 (f) revised ---- 16989
711.29 Amended ---- 7448
717.21 (b) revised ---- 12891
718 Revised ---- 12892
719.3 (b) (3) revised; (d) (6) added ---- 7564
719.15 Revised ---- 7564
722.73 (c) (2) added ---- 20840
722.408 (b) (7) revised ---- 2697
722.419 (b) revised ---- 2697
722.468 Revised ---- 3951 [1]
Table corrected ---- 5879, 7393
(a) table corrected ---- 8508
722.513 (b) (7) revised ---- 5880
722.528 (b) revised ---- 5880
722.529 (b) revised ---- 5880
722.564 Added ---- 967
722.703 (b) (4) added ---- 18452
722.704 (d) added ---- 18452


[1] 73 crop.




Page

722.709 (a) amended; (c) added ---- 18452
722.715 Revised ---- 18452
722.804 (b) (6) revised ---- 18452
722.805 (c) revised ---- 18452
722.808 (b) (2) revised ---- 18452
722.812 (l) added ---- 18453
722.817 Revised ---- 18453
724.2 Added ---- 3295 [3]
724.3 Added ---- 3295 [3]
724.4 Added ---- 3295 [3]
724.12 Revised ---- 3295 [3]
724.13 Revised ---- 3295 [3]
724.14 Revised ---- 3295 [3]
724.15 Revised ---- 3296 [3]
724.16 Revised ---- 3297 [3]
724.17 Revised ---- 3297 [3]
(g) corrected ---- 4382
724.23 Revised ---- 9219
724.27 Revised ---- 9219
724.36 Revised ---- 9153 [3]
725.1 Revised ---- 18234
725.2 Revised ---- 18234
725.3 Revised ---- 23935
725.4 Removed ---- 23935
726.11 Added ---- 3298 [3]
728.14 (a) amended; (b) (7) revised; (g) added ---- 16990
728.47 Revised ---- 16990
728.55 Added ---- 16990
728.301 Added ---- 9583 [4]
728.302 Added ---- 9583 [4]
728.303 Added ---- 9583 [4]
729.106 Revised ---- 10705 [1]
730.22 Amended ---- 16631
730.68 (d) added ---- 10707
730.69 (g) added ---- 10707
730.72 (b) amended ---- 10707, 14087
730.75 Revised ---- 4382
(a) and (c) amended ---- 10707
730.76 (a) (2) amended ---- 10707
730.79 (d) added ---- 10707
730.80 (i) added ---- 10707
730.84 Revised ---- 4382
(a) and (c) amended ---- 10707, 14087
730.84a Added ---- 11338
730.1501 Revised ---- 844 [1]
730.1502 Revised ---- 844 [1]
Amended ---- 10707
730.1503 Revised ---- 844 [1]
730.1504 Revised ---- 2440 [1]
730.1505 Revised ---- 2440 [1]
730.1508 Revised ---- 6287 [3]
760.109 Amended ---- 16631
775.2 (c) (1) (iii), (g) (1) (iii), and (m) (1) (iii) amended ---- 15439
775.2 (c) (1) (iii), (g) (1) (iii), (l) (3) and (4), and (m) (1) (iii) amended; (l) (5) added ---- 15439
775.5 (d) introductory text and (d) (1) amended; (d) (2) (vi) revised; (f) (3) added ---- 15439
775.18 Revised ---- 15439
775.25 Added ---- 15439
777.5 (a) amended ---- 22766
777.7 (b) amended ---- 14959
777.11 (b) (2), (c) (2) (i) and (ii), and (e) (2) amended ---- 14959
777.12 (g) amended ---- 14959
777.19 (f) (2) and (j) amended ---- 14959
777.21 Added ---- 22766
(c) (1) and (2) corrected ---- 25665
777 Appendix II amended ---- 22767
Appendix III amended ---- 22767
780.11 (a) revised ---- 6665
791.2 Revised ---- 5340
792.3 (c) and (d) amended ---- 16854
795.8 Interpretation ---- 8164

**Chapter VIII**

811.12 (a) revised ---- 845
811.13 (c) revised ---- 845
811.20 Revised ---- 5254, 6287
811.21 (a) revised ---- 5254, 6288
(a) (2) revised ---- 10915, 14813, 23318
811.22 (a) revised ---- 5254, 6288, 10915, 14813, 17180, 23318
811.23 (b) and (c) revised ---- 5254, 6288, 10915, 14813, 17180, 23318
812 Revised ---- 846
814.10 (a) revised ---- 846
814.11 Added ---- 23321
818.10—818.14 (Subpart B) Revised ---- 2329
831 Removed; provisions transferred to Part 891 ---- 6367
831.19 (b) amended ---- 15511
841 Removed; provisions transferred to Part 891 ---- 6367
842 Removed; provisions transferred to Part 891 ---- 6367
849 Removed; provisions transferred to Part 891 ---- 6367
850.234 Added ---- 8233
850.235 Added ---- 8233
850.236 Added ---- 8233
850.237 Added ---- 8234
850.238 Added ---- 8234
850.239 Added ---- 8234
855.99 Added ---- 19111
857.22 Added ---- 3604
859.8 Added ---- 21269
862 Revised ---- 8164
864 Revised ---- 25428
864.23 (a) (1) revised ---- 13010
(a) revised ---- 18453
876 Revised ---- 22627


[1] 73 crop.
[3] 73–76 crop.
[3] 73–74 crop.
[4] 74–75 crop.

20-120 O - 73 - 3




Page

**Chapter VIII—Continued**

862.1 Revised ---- 8164
862.2 Revised ---- 8164
862.3 Revised ---- 8164
862.4 Revised ---- 8164
862.5 Revised ---- 8164
862.6 Revised ---- 8164
862.7 Revised ---- 8164
862.8 Revised ---- 8164
862.9 Revised ---- 8164
862.10 Revised ---- 8164
862.11 Revised ---- 8164
862.12 Revised ---- 8164
862.13 Revised ---- 8164
862.14 Revised ---- 8164
862.15 Revised ---- 8164
862.16 Revised ---- 8164
862.17 Revised ---- 8164
862.18 Revised ---- 8164
862.19 Revised ---- 8164

## 7 CFR—Continued


Page

**Chapter VIII—Continued**

877 Revised ... 10247[1]
891 Revised ... 6367
891.46 Added ... 26706
895 Removed; provisions transferred to Part 891 ... 6367

**Chapter IX**

905.545 (a)(1) revised ... 18361
905.546 (a)(3) revised ... 12201
(a)(2), (3), (4), and (5) revised ... 13548
(a)(1), (2), and (3) revised ... 18027
905.549 (a)(3) revised ... 13548
(a)(1) revised ... 18361
905.550 Added ... 25665
905.551 Added ... 25666
905.552 Added ... 25666
905.553 Added ... 25666
905.554 Added ... 25666
906.212 Revised ... 14087
908.212 Added ... 8661
910.211 Added ... 22131
911.212 Added ... 16331
911.312 Added ... 12322
911.329 Added ... 12323
911.336 Added ... 12324
915.212 Added ... 16773
915.305 (a)(1)(x) revised ... 1921
916.212 Added ... 21389
916.341 (a)(4) added ... 15727
916.346 (a)(2) and introductory texts of (a)(3), (4), (5), (6), and (7) revised ... 15727
917.211 Added ... 21389
917.430 Added ... 11064
Introductory texts of (b) and (c) revised; (d) added ... 14815
917.431 Added ... 12900
(b) and introductory texts of (c) and (d) revised ... 15728
918.211 Revised ... 14082
918.315 Added ... 13012
919.212 Added ... 21778
921.213 Added ... 18663
921.309 Introductory text of (a) revised; (a)(6) redesignated as (a)(7); new (a)(6) added ... 20234
921.310 Added ... 19959
922.213 Added ... 18555
922.306 (a)(3) revised ... 17847
922.312 Revised ... 20317
923.213 Added ... 18663
924.213 Added ... 21642
925.213 Added ... 21643
926.213 Added ... 21390
926.310 Added ... 21643
927.312 Added ... 21172

Page

928.202 Added ... 5881
928.303 (a) introductory text revised ... 2960
930.106 Revised ... 16331
930.107 Revised ... 16331
930.109 Added ... 16331
930.110 Added ... 24891
930.203 Added ... 22132
930.501 (a)(1) added ... 12093
930.591 Added ... 11065
931.208 Added ... 23512
932.153a Added ... 24216
932.210 Added ... 27053
944.13 Added ... 15619
(a)(2) amended ... 17438
944.109 (a) revised ... 10152, 13650, 18028
Removed ... 26109
944.110 Added ... 26108
944.204 (a)(2) revised ... 12603
946.226 Added ... 22885
947.160 Added ... 6801
947.226 Added ... 21644
948.269 Added ... 21779
948.270 Added ... 22216
953.210 Added ... 13366
953.313 Added ... 12901
980.111 Revised ... 6802
980.112 Added ... 19011
981.222 Revised ... 13476
981.223 Added ... 26182
981.323 Added ... 25668
981.441 (d)(4) added ... 9988
982.461 Added ... 5151
987.155 (b) amended ... 16332
987.164 Amended ... 16332
989.110 Added ... 22886
989.125 Added ... 10075
989.126 Revised ... 10075
989.127 Revised ... 10076
989.128 Added ... 10076
989.138 Added ... 10076
989.139 Revised ... 10076
989.158 (a)(6) revised ... 20237
989.159 (f) revised ... 13012
(g)(2)(iii) amended ... 14960
(g)(2)(i) amended ... 20237
989.160 Existing text designated as (a); (b) added ... 13013
989.166 (f) amended ... 14960
989.173 (e) revised ... 13013
(d)(2) amended ... 20237
989.201 Revised ... 21390
989.202 Removed ... 13476
989.203 Added ... 20237
989.204 Added ... 20237
989.210 Added ... 21391
(a) and (f) corrected ... 22132
991.211 Added ... 8236[2]
991.308 Added ... 23771
993.109 Added ... 22887


[1] 72–73 crop.
[2] 73–74 crop.




Page

993.209 Added ... 22887
993.324 Added ... 22216

**Chapter X**

Temporary suspension (9–9–73 to 9–30–73) of certain provisions of chapter ... 24217
1030.10 (a) and (c) revised ... 19905
1030.11 (b) (4), (5), (6), and (7) revised ... 19906
1030.15 (b) and (c) amended; (d) added ... 19906
1030.16 (e) revised ... 19906
1030.30 (a)(3) revised ... 19907
1030.31 (b) (4) and (5) amended; (b)(6) added ... 19907
1030.46 (a)(3) (iv), (v), and (vi) amended; (a)(3)(vii) added ... 19907
1030.60 (b)(5) terminated in part; eff. 5–7–73 ... 11339
1030.71 (d) terminated; eff. 5–7–73 ... 11339
1030.84 (b)(2) terminated in part; eff. 5–7–73 ... 11339
1030.100—1030.111 Terminated; eff. 6–30–73 ... 11339
1030.112 Terminated; eff. 9–30–73 ... 11339
1032.60 Revised ... 2741
Amended ... 15728
1032.62 (b)(5) revised ... 2741
(b)(5) amended ... 15728
1032.71 (c–1) added ... 2741
(c–1) removed ... 15728
1032.84 (b)(2) revised ... 2742
(b)(2) amended ... 15728
1032.110—1032.122 Center heading and sections added ... 2742
Removed ... 15728
1036.61 (c–1) added; (g) revised ... 8173
1036.71 (a)(2)(ii) revised ... 8173
1036.76 (b)(4) revised ... 8173
1036.110 Added ... 8173
1036.111 Added ... 8173
1036.112 Added ... 8173
1036.113 Added ... 8173
1036.114 Added ... 8173
1036.115 Added ... 8173
1036.116 Added ... 8173
1036.117 Added ... 8174
1036.118 Added ... 8174
1036.119 Added ... 8174
1036.120 Added ... 8174
1036.121 Added ... 8174
1036.122 Added ... 8174
1040 Revised ... 4649
1043 Removed ... 4649

Page

1046.44 (d) and introductory text of (e) provisions suspended April through December 1973 ... 8174
1049 Revised ... 3299
1050.7 Revised ... 27054
1050.9 (c) and (d) revised ... 27054
1050.12 (a)(2) suspended June through August 1973 ... 17183
(a)(2) provisions suspended Sept. and Oct. 1973 ... 26182
(a)(1) and (2) revised ... 27054
1050.14 (c)(2) and (3) suspended for Dec. 1972 ... 849
Revised ... 27054
1050.41 (b)(7)(iii) and (vi) revised ... 27055
1050.60 Revised ... 2743
Amended ... 15728
1050.61 (a) partially suspended for August 1973 ... 22216
1050.62 (b)(5) revised ... 2743
(b)(5) amended ... 15728
1050.71 (c–1) added ... 2743
(c–1) removed ... 15728
1050.80 (b) and (d) revised ... 27055
1050.84 (b)(2) revised ... 2743
(b)(2) amended ... 15728
1050.110—1050.122 Center heading and sections added ... 2744
Removed ... 15728
1062.53 (b) revised ... 4771
1062.60 (a) revised ... 2745
1062.62 (b)(5) revised ... 2745
1062.71 (c–1) added ... 2745
1062.84 (b)(2) amended ... 2745
1062.110—1062.122 Center heading and sections added ... 2745
1063.14 Suspended in part July–Aug. 1973 ... 19012
1064.60 Revised ... 2747
1064.61 (b)(5) revised ... 2747
1064.71 (c–1) added ... 2747
1064.72 (a) and (b) revised ... 2747
1064.80 (a) amended ... 2747
1064.84 (a)(2)(ii) revised ... 2745
1064.110—1064.122 Center heading and sections added ... 2747
1065.60 Revised ... 2749
1065.62 (b)(5) revised ... 2749
1065.71 (d–1) added ... 2749
1065.71a Revised ... 2749
1065.80a (a) amended ... 2750
1065.82 (b)(2) revised ... 2750
1065.90 Effective date changed to April 1, 1973 ... 5255
1065.90—1065.98 Effective date deferred ... 7318
1065.110—1065.122 Center heading and sections added ... 2750
1073.7 Revised ... 26708

## 7 CFR—Continued

### Chapter X—Continued

| | Page |
|---|---|
| 1073.8 (c) and (d) revised | 26708 |
| 1073.10 Revised | 26708 |
| 1073.11 Revised | 26708 |
| 1073.12 Revised | 26708 |
| 1073.14 Revised | 26708 |
| 1073.30 (c) revised | 26708 |
| 1073.53 Heading and introductory text revised | 26709 |
| 1073.61 (c) revised | 26709 |
| 1073.71 (a) revised | 26709 |
| 1073.80 Introductory text of (d) revised | 26709 |
| 1073.82 Heading and (a) revised | 26709 |
| 1076.12 (c) suspended in part through Dec. 1973 | 17439 |
| 1079.44 (c) removed; (d) amended | 5996 |
| 1099.51 (a) revised | 8237 |
| 1103 Terminated in part | 8748 |
| 1120.44 (c) and (d) suspended in part from February through December 1973 | 4383 |
| 1121.16 Amended | 15729 |
| 1121.61 (b)(5) revised | 10455 |
| 1121.63 Revised | 10455 |
| 1121.71 (c) and (d) amended; (e) added | 10455 |
| 1121.84 (b)(2) revised | 10455 |
| 1121.110 Added | 10455 |
| 1121.111 Added | 10455 |
| 1121.112 Added | 10455 |
| 1121.113 Added | 10455 |
| 1121.114 Added | 10455 |
| 1121.115 Added | 10456 |
| 1121.116 Added | 10456 |
| 1121.117 Added | 10456 |
| 1121.118 Added | 10456 |
| 1121.119 Added | 10456 |
| 1121.120 Added | 10456 |
| 1121.121 Added | 10456 |
| 1121.122 Added | 10456 |
| 1125 Revised | 16333 |
| 1125.9 (c) and (d) corrected | 18234 |
| 1125.13 (c)(4) corrected | 18234 |
| 1125.71 (b) corrected | 18234 |
| 1125.73 (a) corrected | 18234 |
| 1129.20 Provisions suspended through Mar. 1974 | 26709 |
| 1139 Added | 16204 |

### Chapter XI

| | Page |
|---|---|
| 1201.53 Provisions suspended | 17725 |
| 1201.300 Revised | 15440 |
| 1207.402 Added | 14088 |
| 1207.501 Revised | 26354 |
| 1207.504 Added | 7123 |
| 1207.550 Added | 26354 |

### Chapter XIV

| | Page |
|---|---|
| 1421.4 (f) added | 1379 |
| (b) revised | 15620 |
| 1421.72—1421.77 (Subpart) Revised | 19662 |
| 1421.77 (a) corrected | 21644 |
| 1421.111—1421.116 (Subpart) Revised | 23935 |
| 1421.116 Introductory text and (a) corrected | 26182, 26904 |
| 1421.140—1421.143 (Subpart) Revised | 14816 |
| 1421.175—1421.178 (Subpart) Revised | 14960 |
| 1421.176 Table revised | 22630 |
| 1421.235—1421.239 (Subpart) Revised | 19665 |
| 1421.239 (a) table corrected | 21644 |
| 1421.270 Revised | 11442 |
| 1421.271 Revised | 11442 |
| 1421.272 Revised | 11442 |
| 1421.273 Revised | 11442 |
| 1421.274 Revised | 11442 |
| Table corrected | 20243 |
| (a) amended | 20440 |
| 1421.283 Revised | 22372 |
| 1421.291—1421.294 (Subpart) Revised | 22372 |
| 1421.294 (a) revised | 24634 |
| 1421.325–1421.328 (Subpart) Revised | 14088[1] |
| 1421.328 (a) revised | 19668 |
| (a) table revised | 22466 |
| Authority citation corrected | 23396 |
| 1421.350—1421.354 (Subpart) Revised | 19669 |
| 1421.354 (a) table amended | 25669 |
| 1421.390—1421.393 (Subpart) Revised | 15226[1] |
| 1421.393 (b) revised | 5255 |
| (a) and (b) corrected | 18663 |
| 1421.450 Revised | 968 |
| 1421.451 Revised | 968 |
| 1421.452 Revised | 968 |
| 1421.453 Revised | 968 |
| 1421.485—1421.489 (Subpart) Revised | 20237 |
| 1421.489 (b)(3) table corrected | 22371 |
| (a) table corrected | 22543 |
| 1421.537 (c) revised | 1575 |
| 1421.643 Revised | 13651 |
| (b) corrected | 15514 |
| 1427.2 (c) revised | 20091 |
| 1427.3 Revised | 20091 |
| 1427.6 (h) revised | 13651 |
| (f) and (m) revised | 20091 |
| 1427.8 Revised | 20091 |
| 1427.9 (b)(1) revised; (b)(3) removed; (b)(4) redesignated as (b)(3) and revised | 20091 |
| 1427.19 (a) revised | 20091 |

[1] 73 crop.



| | Page |
|---|---|
| 1427.100—1427.105 (Subpart) Revised | 19381 |
| Authority citation corrected | 20318 |
| 1427.101 Table corrected | 20318, 21995, 22768 |
| 1427.102 Table corrected | 20318, 21995, 22768 |
| 1427.160—1427.181 (Subpart) Revised | 14817 |
| 1427.1101—1421.1103 (Subpart) Revised | 22543 |
| 1427.1903 (d)(2), (e), and (f) revised | 6803 |
| 1427.1904 (e) revised | 6804 |
| 1430.282 Revised | 7982 |
| (a)(1) and (b)(1) revised | 23939 |
| 1434.40—1434.44 (Subpart) Revised | 9988[1] |
| 1446.1—1446.11 (Subpart) Added | 18454[1] |
| 1446.9 Revised | 22887 |
| 1446.10 Revised | 22887 |
| 1446.11 (a)(1) revised | 22887 |
| 1464.16 Revised | 18663[1] |
| 1468.8 (c) added | 9075 |
| 1472.1305 (d) added | 9075 |
| 1472.1321 (d) added | 9075 |
| 1472.1346 (c) added | 9076 |
| 1473 Revised | 20844 |
| 1473.19 Corrected | 21779 |
| 1474.4 (b) revised | 1576 |
| 1474.5 (a) and (b)(8) revised | 1576 |
| 1474.8 (a) and (b) revised | 1576 |
| 1474.10 Revised | 1576 |
| 1475.205 (d)(2) and (3) revised | 6804 |
| 1475.210 Introductory text revised | 6804 |
| 1475.211 (e)(3) revised | 6804 |
| 1475.212 Revised | 6804 |
| 1475.214 (a) revised | 6805 |
| 1490.6 (a) and (c) revised | 7451 |

### Chapter XVI

| | Page |
|---|---|
| 1610 Revised | 17184 |

### Chapter XVII

| | Page |
|---|---|
| 1701 Appendix A amended | 8589 |

### Chapter XVIII

| | Page |
|---|---|
| 1800.4 Amended | 5151 |
| 1801 Existing sections designated as Subpart A | 4772 |
| 1801.41 (Subpart E) Added | 4772 |
| 1804.61—1804.74 (Subpart D) Added | 4500 |
| 1816 Added; provisions derived from Part 1890 | 14669 |

[1] 73 crop.

| | Page |
|---|---|
| 1821 Technical amendment | 14671 |
| Revised | 27055 |
| 1822 Technical amendment | 14671 |
| 1822.7 (n)(1)(i)(a) revised | 4383 |
| (f) revised | 7123 |
| 1822.19 Added | 6805 |
| 1822.21–1822.33 (Subpart B) Revised | 12901 |
| 1822.27 (a)(1) removed; (a)(2), (3), and (4) redesignated as (a)(1), (2), and (3) | 3954 |
| 1822.30 Revised | 1174 |
| 1822.89 (b) revised | 20440 |
| 1822.401—1822.408 (Subpart M) Added | 3955 |
| 1823 Technical amendment | 14671 |
| 1823.1 Amended | 16855 |
| 1823.2 (a) and (d) revised; (i) through (q) redesignated as (j) through (r); new (i) added | 8662 |
| 1823.6 (c)(1) removed; (c)(2) redesignated as (c)(1); redesignated (c)(1)(ii) revised | 8662 |
| 1823.20 Revised | 8662 |
| 1823.36 (b)(2)(i)(a) and (iv)(a) revised | 8662 |
| 1823.221 Amended | 16855 |
| 1823.251 Amended | 16855 |
| 1823.252 (a)(1) and (4) revised | 8663 |
| 1823.288 Revised | 8663 |
| 1823.356 (d) revised | 17726 |
| 1823 Appendix I amended | 8662 |
| 1831 Technical amendment | 14671 |
| 1831.1 Revised | 14154 |
| 1831.2 Revised | 14154 |
| 1831.3 Revised | 14154 |
| 1831.4 (d), (e), and (f) added | 14154 |
| 1831.5 (h) added | 14155 |
| 1831.9 (r) revised | 14155 |
| 1831.10 (c)(1)(iii) and (d) revised | 14155 |
| 1831.12 (g) added | 14155 |
| 1831.32 (b)(2), (d), (l)(3)(i) and (ii), and (v)(10)(i) revised; (h)(2) added | 14155 |
| 1831.36 (a) and (b)(1)(i) revised; (b)(1)(ii) added | 14156 |
| 1832.3 Revised | 20244 |
| 1832.5 (a) through (g) revised | 20245 |
| 1832.8 (q) removed | 16631 |
| 1832.12 (d) added | 20246 |
| 1832.14 (c)(1) and (f) revised | 2169 |
| 1832.17 (d)(3) revised | 2170 |
| 1832.20 Added | 14820 |
| 1832.71—1832.78 (Subpart D) Added | 14089 |
| 1832.73 Removed; redesignated from 1832.78 | 20246 |
| 1832.74 Removed | 20246 |
| 1832.75 Removed | 20246 |



## 7 CFR—Continued

| | Page |
|---|---|
| 909 | 27068 |



| | Page |
|---|---|
| 1070 | 22803, 25522 |
| 1071 | 22803, 25024 |

## 8 CFR

| | Page |
|---|---|

## 7 CFR—Continued

### Chapter XVIII—Continued

| | Page |
|---|---|
| 1832.76 Removed | 20246 |
| 1832.77 Removed | 20246 |
| 1832.78 Redesignated as 1832.73 | 20246 |
| 1864.3 (b) revised | 1174 |
| 1865.3 (d)(1) revised | 14091 |
| 1866.2 Introductory text revised | 24346 |
| 1872.1—1872.28 (Subpart A) Revised | 19385 |
| 1872.61—1872.67 (Subpart C) Revised | 19204 |
| 1872.65 (j) added | 22544 |
| 1890 Removed; provisions transferred to Part 1816 | 14671 |
| 1890h Removed | 16855 |
| 1890s Removed | 3955 |
| 1890w Added | 10632 |

*Proposed Rules:*

| | Page |
|---|---|
| 20 | 25690 |
| 22 | 16077 |
| 23 | 16234 |
| 26 | 12814, 23955, 25186 |
| 27 | 7395 |
| 29 | 19127, 22239 |
| 44 | 885, 21416 |
| 46 | 26207 |
| 51 | 798, 8063, 10106 |
| 52 | 3195, 6188, 9302, 11348, 11353, 21785, 22406, 22654, 22897, 24654, 24904, 24907, 24910, 27068 |
| 56 | 20896 |
| 70 | 18032 |
| 180 | 13751, 14691 |
| 206 | 7466, 13490 |
| 210 | 4409, 9234–9236, 14691 |
| 215 | 14691 |
| 220 | 4409, 9236, 9237, 14691 |
| 225 | 4672, 9234–9237, 14691 |
| 245 | 4409 |
| 271 | 3988 |
| 301 | 17501, 21935, 26808 |
| Ch. VI | 11094 |
| 636 | 14380 |
| 711 | 3986 |
| 717 | 7467 |
| 719 | 4407 |
| 722 | 1053, 4407, 22560, 24911 |
| 724 | 5905 |
| 725 | 13653, 16878, 18254 |
| 726 | 7395, 16901 |
| 728 | 4407, 7810 |
| 729 | 5258 |
| 730 | 27068 |
| 760 | 9234 |
| 775 | 4407 |
| 777 | 9436 |
| 780 | 3071 |
| 814 | 7339 |
| Ch. IX | 1197, 7988, 8063, 10730, 11465, 17238 |
| 905 | 4979, 26454 |
| 906 | 12232, 26384, 26614, 26615 |
| 908 | 7234, 8749 |
| 909 | 27068 |
| 910 | 20265, 22149 |
| 911 | 13385, 14839 |
| 915 | 12611, 15367 |
| 916 | 13752, 15450 |
| 917 | 13028, 14110, 16781, 18469, 19047 |
| 918 | 1395, 11470, 12232 |
| 919 | 19832, 20265 |
| 921 | 15969, 16362 |
| 922 | 15730, 16363, 16657 |
| 923 | 16075, 16878 |
| 924 | 16234, 16781 |
| 925 | 18670, 19129 |
| 926 | 19047, 19972 |
| 927 | 20092, 26615 |
| 928 | 1395, 2701, 22240 |
| 929 | 3985, 14290, 17016, 22554 |
| 930 | 7570, 13565, 19047, 22897 |
| 931 | 21271, 21499 |
| 932 | 24910 |
| 944 | 12612, 26807 |
| 945 | 16782, 26384 |
| 946 | 18670, 21648 |
| 947 | 4407, 17500, 18672 |
| 948 | 18672, 18898, 19047, 22964 |
| 953 | 10640, 11353 |
| 958 | 17238 |
| 959 | 15080, 22240 |
| 967 | 19914 |
| 980 | 261, 16782, 17239 |
| 981 | 6395, 7395, 9592, 22965, 22966, 24911 |
| 982 | 2178 |
| 987 | 14110 |
| 989 | 6749, 10109, 12814, 17240, 19224, 19690, 20898, 26729 |
| 991 | 5882, 22040 |
| 993 | 20093, 20265, 20899 |
| 1001 | 22803 |
| 1002 | 18033, 22559, 22803 |
| 1004 | 22803 |
| 1006 | 7810, 11354, 22803 |
| 1007 | 22803, 25024 |
| 1011 | 22803 |
| 1012 | 22803 |
| 1013 | 22803 |
| 1015 | 22803 |
| 1030 | 8518, 9025, 13753, 15730, 18672, 22803, 23796, 25448, 25756 |
| 1032 | 1202, 9513, 22803, 25756 |
| 1033 | 22803 |
| 1036 | 3064, 5176, 22803 |
| 1040 | 2374, 22803 |
| 1043 | 2374 |
| 1044 | 22803 |
| 1046 | 15519, 17733, 22803, 25756 |
| 1049 | 1892, 22803, 25756 |
| 1050 | 1202, 9513, 12926, 20093, 20626, 22803, 22965, 25186, 25756 |
| 1060 | 22803, 25522 |
| 1061 | 22803, 25522 |
| 1062 | 1202, 1281, 4343, 22803, 25756 |
| 1063 | 16878, 22803, 22965, 25522 |
| 1064 | 1202, 22803, 25522 |
| 1065 | 1202, 7339, 18035, 19915, 22803, 25522 |
| 1068 | 28803, 25522 |
| 1069 | 22803, 25522 |



| | Page |
|---|---|
| 1070 | 22803, 25522 |
| 1071 | 22803, 25024 |
| 1073 | 7234, 17240, 22803, 25654, 25024 |
| 1075 | 22803 |
| 1076 | 15519, 22803, 25522 |
| 1078 | 22803, 25522 |
| 1079 | 4346, 10736, 22803, 25522 |
| 1090 | 22803, 25024 |
| 1094 | 22803, 25024 |
| 1096 | 12232, 22803, 25024, 25190 |
| 1097 | 22803, 25024 |
| 1098 | 22803, 25024 |
| 1099 | 4671, 7396, 22803, 25756 |
| 1101 | 22803 |
| 1102 | 22803, 25024 |
| 1103 | 3069, 4773, 5641, 8751 |
| 1104 | 22803, 25282 |
| 1106 | 22803, 25282 |
| 1108 | 22803, 25024 |
| 1120 | 22803, 25282 |
| 1121 | 6683, 9303, 13754, 22803 |
| 1124 | 22803 |
| 1125 | 5882, 7398, 8520, 14839, 22803 |
| 1126 | 22803, 25282 |
| 1127 | 22803, 25282 |
| 1128 | 22803, 25282 |
| 1129 | 22803, 23535, 25282 |
| 1130 | 22803, 25282 |
| 1131 | 22803, 25282 |
| 1132 | 22803, 25282 |
| 1133 | 22803 |
| 1134 | 22803 |
| 1136 | 22803 |
| 1137 | 22803 |
| 1138 | 22803, 25282 |
| 1139 | 11024, 12405, 15008, 22803 |
| 1140 | 14963, 16363, 18681, 26729 |
| 1201 | 12749 |
| 1207 | 10738, 21499 |
| 1421 | 1054, 3607, 4408, 10274, 15520, 16785, 26006 |
| 1425 | 15521, 16785 |
| 1427 | 1053, 2766, 9025, 12927 |
| 1430 | 799 |
| 1434 | 2334 |
| 1446 | 4408 |
| 1464 | 4346, 15081, 16785 |
| 1700 | 3988, 4775 |
| 1701 | 1055, 1395, 2178, 2464, 4581, 4979, 5643, 7235, 9026, 9027, 9309, 10951, 12233, 13565, 18383, 21181, 22803, 23413, 24660, 26919 |
| 1806 | 7399 |
| 1816 | 3516 |
| 1822 | 12815, 16077 |
| 1823 | 7399, 16361, 16375 |
| 1825 | 16376 |
| 1826 | 21417 |
| 1832 | 16907, 18040 |
| 1863 | 7399 |
| 1871 | 16658 |
| 1875 | 23412 |
| 1890 | 3516 |
| 1890s | 3988 |

## 8 CFR

### Chapter I

| | Page |
|---|---|
| 1.1 (l) added | 8590 |
| 100.4 (c)(3) amended | 5996 |
| (a) revised; (d) amended | 16632 |
| (a), (b), and (c)(2) and (3) amended | 16855, 16856 |
| (c)(2) amended | 17713 |
| (c)(2) corrected | 19907 |
| 103.1 (e)(12a) added | 8237 |
| Effective date extended | 14261 |
| (c) revised | 8590 |
| (e)(12) revised | 19812 |
| 103.2 (b)(1) revised | 8590 |
| 103.7 (b)(2) revised | 6806 |
| (b)(1) amended | 8238, 19812 |
| Effective date extended | 14261 |
| 103.10 Revised | 6806 |
| 204.1 (a) and (c)(1) amended | 7791 |
| 204.2 (d)(1) amended | 3187 |
| (e-1) added | 7791 |
| 204.4 (a) and (b) revised | 7791 |
| 204.5 (a)(1) and (b) revised | 7791 |
| 205.1 (a) and (b) revised | 7792 |
| 211.1 (b)(2) amended | 8238 |
| Effective date extended | 14261 |
| 211.3 Heading revised; text amended | 8238 |
| Effective date extended | 14261 |
| 212.1 (a) and (e)(1) revised | 18866 |
| (e)(1) corrected | 21172 |
| 212.8 (b)(4) revised | 1380, 8590 |
| 212.7 (b)(2)(i) revised | 16632 |
| 214.2 (h)(7) revised; (h)(8) redesignated as (h)(12); new (h)(8), (9), (10), and (11) added | 8591 |
| (c)(1) revised | 14962, 18361, 24891 |
| (c)(1) amended | 17198 |
| (c)(1) corrected | 26354 |
| 214.4 (a) revised | 8591 |
| 223.2 Revised | 19812 |
| 223a Added | 8238 |
| Effective date extended | 14261 |
| 235.10 Revised | 16856 |
| 236.3 (e) added | 8239 |
| Effective date extended | 14261 |
| 238.3 (b) amended | 16632, 19812, 24891 |
| 238.4 Amended | 3188 |
| 245.1 (g)(1) revised | 18361 |
| 245.2 (a)(1) and (b)(1) corrected | 11340 |
| (a)(2) revised | 18361 |
| 264.1 (b) amended; (f) revised | 8591 |
| 299.1 Table amended | 1380, 3188, 8239, 8592, 14261, 19813 |
| 299.3 Revised | 21995 |
| 312.3 Revised | 8592 |
| 316a.2 Amended | 3188, 16632 |
| 316a.4 Amended | 16633 |

CODE

XUM





CODE

## 8 CFR—Continued

### Chapter I—Continued

| | Page |
|---|---|
| 341.5 Amended | 5997 |
| 343a.2 Amended | 5997 |
| 499.1 Table amended | 3188, 8592, 19813 |

*Proposed Rules:*

| | |
|---|---|
| 100 | 8449 |
| 103 | 2699 |
| 211 | 2699 |
| 212 | 22964 |
| 223a | 2699 |
| 235 | 2699 |
| 242 | 2699 |
| 299 | 2699 |

## 9 CFR

### Chapter I

| | Page |
|---|---|
| 12 Added | 10797 |
| 56.4 Revised | 16842 |
| 71.1 (h) removed | 18011 |
| 71.3 (d)(1) amended | 18457 |
| 71.18 (a)(1)(i)(*d*) and (ii) amended | 18011 |
| Revised | 22768 |
| 72.5 (i) revised; (j) added | 18541 |
| (a), (c), (f), and (h) revised; (g) amended | 19212 |
| 72.6 Amended | 18011 |
| 72.13 (b)(2) revised | 19012 |
| 72.22 Revised | 21996 |
| 72.23 Revised | 21996 |
| 72.24 Revised | 21996 |
| 73.1a (c) revised | 2679, 5624, 12801, 18234, 24347, 26904 |
| (b) revised | 6666 |
| (a) and (c) revised | 9007 |
| (a) revised | 9660, 10803, 14156, 15620 |
| (b) removed | 10252 |
| 73.2 (c)(2) removed | 18011 |
| 73.5 Amended | 18011 |
| 73.9 Removed | 18011 |
| 73.11 Revised | 21996 |
| 74 Undesignated center headings amended | 18011 |
| Undesignated subpart headings revised | 21996 |
| 74.9 Introductory text and (c) amended | 18011 |
| 74.12 Heading and (a) amended | 18011 |
| 74.13 Introductory text and (b) amended | 18011 |
| 74.18 (c) amended | 18011 |
| 74.22 (a), (b), (c), and (d) amended | 18011 |
| 74.23 Revised | 18011 |
| 74.25 Revised | 21996 |
| 75 Heading revised | 20441 |
| 75.4 Center heading and new section added | 20441 |
| 76.2 Amended | 849, 1116, 1117, 1577, 1578, 1922, 2441, 2960, 3309, 3397, 4314, 4383, 4937–4939, 5455, 6167, 7318, 7982, 12202, 15363, 17713, 18542, 21173 |
| 77.2 (c) removed | 18012 |
| 77.6 Amended | 18012 |
| 77.7 (c) removed | 18012 |
| 77.8 Introductory text amended | 18012 |
| 78 Subpart D heading amended | 18012 |
| 78.1 (k) removed | 18012 |
| 78.5 Introductory text amended | 18012 |
| 78.12 (a), (b)(1), and (d) amended | 18012 |
| 78.13 Revised | 4939, 7113, 9989, 12903, 15178, 20247 |
| 78.14 (a) amended | 3398, 9087, 10153, 14156 |
| Revised | 18012 |
| 78.16 (b) revised | 18012 |
| 80.1 (f) removed | 18012 |
| 80.4 Introductory text amended | 18012 |
| 82.3 (a)(1)(iv) added | 1578 |
| (a)(1)(vi) added | 3585 |
| (a)(1)(iii) revised; (a)(1)(vii) added | 4313 |
| (a)(1)(i) and (vii) removed | 6168 |
| (a)(1)(ii) and (v)(*g*) removed; (a)(1)(i) and new (a)(1)(ii) added | 8241 |
| (a)(1)(vii) and (viii) added | 9486 |
| Introductory text of (a) amended; (a)(1)(ix) added; (a)(2) removed | 12093 |
| (a)(1)(x) added | 12325 |
| (a)(1)(iii) revised; (a)(1)(v) removed | 14367 |
| (a)(1)(iii) revised | 16028, 21623 |
| (a)(1)(iv) and (vi) removed; new (a)(1)(iv) added | 18362 |
| (a)(1)(i), (ii), (vii), and (viii) removed | 21996 |
| (a)(1)(iii) removed | 23940 |
| (a)(1)(ix) and (x) removed | 26904 |
| 82.4 (d) redesignated as (e); new (d) added | 9088 |
| 83.1 (p) removed | 9660 |
| 83.2 Revised | 9660, 17439 |
| 83.6 Introductory text revised | 9660, 17439 |
| 83.6a Removed | 9660 |
| 83.8 Amended | 9660 |
| 92.1 (j)(1) amended; (j)(2) revised; (j)(3) added | 8240 |
| 92.2 (c)(1) amended | 4506 |
| (e) added | 8240 |
| (d) revised | 19671 |
| 92.3 (a) amended | 19813 |
| 92.5 (a)(1) amended | 21610 |



| | Page |
|---|---|
| 92.24 Revised | 19813 |
| Heading revised; existing text designated as (a); (b) added | 22467 |
| 92.35 (a)(1) amended; (a)(2)(ii) and (iv) revised | 1578 |
| (b)(1) revised | 2961 |
| (b)(1) amended | 10724 |
| 94.1 (a) and introductory text of (c) revised | 2752 |
| (a)(2) amended | 20065, 20612, 24892 |
| 94.5 Revised | 2752 |
| 94.6 Revised | 1729 |
| 94.7 Revised | 2752 |
| 94.8 Amended | 2752 |
| 94.9 (b)(1)(ii)(*b*) revised | 4384 |
| (a) amended | 15363 |
| (b)(1)(iii)(*c*) amended | 15621 |
| 94.10 Amended | 15363 |
| 94.11 Added | 2752 |
| (a) amended | 20612 |
| 94.12 Added | 20610 |
| (a) amended | 24892 |
| 94.13 Added | 20611 |
| (b) amended | 25669 |
| 94.14 Added | 20611 |
| 97.1 Revised | 1380 |
| 97.2 Amended | 2442, 15953, 23940 |
| 101 Revised | 8426 |
| 101.2 (w) and (y) corrected | 9221 |
| 102.5 (d)(2) and (4) removed; provisions transferred to 105.2 | 23512 |
| 102.51 Removed; provisions transferred to 105.1 | 23512 |
| 102.52 Removed; provisions transferred to 105.3 | 23512 |
| 105 Added | 23512 |
| 108.3 Removed | 15499 |
| 112 Revised | 12094 |
| 112.3 (c) corrected | 13476 |
| 114.5 Revised | 12094 |
| 117 Revised | 15499 |
| 123.1 (i) and (q) revised | 8428 |

### Chapter II

| | Page |
|---|---|
| 201.111 Added | 4384 |
| 202.2 (p) and (q) revised | 22379 |
| 202.5 (b) amended | 22379 |
| 202.6 Amended | 22379 |
| 202.8 Amended | 22379 |
| 202.9 (c) revised | 22379 |
| 202.10 Amended | 22379 |
| 202.11 Amended | 22379 |
| (a), (b), (c)(2), and (e)(2) amended | 22379 |
| 202.12 Amended | 22379 |
| 202.13 Amended | 22379 |
| 202.14 Amended | 22379 |
| 202.15 Amended | 22379 |
| 202.16 Heading, (c), and (d) revised | 22379 |
| 202.17 Amended | 22379 |
| 202.18 Revised | 22379 |
| 202.19 Removed | 22380 |
| 202.20 Amended | 22379 |
| 202.22 Amended | 22379 |
| 202.25 Amended | 22379 |
| 202.26 Amended | 22379 |
| 202.29 Amended | 22379 |
| 202.33 Amended | 22379 |
| 202.35 Amended | 22379 |
| 202.36 (a) and (b) revised | 22380 |
| 202.44 (d) revised | 22380 |
| 202.48 (b) and (e) revised | 22380 |
| 202.60 Amended | 22380 |
| 203.14 Added | 21173 |

### Chapter III

| | Page |
|---|---|
| 305.5 (b) revised | 9794 |
| 307.6 (a) amended | 3189 |
| 314.9 Amended | 18665 |
| 316.5 (b) revised | 9088 |
| 316.10 Effective date postponed to 8–19–73 | 4385 |
| 317.2 (j)(3) revised | 13476 |
| 317.8 (b)(5) effective date postponed to 8–19–73 | 4385 |
| (b)(30) added | 14368 |
| 317.17 Effective date postponed to 8–19–73 | 4385 |
| 318.1 Existing text of (h) designated as (h)(1); (h)(2) added | 5152 |
| 318.6 (b)(8) revised | 14368 |
| 319 Subpart G heading revised | 14742 |
| 319.180 Revised | 14742 |
| Effective date postponed | 22621, 24640 |
| 319.200 (Subpart H) Removed | 14742 |
| 322.4 Revised | 18868 |
| 331.2 Amended | 10724, 14262, 18869 |
| 331.6 Table amended | 9584, 19672 |
| 350.7 (c) amended | 3189 |
| 355.12 Amended | 3189 |
| 381.10 (d)(2)(ii) revised | 16991 |
| 381.36 (a) amended | 9794 |
| 381.39 Amended | 3189 |
| 381.40 (a) amended | 3189 |
| 381.41 Amended | 3189 |
| 381.221 Amended | 10725, 14263, 18869 |
| 381.224 Table amended | 9585, 19672 |

### Chapter IV

| | Page |
|---|---|
| 445.1 (d) revised | 3038, 13706 |
| 445.4 (d) revised | 13706 |
| 445.5 (c) revised | 13706 |
| 445.10 Revised | 13706 |
| 445.11 (a) revised; (c) added | 13706 |
| 445.13 (a) amended; (c) removed | 3038 |

20-120 O - 73 - 4

CODE XUM



## 9 CFR—Continued

### Chapter I—Continued

| | Page |
|---|---|
| 82.3 (a)(1)(iii) revised | 23940 |
| 82.4 (d) revised | 23940 |
| 82.5 (a)(1) amended | 23940 |
| 83.1 (p) removed | 23940 |
| 83.2 Revised | 23940 |
| 83.6 Introductory text revised | 23940 |
| 83.8 Amended | 23940 |
| 92.1 (j)(1) amended; (j)(2) revised | 23940 |
| 92.2 (c)(1) amended | 23940 |
| (d) revised | 23940 |
| 92.3 (a) amended | 23940 |
| 92.5 (a)(1) amended | 23940 |
| 92.24 Revised | 23940 |
| Heading revised; existing text designated as (a); (b) added | 23940 |
| 92.35 (a)(1) amended; (a)(2)(ii) and (iv) revised | 23940 |
| (b)(1) revised | 23940 |
| (b)(1) amended | 23940 |
| 94.1 (a) and introductory text of (c) revised | 23940 |
| (a)(2) amended | 23940 |
| 94.5 Revised | 23940 |
| 94.6 Revised | 23940 |
| 94.7 Revised | 23940 |
| 94.8 Amended | 23940 |
| 94.9 (b)(1)(ii)(*b*) revised | 23940 |
| (a) amended | 23940 |
| (b)(1)(iii)(*c*) amended | 23940 |
| 94.10 Amended | 23940 |
| 94.11 Added | 23940 |
| (a) amended | 23940 |
| 94.12 Added | 23940 |
| (a) amended | 23940 |
| 94.13 Added | 23940 |
| (b) amended | 23940 |
| 94.14 Added | 23940 |
| 97.1 Revised | 23940 |
| 97.2 Amended | 23940 |
| 101 Revised | 23940 |
| 101.2 (w) and (y) corrected | 23940 |
| 102.5 (d)(2) and (4) removed; provisions transferred to 105.2 | 23940 |
| 102.51 Removed; provisions transferred to 105.1 | 23940 |
| 102.52 Removed; provisions transferred to 105.3 | 23940 |
| 105 Added | 23940 |
| 108.3 Removed | 23940 |
| 112 Revised | 23940 |
| 112.3 (c) corrected | 23940 |
| 114.5 Revised | 23940 |
| 117 Revised | 23940 |
| 123.1 (i) and (q) revised | 23940 |

### Chapter II

| | Page |
|---|---|
| 201.111 Added | 23940 |
| 202.2 (p) and (q) revised | 23940 |
| 202.5 (b) amended | 23940 |
| 202.6 Amended | 23940 |
| 202.8 Amended | 23940 |
| 202.9 (c) revised | 23940 |
| 202.10 Amended | 23940 |
| 202.11 Amended | 23940 |
| (a), (b), (c)(2), and (e)(2) amended | 23940 |
| 202.12 Amended | 23940 |
| 202.13 Amended | 23940 |
| 202.14 Amended | 23940 |
| 202.15 Amended | 23940 |
| 202.16 Heading, (c), and (d) revised | 23940 |
| 202.17 Amended | 23940 |
| 202.18 Revised | 23940 |
| 202.19 Removed | 23940 |
| 202.20 Amended | 23940 |
| 202.22 Amended | 23940 |
| 202.25 Amended | 23940 |
| 202.26 Amended | 23940 |
| 202.29 Amended | 23940 |
| 202.33 Amended | 23940 |
| 202.35 Amended | 23940 |
| 202.36 (a) and (b) revised | 23940 |
| 202.44 (d) revised | 23940 |
| 202.48 (b) and (e) revised | 23940 |
| 202.60 Amended | 23940 |
| 203.14 Added | 23940 |

### Chapter III

| | Page |
|---|---|
| 305.5 (b) revised | 23940 |
| 307.6 (a) amended | 23940 |
| 314.9 Amended | 23940 |
| 316.5 (b) revised | 23940 |
| 316.10 Effective date postponed to 8–19–73 | 23940 |
| 317.2 (j)(3) revised | 23940 |
| 317.8 (b)(5) effective date postponed to 8–19–73 | 23940 |
| (b)(30) added | 23940 |
| 317.17 Effective date postponed to 8–19–73 | 23940 |
| 318.1 Existing text of (h) designated as (h)(1); (h)(2) added | 23940 |
| 318.6 (b)(8) revised | 23940 |
| 319 Subpart G heading revised | 23940 |
| 319.180 Revised | 23940 |
| Effective date postponed | 23940 |
| 319.200 (Subpart H) Removed | 23940 |
| 322.4 Revised | 23940 |
| 331.2 Amended | 23940 |
| 331.6 Table amended | 23940 |
| 350.7 (c) amended | 23940 |
| 355.12 Amended | 23940 |
| 381.10 (d)(2)(ii) revised | 23940 |
| 381.36 (a) amended | 23940 |
| 381.39 Amended | 23940 |
| 381.40 (a) amended | 23940 |
| 381.41 Amended | 23940 |
| 381.221 Amended | 23940 |
| 381.224 Table amended | 23940 |

### Chapter IV

| | Page |
|---|---|
| 445.1 (d) revised | 23940 |
| 445.4 (d) revised | 23940 |
| 445.5 (c) revised | 23940 |
| 445.10 Revised | 23940 |
| 445.11 (a) revised; (c) added | 23940 |
| 445.13 (a) amended; (c) removed | 23940 |



| | Page |
|---|---|
| 31.8 (c) amended | 22380 |
| 55.60 Amended | 1272 |
| 55.61 Amended | 1272 |
| 55.62 Amended | 1272 |
| 55.63 Amended | 1272 |
| 55.64 Amended | 1272 |
| 55.65 Amended | 1272 |
|

## 9 CFR—Continued

### Chapter IV—Continued

| | Page |
|---|---|
| 445.14 (a)(1), (2) introductory text, and (a)(2)(ii) revised | 13706 |
| 445.21 (d) and (e) removed | 13707 |
| 445.22 (d) added | 13707 |
| 445.23 (a), (b), and (c) removed; (d), (e), and (f) redesignated as (a), (b), and (c); (b) introductory text, and (c)(1)(i) and introductory text of (ii) revised; new (d) added | 13707 |
| 445.32 (c) added | 13707 |
| 445.33 (a) and (b) removed; (c), (d), and (e) redesignated as (a), (b), and (c); (b) introductory text and (c)(1)(i) and introductory text of (ii) revised; (b)(1), (2)(iii), and (5) amended | 13707 |
| 445.42 (a) removed; introductory text designated as (a) | 13707 |
| 445.43 (a) removed; (b) introductory text and (d)(1)(i) revised; (b)(1), (2)(iii), and (5) and (d)(1)(ii) amended | 13707, 13708 |
| 445.53 (c)(1) and (2) revised | 13708 |
| 446 Heading removed | 13708 |
| 447.5 Added | 13708 |
| 447.12 Added | 13709 |
| 447.41 (d) revised | 3038 |

*Proposed Rules:*

| | Page |
|---|---|
| 11 | 4408 |
| 91 | 19972, 22040 |
| 92 | 2463, 5641, 26808 |
| 94 | 12926, 24219 |
| 102 | 23957 |
| 104 | 23957 |
| 108 | 7467 |
| 113 | 3987, 8064, 15450, 26118 |
| 117 | 7467 |
| 203 | 9238 |
| 301 | 11090 |
| 304 | 22041 |
| 305 | 22041 |
| 307 | 3988 |
| 308 | 27069 |
| 316 | 11090, 11092, 16076 |
| 317 | 1746, 7398, 11090, 11092, 19690, 21648, 22041, 23535 |
| 318 | 1746, 9513, 16784, 18682, 19690 |
| 319 | 6898, 9170, 11090, 11093, 15519, 15628, 16363, 17016, 18683 |
| 325 | 18682, 27069 |
| 327 | 8449, 9829 |
| 381 | 3988, 7398, 9513, 9829, 16784, 18681, 19690, 20096, 24374, 26454, 26455, 27069 |
| 445 | 1104 |
| 446 | 1104 |
| 447 | 1104 |

## 10 CFR

### Chapter I

| | Page |
|---|---|
| 0.735–42 (d) revised | 1271 |
| 0.735–45 Revised | 1271 |
| 1 Amended | 2330 |
| 2 Amended | 2330 |
| 2.4 (p) revised | 1500 |
| 2.105 (a)(3) revised | 9585 |
| 2.106 (a) revised | 9586 |
| 2.762 Revised | 5625 |
| 2 Appendix A amended | 3398, 5625 |
| 4 Amended | 2330 |
| 4.12 (c) and (d) redesignated as (d) and (e); new (c) and (f) added | 17927 |
| 4.13 Revised | 17927 |
| 4.21 (b) revised | 17927 |
| 4.22 Revised | 17928 |
| 4.23 (b) revised | 17928 |
| 4.25 (d) and (e) added | 17928 |
| 4.49 Revised | 17928 |
| 4.51 (d) and (f) revised | 17928 |
| 4.63 (a) amended | 17928 |
| 4.75 Added | 17928 |
| 4.91 Amended | 17928 |
| 4.93 Amended | 17929 |
| 4 Appendix A heading revised; text amended | 17929 |
| 19 Added | 22217 |
| 20.3 (a)(4) revised | 22467 |
| 20.206 Revised | 22220 |
| 20.402 (a) and (b) amended | 1271 |
| 20.403 (a) and (b) amended | 1271 |
| 20.404 Removed | 22220 |
| 20.405 (a) amended | 1271 |
| (c) removed | 22220 |
| 20.406 Removed | 22220 |
| 20.408 Amended | 22220 |
| 20.409 Added | 22220 |
| 20 Appendix D amended | 1271, 17198 |
| 25.5 Revised | 10804 |
| 25.11 (a) and (c)(7) amended | 10804 |
| 25.15 (a) and (b)(1) and (3) revised | 10804 |
| 25.22 (a) revised | 10804 |
| 25.23 (c)(1) and (d) revised; (c)(4) amended | 10804 |
| 25 Appendix A amended | 10805 |
| 30.32 (a) amended | 1271 |
| 30.55 (c) amended | 1271 |
| Amended | 2330 |
| 31.2 (a) revised | 22220 |
| 31.5 (d)(1) and (5) amended | 1271 |
| (d)(7) revised | 22220 |
| 31.6 (a) amended | 1271 |
| 31.7 (b) amended | 22220 |



| | Page |
|---|---|
| 31.8 (c) amended | 22220 |
| 31.10 (b)(3) revised | 22220 |
| 31.11 (b) and (e) amended | 1271 |
| (f) amended | 22220 |
| 32.12 Amended | 1271 |
| 32.16 Amended | 1271 |
| 32.20 Amended | 1271 |
| 32.25 (c) amended | 1271 |
| 32.29 (c) amended | 1271 |
| 32.52 (a) amended | 1271 |
| 32.56 Amended | 1271 |
| 32.60 Amended | 1271 |
| 32.63 Amended | 1271 |
| 34.25 (d) amended | 1271 |
| 35.31 (b) and (d) amended | 1272 |
| 34.31 (a)(2) revised | 22221 |
| 35.31 (e) amended | 22221 |
| 36.2 (a) and (b) amended | 1272 |
| 36.11 Amended | 1272 |
| 36.22 (c) amended | 1272 |
| 36.24 (c) amended | 1272 |
| (b) revised | 12733 |
| 40.5 Amended | 1272 |
| 40.23 (a) and (e) amended | 1272 |
| (e)(1) revised | 21176 |
| 40.31 (a) amended | 1272 |
| 40.64 (c) amended | 1272 |
| Amended | 2330 |
| 50.4 Amended | 1272 |
| 50.21 (c) revised | 11446 |
| 50.22 Revised | 11446 |
| 50.30 (a) and (c) amended | 1272 |
| 50.33 (k) removed | 3956 |
| 50.33a Added | 3956 |
| 50.34 (b)(8) added | 22222 |
| 50.54 (o) added | 4386 |
| (i-1) added | 22222 |
| (i–1) corrected | 26354 |
| 50.55 (e)(2), (3), and (4) amended | 1272 |
| 50.55a (a)(2) introductory text and (i) revised; (j) redesignated as (j); new (i) added | 19014 |
| (b) revised | 19907 |
| 50.55b Revised | 3956 |
| 50.59 Amended | 1272 |
| (e)(1) and (2) amended | 9586 |
| 50.80 (b) amended | 3956 |
| 50 Appendix E amended | 1272 |
| Appendix J added | 4386 |
| Corrected | 5997 |
| Appendix L added | 3956 |
| Appendix G added | 19014 |
| Appendix H added | 19015 |
| 55.5 Amended | 1272 |
| 55.10 (a) amended | 1272 |
| 55.31 (e) redesignated as (f); new (e) added | 22222 |
| 55.33 (a)(4) and (5) redesignated as (a)(5) and (6); new (a)(4) added; (c)(2) revised | 22222 |
| 55.60 Amended | 1272 |
| 55 Appendix A added | 22222 |
| Appendix A corrected | 26354 |
| 60.8 Revised | 21521, 21644 |
| 70.5 Revised | 1272 |
| 70.19 (c) amended | 22221 |
| 70.21 (a) amended | 1272 |
| 70.22 (b)(1) amended | 1272 |
| 70.39 (d) amended | 1272 |
| 70.51 (c)(1) amended | 1272 |
| 70.52 Revised | 1272 |
| 70.54 Amended | 2330 |
| 71.1 (a) revised | 10438 |
| 71.4 (q) added | 10438 |
| 71.6 Redesignated as 71.7 | 10438 |
| Redesignated from 71.13 | 10438 |
| 71.7 Redesignated as 71.8 | 10438 |
| Redesignated from 71.6; heading and (b) revised | 10438 |
| (b)(3) corrected | 16347 |
| 71.8 Redesignated as 71.11 | 10438 |
| Redesignated from 71.7 | 10438 |
| 71.9 Redesignated as 71.12 | 10438 |
| Added | 10438 |
| (c) corrected | 16347 |
| 71.10 Amended | 1272 |
| Redesignated as 71.13 | 10439 |
| Redesignated from 71.15 and revised | 10438 |
| 71.11 Redesignated as 71.14 | 10439 |
| Redesignated from 71.8; (a)(1) and (b)(1) revised | 10438 |
| 71.12 Redesignated as 71.15 | 10439 |
| Redesignated from 71.9; (a) revised; (c) added | 10438 |
| 71.13 Redesignated from 71.10 | 10439 |
| 71.14 Removed | 10438 |
| Redesignated from 71.11 | 10439 |
| 71.15 Redesignated from 71.12 | 10439 |
| 71.16 (c) added | 10439 |
| 71.32 Heading revised; text amended | 10439 |
| 71.35 (a) introductory text and (c) revised | 10439 |
| 71.36 Introductory text of (a) revised | 10439 |
| 71.61 Amended | 1272 |
| 71.62 Introductory text of (a) revised | 10439 |
| 73.1 Existing text designated as (a); (b) added | 3038 |
| (b) corrected | 5237 |
| 73.5 Amended | 1272 |
| 73.30 Added | 3039 |
| 73.31 (d) amended | 1272 |
| 73.42 Amended | 1272 |
| 73 Appendix A revised | 1272 |
| Appendix A amended | 17198 |
| 81 Revised | 7318 |
| 81.2 (e) added | 8241 |
| 81.61 Added | 8241 |

CODE
XUM

## 10 CFR—Continued

### Chapter I—Continued


| | Page |
|---|---|
| 81.62 Added | 8241 |
| 81.63 Added | 8241 |
| 81.64 Added | 8241 |
| 81.65 Added | 8242 |
| 81.66 Added | 8242 |
| 100.11 Amended | 1273 |
| 110.7 (b) and footnote (1) revised | 23953 |
| 115.6 Amended | 1273 |
| 115.20 (a) and (c) amended | 1273 |
| 115.43 (c) amended | 1273 |
| 115.47 (d) amended | 1273 |
| 115.80 (b) revised | 22221 |
| 140.5 Amended | 1273 |
| 140.91 Appendix A amended | 11066 |
| 140.96 Added | 2984 |
| 150.16 Amended | 2330 |
| 150.17 (c) amended | 1273 |
| Amended | 2330 |
| 150.19 (c) amended | 1273 |
| 150.20 (b) amended | 1273 |
| Introductory text of (b) revised | 22221 |
| 150.21 Added | 3039 |
| 170.11 (a) (6) and (7) removed | 18443 |
| 170.12 (c) revised | 18443 |
| 170.21 Revised | 18443 |
| 170.31 Revised | 18444 |
| *Proposed Rules:* | |
| 2 | 10158 |
| 9 | 27096 |
| 19 | 802 |
| 20 805, 10641, 13033, 17020, | 18908 |
| 30 | 4351 |
| 31 | 26813 |
| 32 | 26813 |
| 35 | 6399 |
| 40 | 4351 |
| 50 | 49, 3073, 3334, 5262, 5351, 5659, 7476, 10158, 10641, 10815, 22796, 26814 |
| 70 3075, 3077, 4351, 5262, 5659, | 26735 |
| 71 | 20482 |
| 73 3080, 3082, 5659 | |
| 115 10641, | 22796 |
| 140 | 3336 |
| 170 4272, | 10158 |


## 11 CFR

### Chapter I


| | |
|---|---|
| 11.25 Added | 22202 |
| 14.2 (b) (4) revised | 22202 |
| 19.1 Revised | 22202 |


## 12 CFR

### Chapter II


| | Page |
|---|---|
| 201.0 Redesignated as 201.2 and revised | 9076 |
| 201.1 Revised | 9076 |
| 201.2 Redesignated as 201.3 and revised | 9077 |
| 201.3 Redesignated as 201.4 and revised | 9077 |
| 201.4 Redesignated as 201.5 | 9077 |
| 201.5 Redesignated from 201.4 and revised | 9077 |
| 201.6 Revised | 9077 |
| 201.7 Added | 9077 |
| 201.51 Revised 2330, 6988, 12733, 14092, 16214, 19016, 23772 | |
| Corrected | 14369 |
| 201.52 Revised 2330, 6988, 12733, 14092, 16214, 19016, 23772 | |
| Corrected | 14369 |
| 201.53 Revised 2330, 6988, 12733, 14092, 16214, 19016, 23772 | |
| Corrected | 14369 |
| 204.1 Introductory text of (f) revised; (f) (5) added | 16651 |
| 204.5 (a) (1) (ii) and (2) (ii) and (c) revised | 13727 |
| (a) (1) (iii) and (2) (iii) revised | 18869 |
| (a) (1) (ii) and (2) (ii) revised 19908, | 25985 |
| 204.117 Added | 16651 |
| 207.4 (a) (2) (i) revised | 26905 |
| 207.5 (a) revised | 13548 |
| 211.108 Added | 3585 |
| (a) corrected | 4571 |
| 211.109 Added | 5837 |
| 211.110 Added | 14913 |
| 213.7 Revised | 13728 |
| (b) amended | 14913 |
| 213.104 Added | 14913 |
| 217.4 (d) revised | 18641 |
| (d) amended 20066, | 23513 |
| (e) redesignated as (f); new (e) added | 26109 |
| 217.6 (e), (f), and (g) redesignated as (f), (g), and (h); new (e) added | 26109 |
| 217.7 (a) (1) revised | 13728 |
| Revised 18641, | 19908 |
| (a) revised | 20442 |
| 217.137 (a) revised | 16029 |
| 220.3 (b) (2) amended; (d) (5) revised | 13548 |
| 220.4 (c) (8) revised | 1501 |
| 220.8 (a) (1) and (f) revised | 13549 |
| 220.126 Added | 5237 |
| 220.127 Added | 11066 |
| 220.128 Added | 12098 |
| 220.129 Added | 16652 |
| 221.3 (l) revised | 13549 |
| (w) corrected | 18363 |





| | Page |
|---|---|
| 221.4 (a) revised | 13549 |
| 221.122 Added | 5237 |
| 226.2 (u) revised | 18457 |
| 226.6 (a) revised | 18457 |
| 226.8 (b) (7) revised | 19814 |
| 226.10 (c) and (d) revised | 18457 |
| 226.101 Added | 18458 |
| 226.506 Added | 14743 |
| 226.818 Added | 12202 |
| 226.819 Added | 23513 |
| 250.163 Added | 13728 |
| 262 Revised | 6807 |
| 265.2 (f) (23) revised; (f) (26) added | 2442 |
| (f) (3) revised | 6988 |
| (f) (27) added | 8592 |
| (f) (22) and (24) revised; (f) (28) added | 10917 |
| 270 Revised | 2753 |
| 271 Amended | 2754 |
| 271.1 Heading revised | 2754 |
| 271.2 (a) amended | 2754 |
| 271.3 (a) amended | 2754 |
| 271.4 (b) and (c) amended | 2754 |
| 271.5 (a) amended | 2754 |
| 271.6 (f) amended | 2754 |
| 271.7 (a) amended | 2754 |
| 272 Revised | 2754 |
| **Chapter III** | |
| 302.3 Amended | 14263 |
| 302.4 Amended | 14263 |
| 303.9 Amended | 14263 |
| 303.10 (a) amended | 14263 |
| 303.11 (a) (7) added | 4572 |
| (b) amended; (d) revised | 14263 |
| 303.12 (a) (2) revised; (c) added | 4572 |
| (b) amended | 14263 |
| 303.13 (a) amended | 14263 |
| 303.14 Added | 4573 |
| (d) (3) corrected | 9221 |
| (k) amended | 14263 |
| 306.2 Amended | 14263 |
| 308.2 (a) and (b) amended | 14263 |
| 308.3 Amended | 14263 |
| 308.4 (a), (c), (d), and (e) amended | 14263 |
| 308.5 (a) and (b) (7) revised; (c), (e), (g), and (h) amended 14263, | 14264 |
| 308.6 (a), (b), (c), (e), (f), and (g) amended | 14264 |
| 308.7 (b) and (c) amended | 14264 |
| 308.8 (a) through (f) amended | 14264 |
| 308.9 (a) and (b) amended | 14264 |
| 308.10 (a) and (b) amended | 14264 |
| 308.11 (a) and (b) amended | 14264 |
| 308.12 Amended | 14264 |
| 308.13 Amended | 14264 |
| 308.14 Amended | 14264 |
| 308.15 Amended | 14264 |
| 308.16 (a) and (b) amended | 14264 |
| 308.17 Amended | 14264 |
| 308.19 Amended | 14264 |
| 308.25 Amended | 14264 |
| 309.1 (a) (3) amended | 14264 |
| 329.0 Revised | 26355 |
| 329.4 (d) revised; (e) added | 18543 |
| (e) revised; (f), (g), and (h) added | 22545 |
| 329.6 (a) (1) revised | 13549 |
| Revised 18543, | 20247 |
| (b) (2) revised 20442, | 22546 |
| Heading corrected | 20818 |
| 329.7 (b) (4) revised | 13549, 20442, 22546 |
| Revised 18544, | 20248 |
| (d) corrected | 22120 |
| (b) (4) revised; footnote 14b added | 25432 |
| 329.8 (h) added | 22546 |
| 329.10 (b) revised | 16347 |
| 335.3 (c) (2) (ii) amended | 14264 |
| **Chapter IV** | |
| 400 Revised | 21582 |
| 401 Revised | 21487 |
| 402 Revised | 21489 |
| 404 Added | 21490 |
| **Chapter V** | |
| 500 Revised | 19017 |
| 501.2 Added; formerly 500.10 | 19021 |
| 505.4 (d) revised | 6376 |
| 506.3 Revised | 26355 |
| 506a Added | 26355 |
| 523.11 (a) revised 12202, 12802, | 21391 |
| 523.31 Revised | 4575 |
| 525.10 Revised | 26357 |
| 526.3 Revised | 18459 |
| 526.4 Revised | 18459 |
| 526.5 Revised | 18459 |
| (a) (5) revised | 25433 |
| 526.5–1 (a) revised | 13477 |
| Revised | 18460 |
| (b) revised | 23940 |
| 529 Added | 17929 |
| 531.1 (f) revised | 14743 |
| 531.3 Revised | 14743 |
| 544.6 (h) and (i) revised | 10253 |
| 545.1–4 (c) (3) and (f) (1) (i) and (ii) revised | 18460 |
| 545.3 (b) (4) revised | 18460 |
| 545.3–1 (c) (3) (i) and (ii) revised | 18460 |
| 545.4–1 (a) (3) added | 26710 |
| 545.6–1 (b) (1), (2), and (3) revised | 16029 |
| (b) (2) (i) corrected | 19112 |




## 12 CFR—Continued


| | Page |
|---|---|
| 563.36 Added | 20318 |





| | Page |
|---|---|
| *Proposed Rules:* | |
| 21 | 31 |
| 113.6 (b) revised | 17831 |
| 113.7 (d) revised | 17831 |

## 12 CFR—Continued

### Chapter V—Continued

| | Page |
|---|---|
| 545.6–4 Revised | 15621 |
| 545.6–6 Revised | 26711 |
| 545.6–7 (a)(1)(i) and (c)(1)(ii), (iii), and (2)(i) and (iii) revised | 26711 |
| 545.7–1 (e)(4)(i) and (ii) revised | 15441 |
| 545.8 (a)(1)(v) revised | 21624 |
| 545.9 (g) added | 19814 |
| 545.9–1 (f) revised; (i)(2) removed | 17827 |
| (a)(4) and (b)(2) revised; (b)(3)(iii) added | 24201 |
| 545.10 Revised | 10919 |
| 545.14 (g)(4) revised | 14092 |
| (b)(1)(i) revised | 18461 |
| 545.14–4 (b)(4) revised | 18461 |
| 545.14–5 (c)(5) revised | 18461 |
| 545.24 Revised | 6057 |
| 546.5 Revised | 24202 |
| 556.5 (b)(1) and (3) revised | 16030 |
| 561.9 Revised | 22956 |
| 561.13 Revised | 6058 |
| 561.22 Revised | 26712 |
| 561.24 Added | 26110 |
| 561.25 Added | 26110 |
| 561.26 Added | 26110 |
| 561.27 Added | 26110 |
| 563.3–1 (b)(4) and (d)(1)(i) and (ii) revised | 18462 |
| 563.3–2 (b)(4) and (d)(1)(i) and (ii) revised | 18462 |
| 563.7–2 Revised | 6058 |
| 563.7–3 Added | 26713 |
| 563.8 Revised | 6058 |
| 563.8–1 Revised | 6058 |
| 563.9 (a), (b), and (c) revised; (d), (e), (f), and (g) added | 9155 |
| (e)(2)(i) revised | 26357 |
| (b) revised | 26712 |
| 563.9–1 Revised | 9156 |
| 563.9–2 Revised | 9156 |
| 563.9–3 (b) and (c) revised | 26110 |
| 563.10 Revised | 9156 |
| 563.15 Revised | 22957 |
| 563.16–1 Removed | 22956 |
| 563.16–2 Revised | 22957 |
| 563.17 Revised | 26110 |
| 563.17–1 (a), (b), and (c)(6) revised | 26110 |
| 563.17–2 (b), (c), and (d) revised | 26111 |
| 563.18 Revised | 26111 |
| 563.18–1 (f) and (h) revised | 26111 |
| 563.19 (d) added | 26111 |
| 563.22–1 Revised | 24204 |
| 563.23–3 Revised | 26111 |
| 563.34 (a) amended | 26111 |
| 563.36 Added | 20318 |
| 563.37 Added | 26112 |
| 563.38 Added | 26112 |
| 566.8 Added | 26112 |
| 570.10 Added | 26112 |
| 582.a1 (c) added | 10920 |
| 584.3 (f) revised | 3039 |
| 584.4 (f) and (g) revised; (h), (i), (j), and (k) removed | 3039 |
| 584.4–1 Added | 19113 |
| 584.6 (c) revised | 3040 |
| 584.8 (a) revised | 3040 |
| 584.9 (d) revised | 3040 |
| (b)(1) revised | 22769 |
| 584.10 Heading and (c) revised; (d) and (e) added | 3040 |

### Chapter VI

| | |
|---|---|
| 613.3030 (c) removed; (d) redesignated as (c) | 22468 |
| 613.3040 (g) revised; (i) added | 6377 |
| (g) revised | 16654 |
| 614.4190 (c) revised | 6377 |
| 614.4390 (b) removed; (c) and (d) redesignated as (b) and (c) | 6377 |
| 614.4430 (c) added | 6377 |
| 614.4490 (b)(2) revised | 6377 |
| Revised | 22468 |
| 614.4500 Removed | 22468 |
| 614.4650 Removed | 22468 |
| 615.5460 (c) revised | 16654 |
| 615.5465 (a) introductory text and (b) revised | 16655 |
| 615.5500 Revised | 6377 |
| 619.9070 Removed | 6377 |

### Chapter VII

| | |
|---|---|
| 701.2 Technical amendment | 7217 |
| (b), (c), and (d)(9) amended; (d)(6) removed; (d)(7) through (d)(13) redesignated as (d)(6) through (d)(12) | 7218 |
| 701.14 Technical amendment | 7217 |
| (a) amended; (f) removed; (g), (h), and (i) redesignated as (f), (g), and (h) and amended | 7218 |
| 701.15 Technical amendment | 7217 |
| (a) amended | 7218 |
| 701.25 Revised | 5341 |
| Corrected | 6667 |
| 701.31 Added | 3586 |
| (b) corrected | 4749 |
| 721.1 (j) amended | 3587 |
| 722 Added | 11347, 12098 |
| 725 Added | 5625 |
| 727.16 Amended | 7218 |
| 729.4 (b) revised | 9427 |



*Proposed Rules:*

| | |
|---|---|
| 21 | 31 |
| 204 | 13750, 25703 |
| 207 | 5266 |
| 216 | 54 |
| 217 | 20108, 20470, 26468 |
| 220 | 5266, 13571, 18690, 26009 |
| 221 | 5267 |
| 222 | 18691 |
| 225 | 13572, 18565, 21436, 22802 |
| 226 | 12240 |
| 266 | 26469 |
| 326 | 51 |
| 329 | 20279, 26391 |
| 506 | 10969 |
| 506a | 10969 |
| 526 | 21651, 26736 |
| 541 | 17023, 19416 |
| 545 | 891, 17023, 17738, 19051, 19416, 21435, 22047, 24228, 26133 |
| 546 | 1334, 3527, 6908 |
| 561 | 19052 |
| 563 | 1334, 3527, 6908, 8005, 19052 |
| 563a | 63 |
| 563b | 1334, 3527, 6908 |
| 571 | 1334, 3527, 6908 |
| 584 | 8005 |
| 611 | 22646 |
| 612 | 22646 |
| 613 | 2336, 16659, 22646 |
| 614 | 2336, 16659, 22646 |
| 615 | 22646 |
| 618 | 22646 |
| 619 | 2336 |
| 702 | 10743, 26216 |
| 709 | 22982 |
| 722 | 4415 |
| 749 | 4779 |

## 13 CFR

### Chapter I

| | |
|---|---|
| 107.3 Amended | 17828 |
| 107.101 (d) designated as (d)(1); (d)(2) added | 17828 |
| 107.202 (a) and (c) revised | 17829 |
| 107.203 (a) revised | 17829 |
| 107.204 Revised | 17829 |
| 107.205 Added | 17829 |
| 107.702 Revised | 17830 |
| 107.805 (a) amended | 17830 |
| 107.813 Revised | 17830 |
| 107.1001 (b) revised | 17830 |
| 112.2 (a) and (c) revised | 17934 |
| 112.3 (b)(3) added | 17934 |
| 112.4 Revised | 17934 |
| 112.7 (d)(1) and (2) added | 17934 |
| 112.9 (d) revised | 17934 |
| 112.10 (b) revised | 17934 |
| 112.11 (d) revised | 17934 |
| 112.12 (d)(1) revised | 17934 |
| 112.13 (f) added | 17934 |
| 112.15 (a) and (c) revised | 17935 |
| 113.3 (c) added | 17830 |
| 113.5 (d) revised | 17830 |
| 113.6 (b) revised | 17831 |
| 113.7 (d) revised | 17831 |
| 113.8 (d)(1) revised | 17831 |
| 113.9 (f) added | 17831 |
| 113.10 (a) and (c) revised | 17831 |
| 120.1 Revised | 19021 |
| 120.2 Revised | 19021 |
| 120.3 Revised | 19022 |
| 121.3–2 (i) corrected | 13366 |
| (d) revised | 20443 |
| (a) revised | 21177 |
| 121.3–6 (a)(1) revised | 9291 |
| 121.3–7 (b) revised | 20443 |
| 121.3–10 Amended | 9007 |
| (j) revised | 9008 |
| 123 Revised | 18238 |
| 124.8–1 Revised | 13729 |
| 124.8–2 Revised | 13729 |

### Chapter III

| | |
|---|---|
| 301 Revised | 2260 |
| 301.65 Added | 1174 |
| 302 Revised | 2266 |
| 302.4 (a)(3) revised | 12903 |
| 303 Revised | 2269 |
| 304 Revised | 2271 |
| 305 Revised | 2272 |
| 305.5 (b)(3)(v), (vi), and (vii) revised | 18869 |
| 306 Revised | 2280 |
| 306.8 (a) revised | 18869 |
| 307 Revised | 2284 |
| 309 Revised | 2287 |
| 309.10 (a) revised | 18870 |
| 309.25 Added | 18870 |
| 310 Revised | 2292 |
| 311 Revised | 2298 |

### Chapter IV

| | |
|---|---|
| 402 Added | 6275 |
| 402.4 (a) amended; (c) added | 10920 |
| 402.6 (b) revised | 10920 |

*Proposed Rules:*

| | |
|---|---|
| 102 | 23422 |
| 107 | 4518, 4519, 7577, 24028 |
| 108 | 10121, 22893 |
| 120 | 6409, 15533 |
| 121 | 3413, 6291, 13751, 14971, 17850, 17851, 22561, 22802, 23541 |
| 123 | 12421 |
| 124 | 6081, 8178 |

## 14 CFR

### Chapter I

| | |
|---|---|
| Nomenclature change to chapter | 26444 |
| 21 SFAR 26 effectiveness extended to 1–1–74 | 17491 |
| 37.7 (d)(3) revised | 14265 |

## 14 CFR—Continued

### Chapter I—Continued


| | Page |
|---|---|
| 37.180 (a)(1)(iii), (2)(i), (ii), (iii), and (iv) corrected | 3587 |
| (a)(1)(i) and (ii) corrected | 4660 |
| 39.13 | 850, 851, 1117, 1381, 1501, 1579, 2210, 2331, 2961, 2962, 3190, 3588, 4333, 4749, 5238–5241, 5626, 5627, 6168, 6377–6379, 6666, 6989, 7451, 7793, 7983, 8050, 8133, 8242, 8243, 8508, 8509, 8643, 9221, 9487, 9586, 9661, 9990, 9991, 10254, 10439, 10920, 10921, 11341, 12325–12327, 12734, 13013, 13367, 13477, 13549, 13550, 13730, 14265, 14369, 14671, 14744, 14821, 14914, 15364, 15441, 15500, 15501, 15830, 15831, 15943, 16214, 16215, 16348, 16349, 16843, 17186, 17187, 18244, 18442, 18642, 18870, 19024, 19113, 19359, 19962, 20066, 20443, 20612, 20818, 21392, 21624, 21625, 21917, 22224, 22621, 22770, 23513, 23941, 24347, 24349, 24350, 24640, 24641, 25171, 25670, 25905, 26358, 26713, 26800, 26905, 27045, 27046 |
| 43 Appendix F corrected | 3587, 4660 |
| 61 Revised | 3161 |
| 61.6 Heading and (a) revised | 17492 |
| 61.15 Heading and (a) revised | 17492 |
| 61.87 Introductory text of (d) corrected | 6276 |
| 61.117 (b)(1)(i) and (ii) corrected; (b)(1)(iii) added | 9292 |
| 63.12 Heading and (a) revised | 17492 |
| 65.12 Added | 17493 |
| 71 Republished | 301 |
| 71.12 Revised | 14676 |
| 71.103 | 16217, 22770, 26714 |
| 71.105 | 9428, 21492, 26444, 26714 |
| 71.107 | 8133, 22770, 23514, 26444, 26714 |
| 71.109 | 8133, 22770, 26714 |
| 71.123 | 2443, 3506, 4240, 4388, 5456, 5628, 6989, 8133, 8134, 8244, 8428, 9221, 9487, 9488, 10254, 10439, 10441, 12327, 12734, 13478, 14266, 15442, 15622, 16349, 16633, 18363, 19360, 19672, 19814, 19962, 19964, 21917, 23322, 23396, 23941, 23942, 25907, 26444, 26906 |
| 71.151 | 1501, 5628, 9157, 14269, 14270, 16774, 21918, 26906, 27046 |
| 71.161 | 4241 |
| 71.163 | 2170, 3506, 14265, 14266, 14268, 15442, 15503, 16217, 17188, 27046 |
| 71.171 | 851, 1118, 1382, 1579, 1580, 1730, 1923, 2170, 2755, 2962, 2963, 3190, 3505, 3506, 4240, 4334, 4709, 5341, 5627, 5838, 6168, 6379, 6829, 6830, 6880, 6989, 7393, 8051, 8134, 8244, 8509, 8737, 9221, 9488, 9586, 9661, 9991, 9992, 10254, 10255, 10440, 10634, 10707, 10921, 10922, 11067, 13368, 13369, 13634, 13730, 14266, 14268, 14671, 14672, 14744, 15050, 15441, 15502, 15503, 15944, 16031, 16216, 16633–16635, 16843, 16992, 18245, 18642, 18870, 19113, 19215, 19909, 19963, 20818, 21392, 21393, 21492, 21779, 22120, 22770, 22771, 22888, 22958, 23514, 23942, 24204, 25905, 25906, 26444, 26714, 26906, 27046 |
| 71.181 | 851, 852, 1118, 1273, 1381, 1382, 1579–1581, 1922, 1923, 2331, 2332, 2755, 2963, 3040, 3190, 3588, 4240, 4241, 4334, 4335, 4388, 4661, 4709, 4710, 4943, 5241, 5341, 5342, 5456, 6169, 6276, 6667, 6829, 6830, 6989, 7114, 7452, 7793, 7984, 8051, 8244, 8428, 8509, 8643, 8737, 8738, 9008, 9157, 9292, 9428, 9488, 9586, 9991, 9992, 10254, 10255, 10440–10442, 10633, 10634, 10707, 10922, 10923, 11067, 12203, 12604, 12734, 12802, 12904, 13368, 13633, 13634, 13730, 13731, 14266–14268, 14671, 14672, 14744, 14821, 15050, 15364, 15442, 15502, 15503, 16031, 16216, 16217, 16350, 16633–16635, 16843, 17188, 18245, 18363, 18442, 18642, 18643, 18871, 19113, 19215, 19360, 19361, 19673, 19815, 20613, 20818, 21392–21394, 21492, 21625, 21779, 22030, 22120, 22224, 22622, 22771, 22888, 22957, 22958, 23322, 23396, 23514, 23942, 24204, 24350, 24642, 24892, 25171, 25434, 25906, 25907, 26113, 26444, 26445, 26801, 27046 |
| 71.203 | 4389, 19965 |
| 71.207 | 4389, 8245, 14268 |
| 71.209 | 4943, 23514 |
| 71.211 | 8133 9428, 16217, 21492, 22770, 23514, 26714 |
| 71.213 | 9428, 16217, 22770 |
| 71.401 | 3589, 5342, 13635, 18364, 23514, 26906 |
| 73 Republished | 628 |
| 73.21 | 8134 |
| 73.22 | 10924, 14270 |
| 73.25 | 8245, 21492 |
| 73.29 | 20066, 21492, 22468 |
| 73.32 | 1273, 12735 |
| 73.34 | 21918 |
| 73.36 | 26445 |
| 73.38 | 9157, 21918, 26445 |
| 73.41 | 2210 |
| 73.42 | 3589 |
| 73.45 | 14269 |
| 73.51 | 1923, 8051, 12735, 14271, 19673, 26714 |
| 73.52 | 21492 |
| 73.53 | 3191, 8050 |
| 73.56 | 7393 |
| 73.58 | 23396 |
| 73.61 | 16774 |
| 73.63 | 1502, 7218 |
| 73.64 | 1502, 26906 |
| 73.66 | 8245, 27046 |
| 73.67 | 3506, 14745 |
| 73.70 | 2210 |
| 73.71 | 1502 |
| 73.93 | 9292, 14271 |
| 75 Republished | 680 |
| 75.100 | 4241, 4389, 6990, 7393, 9428, 12734, 19962, 19963, 23397, 26715, 26907 |
| 75.400 | 1653, 1924, 3589, 4389, 4710, 6990, 12904, 13368, 14271, 14272, 15364, 19815, 23397, 24205, 25171, 26715 |
| 91.1 (b)(3) revised | 8054 |
| 91.4 Added | 3179 |
| 91.12 Revised | 17493 |
| 91.15 (d)(2)(ii) amended | 12203 |
| 91.18 (a) amended | 12203 |
| 91.24 Revised | 14676 |
| 91.31 (a) revised; (d) added | 12905 |
| 91.42 (c) revised | 1176 |
| 91.54 (a) introductory text and (e) revised | 852 |
| 91.55 Added | 8054 |
| 91.70 Amended | 8135 |
| 91.84 Added | 17493 |
| 91.90 (a)(3)(iii) and (b)(1)(i) and (2)(iii) revised; (c) added | 14677 |
| (b)(2)(iii) revised | 24893 |
| 91.97 (a)(4)(i) revised | 14677 |
| 91.99 (a)(2)(i) revised | 14677 |
| 91.177 (a) amended | 14677 |
| 91.181 (b) (3), (4), (5), and (7) and (c) revised; (b)(9) amended; (d) added | 19025 |
| 91.213 (c) amended | 12203 |
| 91.217 (a) and introductory text of (b) revised; (f) added | 2964 |
| 91 Appendix B added | 8055 |
| 93.141—93.145 (Subpart L) Added | 4336 |
| 95 | 3310–3312, 5628, 5629, 8429, 8430, 12327, 12329, 14745–14747, 17189–17197, 19114, 19118; 22373–22377, 24893, 24894 |
| 97.21—97.35 | 853, 1176, 1924, 1925, 2443, 2964, 2965, 3590, 4506, 4507, 4943, 4944, 5456, 5457, 6276, 6277, 6990, 6991, 7453, 8135, 8644, 9292, 9293, 9661, 9662, 10442, 10443, 12204, 12330, 12905, 12906, 13636, 14822, 14916, 14917, 15832, 16217, 16218, 18012, 18013, 18545, 19216, 19963, 19964, 20819, 21493, 22121, 22622, 23398, 24350, 24351, 26446, 26715, 26716 26907–26908 |
| 103.19 (d) added | 4389 |
| 103.23 Revised | 17832, 26447 |
| 103.24 Added | 4389 |
| 103.25 Revised | 14915 |
| 103.28 (a)(4) redesignated as (a)(6); (a)(5) redesignated as (a)(4); new (a)(5) added | 8136 |
| 103.31 (e) and (f) added | 17833 |
| 121 Subpart N heading revised | 14915 |
| 121.25 (b)(6) amended | 22377 |
| 121.45 (b)(6) amended | 22377 |
| 121.135 (b)(23) revised; (b)(24) added | 14915 |
| (b)(17) amended | 22377 |
| 121.309 (a) and (b) revised | 22377 |
| 121.318 Added | 21494 |
| 121.319 Added | 21494 |
| 121.339 Heading revised | 22378 |
| 121.353 Heading revised | 22378 |
| 121.363 (a)(2) revised | 22378 |
| 121.369 (b) amended | 22378 |
| 121.400 (a) revised | 14915 |
| 121.401 (a)(1) revised | 14915 |
| 121.433a Added | 14915 |
| 121.441 (a) amended | 12203 |
| 121.590 Added | 8055 |
| 130.109 Correctly designated as 139.109 | 10634 |
| 133.14 Added | 17493 |
| 135.27 (b)(13) amended; (b)(14) revised; (b)(15) added | 14915 |
| 135.75 (b)(2)(ii) amended | 12906 |
| 135.140 Added | 14916 |
| 135.147 Revised | 12906 |
| 137.23 Added | 17493 |
| 139 Heading revised | 9796 |
| Subpart D heading revised | 9797 |
| Subpart E heading revised | 9797 |
| 139.1 Revised | 9796 |
| 139.3 Revised | 9796 |
| 139.11 Revised | 9796 |
| 139.12 Added | 9796 |
| Revised | 17714 |
| 139.13 (a) revised | 9797 |
| 139.19 (a) and (b) revised | 9797 |
| 139.21 Amended | 9797 |
| 139.33 (a)(1) and (2) amended | 9797 |
| 139.41 Introductory text revised | 9797 |
| 139.81 Introductory text revised | 9797 |




20-120 O - 73 - 7





CODE XUM C

## 14 CFR—Continued

### Chapter I—Continued


| | Page |
|---|---|
| 139.101—139.113 (Subpart F) Added | 9797 |
| 139.109 Correctly designated from 109.139 | 10634 |
| 139.121—139.127 (Subpart G) Added | 9798 |
| 141.6 Added | 17493 |
| 141.75 (a), (b), and (c) amended | 12203 |
| 154 Added | 12205 |
| 167 Removed | 19673 |
| 183.21 (d) amended | 12203 |
| 189.5 Amended | 9008 |


### Chapter II


| | Page |
|---|---|
| 207 Revised | 14157 |
| 207.4a Revised | 20254 |
| 207.11 (b)(8) and (c)(6) added | 19678 |
| (b)(3) revised; (b)(4) removed | 22772 |
| 207.13 (b) revised | 20254 |
| 207.17 Added | 20254 |
| 207.18 Added | 20255 |
| 207.25 (e) added | 20255 |
| 208 Revised | 14272 |
| 208.6 (b)(3) revised | 22772 |
| 208.31 Removed | 24642 |
| 208.31b Revised | 20256 |
| 208.32 (e) revised | 20256 |
| 208.40 Revised | 20256 |
| 208.41 Revised | 20257 |
| 208.42 Removed | 20257 |
| 208.202b (e) added | 20257 |
| 212.1 Amended | 19679 |
| 212.2 Revised | 2756 |
| 212.3a Revised | 20258 |
| 212.4 Heading revised; text designated as (a); (b) added | 2756 |
| Revised | 19679, 20613 |
| 212.5 (b) revised | 2756, 20614 |
| (a) and (b) revised | 19679 |
| 212.6 (b–1) added | 19679 |
| 212.8 (a)(8) and (b)(6) added | 19679 |
| (a)(3) revised | 22772 |
| 212.10 (b) revised | 20258 |
| 212.15 Added | 20259 |
| 212.16 Added | 20259 |
| 212.25 (e) added | 20259 |
| 214.9c Added | 20260 |
| 214.9d Added | 20261 |
| 214.13a Revised | 20261 |
| 214.14 (b) revised | 20261 |
| 214.18 (e) added | 20262 |
| 221.38 (a)(8) and (9) removed | 9222 |
| 221.165 (d)(1)(iii) revised | 6061 |
| Introductory text, (a), and (d)(2) and (3) revised | 10256 |
| 221.175 Provisions suspended | 5838, 12802 |
| 221.176 Provisions suspended | 5838, 12802 |
| 228 Revised | 4243 |
| 229 Removed | 26908 |
| 229.1 Revised | 9009 |
| 229.3 (a)(4) removed | 9009 |
| 229.4 (b)(2) removed | 9009 |
| 233 Revised | 15719 |
| 239.1 Amended | 21395 |
| 239.2 (b) amended | 21396 |
| 239.6 (i), (j), and (l) revised; (k) removed | 21396 |
| 239.7 Heading, (c), (d), and (e) revised; (f) added | 21396 |
| 239 CAB Form 239 amended | 21396 |
| 240.1 (b) revised | 26601 |
| 241 Sec. 03 amended | 24352 |
| Sec. 2–19 added | 10925 |
| Sec. 7 chart amended | 10926 |
| Sec. 12 amended | 24352 |
| Sec. 13 amended | 10926 |
| Sec. 22 (d)(15) added | 10926 |
| (b), (d), and (k) revised | 23399 |
| Sec. 24. (a) and Sche. D–1 amended | 23399 |
| Amended | 24352 |
| Sec. 27 Sche. P–2 (g) removed | 23399 |
| Sec. 32 (d)(14) added | 10926 |
| CAB Form 41 amended | 10926 |
| CAB Form 42 added | 10926 |
| 242.1 (b) removed | 745 |
| 250.1 Amended | 14823 |
| 250.10 Revised | 14823 |
| 252 Added | 12210 |
| 287.3a Revised | 10926 |
| 288.1 Amended | 754 |
| 288.2 Amended | 754 |
| 288.6 Amended | 754 |
| 288.7 (a)(1), (d)(1) and (2) revised; (d)(4) and (e) removed; (d)(6) amended | 754 |
| (a)(1) and (d)(1) and (2) revised | 23775 |
| 288.8 Amended | 754 |
| Table revised | 23777 |
| 288.10 (a) amended; (c) removed | 754 |
| 298.3 (a)(5) revised | 7794, 11068 |
| 298.21 (b) amended; (f) revised | 8431 |
| 298.24 Removed | 8431 |
| 298.41 (b) revised | 7794 |
| (d) removed | 19965 |
| 298.50 (a), (b), and (c) revised; (d) added | 7795 |
| (b) revised | 11068 |
| 298.52 Added | 11068 |
| 302.8 (a)(2) revised | 5630 |
| 302.306 Revised | 15443 |
| 302.307 Revised | 15443 |





| | Page |
|---|---|
| 302.502 Heading revised; existing text designated as (a); (b) added | 5630 |
| 302.505 (e) revised | 5630 |
| 302.911 (b–1) added | 24895 |
| 310.3 (b) revised | 5153 |
| 310 Appendix A revised | 5153 |
| Appendix B revised | 5156 |
| 372.2 Amended | 14164 |
| 372a.2 Amended | 6381 |
| 372a.6 Added | 6381 |
| 372a.12 Revised | 6381 |
| 372a.15 (c), (d), (e), and (g) revised | 6382 |
| 372a.20b Added | 6382 |
| 372a.20c Added | 6382 |
| 372a.22 (a) introductory text, (a)(1) and (2), (b) introductory text, and (b)(4) revised | 6382 |
| Introductory text of (b) revised; (d) added | 10635 |
| 372a.26 Revised | 6382 |
| 372a.27 (a) revised | 6382 |
| 372a.28 Revised | 6382 |
| 372a.29 (e–1) added | 6383 |
| 372a.41 Revised | 10635 |
| 372a.50 (a) revised | 10635 |
| 372a Appendix A amended | 6383 |
| Appendix D added | 10636 |
| 378.1 Revised | 19680 |
| 378.2 (b)(2) revised | 7219 |
| (a) and (d) revised; (b)(6) and (h) added; (f) removed | 19680 |
| 378.13 (i) revised | 19680 |
| 378.14 Revised | 19680 |
| 378.15 Revised | 19680 |
| 378.16 (b) and (c) revised | 19680 |
| 378.19 Revised | 19681 |
| 378.20 (a) revised | 19681 |
| (a) and (b) revised | 21247 |
| 378.30 Revised | 19681 |
| 379.2 Revised | 17935 |
| 379.3 (b) designated as (b)(1); (b)(2) and (3) and (c) added | 17935 |
| 379.8 (b) and (d)(1) revised | 17936 |
| 379.9 (f) added | 17936 |
| 379.11 (c) revised | 17936 |
| 384.4 Revised | 16218 |
| 384.7 (a) introductory text and (a)(6) revised; (a)(7) and (8) added | 16218 |
| 384.8 (d) and (e) revised | 16218 |
| 385.12 Heading and introductory text revised | 16350 |
| 385.13 (v)(1) removed | 7220 |
| (ff) added | 6061 |
| (cc) revised | 9489 |
| (gg) added | 9992 |
| (dd) revised | 20262 |
| 385.17 Revised | 1119 |
| 385.18 Revised | 1119 |
| Heading and introductory text revised | 22547 |
| 385.18a Added | 1119 |
| Heading and introductory text revised | 22547 |
| 385.21 Heading and introductory text revised; (f) added | 13731 |
| 385.21a Removed | 13731 |
| 389.14a (b) revised | 1120 |
| 389.25 (a)(1) revised | 24895 |
| 399.16 (b) revised | 755, 23777 |
| 399.40 Removed | 9223 |
| 399.41 Removed | 9223 |
| 399.42 Revised | 24643 |
| 399.83 Added | 14826 |


### Chapter III


| | Page |
|---|---|
| 400.2 (a) and (d) amended | 6169 |
| 400.3 (c) revised | 6169 |
| 400.6 (b) amended | 6169 |
| (a) revised | 6170 |
| 400.7 Revised | 6170 |
| 400.8 (d) and (e) amended | 6169 |
| 400.22 Amended | 6169 |
| 400.23 Revised | 6170 |
| 400.24 (a) and (b) revised | 6170 |
| 400.25 (d) revised | 6170 |
| 400.43 (c) revised; (d) redesignated as (e) and revised; new (d) added | 4389 |
| 400.44 (a) revised | 4390 |
| 401.3 Amended | 6170 |
| 401.5 (a) amended | 6170 |
| 401.6 (a) amended | 6170 |
| 401.14 Introductory text and (a) amended | 6170 |
| 401.15 (a) and (b)(5) amended | 6170 |
| 401.16 Appendix amended | 6170 |
| 401.25 (a), (b), and (d) amended | 6170 |
| 425 Heading revised | 6170 |
| 425.5 (b) revised | 6170 |
| 425.20 (c) revised | 6170 |
| 425.30 (d) revised | 6170 |
| 431.21 Revised | 22547 |
| 431.22 Revised | 22547 |
| 435.2 Amended | 6170 |
| 435.3 (a) and (b) amended | 6170 |
| 440.10 Revised | 22547 |
| 440.11 Revised | 22547 |


### Chapter V


| | Page |
|---|---|
| 1203a Added | 8056 |
| 1204.506 Revised | 4575 |
| 1204.506–1 Revised | 4575 |
| 1204.506–2 Revised | 4576 |
| 1204.506–3 Revised | 4576 |
| 1204.1403 (c) revised | 6383 |
| 1204.1406 (a) revised | 6384 |


CODE XUM



## 14 CFR—Continued

### Chapter III—Continued


| | Page |
|---|---|
| 399.1 Amended | 6170 |
| 399.15 (a) amended | 6170 |
| 399.16 (b) revised | 6170 |
| 399.20 Amended | 6170 |
| 399.30 Amended | 6170 |
| 399.31 Amended | 6170 |
| 399.32 Amended | 6170 |
| 399.33 Amended | 6170 |
| 399.34 Amended | 6170 |
| 399.35 Amended | 6170 |
|

## 14 CFR—Continued

### Chapter V—Continued


| | Page |
|---|---|
| 1250.102 (g) and (j)(2) revised | 17936 |
| 1250.103–2 (a)(3), (4), (5), and (6) redesignated as (a)(4), (5), (6), and (7); new (a)(3) added; (e) revised | 17936 |
| 1250.103–3 (c) revised; (d) added | 17937 |
| 1250.103–4 Heading revised; (f) and (g) added | 17937 |
| 1250.104 (e), (f), and (g) revised; (h) added | 17937 |
| 1250.107 (d)(2) removed; (d)(3) and (4) redesignated as (d)(2) and (3) | 17937 |
| 1250.108 (b) and (d) revised | 17937 |
| 1250.109 (g) added | 17937 |
| 1250.111 (a), (b), and (c) amended | 17938 |
| 1250 Appendix A amended | 17938 |
| 1260 Added | 8136 |
| *Proposed Rules:* | |
| 23 | 2985 |
| 25 | 14757, 26811, 26939 |
| 37 | 25450 |
| 39 | 888, 1124, 1396, 1593, 2704, 6396, 7812, 8667, 8751, 9091, 9092, 9314, 9441, 9515, 10111, 10641, 11111–11113, 14759, 15523, 15851, 16391, 17248, 18684, 19048, 20097, 21936, 22042, 22634, 23962, 26811 |
| 61 | 23962 |
| 65 | 3410 |
| 71 | 889–891, 1124, 1125, 1510, 1511, 1644, 1747, 1937–1940, 2219, 2335, 2704, 2987, 3200, 3201, 3525, 3610, 3611, 4270, 4348–4350, 4414, 4716, 4717, 4775, 4776, 4980, 4981, 5182, 5259, 5260, 5350, 5482, 5657, 5658, 5911, 5912, 6075, 6194, 6290, 6397, 6398, 6689, 6690, 6831, 7009, 7127, 7241, 7339, 7401, 7469, 7812, 7813, 8004, 8066, 8177, 8278, 8522, 8667–8669, 9029, 9092, 9093, 9240, 9241, 9442, 9443, 9515–9517, 9593, 10011, 10012, 10117, 10275, 10276, 10461, 10462, 10956–10960, 11113, 11354, 12216, 12818, 12934, 13566, 13657, 13748, 14294, 14694, 14760, 14865, 15082, 15367, 15456, 15524, 15852, 16079, 16080, 16237–16239, 16659, 16785, 16786, 16913–16915, 17248–17251, 17510, 17734, 17848, 18255, 18383–18385, 18470, 18563, 18685, 18904, 19130, 19131, 19235, 19236, 19413–19415, 19839, 20097, 20346–20348, 21181, 21274, 21434, 21502, 21503, 21795–21797, 21937, 21938, 22043, 22243, 22492, 22634, 22795, 22900, 22901, 22981, 23337, 23338, 23419, 23536, 23804, 23969, 24222, 24914, 25195, 25451, 25452, 25696, 26007, 26389, 26730–26734, 26812, 26813, 26940, 27081 |
| 73 | 891, 1283, 1511, 1747, 2988, 10117, 10275, 12216, 12818, 12934, 15525, 15852, 16659, 16786, 17019, 19415, 19973, 20097, 20348, 21938, 23419, 26732 |
| 75 | 4981, 8067, 8177, 12216, 15456, 15525, 16659, 17510, 19415, 21274, 23804, 26735, 27081 |
| 91 | 800, 2985, 15526, 15852, 17019 |
| 93 | 2178, 4717, 15631, 17511, 23338 |
| 101 | 11354 |
| 103 | 6690, 10157, 14963, 15852 |
| 105 | 6076 |
| 107 | 5260 |
| 121 | 2769, 8067, 10158, 14757, 19048, 20098, 23962, 26811, 26939 |
| 123 | 19048 |
| 127 | 8067, 19048 |
| 129 | 18255 |
| 135 | 2988, 8067, 14757, 19048, 26811 |
| 139 | 6692, 9517, 26389 |
| 141 | 4046, 16659 |
| 171 | 7401 |
| Ch. II | 24660 |
| 207 | 1396, 3995, 10462, 10816, 14112, 15970, 16917 |
| 208 | 10462, 10816, 14112, 15970, 16917 |
| 212 | 1396, 3995, 10462, 10816, 14112, 15970, 16917 |
| 214 | 10462, 14112, 15970, 16917 |
| 221 | 21274, 23804 |
| 234 | 12413 |
| 241 | 1125, 10018, 10162, 14866, 19694, 24223, 24661, 26461 |
| 244 | 10817, 14866 |
| 249 | 9030, 10817, 14866 |
| 250 | 12413, 15083, 18471 |
| 288 | 15368, 17736 |
| 296 | 10817, 14866 |
| 297 | 10817, 14866 |
| 298 | 50, 14294, 22494, 23805, 24662, 26616 |
| 302 | 20266 |
| 371 | 9030 |
| 372a | 24664 |
| 373 | 10462, 14112, 15970 |
| 378 | 1396, 3995, 10462, 14112, 15970 |
| 389 | 20266, 24662 |
| 399 | 14695, 15368, 17736, 19415, 25453 |
| 421 | 19133, 22561 |


## 15 CFR

### Subtitle A


| | Page |
|---|---|
| 4a Added | 1383 |
| 8 Revised | 17938 |
| 8.4 (c)(1) corrected | 23777 |
| 8.5 (a) corrected | 23777 |


### Chapter I


| | Page |
|---|---|
| 30.22 (e) added | 23322 |


### Chapter II


| | Page |
|---|---|
| 200.103 (f) revised | 17493 |
| 256.6 Revised | 25908 |




### Chapter III


| | Page |
|---|---|
| Chapter heading revised | 12736 |
| 302 Added; redesignated from 44 Part 401 | 11068, 12743 |
| 302.2 (g) corrected | 14748 |
| 302.7 (c) corrected | 14748 |
| 302.14 (b) corrected | 14748 |
| 370.8 Removed | 9662 |
| 370.10 (d) revised | 9662 |
| 372.9 (d)(2) revised | 17814 |
| 372.11 (e)(5) revised | 15967 |
| 372.12 (a) revised | 15967 |
| 373.2 (e)(1)(i), (2)(i), and (4) revised | 15967 |
| 373.3 (c)(2) removed | 9663 |
| (h)(1) revised | 9662 |
| (g), (h)(2), and (k) revised; (m) removed | 15967 |
| 373.5 (c)(1) and (2) and (d)(1)(v) removed | 9663 |
| 373.6 (a)(3) and (4) and (b)(1)(v) removed | 9663 |
| 373.7 (i)(4) revised | 9663 |
| 373 Supplement No. 1 amended | 15968 |
| 374.6 Revised | 9663 |
| 375.2 (b)(2)(xi) revised | 17815 |
| 376.3 Added | 15773 |
| Revised | 17494 |
| (a) revised | 18467, 23778 |
| (a)(2) revised; (a)(3) redesignated as (a)(4); (a)(4) redesignated as (a)(5) and revised; new (a)(3) added | 25446 |
| 376 Supplement No. 1 added | 15774 |
| Supplement No. 1 revised | 17495, 23779 |
| Supplement No. 1 amended | 18468 |
| Supplement No. 2 added | 23780 |
| 377.1 (c) revised | 13489 |
| (c)(1)(i) and (iii)(*a*) corrected | 13747 |
| 377.3 Added | 17815 |
| (c) added | 18029 |
| (b)(5) added | 19682 |
| (c) revised; (d), (e), (f), and (g) added | 20335 |
| (b)(1), (2), (3), and (4) revised | 21177 |
| (f) and (g) redesignated as (g) and (h); new (f) added | 25184 |
| Removed | 26909 |
| 377.4 Added | 17816, 18031 |
| (d) revised | 18555 |
| Revised | 20336, 23323 |
| (c) revised | 26206 |
| 377.5 Added | 18555 |
| 377 Supplement No. 2 amended | 6808 |
| Supplement No. 2 revised | 13489 |
| Supplement No. 1 amended | 17817, 18031, 26909 |
| Supplement No. 1 revised | 18029, 18555 |
| 379.4 (e)(1)(iii)(*jj*) and (*kk*) added | 9663 |
| 386.7 (b)(1) revised | 17815 |
| 390.1 Revised | 20332 |
| 399.1 Amended | 26909 |


### Chapter X


| | Page |
|---|---|
| Chapter revised | 26676 |
| 1000 Interpretative analyses and statements | 25909 |
| Revised | 26676 |
| 1000.203 (d)(2) revised | 16637 |
| 1000.306 (e)(1) and (3) revised | 16637 |
| 1000.312 (e) added | 11 |
| (c)(4) and 12 revised; (c)(13) and (14) added; (e) removed | 12912 |
| (c)(1) revised | 16637 |
| 1000.313 (f) added | 11 |
| (b) revised; (e)(4) added; (f) removed | 12913 |
| 1000.502 Revised | 16638 |
| 1000.503 (a) revised | 16638 |
| 1000.505 (a)(7) added | 12913 |
| 1000.506 (a)(4) and (c) revised | 16638 |
| 1000.507 Removed | 16638 |
| 1000.601 Revised | 16638 |
| 1000.602 (b)(3), (4), and (5) and (e) revised | 16638 |
| 1000.905 (b)(2)(ii) and (iii) removed | 16638 |
| 1000.906 (b)(3)(iii) and (iv) removed | 16638 |
| 1000.1003 (c)(1) and (2) and (d) revised; (c)(5) removed | 16639 |
| 1020 Revised | 26697 |
| 1025 Revised | 26699 |
| 1030 Revised | 26699 |
| 1035 Revised | 26703 |
| 1040 Revised | 26704 |
| 1050 Revised | 26705 |
| *Proposed Rules:* | |
| 7 | 3608, 10110 |
| 9 | 14756, 15081, 17018 |
| 30 | 4263 |
| 960 | 15588 |
| 1000 | 5906, 12928, 14864 |


## 16 CFR

### Chapter I


| | Page |
|---|---|
| 4.4 (a)(1)(i) and (3), and (c)(4) revised | 23399 |
| 4.8 Revised | 1730 |
| 4.9 Revised | 1730 |
| (c)(3) revised | 18545 |




## 14 CFR—Continued

### Chapter V—Continued


| | Page |
|---|---|
| 1250.102 (g) and (j)(2) revised | 17936 |
| 1250.103–2 (a)(3), (4), (5), and (6) redesignated as (a)(4), (5), (6), and (7); new (a)(3) added; (e) revised | 17936 |
| 1250.103–3 (c) revised; (d) added | 17937 |
| 1250.103–4 Heading revised; (f) and (g) added | 17937 |
| 1250.104 (e), (f), and (g) revised; (h) added | 17937 |
| 1250.107 (d)(2) removed; (d)(3) and (4) redesignated as (d)(2) and (3) | 17937 |
| 1250.108 (b) and (d) revised | 17937 |
| 1250.109 (g) added | 17937 |
| 1250.111 (a), (b), and (c) amended | 17938 |
| 1250 Appendix A amended | 17938 |
| 1260 Added | 8136 |
| *Proposed Rules:* | |
| 23 | 2985 |
| 25 | 14757, 26811, 26939 |
| 37 | 25450 |
| 39 | 888, 1124, 1396, 1593, 2704, 6396, 7812, 8667, 8751, 9091, 9092, 9314, 9441, 9515, 10111, 10641, 11111–11113, 14759, 15523, 15851, 16391, 17248, 18684, 19048, 20097, 21936, 22042, 22634, 23962, 26811 |
| 61 | 23962 |
| 65 | 3410 |
| 71 | 889–891, 1124, 1125, 1510, 1511, 1644, 1747, 1937–1940, 2219, 2335, 2704, 2987, 3200, 3201, 3525, 3610, 3611, 4270, 4348–4350, 4414, 4716, 4717, 4775, 4776, 4980, 4981, 5182, 5259, 5260, 5350, 5482, 5657, 5658, 5911, 5912, 6075, 6194, 6290, 6397, 6398, 6689, 6690, 6831, 7009, 7127, 7241, 7339, 7401, 7469, 7812, 7813, 8004, 8066, 8177, 8278, 8522, 8667–8669, 9029, 9092, 9093, 9240, 9241, 9442, 9443, 9515–9517, 9593, 10011, 10012, 10117, 10275, 10276, 10461, 10462, 10956–10960, 11113, 11354, 12216, 12818, 12934, 13566, 13657, 13748, 14294, 14694, 14760, 14865, 15082, 15367, 15456, 15524, 15852, 16079, 16080, 16237–16239, 16659, 16785, 16786, 16913–16915, 17248–17251, 17510, 17734, 17848, 18255, 18383–18385, 18470, 18563, 18685, 18904, 19130, 19131, 19235, 19236, 19413–19415, 19839, 20097, 20346–20348, 21181, 21274, 21434, 21502, 21503, 21795–21797, 21937, 21938, 22043, 22243, 22492, 22634, 22795, 22900, 22901, 22981, 23337, 23338, 23419, 23536, 23804, 23969, 24222, 24914, 25195, 25451, 25452, 25696, 26007, 26389, 26730–26734, 26812, 26813, 26940, 27081 |
| 73 | 891, 1283, 1511, 1747, 2988, 10117, 10275, 12216, 12818, 12934, 15525, 15852, 16659, 16786, 17019, 19415, 19973, 20097, 20348, 21938, 23419, 26732 |
| 75 | 4981, 8067, 8177, 12216, 15456, 15525, 16659, 17510, 19415, 21274, 23804, 26735, 27081 |
| 91 | 800, 2985, 15526, 15852, 17019 |
| 93 | 2178, 4717, 15631, 17511, 23338 |
| 101 | 11354 |
| 103 | 6690, 10157, 14963, 15852 |
| 105 | 6076 |
| 107 | 5260 |
| 121 | 2769, 8067, 10158, 14757, 19048, 20098, 23962, 26811, 26939 |
| 123 | 19048 |
| 127 | 8067, 19048 |
| 129 | 18255 |
| 135 | 2988, 8067, 14757, 19048, 26811 |
| 139 | 6692, 9517, 26389 |
| 141 | 4046, 16659 |
| 171 | 7401 |
| Ch. II | 24660 |
| 207 | 1396, 3995, 10462, 10816, 14112, 15970, 16917 |
| 208 | 10462, 10816, 14112, 15970, 16917 |
| 212 | 1396, 3995, 10462, 10816, 14112, 15970, 16917 |
| 214 | 10462, 14112, 15970, 16917 |
| 221 | 21274, 23804 |
| 234 | 12413 |
| 241 | 1125, 10018, 10162, 14866, 19694, 24223, 24661, 26461 |
| 244 | 10817, 14866 |
| 249 | 9030, 10817, 14866 |
| 250 | 12413, 15083, 18471 |
| 288 | 15368, 17736 |
| 296 | 10817, 14866 |
| 297 | 10817, 14866 |
| 298 | 50, 14294, 22494, 23805, 24662, 26616 |
| 302 | 20266 |
| 371 | 9030 |
| 372a | 24664 |
| 373 | 10462, 14112, 15970 |
| 378 | 1396, 3995, 10462, 14112, 15970 |
| 389 | 20266, 24662 |
| 399 | 14695, 15368, 17736, 19415, 25453 |
| 421 | 19133, 22561 |


## 15 CFR

### Subtitle A


| | Page |
|---|---|
| 4a Added | 1383 |
| 8 Revised | 17938 |
| 8.4 (c)(1) corrected | 23777 |
| 8.5 (a) corrected | 23777 |


### Chapter I


| | Page |
|---|---|
| 30.22 (e) added | 23322 |


### Chapter II


| | Page |
|---|---|
| 200.103 (f) revised | 17493 |
| 256.6 Revised | 25908 |




### Chapter III


| | Page |
|---|---|
| Chapter heading revised | 12736 |
| 302 Added; redesignated from 44 Part 401 | 11068, 12743 |
| 302.2 (g) corrected | 14748 |
| 302.7 (c) corrected | 14748 |
| 302.14 (b) corrected | 14748 |
| 370.8 Removed | 9662 |
| 370.10 (d) revised | 9662 |
| 372.9 (d)(2) revised | 17814 |
| 372.11 (e)(5) revised | 15967 |
| 372.12 (a) revised | 15967 |
| 373.2 (e)(1)(i), (2)(i), and (4) revised | 15967 |
| 373.3 (c)(2) removed | 9663 |
| (h)(1) revised | 9662 |
| (g), (h)(2), and (k) revised; (m) removed | 15967 |
| 373.5 (c)(1) and (2) and (d)(1)(v) removed | 9663 |
| 373.6 (a)(3) and (4) and (b)(1)(v) removed | 9663 |
| 373.7 (i)(4) revised | 9663 |
| 373 Supplement No. 1 amended | 15968 |
| 374.6 Revised | 9663 |
| 375.2 (b)(2)(xi) revised | 17815 |
| 376.3 Added | 15773 |
| Revised | 17494 |
| (a) revised | 18467, 23778 |
| (a)(2) revised; (a)(3) redesignated as (a)(4); (a)(4) redesignated as (a)(5) and revised; new (a)(3) added | 25446 |
| 376 Supplement No. 1 added | 15774 |
| Supplement No. 1 revised | 17495, 23779 |
| Supplement No. 1 amended | 18468 |
| Supplement No. 2 added | 23780 |
| 377.1 (c) revised | 13489 |
| (c)(1)(i) and (iii)(*a*) corrected | 13747 |
| 377.3 Added | 17815 |
| (c) added | 18029 |
| (b)(5) added | 19682 |
| (c) revised; (d), (e), (f), and (g) added | 20335 |
| (b)(1), (2), (3), and (4) revised | 21177 |
| (f) and (g) redesignated as (g) and (h); new (f) added | 25184 |
| Removed | 26909 |
| 377.4 Added | 17816, 18031 |
| (d) revised | 18555 |
| Revised | 20336, 23323 |
| (c) revised | 26206 |
| 377.5 Added | 18555 |
| 377 Supplement No. 2 amended | 6808 |
| Supplement No. 2 revised | 13489 |
| Supplement No. 1 amended | 17817, 18031, 26909 |
| Supplement No. 1 revised | 18029, 18555 |
| 379.4 (e)(1)(iii)(*jj*) and (*kk*) added | 9663 |
| 386.7 (b)(1) revised | 17815 |
| 390.1 Revised | 20332 |
| 399.1 Amended | 26909 |


### Chapter X


| | Page |
|---|---|
| Chapter revised | 26676 |
| 1000 Interpretative analyses and statements | 25909 |
| Revised | 26676 |
| 1000.203 (d)(2) revised | 16637 |
| 1000.306 (e)(1) and (3) revised | 16637 |
| 1000.312 (e) added | 11 |
| (c)(4) and 12 revised; (c)(13) and (14) added; (e) removed | 12912 |
| (c)(1) revised | 16637 |
| 1000.313 (f) added | 11 |
| (b) revised; (e)(4) added; (f) removed | 12913 |
| 1000.502 Revised | 16638 |
| 1000.503 (a) revised | 16638 |
| 1000.505 (a)(7) added | 12913 |
| 1000.506 (a)(4) and (c) revised | 16638 |
| 1000.507 Removed | 16638 |
| 1000.601 Revised | 16638 |
| 1000.602 (b)(3), (4), and (5) and (e) revised | 16638 |
| 1000.905 (b)(2)(ii) and (iii) removed | 16638 |
| 1000.906 (b)(3)(iii) and (iv) removed | 16638 |
| 1000.1003 (c)(1) and (2) and (d) revised; (c)(5) removed | 16639 |
| 1020 Revised | 26697 |
| 1025 Revised | 26699 |
| 1030 Revised | 26699 |
| 1035 Revised | 26703 |
| 1040 Revised | 26704 |
| 1050 Revised | 26705 |
| *Proposed Rules:* | |
| 7 | 3608, 10110 |
| 9 | 14756, 15081, 17018 |
| 30 | 4263 |
| 960 | 15588 |
| 1000 | 5906, 12928, 14864 |


### Chapter I


| | Page |
|---|---|
| 4.4 (a)(1)(i) and (3), and (c)(4) revised | 23399 |
| 4.8 Revised | 1730 |
| 4.9 Revised | 1730 |
| (c)(3) revised | 18545 |

## 16 CFR—Continued

### Chapter I—Continued


| | Page |
|---|---|
| 4.10 Revised | 1731 |
| (a)(5) revised | 8644 |
| 4.11 Revised | 1732 |
| 13.5 8737 | 19119 |
| 8775o | 7796 |
| 8783 | 9225 |
| 8795o | 5160 |
| 8843 | 1581 |
| 8878o | 8150 |
| C-2360 | 8645 |
| C-2370 | 10707, 12802 |
| C-2375 | 11072 |
| C-2381 | 12331 |
| C-2400 | 16845 |
| 8879 | 18649 |
| 13.6 C-2370 | 10707, 12802 |
| 13.10 8861o | 5157, 6991 |
| 8880 | 10257 |
| C-2377 | 11448 |
| C-2379 | 12333 |
| C-2398 | 16036 |
| C-2399 | 16843 |
| C-2409 | 18647 |
| C-2430 | 25435 |
| 13.15 8821o | 7545 |
| 8825o | 970 |
| C-2327 | 968 |
| 8867 | 8646 |
| 8871 | 8148 |
| 8880 | 10257 |
| 8881 | 8151 |
| C-2362 | 9223 |
| C-2363 | 9224 |
| C-2396 | 16041 |
| 8873 | 16995 |
| C-2430 | 25435 |
| 13.20 C-2329 | 971 |
| 13.30 C-2327 | 968 |
| C-2329 | 971 |
| 8804 | 3398, 9663 |
| C-2368 | 9799 |
| C-2396 | 16041 |
| C-2397 | 16042 |
| C-2398 | 16036 |
| C-2413 | 18643 |
| C-2432 | 24353 |
| 13.45 C-2403 | 16849 |
| C-2413 | 18643 |
| C-2424 | 21627 |
| C-2432 | 24353 |
| 13.50 C-2430 | 25435 |
| 13.55 C-2367 | 9800 |
| 8873 | 16995 |
| C-2430 | 25435 |
| 13.60 8803o | 9157 |
| 8821o | 7545 |
| 8871 | 8148 |
| C-2306 | 12334 |
| C-2367 | 9800 |
| C-2394 | 16039 |
| 8873 | 16995 |
| C-2430 | 25435 |
| 13.70 8821o | 7545 |
| 8863o removed | 1273 |
| 8867 | 8646 |
| C-2362 | 9223 |
| C-2363 | 9224 |
| C-2369 | 10712 |
| C-2431 | 25436 |
| 13.73 C-2306 | 12334 |
| C-2327 | 968 |
| C-2335 | 3400 |
| 8861o | 5157, 6991 |
| C-2349 | 6063 |
| C-2351 | 7453 |
| C-2368 | 9799 |
| 8880 | 10257 |
| C-2374 | 11075 |
| C-2384 | 14749 |
| C-2390 | 14750 |
| C-2393 | 14748 |
| C-2404 | 18365 |
| C-2405 | 18364 |
| C-2407 | 18462 |
| C-2410 | 18650 |
| C-2413 | 18643 |
| C-2426 | 22469 |
| C-2428 | 24634 |
| C-2429 | 24352 |
| C-2432 | 24353 |
| C-2434 | 26602 |
| C-2435 | 26602 |
| 13.75 8825o | 970 |
| 8832 | 5838, 20444 |
| C-2374 | 11075 |
| C-2399 | 16843 |
| 13.85 C-2339 | 4944 |
| 8880 | 10257 |
| 13.105 8832 | 5838, 20444 |
| 13.110 8803o | 9157 |
| 13.115 8867 | 8646 |
| C-2362 | 9223 |
| C-2394 | 16039 |
| 8873 | 16995 |
| 13.125 8804 | 3398, 9663 |
| 13.130 C-2327 | 968 |
| C-2413 | 18643 |
| 13.135 C-2329 | 971 |
| 8867 | 8646 |
| C-2362 | 9223, 10707 |
| C-2367 | 9800 |
| C-2394 | 16039 |
| C-2403 | 16849 |
| C-2424 | 21627 |
| 13.140 C-2433 | 25434 |
| 13.143 8871 | 8148 |
| C-2367 | 9800 |
| 8873 | 16995 |





| | Page |
|---|---|
| 13.150 8881 | 8151 |
| C-1897 | 18648 |
| C-1898 | 18648 |
| 13.155 8804 | 3398, 9663 |
| 8821o | 7545 |
| 8832 | 5838, 20444 |
| C-2306 | 12334 |
| C-2335 | 3400 |
| 8862–o | 23401 |
| 8867 | 8646 |
| 8869o | 4944; 6384 |
| C-2349 | 6063 |
| C-2351 | 7453 |
| 8873 | 16995 |
| 8880 | 10257 |
| 8881 | 8151 |
| C-2362 | 9223, 10707 |
| C-2369 | 10712 |
| C-2374 | 11075 |
| C-2384 | 14749 |
| C-2390 | 14750 |
| C-2393 | 14748 |
| C-2396 | 16041 |
| C-2397 | 16042 |
| C-2398 | 16036 |
| C-2399 | 16843 |
| C-2404 | 18365 |
| C-2405 | 18364 |
| C-2410 | 18650 |
| C-2423 | 21626 |
| C-2426 | 22469 |
| C-2428 | 24634 |
| C-2429 | 24352 |
| C-2430 | 25435 |
| C-2434 | 26602 |
| C-2435 | 26602 |
| 13.157 8881 | 8151 |
| C-1897 | 18648 |
| C-1898 | 18648 |
| 13.160 C-1897 | 18648 |
| C-1898 | 18648 |
| C-2423 | 21626 |
| 13.170 C-2329 | 971 |
| C-2339 | 4944 |
| C-2350 | 6062 |
| C-2377 | 11448 |
| C-2379 | 12333 |
| C-2403 | 16849 |
| C-2406 | 18463 |
| C-2408 | 18366 |
| C-2421 | 20446 |
| C-2422 | 20446 |
| 13.175 8867 | 8646 |
| C-2362 | 9223 |
| 8880 | 10257 |
| C-2369 | 10712 |
| C-2424 | 21627 |
| C-2425 | 21625 |
| 13.180 8880 | 10257 |
| C-2399 | 16843 |
| 13.190 8803o | 9157 |
| 13.192 C-2413 | 18643 |
| 13.195 C-2406 | 18463 |
| 13.205 C-2306 | 12334 |
| C-2329 | 971 |
| C-2339 | 4944 |
| 8803o | 9157 |
| 8867 | 8646 |
| C-2362 | 9223 |
| C-2367 | 9800 |
| C-2403 | 16849 |
| C-2408 | 18366 |
| C-2421 | 20446 |
| C-2422 | 20446 |
| C-2425 | 21625 |
| 13.210 8803o | 9157 |
| C-2406 | 18463 |
| C-2425 | 21625 |
| 13.225 8861o | 5157, 6991 |
| C-2363 | 9224 |
| C-2398 | 16036 |
| 13.230 8880 | 10257 |
| 13.260 8867 | 8646 |
| 8869o | 4945, 6384 |
| 8871 | 8148 |
| C-2362 | 9223 |
| C-2394 | 16039 |
| 13.265 C-2339 | 4944 |
| 13.270 8804 | 3398, 9663 |
| C-2396 | 16041 |
| C-2397 | 16042 |
| C-2398 | 16036 |
| 13.280 C-2339 | 4944 |
| 13.285 C-2306 | 12334 |
| 13.290 C-2401 | 16847 |
| 8874o | 18644 |
| 13.330 C-2339 | 4944 |
| 13.345 C-2354 | 7548 |
| C-2360 | 8645 |
| 13.350 8832 | 5838, 20444 |
| 8845–o | 23399 |
| C-2354 | 7548 |
| C-2401 | 16847 |
| 13.358 8671 | 7984 |
| 8845–o | 23399 |
| 13.360 C-2360 | 8645 |
| 13.370 C-2354 | 7548 |
| C-2401 | 16847 |
| 13.380 C-2360 | 8645 |
| 13.382 C-2333 | 2444 |
| C-2401 | 16847 |
| 13.388 C-2401 | 16847 |
| 8845–o | 23399 |
| 13.395 8671 | 7984 |
| 8845–o | 23399 |
| C-2401 | 16847 |
| 13.425 8845–o | 23399 |
| 8874o | 18644 |
| 13.430 C-2401 | 16847 |
| 13.450 8845–o | 23400 |
| 13.470 C-2401 | 16847 |
| 13.493 C-2401 | 16847 |




## 16 CFR—Continued


| | Page |
|---|---|
| C-2432 | 25434 |
| 13.1140 8845–o | 23400 |
| 13.1145 8845–o | 23400 |
| 13.1185 C-2327 | 968 |
| C-2369 | 10712 |

## 16 CFR—Continued

### Chapter I—Continued


| | Page |
|---|---|
| 13.523 C–2327 | 968 |
| 13.535 8845–o | 23400 |
| 13.560 8845–o | 23400 |
| 13.595 8671 | 7984 |
| 13.610 8845–o | 23400 |
| 13.655 8671 | 7984 |
| 8845–o | 23400 |
| 13.670 C–2373 | 11076 |
| C–2378 | 11447 |
| C–2414 | 18651 |
| C–2419 | 19119 |
| 8805 | 19216 |
| 13.675 8832 | 20444 |
| 8871 | 8148 |
| C–2362 | 9223 |
| C–2367 | 9800 |
| C–2372 | 10805 |
| C–2394 | 16039 |
| C–2398 | 16036 |
| C–2399 | 16843 |
| 8873 | 16995 |
| C–2409 | 18647 |
| C–2414 | 18651 |
| C–2419 | 19119 |
| C–2430 | 25435 |
| 13.677 8832 | 20444 |
| 8871 | 8148 |
| C–2394 | 16039 |
| C–2398 | 16036 |
| 8873 | 16995 |
| C–2414 | 18651 |
| C–2419 | 19119 |
| C–2430 | 25435 |
| 13.685 C–2373 | 11076 |
| 13.715 8795o | 5160 |
| 13.785 8795o | 5160 |
| 13.800 C–2356 | 8147 |
| C–2411 | 18650 |
| 13.810 C–2356 | 8147 |
| C–2411 | 18650 |
| 13.820 C–2411 | 18650 |
| 13.855 8795o | 5160 |
| 13.892 8844o | 7795 |
| C–2427 | 22468 |
| 13.982 C–2373 | 11076 |
| 13.1025 8845–o | 23400 |
| 13.1045 C–2414 | 18651 |
| 8832 | 20444 |
| 8874o | 18644 |
| C–2419 | 19119 |
| 13.1051 C–2369 | 10712 |
| C–2396 | 16041 |
| C–2397 | 16042 |
| C–2398 | 16036 |
| C–2399 | 16843 |
| C–2413 | 18643 |
| C–2421 | 20446 |
| C–2422 | 20446 |
| C–2433 | 25434 |
| 13.1053 C–2372 | 10805 |
| 13.1055 8821o | 7545 |
| 8832 | 5838, 20444 |
| 8871 | 8148 |
| C–2367 | 9800 |
| C–2389 | 14748 |
| 8873 | 16995 |
| 13.1057 C–2389 | 14748 |
| C–2433 | 25434 |
| 13.1060 8894 | 969 |
| C–2328 | 970 |
| C–2331 | 1120 |
| C–2332 | 1502 |
| C–2334 | 2445 |
| C–2336 | 3399 |
| C–2337 | 3399 |
| C–2338 | 3958 |
| C–2340 | 3957 |
| C–2341 | 4661 |
| C–2342 | 5156 |
| C–2343 | 5158 |
| C–2344 | 5159 |
| C–2345 | 5158 |
| C–2346 | 5161 |
| C–2347 | 6062 |
| C–2348 | 6063 |
| C–2352 | 7455 |
| C–2353 | 7454 |
| C–2355 | 7545 |
| C–2357 | 8647 |
| C–2358 | 8649 |
| C–2359 | 8648 |
| C–2361 | 8648 |
| C–2364 | 9798, 10638 |
| C–2365 | 9802 |
| C–2366 | 9800 |
| C–2371 | 10256 |
| C–2376 | 11446 |
| C–2380 | 12330 |
| C–2382 | 12332 |
| C–2385 | 14284 |
| C–2386 | 14283 |
| C–2387 | 13733 |
| C–2388 | 13732 |
| C–2391 | 14283 |
| C–2392 | 13731 |
| C–2395 | 14749, 18365 |
| C–2412 | 18647 |
| 13.1106 C–2415 | 20229, 21396 |
| C–2416 | 20229, 21396 |
| C–2417 | 20229, 21396 |
| C–2418 | 20229, 21396 |
| 13.1108 C–2330 | 1120 |
| C–2372 | 10805 |
| 13.1115 8874o | 18644 |
| 13.1125 8874o | 18644 |
| 13.1130 C–2414 | 18651 |
| 8845–o | 23400 |
| 8874o | 18644 |
| C–2419 | 19119 |





| | Page |
|---|---|
| 13.1140 8845–o | 23400 |
| 13.1145 8845–o | 23400 |
| 8874o | 18644 |
| 13.1155 C–2414 | 18651 |
| 8845–o | 23400 |
| 8874o | 18644 |
| C–2419 | 19119 |
| 13.1160 C–2414 | 18651 |
| 8845–o | 23400 |
| 8874o | 18644 |
| C–2419 | 19119 |
| 13.1170 C–2368 | 9799 |
| 13.1185 C–2327 | 968 |
| C–2330 | 1120 |
| 8804 | 3398, 9663 |
| C–2368 | 9799 |
| C–2372 | 10805 |
| C–2396 | 16041 |
| C–2397 | 16042 |
| C–2398 | 16036 |
| C–2407 | 18462 |
| C–2413 | 18643 |
| C–2432 | 24353 |
| 13.1200 C–2413 | 18643 |
| C–2432 | 24353 |
| 13.1212 C–2327 | 968 |
| C–2330 | 1120 |
| C–2368 | 9799 |
| C–2372 | 10805 |
| C–2396 | 16041 |
| C–2397 | 16042 |
| C–2398 | 16036 |
| C–2407 | 18462 |
| C–2413 | 18643 |
| C–2432 | 24353 |
| 13.1255 C–2330 | 1120 |
| C–2372 | 10805 |
| 13.1332 8821o | 7545 |
| 13.1368 8871 | 8148 |
| 8873 | 16995 |
| 8881 | 8151 |
| 13.1390 8821o | 7545 |
| 8832 | 5838, 20444 |
| 13.1395 8821o | 7545 |
| 8825o | 970 |
| 8867 | 8646 |
| 8871 | 8148 |
| C–2362 | 9223 |
| C–2397 | 16042 |
| 8873 | 16995 |
| 13.1417 8880 | 10257 |
| 13.1425 8871 | 8148 |
| C–2430 | 25435 |
| 13.1430 8821o | 7545 |
| 8871 | 8148 |
| 8873 | 16995 |
| 13.1440 C–2327 | 968 |
| 8871 | 8148 |
| C–2369 | 10712 |
| 8873 | 16995 |
| 13.1475 8821o | 7545 |
| C–2369 | 10712 |
| 13.1485 C–2327 | 968 |
| 13.1490 8867 | 8646 |
| 8871 | 8148 |
| C–2362 | 9223 |
| C–2367 | 9801 |
| 13.1513 C–2363 | 9224 |
| 13.1520 8821o | 7545 |
| C–2396 | 16041 |
| 13.1530 C–2327 | 968 |
| 13.1535 8867 | 8646 |
| C–2362 | 9223 |
| C–2363 | 9224 |
| 13.1540 8821o | 7545 |
| 13.1553 8821o | 7545 |
| 8825o | 970 |
| 8867 | 8646 |
| C–2363 | 9224 |
| C–2398 | 16036 |
| 13.1555 C–2363 | 9224 |
| 13.1575 C–2329 | 971 |
| C–2403 | 16849 |
| 13.1590 C–2329 | 971 |
| C–2330 | 1121 |
| 8804 | 3398, 9663 |
| C–2368 | 9799 |
| C–2372 | 10805 |
| C–2393 | 16041 |
| C–2397 | 16042 |
| C–2413 | 18643 |
| C–2432 | 24353 |
| 13.1605 C–2329 | 971 |
| C–2368 | 9799 |
| C–2403 | 16849 |
| C–2413 | 18643 |
| C–2424 | 21627 |
| 13.1608 C–2430 | 25435 |
| 13.1610 C–2367 | 9801 |
| 8873 | 16995 |
| C–2430 | 25435 |
| 13.1615 8803o | 9157 |
| 8821o | 7545 |
| 8871 | 8148 |
| C–2306 | 12334 |
| C–2367 | 9801 |
| C–2394 | 16039 |
| 8873 | 16995 |
| C–2430 | 25435 |
| 13.1623 C–2306 | 12334 |
| C–2327 | 968 |
| C–2330 | 1121 |
| C–2335 | 3400 |
| C–2349 | 6063 |
| C–2351 | 7453 |
| C–2368 | 9799 |
| 8880 | 10257 |
| C–2372 | 10805 |
| C–2374 | 11075 |
| C–2384 | 14749 |
| C–2390 | 14750 |
| C–2393 | 14748 |


20-120 O - 73 - 6

CODE

XUM




| | Page |
|---|---|
| 13.1630 C–2327 | 968 |
| 8871 | 8148 |
| C–2369 | 10712 |
| 8873 | 16995 |
| 13.1640 8821o | 7545 |
| 13.1645 8821o | 7545 |
| 13.1650 8821o | 7545 |
| 13.1655 8821o | 7545 |
| 13.1660 8821o | 7545 |
| 13.1665 8821o | 7545 |
|

## 16 CFR—Continued

### Chapter I—Continued


| | Page |
|---|---|
| C-2404 | 18365 |
| C-2405 | 18364 |
| C-2410 | 18650 |
| C-2413 | 18643 |
| C-2420 | 20229 |
| C-2426 | 22469 |
| C-2428 | 24634 |
| C-2429 | 24352 |
| C-2434 | 26602 |
| C-2435 | 26602 |
| 13.1625 8825o | 970 |
| 8832 | 5838, 20444 |
| C-2374 | 11075 |
| 8873 | 16995 |
| 13.1632 C-2339 | 4944 |
| 13.1645 8880 | 10257 |
| 13.1647 8821o | 7545 |
| 8871 | 8148 |
| 8881 | 8151 |
| C-2369 | 10712 |
| C-2398 | 16036 |
| C-2399 | 16843 |
| 8873 | 16995 |
| C-2409 | 18647 |
| C-2431 | 25436 |
| 13.1655 8873 | 16995 |
| 13.1663 8832 | 5838, 20444 |
| 13.1665 8803o | 9157 |
| 13.1670 8867 | 8646 |
| C-2362 | 9223 |
| C-2394 | 16039 |
| 8873 | 16995 |
| 13.1685 C-2330 | 1121 |
| 8867 | 8646 |
| C-2362 | 9223 |
| C-2372 | 10805 |
| C-2409 | 18647 |
| C-2424 | 21627 |
| 13.1690 C-2339 | 4944 |
| 13.1695 C-2409 | 18647 |
| C-2433 | 25434 |
| 13.1697 8832 | 5838, 20444 |
| C-2367 | 9801 |
| 8873 | 16995 |
| 13.1698 C-2389 | 14748 |
| 13.1710 C-2329 | 971 |
| C-2339 | 4944 |
| C-2350 | 6062 |
| C-2369 | 10712 |
| C-2377 | 11448 |
| C-2379 | 12333 |
| C-2403 | 16849 |
| C-2406 | 18463 |
| C-2408 | 18366 |
| C-2421 | 20446 |
| C-2422 | 20446 |
| C-2424 | 21627 |
| C-2425 | 21625 |
| 13.1720 8873 | 16995 |
| 8880 | 10257 |
| C-2389 | 14748 |
| C-2399 | 16843 |
| 13.1730 8803o | 9157 |
| 13.1735 8825o | 970 |
| 13.1740 C-2306 | 12334 |
| C-2329 | 971 |
| 8803o | 9157 |
| 8863o | 1273 |
| 8867 | 8646 |
| C-2339 | 4944 |
| C-2362 | 9223 |
| C-2403 | 16849 |
| C-2408 | 18366 |
| C-2421 | 20446 |
| C-2422 | 20446 |
| C-2425 | 21625 |
| 13.1743 C-2389 | 14748 |
| 13.1757 8832 | 5838, 20444 |
| 13.1760 8821o | 7545 |
| 8832 | 20444 |
| 8871 | 8148 |
| C-2394 | 16039 |
| C-2399 | 16843 |
| 13.1762 C-2339 | 4944 |
| 13.1765 8873 | 16995 |
| 13.1770 C-2339 | 4944 |
| 13.1778 8862-o | 23401 |
| 8871 | 8148 |
| C-2306 | 12334 |
| C-2374 | 11075 |
| C-2398 | 16036 |
| 8873 | 16995 |
| C-2430 | 25435 |
| 13.1779 8880 | 10257 |
| 13.1785 8804 | 3398, 9663 |
| 8881 | 8151 |
| C-2396 | 16041 |
| C-2397 | 16042 |
| 13.1790 8881 | 8151 |
| 13.1805 8804 | 3398, 9663 |
| 8832 | 5838, 20444 |
| 8881 | 8151 |
| C-2369 | 10712 |
| C-2396 | 16041 |
| C-2397 | 16042 |
| C-2398 | 16036 |
| C-2423 | 21626 |
| 13.1813 C-2369 | 10712 |
| 13.1820 C-2374 | 11075 |
| C-2396 | 16041 |
| C-2397 | 16042 |
| C-2423 | 21626 |
| 13.1822 C-2369 | 10712 |
| 13.1823 C-2306 | 12334 |
| C-2335 | 3400 |
| 8821o | 7545 |
| 8832 | 5838, 20444 |
| 8862-o | 23401 |





| | Page |
|---|---|
| 8867 | 8646 |
| 8869o | 4945, 6384 |
| C-2349 | 6063 |
| C-2351 | 7453 |
| C-2362 | 9223 |
| 8880 | 10257 |
| C-2374 | 11075 |
| C-2384 | 14749 |
| C-2390 | 14750 |
| C-2393 | 14748 |
| C-2399 | 16843 |
| C-2404 | 18365 |
| C-2405 | 18364 |
| C-2409 | 18647 |
| C-2410 | 18650 |
| C-2420 | 20229 |
| C-2423 | 21626 |
| C-2426 | 22469 |
| C-2428 | 24634 |
| C-2429 | 24352 |
| C-2434 | 26602 |
| C-2435 | 26602 |
| 13.1825 C-2369 | 10712 |
| C-2396 | 16041 |
| C-2397 | 16042 |
| C-2423 | 21626 |
| 13.1830 C-2423 | 21626 |
| 13.1835 8821o | 7545 |
| 13.1843 8861o | 5157, 6991 |
| 8867 | 8646 |
| C-2362 | 9223 |
| C-2363 | 9224 |
| 8880 | 10257 |
| C-2398 | 16036 |
| 13.1845 8804 | 3398, 9663 |
| C-2368 | 9799 |
| C-2379 | 12333 |
| C-2396 | 16041 |
| C-2397 | 16042 |
| C-2398 | 16036 |
| C-2413 | 18643 |
| C-2432 | 24353 |
| 13.1850 C-2368 | 9799 |
| C-2403 | 16849 |
| C-2424 | 21627 |
| C-2432 | 24353 |
| 13.1852 C-2306 | 12334 |
| C-2330 | 1121 |
| C-2335 | 3400 |
| 8803o | 9157 |
| 8861o | 5157, 6991 |
| C-2349 | 6063 |
| C-2351 | 7453 |
| C-2368 | 9799 |
| 8880 | 10257 |
| C-2372 | 10805 |
| C-2374 | 11075 |
| C-2383 | 16038, 18364 |
| C-2384 | 14749 |
| C-2390 | 14750 |
| C-2393 | 14748 |
| C-2396 | 16041 |
| C-2397 | 16042 |
| C-2398 | 16036 |
| C-2399 | 16843 |
| C-2404 | 18365 |
| C-2405 | 18364 |
| C-2407 | 18462 |
| C-2410 | 18650 |
| C-2413 | 18643 |
| C-2420 | 20229 |
| C-2426 | 22469 |
| C-2428 | 24634 |
| C-2429 | 24352 |
| C-2432 | 24353 |
| C-2434 | 26602 |
| C-2435 | 26602 |
| 13.1855 8871 | 8148 |
| C-2369 | 10712 |
| C-2399 | 16843 |
| 8873 | 16995 |
| C-2409 | 18647 |
| C-2430 | 25435 |
| 13.1857 8880 | 10257 |
| C-2398 | 16036 |
| C-2399 | 16843 |
| 13.1865 C-2413 | 18643 |
| 13.1870 8832 | 5838, 20444 |
| 8869o | 4945, 6384 |
| C-2362 | 9223 |
| C-2424 | 21627 |
| 13.1876 8880 | 10257 |
| 13.1880 C-2397 | 16042 |
| C-2409 | 18647 |
| C-2433 | 25434 |
| 13.1882 8832 | 20444 |
| 8869o | 4945, 6384 |
| C-2374 | 11075 |
| C-2394 | 16039 |
| C-2396 | 16041 |
| C-2398 | 16036 |
| C-2399 | 16843 |
| 8873 | 16995 |
| 13.1885 C-2379 | 12333 |
| C-2403 | 16849 |
| C-2424 | 21627 |
| 13.1886 8880 | 10257 |
| 13.1888 C-2306 | 12334 |
| 13.1889 8821o | 7545 |
| 13.1890 8838 | 4661 |
| 13.1892 8821o | 7545 |
| 8832 | 20444 |
| 8871 | 8148 |
| C-2306 | 12334 |
| C-2362 | 9223 |
| C-2367 | 9801 |
| C-2398 | 16036 |
| C-2399 | 16843 |
| 8873 | 16995 |
| C-2428 | 24634 |
| C-2430 | 25435 |




## 16 CFR—Continued


| | Page |
|---|---|
| 13.1895 C-2369 | 10712 |
| C-2399 | 16843 |
| 8873 | 16995 |
| C-2409 | 18647 |
| C-2430 | 25435 |
| 13.1897 8880 | 10257 |
| C-2398 | 16036 |
| C-2399 | 16843 |
| 13.1900 C-2413 | 18643 |
| 13.1905 8832 | 5838, 20444 |
| 8869o | 4945, 6384 |
| C-2362 | 9223 |
| C-2424 | 21627 |
| 13.1907 8880 | 10257 |
| 13.1910 C-2397 | 16042 |
| C-2409 | 18647 |
| C-2433 | 25434 |
| 13.1912 8832 | 20444 |
| 8869o | 4945, 6384 |
| C-2374 | 11075 |
| C-2394 | 16039 |
| C-2396 | 16041 |
| C-2398 | 16036 |
| C-2399 | 16843 |
| 8873 | 16995 |
| 13.1915 C-2379 | 12333 |
| C-2403 | 16849 |
| C-2424 | 21627 |
| 13.1916 8880 | 10257 |
| 13.1918 C-2306 | 12334 |
| 13.1919 8821o | 7545 |
| 13.1920 8838 | 4661 |
| 13.1922 8821o | 7545 |
| 8832 | 20444 |
| 8871 | 8148 |
| C-2306 | 12334 |
| C-2362 | 9223 |
| C-2367 | 9801 |
| C-2398 | 16036 |
| C-2399 | 16843 |
| 8873 | 16995 |
| C-2428 | 24634 |
| C-2430 | 25435 |
| 13.1925 C-2369 | 10712 |
| C-2399 | 16843 |
| 8873 | 16995 |
| C-2409 | 18647 |
| C-2430 | 25435 |
| 13.1927 8880 | 10257 |
| C-2398 | 16036 |
| C-2399 | 16843 |
| 13.1930 C-2413 | 18643 |
| 13.1935 8832 | 5838, 20444 |
| 8869o | 4945, 6384 |
| C-2362 | 9223 |
| C-2424 | 21627 |
| 13.1937 8880 | 10257 |
| 13.1940 C-2397 | 16042 |
| C-2409 | 18647 |
| C-2433 | 25434 |
| 13.1942 8832 | 20444 |
| 8869o | 4945, 6384 |
| C-2374 | 11075 |
| C-2394 | 16039 |
| C-2396 | 16041 |
| C-2398 | 16036 |
| C-2399 | 16843 |
| 8873 | 16995 |
| 13.1945 C-2379 | 12333 |
| C-2403 | 16849 |
| C-2424 | 21627 |
| 13.1946 8880 | 10257 |
| 13.1948 C-2306 | 12334 |
| 13.1949 8821o | 7545 |
| 13.1950 8838 | 4661 |
| 13.1952 8821o | 7545 |
| 8832 | 20444 |
| 8871 | 8148 |
| C-2306 | 12334 |
| C-2362 | 9223 |
| C-2367 | 9801 |
| C-2398 | 16036 |
| C-2399 | 16843 |
| 8873 | 16995 |
| C-2428 | 24634 |
| C-2430 | 25435 |





| | Page |
|---|---|
| 13.1955 C-2369 | 10712 |
| C-2399 | 16843 |
| 8873 | 16995 |
| C-2409 | 18647 |
| C-2430 | 25435 |
| 13.1957 8880 | 10257 |
| C-2398 | 16036 |
| C-2399 | 16843 |
| 13.1960 C-2413 | 18643 |
| 13.1965 8832 | 5838, 20444 |
| 8869o | 4945, 6384 |
| C-2362 | 9223 |
| C-2424 | 21627 |
| 13.1967 8880 | 10257 |
| 13.1970 C-2397 | 16042 |
| C-2409 | 18647 |
| C-2433 | 25434 |
| 13.1972 8832 | 20444 |
| 8869o | 4945, 6384 |
| C-2374 | 11075 |
| C-2394 | 16039 |
| C-2396 | 16041 |
| C-2398 | 16036 |
| C-2399 | 16843 |
| 8873 | 16995 |
| 13.1975 C-2379 | 12333 |
| C-2403 | 16849 |
| C-2424 | 21627 |
| 13.1976 8880 | 10257 |
| 13.1978 C-2306 | 12334 |
| 13.1979 8821o | 7545 |
| 13.1980 8838 | 4661 |
| 13.1982 8821o | 7545 |
| 8832 | 20444 |
| 8871 | 8148 |
| C-2306 | 12334 |
| C-2362 | 9223 |
| C-2367 | 9801 |
| C-2398 | 16036 |
| C-2399 | 16843 |
| 8873 | 16995 |
| C-2428 | 24634 |
| C-2430 | 25435 |
| 13.1985 C-2369 | 10712 |
| C-2399 | 16843 |
| 8873 | 16995 |
| C-2409 | 18647 |
| C-2430 | 25435 |
| 13.1987 8880 | 10257 |
| C-2398 | 16036 |
| C-2399 | 16843 |
| 13.1990 C-2413 | 18643 |
| 13.1995 8832 | 5838, 20444 |
| 8869o | 4945, 6384 |
| C-2362 | 9223 |
| C-2424 | 21627 |
| 13.1997 8880 | 10257 |
| 13.2000 C-2397 | 16042 |
| C-2409 | 18647 |
| C-2433 | 25434 |
| 13.2002 8832 | 20444 |
| 8869o | 4945, 6384 |
| C-2374 | 11075 |
| C-2394 | 16039 |
| C-2396 | 16041 |
| C-2398 | 16036 |
| C-2399 | 16843 |
| 8873 | 16995 |
| 13.2005 C-2379 | 12333 |
| C-2403 | 16849 |
| C-2424 | 21627 |
| 13.2006 8880 | 10257 |
| 13.2008 C-2306 | 12334 |
| 13.2009 8821o | 7545 |
| 13.2010 8838 | 4661 |
| 13.2012 8821o | 7545 |
| 8832 | 20444 |
| 8871 | 8148 |
| C-2306 | 12334 |
| C-2362 | 9223 |
| C-2367 | 9801 |
| C-2398 | 16036 |
| C-2399 | 16843 |
| 8873 | 16995 |
| C-2428 | 24634 |
| C-2430 | 25435 |


CODE XUM

## 16 CFR—Continued

### Chapter I—Continued


| | Page |
|---|---|
| 13.1895 8821o | 7545 |
| 8871 | 8148 |
| C–2306 | 12334 |
| C–2367 | 9801 |
| C–2403 | 16849 |
| C–2409 | 18647 |
| C–2430 | 25435 |
| 13.1905 C–1897 | 18648 |
| C–1898 | 18648 |
| C–2306 | 12334 |
| C–2335 | 3400 |
| 8832 | 5838, 20444 |
| 8861o | 5157, 6991 |
| 8869o | 4945, 6384 |
| C–2349 | 6063 |
| C–2351 | 7453 |
| 8871 | 8148 |
| C–2362 | 9223 |
| 8880 | 10257 |
| C–2374 | 11075 |
| C–2384 | 14749 |
| C–2390 | 14750 |
| C–2393 | 14748 |
| C–2394 | 16039 |
| C–2398 | 16036 |
| C–2399 | 16843 |
| 8873 | 16995 |
| C–2404 | 18365 |
| C–2405 | 18364 |
| C–2409 | 18647 |
| C–2410 | 18650 |
| C–2420 | 20229 |
| C–2426 | 22469 |
| C–2428 | 24634 |
| C–2429 | 24352 |
| C–2434 | 26602 |
| C–2435 | 26602 |
| 13.1928 C–2427 | 22468 |
| 13.1935 8803o | 9157 |
| 8821o | 7545 |
| 8871 | 8148 |
| C–2306 | 12334 |
| C–2367 | 9801 |
| C–2394 | 16039 |
| 8873 | 16995 |
| 13.1955 8825o | 970 |
| 8832 | 20444 |
| C–2374 | 11075 |
| C–2399 | 16843 |
| 13.1960 C–2374 | 11075 |
| 13.1980 C–2398 | 16036 |
| C–2399 | 16843 |
| 8873 | 16995 |
| C–2409 | 18648 |
| C–2431 | 25436 |
| 13.1985 8832 | 20444 |
| 13.1995 8867 | 8646 |
| C–2362 | 9223 |
| C–2394 | 16039 |
| 8873 | 16995 |
| 13.2013 8873 | 16995 |
| C–2423 | 21626 |
| 13.2015 8321o | 7545 |
| 8832 | 20444 |
| 8861o | 5157, 6991 |
| 8867 | 8646 |
| 8871 | 8148 |
| C–2306 | 12334 |
| C–2362 | 9223 |
| C–2367 | 9801 |
| 8873 | 16995 |
| 13.2040 8821o | 7545 |
| 8871 | 8148 |
| C–2306 | 12334 |
| 8873 | 16995 |
| 13.2045 C–2306 | 12334 |
| 13.2055 8873 | 16995 |
| 13.2060 8825o | 970 |
| 13.2063 8803o | 9157 |
| 8821o | 7545 |
| 8867 | 8646 |
| C–2362 | 9223 |
| C–2367 | 9801 |
| C–2425 | 21625 |
| 13.2070 8869o | 4945, 6384 |
| 13.2080 8832 | 20444 |
| 8861o | 5157, 6991 |
| 8869o | 4945, 6384 |
| 13.2090 8838 | 4661 |
| 13.2110 C–2370 | 10707, 12802 |
| C–2402 | 16992 |
| 13.2120 C–2306 | 12334 |
| 13.2125 8821o | 7545 |
| C–2306 | 12334 |
| C–2367 | 9801 |
| 8873 | 16995 |
| 13.2130 8821o | 7545 |
| 8871 | 8148 |
| C–2306 | 12334 |
| C–2367 | 9801 |
| C–2394 | 16039 |
| 8873 | 16995 |
| 13.2148 8821o | 7545 |
| C–2367 | 9801 |
| 13.2150 8873 | 16995 |
| 13.2160 8821o | 7545 |
| 13.2165 8871 | 8148 |
| 13.2170 8825o | 970 |
| 8832 | 20444 |
| 8871 | 8148 |
| 8873 | 16995 |
| 13.2175 8832 | 5838, 20444 |
| 8871 | 8148 |
| C–2383 | 16038, 18364 |
| 13.2176 8862–o | 23401 |
| 13.2195 8825o | 970 |
| C–2394 | 16039 |
| 13.2264 8825o | 970 |
| 8832 | 5839, 20444 |





| | Page |
|---|---|
| 13.2270 8881 | 8151 |
| 13.2275 C–2329 | 971 |
| C–2398 | 16036 |
| C–2399 | 16843 |
| C–2424 | 21627 |
| 13.2420 C–2327 | 968 |
| 13.2425 8862–o | 23401 |
| 14.9 Added | 20820 |
| Corrected | 21494 |
| 15.88 Removed | 1733 |
| 300.36 Removed | 13636 |
| 303.7 (c) revised | 21782 |
| 425 Added | 4896 |
| 425.1 (b)(5) note corrected | 6991 |
| 600 Added | 4945 |
| 600.6 Corrected | 6384 |
| **Chapter II** | |
| Establishment of chapter | 21247 |
| 1500 Added (derived from 21 CFR Part 191) | 27012 |
| 1505 Added (derived from 21 CFR Part 191b) | 27032 |
| 1700 Added (derived from 21 CFR Part 295) | 21247 |
| *Proposed Rules:* | |
| 255 | 6191 |
| 258 | 5351 |
| 302 | 15373 |
| 433 | 892, 8600 |
| 1100 | 20902 |
| 1700 | 25195 |


## 17 CFR

### Chapter I


| | Page |
|---|---|
| 0.2 (m) and (n) revised; (p) removed | 22381 |
| 0.4 (b) amended | 22381 |
| 0.5 Amended | 22381 |
| 0.7 Amended | 22381 |
| 0.8 Amended | 22381 |
| 0.9 (c) revised | 22381 |
| 0.10 Amended | 22381 |
| 0.11 Amended | 22381, 22382 |
| (a), (b), (c)(2), and (e)(2) amended | 22381 |
| 0.12 Amended | 22381 |
| 0.13 Amended | 22381 |
| 0.14 Amended | 22381 |
| 0.15 Amended | 22381 |
| 0.16 (c) and (d) revised | 22381 |
| 0.17 Amended | 22381 |
| 0.18 Revised | 22381 |
| 0.19 Removed | 22382 |
| 0.20 Amended | 22381 |
| 0.22 Amended | 22381 |
| 0.27 Amended | 22382 |
| 0.28 Amended | 22382 |
| 1.50 Revised | 22031 |
| 19.02 Revised | 2446 |
| 19.04 (a) revised | 2446 |
| 200.20b Introductory text revised | 3590 |
| **Chapter II** | |
| 200.20c Added | 3959 |
| 200.30–5 Introductory text and (e) revised | 3590 |
| 200.30–7 (a)(7) revised | 12913 |
| 200.30–11 Added | 3959 |
| 210.1–02 (q)(2) revised | 6066 |
| Amended | 7323 |
| 210.3–15 Revised | 6066 |
| 210.5–02 Amended | 1733, 6066, 10259, 26183 |
| 210.5–04 (a)(1) and Schedule X revised | 6066 |
| 210.9–05 (b)(4) revised | 6066 |
| 210.12–02 Revised | 6066 |
| 210.12–04 Revised | 6067 |
| 210.12–06 Revised | 6067 |
| 210.12–16 Revised | 6068 |
| Heading revised | 7323 |
| 210.12–42 Revised | 6068 |
| 210.12–43 Revised | 6069 |
| Amended | 7323 |
| 211 Interpretative releases | 1733–1735, 2446, 9158, 24635 |
| 230.256 (a)(2) revised; (g) and (h) added | 17199 |
| 230.434C Added | 6809 |
| 230.457 (k) added | 9489 |
| 231 Interpretative releases | 1733–1735, 5457, 7220, 9158, 9587, 17200, 17201, 17715, 18366, 22121, 24635 |
| 239.11 Form S–1 amended | 2447, 12101, 17203 |
| 239.12 Form S–2 amended | 17205 |
| 239.16b Form S–8 amended | 2447 |
| 239.18 Form S–11 amended | 2447 |
| 239.22 Form S–9 amended | 2447, 12102 |
| 239.26 Form S–7 amended | 2447, 12102 |
| 239.27 Form S–16 amended | 1736 |
| 240.3a11–1 Revised | 11449 |
| 240.10b–2 (c) revised | 9665 |
| 240.12a–6 Added | 11449 |
| 240.13a–13 Amended | 17209 |
| 240.15c3–1 (b)(2) revised | 4315 |
| 240.15c3–3 (m) suspended until 3–1–73 | 4401 |
| (m) suspended until 4–10–73 | 6277 |
| (m) suspended indefinitely | 12103 |
| 240.17a–5 (k)(2), (n), and (o) revised | 9161 |
| 240.19b–2 Added | 3928 |
| 240.206d–1 (Subpart B) Added | 21251 |
| 241 Interpretative releases | 1733–1735, 1737, 3313, 5457, 9158, 16774, 17201, 18366, 20820, 24635, 26358, 26716 |




## 17 CFR—Continued


| | Page |
|---|---|
| 201 Balance Sheet Account No. | |

## 17 CFR—Continued

### Chapter II—Continued


| | | Page |
|---|---|---|
| 249.210 | Form 10 amended | 2448, 12102, 17207 |
| 249.212 | Form 12 amended | 2448 |
| 249.308 | Form 8–K amended | 2447, 12102 |
| 249.308a | Form 10Q amended | 17209 |
| 249.310 | Form 10–K amended | 2447, 12102, 17208 |
| 249.312 | Form 12–K amended | 2447 |
| 249.504g | Added | 10638 |
| 249a | Added | 21253 |
| 250.7 | (d) added | 16998 |
| 250.106 | Amended | 16997 |
| 251 | Interpretative releases | 1734, 24635 |
| 259.404 | Added | 16999 |
| 270.0–2 | (g) added | 23325 |
| 270.0–5 | Revised | 23325 |
| 270.2a–1 | (a), (b), and (d) revised | 8593 |
| 270.2a–2 | Revised | 8593 |
| 270.3c–4 | Added | 4317 |
| 270.7d–1 | (b)(8)(i) revised | 8593 |
| 270.19a–1 | (c), (e), and (f) revised | 8593 |
| 270.30d–1 | (d)(1) revised | 8593 |
| 270.31a–2 | (f) revised | 7797 |
| 271 | Interpretative releases | 1734, 1735, 5457, 18366, 24635 |
| 275.202–1 | Added | 4317 |
| 275.203–3 | Revised | 17834 |
| 276 | Interpretative releases | 5457, 17201 |


*Proposed Rules:*


| | | |
|---|---|---|
| 1 | | 4346, 6190, 11089, 18469, 20626 |
| 16 | | 22489 |
| Ch. II | | 2220 |
| 210 | | 1747, 1748, 6409, 10276, 16085, 20470, 27088, 27090 |
| 230 | | 2468, 4353, 4417, 4993, 8600, 20903, 24668 |
| 231 | | 1748, 6409 |
| 239 | | 20470 |
| 240 | | 56, 894, 1125, 1646–1648, 3100, 3339, 4353, 4994, 11472, 12937, 15533, 17739, 18915, 26943 |
| 241 | | 1749, 6409, 15533 |
| 249 | | 9443, 20108, 20470, 27090 |
| 249a | | 1126 |
| 250 | | 2220 |
| 259 | | 2220, 20470 |
| 270 | | 1284, 2180, 5194, 6832, 8601, 26133, 26816 |
| 275 | | 1649, 5912, 7010, 9520, 26816 |


## 18 CFR

### Chapter I


| | | Page |
|---|---|---|
| 1.4 | (d) revised | 9294 |
| | (c) revised | 9993 |
| 1.26 | (c)(2)(iii) revised | 8738 |
| 1.27 | (b)(1) revised | 4245 |
| 1.30 | (f) revised | 9294 |
| 2.1 | (a)(1)(i)(B) revised | 3192 |
| 2.11 | (d) revised; Appendix A redesignated as Appendix A–1 and revised | 7457 |
| 2.55 | (c) removed | 11450 |
| 2.56 | (a), (c), and (d) amended | 9810, 9811 |
| 2.68 | (a) and (b) amended | 26604, 27609 |
| 2.70 | (b)(3) amended | 26604, 27609 |
| 2.76 | Revised | 9994 |
| | (a) and (c) revised | 15623 |
| 2.77 | Revised | 9995 |
| 2.78 | Added | 1504 |
| | (a) revised | 2171 |
| | Amended | 6386 |
| 2.81 | (a) revised | 15946 |
| 2.82 | (a) revised | 13479, 15946 |
| 2.90b | Added | 17185 |
| 2 | Appendix A added | 15946 |
| | Appendix B added | 15949 |
| 3.170 | (a)(14) through (20) redesignated as (a)(15) through (21); new (a)(14) added | 4246 |
| | (a)(21) added; (b) revised | 23516 |
| 3a | Added | 5161 |
| 35.8 | (a) added | 19967 |
| 35.13 | (b)(4)(iv) amended | 12114 |
| | (b)(4)(iii) and (iv) removed; new (b)(4)(iii) added; (b)(5)(i) amended | 19967 |
| 35.22 | Added | 12114 |
| 101 | Balance Sheet Account No. 10 removed; redesignated from No. 11 and revised | 23333 |
| | Balance Sheet Account No. 11 redesignated as No. 10 | 23333 |
| | Chart amended | 4248, 4948, 23333 |
| | Definitions amended | 4248 |
| | Definition 27.B revised | 12115 |
| | Electric Plant Instructions amended | 6667 |
| | Electric Plant Instruction No. 1 amended | 23332 |
| | Electric Plant Instruction No. 2 amended | 23332 |
| | Electric Plant Instruction No. 3 amended | 18873 |
| | Electric Plant Instruction No. 5 amended | 23332 |
| | General Instruction 16 amended | 23332 |
| | Operating Expense Instruction No. 1 amended | 18873 |
| | Operating Expense Instruction No. 4 added | 18873 |
| | Acct. 103 revised | 12115 |
| | Acct. 108 amended | 4949 |
| | Acct. 109 removed | 4949 |





| | | Page |
|---|---|---|
| | Acct. 110 removed | 4949 |
| | Acct. 111 amended | 4949 |
| | Acct. 112 removed | 4949 |
| | Acct. 113 removed | 4949 |
| | Acct. 114 amended | 7214 |
| | Acct. 123 amended | 4248 |
| | Acct. 123.1 added | 4248 |
| | Acct. 188 amended | 12116 |
| | Acct. 216 revised | 4248 |
| | Acct. 216.1 added | 4248 |
| | Acct. 252 amended | 23333 |
| | Acct. 271 removed | 23333 |
| | Acct. 303 amended | 18873 |
| | Acct. 404 amended | 4949, 18873 |
| | Acct. 405 amended | 4949 |
| | Acct. 418.1 added | 4248 |
| | Acct. 456 amended | 12116 |
| 104 | Heading corrected | 16219 |
| | Balance Sheet Account No. 10 removed; redesignated from No. 11 | 23334 |
| | Balance Sheet Account No. 11 redesignated as No. 10 | 23334 |
| | Chart amended | 23333 |
| | Electric Plant Instruction No. 1 amended | 23333 |
| | Electric Plant Instruction No. 4 amended | 23333 |
| | Electric Plant Instruction No. 14 added | 18873 |
| | General Instruction No. 14 amended | 23333 |
| | Operating Expense Instruction No. 3 added | 18873 |
| | Acct. 110 amended | 4949 |
| | Acct. 114 amended | 7214 |
| | Acct. 252 amended | 23334 |
| | Acct. 271 removed | 23334 |
| | Acct. 303 amended | 18873 |
| | Acct. 404 amended | 4950, 18874 |
| | Acct. 405 amended | 4950 |
| 120 | Removed | 7214 |
| 141.1 | Form amended | 4248, 4950, 12116 |
| | (d) amended | 15833, 23334 |
| 141.27 | Form amended | 13480 |
| 141.200 | Added | 7214 |
| 154.38 | (d)(5) added | 12116 |
| 154.52 | (c) added | 1505 |
| 154.63 | (f) amended | 1388, 12116, 23334 |
| | (c)(1) and (2), (e)(4), Schedules, and Statements amended; (e)(2)(i) revised | 20068 |
| 154.109b | Added | 9810 |
| 157.7 | (f) revised; (g) added | 13479 |
| 157.14 | Introductory text of (a) (6–d) revised | 13479 |
| 157.22 | (a) and (d) amended | 26604, 27609 |
| 157.29 | (a) and (b) amended | 26604, 27609 |
| 201 | Balance Sheet Account No. 10 removed; redesignated from No. 11 | 23334 |
| | Balance Sheet Account No. 11 redesignated as No. 10 | 23334 |
| | Chart amended | 4248, 4950, 12117, 23334 |
| | Definitions amended | 4248 |
| | Gas Plant Instruction No. 1 amended | 23334 |
| | Gas Plant Instruction No. 3 amended | 2172, 18874 |
| | Gas Plant Instruction No. 5 amended | 4950, 23334 |
| | Gas Plant Instruction No. 7 amended | 4950 |
| | Gas Plant Instruction No. 10 amended | 4950 |
| | Gas Plant Instruction No. 12 amended | 4950 |
| | Gas Plant Instruction No. 16 added | 18874 |
| | Operating Expense Instruction No. 1 amended | 18874 |
| | Operating Expense Instruction No. 4 added | 18874 |
| | Acct. 103 revised | 12117 |
| | Acct. 108 amended | 4950 |
| | Acct. 109 removed | 4951 |
| | Acct. 110 removed | 4951 |
| | Acct. 111 amended | 4951 |
| | Acct. 111.1 removed | 4951 |
| | Acct. 111.2 removed | 4951 |
| | Acct. 112 removed | 4951 |
| | Acct. 113.1 removed | 4951 |
| | Acct. 113.2 removed | 4951 |
| | Acct. 114 amended | 7215 |
| | Acct. 123 revised | 4248 |
| | Acct. 123.1 added | 4249 |
| | Acct. 166 revised | 1388 |
| | Acct. 167 revised | 1389 |
| | Acct. 183.1 corrected | 755 |
| | Acct. 188 amended | 12117 |
| | Acct. 191 added | 1585 |
| | Acct. 216 revised | 4249 |
| | Acct. 216.1 added | 4249 |
| | Acct. 252 amended | 23334 |
| | Acct. 271 removed | 23334 |
| | Acct. 303 amended | 18874 |
| | Acct. 320 B.1 revised | 2172 |
| | Acct. 404.1 amended | 4951 |
| | Acct. 404.2 amended | 4951 |
| | Acct. 404.3 amended | 4951, 18874 |
| | Acct. 405 amended | 4951 |
| | Acct. 418.1 added | 4249 |
| | Acct. 495 amended | 12117 |
| | Acct. 797 revised | 4951 |
| | Acct. 805.1 added | 1586 |
| 204 | Heading corrected | 16219 |
| | Balance Sheet Account No. 10 removed; redesignated from No. 11 | 23335 |


CODE

XUM





C

## 18 CFR—Continued

### Chapter I—Continued


| | Page |
|---|---|
| Balance Sheet Account No. 11 redesignated as No. 10 | 23335 |
| Chart amended | 4952, 23335 |
| Gas Plant Instruction No. 1 amended | 23335 |
| Gas Plant Instruction No. 2 revised | 2173 |
| Gas Plant Instruction No. 4 amended | 23335 |
| Gas Plant Instruction No. 15 added | 18874 |
| Operating Expense Instruction No. 3 added | 18874 |
| Acct. 110 amended | 4952 |
| Acct. 114 amended | 7215 |
| Acct. 183 corrected | 755 |
| Acct. 191 added | 1586 |
| Acct. 252 amended | 23335 |
| Acct. 271 removed | 23335 |
| Acct. 303 amended | 18874 |
| Acct. 320 B.1 revised | 2173 |
| Acct. 404 amended | 4952, 18875 |
| Acct. 405 amended | 4952 |
| Acct. 731.1 added | 1586 |
| 205 Acct. 183 corrected | 755 |
| 221 Removed | 7215 |
| 260.1 (c) amended | 1389, 15833, 23335 |
| Form 2 amended | 1586, 2173, 4249, 4952, 12117 |
| (c) corrected | 16219 |
| 260.4 Added | 4246 |
| 260.7 (a), (b), and (c) revised | 6810 |
| 260.12 Added | 23516 |
| 260.200 Added | 7215 |


### Chapter II


| | Page |
|---|---|
| 300.735–41 (b) Appendix revised | 15075 |
| 302.3 (b)(3) and (4) redesignated as (b)(4) and (5); new (b)(3) and (6) added | 17944 |
| 302.4 (b) revised | 17944 |
| 302.7 (d) revised | 17945 |
| 302.8 (d)(1) revised | 17945 |
| 302.9 (g) added | 17945 |
| 302.11 Heading revised; text designated as (a); (b) added | 17945 |
| 302 Appendix A heading revised | 17945 |
| 305 Added | 5458 |
| 306 Added | 3592 |
| 306.9 (b)(2) corrected | 16999 |


### Chapter III


| | Page |
|---|---|
| 401 Revised | 10259 |


### Chapter VIII


| | Page |
|---|---|
| 801 | 4662 |
| 801.7 Corrected | 6386 |


*Proposed Rules:*


| | Page |
|---|---|
| 2 | 809, 1517, 5194, 6401, 8069, 9315, 9316, 10014, 10163, 12418, 14295, 14763, 17253, 19053, 21182, 21652, 22898, 22900 |
| 3 | 4779, 21652 |
| 9 | 21652 |
| 34 | 17253 |
| 35 | 2336, 4275 |
| 141 | 1652, 10121, 13491, 19974, 20107, 22142 |
| 153 | 1519 |
| 154 | 1055, 1519, 2768, 4415, 10014, 12416, 14295, 14763, 17253, 19053, 22898, 22900 |
| 156 | 1519 |
| 157 | 1519, 10014, 12416, 12819, 14763, 17253, 19053 |
| 201 | 1055, 4415 |
| 250 | 14763 |
| 260 | 1055, 1125, 4415, 4779, 13491, 19239 |
| 420 | 4517 |


## 19 CFR

### Chapter I


| | Page |
|---|---|
| Nomenclature change to chapter | 25171 |
| 1.2 (c) table amended | 4507, 4508, 10807, 16350, 22382, 22547 |
| (c) table and (d) table amended | 24354 |
| 1.3 (d) amended | 16850, 25171 |
| 1.7 (a) amended | 6069 |
| 1.11 Added | 17444 |
| 4.2 (c) amended | 2448 |
| 4.5 (a) amended | 2448 |
| 4.7a (b)(3) and (e)(1) revised; (b)(4) and (e)(4) added | 2448 |
| 4.17 Amended | 17444 |
| 4.22 Table amended | 9009, 11077 |
| 4.30 (a) revised | 2448 |
| 4.34 Amended | 17444 |
| 4.38 (a) amended | 17444 |
| 4.61 (b) (23) and (24) added | 24354 |
| 4.66b Revised | 1587 |
| 4.93 (b)(1) and (2) amended | 1587, 10807 |
| 4.99 Revised | 20821 |
| 6.7 (g) removed | 2449 |
| 6.13 Amended | 3596 |
| 6.15 (c) amended | 17444 |
| 7.1 (a) amended | 17445 |
| 7.8 (e) amended | 17445 |
| (a) footnote 15 revised | 22382 |
| 8 Removed | 17445 |
| 8.2 (a), (b), and (c) amended | 2449 |
| 8.3 (b) amended | 2449 |
| (a) amended | 13369 |
| 8.4 (e) amended | 13369 |
| 8.15 (c)(6) revised | 2449 |
| 8.30 (g) and (h) added | 5630 |





| | Page |
|---|---|
| 8.45 Amended | 13369 |
| 8.51a Revised | 2449 |
| 9 Removed (provisions transferred to Part 145) | 13369 |
| 9.4 Amended | 2449 |
| 9.11 (a) amended | 2449 |
| 10.9 (a) revised | 13481 |
| 10.11–10.30b Removed | 2449 |
| 10.30c Removed | 22548 |
| Footnotes 33e and 33f removed | 22548 |
| 10.42 Removed | 2449 |
| 10.59 (f) amended | 4390 |
| 1060 (a) and (d) amended | 17445 |
| 10.62a (a) and (c) amended | 17445 |
| 10.64a Added | 12736 |
| 10.80 Amended | 17445 |
| 10.91 Amended | 17445 |
| 10.98 (d) amended | 17445 |
| 10.103 Amended | 17445 |
| 10.104 (a) and (b) amended | 17445 |
| 10.108 (b) amended | 17445 |
| 10.114 (d)(1) amended | 17445 |
| 10.151—10.153 Center heading added | 17445 |
| 10.151 Added | 17445 |
| 10.152 Added | 17445 |
| 10.153 Added | 17445 |
| 10.161—10.166 Center heading added | 17445 |
| 10.161 Added | 17445 |
| 10.162 Added | 17446 |
| 10.163 Added | 17446 |
| 10.164 Added | 17446 |
| 10.165 Added | 17446 |
| 10.166 Added | 17446 |
| 11 Heading revised | 2449 |
| 11.2a Amended | 13369 |
| 11.3 Revised | 2449 |
| Amended | 22548 |
| 11.12 (d) amended | 17446 |
| 11.12a (d) amended | 17446 |
| 11.12b (d) amended | 17446 |
| 12.6 Removed | 17446 |
| 12.49–12.51 Centerheading, sections, and footnote 33 to 12.49 removed | 20230 |
| 12.50 (a), (c), and (f) amended | 17446 |
| 12.51 (a) amended | 13369 |
| 12.71 (b) revised | 14285 |
| 12.105–12.109 Center heading added | 10807 |
| 12.105 Added | 10807 |
| (a) amended | 14677, 16044 |
| 12.106 Added | 10807 |
| 12.107 Added | 10807 |
| 12.108 Added | 10807 |
| 12.109 Added | 10807 |
| 13 Removed | 17446 |
| 14 Removed | 17446 |
| 16 Removed | 17446 |
| 16.24 (f) table amended | 1018, 8057, 9226 |
| 18.1 (c), (d), (e), and (f) removed | 13550 |
| 18.11 (c) amended | 17446 |
| 18.12 (b) and (c) amended | 17446 |
| 18.16 Removed | 17446 |
| 18.17 Removed | 17446 |
| 18.18 Removed | 17446 |
| 18.19 Removed | 17446 |
| 18.25 (a) amended | 13369 |
| 19.6 (a) amended | 17446 |
| 19.7 (c) amended | 17446 |
| 19.9 Removed | 17446 |
| 19.15 (g) revised | 5631 |
| (g)(1) and (2) amended | 17446 |
| 19.18 (a) amended | 17446 |
| 19.23 Amended | 17447 |
| 21 Removed | 13550 |
| 22 Bond form 7609 corrected | 3192 |
| 22.28 (b), (d), and (e) amended | 17447 |
| 22.29 (b) amended | 17447 |
| 23 Removed | 2449 |
| 24.1 (a)(6) revised | 9490 |
| 24.11 (a)(2) amended | 17447 |
| 24.12 (a)(1) (ii) and (iv) removed | 13551 |
| 24.17 (a)(11) amended | 17447 |
| 25.2 Added | 19362 |
| 25.4 (a)(16), (19), and (25) revised | 19362 |
| 25.8 (a)(3) amended | 17447 |
| 54.3 (e) amended | 13369 |
| 112 Added | 13551 |
| 123.4 (a) and (b) amended | 17447 |
| 123.7 (c) amended | 17447 |
| 123.12 (d) added | 6991 |
| 123.13 Revised | 6991 |
| 123.52 (a) amended | 2449 |
| 123.62 Amended | 2449 |
| 125 Added | 13554 |
| 132 Added | 20230 |
| 133.3 (a) revised | 16850 |
| 133.24 Amended | 17447 |
| 133.31 (c) amended | 21397 |
| 133.33 (a)(2) revised | 16850 |
| 133.46 Amended | 17447 |
| 133.53 Amended | 17447 |
| 134.32 (n) amended | 13369, 17447 |
| 134.52 (a) amended | 17447 |
| 141 Added | 17447 |
| 142 Added | 17461 |
| 143 Added | 17463 |
| 144 Added | 17464 |
| 145 Added (provisions transferred from Part 9) | 13369 |
| 145.11 (c) amended | 17469 |
| 145.12 (a)(2), (b)(1), and (c) amended | 17469 |
| 145.26 Amended | 17469 |
| 145.31 Amended | 17470 |


20-120 O - 73 - 7




| | Page |
|---|---|
| 145.32 Amended | 17470 |
| 145.33 Amended | 17470 |
| 145.34 Amended | 17470 |
| 145.35 Amended | 17470 |
| 145.36 Amended | 17470 |
| 145.37 Amended | 17470 |
|

## 19 CFR—Continued

### Chapter I—Continued

| | | Page |
|---|---|---|
| 145.32 | Amended | 17470 |
| 145.39 | Amended | 22548 |
| 145.71 | (c) amended | 17470 |
| 146.12 | (b)(1)(ii) amended | 17470 |
| 146.21 | (c)(3)(ii) and (iii) amended | 17470 |
| 146.48 | (e) and (f) amended | 17470 |
| 147.13 | Amended | 17470 |
| 148 | Added | 2449 |
| 148.81 | (a), (b), (c), and (d) amended | 22548 |
| 148.90 | Added | 22548 |
| 151 | Added | 17470 |
| 152 | Added | 17477 |
| 153.15 | (c) corrected | 2756 |
| 153.43 | Table amended | 2211, 5175, 7566, 9226, 15079, 18382, 22794, 22962 |
| 158.2 | Amended | 17482 |
| 159 | Added | 17482 |
| 171.11 | (b) revised | 13556 |
| 172.11 | (b) revised | 13556 |
| 172.21 | (b) (4) and (5) amended | 13556 |
| 172.22 | (b) and (d) amended | 17487 |
| 174.3 | (b)(1) amended | 17487 |
| 174.12 | (e) amended | 17488 |

*Proposed Rules:*

| | |
|---|---|
| 1 | 3334, 6694, 7008, 7810, 10814, 13027, 20338, 22032, 24374, 25185 |
| 4 | 1936, 16656, 20895, 27094 |
| 6 | 20895 |
| 8 | 4515 |
| 10 | 1936, 9670, 25995, 27094 |
| 11 | 25995 |
| 12 | 1642, 4261, 25995 |
| 19 | 15080, 22554, 25995, 27094 |
| 24 | 20896, 23954, 25995 |
| 25 | 25995, 27094 |
| 113 | 25995 |
| 114 | 25995 |
| 132 | 1642 |
| 133 | 4515 |
| 134 | 6181 |
| 141 | 23954, 25995, 27094 |
| 142 | 25995 |
| 143 | 27094 |
| 144 | 27094 |
| 145 | 2985, 27094 |
| 148 | 9670 |
| 151 | 25448 |
| 172 | 25995 |
| 174 | 21785 |

## 20 CFR

### Chapter I

| | | Page |
|---|---|---|
| 01.3 | Removed | 2650 |
| | Subchapter C (Parts 31–34) Removed | 2650 |
| | Subchapter D (Parts 41–44) Removed | 2650 |
| | Subchapter E (Parts 51–54) Removed | 2650 |
| | Subchapter H (Parts 81–84) Removed | 2650 |
| | Subchapter I (Parts 91–94) Removed | 2650 |

### Chapter II

| | | |
|---|---|---|
| 210.2 | (b)(1)(ii) and (iii) redesignated as (b)(1) (iii) and (iv); new (b)(1)(ii) added | 5631 |
| 238.2 | (a) revised | 3596 |
| | (a)(2)(ii) corrected | 6171 |
| 238.8 | Added | 3596 |

### Chapter III

| | | |
|---|---|---|
| 401.3 | (v) added | 7222 |
| | (d) revised | 14826 |
| 404 | Nomenclature changes | 3597 |
| 404.360 | (a) revised; (c)(6) and (d)(7) added | 14827 |
| 404.362 | Revised | 14828 |
| 404.363 | (c) and (d) revised | 14828 |
| 404.415 | (a) revised | 9428 |
| 404.416 | (a) revised | 17715 |
| 404.417 | (a) revised | 9429 |
| 404.422 | (c) and (d) redesignated as (d) and (e) and revised; new (c) added | 9429 |
| 404.428 | (a) revised | 17716 |
| 404.429 | (c)(1) revised | 9429 |
| 404.430 | Added | 17716 |
| 404.431 | Added | 17716 |
| 404.432 | Revised | 17716 |
| 404.434 | (a) and (b)(3) revised | 17716 |
| 404.435 | (a)(6) and (d) revised; (a)(7) added | 9429 |
| 404.436 | (e) added | 9429 |
| | Introductory text revised | 17716 |
| 404.437 | Introductory text revised | 17716 |
| 404.439 | Revised | 9429 |
| | Introductory text revised | 17717 |
| 404.441 | Revised | 9430 |
| | Introductory text revised | 17717 |
| 404.451 | (a) revised | 3596 |
| | (b) and (c) revised; (d) added | 9430 |
| 404.452 | (a) revised; (f) added | 9430 |
| 404.453 | (a) revised | 3597 |
| | (b)(1) revised | 9431 |
| 404.454 | Revised | 3597 |
| 404.463 | (a)(7) revised | 14827 |
| 404.701 | (g)(4) revised | 26806 |
| 404.704 | (c) revised | 14826 |
| 404.906 | (l) added | 9431 |
| 405 | Nomenclature changes | 3597, 26718 |
| | Heading revised | 13637 |



| | | Page |
|---|---|---|
| 405.104 | Added | 17211 |
| 405.116 | (g) added | 17211 |
| 405.231 | (g) and (h) revised | 17211 |
| 405.316 | (a) and (b) revised | 13637 |
| 405.317 | Revised | 13637 |
| 405.318 | Revised | 13638 |
| 405.319 | Revised | 13638 |
| 405.320 | Revised | 13639 |
| 405.321 | Added | 13639 |
| 405.402 | (g) added | 17211 |
| 405.405 | Heading revised; (d) removed | 14093 |
| 405.406 | (a) revised; (c), (d), and (e) added | 6387 |
| | (e) corrected | 7223, 7458 |
| 405.419 | (c)(4) removed | 14093 |
| 405.429 | (b)(2) revised | 14093 |
| 405.454 | (k) added | 6387 |
| | (a), (g), (h), and (k) revised | 14093 |
| 405.502 | (e) added | 17212 |
| 405.603 | Added | 6387 |
| 405.622 | Added | 3598 |
| 405.1201—405.1230 | (Subpart L) Revised | 18978 |
| 405.1203 | Added | 23325 |
| 405.1204 | Added | 23325 |
| 405.1205 | Added | 23326 |
| 405.1206 | Added | 23326 |
| 405.1207 | Added | 23326 |
| 405.1208 | Added | 23326 |
| 405.1505 | (g) added | 3598 |
| 410 | Nomenclature changes | 3597 |
| 410.510 | (d) revised | 13640 |
| 422 | Nomenclature changes | 3597 |
| 422.428 | Revised | 7223 |
| 422.430 | Introductory text of (b) revised; (b) (19) and (20) redesignated as (b) (20) and (21); new (b)(19) added | 7223 |
| 422.501 | Revised | 11450 |
| 422.505 | Revised | 11450 |
| 422.510 | (b) revised | 11451 |
| 422.512 | Added | 11451 |
| 422.515 | Revised | 11452 |
| 422.520 | Revised | 11452 |
| 422.525 | Revised | 11452 |

### Chapter V

| | | |
|---|---|---|
| 602.10b | (a)(1) revised | 20614, 21920 |
| 614.19 | Revised | 2211 |
| 615.14 | Technical correction | 1925 |
| 625.2 | (x) revised | 5342 |

### Chapter VI

| | | |
|---|---|---|
| | Subchapter A revised | 2650, 26860 |
| 701 | Revised | 2650, 26860 |
| 702 | Added | 2651 |
| | Revised | 26861 |
| 703 | Added | 2562 |
| | Revised | 26873 |
| 704 | Added | 2667 |
| | Revised | 26877 |
| 715 | Revised | 16962 |
| 718 | Revised | 16965 |
| 720 | Revised | 16966 |
| 722 | Revised | 8328 |
| 725 | Revised | 26042 |
| 726 | Added | 12494 |

### Chapter VII

| | | |
|---|---|---|
| 801 | Added | 6171 |
| 802 | Added | 6172 |

*Proposed Rules:*

| | |
|---|---|
| 401 | 3608, 7239 |
| 404 | 3609, 5182, 5656, 19611, 18383, 19389, 26921 |
| 405 | 8450, 16912, 17246, 18620, 19230, 20466, 21437, 21936, 22980, 23802, 25448, 26132, 26616 |
| 416 | 21188 |
| 422 | 21271 |
| 602 | 15969 |
| 725 | 26069 |
| 726 | 1591 |

## 21 CFR

### Chapter I

| | | |
|---|---|---|
| 1.1d | Revised | 6393 |
| 1.8 | (e) added | 20704 |
| 1.8d | Added | 2125 |
| | Revised | 6950 |
| 1.10 | (d) amended | 6966 |
| | (e), (f), and (g) removed; (h) redesignated as (e) | 20706 |
| 1.10a | Added | 20706 |
| 1.11 | Removed | 20716 |
| 1.12 | Heading and (a)(1) revised; (a)(2) and (3) redesignated as (a)(5) and (6); new (a)(2), (3), and (4), (g), (h), and (i) added | 20721 |
| 1.17 | Added | 2130 |
| | (a) corrected | 5459 |
| | Revised | 6959 |
| | Effective date extended | 22791 |
| | (a)(1) amended | 16044 |
| 1.18 | Added | 2136 |
| | Revised | 6963 |
| | (h) revised | 20071 |
| 1.106 | (j) revised | 7098 |
| 2.120 | (a) revised | 6668 |
| | (a)(1) amended | 17212 |
| 2.121 | (u) added | 1925 |
| | (t) removed | 4512, 4750 |
| | (v) added | 6669 |
| | (w) added | 8650 |





CODE XUM

## 21 CFR—Continued

### Chapter I—Continued

| | Page |
|---|---|
| (b) heading, (c), and (r) revised; (b)(3), (p)(4), (5), and (6), (x), (y), (z), (aa), (bb), (cc), (dd), (ee), (ff), and (gg) added | 11453 |
| (f) revised | 14678 |
| (b)(1) and (2), (d)(1)(i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), and (x), (d)(2), and (u)(2) revised; (d)(1)(xi), (d)(3), (p)(7), and (hh) added | 16220 |
| (c)(1) and (p)(1)(i) amended; (e)(1)(iv) removed; (e)(1)(v) and (vi) redesignated as (e)(1)(iv) and (v) | 17212 |
| 2.171 Revised | 6394, 17212 |
| 3.1 Removed | 20708 |
| 3.6 Removed | 6966 |
| 3.9 Removed | 20717 |
| 3.10 Removed | 20723 |
| 3.23 (b) removed | 20723 |
| 3.26 Removed | 20708 |
| 3.32 Removed | 20717 |
| 3.34 Removed | 6966 |
| 3.41 Removed | 2137 |
| 3.42 Removed | 20726 |
| 3.46 Removed | 20717 |
| 3.70 Removed | 6966 |
| 3.88 Revised | 2137 |
| 3.92 Added | 854 |
| (d)(2) corrected | 5168 |
| 3.93 Added | 18101 |
| (b)(2) corrected | 21397 |
| 3.94 Added | 20725 |
| 3.95 Added | 20725 |
| 3.201 Removed | 20723 |
| 3.203 Removed | 11077 |
| 5 Removed | 20708 |
| 6 Added | 7003 |
| 8.4 (c) amended | 7005 |
| 8.501 (a), (b), (c), (e), (f), and (g) amended | 7006, 7007 |
| (a) amended | 9078, 10266 |
| (g) table amended | 19909 |
| (b) table and (c) table amended | 19969 |
| (f) table amended | 24643 |
| 8.502 (e) added | 9078, 10266 |
| 8.510 (h) added | 9078, 10266 |
| 8.515 (b) removed | 9078, 10266 |
| 8.4069 Added | 20614 |
| 8.6016 Added | 20615 |
| 8.6017 Added | 12803 |
| 8.6018 Added | 12803 |
| 8.8001 Added | 8650 |
| 8.8003 Added | 8650, 19909 |
| 8.8005 Added | 20615 |
| 9.90 Removed | 9078, 10266 |
| 9.230 Added | 19969 |
| Corrected | 24206 |
| 9.411 Added | 19970 |
| 10.8 Added | 12397 |
| 11 Added | 20729 |
| 18.545 (d) removed | 6967 |
| 19.503 (f) revised | 6967 |
| 19.513 (f) revised | 6967 |
| 19.515 (b)(1), (2)(i), and (3) and (c) revised | 6884, 15365 |
| 19.520 (b)(1), (2)(i), and (3) and (c) revised | 6885, 15365 |
| 19.525 (b)(1)(iii) added; (d) revised | 6886, 14165 |
| 19.530 (c)(2) revised | 1177 |
| (c)(2) revised | 1925 |
| (d) revised | 6886, 14165 |
| 19.531 Amended | 6886, 14165 |
| 19.595 (a) amended | 4715 |
| 19.750 (f) and (g) revised | 9997 |
| 19.765 (g) and (h) revised | 9997 |
| 19.775 (f)(1)(i) revised | 6885, 15365 |
| (h) and (i) revised | 9997 |
| 19.782 (a)(1)(i) revised | 6885, 15365 |
| (d) revised | 9997 |
| 19.783 (b)(1)(i) revised | 6885, 15365 |
| (d) revised | 9997 |
| 19.785 (e) and (f) revised | 9997 |
| 19.787 (e)(8) revised | 6885, 15365 |
| (g) and (h) revised | 9997 |
| 19.790 (e) revised | 9997 |
| 19.791 (b)(2) revised | 6887, 15365 |
| 26 Added | 25986 |
| 27.10 (c), (d), and (e) revised | 14252 |
| 27.15 (b), (c), and (d) revised; (e) and (f) removed | 14253 |
| 27.25 (c), (d), (e), and (f) revised | 14254 |
| 27.30 (c), (d), and (e) revised | 14255 |
| 27.35 (c), (d), and (e) revised; (f) removed | 14256 |
| 27.45 (c), (d), and (e) revised; (f) removed | 14257 |
| 27.54 (c)(2) amended | 6968 |
| 27.60 (c)(2)(iv) amended | 6968 |
| 27.70 (c), (d), and (e) revised | 14257 |
| 27.80 (d)(7) revised | 6968 |
| 27.150—27.168 Provisions stayed | 6969 |
| 28.1 (d)(1) and (2) revised | 15504 |
| 28.2 (a)(2) removed; (a)(3) redesignated as (a)(2) and revised; (b)(1), (2), (5), and (8) revised; (c) amended | 15504 |
| 37.10 (b)(1), (c) introductory text, (c)(1), and (e)(1) revised | 3960 |
| 45 Heading revised | 25672 |
| 45.1 (b)(2)(v) amended | 6968 |
| Revised | 25672 |
| 45.2 Removed | 25673 |
| 80.1 Revised | 20737 |



| | Page |
|---|---|
| 90 Added | 12717 |
| 90.20 (c)(2) and (g) corrected | 14165 |
| 100 Added | 6972 |
| 100.1 (c)(1) revised | 20740 |
| 102 Added | 6966 |
| 102.9 Added | 6969 |
| 102.10 Added | 20742 |
| 102.11 Added | 20744 |
| 102.12 Added | 20741 |
| 121 Subpart E heading revised | 12738 |
| 121.13 Added | 19219 |
| (b) corrected | 19970 |
| 121.51 (c) amended | 7005 |
| 121.53 Amended | 7005 |
| 121.101 (d)(5) table amended | 20038 |
| 121.205 Removed | 5241 |
| 121.207 (c) table amended | 4390, 10078 |
| 121.208 (d) table amended | 5241, 26909 |
| 121.210 (c) table amended | 10078 |
| 121.217 Removed | 22224 |
| 121.225 (a)(3)(v) and (h) removed | 22224 |
| 121.232 (d) table amended | 5241 |
| 121.233 (d) table amended | 5241 |
| 121.234 (a) amended | 17717 |
| 121.260 Revised | 8651 |
| 121.262 (c) table amended | 16857 |
| 121.266 Removed | 10078 |
| 121.341 Revised | 14165 |
| 121.343 Revised | 26447 |
| 121.344 Redesignated from 121.1247 | 6394 |
| 121.345 Added | 10713 |
| Revised | 22122 |
| 121.346 Added | 16999 |
| 121.347 Added | 22891 |
| 121.1002 Added | 20038 |
| 121.1030 (c)(14) added | 13557 |
| (c)(14) corrected | 18367 |
| 121.1031 (e) amended | 21997 |
| 121.1073 (a) revised | 20726 |
| 121.1084 (b) revised | 1178 |
| 121.1088 (c) table amended | 19122 |
| 121.1134 Revised | 20726 |
| 121.1149 Amended | 20726 |
| 121.1164 (b) amended | 12914 |
| 121.1202 (a), (b), (d), (e), and (f)(1) and (2) revised; (f)(3) added | 19816 |
| 121.1226 Revised | 5343 |
| 121.1234 Redesignated as 121.4004 | 5342 |
| 121.1235 (a)(3) and (b)(3) added | 18367 |
| 121.1236 Revised | 10713, 22122 |
| 121.1241 Revised | 25437 |
| 121.1247 Added | 2681 |
| Redesignated as 121.344 | 6394 |
| 121.1248 Added | 10638 |
| Corrected | 12802 |
| 121.1249 Added | 12 |
| Corrected | 1635 |
| 121.1250 Added | 12398 |
| 121.1251 Added | 20318 |
| 121.1252 Added | 21783 |
| 121.1254 Added | 26447 |
| 121.1255 Added | 27047 |
| 121.2000 Added | 12738 |
| 121.2001 Redesignated as 121.2005 | 12738 |
| 121.2005 Redesignated from 121.2001 | 12738 |
| 121.2505 (c) table amended | 8594 |
| (d) amended | 10077 |
| 121.2507 (c) amended | 8595 |
| 121.2511 (b) table amended | 24643 |
| 121.2514 (b)(3)(xv) amended | 6887 |
| (b)(3)(xx) amended | 12738 |
| 121.2520 (c)(5) table amended | 8594, 8595, 8652, 8738, 10078, 12398, 18245, 18367, 21920, 24355 |
| 121.2524 Revised | 13557 |
| 121.2526 (a)(5) amended; (b)(2) table amended | 8594, 8595 |
| (a)(5) table amended | 10713, 12398, 14751, 21921 |
| (b)(2) table corrected | 21254 |
| 121.2531 (a)(2) amended | 8652, 16857, 22889 |
| 121.2536 (d)(1) and (2) amended | 22889 |
| (d)(3) amended | 22890 |
| 121.2541 (c) table amended | 8595 |
| 121.2546 (b)(1) and (2) revised | 18101 |
| 121.2547 (b) introductory text, (b)(3) through (8) and (10) through (13), and (c)(4) revised; (b)(14) added | 14752 |
| 121.2553 (a)(3) amended | 22890 |
| 121.2557 (d)(3) amended | 8595 |
| 121.2562 (c)(4)(iv) amended | 8738 |
| 121.2566 (b) table amended | 15443, 16857 |
| Amended | 15953, 19025 |
| (b) corrected | 16857 |
| 121.2571 (b)(2) amended | 8652, 8738, 18246 |
| 121.2622 Added | 1926 |
| 121.2623 Added | 8596 |
| 121.4001 (c) revised | 13734 |
| 121.4002 Added | 19219 |
| (b) corrected | 19970 |
| Corrected | 20821 |
| 121.4004 Redesignated from 121.1234 | 5342 |
| 122 Added | 18101 |
| 122.10 (a)(9) provisions stayed | 22794 |
| 125.1 Revised | 20717 |
| 125.2 Revised | 20718 |
| 125.3 Revised | 20718 |
| 128.4 Revised | 18102 |



| | Page |
|---|---|
| 130.3 Added | 20718 |
| 130.4 Added | 20718 |
| 130.5 Added | 20718 |
| 130.6 Added | 20718 |
| 130.7 Added | 20718 |
| 130.8 Added | 20718 |
| 130.9 Added | 20718 |
| 130.10 Added | 20718 |
| 130.11 Added | 20718 |
| 130.12 Added | 20718 |
| 130.13 Added | 20718 |
| 130.14 Added | 20718 |
| 130.15 Added | 20718 |
|

## 21 CFR—Continued

### Chapter I—Continued

| | Page |
|---|---|
| 128.10 Added | 855 |
| 128a.7 (c)(3) revised | 13481 |
| 128b Added | 2401 |
| 128b.6 (a)(9) corrected | 3961 |
| 130.3 (a)(2) amended | 7005, 11078 |
| 130.4 (c)(2) amended; (f)(6) redesignated as (f)(7); new (f)(6) added | 7005 |
| 130.5 (d)(8) added | 7005 |
| 130.9 (a)(1) amended | 7005 |
| 130.12 (a)(7) added | 7005 |
| 130.27 (c)(4) added | 6263 |
| 130.44 (d)(8) and (k)(1) and (2) amended | 12211 |
| 130.46 Revised | 4250 |
| 130.50 Added | 6137 |
| 131.15 Amended | 854 |
| 131.20 Amended | 10078 |
| 131.21 Amended | 10078 |
| 132 Revised | 6263 |
| 132.8 (b)(3) effective date stayed | 18875 |
| 132.51 (b) revised | 2967 |
| (i) added | 13558 |
| 135.3 (b)(10) added | 7005 |
| 135.4a (b)(13) redesignated as (b)(15); (b)(14) added | 7006 |
| 135.12 (a)(9) added | 7006 |
| 135.13a (a)(1) amended | 7006 |
| 135.13b (d) added | 7006 |
| 135.109 Added | 9813 |
| Heading, (a), (b)(1), (2), and (3), and (f)(1) revised | 23943 |
| 135.112 Added | 21179 |
| 135.113 Added | 18102 |
| (a) corrected | 21397 |
| 135.501 (c) table amended | 1274, 6888, 8652, 9009, 9587, 12399, 15444, 16858, 19909, 22623 |
| 135a.3 (a) amended | 21255 |
| 135a.9 (a) amended | 21255 |
| 135a.20 Added | 2173 |
| 135a.29 (c)(1)(i) corrected | 16350 |
| 135a.35 Added | 10714 |
| 135a.38 Added | 9587 |
| 135a.39 Added | 21997 |
| 135a.40 Added | 22470 |
| 135a.43 Added | 1739 |
| (d) corrected | 3040 |
| 135a.47 Added | 22623 |
| 135a.49 Added | 26909 |
| 135a.50 Added | 10808 |
| 135a.51 Added | 19026 |
| 135a.52 Added | 20821 |
| 135b.3 Removed | 10926 |
| 135b.6 Removed | 10926 |
| 135b.12 (b)(1) and (f) table revised | 21179 |
| 135b.15 (a)(3)(iii) and (d) added | 25673 |
| 135b.17 (a), (c), and (d) revised | 10079 |
| 135b.19 (b) and (c) revised | 2174 |
| (a), (b), and heading of (c) revised; (d) added | 22623 |
| 135b.35 Added | 2174 |
| 135b.41 (c)(3) and (4) revised; (c)(5) and (6) added | 10808 |
| 135b.43 (b) revised | 18246 |
| 135b.47 (e) added | 5840 |
| (g) added | 6888 |
| 135b.51 Added | 15444 |
| 135b.53 (a), (b), and (c)(1), (2), (3), and (4) redesignated as (a)(1), (2), and (3)(i), (ii), (iii), and (iv); new (b) added | 16858 |
| 135b.54 Added | 22792 |
| (b) corrected | 26183 |
| 135b.57 Added | 14166 |
| 135b.58 (c)(2) revised | 6669 |
| 135b.60 Added | 20821 |
| 135b.62 Added | 4318 |
| 135b.64 (a) and (b) revised | 15444 |
| (b) revised | 16858 |
| 135b.69 Added | 15050 |
| 135b.70 Added | 15050 |
| 135b.73 Added | 1274 |
| 135b.74 Added | 10443 |
| 135b.75 Added | 6669 |
| 135b.77 Added | 22792 |
| (b) revised | 24355 |
| 135b.79 Added | 6888 |
| 135b.80 Added | 15841 |
| 135b.82 Added | 14166 |
| 135b.83 Added | 8739 |
| 135b.84 Added | 8653 |
| 135b.85 Added | 9010 |
| 135b.86 Added | 8653 |
| 135b.88 Added | 15833 |
| 135b.89 Added | 24643 |
| 135b.90 Added | 24895 |
| 135b.91 Added | 20822 |
| 135b.92 Added | 12399 |
| 135b.93 Added | 14828 |
| 135b.94 Added | 12914 |
| 135b.95 Added | 20822 |
| 135b.97 Added | 26910 |
| 135c.7 (e)(2)(ii) table amended | 856 |
| (c)(3) and (e)(4) added | 2332 |
| 135c.13 (e) table amended | 12399 |
| 135c.14 (e) table amended | 18546 |
| Effective date corrected | 19909 |
| 135c.18 (c) revised | 4665 |
| 135c.20 (d)(1) revised | 3192 |
| 135c.22 (c) revised; (f) table amended | 13735 |
| 135c.24 (b)(1) revised | 15444 |
| 135c.34 (b)(2) revised | 10079 |



| | Page |
|---|---|
| (b)(2) revised; (b)(3) added; (e) table amended | 13558 |
| (b)(1) and (4) revised; (e) table 2 amended | 24644 |
| 135c.39 (b) revised | 5841 |
| 135c.50 Heading of (g) revised; (h) added | 5168 |
| (i) added | 14166 |
| 135c.52 (a), (b), and (c)(1), (2), (3), and (4) redesignated as (a)(1), (2), and (3)(i), (ii), (iii), and (iv), new (b) added | 10079 |
| (c)(1) and (2) revised | 16859 |
| Revised | 25673 |
| 135c.57 (c)(1) revised | 1505 |
| (e) added | 5841 |
| (g) added | 6888 |
| (f) added | 9294 |
| (h) added | 26910 |
| 135c.59 Revised | 3402 |
| Heading, (a), and (b) revised; (d)(3) added | 25673 |
| 135c.63 (b)(3) added | 8652 |
| (b)(4) added | 19909 |
| (a) revised | 21255 |
| 135c.64 Added | 15444 |
| (b) corrected | 17000 |
| 135c.67 Added | 6810 |
| (b) revised | 15444 |
| 135c.77 Added | 9588 |
| 135c.78 (a) revised | 19219 |
| (a) corrected | 20823 |
| 135c.85 Added | 4251 |
| 135c.86 Revised | 18463 |
| 135c.88 Added | 4251 |
| 135c.89 Added | 1274 |
| 135c.94 Added | 16859 |
| 135c.97 Added | 2174 |
| 135c.98 Added | 8596 |
| 135c.99 Added | 22792 |
| (b) revised | 24355 |
| 135c.100 Added | 12211 |
| 135c.101 Added | 4318 |
| 135c.102 Added | 22793 |
| 135c.103 Added | 8597 |
| 135c.104 Added | 6137 |
| 135c.105 Added | 5841 |
| 135c.107 Added | 26183 |
| 135c.108 Added | 22958 |
| 135c.111 Added | 15833 |
| 135c.112 Added | 20822 |
| 135c.113 Added | 16859 |
| 135c.115 Added | 26183 |
| 135c.116 Added | 20823 |
| 135e.2 Added | 5241 |
| 135e.10 Added | 22224 |
| 135e.26 Added | 8651 |
| (g) table amended | 17834 |
| 135e.36 Added | 22225 |
| 135e.39(f) Table amended | 6888, 14259 |
| 135e.45 (b) revised; (e) redesignated as (f); new (e) added | 10714 |
| 135e.46 Table amended | 4666 |
| (b)(2) revised | 8597 |
| (b) revised | 8653, 25674 |
| 135e.49 (e)(2)(vi) added | 4390 |
| (c)(2)(vii) added | 21921 |
| 135e.50 (b)(5) added | 10443 |
| (f) table amended | 21921 |
| (f) table corrected | 25676 |
| 135e.51 (c)(2) added | 9009 |
| (g) table amended | 16858 |
| 135e.54 (f) table amended | 8654 |
| (d)(4) revised | 22623 |
| 135e.56 (e) added | 1739 |
| (e) corrected | 3309 |
| (e) revised | 8597 |
| 135e.59 (f) amended | 8654 |
| 135e.61 Added | 26909 |
| 135e.64 Added | 3402 |
| (e) table amended | 11078 |
| 135e.65 Added | 1274 |
| 135e.1000 (c) table revised | 6340 |
| 135g.5 Revised | 5242 |
| 135g.26 Removed | 10927 |
| 135g.33 (a)(2) revised | 17000 |
| 135g.35 Revised | 18546 |
| Effective date corrected | 19909 |
| 135g.46 Removed | 10078 |
| 135g.53 Removed | 10927 |
| 135g.80 Added | 22623 |
| 135g.82 Added | 3402 |
| 135g.83 Added | 4251 |
| Revised | 10808 |
| 135g.84 Added | 1274 |
| 138.2 Table amended | 5343 |
| Table corrected | 10267 |
| 141.2 (d)(6) added | 16639 |
| 141.5 (b) table amended | 6889 |
| 141.7 (c) table amended | 21397 |
| 141.104 (a) table amended | 25674 |
| 141.110 (b) table amended | 8654 |
| (a) table amended | 15365 |
| 141.111 (a) table amended | 4318, 6810 |
| 141.502 (d)(4) added; (e)(3)(i) and (ii) revised | 21397 |
| 141.508 Revised | 8656 |
| 141.522 Added | 6889 |
| 141.553 Added | 16860 |
| 141.555 Added | 6889 |
| 141a.62 (a) revised | 18246 |
| 141a.68 Removed | 8597 |
| 141a.80 Removed | 8597 |
| 141a.88 Removed | 8597 |
| 141a.100 Removed | 8654 |
| 141a.101 Removed | 8654 |
| 141a.102 Removed | 8654 |
| 141a.108 (a) and (b) revised | 14370 |
| 141a.126 Removed | 8654 |





| | Page |
|---|---|
| 141a.130 Removed | 8654 |
| 141a.132 Removed | 8654 |
| 141a.134 Removed | 8654 |
| 141a.136 Removed | 8654 |
| 141a.138 Removed | 8654 |
| 141a.140 Removed | 8654 |
|

## 21 CFR—Continued

### Chapter I—Continued

| | | Page |
|---|---|---|
| 141b.126 | (b)(3) revised | 21255 |
| 141c.248 | Removed | 6811 |
| 141c.249 | Removed | 6811 |
| 141c.250 | Removed | 6811 |
| 141c.251 | Removed | 9010 |
| 141c.252 | Removed | 9010 |
| 141c.253 | Removed | 9010 |
| 141c.254 | Removed | 9010 |
| 141c.255 | Removed | 9010 |
| 141c.259 | (a)(1) amended | 9010 |
| | (a)(1) revised | 16861 |
| 141c.263 | (a)(1) amended | 9010 |
| | (a)(1) revised | 16861 |
| 141c.266 | Removed | 9010 |
| 141c.271 | (a)(1) amended | 9010 |
| | (a)(1) revised | 16861 |
| 141d.301 | Heading and (a) through (i) revised; (j) added | 21255 |
| 141d.302 | Removed | 21256 |
| 141d.303 | Revised | 21255 |
| 141d.304 | Revised | 21256 |
| 141d.305 | Removed | 21256 |
| 141d.306 | Removed | 21256 |
| 141d.307 | Removed | 21256 |
| 141d.308 | Revised | 21256 |
| 141d.309 | Removed | 21256 |
| 141d.310 | Removed | 21256 |
| 141d.311 | Removed | 21256 |
| 141d.312 | Removed | 21256 |
| 141d.313 | (a)(1) and (b) revised; (a)(2) amended | 21256 |
| 141d.314 | Removed | 21256 |
| 141d.315 | Removed | 21256 |
| 141d.317 | Removed | 21256 |
| 141d.318 | Removed | 21256 |
| 141d.319 | Removed | 21256 |
| 141d.320 | Removed | 21256 |
| 141e.416 | (b) revised | 21256 |
| 144.26 | (b)(1)(ii) and (2)(ii) removed | 3507 |
| | (b)(21) removed | 10079 |
| | (b)(36) removed | 21398 |
| 145.3 | (a)(49) and (b)(49) added | 6890 |
| 145.4 | (b)(52) added | 6890 |
| 146.8 | (b) introductory text and (b)(1) and (2) revised | 14917 |
| | (b)(1) corrected | 16861 |
| | (b)(1) amended | 16860, 25674 |
| 146.10 | (i) added | 7006 |
| 146a.16 | Removed | 8654 |
| 146a.17 | Removed | 8654 |
| 146a.18 | Removed | 8654 |
| 146a.45 | (c)(2)(i) revised | 6891 |
| 146a.90 | Removed | 8597 |
| 146a.91 | Removed | 8597 |
| 146a.102 | Removed | 8597 |
| 146a.110 | Removed | 8597 |
| 146a.122 | Removed | 8654 |
| 146a.128 | Added | 14370 |
| 146c.217 | (c)(2) revised | 13559 |
| 146c.221 | (c)(2) removed | 1178 |
| 146c.248 | Removed | 6811 |
| 146c.249 | Removed | 6811 |
| 146c.250 | Removed | 9010 |
| 146c.251 | Removed | 9010 |
| 146c.252 | Removed | 9010 |
| 146c.253 | Removed | 9010 |
| 146c.254 | Removed | 9011 |
| 146c.255 | Removed | |
| 146c.259 | Introductory text revised; (d) amended | 9010 |
| 146c.263 | Introductory text revised; (c) amended | 9010 |
| 146c.266 | Removed | 9011 |
| 146d.301 | Heading, (b), (c), and (d) revised | 21256 |
| 146d.302 | Removed | 21256 |
| 146d.305 | Removed | 21256 |
| 146d.306 | Removed | 21256 |
| 146d.307 | Removed | 21256 |
| 146d.309 | Removed | 21256 |
| 146d.310 | Removed | 21256 |
| 146d.311 | Removed | 21256 |
| 146d.312 | Removed | 21256 |
| 146d.314 | Removed | 21256 |
| 146d.315 | Removed | 21256 |
| 146d.317 | Removed | 21256 |
| 146d.318 | Removed | 21256 |
| 146d.319 | Removed | 21256 |
| 146d.320 | Removed | 21256 |
| 146e.402 | (a) amended | 6891, 12399 |
| | (c)(3) and (4) revised | 9587 |
| 147.2 | (c)(2) corrected | 2757 |
| 148.3 | (d) added | 21257 |
| 148e.13 | (a)(1) and (3)(i)(b), and (b) revised | 5459 |
| 148e.27 | (a)(1) amended | 8656 |
| 148f.1 | (a)(1)(vi) and (b)(6) revised | 6813 |
| 148i.15 | Heading and (a)(1) revised | 6892 |
| | Effective date postponed | 13559 |
| 148i.23 | (a)(1) and (b)(2) revised | 6892 |
| | Effective date postponed | 13559 |
| 148i.30 | Effective date postponed | 7007 |
| 148i.30a | Effective date postponed | 7007 |
| 148i.30b | Effective date postponed | 7007 |
| 148i.31 | Effective date postponed | 7007 |
| 148k.13 | Added | 16860 |
| 148m.7 | (a)(1) amended | 5459 |
| 148n.3 | (b)(2) revised | 21257 |
| 148r.1 | Revised | 4318 |
| 148r.2 | Removed | 4319 |



| | | Page |
|---|---|---|
| 148r.3 | Removed | 4319 |
| 148r.4 | Removed | 4319 |
| 148r.5 | Removed | 4319 |
| 149b.18 | (a)(1) amended | 3402 |
| 149b.21 | Added | 4251 |
| 149b.23 | Added | 26183 |
| 149b.25 | Added | 25674 |
| 149d.14 | Added | 25675 |
| 149g | Added | 8598 |
| 149k | Added | 8654 |
| 149q.1a | Removed | 6811 |
| 149q.4 | Removed | 6811 |
| 149q.5 | Removed | 6811 |
| 149y.2 | Added | 6890 |
| 149y.11 | Added | 6890 |
| 150b | Added | 9011 |
| | | Page |
| 150d | Added | 6811 |
| 150g.11 | (a)(1) amended | 3403 |
| 150g.12 | Added | 21398 |
| 150g.14 | Added | 9013 |
| 151b | Added | 16639 |
| 151b.22 | Added | 19817 |
| 151c | Added | 21257 |
| 151c.19 | Added | 22792 |
| 151c.20 | Added | 22793 |
| 151c.21 | Added | 22793 |
| 167 | Added | 7098 |
| 167.2 | (a), (b), and (d) eff. 3-15-74; (c) eff. 9-17-73 | 7102 |
| | (d)(1)(ix) corrected | 8650 |
| | (b)(13) corrected | 9665 |
| 167.3 | (b)(8) and (g) corrected | 9665 |
| 167.7 | (a) amended | 13558 |
| 191 | Removed; provisions transferred to 16 CFR Part 1500 | 27012 |
| 191.4 | Added | 11079 |
| 191.9 | (a)(3) revised | 4666, 10444 |
| 191.9a | (b) added | 6141 |
| 191b | Added | 6141 |
| | Removed; provisions transferred to 16 CFR Part 1505 | 27012 |
| 273.101 | (d) removed | 3598 |
| 273.237 | Added | 2967 |
| 273.245 | Added | 4321 |
| 273.503 | Amended | 19365 |
| 273.505 | Amended | 19365 |
| 273.730 | (g)(4) amended | 19365 |
| 273.740 | Amended | 11080 |
| | (b) amended | 19365 |
| 273.870 | Amended | 19365 |
| 273.1020 | (b)(3) revised | 11080 |
| 273.1024 | Introductory text of (a) revised | 11080 |
| 273.1060 | (b) revised | 11081 |
| 273.1100 | (b) revised | 11081 |
| 273.1120 | (c) revised | 11081 |
| 273.3100—273.3110 | Center heading and new sections added | 19365 |
| 278 | Redesignated from 42 CFR Part 78 | 1926 |
| 278.1—278.3 | (Subpart A) Removed | 11454 |
| 278.212 | (b)(3) and (c)(2) and (3) revised | 21263 |
| 278.213-1 | (a)(1) and (d)(2) amended | 15446 |
| 295 | Removed (provisions transferred to 16 CFR Part 1700) | 21264 |
| 295.2 | (a)(7) added | 2758 |
| | (a)(1)(i) added | 3403 |
| | (a)(9) added | 4513 |
| | (a)(1)(iii) added | 5460 |
| | (a)(1)(i) corrected | 6892 |
| | (a)(1) introductory text and (a)(4) revised | 9162 |
| | (a)(10) added | 9433 |
| | (a)(6) and (8) effective date extended to 7-1-73 | 10267 |
| | (a)(1) corrected | 17440 |
| 295.10 | (a)(3) amended | 12739 |
| 300—399 | Redesignated as Parts 1300—1399 | 26609 |
| 301.13 | (a)(1) revised | 756 |
| 301.22 | (b)(3) revised | 756 |
| 301.25 | (a) amended | 756 |
| 301.28 | (a) introductory text revised | 756 |
| 301.38 | Added | 756 |
| 308 | Republished | 8255 |
| 308.11 | Revised | 953 |
| | (c)(23) added | 17717 |
| 308.12 | Revised | 954 |
| 308.13 | Revised | 954 |
| | (b) revised | 15721 |
| 308.14 | Revised | 955 |
| | (c) added | 15721 |
| | (d) added | 18015 |
| 308.15 | Revised | 955 |
| 308.21 | (c) revised | 757 |
| 308.22 | Revised | 955 |
| | Amended | 9998 |
| 308.23 | (e) revised | 757 |
| 308.24 | Revised | 955 |
| | (i) table amended | 4514, 9814, 14259, 14260 |
| 308.32 | Revised | 957 |
| 316.42 | (f) revised | 757 |
| 308.22 | Amended | 757 |
| 308.24 | (i) table amended | 856–858 |
| 1300—1399 | Redesignated from Parts 300—399 | 26609 |
| 1308.11 | (d)(18), (19), and (20) added | 26448 |
| 1308.24 | (e) table amended | 26610 |

### Chapter III

| | | Page |
|---|---|---|
| 401 | Redesignated as Part 1401 | 26611 |
| 1401 | Redesignated from Part 401 | 26611 |

## 21 CFR—Continued

*Proposed Rules:*

| | Page |
|---|---|
| 1 | 2138, 2139, 2141, 2143, 3523, 6191, 6396, 8273, 19404, 20745 |
| 3 | 799, 2141, 2143, 2150, 6396, 8273, 20040, 21271 |
| 5 | 2141, 8273 |
| 8 | 11095 |
| 9 | 11095 |
| 10 | 10274, 21499, 25195 |
| 11 | 1019, 2219, 8273 |
| 15 | 2334 |
| 18 | 2152, 4347, 20627 |
| 19 | 1218, 2152, 4347, 7008, 14174, 22408 |
| 20 | 2150, 2152, 8273, 20745 |
| 25 | 22490 |
| 27 | 2152, 12234, 19226, 22408, 26384 |
| 31 | 16785 |
| 45 | 2152, 10952 |
| 51 | 16909 |
| 80 | 2152, 6396 |
| 90 | 14174 |
| 102 | 6974, 6975, 20746, 20748 |
| 121 | 47, 9310, 10116, 10458, 11096, 12931, 14174, 18684, 20040, 20041, 20044, 20046, 20048, 22041, 22241, 24374, 24375, 25694, 27076 |
| 125 | 2143, 6396, 20749 |
| 128 | 27076 |
| 130 | 885, 8714, 14111, 19130, 21935, 24220, 26809 |
| 131 | 6191 |
| 132 | 18041 |
| 133 | 27076 |
| 135 | 9830, 19926, 19404, 20346, 25694 |
| 135c | 1219 |
| 141 | 4348, 8064 |
| 141a | 1219, 8520 |
| 141b | 21500 |
| 141c | 21500 |
| 141e | 21500, 26006 |
| 145 | 6074 |
| 146 | 19130 |
| 146a | 1219, 8520 |
| 146b | 21500 |
| 146c | 21500 |
| 146e | 12129, 21500 |
| 148i | 21500 |
| 148n | 21500 |
| 148w | 8064 |
| 149b | 8064 |
| 149h | 8520 |
| 164 | 19130 |
| 176 | 6191, 16236 |
| 191 | 799, 2179, 9310–9312, 9436, 10460, 10956, 12300, 12880, 14387, 15367 |
| 191c | 12300, 15367 |
| 191d | 12880, 15367 |
| 191e | 9312 |
| 191g | 10460 |
| 273 | 48, 5258, 8600, 8666, 11354, 18556, 26130 |
| 278 | 5349, 6290, 9027, 12129, 26007 |
| 295 | 1510, 3989, 3990, 6074 |
| 301 | 3195, 18032, 21271 |
| 308 | 9170, 10010, 12119–12121, 12123, 12124, 12126, 12127, 12230, 14288, 14289, 17499, 17733, 18469 |
| 311 | 18032, 21271 |

## 22 CFR

### Chapter I

| | |
|---|---|
| 6.10 Revised | 9013 |
| 11.1 (a) revised | 13640 |
| 11.2 (b) revised | 13640 |
| 11.3 (b) revised | 13640 |
| 11.5 (a) revised | 13640 |
| 11.11 (d)(1) revised | 13640 |
| 41.6 (a) heading revised; (a) and (e)(1) amended | 18875 |
| 41.7 (e) revised | 4576 |
| 41.65 (b)(4) revised | 20319 |
| 41.91 (a)(19)(i) revised | 4576 |
| 41.113 (a) revised | 4577 |
| 41.122 (e)(4) revised | 1389 |
| 41.126 (b) revised | 4577 |
| 41.128 (a) revised | 4577 |
| 42.91 (a)(14)(ii)(*d*) revised | 1389 |
| 42.117 (b) revised | 20319 |
| 51.43 Revised | 4667 |
| 61.3 (c) revised | 15965 |
| 86.7 Revised | 4252 |
| 86.8 Revised | 4252 |
| 86.9 Revised | 4252 |
| 86.10 Added | 4252 |
| 86.11 Added | 4253 |
| 86.12 Added | 4253 |
| 133 Added; provisions transferred from 44 CFR Ch. II (Part 308) | 27049 |
| 141.2 Revised | 17945 |
| 141.3 (b)(1)(vi) and (2) revised; (b)(1)(vii) and (5) and (d) added | 17946 |
| 141.4 (a) and (b)(1) revised; (c) added | 17946 |
| 141.5 (b) revised | 17947 |
| 141.6 (b) revised | 17947 |
| 141.7 (a) revised | 17947 |
| 141.8 (b), (d), and (e) revised | 17947 |
| 141.9 (g) added | 17947 |
| 141.11 (b) revised | 17948 |
| 141.12 (e) and (f) revised; (j) added | 17948 |
| 141 Appendix A heading revised | 17948 |

### Chapter II

| | |
|---|---|
| 201.01 (s) amended; (v) removed | 13641 |
| (s) amended | 18016 |
| 201.52 (a)(2)(iii) and (7) removed; (a)(6) introductory text, (a)(6)(ii) and (iii), and (b)(1) amended | 13641 |



| | |
|---|---|
| 201.61 (d) amended; (o), (q), (r), (v), and (w) removed | 13641 |
| 201.65 (a) through (e) removed; (g) through (k) revised; (n) added | 13641 |
| 201.72 (b) and (c) amended | 13641 |
| 201.73 (a) and (b) amended | 13641 |
| 201 Appendix A revised | 13641 |
| Appendix C removed | 13641, 18016 |
| 205.1 Revised | 14167, 22549 |
| 207 Revised | 3507 |
| 209.4 (b)(3) and (4) redesignated as (b)(4) and (5); new (b)(3) and (6) added | 17948 |
| 209.5 (a)(2) revised | 17948 |
| 209.8 (d) revised | 17949 |
| 209.9 (b) and (d)(1) amended | 17949 |
| 209.10 (f) added | 17949 |
| 209.12 (a) and (b) amended | 17949 |
| 209 Appendix A heading revised | 17949 |
| 214 Added | 21399 |

### Chapter VI

| | |
|---|---|
| 602.47 Revised | 10079 |

*Proposed Rules:*

| | |
|---|---|
| 42 | 22963 |
| 86 | 30 |

## 23 CFR

### Chapter I

| | |
|---|---|
| Expansion of chapter to Parts 1–1199 | 10811 |
| 1.9 Existing text designated as (a) and revised; (b) and (c) added | 18368 |
| 1.37 Introductory text revised | 11086 |
| 21.3 (q)(2) revised | 5242 |
| 204 Redesignated as Part 1204 | 10811 |
| 305 Added | 11341 |
| 720 Added | 11342 |
| 750 Added | 16044 |
| 772 Added | 15953 |
| 790 Added | 12104 |
| 790.9 (f) revised | 15956 |
| 795 Added | 16056 |

### Chapter II

| | |
|---|---|
| 1204 Redesignated from Part 204 | 10811 |
| 1204.4 Amended | 12401 |
| 1230 Added | 18665 |

*Proposed Rules:*

| | |
|---|---|
| 1 | 16915 |
| 770 | 23969 |
| 772 | 25696 |

## 24 CFR

### Subtitle A

| | |
|---|---|
| 1 Revised | 17949 |
| 42.55 (b)(3) revised | 25172 |
| 42.137 Added | 25172 |
| 42.190 Removed | 5169 |
| 42.220—42.290 (Subpart F) Added | 5169 |
| 42.220 Amended | 25172 |
| 42.250 (c) revised | 25172 |
| 42.300—42.365 (Subpart G) Added | 14919 |
| 42.330 (c) revised | 26113 |

### Chapter I

| | |
|---|---|
| 130.20 (a)(4) revised | 18546 |

### Chapter II

| | |
|---|---|
| 200.84 (b) amended | 2759 |
| 200.110 Amended | 2759 |
| 200.111 Amended | 2759 |
| 200.114 Amended | 2759 |
| 200.116 Amended | 2759 |
| 200.118 Amended | 2759 |
| 200.522 Heading revised | 25994 |
| 200.527 Heading and introductory text revised | 25994 |
| 201.520 (c) redesignated as (d); new (c) added | 25677 |
| 201.535 Revised | 17718 |
| 201.595 (b) revised | 17718 |
| 203.20 (a) revised | 22891, 24637 |
| 203.74 (a) revised | 22891, 24637 |
| 203.405 Revised | 2417, 19122 |
| 203.479 Revised | 2417, 19123 |
| 205.50 Revised | 22892, 24637, 24896 |
| 207.7 (a) revised | 22891, 24637 |
| 207.259 (e)(6) revised | 2417, 19123 |
| 213.10 (a) revised | 22891, 24637 |
| 213.511 (a) revised | 22891, 24637 |
| 220.576 (a) revised | 22891, 24637 |
| 220.830 Revised | 2417, 19123 |
| 221.518 (a) revised | 22891, 24637 |
| 232.29 (a) revised | 22892, 24637 |
| 234.29 (a) revised | 22892, 24637 |
| 235.540 Revised | 22892, 24638 |
| 236.15 Revised | 22892, 24638 |
| 241.75 Revised | 22892, 24638 |
| 242.33 Revised | 22892, 24638 |
| 244.45 (a) revised | 22892, 24638, 24896 |
| 275 Appendix amended | 1927, 22383 |
| Appendix revised | 15051 |
| Appendix corrected | 20320 |

### Chapter III

| | |
|---|---|
| 300.11 (c) revised | 2967 |
| (c) amended | 7114 |



## 24 CFR—Continued

| | Page |
|---|---|
| 162.16 Added | 13015 |
| 162.17 Added | 13015 |

*Proposed Rules:*

| | |
|---|---|
| 20 | 24222 |



| | |
|---|---|
| 1.246 Amended | 20823 |
| 1.246–4 Added | 20824 |

CODE
XUM

## 24 CFR—Continued


Page

### Chapter IX

Chapter revised ... 23874
1700 Revised ... 23874
1700.80 Added ... 13481
1700.85 Added ... 13482
1700.95 Added ... 5842
1710 Revised ... 23875
1715 Added ... 23897
1720 Revised ... 23899

### Chapter X

1910.3 (a) introductory text revised ... 1001
1910.4 (a) introductory text revised ... 1001
1914.3 Revised ... 1001
1914.4 Amended ... 859, 1390, 1391, 1740, 3404, 3405, 3581, 3582, 4668, 4953, 5461, 6667, 6992, 7224, 7550, 8269, 8431, 8432, 8740, 8741, 9014, 9015, 9085, 9086, 9162, 9163, 9491, 9492, 9666, 10268–10270, 10928, 11081–11084, 12108, 12317–12319, 12603, 12739, 12740, 12914, 12915, 13015, 13374, 13560, 13644, 13645, 13647, 13736, 14094, 14371, 14679, 14680, 14921, 15073, 15505, 15624, 15957, 15958, 16221, 16222, 16862–16864, 17001, 17002, 17440, 17718, 18236, 18237, 18547, 18653, 18877, 19220, 19684, 19685, 20072, 20320, 20616, 21180, 21264, 21402, 21743–21745, 21998, 22123, 22227, 22471, 22773–22775, 22893, 23943–23945, 24355–24357, 25677, 25678, 25994, 26113, 26114, 26367, 26911
1915.3 Table revised ... 1002
Amended ... 1391, 1392, 3583, 4669, 4954, 5462, 6679, 7225, 7551, 8271, 9016, 9086, 9492, 10271, 11084, 12109, 12916, 13646, 15073, 15625, 16864–16866, 17719, 18237, 18654, 19221, 20073, 20321, 21745, 21999, 22776, 24358, 24360, 26368
1930.6 Amended ... 4508, 10080
Revised ... 19685
1931.1 (b) revised ... 4508, 10080
1932.31 (a) revised ... 4508
1932.3a Added ... 19686
1932.3c Added ... 19686
1932.4 Revised ... 19686
1933.25a Added ... 19687
1933.26 Introductory text revised; (a) removed ... 19687
1934.2 (b) amended ... 3314

*Proposed Rules:*

Page

20 ... 24222
42 ... 7570, 26923
115 ... 16237
135 ... 20906
200 ... 22415
201 ... 23803
205 ... 26132
242 ... 26132
244 ... 26132
425 ... 15631
1700 ... 11096, 14864
1710 ... 11096, 13029, 14864
1720 ... 11096, 14864
1730 ... 11096, 14864


## 25 CFR


### Chapter I

11 Technical amendment ... 10927
11.87NH Revised ... 19910
41.3 (q) revised ... 9588
(q)(4) corrected ... 11085
(r) and (s) added ... 13737
43h.7 (d) added ... 21403
43h.8 Revised ... 21403
43h.14 Added ... 21404
47.1 (e), (f), and (g) revised ... 9998
47.5 Revised ... 9998
47.7 Revised ... 9998
47.8 Revised ... 9998
47.9 Revised ... 9998
47.10 Revised ... 9998
47.11 Revised ... 9998
47.12 Revised ... 9999
47.13 Revised ... 9999
47.14 Revised ... 9999
47.15 Revised ... 9999
47.16 (a), (b), and (c) revised ... 9999
52.1 (e) revised ... 9999
52.10a (a) revised ... 9999
52.11 Revised ... 10000
52.17 Revised ... 10000
112 Added ... 9163
121 Added ... 10080
132.2 Revised ... 18547
132.4 Removed ... 18547
132.5 Revised ... 18548
141.7 Revised ... 24638
141.9 Revised ... 24638
141.12 Revised ... 24639
141.16 Revised ... 24639
141.19 Revised ... 24639
161.27 (b) and (f) revised ... 14680
162.10–162.20 Center heading added ... 13014
162.10 Added ... 13014
162.11 Added ... 13014
162.12 Added ... 13014
162.13 Added ... 13014
162.14 Added ... 13014
162.15 Added ... 13015





Page

162.16 Added ... 13015
162.17 Added ... 13015
162.18 Added ... 13015
162.19 Added ... 13015
162.20 Added ... 13015
233.10 Revised ... 758
251.5 (a) revised ... 25987
252.4 Revised ... 25988
256.3 (b) revised ... 23945

*Proposed Rules:*

41 ... 7465
112 ... 4402
141 ... 9828, 11348
221 ... 10814, 23954, 23955, 26729
243 ... 22034, 26118
252 ... 7334


## 26 CFR


### Chapter I

1.4–2 (a) revised; (c) removed ... 9295
1.39 Redesignated as 1.42; new 1.39 added ... 6150
1.40 Added ... 6150
1.40–1 Added ... 6150
1.42 Redesignated from 1.39; historical note revised ... 6150
1.50A Added ... 6150
1.50A–1 Added ... 6151
1.50A–2 Added ... 6152
1.50A–3 Added ... 6153
1.50A–4 Added ... 6155
(f)(2) corrected ... 8656
1.50A–5 Added ... 6157
1.50A–6 Added ... 6158
1.50A–7 Added ... 6159
1.50B Added ... 6160
1.50B–1 Added ... 6160
1.50B–2 Added ... 6161
1.50B–3 Added ... 6162
1.50B–4 Added ... 6163
1.50B–5 Added ... 6164
1.61–3 (a) revised ... 26184
1.79 (b)(1)(ii) (b) and (c) corrected ... 2417
1.142–1 (a) revised ... 9295
1.163–3 (c) heading and (c)(1) revised; (c)(3) added ... 4253
1.163–4 (c) revised ... 4253
1.166–2 (d)(1) revised ... 2418
1.167(a)–11 Revised ... 9967
(b)(3)(ii) and (f)(1)(i)(b) corrected ... 12919, 13482
1.167(a)–12 Added ... 14923
1.167(m) Added ... 9986
1.167(m)–1 Added ... 9986
1.170A–9 Added ... 12
(e)(7)(ii) and (h)(4)(vi) corrected ... 3598
1.172–9 Corrected ... 3040

Page

1.246 Amended ... 20823
1.246–4 Added ... 20824
1.249 Added ... 4253
1.249–1 Added ... 4254
1.263(a) Amended ... 4255
1.263(d) Added ... 4255
1.263(e) Added ... 4255
1.263(e)–1 Added ... 4255
1.263(f) Added ... 9986
1.263(f)–1 Added ... 9986
(a) corrected ... 12919
1.279 Added ... 5482
1.279–1 Added ... 5844
1.279–2 Added ... 5844
1.279–3 Added ... 5845
1.279–4 Added ... 5847
(b)(1) corrected ... 6893
1.279–5 Added ... 5847
1.279–6 Added ... 5850
1.279–7 Added ... 5851
1.301–1 (o) redesignated as (p); new (o) added ... 20824
1.305 Revised ... 18531
Corrected ... 19910
1.305–1 Removed; new 1.305–1 added ... 18532
(a) corrected ... 19910
1.305–2 Removed; new 1.305–2 added ... 18532
1.305–3 Removed; new 1.305–3 added ... 18532
(a), (c)(1)(ii), and (e) corrected ... 19910, 19911
1.305–4 Added ... 18536
1.305–5 Added ... 18536
1.305–6 Added ... 18538
1.305–7 Added ... 18539
1.305–8 Added ... 18539
1.306–3 (c) amended ... 18540
1.368–2 (e)(5) revised ... 18540
1.442–1 (b)(1) revised ... 26911
1.446–1 (c)(1)(ii) revised ... 26184
1.471–2 (b) revised; (f)(6) and (7) added ... 26185
1.471–3 (c) revised ... 26185
1.471–11 Added ... 26185
1.507 Added ... 860
1.507–2 Added ... 861
(f)(1)(i) corrected ... 3598
(a)(5)(ii), (b)(1)(ii), and (c)(1)(ii) corrected ... 4259
1.507–3 (a)(8)(i) corrected ... 3189
1.507–6 (a)(2) corrected ... 24206
1.508–1 (b)(4) revised ... 4258
1.512(b)–1 (b) revised ... 5466
(b) corrected ... 6387
1.514(c)–1 (e)(2) corrected ... 21918
1.543–1 (b)(11)(ii) revised ... 5467
1.611–1 (b)(1) revised ... 5467
1.613–2 (c)(5)(ii) revised ... 5467
1.614–1 (a)(2) revised ... 5467


CODE
XUM





C

## 26 CFR—Continued

### Chapter I—Continued


| | Page |
|---|---|
| 1.636 Added | 5463 |
| 1.636–1 Added | 5463 |
| 1.636–2 Added | 5465 |
| 1.636–3 Added | 5465 |
| 1.636–4 Added | 5465 |
| 1.638 Added | 12740 |
| 1.638–1 Added | 12740 |
| 1.638–2 Added | 12742 |
| 1.661(a)–2 (e) revised | 26912 |
| 1.662(a)–2 (c) revised | 26912 |
| 1.662(a)–3 (b) revised | 26913 |
| 1.664–4 (b)(5) tables corrected | 12918, 12919, 14730 |
| 1.706–1 (b)(4)(i) revised | 26912 |
| 1.819 Determination | 6277 |
| 1.901–1 (i) added | 20824 |
| 1.902–3 (a)(1) amended | 20824 |
| 1.902–4 (a) amended | 20824 |
| 1.922 Revised | 20824 |
| 1.922–1 (c) added | 20824 |
| (c) corrected | 22549 |
| 1.931 Amended | 20824 |
| 1.931–1 (j) added | 20825 |
| 1.1014 Amended | 20825 |
| 1.1014–1 (b) revised | 20825 |
| 1.1014–9 Added | 20825 |
| 1.1036–1 (a) amended | 18540 |
| 1.1304–5 (d) correctly designated as (c) | 22471 |
| 1.1402(a)–12 Revised | 12742 |
| 1.1441 Amended | 12742 |
| 1.1441–5 (d) revised | 12742 |
| 1.1443–1 (b) added | 767 |
| 1.1461–2 (c)(1) revised | 20826 |
| 1.1461–3 (a) revised | 21 |
| 1.1461–4 (a)(1), (b), and (c) revised | 22 |
| 1.1502–1 (f)(2) revised | 758 |
| 1.1502–3 (a)(3) and (4) revised | 758 |
| 1.1502–11 Revised | 759 |
| 1.1502–12 (g) revised | 760 |
| 1.1502–13 (e)(2), (f)(1) introductory text, and (f)(2) revised | 760 |
| 1.1502–14 (f) added | 761 |
| 1.1502–15 (a)(2), (3), and (4) revised | 761 |
| 1.1502–18 (a) revised; (c)(4) added | 762 |
| 1.1502–19 (a)(3), (e), and (g) revised; (a)(5) and (6) added; (c)(2) amended | 762 |
| 1.1502–23 Revised | 763 |
| 1.1502–26 (a) revised | 763 |
| 1.1502–31 (b)(2)(ii) revised | 764 |
| 1.1502–32 (b)(1)(iii) and (2)(iv), (d)(1), (8), and (9), (f), and (g) revised; (d)(3) and (c)(10) added; (j) amended | 764 |
| 1.1502–33 (c)(4) revised | 765 |
| 1.1502–42 Added | 766 |
| 1.1502–75 (d)(2)(ii) revised; (d)(2)(iii) and (iv), (d)(3)(iv), (v), and (vi), and (j) added; (d)(3)(i), (ii), and (iii) amended | 766 |
| 1.1502–76 (b)(1) and (5)(i) revised | 766 |
| 1.1502–78 (a) and (b)(1) revised | 767 |
| 1.6012–1 (a)(6) and (7) revised | 9295 |
| (a)(5) revised | 11344 |
| 1.6013–1 (a)(2) revised | 11345 |
| 1.6015(a) Revised | 19026 |
| 1.6015(a)–1 (f) revised | 11345 |
| (a), (c), and (e) revised | 19027 |
| 1.6015(b)–1 (d) revised | 11345 |
| 1.6041–1 (a) and (g) revised | 20827 |
| 1.6041–2 Revised | 20827 |
| 1.6041–3 (a) revised | 20828 |
| 1.6041–6 Revised | 20828 |
| 1.6052–1 (a) and (b) revised; (c) and (d) redesignated as (d) and (e); new (c) added | 20828 |
| 1.6052–2 (d) and (e) redesignated as (e) and (f); new (d) and (g) added | 20828 |
| 1.6071–1 (c)(7) revised | 20829 |
| 1.6081–1 (a) revised | 4258 |
| 1.6081–3 (c) redesignated as (d); new (c) added | 4259 |
| 1.6091–1 (b)(7) revised | 20829 |
| 1.6161–1 (a)(3) removed | 4259 |
| 1.6302–2 (a) revised | 22 |
| 1.6654 Amended | 19028 |
| 1.6654–2 (a) amended | 19028 |
| 1.6654–4 Redesignated as 1.6654–5; new 1.6654–4 added | 19028 |
| 1.6654–5 Redesignated from 1.6654–4 | 19028 |
| 12.5 (a) and (b) revised | 6278 |
| 12.8 Added | 9296 |
| 13.0 Amended | 5463 |
| (f) added | 9297 |
| 13.4 (b)(2)(i), (ii), and (iii) revised | 10927 |
| 13.12 Removed | 860 |
| 13.14 Removed | 767 |
| 31.0–2 (a)(5)(viii) added | 18369 |
| 31.3121(b)(8) Amended | 18369 |
| 31.3121(b)(8)–1 (a) revised | 18369 |
| 31.3121(b)(8)–2 (a) revised | 18369 |
| 31.3121(i) Amended | 18369 |
| 31.3121(i)–4 Added | 18369 |
| 31.3121(r) Added | 18370 |





| | Page |
|---|---|
| 31.3121(r)–1 Added | 18370 |
| 31.3401(a)–1 (c) added | 12742 |
| 31.3402(h)(4)–1 (a) and (b) amended; (c) added | 867 |
| 31.6011(a)–7 (a) revised | 11345 |
| 45.0–1 (a) and (c) amended; (b) revised | 16357 |
| 45.0–3 (a), (b), (c), and (i) revised | 16357 |
| 45.0–4 Revised | 16357 |
| 45.4451—45.4457–1 (Subpart B) Removed | 16357 |
| 45.4461 Revised | 16357 |
| 45.4461–1 (a) and (b) amended; (c) added | 16357 |
| 45.4461–2 Revised | 16357 |
| 45.4462 Revised | 16357 |
| 45.4462–1 Revised | 16358 |
| 45.4464 Added | 16358 |
| 45.4464–1 Added | 16358 |
| 45.4471—45.4474–1 (Subpart D) Removed | 16359 |
| 45.4816–1 (d) removed; (e) redesignated as (d); new (e) through (l) added | 16359 |
| 45.4891—45.4897–1 (Subpart J) Removed | 16359 |
| 45.4901 Amended | 16359 |
| 45.4901–1 (a), (b), and (c)(1), (2), and (3) amended | 16360 |
| 45.4905 Amended | 16360 |
| 45.4905–1 (a), (b), (c), and (d) amended | 16360 |
| 45.4905–2 (a) amended; (b) revised | 16360 |
| 45.6001–5 (c) removed | 16360 |
| 45.6001–6 (a) and (b) amended | 16360 |
| 45.6001–8 Removed | 16360 |
| 45.6001–11 (a) and (c) amended | 16360 |
| 45.6001–12 (c) removed | 16360 |
| 45.6071–1 (a) amended; (b)(2) removed | 16360 |
| 45.6071–2 (a) and (b) amended | 16360 |
| 45.6091–2 Removed | 16360 |
| 45.6101–1 (a) amended; (b) removed; (c) redesignated as (b) | 16360 |
| 45.6109–1 (a)(1) and (2) and (b) amended | 16360 |
| 45.6151 Amended | 16360 |
| 45.7011–1 Amended | 16360 |
| 45.7011–3 Revised | 16360 |
| 45.7272 Amended | 16360 |
| 45.7326(a) Amended | 16360 |
| 45.7510–1 Heading and text amended | 16360 |
| 45.7510–2 (a) and (c) amended | 16361 |
| 45.7510–3 (a) removed | 16361 |
| 45.7641 Amended | 16361 |
| 45.7701 Amended | 16361 |
| 48.4071–2 (b)(3) added | 1505 |
| 53.4940—53.4940–1 (Subpart A) Added | 868 |
| 53.4940–1 (e)(2)(iv) corrected | 7549 |
| 53.4941(a)—53.4941(f)–1 (Sub-B) Added | 9493 |
| 53.4941(d)–1 (b)(8) corrected | 12604 |
| 53.4941(e) Heading corrected | 11454 |
| 53.4942 Added | 3315 |
| 53.4942(a)–1 Added | 3317 |
| 53.4942(a)–2 Added | 3318 |
| (c)(4)(iii) and (e)(2) corrected | 4577 |
| 53.4942(a)–3 Added | 3323 |
| 53.4942(b)–1 Added | 768 |
| 53.4942(b)–2 Added | 770 |
| 53.4942(b)–3 Added | 772 |
| 53.4948–1 (a)(3) corrected | 4324 |
| 147.7–9 (c)(1)(iv) corrected | 3040 |
| 148.1–3 (f) and (j) revised | 9227 |
| 201.11 Amended | 14338 |
| 201.88 Revised | 14338 |
| 201.95 (a) revised | 14339 |
| 201.243 (a) revised | 14339 |
| 201.247 Revised | 14339 |
| 201.269 Revised | 14339 |
| 201.271 Revised | 14340 |
| 201.291 (b) revised | 14340 |
| 201.292 Revised | 14340 |
| 201.294 Revised | 14340 |
| 201.295 Revised | 14340 |
| 201.297 Revised | 14341 |
| 201.300 Revised | 14341 |
| 201.302 Revised | 14341 |
| 201.303 Revised | 14341 |
| 201.304 Revised | 14341 |
| 201.305 Revised | 14341 |
| 201.307 Revised | 14342 |
| 201.308 Revised | 14342 |
| 201.311 Revised | 14342 |
| 201.312a Revised | 14342 |
| 201.312b Revised | 14342 |
| 201.312c Revised | 14342 |
| 201.312e Added | 14343 |
| 201.322 Revised | 14343 |
| 201.336 Revised | 14343 |
| 201.338 Revised | 14343 |
| 201.340 Revised | 14343 |
| 201.343 (a) revised | 14344 |
| 201.352 Revised | 14344 |
| 201.363 Revised | 14344 |
| 201.364 Revised | 14344 |
| 201.368 Revised | 14344 |
| 201.369 Revised | 14344 |
| 201.370 Revised | 14345 |
| 201.371 Revised | 14345 |
| 201.372 Revised | 14345 |
| 201.373 Revised | 14345 |
| 201.378 Revised | 14346 |
| 201.379 Removed | 14346 |
| 201.385 Revised | 14346 |
| 201.387 Revised | 14346 |




## 26 CFR—Continued


| | Page |
|---|---|
| 301.6654–1 Revised | 19029 |





| | Page |
|---|---|
| *Proposed Rules:* | |
| 1.01–1—1.300 | 883, 14287, 18405, 18406 |
| 0.129–2 Added | 23311 |
| 0.132 (c) removed | 18380 |

## 26 CFR—Continued

### Chapter I—Continued


| | | Page |
|---|---|---|
| 201.513a | Added | 14346 |
| 201.514 | Revised | 14347 |
| 201.516 | Revised | 14347 |
| 201.517a | Added | 14348 |
| 201.518 | Revised | 14348 |
| 201.524 | Revised | 14348 |
| 201.549 | (c) revised | 14348 |
| 201.551 | Revised | 14348 |
| 201.587 | Revised | 14348 |
| 201.603 | (c) revised | 14349 |
| 201.606 | Revised | 14349 |
| 201.607 | (f) revised | 14349 |
| 201.612 | Revised | 14349 |
| 201.614 | Revised | 14349 |
| 201.618 | (a), (c), and (f) revised | 14350 |
| 201.619 | Revised | 14350 |
| 201.622 | (b) revised | 14350 |
| 201.624 | Revised | 14350 |
| 201.626 | Revised | 14351 |
| 201.627 | (b) revised | 14351 |
| 201.628 | Revised | 14351 |
| 201.628a | Added | 14351 |
| 201.629 | Revised | 14352 |
| 201.630 | Revised | 14352 |
| 201.630b | Added | 14352 |
| 201.631 | Revised | 14352 |
| 201.631a | Added | 14352 |
| 201.632 | Removed | 14352 |
| 201.633 | Revised | 14353 |
| 201.633a | Revised | 14353 |
| 201.634 | Revised | 14353 |
| 240.1051 | Introductory text and table amended | 6814 |
| 250.112 | (e) revised | 19688 |
| 250.112a | Added | 19688 |
| 250.165 | Revised | 19688 |
| 250.274 | Revised | 19688 |
| 275.11 | Amended | 19688 |
| 275.114 | Revised | 19688 |
| 275.114a | Added | 19688 |
| 275.124 | Revised | 19689 |
| 301.6015 | Amended | 19028 |
| 301.6039 | Added | 11346 |
| 301.6039–1 | Added | 11346 |
| 301.6052 | Added | 11346 |
| 301.6052–1 | Added | 11346 |
| 301.6103(a)–1 | (g) and (h) revised | 6815 |
| | (a)(3)(ii) added | 27047 |
| 301.6103(a)–108 | Added | 2332 |
| | (c) revised | 8152 |
| 301.6163 | Amended | 11346 |
| 301.6331 | Amended | 5171 |
| 301.6331–1 | (c) added | 5171 |
| 301.6402–3 | (a)(2) revised | 9295 |
| 301.6651–1 | (c)(1) revised; (c)(4) added | 4259 |
| 301.6654 | Amended | 19028 |
| 301.6654–1 | Revised | 19029 |
| 601.101 | (a) and (b) revised; (d) added | 4955 |
| 601.102 | (b)(1)(iv) revised | 4955 |
| 601.103 | (a), (b), and (c)(2) revised | 4955 |
| 601.104 | (a)(5), (b), and (c)(1) revised | 4596 |
| 601.105 | (a), (b)(2), (4), and (5), (e)(6), and (h) revised; (e)(7) added | 4956 |
| | (c) corrected | 7458 |
| 601.106 | (a)(1), (b), and (d)(2)(ii) revised | 4959 |
| 601–107 | (b)(2) revised | 9227 |
| 601.201 | Amended | 4960 |
| 601.202 | (c)(1), (2), and (4) revised | 4967 |
| 601.204 | (a), (b), and (c) revised | 4967 |
| 601.301 | (b), (c) introductory text, and (c)(26) and (28) revised; (c)(2)(vi) and (vii) amended; (c)(2)(viii) added | 4968 |
| 601.303 | (c)(2) and (d) revised | 4968 |
| 601.304 | (a), (e), and (f) revised | 4969 |
| | Corrected | 7458 |
| 601.319 | Revised | 4969 |
| 601.321b | Added | 4969 |
| 601.322 | Revised | 4969 |
| 601.326 | Revised | 4969 |
| 601.328 | (a) and (b) revised | 4969 |
| 601.401 | (a)(3) and (5)(ii), and (iii) revised | 4970 |
| 601.402 | (a)(2)(i) revised | 4970 |
| 601.403 | (a)(6) and (c)(1) and (3) revised; (a)(11) added | 4970 |
| 601.404 | (b) heading, (f)(1), (2), and (3), (h) heading, and (k) revised; (c)(4), (5), and (6), and (j)(2) removed | 4971 |
| 601.505 | (b) revised | 4971 |
| 601.601 | (a)(1) and (2) revised; existing text of (d) designated as (d)(1); (d)(1) heading, (d)(2), and (3) added | 4971 |
| | (b) revised | 8246 |
| | (b)(2)(i) corrected | 8448 |
| 601.602 | Revised | 4973 |
| 601.701 | (b)(2) revised | 4973 |
| 601.702 | (a)(1) amended; (b)(1)(i) and (3)(i) and (iii), and (c)(5) and (6)(ii) revised; (d)(5), (6), (7), and (8) redesignated as (d)(4), (5), (6), and (7) and revised; (d)(4) and (14) redesignated as (d)(3) and (8); (d)(9), (10), (11), (12), and (13) removed | 4973 |
| | (d)(9) added | 8246 |





*Proposed Rules:*

| | | Page |
|---|---|---|
| 1.01–1—1.300 | | 883, 4337, 10458, 10944, 11087, 12405, 14287, 14835, 16781, 17010, 22795, 26918 |
| 1.301–1.400 | | 883 4337, 10458, 14835 |
| 1.401—1.500 | | 2338, 10453, 15367 |
| 1.501—1.640 | | 776 |
| 1.851—1.1200 | | 883, 3985, 4342, 6395, 15840, 19417 |
| 1.1201—end | | 774, 3334, 7567, 17727 |
| 20 | | 776 |
| 25 | | 776 |
| 31 | | 7230, 7570 |
| 45 | | 6181 |
| 53 | | 32, 6075, 9512 |
| 250 | | 7125 |
| 275 | | 7125 |
| 301 | | 776, 7567, 14287, 18897 |


## 27 CFR


*Proposed Rules:*

| | | Page |
|---|---|---|
| 5 | | 16075 |


## 28 CFR

### Chapter I


| | | Page |
|---|---|---|
| 0 | Subpart L heading removed | 8152 |
| | Subpart R Appendix revised | 18381 |
| | Subpart Y Appendix amended | 21495 |
| 0.1 | Amended | 6893, 8152, 12917, 18380 |
| 0.11 | Removed | 18380 |
| 0.12 | Removed | 18380 |
| 0.15 | (a) removed; (h) revised | 6893 |
| 0.17 | Removed | 12917 |
| 0.27 | (Subpart E–1) Added | 6893 |
| 0.37 | (Subpart G–1) Added | 14688 |
| 0.38 | Added | 18877 |
| 0.41 | (h) amended | 1018 |
| 0.50 | (a) amended | 26910 |
| 0.55 | (f) and (p) amended | 8152 |
| | (s) added | 18380 |
| 0.59 | (b) amended | 8152 |
| 0.61 | Heading revised; introductory text amended; (m) removed | 8152, 8153 |
| 0.62 | Amended | 8153 |
| 0.63 | Amended | 8153 |
| 0.64 | Amended | 8153 |
| 0.65 | (b) amended | 26910 |
| 0.75—0.77 | (Subpart O) Appendix Memos 398 and 398 Supp. 2 and 3 removed | 13581 |
| 0.76 | (a)(14) added | 7223 |
| | (a)(7), (c)(2) and (4), and (h) amended | 18380 |
| 0.100—0.104 | (Subpart R) Revised | 18380 |
| 0.111—0.113 | (Subpart T) Added | 12917 |
| 0.127 | Revised | 23311 |
| 0.128 | Added | 23311 |
| 0.129 | Added | 23311 |
| 0.129–2 | Added | 23311 |
| 0.132 | (c) removed | 18380 |
| 0.138 | Amended | 18380 |
| 0.139 | Amended | 18380 |
| 0.140 | Amended | 18380 |
| 0.141 | Amended | 18380 |
| 0.142 | Amended | 18380 |
| 0.143 | Amended | 18380 |
| 0.144 | Amended | 18380 |
| 0.145 | Amended | 18380 |
| 0.146 | Amended | 18380 |
| 0.147 | Amended | 18380 |
| 0.148 | Amended | 18380 |
| 0.149 | Amended | 18380 |
| 0.150 | Amended | 18380 |
| 0.151 | Amended | 18380 |
| 0.152 | Amended | 18380 |
| 0.153 | Amended | 18380 |
| 0.154 | Amended | 18380 |
| 0.155 | Revised | 12110 |
| | Amended | 18380 |
| 0.159 | Amended | 18380 |
| 0.172 | Amended | 18381 |
| 0.175 | (a) and (c) amended | 18381 |
| 0.176 | (a) amended | 18381 |
| 0.178 | (b) revised | 18381 |
| 2 | Revised | 26652 |
| 5.1 | (a) and (c) amended | 18235 |
| 5.3 | Amended | 18235 |
| 5.100 | (a)(3), (5), and (7) amended | 18235 |
| 5.201 | (b) amended | 18235 |
| 5.205 | (a) amended | 18235 |
| 5.400 | (b) and (c) amended | 18235 |
| 5.601 | (a) and (b) amended | 18235 |
| 5.801 | Amended | 18235 |
| 9.1 | Amended | 18381 |
| 9.4 | (a), (b), (c), and (e) amended | 18381 |
| 9a.7 | (b) amended | 18381 |
| 12.2 | Revised | 18235 |
| 12.3 | Amended | 18235 |
| 12.20 | Revised | 18235 |
| 12.23 | Amended | 18235 |
| 12.25 | (a), (d), and (e) amended | 18235 |
| 12.40 | Revised | 18235 |
| 12.41 | (b) revised | 18235 |
| 16.1—16.10 | (Subpart A) Revised | 4391 |
| 16.9 | (b)(6) corrected | 9666 |
| 16.21—16.26 | (Subpart B) Revised | 1741 |
| 16.23 | (b)(2)(iii) added | 4952 |
| 17 | Added | 3566 |
| | Correctly designated as Part 18 | 8233 |
| 17.1 | (a) amended | 22777 |
| 17.36 | (c) revised | 22777 |
| | Heading corrected | 26448 |
| 17.38 | Revised | 22778 |
| 17.50 | Amended | 22777 |





| | | Page |
|---|---|---|
| 28 CFR—Continued | | |
| Chapter I—Continued | | |
| 17.60 | Amended | 22778 |
| 17.70 | Amended | 22778 |
| 17.80 | Amended | 22778 |
| 17.90 | Amended | 22778 |
| 17.100 | Amended | 22778 |
| 17.110 | Amended | 22778 |
| 17.120 | Amended | 22778 |
| 17.130 | Amended | 22778 |
| 17.140 | Amended | 22778 |
|

## 28 CFR—Continued

### Chapter I—Continued

| | Page |
|---|---|
| 17.56 Amended | 22777 |
| 17.67 Amended | 22777 |
| 17.75 Amended | 22777 |
| 18 Correctly designated from Part 17 | 8233 |
| 18.62 Corrected | 8233 |
| 42.103 Amended | 17955 |
| 42.104 (b)(1)(vii) added; (b)(3) and (4) redesignated as (b)(4) and (5); new (b)(3) and (6) added; (c) designated as (c)(1); (c)(2) added | 17955 |
| 42.105 (a) designated as (a)(1) and amended; (a)(2) and (d) added | 17955 |
| 42.106 (b) amended | 17955 |
| 42.107 (b) amended | 17955 |
| 42.109 (b) and (d) amended | 17955 |
| 42.110 (g) added | 17956 |
| 42.112 (a) and (d) amended | 17956 |
| 42.301—42.308 (Subpart E) Added | 6388 |
| Revised | 23516 |
| 42 Appendix A revised | 17956 |
| 50.7 Added | 19029 |
| 50.8 Added | 19029 |
| 50.9 Added | 19123 |

## 29 CFR

### Subtitle A

| | Page |
|---|---|
| 2 Existing sections designated as Subpart A | 5631 |
| 2.10–2.16 (Subpart B) Added | 5631 |
| 5.14 (b)(5) revised | 19970 |
| 14 Added | 2418 |
| 31.3 (b)(1)(viii) added; (b)(3) and (4) redesignated as (b)(4) and (5); new (b)(3) and (6) added; (c) removed; new (c) and (d) added | 17956 |
| 31.4 Removed; provisions transferred to 31.3 (d)(1) | 17956 |
| 31.5 Removed; provisions transferred to 31.3 (d)(2) | 17956 |
| Redesignated from 31.7; (b) revised | 17957 |
| 31.6 Removed; provisions transferred to 31.3 (d)(3) | 17956 |
| Added | 17957 |
| 31.7 Redesignated as 31.5 | 17957 |
| Redesignated from 31.8; (b) and (d) revised | 17958 |
| 31.8 Redesignated as 31.7; redesignated from 31.9 | 17958 |
| 31.9 Redesignated from 31.10 and revised | 17958 |
| 31.10 Redesignated as 31.9; redesignated from 31.11; (c) revised; (f) added | 17958 |
| 31.11 Redesignated from 31.12 | 17958 |
| 31.12 Redesignated as 31.11 | 17958 |
| Revised | 17959 |
| 31.13 Redesignated as 31.12 | 17958 |
| 40 Amended | 1636 |
| 40.2 (g), (i), and (j) revised | 1636 |
| 40.4 (f), (g), and (h) revised | 1636 |
| 40.6 (b) and (c) revised | 1636 |
| 40.10 (c)(8) revised | 1636 |
| 40.11 (a) revised | 1636 |
| 40.16 (b) revised | 1637 |
| 40.21 (a) revised | 22778 |
| 55.1 (q)(2) revised | 2211 |
| (r)(1) revised | 12803 |
| 55.7 (d), (e), and (f) revised | 2211 |
| 55.54 (a) revised | 12804 |
| 55.58 Revised | 2212 |
| 70.75 (a)(3) amended | 10714 |
| 70.79 Added | 3192 |

### Chapter I

| | Page |
|---|---|
| 100.735–22 (gg) added | 14095 |
| 102.69 Revised | 3961 |
| 103.2 Added | 6177 |
| 103.3 Added | 9507 |
| 103.100 Amended | 9506 |

### Chapter II

| | Page |
|---|---|
| 201 Nomenclature change | 26449 |
| 201.15 Revised | 26449 |
| 202 Nomenclature change | 26449 |
| 203 Nomenclature change | 26449 |
| 204 Technical amendment | 10714 |
| Nomenclature change | 26449 |
| 205 Nomenclature change | 26449 |
| 206 Nomenclature change | 26449 |

### Chapter IV

| | Page |
|---|---|
| Technical amendment to chapter | 10715 |
| 401 Authority citation revised | 10715 |
| 402 Authority citation revised | 10715 |
| 403 Authority citation revised | 10715 |
| 404 Authority citation revised | 10715 |
| 405 Authority citation revised | 10715 |
| 406 Authority citation revised | 10715 |
| 408 Authority citation revised | 10715 |
| 417 Authority citation revised | 10715 |
| 451 Authority citation revised | 10715 |
| 452 Authority citation revised | 10715 |
| Revised | 18324 |
| 453 Authority citation revised | 10715 |
| 460.1a Added | 4509 |
| 460.2 (b) revised | 4509 |
| 460.3 Revised | 4509 |
| 460.5 (c) added | 4509 |
| 461 Authority citation revised | 10715 |



| | Page |
|---|---|
| 462 Authority citation revised | 10715 |
| 464 Authority citation revised | 10715 |
| 465 Authority citation revised | 10715 |
| 485 Authority citation revised | 10715 |
| 486 Authority citation revised | 10715 |

### Chapter V

| | Page |
|---|---|
| 511.4 Revised | 6278 |
| 516.3 Revised | 7115 |
| 541 Revised | 11390 |
| 602.2 (a)(2)(i), (3)(i), and (5)(i) revised | 17123 |
| 603.2 (a)(1)(i), (2)(i), (3)(i), and (4)(i), (b)(1)(i), and (c)(1)(i) revised | 17213 |
| 608.2 (a), (b), and (c) revised | 23402 |
| 609.2 (a)(1) and (2) revised | 23403 |
| 610.2 (a) revised | 25988 |
| 612.1 Revised | 25989 |
| 612.2 Revised | 25989 |
| 614.2 (a)(1) and (c)(1) revised | 25989 |
| 615.2 (a)(1)(i) and (3)(i), (b)(1), and (c)(1)(i) revised | 17213 |
| 687.2 (a)(1)(i) and (2)(i) and (c)(1)(i) revised | 17214 |
| 723.2 (b)(1) revised | 26718 |
| 779.372 (c)(3) revised | 7549 |
| 780.308 Revised | 17726 |

### Chapter XIV

| | Page |
|---|---|
| 1601.12 (d)(1) and (2) revised | 16640 |
| (k) revised | 20829 |
| 1602.30—1602.31 (Subpart I) Added | 12604 |
| 1602.32—1602.37 (Subpart J) Added | 12605 |
| 1602.38 (Subpart K) Added | 12605 |
| 1602.39—1602.40 (Subpart L) Added | 26719 |
| 1602.41—1602.45 (Subpart M) Added | 26719 |
| 1602.46 (Subpart N) Added | 26720 |

### Chapter XVII

| | Page |
|---|---|
| Technical amendment to chapter | 19029 |
| 1902.12 Added | 12605 |
| 1902.16 Removed | 4670 |
| 1903.21 (e) and (f) revised | 22624 |
| 1907 Added | 25150 |
| 1910.68 (c)(1)(i) revised | 16223 |
| 1910.93c Added | 10929 |
| Revised | 20074 |
| 1910.106 (a)(14), 18), and (19) and (d)(1)(ii), (3)(i), (5)(iv)(b), and (7) revised; (a)(37) and (38) added; tables amended | 27048 |
| 1910.108 (h)(4)(i) revised | 27049 |
| 1910.111 (a)(2)(i) and (b)(1) revised | 3599 |
| 1910.116 Amended | 3599 |
| 1910.141 (f) removed | 9079 |
| Revised | 10932 |
| 1910.157 (b)(1) revised | 19030 |
| 1910.160 (b)(1) and (c)(1)(iv) revised | 19030 |
| 1910.177 Removed | 14373 |
| 1910.178 (a)(1) and (7) and (m)(5) revised; (m)(13) removed | 14373 |
| 1910.179 (b)(8) added; (e)(2) and (3) revised | 14373 |
| 1910.180 (b)(3) added | 14373 |
| 1910.181 (b)(3) added | 14373 |
| 1910.217 (b)(2) revised | 16223 |
| 1910.243 (a)(1), (2), and (3), (b)(1), (c)(1)(i) and (ii)(C), and (e)(3)(iii) and (4)(vi) revised; (c)(6) and (e)(3)(vii) added; (e)(2)(vi) removed | 14373, 14374 |
| 1910.263 (h)(2) revised | 16223 |
| 1910.267 Revised | 10717 |
| Effective date suspended | 15729 |
| 1910.267a Added | 10716 |
| Effective dated suspended | 15279 |
| Revised | 17215 |
| (c)(2) corrected | 18464 |
| 1915.3 Removed | 2968 |
| 1915.6 Removed | 2968 |
| 1916.3 Removed | 5468 |
| 1916.6 Removed | 5468 |
| 1917.3 Removed | 5468 |
| 1917.6 Removed | 5468 |
| 1918.4 Removed | 5468 |
| 1918.7 Removed | 5468 |
| 1926.602 Existing text of (a)(8) designated as (a)(8)(i); (a)(8)(ii) added | 16856 |
| 1952.110—1952.113 (Subpart E) Added | 1179 |
| 1952.111 Corrected | 26449 |
| 1952.120—1952.123 (Subpart F) Added | 2422 |
| 1952.130—1952.133 (Subpart G) Added | 2425 |
| Removed | 19683 |
| 1952.140—1952.143 (Subpart H) Added | 2427 |
| 1952.140 (b)(3) added | 6177 |
| 1952.150—1952.153 (Subpart I) Added | 3042 |
| 1952.160—1952.163 (Subpart J) Added | 19370 |
| 1952.170–1952.173 (Subpart K) Added | 10719 |
| 1952.180–1952.183 (Subpart L) Added | 13484 |
| 1952.190—1952.193 (Subpart M) Added | 25174 |

## 29 CFR—Continued

### Chapter XVII—Continued


| | Page |
|---|---|
| 1952.200—1952.203 (Subpart N) Added | 15077 |
| 1952.210—1952.213 (Subpart O) Added | 17837 |
| 1952.220—1952.223 (Subpart P) Added | 17840 |
| 1952.230—1952.233 (Subpart Q) Added | 20324 |
| 1952.240—1952.243 (Subpart R) Added | 21630 |
| 1952.250—1952.253 (Subpart S) Added | 24896 |
| 1953 Added | 24361 |
| 1977 Added | 2681 |
| 1977.12 (b)(2) corrected | 4577 |
| *Proposed Rules:* | |
| 15 | 8664 |
| 29 | 13894, 18556 |
| 202 | 26919 |
| 206 | 26919 |
| 516 | 16909 |
| 602 | 9031 |
| 603 | 9031 |
| 608 | 9031 |
| 609 | 9031 |
| 610 | 9031 |
| 612 | 9031 |
| 614 | 9031 |
| 615 | 9031 |
| 687 | 9031 |
| 723 | 9031 |
| 724 | 9031, 21505 |
| 725 | 9031, 21505 |
| 1201 | 21186, 27088 |
| 1203 | 21186, 27088 |
| 1207 | 21186, 27088 |
| 1602 | 5659, 15461 |
| 1910 | 1593, 2465, 4979, 5644, 12405, 16391, 17245, 18900, 19225, 22141, 22631, 22967, 23038, 23490, 24300, 24375, 26207, 26459 |
| 1912 | 7817 |
| 1913 | 23413 |
| 1915 | 15522, 22632 |
| 1916 | 15522, 22632 |
| 1917 | 15522, 22632, |
| 1918 | 4516, 15522, 22632 |
| 1923 | 1746 |
| 1927 | 18900, 22141 |
| 1952 | 4412 |
| 1953 | 7237 |
| 1960 | 27070 |
| 1999 | 2465 |


## 30 CFR

### Chapter I


| | Page |
|---|---|
| Technical amendment to chapter | 10927 |
| 11 Authority citation revised | 6993 |
| 11.1 (b) and (d) amended | 6993 |
| 11.2 (a) and (b) amended | 6993 |
| 11.3 (hh) redesignated as (ii); new (hh) added | 6993 |
| 11.4 Revised | 6993 |
| 11.12 Heading revised; (a), (b), (d), and (e) amended | 6993, 6994 |
| 11.20 Amended | 6993 |
| 11.21 Amended | 6993 |
| 11.22 (b), (c), (d), and (e) amended | 6993, 6994 |
| 11.30 (c) amended | 6994 |
| 11.31 (e) amended | 6994 |
| 11.33 (b) and (c) amended | 6994 |
| 11.34 Amended | 6994 |
| 11.35 (d) and (e) amended | 6993 |
| 11.36 Amended | 6994 |
| 11.50 Amended | 6993 |
| 11.53 (b) amended | 6993 |
| 11.61 (a) amended | 6993 |
| 11.63 (a) and (d) amended | 6993 |
| 11.64 Heading and (d) revised; (b) and (c) amended | 6993, 6994 |
| 11.66 (b) amended | 6993 |
| 11.85–14 (b) and (c) amended | 6993, 6994 |
| 11.90 (c) revised | 6994 |
| 11.98 (c) amended | 6993 |
| 11.102–3 (b) amended | 6993 |
| 11.135 (f) amended | 6993 |
| 11.150 Note amended | 6994 |
| 11.162–3 (b) amended | 6993 |
| 11.183–3 (b) amended | 6993 |
| 55.2 Amended | 18666 |
| 55.3 Amended | 18665 |
| 55.4 Amended | 18665, 23380 |
| 55.5 Amended | 18665 |
| 55.6 Amended | 18665 |
| 55.12 Amended | 18665 |
| 55.13 Amended | 18665 |
| 55.18 Amended | 23380 |
| 55.24 Amended | 18666 |
| 55.26 Added | 23380 |
| 56.2 Amended | 18666 |
| 56.3 Amended | 18666 |
| 56.4 Amended | 18666, 23381 |
| 56.5 Amended | 18666 |
| 56.6 Amended | 18666 |
| 56.12 Amended | 18666 |
| 56.13 Amended | 18666 |
| 56.18 Amended | 23381 |
| 56.24 Amended | 18666 |
| 56.26 Added | 23381 |
| 57.2 Amended | 18666 |
| 57.3 Amended | 18666 |
| 57.4 Amended | 18666, 23382 |
| Corrected | 23781 |
| 57.5 Amended | 18666 |
| 57.6 Amended | 18666 |
| 57.11 Amended | 23382 |
| 57.12 Amended | 18666 |
| 57.13 Amended | 18666 |
| 57.18 Amended | 23382 |





| | Page |
|---|---|
| 57.21 Amended | 18666 |
| 57.24 Amended | 18666 |
| 57.25 Amended | 18666 |
| 57.26 Added | 23382 |
| 58.1 Amended | 18666 |
| 58.2 (k) amended | 18666 |
| 58.10 Amended | 18666 |
| 58.12 Amended | 18666 |
| 58.20 Amended | 18666 |
| 58.21 Amended | 18666 |
| 58.22 (a)(1) amended | 18666 |
| 58.30 Amended | 18666 |
| 58.31 Amended | 18666 |
| 58.32 Amended | 18666 |
| 58.33 Amended | 18666 |
| 70.204 Removed | 18666 |
| 70.223 Amended | 18666 |
| 70.241 Technical amendment | 4394 |
| 70.260 (a) amended | 18666 |
| 70.261 Amended | 18666 |
| 70.271 Amended | 18666 |
| 70.272 Revised | 18667 |
| 70.305–1 Amended | 18667 |
| 70.400–1 Amended | 18667 |
| 70.504 Amended | 18667 |
| 70.504–1 Amended | 18667 |
| 70.504–2 Amended | 18666 |
| 70.505 Amended | 18667 |
| 70.507 Amended | 18667 |
| 70.508 Amended | 18667 |
| 70.509 Amended | 18667 |
| 70.510 (b)(2) amended | 18666 |
| (b)(3) amended | 18667 |
| 71.111 Amended | 18667 |
| 71.200 Amended | 18667 |
| 71.402 Amended | 18667 |
| 71.500 Amended | 18667 |
| 75.100 (c)(1) amended | 18667 |
| 75.150 (b)(2) amended | 18667 |
| 75.151 Amended | 18667 |
| 75.153 (e) amended | 18667 |
| 75.155 (c) amended | 18667 |
| 75.301–7 (c)(2) amended | 18667 |
| 75.301–8 (c)(1) amended | 18667 |
| 75.303–2 (c) amended | 18667 |
| 75.503–1 Amended | 18667 |
| 75.504 Revised | 4975 |
| 75.506 (a) amended | 18667 |
| 75.507–1 Added | 4975 |
| 75.516–2 Added | 4975 |
| 75.517–2 (d) amended | 18667 |
| 75.521 Revised | 4975 |
| 75.523–1 Added | 3407 |
| (c) amended | 18667 |
| 75.523–2 Added | 3407 |
| (a)(2) corrected | 4394 |
| 75.523–3 Added | 3407 |
| 75.802 Revised | 4975 |
| 75.803–3 Removed | 18667 |
| 75.804 Revised | 4976 |
| 75.902–3 Removed | 18667 |
| 75.1002–1 Added | 4976 |
| 75.1103–2 (b) amended | 18667 |
| 75.1107–17 Amended | 18667 |
| 75.1710–1 (f) amended | 18667 |
| 75.1712–6 Amended | 18667 |
| 75.1714–1 Amended | 18667 |
| 75.1721 (b)(1) amended | 18667 |
| 75.1722 Added | 4976 |
| 75.1723 Added | 4976 |
| 75.1724 Added | 4976 |
| 75.1725 Added | 4976 |
| 75.1726 Added | 4976 |
| 75.1727 Added | 4976 |
| 75.1728 Added | 4976 |
| 75.1729 Added | 4976 |
| 75.1730 Added | 4976 |
| 75.1800 Amended | 18667 |
| 75.1801 Amended | 18667 |
| 75.1802 Amended | 18667 |
| 75.1803 Amended | 18667 |
| 75.1804 Amended | 18667 |
| 75.1805 Amended | 18667 |
| 75.1806 Amended | 18667 |
| 75.1807 Amended | 18667 |
| 75.413 Amended | 18667 |
| 75.1001–1 Amended | 18667 |
| 75.1108–1 (b)(4) amended | 18667 |
| 75.1303 (m) amended | 18667 |
| 75.1900 Amended | 18667 |
| 75.1902–1 Amended | 18667 |
| 75.1914 (c) amended | 18667 |
| 77.100 (b)(2) amended | 18667 |
| 77.101 (b)(2) amended | 18667 |
| 77.102 Amended | 18667 |
| 77.103 (e) amended | 18667 |
| 77.105 (b) amended | 18667 |
| 80.10 Amended | 18667 |
| 80.11 Amended | 18667 |
| 80.12 Amended | 18667 |
| 80.23 Amended | 18667 |
| 80.24 Amended | 18667 |
| 80.31 Amended | 18667 |
| 80.32 Amended | 18667 |
| 80.33 Amended | 18667 |
| 81 Technical amendment | 18668 |
| 82 Technical amendment | 18668 |
| 90 Subpart E heading amended | 18668 |
| 90.1 Amended | 18668 |
| 90.2 (b) revised | 18668 |
| 90.10 Amended | 18668 |
| 90.20 Amended | 18668 |
| 90.30 Amended | 18668 |
| 90.31 (a) amended | 18668 |
| 90.32 Amended | 18668 |
| 90.33 (b) amended | 18668 |
| 90 Figure 1 amended | 18668 |
| 100 Suspended in part | 10085 |


### Chapter II


| | Page |
|---|---|
| 211 Heading revised | 10001 |
| 211.3 (a), (b), and (c) revised | 10001 |




## 30 CFR—Continued


| | Page |
|---|---|
| 300.1 Amended | 24762 |
| 300.2 (b) amended | 24762 |
| 300.3 (a) amended | 24762 |
| 300.4 (a) amended | 24762 |
| 300.5 (a) amended | 24762 |
| 300.6 (a) amended | 24762 |
| 300.7 (a) amended | 24762 |
| 300.8 (b) amended | 24762 |
| 300.9 (a) amended | 24762 |
| 300.10 (a) amended | 24762 |
| 300.11 (a) amended | 24762 |
| 300.12 (a) amended | 24762 |
| 300.13 (a) amended | 24762 |
| 300.14 (a) amended | 24762 |
|

## 30 CFR—Continued

### Chapter II—Continued

| | Page |
|---|---|
| 211.3a Added | 10001 |
| 211.4 Heading and (g) revised; introductory text and (f) amended | 10001 |
| 211.5 Revised | 10001 |
| 211.7 Amended | 10001 |
| 211.8 Amended | 10001 |
| 211.9—211.14 Removed | 10001 |
| 211.16 (b) amended | 10001 |
| 211.19 Amended | 10001 |
| 211.20 Amended | 10001 |
| 211.22 (b) amended | 10001 |
| 211.23 Amended | 10001 |
| 211.25 (f) amended | 10001 |
| 211.26 (a) and (b) amended | 10001 |
| 211.28—211.47 Removed | 10001 |
| 211.48 (a), (b), (c), and (d) amended | 10001 |
| 211.50 (b) amended | 10001 |
| 211.51 (a) amended | 10001 |
| 211.52—211.62 Removed | 10001 |
| 211.65—211.110 Removed | 10001 |
| 216 Heading revised | 10001 |
| 216.2 Amended | 10002 |
| 216.3 Revised | 10002 |
| 216.5 Amended | 10002 |
| 216.6—216.10 Removed | 10002 |
| 216.11 Amended | 10002 |
| 221 Heading revised | 10002 |
| 221.2 (b) and (c) revised | 10002 |
| 221.3 Revised | 10002 |
| 221.14 Amended | 10002 |
| 221.17 Revised | 10002 |
| 221.66 Revised | 10002 |
| 223 Heading revised | 10002 |
| 223.7 Revised | 10002 |
| 225.2 (c), (d), and (e) revised | 10002 |
| 225.5 Amended | 10002 |
| 225.6 Amended | 10002 |
| 225.7 Amended | 10002 |
| 225a.2 (d) and (e) revised | 10003 |
| 225a.6 Amended | 10003 |
| 225a.7 Amended | 10003 |
| 225a.8 Amended | 10003 |
| 226.2 (m) revised | 10003 |
| 226.2a Added | 10003 |
| 226.9 (a) revised | 10003 |
| 226.11 Revised | 10003 |
| 231.2 (c) revised | 10003 |
| 231.3 (c)(3) and (4) revised; (g) added | 10003 |
| 231.4 (b) revised | 10003 |
| 231.74 Revised | 10003 |
| 250.2 (b) and (c) revised | 10003 |
| 250.10 Revised | 10004 |
| 250.51 Amended | 10004 |
| 250.81 Revised | 10004 |
| 290 Added | 10004 |

### Chapter V

| | Page |
|---|---|
| Technical amendment to chapter | 10927 |

*Proposed Rules:*

| | |
|---|---|
| 55 | 2219, 23383 |
| 56 | 2219, 23384 |
| 57 | 2219, 10156, 23386 |
| 75 | 6900, 7465 |
| 90 | 1520, 13027 |
| 211 | 10686, 11348 |
| 216 | 10686, 11348 |
| 270 | 19765, 26807 |
| 271 | 19765, 26807 |
| 504 | 24024 |

## 31 CFR

### Subtitle A

| | |
|---|---|
| 0 Appendix A amended | 972 |
| 2 Added | 19322 |

### Chapter I

| | |
|---|---|
| 51 Revised | 9132 |
| 51.3 Revised | 18668 |
| (b) corrected | 19801 |
| 51.5 Amended | 18668 |
| 51.11 (b) amended | 18668 |
| 51.24 (a) revised | 18668 |
| 51.25 (a) and (b) amended | 18669 |
| 51.26 (a) amended | 18669 |
| 91.1 Revised | 24897 |
| 91.2 Revised | 24897 |
| 91.8 Revised | 24898 |
| 103.11 Amended | 2175 |
| 103.34 Revised | 2175 |
| (b)(7) revised | 3509 |
| 103.35 (a)(2) and (3) amended | 2176 |
| 103.43 Revised | 2176 |
| 103.45 Revised | 2176 |
| 103.51 Added | 2176 |
| 128.19 Revised | 1637 |

### Chapter II

| | |
|---|---|
| 205 Revised | 5242 |
| 223.6 Revised | 22779 |
| 223.17 Redesignated as 223.18; redesignated from 223.18 | 22779 |
| 223.18 Redesignated as 223.17; redesignated from 223.17 and heading revised | 22779 |
| 223.19 Added | 22779 |
| 223.20 Added | 22779 |
| 223.21 Added | 22779 |
| 260 Removed | 18372 |
| 261.2 Removed; new 261.2 added | 18372 |
| 306 Revised | 7078 |
| Subpart E Appendix corrected | 8153, 10004 |
| 306.11 (h) corrected | 8153 |
| 306.25 (b) corrected | 8432 |
| 306.76 Corrected | 10004 |
| 306.115 (c) and (d) corrected | 10004 |



| | Page |
|---|---|
| 315 Revised | 24762 |
| 315.2 (e) revised | 26189 |
| 316 Table 8–A added | 3446 |
| Table 9–A added | 19178 |
| Table 32–A added | 3446 |
| Table 33–A added | 3447 |
| Table 34–A added | 19178 |
| Table 35–A added | 19179 |
| Table 76–A added | 3447 |
| Table 78–A added | 3448 |
| Table 79–A added | 19179 |
| 328 Revised | 10682 |
| 332 Table 5–A added | 10809 |
| Table 26–A added | 10809 |
| Corrected | 22549 |
| 344.1 (b)(2) and (3) revised | 1739 |
| 344.2 Revised | 1740 |

### Chapter V

| | |
|---|---|
| 520.101 Revised | 7985 |
| 520.103 Added | 7985 |

### Chapter VI

| | |
|---|---|
| 605 Authority citation revised | 24898 |
| 605.1 Revised | 24898 |

*Proposed Rules:*

| | |
|---|---|
| 51 | 4918 |
| 202 | 22963 |
| 203 | 22963 |
| 209 | 22032 |
| 214 | 22963 |
| 223 | 18897 |

## 32 CFR

### Chapter I

| | |
|---|---|
| 100 Revised | 3043 |
| 159.303 Revised | 6994 |
| 159.303–2 Revised | 6994 |
| 159.306–3 Added | 6994 |
| 164 Revised | 8509 |
| 166.11 (d) added | 25990 |
| 188 Added | 5344 |
| 201 Revised | 4509 |
| 202 Added | 11454 |
| 204 Added | 5346 |
| 261 Revised | 14167 |
| 274 Added | 858 |
| 300.3 Amended | 17959 |
| 300.4 (b)(1)(iii), (iv), (v), and (vi) redesignated as (b)(1)(iv), (v), (vi), and (vii); new (b)(1)(iii) and (viii) added; (b)(4) redesignated as (b)(6) and revised; new (b)(4) and (5) added | 17959 |
| 300.6 (a)(1) and (b) amended; (a)(2) revised; (d) added | 17960 |
| 300.7 (b) amended | 17960 |
| 300.8 (b) amended | 17960 |
| 300.11 (g) added | 17960 |
| 301 Revised | 26720 |

### Chapter V

| | |
|---|---|
| 505 Removed | 1742 |
| 641 Added | 14239 |
| 706.2 Table corrected | 16867 |
| Amended | 17003 |
| 719 Revised | 5997 |
| 720 Revised | 6021 |
| 727 Revised | 6026 |
| 742.102 Revised | 8153 |
| 742.107 Added | 8153 |
| 742.205 Revised | 8153 |
| 742.206 Revised | 8153 |
| 742.208 Revised | 8153 |
| 742.212 Revised | 8153 |
| 742.215 (b) and (g) revised | 8153 |
| 742.301 Revised | 8153 |
| 742.302 (a) revised | 8154 |
| 742.304 Revised | 8154 |
| 742.305 Revised | 8154 |
| 742.306 (a) and (e) revised; (f) added | 8154 |
| 742.401 (c) added | 8155 |
| 742.407 (c) removed | 8155 |
| 742.501 (e) removed | 8155 |
| 742.506 Revised | 8155 |
| 742.507 (a) revised | 8155 |
| 742.602 Revised | 8155 |
| 750 Revised | 6028 |
| 751 Revised | 6040 |
| 753 Revised | 6048 |
| 756 Revised | 6052 |
| 757 Revised | 6053 |

### Chapter VII

| | |
|---|---|
| 802 Removed | 26190 |
| 804 Revised | 6761 |
| 806.15 Amended | 26190 |
| 806a.0 Revised | 6995 |
| 806a.1 (b) revised | 6995 |
| 806a.2 Revised | 6995 |
| 806a.3 (a)(1) removed; (a)(2) and (3) redesignated as (a)(1) and (2); (c)(3) added | 6995 |
| 806a.4 Revised | 6995 |
| 806a.5 Amended | 6996 |
| 806a.6 Table amended | 6996 |
| 806a.7 Added | 6996 |
| 807.1 (b) and (c) revised; (e) removed | 973 |
| 807.2 (a), (b)(1) and (2) removed | 973 |
| 809 Revised | 973 |
| 809.4 (b), (f)(2), and (f)(5)(ii)(C) note revised; (n) and (o) added | 10934 |

## 32 CFR—Continued

### Chapter VII—Continued


| | Page |
|---|---|
| (f)(6)(ii) note removed; (h) revised; (l) (2), (3), and (4) added | 23946 |
| 809.7 Table amended | 10934, 23946 |
| Corrected | 25678 |
| 809.10 (a) amended | 10935 |
| (a) and (g) revised; (h) and (i) added | 23946 |
| 809.11 Redesignated as 809.12; new 809.11 added | 10935 |
| (d)(2) introductory text and (d)(2)(iii)(D) corrected | 13485 |
| (d)(2)(iii)(f) added; (d)(6) revised | 23947 |
| 809.12 Redesignated from 809.11; note revised (former 809.12 redesignated as 809.14) | 10935, 10936 |
| 809.13 Redesignated as 809.17; new 809.13 added | 10935, 10936 |
| (d)(5) revised | 23947 |
| 809.14 Redesignated from 809.12 | 10935 |
| Introductory text and (a) revised | 23947 |
| 809.15 Added | 10937 |
| (b)(3) and (4) revised; (b)(5) and (6) added | 23947 |
| 809.16 Added | 10937 |
| (a) revised | 23947 |
| 809.17 Redesignated from 809.13 | 10935 |
| 809.23 Redesignated as 809.24; new 809.23 added | 10937 |
| 809.24 Redesignated from 809.23 | 10937 |
| 809.61 (b) revised | 23947 |
| 809.62 (k) added | 10937 |
| (a) and (c) revised; (b) added | 23947 |
| 809.63 Redesignated as 809.64; new 809.63 added | 10937 |
| 809.64 Redesignated from 809.63 | 10937 |
| 809.65 Added | 10937 |
| 809.66 Added | 10938 |
| 809.67 Added | 10938 |
| 809.68 Added | 10938 |
| 809.69 Added | 10938 |
| 809.70 Added | 10938 |
| 809.71 Added | 10938 |
| Table corrected | 13485 |
| 809b.0 Revised | 981 |
| 809b.6 (f) and (k) revised | 981 |
| 809b.8 (a)(2) and (b)(3)(iii) revised | 981 |
| 811 Revised | 982 |
| 811a Added | 983 |
| 812.1 Revised | 14374 |
| 812.3 Revised | 14374 |
| 813 Revised | 6768 |
| 814a. Removed | 6893 |
| 815 Subpart B heading revised | 14829 |
| 815.12 Heading revised | 14829 |
| 815.40 (d) added | 14829 |
| 815.73 (a), (b), and (c)(1) and (2) corrected | 9017 |
| 815.75 (i) amended | 14829 |
| 815.85 (a) heading and (b) revised | 14829 |
| 818b Added | 26801 |
| 823 Revised | 5632 |
| 852 Removed | 4670 |
| 860.4 (d) and (e) corrected | 13561 |
| 870 Revised | 21147 |
| 870.38 b)(3)(iv) corrected | 21746 |
| 870.40 Corrected | 21746 |
| 870.86 Corrected | 21746 |
| 872.1 Revised | 984 |
| 872.2 (e), (j), and (k) revised; (m) added | 984 |
| 872.3 Revised | 984 |
| 872.5 Revised | 984 |
| 872.7 Revised | 984 |
| 872.8 Introductory text, (a), and (b) revised | 984 |
| 872.9 Revised | 984 |
| 872.10 (b) revised | 984 |
| 872.11 Revised | 985 |
| 872.12 Heading and (e) revised | 985 |
| 872.14 (b) and (c) revised | 985 |
| 872.16 Revised | 985 |
| 872.17 Revised | 985 |
| 872.18 Revised | 985 |
| 872.19 Revised | 985 |
| 872.20 Revised | 985 |
| 872.21 (a) revised | 986 |
| 872.25 Revised | 986 |
| 872.26 Revised | 986 |
| 872.27 Added | 986 |
| 872.28 Added | 986 |
| 873 Revised | 9165 |
| 881 Revised | 26891 |
| 881.21 (c) amended | 10720 |
| 881.22 (b) revised; (c) amended | 10720 |
| 881.23 (a) revised | 10720 |
| 883 Added | 26802 |
| 886.1 Existing text designated as (a); (b) added | 20325 |
| 886.2 Revised | 20325 |
| 886.4 Revised | 20325 |
| 886.5 Revised | 20325 |
| 886.6 Revised | 20325 |
| 886.7 Revised | 20325 |
| 886.8 Revised | 20326 |
| 886.11 Added | 20326 |
| 886.12 Revised | 20326 |
| 886.13 Revised | 20326 |
| 886.14 Revised | 20326 |
| 888 Revised | 6770 |
| 888.7 (c) corrected | 8155 |
| 888.27 (b) corrected | 8155 |
| 888a.0 Revised | 6778 |





| | Page |
|---|---|
| 888a.1 (b) and (c) revised; (d) removed | 6778 |
| 888a.10 (a) amended; (b) removed | 6778 |
| 888a.11 (f) and (g) added | 6778 |
| 888a.12 (b) amended; (e) and (f) added | 6778 |
| 888a.13 (b) and note amended; (b)(3) redesignated as (b)(4); new (b)(3) added | 6778 |
| 888a.14 Revised | 6778 |
| 888a.15 (a) amended; (b) removed | 6778 |
| 888a.20 (a) amended; (b) removed | 6778 |
| 888a.21 Introductory text amended; (f) and (g) added | 6778 |
| 888a.23 (a), (b), and note amended; (b)(3) redesignated as (b)(4); new (b)(3) added | 6779 |
| 888a.24 Revised | 6779 |
| 888a.25 (a) amended; (b) removed | 6779 |
| 888a.26 (b) revised | 6779 |
| 888a.35 Revised | 6779 |
| 888a.36 Revised | 6779 |
| 888b Revised | 6779 |
| 888b.16 Table corrected | 8254 |
| 888b.18 Table corrected | 8254 |
| 888b.22 (bb), (cc) and (dd) correctly designated as (ab), (ac), and (ad) | 8254 |
| 888c Revised | 6784 |
| 888c.26 Corrected | 8155 |
| 888f Added | 6793 |
| 888f.6 Table corrected | 8254 |
| 889 Revised | 986 |
| 890.1 Revised | 989 |
| 890.4 Heading and (a) revised | 989 |
| 890.8 Added | 989 |
| 901 Removed | 6794 |
| Redesignated from 901a | 22471 |
| 901.6b Added | 22471 |
| 901.9 Correctly designated as 901a.9 | 8254 |
| 901.10 Correctly designated as 901a.10 | 8254 |
| 901.13 (a)(2) added | 22471 |
| 901a Added | 6794 |
| Redesignated as 901 | 22471 |
| 901a.9 Correctly designated from 901.9 | 8254 |
| 901a.10 Correctly designated from 901.10 | 8254 |
| 901b Added | 6797 |
| Removed | 22471 |
| 903 Added | 22471 |
| 905.0 Revised | 990 |
| 905.6 Amended | 990 |
| 905.8 Amended | 990 |
| 905.10 Revised | 990 |
| 905.13 Added | 990 |
| 905.24 (c) and (d) added | 990 |
| 907.1 Revised | 991 |
| 907.2 Amended | 991 |
| 907.3 (a)(1) and (2), (b)(4) and (5) revised | 991 |
| 907.4 (a) revised; (d) removed | 991 |
| 940 Added | 3962 |
| 1001.320 Amended | 15506 |
| 1001.451 (g)(1)(i) amended | 15506 |
| 1001.905–50 (e)(8)(ii) amended | 15506 |
| 1003.508 (Subpart E) Added | 15506 |
| 1006.551 (b) removed | 15506 |
| 1006.603–4 (Subpart F) Removed | 15506 |
| 1007.5101—1007.5105–9 (Subpart Q) Removed | 15506 |
| 1009.203–52 Removed; redesignated from 1009.203–54 | 15506 |
| 1009.203–53 Removed | 15506 |
| 1009.203–54 Redesignated as 1009.203–52 | 15506 |
| 1011.352 Removed | 15506 |
| 1011.354 (b)(3) amended | 15506 |
| 1011.354–1 (f) and (g) revised; (h) and (i) added | 15506 |
| 1016.102–1—1016.103 (Subpart A) Added | 15507 |
| 1017.203 Revised | 15507 |
| 1030 Revised | 15507 |


### Chapter XII


| | Page |
|---|---|
| 1285 Added | 24206 |


### Chapter XIV


| | Page |
|---|---|
| 1453.3 (d)(2)(i) amended | 24210 |
| 1460.13 Revised | 6390 |
| 1461.2 (b)(1) amended | 10085 |
| 1461.3 Amended | 10085 |
| 1464 Subpart A heading added | 16640 |
| 1464.18 Redesignated from 1464.90 | 16640 |
| 1464.19 Redesignated from 1464.91 | 16640 |
| 1464.21—1464.90 (Subpart B) Added | 14640 |
| 1464.90 Redesignated as 1464.18 | 16640 |
| 1464.91 Redesignated as 1464.19 | 16640 |
| 1470.3 (h) revised | 16643 |
| 1471.2 (e) removed; (f) redesignated as (e) | 16644 |
| 1472.5 (a) amended | 4577 |
| 1474.6 (c)(4) revised | 10085 |
| 1475.6 (d) amended | 10085 |
| 1499.2–18 Amended | 16644 |
| 1499.2–20 Added | 9017 |





| | Page |
|---|---|
| 1500.1 (a) revised | 16644 |
| 1500.2 (a) revised | 16644 |
| 1500.3 (a) revised | 16644 |
| 1500.4 (a) revised | 16644 |
| 1500.5 (a) revised | 16644 |
| 1500.6 (a) revised | 16644 |
| 1500.7 (a) revised | 16644 |
| 1500.8 (a) revised | 16644 |
| 1500.9 (a) revised | 16644 |
| 1500.10 (a) revised | 16644 |
| 1500.11 (a) revised | 16644 |
| 1500.12 (a) revised | 16644 |
| 1500.13 (a) revised | 16644 |
| 1500.14 (a) revised | 16644 |
|

## 32 CFR—Continued

| | Page |
|---|---|
| **Chapter XVI** | |
| 1604.25 Revised | 8739 |
| 1604.55 Revised | 8739 |
| 1604.59 Revised | 12742 |
| 1604.61 Removed | 731 |
| 1604.62 Removed | 731 |
| 1611.1 (d) added | 10153 |
| 1611.2 (d) revised | 16059 |
| 1611.5 Revised | 16059 |
| 1612.11 Removed | 16059 |
| 1612.21 Removed | 16059 |
| 1612.22 Removed | 16059 |
| 1612.23 Removed | 16059 |
| 1612.24 Removed | 16059 |
| 1613.2 Revised | 8739 |
| 1621.14 Revised | 731 |
| 1622.2 Revised | 732, 15626 |
| 1622.11 Existing text designated as (a); (b) added | 10153 |
| 1622.14 Existing text designated as (a); (b) added | 10153 |
| 1622.15 Added | 732 |
| 1622.18 Revised | 733 |
| 1622.20 Removed | 15626 |
| 1622.21 Removed | 15626 |
| 1622.22 Removed | 15626 |
| 1622.23 Removed | 15626 |
| 1622.23a Removed | 15626 |
| 1622.24 Removed | 15626 |
| 1622.25 (a) revised | 733 |
| 1622.26 Revised | 733 |
| Existing text designated as (a); (b) added | 10153 |
| 1622.28 Added | 15626 |
| 1622.30 Revised | 731, 15626 |
| 1622.44 (a) revised | 731 |
| 1623.1 (b) revised | 732, 16059 |
| 1623.2 Revised | 733, 15626 |
| 1623.4 (a) revised | 15627 |
| 1623.7 Revised | 14251 |
| 1625.2 Revised | 731 |
| 1628.1 (c) removed | 731 |
| 1628.2 Removed | 731 |
| 1628.3 Removed | 731 |
| 1628.4 Removed | 731 |
| 1628.5 Removed | 731 |
| 1628.6 (c) removed | 14251 |
| 1630.1 (a) revised | 733 |
| 1631.3 Amended | 733 |
| 1631.4 (b) removed | 733 |
| 1631.6 (b)(2) revised | 732 |
| (b), (c), and (d) revised; (e) removed | 13485 |
| 1641.6 (a) revised | 14252 |
| 1641.7 Corrected | 3599 |
| 1660.4 (c) revised | 734 |
| (d) added | 15627 |
| 1660.7 (a) removed | 15627 |
| 1661.10 (a)(2) corrected | 6279 |
| 1680 Added | 733 |
| 1680.8 Revised | 15627 |
| 1680.11 Added | 10153 |
| 1690.3 Amended | 16867 |
| 1690.11 Revised | 16867 |
| **Chapter XVII** | |
| 1704 Added | 17961 |
| 1705 Revised | 1927 |
| 1709.2 (d), (e), and (f) removed | 6177 |
| 1710.8 (h)(3)(i) revised | 2333 |
| 1710.32 Revised | 12919 |
| **Chapter XVIII** | |
| Nomenclature changes to chapter | 16775 |
| 1800 Removed | 16775 |
| 1801.12 Removed | 16775 |
| 1804 Removed | 16775 |
| 1812 Removed; new 1812 added | 16775 |
| 1812.3 Amended | 18372 |
| **Chapter XX** | |
| Establishment of chapter | 22624 |
| 2000 Added | 22624 |
| *Proposed Rules:* | |
| 216 | 6186 |
| 641 | 3051 |
| 1460 | 2219, 3413 |
| 1464 | 7343 |
| 1470 | 7343 |
| 1471 | 7343 |
| 1499 | 7343 |
| 1604 | 5667, 9030, 25704 |
| 1611 | 7347, 12620 |
| 1612 | 12759 |
| 1613 | 5667 |
| 1622 | 7347, 8178, 12134 |
| 1623 | 10016, 12134, 12620, 26392 |
| 1626 | 26392 |
| 1628 | 10016, 26392 |
| 1631 | 9444, 26392 |
| 1632 | 26392 |
| 1641 | 10016, 26392 |
| 1660 | 12135 |
| 1680 | 7347, 12134 |

## 32A CFR

| | Page |
|---|---|
| **OEP (Chapter I)** | |
| DMO 8600.1A Removed | 9507 |
| DMO 8600.1B Added | 9507 |
| Corrected | 10444 |
| **BDC (Chapter VI)** | |
| BDC Notice 1 removed | 25176 |
| BDC Notice 2 removed | 9589 |
| **DIBA (Chapter VI)** | |
| BCABP Notice 1 added | 25175 |
| BCABP Notice 2 Added | 9589 |



| | Page |
|---|---|
| **THM (Chapter IX)** | |
| Chapter removed | 15365 |
| **OIA (Chapter X)** | |
| **OI Reg. 1** | |
| Sec. 3 revised | 25437 |
| Sec. 5 Revised | 3408 |
| Sec. 7 (c) removed | 3408 |
| Sec. 8 (a) revised | 3408 |
| Sec. 9 (a) and (b) revised; (f) added | 3408 |
| Sec. 9A Revised | 12747 |
| (d) and (e)(1) and (2) corrected | 17185 |
| (a)(1) amended | 19819 |
| Sec. 10 Revised | 3408 |
| (a) and (c) revised; (f) and (g) added | 19819 |
| Sec. 11 Revised | 3408 |
| (a) and (c) revised; (f) and (g) added | 19819 |
| (c) corrected | 20076 |
| Sec. 11A (a) and (b) revised | 19819 |
| Sec. 13 (a) revised | 3409 |
| Sec. 13A added | 1275 |
| Sec. 13B added | 1928 |
| Sec. 17 (b) revised | 19820 |
| Sec. 21 (e) revised | 6829 |
| (b) revised | 8432 |
| Revised | 10811, 19820 |
| Sec. 22 (f) and (g)(1) revised | 3409 |
| Revised | 10726 |
| (g)(2), (4), and (9), (h)(1), (p)(2)(iii), and (j) revised; (q) and (r) added | 19820 |
| Sec. 23 revised | 4259 |
| Sec. 24 Removed | 12748 |
| Sec. 25 Revised | 19821 |
| Sec. 27 Removed | 6829 |
| Sec. 30 Revised | 10727 |
| (c) revised | 19822 |
| Sec. 31 Removed | 12748 |
| Sec. 32 Added | 10728 |
| Revised | 19822 |
| Introductory text of (g) revised | 25438 |
| Sec. 33 Added | 10729 |
| Sec. 34 Added | 10729 |
| Sec. 35 Added | 10729 |
| **OIAB (Chapter XI)** | |
| Chapter revised | 2684, 26103 |
| Sec. 3 Revised | 12118 |
| Sec. 6 Revised | 12118 |
| Sec. 21 Corrected | 3599 |
| **OPC (Chapter XII)** | |
| Establishment of chapter | 10811 |
| OPC Reg. 1 | |
| Sec. 1 Added | 10811 |
| Corrected | 12401 |
| Sec. 2 Added | 10812 |
| Sec. 3 Added | 10812 |
| Sec. 4 Added | 10812 |
| *Proposed Rules:* | |
| Ch. X | 3606, 3985, 4716, 9091, 22237, 22489, 26005 |
| Ch. XIII | 21797, 23339, 23977 |

## 33 CFR

| | Page |
|---|---|
| **Chapter I** | |
| 1.10–1—1.10–5 (Subpart 1.10) Revised | 12396 |
| 3.15–55 Revised | 860 |
| 3.15–57 Added | 860 |
| 3.15–60 Revised | 860 |
| 24.35 Amended | 10085 |
| 24.40 Amended | 10085 |
| 92.49 (a), (c)(2) and (3) corrected | 1587 |
| (b), (e) introductory text, and (e)(3) revised | 2687 |
| 110.120 Revised | 1928 |
| 110.168 (a)(8) revised; (a)(12) added | 12804 |
| (d)(1) revised | 18373 |
| 110.224 (a)(8)(i) and (e)(2)(i) corrected | 23 |
| 110.236 Revised | 16777 |
| 110.237 Removed | 16777 |
| 117.155 (b) revised | 2428 |
| 117.200 (j) added | 15834 |
| 117.215 (j)(5) added | 6390 |
| 117.225 (f)(1–b) revised | 9590 |
| (f)(17) removed | 15834 |
| (f)(9) removed | 21631 |
| 117.245 (i)(20)(i) revised | 4510 |
| (f)(5–b) and (i)(12–a) revised | 4977 |
| (i)(20–a) added | 8433 |
| (i)(12–a) added | 9589 |
| (g) (11) and (13), (h) (6) and (23), and (i)(2) and (5) removed; (g)(15) revised | 10086 |
| (g)(17–a) added | 10720 |
| (i)(2) and (5–a) added | 21631 |
| 117.431a (b) removed | 10086 |
| 117.433 Added | 14095 |
| 117.438a Added | 12396 |
| 117.446c (b) revised | 14379 |
| 117.447 Revised | 6893 |
| 117.467 Added | 25438 |
| 117.485 Revised | 7115 |
| 117.495 Revised | 7115 |
| Amended | 18546 |
| 117.535 Existing text designated as (a); (b) added | 8657 |
| 117.556 (c)(5), (d), and (e) added | 4510 |
| (b) amended | 4977 |



## 33 CFR—Continued

| | Page |
|---|---|
| 117.557 (a) revised | 4977 |
| 117.558 (a) revised | 4977 |
| 117.559 (a) revised | 4977 |
| 117.560 (a) revised | 4977 |
| 117.561 (a) revised | 4977 |
|

## 33 CFR—Continued

### Chapter I—Continued

| | Page |
|---|---|
| 117.560 (g)(6) revised | 4511 |
| 117.712 (i)(1) revised | 3509 |
| (d) revised | 9227 |
| 117.714 (h)(2) revised | 9079 |
| 117.716 (c) revised | 26115 |
| 117.720 (a)(1) amended | 13560 |
| 117.722 Added | 13560 |
| 117.760 (f) revised | 25438 |
| 127.202 Added | 19379 |
| 127.302 Added | 15049 |
| Removed | 24898 |
| 127.303 Added | 17441 |
| 127.304 Added | 17441 |
| 127.305 Added | 20831 |
| 127.306 Added | 22123 |
| 127.309 Added | 22778 |
| 127.500 Added | 3409, 6069, 14379 |
| 127.1201 Added | 3509 |
| 175 Added; eff. 10-1-73 | 8115 |

### Chapter II

| | Page |
|---|---|
| 201.1—201.16 Removed | 12804 |
| 201.20 Removed | 12804 |
| 204.52 (b)(6) revised | 16223 |
| 204.86 Removed | 21495 |
| 207.11 Removed | 25176 |
| 207.169 (a) revised | 5468 |
| 207.170d Added | 21404 |
| 207.510 (d) amended | 8246 |
| 209.340 Added | 5171 |
| 209.400 Added | 1637 |
| 209.405 Added | 1929 |

### Chapter IV

| | Page |
|---|---|
| 401 Revised | 8433 |
| 401.2 (g) revised | 22031 |
| 401.103-5 Table corrected | 9228 |
| 401.104-9 Revised | 9667, 15508, 22627 |
| 401.105-2 Correctly designated as 401.105-8 | 9228 |
| 401.105-8 Correctly designated from 401.105-2 | 9228 |
| 401.120-1 Corrected | 9228 |
| 401.201—401.206 (Subpart C) Added | 21922 |
| 401.201 (a) revised | 24210 |

*Proposed Rules:*

| | Page |
|---|---|
| 1 | 6900 |
| 90 | 20467 |
| 110 | 1937, 7240, 8277, 10641, 15969, 15970, 22795 |
| 117 | 1510, 2466, 4269, 5657, 6901, 9592, 11472, 14111, 18563, 19412, 21649, 21650, 22491, 24912-24914, 25455, 26938 |
| 127 | 22960, 23804 |
| 160 | 21228 |
| 161 | 15918 |
| 175 | 887 |
| 177 | 6900, 6902 |
| 209 | 12217 |
| 401 | 3087, 4518, 16915 |

## 35 CFR

### Chapter I

| | Page |
|---|---|
| 5.28 (a) amended | 25438 |
| 51.122 (c) and (d) revised | 26722 |
| 61.121 Amended | 3963 |
| 61.171 (a)(4) added | 3963 |
| 61.192 (a) revised | 3963 |
| 61.195 (a) revised | 3963 |
| 61.197 Introductory text of (a) revised | 3963 |
| 61.198 Revised | 3963 |
| 101.2 Revised | 3963 |
| 101.7 Amended | 3963 |
| 111.161 (d) revised; (e) added | 11346 |
| 123.4 (a) revised | 3963 |

## 36 CFR

| | Page |
|---|---|
| Heading revised | 27049 |

### Chapter I

| | Page |
|---|---|
| 4.11 (e) added | 12212 |
| 5.4 (a) amended | 10639 |
| 6.7 Removed | 10639 |
| 7.7 Revised | 20831 |
| 7.13 (e) revised | 12212 |
| 7.14 (a)(1)(ii) and (3)(ii) revised | 5244 |
| 7.45 (g) revised | 16778 |
| 7.48 (a)(1)(i) and (ii), and (c) revised | 5245 |
| 7.86 Added | 17841 |
| 7.91 (b) added | 5245 |
| 7.93 Added | 21264 |
| 50.19 Effective date changed | 24218 |

### Chapter II

| | Page |
|---|---|
| 212.7 (a)(3) revised | 3509 |
| 221.2 Revised | 20326 |
| 221.10a Added | 13561 |
| 221.17 Revised | 23403, 23948 |
| 231.10 Heading and (e) revised | 4977 |
| 231.11 Added | 22000 |
| 251.22 Removed | 5852 |
| 251.25a Removed | 5852 |
| 251.26—251.30 Removed | 5852 |
| 251.40—251.42 Removed | 5852 |
| 251.70—251.86 Removed | 5852 |
| 251.90—251.96 Removed | 5852 |
| 291 Added (formerly 251.25a and 251.90-251.96) | 5852 |
| 291.3 Added | 6996 |
| 292 Added (formerly 251.40—251.42) | 5853 |



| | Page |
|---|---|
| 293 Added (formerly 251.70—251.86) | 5855 |
| 294 Added (formerly 251.22 and 251.26—251.31) | 5859 |
| 295 Added | 26723 |

### Chapter III

| | Page |
|---|---|
| 311 Removed | 7552 |
| 326 Removed | 7552 |
| 327 Added | 7552 |
| 327.16 Corrected | 9166 |
| 327.25 Added | 7797 |

### Chapter VII

| | Page |
|---|---|
| Establishment of chapter | 27049 |
| 701 Added; provisions transferred from 44 CFR Ch. V (Part 501) and amended | 27049 |
| 702 Added; provisions transferred from 44 CFR Ch. V (Part 502) and amended | 27049 |

*Proposed Rules:*

| | Page |
|---|---|
| 2 | 4405, 7126 |
| 4 | 2765, 4405, 7126 |
| 7 | 1122, 4405, 5257, 7126, 8749, 10640, 13028, 13490, 20071, 20896, 22633, 22634, 22968, 23796, 24912, 25185 |
| 13 | 15515 |
| 221 | 4675, 10010, 12749 |
| 292 | 13754, 17245 |
| 295 | 5643, 10010 |
| 327 | 3051, 4716 |
| 601 | 15637 |

## 37 CFR

### Chapter I

| | Page |
|---|---|
| 1.55 (c) added | 9297 |
| 1.225 Revised | 10005 |
| 1.231 (a)(4) and (5) and (d) revised | 10005 |
| 1.243 Amended | 10005 |
| 1.244 (c) and (d) amended | 10005 |
| 1.251 (a) revised | 10005 |
| 1.253 (f) revised | 10005 |
| 1.272 (c) revised | 10005 |
| 1.277 (a) revised | 10005 |
| 1.281 Revised | 10005 |
| 2.47 Revised | 18876 |
| 2.57 Revised | 18876 |
| 2.68 Revised | 7985 |
| 2.85 Revised | 14681 |
| 5.3 (b) revised | 10006 |
| 6.1 Redesignated as 6.2; new 6.1 added | 14682 |
| 6.2 Redesignated as 6.2; redesignated from 6.1 | 14682 |
| 6.3 Redesignated as 6.4; redesignated from 6.2 | 14682 |
| 6.4 Redesignated from 6.3 | 14682 |

### Chapter II

| | Page |
|---|---|
| 201.3 Revised | 3045 |
| 201.6 (c) revised | 3045 |
| 202.1 (c) revised | 3045 |
| 202.4 (b)(1) revised | 3045 |

*Proposed Rules:*

| | Page |
|---|---|
| 1 | 4581, 14692 |
| 2 | 4581 |

## 38 CFR

### Chapter I

| | Page |
|---|---|
| 1.218—1.220 Undesignated center heading added | 24364 |
| 1.218 Added | 24364 |
| 1.219 Added | 24365 |
| 1.220 Added | 24366 |
| 1.500 (a) and (c) revised | 15601 |
| 1.511 (a)(1) revised | 5468 |
| 1.519 Revised | 15601 |
| 1.556 Revised | 12213 |
| 2.6 (a)(8) revised | 24366 |
| 2.75 Revised | 5476 |
| 3.4 (d) revised | 21923 |
| 3.51 Revised | 871 |
| 3.57 (c) revised | 871 |
| 3.210 (c) introductory text revised | 871 |
| 3.261 (a)(14) revised | 872 |
| (a)(17) revised | 26804 |
| 3.262 (f) revised | 26804 |
| 3.311 Heading, (b), and cross reference revised | 21923 |
| 3.315 Revised | 871 |
| 3.323 (a)(2) and (b)(2) revised | 21923 |
| 3.324 Revised | 21923 |
| 3.350 Introductory text of (i) revised | 20832 |
| Introductory text and introductory text of (a) revised | 21923 |
| 3.351 Introductory text of (d) revised | 20832 |
| 3.356 (a), (b) introductory text, (1), and (2) revised | 871 |
| 3.403 (f) revised | 872 |
| 3.461 (b)(4)(ii) revised | 14929 |
| 3.500 (r) revised | 21923 |
| 3.503 (j) revised | 872 |
| 3.800 (b) revised | 21923 |
| 3.807 (d) revised | 8658 |
| 3.808 Introductory text revised | 12213 |
| Corrected | 14370 |
| 3.903 (a)(4) revised | 4511 |
| 13.205 Revised | 872 |
| 13.207 Revised | 872 |



## 38 CFR—Continued

| | Page |
|---|---|
| 21.138 Added | 14930 |
| 21.4235 (a)(2) and (3) revised | 14937 |
| 111 Removed | 17841 |



CODE
XUM

## 38 CFR—Continued

### Chapter I—Continued

| | Page |
|---|---|
| 13.208 (a) and (b) revised | 872 |
| 13.209 (a), (c), and (e) revised; (f) added | 873 |
| 13.210 Revised | 873 |
| 13.211 Removed | 873 |
| 13.212 (b)(2)(i) revised | 873 |
| 13.213 (c) revised | 873 |
| 14.514—14.617 Revised | 5468–5474 |
| 14.618 Added | 5474 |
| 14.664—14.669 Revised | 5475–5476 |
| 14.670 Removed | 5475 |
| 17.66 Revised | 24366 |
| 17.70—17.71 Undesignated center heading revised | 24366 |
| 17.70 Removed | 24367 |
| 17.100 (a)(2), (c), (g), and (h) revised | 14168 |
| 17.400—17.416 Undesignated center heading added | 26190 |
| 17.400 Added | 26190 |
| 17.401 Added | 26190 |
| 17.402 Added | 26190 |
| 17.403 Added | 26191 |
| 17.404 Added | 26191 |
| 17.405 Added | 26191 |
| 17.406 Added | 26192 |
| 17.407 Added | 26192 |
| 17.408 Added | 26192 |
| 17.409 Added | 26192 |
| 17.410 Added | 26192 |
| 17.411 Added | 26193 |
| 17.412 Added | 26193 |
| 17.413 Added | 26193 |
| 17.414 Added | 26193 |
| 17.415 Added | 26193 |
| 17.416 Added | 26193 |
| 17 Appendix A revised | 11085 |
| 18.2 Revised | 17965 |
| 18.3 (b) revised | 17965 |
| 18.4 (a) and (b) revised; (c) and (d) added | 17965 |
| 18.5 Removed; provision transferred to Appendix B | 17966 |
| 18.6 (b) revised | 17966 |
| 18.7 (b) revised | 17966 |
| 18.8 (d) revised | 17966 |
| 18.9 (b) and (d)(1) revised | 17966 |
| 18.10 (a) through (e) revised; (g) added | 17966 |
| 18.12 (a) and (c) revised | 17967 |
| 18.13 (c), (f), and (h) revised; (i) added | 17967 |
| 18 Appendix B added; provisions derived from 18.5 | 17968 |
| 21.130 (a) revised | 14929 |
| 21.131 (c) revised; (e) removed | 14930 |
| 21.132 (g) revised; (l) removed | 14930 |
| 21.133 Revised | 14930 |
| 21.136 Revised | 14930 |
| 21.138 Added | 14930 |
| 21.145 Added | 12213 |
| 21.253 (b)(2) revised | 14930 |
| 21.1030 Revised | 14930 |
| 21.1032 Cross references revised | 14930 |
| 21.1041 (a)(4) and (d)(2) revised | 14930 |
| 21.1045 (a)(2) and (4) and (b) revised; (a)(5) added | 14931 |
| (a)(6) added | 23948 |
| 21.3020 (b) revised | 14931 |
| 21.3021 (a)(1)(iii) and (3)(i) revised | 12110 |
| 21.3041 (d) introductory text and (e)(3) revised; (d)(8) added | 14931 |
| (e)(2) revised | 16220 |
| 21.3044 (c) added | 14931 |
| 21.3046 Introductory text revised | 14931 |
| 21.3300 (c) revised | 14931 |
| 21.3333 (a) and (b) revised | 14931 |
| 21.4005 (a)(1) and (2) and (b)(2)(iv) and (v) revised | 14932 |
| 21.4006 Introductory text of (a) revised | 14932 |
| 21.4020 Revised | 14932 |
| 21.4101 (b) revised | 14932 |
| 21.4102 Revised | 14932 |
| 21.4106 Revised | 14932 |
| 21.4130 Introductory text revised | 14932 |
| 21.4131 (a)(4) removed | 14933 |
| 21.4134 Revised | 14933 |
| 21.4135 (e) and (h) revised | 14933 |
| 21.4136 (a), (c), (g), and (h) revised; (j) added | 14933 |
| 21.4137 (a) revised; (e), (f), and (g) added | 14934 |
| 21.4138 Revised; cross reference added | 14934 |
| 21.4140 Revised | 14935 |
| 21.4145 Added | 12214 |
| (a)(3) and (4) revised; (a)(5) | 14935 |
| 21.4153 (c)(3 revised | 14935 |
| 21.4200 (a)(2) and (c) revised | 14935 |
| 21.4201 Revised | 14935 |
| 21.4202 (a) revised | 14935 |
| 21.4203 (b)(1) and (2), (d)(1), (e), and (f)(1) and (2) revised | 14935 |
| 21.4204 (a), (c)(1), and (d) revised | 14936 |
| 21.4206 (c) added | 14936 |
| 21.4207 Introductory text revised | 14936 |
| 21.4209 (a) and (c) revised | 14936 |
| 21.4230 (d) revised | 14936 |
| 21.4231 (b)(2) revised | 14936 |
| 21.4232 (a) revised | 14937 |
| 21.4234 Introductory text, (b)(2), and (c) revised | 14937 |



| | Page |
|---|---|
| 21.4235 (a)(2) and (3) revised | 14937 |
| (a)(1) revised | 14940 |
| 21.4236 Heading, (a), (b)(1), (c), and (d) revised | 14937 |
| 21.4237 Added | 14937 |
| 21.4250 (c)(2) and (4) revised | 14937 |
| 21.4251 (b) revised | 10153 |
| added | 14938 |
| 21.4252 (e), (f)(1), and (g) revised | 14938 |
| 21.4253 (a)(2) revised | 14938 |
| 21.4256 Revised | 14938 |
| 21.4260 Revised | 14938 |
| 21.4261 Heading, (b)(1), and (c)(2) and (3) revised | 14938 |
| 21.4262 Heading, (b)(1), (5), (6), and (7), and (c)(2), (4), (5), (7), (8), and (10) revised | 14938 |
| 21.4264 (a) and (c) revised | 14938 |
| 21.4270 Table amended | 14939 |
| 21.4271 (c) revised | 14939 |
| 21.4272 (c)(5) revised | 8659 |
| (d) revised | 12110 |
| (f)(2) and (g) revised | 14939 |
| 21.4274 (a) revised | 19371 |
| 21.4279 Added | 7394 |
| 25 Added | 22779 |
| 36.4212 (a)(2) and (3) revised | 20615 |
| (a) revised | 23519 |
| 36.4310 Revised | 25678 |
| 36.4326 Revised | 20832 |
| 36.4311 (a) revised | 18373, 20616, 23519 |
| 36.4503 (a) revised | 18373, 20616, 23519 |
| *Proposed Rules:* | |
| 1 | 1058, 6695, 9605, 22904 |
| 3 | 3202, 8284, 10280, 16396, 21188, 21946, 22561, 22650, 22986 |
| 14 | 1053 |
| 17 | 9316, 16917, 22904, 26393 |
| 21 | 2337, 4522, 5267, 7403, 8284, 8523, 12135, 14886, 19417, 23541, 26944 |
| 36 | 2709 |

## 39 CFR

### Chapter I

| | |
|---|---|
| Subchapter J Redesignated as Subchapter K; redesignated from Subchapter M | 14168 |
| Subchapter K Redesignated from Subchapter J | 14168 |
| Subchapter M Redesignated as Subchapter J | 14168 |
| 3.2 Amended | 5476 |
| 4.1 Amended | 5476 |
| 5.1 (c) revised | 5476 |
| 6.1 Amended | 5476 |
| 5.2 Amended | 5476 |
| 111 Removed | 17841 |
| 113.3 (a) revised | 21496 |
| 121 Revised | 19030 |
| 122.2 (d) added | 6996 |
| 122.5 (a)(1) and (4) revised | 1931 |
| 124.3 (c)(1)(xiv) added | 21496 |
| 124.6 (b) removed; (c) and (d) redesignated as (b) and (c) | 19123 |
| 126.1 (f)(1)(ii) revised | 18373 |
| (e)(2) and (4) revised | 18655 |
| 126.2 Revised | 18655 |
| 132.3 (c)(4) and (5) and (f) amended | 16351 |
| 134.5 (a), (b), (c), and (d)(1) revised | 1566 |
| 137.7 (b) revised | 15509 |
| 137.8 Heading revised; text amended | 15509 |
| 141.2 (b) amended; (c)(1) and (2), (d)(1), and (e)(1) revised; (e)(2) redesignated as (e)(4) and amended; (f) redesignated as (g) and revised; (g) redesignated as (h); new (e)(2) and (3) and (f) added | 22384 |
| 142.1 (a) revised | 22384 |
| 143.2 (f)(1) and (2) and (g) revised | 20076 |
| 144 Revised | 19033 |
| 144.1 (d)(4)(i) amended | 22385 |
| 144.6 (b) redesignated as (c); new (b) added | 22385 |
| 145.1 (b) added | 18548 |
| 145.9 Added | 6894 |
| 148 Removed | 17841 |
| 154.1 (d)(4) and (5) added | 20076 |
| 154.2 (a)(2) revised | 22385 |
| 156.5 (a)(5) amended | 18877 |
| (a)(6) added | 19041 |
| 162.1 (c)(4) amended | 21496 |
| 164 Revised | 19041 |
| 164.1 (b)(2) corrected | 19911 |
| 171.2 (b)(2)(iv) added | 18878 |
| Table No. 1 revised | 18878 |
| 211 Provisions transferred to Part 221; new Part 211 added | 20402 |
| 212 Removed (provisions transferred to Part 222) | 20402 |
| 213 Removed (provisions transferred to Part 223) | 20402 |
| 221 Added (provisions derived from Part 211) | 20403 |
| 222 Provisions transferred to Part 224; revised (provisions derived from Part 212) | 20404 |
| 223 Provisions transferred to Part 225; revised (provisions derived from Part 213) | 20406 |
| 224 Provisions transferred to Part 226; revised (provisions derived from Part 222) | 20406 |

## 39 CFR—Continued

### Chapter I—Continued

| | Page |
|---|---|
| 225 Added (provisions derived from Part 223) | 20410 |
| 226 Added (provisions derived from Part 224) | 20414 |
| Authority citation corrected | 21265 |
| 226.4 Corrected | 21265 |
| 232.4 (g) revised | 19911 |
| 232.5 (b) revised | 19124 |
| 235 Revised | 20415, 26193 |
| 244.1 Removed; redesignated from 244.2 | 20327 |
| 244.2 Redesignated as 244.1 | 20327 |
| 256 Removed | 17841 |
| 262.8 (b) revised | 3599 |
| 510 Removed | 1275 |
| 520 Removed | 1275 |
| 530 Removed | 1275 |
| 540 Removed | 1275 |
| 550 Removed | 1275 |
| 560 Removed | 1275 |
| 570 Removed | 1275 |
| 601 Heading and authority citation revised | 1275 |
| 601.102 (a) revised | 1275 |
| 619 Removed | 1275 |
| 747 Removed | 17841 |
| 761.4 (a) and (b) revised | 12919 |
| 912.9 Existing text designated as (a); (b) added | 16868 |
| 952.4 Revised | 17216 |
| 952.5 Amended | 17216 |
| 952.17 (b)(9) amended | 17216 |
| (a) amended | 20263 |
| 952.24 (a) amended | 17216 |
| 952.25 (d) amended; (e) revised | 17216 |
| 952.27 Amended | 17216 |
| 952.28 Amended | 17216 |
| 952.29 Amended | 17216 |
| 953.9 Amended | 17217 |
| 953.11 Amended | 20263 |
| 954.4 Revised | 17217 |
| 954.5 Amended | 17217 |
| 954.6 Amended | 17217 |
| 954.7 Amended | 17217 |
| 954.8 (a), (b), and (d) revised | 17217 |
| 954.14 (a) revised | 17217 |
| (a) amended | 20263 |
| 954.20 Heading and (b) revised; (d) added | 17217 |
| 955.7 (a) and (b) amended; (d) added | 17217 |
| 955.9 (b) amended | 17217 |
| 955.14 (c) amended | 17217 |
| 955.30 Revised | 17217 |
| 957.3 (g) revised | 17217 |
| 957.4 Amended | 17217 |
| 958.7 Amended | 20263 |

### Chapter III

| | Page |
|---|---|
| 3000.735–501 Revised | 24899 |
| 3000.735–502 Amended | 24899 |
| 3001.1 Revised | 4327 |
| Removed; new 3001.1 added | 4753 |
| 3001.5 (h) revised | 3510 |
| (f) revised | 4327 |
| 3001.6 (f)(1) and (2) removed | 4327 |
| 3001.7 (a) Revised | 3510, 24899 |
| (a) and (c) revised | 4327 |
| 3001.10 (c) revised | 19045 |
| 3001.12 (e) revised | 4327 |
| 3001.15 Revised | 4327 |
| 3001.19a Added | 3510 |
| 3001.20 (d) revised | 4327 |
| 3001.21 Revised | 4327 |
| 3001.25 (a) and (b) revised | 4327 |
| (b) corrected | 4753 |
| 3001.26 (a) and (b) revised | 4328 |
| 3001.27 (a) and (b) revised | 4328 |
| 3001.31 (k) added | 7532 |
| 3001.32 Revised | 4328 |
| (b) corrected | 4753 |
| 3001.34 (a) revised | 4328 |
| 3001.35 Revised | 4329 |
| 3001.40 (a) revised | 4329 |
| 3001.41 (a) revised | 4329 |
| 3001.42 Revised | 4329 |
| 3001.52 Revised | 4330 |
| 3001.54 Revised | 7532 |
| 3001.55 Revised | 3511 |
| 3001.56 Added | 7535 |
| 3001.62 Revised | 4330 |
| 3001.64 Revised | 7535 |
| 3001.65 Revised | 3511 |
| 3001.72 Revised | 4330 |
| 3001.75 Revised | 3511 |
| 3001.91—3001.92 (Subpart F) Added | 7536 |

*Proposed Rules:*

| | Page |
|---|---|
| 152 | 17512 |
| 310 | 17512 |
| 320 | 17512 |

## 40 CFR

### Chapter I

| | Page |
|---|---|
| 2.107a Revised | 22473 |
| 3 Revised | 9556 |
| 6 Added | 1696 |
| 7 Added | 17968 |
| 10 Added | 16868 |
| 35 Subpart D redesignated as Subpart E and revised | 5329 |
| 35.400—35.560–2 (Subpart B) Revised | 17218 |
| 35.850—35.895 (Subpart D) Added | 26882 |
| 35.930–1 (a)(4) corrected | 6390, 9666 |
| 35.935–6 Corrected | 6390 |
| 35 Appendix A added | 24639 |
| 40 Interim regulations added | 12784 |



| | Page |
|---|---|
| 40.125–1 Corrected | 16220 |
| 45 Added | 16060 |
| 46 Added | 16061 |
| 50.5 Revised | 25681 |
| 51.1 (r), (s), (t), (u), (v), (w), and (x) added | 15195 |
| (f) and (g) revised | 15835 |
| 51.4 (f) added | 15195 |
| 51.5 (d) and (e) added | 15195 |
| (a)(3) added | 15836 |
| 51.7 Revised | 20834 |
| 51.11 (a)(4) revised | 15836 |
| 51.12 (e), (f), (g), and (h) added | 15836 |
| 51.14 (a)(2) and (c)(1) and (5) revised; (f), (g), and (h) added | 15195 |
| 51.16 (c) removed; (f) amended | 20835 |
| 51.18 Revised | 15836 |
| 51.19 (d) added | 15196 |
| 51.32 (d) amended | 15958 |
| 51.33 Added | 22026 |
| 51 Appendix I removed | 15195 |
| Appendix M added | 15196 |
| Appendix N added | 15197 |
| Appendix O added | 15836 |
| 52 Subparts B, C, E, G, H, K, L, M, P, Q, R, S, T, U, V, X, Y, AA, CC, FF, KK, NN, OO, QQ, RR, VV, and YY amended | 12702 |
| Subparts D, F, N, DD, GG, and TT amended | 12711 |
| 52.01 (g) and (h) added | 12698 |
| 52.18 Added | 12698 |
| 52.19 Added | 12698 |
| 52.22 Added | 6280 |
| Revised | 12920 |
| 52.50 (c) revised | 16564 |
| 52.52 Removed | 7324 |
| 52.54 Table amended | 7324, 16564 |
| 52.55 Added | 7324 |
| Removed | 16564 |
| 52.70 (c) revised | 22738 |
| 52.76 Added | 16564 |
| 52.81 Table amended | 7324 |
| 52.83 Revised | 7324 |
| 52.84 Added | 16145 |
| (b) revised; (c) and (d) added | 22738 |
| (b)(9) revised | 24342 |
| 52.120 (c) revised | 16564 |
| 52.122 (a) revised | 7324 |
| (a) revised; (c) added | 7556 |
| (c) added | 16564 |
| 52.124 Removed | 12704 |
| 52.125 (c) added | 7556 |
| 52.126 (b) added | 12704 |
| 52.129 (c) and (d) added | 12705 |
| 52.130 (c) added | 12705 |
| (b) added | 16564 |
| 52.131 Table amended | 7325, 7556 |
| 52.132 Revised | 7325 |
| (a)(3) revised | 16564 |
| 52.134 Added | 7556, 16564 |
| (a) revised | 12705 |
| 52.135 Added | 16564 |
| 52.222 (b) removed | 7325 |
| 52.224 (b) added | 12706 |
| 52.233 (f) and (g) added | 12706 |
| 52.234 (d) added | 12707 |
| 52.238 Table revised | 7325 |
| Table corrected | 12920 |
| 52.239 Revised | 7325 |
| (a)(2) and (3) amended | 12920 |
| 52.240 (a)(1)(vi) added | 12698 |
| (c) and (d) added | 12708 |
| Added | 16564 |
| 52.322 (b) removed | 7325 |
| 52.325 Table amended | 7325 |
| 52.326 Revised | 7325 |
| 52.327 Added | 16145, 16564 |
| (b) added | 22739 |
| (b)(5) revised | 24342 |
| 52.329 Added | 20754 |
| 52.330 Added | 20755 |
| 52.331 Added | 20755 |
| 52.332 Added | 20755 |
| 52.333 Added | 20756 |
| 52.334 Added | 20756 |
| 52.335 Added | 20756 |
| 52.336 Added | 20757 |
| 52.337 Added | 20757 |
| 52.338 Added | 20757 |
| 52.370 (c) revised | 12698 |
| 52.420 (c) revised | 13562 |
| 52.428 Amended | 13562 |
| 52.429 Added | 13562 |
| (a) table amended | 14753 |
| 52.470 (c) revised | 16564 |
| 52.474 Added | 16565 |
| 52.476 (b) added | 22740 |
| (b)(5) revised | 24342 |
| 52.479 Added | 16565 |
| 52.481 Table revised | 7325 |
| 52.482 (a) revised | 7326 |
| 52.483 Added | 16565 |
| 52.484 Added | 16565 |
| 52.485 Added | 16565 |
| 52.520 (c) revised | 22740 |
| 52.522 Revised | 16145 |
| 52.524 Added | 16145 |
| (b) added | 22740 |
| (c) added | 24333 |
| (b)(6) revised | 24342 |
| (c) tables revised | 26325 |
| 52.620 (c) revised | 12712 |
| 52.623 Amended | 12712 |
| 52.626 Removed | 12712 |
| 52.627 Removed | 12712 |
| 52.670 (c) revised | 12708, 22741 |
| 52.675 Removed | 12708 |
| 52.677 Revised | 16145, 22741 |
| (d)(5) revised | 24342 |





CODE
XUM
C

## 40 CFR—Continued

### Chapter I—Continued

| | | Page |
|---|---|---|
| 52.679 | Removed | 12708 |
| 52.720 | (c) revised | 16565 |
| 52.726 | (a) revised | 17726 |
| 52.727 | Table amended | 7326 |
| 52.728 | Revised | 7326 |
| 52.729 | Added | 16565 |
| 52.730 | Added | 16145 |
| | (b) added | 22742 |
| | (b)(3) revised | 24342 |
| 52.770 | (c) revised | 12698 |
| 52.772 | (b) removed | 7326 |
| | (a) revised | 12698 |
| 52.774 | Removed | 12698 |
| 52.777 | Removed | 12698 |
| | Revised | 16565 |
| 52.778 | (a) revised; (b) removed | 12698 |
| 52.779 | (a), (b), and (c) removed | 12698 |
| 52.780 | (d) added | 12698 |
| 52.781 | (b) revised; (c) and (d) removed | 12698 |
| 52.783 | Table amended | 7326 |
| | Footnote f revised | 12699 |
| 52.784 | Added | 7326 |
| 52.785 | Added | 16565 |
| 52.870 | (c) revised | 16565 |
| 52.872 | Removed | 7326 |
| 52.873 | Tables amended | 17682 |
| 52.879 | Table amended | 7326 |
| 52.880 | Added | 7326 |
| | Removed | 17682 |
| 52.881 | Added | 16565 |
| | Removed | 17682 |
| 52.927 | Added | 16145 |
| 52.970 | (c) revised | 16565, 17682, 18652 |
| 52.973 | (b) revised | 3600 |
| | (a) revised | 16565 |
| | Removed | 17682 |
| 52.976 | (b)(8)(iv) added; (b)(9)(iii) revised | 3600 |
| | Removed | 18652 |
| 52.979 | Table amended | 7326, 16565, 17682 |
| 52.980 | Removed | 17682 |
| 52.981 | Removed | 7326 |
| 52.982 | Added | 7327 |
| | Removed | 16565 |
| 52.1020 | (d) added | 22474 |
| 52.1023 | Added | 22474 |
| 52.1025 | Added | 22474 |
| 52.1070 | (c) revised | 16565 |
| 52.1072 | (b) removed | 7327 |
| | (b) added | 16566 |
| 52.1074 | (b) added | 16566 |
| 52.1077 | (b) added | 16566 |
| 52.1078 | Table amended | 7327 |
| 52.1079 | Revised | 7327 |
| | (a)(2) and (3) amended | 12920 |
| | (a)(1) revised | 16566 |
| 52.1080 | Added | 16145, 16566 |
| | (b) added | 22743 |
| | (b)(5) revised | 24342 |
| 52.1083 | Added | 16566 |
| 52.1084 | Added | 16566 |
| 52.1122 | (b) removed | 7327 |
| 52.1125 | (b) revised | 9089 |
| | (a) revised; (b) table amended | 20835 |
| | (a) and (b) tables amended | 21919 |
| 52.1126 | Added | 9089 |
| 52.1127 | Table amended | 7327 |
| 52.1128 | Revised | 7327 |
| | (a)(2), and (3) amended | 12921 |
| 52.1129 | Added | 16566, 18879 |
| 52.1130 | Added | 18879 |
| | (b) added | 18880 |
| 52.1131 | Added | 18879 |
| | (b) added | 18880 |
| 52.1132 | Added | 18880 |
| 52.1175 | (b)(1) amended; (b)(1)(i) and (ii) and introductory text of (b)(2) revised | 12712 |
| | (c) added | 16145 |
| | (d) added | 22743 |
| | (d)(3) revised | 24342 |
| 52.1176 | (b)(6)(iii) revised | 12713 |
| 52.1222 | Removed | 7327 |
| 52.1226 | Table amended | 7327 |
| 52.1227 | Revised | 7327 |
| 52.1228 | Added | 16566 |
| 52.1320 | (c) revised | 16566 |
| 52.1322 | Removed | 7327 |
| 52.1332 | Table amended | 7327, 17682 |
| 52.1333 | Added | 7327 |
| | Removed | 17682 |
| 52.1334 | Added | 16566 |
| | Removed | 17682 |
| 52.1420 | (c) revised | 12699 |
| 52.1423 | (b) added | 12699 |
| 52.1424 | (b)(1) removed | 12699 |
| 52.1425 | (b) added | 12699 |
| 52.1426 | Removed | 12699 |
| 52.1428 | (d) and (e) added | 12699 |
| 52.1429 | (b) and (d) removed; (f) and (g) added | 12700 |
| 52.1432 | (b) and (c) added | 12700 |
| 52.1470 | (c) revised | 12708 |
| 52.1473 | (a) amended; (b) added | 12708 |
| 52.1474 | Removed | 12708 |
| 52.1477 | (a) revised; (b) removed | 12708 |
| 52.1478 | (a) revised; (b) added | 12709 |
| 52.1479 | (a) revised; (c) added | 12709 |
| 52.1520 | (d) added | 12713 |
| | (c) revised | 16145 |
| 52.1522 | Revised | 16145 |
| 52.1524 | Added | 12713 |
| | (a) table amended; (b) and (c) added | 16145 |
| | (d) added | 22744 |
| 52.1570 | (c)(1) revised; (c)(3) added | 15723 |
| 52.1572 | (b) removed | 7328 |



| | | Page |
|---|---|---|
| 52.1577 | (d)(1) and (2) amended | 12713 |
| 52.1578 | (c)(8)(iv) added; (c)(9)(ii) revised | 12713 |
| | Removed | 15723 |
| 52.1580 | Table amended | 7328 |
| 52.1581 | Added | 7328 |
| 52.1582 | Added | 16567 |
| 52.1620 | (c) revised | 12709 |
| 52.1623 | Removed | 12709 |
| 52.1624 | (c) added | 7556 |
| 52.1626 | (c) added | 7557 |
| | (d) added | 12709 |
| 52.1627 | Removed | 12709 |
| 52.1628 | Removed | 12709 |
| 52.1629 | Removed | 12709 |
| 52.1630 | Table amended | 7557 |
| 52.1631 | (a) revised | 7557 |
| 52.1670 | (c) revised | 16567 |
| 52.1672 | (b)(3) and (4) removed | 7328 |
| | (c) added | 16567 |
| 52.1677 | (c) added | 16146 |
| | (d) added | 22744 |
| | (d)(12) revised | 24342 |
| 52.1682 | Table revised | 7328, 16567 |
| | Heading corrected | 12921 |
| 52.1683 | Revised | 7328, 16567 |
| 52.1770 | (c) revised | 16146 |
| 52.1772 | Revised | 16146 |
| 52.1774 | Added | 16146 |
| 52.1870 | (d) added | 12713 |
| 52.1872 | (b) removed | 7328 |
| 52.1875 | Table amended | 7328 |
| | Heading revised | 12713 |
| 52.1876 | Revised | 7328 |
| 52.1877 | Added | 16567 |
| 52.1920 | (c) revised | 12701 |
| 52.1922 | Revised | 12701 |
| 52.1923 | Removed | 12701 |
| 52.1924 | Removed | 12701 |
| 52.1970 | (c) revised | 16567, 22746 |
| 52.1972 | Revised | 16168 |
| 52.1973 | Table amended | 7329 |
| 52.1974 | Revised | 7329 |
| 52.1975 | Added | 16168 |
| | (b) and (c) added | 22746 |
| | (c)(11) revised | 24342 |
| 52.1976 | Added | 16567 |
| 52.1977 | Added | 16567 |
| 52.1978 | Added | 16567 |
| 52.2020 | (c) revised | 7459, 12701, 16567 |
| 52.2022 | (b) removed | 7329 |
| 52.2024 | Removed | 12701 |
| 52.2025 | Removed | 12701 |
| 52.2026 | (c) added | 7459 |
| | Removed | 12701 |
| 52.2028 | Removed | 12701 |
| 52.2030 | (a) and (b)(3) removed; (b)(2) revised | 12701 |
| | (c) added | 16567 |
| 52.2031 | (b) added | 16568 |
| 52.2032 | Removed | 12701 |
| | Revised | 16568 |
| 52.2033 | Added | 7459 |
| 52.2034 | Table amended | 7329 |
| 52.2035 | Revised | 7329 |
| | (a)(2) and (3) amended | 12921 |
| 52.2036 | Added | 7459, 16568 |
| | (e) amended | 4330 |
| | (e) table corrected | 6070 |
| 52.2070 | (d) added | 12713 |
| | (c) revised | 16168 |
| 52.2076 | Revised | 16352 |
| 52.2077 | Added | 16168, 18879 |
| | (d) added | 16352 |
| | (b) added | 18880 |
| | (b) table amended; (c) and (d) added | 22747 |
| 52.2078 | Added | 18879 |
| | (b) added | 18880 |
| 52.2079 | Added | 18879 |
| | (b) added | 18880 |
| 52.2120 | (c) revised | 16168 |
| 52.2123 | Added | 16168 |
| | (b) table amended; (c) added | 22747 |
| | (c)(14) revised | 24342 |
| 52.2220 | (c)(2), (3), and (4) revised | 16169 |
| | (c)(4) added | 22748 |
| 52.2223 | Added | 16169 |
| | (a) and (e) added | 22748 |
| | (a)(1) and (2) revised; (a)(4), (5), and (6) redesignated as (a)(5), (6), and (7); new (a)(4) added | 24341 |
| | (a)(5) and (e)(16) revised | 24342 |
| 52.2270 | (c)(2) revised | 3600 |
| | (c) revised | 16568 |
| 52.2272 | Removed | 7329 |
| 52.2279 | Revised | 3600 |
| | Table amended | 7329 |
| | Corrected | 12921 |
| 52.2280 | Revised | 7329 |
| | (a) corrected | 12921 |
| 52.2282 | Added | 16568 |
| 52.2320 | (c) revised | 12709, 16568 |
| 52.2322 | (a) removed | 7329 |
| | (b) revised; (d) added | 7557 |
| | Added | 16568 |
| 52.2324 | (b) added | 12709 |
| 52.2325 | (c) added | 7557 |
| 52.2327 | (b) added | 7557 |
| | (b) revised | 12710 |
| 52.2328 | Removed | 12710 |
| 42.2329 | Removed | 12710 |
| | (b) added | 16568 |
| 52.2330 | (b) added | 7558 |
| | (c) added | 12710 |
| 52.2331 | Table amended | 7329, 7558 |
| 52.2332 | Revised | 7329 |
| 52.2334 | Added | 12711 |
| 52.2335 | Added | 16568 |
| 52.2336 | Added | 16568 |

## 40 CFR—Continued

### Chapter I—Continued


| | Page |
|---|---|
| 52.2370 (c) revised | 12713 |
| 52.2376 Added | 20836 |
| 52.2420 (c) revised | 12701, 16568 |
| 52.2424 Correctly designated from 54.2424 (removed) | 12701 |
| (b) added | 16568 |
| 52.2425 Correctly designated from 54.2425 (removed) | 12701 |
| 52.2427 (b) correctly designated from 54.2427 (b) (removed) | 12701 |
| (a) removed | 12701 |
| (c) added | 16568 |
| 52.2428 (c) added | 16568 |
| 52.2429 Correctly designated from 54.2429 (table revised) | 12701 |
| Table amended | 16568 |
| 52.2430 Added | 16568 |
| 52.2431 Added | 16568 |
| 52.2432 Added | 16569 |
| 52.2433 Added | 16569 |
| 52.2434 Added | 16569 |
| 52.2460 (c) revised | 22750 |
| 52.2470 (c) revised | 12701, 16169, 16569 |
| 52.2472 Removed | 7330 |
| 52.2473 Revised | 16169 |
| 52.2477 Added | 16569 |
| 52.2478 Table amended | 7330 |
| 52.2479 Revised | 7330 |
| 52.2481 Added | 16169, 16569 |
| (a) and (b) revised; (c) removed; (d) added | 22751 |
| (d)(3) revised | 24342 |
| 52.2482 Added | 16569 |
| 52.2483 Added | 16569 |
| 52.2522 Revised | 16170 |
| 52.2524 Added | 16170 |
| (b) added | 22751 |
| (b)(9)(i), (ii), and (iii) revised | 24342 |
| 52.2570 (c) revised | 12702, 12713 |
| 52.2573 (b) added | 12702 |
| 52.2575 Removed | 12713 |
| 52.2576 Removed | 12713 |
| 52.2577 Table amended | 12713 |
| 52.2578 Added | 12713 |
| Revised | 16170 |
| (a) redesignated as (b); (c) added | 22752 |
| 52.2625 (b)(8)(iv) added; (b)(9)(iii) revised | 12713 |
| 52.2775 (b)(6)(iii) revised | 12714 |
| 52.2758 (c)(3) revised | 24342 |
| 54.2424 Correctly designated as 52.2424 | 12701 |
| 54.2425 Correctly designated as 52.2425 | 12701 |
| 54.2427 (b) correctly designated as 52.2427 (b) | 12701 |
| 54.2429 (Table revised) correctly designated as 52.2429 | 12701 |
| 60.72 (c) added | 13562 |
| 60.83 (c) added | 13562 |
| 60 Appendix amended | 13562 |
| 61 Added | 8826 |
| 80 Added | 1255 |
| 80.24 Revised | 26450 |
| 85.001—85.074–6 Revised | 17133 |
| 85.002 (a)(5) revised | 21363 |
| 85.074–7 (b) and (c) revised; (h) added | 14684 |
| Revised | 17133 |
| 85.074–8—85.075–1 Revised | 17133 |
| 85.074–20 Corrected | 19683 |
| 85.075–1 (a) revised | 17441 |
| 85.075–2 (a) revised | 16063 |
| Revised | 17133 |
| 85.075–3 Revised | 17133 |
| 85.075–4 Revised | 17133 |
| 85.075–5 (a)(1) revised; (a)(2)(viii) and (ix) added | 16063 |
| (a)(2) corrected | 16780 |
| Revised | 17133 |
| 85.075–6 Revised | 14684, 17133 |
| 85.075–7 (b) and (c) revised; (h) added | 14685 |
| Revised | 17133 |
| 85.075–8—85.075–27 Revised | 17133 |
| 85.075–28 (c)(1)(i)(b) revised | 14685 |
| (a) revised | 16063 |
| Revised | 17133 |
| 85.075–29 Revised | 17133 |
| 85.075–30 (a)(3) added; (b)(2) revised | 16063 |
| Revised | 17133 |
| 85.075–31—85.075–34 Revised | 17133 |
| 85.075–35 (a)(4)(v) revised | 16063 |
| Revised | 17133 |
| 85.075–36 Revised | 17133 |
| 85.075–37 Revised | 17133 |
| 85.075–38(a)(3) added | 14685 |
| Revised | 17133 |
| 85.075–39 Revised | 17133 |
| 85.076–1 Revised | 22474 |
| 85.101—85.176–1 (Subpart B) Revised | 21348 |
| 85.201—85.276–1 (Subpart C) Added | 21363 |
| 85.702 (a) (18) and (19) added | 17164 |
| 85.774–2 (a) revised | 17164 |
| 85.774–6 (a)(1) and (b) revised | 17164 |
| 85.774–9 (b) revised; (d) added | 17165 |
| 85.774–13 (b) revised | 17165 |
| 85.774–28 (c)(1)(ii) revised | 17165 |
| 85.774–30 (a)(2) and (b)(1)(ii) revised | 17165 |
| 85.774–33 (a) revised | 17165 |
| 85.802 (a)(23) and (24) added | 17165 |
| 85.874–2 (a) revised | 17165 |
| 85.874–6 (a)(1) and (b) revised | 17165 |





| | Page |
|---|---|
| 85.874–7 (e) removed | 17165 |
| 85.874–9 (d) revised | 17165 |
| 85.874–15 (b) added | 17165 |
| 85.874–28 (c)(1)(ii) revised | 17165 |
| 85.874–30 (a)(2) and (b)(1)(ii) revised | 17166 |
| 85.874–33 (a) revised | 17166 |
| 85.902 (a) (23) and (24) added | 17166 |
| 85.974–2 (a) revised | 17166 |
| 85.974–6 (a)(1) and (b) revised | 17166 |
| 85.974–7 (g) redesignated as 85.974–9 (g); new (g) and (h) added | 17166 |
| 85.974–9 (d) added; (g) redesignated from 85.974–7(g) | 17166 |
| 85.974–13 (a) revised | 17166 |
| 85.974–16 (b)(16) revised | 17166 |
| 85.974–18 (c) revised | 17167 |
| 85.974–28 (c)(1)(ii) revised | 17167 |
| 85.974–33 (a) revised | 17167 |
| 85.1602 (a)(3)(ii) revised | 17167 |
| 85 Appendix III revised | 17167 |
| 87 Added | 19090 |
| 105 Added | 22757 |
| 113 Added | 25440 |
| 120.10 Amended | 26359 |
| 122 Removed | 22893 |
| 124.1 (u) and (v) added | 18002 |
| (h) removed; new (h), (i), and (j) added | 19895 |
| 124.10—124.11 (Subpart B) Revised | 18002 |
| 124.21 Added | 19895 |
| 125 Added | 13528 |
| Corrected | 14168 |
| 125.1 (ii) and (jj) added | 18003 |
| (g) through (gg) redesignated as (h) through (hh); new (g) added | 19895 |
| 125.2 (b) amended | 19896 |
| 125.4 (j) added | 18003 |
| 125.12 (h)(1) introductory text, (h)(1)(iii)(C) and (D), (h)(2) introductory text, (h)(2)(i) and (iii), (h)(3), and (i)(5) amended; (h)(2)(ii) removed; (h)(2)(iii) redesignated as (h)(2)(ii) and amended | 19896 |
| 126 Added | 25681 |
| 130 Added | 8035, 13375 |
| 133 Added | 22298 |
| 135 Added | 15040 |
| 162.14 (a)(5) revised | 26360 |
| 162.18 Added | 9090 |
| 164 Revised | 19371 |
| 168 Added | 26361 |
| 180.1 (h) table amended | 3511 |
| 180.103 Amended | 2687 |
| 180.106 Amended | 2687 |
| 180.108 Removed | 16780 |
| 180.110 Amended | 4394 |
| 180.115 Amended | 4394 |
| 180.121 Amended | 26450 |
| 180.144 Amended | 14169 |
| 180.153 Heading revised; text amended | 23781 |
| Corrected | 26913 |
| 180.155 Amended | 1742 |
| 180.167a Added | 13375 |
| 180.169 Amended | 17003, 18548 |
| 180.182 Amended | 7986, 16352 |
| 180.198 Amended | 2688 |
| Revised | 5245 |
| 180.200 Amended | 23404 |
| 180.204 Amended | 7986 |
| 180.205 Amended | 13376 |
| 180.224 Revised | 22475 |
| 180.225 Amended | 7985 |
| 180.236 Amended | 3045 |
| 180.242 Amended | 16644 |
| 180.247 Amended | 3511 |
| 180.252 Amended | 12214 |
| 180.253 Amended | 7987, 12215 |
| 180.258 Amended | 7330 |
| 180.259 Amended | 2429, 10721, 14169 |
| Revised | 22124 |
| 180.261 Amended | 7459 |
| 180.263 Amended | 5337, 17004 |
| 180.281 Heading and introductory text revised | 7330 |
| 180.285 Amended | 24 |
| 180.294 Amended | 9815, 26450 |
| 180.296 Revised | 12215 |
| Corrected | 14168 |
| 180.298 Heading revised; text amended | 23404 |
| 180.300 Revised | 9816 |
| Amended | 14375, 18442 |
| 180.306 Added (formerly 21 CFR 420.306) | 9815 |
| 180.307 Added (formerly 21 CFR 420.307) | 9815 |
| 180.319 Table amended | 1742, 15365, 18548, 22894 |
| 180.319a Added | 21783 |
| 180.320 Revised | 14169, 23403 |
| 180.333 Added | 1742 |
| 180.334 Added | 14829 |
| 180.335 Added | 14829 |
| 180.336 Added | 5336 |
| 180.339 Added | 13376 |
| 180.340 Added | 22894 |
| 180.341 Added | 22894 |
| 180.1001 (c) table amended | 1275 |
| Introductory text of (e) revised; (e) table amended | 4330 |
| (e) table corrected | 6070 |
| (d) table amended | 10939, 22124 |
| 180.1011 (b) revised | 5337, 10639 |
| (a)(4) added | 19045 |
| 180.1021 (c) added | 25440 |




## 40 CFR—Continued


| | Page |
|---|---|
| 180.1023 (b) revised | 3511 |
| 180.1024 (b) revised | 3511 |
| 180.1025 (b) revised | 3511 |
| 180.1026 (b) revised | 3511 |
| 180.1027 (b) revised | 3511 |
|

## 40 CFR—Continued


| | Page |
|---|---|
| **Chapter I—Continued** | |
| 180.1025 Added | 16352 |
| 180.1026 Added | 7331 |
| 180.1027 Added | 14170 |
| 220 Added | 8726 |
| 221 Added | 8727 |
| 222 Added | 8727 |
| 222.2a (a) corrected | 10154 |
| 223 Added | 8729 |
| 224 Added | 8729 |
| 225 Added | 8729 |
| 226 Added | 8730 |
| 227 Added | 12872 |
| **Chapter V** | |
| Establishment of chapter | 20550 |
| 1500 Added | 20550 |
| Effective date corrected | 21265 |
| 1510 Added | 21888 |
| *Proposed Rules:* | |
| 2 | 7573 |
| 10 | 6904 |
| 12 | 15457 |
| 15 | 16241 |
| 30 | 21342 |
| 35 | 13524, 17736, 21342 |
| 39 | 22635 |
| 45 | 2705 |
| 48 | 2705 |
| 50 | 6290, 11355, 15174 |
| 51 | 1464, 3083, 9599, 10163, 14762, 25697 |
| 52 | 2194, 3085, 3526, 4518, 10119, 10464, 11113, 12238, 12819, 14387, 16171, 16391, 17683, 17688, 17689, 17699, 17702, 17737, 17782, 17793, 17799, 18938, 18942, 18948, 18961, 18964, 18970, 18986, 19132, 20469, 20758, 20766, 20769, 20779, 20789, 20851, 21505, 21803, 22045, 22419, 22495, 23340, 23805, 26390, 26462 |
| 60 | 10820, 15406 |
| 80 | 1258 |
| 85 | 5183, 6906, 18686 |
| 87 | 19050 |
| 105 | 5038 |
| 112 | 19334 |
| 113 | 12239 |
| 120 | 26209, 26463 |
| 124 | 10960, 12416 |
| 125 | 1362, 10960, 12416 |
| 126 | 9740, 14230 |
| 128 | 19236 |
| 129 | 18044 |
| 130 | 17318 |
| 131 | 13567 |
| 133 | 10642, 10968 |
| 135 | 6907 |
| 162 | 22636 |
| 164 | 8670 |
| 165 | 13622 |
| 166 | 9519 |
| 167 | 19841 |
| 180 | 2708, 4275, 4718, 8068, 9832, 10643, 12819, 14175, 16392, 17511, 19416, 19699, 19840, 20266, 21435, 22897, 24667, 24918, 25455 |
| 201 | 3086, 10644 |
| 202 | 3087, 10644, 20102, 20852 |
| 203 | 10821 |
| 240 | 10544 |
| 241 | 10544 |
| 401 | 22606 |
| 409 | 22610 |
| 411 | 24462 |
| 426 | 22606 |
| Ch. V | 10856 |


## 41 CFR


| | Page |
|---|---|
| **Chapter 1** | |
| 1-1.307-6 (a)(2) revised | 24210 |
| 1-1.307-7 (a) revised | 24211 |
| 1-1.307-8 (b) revised | 24211 |
| 1-1.321 Revised | 10271, 15963 |
| 1-1.321-1 Revised | 10272 |
| Removed | 15964 |
| 1-1.321-2 Revised | 10272 |
| Removed | 15964 |
| 1-1.321-3 Removed | 10272 |
| 1-1.321-4 Removed | 10272 |
| 1-1.321-5 Removed | 10272 |
| 1-1.321-6 Removed | 10272 |
| 1-1.321-7 Removed | 10272 |
| 1-1.321-8 Removed | 15964 |
| 1-1.1003-3 (b) revised; (c) and (d) added | 8155 |
| 1-1.1003-7 (b)(9) added | 8156 |
| 1-2.201 (a)(30) revised | 9508 |
| (a)(31) added | 26913 |
| 1-2.303-3 Revised | 26914 |
| 1-2.303-4 Revised | 26914 |
| 1-2.303-6 Revised | 26914 |
| 1-3.302 (f) revised | 6670 |
| 1-3.802 (c) revised | 26914 |
| 1-3.802-1 Added | 26914 |
| 1-3.802-2 Added | 26915 |
| 1-3.814-2 (e) revised | 6670 |
| 1-3.1207 (c)(2) revised | 8741 |
| 1-3.1209 Added | 8741 |
| 1-3.1210 Added | 8741 |
| 1-4.410-5 (a) revised | 6670 |
| 1-4.1000—1-4.1007 (Subpart 1-4.10) Added | 8156 |
| 1-6.104-5 (b) revised | 6670 |
| 1-6.1001 (a) revised | 6670 |
| 1-7.100—1-7.104-2 (Subpart 1-7.1) Revised | 6670 |
| 1-7.103-23 Revised | 26916 |
| 1-7.602-1 Revised | 26916 |
| 1-7.602-7 Revised | 6673 |
| 1-7.602-12 Revised | 6673 |
| 1-7.700—1-7.703-20 (Subpart 1-7.7) Added | 991 |





| | Page |
|---|---|
| 1-7.708-2 (d) revised; (e) added | 26913 |
| 1-7.708-3 Revised | 26913 |
| 1-9 Added | 23782 |
| 1-12 Subpart 1-12.3 heading revised | 6673 |
| 1-12.300 Revised | 6673 |
| 1-12.301 Revised | 6674 |
| 1-12.303 Revised | 6674 |
| 1-12.304 Revised | 6674 |
| 1-12.400—1-12.404-13 (Subpart 1-12.4) Removed | 21404 |
| 1-12.1100—1-12.1102-5 (Subpart 1-12.11) Revised | 9508 |
| 1-12.1201—1-12.1202 (Subpart 1-12.12) Added | 21404 |
| 1-14.107 (a) revised | 6674 |
| 1-14.206 Revised | 6674 |
| 1-15.102 (b)(6) revised | 6674 |
| 1-15.104 (b)(5) revised | 6674 |
| 1-15.301 Revised | 4753 |
| 1-15.301-2 Introductory text, (a), and (c) revised; (e) added | 4753 |
| 1-15.301-3 Revised | 4754 |
| 1-15.302-4 Revised | 4754 |
| 1-15.302-7 Revised | 4754 |
| 1-15.303-1 Revised | 4754 |
| 1-15.303-6 Added | 4754 |
| 1-15.304 Revised | 4754 |
| 1-15.304-1 Revised | 4754 |
| 1-15.304-2 Revised | 4754 |
| 1-15.305 Revised | 4754 |
| 1-15.305-1 Revised | 4754 |
| 1-15.305-2 (b) revised; (c) redesignated as (d) and revised; new (c) added | 4754 |
| 1-15.305-3 Revised | 4755 |
| 1-15.306-2 Revised | 4755 |
| 1-15.306-4 (a) revised | 4755 |
| 1-15.306-5 Revised | 4755 |
| 1-15.307-2 Revised | 4755 |
| 1-15.307-3 Revised | 4756 |
| 1-15.307-4 Revised | 4756 |
| 1-15.307-5 Added | 4756 |
| 1-15.308 Revised | 4756 |
| 1-15.308-1 Revised | 4756 |
| 1-15.308-2 Revised | 4756 |
| 1-15.309-3 Revised | 4756 |
| 1-15.309-7 (b) revised; (c) redesignated as (d) and (e) and revised; new (c) added; (d) through (i) redesignated as (f) through (k) and revised | 4756 |
| (g) corrected | 6280 |
| 1-15.309-10 (b), (c), and (d) revised | 4758 |
| 1-15.309-13 Revised | 4758 |
| 1-15.309-15 (d) revised | 4758 |
| 1-15.309-16 (b) and (c) revised | 4758 |
| 1-15.309-18 Revised | 4758 |
| 1-15.309-27 Revised | 4758 |
| 1-15.309-37 Revised | 4758 |
| 1-15.309-44 (b) revised; (e) and (f) added | 4759 |
| 1-15.309-45 (a), (b), (d), (e), (f), and (g) revised | 4759 |
| 1-15.309-46 Revised | 4759 |
| 1-15.310 Revised | 4759 |
| 1-15.800—1-15.809-5 (Subpart 1-15.8) Added | 4759 |
| 1-16.101 (c) revised | 6674 |
| (b) revised | 26916 |
| 1-16.401 (a) and (h) revised | 6675 |
| (b) revised | 21405 |
| (f) revised | 26916 |
| 1-16.500 Revised | 993 |
| 1-16.501 Revised | 993 |
| 1-16.601 (b) and (c) revised | 6675 |
| 1-16.701 (b) revised | 6675 |
| 1-17.206 (f), (g), and (h) revised | 6675 |
| 1-18.113 Added | 8158 |
| 1-18.310 Added | 17441 |
| 1-18.310-1 Added | 17441 |
| 1-18.310-2 Added | 17442 |
| 1-18.310-3 Added | 17442 |
| 1-18.310-4 Added | 17442 |
| 1-18.310-5 Added | 17443 |
| 1-18.700—1-18.706 (Subpart 1-18.7) Added | 21405 |
| 1-18.703-1 (b) corrected | 23791 |
| 1-19.110 Removed | 993 |
| 1-19.700—1-19.702-10 (Subpart 1-19.7) Added | 994 |
| 1-20.201 (a) revised | 6675 |
| **Chapter 3** | |
| 3-1.106 (d) removed | 4667 |
| 3-1.354 Added | 1392 |
| 3-1.355 Added | 13647 |
| 3-1.600—3-1.606 (Subpart 3-1.6) Revised | 6391 |
| 3-3.450 Added | 1392 |
| 3-3.450-1 Added | 1392 |
| 3-3.450-2 Added | 1393 |
| 3-3.5100—3-3.5110 (Subpart 3-3.51) Added | 2212 |
| 3-4 Subpart 3-4.54 heading revised | 6392 |
| 3-4.5400 Revised | 6392 |
| 3-4.5401 Amended | 6392 |
| 3-4.5402 (a), (b), and (c) amended | 6392 |
| 3-4.5404 (a) revised | 6392 |
| 3-7.5007 Revised | 9665 |
| 3-7.5009 Added | 9665 |
| 3-7.5010 Added | 13647 |
| 3-7.5011 Added | 13647 |
| 3-16.804—3-16.856 (Subpart 3-16.8) Added | 6177 |
| 3-16.5001 Added | 24644 |
| 3-50.300—3-50.302 (Subpart 3-50.3) Added | 9079 |
| 3-50.301 (d) corrected | 9666 |




## 41 CFR—Continued


| | Page |
|---|---|
| 5A-1.706-50 (a), (b), and (c) | |





| | Page |
|---|---|
| 5A-16.950-2439 Added | 1932 |
| 6-7.101-22 Redesignated as | 22895 |

## 41 CFR—Continued

### Chapter 3—Continued


| | Page |
|---|---|
| 3-50.500—3-50.502-4 (Subpart 3-50.5) Added | 6178 |
| 3-50.600—3-50.604 (Subpart 3-50.6) Added | 16870 |
| 3-75.101 Revised | 2214 |
| 3-75.102 Revised | 2214 |
| 3-75.104-2 Revised | 2214 |
| 3-75.104-3 Revised | 2214 |
| 3-75.400—3-75.402 (Subpart 3-75.4) Revised | 2214 |


### Chapter 4


| | Page |
|---|---|
| 4-3.5101 Revised | 5637 |
| (g) revised | 8444 |
| 4-3.5102 Revised | 5638 |
| 4-3.5103 Introductory text added | 5638 |
| 4-3.5104 Text removed | 5638 |
| 4-3.5104-1 Added | 5638 |
| 4-3.5104-2 Added | 5638 |
| 4-3.5104-3 Added | 5638 |
| 4-3.5105 (d) revised | 5638 |
| 4-3.5110 Amended | 5638 |
| 4-3.5111 Added | 5638 |
| 4-4.5005 (a) revised | 21631 |
| 4-4.5006 (a)(1) revised; (a)(4) removed | 21632 |
| 4-4.5010 Revised | 21632 |
| 4-4.5016 (a) revised | 21632 |
| 4-4.5017 Revised | 21632 |
| 4-4.5018-1 Redesignated from 4-4.5018a and revised | 21632 |
| 4-4.5018a Redesignated as 4-4.5018-1 | 21632 |
| 4-4.5021 Revised | 21632 |
| 4-4.5026 (c) revised | 21632 |
| 4-4.5066 Revised | 21632 |
| 4-4.5077-1 Revised | 21632 |
| 4-7.5101 Revised | 5639 |
| 4-7.5101-1 Revised | 5639 |
| (g) revised | 8444 |
| 4-7.5101-6 Revised | 5639 |
| 4-7.5101-11 (a) revised | 5639 |
| 4-7.5101-18 (d) revised | 5640 |
| 4-7.5101-21 Revised | 5640 |
| 4-7.5101-22 Added | 5640 |
| Note added | 8444 |
| 4-7.5101-23 Added | 5640 |
| 4-15 Subpart 4-15.3 heading amended | 5640 |
| 4-15.301 Added | 5640 |


### Chapter 5A


| | Page |
|---|---|
| 5A-1.206 (Subpart 5A-1.2) Added | 7331 |
| 5A-1.321—5A-1.321-8 Removed | 18548 |
| 5A-1.373 Removed | 18247 |
| 5A-1.706-6 Added | 5246 |
| 5A-1.706-50 (a), (b), and (c) revised | 5247 |
| 5A-1.708 Revised | 5247 |
| 5A-1.801 Removed | 5247 |
| 5A-1.804-1 Revised | 5247 |
| 5A-1.804-2 (a) revised; (c) added | 5247 |
| 5A-1.804-3 Revised | 5248 |
| 5A-1.807 Revised | 5248 |
| 5A-1.1003-1 Added | 15723 |
| 5A-1.1003-7 Added | 15723 |
| 5A-1.1004 Added | 15723 |
| 5A-1.1004-1 Added | 15723 |
| 5A-1.1007 Revised | 15723 |
| 5A-1.1205-3 (c) revised | 6179 |
| 5A-1.1206 Added | 22124 |
| 5A-1.1803-2 (a) revised | 18247 |
| 5A-1.1803-4 Revised | 18247 |
| 5A-1.5079-1 (a) and (c) revised | 5248 |
| 5A-1.5079-4 Introductory text revised | 5248 |
| 5A-1.5401—5A-1.5405 (Subpart 5A-1.54) Added | 19124 |
| 5A-1.7301 Revised | 22475 |
| 5A-1.7301-1 Added | 22475 |
| 5A-2.201 (c) added | 1931 |
| 5A-2.201-70 (f)(3) revised | 1932 |
| 5A-2.201-77 (c) added | 18373 |
| 5A-2.201-78 (c) amended | 18374 |
| 5A-2.203-1 Revised (d) revised; (e), (f), (g), and (h) added | 18549 |
| 5A-2.203-70 Added | 18549 |
| 5A-2.203-72 Removed | 18549 |
| 5A-2.204 Removed | 18549 |
| 5A-2.205-1 Revised | 1932 |
| 5A-2.205-2 Revised | 1932 |
| 5A-2.205-3 Revised | 1932 |
| 5A-2.402 Added | 18374 |
| 5A-2.407-3 (c) revised | 18374 |
| 5A-2.407-8 (a), (b), and introductory text of (c) revised | 7331 |
| 5A-2.407-70 Revised | 18374 |
| 5A-3.603-71 Added | 735 |
| 5A-3.605-70 Revised | 22476 |
| 5A-3.670 Added | 2759 |
| 5A-3.807-3 Revised | 18549 |
| 5A-3.809 Added | 735 |
| 5A-3.870 (a) and (b) revised | 7331 |
| 5A-5.7001—5A-5.7006 (Subpart 5A-5.70) Added | 2688 |
| 5A-7.101-78 Added | 6815 |
| 5A-14.206-1 (b) through (g) revised | 18247 |
| 5A-16.950-300-1 Added | 22476 |
| 5A-16.950-1430-1 Added | 22476 |
| 5A-16.950-3003 Added | 22476 |
| 5A-16.950-3014 Added | 22476 |
| 5A-16.950-1754 Added | 1932 |
| 5A-16.950-1783 Added | 1932 |
| 5A-16.950-2049 Added | 2760 |





| | Page |
|---|---|
| 5A-16.950-2439 Added | 1932 |
| 5A-16.950-2440 Added | 1932 |
| 5A-16.950-2459 Added | 1932 |
| 5A-19 Added | 6816 |
| 5A-53.000 Added | 18248 |
| 5A-53.101—5A-53.103 (Subpart 5A-53.1) Added | 18248 |
| 5A-53.301 (Subpart 5A-53.3) Added | 735 |
| 5A-53.401—5A-53.473 (Subpart 5A-53.4) Revised | 18248 |
| 5A-72.103 Revised | 18249, 19911 |
| 5A-72.105-6 Revised | 6817 |
| 5A-72.105-7 Removed | 6817 |
| 5A-72.105-8 Removed | 6817 |
| 5A-72.105-14 Removed | 6817 |
| 5A-72.105-16 (a) revised | 18249 |
| 5A-72.105-20 (c) revised | 18249 |
| 5A-72.105-23 (a)(3) and (6) revised; (b) removed | 7331 |
| (b) revised | 18249 |
| 5A-72.105-25 Revised | 18250 |
| 5A-72.105-29 Revised | 18250 |
| 5A-72.105-31 (b) and (c) revised | 18250 |
| 5A-73.115 Revised | 6817 |
| 5A-73.115-1—5A-73.115-7 Removed | 6817 |
| 5A-73.121 (a) revised | 18549 |
| 5A-73.124-8 (a) revised | 7331 |
| 5A-75 Removed | 18374 |
| 5A-76.306 Added | 1932 |
| 5A-76.319 Added | 22476 |
| 5A-76.320 Added | 22476 |
| 5A-76.321 Added | 22476 |
| 5A-76.401—5A-76.404 (Subpart 5A-76.4) Added | 2688 |


### Chapter 5B


| | Page |
|---|---|
| 5B-2.207 Revised | 1276 |
| 5B-16.901-21 Revised | 1276 |
| 5B-16.950-1903 Revised | 1276 |
| 5B-16.7001 Revised | 1276 |


### Chapter 6


| | Page |
|---|---|
| 6-1.404-2 (c)(6) and (7) revised | 22894 |
| 6-6.1000 Revised | 22895 |
| 6-7.100 Revised | 22895 |
| 6-7.101 Revised | 22895 |
| 6-7.101-1 Redesignated as 6-7.102-1 | 22895 |
| 6-7.101-8 Redesignated as 6-7.102-8 | 22895 |
| 6-7.101-10 Redesignated as 6-7.103-3 | 22896 |
| 6-7.101-12 Redesignated as 6-7.102-12 | 22896 |
| 6-7.101-20 Redesignated as 6-7.102-18 | 22896 |
| 6-7.101-22 Redesignated as 6-7.102-10 | 22895 |
| 6-7.101-23 Redesignated as 6-7.104-1 | 22896 |
| 6-7.101-28 Redesignated as 6-7.102-19 | 22896 |
| 6-7.102 Added | 22895 |
| 6-7.102-1 Redesignated from 6-7.102-1 and revised | 22895 |
| 6-7.102-8 Redesignated from 6-7.101-8 and revised | 22895 |
| 6-7.102-10 Redesignated from 6-7.101-22 and revised | 22895 |
| 6-7.102-12 Redesignated from 6-7.101-12 and revised | 22896 |
| 6-7.102-18 Redesignated from 6-7.101-18 | 22896 |
| 6-7.102-19 Redesignated from 6-7.101-19 and revised | 22896 |
| 6-7.103 Added | 22896 |
| 6-7.103-3 Redesignated from 6-7.101-10 and revised | 22896 |
| 6-7.104 Added | 22896 |
| 6-7.104-1 Redesignated from 6-7.101-23 and revised | 22896 |
| 6-7.150-1 Revised | 22896 |


### Chapter 7


| | Page |
|---|---|
| 7-1.102 Amended | 12804 |
| 7-1.103 (b) amended | 12804 |
| 7-1.104-4 Amended | 12804 |
| 7-1.104-5 Revised | 12804 |
| 7-1.106 Amended | 12805 |
| 7-1.107-3 (a), (b)(2) and (3)(i), (d), (e), and (f)(1) revised | 12805 |
| 7-1.204 Revised | 12805 |
| 7-1.205 | 12805 |
| 7-1.206 Revised | 12805 |
| 7-1.253 Removed | 12805 |
| 7-1.305-3 Revised | 12805 |
| 7-1.310-7 Amended | 12805 |
| 7-1.310-10 Amended | 12805 |
| 7-1.451-2 Amended | 12805 |
| 7-1.451-3 Revised | 12805 |
| 7-1.451-4 Revised | 12806 |
| 7-1.453-1 Amended | 12806 |
| 7-1.453-2 Heading and text amended | 12806 |
| 7-1.602 Amended | 12806 |
| 7-1.604 Amended | 12806 |
| 7-1.605-3 Amended | 12806 |
| 7-1.605-4 Amended | 12806 |
| 7-1.606 Amended | 12806 |
| 7-1.702 (d), (e), (f), (g)(2), (h), and (k) amended | 12806 |
| 7-1.704-2 (b) introductory text and (b)(12) revised | 12806 |
| 7-1.704-3 (g), (i), (l), and (m) amended | 12806 |
| 7-1.704-4 (a) and (b) amended | 12806 |
| 7-1.704-5 (a) amended | 12806 |

## 41 CFR—Continued


Page

### Chapter 7—Continued

7-1.704-6 (a), (b)(1) and (3), (c) introductory text, (c)(1) and (2), (d)(1), (2), and (3), and (e)(1), (2), and (3) amended ---- 12806
7-1.704-7 (a) introductory text, (a)(1), (b), and (c) amended ---- 12806
7-1.1001 (b) amended ---- 12806
7-2.406-3 Amended ---- 12806
7-2.406-4 Amended ---- 12806
7-3.101-50 (d)(4) amended ---- 12806
7-3.211 Amended ---- 12806
7-3.212 Amended ---- 12806
7-3.213 Amended ---- 12806
7-3.604-5 Amended ---- 12806
7-3.807-3 Amended ---- 12806
7-4.202 Amended ---- 12806
7-4.203-1 (b) revised ---- 12806
7-4.203-2 (b) amended ---- 12806
7-4.5300 (b) and (c) amended ---- 12806
7-4.5301 (d)(1), (2), (3), (4), (5), and (6) revised ---- 12806
7-7.101-1 (a) revised ---- 12807
7-7.5001-16 (d) amended ---- 12807
7-7.5001-20 Amended ---- 12807
7-7.5002-5 Amended ---- 12807
7-7.5101-27 (d) amended ---- 12807
7-7.5500—7-7.5503-8 (Subpart 7-7.55) Added ---- 15602
7-8.211-1 Amended ---- 12807
7-8.211-2 (b) and (c) amended ---- 12807
7-10.106 (b) amended ---- 12807
7-10.302 Amended ---- 12807
7-12.805-1 Amended ---- 12807
7-12.805-5 Amended ---- 12807
7-16.251 Removed ---- 15616
7-16.556 Added ---- 15616
7-16.951 Revised ---- 15616
7-16.954-1 Amended ---- 12807
7-16.954-2 Amended ---- 12807
7-16.956-1 Amended ---- 12807
7-16.960 Amended ---- 12807

### Chapter 8

8-1.302-1 (c) revised ---- 4511
8-1.318-1 Heading revised; (e) added ---- 4511
8-1.602 Revised ---- 10066
8-1.602-1 Revised ---- 10006
8-1.606 Revised ---- 10006
8-3.204 (a) and (d) revised ---- 10006
8-3.605-3 Revised ---- 10007
8-4.408 Introductory text of (b) revised ---- 26368
8-4.410-5 (b) and (c) revised ---- 26369
8-4.411-2 Revised ---- 26369
8-4.411-3 Revised ---- 26369

Page

8-6.5300—8-6.5303 (Subpart 8-6.53) Removed ---- 21924
8-7.150-19 Removed ---- 5476
8-7.150-23 Revised ---- 5476
8-7.650-2 Revised ---- 5477
8-7.650-4 Added ---- 5477
8-7.650-8 Added ---- 5477
8-7.650-11 Removed ---- 5477
8-7.650-12 Redesignated from 8-7.650-13 ---- 5477
8-7.650-13 Redesignated as 8-7.650-12; new 8-7.650-13 added ---- 5477
8-7.650-14 Revised ---- 15616
8-7.650-15 Revised ---- 5477
8-7.650-16 Revised ---- 5478
8-7.650-20 Revised ---- 5478
8-7.650-21 (a), (d), and (e) revised ---- 5478
8-7.650-23 Removed ---- 5478
8-10.450 Removed ---- 10006
8-10.451 (c)(1) revised ---- 10006
8-12.805-1 Introductory text of (e) revised ---- 10008
8-16.201-150 (Subpart 8-16.2) Removed ---- 10007
8-16.301-2 Revised ---- 10007
8-16.350-1 Revised ---- 10007
8-16.501 (Subpart 8-16.5) Added ---- 10008
8-16.703 (a) revised ---- 26369
8-52.104 Revised ---- 10006
8-52.106 (c) revised ---- 10007
8-75.101 (a) and (b) revised ---- 10007
8-75.201-13 Heading, (a), (b), (c), and (d) revised ---- 10008
8-75.201-15 Added ---- 10008
8-95 Heading revised ---- 26369
Subpart 8-95.2 heading revised ---- 26369
8-95.102 Revised ---- 26369
8-95.104 (a) revised ---- 26369
8-95.105 Revised ---- 26369
8-95.106 (b) revised ---- 26369
8-95.107 (a) revised ---- 26369
8-95.200 Revised ---- 26369
8-95.201-2 (a) revised ---- 26369

### Chapter 9

9-5.5207-5 Added ---- 2429
9-7.5004-7 (b) revised ---- 1276
9-7.5504-11 (f) revised ---- 15446
9-59.003 (j) revised ---- 1276

### Chapter 14

14-1.351 Added ---- 21496
14-1.1603 Added ---- 21157
14-1.5101 (d) amended ---- 19824
14-2.407-1 Revised ---- 19824
Heading corrected ---- 22476
14-7.101 Removed ---- 9816
14-7.101-23 Removed ---- 9816





Page

14-7.150 Added ---- 9816
14-7.150-1 Redesignated from 14-7.153 ---- 9816
14-7.150-2 Redesignated from 14-7.154 ---- 9816
14-7.150-4 Added ---- 9817
14-7.150-5 Added ---- 9817
14-7.153 Redesignated as 14-7.150-1 ---- 9816
14-7.154 Redesignated as 14-7.150-2 ---- 9816
14-7.602 Added ---- 9817
14-7.602-50 Added ---- 9817
14-7.602-50(8) Added ---- 9817
14-7.602-50(9) Added ---- 9817
14-7.602-50(10) Added ---- 9817
14-7.5001 (Subpart 14-7.50) Added ---- 21496
14-12.1102—14-12.1102-3 (Subpart 14-12.11) Added ---- 21157
14-16.804 Added ---- 10444
14-16.804-3 Added ---- 10444
14-51 Redesignated as 14-63 ---- 9816
14-63 Redesignated from 14-51 and revised ---- 9816

### Chapter 15

15-1.318-1 (a)(1) revised ---- 21497
15-1.5102 Revised ---- 3964
15-3.650—15-3.651 (Subpart 15-3.6) Added ---- 20836
15-3.805-10 (a)(8) revised ---- 12214
15-16.553-3 Added ---- 7798
Amended ---- 10639
15-16.553-4 (Subpart 15-16.5) Added ---- 21157
15-16.701-50 Added ---- 18881
15-30.103—15-30.104-1 (Subpart 15-30.1) Added ---- 20836
15-30.403—15-30.412-2 (Subpart 15-30.4) Added ---- 20837

### Chapter 18

18-1.315 Revised ---- 23327
18-2.406-3 Revised ---- 23328
18-2.406-4 Revised ---- 23329
18-5.703 Revised ---- 23331

### Chapter 29

29-1.400 Revised ---- 15964
29-1.401 Revised ---- 15964
29-1.405 Revised ---- 15964
29-1.706-54 (a) revised ---- 15965
29-1.709 Revised ---- 15965
29-1.5004 (a) amended ---- 15965
29-3.204-50 Revised ---- 15965
29-3.604-50 (a) amended ---- 15965
29-3.809-50 Amended ---- 15965

### Chapter 50

50-250 Revised ---- 2968

Page

### Chapter 51

51-1 Revised ---- 16316
51-2 Revised ---- 16317
51-3 Revised ---- 16318
51-4 Revised ---- 16318
51-5 Revised ---- 16319

### Chapter 60

60-1.5 (a)(4) revised ---- 1932
60-2.2 Revised ---- 2970
60-10 Added ---- 21633
60-40 Added ---- 3193
60-50 Added ---- 1933
60-50.1 (a) corrected ---- 3511
60-60 Added ---- 13377

### Chapter 101

101-4 Added ---- 3328
101-4.103-3 (c)(6) revised ---- 15509
101-6.100—101.6-102 (Subpart 101-6.1) Removed; provisions transferred to Part 101-7 ---- 10812
101-6.201 Revised ---- 17973
101-6.203 Revised ---- 17973
101-6.204-2 (a)(1), (3), and (4) and (d)(1) and (2) revised ---- 17973
101-6.205-1 (b) revised ---- 17973
101-6.205-2 Revised ---- 17974
101-6.205-3 Revised ---- 17974
101-6.206 Amended ---- 17974
101-6.207 Removed ---- 17974
101-6.208 Removed ---- 17974
101-6.211-4 Revised ---- 17974
101-6.212-2 Revised ---- 17974
101-6.212-4 (a) revised ---- 17974
101-6.213-7 Added ---- 17975
101-6.215-1 (a) and (b) revised ---- 17975
101-6.215-3 Revised ---- 17975
101-6.217 (a), (b), (c), (d), and (q) revised ---- 17975
101-7 Removed from Subchapter B and added to Subchapter A; heading revised (provisions derived from Part 101-6. Subpart 101-6.1) ---- 10812
101-8 Removed from Subchapter B and added to Subchapter A; heading revised ---- 10812
101-11.1100—101-11.1103-12 (Subpart 101-11.11) Added ---- 18016
101-11.4922 (Subpart 101-11.49) Added ---- 18017
101-25.302-6 Removed ---- 26604
101-26.501-1 Revised ---- 2176
101-26.501-6 (b) revised ---- 3964
101-26.508 Revised ---- 2176
101-26.4902-1398 Revised ---- 3965
101-32.001 Revised ---- 8510
101-32.202 Revised ---- 8511
101-32.203 (b) and (c) revised ---- 8511
101-32.203-3 (b) revised ---- 8511




## 41 CFR—Continued


Page

### Chapter 101—Continued

101-32.204 Revised ---- 8511
101-32.205 Revised ---- 8511
101-32.206 Revised ---- 8511
101-32.207 Revised ---- 8511
101-32.208 Revised ---- 8511
101-32.209 Revised ---- 8511
101-32.210 Revised ---- 8511
101-32.211 Revised ---- 8511
101-32.212 Revised ---- 8511
101-32.213 Revised ---- 8511

## 41 CFR—Continued

### Chapter 101—Continued

| | Page |
|---|---|
| 101–32.301–4 Revised | 8511 |
| 101–32.301–14 (b) revised | 8511 |
| 101–32.303–1 Revised | 8511 |
| 101–32.304 (b) revised | 8511 |
| 101–32.306 (d) revised | 8511 |
| 101–32.403 (b) introductory text and (b)(3) revised | 8511 |
| 101–32.403–1 Introductory text, (a), and (b) revised | 8511 |
| Introductory text revised | 22227 |
| 101–32.403–2 (a) revised | 8512 |
| Introductory text revised | 22227 |
| 101–32.403–3 (a)(1) revised | 8512 |
| 101–32.404 Introductory text revised | 8512 |
| 101–32.405 Introductory text of (a) revised | 8512 |
| 101–32.407 Introductory text, (a), (b), and (c) revised | 8512 |
| 101–32.408–1 Added | 22227 |
| 101–32.409 Revised | 8512 |
| 101–32.703 (a) revised | 8512 |
| 101–32.805 Added | 22228 |
| 101–32.900—101–32.908 (Subpart 101–32.9) Revised | 16223 |
| 101–32.1105 Revised | 8512 |
| 101–32.1108 Revised | 8512 |
| 101–32.1202 Revised | 8512 |
| 101–32.1302 Revised | 8512 |
| 101–32.1304–4 Revised | 22476 |
| 101–32.1304–9 (a) revised | 5338 |
| 101–32.1304–10 (a) revised | 5338 |
| 101–32.1304–11 Added | 5338 |
| 101–32.1304–12 Added | 22476 |
| 101–32.1304–13 Added | 22476 |
| 101–32.1304–14 Added | 22476 |
| 101–32.1305–2 Added | 22477 |
| 101–32.1400—101–32.1404 (Subpart 101–32.14) Added | 22228 |
| 101–32.4701–2 Revised | 8513 |
| 101–32.4702 Introductory text revised | 8513 |
| 101–32.4801 Revised | 8513 |
| 101–32.4901–120 Revised | 8513 |
| 101–32.4901–122 Revised | 8513 |
| 101–32.4902 (b) revised | 8513 |
| 101–35.105–2 Revised | 8514 |
| 101–35.111 Revised | 8514 |
| 101–35.112 Removed | 8514 |
| 101–35.210 Revised | 8514 |
| 101–35.307–1 Revised | 8514 |
| 101–35.308–9 (h) revised | 8514 |
| 101–35.405 Revised | 8514 |
| 101–35.603 (d) revised | 8514 |
| 101–35.604 (b) revised | 8514 |
| 101–35.605 Revised | 8514 |
| 101–35.800—101–35.803 (Subpart 101–35.8) Added | 8444 |
| 101–39.204 Revised | 22229 |
| 101–39.205 Revised | 22229 |
| 101–39.207–1 Revised | 22229 |
| 101–39.207–2 Revised | 22229 |
| 101–39.207–3 Revised | 22229 |
| 101–39.302 (d)(3) revised | 22229 |
| 101–39.403–1 Revised | 22229 |
| 101–39.403–2 (b) revised | 22229 |
| 101–39.404–2 Revised | 22229 |
| 101–39.404–4 (b) revised | 22229 |
| 101–39.404–5 Revised | 22229 |
| 101–39.603–1 Revised | 22229 |
| 101–39.706 Revised | 22230 |
| 101–42.202 Revised | 3046 |
| 101–43.104–4 Added | 8057 |
| 101–43.104–12 Removed | 8058 |
| 101–43.306 Revised | 8058 |
| 101–43.308 Revised | 3046 |
| 101–43.309 Revised | 8058 |
| 101–43.313–1 Revised | 8058 |
| 101–43.313–3 Revised | 3046 |
| 101–43.313–8 Revised | 8058 |
| 101–43.313–9a (e) revised | 8058 |
| 101–43.316–1 (a)(5) revised | 8058 |
| 101–43.319 Revised | 16063 |
| 101–43.402–4 (c) revised | 3046 |
| 101–43.402–5 (d)(1) revised | 8058 |
| 101–43.4900 Revised | 3046 |
| 101–43.4901 (b)(2) and (c) revised | 3046 |
| 101–43.4904 Amended | 3046 |
| 101–43.4904–1 Amended | 3046 |
| 101–43.4905 Revised | 3046 |
| 101–43.4906 Amended | 3046 |
| 101–43.4906–1 Amended | 3046 |
| 101–43.4910 Added | 16063 |
| 101–44.103 Revised | 3046 |
| 101–44.201–1a Added | 8058 |
| 101–44.201–12 Removed | 8058 |
| 101–44.321 (a) revised | 8058 |
| 101–44.322 (b) revised | 8058 |
| 101–44.801 Revised | 16063 |
| 101–44.4900 Revised | 3047 |
| 101–44.4901 Amended | 3047 |
| 101–44.4903 Amended | 3047 |
| 101–45.204a Added | 8058 |
| 101–45.216 Removed | 8059 |
| 101–45.308 Revised | 16064 |
| 101–45.309–6 Revised | 8059 |
| 101–45.309–7 Heading, introductory text and introductory text of (d) revised | 8059 |
| 101–45.505 (a) (1) and (2), (b), (c), and (d) revised | 8059 |
| 101–45.4900 Revised | 3047 |
| 101–46.202 (d)(7) revised | 8059 |

### Chapter 103

| | |
|---|---|
| 103–1.108 (b) removed | 5478 |
| 103–1.5002–10 Revised | 5478 |
| 103–1.5002–11 Amended | 5478 |



### Chapter 105

| | Page |
|---|---|
| 105–64 Added | 26604 |

### Chapter 109

| | |
|---|---|
| 109–40.106 Amended | 22549 |
| 109–40.109 Amended | 22549 |
| 109–40.305–5 Amended | 22549 |
| 109–40.307 Amended | 22549 |

### Chapter 114

| | |
|---|---|
| 114–1.100 Revised | 8158 |
| Correctly designated as 114–1.110 | 8743 |
| 114–1.110 Correctly designated from 114–1.100 | 8743 |
| 114–3.105 Revised | 8158 |
| 114–3.206 Introductory text revised | 8158 |
| 114–25.350 Amended | 8158 |
| 114–26.406–2 (d) amended | 20327 |
| 114–26.600–50 Amended | 8158 |
| 114–35.204 (a)(2) revised; (a)(8), (9), (10), and (11) added | 10444 |
| (a)(1) revised | 22373 |
| 114–38.5004 Amended | 8159 |
| 114–38.5005 (e) redesignated as (f); new (e) added | 8159 |
| 114–38.5312 (d) revised | 8158 |
| 114–42.203 Introductory text of (a) revised | 8158 |
| 114–43.319—114–43.319–52 (Subpart 114–43.3) Revised | 26370 |
| 114–45.000 (b)(1) revised | 8159 |
| 114–45.105–3 Revised | 8159 |
| 114–45.302 Introductory text, (a)(2), and (b) revised | 20617 |
| 114–45.304–2 Revised | 8159 |
| 114–45.304–9 Revised | 8159 |
| 114–45.603 Revised | 8159 |
| 114–46.407 Amended | 8159 |
| 114–47.201–3 (a) amended | 9081 |
| 114–47.202–1 (b) amended | 9081 |
| 114–47.203–1 (d) amended | 9081 |
| 114–47.203–7 (a) amended | 9081 |
| 114–47.304–12 (a) and (c) revised | 8159 |
| 114–50 Added | 3965 |
| 114–50.100 Revised | 7116 |
| 114–50.105 (a) revised | 7116 |
| 114–50.109 Revised | 24649 |
| 114–50.201 (e)(5) revised | 7116 |
| 114–50.311 Introductory text of (c) revised | 7116 |
| 114–50.407–3 Introductory text and (b) revised | 7116 |
| 114–50.501 Revised | 7116 |
| 114–50.701 (a) and (b) added | 24649 |
| 114–50.903 (e) added | 24650 |
| 114–50.906 (b) revised | 7116 |
| 114–50.1003—114–50.1011 Redesignated as 114–50.1004—114–50.1012 | 24650 |
| 114–50.1009 (c) amended | 24650 |
| 114–51.103—114–51.104–3 (Subpart 114–51.1) Revised | 20617 |
| 114–52 Added | 7460 |
| 114–60 Added | 12401 |
| 114–60.200—114–60.203 (Subpart 114–60.2) Added | 12402 |
| 114–60.300—114–60.303 (Subpart 114–60.3) Added | 13737 |
| 114–60.400—114–60.406 (Subpart 114–60.4) Added | 13738 |
| 114–60.500—114–60.501 (Subpart 114–60.5) Added | 16064 |
| 114–60.600—114–60.604 (Subpart 114–60.6) Added | 16064 |
| 114–60.700—114–60.705 (Subpart 114–60.7) Added | 15723 |

*Proposed Rules:*

| | |
|---|---|
| 3–3 | 11471 |
| 3–4 | 3072 |
| 3–16 | 9671 |
| 8–3 | 5267 |
| 8–6 | 14416 |
| 8–7 | 9837 |
| 8–16 | 5267 |
| 8–75 | 5267 |
| 12–9 | 23536 |
| 14–3 | 19224 |
| 14–55 | 19224 |
| 15–16 | 1219, 8458, 16392, 20267 |
| 15–60 | 22637 |
| 50–201 | 22408 |
| Ch. 51 | 6076 |
| 60–1 | 1124, 2985 |
| 60–2 | 3071 |
| 60–3 | 4413 |
| 114–50 | 9302 |

## 42 CFR

### Chapter I

| | |
|---|---|
| 21.165 Revised | 25684 |
| 37.1—37.60 (Subpart) Revised | 20077 |
| 37.3 (b)(4) added | 22122 |
| 37.4 (a)(8) corrected | 21784 |
| (c) corrected | 22122 |
| 37.20 (a) corrected | 21784 |
| 37.40 (b) corrected | 21784 |
| 37.43 Corrected | 22122 |
| 37.202 (a)(1) revised; (a)(2) redesignated as (a)(3); new (a)(2) added | 16353 |
| 51.4 (g)(1)(iv) and (j) amended | 26194 |
| 51.6 Amended | 26194 |
| 51.9 Added | 26194 |
| 51.104 (o)(1) amended; (o)(4) and (5) removed | 26194 |
| 51.108 (a) amended | 26194 |





### Chapter II

| | Page |
|---|---|
| 201–1.1 Revised | 5625 |
| 201–1.2 Revised | 5625 |
| 201–1.3 Revised | 5625 |
| 201–1.4 Revised | 5625 |
| 201–1.5 Revised | 5625 |
| 201–1.6 Revised | 5625 |
| 201–1.7 Revised | 5625 |
| 201–1.8 Revised | 5625 |
| 201–1.9 Revised | 5625 |
| 201–1.10 Revised | 5625 |
| 201–1.11 Revised | 5625 |
| 201–1.12 Revised | 5625 |
| 201–1.13 Revised | 5625 |
| 201–1.14 Revised | 5625 |
| 201–1.15 Revised | 5625 |
|

## 42 CFR—Continued

### Chapter I—Continued


| | Page |
|---|---|
| 51.111 Added | 26194 |
| 51.406 (b)(2) amended; (c) revised | 26194 |
| 51.408 (a) amended | 26194 |
| 51.411 Amended | 26194 |
| 51.414 (b) and (c)(2) and (3) removed; (d)(2) revised | 26195 |
| 51.415 Removed | 26195 |
| 51.417 Revised | 26195 |
| 51a.205 Amended | 26195 |
| 51a.212 (b) removed | 26195 |
| 51a.213 Removed | 26195 |
| 51a.216 Removed | 26195 |
| 51a.217 Revised | 26195 |
| 51a.307 (b) revised | 26195 |
| 51a.309 (a) revised | 26195 |
| 51a.314 (b) and (c)(2) and (3) removed; (d)(2) revised | 26195 |
| 51a.315 Removed | 26195 |
| 51a.317 Revised | 26195 |
| 51b.6 (b) amended; (c) revised | 26196 |
| 51b.8 (a) revised | 26196 |
| 51b.13 (b) and (c)(2) and (3) removed; (d)(2) revised | 26196 |
| 51b.14 Removed | 26196 |
| 51b.16 Revised | 26196 |
| 52.15 Removed | 26196 |
| 52.21 Amended | 26196 |
| 52.24 Removed | 26196 |
| 52.33 (b) amended | 26196 |
| 52.40 Amended | 26196 |
| 52.42 Removed | 26196 |
| 52.43 Removed | 26196 |
| 52.44 Removed | 26196 |
| 52.45 Revised | 26196 |
| 52.50—52.52 (Subpart F) Added | 26196 |
| 53.111 (b)(5) removed; (b)(6), (7), and (8) redesignated as (b)(5), (6), and (7); (e)(3) and (h)(4) and (5) revised | 16354 |
| 53.128 (g) and (l)(2)(ii) removed; (l)(3) added | 26196 |
| 53.136 Added | 26196 |
| 54.209 (l)(2)(ii) removed; (l)(3) added | 26197 |
| 54.214a Added | 26197 |
| 54.309 Added | 26197 |
| 54b Added | 4715 |
| 55.20 (b) amended; (c) revised | 26197 |
| 55.22 Removed | 26197 |
| 55.40 Removed | 26197 |
| 55.41 Removed | 26197 |
| 55.51 (b) and (d) amended | 26197 |
| 55.60 Amended | 26197 |
| 55.61 Removed | 26197 |
| 55.62 (b) and (c) removed | 26197 |
| 55.63 Revised | 26197 |
| 55.70—55.71 (Subpart H) Added | 26197 |
| 56.107 (b) amended; (c) revised | 26197 |
| 56.109 (a) amended | 26198 |
| 56.114 (b) and (c)(2) and (3) removed; (d)(2) revised | 26198 |
| 56.115 Removed | 26198 |
| 56.117 Revised | 26198 |
| 57.1109 (b), (c)(2), and (d)(2) revised | 26198 |
| 57.1611 (b) and (d)(2) revised | 26198 |
| 57.2001—57.2003 (Subpart U) Added | 20447 |
| 59.6 (b) amended | 26198 |
| 59.8 (a) amended | 26198 |
| 59.13 (b) and (c)(2) and (3) removed; (d)(2) revised | 26198 |
| 59.14 Removed | 26199 |
| 59.16 Revised | 26199 |
| 59.206 (c) revised | 26199 |
| 59.208 (a) amended | 26199 |
| 59.212 (b) and (c)(2) and (3) removed; (d)(2) revised | 26199 |
| 59.213 Removed | 26199 |
| 59.215 Revised | 26199 |
| 59a.16 Removed | 26199 |
| 59a.20 Removed | 26199 |
| 59a.23 Removed | 26199 |
| 59a.24 Removed | 26199 |
| 59a.25 Removed | 26199 |
| 59a.26 Revised | 26199 |
| 59a.27 Added | 26199 |
| 71.1 (w) revised | 16861 |
| 71.31 Revised | 16861 |
| (a)(1) corrected | 19222 |
| 71.46 Revised | 16861 |
| 71.49 (a) revised | 16862 |
| 74.1 (i) revised | 10721 |
| 74.10 (d) revised | 10721 |
| 74.20 (a), (c), and (d) revised | 10721, 10722 |
| 74.21 (a) and (b) revised | 10722 |
| 74.42 (d) revised | 10722 |
| 74.47 Heading revised | 10722 |
| 78 Redesignated as 21 CFR Part 278 | 1926 |
| 80 Added | 16645 |
| 84 Added | 11459 |
| 84.2 (e) corrected | 14940 |
| 87.14 (b) amended; (c) revised | 26199 |
| 87.15 Removed | 26199 |
| 87.20 (a) amended | 26199 |
| 87.30 Amended | 26199 |
| 87.34 Revised | 26199 |
| 87.40—87.41 (Subpart E) Added | 26200 |
| 91.6 (b) amended; (c) revised | 26200 |
| 91.8 (a) amended | 26200 |
| 91.13 Amended | 26200 |
| 91.14 (b) and (c)(2) and (3) removed; (d)(2) revised | 26200 |
| 91.15 Removed | 26200 |
| 91.17 Revised | 26200 |




### Chapter II


| | Page |
|---|---|
| 205.4 (b) and (d) revised | 26201 |
| 205.6 Revised | 26201 |
| 205.7 Amended | 26201 |
| 205.8 Removed | 26201 |
| 205.9 Removed | 26201 |
| 205.10 (a) revised; (d) removed; (c) amended | 26201 |
| 205.13 Removed | 26201 |
| 205.14 Removed | 26201 |
| 205.15 Revised | 26201 |
| 20516 (b) removed | 26201 |
| 205.18 Added | 26201 |
| 206.5—206.7 (Subpart B) Removed | 26201 |
| 208 Removed | 26201 |
| *Proposed Rules:* | |
| 37 | 4263, 4268 |
| 50 | 13418, 26459 |
| 51 | 20994 |
| 51a | 3991 |
| 54 | 18042 |
| 54b | 22968 |
| 57 | 9314, 12614, 13654, 15628, 18557, 23414 |
| 65 | 16658 |
| 71 | 8522 |
| 80 | 10010 |
| 81 | 20994, 22242, 26730 |
| 200 | 3991 |
| 205 | 10157 |
| 206 | 10157 |
| 233 | 10157 |


## 43 CFR

### Subtitle A


| | Page |
|---|---|
| Technical amendment to subtitle | 10939 |
| 4.506 (e) amended | 23948 |
| 4.507 (a)(1) and (2) amended | 23948 |
| 4.508 (c) amended | 23948 |
| 4.512 Revised | 14170 |
| 4.520 Amended | 23948 |
| 4.521 Amended | 23948 |
| 4.531 Amended | 23948 |
| 4.540 Revised | 10086 |
| (a) and (b) amended | 23948 |
| 4.541 Revised | 10086 |
| 4.542 Revised | 10086 |
| 4.543 Revised | 10086 |
| (b) amended | 23948 |
| 4.544 Revised | 10086 |
| (c) revised | 19971 |
| (a) amended | 23948 |
| 4.545 Revised | 10087 |
| Amended | 23948 |
| 4.546 Removed | 10087 |
| 4.587 Amended | 23948 |
| 4.651 (e) amended | 23948 |
| 4.652 Amended | 23948 |
| 4.661 Amended | 23948 |
| 4.663 (a) amended | 23948 |
| 4.800—4.845 (Subpart I) Added | 21162 |
| 17 Amended | 5635 |
| 17.2 Introductory text designated as introductory text of (a); (a), (b), (c), and (d) redesignated as (a)(1), (2), (3), and (4); (b) added | 17975 |
| 17.3 (b)(1)(vii) added; (b)(3) and (4) redesignated as (b)(5) and (6); new (b)(3) and (4) added | 17975 |
| (c) revised; (e) removed | 17976 |
| 17.4 (a) and (c)(2) revised; (b)(1)(ii) and (d) amended | 17976 |
| 17.5 Revised | 17976 |
| 17.6 (a), (b), (c), and (d) revised | 17977 |
| 17.7 (c)(1) amended; (d) revised | 17977 |
| 17.8 (a) and (d)(1) amended; (b) revised | 17977 |
| 17.9 Revised | 17977 |
| 17.11 (a)(1), (b), and (c) amended | 17978 |
| 17.12 (c) revised; (k) added | 17978 |
| 17 Appendix A amended | 17978 |
| 18 Revised | 3385 |
| 18.1 Corrected | 4978 |
| (a) revised; (b) amended | 14829 |
| 18.2 Amended | 14830 |
| 18.4 (a)(2)(i) amended | 14830 |
| 18.7 (a), (b), (c), and (d) redesignated as (b), (c), (d), and (e); new (a) added; redesignated (c), (d), and (e) amended | 14830 |
| Heading corrected | 19045 |
| 18.9 (c) amended | 14830 |
| 18.13 Corrected | 4978 |
| 18.14 (d) amended | 14830 |
| 18.16 (a) (2), (3), and (4) amended | 14830 |
| 23.3 (c) revised | 10009 |
| 23.12 (a) and (b) revised | 10009 |
| 25 Revised | 19222 |


### Chapter II


| | Page |
|---|---|
| Nomenclature changes | 10009, 12110, 12112 |
| Technical amendment to chapter | 10940 |
| 1821.2 Revised | 12111 |
| 1821.2–1 Revised | 12111 |
| 1821.2–2 Revised | 12111 |
| 1821.2–3 Revised | 12111 |
| 2650 Added | 14218 |
| 2800.0–5 (a) and (h) revised | 1588 |
| 2801.1–4 Revised | 16867 |
| 3112.2–1 (a)(1), (2), and (3) revised; (a)(4) added | 22230 |
| 3112.4–1 Revised | 22230 |
| 3112.5–1 Revised | 22230 |






CODE XUM C

## 43 CFR—Continued

### Chapter II—Continued

| | Page |
|---|---|
| 3112.5–3 Removed | 22230 |
| 3541.0–1—3541.6 (Subpart 3541) Added | 18884 |
| 4115.2–1 (d) amended | 22003 |
| (d) corrected | 23519 |
| 4121.2–1 (a) revised | 22003 |
| 4710 Added | 22003 |
| 5400.0–5 (m) added | 6280 |
| 5441.1–1 Amended | 6280 |
| 5442.1—5442.3 (Subpart 5442) Revised | 6280 |
| 5450.1 (a) and (b) amended | 6281 |
| 5450 Subpart 5451 heading revised | 6281 |
| 5451.1 Heading revised | 6281 |
| 5451.2 Revised | 6281 |
| 5451.3 Heading revised | 6281 |
| 5451.4 Added | 6281 |
| 5461.1 Amended | 6281 |
| 5461.2 (a)(2) revised; (a)(3) and (4) added | 6281 |
| 5463.1 Amended | 6282 |

### Public Land Orders

| | Page |
|---|---|
| 1726 See PLO 5383 | 22551 |
| 1985 Revoked in part by PLO 5359 | 20082 |
| 2588 Revoked in part by PLO 5364 | 20328 |
| 2721 Revoked in part by PLO 5371 | 20330 |
| 3670 Revoked by PLO 5366 | 20328 |
| 3965 Revoked in part by PLO 5377 | 22550 |
| 4522 See PLO 5344 | 10457 |
| 5158 Corrected | 8445, 22470 |
| 5169 Amended by PLO 5396 | 26376 |
| 5170 Amended by PLO 5395 | 26375 |
| 5171 Amended by PLO 5389 | 26371 |
| 5172 Amended by PLO 5392 | 26373 |
| 5173 Amended by PLO 5321 | 19911 |
| Amended by PLO 5391 | 26372 |
| 5175 Amended by PLO 5394 | 26375 |
| 5176 Amended by PLO 5393 | 26373 |
| 5177 Amended by PLO 5392 | 26373 |
| 5179 Amended by PLO 5389 | 26371 |
| Amended by PLO 5393 | 26373 |
| Amended by PLO 5395 | 26375 |
| Amended by PLO 5396 | 26376 |
| Amended by PLO 5397 | 26377 |
| 5180 Amended by PLO 5388 | 26370 |
| Amended by PLO 5393 | 26373 |
| Amended by PLO 5394 | 26375 |
| Amended by PLO 5396 | 26376 |
| Amended by PLO 5397 | 26377 |
| 5181 Amended by PLO 5388 | 26370 |
| Amended by PLO 5394 | 26375 |
| 5186 Amended by PLO 5393 | 26373 |
| 5191 See PLO 5391 | 26372 |
| See PLO 5392 | 26373 |
| See PLO 5394 | 26375 |
| See PLO 5396 | 26376 |
| See PLO 5397 | 26377 |
| 5192 See PLO 5389 | 26371 |
| See PLO 5393 | 26373 |
| See PLO 5395 | 26375 |
| See PLO 5396 | 26376 |
| See PLO 5397 | 26377 |
| 5193 See PLO 5393 | 26373 |
| See PLO 5394 | 26375 |
| See PLO 5395 | 26375 |
| See PLO 5396 | 26376 |
| See PLO 5397 | 26377 |
| 5194 See PLO 5388 | 26370 |
| See PLO 5394 | 26375 |
| 5213 See PLO 5391 | 26372 |
| 5250 See PLO 5389 | 26371 |
| See PLO 5393 | 26373 |
| See PLO 5395 | 26375 |
| See PLO 5396 | 26376 |
| See PLO 5397 | 26377 |
| 5251 See PLO 5393 | 26373 |
| See PLO 5394 | 26375 |
| See PLO 5395 | 26375 |
| See PLO 5396 | 26376 |
| See PLO 5397 | 26377 |
| 5252 See PLO 5391 | 26372 |
| 5253 See PLO 5389 | 26371 |
| 5254 See PLO 5393 | 26373 |
| 5256 See PLO 5396 | 26376 |
| 5263 See PLO 5359 | 20082 |
| 5290 Corrected | 8445 |
| 5320 Corrected | 3194, 5338 |
| 5321 Corrected | 19911 |
| See PLO 5391 | 26372 |
| 5322 | 735 |
| 5323 | 735 |
| 5324 | 736 |
| 5325 | 1588 |
| 5326 | 1588 |
| 5327 | 2429 |
| 5328 | 2429 |
| Corrected | 3601 |
| 5329 | 2430 |
| 5330 | 2430 |
| 5331 | 5479 |
| 5332 | 7558 |
| 5333 | 7558 |
| 5334 | 7559 |
| 5335 | 7560 |
| 5336 | 7560 |
| 5337 | 7560 |
| 5338 | 7560 |
| 5339 | 7560 |
| 5340 | 7561 |
| 5341 | 7561 |
| 5342 | 8445 |
| Corrected | 22470 |
| 5343 | 8445 |



| | Page |
|---|---|
| 5344 | 10457 |
| 5345 | 15509 |
| Corrected | 18017 |
| 5346 | 15838 |
| 5347 | 16065 |
| 5348 | 18549 |
| 5349 | 19824 |
| 5350 | 19824 |
| 5351 | 19824 |
| 5352 | 19825 |
| 5353 | 19825 |
| 5354 | 20081 |
| Corrected | 22002 |
| 5355 | 20081 |
| Corrected | 22002 |
| 5356 | 20081 |
| 5357 | 20081 |
| 5358 | 20082 |
| 5359 | 20082 |
| 5360 | 20327 |
| 5361 | 20327 |
| 5362 | 20327 |
| Corrected | 22002 |
| 5363 | 20328 |
| 5364 | 20328 |
| 5365 | 20328 |
| 5366 | 20328 |
| 5367 | 20329 |
| 5368 | 20329 |
| 5369 | 20329 |
| 5370 | 20329 |
| 5371 | 20330 |
| 5372 | 21167 |
| 5373 | 21168 |
| 5374 | 21168 |
| 5375 | 22550 |
| 5376 | 22550 |
| 5377 | 22550 |
| 5378 | 22550 |
| 5379 | 22470 |
| 5380 | 22551 |
| 5381 | 22551 |
| 5382 | 22551 |
| 5383 | 22551 |
| Corrected | 25684 |
| 5384 | 22552 |
| 5385 | 22552 |
| 5386 | 22625 |
| 5387 | 26370 |
| 5388 | 26370 |
| 5389 | 26371 |
| 5390 | 26372 |
| 5391 | 26372 |
| 5392 | 26373 |
| 5393 | 26373 |
| 5394 | 26375 |
| 5395 | 26375 |
| 5396 | 26376 |
| 5397 | 26377 |

*Proposed Rules:*

| | Page |
|---|---|
| 4 | 15516 |
| 6 | 22036 |
| 25 | 8176 |
| 1820 | 22967 |
| 2070 | 4403, 7008 |
| 2650 | 6504 |
| 2800 | 8449 |
| 3000 | 19748, 21416, 26918 |
| 3110 | 1281, 1746, 6188, 6900 |
| 3200 | 19748, 21416, 26918 |
| 3210 | 19748 |
| 3220 | 19748 |
| 3230 | 19748 |
| 3240 | 19748 |
| 3540 | 1591 |
| 3860 | 22897 |
| 4110 | 10156, 19914 |
| 4120 | 10156 |
| 4130 | 10156 |
| 6250 | 4403, 7008 |
| 6290 | 4403, 7008 |
| 9180 | 22897 |

## 44 CFR

| | Page |
|---|---|
| Removed; provisions transferred to 22 CFR Part 133 and 36 CFR Ch. VII (Parts 701 and 702 | 27049 |

### Chapter IV

| | Page |
|---|---|
| Chapter removed; provisions of Part 401 transferred to 15 CFR Part 302 | 12743 |

## 45 CFR

### Subtitle A

| | Page |
|---|---|
| 5.3 Revised | 22231 |
| 5.4 Revised | 22231 |
| 5.11 Revised | 22231 |
| 5.31 (b) amended; (c) revised | 22231 |
| 5.32 (c) revised | 22232 |
| 5.51 (c) revised | 22232 |
| 5.61 Revised | 22232 |
| 5.70—5.79 (Subpart F) Removed; new 5.70—5.74 (Subpart F) added | 22232 |
| 5.82 Revised | 22233 |
| 5.85 (a) revised | 22233 |
| 15 Revised | 8492 |
| 16 Added | 9907 |
| 73 Appendix C amended | 17222 |
| 74 Added | 26275 |
| 80 Heading revised | 17979 |
| 80.2 Revised | 17979 |
| 90.3 (b)(1)(vii) added; (b)(3) and (4) redesignated as (b)(4) and (5); new (b)(3) and (6) added; (c) and (d) revised | 17979 |
| 80.4 (a)(2), (b), and (d) revised | 17980 |





### Chapter VI

| | Page |
|---|---|
| 601 Revised | 22233 |
| 602 Revised | 22233 |
| 603 Revised | 22233 |
| 604 Revised | 22233 |
| 605 Revised | 22233 |
| 606 Revised | 22233 |
|

## 45 CFR—Continued

### Subtitle A—Continued


| | Page |
|---|---|
| 80.5 Introductory text, (a), (b), (e), and (h) revised; (i) and (j) added | 17980 |
| 80.6 (b), (c), and (d) revised | 17981 |
| 80.7 (b) amended | 17981 |
| 80.9 (a) revised | 17981 |
| 80.10 (e) and (f) revised; (g) (4) removed | 17981 |
| 80.12 (a) and (c) revised | 17981 |
| 80 Appendix A revised | 17982 |
| 82.2 Revised | 997 |
| 82.4 (b) revised | 997 |
| 82.6 (a)(3) revised | 997 |
| 82.10 Revised | 997 |
| 82.14 Revised | 997 |
| 82.15 Revised | 997 |
| 82.22 Revised | 998 |


### Chapter I


| | Page |
|---|---|
| 116.26 Revised | 17127 |
| 121.50—121.99 (Subpart A–1) Added | 13740 |
| 121.200—121.205 (Subpart C–1) Added | 13742 |
| 121.230—121.240 (Subpart C–2) Added | 13742 |
| 121.250—121.256 (Subpart C–3) Added | 13744 |
| 121.270—121.277 (Subpart C–4) Added | 13744 |
| 121.380—121.383 (Subpart D–2) Added | 13745 |
| 121.400—121.426 (Subpart E) Added | 13745 |
| 125 Removed | 13746 |
| 129 Added | 21924 |
| 144.2 (a) revised | 15959 |
| 144.3 (a) revised | 15959 |
| 144 Appendix A added | 15959 |
| 166 Revised | 16133 |
| 167 Added | 16138 |
| 170 Revised | 14096 |
| 175.3 Revised | 15959 |
| 175.3a Revised | 15960 |
| 175 Appendix A added | 15960 |
| 176 Added | 15960 |
| 177.2 Revised | 25 |
| 177.4 (c)(3)(xiv) added | 1509 |
| (c)(3)(xv) added | 9669 |
| (c)(3)(xvi) added | 20072 |
| 177.10 Added | 25 |
| 180 Revised | 16065 |
| 185 Added | 3452 |
| 185.31—185.38 (Subpart D) Added | 10094 |
| 185.44 (d)(3) revised | 21646 |
| 185.51—185.56 (Subpart F) Added | 10098 |
| 185.71—185.76 (Subpart H) Added | 10101 |
| 185.81—185.85 (Subpart I) Added | 10103 |
| 185.91—185.94 (Subpart J) Added | 10104 |
| 185.95 (b)(1) and (3) revised | 13563, 21647 |
| 186 Added | 18018 |
| 187 Added | 19826 |
| 188 Added | 19829 |
| 190.31—190.39 (Subpart C) Added | 15419 |
| 190.41—190.48 (Subpart D) Added | 15421 |


### Chapter II


| | Page |
|---|---|
| 201.5 (e) added | 26320 |
| 204.2 Added | 16872 |
| 205.10 (a)(2) through (11) and (16) revised | 9820 |
| Revised | 22007 |
| 205.20 Removed | 9821, 22008 |
| 205.40 Revised | 8744 |
| 205.41 Added | 8744 |
| 205.70 Revised | 26378 |
| 205.146 Added | 26379 |
| 205.150 Revised | 26804 |
| 206.10 (a)(1), (3), (4), (6), (7), (10), (11), and (12) and (b) revised | 9821 |
| Revised | 22009 |
| 208.1 (b) revised | 12112 |
| 220.1—220.24 Removed; provisions transferred to Part 221 | 10782 |
| 220.45—220.48 Removed; provisions transferred to Part 221 | 10782 |
| 220.50—220.52 Removed; provisions transferred to Part 221 | 10782 |
| 220.61 (a) through (f) removed; provisions transferred to Part 221 | 10782 |
| 220.63—220.64 Removed; provisions transferred to Part 221 | 10782 |
| 220.65 (a) removed; provisions transferred to Part 221 | 10782 |
| 220.75 Removed | 26320 |
| 220.79 Revised | 26320 |
| 220.81 Removed | 26320 |
| 220.85 Added | 26320 |
| 221 Added; provisions derived from Parts 220, 222, and 226 | 10782 |
| Effective date postponed | 19911 |
| 221.5 (b)(2) amended | 14376 |
| 221.6 (c)(3) (i) and (ii) revised | 14375 |
| 221.8 Revised | 14376 |
| 221.54 (a)(2)(i) corrected | 13563 |
| (a) and (b)(1) revised | 14376 |
| 222 Removed; provisions transferred to Part 221 | 10782 |





| | Page |
|---|---|
| 226 Removed; provisions transferred to Part 221 | 10782 |
| 233.10 (b)(1) revised | 8744 |
| (b)(5) removed; provisions transferred to 205.146(a) | 26379 |
| 233.20 (a)(3)(ii)(*d*) removed; (a)(3)(ii) (*e*) redesignated as (a)(3)(ii) (*d*); (a)(12) added | 9822, 22010 |
| (a)(4)(ii) revised | 25411 |
| (d) revised | 26379 |
| 233.40 Revised | 26379 |
| 233.90 (b)(4) added | 10940 |
| (b)(2) and (3) added; (c)(1)(vi) revised | 26916 |
| 233.100 (a)(1) revised | 18549 |
| (a)(1) corrected | 26608 |
| 233.145 Revised | 26379 |
| 234.75 Added | 26380 |
| 234.120 Revised | 26380 |
| 249.10 (b)(4)(i) heading and introductory text revised | 12112 |
| 249.33 (a)(1)(vii) and (c)(2) revised | 21413 |
| 252.10 (b)(1), (c)(2)(iii), and (d) revised | 12112 |
| 252.20 Removed | 12113 |


### Chapter IV


| | Page |
|---|---|
| 401.69 Added | 26321 |
| 401.77 (b) revised | 26321 |
| 403.9 Revised | 26321 |
| 403.16 Added | 26321 |
| 403.29 Revised | 26321 |
| 403.33 Added | 26321 |
| 403.49 Revised | 26321 |
| 403.50 Added | 26321 |
| 404.6 Added | 26321 |
| 404.22 (c) and (k)(2)(ii) removed | 26321 |
| 404.28 Removed | 26321 |
| 404.48 Revised | 26321 |
| 404.60 Revised | 26321 |
| 404.93 Revised | 26321 |
| 405.9 Added | 26322 |
| 405.19 Revised | 26321 |
| 406.5 Added | 26322 |
| 406.19 Revised | 26321 |
| 406.51 Revised | 26321 |
| 408.10 Removed | 26322 |
| 408.16 Added | 26322 |
| 416.15 (b) amended | 26322 |
| 416.16 Removed | 26322 |
| 416.25 Revised | 26322 |
| 416.38 Revised | 26322 |
| 416.74 Amended | 26322 |
| 416.75 Amended | 26322 |
| 416.99 Revised | 26322 |


### Chapter VI


| | Page |
|---|---|
| 611.3 (b)(3) and (4) redesignated as (b)(4) and (5); new (b)(3) and (6) and (c)(4) added; (c)(3) revised | 17984 |
| 611.4 (a)(1) and (b) amended; (a)(2) revised | 17985 |
| 611.5 Amended | 17985 |
| 611.10 (g) added | 17985 |
| 611.12 (a) and (c) amended | 17985 |
| 611 Appendix A revised | 17986 |


### Chapter VII


| | Page |
|---|---|
| 701.1 Revised | 15446 |
| 701.12 (b) (1), (2), (3), (4), and (6) revised; (b) (7) and (8) added | 16070 |
| 703 Revised | 15446 |
| 703.5 (a) revised | 19046 |
| 704.1 (g) revised | 6180 |


### Chapter VIII


| | Page |
|---|---|
| 801 Appendix A amended | 7116 |


### Chapter IX


| | Page |
|---|---|
| Chapter heading revised | 17226 |
| 901.4 Revised | 26202 |
| 901.5 Added | 26202 |
| 903.0 Added | 17226 |
| 903.35 Amended | 26202 |
| 903.79 Removed | 26202 |
| 904.7 Removed | 26202 |
| 904.10 Removed | 26202 |
| 905.7 Removed | 26202 |
| 905.10 Removed | 26202 |
| 909 Nomenclature changes | 24900 |
| 909.6 Revised | 24900 |
| 909.34a Added | 24900 |


### Chapter X


| | Page |
|---|---|
| 1010 Revised | 17986 |
| 1060.2–1—1060.2–3 (Subpart) Revised | 14940 |
| 1060.4–1—1060.4–7 (Subpart 1060.4) Added | 736 |
| 1061.4–1 (Subpart) Added | 8445 |
| Effective date changed | 14172, 14260, 16872 |
| 1061.5–1—1061.5–6 (Subpart) Added | 13746 |
| 1061.6–1—1061.6–5 (Subpart) Added | 14171, 16872 |
| 1061.7–1—1061.7–4 (Subpart) Added | 14171 |
| 1061.8–1—1061.8–3 (Subpart) Added | 14171 |
| 1061.9–1—1061.9–5 (Subpart) Added | 14688 |




## 45 CFR—Continued


| | Page |
|---|---|
| 10.02–5 (e)(3) amended; (e)(5) revised | 5860 |


### Chapter XIII


| | Page |
|---|---|
| Establishment of Chapter | 9434 |





| | Page |
|---|---|
| 55.20–1 Revised | 17228 |
| 55.20–5 Amended | 17228 |


CODE XUM

## 45 CFR—Continued

### Chapter X—Continued


| | Page |
|---|---|
| 1061.10–1—1061.10–4 (Subpart) Added | 14689 |
| 1061.10–3 Corrected | 16645 |
| 1061.11–1—1061.11–8 (Subpart) Added | 14690 |
| 1067.3–1—1067.3–3 (Subpart 1067.3) Added | 6894 |
| 1067.4–1—1067.4–5 (Subpart 1067.4) Added | 6894 |
| Removed | 14172, 14260, 16872 |
| 1067.5–1—1067.5–4 (Subpart 1067.5) Added | 6895 |
| Removed | 14172, 14260, 16872 |
| 1067.6–1—1067.6–9 (Subpart 1067.6) Added | 6895 |
| Removed | 14172, 14260, 16872 |
| 1067.6–1—1067.6–4 Interim regulations added | 9434 |
| Removed | 14172, 14260, 16872 |
| 1068.7–1 Added | 8060 |
| 1068.7–2 Added | 8060 |
| 1068.7–3 Added | 8060 |
| 1068.7–4 Added | 8060 |
| Amended | 14173, 14260, 16872 |
| 1068.8–1—1068.8–4 (Subpart 1068.8) Added | 10809 |
| 1069.3–5 Revised | 7117 |
| Effective date changed | 14172, 14260, 16872 |
| 1069.3–6 Revised | 7117 |
| Effective date changed | 14172, 16872 |
| 1069.5–1—1069.5–3 (Subpart 1069.5) Added | 6896 |
| Redesignated as 1069.6–1—1069.6–3 (Subpart 1069.6) | 14172, 16872 |
| 1069.6–1—1069.6–3 (Subpart 1069.6) Redesignated from 1069.5–1—1069.5–3 (Subpart 1069.5) | 14172, 16872 |
| 1069.6–3 Amended | 14172, 14260 |
| 1070.4–1—1070.4–5 (Subpart) Added | 8060 |
| Effective date changed | 14172, 14260, 16872 |


### Chapter XI


| | Page |
|---|---|
| 1100.3 (d)(1) and (2) and (e) amended | 3981 |
| 1105.735–3 Revised | 3511 |
| 1105.735–6 (a)(2)(i), (ii), and (iii) revised | 3512 |
| 1105.735–7 (e)(1) and (2), (g)(1), (2), and (3), and (j) revised; (h)(2)(ii) removed | 3512 |
| 1110 Added | 17991 |


### Chapter XIII


| | Page |
|---|---|
| Establishment of Chapter | 9434 |
| 1301 Added | 9434 |


### Chapter XV


| | Page |
|---|---|
| Establishment of Chapter | 13486 |
| 1501 Added | 13486 |


*Proposed Rules:*


| | Page |
|---|---|
| Subtitle A | 10274 |
| 5 | 8273 |
| 67 | 20465 |
| 83 | 26384 |
| Ch. I | 10386 |
| 102 | 18557 |
| 116 | 7438 |
| 124 | 21788 |
| 167 | 18518, 26788 |
| 174 | 17501 |
| 180 | 12407 |
| 183 | 9437 |
| 185 | 5644, 18899 |
| 186 | 10738 |
| 187 | 12130 |
| 188 | 12931 |
| 189 | 9472, 9830 |
| 190 | 3228, 18778, 26660 |
| 204 | 6193, 19406 |
| 205 | 15580, 15738, 16308, 17019, 18616, 22042, 22141 |
| 206 | 16309 |
| 220 | 4608 |
| 221 | 4608, 10461, 24872, 27081 |
| 222 | 4608 |
| 226 | 4608 |
| 233 | 49, 3200, 14693, 16308, 16910, 18254, 23337, 23802 |
| 234 | 5974, 16308 |
| 248 | 5974, 16309, 16910, 17508 |
| 249 | 5974, 15580, 16309, 16911, 17508, 18616, 26460 |
| 250 | 5974, 15580, 18616, 22242, 22415, 25450, 26920 |
| 270 | 19406 |
| 903 | 23912 |
| 1203 | 15632 |
| Ch. XIII | 19406 |
| 1301 | 6193 |
| 1350 | 19406 |
| 1400 | 1021 |
| 1403 | 1022 |
| 1406 | 1023 |
| 1408 | 1025 |
| 1410 | 1026 |
| 1412 | 1027 |
| 1414 | 1031 |
| Ch. XV | 8002 |


## 46 CFR

### Chapter I


| | Page |
|---|---|
| 1 Nomenclature changes | 10087 |
| 2.20–65 (a)(12) and (b)(7) added | 8160 |
| 3 Removed | 12403 |





| | Page |
|---|---|
| 10.02–5 (e)(3) amended; (e)(5) revised | 5860 |
| 10.02–33 Revised | 12403 |
| 10.05–45 (b) table amended | 11464 |
| 10.10–4 (b) table amended | 11464 |
| 10.13–15 (c) revised | 5860 |
| 10.16–1—10.16–81 (Subpart 10.16) Added | 5749 |
| 10.20–7 (a)(2) amended | 5860 |
| 10.25–9 Heading revised; (a)(6) removed | 22788 |
| 10.25–11 Added | 22788 |
| 12.02–25 Added | 12403 |
| 14.15–1—14.15–15 (Subpart 14.15) Added | 12403 |
| 16.15 Added | 12404 |
| 16.20 Added | 12404 |
| 24.01–1 Revised | 8116 |
| 24.01–10 (a) and (b) revised | 8116 |
| 24.05–1 (a) table amended | 8116 |
| 25.05–15 (d) revised | 1000 |
| 25.25–1—25.25–11 (Subpart 25.25) Revised | 8117 |
| 26.25–1 (c) added | 5750 |
| 42.03–1 (b) amended | 12289 |
| 42.03–5 (c) revised; (d) added | 12289 |
| 42.03–30 (b)(2) amended; (e) and (f) revised | 12289 |
| 42.05–30 (e) revised | 12290 |
| 42.05–40 (c) amended | 12290 |
| 42.07–1 (b) and (c) amended | 12290 |
| 42.07–45 (d) revised | 12290 |
| 42.09–15 (c)(1) amended | 12290 |
| 44.05–25 (a)(2) revised; (a)(3) added | 12290 |
| 45 Revised | 12290 |
| 50.15–5 (a) revised; (d) added | 17226 |
| 54.01–1 (a) table amended | 17226 |
| 54.01–5 (b) table amended | 17226 |
| 54.10–20 Heading (a), (b), and (c) amended; (d) added | 17226 |
| 54.15–15 (a) and (b) amended | 17226 |
| 55 Subpart 55.01 Note amended | 17227 |
| 55.01–1 Heading, (a), (b), and table amended | 17227 |
| 55.05–1 (Subpart 55.05) Revised | 17227 |
| 55.10–1 Revised | 17228 |
| 55.10–5 Revised | 17228 |
| 55.10–15 Removed | 17228 |
| 55.10–20 Revised | 17228 |
| 55.10–30 (a)(4), (b)(3) and (5), and (c) revised; (d) removed | 17228 |
| 55.10–35 Heading revised; (c) added | 17228 |
| 55.10–40 Revised | 17228 |
| 55.15–1 Revised | 17228 |
| 55.15–3 (a) revised | 17228 |
| 55.15–5 Revised | 17228 |
| 55.15–10 Revised | 17228 |
| 55.15–15 (a) revised | 17228 |
| 55.20–1 Revised | 17228 |
| 55.20–5 Amended | 17228 |
| 55.20–10 Added | 17228 |
| 55.20–20 Revised | 17228 |
| 55.25–1—55.25–10 (Subpart 55.25) Added | 17229 |
| 56.04–1 Revised | 17229 |
| 56.04–20 Removed | 17229 |
| 56.20–9 (a) amended | 10722 |
| 56.30–25 (f)(2) revised | 17229 |
| 56.50–1 (g)(2) revised | 10722 |
| 56.60–1 (b) table amended | 17229 |
| 56.60–25 (c) table amended | 17229 |
| 56.85–10 (a) amended | 17229 |
| 56.85–15 (a) amended | 17229 |
| 56.95–10 Table amended | 17229 |
| 56.97–40 (a)(5) revised | 17229 |
| 57.06–1 (b) amended | 17229 |
| 57.06–5 (a) amended | 17229 |
| 70.05–1 (b) revised | 9081 |
| 70.05–3 (d) revised | 9081 |
| 72.20–25 (b)(3) removed | 20449 |
| 80 Revised | 9081 |
| 92.20–25 (b)(3) removed | 20449 |
| 93.07–1—93.07–90 (Subpart 93.07) Added | 17004 |
| 105.20–3 (a)(1) table amended | 17229 |
| 111.80–5 (a)(7) revised | 22788 |
| 136 Nomenclature changes | 10087 |
| 137 Nomenclature changes | 10087 |
| 146 Nomenclature changes; effective 10–13–73 | 15510 |
| 146.02–8 (a) revised | 18235 |
| 146.05–12 (f)(9)(v) and (vi) revised | 4395 |
| 146.19–1 (o) and (p) added | 4395 |
| 146.19–10a Added | 4395 |
| 146.19–10b Added | 4395 |
| 146.19–12 (b)(3) introductory text and (g) revised; (d) removed | 4395 |
| 146.19–18 Revised | 4396 |
| 146.19–20 Revised | 4396 |
| 146.19–35 (e) revised | 4396 |
| 146.19–100 Amended | 4396 |
| 146.20–90 Amended | 20083 |
| 146.20–300 Amended | 20083 |
| 146.21–45 Revised | 1277 |
| 146.21–100 Table D amended | 20082 |
| 146.22–100 Table E amended | 3981 |
| Table E corrected | 5173 |
| 146.22–200 Table E amended | 20083 |
| 146.25–100 Table H amended | 20083 |
| 146.27–28 Added | 18885 |
| 146.27–30 (c)(11) added | 1277 |
| 146.27–31 (c)(9) added | 1277 |
| 146.27–100 Amended | 18886 |
| 146.30–3 (a)(3) added | 8160 |
| 151.10–5 Revised | 10723 |
| 151.10–6 Added | 10723 |
| 154 Added | 15776 |
| 157.01–10 (c)(1) amended | 5750 |
| 157.10–83 Added | 5750 |


CODE XUM

## 46 CFR—Continued

### Chapter I—Continued


| | Page |
|---|---|
| 157.10–85 Added | 5750 |
| 157.30–45 Added | 5750 |
| 160 Subpart 160.009 heading revised | 8118 |
| Subpart 160.047 heading revised | 8119 |
| Subpart 160.048 heading revised | 8119 |
| Subpart 160.049 heading revised | 8119 |
| Subpart 160.052 heading revised | 8120 |
| Subpart 160.060 heading revised | 8122 |
| Subpart 160.064 heading revised | 8122 |
| 160.002–1 (d) added | 8118 |
| 160.002–2 Revised | 8118 |
| 160.002–6 Revised | 8118 |
| 160.005–1 (d) added | 8118 |
| 160.005–2 Revised | 8118 |
| 160.005–6 Revised | 8118 |
| 160.009–1 (d) added | 8818 |
| 160.009–2 (a) revised | 8118 |
| 160.009–3 (a) revised; (a–1) added | 8118 |
| 160.009–4 Heading, (a), and (b) (4) revised | 8118 |
| 160.009–6 Revised | 8118 |
| 160.047–1 (d) revised | 8119 |
| 160.047–2 Revised | 8119 |
| 160.047–6 Revised | 8119 |
| 160.048–1 (d) revised | 8119 |
| 160.048–6 (a) revised | 8119 |
| 160.048–7 (a) amended; (a)(1) removed | 8119 |
| 160.048–7a Added | 8119 |
| 160.049–1 (d) revised | 8119 |
| 160.049–4 (c) revised | 8119 |
| 160.049–6 (a) revised | 8119 |
| 160.049–7 (a) amended; (a)(1) removed | 8119 |
| 160.049–7a Added | 8119 |
| 160.050–1 (d) added | 8119 |
| (d) correctly designated as (c) | 21784 |
| 160.050–6 Revised | 8120 |
| 160.051–6 (f)(3) corrected | 5338 |
| 160.051–7 (c)(8) corrected | 5338 |
| 160.052–1 (d) revised | 8120 |
| 160.052–2 Revised | 8120 |
| 160.052–3 Heading revised | 8120 |
| 160.052–4 Heading and (a) revised | 8120 |
| 160.052–5 Heading revised | 8120 |
| 160.052–6 Revised | 8120 |
| 160.052–7 Heading, (c), heading, and (g) revised | 8120 |
| 160.052–8 Revised | 8120 |
| 160.052–9 Introductory text of (a) revised | 8120 |
| 160.053–1 (c) added | 8120 |
| 160.053–5 (a) revised | 8121 |
| 160.055–1 (d) added | 8121 |
| 160.055–2 Revised | 8121 |
| 160.055–3 Heading revised | 8121 |
| 160.055–4 Revised | 8121 |
| 160.055–5 Heading, (b), and (c) revised | 8121 |
| 160.055–6 Revised | 8121 |
| 160.055–7 Heading and (i) revised | 8121 |
| 160.055–8 Revised | 8121 |
| 160.055–9 Heading, (b), and (c) revised; (b–1) and (c–1) added | 8121 |
| 160.060–1 (d) revised | 8122 |
| 160.060–2 Revised | 8122 |
| 160.060–3 Heading revised | 8122 |
| 160.060–4 Heading and (a) revised | 8122 |
| 160.060–5 Heading revised | 8122 |
| 160.060–6 Revised | 8122 |
| 160.060–7 Heading, (c), heading, and (g) revised | 8122 |
| 160.060–8 Revised | 8122 |
| 160.064–4 (a) revised | 8122 |
| 160.064–5 Revised | 8123 |
| 160.064–5a Added | 8123 |
| 160.064–5b Added | 8123 |
| 160.064–7 Revised | 8123 |
| 162.001–2 (a) amended | 17230 |
| 162.018–3 (b) revised | 17230 |
| 162.028–3 (c)(5) and (6) and (g) revised | 6880 |
| 162.028–7 Revised | 6880 |
| 162.028–8 (a)(5) added | 6880 |
| 164.009–5 Added | 6881 |
| 182.15–40 (a)(3) revised | 17230 |
| 182.20–40 (a)(2)(ii) revised | 17230 |
| 184.15–5 (d) revised | 1000 |
| 187.10–15 (c) amended | 5860 |
| 190.20–25 (b)(3) removed | 20449 |


### Chapter II


| | Page |
|---|---|
| 206.4 Revised | 4952 |
| 272.9 (b) revised; (c) amended | 15078, 15079 |
| 278 Added | 14942 |
| 283 Added | 18022 |
| 284.2 (f)(1) amended | 5479 |
| 284.3 Added | 5479 |
| 294 Revised | 20807 |
| 294.3 (a) amended | 17005 |
| 294.5 (c)(7) added | 1277 |
| 294.6 (b)(5) revised | 14943 |
| 294.10 Revised | 1279, 17005 |
| 294.11 Added | 1277 |
| 294.12 Added | 1278 |





| | Page |
|---|---|
| Existing text of (c) designated as (c)(1); (c)(2) added; (e) revised | 13016 |
| 294.13 Added | 8160 |
| 294.14 Added | 16354 |
| 308.6 Amended | 7117 |
| 308.106 Amended | 7117 |
| 308.206 Amended | 7117 |
| 308.305 Amended | 7117 |
| 309.1 Revised | 13721 |
| 309.2 Revised | 13721 |
| 309.3 Revised | 13721 |
| 309.4 Revised | 13721 |
| 309.5 Revised | 13721 |
| 309.6 Revised | 13722 |
| 309.7 Revised | 13722 |
| 309.8 Revised | 13722 |
| 309.101 Revised | 13722 |
| 310.1—310.12 (Subpart A) Revised | 10087 |
| 310.50—310.64 (Subpart C) Revised | 9166 |
| 310.58 (c) amended | 2215 |
| 310.63 (c)(4) revised | 14106 |
| 351 Added | 8061 |
| 375 Removed | 5248 |
| 380.10 (Subpart B) Removed | 9590 |
| 390.1 Introductory text and (d) revised | 2430 |


### Chapter IV


| | Page |
|---|---|
| 505 Added | 14832 |
| 530.8 Added | 14172 |
| 548.8 Added | 3982 |
| 549.5 (b)(1) and (e)(1)(i) revised | 20331 |


*Proposed Rules:*


| | Page |
|---|---|
| Ch. I | 2467, 17848 |
| 33 | 5968 |
| 35 | 4516, 5968, 10274, 12749, 19411 |
| 42 | 7678 |
| 45 | 7678 |
| 56 | 4516, 12749 |
| 74 | 4516, 12749 |
| 75 | 5968 |
| 78 | 5968, 12749, 19411 |
| 93 | 4516, 12749 |
| 94 | 5968 |
| 97 | 5968, 12749, 19411 |
| 111 | 4414 |
| 146 | 1937, 7468, 23535, 23959 |
| 160 | 22492, 22980, 26938 |
| 161 | 5968 |
| 162 | 15081 |
| 180 | 5968 |
| 185 | 5968 |
| 191 | 4516, 12749 |
| 192 | 5968 |
| 196 | 5968, 12749, 19411 |
| 278 | 2701 |
| 310 | 11471 |
| Ch. IV | 2468, 9241, 16395, 26943 |
| 505 | 892 |
| 508 | 2468, 6191 |
| 512 | 9601, 13664 |
| 526 | 23540 |
| 531 | 3412, 19237, 21941, 22244 |
| 536 | 3412, 4779, 12134, 19238, 21941, 22244 |
| 538 | 22495, 24228 |
| 542 | 21941, 23979 |
| 544 | 4983, 9241 |


## 47 CFR

### Chapter I


| | Page |
|---|---|
| 0.5 (a)(4) through (11) and (b)(3) and (4) redesignated as (a)(5) through (12) and (b)(4) and (5); new (a)(4) and (b)(3) added | 17005 |
| 0.12 (c) and (h) revised | 1505 |
| (k) added | 24900 |
| 0.21 Added | 17005 |
| 0.41 (p) added | 12743 |
| 0.86 Added | 16645 |
| 0.92 (h) added | 10810 |
| 0.121 (c) amended | 12921 |
| 0.204 (c)(6) revised | 18550 |
| 0.281 Revised | 26724 |
| 0.308 Added | 8745 |
| 0.311 (a)(10) added | 7118 |
| 0.331 (b)(24) added | 8247 |
| 0.431 Revised | 10445 |
| 0.432 Revised | 10445 |
| 0.433 Revised | 10445 |
| 0.434 Introductory text revised | 10445 |
| 0.465 (a) revised | 10445 |
| 0.485 (c) amended | 4578 |
| 0.501—0.542 (Subpart D) Added | 998 |
| 1.80 (g)(1) and (i) revised | 22226 |
| 1.227 (b)(5) revised | 26202 |
| 1.550 Revised | 17007 |
| 1.571 Note 1 redesignated as Note; Note 2 removed | 5874 |
| Note corrected | 9169 |
| 1.574 (a) revised | 18892 |
| (c) note removed | 19911 |
| 1.621 (e) revised | 22226 |
| 1.773 (b) revised | 8250 |
| 1.962 (e) revised | 3983 |
| 1.991 (b)(1) and (c) revised | 22226 |
| 1.1102 (b) Note and (j) added; (d) and (g) revised | 6818 |
| 1.1103 (c) added | 6818 |
| 1.1115 (c)(9) added | 7227 |
| 1.1120 Amended | 1917 |
| Footnote added | 6818 |
| 2.1 Amended | 5565, 7227, 12743, 25180 |
| 2.100 Revised | 5566 |
| 2.102 (b)(1) revised | 12744 |
| 2.106 Table amended | 5567, 7227, 12744, 14107, 14687, 20436, 20619 |
| Corrected | 9228, 11086 |
| Footnote added | 24901 |


CODE XUM

## 47 CFR—Continued

### Chapter I—Continued

| | | Page |
|---|---|---|
| 2.302 | Table amended | 6822, 25991 |
| 2.579 | (f)(1) amended | 12744 |
| 2.601 | Revised | 6818 |
| 2.602 | Revised | 6818 |
| 2.603 | Revised | 6819 |
| 2.805 | Termination date of waiver extended to 7-1-73 | 2689 |
| 5.203 | Revised | 12744 |
| 5.409 | Revised | 12744 |
| 13.61 | (g)(4), (5), and (6) and (h)(7) revised | 25684 |
| 13.70 | Revised | 5249 |
| 15.4 | Heading and (k) amended | 12744 |
| 15.7 | Termination date of waiver extended to 7-1-73 | 2689 |
| 15.68 | Heading amended | 12744 |
| 15.337 | (a) revised | 12744 |
| 15.345 | (a) revised | 12744 |
| 15.347 | (a) amended | 12744 |
| 15.363 | Revised | 6826 |
| 15.365 | Revised | 6826 |
| 15.371 | (b)(2) amended | 12744 |
| 15.375 | (a)(2) revised | 12744 |
| 15.377 | Added | 6826 |
| 15.407 | Effective date and termination date of waiver extended to 7-1-73 | 2689 |
| 17.52 | Removed | 739 |
| 21.35 | (a) amended | 9018 |
| 21.100 | (d) revised | 8572 |
| 21.706 | (c) and (d) revised | 8572 |
| 21.809 | Revised | 8573 |
| 23.1 | Revised | 22478 |
| 23.2 | Removed | 22479 |
| 23.2 | Removed | 22479 |
| 23.3 | Removed | 22479 |
| 23.4 | Removed | 22479 |
| 23.5 | Removed | 22479 |
| 23.6 | Removed | 22479 |
| 23.7 | Removed | 22479 |
| 23.8 | Removed | 22479 |
| 23.9 | Removed | 22479 |
| 23.10 | Removed | 22479 |
| 23.11 | Amended | 22479 |
| 23.13 | Revised | 22479 |
| 23.14 | Added | 22479 |
| 23.15 | Added | 22479 |
| | (b)(3) corrected | 24901 |
| 23.16 | Added | 22480 |
| 23.17 | Added | 22480 |
| 23.18 | Added | 22480 |
| 23.19 | Added | 22480 |
| 23.21 | Revised | 22480 |
| 23.22 | Removed | 22480 |
| 23.29 | Amended | 22480 |
| 23.30 | Removed | 22480 |
| 23.33 | Removed | 22480 |
| 23.34 | Removed | 22480 |
| 23.41 | Revised | 22480 |
| 23.46 | Revised | 22480 |
| 23.47 | Revised | 22480 |
| 23.48 | Redesignated as 23.49; new 23.48 added | 22481 |
| 23.49 | Redesignated as 23.55; redesignated from 23.48 | 22481 |
| 23.50 | Added | 22481 |
| 23.55 | Redesignated from 23.49 | 22481 |
| 25 | Memorandum opinion | 1180 |
| 25.202 | Heading revised; (a), (b), (c), and (d) amended; (e), (f), and (g) added | 8573 |
| 25.203 | (d) and 25.390 (j) redesignated as (f) and (g) and revised; (b), (c), and (d) revised; (e) added | 8573 |
| 25.204 | (d) and note removed | 8575 |
| 25.209 | Added | 8575 |
| 25.251 | Revised | 8575 |
| 25.252 | Added | 8575 |
| 25.253 | Added | 8577, 8580–8584 |
| 25.254 | Added | 8578, 8584–8588 |
| 25.255 | Added | 8579 |
| 25.256 | Heading added | 8580 |
| 25.390 | (h) amended; (j) removed (redesignated as 25.203 (g)) | 8580 |
| 64.702 | (Subpart G) Revised | 8745 |
| 73.23 | (c) and (e) revised | 18377 |
| 73.24 | (b) and Note revised; (j) redesignated as (k); new (j) added | 5874 |
| 73.30 | (c) removed | 5874 |
| 73.37 | Heading revised; (e), (f), and Notes 4–8 added | 5874 |
| 73.40 | (a)(9) revised | 739 |
| | (a)(10) revised | 22386 |
| 73.47 | (b) revised | 739 |
| 73.49 | Removed | 22386 |
| 73.51 | (c)(2)(ii) revised | 18378 |
| 73.52 | (a) revised | 740 |
| 73.53 | Added | 1917 |
| 73.56 | (b) revised | 740 |
| 73.58 | (b)(2) removed | 740 |
| 73.60 | (b)(2) removed | 740 |
| | Revised | 22386 |
| 73.63 | (d) and (g) revised | 740 |
| | (g) and (h) redesignated as (h) and (i); new (g) added | 22386 |
| 73.67 | (a)(5) and (6) removed | 2434 |
| 73.69 | Added | 1918 |
| | (b)(4) and note corrected | 3389 |
| 73.71 | (b) revised | 740 |
| 73.77 | Revised | 740 |
| 73.89 | Revised | 22386 |



| | | Page |
|---|---|---|
| 73.93 | (a) and (c) revised | 740 |
| | (b), (c), (h) introductory text, (h)(3), and Notes revised; (e)(3) removed; (e)(4) redesignated as (e)(3) and revised; (e)(5) redesignated as (e)(4) | 2691 |
| 73.98 | (f) revised | 740 |
| 73.112 | (a)(4)(iv) revised | 18378 |
| 73.113 | (a)(2) removed | 740 |
| | (a) revised | 2434 |
| | (a), (1), (2), and (3) revised; (a)(4), (5), and (6) removed | 5251 |
| | (a)(1)(iv)(b) removed; (a)(1)(iv)(c) redesignated as (a)(1)(iv)(b) and revised | 22386 |
| 73.114 | (a)(1)(ii) revised | 740 |
| | (a)(1)(v) and (vi), (2)(vii), (8), and (9) added; (a)(6) and (7) revised | 2434, 3983 |
| | (a)(1)(iii) and (2)(ii) revised | 22386 |
| 73.202 | (b) table amended | 26, 29, 3313, 3983, 4580, 5249, 5251, 5636, 6826, 7121, 8746, 8747, 9301, 12922, 13649, 15839, 17231, 18376, 18465, 20620, 20621, 21169, 21928, 21930, 22012, 22013, 22789, 25992, 26203, 26204, 26361, 26452, 26453 |
| 73.252 | (b)(2) removed | 740 |
| | Revised | 22386 |
| 73.253 | (b) revised | 741 |
| 73.254 | (c) revised | 741 |
| 73.255 | (c)(2), (d), and (f) revised | 741 |
| | (f) redesignated as (g); new (f) added | 22386 |
| 73.258 | (b)(2) removed | 741 |
| 73.261 | (b) revised | 741 |
| 73.265 | (a) and (c) revised | 741 |
| | (b), (c), and (d)(1) and (4) revised | 2692 |
| 73.267 | (c) revised | 741 |
| 73.282 | (a)(4)(iv) revised | 18378 |
| 73.283 | (a)(2) removed; (a)(3)(ii) revised | 741 |
| | (a)(3)(iii) and (6) removed | 22387 |
| 73.284 | (a)(1) revised | 741 |
| | (a)(2) and (4) revised | 22387 |
| 73.295 | (f)(5) and (i) removed; (g) and (h) redesignated as (h) and (i); new (g) added | 22387 |
| 73.297 | (a) revised | 741 |
| | (b) revised | 22387 |
| 73.298 | (e) revised | 741 |
| 73.317 | (e) removed | 741 |
| | (a)(10) and (c)(5) revised | 22387 |
| 73.321 | Revised | 741 |
| 73.330 | Revised | 22387 |
| 73.331 | Removed | 22387 |
| 73.522 | (b)(2) removed | 741 |
| 73.552 | (b)(3) revised | 4331 |
| | Revised | 22387 |
| 73.553 | (b) revised | 742 |
| 73.555 | (c)(2), (d), and (f) revised | 742 |
| | (f) redesignated as (g); new (f) added | 22387 |
| 73.558 | (b)(2) removed | 742 |
| 73.565 | (a) and (c) revised | 742 |
| | (b), (c), and (d)(1) and (4) revised | 2692 |
| 73.567 | (c) revised | 742 |
| 73.582 | (a)(2) revised | 18378 |
| 73.583 | (a)(2) removed; (a)(3)(ii) revised | 742 |
| | (a)(3)(iii) and (6) removed | 22387 |
| 73.584 | (a)(1) revised | 742 |
| | (a)(2) and (4) revised | 22387 |
| 73.593 | (a)(1) revised | 18375 |
| 73.595 | (f)(5) and (i) removed; (g) and (h) redesignated as (h) and (i); new (g) added | 22387 |
| 73.596 | (a) revised | 742 |
| | (b) revised | 22387 |
| 73.597 | (e) revised | 742 |
| 73.598 | Heading and (b) revised | 18378 |
| 73.606 | (b) table amended | 1920, 3984, 5252, 8252, 9824, 14377, 26205 |
| 73.638 | (c)(2) and (d) revised | 742 |
| 73.651 | (a)(3) revised | 742 |
| 73.658 | Heading revised; (m) added | 21268, 27218 |
| | (m) added | 24367 |
| 73.670 | (a)(4)(iv) revised | 18378 |
| 73.671 | (a)(2) removed; (a)(3)(ii) revised | 743 |
| 73.672 | (a)(1) revised | 743 |
| | (a)(3) revised | 22387 |
| 73.675 | (e) revised | 743 |
| 73.687 | (h) removed | 743 |
| | (e)(5) revised | 22388 |
| 73.688 | (f)(2) removed | 743 |
| 73.689 | (b)(3) revised | 743 |
| 73.690 | (a) and (b) removed; (c) redesignated as (a) and revised; (d) redesignated as (b) | 22388 |
| 73.691 | (b) revised | 743 |
| 73.692 | Heading, (a), and (b) revised | 22388 |
| 73.701 | Revised | 18892 |
| 73.702 | Revised | 18892 |
| 73.703 | Removed; redesignated from 73.792 and revised | 18893 |
| 73.704 | Removed | 18893 |
| 73.710 | Note added | 18894 |
| 73.711 | Removed; redesignated from 73.712 | 18894 |

CODE
XUM

## 47 CFR—Continued

### Chapter I—Continued

| | Page |
|---|---|
| 73.712 Redesignated as 73.711; redesignated from 73.716; (a) and (c) revised | 18894 |
| 73.713 Added | 18894 |
| 73.718 Redesignated as 73.733 | 18895 |
| 73.731 Revised | 18895 |
| 73.732 Added | 18895 |
| 73.733 Redesignated from 73.718 and revised | 18895 |
| 73.751 Revised | 18895 |
| 73.752 Removed | 18895 |
| 73.753 Revised | 18895 |
| 73.756 Revised | 18895 |
| 73.759 Revised | 18895 |
| 73.761 Revised | 18895 |
| 73.763 Revised | 18895 |
| 73.765 Revised | 18895 |
| 73.766 Revised | 18896 |
| 73.767 Revised | 19911 |
| 73.769 Revised | 18896 |
| 73.787 (c) removed | 18896 |
| 73.788 (c) revised | 18896 |
| 73.790 Revised | 18896 |
| 73.791 Removed | 18896 |
| 73.792 Redesignated as 73.703 | 18893 |
| 73.935 (b) revised | 18378 |
| 73.1207 (b) and (c) revised | 18378 |
| 74.13 Revised | 18378 |
| 74.14 Revised | 18378 |
| 74.451 Revised | 6827 |
| 74.533 (b) introductory text, (b)(1), and (4) revised | 743 |
| 74.551 (a)(4) revised | 6827 |
| 74.635 (a) introductory text and (a)(1) revised | 743 |
| 74.651 (a)(4) revised; (a)(5) added | 6827 |
| 74.734 (a)(4) revised | 25992 |
| 74.751 (b)(3) and (5) revised | 6827 |
| 74.801—74.884 (Subpart H) Removed | 26381 |
| 74.851 (a)(3), (5), (6), and (7) revised; (a)(8) added | 6827 |
| 74.951 (a)(3), (4), (5), (6), and (7) revised; (a)(8) added | 6827 |
| 74.982 (a) revised | 25991 |
| 74.1234 (a)(4) revised | 25992 |
| 76.411 Added | 20440 |
| 76.501 (b) amended | 2977 |
| 78.5 (h) added | 16647 |
| 78.18 (a)(2) amended; (e) revised; (g) and (h) redesignated as (j) and (k); (a)(4) and new (g), (h), and (i) added | 16647 |
| 78.19 (e) correctly designated from 78.21(c) | 1920 |
| 78.21 (c) correctly designated as 78.19(e) | 1920 |
| 78.103 (b) revised | 16648 |
| 78.109 (a)(3), (4), (5), (6), and (7) revised; (a)(8) added | 6827 |
| 78.111 Revised | 16648 |
| 78.115 (b) revised | 16648 |
| 81.3 (b)(1) revised | 25180 |
| 81.49 Revised | 1196 |
| 81.72 (b) and (c) revised | 6822 |
| (f) and (g) revised | 25991 |
| 81.137 Introductory text of (a) revised; (e) added | 23520 |
| 81.193 (b)(2) revised | 16650 |
| 81.207 (e) added | 16649 |
| 81.303 (c) revised | 19220 |
| 81.304 (e) removed | 19220 |
| 81.361 (a) revised | 24211 |
| 83.3 (b) revised; (n), (o), and (p) added | 25181 |
| 83.7 Existing paragraphs designated as (a) through (i); (j) and (k) added | 25181 |
| 83.22 (h) added | 25181 |
| 83.36 (b) revised | 25181 |
| 83.112 Revised | 1196 |
| 83.131 (f) added | 25181 |
| 83.132 (a)(2)(iv) added | 25181 |
| 83.134 (h) added | 25181 |
| 83.137 (h) revised | 25181 |
| 83.139 (a) revised; (f) added | 23520 |
| 83.164 (c) and (d) added | 25181 |
| 83.318 (c) added | 16649 |
| 83.326 (a) revised | 27052 |
| 83.351 (a) amended 1196, | 15510 |
| (a) corrected | 22958 |
| (a) table amended; (b) footnotes (6), (34), (36), and (58) removed; (b) footnote (24) revised | 24368 |
| (a) table corrected | 25992 |
| 83.354 (b) table amended | 9590 |
| 83.359 Introductory text revised | 1196 |
| 83.364 (a)(3) revised | 27052 |
| 83.811—83.825 (Subpart Z) Added | 25181 |
| 87 Subpart P heading revised | 7228 |
| 87.5 Amended | 7228 |
| 87.65 (a) amended | 14108 |
| 87.67 (b)(1) table amended | 7228 |
| 87.73 (h) added | 7228 |
| 87.77 (d)(8) added | 23520 |
| 87.93 Revised | 7228 |
| 87.99 (b)(2) revised | 16650 |
| 87.113 (e) removed | 16650 |
| 87.133 Revised 21169, | 25685 |
| 87.139 (a)(2) revised | 7228 |
| 87.183 (f) introductory text and (l) revised | 7228 |
| (bb) added | 22226 |
| 87.501 (a), (b), (d), and (h) revised | 14108 |



| | Page |
|---|---|
| 87.521 (e) added | 7228 |
| (d) revised | 14109 |
| 87.523 Existing text designated as (a); (b) added | 7228 |
| 87.525 Existing text designated as (a); (b) added | 7228 |
| 89.101 (p) amended | 15448 |
| (h) table amended; (i)(20) added | 20436 |
| 89.103 (a) table amended | 20436 |
| 89.117 (a) and (b) revised | 20437 |
| (b) effective date extended | 24901 |
| 89.156 Added | 22014 |
| 89.171 (f) removed | 16650 |
| 89.175 (e)(2) revised | 16650 |
| 89.257 (a) added | 15366 |
| 91.102 (a) table amended | 20437 |
| 91.109 (b) revised | 20437 |
| 91.158 (e) removed | 16650 |
| 91.160 (e)(2) revised | 16650 |
| 91.162 Added | 22014 |
| 91.254 (a) table amended; (b)(35) added | 20437 |
| 91.304 (a) table amended; (b)(37) added | 20437 |
| 91.354 (a) table amended; (b)(35) added | 20438 |
| 91.404 (a) table amended; (b)(12) added | 20438 |
| 91.454 (a) table amended; (b)(13) added | 20438 |
| 91.504 (a) table amended; (b)(35) added | 15448 |
| (a) table amended; (b)(36) added 20438, | 22385 |
| 91.554 (c) revised; (d) added | 14687 |
| (a) table amended; (b)(48) added | 20438 |
| (a) table amended; (b)(49) and (50) added | 25182 |
| 91.730 (a) amended; (b)(22) added | 20439 |
| 91.754 (a) table amended; (b)(18) added | 20439 |
| 93.101 (b) amended | 15448 |
| 93.102 (a) table amended | 20439 |
| 93.109 (a) and (b) revised | 20439 |
| (b) effective date extended | 24901 |
| 93.112 (a) table amended; (b)(21) added | 20439 |
| 93.158 (e) removed | 16650 |
| 93.160 (e)(2) revised | 16650 |
| 93.164 Added | 22015 |
| 97.99 Added | 1506 |
| 97.101 Heading revised | 1507 |
| 97 Appendix 1 amended | 4578 |

*Proposed Rules:*

| | |
|---|---|
| 1 | 1511, 2766, 3336, 6082 |
| 2 | 1513, 1941, 2766, 4353, 7340, 9170, 9833, 12750, 14762, 15468, 15739, 15854, 27082 |
| 15 | 5262, 10466 |
| 18 | 7340, 9170, 9833, 14762, 27082 |
| 21 | 2766, 7340, 9170, 9833, 12750, 13749, 14762, 15739, 27082 |
| 25 | 4581, 16245, 20275 |
| 43 | 2766 |
| 61 | 1223, 13657, 13661, 13663, 16660, 18256, 24920 |
| 63 | 3995 |
| 64 | 8753, 18908 |
| 73 | 805, 1223, 1511, 1516, 1941, 2180, 2708, 2766, 3337, 3998, 4353, 4582, 4676, 5192, 5193, 5263, 5666, 6695, 7340, 7341, 7574, 7576, 8280, 8461, 8754, 9170, 9315, 9833, 9835, 10120, 10276, 10743, 10968, 12757, 12935, 12937, 13029, 13386, 13387, 13389, 13491, 13658, 13660, 14113, 14762, 14970, 15739, 15856, 15971, 16660, 16661, 17021, 17252, 17253, 18256, 18564, 18688, 18689, 18915, 19843, 19915, 20275, 20276, 20469, 20627, 21651, 21940, 25703, 26008, 26211, 26212, 26390, 26391, 26463–26465, 27082, 27086, 27087 |
| 74 | 1941, 2766, 7340, 9170, 9833, 14762, 15374, 27082 |
| 76 | 2766 |
| 78 | 807 |
| 81 | 1513, 1941, 7342, 9836, 16663, 26008 |
| 83 | 1513, 1941, 5970, 7816, 18256, 25196 |
| 87 | 7402, 8284 |
| 89 | 808, 3338, 4353, 7340, 9170, 9833, 9834, 12619, 13749, 14762, 27082 |
| 91 | 1513, 1516, 1338, 7340, 9170, 9833, 9834, 13749, 14762, 15468, 20278, 27082 |
| 93 | 1516, 1517, 3338, 7340, 9170, 9833, 13749, 14762, 27082 |
| 95 | 15854, 22046 |
| 97 | 10467, 14971, 26942 |

## 49 CFR

### Subtitle A

| | |
|---|---|
| 1.27 (b) through (g) revised | 14109 |
| 1.45 (a) (7) and (8) added | 15510 |
| (a)(5) removed; (a)(6) redesignated as (a)(5); new (a)(6) and (9) added | 21930 |
| 1.46 Introductory text of (o) revised; (o)(4) added | 20449 |
| (o)(4) correctly designated as (o)(5) | 24902 |
| (o)(5) correctly designated from (o)(4) | 24902 |
| (p) correctly designated as (q) | 24902 |
| (q) correctly designated from (p) | 24902 |
| 1.47 (c) removed | 2693 |



| | Page |
|---|---|
| 1.48 (a) revised | 2693 |
| 1.49 (n) added | 2693 |
| 1.50 (a) revised | 2693 |
| 1.51 (a) revised | 2693 |
| 1.52 (a) revised | 2693 |
| 1.53 (a) revised | 2693 |
| 1.54 (a) revised | 2693 |
|

## 49 CFR—Continued

### Subtitle A—Continued


| | Page |
|---|---|
| 1.48 (c) removed | 2693 |
| (b)(1) revised | 26805 |
| 1.49 (e) removed | 2693 |
| 1.52 (b)(8) redesignated as (b)(9); new (b)(8) added | 21930 |
| 1.53 (l) added | 9082 |
| 1.54 (d) revised | 21413 |
| 1.59 (l) added | 9082 |
| (m) added | 14109 |
| 1.60 (k) added | 10273 |
| (c) (5) and (6) added | 15510 |
| (c) revised | 21413 |
| 1.61 (j) revised; (k) added | 21930 |
| 7 Appendix B amended | 10092 |
| Appendix A amended | 18659 |
| 21.5 (b)(1)(v) and (vi) amended; (b)(1)(vii) and (7) added | 17997 |
| 21.9 (b) amended | 17997 |
| 21.11 (b) amended | 17997 |
| 21 Appendix C amended | 5875 |
| 71.5 (a) revised | 9229 |
| (g) removed | 13725 |
| 71.7 (f) removed | 13725 |
| 71.9 (c) removed | 13725 |
| 85 Added | 6998 |
| Appendix added | 16873 |
| Appendix amended | 22388 |
| 99.735–15 (a) amended | 14677 |
| 99 Appendix C amended | 19378 |


### Chapter I


| | Page |
|---|---|
| 170.1 (b) revised | 23791 |
| 170.11 (b)(1) revised | 23791 |
| 170.13 Introductory text of (b) revised | 23792 |
| 170.35 (a) amended | 23792 |
| 171 Compliance date amended | 12807 |
| 171.7 (c)(7) and (d)(1), (3)(iii) and (6) revised; (c)(14) and (d)(8) and (9) added | 4332 |
| (c)(15) and (16) and (d)(10) and (11) added | 4397 |
| (d)(1) revised | 19125 |
| (c)(17) and (d)(12) added | 21990 |
| (b) revised | 23792 |
| 171.8 (g) revised | 20084 |
| 171.15 (a)(5) and introductory text of (b) revised; (a)(6) added | 8162 |
| 172 Heading revised | 5293 |
| Compliance date amended | 12807 |
| 172.2 Revised | 5293 |
| 172.4 (a) revised | 5293 |
| 172.5 (a) amended | 1507 |
| Table revised | 5293 |
| (a) table amended | 20838, 23792 |
| 173 Subpart E Note corrected | 7562 |
| Subpart H editorial Note removed | 5309 |
| Compliance date amended | 12807 |
| 173.7 Heading and (a) revised | 7561 |
| 173.29 (e) and (f) revised | 5307 |
| 173.34 (e) table amended | 21990 |
| 173.54 (b) revised | 5308 |
| 173.56 (g) revised | 5308 |
| 173.57 (b) revised | 5308 |
| 173.86 (c) and (d)(6) revised | 5308 |
| 173.91 (j) removed | 5308 |
| 173.92 Heading revised; (e) removed | 5308 |
| 173.93 (g)(2) removed | 5308 |
| 173.94 Heading revised, (d) removed | 5308, 6180 |
| 173.101 (c) and (d) revised | 5308 |
| 173.107 Heading and (b) revised | 20084 |
| 173.119 (h)(1)(i) revised | 5308 |
| (m)(4) revised; (m)(9), (10), (11), (12), (13), (14), and (15) added | 20838 |
| 173.132 (b) revised | 5308 |
| 173.144 (b) revised | 5308 |
| 173.148 (a)(1) revised | 20084 |
| 173.157 (a) introductory text, (a)(1), (3), (4), and (5) revised; (b) added | 20084 |
| 173.180 Introductory text of (a) revised | 5308 |
| 173.197a Revised | 5309 |
| 173.217 Heading, (a) introductory text, (a)(4), and (5) revised | 20085 |
| 173.225 Heading revised; (b) added | 1507 |
| (b)(2) Note 1 revised | 16875 |
| 173.240 Footnote added | 20839 |
| 173.244 (c) revised | 20839 |
| 173.245 (a)(16) revised; (a)(28), (29), (30), (31), (32), and (33), and (b) added | 20839 |
| 173.245a Introductory text of (a) revised; (b) added | 20839 |
| 173.245b (a)(2), (4), (5), (7), (8), (9), and (10) revised; (a)(11) removed | 20839 |
| 173.260 (f) revised | 5309 |
| 173.271 (a)(8)(iii) revised | 20085 |
| 173.301 (d)(1) revised; (h) table amended; (l) added | 21990 |
| 173.302 (a)(3), (c) introductory text, and (f) revised; (c)(3) table amended | 21990 |
| (f) corrected | 22552 |
| 173.304 (a)(1) revised | 5309 |
| (a)(2) table amended; Note 3 removed; Note 10 added | 20085 |
| (a)(2) table amended | 21990 |





| | Page |
|---|---|
| (a)(2) corrected | 22552 |
| 173.305 (d) revised | 5309 |
| 173.314 (c) table Note 8 revised | 20085 |
| 173.325 (a)(3) revised | 5309 |
| 173.330 (a) revised | 5309 |
| 173.337 (a)(4) added | 20085 |
| 173.381 Heading, (a), and (c) revised | 5309 |
| 173.382 Heading, (a) introductory text, and (b) revised | 5309 |
| 173.383 (a) revised | 5309 |
| 173.386 (d)(3) added | 8162 |
| 173.393a Added | 4398 |
| 173.393b Added | 4398 |
| 173.394 (b)(3) and (c)(2) revised; (b)(4) and (c)(3) added | 4398 |
| 173.395 (b)(2) and (c)(2) revised; (b)(3) and (c)(3) added | 4398 |
| 173.396 (b)(4), (c)(3), (g) introductory text, and (g)(2) revised; (b)(5), (c)(4), and (g)(3) added; (d) and Note following (d) removed | 4398 |
| (g)(3) amended | 5309 |
| 173.399 Introductory text of (a) and (b) and (b)(1) revised | 5309 |
| 173.400 (a) and (d) revised; (a)(1) added; (a) note 2, (e), (f), and (g) removed | 5309 |
| 173.401 (a) revised | 20085 |
| 173.402 Heading, (a), and (b) revised | 5310 |
| (a)(4) corrected | 6180 |
| 173.403 (a) revised; (b) and (c) removed | 5310 |
| 173.404 (b), (d), (e) and (g) revised; (f), (g) note, and (h) added | 5310 |
| 173.405 Revised | 5310 |
| 173.406 Revised | 5310 |
| 173.407 Revised | 5311 |
| 173.408 Removed | 5311 |
| 173.409 Revised | 5311 |
| 173.410 Revised | 5311 |
| (a) revised | 6180 |
| 173.411 Removed | 5311 |
| 173.412 Removed | 5311 |
| 173.413 Revised | 5311 |
| 173.414 Revised | 5311 |
| 173.415 Added | 5312 |
| 173.416 Added | 5312 |
| 173.417 Added | 5312 |
| (a) corrected | 6180 |
| 173.420 Added | 5312 |
| 173.421 Added | 5312 |
| 173.422 Added | 5313 |
| 173.427 (a)(5)(v) revised; (a)(5)(vi) removed | 4399 |
| 173 Appendix A added | 5313 |
| 174 Compliance date amended | 12807 |
| 174.507 Introductory text and (c) revised | 5313 |
| 174.511 Amended | 5313 |
| 174.527 (a) revised | 5313 |
| 174.532 (b) introductory text, (b)(1) and (2), and (c) revised | 5313 |
| 174.538 (a) chart amended | 5313, 20085 |
| 174.541 (a)(1) and (b) revised | 5314 |
| 174.544 (a)(2), (3), and (6) revised | 5314 |
| 174.545 (a) revised | 20085 |
| 174.576 (b) revised | 5314 |
| 174.584 (a) table amended | 5314 |
| 174.586 (h)(3) added | 4399 |
| (h)(3) amended | 5314 |
| 174.598 (c) revised | 5314 |
| 174.600 (a) revised | 4332 |
| 175 Compliance date amended | 12807 |
| 175.653 (a) revised | 5314 |
| 175.654 Amended | 5314 |
| 175.655 (j)(3) amended | 4332 |
| (j)(4) added | 4399 |
| (d) and introductory text of (h) revised; (j)(4) amended | 5314 |
| 176.703 (b) table amended; (f) revised | 5314 |
| 176.704a Amended | 5314 |
| 176.704b (a) revised | 5314 |
| 177 Compliance date amended | 12807 |
| 177.802 (b), (c) and (d) removed | 5314 |
| 177.806 Heading and (a) revised | 7561 |
| 177.815 (a) revised | 5314 |
| 177.819 (a) amended | 5315 |
| 177.823 (a)(4) revised; (b)(1) note 1 removed | 5315 |
| 177.824 (b)(7) revised | 23792 |
| 177.834 (l) revised | 5315 |
| 177.838 (e)(2) and (g) revised | 5315 |
| 177.841 (b) and (c) revised | 5315 |
| 177.842 (f) added | 4399 |
| (f) amended | 5315 |
| 177.848 (a) chart amended | 5315, 20085 |
| 177.856 (a) amended | 23792 |
| 177.858 (a) amended | 23792 |
| 177.860 (a) amended | 23792 |
| 177.870 (g) revised | 5315 |
| 178.45 Added | 21990 |
| 178.45–1 Added | 21990 |
| 178.45–2 Added | 21991 |
| 178.45–3 Added | 21991 |
| 178.45–4 Added | 21991 |
| 178.45–5 Added | 21991 |
| 178.45–6 Added | 21991 |
| 178.45–7 Added | 21991 |
| 178.45–8 Added | 21991 |




## 49 CFR—Continued


| | Page |
|---|---|
| 393.45 Revised | 4333 |





| | Page |
|---|---|
| 571.110 Tables I–H and I–T, and Appendix A amended | 3601 |
| 1033.1043 (g) revised | 16650 |
| Revised | 18659 |

## 49 CFR—Continued


Page

### Chapter I—Continued

178.45–9 Added ---- 21991
178.45–10 Added ---- 21992
178.45–11 Added ---- 21992
178.45–12 Added ---- 21992
178.45–13 Added ---- 21992
178.45–14 Added ---- 21992
178.45–15 Added ---- 21992
(a)(4) corrected ---- 22552
178.45–16 Added ---- 21992
178.45–17 Added ---- 21992
178.45–18 Added ---- 21993
178.337–10 (d) amended ---- 23792
178.343–5 Revised ---- 20839
179.302 (a) table and footnote 5 revised; footnote 6 added ---- 20085
192.3 Amended ---- 9084
192.55 (a)(2) and (b)(2) revised ---- 4761
192.65 Revised ---- 4761
192.625 (g)(1) revised ---- 14943
192 Appendix A amended ---- 4761, 4762
Appendix B amended ---- 4762
195.2 Amended ---- 2977
195.3 (b) amended ---- 2978
195.6 Amended ---- 2978
195.8 Amended ---- 2978
195.52 Amended ---- 2978
Revised ---- 7121
195.54 Amended ---- 2978
195.58 Amended ---- 2978
195.62 Amended ---- 2978
195.260 (e) amended ---- 2978

### Chapter II

213.7 (a)(1) and (b)(1) revised ---- 875
213.9 (a) revised ---- 875
(a) introductory text revised; (c) added ---- 23405
213.13 Revised ---- 875
213.61 Heading revised; (b) removed ---- 875
213.109 (c) table revised; (d) redesignated as (e); new (d) added ---- 875
213.113 (a) revised ---- 875
(a)(2) corrected ---- 1508
213.127 (a) table revised ---- 876
213.133 (a) revised ---- 876
213.233 (b) revised ---- 876
213.237 (a) revised ---- 876
213.241 (a), (b), and (c) revised ---- 876
252 Added ---- 2435

### Chapter III

391.11 (b) temporary waiver ---- 16071
392.9 (a)(1) revised ---- 23522
392.10 (b)(3) revised ---- 1589
393.45 Revised ---- 4333
393.83 (b) revised ---- 7464
393.85 (c)(1) revised ---- 8162
Effective date extended to 10–1–73 ---- 16072
Removed ---- 23522
393.100—393.106 (Subpart I) Added ---- 23522
393.104 (a) revised ---- 25183
394.13 (b) revised ---- 2177
395.8 (t) revised ---- 1934
(t)(4) added ---- 3984
(t)(2)(iii) corrected ---- 4511
Form revised ---- 27050
395.10 Revised ---- 1590
395.12 See 391.11(b) ---- 16071

### Chapter V

501.2 (c), (d), and (e) redesignated as (d), (e), and (f); new (c) added ---- 20086
551.1 Amended ---- 20086
551.33 Amended ---- 20086
553 Subpart B heading amended ---- 20086
553.1 Revised ---- 20086
553.3 Amended ---- 20086
553.5 (b) amended ---- 20086
553.11 Amended ---- 20086
553.19 Amended ---- 9825
553.31 (b)(1) revised ---- 9824
553.35 (a) amended ---- 9824
555 Added; eff. 1–29–73 ---- 2694
567.6 Revised ---- 15962
567.7 Added ---- 15963
568.8 Added ---- 15963
570 Added ---- 23950
570.5 (c)(1) corrected ---- 25685
571.3 (b) amended ---- 5636
571.7 (a) revised; eff. 1–1–74 ---- 12808
571.101 Std. No. 101 amended; eff. 9–1–73 ---- 22125
571.105a Effective date changed to 9–1–75 ---- 3047
Std. No. 105a revised; eff. 9–1–75 ---- 13021
571.108 Amended; eff. 1–1–73 ---- 744
Amended; eff. 2–5–73 ---- 3332
Corrected ---- 5338
Std. No. 108 amended; eff. 1–1–74 ---- 16230
Std. No. 108 amended; eff. 7–23–73 ---- 16875
571.109 Std. No. 109 amended; eff. 7–1–73 ---- 6999
Std. No. 109 Appendix A amended; eff. 4–30–73 ---- 8514
Std. No. 109 Appendix A amended; eff. 8–2–73 ---- 17842
Std. No. 109 corrected ---- 20086
Std. No. 109 amended; eff. 3–29–74 ---- 27051





Page

571.110 Tables I–H and I–T, and Appendix A amended ---- 3601
Std. No. 110 Appendix A amended; eff. 4–30–73 ---- 8515
Std. No. 110 Appendix A table corrected ---- 13384, 13485
Std. No. 110 Appendix A amended; eff. 8–2–73 ---- 17843
571.116 Amended; eff. 7–1–73 ---- 2981
Std. No. 116 amended; eff. 7–1–73 ---- 12922
Corrected ---- 14285
571.117 Amended; eff. 6–1–73 ---- 2982
Std. No. 117 amended; eff. 7–1–73 ---- 6999
Std. No. 117 amended; eff. 6–1–73 ---- 9668
Std. 117 interpretation ---- 10940
571.122 Std. No. 122 amended; eff. 1–1–74 ---- 14753
571.124 Revised; eff. 9–1–73 ---- 2980
571.125 Amended; eff. 1–1–74 ---- 2760
571.126 Amended; eff. 2–14–73 ---- 4400
Std. No. 126 corrected ---- 6392
571.208 Std. No. 208 amended; eff. 8–15–73 ---- 16073, 20451
Std. No. 208 amended ---- 21930
571.209 Std. No. 209 amended; eff. 8–28–73 ---- 22959
571.213 Std. No. 213 amended; eff. 11–1–73 ---- 7563
571.216 Std. No. 216 effective date changed ---- 21930
571.217 Std. No. 217 amended; eff. 9–1–73 ---- 6070
Std. No. 217 corrected ---- 7562
571.218 Added; eff. 3–1–74 ---- 22391
571.301 Revised; eff. 9–1–75 ---- 22397
Heading corrected ---- 22790
572 Added ---- 20451
575.2 (c) amended; eff. 2–28–73 ---- 5339
575.7 Added ---- 11347
575.103 (d) and (e)(1) and (3) amended; (e)(5) corrected; eff. 4–1–73 ---- 4401
577 Added; eff. 3–26–73 ---- 2216
577.4 (e)(1) and (2) amended; eff. 4–17–73 ---- 9511
580 Added; eff. 3–1–73 ---- 2979

### Chapter X

1000.5 Revised ---- 7229
1000 Appendix I revised ---- 16230
1002.1 (h) revised; (i) added ---- 18379
1002.2 (d)(40) corrected ---- 5876
1003.1 Amended ---- 6828, 10445, 26205
1003.2 Amended ---- 3389, 26205
1003.3 Amended ---- 3389
1006 Added ---- 21932
1033.7 Amended ---- 10154
1033.1043 (g) revised ---- 16650
Revised ---- 18659
1033.1083 (e) revised ---- 877, 19126
1033.1084 (e) revised ---- 20840
1033.1086 (e) revised ---- 877, 5876
1033.1087 (e) revised ---- 877, 5876
1033.1089 (e) revised ---- 877, 8657, 10941, 14754
1033.1091 (e) revised ---- 878, 14754
1033.1093 (d) revised ---- 3332
1033.1098 (e) revised ---- 10941
1033.1100 (d) revised ---- 878, 14754, 22625
1033.1102 (d) revised ---- 17843
1033.1104 (e) revised ---- 3512, 8445, 14754, 18024, 20621, 23952
1033.1105 (d) revised ---- 3333
Revised ---- 10941
1033.1106 (e) revised ---- 3332, 14754
1033.1107 (e) revised ---- 5876, 18025
1033.1108 (e) revised ---- 5876, 23792
1033.1110 (a) and (e) revised ---- 878, 3333, 3512, 5636, 8446, 10942, 14755, 18025, 20621
Removed ---- 23952
1033.1111 (e) revised ---- 878, 3332, 5637, 8446, 10942, 14755, 18025, 20621, 21638
1033.1112 (d) revised ---- 7332
1033.1113 (e) revised ---- 5877
1033.1114 (e) revised ---- 5877, 18025, 24212
1033.1116 Added ---- 1508
(e) revised ---- 17843
1033.1117 Added ---- 1743
Revised ---- 2217, 7332
(e) revised ---- 19126
1033.1118 Added ---- 2761
(g) revised ---- 23952
1033.1119 Added ---- 3513
Revised ---- 6881
(i) revised ---- 18026
1033.1120 Added ---- 3514
(a)(2) revised ---- 4401
Revised ---- 20087, 22398
1033.1121 Added ---- 3514
Revised ---- 5174, 6882, 8516, 9229, 17844, 18660
(d) revised ---- 26805
1033.1122 Added ---- 4667
(f) revised ---- 23793, 23953
1033.1123 Added ---- 5175
(e) revised ---- 24902, 25183
1033.1124 Added ---- 6828
Revised ---- 8446, 9231, 18251, 18465
(e) revised ---- 26805
1033.1125 Added ---- 6883
(e) revised ---- 19126
1033.1126 Added ---- 6999
(e) revised ---- 22790
1033.1127 Added ---- 7808
(e) revised ---- 10942
1033.1128 Added ---- 8062





Page

1033.1129 Added ---- 8062
(e) revised ---- 19126
1033.1130 Added ---- 8062
(e) revised ---- 19126
1033.1131 Added ---- 8063
(e) revised ---- 19126
1033.1132 Added ---- 8063
(e) revised ---- 19126
1033.1133 Added ---- 8063
(e) revised ---- 19126
1033.1134 Added ---- 8064
(e) revised ---- 19126
1033.1135 Added ---- 8064
(e) revised ---- 19126
1033.1136 Added ---- 8065
(e) revised ---- 19126
1033.1137 Added ---- 8065
(e) revised ---- 19126

## 49 CFR—Continued

### Chapter X—Continued

| | Page |
|---|---|
| 1033.1129 Added | 8062 |
| (e) revised | 9668, 18026 |
| 1033.1130 Added | 8598 |
| 1033.1131 Added | 9232 |
| (e) revised | 17845 |
| 1033.1132 Added | 9668 |
| (d) revised | 21170 |
| 1033.1133 Added | 12606 |
| Revised | 12808 |
| 1033.1134 Added | 12606 |
| (d) revised | 19831 |
| 1033.1135 Added | 12809 |
| (e) revised | 18026 |
| 1033.1136 Added | 12809 |
| (e) revised | 15623 |
| 1033.1137 Added | 13486 |
| 1033.1138 Added | 14285 |
| Revised | 14943 |
| 1033.1139 Added | 14944 |
| 1033.1140 Added | 15724 |
| 1033.1141 Added | 15724 |
| 1033.1142 Added | 18876 |
| 1033.1143 Added | 19223 |
| 1033.1144 Added | 20622 |
| 1033.1145 Added | 20622 |
| 1033.1146 Added | 21414 |
| 1033.1147 Added | 21638 |
| 1033.1148 Added | 22482 |
| Revised | 22552 |
| 1033.1149 Added | 23793 |
| 1033.1150 Added | 25685 |
| 1036.3 Amended | 8517 |
| 1036.4 Amended | 8517 |
| 1036.5 Amended | 8657 |
| 1048.8 Revised | 19046, 24368 |
| 1048.22 Revised | 15963 |
| 1048.27 Revised | 7809 |
| 1056.6 (d) amended | 6392 |
| 1056.9 (c) revised | 18253 |
| 1056.21 Added | 26608 |
| 1056.25 Added | 26609 |
| 1059 Removed | 21932 |
| 1100.70 (b) revised | 7563 |
| 1107 Added | 20623 |
| 1107.1 Corrected | 22125 |
| 1115.1 Form amended | 23953, 24903, 25686, 26609 |
| 1121 Subpart C heading revised | 24903 |
| 1121.1 (s)(4) added | 24902 |
| 1121.21 (c) amended; (i) added | 24902 |
| 1121.30 Amended | 24903 |
| 1121.31 (c) amended; (h) added | 24903 |
| 1121.32 Added | 26726 |
| 1121.33 Amended | 24903 |
| 1121.34 (b) revised | 24903 |
| 1121.35 Revised | 24903 |
| 1123 Added | 12745 |
| 1140.1 (c) removed | 26205 |
| 1201 Appendix A amended | 2762 |
| 1203 Added | 21746 |
| 1206 General Instruction 2–3 revised | 3602 |
| 1207 General Instruction 3 revised | 3602 |
| Revised; eff. 1–1–74 | 12335 |
| 1240.4 (b) removed; (c) redesignated as (b) and revised; (d) redesignated as (c) | 3602 |
| 1240.5 (b) revised | 3602 |
| 1249.3 Revised | 3602 |
| 1280 Added | 1393 |
| 1300.0 (a) revised | 16231 |
| 1300.4 (e) added | 21932 |
| 1304.4 (k) added | 21933 |
| (k)(3) corrected | 26805 |
| 1307.27 (k)(3) added | 21933 |
| (k)(3) corrected | 26805 |
| 1307.201 (c) amended | 10154 |
| 1308.4 (k) added | 21933 |
| 1309.6 Added | 21933 |
| Corrected | 26806 |
| 1311 Suspended | 2177 |
| 1311.5 Added | 3389 |
| 1322.1 (c) added | 26726 |
| 1322.3 Revised | 18253 |
| *Proposed Rules:* | |
| 25 | 15696 |
| 71 | 7009, 10013, 14761, 17734 |
| 85 | 7814, 9030, 14761, 23419 |
| 171 | 10014 |
| 172 | 4270, 7470, 10117, 10960, 24915 |
| 173 | 4270, 7470, 10118, 10960, 14111, 15368, 22901, 24915 |
| 174 | 7470, 10960 |
| 177 | 22901 |
| 178 | 4270, 7470, 10960 |
| 179 | 7470, 10960, 14111, 14112, 15368 |
| 192 | 14969, 21182, 22044 |
| 195 | 14969, 21182 |
| Ch. II | 21503 |
| 212 | 9594 |
| 213 | 18905 |
| 215 | 2467 |
| 217 | 12617, 14865, 21797, 22043 |
| 221 | 18906, 22417 |
| 225 | 9597, 9830 |
| 390 | 19692, 22244 |
| 391 | 3364, 18904, 19692, 22244 |
| 392 | 16080, 19692, 22244 |
| 393 | 800, 3412, 12133, 16080, 19692, 20100, 22244, 24223, 25452, 25696, 26461 |
| 394 | 19692, 22244 |
| 395 | 19692, 22244 |
| 396 | 7127, 19692, 22244 |
| 397 | 19692, 22244 |
| 566 | 14968, 16240 |
| 567 | 14968, 16240 |
| 568 | 14968, 16240 |
| 570 | 8451 |



| | Page |
|---|---|
| 571 | 1055, 1645, 3201, 4776, 5261, 6194, 6831, 7339, 8600, 8752, 9596, 9676, 9830, 12818, 12934, 13490, 14174, 14963, 14968, 15082, 16084, 16240, 16241, 17511, 18564, 19049, 20101, 22417, 22493, 22904, 23804, 26940 |
| 572 | 8455 |
| 574 | 6398, 9030 |
| 575 | 6194, 13748, 21939 |
| 581 | 20899, 22492 |
| Ch. X | 12759, 12822 |
| 1002 | 13032 |
| 1003 | 15526 |
| 1005 | 17849, 18471 |
| 1036 | 6408 |
| 1048 | 2990 |
| 1056 | 12758, 12820, 15526 |
| 1057 | 24228 |
| 1100 | 12822 |
| 1106 | 18257 |
| 1107 | 18387, 21436 |
| 1131 | 23979 |
| 1201 | 21436 |
| 1207 | 14388 |
| 1241 | 14415, 22650 |
| 1300 | 8461, 8601 |
| 1303 | 8601 |
| 1304 | 8601 |
| 1306 | 8601 |
| 1307 | 8601, 17254, 18691 |
| 1308 | 8601 |
| 1309 | 8601 |
| 1310 | 20852, 22654 |
| 1322 | 7820 |

## 50 CFR

### Chapter I

| | Page |
|---|---|
| 1.9 Removed | 22015 |
| 1.10 Removed | 22015 |
| 1.11 Removed | 22015 |
| 10 Revised | 22015 |
| 10.101 Added | 17231 |
| (a) revised | 19379 |
| Redesignated as 20.101 | 20457 |
| 10.102 Redesignated as 20.102 | 20457 |
| 10.103 Redesignated as 20.103 | 20457 |
| 10.104 Redesignated as 20.104 | 20457 |
| 10.105 (e) amended | 879 |
| Redesignated as 20.105 | 20457 |
| 12 Redesignated as 32.4 | 6071 |
| 16.22 Heading, introductory text, and (a) revised | 15449 |
| 16.31—16.37 Removed | 6675 |
| 17 Technical amendment | 10943 |
| Appendix A amended | 14678 |
| 20 Added | 17841 |
| Revised | 22021 |
| 20.11 Corrected | 23312 |
| 20.21 (e) corrected | 22896 |
| 20.23 Corrected | 22626 |
| 20.24 Corrected | 22626 |
| 20.101 Redesignated from 10.101 and revised | 20457 |
| 20.102 Redesignated from 10.102 and revised | 20457 |
| 20.103 Redesignated from 10.103 and revised | 20457 |
| 20.104 Redesignated from 10.104 and revised | 20459 |
| Revised | 23525 |
| 20.105 Redesignated from 10.105 and revised | 20459 |
| (c), (e), (g), (h), (i), and (j) revised | 23526 |
| (c) table corrected | 23793 |
| (e), (g), and (h) corrected | 26609 |
| 20.106 Revised | 23531 |
| 20.107 Revised | 23532 |
| 28.25 | 17231 |
| 28.28 | 879, 1743, 1744, 2437, 2982, 3047, 3515, 3603, 4512, 5339, 5877, 6282, 7564, 8163, 9169, 9232, 9825, 10445, 10723, 12922, 13563, 13649, 14377, 18550, 20332, 20624, 22482 |
| 30.1 Revised | 16356 |
| 30.2 Revised | 16356 |
| 30.11 Revised | 16356 |
| 30.12 Revised | 16356 |
| 32.4 Redesignated from Part 12 | 6071 |
| Table amended | 9490 |
| 32.5 | 18379 |
| 32.11 | 25686 |
| 32.12 | 17000, 17232, 17443, 20087, 20624, 20625, 22125, 22126, 22234, 22959, 23311, 23405–23407, 23411, 23532, 23793, 24212, 24369, 24370, 24373, 24650, 24651, 25183, 25441–25443, 25686, 25993, 26115, 26205, 26382, 26727, 27052 |
| 32.21 | 25686 |
| 32.22 | 2437, 6282, 10155, 11464, 17001, 17231, 19912, 19913, 20088, 21415, 21497, 21776, 22025, 22126, 22128, 22129, 22235, 22399, 22483, 22626, 22790, 22896, 22960, 23407–23410, 23533, 23794, 24212, 24370, 24371, 24651, 24652, 25183, 25442, 25444, 25993, 26382, 26383, 26727, 26728, 26917 |
| 32.31 | 25686 |
| 32.32 | 10810, 14834, 17001, 17232, 17443, 19126, 19379, 19912, 19913, 19971, 20332, 20461, 21414, 21415, 21497, 22024, 22129, 22235, 22398, 22483, 22487, 22488, 22553, 22626, 22960, 23409, 23410, 23533, 24370–24373, 24651, 24652, 25444, 25445, 26115, 26116, 26727, 26917 |



## 50 CFR—Continued

| | Page |
|---|---|
| 262.4 Redesignated from 262.3; | |



## PARALLEL TABLE OF STATUTORY AUTHORITIES AND RULES

## 50 CFR—Continued

| | Page |
|---|---|
| **Chapter I—Continued** | |
| 33.5 | 880–882, 1279, 1280, 1744, 1745, 1934, 2438, 2762, 2983, 3047, 3390, 4512, 4762, 4978, 5175, 5479, 5637, 6282, 6883, 7000, 7001, 7332, 7333, 7464, 8062, 8599, 8657, 8658, 9018, 9084, 9233, 9570, 10943, 11464, 12923, 13649, 15627, 20088, 22236, 22960, 23411, 25446 |
| 80 Revised | 17232 |
| 90 (Subchapter G) Added (formerly 16.31—16.37) | 6675 |
| **Chapter II** | |
| 216.2 (e) revised | 7987 |
| 240 Revised | 9019, 22399 |
| 240.1 (c)(5)(iv) and (v) added | 882 |
| 242 Removed (provisions transferred to Part 240, Subpart E) | 22399 |
| 250.10 Revised | 4670, 10155 |
| 253 Revised | 26116 |
| 258.1 (d) revised | 6283 |
| 258.5 (b) amended | 6283 |
| Revised | 18550 |
| 259.1 Introductory text and (d) revised | 8163 |
| 260.200 Added | 12334 |
| 260.201 Added | 12334 |
| 262.1 Revised | 8253 |
| 262.2 Redesignated as 262.3; new 262.2 added | 8253 |
| 262.3 Redesignated from 262.2 | 8253 |
| 262.4 Redesignated from 262.3; (c) revised | 8253 |
| 262.5 Redesignated from 262.4 | 8253 |
| 262.12 Revised | 8253 |
| 262.13 Revised | 8253 |
| 262.14 Added | 8253 |
| 262.21 (s) amended; (u) introductory text and (u)(2)(ii) revised; (v) redesignated as (w); new (v) added | 8253, 8254 |
| 262.22 Added | 8254 |
| 262 Tables 1 and 2 amended | 8254 |
| 280.1 (g) revised | 6072 |
| 280.6 (b) revised | 6072 |
| 280.7 (a)(1), (b)(2), (3), (4), and (5), and (d) revised | 6072 |
| *Proposed Rules:* | |
| Ch. I (Subch. B) | 10208 |
| 10 | 2765, 12926 |
| 12 | 1936 |
| 16 | 2765 |
| 17 | 1521, 2178 |
| 18 | 22143, 22967 |
| 19 | 22967 |
| 20 | 18670 |
| 21 | 20264, 23798 |
| 28 | 4405, 7126, 12232 |
| 32 | 22036, 25693 |
| 33 | 8664 |
| 80 | 7334, 14839 |
| 216 | 22133, 22490 |
| 240 | 2703, 3517, 19832 |
| 242 | 19832 |
| 251 | 20338 |
| 253 | 17016 |
| 255 | 20340 |
| 275 | 1122 |
| 280 | 1521 |



## PARALLEL TABLE OF STATUTORY AUTHORITIES AND RULES

**(Additions to 2 CFR; January–September 1973)**

**This table lists the sections of the U.S. Code which were added to 2 CFR as a result of new citations of authority carried in the *Federal Register* during January–September 1973. Recent legislation not yet assigned within the U.S. Code is carried by public law number at the end of the list.**

**In order to determine the *Federal Register* page numbers of the parallel CFR citations, users should consult the list of CFR Sections Affected, above.**

| 5 U.S.C.: | CFR |
|---|---|
| 66 | 19 Part 132 |
| 301 | 45 Part 74 |
| 552 | 10 Part 19; 12 Part 404; 32 Part 1285 |
| 553 | 10 Part 19; 49 Part 1203 |
| 559 | 32 Part 1285 |
| 571–576 | 1 Parts 305, 310 |
| 1202 | 19 Part 132 |
| 1624 | 19 Part 132 |
| 1871 et seq | 20 Parts 702, 703, 704 |
| **7 U.S.C.:** | |
| 443 | 50 Part 90 |
| 1011 | 36 Part 295 |
| 1989 | 7 Part 1890w |
| **8 U.S.C.:** | |
| 1103 | 8 Part 223a |
| 1181 | 8 Part 223a |
| 1182 | 8 Part 223a |
| 1225 | 8 Part 223a |
| 1226 | 8 Part 223a |
| 1227 | 8 Part 223a |
| 1251 | 8 Part 223a |
| **10 U.S.C.:** | |
| 516 | 32 Part 901b |
| 651 | 32 Part 901b |
| 836 | 32 Part 883 |
| 869 | 32 Part 883 |
| 903 | 32 Part 901a |
| 940 | 32 Part 883 |
| 8012 | 32 Parts 811a, 818b, 883, 888f, 901a, 901b, 903 |
| 9342 | 32 Part 901b |
| 9349 | 32 Part 901b |
| 9351 | 32 Part 901b |
| 9352 | 32 Part 901b |
| 9353 | 32 Part 901b |
| **12 U.S.C.:** | |
| 635 | 12 Part 404 |
| 1431 | 12 Part 506a |
| 1437 | 12 Parts 506a, 529 |
| 1789 | 12 Part 746 |
| **15 U.S.C.:** | |
| 41–58 | 16 Part 425 |
| 78FFF(d) | 17 Part 249a |
| 717o | 18 Part 3a |
| 1281 | 21 Part 191b |
| 1262 | 21 Part 191b |
| 1269 | 21 Part 6 |
| 1397 | 49 Part 577 |
| 1401 | 49 Part 577 |
| 1402 | 49 Part 577 |
| 1407 | 49 Part 555 |
| 1408 | 49 Part 577 |
| 1410 | 49 Part 555 |
| 1828 | 9 Part 12 |
| **16 U.S.C.:** | |
| 460d | 36 Part 327 |
| 472 | 36 Parts 291, 292, 293, 294 |
| 551 | 36 Parts 291, 292, 293, 294, 295 |
| 704 | 50 Part 20 |
| 825h | 18 Part 3a |
| 831–831dd | 18 Parts 305, 306 |
| 1331–1340 | 43 Part 4710 |
| 4601–4 et seq | 43 Part 18 |
| **18 U.S.C.:** | |
| 545 | 19 Part 145 |
| 715 | 43 Part 18 |
| 799 | 14 Part 1203a |
| **19 U.S.C.:** | |
| 66 | 19 Parts 112, 125, 141–144, 145, 148, 151, 152, 159 |
| 1202 | 19 Parts 145, 148, 151, 152 |
| 1303 | 19 Part 159 |
| 1304 | 19 Part 159 |
| 1305 | 19 Part 145 |
| 1315 | 19 Parts 141, 145, 152, 159 |
| 1318 | 19 Part 144 |
| 1321 | 19 Parts 145, 148, 159 |
| 1401a | 19 Part 152 |
| 1402 | 19 Part 152 |
| 1448 | 19 Parts 141, 142 |
| 1461 | 19 Part 148 |
| 1462 | 19 Part 148 |
| 1481 | 19 Parts 141, 145, 151 |
| 1483 | 19 Part 141 |
| 1484 | 19 Parts 141–145, 151 |
| 1485 | 19 Parts 141, 145 |
| 1486 | 19 Part 141 |
| 1487 | 19 Part 141 |
| 1490 | 19 Part 141 |
| 1498 | 19 Parts 141, 143, 145, 148 |
| 1499 | 19 Parts 151, 152 |



| 19 U.S.C.—Continued | CFR |
|---|---|
| 1624 | 19 Part 132 |
| 1641 | 19 Part 159 |
| 1677 | 19 Part 159 |
| 1677a | 19 Part 159 |
| 1677b | 19 Part 159 |
| 1677c | 19 Part 159 |
| 1677d | 19 Part 159 |
| 1677e | 19 Part 159 |
| 1677f | 19 Part 159 |
| 1677g | 19 Part 159 |
| 1677h | 19 Part 159 |
| 1677i | 19 Part 159 |
| 1677j | 19 Part 159 |
| 1677k | 19 Part 159 |
| 1677l | 19 Part 159 |
| 1677m | 19 Part 159 |
| 1677n | 19 Part 159 |
| 1677o | 19 Part 159 |
| 1677p | 19 Part 159 |
| 1677q | 19 Part 159 |
| 1677r | 19 Part 159 |
| 1677s | 19 Part 159 |
| 1677t | 19 Part 159 |
| 1677u | 19 Part 159 |
| 1677v | 19 Part 159 |
| 1677w | 19 Part 159 |
| 1677x | 19 Part 159 |
| 1677y | 19 Part 159 |
| 1677z | 19 Part 159 |
| 1677aa | 19 Part 159 |
| 1677bb | 19 Part 159 |
| 1677cc | 19 Part 159 |
| 1677dd | 19 Part 159 |
| 1677ee | 19 Part 159 |
| 1677ff | 19 Part 159 |
| 1677gg | 19 Part 159 |
| 1677hh | 19 Part 159 |
| 1677ii | 19 Part 159 |
| 1677jj | 19 Part 159 |
| 1677kk | 19 Part 159 |
| 1677ll | 19 Part 159 |
| 1677mm | 19 Part 159 |
| 1677nn | 19 Part 159 |
| 1677oo | 19 Part 159 |
| 1677pp | 19 Part 159 |
| 1677qq | 19 Part 159 |
| 1677rr | 19 Part 159 |
| 1677ss | 19 Part 159 |
| 1677tt | 19 Part 159 |
| 1677uu | 19 Part 159 |
| 1677vv | 19 Part 159 |
| 1677ww | 19 Part 159 |
| 1677xx | 19 Part 159 |
| 1677yy | 19 Part 159 |
| 1677zz | 19 Part 159 |
| 1677aaa | 19 Part 159 |
| 1677bbb | 19 Part 159 |
| 1677ccc | 19 Part 159 |
| 1677ddd | 19 Part 159 |
| 1677eee | 19 Part 159 |
| 1677fff | 19 Part 159 |
| 1677ggg | 19 Part 159 |
| 1677hhh | 19 Part 159 |
| 1677iii | 19 Part 159 |
| 1677jjj | 19 Part 159 |
| 1677kkk | 19 Part 159 |
| 1677lll | 19 Part 159 |
| 1677mmm | 19 Part 159 |
| 1677nnn | 19 Part 159 |
| 1677ooo | 19 Part 159 |
| 1677ppp | 19 Part 159 |
| 1677qqq | 19 Part 159 |
| 1677rrr | 19 Part 159 |
| 1677sss | 19 Part 159 |
| 1677ttt | 19 Part 159 |
| 1677uuu | 19 Part 159 |
| 1677vvv | 19 Part 159 |
| 1677www | 19 Part 159 |
| 1677xxx | 19 Part 159 |
| 1677yyy | 19 Part 159 |
| 1677zzz | 19 Part 159 |
| 1677aaaa | 19 Part 159 |
| 1677bbbb | 19 Part 159 |
| 1677cccc | 19 Part 159 |
| 1677dddd | 19 Part 159 |
| 1677eeee | 19 Part 159 |
| 1677ffff | 19 Part 159 |
| 1677gggg | 19 Part 159 |
| 1677hhhh | 19 Part 159 |
| 1677iiii | 19 Part 159 |
| 1677jjjj | 19 Part 159 |
| 1677kkkk | 19 Part 159 |
| 1677llll | 19 Part 159 |
| 1677mmmm | 19 Part 159 |
| 1677nnnn | 19 Part 159 |
| 1677oooo | 19 Part 159 |
| 1677pppp | 19 Part 159 |
| 1677qqqq | 19 Part 159 |
| 1677rrrr | 19 Part 159 |
| 1677ssss | 19 Part 159 |
| 1677tttt | 19 Part 159 |
| 1677uuuu | 19 Part 159 |
| 1677vvvv | 19 Part 159 |
| 1677wwww | 19 Part 159 |
| 1677xxxx | 19 Part 159 |
| 1677yyyy | 19 Part 159 |
| 1677zzzz | 19 Part 159 |
| 1677aaaaa | 19 Part 159 |
| 1677bbbbb | 19 Part 159 |
| 1677ccccc | 19 Part 159 |
| 1677ddddd | 19 Part 159 |
| 1677eeeee | 19 Part 159 |
| 1677fffff | 19 Part 159 |
| 1677ggggg | 19 Part 159 |
| 1677hhhhh | 19 Part 159 |
| 1677iiiii | 19 Part 159 |
| 1677jjjjj | 19 Part 159 |
| 1677kkkkk | 19 Part 159 |
| 1677lllll | 19 Part 159 |
| 1677mmmmm | 19 Part 159 |
| 1677nnnnn | 19 Part 159 |
| 1677ooooo | 19 Part 159 |
| 1677ppppp | 19 Part 159 |
| 1677qqqqq | 19 Part 159 |
| 1677rrrrr | 19 Part 159 |
| 1677sssss | 19 Part 159 |
| 1677ttttt | 19 Part 159 |
| 1677uuuuu | 19 Part 159 |
| 1677vvvvv | 19 Part 159 |
| 1677wwwww | 19 Part 159 |
| 1677xxxxx | 19 Part 159 |
| 1677yyyyy | 19 Part 159 |
| 1677zzzzz | 19 Part 159 |
| 1677aaaaaa | 19 Part 159 |
| 1677bbbbbb | 19 Part 159 |
| 1677cccccc | 19 Part 159 |
| 1677dddddd | 19 Part 159 |
| 1677eeeeee | 19 Part 159 |
| 1677ffffff | 19 Part 159 |
| 1677gggggg | 19 Part 159 |
| 1677hhhhhh | 19 Part 159 |
| 1677iiiiii | 19 Part 159 |
| 1677jjjjjj | 19 Part 159 |
| 1677kkkkkk | 19 Part 159 |
| 1677llllll | 19 Part 159 |
| 1677mmmmmm | 19 Part 159 |
| 1677nnnnnn | 19 Part 159 |
| 1677oooooo | 19 Part 159 |
| 1677pppppp | 19 Part 159 |
| 1677qqqqqq | 19 Part 159 |
| 1677rrrrrr | 19 Part 159 |
| 1677ssssss | 19 Part 159 |
| 1677tttttt | 19 Part 159 |
| 1677uuuuuu | 19 Part 159 |
| 1677vvvvvv | 19 Part 159 |
| 1677wwwwww | 19 Part 159 |
| 1677xxxxxx | 19 Part 159 |
| 1677yyyyyy | 19 Part 159 |
| 1677zzzzzz | 19 Part 159 |
| 1677aaaaaaa | 19 Part 159 |
| 1677bbbbbbb | 19 Part 159 |
| 1677ccccccc | 19 Part 159 |
| 1677ddddddd | 19 Part 159 |
| 1677eeeeeee | 19 Part 159 |
| 1677fffffff | 19 Part 159 |
| 1677ggggggg | 19 Part 159 |
| 1677hhhhhhh | 19 Part 159 |
| 1677iiiiiii | 19 Part 159 |
| 1677jjjjjjj | 19 Part 159 |
| 1677kkkkkkk | 19 Part 159 |
| 1677lllllll | 19 Part 159 |
| 1677mmmmmmm | 19 Part 159 |
| 1677nnnnnnn | 19 Part 159 |
| 1677ooooooo | 19 Part 159 |
| 1677ppppppp | 19 Part 159 |
| 1677qqqqqqq | 19 Part 159 |
| 1677rrrrrrr | 19 Part 159 |
| 1677sssssss | 19 Part 159 |
| 1677ttttttt | 19 Part 159 |
| 1677uuuuuuu | 19 Part 159 |
| 1677vvvvvvv | 19 Part 159 |
| 1677wwwwwww | 19 Part 159 |
| 1677xxxxxxx | 19 Part 159 |
| 1677yyyyyyy | 19 Part 159 |
| 1677zzzzzzz | 19 Part 159 |
| 1677aaaaaaaa | 19 Part 159 |
| 1677bbbbbbbb | 19 Part 159 |
| 1677cccccccc | 19 Part 159 |
| 1677dddddddd | 19 Part 159 |
| 1677eeeeeeee | 19 Part 159 |
| 1677ffffffff | 19 Part 159 |
| 1677gggggggg | 19 Part 159 |
| 1677hhhhhhhh | 19 Part 159 |
| 1677iiiiiiii | 19 Part 159 |
| 1677jjjjjjjj | 19 Part 159 |
| 1677kkkkkkkk | 19 Part 159 |
| 1677llllllll | 19 Part 159 |
| 1677mmmmmmmm | 19 Part 159 |
| 1677nnnnnnnn | 19 Part 159 |
| 1677oooooooo | 19 Part 159 |
| 1677pppppppp | 19 Part 159 |
| 1677qqqqqqqq | 19 Part 159 |
| 1677rrrrrrrr | 19 Part 159 |
| 1677ssssssss | 19 Part 159 |
| 1677tttttttt | 19 Part 159 |
| 1677uuuuuuuu | 19 Part 159 |
| 1677vvvvvvvv | 19 Part 159 |
| 1677wwwwwwww | 19 Part 159 |
| 1677xxxxxxxx | 19 Part 159 |
| 1677yyyyyyyy | 19 Part 159 |
| 1677zzzzzzzz | 19 Part 159 |
| 1677aaaaaaaaa | 19 Part 159 |
| 1677bbbbbbbbb | 19 Part 159 |
| 1677ccccccccc | 19 Part 159 |
| 1677ddddddddd | 19 Part 159 |
| 1677eeeeeeeee | 19 Part 159 |
| 1677fffffffff | 19 Part 159 |
| 1677ggggggggg | 19 Part 159 |
| 1677hhhhhhhhh | 19 Part 159 |
| 1677iiiiiiiii | 19 Part 159 |
| 1677jjjjjjjjj | 19 Part 159 |
| 1677kkkkkkkkk | 19 Part 159 |
| 1677lllllllll | 19 Part 159 |
| 1677mmmmmmmmm | 19 Part 159 |
| 1677nnnnnnnnn | 19 Part 159 |
| 1677ooooooooo | 19 Part 159 |
| 1677ppppppppp | 19 Part 159 |
| 1677qqqqqqqqq | 19 Part 159 |
| 1677rrrrrrrrr | 19 Part 159 |
| 1677sssssssss | 19 Part 159 |
| 1677ttttttttt | 19 Part 159 |
| 1677uuuuuuuuu | 19 Part 159 |
| 1677vvvvvvvvv | 19 Part 159 |
| 1677wwwwwwwww | 19 Part 159 |
| 1677xxxxxxxxx | 19 Part 159 |
| 1677yyyyyyyyy | 19 Part 159 |
| 1677zzzzzzzzz | 19 Part 159 |
| 1677aaaaaaaaaa | 19 Part 159 |
| 1677bbbbbbbbbb | 19 Part 159 |
| 1677cccccccccc | 19 Part 159 |
| 1677dddddddddd | 19 Part 159 |
| 1677eeeeeeeeee | 19 Part 159 |
| 1677ffffffffff | 19 Part 159 |
| 1677gggggggggg | 19 Part 159 |
| 1677hhhhhhhhhh | 19 Part 159 |
| 1677iiiiiiiiii | 19 Part 159 |
| 1677jjjjjjjjjj | 19 Part 159 |
| 1677kkkkkkkkkk | 19 Part 159 |
| 1677llllllllll | 19 Part 159 |
| 1677mmmmmmmmmm | 19 Part 159 |
| 1677nnnnnnnnnn | 19 Part 159 |
| 1677oooooooooo | 19 Part 159 |
| 1677pppppppppp | 19 Part 159 |
| 1677qqqqqqqqqq | 19 Part 159 |
| 1677rrrrrrrrrr | 19 Part 159 |
| 1677ssssssssss | 19 Part 159 |
| 1677tttttttttt | 19 Part 159 |
| 1677uuuuuuuuuu | 19 Part 159 |
| 1677vvvvvvvvvv | 19 Part 159 |
| 1677wwwwwwwwww | 19 Part 159 |
| 1677xxxxxxxxxx | 19 Part 159 |
| 1677yyyyyyyyyy | 19 Part 159 |
| 1677zzzzzzzzzz | 19 Part 159 |
| 1677aaaaaaaaaaa | 19 Part 159 |
| 1677bbbbbbbbbbb | 19 Part 159 |
| 1677ccccccccccc | 19 Part 159 |
| 1677ddddddddddd | 19 Part 159 |
| 1677eeeeeeeeeee | 19 Part 159 |
| 1677fffffffffff | 19 Part 159 |
| 1677ggggggggggg | 19 Part 159 |
| 1677hhhhhhhhhhh | 19 Part 159 |
| 1677iiiiiiiiiii | 19 Part 159 |
| 1677jjjjjjjjjjj | 19 Part 159 |
| 1677kkkkkkkkkkk | 19 Part 159 |
| 1677lllllllllll | 19 Part 159 |
| 1677mmmmmmmmmmm | 19 Part 159 |
| 1677nnnnnnnnnnn | 19 Part 159 |
| 1677ooooooooooo | 19 Part 159 |
| 1677ppppppppppp | 19 Part 159 |
| 1677qqqqqqqqqqq | 19 Part 159 |
| 1677rrrrrrrrrrr | 19 Part 159 |
| 1677sssssssssss | 19 Part 159 |
| 1677ttttttttttt | 19 Part 159 |
| 1677uuuuuuuuuuu | 19 Part 159 |
| 1677vvvvvvvvvvv | 19 Part 159 |
| 1677wwwwwwwwwww | 19 Part 159 |
| 1677xxxxxxxxxxx | 19 Part 159 |
| 1677yyyyyyyyyyy | 19 Part 159 |
| 1677zzzzzzzzzzz | 19 Part 159 |
| 1677aaaaaaaaaaaa | 19 Part 159 |
| 1677bbbbbbbbbbbb | 19 Part 159 |
| 1677cccccccccccc | 19 Part 159 |
| 1677dddddddddddd | 19 Part 159 |
| 1677eeeeeeeeeeee | 19 Part 159 |
| 1677ffffffffffff | 19 Part 159 |
| 1677gggggggggggg | 19 Part 159 |
| 1677hhhhhhhhhhhh | 19 Part 159 |
| 1677iiiiiiiiiiii | 19 Part 159 |
| 1677jjjjjjjjjjjj | 19 Part 159 |
| 1677kkkkkkkkkkkk | 19 Part 159 |
| 1677llllllllllll | 19 Part 159 |
| 1677mmmmmmmmmmmm | 19 Part 159 |
| 1677nnnnnnnnnnnn | 19 Part 159 |
| 1677oooooooooooo | 19 Part 159 |
| 1677pppppppppppp | 19 Part 159 |
| 1677qqqqqqqqqqqq | 19 Part 159 |
| 1677rrrrrrrrrrrr | 19 Part 159 |
| 1677ssssssssssss | 19 Part 159 |
| 1677tttttttttttt | 19 Part 159 |
| 1677uuuuuuuuuuuu | 19 Part 159 |
| 1677vvvvvvvvvvvv | 19 Part 159 |
| 1677wwwwwwwwwwww | 19 Part 159 |
| 1677xxxxxxxxxxxx | 19 Part 159 |
| 1677yyyyyyyyyyyy | 19 Part 159 |
| 1677zzzzzzzzzzzz | 19 Part 159 |
| 1677aaaaaaaaaaaaa | 19 Part 159 |
| 1677bbbbbbbbbbbbb | 19 Part 159 |
| 1677ccccccccccccc | 19 Part 159 |
| 1677ddddddddddddd | 19 Part 159 |
| 1677eeeeeeeeeeeee | 19 Part 159 |
| 1677fffffffffffff | 19 Part 159 |
| 1677ggggggggggggg | 19 Part 159 |
| 1677hhhhhhhhhhhhh | 19 Part 159 |
| 1677iiiiiiiiiiiii | 19 Part 159 |
| 1677jjjjjjjjjjjjj | 19 Part 159 |
| 1677kkkkkkkkkkkkk | 19 Part 159 |
| 1677lllllllllllll | 19 Part 159 |
| 1677mmmmmmmmmmmmm | 19 Part 159 |
| 1677nnnnnnnnnnnnn | 19 Part 159 |
| 1677ooooooooooooo | 19 Part 159 |
| 1677ppppppppppppp | 19 Part 159 |
| 1677qqqqqqqqqqqqq | 19 Part 159 |
| 1677rrrrrrrrrrrrr | 19 Part 159 |
| 1677sssssssssssss | 19 Part 159 |
| 1677ttttttttttttt | 19 Part 159 |
| 1677uuuuuuuuuuuuu | 19 Part 159 |
| 1677vvvvvvvvvvvvv | 19 Part 159 |
| 1677wwwwwwwwwwwww | 19 Part 159 |
| 1677xxxxxxxxxxxxx | 19 Part 159 |
| 1677yyyyyyyyyyyyy | 19 Part 159 |
| 1677zzzzzzzzzzzzz | 19 Part 159 |
| 1677aaaaaaaaaaaaaa | 19 Part 159 |
| 1677bbbbbbbbbbbbbb | 19 Part 159 |
| 1677cccccccccccccc | 19 Part 159 |
| 1677dddddddddddddd | 19 Part 159 |
| 1677eeeeeeeeeeeeee | 19 Part 159 |
| 1677ffffffffffffff | 19 Part 159 |
| 1677gggggggggggggg | 19 Part 159 |
| 1677hhhhhhhhhhhhhh | 19 Part 159 |
| 1677iiiiiiiiiiiiii | 19 Part 159 |
| 1677jjjjjjjjjjjjjj | 19 Part 159 |
| 1677kkkkkkkkkkkkkk | 19 Part 159 |
| 1677llllllllllllll | 19 Part 159 |
| 1677mmmmmmmmmmmmmm | 19 Part 159 |
| 1677nnnnnnnnnnnnnn | 19 Part 159 |
| 1677oooooooooooooo | 19 Part 159 |
| 1677pppppppppppppp | 19 Part 159 |
| 1677qqqqqqqqqqqqqq | 19 Part 159 |
| 1677rrrrrrrrrrrrrr | 19 Part 159 |
| 1677ssssssssssssss | 19 Part 159 |
| 1677tttttttttttttt | 19 Part 159 |
| 1677uuuuuuuuuuuuuu | 19 Part 159 |
| 1677vvvvvvvvvvvvvv | 19 Part 159 |
| 1677wwwwwwwwwwwwww | 19 Part 159 |
| 1677xxxxxxxxxxxxxx | 19 Part 159 |
| 1677yyyyyyyyyyyyyy | 19 Part 159 |
| 1677zzzzzzzzzzzzzz | 19 Part 159 |
| 1677aaaaaaaaaaaaaaa | 19 Part 159 |
| 1677bbbbbbbbbbbbbbb | 19 Part 159 |
| 1677ccccccccccccccc | 19 Part 159 |
| 1677ddddddddddddddd | 19 Part 159 |
| 1677eeeeeeeeeeeeeee | 19 Part 159 |
| 1677fffffffffffffff | 19 Part 159 |
| 1677ggggggggggggggg | 19 Part 159 |
| 1677hhhhhhhhhhhhhhh | 19 Part 159 |
| 1677iiiiiiiiiiiiiii | 19 Part 159 |
| 1677jjjjjjjjjjjjjjj | 19 Part 159 |
| 1677kkkkkkkkkkkkkkk | 19 Part 159 |
| 1677lllllllllllllll | 19 Part 159 |
| 1677mmmmmmmmmmmmmmm | 19 Part 159 |
| 1677nnnnnnnnnnnnnnn | 19 Part 159 |
| 1677ooooooooooooooo | 19 Part 159 |
| 1677ppppppppppppppp | 19 Part 159 |
| 1677qqqqqqqqqqqqqqq | 19 Part 159 |
| 1677rrrrrrrrrrrrrrr | 19 Part 159 |
| 1677sssssssssssssss | 19 Part 159 |
| 1677ttttttttttttttt | 19 Part 159 |
| 1677uuuuuuuuuuuuuuu | 19 Part 159 |
| 1677vvvvvvvvvvvvvvv | 19 Part 159 |
| 1677wwwwwwwwwwwwwww | 19 Part 159 |
| 1677xxxxxxxxxxxxxxx | 19 Part 159 |
| 1677yyyyyyyyyyyyyyy | 19 Part 159 |
| 1677zzzzzzzzzzzzzzz | 19 Part 159 |
| 1677aaaaaaaaaaaaaaaa | 19 Part 159 |
| 1677bbbbbbbbbbbbbbbb | 19 Part 159 |
| 1677cccccccccccccccc | 19 Part 159 |
| 1677dddddddddddddddd | 19 Part 159 |
| 1677eeeeeeeeeeeeeeee | 19 Part 159 |
| 1677ffffffffffffffff | 19 Part 159 |
| 1677gggggggggggggggg | 19 Part 159 |
| 1677hhhhhhhhhhhhhhhh | 19 Part 159 |
| 1677iiiiiiiiiiiiiiii | 19 Part 159 |
| 1677jjjjjjjjjjjjjjjj | 19 Part 159 |
| 1677kkkkkkkkkkkkkkkk | 19 Part 159 |
| 1677llllllllllllllll | 19 Part 159 |
| 1677mmmmmmmmmmmmmmmm | 19 Part 159 |
| 1677nnnnnnnnnnnnnnnn | 19 Part 159 |
| 1677oooooooooooooooo | 19 Part 159 |
| 1677pppppppppppppppp | 19 Part 159 |
| 1677qqqqqqqqqqqqqqqq | 19 Part 159 |
| 1677rrrrrrrrrrrrrrrr | 19 Part 159 |
| 1677ssssssssssssssss | 19 Part 159 |
| 1677tttttttttttttttt | 19 Part 159 |
| 1677uuuuuuuuuuuuuuuu | 19 Part 159 |
| 1677vvvvvvvvvvvvvvvv | 19 Part 159 |
| 1677wwwwwwwwwwwwwwww | 19 Part 159 |
| 1677xxxxxxxxxxxxxxxx | 19 Part 159 |
| 1677yyyyyyyyyyyyyyyy | 19 Part 159 |
| 1677zzzzzzzzzzzzzzzz | 19 Part 159 |
| 1677aaaaaaaaaaaaaaaaa | 19 Part 159 |
| 1677bbbbbbbbbbbbbbbbb | 19 Part 159 |
| 1677ccccccccccccccccc | 19 Part 159 |
| 1677ddddddddddddddddd | 19 Part 159 |
| 1677eeeeeeeeeeeeeeeee | 19 Part 159 |
| 1677fffffffffffffffff | 19 Part 159 |
| 1677ggggggggggggggggg | 19 Part 159 |
| 1677hhhhhhhhhhhhhhhhh | 19 Part 159 |
| 1677iiiiiiiiiiiiiiiii | 19 Part 159 |
| 1677jjjjjjjjjjjjjjjjj | 19 Part 159 |
| 1677kkkkkkkkkkkkkkkkk | 19 Part 159 |
| 1677lllllllllllllllll | 19 Part 159 |
| 1677mmmmmmmmmmmmmmmmm | 19 Part 159 |
| 1677nnnnnnnnnnnnnnnnn | 19 Part 159 |
| 1677ooooooooooooooooo | 19 Part 159 |
| 1677ppppppppppppppppp | 19 Part 159 |
| 1677qqqqqqqqqqqqqqqqq | 19 Part 159 |
| 1677rrrrrrrrrrrrrrrrr | 19 Part 159 |
| 1677sssssssssssssssss | 19 Part 159 |
| 1677ttttttttttttttttt | 19 Part 159 |
| 1677uuuuuuuuuuuuuuuuu | 19 Part 159 |
| 1677vvvvvvvvvvvvvvvvv | 19 Part 159 |
| 1677wwwwwwwwwwwwwwwww | 19 Part 159 |
| 1677xxxxxxxxxxxxxxxxx | 19 Part 159 |
| 1677yyyyyyyyyyyyyyyyy | 19 Part 159 |
| 1677zzzzzzzzzzzzzzzzz | 19 Part 159 |
| 1677aaaaaaaaaaaaaaaaaa | 19 Part 159 |
| 1677bbbbbbbbbbbbbbbbbb | 19 Part 159 |
| 1677cccccccccccccccccc | 19 Part 159 |
| 1677dddddddddddddddddd | 19 Part 159 |
| 1677eeeeeeeeeeeeeeeeee | 19 Part 159 |
| 1677ffffffffffffffffff | 19 Part 159 |
| 1677gggggggggggggggggg | 19 Part 159 |
| 1677hhhhhhhhhhhhhhhhhh | 19 Part 159 |
| 1677iiiiiiiiiiiiiiiiii | 19 Part 159 |
| 1677jjjjjjjjjjjjjjjjjj | 19 Part 159 |
| 1677kkkkkkkkkkkkkkkkkk | 19 Part 159 |
| 1677llllllllllllllllll | 19 Part 159 |
| 1677mmmmmmmmmmmmmmmmmm | 19 Part 159 |
| 1677nnnnnnnnnnnnnnnnnn | 19 Part 159 |
| 1677oooooooooooooooooo | 19 Part 159 |
| 1677pppppppppppppppppp | 19 Part 159 |
| 1677qqqqqqqqqqqqqqqqqq | 19 Part 159 |
| 1677rrrrrrrrrrrrrrrrrr | 19 Part 159 |
| 1677ssssssssssssssssss | 19 Part 159 |
| 1677tttttttttttttttttt | 19 Part 159 |
| 1677uuuuuuuuuuuuuuuuuu | 19 Part 159 |
| 1677vvvvvvvvvvvvvvvvvv | 19 Part 159 |
| 1677wwwwwwwwwwwwwwwwww | 19 Part 159 |
| 1677xxxxxxxxxxxxxxxxxx | 19 Part 159 |
| 1677yyyyyyyyyyyyyyyyyy | 19 Part 159 |
| 1677zzzzzzzzzzzzzzzzzz | 19 Part 159 |
| 1677aaaaaaaaaaaaaaaaaaa | 19 Part 159 |
| 1677bbbbbbbbbbbbbbbbbbb | 19 Part 159 |
| 1677ccccccccccccccccccc | 19 Part 159 |
| 1677ddddddddddddddddddd | 19 Part 159 |
| 1677eeeeeeeeeeeeeeeeeee | 19 Part 159 |
| 1677fffffffffffffffffff | 19 Part 159 |
| 1677ggggggggggggggggggg | 19 Part 159 |
| 1677hhhhhhhhhhhhhhhhhhh | 19 Part 159 |
| 1677iiiiiiiiiiiiiiiiiii | 19 Part 159 |
| 1677jjjjjjjjjjjjjjjjjjj | 19 Part 159 |
| 1677kkkkkkkkkkkkkkkkkkk | 19 Part 159 |
| 1677lllllllllllllllllll | 19 Part 159 |
| 1677mmmmmmmmmmmmmmmmmmm | 19 Part 159 |
| 1677nnnnnnnnnnnnnnnnnnn | 19 Part 159 |
| 1677ooooooooooooooooooo | 19 Part 159 |
| 1677ppppppppppppppppppp | 19 Part 159 |
| 1677qqqqqqqqqqqqqqqqqqq | 19 Part 159 |
| 1677rrrrrrrrrrrrrrrrrrr | 19 Part 159 |
| 1677sssssssssssssssssss | 19 Part 159 |
| 1677ttttttttttttttttttt | 19 Part 159 |
| 1677uuuuuuuuuuuuuuuuuuu | 19 Part 159 |
| 1677vvvvvvvvvvvvvvvvvvv | 19 Part 159 |
| 1677wwwwwwwwwwwwwwwwwww | 19 Part 159 |
| 1677xxxxxxxxxxxxxxxxxxx | 19 Part 159 |
| 1677yyyyyyyyyyyyyyyyyyy | 19 Part 159 |
| 1677zzzzzzzzzzzzzzzzzzz | 19 Part 159 |
| 1677aaaaaaaaaaaaaaaaaaaa | 19 Part 159 |
| 1677bbbbbbbbbbbbbbbbbbbb | 19 Part 159 |
| 1677cccccccccccccccccccc | 19 Part 159 |
| 1677dddddddddddddddddddd | 19 Part 159 |
| 1677eeeeeeeeeeeeeeeeeeee | 19 Part 159 |
| 1677ffffffffffffffffffff | 19 Part 159 |
| 1677gggggggggggggggggggg | 19 Part 159 |
| 1677hhhhhhhhhhhhhhhhhhhh | 19 Part 159 |
| 1677iiiiiiiiiiiiiiiiiiii | 19 Part 159 |
| 1677jjjjjjjjjjjjjjjjjjjj | 19 Part 159 |
| 1677kkkkkkkkkkkkkkkkkkkk | 19 Part 159 |
| 1677llllllllllllllllllll | 19 Part 159 |
| 1677mmmmmmmmmmmmmmmmmmmm | 19 Part 159 |
| 1677nnnnnnnnnnnnnnnnnnnn | 19 Part 159 |
| 1677oooooooooooooooooooo | 19 Part 159 |
| 1677pppppppppppppppppppp | 19 Part 159 |
| 1677qqqqqqqqqqqqqqqqqqqq | 19 Part 159 |
| 1677rrrrrrrrrrrrrrrrrrrr | 19 Part 159 |
| 1677ssssssssssssssssssss | 19 Part 159 |
| 1677tttttttttttttttttttt | 19 Part 159 |
| 1677uuuuuuuuuuuuuuuuuuuu | 19 Part 159 |
| 1677vvvvvvvvvvvvvvvvvvvv | 19 Part 159 |
| 1677wwwwwwwwwwwwwwwwwwww | 19 Part 159 |
| 1677xxxxxxxxxxxxxxxxxxxx | 19 Part 159 |
| 1677yyyyyyyyyyyyyyyyyyyy | 19 Part 159 |
| 1677zzzzzzzzzzzzzzzzzzzz | 19 Part 159 |
| 1677aaaaaaaaaaaaaaaaaaaaa | 19 Part 159 |
| 1677bbbbbbbbbbbbbbbbbbbbb | 19 Part 159 |
| 1677ccccccccccccccccccccc | 19 Part 159 |
| 1677ddddddddddddddddddddd | 19 Part 159 |
| 1677eeeeeeeeeeeeeeeeeeeee | 19 Part 159 |
| 1677fffffffffffffffffffff | 19 Part 159 |
| 1677ggggggggggggggggggggg | 19 Part 159 |
| 1677hhhhhhhhhhhhhhhhhhhhh | 19 Part 159 |
| 1677iiiiiiiiiiiiiiiiiiiii | 19 Part 159 |
| 1677jjjjjjjjjjjjjjjjjjjjj | 19 Part 159 |
| 1677kkkkkkkkkkkkkkkkkkkkk | 19 Part 159 |
| 1677lllllllllllllllllllll | 19 Part 159 |
| 1677mmmmmmmmm

| 19 U.S.C.—Continued | CFR |
|---|---|
| 1500 | 19 Parts 152, 159 |
| 1501 | 19 Part 145 |
| 1502 | 19 Part 152 |
| 1503 | 19 Part 152 |
| 1505 | 19 Parts 141, 159 |
| 1507 | 19 Parts 151, 159 |
| 1514 | 19 Part 145 |
| 1516 | 19 Part 159 |
| 1551 | 19 Part 112 |
| 1557 | 19 Parts 144, 159 |
| 1558 | 19 Part 159 |
| 1559 | 19 Part 144 |
| 1562 | 19 Part 144 |
| 1563 | 19 Part 144 |
| 1564 | 19 Part 141 |
| 1565 | 19 Parts 112, 125 |
| 1618 | 19 Part 145 |
| 1623 | 19 Parts 125, 141–144 |
| 1624 | 19 Parts 112, 125, 141–145, 148, 151, 152, 159 |
| 20 U.S.C.: | |
| 241aa–241ff | 45 Part 186 |
| 244(2) | 45 Part 186 |
| 244(4) | 45 Part 186 |
| 244(5) | 45 Part 186 |
| 244(7) | 45 Part 186 |
| 331a—332b | 45 Part 16 |
| 511 | 45 Part 16 |
| 844b | 45 Part 16 |
| 866 | 45 Part 16 |
| 867 | 45 Part 16 |
| 867–867c | 45 Part 129 |
| 869 | 45 Part 16 |
| 869a | 45 Part 16 |
| 880b | 45 Part 16 |
| 881 | 45 Part 187 |
| 887 | 45 Part 16 |
| 887a | 45 Part 16 |
| 887b | 45 Part 16 |
| 887c | 45 Part 187 |
| 1021 | 45 Part 16 |
| 1031 | 45 Part 16 |
| 1051 | 45 Part 16 |
| 1068 | 45 Part 16 |
| 1070a | 45 Part 190 |
| 1070b–3 | 45 Part 176 |
| 1087 | 45 Part 16 |
| 1101 | 45 Part 16 |
| 1111 | 45 Part 16 |
| 1119 | 45 Part 16 |
| 1119b | 45 Part 16 |
| 1119c | 45 Part 16 |
| 1201–1211 | 45 Parts 166, 167 |
| 1202 | 45 Part 188 |
| 1208 | 45 Part 16 |
| 1211a | 45 Part 188 |
| 1221b | 45 Part 186 |
| 1221d | 45 Parts 16, 1501 |
| 1221e | 45 Part 16 |
| 1221h | 45 Parts 187, 188 |

| 20 U.S.C.—Continued | CFR |
|---|---|
| 1232(c) | 45 Part 185 |
| 1222 | 45 Part 16 |
| 1232c | 45 Parts 187, 188 |
| 1232c(a) | 45 Part 186 |
| 1232c(b)(2) | 45 Part 186 |
| 1232c(b)(3) | 45 Part 186 |
| 1281(a) | 45 Part 16 |
| 1302(d) | 45 Part 16 |
| 1391 | 45 Part 16 |
| 1421 | 45 Part 16 |
| 1431 | 45 Part 16 |
| 1441 | 45 Part 16 |
| 1451 | 45 Part 16 |
| 1461 | 45 Part 16 |
| 1531 | 45 Part 16 |
| 1601 et seq | 45 Parts 16, 185 |
| 1681–1686 | 45 Part 1501 |
| 21 U.S.C.: | |
| 151–158 | 9 Part 105 |
| 321 | 21 Parts 100, 102, 167 |
| 341 | 21 Parts 11, 26, 102 |
| 342 | 21 Part 90 |
| 342(a) | 21 Part 122 |
| 342(a)(4) | 21 Part 128b |
| 343 | 21 Parts 11, 100, 102 |
| 344 | 21 Part 90 |
| 346 | 21 Part 122 |
| 348 | 21 Part 122 |
| 351 | 21 Part 167 |
| 352 | 21 Part 167 |
| 355 | 21 Part 167 |
| 357 | 21 Parts 149g, 149k, 150b, 150d, 151b, 151c |
| 358 | 21 Part 167 |
| 360 | 21 Part 167 |
| 360b(n) | 21 Parts 151b, 151c |
| 371 | 21 Parts 6, 11, 26, 90, 100, 102, 122, 128b, 167 |
| 1001 | 45 Part 16 |
| 1176 | 42 Part 54b |
| 1177 | 45 Part 16 |
| 22 U.S.C.: | |
| 2381 | 22 Part 214 |
| 2764 | 32 Part 274 |
| 23 U.S.C.: | |
| 101 et seq | 23 Part 790 |
| 109(h) | 23 Parts 790, 795 |
| 109(h)–(i) | 23 Part 772 |
| 117 | 23 Part 305 |
| 128 | 23 Part 790 |
| 131 | 23 Part 750 |
| 315 | 23 Parts 305, 720, 750, 790, 795 |
| 402 | 23 Part 1230 |
| 25 U.S.C.: | |
| 2 | 30 Part 290 |
| 9 | 30 Part 290 |
| 355 | 25 Part 121 |
| 372 | 25 Part 121 |
| 373 | 25 Part 121 |



| 25 U.S.C.—Continued | CFR |
|---|---|
| 378 | 25 Part 121 |
| 379 | 25 Part 121 |
| 404 | 25 Part 121 |
| 405 | 25 Part 121 |
| 483 | 25 Part 121 |
| 26 U.S.C.: | |
| 657 | 29 Part 1977 |
| 28 U.S.C.: | |
| 2672 | 40 Part 10 |
| 29 U.S.C. | |
| 34 | 45 Part 16 |
| 41a | 45 Part 16 |
| 41b(a) and (b) | 45 Part 16 |
| 42b | 45 Part 16 |
| 657 | 29 Part 1907 |
| 657(g) | 29 Part 1953; 30 Part 11; 42 Part 84 |
| 660 | 29 Part 1977 |
| 667 | 29 Part 1953 |
| 669 | 45 Part 16 |
| 670 | 45 Part 16 |
| 30 U.S.C.: | |
| 189 | 30 Part 290 |
| 285 | 30 Part 290 |
| 359 | 30 Part 290 |
| 842(h) | 30 Part 11 |
| 844 | 30 Part 11 |
| 901 et seq | 20 Parts 801, 802 |
| 921 | 20 Part 726 |
| 926 | 20 Part 726 |
| 951 | 45 Part 16 |
| 957 | 30 Part 11 |
| 1023 | 30 Part 290 |
| 31 U.S.C.: | |
| 191 | 19 Part 141 |
| 192 | 19 Part 141 |
| 200 | 45 Part 1501 |
| 372 | 19 Part 159 |
| 483a | 42 Part 80 |
| 628 | 45 Parts 186–188 |
| 33 U.S.C.: | |
| 3 | 32 Part 940 |
| 901 et seq | 20 Part 726 |
| 914 | 20 Part 802 |
| 921 | 20 Part 802 |
| 921(b) | 20 Part 801 |
| 921(b)(3) | 20 Part 802 |
| 927 | 20 Part 802 |
| 928 | 20 Part 802 |
| 932 | 20 Part 703 |
| 937 | 20 Part 703 |
| 939 | 20 Parts 702, 703, 704, 801, 802 |
| 1251 | 40 Parts 113, 126 |
| 1251nt | 40 Part 125 |
| 1254 | 40 Parts 45, 46 |
| 1259 | 40 Part 45 |
| 1260 | 40 Part 45 |
| 1261 | 40 Part 45 |

| 33 U.S.C.—Continued | CFR |
|---|---|
| 1281(a)(1) | 40 Part 126 |
| 1314 | 40 Part 130 |
| 1365 | 40 Part 135 |
| 38 U.S.C.: | |
| 210 | 38 Part 25 |
| 2012 | 41 Part 50–250 |
| 39 U.S.C.: | |
| 5001–5605 | 39 Part 601 |
| 40 U.S.C.: | |
| 333 | 29 Part 1907 |
| 486(c) | 41 Parts 5A–19, 14–63, 101–4 |
| 42 U.S.C.: | |
| 216 | 21 Part 278 |
| 234 | 45 Part 16 |
| 241 | 45 Parts 16, 45 |
| 242a | 45 Part 16 |
| 242b | 45 Part 16 |
| 242d | 45 Part 16 |
| 242f | 45 Part 16 |
| 242g | 45 Part 16 |
| 242h | 45 Part 16 |
| 246 | 40 Part 45 |
| 246 (b), (c) and (e) | 45 Part 16 |
| 247b | 45 Part 16 |
| 247c | 45 Part 16 |
| 263d | 21 Part 278 |
| 263f | 21 Part 278 |
| 263g | 21 Part 278 |
| 263i | 21 Part 278 |
| 280b–3 | 45 Part 16 |
| 280b–4 | 45 Part 16 |
| 280b–5 | 45 Part 16 |
| 280b–6 | 45 Part 16 |
| 280b–7 | 45 Part 16 |
| 280b–8 | 45 Part 16 |
| 280b–9 | 45 Part 16 |
| 282 | 45 Part 16 |
| 286a | 45 Part 16 |
| 287a | 45 Part 16 |
| 287b | 45 Part 16 |
| 288a | 45 Part 16 |
| 289a | 45 Part 16 |
| 289c | 45 Part 16 |
| 289c–1 | 45 Part 16 |
| 289g | 45 Part 16 |
| 289k | 45 Part 16 |
| 292c | 45 Part 16 |
| 293 | 45 Part 16 |
| 295e–1 | 45 Part 16 |
| 295e–2 | 45 Part 16 |
| 295e–3 | 45 Part 16 |
| 295e–4 | 45 Part 16 |
| 295f–1 | 45 Part 16 |
| 295f–2 | 45 Part 16 |
| 295f–3 | 45 Part 16 |
| 295f–4 | 45 Part 16 |
| 295h | 45 Part 16 |
| 295h–1 | 45 Part 16 |
| 295h–2 | 45 Part 16 |



| 42 U.S.C.—Continued | CFR |
|---|---|
| 295h–3 | 45 Part 16 |
| 295h–4 | 45 Part 16 |
| 295h–5 | 45 Part 16 |
| 295h–6 | 45 Part 16 |
| 295h–7 | 45 Part 16 |
| 295h–8 | 45 Part 16 |
| 295h–9 | 45 Part 16 |
| 295i | 45 Part 16 |
| 295i–1 | 45 Part 16 |
| 295i–2 | 45 Part 16 |
| 295i–3 | 45 Part 16 |
| 295i–4 | 45 Part 16 |
| 295j | 45 Part 16 |
| 295j–1 | 45 Part 16 |
| 295j–2 | 45 Part 16 |
| 295j–3 | 45 Part 16 |
| 295j–4 | 45 Part 16 |
| 295k | 45 Part 16 |
| 295k–1 | 45 Part 16 |
| 295k–2 | 45 Part 16 |
| 295k–3 | 45 Part 16 |
| 295k–4 | 45 Part 16 |
| 295l | 45 Part 16 |
| 295l–1 | 45 Part 16 |
| 295l–2 | 45 Part 16 |
| 295l–3 | 45 Part 16 |
| 295l–4 | 45 Part 16 |
| 295m | 45 Part 16 |
| 295m–1 | 45 Part 16 |
| 295m–2 | 45 Part 16 |
| 295m–3 | 45 Part 16 |
| 295m–4 | 45 Part 16 |
| 295n | 45 Part 16 |
| 295n–1 | 45 Part 16 |
| 295n–2 | 45 Part 16 |
| 295n–3 | 45 Part 16 |
| 295n–4 | 45 Part 16 |
| 295o | 45 Part 16 |
| 295o–1 | 45 Part 16 |
| 295o–2 | 45 Part 16 |
| 295o–3 | 45 Part 16 |
| 295o–4 | 45 Part 16 |
| 295p | 45 Part 16 |
| 295p–1 | 45 Part 16 |
| 295p–2 | 45 Part 16 |
| 295p–3 | 45 Part 16 |
| 295p–4 | 45 Part 16 |
| 295q | 45 Part 16 |
| 295q–1 | 45 Part 16 |
| 295q–2 | 45 Part 16 |
| 295q–3 | 45 Part 16 |
| 295q–4 | 45 Part 16 |
| 295r | 45 Part 16 |
| 295r–1 | 45 Part 16 |
| 295r–2 | 45 Part 16 |
| 295r–3 | 45 Part 16 |
| 295r–4 | 45 Part 16 |
| 295s | 45 Part 16 |
| 295s–1 | 45 Part 16 |
| 295s–2 | 45 Part 16 |
| 295s–3 | 45 Part 16 |
| 295s–4 | 45 Part 16 |
| 296 | 45 Part 16 |
| 296–296d | 45 Part 16 |
| 297 | 45 Part 16 |
| 297a | 45 Part 16 |
| 297b | 45 Part 16 |
| 297c | 45 Part 16 |
| 297d | 45 Part 16 |
| 297e | 45 Part 16 |
| 297f | 45 Part 16 |
| 297g | 45 Part 16 |
| 297h | 45 Part 16 |
| 297i | 45 Part 16 |
| 297j | 45 Part 16 |
| 297k | 45 Part 16 |
| 297l | 45 Part 16 |
| 297m | 45 Part 16 |
| 297n | 45 Part 16 |
| 297o | 45 Part 16 |
| 297p | 45 Part 16 |
| 297q | 45 Part 16 |
| 297r | 45 Part 16 |
| 297s | 45 Part 16 |
| 297t | 45 Part 16 |
| 297u | 45 Part 16 |
| 297v | 45 Part 16 |
| 297w | 45 Part 16 |
| 297x | 45 Part 16 |
| 297y | 45 Part 16 |
| 297z | 45 Part 16 |
| 298 | 45 Part 16 |
| 298a | 45 Part 16 |
| 298b | 45 Part 16 |
| 298b–1 | 45 Part 16 |
| 298b–2 | 45 Part 16 |
| 298b–3 | 45 Part 16 |
| 298b–4 | 45 Part 16 |
| 298b–5 | 45 Part 16 |
|

| 42 U.S.C.—Continued | CFR |
|---|---|
| 295h–3a | 45 Part 16 |
| 295h–3b | 45 Part 16 |
| 295h–3c | 45 Part 16 |
| 296a | 45 Part 16 |
| 296d | 45 Part 16 |
| 296i | 45 Part 16 |
| 297 | 45 Part 16 |
| 298c–7 | 45 Part 16 |
| 299c | 45 Part 16 |
| 299d | 45 Part 16 |
| 300 | 45 Part 16 |
| 300a–1 | 45 Part 16 |
| 300a–2 | 45 Part 16 |
| 300a–3 | 45 Part 16 |
| 300b | 45 Part 16 |
| 300b–1 | 45 Part 16 |
| 300c(a)(1) and (2) | 45 Part 16 |
| 626 | 45 Part 16 |
| 1302 | 45 Part 221 |
| 1310 | 45 Part 16 |
| 1315 | 45 Part 16 |
| 1480 | 7 Part 1890w |
| 1651 et seq | 20 Part 702, 703, 704 |
| 1786 | 7 Part 246 |
| 1855–1855g | 32 Part 1704 |
| 1857b | 40 Parts 45, 46 |
| 1857c–7 | 42 Part 61 |
| 1857f6c | 40 Part 80 |
| 1857f–9 | 40 Part 87 |
| 1891–1893 | 14 Part 1260 |
| 2000c—2000c–9 | 45 Part 16 |
| 2000d | 45 Part 1501 |
| 2000d–1 | 12 Part 529; 40 Part 7 |
| 2601(a) | 45 Part 16 |
| 2610a | 45 Part 16 |
| 2610b | 45 Part 16 |
| 2619 | 45 Part 16 |
| 2661 | 45 Part 16 |
| 2661a | 45 Part 16 |
| 2678 | 45 Part 16 |
| 2688 | 45 Part 16 |
| 2688f | 45 Part 16 |
| 2688g | 45 Part 16 |
| 2688h | 45 Part 16 |
| 2688j–1 | 45 Part 16 |
| 2688j–2 | 45 Part 16 |
| 2688k | 45 Part 16 |
| 2688l | 45 Part 16 |
| 2688l–1 | 45 Part 16 |
| 2688n–1 | 45 Part 16 |
| 2688r | 45 Part 16 |
| 2688u | 45 Part 16 |
| 2688v | 45 Part 16 |
| 2809(a)(1) | 45 Part 1301 |
| 2809(a)(2) | 45 Part 16 |
| 2942(n) | 45 Part 301 |
| 3024a | 45 Part 16 |
| 3031 | 45 Part 16 |
| 3041 | 45 Part 16 |
| 3253 | 40 Part 45 |
| 3254d | 40 Part 45 |

| 42 U.S.C.—Continued | CFR |
|---|---|
| 3812 | 45 Part 16 |
| 3861 | 45 Part 16 |
| 3871 | 45 Part 16 |
| 3872 | 45 Part 16 |
| 4213 | 31 Part 205 |
| 4321 | 18 Part 305 |
| 4332 | 21 Part 6 |
| 4601 | 24 Part 42; 32 Part 641; 41 Part 114–50 |
| 4633 | 32 Part 641; 41 Part 114–50 |
| 43 U.S.C.: | |
| 1331 | 20 Parts 702, 703, 704 |
| 1334 | 30 Part 290 |
| 1335 | 30 Part 290 |
| 44 U.S.C.: | |
| 1505 | 32 Part 100 |
| 46 U.S.C.: | |
| 841a | 46 Part 505 |
| 1114 | 46 Parts 278, 283, 351 |
| 1454 | 33 Part 175 |
| 1488 | 33 Part 175 |
| 47 U.S.C.: | |
| 390 | 45 Part 16 |
| 49 U.S.C.: | |
| 1 | 49 Parts 1006, 1123 |
| 2 | 49 Part 1006 |
| 3 | 49 Part 1006 |
| 5 | 49 Part 1006 |
| 5b | 49 Part 1006 |
| 6 | 49 Part 1006 |
| 12 | 49 Parts 1006, 1123 |
| 13 | 49 Part 1006 |
| 15 | 49 Part 1006 |
| 15a | 49 Parts 1006, 1107 |
| 17 | 49 Part 1123 |
| 20 | 49 Parts 1006, 1203 |
| 303 | 49 Part 1006 |
| 304 | 49 Part 1006 |
| 308 | 49 Part 1006 |
| 316 | 49 Part 1006 |
| 317 | 49 Part 1006 |
| 319 | 49 Part 1006 |
| 323 | 49 Part 1006 |
| 903 | 49 Part 1006 |
| 904 | 49 Part 1006 |
| 905 | 49 Part 1006 |
| 906 | 49 Part 1006 |
| 907 | 49 Part 1006 |
| 909 | 49 Part 1006 |
| 916 | 49 Part 1006 |
| 918 | 49 Part 1006 |
| 1002 | 49 Part 1006 |
| 1003 | 49 Part 1006 |
| 1004 | 49 Part 1006 |
| 1005 | 49 Part 1006 |
| 1006 | 49 Part 1006 |
| 1010 | 49 Part 1006 |
| 1013 | 49 Part 1006 |



| 49 U.S.C.—Continued | CFR |
|---|---|
| 1014 | 49 Part 1006 |
| 1324 | 14 Part 252 |
| 1374 | 14 Part 252 |
| 1377 | 14 Part 252 |
| 1651 | 23 Part 750 |
| 1651(a) and (a)(2) | 23 Part 790 |
| 1657(e)(1) | 23 Part 790; 49 Part 85 |
| 50 U.S.C.: | |
| 797 | 32 Part 940 |
| 50 U.S.C. App.: | |
| 451 et seq | 32 Part 1680 |
| 2168 | 4 Parts 404, 405 |
| 2287 | 32 Part 188 |
| *Public Law:* | |
| 90–351 | 28 Part 42 |
| 90–483 | 36 Part 327 |

| *Public Law*—Continued | CFR |
|---|---|
| 91–379 | 6 Parts 130, 140 |
| 91–558 | 6 Parts 130, 140 |
| 91–575 | 18 Part 801 |
| 92–8 | 6 Parts 130, 140 |
| 92–157 | 45 Part 16 |
| 92–210 | 6 Parts 130, 140, 155 |
| 92–303 | 20 Parts 726, 801, 802 |
| 92–318 | 45 Part 1501 |
| 92–347 | 36 Part 327 |
| 92–463 | 22 Part 214; 41 Part 105–64 |
| 92–500 | 40 Parts 105, 125, 133, 135, 227 |
| 92–513 | 49 Part 580 |
| 92–532 | 40 Parts 220–227 |
| 92–576 | 20 Part 726 |
| 92–591 | 49 Part 252 |
| 92–603 | 45 Part 16 |
| 93–28 | 6 Parts 140, 155 |

## Table of Federal Register Issue Pages and Dates

| F.R. issue pages | F.R. issue date |
|---|---|
| 1–721 | Jan. 3 |
| 723–835 | 4 |
| 837–945 | 5 |
| 947–1107 | 8 |
| 1109–1165 | 9 |
| 1167–1261 | 10 |
| 1263–1370 | 11 |
| 1371–1490 | 12 |
| 1491–1567 | 15 |
| 1569–1627 | 16 |
| 1629–1712 | 17 |
| 1713–1905 | 18 |
| 1907–2164 | 19 |
| 2165–2200 | 22 |
| 2201–2311 | 23 |
| 2313–2410 | 24 |
| 2411–2668 | 26 |
| 2669–2729 | 29 |
| 2731–2944 | 30 |
| 2945–3029 | 31 |
| 3031–3179 | Feb. 1 |
| 3181–3285 | 2 |
| 3287–3377 | 5 |
| 3379–3496 | 6 |
| 3497–3570 | 7 |
| 3571–3943 | 8 |
| 3945–4229 | 9 |
| 4231–4306 | 12 |
| 4307–4373 | 13 |
| 4375–4490 | 14 |
| 4491–4562 | 15 |
| 4563–4641 | 16 |
| 4643–4701 | 20 |
| 4703–4742 | 21 |
| 4743–4928 | 22 |
| 4929–5144 | 23 |
| 5145–5228 | 26 |
| 5229–5322 | 27 |
| 5323–5447 | 28 |
| 5449–5609 | Mar. 1 |
| 5611–5829 | 2 |
| 5831–5985 | 5 |
| 5987–6125 | 6 |
| 6127–6267 | 7 |
| 6269–6360 | 8 |
| 6361–6654 | 9 |
| 6655–6753 | 12 |
| 6755–6866 | 13 |
| 6867–6975 | 14 |
| 6977–7102 | 15 |
| 7103–7203 | 16 |
| 7205–7308 | 19 |
| 7309–7386 | 20 |
| 7387–7439 | 21 |
| 7441–7537 | 22 |
| 7539–7782 | 23 |
| 7783–7967 | 26 |
| 7969–8039 | 27 |
| 8041–8123 | 28 |
| 8125–8224 | 29 |
| 8225–8417 | 30 |
| 8419–8499 | April 2 |
| 8501–8559 | 3 |
| 8561–8636 | 4 |
| 8637–8730 | 5 |
| 8731–8998 | 6 |
| 8999–9063 | 9 |
| 9065–9143 | 10 |
| 9145–9207 | 11 |
| 9209–9284 | 12 |
| 9285–9419 | 13 |
| 9421–9475 | 16 |
| 9477–9567 | 17 |
| 9569–9638 | 18 |

CODE
XUM



| F.R. issue pages | F.R. issue date |
|---|---|
| 9639–9785 | 19 |
| 9787–9870 | 20 |
| 9871–9966 | 23 |
| 9967–10060 | 24 |
| 10061–10154 | 25 |
| 10155–10251 | 26 |
| 10253–10350 | 27 |
| 10351–10446 | 30 |
| 10447–10542 | 31 |
| 10543–10638 | April 2 |
| 10639–10734 | 3 |
| 10735–10830 | 4 |
| 10831–10926 | 5 |
| 10927–11022 | 6 |
| 11023–11118 | 9 |
| 11119–11214 | 10 |
| 11215–11310 | 11 |
| 11311–11406 | 12 |
| 11407–11502 | 13 |
| 11503–11598 | 16 |
| 11599–11694 | 17 |
| 11695–11790 | 18 |
| 11791–11886 | 19 |
| 11887–11982 | 20 |
| 11983–12078 | 23 |
| 12079–12174 | 24 |
| 12175–12270 | 25 |
| 12271–12366 | 26 |
| 12367–12462 | 27 |
| 12463–12558 | 30 |
| 12559–12654 | May 1 |
| 12655–12750 | 2 |
| 12751–12846 | 3 |
| 12847–12942 | 4 |
| 12943–13038 | 7 |
| 13039–13134 | 8 |
| 13135–13230 | 9 |
| 13231–13326 | 10 |
| 13327–13422 | 11 |
| 13423–13518 | 14 |
| 13519–13614 | 15 |
| 13615–13710 | 16 |
| 13711–13806 | 17 |
| 13807–13902 | 18 |
| 13903–13998 | 21 |
| 13999–14094 | 22 |
| 14095–14190 | 23 |
| 14191–14286 | 24 |
| 14287–14382 | 25 |
| 14383–14478 | 29 |
| 14479–14574 | 30 |
| 14575–14670 | 31 |
| 14671–14766 | June 1 |
| 14767–14862 | 4 |
| 14863–14958 | 5 |
| 14959–15054 | 6 |
| 15055–15150 | 7 |
| 15151–15246 | 8 |
| 15247–15342 | 11 |
| 15343–15438 | 12 |
| 15439–15534 | 13 |
| 15535–15630 | 14 |
| 15631–15726 | 15 |
| 15727–15822 | 18 |
| 15823–15918 | 19 |
| 15919–16014 | 20 |
| 16015–16110 | 21 |
| 16111–16206 | 22 |
| 16207–16302 | 25 |
| 16303–16398 | 26 |
| 16399–16494 | 27 |
| 16495–16590 | 28 |
| 16591–16686 | 29 |
| 16687–16782 | July 2 |
| 16783–16878 | 3 |
| 16879–16974 | 5 |
| 16975–17070 | 6 |
| 17071–17166 | 9 |
| 17167–17262 | 10 |
| 17263–17358 | 11 |
| 17359–17454 | 12 |
| 17455–17550 | 13 |
| 17551–17646 | 16 |
| 17647–17742 | 17 |
| 17743–17838 | 18 |
| 17839–17934 | 19 |
| 17935–18030 | 20 |
| 18031–18126 | 23 |
| 18127–18222 | 24 |
| 18223–18318 | 25 |
| 18319–18432 | 26 |
| 18433–18523 | 11 |

| F.R. issue pages | F.R. issue date |
|---|---|
| 9639–9785 | 19 |
| 9787–9956 | 20 |
| 9957–10058 | 23 |
| 10059–10144 | 24 |
| 10145–10234 | 25 |
| 10235–10430 | 26 |
| 10431–10613 | 27 |
| 10615–10698 | 30 |
| 10699–10788 | May 1 |
| 10789–10908 | 2 |
| 10909–11052 | 3 |
| 11053–11329 | 4 |
| 11331–11426 | 7 |
| 11427–12084 | 8 |
| 12085–12194 | 9 |
| 12195–12306 | 10 |
| 12307–12594 | 11 |
| 12595–12721 | 14 |
| 12723–12789 | 15 |
| 12791–12884 | 16 |
| 12885–13002 | 17 |
| 13003–13307 | 18 |
| 13309–13467 | 21 |
| 13469–13540 | 22 |
| 13541–13626 | 23 |
| 13627–13709 | 24 |
| 13711–14079 | 25 |
| 14081–14144 | 29 |
| 14145–14232 | 30 |
| 14233–14359 | 31 |
| 14361–14659 | June 1 |
| 14661–14732 | 4 |
| 14733–14805 | 5 |
| 14807–14906 | 6 |
| 14907–15041 | 7 |
| 15043–15356 | 8 |
| 15357–15427 | 11 |
| 15429–15490 | 12 |
| 15491–15594 | 13 |
| 15595–15710 | 14 |
| 15711–15807 | 15 |
| 15809–15921 | 18 |
| 15923–16012 | 19 |
| 16013–16188 | 20 |
| 16189–16321 | 21 |
| 16323–16624 | 22 |
| 16625–16766 | 25 |
| 16767–16827 | 26 |
| 16829–16981 | 27 |
| 16983–17168 | 28 |
| 17169–17430 | 29 |
| 17431–17704 | July 2 |
| 17705–17817 | 3 |
| 17819–18004 | 5 |
| 18005–18223 | 6 |
| 18225–18349 | 9 |
| 18351–18432 | 10 |
| 18433–18523 | 11 |
| 18525–18634 | 12 |
| 18635–18853 | 13 |
| 18855–19000 | 16 |
| 19001–19103 | 17 |
| 19105–19195 | 18 |
| 19197–19352 | 19 |
| 19353–19654 | 20 |
| 19655–19794 | 23 |
| 19795–19896 | 24 |
| 19897–19950 | 25 |
| 19951–20057 | 26 |
| 20059–20221 | 27 |
| 20223–20309 | 30 |
| 20311–20421 | 31 |
| 20423–20601 | Aug. 1 |
| 20603–20798 | 2 |
| 20800–21139 | 3 |
| 21141–21235 | 6 |
| 21237–21380 | 7 |
| 21381–21479 | 8 |
| 21481–21613 | 9 |
| 21615–21735 | 10 |
| 21737–21909 | 13 |
| 21911–21965 | 14 |
| 21967–22108 | 15 |
| 22109–22205 | 16 |
| 22207–22358 | 17 |
| 22359–22457 | 20 |
| 22459–22527 | 21 |
| 22529–22614 | 23 |
| 22615–22758 | 23 |
| 22759–22876 | 24 |
| 22877–22947 | 27 |
| 22949–23301 | 28 |
| 22303–23388 | 29 |
| 23389–23503 | 30 |
| 23505–23763 | 31 |
| 23765–23922 | Sept. 4 |
| 23923–24184 | 5 |
| 24185–24326 | 6 |
| 24327–24626 | 7 |
| 24627–24874 | 10 |
| 24875–25154 | 11 |
| 25155–25420 | 12 |
| 25421–25654 | 13 |
| 25655–25895 | 14 |
| 25897–26091 | 17 |
| 26093–26171 | 18 |
| 26173–26344 | 19 |
| 26345–23433 | 20 |
| 26435–26593 | 21 |
| 26595–26668 | 24 |
| 26669–26790 | 25 |
| 26791–26883 | 26 |
| 26885–27038 | 27 |
| 27039–27203 | 28 |

CODE

XUM

V 38 - 170

170

SEP 4 73

XUM

federal register

September 4, 1973—Pages 23765–23922

TUESDAY, SEPTEMBER 4, 1973

WASHINGTON, D.C.

Volume 38 ▪ Number 170

Pages 23765–23922

PART I

## HIGHLIGHTS OF THIS ISSUE

This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.

**GASOLINE AND NO. 2–D DIESEL FUEL**—CLC extends price freeze ..... 23794

**MEDICARE PAYMENTS**—HEW proposes rules on hospital services given outside the U.S.; comments by 10–4–73 .. 23802

**PUBLIC ASSISTANCE**—HEW proposed definition of continued absence of the parent from the home; comments by 10–4–73..... 23802

**MOTOR VEHICLE SAFETY STANDARDS**—DOT proposes change in definition of multipurpose passenger vehicle; comments by 10–15–73 ..... 23804

**PESTICIDES**—
EPA sets tolerance level; effective 9–4–73.... 23781
EPA proposes tolerance for Oxytetracycline Hydrochloride; comments by 10–4–73 ..... 23806

**MOBILE HOMES**—HUD proposes inspection requirements for FHA-insured loans; comments by 10–2–73 ..... 23803

**TRAVEL AGENT FEES**—CAB notice of IATA agreement .. 23816

**AIR CARGO**—CAB sets rates for services supplied to DOD; effective 7–1–73..... 23772

**DISCOUNT RATE**—Federal Reserve System adjustments ..... 23772

**AGRICULTURAL EXPORTS**—DIBA revises reporting procedures and requirements; effective August 29, 1973 .. 23777

**HOPS**—USDA sets rate of assessment for 1973–74 marketing year ..... 23771

(Continued inside)

**PART II:**

**INTERSTATE LAND SALES REGISTRATION**—New HUD regulations; effective 12–1–73..... 23865

**PART III:**

**ELDERLY PERSONS**—HEW rules for State and Community benefit programs; comments by 10–4–73 ..... 23911

# REMINDERS

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

### Rules Going Into Effect Today

This list includes only rules that were published in the FEDERAL REGISTER after October 1, 1972.

page no. and date

**SEPTEMBER 4**

FDA—Incidental additives; exemptions from labeling requirements 20704; 8–2–73


federal register

Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by the Executive Branch of the Federal Government. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $2.50 per month or $25 per year, payable in advance. The charge for individual copies is 20 cents for each issue, or 20 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.







MEETINGS—
COUNCIL OF ECONOMIC ADVISERS—Advisory Committee on the Economic Role of Women; 9–20–73 23823
DOD—USAF Scientific Advisory Board Ad Hoc Committee on Electromagnetic Pulse Vulnerability of USAF Manned Systems; 9–13, 9–14–73 23808
Interior Dept—Northeast Regional Advisory Committee; 9–13, 9–14–73 23808
VA: Career Development Selection Committee, 10–25–73 23839
USDA: Forest Service—Pacific Coast National Scenic Trail Advisory Council; 9–22–73 23811
National Endowment for the Humanities: Advisory Committee, Scientific Knowledge and Human Values, 9–19–73 23838
Advisory Committee, Research Grants Panel, 9–13 and 9–14–73 23839
State Department: Advisory Committee on Science and Foreign Affairs, 9–14 and 9–15–73 23807
Study Group CMTT of The U.S. National Committee for The International Radio Consultative Committee (CCIR), 9–17–73 23807
Advisory Committee on Private International Law, Study Group on Estate Matters, 9–14–73 23807
Study Group 4 of the U.S. National Committee for The International Radio Consultative Committee (CCIR), 9–19–73 23807
Treasury Department: Comptroller of the Currency, Regional Advisory Committee on Banking Policies and Practices of the Third National Bank Region, 9–20–73 23807
Commerce Department: Research and Development Semiconductor Manufacturing and Test Equipment Technical Advisory Committee, 9–11–73 23812
Working Group of the Industry Advisory Committee on Metal Scrap Problems, 9–13–73 23811
Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee, 9–17–73 23811
Atomic Energy Commission: Advisory Committee on Reactor Safeguards, Subcommittee on Brown's Ferry Nuclear Plant, Units 2 and 3, 9–20–73 23814
Controlled Thermonuclear Research Subcommittee on the U.S. Nuclear Data Committee, 9–11 and 9–12–73 23815


# Contents


**AGRICULTURAL MARKETING SERVICE**

Rules and Regulations

Hops of domestic production; expenses and rate of assessment for 1973–74 marketing year 23771

Proposed Rules

Milk in the Chicago regional marketing area; recommended decision and opportunity to file written exceptions on amendments to tentative marketing agreement and order 23796

**AGRICULTURE DEPARTMENT**

*See* Agricultural Marketing Service; Forest Service.

**AIR FORCE DEPARTMENT**

Notices

USAF Scientific Advisory Board Ad Hoc Committee on Electromagnetic Pulse Vulnerability of USAF Manned Systems 23808

**ASSISTANT SECRETARY FOR HOUSING PRODUCTION AND MORTGAGE CREDIT OFFICE—FEDERAL HOUSING COMMISSIONER**

Proposed Rules

Mobile home loans; factory inspection of mobile homes 23803

**ATOMIC ENERGY COMMISSION**

Notices

Advisory Committee on Reactor Safeguards; meeting 23814

Commonwealth Edison Co. and Iowa-Illinois Gas and Electric Co.; issuance of facility license amendment 23814

Controlled Thermonuclear Subcommittee of U.S. Nuclear Data Committee; meeting 23815

Friends of the Earth and Ralph Nader; memorandum and order regarding filing of petition for shutdown of certain reactors 23815

**CIVIL AERONAUTICS BOARD**

Rules and Regulations

Exemption of air carriers for military transportation; minimum rates for certain foreign and overseas air transportation services 23772

Statements of general policy; category Z individually ticketed military transportation 23777

Proposed Rules

Publication of tariffs for services not actually provided to the public 23804

Reporting of certain data by commuter air carriers and taxi operators 23805

Notices

*Hearings, etc.:*

Air Traffic Conference of America 23816

Air Windsor Ltd 23819

Chicago Department of Aviation 23819

Chicago-Los Angeles Fare Reductions Case 23819

**COAST GUARD**

Proposed Rules

New London Harbor, Conn.; establishment of security zone; correction 23804

**COMMERCE DEPARTMENT**

*See also* Domestic and International Business Administration; Maritime Administration; National Bureau of Standards; National Oceanic and Atmospheric Administration.

Rules and Regulations

Nondiscrimination in Federally assisted programs; correction 23777

**COMMITTEE FOR PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY HANDICAPPED**

Notices

Procurement list 1973; additions and deletions (4 documents) 23820

**COMPTROLLER OF THE CURRENCY**

Notices

Regional Advisory Committee on Banking Policies and Practices; meeting 23807

**COST OF LIVING COUNCIL**

Rules and Regulations

Phase IV pay regulations; recodified pay rules 23794

Phase IV price regulations; extension of freeze on retail prices of gasoline and No. 2–D diesel fuel 23794

Proposed Rules

Executive and variable compensation; correction 23806

**COUNCIL OF ECONOMIC ADVISERS**

Notices

Advisory Committee on the Economic Role of Women; meeting 23823



*(Continued on next page)*





V 38 - 170 SEP 4 73 XUM

## CONTENTS


**CUSTOMS SERVICE**
Notices
Foreign currencies; certification of rates; correction ---- 23808

**DEFENSE DEPARTMENT**
*See* Air Force Department.

**DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION**
Rules and Regulations
Special commodity policies and provisions; agricultural commodities; reporting requirements ---- 23777
Notices
Meetings:
Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee ---- 23811
Research and Development Working Group, Industry Advisory Committee on Scrap Metal Problems ---- 23811
Semiconductor Manufacturing and Test Equipment Technical Advisory Committee ---- 23812

**ENVIRONMENTAL PROTECTION AGENCY**
Rules and Regulations
Tolerances and exemptions from tolerances for pesticide chemicals in or on raw agricultural commodities; O,O-diethyl O-(2 - isopropyl - 6 - methyl - 4 - pyridinyl) phosphorothioate ---- 23781
Proposed Rules
New Jersey and Pennsylvania; transportation and/or land use control strategies; correction ---- 23805
Oxytetracycline hydrochloride; tolerance ---- 23806
Notices
Approval and promulgation of State implementation plans; opportunity for public comment on plans to achieve secondary standards ---- 23823
Mirex; public hearing ---- 23823

**ENVIRONMENTAL QUALITY COUNCIL**
Notices
Environmental impact statements; public availability ---- 23820

**FEDERAL AVIATION ADMINISTRATION**
Proposed Rules
Jet route and reporting point; designation; correction ---- 23804

**FEDERAL COMMUNICATIONS COMMISSION**
Notices
Common carrier services information; domestic public radio services applications accepted for filing ---- 23824

**FEDERAL MARITIME COMMISSION**
Notices
Bi-State Development Agency and St. Louis Terminals Corp.; agreement filed ---- 23827
Moore-McCormack Lines, Inc.; order of revocation ---- 23826

**FEDERAL POWER COMMISSION**
Notices
Rate changes; order providing for hearing and suspension, and allowing changes to become effective ---- 23827
*Hearings, etc.*:
Bahovec Power Project ---- 23828
Belco Petroleum Corp ---- 23828
Cities Service Gas Co ---- 23828
Consumers Power Co ---- 23830
Duke Power Co. et al ---- 23830
Edison Sault Electric Co ---- 23831
El Paso Natural Gas Co. (2 documents) ---- 23831
City of Henderson, Kentucky ---- 23832
Indianapolis Power & Light Co ---- 23832
Kentucky Utilities Co ---- 23832
Northern Natural Gas Co. (2 documents) ---- 23833, 23834
Northern States Power Co. (2 documents) ---- 23834
Northwest Pipeline Corp ---- 23835
Northwestern Public Service Co. and Kansas-Nebraska Natural Gas Co ---- 23835
Oklahoma Natural Gas Co ---- 23835
Phillips Petroleum Co. (2 documents) ---- 23836
Southern Indiana Gas & Electric Co. ---- 23836
Transcontinental Gas Pipe Line Corp. ---- 23836

**FEDERAL REGISTER OFFICE**
Rules and Regulations
CFR Checklist ---- 23771

**FEDERAL RESERVE SYSTEM**
Rules and Regulations
Extensions of credit by Federal Reserve Banks; changes in rates ---- 23772
Notices
Acquisitions of banks:
Commonwealth National Corp ---- 23837
First Bancshares of Florida, Inc. ---- 23837
First Virginia Bankshares ---- 23837
United Missouri Bancshares, Inc. ---- 23838
Peoples Bank of Stark County; order approving merger ---- 23837
Union Bancshares Co.; order approving acquisition of trust company ---- 23837

**FISH AND WILDLIFE SERVICE**
Rules and Regulations
Migratory bird hunting; open season, bag limits; and possession of certain migratory game birds; correction ---- 23793
Hunting; Quivira National Wildlife Refuge, Kansas (2 documents) ---- 23793, 23794
Proposed Rules
Falconry permits; extension of comment period ---- 23796

**FOOD AND DRUG ADMINISTRATION**
Notices
Kendall Co.; withdrawal of petition for food additives ---- 23813

**FOREST SERVICE**
Notices
Pacific Crest National Scenic Trail Advisory Council; meeting ---- 23811

**GENERAL SERVICES ADMINISTRATION**
Rules and Regulations
Patents, data, and copyrights; allocation of rights in inventions ---- 23782
Procurement of construction; labor standards for contracts involving construction; correction ---- 23791
Notices
Delegations of authority:
Secretary of Agriculture ---- 23838
Secretary of the Interior ---- 23838

**HAZARDOUS MATERIALS REGULATIONS BOARD**
Rules and Regulations
Miscellaneous amendments to chapter ---- 23791

**HEALTH, EDUCATION, AND WELFARE DEPARTMENT**
*See also* Food and Drug Administration; Social and Rehabilitation Service; Social Security Administration.
Proposed Rules
State and community programs on aging; grant procedures ---- 23911

**HOUSING AND URBAN DEVELOPMENT DEPARTMENT**
*See also* Assistant Secretary for Housing Production and Mortgage Credit Office; Interstate Land Sales Registration Office.
Notices
Director of Urban Program Coordination; designation ---- 23813

**INTERIOR DEPARTMENT**
*See* Fish and Wildlife Service; Mining Enforcement and Safety Administration, National Park Service.

**INTERSTATE COMMERCE COMMISSION**
Rules and Regulations
Car service:
Fort Worth and Denver Railway Co ---- 23793
Reading Co ---- 23792
Texas Export Railroad Co ---- 23792
Notices
Assignment of hearings ---- 23839
Atlanta and West Point Rail Road Co.; car distribution direction ---- 23839

**INTERSTATE LAND SALES REGISTRATION OFFICE**
Rules and Regulations
Miscellaneous amendments to chapter ---- 23865
Notices
The Headlands; order of suspension ---- 23813






## CONTENTS


**MARITIME ADMINISTRATION**
Notices
Superport Tankers, Inc.; application for construction-differential subsidy ---- 23812

**MINING ENFORCEMENT AND SAFETY ADMINISTRATION**
Rules and Regulations
Health and safety standards; metallic and nonmetallic underground mines; correction ---- 23781

**NATIONAL BUREAU OF STANDARDS**
Notices
Voluntary product standard; intent to withdraw ---- 23812

**NATIONAL ENDOWMENT FOR THE HUMANITIES**
Notices
Meetings:
Scientific Knowledge and Human Values Panel ---- 23838
Research Grants Panel ---- 23839

**NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION**
Proposed Rules
Motor vehicle safety standards; definition of multipurpose passenger vehicle ---- 23804

**NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION**
Notices
Louis Scarpuzzi Enterprises, Inc., and Pleasant Point Passamaquoddy Tribal Council; exemption application under Marine Mammal Protection Act ---- 23812

**NATIONAL PARK SERVICE**
Proposed Rules
Shenandoah National Park; backcountry camping ---- 23796
Notices
National Register of Historic Places; additions and deletions ---- 23808
Northeast Regional Advisory Committee; meeting ---- 23808

**SOCIAL AND REHABILITATION SERVICE**
Proposed Rules
Factors specific to AFDC; continued absence of the parent from the home ---- 23802

**SOCIAL SECURITY ADMINISTRATION**
Proposed Rules
Federal health insurance for the aged; inpatient services furnished outside the U.S ---- 23802

**STATE DEPARTMENT**
Notices
Meetings:
Advisory Committee on Science and Foreign Affairs ---- 23807
U.S. National Committee for International Radio Consultative Committee (2 documents) ---- 23807
Study Group on Estate Matters, Secretary's Advisory Committee on Private International Law ---- 23807

**TRANSPORTATION DEPARTMENT**
*See* Coast Guard; Federal Aviation Administration; Hazardous Materials Regulations Board; National Highway Traffic Safety Administration.

**TREASURY DEPARTMENT**
*See* Comptroller of the Currency; Customs Service.

**VETERANS ADMINISTRATION**
Notices
Career Development Selection Committee; meeting ---- 23839




V 38 I 170 SEP 4 73 XUM

# List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month. In the last issue of the month the cumulative list will appear at the end of the issue.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1973, and specifies how they are affected.


**1 CFR**

CFR checklist ..... 23771

**6 CFR**

150 ..... 23794
152 ..... 23794

PROPOSED RULES:

152 ..... 23806

**7 CFR**

991 ..... 23771

PROPOSED RULES:

1030 ..... 23796

**12 CFR**

201 ..... 23772

**14 CFR**

288 ..... 23772
399 ..... 23777

PROPOSED RULES:

71 ..... 23804
75 ..... 23804
221 ..... 23804
298 ..... 23805

**15 CFR**

8 ..... 23777
376 ..... 23777

**20 CFR**

PROPOSED RULES:

405 ..... 23802

**21 CFR**

1700 ..... 23866
1710 ..... 23866
1715 ..... 23873
1720 ..... 23874

PROPOSED RULES:

201 ..... 23803

**30 CFR**

57 ..... 23781

**33 CFR**

PROPOSED RULES:

127 ..... 23804

**36 CFR**

PROPOSED RULES:

7 ..... 23796

**40 CFR**

180 ..... 23781

PROPOSED RULES:

52 ..... 23805
180 ..... 23806

**41 CFR**

1-9 ..... 23782
1-18 ..... 23791

**45 CFR**

PROPOSED RULES:

233 ..... 23802
903 ..... 23912

**49 CFR**

170 ..... 23791
171 ..... 23792
172 ..... 23792
177 ..... 23792
178 ..... 23792
1033 (3 documents) ..... 23792, 23793

PROPOSED RULES:

571 ..... 23804

**50 CFR**

20 ..... 23793
32 (2 documents) ..... 23793, 23794

PROPOSED RULES:

21 ..... 23796






# Rules and Regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

## Title 1—General Provisions

### CHAPTER I—ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

### CFR CHECKLIST

### 1973 Issuances

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the issuance date and price of revised volumes of the Code of Federal Regulations issued to date during 1973. New units issued during the month are announced on the back cover of the daily FEDERAL REGISTER as they become available.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (Rev. as of Jan. 1, 1973):

| Title | Price |
|---|---|
| 1 | $0.55 |
| 2 [Reserved] | |
| 3 | 2.60 |
| 3A 1972 Compilation | 2.50 |
| 4 | 1.75 |
| 5 | 3.75 |
| 6 (Rev. Feb. 1, 1973) | 4.25 |
| 7 Parts: | |
| 0-45 | 6.50 |
| 46-51 | 2.60 |
| 52 | 4.20 |
| 53-209 | 7.00 |
| 210-699 | 5.25 |
| 700-749 | 3.75 |
| 750-899 | 2.10 |
| 900-944 | 4.00 |
| 945-980 | 2.25 |
| 981-999 | 2.25 |
| 1000-1059 | 4.00 |
| 1060-1119 | 4.00 |
| 1120-1199 | 3.00 |
| 1200-1499 | 4.25 |
| 1500-end | 6.50 |
| 8 | 1.85 |
| 9 | 5.00 |
| 10 | 4.00 |
| 11 | .75 |
| 12 Parts: | |
| 1-299 | 5.50 |
| 300-end | 6.25 |
| 13 | 3.00 |
| 14 Parts: | |
| 1-59 | 6.50 |
| 60-199 | 6.75 |
| 200-end | 7.75 |
| 15 | 4.00 |
| 16 Parts: | |
| 0-149 | 7.00 |
| 150-end | 4.25 |
| General Index | 3.75 |

CFR Unit (Rev. as of April 1, 1973):

| Title | Price |
|---|---|
| 17 | $5.50 |
| 18 Parts: | |
| 1-149 | 4.00 |
| 150-end | 4.00 |
| 19 | 5.00 |
| 20 Parts: | |
| 01-399 | 2.25 |
| 400-end | 7.00 |
| 21 Parts: | |
| 1-9 | 2.25 |
| 10-129 | 5.50 |
| 130-140 | 3.00 |
| 141-169 | 5.50 |
| 170-299 | 2.25 |
| 300-end | 1.50 |
| 22 | 4.25 |
| 23 (Rev. June 20, 1973) | 1.50 |
| 24 | 6.50 |
| 25 | 3.75 |
| 26 Parts: | |
| 1 (§§ 1.0-1-1.300) | 9.75 |
| 1 (§§ 1.301-1.400) | 2.50 |
| 1 (§§ 1.401-1.500) | 3.00 |
| 1 (§§ 1.501-1.640) | 3.75 |
| 1 (§§ 1.641-1.850) | 4.00 |
| 1 (§§ 1.851-1.1200) | 4.50 |
| 1 (§ 1.1201-end) | 6.50 |
| 2-29 | 2.75 |
| 30-39 | 3.00 |
| 40-169 | 4.75 |
| 170-299 | 6.75 |
| 300-499 | 3.00 |
| 500-599 | 3.50 |
| 600-end | 1.50 |
| 27 | 1.25 |

CFR Unit (Rev. as of July 1, 1973):

| Title | Price |
|---|---|
| 32 Parts: | |
| 400-589 | 4.50 |
| 590-699 | 2.05 |
| 1400-1599 | 3.25 |
| 37 | 1.75 |

## Title 7—Agriculture

### CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

### PART 991—HOPS OF DOMESTIC PRODUCTION

### Expenses and Rate of Assessment for 1973-74 Marketing Year

Notice of proposed expenses of the Hop Administrative Committee, and rate of assessment, for the 1973-74 marketing year was published in the August 15, 1973, issue of the FEDERAL REGISTER (38 FR 22040). This action is pursuant to §§ 991.55 and 991.56 of Marketing Order No. 991, as amended (7 CFR Part 991), regulating the handling of hops of domestic production. The amended order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The notice afforded interested persons an opportunity to submit written data, views, or arguments with respect to the proposal. None were submitted.

The proposal was based on a unanimous recommendation of the Hop Administrative Committee. Expenses of the Committee for the 1973-74 marketing year were proposed at $175,245. The assessment rate was proposed at 0.3 cent per pound of salable hops handled by each handler during the 1973-74 marketing year.

After consideration of all relevant matter presented, including that in the notice, the information and recommendation submitted by the Hop Administrative Committee, and other available information, it is found that the expenses of the Hop Administrative Committee and rate of assessment for the marketing year beginning August 1, 1973, shall be as follows:

**§ 991.308 Expenses of the Hop Administrative Committee and rate of assessment for the 1973-74 marketing year.**

(a) *Expenses.*—Expenses in the amount of $175,245 are reasonable and likely to be incurred by the Hop Administrative Committee during the marketing year beginning August 1, 1973, for its maintenance and functioning and for such purposes as the Secretary may, pursuant to the provisions of this part, determine to be appropriate.

(b) *Rate of assessment.*—The rate of assessment for said marketing year, payable by each handler in accordance with § 991.56, is fixed at 0.3 cent per pound of salable hops.

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of the amended marketing order require that the rate of assessment fixed for a particular marketing year shall be applicable to all salable hops handled during such year; and (2) the current marketing year began on August 1, 1973, and the rate of assessment herein fixed will automatically apply to all such hops beginning with that date.



V 38 I 170 S SEP 4 73 XUM

(Secs. 1-10, 48 Stat. 31, as amended; (7 U.S.C. 601-674))

Dated August 29, 1973.

CHARLES R. BRADER,
*Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.73-18671 Filed 8-31-73;8:45 am]

## Title 12—Banks and Banking

### CHAPTER II—FEDERAL RESERVE SYSTEM

### SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

### PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS

#### Changes in Rates

Pursuant to section 14(d) of the Federal Reserve Act (12 U.S.C. 357), and for the purpose of adjusting discount rates with a view to accommodating commerce and business in accordance with other related rates and the general credit situation of the country, Part 201 is amended as set forth below:

1. Section 201.51 is amended to read as follows:

**§ 201.51 Advances and discounts for member banks under sections 13 and 13a.**

The rates for all advances and discounts under sections 13 and 13a of the Federal Reserve Act (except advances under the last paragraph of such section 13 to individuals, partnerships, or corporations other than member banks) are:

| Federal Reserve Bank of— | Rate | Effective |
|---|---|---|
| Boston | 7½ | Aug. 23, 1973 |
| New York | 7½ | Aug. 14, 1973 |
| Philadelphia | 7½ | Do. |
| Cleveland | 7½ | Do. |
| Richmond | 7½ | Do. |
| Atlanta | 7½ | Aug. 16, 1973 |
| Chicago | 7½ | Aug. 14, 1973 |
| St. Louis | 7½ | Do. |
| Minneapolis | 7½ | Do. |
| Kansas City | 7½ | Do. |
| Dallas | 7½ | Do. |
| San Francisco | 7½ | Do. |

**§ 201.52 Advances to member banks under section 10(b).**

The rates for advances to member banks under section 10(b) of the Federal Reserve Act are:

| Federal Reserve Bank of— | Rate | Effective |
|---|---|---|
| Boston | 8 | Aug. 23, 1973 |
| New York | 8 | Aug. 11, 1973 |
| Philadelphia | 8 | Do. |
| Cleveland | 8 | Do. |
| Richmond | 8 | Do. |
| Atlanta | 8 | Aug. 16, 1973 |
| Chicago | 8 | Aug. 14, 1973 |
| St. Louis | 8 | Do. |
| Minneapolis | 8 | Do. |
| Kansas City | 8 | Do. |
| Dallas | 8 | Do. |
| San Francisco | 8 | Do. |

3. Section 201.53 is amended to read as follows:

**§ 201.53 Advances to persons other than member banks.**

The rates for advances under the last paragraph of section 13 of the Federal Reserve Act to individuals, partnerships, or corporations other than member banks secured by direct obligations of, or obligations fully guaranteed as to principal and interest by, the United States or any agency thereof are:

| Federal Reserve Bank of— | Rate | Effective |
|---|---|---|
| Boston [1] | 9½ | Aug. 23, 1973 |
| New York | 9½ | Aug. 14, 1973 |
| Philadelphia | 9½ | Do. |
| Cleveland | 9½ | Do. |
| Richmond [1] | 9½ | Do. |
| Atlanta [1] | 9½ | Aug. 16, 1973 |
| Chicago [1] | 9½ | Aug. 14, 1973 |
| St. Louis [1] | 9½ | Do. |
| Minneapolis [1] | 9½ | Do. |
| Kansas City [1] | 9½ | Do. |
| Dallas [1] | 9½ | Do. |
| San Francisco | 9½ | Do. |

[1] A rate of 7½ percent was approved, effective on the indicated dates on advances to nonmember banks, to be applicable in special circumstances resulting from implementation of changes in Regulation J (see 37 FR 12714).

(12 U.S.C. 248(i). Interprets or applies 12 U.S.C. 357.)

By order of the Board of Governors, August 23, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-18486 Filed 8-31-73;8:45 am]

## Title 14—Aeronautics and Space

### CHAPTER II—CIVIL AERONAUTICS BOARD

### SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-819; Docket No. 25594; Amdt. 16]

### PART 288—EXEMPTION OF AIR CARRIERS FOR MILITARY TRANSPORTATION

#### Minimum Rates for Certain Foreign and Overseas Air Transportation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C.

On June 5, 1973, by notice of proposed rulemaking EDR-249/PSDR-35 (38 FR 15368), the Board proposed to amend Parts 288 and 399 of the Economic Regulations (14 CFR Parts 288 and 399) by establishing new minimum rates applicable to certain foreign and overseas air transportation services performed by air carriers for the Department of Defense on and after July 1, 1972. The Notice also dealt with requests filed by several carriers for the amendment of the rates effective July 1, 1972 and for the equalization of the cargo rates for short-range aircraft operating in the Pacific interisland service. In addition, the Notice included the Department of Defense's request that the rate for large jet aircraft be made applicable to services performed with wide-bodied equipment. The Board also proposed provisions providing for the establishment of interim final rates effective on or after July 1, 1973, pending the completion of a full-scale MAC rate review and the establishment of final rates to be effective on a prospective basis.

Comments were filed by DOD, 11 carriers jointly [1] and 4 carriers separately.[2] All comments and supporting materials before the Board have been carefully considered, and all contentions not otherwise disposed of herein are rejected. Final amendments to Part 399 are being adopted concurrently herewith.

The comments filed by the joint carriers and by Northwest support the proposed 2.5-percent increase in minimum rates for fiscal year 1973. DOD objects to the proposal on various legal, policy, and factual bases. DOD takes issue with the cost data relied upon in EDR-249 and contends that the carriers made a substantial profit from MAC business in 1972, even though it was below the goal announced, and that a retroactive rate increase is not justified. DOD further argues that the reason the Board proposed retroactive increases was that it made an error in judgment in establishing the minimum rates for that period in ER-786, and that the Board's authority to alter final decisions is limited to ministerial acts to correct factual or clerical mistakes and does not extend to correction of errors of judgment.

DOD's contentions as to the cost data are dealt with elsewhere herein. Suffice it to say here that we find that the adjusted costs upon which we rely justify the rates we are adopting both for the retroactive and the interim final rate periods.

We do not accept DOD's argument that the Board has no authority to alter rates retroactively to correct errors of fact. We would agree that amending rates retroactively merely on the basis of a review and finding that the return on investment was either greater or less than that predicted when the rates were set would be unjustified. However, that is not the case here. As we stated in EDR-249, the carriers brought to our attention in early 1973 specific errors made in establishing the fiscal 1973 rates in ER-786. In our opinion, the Board not only has the authority but also the duty to correct its error, whether the resulting change increased or decreased the rates retroactively.

DOD claims that a cursory analysis of the Part 243 data discloses ambiguities and even blatant reporting errors.

[1] Airlift International, Inc., Capitol International Airways, Inc., Eastern Air Lines, Inc., The Flying Tiger Line, Inc., Overseas National Airways, Inc., Pan American World Airways, Inc., Seaboard World Airlines, Inc., Saturn Airways, Inc., Trans International Airlines, Inc., Trans World Airlines, Inc., and World Airways, Inc.

[2] Northwest Airlines, Inc., Trans World Airlines, Inc., Saturn Airways, Inc., and World Airways, Inc.





While we recognize there are certain problems in the Form 243 reports, we believe that, on the whole, the reports are sufficiently reliable for the purposes for which they are being used herein as to trend indications and short-term interim rate determination. Moreover, we have made the necessary revisions to the data relied on in ER-249 where discrepancies were noted and verified. For example, as a result of recent Board audits, Saturn's Form 243 reports were found to be unreliable for ratemaking purposes, and we have removed them from consideration in the instant rate determinations.

Further, DOD cites several instances in which the Form 243 reports filed by the supplemental carriers are said to be in error, as follows:

(a) DOD points out that total revenue miles flown in MAC services do not coincide on the Form 41 and Form 243 reports. For Form 41 reporting purposes, empty backhaul miles are classified as nonrevenue, whereas for Form 243 reports such backhaul miles, which are part of the MAC services rate base, are treated as revenue miles. However, this inconsistency is of no relevance for purposes of this proceeding and the mileage basis used in computing the costs of MAC services match such costs and are adequate for these purposes.

(b) DOD claims some of the carriers' reports showed incorrect revenues and in connection therewith the Board has incorrectly computed the revenues in EDR-249. We have reviewed the alleged discrepancies and where errors were verified, we have made corrections in our analyses as set forth in the appendices hereto. The difference between the revenues computed under EDR-249 and those computed by DOD relate to DOD's inclusion of the commercial backhaul revenues. We had excluded such revenues, and in light of DOD's comments, we have now deleted the applicable expenses, which we consider the proper treatment of this item.

(c) DOD charges that there are inconsistencies in reporting and allocations. With the exception of Saturn Airways, which our audits have disclosed to be unreliable for rate purposes and which we have excluded from consideration in the data base for both the retroactive and interim rates, the carriers' cost assignments were found to be in conformance with their allocation statements on file with the Board.

Many of the discrepancies, e.g., failure of the revenue miles to coincide as between Form 243 and Form 41, errors in reporting revenues, aircraft day assignments and cost fluctuations, pointed out by DOD, have no effect on the analyses or the conclusions drawn therefrom here or in EDR-249. Moreover, we find that since the last amendment to Part 243 (effective January 1, 1972), the reporting thereunder has improved considerably and is reasonable acceptable for the purposes for which it is being used herein.

DOD also claims that the scheduled carriers' investment per aircraft mile flown in MAC operations during calendar 1972 [3] increased 71.8 percent over the investment per mile recognized in ER-786. DOD also points out that the same carriers' aircraft hourly utilization declined by 12 percent. DOD implies that the investment per mile should have declined and that MAC services are being burdened with excessive investment. DOD's assertions warrant comment from several standpoints.

Both percentages developed by DOD appear to be incorrect.[4] Moreover, DOD inexplicably omits the data for two other scheduled combination carriers, namely American and Continental, from its analysis. Appendix H [**] sets forth investment per mile and hourly utilization data for each of the scheduled combination carriers participating in the MAC long-range services in fiscal year 1973. For carriers as a group, investment per mile in 1972 rose by only 13.9 percent over the level recognized for rate purposes in ER-786. Hourly utilization declined by 13.6 percent. However, these comparisons to ER-786 are somewhat misleading taken by themselves. The fact of the matter is that the MAC services actually performed in 1972 were substantially smaller in terms of miles flown than we projected in ER-786. The same is true with respect to the amount of investment allocated to these MAC services. The 13.6-percent drop in aircraft utilization in MAC services is reflective of the relatively high levels of hourly utilization on which the ER-786 rates were based, and those levels were in turn patterned after the high utilization rates achieved in earlier periods of high activity in MAC charters. It is clear that the substantial contraction of these operations is one of the factors underlying the rising unit cost trend and the carriers' less than satisfactory earnings' results.

The question presented is whether the 1972 investment and utilization experience of the carriers, as reported on Form 243 and on which we relied in EDR-249, is reasonable; not whether the departures from the estimates employed in ER-786 are unreasonable. We have reviewed the procedures employed by the carriers in allocating investment to their MAC operations and we conclude they are generally reasonable and do not unfairly burden the MAC services. As set out in Appendix H,[**] the reported utilization during 1972 for these carriers in MAC services averaged 9.67 hours per day. With only one exception, Trans World's passenger services, aircraft utilization in MAC services exceeded that for the same aircraft type in commercial operations for each carrier, and by more than an hour per day on the average. Therefore, on the basis of the individual carrier and the collective utilizations reported for MAC and commercial operations, we conclude that the reported aircraft utilization in MAC services is reasonable and does not burden the costs reported for MAC services performed in 1972. We also note that our adjustment of the rates for fiscal year 1973 is conservative in relation to the unit cost and earnings' indicia used and, therefore, would not be affected in any event by any minor overstatement of investment or understatement of aircraft utilization.

For purposes of the future interim rate, it is appropriate to omit from the analysis data for American, Braniff, Continental, and United which will not be in the program. Northwest's 1972 experience should also be disregarded since its overall operations were affected by a strike during that period. As shown in Appendix H,[**] the remaining carriers' investment per mile rose by 23 percent over the ER-786 level while hourly utilization for the group declined by 17.8 percent. The rise in investment per mile closely parallels the drop in hourly utilization. The latter, as noted above, reflects the level of utilization generally prevailing in 1972 and is 9.5 percent higher in the MAC operations than in commercial services. Such utilization is reasonable for purposes of the interim rate herein prescribed. In-depth analysis of this element can be pursued in the forthcoming full-scale rate review.

Finally, DOD claims that the Board has set the minimum rates at a level that will be profitable to the least common denominator in the industry, namely Pan American, alleged by DOD to be a high-cost, inefficient carrier. We do not agree that the Board's approach to these class rates produces unreasonable rates. In the first place, each carrier's reported costs have been screened and reduced in the same proportion as they were adjusted in ER-786. Pan American's resulting direct aircraft operating costs per mile for the year ended March 31, 1973, are below the average of such costs for the carriers operating the same type of aircraft as shown in Appendix G.[**] Moreover, the present rate is not set to provide the standard rate of return on investment to the highest cost carrier and, indeed, in Pan American's case, the forecast return was 5.99 percent. The carrier's actual return was 0.73 percent for the year ended December 31, 1972. On the basis of the interim future rates established herein, Pan American's return on investment in that period would have been only 3.77 percent. It has been the Board's policy to set MAC minimum rates on the basis of the composite costs of the group or class which gives weight

[3] As reported on Form 243.

[4] The data relied on by MAC purporting to come from the Form 243 reports do not reconcile with the information we developed in Appendix H. For example, in the case of Pan American (PAX), MAC shows an investment per mile for calendar year 1972 of $4.49 while our calculations show $3.09. A comparison of utilization for the same carrier and period shows MAC at 9.5 hours while we compute 9.7. Similar unexplainable discrepancies exist for the remaining carriers included in the analysis. However, while the investment-per-mile results obtained reflect wide variations producting a significantly lower group change in our computations, the utilization comparisons have minor differences.

[**] Filed as part of the original document.



V 38 I 170
SEP 4 73
XUM

to both the higher and lower cost carriers. On the basis of the foregoing, we are not pursuaded that Pan American's current MAC results are either distortive or should be excluded in the rate determination.

RATES FOR THE PERIOD FROM JULY 1, 1972

In accordance with the foregoing, we have modified the data relied on in EDR-249 to eliminate Saturn's figures, to correct for known reporting errors, to adjust the computed revenues to include the mileage absorption so as to reflect MAC pay miles rather than the reported as-flown miles, (omitted in EDR-249) to remove the expenses applicable to commercial backhauls, and to reflect recent carrier revisions of 243 data[4] submitted after issuance of EDR-249. On the basis of the revised data as shown in Appendix B,[4a] a revenue increase of 5.88 percent would have been necessary to produce a return on investment of 9.37 percent for 1972, the ratemaking standard, instead of the 6.60 percent actually achieved. A revenue increase of 5.42 percent would have been required to produce the same return as experienced in fiscal year 1972. Most significant is the fact that the carriers' aggregate plane-mile costs increased by 5.78 percent in calendar year 1972 over fiscal year 1972, on an adjusted basis. On the basis of the foregoing adjusted data, the Board concludes that the 2.5-percent increase in minimum rates applicable from July 1, 1972, forward, is not excessive and is fully justified.

INTERIM FINAL RATES FOR FISCAL YEAR 1974

Both DOD and the carriers support, in principle at least, the interim rate concept, although DOD contends there is no factual basis for a rate increase at this time pending a general review of its MAC minimum rates.[5] The problems raised by DOD with the carrier data relied upon by the Board in EDR-249 have already been considered in this statement, and appropriate modifications of that data have been made. Our conclusions with respect to interim future rates are based on the modified information.

DOD also contends that those carriers who have chosen not to seek MAC contracts in FY 1974 should be eliminated from the rate considerations herein. DOD has a valid point with respect to the interim final rate determination on and after July 1, 1973. Therefore, we have removed from our analyses all of the carriers who have indicated that they will not participate in MAC contracts for FY 1974.[6] Northwest desires that the proposed amendments be adopted immediately, but wants the Board to base the rate on available data as of March 31, 1973, rather than December 31, 1972. We agree that the interim rate findings should be based on the latest available information and have revised our findings herein to reflect the carriers' results reported for the year ended March 31, 1973.

The joint carriers, and World with respect to the B-727 aircraft, desire the initial interim rate to be effective only until August 31, 1973, to permit the determination of a second interim rate to be effective September 1, 1973. We have decided not to place an expiration date on the interim final rate. With the base period advanced to March 31, 1973, there is little additional information that would be available between now and September 1. We will, however, continue to monitor recurring reports as well as data submitted in conjunction with the rate review and act expeditiously if further interim rate adjustments are in order. Moreover, there is nothing to prevent the filing of a petition for modification of these interim rates.

Trans World agrees to the interim rate approach but does not want the Board to rule out retroactive increases. Trans World fears that the carriers would not be adequately compensated during a period of significant cost escalation. The Board has decided to adopt the proposed policy. We believe the interim rate approach should be sufficiently responsive to changed circumstance to obviate retroactive rate adjustments except in the most extreme situations.

In EDR-249, the Board proposed an automatic adjustment factor for changes in the price of fuel purchased by the carriers from military services. The joint carriers and World, while supporting this feature, request that it be extended to commercial fuel as well. In our opinion, an automatic commercial fuel price adjustment is not feasible. Each carrier has different suppliers with various rates which differ greatly from MAC fuel purchases where the price and supplier is the same for all the carriers. Nor do we find acceptable the carriers' alternative proposal to apply a multiplier to the MAC fuel price adjustment, since the rates and timing of the price changes could vary significantly as between commercial and MAC-supplied fuels.

After making the necessary corrections to adjust the computed revenues for mileage absorption to reflect pay miles rather than as-flown miles (omitted in EDR-249), to eliminate Saturn and those carriers who will not participate in fiscal year 1974, to adjust the operating expenses to eliminate costs applicable to commercial backhaul revenue and to adjust for recent carrier revisions of Part 243 data,[4] the reasonable interim rates for the carriers' MAC operations are as follows:

(1) For the year ended March 31, 1973 in long-range operations the carriers earned a return of 8.10 percent as compared to a recognized return of 9.90 percent as computed in Appendix B.[4a] This would require an increase in the rates of 3.22 percent over those provided for in ER-786 to give the carriers an opportunity to realize the fair return on investment under the Board's ratemaking standards.

(2) In the short-range Pacific-interisland operation for the year ended March 31, 1973, with Airlift removed and with the equalization of the L-100 rates at the current level for the B-727 the return for the year ending March 31, 1973 would have been only 3.08 percent. However, because of the change in carriers' participation in fiscal year 1974, the 2.5-percent increase ordered for FY 1973 will be continued for interim final rate purposes.

(3) The rate of return for the "all other" short-range operations for the year ending March 31, 1973, excluding Braniff and Trans International, was a negative 2.55 percent, well below that recognized as fair and reasonable for these services. However, because of changes in the carriers who will participate in the "all other" short-range operation for FY 1974, the 2.5-percent increase ordered for fiscal year 1973 will be continued for interim final rate purposes.

(4) The above increases do not cover the effects of devaluation of the U.S. dollar nor the increase in military fuel prices which already have taken place since March 1973. Based on reported results for the year ended March 31, 1973, we have computed the effects of devaluation as being .624 percent in the long-range category and 2.982 percent for the short-range Pacific-interisland category as shown in Appendix A. For the April 1, 1973 increase in the price for fuel purchased from the military, the interim rates effective July 1, 1973, should be increased .386 percent for the long range, .465 percent for the short range Pacific-Interisland and .443 percent for the short range "all other" as shown in Appendix J. These resulting rates are subject to the automatic fuel price clause for further price changes.

The above results compared with those set forth in EDR-249 are tabulated below:

PROPOSED INTERIM FINAL RATE ADJUSTMENTS—INCREASES IN RATES SET BY ER-786

[In percent]

| | Return on investment | Devaluation | Fuel increase | Total |
|---|---|---|---|---|
| EDR-249: | | | | |
| Long range | 3.658 | 0.630 | 0.390 | 4.670 |
| Short range: | | | | |
| Pacific Interisland | 2.637 | | .411 | 3.048 |
| All other | 2.500 | | .364 | 2.864 |
| Final: | | | | |
| Long range | 3.223 | .624 | .386 | 4.233 |
| Short range: | | | | |
| Pacific Interisland | 2.500 | 2.982 | .465 | 5.947 |
| All other | 2.500 | | .443 | 2.943 |

PRICE STABILIZATION

We find that the increases adopted herein are consistent with the goals of Phases II, III, and IV of the price stabilization program for the respective periods of applicability.

DOD has questioned whether rate increases may be effective for the freeze period June 13 through August 12, 1973, which included prices in foreign as well as interstate and overseas air transportation. We note that the Council permitted retroactive increases in Logair and Quicktrans rates for the 1971 Phase I freeze period by letter dated June 14, 1972. The Board has requested a ruling from the Cost of Living Council as to whether its previous ruling is applicable to the Phase III price freeze. For the present, the rates adopted herein will not apply during the freeze period, but are subject to adjustment if the ruling permits.

OTHER MATTERS

EDR-249 proposed to equalize the minimum international rates for L-100 and B-727. DOD contends that it presently has no contract or plan to use L-100 aircraft in international services during fiscal year 1974 and that Southern has withdrawn its L-100 aircraft from MAC international services. Southern's withdrawal of the L-100 equipment does not preclude us from equalizing the rate. It was the previous omission of the L-100/B-727 rate equalization which led to MAC's contracting a large part of its Pacific-interisland expansion service to Southern, which brought about World's petition for equalizing the rates. Inclusion of the instant equalization will prevent this from recurring; and, if not necessary, it would cause no inconvenience to DOD or the carriers.

Saturn requests that the ACL on the L-100 be increased from 20.7 tons to 23 tons. A review of the L-100 traffic data for the first quarter of 1973 revealed that the average actual planeload was 15 tons which is well below the current 20.7 standard. No ACL increase appears warranted at this time. The request for conversion charges would be more appropriately handled in the full review than within this interim rate determination.

DOD has requested that the footnote pertaining to R&R flights, which had been included in the table of rates in § 288.7 of the Board's Economic Regulations, be removed on the ground that it no longer has any applicability. We agree with DOD and have removed such reference to the R&R flights.

For reasons previously set forth we have determined to adjust the rates established by ER-786 retroactively to July 1, 1972. Moreover, as we indicated in the Notice of Proposed Rule Making, it was our intent to establish the interim final rate prospectively. No objections to the proposal were submitted. Therefore, we find good cause exists for making the rule effective prior to the expiration of the normal 30 days' notice.

AMENDMENTS

In consideration of the foregoing, the Board hereby amends Part 288 of the Economic Regulations (14 CFR Part 288) as follows:

1. Amend § 288.7 (a) (1) and (d) (1) and (2) to read as follows:

§ 288.7 Reasonable level of compensation.

* * * * * * *

(a) * * *

(1) Performed with turbine-powered aircraft:

AMENDED RATES EFFECTIVE JULY 1, 1972-JUNE 12, 1973, AND AUG. 13, 1973-AUG. 27, 1973

| Aircraft type | Passengers, per passenger-mile | | Cargo, per ton-mile | | Convertible[1] | | Mixed passenger-cargo per revenue plane-mile [1] | |
|---|---|---|---|---|---|---|---|---|
| | Round trip | One way | Round trip | One way | Passenger leg, per passenger-mile | Cargo leg, per ton-mile | Round trip | One way |
| | *Cents* | *Cents* | *Cents* | *Cents* | *Cents* | *Cents* | *Dollars* | *Dollars* |
| Turboprops: | | | | | | | | |
| CL-44 | 2.00 | 3.60 | 9.36 | 17.10 | | | | |
| L-382/L-100-10/20/30 | | | 10.05 | 19.64 | | | | |
| Regular turbojets | 2.008 | 3.778 | 7.923 | 15.276 | 2.008 | 9.134 | | |
| Passengers-pallets: | | | | | | | | |
| 165 and 0 | | | | | | | 3.313 | 6.231 |
| 117 and 3 | | | | | | | 3.191 | 6.042 |
| 105 and 4 | | | | | | | 3.160 | 5.994 |
| 93 and 5 | | | | | | | 3.129 | 5.947 |
| 81 and 6 | | | | | | | 3.099 | 5.899 |
| 63 and 7 | | | | | | | 3.052 | 5.827 |
| 51 and 8 | | | | | | | 3.022 | 5.779 |
| 0 and 12 | | | | | | | 2.892 | 5.576 |
| DC-8F-61-63 | 2.008 | 3.778 | 7.923 | 15.276 | 2.008 | 9.134 | | |
| Passengers-pallets: | | | | | | | | |
| 219 and 0 | | | | | | | 4.397 | 8.274 |
| 159 and 5 | | | | | | | 4.170 | 7.890 |
| 65 and 12 | | | | | | | 3.812 | 7.290 |
| 47 and 13 | | | | | | | 3.744 | 7.175 |
| 0 and 18 | | | | | | | 3.566 | 6.874 |
| B-727—Pacific Interisland | [2] 2.631 | [2] 5.025 | 13.872 | 27.607 | 2.631 | 16.647 | | |
| Passengers-pallets: | | | | | | | | |
| 105 and 0 | | | | | | | 2.762 | 5.276 |
| 61 and 2 | | | | | | | 2.652 | 5.148 |
| 50 and 3 | | | | | | | 2.624 | 5.115 |
| 46 and 4 | | | | | | | 2.614 | 5.103 |
| 0 and 7 | | | | | | | 2.497 | 4.969 |
| B-727—All other | [2] 2.889 | [2] 5.520 | 14.340 | 28.536 | 2.889 | 17.208 | | |
| Passengers-pallets: | | | | | | | | |
| 105 and 0 | | | | | | | 3.034 | 5.795 |
| 61 and 2 | | | | | | | 2.844 | 5.520 |
| 50 and 3 | | | | | | | 2.797 | 5.451 |
| 46 and 4 | | | | | | | 2.780 | 5.425 |
| 0 and 7 | | | | | | | 2.581 | 5.136 |

[1] Conversion charges for convertible flights or variable mixed flights shall be at the rate of $50 per seat changed on each segment.
[2] Also applies to CV-990 aircraft.

[4] Continental, ONA, Southern, and TIA submitted revisions to investment data reported on Form 243, Schedule D-1. ONA and TIA also furnished revisions to revenue and expense data previously reported on Schedule D-2. World modified certain maintenance expenses reported on Schedule D-2. The appendixes reflect these corrections.

[5] The joint carriers and World request that a detailed expedited review be initiated immediately. It is our expressed intent to commence a complete MAC rate review as soon as practical; and, toward that end, an information request is already in the final stages of preparation.

[6] However, we disagree with DOD's suggestion to eliminate these same carriers with respect to our FY 1973 analyses (based on results for fiscal year 1972 and the year ending December 31, 1972) since such carriers performed contract services for MAC during fiscal year 1973.

[4] Footnote 5, *supra*.

[4a] Filed as part of the original document.







V 38 170 SEP 4 73 XUM

(1) Performed with Turbine-Powered Aircraft (for the period June 13–Aug. 12, 1973)

| Aircraft type | Passengers, per passenger-mile | | Cargo, per ton-mile | | Convertible [1] | | Mixed passenger-cargo per revenue plane-mile [1] | |
|---|---|---|---|---|---|---|---|---|
| | Round trip | One way | Round trip | One way | Passenger leg, per passenger-mile | Cargo leg, per ton-mile | Round trip | One way |
| | *Cents* | *Cents* | *Cents* | *Cents* | *Cents* | *Cents* | *Dollars* | *Dollars* |
| Turboprops: | | | | | | | | |
| CL-44 | 2.00 | 3.60 | 9.36 | 17.19 | | | | |
| L-382/L-100-10/20/30 | | | 10.05 | 19.64 | | | | |
| Regular turbojets | 1.959 | 3.686 | 7.730 | 14.903 | 1.959 | 8.911 | | |
| Passengers-pallets: | | | | | | | | |
| 105 and 0 | | | | | | | 3.232 | 6.085 |
| 117 and 3 | | | | | | | 3.113 | 5.892 |
| 105 and 1 | | | | | | | 3.083 | 5.848 |
| 93 and 5 | | | | | | | 3.053 | 5.802 |
| 81 and 6 | | | | | | | 3.023 | 5.755 |
| 69 and 7 | | | | | | | 2.978 | 5.685 |
| 51 and 8 | | | | | | | 2.948 | 5.638 |
| 0 and 12 | | | | | | | 2.821 | 5.440 |
| DC-8F-61-63 | 1.959 | 3.686 | 7.730 | 14.903 | 1.959 | 8.911 | | |
| Passengers-pallets: | | | | | | | | |
| 210 and 0 | | | | | | | 4.290 | 8.072 |
| 150 and 5 | | | | | | | 4.068 | 7.698 |
| 65 and 12 | | | | | | | 3.719 | 7.112 |
| 47 and 13 | | | | | | | 3.653 | 7.009 |
| 0 and 18 | | | | | | | 3.479 | 6.706 |
| B-727-Pacific interisland | [2] 2.567 | [2] 4.902 | 13.531 | 26.934 | 2.567 | 16.241 | | |
| Passengers-pallets: | | | | | | | | |
| 105 and 0 | | | | | | | 2.695 | 5.147 |
| 61 and 2 | | | | | | | 2.587 | 5.022 |
| 50 and 3 | | | | | | | 2.560 | 4.990 |
| 46 and 4 | | | | | | | 2.550 | 4.979 |
| 0 and 7 | | | | | | | 2.436 | 4.848 |
| B-727-All other | [2] 2.819 | [2] 5.385 | 13.990 | 27.840 | 2.819 | 16.788 | | |
| Passengers-pallets: | | | | | | | | |
| 105 and 0 | | | | | | | 2.960 | 5.654 |
| 61 and 2 | | | | | | | 2.775 | 5.385 |
| 50 and 3 | | | | | | | 2.729 | 5.318 |
| 46 and 4 | | | | | | | 2.712 | 5.293 |
| 0 and 7 | | | | | | | 2.518 | 5.011 |

[1] Conversion charges for convertible flights or variable mixed flights shall be at the rate of $50 per seat changed on each segment.
[2] Also applies to CV-990 aircraft.

Amended Rates Effective Aug. 28, 1973

| Aircraft type | Passengers, per passenger-mile | | Cargo, per ton-mile | | Convertible [1] | | Mixed passenger-cargo per revenue plane-mile [1] | |
|---|---|---|---|---|---|---|---|---|
| | Round trip | One way | Round trip | One way | Passenger leg, per passenger-mile | Cargo leg, per ton-mile | Round trip | One way |
| | *Cents* | *Cents* | *Cents* | *Cents* | *Cents* | *Cents* | *Dollars* | *Dollars* |
| Turboprops | | | | | | | | |
| CL-44 | 2.00 | 3.60 | 9.36 | 17.19 | | | | |
| L-382/L-100-10/20/30 [2] | 2.042 | 3.842 | 10.05<br>8.057 | 19.64<br>15.534 | 2.042 | 9.288 | | |
| Regular turbojets | | | | | | | | |
| Passengers-pallets: | | | | | | | | |
| 165 and 0 | | | | | | | 3.369 | 6.339 |
| 117 and 3 | | | | | | | 3.245 | 6.145 |
| 105 and 1 | | | | | | | 3.214 | 6.096 |
| 93 and 5 | | | | | | | 3.182 | 6.048 |
| 81 and 6 | | | | | | | 3.151 | 5.999 |
| 69 and 7 | | | | | | | 3.104 | 5.926 |
| 51 and 8 | | | | | | | 3.073 | 5.877 |
| 0 and 12 | | | | | | | 2.940 | 5.670 |
| DC-8F-61/63 | [3] 2.042 | [3] 3.842 | [3] 8.057 | [3] 15.531 | [3] 2.042 | [3] 9.288 | | |
| Passengers-pallets: | | | | | | | | |
| 210 and 0 | | | | | | | 4.472 | 8.414 |
| 150 and 5 | | | | | | | 4.240 | 8.024 |
| 65 and 12 | | | | | | | 3.876 | 7.413 |
| 47 and 13 | | | | | | | 3.808 | 7.296 |
| 0 and 18 | | | | | | | 3.626 | 6.990 |
| B-727-Pacific interisland | [4] 2.720 | [4] 5.141 | 11.330 | 28.536 | 2.720 | 17.207 | | |
| Passengers-pallets: | | | | | | | | |
| 105 and 0 | | | | | | | 2.855 | 5.453 |
| 61 and 2 | | | | | | | 2.741 | 5.321 |
| 50 and 3 | | | | | | | 2.712 | 5.587 |
| 46 and 4 | | | | | | | 2.702 | 5.275 |
| 0 and 7 | | | | | | | 2.581 | 5.136 |
| B-727-All other | [4] 2.902 | [4] 5.513 | 14.102 | 28.659 | 2.902 | 17.382 | | |
| Passengers-pallets: | | | | | | | | |
| 105 and 0 | | | | | | | 3.047 | 5.820 |
| 61 and 2 | | | | | | | 2.857 | 5.513 |
| 50 and 3 | | | | | | | 2.809 | 5.475 |
| 46 and 4 | | | | | | | 2.792 | 5.449 |
| 0 and 7 | | | | | | | 2.592 | 5.158 |

[1] Conversion charges for convertible flights or variable mixed flights shall be at the rate of $50 per seat changed on each segment.
[2] The rates for L-100-10/20/30 aircraft in Pacific-interisland services shall be the same as for the B-727.
[3] Also applies to wide-bodied (B-747 and DC-10) aircraft.
[4] Also applies to CV-990 aircraft.





*Provided, however,* That, effective August 28, 1973, if the price of any fuel or petroleum product purchased from DOD for such services varies from the levels specified in the attached Appendix F[1a], the total minimum compensation for the transportation provided shall be adjusted (either upward or downward, as the case may be) by the difference in the price per gallon for such product paid by the carrier and the price specified for such product in the attached Appendix F[1a] times the number of U.S. gallons of such product purchased by the carrier from DOD for the transportation provided.

* * * * * *

(d) For Category A transportation:

(1) Passengers:

(i) For services performed between July 1, 1972, and June 12, 1973, and August 13, 1973 and August 28, 1973, 3.778 cents per passenger-mile.

(ii) For services performed between June 13, 1973 and August 12, 1973, 3.686 cents per passenger-mile.

(iii) For services performed on and after August 28, 1973, 3.842 cents per passenger-mile.

(2) Cargo:

(i) For services performed between July 1, 1972 and June 12, 1973, and August 13, 1973 and August 28, 1973, 15.276 cents per tone-mile.

(ii) For services performed between June 13, 1973 and August 12, 1973, 14.903 cents per passenger-mile.

(iii) For services performed on and after August 28, 1973, 15.534 cents per ton-mile.

2. Replace the table in § 288.8 (minimum aircraft loads) with the following:

| Aircraft type | Number of passengers, all-passenger and convertible flights | Tons of cargo | |
|---|---|---|---|
| | | All-cargo flights | Convertible flights |
| B-747 | 375 | 90 | 90 |
| DC-10-40 | 280 | | |
| DC-10-30 | 303 | 75 | 75 |
| DC-10-10 | 280 | 60 | 60 |
| B-707-320-B/C | 165 | 36.5 | 31.7 |
| B-707-300 series | 159 | | |
| B-707-138B | 137 | | |
| B-707-100 series (other) | 149 | | |
| DC-8F-61, -63 | 219 | 45 | 39.0 |
| DC-8-62 | 165 | 39.2 | |
| DC-8F | 165 | 36.5 | 31.7 |
| DC-8 (50 series) | 149 | | |
| DC-8 (other) | 147 | | |
| DC-9-30 | 95 | | |
| B-727 | 105 | 18 | 15.0 |
| CV-990 | 165 | | |
| CL-44 | 148 | 29.35 | |
| L-382 | | 20.7 | |
| L-100-10/20/30 | | 20.7 | |
| L-1649A | 95 | 18 | 15 |
| L-1049-C/E/G/H | 95 | 18 | 15 |
| DC-7B/C/CF/F | 95 | 18 | 15 |
| L-1049A | 88 | 15 | 12 |
| DC-7 | 88 | 15 | 12 |
| DC-6/A/B/C | 83 | 13 | 12 |
| DC-4 | 60 | 8 | 6 |

(Secs. 204, 403, and 416, Federal Aviation Act of 1958, as amended; 72 Stat. 743, 758, and 771, as amended (49 U.S.C. 1324, 1373, and 1386.))

By the Civil Aeronautics Board.

[SEAL] Edwin Z. Holland,
*Secretary.*

[FR Doc.73-18656 Filed 8-31-73;8:45 am]

## Title 14—Aeronautics and Space

## CHAPTER II—CIVIL AERONAUTICS BOARD

### SUBCHAPTER F—POLICY STATEMENTS

[Reg. PS-53; Amdt. 32]

### PART 399—STATEMENTS OF GENERAL POLICY

#### Category Z Individually Ticketed Military Transportation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C.

On June 5, 1973, by notice of proposed rulemaking EDR-249/PSDR-35 (38 FR 15368), the Board proposed, among other things, to amend Part 399, is Statements of General Policy, by changing the minimum rate for Category Z individually ticketed military transportation.

Comments in response to the Notice, filed by a number of interested persons, are discussed in ER-819, which amends Part 288 of the Economic Regulations and is being issued concurrently herewith. For the reasons set forth in ER-819, which are incorporated by reference herein, the Civil Aeronautics Board hereby amends Part 399, Statements of General Policy (14 CFR Part 399) effective August 28, 1973, as follows:

Amend § 399.16(b) to read as follows:

**§ 399.16 Military exemptions.**

* * * * *

(b) The minimum charges considered fair and reasonable for the transportation of Category Z individually ticketed passengers in foreign and overseas air transportation and in air transportation between the 48 contiguous States on the one hand and Hawaii or Alaska on the other, effective on and after August 28, 1973, will be 3.842 cents per passenger-mile, applied to the shortest mileage between the commercial air carrier points as set forth in the current IATA Mileage Manual to compute point-to-point passenger fares.

(Secs. 204, 403, and 416 of the Federal Aviation Act of 1958, as amended; 72 Stat. 743, 758 and 771, as amended; 49 U.S.C. 1324, 1373 and 1386.)

By the Civil Aeronautics Board.

[SEAL] Edwin Z. Holland,
*Secretary.*

[FR Doc.73-18657 Filed 8-31-73;8:45 am]

## Title 15—Commerce and Foreign Trade

## SUBTITLE A—OFFICE OF THE SECRETARY OF COMMERCE

### PART 8—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OF THE DEPARTMENT OF COMMERCE—EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

*Correction*

In FR Doc. 73-13283, appearing at page 17938 for the issue for Thursday, July 5, 1973, make the following corrections:

1. In the third line of § 8.4(c)(1) "which this part applies is to provide employment, a recipient", should be inserted just after "program to".

2. In the fifth line of § 8.5(a) "to" should be inserted just after "subject".

3. In the sixteenth line of § 8.5(a) the word now spelled "responsibile" should be spelled "responsible".

## CHAPTER III—DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION, DEPARTMENT OF COMMERCE

### SUBCHAPTER B—EXPORT REGULATIONS

[13th Gen. Rev., Export Regs., Amdt ]

### PART 376—SPECIAL COMMODITY POLICIES AND PROVISIONS

#### Agricultural Commodities, Reporting Requirements

U.S. exporters have been required to submit two different reporting forms on a weekly basis to show anticipated and actual export activity with respect to those agricultural commodities listed in Supplement No. 1 to Part 376 of the Export Control Regulations. The forms used are Form DIB-634P, which basically requires a listing of anticipated exports, and Form DIB-635P, which requires reports of actual exports and a reconciliation of changes from one week to the next in the anticipated export data reported on Form DIB-634P. The regulations are hereby amended to require regular weekly reporting only on Form 635P, and the filing instructions for both forms are amplified. Further, the regulations are amended to require with respect to anticipated exports of cotton, a special report to be filed, which will indicate the details of cotton export contracts.

I. *Changes in Reporting Requirements With Respect to Certain Agricultural Products.* (a) *Form 634P to be required quarterly.*—Regular weekly reporting shall, hereafter, be required only on Form 635P. Form 634P will continue to be used for the initial reporting of anticipated exports; and thereafter on the first Monday of each calendar quarter rather than weekly. Accordingly, reports of all subsequent anticipated and actual export activity shall be reported weekly on Form DIB-635P without the need to file concurrently a Form DIB-634P. Instructions for completing Form DIB-635P are set forth in § 376.3(a) of the regulations (as revised); the instructions for completing and filing both forms are amplified in new Supplement No. 2 to Part 376. Hereafter, after an initial Form DIB-634P has been filed by an exporter, subsequent Form DIB-634P's shall be filed only on the first Monday of October, January, April and July, showing the status of anticipated exports as of the close of business on the preceding Friday. The first such subsequent Form DIB-634P shall be due on October 1, 1973.

(b) *Special report required showing contract details with respect to anticipated exports of cotton (Form 649P).*[1]—In order to assist the Department of Commerce in monitoring on a current

[1] Form 649P will soon be available from all U.S. Department of Commerce District Offices and from the Office of Export Control (Attn: 547, U.S. Department of Commerce, Washington, D.C. 20230.



V 38 I 170 SEP 4 73 XUM

basis, the exports of and foreign demand for cotton, the regulations are revised to require each U.S. exporter to file, no later than September 10, 1973, a report on Form DIB–649P indicating the details of all orders for export of cotton which were unfilled or partially filled as of August 24, 1973, and, therefore, reportable pursuant to the reporting requirements established by the FEDERAL REGISTER issuance of July 9, 1973. The new information required to be reported on Form DIB–649P is specified in § 376.3(a)(3), as revised.

(c) *Change in unit of quantity for cotton reports.*—The reporting requirements are amended to require that anticipated exports of cotton, which previously were required to be reported in both pounds and running bales, be reported in running bales only, on Forms 649P, 634P, and 635P.

II. *Changes in deadlines for filing certain reports.*—The Office of Export Control is aware of the difficulty incurred by certain exporters in meeting the Monday filing deadline, as presently formulated. Accordingly, the regulations are hereby revised to facilitate timely filing through the use of new procedural options. Exporters who choose to deliver the required forms directly to the Office of Export Control may have those hand-carried to Room 1613, Main Department of Commerce Building, 14th and E Streets NW., Washington, D.C. After normal business hours, a receiving desk is maintained in the main lobby of the building on Mondays until 12 P.M. An exporter who does not find it feasible to insure delivery of a required report in the hands of the Office of Export Control by Monday, midnight, may avail himself of the following options in satisfaction of the Monday filing deadline:

A. Exporters using the mails are advised that the Department has opened a post office box to avoid delays in mail sorting. Accordingly, all reports which are mailed should be mailed to the Office of Export Control at the address shown below:

Office of Export Control, Post Office Box 7138, Ben Franklin Station, Washington, D.C. 20044

Those exporters located in cities served by the Guaranteed Overnight Express Mail Service are advised to inquire into this new service, recently established by the U.S. Postal Service.

B. Reports sent to the above post office box will be deemed to have been timely filed irrespective of whether these are in fact received by the Office of Export Control within the Monday deadline, but only if the reports are postmarked no later than midnight of the Friday preceding the Monday deadline and they are received by the Office of Export Control in the regular and usual course of the mail. The requirement of a Friday postmark refers to a postmark by the U.S. Postal Service. A date affixed by postal meter will not satisfy this requirement, nor will mere depositing in a postal letter box if the U.S. Postal Service does not actually affix a Friday postmark.

C. The report may (pursuant to the instructions of Item 3 of new Supplement No. 2 to Part 376) be transmitted to this Department by Telex or TWX before midnight on the required Monday; however, after such transmission, the actual forms must be physically received by the Office of Export Control in Washington, D.C., no later than the Wednesday following such Monday filing deadline. Exporters who choose to deliver the required forms directly may hand-carry these to the above-mentioned receiving desk in the main lobby of the Main Commerce Building, which is maintained until 10:00 P.M. on Wednesdays.

The need to obtain timely filed reports with which to collect accurate estimates of anticipated exports continues to be of paramount importance, and the Department of Commerce wishes to stress that in light of the aforementioned measures to alleviate filing difficulties, the deadlines for filing will be strictly enforced subject to the penalties provided in the Export Control Regulations.

Accordingly, the Export Control Regulations (15 CFR Part 376) are revised by amending § 376.3(a), by amending Supplement No. 1 to Part 376, and by adding a new Supplement No. 2 to such Part. These amended and added provisions read as follows:

§ 376.3 Agricultural commodities requiring reports.

(a) *Exports and anticipated exports of certain agricultural commodities.* (1) *Initial Report of Unfilled Orders.*—No later than the date shown in Column D of Supplement No. 1 to this Part 376, each U.S. exporter shall file a report of all anticipated export (as hereinafter defined) of more than $250 of each separate agricultural commodity listed in Supplement No. 1. Such report will provide the tonnage (in metric tons) of such anticipated exports as of the close of business on the date shown in Column C of Supplement No. 1, unless other unit of quantity is specified in Supplement No. 1. The commodities subject to the reporting requirement set forth herein shall be listed by the appropriate number in Schedule B, Statistical Classification of Domestic and Foreign Commodities Exported from the United States, U.S. Bureau of the Census, as set forth in Supplement No. 1, and in the cases of wheat and cotton also by the separate classes set forth in Supplement No. 1; by country of ultimate destination; and by month of scheduled or anticipated export. For optional sales, the report shall include that portion of the sale expected to be exported from the United States, or in the case of optional class or kind of commodity, the report shall include the particular class or kind of commodity expected to be exported. A separate report shall be filed on the appropriate Form DIB–634P (a) through (j) "Anticipated Exports" for each of the agricultural commodity groupings listed in Supplement No. 1. Form DIB–634P is promulgated in series (a) through (j) inclusive, so that each of the commodity groupings has its own particular form, designated by color coding. If there are no anticipated exports of any commodity grouping to report on the date shown in Column C of Supplement No. 1, the initial report shall be submitted no later than the Monday following the week in which orders or other commitments arise (or if such Monday is a National holiday, the first business day thereafter). After an initial report on Form DIB–634P (a) through (j) has been filed, a corresponding subsequent Form DIB–634P shall be filed on the first Monday of each subsequent October, January, April, and July (or the first business day following such a Monday, if it is a National holiday), showing the status of anticipated exports as of the close of business on the preceding Friday.

(2) *Subsequent reports.*—On the date indicated in Column E of Supplement No. 1 to this Part 376, and on each Monday thereafter (or on the first business day following such a Monday, if it is a National holiday), each U.S. exporter shall file a report on the appropriate Form DIB–635P (promulgated in series (a) through (j) to correspond with the Form DIB–634P series) which shall state as of the close of business on the preceding Friday all anticipated exports of more than $250 for each separate commodity set forth in such Supplement No. 1. Such report shall include a reconciliation of all changes from the prior report (if any), which will show in aggregate form: (i) all new anticipated exports of more than $250; (ii) all cancellations of, or changes in, orders previously reported; (iii) a breakdown indicating whether such cancelled orders were accepted on or before the date shown in Column C of Supplement No. 1, or accepted after such date; (iv) all exports made since the closing date of the prior report, whether or not such exports were made against reported or accepted orders; (v) a breakdown of exports indicating whether they were against orders accepted on or before the date shown in Column C of Supplement No. 1, or against orders accepted after that date; (vi) any changes in the quantities to be exported to particular countries; (vii) any changes in the month of scheduled or anticipated export; (viii) in the case of optional sales, any change in the particular class or kind of commodity expected to be exported from the U.S.; and (ix) in the case of anticipated exports for any commodity, month, or country that were not previously reported, an entry of zero (0) in Item 1 and the addition of the new information, as appropriate. Once an initial Form DIB–634P has been submitted, the appropriate Form DIB–635P shall be submitted each week with an itemization of the specific changes for the week being reported. The notation, "No Change," shall be entered as a summarization when the entire report or any column thereof is unchanged from the previous week. Where there are changes, even though these do not result in differences in the aggregates because they are offsetting, such changes shall be entered on the appropriate Form DIB–635P. Weekly reporting for any





commodity group may be discontinued only when anticipated shipments of that group have been reduced to zero, and shall be resumed whenever new anticipated exports occur (and at the time of such resumption, a Form DIB–634P shall be filed pursuant to the rules of subparagraph (1) of this paragraph, as if it were an initial report). If the date in Column C of Supplement No. 1 is different from that shown in the heading or any item of Form DIB–635P, the dates on the form shall be corrected accordingly.

(3) *Report of contract details with respect to anticipated exports of cotton.*—Each U.S. exporter shall, on or before September 10, 1973, file a report indicating the details of all orders for export of more than $250 of each separate raw cotton commodity listed in Group X of Supplement No. 1 to this Part 376, which were unfilled or partially filled as of August 24, 1973. Such report shall be filed on Form DIB–649P and shall indicate for each such order: (i) the exporter's contract identification number and the delivery dates; (ii) the date the contract was entered into; (iii) the name of the foreign buyer, (iv) foreign destination, (v) U.S. shipping point and delivery terms; (vi) the exporter's suppliers; (vii) total quantity under contract, (viii) quantity shipped on or before August 24, (ix) quantity thereafter remaining unshipped. All quantities shall be expressed in running bales and broken-down in accordance with the respective amounts corresponding to the commodity descriptions in Group X of Supplement No. 1.

(4) *Reporting requirements.* (i) *Manner of reporting.*—All reports required under this Part 376 must be filed in an original and one copy with the Office of Export Control. Except as provided in this subdivision, such reports shall be deemed filed only when actually received by the Office of Export Control. Reports sent by mail must be addressed to Post Office Box 7138, Ben Franklin Station, Washington, D.C. 20044, and will be deemed to have been timely filed irrespective of whether these are in fact received by the Office of Export Control within the Monday deadline, but only if the reports are postmarked by the U.S. Postal Service no later than midnight of the Friday preceding the Monday deadline and they are received by the Office of Export Control in the regular and usual course of the mail. Additionally, reports on Form DIB–635P may be filed by Telex or TWX no later than the Monday following the week covering the report, pursuant to the guidelines set forth in Item No. 3 to Supplement No. 2 of this Part, but only if the actual forms, marked "Confirmation of Telex (or if appropriate, TWX) Report" across the top, are received by the Office of Export Control in Washington, D.C. no later than the first Wednesday following the week being reported.

(ii) *Date of export.*—For purposes of § 376.3 only, a commodity shall be considered as scheduled for export on the date the exporting carrier is expected to depart from the United States.

(iii) *Corrections.*—If, because of a carrier's earlier or delayed departure or for other reasons, data reported pursuant to (ii) above are found to have been incorrect, such facts shall be set forth on the appropriate Form DIB–635P, (a) through (j).

(iv) *Who shall file reports.*—For purposes of § 376.3 only, in order to prevent duplication as well as to insure complete and accurate coverage or pending orders and shipments, the exporter as the principal party in interest in the export transaction will have the sole responsibility of reporting any and all information even though there may also be a U.S. order party involved. The exporter will have the sole responsibility of reporting the anticipated exports whether the exporter employs a freight forwarder to handle the shipping of the material or delivers the material to a carrier for export out of the country.

(v) *"Anticipated exports."*—The term "anticipated exports" as used herein and in the reporting forms means exports expected that are based upon accepted

SUPPLEMENT NO. 1 --

AGRICULTURAL COMMODITIES SUBJECT TO MONITORING

| A. Schedule B Number | B. Commodity Description | C. Report Unfilled Orders as of: | D. Initial Report Due By: | E. Subsequent Reports Beginning: |
|---|---|---|---|---|
| | *GROUP I—WHEAT* | | | |
| 041.0020 | Wheat—Hard red winter | June 13, 1973 | June 20, 1973 | June 25, 1973 |
| 041.0020 | Wheat—Soft red winter | June 13, 1973 | June 20, 1973 | June 25, 1973 |
| 041.0020 | Wheat—Hard red spring | June 13, 1973 | June 20, 1973 | June 25, 1973 |
| 041.0020 | Wheat—White | June 13, 1973 | June 20, 1973 | June 25, 1973 |
| 041.0020 | Wheat—Durum | June 13, 1973 | June 20, 1973 | June 25, 1973 |
| | *GROUP II—RICE* | | | |
| 042.1010 | Rice in the husk, unmilled | June 13, 1973 | June 20, 1973 | June 25, 1973 |
| 042.1030 | Rice, husked, long grain | June 13, 1973 | June 20, 1973 | June 25, 1973 |
| 042.1040 | Rice, husked, medium grain | June 13, 1973 | June 20, 1973 | June 25, 1973 |
| 042.1050 | Rice, husked, short grain | June 13, 1973 | June 20, 1973 | June 25, 1973 |
| 042.1060 | Rice, husked, mixed | June 13, 1973 | June 20, 1973 | June 25, 1973 |
| 042.2022 | Rice, parboiled, long grain | June 13, 1973 | June 20, 1973 | June 25, 1973 |
| 042.2024 | Rice, parboiled, medium grain | June 13, 1973 | June 20, 1973 | June 25, 1973 |
| 042.2026 | Rice, parboiled, short grain | June 13, 1973 | June 20, 1973 | June 25, 1973 |
| 042.2028 | Rice, parboiled, mixed grain | June 13, 1973 | June 20, 1973 | June 25, 1973 |
| 042.2030 | Rice, milled, containing 75% or more broken kernels | June 13, 1973 | June 20, 1973 | June 25, 1973 |
| 042.2050 | Rice, milled, long grain, containing less than 75% broken kernels | June 13, 1973 | June 20, 1973 | June 25, 1973 |
| 042.2060 | Rice, milled, medium grain, containing less than 75% broken kernels | June 13, 1973 | June 20, 1973 | June 25, 1973 |
| 042.2070 | Rice, milled, short grain, containing less than 75% broken kernels | June 13, 1973 | June 20, 1973 | June 25, 1973 |
| 042.2080 | Rice, milled, mixed grain, containing less than 75% broken kernels | June 13, 1973 | June 20, 1973 | June 25, 1973 |
| | *GROUP III—BARLEY* | | | |
| 043.0020 | Barley, unmilled | June 13, 1973 | June 20, 1973 | June 25, 1973 |
| | *GROUP IV—CORN* | | | |
| 044.0020 | Corn, except seed, unmilled | June 13, 1973 | June 20, 1973 | June 25, 1973 |
| | *GROUP V—RYE* | | | |
| 045.1000 | Rye, unmilled | June 13, 1973 | June 20, 1973 | June 25, 1973 |
| | *GROUP VI—OATS* | | | |
| 045.2000 | Oats, unmilled | June 13, 1973 | June 20, 1973 | June 25, 1973 |
| | *GROUP VII—GRAIN SORGHUMS* | | | |
| 045.9015 | Grain sorghums, unmilled | June 13, 1973 | June 20, 1973 | June 25, 1973 |
| | *GROUP VIII—SOYBEAN AND SOYBEAN PRODUCTS* | | | |
| 081.3030 | Soybean oil-cake and meal | June 13, 1973 | June 20, 1973 | June 25, 1973 |
| 221.4000 | Soybeans | June 13, 1973 | June 20, 1973 | June 25, 1973 |
| 421.2010 | Soybean oil, crude, including degummed | June 27, 1973 (5 PM EDT) | July 2, 1973 | July 9, 1973 |
| 421.2020 | Soybean oil, once refined | June 27, 1973 (5 PM EDT) | July 2, 1973 | July 9, 1973 |
| 421.2040 | Soybean salad oil, refined and further processed by bleaching, deodorizing, or winterizing | June 27, 1973 (5 PM EDT) | July 2, 1973 | July 9, 1973 |



V 38 I 170
SEP 4 73
XUM

orders that are unfilled in whole or in part or upon other firm arrangements, such as exports for the exporter's own account on the basis of an order from the exporter's foreign affiliate or agent. It does not include merely hoped for orders or volume commitments without fixed price or fixed basis for price.

AGRICULTURAL COMMODITIES SUBJECT TO MONITORING—*Continued*

| A. Schedule B Number | B. Commodity Description | C. Report Unfilled Orders as of: | D. Initial Report Due By: | E. Subsequent Reports Beginning: |
|---|---|---|---|---|
| 431.2010 | Soybean oil, hydrogenated | June 27, 1973 (5 PM EDT) | July 2, 1973 | July 9, 1973 |
| 421.2030 | Fats and oils, hydrogenated *the following only:* Cottonseed and soybean oil mixture | June 27, 1973 (5 PM EDT) | July 2, 1973 | July 9, 1973 |
| | *GROUP IX—COTTONSEED AND COTTONSEED PRODUCTS* | | | |
| 431.2020 | Cottonseed oil—cake and meal | June 13, 1973 | June 20, 1973 | June 25, 1973 |
| 221.6000 | Cottonseed | June 13, 1973 | June 20, 1973 | June 25, 1973 |
| 421.2010 | Cottonseed oil, crude | June 27, 1973 (5 PM EDT) | July 2, 1973 | July 9, 1973 |
| 421.2020 | Cottonseed oil, once refined | June 27, 1973 (5 PM EDT) | July 2, 1973 | July 9, 1973 |
| 421.2040 | Cottonseed salad oil, refined and further processed by bleaching, deodorizing, or winterizing | June 27, 1973 (5 PM EDT) | July 2, 1973 | July 9, 1973 |
| 431.2020 | Cottonseed oil, hydrogenated | June 27, 1973 (5 PM EDT) | July 2, 1973 | July 9, 1973 |
| | *GROUP X—OTHER AGRICULTURAL COMMODITIES* | | | |
| 263.1011 | American—Egyptian and Sea Island domestic raw cotton (Report *IN* running bales (Rba)) | July 5, 1973 | July 13, 1973 | July 16, 1973 |
| 263.1021 | Upland domestic raw cotton, staple length 1⅛ inches and over (U.S. official standard) (Report *IN* running bales (Rba)) | July 5, 1973 | July 13, 1973 | July 16, 1973 |
| 263.1031 | Upland domestic raw cotton staple length 1 inch (U.S. official standard) (Report *IN* running bales (Rba)) | July 5, 1973 | July 13, 1973 | July 16, 1973 |
| 263.1031 | Upland domestic raw cotton, staple length 1⅛ inches (U.S. official standard) (Report *IN* running bales (Rba)) | July 5, 1973 | July 13, 1973 | July 16, 1973 |
| 263.1031 | Upland domestic raw cotton, staple length 1⅛ up to 1⅛ inches (U.S. official standard) (Report *IN* running bales (Rba)) | July 5, 1973 | July 13, 1973 | July 16, 1973 |
| 263.1041 | Upland domestic raw cotton, staple length under 1 inch. (U.S. official standard) (Report *IN* running bales (Rba)) | July 5, 1973 | July 13, 1973 | July 16, 1973 |
| 263.1051 | Raw cotton, foreign, reexported (identify by staple length and country of origin) (Report *IN* running bales (Rba)) | July 5, 1973 | July 13, 1973 | July 16, 1973 |
| 263.2020 | Cotton card strips (report in pounds (Lb.)) | July 5, 1973 | July 13, 1973 | July 16, 1973 |
| 263.3020 | Cotton comber waste (report in pounds (Lb.)) | July 5, 1973 | July 13, 1973 | July 16, 1973 |
| 263.4020 | Cotton, carded or combed (laps, sliver, and roving) (report in pounds (lb.)) | July 5, 1973 | July 13, 1973 | July 16, 1973 |

SUPPLEMENT NO. 2—GUIDELINES FOR COMPLETING REPORTS FOR AGRICULTURAL COMMODITIES

1. *Forms to be submitted.*—Initially, the appropriate Form DIB–634P must be submitted for orders received by close of business on Friday of the first reporting week. Subsequently, changes as of the close of business on each successive Friday are to be submitted on Form DIB–635P.

2. *Due dates.* Except as noted in Item 3 below, all weekly reports must be received by the Office of Export Control (U.S. Department of Commerce), in Washington, D.C., no later than Monday of the following week. If Monday is a National holiday, the reports must be received on the first business day thereafter. In the case of reports that are filed by Telex or TWX (see item 3(d) below), the Forms DIB–635P must be received no later than Wednesday of that week.

3. *Filing procedure.*—a. Reports shall be mailed to:

Office of Export Control, P.O. Box 7138, Ben Franklin Station, Washington, D.C. 20044.

Office of Export Control personnel will collect mail directly from the P.O. Box, thus eliminating several steps in the delivery process.

b. A Guaranteed Overnight Express Mail Service is available at designated post offices in major cities whereby reports deposited before 5:00 PM at the Express Mail Window will be guaranteed delivery in Washington, D.C. by 10:00 AM the following business day. Exporters who desire to use this service should address their report package as follows:

Benjamin Franklin Station, 12th & Pennsylvania Avenue NW., Washington, D.C. 20044.

Hold for: Office of Export Control.

Office of Export Control personnel will collect such mail directly from the post office on the first business day of each week. Saturday service is available in 29 of the participating cities, guaranteeing delivery by 10:00 AM on Monday. Exporters should contact the central Post Office in their city to determine whether this service is available.

c. If desired, reports may be hand-carried to Room 1613, Main Department of Commerce Building, 14th and E Streets, N.W., Washington, D.C., during normal business hours; and thereafter, to an office maintained adjacent to the main lobby of such building.

d. In addition, reports will be accepted by Telex (892536) or TWX (710–822–0181) until midnight on Monday, with signed reports on Form DIB–635P to follow no later than the following Wednesday. Exporters using this system are reminded that Commerce Department facilities are available to receive messages throughout the weekend. By sending early, possible congestion can be avoided on Mondays. To be acceptable, reports transmitted by Telex or TWX must conform strictly to the format of the Form DIB–635P. The Telex or TWX shall be addressed to the Office of Export Control and be headed "DIB–635P for week ending Friday (date) ." Following the name and address of the reporting exporter, the commodity group of the first group to be reported shall be identified (Group I through X, as appropriated). Then each column of the Form DIB–635P shall be enumerated separately, headed by the country, class or Schedule B No., and month; and also in the case of Group X commodities only, the community description. Each numbered line item on the form shall then be identified by number, in order, with each entry on a separate line, and the quantity relevant to that column inserted following each number (e.g., if 20,000 metric tons are being reported under Item 1, "Quantity on previous report," the Telex or TWX shall show "Item 1. 20,000"). Where no change has occurred in any column, the country, class or Schedule B No., and month shall nevertheless be listed, followed by the notation, "No Change". Where changes have occurred in some, but not all, of the line items in a column, only line items 1 and 10 and those line items reflecting actual change need be shown. If a line item has not changed, the line item number may be omitted from the Telex or TWX. After all columns on a report for one commodity group have been listed, the group number of the next commodity group shall be inserted and the applicable columns for that group listed in turn. When all of the exporter's reports have been entered on the wire, it should close with a certification and the name and title of the signer. The certification shall read: "I certify that the information reported in this Telex (or if appropriate, TWX) is an accurate statement of all exports, new, changed or cancelled orders, changes in destination, changes in anticipated date of export, and reconciliation of anticipated export report data."

Reports so submitted must be followed by the appropriate signed Forms DIB–635P and be received by the Office of Export Control no later than Wednesday of the week following the week being reported. These reports must be prominently marked across the top of each sheet "Confirmation of Telex (or if appropriate, TWX) Report." The information on the wire must be in strict conformity with that on the confirming Form DIB–635P. (Note: If reports are not submitted by Telex or TWX, the actual Forms DIB–635P *must* be received in the Department of Commerce no later than Monday, or mailed by the preceding Friday, pursuant to the rules of (e) below.)

e. The filing requirements will be satisfied if the reports are mailed to the Office of Export Control, Post Office Box 7138, Ben Franklin Station, Washington, D.C. 20044, but only if the reports are postmarked by the U.S. Postal Service no later than midnight of the Friday preceding the Monday deadline and they are received by the Office of Export Control in the regular, and usual course of the mail.

4. *Which version of forms to complete.*—An exporter should complete forms on only those products or commodity groups that he exports. In other words, if an exporter exports only rice, he should not submit reports on the other nine commodity groupings.

5. *Continuing nature of reporting.*—Once an anticipated shipment for a commodity grouping has been reported, a weekly Form DIB–635P indicating a change in status or no change in status must continue to be submitted. An exporter may discontinue reporting for a commodity group previously reported only when his actual exports and other reported changes have reduced his anticipated shipment figure to zero. It is important that the exporter report his zero balance prior to discontinuing reporting on that commodity group.

6. *Closing out balance at end of month.*—Anticipated shipments for any commodity reported for a specific month should be closed out at the end of that month, and the balance of unshipped exports should be carried forward to the following month. For example, if an exporter has reported anticipated shipments of wheat in the amount of 10,000 M/T for the month of June, and his actual exports for that month are only 5,000 M/T, his balance will be 5,000 M/T of unshipped wheat, assuming the order covering the unshipped balance has not been cancelled. This balance should be transferred to anticipated shipments for the month of July. The figures for the month of June should be adjusted to reflect a zero balance. The same procedure would then be followed at the end of each successive month.

7. *Reporting of errors.*—Occasionally an exporter may discover an error in previously submitted reports. Rather than to continue this error for successive reporting weeks, the adjustment shall be made for the reporting period during which the error is discovered. Such adjustment shall be made in Item 9 of the appropriate Form DIB–635P and shall be accompanied by a complete explanation of such reporting error.

8. *Reporting of multiple sales.*—In the case of multiple sales where a company may sell a certain lot of grain or other agricultural commodity to a foreign firm and another company may purchase the same lot of grain or other agricultural commodity from the foreign firm, the following reporting procedure shall be adhered to: Each sale to a foreign firm should be reported as an export or plus (+) transaction, while each purchase of a U.S. origin commodity by a reporting firm from a foreign firm should be entered as an import or minus (−) transaction. Figures in the latter case should be subtracted from what would otherwise be the total in the box applicable to the particular country and for the month of anticipated export that was specified when the commodity was first sold to the foreign firm. If a negative balance is obtained in a particular month for a particular country, this result should be indicated clearly by a negative sign. If the commodity purchased from a foreign firm is later sold for export by the purchasing company, it should then be reported as an export or plus (+) transaction.

9. *Reporting anticipated exports to an unknown destination.*—When a sales contract does not specify a country of destination for an anticipated export, the commodity information shall be reported by entering it in one of the country columns which shall be labeled "Country Unknown." When the actual country of destination is determined, the subsequent report shall revise this information.

10. *Specific instructions for completing Form DIB–635P.*—a. Any change in the anticipated exports of a commodity previously reported must be reflected on the appropriate weekly Form DIB–635P.

b. Anticipated exports for any commodity, month, or country not previously reported will be submitted on the appropriate Form DIB–635P by showing in Item 1 (quantity on previous report) a balance of 0 and then adding the new information necessary.

c. Only those commodities that have specific changes for the reporting week need to be itemized. All other commodities can be summarized with a notation, "No Change". For example, if an exporter is reporting 10 separate anticipated exports of wheat and only two of these shipments show any change of status for a given week, he will itemize only the two changes. He will then indicate on the form that there is no change for the remaining eight anticipated exports.

d. Any commodity group previously reported on which there is still an outstanding (unshipped) balance of anticipated exports must be covered by a Form DIB–635P even if there is no change for any item within that group. This can be done simply by taking a single Form DIB–635P for the group in question and inserting "No Change" on the face of the form.

e. Quantities should be reported to the nearest whole unit. Do not use fractions or decimals.

f. Should a company's weekly report on Form DIB–635P require more than one page for any commodity grouping, it is not necessary for the exporter to type his complete address on each continuation sheet. The company name, however, should appear on each form.

NOTICE

There have been significant delays in filing of reports. These reports provide a data base for accurate and timely analysis of foreign orders and shipments. Delays in receipt of reports are serious in that they impair the accuracy of the statistics. It is imperative that weekly reports be received in the Department of Commerce, Washington, D.C., no later than Monday of the week following the week being reported (unless postmarked no later than midnight of the preceding Friday and received in the regular course of the mail), or received no later than Wednesday for those reports filed by Telex or TWX in accordance with the provisions of Item 3 of this Supplement.

Effective date of action August 29, 1973.

RAUER H. MEYER,
*Director,*
*Office of Export Control.*

[FR Doc.73–18705 Filed 8–30–73;4:19 pm]

## Title 30—Mineral Resources

### CHAPTER I—BUREAU OF MINES, DEPARTMENT OF THE INTERIOR

### SUBCHAPTER N—METAL AND NONMETALLIC MINE SAFETY

### PART 57—HEALTH AND SAFETY STANDARDS; METAL AND NONMETALLIC UNDERGROUND MINES

### Miscellaneous Amendments

*Correction*

In FR Doc. 73–18235, appearing at page 23381 in the issue of Wednesday, August 29, 1973, in § 57.4, standard 57.4–74, substitute the word "evacuation" for the word "evaluation" wherever it appears; and on page 23382 in numbered paragraphs 1 and 2 near the top of the middle column, the effective dates, reading "August 29, 1978" should read "August 29, 1973".

## Title 40—Protection of Environment

### CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

### SUBCHAPTER E—PESTICIDE PROGRAMS

### PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

### O,O-Diethyl O-(2-Isopropyl-6-Methyl-4-Pyrimidinyl)Phosphorothioate

A petition (PP 3F1415) was filed by Ciba-Geigy Corp., Ardsley, N.Y. 10502, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of a tolerance for negligible residues of the insecticide *O,O*-Diethyl *O*-(2 - isopropyl - 6 - methyl-4-pyrimidinyl) phosphorothioate in or on the raw agricultural commodities guar beans and forage at 0.1 part per million.

In the FEDERAL REGISTER of February 28, 1969 (34 FR 2623), an order was published establishing tolerances for residues of the subject insecticide in or on lespedeza at 1 part per million; dandelions and mustard greens at 0.75 part per million; almonds, filberts, pecans, and walnuts at 0.5 part per million; cottonseed at 0.2 part per million; and cowpea forage, cowpeas, potatoes, soybean forage, soybeans, and sweetpotatoes at 0.1 part per million. These tolerances were not published in the Code of Federal Regulations and thus are republished in this order.

Based on consideration given the data submitted in the petition and other relevant material, it is concluded that:

1. The insecticide is useful for the purpose for which the tolerance is being established.

2. There is no reasonable expectation of residues in eggs, meat, milk, or poultry, and § 180.6(a)(3) applies.

3. The tolerance established by this order will protect the public health.

4. The appropriate chemical name for the subject insecticide should be *O,O*-diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 F.R. 9038), § 180.153 is amended by revising the heading, introductory sentence, and paragraphs "1 part per million • • •", "0.75 part per million in or on apples • • •", "0.2 part per million • • •", and "0.1 part per million • • •", and adding the two new paragraphs "0.5 part per million • • •" and "0.1 part per million (negligible residue) • • •", as follows:

§ 180.153 *O,O*-Diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate; tolerances for residues.

Tolerances for residues of the insecticide *O,O*-diethyl *O*-(2-isopropyl-6-methyl-4-pyrimidinyl) phosphorothioate in or on raw agricultural commodities are established as follows:

• • • • • •

1 part per mission in or on lespedeza and olives.

0.75 part per million in or on apples, apricots, beans (snaps), beet roots, beet tops, blackberries, blueberries, boysenberries, broccoli, brussels sprouts, cabbage, carrots, cauliflower, celery, cherries, citrus, collards, corn (kernels and cob with husks removed), cranberries, cucumbers, dandelions, dewberries, en-



V 38 - 170 SEP 4 73 XUM

dive (escarole), figs, grapes, hops, kale, lettuce, lima beans, loganberries, melons, mustard greens, nectarines, onions, parsley, parsnips, peaches, peanuts, pears, peas with pods (determined on peas after removing any shell present when marketed), peppers, pineapples, plums (fresh prunes), radishes, raspberries, sorghum grain, spinach, strawberries, sugar beet roots, sugarcane, summer squash, Swiss chard, tomatoes, turnip roots, turnip tops, watercress, and winter squash.

* * * * *

0.5 part per million in or on almonds, filberts, pecans, and walnuts.

0.2 part per million in or on bananas (of which not more than 0.1 part per million shall be present in the pulp after peel is removed) and cottonseed.

0.1 part per million in or on cowpea forage, cowpeas, potatoes, soybean forage, soybeans and sweetpotatoes.

0.1 part per million (negligible residue) in or on guar beans and forage.

Any person who will be adversely affected by the foregoing order may at any time on or before October 4, 1973, file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th and M Streets SW., Waterside Mall, Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

*Effective date.*—This order shall become effective on September 4, 1973.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

Dated: August 28, 1973.

HENRY J. KORP,
*Deputy Assistant Administrator for Pesticide Programs.*

[FR Doc.73-18626 Filed 8-31-73;8:45 am]

## Title 41—Public Contracts and Property Management

## CHAPTER 1—FEDERAL PROCUREMENT REGULATIONS

[FPR Amdt. 116]

## PART 1-9—PATENTS, DATA, AND COPYRIGHTS

### Allocation of Rights in Inventions

This amendment of the Federal Procurement Regulations prescribes policies, procedures, and appropriate contract clauses concerning the allocation of rights in inventions, which enable the Government agencies not otherwise subject to statute to implement the President's Statement of Government Patent Policy (36 FR 16887, August 26, 1971). The attention of interested parties is particularly directed to the paragraph entitled "Comments by interested parties invited" which follows the regulation.

The table of parts of Chapter 1 is amended to add the following entry: 1-9 Patents, data, and copyrights.

Chapter 1 is amended by adding new Part 1-9 as follows:

### Subpart 1-9.1—Patents

Sec.

| | |
|---|---|
| 1-9.100 | Scope of subpart. |
| 1-9.101 | [Reserved] |
| 1-9.102 | [Reserved] |
| 1-9.103 | [Reserved] |
| 1-9.104 | [Reserved] |
| 1-9.105 | [Reserved] |
| 1-9.106 | [Reserved] |
| 1-9.107 | Patent rights under contracts for research and development. |
| 1-9.107-1 | General. |
| 1-9.107-2 | [Reserved] |
| 1-9.107-3 | Policy. |
| 1-9.107-4 | Procedures. |
| 1-9.107-5 | Clauses for domestic contracts (long form). |
| 1-9.107-6 | Clauses for domestic contracts (short form). |
| 1-9.107-7 | Clauses for foreign contracts. |
| 1-9.106 | [Reserved] |
| 1-9.109 | Administration of Patent Rights clause. |
| 1-9.109-1 | [Reserved] |
| 1-9.109-2 | [Reserved] |
| 1-9.109-3 | [Reserved] |
| 1-9.109-4 | [Reserved] |
| 1-9.109-5 | [Reserved] |
| 1-9.109-6 | Greater rights determinations. |

AUTHORITY: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

### Subpart 1-9.1—Patents

**§ 1-9.100 Scope of subpart.**

This subpart sets forth policies, procedures, and contract clauses with respect to inventions made in the course of or under a contract or subcontract entered into with or for the benefit of the Government where a purpose is the conduct of experimental, developmental, or research work. The policy, procedures, and contract clauses may also be used in grants, agreements, and other arrangements as agencies deem appropriate.

**§§ 1-9.101—1-9.106 [Reserved]**

**§ 1-9.107 Patent rights under contracts for research and development.**

**§ 1-9.107-1 General.**

(a) *Introduction.* On August 23, 1971, the President issued a Statement of Government Patent Policy (36 FR 16887, August 26, 1971) applicable to all executive departments and agencies, revising a prior Statement of Policy (28 FR 10943, October 12, 1963). Essentially, the goals of this Statement are to provide criteria for determining the allocation of rights in inventions resulting from federally sponsored research and development contracts, to promote their expeditious development so that the public can benefit from early civilian use of the inventions, and to ensure their continued availability. In applying this regulation, agency heads must weigh both the need for incentives to draw forth private initiatives, and the need to promote healthy competition in industry. Within prescribed limits, the Statement gives agency heads greater latitude to allocate to contractors such additional rights to Government-sponsored inventions as are deemed necessary to encourage commercial use of the invention, or where equitable circumstances would justify such allocation of rights. Consistent with the FPR system, agencies may implement and supplement this subpart.

(b) *Applicable statutes.*—Except to the extent that agencies are governed by specific statutes or by any treaty or agreement between the United States and any foreign country that are inconsistent with this subpart, agencies shall follow the provisions of this subpart, including the use of the prescribed clauses. Modifications to the prescribed clauses are permissible to the extent that these clauses are inconsistent with the requirements of statutes, treaties, or agreements.

(c) *Co-sponsored, cost-sharing, or joint-venture research.* The provisions of this subpart are not mandatorily applicable to co-sponsored, cost-sharing, or joint-venture research when the agency determines that in the course of the work under the contract the contractor will be required to make a substantial contribution of funds, facilities, or equipment to the principal purpose of the contract.

**§ 1-9.107-2 [Reserved]**

**§ 1-9.107-3 Policy.**

(a) The Government shall normally acquire or reserve the right to acquire the principal or exclusive rights throughout the world in and to any inventions made in the course of or under a contract where:

(1) A principal purpose of the contract is to create, develop, or improve products, processes, or methods which are intended for commercial use (or which are otherwise intended to be made available for use) by the general public at home or abroad, or which will be required for such use by governmental regulations; or

(2) A principal purpose of the contract is for exploration into fields which directly concern the public health, public safety, or public welfare; or

(3) The contract is in a field of science or technology in which there has been little significant experience outside of work funded by the Government, or where the Government has been the principal developer of the field, and the acquisition of exclusive rights at the time of contracting might confer on the contractor a preferred or dominant position; or

(4) The services of the contractor are:

(i) For the operation of a Government-owned research or production facility; or

(ii) For coordinating and directing the work of others. In exceptional circumstances the contractor may acquire greater rights than a nonexclusive license at the time of contracting where the head of the department or agency certifies that such action will best serve the public interest. Greater rights may also be acquired by the contractor after the invention has been identified where the head of the department or agency determines that the acquisition of such greater rights is consistent with the intent of this paragraph (a) and is either a necessary incentive to call forth private risk capital and expense to bring the invention to the point of practical application or that the Government's contribution to the invention is small compared to that of the contractor. Where an identified invention made in the course of or under the contract is not a primary object of the contract, greater rights may also be acquired by the contractor under the criteria of (c), below.

(b) In other situations, where the purpose of the contract is to build upon existing knowledge or technology to develop information, products, processes, or methods for use by the Government, and the work called for by the contract is in a field of technology in which the contractor has acquired technical competence (demonstrated by factors such as know-how, experience, and patent position) directly related to an area in which the contractor has an established nongovernmental commercial position, the contractor shall normally acquire the principal or exclusive rights throughout the world in and to any resulting inventions.

(c) Where the commercial interests of the contractor are not sufficiently established to be covered by the criteria specified in (b), above, the determination of rights shall be made by the agency after the invention has been identified, in a manner deemed most likely to serve the public interest as expressed in this policy, taking particularly into account the intentions of the contractor to bring the invention to a point of commercial application and the guidelines of (a), above, provided that the agency may prescribe by regulation special situations where the public interest in the availability of the inventions would best be served by permitting the contractor to acquire at the time of contracting greater rights than a nonexclusive license.

(d) In the situations specified in (b) and (c) of this § 1-9.107-3, when two or more potential contractors are judged to have presented proposals of equivalent merit, willingness to grant the Government principal or exclusive rights in resulting inventions will be an additional factor in the evaluation of the proposals. In no event will contractors be asked to state their willingness to grant the Government principal or exclusive patent rights prior to a determination that proposals of equivalent merit have been presented.

(e) Whenever the principal or exclusive rights in an invention remain in the contractor, the Government shall normally acquire:

(1) At least a nonexclusive, nontransferable, paid-up license to make, use, and sell the invention throughout the world by or on behalf of the Government of the United States (including any Government agency) and States and domestic municipal governments, unless the agency head or his designee determines that it would not be in the public interest to acquire the license for the States and domestic municipal governments; and

(2) The right to sublicense any foreign government pursuant to any existing or future treaty or agreement if the agency head or his designee determines it would be in the national interest to acquire the right; and

(3) The principal or exclusive rights to the invention in any country in which the contractor does not elect to secure a patent.

(f) Whenever the principal or exclusive rights in an invention are acquired by the Government, there may be reserved to the contractor a revocable or irrevocable, nonexclusive, royalty-free license for the practice of the invention throughout the world; an agency may reserve the right to revoke such license so that it might grant an exclusive license when it determines that some degree of exclusivity may be necessary to encourage further development and commercialization of the invention. Where the Government has a right to acquire the principal or exclusive rights to an invention and does not elect to secure a patent in a foreign country, the Government may permit the contractor to acquire such rights in any foreign country in which he elects to secure a patent, subject to the Government's rights set forth in (e) of this § 1-9.107-3.

(g) Nothing in this subpart shall be construed to confer upon any person any immunity from the antitrust laws or from a charge of patent misuse, and the acquisition and use of rights pursuant to this subpart shall not be immunized from the operation of State or Federal law by reason of the source of the grant of such rights.

**§ 1-9.107-4 Procedures.**

(a) *Selection of Patent Rights clause.*—(1) Whenever a contract which is to be performed in the United States, its possessions, or Puerto Rico has as a purpose the conduct of experimental, developmental, or research work, the agency shall apply the policy in § 1-9.107-3 to the contracting situation and shall include in the contract a Patent Rights clause from § 1-9.107-5 or § 1-9.107-6. The clauses in § 1-9.107-5 shall be used as appropriate in contracts with industrial concerns or in contracts with nonprofit organizations calling for developmental work. The clauses specified in § 1-9.107-5 or § 1-9.107-6 may be used in contracts calling for basic or applied research with nonprofit organizations. Solicitations shall provide offerors with an opportunity to show that the selected clause proposed for a contract is inappropriate for a particular procurement situation.

(2) The Patent Rights clause in § 1-9.107-5(a), except as otherwise provided in § 1-9.107-6(a), shall be used whenever the agency determines that the experimental, developmental, or research work to be performed under the contract falls within § 1-9.107-3(a). This clause provides the Government with the right to acquire title to inventions made in the course of or under the contract subject to the reservation of nonexclusive license rights to the contractor. The contractor may retain greater rights than a nonexclusive license after an invention has been identified if the agency determines that the criteria of § 1-9.109-6 are met. When the agency head or his duly authorized designee determines that exceptional circumstances exist as provided for in § 1-9.107-3(a), paragraphs (b) and (i) of the clause prescribed in § 1-9.107-5(a), may be appropriately modified to permit the contractor to retain greater rights than a nonexclusive license concerning all or specific inventions.

(3) The Patents Rights clause in § 1-9.107-5(b) shall be used whenever the agency determines that the experimental, developmental, or research work to be performed under the contract does not come within § 1-9.107-3(a) but is within § 1-9.107-3(b). This clause provides the contractor with the option to retain title to any inventions resulting from his contract subject to the reservation of certain rights in the Government.

(4) The Patent Rights clause in § 1-9.107-5(c), except as otherwise provided in § 1-9.107-6(b), shall be used whenever the agency determines that the experimental, developmental, or research work to be performed under the contract does not come within §§ 1-9.107-3 (a) or (b), but is within § 1-9.107-3(c). The clause in § 1-9.107-5(c) provides that the determination of rights in inventions resulting from the contract shall be made by the agency after an invention has been identified. When the agency determines pursuant to its regulations that a special situation exists, paragraphs (b) and (i) of the clause prescribed in § 1-9.107-5(c) may be modified to permit the contractor to retain greater rights than a nonexclusive license.

(5) A short form Patent Rights clause in § 1-9.107-6 (a) or (b) may be used by the agency instead of the clause in § 1-9.107-5 (a) or (c), respectively, where the contract calls for basic or applied research and the contractor is a nonprofit organization for other than the operation of a Government-owned research or production facility. These clauses are not appropriate for use where the agency head determines to grant greater rights upon a finding that exceptional circumstances as provided for in § 1-9.107-3(a) are present or where the contract falls within the special situations criteria of § 1-9.107-3(c). In either event, a Patent Rights clause in § 1-9.107-5, appropriately modified, shall be used.

(b) *Record of decisions.* Agencies shall record the basis for the following actions: (1) selection of a Patent Rights clause; (2) finding of exceptional circumstances in § 1-9.107-3(a) or of special situations in § 1-9.107-3(c); (3) greater rights determinations pursuant to § 1-9.109-6; and (4) determinations under §§ 1-9.107-4(c) and (d).

(c) *License for the Government, States, and municipal governments.* The





V 38 I 170
SEP 4 73
XUM

policy set forth in § 1–9.107–3(e) provides that the Government shall normally acquire a paid-up license in any invention resulting from the contract for the Government, States, and municipal governments. Paragraph (c)(1) in the Patent Rights clauses in § 1–9.107–5 sets forth such a license. When the agency determines that it would not be in the public interest in a particular contracting situation to acquire a license for the Government of the scope in paragraph (c)(1), this paragraph may be appropriately modified. The agency head or his duly authorized designee may determine at the time of contracting that it would not be in the public interest to acquire such a license for States and municipal governments or may reserve the right to make this determination after the invention has been identified. When the determination is made or the right to make the determination is reserved, paragraph (c)(1) of the Patent Rights clauses in § 1–9.107–5 shall be replaced with the appropriate paragraph in § 1–9.107–5(d).

(d) *Right to sublicense foreign governments.* Paragraph (c) of the Patent Rights clauses in § 1–9.107–5 does not provide the Government with the right to grant a sublicense in any inventions resulting from the contract to any foreign government pursuant to any treaty or agreement. The agency head or his duly authorized designee may determine at the time of contracting that it would be in the national interest to acquire this right, or he may reserve the right to make a determination after the invention has been identified. When the agency head makes or reserves the right to make this determination, the appropriate sentence in § 1–9.107–5(e) shall be included as part of paragraph (c) in the selected Patent Rights clauses of § 1–9.107–5.

(e) *Minimum rights to contractor.* The Patent Rights clauses of § 1–9.107–5 specify the minimum rights to be obtained by the contractor in any inventions made in the course of or under the contract. When the agency determines that the contractor may reserve:

(1) A *revocable*, nonexclusive, royalty-free license in the inventions, paragraph (d) of § 1–9.107–5(a) shall be included in the selected Patent Rights clause in § 1–9.107–5;

(2) A *revocable*, nonexclusive, royalty-free license in the inventions only upon request by the contractor for such a license, paragraph (d) of the Patent Rights clauses in § 1–9.107–5 shall be replaced with paragraph (d) in § 1–9.107–5(f);

(3) An *irrevocable*, nonexclusive, royalty-free license in the inventions, paragraph (d) of the Patent Rights clauses in § 1–9.107–5 shall be replaced with paragraph (d) in § 1–9.107–5(g); and

(4) An *irrevocable*, nonexclusive, royalty-free license in inventions constructively reduced to practice prior to the effective date of the contract, paragraph (d)(4) of § 1–9.107–5(h) shall be added to the Patent Rights clauses in § 1–9.107–5.

(f) *Subcontracts.* (1) The policy expressed in § 1–9.107–3 is applicable to prime contracts and to subcontracts regardless of tier. The appropriate Patent Rights clause prescribed by this subpart shall be included in all subcontracts having as a purpose the conduct of experimental, developmental, or research work. In general, the Patent Rights clause in the prime contract with the exception of the withholding provision will be appropriate for inclusion in such subcontracts. Whenever the prime contractor or a subcontractor considers the inclusion of the Patent Rights clause of the prime contract in a subcontract to be inconsistent with the policy expressed in § 1–9.107–3, or a subcontractor refuses to accept a Patent Rights clause in his subcontract, the matter shall be referred to the agency contracting officer for resolution prior to the award of the subcontract. Upon such referral, the same considerations and procedures followed by the contracting officer in selecting the Patent Rights clause included in the prime contract shall be used in selecting the Patent Rights clause to be included in the subcontract.

(2) Contractors shall not use their ability to award subcontracts as economic leverage to acquire rights for themselves in the inventions resulting from subcontracts.

(g) *Publication of invention disclosures.* The Patent Rights clauses of § 1–9.107–5 specify in paragraph (e)(4) that the Government may duplicate and disclose invention disclosures reported under the contract. However, the publication of the information in an invention disclosure by any party before the filing of a patent application may create a bar to the filing of foreign patent applications. The agency may restrict the publication of such information by the contractor in order to protect the interests of the Government or the contractor in obtaining foreign patents by adding the provisions of § 1–9.107–5(i)(2) to paragraph (e)(4). Where the contractor has been authorized to file foreign patent applications, the agency may desire to restrict its publication of the information in the related invention disclosure in order to protect the filing of such foreign applications by the contractor. In this event, the sentence in § 1–9.107–5(i)(1) should be added to paragraph (e)(4) of the Patent Rights clauses in § 1–9.107–5.

(h) *Deviations.* Any departures from the policy, procedures, and clauses of this subpart shall be subject to the provisions of § 1–1.009.

### § 1–9.107–5 Clauses for domestic contracts (long form).

(a) *Patent Rights clause—Option in the Government.* When the agency has determined that a contract falls within § 1–9.107–4(a)(2), the following clause shall be included in the contract.

PATENT RIGHTS—OPTION IN THE GOVERNMENT

(a) *Definitions.* (1) "Subject Invention" means any invention or discovery of the Contractor conceived or first actually reduced to practice in the course of or under this contract, and includes any art, method, process, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the Patent Laws of the United States of America or any foreign country.

(2) "Contract" means any contract, agreement, grant, or other arrangement, or subcontract entered into with or for the benefit of the Government where a purpose of the contract is the conduct of experimental, developmental, or research work.

(3) "States and domestic municipal governments" means the States of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, and any political subdivision and agencies thereof.

(4) "Government agency" includes an executive department, independent commission, board, office, agency, administration, authority, Government corporation, or other Government establishment of the executive branch of the Government of the United States of America.

(5) "To the point of practical application" means to manufacture in the case of a composition or product, to practice in the case of a process, or to operate in the case of a machine and under such conditions as to establish that the invention is being worked and that its benefits are reasonably accessible to the public.

(b) *Disposition of principal rights.* (1) *Assignment to the Government.* The Contractor agrees to assign to the Government the entire right, title, and interest throughout the world in and to each Subject Invention, except to the extent that rights are obtained by the Contractor under paragraphs (b)(2) and (d) of this clause.

(2) *Greater rights determination.* The Contractor or the employee-inventor with authorization of the Contractor may retain greater rights than the nonexclusive license provided in paragraph (d) of this clause in accordance with the procedure and criteria of 41 CFR 1–9.109–6. A request for determination whether the Contractor or the employee-inventor is entitled to such greater rights must be submitted to the Contracting Officer at the time of the first disclosure of the invention pursuant to paragraph (e)(2)(i) of this clause, or not later than 3 months thereafter, or such longer period as may be authorized by the Contracting Officer for good cause shown in writing by the Contractor. The information to be submitted for a greater rights determination is specified in 41 CFR 1–9.109–6. Each determination of greater rights under this contract normally shall be subject to paragraph (c) this clause and to the reservations and conditions deemed to be appropriate by the agency.

(c) *Minimum rights granted to the Government.* With respect to each Subject Invention to which the Contractor retains principal or exclusive rights, the Contractor:

(1) Hereby grants to the Government a nonexclusive, nontransferable, paid-up license to make, use, and sell each Subject Invention throughout the world by or on behalf of the Government of the United States (including any Government agency) and States and domestic municipal governments;

(2) Agrees to grant to responsible applicants, upon request of the Government, a license on terms that are reasonable under the circumstances;

(i) Unless the Contractor, his licensee, or his assignee demonstrates to the Government that effective steps have been taken within 3 years after a patent issues on such invention to bring the invention to the point of practical application, or that the invention has been made available for licensing royalty-free or on terms that are reasonable in the circumstances, or can show cause why the principal or exclusive rights should be retained for a further period of time; or

(ii) To the extent that the invention is required for public use by governmental regulations or as may be necessary to fulfill health or safety needs, or for other public purposes stipulated in this contract.

(3) Shall submit written reports at reasonable intervals upon request of the Government during the term of the patent on the Subject Invention regarding:

(i) The commercial use that is being made or is intended to be made of the invention; and

(ii) The steps taken by the Contractor or his transferee to bring the invention to the point of practical application or to make the invention available for licensing.

(4) Agrees to refund any amounts received as royalty charges on any Subject Invention in procurements for or on behalf of the Government and to provide for that refund in any instrument transferring rights to any party in the invention; and

(5) Agrees to provide for the Government's paid-up license pursuant to paragraph (c)(1) of this clause in any instrument transferring rights in a Subject Invention and to provide for the granting of licenses as required by (2) of this clause, and for the reporting of utilization information as required by paragraph (c)(3) of this clause whenever the instrument transfers principal or exclusive rights in any Subject Invention.

(d) *Minimum rights to the Contractor.* (1) For each Subject Invention upon which the Government files patent applications, a *revocable*, nonexclusive, paid-up license shall be reserved to the Contractor for the practice of that invention throughout the United States, its territories and possessions. Puerto Rico, the District of Columbia, and in any foreign country where the Government files a patent application. The license shall extend to the Contractor's domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a part and shall include the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license shall be assignable only with approval of the agency except to the successor of that part of the Contractor's business to which the invention pertains.

(2) The Contractor's nonexclusive license reserved pursuant to paragraph (d)(1) of this clause may be revoked or modified by the agency, either in whole or in part, as to the United States, its territories and possessions, Puerto Rico, and the District of Columbia to the extent necessary to achieve expeditious practical application of the Subject Invention under 41 CFR 101–4.103–3 pursuant to an application for exclusive license submitted in accordance with 41 CFR 101–4.104–3. This license shall not be revoked in the field of use and/or geographical areas in which the Contractor has brought the invention to the point of practical application and continues to make the benefits of the invention reasonably accessible to the public. The Contractor's nonexclusive license in any foreign country reserved pursuant to paragraph (d)(1) of this clause may be revoked or modified, either in whole or in part, in the discretion of the agency to the extent the Contractor or his domestic subsidiaries or affiliates have failed to achieve the practical application of the invention in that foreign country.

(3) Before modification or revocation of the license, pursuant to paragraph (d)(2) of this clause, the agency shall furnish the Contractor a written notice of its intention to modify or revoke the license, and the Contractor shall be allowed 30 days after the notice to show cause why the license should not be modified or revoked. The Contractor shall have the right to appeal, in accordance with procedures prescribed by the agency, any decision concerning the modification or revocation of his license.

(e) *Invention identification, disclosures, and reports.* (1) The Contractor shall establish and maintain active and effective procedures to ensure that Subject Inventions are promptly identified. These procedures shall include the maintenance of laboratory notebooks and any other records that are reasonably necessary to document the conception and/or the first actual reduction to practice of inventions resulting from this contract, and records which show that the procedures for identifying and disclosing the inventions are followed. Upon request, the Contractor shall furnish the Contracting Officer a description of these procedures so that he may evaluate and determine their effectiveness.

(2) The Contractor shall furnish the Contracting Officer:

(i) A complete technical disclosure for each Subject Invention within 6 months after conception or first actual reduction to practice whichever occurs first in the course of or under the contract, but in any event prior to any on sale, public use, or publication of such invention known to the Contractor. The disclosure shall identify the contract and inventor and be sufficiently complete in technical detail and appropriately illustrated by sketch or diagram to convey to one skilled in the art to which the invention pertains a clear understanding of the nature, purpose, operation, and, to the extent known, the physical, chemical, biological, or eelctrical characteristics of the invention;

(ii) Interim reports[1] at least every 12 months from the date of the contract certifying that:

(A) The Contractor's procedures for identifying and disclosing Subject Inventions as required by this paragraph (e) have been followed throughout the reporting period; and

(B) All Subject Inventions have been disclosed or that there are no such inventions; and

(iii) An acceptable final report[1] within 3 months after completion of the contract work, listing all Subject Inventions or certifying that there were no such inventions.

(3) The Contractor shall obtain patent agreements to effectuate the provisions of this clause from all persons in his employ who perform any part of the work under this contract except clerical and manual labor personnel.

(4) The Contractor agrees that the Government may duplicate and disclose Subject Invention disclosures and all other reports and papers required to be furnished pursuant to this clause.

(f) *Forfeiture of rights in unreported Subject Inventions.* (1) The Contractor shall forfeit to the Government all rights on any Subject Invention which he fails to report to the Contracting Officer at or prior to the time he:

(i) Files or causes to be filed a United States or foreign application thereon; or

(ii) Submits the final report required by paragraph (e)(2)(iii) of this clause, whichever is later; except that the Contractor shall not forfeit rights in a Subject Invention if, within the time specified in (i) or (ii) of this paragraph (f), the Contractor:

(A) Prepared a written decision based upon a review of the record that the invention was neither conceived nor first actually reduced to practice in the course of or under the contract; or

(B) Contending that the invention is not a Subject Invention, he nevertheless discloses the invention and all facts pertinent to his contention to the Contracting Officer; or

(C) Establishes that the failure to disclose did not result from his fault or negligence.

(2) Pending written assignment of the patent applications and patents on a Subject Invention determined (such determination to be a final decision under the Disputes clause) by the Contracting Officer to be forfeited, the Contractor shall be deemed to hold the invention and the patent applications and patents pertaining thereto in trust for the Government. The forfeiture provision of this paragraph (f) shall be in addition to and shall not supersede other rights and remedies which the Government may have with respect to Subject Inventions.

(g) *Examination of records relating to inventions.* (1) The Contracting Officer or his authorized representative until the expiration of 3 years after final payment under this contract shall have the right to examine any books, records, documents, and other supporting data of the Contractor which the Contracting Officer reasonably deems pertinent to the discovery or identification of Subject Inventions or to determine compliance with the requirements of this clause.

(2) The Contracting Officer shall have the right to review all records and documents of the Contractor relating to the conception or first actual reduction of inventions to determine whether any such inventions are Subject Inventions if the Contractor refuses or fails to:

(i) Establish the procedures of paragraph (e)(1) of this clause; or

(ii) Maintain or follow such procedures; or

(iii) Correct or eliminate any material deficiency in the procedures within thirty (30) days after the Contracting Officer notifies the Contractor of such a deficiency.

(h) *Witholding of payment.* (1) Any time before final payment of the amount of this contract, the Contracting Officer may, if he deems such action warranted, withhold payment until a reserve not exceeding $50,000 or 5 percent of the amount of this contract, whichever is less, shall have been set aside if in his opinion the Contractor fails to:

(i) Establish and maintain effective procedures for identifying and disclosing Subject Inventions pursuant to paragraph (e)(1) of this clause; or

(ii) Disclose any Subject Invention pursuant to paragraph (e)(2)(i) of this clause; or

(iii) Deliver the interim reports pursuant to paragraph (e)(2)(ii) of this clause; or

(iv) Provide the information regarding subcontracts pursuant to paragraph (i)(5) of this clause.

The reserve or balance shall be retained until the Contracting Officer has determined that the Contractor has rectified whatever deficiencies exist and has delivered all reports, disclosures, and other information required by this clause.

(2) Final payment under this contract shall not be made before the Contractor delivers to the Contracting Officer all disclosures of Subject Inventions required by paragraph (e)(2)(i) of this clause and the final report required by (e)(2)(iii) of this clause.

(3) The Contracting Officer may, in his discretion, decrease or increase the sums withheld up to the maximum authorized above. If the Contractor is a nonprofit or-

[1] Agency may specify form.







V 38 170
SEP 4 73
XUM

ganization the maximum amount that may be withheld under this paragraph shall not exceed $50,000 or 1 percent of the amount of this contract whichever is less. No amount shall be withheld under this paragraph while the amount specified by this paragraph is being withheld under other provisions of the contract. The withholding of any amount or subsequent payment thereof shall not be construed as a waiver of any rights accruing to the Government under this contract.

(i) *Subcontracts.* (1) For the purpose of this paragraph the term "Contractor" means the party awarding a subcontract and the term "Subcontractor" means the party being awarded a subcontract, regardless of tier.

(2) Unless otherwise authorized or directed by the Government Contracting Officer, the Contractor shall include this Patent Rights clause except paragraph (b) of this clause modified to identify the parties in any subcontract hereunder if, a purpose of the subcontract is the conduct of experimental, developmental, or research work. In the event of refusal by a Subcontractor to accept this clause, or if in the opinion of the Contractor this clause is inconsistent with the policy set forth in 41 CFR 1-9.107-3, the Contractor:

(i) Shall promptly submit written notice to the Government Contracting Officer setting forth reasons for the Subcontractor's refusal and other pertinent information which may expedite disposition of the matter; and

(ii) Shall not proceed with the subcontract without the written authorization of the Government Contracting Officer.

(3) The Contractor shall not, in any subcontract or by using such a subcontract as consideration therefor, acquire any rights in his Subcontractor's Subject Invention for his own use (as distinguished from such rights as may be required solely to fulfill his contract obligations to the Government in the performance of this contract).

(4) All invention disclosures, reports, instruments, and other information required to be furnished by the Subcontractor to the Government Contracting Officer under the provisions of a Patent Rights clause in any subcontract hereunder may, in the discretion of the Government Contracting Officer, be furnished to the Contractor for transmission to the Government Contracting Officer.

(5) The Contractor shall promptly notify the Government Contracting Officer in writing upon the award of any subcontract containing a Patent Rights clause by identifying the Subcontractor, the work to be performed under the subcontract, the dates of award, and estimated completion. Upon request of the Government Contracting Officer, the Contractor shall furnish a copy of the subcontract. If there are no subcontracts containing Patent Rights clauses, a negative report shall be included in the final report submitted pursuant to paragraph (e)(2)(iii) of this clause.

(6) The Contractor shall exert his best effort to identify all Subject Inventions of the Subcontractor and shall notify the Government Contracting Officer promptly upon the identification of the inventions.

(7) It is understood that the Government is a third party beneficiary of any subcontract clause granting rights to the Government in Subject Inventions, and the Contractor hereby assigns to the Government all rights that he would have to enforce the Subcontractor's obligations for the benefit of the Government with respect to Subject Inventions. The Contractor shall not be obligated to enforce the agreements of any Subcontractor hereunder relating to the obligations of the Subcontractor to the Government in regard to Subject Inventions.

(b) *Patent Rights clause—Option in the Contractor.* When the agency has determined that a contract falls within § 1-9.107-4(a)(3), the Patent Rights clause in § 1-9.107-5(a) shall be included in the contract, except that the name of the clause shall be changed to "Patent Rights—Option in the Contractor," paragraph (b) of that clause shall be replaced by the following paragraph (b), and the following paragraphs (j) and (k) shall be added:

(b) *Disposition of principal rights.* (1) The Contractor may retain the entire right, title, and interest throughout the world or in any country thereof in and to each Subject Invention disclosed pursuant to paragraph (e)(2)(i) of this clause, subject to the rights obtained by the Government in paragraph (c) of this clause. The Contractor shall include with each Subject Invention disclosure an election as to whether he will retain the entire right, title, and interest in the invention throughout the world or any country thereof.

(2) Subject to the license specified in paragraph (d) of this clause, the Contractor agrees to convey to the Government, upon request, the entire domestic right, title, and interest in any Subject Invention when the Contractor:

(i) Does not elect under paragraph (b)(1) of this clause to retain such rights; or

(ii) Fails to have a United States patent application filed on the invention in accordance with paragraph (j) of this clause, or decides not to continue prosecution of such application; or

(iii) At any time, no longer desires to retain title.

(3) Subject to the license specified in paragraph (d) of this clause, the Contractor agrees to convey to the Government upon request the entire right, title, and interest in any Subject Invention in any foreign country if the Contractor:

(i) Does not elect under paragraph (b)(1) of this clause to retain such rights in the country; or

(ii) Fails to have a patent application filed in the country on the invention in accordance with paragraph (k) of this clause, or decides not to continue prosecution or to pay any maintenance fees covering the invention. In such an event, the Contractor shall notify the Contracting Officer not less than 60 days before the expiration period for any action required by the foreign patent office.

(4) A conveyance requested pursuant to paragraph (b)(2) or (3) of this clause shall be made by delivering to the Contracting Officer duly executed instruments (prepared by the Government) and such other papers as are deemed necessary to vest in the Government the entire right, title, and interest to enable the Government to apply for, prosecute patent applications covering the invention in this or the foreign country, respectively, or otherwise establish its ownership in the invention.

(j) *Filing of domestic patent application.* (1) With respect to each Subject Invention in which the Contractor elects to retain domestic rights pursuant to paragraph (b) of this clause, the Contractor shall have a domestic patent application filed within 6 months after submission of the invention disclosure pursuant to paragraph (e)(2)(i) of this clause or such longer period as may be approved by the Contracting Officer for good cause shown in writing by the Contractor. With respect to the invention, the Contractor shall promptly notify the Contracting Officer of any decision not to file an application.

(2) For each Subject Invention on which a patent application is filed by or on behalf of the Contractor, the Contractor shall:

(i) Within 2 months after the filing or within 2 months after submission of the invention disclosure if the patent application previously has been filed, deliver to the Contracting Officer a copy of the application as filed including the filing date and serial number;

(ii) Include the following statement in the second paragraph of the specification of the application and any patents issued on a Subject Invention, "The Government has rights in this invention pursuant to Contract No. ------ (or Grant No. ------) awarded by (identify the agency).";

(iii) Within 6 months after filing the application or within 6 months after submitting the invention disclosure if the application has been filed previously, deliver to the Contracting Officer a duly approved, executed, and recorded instrument on a form specified by the Government fully confirmatory of all rights to which the Government is entitled, and provide the agency an irrevocable power to inspect and make copies of the patent application;

(iv) Provide the Contracting Officer with a copy of the patent within 2 months after a patent is issued on the application; and

(v) Not less than 30 days before the expiration of the response period for any action required by the Patent Office, notify the agency of any decision not to continue prosecution of the application and deliver to the Contracting Officer executed instruments granting the Government a power of attorney.

(3) For each Subject Invention in which the Contractor initially elects not to retain domestic rights, the Contractor shall inform the Contracting Officer promptly in writing of the date and identity of any on sale, public use, or publication of the invention which may constitute a statutory bar under 35 U.S.C. 102, which was authorized by or known to the Contractor, or any contemplated action of this nature.

(k) *Filing of foreign patent applications.* (1) With respect to each Subject Invention in which the Contractor elects to retain rights in a foreign country pursuant to paragraph (b)(1) of this clause, the Contractor shall have a patent application filed on the invention in that country, in accordance with applicable statutes and regulations, and within one of the following periods:

(i) Eight months from the date of a corresponding United States application filed by or on behalf of the Contractor; or if such an application is not filed, 6 months from the date the invention is submitted in a disclosure pursuant to paragraph (e)(2)(i) of this clause;

(ii) Six months from the date a license is granted by the Commissioner of Patents to file foreign applications where such filing has been prohibited by security reasons; or

(iii) Such longer period as may be approved by the Contracting Officer.

(2) The Contractor shall notify the Contracting Officer promptly of each foreign application filed and upon written request shall furnish an English translation of the foreign application without additional compensation.

(c) *Patent Rights clause—Deferred determination.* When the agency has determined that a contract falls within § 1-9.107-4(a)(4), the Patent Rights clause in § 1-9.107-5(a) shall be included in the contract, except that the name of the clause shall be changed to "Patent Rights—Deferred Determination" and paragraph (b) of that clause shall be replaced with the following paragraph (b):

(b) *Disposition of principal rights—*(1) *Determination.* The Government shall have the sole and exclusive power





to determine the disposition of the domestic and foreign rights in any Subject Invention. Where the agency determines that the Government shall have title to a Subject Invention, the Contractor agrees upon request of the Government to assign the entire right, title, and interest throughout the world in and to each Subject Invention except to the extent that greater rights are obtained under paragraphs (b)(2) and (d) of this clause.

(2) *Greater rights determinations.* The Contractor, or the employee-inventor with authorization of the Contractor, may retain greater rights than the nonexclusive license of this clause in accordance with the procedure and criteria of 41 CFR 1-9.109-6. A request for a determination of whether the Contractor or the employee-inventor is entitled to such greater rights must be submitted to the Contracting Officer at the time of first disclosure of the invention pursuant to paragraph (e)(2)(i) of this clause, or not later than 3 months thereafter or such longer period as may be authorized by the Contracting Officer for good cause shown in writing by the Contractor. The information to be submitted for a greater rights determination is specified in 41 CFR 1-9.109-6. Each determination of greater rights under this contract normally shall be subject to paragraph (c) of this clause and to the reservations and conditions deemed to be appropriate by the agency.

(d) *License rights of States and municipal governments.* (1) When the agency head or his duly authorized designee determines at the time of contracting that it would not be in the public interest to acquire a paid-up license in inventions made in the course of or under the contract for States and domestic municipal governments, paragraph (c)(1) of the Patent Rights clauses in § 1-9.107-5 shall be replaced with the following paragraphs (c)(1):

(1) Hereby grants to the Government a nonexclusive, nontransferable, paid-up license to make, use, and sell each Subject Invention throughout the world by or on behalf of the Government of the United States (including any Government agency).

(2) When the agency head or his duly authorized designee decides to reserve the right to make the determination that it would not be in the public interest to acquire a paid-up license in a Subject Invention for States and domestic municipal governments until after the invention has been identified, paragraph (c)(1) of the Patent Rights clauses in § 1-9.107-5 shall be replaced with the following paragraph (c)(1):

(1) Hereby grants to the Government a nonexclusive, nontransferable, paid-up license to make, use, and sell each Subject Invention throughout the world by or on behalf of the Government of the United States (including any Government agency), States and domestic municipal governments, unless the agency head determines after the invention has been identified that it would not be in the public interest to acquire the license for States and domestic municipal governments.

(e) *Right to sublicense foreign governments.* (1) When the agency head or his duly authorized designee determines at the time of contracting that it would be in the national interest to acquire the right to sublicense foreign governments pursuant to any treaty or agreement, a sentence shall be added to the end of paragraph (c)(1) of the Patent Rights clauses in § 1-9.107-5 as follows:

This license shall include the right of the Government to sublicense foreign governments pursuant to any treaty or agreement with such foreign governments.

(2) When the agency head wishes to reserve the right to make the determination to sublicense foreign governments pursuant to any treaty or agreement until after the invention has been identified, a sentence shall be added to the end of paragraph (c)(1) of the Patent Rights clauses in § 1-9.107-5 as follows:

This license shall include the right of the Government to sublicense foreign governments pursuant to any treaty or agreement if the agency head determines after the invention has been identified that it would be in the national interest to acquire this right.

(f) *Minimum rights to contractor (upon request).* When the agency determines that the contractor may reserve a revocable, nonexclusive, royalty-free license in inventions made in the course of or under the contract, only upon a request by the contractor for such a license, paragraph (d)(1) of the clauses in § 1-9.107-5 shall be replaced with the following paragraph (d)(1):

(d) *Minimum rights to the Contractor.*

(1) For each Subject Invention upon which the Government files patent applications, the Government shall, upon request, reserve to the Contractor a revocable, nonexclusive, royalty-free license for the practice of the invention throughout the United States, its territories and possessions, Puerto Rico, and the District of Columbia, and if so requested, in any foreign country where the Government files a patent application. The license shall extend to the Contractor's domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a part and shall include the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license shall be assignable only with approval of the agency except to the successor of that part of the Contractor's business to which the invention pertains.

(g) *Minimum rights to contractor (irrevocable).* When the agency determines that the contractor may reserve an irrevocable, nonexclusive, royalty-free license in the inventions resulting from the contract, paragraph (d) of the Patent Rights clauses of § 1-9.107-5 shall be replaced with the following paragraph (d):

(d) For each Subject Invention, upon which the Government files patent applications, the Contractor reserves an irrevocable, nonexclusive, royalty-free license for the practice of the invention throughout the United States, its territories and possessions, Puerto Rico, and the District of Columbia, and in any foreign country where the Government files a patent application. The license shall extend to the Contractor's domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a part and include the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. This license shall be assignable only with approval of the agency, except to the successor of that part of the Contractor's business to which the invention pertains.

(h) *Irrevocable license on Subject Inventions previously constructively reduced to practice.* When an agency decides that the contractor may reserve an irrevocable, nonexclusive and royalty-free license for practice in this country of each invention first actually reduced to practice under a contract which was conceived and constructively reduced to practice by the contractor prior to the effective date of execution of the contract, the following paragraph (d)(4) shall be added to paragraph (d) of the Patent Rights clauses in § 1-9.107-5:

(4) In addition to the provisions of paragraph (d)(1) of this clause, the Contractor reserves an irrevocable, nonexclusive and royalty-free license for practice throughout the United States, its territories and possessions, Puerto Rico, and the District of Columbia of each Subject Invention constructively reduced to practice by the Contractor prior to the effective date of this contract. The license shall extend to the Contractor's domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a part and include the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license shall be assignable only with approval by the agency except to the successor of that part of the Contractor's business to which the invention pertains.

(i) *Publication of invention disclosures.* (1) When the agency determines that it is in the best interest to withhold the release or publication of information in an invention disclosure so that the contractor may file foreign patent applications on the invention, the following sentence shall be added to paragraph (e)(4) of the Patent Rights clauses in § 1-9.107-5:

If the Contractor is to file a foreign patent application on a Subject Invention, the Government agrees, upon a specific request of the Contractor, to use its best efforts to withhold publication of such invention disclosures until a patent application is filed thereon, but in no event shall the Government or its employees be liable for any publication thereof.

(2) When the agency determines to restrict the contractor's publication of invention disclosures prior to the filing of patent applications, the following paragraph (5) should be added to paragraph (e) of the Patent Rights clauses in § 1-9.107-5:

(5) In order to protect the patent interest of the Government or the Contractor, the Contractor shall obtain the approval of the Contracting Officer prior to the release or publication of the information in any Subject Invention disclosure by the Contractor or other parties acting on his behalf.

**§ 1-9.107-6 Clauses for domestic contracts (short form).**

(a) *Patent Rights clause—Option in the Government.* The following clause may be used instead of the clause of § 1-9.107-5(a) in contracts for basic and applied research with nonprofit organi-



V 38 I 170 SEP 4 73 XUM

zations for other than the operation of a Government-owned research or production facility.

PATENT RIGHTS—OPTIONS IN THE GOVERNMENT (SHORT FORM)

(a) *Definitions.* "Subject Invention" means any invention or discovery of the Contractor conceived or first actually reduced to practice in the course of or under this contract, and includes any art, method, process, machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant which is or may be patentable under the Patent Laws of the United States of America or any foreign country.

(b) *Invention disclosures and reports.* (1) The Contractor shall furnish the Contracting Officer:

(i) A complete technical disclosure for each Subject Invention, within 6 months after conception or first actual reduction to practice, whichever occurs first in the course of or under the contract, but in any event prior to any on sale, public use, or publication of the invention known to the Contractor. The disclosure shall identify the contract and inventor, and shall be sufficiently complete in technical detail and appropriately illustrated by sketch or diagram to convey to one skilled in the art to which the invention pertains a clear understanding of the nature, purpose, operation, and to the extent known, the physical, chemical, biological, or electrical characteristics of the invention;

(ii) Interim reports at least every 12 months from the date of the contract certifying that all Subject Inventions have been disclosed or that there are no such inventions; and

(iii) An acceptable final report,[1] within 3 months after completion of the contract work, listing all Subject Inventions or certifying that there were no such inventions.

(c) *Disposition of principal rights.* (1) The Contractor agrees to assign to the Government the entire right, title, and interest throughout the world in and to each Subject Invention, except to the extent that rights are obained by the Contractor under paragraphs (c)(2) and (d) of this clause.

(2) The Contractor or the employee-inventor with authorization of the Contractor may retain greater rights than the nonexclusive license provided in paragraph (d) of this clause in accordance with the procedure and criteria of 41 CFR 1-9.109-6. A request for a determination of whether the Contractor or the employee-inventor is entitled to such greater rights must be submitted to the Contracting Officer at the time of the first disclosure of the invention pursuant to paragraph (b)(1) of this clause, or not later than 3 months thereafter or such longer period as may be authorized by the Contracting Officer for good cause shown in writing by the Contractor. The information to be submitted for a greater rights determination is specified in 41 CFR 1-9.109-6. Each determination of greater rights under this contract shall be subject to the provisions of paragraph (c) "Minimum rights granted to the Government" of the clause in 41 CFR 1-9.107-5(a), and to the reservations and conditions deemed appropriate by the agency.

(d) *Minimum rights to the Contractor.* For each Subject Invention upon which the Government files a patent application, the Government shall reserve to the Contractor upon request a revocable, nonexclusive, royalty-free license for the practice of the invention throughout the United States, its territories and possessions, Puerto Rico, and the District of Columbia, and in any foreign country where the Government files a patent application. Revocation shall be in accordance with the procedure of the clause in 41 CFR 1-9.107-5(d) (2) and (3).

(e) *Employee and Subcontractor agreements.* Unless otherwise authorized in writing by the Contracting Officer, the Contractor shall:

(1) Obtain patent agreements to effectuate the provisions of this clause from all persons who perform any part of the work under this contract except clerical and manual labor personnel;

(2) Insert in each subcontract having experimental, development, or research work as one of its purposes provisions making this clause applicable to the Subcontractor and his employees; and

(3) Promptly notify the Contracting Officer of the award of any such subcontract by providing him with a copy of the subcontract and any amendments thereto.

(b) *Patent Rights clause—Deferred determination (short form).* This clause may be used instead of the clause of § 1-9.107-5(c) in contracts for basic and applied research with nonprofit organizations. When the agency determines that a contract falls within § 1-9.107-3(c) and that a short form Patent Rights clause is to be used pursuant to § 1-9.107-4(a)(5), the Patent Rights clause set forth in § 1-9.107-6(a) shall be included in the contract except that the name of the clause shall be changed to "Patent Rights—Deferred Determination (short form)"; and paragraph (c)(1) of that clause shall be replaced by the following paragraph (c)(1):

(1) The Government shall have the sole and exclusive power to determine the disposition of the domestic and foreign rights in any Subject Invention. Where the agency determines that the Government shall have title, the Contractor agrees upon request of the Government to assign the entire right, title, and interest throughout the world in and to each Subject Invention except to the extent that rights are obtained by the Contractor under paragraphs (c)(2) and (d) of this clause.

### § 1-9.107-7 Clause for foreign contracts.

A Patent Rights clause shall be included in every contract having as one of its purposes the conduct of experimental, developmental, or research work which is to be performed outside the United States, its possessions, or Puerto Rico. The clauses authorized for domestic contracts in §§ 1-9.107-5 and 1-9.107-6 may be used or replaced by any other clause tailored to meet the requirements peculiar to the foreign procurement.

### § 1-9.108 [Reserved]

### § 1-9.109 Administration of Patent Rights clauses.

(a) Every effort should be made to realize for the Government and the public the benefit of inventions and discoveries resulting from Government experimental, research, and developmental contracts even if the inventions are an incidental product of the work. It is important that the Government and the contractor know and exercise their rights in inventions in order to ensure their expeditious availability to the public, to enable the Government, the contractor, and the public to avoid unnecessary payment of royalties, and to defend themselves against claims and suits for patent infringement. To attain these ends, contracts having Patent Rights clauses should be so administered that:

(1) Inventions are identified, disclosed, and reported as required by the contract clauses;

(2) The rights of the Government in such inventions are established;

(3) When appropriate, patent applications are timely filed and prosecuted by contractors or by the Government;

(4) The filing of patent applications is documented by formal instruments such as licenses or assignments; and

(5) Commercial utilization of such inventions is achieved.

(b) Each contractor shall establish and maintain effective procedures to ensure that inventions made under the contract are identified and that the Government's rights therein are established and protected. When it is determined after the award of a contract that the contractor or subcontractor may not have a clear understanding of the rights and obligations of the parties under a Patent Rights clause, a post award orientation conference or letter should be used to explain these rights and obligations. When reviewing a contractor's procedures, particular attention shall be given to ascertaining their effectiveness for identifying and disclosing inventions.

(c) Each Government agency shall undertake to ensure compliance by the contractor with the obligations of the Patent Rights clause of the contract. This effort should be directed primarily toward contracts and subcontracts which because of the nature of the work or the large dollar amount spent are likely to result in inventions which are significant in number or quality, and toward contracts and subcontracts about which there is reason to believe the contractors may not be complying with their contractual obligations. Other contracts and subcontracts should be spot checked when feasible. These followup activities may include:

(1) Reviewing technical reports submitted by the contractor;

(2) Checking sources for patents issued to the contractor in fields related to his Government contracts;

(3) Interviewing contractor personnel regarding work under the contract, observing the work on site, and inspecting laboratory notebooks and other records of the contractor related to work under the contract; and

(4) Interviewing agency technical personnel concerning novel developments in contracts under their cognizance.

(d) If the contractor operating under the Patent Rights clauses of § 1-9.107-5 fails to establish, maintain, or follow effective procedures for identifying and disclosing inventions as required by the Patent Rights clause or fails to correct any deficiency after notice thereof, the contracting officer may require the contractor to make available for examination

[1] Agency may specify a form.





all records and documents relating to inventions to enable an agency determination of whether there are such inventions, and may invoke the withholding of payments. Further, the contracting officer may invoke the withholding of payments if the contractor fails to disclose an invention deemed by the agency to be a Subject Invention.

(c) *Conveyance of invention rights to Government.* (1) Where the Government is entitled to the conveyance of the entire right, title, and interest in an invention pursuant to a contract, assignments are required from the inventor to the contractor and from the contractor to the Government or from the inventor to the Government with the consent of the contractor to establish clearly the chain of title from the inventor to the Government. The form of conveyance of title from the inventor to the contractor must be legally sufficient to convey the rights the contractor is required to convey to the Government. The optional form of assignment set forth in this § 1-9.109(e)(1) provides the complete chain of title in a single instrument and may be used to convey title to the Government. Alternatively, if separate assignments are used, both documents shall be forwarded simultaneously to the agency for recording.

ASSIGNMENT

Inventor(s): _____
Contractor: _____
Contract No.: _____
Application Title: _____
Contractor's Invention Docket No.: _____
Agency Invention Docket No.: _____
Serial No.: _____ Filing Date: _____
Date(s) Inventor(s) Executed Oath: _____

The undersigned Inventor(s), in recognition of his (their) obligation as employee(s) of the Contractor to assign inventions to the Contractor, and pursuant to the obligations of the Contractor to the Government under the above contract hereby assigns (assign) to the United States of America, as represented by the above-identified agency, all right, title, and interest in and to each invention disclosed and claimed in the above U.S. patent application and any substitution, division, continuation-in-part, or continuation of such patent application and any application for reissue of any patent resulting from such patent application, subject to the reservation of the following license, if any, to the Contractor: _____

Any license reserved to the Contractor shall extend to the Contractor's domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a part and include the right to grant sublicenses of the same scope to the extent the Contractor was legally obligated to do so at the time the contract was awarded. The license shall be assignable only with approval of the agency except to the successor of that part of the Contractor's business to which such invention pertains.

The Inventor(s) further agrees (agree) to assist the Contractor and the Government upon request by furnishing any available information and documents, performing all acts, and doing all things which may be reasonably necessary to make this assignment effective.

The Contractor joins in and agrees to the foregoing assignment and except for the above reservation of a license, if any, relinquishes and assigns all rights, title, and interest in and to such inventions, and further agrees to furnish to the Government upon request any available information and documents necessary for the prosecution of the above-identified application for patent.

Signed this _____ day of _____, 19____.

[SEAL] _____
(INVENTOR(S))

ATTEST: _____

_____

Signed this _____ day of _____, 19____

_____
(Contractor's Official and Title)

ATTEST: _____

_____
Accepted and agreed to on behalf of the Government.

_____
Agency Official)

_____
Date

(2) When the clause of § 1-9.107-5(b) is included in a contract or when a party obtains title to an identified invention and the right to file a patent application pursuant to a greater rights determination of § 1-9.109-6, the optional form of Confirmatory Instrument set forth in this § 1-9.109(e)(2) is approved for use by the contractor or by the party obtaining greater rights. The Patent Rights clause of § 1-9.107-5(b) requires the contractor to record this instrument in the Patent Assignment Register under 35 U.S.C. 261, to pay the recording fee, and to send the agency the recorded instrument which contains the U.S. Patent Office's recordation information. The Patent Office in recording this instrument places a record of the instrument in the Governmental Register maintained pursuant to Executive Order 9424 of February 18, 1944.

CONFIRMATORY INSTRUMENT

(License to the Government)

Application for: _____
(Title of invention)

Inventor(s): _____
Serial No.: _____ Contract No.: _____
Filing Date: _____ Contractor: _____

The invention identified above is a "Subject Invention" under Patent Rights clause, _____
(identify clause)
(_____) included in Contract No. _____
(date)
with _____
(specify agency)

This document is confirmatory of the paid-up license granted to the Government in this invention and patent application, and all other rights reserved to the Government by the referenced clause.

The Government is not estopped at any time from contesting the enforceability, validity, scope of, or title to the patent application identified above or any patent resulting therefrom. It is understood and agreed that this document does not preclude the Government from asserting rights under the provisions of said contract or of any other agreement between the Government and the Contractor, or any other rights of the Government with respect to the above-identified invention.

The Government is hereby granted an irrevocable power to inspect and make copies of the above-identified patent application.

Signed this _____ day of _____, 19____.

[SEAL] _____
Applicant or Assignee
(Recorded)

By _____

ATTEST: _____

_____
Business Address

(3) Assignments, licenses, confirmatory instruments, and other papers evidencing any rights of the Government in patents or patent applications shall be recorded in the Statutory Register and/or documented in the Governmental Register maintained by the U.S. Patent Office pursuant to Executive Order 9424, February 18, 1944. Such documents shall be sent to the Commissioner of Patents, Attention: Assignment Branch, Washington, D.C. 20231, and when the document is to be recorded in the Statutory Register, shall be accompanied by the required fee. When the document is recorded in the Statutory Register, the Patent Office places a copy of this recording in the Governmental Register. If the agency does not have the document recorded in the Statutory Register, it shall send two copies of the document to the Commissioner of Patents and request that these documents be filed in a designated section of the Governmental Register. The Governmental Register contains three sections: the secret, departmental, and public sections. The secret section is for applications bearing a security classification; the departmental section is for documents which are available to the Government and to the public only upon approval of the Government agency; and the public section permits access to the public.

### § 1-9.109-1—1-9.109-5 [Reserved]

### § 1-9.109-6 Greater rights determinations.

(a) *Request for greater domestic rights.* A contractor's request for a determination of greater domestic rights in an identified invention under the Patent Rights clauses of § 1-9.107-5 (a) or (c) or § 1-9.107-6 shall be submitted in writing to the agency.

(1) The request shall contain the following information:

(i) The prime contract number and the subcontract number, if applicable, under which the invention was made and an identification of the agency's contracting office;

(ii) A brief desription of the invention or a copy of the invention disclosure;

(iii) The nature and extent of the rights desired;

(iv) A description of the development, risk capital and expense, and time required to bring the invention to the point of practical application;

(v) A statement of the contractor's plans and intentions to bring the inven-



V 38 170
SEP 4 73
XUM

tion to the point of practical application including:

(A) If further development is to be conducted by the contractor, a description of the facilities, personnel, and marketing outlets available for that purpose, and the extent to which such development is to be undertaken by the contractor or others on his behalf and/or;

(B) If he intends to license the invention, a brief description of the contractor's licensing program; and

(vi) A statement, where the invention falls within § 1–9.107–3(a), of the contractor's contribution when he contends that the Government's contribution to the invention is small compared to his contribution.

(2) Agencies may request additional information which would facilitate a determination of greater rights. Illustrations of such items of information include the following:

(i) The relationship of the invention to a principal purpose of the contract;

(ii) Any facts or information known to the contractor about whether the invention is intended to be developed by the Government for commercial use or is to be required for such use by governmental regulation;

(iii) The relationship, if any, of the invention to the public health, safety, or welfare; and

(iv) The field of science and technology of the invention and whether the Government has been the principal developer of this field.

(3) The contractor's employee(s) who made an invention in the course of or under a contract may also request, with proper authorization from his employer, a greater rights determination whenever the contract so provides. A copy of the authorization of the contractor-employer should be submitted with the employee-inventor's request for a greater rights determination. In submitting the information required for a greater rights determination as provided in § 1–9.109–6(a)(1), and in applying the other provisions of this paragraph, the term contractor shall be understood to mean the employee-inventor.

(b) *Reimbursement of costs for filing patent applications.* In order to protect the interest of the Government and the party submitting a request for a greater rights determination, the filing of a United States patent application prior to the agency's determination is permissible. If an application on a Subject Invention is filed during the pendency of the determination, or within 60 days prior to the receipt of a request by the agency, the agency shall reimburse the party filing the application for the reasonable filing costs and for any patent prosecution that may have occurred as provided by § 1–15.205–26 or § 1–15.309–22. Whenever such costs are not covered in § 1–15.205–26 or § 1–15.309–22, the agency may nevertheless reimburse the party causing the application to be filed for the reasonable costs of such filing and for any patent prosecution that may have occurred, subject to the availability of funds provided:

(1) The agency determines that the party is not entitled to greater rights which are coextensive with the party's request; and

(2) Prior to reimbursement the party requesting such determination assigns the application to a Government agency and the agency accepts the assignment of the application.

(c) *Agency consideration.* The agency shall consider each request for a determination of greater domestic rights submitted within the period specified in the Patent Rights clause and shall make the determination in accordance with the criteria set out in paragraphs (d) or (e) of this section, as applicable.

(d) *Criteria for greater rights determination—Option in Government clause.* When the request for greater rights determination relates to an invention reported under the Patent Rights clause of § 1–9.107–5(a) or § 1–9.107–6(a):

(1) The requesting party may retain greater rights regardless of whether the invention is or is not a primary object of the contract when the agency finds that the invention comes within the criteria of § 1–9.107–3(a)(1) through (4); and

(i) The acquisition of the greater rights is a necessary incentive to call forth private risk capital and expense to bring the invention to the point of practical application; or

(ii) The Government's contribution to the invention is small compared to that of the contractor.

(2) The requesting party also may retain greater rights when the agency finds:

(i) The invention is not a primary object of the contract and does not come within the criteria of § 1–9.107–3(a)(1) through (4); and

(ii) The likelihood is that the invention will be more expeditiously developed to the point of practical application by the intentions and plans of the requesting party than by the activities of the Government.

(e) *Criteria for greater rights determination—Deferred clause.* When the request for the greater rights determination relates to an invention reported under the Patent Rights clause of § 1–9.107–5(c) or § 1–9.107–6(b),

(1) The requesting party may retain greater rights where the agency finds:

(i) The invention does not come within the criteria of § 1–9.107–3(a)(1) through (4); and

(ii) The likelihood is that the invention will be more expeditiously developed to the point of practical application by the intentions and plans of the requesting party than by the activities of the Government.

(2) The requesting party may retain greater rights when an agency finds that the invention comes within the criteria of § 1–9.107–3(a)(1) through (4); and

(i) The acquisition of the greater rights is a necessary incentive to call forth risk capital and expense to bring the invention to the point of practical application; or

(ii) The Government's contribution to the invention is small compared to that of the contractor.

(f) *Agency determination—Domestic rights.* (1) The agency shall notify the party requesting a greater rights determination of its decision. If the agency's greater rights determination is not coextensive with the party's request, the agency shall inform the party of the reasons on which the final action is based. The agency's greater rights determination is final and is not subject to the Disputes clause of the applicable contract.

(2) Where the determination includes a requirement that the requesting party have a domestic patent application filed on the invention, the following provisions shall apply:

(i) The application shall be filed within 6 months from the date of the determination, or such longer period as may be authorized by the agency for good cause shown in writing by the requesting party;

(ii) For each patent application filed, the party shall:

(A) Within 2 months after such filing or within 2 months after the date of a determination, if such patent application previously has been filed, delivery to the agency a copy of the application as filed, including the filing date and serial number;

(B) Include the following statement in the second paragraph of the specification of the application and any patent: "The Government has rights in this invention pursuant to Contract No. ------ (or Grant No. ------) awarded by (identify the agency).";

(C) Within 6 months after such filing, or within 6 months after submission of the invention disclosure if the patent application has been previously filed, deliver to the agency a duly approved, executed, and recorded instrument prepared by the Government fully confirmatory of all the rights to which the Government is entitled, and provide the agency an irrevocable power to inspect and make copies of the patent application;

(D) Provide the agency with a copy of the patent within 2 months after a patent is issued on the application; and

(E) Not less than 30 days before the expiration of the response period for any action required by the Patent Office, notify the agency of any decision not to continue prosecution of the application and deliver to the agency executed instruments granting the Government a power of attorney; and

(iii) If the applicant decides not to continue prosecution of the application, or no longer desires to retain title, he shall convey to the Government, upon request, his entire right, title, and interest in the invention, and to any corresponding patent application or patent. The conveyance shall be made by delivering to the agency duly executed instruments (prepared by the Government) and, if applicable, such other papers as are deemed necessary to vest in the Government the entire right, title, and interest in the invention and any corresponding patent application, and to enable the Government to prosecute the application.

(3) The determination of greater rights, whether requested by the contractor or by the employee-inventor, shall be subject to the reservation of a license to the Government, and the licensing and the commercial use reporting requirements of paragraph (c) "Minimum rights granted to the Government," of the Patent Rights clauses of § 1–9.107–5. The determination normally shall also be subject to any other reservation or condition deemed to be appropriate by the agency.

(g) *Agency determination—Foreign rights.* (1) A request for a foreign rights determination in an invention under the Patent Rights clauses of either § 1–9.107–5 (a) or (c) or § 1–9.107–6 (a) or (b) may accompany a request for a determination of domestic rights of § 1–9.109–6(f), or may be submitted independently thereof. The request shall contain the following information:

(i) The prime contract number and the subcontract number, if applicable, under which the invention was made and an identification of the agency's contracting office;

(ii) A brief description of the invention or a copy of the invention disclosure;

(iii) The countries in which the requesting party intends to file a patent application; and

(iv) Other information required by the agency.

(2) If the Government determines not to file a patent application on a Subject Invention of the contractor in any foreign country, the agency may authorize the requesting party to file a patent application on the invention in such foreign country and to acquire the entire right, title, and interest therein if it determines such authorization to be in the public interest, subject to the license to the Government provided in paragraph (c) of the Patent Rights clause in § 1–9.107–5(a) or § 1–9.107–6(a).

(3) Where the determination includes a requirement that the requesting party file and prosecute a foreign patent application on the invention, the following provisions shall apply:

(i) The requesting party shall file and prosecute a patent application on the invention in (identify the foreign countries) in accordance with applicable statutes and regulations and within one of the following periods:

(A) Eight months from the date the corresponding United States patent application is filed by or on behalf of the requesting party; or if such an application is not filed, 6 months from the date of this agreement;

(B) Six months from the date a license is granted by the Commissioner of Patents to file foreign applications where such filing has been prohibited by security reasons; or

(C) Such longer period as may be approved by the agency.

(ii) The requesting party shall notify the agency promptly of each foreign application filed and upon written request of the agency shall furnish an English translation of the foreign application without additional compensation; and

(iii) If the requesting party files or causes to be filed a patent application on a Subject Invention in any foreign country, or if a patent is obtained on such application, the party shall notify the agency, not less than 60 days before the expiration period for any action required by the foreign patent office, of any decision not to continue prosecution of the application or not to pay any maintenance fee covering the invention, and within such period shall deliver to the agency:

(A) Executed instruments granting to the Government power of attorney in the application;

(B) An English translation of the application, if not previously provided, to the agency; and

(C) Upon request, a conveyance of the party's entire rights, title, and interest in the invention in the foreign country and to any corresponding patent application.

*Comments by interested parties invited.*—The original draft of this regulation was made available to Government agencies, industry associations, and others for purposes of review in May 1972. The evaluation of the comments received and the further analysis of the entire matter by the Implementation Subcommittee of the Committee on Government Patent Policy resulted in a great many changes in the regulation. In view of the magnitude of the changes, interested parties are invited to comment on this regulation in its present form on or before November 5, 1973. Comments should be submitted to the General Services Administration (AMC), Washington, D.C. 20405. The comments received will be evaluated in the interest of determining whether revisions are necessary and desirable prior to the mandatory effective date of the regulation.

*Effective date.*—This regulation is effective March 4, 1974, but may be observed earlier.

Dated August 29, 1973.

ARTHUR F. SAMPSON,
*Administrator of General Services.*

[FR Doc.73–18675 Filed 8–31–73;8:45 am]

---

[FPR Amdt. 115]

## Labor Standards for Contracts Involving Construction

*Correction*

In FR Doc. 73–16281 appearing at page 21404 in the issue for Wednesday, August 8, 1973, in paragraph (a) of the clause in § 1–18.703–1(b), the word "third" in the line should read "half".

---

## Title 49—Transportation

### CHAPTER I—DEPARTMENT OF TRANSPORTATION

### SUBCHAPTER A—HAZARDOUS MATERIALS REGULATIONS BOARD

[Docket No. HM–56, Amdt. 170–2, 171–22, 177–27, 178–28]

### MISCELLANEOUS AMENDMENTS TO CHAPTER

The purpose of these amendments to the Hazardous Materials Regulations of the Department of Transportation is to change or delete certain obsolete or incorrect references, to correct certain editorial errors in § 172.5, and to correct the address of the Secretary, Hazardous Materals Regulations Board, and the Docket room.

Since these amendments concern editorial changes and corrections and impose no burden on any person, notice and public procedure thereon are considered unnecessary.

In consideration of the foregoing, 49 CFR Parts 170, 171, 177, and 178 are amended as follows:

### PART 170—RULEMAKING PROCEDURES OF THE HAZARDOUS MATERIALS REGULATIONS BOARD

A. In § 170.1, paragraph (b) is amended to read as follows:

§ 170.1 Applicability.

* * * * *

(b) The Hazardous Materials Regulations Board, established by Department of Transportation Order 1120.10A, dated December 11, 1972 (hereinafter referred to as the "Board") is composed of the Assistant Secretary for Environment, Safety and Consumer Affairs as Chairman; and the Commandant, U.S. Coast Guard, Federal Aviation Administrator, Federal Highway Administrator, and Federal Railroad Administrator, or their designees, as members. The General Council of the Department is the legal adviser to the Board and the Director of the Office of Hazardous Materials is the Secretary of the Board.

* * * * *

B. In § 170.11, paragraph (b)(1) is amended to read as follows:

§ 170.11 Filing of petitions for rule making.

* * * * *

(b) * * *

(1) Be submitted, in duplicate, to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, Washington, D.C. 20590.

* * * * *

C. In § 170.13, the introductory text of paragraph (b) is amended to read as follows:



FEDERAL REGISTER, VOL. 38, NO. 170—TUESDAY, SEPTEMBER 4, 1973

V 38 170 SEP 4 73 XUM

§ 170.13 Filing of petitions for special permits for waivers or exemptions.

. . . . . .

(b) Each petition must be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, Washington, D.C. 20590, and contain the following information:

. . . . . .

D. In § 170.35, the second sentence of paragraph (a) is amended to read as follows:

§ 170.35 Petition for rehearing or reconsideration of rule.

(a) • • • Such a petition must be transmitted, in duplicate, to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, Washington, D.C. 20590, at least 10 days before the effective date of the rule. • • •

. . . . . .

| Article | Classed as— | Exemptions and packing (see sec.) | Label required if not exempt | Maximum quantity in 1 outside container by rail express |
|---|---|---|---|---|
| *Change* | | | | |
| Cartridge bags, empty, with black powder igniters. | Expl. C | No exemption, 173.100. | Expl. C | 150 pounds. |
| Corrosive liquid, n.o.s | Cor | 173.244,173.245, 173.245a | Corrosive | 5 pints. |
| *Diethylene glycol dinitrate* | See § 173.51(d) | | | |
| 1,1 difluoro 1-chlorocthane. *See* Difluoromonochlorocthane. | | | | |
| Phosphorus pentasulfide | F.S | No exemption, 173.225. | F.S | 11 pounds. |

. . . . . .

## PART 177—SHIPMENTS MADE BY WAY OF COMMON, CONTRACT, OR PRIVATE CARRIERS BY PUBLIC HIGHWAY

A. In § 177.824, paragraph (b)(7) is amended to read as follows:

§ 177.824 Retesting and inspection of cargo tanks.

. . . . . .

(b) • • •

(7) The entire vehicle shall be inspected for and comply with the Motor Carrier Safety Regulations, Part 393, Chapter III, of this title.

. . . . . .

§§ 177.856, 177.858 and 177.860 [Amended]

B. In §§ 177.856(a), 177.858(a) and 177.860(a), reference to § 177.814 is amended to read § 177.807:

## PART 178—SHIPPING CONTAINER SPECIFICATIONS

In § 178.337-10, the last sentence of paragraph (d) is amended to read as follows:

§ 178.337 Specification MC 331; cargo tanks constructed of steel, primarily for transportation of compressed gases as defined in the Compressed gas section.

§ 178.337-10 Protection of fittings.

. . . . . .

(d) • • • The bumpers shall conform dimensionally to § 393.86, Chapter III of this title.

. . . . . .

This amendment is effective September 30, 1973.

(Secs. 831-835, Title 18, United States Code, sec. 9, Department of Transportation Act, (49 U.S.C. 1657) Title VI, sec. 902(h), Federal Aviation Act of 1958 (49 U.S.C. 1421-1430, 1472(a), and 1655(c)).)

Issued in Washington, D.C., on August 27, 1973.

C. R. MELUGIN, Jr.,
*Alternate Board Member, For the Federal Aviation Administration.*
ROBERT A. KAYE,
*Board Member, For the Federal Highway Administration.*
MAC C. ROGERS,
*Board Member, For the Federal Railroad Administration.*
W. F. REA,
*RADM, USCO, Board Member, For the United States Coast Guard.*

[FR Doc.73-18527 Filed 8-31-73;8:45 am]

## CHAPTER X—INTERSTATE COMMERCE COMMISSION

### SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Rev. S.O. 1108; Amdt. 2]

### PART 1033—CAR SERVICE

**Reading Co.**

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 23d day of August 1973.

Upon further consideration of Revised Service Order No. 1108 (37 FR 28634; 38 FR 5876), and good cause appearing therefor:

*It is ordered*, That:

§ 1033.1108 Revised Service Order No. 1108 (Reading Company, Richardson Dilworth and Andrew L. Lewis, Jr., trustees, authorized to operate over tracks of Lehigh Valley Railroad Company, John F. Nash and Robert C. Haldeman, Trustees) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.*—The provisions of this order shall expire at 11:59 p.m., January 15, 1974, unless otherwise modified, changed, or suspended by order of this Commission.

*Effective date.*—This amendment shall become effective at 11:59 p.m., August 31, 1973.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

*It is further ordered*, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] JOSEPH M. HARRINGTON,
*Acting Secretary.*

[FR Doc.73-18659 Filed 8-31-73;8:45 am]

[S.O. 1122; Amdt. 1]

### PART 1033—CAR SERVICE

**Texas Export Railroad Co.**

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 23d day of August 1973.

Upon further consideration of Service Order No. 1122 (38 FR 4667), and good cause appearing therefor:





*It is ordered*, That:

§ 1033.1122 *Service Order No. 1122* (The Texas Export Railroad Company authorized to operate over tracks abandoned by Chicago, Rock Island and Pacific Railroad Company) be, and it is hereby, amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) *Expiration date.*—The provisions of this order shall expire at 11:59 p.m., October 31, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

*Effective date.*—This amendment shall become effective at 11:59 p.m., August 31, 1973.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

*It is further ordered*, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] JOSEPH M. HARRINGTON,
*Acting Secretary.*

[FR Doc.73-18660 Filed 8-31-73;8:45 am]

[S.O. 1149]

### PART 1033—CAR SERVICE

**Fort Worth and Denver Railway Co.**

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 29th day of August 1973.

It appearing, that the Fort Worth and Denver Railway Company (FWD) is unable to operate over its lines between Estelline, Texas, and Dimmitt, Texas; Silverton, Texas, and Lubbock, Texas, because of the collapse of a tunnel in the vicinity of Quitaque, Texas; that FWD operations over these lines can be accomplished by use of tracks of the Quanah, Acme & Pacific Railway Company (QAP) between Quanah, Texas, and Floydada, Texas, and over tracks of The Atchison, Topeka and Santa Fe Railway Company (ATSF) between Floydada, Texas, and Plainview, Texas; that the QAP and the ATSF have consented to use of these tracks by the FWD; that operation by the FWD over the aforementioned tracks of the QAP and of the ATSF is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

*It is ordered*, That:

§ 1033.1149 Service Order No. 1149.

(a) *Fort Worth and Denver Railway Company authorized to operate over tracks of Quanah, Acme & Pacific Railway Company and over tracks of the Atchison, Topeka and Santa Fe Railway Company.*—The Fort Worth and Denver Railway Company (FWD) be, and it is hereby, authorized to operate over tracks of the Quanah, Acme & Pacific Railway Company (QAP) between Quanah, Texas, and Floydada, Texas, a distance of approximately 110.9 miles, and over tracks of The Atchison, Topeka and Santa Fe Railway Company (ATSF) between Floydada, Texas, and Plainview, Texas, a distance of approximately 26.6 miles.

(b) *Application.*—The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.*—Inasmuch as this operation by the FWD over tracks of the QAP and of the ATSF is deemed to be due to carrier's disability, the rates applicable to traffic moved by the FWD over these tracks of the QAP and of the ATSF shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.*—This order shall become effective at 12:01 a.m., August 29, 1973.

(e) *Expiration date.*—The provisions of this order shall expire at 11:59 p.m., October 31, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

*It is further ordered*, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-18658 Filed 8-31-73;8:45 am]

## Title 50—Wildlife and Fisheries

### CHAPTER I—BUREAU OF SPORTS FISHERIES AND WILDLIFE; FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

### SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION, AND IMPORTATION OF WILDLIFE

### PART 20—MIGRATORY BIRD HUNTING

**Open Season, Bag Limits, and Possession of Certain Migratory Game Birds**

*Correction*

In FR Doc. 73-15764, appearing at page 20456 in the issue for Wednesday, August 1, 1973, the dates in the table (§ 20.105(c)) on page 20460 labeled "Seasons in the Atlantic Flyway" for the states of Pennsylvania, Rhode Island, and South Carolina, should read "Sept. 1-Nov. 9, Sept. 10-Nov. 18, Sept. 14-Nov. 22" respectively.

### PART 32—HUNTING

**Quivira National Wildlife Refuge, Kansas**

The following special regulation is issued and is effective on September 4, 1973.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

KANSAS

QUIVIRA NATIONAL WILDLIFE REFUGE

Public hunting of ducks, coots, gallinules, and mergansers on the Quivira National Wildlife Refuge, Kans., is permitted from October 6, 1973, through October 21, 1973, inclusive, and from November 10, 1973, through December 23, 1973, inclusive; geese, from October 6, 1973, through October 21, 1973, inclusive, and from November 3, 1973, through December 28, 1973, inclusive. Hunting of mourning doves, snipe, rails, crows, and woodcock is permitted when the respective seasons are concurrent with the waterfowl seasons as designated by the Kansas Forestry, Fish, and Game Commission. Hunting shall be only on the areas designated by signs as open to hunting. These open areas, comprising 7,990 acres, are delineated on maps available at refuge headquarters, Stafford, Kans., and from the Area Manager, Bureau of Sport Fisheries and Wildlife, Federal Building, Room 1748, 601 First 12th Street, Kansas City, Missouri 64106. Hunting shall begin accordance with all applicable State and Federal regulations covering the hunting of ducks, coots, gallinules, geese, mourning doves, snipes, rails, crows, and woodcock subject to the following special conditions:



V 38 170
SEP 4 73
XUM

(1) Blinds—only temporary blinds constructed above ground of natural vegetation are permitted.

(2) Dogs—not to exceed two per hunter may be used only for retrieving.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 28, 1973.

CHARLES R. DARLING,
*Refuge Manager, Quivira National Wildlife Refuge, Stafford, Kansas.*

AUGUST 27, 1973.

[FR Doc.73-15878 Filed 8-31-73;8:45 am]

## PART 32—HUNTING

### Quivira National Wildlife Refuge, Kansas

The following special regulation is issued and is effective on September 4, 1973.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

KANSAS

QUIVIRA NATIONAL WILDLIFE REFUGE

The public hunting of ring-necked pheasants, bobwhite, squirrel and rabbits on the Quivira National Wildlife Refuge, Kansas, is permitted only in the areas open to waterfowl hunting. These areas, comprising 7,990 acres, are delineated on maps available at refuge headquarters, Stafford, Kansas, and from the Area Manager, Bureau of Sport Fisheries and Wildlife, Federal Building, Room 1748, 601 East 12th Street, Kansas City, Missouri 64106. Hunting shall be in accordance with all applicable State regulations governing the hunting of ring-necked pheasants, bobwhite, squirrel and rabbits October 6, 1973, through October 21, 1973, inclusive, and November 3, 1973, through January 31, 1974, inclusive, subject to the following special conditions:

(1) The use of rifles is prohibited for taking squirrel and rabbits.

(2) The hunting of any species after sunset is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 31, 1974.

CHARLES R. DARLING,
*Refuge Manager, Quivira National Wildlife Refuge, Stafford, Kansas.*

AUGUST 27, 1973.

[FR Doc.73-18579 Filed 8-31-73;8:45 am]

## Title 6—Economic Stabilization

## CHAPTER I—COST OF LIVING COUNCIL

## PART 150—COST OF LIVING COUNCIL PHASE IV PRICE REGULATIONS

### Extension of Freeze on Retail Prices of Gasoline and No. 2–D Diesel Fuel

Section 150.355(b)(1), (b)(2), and (e) is amended as set forth below to reflect an extension of the freeze on retail prices of gasoline and No. 2–D diesel fuel and to establish the time when Phase IV regulations governing retail sales of these products take effect.

The amendments alter the dates from 11:59 p.m., local time, August 31, 1973, to 11:59 p.m., local time, September 7, 1973.

Recent court actions involving Phase IV petroleum regulations have understandably created some confusion over the status of Phase IV ceiling price and posting requirements for retail sales of gasoline and diesel fuel. This amendment extends the freeze for one week, to 11:59 p.m., local time, Friday, September 7, 1973, in order to give the nation's retail gasoline and diesel fuel dealers sufficient time to comply with Phase IV rules. This extension is designed, therefore, to provide for retailers of gasoline and No. 2–D diesel fuel additional time to make the computations necessary under the regulations, and to procure the required posting labels from the U.S. Postal Service.

Because the purpose of these regulations is to provide immediate guidance as to Cost of Living Council decisions, I find that publication in accordance with normal rule making procedure is impracticable and that good cause exists for making these regulations effective in less than 30 days. Interested persons may submit comments regarding these regulations. Communications should be addressed to the Office of General Counsel, Cost of Living Council, Washington, D.C. 20508.

(Economic Stabilization Act of 1970, as amended, Pub. L. 92–210, 85 Stat. 743; Pub. L. 93–28, 87 Stat. 27; E.O. 11695, 38 FR 1473, E.O. 11730, 38 FR 19345, Cost of Living Council Order No. 14, 38 FR 1489)

Issued in Washington, D.C., on August 30, 1973.

JOHN T. DUNLOP,
*Director,*
*Cost of Living Council.*

1. In § 150.355, paragraph (b)(1) and (2) and (e) are amended to read as follows:

§ 150.355 Retail sales of gasoline, No. 2–D diesel fuel and No. 2 heating oil.

• • • • • •

(b) • • •

(1) Prior to 11:59 p.m., local time, September 7, 1973, no refiner-retailer, reseller-retailer, or retailer of gasoline, No. 2–D diesel fuel may charge a price with respect to a retail sale of any such item which exceeds the freeze price or other authorized price for such item established pursuant to the provisions of Part 140 of this chapter.

(2) Effective 11:59 p.m., local time, September 7, 1973, no refiner-retailer, reseller-retailer, or retailer of gasoline, or No. 2–D diesel fuel may charge a price with respect to a retail sale of any such item which exceeds the ceiling price for that item.

• • • • • •

(e) *Posting.* No later than 11:59 p.m., local time, September 7, 1973, each refiner-retailer, or retailer of gasoline, or No. 2–D diesel fuel shall post the ceiling price in a prominent place on each pump used to dispense retail sales of gasoline or No. 2–D diesel fuel and the octane number for that gasoline. The ceiling price and octane number must be certified and posted in the form and manner prescribed by the Cost of Living Council.

[FR Doc.73-18714 Filed 8-30-73;12:32 pm]

## PART 152—COST OF LIVING COUNCIL PHASE IV PAY REGULATIONS

### Recodified Pay Rules for Phase IV

*Correction*

In FR Doc. 73–18703 appearing at page 23614 in the issue of Friday, August 31, 1973, the preamble to the document was inadvertently omitted. It should read as follows:

Part 152 is added to Title 6, Chapter I of the Code of Federal Regulations. The rules contained in Part 152 are basically the rules with respect to pay adjustments that were previously contained in Part 130. However, that part also contained the Phase III rules with respect to prices. Since the price regulations have been removed from Part 130 and are now set forth in Parts 140, 150, and 155, the pay rules have been republished as a matter of convenience and clarity as a new, separate part. In general, and except as specifically modified in Part 152, the Phase III pay regulations continue in effect in Phase IV without substantial modification. Certain changes have been made including the adoption of a proposed amendment to Part 130 published in the FEDERAL REGISTER on July 20, 1973, at 38 FR 19485, relating to the imposition of a prenotification requirement (proposed § 130.26).

*Substantive changes.*—Proposed § 130.26 has been recodified into two separate sections. Paragraphs (a) through (f)(1) of proposed § 130.26 have been incorporated into § 152.24 of the recodified regulations. Paragraph (f)(2) of proposed § 130.26, relating to required supplemental information, has been incorporated into § 152.5(b) as a rule applicable to all pay submissions made to the Council, except in the areas of food, executive compensation, and construction. Also, new § 152.5(a) adopts the rule that all pay submissions (except in executive compensation and construction and where otherwise provided in the regulations) are required to be made on the Council's Form PB–3 (or Optional Form PB–3A, for units containing fewer than 1,000 employees).

The recodified regulations also contain specific instructions on where to file certain submissions to the Council. Thus, members of the public are cautioned to use the specific post office box number appropriate to the particular submission if a box number has been so designated. The failure to use a proper box number could result in a submission not being considered received or timely filed. Specific box numbers have been designated in §§ 152.4(e), 152.14(l), 152.26, 152.74(a), 152.93, and 152.105(a).





It should be noted that the definition of "food," as set forth in § 152.2, differs from the definition of "food" for price control purposes, set forth in Parts 140 and 150, in that items produced or manufactured for animal ingestion are not considered "food" for wage control purposes.

Proposed § 130.34(d) (relating to pay adjustments affecting employees in the lumber industry) has not been incorporated into the recodified regulations.

The substance of the small business exemption with respect to pay adjustments in § 130.40 has been incorporated into § 152.41 of the recodified regulations. It should be noted, however, that dates which serve to provide measuring points under the regulation have been changed to conform to the comparable changes made in the Phase IV price regulations in Part 150. Because of the shift forward in the time period for determining applicability, a firm which qualified for the exemption in Phases II and III may not necessarily quality for the exemption as now formulated, as a result of a change in its circumstances, such as growth in employment or sales.

The exclusion from mandatory pay controls of the wages of employees of eating and drinking establishments in § 130.58(c) has been incorporated into § 152.72(c) of the recodified regulations with changes. One change makes clear that the exclusion applies as well to wages of employees who render administrative or support functions with respect to such eating and drinking establishments. Another change makes clear that the exclusion applies only to wages of employees of a firm which operates the eating or drinking establishment.

The reporting requirements with respect to nonunion construction employees and certain off-site and other employees in § 130.77(b)(1) have been incorporated in § 152.104(b) of the recodified regulations. A new optional Form CLC–32, that is presently available from the Council, is mentioned in the recodification. However, the new provision requires, in addition, a separate annual report from any nonunion contractor that employs 10 or more employees with respect to pay adjustments made to all on-site nonunion construction employees and on-site supervisory employees. This new annual report form is to be filed if a special report required by § 152.104(b)(3) is not otherwise due. The new annual report form is expected to be available in the near future. A new procedural rule has also been added in § 152.105(d) of the recodified regulations to provide that special reports required in § 152.104(b)(2)(iii) and (b)(3) are to be submitted on a craft or similar basis for each project or job site where the contractor is performing work, except job sites subject to Federal, State, or local prevailing wage laws. However, if the same wage rate is paid on more than one project, the nonunion contractor may submit a single report if he identifies each project or site covered by the report.

The rule with respect to fringe benefits for nonunion construction employees in § 130.79(e) has been incorporated in § 152.107(e) of the recodified regulations. A change has been made with respect to both included and qualified fringe benefits that permits exclusion of the secondary effect of increases in the straight-time hourly rate in the computation of such pay adjustments.

In the case of nonunion construction employees, § 152.107(f) contains the rule with respect to entry into a new labor market area. That rule has also been expanded to limit the wage rate that may be paid when a nonunion contractor establishes a new job, job classification, or position to the wage rate paid by a majority of contractors in the local labor market area for similar jobs, job classifications, or positions.

A new Subpart L of Part 152 has been added to implement during Phase IV the provisions of sections 208 and 209 of the Act, relating to violations, sanctions, fines, penalties, and other relief. Subpart L substantially follows the comparable provisions in Subpart D of Part 201 of the Pay Board's regulations in effect on January 10, 1973. However, certain modifications or changes have been made to adapt to a dual program of self-administration for most industries and mandatory controls for the food, health services, and construction industries. For example, during Phase II, it was a violation for any person to pay or to receive a wage or salary increase that was not authorized under the regulations in effect at that time. Section 152.13 permits increases in excess of the standard to be paid without the prior approval of the Council, under certain circumstances, as part of the voluntary control portion of Phase IV of the Economic Stabilization Program. Accordingly, it is not a violation of the Phase IV regulations to pay an increase that exceeds the standard in such cases unless the payment is made or continued to be made after the issuance by the Council of a temporary order pursuant to § 152.54 or a final order pursuant to § 152.57.

*Other changes.*—All substantive pay control provisions set forth in Part 130 can be identified by using the cross reference table in the Appendix to Part 152. In some cases the titles to the sections or subpart headings have been revised to conform to the changed format, and minor changes of a nonsubstantive nature have been incorporated in the text. For example, in § 130.40(a)(2)(i), the inapplicability of the small business exemption relates to both price and pay adjustments of a firm. However, in new § 152.41(a)(2)(i) the inapplicability of the exemption relates only to the pay adjustments of the firm, although the test for inapplicability is the annual sales or revenues of the firm.

Because the immediate implementation of Executive Order No. 11730 is required, and because the purpose of these regulations is to provide immediate guidance as to Cost of Living Council decisions, the Council finds that publication in accordance with normal rulemaking procedures is impracticable and that good cause exists for making these regulations effective in less than 30 days. Interested persons may submit comments regarding these regulations. Communications should be addressed to the Office of General Counsel, Cost of Living Council, Washington, D.L. 20508.

(Economic Stabilization Act of 1970, as amended, Public Law 92–210, 85 Stat. 743; Public Law 93–28, 87 Stat. 27; E.O. 11695, 38 F.R. 1473; E.O. 11730, 38 F.R. 19345; Cost of Living Council Order No 14, 38 F.R. 1489)

In consideration of the foregoing, Part 152 of Title 6 of the Code of Federal Regulations is added as set forth herein.



V 38 170
SEP 4 73
XUM

# Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[ 50 CFR Part 21 ]**

### FALCONRY PERMITS

### Extension of Comment Period

On July 30, 1973, there was published in the FEDERAL REGISTER (38 FR 20264) a proposal to add a new § 21.28 *Falconry permits*, to Subpart C of Part 21. Comments were invited to August 31, 1973.

In order to provide the public with additional time in which to consider the proposal and submit comments thereon, the period for comments is extended to September 30, 1973.

CHARLES M. LOVELESS,
*Acting Director, Bureau of Sport Fisheries and Wildlife.*

AUGUST 30, 1973.

[FR Doc.73-18713 Filed 8-31-73;8:45 am]

### National Park Service

**[ 36 CFR Part 7 ]**

### SHENANDOAH NATIONAL PARK

### Backcountry Camping

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by section 3 of the Act of August 25, 1916 (39 Stat. 535, as amended; 16 U.S.C. 1-3) and by the Act of May 22, 1926 (44 Stat. 616, as amended; 16 U.S.C. 403), and the Act of August 19, 1937 (50 Stat. 700, as amended; 16 U.S.C. 403c-1), 245 DM-1 (34 F.R. 13879), as amended; National Park Service Order No. 77 (38 F.R. 7478), as amended; and Northeast Region Order No. 7 (37 F.R. 6325), it is proposed to add § 7.15(b) (c) (d) to Title 36 of the Code of Federal Regulations, as set forth below.

The purpose of these regulations is to designate, regulate, and control backcountry camping areas in Shenandoah National Park.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit comments, suggestions, or objections to the Superintendent, Shenandoah National Park, Luray, Virginia 22835, on or before October 4, 1973.

Paragraphs (b), (c), and (d) of § 7.15 are added as follows:

§ 7.15 Shenandoah National Park.

* * * * * *

(b) *Backcountry camping.*—The Superintendent may designate areas within the park where persons may not camp overnight because of potential damage to park resources or disruption of other park uses, such areas to be marked on a map to be available in the Superintendent's office and at each ranger station. A person may camp overnight at any other location within the park, except:

(1) No person may camp outside of a designated automobile campground without first obtaining a backcountry camping permit from a Park Ranger;

(2) No person may camp with a group of more than seven (7) other persons outside of a designated automobile campground;

(3) No person may camp

(i) Within one-half mile and within sight of any automobile campground, lodge, restaurant, visitor center, picnic area, ranger station, administrative or maintenance area, or other park development or facility;

(ii) Within 250 yards and within sight of any paved park road or the park boundary;

(iii) Within sight of any trail or any sign which has been posted by park authorities to designate a no camping area; or

(iv) Within sight of a trail shelter or another camping party, provided, that backcountry campers may seek shelter at and sleep within or adjacent to trail shelters, with other camping groups, during periods of seasonally inclement weather when the protection and amenities of such shelter are deemed to be essential; and

(4) No person shall camp except at designated automobile campgrounds, more than two (2) consecutive nights at a single location. The term "location" shall mean that particular campsite and the surrounding area within a one thousand (1,000) foot radius of that campsite.

(c) *Fires.*—(1) No open fires may be kindled except in facilities provided in automobile campgrounds and picnic areas, and in facilities provided at trailside shelters.

(d) *Sanitation.*—(1) Possession of a full or partially filled discardable glass or metal food or beverage container, except one which is made of metal foil, sheet plastic, or paper is prohibited in backcountry camping areas. (2) Except at places provided therefor, no person in backcountry areas shall urinate or defecate within one hundred (100) feet of any trail or stream. All fecal material must be placed in a hole and be covered with at least three (3) inches of soil.

RAYMOND L. FREEMAN,
*Associate Director.*

[FR Doc.73-18581 Filed 8-31-73;8:45 am]

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

**[ 7 CFR Part 1030 ]**

[Docket No. AO 361-A9]

### MILK IN THE CHICAGO REGIONAL MARKETING AREA

### Notice of Recommended Decision and Opportunity To File Written Exceptions

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Chicago Regional marketing area.

Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, by September 19, 1973. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Madison, Wisconsin, on June 6-7, 1973, pursuant to notice thereof issued May 22, 1973 (38 FR 13753).

The material issues on the record of the hearing relate to:

1. Time and method of payment for milk.
2. Charges on overdue accounts.
3. Definition of "exempt distributing plant."
4. Definition of a cooperative association as a handler with respect to milk of producers delivered from the farm to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association.
5. Administrative and miscellaneous order changes.

(a) Exclusion of certain handlers' milk from the uniform price.

(b) Offset of payments due from a handler against payments due to the handler.

(c) Miscellaneous or conforming changes.





FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Time and method of payment for milk.*—Provision should be made for partial payments by handlers to producers and cooperative associations for milk delivered during the first 15 days of the month. Partial payments to producers should be due on the 3rd day following the end of the month. Payment to cooperative associations should be due, for partial payments, on the first day after the month, and for final payment, on the 16th day after the month. Payments should be accompanied by a statement explaining the amount of payment, accounting for any deductions involved.

The order presently specifies that payments by a handler to producers for milk received during the month shall be made on or before the 18th day of the following month, or on such date to a cooperative association that requests payment for the milk of producers who have authorized the association to collect payment. Payments are also to be made on or before the 18th day after the month, at the uniform price, to a cooperative association that is a handler pursuant to § 1030.13(e) for milk moved from farms to pool plants of other handlers.

A proposal was made by two cooperative associations that would require handlers to make partial payments for producer milk delivered to them during the first 15 days of the month. The partial payments, at the Class II price for the previous month for milk of 3.5 percent butterfat, would be made by handlers to individual producers on or before the 3rd day after the end of the month during which the milk was delivered, and to cooperative associations on or before the first day after such month. Payments to cooperative associations, as proposed, would be for milk from producers for whom the cooperative is authorized to collect payment, for milk for which the cooperative association is a bulk tank handler pursuant to § 1030.13(e), and for milk delivered from pool plants operated by a cooperative association.

Final settlement to cooperatives as proposed would be two days before the date for payments to individual producers in order that the cooperatives would be able to pay their producers on the same date as required for producers not receiving payment through a cooperative.

A proposal also was made by five proprietary handlers that the order provide for partial payments to producers. They proposed, however, that the payments be made on the fifth day after the end of the month.

Another handler opposed partial payments on the basis that he would not necessarily receive payment from his customers by the date partial payments to producers would be due.

In this market the practice of making partial payments, or twice monthly payments, is not new even though such payments are not required by the order. The practice of making partial payments varies, however, among handlers and for producers delivering to a handler. Cooperative associations also, in some cases, make partial payments earlier than the regular date for final settlement.

Because there is an irregular pattern of partial or twice monthly payments there is a basis for dissatisfaction among producers. Some producers have been able to successfully negotiate for payments on this basis while others have not. The situation also results in advantage to some handlers over others insofar as handlers not making twice monthly payments have the use of the money involved to date of final settlement.

The practice of making partial payments, although not required by the order, recognizes to some degree the need for dairy farmers to be compensated for production costs as soon as reasonably possible. Quite generally, competition in milk procurement is intense to the degree that handlers often meet producers' requests for twice monthly payments, particularly in localities where other handlers are making such payments. Cooperative associations accordingly are under pressure, also, to make twice monthly payments. In this situation cooperatives necessarily depend on payments from pool plant operators to whom they have delivered milk in order to pay their members, or else must borrow funds to do so.

There is a substantial basis for the adoption of partial payments under this order. Such provision will provide a uniform and orderly basis of speeding the flow of money to all producers for milk they have already delivered and result in a more equitable situation among handlers. The payment date now specified in the order for milk delivered in a month is about 48 days after the first day's delivery in such month. During this entire period the producer is without any compensation for expenses incurred in producing the milk, except insofar as the handler may make a voluntary partial payment prior to the date for final payment. Partial payments on a specified basis will accelerate compensation to all producers, thus reducing their burden in meeting production expenses. The payment provisions here adopted will result also in a more uniform basis of payment throughout the market and thus promote orderly marketing.

Provision for partial payments to producers on or before the 3d day after the end of the month at the previous month's Class II price and to cooperatives on or before the first day after the end of the month is a reasonable basis for such payments. This schedules the partial payments approximately the same number of days after the 15th of the month as final settlement is due after the end of the month.

Partial payment will be at the lowest use class price (Class II), disregarding adjustments for butterfat test and plant location. It is provided also that the handler will make the partial payment only to producers who have not discontinued deliveries to the handler by the end of the month. A handler may subtract any proper deductions authorized by the producer in the same manner as for final payments. Thus, the partial payment should not exceed the value of the milk the handler has received.

The two-day earlier due date for payments to cooperatives (for partial and final payment) is provided so that individual members of the cooperative can receive payments by the same time as producers receiving payment directly from handlers. Two days should be adequate for this purpose.

Concerning the objection to partial payments voiced by one handler, it should be noted that by the time partial payment is due, handlers will have had full use of the milk. Producers should not bear the burden of credit handlers may have extended to customers.

The several situations in which partial payments would be made to a cooperative association include that under which producers authorize a cooperative association to collect their monthly payments due from handlers. As previously indicated such partial payments to the cooperative would be due on or before the first day after the end of the month.

Also partial payments should be made by a handler to a cooperative association for milk he receives from the cooperative acting as a bulk tank handler pursuant to § 1030.13(e) at the Class II price of the previous month (for milk of 3.5 percent butterfat content) on or before the first day after the end of the month. Final settlement to the cooperative should be made on the 16th day after the end of the month.

Further, the order should specify that a handler pay a cooperative association the value of milk received from the cooperative association as the operator of a pool plant. The classification of such interplant transfer is established under the rules specified in § 1030.44, and payment by the handler therefore is at the class prices for the utilization of the milk so determined. Partial payments on milk received from the cooperative association's pool plant during the first 15 days of the month would be at the same time and rate as previously described for other partial payments to cooperatives.

A handler representative proposed at the hearing that payments also be required on similar basis to a supply plant operator who is a proprietary handler. This proposal is denied. The order establishes only prices and payments due producers and associations of producers from handlers.

The two proponent cooperative associations proposed that each handler should furnish a supporting statement to each producer in making partial and final payments for milk received from producers. Such provision should be adopted so that the receipient of payment will be provided vertification of the quantity of milk on which payment is made, the rate of payment and any deductions.



V 38 I 170
SEP 4 73
XUM

The statement should show for each producer: (1) The month and the identity of the producer; (2) his daily and total pounds of milk (and his average butterfat, for the entire month only); and (3) the minimum rate(s) of payment required as well as the rate(s) used in making payment if other than such minimum(s); and (4) the amount or rate and nature of any deduction claimed by the handler and the net payment to the producer or cooperative association. When a cooperative is authorized to collect payment for producers the same information should be provided.

2. *Charges on overdue accounts.*—Any unpaid obligation of a handler to the market administrator should be increased three-fourths of one percent on the 7th day after the due date each month.

The order specifies that each handler shall make payments to the market administrator for the producer-settlement fund not later than the 16th day after the end of the month, and for marketing service money and the handler's share of the administrative expense not later than the 18th day after the end of the month. Payments by operators of partially regulated distributing plants and operators of plants subject to other Federal orders are due on the 25th day after the end of the month.

It was proposed by two cooperative associations that amounts owed by handlers to the market administrator be subject to an added charge if overdue. Proponents stated such charges are necessary to encourage handlers to pay promptly and to eliminate the inequity of the present situation where some handlers are continually late in payments while others pay on time. The proposal made allowance for possible delay in the physical handling of payment procedures because of time for mail delivery and weekends intervening between billing and payment. Proponents stated that the charge for late payments should be applied on the 6th day after the due date specified in the order.

The problem with respect to delinquent payments is that some payments are a few days late while others are overdue a week or more while some handlers are characteristically behind in payments for longer periods.

In May 1973, for example, the market administrator made 48 billings of amounts due the producer-settlement fund, of which 18 were received within five days after the date due, 18 more were received by the end of the month and 12 were received later than the end of the month. The delays in payments to the administrative expense fund and marketing service fund are similar. In May a weekend occured within the five days after the due date and many of the payments were received on the following Monday.

It is essential to the administration and effective operation of a milk order that handlers' payments of their obligations to the specified funds be prompt. Payments to the producer-settlement fund by handlers with higher than average use of their milk in Class I is the means by which money is made available to handlers with lower than average use of milk in Class I in order that all handlers can pay to producers the uniform price representing the average value of milk of all handlers.

The success of this scheme depends on the solvency of the producer-settlement fund. If handlers fail to meet their obligations promptly the operation of the fund is threatened. Even temporary defaults by some handlers may work unfairness to others and encourage wider noncompliance.

The schedule of dates in the order for handlers' reports, announcement of the uniform price and payments to and from the producer-settlement fund are designed to afford the minimum time for these procedures so as to expedite the payment to producers for the milk they have delivered. While the actual experience in achieving payments according to the schedule has not been ideal, there was no substantial support for extending the time for payments to dates later than now specified.

The objective of prompt payment of amounts due the market administrator for the administrative expense and the marketing service funds is also essential to the efficient and timely performance of the administrative functions of the order. This money is necessary to meet the expenses incurred by the market administrator in carrying out the related functions. Deficiencies in payments by handlers to the funds could impair the ability of the market administrator to perform the functions required by the provisions of the order.

It is intended, of course, that every effort be made to have handlers pay their obligations on the date on which due as specified in the order. A charge against handlers for an overdue obligation should make allowance, however, for the possibility that not all delays of a few days can be ascribed to the fault of the handler owing the money. The reasons for such possible delays of a few days in this market have been previously described. In the situation existing in this market, therefore, a charge against handlers whose obligations are overdue can best serve to induce payment in those instances where payment is so late that it clearly constitutes an avoidable delay. It is concluded that a charge for overdue obligations will not be applied within the 6 days after the due date specified in the order, but that payments not in the hands of the market administrator on the 7th day after due date will be subject to a charge. There is no basis for concluding that any delay in delivery of payments beyond such date would be unavoidable.

In establishing a proper charge to a handler on an overdue obligation it is recognized that by delaying payment the handler is thus availing himself of working capital the use of which has a value closely related to interest charged by commercial banks on short-term loans. The amount of the charge for overdue obligations thus should bear a reasonable relationship to the cost of money borrowed for short-term purposes. Under present conditions, three-fourths of one percent per month is reasonable in relation to the cost of short-term credit to business enterprises in the area. The obligation of the handler should be increased on any overdue obligation by three-fourths of one percent on the 7th day after the due date specified in the order and should be increased at the same rate for each additional month that such obligation is overdue. The additional charge computed monthly will apply not only to the original obligation but also to any unpaid interest charge outstanding.

Some obligations due to the market administrator will not be discovered until there is an audit of the handler's accounts. In such cases the order provides that the market administrator shall promptly notify the handler of the amount of money due and payment be made by the handler not later than the date for making this type of payment next following such notification. If payment is not received by the market administrator within six days after such date, the added charge of three-fourths of one percent per month would also apply to such overdue obligation.

At the time the provision is made effective there may be a number of handlers whose obligations are already overdue. In applying uniformly the interest charge for overdue obligations the added charge would be effective on the 7th day after the due date for such type of obligation in the month in which the provision becomes effective, and would be subject to further additional charges at the same rate if still unpaid in succeeding months. Interest charges would not be retroactive prior to the effective date of the provision.

In some other instances the existence of an unpaid obligation will not have been discovered because a handler has failed to submit the regular report of milk receipts and utilization. In such a case the handler's obligation will be considered to have been due on the date that would have been determined if he had filed his report on time.

To avoid administrative costs that otherwise would be involved in the handling of small amounts of interest charged on overdue obligations, provision should be made to delay payment of any interest obligation in an amount less than $10 until the accumulated amount for the handler is $10 or more.

No opposition was expressed to the adoption of an interest charge for overdue obligations.

3. *Exempt distributing plant.*—No change should be made in the definition of "exempt distributing plant."

A proposal by a distributing plant operator would expand the definition of "exempt distributing plant" (§ 1030.12 (e)), to include any plant that processes and bottles less than 9,000 pounds of Class I Grade A milk per day.





Proponent handler, who operates a fluid milk distributing plant and processes ice cream, expressed a need to be relieved of payments into the producer-settlement fund and payments for administrative expense in order to maintain a solvent business. Another distributing plant operator requested that any handler processing less than 5,000 pounds of milk per day be made exempt from the order.

The exemption proposals were opposed by several producer cooperative associations on the basis that such exemptions could lead to disorderly marketing and loss of returns to producers on Class I disposition.

The number of plants that would have been exempt by the proposed provision had it been in effect during 1972, based on handlers' operations during that period, varied from 20 to 23 each month during the year. The quantity of Class I milk that would have been exempt varied from 2.5 to 3.0 million pounds monthly.

The proposals of the two handlers differ in scope and intent from the nature of the present provision for "exempt distributing plant." The existing provision arose out of a situation in which it was found that a governmental agency engaged in dairy operations in this market, but not competitive for the commercial market's Class I sales, need not be regulated in the same manner as plants of other handlers to achieve the objectives of regulation.

The exempt distributing plant provision was included at the time of reestablishment of order regulation for the Chicago marketing area and marketing areas of five nearby milk orders as merged into the single regulation. In the decision issued by the Assistant Secretary May 15, 1968, concerning the proposed Chicago Regional order (33 FR 7516, official notice of which is taken) it is stated that:

> In the present Madison, Wis., order a plant operated by a State educational institution is excluded from the pool plant provisions of the order. Such exemption should be provided in the proposed Chicago Regional order.
>
> The University of Wisconsin operates a distributing plant primarily for research and instructional purposes in Madison. Distribution of fluid milk products from this plant results from research and instruction in dairy technology and is generally limited to the University campus. Occasional disposition of such products off the campus is exclusively for research purposes. * * * *

Under circumstances as described where the fluid disposition of the government agency is primarily within its own establishment such operation poses no threat to orderly marketing. The proposals of the two handlers, however, would involve distribution by exempt handlers in competition with regulated handlers.

The maintenance of orderly marketing conditions depends upon a system of uniform prices established by the order to be paid by handlers according to the uses handlers make of the milk they receive. Thus, all handlers pay the same minimum class prices for milk received at similar locations. A handler's total money obligation is computed from the quantity of skim milk and butterfat used in Class I and Class II multiplied by the respective class prices, as adjusted for butterfat content and location.

Each handler who has a higher percentage of his utilization in Class I than the market average pays part of his total obligation (computed as described above) to the producer-settlement fund in order that the average value of milk as used by all handlers can be paid to producers on a uniform basis.

Thus, payments by a handler to the producer-settlement fund, from which the proponent handler proposes to be relieved, are not an addition to the class price obligation but are a part of the system of uniform pricing to handlers and the means of conveying such monies to producers at the uniform, or blend, price.

Exempt handlers, not being required to pay the minimum class prices, would have an unwarranted advantage in their cost of milk received from producers compared to other handlers. This would tend to erode the statutory requirement that class prices shall be uniform as to all handlers (subject to the adjustments specified in section 608c(5)(A)). Handlers regulated by a Federal order are marketing their product substantially within a marketing area where they compete with other handlers as rivals for the same trade. In these circumstances it is inevitable that the application of price regulation to some handlers but not to others will injure the business of those subject to regulation.

A handler not subject to the minimum price system established by the order will have advantage over his competitors. He will be able to pay the producers less than his rivals are required to pay, and thus will be in a position to undersell them on the market.

Further, the interests of producers are served best when the maximum proportion of milk regularly supplied to the market through commercial channels is pooled under the terms of the order. The operation of the pool on this basis is an essential feature of this regulation, designed to maintain orderly marketing. It is the mechanism through which producers enjoy the benefits of the Class I sales value of all handlers in the market. If some dairy farmers regularly supplying the market are not included in the pooling operation they are deprived of such benefits.

If the proposal were adopted, a substantial number of producers would not have the protection of minimum prices established by the order. The quantities of milk that would be exempt from pooling have been cited. Greater quantities would be exempt if additional operators undertook to qualify for the exemption.

Proponent handler petitioned also to be relieved of payment of his share in meeting the administrative expense of the order. Such administrative expense necessarily is incurred by the market administrator in carrying out his functions in administering the order. Since each handler is charged a proportionate share of such expense, to exempt certain handlers as proposed simply would transfer the additional burden to other handlers. The proposal is denied.

4. *Definition of a cooperative association handler on bulk tank milk.*—The definition of "handler" as it applies to a cooperative association responsible for moving milk from farms to pool plants in bulk by tank truck should not be changed at this time.

Section 1030.13(e) defines a cooperative association as a handler "with respect to milk of its producers which is received from the farm for delivery to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association." A proposal was offered to clarify the application as to milk that may be handled by a cooperative association under the terms of such provision.

Certain questions were raised at the hearing and in a brief filed by two cooperative associations concerning the effect of the proposed change in the handler definition in light of particular marketing practices in the area. The information to deal with these questions was insufficiently developed on the record. Also, two producer groups contend, in their brief, that there are no administrative or marketing problems in the Chicago Regional market at the present time to necessitate a change in the handler definition.

In view of the insubstantial airing on the record concerning marketing practices by cooperative and proprietary handlers that might be affected by the proposed change, further review would be appropriate. Therefore, no action is taken on this record.

5. *Administrative and Miscellaneous order changes.*—(a) *Exclusion of milk of certain handlers from uniform price computation.*—The computation of the uniform price should be modified to include the milk of all pool handlers designated in § 1030.70, except when inclusion of the milk of any handler in default of payments to the producer-settlement fund would endanger operation of the fund.

The order now provides that a handler's report shall be excluded from the computation of uniform price for the month if he has failed to make payments he owes the producer-settlement fund for the preceding month. This provision was intended to protect the producer-settlement fund from depletion by reason of continued failure by a handler or handlers to pay the money owed.

It was proposed by the Dairy Division, Agricultural Marketing Service, that a handler not be excluded from the uniform price computation under the described provision if the reserve money in the producer-settlement fund is at a level such that the operation of the fund will not be impaired by such procedure. In testimony by a staff member of the market administrator it was stated that while payments are not always received with the promptness the order requires, defaults of handlers for prior months' ob-



V 38 - 170 SEP 4 73 XUM

ligations have not in the past endangered the maintenance of adequate reserve money in this large regional order pool.

As previously described, the purpose of the producer-settlement fund is to serve as a "clearing-house operation to which payments are due whenever the class use value of the handler's milk in a month exceeds the amount he owes to producers at the uniform price, and from which money is paid out to other handlers whose class use value per hundredweight is less than the value at the uniform price. Thus, all handlers are enabled to pay the minimum uniform price to producers.

A reasonable reserve is necessary for the efficient operation of the producers' settlement fund, to cover such contingencies as late payments by a handler, and to enable payment by a market administrator when a handler is due monies by reason of audit adjustments. The reserve money in the producer-settlement fund is provided by withholding from the pool computation an amount not less than 4 cents nor more than 5 cents per hundredweight of producer milk in arriving at the uniform price. The reserve is operated as a revolving fund, one half of the unobligated balance that remains from previous periods being added to the uniform price computation each month.

There are several reasons for including a handler's report in the uniform price computation even though he is in default for the previous month:

(1) The uniform price payable to producers each month will represent, as nearly as possible, the total classified use value of all producer milk in the market. If some handlers' reports were excluded, the announced uniform price to producers would be reduced since the defaulted payments are due from handlers that have a higher-than-average utilization;

(2) If all handlers are included, the published pool data each month will represent the complete market information as to supplies and utilization. Otherwise, on some occasions a relatively large handler (or handlers) might be excluded for owing only a small amount to the fund but omission of his report would result in distorted information as to market trends; and

(3) The administrative operation is facilitated if all handlers' reports can be included uniformly in the computation for the month to which such reports apply.

In this market, because of the large volume of producer milk (about 690 million pounds monthly) the amount of reserve money in the fund is large and generally has not been seriously reduced when one or more of the 150 or so handlers[1] have not met their obligation for the prior month. Further, the manner in which the reserve money is replenished each month tends to assure that, except in very unusual circumstances, the reserve of the fund will be maintained at an adequate level.

Although there has been from time to time some noncompliance, in no case has the deficiency of payments jeopardized the operation of the producer-settlement fund. A review of the operation of the fund during the history of the order shows that the amounts owed by handlers delinquent in payments to the fund for prior months have been characteristically small in relation to total reserve money in the fund. The delinquencies would not have depleted or endangered, in any case, the reserve of the fund.

In the future, in view of the charge herein adopted on overdue accounts, the delinquencies of payments should be less frequent.

It was proposed, therefore, that the provision for excluding the defaulting handlers from the computation of the uniform price not be effective unless the reserve money available for the price computation is below a specified level that reasonably assures operation of the fund. In the order language herein adopted it is stated that the amount of reserve money available to be included in the computation of the uniform price (i.e., one-half of the unobligated balance) should be at least 2 cents per hundredweight times the quantity of producer milk.

The provision herein adopted is similar to a provision of the New York-New Jersey order that has proved satisfactory in operation.

In the event that the reserve in the producer-settlement fund falls below the specified level, the milk of those handlers who had not paid their previous month's pool obligation would be excluded from the uniform price computation. Further, the order now provides that if the balance in the producer-settlement fund is insufficient to make all payments due handlers, the market administrator shall reduce uniformly such payments, and then complete such payments as soon as the necessary funds become available.

No opposition was expressed to the adoption of this modification to the uniform price computation. The proposed change is administratively feasible and should be adopted.

(b) *Offset against payments due handlers from the producer-settlement fund.*—The order should be modified to provide that payments due a handler from the producer-settlement fund may be offset against any amounts owed by the handler to the market administrator with respect to marketing services deductions and administrative assessment.

In § 1030.83 *Producer-settlement fund*, provision is already made for offset of payments due a handler from the fund against payments due from such handler to the fund. This offsetting arrangement is limited to payments into and out of the producer-settlement fund and thus does not apply to the marketing service fund or the administrative expense fund.

In the interest of efficiency in handling of payments to and from handlers, it is appropriate that the market administrator be able to offset any payments due to a handler against any payments due from the handler. Further, the offset arrangement provides opportunity in some instances for the market administrator to collect money due from the handler when the handler has failed to pay his obligations to the market administrator.

For example, if the proposed offset arrangement had been in effect in April 1973, 17 of 81 billings for administrative expense and 15 of 41 billings for marketing service funds for such month could have been settled by offset against money due the handlers from the producer-settlement fund.

There was no opposition expressed to the adoption of the "offset" modifications herein provided.

(c) *Conforming changes.*—Conforming changes have been made throughout the order to implement the described amendments in a consistent manner throughout the regulation.

### Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

### General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

### Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Chicago Regional marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

1. In § 1030.71, the introductory text preceding paragraph (a), and paragraph (a) are revised as follows:

**§ 1030.71 Computation of uniform price.**

For each month the market administrator shall compute the uniform price per hundredweight of producer milk of 3.5 percent butterfat content at plants in Zone I pursuant to paragraphs (a) through (g) of this section. If the unreserved cash balance in the producer-settlement fund to be included in the computation is less than 2 cents per hundredweight of producer milk on all reports, the report of any handler who has not made the payments required pursuant to § 1030.84 for the preceding month shall not be included in the computation of the uniform price. The report of such handler shall not be included in the computation for suceeding months until he has made full payment of outstanding monthly obligations. Subject to the aforementioned conditions, the market administator shall compute the uniform price in the following manner:

(a) Combine into one total the values computed pursuant to § 1030.70 for all handlers;

* * * * *

2. Section 1030.80 is revised as follows:

**§ 1030.80 Time and method of payment for milk.**

(a) Each handler shall pay each producer for producer milk received from such producer and for which payment is not made to a cooperative association pursuant to paragraph (b) or (c) of this section as follows:

(1) On or before the 3rd day after the end of each month, to each producer who has not discontinued shipping milk to such handler before the end of the month, for producer milk received during the first 15 days of the month at a rate per hundredweight not less than the lowest class price under the order for milk of 3.5 percent butterfat for the preceding month, less proper deductions authorized in writing by such producer; and

(2) On or before the 18th day after the end of each month, for producer milk received during such month, at a rate per hundredweight of not less than the uniform price adjusted pursuant to §§ 1030.81, 1030.82, and 1030.87, less any payment made pursuant to paragraph (a)(1) of this section, and any proper deduction authorized in writing by such producer and plus or minus adjustments for errors in previous payments made to such producer. If by such date the handler has not received full payment from the market administrator pursuant to § 1030.85 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following receipt of the balance due from the market administrator.

(b) Payments required in paragraph (a) of this section shall be made by a handler to a cooperative association qualified under § 1030.5, or its duly authorized agent, for producer milk if the cooperative association is authorized to collect such payments for such producers and has presented the handler with a written request for such payments. Payments to the cooperative association pursuant to this paragraph shall be subject to the condition that the association has provided the handler with a written promise to reimburse the handler the amount of any actual loss incurred by the handler because of any improper claim on the part of the cooperative association. The amount of payment shall be equal to the sum of the individual payments otherwise payable for such producer milk and shall be paid by the handler as follows:

(1) On or before the 1st day after the end of each month for producer milk received during the first 15 days of the month; and

(2) On or before the 16th day after the end of each month for milk received during such month; and

(c) Each handler shall pay a cooperative association for milk received by the handler from the cooperative association as follows:

(1) In the case of milk received from a pool plant(s) operated by a cooperative association:

(i) For milk received during the first 15 days of the month, the handler shall pay the cooperative association on or before the 1st day after the end of the month during which the milk was received at a rate per hundredweight not less than the lowest class price under the order for milk of 3.5 percent butterfat for the preceding month; and

(ii) For milk received during the month the handler shall pay the cooperative association on or before the 16th day after the end of the month during which the milk was received at a rate per hundredweight not less than the minimum class prices pursuant to § 1030.51 subject to the applicable butterfat differentials and less any payment made pursuant to paragraph (b)(1)(i) of this section; and

(2) In the case of milk received from a cooperative association acting as a handler described under § 1030.13(e), including the milk of producers who are not members of such association, and who the market administrator determines have authorized such cooperative association to collect payment for their milk:

(i) For milk received during the first 15 days of the month, the handler shall pay a cooperative association on or before the 1st day after the end of the month during which the milk was received at a rate per hundredweight not less than the lowest class price under the order for milk of 3.5 percent butterfat for the preceding month; and

(ii) For milk received during the month, the handler shall pay the cooperative association on or before the 16th day after the end of the month during which the milk was received at a rate per hundredweight of not less than the uniform price computed as described under § 1030.71, adjusted for the applicable location and butterfat differentials and less any payment made pursuant to paragraph (b)(2)(i) of this paragraph.

(d) In making payments for producer milk pursuant to paragraphs (a) or (b) of this section, each handler shall furnish each producer or cooperative association to whom such payment is made a supporting statement in such form that it may be retained by the recipient which shall show:

(1) The month and identity of the producer;

(2) The daily and total pounds for each producer (and the average butterfat content for the entire month only);

(3) The minimum rate or rates at which payment to the producer is required pursuant to this order;

(4) The rate that is used in making the payment if such rate is other than the applicable minimum rate;

(5) The amount, or the rate per hundredweight, and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer or cooperative association.

3. Section 1030.86 is revised to read as follows:

**§ 1030.86 Adjustment of accounts.**

(a) *Payments.*—When verification by the market administrator of reports or payments of any handler discloses errors resulting in monies due (1) the market administrator from such handler, (2) such handler from the market administrator, or (3) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made not later than the date for making payments next following such disclosure.

(b) *Overdue accounts.*—Any unpaid obligation of a handler pursuant to §§ 1030.60, 1030.61, 1030.84, 1030.87, 1030.88, or paragraph (a)(1) of this section, shall be increased three-fourths of one percent on the 7th day after the due date each month.

[1] Official notice is taken of the list of handlers operating pool plants in September 1972 published by the market administrator.







V 38 170
SEP 4 73
XUM

(1) The amounts payable pursuant to this paragraph shall be computed monthly on each unpaid obligation, which shall include any unpaid interest charges previously computed pursuant to this paragraph;

(2) For the purpose of this paragraph, any unpaid obligation that is determined at a date later than prescribed by the order because of a handler's failure to submit a report to the market administrator shall be considered to have been due when it would have been due if such report had been submitted at the proper time; and

(3) Payment of any interest obligation computed pursuant to this paragraph in amount less than $10 shall be delayed until the accumulated interest obligation of such handler equals or exceeds $10.

4. Section 1030.83 is amended as follows:

**§ 1030.83 Producer-settlement fund.**

The market administrator shall maintain a separate fund known as the "producer-settlement" fund into which he shall deposit all payments received pursuant to paragraph (a) of this section and out of which he shall make all payments required pursuant to paragraph (b) of this section.

(a) Payments made by handlers pursuant to §§ 1030.60, 1030.61, 1030.84 and 1030.86.

(b) Payments due handlers pursuant to §§ 1030.85 and 1030.86: *Provided*, That payments due any handler shall be offset by payments due from such handler pursuant to §§ 1030.60, 1030.61, 1030.84, 1030.86, 1030.87 and 1030.88.

Signed at Washington, D.C., on August 29, 1973.

E. L. PETERSON,
*Administrator,*
*Agricultural Marketing Service.*

[FR Doc.73-18669 Filed 8-31-73;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Social and Rehabilitation Service

### [ 45 CFR Part 233 ]

### FACTORS SPECIFIC TO AFDC

### Continued Absence of Parent From the Home

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Administrator, Social and Rehabilitation Service, with the approval of the Secretary of Health, Education, and Welfare. The proposed regulations establish as a condition for State plan approval a mandatory definition of continued absence of the parent from the home for purposes of establishing eligibility for Aid to Families with Dependent Children. A Federal definition is warranted to eliminate possible confusion resulting from the United States Supreme Court decision in *Carleson v. Remillard*, 406 U.S. 598, which invalidated a State's policy of denying AFDC solely on the basis of absence due to military service. The requirement of family dissociation is included to implement legislative intent and preclude intentional family separations designed solely to secure public assistance. A time period of 30 days is used for "continued" absence because that period is reasonable both in terms of length and lack of hardship to a family deprived of support.

Prior to the adoption of the proposed regulations, consideration will be given to any comments, suggestions, or objections, thereto which are submitted in writing to the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, D.C. 20201, on or before October 4, 1973. Comments received will be available for public inspection in Room 5224 of the Department's offices at 301 C Street SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (area code 202-963-7361).

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302))

Dated August 10, 1973.

JAMES S. DWIGHT, JR.,
*Administrator, Social and Rehabilitation Service.*

Approved August 24, 1973.

CASPAR W. WEINBERGER,
*Secretary of Health, Education, and Welfare.*

Section 233.90, Part 233, Chapter II, Title 45 of the Code of Federal Regulations is amended by revising subparagraphs (2) and (3), adding a new subparagraph (6) to paragraph (b) and by revising paragraph (c)(1)(iii) as follows:

**§ 233.90 Factors specific to AFDC.**

* * * * *

(b) *Conditions for plan approval.* (1) A child may not be denied AFDC either initially or subsequently "because of the conditions of the home in which the child resides", or because the home is considered "unsuitable", unless "provision is otherwise made pursuant to a State statute for adequate care and assistance with respect to such child". (Section 404 (b) of the Social Security Act.)

(2) [Reserved]

(3) [Reserved]

* * * * *

(6) An otherwise eligible child may not be denied AFDC if there is continued absence of the parent from the home as defined in paragraph (c)(1)(iii) of this section.

(c) *Federal financial participation.* (1) * * *

(iii) *Continued absence of the parent from the home.*—(A) Continued absence of the parent from the home constitutes the reason for deprivation of parental support or care when (*1*) the parent is physically absent from the home; (2) the nature of the absence constitutes family dissociation; and (3) the absence has continued for 30 days, or facts exist that give rise to a presumption that the absence will continue for longer than 30 days.

(B) "Family dissociation" (*1*) means a substantial severance of marital and family ties and responsibilities resulting in the child losing or having a substantial reduction of physical care, communication, guidance and support by at least one of his parents, i.e., in relation to his natural parents, adoptive parents, or stepparent as defined in paragraph (a) of this section, as may be appropriate, and (2) includes separation due to hospitalization, deportation, or incarceration.

(C) An otherwise eligible child may not be denied AFDC solely because his parent is in the military service.

* * * * *

[FR Doc.73-18540 Filed 8-31-73;8:45 am]

## Social Security Administration

### [ 20 CFR Part 405 ]

[Regs. No. 5]

### FEDERAL HEALTH INSURANCE FOR THE AGED

### Inpatient Hospital Services Furnished Outside United States Including Physician and Ambulance Services

Notice is hereby given pursuant to the Administrative Procedure Act, as amended (5 U.S.C. 553) that amendments to the regulations (20 CFR Part 405), as set forth below in tentative form are proposed by the Acting Commissioner of Social Security with the approval of the Secretary of Health, Education, and Welfare. The proposed amendments revise and update the present regulations to implement section 211 of the Social Security Amendments of 1972 (P.L. 92-603) which authorizes payment for (1) certain inpatient hospital services furnished outside the United States for Medicare beneficiaries who reside in border areas, (2) emergency inpatient services in Canadian hospitals for beneficiaries traveling between Alaska and another State, and (3) physician and ambulance services furnished in conjunction with covered inpatient hospital services furnished in foreign hospitals.

Prior to the adoption of the proposed regulations, consideration will be given to any comments, views, or objections relating thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welafare Building, Fourth and Independence Avenue SW., Washington, D.C. 20201, on or before October 4, 1973.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue SW., Washington, D.C. 20201.

The proposed amendments are to be issued under the authority contained in sections 1102, 1814, 1861, 1862, 1871, 49 Stat. 647, as amended, 79 Stat. 296, 331, as amended; 42 U.S.C. 1302, 1395 et seq.

(Catalog of Federal Domestic Assistance Program Nos. 13.800, Health Insurance for the Aged—Hospital Insurance, and 13.801, Health Insurance for the Aged—Supplemental Medical Insurance.)

Dated August 2, 1973.

ARTHUR E. HESS,
*Acting Commissioner of Social Security.*

Approved: August 23, 1973.

CASPAR W. WEINBERGER,
*Secretary of Health, Education, and Welfare.*

Regulations No. 5 of the Social Security Administration (20 CFR 405) are amended as follows:

1. Section 405.153 is revised to read as follows:

**§ 405.153 Payment for services; hospital outside the United States.**

(a) *Emergency services.*—The authority contained in § 405.152 is applicable to emergency inpatient hospital services furnished an individual by a hospital located outside the United States if:

(1) The individual was physically present in a place within the United States or, effective with admissions occurring after December 31, 1972, at a place within Canada while traveling without unreasonable delay by the most direct route between Alaska and another State, at the time the emergency arose which necessitated such inpatient hospital services; and

(2) The hospital was closer to, or substantially more accessible from, such place than the nearest hospital within the United States which was adequately equipped to deal with, and was available for the treatment of, such individual's illness or injury; and

(3) The conditions set forth in § 405.152(a) (4) and (7) are met.

(b) *Services in hospital which is closest to or most accessible from beneficiary's residence.*—Effective with admissions occurring after December 31, 1972, payment shall be made for inpatient hospital services furnished an individual entitled to hospital insurance benefits under section 226 of the Social Security Act, by a hospital located outside the United States, or under arrangements (as defined in section 1861(w) of the Social Security Act) if:

(1) Such individual is a resident of the United States; and

(2) Such hospital was closer to, or substantially more accessible from the residence of such individual than the nearest hospital within the United States which was adequately equipped to deal with, and was available for the treatment of, such individual's illness or injury; and

(3) The foreign hospital is (i) a hospital as defined in § 405.152(a)(1) and (ii) is accredited by the Joint Commission on Accreditation of Hospitals, or is accredited or approved by a program of the country in which such institution is located if the Administration finds the accreditation or comparable approval standards of such program to be essentially equivalent to those of the Joint Commission on Accreditation of Hospitals.

(c) *Payments.*—(1) A payment shall be made in the amount provided under section 1814(b) of the Act to any hospital for the inpatient hospital services described in this section furnished to an individual by the hospital or under arrangements (as defined in section 1861(w) of the Act) with it, if (i) the Administration would be required to make such payment if the hospital had an agreement in effect under this Part and otherwise met the conditions of payment hereunder, and (ii) such hospital elects to claim such payment, and (iii) such hospital agrees to comply, with respect to such services, with the provisions of section 1866(a) of the Act.

(2) Payment for the inpatient hospital services described in this section furnished to an individual entitled to hospital insurance benefits may be made on the basis of an itemized bill to such individual if (i) payment for such services cannot be made under paragraph (c)(1) of this section solely because the hospital does not elect to claim such payment, and (ii) such individual files an application for reimbursement. The amount payable with respect to such services shall, subject to section 1813 of the Act, be equal to the amount which would be payable under section 1814(d)(3) of the Act.

2. Section 405.313 is revised to read as follows:

**§ 405.313 Nonreimbursable expenses, items or services not provided in the United States.**

Payment may not be made under title XVIII of the Act for expenses incurred for items or services which are not provided within the United States (that is, the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa) except:

(a) Inpatient hospital services furnished outside the United States in accordance with the provisions of § 405.153 (a) and (b), and

(b) Effective with admissions occurring after December 31, 1972, payment may be made on the basis of an itemized bill for physician and ambulance services furnished an individual in conjunction with such covered inpatient hospital services but only for the period during which such inpatient hospital services were furnished.

[FR Doc.73-18541 Filed 8-31-73;8:45 am]

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of the Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner

### [ 24 CFR Part 201 ]

[Docket No. R-73-235]

### MOBILE HOME LOANS

### Factory Inspections of Mobile Homes

The Department of Housing and Urban Development is considering amending Part 201 of Title 24 of the Code of Federal Regulations, Subpart B, "Mobile Home Loans". The amendment issued in accordance with sec. 2(a) of the National Housing Act, 12 U.S.C. 1701, would require that mobile homes sold to purchasers utilizing FHA insured loans display a seal indicating that they have been subject to inspection and are in conformance with mobile home standard No. A119.1 as approved by the American National Standards Institute, Inc. (formerly the United States of America Standards Institute). Inspections shall be made by "third party" private or state organizations or agencies that have been approved by the Commissioner. Private organizations must demonstrate that they have been approved as testing and certifying organizations by at least two states.

All interested persons are invited to submit written comments or suggestions in triplicate with respect to this proposal, on or before October 2, 1973, addressed to the Rules Docket Clerk, Office of the General Counsel, Room 10256, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. All relevant material will be considered before adoption of a final rule. A copy of each communication will be available for public inspection during regular business hours at the above address.

The proposed rule is issued pursuant to sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

1. Section 201.520(b) is proposed to be amended to read as follows:

**§ 201.520 Structural design and standards.**

* * * * *

(b) *ANSI criteria.*[1]—The requirements of paragraph (a) of this section may be satisfied by compliance with the specifications in effect at the time the loan is made which are prescribed in mobile home standard No. A119.1, as approved by the American National Standards Institute (formerly the United States of America Standards Institute), hereinafter referred to as "ANSI". A certification shall be obtained from the manufacturer stating that the mobile home was constructed in accordance with the ANSI requirements and that the home bears the label of an independent inspection agency certifying that the mobile home was constructed in accordance with ANSI requirements.

* * * * *

2. A new § 201.521 is proposed to read as follows:

**§ 201.521 Factory inspection.**

The home shall display a seal certifying that it has been subject to representative inspections in accordance with a quality control program approved by the Commissioner and is in compliance with the requirements of § 201.520. Inspections shall be made by a testing agency or organization approved by the Commissioner.

3. A new § 201.522 is proposed to read as follows:



FEDERAL REGISTER, VOL. 38, NO. 170—TUESDAY, SEPTEMBER 4, 1973

V 38 170 SEP 4 73 XUM

§ 201.522 Private testing organizations.

A private testing organization which applies for approval by the Commissioner, shall establish that it has been approved by at least two official state agencies to inspect and certify mobile homes and that it is actively engaged in the inspection and certification of mobile homes.

Issued at Washington, D.C., August 28, 1973.

SHELDON B. LUBAR,
*Assistant Secretary for Housing Production and Mortgage Credit.*

[FR Doc.73-18664 Filed 8-31-73;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

**[ 33 CFR Part 127 ]**

[CGD 73-182P]

**NEW LONDON HARBOR, CONNECTICUT**

**Proposed Establishment of Security Zones**

*Correction*

In FR Doc. 18182 appearing in the issue of Tuesday, August 28, 1973, the 11th line of § 127.305 (a) (2) should read: "41°21'03" N., longitude 72°05'00" W."

### Federal Aviation Administration

**[ 14 CFR Parts 71, 75 ]**

[Airspace Docket No. 72-SW-74]

**JET ROUTE AND REPORTING POINT**

**Proposed Designation**

*Correction*

In FR Doc. 73-16176 appearing on page 21274 in the issue of Tuesday, August 7, 1973, in paragraph a, the longitude coordinates in the second line reading "69 35' ", should read "96 35' ".

### National Highway Traffic Safety Administration

**[ 49 CFR Part 571 ]**

[Docket No. 73-21; Notice 1]

**MOTOR VEHICLE SAFETY STANDARDS**

**Definition of Multipurpose Passenger Vehicle**

This notice proposes an amendment of the definition of "multipurpose passenger vehicle" for purposes of the motor vehicle safety standards, to eliminate reference to features for off-road operation.

The term "multipurpose passenger vehicle", one of the basic vehicle types regulated by the NHTSA, is defined in 49 CFR 571.3 as follows:

"Multipurpose passenger vehicle" means a motor vehicle with motive power, except a trailer, designed to carry 10 persons or less which is constructed either on a truck chassis or with special features for occasional off-road operation.

This definition was created with the issuance of the initial standards to give relief from immediate compliance with the passenger car standards to certain types of vehicles. These vehicles, though intended primarily to carry passengers, were similar in construction to trucks, and subject to the same limitations in the ability of their manufacturers to bring them into immediate conformity. Typical examples of vehicles falling into this category were the Jeep, passenger vans such as the Ford Econoline, motor homes, and chassis-mount campers. The first group, Jeep-type vehicles, are designed with off-road capability, some but not all having four-wheel drive. It appears that all the types originally considered to be MPV's, however, were built on what are generally considered to be truck chassis. Thus, the alternative criterion of having features for off-road operation was redundant from the standpoint of these vehicles.

Recently, Volkswagen has introduced into this country a vehicle known as the Thing, which VW considers to be a multipurpose passenger vehicle, on the basis that it contains features for off-road operation such as ground clearance, high approach and departure angles, and low transmission ratios. This agency understands that the Thing is built on what is essentially a VW Beetle chasis, and VW does not claim that it has a truck chassis within the meaning of the definition. Thus, for the first time a vehicle is entering the U.S. market in large numbers classified as a multipurpose passenger vehicle solely on the basis of having some features for occasional off-road operation. The vehicle, as an MPV, is not required to conform to such standards as 201 (Occupant Protection in Interior Impact), 202 (Head Restraints), 203 (Impact Protection of the Driver from the Steering Control System), 204 (Steering Control Rearward Displacement), 214 (Side Door Strength), 215 (Exterior Protection), and the more advanced passenger car provisions of 208 (Occupant Crash Protection).

When approached by Volkswagen on the question of classification, this agency reluctantly concurred in considering the Thing an MPV, since it did fit the definition. The NHTSA considers it unfortunate, however, that a passenger-carrying vehicle, built on a passenger car chassis, is being introduced at this time without many of the required safety features that have long been present on passenger cars. This agency is proceeding with its announced plans to extend to MPV's many of the standards currently applicable only to passenger cars, but such amendments will require forward effective dates to allow time for design changes. In the interim, it is in the public interest to keep to a minimum the number of passenger-carry vehicles on the roads without passenger car safety features.

For these reasons, it has been tentatively determined that the definition of multipurpose passenger vehicle should be amended to eliminate reference to off-road operational features, thus limiting the category to vehicles built on truck chassis. The proposed effective date of September 1, 1974, is intended to allow Volkswagen and any other interested parties sufficient time to adjust to the amendment, while not so far in advance as to defeat the purpose of the change.

Accordingly, it is proposed that the definition of "multipurpose passenger vehicle" in 49 CFR 571.3 be amended to read:

"Multipurpose passenger vehicle" means a motor vehicle with motive power, designed to carry 10 persons or less, that is constructed on a truck chassis.

Interested persons are invited to submit comments on the proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered, and will be available for examination in the docket at theabove address both before and after that date. To the extent possible, comments filed after the closing date will also be considered by the Administration. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The Administartion will continue to file relevant material, as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

*Proposed effective date.*—September 1, 1974.

*Comment closing date.*—October 15, 1973.

(Secs. 103, 119 Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.51 and 49 CFR 501.8.)

Issued on August 28, 1973.

ELWOOD T. DRIVER,
*Acting Associate Administrator, Motor Vehicle Programs.*

[FR Doc.73-18648 Filed 8-31-73;8:45 am]

## CIVIL AERONAUTICS BOARD

**[ 14 CFR Part 221 ]**

[Docket No. 24415]

**PUBLICATION OF TARIFFS FOR SERVICES NOT ACTUALLY PROVIDED TO THE PUBLIC**

**Supplemental Notice of Proposed Rulemaking**

AUGUST 29, 1973.

By notice of proposed rulemaking EDR-225A, dated August 1, 1973, the Board gave notice that it had under consideration proposed amendments to Part 221 of its Economic Regulations (14 CFR Part 221), which would require that tariffs on file with the Board concerning fares, rules, classifications, practices, or services for passenger service correspond with the services actually scheduled in the particular market. Interested persons were invited to participate in the proceeding by the submission of twelve (12) copies of written data, views, or arguments pertaining thereto to the Docket Section of the Board on or before September 7, 1973.

By letter dated August 21, 1973, Western Airlines, Inc. (Western), has requested that the time for filing comments be extended to September 17, 1973.

The undersigned finds that good cause has been shown for granting this request.

Accordingly, pursuant to authority delegated in § 385.20(d) of the Board's Organization Regulations, the undersigned hereby extends the time for submitting comments to September 17, 1973.

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743 (49 U.S.C. 1324).)

*Acting Associate General Counsel,*

[SEAL] SIMON J. EILENBERG,
*Acting Associate General Counsel, Rules and Rates.*

[FR Doc.73-18654 Filed 8-31-73;8:45 am]

**[ 14 CFR Part 298 ]**

[EDR 251A; Docket No. 25800]

**REPORTING OF CERTAIN DATA BY COMMUTER AIR CARRIERS AND OTHER AIR TAXI OPERATORS**

**Supplemental Notice of Proposed Rulemaking**

AUGUST 29, 1973.

By notice of proposed rulemaking EDR-251, dated August 15, 1973, and published at 38 FR 22494, the Board gave notice that it had under consideration an amendment to Part 298 of its Economic Regulations (14 CFR Part 298), which would require certain additional statistical data to be reported quarterly by commuter air carriers, and require all air taxi operators, including commuter air carriers, to report certain statistical data annually. Interested persons were invited to participate in the proceeding by submission of twelve (12) copies of written data, views, or arguments pertaining thereto to the Docket Section of the Board on or before October 5, 1973.

By letter dated August 22, 1973, the National Air Transportation Conferences, Inc. (NATC) has requested an extension of the time for filing comments to October 19, 1973. In support of its request, NATC says that the Commuter Air Carrier Conference is scheduled to hold a meeting on October 3 and 4, 1973, and that the proposal set forth in EDR-251 will be included on the agenda for discussion, so that such discussion could help interested parties in preparing more fully informed comments for submission to the Board in this proceeding.

The undersigned finds that good cause has been shown for an extension of time for filing comments to October 19, 1973.

Accordingly, pursuant to authority delegated in § 385.20(d) of the Board's Organization Regulations, the undersigned hereby extends the time for submitting comments to October 19, 1973.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324.)

[SEAL] SIMON J. EILENBERG,
*Acting Associate General Counsel, Rules and Rates.*

[FR Doc.73-18655 Filed 8-31-73;8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

**[ 40 CFR Part 52 ]**

**NEW JERSEY AND PENNSYLVANIA**

**Approval and Promulgation of State Implementation Plans; Correction**

Transportation control plans were proposed for New Jersey and Pennsylvania on July 3, 1973 (38 FR 17782). This notice makes certain corrections to those proposals. A proposed rule for air bleed retrofit in Pennsylvania was inadvertently omitted and is provided herein.

Dated August 29, 1973.

JOHN QUARLES,
*Acting Administrator, Environmental Protection Agency.*

1. In FR Doc. 73-13036 appearing at page 17784 of the issue for Tuesday, July 3, 1973, the following changes are to be made under the heading: "Proposed Controls and Mobile Sources".

The fifth line of the subdivision should read: "Region (311,913 tons yr vs. 157,988 ton/" • • •

2. At page 17786 the table titled "Compilation of Control Strategy Effects on May 31, 1976 Carbon Monoxide Camden County-Metropolitan Philadelphia AQCR," is corrected by deletion and replacement with the table indicated below:

COMPILATION OF CONTROL STRATEGY EFFECTS ON MAY 31, 1976—CARBON MONOXIDE
CAMDEN COUNTY-METROPOLITAN PHILADELPHIA AQCR

| | Tons per year | Percent of total reduction due to each control | Percent reduction |
|---|---|---|---|
| 1. Mobile emissions from on-highway light and heavy duty vehicles without control strategy | 131,536 | | |
| Expected Reductions: | | | |
| a. FMVCP | 26,606 | 46 | 14.7 |
| b. Inspection and maintenance | 9,691 | 16 | 6.7 |
| c. Reduction in vehicle miles traveled | 22,303 | 38 | 16.5 |
| Mobile emissions remaining | 73,867 | | |
| Total emissions without control strategy | 131,811 | | |
| Total reduction | 57,969 | 100 | 43.0 |
| Total emissions remaining | 76,842 | | |

3. At page 17788 in § 52.1585, the word "California" should be changed to "New Jersey" in paragraph (c) (3).

4. At pages 17797 and 17798 in § 52.2038 paragraphs (a)(2) and (a)(3) are revised and paragraph (b)(2) is renumbered (b)(3) and a new paragraph (b)(2) is added as follows. Also, in the fifth line of paragraph (b)(3) (as renumbered) change the words "the CBD" to those CBD's.

§ 52.2038 Regulation for limitation of public parking.

(a) • • •

(2) Within the City of Philadelphia "CBD" is defined as the area bounded by Vine Street, South Street, the Schuylkill River, and the Delaware River.

(3) Within the City of Pittsburgh "CBD" is defined as the area by the Allegheny, the Monongahela River and I-876.

• • • • • •

(b) • • •

(2) Beginning January 2, 1974 the City of Pittsburgh shall prohibit on-street parking between the hours of 7 a.m. and 6 p.m., Monday through Saturday on all streets and highways in the CBD over which it has ownership or control and which contain express bus lanes or trolleys. The prohibition shall state that vehicles parked in violation of the prohibition shall either be towed away, or the owner subject to a fine of up to $100 or both.

• • • • •

7. At page 17799 add new § 52.2041 to read as follows:

§ 52.2041 Air Bleed to Intake Manifold Retrofit.

(a) Definitions:

(1) The term "air bleed to intake manifold retrofit" as used in this section means a device in the intake system of the vehicle which enables the air/fuel ratio to be increased by metering additional air to the intake manifold in accordance with intake manifold vacuum advance to reduce emissions of hydrocarbons and carbon monoxide to the atmosphere.

(2) All other terms used in this section which are defined in 40 CFR Part 51, Appendix N, are used herein with the meanings as defined.

(b) This section is applicable in Allegheny County, Bucks County, Chester County, Delaware County, Montgomery County, Philadelphia County, and the City of Philadelphia.

(c) The Commonwealth of Pennsylvania shall establish a retrofit program to ensure that on or before June 30, 1976, all gasoline powered light-duty vehicles of model years prior to 1968, subject under presently existing legal requirements to registration in the areas defined in paragraph (b) above, are equipped with an appropriate air bleed to intake manifold device. No later than March 1, 1974, the Commonwealth shall submit legally adopted regulations to EPA establishing





V 38-170
SEP 4 73
XUM

such a program. The regulations shall include:

(1) Designation of agency responsible for evaluating and approving such devices for use on vehicles subject to this section.

(2) Designation of an agency responsible for insuring that the provisions of paragraph (c)(3) of this section are enforced.

(3) Provisions for beginning the installation of the air bleed devices by July 1, 1975, with installation devices on all vehicles subject to this section no later than June 30, 1976.

(4) Procedures for insuring that those installing the retrofit devices have the training and ability to perform the needed tasks satisfactorily and will have an adequate supply of retrofit components.

(d) After July 1, 1976, the Commonwealth shall not register or allow to operate on its streets or highways any light-duty vehicle which does not comply with the applicable standards and procedures adopted pursuant to paragraph (c) of this section.

(e) After July 1, 1976, no owner of a vehicle subject to this section shall operate nor allow the operation of any such vehicle which does not comply with the applicable standards and procedures implementing this section.

(f) The Commonwealth of Pennsylvania shall submit no later than December 1, 1973, a detailed compliance schedule showing the steps it will take to establish and enforce retrofit program pursuant to paragraph (c) of this section, including the text of statutory proposals and regulations which the Commonwealth proposed for adoption. The compliance schedules shall also include a date by which the State shall evaluate and approve devices for use in this program. Such date shall be no later than September 30, 1974.

(g) Failure to comply with any provision of this section shall render each person or governmental entity so failing to comply in violation of a requirement of an applicable implementation plan and subject to enforcement action under section 113 of the Clean Air Act.

A State will be considered to have failed to comply with the requirements of this regulation if it fails to timely submit the required compliance schedule, or if the compliance schedule when submitted does not contain in satisfactory form each of the elements it is required to contain.

[FR Doc.73-18628 Filed 8-31-73;8:45 am]

## [ 40 CFR Part 180 ]

## OXYTETRACYCLINE HYDROCHLORIDE

### Proposed Tolerance

Mr. C. B. Christensen, Director, Department of Food and Agriculture, State of California, 1220 N Street, Sacramento, Calif. 95814, on behalf of the California pear growers submitted a petition (PP 3E1407) proposing establishment of a tolerance for residues of the fungicide oxytetracycline hydrochloride in or on pears at 0.35 part per million resulting from infusion of the fungicide into pear trees after harvest and prior to formation of new blooms.

Based on consideration given data submitted in the petition and other relevant material, it is concluded that:

1. The fungicide is useful for the purpose for which the tolerance is proposed.

2. Due to the instability of oxytetracycline hydrochloride, especially in aqueous solutions, no actual residue is expected in pears from the proposed use. The proposed tolerance represents the sensitivity of the analytical method.

3. There is no reasonable expectation of residues in eggs, meat, milk, or poultry, and § 180.6(a)(3) applies.

4. The proposed tolerance will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 FR 9038), it is proposed that Part 180 be amended by adding the following new section to Subpart C:

**§ 180.337 Oxytetracycline hydrochloride; tolerances for residues.**

A tolerance of 0.35 part per million is established for residues of the fungicide oxytetracycline hydrochloride in the raw agricultural commodity pears resulting from infusion of pear trees with an aqueous solution of the fungicide after harvest and prior to formation of new blooms.

Any person who has registered or submitted an application for the registration of an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act containing any of the ingredients listed herein may request, on or before October 4, 1973, that this proposal be referred to an advisory committee in accordance with section 408(e) of the act.

Interested persons may, on or before October 4, 1973, file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & M Streets SW., Waterside Mall, Washington, D.C. 20460, written comments (preferably in quintuplicate regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. All written submissions made pursuant to this proposal will be made available for public inspection at the office of the Hearing Clerk.

Dated August 28, 1973.

HENRY J. KORP,
*Deputy Assistant Administrator for Pesticide Programs.*

[FR Doc.73-18627 Filed 8-31-73;8:45 am]

## COST OF LIVING COUNCIL

## [ 6 CFR Part 152

## EXECUTIVE AND VARIABLE COMPENSATION

### Notice of Proposed Rulemaking

*Correction*

In FR Doc. 73-18704 appearing at page 23629 in the issue of Friday, August 31, 1973, paragraph (d)(4) of § 152.130 was omitted. It should be inserted immediately after § 152.130(d)(3) and should read as follows:

(4) *Excess amounts*—(i) *General rule.*—For purposes of this paragraph, if a member of an executive control group receives a payment, award, or grant of an item of incentive compensation which is charged as a wage and salary increase pursuant to § 152.124(d)(2)(ii) or § 152.125(d)(2)(ii), the amount of such payment, award, or grant so charged shall be treated as an increase in annual base salary during the fiscal year in which such payment, award, or grant is made. However, such amount shall not be treated as part of annual base salary for purposeso f determining the average group salary rate on a fiscal base date with respect to the succeeding fiscal year.

(ii) *Application illustrated.*—The provisions of this subparagraph may be illustrated by the following example:

*Example.*—Employee A, a member of an executive control group, is a participant in an incentive bonus plan and receives $5,000 which, under § 152.124(d)(2)(ii), is treated as a wage and salary increase. For purposes of computing the average group salary rate for the executive control group, A is considered to have recevied a $5,000 salary increase during the fiscal year in which the $5,000 is paid. However, this $5,000 is excluded when A's salary is computed for purposes of determining the average group salary rate on the fiscal base date with respect to the succeeding fiscal year.





# Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF STATE

[Public Notice CM-57]

### ADVISORY COMMITTEE ON SCIENCE AND FOREIGN AFFAIRS

#### Notice of Meeting

The Department of State Advisory Committee on Science and Foreign Affairs will meet on September 14 and 15, 1973, at 9:30 a.m. in Room 7516, Department of State, 2201 C Street NW., Washington, D.C. 20520.

The Committee exists to provide the Department of State with a source of outside expertise and counsel on a wide range of foreign policy problems and opportunities created by or involving scientific and technological developments.

In accordance with section 10(d) of the Advisory Committee Act (P.L. 92-463) it has been determined that the above meeting will necessarily involve discussion of matters concerned with those recognized as not subject to public disclosure under 5 U.S.C. 522(b)(1), and that the public interest requires that such activities be withheld from disclosure. The meeting will therefore be closed to the public.

Any questions concerning the meeting should be directed to J. Kenneth Mansfield, Executive Secretary, Department of State Advisory Committee on Science and Foreign Affairs (202-632-3625).

Dated August 29, 1973.

J. KENNETH MANSFIELD,
*Executive Secretary, Advisory Committee on Science and Foreign Affairs.*

[FR Doc.73-18636 Filed 8-31-73;8:45 am]

[Public Notice CM-58]

### STUDY GROUP CMTT OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

#### Notice of Meeting

The Department of State announces that Study Group CMTT of the U.S. National Committee for the International Radio Consultative Committee (CCIR) will meet on September 17, 1973, at 10:00 a.m. in the auditorium on the first floor of the COMSAT Building, 950 L'Enfant Plaza SW., Washington, D.C.

Study Group CMTT deals with technical standards for telecommunication systems to permit the transmission of sound and television broadcasting programs over long distances. The meeting on September 17 will consider new draft texts which are proposed as U.S. contributions to the international meeting of Study Group CMTT in 1974.

Members of the general public who desire to attend the meeting on September 17 will be admitted up to the limits of the capacity of the meeting room.

Dated August 8, 1973.

GORDON L. HUFFCUTT,
*Chairman, U.S. CCIR National Committee.*

[FR Doc.73-18637 Filed 8-31-73;8:45 am]

[Public Notice CM-59]

### STUDY GROUP 4 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

#### Notice of Meeting

The Department of State announces that Study Group 4 of the U.S. National Committee for the International Radio Consultative Committee (CCIR) will meet on September 19, 1973, at 9:45 a.m., in the auditorium on the first floor of the COMSAT Building, 950 L'Enfant Plaza SW., Washington, D.C.

Study Group 4 deals with matters relating to systems of radio communications for the fixed services using satellites. The agenda for the meeting will include consideration of draft documents being developed as proposed contributions by the U.S. to the international meeting of Study Group 4 in 1974.

Members of the general public who desire to attend the meeting on September 19 will be admitted up to the limits of the capacity of the meeting room.

Dated August 29, 1973.

GORDON L. HUFFCUTT,
*Chairman, U.S. CCIR National Committee.*

[FR Doc.73-18638 Filed 8-31-73;8:45 am]

[Public Notice CM-63]

### SECRETARY OF STATE'S ADVISORY COMMITTEE ON PRIVATE INTERNATIONAL LAW, STUDY GROUP ON ESTATE MATTERS

#### Notice of Meeting

A meeting of the Study Group on Estate Matters, a sub-group of the Secretary of State's Advisory Committee on Private International Law, will take place on Friday, September 14, 1973, in room 5519 of the Department of State. The meeting, which will begin at 10 a.m., will be open to the public.

The primary purpose of the meeting is to review the Draft Convention Providing a Uniform Law on the Form of the International Will. The Study Group will give attention to the principal issues raised by that draft and make recommendations concerning the positions that the United States should take on those issues at the Diplomatic Conference on Wills to be held at Washington from October 16-26, 1973.

Members of the general public who desire to attend the meeting will be admitted up to the limits of the capacity of the meeting room. Entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Accordingly, members of the general public who plan to attend the meeting are requested to inform the Chairman of the Advisory Committee of their names and addresses prior to September 14. The mailing address of the Chairman is Office of the Legal Adviser, Department of State; the telephone number is area code 202, 632-8134. All nongovernment attendees at the meeting should use the C-Street entrance to the building.

Dated August 29, 1973.

ROBERT E. DALTON,
*Executive Director.*

[FR Doc.73-18733 Filed 8-31-73;8:45 am]

## DEPARTMENT OF THE TREASURY

### Comptroller of the Currency

### REGIONAL ADVISORY COMMITTEE ON BANKING POLICIES AND PRACTICES OF THE THIRD NATIONAL BANK REGION

#### Notice of Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a closed meeting of the Comptroller of the Currency's Regional Advisory Committee on Banking Policies and Practices of the Third National Bank Region will be held at 8 p.m. on September 20, 1973, at the Seaview Country Club, Absecon, New Jersey.

The purpose of this meeting is to assist the Regional Administrator and Comptroller of the Currency in a continuing review of bank regulations and policies. The meeting will also apprise agency officials of current conditions and problems banks are experiencing in the Third National Bank Region.

It is hereby determined pursuant to section 19(d) of Public Law 92-463 that the meeting is concerned with matters listed in section 552(b) of Title 5 of the United States Code and particularly with exceptions (3), (4) and (8) thereof, and is therefore exempt from the provisions of section 10(a)(1) and (a)(3) of the Act (Public Law 92-463) relating to open meetings and public participation therein.

Dated August 27, 1973.

[SEAL] JAMES E. SMITH,
*Comptroller of the Currency.*

[FR Doc.73-18625 Filed 8-31-73;8:45 am]



V 38 170 SEP 4 73 XUM

## U.S. Customs Service

[T.D. 73-230]

### FOREIGN CURRENCIES

### Certification of Rates

*Correction*

In FR Doc. 73-17868 appearing in the issue of Thursday, August 23, 1973, the agency document number [T.D. 73-230] was inadvertently omitted from the heading and therefore should be included to read as printed above.

## DEPARTMENT OF DEFENSE

### Department of the Air Force

### USAF SCIENTIFIC ADVISORY BOARD

### Notice of Meeting

AUGUST 24, 1973.

The USAF Scientific Advisory Board Ad Hoc Committee on Electromagnetic Pulse Vulnerability of USAF Manned Systems will hold closed meetings on September 13 and 14, 1973 at R&D Associates, Santa Monica, California.

The Committee will receive classified briefings on the Air Force plans for modeling electromagnetic pulse effects.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-4648.

JOHN W. FAHRNEY,
*Colonel, USAF, Chief, Legislative Division, Office of the Judge Advocate General.*

[FR Doc.73-18577 Filed 8-31-73;8:45 am]

## DEPARTMENT OF THE INTERIOR

### National Park Service

### NORTHEAST REGIONAL ADVISORY COMMITTEE

### Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Northeast Regional Advisory Committee will be held at 9:30 a.m., e.d.t., on September 13 and 14, 1973, at LaMothe Hall, Elm Avenue, Munising, Michigan, with a field trip to Pictured Rocks National Lakeshore.

The Northeast Regional Advisory Committee was established pursuant to Public Law 91-383, August 18, 1970, to provide for the free exchange of ideas between the National Park Service and the public, and to facilitate the solicitation of advice or other counsel from members of the public on problems and programs pertinent to the Northeast Region of the National Park Service.

The members of the Advisory Committee are as follows:

Mr. Norman G. Duke, Northfield, Ohio (Chairman);
Mr. Hyman J. Cohen, Arlington, Virginia;
Mr. Charles H. W. Foster, Needham, Massachusetts;
Mr. Fred D. Hartley, Kenosha, Wisconsin;
Mr. Lewis W. Jones, Bloomington, Illinois;
Mr. William L. Lieber, Indianapolis, Indiana;
Mr. Frederick R. Micha, Ontario, New York;
Dr. M. Graham Netting, Pittsburgh, Pennsylvania.

The matters to be discussed at this meeting include review of current Regional activities, international exchange of resource professionals, role of Park Advisory Commissions, Wilderness areas, research, and a field inspection of Pictured Rocks National Lakeshore.

The meeting is open to the public. It is expected that 25 persons will be able to attend the session in addition to the Advisory Committee members and the National Lakeshore staff. Transportation will not be provided for members of the public for the field inspection. However, members of the public may participate by providing their own transportation.

Any member of the public may file with the Committee a written statement concerning matters to be discussed.

Further information concerning this meeting may be obtained from George A. Palmer, Associate Director, Northeast Regional Office, at 215-597-7014. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of the Northeast Region, 143 South Third Street, Philadelphia, Pa.

Dated August 21, 1973.

IRA WHITLOCK,
*Acting Associate Director, National Park Service.*

[FR Doc.73-18580 Filed 8-31-73;8:45 am]

### National Register of Historic Places

By notice in the FEDERAL REGISTER of February 28, 1973, Part II, there was published a list of the properties included in the National Register of Historic Places. This list has been amended by a notice in the FEDERAL REGISTER of March 6 (pp. 6084-6086), April 10 (pp. 9095-9097), May 1 (pp. 10745-10748), June 5 (pp. 14770-14777), July 3 (pp. 17744-17749), and August 7 (pp. 21278-21284). Further notice is given that certain amendments or revisions in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 915, 16 U.S.C. 470.

The following properties have been demolished and removed from the National Register:

#### Colorado

*El Paso County*

Colorado Springs *Chief Theatre (Barns Building and Theatre)*, 21½ East Pikes Peak.

#### Pennsylvania

*Lehigh County*

Allentown, *Nonnemaker House*, 301 S. Lehigh Street.

The following are corrections to previous listings in the FEDERAL REGISTER:

#### Delaware

*Kent County*

Cowgill's Corners vicinity, *Eight-Square Schoolhouse*, east of Cowgill's Corners off Delaware 9.

Dover, *Bradford-Lookerman House*, 419 South State Street.

Dover vicinity, **Dickinson, John, Mansion*, 5 miles southeast of Dover and 3 miles east of U.S. 13 on Kitts Hummock Road.

*New Castle County*

Claymont, *Robinson House*, Naaman's Corner.

#### Michigan

*Emmet County*

Mackinaw City, **Fort Michilimackinac*, near Mackinac Bridge, at the terminus of U.S. 31.

#### Ohio

*Cuyahoga County*

Cleveland, *Old Stone Church*,) 91 Public Square.

#### Pennsylvania

*Lancaster County*

Washington Borough vicinity, *Strickler Site (36 La 3)*, south of Washington Borough.

The following properties have been added to the National Register since August 7: (Dates in parentheses indicate when property was entered on the National Register).

#### Alabama

*Lee County*

Opelika, *Lee County Courthouse*, south 9th Street between Avenue A and Avenue B 7-23-73).

*Montgomery County*

Montgomery, *Union Railway Station*, Water Street (7-24-73).

#### Alaska

*Southcentral District*

Wasilla vicinity, *Knik Site*, about 15 miles southwest of Wasilla on Knik Road (7-24-73).

#### Arkansas

*Sebastian County*

Fort Smith, *Fort Smith's Belle Grove Historic District* (7-16-73).

#### California

*Humboldt County*

Eureka, *Janssen, E., Building*, 422 First Street (7-16-73).

*Los Angeles County*

Industry, *Rowland, John A., House*, 16021 East Gale Avenue (7-16-73).
South Pasadena, *Oaklawn Bridge and Waiting Station*, between Oaklawn and Fair Oaks Avenues (7-16-73).

*Plumas County*

Blairsden vicinity, *Plumas-Eureka Mills Jamison Mines District*, west of Blairsden off alternate U.S. 40 in Plumas-Eureka State Park (7-16-73).

*San Diego County*

National City, *Brick Row*, A Avenue between 9th and 10th Streets (7-16-73).

*San Joaquin County*

Stockton, *Old Weber School*, 55 West Flora Street (7-16-73).

*Shasta County*

Cottonwood, *Cottonwood Historic District* (7-16-73).

#### Colorado

*Jefferson County*

Buffalo Creek, *La Hacienda*, on secondary road off U.S. 285 (7-20-73).





#### Delaware

*New Castle County*

Montchanin vicinity, *Strand Millas and Rock Spring*, between Montchanin and Rockland (7-16-73).

#### District of Columbia

*Washington*

*American Security and Trust Company*, 15th and Pennsylvania Avenue NW. (7-16-73).
*Bayly, Mountjoy/Johnson, Hiram, House*, 122 Maryland Avenue NE. (7-20-73).
*Dumbarton Bridge (Q Street Bridge)*, Q Street, over Rock Creek Park at 23d Street NW. (7-16-73).
*Duncanson-Cranch House*, 468-470 N Street SW. (7-26-73).
*Haw, John Stoddert, House*, 2808 N Street NW. (7-16-73).
*Lewis, Edward Simon, House*, 456 N Street SW. (7-23-73).
*Luther Place Memorial Church*, 1226 Vermont Avenue NW. (7-16-73).
*Metropolitan African Methodist Episcopal Church*, 1518 M Street NW. (7-26-73).
*Riggs National Bank*, 1503-05 Pennsylvania Avenue NW. (7-16-73).
*Ringgold-Carroll House*, 1801 F Street NW. (7-26-73).
*St. Aloysius Catholic Church*, North Capitol and I Streets NW. (7-26-73).
*Row*, 1315-1321 4th Street SW. (7-23-73).
*Whittemore House (Woman's National Democratic Club)*, 1526 New Hampshire Avenue NW. (7-16-73).

#### Florida

*Alachua County*

Gainesville, *Epworth Hall*, 419 Northeast 1st Street (7-25-73).
Gainesville, *Hotel Thomas*, bounded by NE. 2d and 5th Streets and NE. 6th and 7th Avenues (7-16-73).

*Columbia County*

Lake City, *Henderson, T. G., House*, 207 South Marion Street (7-24-73).

*Dade County*

Coconut Grove, *Ransom School Pagoda*, 3575 Main Highway (7-25-73).

*Madison County*

Madison, *Dial, William M., House*, 105 Northeast Marion Street (7-24-73).

*Nassau County*

Fernandina Beach, *Fernandina Beach Historic District* (7-20-73).

*St. Johns County*

St. Augustine, *Ximenez-Fatio House*, 20 Aviles Street (7-25-73).

#### Georgia

*Fulton County*

Atlanta, *Inman Park* (7-23-73).

*Monroe County*

Bolingbroke vicinity, *Great Hill Place*, west of Bolingbroke on U.S. 23/41 (7-24-73).

#### Hawaii

*Honolulu County*

Honolulu vicinity, *Pohaku ka luahine*, north of Honolulu near center of Moanalua Valley (7-23-73).

#### Illinois

*Alexander County*

Cairo, *Old Custom House*, Washington and 15th Streets (7-24-73).

*Cook County*

Chicago, *Scoville Building*, 619-631 West Washington (7-31-73).

*Jersey County*

Elsah, *Elsah Historic District* (7-27-73).

*Jo Daviess County*

Galena, *Old Market House*, Market Square-Commerce Street (7-16-73).

*Monroe County*

Columbia vicinity, *Lunsford-Pulcher Archeological Site*, northwest of Columbia (also in St. Clair County) (7-23-73).

*St. Clair County*

*Lunsford-Pulcher Archeological Site*, (see Monroe County).

#### Indiana

*Fayette County*

Connersville, *Canal House*, 111 East 4th Street (7-16-73).

#### Iowa

*Johnson County*

Iowa City, *College Block Building*, 125 East College Street (7-23-73).

*Woodbury County*

Sioux City, *Sioux City Central High School*, 1212 Nebraska Street (7-23-73).

#### Kansas

*Cloud County*

Concordia, *Brown Grand Opera House*, 310 West 6th Street (7-26-73).

#### Kentucky

*Jefferson County*

Louisville, *Jefferson County Jail*, 514 West Liberty Street (7-16-73).

*Kenton County*

Covington, *Cathedral Basilica of the Assumption*, 1130 Madison Avenue (7-20-73).
Covington, *Mother of God Roman Catholic Church*, 119 West 6th Street (7-26-73).

#### Louisiana

*Caddo Parish*

Shreveport, *Scofield, William, House (Lindsay House)*, 2803 Woodlawn Avenue (7-16-73).

*East Baton Rouge Parish*

Baton Rouge, *Pentagon Barracks (U.S. Barracks)*, North Riverside Mall (7-26-73).

#### Maine

*Cumberland County*

Portland, *Ingraham, Joseph Holt, House*, 51 State Street (7-16-73).
Portland, *Stevens, John Calvin, House*, 52 Bowdoin Street (7-16-73).
South Windham vicinity, *Smith, Parson, House*, Southeast of South Windham on River Road (7-16-73).

*Kennebec County*

Gardiner, *Christ Episcopal Church*, 1 Dresden Avenue (7-24-73).
Gardiner, *Oaklands*, South end of Dresden Street (7-27-73).

*Washington County*

East Mathias vicinity, *"The Rim" and Site of Fort Foster*, South of East Mathias off U.S. 1 (7-23-73).

*York County*

York, *York Historic District* (7-16-73).

#### Maryland

*Baltimore County*

Cockeysville vicinity, *Stone Hall*, north of Cockeysville off Maryland 25 on Cuba Road (7-26-73).
Long Green vicinity, *Prospect Hill*, northeast of Long Green on Kanes Road (7-26-73).

#### Massachusetts

*Middlesex County*

Lincoln vicinity, *Hoar Tavern*, northeast of Lincoln on Massachusett 2 (7-23-73).

*Norfolk County*

Milton, *Suffolk Resolves House (Daniel Vose Residence)*, 1370 Canton Avenue (7-23-73).

*Suffolk County*

Boston, *Otis, (Second) Harrison Gray, House*, 85 Mount Vernon Street (7-27-73).

#### Michigan

*Allegan County*

*Hacklander Site*, northwest Allegan County (7-27-73).

*Mason County*

*Not-a-pe-ka-gon Site*, southeast Mason County (7-27-73).

*Saginaw County*

Bridgeport Township, *Schmidt Site*, Central Saginaw County (7-27-73).

#### Mississippi

*Hancock County*

Pearlington vicinity, *Jackson Landing Site*, 3 miles southeast of Pearlington (7-27-73).

*Pontotoc County*

Pontotoc vicinity, *Treaty of Pontotoc Site*, 7 miles southeast of Pontotoc (7-27-73).

#### Nebraska

*Otoe County*

Nebraska City vicinity, *Ware, Jasper A., House (Wildwood Farm)*, south of Nebraska City on Steinhart Park Road (7-16-73).

#### New Jersey

*Bergen County*

Oakland, *Van Allen House*, at corner of U.S. 202 and Franklin Avenue (7-24-73).

*Hudson County*

Hoboken, *Erie-Lackawanna Railroad Terminal at Hoboken*, on the Hudson River at the foot of Hudson Place (7-24-73).

*Morris County*

Boonton, *Miller-Kingsland House*, 455 Vreeland Avenue (7-24-73).
Florham Park, *Little Red School House*, Ridgedale Avenue at Columbia Turnpike (7-24-73).
Mendham, *Thompson, David, House*, 56 West Main Street (7-24-73).

*Warren County*

Hope, *Hope District* (7-23-73).

#### New Hampshire

*Merrimack County*

Concord, *Old Post Office*, North State Street between Capitol and Park streets (8-13-73).

#### New Mexico

*Hidalgo County*

Lordsburg vicinity, *Shakespeare Ghost Town*, southwest of Lordsburg off New Mexico 494 (7-16-73).



V 38 170 SEP 4 73 XUM

*Santa Fe County*

Santa Fe, *Santa Fe Historic District* (7-23-73).
Santa Fe vicinity, *Pueblo of Tesuque (Tatunge)*, about 8 miles north of Santa Fe off U.S. 64/84/285 (7-16-73).

**New York**

*Cattaraugus County*

Napoli vicinity, *Gladden Windmill*, north of Napoli on Pigeon Valley Road (7-16-73).

*Delaware County*

Delhi, *Delaware County Courthouse Square District* (7-16-73).

*New York County*

New York, *Charlton-King-Vandam Historic District* (7-20-73).

*Niagara County*

Niagara Falls, *U.S. Custom House*, 2245 Whirlpool Street (7-16-73).

*Onondaga County*

Syracuse, *White, Hamilton, House*, 307 South Townsend Street (7-20-73).

*Ontario County*

Canandalgua, *North Main Street Historic District* (7-20-73).
Geneva, *Geneva Hall and Trinity Hall*, South Main Street (7-16-73).

*Orange County*

Newburgh, *Montgomery - Grand - Liberty Streets Historic District* (7-16-73).

*Rensselaer County*

Troy, *Esek Bussey Fire House*, 302 10th Street (7-16-73).

*Suffolk County*

Great River vicinity, *Southside Sportsmens Club District*, northeast of Great River off New York 27 (7-23-73).
Mastic, *Floyd, William, House*, 20 Washington Avenue (4-21-71).
Sag Harbor, *Sag Harbor Village District* (7-20-73).
St. James, *St. James District* (7-20-73).
St. James vicinity, *Mill Pond District*, north of St. James on New York 25A (8-1-73).

*Ulster County*

New Paltz vicinity, *Lake Mohonk Mountain House Complex*, northwest of New Paltz off Canaan Road (7-16-73).

*Washington County*

Fort Edward, *Rogers Island*, in the Hudson River at Fort Edward (7-24-73).

**North Carolina**

*Chowan County*

Edenton, *Edenton Historic District* (7-16-73).

*Gaston County*

Dallas, *Dallas Historic District* (7-26-73).

*Robeson County*

Lumberton vicinity, *Humphrey-Williams House*, west of Lumberton on North Carolina 211 (7-24-73).

**Ohio**

*Butler County*

Millville vicinity, *Cochran Farm*, 2900 Ohio 129 (7-16-73).

*Clermont County*

Bantam vicinity, *Pinkham Farm*, northwest of Bantam off Ohio 125 (7-23-73).

*Cuyahoga County*

Cleveland, *Perry-Payne Building*, 740 Superior Avenue (7-16-73).
Cleveland, *White, Henry P., House*, northwest corner of Euclid Avenue and East 90th Street (7-16-73).

*Delaware County*

Galena vicinity, *Spruce Run Earthworks*, about 3 miles south of Galena (7-16-73).

*Franklin County*

Columbus, *Ohio Asylum for the Blind*, 240 Parsons Avenue (7-26-73).
Worthington, *Snow, John, House*, 41 West New England Avenue (7-26-73).

*Guernsey County*

Cambridge, *Guernsey County Courthouse*, Courthouse Square (7-16-73).

*Hamilton County*

Cincinnati, *Rawson House*, 3767 Clifton Avenue (7-24-73).

*Lake County*

Unionville, *Unionville Tavern*, on Ohio 84 (7-23-73).

*Lucas County*

Maumee, *House of Four Pillars*, 332 East Broadway (7-16-73).
Toledo, *Fort Industry Square* (7-23-73).

*Muskingum County*

Zanesville, *Muskingum County Courthouse and Jail*, 4th and Main Streets (7-16-73).

*Ross County*

Bainbridge, *Harris, Dr. John, Dental School*, Main Street (7-23-73).
Chillicothe vicinity, *High Banks Works*, southeast of Chillicothe (7-16-73).

*Summit County*

Akron, *Loew's Theatre*, 182 South Main Street (7-16-73).

*Tuscarawas County*

New Philadelphia, *Tuscarawas County Courthouse*, Courthouse Square (7-16-73).

*Wayne County*

Wooster, *Wayne County Courthouse District* (7-26-73).

**Pennsylvania**

*Bucks County*

Richboro vicinity, *Thompson, John, House*, 1925 Second Street Pike (7-16-73).

*Fayette County*

Brier Hill, *Colley, Peter, Tavern and Barn*, on U.S. 40 (7-24-73).

*Philadelphia County*

Philadelphia, *Mennonite Meetinghouse*, 6119 Germantown Avenue (7-23-73).

*Washington County*

Washington, *Bradford, David, House*, 175 South Main Street (7-16-73).

**South Carolina**

*Oconee County*

Walhalla vicinity, *Ellicott Rock*, north of Walhalla off South Carolina 107 along North Carolina-South Carolina state line (7-24-73).

**Tennessee**

*Jefferson County*

Dandridge, *Swann, Judge James Preston, House*, Cherokee Drive (7-16-73).

*Lincoln County*

Fayetteville vicinity, *Conger, Isaac, House*, northeast of Fayetteville off Hamestring Road (7-16-73).

*Maury County*

Columbia vicinity, *Hamilton Place*, west of Columbia off U.S. 43 (7-16-73).

*Rutherford County*

Murfreesboro, *Collier-Crichlow House*, 511 East Main (7-16-73).
Murfreesboro, *Rutherford County Courthouse*, Public Square (7-16-73).
Smyrna vicinity, *Ridley's Landing*, north of Smyrna on Jones Mill Road at Stone River (7-16-73).

**Texas**

*Milam County*

Rockdale, *San Xavier Mission Complex Archeologic District*, 13 miles west of Rockdale (7-27-73).

*Webb County*

Laredo vicinity, *San Jose de Palafox Historic/Archeological District*, about 30 miles northeast of Laredo (7-24-73).

*Zapata County*

San Ygnacio, *San Ygnacio Historic District* (7-16-73).

**Vermont**

*Orange County*

Randolph, *Chandler Music Hall and Bethany Parish House*, 71 Main Street (7-16-73).

*Windham County*

Rockingham vicinity, *Worral Covered Bridge*, north of Rockingham across the Williams River (7-16-73).

**Virginia**

*Bedford County*

Perrowville vicinity, *Old Rectory*, south of Perrowville on Virginia 663 (7-24-73).

*Clarke County*

Millwood vicinity, *Carter Hall*, northeast of Millwood off Virginia 255 (7-24-73).

*Fairfax County*

McLean, *Salona*, 1214 Buchanan Street (7-24-73).
Falls Church (independent city), *Cherry Hill*, 312 Park Avenue (7-26-73).

*Gloucester County*

White Marsh vicinity, *Fairfield Site*, west of White Marsh near junction of Virginia 633 and 614 (7-16-73).
Harrisonburg (independent city), *Harrison, Thomas, House*, 30 west Bruce Street (7-26-73).

*Henrico County*

Tuckahoe vicinity, *Woodside*, southwest of Tuckahoeoff Virginia 157 (7-24-73).

*King and Queen County*

Aylett vicinity, *Holly Hill*, northeast of Aylett off U.S. 360 (7-24-73).

*Nottoway County*

Nottoway vicinity, *Nottoway County Courthouse*, off U.S. 460 on Virginia 625 (8-13-73).
Petersburg (independent city), *McIlwaine House*, Market Square at corner of Pellam and Cockade Alleys (7-16-73).

*Rockingham County*

Dayton vicinity, *Fort Harrison*, northeast of Dayton on Virginia 42 (7-24-73).





*Russell County*

Dickersonville vicinity, *Old Russell County Courthouse*, west of Dickersonville on Alternate U.S. 58 (7-16-73).

*Spotsylvania County*

Fredericksburg vicinity, *Rapidan Dam Canal of the Rappahannock Navigation* (7-26-73).
Staunton (independent city), *Mary Baldwin College, Main Building*, Mary Baldwin College campus (7-26-73).

*Sussex County*

Sussex, *Sussex County Courthouse Historic District* (7-24-73).

**Washington**

*Pierce County*

Steilacoom, *Davidson House*, 1802 Commercial Street (7-27-73).

**West Virginia**

*Cabell County*

Huntington, *Old Main-Marshall University*, 16th Street on the Marshall University campus (7-16-73).

*Greenbrier County*

Lewisburg vicinity, *Stuart Manor*, southwest of Lewisburg off U.S. 219 (7-27-73).

*Hardy County*

Moorefield vicinity, *Fort Pleasant*, north of Moorefield (7-16-73).

*Harrison County*

Shinnston, *Shinn, Levi, House*, Clarksburg Road (U.S. 19) (7-16-73).

*Jefferson County*

Charles Town vicinity, *Claymont Court*, about 3 miles southwest of Charles Town on West Virginia 13 (7-25-73).

**Wyoming**

*Teton County*

West Thumb vicinity, *Old Faithful Inn*, west of West Thumb at Old Faithful on Grand Loop Road (7-23-73).

ROBERT M. UTLEY,
*Director, Office of Archeology and Historic Preservation.*

[FR Doc.73-18083 Filed 8-31-73;8:45 am]

## DEPARTMENT OF AGRICULTURE

### Forest Service

### PACIFIC CREST NATIONAL SCENIC TRAIL ADVISORY COUNCIL

#### Notice of Meeting

Notice is hereby given that a meeting of the Pacific Crest National Scenic Trail Advisory Council will be held, beginning at 8 a.m., and ending at 2 p.m., on September 22, 1973, at the Cispus Environmental Education Center near Randle, Washington. The purpose of the Council is to advise the Secretary on matters relating to the Pacific Crest National Scenic Trail, including the selection of rights-of-way, standards of the erection and maintenance of markers along the Trail, and the administration of the Trail.

The agenda for this meeting will include:

SATURDAY, SEPTEMBER 22

1. Reports from Subgroup Chairman and/or Council Members concerning Trail matters.
2. Fiscal Year 1973 accomplishments; fiscal year 1974 programs; future needs.
3. Management of Wilderness and the Pacific Crest National Scenic Trail.
4. General discussions—topics from the floor.

The meeting will be open to the public. For additional information, interested persons may contact the Forest Service, Washington, D.C., by telephone (703-235-8069) or by mail (USDA, Forest Service, Washington, D.C. 20250) prior to the meeting.

RUSSELL P. MCROREY,
*Chairman, Pacific Crest Trail Advisory Council.*

AUGUST 27, 1973.

[FR Doc.73-18619 Filed 8-31-73;8:45 am]

## DEPARTMENT OF COMMERCE

### Domestic and International Business Administration

### COMPUTER PERIPHERALS, COMPONENTS AND RELATED TEST EQUIPMENT TECHNICAL ADVISORY COMMITTEE

#### Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a meeting of the Computer Related Test Equipment Subcommittee of the Computer Peripherals, Components, and Related Test Equipment Technical Advisory Committee will be held Friday, September 7, 1973, at 10:00 a.m. at E-H Research Laboratories, 515 11th St., Oakland, California.

Members advise the Office of Export Control, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to computer peripherals, components, and related test equipment, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

Agenda items are as follows:

1. Presentation of papers or comments by the public.
2. Discussion of foreign availability of computer related test equipment.
3. Discussion of end use patterns for above equipment.
4. Discussion of equipment exports.
5. Discussion of technology exports.
6. Discussion of work programs.
7. Executive session:
a. Discussion of foreign availability of computer related test equipment.
b. Discussion of end use patterns for above equipment.
c. Discussion of equipment exports.
d. Discussion of technology exports.
e. Discussion of work programs.
8. Adjournment.

The public will be permitted to attend the discussion of agenda items 1-6, and a limited number of seats—approximately 5—will be available to the public for these agenda items. To the extent time permits, members of the public may present oral statements to the subcommittee. Interested persons are also invited to file written statements with the subcommittee.

With respect to agenda item 7, "Executive Session," the Assistant Secretary of Commerce for Administration, on August 13, 1973, determined, pursuant to Section 10(d) of Public Law 92-463, that this agenda item should be exempt from the provisions of Sections 10(a)(1) and (a)(3), relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in 5 U.S.C. 552(b)(1).

Further information may be obtained from Dr. John C. Hubbs, Chairman of the subcommittee, E-H Research Laboratories, Inc., 515 11th St., Oakland, California (Area Code 415-834-3030).

Minutes of those portions of the meeting which are open to the public will be available 30 days from the date of the meeting upon written request addressed to: Central Reference and Records Inspection Facility, U.S. Department of Commerce, Washington, D.C. 20230.

Dated August 29, 1973.

STEVEN LAZARUS,
*Deputy Assistant Secretary for East-West Trade, U.S. Department of Commerce.*

[FR Doc.73-18674 Filed 8-31-73;8:45 am]

### RESEARCH AND DEVELOPMENT WORKING GROUP OF THE INDUSTRY ADVISORY COMMITTEE ON METAL SCRAP PROBLEMS

#### Notice of Meeting

A meeting of the Research and Development Working Group of the Industry Advisory Committee on Metal Scrap Problems will be held from 11 a.m. to late afternoon, on Thursday, September 13, 1973, Room 4833, Commerce Buiding, 14th and E Streets NW., Washington, D.C.

The Committee gathers information and provides advice to Department officials in order to identify and overcome problems in metal scrap consumption. The Committee advises on such national issues as conservation of natural resources, solid waste management, and environmental quality, including problems of junk autos. The Research and Development Working Group has the responsibility of listing problem areas in both the physical and social sciences where research may be needed for the continuum of the scrap cycle.

The following items will be discussed in order to provide advice to the Industry Advisory Committee, so that the full Committee can arrive at recommendations for presentation to the Secretary of Commerce:

1. Methods to improve statistical gathering in order to better follow the industry cycles.
2. a. Ways to increase long-term supply of metal scrap.
b. Supply of possible substitutes for metal scrap.
c. Available information regarding sources of supply.
3. Feasibility of industry shifting from short-term to long-term contractual arrangements.
4. Inventory policies.



V 38 - 170
SEP 4 73
XUM

a. Scrap consumers.
b. Scrap processors.
c. Government.
5. Scrap delivery systems.
6. Status of junk car disposal programs of Federal, State, and local governments and implementation with industry.
7. Municipal waste programs as they relate to the recovery of metal scrap.
8. Summary of public and private metal scrap recovery projects underway.
9. Government export licensing programs.

Mr. Edmund Pfeifer, Director of Purchases and Traffic, Lukens Steel Company, is Chairman of the Working Group. The membership of the group consists of six members, currently drawn from six involved industries represented on the full Committee—iron and steel scrap processing, nonferrous scrap processing, automobile and truck wrecking, basic iron and steel producing, ferrous foundry, and automobile manufacturing.

A limited number of seats will be available to the public, including several which will be reserved for the press.

Interested parties will be given an opportunity to speak before the Committee at the conclusion of the agenda. Questions or extended statements must be submitted in writing to the committee guidance and control officer at least 3 days prior to the meeting.

Persons wishing additional information concerning this meeting should contact the committee guidance and control officer, Mrs. Diana B. Friedman, Materials Division, Room 2007, U.S. Department of Commerce, Washington, D.C. 20230, Telephone 202/967-5505.

GARY M. COOK,
*Acting Deputy Assistant Secretary for Competitive Assessment and Business Policy.*

[FR Doc.73-15570 Filed 8-31-73;8:45 am]

## SEMICONDUCTOR MANUFACTURING AND TEST EQUIPMENT TECHNICAL ADVISORY COMMITTEE

### Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a meeting of the Test Equipment Subcommittee of the Semiconductor Manufacturing and Test Equipment Technical Advisory Committee will be held Tuesday, September 11, 1973, at 9 a.m. at Del Webb's Townhouse, Market and 8th Sts., San Francisco, California.

Members advise the Office of Export Control, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to semiconductor manufacturing and test equipment, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

Agenda items are as follows:

1. Opening remarks and review of purpose of subcommittee by F. Van Veen, Chairman.
2. Presentation of papers or comments by public.
3. Work Program:
a. Digital IC test equipment.
b. Linear IC test equipment.
c. Discrete-semiconductor test equipment.
4. Executive session:
a. Review of test equipment capabilities of Communist countries.
b. Work program:
(1) Digital IC test equipment.
(2) Linear IC test equipment.
(3) Discrete-semiconductor test equipment.
5. Generation of Final Report of Subcommittee for September 20, meeting of Semiconductor Manufacturing and Test Equipment Technical Advisory Committee.
6. Adjournment.

The public will be permitted to attend the discussion of agenda items 1-3, and a limited number of seats will be available to the public for these agenda items. To the extent time permits, members of the public may present oral statements to the subcommittee. Interested persons are also invited to file written statements with the subcommittee.

With respect to agenda item 4, "Executive Session," the Assistant Secretary of Commerce for Administration, on August 9, 1973, determined, pursuant to section 10(d) of Public Law 92-463, that this agenda item should be exempt from the provisions of Sections 10(a)(1) and (a)(3), relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in 5 USC 552(b)(1).

Further information may be obtained from Frederick Van Veen, Chairman of the subcommittee, Teredyne, Inc., 183 Essex St., Boston, Mass. 02111, (A/C 617 +'482-2700).

Minutes of those portions of the meeting which are open to the public will be available 30 days from the date of the meeting upon written request addressed to: Central Reference and Records Inspection Facility, U.S. Department of Commerce, Washington, D.C. 20230.

Dated August 30, 1973.

STEVEN LAZARUS,
*Deputy Assistant Secretary for East-West Trade, U.S. Department of Commerce.*

[FR Doc.73-18762 Filed 8-31-73;9:15 am]

## Maritime Administration

## SUPERPORT TANKERS, INC.

### Application for Construction-Differential Subsidy

Notice is hereby given that Superport Tankers, Inc., has filed an application dated August 17, 1973, pursuant to Title V of the Merchant Marine Act, 1936, as amended for construction-differential subsidy to aid in the construction of six 380,000 DWT tankers of approximately 16.0 knots speed proposed for operation in worldwide tanker trades.

Interested parties may inspect this application in the office of the Secretary, Room 3099-B, Maritime Administration, Commerce Department Building, Fourteenth and E Streets NW., Washington, D.C. 20235.

Dated August 27, 1973.

By Order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, JR.,
*Secretary.*

[FR Doc.73-18593 Filed 8-31-73;8:45 am]

## National Bureau of Standards

## VOLUNTARY PRODUCT STANDARD

### Notice of Intent To Withdraw

In accordance with § 10.12 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10, as revised; 35 FR 8349 dated May 23, 1970), notice is hereby given of the intent to withdraw Voluntary Product Standard PS 7-66, "Wire Bar Supports for Reinforcing Concrete Construction." It has been tentatively determined that this standard is no longer technically adequate and revision would serve no useful purpose due to the fact that the subject is adequately covered by the manual of standard practice of the Concrete Reinforcing Steel Institute, CRSI 1, 3d, "Concrete Reinforcement."

Any comments or objections concerning the intended withdrawal of these standards should be made in writing and directed to the Office of Engineering Standards Services, National Bureau of Standards, Washington, D.C. 20234, on or before Oct. 4, 1973. The effective date of withdrawal, if appropriate, will be no later than Nov. 5, 1973. Withdrawal action terminates the authority to refer to a published standard as a voluntary standard developed under the Department of Commerce procedures from the effective date of the withdrawal.

Dated August 28, 1973.

RICHARD W. ROBERTS,
*Director.*

[FR Doc.73-18635 Filed 8-31-73;8:45 am]

## National Oceanic and Atmospheric Administration

## LOUIS SCARPUZZI ENTERPRISES, INC. AND PLEASANT POINT PASSAMAQUODDY TRIBAL COUNCIL

### Notice of Exemption Application Under Marine Mammal Protection Act

Notice is hereby given that the following named individuals have filed applications for exemptions from the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361, 86 Stat. 1027 (1972)) on grounds of undue economic hardship as authorized by section 101(c) of the Act, and § 216.13 of the Interim Regulations Governing the Taking and Importing of Marine Mammals (37 FR 28177, 28182, December 21, 1972) for the taking of marine mammals as hereinafter described for the purposes stated.





1. Louis Scarpuzzi Enterprises, Inc., 339 Riverside Drive, Fort Myers, Florida 33905, to take as many as three Atlantic bottle-nose dolphins (*Tursiops truncatus*) and four California sea lions (*Zalophus californianus*) for public display.

The Applicant states:

1. The dolphins would be taken by the Applicant or by professional dolphin capturers in the coastal waters surrounding Florida, excluding the Miami, Tampa, or Naples area, by seine net between the date of issuance of a Letter of Exemption and October 21, 1973;
2. The sea lions would be taken along the coast of California between the date of issuance of a Letter of Exemption and October 21, 1973 by professional sea lion capturers, acclimated in California and air shipped to the Applicant's facility or as hereinafter described;
3. Two of the dolphins and one of the sea lions would be used for public display at the Applicant's facility at 290 Pearl Street, Fort Myers Beach, Florida;
4. One of the dolphins and three of the sea lions would be used by the Applicant's agents for public display under contract with the National Marine Aquarium (Canada) Limited, Oake's Drive, Niagara Falls, Canada;
5. If the Applicant does not get an exemption, it will suffer undue economic hardship in that it will not have sufficient animals on hand at its Fort Myer Beach facility to attract enough customers to make a profit, and will be unable to fulfill contractual obligations it has assumed with the National Marine Aquarium (Canada) Limited, and will consequently be faced with a financial situation which will mean that the Applicant corporation will cease to exist.

2. Pleasant Point Passamaquoddy Tribal Council, Pleasant Point, Perry, Maine 04667, to take as many as 30 dolphins of unspecified species, for subsistence purposes by netting, spearing and shooting.

The Applicant states:

1. The animals would be taken between the date of issuance of a Letter of Exemption and October 21, 1973, in the waters of Passamaquoddy Bay, off the coast of Washington County, Maine, by various members of the Passamaquoddy tribe;
2. The animals taken would be completely utilized, the flesh being used for food and the blubber used for food and oil.
3. Various members of the Applicant tribal council have hunted dolphins for years, and depend upon dolphins for part of their food and other products, and are impoverished;
4. If the exemption is refused, some members of the Applicant tribal council will suffer undue economic hardship in that they will be unable to obtain alternate foodstuffs and other materials comparable to those obtainable from dolphins.

Documents submitted in connection with these applications, other than confidential information, are available for inspection in the Office of the Director, National Marine Fisheries Service, Washington, D.C. 20235, and in the Offices of the Regional Directors, National Marine Fisheries Service as follows: For Louis Scarpuzzi Enterprises, Inc., William C. Cramer Federal Office Building, 144 First Avenue, South, St. Petersburg, Florida 33701, telephone 813-893-3141. For the Pleasant Point Passamaquoddy Tribal Council, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930, telephone 617-281-0640. Any person wishing to comment on these applications may write to the Director or the appropriate Regional Director.

All statements and opinions contained in this notice in support of the applications are those of the Applicants and do not reflect the views of the National Marine Fisheries Service.

Dated August 23, 1973.

JOSEPH W. SLAVIN,
*Acting Director,*
*National Marine Fisheries Service.*

[FR Doc.73-18617 Filed 8-31-73;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Food and Drug Administration

[FAP 7B2062]

## KENDALL CO.

### Notice of Withdrawal of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), The Kendall Co., Chicago Division, 309 West Jackson Blvd., Chicago, Ill. 60606, has withdrawn its petition (FAP 7B2062), notice of which was published in the FEDERAL REGISTER of March 15, 1968 (33 FR 4593), proposing that § 121.2522 *Polyurethane resins* be amended to provide for the safe use of polyurethane resins as a component of single use, disposable nursing-bottle nipples that contact liquid food.

Dated August 24, 1973.

VIRGIL O. WODICKA,
*Director, Bureau of Foods.*

[FR Doc.73-18583 Filed 8-31-73;8:45 am]

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-73-251]

## DIRECTOR OF URBAN PROGRAM COORDINATION

### Notice of Designation

David O. Meeker, Jr., Assistant Secretary for Community Planning and Development, is designated to serve as Director of Urban Program Coordination in accordance with sec. 4(c) of the Department of Housing and Urban Development Act (42 U.S.C. 3533(c)).

(Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).)

*Effective date.*—This designation is effective as of August 28, 1973.

JAMES T. LYNN,
*Secretary of Housing and Urban Development.*

[FR Doc.73-18663 Filed 8-31-73;8:45 am]

## Office of Interstate Land Sales Registration

[Docket No. N-73-189; OILSR No. 0-0873-37-4; Administrative Proceedings Division File No. Z-142]

### THE HEADLANDS

### Order of Suspension

Notice is hereby given that: On June 21, 1973, the Department of Housing and Urban Development, Office of Interstate Land Sales Registration, published in the FEDERAL REGISTER a Notice of Proceedings and Opportunity for Hearing, pursuant to 44 U.S.C. 1508, informing the Developer of alleged untrue statements or omissions of material facts in the Developer's Statement of Record. The Developer has failed to request a hearing pursuant to 24 CFR 1720.160 within 15 days of said Notice. Accordingly, pursuant to 15 U.S.C. 1706(d) and 24 CFR 1710.45(b)(1), the Order of Suspension is being issued as follows:

ORDER OF SUSPENSION

1. Creative Properties, Ltd., hereinafter referred to as the Developer, being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1701 et seq.) and the Rules and Regulations lawfully promulgated thereto pursuant to 15 U.S.C. 1718, has filed its Statement of Record covering its subdivision located in New York (OILSR No. 0-0873-37-4), which became effective on December 9, 1969, pursuant to 24 CFR 1710.21 of the Interstate Land Sales Regulations. Said Statement is still in effect.

2. Pursuant to lawful delegation, as authorized by 15 U.S.C. 1715, the authority and responsibility for administration of the Interstate Land Sales Full Disclosure Act has been vested in the Interstate Land Sales Administrator.

3. Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1710.45(b)(1), if it appears to the Interstate Land Sales Administrator at any time that a Statement of Record, which is in effect, includes any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statement therein not misleading, the Administrator may, after notice, and after an opportunity for a hearing requested within 15 days of such notice, issue an order suspending the Statement of Record.

4. A Notice of Proceedings and Opportunity for Hearing was published in the FEDERAL REGISTER on June 21, 1973, pursuant to 44 U.S.C. 1508, informing the Developer of information obtained by the Office of Interstate Land Sales Registration showing an untrue statement of a material fact or an omission of a material fact required to be stated therein or necessary to make the statements therein not misleading in the above-specified Statement of Record. The Developer was notified of his right to request a hearing and that if he failed to request a hearing he would be deemed in default and the proceedings would be determined against him, the allegations of which would be determined to be true. The Developer has failed to request a hearing pursuant to 24 CFR 1720.160 within 15 days of publication of said Notice of Proceedings and Opportunity for Hearing.

Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1710.45(b)(1), the Statement of Record filed by the Developer covering its subdivision is hereby suspended, effective as of the date of publication of this Order of Suspension in the FEDERAL REGISTER. This Order of Suspension shall remain in full force and effect until the Statement of Record has been properly amended as required by the Interstate Land Sales Full Dis-



V 38 170 SEP 4 73 XUM

closure Act and the implementing Regulations.

Any sales or offers to sell made by the Developer or its agents, successors, or assigns while this Order of Suspension is in effect will be in violation of the provisions of said Act.

Issued in Washington, D.C., August 28, 1973.

By the Secretary.

GEORGE K. BERNSTEIN,
*Interstate Land Sales Administrator.*

[FR Doc.73-18631 Filed 8-31-73;8:45 am]

## ATOMIC ENERGY COMMISSION

### ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON BROWNS FERRY NUCLEAR PLANT

#### Notice of Meeting

AUGUST 30, 1973.

In accordance with the purposes of secs. 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards Subcommittee on Browns Ferry Nuclear Plant, Units 2 and 3, will hold a meeting on September 20, 1973, in Room 1046, 1717 H Street NW., Washington, D.C. The purpose of this meeting will be to review the application of the Tennessee Valley Authority for a license to operate Units 2 and 3, which are located in Limestone County, Alabama, about 10 miles northwest of Decatur, Alabama.

The following constitutes that portion of the Subcommittee's agenda for the above meeting which will be open to the public:

THURSDAY, SEPTEMBER 20, 1973, 9:00 A.M.–3:30 P.M.

Review of the application for an operating license (presentations by the AEC Regulatory Staff and the Tennessee Valley Authority and its consultants, and discussions with these groups).

In connection with the above agenda item, the Subcommittee will hold an executive session at 8:30 a.m. which will involve a discussion of its preliminary views, and an executive session at the end of the day, consisting of an exchange of opinions of the Subcommittee members and internal deliberations and formulation of recommendations to the ACRS. In addition, prior to the executive session at the end of the day, the Subcommittee may hold a closed session with the Regulatory Staff and Applicant, to discuss privileged information relating to plant security and nuclear fuel design, if necessary.

I have determined, in accordance with subsection 10(d) of Public Law 92-463, that the executive sessions at the beginning and end of the meeting will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b); and that a closed session may be held, if necessary, to discuss certain documents which are privileged, and fall within exemption (4) of 5 U.S.C. 552(b). It is essential to close such portions of the meeting to protect such privileged information and to protect the free interchange of internal views and to avoid undue interference with agency or Committee operation.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business.

With respect to public participation in the open portion of the meeting, the the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda item may do so by mailing 25 copies thereof, postmarked no later than September 13, 1973, to the Executive Secretary, Advisory Committee on Reactor Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Such comments shall be based upon the application for an operating license and related documents which are on file and available for public inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545, and the Athens Public Library, South and Forrest, Athens, Alabama 35611.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Subcommittee, between the hours of 1 p.m., and 3 p.m. on the day of the meeting, September 20, 1973.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee, who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled, and in regard to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted can be obtained by a prepaid telephone call on September 19, 1973, to the Office of the Executive Secretary of the Committee (telephone: 301-973-5651) between 8:30 a.m. and 5:15 p.m., eastern daylight time.

(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) A copy of the transcript of the open portions of the meeting will be available for inspection during the following workday at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545 and within approximately nine days at the Athens Public Library, South and Forrest, Athens, Alabama 35611. On request, copies of the minutes of the meeting will be made available for inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545 on or after November 20, 1973. Copies may be obtained upon payment of appropriate charges.

JOHN C. RYAN,
*Committee Management Officer.*

[FR Doc.73-18729 Filed 8-31-73;8:45 am]

[Docket No. 50-254]

### COMMONWEALTH EDISON CO. AND IOWA-ILLINOIS GAS AND ELECTRIC CO.

#### Notice of Issuance of Facility License Amendment

Notice is hereby given that the U.S. Atomic Energy Commission (the Commission) has issued Amendment No. 6 to Facility Operating License No. DPR-29 authorizing the Commonwealth Edison Company (Commonwealth) and the Iowa-Illinois Gas and Electric Company (Iowa-Illinois) to increase the amount of special nuclear material they may receive, possess, and use in connection with operation of Unit 1 of the Quad-Cities Nuclear Power Station located in Rock Island County, Illinois. The amendment, effective as of the date of issuance, authorizes the receipt, possession and use of an additional 2,000 kilograms of uranium 235 as reactor fuel to permit the storage of replacement fuel for the facility in accordance with Commonwealth's and Iowa-Illinois' application dated July 11, 1973.

The Commonwealth and Iowa-Illinois companies are the holders of Facility Operating License No. DPR-29 issued by the Commission for possession, use and operation of Unit 1 of the Quad-Cities Nuclear Power Station (a boiling water type nuclear power reactor facility) at power levels up to 2511 MWt.

The Commission's regulatory staff has found that the application complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations published in 10 CFR Chapter I, and that the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public. The staff also has concluded that this action does not involve a significant hazards consideration since the increase in the material limit is only to permit the replacement of depleted fuel elements and does not alter the previously approved operations and procedures. The storage of the additional fuel and of the depleted fuel when removed from the reactor will be in previously reviewed and approved storage facilities and in accordance with previously approved procedures. Consequently, public notice of proposed issuance of the amendment is not required.

Copies of the application dated July 11, 1973, and Amendment No. 6 to License No. DPR-29 are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C., and at the Moline Public Library at 504 17th Street, Moline, Illinois 61265. Single copies of the license amendment may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Maryland, this 24th day of August 1973.

For the Atomic Energy Commission.

DENNIS L. ZIEMANN,
*Chief, Operating Reactors Branch #2, Directorate of Licensing.*

[FR Doc.73-18594 Filed 8-31-73;8:45 am]

### CONTROLLED THERMONUCLEAR RESEARCH SUBCOMMITTEE OF THE US NUCLEAR DATA COMMITTEE

#### Notice of Meeting

AUGUST 30, 1973.

In accordance with the Atomic Energy Act of 1954, as amended, primarily sections 161a, 31, 32, and 33, the Controlled Thermonuclear Research Subcommittee of the US Nuclear Data Committee will hold a meeting on September 11-12, 1973 in the conference room adjacent to Room 180, Physics Annex, Building SM-215, Los Alamos Scientific Laboratory, Los Alamos, New Mexico. The agenda is as follows:

TUESDAY, SEPTEMBER 11, 1973

9:00 am-11:00 am—Administrative.
11:00 am-12:30 pm—CTR Nuclear Data Requests.
1:30 pm-3:30 pm—Status Report on Requests, Including Recent Compilations and Evaluations.
3:30 pm-5:30 pm—Nuclear Data Applications.

WEDNESDAY, SEPTEMBER 12, 1973

9:00 am-11:00 am—Interfaces with the Cross Section Evaluation Working Group.
11:00 am-12:30 pm—Future Meetings on CTR Data Needs.
1:30 pm-3:30 pm—Summary of Conclusions and Required Actions; Future Plans.

Practical consideration may dictate alterations in the above agenda or schedule.

The Chairman is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in agenda items listed above, the following requirements shall apply:

(a) Persons wishing to submit written statements on those agenda items may do so by mailing 25 copies thereof, postmarked, if possible, no later than September 6, 1973, to the Chairman, CTR Subcommittee, USNDC (Dr. Donald Steiner) Oak Ridge National Laboratory, P.O. Box Y, Oak Ridge, Tennessee 37830. Minutes of the meeting will be kept open for 30 days for the receipt of written statements for the record.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement, and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of not more than 30 minutes at an appropriate time, chosen by the Chairman, between the hours of 9:00 am and 11:00 am on September 12, 1973.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee, who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obained by a prepaid telephone call on September 7, 1973, to the Office of the Chairman of the Subcommittee (telephone: 615-483-8611 ext. 37995) between 9:00 am and 4:00 pm eastern time.

(e) Questions may be asked only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) Copies of minutes of public sessions will be made available for copying, in accordance with the Federal Advisory Committee Act, on or after December 11, 1973, at the Atomic Energy Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., upon payment of all charges required by law.

JOHN C. RYAN,
*Advisory Committee Management Officer.*

[FR Doc.73-18763 Filed 8-31-73;9:46 am]

[Docket No. RM-50-8]

### FRIENDS OF THE EARTH AND RALPH NADER

#### Memorandum and Order Regarding Filing of Petition for Shutdown of Certain Reactors

On July 16, 1973, Friends of the Earth and Ralph Nader (petitioners) filed the above-styled petition seeking the shutdown of twenty licensed nuclear power plants identified by cross-reference to an appeal pending in the United States Court of Appeals for the District of Columbia Circuit (*Nader, et al.* v. *Ray, et al.*, No. 73-1733).[1] Comments on the legal and substantive safety matters covered by the petition, including the need, if any, for emergency action were requested, by means of a FEDERAL REGISTER notice (38 FR 19855, July 24, 1973), from the affected licensees, the Regulatory Staff, and any other interested persons by July 31, 1973. Responsive comments were received from the nineteen affected licensees (filed jointly), the General Electric Company, Combustion Engineering, Inc., Westinghouse Electric Corportation, Babcock and Wilcox, Consolidated National Intervenors, the Commission's Regulatory Staff, Paul W. Rosenberg, and John H. Pingel.[2]

The petition sought the same relief requested in *Nader* v. *Ray*, "based on the identical facts, the identical affidavits and the identical legal contentions," (petition, p. 1), and incorporated by reference some, but not all, of the pleadings and affidavits filed in that litigation. No new affidavits or other proffers of evidence accompanied the petition.

The Commission has determined to treat the petition as one which requests the agency "to issue, amend, or rescind any regulation" within the meaning of 10 CFR § 2.802. Notice of filing of the petition, as required by 10 CFR § 2.802, has previously been published, 38 FR 19855 (July 24, 1973). Upon consideration of the petition, the responsive comments and the entire record in *Nader* v. *Ray*,[3] the Commission has determined that the petition must be denied for the reasons set forth below.

Each of the twenty reactors referred to in the petition is required to have "a system to provide abundant emergency core-cooling" 10 CFR Part 50, Appendix A, Criterion 35. The Commission has promulgated "Interim Acceptance Criteria" (IAC) for emergency core cooling systems (ECCS) which implement the broad general requirement of Criterion 35 and provide the basis for judging the acceptability of ECCS performance. 36 FR 12247 (June 29, 1971); 36 FR 24082 (December 18, 1971). These systems are to counter a major accident hypothesized for design purposes. The record is uncontradicted in showing that the accident is a highly unlikely event. The Commission has also instituted a rulemaking proceeding, Docket No. RM-50-1, "for the purpose of aiding the Commission in its determination as to whether or not the subject [Interim Acceptance Criteria] should be retained in [their] present form or adopted in some other form." 36 FR 22774 (November 30, 1971). The record in that rulemaking proceeding—involving months of hearings, over 22,000 pages of transcript, and thousands of pages of exhibits—has re-

[1] This appeal is from the dismissal, on June 28, 1973, of the complaint in *Nader, et al.* v. *Ray, et al.*, Civil Action No. 1058-73, by the United States District Court for the District of Columbia. Hereinafter, references to *Nader* v. *Ray*, without further specification, are intended to encompass the entire litigation in both the District Court and the Court of Appeals.

[2] Mr. Pingel's submission was captioned for filing in another proceeding simultaneously noticed in the FEDERAL REGISTER. Because it consists solely of a challenge to petitioner Nader's position, we treat it as filed in this proceeding as well.

[3] Those portions of the litigation record not incorporated by reference in the petition have been relied upon and incorporated in the comments of others.







V 38-170
SEP 4 73
XUM

cently been forwarded to the Commission for a final decision based on the entire record. It is presently anticipated that such a decision will be rendered by the end of 1973.

Petitioners, who did not participate or seek to participate in the ECCS rulemaking proceeding,[4] filed suit in the United States District Court for the District of Columbia on May 31, 1973, seeking an immediate shutdown of the twenty named plants (each of which complied with the Interim Acceptance Criteria). The allegations of the lawsuit were variously worded at different stages of the litigation. Petitioners have summarized their position, which they say is unchanged, at pages 5 and 6 of their petition, as follows:

1. The Commission is required by law to make a definitive and unequivocal finding that a nuclear power plant is in compliance with Commission regulations in order to permit continued operation of the plant.

2. At any time the Commission cannot make this finding with respect to a plant, the plant must be shut down.

3. The Commission has established the Interim Acceptance Criteria as the test to determine whether the nuclear power plants involved in this litigation [sic] have effective Emergency Core Cooling Systems, i.e., whether they comply with Design Criterion No. 35.

4. The experts regularly relied upon the Commission [sic] (set forth in Paragraph 30 of the complaint and paragraphs 37 to 51 of the Affidavit of Kendall) state that compliance with the Interim Acceptance Criteria does not assure the effectiveness of the ECCS.

5. The undisputed inadequacy of the Interim Acceptance Criteria to provide the crucial assurance for which they were promulgated—assurance of ECCS effectiveness—prevents the Commission from making a definitive and unequivocal finding that there is assurance that each of these 20 nuclear power plants has an effective ECCS, i.e. that it is in compliance with Design Criterion No. 35.

6. Therefore, the Commission has no choice but to shut down each plant until such time as it can make a definitive and unequivocal finding that there is assurance that each plant has an effective ECCS, i.e. is in compliance with Design Criterion No. 35.

[4] The record shows that the petitioners have long had knowledge of the pending ECCS rulemaking proceedings. As noted, the hearings are now closed and the record has been certified to us for decision. The essence of the petition is a legal argument which we find without merit *infra*. It presents no new substantive matters; indeed, it rests entirely on selective excerpts of matters already placed in the ECCS rulemaking record by others. In these circumstances, the instant petition plainly makes no showing of good cause for petitioners' belated participation in the ECCS proceeding. To the extent that these petitioners now seek to intervene in this long pending proceeding, their request is hereby denied.

Similarly, we deny the request of Howard S Vogel, Esq., for an extension of time within which the "Minnesota Environmental Control Citizen's Association" may comment on the petition. The shutdown petition itself presents purely a legal argument which we reject after examining the diverse views of those who did comment. Further legal argument would only add delay.

Petitioners[1] case rests upon the assertion that plants should be shut down because compliance with the IAC does not "assure" ECCS effectiveness. Neither the statute nor the Commission regulations in issue, however, require such an unattainable guarantee of risk-free operation. *Nader* v. *Ray* Conclusion of Law No. 11. We do not live in a riskless society, nor could modern technological societies exist on that basis. We are, of course, aware of the potential risks in nuclear matters if safety is not given the very close attention it deserves. In this regard, the LOCA has been characterized as "perhaps the most-studied hypothetical accident in history". Affidavit of Mattson, paragraph 4. These studies continue. It is precisely because of this perceived risk that we have always imposed stringent and overlapping protective measures in implementing the concept of defense in depth. However we cannot—and do not—claim "assurance" as an absolute.

Resting upon an assumed (but impossible) standard of 100 percent assurance, petitioners build their case upon what they claim is the "undisputed inadequacy of the Interim Acceptance Criteria". But the IAC can be viewed as "inadequate" only if petitioners' notion of absolute riskiessness is accepted. We reject petitioners[1] attempt to bootstrap their theory into a conclusion of inadequacy.

Rather, the regulatory process turns upon the concept of "reasonable assurance" to public health and safety. See *Power Reactor Development Co.* v. *International Union*, 367 U.S. 396 (1961); *Nader* v. *Ray*, Conclusion of Law No. 11; 10 CFR 50.35(c), 50.40(a), 50.57(a)(3); 10 CFR Part 50, App. A, Introduction. Measured by this standard, we find, as our regulations require, that reactors operating under the IAC provide reasonable assurance of protection to the public health and safety in the highly unlikely event of a major loss-of-coolant accident.

Measured by the appropriate standard—one of reasonable assurance—the record supports the use of the Interim Criteria. Petitioners' case ignores the substantial showing of scientific and engineering support for the Criteria. See, e.g., affidavit of Dr. Hanauer. Of course there is a variety of expert opinion in the ECCS rulemaking record—ranging from those who take the view that even the Interim Criteria are too conservative to those few who have reservations about some aspect. None of the experts upon whom petitioners rely supports the extraordinary relief they seek. Indeed, as shown in Dr. Hanauer's affidavit, the selected excerpts cited by petitioners sometimes do not accurately reflect the entire views of the witnesses quoted. We have not been shown, nor have we found, any factual basis which would warrant short-circuiting the orderly culmination of the ECCS rulemaking proceeding. On the record presented in the instant case, we specifically reaffirm our conclusion that compliance with the IAC provides reasonable assurance that emergency core cooling systems will adequately protect the public health and safety.

From what has been said, it follows that there is neither an "undisputed inadequacy of the Interim Acceptance Criteria," an inability to make the required finding of reasonable assurance with respect to the public health and safety, nor any violation of the Commission's regulations.

For these reasons, the "Petition With Respect to Shutdown of Twenty Nuclear Power Plants" should be, and hereby is, denied.

Though unnecessary to the decision on this petition, we take this opportunity to comment upon the assumption, apparently held by these petitioners, that any violation of any regulation automatically requires a shutdown or similar relief. It goes without saying that a violation posing an undue risk to public health and safety will, of course, result in prompt remedial action, including shutdown if necessary. In other instances, however, the Commission has available a wide spectrum of remedies for dealing with violations of regulations. These include show-cause proceedings and proceedings for civil monetary penalties. The choice of the appropriate mechanism for correction of an assumed violation rests within the sound discretion of this agency. In exercising this discretion, our paramount concern is with the public health and safety. *Cf.* Memorandum and Order, "Petition for Derating of Certain Boiling Water Reactors", Docket Nos. 50-219, *et al.*, decided August 6, 1973.

Dated at Germantown, Maryland, this 29th day of August 1973.

By the Commission.

GORDON M. GRANT,
*Acting Secretary*
*of the Commission.*

[FR Doc.73-18725 Filed 8-31-73;8:45 am]

[1] Under the Financial Resolution, as proposed, the requirement that agents procure a bond for the benefit of ATC members would have been deleted upon adoption of the suggested credit evaluation procedures. The proposal with respect to bonding was also disapproved in light of the Board's action on the credit review procedures.

[Docket No. 20650; Order 73-8-126]

## CIVIL AERONAUTICS BOARD

### AIR TRAFFIC CONFERENCE OF AMERICA

### Order of Disapproval, Approval, and Deferral Regarding New Fees for Travel Agents

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 24th day of August 1973.

I. *Background.*—By Order 72-4-114, April 20, 1972, Docket 20650, the Board disapproved those portions of the ATC Agents' Financial Responsibility Resolution (Agreement CAB 20727 as amended by CAB 20727-A1) dealing with the proposed ATC credit evaluation procedures for review of financial qualifications of existing agents and applicants alike.[1] In the same order the Board deferred action on, and requested further explanation and justification with respect to, those provisions of the Financial Resolution relating to applicant and agency fees and fees paid by carriers participating in the ATC Standard Agent's Ticket and Area Settlement Plan. In this connection, the Board noted that it needed additional information with respect to the proposed increases in agent and carrier fees as well as the various changes contemplated in determining the amount of such fees, their allocation, and the purposes for which they are to be used.

*The agreements now before the Board.*—On October 30, 1972, the air carrier members of ATC filed comments in response to the questions posed by the Board in Order 72-4-114. The ATC comments stated that a review was made of the agency fees discussed in Order 72-4-114 and that appropriate adjustments were made in light of the then current conditions and that the net result was a reduction in those application fees as proposed in the Financial Resolution and an increase in the annual fees as provided in such Resolution. The ATC comments also included an attachment,[2] which is affixed hereto as Appendix A, setting forth various resolutions adopted by the air carrier members of ATC reflecting, *inter alia*, the Board's action in Order 72-4-114 and the new fee schedules.[3]

[2] The existing and proposed ATC application and annual agency fees, as well as those portions of the proposed fees to be approved by the Board, are as follows:

| | Existing | Proposed | Nonrefundable | Approved [a] |
|---|---|---|---|---|
| Application fees: | | | | |
| New agent | $50 | $320 | $200 | $77 |
| Additional location | 30 | 320 | 200 | 77 |
| Transfer or assignment | 50 | 175 | 175 | 4 |
| Change of location | 30 | 100 | 100 | 4 |
| Change of name | | 20 | 20 | 4 |
| Annual agency fees: | | | | |
| Home office | [b] 20 | [c] 100 | | [c] 85 |
| Branch location | [b] 10 | [c] 100 | | [c] 85 |

[a] All application fees to be refundable if application not approved.
[b] Does not include present temporary fee of $50 approved by Order 72-12-118, December 27, 1972.
[c] $300 maximum payment by any one agency will be eliminated.

Comments in response to the ATC comments and resolutions submitted as a result of Order 72-4-114 were filed by the American Automobile Association (AAA),[4] and the American Society of Travel Agents, Inc. (ASTA). Both AAA and ASTA urge the Board to reject the revised ATC annual and application fee proposals.

II. *Determination of the Board.*—Upon consideration of the ATC comments[5] and resolutions filed in response to Order 72-4-114, the comments filed in response to the ATC filings, and all available information, the Board has decided to (a) allow repeal of the Financial Resolution in its entirety; (b) disapprove those portions of Agreement CAB-5044-A158 pertaining to revisions in (1) the manner in which annual agency fees and application fees are determined and (2) the purposes for which such fees shall be used; (c) require amendment of appropriate sections of the ATC Agency Resolution and the ATC Sales Agency Agreement to conform to the methods of determining fees and the purposes for which they may be used as prescribed hereinafter by the Board; (d) approve a portion of the revised ATC annual agency fees and application fees as set forth in Agreement CAB 16874-A31 and disapprove those fees not approved; (e) approve Agreements CAB 5044-A158 and 16874-A31 to the extent they will, upon proper revision, meet the requirements of the Board as stated herein;[6] (f) require revision of those provisions of Agreement CAB 16874-A31 pertaining to the level of application and annual agency fees to insure that such provisions are in accord with the policies and fee levels established herein; (g) defer action on those portions of Agreement CAB 16874-A31 proposing increases in the amounts of annual fees paid by carriers concurring in the Area Settlement Plan; and (h) approve Agreement CAB 12076-A1 which allows application fees in addition to annual fees to be used to defray costs of tariff subscription.

[4] The initial AAA comments were filed on December 20, 1972. However, on December 22, 1972, AAA filed a motion to withdraw such comments without prejudice. Revised AAA comments were filed on December 29, 1972. Based on the information set forth in the AAA motion for withdrawal, such motion will be granted.

[5] The "ATC comments" as sometimes referred to hereinafter are those comments submitted by ATC on behalf of its member carriers pursuant to 14 CFR 263.

[6] We note that Agreement CAB 5044-A158 revises the annual agency fee payment date from January 10 to March 15. This development appears beneficial to the agents and our approval will extend to this provision. Also, CAB 5044-A158 refers to the continued payment of an initial fee under the provisions of the Sales Agency Agreement. As it is our understanding that the initial fee is to be eliminated upon payment of the revised application fee, CAB 5044-A158 and the Sales Agency Agreement should be amended to delete reference to an initial fee. Finally, we note that ATC proposes considerable change in the provisions of Section VI B of the Agency Resolution concerning accountability for and disbursement of agency fees. As ATC has not submitted any justification for these changes, we will expect that any revisions of the aforesaid provisions adopted pursuant to this order retain the major features of Section VI B, CAB 5044-A158 will also be disapproved, and should be amended, to the extent it would make the revised application fees applicable to Canada.

III. It appears that repeal of the Financial Resolution is in order, and the Board will approve Agreement CAB 20727-A2 which provides for such repeal. In this regard, the Board has already disapproved the credit evaluation procedures contained in the resolution and ATC has, in response to Order 72-4-114, excluded from its most recent proposal those agency and application fee increments attributable to credit investigations and reports by the ATC staff. Moreover, the provisions of the resolution are intended to be carried out through amendments to the basic ATC resolutions involved. Accordingly, it appears that no useful purpose would be served by keeping the Financial Resolution alive.

IV. The Board has concluded that the increases in annual agency fees and application fees as proposed by ATC should not be approved. However, it has been further concluded that smaller increases in such fees are in order and should be approved. Our conclusions herein are based on the basic premise that agents and applicants should not bear the cost of administering the agency program, and that the costs to be borne by agents and applicants should be limited to those items which the agents will use in the day-to-day conduct of their travel agency business as a representative of the nation's air carriers. Thus, the Board has determined that the air carriers should bear the cost of selecting agents and administering the agency program, and that agents and applicants should be required to meet the day-to-day operational costs of doing business with the air carriers.

The first of these decisions is based upon our conception of the travel agents as the alter ego of the carriers for the purpose of the sale of air transportation, as we recited at length in *ATC Resolution on Travel Agents' Commissions*, Order 70-12-165, pages 6-7. As such, it is apparent that the selection and retention of agents is a vital and integral part of an air carrier's sales activities, for which reason the costs associated with these functions should be borne by the carriers involved. We see no reason for applying a different policy to the air carriers' bearing the costs of selecting, appointing, and retaining agents than we have with regard to their compensating their agents—all of these functions are merely extensions of the carriers' in-house sales activities and do not warrant funding from other than the principal beneficiaries, the carriers.

On the other side of the coin, there are numerous costs which agents should bear as necessary to the proper conduct of their business. This leads us first to consideration of the annual agency fees. The Board will allow a fee of $85 for main office locations and $85 for branch office locations. From examination of Appendix B,[6] page 3, it can be seen that the $85 amount is in accord with the policies enunciated earlier herein. Thus, the

[6] Appendices A and B filed as part of the original document.







V 38 170 SEP 4 73 XUM

Board will allow the carriers to charge the agents for those expense items associated with publications and ticketing equipment and expect the carriers to bear the cost of items associated with general and administration costs.

Concerning the individual items to be covered by the allowable fee it can be seen that such items involve materials and services for which the agent, in carrying out its day-to-day business, should have the operational and cost responsibility. In other words, these items, just as commission and agency administration costs are properly assumable by the air carriers, are costs which the agents should assume as costs of engaging in business. In this connection, in Order 73–4–3, April 2, 1973, the Board denied review of Order 72–12–118 which approved a continued temporary annual fee of $50. In so doing the Board noted that such annual fee was approximately the same as the subscription costs to ATC to send tariffs to agents. This situation appears to remain the same and thus the $48 cost to agents does not appear unreasonable.[7] As to the cost associated with agents' identification plates, processing ticket requisitions, and ticket shipping charges, the ATC comments in support of these charges appear to be reasonably detailed and acceptable. Here again these costs cover materials and services which the agent should pay for.

It should be noted that Agreement CAB 16874–A31 would eliminate the $300 maximum payment in effect prior to the Board's action permitting the $50 temporary annual fees now in effect. The Board's decision herein will allow $300 maximum payment to lapse. In this regard, the Board realizes that this action will increase the annual fees for those large firms which have several agency locations. However, we feel that the decision is also in accord with the policies established herein as each location will require the materials and services covered by the $85 fee.[8]

With regard to application fees, the Board will allow a fee of $77 for each new agent and for each additional agency location. In addition there will be a fee of $4 each for transfers, changes of location and changes of name. As in the case of annual fees, the Board has determined that agents should bear the costs of publications and ticketing equipment and the carriers should bear the cost of the remaining items (*i.e.* site inspections and reports and general and administration costs). Comparing the application fees to be approved by the Board with those in existence and those proposed by ATC,[9] it can be seen that the allowable fees will be somewhat more (with the exception of transfers and changes in location which will be reduced) than those currently in effect and considerably less than those proposed by ATC. It should also be noted that the application fees allowed by the Board will be completely refundable in the event the application is rejected and we will expect ATC to revise the agreements now before the Board accordingly.

The application fees to be allowed by the Board are to cover essentially the same items as the annual agency fees by existing agents. Thus, if a new applicant is approved, his application fee will cover the cost of materials (*i.e.* identification plates and handbook revisions) which he will use in his day-to-day travel agency business and the services (*i.e.* distributing, mailing, packing, handling and transportation) associated with obtaining such materials and other materials such as tariffs and ticket stock. The same holds true for applications with respect to new branches, and to a lesser degree, ownership changes, location changes and name changes. That portion of the application fee covering tariffs, $45, appears reasonable. In this connection, the Board understands that both annual and application fees are used to cover mailing costs of tariffs. Thus, ATC is billed $45 for the first year for mailing costs of tariffs to be issued to new agents and new branches, and since new agents and new branches will not be paying annual fees under the procedures approved herein the $45 will be used to cover tariff subscriptions throughout the year.[10] The $11 provision in the application fee for Travel Agents Handbook cost and revisions also appears reasonable and will similarly be allowed by the Board.

With respect to the $4 charge for the agent's identification plate ATC advises that the carriers now bear this cost. However, we believe such plates to be a tool used directly in the business of the agent and thus a legitimate expense for the agent.

As to the charges for processing ticket requisitions and ticket shipping charges included in the proposed application fees, these charges, based on the explanation provided by ATC, appear reasonable. In this connection, we note that ATC has apparently taken into consideration the fact that new applicants and new branches may not replenish their ticket stock in the first year of operation as often as existing agents might, and therefore, the application fee is limited to one half the annual fee costs of these two charges. This appears proper.[11]

In light of the foregoing, the air carrier members of ATC should undertake revisions in Agreement CAB 16874–A31, and any other applicable resolutions, to bring such agreement and resolutions into conformance with the Board's determinations herein as to proper applicant and agency expenses and fee levels.[12]

V. The ATC comments now before the Board include amendments to various sections of the Area Settlement Plan which establish the amounts of fees to be paid by carriers concurring in the plan. Thus, ATC proposes to increase the fees paid by IATA-non-ATC carriers and non-IATA carriers from $500 to $2,000. In addition, the members of ATC Canada concurring in the Plan would be required to pay a fee of $2,000 whereas, at the present time, they pay no specific predetermined fee amount.

At the present time the above-mentioned classes of carriers pay, pursuant to paragraph 37 of the Settlement Plan, the cost of standard ticket stock prorated on the basis of the number of tickets settled under the Plan for each member.

In addition, each carrier, with the exception of members of ATC Canada, is required to pay a $500 fee for expenses not covered by Paragraph 37. ATC has proposed to increase the latter fee to $2,000. However, in increasing such fee ATC has not provided any justification. In this connection, in Order 72–4–114 the Board pointed out that it needed additional information on, and justification for, the increased carrier fees and the purposes for which they would be used. However, ATC, in its response to Order 72–4–114, merely pointed out that the 48 non-ATC participants in the plan obtained the same benefits as ATC members (*e.g.* utilization of all sales agency locations throughout the country as their sales outlets without maintaining their own sales offices or outlets) at what would be a cost of only 25¢ per sales out-

[7] The same conclusion appears applicable to the $3 cost of Handbook revisions included in the $48.

[8] The Board also notes that Agreement CAB 16874–A31 eliminates that part of Paragraph 20 of the ATC Sales Agency Agreement requiring payment of an initial annual agency fee. This action appears appropriate in that the payment of such a fee and an application fee as hereinafter approved would result in duplicative charges. It should be noted that an applicant will no longer pay an annual fee in the year in which an application is filed for a new agency. If an agent files for a new location then an annual fee for that location will not be necessary for the year in which the application was filed. In this regard, we expect ATC to make appropriate revisions, where necessary, in the Agency Resolution and Sales Agency Agreement to insure that this policy is carried out.

[9] See footnote 2, *supra*.

[10] At this time the ATC Tariff Subscription by Agents' Resolution specifies that annual fees are to be used to cover the costs of industry passenger rules and fares tariffs. However, as indicated earlier, ATC has filed an amendment (Agreement CAB 12076–A1) to the resolution to provide that the costs of the tariffs shall be defrayed from "agency fees." This agreement appears in accord with the objectives of the tariff portions of the agency and application fees described herein, and, accordingly, we will approve Agreement CAB 12076–A1.

[11] In the resolutions submitted by ATC in response to Order 72–4–114, ATC had deleted the cost ($89) of a ticket imprinter from the itemization of expenses to ATC of processing applications. Thus, ATC asserts that it will require the purchase of an imprinter by the applicant only when the applicant does not have an imprinter and in such cases payment is made to ATC rather than the manufacturer as ATC commits for the imprinters in bulk and therefore effects a savings to the purchaser. ASTA in its comments questions the $89 figure and asks what ATC pays for the imprinter. The Board has been advised by ATC that the price it pays for the imprinter is $89 and that the agent is free to purchase the imprinter directly from the manufacturer if he wishes.

[12] As the various costs associated with site inspections and reports which were to be included in the application fee as proposed by ATC will be disallowed as expenses of the carriers, there would be no purpose served in discussing the substantive aspects of such costs.





let. The ATC went on to elaborate on the benefits the carriers would derive from the payment of their fees for participation in the plan without providing information as to the specific ATC expenses that would be covered by such fees. Thus, ATC explained that the fees would be applicable to the current operating costs of the Plan and to defray, partially, the expenses of those ATA departments which administer the Plan. In addition, Agreement CAB 16874–A31 would have the aforesaid fees treated in the same manner as agency application fees (*i.e.* defraying the costs of the agency program). However, no information as to what specific costs of the program would be covered by these fees or how the amount of the fees was arrived at was submitted by ATC. In this connection, we note that the IATA, non-ATC participants have some say in the activities of the Interconference Area Settlement Plan Committee (IASPC) whereas the non-IATA participants who pay the same fee do not participate in the TASPC.

In addition to the foregoing, the Board notes that the ATC now has in effect a resolution (Agreement CAB 16874–A30) which provides for the addition of a new paragraph to the Settlement Plan and the establishment of a budget by the IASPC to provide for expenditures for other than specific items listed in paragraph 37, with assessment to members on the basis of (a) 50 percent distributed equally to all members and (b) 50 percent prorated to members in proportion to the number of tickets settled under the Plan. Moreover, the Board understands that the classes of carriers referred to above are considered as members for purposes of Agreement CAB 16874–A30.

In light of the foregoing, the Board is unclear as to the specific purpose of the carrier fees in question and the method of their determination and their allocation. Therefore, the Board requests the air carrier members of ATC to provide a complete explanation of those fees (*i.e.*, those fees payable by non-ATC carriers concurring in the Area Settlement Plan pursuant to Paragraph 33 thereof) including but not limited to the following: what specific expenses associated with the ATC agency program are to be covered by these fees; how do these expenses differ from those referred to in Appendix A and B[4] hereto with respect to the proposed ATC expenses to be covered by the ATC proposed agency and application fees; what is the exact method of determining the amount of the fees existing and proposed to be paid by the carriers in question; how does, or will, Agreement CAB 16874–A30 affect the computation of the participation fees for the carriers in question? In answering the foregoing it is requested that the basis for each expense item be provided and the nature of each such item. It is also requested that all other information necessary for complete understanding of these fees be provided. In addition, it is requested that complete justification and information be provided for Agreement CAB 16874–A30, including the specific expenses to be covered thereby.

In light of the foregoing, the Board does not find that the agreements approved herein, to the extent so approved, are adverse to the public interest or otherwise in violation of the Act, and, to the extent disapproved, the Board does find that the agreements herein are adverse to the public interest.[13]

*Accordingly, it is ordered*, That:

1. Agreements CAB 20727–A2, and 12076–A1 be and they hereby are approved;

2. Agreements CAB 5044–A158 and 16874–A31 be and they hereby are disapproved to the extent they would (a) estabilsh ATC annual agency fees and application fees in excess of those levels indicated herein as proper; (b) revise the manner in which annual and application fees are determined and the purposes for which such fees shall be used; and (c) make the revised application fees applicable to Canada;

3. Agreements CAB 5044–A158 and 16874–A31 be and they hereby are approved to the extent they will, upon proper revision, as indicated by the Board herein, provide for (a) annual agency fees and application fees as determined by the Board herein; (b) methods of determining annual and application fees and the purpose of their use as determined by the Board herein; and (c) all other Board determinations herein and all other changes which are necessary to correct technical errors in the agreements as submitted or inconsistencies with the Board's determinations herein;

4. Action on those provisions of Agreement CAB 16874–A31 proposing increases in the amounts of annual fees paid by carriers concurring in the Area Settlement Plan and the purpose for which they shall be used be and it hereby is deferred;

5. Action on Agreement CAB 16874–A30 be and it hereby is deferred;

6. The air carrier members of ATC shall within 60 days from the date of this order (a) file amendments to Agreements CAB 5044–A158 and CAB 16874–A31 revising such agreements to conform to the principles with respect to, and amounts of, ATC annual agency fees and ATC application fees as set forth herein by the Board; (b) file the information requested herein with respect to the proposed increases in non-ATC carrier fees for participation in the Area Settlement Plan; and (c) file the information requested herein with respect to Agreement CAB 16874–A30;

7. The Motion of AAA herein to withdraw comments be and it hereby is granted;

8. To the extent not granted herein, all outstanding requests be and they hereby are denied; and

9. This order shall be served upon the Air Traffic Conference of America, the American Society of Travel Agents, the Association of Retail Travel Agents, American Automobile Association, and the Department of Justice.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.73–18652 Filed 8–31–73;8:45 am]

[13] ASTA, in its comments on the agreements now before the Board, asserts that the Board should not approve the proposed program until completion of the *ATC Bylaws Investigation*, (Docket 23542). The Board does not believe that such investigation is the proper vehicle for determining the amount of applicant and agency fees, or that this docket should be deferred any further to the extent it is possible to go forward at this time.

---

[Docket No. 25373]

## AIR WINDSOR, LTD.

### Notice of Postponement of Prehearing Conference and Hearing Regarding Foreign Air Carrier Permit Application—Canada-United States—Casual, Occasional, or Infrequent Service

Upon consideration of the request of Air Windsor, Limited, by letter dated August 21, 1973, the prehearing conference and hearing in this proceeding previously assigned to be held on September 12, 1973 (38 FR 22178, August 16, 1973), are postponed to September 26, 1973, at 10 a.m. (local time) in Room 701, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge Hyman Goldberg.

Dated at Washington, D.C., August 28, 1973.

[SEAL] RALPH L. WISER,
*Chief Administrative Law Judge.*

[FR Doc.73–18650 Filed 8–31–73;8:45 am]

---

## CHICAGO DEPARTMENT OF AVIATION

### Notice of Meeting

Notice is hereby given that a meeting with the Chicago Department of Aviation will be held on September 25, 1973, at 2:30 p.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., to acquaint the Board with its continued efforts to improve Midway Airport airline scheduling.

Dated at Washington, D.C., August 29, 1973.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.73–18651 Filed 8–31–73;8:45 am]

---

[Docket No. 25587]

## CHICAGO-LOS ANGELES FARE REDUCTIONS CASE

### Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of



V 38 I 170 SEP 4 73 XUM

1958, as amended, that a hearing in the above-entitled proceeding will be held on September 19, 1973, at 10 a.m. (local time), in Room 1031, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned Administrative Law Judge.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served on August 1, 1973, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., August 29, 1973.

[SEAL] MILTON H. SHAPIRO,
*Administrative Law Judge.*

[FR Doc.73-18649 Filed 8-31-73;8:45 am]

## COMMITTEE FOR PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY HANDICAPPED

### PROCUREMENT LIST 1973

#### Addition to List

Notice of proposed additions to the Initial Procurement List, August 26, 1971 (36 FR 16982), was published in the FEDERAL REGISTER on December 14, 1972 (37 FR 26628).

Pursuant to the above notice the following commodity is added to Procurement List 1973, March 12, 1973 (38 FR 6742).

COMMODITY

| *CLASS 6230* | *Price* |
|---|---|
| Light, Marker, Distress (RF) | |
| 6230-067-5209 ---------- EA. | $10.72 |

By the Committee.

CHARLES W. FLETCHER,
*Executive Director.*

[FR Doc.73-18611 Filed 8-31-73;8:45 am]

### PROCUREMENT LIST 1973

#### Additions to List

Notice of proposed additions to the Initial Procurement List, August 26, 1971 (36 FR 16982), was published in the FEDERAL REGISTER on December 14, 1972 (37 FR 26628).

Pursuant to the above notice the following commodities are added to Procurement List 1973, March 12, 1973 (38 FR 6742).

COMMODITIES

| *Class 6532* | *Price* |
|---|---|
| Clothing, Operating Room (JO) | |
| 6532-335000 ---------- EA. | $4.71 |
| 6532-335010 ---------- EA. | 4.98 |
| 6532-172-3506 ---------- EA. | 2.87 |
| 6532-172-3507 ---------- EA. | 2.87 |
| 6532-172-3509 ---------- EA. | 2.74 |
| 6532-935000 ---------- EA. | 4.17 |
| 6532-935010 ---------- EA. | 3.64 |
| *Class 7690* | |
| Decalcomania (RF) | |
| 7690-310-9208 ---------- HD. | $24.61 |
| 7690-858-3405 ---------- HD. | 14.63 |
| 7690-858-3366 ---------- HD. | 14.53 |
| 7690-328-9507 ---------- HD. | 50.60 |
| 7690-329-0204 ---------- HD. | 50.50 |
| 7690-857-9662 ---------- HD. | 11.32 |

By the Committee.

CHARLES W. FLETCHER,
*Executive Director.*

[FR Doc.73-18612 Filed 8-31-73;8:45 am]

### PROCUREMENT LIST 1973

#### Notice of Proposed Additions

Notice is hereby given pursuant to section 2(a)(2) of Public Law 92-28; 85 Stat. 79, of the proposed additions of the following commodities and service to Procurement List 1973, March 12, 1973 (38 FR 6742).

COMMODITIES

*CLASS 7340*

Fork (Plastics—Heavy Duty)
7340-022-1315
Knife (Plastic—Heavy Duty)
7340-022-1316
Spoon (Plastic—Heavy Duty)
7340-022-1317

*CLASS 7360*

Plastic Knife, Fork, and Spoon in Cellophane Bag
7360-634-4800

SERVICE

*INDUSTRIAL CLASS 7331*

Mailing Service
U.S. Department of Agriculture
Washington, D.C.

Comments and views regarding these proposed additions may be filed with the Committee on or before Oct. 4, 1973. Communications should be addressed to the Executive Director, Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

By the Committee.

CHARLES W. FLETCHER,
*Executive Director.*

[FR Doc.73-18613 Filed 8-31-73;8:45 am]

### PROCUREMENT LIST 1973

#### Notice of Proposed Additions

Notice is hereby given pursuant to section 2(a)(2) of Public Law 92-28; 85 Stat. 79, of the proposed additions of the following Military Resale Commodities to Procurement List 1973, March 12, 1973 (38 FR 6742).

COMMODITIES

*Class 7920*

Mop, Block Sponge, Automatic
7920-B510-423
Refill for Mop, Block Sponge, Automatic
7920-B510-433

Comments and views regarding these proposed additions may be filed with the Committee on or before October 4, 1973. Communications should be addressed to the Executive Director, Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

By the Committee.

CHARLES W. FLETCHER,
*Executive Director.*

[FR Doc.73-18614 Filed 8-31-73;8:45 am]

## COUNCIL ON ENVIRONMENTAL QUALITY

### ENVIRONMENTAL IMPACT STATEMENTS

#### Notice of Public Availability

Environmental impact statements received by the Council on Environmental Quality from August 20 through August 24, 1973.

NOTE.—At the head of the listing of statements received from each agency is the name of an individual who can answer questions regarding those statements.

DEPARTMENT OF AGRICULTURE

Contact: Dr. Fred H. Tschirley, Acting Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 331-E, Administration Building, Washington, D.C. 20250 202-447-3965.

FOREST SERVICE

*Draft*

Boundary Waters Canoe Area Plan, Superior N.F. 08/16. Cook, Lake, St. Louis Counties. The proposed action is the development and implementation of a land use management plan containing management direction and policies for the administration of the 1,030,000 acre Boundary Waters Canoe Area (64 pages). (ELR Order No. 31356.) (NTIS Order No. EIS 73 1356-D.)

SOIL CONSERVATION SERVICE

*Final*

Narge Creek Watershed, Hopkins County, Ky., August 21. The statement refers to a proposed flood protection project on the 4,205 acre watershed. Project measures include 6.2 miles of channel works. Seventy acres will be committed to the action (39 pages). Comments made by: USDA, COE, DOI, and HEW. (ELR Order No. 31393.) (NTIS Order No. EIS 73 1393-F.)

ATOMIC ENERGY COMMISSION

Contact: For Non-Regulatory Matters: Mr. Robert J. Catlin, Director, Division of Environmental Affairs, Washington, D.C. 20545, 202-973-5391. For Regulatory Matters: Mr. A. Giambusso, Deputy Director for Reactor Projects, Directorate of Licensing, 202-973-7373, Washington, D.C. 20545.

*Final*

Grand Gulf Nuclear Station, Units 1 and 2, Claiborne County, Miss., August 22. The proposal is the issuance of a construction permit to the Mississippi Power and Light Co. The station will employ identical boiling water reactors, each producing 3,833 MWt and 1,290 MWe (net), with future levels of 4,025 MWt and 1,380 MWe anticipated. Cooling will be through wet, natural-draft towers, with 36,000 g.p.m. of the 58,000 g.p.m. flow of Mississippi River water being consumed through evaporation and drift. The 2,300 acre site is primarily wooded; construction activity will disturb 345 acres. Removal of vegetation will promote erosion, with adverse effect to Gin and Hamilton Lakes (approximately 350 pages). Comments made by: AHP, USDA, COE, DOC, DOI, DOT, FPC, HEW, EPA, and State agencies. (ELR Order No. 31396.) (NTIS Order No. EIS 73 1396-F.)





DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Deputy Assistant Secretary for Environmental Affairs, Department of Commerce, Washington, D.C. 20230, 202-967-4335.

*Final*

Importation of South African Fur Sealskins, August 20. The statement considers a request from the Fouke Company, a major U.S. fur processor, for an economic hardship exemption from the moratorium, and possible a waiver of the moratorium on the importation of marine mammals into the United States under provision of the Marine Mammal Protection Act of 1972 (P.L. 92-522). The National Marine Fisheries Service is investigating the feasibility and the desirability of allowing importation into the United States of South African owned skins from the South African fur seal harvest. The sole impact of the action is socio-economic (89 pages). Comments made by: USDA, DOI, and concerned citizens. (ELR Order No. 31380.) (NTIS Order No. EIS 73 1380-F.)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contract: Mr. Francis X. Kelly, Director, Office of Public Affairs, Attn: DAEN-PAP, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-7168.

*Draft*

Kern River, California Aqueduct, Kern County, Calif., August 17. The proposed project is a flood control project consisting of a concrete chute, gate structure and sedimentation basin located on the Kern River in the San Joaquin Valley. The project will require 50 acres of land. (26 pages). (ELR Order No. 31372) (NTIS Order No. EIS 73 1372-D.)

Oklawaha River Basin, Four River Basins, Florida, August 20. The proposed project is the reconstruction of the levee and deepening of Canal C-231 from Lake Griffin to Moss Bluff, and construction of levee L-211. The project will allow a greater storage of water in Lake Apopka and a higher discharge capacity for C-231. Adverse impacts are: increased turbidity, loss of fish and wildlife habitat, loss of 48 acres of timber and pasture land, increased erosion, and alteration of aesthetic qualities (62 pages). (ELR Order No. 31375.) (NTIS Order No. EIS 73 1375-D.)

Jekyll Island Beach Erosion Control, Georgia, August 10. Proposed is the restoration and periodic nourishment of 27,000 feet of ocean beach, and the construction of a 1,000' rubblestone terminal groin. There will be disruption to benthic, plankton, and nekton communities during construction, and after construction there will be an increased mortality rate of young loggerhead sea turtles (Savannah District) (47 pages). (ELR Order No. 31315.) (NTIS Order No. EIS 73 1315-D.)

Wolf and Jourdan Rivers, Mississippi, August 13. The proposed actions are the channeling and dredging of 1.6 miles of the mouth of the Wolf River and 2 miles of the Jourdan River. The project will increase turbidity and eliminate fish and crab habitat and aquatic organisms (46 pages). (ELR Order No. 31335.) (NTIS Order No. EIS 73 1335-D.)

Beach Erosion Control, Presque Isle Peninsula, Pa., August 15. The proposed project is the construction of three partial breakwaters along the north shore of Presque Isle State Park, to control beach erosion. The project will destroy some lake bottom habitat, disrupt recreation, and affect the littoral drift of sandspits at Gull Point, thus disrupting unique ecological processes (116 pages). (ELR Order No. 31354.) (NTIS Order No. EIS 73 1354-D.)

**Buckeye Pipeline Co., Pipeline—Delaware** River, several counties in Pennsylvania and New Jersey, August 15. The project is the construction of a 20-inch diameter, subterranean pipeline from Linden, New Jersey to Macungie, Pennsylvania, involving river crossing permits for the Delaware River, Delaware and Raritan River Canal, the Millstone River, the Raritan River and the Rahway River. A total of 74.8 miles of pipeline would exist. Increased turbidity, loss of aquatic life, flora and fauna would occur. Erosion and sedimentation will increase. An adverse aesthetic impact will exist and possible pipeline ruptures and leakages will occur (72 pages). (ELR Order No. 31355.) (NTIS Order No. EIS 73 1355-D.)

Scotts Creek, North Fork Scotts Creek, Newberry County, S.C., August 23. The proposed project consists of clearing and snagging in Scotts Creek and its tributary North Fork Scotts Creek, for a total of 2.42 miles. Two bridges will be replaced. Increases in water turbidity and sedimentation will occur (11 pages). (ELR Order No. 31400.) (NTIS Order No. EIS 73 1400-D.)

Aubrey Lake, Elm Fork, Trinity River, Denton, Cooke, and Grayson County, Tex., August 16. The proposed project is the construction of Aubrey Lake for water supply, flood control, recreation and fish and wildlife. A total of 43,500 acres of land, 71 acres of stream and 43 miles of stream will be inundated. The project will displace 280 residences, one cemetery and inundate 26 prehistoric and historic sites. Adverse impacts stemming from the project are: loss of agricultural and timber land; loss of aquatic and wildlife resources (extensive damage will occur upon amphibians, reptiles, mammals, and upland wild and game birds (339 pages). (ELR Order No. 31364.) (NTIS Order No. EIS 73 1364-D.)

Taylors Bayou, Jefferson County, Tex., August 21. The proposed project will provide flood control and major drainage in the Taylors Bayou Watershed. Features include enlarging 1.8 miles of the Gulf Intracoastal Waterway, an outfall canal from Taylors Bayou to the GIWW. Included is a diversion channel from the lower channel to GIWW, and a gated structure in the diversion channel. Spoil will affect 2,913 acres of land including 625 acres of coastal wetlands. An additional 1,610 acres of land will be converted from land to water use. Dredging will increase turbidity. A substantial loss of fish and wildlife habitat will occur (45 pages). (ELR Order No. 31394.) (NTIS Order No. EIS 73 1394-D.)

*Final*

Arkansas River and Tributaries, John Martin Dam, August 20. The proposed project involves the study for the Arkansas River Floodway—Brewster to Florence, Florence, Portland, Pueblo, La Junta Flood Protection Projects and the Fountain Dam and Lake. Construction includes jetties, levees, floodwalls, dams and channelization measures. Adverse impacts are: Florence, Portland, Pueblo and La Junta—loss of fish and wildlife (game birds); Arkansas River Floodway—loss of fish and wildlife and aesthetic qualities; Fountain Reservoir—loss of wildlife, excessive eutrophication of the Fountain Lake, displacement of 75 families and 5 businesses and loss of 7,140 acres (133 pages). Comments made by: USDA, EPA, FPC, HEW, DOI, DOT, DOC, State and local agencies and concerned citizens. (ELR Order No. 31376.) (NTIS Order No. EIS 73 1376-F.)

Supplement, Blue Marsh Lake Project, Tulpehocken Creek, Berks County, Pa. The project is the construction of the Blue Marsh Reservoir, consisting of an earth and rock-fill dam 98 feet high. The reservoir will be 8 miles in length and 960 acres. A total of 5,570 acres of land will be acquired. Relocations will include 100 families, 8 miles of road, 26 miles of power lines, 14.7 miles of telephone lines, 25 miles of oil pipelines and 2 historical sites. Major adverse impacts are loss of land, wildlife, and aesthetic quality. Increased concentrations of arsenic and other nutrients in the lake will accelerate eutrophication and possibly create other potentially hazardous conditions. The statement is a supplement to a final statement received on April 16, 1971 (197 pages). (ELR Order No. 31333.) (NTIS Order No. EIS 73 1333-F.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240, 202-343-3891.

*Final*

Allamuchy Mountain State Park, Sussex and Warren Counties, N.J., August 24. The statement refers to the proposed granting of a request by the State of New Jersey for assistance from the Federal Land and Water Conservation Fund in purchasing 3,604.6 acres to be added to the park. Approximately 2,800 acres would be left in its natural state for low intensity recreational use. A ski area will be developed in the future (approximately 80 pages). Comments made by: USDA, COE, DOI, DOT, EPA, and HUD. (ELR Order No. 31403.) (NTIS Order No. EIS 73 1403-F.)

BUREAU OF RECLAMATION

*Draft*

Hayden-Ault 345 kv Transmission Line, Colorado River, several counties in Wyoming, August 21. The proposed project entails the construction of 160 miles of 345-kv transmission line from Hayden, Colorado to Ault, Colorado and a new 345-kv substation near Ault. A total of 3,680 acres of land will be acquired for right-of-way. Loss of vegetation and wildlife habitat will occur (198 pages). (ELR Order No. 31395.) (NTIS Order No. EIS 73 1395-D.)

Curecanti-Shiprock No. 2 230-kv Transmission Line, New Mexico and Colorado, August 17. The action consists of the construction of the Curecanti-Shiprock No. 2 230-kv Transmission Line, Lost Canyon 69/115/230-kv Substation, and the necessary terminal facilities. The line would be 152 miles in length, use 15 acres of land at structure sites and 9 miles of new roads. Adverse impacts stemming from the project are: construction over the Cimarron River, Uncompahgre River, San Miguel River and Dolores River, thus adversely affecting aquatic habitat, disrupting wildlife habitat for 125 miles, and interrupting the drainage patterns along the 125 mile corridor (96 pages). (ELR Order No. 31368.) (NTIS Order No. EIS 73 1368-D.)

Supplement, Auburn Folsom South Unit, Supplement, several counties in California, August 6. The document is a supplement to the final environmental impact statement for the Auburn Folsom South Unit, Central Valley Project, filed November 13, 1972 (ELR Order No. 5616; NTIS Order No. EIS 72 5616-F). Response to comments on the final statements and new or updated information on power accomplishments is provided (395 pages). (ELR Order No. 31303.) (NTIS Order No. EIS 73 1303-F.)

BUREAU OF SPORTS FISHERIES AND WILDLIFE

*Draft*

Oregon Islands Wilderness Area, several counties in Oregon, August 17. The proposal recommends that 28 undisturbed Oregon Coastal islands and island groups be designated wilderness within the National Wilderness Preservation System. The proposal fur-



V 38 170 SEP 4 73 XUM

ther recommends that 27 additional islands, 25 in public domain and two withdrawn as sea lion refuges, be made wilderness when withdrawal as part of the Oregon Islands National Wildlife Refuge is completed. The proposal contains approximately 346 acres. The islands are distributed along 307 miles of Oregon coastline. An adverse impact is the committment of resources to the wilderness classification (37 pages). (ELR Order No. 31369.) (NTIS Order No. EIS 73 1369–D.)

NATIONAL PARK SERVICE

Big Thicket National Biological Reserve, several counties in Texas, August 17. The legislative proposal would establish a 68,000 acre Big Thicket National Biological Reserve in Hardin, Jefferson, Orange, Jasper, Polk and Tyler Counties in Texas. A total of 100 people will be displaced. An increase in the tourist industry would occur (37 pages). (ELR Order No. 31367.) (NTIS Order No. EIS 73 1367–D.)

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Contact: Mr. Ralph E. Cushman, Special Assistant, Office of Administration, NASA, Washington, D.C. 20546, 202–962–8107.

*Final*

California, August 24. The statement refers to a subsidiary project of the Space Shuttle Program (for which a statement was filed July 25, 1972, ELR Order No. 4939, NTIS Order No. EIS 72 4939–F). Involved here is the establishment of a Main Engine Component and Subsystem Test Site at Air Force Plant 57, Santa Susana. Systems provided under the Apollo Program are capable, with modifications, of supporting the testing requirements. Increased noise levels generated by the tests will affect surrounding communities (82 pages). Comments made by: DOD, DOI, HUD, State and local agencies. (ELR Order No. 31404.) (NTIS Order No. EIS 73 1404–F.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Quality, 400 7th Street SW., Washington, D.C. 20590, 202–466–4357.

FEDERAL HIGHWAY ADMINISTRATION

*Draft*

Lee County Route No. 53, Lee County, Ala., August 20. Proposed is the improvement of County Route 53, Wire Road, from southwest of the Auburn City limits to Sanford Avenue. Project length is 2.84 miles. Approximately 50 acres will be acquired for right-of-way (10 pages). (ELR Order No. 31385.) (NTIS Order No. EIS 73 1385–D.)

Fort Weaver Road, Honolulu County, Hawaii, August 20. The statement refers to the proposed improvement of Fort Weaver Road from the intersection of Interstate Route H–1 and Kunia Road to the boundary of the National Oceanic and Atmospheric Administration Observatory at Ewa Beach. Project length is 5.8 miles. Seventy-seven acres of cultivated sugar cane land would be converted to highway use. Adverse impacts include displacement of people, airborne dust during construction, and possible soil erosion (95 pages). (ELR Order No. 31388.) (NTIS Order No. EIS 73 1388–D.)

I–410, several counties in Louisiana, August 15. The project is the construction of 25.8 miles of a 54.0 mile Interstate 410 route. The facility will be six-laned and with controlled access. A total of 930 acres of land will be acquired. Displacements include one business and 57 families. The Westwego Airport will be affected with three airplane hangers, one small office, the main building, the Sperry Rand building and other buildings and tanks relocated. The facility will traverse 3 major streams increasing water pollution. Other adverse impacts stemming from the project are loss of land, changes in ground hydrology, and increased air and noise pollution levels (approximately 300 pages). (ELR Order No. 31342.) (NTIS Order No. EIS 73 1342–D.)

I–15, Dillion South and Dillion Connector, Beaverhead County, Mont., August 16. The proposed project is the construction of 5.6 miles of I–15 (Dillion South-Dillion South Connector). Two hundred and forty acres of agricultural land will be obtained for right-of-way. The project will traverse the Blacktail Creek causing increases in water pollution (22 pages). (ELR Order No. 31362.) (NTIS Order No. EIS 73 1362–D.)

SR 14 and SR 44, Bernalillo County, New Mexico, August 17. The proposed project consists of improvement of SR 14 for 6 miles and SR 44 for 0.6 mile. The project will displace 7 families and 3 businesses. Increases in air and noise pollution will occur (38 pages). (ELR Order No. 31365.) (NTIS Order No. EIS 73 1365–D.)

N.Y. Route 13, Ithaca to Cortland, Tompkins and Cortland Counties, N.Y., August 20. Proposed is the reconstruction of approximately 20 miles of N.Y.S. Route 13 from Warren Road in the Town of Lansing to I–81 in the Town of Cortlandville. The amount of land acquired and the number of families and businesses displaced will depend upon the route selected. Adverse impact to wildlife and bog swamp areas and to trees and vegetation will occur (115 pages). (ELR Order No. 31389.) (NTIS Order No. EIS 73 1389–D.)

N.Y. Route 31, Wayne County, N.Y., August 20. The proposed project consists of the improvement of approximately 20.5 miles of a section of Route 31, from the Wayne-Monroe County line to Route 14 in the Village of Lyons. Adverse effects are the acquisition of land for right-of-way, the loss of homes and farms, construction disruption, and impacts to wildlife and ecological systems (165 pages). (ELR Order No. 31390.) (NTIS Order No. EIS 73 1390–D.)

State Route 800, Monroe and Belmont Counties, August 13. Proposed is the relocation and improvement of a portion of State Route 800 between Barnesville and Woodsfield. The project consists of a two-lane highway, approximately 16.5 miles in length. Adverse effects of the action are the loss of farmland; loss of a small amount of woodland; and the taking of 22 residences, 7 farm operations, and 1 business. Five acres of Section 4(f) land are required from the Monroe Lake State Wildlife Area (33 pages). (ELR Order No. 31336.) (NTIS Order No. EIS 73 1336–D.)

I–78, Haafsville to Still Valley, several counties in Pennsylvania and New Jersey, August 22. The proposed project is the construction of a portion of I–78 from Haafsville, Pennsylvania to Still Valley, New Jersey. Depending upon alternate chosen the facility will be 28.2 to 32 miles in length and will acquire 70 to 252 acres of Class 1 farmland and 404 to 965 acres of Class 2 farmland. Relocations will involve 301 to 870 families, 34 to 75 businesses, 6 farms, 5 non-profit organizations, 3 churches and 1 school. Land from 9 public parks will be acquired. Other adverse impacts are: loss of wildlife and increased air and noise pollution levels (79 pages). (ELR Order No. 31397.) (NTIS Order No. EIS 73 1397–D.)

U.S. Highway 60, Parmer and Castro Counties, August 15. Proposed is the improvement of 14.8 miles of U.S. 60 from Friona to the Deaf Smith County line. The project will provide a four lane, divided facility with depressed median. Approximately 203 acres of agricultural, residential and commercial land will be committed to right-of-way (13 pages). (ELR Order No. 31346.) (NTIS Order No. EIS 73 1346–D.)

*Final*

Tutuila Perimeter Road, Aua to Afono, Sua County, American Somoa, August 20. The proposed project is the construction of the Aua to Afono road in Sua County on Tutuila Island. Length is 2.8 miles. The project will acquire agricultural and timber land, and will introduce air and noise pollution where it does not exist (approximately 100 pages). Comments made by: USDA, DOI, DOT, EPA, and American Somoa. (ELR Order No. 31383.) (NTIS Order No. EIS 73 1383–F.)

Route 40, New Haven County, Conn., August 20. The proposed project consists of the construction of the Boulevard Bridge and approaches to the Penn Central Railroad in New Haven. Project length is 0.5 mile. Four families will be displaced (72 pages). Comments made by: USDA, COE, DOC, DOI, EPA, HEW, HUD, OEO, and State agencies. (ELR Order No. 31386.) (NTIS Order No. EIS 73 1386–F.)

State Road 24, Alachua County, Fla., August 20. The proposed project provides for the construction of an interchange at State Road 24 and I–75, six laning of SR 24 to SW 23rd Terrace, four laning SR 24 from this point to North-South Drive, and providing a four lane facility from SR 24 at SW 23rd Terrace to State Road 331. Adverse impacts are displacement of residences and increased noise levels (68 pages). Comments made by: EPA, DOI, HEW, DOC, and State agencies. (ELR Order No. 31377.) (NTIS Order No. EIS 73 1377–F.)

F.A.P. Route 410, several counties, Ill., August 20. The statement is concerned with the construction of 89 miles of fully access controlled highway between F.A.I. 255 and Carbondale. Approximately 3,240 acres will be committed to the project. An undetermined number of residences and businesses will be displaced. Coal reserves scheduled to be either strip or deep mined will be crossed; air and noise pollution will increase (184 pages). Comments made by: HEW, DOI, DOT, COE, USDA, EPA, HUD, OEO, FPC, AHP, State, and local agencies. (ELR Order No. 31373.) (NTIS Order No. EIS 73 1373–F.)

F.A.S. Route 1600, Adams County, Ill., August 20. The proposed project is the improvement of FAS Route 1600, for 3.5 miles. The facility will require 37 acres of agricultural land and cross the Rock Creek. Increases in noise levels will occur (37 pages). Comments made by: USDA, AEC, DOI, DOT, EPA, FPC, and State agencies. (ELR Order No. 31378.) (NTIS Order No. EIS 73 1378–F.)

FAS Routes 595 and 2967, Washington and Keokuk Counties, Iowa, August 22. Proposed is the reconstruction of six miles of FAS Route 595 and 2967. Approximately 1.44 acres of Section 4(f) land from Lake Darley State Park will be committed to highway use (18 pages). Comments made by: USDA, HEW, DOI and one State agency. (ELR Order No. 31399.) (NTIS Order No. EIS 73 1399–F.)

U.S. 23, Louisa-Catlettsburg, Boyd and Lawrence Counties, Ky., August 20. The proposed project involves the reconstruction of U.S. 23 for a length of 20.5 miles. The amount of land required for right-of-way is unspecified. A total of 49 residences and 5 businesses will be displaced. Three cemeteries will be relocated. The project will traverse streams (requiring bridge structures), with impact upon water quality and drainage patterns (101 pages). Comments made by: CQE, DOI, EPA, HEW, State, and regional agencies. (ELR Order No. 31387.) (NTIS Order No. EIS 73 1387–F.)





Route 40, St. Louis County, Mo., August 20. This action proposes the reconstruction and new construction of Route 40 on fully controlled access right-of-way. Project length is 1.7 miles extending from Lower Grove Avenue in the City of St. Louis. Four businesses will be displaced by the action (117 pages). Comments made by: USDA, EPA, HEW, DOT, OEO, State agencies, and concerned citizens. (ELR Order No. 31379.) (NTIS Order No. EIS 73 1389–F.)

Route 63, Boone and Callaway Counties, Mo., August 20. Proposed is the acquisition of right-of-way, grading and paving of approximately 5.9 miles of Route 63 to provide a dual lane facility between Columbia and Jefferson City. Bridges will be constructed across Cedar Creek and Turkey Creek. Approximately 215 acres are required for right-of-way. Thirty-two people will be relocated (26 pages). Comments made by: USDA, EPA, HEW, DOI, DOT, and State agencies. (ELR Order No. 31384.) (NTIS Order No. EIS 73 1384–F.)

S.H. 112 and U.S. 271, LeFlore County, Okla., August 20. The proposed project involves the improvement of 1.2 miles of U.S. 271 and 10.2 miles of S.H. 112. S.H. 112 will displace 7 families and require 400 acres of land; U.S. 271 will displace 15 families, and 7 businesses and will require 125 acres of land. S.H. 112 will traverse three streams, with adverse impact to water quality (44 pages). Comments made by: COE, EPA, DOC, HUD, USDA, State and local agencies. (ELR Order No. 31381.) (NTIS Order No. EIS 73 1381–F.)

I–95, Delaware Expressway, Delaware and Philadelphia Counties, Pa., August 20. The roadways involved in the project are Interstate I–95 (LR 795–B) and the Interstate highway (LR 762–3), (LR 67054–11) at the Philadelphia International Airport. Project length is 3.6 miles. The roadway will interconnect with other parts of I–95 already under construction (approximately 200 pages). Comments made by DOI. (ELR Order No. 31374.) (NTIS Order No. EIS 73 1374–F.)

I–240 Loop, Shelby County, Tenn., August 24. The projects encompassed in this statement provide for the completion of the northeast portion of the circumferential I–240 loop and for the construction of the U–101 connector route between U.S. 51 and I–240. Total length of both projects is 9.8 miles. A section 4(f) review for the 1.68 acre infringement on the John F. Kennedy Park has been prepared. Thirty businesses, one nonprofit organization, and 51 families will be displaced (189 pages). Comments made by: USDA, COE, DOI, EPA, HEW, TVA, State and local agencies. (ELR Order No. 31402.) (NTIS Order No. EIS 73 1402–F.)

U.S. COAST GUARD

Contact: Captain Sidney A. Wallace, Commandant (AWEP–73), U.S. Coast Guard, Washington, D.C. 20590, 202–426–2010.

*Draft*

International Convention, Prevention of Pollution, August 20. The proposed convention contains regulations for the prevention of pollution by oil; for the control of pollution by noxious liquid substances in bulk; for the prevention of pollution by harmful substances carried by sea in packages, or in cargo containers, or in portable tanks; and for the prevention of pollution by sewage and garbage from ships. An increase in shore facilities would occur with increased hydrocarbons discharged into the atmosphere, and pollutants in solid, liquid or temperature gradient forms into estuarine water systems. An increased need of power generators will result (89 pages). (ELR Order No. 31391.) (NTIS Order No. EIS 73 1391–D.)

Protocol . . . Marine Pollution, August 20. Proposed is the negotiation of a Protocol relating to Intervention on the High Seas in cases of Marine Pollution by Substance other than Oil. The draft Protocol authorizes contracting parties to take such measures on the high seas as may be necessary to prevent, mitigate, or eliminate grave and imminent dangers to their coastline or related interest from pollution by substances other than oil following a maritime casualty which may reasonably be expected to result in major harmful consequences. Adverse effects may be produced by measures to control or counteract discharge of substances other than oil (18 pages). (ELR Order No. 31392.) (NTIS Order No. EIS 73 1392–D.)

TIMOTHY ATKESON,
*General Counsel.*

[FR Doc.73–18647 Filed 8–31–73;8:45 am]

## COUNCIL OF ECONOMIC ADVISERS

### ADVISORY COMMITTEE ON THE ECONOMIC ROLE OF WOMEN

#### Notice of Meeting

AUGUST 27, 1973.

Pursuant to P.L. 92–463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Advisory Committee on the Economic Role of Women will take place in Washington, D.C. on September 20, 1973. It will be held from 9:30 a.m. to 4:00 p.m. in the West Auditorium of the U.S. Department of State. The meeting will be an open meeting.

The theme of the meeting will be "Advancing Women in Industry."

HERBERT STEIN,
*Chairman,*
*Council of Economic Advisers.*

[FR Doc.73–18575 Filed 8–31–73;8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

### APPROVAL AND PROMULGATION OF STATE IMPLEMENTATION PLANS

#### Notice of Opportunity for Public Comment on Plans To Achieve Secondary Standards

On May 31, 1972 (37 FR 10842), pursuant to section 110 of the Clean Air Act and 40 CFR, Part 51, the Administrator granted 18-month extensions for submission of plans to achieve secondary standards for sulfur oxides and particulate matter in the New York portion of the New Jersey-New York-Connecticut Interstate Region and the Niagara Frontier Intrastate Region, and for particulate matter in the Central New York Intrastate Region. These plans were due to be submitted to the Administrator by July 31, 1973.

On July 27, 1973, the Commissioner of the New York State Department of Environmental Conservation, acting on behalf of the Governor, submitted plans to achieve secondary standards for particulate matter in the New York portion of the New Jersey-New York-Connecticut Interstate Region and the Central New York and Niagara Frontier Intrastate Regions.

This notice is issued to advise the public that comments may be submitted on whether the control strategies should be approved or disapproved as required by section 110 of the Clean Air Act. Only comments received on or before October 4, 1973, will be considered. The Administrator's decision to approve or disapprove the plans is based on whether they meet the requirements of section 110(a)(2)(A)–(H) and EPA regulations in 40 CFR Part 51. In the New Jersey-New York-Connecticut Region, the plan proposes to reduce particulate emissions through application of the following additional measures in the Metropolitan New York City area: lower emission limitations for new and modified nonutility combustion; reduction of gasoline-powered motor vehicle travel by 40 percent, as proposed in the New York Transportation Control Plan; elimination of on-site incineration; and widespread energy conservation measures. No new control measures are proposed for Central New York and Niagara Frontier (except Niagara County) Regions; instead, the control strategy is based on revised emissions data and more recent air quality data. In Niagara County, the plan proposes reduction of particulate emissions from sources in Canada, prohibition of construction of new sources and reduction of emissions from graphitizing operations when appropriate control technology becomes available. The attainment date for the secondary particulate matter standards for all three Regions is 1995.

Copies of the plans are available for public inspection during normal business hours at the Office of Public Affairs, EPA, Region II, 26 Federal Plaza, New York, N.Y. 10007, and at the New York State Department of Environmental Conservation, Air Pollution Control Program, 50 Wolf Road, Albany, N.Y. 12201. Additional copies are available at the Freedom of Information Center, EPA, 401 M Street SW., Washington, D.C. 20460. All comments should be addressed to the Regional Administrator, Environmental Protection Agency, Region II, 26 Federal Plaza, New York, N.Y. 10007.

ROBERT SANSOM,
*Assistant Administrator for Air and Water Programs.*

AUGUST 28, 1973.

[FR Doc.73–18630 Filed 8–31–73;8:45 am]

[I.F. & R. Docket No. 293]

### MIREX

#### Notice of Public Hearing

Please Take Notice that the public hearing pursuant to Notice of Intent to Hold Hearing, heretofore appearing in 38 FR 8616 (April 4, 1973), to determine whether or not the registrations of Mirex, numbers 218–495, 218–516, 218–548, 218–564, 218–565, 218–585, 218–586, 218–590, 218–628 and 218–638, should be canceled or amended, will convene at 10:00 o'clock in the forenoon on Monday, September 17, 1973 in Tax Court Room No. 2, 1111 Constitution Avenue, Washington, D.C.

DAVID H. HARRIS,
*Administrative Law Judge.*

[FR Doc.73–16789 Filed 8–17–73;8:45 am]



V 38 I 170
SEP 4 73
XUM

## FEDERAL COMMUNICATIONS COMMISSION

[Report 633]

### COMMON CARRIER SERVICES INFORMATION [1]

### Domestic Public Radio Services Applications Accepted for Filing [2]

AUGUST 27, 1973.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) the close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cut-off dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60 day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

20180–C2–TC–(7)–74—Tel-Illinoise, Inc. Consent to transfer of control from David A. Bayer, et al., transferor, to Tel-Delaware, Inc., transferee. Stations: KTS245, Alton, Illinois KUO565, Alton, Illinois KTS202, Belleville, Illinois KUO564, Belleville, Illinois KSJ811, Champaign, Illinois KSJ627, Champaign, Illinois and KUO556, Galesburg, Illinois.

20181–C2–TC–(3)–74 — Tel-Missouri, Inc. Consent to transfer of control from David A. Bayer, et.al., transferor, to Tel-Delaware, Inc., transferee. Stations: KND396, St. Louis, Missouri KRS636, St. Louis, Missouri and KAA888, St. Louis, Missouri.

20182–C2 AL–74—J. B. Wathen III. Consent to assignment of license from J. B. Wathen III, assignor, to Radio Paging and Radiotelephone, Inc., assignee. Station: KSC870, New Albany, Indiana.

20183–C2–P–74—Central Telephone Company of Illinois (New), C. P. for a new 2-way station to operate on 152.810 MHz to be located at Keller and Walnut Streets, Savanna, Illinois.

20184–C2–P–74—CTI Security Police and Alarm Company, Inc. (New), C. P. for a new 2-way station to operate on 454.225 MHz to be located at 915 West Wisconsin Avenue, Milwaukee, Wisconsin.

20185–C2–P–74—Mobaphone Dispatch Service Co. (New), C. P. for a new 1-way signaling station to operate on 158.70 MHz to be located at 3422 Olton Road, Plainview, Texas.

20186–C2–P–74—Carlton L. Holland d/b as Mobaphone of New Mexico (New), C. P. for a new 1-way signaling station to operate on 152.24 MHz to be located at 800 East Curry Avenue, Clovis, New Mexico.

20187–C2–P–(4)–74—O. L. Hale d/b as Mobilfone Communications (KLB500), C. P. for additional facilities to operate on 454.025, 454.125, 454.200, and 454.300 MHz at Loc. No. 4: Worthen Building, 200 W. Capitol, Little Rock, Arkansas.

20188–C2–P–74—Southern Bell Telephone and Telegraph Company (KIY392), C. P. to change antenna location to operate on 152.69 MHz at 111 East 5th Street, Panama City, Florida.

20189–C2–P–74—Ralopaging, Inc. (KIE367), C. P. for additional facilities to operate on 43.58 MHz at 9200 South Dadeland Boulevard, South Miami, Florida.

20190–C2–P–74—Southern Radio-Phone, Inc. (KLF537), C. P. to change antenna system and location to operate on 152.21 MHz at Loc. No. 1: 455 North Flagler Avenue, Homestead, Florida.

20191–C2–MP–(2)–74—General Communications Service, Inc. (KSW213), (Air-Ground), C. P. to change antenna system to operate on 454.675 and 454.725 MHz located at 1018 West Peachtree Street, N.W., Atlanta, Georgia.

20192–C2–P–74—Aircall Inc. (KIY779), C. P. for additional facilities to operate on 454.100 MHz at Loc. No. 2: 216 Haywood Street, Asheville, North Carolina.

20193–C2–MP–74—Southern Radio-Phone, Inc. (KSV941), C. P. to change antenna system and location to operate on 75.98 MHz located at 455 North Flagler Avenue, Homestead, Florida.

20194–C2–P–74—Nashville Mobilphone, Inc. (New), C. P. for a new 2-way station to operate on 454.350 MHz to be located at 4.6 Miles S. of Lebanon U.S. Hwy. 231, Lebanon, Tennessee.

20195–C2–P–74—Wisconsin Telephone Company (KSC647), C. P. to change antenna system and location, change transmitter location, and replace transmitter to operate on 152.63 MHz located at 1221 North 26th Street, Sheboygan, Wisconsin.

20196–C2–P–74—South Central Bell Telephone Company (KIY454), C. P. to change antenna location and relocate transmitter to operate on 152.72 MHz located at 417 Madison Street, Clarksville, Tennessee.

20197–C2–P–74—Mid Texas Telephone Co. (New), C. P. for a new 1-way signaling station to operate on 152.84 MHz to be located at 415 N. 2nd Street, Killeen, Texas.

20198–C2–AL–(3)–74—X. Nady, Jr., consent to assignment of license from X. Nady, Jr., assignor, to Mobile Telecommunications Corporation, assignee. Stations: KUC883, Amarillo, Texas; KKV668, Amarillo, Texas and KLB563, Amarillo, Texas.

20199–C2–P–74—Arvig Telephone Company (New), C. P. for a new 2-way station to operate on 152.51 MHz to be located at 1.8 Miles North of Ash River Falls, Minn.

21202–C2–P–74—The Mountain States Telephone and Telegraph Company (KKH476), C. P. to replace test transmitter operating on 157.77, 157.83, 158.01 MHz located at 21 miles SSE. of Bloomfield, New Mexico.

21203–C2–P–(4)–74—General Telephone Company of Florida (KIY397), C. P. to change the antenna system and for additional facilities to operate on 454.575, 454.600, 454.625, 454.650 MHz at two new sites described as Loc. No. 2: 1.8 miles 11° NE. from Laurel, Nokomis, Florida and Loc. No. 3: 716 49th Street East, Palmetto, Florida and replace and add test facilities.

21204–C2–MP–(4)–74—General Telephone Company of Florida (KRS647), C. P. to change the antenna system and for additional facilities to operate on 454.575, 454.600, 454.625, 454.650 MHz at two new sites described as Loc. No. 2: 3240 54th Avenue South, St. Petersburg, Florida and Loc. No. 3: 2 Blocks West of intersection of Gunn Highway and Florida Highway 54, Odessa, Florida.

*Informative*

It appears that the following applications may be mutually exclusive and subject to the Commission's Rules regarding ex parte presentations, by reasons of potential electrical interference.

*Pennsylvania*

Contact (KGC596), 821–C2–P–(5)–73.
Radio Broadcasting Co. (KGB874), 8737–C2–P–(2)–72.

*New Jersey*

Radiofone Corporation of New Jersey (New), 579–C2–P–(2)–73.

RURAL RADIO SERVICE

60044–C6–P–74—New England Telephone and Telegraph Company (WHB49), C. P. to change antenna system to operate on 157.83 MHz located at Island, 2.8 miles ENE. of Cuttyhunk, Massachusetts, Nashawena Island, Massachusetts.

60045–C6–P–74—Arvig Telephone Company (New), C. P. for a new rural subscriber station to operate on 157.77 MHz fixed at temporary locations within reliable communications range of applicant's base station.

POINT TO POINT MICROWAVE RADIO SERVICE

420–C1–P–74—American Telephone and Telegraph Company. (KSA81), 2.8 miles ESE. of Norway, Illinois. Lat. 41°27'21" N., Long. 88°37'15" W., C.P. to add frequency: 4198V toward Odell, Illinois on azimuth 163°07'.

421–C1–P–74—Same. (KSB73), 5.4 miles NW. of Mulberry Grove, Illinois. Lat. 38°59'38" N., Long. 89°19'26" W., C.P. to add frequency: 4198H toward Highland, Illinois on azimuth 231°17'.

422–C1–P–74—Same. (KSB74). 2.0 miles NNW. of Highland, Illinois. Lat. 38°45'45" N., Long. 89°41'30" W., C.P. to add frequencies: 4190V toward Hookdale, Illinois on azimuth 78°04'; 4190V toward Gillespie, Illinois on azimuth 343°27'; 4190H toward Van Burensburg, Illinois on azimuth 51°03'.

[1] All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations and other requirements.

[2] The above alternative cut-off rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the rules).





423–C1–P–74—Same. (KSE25), 0.9 mile NE. of Newbern, Illinois. Lat. 39°46'45" N., Long. 90°19'41" W., C.P. to add frequency: 4190H toward Gillespie, Illinois on azimuth 73°12'.

424–C1–P–74—Same. (KSE27), 1.8 miles SE. of Palmyra, Wisconsin. Lat. 42°51'25" N., Long. 88°33'57" W., C.P. to add frequency: 4190H toward Watertown Jct., Wisconsin on azimuth 349°26'.

425–C1–P–74—Same. (KSI29), 1 mile W. of Gillespie, Illinois. Lat. 39°07'48" N., Long. 89°49'55' W., C.P. to add frequencies: 4198V toward Highland, Illinois on azimuth 163°21'; 4198H toward Newbern, Illinois on azimuth 253°31'.

426–C1–P–74—Same. (KSH90), 4 miles NE. of Watertown, Wisconsin. Lat. 43°14'25" N., Long. 88°39'49" W., C.P. to add frequency: 4198H toward Palmyra, Wisconsin on azimuth 169°22'.

427–C1–P–74—Same. (KSN65), 4.6 miles E. of Odell, Illinois. Lat. 40°59'40" N., Long. 88°26'10" W., C.P. to add frequencies: 4190V toward Norway, Illinois on azimuth 343°14'; 4190V toward Saybrook, Illinois on azimuth 189°52'.

428–C1–P–74—Same. (KSN66), 3.7 miles NNW. of Saybrook, Illinois. Lat. 40°28'38" N., Long. 88°33'14" W., C.P. to change antenna system and add frequencies: 4198V toward Cisco, Illinois on azimuth 198°01'; 4198V toward Odell, Illinois on azimuth 09°47'.

429–C1–P–74—Same. (KSN67), 1.4 miles NW. of Cisco, Illinois. Lat. 40°01'36" N., Long. 88°44'40" W., C.P. to add frequencies: 4190V toward Saybrook, Illinois on azimuth 17°54'; 4190V toward Macon, Illinois on azimuth 208°24'.

430–C1–P–74—Same. (KSN68), 1.5 miles ESE. of Macon, Illinois. Lat. 39°41'54" N., Long. 88°58'27" W., C.P. to add frequencies: 4198H toward Cisco, Illinois on azimuth 28°16'; 4198H toward Nokomis, Illinois on azimuth 208°03'.

431–C1–P–74—Same. (KSN69), 2.5 miles SSE. of Nokomis, Illinois. Lat. 39°16'06" N., Long. 89°16'07" W. C.P. to add frequencies: 4190H toward Macon, Illinois on azimuth 27°52'; 4190V toward Hookdale, Illinois on azimuth 172°45'.

432–C1–P–74—American Telephone and Telegraph Company. (KSN70), 6 miles ENE. of Hookdale, Illinois. Lat. 38°50'34" N., Long. 89°11'58" W., C.P. to add frequencies: 4198V toward Nokomis, Illinois on azimuth 352°48'; 4198V toward Highland, Illinois on azimuth 258°23'.

433–C1–P–74—The Ohio Bell Telephone Company. (KQH37), Morgantown Avenue, Barnesville, Ohio. Lat. 39°59'12" N., Long. 81°09'39" W., C.P. to change antenna system and to add frequency 6397.4H toward Bloomfield, Ohio on azimuth 278°13'.

434–C1–P–74—Same. (KQN73), 7.4 miles ENE. of Dresden, Ohio. Lat. 40°08'35" N., Long. 81°52'25"W., C.P. to add frequency. 10915H toward Bloomfield, Ohio on azimuth 131°-10'; increase output power on frequencies: 10975V and 6056.4V on azimuth 243°24'.

435–C1–P–74—Same. (KQN74), NNW. of Brownsville, Ohio. Lat. 39°59'10" N., Long. 82°16'45" W., C.P. to increase output power on frequencies: 6308.4V and 11385V toward Dresden, Ohio on azimuth 63°08'.

436–C1–P–74—Same. (New), 0.5 mile E. of Bloomfield, Ohio. Lat. 40°02'56" N., Long. 81°44'01" W., C.P. for a new station on frequencies: 11685H toward Dresden, Ohio on azimuth 311°15'; 11645V toward Cambridge, Ohio on azimuth 101°42'; 6145.3H toward Barnesville, Ohio on azimuth 97°51'.

437–C1–P–74—American Telephone and Telegraph Company. (KIT97), 1.0 miles S. of Williamstown, Kentucky. Lat. 38°37'55" N. Long. 84°33'13" W., C.P. to add frequency: 3910H toward Claysville, Ky. on azimuth 118°16'.

438–C1–P–74—Wisconsin Telephone Company. (KSO97), 304 South Dewey Street, Eau Claire, Wisconsin. Lat. 44°48'41" N., Long. 91°29'49" W., C.P. to change antenna system and add frequency: 6123.1V toward V/O Eagleton, Wisconsin on azimuth 23°54'.

439–C1–P–74—Same. (New), 1.7 miles SE. of Eagleton, Wisconsin. Lat. 45°02'21" N., Long. 91°21'16" W., C.P. for a new station on frequencies: 6375.2V toward Eau Claire, Wisconsin on azimuth 204°00'; 6375.2H toward V/O Cameron, Wisconsin on azimuth 325°44'.

440–C1–P–74—Same. (New), 1.2 miles S. of Cameron, Wisconsin. Lat. 45°22'36" N., Long. 91°40'52" W., C.P. for a new station on frequencies: 6123.1H toward V/O Eagleton, Wisconsin on azimuth 145°30'; 10915V 11155.0V toward Rice Lake, Wisconsin on azimuth 342°39'.

363–C1–ML–74—American Telephone and Telegraph Company. (KIL84), mod. of C.P. to change polarization from horizontal to vertical on frequencies: 3710V, 3790V, 3870V and 3950V toward Newington, Georgia.

458–C1–ML–74—American Telephone and Telegraph Company. (KEE58), mod. of C.P. to change from vertical to horizontal polarization on frequencies: 3710H, 3790H, 3870H, 3950H, 4030H, 4110H toward Surprise, New York on azimuth 05°32'; frequencies: 3750H, 3850H, 3910H, 3990H, 4070H, 4150H toward Halihan Hill, New York on azimuth 185°35'; change from horizontal to vertical polarization on frequencies: 3730V, 3810V, 3890V, 3970V, 4050V, 4130V toward Surprise, New York on azimuth 05°32'; frequencies: 3770V, 3850V, 3930V, 4010V, 4090V, 4170V toward Halihan Hill, New York on azimuth 185°35'.

459–C1–ML–74—Same. (KEE61), mod. of C.P. to change from vertical to horizontal polarization on frequencies: 3710H, 3790H, 3870H, 3950H, 4030H, 4110H toward Surprise, New York on azimuth 05°32'; frequencies: 3750H, 3830H, 3910H, 3990H, 4070H, 4150H, toward Halihan Hill, New York, on azimuth 185°35'; change from horizontal to vertical polarization on frequencies: 3730V, 3810V, 3890V, 3970V, 4050V, 4130V toward Surprise, New York on azimuth 05°32'; frequencies: 3770V, 3850V, 3930V, 4010V, 4090V, 4170V toward Halihan Hill, New York on azimuth 185°35'.

460–C1–P–74—United Telephone Company of Florida. (KYO84), U.S. Hwy. 41, 0.8 miles W. of Monroe Station, Florida. Lat. 25°51'-57" N., Long. 81°06'57" W., C.P. to add frequencies: 6123.1V toward Pinecrest, Fla. on azimuth 122°33'; 3810H toward Jerome, Fla. on azimuth 302°09'.

461–C1–P–74—Same. (KYO83), State Road 29, Jerome, Florida. Lat. 25°59'45" N., Long. 81°20'42" W., C.P. to add frequencies: 3850V toward Royal Palm Hammock, Fla. on azimuth 27°349'; 3850H toward Monroe, Fla. on azimuth 122°03'.

462–C1–P–74—Same. (KYO82), U.S. Hwy. 41, 2.1 miles NW. of Royal Palm Hammock, Fla. Lat. 26°00'46" N., Long. 81°37'51", W. C.P. to add frequencies: 3810V toward Jermoe, Fla. on azimuth 93°41'; 3810V toward Naples, Fla. on azimuth 310°47'.

463–C1–P–74—Same. (KIQ74), 823 5th Avenue South, Naples, Florida. Lat. 26°08'29" N., Long. 81°47'46" W., C.P. to add frequency: 3850V toward Royal Palm Hammock, Fla. on azimuth 130°43'.

464–C1–P–74—Same. (KSV81), 11.8 miles SE. of Monroe Station, Pinecrest, Fla. Lat. 25°45'50" N., Long. 80°56'23" W., C.P. to add frequencies: 6226.9V toward Seminole, Fla. on azimuth 90°59'; 6375.2V toward Monroe Station, Fla. on azimuth 302°38'.

465–C1–P–74—CML Satellite Corporation. (New), 1.5 miles SE. of Franklin Lakes, New Jersey. Lat. 40°59'04" N., Long. 74° 12'18" W., C.P. for a new station on freqs: 10755.0V and 11155.0V toward New York, New York on azimuth 142°29'.

466–C1–P/ML–74—American Telephone and Telegraph Company. (KEF72), C.P. and mod. of developmental license to add frequency bands: 3700–4200 and to add 10 additional units to operate in any temporary fixed location in the continental United States.

473–C1–P–74—Video Microwave, Inc. (WLJ89), 3 miles N. of Blandford, Massachusetts. Lat. 42°13'10" N., Long. 72°56'47" W., C.P. to add frequency 5945.2H MHz toward Berlin Mountain, New York (WOE21), on azimuth 332°5'.

474–C1–P–74—Same. (WOE21), Berlin Mountain, 4.48 miles E. of Berlin, New York. Lat. 42°41'33" N., Long. 73°17'11" W., C.P. to add frequency 6404.8H MHz toward Bald Mountain, New York, on azimuth 290°24'.

475–C1–P–74—Same. (New), Bald Mountain, 1.5 miles E. of Troy, New York. Lat. 42°47'07" N., Long. 73°37'46" W., C.P. for a new station at foregoing coordinates on frequency 10815.0V MHz toward Albany (WAST–TV Studio), New York on azimuth 216°30'.

(*Informative.*—Applicant is proposing to provide a television network signal to station WAST–TV, Albany, New York.)

477–C1–ML–74—Nebraska Consolidated Communications Corporation (WHO27). Mod. of C.P. to correct station location to read 0.2 mile W. of Winnebago, Minnesota, Lat. 43°45'54" N., Long. 94°10'45" W.

480–C1–ML–74—Same. (WOI21), mod. of C.P. to change station location to 532 Debaliviere Blvd., St. Louis, Missouri, Lat. 38°39'08" N., Long. 90°17'03" W.

481–C1–ML–74—Same. (WOH25), 3 miles ENE. of LeSueur, Minnesota, Lat. 44°27'22" N., Long. 93°50'16" W., mod. of C.P. to change point of communication from Shakopee, Minn. to Chaska, Minn. on radio path azimuth 24°3'.

482–C1–ML–74—Same. (WOH24), mod of C.P. to change station location to 4.2 miles N. of Chaska, Minnesota, Lat. 44°50'55" N., Long. 93°35'29" W. and to change radio path azimuth toward Minneapolis and LeSueur, Minn. to 60°57' and 204°13' respectively.

483–C1–ML–74—Same. (WOH23). Foshay Tower Building, Minneapolis, Minnesota. Lat. 44°58'28" N., Long. 93°16'16" W., mod of C.P. to change point of communication from Shakopee, Minn. to Chaska, Minn. on radio path azimuth 241°11'.

484–C1–P–74—Southern Bell Telephone and Telegraph Company. (KIV59), 111 East 5th St., Panama City, Florida. Lat. 30°09'26" N., Long. 85°39'34" W., C.P. to change antenna system and location, change polarization from vertical to horizontal for frequencies: 6219.5H and 6397.4H toward Mitchell, Florida on azimuth 108°31'.

485–C1–P–74—The Norfolk and Carolina Telephone & Telegraph Company. (KJH20), 105 Uppowac Avenue, Manteo, North Carolina. Lat. 35°54'28" N., Long. 75°40'26" W., C.P. to change antenna system, power and replace transmitters, change azimuth on frequencies 5967.4H 6086.0H to 04°02' toward Kill Devil Hills, North Carolina.

486–C1–P–74—Same. (KJG96), 103 South Road Street, Elizabeth City, North Carolina. Lat. 38°18'00" N., Long. 76°13'27" W., C.P. to change antenna system power and replace transmitters, change azimuth to 77°51' on frequencies 5952.6H 6071.2H toward Coinjock, North Carolina.



V 38 I 170 SEP 4 73 XUM

487–C1–P–74—The Norfolk and Carolina Telephone & Telegraph Company. (KJG97), north edge of Coinjock, 400 yards W. of Hwy. 158, Coinjock, North Carolina. Lat. 36°20'48" N., Long. 75°57'16" W., C.P. to change antenna system, power, replace transmitters, change azimuth to 258° 01' on frequencies 6204.7H and 6323.3H toward Elizabeth City, N.C.; change azimuth to 156°54' on frequencies 6234.3H and 6352.9H toward Mamie, N.C.

488–C1–P–74—Same. (KJG98), south edge of Mamie, 150 yards W. of Hwy. 158, North Carolina. Lat. 36°07'02" N., long. 75°50'20" W. C.P. to change antenna system, power, replace transmitters, change azimuth to 336°59' on frequencies 5982.3H and 6100.9H toward Coinjock, N.C.; change azimuth to 124°15' on frequencies 5937.8H and 6056.4H toward Kill Devil Hills, N.C.

489–C1–P–74—Same. (KJG99), Asheville Drive, 240 feet West of intersection with U.S. Hwy. 158 Business, Kill Devil Hills, North Carolina. Lat. 36°01'23" N., Long. 75°39'50" W. C.P. to change antenna system, power, replace transmitters, change azimuth to 304°21' on frequencies 6198.8H and 6308.4H toward Mamie, N.C.; change azimuth to 184°02' on frequencies 6219.5H and 6338.1H toward Manteo, N.C.

490–C1–P–74—TelePrompTer Transmission of New Mexico, Inc. (KKY43), El Huerfano Mesa, New Mexico. Lat. 36°24'54" N., Long. 107°50'41" W., C.P. to add frequencies 6162.5H, 6262.5H, and 6362.5H toward Durango, Colorado, on azimuth 357°20' (via power split); make changes in antenna system; relocate receiver site. (NOTE: A waiver of Section 21.701 (l) is requested by TelePrompTer).

491–C1–P–74—Microwave Service Company of Florida, Inc. (KUV91), 0.5 mile NW. of West Point, Mississippi. Lat. 33°36'44.5" N., Long. 88°39'42.6" W., C.P. to add frequencies 6271.4V MHz and 6409.0V MHz via power split toward Woodland, Miss. (New) on azimuth 296°40'.

492–C1–P–74—Same. (New), 2.1 miles NW. of Woodland, Mississippi. Lat. 33°47'40" N., Long. 89°05'16" W., C.P. for a new station on frequencies: 10,755V MHz and 10,995V MHz toward Calhoun City, Mississippi on azimuth 291°54'.

*MAJOR AMENDMENTS*

5455–C1–P–71—CML Satellite Corporation. (New). Change station location, frequencies, and points of communication to: Lat. 40°45'42" N., Long. 73°58'49" W., frequencies 11285H and 11685H MHz on azimuth 322°38' toward Franklin Lakes, New Jersey. (All other particulars the same as reported in Public Notices, Report No. 539, dated April 12, 1971 and No. 643, dated April 9, 1973.

3364–C1–P–73—United Video, Inc. (New). Change station location to Newton Road, 5 miles SW. of Jacksonville, Florida. Lat. 30°16'29" N., Long. 81°34'26" W. Frequency 6034.2H MHz on azimuth 174°39' toward Mill Creek, Florida.

3365–C1–P–73—Same. (New). Change station location to Mill Creek, 5 miles N. of Picolate, Florida. Lat. 29°58'18" N., Long. 81°32'28" W. Frequencies 6375.2H MHz on azimuth 354°40' toward Jacksonville, Florida and 6286.2H on azimuth 173°33' toward Hastings, Florida.

3366–C1–P–73—Same. (New). Station located at Hastings, Florida. Lat. 29°41'31" N., Long. 81°30'17" W. Change frequencies toward Bunnell, Florida to 6034.2H MHz on azimuth 150°03' and toward Mill Creek, Florida to 6063.8H MHz on azimuth 353°-34'.

3367–C1–P–74—Same. (New). Change station location to 5 miles SW. of Bunnell, Florida. Lat. 29°26'21" N., Long. 81°20'15" W. Frequencies 3870V MHz on azimuth 205°56' toward Barberville, Florida and 6286.2V MHz on azimuth 330°08' toward Hastings, Florida.

3368–C1–P–73—Same. (New). Change station location to 3 miles E. of Barberville, Florida. Lat. 29°10'51" N., Long. 81°28'53" W. and change azimuth to 176°10' toward Cassia, Florida and 25°52' toward Bunnell, Florida.

3369–C1–P–73—Same. (New). Change station location to 1.0 mile S. of Cassia, Florida. Lat. 28°52'33" No., Long. 81°27'35" W. and change azimuths to 180°09' toward Ocoee, Florida and 356°27' toward Barberville, Florida.

3370–C1–P–73—Same. (New). Change station location to 1.5 miles E. of Ocoee, Florida. Lat. 28°33'50" N., Long. 81°31'01" W. Frequencies 3910V MHz on azimuth 200°41' toward Davenport Lake, Florida and 11015V MHz on azimuth 100°48' toward Orlando, Florida and change azimuth to 09°08' toward Cassia, Florida.

3371–C1–P–73—Same. (New). Station location 100 South Orange Avenue, Orlando, Florida. Lat. 28°32'27" N., Long. 81°22'47" W. Frequency 11265V MHz on azimuth 280°52' toward Ocoee, Florida.

3372–C1–P–73—Same. (New). Change station location to 0.5 mile W. of U.S. Hwy. 27, 12 miles North of Davenport Lake, Florida. Lat. 28°18'37" N., Long. 81°40'52" W. and change azimuth to 203°50' toward Auburndale, Florida and to 29°37' toward Ocoee, Florida.

3373–C1–P–73—United Video, Inc. (New). Change station location to 1.5 miles SW. of Auburndale, Florida. Lat. 28°02'58" N., Long. 81°48'42" W. and change polarizations and azimuths to 3910H MHz on azimuth 230°52' toward Keysville, Florida and 4090V MHz on azimuth 23°47' toward Davenport Lake, Florida.

3374–C1–P–73—Same. (New). Change station location to 5 miles SE. of Tampa, Florida. Lat. 27°54'36" N., Long. 82°23'23" W. Frequency 4170V MHz on azimuth 102°20' toward Keysville, Florida.

3375–C1–P–73—Same. (New). Station location Keysville, Florida. Lat. 27°51'09" N., Long. 82°05'13" W. Change frequencies and azimuths to 3810V on azimuth 282°29' toward Tampa, Florida and 4050V MHz on azimuth 50°44' toward Auburndale, Florida.

3377–C1–P–73—Same. (New). Station location Buchanan, Florida. Lat. 27°25'02" N., Long. 81°45'18" W. Change polarization of frequency 3890 MHz from vertical to horizontal.

3378–C1–P–73—Same. (New). Station location Arcadia, Florida. Lat. 27°09'27" N., Long. 81°50'22" W. Change frequency to 4170H MHz on azimuth 16°06' toward Buchanan, Florida and change polarization from vertical to horizontal for frequency 3910 MHz toward Bermont, Florida.

3379–C1–P–73—Same. (New). Station location Bermont, Florida. Lat. 26°56'40" N., Long. 81°40'45" W. Change polarization of frequency 4050 MHz from horizontal to vertical toward Arcadia, Florida and change azimuth toward Ft. Denaud, Florida to 113°54'.

3380–C1–P–73—Same. (New). Change station location to 1.0 mile NW. of Ft. Denaud, Florida. Lat. 26°44'47" N., Long. 81°21'03" W. Frequencies 3930H MHz on azimuth 121°25' toward Keri Station, Florida and 4090H MHz on azimuth 323°58' toward Bermont, Florida.

3382–C1–P–73—Same. (New). Station location Seminole, Florida. Lat. 26°27'45" N., Long. 81°01'55" W. Change frequency toward Lake Harbor, Florida to 3770H MHz.

3383–C1–73–Same. (New). Station location Lake Harbor, Florida. Lat. 26°41'25" N., Long. 80°48'30" W. Change frequency toward Belle Glade, Florida to 3970V MHz.

3384–C1–P–73—Same. (New). Station location Belle Glade, Florida. Lat. 26°40'47" N., Long. 80°30'04" W. Change frequency toward West Palm Beach, Florida to 4010V MHz.

3385–C1–P–73—Same. (New). Change station location to 1515 South-Flagler Drive, West Palm Beach, Florida. Lat. 26°41'54" N., Long. 80°03'05" W. and change polarization of frequency 3730 from horizontal to vertical toward Belle Glade, Fla.

3387–C1–P–73—Same. (New). Change station location to 7 miles SE. of Indian Reservation, Big Cypress, Florida, Lat. 26°13'55" N., Long. 80°55'10" W. and change azimuths to 107°43' toward Alligator Alley, Florida and 336°24' toward Seminole, Florida.

3388–C1–P–73—United Video, Inc. (New). Change station location to 10.5 miles W. of Andytown, Alligator Alley, Florida. Lat. 26°08'50" N., Long. 80°37'30" W., and change azimuths to 126°26' toward Hollywood, Florida and 287°51' toward Big Cypress, Florida.

3389–C1–P–73—Same. (New). Change station location to 9 miles W. of Hollywood, Florida. Lat. 25°58'18" N., Long. 80°21'39" W. frequencies 4050V MHz on azimuth 306°33' toward Alligator Alley, Florida, and 6360.3V MHz on azimuth 141°14' toward Miami, Florida.

3390–C1–P–73—Same. (New). Station location Miami, Florida. Lat. 25°46'46" N., Long. 80°11'22" W., change frequency to 6108.3V MHz on azimuth 321°18' toward Hollywood, Florida.

(All other particulars remain same as reported on Public Notice Report No. 623 Dated November 20, 1973).

*Corrections*

252–C1–P–74—General Telephone Company of the Northwest, Inc., correct to read C.P. for a new station on frequencies: 6034.2V toward Wymer, Washington on azimuth 193°28'; 11445.0H, 11665.0H toward Wenatchee, Washington on azimuth 28°01'; 6078.8H toward Chelan Butte, Washington on azimuth 26°21'.

253–C1–P–74—Same. (New). Correct to read C.P. for a new station on frequencies: 10915.0H, 11135.0H toward Mission Peak, Washington on azimuth 206°7'.

254–C1–P–74—Same. (KTF80). Correct to read C.P. for additional facilities on frequencies: 6330.7H toward Mission Peak, Washington on azimuth 206°39'; 2110.8H toward Mansfield, Washington on azimuth 89°23'; and 2126.8H toward Harmony Heights, Washington, on azimuth 24°38'.

255–C1–P–74—Same. (New). Correct to read C.P. for a new station on frequency: 2160.8H toward Chelan Butte, Washington on azimuth 269°40'.

256–C1–P–74—Same. (New). Correct to read C.P. for a new station on frequency: 2176.8H toward Harmony Heights Passive, Washington on azimuth 291°08'.

(All other particulars remain same as reported on Public Notice Report #659, dated July 30, 1973.)

[FR Doc.73–18557 Filed 8–31–73;8:45 am]

## FEDERAL MARITIME COMMISSION

### MOORE-McCORMACK LINES, INC.

#### Order of Revocation

Certificate of financial responsibility for indemnification of Passengers for Nonperformance of Transportation No. P–35 and Certificate of Financial Responsibility to meet liability incurred for death or injury to passengers or other persons on voyages No. C–1,043.

Whereas, Moore-McCormack, Lines, Incorporated, 2 Broadway, New York, N.Y. 10004, has ceased to operate the passenger vessels S.S. ARGENTINA and S.S. BRASIL.

*It is ordered*, That Certificate (Performance) No. P–35 and Certificate (Casualty) No. C–1,043 covering the S.S. ARGENTINA and S.S. BRASIL be and are hereby revoked effective August 27, 1973.

*It is further ordered*, That a copy of this Order be published in the FEDERAL REGISTER and served on certificant.

By the Commission.

JOSEPH C. POLKING,
*Assistant Secretary.*

[FR Doc.73–18672 Filed 8–31–73;8:45 am]

footer: FEDERAL REGISTER, VOL. 38, NO. 170—TUESDAY, SEPTEMBER 4, 1973



## BI-STATE DEVELOPMENT AGENCY AND ST. LOUIS TERMINALS CORP.

### Notice of Agreements Filed

Notice is hereby given that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreements at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, Louisiana, and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before September 24, 1973. Any person desiring a hearing on the proposed agreements shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreements (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreements filed by:

E. J. Sheppard IV, Esq., Attorney for St. Louis Terminals Corp., Morgan, Lewis & Bockius, 1140 Connecticut Avenue NW., Washington, D.C. 20036.

Agreement No. T–2840, between Bi-State Development Agency (Bi-State) and St. Louis Terminals Corporation (Terminals), provides for the 15-year lease to Terminals of 5.95 acres of land, located on a portion of the facilities built by Bi-State at Granite City Harbor in the Missouri-Illinois Metropolitan District. The facility is to be used as a public river-rail-truck terminal for the handling of waterborne cargo and uses incidental thereto. As compensation, Bi-State will receive a certain percentage of the operation's gross revenue subject to an annual minimum as outlined in detail in the lease. Terminals will have joint occupancy of the terminal facility with the Granite City Steel Co. as is permitted under the terms of the lease agreement between Bi-State and Granite City Steel Co. In addition, Terminals will conform to Bi-State's rules, regulations, conditions and public tariffs and will assess all applicable terminal tariff charges on all vessels and cargo using the facility.

Agreement No. T–2840–1 modifies the basic agreement which provides for the operation of a public river-rail-truck terminal at Granite City Harbor in the Missouri-Illinois Metropolitan District. The purpose of the modification is to: (1) Increase the lease term from 15 to 25 years (with renewal options); (2) increase the warehouse space by 16,800 square feet; (3) cancel certain improvement obligations; and (4) increase Bi-State's guaranteed annual minimum compensation as outlined in the agreement.

Agreement No. T–2840–2 modifies the basic agreement which provides for the operation of a public river-rail-truck terminal at Granite City Harbor in the Missouri-Illinois Metropolitan District. The purpose of the modification is to provide for Bi-State's purchase of a loading crane to be leased to Terminals over a period of 15-years at an annual rental of $5,000.

Dated August 29, 1973.

By Order of the Federal Maritime Commission.

JOSEPH C. POLKING,
*Assistant Secretary.*

[FR Doc.73–18673 Filed 8–31–73;8:45 am]

## FEDERAL POWER COMMISSION

[Docket Nos. RI74–25, etc.]

### RATE CHANGES

#### Order Providing for Hearing and Suspension, and Allowing Rate Changes To Become Effective Subject to Refund [1]

AUGUST 23, 1973.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A below.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

*The Commission finds.* It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

*The Commission orders.*

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Each Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
*Secretary.*

[1] Does not consolidate for hearing or dispose of the several matters herein.

footer: FEDERAL REGISTER, VOL. 38, NO. 170—TUESDAY, SEPTEMBER 4, 1973

V 38 170 SEP 4 73 XUM

APPENDIX A

| Docket No. | Respondent | Rate schedule No. | Supplement No. | Purchaser and producing area | Amount of annual increase | Date filing tendered | Effective date unless suspended | Date suspended until— | Cents per Mcf* Rate in effect | Cents per Mcf* Proposed increased rate | Rate in effect subject to refund in docket No. |
|---|---|---|---|---|---|---|---|---|---|---|---|
| RI74-25... | Signal Oil and Gas Co..... | 19 | 4 | Transwestern Pipeline Co. (Bell Lake Field, Lea County, N. Mex., Permian Basin). | $3,600 | 7-23-73 | 9- 1-73 | [3] Accepted [1] 2-1-74 | 21.0 | 23.5 | |
| RI74-26... | Cabot Corp. (SW)..... | 107 | 1 | El Paso Natural Gas Co. (Walton Gasoline Plant, Winkler County, Tex., Permian Basin). | 1,661 | 7-23-73 | ..... | 8-23-73 | 20.8536 | 21.3623 | |
| RI74-27... | Exxon Corp..... | 323 | 1 | El Paso Natural Gas Co. (Fort Chadbourne and West Fort Chadbourne Fields, Coke and Runnels Counties, Tex., Permian Basin). | 42,120 | 7-23-73 | 8-23-73 | [3] Accepted [1] 1-23-74 | 27.0 | 36.0 | |
| RI74-28... | The Superior Oil Co..... | 135 | 3 | Natural Gas Pipeline Co. of America (Crittendon Field, Winkler County, Tex., Permian Basin). | 33,791 | 7-26-73 | ..... | 8-26-73 | 18.9533 | 20.0364 | |

* Unless otherwise stated, the pressure base is 14.65 p.s.i.a.
[1] Includes quality adjustment.
[2] Accepted as of the date set forth in the "Effective Date Unless Suspended" column insofar as proposed rate does not exceed the ceiling prescribed in Opinion No. 662.
[3] Proposed rate is suspended until date shown insofar as it exceeds ceiling in Opinion No. 662.

The proposed increases of Signal Oil and Gas Company and Exxon Corporation are accepted in part for that portion of the proposed rate that does not exceed the applicable area rate as adjusted for quality pursuant to Opinion No. 662, and are suspended for five months in part for that portion of the proposed rate that exceeds the applicable area rate as adjusted for quality pursuant to Opinion No. 662.

The remaining proposed rate increases do not exceed the rate limit for one day and are accepted for filing as of the dates shown in the "Date Suspended Until" column.

Good cause has not been shown for granting Exxon's request for waiver of the statutory notice period.

Nothing contained in this order shall relieve the respondents of any responsibility imposed by the Economic Stabilization Act of 1970, (Pub. L. 91-379, 84 Stat. 799, as amended by Pub. L. 92-15, 85 Stat. 38), or by any Executive Order or rules and regulations promulgated pursuant to such Act.

[FR Doc.73-18513 Filed 8-31-73;8:45 am]

[Project No. 1185]

## BAHOVEC POWER PROJECT

### Notice of Issuance of Annual License

AUGUST 22, 1973.

The Licensee for Project No. 1185, the Bahovec Power Project located on the Baranof River at Warm Springs Bay on Baranof Island, Alaska, is Fred Bahovec.

The license for Project No. 1185 was issued effective August 23, 1962, for a period ending August 22, 1972. The project has been operating under annual license since its expiration. In order to authorize the continued operation of the project pursuant to Section 15 of the Federal Power Act, pending completion of Licensee's application and Commission action thereon, it is appropriate and in the public interest to issue an annual license to Fred Bahovec for the continued operation and maintenance of Project No. 1185.

Take notice that an annual license is issued to Fred Bahovec (Licensee) of Sitka, Alaska, under section 15 of the Federal Power Act for the period August 23, 1973, to August 22, 1974, or until the issuance of a new license for the project, for the continued operation and maintenance of Project No. 1185, subject to the terms and conditions of its license.

MARY B. KIDD,
*Acting Secretary.*

[FR Doc.73-18640 Filed 8-31-73;8:45 am]

[Docket No. CI74-100]

## BELCO PETROLEUM CORP.

### Notice of Application

AUGUST 22, 1973.

Take notice that on August 10, 1973, Belco Petroleum Corporation as Agent for Belco 1972 Oil and Gas Fund, Ltd. (Applicant), 630 Third Avenue, New York, New York 10017, filed in Docket No. CI74-100 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Northern Natural Gas Company from the Arco Childress No. 1 Well, Crockett County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it commenced the sale of gas on July 30, 1973, within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sale for two years from the end of the sixty-day emergency period within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). Applicant proposes to sell approximately 300 Mcf of gas per day at 42.0 cents per Mcf at 14.65 p.s.i.a. the first year and at 43.0 cents per Mcf at 14.65 p.s.i.a. the second year at 14.65 p.s.i.a., subject to upward and downward Btu adjustment.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 6, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

MARY B. KIDD,
*Acting Secretary.*

[FR Doc.73-18641 Filed 8-31-73;8:45 am]

[Docket No. RP74-4]

## CITIES SERVICE GAS CO.

### Order Accepting Portion of Filing and Rejecting Another Portion, Suspending Rates, and Setting Hearing

AUGUST 22, 1973.

On July 23, 1973, Cities Service Gas Company (Cities Service) tendered revisions to its FPC Gas Tariff, Second Revised Volume No. 1 [1] including a general increase in rates, a change in the base cost of purchase gas per Cities Service purchased gas cost adjustment provision (PGA), and tariff provisions for tracking changes in coal gasification and advance payment costs. These proposed changes would result in an increase in revenues of $20,990,103 based on a twelve month test period ending March 31, 1973, as adjusted. An effective date of August 23, 1973, is requested.

[1] See Appendix.





Cities Service claims the increased revenues are necessary to offset a deficit in revenue occurring during the test period. To implement this application, the company requests waiver of several of the Commission's rules and regulations. First, waiver is requested of § 154.38(d)(3) of the Commission's Regulations under the Natural Gas Act in order to allow tracking provisions covering coal gasification and advance payments in its tariff; second, waiver is asked of § 154.63(e)(2)(ii) to permit the inclusion of costs related to facilities for which certification is pending in Docket Nos. CP74-6 and CP74-10; third, waiver is requested of Commission Order No. 441 to include advance payments for lease acquisitions in a contract signed after November 10, 1971; finally, a limited waiver of the filing requirements of Commission Order No. 488 issued July, 1973, in Docket No. R-464, is requested to allow Cities Service extra time to bring their filing into compliance with that order.

Notice of the application was issued on July 30, 1973, providing for a closing date of August 14, 1973, for all petitions to intervene, protests, and comments. Timely petitions to intervene were filed by Midwest Industrial and Commercial Gas Users Association (Midwest), and Armco Steel Corporation, Sheffield Division (Armco), and Union Gas System, Inc. Each of the above petitioners claim that the proposed rates may be unreasonable and unjust and request that the Commission suspend them for the full five month period. Also on August 8, 1973, the Public Service Commission of the State of Missouri filed a notice of intervention.

As to the coal gasification and advance payments tracking provisions contained in the filing, Cities Service concedes that § 154.38(d)(3) of the Regulations under the Natural Gas Act specifically prohibits automatic rate adjustments through the use of clauses similar to the ones submitted here. The company asserts, however, that the need is great to augment its gas supplies to maintain the level of service to its customers. Cities Service points out that we approved similar advance payments tracking provisions in a settlement of its filing in Docket No. RP71-106 and that these contentions should serve as good cause to waive the pertinent regulations. Our approval of the advance payment tracking provision in Cities Services prior settlement raised different questions of policy and fact that those present herein where inclusion in Cities Service FPC Gas Tariff of an advance payment tracking provision and a coal gasification tracking provision is requested. Accordingly, we will deny Cities Service's requested waiver, reject the filing under Section 4 insofar as it relates to the advance payment and coal gasification tracking provisions. This is without prejudice to City Service's and any other party's right to file evidence as to these tracking provisions which will be considered on its merits for prospective application.

With regard to the inclusion of the costs of noncertificated facilities, we are going to grant the waiver of § 154.63(e)(2)(ii) and allow such inclusion; provided, that Cities Service modify its filing and eliminate any costs for facilities not certificated and in service at the end of the test period.

In support of its requested waiver of the filing requirements of Order No. 488, Cities Service asserts that its filing was already completed at the time the order was issued and asks that it be given additional time to meet the extra requirements necessitated by that order. Since the filing of its application, however, Cities Service has supplied the supplemental material necessary to comply with Order No. 488, so no action is necessary on the requested waiver.

Cities Services also requests for waiver of Order No. 441 to permit it to include advance payments for lease acquisitions after November 10, 1971. As we expressly stated in Order No. 441 rate base treatment for advance payments for lease acquisitions was barred any past November 10, 1971, advances. We see no reason to deviate from this policy at this time and therefore reject the requested waiver without prejudice to Cities Service's pursuing this issue on the merits for prospective application only.

Cities Service has not employed the unmodified *Seaboard* method of classifying and allocating costs, which this Commission has previously indicated is the minimum acceptable method.[2] Cities Service's proposal does not have demand-commodity rates and its straight-line rates are based upon either unit zone costs or 100 percent load factor usage predicated upon company-wide demand and commodity costs. However, our review indicates that the use of the unmodified *Seaboard* methodology would result in higher straight-line rates, particularly as to rates for interruptible service. Therefore, to the extent that this proposal does not result in the allocation of costs and rates equivalent to those resulting from the use of the unmodified *Seaboard* method, Cities Service may be required to absorb the impact of any under-collections as may occur under the proposed rates.

Further review of the filing and the other issues raised by Cities Service in its application and those posed by petitioners for intervention indicates that certain matters are raised which require development in an evidentiary hearing. The proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful. We shall therefore order a suspension of the rates proposed herein for the full statutory period.

The Commission finds:

(1) The proposed changes in Cities Service FPC Gas Tariff, Second Revised Volume No. 1, except for Original Sheet Nos. 37H-37N pertaining to coal gasification and advance payment tracking provisions, should be accepted for filing as hereafter ordered.

(2) The proposed tariff sheets should be accepted for filing, suspended and the use thereof deferred until January 23, 1973.

(3) Cities Service's requested waiver of Section 154.38(d)(3) of the Commission's Regulations and Order No. 441 should be denied.

(4) It is necessary and proper in the public interest and to aid in the enforcement of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of the rates and charges contained in Cities Service FPC Gas Tariff, Second Revised Volume No. 1, as proposed to be amended in this docket.

(5) The requested waiver of § 154.63(e)(2)(ii) should be granted as conditioned below.

(6) Good cause exists to permit the intervention of the above named petitioners for intervention.

(7) The disposition of this proceeding should be expedited in accordance with the procedure set forth below.

The Commission orders:

(A) The proposed tariff sheets filed by Cities Service on March 30, 1973, are accepted for filing and suspended as hereinafter ordered, except that Original Sheet Nos. 37H-37N are rejected for filing under section 4 of the Natural Gas Act.

(B) Pending a hearing and decision thereon, the accepted tariff sheets are suspended for the full statutory term and the use thereof deferred until January 23, 1974 or until such time as they are made effective in the manner provided in the Natural Gas Act.

(C) Pursuant to authority of the Natural Gas Act, particularly Sections 4 and 5 thereof, the Commission's Rules and Regulations (18 CFR Ch. I), a public hearing shall be held, commencing with a prehearing conference on December 5, 1973, at 10 a.m., e.s.t., in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, concerning the lawfulness and reasonableness of the rates and charges in Cities Service FPC Gas Tariff, Second Revised Volume No. 1 as proposed to be amended herein.

(D) At a prehearing conference on December 5, 1973, Cities Service prepared testimony (Statement P) together with its entire rate filing shall be admitted to the record as its complete case-in-chief

[2] *El Paso Natural Gas Company*, Opinion No. 600-A (May 8, 1972); *Sea Robin Pipeline Company*, Docket No. RP73-47 (Order issued November 13, 1972); *Texas Eastern Transmission Corporation*, Docket No. RP72-98 (Orders issued March 5, 1973 and June 28, 1973); *Natural Gas Pipeline Company of America*, Docket No. RP72-132 (Order issued July 18, 1973); *Colorado Interstate Gas Company*, Docket No. RP72-113 (order issued July 5, 1973).



V 38-170 SEP 4 73 XUM

subject to appropriate motions, if any, by parties to the proceeding. All parties will be expected to come to the conference.

(E) On or before November 27, 1973, the Commission Staff shall serve its prepared testimony and exhibits. Any intervenor evidence will be filed on or before December 10, 1973. Any rebuttal evidence by Cities Service shall be served on or before December 21, 1973. The public hearing herein ordered shall convene on January 9, 1974, at 10 a.m., e.s.t.

(F) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (see Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies expressed in § 2.59 of the Commission's rules of practice and procedure.

(G) Waiver of § 154.38(d)(3) of the Commission's Regulations under the Natural Gas Act and Order No. 441 is denied.

(H) Waiver of § 154.63(e)(2)(ii) of our Regulations is granted provided that Cities Service file substitute tariff sheets reflecting the elimination of any facilities not certified and in service at the end of the test period.

(I) The above-named petitioners for intervention are permitted to intervene.

(J) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission,

[SEAL] MARY B. KIDD,
*Acting Secretary.*

APPENDIX

[Docket No. RP74-4]

CITIES SERVICE GAS CO.

Sixth Revised Sheet PGA-1 would replace the currently effective rates of Fifth Revised Sheet PGA-1:

First Revised Sheet No. 37D provides for a change in the base cost of purchased gas in Cities Service Purchased Gas Cost Rate Adjustment Provision (PGA);

Original Sheet Nos. 37H-37N reflects the inclusion of a coal gasification rate adjustment provision and an advance payment rate adjustment provision.

[FR Doc.73-18606 Filed 8-31-73;8:45 am]

[Docket No. E-8352]

## CONSUMERS POWER CO.

### Notice of Filing of Superseding Wholesale Rate Contract

AUGUST 22, 1973.

Take notice that on August 13, 1973, Consumers Power Company (Consumers) on behalf of the City of Charlevoix, Michigan (City), tendered for filing a Wholesale Rate Contract dated July 12, 1973.

Consumers state that this contract, when effective, will supersede and cancel the Wholesale Rate Contract dated as of September 22, 1965 (designated Consumers Power Company Rate Schedule FPC No. 2), as amended, between [Consumers] and the City.

According to Consumers, the Superseding Wholesale Rate Contract will become effective on that date that the City discontinues the production of electric energy from its Bellaire Hydro Plant. Furthermore, and according to Consumers, the City has advised Consumers that it will discontinue production of electric energy from its Bellaire Hydro Plant on July 3, 1973.

Consumers, in its letter of transmittal, requests waiver of notice as required in § 35.3 pursuant to § 35.11 of the Commission's regulations under the Federal Power Act.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 10, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

MARY B. KIDD,
*Acting Secretary.*

[FR Doc.73-18642 Filed 8-31-73;8:45 am]

[Docket No. E-8327]

## DUKE POWER CO. ET AL.

### Notice of Application

AUGUST 23, 1973.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 205 of the Federal Power Act and Part 35 of the regulations issued thereunder.

Any person desiring to be heard or to make any protest with reference to these applications should on or before September 14, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). Persons wishing to become parties to a proceeding or to participate as a party in a hearing related thereto must file petitions to intervene in accordance with the Commission's Rules. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. The applications referred to above are on file with the Commission and are available for public inspection.

Docket No. E-8327.
Filing Date, 7/20/73.
Name of Applicant, Duke Power Company.
By letter dated July 18, 1973, Applicant submits a supplement to its contract with the City of Gastonia, North Carolina. This contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FPC No. 227. The Supplement provides for Delivery Point No. 8 known as the East Gastonia Delivery Point, to be re-energized. Applicant requests July 20, 1973, as the effective date for this filing.

Docket No. E-8328.
Filing Date, 7/20/73.
Name of Applicant, Duke Power Company.
In its letter of July 19, 1973, Applicant requests that the May 23, 1973, supplement to its contract with the Laurens Electric Cooperative, Inc., be filed with the Commission. The Contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FPC No. 144. This supplement provides for a new delivery point, designated as the Williamston Delivery located southeast of Williamston, South Carolina. Approximately ¼ mile of existing line was converted from single phase to three phase in order to provide service under this supplementary agrement. The Applicant requests waiver of 30 day notice requirement and that June 20, 1973, be made the effective date of the proposed filing.

Docket No. E-8334.
Filing Date 7/26/73.
Name of Applicant, Alabama Power Company.
Applicant requests filing of its July 19, 1973, agreement with the Pea River Electric Cooperative, Inc.: this request is dated July 24, 1973. Exhibit A of the agreement describes the new delivery point designated as Eufaula, in Barbour County, Alabama. It is requested that the 30 day notice requirement be waived and that the date service commences be made the effective date with respect to this change in the rate schedule.

Docket No. E-8337.
Filing Date, 7/30/73.
Name of Applicant, New England Power Service Company.
Applicant's letter of July 20, 1973, submits for filing an Agreement of Amendment, between the Applicant and the Town of Hudson, Massachusetts, dated July 15, 1973. The Town of Hudson has requested that it become a member of NEPOOL on a composite basis with the Applicant. As evidenced by the Agreement of Amendment which is part of this proposed filing, Applicant is amenable to this request. The Agreement further provides for subtransmission service by Applicant of the Town of Hudson's entitlement. Waiver of the 30 day notice requirement is requested so that the subtransmission service contract would be effective as of July 1, 1973.

Docket No. E-8338.
Filing Date, 7/30/73.
Name of Applicant, Wisconsin Power & Light Company.
By letter dated July 26, 1973, Applicant proposes filing with the Commission the following:

(A) Power Pool Agreement between itself, Madison Gas and Electric Company and Wisconsin Public Service Corporation.

(B) A Joint Power Supply Agreement between the same parties as in (A), above:

(C) A revised service schedule between Wisconsin Power & Light Company and Wisconsin Public Service Corporation; and

(D) A revised service schedule between Madison Gas Electric Company and Wisconsin Power and Light Company.

With the exception of the Joint Power Supply Agreement, the proposed effective date for each of the documents referred to above is October 1, 1973.

Docket No. E-8339.
Filing Date, 7/30/73.
Name of Applicant, Northern States Power Company.





Applicant's letter of July 23, 1973, submits for filing Supplement No. 3, dated July 20, 1973 to the Twin Cities-Iowa-St. Louis 345 KV Interconnection Coordinating Agreement between Interstate Power Company, Iowa Electric Light and Power Company, Iowa Southern Utilities Company, Northern States Power Company and Union Electric Company. First Revised Exhibits A and B show the additional interconnections that were made to the 345 KV transmission line extending from Northern States Power Company's Red Rock Substation to the Sioux Substation of Union Electric Company. The Third Revised Service Schedule makes the following changes:

(A) The minimum rate charged for Emergency Energy is increased from 1.25 cents per KWH to 1.75 cents per KWH;

(B) 5 mills per KWH was established at the minimum rate charged for energy associated with Short Term Power;

(C) The rate for Excess Energy was increased from Incremental Cost plus .5 mill per KWH to Incremental Cost plus 1.0 mill per KWH.

MARY B. KIDD,
*Acting Secretary.*

[FR Doc.73-18607 Filed 8-31-73;8:45 am]

[Docket No. E-7870]

## EDISON SAULT ELECTRIC CO.

### Notice of Initial Rate Filing

AUGUST 22, 1973.

Take notice that Edison Sault Electric Company (Edison Sault) tendered for filing on April 26, 1972, as an initial rate filing the following contracts:

(1) Contract No. DA-20-064-ENG-632 between the United States of America and Edison Sault, third party beneficiary, Cloverland Electric Cooperative (Cloverland).

(2) Contract dated January 27, 1964, between Edison Sault and Cloverland for electric service.

(3) Contract dated January 30, 1970, and supplemental number one dated June 30, 1970, and supplemental number two dated June 30, 1970, for electric service to Cloverland.

(4) Contract between Edison Sault and Consumers Power Company (Consumers) dated December 1, 1966, and supplemental number one dated August 20, 1971, and letter modification to supplement number one dated February 29, 1972, for electric service.

(5) Contract between Edison Sault and Wisconsin Michigan Power Company dated January 2, 1959 and supplemental number one dated September 15, 1969, for electric service.

On June 26, 1973, Edison Sault submitted, in response to the Commission Secretary's letter dated June 1, 1972, two additional contracts between Edison Sault and Cloverland dated February 2, 1952, and November 1, 1957, respectively.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 10, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

MARY B. KIDD,
*Acting Secretary.*

[FR Doc.73-18597 Filed 8-31-73;8:45 am]

[Docket No. RP74-8]

## EL PASO NATURAL GAS CO.

### Notice of Tariff Filing

AUGUST 22, 1973.

Take notice that on August 1, 1973, El Paso Natural Gas Company (El Paso) filed pursuant to Part 154 of the Commission's Regulations Under the Natural Gas Act, Second Revised Sheet No. 56 to its FPC Gas Tariff, First Revised Volume No. 3, applicable to its Northwest Division System. El Paso states that the purpose of the changes proposed by the tendered tariff sheet is to modify the Purchased Gas Cost Adjustment Provision (PGAC), as contained in said tariff, to permit El Paso to include in PGAC rate adjustments any changes in the current level of unity amounts per Mcf payable to owners of overriding royalty interests,[1] attributable to leases acquired by El Paso prior to October 7, 1969, which may hereafter be awarded by arbitration boards.

El Paso states that it concluded arbitration proceedings before a board of arbitrators on July 12, 1973, with Sun Oil Company (Sun), pursuant to the terms of a Lease Sale Agreement dated September 26, 1952, for the determination of the unit amount per Mcf of the overriding royalty. El Paso states that it may be faced with paying increased royalty to Sun effective as of January 5, 1973, or a later date as may be established by the board of arbitrators and therefore requests waiver of notice requirements of § 154.22 of the Commission's Regulations and that the Commission accept the tendered tariff sheet for filing and permit it to become effective on that date or such later date as may be established by said board for any increase in the unit amount per Mcf awarded Sun. The decision of the board of arbitrators in this matter may be expected at sometime prior to September 1, 1973.

[1] The term overriding royalty refers to overrides and production payments, expressed in cents-per-Mcf, contained in certain of El Paso's lease sale agreements under which certain oil and gas leases were acquired by El Paso in the San Juan Basin area of northwestern New Mexico and southwestern Colorado. Such agreements provide for escalation of the unit amount per Mcf of such overriding royalty up to a ceiling amount (usually at the end of fifteen years) and for redetermination thereafter; failing agreement of the parties to redetermine the unit amount per Mcf for each subsequent five-year period, provision is made for arbitration.

The filing includes as Appendix A a listing of all of El Paso's lease sale agreements containing arbitration provisions which have now reached a point in their respective terms where, failing agreement of El Paso and the overriding royalty interest owner on a redetermined price for a five-year period, arbitration can be expected to follow. The filing indicates in the attached Appendix B that El Paso's exposure for each 1¢ increase in the unit amount per Mcf of the subject overriding royalty under such lease agreements could approximate an increase of $107,868 annually in El Paso's Northwest Division System cost of gas which would result in an increase in El Paso's Northwest Division System rates now under suspension at Docket No. RP73-109 by an average of 0.023¢ per Mcf.

El Paso further requests that waiver of the Commission's Rules and Regulations, including § 154.38(d)(4), be granted as may be necessary to implement the instant filing.

Any person desiring to be heard or to make any protest with reference to said tariff tender should, on or before September 4, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 15.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

MARY B. KIDD,
*Acting Secretary.*

[FR Doc.73-18598 Filed 8-31-73;8:45 am]

## EL PASO NATURAL GAS CO.

### Notice of Rate Schedule Cancellation

AUGUST 21, 1973.

Take notice that on August 8, 1973, El Paso Natural Gas Company (El Paso) tendered for filing First Revised Sheet No. 92 to its FPC Gas Tariff, Original Volume No. 2A proposed to become effective after 30 days following the date of filing.

El Paso states the tendered tariff sheet, when accepted for filing and permitted to become effective will cancel special Rate Schedule FS-8 between it and Hemphill Gas Company (Hemphill). El Paso states further that a superseding Service Agreement dated February 1, 1973, between El Paso and Hemphill, tendered concurrently therewith will continue service to Hemphill under Rate Schedule X-1 of El Paso's FPC Gas Tariff, Original Volume No. 1, consistent with the directive of the Commission in ordering paragraph (E) of its order issued August 21, 1969, as amended, at Docket No. CP69-23.



V 38 I 170 SEP 4 73 XUM

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 3, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection

MARY B. KIDD,
*Acting Secretary.*

[FR Doc.73-18643 Filed 8-31-73;8:45 am]

[Docket No. RP72-64]

## CITY OF HENDERSON, KENTUCKY

### Notice of Petition for Extraordinary Relief

AUGUST 22, 1973.

Take notice that on August 16, 1973, the City of Henderson, Kentucky (Henderson), filed a petition for extraordinary relief from the Terms and Conditions of the Texas Gas Transmission Corporation (Texas Gas) FPC Gas Tariff, Third Revised Volume No. 1.

Petitioner presently purchases gas from Texas Gas under the latters FPC Gas Tariff, Third Revised Volume No. 1, which contains certain Seasonal Quantity Entitlements (volumetric limitations). The Summer Quantity Entitlement for Henderson for the period April 1 through November 1 is 648,000 Mcf. Petitioner now estimates that its requirements for the 1973 summer season will be approximately 723,000 Mcf. Petitioner states, as reasons for this increase, the below normal temperatures of April and May of 1973 and the short supply of propane available needed to operate its propane-air manufacturing facility.

Therefore, Petitioner requests that the Commission grant them the right to overrun its Quantity Entitlement during the summer season of 1973 by approximately 75,000 Mcf and reduce its subsequent 1973–74 Winter Quantity Entitlement by such actual overrun amount, and be relieved of the seasonal overrun penalty as provided in Section 10.4 of the General Terms and Conditions of the Texas Gas FPC Gas Tariff, Third Revised Volume No. 1.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 4, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

MARY B. KIDD,
*Acting Secretary.*

[FR Doc.73-18605 Filed 8-31-73;8:45 am]

[Docket No. E-8353]

## INDIANAPOLIS POWER & LIGHT CO.

### Notice of Application

AUGUST 23, 1973.

Notice is hereby given that on August 13, 1973, Indianapolis Power & Light Company (Applicant) filed an Application with the Commission seeking an order pursuant to Section 204 of the Federal Power Act, authorizing the issuance of up to $44,000,000 principal amount of unsecured short-term promissory notes.

Applicant is incorporated under the laws of Indiana with its principal business office in Indianapolis, Indiana, and is primarily engaged in generating, distributing and selling electric energy within the City of Indianapolis, and adjacent communities, towns and rural areas.

Applicant proposes to issue the Notes from time to time after the authorization thereof by the Commission, with a final issue date for all such Notes of June 30, 1975, and a final maturity date of December 31, 1975. Each Note will carry a maturity date of not more than one year after the date of issuance thereof. The Notes to be issued to commercial paper dealers will be issued at the prevailing published discount rate, in various amounts, but not to exceed $32,000,000 aggregate principal amount and will have maturity dates of not more than nine months from the date of issuance thereof, excluding any days of grace. The Notes issued to commercial banks will bear interest at a rate not to exceed the prevailing prime commercial lending rate of commercial banks in Indianapolis, Indiana.

The net proceeds to be received from the initial issuance of the Notes will be applied to the payment of part of the cost of Applicant's 1973–1977 construction program. Construction expenditures are estimated to be $55,732,000 for 1973, $60,003,000 for 1974, $80,349,000 for 1975, $149,046,000 for 1976, and $96,311,000 for 1977.

Any person desiring to be heard or to make any protest with reference to said Application should on or before September 7, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petition to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The Application is on file with the Commission and available for public inspection.

MARY B. KIDD,
*Acting Secretary.*

[FR Doc.73-18599 Filed 8-31-73;8:45 am]

[Docket No. E-8172]

## KENTUCKY UTILITIES CO.

### Order Denying in Part and Granting Motion for Rehearing and Instituting Investigation

AUGUST 22, 1973.

On May 1, 1972, Kentucky Utilities Company (KU) filed in Docket No. E-8172 a proposed rate increase, designated WPS–73, applicable to service provided by KU to eleven all-requirements municipal customers in Kentucky [1] and to its wholly owned subsidiary Old Dominion Power Company. The proposed increases in rates amount in total to approximately $733,000 annually, based on a 12-month test period ended July 31, 1972. The proposed effective date of WPS–73 rate schedules is August 1, 1973. KU states that the purpose of its filing is to bring the company's wholesale rates to a level more nearly reflecting increases in costs which it has experienced in recent years. Notice of KU's filing was issued on May 30, 1973, providing for comments thereon to be filed on or before June 15, 1973.

In an order issued June 29, 1973, the Commission rejected KU's filing with respect to the eleven municipal customers on the basis that the contracts were in fact fixed-rate contracts without any provision for unilateral changes in the specified rates during the term under the contract. Therefore, we stated that under the *Mobile-Sierra* doctrine,[2] KU may not increase its established rates without concurrence of the customers.

On July 23, 1973, KU filed with the Commission a Motion For Rehearing of the Order of June 29, 1973, with respect to the rejection of the filing as to the eleven municipal customers. KU states that under a recent decision of the United States Court of Appeals for the District of Columbia Circuit issued May 25, 1973, in *Richmond Power and Light of the City of Richmond, Indiana* v. *FPC* (D.C.C.A. Nos. 72–1963, 72–2035) the contracts are to be interpreted in accordance with Kentucky state law. Since Kentucky law permits unilateral filings, KU asserts the Commission must vacate its order of June 29, 1973 which rejected KU's filing

[1] The Cities of Barbourville, Bardstown, Bardwill, Benham, Corbin, Falmouth, Frankfort, Madisonville, Nicholasville and Providence, and Berea College serving the City of Berea at retail.

[2] *United Gas Pipeline Company* v. *Mobile Gas Service Corporation*, 350 U.S. 332 (1956); *FPC* v. *Sierra Pacific Power Company*, 350 U.S. 348 (1956).





because the contracts in question here were "fixed-rate" contracts.

We disagree for several reasons. Firstly, the *Richmond* case involved a contract which was entered into when it was contemplated that the Federal Power Commission might attain jurisdiction over the agreement. The court in *Richmond* stated that Indiana law must apply in executing the agreement because the parties specifically stated that the energy charge would be "at the rate and under the provisions of Company's (I&M) Tariff I.P. as regularly filed with the Public Service Commission of Indiana * * *." There is no such language in the present agreement between KU and the municipal customers. Each agreement provides:

> Each month the Customer will pay to the Company at its office, within 10 days of rendition of bills, for all energy delivered to customer during the preceding month or bi-month determined in accordance with Rate Schedule, WPS–3R, which is made part of this contract. The minimum bill will be as provided in the rate schedule [3]

None of the municipal contracts refer to the rate on file with the Kentucky Commission. The parties specifically state that the rates are to be determined with reference to either Rate Schedules WPS–5 or WPS–3R. There is no indication of intent that the Kentucky law should apply and therefore the *Richmond* case is not controlling.

Likewise, *Anderson Power and Light of the City of Anderson, Indiana* v. *FPC* (——F.2d——CCADC No. 72–7035) is not controlling. In *Anderson*, the court made reference to contracts that were on file only with the state commission, whereas in this case the relevant contracts are on file with this Commission. Moreover, in *Anderson*, the court ruled that since the contract was entered into in 1957, the parties intended that Indiana law should apply and therefore an unilateral filing would not be allowed. The present contracts were entered into in 1963, 1965, 1969, or 1970 (see Appendix A). KU began filing on September 7, 1962, at the Commission's request. While the Commission's attempt to assert jurisdiction over the agreements was not finally affirmed until 1965, KU and the parties must have assumed the Commission might have jurisdiction since they filed the agreements with the Commission and with the Kentucky Commission. Therefore, *Anderson* is not controlling and the instant agreements are subject to the Commission's Rules and Regulations under the Federal Power Act.

A second reason for rejecting KU's contention that the present agreements are "going-rate" contracts is the conduct of KU itself. On August 1, 1965, KU made a unilateral filing with the Federal Power Commission and the Kentucky Commission substituting Rate Schedule WPS–5 for WPS–3R. The Federal Power Commission informed KU that its filing would not be accepted without customer approval. KU withdrew the filing and submitted a new one with customers' concurrence which was accepted on October 22, 1965. In 1969, KU proposed changes in its fuel adjustment clause. The Commission informed KU that it could not make such a change by a unilateral filing because of the "fixed-rate" contract. Again, KU acquired customers' approval and the filing was accepted. Both these filings by KU and its subsequent action in accordance with Commission's directives shows a clear intent on the part of KU to treat the agreements as fixed rate contracts.

We also note in its filing of May 1, 1973, KU has requested a Rate Adjustment Provision. This clause purports to give KU the authority to act in a manner which it argues, in its Application For Rehearing, that it already has. That is, the clause provides KU with the right to make unilateral filings. However, KU asserts that it also has this power under Kentucky law and due to the *Richmond* decision, the Federal Power Commission must follow Kentucky law. Assuming, *arguendo*, KU's position that the *Richmond* case is controlling, the request for such a clause would hardly be necessary.

A final argument by KU is that if the agreements are interpreted as "fixed-rate" contracts, they can be so interpreted only to the capacity specified in the existing contracts.

Although we continue to reject KU's filing as to the Municipal Customers under section 205, we shall institute an investigation under section 206 of the Federal Power Act to determine if the rates contained in the fixed rate contracts are in the public interest. With regard to deliveries in excess of the maximum contractual commitments of KU under these fixed rate contracts, we agree with KU and shall accept the new rates applied for herein as an initial filing with an effective date of August 1, 1973, the requested effective date, and institute an investigation under section 206 to determine whether such rates are in the public interest. The filing requirements of § 35.3(a) of the Regulations of the Federal Power Act will be hereinafter waived. The section 206 proceedings will be held in conjunction with the hearing previously ordered in this docket in the order of June 29, 1973. The dates for service of evidence in the section 206 investigation shall be the same as set forth in our order of June 29, 1973.

The Commission finds:

(1) KU's filing with respect to deliveries in excess of the maximum contractual commitment under the fixed rate contracts are treated as an initial filing and should be accepted effective August 1, 1973, and an investigation under Section 206 should be ordered to determine the justness and reasonableness of the rates charged therein.

(2) The filing requirements of § 35.3 (a) of the Regulations under the Federal Power Act are waived.

(3) With respect to the fixed rate contracts, an investigation under section 206 should be ordered to determine the justness and reasonableness of the rates under those contracts.

(4) KU's application for rehearing with respect to the Commission's rejection of KU's section 205 filing presents no new facts or principles which were not considered in our order of June 29, 1973, or which having been considered warrant any change or modification of that order.

The Commission orders:

(A) KU's filing with respect to deliveries in excess of the maximum contractual commitment under the fixed rate contracts are treated as an initial filing and are accepted effective August 1, 1973, and an investigation under section 206 is ordered to determine the justness and reasonableness of the rates charged therein to be held in conjunction with the hearings and according to the procedures established in our June 29, 1973 order in this docket.

(B) With respect to the fixed rate contracts, an investigation under section 206 is ordered to determine the justness and reasonableness of the rates under those contracts to be held in conjunction with the hearings and according to the procedures established in our June 29, 1973, order in this docket.

(C) KU's application for rehearing of the Commission's order of June 29, 1973, is hereby denied with respect to its section 205 filing, and is granted with respect to deliveries in excess of the maximum contractual commitment.

By the Commission.

[SEAL] MARY B. KIDD,
*Acting Secretary.*

APPENDIX A

| Customer | Date of contract | Designated rate schedule |
|---|---|---|
| Frankfort Electric & Water Plant Board | Aug. 21, 1963 | WPS–5 |
| Barbourville | Jan. 1, 1965 | WPS–5 |
| Bardstown | Aug. 30, 1963 | WPS–5 |
| Bardwell | July 2, 1963 | WPS–5 |
| Benham | Aug. 12, 1963 | WPS–5 |
| Berea College | July 18, 1963 | WPS–5 |
| Corbin | Sept. 3, 1965 | WPS–3R |
| Falmouth | Sept. 14, 1970 | WPS–3R |
| Madisonville | Mar. 10, 1969 | WPS–3R |
| Nicholasville | Aug. 6, 1963 | WPS–5 |
| Providence | Aug. 30, 1963 | WPS–3R |

[3] The contracts of some of the Customers entered into prior to September 1965 make reference to rate schedule WPS–5 rather than WPS–3R. These contracts were amended by agreement of both parties to the contracts in September 1965, to substitute rate WPS–3R for WPS–5 in those contracts. These contracts are on file with the Federal Power Commission.

[FR Doc.73-18604 Filed 8-31-73;8:45 am]

[Docket No. RP74-9]

## NORTHERN NATURAL GAS CO.

### Notice of Request for Approval of Tracking Procedure

AUGUST 22, 1973.

Take notice that on August 6, 1973, Northern Natural Gas Company (Northern) tendered for filing a request for approval of procedure to track the rate effect of certain costs associated with expenditures for the testing and development of the Dallas Center Storage Project. Northern states that the initial development of this Project is scheduled during the years 1972–1977 and is esti-



V 38 170
SEP 4 73
XUM

mated to require an investment of $34.2 million, with an eventual total investment of $44.5 million. The company bases its request for tracking authority on its belief that it is necessary and highly desirable to reduce the future cost burden through the current recovery of the financing costs associated with the project. Specifically, Northern requests authority to track testing and development costs in its rates, effective December 27, 1973. The company avers that the procedure for tracking, as proposed, is identical in all significant respects with that set forth in Section VI of the Stipulation and Agreement, as amended, now pending before the Commission in Docket Nos. RP71–107 (Phase II) and RP72–127.

Northern states that copies of this filing have been mailed to each of its gas utility customers and interested State Commissions.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 30, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

MARY B. KIDD,
*Acting Secretary.*

[FR Doc.73–18595 Filed 8–31–73;8:45 am]

[Docket Nos. AR61–1, etc., and Docket No. RP67–20]

## NORTHERN NATURAL GAS CO.

### Notice of Filing of Proposed Stipulation and Agreement

AUGUST 22, 1973.

Pursuant to § 1.36(a) of the Commission's rules of practice and procedure, notice is hereby given that on August 10, 1973, Northern Natural Gas Company (Northern) filed a proposed Stipulation and Agreement in settlement of a controversy regarding the proper disposition of refunds and interest received by Northern from numerous independent producers in the captioned matter.

Under date of June 19, 1969, Northern tendered for filing with the Commission and served upon each of its jurisdictional customers and interested state regulatory commissions a report of Northern's intended disposition of refunds and interest received by Northern from independent producers in FPC Docket Nos. AR61–1, *et al.*, which was the Permian Basin Area Rate proceeding. Said report was filed by Northern in compliance with Ordering Paragraph (K) of the Order Implementing Opinion Nos. 468 and 468–A, which Order was issued August 9, 1968, in AR61–1, *et al.* Northern asserted that its proposed disposition of the subject refunds was in accord with the relevant provisions set forth in the documents comprising Northern's settlement agreements in the rate cases at FPC Docket Nos. G–12153, *et al.*, G–19040 and RP67–20, which settlement agreements were approved by Commission orders issued November 27, 1963, December 27, 1961, and July 19, 1967, respectively.

On April 13, 1973, the Commission issued herein its "Notice of Filing of Proposed Refund Plan", and gave interested persons until May 3, 1973, to file comments or protests regarding Northern's intended disposition of refunds.

Under date of April 30, 1973, the Northern Distributor Group filed its "Protest" to Northern's proposed disposition of a portion of the subject refunds. In this Protest the Group recognized that under the terms of the settlement agreement in Northern's FPC Docket No. RP67–20 refunds received by Northern as a result of Commission orders reducing producer rates in proceedings under section 5(a) of the Natural Gas Act may be retained by Northern if such refunds do not reduce Northern's actual average cost of gas purchased for the periods involved below a certain base cost of gas. The Protest, however, went on to state that a portion of the refunds proposed to be retained by Northern may not have been the result of a producer rate proceeding under section 5(a) of the Natural Gas Act but might instead have been "§ 4(e) refunds which must be flowed-through to jurisdictional customers."

Thereafter, under date of June 12, 1973, Northern filed its "Response" to the Protest of the Northern Distributor Group, reasserting the correctness of its proposed distribution and advancing arguments in support thereof.

The proposed Stipulation would effect a final settlement of the controversy under which Northern would distribute to its jurisdictional customers the jurisdictional portion of $939,947 of the $2,029,000 in controversy, with Northern retaining the balance of $1,090,000.

The proposed Stipulation and Agreement is on file with the Commission and is available for public inspection. Comments with respect to the proposed Stipulation and Agreement may be filed with the Commission on or before August 29, 1973.

MARY B. KIDD,
*Acting Secretary.*

[FR Doc.73–18644 Filed 8–31–73;8:45 am]

[Docket No. E–8363]

## NORTHERN STATES POWER CO.

### Notice of Application

AUGUST 23, 1973.

Take notice that on August 17, 1973, Northern States Power Company (Applicant) filed an application seeking an order pursuant to section 204 of the Federal Power Act authorizing the issuance of 2,092,451 additional shares of its Common Stock, par value $5 per share.

Applicant is incorporated under the laws of the State of Minnesota, with its principal business office at Minneapolis, Minnesota, and is engaged in the electric utility business in central and southern Minnesota, southeastern South Dakota, and in the Fargo-Grand Forks and Minot areas of North Dakota.

The Common Stock is to be issued during October and November 1973. Applicant proposes to issue and sell the Additional Common Stock by (a) offering said shares to the holders of its Common Stock on the basis of one share for each 10 shares of Common Stock held of record on a date and at a price per share to be determined by the Applicant (b) offering, at the subscription price to employees and retired employees of Applicant and its subsidiaries such of the Additional Common Stock as shall not be subscribed for by the holders of subscription warrants and (c) selling at the subscription price, at competitive bidding, such of the above shares of Common Stock as are not subscribed by the holders of the subscription warrants or by employees and retired employees.

The proceeds from the sale of the Common Stock will be added to the general funds of the Company and will be used to pay part of the outstanding short-term borrowings of the Company incurred in connection with its construction program.

Expenditures during 1973 for the construction program of Applicant are estimated at $216 million, of which $203 million is for electric facilities, $6 million for gas facilities, and $7 million for heating, telephone, and general facilities.

Any person desiring to be heard or to make any protest with reference to said application should, on or before September 7, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file and is available for public inspection.

MARY B. KIDD,
*Acting Secretary.*

[FR Doc.73–18600 Filed 8–31–73;8:45 am]

[Docket No. E–8356]

## NORTHERN STATES POWER CO.

### Notice of Emergency-Type Service Agreement

AUGUST 22, 1973.

Take notice that on August 13, 1973, Northern States Power Company (Company) tendered for filing an Emergency-Type Service Agreement dated August 2, 1973, between the Company and East River Electric Power Cooperative, Inc. (East River).

The Company states that the Agreement terminates existing Emergency-Type Service Agreements designated as Rate Schedules FPC Nos. 285, 286, and 287 respectively.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 10, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

MARY B. KIDD,
*Acting Secretary.*

[FR Doc.73–18601 Filed 8–31–73;8:45 am]

[Docket No. CP73–331]

## NORTHWEST PIPELINE CORP.

### Notice of Amendment to Application

AUGUST 22, 1973.

Take notice that on August 14, 1973, Northwest Pipeline Corporation (Applicant), P.O. Box 25249, Houston, Texas 77027, filed in Docket No. CP73–331 an amendment to its application filed June 15, 1973, in said docket pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition and operation of certain properties and gas pipeline and appurtenant facilities presently owned and operated by El Paso Natural Gas Company (El Paso), all as more fully set forth in the application, as amended, which is on file with the Commission and open to public inspection.

In the original application in this docket, Applicant requests authorization to acquire and operate all of the facilities and properties required in the operation of the Northwest Division of El Paso pursuant to the mandate of the United States Supreme Court ordering divestiture by El Paso, as implemented by the Orders and Opinion of the United States District Court for the District of Colorado entered on June 16, 1972, in *United States* v. *El Paso Natural Gas Co., et al.*, Civil Action No. C–2626, aff'd *sub nom. California-Pacific Utilities Co., et al.* v. *United States*, ____U.S.____ (1973). The estimated book value of the properties and facilities to be acquired as of December 31, 1972, was $303,157,000 which Applicant proposes to finance through the issuance of bonds and debentures to El Paso's bondholders for a *pro rata* share of El Paso's debt securities and the issuance of Applicant's common stock to El Paso, of which 20 percent would be sold to the APCO Group for a negotiated price and the remainder would be placed in a five-year voting trust for El Paso's shareholders.

Applicant has filed in the instant amendment the documents setting forth the terms and conditions of the proposed acquisition and operation. Included therein is a basic agreement dated August 7, 1973, providing for the transfer of assets proposed to be acquired, the plan for reimbursement to El Paso therefor, the acquisition by the APCO Group of 20 percent of Applicant's common stock and other related matters. Also included in the instant amendment is a plan for interim operation of the Northwest Division pending final acquisition, and agreement providing for the substitution of certain gathering facilities in the San Juan Basin proposed to be acquired, and an agreement providing for the mutual gathering of gas in the San Juan Basin. Applicant states that it will receive an additional $18 million in cash which will provide interim financing for the first year of operation. Applicant further states that the proposed substitution of facilities in the San Juan Basin will reduce the gathering charges Applicant expects to pay El Paso.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before September 17, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Persons who heretofore filed protests and petitions to intervene need not file again.

MARY B. KIDD,
*Acting Secretary.*

[FR Doc.73–18608 Filed 8–31–73;8:45 am]

[Docket No. RP74–1]

## NORTHWESTERN PUBLIC SERVICE CO. AND KANSAS-NEBRASKA NATURAL GAS CO.

### Notice of Filing of Complaint

AUGUST 22, 1973.

Take notice that on July 6, 1973, Northwestern Public Service Company (Northwestern) filed a complaint, pursuant to section 5(a) of the Natural Gas Act, against Kansas-Nebraska Natural Gas Company, Incorporated (Kansas-Nebraska). The complaint alleges that Northwestern requested of Kansas-Nebraska an increase in its contract demand for gas under Kansas-Nebraska's CD–2 rate schedule, but was refused, despite the fact that Kansas-Nebraska was at the time of the request seeking a certificate under section 7 of the Natural Gas Act to provide its jurisdictional customers additional firm natural gas service during the winter period. Northwestern further states that it is informed and believes that Kansas-Nebraska has not banned all increases in natural gas to nonjurisdictional customers. Northwestern states that these practices are unjust, unreasonable, and unduly discriminatory, and requests that a hearing be held under section 5(a) of the Natural Gas Act.

Any person desiring to be heard concerning said complaint should file a petition to intervene or comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or comments should be filed on or before September 4, 1973. Comments will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make parties submitting comments parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this complaint are on file with the Commission and are available for public inspection.

MARY B. KIDD,
*Acting Secretary.*

[FR Doc.73–18603 Filed 8–31–73;8:45 am]

[Docket No. CP72–245]

## OKLAHOMA NATURAL GAS CO.

### Notice of Petition To Amend

AUGUST 28, 1973.

Take notice that on July 26, 1973, Oklahoma Natural Gas Company (Petitioner), 624 South Boston Avenue, Tulsa, Oklahoma 74119, filed in Docket No. CP72–245, a petition to amend the order issued in said docket pursuant to section 7(c) of the Natural Gas Act so as to authorize the continued sale for resale and delivery of natural gas in interstate commerce to Panhandle Eastern Pipe Line Company (Panhandle) from acreage in Kingfisher County, Oklahoma, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner was authorized by the order issued June 19, 1972, in said docket (47 FPC 1550) to sell on a "when available" basis up to 40,000 Mcf of gas per day at 35.0 cents per Mcf at 14.65 p.s.i.a. for one year ending June 19, 1973, pursuant to § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Petitioner now proposes to sell up to 30,000 Mcf of gas to Panhandle for one year at 45.0 cents per million Btu at 14.65 p.s.i.a., within the contemplation of § 2.70.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desir-







V 38 170 SEP 4 73 XUM

ing to be heard or to make any protest with reference to said petition to amend should on or before September 7, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

MARY B. KIDD,
*Acting Secretary.*

[FR Doc 73-18596 Filed 8-31-73;8:45 am]

[Docket No. CI73-869]

## PHILLIPS PETROLEUM CO.

### Notice Deferring Procedural Dates

AUGUST 22, 1973.

On August 21, 1973, Phillips Petroleum Company requested a postponement of the procedural dates set by order issued July 31, 1973, pending disposition of its petition to amend in the above-designated matter.

Upon consideration, notice is hereby given that the procedural dates in the above matter are deferred pending further order of the Commission.

MARY B. KIDD,
*Acting Secretary.*

[FR Doc 73-18609 Filed 8-31-73;8:45 am]

[Docket No. CI73-869]

## PHILLIPS PETROLEUM CO.

### Notice of Amendment to Application

AUGUST 22, 1973.

Take notice that on August 13, 1973, Phillips Petroleum Company (Applicant), Bartlesville, Oklahoma 74004, filed in Docket No. CI73-869 an amendment to the application filed June 8, 1973, in said docket pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to El Paso Natural Gas Company from the Permian Basin Area, Eddy County, New Mexico, all as more fully set forth in the application, as amended, which is on file with the Commission and open to public inspection.

In the original application Applicant proposes, among other things, to sell approximately 46,000 Mcf of gas per month at an initial rate of 52.0 cents per Mcf, subject to upward and downward Btu adjustment. Applicant now proposes to sell gas at 45.0 cents per Mcf, plus Btu adjustment, in order to avoid the necessity of a formal hearing before the Commission and to expedite the sale of such a small volume of gas.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before September 17, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Persons who have heretofore filed protests or petitions to intervene need not file again.

MARY B. KIDD,
*Acting Secretary.*

[FR Doc.73-18610 Filed 8-31-73;8:45 am]

[Docket No. E-8285]

## SOUTHERN INDIANA GAS AND ELECTRIC CO.

### Notice of Service Agreement

AUGUST 22, 1973.

Take notice that Southern Indiana Gas and Electric Company (SIGECO) tendered for filing in August 16, 1973, a letter agreement between SIGECO and Alcoa Generating Corporation (Alcoa), providing for SIGECO to make 40 MW of firm power available to Alcoa.

SIGECO states that under the agreement Alcoa shall pay a demand charge to SIGECO each month during the term of the agreement whether or not Alcoa takes the total amount of energy available for that month. In addition to the demand charge, SIGECO claims that the agreement proyides for an energy charge to also be assessed Alcoa; such charge to be computed at the operating Cost Rate for that month plus 10 percent multiplied by the KWH received by Alcoa.

SIGECO requests waiver of the notice requirements of § 35.13 of the Commission's regulations so that the agreement may become effective as of April 30, 1973.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 8, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

MARY B. KIDD,
*Acting Secretary.*

[FR Doc.73-18602 Filed 8-31-73;8:45 am]

[Docket No. CP74-43]

## TRANSCONTINENTAL GAS PIPE LINE CORP.

### Notice of Application

AUGUST 21, 1973.

Take notice that on August 14, 1973, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP74-43 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the operation, on a temporary basis, of its existing gas delivery points to Philadelphia Gas Works (PGW) as additional delivery points to Consolidated Edison Company of New York, Inc. (Con Ed), all as more fully set forth in the application which is on file with the Commission and open to the public inspection.

Pursuant to a request by Con Ed and PGW, Applicant proposes to deliver to PGW, for the account of Con Ed, before December 31, 1973, up to 500,000 Mcf of gas from Con Ed's CD-3 entitlement in volumes of up to 10,000 Mcf of gas per day. Applicant states that the proposed delivery points are upstream of the authorized delivery points to Con Ed and the temporary diversion of deliveries will have no appreciable effect on Applicant's system gas flow characteristics.

The purpose of the proposed diversion of deliveries is to assist in effectuating a short-term exchange of gas arrangement between Con Ed and Lowell Gas Company (Lowell) as the volumes of gas involved herein will be taken by PGW for Lowell's account.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 14, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on





this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

MARY B. KIDD,
*Acting Secretary.*

[FR Doc.73-18645 Filed 8-31-73;8:45 am]

# FEDERAL RESERVE SYSTEM

## COMMONWEALTH NATIONAL CORP.

### Acquisition of Bank

Commonwealth National Corporation, Boston, Massachusetts, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire up to 100 percent of the voting shares of Town Bank and Trust Company, Brookline, Massachusetts. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Commonwealth National Corporation is also engaged in the following nonbank activities: Financing the purchase of machinery and other property and making construction loans and short-term interim mortgages. In addition to the factors considered under section 3 of the Act (banking factors), the Board will consider the proposal in the light of the company's nonbanking activities and the provisions and prohibitions in section 4 of the Act (12 U.S.C. 1843).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 20, 1973.

Board of Governors of the Federal Reserve System, August 24, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-18586 Filed 8-31-73;8:45 am]

## FIRST BANCSHARES OF FLORIDA, INC.

### Acquisition of Bank

First Bancshares of Florida, Inc., Boca Raton, Florida, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 90 percent or more of the voting shares of (1) Southport American National Bank of Fort Lauderdale, Fort Lauderdale, Florida; (2) American National Bank and Trust Company of Fort Lauderdale, Fort Lauderdale, Florida; and (3) Sunrise American National Bank of Fort Lauderdale, Fort Lauderdale, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 20, 1973.

Board of Governors of the Federal Reserve System, August 24, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-18584 Filed 8-31-73;8:45 am]

## FIRST VIRGINIA BANKSHARES

### Acquisition of Bank

First Virginia Bankshares Corporation, Falls Church, Virginia, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of First Bank and Trust Company, Brookneal, Virginia, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than September 20, 1973.

Board of Governors of the Federal Reserve System, August 24, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-18585 Filed 8-31-73;8:45 am]

## PEOPLES BANK OF STARK COUNTY, CANTON, OHIO

### Order Approving Merger Under Bank Merger Act

Peoples Bank of Stark County, Canton, Ohio (Applicant), a proposed State member bank of the Federal Reserve System, has applied pursuant to the Bank Merger Act (12 U.S.C. 1828(c)) for the Board's prior approval to merge with The Peoples-Merchants Trust Company, Canton, Ohio, under the charter of Applicant with the name of The Peoples-Merchants Trust Company and to operate branches at the locations at which The Peoples-Merchants Trust Company presently operates branch offices.

As required by the Act, notice of the proposed merger, in form approved by the Board, has been published and reports on competitive factors have been requested from the Attorney General, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation. All relevant material contained in the record has been considered in the light of the factors set forth in the Act.

On the basis of the record, the application is approved for the reasons summarized in the Order of the Federal Reserve Bank of Cleveland of this date relating to the application of Union Bancshares Company, Steubenville, Ohio, to acquire 100 percent of the voting shares, less directors' qualifying shares, of the successor by merger to The Peoples-Merchants Trust Company, Canton, Ohio.

The transaction shall not be consummated (a) before the thirtieth calendar day following the date of this Order or (b) later than three months after the date of this Order, and (c) the Peoples Bank of Stark County, Canton, Ohio, shall be opened for business not later than three months after the effective date of this Order. Each of the periods described in (b) and (c) may be extended for good cause by the Board, or by the Federal Reserve Bank of Cleveland pursuant to delegated authority.

By order of the Federal Reserve Bank of Cleveland, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, effective August 16, 1973.

WILLIS J. WINN,
*President.*

[FR Doc.73 18590 Filed 8-31-73;8:45 am]

## UNION BANCSHARES CO., STEUBENVILLE, OHIO

### Order Approving Acquisition of The Peoples-Merchants Trust Co., Canton, Ohio

Union Bancshares Company, Steubenville, Ohio (Applicant), a bank holding company within the meaning of the Bank Holding Company Act, has applied for approval of the Board of Governors of the Federal Reserve System under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire up to 100 percent, less directors' qualifying shares, of the voting shares of The Peoples-Merchants Trust Company, Canton, Ohio (Bank).

The bank into which Bank will be merged has no significance except as a means of acquiring the voting shares of Bank. Accordingly, the proposed acquisition of the successor organization is treated as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with Section 3(b) of the Act. The time for filing comments and views has expired, and none have been received.

Applicant controls one bank, The Union Savings Bank and Trust Company, Steubenville, Ohio (Union Bank), which had total deposits of $28 million as of December 31, 1972. It has no nonbanking affiliates. Union Bank is the fourth largest bank in the Steubenville, Ohio, Weirton, West Virginia banking market and held 9.2 percent of the deposits in the market at year end. Bank with $113.2 million in deposits as of December 31,



V 38 170 SEP 4 73 XUM

1972, is the third largest bank in the Canton banking market with 15 percent of the deposits. The resulting banking organization would be the 29th largest in the State and would hold 0.55 percent of the total deposits held by all banks in Ohio. Accordingly, acquisition of Bank would not add significantly to the concentration of banking resources in Ohio.

The nearest offices of Bank and Union Bank are 60 miles apart. One county, containing three banks operating five offices, separate the offices of the two banks. In view of this, and since State law, in general, prohibits banks from branching outside of the county in which their main office is located, neither bank has any significant amount of business in the banking market served by the other and the probability that either of the banks could develop any significant volume of business in the market of the other in the future is unlikely. Accordingly, there would be no adverse effect upon competition.

Acquisition of Bank by Applicant would permit Union Bank to make considerably larger loans through participations with Bank; the sophisticated EDP system operated by Bank would be available to Union Bank and its customers; and the administration of trust accounts at Union Bank would have the benefit of the experience and investment capability available through the staff of Bank. Accordingly, the considerations of convenience and needs lend some weight to approval of the application.

In general, the financial and managerial resources of Applicant, Union Bank, and Bank are regarded as satisfactory. The assistance that would be given Union Bank in the administration of fiduciary accounts gives some weight for approval of the acquisition.

On the basis of the record as summarized above, the Federal Reserve Bank of Cleveland approves the application, provided that the transaction shall not be consummated (a) before the thirtieth calendar day following the date of this Order or (b) later than three months after the date of this Order, unless such period is extended for good cause by the Board or by this bank pursuant to delegated authority.

By order of the Federal Reserve Bank of Cleveland, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, effective August 16, 1973.

WILLIS J. WINN,
*President.*

[FR Doc.73-18588 Filed 8-31-73;8:45 am]

### UNITED MISSOURI BANCSHARES, INC.

#### Acquisition of Bank

United Missouri Bancshares, Inc., Kansas City, Missouri, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent (less directors' qualifying shares) of the voting shares of United Missouri Bank of Blue Springs, National Association, Blue Springs, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than September 20, 1973.

Board of Governors of the Federal Reserve System, August 24, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-18587 Filed 8-31-73;8:45 am]

## GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regulations; Temporary Regulation D-42]

### SECRETARY OF AGRICULTURE

#### Delegation of Authority

1. *Purpose.*—This regulation delegates authority to the Secretary of Agriculture to appoint uniformed guards of the Department of Agriculture as special policemen for duty in connection with the policing of Plum Island, New York, an area under the administration of the Department of Agriculture.

2. *Effective date.*—This regulation is effective immediately.

3. *Delegation.*—a. Pursuant to the authority vested in me by the Federal Property Administrative Services Act of 1949 (63 Stat. 377), as amended, and the Act of June 1, 1948 (62 Stat. 281), as amended, authority is hereby delegated to the Secretary of Agriculture to appoint uniformed guards as special policemen, to make all needful rules and regulations, and to annex to such rules and regulations such reasonable penalties (not to exceed those prescribed in 40 U.S.C. 318c) as will ensure their enforcement for the protection of persons and property at Plum Island, New York, over which the United States has exclusive jurisdiction.

b. The Secretary of Agriculture may redelegate this authority to any officer or employee of the Department of Agriculture.

c. This authority shall be exercised in accordance with the limitations and requirements of the above cited acts, and the policies, procedures, and controls prescribed by the General Services Administration.

ARTHUR F. SAMPSON,
*Administrator of General Services.*

AUGUST 24, 1973.

[FR Doc.73-18615 Filed 8-31-73;8:45 am]

[Federal Property Management Regulations; Temporary Regulation D-41]

### SECRETARY OF THE INTERIOR

#### Delegation of Authority

1. *Purpose.*—This regulation delegates authority to the Secretary of the Interior to appoint uniformed guards of the Department of the Interior as special policemen to serve at Hoover Dam on the Colorado River near Boulder City, Nevada, under the administration of the Department of the Interior, to assist in visitor control and protection of Government property.

2. *Effective date.*—This regulation is effective immediately.

3. *Delegation.*—a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949 (63 Stat. 377), as amended, and the Act of June 1, 1948 (62 Stat. 281), as amended, authority is hereby delegated to the Secretary of the Interior to appoint uniformed guards as special policemen to make all needful rules and regulations, and to annex to such rules and regulations such reasonable penalties (not to exceed those prescribed in 40 U.S.C. 318c) as will ensure their enforcement for the protection of persons and property at the Hoover Dam facility on the Colorado River near Boulder City, Nevada, over which the United States has concurrent jurisdiction.

b. The Secretary of the Interior may redelegate this authority to any officer or employee of the Department of the Interior.

c. This authority shall be exercised in accordance with the limitations and requirements of the above cited acts, and the policies, procedures, and controls prescribed by the General Services Administration.

ARTHUR F. SAMPSON,
*Administrator of General Services.*

AUGUST 24, 1973.

[FR Doc.73-18616 Filed 8-31-73;8:45 am]

## NATIONAL ENDOWMENT FOR THE HUMANITIES

### SCIENTIFIC KNOWLEDGE AND HUMAN VALUES PANEL

#### Notice of Meeting

AUGUST 29, 1973.

The following is a correction to a notice published in the FEDERAL REGISTER on August 23, 1973. Pursuant to Public Law 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Scientific Knowledge and Human Values Panel will meet from 9:45 a.m. to 1:45 p.m. on September 19, 1973, in room 1120, 806 15th Street NW., Washington, D.C.

The agenda is as follows:

Preliminary reports
Election of co-Chairman
Program Scope
Program Priorities
Collaborative roles of National Endowment for the Humanities and the National Science Foundation.

The meeting will be open to the public. It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-382-2031.

JOHN W. JORDAN,
*Advisory Committee Management Officer.*

[FR Doc.73-18620 Filed 8-31-73;8:45 am]

### RESEARCH GRANTS PANEL

#### Notice of Meeting

AUGUST 1, 1973.

Pursuant to Public Law 92-463, The Federal Advisory Committee Act, notice is hereby given that a meeting of the Research Grants Panel will take place in Washington, D.C., on September 13-14, 1973.

The purpose of this meeting is to review research grant proposals that have been submitted to the Endowment for possible grant funding.

Based on section b(4) and (6) of 5 U.S.C. 552, the meeting will not be open to public participation. It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street NW., Washington, D.C. 20506, or call Area Code—202-382-2031.

JOHN W. JORDAN,
*Advisory Committee Management Officer.*

[FR Doc.73-18621 Filed 8-31-73;8:45 am]

## VETERANS ADMINISTRATION

### CAREER DEVELOPMENT SELECTION COMMITTEE

#### Notice of Meeting

The Veterans Administration gives notice pursuant to P.L. 92-463 that a meeting of the Career Development Selection Committee, authorized by 38 USC 4101, will be held at the Veterans Administration Central Office, Washington, D.C., on October 25, 1973, at 8:30 a.m. The meeting will be for the purpose of scientific review of applications for appointment to the Career Development Program in the Veterans Administration hospital system. The Committee advises the Assistant Chief Medical Director for Research and Education in Medicine on selection and appointment of Research and Education Associates, Clinical Investigators, Medical Investigators and Senior Medical Investigators. The Committee also makes a recommendation as to the recipient of the William S. Middleton Award.

The meeting will be open to the public up to the seating capacity of the room from 8:30 a.m. to 9 a.m. to discuss the general status of the program. Because of the limited seating capacity of the room, those who plan to attend should contact Dr. Chester W. DeLong, Executive Secretary of the Committee, VA Central Office, Washington, D.C. (202-389-5065) prior to October 23.

The meeting will be closed from 9 a.m. to 5 p.m. for consideration of individual applications. Minutes of the meeting and rosters of the committee members may be obtained from Mrs. Darlene R. Whorley, Chief, Career Development Section, Research Service, Veterans Administration, Washington, D.C. (phone 202-389-5065).

Dated August 28, 1973.

[SEAL] RUFUS H. WILSON,
*Associate Deputy Administrator.*

By direction of the Administrator.

[FR Doc.73-18592 Filed 8-31-73;8:45 am]

## INTERSTATE COMMERCE COMMISSION

[Notice No. 333]

### ASSIGNMENT OF HEARINGS

AUGUST 29, 1973.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after September 4, 1973.

I&S No. 8844, Pulpwood & Woodchips, Within SGA Territory, continued to September 17, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 82841 Sub 104, Hunt Transportation, Inc., now assigned September 10, 1973, at Kansas City, Mo., is cancelled and the application is dismissed.

MC 133316 Sub 7, Frank R. Givigliano dba Givigliano Transport, now assigned September 10, 1973, at Denver, Colo., is postponed indefinitely.

MC-2835 Sub 38, Adirondack Transit Lines, Inc., now assigned October 15, 1973, at Albany, N.Y., is postponed indefinitely.

MC 118722 Subs 2 and 3, Frigid Express, Inc., now being assigned hearing October 15, 1973 (3 days), at New York, N.Y., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-18661 Filed 8-31-73;8:45 am]

[Car Distribution Direction No. 93; Amdt No. 3]

### ATLANTA AND WEST POINT RAILROAD CO., ET AL.

In the matter of Atlanta and West Point Railroad Company, Carolina, Clinchfield and Ohio Railway, Georgia Railroad and Banking Company, Louisville and Nashville Railroad Company, Seaboard Coast Line Railroad Company, the Western Railway of Alabama.

Upon further consideration of Car Distribution Direction No. 93 and good cause appearing therefor:

*It is ordered,* That:

Car Distribution Direction No. 93 be, and it is hereby, amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) *Expiration date.*—This direction shall expire at 11:59 p.m., September 30, 1973, unless otherwise modified, changed, or suspended.

*It is further ordered,* That this amendment shall become effective at 11:59 p.m., August 31, 1973, and that this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., August 24, 1973.

[SEAL] INTERSTATE COMMERCE COMMISSION,
R. D. PFAHLER,
*Agent.*

[FR Doc.73-18662 Filed 8-31-73;8:45 am]

### FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

| *Pages* | *Date* |
|---|---|
| 23765-23922 | Sept. 4 |







V 38 170 SEP 4 73 XUM

federal register

TUESDAY, SEPTEMBER 4, 1973
WASHINGTON, D.C.

Volume 38 ▪ Number 170

PART II

# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## Office of Interstate Land Sales Registration

▪

Land Registration, Formal Procedures, and Advertising Sales Practices, and Posting of Notices of Suspension

No. 170—Pt. II——1

V 38 - 170
SEP 4 73
XUM

Title 24—Housing and Urban Development

CHAPTER IX—OFFICE OF INTERSTATE LAND SALES REGISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-73-229]

## LAND REGISTRATION, FORMAL PROCEDURES, AND ADVERTISING SALES PRACTICES, AND POSTING OF NOTICES OF SUSPENSION

On May 4, 1973, the Department of Housing and Urban Development published for public comment a proposed revision of Chapter IX of Title 24. Within this chapter, amendments to Parts 1700, 1710, and 1720 were proposed, and a Part 1730, Advertising, Sales Practices, Posting of Notices of Suspension, was proposed to be added to this chapter. Public comments were received and on June 28, 1973, an informal public hearing was held in accordance with a notice published in the FEDERAL REGISTER on June 6, 1973. This notice also announced the extension of the June 15, 1973 deadline for receipt of written comments to June 28, 1973.

Careful consideration has been given to all comments and certain suggestions have been adopted in whole or in part, as reflected in this Chapter IX. These are described in detail in the following paragraphs.

PART 1700—INTRODUCTION

Section 1700.100, Separability of Provisions, is added to make it clear that if any provision in the regulations should be declared invalid by any court of competent jurisdiction, the remaining regulations would not be affected.

PART 1710—LAND REGISTRATION

In § 1710.1, a definition of "lot" is added and the definition of "sale" is amended. The definition of lot, § 1710.1(h), demonstrates the nature of the interest which is subject to the coverage of the Interstate Land Sales Full Disclosure Act (Act).

Considerable comment was received with respect to the proposed definition of lot. Essentially, comments complained that OILSR is seeking to regulate everything from securities to country club memberships. Since in this range of coverage condominiums were mentioned most frequently, OILSR policy on condominium coverage is set forth herein.

The application of the Act to condominiums has been consistent OILSR policy since the issue was first raised in 1969. The bases for this position are that condominiums carry the indicia of and in fact are real estate, whether or not the units therein have been constructed. A condominium is accordingly viewed by OILSR as equivalent to a subdivision, each unit being a lot. Adverse comment, particularly from builders, asserts that condominiums are equivalent to houses and the sale of houses was not intended to be covered by the Act. However, the right to condominium space is a form of ownership, not a structural description. This condominium concept is employed as an ownership form for completely horizontal developments and even for campgrounds. Congress recognized the need to exempt professional builders from the Act and provided an appropriate exemption (15 U.S.C. 1702(3)). For a condominium unit sale to be exempted from the Act, it must accordingly qualify for exemption; i.e., either it must be completed before it is sold, or it must be sold under a contract obligating the seller to erect the unit within two years from the date the purchaser signs the contract of sale. For the purposes of the exemption cited, "building" comprises the dwelling unit and all utilities or systems necessary to support normal occupancy. Additionally, if a condominium dwelling unit is merely incidental to the common facilities (as in the case of recreational developments), all common facilities must be completed within the two-year period to qualify for the exemption since frequently vacation sites are sold without assurances that such facilities will be completed. With respect to condominiums intended as primary residences in metropolitan areas, registration typically is unnecessary since most professional builders would qualify for the exemption inasmuch as they are able to deliver a completed unit to a purchaser within two years after the contract of sale has been signed.

Further, the legislative history of the Act has been cited as not authorizing coverage of condominiums. However, there is negligible legislative history on the present Act and that legislative history with respect to predecessor bills is unclear on this subject. It is OILSR's position that the amended definition of lot merely codifies OILSR's longstanding position on condominiums and is a valid exercise of the Secretary's regulatory authority under the Act to implement the provisions thereof.

Some comments objected to the inclusion of "undivided interest" in the definition of lots as exceeding the statutory authority of the Secretary, inasmuch as the statute is aimed at divisions of land. Accordingly, the proposed definition of lot has been changed to show that although legitimate undivided interests are not covered by the Act, any plans or schemes which in fact are tantamount to a sale or lease of a divided interest although purporting to be a sale or lease of an undivided interest, are covered. This too codifies longstanding OILSR policy.

Also, the language regarding the square yard exception in this proposed definition has been deleted in its final form as being unwarranted in view of § 1710.13(a).

The definition of sale, § 1710.1(n), encompasses any obligation binding a purchaser to directly or indirectly acquire a lot. Such obligations may include options and reservations. The words "or arrangement" are added in response to commentators who advised that the proposed language was not broad enough to satisfy the objectives sought by the proposal.

In § 1710.5, General Applicability, the word "land" is changed to "lots." This is a technical change made to conform with the new definition of lots.

Section 1710.13(a) is amended to delete the 10,000 square feet minimum necessary to qualify for this exemption. This change is to exclude souvenir- or postage-stamp-type operations from the registration requirements. These are more appropriately the subject of Postal Service and Federal Trade Commission jurisdiction.

Section 1710.13(c), which was proposed to be added, is withdrawn pending further consideration.

Section 1710.21 is amended to delete certain words which were published as a result of a printer's error.

Section 1710.22 is amended to provide a procedure whereby replatting of already subdivided land may be included in a filing. The fee for such filing is based on the additional lots to be offered as a result of the replatting.

Section 1710.27(a) is amended to require material that has been filed with an acceptable state to be filed with the Secretary within 15 rather than 10 days after it becomes effective under the applicable state law. This extension is based on the experience of both OILSR and the industry regarding delays in mail service. This section is also amended by the addition of a paragraph (a)(5), which requires that acceptable state consolidations amendments must be accompanied by state certifications when submitted to the Secretary.

Section 1710.35 is changed by adding a paragraph (h), which requires a $100 fee for the second and any subsequent pre-effective amendments unless waived by the Secretary.

Section 1710.45(a)(3) is amended to permit a developer 15 days after receipt of a suspension notice within which to request a hearing, instead of the present 10 days. Also, a new paragraph § 1710.45(a)(4), is added to make clear that suspension notices are effective until all deficiencies cited in the notices are corrected. This paragraph has been changed from the form of the proposal for the purpose of clarity.

Section 1710.102 is amended to require inclusion of a subdivision plat, title evidence and copy of the sales contract as supporting documentation to the Statement of Reservations, Restrictions, Taxes and Assessments.

Section 1710.105 is amended in several parts. The format is amended by adding appropriate lines to conform with the instructions which will be discussed in detail. This includes Part XV regarding the developer's affirmation.

The Instructions for Completion of the Statement of Record are amended first, by identifying the major paragraphs by capital letters A. through H. Paragraphs presently designated by lower case a. through c. are now designated 1. through 3., and a new paragraph 4. is added. Paragraph 2. is changed to specify that documentation and certifications as well as other material information may be required by the Secretary. New paragraph 4. states that all amendments shall





be prepared and filed in accordance with the amendment procedure in § 1710.23.

Paragraph B. is amended to include a requirement that Statements of Record shall be bound. This requirement does not refer to a binding but a fastening together of all pages in the Statement of Record. Also, a requirement that the date of typing of each page of the Statement of Record appear in the lower right-hand corner of each page is made. This step will facilitate processing of amendments.

New paragraph G. (change 12 in the proposals), dealing with the developer's obligation to complete facilities, has been modified in response to comments asserting that the proposed regulation attempted to equate a "proposal" with a legal obligation. As revised, this paragraph recognizes two categories of proposals: obligatory and nonobligatory. The proposals required to be disclosed are those which the developer is obligated to fulfill and those which a third party is obligated to fulfill, if the third party is adequately identified. Proposals which no one is obligated to fulfill may be disclosed only if accompanied by a statement that the developer (or other party) has no obligation to fulfill them.

The paragraph immediately preceding Part I, Administrative Information, is now designated H.

Part I.B.3. is expanded to require inclusion of lots that are added by consolidations and to clarify that the number of lots offered must be supported by appropriate exhibits and must be consistent with the lots identified in the Property Report.

Part I.B.7. requires a disclosure of sales made prior to registration, or disclosure of whatever exemption was applicable to such sales. Some comment was received that this regulation will be counter-productive in that it discourages developers from registering their subdivisions if sales have been made while the subdivision was unregistered. These comments were considered but were not believed to be persuasive on the matter.

Four new items of disclosure are added as Parts I.C.3. through 6. Part I.C.3. has been modified to omit the requirement that developers submit copies of proposed Property Reports to the States in which they expect to offer their lots. This change is responsive to the many comments that were received asserting that a proposed Property Report is virtually meaningless and that inasmuch as many States have no designated agency to use the Property Report, the proposed requirement would have little value.

Part I.C.4. requires the developer to disclose any filings or intended filings with the SEC that are related to the subdivision and identification of such filing and any reference made to the subdivision in the SEC prospectus.

Part I.C.5. requires a statement regarding the involvement of subdivision owners or other principals in SEC filings. Comments received complained of the burden on developers and the lack of relevance to OILSR's responsibilities. After careful consideration, however, it was determined that the benefits for consumer protection available through disclosure of SEC history outweighed any potential burden on developers. The cut-off date for making such disclosure is April 29, 1969, the effective date of the OILSR Act.

Part I.C.6. requires disclosure of any disciplinary action taken by the SEC with respect to persons identified in Part I.C. The key item of criticism with respect to this proposal was that there should be a cut-off date beyond which disclosure of disciplinary action would not have to be made. OILSR has rejected this suggestion as inimicable to adequate disclosure.

Part I.D.2. is added to require the submission to OILSR of any Property Report, subdivision report or similar document that is filed with any State listed in Part I.C.I.

Part I.D.3. is withdrawn based on OILSR's re-examination of the proposal.

The present Part II.C. is redesignated as II.D.1., to which is added II.D.2., which is discussed below. A new Part II.C. is added. Part II.C.1. requires disclosure of any disciplinary measures taken against, indictments or convictions of the developer and principals of the developer in connection with certain enumerated activities, plus "any other activity . . ." This proposal was the subject of heavy commentary, the thrust of which was three-fold: the disclosure of indictments was criticized because indictments are not dispositive of guilt. Although not dispositive of guilt or innocence, indictments are more than mere allegations and not returned unless there is some probable cause indicating a crime has been committed. Consequently, disclosure of indictments is retained in the regulation as a relevant disclosure. The second main objection to this proposal is that no cut-off time was included beyond which developers would not have to disclose disciplinary actions, etc. Disclosures of this nature are deemed relevant and are retained in final publication. The third and most heavily commented upon area was the broad scope of the actions required to be disclosed; i.e., some disciplinary actions or even convictions might have no relevance to the land sales operation. Consideration of these comments revealed them to have merit. Accordingly, the overly broad phrase "any other activity for which such official action was charged" is modified to limit these other activities to areas of fraud, misrepresentation, deceptive sales practices or similar grounds.

Part II.C.2. requires disclosure of bankruptcies by certain persons named in this part. Also, certain specified information such as the names of the petitioners, the trustee and counsel are required to be disclosed. Comment again went to the fact that no cut-off period was allowed. OILSR has accordingly set a cut-off period of 13 years. Also, there was objection to the potentially broad scope that the names and addresses of "any other parties involved" in the proceeding be disclosed. The latter comment was found to have merit and the objected-to phrase is deleted. As in the case of the violations required to be disclosed in II.C.1., the remainder of II.C.2. is retained for final publication with only the deletion as to other parties noted above. Many comments were directed to Part II.C.3. which requires disclosures regarding litigation. First, disclosure of litigation, it was asserted, will spur nuisance suits, upon the bases that developers would rather settle than have suits disclosed in their registrations. OILSR does not believe this practice would be widespread enough to justify deletion. Accordingly, a disclosure requirement for litigation is retained.

There appears to have been some misunderstanding with respect to the proposed $100 fee for pre-effective amendments. Because of the requirement that new actions or the disposition of pending actions would require amendment, some commentators believed that such amendments would have to be accompanied by $100 fees. Such is not the case; no fee is charged for any amendment to an effective registration. The requirement that "all current litigation . . . which may have an effect upon the developer or the subdivision" be listed was criticized as overly broad and would include a listing of virtually all litigation in which a developer is engaged. OILSR finds this argument persuasive and has modified this proposal to require all current litigation of which the developer is aware and which may have a material effect upon the offering or the subdivision.

The materiality factor carries over to the comments on Part II.D.2., which requires copies of legal documents involved in the litigation or other action. This proposal is also modified in final form to be more selective and require only documents dealing with substantive matters.

Part III.A. is amended to require disclosure of involvement in all other subdivisions whether or not they are registered with OILSR. In response to comments received a modification in the proposal has been made by retaining disclosures regarding an "ownership" interest in the land.

A new Part III.B. is added to require information as to the subsidiary status of the developer and involvement of the parent corporation in other subdivisions.

The present Part III.D. is redesignated III.C. and is essentially the same as its present form. Some of the few comments that were received on this proposal indicated a belief that a Suspension Order is a preliminary document. This is not the case. A Suspension Order is a final, though appealable, action by OILSR.

In Part IV., IV.A. has been deleted, and IV.B. through F. have been redesignated IV.A. through E.

Part IV.A. is retained as proposed. It differs from the present regulations by requiring at IV.A.2. disclosures with respect to the location of the subdivision within a 100 year flood plain and the availability of flood insurance; and at Part IV.A.4. by deleting the disclosure requirement regarding "unusual construction techniques" which may vary from area to area, to language having universal understanding by engineers and agronomists.



V 38 170
SEP 4 73
XUM

Part IV.B. is retained in the same form as proposed and is identical to the former Part IV.C.

Part IV.C. is retained in its proposed form, which was previously identified as Part IV.D.

Part IV.D.1. through 6. is retained as proposed and is identical to the present Part IV.E.1. through 6.

Part IV.D.7. and 8. were the subjects of numerous comments. Part IV.D.7. requires the developer to state whether a building permit is needed by a purchaser before construction on an individual lot is permitted and if so, to identify the agency from which the permit must be obtained. The proposal also required developers to describe the procedure a purchaser would follow in the process of obtaining the building permit. Describing the procedure was considered to be unnecessarily burdensome. The comments were found to raise valid points and since the basic fact of a building permit requirement is disclosed, the objected-to provision of this regulation has been omitted.

Part IV.D.8. requires the developer to identify government agencies which have the authority to regulate or issue permits or licenses in connection with development of the subdivision, or in the absence of such authorities, a statement to that effect, or if the subdivision is exempt from any of these types of authorities, a statement of the bases therefor. The all-encompassing nature of this proposal, the identification of agencies even though a permit or license might not be required for development, together with the assertion that the field of environmental protection and conservation is today in a state of flux were points raised. Believing that these comments are valid, the final form of Part IV.D.8. has been changed to delete the provision requiring identification of certain agencies and by qualifying the required identification of other agencies which clearly have the authority to issue permits or licenses only if action by such agencies would have a material effect on the developer's plans. This regulation is intended to reveal the potential exposure of a developer's liability in situations where, for example, ski slopes are cut, canals are dredged, lakes are built or bulkheads are formed, and it is reasonable to assume that there is some public agency responsible for approving or rejecting these kinds of development. Other examples of the types of agency identification contemplated by this regulation are planning boards and health authorities.

Part IV.E. includes the present Part IV.F. but is essentially a new section. It requires as supporting documentation for disclosures made in Part IV. of professionally prepared plats and sets forth certain criteria therefor. Also, Part IV.E.2., which requires the submission of current U.S. Geological Survey maps, prohibits the submission of photocopies made by the developer. Black and white copies will not be accepted because topographical maps are virtually useless unless color keys are known. Part IV.E.3. requires as supporting documentation copies of the permits, licenses, opinions or similar documents obtained from the agencies identified in Part IV.D.8. Since the language in IV.D.8. has been revised to narrow the type of agencies with which OILSR is concerned, the supporting documentation required at IV.E.3. should not prove burdensome. As a response to comments to Part IV.E.1. that a subdivision may be offered in stages and that future sections might not be platted at the time of the initial submission, this paragraph is amended in its final form to specify that lot dimensions are required only of lots that are the subject of a given filing.

Part V. is amended by including in Part V.A. a requirement for disclosure of the condition of title to common areas or facilities included in the offering. The reference to title evidence for common areas and facilities in amended Part V.A.1. drew some comment to the effect that the common facilities should be only those which are a part of the offering. These comments apparently overlooked the change in Part V.A. mentioned above that specifically related the common areas or facilities "to or included in this offering." There was also comment that condition of title should be limited only to existing common facilities. Disclosure of the status of title with respect to planned common facilities is essential if this disclosure is to be meaningful, and the proposal will accordingly be retained.

Evoking substantial comment was deletion from Part V.A. of the language allowing the submission of an interim title binder or commitment for title insurance. The thrust of the comments was that status of the title to the property is revealed in title binders, especially in the standard ALTA binder, and that to require the issuance of a policy would be very costly to the developer. The use of title binders as a widespread practice in all phases of real estate operations was also cited. Nevertheless, because developers may seek to sell land that they do not own, the proposal eliminating the use of title binders as evidence of title is retained.

Part V.A.6. through 9. are added, which sets forth certain requirements to be made a part of the title evidence. There being no comment, these provisions are retained in their entirety. However, there are a few editorial changes improving syntax and the order of certain existing sections in Part V.

Part VI.A. is amended by adding paragraphs 4. through 8. as follows: Part VI.A.4. requires a disclosure regarding the existence of any contractual provisions by which the purchaser's selection of a lot may be changed by the developer, as in the case of the prior sale of the same lot, or as a result of a purchaser's failure to qualify with eligibility requirements established by the developer or any other qualifying body.

Part VI.A.5. requires disclosures with respect to a purchaser's right to exchange his lot for another lot and of provisions which offer the purchaser a refund which may only be applied toward the purchase of another lot.

Part VI.A.6. requires disclosures regarding the type of sales transaction to be used, the period of time that will elapse prior to transfer of title to a purchaser, whether or not contracts and deeds will be recorded and who has the responsibility for recordation, the term of installment payments and the interest rate charged. The final form of this paragraph has been changed in response to comments received directed to use of the words "time of closing," which in the industry is not as definitive a term as "transfer of title." Also, rather than a disclosure of the interest rate which the developer expects to receive, the final provision requires a disclosure of the annual interest rate charged.

Part VI.A.7. requires disclosure of the developer's anticipated plans with respect to the sale or assignment of sales documents. The final form of this regulation was changed in response to comments which indicated that it is often difficult for a developer to know at the time of registering his subdivision whether or not he will be keeping or selling his paper.

Part VI.B. is retained in its present form; i.e., the format is still entitled "Proposed Range of Selling Prices or Rents," and the proposed disclosure of the range of prices for similar lots in the area is deleted in final publication. The proposals were dropped in response to comments pointing out that selling prices can practically only be provided in a proposed range and that requiring information on similar lots in the area, particularly without any criteria along these lines, imposed an unwarranted burden on developers.

Part VI.C.1. is amended by setting forth the exact language that is required in contracts or agreements to notify a purchaser of his revocation rights. Presently, this matter is covered by a general instruction. Also, some specificity is provided to show the scope of the terms "contracts or agreements," which OILSR considers to include promissory notes, mortgages and deeds of trusts. Part VI.C.1. is changed to read in the second, rather than the third person.

WAIVER OF PURCHASER'S REVOCATION RIGHTS is added to Part VI.C.1. and the phrase is required to be capitalized. The waiver is in two parts: The notice provision, which informs purchasers of their rights to void their contracts if they do not get a Property Report and of their right to revoke their contracts for a 48-hour period after signing their contracts if they did not receive Property Reports at least 48 hours before signing the contracts or agreements. Purchasers are also notified that the revocation rights are lost if they acknowledge that they have made an inspection of the lot and that they have read and understood the Property Report. They are also advised to seek professional guidance if they have difficulty in understanding the Property Report.





The Acknowledgment by the Purchaser, acknowledges not only the purchaser's inspection of the lot he intends to purchase and receipt and understanding of the Property Report but also his understanding that he is waiving his rights to revoke his contract. Further, acknowledgments must be prepared on a separate paper which is attached to the contract or agreement, one copy of which is to be given to the purchaser and another retained by the developer.

Additional requirements provide that the revocation and voidability provisions may not be limited or qualified in the contract or in any other document by requiring a specific type of notice or by requiring that notice be given in a specified place. Considerable commentary was received regarding the waiver provision. Some say that the length of the notice would have a tendency to keep purchasers from taking the time to read its entire text and would therefore be counter-productive. The length versus brevity argument is one that has always existed and currently exists. However, OILSR continues to require the fullest disclosures for consumer protection. This position applies generally to all of these regulations and not just the waiver provision. One comment raised a narrow but valid point worthy of clarification; namely, that while a type-size requirement is set forth for the acknowledgment by purchaser, no such requirement is made for the description of a purchaser's rights that are placed in the contract or agreement. The latter language is to appear at least in the same size type as the remainder of the contractual terms.

Some commentators argue that use of the word "waiver" is an invalid exercise of the Secretary's authority under the Act; that sec. 1404(b) of the Act provides that the revocation authority "shall not apply" to transactions in which certain conditions have been satisfied and that compliance with these conditions cannot be deemed a waiver of a purchaser's rights since the rights never vest unless the conditions are not met. A similar argument is made for the statement in the purchaser's acknowledgment that the purchaser understands that he is waiving his rights under the Act to revoke his contract. An argument against segregating the acknowledgment from the body of the contract was also made based on the language in sec. 1404(b).

Although the acknowledgment is segregated from the body of the contract, it is a part of the contract. Instructions in this part specifically states that it "shall be attached to the contract or agreement used in the sale or lease . . . ." With respect to the form of, and the use of the word "waiver," as a practical matter, an on-site purchaser does in fact waive his revocation rights primarily because (1) he is unaware of his rights in the first place and (2) too often he is presented a paper and asked to sign a receipt for it or asked to initial a paragraph in a sales contract without knowing its import or its impact. In implementing the statute, any individual section or part of it must be viewed in terms of the overall purpose and spirit of the statute. It is clear from OILSR's experience that the part of Sec. 1404(b) that deprives a purchaser of his revocation rights has been a subject of abuse which is not consonant with the purposes and objectives of the Act and purchaser protection. Therefore, except for editorial changes and a renumbering of paragraphs in this part, the language is essentially the same in final publication as in the proposed rule.

Part VII.C. is amended to include a new paragraph 4 which requires as supporting documentation a synopsis of plans for road construction, including estimated cost and certain drawings. The proposal is changed in final form in response to comments which complain that the proposed wording covered roads outside the subdivision. Certain editorial changes are also made to eliminate duplication in the request for cost data and a redundancy. There were comments complaining that this regulation would, in effect, force developers to do some thoughtful planning prior to registering their subdivisions. These complaints were rejected as indicative of one of the basic problem areas resulting in less than full disclosure; namely, little or poor planning and failure to disclose the limitations of actual planning.

Part VIII.A. is amended to add disclosures with respect to the identity and financial capability of the water supplier, the obligations of purchasers to the supplier and the degree and duration of control of the developer in cases where the developer controls the supplier of the water. These changes are accomplished by amending Part VIII.A.2. to include paragraphs a. through d., as well as changes in paragraph 2. itself. In response to comments that the language proposed for Part VIII.A.2. was ambiguous and that on its face it required certain information about the entities supplying water whether or not such entity was a major power company or a developer-created water district, this paragraph has been changed to require the disclosure only if the entity supplying water is controlled by the developer, and the rates are not regulated by a public body.

Part VIII.A. is also amended by deleting the present paragraph 7., redesignating the present paragraph 8., amending paragraph c. and adding paragraphs e. through h. Part VIII.A.7c. requires the submission of a report indicating the source and quantity of the water. Part VIII.A.7d., which is presently identified as 8d., is amended to require an interpretation of the chemical and bacteriological evaluation of the water into layman's language.

Part VIII.A.7e. requires as supporting documentation copies of the organization documents or proposed organizational documents of the entity supplying the water. Part VIII.A.7f. requires copies of membership agreements with similar documents by which lot owners will be required or permitted to use the services of the supplier. Part VIII.A.7g. requires financial statements or pro forma financial statements of the supplier. Part VIII.A.7h. requires a synopsis of plans for obtaining and distributing the water, including the estimated cost of the water system; this requirement is similar to that now required at Part VII.C.4.

There are certain grammatical corrections made to the paragraphs of Part VIII.A.

Part VIII.E. is amended by expanding the disclosure requirements to those coextensive with Part VIII.A. In the case of Part VIII.E. no paragraph is deleted as in Part VIII.A. Since the comments received with respect to Part VIII.A. were identical or nearly identical to those applying to Part VIII.E., further discussion will not be made on these points.

Part VIII.F. is amended by redesignating paragraph 5., Supporting Documentation, as paragraph 8., by requiring in new paragraphs 5., 6., and 7. disclosures whether the developer has a program to control soil erosion and flooding and if so, whether the program has been approved by any appropriate authority and whether the developer is under any obligation to follow through with the program.

The new Supporting Documentation provisions Part VIII.F.8., require in addition to present documentation, a copy of the appropriate authority's approval of the erosion plan, if any, and a synopsis of the plan, degree of completion of the work and estimated cost of the work.

The proposed language which required a statement as to whether the developer had a comprehensive program to control soil erosion and as to whether it had been approved by appropriate officials, also provided further that a plan which does not obligate the developer to perform (such as a USDA Soil Conservation Service plan) was not acceptable for the purposes of supporting documentation. This last mentioned provision has been deleted in response to comments that a "comprehensive" soil erosion program was a vague requirement, that many jurisdictions do not have officials to approve or disapprove soil erosion programs and that the USDA Soil Conservation Service is one of the few agencies that does have such a program, even though it has no authority to enforce a program it has approved. Although they were not published for comment some guidelines for the preparation of soil erosion plans are provided in the final form of this regulation. Basically these guidelines define the type of information sought in the program synopsis submitted pursuant to this regulation.

Part IX.A.5. is amended to include a synopsis of the plans, degree of completion of work and estimated cost of the proposed recreational facility contemplated in this part. This is accomplished by designating the new requirements as IX.A.5. a. and b. No comments were received specifically on this change. However, the comments relating to the synopses of plans required as supporting docu-



V 38-170
SEP 4 73
XUM

mentation in Parts VII., VIII. and IX. applied to all such parts. One comment complained that furnishing estimated cost of completion was irrelevant. OILSR believes such cost figures to be relevant in assessing the time and feasibility of completion.

Part X. is amended by adding a paragraph G.1. through 3., which requires disclosures concerning the availability of postal service and the locations and distances of post offices in the area.

Part XI.C.3. is amended by requiring disclosure stating how a deficit will be recovered if one is incurred.

The proposed changes to Part XIV., financial statements, also received substantial comment and several suggested changes have been adopted. Use of the phrase "significantly different" in connection with subsequent filings was attacked as vague. Further, it was considered unclear whether the initial interim financial required to be audited, and that it was unclear whether the subsequent six month financials required to be audited. It was also maintained that audited and certified financials generally would be costly, especially for the small developer. Part XIV.A has been changed to now require audited financials for the last full fiscal year, plus unaudited statements for an interim period of up to six months. The audits and certifications are required if either the price of the lots in the subdivision totals $500,000 or more or the subdivision contains 300 or more lots. The proposed regulation set $300,000 as the price limitation. The $500,000 figure has been substituted in response to comments as more realistic. After the initial filing, a developer must submit annual audited statements only if they disclose a material adverse effect on the developer's financial position.

There was a suggestion that net worth rather than retained earnings be used as a threshold that would require an amendment to the Property Report, but the revised requirement expanding the applicable period from six to twelve months, plus the importance of the developer's cash position, persuaded OILSR to retain the retained earnings deficit criterion. Comment was made questioning the Secretary's authority to require these financial statements, claiming the private nature of financials. This authority is clear, however. Sections 1406 (11) and 1405(d), respectively, authorize the disclosure required in this part and its public nature. Some developers asserted that segregating their audited financials from the consolidated statements of their parent companies would be burdensome. OILSR believes such a position to have little merit and has made no special provision to accommodate subsidiaries.

Other comments advanced were that purchasers of lots, unlike purchasers of stock, have no need to inquire into the financial strength of the developer. In reality, however, the prices purchasers pay for lots typically include promised or proposed improvements to be made by the developer, and the developer's financial status has a direct bearing on its ability to provide such improvements. The argument was also made that most developers have been able to obtain financing without furnishing audited financials to their lenders. However, it is significant that lenders normally are given security for the loans granted or they provide loans based on a fraction of the face value of the security, or both. Additionally, lenders have sources of information concerning financial security of developers that are not generally available to purchasers. It has been OILSR's experience that improved and meaningful financial disclosure is essential to achieve the objectives of the Act.

Part XV, Affirmation, was proposed to read as a first person statement of legal obligation "to carry out the proposals, promises and obligations set forth in this Statement of Record and Property Report." An instruction to Part XV. was also proposed to be added to require the signatures of the developer's chief executive officer, chief financial officer and a majority of its board of directors to be affirmed. Comments on these proposals were twofold: that proposed language purported to impose personal liability upon corporate officers for failure to fulfill obligations or to create a personal guarantee by corporate officers to fulfill obligations; and that proposals were elevated to the status of binding obligations when in many cases realization of the proposals was contingent upon action by a party other than the developer. Examination of the comments has persuaded OILSR to modify the proposed regulation. Accordingly, the affirmation has been amended to delete any inference of personal liability for corporate officers, to distinguish proposals that are promises or obligations from those for which the developer does not intend to be obligated and by clarifying that the affirmation is required by all developers and not just corporate developers. Responsibility of the Senior Executive Officer or his duly authorized agent is retained. OILSR notes in this connection that the criminal statute 18 USCA 1001 *Statements and entries generally* provides for fine and imprisonment when false, fictitious or fraudulent statements or entries are made in any matter within the jurisdiction of the Department.

SECTION 1710.110—PROPERTY REPORT

This section has been revised by dividing the section into four parts, A., B., C., and D. Part A. contains the regulations for the Property Report format: Part B., the technical instructions for completing the Property Report and lease addendum; Part C., instructions for answers in the Property Report; and Part D., additional paragraphs to be added in special circumstances. These new parts contain most of the existing regulations relating to the Property Report, as well as many new amendments. This has caused some developers to comment that the report will now be so long that purchasers will be discouraged from reading the report, and thus be less informed than they might otherwise be. These comments have been rejected based upon recognition of the responsibility of the Office of Interstate Land Sales Registration in requiring developers to make as much pertinent information available to purchasers as possible. There are many aspects, both physical and inherent, in the purchase of land and it would be unwise to shorten the report at the expense of omitting vital information which may enable the purchaser to make a more informed decision.

The last sentence of the first paragraph of this section has been amended to make it clear that the questions must be answered in accordance with the format in Part A. and the instructions in Parts B.–D.

PART A—FORMAT

Part A. contains the provisions for the Property Report format. The first paragraph of the notice and disclaimer has been amended in order to emphasize the unlawfulness of representing Federal Government approval of the subdivision, whereas, the present regulation merely states that the Property Report is not a Government recommendation. In addition, the proposed paragraph contained a statement that the Federal Government has not passed on the merits or given approval to the subdivision or passed on the value of the property as an "investment." Several comments critical of the quoted term were received because it was believed the word "investment" suggested that the property did in fact have "investment" potential. Other developers stated that they simply did not want to represent that there was "investment" potential in particular subdivisions. As a result of these comments, the pertinent part of the paragraph has been changed from "or passed upon the value of the property as an investment" to read as follows: "or passed upon the value, if any, of the property."

A new second paragraph has been added to include a statement that representations made contrary to the restrictions in the first paragraph are "unlawful," not, "it shall be unlawful" as provided in the proposed regulations. The paragraph also provides that any representation which differs from the contents of the Property Report is unlawful, and should be reported to HUD at the address given in the paragraph.

The third paragraph of the notice and disclaimer contains the new suggestion that purchasers "seek professional advice" in considering their purchase, and adds the words "by notice to the seller" in advising the purchaser of his contract voidability rights. Some comments said the directive, "seek professional advice" should be deleted, because the proposed "Waiver of Buyer's Rights" form already contained a similar provision which states, that if the buyer has "difficulty in understanding any of the provisions stated in the Property Report, you should consult an attorney or seek other professional assistance". Comments suggested that the advice is more useful in the waiver since the purchaser is surrendering certain rights under the Act, contrasted to the notice and disclaimer where it is assumed the purchaser understands the nature of his actions. Despite





the suggestion, the advice in the notice and disclaimer format is thought to be germane to the purchaser's considerations of the Property Report. The addition of the words "by notice to the seller" has been retained as proposed to alleviate factual disputes between purchasers and sellers as to whether recission rights have actually been exercised.

Objections to the use of the term "Buyer's Rights Form" in the waiver paragraph of the proposed regulations were also directed to the use of that term in the proposed last paragraph of the notice and disclaimer format. As in the prior instance, the term has been changed to "waiver of purchaser's revocation rights form".

The format for paragraph 4 of the Property Report has been amended by revising subparagraphs b. and c., and to redesignate c. and d. as d. and e. The changes will make it clear who will bear the cost, if any, of recording contracts, and the amount of the costs if they are to be borne by the purchaser. Further, in the event of his default, whether the purchaser's loss will be limited to the amount of his payments or whether he will be responsible for paying the balance of the contract. As suggested by one of the comments, the word "immediate" has been deleted where it precedes the word "recording" in proposed subparagraph b., and similarly, subparagraph c. has been changed from the proposed regulations to allow for contingencies where deeds or contracts will not be recorded.

Paragraph 8. of the format for the Property Report has been amended by deleting the parenthesis from the lettered subparagraphs, and inserting periods after each letter. Subparagraph c. has been revised to require a list of permissible uses of the property consistent with restrictive covenants and local zoning ordinances.

Paragraph 9. of the format has been amended by deleting the (a) designation, and the (b) designation as proposed. In addition, the paragraph has been amended by using different examples of recreational facilities and, by also requiring disclosure of the ownership of the facilities. The listing of facilities is now required in tabular form of all those proposed or partially complete, as well as those available, as presently required. Additional information required in the new table includes the percentage of completion, estimated completion date, financial assurance of completion, whether the developer is obligated to complete, and the buyer's cost or assessment.

Paragraph 10. of the format has been amended by adding three subparagraphs, a., b., and c., which require statements of the availability of roads, utilities, and municipal services, respectively. Information is also required concerning whether such are proposed or partially complete, estimated completion date, provisions to assure completion, and an estimate of all costs to the buyer.

Paragraph 13. of the format has been amended by deleting information on facilities now dealt with in paragraph 10., but retaining information on shopping facilities.

Paragraph 15. of the format has been amended by deleting the parenthesis from a. through c. and inserting a period after each letter.

Paragraph 17. of the format has been amended to require information concerning physical access to lots and common facilities and the ownership of streets and the responsibility for maintenance.

Paragraph 19. of the format has been amended in order to require disclosure concerning whether the corners of individual lots have been marked so that the purchaser can identify his lot. If not, the estimated cost to the purchaser to obtain a survey must be provided.

A new question 20. has been added to the format which requires a statement whether there is a comprehensive program to control soil erosion, sedimentation and flooding throughout the subdivision and a description of the plan, if any. If there is a plan, approval of appropriate local officials must be indicated, as well as the obligation of the developer to comply.

A new unnumbered paragraph titled "Special Risk Factors" has been added to the format. This paragraph appeared as paragraphs 21. and 22. in the proposed regulations. However, much critical comment was received on the workability of the proposed regulation in a question and answer form; hence, the material has been inserted as points for general consideration. The special risk factors cite the uncertainty of future land values, that the purchaser's resale of his lot may be in competition with the developer's sales program, and other possible restrictions on the purchaser's sales efforts. Purchasers are advised that they may be required to fully satisfy the terms of payment in contracts or promissory notes in the hands of developers or third parties, even though the developer may have defaulted on his promises, and in addition, that changes in the laws of governmental agencies relating to land development and use, may affect the future procurement of permits to use the land.

The format has been amended by adding a new paragraph titled "Financial Statements." The purpose of this paragraph is to direct attention of the lot purchaser to the financial position of the developer by requiring financial statements to be attached as exhibits to the Property Report. The requirement originally appeared in the proposed regulations at the instructions to Part C., paragraph 21c. Despite objections that the requirement is useless because purchasers won't understand the statements, and that unnecessary expenses will be incurred by developers in attaching the exhibit, it is believed that the exhibit will be of immense value to purchasers in giving them adequate information on the basis of which an intelligent judgment can be formed on the opportunities and risks involved in the purchase.

PART B—TECHNICAL INSTRUCTIONS FOR COMPLETING PROPERTY REPORT AND LEASE ADDENDUM

The instructions for completing the Property Report and lease addendum have been redesignated as "Part B. Technical Instructions for Completing Property Report and Lease Addendum." In addition, the section in the existing regulations captioned "Additional Requirements for Property Report" has been incorporated into the new Part B., which contains significant new matter. To begin with, subparagraph d. under instructions for completing the Property Report and lease addendum of existing regulations authorizes the Secretary to require additional information in the Property Report when it appears to him that the additional information is necessary in the public interest. The proposed regulations deleted the provision that the Secretary could require the information, and instead required the developer to add the information whenever appropriate in the public interest or for the protection of purchasers. Several objections were filed to the proposed regulation objecting to placing a burden upon developers to determine when the criteria was met. The final regulations, therefore, retain the existing language by placing the burden on the Secretary to make the determination. The provision is further expanded, however, to require statements which are necessary to make provisions in the Property Report not misleading in the "light of the circumstances under which they are made."

New Part B contains the rest of the subparagraphs which are contained in the existing regulations as subparagraphs b. through f. under "Additional requirements for the Property Report." Those sections are now numbered 8 through 12. Part B 3 contains a new provision that the Property Report shall contain no covers, pictures, emblems, logograms, or identifying insignia. On the first page of the Property Report format, which is the notice and disclaimer, the new instruction 3 requires an over print in centered capital letters in light red type with the following legend: "Purchaser should read this document before signing anything." Also required at the bottom two and one-half inches of the front page is a perforated receipt to be signed by each lot purchaser evidencing the fact that he has received a copy of the Property Report. The receipt is to be retained by the developer and shall be made available for inspection by the Secretary upon demand.

There were many objections in the written comments concerning these provisions, particularly the red overprint warning. Generally, the comments characterized the overprint legend as implying that the Government of the United States is suspicious of the land development industry, and is putting a dampening effect upon the sales efforts of the developers. It is believed that overprint legend on the first page of the Property Report is necessary in order to apprise



V 38 170 SEP 4 73 XUM

lot purchasers of the importance of the Property Report. All too often, salesmen will bury the Property Report amid several other papers, brochures and advertisements, and the purchaser is unaware of the significance and even the existence of the Property Report. The result is that he does not read the Property Report prior to signing his contract and, therefore, is unaware of many important factors concerning his lot. The receipt form should cure many situations in which lot purchasers claim never to have received the Property Report, and there is a factual dispute with the developer. By requiring the receipt to be placed at the bottom of page 1, it is hoped that the attention of the lot purchaser will be more directly focused upon the existence and significance of the Property Report.

A new provision to be contained in Part B. is subparagraph 13 which requires that the format shall be prepared by the developer in such a manner that the introductory information will immediately inform the purchaser of any adverse effects. In addition, mere proposals by the developer to construct amenities or any other improvement affecting the lot (as opposed to already accomplished action) may not be included in the Property Report unless clearly identified as such. Moreover, the developer will be required to state whether he will be obligated to complete such proposals. If the developer wishes to include proposals in the Property Report which he is not obligated to complete, the Property Report is required to contain the following: "The developer is not legally obligated for some of the proposals which he has included in this Property Report."

PART C—INSTRUCTIONS FOR ANSWERS TO PARAGRAPHS IN THE PROPERTY REPORT

The designation of these regulations as Part C. is new, but it embodies to a large extent requirements in the existing regulations under the heading "Special Instructions." The section headings under this part have been changed from those in the proposed regulations to designations corresponding to the referenced paragraph of the Property Report.

The instruction for paragraph 2B has been amended to require a brief legal description of the land offered for sale. The description follows a unit, block, lot description, and permits excepting certain numbered lots. A metes and bounds outboundary description of the subdivision is not required in this paragraph. In response to comment, the procedures for describing lots offered in consolidations are spelled out in the new paragraph 2B instruction.

Paragraph 4 of the instructions has been restructured from the existing instruction because the existing paragraph 4 contains overlapping material with other instructions. The impact of the new paragraph 4 instruction is directed to questions of recording sales contracts or leases, and the effect upon the purchaser in the event recording is not available. In line with some comments, paragraph 4b has been changed from the proposed regulations so as to delete the requirement that developers describe potential adverse effects resulting from the lack of contract recordation. In addition, provision has been made for an answer to be inserted stating that down payments may be set aside in a trust or escrow account if the closing meets the criteria of § 1710.11(c)(1)(ii).

Paragraph 5 requires disclosure of the buyer's risk of losing his "financial interest in the property." This phrase is used in lieu of "investment" in response to comments that this term is vague. The paragraph also mandates supporting documentation where the mortgagee agrees to accept mortgage payments directly from the purchaser when the developer is in default.

Paragraph 7 of the instructions has been expanded. The requirement in the existing regulations that buyers be told of obligations to pay taxes, special assessments and similar charges continues in effect. However, the Property Report must disclose to the purchaser whether construction of proposed facilities will be financed by a property owners' association or similar organization and, if so, whether the developer has control of that entity. Disclosure must be made when the developer's control over the organization will be relinquished and the amounts of any loan or debt, and whether the funds of the association may be used for private purposes on private land other than the one in which the purchaser is buying his lot. A special statement is required in the event the organization is not formed, in which case the Property Report must inform the purchaser that the developer's proposals for facilities lack definition, and that they may not be able to be carried out. In addition, if the answer to Part XI.C.2. of the Statement of Record indicates that not all lot purchasers will be required to belong to the association, then a statement is required in the Property Report that the purchasers who belong to the organization may have to pay a disproportionate share of the cost of operating the facility. Several comments were received suggesting that a distinction be made in the "degree" of control a developer may have over the property owner's association. However, these suggestions failed to indicate how such a distinction could be applied and accordingly OILSR has not adopted them.

Paragraph 8.b. of the instructions has been expanded to require that subdivision restrictions are required to be listed in their entirety, but if lengthy, incorporated by reference. There were several objections to this proposal, mainly from the standpoint that the requirement would further lengthen the Property Report and would cause a great burden upon the developer to insure that a lot purchaser in a particular section was getting the right set of restrictions. In line with the comments, the proposed regulation has been changed in this final version to provide that when more than one section in the subdivision is covered by general restrictions, the developer may summarize those, and attach the restrictions which are applicable to the particular unit involved.

A new paragraph 8.c. has been added to the instructions for the Property Report. It requires answers to this part of the Property Report to list the land uses consistent with the restrictions on the property, and whether the zoning regulations are consistent with the restrictions. If a lot cannot be used for a homesite, a statement to that effect must be included. If there is an architectural control committee, the name of the entity must be included and a statement of the control, if any, of the entity by the developer. In addition, a statement is required indicating whether the buyer must obtain a permit from a state or local agency before he may construct on his lot.

Paragraph 8.d. of the instructions remains essentially unchanged from existing regulations. However, the possibility and the extent of flooding is more carefully delineated in these final regulations. In addition, if the subdivision is located in an area of special flood hazard, a statement is required whether flood insurance is available. There were general comments dealing with the difficulty faced by developers in responding to this instruction, in that, what may be considered a hazard in one part of the United States, may not be so in other parts. However, we believe that developers in various parts of the country will readily recognize special hazard conditions in their locale, and will have little difficulty in making accurate responses. Further, the National Flood Insurance Act which is administered by HUD requires identification of flood-prone areas in connection with eligibility of a community to participate in the program. As a result, identification of all flood-prone areas in the United States is proceeding rapidly.

Paragraph 9. includes a new instruction. In the event the developer is unable to submit the supporting documentation required by Part IV.E.3. of the Statement of Record, which are copies of the permits obtained from governmental agencies for the construction of facilities, common areas or other improvements, he is required to state that such inability makes him unable to give any assurance that the lot owners will be able to use the particular facility. In addition, if the developer has not obtained necessary documentation required by Part IX.A.5. of the Statement of Record, his answer to this item of the Property Report must state that he has not entered into any arrangements to assure completion of the recreational facilities. Comments were received which urge that some governmental jurisdictions did not issue permits until construction had been completed, therefore making it impossible for developers to document such items. Developers suggested that they should be afforded opportunities to explain such situations without being forced to make the answers proposed of they are irrelevant or otherwise subject to explanation.





OILSR's position is that the absence of a permit demonstrates a lack of certainty that the developer will ever obtain or be granted a permit. Accordingly, this proposed instruction requiring disclosure of this uncertainty is retained in final publication. In addition, paragraph 9. seeks information in completing the pertinent table in the format for the Property Report. Here, if the developer has submitted documentation of an obligation to complete a facility, he may include a statement to that effect at the end of his answer.

The instructions for answers to paragraph 10 of the Property Report spell out answers and statements which must be included in the Property Report in the event that public facilities are not available, or have not been completed. The instructions to paragraph 10. in the new regulations are significantly expanded from those in the existing regulations. However, this is necessary in keeping with the belief that as much pertinent useful information should be given the purchaser to make a sound decision. This information must be extracted from the Statement of Record and placed in the Property Report. In response to objections to use of "promise" where the developer is merely proposing to furnish completed facilities, "proposals" has been substituted.

The instruction for paragraph 20. has been revised from that in the proposed regulation in order to distinguish between natural hazards, including identifiable flood areas, and erosion and flooding caused by excessive rainfall and lack of a soil conservation program.

The signature of the senior executive officer or his duly authorized agent is required at the end of the Property Report, but facsimile signatures may be used for the purpose of reproduction, as urged in the comments.

PART D—ADDITIONAL PARAGRAPHS TO BE ADDED TO THE PROPERTY REPORT IN SPECIAL CIRCUMSTANCES

This new Part D. has been added to the instructions for answers to the Property Report in the interest of informing consumers of special circumstances which they are advised to consider. This part contains eight numbered paragraphs. These relate to: whether the subdivision plat map has been recorded, and whether it must be approved by local authorities before it is platted of record; situations where the financial statement of the development indicates a deficit and whether the accountant's opinion on the financial statement is qualified; special rights of the developer to encumber the land subsequent to the purchaser signing a contract; the effect of bankruptcies or litigation upon the operation of the subdivision; and information concerning foreign filings. In connection with foreign filings, statements are required whether it is necessary to obtain a license from the Foreign Government as a condition to acquire title to a lot in a subdivision, and whether it is necessary to obtain a work permit, license or similar permit to do business in the foreign country.

Section 1710.115 contains the regulations for the notice and disclaimer format which is required to preface state property reports. The notice and disclaimer are patterned after the notice and disclaimer in the HUD Property Report. As noted in that section, the disclaimer states that the Federal Government has not passed upon "the value, if any, of the property." The proposed regulation contained the word "investment," which has been deleted in the final regulation. In addition, the waiver caption has been changed from "buyer's right form" to "purchaser's revocation rights form."

Section I of § 1710.120 has been amended as proposed to require state statements of record to conform to the format and instructions for statements of record in § 1710.105, Part II., in addition to Parts I. and III., as presently required. Accordingly, paragraph B. of sec. II of § 1710.120 has been deleted, as proposed. In addition, paragraph C. in the existing rules has been redesignated as paragraph B., and changed as proposed in order to require contracts to contain the language required by Part VI.C.1. of § 1710.105. Paragraph D. in the present regulations has been retained and redesignated as paragraph C. as proposed, with one change, which raises from 10 to 15 days within which consolidation filings shall be made after approved and made effective under state laws.

PART 1715—ADVERTISING, SALES PRACTICES, POSTING OF NOTICES OF SUSPENSION

This part appeared in the proposals as Part 1730 but has been redesignated as Part 1715 for reasons of continuity. The proposed advertising regulations were commented upon to the same extent as Part XIV. of the Statement of Record—Financial Statements. In addition to comments on the specific sections the proposed part as a whole was subjected to broad criticism which questioned on the statutory authority to issue such regulations. The statutory authority will be discussed first.

Section 1402(10) of the Act provides that an "offer includes any inducement, solicitation, or attempt to encourage a person to acquire a lot in a subdivision." There being no specified definition of advertising, that term must be considered to have its ordinary and common meaning, which OILSR believes to be a reasonably widespread dissemination of any inducement, solicitation or attempt to encourage a person to acquire a lot in a subdivision, through the use of the mails, the mass media, or otherwise.

Section 1415(a) of the Act also makes it clear that the Secretary is empowered to restrain and enjoin any act or practice which constitutes or will constitute a violation of the Act. Accordingly, it clearly follows that the Secretary may exercise his power to prevent or correct violations of sec. 1404(a) of the Act. This section, among other things, makes unlawful acts or practices which constitute a "device, scheme, or artifice to defraud," which constitute "material misrepresentation[s] with respect to any information included in the Statement of Record or the Property Report or *with respect to any other information* pertinent to the lot or the subdivision and upon which the purchaser relies" or "which operate or would operate as a fraud or deceit upon a purchaser." Section 1419 of the Act authorizes the Secretary to, among other things, make such rules and regulations as are necessary or appropriate to the exercise, functions and powers conferred upon him elsewhere in this title. The regulations in Part 1715 are promulgated as necessary and appropriate steps by the Secretary to inform developers of the types of advertising which would constitute "material misrepresentation" and upon which OILSR may act pursuant to sec. 1404(a) of the Act and § 1715.5 of these regulations. This part does not propose a substantive regulation of advertising but seeks to refine and define what it believes to be misrepresentations in advertising which would be violative of the Act.

The legislative history of the Act was cited in some comments as not authorizing regulation of advertising is intended. Further, as mentioned in the discussion of condominiums, there is scant legislative history behind the operative statute, and the legislative history of this and predecessor bills, is not persuasive that the Secretary has no authority whatsoever concerning advertising. Former SEC Chairman Cohen testified that the definition of "offer" includes an advertisement. More significantly, however, he suggested that, where there is specific rulemaking authority to define fraudulent and deceptive practices the intention is to authorize advertising controls which themselves would have the force of law. What OILSR has proposed are guidelines which will alert developers to that type of advertising OILSR will consider as triggering the authority of the Secretary to seek injunctions or restraining orders.

Another general comment that was submitted argued that Part 1715 is unnecessary for on-site purchasers. However, it has been OILSR's experience from the outset of the Act that a purchaser's presence on-site does not in itself afford him adequate information and protection in making a decision to purchase or not to purchase a lot.

In response to comments that the disclaimer proposed in § 1715.10 was too long and would therefore result in additional unwarranted expenses, the length of the disclaimer in final form has been reduced.

In addition to the general arguments referred to above, comments regarding § 1715.15 included statements that the proposed guidelines were "too vague" and at the same time "too detailed," that there was "no foundation" for the proposals, that the proposals were an "invasion of the freedom of expression" and that they were "impracticable in their application." The series of public hearings held by OILSR during 1972 amply demonstrated the foundation for the guidelines proposed in Part 1715, and



V 38 I 170
SEP 4 73
XUM

transcripts of these hearings are available as evidence thereof.

Upon reconsideration of the proposals in light of the comments received, proposed guidelines (n), (bb), (dd), (nn) and (oo) are deleted.

Section 1715.15(a) is changed from "All advertising must be consistent with the information contained in the Property Report" to "Advertising must not be inconsistent • • •," and has been consolidated with guideline (1).

Section 1715.15(h), as proposed, is deleted as redundant.

Section 1715.15(k), proposed as (m), is amended by the substitution of the words "specific road mileage" for "actual" mileage.

Section 1715.15(m), proposed as (p), is amended by excepting utility easements from any deductible measure of the size of the lot offered.

Section 1715.15(n), proposed as (q), is amended to substitute "when the improvements will be completed" for "that development will be completed" since the use of the word "development" was criticized as being overly broad and is also deleted in proposed guideline (bb).

Section 1715.15(q), proposed as (t), is amended in response to a comment to include a new sentence stating that all streets and roads shown on subdivision maps will be presumed to be at least of all-weather graded gravel quality and will be presumed to be traversable by conventionable automobile under all normal weather conditions.

Section 1715.15(s), proposed as (v), is amended to include as permissible advertisement of a road easement if it has been dedicated to the appropriate property owners' association as well as to the public or individual property owners.

Section 1715.15(aa), proposed as (ff), is amended to include the availability of water in the future when referring to homesites, to accommodate situations which involve homesites but not immediate building.

Additionally, there have been some editorial changes, primarily a reordering of paragraphs for the purposes of continuity and grammatical changes to improve sentence structure and syntax.

With respect to Sales Practices, § 1715.25, the same basic comments concerning the guidelines in § 1715.15 were received and were treated similarly by OILSR.

The only comment concerning § 1715.50, Posting of notices of suspension, was that this requirement should apply only in the case of a suspension that is a final determination. That is exactly what is intended by this provision, and specific reference is made to a suspension order issued under § 1710.45(b). This does not apply to a notice of suspension issued pursuant to § 1710.45(a).

Comments were received asking that sufficient lead time be allowed for Part 1715 to take effect. Adequate time has been provided for all parts of these regulations. The effective date is December 1, 1973.

### PART 1720—FORMAL PROCEDURES AND RULES OF PRACTICE

Very few substantive changes have been made in the rules of practice.

Reference in § 1720.130 of suspensions based on deficient amendments to statements of record under § 1710.45(b)(3) has been deleted, which, with the addition of a new § 1720.131, will have the effect of conforming the procedural requirements for such suspensions to those for a suspension of amendment issued pursuant to § 1710.45(a).

A new § 1720.134 has been added which establishes a presumption of a request for a hearing in certain situations. Sections 1720.140 and 1720.155 have been revised to increase from 10 to 15 days the time within which an answer must be filed after service of notice of proceedings or suspensions, or denials of motions for more definite statement. The number of copies of answers required to be filed has been reduced from six to three in § 1720.140, and in § 1720.155. Section 1720.160(c) has been amended by including failure to appear at a scheduled hearing as a justification for issuance of an order under § 1710.45(b)(1).

Section 1720.230 has been amended by allowing oral motions to be made during the course of hearings, and § 1720.235 has been amended to increase from five to seven days within which parties make written response to motions of the opposition.

Finally, numerous sections have been amended by redesignating the "Hearing Examiner" as the "Administrative Law Judge".

#### EFFECTIVE DATE

The effective date is December 1, 1973. All initial requests, filings, consolidations, amendments and other actions made thereafter shall be made pursuant to these regulations. The statements of record, consolidations and amendments filed prior to December 1, 1973, will be examined on the basis of the current regulations although the developer may request that they be examined pursuant to the regulations effective December 1, 1973. Amendments filed after December 1, 1973, shall contain all of the changes necessary to bring the entire registration into compliance with the new regulations, except for the items specifically excepted in the Effective date provision hereof. These exceptions (dealing with Ownership Interests, Maps and Title Evidence) are allowed because the changes which will have occurred as a result of a normal land sales program would, in OILSR's opinion, otherwise requirement documentation that would be unduly burdensome or impractical for a developer to obtain.

This effective date allows a lead time of approximately 90 days, within which developers may evaluate or prepare their advertising under the new guidelines, take the steps necessary to prepare any anticipated amendments or other actions in accordance with these regulations, or to otherwise familiarize themselves with Chapter IX, as amended.

Accordingly, Chapter IX of Title 24, CFR, is amended to read as follows:

## PART 1700—INTRODUCTION

### Subpart A—Authority and Organization

Sec.
1700.1 Scope of authority and purpose.
1700.5 Authority of Secretary.
1700.10 Delegation of authority.
1700.15 Establishment of office.
1700.20 Administrator.
1700.25 Principal divisions.
1700.30 Public information.

### Subpart B—Delegations of Basic Authority and Functions

1700.80 Director of the Examination Division, Office of Interstate Land Sales Registration and Deputy.
1700.85 Director of the Administrative Proceedings Division, Office of Interstate Land Sales Registration and Deputy.
1700.90 Acting Administrator.

AUTHORITY: The provisions of this Part 1700 issued under sec. 1419, 82 Stat. 598; 15 U.S.C. 1718.

### Subpart A—Authority and Organization

**§ 1700.1 Scope of authority and purpose.**

A land developer is required by the Interstate Land Sales Full Disclosure Act, Title XIV of Public Law 90-448, 82 Stat. 590, 15 U.S.C. 1701, enacted on August 1, 1968 (hereafter in this part referred to as the Act) to make full disclosure in the sale or lease of certain undeveloped, subdivided land. The Act makes it unlawful (except with respect to certain exempted transactions) for any developer to sell or lease, by use of the mail or by any means in interstate commerce, any such land offered as part of a common promotional plan unless the land is registered with the Secretary of Housing and Urban Development and a printed property report is furnished to the purchaser or lessee in advance of the signing of an agreement for sale or lease.

**§ 1700.5 Authority of Secretary.**

Section 1416(a) of the Act vests authority and responsibility for its administration in the Secretary of Housing and Urban Development (hereafter in this part referred to as the Secretary), and authorizes the Secretary to delegate any of his functions, duties and powers thereunder to employees of the Department of Housing and Urban Development.

**§ 1700.10 Delegation of authority.**

(a) The Secretary has delegated to the Interstate Land Sales Administrator and the Deputy Administrator all of the authority to exercise the power and authority vested in him under the Act except the authority to:

(1) Conduct hearings in accordance with 5 U.S.C. 556 and 557.

(2) Issue orders or determinations after such hearings.

(3) Issue rules and regulations under section 1416(a) of the Interstate Land Sales Full Disclosure Act 15 U.S.C. 1701–1720 title XIV of the Housing and Urban Development Act of 1963) prescribing





rights of appeal from the decisions of hearing examiners.

(4) Transmit evidence of apparent violations of the Act to the Attorney General of the United States for the institution of any appropriate criminal proceedings under section 1415(a) of the Act.

(5) Sue and be sued.

(b) The Secretary has further authorized the Administrator to redelegate any of the delegated authority to employees of the Department.

**§ 1700.15 Establishment of Office.**

There is established, as an organizational unit of the Department of Housing and Urban Development, the Office of Interstate Land Sales Registration.

**§ 1700.20 Administrator.**

The Office of Interstate Land Sales Registration is headed by the Interstate Land Sales Administrator who shall be designated by the Secretary.

**§ 1700.25 Principal divisions.**

The following Divisions have been established within the Office of Interstate Land Sales Registration:

(a) Examination Division.

(b) Administrative Proceedings Division.

**§ 1700.30 Public information.**

(a) *In general.*—The identifiable records of the Office of Interstate Land Sales Registration are subject to the provisions of 5 U.S.C. 552, as implemented by Part 15—Public Information, Subtitle A, of this title.

(b) *Availability of information and records.*—Information concerning land sales registrations and copies of statements of record may be obtained from the following address:

Office of Interstate Land Sales Registration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20411.

In addition, statements of record may be reviewed at such address on any business day from 8:45 a.m. to 5:15 p.m.

(c) *Nonapplicability of exemptions authorized by 5 U.S.C. 552.*—Section 1405(d) of the Act specifically provides that information contained in or filed with any statement of record shall be made available to the public. The exemptions from public disclosure authorized by 5 U.S.C. 552, as set forth in § 15.21 of this title, are not applicable to information contained in or filed with a statement of record.

(d) *Duplication fee—property report.*—Notwithstanding the provisions of § 15.14 *Schedule of Fees* of this title, copies of a Property Report on file with the Office of Interstate Land Sales Registration will be provided upon request for a fixed fee of $2.50 per copy regardless of the number of pages duplicated.

### Subpart B—Delegations of Basic Authority and Functions

**§ 1700.80 Director of the Examination Division, Office of Interstate Land Sales Registration, and Deputy.**

To the position of Director of the Examination Division, Office of Interstate Land Sales Registration, and under his supervision to the position of Deputy Director there are delegated and assigned the following authorities and responsibilities.

(a) To receive and examine all statements of record and property reports filed under the provisions of the Interstate Land Sales Full Disclosure Act and all amendments and corrections to such statements.

(b) To determine the adequacy of disclosure of statements of record and property reports and amendments thereto and to effect corrections, additions, and deletions in such statements and reports deemed necessary to achieve the purposes of the Interstate Land Sales Full Disclosure Act.

(c) To find effective or to recommend to the Administrator that he declare not effective statements of record filed under the Interstate Land Sales Full Disclosure Act and to prepare and present evidence in connection with hearings and other administrative proceedings relative to statements of record declared not effective.

**§ 1700.85 Director of the Administrative Proceedings Division, Office of Interstate Land Sales Registration, and Deputy.**

To the position of Director of the Administrative Proceedings Division, Office of Interstate Land Sales Registration, and under his supervision to the position of Deputy Director, there are delegated and assigned the following authorities and responsibilities:

(a) To receive, examine, and make determinations with respect to complaints arising from the alleged failure of a developer subject to the Interstate Land Sales Full Disclosure Act to comply with the requirements of such Act and regulations issued thereunder and to negotiate resolutions of such complaints and compliance by such developers.

(b) To recommend actions by the Administrator to achieve compliance by developers deemed subject to the Act who have not complied with any or all of the requirements of the act and regulations issued thereunder.

(c) To conduct, on his own initiative, or in response to information received, reviews to determine the existence of such noncompliance and secure compliance with the requirements of the Interstate Land Sales Full Disclosure Act and regulations thereunder.

(d) To recommend suspension by the Administrator of statements of record on a determination of noncompliance with the requirements of the Interstate Land Sales Full Disclosure Act and regulations thereunder.

(e) To recommend action to secure permanent or temporary injunctions or restraining orders to prevent acts or practices in violation of the provisions of the Interstate Land Sales Full Disclosure Act and regulations thereunder and to require compliance therewith.

(f) To prepare and present evidence in connection with hearings or other administrative proceedings or injunctions or restraining orders in connection with suspensions of statements of record or other action in connection with noncompliance under the Interstate Land Sales Full Disclosure Act and regulations thereunder.

**§ 1700.90 Acting Administrator.**

The Deputy Administrator and the Assistant Deputy Administrator in the order named, are designated by the Administrator to act in his place and stead in the event of his absence or inability to act, having the title of "Acting Administrator" with the powers, duties, and rights delegated by the Secretary's Delegation of Authority published in the FEDERAL REGISTER on March 9, 1972, 37 F.R. 5071.

**§ 1700.95 Assistant Deputy Administrator.**

The Assistant Deputy Administrator is designated by the Administrator to perform routine matters concurrently with the Deputy Administrator.

**§ 1700.100 Separability of provisions.**

If any clause, sentence, paragraph, or part of these regulations shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined by its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

## PART 1710—LAND REGISTRATION

### Subpart A—General Requirements

Sec.
1710.1 Definitions.
1710.2 Official address.
1710.5 General applicability.
1710.10 Statutory exemptions.
1710.11 Statutory exemptions—determination required.
1710.12 Statutory exemptions—when inapplicable.
1710.13 Regulatory exemptions.
1710.14 Regulatory exemptions—exemption order required—limited offering.
1710.15 Exemption advisory opinions.
1710.17 Concurrent submission — request for exemption/Statement of Record.
1710.18 No-Action Letters.
1710.20 Statement of Record and Property Report—form and filing.
1710.21 Statement of Record, consolidations, amendments—effective date.
1710.22 Consolidated Statements of Record.
1710.23 Amendments—Statement of Record and Property Report—form and filing.
1710.25 State filings—in general.
1710.26 State filings—acceptable filings.
1710.27 State filings—consolidations and amendments.
1710.32 Use of Property Reports—misstatements or omissions prohibited; representation of HUD approval prohibited.
1710.35 Payment of fees.
1710.45 Suspensions.

### Subpart B—Reporting Requirements

1710.101 Claim of Exemption—format of affirmation.
1710.102 Statement of Reservations, Restrictions, Taxes and Assessments—format and instructions.



V 38 I 170 SEP 4 73 XUM

Sec.
1710.103 Affirmation—purchaser's on-the-lot inspection—format.
1710.105 Statement of Record—format and instructions.
1710.110 Property Report and lease addendum—format and instructions.
1710.115 State Property Report disclaimer.
1710.120 Statement of Record—State filing.
1710.125 Partial Statement of Record—request for exemption.
1710.130 Effective date.

AUTHORITY: The provisions of this Part 1710 are issued under section 1419 of the Interstate Land Sales Full Disclosure Act, 82 Stat. 598; 15 U.S.C. 1718.

## Subpart A—General Requirements

### § 1710.1 Definitions.

As used in this chapter:

(a) "Act" means the Interstate Land Sales Full Disclosure Act, 82 Stat. 590, 15 U.S.C. 1701, which became effective in its original form on April 28, 1969.

(b) "Blanket encumbrance" means a trust deed, mortgage, judgment, or any other lien or encumbrance, including an option or contract to sell, or a trust agreement, affecting a subdivision or affecting more than one lot offered within a subdivision, except that such term shall not include any lien or other encumbrance arising as the result of the imposition of any tax assessments by any public authority.

(c) "Date of filing" means the date a Statement of Record, amendment or consolidation, accompanied by the applicable fee, is received by the Secretary.

(d) "Developer" means any person who, directly or indirectly, sells or leases, or offers to sell or lease, or advertises for sale or lease any lots in a subdivision.

(e) "Exemption advisory opinion" means the formal written decision of the Secretary, pursuant to § 1710.10 or § 1710.13, stating whether or not a particular method of sale is exempt from the requirements of this part. Such decision shall be issued on the basis of an examination of the information submitted and will not be considered binding if such information is incomplete or inaccurate in any material respect.

(f) "Exemption order" means the formal written decision of the Secretary, pursuant to § 1710.14, to exempt any subdivision or any lots in a subdivision from the requirements of this part.

(g) "Interstate commerce" means trade or commerce among the several States.

(h) "Lot" means any portion, piece, division, unit, or undivided interest in land if such interest includes the right to the exclusive use of a specific portion of the land.

(i) "Offer" means any inducement, solicitation, or attempt to encourage a person to acquire a lot in a subdivision.

(j) "OILSR" means the Office of Interstate Land Sales Registration.

(k) "Person" means an individual, or an unincorporated organization, partnership, association, corporation, trust, or estate.

(l) "Purchaser" means an actual or prospective purchaser or lessee of a lot in a subdivision.

(m) "Rules and regulations" refer to all rules and regulations adopted pursuant to the Act, including the general requirements published in this part.

(n) "Sale" means any obligation or arrangement for consideration to purchase or lease a lot directly or indirectly. The terms "sale" or "seller" include in their meanings the terms "lease" and "lessor".

(o) "Secretary" means the Secretary of Housing and Urban Development or his duly authorized representatives.

(p) "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

(q) "Subdivision" means any land which is divided or proposed to be divided into 50 or more lots, whether contiguous or not, for the purpose of sale or lease as part of a common promotional plan; and, where subdivided land is offered for sale or lease by a single developer or a group of developers acting in concert and where such land is contiguous or is known, designated, or advertised as a common unit or by a common name, such land shall be presumed, without regard to the number of lots covered by each individual offering, as being offered for sale or lease as part of a common promotional plan.

### § 1710.2 Official address.

The official address of the Secretary for delivery of all mail, telegrams, information, filings, registration, and other material required by or relating to the Act or this chapter is:

Office of Interstate Land Sales Registration, HUD Building, 451 Seventh Street SW., Washington, DC 20410.

### § 1710.5 General applicability.

Except in the case of an exempt transaction, a developer may not sell or lease lots in a subdivision, making use of any means or instruments of transportation or communication in interstate commerce or of the mails, unless a Statement of Record is in effect in accordance with the provisions of this part; and the developer furnishes each purchaser with a printed Property Report, meeting the requirements of the provisions of this part, in advance of the signing of any contract or agreement for sale or lease by the purchaser. As used in this part, "lots" shall include lots located in a foreign country.

### § 1710.10 Statutory exemptions.

The requirements of this part shall not apply to:

(a) The sale or lease of real estate not pursuant to a common promotional plan to offer or sell 50 or more lots in a subdivision.

(b) The sale or lease of lots in a subdivision, all of which are 5 acres or more in size.

(c) The sale or lease of any lots on which there is a residential, commercial, or industrial building, or to the sale or lease of land under a contract obligating the seller to erect such a building thereon within a period of 2 years.

(d) The sale or lease of real estate under or pursuant to court order.

(e) The sale of evidences of indebtedness secured by a mortgage or deed of trust on real estate.

(f) The sale of securities issued by a real estate investment trust.

(g) The sale or lease of real estate by any government or government agency.

(h) The sale or lease of cemetery lots.

(i) The sale or lease of lots to any person who acquires such lots for the purpose of engaging in the business of constructing residential, commercial or industrial buildings or for the purpose of resale or lease of such lots to persons engaged in such business.

The foregoing exemptions are available where the particular factual circumstances of the sale or lease meet the express requirements of the exemption provision. No formal written decision is required, but an exemption advisory opinion pursuant to § 1710.15 may be obtained if desired.

### § 1710.11 Statutory exemptions—determination required.

(a) The sale or lease of real estate shall be exempt from the requirements of this part if all of the following criteria are met:

(1) At the time of sale or lease the real estate is free and clear of all liens, encumbrances, and adverse claims.

(2) Each and every purchaser or his or her spouse has made a personal on-the-lot inspection of the real estate which he purchased or leased, prior to the signing of a contract to purchase or lease, and the developer submits his written affirmation to that effect, in the format set forth in § 1710.103.

(3) The developer has filed with the Secretary a Claim of Exemption in the form set forth in § 1710.101.

(4) The developer has obtained the Secretary's approval of the form and content of a Statement of Reservations, Restrictions, Taxes, and Assessments, prepared in accordance with the instructions in § 1710.102.

(5) Prior to the time a purchaser signs a contract for sale or lease the developer shall have furnished to such purchaser the Statement of Reservations, Restrictions, Taxes, and Assessments and shall have obtained in writing the purchaser's acknowledgment of receipt of such statement.

(b) (1) Within 31 days after the expiration of the calendar year in which the sale or lease is made, the developer shall file with the Secretary a copy of each acknowledged statement, together with the developer's affirmation required by paragraph (a)(2) of this section.

(2) If the developer has relied upon the provisions of paragraph (c)(1) of this section to establish the time of sale, he shall file with each acknowledged statement and affirmation a copy of the applicable contract of sale.

(3) All documents required to be submitted by this section shall be bound in alphabetical order and indexed by purchaser's surname. Each bound volume shall contain only such documents as are





applicable to a single subdivision and shall be identified on the outer cover by the name and location of the subdivision and the number assigned by OILSR to such subdivision. Upon demand by the Secretary, made at any time during the calendar year, the developer shall, without delay, file copies of such acknowledged statements, affirmations, and applicable contracts as the Secretary may specify.

(c) For the purposes of this Section:

(1) "Time of sale or lease" means the date the sales contract or lease is signed by the purchaser except that the "time of sale" shall be deemed to be the effective date of the conveyance if both of the following conditions are met:

(i) The contract of sale requires delivery of a deed to the purchaser within 120 days following the signing of the sales contract.

(ii) Any earnest money deposit, or other payment on account of the purchase price, made by the purchaser prior to the effective date of the conveyance is placed in an escrow account fully protecting the interest of the purchaser. Such account shall be with an institution or organization which has trust powers or in an established bank, title insurance, or abstract company, or an escrow company which is doing business in the jurisdiction in which the property is located.

(2) "Liens, encumbrances, and adverse claims" do not include the following:

(i) Property reservations which land developers commonly convey or dedicate to local bodies or public utilities for the purpose of bringing public services to the land being developed.

(ii) Taxes and assessments imposed by a State, by any other public body having authority to assess and tax property or by a property owners' association which under applicable State or local law constitute liens before they are due and payable.

(iii) Benefical property restrictions which would be enforceable by other lot owners or lessees in the subdivision.

### § 1710.12 Statutory exemptions—when inapplicable.

The exemptions set forth under §§ 1710.10 and 1710.11 of this part shall not be applicable when the method of sale, lease, or other disposition of land or an interest in land is adopted for the purpose of evasion of the Act.

### § 1710.13 Regulatory exemptions.

The requirements of this part shall not apply to:

(a) The sale or lease of lots, each of which will be sold for less than $100, including closing costs, provided that the purchaser will not be required to purchase more than one lot.

(b) The lease of lots for a term not to exceed 5 years provided the terms of the lease do not obligate the lessee to renew.

The foregoing exemptions are available where the particular factual circumstances of the sale or lease meet the express requirements of the exemption provision. No formal written decision is required, but an exemption advisory opinion pursuant to § 1710.15 may be obtained if desired.

### § 1710.14 Regulatory exemptions—exemption order required—limited offering.

(a) The Secretary may exempt from the provisions of this part any subdivision or any lots in a subdivision which otherwise would be covered by the provisions of this part, by issuing an exemption order in writing to the effect that the enforcement of this part with respect to such subdivision or lots is not necessary in the public interest and for the protection of purchasers by reason of the small amount involved or the limited character of the public offering, if he determines that:

(1) The request for the exemption order is limited to a single transaction; or

(2) All of the following criteria are met:

(i) There are less than 300 lots in the subdivision.

(ii) The subdivision is located entirely within one State.

(iii) The offering of lots in the subdivision is entirely or almost entirely limited to the State in which the subdivision is located.

(iv) The use of all advertising and other promotional means, the distribution of which is within control of the developer or his agents, is confined to the State in which the subdivision is located. All use of billboards and similar signs, telephonic methods of communication and direct mail shall be presumed to be within the control of the developer or his agents.

(v) No more than 5 percent of the sales in the subdivision in any one year will be made to nonresidents of the State in which the subdivision is located.

(b) To obtain an order by the Secretary under paragraph (a) of this section, the developer shall:

(1) File a partial Statement of Record—request for exemption in accordance with § 1710.125. The partial Statement of Record shall not operate as registration under the Act.

(2) Pay the filing fee required by § 1710.35(g).

(3) Submit a comprehensive statement.

(i) Identifying the lots which are the subject of the exemption request and setting forth the reasons supporting such request. The developer shall enumerate and identify prior sales, if any.

(ii) Describing the advertising and promotional media and methods used or to be used in connection with the sale or lease or offers to sell or lease lots in the subdivision. The statement shall describe the area and States in which newspapers and periodicals are distributed, or in which broadcasts of radio or television stations are received, or to which mailings or other promotional materials are directed. If the request is for the exemption of a single transaction, the statement shall include the details of that transaction only.

(iii) Stating whether any of the holders of an ownership interest in the land, or the developer or any principals in the holder or developer, are directly or indirectly involved in any other subdivision for which they have filed a Statement of Record with or have requested an exemption order, determination or advisory opinion from the Office of Interstate Land Sales Registration. If so, the statement shall identify the subdivision by name, location and OILSR number or numbers. If any of the abovementioned persons are involved in any other subdivision for which they plan to file a Statement of Record or for which they plan to request an exemption order, determination or advisory opinion, the statement shall identify such subdivision by name and location and shall state the proposed number of lots in that subdivision.

(4) Submit such additional information as the Secretary may require in order to make his decision.

(c) Any exemption order issued pursuant to the provisions of this section shall be limited to the facts, affirmations, and methods of operation as represented in the request and any material change in or deviation therefrom shall automatically terminate the effect of such exemption order.

### § 1710.15 Exemption advisory opinions.

(a) *In general.* A developer of a subdivision may obtain an exemption advisory opinion from the Secretary stating whether or not, in the opinion of the Secretary, a particular method of sale or lease is exempt from the requirements of this part. An exemption advisory opinion is issued solely in connection with those methods of sale or lease exempted by §§ 1710.10 and 1710.13.

(b) *Partial Statement of Record.* Any opinion request shall be accompanied by a partial Statement of Record as prescribed in § 1710.125. The partial Statement of Record shall not operate as registration under the Act.

(c) *Supporting statement and fees.* Any opinion request shall be accompanied by the required fee, set forth in § 1710.35(g), and a comprehensive statement of facts and applicable law under which the developer believes the method of disposition to be exempt. Such statement shall:

(1) Describe the advertising and promotional media and methods used or to be used in connection with the sale or lease or offers to sell or lease lots in the subdivision.

(2) Describe the area and States in which newspapers and periodicals are distributed, or in which broadcast of radio or television stations are received, or to which mailings or other promotional materials are directed.

(3) State whether any of the holders of an ownership interest in the land, or the developer or any principals in the holder or developer, are directly or indirectly involved in any other subdivision for which they have filed a Statement of Record with or have requested an exemption order, determination or advisory



V 38 I 170 S
SEP 4 73
XUM

opinion from the Office of Interstate Land Sales Registration. If so, the statement shall identify the subdivision by name, location, and OILSR number or numbers. If any of the above-mentioned persons are involved in any other subdivision for which they plan to file a Statement of Record or for which they plan to request an exemption order, determination or advisory opinion, the statement shall identify such subdivision by name and location and shall state the proposed number of lots in that subdivision.

**§ 1710.17 Concurrent submission—request for exemption/Statement of Record.**

A request for an exemption order pursuant to § 1710.14 or for an exemption advisory opinion pursuant to § 1710.15 may be accompanied by the submission of a complete Statement of Record filed in accordance with the procedures described in paragraphs (a) and (b) of this section.

(a) A developer who wishes to begin to offer or to sell lots in a subdivision may submit in connection with a request for an exemption order or for an exemption advisory opinion a complete Statement of Record (§ 1710.20). Such request shall not affect the date upon which the Statement of Record shall become effective.

(b) If a Statement of Record has become effective prior to the issuance of an exemption order or of an exemption advisory opinion of the Secretary to the effect that the method of disposition is exempt, the developer shall elect within 30 days of the date of such order or opinion whether he intends to rely upon such order or opinion or intends for the Statement of Record to remain in effect. Unless the developer informs the Secretary to the contrary, the Statement of Record shall be deemed ineffective and permanently withdrawn, and it will be presumed that the developer intends to rely upon the order or opinion of the Secretary. Thereafter, the developer shall not represent to a purchaser that:

(1) The subdivision has been registered with the Secretary,

(2) The Statement of Record is in effect, or

(3) The Secretary has accepted any Property Report or similar information given to a purchaser.

If the developer does not intend to rely on the exemption order or on the exemption advisory opinion and so notifies the Secretary of his election within 30 days of the date of such order or opinion, he shall not thereafter represent to a purchaser that his method of sale, lease, or other disposition is exempt from the Act.

**§ 1710.18 No-Action Letters.**

Whenever the Secretary determines on the basis of the facts presented that no affirmative action is necessary to protect the public interest or prospective purchasers, a letter stating that no action will be taken by the Secretary may be issued. Any letter by the Secretary that action shall not be taken shall not bind the Secretary with regard to his future actions relating to such matter unless the Secretary shall specifically set forth in writing his determination to be so bound and the extent and nature thereof. Any such No-Action Letter by the Secretary shall not affect any right which any purchaser may have under the Act.

**§ 1710.20 Statement of Record and Property Report—form and filing.**

The requirements for registering a subdivision, by filing a Statement of Record and a Property Report with the Secretary and obtaining the Secretary's determination of a date when such filing becomes effective, are as follows:

(a) *Filing.*—A Statement of Record and a Property Report relating to a subdivision shall be filed with the Secretary by personal delivery or by certified mail, return receipt requested, addressed as shown in § 1710.2.

(b) *Form of Statement of Record.*—The Statement of Record shall be filed in the form, and shall be supported by the documentation, required by § 1710.105. The Statement of Record shall also include such other information as the Secretary may require as being reasonably necessary or appropriate for the protection of purchasers.

(c) *Form of Property Report.*—The Property Report shall be in the form set forth in § 1710.110.

(d) *State filings.*—Instead of the forms required by paragraphs (b) and (c) of this section, a Statement of Record and Property Report may be in the form required by State authorities if filed in accordance with the provisions of §§ 1710.25, 1710.115, and 1710.120.

(e) *Effective date—Property Report.*—The Property Report shall be considered to be a part of the Statement of Record for the purpose of determining the effective date and the suspension of the effective date thereof.

**§ 1710.21 Statement of Record, consolidations, amendments—effective date.**

(a) *Original filing and amendment thereto—effective date.*—The effective date of a Statement of Record or any amendment thereto shall be the 30th day after the date of filing unless the Secretary shall notify the developer in writing prior to such 30th day either that:

(1) The effective date has been suspended in accordance with § 1710.45(a), or

(2) An earlier effective date has been determined by the Secretary.

(b) *Consolidated filing—effective date.*—The effective date of a consolidated statement of record shall be governed by the provisions of paragraph (a) of this section.

(c) *Amendments—effective date.*—Amended Statements of Record shall become effective as follows: If a Statement of Record or any amendment thereto has been filed but is not yet effective, the effective date of the Statement or amendment, as amended, shall be the 30th day after the filing of the latest amendatory material unless the Secretary shall notify the developer in writing prior to such 30th day either that:

(1) The effective date has been suspended in accordance with § 1710.45(a), or

(2) An earlier effective date has been determined by the Secretary.

**§ 1710.22 Consolidated Statements of Record.**

If in connection with lots previously offered for sale and covered by an effective Statement of Record, the developer intends to offer additional lots as part of a common promotional plan, either a new or a consolidated Statement of Record must be filed. If no additional land is offered for sale, but simply additional lots through replatting the same land, then the filing may be amended; but in such instance the developer must pay for the amendment as per fee schedule (for consolidations) under § 1710.35 (c) or (e). The fee shall be based on the additional lots to be offered for sale as a result of the replatting of the land. The developer shall answer specifically each question in the Statement of Record and submit a new Property Report. The developer may not incorporate by reference answers to questions or supporting documentation in the previous filing, except that supporting documentation may be incorporated by reference in those instances where it is applicable specifically to both the original filing and to the additional lots to be offered. In all other respects the consolidated Statement of Record shall conform to the format requirements of an initial Statement of Record filed in accordance with these regulations.

**§ 1710.23 Amendments—Statement of Record and Property Report—form and filing.**

(a) An amendment to an effective Statement of Record or to a Property Report shall be filed with the Secretary if any material change occurs in any representation of fact made in such statement or report. An amendment shall be filed within 15 days of the date on which the developer knows or should have known that there has been a material change. The OILSR number of the Statement of Record shall appear at the top of each page of the material submitted.

(b) An amendment to a Statement of Record or Property Report shall incorporate by reference the prior Statement of Record or Property Report except for any material change which may have occurred. A material change shall be specifically described and shall be supported by such documentation as would be required in connection with an initial filing. Any such amendments shall be accompanied by:

(1) A letter from the developer giving a narrative statement fully explaining the purpose and significance of the amendment and referring to that part and page of the Statement of Record which is being amended.





(2) All pages of the Statement of Record, which have been amended, retyped in the approved format reflecting the amendments.

(3) A copy of the Property Report, if amended.

**§ 1710.25 State filings—in general.**

(a) Material filed with and found acceptable by State authorities charged with the responsibility of regulating the sale of lots in subdivisions may be accepted for filing by the Secretary as meeting the requirements of this part if the Secretary determines such action to be appropriate and such determination is set forth in § 1710.26. Material filed with the Secretary under this section must be accompanied by a statement from the appropriate State authority which states substantially that:

The Department of Real Estate (or Real Estate Commission or Securities Commission) has reviewed the copies of documents attached to this filing and finds that these copies consist of _____ pages and that they are copies of all documents upon which the Public Report (or Public Offering Statement or Public Statement), which became effective on _____, 197__, is based.

(b) Where duplicate material has been accepted for filing by the Secretary under paragraph (a) of this section and such material, or any part thereof, for any reason, is no longer acceptable to the State authorities or effective in that State, the filing with the Secretary shall be ineffective unless amended pursuant to § 1710.27.

(c) The effective date of a State filing shall be determined in accordance with the provisions of §§ 1710.20 and 1710.21.

**§ 1710.26 State filings—acceptable filings.**

The Secretary has determined that material initially filed with and allowed to become effective by authorities in the several States listed below may be accepted pursuant to § 1710.25:

(a) California.

(b) Florida, except as to material filed with State authorities prior to enactment of section 478, Florida statutes, effective August 1, 1967.

(c) Hawaii, except as to material filed with State authorities prior to the enactment of Act 223, Session laws of Hawaii 1967.

(d) New York.

**§ 1710.27 State filings—consolidations and amendments.**

(a) *Procedures.*—Where materials filed with State authorities also has been filed with the Secretary pursuant to § 1710.25, and subsequent thereto, the State authorities approved amendments or a consolidation to such material, copies of amended or consolidated material, as approved, shall be filed with the Secretary. The OILSR number shall appear at the top of each page of the material submitted. Such a filing shall be made with the Secretary within 15 days after it becomes effective under the applicable State laws and shall include the following additional items:

(1) A letter or other document from the State authorities stating that the amendment or additional material has been allowed to become effective.

(2) A letter from the developer giving a narrative statement fully explaining the purpose and significance of the amendment or consolidation and referring to that part and page of the Statement of Record which is being amended.

(3) All pages of the Statement of Record, which have been amended, retyped in the approved format reflecting the amendments.

(4) A copy of the Property Report, if amended.

(5) The material filed with and found acceptable by the State authorities as a consolidation or an amendment must be accompanied by the statement required by § 1710.25.

(b) *Requirement for amendment.*—The Statement of Record and Property Report shall be amended within 15 days of the date on which the developer knows or should have known that there has been a material change.

(c) *Effective date—State filing.*—The effective date of a State filing consolidation or amendment shall be determined in accordance with the provisions of § 1710.21.

**§ 1710.32 Use of Property Reports—misstatements or omissions prohibited; representation of HUD approval prohibited.**

Nothing in this part shall be construed to authorize or aprove any use of a Property Report containing any untrue statement of a material fact or omitting to state a material fact required to be stated therein. Nor shall anything in this part be construed to authorize or permit any representation that the Property Report is prepared or approved by the Secretary, OILSR or the Department of Housing and Urban Development.

**§ 1710.35 Payment of fees.**

(a) *Method of payment.*—Fees shall be paid by certified check or cashier's check or postal money order. Such check or money order shall be payable to the Treasurer of the United States.

(b) *Initial filing.*—The fee, not to exceed $1,000, for the initial filing of a Statement of Record, shall be, as set forth in column 1 of paragraph (f) of this section, based on the number of lots in the offering.

(c) *Consolidated filing.*—The fee, not to exceed $1,000, for filing a consolidated Statement of Record, shall be, as set forth in column 2 of paragraph (f) of this section, based on the number of lots in addition to the number which were offered in the initial Statement of Record.

(d) *Initial State filing.*—The fee, not to exceed $1,000, for an initial filing of a duplicate of material filed with a State (§ 1710.25), shall be, as shown in column 3 of paragraph (f) of this section, based on the number of lots in the offering.

(e) *Consolidated State filing.*—The fee, not to exceed $1,000, for the filing of a duplicate of material filed with a State covering a number of lots in addition to the number contained in the initial offering approved by the State (§ 1710.27), shall be, as shown in column 4 of paragraph (f) of this section, based on the number of lots being added to the number in the initial offering. This paragraph applies only in those instances where the State has permitted the consolidation of the additional number of lots with those included in the initial offering.

(f) *Fee schedule.*—The following chart shall be used in computing fees required to be paid under paragraphs (b), (c), (d), and (e) of this section.

| Number of lots | Fees column 1 | 2 | 3 | 4 |
|---|---|---|---|---|
| 1–50 | $300 | $250 | $225 | $125 |
| 51–100 | 350 | 300 | 250 | 150 |
| 101–150 | 400 | 350 | 275 | 175 |
| 151–200 | 450 | 400 | 300 | 200 |
| 201–250 | 500 | 450 | 325 | 225 |
| 251–300 | 550 | 500 | 350 | 250 |
| 301–350 | 600 | 550 | 375 | 275 |
| 351–400 | 650 | 600 | 400 | 300 |
| 401–450 | 700 | 650 | 425 | 325 |
| 451–500 | 750 | 700 | 450 | 350 |
| 501–550 | 800 | 750 | 475 | 375 |
| 551–600 | 850 | 800 | 500 | 400 |
| 601–650 | 900 | 850 | 525 | 425 |
| 651–700 | 950 | 900 | 550 | 450 |
| 701–750 | 1,000 | 950 | 575 | 475 |
| 751–800 | 1,000 | 1,000 | 600 | 500 |
| 801–850 | 1,000 | 1,000 | 625 | 525 |
| 851–900 | 1,000 | 1,000 | 650 | 550 |
| 901–950 | 1,000 | 1,000 | 675 | 575 |
| 951–1,000 | 1,000 | 1,000 | 700 | 600 |
| 1,001–1,050 | 1,000 | 1,000 | 725 | 625 |
| 1,051–1,100 | 1,000 | 1,000 | 750 | 650 |
| 1,101–1,150 | 1,000 | 1,000 | 775 | 675 |
| 1,151–1,200 | 1,000 | 1,000 | 800 | 700 |
| 1,201–1,250 | 1,000 | 1,000 | 825 | 725 |
| 1,251–1,300 | 1,000 | 1,000 | 850 | 750 |
| 1,301–1,350 | 1,000 | 1,000 | 875 | 775 |
| 1,351–1,400 | 1,000 | 1,000 | 900 | 800 |
| 1,401–1,450 | 1,000 | 1,000 | 925 | 825 |
| 1,451–1,500 | 1,000 | 1,000 | 950 | 850 |
| 1,501–1,550 | 1,000 | 1,000 | 975 | 875 |
| 1,551–1,600 | 1,000 | 1,000 | 1,000 | 900 |
| 1,601–1,650 | 1,000 | 1,000 | 1,000 | 925 |
| 1,651–1,700 | 1,000 | 1,000 | 1,000 | 950 |
| 1,701–1,750 | 1,000 | 1,000 | 1,000 | 975 |
| 1,751–or more | 1,000 | 1,000 | 1,000 | 1,000 |

(g) *Exemption order or exemption advisory opinion.* The fee for an exemption order or exemption advisory opinion (§ 1710.14 or § 1710.15) shall be $100, which shall not be refundable and is to be collected as follows:

(1) When the developer files a concurrent submission—request for exemption/Statement of Record—pursuant to § 1710.17, the fee required by paragraphs (b) through (e) of this section shall be submitted. If the Secretary advises or orders that the offering is exempt under § 1710.10, § 1710.13, or § 1710.14 and the developer does not notify the Secretary within 30 days thereafter that he intends for the Statement of Record to remain in effect, the Secretary will refund the submitted fee except for $100. If the developer notifies the Secretary that he intends for the Statement of Record to remain in effect or if the request for exemption is denied the fee required by this paragraph will be retained.

(2) When the developer files a request for an exemption order or advisory opinion not accompanied by a complete Statement of Record, the fee of $100 shall



V 38 I 170 SEP 4 73 XUM

be submitted. If the Secretary finds that the filing of a complete Statement of Record is required, the fee of $100 shall be applied as a credit toward the fee required for the filing of the complete Statement of Record.

(h) *Amendments.*—A fee of $100 shall be charged for the filing of the second and subsequent preeffective amendments for any initial or consolidated filing, unless this requirement is waived by the Secretary. Waiver of this requirement must be in writing. No fee will be charged for the first preeffective amendment or any posteffective amendment.

**§ 1710.45 Suspensions.**

(a) *Suspension notice—prior to effective date.*—(1) A suspension notice with respect to a Statement of Record or an amendment may be issued to a developer by the Secretary within 30 days after the date of filing if prior to its effective date, the Secretary has reasonable grounds to believe that a Statement of Record is on its face incomplete or inaccurate in any material respect; or prior to its effective date, the Secretary has reasonable grounds to believe that an amendment is on its face incomplete or inaccurate in any material respect.

(2) Suspension notices issued pursuant to this subsection shall suspend the effective date of the statement or the amendment until 30 days, or such earlier date as the Secretary may determine, after the developer files such additional information as the Secretary shall require.

(3) A developer, upon receipt of a suspension notice may request a hearing within 15 days of receipt of such notice. Such hearing shall be held within 20 days of receipt of such request by the Secretary.

(4) Suspension notices issued pursuant to this section shall continue in effect until all deficiencies cited in the notice are corrected.

(b) *Suspension orders—subsequent to effective date.*—(1) A notice of proceedings to suspend an effective Statement of Record may be issued to a developer if the Secretary has reasonable grounds to believe that an effective Statement of Record includes an unture statement of a material fact, or omits a material fact required by the Act or the rules and regulations, or omits a material fact which is necessary to make the statements therein not misleading. The Secretary may, after notice, and after opportunity for a hearing requested within 15 days of receipt of such notice, issue an order suspending the Statement of Record. In the event that a suspension order is issued, such order shall remain in effect until the developer has amended the Statement of Record or otherwise complied with the requirements of the order. When the developer has complied with the requirements of the order, the Secretary shall so declare and thereupon the suspension order shall cease to be effective.

(2) If the Secretary undertakes an examination of a developer or his records to determine whether a suspension order should be issued, and the developer fails to cooperate with the Secretary or obstructs, or refuses to permit the Secretary to make such examination, the Secretary may issue an order suspending the Statement of Record. Such order shall remain in effect until the developer has complied with the requirements of the order. When the developer has complied with the requirements of the order, the Secretary shall so declare and thereupon the suspension order shall cease to be effective.

(3) Upon receipt of an amendment to an effective Statement of Record, the Secretary may issue an order suspending the Statement of Record until the amendment becomes effective if he has reasonable grounds to believe that such action is necessary or appropriate in the public interest or for the protection of purchasers.

(4) Suspension orders issued pursuant to this subsection shall operate to suspend the Statement of Record as of the date the order is either served on the developer or his registered agent or is delivered by certified or registered mail to the address of the developer or his authorized agent.

## Subpart B—Reporting Requirements

**§ 1710.101 Claim of exemption—format of affirmation.**

A claim of exemption pursuant to § 1710.11 shall be made to the Office of Interstate Land Sales Registration, Department of Housing and Urban Development, and shall be supported by an affirmation as follows:

CLAIM OF EXEMPTION

I hereby affirm on this _____ day of _____, 19__, as follows:

(1) I am the developer, or the duly authorized agent of the developer, of the subdivision known as _____, located at _____, in the State of _____. County of _____.

(2) Each and every purchaser or lessee of a lot to be covered by this exemption, or his or her spouse, prior to his signing a contract to purchase or lease will have:

(a) Made a personal on-the-lot inspection of the real estate which he purchases or leases; and

(b) Acknowledged, in writing, receipt of a statement furnished by the developer setting forth all reservations, restrictions, taxes, and assessments applicable to the lot to be purchased or leased whether or not such reservations, restrictions, taxes, or assessments are included within the term "liens, encumbrances, and adverse claims" as used in paragraph (7) below.

(3) This affirmation is accompanied by a Statement of Reservations, Restrictions, Taxes, and Assessments prepared in accordance with the provisions of 24 CFR 1710.102. The Secretary's approval of such statement will be obtained prior to its distribution and use.

(4) The Statement of Reservations, Restrictions, Taxes, and Assessments is complete and correct.

(5) The receipt of such statement will be acknowledged in writing, in duplicate, by the purchaser or lessee prior to the time of the signing of the contract.

(6) A copy of the acknowledged statement will be filed with the Secretary within 31 days after the expiration of the calendar year in which the sale or lease is made. Upon demand by the Secretary made at any time during the calendar year, the developer shall file such copies of such acknowledged statements as shall be specified by the Secretary.

(7) At the time of sale or lease, the lot will be free and clear of all liens, encumbrances, and adverse claims. The term "liens, encumbrances, and adverse claims" (as used in this paragraph) is not intended to include property reservations which land developers commonly convey or dedicate to local bodies or public utilities for the purpose of bringing public services to the land being developed, nor to taxes and assessments imposed by a State, by any other public body having authority to assess and tax property or by a property owners' association, which, under applicable State or local law, constitute liens on the property before they are due and payable, nor to beneficial property restrictions which would be enforceable by other lot owners or lessees in the subdivision.

(8) For the purpose of this claim of exemption, the undersigned agrees that the "time of sale or lease" shall be deemed to be the date the sales contract or lease is signed by the purchaser or lessee except that the "time of sale" shall be deemed to be the effective date of the conveyance or lease if both of the following requirements are met:

(a) The contract of sale requires delivery of a deed to the purchaser within 120 days following the signing of the sales contract.

(b) Any earnest money deposit or other payment on account of the purchase price made by the purchaser prior to the effective date of the conveyance will be placed in an escrow account, fully protecting the interests of the purchaser, in an institution or organization which has trust powers, or in an established bank, title insurance, or abstract company, or escrow company doing business in the jurisdiction in which the property is located.

_____
_____
(Title)

(If the affirmation is made by an agent of the developer of the subdivision, submit written authorization to act as agent.)

**§ 1710.102 Statement of Reservations, Restrictions, Taxes, and Assessments—format and instructions.**

A statement of reservations, restrictions, taxes, and assessments shall be prepared by the developer in accordance with the following format, instructions, and supporting documentation:

STATEMENT OF RESERVATIONS, RESTRICTIONS, TAXES, AND ASSESSMENTS

Employer's IRS Number_____
Developer_____
Owner_____

Name of developer_____
Address _____
Owner (if developer is other than owner)
_____
Address _____
Name of subdivision_____
Location _____
Number of lots in subdivision_____
Number of acres in subdivision_____

1. *Reservations and restrictions.*

(The developer shall set forth, in descriptive and concise terms, a complete statement of all reservations and restrictions affecting the property within the above-named subdivision. Where reservations or restrictions are not applicable to all lots within a subdivision the statement shall identify the lots affected. State whether such reservations and restrictions are enforceable by other lot owners or lessees of lots in the subdivision. Reference to instruments of record shall include a specific citation to the public record in which such instruments are recorded or filed by book, page, and place of record.)

2. *Taxes.*

(The developer shall set forth, in descriptive and concise terms, a complete statement listing all taxes and liens presently due and payable and those which constitute liens on the property before they become due and payable, together with the date such taxes will become due and payable. Itemize taxes, amounts and rates by lots. Where taxes, amounts or rates shown are not yet available for the current calendar year, those for the previous year should be shown with a statement that they are not for the current year and that the new taxes, amounts or rates may vary; and, if property has been rezoned or subdivided since the last taxing period, the estimated amount of changes for the current year should also be shown. Where the previous year's taxes were based other than on lots as presently subdivided, estimates should be shown and so identified.)

3. *Assessments.*

(The developer shall set forth in descriptive and concise terms a statement of all assessments which are made or may be made by State or local authorities or by a property owners' association or similar organization. The statement shall include any dues or fees paid in the last year or payable to a property owner's association. Itemize assessments, dues, fees, amounts and rates. State the authority under which the assessments, dues, and fees are imposed.)

WARNING: This subdivision is not registered with the Office of Interstate Land Sales Registration nor has that Office passed upon the accuracy or adequacy of this statement, nor does this statement serve as an endorsement or recommendation by that Office of the above offering.

The undersigned by his signature hereby acknowledges that he has received a Statement of Reservations, Restrictions, Taxes, and Assessments, on (identify subdivision and location) from (name of developer) located at (address) and that he has made a personal on-the-lot inspection of (at the time of delivery to the purchaser or lessee insert a legal description of the particular lot) which is the lot upon which the undersigned plans to execute a contract of sale or lease.

_____
(Date)

_____
(Signature of purchaser or lessee)

*Supporting documentation.*—In order to support the preceding statement, the developer shall submit the following documentation.

1. A plat of each subdivision identifying the unsold lots which are the subject of this claim of exemption. Each unsold lot shall be clearly delineated on the plat.

2. Evidence of title. This may be a title insurance policy, or an attorney's opinion, providing the attorney is experienced in the examination of titles and a member of the bar in the State in which the property is located.

3. Copy of the sales contract.

**§ 1710.103 Affirmation—purchaser's on-the-lot inspection—format.**

The affirmation required by § 1710.11 (a) (2) shall be submitted in the form set forth below and may be submitted as a separate document or as an attachment to the purchaser's acknowledgment of receipt of the Statement of Reservations, Restrictions, Taxes, and Assessments.

AFFIRMATION RE PURCHASER'S ON-THE-LOT INSPECTION

I hereby affirm on this _____ day of _____, 19__, that:

(1) I am the developer, or the duly authorized agent of the developer, of the subdivision known as _____, located at _____, in the State of _____, County of _____.

(2) On _____, 19__, Mr. and Mrs. _____, of _____, signed a contract for the purchase (lease) of lot _____ in section _____ of said subdivision.

(3) Prior to signing the contract Mr. and Mrs. (Mr. or Mrs.) _____ made a personal on-the-lot inspection of the lot described in paragraph (2) above.

_____
_____
(Title)

(If the affirmation is made by an agent, submit written authorization to act as agent. Only one authorization per agent need be submitted for a calendar year, though copies of such authorization may be submitted with each affirmation.)

**§ 1710.105 Statement of Record—format and instructions.**

The Statement of Record required by § 1710.20 shall be prepared in accordance with the format and instructions as follows:

Employer's IRS numbers: _____
Developer: _____
Owner: _____

STATEMENT OF RECORD

Name of subdivision: _____
Location: _____
Name of developer: _____
Developer's address: _____
Authorized agent: _____
Authorized agent's address: _____

PART I. ADMINISTRATIVE INFORMATION

A. Identification and filing information:
1. _____
2. _____
3. _____

B. General information:
1. _____
2. _____
3. _____
4. _____
5. _____
6. Acres owned _____
Acres under option or other similar arrangement _____
Total _____
7. _____

C. Filings with U.S. Securities and Exchange Commission and States authorities:
1. _____
2. _____
3. _____
4. _____
5. _____
6. _____

D. Supporting documentation:
1. _____
2. _____

PART II. DEVELOPERS AND HOLDERS OF OWNERSHIP INTERESTS IN LAND, VIOLATIONS, BANKRUPTCIES AND LITIGATION

A. Holder of ownership interest_____
Type of legal entity_____
Extent and type of interest_____

B. Holder of interest in developer_____
Type of legal entity_____
Extent and type of interest_____

C. Violations, bankruptcies and litigation:
1. _____
2. _____
3. _____

D. Supporting documentation:
1. _____
2. _____

PART III. IDENTITY OF INTEREST IN MORE THAN ONE FILING

A. Subdivision _____
Location _____
OILSR number _____
Date of filing _____

B. Parent company and subsidiaries:
Parent company:
Name: _____
Address: _____
Subdivision: _____
Location: _____
OILSR number: _____
Date of filing: _____
Subsidiaries:
Name: _____
Address: _____
Subdivision: _____
Location: _____
OILSR number: _____
Date of filing: _____

C. Suspension: _____

PART IV. TOPOGRAPHY, CLIMATE, NUISANCES, SUBDIVISION MAP, PERMITS AND LICENSES

A. Topography and physical characteristics:
1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____

B. Climate and temperature:
1. _____
2. _____
3. _____

C. Nuisances:
1. _____
2. _____

D. Subdivision map, permits, and licenses:
1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____

E. Supporting documentation:
1. _____
2. _____
3. _____

PART V. CONDITION OF TITLE, ENCUMBRANCES, DEED RESTRICTIONS, AND COVENANTS

A.1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
B. _____
C. _____
D. _____

PART VI. GENERAL TERMS AND CONDITIONS OF OFFER, PROPOSED RANGE OF SELLING PRICES OR RENTS

A. Summary of General Terms and Conditions of Offer:
1. _____
2. _____





V 38-170 SEP 4 73 XUM

3. _____
4. _____
5. _____
6. _____
7. _____
8. _____

B. Proposed range of selling prices or rents _____

C. Supporting documentation:
1. _____
2. _____
3. _____

PART VII. ACCESS, NEARBY COMMUNITIES, ROAD SYSTEM WITHIN THE SUBDIVISION

A. Access—Nearby communities:
1. _____
2. _____
3. Name of community _____
Population _____
Distance over paved roads _____
Distance over unpaved roads _____
Total _____

B. Road system within the subdivision:
1. _____
2. _____
3. _____

C. Supporting documentation:
1. _____
2. _____
3. _____
4. _____
a. _____
b. _____

PART VIII. UTILITIES

A. Water:
1. _____
2. _____
a. _____
b. _____
c. _____
d. _____
3. _____
4. _____
5. _____
6. _____
7. Supporting documentation:
a. _____
b. _____
c. _____
d. _____
e. _____
f. _____
g. _____
h. _____
i. _____
ii. _____

B. Electricity:
1. _____
2. _____
3. _____
4. _____
5. _____
6. Supporting documentation:
a. _____
b. _____
c. _____

C. Gas:
1. _____
2. _____
3. _____
4. _____
5. _____
6. Supporting documentation:
a. _____
b. _____
c. _____

D. Telephone:
1. _____
2. _____
3. _____
4. _____
5. _____
6. Supporting documentation:
a. _____
b. _____
c. _____

E. Sewage disposal:
1. _____
2. _____
a. _____
b. _____
c. _____
d. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. Supporting documentation:
a. _____
b. _____
c. _____
d. _____
e. _____
f. _____
i. _____
ii. _____

F. Drainage and flood control:
1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. Supporting documentation:
a. _____
b. _____
c. _____
d. _____
i. _____
ii. _____
iii. _____

G. Television:
1. _____
2. _____

PART IX. RECREATIONAL AND COMMON FACILITIES

A. _____
1. _____
2. _____
3. _____
4. _____
5. Supporting documentation:
a. _____
b _____
i. _____
ii. _____
iii _____
iv. _____

PART X. MUNICIPAL SERVICE

A. Fire protection:
1. _____
2 _____
3 _____
B Police protection _____
C. Garbage and trash collection:
1. _____
2. _____
3 _____
D. Public schools:
1. Elementary school:
a. _____
b _____
c. _____
d. _____
2. Junior high school:
a. _____
b _____
c. _____
d. _____
3. High school:
a. _____
b. _____
c. _____
d. _____
E. Medical and dental facilities:
1. Hospital facilities:
a. _____
b. _____
c. _____
d. _____
e. _____
2. Physicians and dentists:
a. _____
b. _____
F. Public transportation:
1. _____
2. _____
3. _____
4. _____
G. U.S. Postal Service.
1. _____
2. _____
3. _____

PART XI. TAXES AND ASSESSMENTS—COMMON FACILITIES

A. _____
B. _____
C. _____
1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____

PART XII. OCCUPANCY STATUS

A. _____
B. _____
C. _____

PART XIII. SHOPPING FACILITIES

A. _____
B. _____

PART XIV. FINANCIAL STATEMENT

A. _____
B. _____

PART XV. AFFIRMATION

*Affirmation*

I hereby affirm that I am the Senior Executive Officer of the developer of the lots herein described or will be the Senior Executive Officer of the developer at the time lots are offered for sale or lease to the public, or that I am the agent authorized by the Senior Executive Officer of such developer to complete this statement (if agent, submit written authorization to act as agent);

That the statements contained in this Statement of Record and any supplement thereto, together with any documents submitted herewith, are full, true, complete, and correct;

That the developer is bound to carry out the promises and obligations set forth in this statement of record and property report or that I have clearly delineated the proposals for which the developer is not bound and stated who is or will be responsible, if anyone; and

That the fees accompanying this application are in the amount required by the rules and regulations of the Office of Interstate Land Sales Registration.

_____ _____
(Date) (Signature)

_____ _____
(Corporate seal if applicable) (Title)

WARNING: Section 1418 of the Housing and Urban Development Act of 1968 (82 Stat 598, 15 U.S.C. 1717) provides: "Any person who willfully violates any of the provisions of this title or of the rules and regulations or any person who willfully, in a statement of record filed under, or in a property report issued pursuant to, this title, makes any untrue statement of a material fact * * *, shall upon conviction be fined not more than $5,000 or imprisoned not more than 5 years, or both."





INSTRUCTIONS FOR COMPLETION OF STATEMENT OF RECORD

A. These instructions must be followed in completing the Statement of Record. All spaces in the specified format must be completed. The format must not be changed in any respect, except as follows:

1. Spaces provided in the format may be enlarged or extended for the purpose of providing a comprehensive explanation.

2. In addition to the information expressly required to be stated in the statement of record, there shall be added such further material information, documentation, and certifications, if any, as may be necessary in the public interest and for the protection of purchasers or necessary in order to make the statements in the light of the circumstances under which they are made, not misleading.

3. If a filing is to be consolidated pursuant to § 1710.22, the developer shall answer specifically each question in the Statement of Record and submit a new Property Report. The developer shall not incorporate by reference the answers to questions or supporting documentation in the previous filing, except that supporting documentation may be incorporated by reference in those instances where it is applicable specifically to both the original filing and to the additional lots to be offered. This shall be accomplished by placing after the applicable part or subpart in the format the OILSR number of the previous filing identifying the appropriate part, subpart, exhibit, and page number. In all other respects the consolidated Statement of Record shall conform to the format requirements of an initial Statement of Record filed under these regulations.

4. Amendments, including preeffective and posteffective amendments to the statement of record and property report, shall be prepared and filed in accordance with the procedure set forth in § 1710.23(b).

B. To facilitate proper filings, statements of record shall be bound and filed on good quality, unglazed, white paper, approximately 8½ by 13 inches in size, with a 2-inch margin at the top and a 1½-inch margin on each side. They shall be in black ink in standard elite or pica type. They may be printed, lithographed, mimeographed, or typewritten; but the standard size of elite or pica type must be used. Deeds, title policies, subdivision maps or plats, and other supporting documents may be on different size paper but should be folded to the 8½- by 13-inch size. A copy of the Property Report containing the text in its entirety as it is intended to be reproduced for delivery to prospective purchasers shall be attached to the Statement of Record. Statements of Record shall be properly signed and dated. The developer shall include the date of typing or preparation of the page in the lower right hand corner of each page of the statement of record.

C. In the upper right hand corner, the developer shall give his employer's IRS number as well as that of the owner of the subdivision, if the developer is not the owner. The name at the heading of the Statement of Record shall be the common promotional name used for the subdivision. The name and address of the authorized agent shall be the name and address of the party designated by the developer to receive correspondence and to receive service of process or notice of any action taken by OILSR. In all filings, including filings by foreign developers, the authorized agent shall be a resident of the United States.

D. The supporting documents required by the various parts of these instructions shall be attached as exhibits at the back of the Statement of Record. Each exhibit shall be identified by affixing a tab on the right side of the cover sheet of the exhibit and by identifying thereon the applicable part and subpart by Roman numeral, letter and Arabic number. The pages of each exhibit shall be numbered beginning with the number one for the first page in each exhibit and numbering the remaining pages in the exhibit sequentially. If, at a later time, additional data is furnished to be incorporated into, or to amend, an exhibit, the pages of the additional data shall be numbered beginning with the number following the last page number in the exhibit and following sequentially therefrom. If the information in an exhibit is applicable to more than one part, the developer may incorporate that information by reference to the appropriate exhibit and to the applicable page or pages within that exhibit.

E. If an item in the Statement of Record is supported by information in an exhibit, place the appropriate exhibit and page number in the right margin immediately adjacent to the item. Whenever the Statement of Record requires a summary or statement of terms or items, such summary or statement must be presented in a clear and concise manner.

F. Where the documentation required by the Statement of Record cannot be obtained, a letter stating the reasons therefor must be furnished by the developer, along with the best alternative assurance available. However, the documentation required by the following parts must be provided before the filing will be considered to constitute a statement of record:

Part I.D.1.,
Part II.D.1.,
Part IV.E.,
Part V.,
Part VI. 1. and 3., and
Part XIV.

The documentation required by the remainder of the parts of the statement of record must be provided if the developer includes statements, either in the statement of record or property report, evidencing an obligation or commitment on the part of a third party or action by a public official relating to the subdivision. Lacking such documentation appropriate disclosures must be made in both the statement of record and property report.

G. Proposals (as opposed to amenities already provided) may not be included in the statement of record unless the developer has clearly stated that they are merely proposals and disclosed any conditions of completion (such as successful sale of lots) and whether he will be obligated or who will be obligated, if anyone.

H. The following instructions correspond to the part and subpart letters and numbers set forth in the Statement of Record format.

PART I. ADMINISTRATIVE INFORMATION

A. Identification and filing information.

1. State whether the filing is an initial filing with the Office of Interstate Land Sales Registration on the subdivision or an additional offering of lots to be consolidated with a Statement of Record previously filed for lots offered under the same common promotional plan. If the filing is to be consolidated, identify the OILSR filing number assigned to the original Statement of Record.

2. Do you intend to make subsequent filings for additional lots within the subdivision?

3. Are you submitting documentation to support a request for an exemption?

B. General information.

1. Name the State, Commonwealth, territory, or possession of the United States or the country in which the subdivision is located.

2. Name the county or counties or other political subdivision or subdivisions within which the subdivision is located.

3. State the number of lots in this offering. Consolidated filings shall state the additional lots being offered and shall state the total number of lots included in previous filings on that subdivision. The Secretary must be able to reconcile the number stated in your answer to this item with the statements made in the title evidence, the lots delineated on the plat maps and the disclosure made on item 2. b. of the property report.

4. If more than one offering of lots in the subdivision has been made or will be made, state the number of lots to be offered in the entire subdivision. See instruction D.2 of this part.

5. State the number of acres included in this offering.

6. If more than one offering of lots in the subdivision has been made or will be made, state the number of acres owned, the number of acres under option or other similar arrangement for acquisition of title to the land and the total number of acres to be offered pursuant to the same common promotional plan.

7. State whether any lots have been sold in this subdivision since April 28, 1969, and prior to registering with this office. If they were sold pursuant to an exemption, identify the exemption provision and state whether an exemption advisory opinion, exemption order, or exemption determination was obtained with respect to those lot sales. State the OILSR number of the request for exemption, if any.

C. Filings with U.S. Securities and Exchange Commission and State authorities.

1. If a Statement of Record or similar instrument for the subdivision has been filed in any State or States, list the State or States.

2. If any of the States listed in answer to figure 1 above has not permitted the filing to become effective or has suspended the filing, give reasons cited by the State and also the developer's reasons, if different from those cited by the State.

3. List the States in which you plan to offer your subdivision. State whether you have registered or plan to register with each of these States.

4. State whether the developer has made or intends to make a filing with U.S. Securities and Exchange Commission (SEC), which is related in any way to the subdivision. If a filing has been made with the SEC, give the SEC identification number; identify the prospectus by name; date of filing and state the page number of the prospectus upon which the specific reference to the subdivision is made.

5. State whether any of the persons named in Part II. A. or B. of this statement of record other than those listed in C.4. above, have filed or been the subject of a filing related in any way to the subdivision with the SEC since April 28, 1969. If so, identify the person and state the date of filing and SEC identification number.

6. State whether any disciplinary action has been taken by the SEC with respect to any person identified with filings mentioned in subparts C.4. or C.5. above. If so, describe the action. Include in your description the names and addresses of the parties involved, the date of the action and the status and disposition thereof.

D. Supporting documentation.

1. General plan including a map or plat showing the total land owned or under option or other similar arrangement for acquisition of title to the land. Delineate thereon the land included in this offering, and the land upon which recreational and/or other common facilities will be located.



V 38 170
SEP 4 73
XUM

2. Copy of the property report, subdivision report, offering statement, or similar document filed with the State or States listed in C.1. above.

PART II. DEVELOPERS AND HOLDERS OF OWNERSHIP INTERESTS IN LAND, VIOLATIONS, BANKRUPTCIES AND LITIGATION

A. List the name and address and the type and extent of interest of each holder of any ownership interest in the land included in this offering. (Individual lot owners or lessees who have purchased or leased lots from the developer need not be listed.) If the holder is other than an individual, name the type of legal entity and list the interest and the extent thereof, of each principal. For the purposes hereof, "principal" shall mean any person or entity having a 10 percent or more financial interest.

B. If the developer does not own an interest in the land, list name and address of each individual or entity having an ownership interest in the developer. If the developer is other than an individual, name the type of legal entity and list the interest, and the extent thereof, of each principal. For the purposes hereof, principal shall mean any person or entity having a 10 percent or more financial interest.

C. Violations, bankruptcies and litigation.

1. State whether any of the persons named in A. or B. have been disciplined, debarred, or suspended by any governmental body or agency or indicated or convicted by any court for violation of a Federal, State, or local law or regulation in connection with activities relating to land sales, land investment, securities sales, construction or sale of homes or home improvements or any other similar or related activity for which such official action was charged. If so, describe the action. Include in your description the names and addresses of the parties involved, the type and date of the action, and the status and disposition thereof.

2. State whether within the last 13 years any of the persons named in A. or B. above has filed a petition in bankruptcy or has had an involuntary petition in bankruptcy filed against him or been an officer or director of a company which has become insolvent or has voluntarily or involuntarily filed in bankruptcy. If so, describe the action. Include in your description the petition number, names, and addresses of petitioners, trustee and counsel the name and address of any other parties involved, the date of the action, the name and location of the court where the proceeding took place or is being held and the status or disposition thereof.

3. List all current litigation of which the developer is aware which, individually or in the aggregate, may have a material effect upon the developer or subdivision. Describe each such action with particularity. Every development during the course of such litigation which may effect a material adverse change with respect to the developer or subdivision promptly should become the subject of an amendment.

D. Supporting documentation:

1. If the developer is a corporation, submit a copy of the articles of incorporation, with all amendments, and a list of the officers and directors of the corporation.

If the developer is a partnership, unincorporated association, joint stock company, or any other form of organization, submit copies of articles of partnership or association and all other documents relating to its organization.

If the holder of any ownership interest in the land being offered is a person or entity other than the developer, submit copies of the above documents for such holder. (For purposes of this subpart D.1., it is not necessary to include the sales agent if the sales agent is a legal entity other than a holder of an ownership interest in the land.)

2. Submit a copy of the documents involved in the litigation or other action listed in paragraph C. above, if any. This includes but is not limited to copies of the following:

1. Complaint.
2. Answer.
3. Decision or other disposition.

PART III. IDENTITY OF INTEREST IN MORE THAN ONE FILING

A. Are any of the following directly or indirectly involved in any other subdivision: The holders of an ownership interest in the land; the developer; principals or officers in the holder or developer. If so, identify by subdivision name and location. If registered with OILSR, give the OILSR number or numbers.

B. State whether the developer is a subsidiary corporation. If so, identify the parent company by name and address and state whether the parent company or any of its subsidiaries are directly or indirectly involved in any other subdivision which has been filed with the Office of Interstate Land Sales Registration. If so, identify by subdivision name, location, OILSR number or numbers and date of filing. If not applicable, state "None."

C. Has a suspension order been issued by the Office of Interstate Land Sales Registration with respect to any statement of record identified in subpart A or B above? If so, identify the statement of record by its OILSR number. (Do not list suspension notices on preeffective statements of record and amendments.)

PART IV. TOPOGRAPHY, CLIMATE, NUISANCES, SUBDIVISION MAP, PERMITS AND LICENSE

A. Topography and physical characteristics.

1. Describe the general topography and physical characteristics of the subdivision; for example, level, hilly, rocky, etc.; loose sand, alkaline soil, etc.

2. State whether any of the lots or portions thereof, in the offering are covered by water at any time during the year or are subject to floods, hurricanes, tornadoes, earthquakes, mudslides, brushfires, forest fires, avalanches, volcanic eruptions, or other natural hazards.

The existence severity and frequency of natural hazards should be fully explained. If any of the natural hazards of the type illustrated in this paragraph are present, state whether the area in which the subdivision is located has been formally identified by any Federal, State, or local agency as being in an area subject to a special natural hazard and whether the area is or will be subject to any special land use requirements which will restrict development or entail unusual development or maintenance expense. Include in your answer a statement of whether the subdivision is affected by a flood plain, including a 100 year flood plain, or is in an area designated to be flood prone as identified by the Federal Insurance Administration, U.S. Department of Housing and Urban Development, Washington, D.C. Describe the effect which such a flood plain will have on the lots in the offering. Identify the lots affected. If in an identified area of special flood hazards, state whether flood insurance is available for new construction in the area and if available, the extent to which it may be required by Federal agencies. State the approximate range of the cost of such insurance.

3. Is any part of the subdivision subject to any type of flood control easements?

4. Describe any unstable or expansive soil condition which will necessitate the use of special construction techniques. Identify the lots affected.

5. What percentage of the land will require fill before construction? If any, describe plans for fill, including composition and estimated cost to lot buyer or lessee.

6. With the exception of fill, what percentage of the land in the subdivision will require corrective work before construction of a one-story residential structure? If any, describe type of work and plans for correction, and state the estimated cost to buyer or lessee.

7. State elevation of the highest and lowest lots in the subdivision.

B. Climate and temperature.

1. Describe general weather conditions of the area.

2. State temperature ranges for summer and winter, including high, low, and mean.

3. State annual average rainfall and, if applicable, snowfall, in inches.

C. Nuisances.

1. Describe any on-site and off-site land uses which may affect the subdivision. Any unusual or unpleasant noises, odors, pollutants, or other nuisances should be specifically identified.

Examples of unusual noises which might affect the subdivision include proposed or existing industrial activity, airports or other transportation facilities, animal pens, entertainment centers, or the like. Examples of unpleasant odors include noxious smoke, chemical fumes, stagnant ponds or marshes, slaughterhouses, and sewage treatment facilities. Any such conditions should be accurately described and fully explained identifying their origin and location and whether they are proposed or existing. If they are existing whether temporary (estimate duration) or permanent.

2. Do you know of any unusual safety factors or of any proposed plans, private or governmental, for construction of any facility which may create a nuisance or adversely affect the use of the land? Examples of unusual safety factors which could affect the subdivision include physical hazards such as dilapidated or abandoned properties, unsafe construction, air or vehicular traffic hazards, danger from fire or explosion, and radiation hazards. Any such conditions should be accurately described identifying their origin and location and whether they are proposed or existing. If they are existing, whether temporary (estimate duration) or permanent.

D. Subdivision map, permits and licenses.

1. State whether a subdivision map has been filed with and accepted for recording by local authorities. If so, give recording data.

2. Has each lot in the subdivision been surveyed?

3. Has each individual lot been staked or marked so that the buyer can identify the boundary lines of his lot? If not, state estimated cost to purchaser or lessee to obtain a survey and to have boundary lines staked or marked.

4. Will all streets shown on the tract map, if any, be public streets?

5. Has legal access been provided to each of the individual lots within the subdivision?

6. State minimum width of legal access to the lots.

7. State whether lot purchasers will be required to obtain a building permit before they will be able to construct on their lot. If so, identify the agency or entity from which the permit must be obtained.

8. Identify the Federal, State, and local agencies or similar organizations which have the authority to regulate or issue permits or licenses which may have a material effect on the developers' plans with respect to the proposed division of the land, facilities, proposed facilities, common areas, improvements or proposed improvements to the subdivision. Your answer shall specifically address itself





to the areas of Environmental Protection Agencies, environmental impact statements. Corps of Engineers permits to construct, dredge bulkhead, affect the flow of, or otherwise change or affect bodies of water within or around the subdivision. Also, include any permits or licenses issued or required by Water Resources Boards or Pollution Control Boards, River Basin Commissions, Conservation Agencies, or other similar organizations or entities. If no agency regulates the proposed division of the land or issues a permit or license with respect to facilities or improvements in the subdivision, so state. If you are exempt from the provisions of a statute which normally requires a permit or license, cite the specific provision of the statute under which you are exempt and state whether you have obtained an advisory opinion or similar document from that agency.

E. *Supporting documentation.*—1. Copy of an accurate map prepared to scale showing the dimensions of the lots and their relation to existing streets and roads. (To comply with this requirement, supply a map or maps which have been submitted to and approved by the local authorities as evidenced by the signatures of those authorities on the plats and which have been filed with the recorder of deeds or similarly constituted officer as evidenced by the notation of the recordation information.) If the plat has not been recorded, include a map prepared to scale, showing the proposed division, lot dimensions, and their relation to proposed and existing streets and roads. The unrecorded plat shall contain sufficient engineering data to enable a surveyor to locate the lots. The unrecorded plat should contain the approval of the local authorities.

a. The lot dimensions must be stated on the map in the standard unit of measure acceptable for such purposes in the political subdivision where the land is located.

b. Each of the lots and any common areas or facilities included or proposed to be included in the offering must be clearly delineated on the map.

c. Each page of the plat or plat map shall state the number of lots included in that page or map in the lower right-hand corner of the page.

d. Any encroachments or rights-of-way, on or over the land, should be shown or noted on the map.

e. If the land is described by metes and bounds, or by lands of adjoining owners, abutting streets, ways, etc., its boundaries should be defined on the map by courses, distances, and monuments, natural or otherwise, and the ownership and contiguous boundaries of adjoining lands and names of abutting streets, ways, etc.

f. If it is necessary to identify the land with U.S. patent or a State grant which is the source of title, a map of the land being offered should be superimposed on a copy of the map of the U.S. survey or State grant.

g. If the land being offered is part of a larger tract described in an abstract, it should, when necessary for its identification, be shown drawn to a common scale on a map showing the larger tract and any successive diminishing tracts.

h. Flood plains and/or any flood control easements which affect the subdivision shall be identified and clearly delineated on the plat map.

i. The map shall be prepared by a licensed surveyor or engineer.

j. The plat or map shall be sufficient to enable the Secretary to locate the lots described in part I.B.3. of this section, the title evidence, part V of this section and item 2.b. of the property report, as well as any common facilities or recreational areas mentioned or identified in the statement of record and property report.

2. Copy of the current Geological Survey topographic map or maps of the largest scale available from the U.S. Geological Survey, Washington, D.C., with an outline of the subdivision and this offering clearly indicated thereon. The map must be a copy obtained from the U.S. Geological Survey. Photo or Xerox copies made by the developer are not acceptable.

3. Submit a copy of the permits or licenses or advisory opinions or similar documents obtained from the agencies or similar organizations identified in your answer to paragraph D.8. above.

PART V. CONDITION OF TITLE, ENCUMBRANCES, DEED RESTRICTIONS AND COVENANTS

A. State condition of the title to the land comprising the lots in this offering and any common areas or facilities related to or included in this offering. The statement shall include all encumbrances, easements, covenants, conditions, reservations, limitations, or restrictions applicable thereto. This requirement may be met only by submission of title evidence in the form of (1) an original or copy of a fee or owners policy of title insurance, a guaranty or guarantee of title, or a certificate of title or similar instrument issued by a title company, duly authorized by law to issue such instruments in the State in which the subdivision is located; or (2) a legal opinion, stating the condition of title, prepared and signed by an attorney at law experienced in the examination of titles and a member of the Bar in the State in which the property is located.

The title evidence shall be dated as of a date no earlier than 20 business days preceding the date of this filing and shall include:

1. An adequate legal description acceptable to the political subdivision for conveyancing of the land included in this offering. The title evidence shall include a separate legal description of the property upon which there is or will be located any common areas or facilities which will be known or advertised as being available for the benefit or use of purchasers of lots. The legal description shall specifically identify as individual parcels each of the lots included in this offering. If the filing is based on a proposed division of the land, the title evidence shall include a description of the perimeters of the proposed division of the land. If at the time of recordation or transfer, the legal description furnished herewith is discovered to be in error or is changed, an amendment must be filed correcting the statement of record. The legal description shall reference the plat maps included in the statement of record in answer to part IV. E.1. and specifically state the status of the legal and equitable title with respect to the land included within those plats. The reference to the recorded plat maps shall be a sufficient legal description if those plats clearly delineate the lots and any common areas or facilities and include an accurate description of the perimeters of the proposed division of the land.

2. The name of the person(s) or other legal entity(ies) holding fee title to the property described.

3. The name of any person(s) or other legal entity(ies) holding a leasehold estate or other interest of record in the property described.

4. A listing of any and all exceptions or objections to the title, estate or interest of the person(s) or legal entity(ies), referred to in 2 or 3 above, including any encumbrances, easements, covenants, conditions, reservations, limitations, restrictions of record. (Any reference to exceptions or objections to title shall include specific references to the instruments in the public records upon which the exception is based.) When an objection or exception to title affects less than all of the property included in this offering, the title evidence should specifically note which lots are affected.

5. Copies of all instruments in the public records specifically referred to in 4 above. (Abstracts of such instruments are acceptable if prepared by an attorney or professional or official abstracter qualified and authorized by law to prepare and certify to abstracts and if the abstracts contain the material portion of the recorded instruments to determine the nature and effect of such instruments.)

6. The title evidence shall include or be accompanied by a map, plat or plan, exhibit IV.E.1. of the statement of record, based on a survey or a scale map of the proposed lots offering prepared by a licensed surveyor or engineer, sufficient to enable the Secretary to locate the lots described in the title evidence. If the map is proposed, the title evidence shall so state.

7. The title evidence shall include a statement as to whether there is a holder of an ownership interest in land other than the developer. If so, include documentation which evidences the developer's authorization to develop and/or sell the land.

8. State whether the blanket encumbrances, if any, contain release provisions. State the legal sufficiency of those release provisions with respect to the protection of lot purchasers. State whether those rights are personal in nature and may be cut off by a foreclosure purchaser or whether they run with the land. State whether the release provisions are a matter of public record. If so, list the recordation data. If an escrow or trust arrangement is to be used, include a copy of the escrow or trust agreement and any instructions under which the escrow agent or trustee will proceed.

9. The title evidence shall include a search of all of the public records which may contain documents which would affect the title to the land. The title evidence shall state the public records which were searched. The search shall include anything which would affect the developers ability to deliver marketable title and must include but need not be limited to the following:

a. The records of the recorder of deeds or similar authority.

b. U.S. Internal Revenue liens.

c. The records of the circuit, probate, or other courts including Federal courts and bankruptcy or reorganization proceedings which have jurisdiction to affect the title to the land.

d. The tax records.

e. Financing statements filed pursuant to the Uniform Commercial Code or similar law. If it is held that the financing statements do not affect the title to the land, include a statement of the legal authority for that opinion.

Where the title evidence is dated earlier than 20 days prior to the date of filing, the requirement for a statement of the condition of title may be met by submitting that evidence together with an attorney's opinion of title covering the period from the date of the title evidence to a date no earlier than 20 business days preceding the date of the filing. The attorney's opinion shall be prepared and signed by an attorney at law experienced in the examination of titles and a member of the Bar in the State in which the property is located.



V 38 170 SEP 4 73 XUM

B. Describe and furnish copies of any instrument, not of public record, known to the developer, which if recorded would affect the condition of title. (Copies of instruments to individual lot owners or lessees who have purchased or lease lots from the developer need not be described or furnished.)

C. State the consequences for an individual purchaser of a failure, by the person or persons bound, to fulfill obligations under any instrument or instruments, referred to under A or B above, which create a blanket encumbrance upon the property, or any portion thereof, described under A, above.

D. Describe and furnish copy(ies) of any trust deed(s), deed(s) in trust, escrow agreement(s) or other instrument(s) which purport to protect the purchaser in the event of default by the person or persons bound to fulfill obligations under any instrument or instruments, referred to under A or B, above, which create a blanket encumbrance upon the property or any portion thereof, described under A, above.

PART VI. GENERAL TERMS AND CONDITIONS OF OFFER, PROPOSED RANGE OF SELLING PRICES OR RENTS

A. Summarize the terms and conditions of the offer and of the contract of sale or lease. The summary must include, but shall not be limited to:

1. A statement of the terms of release of lots from the blanket encumbrance, if the subdivision, or any portion thereof, is subject to a blanket encumbrance. If there is no provision for release, describe any legal steps taken to protect the purchaser or lessee in the event the obligor on the blanket encumbrance defaults.

2. A statement of the disposition which will be made of earnest money or good faith deposits and downpayments or other payments received from buyers or lessees including any steps taken to protect the buyer or lessee in the event the seller or lessor does not perform his obligations under the contract.

3. A statement of the disposition which will be made of earnest money or good faith deposits and downpayments and other payments received from buyers or lessees who default under the terms of the contract.

4. A statement regarding the existence of any qualifications or exchange provision in any contract or agreement by which a seller may withdraw his offer subsequent to acceptance by a purchaser, such as cancellation by a seller as a result of a prior sale, or as a result of a purchaser's failure to qualify with any eligibility requirements established by the developer or any other qualifying body.

5. A statement regarding any provisions by which lots are assigned or designated after purchaser executes the sales contract. State any provisions or practices by which the purchaser may exchange his lot for another lot. State any provisions which offer the purchaser either a full or partial refund or refund which may only be applied toward the purchase of another lot.

6. State the method of sale to be employed, i.e., cash, installment, mortgage, deed of trust, or similar arrangement. State the projected time of transfer of title. If the deed will be recorded at the time of transfer of title, state who will be responsible for recordation. If not recorded at the time of the transfer of title state whether the contract or deed will be recorded. If it is to be recorded, state when and by whom. State the term of the installment payments and the annual interest rate charged.

7. State whether you anticipate that any of the instruments used in the process of completing the sale to a lot purchaser will be assigned, pledged, factored, or discounted by the developer.

8. State whether the developer proposes to resell purchasers lots for them or whether purchasers must sell the lots independently.

B. State the range of selling prices or rents for lots in the subdivision.

C. Supporting documentation.

1. A copy of all forms of contracts or agreements to be used in selling or leasing lots. The contracts or agreements, including promissory notes, must contain the following language in boldface type on the face or signature page above all signatures:

You have the option to void this contract or agreement if you did not receive a property report prepared pursuant to the rules and regulations of the U.S. Department of Housing and Urban Development in advance of, or at the time of your signing the contract, or agreement; and you have the right to revoke the contract or agreement within 48 hours after signing the contract or agreement if you did not receive the property report at least 48 hours before signing the contract or agreement.

* * * * *

The contracts or agreements may contain the following additional language in a separate and following paragraph from the rights of the purchaser stated above:

The foregoing revocation authority shall not apply if you (1) received the property report and inspected the lot to be purchased or leased in advance of signing the contract or agreement, and (2) if you acknowledge by your signature that you have made such inspection and that you have read and understood such report on the Waiver of Purchaser's Revocation Rights form attached to this contract.

* * * * *

Purchaser's acknowledgements, if any, shall be prepared as a separate page from those set forth above. They shall be prepared in accordance with the following text and instructions and shall be in a form nearly identical to the sample form printed on the next full page of this publication and titled WAIVER OF PURCHASER'S REVOCATION RIGHTS.

WAIVER OF PURCHASER'S REVOCATION RIGHTS

THE INTERSTATE LAND SALES FULL DISCLOSURE ACT PROVIDES YOU WITH THE FOLLOWING VALUABLE RIGHTS

You are notified that: Unless you received a copy of the property report prepared in accordance with the rules and regulations of the U.S. Department of Housing and Urban Development, Office of Interstate Land Sales Registration, prior to or at the time you enter into your contract, you may void the contract by notice to the seller.

You are further notified that: You have the right to revoke your contract or agreement within 48 hours after signing your contract or agreement if you did not receive the property report at least 48 hours before you signed your contract or agreement. The Interstate Land Sales Full Disclosure Act permits you to waive your rescission and revocation rights if you received your copy of the property report and inspected the lot to be purchased or leased in advance of signing the contract or agreement, and if you acknowledge by your signature that you have made an inspection of the lot and that you have read and understood the property report.

You are cautioned that: Your signature below will result in a waiver of your rights as stated above.

You are further cautioned that: You should be sure that you have carefully inspected the lot to be purchased. You should also ascertain that you have read and that you understand the property report. If you have difficulty in understanding any of the provisions stated in the property report, you should consult an attorney or seek other professional assistance.

ACKNOWLEDGMENT BY PURCHASER

I hereby acknowledge by my signature below that I have inspected the lot to be purchased; that I have read and understood the property report and that I understand that I am waiving my right under the Act to rescind or revoke my contract.

You are not required to sign this document.

_____ Date

_____ Purchaser

_____ Purchaser

* * * * *

The foregoing statement shall be prepared in type of no less than 10 point font. It shall be centered and well proportioned on a sheet of paper no less than 8 by 10 inches in size and shall be attached to the contract or agreement used in the sale or lease of land in the subdivision. One copy of this form shall be given to each purchaser and another copy shall be retained by the developer. Upon demand by the Secretary, the developer shall, without delay, file copies of the executed waiver of buyer's rights form and such applicable contracts as the Secretary may specify.

WAIVER OF PURCHASER'S REVOCATION RIGHTS

THE INTERSTATE LAND SALES FULL DISCLOSURE ACT PROVIDES YOU WITH THE FOLLOWING VALUABLE RIGHTS

You are notified that: Unless you received a copy of the property report prepared in accordance with the rules and regulations of the U.S. Department of Housing and Urban Development, Office of Interstate Land Sales Registration, prior to or at the time you enter into your contract, you may void the contract by notice to the seller.

You are further notified that: You have the right to revoke your contract or agreement within 48 hours after signing your contract or agreement if you did not receive the property report at least 48 hours before you signed your contract or agreement. The Interstate Land Sales Full Disclosure Act permits you to waive your rescission and revocation rights if you received your copy of the property report and inspected the lot to be purchased or leased in advance of signing the contract or agreement and if you acknowledge by your signature that you have made an inspection of the lot and that you have read and understood the property report.

You are cautioned that: Your signature below will result in a waiver of your rights as stated above.

You are further cautioned that: You should be sure that you have carefully inspected the lot to be purchased. You should also ascertain that you have read and that you understand the property report. If you have difficulty in understanding any of the provisions stated in the property report, you should consult an attorney or seek other professional assistance.

ACKNOWLEDGMENT BY PURCHASER

I hereby acknowledge by my signature below that I have inspected the lot to be purchased; that I have read and understood the property report and that I understand that I am waiving my right under the Act to rescind or revoke my contract.

You are not required to sign this document.

..... Date

..... Purchaser

..... Purchaser

The above revocation and voidability provisions may not be limited or qualified in the contract or other document by requiring a specific type of notice or by requiring that notice be given at a specified place. If the contract contains a blanket provision with regard to notice, the above revocation and voidability provision under the Interstate Land Sales Full Disclosure Act should be exempted from the operation of the notice provision.

2. A copy of the agreement, if not included in the sales contract, in which seller agrees with buyer to secure release of lots from any blanket encumbrance.

3. Copies of deeds and leases by which the developer will lease or convey title to the lots to purchasers or lessees.





PART VII. ACCESS, NEARBY COMMUNITIES, ROAD SYSTEM WITHIN THE SUBDIVISION

A. Access—nearby communities.

1. Describe present condition of access routes to the subdivision, including type and width of road surface and number of lanes.

2. Are any improvements proposed to access routes? If so, state who will bear the cost of the improvements and the estimated completion date. If the improvements are to be made by a local governmental authority, state the name of the authority, and the source of funds to complete the improvements. If lot owners will be subject to a special assessment or similar charge for such improvements which shall be a lien on the lots in the subdivision, so state.

3. List nearest large cities and the county seat, and the population of each. List the total distance to the center of the subdivision from each and the portion of that distance which is paved and unpaved. If the geographical center of the subdivision is located more than 50 miles from a large city or the county seat, list also the nearest established community or communities.

B. Road system within the subdivision.

1. Describe the present condition of the road system within the subdivision, including the type and width of road surface, number of lanes and approximate dedicated width of roads. State whether all of the lots in the subdivision can be reached by conventional automobile.

2. State any proposed improvements to the road system within the subdivision, the percentage completed, and the estimated schedule for completion. State who will bear the cost of the improvements; and if any of the cost is to be borne by the purchaser, state the estimated cost to the purchaser.

3. State whether the roads within the subdivision have been dedicated to and accepted by a public authority responsible for maintenance. If not dedicated and accepted, state who will be responsible for maintenance. If the lot owner will be responsible for maintenance, state the estimated cost to the purchaser.

C. Supporting documentation.

1. If the developer is to complete access routes, submit a copy of any contracts and a copy of any bonds or escrow agreements to guarantee completion thereof. If the access routes are to be completed by the local government submit a copy of a letter from the local authorities setting forth the plan for completion of access routes and maintenance thereof.

2. Copies of contracts for the completion of the road system within the subdivision and copies of the bond or escrow agreements to assure completion thereof.

3. Copy of letter from local authority setting forth the plan for maintenance of the road system within the subdivision.

4. Submit a synopsis of the proposed plans, degree of completion of the work, and estimated cost of the proposed road system pertaining to the offering. The synopsis shall specifically include but need not be limited to the following.

a. A typical cross section or cross sections of the streets and curbs, if any, showing the subbase, the base, and the surface materials.

b. State the estimated cost of the street system.

PART VIII. UTILITIES

A. Water.

1. State the availability of the water supply and whether the supply will be adequate to serve the anticipated population of the area.

2. Is the water supplied or to be supplied by a public (municipality) or privately owned entity? State name and address and whether the company is regulated by a public body. If not regulated by a public body, is there any other means of assurance of continuous service and reasonable rates? If the entity which will provide water to the subdivision is covered by one of the criteria set forth below then the provisions of paragraphs 2 a through d and 7 e through g may be answered "not applicable" or if the information with respect to the entity which is to provide this service is disclosed in detail in Part XI. C of this statement of record these paragraphs may be answered by incorporating by reference the appropriate answer to that Part. The criteria are as follows:

1. A municipality or

2. A public or private entity which is not controlled by the developer and the rates of which are regulated by a public body.

If the entity does not meet one of the above criteria then the developer must submit the additional information required by paragraphs 2 a through d and 7 e through g.

a. A statement that the association, organization or other entity has been formed or setting forth the steps to be taken to form such association or organization or other entity. State whether the plans and installation of the system have been approved by the Health Department and/or by the appropriate regulatory agencies of the State.

b. A statement setting forth the requirements for membership in the association, organization, or other entity or describing the method by which a purchaser will secure the services of the company. State whether all lot owners will be members of the association, organization, or other entity and/or whether they will be entitled to service to their lots. State the method by which lot owners will be assessed for the service and state whether nonmember lot owners or nonsubscribers will be liable for assessments levied by that association, organization, or entity.

c. State whether the lot owners will be permitted or required to use the services of the company. If a lot owner has made other provisions for a water supply, state whether he will be required to discontinue the use of his individual system when the utility is provided. Also state whether he will be required to connect to and/or be assessed for the cost of the central system.

d. A statement of the degree and duration of control of the developer in the association, organization, or other entity.

3. State whether the waterlines will be extended to the individual lots. If they are to be extended, state the estimated schedule for the extension and the assurance of completion.

4. State estimated cost of installation or construction to be borne by the purchaser, if any.

5. Is the water supply to be obtained from private well? If so, indicate (1) probable depth and (2) results of test borings or other data establishing that a sufficient quantity of potable water is available to each buyer or lessee and (3) estimated total completion cost to buyer or lessee.

6. If water is provided by a supplier not regulated by a public body, state the rate schedule.

7. Supporting documentation.

a. Copy of a letter from water company stating that it will supply the water.

b. Copy of the contract for construction, if any, and the bond or escrow agreement to assure completion of the facility, if any.

c. Submit a copy of an engineer's report or geological report indicating the source and quantity of the waters. The report shall include a statement of whether the water supply is sufficient to serve the anticipated total population of the area based upon the general plan submitted in answer to part I.D.1 of this section.

d. Copy of letter or report from cognizant health officer which includes an analysis and an interpretation of that analysis in layman's language of the chemical quality and bacteriological purity of water.

e. If as indicated in paragraph 2. above, the association, organization, or other entity has been formed as a legal entity, attach as exhibits copies of articles of association and bylaws or similar documents and a statement from the appropriate State authority confirming that the charter is in effect. If not formed, attach proposed articles of association and by laws or similar documents.

f. Copy of membership agreement or similar documents or the contract by which the lot owners will be required to use the services or permitted to use the services of the utility.

g. Financial statements or pro forma financial statements of the entity identified in paragraph 2. above, including a statement of sources and application of funds for the 12-month period ending not earlier than the 180th day prior to the date of the submission of the statement of record and a pro forma statement of sources and application of funds for the period of time that the developer will control the association. If moneys paid by buyers or lessees as assessments, dues, or other payments for the purpose of providing water or maintenance of the water system to any lots or common facilities or areas are received by the developer or any other organization or entity other than a property owners' association, a statement of sources and application of funds and a pro forma statement of sources and application of funds covering funds received for such purposes shall be submitted. A financial statement or pro forma financial statement of the developer or other organization or entity shall also be submitted. In no event shall a pro forma statement of sources and application of funds be required to extend beyond 5 years from the date of submission of the statement of record. If the developer has no control over the property owners' association or other organization or entity and cannot obtain this information, so state. If the entity incurs a deficit, state how that deficit will be recovered.

h. Submit a synopsis of the proposed plans, degree of completion of the work, and estimated cost of the proposed water system. The synopsis shall include but need not be limited to the following:

i. Describe how the water will be obtained from the source, the capacity of the system, storage facilities and method of distribution.

ii. State the estimated cost of the water system.

B. Electricity.

1. State whether electricity is available and, if so, the name and address of the supplier from which it may be obtained.

2. Is the supplier a public or private utility company? State whether the supplier is regulated by a public body. If not, is there any other means of assurance of continuous service at reasonable rates.

3. Have the electrical facilities been extended to the individual lots?

4. If the electrical facilities have not been extended to the individual lots, what is the estimated schedule for installation and what estimated costs, if any, will be borne by the purchaser?

5. State the assurance of completion if the electrical facilities are to be installed by the developer.

6. Supporting documentation.



V 38 I 170 SEP 4 73 XUM

a. Copy of a letter from the electric company stating that it will supply the electricity.

b. If electricity is provided by a supplier not regulated by a public body, state the rate schedule.

c. Copy of the contract for construction of electrical facilities, if any, and any bond or escrow arrangements to assure completion of the facilities.

C. Gas.

1. State the availability of gas including the name and address of the supplier.

2. Is the supplier a public or private utility company? State whether the supplier is regulated by a public body. If not, is there any other means of assurance of continuous service at reasonable rates?

3. Have gas lines been extended to the individual lots?

4. If the gas facilities have not been extended to the individual lots, what is the estimated schedule for installation and what estimated costs will be borne by the purchaser?

5. State the assurance of completion if the gas facilities are to be installed by the developer?

6. Supporting documentation.

a. Letter from the gas supplier stating that it will provide the service.

b. If gas is provided by a supplier not regulated by a public body, state rate schedule for the service.

c. Copy of the contract for construction of the gas facilities, if any, and any bond or escrow arrangements to assure completion of the facilities.

D. Telephone.

1. State the availability of telephone service including the name and address of the supplier.

2. Is the supplier a public or private utility company? State whether the supplier is regulated by a public body. If not, is there any other means of assurance of continuous service at reasonable rates?

3. Have the telephone facilities been extended to the individual lots?

4. If the telephone facilities have not been extended to the individual lots, what is the estimated schedule for installation and what cost will be borne by the purchaser?

5. State the assurance of completion of the telephone facilities if those facilities are to be installed by the developer.

6. Supporting documentation.

a. Copy of a letter from the telephone company stating that the company will supply the service.

b. If telephone service is provided by a supplier not regulated by a public body, state the rate schedule.

c. Copy of the contract for the construction of the telephone services, if any, and any bond or escrow arrangements to assure completion of the facilities.

E. Sewage disposal.

1. State whether sewers are available and if so, the name and address of the entity responsible for installation and maintenance.

2. Is the entity a public (municipality) or privately owned entity? State whether entity is regulated by a public body. If not, are there any other means of assurance of continuous service and reasonable rates? If the entity which will provide sewerage disposal to the subdivision is covered by one of the criteria set forth below then the provisions of paragraphs 2 a through d and 10 c through e may be answered "not applicable" or if the information with respect to the entity which is to provide this service is disclosed in detail in Part XI C of this statement of record these paragraphs may be answered by incorporation by reference to the appropriate answer to that Part. The criteria are as follows:

1. A municipality or

2. A public or private entity which is not controlled by the developer and the rates of which are regulated by a public body.

If the entity does not meet one of the above criteria then the developer must submit the additional information required by paragraphs 2 a through d and 10 c through e.

a. A statement that the association, organization, or other entity has been formed or setting forth the steps to be taken to form such association or organization or other entity. State whether the plans and installation of the system have been approved by the health department and/or by the appropriate regulatory agencies of the State.

b. A statement setting forth the requirements for membership in the association, organization, or other entity or describing the method by which a purchaser will secure the services of the company. State whether all lot owners will be members of the association, organization, or other entity and/or whether they will be entitled to service to their lots. State the method by which lot owners will be assessed for the service and state whether nonmember lot owners or nonsubscribers will be liable for assessments levied by that association, organization, or entity.

c. State whether the lot owners will be permitted or required to use the services of the company. If a lot owner has made other provisions for sewage disposal state whether he will be required to discontinue the use of his individual system when the utility is provided. Also, state whether he will be required to connect to and/or be assessed for the cost of the central system.

d. A statement of the degree and duration of control of the developer in the association, organization, or other entity.

3. Have the sewage facilities been extended to the individual lots?

4. If the sewage facilities have not been extended to the individual lots, what is the estimated schedule for their installation and what estimated costs will be borne by the purchaser, including construction, installation, and connection costs?

5. State the assurance of completion if the sewage facilities are to be installed by the developer.

6. If public sewers are not now installed and are not to be installed, state the alternate sewage disposal method to be used, such as septic tanks or cesspools.

7. If a public sewer is not or will not be installed, state the estimated cost of installing the alternate method of sewage disposal.

8. Will the local health authorities approve the use of an alternate method of sewage disposal? Has such approval been obtained?

9. If use of septic tanks is contemplated, state whether the land is suitable for the use of septic tanks; include in your statement the results of any percolation tests.

10. Supporting documentation.

a. Copy of the contract for construction of the sewage disposal facilities, if any, and any bond or escrow arrangements to assure the completion of the facilities.

b. Copy of a letter from local health authorities stating the methods of sewage disposal which will or will not be permitted.

c. If as indicated in paragraph 2, above, the association, organization, or other entity has been formed as a legal entity, attach as exhibits copies of articles of association and bylaws or similar documents and a statement from the appropriate State authority confirming that the charter is in effect. If not formed, attach proposed articles of association and bylaws or similar documents, if available.

d. Copy of membership agreement or similar documents or contract by which the lot owners will be required to use the services or permitted to use the services of the utility.

e. Financial statements or pro forma financial statement of the entity identified in paragraph 2 above, including a statement of sources and application of funds for the 12-month period ending not earlier than the 180th day prior to the date of the submission of the statement of record and a pro forma statement of sources and application of funds for the period of time that the developer will control the association. If moneys paid by buyers or lessees as assessments, dues, or other payments for the purpose of providing sewerage or maintenance of the sewerage disposal system to any lots or common facilities or areas are received by the developer or any other organization or entity other than a property owners' association, a statement of sources and application of funds and a pro forma statement of sources and application of funds covering funds received for such purposes shall be submitted. A financial statement or pro forma financial statement of the developer or other organization or entity shall also be submitted. In no event shall a pro forma statement of sources and application of funds be required to extend beyond 5 years from the date of submission of the statement of record. If the developer has no control over the property owners' association or other organization or entity and cannot obtain this information, so state. If the entity incurs a deficit, state how that deficit will be recovered.

f. Submit a synopsis of the proposed plans, degree of completion of the work, and estimated cost of the proposed sewerage system. The synopsis shall include but need not be limited to the following:

i. Describe the system of sewage collection and method of disposal (type of plant treatment and outfall).

ii. State the estimated cost of the sewerage disposal system.

F. Drainage and flood control.

1. State whether there has been or will be any drainage required to render any of the lots suitable for construction purposes. If so, list the lots, and state estimated cost to purchaser.

2. Have artificial drains, storm sewers, or flood control channels been installed?

3. If these facilities have not been installed, what is the estimated schedule for completion, if any, and what estimated costs or other assessments will the purchaser be expected to pay?

4. If the developer is to install these facilities, state the assurance of completion.

5. State whether the developer has a program to control soil erosion, sedimentation and periodic flooding throughout the entire subdivision?

6. Has the plan or program been approved by the appropriate officials responsible for the regulation of land development?

7. Is the developer obligated to comply with the plan or program? If so, state the nature of the obligation.

8. Supporting documentation:

a. Copy of the contract for the construction of the artificial drains, storm sewers, or flood control channels, if any, and any bonds or escrow agreements to assure completion of the facilities.

b. If drainage is provided or to be provided by a public or private company, submit a letter from the company stating that it will provide the service.

c. Submit a copy of the local authority's approval of the plan identified in paragraphs 5. and 6. above. The plan or program addressed in your answers to this paragraph and to paragraphs 5 through 7 above should include but need not be limited to the following technical principles:





1. Reducing the duration of exposure of soils without vegetative covering between the time of grading and the time of final planting.

2. Covering the soil with mulch or vegetation.

3. Mechanically retarding the rate of runoff water.

4. Trapping the sediment in the runoff water, by use of temporary silt basins.

Temporary control measures in areas affected by heavy grading or cut and fill consist of temporary mulching and seeding to provide quick protection. Permanent control measures consist of sodding and seeding to provide permanent vegetation and the construction of any one or a combination of diversion channels, ditches, or outlet channels, waterway stabilization structures, and sediment control basins.

d. Submit a synopsis of the proposed plans, degree of completion of the work and estimated cost of the proposed facilities or improvement. The synopsis shall include but need not be limited to the following:

i. Describe the system of collection of surface waters and method of disposal (type of facility, storage, and treatment, if any, and outfall).

ii. Describe the steps to be taken to control erosion and sedimentation.

iii. State the estimated cost of drainage and flood control facilities.

G. Television.

1. Is television reception available to the lots within the subdivision without reception cost?

2. If not, state estimated cost to user.

PART IX. RECREATIONAL AND COMMON FACILITIES

List any common or recreational facilities which have been or are to be installed for the beneficial use and enjoyment of the owners of lots in the subdivision which have not been discussed in the previous parts of the Statement of Record. Identify each facility and answer the following questions for each:

A. (Name of facility.)

1. If the facility has not been installed, what is the percentage of completion, the estimated schedule for completion and what estimated costs will the purchaser have to pay?

2. What provisions have been made for the maintenance and operation of the facility and what is the estimate of the assessments or other recurring charges to be paid by the purchaser?

3. Include a statement of the assurance of completion of the facility if the developer is responsible for construction.

4. If a property owners' association, or similar organization, owns or will own the facility, so state. If the association has not been formed as a legal entity, state when it is expected to be formed and the conditions under which the association will take title to the facility.

5. Supporting documentation.

a. Include a copy of the contract for construction of the facilities, if any, and describe any bond or escrow arrangements to assure completion of the facilities.

b. Submit a synopsis of the proposed plans, degree of completion of the work, and estimated cost of the proposed facility or improvement.

i. State the dimensions and type of facility.

ii. Describe the type of materials to be used in the construction of the facility.

iii. Describe the type or design of the construction.

iv. State the estimated cost of the proposed facility.

PART X. MUNICIPAL SERVICES

A. Fire protection.

1. State the availability of fire protection and list the name and address of the particular force exercising jurisdiction over the subdivision.

2. State whether the service is provided by the municipality or by a volunteer organization.

3. State the distance in terms of road miles from the geographical center of the subdivision to the nearest fire station or substation.

B. Police protection.

State the availability of police protection and list the name and address of the particular force exercising jurisdiction over the subdivision.

C. Garbage and trash collection.

1. State the availability of garbage and trash collection service and the name and address of the company which presently furnishes the service. If garbage and trash collection service is not presently available, state whether such service is proposed; and if it is, give the date on which it will become effective.

2. State whether the cost of the service is to be paid directly by the lot owner or whether the service is to be provided by a municipal agency.

3. If the cost of the service is to be paid directly by the lot owners, state the estimated monthly cost per lot.

D. Public schools.

1. Elementary school.

a. State name and address of the nearest elementary school available to residents of the subdivision.

b. State the distance to the school in terms of road miles from the geographical center of the subdivision.

c. State whether school bus transportation will be provided.

d. State whether public transportation is available to the school.

2. Junior high school.

a. State name and address of the nearest junior high school available to residents of the subdivision.

b. State the distance to the school in terms of road miles from the geographical center of the subdivision.

c. State whether school bus transportation will be provided.

d. State whether public transportation is available to the school.

3. High school.

a. State name and address of the nearest high school available to residents of the subdivision.

b. State the distance to the school in terms of road miles from the geographical center of the subdivision.

c. State whether school bus transportation will be provided.

d. State whether public transportation is available to the school.

E. Medical and dental facilities.

1. Hospital facilities.

a. State the availability of hospital facilities and the name and address of the particular hospitals available to residents of the subdivision.

b. State whether the hospital is publicly or privately owned and whether the services are general or specialized.

c. State the bed capacity of the hospital.

d. State the distance in terms of road miles from the geographical center of the subdivision to the nearest general hospital.

e. State the availability of ambulance service and specify whether this service is furnished by the hospital(s) or by a volunteer organization.

2. Physicians and dentists.

a. State the distance in terms of road miles from the geographical center of the subdivision to physicians' and dentists' offices.

b. State whether or not public transportation is available from the subdivision to the general physicians' and dentists' offices.

F. Public transportation.

1. State whether public transportation is available from the subdivision to nearby municipalities including the frequency, type and estimated cost of service.

2. If no such transportation is available, state whether it will be available and give estimated date of availability.

3. Include in your statement the proposed frequency of service and estimated cost.

4. If public transportation is not presently available from the subdivision, state the distance in road miles to nearest public transportation.

G. U.S. Postal Service.

1. State whether the U.S. Postal Service currently delivers mail to each of the lots in the subdivision. If not, state the nearest location where a lot purchaser can pick up his mail and describe that facility.

2. Give the location, including the street address, of the post office responsible for service to the area in which the lot is located.

3. State the distance to the post office identified in 2. above over streets and roads from the center of the subdivision.

PART XI. TAXES AND ASSESSMENTS—COMMON FACILITIES

A. Will the buyer or lessee be required to pay any property taxes or special assessments to any municipal, governmental or public body after signing the contract of purchase or to lease and prior to delivery of an executed deed or lease? Will the buyer or lessee be required to pay any assessments, dues or other payments to a property owners' association, the developer or any other organization or entity for the maintenance of common facilities or other purposes after signing the contract to purchase or lease and prior to delivery of an executed deed or lease? If the answer to either of the foregoing questions is affirmative, itemize the amounts or rates to be paid and to whom they must be paid.

B. Will the buyer or lessee be required to pay any property taxes or special assessments to any municipal, governmental or public body after taking title? Will the buyer or lessee be required to pay any assessments, dues or other payments to a property owners' association, the developer or any other organization or entity for the maintenance of common facilities or other purposes after taking title? If the answer to either of the foregoing questions is affirmative, itemize the amounts or rates to be paid and to whom they must be paid.

C. If a property owners' association, the developer, or any other organization or entity, exercises or will exercise any control over or provides or will provide any services or maintenance on any lots or common facilities or areas in or adjacent to the development, include:

1. A statement that the association, organization or other entity has been formed or setting forth the steps to be taken to form such association or organization or other entity.

2. A statement setting forth the requirements for membership in the association, organization or other entity and stating whether all lot owners will be members of the association, organization or other entity and if not whether nonmember lot owners will be liable for assessments levied by that association, organization or other entity.

3. Financial statements or pro forma financial statements of any property owners' association, including a Statement of Sources and Application of Funds for the 12-month period ending not earlier than the 60th day prior to the date of the submission of the Statement of Record and a pro forma Statement of Sources and Application of Funds for the period of time that the developer will control the association. If moneys paid by buyers or lessees as assessments, dues or other payments for the purpose of providing



V 38 170 SEP 4 73 XUM

any services or maintenance on any lots or common facilities or areas are received by the developer or any other organization or entity other than a property owners' association, a Statement of Sources and Application of Funds and a pro forma Statement of Sources and Application of Funds covering funds received for such purposes shall be submitted. A financial statement or pro forma financial statement of the developer or other organization or entity shall also be submitted. In no event shall a pro forma Statement of Sources and Application of funds be required to extend beyond 5 years from the date of submission of the Statement of Record. If the developer has no control over the property owners' association or other organization or entity and cannot obtain this information, so state.

If the entity incurs a deficit, state how that deficit will be recovered.

4. A statement as to who may use the facilities.

5. A statement of the degree and duration of control of the developer in the association, organization, or other entity.

6. If the association, organization, or other entity has been formed as a legal entity, attach as exhibits copies of articles of association and bylaws or similar documents and a statement from the appropriate State authority confirming that the charter is in effect. If not formed, attach proposed articles of association and bylaws or similar documents, if available.

7. Copy of membership agreement or similar documents.

PART XII. OCCUPANCY STATUS

A. State the approximate number of dwellings in the subdivision at the time of filing.

B. State the number of dwellings which are proposed and the estimated completion date of those dwellings.

C. State the approximate number of dwellings presently occupied, if any.

PART XIII. SHOPPING FACILITIES

A. State what shopping facilities are available to the subdivision. Include available types of stores and consumer services and the distance in terms of road miles from the geographical center of the subdivision to the facilities.

B. State whether public transportation is available to the facility, the frequency of the service and the estimated cost.

PART XIV. FINANCIAL STATEMENTS

A. Submit a copy of financial statements for the last full fiscal year, plus statements for an interim period up to the most recent practicable date. Generally, these should be no more than 6 months old. If the last full fiscal year has ended within the last 90 days and audited financial statements are not yet available, the developer may at his option submit a copy of audited financial statements for the previous full fiscal year, plus unaudited statements for a period up to the most recent practicable date (generally no older than 6 months). The statements shall include a balance sheet, a statement of profit and loss, and a statement of the sources and uses of cash, and shall be prepared in accordance with generally accepted accounting principles, as prescribed by the American Institute of Certified Public Accountants. The fiscal year financial statements shall be audited by an independent licensed public accountant, and shall include a certified opinion unless the aggregate price of the lots to be offered pursuant to the common promotional plan equals $500,000 or less and contains less than 300 lots. The developer shall submit new financial statements every 12 months if they disclose a material adverse effect upon the developers' financial position. If the financial statements submitted by the developer disclose a deficit in retained earnings, or that it has sustained an operating loss in the fiscal year being reported, the developer shall amend the property report as required by § 1710.110, part D., 3. of these regulations.

B. Describe the financing plan or plans that have been or are to be used in financing the onsite and offsite improvements proposed in the statement of record. Also, describe the financing plan that is to be used, and by whom, in the offering of lots for sale in this subdivision. If secondary financing is contemplated, give details. Describe fully any other financing plan, and with whom, which may affect title to the lots, which is not covered above or elsewhere in this statement of record.

PART XV. AFFIRMATION

The affirmation shall be signed by the developer's senior executive officer or his duly authorized agent.

### § 1710.110 Property Report and lease addendum—format and instructions.

The Property Report and, if applicable, the lease addendum to be filed with the Office of Interstate Land Sales Registration, Department of Housing and Urban Development, as a part of the Statement of Record, and as provided in § 1710.20, shall be prepared in question and answer form. The Property Report shall state verbatim the questions in this section. The developer shall answer the questions directly and completely in accordance with the format (part A.) and the instructions (part B.–D.) as follows:

Part A. Format:

PROPERTY REPORT

NOTICE AND DISCLAIMER BY OFFICE OF INTERSTATE LAND SALES REGISTRATION, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The Interstate Land Sales Full Disclosure Act specifically prohibits any representation to the effect that the Federal Government has in any way passed upon the merits of, or given approval to this subdivision, or passed upon the value, if any, of the property.

It is unlawful for anyone to make, or cause to be made to any prospective purchaser, any representation contrary to the foregoing or any representations which differ from the statements in this property report. If any such representations are made, please notify the Office of Interstate Land Sales Registration at the following address:

Office of Interstate Land Sales Registration,
HUD Building, 451 Seventh Street SW.,
Washington, D.C. 20410.

Inspect the property and read all documents. Seek professional advice. Unless you received this property report prior to or at the time you enter into a contract, you may void the contract by notice to the seller.

Unless you acknowledge in writing on a waiver of purchaser's revocation rights form that you have read and understood the property report and that you have personally inspected the lot prior to signing your contract, you may revoke your contract within 48 hours from the signing of your contract, if you received the property report less than 48 hours prior to signing such contract.

1. Name(s) of developer----------
Address ----------
2. Name of subdivision----------
Location ----------County, State of ----------
a. Effective date of Property Report---
----------

3. List names and populations of surrounding communities and list distances over paved and unpaved roads to the subdivision.

| Name of community | Population | Distance over paved roads | Unpaved roads | Total |
|---|---|---|---|---|
| a. | | | | |
| b. | | | | |
| c. | | | | |
| d. | | | | |
| e. | | | | |

4. Complete all items under this paragraph regardless of whether the sale will be an installment or cash sale.

a. Will the sales contract be recordable? Yes or No?

b. In the absence of recording the contract or deed, could third parties or creditors of any person having an interest in the land acquire title to the property free of any obligation to deliver a deed? Yes or No? ------ Explain. ----------

c. State whether and/or when the contract or deed will be recorded, and who will record it. State who will bear the costs of recordation, and the amount if those costs are to be borne by the purchaser.

d. What provision, if any, has been made for refunds if buyer defaults? If none, and the buyers payments are to be retained, state whether his loss will be limited to the amount of his payments to date, or whether he will be responsible to the developer or his assignees for additional damages or for the balance of his contract.

e. State prepayment penalties or privileges, if any.

5. Is there a blanket mortgage or other lien on the subdivision or portion thereof in which the subject property is located? Yes or No? If yes, list below and describe arrangements, if any, for protecting interests of the buyer or lessee if the developer defaults in payment of the lien obligation. If there is such a blanket lien, describe arrangements for release to a buyer of individual lots when the full purchase price is paid.

| Type of lien | Effect on buyers if developer defaults |
|---|---|
| a. | |
| b. | |
| c. | |

6. Does the offering contemplate leases of the property in addition to, or as distinguished from, sales? Yes or No? If yes, a lease addendum must be completed, attached, and made a part of the Property Report.

7. Is buyer or lessee to pay taxes, special assessments, or to make payments of any kind for the maintenance of common facilities in the subdivision (a) before taking title or signing of lease or (b) after taking title or signing of lease? If yes, complete the schedule below:

| | Approximate amount of buyer's or lessee's annual payments |
|---|---|
| Taxes | $------ |
| Special assessments | ------ |
| Payments to property owner's association | ------ |
| Other | ------ |
| Specify | ------ |

8. a. Will buyer's downpayment and installment payments be placed in escrow or otherwise set aside? Yes or No? If yes, with whom? If not, will title be held in trust or in escrow?





b. Except for those property reservations which land developers commonly convey or dedicate to local bodies or public utilities for the purpose of bringing public services to the land being developed, will buyer receive a deed free of exceptions? Yes or No? If no, list all restrictions, easements, covenants, reservations and their effect upon buyer.

c. List the permissible uses of the property based upon the restrictive covenants, and which are consistent with local zoning ordinances.

d. List all existing or proposed unusual conditions relating to the location of the subdivision and to noise, safety or other nuisances which affect or might affect the subdivision.

9. List all recreational facilities currently available, proposed, or partly completed (e.g., swimming pools, golf courses, ski slopes, etc.) and complete the following format for each facility:

| i. Facility | ii. % Complete | iii. Estimated Completion Date | iv. Financial Assurance of Completion | v. Developer Obligated? | vi. Buyer's Costs or Assessments |
|---|---|---|---|---|---|
| | | | | | |

State who will own the facilities.

10. State availability of the following in the subdivision: State any estimated costs or assessments to buyer or lessee. If only proposed or partly completed, state estimated completion date, state provisions to assure completion, and give an estimate of all costs to buyer or lessee, including maintenance costs.

a. Roads:
1. Access:
Paved----
Unpaved----
2. Road system within the subdivision:
Paved----
Unpaved----
b. Utilities:
1. Water.
2. Electricity.
3. Gas.
4. Telephone.
5. Sewage disposal.
6. Drainage and Flood Control.
7. Television.
c. Municipal Services:
1. Fire protection.
2. Police protection.
3. Garbage and trash collection.
4. Public schools:
i. Elementary school.
ii. Junior high school.
iii. High school.
5. Medical and dental facilities:
i. Hospital facilities.
ii. Physicians and Dentists.
6. Public transportation.
7. U.S. Postal Service.

11. Will the water supply be adequate to serve the anticipated population of the area?

12. Is any drainage of surface water, or use of fill necessary to make lots suitable for construction of a one-story residential structure? Yes or No? If yes, state whether any provision has been made for drainage or fill and give estimate of any costs buyer would incur.

13. State whether shopping facilities are available in the subdivision; if not, state the distance in miles to such facilities and whether public transportation is available.

14. Approximately how many homes were occupied as of ----------
(insert date of filing)?

15. a. State elevation of the highest and lowest lots in the subdivision and briefly describe topography and physical characteristics of the property.

b. State in inches the average annual rainfall and, if applicable, the average annual snowfall for the subdivision or the area in which it is located.

c. State temperature ranges for summer and winter, including highs, lows and means.

16. Will any subsurface improvement, or special foundation work be necessary to construct one story residential or commercial structures on the land? Yes or No? If yes, state if any provision has been made and estimate any costs buyer would incur.

17. State whether there is physical access (by conventional automobile) over legal rights-of-way to all lots and common facilities in the subdivision. State whether the access will be by public or private roads and streets and whether they will be maintained by public or private funds.

18. Has land in the subdivision been platted of record? Yes or No? If not, has it sion? Yes or No. Describe the program, if mated cost to buyer to obtain a survey.

19. Have the corners of each individual lot been staked or marked so that the purchaser can identify his lot? If not, state the estimated cost to the purchaser to obtain a survey and to have the corners of his lot staked or marked.

20. Does the developer have a program in effect to control soil erosion, sedimentation and flooding throughout the entire subdivision? Yes or No? Describe the program, if any. Has the plan been approved or must the plan be approved by officials responsible for the regulation of land development? Yes or No. Is the developer obligated to comply with the plan? Yes or No.

Include the following information at the end of the property report:

SPECIAL RISK FACTORS

(a) The future value of land is very uncertain; do NOT count on appreciation.

(b) You may be required to pay the full amount of your obligation to a bank or other third party to whom the developer may assign your contract or note, even though the developer may have failed to fulfill promises he has made.

(c) Resale of your lot may be subject to the developer's restrictions, such as limitations on the posting of signs, limitations to the rights of other parties to enter the subdivision unaccompanied, membership prerequisites or approval requirements, or developer's first right of refusal. You should check your contract for such restrictions and also note whether your lien or any other liens on the property would affect your right to sell your lot.

(d) You should consider the competition which you may experience from the developer in attempting to resell your lot and the possibility that real estate brokers may not be interested in listing your lot.

(e) Changing land development and land use regulations by government agencies may affect your ability to obtain licenses or permits or otherwise affect your ability to use the land.

FINANCIAL STATEMENTS

You should carefully review the attached financial statements of the developer (see exhibit A).

*Signature of the Senior Executive Officer of the Developer*

----------
(title)

LEASE ADDENDUM

1. State term of lease.
2. Will the lease be recordable? Yes or No?
3. Is there any prohibition or penalty against the leasee for recording the lease? Yes or No? If yes, explain.
4. Can the owner's or developer's creditors or others acquire title to the property free of any obligation to continue the lease? Yes or No? Explain.
5. Describe whether rental payments are flat sums or graduated. Describe any provisions for increase of rental payments during the term of the lease.
6. Are there any provisions in lease prohibiting assignment and/or subletting? Yes or No? If yes, describe.
7. Summarize termination provisions in the lease.
8. Does the lease prohibit the lessee from mortgaging or otherwise encumbering the leasehold? Yes or No?
9. Will lessee be permitted to remove improvement when lease expires?

Part B. Technical Instructions for Completing Property Report and Lease Addendum

1. These instructions must be followed in completing the Property Report and lease addendum. All spaces must be completed. This format may not be changed in any respect, except as follows:

a. All references to leases, lessees, and rents should be deleted if no leasing is proposed and the offering is exclusively for sales. In this event, the lease addendum may be disregarded.

b. Spaces provided in the format may be enlarged or extended for the purpose of providing a summary explanation of the subject under discussion but may not be used to insert promotional or advertising matter designed to counteract facts adverse to the interests of the buyer or lessee.

c. Questions on the Property Report must be answered in concise, plain language but should disclose all pertinent facts.

d. The Property Report shall contain information in addition to that elicited by the questions appearing therein if at any time it appears to the Secretary that the inclusion of such additional information is necessary or appropriate in the public interest or necessary for the protection of purchasers or necessary to make the required statements not misleading in the light of the circumstances under which they are made.

2. The Property Report, as filed with the Statement of Record and in final form to be given to prospective purchasers, shall be on good quality unglazed, white or pastel paper, approximately 8½ by 11 inches in size with margins in final form to be not less than 1 inch at the top, 1 inch at the sides, and one-half inch at the bottom. It shall be in blue, blue-black or black ink, and the type size shall not be smaller than 10 point leaded type of uniform font and in an easily readable style.

3. The final printed version of the property report shall be verbatim to that found effective with this Office. Also, it shall have no covers, pictures, emblems, logograms, or identifying insignia. The first page of the property report shall begin with the words "Property Report". It shall include the notice and disclaimer, paragraph 1., and paragraph 2.a. effective date of property report ---------- and a receipt as prescribed in the next paragraph. The second page shall begin with paragraph 2.b. The remainder of the property report shall be prepared in a sequential manner as required by this section.

4. The notice and disclaimer shall be printed in the first 8½ inches of the first



V 38 I 170
SEP 4 73
XUM

page (cover sheet) of the Property Report and shall be in a form nearly identical to that printed on the next full page of this publication, with the additional requirement that the following shall be overprinted on that page in centered capital letters in light *red* type of the style used to mark sample documents, in letters one-half inch in size with ½-inch spaces between lines:

PURCHASER
SHOULD READ
THIS DOCUMENT
BEFORE SIGNING
ANYTHING

5 The last 2½ inches of the front page shall be composed of a receipt printed on the front of the property report. The original of the receipt shall be prepared in such a manner that it can be detached and retained by the developer after it is signed by the purchaser and so that the purchaser will also receive a copy of the receipt. This can be accomplished by designing the page so that an overlay covers the lower area of the page where the receipt is printed. The printing on the overlay and the underlying part of the page should be identical, so that a carbon can be inserted in between when the purchaser signs the receipt, then the developer can remove the overlay and keep it for his files.

6. The receipt shall be 2½ inches by 8½ inches and trimmed with a *red* border (both this border and the letter overlay referred to in preceding paragraph number 4, appearas grayed areas on the sample cover sheet for and property report) one-eighth inch in size, and it shall contain the following language:

"IMPORTANT READ CAREFULLY
Name of subdivision:
By signing this receipt you acknowledge that you have received a copy of the property report prepared pursuant to the Rules and Regulations of the Office of Interstate Land Sales Registration, U.S. Department of Housing and Urban Development.

Received by _____
Street Address _____
Date _____
City _____ State_____
ZIP _____

Notwithstanding your signature by which you acknowledged that you received the Property Report you still have other important rights under the Interstate Land Sales full disclosure act."

7. The developer shall retain the original receipt for each property report. Upon demand by the Secretary, made at any time during the calendar year, the developer shall, without delay make such files available for inspection by the Secretary, or he shall file copies of such receipts as the Secretary may specify.

8. The questions and answers shall be printed in such a manner as to be readily distinguishable from each other. For example, the distinction could be known by two type faces, type styles, type sizes, column settings or by two margin measures. No other portion of the Property Report shall be underscored, italicized, or printed in larger, bolder or different style type than the balance of the report, except where the Secretary requires or permits it as being necessary or appropriate in the public interest or for the protection of purchasers.

9. The Secretary may require or permit such additional information to be included in a Property Report or such change in the sequence or position of information required by this section as he may consider necessary or appropriate in the public interest or for the protection of purchasers.

10. The developer shall attach to and file with the Property Report submitted as part of the Statement of Record a statement in the following form:

"The proposed Property Report attached hereto contains the text in its entirety as it is intended to be reproduced for delivery to prospective purchasers of lots in the (Insert identification of subdivision and date of typing for submission to OILSR)."

11. Within 20 days of the date upon which the Statement of Record is allowed to become effective by the Secretary, 2 copies of the Property Report, in the identical form in which it will be distributed to prospective purchasers, shall be filed with the Secretary. Two copies of any subsequent reproduction, alteration, duplication or reprint of the Property Report shall be filed with and accepted by the Secretary prior to its use if such subsequent reproduction, duplication or reprint contains any change in content or form.

PROPERTY REPORT

NOTICE AND DISCLAIMER BY OFFICE OF
INTERSTATE LAND SALES REGISTRATION,
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PURCHASER

The Interstate Land Sales Full Disclosure Act specifically prohibits any representation to the effect that the Federal Government has in any way passed upon the merits of or given approval to this subdivision, or passed upon the value, if any, of the property.

It is unlawful for anyone to make, or cause to be made to any prospective purchaser, any representation contrary to the foregoing or any representations which differ from the statements in this property report. If any such representations are made, please notify the Office of Interstate Land Sales Registration at the following address:

SHOULD READ

Office of Interstate Land Sales Registration,
HUD Building, 451 Seventh Street SW.,
Washington, D.C. 20410.

Inspect the property and read all documents. Seek professional advice. Unless you received this property report prior to or at the time you enter into a contract, you may void the contract by notice to the seller.

Unless you acknowledge in writing on a waiver of purchaser's revocation rights form that you have read and understood the property report and that you have personally inspected the lot prior to signing your contract, you may revoke your contract within 48 hours from the signing of your contract, if you received the property report less than 48 hours prior to signing such contract.

BEFORE SIGNING

1. Name(s) of Developer:
Address:

2. Name of Subdivision:
Location: County, State of

ANYTHING

(a) Effective date of Property Report:

**IMPORTANT READ CAREFULLY**

Name of subdivision:

By signing this receipt you acknowledge that you have received a copy of the property report prepared pursuant to the Rules and Regulations of the Office of Interstate Land Registration, U.S. Department of Housing and Urban Development.

Received by .....
Street Address .....
Date .....
City ..... State .....
Zip .....

Notwithstanding your signature by which you acknowledged that you received the Property Report you still have other important rights under the Interstate Land Sales Full Disclosure Act.

12. If the amendment to or the consolidation of the Statement of Record causes no change in the Property Report except the effective date of registration, the subsequent effective date of registration may be shown by overprinting on the front cover of the Property Report.

13. Answers to items in the format shall be prepared in such a manner that the introductory information will immediately inform the purchaser of any adverse effects. For example, if the answer to paragraph 5. is that the purchaser can lose his financial interest in the property this shall be clearly stated at the beginning of the answer to that paragraph. Additional information may follow introductory information. Refer to the purchaser in the second person. Do not include any statements making reference to the developer's past performance or business reputation. Proposals (as opposed to amenities already provided) may not be included in the property report unless the developer has clearly stated that they are merely





proposals and disclosed any conditions of completion (such as successful sale of lots) and whether he will be obligated or who will be obligated, if anyone. If the developer is not obligated or has not obtained documentation evidencing an abligation or commitment on the part of another person for each and every proposal stated in the Property Report he shall include the following warning in capital letters at the top of the second page of the property report.

"WARNING: THE DEVELOPER IS NOT LEGALLY OBLIGATED FOR SOME OF THE PROPOSALS WHICH HE HAS INCLUDED IN THIS PROPERTY REPORT."

The developer shall state the estimated completion date of each facility or proposal. The uninformed purchaser should be able to understand the information contained in the property report.

PART C. INSTRUCTIONS FOR ANSWERS TO PARAGRAPHS IN THE PROPERTY REPORT

The instructions below correspond to the numbered paragraphs in the Property Report:

Paragraph 2a. The effective date of registration is the date the Statement of Record becomes effective under § 1710.21. This date will be left blank in the proposed Property Report. When the developer receives notification of effectiveness from OILSR this date shall be inserted. The final printed copies of the Property Report submitted in accordance with this section must state that date. If the Statement of Record has been amended or consolidated, the date the most recent amendment to the Statement of Record or consolidation became effective shoud be used.

Paragraph 2b. The legal description of the land offered for sale shall describe the lots adequately to permit identification from the plat maps of the developer and from the public records of the county where located. If all of the lots in a particular unit of the subdivision are not being offered for sale, the legal description shall be sufficiently detailed to permit the purchaser to determine whether his lot is included in the offering. The developer shall also state the total number of lots being offered in each unit of the subdivision.

The brief legal description to be included in this paragraph shall include the number or name of the section or unit if any, the block number, if any, and the lot numbers. Any exceptions therefrom shall be listed. For example, unit 1 (or name of unit), block 5, lots 1–40, except lots 8, 15, and 21. Outlots and lots set aside for recreation or common areas should not be listed in your answer to this paragraph.

If the filing is a consolidation the developer shall include the total lots offered to date in the subdivision. The property report on the last consolidation will be the property report to be used for the sale of any lots in the subdivision. If the developer so desires he may distinguish between the offerings by using the following captions: lots in this offering; lots in previous offerings.

Paragraph 3. List the nearest large city or county seat and the population of each. List the total distance to the center of the subdivision from each and the portion of that distance which is paved and unpaved. If the subdivision is located more than 50 miles from either, list also the nearest established community or communities.

Paragraph 4.a. If there is any prohibition or penalty against the buyer recording the sales contract or lease, so state.

Paragraph 4.b. If the contract or a deed is not recorded by the developer at or immediately after the time when the purchaser signs the contract or if the title is not transferred of record to a trust or other sufficient notice to third parties placed of record the developer shall include the following language as his answer to this paragraph:

"Yes, In the absence of recording the contract or deed your right to the title of the land may be defeated by such third parties as subsequent purchasers or creditors of any person having an interest in the land." If the closing is within the criteria set forth in Section 1710.11(c)(1)(ii) of this Part and documentation of the trust or escrow and appropriate instructions to the trustee or agent is furnished in reply to Part V.A.8. of statement of record to show that the purchasers down payment will be returned if the developer cannot provide clear title at the time of closing the developer may answer as follows:

"Yes, however, your down payment will be set aside in a trust or escrow account and it will be returned to you if the developer cannot provide clear title at the time of transfer of title."

Paragraph 5. If the buyer or lessee is exposed to the risk of losing his financial interest in the property in the event of the developer's failure or bankruptcy, this fact must be made unmistakably clear in this paragraph. Explanations should include measures designed to protect the buyer's interests, if any, and they must disclose any circumstances under which the buyer would lose his financial interest in the property. If the buyer is to be protected (regardless of whether the offering includes only cash sales, or installment contracts and leases) explain fully how the buyer or lessee is to be protected against loss of his interest. If a blanket mortgage or other lien is foreclosed against the developer, will the holder of such mortgage or other lien be obligated to perform the agreement with the purchaser or lessee? If not, are, the buyer's or lessee's payments and investments in improving the property protected through an escrow or by other means? The buyer or lessee must be told of the possible consequences in the explanation of the answer to this question.

An unrecorded document is not acceptable to assure that the release clauses protect the purchaser since such a document is personal and does not run with the land. The release clause must be included in the liens of record or recorded amendments to the liens filed of record in order for them to protect the lot purchaser. If the release clauses are not included in such a recorded instrument and/or if they do not run with the land the answer to this paragraph must clearly disclose that the purchasers rights may be cut off and that the purchaser may lose his financial interest in the property.

If the developer states that the lot purchaser may pay the release price to the mortgagee, the statement shall be supported by documentation in which the mortgagee specifically agrees to accept such payment directly from the lot purchaser even though the developer is in default. The answer shall clearly state the amount of the release and inform the purchaser that the amount may be in excess of his contract payments unless there is a bona fide trust or escrow arrangement in which the purchaser's payments are set aside to pay release price before any payments are made to the developer. The documentation required by Part V.A.8. of the statement of record shall be submitted to support the statement.

Paragraph 7. a. Buyers and lessees must be told when their obligation to pay taxes, special assessments and similar charges begins. They should also be made aware of the approximate amount of buyer's or lessee's annual payments, but the items for indicating the amount of taxes and special assessments may be answered by the statement "Consult local taxing authorities."

b. If the construction of any of the proposed facilities will be financed by a property owners' association, special improvement district, or other similar organization or entity, the following information shall be included at the end of your answer to paragraph 7. of the property report.

"State whether the developer has control of the organization or entity or if any of the developers, officers, and directors or employees are also officers and directors of the organization or entity and if and when the developer's control will be relinquished. State the amount of the loan or debt, the interest and the period of time over which it will be amortized. State whether the funds of the association may be used for private purposes such as the construction of facilities on private land or to benefit sections other than the one in which the purchaser is buying."

Also include the following statement: "You will be obligated to pay the assessments for the cost of installing certain of the facilities and these costs are in addition to your payments for the lot."

c. If the developer's answer to part XI.C. of the statement of record discloses that the association or entity has not been formed, the following statement shall be included in his answer to this paragraph.

"The (state type of association or entity proposed) has not been formed. The developer's proposal lacks definition and he may not be able to carry it out."

d. If the developer's answer to part XI.C.2. of the statement of record indicates that not all of the lot owners will be required to belong to the association or be levied for assessment, the following statement shall be included in your answer to this paragraph.

"Membership in the (state the name or type of association or entity proposed) is not mandatory and some of the lot owners may not be required to pay the assessments levied by the (state the name or type of association or entity proposed). Therefore, you may have to pay a disproportionate share of the cost of operating the (state the name or type of association or entity proposed)."

Paragraph 8.b. Include all limitations upon the buyer's use or enjoyment of the property, including mineral rights reservations.

The subdivision restrictions are required to be listed in their entirety. If the restrictions are lengthy, they may be attached to the property report and incorporated by reference. If there is more than one section in the subdivision then the developer may include a general summary of the type of restrictions in the property report and attach a set of restrictions for the particular unit in which the purchase is interested.

Paragraph 8.c. The answer to this part shall list the uses consistent with the restrictions on the property. If the zoning regulations are not consistent with the restrictions on the property, so state. If the lot cannot be used for a homesite, include a statement to that effect.

i. If there is an architectual control committee or similar organization, include the following statement in your answer to this paragraph.

"The (name of entity) may alter your plans to build on or to use your lot."

ii. State who has control of the entity. If the developer has control of the entity or if any of the developers, officers, and directors or employees are also officers and directors of the organization or entity, so state. Also state when the developers control will be relinquished and include the following statement in the first paragraph of your answer to this paragraph of the property re-



V 38 170 SEP 4 73 XUM

port. "The developer has a controlling interest in the (state name of entity)."

iii. If your answer to part IV.D.7. of the statement of record indicates that the buyer must obtain a building permit from a state or local agency or organization before he can construct on his lot, your answer to this paragraph shall identify the agency or organization from which the permit must be obtained and it shall advise the purchaser of the necessity of obtaining the permit.

Paragraph 8.d. In answering this question the following guidelines shall be followed:

i. If your answer to part IV.A.2. or 3. of the statement of record discloses that the subdivision is affected by flooding or by a flood plain, the answer to this item shall include a summary statement of the flooding or the possible effect of the flood plain upon the subdivision. The statement shall identify the lots affected by the flood plain.

If the subdivision is located in an identifiable area of special flood hazards, state whether flood insurance is available for new construction in the area and if available the extent to which it may be required by Federal agencies. State the approximate range of the cost of such insurance and include the following statement in the answer to this paragraph of the property report. (The cost of flood insurance will vary in inverse proportion with the elevation of the lot.)

ii. Examples of unusual conditions relating to the location of the subdivision would include whether the subdivision, or any part thereof, is covered by water at any time during the year or is subject to hurricanes, tornadoes, earthquakes, mudslides, brushfires, forest fires, avalanches, volcanic eruptions, or other natural hazards. The existence, severity, and frequency of natural hazards should be fully explained. If any of the natural hazards of the type illustrated in this paragraph are present, state whether insurance against such hazards is available. State whether the area in which the subdivision is located has been formally identified by any Federal State, or local agency as being in an area subject to a special natural hazard and whether the area is or will be subject to any special land use requirements which will restrict development or entail unusual development or maintenance expense. Examples of unusual noises which might affect the subdivision would include proposed or existing industrial activity, airports or other transportation facilities, animal pens, entertainment centers, and the like.

iii. Unusual safety factors which might affect the subdivision would include any proposed or existing conditions in the area which create physical hazards such as dilapidated or abandoned buildings, unsafe construction, air or vehicular traffic hazards, danger from fire or explosion, radiation hazards, and the like. Examples of other nuisances which might affect the subdivision include noxious odors such as smoke, chemical fumes, stagnant ponds or marshes, slaughterhouses, sewage treatment facilities, and the like. Any such conditions should be fully explained identifying their origins and locations and stating whether they are proposed or existing—if existing, whether temporary (include estimate of duration) or permanent.

Paragraph 9

a. For each recreational facility currently available, proposed, or partly completed, the developer shall complete the format as follows:

i. State the name or type of the facility.

ii. State the percentage of completion.

iii. State the estimated date of completion.

iv. State the words "Bond" or "Escrow" if such statement is supported by the documentation required by Part IX.A.5. of the statement of record. If that documentation has not been submitted, state "None".

v. State "Yes" or "No".

vi. State amount of buyer's cost or assessment and time basis for charge (i.e., annual, monthly, per use, as applicable).

If the answer to ii. is 100 percent, the answers to iii., iv., and v. will not be applicable; state "NA". At the end of the list of facilities, state who owns or will own them. If the developer has submitted documentation evidencing an obligation or commitment on the part of another person, he may include a summary statement to that effect.

b. If a facility or improvement has been installed and the required permit or license has not been obtained and the developer has not submitted the documentation required by Part IV.E.3. of the statement of record, the developer shall include the following statement in his answer to this paragraph:

"The (identify the permit or license) has not been obtained and there is no assurance that the lot owners will be able to use the (identify the facility or improvement)."

c. If the facility has not been installed or completed and the answer to part IV.D.8. of the statement of record indicated that the developer must obtain a permit or license and if the developer has not submitted the supporting documentation required by part IV.E.3. of the statement of record, the answer to this paragraph shall include the following statement:

"The developer has not obtained a (permit or license, identify which) from the (identify the agency or organization which must issue the permit or license) for the construction of or installation of the (identify the facility or improvement affected). Although he has proposed to obtain the (identify the necessary license or permit) and to complete the facility he may not be able to carry out his proposal.

d. If the developer cannot submit the documentation required by part IX.A.5.b. of the statement of record, include the following statement in your answer to this paragraph of the property report:

"The developers' proposal lacks definition and he may not be able to carry it out."

e. If the developer cannot adhere to his proposed completion schedule, he shall amend his answer to this item in accordance with § 1710.23. His amendment shall include a statement of the original proposed completion date as well as the new proposed completion date.

Paragraph 10. The answers to each of the items under this paragraph shall be a concise and accurate summary of the information required to be stated in the related portion of the statement of record.

a. The developer shall list each item separately and state whether or not it is completed. If not completed, state who will complete, percentage completed, estimated completion date, whether there is any financial assurance of completion, and whether the developer is obligated to complete the item. If no arrangements have been made to assure completion of a proposed or partly completed facility (contracts supported by completion bonds or escrows, for example), include the following statement:

"The developer has not set aside any money or entered into any bond, escrow or trust arrangement to assure completion of the (facility). Accordingly, there is no assurance, other than the promise of the developer, that the (facility) will be completed."

b. If it later becomes evident that an improvement will not be completed on or before the specified date, amendments to the statement of record and property report are required. An amendment shall include a statement of the original proposed completion date as well as the new proposed completion date. The amendment shall be prepared in accordance with Section 1710.23 of this Part.

c. If the item has not been installed or completed and the answer to part IV.D.8. of the statement of record indicated that the developer must obtain a permit or license and if the developer has not submitted the supporting documentation required by part IV.E.3. of the statement of record, the answer to this paragraph shall include the following statement:

"The developer has not obtained a (permit or license, identify which) from the (identify the agency or organization which must issue the permit or license) for the construction of or installation of the (identify the facility or improvement affected). The developer may not be able to obtain the required permit or license and although he has proposed to obtain the (identify the license or premit) and to complete the facility he may not be able to carry out his proposal.

d. If the facility or improvement has been installed and the required permit or license has not been obtained, the developer shall include the following statement:

"(Identify the permit or license) has not been obtained and there is no assurance that the lot owners will be able to use the (identify the facility or improvement)."

e. If the developer has not submitted the documentation required by any of the following parts of the statement of record, he shall amend the appropriate subparagraph of paragraph 10. of the property report to include the statement set forth below.

| Part of the statement of record: | *Subparagraph of paragraph 10. of the property report* |
|---|---|
| Part VII C4 | a, 1 and 2 |
| Part VIII A7h | b, 1 |
| Part VIII E 10f | b, 5 |
| Part VIII F 8d | b, 6 |

Statement to be included in the appropriate subparagraph of paragraph 10.

"The developers' proposal lacks definition and he may not be able to carry it out."

f. In addition to the above instructions, the following additional instructions shall be followed in preparing the answer to the following subparagraphs:

Subparagraph a.2.

If the supporting documentation required by part VII.C. 1. and 3. of the regulations is not submitted, the answer to this item shall include a statement that the roads have not been accepted by the local authorities and a statement of the alternate plan for maintenance of the roads within the subdivision. Where the developer states that he will maintain the roads and he has not escrowed or set aside any money to assure continued maintenance of the roads, he shall include the following statement in his answer:

"The developer has not set aside any money or entered into any escrow or trust arrangements in order to assure continued maintenance of the roads during the life of the subdivision. You may be required to pay all or part of the cost of maintaining the roads in the subdivision."

Subparagraph b.1. i. If the developer has not obtained the documentation required by part VIII.A.7.d. of the statement of record, the following statement must be made in the reply to question 10 of the property report:

"The developer has not obtained a letter or report from a cognizant health officer on the quality and purity of water. Accordingly, there is no assurance that the available water will be either pure or of acceptable quality."

ii. If an analysis of the water is submitted, it must include a statement in layman's language of whether the water is drinkable and whether it contains any unusual characteristics. This statement shall be included in





the answer to this paragraph of the property report.

iii. If water is to be provided by private well, indicate (1) estimated completion cost and (2) any other data establishing that a sufficient quantity of potable water is available to each buyer or lessee. If water is to be provided by a private utility, describe assurance for continuous service and reasonable rates.

iv. If the developer's answer to part VIII. A.2.b. of the statement of record indicates that the private entity has not been formed or if the developer has not submitted the supporting documentation required by part VIII.A.7. e. of the statement of record, the following statement shall be included with his answer to this subparagraph:

"The (state the name or type of association or entity proposed) has not been formed. Although the developer has proposed to form such an entity he may not be able to carry out his proposal."

v. If the developer's answer to part VIII. A.2.b. of the statement of record indicates that not all of the lot owners will be required to use the services of the company or if not all of the lot owners will be assessed for the cost of the service, the following statement shall be included in your answer to this subparagraph:

"Since the use of the service of the (state the name or type of association or entity proposed) is not mandatory, some of the lot owners may not be required to pay the assessments levied by the (state the name or type of association or entity proposed). Therefore, you may have to pay a disproportionate share of the cost of operating the water system."

vi. If the developer's answer to part VIII.A. of the statement of record or the contract or restrictive covenants indicates that: (1) A central water system will be installed in the future; (2) purchasers who wish to construct on their lot prior to the installation of the central system may use their own individual system; and (3) when the central system is installed, the purchaser will be required to connect to and/or be assessed for a portion of the cost of the central system, the developer shall include the following statement in his answer to this subparagraph of the property report:

"If you wish to use your lot prior to the installation of the central water system, you will be required to install your own individual water system and you will be required to connect to and/or will be assessed for the cost of the central water system."

The answer shall include the estimated cost of an individual system as well as the estimated cost of the central system.

vii. If the developer's answer to part VIII.A of the statement of record indicates that the central water system will be installed in the future and that the purchaser will not be able to use an individual water system prior to the installation of the central system, the developer shall include the following statement in his answer to this subparagraph of the property report:

"You will not be permitted to use individual water systems and water will not be available to your lot until after the central water system has been completed."

Subparagraph b.3. If natural gas is not available in the subdivision the answer to this paragraph shall include the following statement: "Natural gas is not available in this subdivision." The answer to this paragraph should then disclose whether an alternative fuel source such as propane or butane is available and the estimated cost of the service including storage facilities.

Subparagraph b.5. i. If no central sewage disposal arrangements are contemplated, state whether the land is suitable for the use of septic tanks, describing the results of any percolation tests. State estimated cost to buyer for septic tank.

ii. If the developer has not submitted the documentation required by part VIII.E.10.b. or if such documentation does not clearly indicate that onsite sewerage units have been approved for use of each and every lot in the subdivision, the developer shall include the following statement in his answer to this subparagraph of the property report:

"The developer has not obtained a letter or report from a cognizant health officer approving the use of an onsite sewerage disposal system on each and every lot in the subdivision. There is no assurance that you will be able to obtain a permit or approval from the health officials for the installation and use of an onsite sewerage disposal system."

iii. Where onsite sewerage disposal it to be used and the developer has made no provision for the installation of a central sanitary sewerage system, the following statement shall be added:

"The developer has made no provision for the installation of a central sanitary sewerage system, nor has the developer made any provision to set aside any money to fund the installation of such a system."

iv. If the developer's answer to part VIII.E.2. of the statement of record indicates that the developer proposes the use of a private company to provide sewage disposal within the subdivision and that the entity has not been formed and if the developer has not submitted the supporting documentation required by part VIII.E.10. c. of the statement of record, the following statement shall be included in his answer to this subparagraph:

"The (state the name or type of association or entity proposed) has not been formed. Although, the developer has proposed to form such an entity he may not be able to carry out his proposal."

v. If the developer's answer to part VIII.E.2.b. of the statement of record indicates that not all of the lot owners will be required to use the services of the company or if not all of the lot owners will be assessed for the cost of the service, the following statement shall be included in your answer to this subparagraph:

"Since the use of the services of the (state the name or type of association or entity proposed) is not mandatory, some of the lot owners may not be required to pay the assessments levied by the (state the name or type of association or entity proposed). Therefore, you may have to pay a disproportionate share of the cost of operating the sewerage disposal system."

vi. If the developer's answer to part VIII.E. of the statement of record or the contract or restrictive covenants indicates that: (1) A central sewerage system will be installed in the future; (2) purchasers who wish to construct on their lot prior to the installation of the central system will have to install their own private sewerage disposal system; and (3) when the central system is installed the purchaser will be required to connect to and/or will be assessed for the cost of the central system, the developer shall include the following statement in his answer to this subparagraph of the property report.

"If you wish to use your lot prior to the installation of the central sewerage system, you will be required to install your own individual sewerage system and you will be required to connect to and/or will be assessed for the cost of the central sewerage system."

The answer shall include the estimated cost of an individual system as well as the estimated cost of the central system.

vii. If the developer's answer to part VIII.E. of the statement of record indicates that the central sewerage system will be installed in the future and that the purchaser will not be able to use an individual system prior to the installation of the central system the developer shall include the following statement in his answer to this subparagraph of the property report:

"You will not be permitted to use an individual sewerage disposal system; sewage disposal will not be available to your lot until after the central sewerage system has been installed."

Subparagraph c.1. State whether or not there is a fire fighting force offering yearround fire protection to the individual homes in the subdivision. If not include the following statement in your answer to this paragraph:

"Fire protection is not available yearround. A fire insurance policy may not be available or the cost of obtaining such a policy may be increased."

Paragraph 11. If the developer states that the water supply will be adequate to serve the anticipated population of the area such statement must be supported by an engineer's report or hydrological survey which is to be submitted as Exhibit VIII A 7 c of the Statement of Record. If such documentation is unavailable, the answer to this question should state that the developer has not obtained an engineer's report or a hydrological survey indicating the source and quantity of water in the subdivision and accordingly, there is no assurance that a sufficient quantity of water will be available to serve the anticipated population of the area.

Paragraph 14. The number of homes occupied can be amended to reflect periodic increases subsequent to the initial filing date.

Paragraph 15.a. Include a statement as to nature of terrain (flat, rolling, hilly, mountainous, etc.), type of soil (sandy, swampy, rocky, etc.) and vegetation (cactus, trees, grass, etc.).

Paragraph 20. If the answer to any of the questions in this paragraph is no and you do not submit the documentation required by part VIII.F.7.c. of the statement of record include the following statement in your answer:

"Erosion and flooding could result in property damage and could create a health and safety hazard."

The answer to this paragraph should address the areas of local flooding caused by excessive rainfall and erosion and sedimentation which may be controlled or prevented by the application of the appropriate soil conservation principles. Information with respect to flooding caused by natural hazards and in areas identified by federal agencies as hazard areas must be discussed in paragraph 8d of the property report.

SPECIAL RISK FACTORS

The statements with respect to Special Risk Factors must be included in the property report verbatim to that set forth in the format.

FINANCIAL STATEMENTS

The statements with respect to financial statements must be included in the property report verbatim to that set forth in the format. The financial statements to be attached as Exhibit A shall be a copy of those financial statements submitted by the developer in order to comply with the requirements of Part XIV of the statement of record. The developer shall include the financial statements only. He may not include promotional material such as that usually set forth in annual reports.



V 38-170
SEP 4 73
XUM

SIGNATURE OF THE SENIOR EXECUTIVE OFFICER

The Senior Executive Officer or his duly authorized agent may sign the property report. Facsimile signatures may be used for purpose of reprodutcion of the property report.

Part D. Additional paragraphs to be added to the property report in special circumstances.

In the interest of consumer protection, special circumstances warrant the inclusion of additional items in the property report. This list of paragraphs shall not be interpreted to in any way limit the authority and responsibilities set forth in part B.1.d. of this section. Paragraphs in addition to those listed here shall be added whenever the circumstances justify the need for such additional paragraphs. If any of the following provisions are applicable to the filing, the applicable question and an appropriate reply shall be added as paragraph 21, et seq., immediately after question 20 of the property report.

1. If the subdivision plat map has not been recorded, the developer shall add the following additional item and an appropriate reply to the property report:

"State whether the subdivision is based on a proposed rather than a currently approved division of the land. If proposed, state whether the description of each of the lots in the offering is legally adequate for the conveyancing of the land in the political subdivision wherein the land is located."

2. In those instances where the subdivision has not been approved by the local authorities, the developer shall add the following additional item and an appropriate reply to the property report:

"State whether the subdivision must be approved by the local authorities before it is platted of record. If yes, and the subdivision plat has not been approved by the local authorities, or if the subdivision has not been platted of record, you are advised as follows: The local authorities may require significant alterations before they will approve the proposed use of the land. Zoning requirements may prevent the land from being used for the purpose for which it is currently being sold."

3. Where the financial information submitted by the developer to satisfy the requirements of part XIV.A. of the statement of record indicates a deficit in retained earnings or an operating loss during the last fiscal year, the following item shall be added to the property report:

"State whether or not the developer has a deficit in retained earnings or has experienced an operating loss during the last fiscal year. Yes or no. If yes, your attention is directed to those items in the property report wherein the developer may have promised to complete certain facilities or to discharge financial obligations."

4. If the developer is a newly-formed corporation, it shall add the following paragraph and an appropriate reply to its property report.

"State whether the developer is a newly formed corporation. Yes or no. If yes, state the effect which the heavy expenditures necessary to begin a land development sales operation will have on the developer's earnings."

5. If the certified opinion required by part XIV. of the statement of record is qualified, the developer shall add the following paragraph to his property report.

"State whether the accountant qualified his opinion on the financial statements. Yes or no. If yes, your attention is called to the copy of that opinion in exhibit A of this property report."

6. If the developer's sales contract has reserved the right to encumber the land subsequent to the signing of the contract, add the following paragraph and an appropriate reply to the property report.

"Does the seller have the right to encumber the purchaser's lot by a mortgage or mortgages during the continuance of the contract of sale? Yes or no. If yes, you may not be able to obtain a clear title to your lot regardless of whether the contract is recorded."

7. If the answer to part II.C. indicates that the subdivision or any of the parties involved in the subdivision have been or are parties to any disciplinary proceedings, bankruptcies or litigation which will materially affect the operation of the subdivision include the following paragraph and an appropriate reply in the property report.

"State whether the subdivision or any of the parties involved in the development of the subdivision have been or are parties to disciplinary proceeding, bankruptcies or litigation which may materially affect lot purchasers in this subdivision."

8. For all foreign filings, the following questions should be added to the property report and answered appropriately:

a. "State whether or not the owner of the subdivision is a foreign corporation. Yes or No. If yes, you may have to seek legal remedy in the courts of a foreign country should it become necessary to enforce this contract."

b. "State whether the land is located in a foreign country. Yes or No. If yes, the laws and constitution of the United States may not be applicable."

c. "State whether or not it is necessary for an alien to obtain a license granted by the Government of (Insert the name of the government wherein the property is located) in order to acquire title to a lot in the subdivision."

d. "State whether or not it is necessary for an alien to obtain a work permit, license to do business, or similar document from the Government of (insert the name of the government wherein the property is located) before he will be able to reside, work, own and or manage a business in (insert the name of the country wherein the property is located). If so, describe the procedures for obtaining such a document and state the length of time for which it will be effective."

### § 1710.115 State property report disclaimer.

If the developer is filling with the Office of Interstate Land Sales Registration, Department of Housing and Urban Development, pursuant to § 1710.25, the following statement must be delivered to each purchaser simultaneously with the delivery of the State property report:

STATE PROPERTY REPORT DISCLAIMER

NOTICE AND DISCLAIMER BY OFFICE OF INTERSTATE LAND SALES REGISTRATION, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The Office of Interstate Land Sales Registration, U.S. Department of Housing and Urban Development, has accepted this (name of State) (name of property report, e.g., public offering statement, subdivision report) as the property report on this subdivision.

The Interstate Land Sales Full Disclosure Act specifically prohibits any representation to the effect that the Federal Government has in any way passed upon the merits of, or given approval to this subdivision, nor passed upon the value, if any, of the property. It is unlawful for anyone to make, or cause to be made to any prospective purchaser any representation contrary to the foregoing or any representation which differs from the statement in this property report. If any such representations are made, please notify the Office of Interstate Land Sales Registration at the following address:

Office of Interstate Land Sales Registration, HUD Building, 451 Seventh Street SW., Washington, D.C. 20410.

Inspect the property and read all documents. Seek professional advice.

Unless you received this property report prior to or at the time you enter into a contract, you may void the contract by notice to the seller.

Unless you acknowledge in writing on a waiver of purchaser's revocation rights form that you have read and understood the property report and have personally inspected the lot prior to signing your contract, you may revoke your contract within 48 hours from the signing of your contract if you received the property report less than 48 hours prior to signing such contract.

Effective with the Office of Interstate Land Sales Registration on _____.

The above disclaimer shall be prepared on the top 8½ inches of an 8½ by 11 inch page. The page shall be prepared in the format required by section 1710.110, part B. 2., 4., 5. and 6.

### § 1710.120 Statement of Record—State filing.

If the developer is filling pursuant to § 1710.25, there shall be filed with the Office of Interstate Land Sales Registration, Department of Housing and Urban Development, a statement as follows:

SECTION I *State Filings.* The following information shall preface the State statement of record or similar instrument and shall be done in accordance with the format and general instructions set forth in § 1710.105 for Part I. Administrative Information, Part II. Developers and Holders of Ownership Interest in Land, and Part III. Identity of Interest in more than one filing.

SEC. II. A. Submit all of the information, documentation, and certifications or affirmations submitted to the State.

B. The contracts or agreements must contain the language required by Part VI.C.1. of § 1710.105.

C. Consolidation—Incorporation by Reference: If a filing is for an offering of lots to be sold pursuant to a common promotional plan and there has been an earlier filing with OILSR for lots offered under the same promotional plan and if the State has approved a consolidation to such filing, the consolidated material, as approved, shall be filed with the Secretary. The OILSR number shall appear at the top of each page of the material submitted. Any such filing shall be made with the Secretary within 15 days after it becomes effective under the applicable State laws and shall meet the requirements of § 1710.27 of this part.

SEC. III. *Affirmation.* I hereby affirm that I am the developer of the lots herein described or will be the developer at the time lots are offered for sale or lease to the public, or that I am the agent authorized by such developer to complete this statement (if agent, submit written authorization to act as agent);

That the statements contained in this Statement of Record and any supplement thereto, together with any documents submitted herewith, are full, true, complete, and correct;

That I have complied with the land development and disclosure requirements of the State of _____ (State of filing);

That the material submitted is a true and accurate copy of all the material filed with and accepted by the State of _____ (State of filing); and

That the fees accompanying this application are in the amount required by the rules and regulations of the Office of Interstate Land Sales Registration.

| | |
|---|---|
| (Date) | (Signature) |
| (Corporate seal if applicable) | (Title) |

WARNING: Section 1418 of the Housing and Urban Development Act of 1968 (82 Stat. 598, 15 U.S.C. 1717) provides: "Any person who willfully violates any of the provisions of this title or of the rules and regulations or any person who willfully, in a Statement of Record filed under, or in a Property Report issued pursuant to, this title, makes any untrue statement of a material fact or omits to state any material fact • • • shall upon conviction be fined not more than $5,000 or imprisoned not more than 5 years, or both."

### § 1710.125 Partial Statement of Record—request for exemption.

Requests for an exemption order or an exemption advisory opinion pursuant to § 1710.14 or § 1710.15 shall be prepared in accordance with the following instructions:

INSTRUCTIONS FOR COMPLETION OF PARTIAL STATEMENT OF RECORD—REQUEST FOR EXEMPTION

The partial Statement of Record shall be prepared in the manner shown below and shall contain the information requested, as follows:

Employer's IRS No._____
Developer _____
Owner _____

STATEMENT OF RECORD

Name of subdivision_____
Location _____
Name of developer_____
Developer's address_____
Authorized agent_____
Authorized agent's address_____

Part I. Administrative Information, shall be filed in the form set forth in § 1710.105 followed by the affirmation and agreement as set forth below:

The filing of this information does not preclude a developer from filing a complete Statement of Record. If the developer files the material necessary to complete the Statement of Record, the date of filing shall be the date the complete Statement of Record is received by the Secretary.

AFFIRMATION AND AGREEMENT

I hereby affirm that I am the developer of the lots herein described or will be the developer at the time the lots are offered for sale or lease to the public, or that I am the agent authorized by such developer to complete this statement (if agent, submit written authorization to act as agent);

That the statements contained in this partial Statement of Record and any supplement thereto, together with any documents submitted are full, true, complete, and correct;

That, if this request is filed pursuant to 24 CFR 1710.14(a)(2) the developer hereby affirms and represents to the Secretary that the facts, affirmations and method of operation are within the requirements of 24 CFR 1710.14(a)(2) subparagraphs (i), (ii), (iii), (iv), and (v);

That the fee accompanying this application is in the amount required by the regulations of the Office of Interstate Land Sales Registration;

That I agree that this filing is a partial Statement of Record and that the receipt of this filing by the Secretary shall not be the date of filing of a Statement of Record for the purpose of determining the effective date thereof; and

That if the Secretary advises that the offering is not exempt, I agree to file the remaining portions of the Statement of Record as set forth in § 1710.105 of these rules and regulations prior to any offering and that the date of the receipt of the complete Statement of Record by the Secretary shall be the date of filing for the purpose of determining the effective date of the Statement of Record.

| | |
|---|---|
| (date) | (signature) |
| (corporate seal if applicable) | (title) |

WARNING: Section 1418 of the Housing and Urban Development Act of 1968 (82 Stat. 598, 15 U.S.C. 1717) provides: "Any person who willfully violates any of the provisions of this title or the rules and regulations prescribed pursuant thereto • • •, shall upon conviction be fined not more than $5,000 or imprisoned not more than 5 years, or both."

(Sec. 1419, 82 Stat. 598, 15 U.S.C. 1718, Secretary's delegation published 36 F.R. 5006)

## PART 1715—ADVERTISING, SALES PRACTICES, POSTING OF NOTICES OF SUSPENSION

**Subpart A—Advertising**

Sec.
1715.5 False or misleading advertising unlawful.
1715.10 Advertising disclaimer; subdivisions registered and effective.
1715.15 Advertising standards and guidelines.

**Subpart B—Sales Practices**

1715.25 Sales practices; when unlawful.

**Subpart C—Posting of Notice of Suspension**

1715.50 Posting of notice of suspension.

AUTHORITY: The provisions of this Part 1715 are issued under sec. 1419 of the Interstate Land Sales Full Disclosure Act, 82 Stat. 598; 15 U.S.C. 1718.

### Subpart A—Advertising

### § 1715.5 False or misleading advertising unlawful.

(a) In selling or leasing or offering to sell or lease any lot in a subdivision it shall be unlawful for any developer or agent, directly or indirectly, to prepare, authorize, use, direct, or aid in the publication, distribution, circulation, broadcast, or telecast of any advertisement concerning subdivisions when such advertisement contains any statement or pictorial representation of any kind (1) which is or would be false or misleading or (2) which omits any statement or pictorial representation of any kind necessary to make the statements or pictorial representations made, in the light of the circumstances under which they made, not misleading or (3) which differs materially from the information contained in the statement of record or property report filed pursuant to § 1710.-20 of this chapter, or (4) which differs materially from the information contained in a statement of reservations, restrictions, taxes, and assessments filed pursuant to §§ 1710.11 and 1710.102 of this chapter.

(b) Whenever it shall appear to the Secretary that any developer or agent is engaged or about to engage in any action made unlawful by this section, he may use any or all of the powers conferred upon him by § 1415 of the Interstate Land Sales Full Disclosure Act.

(c) Nothing in this section shall be construed to subject to civil remedies or criminal penalities any newspaper or periodical publisher, job printer, broadcaster, or telecaster, or any of the employees thereof, for violations of this section unless the publisher, printer, broadcaster, or telecaster (1) has actual knowledge of the falsity of the advertisement or (2) has any interest in the subdivision advertised or (3) also serves directly or indirectly as the advertising agent or agency for the developer.

### § 1715.10 Advertising disclaimer; subdivisions registered and effective with HUD.

(a) On all printed advertising material and literature used in connection with the sale or lease of lots in a subdivision for which an effective statement of record on file, the following disclaimer statement shall appear at the bottom of the front page thereof or at the bottom of all single page advertisements or newspaper advertisements in type of at least 10 point font.

Obtain HUD property report from developer and read it before signing anything. HUD neither approves the merits of the offering nor the value of the property as an investment, if any.

(b) In lieu of the statement required in paragraph (a), above, in all classified type advertisements not more than 5 inches long and not more than one column in print wide the following statement may be used and shall be set in type of at least 6 point font.

Obtain HUD property report from developer and read it before signing anything. HUD neither approves the merits of the offering nor the value of the property as an investment, if any.

### § 1715.15 Advertising standards and guidelines.

The following standards, while not deemed to be all inclusive, shall be used in the process of evaluating all advertising and sales presentations or representations to determine whether there is a violation of the act or of § 1715.5;

(a) All advertising must not be inconsistent with the information contained in the property report. Advertising shall not misrepresent the facts or create misleading impressions or inferences.

(b) Advertisements shall not use artists' sketches to portray proposed improvements or nonexistent scenes without an indication that such portrayal is an artist's sketch and that the improvements are proposed or that the scenes do not exist. Artists' conceptions of existing improvements or scenes must be representative and state that such rendering is an artist's conception.

(c) Use of photographs portraying scenes not actually on the advertised land is prohibited unless it is clearly indicated that such scene is not on the advertised property and the actual distance in miles from said advertised land is given.







V 38 170 SEP 4 73 XUM

(d) Use of statements, photographs, relating to facilities for recreation, sports, or other conveniences which are not presently in existence on the lands advertised is prohibited unless it is clearly stated that such "facilities are not on said lands" and the distance thereto in miles, or that such facility is "merely proposed."

(e) Advertising shall not refer to property as waterfront unless the property being offered actually fronts on a canal or other body of water.

(f) Land or lots offered shall not be represented as offering quick, immediate, certain, or specific profits. Offerings for speculative purposes shall be so represented in type of equal size to other statements.

(g) Advertising shall not contain statements concerning future price increases by the subdivider which are not specific as to amount and as to the date of the announced increase. Any such date shall be in the reasonable future and the increased price shall be maintained for a reasonable length of time.

(h) Advertising shall not contain asterisks or any other reference symbol as a means of contradicting or substantially changing any previously made statement or as a means of obscuring material facts.

(i) Advertising shall not use names or trade styles which imply that they are nonprofit research organizations, public bureaus, groups, etc., when such is not the case. Advertising of such an organization shall be prohibited when the true nature of the plan of sale or ownership is misrepresented or concealed.

(j) Advertising shall not use such terms as "minutes away," "short distance," "only miles," and "near" and terms of similar import to indicate distance unless the actual distance in road miles is used in conjunction with such terms.

(k) Use of maps to show proximity to other communities is prohibited unless such maps shall be drawn to scale and scale included, or the specific road mileage appears in easily readable print.

(l) The word "guarantee" or phrase "guaranteed refund" shall not be included in advertising unless the refund is unconditional.

(m) Advertising which indicates the size of the lot offered, shall include the amount of land available for use by the purchaser after all easements except for utilities to which his property may be subject have been deducted. If the property is subject to easements which are unusual in size, then this fact shall also be noted. All maps, plats, representations, or drawings shall show either the dimensions of the tract or the amount of acreage after deductions of easements.

(n) Maps, plats, or representations shall clearly indicate the date when the improvements will be completed. If completion dates are over a period of years, then a series of shadings, outlines, or coding may be used to indicate dates of completion.

(o) Lots shall not be advertised as "free" if the prospective purchaser is required to give any consideration whatsoever, and lots shall not be advertised for "closing costs only" when the closing costs are substantially more than normal, or when an additional lot or lots must be purchased at a higher price or to render the "free" lot usable.

(p) Advertising shall not make reference to pre-development sales at a lower price because the land has not yet been developed unless there are plans of development, and a subdivision plat has been recorded, or reasonable assurance is available that such plan will be completed.

(q) Advertising which makes reference to "roads" and "streets" shall make affirmative disclosure as to the nature of such roads and streets; i.e., paved, gravel, dirt, etc. All streets and roads reflected on subdivision maps used in connection with an advertising program will be presumed to be of an all-weather graded gravel quality or higher and will be presumed to be traversable by conventional automobile under all normal weather conditions unless otherwise reflected upon the map.

(r) Legal access referred to in advertising shall be accompanied by phraseology to indicate whether the access is presently usable as a passage for conventional automobiles.

(s) The existence of a road easement or a road right-of-way shall not be advertised unless such easement or right-of-way has been dedicated to the public or to appropriate property owners or to the appropriate property owners' association or similar organizations or entities and recorded in the public records of the county in which the property is located.

(t) Advertising shall not contain "before" and "after" pictures for comparative purposes without an accurate, detailed, comparative analysis of such pictures.

(u) Reprints of published material shall not be used unless the information contained in the reprint is representative, truthful, relevant, and pertinent to the subdivision being offered.

(v) Advertising shall not make comparison of land values unless it is clear who is making the comparison and the comparison is relevant and fair.

(w) Advertising shall not make reference to a public facility unless money has been budgeted for actual construction of such facility and is available to the public authority having the responsibility of construction or an actual disclosure of the existing facts concerning a public facility is made.

(x) Advertising shall not refer to public facilities under study, unless it is fully disclosed that the facility is merely proposed and under study and provided that no reference is made to the location or route of the facility until such has been decided by the responsible public authority.

(y) Advertising which refers to the purchase price of any lot, parcel, or unit of land must also include any additional compulsory assessments or costs to the prospective purchaser.

(z) Advertising which makes reference to property exchange privileges must state clearly any qualifications concerning such exchange privileges. If advertising makes reference to promised improvements for which the prospective purchaser will be assessed, such facts will be clearly disclosed.

(aa) Advertising shall not describe land as a homesite or building lot if potable water is not available or will not be available at reasonable costs; further, there must be reasonable assurance that a septic tank will operate or a sewer system is in existence unless facts to the contrary are clearly and conspicuously included in each such advertisement pertaining to that property.

(bb) Advertising shall be considered misleading if it infers or implies that the subdivider will resell or repurchase the property being offered at some future time unless the subdivider has made an undertaking to resell or repurchase property for or on behalf of purchasers and has the ability to perform this undertaking.

(cc) Advertising shall be deemed misleading if it represents that the property being offered for sale may be subdivided or resubdivided unless it includes all necessary and relevant information regarding the cost and feasibility of future subdividing.

(dd) Where a community is referred to in advertising, the material shall state the mileage from the approximate geographical center of the subdivided lands in road miles to the approximate downtown or geographical center of the community.

(ee) Advertising of improvements to the subdivided lands which are not completed shall not be made unless it is stated in unmistakable terms that the improvements are "merely proposed" or "under construction" and the "date of the promised completion" clearly indicated.

(ff) Advertising which embraces the term "canal" or "canals" shall contain a full disclosure of the width and depth of water in such "canal" or "canals."

(gg) Certificates shall not be distributed indicating a discount on property that appears to effect a price reduction from the advertised price. Discounts may be given for quantity purchases, cash, larger payments, or for any reasonable basis. (The purpose of this standard is to eliminate the use of fictitious pricing and illusory discounts.)

(hh) When the company offers more than one subdivision in a single advertising piece, or an offering exceeding 5 miles in length or width, advertising shall carry a disclaimer as follows:

Distances indicated are from the location mentioned to (clubhouse, center of subdivision, or other pertinent or prominent points), each purchaser should check the exact location of the property being offered him in relation to the clubhouse, subdivision or other prominent locations.

(ii) Advertising shall not use statements, photographs, or sketches portraying the use to which advertised land can be put unless the land can be put to such use without unreasonable cost.

(jj) Implied representations and presumptions. Any inference reasonably to be drawn from advertising or promotional material will be considered to be a positive assertion unless the inference is negated therein in clear and unmistakable terms, or unless adequate safeguards have been provided by the owner to reasonably guarantee the occurrence of the thing inferred. Advertising or promotional material will be judged on the basis of the positive representations contained therein and the reasonable inferences to be drawn therefrom. Unless the contrary affirmatively appears in promotional material, the following inferences will be assumed to have been intended in each case mentioned; to wit:

(1) When homesites or building lots are advertised, the inference is that said lots are immediately usable for such purpose without any further improvement or development by the prospective purchaser and that there is an adequate potable water supply available; that the lands have been approved for installation of septic tanks or that an adequate sewage disposal system is installed; that no further major draining, filling, or subsurface improvement is necessary to construct dwellings, except for reasonable preparation for construction; that the individual homesites or building lots are accessible by automobile without additional expense to the purchaser over existing right-of-way and that no other fact such as if the property, or any portion of the property, is regularly or periodically flooded or substantially covered by standing water for extended periods of time during the year or the land is without available legal access to the purchaser or circumstance exists to prohibit the use of the lots as a homesite or building lot.

(2) When title insurance, abstract, or attorney's opinion is advertised, the inference is that the seller can and will convey fee simple title free and clear of all liens, encumbrances, and defects except those which are disclosed in writing to the prospective purchaser prior to purchase.

(3) When lands are advertised as usable for any particular purpose other than homesites or building lots, the inference is that said lots or parcels are immediately accessible and usable for such purpose by purchasers without the necessity for draining, filling, or other improvement prior to putting the lands to use for such purpose, except for reasonable preparation for construction, and that no fact or circumstance exists to prohibit the immediate use of said lands for such purposes.

(4) When any recreational facility, improvement, accommodation, or privilege is advertised, the inference is that the same is on the lands at the present time and available without restriction to the purchasers of lots at no additional expense.

(5) When improvements are advertised, the inference is that the same are completed.

Any statements required to be made by this section shall be made in type of the same size as the representations made in the advertising.

### Subpart B—Sales Practices

**§ 1715.25 Sales practices; when unlawful.**

Sales practices shall include any act by the developer or his agents to induce a purchaser to buy or lease a lot. The developer or any of his agents or employees shall not make any representations which would violate any provision of the Act. The criteria set forth as advertising guidelines in § 1715.15 shall apply to any sales presentations or representations. In addition to the above criteria the following practices shall be deemed to be a violation of the Act.

(a) The use of the developer's personnel to repeatedly announce that lots are being sold when in fact this is not the case or to make repetitive announcements of the same lot being sold.

(b) Giving the property report to a purchaser along with other materials when this is done in such a manner as to conceal the property report from the purchaser.

(c) Giving a contract to the purchaser or encouraging him to sign anything before delivery of the property report.

(d) Referring to the property report or offering statement as anything other than a property report or offering statement.

### Subpart C—Posting of Notice of Suspension

**§ 1715.50 Posting of notice of suspension.**

(a) Whenever a suspension order has been issued under § 1710.45(b) of this chapter, the Secretary may, if deemed necessary in the public interest and for the protection of purchasers, require the posting of a sign or signs in a prominent place at the main or most frequently used entrance to the subdivision and at the place or places where prospective purchasers are taken to sign purchase contracts, that indicate the fact that the subdivision or a section thereof is covered by a suspension order and sales made during suspension are unlawful. Appropriate signs will be supplied by the Secretary and posted by the developers. Posting will be done insofar as practicable, in such a manner as not to damage the object or structure to which they are affixed. The developer will be responsible for keeping the signs properly posted. Failure to do so will be a violation of these regulations and it will subject the developer to the penalties set forth in section 1418 of the Act. Developer shall forward to the Secretary a photograph of the posted sign within 10 days after it has been posted.

(b) The Secretary may, where the developer makes a sales presentation or conducts a promotional activity at a location away from the subdivision, require the posting of signs at such locations.

## PART 1720—FORMAL PROCEDURES AND RULES OF PRACTICE

### Subpart A—Rules and Rule Making


Sec.
1720.1 Scope of rules in this subpart.
1720.5 Initiation of proceedings.
1720.10 Investigations and conferences.
1720.15 Notice.
1720.20 Promulgation of rules and regulations.
1720.25 Effective date of rules and regulations.


### Subpart B—Filing Assistance


1720.30 Scope of this subpart.
1720.35 Prefiling assistance.
1720.40 Processing of filings.


### Subpart C—Formal Investigations


1720.45 Scope or rules in this subpart.
1720.55 Violations, investigations or inquiries.
1720.70 Subpoenas in investigations.
1720.75 Investigational proceedings.
1720.80 Rights of witnesses in investigations.
1720.85 Noncompliance.
1720.90 Disposition.
1720.100 Settlements.


### Subpart D—Proceedings and Hearings


1720.110 Scope of rules in this subpart.
1720.115 Applicability of sections of this subpart.
1720.120 Suspension notice under § 1710.45(a) of this chapter.
1720.125 Notice of proceedings pursuant to § 1710.45(b)(1) of this chapter.
1720.130 Suspension order under § 1710.45(b)(2) of this chapter.
1720.131 Suspension order under § 1710.45(b)(3) of this chapter.
1720.134 Presumption of hearing request.
1720.135 Motion for more definite statement.
1720.140 Time for filing answer to notice of proceedings.
1720.145 Content of answer.
1720.150 Settlements.
1720.155 Hearings—suspension notice pursuant to § 1710.45(a) of this chapter.
1720.160 Hearings—notice of proceedings pursuant to § 1710.45(b)(1) of this chapter.
1720.165 Hearings—suspension order issued pursuant to § 1710.45(b)(2) of this chapter.
1720.170 Intervention by interested persons.
1720.175 Consolidation.
1720.190 Administrative law judge, powers and duties.
1720.195 Prehearing conferences.
1720.200 Reporting—prehearing conferences.
1720.205 Amendments and supplemental pleadings.
1720.210 Policy.
1720.215 Ex parte communications.
1720.220 Disqualification of administrative law judge.
1720.225 Failure to comply with administrative law judge's directions.
1720.230 Motions—filing requirements.
1720.235 Answers to motions.
1720.240 Motions for extension.
1720.245 Rulings on motions for dismissal.
1720.250 Interlocutory review of administrative law judge's rulings.
1720.255 Presentation and admission of evidence.
1720.260 Production of witnesses' statements.
1720.265 Depositions and discovery.
1720.270 Subpoenas ad testificandum.








V 38 170 SEP 4 73 XUM

Sec.
1720.275 Subpoenas duces tecum.
1720.280 Motion to limit or quash.
1720.285 Rulings on applications for compulsory process; appeals.
1720.290 Form of and rulings on applications for subpoenas for confidential records of the Office of Interstate Land Sales Registration; for appearance of employees; appeals; review.
1720.300 Official notice.
1720.320 Reporting and transcription.
1720.325 Corrections.
1720.330 Proposed findings, conclusions, and order.
1720.345 Initial decisions: Time for filing; when effective.
1720.350 Initial decision—content.
1720.360 Reopening of proceeding by administrative law judge; termination of jurisdiction.
1720.365 Appeal from initial decision.
1720.375 Answering brief.
1720.380 Reply brief.
1720.385 Length and form of briefs.
1720.390 Oral argument.
1720.400 Decision on appeal or review.
1720.405 Reconsideration.

Subpart E—Miscellaneous Rules

1720.410 Qualifications for appearances.
1720.415 Restrictions on appearances as to former officers and employees.
1720.425 Standards of practice.
1720.430 Form and filing requirements.
1720.435 Time computation.
1720.440 Service.

Subpart F—Interstate Land Sales Board and Appeals Officers

1720.500 Functions of the Interstate Land Sales Board and appeals officers.
1720.510 Composition of the Interstate Land Sales Board.
1720.520 Decisions of appeals officer.
1720.525 Reconsideration of final decision of appeals officer.
1720.530 Department representative.

AUTHORITY: The provisions of this Part 1720 are issued under sec. 1419 of the Interstate Land Sales Full Disclosure Act, 82 Stat. 598; 15 U.S.C. 1718.

## Subpart A—Rules and Rule Making

### § 1720.1 Scope of rules in this subpart.

The rules in this subpart apply to and govern procedure for the promulgation of rules and regulations under the Act. The rules in this subpart do not apply to interpretative rules, general statements of policy, rules of organization procedure, or practice or in any situation in which the Secretary for good cause finds (and incorporates the findings and brief statement of the reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary or contrary to the public interest.

### § 1720.5 Initiation of proceedings.

Proceedings for the issuance of rules and regulations may be commenced by the Secretary upon his own initiative or pursuant to petition filed with the Secretary by any interested person stating reasonable grounds therefor. If the Secretary determines that a petition is not sufficient to warrant the holding of a rule making proceeding, the petitioner shall be promptly notified and given an opportunity to submit additional data. Procedures for the amendment or repeal of a rule or regulation are the same as for the issuance thereof.

### § 1720.10 Investigations and conferences.

(a) In connection with a rule making proceeding, the Secretary may conduct such investigations, make such studies and hold such conferences as he may deem necessary. All or any part of such investigations may be conducted under the provisions of Subpart C of this part.

(b) At any such conferences, interested persons may appear to express views and suggest amendments relative to proposed rules and regulations.

### § 1720.15 Notice.

General notice of proposed rule making shall be published in the FEDERAL REGISTER and, to the extent practicable, otherwise made available to interested persons. Such notice shall include a statement of the time, place and nature of the proceeding; reference to the authority under which the rule or regulation is proposed; either the terms or substance of the proposed rule or regulation or a description of the subjects and issues involved and the manner in which interested persons shall be afforded the opportunity to participate in the proceeding. If the rule making proceeding was instituted pursuant to petition, a copy of the notice shall be served on the petitioner.

### § 1720.20 Promulgation of rules and regulations.

The Secretary, after consideration of all relevant matters of fact, law, policy and discretion, including all relevant matters presented by interested persons in the rule making proceedings, shall adopt and publish in the FEDERAL REGISTER an appropriate rule or regulation together with a concise general statement of its basis and purpose and any necessary findings; or the Secretary shall give other appropriate public notice of disposition of the rule making proceeding.

### § 1720.25 Effective date of rules and regulations.

The effective date of any rule or regulation or of an amendment, suspension, or repeal of any rule or regulation shall be specified in a notice published in the FEDERAL REGISTER. Such date shall not be less than 30 days after the date of such publication unless the Secretary specifies an earlier effective date for good cause found and published with the rule or regulation.

## Subpart B—Filing Assistance

### § 1720.30 Scope of this subpart.

The rules in this subpart apply to and govern procedures under which developers may obtain prefiling assistance and be notified of and permitted to correct deficiencies in the Statement of Record.

### § 1720.35 Prefiling assistance.

Persons intending to file with the Office of Interstate Land Sales Registration may receive advice of a general nature as to the preparation of the filing, including information as to proper format to be used and the scope of the items to be included in the format. Inquiries and requests for informal discussions with staff members should be directed to the Administrator, Office of Interstate Land Sales Registration, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20411.

### § 1720.40 Processing of filings.

(a) Statements of Record and accompanying filing fees will be received on behalf of the Secretary by the Administrator, Office of Interstate Land Sales Registration, for determination of (1) completeness of the statement, (2) adequacy of the filing fee and (3) adequacy of disclosure. Where it appears that all three criteria are satisfied and it is otherwise practicable, acceleration of the effectiveness of the Statement of Record will normally be granted.

(b) Filings intended as Statements of Record but which do not comply in form with §§ 1710.105 and 1710.120 of this chapter, whichever is applicable, and Statements of Record accompanied by inadequate filing fees will not be accepted as Statements of Record within the meaning of the Act and will not be effective to accomplish any purpose under the Act. At the discretion of the Administrator, such filings and any moneys accompanying them may be immediately returned to the sender or after notification may be held pending the sender's appropriate response.

(c) Persons filing incomplete or inaccurate Statements of Record which are nevertheless, correct in form and accompanied by adequate filing fees will be notified and given reasonable opportunity to correct deficiencies. Failure to correct will result in the application of the suspension procedures in § 1710.45 of this chapter.

## Subpart C—Formal Investigations

### § 1720.45 Scope of rules in this subpart.

(a) The rules in this subpart apply to and govern procedures for the conduct of formal inquiries and investigations undertaken by the Secretary and the manner in which persons alleged to have violated the Act or the rules and regulations may be afforded an opportunity to comply voluntarily with the Act and the rules and regulations.

(b) The Secretary or his designee may make inquiries and investigations to determine whether any person has violated or is about to violate any provision of the Act or the rules and regulations, or to aid in the enforcement of the Act, or in prescribing rules and regulations thereunder or in securing information to serve as a basis for recommending further legislation. The Secretary or his designee shall have the authority to administer oaths and affirmations in any matter under investigation.





### § 1720.55 Violations, investigations or inquiries.

In connection with a formal investigation or inquiry involving an alleged or suspected violation or threatened violation of the Act or rules and regulations, the Secretary may require or permit any person to file with him a signed statement setting forth facts and circumstances known to such person and relevant to the investigation or inquiry. The Secretary may publish or otherwise divulge information concerning any violation of the Act or the rules and regulations.

### § 1720.70 Subpoenas in investigations.

(a) The Secretary or his designee may issue subpoenas relating to any matter under investigation for any or all of the following purposes:

(1) Requiring testimony to be taken by interrogatories.

(2) Requiring the attendance and testimony of witnesses at a specfic time and place.

(3) Requiring access to, examination of and the right to copy documents, books, records, and papers.

(4) Requiring the production of documents, books, records, and papers at a specified time and place.

(b) A motion to limit or quash any such subpoena may be filed with the Secretary or his designee within 10 days after service of the subpoena, and in no event less than 72 hours prior to the return date and hour of such subpoena.

### § 1720.75 Investigational proceedings.

(a) For the purpose of hearing the testimony of witnesses and receiving documents and other data relating to any subject under investigation, investigational proceedings, as distinguished from adjudicative hearings, may be conducted in the course of any investigation including rule making proceedings under Subpart A of this part.

(b) Investigational proceedings shall be presided over by the Secretary or his designee and shall be stenographically or mechanically reported. A transcript shall be a part of the record of the investigation.

(c) Unless the Secretary or his designee determines otherwise investigational proceedings shall be public.

### § 1720.80 Rights of witnesses in investigations.

(a) Any person compelled to testify or to submit data in connection with any investigational proceedings shall be entitled to retain a copy or, on payment of lawfully prescribed costs, procure a copy of any data submitted by him and of his own testimony as stenographically or mechanically reported, except that in a nonpublic proceeding the witness may for good cause be limited to inspection of the official transcript of his testimony.

(b) Any witness compelled to appear in person in an investigational proceeding may be accompanied, represented, and advised by counsel as follows:

(1) Counsel for a witness may advise his client, in confidence, and upon initiative of either himself or the witness, with respect to any question asked of his client; and if the witness refuses to answer a question, then counsel may briefly state on the record if he has advised his client not to answer the question and the legal grounds for such refusal.

(2) Where it is claimed that the testimony or other evidence sought from a witness is outside the scope of the investigation, or it is claimed that the witness is privileged to refuse to answer a question or to produce other evidence, counsel for the witness may object on the record to the question or requirement and may state briefly and precisely the grounds thereof.

(3) Objections interposed under the rules in this subpart will be continuing objections throughout the course of the proceeding, and repetitious or cumulative statement of an objection or of the grounds therefore, in such cases, is unnecessary and impermissible.

(4) Counsel for a witness may not, for any purpose or to any extent not allowed by subparagraphs (1) and (2) of this paragraph, interrupt the examination of the witness by making any objections or statements on the record. Motions challenging the authority of the Secretary to conduct the investigation or the sufficiency or legality of the subpoena must have been addressed to the Secretary in advance of the proceeding. Copies of such motions may be filed with the presiding official at the proceeding as part of the record of the investigation, but no argument in support thereof will be allowed at the proceeding.

(5) Upon completion of the examination of a witness, counsel for the witness may request that on the record the presiding official permit the witness to clarify any of his answers in order that specified points of ambiguity, equivocation, or incompleteness may be corrected. The granting or denial of such request, in whole or in part, shall be within the sole discretion of the presiding official.

(6) The presiding official shall take all necessary action to regulate the course of the proceeding to avoid delay and to prevent or restrain disorderly, dilatory, obstructionist or contumacious conduct or contemptuous language. Such official shall, for reasons stated on the record, immediately report to the Secretary any instances where an attorney or witness has failed or refused to comply with his directions, lawful rules, regulations or orders in the course of the proceedings or has engaged in disorderly, dilatory, obstructionist, or contumacious conduct or contemptuous language. The Secretary or his designee may exclude the attorney or witness from further participation in the particular investigation.

### § 1720.85 Noncompliance.

Failure to comply with the Secretary's investigational process may result in action pursuant to section 1415 of the Act.

### § 1720.90 Disposition.

(a) When investigation by the Secretary indicates that corrective action is warranted, the Secretary pursuant to § 1710.45(b)(2) of this chapter may issue a suspension order: *Provided, however,* That any person being investigated may be afforded an opportunity to submit to the Secretary a proposal for disposition of the matter in the form of an executed settlement agreement complying with the requirements of § 1720.100 for consideration by the Secretary.

(b) When an investigation discloses that corrective action is not necessary or warranted in the public interest for the protection of purchasers or lessees, the investigational file will be closed. The matter may at any time thereafter be reinvestigated if circumstances so warrant.

### § 1720.100 Settlements.

(a) *Offer of settlement.*—At any time during a proceeding, parties may be afforded an opportunity to submit to the Secretary or his designee a written proposal for disposition of the matter in the form of a settlement offer.

(b) *Settlement agreements.*—When the Secretary or his designee determines the public interest will be fully safeguarded thereby he may accept an executed offer of settlement. Where the Secretary or his designee rejects an offer of settlement, the party making the offer shall be notified and the offer of settlement shall be deemed withdrawn and such offer and any documents relating thereto shall not constitute a part of the record.

## Subpart D—Proceedings and Hearings

### § 1720.110 Scope of rules in this subpart.

The rules in this subpart are applicable to adjudicative proceedings which involve a hearing or opportunity for a hearing under the Interstate Land Sales Full Disclosure Act.

### § 1720.115 Applicability of sections of this subpart.

Succeeding sections of this subpart not specifically limited in applicability either to hearings conducted subsequent to a suspension notice under § 1710.45(a) of this chapter, to a notice of proceedings under § 1710.45(b)(1) of this chapter, or to hearings conducted subsequent to a suspension order issued pursuant to paragraph (2) of § 1710.45(b) of this chapter, shall apply to all such hearings.

### § 1720.120 Suspension notice under § 1710.45(a) of this chapter.

A suspension pursuant to § 1710.45(a) of this chapter shall be effected by service of a suspension notice which shall contain:

(a) An identification of the filing to which the notice applies.

(b) A specification of the deficiencies of form, disclosure, accuracy, documentation or fee tender which constitute the grounds, under § 1710.45(a) of this chapter, of the suspension, and of the additional or corrective procedure, information, documentation, or tender which will satisfy the Secretary's requirements.

(c) A notice of the hearing rights of the developer under § 1720.155, and of the procedures for invoking those rights.



V 38 170
SEP 4 73
XUM

(d) A notice that, unless otherwise ordered, the suspension shall remain in effect until 30 days after the developer cures the specified deficiencies as required by the notice.

**§ 1720.125 Notice of proceedings pursuant to § 1710.45(b)(1) of this chapter.**

A proceeding pursuant to § 1710.45(b)(1) of this chapter is commenced by issuance and service of a notice which shall contain:

(a) A clear and accurate identification of the filing or filings to which the notice relates.

(b) A clear and concise statement of material facts, sufficient to inform the respondent with reasonable definiteness of the statements, omissions, conduct, circumstances or practices alleged to constitute the grounds for the proposed suspension order under § 1710.45(b)(1) of this chapter.

(c) Specification of a time and place at which the developer shall have opportunity for hearing.

(d) Designation of the administrative law judge appointed to preside over prehearing procedures and over the hearings.

(e) A notice that failure to file an answer or motion as provided under § 1720.140 will result in an order suspending the Statement of Record.

**§ 1720.130 Suspension order under § 1710.45(b)(2) of this chapter.**

A suspension pursuant to § 1710.45(b)(2) of this chapter shall be effected by service of a suspension order which shall contain:

(a) An identification of the filing to which the order applies.

(b) Bases for issuance of order.

(c) A notice of the hearing rights of the developer under § 1720.165 and of the procedures for invoking those rights.

(d) A statement that the order shall remain in effect until the developer has complied with the Secretary's requirements.

**§ 1720.131 Suspension order under § 1710.45(b)(3).**

A suspension pursuant to subparagraph (3) of § 1710.45(b) of this chapter shall be effected by service of a suspension order which shall contain:

(a) An identification of the filing to which the order applies;

(b) An identification of the amendment to the filing;

(c) A statement that the issuance of the order is necessary or appropriate in the public interest or for the protection of purchasers; and

(d) A statement that the order shall remain in effect until the amendment becomes effective.

**§ 1720.134 Presumption of hearing request.**

When an answer or motion to a notice of proceedings is timely filed, but a respondent has failed specifically to request a hearing, his filing shall be deemed to constitute such a request.

**§ 1720.135 Motion for more definite statement.**

Where a reasonable showing is made by a respondent of his inability to respond to the allegations in a suspension notice or a notice of proceedings, motion may be made requesting a more definite statement of the allegations before filing an answer. Such motion shall be filed with the Secretary or his designee within 5 days after service of the notice and shall specifically indicate in what manner the notice is indefinite or defective.

**§ 1720.140 Time for filing answer to notice of proceedings.**

(a) Within 15 days after service of the notice of proceedings, the respondent shall file with the Secretary or his designee an answer and three copies thereof signed by the respondent or his attorney. Unless a different time is fixed by the Secretary or his designee, the filing of a motion for a more definite statement of the allegations shall alter the period of time in which to file an answer as follows:

(1) If the motion is denied, the answer shall be filed within 15 days after service of the denial.

(2) If the motion is granted, in whole or in part, the more definite statement of allegations shall be filed after service of the order granting the motion and the answer shall be filed within 15 days after service of the more definite statement of allegations.

(b) If a notice of proceedings is amended, the respondent shall have 15 days after service of the amended notice of proceedings within which to file an answer thereto.

**§ 1720.145 Content of answer.**

An answer to a suspension notice or a notice of proceedings shall contain:

(a) A brief statement of the facts constituting each defense; and

(b) Specific admission, denial or explanation of each fact alleged in the notice, or if the respondent is without knowledge thereof a statement to that effect. Allegations not answered in this matter shall be deemed to have been admitted.

**§ 1720.150 Settlements.**

Parties may propose in writing, at any time during the course of a proceeding, offers of settlement which shall be submitted to and considered by the Secretary or his designee. If determined to be appropriate, the party making the offer may be given an opportunity to make an oral presentation in support of such offer. If an offer of settlement is rejected, the party making the offer shall be so notified and the offer shall be deemed withdrawn and shall not constitute a part of the record in the proceeding. Final acceptance by the Secretary or his designee of any offer of settlement will automatically terminate any proceeding related thereto.

**§ 1720.155 Hearings—suspension notice pursuant to § 1710.45(a) of this chapter.**

(a) A developer, upon receipt of a suspension notice issued pursuant to § 1710.45(a) of this chapter, may obtain a hearing by filing a written request in accordance with the instructions regarding such request contained in the suspension notice. Such request must be filed within 15 days of receipt of the suspension notice and must be accompanied by an answer and 3 copies thereof signed by the respondent or his attorney conforming to the requirements of § 1720.145. Filing of a motion for a more definite statement pursuant to § 1720.135 shall alter the period of time to request a hearing as follows:

(1) If the motion is denied, the request for hearing accompanied by the answer must be filed within 15 days after service of the denial.

(2) If the motion is granted, in whole or in part, the more definite statement of allegations shall be filed after service of the order granting the motion and the request for hearing accompanied by the answer shall be filed within 15 days after service of the more definite statement of allegations.

(b) When a hearing is requested pursuant to paragraph (a) of this section, such hearing shall be held within 20 days of receipt of the request. The time and place for hearing shall be fixed with due regard for the public interest and the convenience and necessity of the parties or their representatives.

(c) A request for hearing filed pursuant to paragraph (a) of this section shall not interrupt or annul the effectiveness of the suspension notice, and suspension of the effective date of the statement or amendment shall continue until vacated by order of the Secretary. Except in cases in which the developer shall waive or withdraw his request for such hearing, or shall fail to pursue the same by appropriate appearance at a hearing duly scheduled, noticed and convened, the suspended filing shall be reinstated in the event of failure of the Secretary or his designee to schedule, give notice of or hold a duly-requested hearing within the time specified in paragraph (b) of this section, or in the event of a finding that the Secretary has failed to support at such hearing the propriety of the suspension with respect to the material issues of law and fact raised by the answer. Such reinstatement shall be effective on the date on which the filing would have become effective had no notice of suspension been issued with respect to it.

**§ 1720.160 Hearings—notice of proceedings pursuant to § 1710.45(b)(1) of this chapter.**

(a) A developer, upon receipt of a notice of proceedings issued pursuant to § 1710.45(b)(1) of this chapter, may obtain a hearing by filing a written request in accordance with the instructions regarding such request contained in the notice of proceedings. Such a request must be filed within 15 days of receipt of the notice of proceedings or in the case of a request for a more definite statement within 15 days after receipt of either the more definite statement or the denial thereof. The request must be accompanied by an answer conforming to the requirements of § 1720.145.

(b) When a hearing is requested pursuant to paragraph (a) of this section, a date for such hearing shall be scheduled within 20 days of receipt of the request. The time and place for hearing shall be fixed with due regard for the public interest and the convenience and necessity of the parties or their representatives.

(c) Failure to answer within the time allowed by § 1720.140 or failure of a developer to appear at a hearing duly scheduled shall result in an appropriate order under § 1710.45(b)(1) of this chapter suspending the statement of record. Such order shall be effective as of the date of issuance.

**§ 1720.165 Hearings—suspension order issued pursuant to § 1710.45(b)(2) of this chapter.**

(a) A developer, upon receipt of a suspension order issued pursuant to subparagraph (2) of § 1710.45(b) of this chapter, may obtain a hearing by filing a written request in accordance with the instructions regarding such request contained in the suspension order. Such request must be filed within 15 days of receipt of the suspension order and must be accompanied by an answer conforming to the requirements of § 1720.145.

(b) When a hearing is requested pursuant to paragraph (a) of this section, a date for such hearing shall be scheduled within 20 days of receipt of the request. The time and place for hearing shall be fixed with due regard for the public interest and the convenience and necessity of the parties or their representatives.

**§ 1720.170 Intervention by interested persons.**

(a) Upon timely application, the Secretary or his designee upon petition in writing and for good cause shown, and if deemed to be in the public interest, may permit any person to participate by intervention in the proceeding. The petition shall contain (1) the petitioner's relationship to and interest in the matters contained in the proceeding; (2) a concise statement of his position with respect to each specific issue upon which he proposes to intervene, and of the facts which he proposes to adduce in support of each such position; and (3) an assent to exercise of jurisdiction by the Department with respect to the petitioner.

(b) The Secretary or his designee shall determine the propriety of such intervention and the extent to which such intervener may participate, basing such determination upon applicable law, the directness and substantiality of the petitioner's interest in the proceeding and the effect upon the proceeding of allowing such participation.

**§ 1720.175 Consolidation.**

When more than one proceeding involves a common question of law or fact, the Secretary or his designee may order a joint hearing of any or all of the matters in issue in the proceedings and may make such orders concerning the proceedings as may tend to avoid unnecessary costs or delay.

**§ 1720.190 Administrative law judge, powers and duties.**

(a) Hearings in adjudicative proceedings shall be presided over by a duly qualified administrative law judge who shall be designated by the Secretary in a notice to the parties in the proceeding.

(b) Administrative law judges shall have the duty to conduct fair and impartial hearings, to take all necessary action to avoid delay in the disposition of proceedings and to maintain order. They shall have all powers necessary to those ends including all powers granted under 5 U.S.C. 556(c), and also including but not limited to the following:

(1) To administer oaths and affirmations.

(2) To issue subpoenas and orders requiring access.

(3) To take or to cause depositions to be taken.

(4) To rule upon offers of proof and receive evidence.

(5) To regulate the course of the hearings and the conduct of the parties and their counsel.

(6) To hold conferences for simplification and clarification of the issues or any other purpose.

(7) To consider and rule upon, as justice may require, all procedural and other motions appropriate in an adjudicative proceeding, including motions to open defaults.

(8) To make and file initial decisions.

(9) To certify questions to an appeals officer on the Interstate Land Sales Board for his determination.

(10) To take any action authorized by the rules in this part or other appropriate action.

**§ 1720.195 Prehearing conferences.**

(a) In any proceeding in which it appears that such procedure will expedite the proceeding, the administrative law judge may direct or allow the parties or their representatives to appear before him for a conference to consider: (1) Simplification and clarification of the issues; (2) necessity or desirability of amendments to the pleadings; (3) stipulations and admissions of fact and the contents and authenticity of documents; (4) expedition in the discovery and presentation of evidence; (5) matters of which official or judicial notice will be taken; and (6) such other matters as may aid in the orderly and expeditious disposition of the proceeding, including disclosure of the names of witnesses and of documents or other exhibits which will be introduced in evidence in the course of the proceeding. Prior to the conference, the administrative law judge may direct or allow the parties or their representatives to file memorandums specifying the issues of law and fact to be considered.

(b) If the circumstances are such that a conference is impracticable, the administrative law judge may request the parties to correspond with him for the purpose of accomplishing any of the objectives set forth in this section.

**§ 1720.200 Reporting—prehearing conferences.**

Prehearing conferences shall be stenographically or mechanically reported; and the administrative law judge shall prepare and file for the record a written summary of the action taken at the conference, which shall incorporate any written agreements or stipulations made by the parties at the conference or as a result of the conference.

**§ 1720.205 Amendments and supplemental pleadings.**

(a) *Amendments.*—The administrative law judge may, upon such conditions as are necessary to avoid prejudicing the public interest and the rights of the parties, allow appropriate amendments to pleadings whenever determination of a controversy on the merits will be facilitated thereby.

(b) *Variances of proof.*—When issues not raised by the pleadings but reasonably within the scope of the suspension notice or notice of proceedings are tried by express or implied consent of the parties, they shall be treated in all respects as if they had been raised in the pleadings; and such amendments of the pleadings as may be necessary to make them conform to the evidence and to raise such issues shall be allowed at any time.

(c) *Supplemental pleadings.*—The administrative law judge may, upon reasonable notice and such terms as are just, permit service of a supplemental pleading setting forth transactions or events which have occurred since the date of the pleading sought to be supplemented and which are relevant to any of the issues involved.

**§ 1720.210 Policy.**

(a) All hearings in adjudicative proceedings shall be public.

(b) Hearings shall proceed with all reasonable speed; and, insofar as practicable, shall be held at one place and shall continue without recess or suspension until concluded. The administrative law judge shall have the authority to order brief intervals of the sort normally involved in judicial proceedings and, in unusual and exceptional circumstances for good cause stated on the record, he shall have the authority to order hearings at more than one place and to order brief intervals to permit discovery necessarily deferred during the prehearing procedures.

**§ 1720.215 Ex parte communications.**

(a) No person shall communicate with any administrative law judge or any ap-







V 38 170 SEP 4 73 XUM

peals officer on the Interstate Land Sales Board either directly or indirectly concerning any pending proceeding unless prior to or simultaneously with such communication its contents are disclosed in detail to all persons interested in the proceeding; nor shall any administrative law judge or appeals officer request or consider any such unauthorized ex parte communication. This prohibition shall not apply to a simple request for information respecting the status of the proceeding, nor to any ex parte communication expressly authorized by these rules.

(b) Any administrative law judge or appeals officer, who receives an ex parte communication which he knows or has reason to believe is unauthorized, shall promptly place the communication, or its substance, in the public file and shall inform all persons interested in the proceeding of its existence and general contents. Facts or arguments so communicated shall not be taken into account in deciding any matter in issue unless such facts or arguments shall be brought properly before the administrative law judge.

(c) Opportunity to answer allegations or contentions contained in an unauthorized ex parte communication may be afforded any interested person upon his motion for leave to do so, wherever such leave will operate to assure a fair hearing or decision.

**§ 1720.220 Disqualification of administrative law judge.**

(a) When an administrative law judge deems himself disqualified to preside in a particular proceeding, he shall withdraw therefrom by notice on the record and shall notify the Secretary of such withdrawal.

(b) Whenever any party believes that the administrative law judge should be disqualified to preside, or to continue to preside, in a particular proceeding, such party may file with the administrative law judge a motion that the administrative law judge disqualify and remove himself. Such motion shall be supported by affidavits setting forth the alleged grounds for disqualification. If the administrative law judge does not disqualify himself, he shall proceed with the hearing and the question of fair hearing and due process may be raised on appeal to the appeals officer on the Interstate Land Sales Board who shall determine the matter as a part of the record and decision.

**§ 1720.225 Failure to comply with administrative law judge's directions.**

Any party who refuses or fails to comply with a lawfully issued order or direction of an administrative law judge may be considered to be in contempt of the Secretary. The circumstances of any such neglect, refusal or failure, together with a recommendation for appropriate action, shall be promptly certified by the administrative law judge to the Secretary or his designee who may make such orders in regard thereto as the circumstances may warrant.

**§ 1720.230 Motions—filing requirements.**

During the time a proceeding is before an administrative law judge, all motions therein shall be in writing; and, except as otherwise provided in this part, a copy of each motion shall be served on the other party or parties. Such motions shall be signed, addressed to and filed with the administrative law judge and shall be ruled upon by him. The provisions of this section need not apply to motions made during the course of a hearing.

**§ 1720.235 Answers to motions.**

Within 7 days after service of any written motion, an opposing party shall answer or shall be deemed to consent to the granting of the relief asked for in the motion. The moving party shall have no right to reply except as permitted by the administrative law judge or the designated officer on the Interstate Land Sales Board.

**§ 1720.240 Motions for extension.**

As a matter of discretion, the administrative law judge or the designated officer on the Interstate Land Sales Board may waive the requirements of § 1720.235 as to motions for extensions of time, and may rule upon such motions ex parte. Extentions of time or continuances in any proceeding may be ordered for sufficient cause in the discretion of the administrative law judge on his own motion, or on the motion of either party; but the policy of the Secretary under §1720.210 shall be observed and enforced.

**§ 1720.245 Rulings on motions for dismissal.**

(a) When a motion is granted with the result that the proceeding before the administrative law judge is terminated, the administrative law judge shall file an initial decision in accordance with the provisions of § 1720.345. If such a motion is not granted as to all allegations and as to all respondents, the administrative law judge shall enter his ruling on the record and take it into account in his initial decision. When a motion to dismiss, based upon alleged failure to establish a prima facie case, is made at the close of the evidence offered in support of the notice of proceedings or suspension notice, the administrative law judge may defer ruling thereon until the close of the case for the reception of evidence.

(b) A motion to dismiss may be made by any party within 5 days after the close of the case for the reception of evidence. The administrative law judge shall enter his ruling on the record and take it into account in his initial decision.

**§ 1720.250 Interlocutory review of administrative law judge's rulings.**

The designated appeals officer on the Interstate Land Sales Board will not review a ruling of an administrative law judge prior to his consideration of the entire proceeding in the absence of extraordinary circumstances. Except as provided in § 1720.190 an administrative law judge shall not certify a ruling for interlocutory review to an appeals officer unless a party so requests and the administrative law judge finds, either on the record or in writing, that in his opinion (a) a subsequent reversal of his ruling would cause unusual delay or expense, taking into consideration the probability of such reversal, or (b) substantial rights are at stake and the final decision might be materially affected. The certification by the administrative law judge shall be in writing and shall specify the material relevant to the ruling involved. The appeals officer may decline to consider the ruling certified if he determines that interlocutory review is not warranted or appropriate under the circumstances. If the administrative law judge does not certify a matter, a party who had requested certification may apply to the appeals officer for review. An application for review shall be in writing and shall briefly state the grounds relied on and shall be filed within 2 days after notice of the ruling complained of. Review will not be granted unless the appeals officer concludes that the administrative law judge erred in failing to certify the matter. Unless otherwise ordered by the administrative law judge, the hearing shall continue whether or not such certification or application is made. Failure to request certification or to make such application will not waive the right to seek review of the ruling of the administrative law judge after the close of the hearing.

**§ 1720.255 Presentation and admission of evidence.**

(a) All witnesses at a hearing for the purpose of taking evidence shall testify under oath or affirmation which shall be administered by the administrative law judge. Every party shall have the right to present such oral or documentary evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts. The administrative law judge shall receive relevant and material evidence, rule upon offers of proof and exclude all irrelevant, immaterial or unduly repetitious evidence.

(b) Evidence shall not be excluded merely by application of technical rules governing its admissibility, competency, weight or foundation in the record; but evidence lacking any significant probative value, or substantially tending merely to confuse or extend the record, shall be excluded.

(c) When offered evidence is excluded, the party offering the same shall be permitted to state on the record an offer of proof with respect thereto and rejected exhibits, adequately marked, shall on request of the party offering the same be retained in the record for purposes of review. Evidence may be received subject to deferred ruling on objections to its admissibility.

(d) Objections to evidence shall be interposed timely and shall specify the particular ground of objection without argument except as argument may be expressly required by the administrative law judge. Formal exception to an adverse ruling is unnecessary.





**§ 1720.260 Production of witnesses' statements.**

After a witness called by the attorney for the Office of Interstate Land Sales Registration has given direct testimony in a hearing, any other party may request and obtain the production of any statement, or part thereof, of such witness pertaining to his direct testimony in the possession of the Office of Interstate Land Sales Registration, subject, however, to the limitations applicable to the production of witnesses' statements under the Jencks Act, 18 U.S.C. 3500.

**§ 1720.265 Depositions and discovery.**

(a) At any time during the course of a proceeding, the administrative law judge, in his discretion, may order the taking of a deposition and the production of documents by the deponent. Such order may be entered upon a showing that the deposition is necessary for the purpose of discovery and that such discovery could not be accomplished by voluntary methods. Such order may also be entered in extraordinary circumstances to preserve relevant evidence upon a showing that there is substantial reason to believe that such evidence could not be presented through a witness at the hearing. Insofar as consistent with considerations of fairness and the requirements of due process and the rules of this subpart, a deposition shall not be ordered when it appears that it will result in undue burden to any other party or in undue delay of the proceeding. A deposition shall not be ordered to obtain evidence from a person relating to matters with regard to which he is expected to testify at the hearing, or to obtain evidence which there is reason to believe can be presented at a hearing without the need for deposition or to circumvent the orderly presentation of evidence at the hearing. Depositions may be taken orally or upon written interrogatories and cross-interrogatories before any person having power to administer oaths who may be designated by the administrative law judge.

(b) Any party desiring to take a deposition shall make application in writing to the administrative law judge setting forth the justification therefor and the time and place proposed for the taking of the deposition. The application shall include also the name and address of each proposed deponent and the subject matter concerning which each is expected to depose and shall be accompanied by an application for any subpoenas desired.

(c) Such order as the administrative law judge may issue for taking a deposition shall state the circumstances warranting its being taken, and shall designate the time and place and shall show the name and address of each person who is expected to appear and the subject matter with regard to which each is expected to depose. The time designated shall allow not less than 5 days from date of service of the order when the deposition is to be taken within the United States, and not less than 15 days when the deposition is to be taken elsewhere.

(d) After an order is served for taking a deposition, upon motion timely made by any party or by the person to be deposed and for good cause shown, the administrative law judge may issue any of the following orders which he considers to be appropriate:

(1) That the deposition shall not be taken.

(2) That it may be taken only at some designated place other than that stated in the order.

(3) That it may be taken only on written interrogatories.

(4) That certain matters shall not be inquired into.

(5) That the examination shall be held with no one present except the parties to the action, their counsel and a person qualified in the designated place to administer oaths and affirmations.

(e) The administrative law judge may make any other order which justice requires to protect the party or deponent from annoyance, embarrassment or oppression, or to prevent the unnecessary disclosure or publication of information contrary to the public interest and beyond the requirements of justice in the particular proceeding.

(f) Each deponent shall be duly sworn, and any adverse party shall have the right to cross-examine. Objections to questions or documents shall be in short form, stating the grounds of objections relied upon. The questions and the answers, together with all objections made, but excluding argument or debate, shall be reduced to writing and certified by the person before whom the deposition was taken. Thereafter such person shall forward the deposition and one copy thereof to the party at whose instance the deposition was taken, and shall forward one copy thereof to the representative of each party who was present or represented at the taking of the deposition.

(g) A deposition taken to preserve relevant evidence which any party intends to offer in evidence may be corrected in the manner provided by § 1720.325. Any such deposition shall, in addition to the other required procedures, be read to or by the deponent and subscribed by him if the party intending to offer it in evidence so notifies the person before whom the deposition was taken. Subject to appropriate rulings on such objections to the questions and answers as were noted at the time the deposition was taken or as may be valid when it is offered, a deposition taken to preserve relevant evidence, or any part thereof, may be used or offered in evidence as against any party who was present or represented at the taking of the deposition or who had due notice thereof if the administrative law judge finds any of the following:

(1) That the deponent is dead.

(2) That the deponent is out of the United States or is located at such a distance that his attendance would be impractical unless it appears that the absence of the deponent was procured by the party offering the deposition.

(3) That the deponent is unable to attend or testify because of age, sickness, infirmity or imprisonment.

(4) That the party offering the deposition has been unable to procure the attendance of the deponent by subpoena.

(5) That such exceptional circumstances exist as to make it desirable, in the interest of justice and with due regard to the importance of presenting the testimony of witnesses orally in open hearing, to allow the deposition to be used.

**§ 1720.270 Subpoenas ad testificandum.**

Application for issuance of a subpoena requiring a person to appear and depose or testify at the taking of a deposition or at an adjudicative hearing shall be made to the administrative law judge who may issue such subpoena.

**§ 1720.275 Subpoenas duces tecum.**

(a) Application for issuance of a subpoena requiring a person to appear and depose or testify and to produce specific documents, papers, books, or other physical exhibits at the taking of a deposition, or at a prehearing conference, or at an adjudicative hearing shall be made in writing to the administrative law judge who may issue such subpoena and shall specify as exactly as possible the general relevancy of the material and the reasonableness of the scope of the subpoena.

(b) Subpoenas duces tecum may be used by any party for purposes of discovery or for obtaining documents, papers, books, or other physical exhibits for use in evidence, or for both purposes. When used for discovery purposes, a subpoena may require a person to produce and permit the inspection and copying of nonprivileged documents, papers, books, or other physical exhibits which constitute or contain evidence relevant to the subject matter involved and which are in the possession, custody or control of such person.

**§ 1720.280 Motion to limit or quash.**

Any person to whom a subpoena is directed may, prior to the time specified therein for compliance, but in no event more than 5 days after the date of service of such subpoena, apply to the administrative law judge to quash or modify such subpoena, accompanying such application with a brief statement of the reasons therefor. The administrative law judge shall have the discretion of granting, denying or modifying said motion.

**§ 1720.285 Rulings on applications for compulsory process; appeals.**

(a) Applications for orders requiring the production of witnesses' statements pursuant to the provisions of § 1720.260, applications for orders requiring the taking of depositions pursuant to the provisions of § 1720.265 and applications for the issuance of subpoenas pursuant to the provisions of §§ 1720.270 and 1720.275 (other than as provided in § 1720.290) may be made ex parte, and, if so made, such applications and the rulings thereon



V 38 170 SEP 4 73 XUM

shall remain ex parte unless otherwise ordered by the administrative law judge. Such applications shall be ruled upon by the administrative law judge assigned to hear the case or, in the event he is not available, by another administrative law judge designated by the Secretary.

(b) Appeals to an appeals officer on the Interstate Land Sales Board from rulings denying applications within the scope of paragraph (a) of this section, or from rulings on motions to limit or quash process issued pursuant to such applications (other than as provided in § 1720.290) will be entertained by the appeals officer only upon a showing that the ruling complained of involves substantial rights and will materially affect the final decision, and that a determination of its correctness before conclusion of the hearing is essential to serve the interests of justice. Such appeals shall be made on the record, shall briefly state the grounds relied on and shall be filed within 5 days after notice of the ruling complained of. Appeals from denials of ex parte applications shall have annexed thereto copies of the applications and rulings involved. Any answer to such appeal shall not operate to suspend the hearing unless otherwise ordered by the administrative law judge or the appeals officer.

**§ 1720.290 Form of and rulings on applications for subpoenas for confidential records of the Office of Interstate Land Sales Registration; for appearance of employees; appeals; review.**

(a) An application for issuance of a subpoena requiring the production of documents, papers, books, physical exhibits or other material, or the disclosure of confidential information in the records of the Office of Interstate Land Sales Registration, other than material or information to which the applicant is entitled by law, or for the issuance of a subpoena requiring the appearance of an official or employee of the Office of Interstate Land Sales Registration shall be made in the form of a written motion filed in accordance with the provisions of § 1720.230.

(b) The motion shall specify as exactly as possible the material to be produced, the nature of the material to be produced, the nature of the information to be disclosed or the expected testimony of the official or employee of the Office of Interstate Land Sales Registration and shall contain a statement showing the general relevancy of the material, information, or testimony and the reasonableness of the scope of the application, together with a showing that such material, information, or testimony is not available from other sources by voluntary methods or through other provisions of the rules in this subpart.

(c) Applications in the form of written motions shall be ruled upon by the administrative law judge and to the extent that such a motion is granted provision shall be made for such terms and conditions relating to the production of the material, the disclosure of the information or the appearance of the official or employee of the Office of Interstate Land Sales Registration as may appear necessary and appropriate for the protection of the public interest.

(d) Appeals to the appeals officer on the Interstate Land Sales Board from rulings on motions to limit or quash subpoenas within the scope of paragraph (a) of this section shall be made on the record and shall be in the form of a brief not to exceed 30 pages in length which shall be filed within 5 days after notice of the ruling is received by the objecting party. Any answer to such appeal shall be filed within 5 days after service of the appeal brief. The appeal shall not operate to suspend the hearing unless otherwise ordered by the administrative law judge or the appeals officer.

**§ 1720.300 Official notice.**

Official notice may be taken of any material fact which might be judicially noticed by a District Court of the United States, any matter in the public official records of the Office of Interstate Land Sales Registration or any matter which is peculiarly within the knowledge of the appeals officer on the Interstate Land Sales Board; provided, that when any decision of an administrative law judge or of an appeals officer on the Interstate Land Sales Board rests, in whole or in part, upon the taking of official notice of a material fact not appearing in evidence of record opportunity to disprove such noticed fact shall be granted any party making timely request therefor.

**§ 1720.320 Reporting and transcription.**

Hearings shall be stenographically or mechanically reported and transcribed under the supervision of the hearing examiner. The original transcript shall be a part of the record and the sole official transcript. Copies of transcripts are available from the reporter at rates not to exceed the maximum rates fixed by contract between the Secretary or his designee and the reporter.

**§ 1720.325 Corrections.**

Corrections of the official transcript ordered by the administrative law judge shall be included in the record. Corrections shall not be ordered by the administrative law judge except upon notice and opportunity for the hearing of objections. Such corrections shall be made by the reporter by furnishing substitute pages, under the usual certificate of the reporter, for insertion in the official record.

**§ 1720.330 Proposed findings, conclusions, and order.**

The administrative law judge may fix a reasonable time, not to exceed 30 days after the close of the evidence, during which any party may file with the administrative law judge proposed findings of fact, conclusions of law and rules or orders together with briefs in support thereof. Such proposals shall be in writing, shall be served upon all parties and shall contain adequate references to the record and to authorities relied on. The record shall show the administrative law judge's ruling on each proposed finding and conclusion, except when his rule or order disposing of the proceeding otherwise informs the parties of the action taken by him thereon.

**§ 1720.345 Initial decisions: Time for filing; when effective.**

(a) The administrative law judge shall make and file an initial decision within 60 days after the close of the taking of evidence in cases in which a hearing is held.

(b) The initial decision shall become the decision of the Secretary 30 days after service thereof upon the parties unless one of the following occurs:

(1) An appeal is perfected under § 1720.365.

(2) The appeals officer on the Interstate Land Sales Board by order stays the effective date of the decision.

**§ 1720.350 Initial decision—content.**

The initial decision shall include a statement of (a) findings, with specific references to principal supporting items of evidence in the record and conclusions, as well as the reasons or bases therefor, upon all of the material issues of fact, law or discretion presented on the record, and (b) an appropriate order. The initial decision shall be based upon a consideration of the whole record and supported by reliable, probative and substantial evidence.

**§ 1720.360 Reopening of proceeding by administrative law judge; termination of jurisdiction.**

(a) At any time prior to the filing of his initial decision, administrative law judge may reopen the proceeding for the reception of further evidence.

(b) Except for the correction of clerical errors, the jurisdiction of the administrative law judge is terminated upon the filing of his initial decision unless and until the proceeding is remanded to him by the appeals officer on the Interstate Land Sales Board.

**§ 1720.365 Appeal from initial decision.**

(a) *Notice of intention.*—Any party to a proceeding may appeal an initial decision to an appeals officer on the Interstate Land Sales Board: *Provided*, That within 10 days after the completion of service of the initial decision such party files a notice of intention to appeal.

(b) *Appeal brief.*—The appeal shall be perfected by filing and serving on all parties to the proceeding a brief conforming to § 1720.385 to be filed within 30 days after completion of service of the initial decision. In addition, the appeal brief shall contain a proposed form of rule or order for the consideration of the appeals officer on the Interstate Land Sales Board in lieu of the rule or order contained in the initial decision.

**§ 1720.375 Answering brief.**

Within 20 days after service of an appeal brief upon a party, such party may file an answering brief conforming to the requirements of § 1720.385.





**§ 1720.380 Reply brief.**

A brief in reply to an answering brief, limited to rebuttal of matters in the answering brief, may be filed and served by a party within 7 days after receipt of the answering brief or the day preceding oral argument whichever is earlier. No answer to a reply brief will be permitted.

**§ 1720.385 Length and form of briefs.**

No brief shall exceed 60 pages in length except with the permission of the administrative law judge or the appeals officer on the Interstate Land Sales Board and shall contain, in the order indicated, the following:

(1) The title of the proceeding, file number, the name of the party on whose behalf it is submitted and the name and address of his attorney in the matter on the front cover or title page.

(2) Subject index with page references.

(3) Table of cases alphabetically arranged, statutes, texts, and other authorities and materials cited, with page references.

(4) A concise statement of the facts of the case, without argument.

(5) A concise statement of the questions sought to be raised.

(6) The argument, presenting clearly the points of fact and law relied upon in support of the position taken on each question with specific page references to the record so far as available, and to legal authority or other material relied upon in support of statements contained in the agrument.

**§ 1720.390 Oral argument.**

Oral arguments will not be heard in cases on appeal to the appeals officer on the Interstate Land Sales Board unless the officer otherwise orders, and stenographic or mechanical record of such oral argument may be made, in the officer's discretion. The purpose of oral argument is to emphasize and clarify the written argument appearing in the briefs and to answer questions.

**§ 1720.400 Decision on appeal or review.**

(a) Upon appeal from or review of an initial decision, the appeals officer on the Interstate Land Sales Board will consider such parts of the record as are cited or as may be necessary to resolve the issues and, in addition, will, to the extent necessary or desirable, exercise all the powers which he could have exercised if he had made the initial decision. Unless exceptional circumstances are present, however, all appeals and reviews will be determined upon the record made before the administrative law judge.

(b) In rendering his decision, the appeals officer may affirm, reverse, modify, set aside or remand for further proceedings, in whole or in part, the initial decision by the hearing officer, and shall include in his decision a statement of the reasons or bases for his action and any concurring or dissenting opinions.

(c) In those cases where the appeals officer believes that he should have further information or additional arguments of the parties as to the form and content of the rule or order to be issued, he may withhold final decision pending the receipt of such additional information or argument under procedures specified.

(d) The decision of the appeals officer shall be final, and shall become the decision of the Secretary 30 days after service thereof upon the parties, unless the appeals officer determines that the protection of the public interest necessitates an earlier effective date under the circumstances, in which event he will specify in the order his specific findings as to such circumstances.

**§ 1720.405 Reconsideration.**

Within 10 days after completion of service of a decision by an appeals officer on the Interstate Land Sales Board, any party may file with the Interstate Land Sales Board a petition for reconsideration of such decision, setting forth the relief desired and the grounds in support thereof. Any petition filed hereunder must relate to new questions raised by the decision or final order and upon which the petitioner had no opportunity to argue before an appeals officer on the Interstate Land Sales Board. Any party desiring to oppose such a petition shall file an answer thereto within 10 days after service upon him of the petition. The filing of a petition for reconsideration shall not operate to stay the effective date of the decision or order to toll the running of any statutory period affecting such decision or order unless specifically so ordered by the Interstate Land Sales Board.

## Subpart E—Miscellaneous Rules

**§ 1720.410 Qualifications for appearances.**

(a) Members of the bar of a Federal Court or of the highest court of any state or of the United States are eligible to practice before the Secretary. No register of attorneys will be maintained.

(b) Any individual or member of a partnership involved in any proceeding or investigation may appear on behalf of himself or of such partnership upon adequate identification. A corporation or association may be represented by a bona fide officer thereof upon a showing of adequate authorization.

(c) A person shall not be represented except as stated in paragraphs (a) and (b) of this section unless otherwise permitted.

**§ 1720.415 Restrictions on appearances as to former officers and employees.**

(a) Except as specifically authorized by the Secretary, no former officer or employee of the Department of Housing and Urban Development shall appear as attorney or counsel or otherwise participate through any form of professional consultation or assistance in any proceeding or investigation, formal or informal, which was pending in any manner in the Office of Interstate Land Sales Registration while such former officer or employee served with the Department of Housing and Urban Development.

(b) In cases to which paragraph (a) of this section is applicable, a former officer or employee of the Department of Housing and Urban Development may request authorization to appear or participate in a proceeding or investigation by filing with the Secretary a written application disclosing the following relevant information: (1) The nature and extent of the former officer's or employee's participation in, knowledge of, and connection with the proceeding or investigation during his service with the Department of Housing and Urban Development; (2) whether the files of the proceeding or investigation came to his attention; (3) whether he was employed in the same office, division, or administrative unit in which the proceeding or investigation is or has been pending; (4) whether he worked directly or in close association with Office of Interstate Land Sales Registration personnel assigned to the proceeding or investigation; (5) whether during his service with the Department of Housing and Urban Development he was engaged in any matter concerning the individual, company, or industry in the proceeding or investigation.

(c) The requested authorization will not be given in any case (1) where it appears that the former officer or employee during his service with the Department of Housing and Urban Development participated personally and substantially in the proceeding or investigation, or (2) where the application is filed within one (1) year after termination of the former officer's or employee's service with the Department of Housing and Urban Development and it appears that within a period of one (1) year prior to the termination of his service the proceeding or investigation was within the official responsibility of the former officer or employee. In other cases, authorization will be given where the Secretary is satisfied that the appearance or participation will not involve any actual conflict of interest or impropriety thereof.

(d) In any case in which a former officer or employee of the Department of Housing and Urban Development is prohibited under this section from appearing or participating in a proceeding or investigation, any partner or legal or business associate of such former officer or employee shall likewise be so prohibited unless: (1) Such partner or legal or business associate files with the Secretary an affidavit that in connection with the matter the services of the disqualified former officer or employee will not be utilized in any respect and the matter will not be discussed with him in any manner, and that the disqualified former officer or employee shall not share, directly or indirectly, in any fees or retainers received for services rendered in connection with such proceeding or investigation; (2) the disqualified former officer or employee files an affidavit stating that he will not participate in the matter in any manner, and that he will not discuss it with any person involved



V 38 170
SEP 4 73
XUM

in the matter; and (3) upon the basis of such affidavits, the Secretary determines that the appearance or participation by the partner or associate would not involve any actual conflict of interest or impropriety thereof.

**§ 1720.425 Standards of practice.**

(a) Attorneys shall conform to the standards of professional and ethical conduct required by practitioners in the courts of the United States and by the bars of which the attorneys are members.

(b) The privilege of appearing or practicing may be denied, temporarily or permanently, to any person who is found after notice and opportunity for hearing which at his request or in the discretion of the Secretary may be private, and for presentation of oral argument in the matter (1) not to possess the requisite qualifications to represent others, or (2) to be lacking in character or integrity or (3) to have engaged in unethical or improper professional conduct.

(c) Contemptuous conduct at any hearing shall be grounds for summary exclusion from said hearing for the duration of the hearing.

**§ 1720.430 Form and filing requirements.**

(a) *Filing.* Except as otherwise permitted, six copies of all documents shall be filed with the Office of Interstate Land Sales Registration, Department of Housing and Urban Development, Washington, D.C. 20411, on official work days between the hours of 8:45 a.m. and 5:15 p.m.

(b) *Title.* Documents shall clearly show the file, docket number, and title of the action in connection with which they are filed.

(c) *Form.* Except as otherwise permitted, all documents shall be printed, typewritten, or otherwise processed in clear legible form and on good unglazed paper.

**§ 1720.435 Time computation.**

Computation of any period of time prescribed or allowed by the rules and regulations in this part, or by order of the Secretary or his designee or of an administrative law judge, shall begin with the first business day following that on which the act, event, development or default initiating such period of time shall have occurred. When the last day of the period so computed is a Saturday, Sunday, or national holiday, or other day on which the Department of Housing and Urban Development is closed, the period shall run until the end of the next following business day. Except when any prescribed or allowed period of time is 7 days or less, each of the Saturdays, Sundays, and national holidays shall be included in the computation of the prescribed or allowed period.

**§ 1720.440 Service.**

Service of notices, orders, processes, determinations and other documents required or permitted to be served under these rules may be effected as follows:

(a) *Upon the Secretary.* By personal delivery at the office, or by registered or certified mail addressed to the office of any of the following officials in the Office of Intrastate Land Sales Registration: Administrator; Deputy Administrator; Assistant Deputy Administrator; Director, Examination Division; or Director, Administrative Proceedings Division.

(b) *Upon any other person.* By delivery of a copy of the documents to the person to be served wherever he may be found, or by leaving such copy at his office or place of business with a person apparently in charge thereof, or, if there is no one in charge or if the office is closed or if he has no office, by leaving a copy at his residence with some person of suitable age and discretion then residing therein, or by sending a copy by registered or certified mail, return receipt requested, addressed to the person at his last known residence, or at his or its last known principal office or place of business. If the address of the residence, principal office, or place of business is unknown and cannot with due diligence be ascertained, service by mail may be made to any office at which the person to be served is known to be employed.

(c) *Service on corporations, partnerships, associations, other entities.* Service may be made upon any corporation, partnership, business association or other entity by serving any officer, director, partner, trustee, agent for service or managing agent thereof. A managing agent, within the meaning of this subsection, is an agent having the principal managerial responsibility in connection with the regular operation of a distinct office or activity of the enterprise.

(d) *Service through attorney.* When a person other than the Secretary and his staff shall have appeared of record in a proceeding, generally or specially, by attorney, all subsequent services of notices, orders, processes, and other documents in connection with such proceeding may be made upon such person by serving the attorney, except that subpoenas and other orders by which such person may be brought in contempt shall be served upon him by one of the methods described in paragraphs (b) and (c) of this section. In any case, copies of documents not served by serving such attorney shall be promptly sent to him; but service on such person shall be effective without proof that copies so sent were received.

(e) *Proof of service.* Proof of service shall not be required unless the fact of service is seasonably put in issue by appropriate motion or objection on the part of the person allegedly served or other party. In such cases, service may be established by written admission signed by or on behalf of the person to be served, or may be established prima facie by affidavit or certificate of service or mailing, as appropriate. When service is by registered or certified mail, it is complete upon delivery of the document by the post office.

## Subpart F—Interstate Land Sales Board and Appeals Officers

**§ 1720.500 Functions of the Interstate Land Sales Board and appeals officers.**

There is hereby established within the Department of Housing and Urban Development an Interstate Land Sales Board, the members of which are designated as appeals officers and may be appointed from time to time by the Secretary. The functions, powers, and responsibilities delegated to an appeals officer designated from the Board as the authorized representative of the Secretary shall be to hear, consider and determine fully and finally appeals from decisions made pursuant to the rules in this part by administrative law judge and to conduct hearings pursuant to 15 U.S.C. 1715.

**§ 1720.510 Composition of the Interstate Land Sales Board.**

The Board shall consist of four (4) appointed employees of the Department of Housing and Urban Development designated as appeals officers, other than employees in the Office of Interstate Land Sales Registration. An appeals officer on the Board shall be available at all times for the hearing of each appeal. Records of proceedings before an appeals officer shall be kept by a Secretary to the Board who shall be an employee of the Office of General Counsel.

**§ 1720.520 Decisions of appeals officer.**

A decision of an appeals officer shall be considered the final action on behalf of the Secretary on matters properly before such officer pursuant to the rules in this part.

**§ 1720.525 Reconsideration of final decision of appeals officer.**

Any hearing for reconsideration pursuant to § 1720.405 of this part shall be heard by any three of the four appeals officers who shall sit in review as the Interstate Land Sales Board.

**§ 1720.530 Department representative.**

In each case being heard before an administrative law judge or an appeals officer, pursuant to this part, the Department shall be represented by a Department hearing attorney. The General Counsel shall designate one or more attorneys under his jurisdiction to act as Department hearing attorneys.

*Effective date.*—The foregoing Parts 1700, 1710, 1715, and 1720 as revised are effective on December 1, 1973. All initial requests, filings, consolidations, amendments, and other applicable actions made after the effective date stated above shall be made pursuant to these regulations.

Statements of record, consolidations and amendments filed with OILSR prior to the effective date of these regulations shall be examined on the basis of the regulations in effect at the time of filing and may become effective on the basis of such regulations or if the developer so desires he may file pursuant to the new regulations and his filing shall be examined and made effective on the basis of





those regulations. Any amendments filed after the effective date of these regulations shall contain the changes necessary to bring the filing or consolidation into compliance with these regulations with the exception that Part II., subparts A. and B., Part IV. E., subparts 1. and 2. and Part V. of the statement of record may be retained in their original form if the only changes in these parts would be the result of the new regulations. Consolidations may be updated by including the information required by the new regulations in the last consolidation on which there is an effective property report.

(Sec. 7(d) of the Department of Housing and Urban Development Act, 79 Stat. 670, 42 U.S.C. 3535(d), 1419, 82 Stat. 598, 15 U.S.C. 1718, Secretary's delegation of authority published at 37 FR 5071.)

Issued at Washington, D.C., August 27, 1973.

GEORGE K. BERNSTEIN,
*Interstate Land Sales Administrator.*

[FR Doc.73-18482 Filed 8-31-73;8:45 am]



V 38 170 SEP 4 73 XUM

federal register

TUESDAY, SEPTEMBER 4, 1973

WASHINGTON, D.C.

Volume 38 ▪ Number 170

PART III

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

▪

# GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING

Notice of Proposed Rulemaking

No. 170—Pt. III——1

V 38 - 170

SEP 4 73

XUM

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

[ 45 CFR Part 903 ]

## GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING

### Notice of Proposed Rulemaking

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Commissioner on Aging, with the approval of the Secretary of Health, Education, and Welfare. The proposed regulations implement a new title III of the Older Americans Act of 1965, as amended by P.L. 93-29, the Older Americans Comprehensive Services Amendments of 1973.

Prior to the adoption of the proposed regulations, consideration will be given to any comments, suggestions, or objectives thereto which are submitted in writing to the Commissioner on Aging, U.S. Department of Health, Education, and Welfare, Mary Switzer, Building, 330 C Street SW., Washington, D.C. 20201, on or before October 4, 1973. Comments received will be available for public inspection in Room 3086, Mary Switzer Building, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (Area Code 202-963-3581). The Commissioner on Aging will hold a public hearing on these proposed regulations in Washington, D.C. on September 17, 1973. Such hearings will be held between 9:30 a.m. and 5 p.m., in Room 5104, New Executive Office Building, 17th and Pennsylvania Avenue NW., Washington, D.C. Persons desiring to comment on these proposed regulations at such hearing should file a request with the Commissioner on Aging no later than September 12, 1973. Additional information may be obtained from the Office of the Commissioner, Administration on Aging, (Area Code 202-963-3581).

Upon the promulgation of these regulations, guidelines will be issued by the Commissioner on Aging. These guidelines will be designed to provide the additional guidance necessary to assure implementation of this program in conformity with the Act and the regulations.

Federal financial assistance extended under Part 903 is subject to the regulations in 45 CFR Part 80, issued by the Secretary of Health, Education, and Welfare, and approved by the President, to effectuate the provisions of section 601 of the Civil Rights Act of 1964 (42 U.S.C. 2000d).

Dated August 27, 1973.

ARTHUR S. FLEMMING,
*Commissioner on Aging.*

Approved August 27, 1973.

STANLEY B. THOMAS, Jr.,
*Assistant Secretary for Human Development.*

Approved August 28, 1973.

FRANK C. CARLUCCI,
*Acting Secretary.*

(Catalog of Federal Domestic Assistance Program No. 13.700—Grants to States for Community Programs.)

Part 903 of Title 45 of the Code of Federal Regulations is revised to read as follows:

## PART 903—GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING


**Subpart A—Purpose**

Sec.
903.1 Purpose of the program.
903.2 Definitions.

**Subpart B—The State Plan**

903.12 Purpose and content of the State plan.
903.13 Designation of the State agency.
903.14 Authority of the State agency.
903.15 Review of plan by Governor.
903.16 Plan submission and approval.
903.17 Plan amendments.
903.18 Plan review.
903.19 Plan disapproval.
903.20 Withholding of funds.
903.21 Appeal procedures.

**Subpart C—State Agency Organization**

903.34 Organization of the State agency.
903.35 Methods of administration.
903.36 Staffing of the single organizational unit.
903.37 Standards of personnel administration.

**Subpart D—Functions and Responsibilities of the State Agency Under the State Plan**

903.47 Statewide planning, coordination, administration, and evaluation.
903.48 Planning.
903.49 Coordination and linkage of programs.
903.50 Administration.
903.51 Evaluation.
903.52 Establishment and maintenance of information and referral sources.
903.53 Direct provision of social services by the State agency.
903.54 Demonstration projects of Statewide significance.

**Subpart E—Designation of Planning and Service Areas by the State Agency**

903.57 Designation of planning and service areas.
903.58 Determination of planning and service areas for which an agency on aging will be designated and for which an area plan will be developed.

**Subpart F—Designation of Area Agencies on Aging by the State Agency**

903.63 Designation of area agencies on aging.
903.64 Organization of the area agency.
903.65 Staffing of the area agency.
903.66 Functions and responsibilities of the area agency.
903.67 Direct provision of social services by the area agency.
903.68 Public information.

**Subpart G—Area Plans on Aging**

903.78 Development of the area plan.
903.79 Conditions for approval of the area plan by the State agency.
903.80 Implementation of the area plan.
903.81 Training of personnel engaged in implementation of the area plan.
903.82 Establishment and maintenance of information and referral sources.
903.83 Federal financial participation of activities under an area plan.
903.84 Duration of Federal support for activities under an area plan.

**Subpart H—Initiation of Activities and Services Not Under Area Plans on Aging**

903.94 Purposes for which awards may be made.
903.95 Eligibility of applicants.
903.96 Approval of awards.
903.97 Federal financial participation.

**Subpart I—Authorization and Allotments for Planning, Coordination, Administration, and Evaluation of State Plans**

903.107 Authorizations.
903.108 Use of State planning funds for administering area plans.
903.109 Use of area planning monies on a Statewide basis.
903.110 Allotments to the State for planning, coordination, administration, and evaluation of State plans.
903.111 Reallotment of funds for planning, coordination, administration, and evaluation of State plans.
903.112 Reduction in allotment amounts.

**Subpart J—Authorization and Allotments for Area Planning and Social Services Programs**

903.122 Authorizations.
903.123 Allotments for area agencies and social services.
903.124 Limitations on awards.
903.125 Reallotment of funds for area agencies and social services.

**Subpart K—General**

903.135 Public funds as part of the non-Federal share.
903.136 Payments.
903.137 Audit.
903.138 Maintenance of effort.
903.139 Confidentiality.
903.140 Opportunity for hearing.
903.141 State agency licensure requirements.
903.142 Fees for social services.
903.143 Continuation of support for existing activities.
903.144 Requests for postponement.


AUTHORITY: Sec. 301, P.L. 93-29, 87 Stat. 36-45 (42 U.S.C. 3021-3025).

### Subpart A—Purpose

**§ 903.1 Purpose of the program.**

(a) It is the purpose of the program under title III of the Act to encourage and assist State and area agencies to concentrate resources in order to develop greater capacity and to foster the development of comprehensive and coordinated service systems to serve older persons.

(b) The systems are to be developed by the agencies' entering into new cooperative arrangements with each other and with providers of social services for planning for the provision of, and providing, social services, and where necessary, to reorganize or reassign functions.

(c) The goals of the comprehensive and coordinated service systems are to:





(1) Secure and maintain maximum independence and dignity in a home environment for older persons capable of self-care with appropriate supportive services; and

(2) Remove individual and social barriers to economic and personal independence for older persons, including the provision of opportunities for employment and volunteer activities in the communities where older persons live.

(d) In order to achieve this purpose, the resources made available under title III shall be used to:

(1) Provide for the development and implementation by designated State and area agencies, in conjunction with other planners and service providers, and older consumers of service, of State and area plans which set forth specific program objectives and priorities for meeting the needs of the elderly with emphasis on the needs of low income and minority elderly;

(2) Increase the capability of State and area agencies to develop and implement action programs designed to achieve the coordination of existing social service systems in order to make such systems more effective, efficient, and responsive in meeting the needs of the elderly;

(3) Draw in increasing commitments from public and private agencies which have resources that can be utilized to serve the elderly, and encourage such agencies to enter into cooperative arrangements directed toward maximum utilization of existing resources on behalf of the elderly;

(4) Make existing social services more accessible to older persons in need through the development and support of services such as transportation, outreach, information and referral and escort which can increase the ability of older persons to obtain other social services; and

(5) Promote comprehensive services for the elderly through the development and support of social services which are needed by older persons but which are not otherwise available.

(e) Funds made available under this part shall be used primarily to provide maximum incentive for attracting support from public and private agencies having resources for programs for the elderly.

(f) Funds made available under this part may be used to provide social services only when it has been clearly shown that:

(1) Such services are needed and are not already available; and

(2) No other public or private agency can or will provide such social services.

(g) Agencies providing services to older persons under this part must seek reimbursement for the cost of providing the services when a third party (including a government agency) is authorized or is under legal obligation to pay such costs.

**§ 903.2 Definitions.**

In addition to the definitions set forth in § 901.2, of this chapter, the following definitions are applicable for purposes of this part:

(a) "Area agency" means the single agency designated by the State agency to be responsible for the program described in this part within a planning and service area designated by the State agency.

(b) "Area plan" means the document submitted annually by an area agency to the State agency for approval which sets forth goals and measurable objectives and identifies the planning, coordination, administration, social services, and evaluation activities to be undertaken to carry out the purposes of this title.

(c) The term "comprehensive and coordinated system" means a system for providing all necessary social services in a manner designed to:

(1) Facilitate accessibility to and utilization of all social services provided within the geographic area served by such system by any public or private agency or organization;

(2) Initiate, develop and make the most effective use of social services in meeting the needs of older persons; and

(3) Use available resources efficiently and with a minimum of unnecessary duplication.

(d) The term "low income" means those persons whose income is below the current Department of Commerce, Bureau of Census poverty threshold.

(e) The term "minority" means those persons who identify themselves as American Indian, Negro, Oriental, or Spanish language, and members of any additional limited English-speaking groups designated as minority within the State by the State agency.

(f) The term "multipurpose senior center" means a community facility for the organization and provision of a broad spectrum of services, which may include the provision of health, social, and education services (as defined in § 903.2(g)), and provision of facilities for recreational activities for older persons.

(g) For the purposes of this part, the term "social services" means only the following services:

(1) Coordination activities which link together, in support of common objectives, existing planning and service resources, and assure the utilization of such resources for the purpose of developing and carrying out action programs and activities which will result in improvement, expansion, and, as necessary, initiation of services needed by older persons.

(2) Information sources or services which provide a location where State, area or other public or private agencies or organizations;

(i) maintain current information with respect to the opportunities and services available to older persons, and develop current lists of older persons in need of services and opportunities; and

(ii) employ a specially trained staff, including bilingual individuals as appropriate, to inform older persons of the opportunities and services which are available, and assist such persons to take advantage of such opportunities and services.

(3) Referral services which assist individuals to identify the type of assistance needed, place individuals in contact with appropriate services, and followup to determine whether services were received and met the need identified, and which provide for the maintenance of proper records for use in identifying services offered and gaps in existing services systems.

(4) Transportation services designed to transport older persons to and from community facilities and resources for the purpose of applying for and receiving services, reducing isolation, or otherwise promoting independent living, but not including a direct subsidy for an overall transit system or a general reduced fare program for a public transit system. Such transportation services shall be, insofar as possible, part of an area transportation plan;

(5) Services designed to encourage and assist older persons to use the facilities and services available to them, including:

(i) Outreach services, including search and find activities, which seek out and identify hard-to-reach individuals and assist them in gaining access to needed services; and

(ii) Escort services which assist individuals who, for a variety of factors, are unable to use conventional means of transportation to reach needed services, or require such assistance for reasons of personal security or protection.

(6) Counseling services which provide direct guidance and assistance in the utilization of needed health and social services, and help in coping with personal problems which threaten personal health and social functioning;

(7) Health related services which identify health needs of individuals, and assist such individuals to obtain health services under Medicare, Medicaid, or other health services programs, and from other public or private agencies or providers of health services; planning, as appropriate, with the individual in need of service, and health providers, to help obtain continuity of treatment and carrying out of health recommendations; assisting such individuals where appropriate to secure admission to medical institutions and other health related facilities; and home health services as defined in paragraph (g)(8)(iii) of this section;

(8) Preventive services to avoid institutionalization, which may include any of the following services:

(i) Periodic screening and evaluation which provide for an assessment of an individual's need for those medical and social services necessary to retain his capacity for self-care and to maintain independent living in his home as long as possible;

(ii) Homemaker services which provide care for elderly individuals in their own homes and help them maintain, strengthen, and safeguard their personal functioning in their own homes through



V 38-170
SEP 4 73
XUM

the services of a trained and supervised homemaker;

(iii) Home health services which provide basic health services to individuals who can be cared for at home, including part-time bedside nursing care under medical supervision, occupational, physical, and speech therapy, homemoker-home health aide services, the services of a home health aide, and home delivered meals services which meet the nutritional standards prescribed in part § 909 of this Chapter;

(iv) Chore services which provide for the performance of household tasks, essential shopping, simple household repairs, and other light work necessary to enable an individual to remain in his own home, when, because of frailty or other condition, such individual is unable to perform such tasks himself;

(v) Friendly visiting services which provide regular visits to the homes of socially and geographically isolated individuals to provide socialization;

(vi) Telephone reassurance services which provide for telephone calls at specified times as often as necessary, to or from individuals who live alone, or who are temporarily alone, to determine if they are safe and well, if they require special assistance, and to provide psychological reassurance;

(vii) Protective services which are designed to assist those elderly persons carry out the activities of daily living who, because of impaired mental or physical functioning are unable to manage their own affairs, or protect themselves from neglect or hazardous situations without assistance from others; and

(viii) Housing assistance to aid individuals in obtaining adequate housing through the provision of technical help (as contrasted to financial help) in order to improve their present living arrangements or to relocate to more suitable housing when needed.

(9) Recreational services which foster the health and social well-being of individuals through social interaction and the satisfying use of time;

(10) Continuing education services, including consumer education, which are designed to provide individuals with opportunities to acquire knowledge and skills suited to their interests and capabilities through either formal academic courses or informal methods, with a view toward either vocational or personal enrichment;

(11) Legal services which provide legal advice and counseling to older persons in matters of importance to the individual, including serving as an advocate of older persons who have consumer problems;

(12) Welfare services which seek to assure the health and well-being of individuals, which neither duplicate nor overlap any cash assistance and social service programs and the health and social services provided under Medical Assistance.

(h) The term "unit of general purpose local government" means:

(i) A political subdivision of the State, or a grouping of such subdivisions, whose authority is broad and general and is not limited to only one function or a combination of related functions; or

(ii) An Indian tribal organization, including any Indian tribe, band, group, pueblo, community, or Alaskan native village, which has a recognized governing body which performs substantial governmental functions.

## Subpart B—The State Plan

### § 903.12 Purpose and content of the State plan.

In order for a State to be eligible for grants for a fiscal year from the allotments of funds under title III of the Act, it shall submit a State plan, prior to the beginning of each fiscal year, to the Commissioner for approval. The State plan shall consist of:

(a) A detailed commitment that the title III program will be carried out in keeping with the provisions of the Act and all regulations, policies and procedures established by the Commissioner; and

(b) A fiscal year operating plan which shall include:

(1) An analysis of the needs and characteristics of the elderly population in the State with emphasis on low income and minority older persons, and an identification of those persons who will be given priority in the implementation of the State plan;

(2) A statement of the goals and measurable objectives, in priority order, established for the title III program which relates to the national goals and objectives established by the Commissioner for a fiscal year and announced to the States;

(3) An identification of the barriers to achievement of the objectives established;

(4) An inventory and analysis of the resources available in the State to meet the needs of older persons; and

(5) A plan of action which describes in detail how the title III program will be implemented and how the funds made available under this part will be allocated by the State agency.

### § 903.13 Designation of the State agency.

(a) The State Plan shall identify the sole State agency that has been designated to:

(1) Develop the State plan to be submitted to the Commissioner for approval;

(2) Administer the State plan within the State;

(3) Be primarily responsible for the coordination of all State activities related to the purposes of the Act;

(4) Divide the entire State into distinct areas (hereinafter referred to as "planning and service areas") in accordance with the requirements prescribed in § 903.57;

(5) Designate a public or nonprofit private agency or organization as the area agency on aging for each planning and service area for which an area plan will be developed;

(6) Approve the area plans developed by such area agencies;

(7) Monitor and assess the implementation of each area plan, including the progress toward the achievement of the objectives set forth in the plan; and

(8) Carry out all other functions and responsibilities as prescribed in this part for the State agency.

### § 903.14 Authority of the State agency.

The State plan shall contain certification by the State Attorney General that the State agency has the authority to submit the State plan; is the sole agency responsible for the conduct of all the functions prescribed for such agency in this part; and that nothing in the State plan is inconsistent with State law.

### § 903.15 Review of plan by Governor.

The State plan must be submitted to the State Governor for his review and approval, and the State plan must provide that the Governor will be given an opportunity to review and approve all amendments to the State plan.

### § 903.16 Plan submission and approval.

The State plan shall be submitted for approval within 60 days following the effective date of this part, and for each fiscal year thereafter, at least 60 days prior to the beginning thereof. Any State plan or amendment meeting the requirements of this part as determined by the Commissioner shall be approved.

### § 903.17 Plan amendments.

The State agency's administration of the program under this part shall be in conformity with the State plan as approved by the Commissioner. Whenever there is any material change in the content or administration of the State plan as approved, or when there has been a change in pertinent State law or in the organization, policies, or operations of the State agency affecting the plan, the State plan shall be appropriately amended.

### § 903.18 Plan review.

The State plan as approved and all amendments thereto shall be subject to such review as the Commissioner may prescribe.

### § 903.19 Plan disapproval.

No State plan, or any modification thereof, submitted under title III of the Act, shall be finally disapproved without first affording the State reasonable notice and opportunity for a hearing.

### § 903.20 Withholding of funds.

(a) Whenever the Commissioner, after giving reasonable notice and opportunity for hearing to the State agency administering a State plan approved under title III of the Act, finds that: (1) The State is not eligible under section 304 of the Act; (2) the State plan has been so changed that it no longer complies with the provisions of the Act; or (3) in the administration of the plan there is a failure to comply substantially with any such provision, the Commissioner shall





notify such State agency that no further payments will be made to the State under title III of the Act (or in his discretion, that further payments to the State will be limited to projects under or portions of the State plan not affected by such failure) until he is satisfied that there will no longer be any failure to comply. Until he is so satisfied, no further payments shall be made to such State under title III of the Act (or payments shall be limited to projects under, or portions of, the State plan not affected by such failure).

(b) If there is no appeal, or if the action taken by the Commissioner is upheld as a result of an appeal in keeping with the procedures prescribed in § 903.21 of this subpart, the Commissioner shall take action to disburse the funds withheld in the following manner:

(1) The Commissioner shall, by whatever steps he deems appropriate, notify those appropriate public or nonprofit private organizations or agencies or political subdivisions of such State that they may submit a State pan under the authority of section 304(d)(3) of the Act for use of the allotments (or portions thereof) unused by the State as a result of action taken under paragraph (a) of this section.

(2) Any state plan so submitted must conform to all the requirements and procedures related to the submission of State plans prescribed in this part.

(3) The Commissioner shall give priority to any State level public agency submitting such a plan that has the authority and capacity to administer this program on a statewide basis. If no such State level public agency submits a plan, consideration shall then be given to those other agencies submitting such a plan that have the authority and capacity to administer this program on a Statewide basis.

### § 903.21 Appeal procedures.

A State which is dissatisfied with a final action of the Commissioner under § 903.19 or § 903.20 may appeal to the U.S. Court of Appeals for the circuit in which the State is located, by filing a petition with such court within 60 days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the Commissioner, or any officer designated by him for that purpose. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code. Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Commissioner may modify or set aside his order. The findings of the Commissioner as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Commissioner shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code. The commencement of proceedings under this section shall not, unless so specifically ordered by the court, operate as a stay of the Commissioner's action.

## Subpart C—State Agency Organization

### § 903.34 Organization of the State agency.

The State plan shall provide that there will be a single organizational unit within the State agency designated in accordance with § 903.13, with delegated authority for, and whose principal responsibilities shall be, Statewide planning, coordination, administration, and evaluation of programs and activities related to the purposes of the Act, including all other functions prescribed for such agency in this part. Such unit shall be identified in the State plan. If the State agency is an independent single purpose agency, such agency, in its entirety, may constitute the single unit. In all other cases, the single organizational unit must be placed at an organizational level within the State agency to assure effective performance of all the responsibilities of the unit prescribed in this part. In establishing an organizational structure for the unit, including determination of the need for a State regional structure for the unit, due consideration shall be given to the geography of the State, the number and concentration of older persons, and other special conditions in the State.

### § 903.35 Methods of administration.

(a) The State plan shall provide for the use of such methods of administration as are necessary for the proper and efficient administration of the plan, and for the conduct of all functions for which the State is responsible under the plan and this part, including the coordination and integration of activities related to the purposes of the Act, adequate controls over operations, procedures for the development and interpretation of policies and standards, recordkeeping and reporting procedures, monitoring programs supported under this part, evaluation of program activities, and effective supervision of staff.

(b) If certain specified portions of the plan are to be administered by an agency other than the State agency, the State plan shall provide for such methods of administration as are necessary to assure the applicability of all requirements set forth in the State plan and this part.

### § 903.36 Staffing of the single organizational unit.

(a) The State plan shall contain a staffing plan that sets forth the projected staffing of the single organizational unit for the fiscal year for which the plan is submitted. The staffing plan must set forth the number and type of personnel employed, and the timetable for the hiring of staff set forth in such plan.

(b) The State plan must provide that:

(1) The single organizational unit will be headed by an individual qualified by education and experience to assume leadership of the program, assigned full-time solely to this activity; and

(2) Adequate numbers of qualified staff, including members of minority groups, will be assigned full-time, solely to the single organizational unit, to assure the effective conduct of the responsibilities under this part.

(3) Subject to the requirements of merit employment systems of the State, preference shall be given to persons aged sixty or over for any staff positions (full-time or part-time) in the State agency for which such persons qualify.

(c) The staffing plan contained in the State plan approved for a fiscal year must be followed in all personnel actions taken by the State agency.

(d) The State agency may contract for technical assistance to assist its staff in the performance of their duties and responsibilities.

### § 903.37 Standards of personnel administration.

(a) The State plan shall provide that methods of personnel administration will be established and maintained in the State agency administering the State plan and in local public agencies conducting activities under this part in conformity with the Standards for a Merit System of Personnel Administration, Part 70 of this title, and any standards prescribed by the U.S. Civil Service Commission pursuant to section 208 of the Intergovernmental Personnel Act of 1970 modifying or superseding such standards. Under this requirement, laws, rules, regulations, and policy statements, and amendments thereto effectuating such methods of personnel administration are a part of the State plan. Statements of acceptance of these standards must be obtained from all local public agencies conducting activities under this part, and methods must be established by the State to assure compliance by local jurisdictions. Citations of applicable State laws, rules, regulations, and policies which provide assurance of conformity to the standards in Part 70 of this title or to modifying or superseding standards issued by the U.S. Civil Service Commission must be submitted with the State plan. Copies of the materials cited and of similar local materials maintained by a State official responsible for compliance by local jurisdictions must be furnished to the Department on request.

(b) The State plan shall provide that the State agency will develop and implement an affirmative action plan for equal employment opportunity as specified in § 70.4 of this title. The affirmative action plan will provide for specific action steps and timetables to assure equal employment opportunity. This plan shall be



V 38 170 SEP 4 73 XUM

made available for review upon request.

(c) The Commissioner shall exercise no authority with respect to the selection, tenure of office or compensation of any individual employed in accordance with such methods.

### Subpart D—Functions and Responsibilities of the State Agency Under the State Plan

#### § 903.17 Statewide planning, coordination, administration, and evaluation.

In addition to the responsibilities of the State agency as prescribed in § 903.13, the State plan shall provide that the State agency shall:

(a) Carry out ongoing planning, coordination, administration, and evaluation activities necessary to implementation of the title III program; and

(b) Provide an ongoing program of technical assistance to the designated area agencies in the development and implementation of the area plans on aging.

#### § 903.18 Planning.

(a) The State plan shall provide that the State agency shall carry out those activities necessary for effective planning on behalf of all older persons in the State, including:

(1) Establishment of specific goals and measurable objectives in aging related to the purposes of the Act, and the goals established by the Commissioner;

(2) Conduct of special studies related to the needs of the elderly;

(3) Conduct of issue analyses in areas of special concern to the elderly; and

(4) Data gathering and analysis on the needs of the elderly in keeping with paragraph (c) of this section;

(c) The State plan shall provide that the State agency shall undertake or arrange for the regular collection of data on the needs of the elderly throughout the State, in consultation with the National Clearinghouse on Aging. The data collected shall include such areas of need as:

(1) Income;
(2) Physical and mental health;
(3) Housing;
(4) Employment;
(5) Nutrition;
(6) Social services;
(7) Transportation; and
(8) Any other subject area deemed appropriate by the State agency.

The data collected must identify the location, special needs and living conditions of those older persons found to be in greatest need in the state for the purpose of determining the population of older persons that will be given priority in the utilization of the funds available under this part. In this effort, special attention shall be given to the needs of low income and minority older persons in the State. The State agency shall take such steps as are necessary to move toward the development of a system that will provide for the systematic storage, retrieval, and analysis, of such data, and other data made available from the Administration of Aging, and for the dissemination of such data to other public and private agencies and organizations having programs affecting the elderly in the State, and the public at large.

#### § 903.19 Coordination and linkage of programs.

(a) The State plan shall provide that the State agency will establish such procedures and mechanisms that are necessary to assure the effective linkage and coordination of all State planning and service activities and programs related to the purposes of the Act. To this end, the State agency will seek to develop and maintain effective working relationships with those public and private agencies having programs which affect the elderly, including the following activities:

(1) Dissemination of information on the needs of the elderly;

(2) Joint funding and programming to achieve the objectives established in the State plan to the maximum extent feasible;

(3) Development of interagency actions concerning State and area plans and objectives, and assessment of progress and problems in implementation of the plans; and

(4) Reporting of activities on aging under this program throughout the State;

(b) The State plan shall provide for the furnishing of technical assistance to public and private agencies and organizations engaged in activities relating to the needs of older persons.

(c) The State plan shall provide that the State agency shall enter into agreements with appropriate State or, until such time as area plans are submitted and approved, local public or private agencies and organizations, for joint utilization of their services and facilities in the administration of the plan and in the development of programs and activities for carrying out the purposes of the Act.

(1) The State plan shall provide that the State agency will carry out those programs and activities designed to bring about maximum possible coordination between the resources available under titles I, X, XIV and XVI of the Social Security Act, and title VI, added by the Social Security Amendments of 1972, and the operation of the programs under this part. The State plan shall describe the activities to be undertaken by the State agency to accomplish such coordination.

(2) The State plan shall provide that the State agency, in conjunction with the designated area agencies, shall take the initiative in endeavoring to work out arrangements whereby recipients of grants or contracts for nutrition projects under § 909 of this chapter, mutually agree with area agencies, that such nutrition projects shall be made part of the comprehensive and coordinated service system for older persons under title III.

#### § 903.50 Administration.

(a) *Training and manpower development.*—(1) The State plan shall provide for the initiation of a program designed to achieve the objective of a training and staff development program concerning the implementation of the Act, for all professional staff of State and area agencies and principal staff of all service programs initiated under this part. All expenditures of Federal resources under section 301(a)(1) of the Act for training shall be consistent with such program.

(2) The State plan shall provide that personnel working on Older Americans Act programs at the State and area levels will attend such training programs that are specifically developed for such individuals by the Administration on Aging at designated training centers, and that in all title III awards, the State agency will assure that adequate funds are budgeted to pay the travel, per-diem and tuition costs of such individuals at attend such training.

(b) *Participation of Older Americans in implementation of the State plan.*—The State plan shall provide that procedures will be developed by the State agency that will assure effective participation of actual or potential consumers of services under this program in the implementation of the State plan at the State and local levels. These procedures shall provide for periodic public hearings on concerns of the elderly in the State with adequate public notice for such hearings.

(c) *Advisory committee.*—The State plan shall provide for the establishment of an advisory committee to the single organizational unit on the implementation of the State plan. At least one-half of the membership of such committee shall consist of actual consumers of services under this program, including low income, and minority older persons, at least in proportion to the number of minority older persons in the State, with the remainder being broadly representative of major public and private agencies and organization in the State who are experienced in or have demonstrated particular interest in the special needs of the elderly. This committee shall meet at least quarterly.

(d) *Public information.*—(1) The State plan shall provide for a continuing program of public information specifically designed to assure that information about the programs and activities carried out under this part are effectively and appropriately promulgated throughout the State.

(2) The State plan shall provide that the State agency will pursue a policy of freedom of information and that the State plan, approved title III program applications, all periodic reports made by the State agency to the Commissioner in accord with paragraph (g) of this section, and all Federal and State policies governing the administration of the title III program in the State will be available at reasonable times and places in the offices of the State agency for review upon request by interested persons including representatives of the media.

(e) *Review and comment on applications.*—The State plan shall provide that the State agency will review and comment on, at the request of any Federal department or agency, any application from any agency or organization within such State to such Federal department or agency for assistance relating to meeting the needs of older persons.

(f) *Fiscal administration.*—The State plan shall provide for such accounting systems and procedures as are needed to control and support all fiscal activities under title III in accordance with guidelines issued by the Administration on Aging. The State plan shall provide for the maintenance by the State agency and all recipients of awards under this part, of such accounts and supporting documents as will serve to permit an accurate and expeditious determination to be made at any time of the status of the Federal grants, including the disposition of all monies received and the nature and amount of all charges claimed to lie against the allotments to the States.

(g) *Reports.*—The State plan shall provide that the State agency will make such reports to the Commissioner in such form and containing such information as may reasonably be necessary to enable him to perform his functions under title III of the Act, and will keep such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.





#### § 903.51 Evaluation.

(a) The State plan shall provide that the State agency will conduct ongoing monitoring, assessment, and periodic evaluation (including the capturing and recording of information relative to changes in public and private organizations in the field of aging and changes in the lives of older persons), of activities and projects carried out under the State plan, in accordance with criteria established by the Commissioner against national and State goals. The operations of the area agency on aging, and the total program of each planning and service area for which an area plan is developed, and each title III project outside such areas, shall be evaluated on-site by the State agency at least annually prior to the funding anniversary of such programs. The results of these evaluations shall be in writing, and shall be submitted to the Commissioner.

(b) The State plan shall provide that the State agency will evaluate on an ongoing basis the extent to which existing public and private programs in the State meet the needs of older persons, especially those older persons who will be given priority in the implementation of the programs under this part. As part of this responsibility, the State agency shall undertake an analysis of the services and resources available for serving older person in the State. The data resulting from such analysis shall be updated at least on an annual basis, and shall be submitted to the Commissioner.

(c) The State plan shall provide that the State agency and all recipients of awards under this part will cooperate in the carrying out of evaluations of the title III program by the Administration on Aging or those organizations having contracts with the Administration on Aging for such purposes.

#### § 903.52 Establishment and maintenance of information and referral sources.

The State plan shall provide that the State agency will work toward establishing and maintaining information and referral sources in sufficient numbers, which will seek to achieve linkages with other information and referral sources in the State capable of serving the elderly, so as to assure that all older persons in the State who are not furnished adequate information and referral services under plans developed by area agencies will have reasonably convenient access to information normally available through such sources.

#### § 903.53 Direct provision of social services by the State agency.

The State plan shall provide that no social service will be provided directly by the State agency, except where, in the judgment of the State agency, based on an assessment of needs of older persons and the resources available to meet such needs, provision of such service by the State agency is necessary to assure an adequate supply of such service and that no other agency in the State could effectively deliver such service. All such cases in which the State agency anticipates providing social services directly shall be identified in the State plan. This provision does not apply when the State agency designates a single planning and service area under § 903.57(f).

#### § 903.54 Demonstration projects of Statewide significance.

(a) The State agency is authorized to carry out demonstration projects of Statewide significance relating to the initiation, expansion, or improvement of social services in relation to the purposes of this part. The State plan shall identify the demonstration projects proposed for funding during a fiscal year, the objectives of the projects, the projected impact or significance of the projects, the cost projections related to the projects, and the method by which the projects will be evaluated. The approval of all such demonstration projects shall be in the form of approval of the State plan each year. Such demonstration projects, as approved, shall be financed with funds made available under § 903.110 of this part and shall be subject to the cost sharing requirements for such funds.

(b) The State agency shall evaluate such projects at least annually in accordance with the method specified in the State plan. The results of these evaluations shall be submitted to the Commissioner.

### Subpart E—Designation of Planning and Service Areas by the State Agency

#### § 903.57 Designation of planning and service areas.

(a) The State plan shall provide that in order to carry out the purposes of this program, the State agency shall divide the entire State, after taking into consideration the provisions of paragraphs (b) through (e) of this section, into distinct multicounty, county, Metropolitan or city areas called planning and service areas. Wherever possible, an Indian reservation shall be designated as a distinct planning and service area.

(b) The State plan shall provide that in determining the boundaries of planning and service areas in the State, the State agency shall consider those factors, including those set forth under paragraphs (c) through (e) of this section, that will most significantly contribute toward the achievement of the purposes of title III, including:

(1) The boundaries of existing areas within the State which were drawn for the planning or admistration of planning or social service programs;

(2) The location of units of general purpose local government within the State;

(3) The geographical distribution of individuals aged sixty and older in the State;

(4) The incidence of need for social services as determined by the data on the needs of the elderly collected by the State agency (including the numbers of low income and minority older persons residing in such areas); and

(5) The distribution of resources available to provide social services.

(c) The State plan shall provide that in every case, in determining the boundaries for planning and service areas, the State agency shall designate as a planning and service area, any unit of general purpose local government which has a population aged sixty or over of fifty thousand or more, or which contains 15 percent or more of the State's population aged sixty or over, except that the State agency may designate as a planning and service area, any region within the State recognized for purposes of areawide planning which includes one or more such units of general purpose local government when the State determines that the designation of such a regional planning and service area is necessary for, and will enhance the effective administration of the program authorized by this title.

(d) The State plan shall provide that the State agency may include in any planning and service area designated pursuant to the provisions of paragraph (c) of this section such additional areas adjacent to the unit of general purpose local government or region so designated as the State determines to be necessary for, and will enhance, the effective administration of programs authorized by this title.

(e) The State plan shall provide that in addition to paragraphs (b) through (d) of this section, and in order to avoid creating sub-State boundaries solely for the purposes of title III, the State agency shall conform to the boundaries of those planning and development districts or regions established by the State in accordance with the provisions of Part IV, 2. of Office of Management and Budget Circular A-95 (issued pursuant to the In-



V 38 170 SEP 4 73 XUM

tergovernmental Cooperation Act of 1968), or under the Comprehensive Planning Assistance program authorized by section 701 of the Housing Act of 1954, as amended (40 U.S.C. 461), or under the Areawide Health Planning Project Grant program authorized under section 314(b) of the Public Health Service Act (42 U.S.C. 246(b)).

(f) (1) The State agency may, with the approval of the Commissioner, designate all or substantially all of the State as a single planning and service area covering all or substantially all of the older persons in the State. The Commissioner's approval will be in the form of approval of the State plan each year;

(2) In considering a State's proposal, the Commissioner will consider these factors:

(i) Is the State too small to be divided effectively?

(ii) Is the size and distribution of the elderly population such that division of the State would spread coordination and management resources too thinly to be effective?

(iii) Is the State agency capable of performing area agency functions for the entire State?

(iv) Has the State constituted the entire State as one area for other planning or social service administration purposes?

(3) With the approval of such designation, the single organizational unit of the sole State agency shall be considered the area agency for such area, and shall assume all the functions and responsibilities as prescribed for the area agency in this part. In all such cases, the area plan shall be submitted each fiscal year to the Commissioner for review and approval prior to the obligation of funds, by the State agency for the implementation for such plan.

(g) The boundaries of the planning and service areas determined by the State agency shall be identified in the State plan. The State plan shall include a certification that the proposed boundaries of the planning and service areas have been cleared through the clearinghouse process established in accordance with Office of Management and Budget Circular A-95. The State plan shall include a statement of the rationale for the manner in which the State has been divided.

### § 903.58 Determination of planning and service areas for which an area agency on aging will be designated and for which an area plan will be developed.

(a) The State plan shall provide that for the first year of implementation of the program under this part, the planning and service areas for which an area agency will be designated and for which an area plan will be developed shall encompass not less than 60 percent of the total population of persons aged 60 or over in the State. The Commissioner may approve a State plan providing for coverage of less than 60 percent if the State agency can show that:

(1) The allotment available to such State for the purposes of this title is insufficient to meet this objective;

(2) The application of such requirement will result in serious barriers to achievement of the goals and objectives of this part; and

(3) Such requirement would cause undue difficulties in implementing the title III program because of the size and distribution of the elderly population in the State.

(b) The State plan shall provide that in determining the planning and service areas for which area agencies will be designated and area plans will be developed, or which will continue to receive funds under this part, the State agency shall give priority to those areas having significant concentrations or proportions of low income and minority older persons 60 years of age or older.

(c) The State plan shall describe how the State agency determined the areas for which plans will be developed and/or the areas for which plans have already been developed and approved by the State agency.

## Subpart F—Designation of Area Agencies by the State Agency

### § 903.63 Designation of area agencies on aging.

(a) The State plan shall provide that following the determination of planning and service areas for which area plans will be developed, and prior to the obligation of funds to such areas to carry out the purposes of this part, the State agency shall designate a single public or non-profit private agency or organization as the area agency on aging.

(b) The State plan shall provide that the State agency shall establish procedures for considering views, with respect to the designation of the area agency on aging, offered by units of general purpose local government in the planning and service area.

(c) The State plan shall provide that for an agency or organization to be designated as an area agency on aging, it must be:

(1) An established office of aging which is operating within a designated planning and service area; or

(2) Any office or agency of a unit of general purpose local government which is designated for this purpose by the chief elected official or officials of such unit; or

(3) Any office or agency designated by the chief elected official or officials of a combination of units of general purpose local government to act on behalf of such combination for this purpose; or

(4) Any public or nonprofit private agency in a planning and service area which is under the supervision or direction for this purpose of the designated State agency and which can engage in the planning, coordination or provision of a broad range of social services, within such planning and service area.

(d) The State agency or any regional unit thereof shall not be eligible to be designated as an area agency on aging, except as provided in § 903.57(f). In addition, no other agency of the State or regional unit thereof shall be eligible to be so designated.

(e) The State plan shall provide that in designating an area agency on aging, the State agency shall give preference to an established office on aging, unless the State agency finds that no such office within the planning and service area will have the capacity to develop and carry out the area plan and the functions prescribed in § 903.66.

(f) The State plan shall provide that when in accordance with § 903.57 (a), the planning and service area boundaries are essentially coterminous with those of an Indian reservation, the tribal organization of that reservation shall be designated as the area agency, unless it is determined by the State agency that such Organization does not have the capacity to carry out the area plan.

(g) The State plan shall provide that, before an agency may be designated as an area agency on aging, the State agency must obtain adequate assurances that the agency will have the authority and capacity to develop an area plan, and to carry out, directly or through contractual or other arrangements, a program pursuant to the plan within the planning and service area.

### § 903.64 Organization of the area agency.

If the area agency designated by the State agency in accordance with § 903.63 has responsibilities that go beyond programs for the elderly, there must be created within such agency a single organizational unit with delegated authority for, and whose principal function shall be, the effective implementation of the program described in this part. It shall be the responsibility of this unit to carry out directly all of the functions and responsibilities prescribed in this part for the area agency.

### § 903.65 Staffing of the area agency.

(a) The area plan developed by the area agency shall contain a staffing plan for the area agency which sets forth the number, type of personnel employed and the timetable for the hiring of staff to carry out the functions and responsibilities of the area agency on aging. Such plan must provide that the area agency, or unit within such agency responsible for this program will:

(1) Be headed by an individual qualified by education or experience, working full-time, solely on the implementation of the area plan on aging under this program; and

(2) Provide for adequate numbers of additional qualified staff working full or part-time, including members of minority groups, for the development and implementation of the plan and the conduct of functions prescribed in this part for such agency.

(b) Once the staffing plan of the area agency has been approved by the State agency, such plan must be adhered to in all personnel actions taken by the area agency.

(c) The State plan shall provide that, subject to the requirements of merit employment systems of local government, preference shall be given to persons





aged sixty or over for any paid staff positions (full-time or part-time) in the area agency for which such persons qualify.

### § 903.66 Functions and responsibilities of the area agency.

(a) The State plan shall provide that each area agency on aging shall develop, and submit annually to the State agency for approval, an area plan on aging that conforms to the provisions of §§ 903.78 and 903.79, designed to develop comprehensive and coordinated programs for older persons throughout the planning and service area.

(b) In addition to the development and administration of an area plan on aging, an area agency shall directly carry out, to the maximum extent feasible, the following functions:

(1) Provision of leadership and advocacy on behalf of all older persons within the geographic area for which the agency is responsible;

(2) Determination of the need for social services in the planning and service area, with special emphasis on the needs of low income and minority elderly;

(3) An inventory of the resources available within the area to meet the needs of the elderly and an evaluation of the effectiveness of the services provided by the public and private agencies within the area in meeting such needs;

(4) Establishment of measurable program objectives and priorities for implementation of the area plan, in keeping with the goals and objectives established by the State agency;

(5) Planning with existing planning agencies and the providers of services in the area concerning the needs of the elderly;

(6) Either directly or through contract or grant, provide for an action program designed to:

(i) coordinate the delivery of existing services for the elderly; and

(ii) pool untapped resources of public and private agencies in order to strengthen or inaugurate new services for older persons;

(7) Periodic evaluation of the impact of activities carried out pursuant to the area plan, including the views of older persons participating in such activities;

(8) Conduct of periodic public hearings concerning the needs of the elderly;

(9) Collection and dissemination of information concerning the needs of the elderly;

(10) Provision of technical assistance to providers of social services in the planning and service area covered by the area plan;

(11) Where necessary and feasible, enter into arrangements, consistent with the provisions of the area plan, under which funds under this title may be used to provide legal services to older persons in the planning and service area, carried out through Federally assisted programs or other public or nonprofit agencies;

(12) Where possible, enter into arrangements with organizations providing day care services for children so as to provide opportunities for older persons to aid or assist, on a voluntary or paid basis, in the delivery of such services to children;

(13) Establish an advisory council which shall meet at least once each month. The council shall consist of representatives of program participants and the general public, including low income and older minority persons at least in proportion to the number of minority older persons in the area, and shall advise the area agency on all matters relating to development and administration of the area plan and operations conducted thereunder. At least one-half of the membership of such council shall be made up of actual consumers of services under the area plan. Where a nutrition project established under § 909 of this chapter is located within the planning and service area for which an area plan is to be developed, the director of such project shall also be included on the advisory council. Where more than one nutrition project is located within such planning and service area, the directors of such projects shall designate one of their number to represent all the nutrition projects of the area on the Advisory Council; and

(14) Take into account, in connection with matters of general policy arising in the development and administration of the area plan, the views of recipients of services under the area plan.

### § 903.67 Direct provision of social services by the area agency.

(a) The State plan shall provide that no social service under this part will be provided directly by the area agency, except where the State agency has granted specific approval to the area agency to do so. With the exception of information and referral services and coordination activities, no such approval may be given by the State agency unless the agency designated was providing social services prior to its designation as an area agency, or it can be clearly shown that the direct delivery of a service is necessary to assure an adequate supply of such services, and that no other agency in the area can or will effectively deliver such service.

(b) The approval for the area agency to deliver a social service directly shall be in the form of approval of the area plan on aging by the State agency.

### § 903.68 Public information.

(1) The area agency shall provide for a continuing program of public information specifically designed to assure that information about the programs and activities carried out under the area plan are effectively and appropriately promulgated throughout the planning and service area;

(2) The area agency shall pursue a policy of freedom of information. The area plan, all periodic reports made by the area agency to the State agency, and all Federal and State policies governing the administration of the title III program in the area will be available at reasonable times and places in the offices of the area agency for review upon request by interested persons, including representatives of the media.

## Subpart G—Area Plans on Aging

### § 903.78 Development of the area plan.

(a) In accordance with guidelines established by the Commissioner regarding the content and format of the area plan, the area agency designated in accordance with § 903.63 shall develop and submit, on an annual basis, an area plan on aging to the State agency for approval. This plan must set forth in detail how the area agency proposes to develop a comprehensive and coordinated system for the delivery of social services to the elderly.

(b) The State plan shall set forth the criteria established by the State agency for determining whether an area plan as submitted by an area agency meets all of the requirements of the Act and this part. Any area plan which fails to meet such criteria shall not be approved.

(c) The area plan shall contain an assurance that the area agency designated has the authority and capacity to carry out directly all of the functions and responsibilities prescribed in § 903.66.

(d) The area plan shall provide that the area agency, in conjunction with the State agency, shall take the initiative in endeavoring to develop arrangements with recipients of grants or contracts for nutrition projects under Part 909 of this chapter whereby, subject to mutual agreement of both parties, such projects shall be made part of the coordinated and comprehensive system of services for older persons to be established under the area plan.

(e) The area plan shall provide assurances for maximum coordination between the programs and activities under the area plan, and the resources available under titles I, X, XIV, and XVI of the Social Security Act and title VI added by the Social Security Amendments of 1972 in order to achieve comprehensive and coordinated service programs for older persons as prescribed in this part.

### § 903.79 Conditions for approval of an area plan by the State agency.

(a) In order to be approved for the award of funds under this part by the State agency, the area plan must provide for:

(1) A continuous process of planning by the area agency, including the defining and redefining of objectives and the establishment of priorities; and

(2) The launching or strengthening of action programs within the area for coordinating the delivery of existing services for older persons, and for the pooling of untapped resources in order to strengthen existing services or inaugurate new services for older persons. Such activities may be carried out directly by the area agency, by a grant from the area agency to a public or nonprofit private agency, or through a contract between the area agency and a public or private agency in the planning and service area, and are subject to the provisions of § 903.83(c).



V 38 170 SEP 4 73 XUM

(3) The activities under paragraph (a) (1) and (2) of this section shall be carried out throughout the designated planning and service area in accordance with criteria established by the Commissioner.

(b) After the area agency has met the requirements of paragraph (a) of this section, a State agency may award funds to include as part of the area plan, support for those service programs found necessary to assist older persons to become aware of the social services available in the area (information and referral and outreach services), and to assist them in having access to these services (transportation and escort services).

(c) After the area agency has met the requirements of paragraph (a) of this section, and the services in paragraph (b) of this section have been made available to older persons in the planning and service area, a State agency may award funds to include as part of the area plan support for other social services needed by older persons, but which no public and private agencies of the area can or will provide. Only those services defined in § 903.2(g) (6) through (12) may be supported with funds made available under this part.

(d) In all cases, the area plan shall provide that priority be given to those activities and services which will assist and benefit low income and minority older persons throughout the planning and service area, and shall assure, to the extent feasible, and with respect to resources made available under the plan, low income and minority individuals will be served at least in proportion to their relative numbers in the planning and service area.

**§ 903.80 Implementation of the area plan.**

(a) Pursuant to its approval of the area plan, the State agency shall award all funds under this part to support implementation of the plan only to the designated area agency.

(b) With the exception of coordination and information and referral services which may be provided directly by the area agency subject to approval by the State agency and the conditions prescribed in § 903.67, the area agency shall enter into contracts on grants with other agencies providing services within the planning and service area for the actual delivery of those social services for which funds may be made available under the area plan. The area agency may contract with public or private nonprofit agencies or organizations, or profit-making organizations, for such purposes.

(c) The area plan shall provide for contracts or grants under the area plan to be operated by minority individuals, at least in proportion to their relative number in the planning and service area.

(d) It shall be the responsibility of the area agency to:

(1) Monitor on an ongoing basis the performance of the contracting agencies and grantees under the area plan, and ensure that funds made available by the State agency are expended in keeping with the purposes for which they were awarded; and

(2) Conduct periodic evaluations of the activities conducted under the area plan.

**§ 903.81 Training of personnel engaged in implementation of the area plan.**

The area agency shall make provision for the training of personnel necessary for implementation of the area plan, and the attendance of such individuals at designated training centers established by the Administration on Aging for individuals having specific responsibilities under the area plan.

**§ 903.82 Establishment and maintenance of information and referral sources.**

(a) The area plan shall provide that the area agency will take such steps as are designed to achieve the establishment or maintenance of information and referral sources in sufficient numbers to assure that all older persons within the planning and service area covered by the plan will have reasonable convenient access to such sources.

(b) Such information and referral sources shall be established or maintained in close coordination with the information and referral services which are available through the District Offices of the Social Security Administration of the Department. To the maximum extent possible, the services and resources available through such offices shall be utilized by the area agency for this purpose.

**§ 903.83 Federal financial participation in activities under an area plan.**

(a) Federal funds under this part may be used to pay up to 75 percent of the cost of the development and administration of the area plan on aging by the area agency and the conduct of the functions of such agency as prescribed in this part.

(b) Following the designation of an area agency, and prior to the submittal of an area plan, the State agency may make a one-time award of funds, subject to the provisions of paragraph (a) of this section, to the designated area agency for the development of the area plan to be submitted to the State agency for approval. Such an award may not be for a period in excess of six months.

(c) Funds under this part may not be awarded to carry out any of the activities prescribed in § 903.79 of this subpart until the area plan has been approved by the State agency. Once a plan has been approved, Federal funds may be used to pay up to 90 percent of the cost of the activities approved under the area plan.

**§ 903.84 Duration of Federal support for activities under an area plan.**

(a) The State agency shall approve an area plan for a maximum of one year. Funds provided under § 903.83(b) shall not be considered part of the first year of support. Prior to annual refunding of an area plan, the State agency must conduct an annual on-site evaluation of the area program. The State agency may approve refunding of the area plan, in whole or in part, when such evaluation demonstrates that:

(1) Substantial progress has been made in achieving the objectives of the area plan; and

(2) Substantial efforts have been made to attract financial resources from other public and private sources for the support and continuation of programs under the area plan.

(b) In keeping with paragraph (a) of this section, contracts made by area agencies with public or private nonprofit agencies or organizations or profitmaking organizations to conduct activities under the area plan, shall be limited to one year. Renewal of such contracts shall be limited to a maximum of one year at a time, and shall be subject to the final action taken by the State agency on refunding the area plan as a result of its program evaluation.

(c) Refunding of any social services under the area plan beyond three years must be approved by the Commissioner. Such approval will be granted only when it can be shown that substantial efforts have been made by the area agency to attract resources for such social services from public and private agencies, and that the support requested will not be available from such sources in the foreseable future.

### Subpart H—Activities and Services Not Under Area Plans on Aging

**§ 903.94 Purposes for which awards may be made.**

(a) The State plan shall provide that funds may be awarded by the State agency to projects not under area plans only when such projects will contribute directly toward achieving the purposes of title III set forth in § 903.1 of this part.

(b) Initiation of any social services under this subpart as defined in § 903.2 (g) shall be permitted only when all older persons living in areas not covered by area plans have reasonably convenient access to information and referral services as defined in § 903.2(g)(2).

**§ 903.95 Eligibility of applicants.**

Only public or nonprofit private agencies are eligible for awards under this subpart.

**§ 903.96 Approval of awards.**

(a) The State plan shall provide that the State agency shall assure that each proposal to be considered for approval under § 903.94 must:

(1) Be submitted for comment to the local office on aging (if any) having jurisdiction over the geographic area from which the proposal is submitted;

(2) Be submitted for comment through the clearinghouse process established under the Office of Management and Budget Circular A-59.

(3) Have clearly specified objectives that are in keeping with the priorities established under § 903.94; and

(4) Be designed to serve primarily low income and minority older persons.





(b) The State plan shall provide that awards under this subpart will be approved initially for a maximum of 1 year. Before additional support is awarded for any subsequent year, the State agency must conduct an on-site evaluation of the project to determine if the objectives of the project are being met. The evaluation findings shall be submitted to the Commissioner.

(c) The State agency shall assure that only those projects which are making substantial progress toward achieving the objectives for which they were approved will be considered for refunding for any subsequent project year under this subpart.

**§ 903.97 Federal financial participation.**

(a) Federal funds under this subpart may be used to pay not more than 75 percent of the cost of activities and services under this subpart.

(b) Sponsors of existing projects must maintain the level of their non-Federal share in accordance with the requirements of § 903.138 of this part.

(c) Financial support may continue for activities under this subpart for as long as the State agency determines that such activities are effectively meeting the needs for which such award was made, and the purposes of title III, or until such activity is incorporated under an area plan.

### Subpart I—Authorization and Allotments for Planning, Coordination, Administration, and Evaluation of State Plans

**§ 903.107 Authorizations.**

Amounts appropriated as authorized by section 303 of the Act may be used to make grants to States for paying such percentages as each State agency determines, but not more than 75 percentum, of the cost of the administration of its State plan, including the administration of the State plan amendment relating to title VII of the Act, incurred during the fiscal year for which such sums are appropriated, including the preparation of the State plan, the evaluation of activities carried out under such plan, the collection of data and the carrying out of the analysis related to the need for social services within the State, the dissemination of information so obtained, the provision of short-term training to personnel of public or nonprofit private agencies and organizations engaged in the operation of programs authorized by this Act, and the carrying out of demonstration projects of statewide significance relating to the initiation, expansion, or improvement of social services.

**§ 903.108 Use of State planning funds for administering area plans.**

Any sum allotted to a State under section 306 of the Act for covering part of the cost of the administration of its State plan which the State determines is not needed for such purpose may be used, as approved by the Commissioner, by such State to supplement the amount available under section 303(e)(1) to cover part of the cost of the administration of area plans. Approval by the Commissioner for the use of such funds in this manner will be in the form of approval of the State plan each fiscal year.

**§ 903.109 Use of area planning monies on a statewide basis.**

Any State which has designated a single planning and service area pursuant to § 90357(f), may elect to pay part of the costs of the administration of State and area plans either out of sums allotted under this part or out of sums made available for administration of area plans pursuant to § 903.123, but shall not pay such costs out of sums allotted under both such sections.

**§ 903.110 Allotments to the State for planning, coordination, administration, and evaluation of State plans.**

Federal funds appropriated under section 306 of the Act for any fiscal year shall be allotted among the States in the following manner:

(a) From the sums appropriated for any fiscal year under section 303 for carrying out the purposes of this subpart, each State shall be allotted an amount which bears the same ratio to such sum as the population aged sixty or over in all States, except that:

(1) No State shall be allotted less than one-half of 1 percent of the sum appropriated for the fiscal year for which the determination is made, or $160,000, whichever is greater, and

(2) Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall each be allotted not less than one-fourth of 1 percent of the sum appropriated for the fiscal year for which the determination is made, or $50,000 whichever is greater. For the purpose of the exception contained in clause (1) of this paragraph, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(b) The number of persons aged sixty or over in any State and in all States shall be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

**§ 903.111 Reallotment of funds for planning, coordination, administration, and evaluation of State plans.**

The amount of any State's allotment under § 903.110 for any fiscal year which the Commissioner determines will not be required for that year shall be reallotted, from time to time and on such dates during such year as the Commissioner may fix, to other States in proportion to the original allotments to such States under § 903.110 of this subpart for that year, but such proportionate amount for any of such other States being reduced to the extent it exceeds the sum the Commissioner estimates such State needs and will be able to use for such year; and the total of such reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Such reallotments shall be made on the basis of the State plan so approved, after taking into consideration the population aged sixty or over. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under § 903.110 for that year.

**§ 903.112 Reduction in allotment amounts.**

A State's allotment under section 303 for a fiscal year shall be reduced by the percentage (if any) by which its expenditures for such year from State sources under its State plan approved under section 305 are less than its expenditures from such sources for the preceding fiscal year.

### Subpart J—Authorization and Allotments for Area Planning and Social Services Programs

**§ 903.122 Authorizations.**

Amount appropriated as authorized may be used to make grants to each State with a State plan approved under section 305 of the Act (except as provided in section 307 of the Act) for paying part of the cost incurred during the fiscal year for which such sums are appropriated for the purposes of:

(a) The development and administration of area plans by area agencies on aging;

(b) The development of comprehensive and coordinated systems for the delivery of social services under area plans; and

(c) Activities and services not under area plans.

**§ 903.123 Allotments for area agencies and social services.**

(a) From the sums appropriated for a fiscal year each State shall be allotted an amount which bears the same ratio to such sum as the population aged sixty or over in such State bears to the population aged sixty or over in all States, except that:

(1) No State shall be allotted less than one-half of 1 percent of the sum appropriated for the fiscal year for which the determination is made;

(2) Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands shall each be allotted no less than one-fourth of 1 percent of the sum appropriated for the fiscal year for which the determination is made; and

(3) No State shall be allotted an amount less than that State received for the fiscal year ending June 30, 1973. For the purpose of the exception contained in clause (1) above, the term "State" does not include Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(b) The number of persons aged sixty or over in any State and in all States shall be determined by the Commissioner on the basis of the most recent and satisfactory data available to him.

**§ 903.124 Limitations on awards.**

(a) From a State's allotment for a fiscal year under section 303 of the Act, such amount as the State agency determines, but not more than 15 percent thereof, shall be available to pay part of



V 38-170
SEP 4 73
XUM

the costs of the development and administration of area plans;

(b) For the fiscal year beginning July 1, 1974 and for each fiscal year thereafter, not more than 20 percent of a State's allotment under section 303 of the Act, may be used to pay part of the costs of activities and services in areas not under an approved area plan developed by an area agency and approved by the State agency.

**§ 903.125 Reallotment of funds for area agencies and social services.**

Whenever the Commissioner determines that any amount allotted to a State for a fiscal year under § 903.123 of this subpart will not be used by such State to carry out the purpose for which the allotment was made, he shall make such amount available for carrying out such purpose to one or more other States to the extent he determines such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from an appropriation for a fiscal year pursuant to the preceding sentence shall, for purposes of this part, be regarded as part of such State's allotment (as determined under the preceding provisions of this section) for such year.

## Subpart K—General

**§ 903.135 Public funds as part of the non-Federal share.**

For fiscal year 1975, and for each fiscal year thereafter, not less than 25 percent of the non-Federal share of the total expenditures under the State plan shall be met from funds from State or local public sources.

**§ 903.136 Payments.**

Payments of grants or contracts under this part may be made (after necessary adjustments on account of previously made overpayments or underpayments) in advance or by way of reimbursement, and in such installments, as the Commissioner may determine.

**§ 903.137 Audit.**

All fiscal transactions by the State agency, any other agency (if any) administering part of the plan, and any project grantee under title III of the Act, are subject to audit by the Department to determine whether expenditures have been made in accordance with the Act and this part.

**§ 903.138 Maintenance of effort.**

(a) A State's allotment under section 303 of the Act for a fiscal year shall be reduced by the percentage (if any) by which its expenditures for such year from State sources under its State plan approved under section 305 of the Act are less than its expenditures from such sources for the preceding fiscal year.

(b) The State plan shall provide reasonable assurance by the State agency that there will be expended by each recipient of an award under this part, for the purposes for which payments are made for activities under this part, for the year for which such payments are made and from funds from non-Federal resources, an amount not less than the amount expended for such purposes from such funds during the previous year.

**§ 903.139 Confidentiality.**

(a) The State plan shall provide that the State agency will take steps to insure that no information about, or obtained from, an individual, and in possession of an agency providing services to such individual under the plan, shall be disclosed in a form identifiable with the individual without the individual's informed consent.

(b) The State plan shall provide that lists of older persons compiled pursuant to § 903.2(g)(2) shall be used solely for the purpose of providing social services, and only with the informed consent of each individual on such list.

**§ 903.140 Opportunity for hearing.**

(a) The State plan shall provide that any area agency on aging whose request for approval of an area plan is denied, will be afforded an opportunity for a hearing before the State agency.

(b) The State plan shall provide that any project applicant in areas not covered by an area plan, whose application for approval is denied, will be afforded an opportunity for hearing before the State agency.

**§ 903.141 State licensure requirements.**

The State plan shall provide that where the State or local public jurisdictions require licensure for the provision of social services, agencies providing such services under this part shall be licensed, or shall meet the requirements for licensure.

**§ 903.142 Fees for social services.**

(a) The State plan shall provide that agencies providing social services under this part shall provide older persons receiving such services the opportunity to pay all or part of the costs of the social services provided. Where such services are provided under an area plan, the area agency shall consult with the advisory council to the area agency regarding the proposed fees to be charged.

(b) The State plan shall provide that each individual recipient shall determine for himself what he is able to contribute toward the cost of the social service. No older person shall be denied a social service because of his failure to pay all or part of the cost of such service.

(c) The State plan shall provide that the methods of receiving payments from individuals shall be handled in such a manner so as not to differentiate among individuals' payments publicly.

**§ 903.143 Continuation of support for existing activities.**

(a) The State agency is authorized, with the prior approval of the Commissioner, to continue Federal support for community project activities which meet the requirements of the Act, but which do not meet all of the requirements of this part, if such projects had been approved and funded prior to the effective date of these regulations.

(b) Such Federal financial assistance shall be available for not more than one year following the effective date of these regulations.

(c) A State agency request to continue such assistance shall be in writing, and shall set forth the reasons for which the State agency makes such a request, including:

(1) A showing that failure to continue support for the project would result in serious harm to the persons served, or to the effort for aging in the area of the project; and

(2) A showing that the State agency and community project have exhausted all efforts to obtain continuing financial assistance from other sources.

**§ 903.144 Requests for postponement.**

(a) In cases where a State agency has determined that it is unable to meet the requirements prescribed under this part, because such requirements in implementation of the title III program will place undue hardship on older persons, it may request the Commissioner to approve, for a specified period of time, not to exceed 120 days, a postponement of such requirements. This provision does not apply to the requirements of this part mandated by statute.

(b) The State agency shall submit a request for a postponement in writing to the Commissioner. The request shall state why the State agency is unable to meet the requirement, and therefore has need for a postponement; the effect of not granting a postponement on the implementation of the title III program; and what steps the State agency will take (and the time required), to meet the requirements for which postponement is requested.

(c) The Commissioner shall approve the postponement if he finds that it is needed to prevent undue hardships on older persons and that there is reasonable expectation that the State agency will be able to meet the requirements within the postponement period.

[FR 73-18646 Filed 8-31-73;8:45 am]



V 38 - 170 SEP 4 73 XUM

Latest Edition

# Guide to Record Retention Requirements

[Revised as of January 1, 1973]

This useful reference tool is designed to keep businessmen and the general public informed concerning the many published requirements in Federal laws and regulations relating to record retention.

The 90-page "Guide" contains over 1,000 digests which tell the user (1) what type records must be kept, (2) who must keep them, and (3) how long they must be kept. Each digest carries a reference to the full text of the basic law or regulation providing for such retention.

The booklet's index, numbering over 2,200 items, lists for ready reference the categories of persons, companies, and products affected by Federal record retention requirements.

**Price: $1.50**

Compiled by Office of the Federal Register, National Archives and Records Service, General Services Administration

**Order from Superintendent of Documents, U.S. Government Printing Office Washington, D.C. 20402**



V 38-170 SEP 4 73 XUM

V 38 171 171

federal register

September 5, 1973—Pages 23923–24184

WEDNESDAY, SEPTEMBER 5, 1973

WASHINGTON, D.C.

Volume 38 ■ Number 171

Pages 23923–24184

PART I




## HIGHLIGHTS OF THIS ISSUE

**This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.**

**PRICE CONTROLS**—CLC exempts second, third, and fourth class postal rates; effective 9–1–73 ..... 23931

**POSTAL RATES**—Postal Service makes certain increases effective 9–9–73 ..... 24002

**SAVINGS AND LOAN ASSOCIATIONS**—FHLBB amendments relating to certificate accounts over $100,000; effective 8–29–73 ..... 23940

**FRESH TOMATOES**—USDA revises grade standards; effective 12–1–73 ..... 23931

**GRAIN SORGHUM**—USDA proposes revision of standards; comments by 10–22–73 ..... 23955

**MILK**—USDA increases price supports for certain areas; effective 9–5–73 ..... 23939

**CORN**—USDA supplement for 1973 loan and purchase program; effective 9–4–73 ..... 23935

**PETROLEUM PRODUCTS**—Energy Policy Office proposes mandatory propane allocation program for 9–7–73 ..... 23977

**BIOLOGICAL PRODUCTS**—USDA proposal regarding viruses, serums, and toxins; comments by 11–3–73 ..... 23957

**CORROSIVE MATERIALS**—DoT proposal regarding transportation of certain chemicals; comments by 10–5–73 ... 23959

**NEW ANIMAL DRUGS**—FDA amends regulations to include nitrofuran used in animal feeds; effective 9–5–73 ..... 23942

(Continued inside)

**PART II:**

**ELECTRIC MINE FACE EQUIPMENT STANDARDS**—Interim Compliance Panel proposes criteria and procedures for noncompliance permits; comments by 10–4–73 ..... 24023

**PART III:**

**SMALL BUSINESS INVESTMENT COMPANIES**—SBA proposal regarding disadvantaged small concerns; comments by 9–17–73 ..... 24027

**PART IV:**

**GOVERNMENT-OWNED INVENTIONS**—Commerce Department lists available patents issued to AEC ..... 24041



SEP 5 73
XUM

## HIGHLIGHTS—Continued

**AIR QUALITY**—DoT proposes guidelines for federally aided highway projects; comments by 10–15–73 ..... 23969

**MOTOR VEHICLE INSPECTION STANDARDS**—DoT provides standards for hydraulic brake system, steering and suspension systems, and tire and wheel assemblies; effective 9–28–73 ..... 23949

**NATURAL LANDMARKS**—Interior Department revises National Register ..... 23982

**VETERANS BENEFITS**—VA provides for charges for excessive absences from educational courses; effective 8–29–73 ..... 23948

**FLIGHT TRAINING AND CHECKING**—FAA proposed requirements for airline transport and air carrier pilots; comments by 12–6–73 ..... 23962

**NONFAT DRY MILK**—Tariff Commission initiates investigation and hearing regarding importation ..... 23995

**ANTIDUMPING**—Treasury Department determination and withholding of appraisement on expanded metal from Japan (2 documents) ..... 23981

**MEETINGS**—
- Interior Department: Worland District Advisory Board, 9–11–73 ..... 23982
- American Revolution Bicentennial Commission: Heritage '76 Program Committee, 9–19–73 ..... 23988
- General Services Administration: Industry and Professional Associations, 9–6–73 ..... 23990
- National Endowment For The Humanities: Advisory Committee Fellowship Panel, 9–7, 9–10, and 9–14 (3 documents) ..... 23990
- State Department: Shipping Coordinating Committee Subcommittee on Code of Conduct for Liner Conferences, 9–20–73 ..... 23981
- International Radio Consultative Committee (CCIR) 9–19, and 9–27–73 ..... 23981
- National Advisory Council on the Education of Disadvantaged Children, 9–6 and 9–7–73 ..... 23990
- CLC: Food Industry Advisory Committee, 9–10–73 ..... 24002


federal register

Area Code 202 · Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by the Executive Branch of the Federal Government. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $2.50 per month or $25 per year, payable in advance. The charge for individual copies is 20 cents for each issue, or 20 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.




# Contents


**AGRICULTURAL MARKETING SERVICE**
Rules and Regulations
Fresh tomatoes; revision of U.S. grade standards ..... 23931
Proposed Rules
Grain sorghum; U.S. standards ..... 23955

**AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE**
Rules and Regulations
Flue-cured tobacco; marketing quota referendum results ..... 23935

**AGRICULTURE DEPARTMENT**
*See* Agricultural Marketing Service; Agricultural Stabilization Service; Animal and Plant Health Inspection Service; Commodity Credit Corporation; Forest Service; Soil Conservation Service.

**AIR FORCE DEPARTMENT**
Rules and Regulations
Issue and control of identification cards ..... 23945

**AMERICAN REVOLUTION BICENTENNIAL COMMISSION**
Notices
Heritage '76 Program Committee; meeting ..... 23988

**ANIMAL AND PLANT HEALTH INSPECTION SERVICE**
Rules and Regulations
Exotic Newcastle disease and psittacosis in poultry; area released from quarantine ..... 23940
Overtime services relating to imports and exports; commuted travel time (2 documents) ..... 23934, 23940
Proposed Rules
Viruses, serums, toxins, and analogous products ..... 23957

**ATOMIC ENERGY COMMISSION**
Rules and Regulations
Information on production of special nuclear material ..... 23953

**CIVIL AERONAUTICS BOARD**
Notices
Postponement of prehearing conference and hearing and notice of oral argument:
Aerlinte Eireann Teoranta ..... 23988
Remanded Atlanta-Detroit/Cleveland/Cincinnati investigation ..... 23988

**COAST GUARD**
Proposed Rules
Transportation of corrosive materials ..... 23959

**COMMERCE DEPARTMENT**
*See* National Technical Information Service.
Notices
Estimates of voting age population; correction ..... 23987

**COMMODITY CREDIT CORPORATION**
Rules and Regulations
Price supports:
Corn loans ..... 23935
Milk ..... 23939

**COST ACCOUNTING STANDARDS BOARD**
Proposed Rules
Negotiated defense prime contracts and subcontracts ..... 23971

**COST OF LIVING COUNCIL**
Rules and Regulations
Exemption of certain postal rates from phase IV price regulations ..... 23931
Notices
Food Industry Wage and Salary Committee; meeting ..... 24002

**CUSTOMS SERVICE**
Proposed Rules
Identification and importer numbers; importers of record and ultimate consignees ..... 23954

**DEFENSE DEPARTMENT**
*See* Air Force Department.

**ENERGY POLICY OFFICE**
Proposed Rules
Propane; mandatory allocation program ..... 23977

**ENVIRONMENTAL PROTECTION AGENCY**
Notices
Allied Chemical Corp; determination and order ..... 23988

**FEDERAL AVIATION ADMINISTRATION**
Rules and Regulations
Alteration and revocation of VOR airways ..... 23941
Alterations:
Control zones and transition area ..... 23942
Federal airway segments ..... 23941
DeHavilland aircraft; airworthiness directive ..... 23941
Designation of transition area ..... 23942
Proposed Rules
Alteration of transition area ..... 23969
Flight training and checking; requirements ..... 23962
Grumman G–159 airplanes; airworthiness directives ..... 23962

**FEDERAL HIGHWAY ADMINISTRATION**
Proposed Rules
Air quality guidelines for use in federal aid highway projects ..... 23969
Notices
Connecticut; availability of proposed action plan ..... 23987

**FEDERAL HOME LOAN BANK BOARD**
Rules and Regulations
Rate of return; certificate accounts of $100,000 or more ..... 23940
Notices
American Financial Corp. and United Dairy Farmers Investment Co.; receipt of application for approval of acquisition of control of Evers Savings Association ..... 23989

**FEDERAL INSURANCE ADMINISTRATION**
Rules and Regulations
Areas eligible for the sale of insurance; status of participating communities (3 documents) ..... 23943–23945

**FEDERAL MARITIME COMMISSION**
Proposed Rules
Removal of oil and hazardous substances; financial responsibility; extension of time ..... 23979

**FEDERAL RESERVE SYSTEM**
Notices
Frost Bank Corp.; proposed retention of data processing center ..... 23989
Midatlantic Banks, Inc., Newark, N.J.; order approving acquisition of bank ..... 23989

**FOOD AND DRUG ADMINISTRATION**
Rules and Regulations
Nitrofuran drugs in feed for animals ..... 23942

**FOREST SERVICE**
Rules and Regulations
Timber contracts; cancellation; correction ..... 23948

**GENERAL SERVICES ADMINISTRATION**
Notices
Industry and professional associations; meeting ..... 23990

**HEALTH, EDUCATION, AND WELFARE DEPARTMENT**
*See* Food and Drug Administration.

**HOUSING AND URBAN DEVELOPMENT DEPARTMENT**
*See also* Federal Insurance Administration.
Notices
Delegations of authority:
Assistant Regional Administrator et al ..... 23987
Deputy Regional Administrator et al ..... 23987

**INDIAN AFFAIRS BUREAU**
Rules and Regulations
Off-reservation treaty fishing; identification cards ..... 23945
Proposed Rules
Operation and maintenance charges:
Ahtanum Irrigation Project ..... 23954
Toppenish-Simcoe Irrigation Project ..... 23954
Wapato Irrigation Project ..... 23955



*(Continued on next page)*


23925–23927




V 38 - 171
SEP 5 73
XUM

**INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)**

**Proposed Rules**

Electric face equipment standard noncompliance permits; nongassy underground coal mine above water table ---- 24023

**Notices**

Ashland Mining Corp., and Smith & Stover Coal Co.; opportunity for public hearing ---- 23990

**INTERIOR DEPARTMENT**

*See also* Indian Affairs Bureau; Land Management Bureau; National Park Service; Reclamation Bureau.

**Rules and Regulations**

Mine health and safety hearings and appeals ---- 23948

**Notices**

Cascade Irrigation District Rehabilitation and Betterment program; availability of supplementary environmental statement ---- 23985

**INTERSTATE COMMERCE COMMISSION**

**Rules and Regulations**

Car service orders:
- Penn Central Transportation Co (2 documents) ---- 23952
- Providence and Worchester Co. ---- 23952
- Texas Export Railroad Co. ---- 23952

Issuance of securities, assumption of obligations, and filing of certificates and reports; expanded definition of "securities" ---- 23953

**Proposed Rules**

State registration of emergency temporary and temporary authority ---- 23979

**Notices**

Assignment of hearings ---- 23997

Canadian Railroads; rerouting or diversion of traffic ---- 23997

Fourth section application for relief ---- 23998

Long Island Rail Road Co.; freight rates and charges ---- 24001

Motor carrier board transfer proceedings ---- 23998

Motor carrier temporary authority applications ---- 23998

**LABOR DEPARTMENT**

*See* Wage and Hour Division.

**LAND MANAGEMENT BUREAU**

**Notices**

Worland District Advisory Board; meeting ---- 23982

**NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN**

**Notices**

Budget and legislative matters; meeting ---- 23990

**NATIONAL ENDOWMENT FOR THE HUMANITIES**

**Notices**

Advisory Committee Fellowship Panel, meetings (3 documents) ---- 23990, 23991

**NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION**

**Rules and Regulations**

Vehicles in use; inspection standards for hydraulic service brake systems, steering and suspension systems and tire and wheel assemblies ---- 23949

**Notices**

Avanti Motor Corp.; petition for temporary exemption ---- 23987

**NATIONAL PARK SERVICE**

**Notices**

National Registry of Natural Landmarks; updating of list ---- 23982

**NATIONAL TECHNICAL INFORMATION SERVICE**

**Notices**

Government owned inventions; list of patents available for licensing (2 documents) ---- 23986, 24041

**POSTAL SERVICE**

**Notices**

Scheduled postage rate increases; effective date ---- 24002

**SECURITIES AND EXCHANGE COMMISSION**

**Notices**

*Hearings, etc.:*
- Allegheny Power System, Inc. ---- 23991
- Central Power and Light Co. ---- 23992
- Connecticut Gas Co and Connecticut Light & Power Co. ---- 23992
- Continental Vending Machine Corp ---- 23993
- Home Stake Production Co. ---- 23993
- Neuwirth Fund, Inc., et al ---- 23993
- Redwood Fund, Inc ---- 23994

**SMALL BUSINESS ADMINISTRATION**

**Proposed Rules**

Small business investment companies ---- 24027

**Notices**

Risk Capital Funding, Inc.; application for small business investment company license ---- 23994

**SOIL CONSERVATION SERVICE**

**Notices**

Availability of final environmental statements:
- Narge Creek Flood Prevention Project ---- 23986
- Pocatalico River Basin Joint Survey ---- 23986

**STATE DEPARTMENT**

**Notices**

Meetings:
- National Committee for the International Radio Consultative Committee (2 documents) ---- 23981
- Shipping Coordinating Committee Subcommittee on Code of Conduct for Liner Conferences ---- 23981

**TARIFF COMMISSION**

**Notices**

Investigation and hearings:
- Certain planos ---- 23995
- Nonfat dry milk ---- 23995

**TRANSPORTATION DEPARTMENT**

*See* Coast Guard; Federal Aviation Administration; Federal Highway Administration; National Highway Traffic Safety Administration.

**TREASURY DEPARTMENT**

*See also* Customs Service.

**Notices**

Expanded metal from Japan:
- Determination of sales at less than fair value ---- 23981
- Withholding of appraisement notice ---- 23981

**VETERANS ADMINISTRATION**

**Rules and Regulations**

Veterans' educational assistance; entitlement charges ---- 23948

**Notices**

Merit Review Boards in designated medical specialties; establishment ---- 23996

**WAGE AND HOUR DIVISION**

**Notices**

Full time students; certificates authorizing employment at less than minimum wage ---- 23996






# List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month. In the last issue of the month the cumulative list will appear at the end of the issue.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1973, and specifies how they are affected.

**4 CFR**

PROPOSED RULES:
331 ---- 23971
351 ---- 23971
400 ---- 23971
401 ---- 23971
402 ---- 23971
403 ---- 23971
404 ---- 23971

**6 CFR**

150 ---- 23931

**7 CFR**

51 ---- 23931
354 ---- 23934
725 ---- 23935
1421 ---- 23935
1430 ---- 23939

PROPOSED RULES:
26 ---- 23955

**9 CFR**

82 ---- 23940
97 ---- 23940

PROPOSED RULES:
102 ---- 23957
104 ---- 23957

**10 CFR**

110 ---- 23953

**12 CFR**

526 ---- 23940

**13 CFR**

PROPOSED RULES:
107 ---- 24028

**14 CFR**

39 ---- 23941
71 (4 documents) ---- 23941, 23942

PROPOSED RULES:
39 ---- 23962
61 ---- 23962
71 ---- 23969
121 ---- 23962

**19 CFR**

PROPOSED RULES:
24 ---- 23954
141 ---- 23954

**21 CFR**

135 ---- 23942

**23 CFR**

PROPOSED RULES:
770 ---- 23969

**24 CFR**

1914 (3 documents) ---- 23943-23945

**25 CFR**

256 ---- 23945

PROPOSED RULES:
221 (3 documents) ---- 23954, 23955

**30 CFR**

PROPOSED RULES:
504 ---- 24024

**32 CFR**

809 ---- 23945

**32A CFR**

Chapter XIII ---- 23977

**36 CFR**

221 ---- 23948

**38 CFR**

21 ---- 23948

**43 CFR**

4 ---- 23948

**46 CFR**

PROPOSED RULES:
146 ---- 23959

**49 CFR**

570 ---- 23949
1033 (4 documents) ---- 23952
1115 ---- 23953

PROPOSED RULES:
542 ---- 23979
1131 ---- 23979



V 38 I 171 S SEP 5 73 XUM

CONTENTS

# REMINDERS

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

### Rules Going Into Effect Today

NOTE: There were no items published after October 1, 1972, that are eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

### Next Week's Deadlines for Comments on Proposed Rules

**SEPTEMBER 10**

AMS—Potato research and promotion plan; revision of basis for Board Representation ..... 21499; 8–9–73

ANIMAL AND PLANT HEALTH INSPECTION SERVICE—Standards for isolation and inspection facilities; certain ports of export for animals 19972; 7–26–73

EPA—Seven Source Category; standards ..... 15406; 6–11–73

FAA—Designation of Federal airways, area low routes, controlled airspace, and reporting points ..... 18384; 7–10–73; 21502–21503; 8–9–73

FAA—Houston Texas terminal control area..... 18563; 7–12–73

FDA—Testing and potency requirements for Poliovirus vacine, live, oral. 18556; 7–12–73

FCC—Federal Home Loan Bank System ..... 21651; 9–10–73

**SEPTEMBER 11**

EPA—Control of air pollution from new motor vehicles and new motor vehicle engines; low emission vehicles. 18686; 7–13–73

COAST GUARD—Westchester Creek, N.Y ..... 21649; 8–10–73

—Lechmere Canal, Mass .. 21649; 8–10–73

—Big Carlos Pass and Matlacha Pass, Fla ..... 21449; 8–10–73

—Root River, Wisconsin 21651; 8–10–73

APHIS—Whitefringed Beetle Quarantine ..... 21935; 8–14–73

OFFICE OF OIL & GAS—New, expanded or reactivated "Petrochemical Capacity"; Proposed allocation of Imports of crude oil and unfinished oils—Districts I–IV, District V and Puerto Rico ..... 22237; 8–17–73

**SEPTEMBER 12**

CUSTOMS SERVICE—Protests; merchandise excluded from entry or delivery..... 21785; 8–13–73

AMS—Canned Grapefruit..... 21785; 8–13–73

EPO—Mandatory Fuel Allocation. 21797; 8–13–73

FAA—Control Zones and Transition Area ..... 21795; 8–13–73

—Transition Area..... 21797, 21798; 8–13–73

—Control Zone ..... 21796; 8–13–73

VA—Transportation of Body ..... 21946; 8–14–73

**SEPTEMBER 13**

FAA—Designation of Federal airways, Area low routes, controlled airspace, and reporting points ..... 18245; 7–9–73

—Temporary Restricted Area; proposed designation ..... 21938; 8–14–73

—Transition Area; proposed designation ..... 21938; 8–14–73

—Transition Area 21937; 8–14–73

—Control Zone and Transition Area 21937; 8–14–73

SSA—Federal Health Insurance for the Aged ..... 21936; 8–14–73

SRA—Medical Assistance Program. 21936; 8–14–73

FDA—Aerosol drug products for human use..... 21935; 8–14–73

**SEPTEMBER 14**

APHIS—Meatballs and similar products; standard of composition .. 18683; 7–13–73

—Treatment of pork and pork products; additional product sealing methods ..... 18682; 7–13–73

—Rinderpest, foot and mouth disease; criteria for importation restrictions ..... 12926; 5–17–73

BIA—Distribution of Assets ..... 22034; 8–15–73

ENVIRONMENTAL PROTECTION AGENCY—Approval and promulgation of Pennsylvania implementation plans. 22495; 8–21–73

FAA—Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points ..... 18904; 7–16–73

FAA—Mooney Model M20 Series; proposed Airworthiness Directive. 22042; 8–15–73

FCC—FM Broadcasting Stations in California..... 21940; 8–14–73

FMC—Removal of Oil and Hazardous Substances ..... 21941; 8–14–73

FISCAL SERVICE—Payment to financial organizations for credit to accounts of employees ..... 22032; 8–15–73

HEW—Public Assistance Exception from timely notice—Probable Fraud. 22042; 8–15–73

SEC—Forms and reports; financial statements, summaries of operations and exhibits ..... 20470; 8–1–73

**SEPTEMBER 15**

INTERIOR DEPARTMENT—Patent Licensing Regulations; revision.. 22036; 8–15–73

F&WS—Piedmont National Wildlife Refuge, Georgia..... 22036; 8–15–73

FHLBB—Federal Savings and Loan System; loans on Second or Vacation Homes ..... 22047; 8–15–73

### Next Week's Hearings

**SEPTEMBER 10**

EPA—Approval and promulgation of implementation plans in Colorado, to be held in Denver, Colorado .. 20752; 8–2–73

**SEPTEMBER 11**

EPA—Farm worker protection; occupational safety requirements for pesticides, to be held in Sacramento, California..... 20362; 7–31–73

APHIS—Whitefringed Beetle Quarantine ..... 21935; 8–14–73

**SEPTEMBER 12, 1973**

FRS—Bank holding companies conduction nonbanking activities .. 21436; 8–8–73

EPA—Approval and promulgation of Pennsylvania implementation plans; proposed transportation and/or land use control strategies, to be held in Philadelphia, Penn.. 22495; 8–21–73

### Weekly List of Public Laws

This is a listing of public bills enacted by Congress and approved by the President, together with the law number, the date of approval, and the U.S. Statutes citation. Subsequent lists will appear every Wednesday in the FEDERAL REGISTER, and copies of the laws may be obtained from the U.S. Government Printing Office.

NOTE: There were no laws signed by the President during the week.





# Rules and Regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

## Title 6—Economic Stabilization

### CHAPTER I—COST OF LIVING COUNCIL

### PART 150—COST OF LIVING COUNCIL PHASE IV PRICE REGULATIONS; EXEMPTION OF CERTAIN POSTAL RATES

The purpose of this amendment is to exempt from the operation of the Phase IV price stabilization regulations those second-, third-, and fourth class postal rates for which phased increases have been scheduled under section 3626 of title 39, United States Code.

On February 1, 1971, under the authority of the Postal Reorganization Act (Public Law 91–375), the Postal Service requested the Postal Rate Commission to submit to the Governors of the Postal Service a recommended decision on changes in rates of domestic postage and fees for domestic postal services (36 FR 2431; 36 FR 2571).

On June 5, 1972, the Postal Rate Commission transmitted to the Governors of the Postal Service its Recommended Decision (Commission Docket No. R71–1) in which it recommended permanent rates and fees. On June 23, 1972, the Governors approved the permanent rates and fees recommended by the Postal Rate Commission and the Board of Governors determined the effective date thereof.

Among the permanent rates approved by the Governors were a series of phased increases in the reduced rates then existing for certain second-, third-, and fourth class mail.

In accordance with the action of the Governors and the Board of Governors, the Postal Service placed the first round of phased increases in effect as of 12:01 a.m., July 6, 1972 (37 FR 13148). The second round of increases due to go into effect on July 6, 1973, did not go into effect because of the price freeze that existed between June 13 and August 12, 1973.

Under the Phase IV price regulations that went into effect on August 12, 1973, all increases in postal rates are subject to the prenotification requirements of Subpart H of Part 150 of those regulations.

In view of the extensive consideration already given to the economic justification for and the impact of the phased increases and the fact that a precise long-range schedule for their implementation was published over a year ago, the Council has determined the prenotification under the Phase IV price stabilization program should not be required and that these increases should be exempt from the operation of the price stabilization regulations.

Accordingly § 150.54(a) of title 6, Code of Federal Regulations is amended effective September 1, 1973, to read as follows:

**§ 150.54 Certain price adjustments.**

(a) *Federal and State and local governments.*—(1) Prices charged for any work, service, publication, report, document, benefit, privilege, authority, use, franchise, license, permit, certificate, registration, or similar thing of value or utility (including reduced postal rates for which phased increases are set forth in Part II of the FEDERAL REGISTER of July 1, 1972 (37 FR 13148–13150), but not including any other postal rates) performed, furnished, provided, granted, prepared, issued, or transferred by any Federal department, agency, or other instrumentality including any wholly owned Government corporations as defined in the Government Corporation Control Act of 1945, as amended (but not including the U.S. Postal Service and the Postal Rate Commission with respect to postal rates other than those reduced rates for which phased increases are provided under 39 U.S.C. 3626) are exempt.

• • • • •

(Economic Stabilization Act of 1970, as amended, Pub. L. 92–210, 85 Stat. 743; Pub. L. 93–28, 87 Stat. 27; E.O. 11695, 38 FR 1473; E.O. 11730, 38 FR 19345; Cost of Living Council Order No. 14; 38 FR 1489)

Issued in Washington, D.C., on August 30, 1973.

JOHN T. DUNLOP,
*Director,*
*Cost of Living Council.*

[FR Doc.73–18766 Filed 8–31–73;10:26 am]

## Title 7—Agriculture

### CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTIONS, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

### PART 51—FRESH FRUITS, VEGETABLES AND OTHER PRODUCTS (INSPECTION, CERTIFICATION AND STANDARDS)

### Standards for Grades of Fresh Tomatoes [1]

On April 24, 1973, a notice of proposed rulemaking was published in the FEDERAL REGISTER (38 FR 10106) regarding the revision of United States Standards for Grades of Fresh Tomatoes (7 CFR 51.1855–51.1877). These grade standards are issued under authority of the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621–1627), which provides for the issuance of official U.S. grades to designate different levels of quality for the voluntary use of producers, buyers and consumers. Official grading services are also provided under this act upon request of any financially interested party and upon payment of a fee to cover the cost of such services.

*Statement of considerations leading to the revision of the grade standards.*—The U.S. Standards for Grades of Fresh Tomatoes were last revised in December 1956. In October 1961 they were amended by adding a new color classification section.

During 1970 the Florida Tomato Committee requested that size requirements in the standards be changed to correspond to the size classifications used in the Florida marketing order.

In April 1971, a study draft to consider revision of the standards was prepared and distributed. In this study draft a new "vine ripe" definition was proposed but was not included in the formal proposal because certifying stage of maturity at harvest would be prohibitively expensive. Also included were size specifications based on Florida size requirements with no overlap.

At the request of the Western Growers Association, research size studies were conducted by the University of California at Davis and published in January 1973. In February, USDA's Agricultural Marketing Service representatives attended a meeting of producers and technical advisors to discuss results of these studies. Out of this meeting agreement was reached on diameter requirements with corresponding descriptive terms. These were approved by the Tomato Division of the United Fresh Fruit and Vegetable Association in a resolution adopted and transmitted to the Department requesting revision of the grade standards. Also published in the proposal was a new definition of "mature" to state specifically that the tomato must have reached a stage of development that would insure proper completion of the ripening process. The color classification section was revised to require that when color terms are used tomatoes must be mature. An optional "Standard Weight" requirement was requested specifying that the amount of overfill in each container marked to designate net weight be restricted to 1½ pounds.

Following publication of the proposal in the FEDERAL REGISTER copies were widely distributed to individuals and to groups and organizations of tomato growers, shippers, receivers, and consumers. Information concerning the pro-

[1] Packing of the product in conformity with the requirements of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug and Cosmetic Act or with applicable State laws and regulations.



V 38 I 171
SEP 5 73
XUM

posal was carried in newspapers and trade publications.

The period for comments ended on June 30, 1973 and twelve letters of comment were received in response to the proposal. Most comments were from growers and shippers, or organizations representing them. Three letters were from consumers who were not interested in technical details of the standards, but were interested in being able to buy better quality and more uniformly sized tomatoes in retail stores.

Most of the views expressed by members of the fresh tomato industry specified the points in the proposal which were acceptable or those which were considered undesirable. There was unfavorable response concerning the proposal to limit the 1½ pound restriction on amount of overfill in each container marked to designate net weight and the 10 percent tolerance provided for containers failing to meet "Standard Weight" requirements. Grower and shipper groups recommended that a 2 pound restriction and 15 percent tolerance be provided which would more nearly reflect the new advances made in mechanical weighing and high speed machine filler equipment. The "Standard Weight" requirement is offered for optional use.

A major grower-shipper group strongly objected to implied mandatory replacement of the old numerical size designations by new size terms. Growers feel that optional use of numerical size designations should be maintained during the transition in order to facilitate orderly marketing of tomatoes. However, comments from grower, shipper and receiver groups favor the proposed diameter specifications set forth in the optional Size section.

November 1, 1973 and February 1, 1974 were recommended by industry groups as suitable effective dates. December 1, 1973 appears to offer a compromise which will not cause undue hardship in any producing area.

After consideration of all relevant matters presented by interested persons, the revision as so proposed is hereby adopted, subject to the following changes as set forth below.

These standards shall become effective on December 1, 1973, and will thereupon supersede the United States Standards for Fresh Tomatoes which have been in effect since June 28, 1957 (7 CFR 51.1855–51.1877).

Dated August 22, 1973.

E. L. PETERSON,
*Administrator,*
*Agricultural Marketing Service.*

GRADES

Sec.
51.1855 U.S. No. 1.
51.1856 U.S. Combination.
51.1857 U.S. No. 2.
51.1858 U.S. No. 3.

SIZE

51.1859 Size.

COLOR CLASSIFICATION

51.1860 Color classification.

TOLERANCES

Sec.
51.1861 Tolerances.

APPLICATION OF TOLERANCES

51.1862 Application of tolerances.

STANDARD WEIGHT

51.1863 Standard weight.

DEFINITIONS

51.1864 Similar varietal characteristics.
51.1865 Mature.
51.1866 Soft.
51.1867 Clean.
51.1868 Well developed.
51.1869 Fairly well formed.
51.1870 Fairly smooth.
51.1871 Damage.
51.1872 Reasonably well formed.
51.1873 Slightly rough.
51.1874 Serious damage.
51.1875 Misshapen.
51.1876 Very serious damage.
51.1877 Classification of defects.

AUTHORITY.—Secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended; 7 U.S.C. 1622, 1624.

GRADES

### § 51.1855 U.S. No. 1.

"U.S. No. 1" consists of tomatoes which meet the following requirements:

(a) Basic requirements:
(1) Similar varietal characteristics;
(2) Mature;
(3) Not overripe or soft;
(4) Clean;
(5) Well developed;
(6) Fairly well formed; and,
(7) Fairly smooth.
(b) Free from:
(1) Decay;
(2) Freezing injury; and
(3) Sunscald.
(c) Not damaged by any other cause.
(d) For tolerances see § 51.1861.

### § 51.1856 U.S. Combination.

"U.S. Combination" consists of a combination of U.S. No. 1 and U.S. No. 2 tomatoes: *Provided,* That at least 60 percent, by count, meet the requirements of U.S. No. 1 grade.

(a) For tolerances see § 51.1861.

### § 51.1857 U.S. No. 2.

"U.S. No. 2" consists of tomatoes which meet the following requirements:

(a) Basic requirements:
(1) Similar varietal characteristics;
(2) Mature;
(3) Not overripe or soft;
(4) Clean;
(5) Well developed;
(6) Reasonably well formed; and,
(7) Not more than slightly rough.
(b) Free from:
(1) Decay;
(2) Freezing injury; and,
(3) Sunscald.
(c) Not seriously damaged by any other cause.
(d) For tolerances see § 51.1861.

### § 51.1858 U.S. No. 3.

"U.S. No. 3" consists of tomatoes which meet the following requirements:

(a) Basic requirements:
(1) Similar varietal characteristics;
(2) Mature;
(3) Not overripe or soft;
(4) Clean;
(5) Well developed; and,
(6) May be misshapen.
(b) Free from:
(1) Decay; and,
(2) Freezing injury.
(c) Not seriously damaged by:
(1) Sunscald.
(d) Not very seriously damaged by any other cause.
(e) For tolerances see § 51.1861.

SIZE

### § 51.1859 Size.

(a) The size of tomatoes packed in any type container, when specified according to the size designations set forth in Table I, shall be within the ranges of diameters specified for the respective designations.

(1) In determining compliance with the size designations the measurement for minimum diameter shall be the largest diameter of the tomato measured at right angles to a line from the stem end to the blossom end. The measurement for maximum diameter shall be the smallest dimension of the tomato determined by passing the tomato through a round opening in any position.

TABLE I

| Size designations | Inches | | Millimeters [1] | |
|---|---|---|---|---|
| | Minimum diameter [2] | Maximum diameter [3] | Minimum diameter [2] | Maximum diameter [3] |
| Extra small or 7 × 8 | 1 28/32 | 2 4/32 | 48 | 54 |
| Small or 7 × 7 | 2 4/32 | 2 9/32 | 54 | 58 |
| Medium or 6 × 7 | 2 9/32 | 2 17/32 | 58 | 64 |
| Large or 6 × 6 | 2 17/32 | 2 28/32 | 64 | 73 |
| Extra large or 5 × 6 and 5 × 5 | 2 28/32 | 3 15/32 | 73 | 88 |
| Maximum large or 4 × 5 and larger | 3 15/32 | | 88 | |

[1] Conversion to metric equivalent made to nearest whole millimeter (mm).
[2] Will not pass through a round opening of the designated diameter when tomato is placed with the greatest transverse diameter across the opening.
[3] Will pass through a round opening of the designated diameter in any position.

(b) In lieu of specifying size according to the above size designations, the size of tomatoes in any type container may be specified in terms of minimum diameter or of minimum and maximum diameters expressed in whole inches, whole inches and not less than thirty-second inch fractions thereof, or millimeters, in accordance with the facts.

(c) For tolerances see § 51.1861.

COLOR CLASSIFICATION

### § 51.1860 Color classification.

(a) The following terms may be used, when specified in connection with the grade statement, in describing the color as an indication of the stage of ripeness of any lot of mature tomatoes of a red fleshed variety:

(1) *Green.*—"Green" means that the surface of the tomato is completely green in color. The shade of green color may vary from light to dark;

(2) *Breakers.*—"Breakers" means that there is a definite break in color from green to tannish-yellow, pink or red on not more than 10 percent of the surface;

(3) *Turning.*—"Turning" means that more than 10 percent but not more than 30 percent of the surface, in the aggregate, shows a definite change in color from green to tannish-yellow, pink, red, or a combination thereof;

(4) *Pink.*—"Pink" means that more than 30 percent but not more than 60 percent of the surface, in the aggregate, shows pink or red color;

(5) *Light red.*—"Light red" means that more than 60 percent of the surface, in the aggregate, shows pinkish-red or red: *Provided,* That not more than 90 percent of the surface is red color; and,

(6) *Red.*—"Red" means that more 90 percent of the surface, in the aggregate, shows red color.

(b) Any lot of tomatoes which does not meet the requirements of any of the above color designations may be designated as "Mixed Color".

(c) For tolerances see § 51.1861.

TOLERANCES

### § 51.1861 Tolerances.

In order to allow for variations incident to proper grading and handling in each of the foregoing grades, the following tolerances, by count, are provided as specified:

(a) *U.S. No. 1.*—(1) *For defects at shipping point.*[1]—Ten percent for tomatoes in any lot which fail to meet the requirements for this grade: *Provided,* That not more than one-half of this tolerance, or 5 percent, shall be allowed for defects causing very serious damage, including therein not more than 1 percent for tomatoes which are soft or affected by decay; and,

(2) *For defects en route or at destination.*—Fifteen percent for tomatoes in any lot which fail to meet the requirements for this grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for defects listed:

(i) Five percent for tomatoes which are soft or affected by decay;

(ii) Ten percent for tomatoes which are damaged by shoulder bruises or by discolored or sunken scars on any parts of the tomatoes; and,

(iii) Ten percent for tomatoes which are otherwise defective: *And provided further,* That not more than 5 percent shall be allowed for tomatoes which are very seriously damaged by any cause, exclusive of soft or decayed tomatoes.

(b) *U.S. Combination.*—(1) *For defects at shipping point.*[1]—Ten percent for tomatoes in any lot which fail to meet the requirements of the U.S. No. 2 grade: *Provided,* That not more than one-half of this tolerance, or 5 percent, shall be allowed for defects causing very serious damage, including 1 percent for tomatoes which are soft or affected by decay; and,

(2) *For defects en route or at destination.*—Fifteen percent for tomatoes in any lot which fail to meet the requirements of the U.S. No. 2 grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for defects listed:

(i) Five percent for tomatoes which are soft or affected by decay;

(ii) Ten percent for tomatoes which are seriously damaged by shoulder bruises or by discolored or sunken scars on any parts of the tomatoes; and,

(iii) Ten percent for tomatoes which are otherwise defective: *And provided further,* That not more than 5 percent shall be allowed for tomatoes which are very seriously damaged by any cause, exclusive of soft or decayed tomatoes.

(c) *U.S. No. 2.*—(1) *For defects at shipping point.*[1]—Ten percent for tomatoes in any lot which fail to meet the requirements of this grade: *Provided,* That not more than one-half of this tolerance, or 5 percent, shall be allowed for defects causing very serious damage, including therein not more than 1 percent for tomatoes which are soft or affected by decay; and,

(2) *For defects en route or at destination.*—Fifteen percent for tomatoes in any lot which fail to meet the requirements for this grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for defects listed:

(i) Five percent for tomatoes which are soft or affected by decay;

(ii) Ten percent for tomatoes which are seriously damaged by shoulder bruises or by discolored or sunken scars on any parts of the tomatoes; and,

(iii) Ten percent for tomatoes which are otherwise defective: *And provided further,* That not more than 5 percent shall be allowed for tomatoes which are very seriously damaged by any cause, exclusive of soft or decayed tomatoes.

(d) *U.S. No. 3.*—(1) *For defects at shipping point.*[1]—Ten percent for tomatoes in any lot which fail to meet the requirements of this grade: *Provided,* That not more than one-half of this tolerance, or 5 percent, shall be allowed for tomatoes which are very seriously damaged by insects and not more than one-tenth of the tolerance, or 1 percent, for tomatoes which are soft or affected by decay; and,

(2) *For defects en route or at destination.*—Fifteen percent for tomatoes in any lot which fail to meet the requirements for this grade: *Provided,* That included in this amount not more than the following percentages shall be allowed for defects listed:

(i) Five percent for tomatoes which are soft or affected by decay;

(ii) Ten percent for tomatoes which are very seriously damaged by shoulder bruises or by discolored or sunken scars on any parts of the tomatoes; and,

(iii) Ten percent for tomatoes which are otherwise defective: *And provided further,* That not more than 5 percent shall be allowed for tomatoes which are very seriously damaged by any cause, exclusive of soft or decayed tomatoes.

(e) *For off size.* Ten percent for tomatoes in any lot which are smaller than the specified minimum diameter, or larger than the specified maximum diameter.

(f) *For off color.* Ten percent for tomatoes in any lot which fail to meet the color specified, including therein not more than 5 percent for tomatoes which are green in color, when any term other than "Green" is specified.

[1] Shipping point, as used in these standards, means the point of origin of the shipment in producing area or at port of loading for ship stores or overseas shipment, or in the case of shipments from outside the continental United States, the port of entry into the United States.

APPLICATION OF TOLERANCES

### § 51.1862 Application of tolerances.

The contents of individual packages in the lot, based on sample inspection, are subject to the following limitations:

(a) For packages which contain more than 5 pounds (2.27 kg), and a tolerance of 10 percent or more is provided, individual packages shall have not more than 1½ times the tolerance specified, and for a tolerance of less than 10 percent individual packages shall have not more than double the tolerance specified, except that at least one defective and one off size specimen may be allowed in any package: *Provided,* That the averages for the entire lot are within the tolerances specified for the grade; and,

(b) For packages which contain 5 pounds (2.27 kg) or less individual packages shall have not more than 4 times the tolerance specified, except that at least one tomato which is soft, or affected by decay, and one off-size specimen may be permitted in any package: *Provided,* That the averages for the entire lot are within the tolerances specified for the grade.

### § 51.1863 Standard weight.

(a) When packages are marked to a net weight of 15 pounds (6.80 kg) or more, the net weight of the contents shall not be less than the designated net weight and shall not exceed the designated weight by more than 2 pounds (0.91 kg).

(b) In order to allow for variations incident to proper sizing, not more than 15 percent, by count, of the packages in any lot may fail to meet the requirements for standard weight.

DEFINITIONS

### § 51.1864 Similar varietal characteristics.

"Similar varietal characteristics" means that the tomatoes are alike as to firmness of flesh and shade of color (for example, soft-fleshed, early maturing varieties are not mixed with firm-fleshed, midseason or late varieties, or bright red varieties mixed with varieties having a purplish tinge).

### § 51.1865 Mature.

"Mature" means that the tomato has reached the stage of development which will insure a proper completion of the ripening process, and that the contents







V 38 I 171
SEP 5 73
XUM

of two or more seed cavities have developed a jelly-like consistency and the seeds are well developed.

**§ 51.1866 Soft.**

"Soft" means that the tomato yields readily to slight pressure.

**§ 51.1867 Clean.**

"Clean" means that the tomato is practically free from dirt or other foreign material.

**§ 51.1868 Well developed.**

"Well developed" means that the tomato shows normal growth. Tomatoes which are ridged and peaked at the stem end, contain dry tissue, and usually contain open spaces below the level of the stem scar, are not considered well developed.

**§ 51.1869 Fairly well formed.**

"Fairly well formed" means that the tomato is not more than moderately kidney-shaped, lop-sided, elongated, angular, or otherwise moderately deformed.

**§ 51.1870 Fairly smooth.**

"Fairly smooth" means that the tomato is not conspicuously ridged or rough.

**§ 51.1871 Damage.**

"Damage" means any specific defect described in § 51.1877, table II; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which materially detracts from the appearance, or the edible or marketing quality of the tomato.

**§ 51.1872 Reasonably well formed.**

"Reasonably well formed" means that the tomato is not decidedly kidney-shaped, lop-sided, elongated, angular, or otherwise decidedly deformed.

**§ 51.1873 Slightly rough.**

"Slightly rough" means that the tomato is not decidedly ridged or grooved.

**§ 51.1874 Serious damage.**

"Serious damage" means any specific defect described in § 51.1877, table II; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which seriously detracts from the appearance, or the edible or marketing quality of the tomato.

**§ 51.1875 Misshapen.**

"Misshapen" means that the tomato is decidedly kidney-shaped, lop-sided, elongated, angular or otherwise decidedly deformed: *Provided*, That the shape is not affected to an extent that the appearance or the edible quality of the tomato is very seriously affected.

**§ 51.1876 Very serious damage.**

"Very serious damage" means any specific defect described in § 51.1877, table II; or an equally objectionable variation of any one of these defects, any other defect, or any combination of defects, which very seriously detracts from the appearance, or the edible or marketing quality of the tomato.

**§ 51.1877 Classification of defects.**

TABLE II

REFERENCES TO AREA, AGGREGATE AREA, LENGTH OR AGGREGATE LENGTH ARE BASED ON A TOMATO HAVING A DIAMETER OF 2⅛ INCHES (64 MM).[1]

| Factor | Damage | Serious damage | Very serious damage |
|---|---|---|---|
| Cuts and broken skins. | Not shallow or not well healed, or shallow, well healed cut more than ½ inch (13mm) in length, or other shallow, well healed skin breaks aggregating more than a circle ⅝ inch (10mm) in diameter. | Not shallow or not well healed, or shallow, well healed cut more than ½ inch (13mm) in length, or other shallow, well healed skin breaks aggregating more than a circle ½ inch (13mm) in diameter. | Fresh or healed and extending through the tomato wall. |
| Puffiness | Open space in 1 or more locules materially detracts from appearance of tomato cut through center at right angles to a line from stem to blossom end. | Open space in 1 or more locules seriously detracts from appearance of tomato cut through center at right angles to a line from stem to blossom end. | Open space in 2 or more locules very seriously detracts from appearance of tomato cut through center at right angles to a line from stem to blossom end. |
| Catfaces | Scars are rough or deep, channels are very deep or wide, channels extend into a locule, or a fairly smooth catface aggregating more than a circle ½ inch (13mm) in diameter. | Scars are rough or deep, channels are very deep or wide, channels extend into a locule, or a fairly smooth catface aggregating more than a circle ¾ inch (19mm) in diameter. | Channels extend into the locule, wall has been weakened to the extent that slight pressure will cause a tomato to leak, or a fairly smooth catface aggregating more than a circle 1 inch (25mm) in diameter. |
| Scars (other than catfaces). | No depth and aggregating more than a circle ⅝ inch (10mm) in diameter. | No depth and aggregating more than a circle ⅝ inch (16mm) in diameter. | No depth and aggregating more than a circle 1 inch (25mm) in diameter. |
| Growth Cracks (radiating from or concentric to stem scar). | Not well healed, more than ¼ inch (3 mm) in depth, individual radial cracks more than ½ inch (13 mm) in length, aggregate length of all radial cracks more than 1 inch (25 mm) measured from edge of stem scar. Any lot of tomatoes which are at least turning may have cracks which are not well healed provided they are not leaking. | Not well healed, more than ¼ inch (3 mm) in depth, individual radial cracks more than ¾ inch (19 mm) in length, aggregate length of all radial cracks more than 1 inch (25 mm) measured from edge of stem scar. Any lot of tomatoes which are at least turning may have cracks which are not well healed provided they are not leaking. | Not well healed, more than ¼ inch (6 mm) in depth, individual radial cracks more more than 1 inch (25 mm) in length, aggregate length of all radial cracks more than 2⅞ inches (73 mm) measured from edge of stem scar. Any lot of tomatoes which are at least turning may have cracks which are not well healed provided they are not leaking, not more than ½ inch (3 mm) in depth, individual radial cracks are not more than ¾ inch (19 mm) in length. |
| Hail | Deep, rough, not well healed and corked over, or fairly smooth, shallow hailmarks aggregating more than a circle ⅝ inch (10 mm) in diameter. | Deep, rough, not well healed and corked over, or fairly smooth, shallow hailmarks aggregating more than a circle ⅝ inch (16 mm) in diameter. | Fresh, very deep or fairly smooth, shallow hail marks aggregating more than a circle 1 inch (25 mm) in diameter. |
| Insect injury | Materially detracts from the appearance or any insect is present in the fruit. | Seriously detracts from the appearance or any insect is present in the fruit. | Very seriously detracts from the appearance or any insect is present in the fruit. |

[1] Conversion to metric equivalent made to nearest whole millimeter.

[FR Doc.73-18558 Filed 9-4-73;8:45 am]

## CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

### PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

#### Commuted Traveltime Allowances

The purpose of this amendment is to establish commuted traveltime periods as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which an employee of the Plant Protection and Quarantine Programs performs overtime or holiday duty when such travel is performed solely on account of such overtime or holiday duty. Such establishment, depends upon facts within the knowledge of the Animal and Plant Health Inspection Service.

Therefore, pursuant to the authority conferred upon the Deputy Administrator, Plant Protection and Quarantine Programs, by 7 CFR 354.1 of the regulations concerning overtime services relating to imports and exports, the administrative instructions appearing at 7 CFR 354.2, as amended, February 28, 1973 (38 FR 5340), April 9, 1973 (38 FR 9006), July 30, 1973 (38 FR 20233), and August 21, 1973 (38 FR 22466), prescribing the commuted traveltime that shall be included in each period of overtime or holiday duty are further amended by adding (in appropriate alphabetical sequence) or deleting the information as shown below:

**§ 354.2 Administrative instructions prescribing commuted traveltime.**

* * * * *

COMMUTED TRAVELTIME ALLOWANCES
(In hours)

| Location covered | Served from | Metropolitan area | |
|---|---|---|---|
| | | Within | Outside |
| Delete: | | | |
| * * * * * | | | |
| Georgia: Savannah | | 1 | |
| Add: | | | |
| * * * * * | | | |
| Georgia: Savannah | | 2 | |
| Texas: Point Comfort | | 1 | |

(61 Stat. 561; 7 U.S.C. 2260.)

*Effective date.*—The foregoing amendment shall become effective on September 5, 1973.





It is to the benefit of the public that this instruction be made effective at the earliest practicable date. Accordingly, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and public procedure on this instruction are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 29th day of August 1973.

LEO G. K. IVERSON,
*Deputy Administrator, Plant Protection and Quarantine Programs.*

[FR Doc.73-18670 Filed 9-4-73;8:45 am]

## CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

### SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

### PART 725—FLUE-CURED TOBACCO

#### Subpart—Proclamations, Determinations, and Announcements of National Marketing Quotas and Referendum Results

#### Marketing Quota Referendum Results

*Basis and purpose.*—Section 725.3 is revised pursuant to and in accordance with the Agricultural Adjustment Act of 1938, as amended, to proclaim the results of the flue-cured tobacco marketing quota referendum for the three marketing years beginning July 1, 1974. The Secretary proclaimed national marketing quotas for flue-cured tobacco for the 1974–75, 1975–76, and 1976–77 marketing years, and announced the amount of the national marketing quota for the 1974–75 marketing year (38 FR 18233). The Secretary announced (38 FR 18254) that a referendum would be held on July 17, 1973, to determine whether flue-cured tobacco producers were in favor of or opposed to marketing quotas for the three marketing years beginning July 1, 1974. Since the only purpose of this proclamation is to announce the results of the referendum, it is hereby found and determined that with respect to this proclamation, application of the notice, public procedure and effective date provisions of 5 U.S.C. 553 is unnecessary.

Section 725.3 is revised to read as follows and § 725.4 is deleted, except that the material previously appearing in these sections remain in full force and effect as to the crops to which it was applicable:

**§ 725.3 Results of the flue-cured tobacco marketing quota referendum for the three-year period beginning July 1, 1974.**

In a referendum of farmers engaged in the production of the 1973 crop of flue-cured tobacco held on July 17, 1973, 100,466 farmers voted. Of those voting, 99,004 or 98.5 percent favored quotas for a period of three years beginning July 1, 1974, and 1,462 or 1.5 percent were opposed to quotas. Therefore, the national marketing quota of 1,179 million pounds for flue-cured tobacco proclaimed (38 FR 18233) for the 1974–75 marketing year will be in effect for such year, and marketing quotas on such kind of tobacco will be in effect for the three marketing years beginning July 1, 1974.

**§ 725.4 [Deleted].**

(Secs. 312, 317, 375; 52 Stat. 46, as amended, 79 Stat. 66, 52 Stat. 66, as amended; 7 U.S.C. 1312, 1314c, 1375.)

Signed at Washington, D.C., on August 28, 1973.

GLENN A. WEIR,
*Acting Administrator, Agricultural Stabilization and Conservation Service.*

[FR Doc.73-18709 Filed 9-4-73;8:45 am]

## CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

### SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regulations, 1973 Crop Corn Supplement]

### PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

#### Subpart—1973 Crop Loan and Purchase Program

On October 7, 1972, notice of proposed rulemaking regarding loan and purchase rates for 1973 crop corn and detailed operating provisions to carry out the 1973 crop corn loan and purchase program was published in the FEDERAL REGISTER (37 FR 21332). No data, views, or recommendations were filed by interested persons.

The General Regulations Governing Price Support for the 1970 and Subsequent Crops, published in the FEDERAL REGISTER at 35 FR 7363 and 7781, and any amendments thereto, and the 1970 and Subsequent Crops Corn Loan and Purchase Program Regulations, published in the FEDERAL REGISTER at 35 FR 13969, and any amendments to such regulations, are further supplemented for the 1973 crop of corn.

The material previously appearing in these §§ 1421.111 through 1421.116 shall remain in full force and effect as to the crops to which it is applicable.

Sec.
1421.111 Availability.
1421.112 Compliance rquirements.
1421.113 Warehouse charges.
1421.114 Maturity of loans.
1421.115 Delivery period.
1421.116 Loan and purchase rates, premiums, and discounts.

AUTHORITY: Sec. 4, 62 Stat. 1070, as amended (15 U.S.C. 714b). Interpret or apply sec. 5, 62 Stat. 1072, secs. 105, 401, 63 Stat. 1051, as amended (15 U.S.C. 714c, 7 U.S.C. 1421, 1441).

**§ 1421.111 Availability.**

A producer desiring to participate in the program through loans must request a loan on his 1973 crop of eligible corn on or before June 30, 1974. To sell eligible corn to CCC, a producer must execute and deliver to the appropriate county ASCS office, on or before July 31, 1974, a purchase agreement (Form CCC–614) indicating the approximate quantity of 1973 crop corn he may sell to CCC. *Provided*, That in any area where it is determined by the State ASC committee that producers may not be able to or cannot store corn safely on the farm for the full storage period because of insects, adverse climatic conditions, or other factors affecting the safe storage of corn, the final date for requesting loans and purchases on farm stored corn shall be such earlier dates as are established by the State ASC committee. Public announcement of the final dates shall be made sufficiently in advance of such dates to allow producers a reasonable period of time to request loans and purchases.

**§ 1421.112 Compliance requirements.**

A producer shall be eligible for a loan or purchase with respect to the corn being tendered if the producer complies with the 1973 set-aside program appearing in regulations published in Part 775 of this title pertaining to Feed Grain Set-Aside Program for crop years 1971–73, and any amendments thereto, on the farm on which such corn was produced.

**§ 1421.113 Warehouse charges.**

Subject to the provisions of § 1421.96, the schedule of deductions set forth in this section shall apply to corn stored in an approved warehouse operating under the Uniform Grain Storage Agreement.

SCHEDULE OF DEDUCTIONS FOR STORAGE CHARGES FOR MATURITY DATE OF JULY 31, 1974

| Storage start date:[1] | Deduction (cents per bushel) |
|---|---|
| Prior to Aug. 3, 1973 | 15 |
| Aug. 3 to Aug. 27 | 14 |
| Aug. 28 to Sept. 21 | 13 |
| Sept. 22 to Oct. 16 | 12 |
| Oct. 17 to Nov. 10 | 11 |
| Nov. 11 to Dec. 5 | 10 |
| Dec. 6 to Dec. 30 | 9 |
| Dec. 31, 1973 to Jan. 24, 1974 | 8 |
| Jan. 25 to Feb. 18 | 7 |
| Feb. 19 to Mar. 15 | 6 |
| Mar. 16 to Apr. 9 | 5 |
| Apr. 10 to May 4 | 4 |
| May 5 to May 29 | 3 |
| May 30 to June 23 | 2 |
| June 24 to July 31, 1974 | 1 |

[1] All dates inclusive.

**§ 1421.114 Maturity of loans.**

Loans matre on demand but not later than July 31, 1974.

**§ 1421.115 Delivery period.**

(a) *Regular delivery period.*—The regular delivery period shall begin August 1, 1974.

(b) *Where producer may not be in a position to store corn safely.*—In areas where it is determined by the State ASC committee that some producers may not be in a position to store corn safely on the farm for the full storage period (for reasons set forth in § 1421.111), the State ASC committee may establish an earlier delivery period prior to maturity (in addition to the regular delivery period) during which any producer in such areas may voluntarily deliver corn which is under farm storage loan. Eligible corn not under loan may also be delivered to CCC for purchase in the earlier delivery period. Such earlier delivery period, if



V 38-171 SEP 5 73 XUM

established, shall begin at least 30 days after the final date of availability of loans established by the State ASC committee, but not before April 1, 1974, CCC will accept deliveries of corn during such early delivery period, provided the producer notifies the county ASCS office within the time specified by the county ASCS office that he wants to deliver the corn.

(c) *Where producers cannot store corn safely.*—If the State ASC committee determines that producers in an area cannot store corn safely on the farm for the full storage period (for reasons set forth in §1421.111), all farm storage loans in such area shall be called. Producers having eligible corn not under loan who elect to make deliveries from farm storage for purchase by CCC shall also be required to deliver during the delivery period for loans except that individual producers may keep corn in farm storage until the regular loan maturity date if (1) such corn is shelled, (2) the producer has satisfactory storage facilities, and (3) either the State ASC committee approves or the county ASC committee approves where the State ASC committee has authorized county ASC committee to make such determinations. Any earlier delivery period established shall begin at least 30 days after the final date of availability of loans established by the State ASC committee and not before April 1, 1974.

### § 1421.116 Loan and purchase rates, premiums, and discounts.

County basic loan and purchase rates for corn and the schedule of premiums and discounts are contained in this section. Farm stored loans will be made at the basic rate for the county where the corn is stored, adjusted only for the weed control discount where applicable. The rate for warehouse stored corn loans shall be the basic rate for the county where the corn is stored, adjusted by the premiums and discounts prescribed in paragraphs (b) and (c) of this section. Notwithstanding § 1421.23(c), settlement for corn delivered from other than approved warehouse storage shall be based on the basic rate for the county in which the producer's customary delivery point is located, and on the quality and quantity of the corn delivered as shown on the warehouse receipts and accompanying documents issued by an approved warehouse to which delivery is made, or if applicable, the quality and quantity delivered as shown on a form prescribed by CCC for this purpose.

(a) *Basic county rates.*—Basic county rates for corn grading No. 2 and containing from 15.1 through 15.5 percent moisture are as follows:

| County | Rate per bushel |
|---|---|
| **ALABAMA** | |
| All Counties | $1.20 |
| **ARIZONA** | |
| All Counties | 1.26 |
| **ARKANSAS** | |
| All Counties | 1.17 |
| **CALIFORNIA** | |
| All Counties | 1.26 |
| **COLORADO** | |
| Adams | $1.14 |
| Alamosa | 1.18 |
| Arapahoe | 1.15 |
| Archuleta | 1.20 |
| Baca | 1.11 |
| Bent | 1.14 |
| Boulder | 1.14 |
| Cheyenne | 1.10 |
| Conejos | 1.18 |
| Costilla | 1.18 |
| Crowley | 1.14 |
| Custer | 1.17 |
| Delta | 1.23 |
| Dolores | 1.25 |
| Douglas | 1.16 |
| Eagle | 1.21 |
| Elbert | 1.15 |
| El Paso | 1.16 |
| Fremont | 1.17 |
| Garfield | 1.23 |
| Grand | 1.17 |
| Huerfano | 1.17 |
| Jefferson | 1.16 |
| Kiowa | 1.10 |
| Kit Carson | 1.10 |
| La Plata | $1.22 |
| Larimer | 1.14 |
| Las Animas | 1.15 |
| Lincoln | 1.13 |
| Logan | 1.12 |
| Mesa | 1.23 |
| Moffat | 1.23 |
| Montezuma | 1.25 |
| Montrose | 1.23 |
| Morgan | 1.14 |
| Otero | 1.16 |
| Ouray | 1.25 |
| Phillips | 1.10 |
| Pitkin | 1.21 |
| Prowers | 1.10 |
| Pueblo | 1.16 |
| Rio Blanco | 1.23 |
| Rio Grande | 1.21 |
| Routt | 1.20 |
| Saguache | 1.19 |
| San Miguel | 1.25 |
| Sedgwick | 1.10 |
| Washington | 1.12 |
| Weld | 1.14 |
| Yuma | 1.09 |
| **CONNECTICUT** | |
| All counties | $1.29 |
| **DELAWARE** | |
| All counties | $1.23 |
| **FLORIDA** | |
| All counties | $1.21 |
| **GEORGIA** | |
| All counties | $1.21 |
| **HAWAII** | |
| All counties | $1.57 |
| **IDAHO** | |
| All counties | $1.23 |
| **ILLINOIS** | |
| Adams | $1.08 |
| Alexander | 1.12 |
| Bond | 1.10 |
| Boone | 1.08 |
| Brown | 1.09 |
| Bureau | 1.08 |
| Calhoun | 1.09 |
| Carroll | 1.06 |
| Cass | 1.10 |
| Champaign | 1.07 |
| Christian | 1.09 |
| Clark | 1.08 |
| Clay | 1.09 |
| Clinton | 1.10 |
| Coles | 1.07 |
| Cook | 1.11 |
| Crawford | 1.09 |
| Cumberland | 1.08 |
| De Kalb | 1.09 |
| De Witt | 1.08 |
| Douglas | 1.07 |
| Du Page | 1.10 |
| Edgar | 1.07 |
| Edwards | 1.11 |
| Effingham | 1.09 |
| Fayette | 1.09 |
| Ford | 1.07 |
| Franklin | 1.11 |
| Fulton | 1.09 |
| Gallatin | 1.12 |
| Greene | 1.10 |
| Grundy | 1.09 |
| Hamilton | 1.11 |
| Hancock | 1.07 |
| Hardin | 1.12 |
| Henderson | 1.07 |
| Henry | 1.07 |
| Iroquois | 1.08 |
| Jackson | 1.11 |
| Jasper | 1.09 |
| Jefferson | $1.10 |
| Jersey | 1.10 |
| Jo Daviess | 1.06 |
| Johnson | 1.11 |
| Kane | 1.10 |
| Kankakee | 1.08 |
| Kendall | 1.09 |
| Knox | 1.09 |
| Lake | 1.10 |
| La Salle | 1.09 |
| Lawrence | 1.10 |
| Lee | 1.08 |
| Livingston | 1.08 |
| Logan | 1.09 |
| McDonough | 1.08 |
| McHenry | 1.09 |
| McLean | 1.08 |
| Macon | 1.09 |
| Macoupin | 1.10 |
| Madison | 1.10 |
| Marion | 1.09 |
| Marshall | 1.09 |
| Mason | 1.09 |
| Massac | 1.12 |
| Menard | 1.09 |
| Mercer | 1.06 |
| Monroe | 1.11 |
| Montgomery | 1.09 |
| Morgan | 1.10 |
| Moultrie | 1.07 |
| Ogle | 1.07 |
| Peoria | 1.09 |
| Perry | 1.11 |
| Piatt | 1.07 |
| Pike | 1.09 |
| Pope | 1.12 |
| Pulaski | 1.12 |
| Putnam | 1.09 |
| Randolph | 1.11 |
| Richland | 1.10 |
| Rock Island | $1.08 |
| St. Clair | 1.11 |
| Saline | 1.11 |
| Sangamon | 1.09 |
| Schuyler | 1.09 |
| Scott | 1.10 |
| Shelby | 1.08 |
| Stark | 1.09 |
| Stephenson | 1.07 |
| Tazewell | 1.09 |
| Union | 1.11 |
| Vermilion | $1.07 |
| Wabash | 1.11 |
| Warren | 1.08 |
| Washington | 1.11 |
| Wayne | 1.10 |
| White | 1.11 |
| Whiteside | 1.07 |
| Will | 1.10 |
| Williamson | 1.11 |
| Winnebago | 1.07 |
| Woodford | 1.09 |
| **INDIANA** | |
| Adams | $1.07 |
| Allen | 1.07 |
| Bartholomew | 1.09 |
| Benton | 1.07 |
| Blackford | 1.07 |
| Boone | 1.05 |
| Brown | 1.09 |
| Carroll | 1.06 |
| Cass | 1.07 |
| Clark | 1.12 |
| Clay | 1.07 |
| Clinton | 1.05 |
| Crawford | 1.12 |
| Daviess | 1.11 |
| Dearborn | 1.12 |
| Decatur | 1.09 |
| De Kalb | 1.07 |
| Delaware | 1.06 |
| Dubois | 1.11 |
| Elkhart | 1.08 |
| Fayette | 1.08 |
| Floyd | 1.12 |
| Fountain | 1.06 |
| Franklin | 1.11 |
| Fulton | 1.08 |
| Gibson | 1.12 |
| Grant | 1.06 |
| Greene | 1.09 |
| Hamilton | 1.05 |
| Harrison | 1.12 |
| Hancock | 1.06 |
| Hendricks | 1.06 |
| Henry | 1.06 |
| Howard | 1.06 |
| Huntington | 1.07 |
| Jackson | 1.11 |
| Jasper | 1.08 |
| Jay | 1.07 |
| Jefferson | 1.12 |
| Jennings | 1.11 |
| Johnson | 1.07 |
| Knox | 1.11 |
| Kosciusko | 1.08 |
| LaGrange | 1.07 |
| Lake | 1.09 |
| La Porte | 1.09 |
| Marion | 1.06 |
| Marshall | 1.08 |
| Martin | 1.11 |
| Miami | 1.07 |
| Monroe | 1.09 |
| Montgomery | 1.06 |
| Morgan | 1.07 |
| Newton | 1.08 |
| Noble | 1.07 |
| Ohio | 1.12 |
| Orange | 1.11 |
| Owen | 1.07 |
| Parke | 1.06 |
| Perry | 1.12 |
| Pike | 1.11 |
| Porter | 1.09 |
| Posey | 1.12 |
| Pulaski | 1.08 |
| Putnam | 1.06 |
| Randolph | 1.07 |
| Ripley | 1.11 |
| Rush | 1.07 |
| St. Joseph | 1.08 |
| Scott | 1.12 |
| Shelby | 1.07 |
| Spencer | 1.12 |
| Starke | 1.08 |
| Steuben | 1.07 |
| Sullivan | 1.09 |
| Switzerland | 1.12 |
| Tippecanoe | 1.06 |
| Tipton | 1.05 |
| Union | 1.09 |
| Vanderburgh | 1.12 |
| Vermillion | 1.06 |
| Vigo | 1.07 |
| Wabash | 1.07 |
| Warren | 1.06 |
| Warrick | 1.12 |
| Washington | 1.12 |
| Wayne | 1.07 |
| Wells | 1.07 |
| White | 1.07 |
| Whitley | 1.07 |
| **IOWA** | |
| Adair | $1.04 |
| Adams | 1.05 |
| Allamakee | 1.03 |
| Appanoose | 1.05 |
| Audubon | 1.04 |
| Benton | 1.04 |
| Black Hawk | 1.02 |
| Boone | 1.02 |
| Bremer | 1.02 |
| Buchanan | 1.03 |
| Buena Vista | 1.01 |
| Butler | 1.01 |
| Calhoun | 1.02 |
| Carroll | 1.03 |
| Cass | 1.04 |
| Cedar | 1.06 |
| Cerro Gordo | 1.00 |
| Cherokee | 1.02 |
| Chickasaw | 1.01 |
| Clarke | 1.04 |
| Clay | 1.01 |
| Clayton | 1.04 |
| Clinton | 1.06 |
| Crawford | 1.03 |
| Dallas | $1.03 |
| Davis | 1.05 |
| Decatur | 1.05 |
| Delaware | 1.04 |
| Des Moines | 1.06 |
| Dickinson | 1.00 |
| Dubuque | 1.05 |
| Emmet | 1.00 |
| Fayette | 1.03 |
| Floyd | 1.00 |
| Franklin | 1.00 |
| Fremont | 1.05 |
| Greene | 1.03 |
| Grundy | 1.02 |
| Guthrie | 1.04 |
| Hamilton | 1.01 |
| Hancock | 1.00 |
| Hardin | 1.02 |
| Harrison | 1.05 |
| Henry | 1.06 |
| Howard | 1.01 |
| Humboldt | 1.00 |
| Ida | 1.02 |
| Iowa | 1.04 |





| County | Rate per bushel |
|---|---|
| **IOWA—Continued** | |
| Jackson | $1.06 |
| Jasper | 1.03 |
| Jefferson | 1.05 |
| Johnson | 1.05 |
| Jones | 1.05 |
| Keokuk | 1.04 |
| Kossuth | 1.00 |
| Lee | 1.06 |
| Linn | 1.04 |
| Louisa | 1.06 |
| Lucas | 1.04 |
| Lyon | 1.01 |
| Madison | 1.03 |
| Mahaska | 1.03 |
| Marion | 1.03 |
| Marshall | 1.02 |
| Mills | 1.03 |
| Mitchell | 1.00 |
| Monona | 1.04 |
| Monroe | 1.04 |
| Montgomery | 1.05 |
| Muscatine | 1.06 |
| O'Brien | 1.01 |
| Osceola | 1.00 |
| Page | 1.05 |
| Palo Alto | 1.00 |
| Plymouth | $1.03 |
| Pocahontas | 1.01 |
| Polk | 1.03 |
| Pottawattamie | 1.05 |
| Poweshiek | 1.03 |
| Ringgold | 1.05 |
| Sac | 1.02 |
| Scott | 1.06 |
| Shelby | 1.04 |
| Sioux | 1.02 |
| Story | 1.02 |
| Tama | 1.03 |
| Taylor | 1.05 |
| Union | 1.04 |
| Van Buren | 1.05 |
| Wapello | 1.04 |
| Warren | 1.03 |
| Washington | 1.05 |
| Wayne | 1.05 |
| Webster | 1.01 |
| Winnebago | 1.00 |
| Winneshiek | 1.02 |
| Woodbury | 1.03 |
| Worth | 1.00 |
| Wright | 1.00 |
| **KANSAS** | |
| Allen | $1.13 |
| Anderson | 1.12 |
| Atchison | 1.09 |
| Barber | 1.12 |
| Barton | 1.09 |
| Bourbon | 1.13 |
| Brown | 1.07 |
| Butler | 1.12 |
| Chase | 1.10 |
| Chautauqua | 1.15 |
| Cherokee | 1.15 |
| Cheyenne | 1.07 |
| Clark | 1.09 |
| Clay | 1.06 |
| Cloud | 1.06 |
| Coffey | 1.12 |
| Comanche | 1.10 |
| Cowley | 1.14 |
| Crawford | 1.15 |
| Decatur | 1.06 |
| Dickinson | 1.08 |
| Doniphan | 1.08 |
| Douglas | 1.10 |
| Edwards | 1.09 |
| Elk | 1.14 |
| Ellis | 1.14 |
| Ellsworth | 1.09 |
| Finney | 1.08 |
| Ford | 1.08 |
| Franklin | 1.11 |
| Geary | 1.08 |
| Gove | 1.07 |
| Graham | 1.06 |
| Grant | 1.08 |
| Gray | 1.08 |
| Greeley | 1.08 |
| Greenwood | 1.12 |
| Hamilton | 1.08 |
| Harper | 1.13 |
| Harvey | 1.11 |
| Haskell | 1.08 |
| Hodgeman | 1.08 |
| Jackson | 1.08 |
| Jefferson | 1.09 |
| Jewell | 1.05 |
| Johnson | 1.11 |
| Kearny | 1.08 |
| Kingham | 1.12 |
| Kiowa | 1.10 |
| Labette | 1.15 |
| Lane | 1.08 |
| Leavenworth | 1.10 |
| Lincoln | 1.08 |
| Linn | $1.13 |
| Logan | 1.07 |
| Lyon | 1.10 |
| McPherson | 1.09 |
| Marion | 1.09 |
| Marshall | 1.06 |
| Meade | 1.09 |
| Miami | 1.12 |
| Mitchell | 1.07 |
| Montgomery | 1.15 |
| Morris | 1.09 |
| Morton | 1.09 |
| Nemaha | 1.07 |
| Neosho | 1.14 |
| Ness | 1.08 |
| Norton | 1.05 |
| Osage | 1.10 |
| Osborne | 1.07 |
| Otawa | 1.07 |
| Pawnee | 1.09 |
| Phillips | 1.05 |
| Pottawatomie | 1.07 |
| Pratt | 1.11 |
| Rawlins | 1.07 |
| Reno | 1.11 |
| Republic | 1.05 |
| Rice | 1.10 |
| Riley | 1.06 |
| Rooks | 1.06 |
| Rush | 1.08 |
| Russel | 1.08 |
| Saline | 1.08 |
| Scott | 1.08 |
| Sedgwick | 1.12 |
| Seward | 1.09 |
| Shawnee | 1.09 |
| Sheridan | 1.06 |
| Sherman | 1.08 |
| Smith | 1.05 |
| Stafford | 1.11 |
| Stanton | 1.08 |
| Stevens | 1.09 |
| Sumner | 1.13 |
| Thomas | 1.08 |
| Trego | 1.07 |
| Wabaunsee | 1.09 |
| Wallace | 1.07 |
| Washington | 1.06 |
| Wichita | 1.08 |
| Wilson | 1.14 |
| Woodson | 1.13 |
| Wyandotte | 1.10 |
| **KENTUCKY** | |
| Adair | $1.18 |
| Allen | 1.18 |
| Anderson | 1.17 |
| Ballard | 1.14 |
| Barren | 1.17 |
| Bath | 1.19 |
| Bell | 1.21 |
| Boone | 1.13 |
| Bourbon | 1.18 |
| Boyd | 1.17 |
| Boyle | 1.18 |
| Bracken | 1.15 |
| Breathitt | 1.21 |
| Breckinridge | 1.14 |
| Bullitt | 1.15 |
| Butler | 1.16 |
| Caldwell | 1.16 |
| Calloway | 1.15 |
| Campbell | 1.13 |
| Carlisle | 1.14 |
| Carroll | 1.14 |
| Carter | 1.18 |
| Casey | 1.18 |
| Christian | 1.17 |
| Clark | 1.19 |
| Clay | 1.20 |
| Clinton | 1.19 |
| Crittenden | 1.14 |
| Cumberland | 1.18 |
| Daviess | 1.14 |
| Edmonson | 1.16 |
| Elliott | 1.19 |
| Estill | 1.19 |
| Fayette | 1.18 |
| Fleming | 1.17 |
| Floyd | 1.21 |
| Franklin | 1.16 |
| Fulton | 1.14 |
| Gallatin | 1.14 |
| Garrard | 1.19 |
| Grant | 1.15 |
| Graves | 1.14 |
| Grayson | 1.15 |
| Green | 1.18 |
| Greenup | 1.16 |
| Hancock | 1.14 |
| Hardin | 1.15 |
| Harlan | 1.21 |
| Harrison | 1.17 |
| Hart | 1.17 |
| Henderson | 1.14 |
| Henry | 1.15 |
| Hickman | 1.14 |
| Hopkins | 1.16 |
| Jackson | 1.20 |
| Jefferson | 1.14 |
| Jessamine | 1.19 |
| Johnson | 1.20 |
| Kenton | 1.13 |
| Knott | 1.21 |
| Knox | $1.20 |
| Larue | 1.16 |
| Laurel | 1.20 |
| Lawrence | 1.19 |
| Lee | 1.20 |
| Leslie | 1.21 |
| Letcher | 1.21 |
| Lewis | 1.15 |
| Lincoln | 1.19 |
| Livingston | 1.14 |
| Logan | 1.17 |
| Lyon | 1.16 |
| McCracken | 1.14 |
| McCreary | 1.19 |
| McLean | 1.15 |
| Madison | 1.19 |
| Magoffin | 1.21 |
| Marion | 1.17 |
| Marshall | 1.15 |
| Martin | 1.20 |
| Mason | 1.15 |
| Meade | 1.14 |
| Menifee | 1.19 |
| Mercer | 1.18 |
| Metcalfe | 1.18 |
| Monroe | 1.18 |
| Montgomery | 1.19 |
| Morgan | 1.20 |
| Muhlenburg | 1.16 |
| Nelson | 1.16 |
| Nicholas | 1.18 |
| Ohio | 1.15 |
| Oldham | 1.14 |
| Owen | 1.15 |
| Owsley | 1.20 |
| Pendleton | 1.15 |
| Perry | 1.21 |
| Pike | 1.21 |
| Powell | 1.19 |
| Pulaski | 1.19 |
| Robertson | 1.17 |
| Rockcastle | 1.19 |
| Rowan | 1.19 |
| Russell | 1.19 |
| Scott | 1.17 |
| Shelby | 1.15 |
| Simpson | 1.18 |
| Spencer | 1.15 |
| Taylor | 1.17 |
| Todd | 1.17 |
| Trigg | 1.17 |
| Trimble | 1.14 |
| Union | 1.14 |
| Warren | 1.17 |
| Washington | 1.19 |
| Wayne | 1.15 |
| Webster | 1.16 |
| Whitley | 1.20 |
| Wolfe | 1.20 |
| Woodford | 1.18 |
| **LOUISIANA** | |
| All parishes | $1.19 |
| **MAINE** | |
| All counties | $1.29 |
| **MARYLAND** | |
| All counties | $1.23 |
| **MASSACHUSETTS** | |
| All counties | $1.29 |
| **MICHIGAN** | |
| Allegan | $1.09 |
| Arenac | 1.11 |
| Barry | 1.08 |
| Bay | 1.10 |
| Berrien | 1.09 |
| Branch | 1.08 |
| Calhoun | 1.08 |
| Cass | 1.09 |
| Clare | 1.10 |
| Clinton | $1.09 |
| Eaton | 1.09 |
| Genesee | 1.10 |
| Gladwin | 1.10 |
| Gratiot | 1.09 |
| Hillsdale | 1.08 |
| Huron | 1.10 |
| Ingham | 1.09 |
| Ionia | 1.09 |
| Iosco | $1.11 |
| Isabella | 1.09 |
| Jackson | 1.09 |
| Kalamazoo | 1.09 |
| Kent | 1.09 |
| Lake | 1.11 |
| Lapeer | 1.10 |
| Lenawee | 1.09 |
| Livingston | 1.10 |
| Macomb | 1.10 |
| Manistee | 1.11 |
| Mason | 1.11 |
| Mecosta | 1.10 |
| Midland | 1.09 |
| Missaukee | 1.11 |
| Monroe | 1.10 |
| Montcalm | 1.09 |
| Muskegon | 1.11 |
| Newaygo | 1.10 |
| Oakland | $1.10 |
| Oceana | 1.11 |
| Ogemaw | 1.11 |
| Osceola | 1.10 |
| Ottawa | 1.11 |
| Roscommon | 1.11 |
| Saginaw | 1.09 |
| St. Clair | 1.10 |
| St. Joseph | 1.08 |
| Sanilac | 1.10 |
| Shiawassee | 1.09 |
| Tuscola | 1.09 |
| Van Buren | 1.09 |
| Washtenaw | 1.10 |
| Wayne | 1.10 |
| Wexford | 1.11 |
| All other counties | 1.12 |
| **MINNESOTA** | |
| Aitkin | $1.03 |
| Anoka | 1.03 |
| Becker | 1.01 |
| Beltrami | 1.00 |
| Benton | 1.02 |
| Big Stone | .98 |
| Blue Earth | .99 |
| Brown | .99 |
| Carlton | 1.03 |
| Carver | 1.02 |
| Cass | 1.01 |
| Chippewa | .99 |
| Chisago | 1.03 |
| Clay | 1.00 |
| Clearwater | 1.00 |
| Cook | 1.03 |
| Cottonwood | .98 |
| Crow Wing | 1.02 |
| Dakota | 1.04 |
| Dodge | 1.01 |
| Douglas | 1.02 |
| Faribault | .98 |
| Fillmore | 1.02 |
| Freeborn | .99 |
| Goodhue | 1.04 |
| Grant | 1.01 |
| Hennepin | 1.03 |
| Houston | 1.04 |
| Hubbard | 1.01 |
| Isanti | 1.03 |
| Itasca | 1.03 |
| Jackson | .98 |
| Kanabec | 1.03 |
| Kandiyohi | 1.00 |
| Kittson | 1.00 |
| Koochiching | 1.03 |
| Lac Qui Parle | .98 |
| Lake | 1.03 |
| Lake of the Woods | 1.00 |
| Le Sueur | 1.01 |
| Lincoln | .97 |
| Lyon | .98 |
| McLeod | 1.01 |
| Mahnomen | 1.00 |
| Marshall | $1.00 |
| Martin | .98 |
| Meeker | 1.01 |
| Mille Lacs | 1.03 |
| Morrison | 1.02 |
| Mower | 1.01 |
| Murray | .98 |
| Nicollet | 1.00 |
| Nobles | .98 |
| Norman | 1.00 |
| Olmsted | 1.02 |
| Otter Tail | 1.01 |
| Pennington | 1.00 |
| Pine | 1.03 |
| Pipestone | .98 |
| Polk | 1.00 |
| Pope | 1.01 |
| Ramsey | 1.03 |
| Red Lake | 1.00 |
| Redwood | .99 |
| Renville | 1.00 |
| Rice | 1.02 |
| Rock | .99 |
| Roseau | 1.00 |
| St. Louis | 1.03 |
| Scott | 1.02 |
| Sherburne | 1.02 |
| Sibley | 1.01 |
| Stearns | 1.02 |
| Steele | 1.00 |
| Stevens | 1.00 |
| Swift | 1.00 |
| Todd | 1.02 |
| Traverse | .99 |
| Wabasha | 1.04 |
| Wadena | 1.02 |
| Waseca | .99 |
| Washington | 1.03 |
| Watonwan | .98 |
| Wilkin | 1.00 |
| Winona | 1.04 |
| Wright | 1.02 |
| Yellow Medicine | .98 |
| **MISSISSIPPI** | |
| All counties | $1.19 |
| **MISSOURI** | |
| Adair | $1.06 |
| Andrew | 1.08 |
| Atchison | 1.07 |
| Audrain | 1.10 |
| Barry | 1.16 |
| Barton | 1.14 |
| Bates | 1.12 |
| Benton | 1.12 |
| Bollinger | 1.14 |
| Boone | 1.11 |
| Buchanan | 1.10 |
| Butler | $1.14 |
| Caldwell | 1.09 |
| Callaway | 1.11 |
| Camden | 1.13 |
| Cape Girardeau | 1.13 |
| Carroll | 1.08 |
| Carter | 1.15 |
| Cass | 1.11 |
| Cedar | 1.14 |
| Chariton | 1.08 |



V 38-171
SEP 5 73
XUM

MISSOURI—Continued

| County | Rate per bushel | County | Rate per bushel |
|---|---|---|---|
| Christian | $1.16 | Monroe | $1.09 |
| Clark | 1.07 | Montgomery | 1.11 |
| Clay | 1.11 | Morgan | 1.12 |
| Clinton | 1.11 | New Madrid | 1.14 |
| Cole | 1.12 | Newton | 1.16 |
| Cooper | 1.11 | Nodaway | 1.07 |
| Crawford | 1.14 | Oregon | 1.16 |
| Dade | 1.14 | Osage | 1.12 |
| Dallas | 1.15 | Ozark | 1.16 |
| Daviess | 1.08 | Pemiscot | 1.14 |
| De Kalb | 1.09 | Perry | 1.13 |
| Dent | 1.15 | Pettis | 1.11 |
| Douglas | 1.16 | Phelps | 1.15 |
| Dunklin | 1.14 | Pike | 1.09 |
| Franklin | 1.12 | Platte | 1.11 |
| Gasconade | 1.12 | Polk | 1.15 |
| Gentry | 1.07 | Pulaski | 1.15 |
| Greene | 1.15 | Putnam | 1.05 |
| Grundy | 1.06 | Ralls | 1.09 |
| Harrison | 1.05 | Randolph | 1.08 |
| Henry | 1.12 | Ray | 1.10 |
| Hickory | 1.13 | Reynolds | 1.15 |
| Holt | 1.08 | Ripley | 1.15 |
| Howard | 1.10 | St. Charles | 1.11 |
| Howell | 1.16 | St. Clair | 1.13 |
| Iron | 1.14 | St. Francois | 1.13 |
| Jackson | 1.11 | Ste. Genevieve | 1.12 |
| Jasper | 1.15 | St. Louis | 1.12 |
| Jefferson | 1.12 | Saline | 1.10 |
| Johnson | 1.11 | Schuyler | 1.05 |
| Knox | 1.08 | Scotland | 1.06 |
| Laclede | 1.15 | Scott | 1.14 |
| Lafayette | 1.10 | Shannon | 1.15 |
| Lawrence | 1.15 | Shelby | 1.09 |
| Lewis | 1.08 | Stoddard | 1.14 |
| Lincoln | 1.10 | Stone | 1.16 |
| Linn | 1.07 | Sullivan | 1.06 |
| Livingston | 1.07 | Taney | 1.16 |
| McDonald | 1.16 | Texas | 1.15 |
| Macon | 1.08 | Vernon | 1.13 |
| Madison | 1.14 | Warren | 1.11 |
| Maries | 1.13 | Washington | 1.13 |
| Marion | 1.08 | Wayne | 1.14 |
| Mercer | 1.05 | Webster | 1.15 |
| Miller | 1.13 | Worth | 1.06 |
| Mississippi | 1.14 | Wright | 1.15 |
| Moniteau | 1.12 | | |

MONTANA

| | |
|---|---|
| All counties | $1.14 |

NEBRASKA

| County | Rate per bushel | County | Rate per bushel |
|---|---|---|---|
| Adams | $1.04 | Furnas | $1.05 |
| Antelope | 1.04 | Gage | 1.05 |
| Arthur | 1.07 | Garden | 1.08 |
| Banner | 1.10 | Garfield | 1.05 |
| Blaine | 1.05 | Gosper | 1.05 |
| Boone | 1.05 | Grant | 1.07 |
| Box Butte | 1.09 | Greeley | 1.04 |
| Boyd | 1.02 | Hall | 1.04 |
| Brown | 1.04 | Hamilton | 1.04 |
| Buffalo | 1.04 | Harlan | 1.04 |
| Burt | 1.06 | Hayes | 1.07 |
| Butler | 1.05 | Hitchcock | 1.07 |
| Cass | 1.05 | Holt | 1.03 |
| Cedar | 1.04 | Hooker | 1.06 |
| Chase | 1.07 | Howard | 1.04 |
| Cherry | 1.08 | Jefferson | 1.05 |
| Cheyenne | 1.09 | Johnson | 1.05 |
| Clay | 1.04 | Kearney | 1.04 |
| Colfax | 1.05 | Keith | 1.08 |
| Cuming | 1.05 | Keyapaha | 1.04 |
| Custer | 1.05 | Kimball | 1.10 |
| Dakota | 1.04 | Knox | 1.03 |
| Dawes | 1.09 | Lancaster | 1.04 |
| Dawson | 1.04 | Lincoln | 1.06 |
| Deuel | 1.09 | Logan | 1.06 |
| Dixon | 1.04 | Loup | 1.05 |
| Dodge | 1.05 | McPherson | 1.06 |
| Douglas | 1.06 | Madison | 1.05 |
| Dundy | 1.07 | Merrick | 1.05 |
| Fillmore | 1.04 | Morrill | 1.10 |
| Franklin | 1.04 | Nance | 1.05 |
| Frontier | 1.05 | Nemaha | 1.05 |

NEBRASKA—Continued

| County | Rate per bushel | County | Rate per bushel |
|---|---|---|---|
| Nuckolls | $1.04 | Seward | $1.04 |
| Otoe | 1.05 | Sheridan | 1.08 |
| Pawnee | 1.06 | Sherman | 1.04 |
| Perkins | 1.07 | Sioux | 1.10 |
| Phelps | 1.04 | Stanton | 1.05 |
| Pierce | 1.04 | Thayer | 1.04 |
| Platte | 1.05 | Thomas | 1.06 |
| Polk | 1.05 | Thurston | 1.05 |
| Red Willow | 1.06 | Valley | 1.04 |
| Richardson | 1.06 | Washington | 1.06 |
| Rock | 1.04 | Wayne | 1.04 |
| Saline | 1.04 | Webster | 1.04 |
| Sarpy | 1.05 | Wheeler | 1.05 |
| Saunders | 1.05 | York | 1.04 |
| Scotts Bluff | 1.10 | | |

NEVADA

| | |
|---|---|
| All Counties | $1.27 |

NEW HAMPSHIRE

| | |
|---|---|
| All Counties | $1.29 |

NEW JERSEY

| | |
|---|---|
| All Counties | $1.25 |

NEW MEXICO

| County | Rate per bushel | County | Rate per bushel |
|---|---|---|---|
| Curry | $1.18 | Roosevelt | $1.18 |
| Harding | 1.18 | Union | 1.18 |
| Lea | 1.18 | All other counties | 1.23 |
| Quay | 1.18 | | |

NEW YORK

| | |
|---|---|
| All Counties | $1.24 |

NORTH CAROLINA

| | |
|---|---|
| All Counties | $1.22 |

NORTH DAKOTA

| | |
|---|---|
| All Counties | $.98 |

OHIO

| County | Rate per bushel | County | Rate per bushel |
|---|---|---|---|
| Adams | $1.13 | Licking | $1.11 |
| Allen | 1.09 | Logan | 1.09 |
| Ashland | 1.13 | Lorain | 1.13 |
| Ashtabula | 1.20 | Lucas | 1.11 |
| Athens | 1.16 | Madison | 1.09 |
| Auglaize | 1.09 | Mahoning | 1.20 |
| Belmont | 1.18 | Marion | 1.09 |
| Brown | 1.13 | Medina | 1.15 |
| Butler | 1.10 | Meigs | 1.15 |
| Carroll | 1.17 | Mercer | 1.08 |
| Champaign | 1.09 | Miami | 1.09 |
| Clark | 1.09 | Monroe | 1.19 |
| Clermont | 1.12 | Montgomery | 1.09 |
| Clinton | 1.11 | Morgan | 1.16 |
| Columbiana | 1.20 | Morrow | 1.10 |
| Coshocton | 1.14 | Muskingum | 1.14 |
| Crawford | 1.10 | Noble | 1.17 |
| Cuyahoga | 1.16 | Ottawa | 1.11 |
| Darke | 1.08 | Paulding | 1.08 |
| Defiance | 1.08 | Perry | 1.14 |
| Delaware | 1.09 | Pickaway | 1.10 |
| Erie | 1.12 | Pike | 1.12 |
| Fairfield | 1.12 | Portage | 1.18 |
| Fayette | 1.10 | Preble | 1.09 |
| Franklin | 1.09 | Putnam | 1.09 |
| Fulton | 1.10 | Richland | 1.11 |
| Gallia | 1.14 | Ross | 1.11 |
| Geauga | 1.18 | Sandusky | 1.11 |
| Greene | 1.09 | Scioto | 1.13 |
| Guernsey | 1.16 | Seneca | 1.10 |
| Hamilton | 1.11 | Shelby | 1.09 |
| Hancock | 1.10 | Stark | 1.17 |
| Hardin | 1.09 | Summit | 1.16 |
| Harrison | 1.18 | Trumbull | 1.20 |
| Henry | 1.09 | Tuscarawas | 1.16 |
| Highland | 1.11 | Union | 1.09 |
| Hocking | 1.13 | Van Wert | 1.08 |
| Holmes | 1.14 | Vinton | 1.13 |
| Huron | 1.12 | Warren | 1.11 |
| Jackson | 1.13 | Washington | 1.18 |
| Jefferson | 1.19 | Wayne | 1.15 |
| Knox | 1.11 | Williams | 1.09 |
| Lake | 1.18 | Wood | 1.10 |
| Lawrence | 1.14 | Wyandot | 1.10 |

OKLAHOMA

| County | Rate per bushel | County | Rate per bushel |
|---|---|---|---|
| Beaver | $1.12 | Harper | $1.13 |
| Beckham | 1.15 | Roger Mills | 1.15 |
| Cimmarron | 1.12 | Texas | 1.12 |
| Ellis | 1.15 | All other counties | 1.17 |
| Harmon | 1.15 | | |

OREGON

| | |
|---|---|
| All counties | $1.24 |

PENNSYLVANIA

| | |
|---|---|
| All counties | $1.29 |

RHODE ISLAND

| | |
|---|---|
| All counties | $1.22 |

SOUTH CAROLINA

SOUTH DAKOTA

| County | Rate per bushel | County | Rate per bushel |
|---|---|---|---|
| Aurora | $0.98 | Jackson | $1.03 |
| Beadle | .97 | Jerauld | .97 |
| Bennett | 1.04 | Jones | 1.02 |
| Bon Homme | 1.00 | Kingsbury | .97 |
| Brookings | .97 | Lake | .98 |
| Brown | .97 | Lawrence | 1.04 |
| Brule | .98 | Lincoln | 1.01 |
| Buffalo | .98 | Lyman | 1.00 |
| Butte | 1.04 | McCook | .99 |
| Campbell | 1.00 | McPherson | .99 |
| Charles Mix | .99 | Marshall | .97 |
| Clark | .97 | Meade | 1.03 |
| Clay | 1.02 | Mellette | 1.02 |
| Codington | .97 | Miner | .98 |
| Corson | 1.02 | Minnehaha | .99 |
| Custer | 1.07 | Moody | .98 |
| Davison | .98 | Pennington | 1.04 |
| Day | .97 | Perkins | 1.03 |
| Deul | .97 | Potter | 1.01 |
| Dewey | 1.02 | Roberts | .97 |
| Douglas | .99 | Sanborn | .98 |
| Edmunds | .99 | Shannon | 1.06 |
| Fall River | 1.08 | Spink | .97 |
| Faulk | .99 | Stanley | 1.02 |
| Grant | .97 | Sully | 1.00 |
| Gregory | .99 | Todd | 1.02 |
| Haakon | 1.02 | Tripp | 1.00 |
| Hamlin | .97 | Turner | 1.01 |
| Hand | .98 | Union | 1.02 |
| Hanson | .98 | Walworth | 1.01 |
| Harding | 1.04 | Washabaugh | 1.03 |
| Hughes | 1.00 | Yankton | 1.01 |
| Hutchinson | 1.00 | Ziebach | 1.03 |
| Hyde | .99 | | |

TENNESSEE

| County | Rate per bushel | County | Rate per bushel |
|---|---|---|---|
| Anderson | $1.22 | Hamilton | $1.20 |
| Bedford | 1.19 | Hancock | 1.23 |
| Benton | 1.18 | Hardeman | 1.17 |
| Biedsoe | 1.20 | Hardin | 1.18 |
| Blount | 1.23 | Hawkins | 1.23 |
| Bradley | 1.21 | Haywood | 1.17 |
| Campbell | 1.22 | Henderson | 1.17 |
| Cannon | 1.20 | Henry | 1.17 |
| Carroll | 1.17 | Hickman | 1.18 |
| Carter | 1.23 | Houston | 1.18 |
| Cheatham | 1.18 | Humphreys | 1.18 |
| Chester | 1.17 | Jackson | 1.20 |
| Claiborne | 1.22 | Jefferson | 1.23 |
| Clay | 1.20 | Johnson | 1.23 |
| Cocke | 1.23 | Knox | 1.22 |
| Coffee | 1.19 | Lake | 1.16 |
| Crockett | 1.17 | Lauderdale | 1.16 |
| Cumberland | 1.21 | Lawrence | 1.18 |
| Davidson | 1.19 | Lewis | 1.18 |
| Decatur | 1.18 | Lincoln | 1.18 |
| DeKalb | 1.20 | Loudon | 1.22 |
| Dickson | 1.18 | McMinn | 1.21 |
| Dyer | 1.16 | McNairy | 1.18 |
| Fayette | 1.17 | Macon | 1.19 |
| Fentress | 1.21 | Madison | 1.17 |
| Franklin | 1.18 | Marion | 1.19 |
| Gibson | 1.16 | Marshall | 1.20 |
| Giles | 1.18 | Maury | 1.18 |
| Grainger | 1.23 | Meigs | 1.21 |
| Greene | 1.23 | Monroe | 1.22 |
| Grundy | 1.20 | Montgomery | 1.18 |
| Hamblen | 1.23 | Moore | 1.20 |





TENNESSEE—Continued

| County | Rate per bushel | County | Rate per bushel |
|---|---|---|---|
| Morgan | $1.21 | Steward | $1.18 |
| Obion | 1.16 | Sullivan | 1.23 |
| Overton | 1.20 | Sumner | 1.19 |
| Perry | 1.18 | Tipton | 1.16 |
| Pickett | 1.20 | Trousdale | 1.19 |
| Polk | 1.21 | Unicoi | 1.23 |
| Putnam | 1.20 | Union | 1.22 |
| Rhea | 1.21 | Van Buren | 1.20 |
| Roane | 1.22 | Warren | 1.20 |
| Robertson | 1.18 | Washington | 1.23 |
| Rutherford | 1.19 | Wayne | 1.18 |
| Scott | 1.21 | Weakley | 1.16 |
| Sequatchie | 1.20 | White | 1.20 |
| Sevier | 1.23 | Williamson | 1.19 |
| Shelby | 1.16 | Wilson | 1.19 |
| Smith | 1.19 | | |

TEXAS

| County | Rate per bushel | County | Rate per bushel |
|---|---|---|---|
| Armstrong | $1.14 | Hemphill | $1.14 |
| Bailey | 1.14 | Hockley | 1.16 |
| Briscoe | 1.14 | Hutchinson | 1.14 |
| Carson | 1.14 | King | 1.16 |
| Castro | 1.14 | Lamb | 1.14 |
| Childress | 1.15 | Lipscomb | 1.14 |
| Cochran | 1.16 | Lubbock | 1.16 |
| Collingsworth | 1.15 | Moore | 1.14 |
| Cottle | 1.16 | Motley | 1.16 |
| Crosby | 1.16 | Ochiltree | 1.14 |
| Dallam | 1.14 | Oldham | 1.14 |
| Deaf Smith | 1.14 | Parmer | 1.14 |
| Dickens | 1.16 | Potter | 1.14 |
| Donley | 1.15 | Randall | 1.14 |
| Floyd | 1.14 | Roberts | 1.14 |
| Gray | 1.14 | Sherman | 1.14 |
| Hale | 1.14 | Swisher | 1.14 |
| Hall | 1.15 | Wheeler | 1.15 |
| Hansford | 1.14 | All other counties | 1.19 |
| Hartley | 1.14 | | |

UTAH

| | |
|---|---|
| All Counties | $1.26 |

VERMONT

| | |
|---|---|
| All Counties | $1.29 |

VIRGINIA

| | |
|---|---|
| All Counties | $1.23 |

WASHINGTON

| | |
|---|---|
| All Counties | $1.21 |

WEST VIRGINIA

| | |
|---|---|
| All Counties | $1.22 |

WISCONSIN

| County | Rate per bushel | County | Rate per bushel |
|---|---|---|---|
| Adams | $1.09 | Juneau | $1.09 |
| Ashland | 1.09 | Kenosha | 1.11 |
| Barron | 1.07 | Kewaunee | 1.12 |
| Bayfield | 1.06 | La Crosse | 1.06 |
| Brown | 1.11 | Lafayette | 1.07 |
| Buffalo | 1.06 | Langlade | 1.11 |
| Burnett | 1.05 | Lincoln | 1.10 |
| Calumet | 1.11 | Manitowoc | 1.12 |
| Chippewa | 1.07 | Marathon | 1.10 |
| Clark | 1.09 | Marinette | 1.11 |
| Columbia | 1.09 | Marquette | 1.10 |
| Crawford | 1.05 | Menominee | 1.11 |
| Dane | 1.09 | Milwaukee | 1.11 |
| Dodge | 1.10 | Monroe | 1.07 |
| Door | 1.12 | Oconto | 1.11 |
| Douglas | 1.03 | Oneida | 1.11 |
| Dunn | 1.07 | Outagamie | 1.10 |
| Eau Claire | 1.07 | Ozaukee | 1.11 |
| Florence | 1.11 | Pepin | 1.06 |
| Fond du Lac | 1.10 | Pierce | 1.06 |
| Forest | 1.11 | Polk | 1.05 |
| Grant | 1.05 | Portage | 1.10 |
| Green | 1.08 | Price | 1.09 |
| Green Lake | 1.10 | Racine | 1.11 |
| Iowa | 1.08 | Richland | 1.07 |
| Iron | 1.10 | Rock | 1.09 |
| Jackson | 1.07 | Rusk | 1.08 |
| Jefferson | 1.10 | St. Croix | 1.06 |

WISCONSIN—Continued

| County | Rate per bushel | County | Rate per bushel |
|---|---|---|---|
| Sauk | 1.08 | Walworth | 1.10 |
| Sawyer | 1.08 | Washburn | 1.07 |
| Shawano | 1.11 | Washington | 1.10 |
| Sheboygan | 1.11 | Waukesha | 1.10 |
| Taylor | 1.09 | Waupaca | 1.11 |
| Trempealeau | 1.06 | Waushara | 1.10 |
| Vernon | 1.05 | Winnebago | 1.11 |
| Vilas | 1.11 | Wood | 1.09 |

WYOMING

| | |
|---|---|
| All Counties | $1.14 |

(b) *Premiums—(1) Moisture.*

| Cents per bushel | |
|---|---|
| 14.0 or less | +1½ |
| 14.1 through 14.5 | +1 |
| 14.6 through 15.0 | +½ |
| 15.0 through 15.5 | 0 |

(2) *Broken corn and foreign material:*

| Cents per bushel | |
|---|---|
| Percent: 2.0 or less | +1 |

(The premiums in this subsection (b) shall not apply to sample grade corn.)

(c) *Discounts—(1) Class.*

| Cents per bushel | |
|---|---|
| Mixed | −2 |

(2) *Test weight per bushel.*

| Cents per bushel | |
|---|---|
| Pounds: | |
| 53.0 through 53.9 | −1 |
| 52.0 through 52.9 | −2 |
| 51.0 through 51.9 | −3 |
| 50.0 through 50.9 | −4 |
| 49.0 through 49.9 | −5 |

(3) *Total damage.*

| Cents per bushel | |
|---|---|
| Percent: | |
| 5.1 through 6.0 | −½ |
| 6.1 through 7.0 | −1 |

(4) *Heat damage.*

| Cents per bushel | |
|---|---|
| 0.21 through 0.50 percent | −½ |

(5) *Broken corn and foreign material.*

| Cents per bushel | |
|---|---|
| 3.1 through 4.0 percent | −1 |

(6) *Weed control laws.*

| Cents per bushel | |
|---|---|
| (Where required by § 1421.25) | −10 |

(7) *Other.*—Amounts determined by CCC to represent market discounts for quality factors not specified above which affect the value of the corn such as (but not limited to) moisture, weevily, musty, sour, and rodent excreta. Such discounts will be established not later than the time delivery of corn to CCC begins and will thereafter be adjusted from time to time as CCC determines appropriate to reflect changes in market conditions. Producers may obtain schedules of such factors and discounts at county ASCS offices approximately 1 month prior to the loan maturity date.

Effective date September 4, 1973.

Signed at Washington, D.C., August 24, 1973.

GLENN A. WEIR,
*Acting Executive Vice President, Commodity Credit Corporation.*

[FR Doc.73–18516 Filed 8–4–73;8:45 am]

[Amdt. 1]

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

## PART 1430—DAIRY PRODUCTS

### Price Support Program for Milk

The United States Department of Agriculture has announced an increase, effective August 10, 1973, in the price support level for manufacturing milk for the remainder of the marketing year which ends March 31, 1974 through purchases by Commodity Credit Corporation (CCC) of dairy products under the price support program as provided herein. Accordingly § 1430.282 (a)(1) and (b)(1), as published in the FEDERAL REGISTER on March 27, 1973 (38 FR 7982), are revised to read as follows:

**§ 1430.282 Price support program for milk.**

(a)(1) The general levels of prices to producers for milk will be supported from March 15, 1973 through August 9, 1973, at $5.29 per hundredweight, and from August 10, 1973 through March 31, 1974, at $5.61 per hundredweight for manufacturing milk.

(b)(1) CCC will consider offers of butter, Cheddar cheese, and nonfat dry milk in bulk containers meeting specifications in the announcements at the following prices:

| Commodity and location | Produced March 15–August 9, 1973 (Cents per pound) | Produced on or after August 10, 1973 (Cents per pound) |
|---|---|---|
| Butter: *U.S. Grade A or Higher:* New York, N.Y., and Jersey City, Newark and Secaucus, New Jersey; Seattle, Wash., Washington, San Francisco, Calif., California, Alaska, Hawaii, Oregon, Arizona, New Mexico, Texas, Louisiana, Mississippi, Alabama, Georgia, Florida, and South Carolina | 62.00 | 62.00 |
| U.S. Grade B: 2 cents per pound less than the price for U.S. Grade A. | | |
| Cheddar cheese: (Standard moisture basis, 37.8–39.0%)[1] | 62.00 | 65.00 |
| Nonfat dry milk, spray process: 50-pound bags with sealed closures[2] | 37.50 | 41.40 |

[1] For cheese which is offered on a "dry" basis (less than 37.8 percent moisture) the price per pound shall be as indicated in Form ASCS–150.

[2] If upon inspection Type II bags with stitched bottom and top closures do not fully comply with specifications for such closures, the price paid will be subject to a discount of .25 cent (¼ cent) per pound of nonfat dry milk.

*Effective date.*—September 5, 1973.

Signed at Washington, D.C., August 27, 1973.

GLENN A. WEIR,
*Acting Executive Vice President, Commodity Credit Corporation.*

[FR Doc.73–18710 Filed 9–4–73;8:45 am]



V 38-171
SEP 5 73
XUM

## Title 9—Animals and Animal Products

### CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS; EXTRAORDINARY EMERGENCY REGULATION OF INTRASTATE ACTIVITIES

### PART 82—EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS OR ORNITHOSIS IN POULTRY

#### Area Released From Quarantine

This amendment excludes a portion of San Bernardino County in California from the areas quarantined because of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will not apply to the excluded area.

Pursuant to the provisions of sections 1, 2, 3, and 4 of the Act of March 3, 1905, as amended, sections 1 and 2 of the Act of February 2, 1903, as amended, sections 4, 5, 6, and 7 of the Act of May 29, 1884, as amended, and sections 3 and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 112, 113, 115, 117, 120, 123, 124, 125, 126, 134b, 134f), Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

In § 82.3, in paragraph (a) (1) relating to the State of California, subdivision (iii) relating to San Bernardino County is deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f; 37 FR 28464, 28477.)

*Effective date.*—The foregoing amendment shall become effective August 30, 1973.

The amendment relieves certain restrictions presently imposed but no longer deemed necesary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 30th day of August, 1973.

G. H. WISE,
*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc.73–18744 Filed 9–4–73;8:45 am]

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY AND ANIMAL PRODUCTS)

### PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

#### Administrative Instructions Prescribing Commuted Travel Time Allowances

The purpose of this amendment is to establish commuted travel time periods as nearly as may be practicable to cover the time necessarily spent in reporting to and returning from the place at which an employee of Veterinary Services performs overtime or holiday duty when such travel is performed solely on account of overtime or holiday duty. Such establishment depends upon facts within the knowledge of the Animal and Plant Health Inspection Service.

Therefore, pursuant to the authority conferred upon the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service by § 97.1 of the regulations concerning overtime services relating to imports and exports (9 CFR 97.1), administrative instructions 9 CFR 97.2 (1973 ed.), as amended January 26, 1973 (38 FR 2442) and June 19, 1973 (38 FR 15953), prescribing the commuted travel time that shall be included in each period of overtime or holiday duty, are hereby amended by adding to or deleting from the respective "lists" therein as follows:

WITHIN METROPOLITAN AREA

TWO HOURS

Add:
Port of Savannah (served from Savannah, Georgia).

OUTSIDE METROPOLITAN AREA

FOUR HOURS

Add:
Barron, Wisconsin (when served from Eau Claire, Wisconsin).

SIX HOURS

Add:
Barron, Wisconsin (when served from St. Paul, Minnesota).

OUTSIDE METROPOLITAN AREA

ONE HOUR

Delete:
Port of Savannah (served from Savannah, Georgia).

(64 Stat. 561; 7 U.S.C. 2260.)

*Effective date.*—The foregoing amendment shall become effective September 5, 1973.

It is to the benefit of the public that these instructions be made effective at the earliest practicable date. Accordingly, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and public procedure on these instructions are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 29th day of August, 1973.

J. M. HEJL,
*Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.*

[FR Doc.73–18745 Filed 9–4–73;8:45 am]

## Title 12—Banks and Banking

### CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

[No. 73–1245]

### PART 526—LIMITATIONS ON RATE OF RETURN

#### Amendment Relating to Certificate Accounts of $100,000 or More

AUGUST 28, 1973.

The Federal Home Loan Bank Board considers it advisable to amend § 526.5–1 of the regulations for the Federal Home Loan Bank System (12 CFR 526.5–1) to increase from 5 percent to 10 percent the percentage of total savings which member institutions may have outstanding in certificate accounts of $100,000 or more paying a return at a rate in excess of 6.75 percent. Accordingly, the Federal Home Loan Bank Board hereby amends said § 526.5–1 by revising paragraph (b) thereof to read as set forth below, effective August 29, 1973.

Since affording notice and public procedure on the above amendment would delay it from becoming effective for a period of time and since it is in the public interest that such amendment becomes effective as soon as possible, the Board hereby finds that notice and public procedure thereon are contrary to the public interest under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and the Board hereby finds that publication of such amendment for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date thereof is unnecessary since it relieves restrictions; and the Board hereby provides that such amendment shall become effective as hereinbefore set forth.

§ 526.5–1 Certificate accounts of $100,000 or more.

* * * * *

(b) *Percentage limitation.*—No member institution may pay a return at a rate in excess of 6.75 percent per annum on any certificate account of $100,000 or more if, as a result of the issuance of such certificate account, the total amount of all such certificate accounts then outstanding, on which a return is being paid at a rate in excess of 6.75 percent per annum, would exceed 10 percent of the institution's total savings accounts outstanding at the end of its most recent distribution period for regular accounts.

* * * * *

(Sec. 5B, 47 Stat. 727, as added by sec. 4, 80 Stat. 824, as amended by Public Law 91–151, sec. 2(b), 83 Stat. 371; sec. 17, 47 Stat. 736, as amended; 12 U.S.C. 1425b, 1437. Reorg. Plan





No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
*Assistant Secretary.*

[FR Doc.73–18740 Filed 9–4–73;8:45 am]

## Title 14—Aeronautics and Space

### CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 73–EA–50; Amdt. 39–1709]

### PART 39—AIRWORTHINESS DIRECTIVE

#### DeHavilland Aircraft

The Federal Aviation Administration is amending section 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to deHavilland DHC–6 type airplanes.

There have been reports of propellers on DHC–6 aircraft inadvertently autofeathering, thereby overtorquing the engine with resultant damage to the engine. Because this deficiency can exist or develop in other aircraft of similar type design, an airworthiness directive is being issued which will require deactivation of the autofeather system, placarding and revision of Vmc speeds.

Since the foregoing involves a certain hazard to air safety, expeditious adoption of this amendment is required and, therefore, notice and public procedure hereon are impractical and cause exists for making the amendment effective in less than 30 days. In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 FR 13697) § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

DEHAVILLAND: Applies to deHavilland Aircraft of Canada, Ltd., Model DHC–6 aircraft Series 100 and 200, serial numbers 6 through 230 inclusive, incorporating Modification No. 6/1278 (Propeller Autofeather system) and Series 300 Serial Numbers 130, 210, 231 through 290 inclusive (less Serial Numbers 265, 270, 277, 281, and 283.

Compliance required within 200 hours after the effective date of this AD unless already accomplished.

To prevent inadvertent autofeathering, accomplish the following:

1. (a) Deactivate the autofeather system by disconnecting the circuit breaker marked "PROP AUTO-FEATHER" in the panel behind the copilot's position.

(b) Install placard stating "Auto-feather System Deactivated" adjacent to autofeather select switch.

(c) Revise Vmc speed on airspeed limitation placard above pilot's position as follows:

Series 100 (Long-Nose)------ "68 kts. CAS"
Series 200------ "68 kts. CAS"
Series 300------ "70 kts. CAS"

2. The accomplishment of deHavilland Modifications Nos. 6/1472 and 6/1459 as applicable or an equivalent modification approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, nullifies the applicability of this airworthiness directive.

(MOT approved Flight Manual Supplements Nos. 13, 14, and 19 pertain to and validate aircraft operations under CAR 3 or SFAR 23.)

(Note: Canadian Ministry of Transport Airworthiness Directives CF–73–4 and CA–73–9 cover the same subject.)

This amendment is effective September 11, 1973.

(Sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a); 1421, and 1423), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c).)

Issued in Jamaica, N.Y. on Aug. 27, 1973.

ROBERT H. STANTON,
*Director, Eastern Region.*

[FR Doc.73–18683 Filed 9–4–73;8:45 am]

[Airspace Docket No. 73–SW–36]

### PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

#### Alteration and Revocation of VOR Federal Airways

On July 10, 1973, a notice of proposed rulemaking (NPRM) was published in the Federal Register (38 FR 18383) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter several VOR Federal Airways in the vicinity of Oklahoma City, Okla., and revoke those airways determined to be unnecessary. Subsequent to publication of the notice, it was determined that realignment of V–210 southwest of Okmulgee, Okla., should be via the Okmulgee 241° radial rather than via the 244° radial proposed in the notice. Since this change from the notice is minor in nature, further notice and public procedure are unnecessary and that change is made herein.

Interested persons were afforded an opportunity to participate in the proposed rulemaking through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., November 8, 1973, as hereinafter set forth.

Section 71.123 (38 FR 307, 19962, and 9488) is amended as follows:

1. In V–272: "INT Oklahoma City 107° and McAlester, Okla., 292° radials; McAlester." is deleted and "to McAlester, Okla." is substituted therefor.

2. In V–210: "Oklahoma City, Okla., 282° radials; Oklahoma City." is deleted and "Oklahoma City, Okla., 282° radials; Oklahoma City; INT Oklahoma City 109° and Okmulgee, Okla., 241° radials; Okmulgee." is substituted therefor.

3. In V–15: "Okmulgee, Okla., including an E alternate and also a W alternate via INT Ardmore 006° and Okmulgee 245° radials;" is deleted and "Okmulgee, Okla., including an E alternate:" is substituted therefor.

4. In V–164: "Oklahoma City, including a W alternate via INT Ardmore 327° and Oklahoma City 180° radials and also an E alternate via INT Ardmore 006° and Oklahoma City 107° radials." is deleted and "to Oklahoma City, including a W alternate via INT Ardmore 327° and Oklahoma City 180° radials." is substituted therefor.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on August 27, 1973.

H. B. HELSTROM,
*Chief, Airspace and Air Traffic Rules Division.*

[FR Doc.73–18697 Filed 9–4–73;8:45 am]

[Airspace Docket No. 73–SO–54]

### PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

#### Alteration of Federal Airway Segments

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to renumber airway segments in the Orlando, Fla.-Cross City, Fla., area, and to eliminate a small section of airway between the Center Hill, Fla., and the Homo, Fla., Intersections.

Miami Center peak day traffic surveys for 1967 through 1972 indicated that no IFR traffic operated along the segment of airway between Center Hill and Homo during the survey periods. Since an air traffic control requirement for this airway segment no longer exists, action is taken herein to discontinue its designation.

The proximity and alignments of V–159 and V–159W northwest of Orlando have resulted in pilots' misunderstanding as to the assigned airway. Revocation of V–295 between the Center Hill and Homo Intersections, and renumbering V–159W between Ocala, Fla., and Orlando and V–159 between Cross City and Ocala as V–295 will eliminate this potential hazard.

Since the renumbering of existing airways is merely an editorial procedure with no substantive change in airspace assignment, and since it is a minor matter upon which the public is not particularly interested, notice and public procedure thereon are unnecessary. However, since sufficient time must be allowed for these changes to be reflected on appropriate aeronautical charts, the effective date will be more than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., November 8, 1973, as hereinafter set forth.

Section 71.123 (38 FR 307 and 16633) is amended as follows:



V38-171
SEP 5 73
XUM

a. In V–159 "Ocala, Fla., including a west alternate via INT Orlando 283° and Ocala 156° radials" is deleted and "Ocala, Fla." is substituted therefor.

b. In V–295 "Orlando; INT Orlando 283° and Cross City, Fla., 150° radials; Cross City." is deleted and "Orlando; INT Orlando 283° and Ocala, Fla., 156° radials; Ocala; Cross City, Fla." is substituted therefor.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a); Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c).)

Issued in Washington, D.C., AUGUST 27, 1973.

CHARLES H. NEWPOL,
*Acting Chief, Airspace and Air Traffic Rules Division.*

[FR Doc.73–18696 Filed 9–4–73;8:45 am]

[Airspace Docket No. 73–EA–50]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

### Alteration of Control Zone and Transition Area

On page 18385 of the FEDERAL REGISTER for July 10, 1973, the Federal Aviation Administration published proposed regulations which would alter the Bradford, Pa., Control Zone (38 FR 360) and Transition Area (38 FR 453).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted, effective 0901 G.m.t., November 8, 1973.

(Section 307(a) of the Federal Aviation Act of 1958, 72 Stat. 749; (49 U.S.C. 1348) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c).))

Issued in Jamaica, N.Y., on August 17, 1973.

L. J. CARDINALI,
*Acting Director, Eastern Region.*

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations by deleting the description of the Bradford, Pa., control zone and by substituting the following in lieu thereof:

Within a 5-mile radius of the center 41°-48'09"N.,78°38'27"W. of Bradford Regional Airport, Bradford, Pa.; within 3.5 miles each side of the Bradford, Pa. VORTAC 139° radial, extending from the VORTAC to 10 miles southeast of the VORTAC.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by deleting the description of the Bradford, Pa., transition area and by substituting the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 12-mile radius of the center, 41°48'09" N., 78°38'27" W., of Bradford Regional Airport, Bradford, Pa; within 3.5 miles each side of the Bradford Regional Airport ILS localizer southeast course, extending from the OM to 11.5 miles southeast of the OM; within 5 miles each side of the Bradford, Pa., VORTAC 139° radial, extending from the VORTAC to 11.5 miles each side of the Bradford, Pa., VOR TAC 316° radial, extending from the VOR TAC to 18.5 miles northwest of the VORTAC.

[FR Doc.73–18694 Filed 9–4–73;8:45 am]

[Airspace Docket No. 73–SW–43]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

### Designation of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to designate the Brownfield, Tex., transition area.

On July 13, 1973, a notice of proposed rulemaking was published in the FEDERAL REGISTER (38 FR 18685) stating the Federal Aviation Administration proposed to designate a 700-foot transition area at Brownfield, Tex.

Interested persons were afforded an opportunity to participate in the rulemaking through submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., November 8, 1973, as hereinafter set forth.

In § 71.181 (38 FR 435), the following transition area is added:

BROWNFIELD, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Brownfield, Tex., Terry County Airport (latitude 33°10'29" N., longitude 102°11'29" W.) and within 3.5 miles each side of a 200° bearing from the Brownfield nondirectional beacon (latitude 33°10'45" N., longitude 102°11'30" W.) extending from the 5-mile radius area to 8 miles south of the radio beacon.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c).)

Issued in Fort Worth, Tex., on AUGUST 24, 1973.

ALBERT H. THURBURN,
*Acting Director, Southwest Region.*

[FR Doc.73–18695 Filed 9–4–73;8:45 am]

## Title 21—Food and Drugs

## CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### SUBCHAPTER C—DRUGS

## PART 135—NEW ANIMAL DRUGS

### Nitrofuran Drugs in the Feed of Animals

A proposal regarding the use of nitrofuran drugs in animal feeds was published in the FEDERAL REGISTER of April 20, 1973 (38 FR 9830). Two comments were received, both from drug manufacturers, and both opposed the proposed action. A review of the comments reflects certain issues of concern which, along with the responses of the Commissioner of Food and Drugs, are as follows:

1. It was stated that the use of nitrofuran derivative substances in animal feeds does not create a hazard to human and animal health in that the natural incidence of bacterial resistance to nitrofurans is not important, its infective nature is limited and does not develop readily, and the prophylactic use of nitrofurans in animal feeds should not lead to an increase in the salmonella reservoir.

The original charge of the Antibiotic Task Force was to gather and review all current information regarding human and animal health hazards associated with the use of subtherapeutic levels of antibacterial agents in the feed of food-producing animals. The complete review of the subject by the task force is evidenced by the extensive documentation supporting the report. Although the text of the report dealt with antibacterial drugs in general and did not refer specifically to nitrofuran drugs, it was not the intent of the task force to exclude such drugs from safety and efficacy considerations.

A review of the literature cited by the respondent, a reexamination of the documentation in the task force reports, and a survey of the remaining current literature indicate that while there is insufficient evidence to resolve the concerns of the Task Force on Use of Antibiotics in Animal Feeds, there is sufficient question to invoke the authority under section 512(1) of the act fully to investigate these issues in order to obtain more definitive data to resolve them.

Information regarding the question raised by the task force on nitrofuran drugs is meager. Available information does support that, upon occasion, the gram-negative enterobacteria do develop increased resistance to nitrofurans and this resistance is transferable to other enterobacteria. The effect of nitrofurans on the salmonella reservoir in food-producing animals has not been adequately documented.

2. It was stated that nitrofuran derivatives should be excluded from the requirements of the announcement because of a variety of uses and routes of use of several derivatives. The intent of the Antibiotic Task Force was to examine the broad categories of antibacterial drugs for their effects on human and animal health. Based on evidence to be presented to the task force and more recent literature; there is no reason to believe that the several nitrofuran derivatives will not behave in a similar manner regarding the initiation of resistance in enterobacteria, the transfer of such resistance, or the effect on the salmonella reservoir or the gram negative enteric flora of food-producing animals.

Based on the information above, the Commissioner concludes that nitrofuran drugs clearly fall within the area of concern of the task force. Therefore, such drugs should fall within the purview of § 135.109. In addition, the Commissioner concludes that the timetable for submission of the initial report and the final end point for receipt of all data





should be adjusted to allow sponsors of nitrofuran drugs periods of time consistent with those allowed for those antibiotic drugs other than the tetracyclines, streptomycin, dihydrostreptomycin, penicillin, and the sulfonamides.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343–351; 21 U.S.C. 360b, 371(a)) and under authority delegated to the Commissioner (21 CFR 2.120), § 135.109 is amended by revising the section heading, paragraphs (a), (b)(1), (2), and (3); and (f)(1) to read as follows:

**§ 135.109 Antibiotic, nitrofuran, and sulfonamide drugs in the feed of animals.**

(a) The Commissioner of Food and Drugs will propose to revoke currently approved subtherapeutic (increased rate of gain, disease prevention, etc.) uses in animal feed of antibiotic and sulfonamide drugs whether granted by approval of new animal drug applications, master files and/or antibiotic or food additive regulations, by no later than April 20, 1975, or the nitrofuran drugs by no later than September 5, 1975, unless data are submitted which resolve conclusively the issues concerning their safety to man and animals and their effectiveness under specific criteria established by the Food and Drug Administration based on the guidelines included in the report of the FDA task force on the use of antibiotics in animal feeds. All persons or firms previously marketing identical, related, or similar products except the nitrofuran drugs not the subject of an approved new animal drug application must submit a new animal drug application by July 19, 1973, or by December 4, 1973, in the case of nitrofuran drugs, if marketing is to continue during the interim. New animal drug entities with antibacterial activity not previously marketed, now pending approval or submitted for approval prior to, on, or following the effective date of this publication, shall satisfy such criteria prior to approval.

(b) Any person interested in developing data which will support retaining approval for such uses of such antibiotic, nitrofuran, and sulfonamide drugs pursuant to section 512(1) of the Federal Food, Drug, and Cosmetic Act shall submit to the Commissioner the following:

(1) By July 19, 1973, records and reports of completed, ongoing, or planned studies, including protocols, on the tetracyclines, streptomycin, dihydrostreptomycin, penicillin, and the sulfonamides; for all other antibiotics by October 17, 1973; and for the nitrofuran drugs by March 4, 1974. The Food and Drug Administration encourages sponsors to consult with the Bureau of Veterinary Medicine on protocol design and plans for future studies.

(2) By April 20, 1974, data from completed studies on the tetracyclines, streptomycin, dihydrostreptomycin, the sulfonamides, and penicillin assessing the effect of the subtherapeutic use of the drug in feed on the salmonella reservoir in the target animal as compared to that in nonmedicated controls. Failure to complete the salmonella studies for any of these drugs by that time will be grounds for proceeding to immediately withdraw approval.

(3) By April 20, 1975, data satisfying all other specified criteria for safety and effectiveness, including the effect on the salmonella reservoir for any antibiotic or sulfonamide drugs and by September 5, 1975, for the nitrofuran drugs, approved for subtherapeutic use in animal feeds. Drug efficacy data shall be submitted for any feed-use combination product containing such drug and any feed-use single ingredient antibiotic, nitrofuran, or sulfonamide not reviewed by the National Academy of Sciences—National Research Council, Drug Efficacy Study covering drugs marketed between 1938 and 1962.

* * * * *

(f) * * *

(1) Those antibiotic, nitrofuran, and sulfonamide drugs which fail to meet the prescribed criteria for subtherapeutic uses but which are found to be effective for therapeutic purposes will be permitted in feed only for high-level, short-term therapeutic use and only by or on the order of a licensed veterinarian.

* * * * * *

*Effective date.*—This order shall be effective September 5, 1973.

(Secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343–351; (21 U.S.C. 360b, 371(a)).)

Dated August 28, 1973.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[FR Doc.73–18712 Filed 9–4–73;8:45 am]

## Title 24—Housing and Urban Development

## CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI–197]

## PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

### Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

**§ 1914.4 Status of participating communities.**

* * * * * * *

| State | County | Location | Map No. | State map repository | Local map repository | Effective date of authorization of sale of flood insurance for area |
|---|---|---|---|---|---|---|
| * | * | * | * | * | * | * |
| Missouri | Newton | Seneca, City of | | | | Aug. 30, 1973, Emergency. |
| Mississippi | Lafayette | Oxford, City of | | | | Do. |
| Pennsylvania | Clinton | Beech Creek, Township of. | | | | Do. |
| Do. | Lycoming | Montgomery, Township of. | | | | Do. |
| Do. | Juniata | Walker, Township of. | | | | Do. |
| Vermont | Rutland | Rutland, City of | | | | Do. |

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued August 24, 1973.

GEORGE K. BERNSTEIN,
*Federal Insurance Administrator.*

[FR Doc.73–18632 Filed 9–4–73;8:45 am]



V 38-171
SEP 5 73
XUM

[Docket No. FI-198]

## PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

### Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 Status of participating communities

| State | County | Location | Map No. | State map repository | Local map repository | Effective date of authorization of sale of flood insurance for area |
|---|---|---|---|---|---|---|
| Colorado | Boulder | Broomfield, City of. | I 08 013 0253 01 | Colorado Water Conservation Board, Room 102, 1845 Sherman St., Denver, Colo. 80203. | City Manager, City of Broomfield, No. 8 Garden Office Center, Broomfield, Colo. 80020. | Feb. 18, 1972. Emergency. Sept. 7, 1973. Regular. |
| | | | | Colorado Division of Insurance, 106 State Office Bldg., Denver, Colo. 80203. | | |
| Florida | Volusia | Daytona Beach, City of. | I 12 127 0780 05 through I 12 127 0780 12 | Department of Community Affairs, 2571 Executive Center Circle East, Howard Bldg., Tallahassee, Fla. 32301. | City Manager, City of Daytona Beach, P.O. Box 551, Daytona Beach, Fla. 32015. | Sept. 11, 1970. Emergency. Sept. 7, 1973. Regular. |
| | | | | State of Florida Insurance Department, Treasurer's Office, The Capitol, Tallahassee, Fla. 32304. | | |
| Do | do | Daytona Beach Shores, City of. | I 12 127 0782 02 | do | City Hall, 3050 South Atlantic Ave., Daytona Beach Shores, Fla. 32016. | Jan. 29, 1971. Emergency. Sept. 7, 1973. Regular. |
| Do | do | Holly Hill, City of. | I 12 127 1410 01, I 12 127 1410 02 | do | City Manager, City of Holly Hill, Ten Sixty Five Ridgewood Ave., Holly Hill, Fla. 32017. | May 14, 1971. Emergency. Sept. 7, 1973. Regular. |
| Do | do | Ormond Beach, City of. | I 12 127 2375 05 through I 12 127 2375 11 | do | Ormond Beach City Hall, 22 South Beach St., Ormond Beach, Fla. 32074. | Nov. 20, 1970. Emergency. Sept. 7, 1973. Regular. |
| Do | Alachua | Unincorporated areas. | | | | Aug. 29, 1973. Emergency. |
| Do | Palm Beach | North Palm Beach, Village of. | | | | Do. |
| Illinois | Du Page | Clarendon Hills, Village of. | | | | Do. |
| Louisiana | Calcasieu Parish | DeQuincy, City of. | | | | Do. |
| Massachusetts | Middlesex | Bedford, Town of. | I 25 017 0090 01 through I 25 017 0090 04 | Division of Water Resources, Water Resources Commission, State Office Bldg., 100 Cambridge St., Boston, Mass. 02202. Massachusetts Division of Insurance, 100 Cambridge St., Boston, Mass. 02202. | Office of the Board of Selectmen, Town of Bedford, Bedford, Mass. 01730. | Apr. 2, 1971. Emergency. Sept. 7, 1973. Regular. |
| Missouri | Cole | Portage Des Sioux, City of. | | | | Aug. 29, 1973. Emergency. |
| Pennsylvania | Clinton | Chapman, Township of. | | | | Do. |
| Do | Lebanon | North Londonderry, Township of. | | | | Do. |
| Do | Tioga | Putnam, Township of. | | | | Do. |
| Do | Westmoreland | Manor, Borough of. | | | | Do. |
| Texas | Fort Bend and Harris. | Missouri City, City of. | | | | Do. |
| Virginia | | Richmond, City of. | | | | Do. |
| Do | York | Poquoson, Town of. | | | | Do. |
| Wisconsin | Kewaunee | Algoma, City of. | | | | Do. |

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued August 24, 1973.

GEORGE K. BERNSTEIN,
*Federal Insurance Administrator.*

[FR Doc.73-18633 Filed 9-4-73;8:45 am]





[Docket No. FI-200]

## PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

### Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 Status of participating communities

| State | County | Location | Map No. | State map repository | Local map repository | Effective date of authorization of sale of flood insurance for area |
|---|---|---|---|---|---|---|
| California | San Diego | El Cajon, City of | | | | Aug. 31, 1973. Emergency. |
| Connecticut | Fairfield | Shelton, City of | | | | Do. |
| Do | New Haven | Southbury, Town of. | | | | Do. |
| New York | Monroe | Spencerport, Village of. | | | | Do. |
| Do | Suffolk | Shelter Island, Town of. | | | | Do. |
| North Carolina | Wake | Raleigh, City of | | | | Do. |
| Pennsylvania | Columbia | Briar Creek, Borough of. | | | | Do. |
| Do | Lawrence | New Castle, City of. | | | | Do. |
| Do | McKean | Keating, Township of. | | | | Do. |

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 F.R. 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 F.R. 2680, Feb. 27, 1969)

Issued August 24, 1973.

GEORGE K. BERNSTEIN,
*Federal Insurance Administrator.*

[FR Doc.73-18634 Filed 9-4-73;8:45 am]

## Title 25—Indians

### CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

### SUBCHAPTER W—MISCELLANEOUS ACTIVITIES

### PART 256—OFF-RESERVATION TREATY FISHING

#### Identification Cards

The authority to issue regulations on Indian affairs is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9).

Part 256, Subchapter W, Chapter I, Title 25, of the Code of Federal Regulations is amended by revising section 256.3 (b). This revision extends to December 31, 1974, the deadline for issuing temporary identification cards as evidence of entitlement to exercise fishing rights secured by treaty to tribal members who do not have approved current membership rolls. The revision is prepared under the authority contained in 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9).

Since this revision extends a deadline for issuing temporary identification cards to tribal members to be used in connection with treaty fishing rights, advance notice and public procedure thereon would delay extension of the deadline for issuing the identification cards and is deemed contrary to the public interest. Therefore, advance notice and public procedure are dispensed with under the exception provided in subsection (b)(B) of 5 U.S.C. 553 (1970).

Since this revision extends the deadline to allow tribal members to receive needed identification cards, the 30-day deferred effective date is dispensed with under the exception provided in subsection (d)(1) of 5 U.S.C. 553 (1970). Accordingly, these regulations will become effective on September 5, 1973.

As revised, § 256.3 reads as follows:

§ 256.3 Identification cards.

* * * * *

(b) No such card shall be issued to any Indian who is not on the official membership roll of the tribe which has been approved by the Secretary of the Interior. *Provided*, That until December 31, 1974, a temporary card may be issued to any member of a tribe not having an approved current membership roll who submits evidence of his entitlement thereto satisfactory to the issuing officer and, in the case of a tribally issued card, to the countersigning officer. Any Indian claiming to have been wrongfully denied a card may appeal the decision in accordance with Part 2 of this chapter.

* * * * *

No further changes are made in the text of Part 256.

WILLIAM L. ROGERS,
*Deputy Assistant Secretary of the Interior.*

AUGUST 30, 1973.

[FR Doc.73-18761 Filed 9-4-73;8:45 am]

## Title 32—National Defense

### CHAPTER VII—DEPARTMENT OF THE AIR FORCE

### SUBCHAPTER A—ADMINISTRATION

### PART 809—ISSUE AND CONTROL OF IDENTIFICATION (ID) CARDS

#### Miscellaneous Amendments

This update clarifies the dependent status of a surviving parent/parent-in-law; requires designation of one primary and one or more alternate issuing officials, as considered necessary, and requires the issuing official be identified by letter to the Publications Distribution Office (PDO) along with the issuing official's signature specimen; directs that all waivers of conditions granting benefits and privileges be forwarded to appropriate office of primary responsibility; requires all designation of an individual outside the issuing activity to conduct an inventory of cards; requires periodic unscheduled security police inspection of ID cards at entrances to Air Force installations; expands commissary patronage to members of the household who do not reside in the same household as the sponsor; identifies children acquired through subsequent marriage by widows for eligibility for certain privileges; deletes requirement for dependency determination for husbands of female members for medical care; states that the original determination for medical care must always be made by the Air Force Ac-



V 38 171
SEP 5 73
XUM

counting and Finance Center; requires the recording of supporting documents such as marriage certificates and birth certificates on DD Form 1172, item 18; prohibits use of facsimile signature stamps on AF Form 279 and DD Form 1172; prohibits signing of ID cards by issuing officials until all required data has been entered on the card; permits civilian employees of benefits and privilege sources to confiscate ID cards under certain conditions; outlines data required to support cases forwarded to Headquarters United States Air Force, Office of The Judge Advocate General, Directorate of Civil Law, Litigation Division, for possible referral to Department of Justice; directs issuing officials to obtain all ID cards, including emergency requirements, from the PDO only; revises procedures for accountability, inventory, and transfer of ID cards; initiates new control procedures for retrieval of ID cards at the time of discharge and separation; and announces that signatures appearing on Navy verified DD Forms 1172 will be accepted.

Part 809, Subchapter A of Chapter VII of Title 32 of the Code of Federal Regulations is amended as follows:

1. Section 809.4 is amended by: deleting the note following paragraph (f) (6) (ii); revising paragraph (h); and amending paragraph (1) by adding new subparagraphs (2) through (4).

**§ 809.4 Definitions.**

* * * * * * *

(h) *Issuing activity.*—An agency or person authorized, upon receipt of a properly certified application, to issue one of the ID cards listed in this part. (This activity must have the necessary photographing and laminating facilities.) Commissioned officers, warrant officers, noncommissioned officers (grades E–5 through E–9), and civilians (GS–5 and above) may be authorized to authenticate ID cards. A noncommissioned officer (grade E–4) who is the noncommissioned officer in charge or a civilian (GS–4) who is chief of the pass issuing facility may be authorized to authenticate ID cards.

* * * * * * *

(l) (1) * * *

(2) The staffs of National Red Cross Societies and those of other Voluntary Aid Societies, duly recognized and authorized by their governments, who may be employed in the same duties as the personnel in subparagraph (1) of this paragraph, are placed in the same category as such personnel if the staffs of such societies are subject to military laws and regulations.

(3) The religious, medical, and hospital personnel of hospital ships and their crews.

(4) The religious, medical, and hospital personnel assigned to the medical or spiritual care of members of the Armed Forces and other persons at sea who are wounded, sick, or shipwrecked, including forced landings at sea by or from aircraft.

* * * * * * *

2. Section 809.7 is amended by revising items 1a, 1b, 2b, 4, 4a, 4b, 5b, 8a, 8b, 12, 12a, 12b, 13, 13a, 13b, 17, and 17a; adding item 19a; revising Notes 1 and 3; deleting Notes 25 and 26; and adding a new Note 25 as follows:

**§ 809.7 Chart of entitlements to benefits and privileges.**

* * * * * * *

| | | | | | |
|---|---|---|---|---|---|
| 1. * * * | | | | | |
| a. Lawful wife | Yes | Yes | (3) | Yes | Yes |
| b. Lawful husband | Yes | Yes | (3) | Yes | Yes |
| 2. * * * | | | | | |
| b. Unremarried widower | Yes | Yes | Yes | No | No |
| 4. Honorably discharged veteran of armed forces, totally (100%) disabled as result of service-connected disability and so certified by the Veterans Administration. | No | No | (3) | Yes | Yes |
| a. Lawful wife | No | No | (3) | Yes | Yes |
| b. Lawful husband | No | No | (3) | Yes | Yes |
| 5. * * * | | | | | |
| b. Unmarried widower | No | No | Yes | No | No |
| 8. * * * | | | | | |
| a. Lawful wife | Yes | Yes | (3) | Yes | Yes |
| b. Lawful husband | Yes | Yes | No | Yes | Yes |
| 12. Foreign military member of NATO in United States and his dependents in United States: | Yes | Yes | (25) | (20) | (20) |
| a. Lawful wife | Yes | Yes | (25) | (20) | (2) |
| b. Lawful husband | Yes | Yes | (25) | (20) | (2) |
| 13. Foreign military member in United States other than NATO and his dependents in United States: | No | Yes | (25) | (20) | (2) |
| a. Lawful wife | No | (23) | (25) | (20) | (2) |
| b. Lawful husband | No | (23) | (25) | (20) | (2) |
| 17. Medal of Honor recipients | No | No | (3) | Yes | Yes |
| a. Lawful wife | No | No | (3) | Yes | --- |
| 19. * * * | | | | | |
| a. Children who were acquired through subsequent marriage: | | | | | |
| (1) Under 21 years of age | No | No | (3) | (7) | Yes |
| (2) Over 21 years of age | No | No | (3) | (7) | (7) |

NOTES.—1. Adopted children and stepchildren (except for medical care), illegitimate children, parents, and parents-in-law must be dependent upon the member for over half of their support. Unmarried legitimate children under age 21 are not subject to dependency provisions. Red Cross Personnel: Only uniformed paid American National Red Cross Personnel are eligible for exchange privileges.

* * * * * * *

3. If a member of the sponsor's household, designated his agent in writing on DD Form 1172, item 18, and acting in the sponsor's behalf. (A sponsor's child residing in the household of a divorced spouse or other noneligible recipient who is not a sponsor may not be designated as an agent.) A parent/parent-in-law, stepparent, parent by adoption, or ward must be dependent upon the sponsor for over half of their support and reside in a household maintained by or for the sponsor. Children who are 21 years of age or older and unmarried and who are dependent upon the sponsor for over half of their support or who reside in a household maintained by or for the sponsor and who are either legitimate or are adopted children, stepchildren, or wards and who are (a) incapable of self-support because of a mental or physical handicap or (b) have not passed their 23d birthday and are enrolled in a full-time course of study at an approved institution of higher learning may be designated as agent. (See Part 823 of this chapter for designation of other types of agents.)

* * * * * * *

25. Officers and enlisted men of the Armed Forces of foreign nations, when on duty with the U.S. Armed Forces under competent orders issued by the Air Force, Army, Navy, or Marine Corps, and their dependents as defined in Part 823 of this chapter, if designated in writing by the sponsor on DD Form 1172, item 18.

3. Section 809.10 is amended by revising paragraphs (a) and (g) and adding new paragraphs (h) and (i) as follows:

**§ 809.10 Command responsibility.**

(a) Designate and revoke verifying/issuing activities and individuals in writing. For issuing activities, one primary and one or more alternate official(s) as considered necessary will be designated. An absence of 30 days or more by the primary issuing official will require that accountability be transferred to a new primary issuing official. The letter designating the issuing official will be furnished to the PDO with a specimen signature (DD Form 577, Signature Card) of the issuing official included. The commander of a unit geographically separated from the Unit Personnel Record Group (UPRGp) may act as the verifying activity if he has sufficient information to make an appropriate judgment.

* * * * * * *

(g) Forward requests for waivers of conditions granting benefits and privileges direct to the Office of Primary Responsibility (OPR) for the benefit or privilege involved.

(h) Appoint in writing an individual assigned outside the issuing activity to conduct the inventory required by section 809.15(b)(5).

(i) Ensure that periodic, unscheduled security police checks of identification cards are conducted at entrances to Air Force installations.





4. Section 809.11 is amended by adding a new paragraph (d) (2) (iii) (*f*) and revising paragraph (d) (6) as follows:

**§ 809.11 Action by verifying activity.**

* * * * * * *

(d) (2) (iii) * * *

(*f*) *Parents/parents-in-law.*—(*1*) The original determination for Medical Care in Uniformed Services Facilities (MC (US)) must always be made at Air Force Accounting and Finance Center. Basic Allowance for Quarters (BAQ) determinations may not be used for MC (US).

(2) Subsequent applications may be made without submission to Air Force Accounting and Finance Center if a copy of the original AFAFC determination is present and the sponsor certifies in writing on DD Form 1172, item 18, that dependency and residency have not changed since the original determination.

* * * * * * *

(6) Annotate on DD Form 1172, item 18, that supporting documents such as marriage certificate, birth certificate, adoption decree, divorce decree, death report, dependency determination from Air Force Accounting and Finance Center, etc., have been reviewed personally to establish eligibility of dependents. Personal data will be updated upon presentation of the source document.

* * * * * * *

5. Section 809.13 is amended by revising paragraph (d) (5) as follows:

**§ 809.13 Action by issuing activity.**

* * * * * * *

(d) * * *

(5) Have issuing official sign the card. The use of facsimile signature stamps to authenticate ID cards is prohibited; however, the signature element itself may be stamped. Cards will not be authenticated by issuing official until all required data has been entered on the card.

* * * * * * *

6. Section 809.14 is amended by revising the introductory text and paragraph (a) as follows:

**§ 809.14 Retrieval, confiscation, and appeal procedures.**

ID cards are Government property. Any commissioned or noncommissioned officer or security policeman, in performing his duties may confiscate an ID card that has expired, is being fraudulently used, or is presented by a person not entitled to it. Civilian employees of benefit and privilege sources may confiscate expired cards, obviously altered cards, and cards presented by a person named on a "wanted list" (for example, bad checks, shoplifting, divorces, over eligible age, etc.). Such cardholders will be furnished AF Form 52, Evidential and Acquired Property Record (or similar form), as a receipt for the confiscated card. The AF Form 52 is prepared in triplicate; one copy furnished cardholder, one copy to be used as transmittal to security policy, and one copy to be retained by the retrieving activity. When a CBPO activity learns of a change in dependency status affecting entitlement to DD Form 1173 (for example, divorce, marriage of children, overage, etc.) that activity will send complete information to the Personal Affairs Section (Officer or Airman Records Unit for non-Base-Level Military Personnel System (BLMPS) CBPOs). The Personal Affairs Section or Officer or Airman Records Unit will act to recover the dependent's card through the sponsor or his commander. If such action is unsuccessful, they will comply with paragraph (a) of this section. File evidence of such interim and final actions with the DD Form 1172. If the DD Form 1173 is retrieved, DD Form 1172 will be destroyed or appropriately annotated. A suspense period of 30 days from date of notice to the sponsor will be established for completing CBPO action.

(a) *Retrieval.*—Although authorities will make every effort to retrieve cards on a voluntary basis, they do not have the authority to seize ID cards by force from persons not subject to military law. If a person not subject to military law refuses to surrender an ID card on demand, recourse may be a suit to recover the property. If a card cannot be retrieved voluntarily, the circumstances will be reported in writing to the nearest chief, security police. A copy of the letter will be furnished all base benefit and privilege sources. If all attempts to achieve voluntary surrender of the ID card fail, forward the case file to Headquarters, United States Air Force, Office of the Judge Advocate General, Directorate of Civil Law, Litigation Division, Washington, D.C. 20314, for possible referral to the Department of Justice, with an information copy of the referral to the Air Force Military Personnel Center, Randolph Air Force Base, Texas 78148. Case files shall contain the following documents and information.

* * * * * * *

7. Section 809.15 is amended by revising paragraph (b) (3) and (4) and adding new paragraphs (b) (5) and (6) as follows:

**§ 809.15 Supply and accountability of forms.**

* * * * * * *

(b) (2) * * *

(3) *Accounting for missing forms.*—The issuing officer will inventory incoming blank forms when he initially accepts them and will immediately enter each card serial number on AF Form 355.

(4) *Accounting for damaged forms.*—The issuing officer will annotate AF Form 335 to reflect forms unsuitable for issue and retain those cards until the inventory prescribed in subparagraph (5) of this paragraph is completed.

(5) *Inventory of unissued/damaged forms.*—An inventory will be conducted every 6 months or when the issuing officer is relieved. All inventories will include a physical count encompassing verification of each card serial number. If the inventorying official cannot account for a form he will investigate, file a report of the facts with the installation commander, and note the results on AF Form 335. AF Form 145, Certificate of Destruction of Material, evidencing destruction of unused/damaged cards will be signed and witnessed then stapled to the pertinent AF Form 335. Dispose of AF Form 145 in conjunction with AF Form 335.

(6) *Transfer of forms to alternate issuing official.*—The primary issuing official will transfer by AF Form 213 a 1 month's supply of ID cards to each designated alternate issuing official.

8. Section 809.16 is amended by revising paragraph (a) as follows:

**§ 809.16 Destruction of confiscated and surrendered cards, receipts, and destruction certificates.**

* * * * * * *

(a) If the destruction authority has custody of the receipts for the ID cards destroyed and the cards are not replaced by reason of discharge or separation, he will cut the cards in half and staple that portion bearing the cards serial number to the receipt. Information regarding unrecovered cards (for example, address of dependents not collocated with the sponsor) should be annotated on the pertinent receipt. In these instances, the sponsor will also be instructed to mail/turn in dependents' unrecovered card(s) as soon as possible to the separation activity. A preaddressed indicia envelope will be furnished the separatee for this purpose. Related AF Form 279 and DD Form 1172 will be filed in the separatee's Relocation Preparation Project Folder for disposition.

* * * * * * *

9. Section 809.61 is amended by revising paragraph (b) as follows:

**§ 809.61 Issue by other services.**

* * * * * * *

(b) The parent service will complete section IV and the applicable items of DD Form 1172, section II, and return it to the applicant/sponsor for presentation to any service installation having the proper facility for issuing the card. Every effort will be made to assist individuals of other services in obtaining proper identification credentials by assisting in the preparation of the application and directing the applicant to the nearest parent service installation. Facsimile signatures on applications verified by Navy personnel will be accepted.

10. Section 809.62 is amended by revising paragraph (a) and (c) and adding a new paragraph (b) as follows:

**§ 809.62 Persons entitled to USIP card.**

* * * * * * *

(a) Dependents 10 years of age or over of members of the Uniformed Services (on active duty, entitled to retired pay, or deceased).

(b) Dependents under 10 years of age of members of the Uniformed Services (on active duty, entitled to retired pay, or deceased) when such dependents are residing with a divorced spouse or in a household of which the sponsor is not the



V 38 171
SEP 5 73
XUM

head. DD Form 1173 may be issued to dependents under 10 years of age when unusual circumstances require unquestionable proof of relationship and entitlement.

(c) Veterans discharged under honorable conditions from the Uniformed Services of the United States with a one hundred percent (100%) service-connected disability as certified by the Veterans Administration, their eligible dependents, and surviving dependents.

• • • • •

(10 U.S.C. 8012.)

By Order of the Secretary of the Air Force.

JOHN W. FAHRNEY,
*Colonel, USAF Chief, Legislative Division, Office of The Judge Advocate General.*

[FR Doc.73-18576 Filed 9-4-73;8:45 am]

## Title 36—Parks, Forests, and Memorials

### CHAPTER II—FOREST SERVICE, DEPARTMENT OF AGRICULTURE

### PART 221—TIMBER

#### Cancellation of Contracts

*Correction*

NOTE.—In FR Doc. 73-18485 appearing at page 23403 of the issue for Thursday, August 30, 1973, the text of the amendment was inadvertently omitted. The complete document should read as follows:

On April 23, 1973, the FEDERAL REGISTER (38 FR 10010) contained a notice that the Department of Agriculture proposed to amend Part 221 of Title 36, Code of Federal Regulations, by amending § 221.17, Cancellation of Contracts.

Interested parties were given 60 days to submit written comments on the proposed amendment.

Fifteen written comments were received. Based on the information available, the proposed amendment will be changed by revising paragraph (a)(4) as set forth below; and by adding a citation of authority as set forth below.

Accordingly, with these changes and additions, the proposed revision is adopted as set forth below.

*Effective date.*—This amended regulation is effective on September 10, 1973.

PAUL A. VANDER MYDE,
*Deputy Assistant Secretary for Conservation, Research, and Education.*

AUGUST 27, 1973.

**§ 221.17 Cancellation of Contracts.**

(a) Timber sale contracts and permits may be canceled:

(1) For serious or continued violation of their terms.

(2) Upon application, or with the consent of, the purchaser, when such action is of advantage to the United States or not prejudicial to its interests.

(3) Upon application of the purchaser if the value of the timber remaining to be cut is diminished materially because of catastrophic damage caused by forces beyond the control of the purchaser resulting in (i) physical change in the sale area or access to it, or (ii) damage to timber remaining to be cut.

(4) For conviction of violation of criminal statutes or for violation of civil standards, orders, permits, or other regulations for the protection of environmental quality issued by a Federal agency, state agency, or political subdivision thereof, in the conduct of operations thereunder, on National Forest land, unless compliance with such laws or regulations would preclude performance of other contractual requirements.

(5) Upon determination by the Chief, Forest Service, that operations, thereunder would result in serious environmental degradation or resource damage.

(b) Cancellation will be by the Chief, Forest Service. Authority to cancel contracts under paragraph (a), items 1–4 of this section, may be delegated to regional foresters for sales within their authorization. All contract cancellations under paragraph (a), item (5) of this section, shall be by the Chief, Forest Service, whose decision shall be the final agency decision.

(30 Stat. 34, 35, as amended (16 U.S.C. 476, 551).)

[FR Doc.73-18485 Filed 8-29-73;8:45 am]

## Title 38—Pensions, Bonuses, and Veterans' Relief

### CHAPTER I—VETERANS ADMINISTRATION

### PART 21—VOCATIONAL REHABILITATION AND EDUCATION

#### Veterans' Educational Assistance; Entitlement Charges

On page 19417 of the FEDERAL REGISTER of July 20, 1973, there was published a notice of proposed regulatory development to amend § 21.1045 to provide for charging of entitlement proportionately to the educational assistance or training allowance paid when a reduction in the monthly allowance was required due to excessive absences. Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulation.

No written objections have been received and the proposed regulation is hereby adopted without change and is set forth below.

*Effective date.*—This VA regulation is effective August 29, 1973.

Approved August 29, 1973.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
*Deputy Administrator.*

In § 21.1045(a), subparagraph (6) is added to read as follows:

**§ 21.1045 Entitlement charges.**

(a) *Residence courses* • • •

(6) *Excessive absences and less than full payment for job training.*—Where deductions are made throughout an enrollment period, the combined portions of a month for which deductions were made will be computed and no entitlement charge will be made for the combined deductions. Where the computation results in a period of time other than a full month, or other than exactly ¾, ½ or ¼ fractional part of a month, the figure will be raised to the next higher quarter fraction of a month.

• • • • •

[FR Doc.73-18717 Filed 9-4-73;8:45 am]

## Title 43—Public Lands: Interior

### SUBTITLE A—OFFICE OF THE SECRETARY OF THE INTERIOR

### PART 4—DEPARTMENT HEARINGS AND APPEALS PROCEDURES

#### Mine Health and Safety Hearings and Appeals

Incident to the establishment within the Department of the Interior of the Mining Enforcement and Safety Administration and the transfer to it of functions of the Bureau of Mines relating to, inter alia, mining health and safety and assessment and compliance under the Federal Coal Mine Health and Safety Act of 1969 (P.L. 91-173, 30 U.S.C. secs. 801-960) and the Federal Metal and Nonmetallic Mine Safety Act (P.L. 89-577, 30 U.S.C. secs. 721-740), by Secretarial Order No. 2953, notice of which was published in the FEDERAL REGISTER on July 13, 1973 (38 FR 18695-18696), the following amendments are made to regulations in Subpart F—Special Rules Applicable to Mine Health and Safety Hearings and Appeals, of Part 4—Department Hearings and Appeals Procedures, Title 43, Code of Federal Regulations, to provide necessary changes in nomenclature to conform with the Secretarial Order:

In the sections specified below, the words "Bureau" and "Bureau of Mines" are deleted wherever they appear, and the words "Mining Enforcement and Safety Administration" are substituted therefor:

Secs.
4.506(e)
4.507(a)(1), 4.507(a)(2)
4.508(c)
4.520
4.521
4.531
4.540(a), 4.540(b)
4.543(b)
4.544(a)
4.545
4.587
4.651(e)
4.652
4.661
4.663(a)

Since these amendments are made because of internal Department organization and practice, the prior notice and public procedure provisions of 5 U.S.C. sec. 553 are inapplicable, and the amendments shall be effective as of July 16, 1973, the date on which the Mining Enforcement and Safety Administration became operative.

Dated August 29, 1973.

JAMES T. CLARKE,
*Assistant Secretary of the Interior.*

[FR Doc.73-18684 Filed 9-4-73;8:45 am]



## Title 49—Transportation

### CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 73-9; Notice 2]

### PART 570—VEHICLE IN USE INSPECTION STANDARDS

This notice adds Part 570, Vehicle In Use Inspection Standards, to Chapter V, Title 49, Code of Federal Regulations.

Part 570 does not in itself impose requirements on any person. It is intended to be implemented by the States through the highway safety program standards issued under the Highway Safety Act (23 U.S.C. 402) with respect to inspection of motor vehicles with a gross vehicle weight rating of 10,000 pounds or less, except motorcycles and trailers. General provisions regarding vehicle inspection are set forth in NHTSA Highway Safety Program Manual Vol. 1, Periodic Motor Vehicle Inspection. Standards and procedures are adopted for hydraulic service brake systems, steering and suspension systems, tire and wheel assemblies.

Interested persons have been afforded an opportunity to participate in the making of these amendments by a notice of proposed rulemaking published in the FEDERAL REGISTER on April 2, 1973 (38 FR 8451), and due consideration has been given to all comments received in response to the notice, insofar as they relate to matters within the scope of the notice. Except for editorial changes, and except as specifically discussed herein, these amendments and the reasons therefore are the same as those contained in the notice.

*Policy considerations.*—A total of 120 comments were received in response to the notice. These comments were submitted by State motor vehicle agencies, national safety organizations, motor vehicle associations, vehicle and equipment manufacturers, antique car clubs and owners, public interest groups, and individual citizens. The commenters were predominantly in favor of periodic motor vehicle inspection (PMVI) and the establishment of uniform motor vehicle in use safety standards throughout the United States.

As the NHTSA stated in the prior notice, cost-benefit factors were the primary policy consideration in developing the inspection standards and procedures. The primary concern of the States was the socioeconomic impact on the motoring public as well as the impact on the State itself. The general consensus was that the proposed inspection requirements would require a significant increase in facilities, operating personnel, and equipment. Though cost effectiveness was a predominant concern the States nevertheless felt that inspections should include vehicles over 10,000 pounds gross vehicle weight and be extended to include other vehicle systems. Several States expressed concern for the cost of implementing the proposed standards, estimating it at from $10 to $14 per car. Even though these States favored PMVI and now have PMVI or random inspection they felt that implementation costs would have a decided economic impact.

NHTSA has responded to these comments allowing an optional road test as a check of service brake system performance, adopting neither of the proposed parking brake procedures, and simplifying test procedures where possible so that tests may be conducted with a minimum added expenditure for equipment, personnel, and facilities. These matters will be discussed subsequently.

The establishment of the proposed standards as "minimum requirements" was questioned by several States as leading to a "watering down" of current requirements in those States which currently meet or exceed them. The NHTSA repeats its intent that the standards are not intended to supplant State standards that establish a higher performance or to discourage them from establishing or maintaining standards for other vehicle systems not covered by NHTSA.

A number of comments were received from antique car clubs and individual owners who believe that antique, special interest, and vintage cars should be exempt from the proposed standards. These comments should be directed to the States. Each State has its own definitions and registration requirements for vehicles of this nature, and the NHTSA intends the States to implement Part 570 to the extent that it is compatible with its current requirements for these special vehicles.

Several respondents commented that the proposed standard should be expanded to include lighting, glazing, exhaust, wipers, horns, controls, and instrumentation systems. The consensus was that the cost-benefit ratio would materially increase if these systems were included in the proposed standard since inspection of these systems does not require time-consuming procedures or special tools, and corrective measures are less costly to the owner. Some considered it contradictory that safety systems covered by the Federal standards must meet safety performance requirements at the time of manufacture and not during the service life of the vehicle. As the NHTSA stated in the prior notice, the initial Federal effort is intended to cover those vehicles and vehicle systems whose maintenance in good order has proven critical to the prevention of traffic accidents. Requirements for motorcycles and trailers, and for less critical systems are under study, and the NHTSA intends to take such rulemaking action in the future as may be appropriate to cover them.

*Applicability.*—A frequent comment was that the standards and procedures should be extended to cover vehicles whose GVWR exceeds 10,000 pounds. Because braking and steering and suspension systems on these vehicles differ materially from those on lighter vehicles, different criteria must be established and the proposed standards simply cannot be extended to cover them. The NHTSA, however, is developing appropriate inspection standards and procedures for heavy vehicles and will propose them in a notice to be issued by mid-October 1973.

*Brake systems.*—Several comments were received questioning the procedure for determining operability of the brake failure indicator lamp. In some vehicles the parking brake indicator and service brake system failure indicator use the same lamp and the methods of simulating failure vary.

It is realized that the procedure specified by the standard is general in nature and cannot cover all possible systems. In those vehicles where a lamp test cannot be executed in the normal manner the test will have to be conducted in accordance with the manufacturer's specifications, as determined by the vehicle inspector.

The brake system integrity test for fluid leakage has been modified on the basis of comments that it was not stringent enough. It was proposed that decrease in pedal height under 125 pounds force for 10 seconds should not exceed one-quarter of an inch. The requirement adopted is that there be no perceptible decrease in pedal height when 125 pounds of force is applied to the brake pedal and held for 30 seconds.

The brake pedal reserve test has been adopted substantially as proposed, and specifies that the engine be operating at the time of the test. Vehicles with full power (central hydraulic) brake systems are exempted from this test as the service brake performance test will be adequate to test such systems.

The service brake performance test offers the option of a road test, or testing upon a drive-on platform or roller-type brake analyzer (originally proposed under the title "Brake equalization"). States that conduct random inspections, and those that designate agents to perform vehicle inspections, objected strenuously to a test requiring the use of roller-type or drive-on test equipment. Consequently, an alternate test has been adopted which requires vehicles to stop from 20 mph in 25 feet or less without leaving a 12-foot wide lane. It is intended that this option be used only by States where it is current practice, and it is hoped that such States where practicable will change to the drive-on brake platform or roller-type brake analyzer tests. The terms "crimped" and "damaged" have been eliminated as causes for rejection of brake hoses, as redundant. If brake discs and drums are not embossed with safety tolerances, the requirement has been added that they be within the manufacturer's recommended specifications.

The primary concern regarding power assist units was that the brake pedal will rise instead of falling on a full-power





V 38 171 SEP 5 73 XUM

brake system when tested according to the procedure proposed. In view of the basic design of a full-power brake system this test would not be a proper check of system operation, and will not be required. As noted earlier, the service brake performance test will be used as the primary test of the full-power brake performance. To accord with the terminology of Standard No. 105a this section has been renamed "Brake power units."

The parking brake system inspection proposal proved controversial. The NHTSA proposed two objective, alternate tests, the first requiring the system to hold the vehicle on a 17 percent grade, and the second requiring the system to stop the vehicle from 20 mph within 54 feet. The first was objected to principally on the ground that each inspection station would have to construct a 17 percent grade. This would present problems for both in-line and bay-type inspection facilities. The stopping distance test, on the other hand, was opposed as a dynamic test more appropriate for service brake evaluation. In view of these objections, the parking brake inspection requirements were not adopted.

*Steering and suspension systems.*—The primary objections to the steering wheel test for free play concerned the test condition with the engine off on vehicles equipped with power steering, the linear measure of system free play (instead of angular measure to eliminate the variance due to steering wheel diameters), and the 2 inch free play limit for rack and pinion type steering gear.

The tolerance proposed and adopted for steering wheel free play is 2 inches for wheels of 16 inches diameter or less, since few passenger car steering wheels exceed this diameter. However, a table of free play values for older vehicles with steering wheels over 16 inches in diameter has been added to the standard. The requirement to have the engine running is being added to the procedure since steering wheel play can be greater with the engine off than with the engine on for cars equipped with power steering. Steering play on cars equipped with rack and pinion type steering will require further review to determine if the 2 inch tolerance should be changed.

Some comments argued that wheel alignment tolerances were considered too restrictive in the toe-in condition, and too lenient in toe-out. Some comments recommended visual inspection of tire wear as criteria to determine alignment. However, visual inspection of tire wear is not considered a valid method of checking alignment, and therefore was not adopted as an alternate method. No consensus of alternative values could be derived from the comments, and the proposed tolerances of 30 feet per mile have been adopted.

The requirements for the condition of shock absorber mountings, shackles, and U-bolts have been changed from "tight" to "securely attached" as a clarification.

*Tire and wheel assembly standards and inspection procedures.*—Several comments were received suggesting that rim deformation in excess of one-sixteenth of an inch be permitted, as the proposed tolerance would result in rejection of otherwise safe vehicles. The primary concern of the requirement is air retention, and since vehicles with wheel deformation of one-sixteenth of an inch apparently perform satisfactorily in service without hazard the deformation tolerance has been increased to three thirty-seconds of an inch runout for both lateral and radial bead seat areas.

*Effectivity.*—Several commenters questioned the proposed effective date, 30 days after publication of the final rule. The NHTSA considers it in the public interest that minimum Federal standards for motor vehicles in use become effective without further delay. Implementation by the States will take place within the context of their highway safety programs, and the plans approved by the NHTSA under the Highway Safety Act, 23 U.S.C. 402.

In consideration of the foregoing, Title 49, Code of Federal Regulations is amended by adding Part 570 to read as set forth below.

*Effective date.*—September 28, 1973. Since this part does not in itself impose requirements on any person it is determined for good cause shown that an effective date earlier than 180 days after publication of the final rule is in the public interest.

(Secs. 103, 108, 119, Pub. L. 89-563, 80 Stat. 718, 15 U.S.C. 1392, 1397, 1407; delegation of authority at 49 CFR 1.51.)

Issued on August 29, 1973.

JAMES B. GREGORY,
*Administrator.*


570.1 Scope.
570.2 Purpose.
570.3 Applicability.
570.4 Definitions.
570.5 Service brake system.
570.6 Brake power unit.
570.7 Steering systems.
570.8 Suspension systems.
570.9 Tires.
570.10 Wheel assemblies.


AUTHORITY: Secs. 103, 108, 119, Public Law 89-563, 80 Stat. 718, 15 U.S.C. 1392, 1397, 1407; delegation of authority at 49 CFR 1.51.

### § 570.1 Scope.

This part specifies standards and procedures for inspection of hydraulic service brake systems, steering and suspension systems, and tire and wheel assemblies of motor vehicles in use.

### § 570.2 Purpose.

The purpose of this part is to establish criteria for the inspection of motor vehicles by State inspection systems, in order to reduce death and injuries attributable to failure or inadequate performance of motor vehicle systems.

### § 570.3 Applicability.

This part does not in itself impose requirements on any person. It is intended to be implemented by States through the highway safety program standards issued under the Highway Safety Act (23 U.S.C. 402) with respect to inspection of motor vehicles with gross vehicle weight rating of 10,000 pounds or less, except motorcycles or trailers.

### § 570.4 Definitions.

Unless otherwise indicated, all terms used in this part that are defined in 49 CFR Part 571, Motor Vehicle Safety Standards, are used as defined in that part.

### § 570.5 Service brake system.

(a) *Failure indicator.*—The brake system failure indicator lamp, if part of a vehicle's original equipment, shall be operable. (This lamp is required by Federal Motor Vehicle Safety Standard No. 105, 49 CFR 571.105, on every new passenger car manufactured on or after January 1, 1968, and on other types of motor vehicles manufactured on or after September 1, 1975.)

(i) *Inspection procedure.*—Apply the parking brake and turn the ignition to start, or verify lamp operation by other means indicated by the vehicle manufacturer that the brake system failure indicator lamp is operable.

(b) *Brake system integrity.*—The brake system shall demonstrate integrity as indicated by no perceptible decrease in pedal height under a 125 pound force applied to the brake pedal or by no illumination of the brake system failure indicator lamp. The brake system shall withstand the application of force to the pedal without failure of any line or other part.

(i) *Inspection procedure.*—With the engine running on vehicles equipped with power brake systems, and the ignition turned to "on" in other vehicles, apply a force of 125 pounds to the brake pedal and hold for 30 seconds. Note any decrease in pedal height, and whether the lamp illuminates.

(c) *Brake pedal reserve.*—When the brake pedal is fully depressed, the distance that the pedal has traveled from its free position shall be not greater than 80 percent of the total distance from its free position to the floorboard or other object that restricts pedal travel.

(i) *Inspection procedure.*—Measure the distance (i) from the free pedal position to the floorboard or other object that restricts brake pedal travel. Depress the brake pedal, and with the force applied measure the distance (ii) from the depressed pedal position to the floorboard or other object that restricts pedal travel. Determine the percentage as

$$\frac{A-B}{A} \times 100.$$

The engine must be operating when power-assisted brakes are checked. The pedal reserve check is not required for vehicles equipped with full-power (central hydraulic) brake systems, or to vehicles with brake systems designed to operate with greater than 80 percent pedal travel.

(d) *Service brake performance.*—Compliance with one of the following performance criteria will satisfy the requirements of this section. Verify that tire inflation pressure is within the limits recommended by vehicle manufacturer before conducting either of the following tests.

(1) *Roller-type or drive-on platform tests.*—The force applied by the brake on a front wheel or a rear wheel shall not differ by more than 20 percent from the force applied by the brake on the other front wheel or the other rear wheel respectively.

(i) *Inspection procedure.*—The vehicle shall be tested on a drive-on platform, or a roller-type brake analyzer with the capability of measuring equalization. The test shall be conducted in accordance with the test equipment manufacturer's specifications. Note the left to right brake force variance.

(2) *Road test.*—The service brake system shall stop the vehicle in a distance of 25 feet or less from a speed of 20 miles per hour without leaving a 12-foot-wide lane.

(i) *Inspection procedure.*—The road test shall be conducted on a level (not to exceed plus or minus one percent grade) dry, smooth, hard-surfaced road that is free from loose material, oil, or grease. The service brakes shall be applied at a vehicle speed of 20 miles per hour and the vehicle shall be brought to a stop as specified. Measure the distance required to stop.

(e) *Brake hoses and assemblies.*—Brake hoses shall not be mounted so as to contact the vehicle body or chassis. Hoses shall not be cracked, chafed, or flattened.

(i) *Inspection procedure.*—Examine visually, inspecting front brake hoses through all wheel positions from full left to full right for conditions indicated.

NOTE.—To inspect for (f), (g), and (h) below, remove at a minimum one front wheel and one rear wheel.

(f) *Disc and drum condition.*—If the drum is embossed with a maximum safe diameter dimension or the rotor is embossed with a minimum safety thickness dimension, the drum or disc shall be within the appropriate specifications. These dimensions will be found on motor vehicles manufactured since January 1, 1971, and may be found on vehicles manufactured for several years prior to that time. If the drums and discs are not embossed, the drums and discs shall be within the manufacturer's specifications.

(i) *Inspection procedure.*—Examine visually for condition indicated, measuring as necessary.

(g) *Friction materials.*—On each brake the thickness of the lining or pad shall not be less than one thirty-second of an inch over the rivet heads, or the brake shoe on bonded linings or pads. Brake linings and pads shall not have cracks or breaks that extend to rivet holes except minor cracks that do not impair attachment. Drum brake linings shall be securely attached to brake shoes. Disc brake pads shall be securely attached to shoe plates.

(i) *Inspection procedure.*—Examine visually for conditions indicated, and measure height of rubbing surface of lining over rivet heads. Measure bonded lining thickness over shoe surface at the thinnest point on the lining or pad.

(h) *Structural and mechanical parts.*—Backing plates and caliper assemblies shall not be deformed or cracked. System parts shall not be broken, misaligned, missing, binding, or show evidence of severe wear. Automatic adjusters and other parts shall be assembled and installed correctly.

(i) *Inspection procedure.*—Examine visually for conditions indicated.

### § 570.6 Brake power unit.

Vacuum hoses shall not be collapsed, abraded, broken, improperly mounted, or audibly leaking. With residual vacuum exhausted and a constant 25 pound force on the brake pedal, the pedal shall fall slightly when the engine is started, demonstrating integrity of the power assist system. This test is not applicable to vehicles equipped with full power brake system as the service brake performance test shall be considered adequate test of system performance.

(i) *Inspection procedure.*—With engine running, examine hoses visually and aurally for conditions indicated. Stop engine and apply service brakes several times to destroy vacuum in system. Depress brake pedal with 25 pounds of force and while maintaining that force, start the engine. If brake pedal does not fall slightly under force when the engine starts, there is a malfunction in the power assist system.

### § 570.7 Steering systems.

(a) *System play.*—Lash or free play in the steering system shall not exceed values shown in Table 1.

(i) *Inspection procedure.*—With the engine on and the wheels in the straight ahead position, turn the steering wheel in one direction until there is a perceptible movement of a front wheel. If a point on the steering wheel rim moves more than the value shown in Table 1 before perceptible return movement of the wheel under observation, there is excessive lash or free play in the steering system.

TABLE 1.—STEERING SYSTEM FREE PLAY VALUES

| *Steering wheel diameter (inches):* | *Lash (inches)* |
|---|---|
| 16 or less | 2 |
| 18 | 2¼ |
| 20 | 2½ |
| 22 | 2¾ |

(b) *Linkage play.*—Free play in the steering linkage shall not exceed one-quarter of an inch.

(i) *Inspection procedure.*—Elevate the front end of the vehicle to load the ball joints. Insure that wheel bearings are correctly adjusted. Grasp the front and rear of a tire and attempt to turn the tire and wheel assembly left and right. If the free movement at the front or rear tread of the tire exceeds one-quarter inch there is excessive steering linkage play.

(c) *Free turning.*—Steering wheels shall turn freely through the limit of travel in both directions.

(i) *Inspection procedure.*—Turn the steering wheel through the limit of travel in both directions. Feel for binding or jamming in the steering gear mechanism.

(d) *Alignment.*—Toe-in and toe-out shall not exceed 30 feet per mile, as recorded on a scuff gauge, or equivalent measuring device.

(i) *Inspection procedure.*—Use instructions of measuring device manufacturer.

(e) *Power steering system.*—The power steering system shall not have cracked or slipping belts, or insufficient fluid in the reservoir.

(i) *Inspection procedure.*—Examine fluid reservoir and pump belts for conditions indicated.

### § 570.8 Suspension system.

(a) *Suspension condition.*—Ball joint seals shall not be cut or cracked. Structural parts shall not be bent or damaged. Stabilizer bars shall be connected. Springs shall not be broken, or extended by spacers. Shock absorber mountings, shackles, and U-bolts shall be securely attached. Rubber bushings shall not be cracked, extruded out from or missing from suspension joints. Radius rods shall not be missing or damaged.

(i) *Inspection procedure.*—Examine front and rear end suspension parts for conditions indicated.

(b) *Shock absorber condition.*—There shall be no oil on the shock absorber housing attributable to leakage by the seal, and the vehicle shall not continue free rocking motion for more than two cycles.

(i) *Inspection procedure.*—Examine shock absorbers for oil leaking from within, then with vehicle on a level surface, push down on one end of vehicle and release. Note number of cycles of free rocking motion. Repeat procedure at other end of vehicle.

### § 570.9 Tires.

(a) *Tread depth.*—The tread on each tire shall be not less than two thirty-seconds of an inch deep.

(i) *Inspection procedure.*—Passenger car tires have tread depth indicators that become exposed when tread depth is less than two thirty-seconds of an inch. Inspect for indicators in any two adjacent major grooves at three locations spaced approximately equally around the outside of the tire. For vehicles other than passenger cars, it may be necessary to measure tread depth with a tread gauge.

(b) *Type.*—Vehicles should be equipped with tires on the same axle that are matched in nominal size, construction, and profile.

(i) *Inspection procedure.*—Examine visually. A major mismatch in nominal size, construction, and profile between tires on the same axle, or a major deviation from the size as recommended by the manufacturer (e.g. as indicated on the glove box placard on 1968 and later passenger cars) are causes for rejection.

(c) *General condition.*—Tires shall be free from chunking, bumps, knots, or bulges evidencing cord, ply, or tread separation from the casing or other adjacent materials.







V 38 171 SEP 5 73 XUM

(i) *Inspection procedure.*—Examine visually for conditions indicated.

(d) *Damage.*—Tire cords or belting materials shall not be exposed, either to the naked eye or when cuts or abrasions on the tire are probed.

(i) *Inspection procedure.*—Examine visually for conditions indicated, using an awl if necessary to probe cuts or abrasions.

**§ 570.10 Wheel assemblies.**

(a) *Wheel integrity.*—A tire rim, wheel disc, or spider shall have no visible cracks, elongated bolt holes, or indication of repair by welding.

(i) *Inspection procedure.*—Examine visually for conditions indicated.

(b) *Deformation.*—The lateral and radial runout of each rim bead area shall not exceed three thirty-seconds of an inch total indicated runout.

(i) *Inspection procedure.*—Using a runout indicator gauge, and a suitable stand, measure lateral and radial runout of rim bead through one full wheel revolution and note runout in excess of three thirty-seconds of an inch.

(c) *Mounting.*—All wheel nuts and bolts shall be in place and tight.

(i) *Inspection procedure.*—Check wheel retention for conditions indicated.

[FR Doc.73-18720 Filed 9-4-73;8:45 am]

## CHAPTER X—INTERSTATE COMMERCE COMMISSION

### SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order 1104; Amdt. 7]

### PART 1033—CAR SERVICE

#### Penn Central Transportation Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 27th day of August 1973.

Upon further consideration of Service Order No. 1104, (37 FR 15307, 22986; 38 FR 3512, 8445, 14754, 18024, and 20621), and good cause appearing therefor:

*It is ordered,* That: Section 1033.1104 *Service Order No. 1104* (Penn Central Transportation Company, George P. Baker, Richard C. Bond, and Jervis Langdon, Jr., Trustees, authorized to operate over tracks of the Erie Lackawanna Railway Company) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.*—The provisions of this order shall expire at 11:59 p.m., October 31, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

*Effective date.*—This amendment shall become effective at 11:59 p.m., August 31, 1973.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2).)

*It is further ordered,* That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-18752 Filed 9-4-73;8:45 am]

[Rev. S.O. 1110-A]

### PART 1033—CAR SERVICE

#### Penn Central Transportation Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 27th day of August 1973.

Upon further consideration of Revised Service Order No. 1110 (37 FR 19616, 22871, 23236; 38 FR 878, 3333, 5636, 8446, 10942, 14755, 18025, and 20621), and good cause appearing therefor:

*It is ordered,* That:

**§ 1033.1110 [Reserved]**

Section 1033.1110 *Service Order No. 1110,* (Penn Central Transportation Company, George P. Baker, Richard C. Bond, and Jervis Langdon, Jr., Trustees, required to restore service at the Buttonwood (Wilkes-Barre), Pennsylvania, Gateway and to reroute traffic originally routed via that gateway) be, and it is hereby vacated and set aside.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2).)

*It is further ordered,* That this order shall become effective at 12:01 a.m., September 1, 1973; that copies of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreeement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-18753 Filed 9-4-73;8:45 am]

[S.O. 1118; Amdt. 1]

### PART 1033—CAR SERVICE

#### Providence and Worcester Co.

At a session of the Interstate Commerce Commission, Division 3, held in Washington, D.C., on the 28th day of August 1973.

Upon further consideration of Service Order No. 1118 (38 FR 2761), and good cause appearing therefor:

*It is ordered,* That:

Section 1033.1118 Service Order No. 1118 (Providence and Worcester Company authorized to operate over tracks of Penn Central Transportation Company, George P. Baker, Richard C. Bond, and Jervis Langdon, Jr., trustees; Penn Central Transportation Company, George P. Baker, Richard C. Bond, and Jervis Langdon, Jr., trustees, authorized to operate over tracks of Providence and Worcester Company) be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.*—This order shall expire at 11:59 p.m., February 3, 1974, unless otherwise modified, changed, or suspended by order of this Commission.

*Effective date.*—This amendment shall become effective at 11:59 p.m., August 31, 1973.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2).)

*It is further ordered,* That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroad subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Division 3.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-18750 Filed 9-4-73;8:45 am]

[S.O. 1122, Amdt. 1]

### PART 1033—CAR SERVICE

#### Texas Export Railroad Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 23d day of August 1973.

Upon further consideration of Service Order No. 1122 (38 FR 4667), and good cause appearing therefor:

*It is ordered,* That:

Section 1033.1122 Service Order No. 1122, the Texas Export Railroad Company authorized to operate over tracks





abandoned by Chicago, Rock Island and Pacific Railroad Company be, and it is hereby, amended by substituting the following paragraph (f) for paragraph (f) thereof:

(f) *Expiration date.*—The provisions of this order shall expire at 11:59 p.m., October 31, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

*Effective date.*—This amendment shall become effective at 11:59 p.m., August 31, 1973.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10–17), 15(4), and 17(2).)

*It is further ordered,* That a copy of this amendment, shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] JOSEPH M. HARRINGTON, *Acting Secretary.*

[FR Doc.73-18751 Filed 9-4-73;8:45 am]

### SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. 275]

### PART 1115—ISSUANCE OF SECURITIES, ASSUMPTION OF OBLIGATIONS, AND FILING OF CERTIFICATES AND REPORTS

#### Expanded Definition of "Securities"

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 16th day of August 1973.

It appearing, that the Commission, on the date hereof, has made and filed its report in this proceeding upon further consideration setting forth its conclusions and findings and its reasons therefore, which report is hereby referred to and made a part hereof; and

It further appearing, that since the proposed amendments to existing regulations relate to matters of practice and procedure resulting from the herein proceeding, further notice and public proceedings under 5 U.S.C. 533 are not necessary and good cause exists for makotherwise employed by a carrier, and as additionally including, but not being limited to, loan agreements, credit agreeing the amendments effective within 60 days after publication thereof in the FEDERAL REGISTER:

*It is ordered,* That the term "securities" as found in section 20a of the Interstate Commerce Act be henceforth interpreted as including, among other things, all agreements creating a present or future interest in or indebtedness of a carrier, or in property owned, leased or ments, mortgages, chattel mortgages, advances, deeds of trust, equipment trusts, security agreements, purchase agreements whose terms do not provide for full payment of the purchase price at consummation and leases of operating property or real property, but shall not at this time be interpreted to include agreements entered into for the sole purpose of acquiring motor carrier operating property;

*It is further ordered,* That Part 1115 of Subchapter B of Chapter X of Title 49 of the Code of Federal Regulations be, and it is hereby, amended by adding new material[1] to Form BF–6, referred to in § 1115.1:

*It is further ordered,* That this order shall become effective on October 23, 1973.

*And it is further ordered,* That notice of this order shall be given to the general public by depositing a copy of this notice in the Office of the Secretary of this Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-18749 Filed 9-4-73;8:45 am]

## Title 10—Atomic Energy

### CHAPTER I—ATOMIC ENERGY COMMISSION

### PART 110—UNCLASSIFIED ACTIVITIES IN FOREIGN ATOMIC ENERGY PROGRAMS

#### Information on Production of Special Nuclear Material

The Atomic Energy Commission hereby announces amendments to its regulation in 10 CFR, Part 110, which are intended to broaden the general authorization contained therein to include the furnishing to recipients everywhere of unclassified information pertaining to the production of special nuclear material which is (1) published, or (2) contained in certain patent applications, or (3) unpublished, *provided* That such unpublished information will be made available to the public within 60 days after the furnishing thereof.

Pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553), the Commission has found that good cause exists for making this amendment effective without the customary 30-day notice period. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendment to Title 10, Chapter I, Code of Federal Regulations, Part 110 is published as a document subject to codification to be effective on September 5, 1973.

1. Section 110.7(b) of 10 CFR Part 110, is amended to read as follows:

**§ 110.7 Generally authorized activities.**

* * * * * * *

(b) Pursuant to section 57(b)(2) of the Act, the Atomic Energy Commission has determined that any activity not generally authorized pursuant to paragraph (a) of this section, which constitutes directly or indirectly engaging in the production of any special nuclear material outside of the United States, will not be inimical to the interest of the United States, and is authorized by the Atomic Energy Commission, provided that it:

(1) Does not involve the communication of Restricted Data or other classified defense information; and

(2) Is not in violation of other provisions of law; and either

(3) Is limited to participation in (i) meetings of or conferences sponsored by educational institutions, laboratories, scientific or technical organizations; (ii) international conferences held under the auspices of a nation or group of nations; or (iii) exchange programs approved by the Department of State; or

(4) Is limited to the furnishing of information which is available to the public in published form[1] or which will be made available to the public in published form within 60 days after the furnishing thereof.

2. The footnote (1) to 10 CFR 110.7 is amended to read as follows:

[1] For purposes of this section, "information which is available to the public in published form" shall include, but not be limited to, any information contained in an application filed in accordance with the regulations of the U.S. Patent Office and eligible for foreign filing under 35 U.S.C. sec. 184. In addition, information which is available from the Commission pursuant to 5 U.S.C. sec. 552 shall, for purposes of this section, be deemed to be information available to the public in published form.

(Secs. 57, 161, 68 Stat. 932, 948, as amended, (42 U.S.C. 2077, 2201); for the purposes of sec. 223, 69 Stat. 958, as amended, (42 U.S.C. 2273); §§ 110.10 and 110.11 issued under sec. 161.o, 68 Stat. 950, as amended, (42 U.S.C. 2201[o]).)

Dated at Germantown, Md., this 29th day of August 1973.

For the Atomic Energy Commission.

GORDON M. GRANT, *Acting Secretary of the Commission.*

[FR Doc.73-18935 Filed 9-4-73;11:00 am]

[1] Filed as part of the original document.



V 38-171
SEP 5 73
XUM

# Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

## DEPARTMENT OF THE TREASURY

### Customs Service

[ 19 CFR Parts 24 and 141 ]

### IDENTIFICATION AND IMPORTER NUMBERS

### Proposed Amendment To Require Importers of Record and Ultimate Consignees To File for an Importer's Identification Number and To Submit This Number With All Consumption Entries

Notice is hereby given that under the authority of Revised Statute 251, as amended, sections 484, 624, 46 Stat. 722, as amended, 759; 5 U.S.C. 301, 19 U.S.C. 66, 1484, and 1624, it is proposed to amend sections 24.5(a) and 141.61(d) of the Customs regulations to require importers of record and ultimate consignees to file for an importer's identification number and to submit this number with all consumption entries.

Under the present regulations, the importer of record and ultimate consignee must file with the first dutiable formal entry or first request for service resulting in a bill or refund check, an application for an importer's number on Customs Form 5106 (section 24.5 (a)) and must furnish this number on Customs Form 5101 (section 141.61(d)) with each dutiable consumption entry. The importer's number is necessary to permit identification of the importer of record or ultimate consignee of merchandise.

At present, the importer of record or ultimate consignee of free merchandise is not required to file the aforementioned information. The proposed amendment requires these numbers for free as well as dutiable consumption entries.

Accordingly, it is proposed to amend paragraph (a) of § 24.5, to read as follows:

**§ 24.5 Filing identification number.**

(a) Each person, business firm, Government agency, or other organization shall file Customs Form 5106, Notification of Importer's Number or Application for Importer's Number, or Notice of Change of Name or Address, with the first formal entry which he submits or the first request for services that will result in the issuance of a bill or a refund check upon adjustment of a cash collection. Customs Form 5106 shall also be filed for the ultimate consignee for which such entry is being made.

* * * * *

It is also proposed to amend the first sentence in paragraph (d) of § 141.61, to read as follows:

**§ 141.61 Completion of entry papers.**

* * * * *

(d) *Customs Form 5101.*—A Customs Form 5101 (Entry Record) shall be prepared by the importer and all three copies, with carbon paper left in, shall be presented with each consumption entry, and with each warehouse, appraisement, vessel repair, or drawback entry. * * *.

* * * * *

Prior to the adoption of the amendment consideration will be given to any relevant data, views, or arguments which are submitted in writing to the Commissioner of Customs, Attention: Regulations Division, Washington, D.C. 20229, and received not later than October 5, 1973.

Written material or suggestions submitted will be available for public inspection in accordance with § 103.3(b) of the Customs regulations (19 CFR 103.3(b)), at the Regulations Division, Headquarters, United States Customs Service, Washington, D.C., during regular business hours.

Approved August 28, 1973.

[SEAL] VERNON D. ACREE,
*Commissioner of Customs.*

[FR Doc.73-18735 Filed 9-4-73;8:45 am]

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

[ 25 CFR Part 221 ]

### IRRIGATION OPERATION AND MAINTENANCE CHARGES

### Water Charges on the Ahtanum Indian Irrigation Project

AUGUST 24, 1973.

These proposed regulations are being considered for issuance under the authority delegated to the Commissioner of Indian Affairs by the Secretary of the Interior in Section 15(a) of Secretarial Order 2508 (10 BIAM 2.1) and redelegated by the Commissioner to the Area Director in 10 BIAM 3.

Notice is hereby given that it is proposed to modify Section 221.1 of Part 221, Subchapter T, Chapter I, of Title 25 of the Code of Federal Regulations by changing the rate for annual operation and maintenance assessments on the Ahtunum Indian Irrigation Project for Calandar Year 1974 and subsequent years. This modification is proposed pursuant to the authority contained in the Acts of August 1, 1914 (38 Stat. 583), and March 7, 1928 (45 Stat. 210).

The purpose of this modification is to increase the assessment rate to more accurately reflect the actual operation and maintenance costs based on the previous year's operating experience and the anticipated program of work.

The public is welcome to participate in the rule making process of the Department of the Interior. Accordingly, interested persons may submit written comments, views, or arguments with respect to the proposed rates to the Area Director, Portland Area Office, Bureau of Indian Affairs, Post Office Box 3785, Portland, Oregon 97208, on or before October 5, 1973.

Section 221.1 of Chapter I, Title 25, of the Code of Federal Regulations is revised to read as follows:

**§ 221.1 Charges.**

Pursuant to the provisions of the Acts of August 1, 1914, and March 7, 1928 (38 Stat. 583 and 45 Stat. 210; 25 U.S.C. 385, 387), the operation and maintenance charges on lands of the Ahtanum Indian Irrigation Project, Yakima Indian Reservation, Washington, for the Calendar Year 1974 and subsequent years until further notice, are hereby fixed at $3.75 per acre per annum for each irrigable acre of land to which water can be delivered from the project works.

RICHARD M. BALSIGER,
*Acting Area Director.*

[FR Doc.73-18682 Filed 9-4-73;8:45 am]

[ 25 CFR Part 221 ]

### IRRIGATION OPERATION AND MAINTENANCE CHARGES

### Water Charges on the Toppenish-Simcoe Indian Irrigation Project

AUGUST 24, 1973.

These proposed regulations are being considered for issuance under the authority delegated to the Commissioner of Indian Affairs by the Secretary of the Interior in section 15(a) of Secretarial Order 2508 (10 BIAM 2.1) and redelegated by the Commissioner to the Area Director in 10 BIAM 3.

Notice is hereby given that it is proposed to modify § 221.73 of Part 221, Subchapter T, Chapter I, of Title 25 of the Code of Federal Regulations by changing the basic rate for annual operation and maintenance assessments on the Toppenish-Simcoe Indian Irrigation Project for Calendar Year 1974 and subsequent years. This modification is proposed pursuant to the authority contained in the Acts of August 1, 1914 (38 Stat. 583), and March 7, 1928 (45 Stat. 210).

The purpose of this modification is to increase the assessment rate to more accurately reflect the actual operation and maintenance costs based on the previous year's operating experience and the anticipated program of work.

The public is welcome to participate in the rule making process of the Department of the Interior. Accordingly, interested persons may submit written comments, views, or arguments with respect to the proposed rates to the Area Director, Portland Area Office, Bureau of Indian Affairs, Post Office Box 3785, Portland, Oregon 97208, on or before October 5, 1973.

Section 221.73 of Chapter I, Title 25 of the Code of Federal Regulations is revised to read as follows:

**§ 221.73 Charges.**

Pursuant to the provisions of the Acts of August 1, 1914, and March 7, 1928 (38 Stat. 583 and 45 Stat. 210; 25 U.S.C. 385, 387), the operation and maintenance charges for the lands under the Toppenish-Simcoe Irrigation Project, Yakima Indian Reservation, Washington, for the Calendar Year 1974 and subsequent years until further notice, are hereby fixed as follows:

| | |
|---|---|
| All lands for which application for water is made and approved by Program Engineer, per acre | $4.10 |

RICHARD M. BALSIGER,
*Acting Area Director.*

[FR Doc.73-18683 Filed 9-4-73;8:45 am]





[ 25 CFR Part 221 ]

### IRRIGATION OPERATION AND MAINTENANCE CHARGES

### Basic and Other Water Charges on the Wapato Indian Irrigation Project

AUGUST 24, 1973.

These proposed regulations are being considered for issuance under the authority delegated to the Commissioner of Indian Affairs by the Secretary of the Interior in section 15(a) of Secretarial Order 2508 (10 BIAM 2.1) and redelegated by the Commissioner to the Area Director in 10 BIAM 3.

Notice is hereby given that it is proposed to modify § 221.86 of Part 221, Subchapter T, Chapter I of Title 25 of the Code of Federal Regulations by changing the basic rate for annual operation and maintenance assessments on the Wapato Indian Irrigation Project for Calendar Year 1974 and subsequent years. This modification is proposed pursuant to the authority contained in the Acts of August 1, 1914 (38 Stat. 583), and March 7, 1928 (45 Stat. 210).

The purpose of this modification is to increase the assessment rate to more accurately reflect the actual operation and maintenance costs based on the previous year's operating experience and the anticipated program of work.

The public is welcome to participate in the rule making process of the Department of the Interior. Accordingly, interested persons may submit written comments, views, or arguments with respect to the proposed rates to the Area Director, Portland Area Office, Bureau of Indian Affairs, Post Office Box 3785, Portland, Oregon 97208, on or before October 5, 1973.

Section 221.86 of Chapter I, Title 25, of the Code of Federal Regulations is revised to read as follows:

**§ 221.86 Charges.**

The operation and maintenance charges on assessable lands under the Wapato Indian Irrigation Project, Yakima Indian Reservation, Washington, are hereby fixed as follows:

(a) Pursuant to the provisions of the Acts of August 1, 1914, and March 7, 1928 (38 Stat. 583, 45 Stat. 210; 25 U.S.C. 385, 387), the basic operation and maintenance assessment rates for the Calendar Year 1974 and subsequent years until further notice are:

| | |
|---|---|
| (1) Minimum charges for all tracts in noncontiguous single ownership | $10.80 |
| (2) Flat rate upon all farm units or tracts for each assessable acre except Additional Works lands | 10.80 |
| (3) Storage operation and maintenance. For all lands with a storage water right, known as "B" lands, in addition to other charges per acre | 0.60 |
| (4) Flat rate upon all farm units or tracts for each assessable acre of Additional Works lands | 11.30 |

(b) Pursuant to the provisions of the Act of September 26, 1961 (75 Stat. 680), there shall be assessed and collected from all lands except Additional Works lands, beginning with the Calendar Year 1967 and until further notice but not to exceed a period of 10 years, an annual per acre charge of $0.20 to defray the cost of replacing a wooden pipeline.

RICHARD M. BALSIGER,
*Acting Area Director.*

[FR Doc.73-18681 Filed 9-4-73;8:45 am]

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

[ 7 CFR Part 26 ]

### GRAIN SORGHUM

### Proposed Revision of U.S. Standards

Pursuant to section 4 of the United States Grain Standards Act, as amended (82 Stat. 762, 7 U.S.C. 76), notice is hereby given according to the administrative procedure provisions of Section 553 of Title 5, United States Code, that the U.S. Department of Agriculture has under consideration a proposed revision of the Official Grain Standards of the United States for Grain Sorghum (7 CFR 26.551 et seq.).

*Statement of considerations.*—The United States Grain Standards Act provides for official U.S. standards to designate the levels of quality of grain for voluntary use by producers, merchandisers, and consumers in the domestic marketing of grain and for mandatory use in the export marketing of grain. Official grading service is provided under the Act upon request of the applicant and payment of a fee to cover the cost of the service.

At present, yellow grain sorghum is traded under three names; grain sorghum, sorghum, and milo. The multiplicity of names is confusing and does not facilitate or promote the orderly marketing of grain sorghum. The officially recognized botanical name for the commodity is *Sorghum vulgare*, and the officially recognized common name is "sorghum." Grain sorghum is a recognized synonym for sorghum. Milo is a recognized type of sorghum but not all sorghum sold in commercial channels is milo. To avoid the multiplicity of names, and to provide an accurate but short name, it has been proposed that the name in the standards be shortened from "grain sorghum" to the officially recognized name "sorghum." If the proposal is adopted, inspectors would be authorized, for a period of time, to show both names on certificates to help applicants meet contract commitments.

Sorghum breeders and producers of sorghum seed have requested a change in the classing of sorghum under the U.S. standards. They propose that the class White Sorghum be redefined to reduce the maximum limit for sorghum of other colors. They also propose that the class Yellow Sorghum be redefined to include mixtures of sorghum with white seedcoats along with those seedcoat colors presently allowed in the class.

The present definition for the class White Grain Sorghum permits up to 10 percent of sorghum with seedcoats of other colors before the sorghum is graded "Mixed." Only limited acreage of white sorghum is now produced in the United States but new white sorghum varieties are available and should be more acceptable to producers if the proposed change in classing is approved. Feeding studies using white sorghum show an increased feed efficiency of 4 to 7 percent above some red sorghum. Many poultry feeders prefer white sorghum to sorghum of other colors. White sorghum is also stated to be more suitable than sorghum of other colors for wet milling (including starch production), brewing, and flour production for human food. For these reasons, it is proposed to permit only 2 percent of sorghum with seedcoats of other colors in the class White Sorghum.

The present definition for the class Yellow Grain Sorghum includes sorghum with yellow, salmon-pink, and red colored seedcoats. In addition, it allows not more than 10 percent of sorghum of other classes, including white seedcoats. Accordingly, mixtures of sorghum with yellow seedcoats with more than 10 percent of sorghum with white seedcoats are graded "Mixed." Mixtures of yellow and white sorghum are subject to price discounts, but research indicates that the feeding quality of white sorghum normally may be equal to or superior to that of yellow sorghum. For these reasons, it is proposed to redefine the class Yellow Grain Sorghum to include sorghum with white seedcoats in any amount, except an amount that meets the requirements for white sorghum.

The proposed change in the classing of yellow sorghum should also be helpful to inspectors in classing hybrid varieties. Such varieties frequently have seedcoats



V 38-171 SEP 5 73 XUM

with varying tinges or shades of color. If the proposed change in classing is approved, kernels having colors varying between yellow and white will be classified as Yellow Sorghum.

The proposed changes in the U.S. standards for sorghum would be as follows:

1. Shorten the name of the grain from "grain sorghum" to "sorghum"—to use a shorter, more official, and more acceptable name.

2. Change the definition for the class Yellow Sorghum by adding sorghum with white seedcoats—to permit mixtures of yellow, white, salmon-pink, and red sorghum to be graded as Yellow Sorghum.

3. Change the definition for the class White Sorghum to require that white sorghum shall have white seedcoats and contain not more than 2.0 percent of sorghum with seedcoats or subcoats of other colors—to further restrict the quantity of other colors that can be mixed with white sorghum and still be classified as White Sorghum.

4. Revise the format of the standards by:

a. Arranging the terms in alphabetical order—for ease in use.

b. Deleting the definition for "Grades" from "Terms Defined"—the term is adequately defined in "Grades, Grade Requirements, and Grade Designations."

c. Including "Moisture" and "Test weight per bushel" under "Terms Defined"—these terms were previously included in "Principles Governing Application of Standards."

d. Incorporating the term "crotalaria seed" under U.S. Sample grade (§ 26.557) and showing numerical limits for crotalaria seed and stones—to more clearly define the grade.

5. Add to the definition for sorghum a definition for whole kernels—to more clearly define the basic requirements for sorghum.

6. Add "sorghum almum" to the definition for "nongrain sorghum"—to provide for the proper designation of this commercially grown forage sorghum.

7. Add "triticale" to the definition for "other grains"—to provide for the proper designation of this new grain.

8. Include in the definition for "damaged kernels" the term "insect-bored kernels"—to clearly identify insect-bored kernels as damaged kernels.

9. Define the term "distinctly low quality"—to more clearly identify the term.

10. Add the sections "Temporary adjustment in equipment and procedures" (§ 26.553) and "Percentages" (§ 26.554) to "Principles Governing Application of Standards."

11. Redefine "Broken kernels, foreign material, and other grains"; "Docket"; "Moisture"; "Test weight"; and "Basis of determination"—to show information that is considered significant to the meaning and application of the standards.

12. Clarify the definition for percentages—to provide for uniformity in expressing percentages for grade determinations.

13. Make nonsubstantive changes of an editorial nature.

The Department proposes that the U.S. Standards for Grain Sorghum be revised to read as follows:

OFFICIAL GRAIN STANDARDS OF THE UNITED STATES FOR SORGHUM[1]

TERMS DEFINED

**§ 26.551 Definitions.**

For the purposes of these standards the following terms shall have the meanings stated below:

(a) *Broken kernels, foreign material, and other grains.*—All material, including whole kernels of sorghum and pieces of kernels or sorghum (except dockage) which may be removed from a test portion of the original sample by use of an approved device, and by handpicking a portion of the sample, in accordance with procedures prescribed in the Grain Inspection Manual.[2] For the purpose of this paragraph "approved device" shall include the Carter Dockage Tester and any other equipment that is approved by the Administrator as giving equivalent results.[3]

(b) *Classes.*—The following four classes:

(1) *Brown sorghum.*—Sorghum with brown seedcoats or brown subcoats which contains not more than 10.0 percent of sorghum of other colors.

(2) *White sorghum.*—Sorghum with white seedcoats which contains not more than 2.0 percent of sorghum with seedcoats or subcoats of other colors.

(3) *Yellow sorghum.*—Sorghum with yellow, salmon-pink, red, or white seedcoats, or white but spotted seedcoats, which contains not more than 10.0 percent of sorghum with brown seedcoats or subcoats and which does not meet the requirements for the class White Sorghum.

(4) *Mixed sorghum.*—Sorghum which does not meet the requirements for any of the classes Brown Sorghum, Yellow Sorghum, or White Sorghum.

(c) *Damaged kernels (total).*—Kernels and pieces of kernels of sorghum and other grains which are heat-damaged, sprout-damaged, frost-damaged, badly ground-damaged, badly weather-damaged, mold-damaged, diseased, insect-bored, or otherwise materially damaged.

(d) *Distinctly low quality.*—Sorghum which is obviously of inferior quality because it contains foreign substances or because it is in an unusual state or condition, and which cannot be graded by use of the other grading factors provided in the standards.

(e) *Dockage.*—Material of small particle size (2 1/2/64 inches or less in diameter), including pieces of sorghum, which may be removed from a test portion of the original sample by use of an approved device in accordance with procedures prescribed in the Grain Inspection Manual.[2] For the purpose of this paragraph "approved device" shall include the Carter Dockage Tester and any other equipment that is approved by the Administrator as giving equivalent results.[3]

(f) *Heat-damaged kernels.*—Kernels and pieces of kernels of sorghum and other grains which are materially discolored and damaged as a result of heating.

(g) *Moisture.*—Water content in sorghum as determined by an approved device in accordance with procedures prescribed in the Grain Inspection Manual.[2] For the purpose of this paragraph "approved device" shall include the Motomco Moisture Meter and any other equipment that is approved by the Administrator as giving equivalent results.[3]

(h) *Nongrain sorghum.*—Seeds of broomcorn, johnsongrass, sorghum almum, sorghum-sudangrass hybrids, sorgrass, sudangrass, and sweet sorghum (sorgo).

(i) *Other grains.*—Barley, corn, cultivated buckwheat, einkorn, emmer, flaxseed, hull-less barley, nongrain sorghum, oats, Polish wheat, popcorn, poulard wheat, rice, rye, soybeans, spelt, sweet corn, triticale, wheat, and wild oats.

(j) *Sorghum.*—Grain which, before the removal of dockage, consists of 50.0 percent or more of whole kernels of sorghum (*Sorghum vulgare*) excluding nongrain sorghum and which contains not more than 10.0 percent of other grains for which standards have been established under the United States Grain Standards Act. Whole kernels, for purposes of this determination, shall be sorghum with ¼ or less of the kernel removed.

(k) *Stones.*—Concreted earthy or mineral matter and other substances of similar hardness that do not disintegrate readily in water.

(l) *Test weight per bushel.*—Test weight per bushel shall be the weight per Winchester bushel (2,150.42 cubic inches capacity) as determined on a test portion of the original sample by an approved device in accordance with instructions in the Grain Inspection Manual.[2] For the purpose of this paragraph "approved device" shall include the Fairbanks-Morse or Ohaus Test Weight Per Bushel Apparatus and any other equipment that is approved by the Administrator as giving equivalent results.[3] Test weight per bushel shall be stated in terms of whole and half pounds; a fraction of a pound when equal to or greater than one-half shall be stated as one-half and when less than one-half shall be disregarded; e.g., 51.1 through 51.4 shall be 51.0, and 51.5 through 51.9 shall be 51.5.

PRINCIPLES GOVERNING APPLICATION OF STANDARDS

**§ 26.552 Basis of determination.**

Each determination of "broken kernels, foreign material, and other grains" shall be determined on a test portion of the grain sample when free from dockage. Each determination of "class," "damaged kernels," "heat-damaged kernels," and "stones" shall be determined on a test portion of the grain sample when free from "dockage," and that part of the "broken kernels, foreign material, and other grains" which will pass through an equilateral triangular opening, the inscribed circle of which is 0.0781 (5/64) inch in diameter. All other determinations shall be on a test portion of the original sample.

**§ 26.553 Temporary adjustments in equipment and procedures.**

The equipment and procedures referred to in the sorghum standards are applicable to sorghum produced and harvested under normal environmental conditions. Abnormal environmental conditions during the production and harvest of sorghum may require temporary adjustments in the procedures or equipment. When these adjustments are necessary, Grain Division Field Offices and Official Inspection Agencies will be notified in writing of the change.

**§ 26.554 Percentages.**

Percentages shall be determined on the basis of weight and shall be rounded off as follows:

(a) When the figure to be rounded is followed by a figure greater than 5, round to the next higher figure, e.g., 0.46, report as 0.5.

(b) When the figure to be rounded is followed by a figure less than 5, round to the next lowest figure, e.g., 0.54, report as 0.5.

(c) When the figure to be rounded is even and it is followed by the figure 5, retain the even figure. When the figure to be rounded is odd and it is followed by 5, round the figure to the next highest number, e.g., 0.45, record as 0.4; 0.55, record as 0.6.

Percentages, except for dockage and for classes in "Mixed Sorghum," shall be stated in whole and tenth percent to the nearest tenth percent. The percentage of dockage when equal to one percent or more shall be stated as a whole percent; a fraction of a percent shall be disregarded. The percentage of each class in "Mixed Sorghum" shall be stated to the nearest whole percent.

The percentage of "broken kernels, foreign material, and other grains" shall be the sum of the percentage determined for the mechanically separated portion and the percentage determined for the handpicked portioin in accordance with instructions in the Grain Inspection Manual.[2]

**§ 26.555 [Reserved]**

**§ 26.556 [Reserved]**

GRADES, GRADE REQUIREMENTS, AND GRADE DESIGNATIONS

**§ 26.557 Grades and grade requirements for all classes of sorghum. (See also § 26.559.)**

| Grade | Minimum test weight per bushel | Maximum limits of— Moisture | Damaged kernels: Total | Damaged kernels: Heat-damaged kernels | Broken kernels, foreign material, and other grains[1] |
|---|---|---|---|---|---|
| | *Pounds* | *Percent* | *Percent* | *Percent* | *Percent* |
| U.S. No. 1 | 57.0 | 13.0 | 2.0 | 0.2 | 4.0 |
| U.S. No. 2 | 55.0 | 14.0 | 5.0 | 0.5 | 8.0 |
| U.S. No. 3 | 53.0 | 15.0 | 10.0 | 1.0 | 12.0 |
| U.S. No. 4 | 51.0 | 18.0 | 15.0 | 3.0 | 15.0 |
| U.S. Sample grade. | U.S. Sample grade shall be sorghum which— (a) Does not meet the requirements for the grades U.S. Nos. 1, 2, 3, or 4, (b) Contains more than 7 stones which have a weight in excess of 0.2 percent of the sample weight or more than 2 crotalaria seeds (*Crotalaria* spp.) per 1,000 grams of sorghum, (c) Has a musty, sour, or commercially objectionable foreign odor (except smut odor), or (d) Is badly weathered, heating, or distinctly low quality. | | | | |

[1] Sorghum which is distinctly discolored shall not be graded higher than U.S. No. 3.

**§ 26.558 Grade designations.**

The grade designations for sorghum shall include in the following order: (a) The letters "U.S.," (b) the number of the grade or the words "Sample grade," (c) the class, (d) each applicable special grade (see § 26.560), and (e) when applicable, the word "dockage" together with the percentage thereof. The grade designation for the class "Mixed Sorghum" shall include, following the words "Mixed Sorghum," the approximate percentages of each class of sorghum in the mixture in the order of predominance.

SPECIAL GRADES, SPECIAL GRADE REQUIREMENTS, AND SPECIAL GRADE DESIGNATIONS

**§ 26.559 Special grades and special grade requirements.**

A special grade, when applicable, is supplemental to the grade assigned under § 26.557. Such special grades are established and determined as follows:

(a) *Smutty sorghum.*—Smutty sorghum shall be sorghum which is covered with smut spores or which contains 20 or more smut masses in 100 grams of sorghum.

(b) *Weevily sorghum.*—Weevily grain sorghum shall be grain sorghum which is infested with live weevils or other live insects injurious to stored grain.

**§ 26.560 Special grade designations.**

The grade designation for smutty or weevily sorghum shall include, following the class, the word(s) "Smutty" or "Weevily," as warranted, and all other information prescribed in § 26.558.

*Comments and effective date.*—The United States Grain Standards Act, as amended, requires that public notice shall be given on any amendment of the standards and that no changes shall become effective less than 1 year after promulgation thereof, unless, in the judgment of the Secretary, the public health, interest, or safety require that they become effective sooner. It is desirable that new standards become effective before the beginning of harvest to minimize possible disruption of normal marketing procedures. A limited poll of members of the trade and Federal agencies indicate no objection to an effective date of June 1, 1974. If the proposed revision as set forth herein is adopted in whole or in part, it is intended that the revision would be made effective on or about June 1, 1974.

Public hearings on the proposed revision will not be held but all persons who desire to submit written data, views, or arguments on this proposal should file them in duplicate with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than October 22, 1973. Any persons who desire to submit their views orally in an informal manner should so advise the Director, Grain Division, Agricultural Marketing Service, U.S. Department of Agriculture, 6525 Belcrest Road, Hyattsville, Maryland 20782 (telephone (301) 436–8776) so that arrangements may be made for such submission by October 23, 1973. A summary of such views will be made and furnished for verification to the person making the submission and if approved may be filed by him in the Office of the Hearing Clerk. All comments so filed will be available for public inspection during official hours of business (7 CFR 1.27(b)). Consideration will be given to all comments filed with the Hearing Clerk, and to all other information available to the U.S. Department of Agriculture, in arriving at a decision on the proposed revision of the grain sorghum standards.

Copies of the current grain sorghum standards may be obtained from the Director, Grain Division, Agricultural Marketing Service, 6525 Belcrest Road, Hyattsville, Maryland 20782, or from any field office of the Grain Division. Field office locations can be found in the telephone directory.

Done at Washington, D.C., on August 27, 1973.

E. L. PETERSON,
*Administrator,*
*Agricultural Marketing Service.*

[FR Doc.73-18559 Filed 9-4-73;8:45 am]

---

**Animal and Plant Health Inspection Service**

**[ 9 CFR Parts 102, 104 ]**

**VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS**

**Proposed Miscellaneous Amendments**

Notice is hereby given in accordance with the provisions contained in section

[1] Compliance with the provisions of these standards does not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or other Federal laws.

[2] Grain Inspection Manual, GR Instruction 918–6, revised August 28, 1972. Copies may be obtained from the Grain Division, Agricultural Marketing Service, U.S. Department of Agriculture, 6525 Belcrest Road, Hyattsville, Maryland 20782.

[3] Requests for information concerning approved devices and procedures, criteria for approved devices, and request for approval of devices should be directed to the Grain Division, Agricultural Marketing Service, U.S. Department of Agriculture, 6525 Belcrest Road, Hyattsville, Maryland 20782.







V 38 I 171
SEP 5 73
XUM

553(b) of title 5, United States Code (1966), that it is proposed to amend certain of the regulations relating to viruses, serums, toxins, and analogous products in Part 102 and Part 104 of title 9 CFR issued pursuant to the provisions of the Virus-Serum-Toxin Act of March 4, 1913 (21 U.S.C. 151–158).

These proposed amendments would include a revision of the regulations pertaining to the importation of biological products. As revised, they would be recodified in a new Part 104, titled "Permits for Biological Products." The title of Part 102 would be changed to "Licenses for Biological Products." These changes would not only emphasize the regulations pertaining to permits but would further differentiate these regulations from those pertaining to other permits issued by Animal and Plant Health Inspection Service, thus making them more readily available to interested people.

The need for three types of permits would be specified in § 104.1, including one for transit shipments. Such permits would be authorized in § 104.2 and conditions under which a permit would not be issued would be specified. Need for an application would be prescribed in § 104.3.

The three types of permits—Research and Evaluation, Distribution and Sale, and Transit Shipment would be provided in § 104.4, § 104.5, and § 104.6, respectively, with the conditions under which each will be issued included. The format for the permit would be authorized in § 104.7.

These proposed amendments would make biological products imported for Distribution and Sale subject to the same test and release requirements currently being applied to licensed products prepared in the United States. They would also provide for the disposition of shipments which do not comply with such requirements or which might otherwise not be eligible for entry.

1. Part 102 is amended by changing the title to read:

## PART 102—LICENSES FOR BIOLOGICAL PRODUCTS

2. Part 102 is amended by deleting § 102.25, § 102.26, § 102.27, and § 102.28.

3. Chapter I of Title 9 of the Code of Federal Regulations is amended by adding a new Part 104 to read:

## PART 104—PERMITS FOR BIOLOGICAL PRODUCTS

Sec.
104.1 Permit required.
104.2 Permit authorized.
104.3 Permit application.
104.4 Products for research and evaluation.
104.5 Products for distribution and sale.
104.6 Products for transit shipment only.
104.7 Product permit.
104.8 Illegal shipments.

AUTHORITY: 37 Stat. 832–833; 21 U.S.C. 151–158.

### § 104.1 Permit required.

Unless otherwise authorized or directed by the Deputy Administrator, each permit to import a biological product into the United States shall be issued in accordance with the regulations in this part.

(a) No biological product shall be brought into the United States unless a permit has been issued for such product. A separate U.S. Veterinary Biological Product Permit shall be required for each shipment of biological product to be imported; *Provided*, That, a permit shall also be required for each transit shipment of biological products moved through the United States.

(b) Each person importing biological products shall hold an unexpired, unsuspended, and unrevoked permit issued by Veterinary Services. Such person shall reside within the United States, or operate a business establishment within the United States, or both.

### § 104.2 Permit authorized.

(a) Veterinary Services is authorized to issue three types of permits for importing biological products. They shall be:

(1) U.S. Veterinary Biological Product Permit for Research and Evaluation;

(2) U.S. Veterinary Biological Product Permit for Distribution and Sale; or

(3) U.S. Veterinary Biological Product Permit for Transit Shipment Only.

(b) A permit shall not be issued for a biological product from countries known to have exotic diseases, including but not limited to foot-and-mouth disease, rinderpest, fowl pest (fowl plague), swine vesticular disease, Newcastle disease, and African swine fever, if in the opinion of the Deputy Administrator, such products may endanger the livestock or poultry of this country.

(c) A permit shall not be issued until an inspector has determined the condition of the equipment and facilities of the producer, of the applicant, or of both if such a determination is considered necessary by the Deputy Administrator.

(d) A permit shall not be issued for a biological product prepared in the United States, exported, and presented for reentry except as provided in § 104.4(d).

### § 104.3 Permit application.

(a) Each person desiring to import a biological product shall make written application to Veterinary Services for a permit. Blank forms of application shall be furnished upon request.

(b) The application shall specify the type of permit required, the port of entry at which the product shall be cleared through Customs, the estimated quantity involved, and the anticipated date on which the importation shall be made.

### § 104.4 Products for research and evaluation.

(a) An application for a U.S. Veterinary Biological Product Permit to import a biological product for Research and Evaluation shall be accompanied by a brief description of such product, methods of propagating antigens including composition of medium, species of animals or cell cultures involved, degree of inactivation or attenuation, recommendations for use, and the proposed plan of evaluation.

(b) A permit to import a biological product for Research and Evaluation shall not be issued unless scientific capabilities of the investigator are determined to be adequate to safeguard domestic animals and protect public health, interest, or safety from any deleterious effects which might result from such product. Special restrictions shall be specified as part of the permit when such restrictions are deemed necessary or advisable by the Deputy Administrator.

(c) A biological product shall not be imported for Research and Evaluation which is not packaged and labeled in accordance with § 112.9 of this subchapter.

(d) When a licensed product has been exported from the United States, a permit may be issued to the producer for a small quantity of such product for in vitro Research and Evaluation tests; *Provided*, That, the importation of such product will not endanger the livestock or poultry of this country.

### § 104.5 Products for distribution and sale.

An application for a U.S. Veterinary Biological Product Permit to import a biological product for Distribution and Sale shall be accompanied by supporting material necessary to satisfy the requirements provided in this section.

(a) A permit shall not be issued unless the conditions under which the biological product is to be prepared or the methods to be used are such as to reasonably insure that the product is pure, safe, potent, and efficacious.

(1) Three copies of blueprints of the producing foreign establishment shall be submitted with the application unless satisfactory plans are on file with Veterinary Services from a previous application. The production facilities to be used for each product prepared at the establishment shall be designated.

(2) The manufacturer shall submit written authorization for properly accredited inspectors to inspect without previous notification, and at such times as may be demanded by the aforesaid inspectors, all parts of the establishment in which biological products shall be prepared, all processes of preparation, and all records relative to such preparation.

(3) The manufacturer shall furnish written assurance that a biological product to be imported for Distribution and Sale shall be prepared under the supervision of a person competent by education and experience to handle all matters pertaining to the preparation of such product and that each biological product shall be prepared in accordance with the regulations applicable to the product or in a manner acceptable to the Deputy Administrator so as to carry out the purposes of the Act.

(4) The methods to be used in the preparation of each biological product shall be written into an approved Outline of Production prepared in accordance with the applicable provisions of Part 114 of this subchapter. Three copies of such Outline of Production shall be submitted to Veterinary Services and be approved before the permit is issued.

(5) Data shall be furnished by the applicant which establishes that the product involved complies with the provisions of the Act and the regulations issued pursuant thereto. When deemed necessary to obtain required information, Veterinary Services may require that the product be tested under field conditions within or outside the United States as the occasion demands.

(b) The permittee shall furnish the following:

(1) Adequate facilities for storing all imported biological products. An inspection of such facilities shall be made by inspectors before a permit is issued and additional inspections shall be made at any time subsequent to the importation of the biological products if deemed necessary by the Deputy Administrator;

(2) Information regarding all claims to be made on labels and advertising matter used in connection with or related to the biological product to be imported;

(3) Mounted copies of final container labels, carton labels, and enclosures to be used with the imported product as provided in Part 112 of this subchapter; and

(4) Samples of each serial from each shipment of biological products imported or offered for importation. Such samples shall be collected, examined, and tested in a manner specified by the Deputy Administrator. The biological products being sampled shall not be further distributed by the permittee until released by Veterinary Services.

### § 104.6 Products for transit shipment only.

An application for a permit for Transit Shipment Only shall be required when a biological product is being shipped from one foreign country to another foreign country by way of the United States. The shipment shall move under a permit subject to the following restrictions:

(a) The shipment shall be confined to the carrier at all times when such shipment is to transit the United States on the same carrier on which it arrived. If the shipment is to be transferred to a carrier other than the one on which it shall arrive into the United States, a schedule of arrival and departure of each shipment shall be furnished by the permittee to Veterinary Services prior to arrival in the United States.

(b) The permittee shall be responsible to Veterinary Services for handling, storing, and forwarding of the biological product. Veterinary Services shall be notified of all shipments received and forwarded by the permittee and an accurate accounting shall be made.

### § 104.7 Product permit.

(a) A permit shall be numbered, shall be dated, and shall be in the following form:

U.S. VETERINARY BIOLOGICAL PRODUCT PERMIT
No. ------
RESEARCH AND EVALUATION OR DISTRIBUTION AND SALE
OR
TRANSIT SHIPMENT ONLY
(Insert One)

Issued at Washington, D.C. on ----------
Expires: ----------

This permit is issued pursuant to the terms of the Act of Congress approved March 4, 1913 (37 Stat. 832), governing the preparation, sale, barter, exchange, shipment, and importation of veterinary biological products. So far as the jurisdiction of the U.S. Department of Agriculture is concerned, ---------- ---------- is authorized to import ---------- ----------, prepared by ---------- ----, into the United States through the port of ----------.

Importation shall be made subject to the following special conditions:

This permit may be revoked if the permittee violates or fails to comply with said Act, the regulations made thereunder, or the conditions specified herein.

---
*Veterinary Services, Animal and Plant Health Inspection Service.*

(b) The purpose for which the product is imported shall be specified on the permit as for Research and Evaluation, Distribution and Sale, or Transit Shipment Only.

(c) A permit shall not be used after the date specified.

### § 104.8 Illegal shipments.

(a) Biological products which are presented for importation without a permit having been issued shall be returned to the country of origin at the expense of the importer or in lieu thereof, destroyed by Department personnel.

(b) Biological products for Distribution and Sale presented for importation under a permit and found to be worthless, contaminated, dangerous, or harmful shall, within a period of 30 days after such finding, be returned to the country of origin at the expense of the importer or in lieu thereof, destroyed by Department personnel; *Provided*, That such product shall not be returned to the country of origin while bearing a U.S. permit number on the label.

Interested persons are invited to submit written data, views, or arguments regarding the proposed regulations to Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250. All comments received on or before November 3, 1973, will be considered.

All written submissions made pursuant to this notice will be made available for public inspection at Biologics Staff, Veterinary Services, Animal and Plant Health Inspection Service, Room 828–A, Federal Center Building #1, Hyattsville, Maryland 20782, at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).





Done at Washington, D.C., this 30th day of August 1973.

G. H. WISE,
*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc.73–18743 Filed 9–4–73;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### [ 46 CFR Part 146 ]

[CGD 73–173 PH]

### CORROSIVE MATERIALS

### Dangerous Cargoes; Miscellaneous Amendments

The Coast Guard is considering amending the dangerous cargo regulations in 46 CFR 146 pertaining to corrosive materials to:

1. Revise the packaging for the articles crotonaldehyde, diethylamine and propylene oxide.

2. Change the classification of caustic soda and phosphoric acid to corrosive materials.

3. Add a "grandfather" clause to the definition of corrosive materials.

4. Revise the definition of corrosive materials.

5. Add inside plastic recepticles to the corrosive solids exemption.

6. Revise the packaging authorized for corrosive liquids N.O.S. and corrosive solid N.O.S.

7. Revise the packages for certain corrosive liquids to authorize tank car and tank trucks and a specification 2U liner for use with a DOT–37M and 6D Steel overpacks.

Written comments.—Interested persons are invited to participate in this proposed rulemaking by submitting written data, views, or arguments to the Executive Secretary, Marine Safety Council, U.S. Coast Guard Headquarters (GCMC/82), Room 8234, 400 Seventh Street SW., Washington, D.C. 20590. (Telephone 202–426–1477). Each person submitting comments should include his name and address, identify the notice (CGD 73–173 PH), and give reasons for any recommendations. Comments received will be available for examination by interested persons in Room 8234, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. Copies will be furnished upon payment of fees prescribed in 49 CFR 7.81.

*Public hearing.*—The Coast Guard will hold a hearing on September 25, 1973, at 0930 a.m. in Conference Room 8332, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. Interested persons are invited to attend the hearing and present oral or written statements on this proposal. It is requested that anyone desiring to attend the hearing notify the Executive Secretary at least ten days in advance of the time needed for his presentation. Written summaries or



V 38-171
SEP 5 73
XUM

copies of oral presentations are encouraged.

*Closing date for comments.*—All communications received before October 5, 1973, will be evaluated before final action is taken on this proposal. The proposed regulations may be changed in the light of comments received.

By a separate document published at page 5946 of the February 12, 1973, issue of the FEDERAL REGISTER, the Hazardous Materials Regulations Board of the Department of Transportation amended Title 49 of the Code of Federal Regulations. Also the Board has proposed to amend the definition of corrosive materials in a document published at page 4270 of the February 12, 1973, issue of the FEDERAL REGISTER. For reasons fully stated in these documents the Board has proposed these changes.

The hazardous materials regulations of the Department of Transportation in Title 49 apply to shippers by water, air, and land, and to carriers by air and land. The adoption of this proposed amendment to Title 46 would make the proposal of the Hazardous Materials Regulations Board applicable to carriers by water.

The Coast Guard proposes to incorporate the substance of the Board's proposal in 46 CFR Part 146.

In consideration of the foregoing, it is proposed to amend Part 146 of Title 46 of the Code of Federal Regulations as follows:

**§ 146.21–100 [Amended]**

1. Striking out in § 146.21–100 "Table D—Classification: Inflammable liquids" for the articles "Crotonaldehyde" and "propylene oxide" in column four the entries following the words "Outside Containers" and inserting in place thereof the following:

Carboys (DOT–1A) boxed, glass not over 5 gal cap.
Carboys (DOT–1D or 1EX (STC)) boxed, glass.
Wooden boxes, W1C (DOT–15A, 15B, 15C, 16A, 19A).
Fiberboard boxes, W1C (12B, 12P).
Metal barrels or drums (DOT–5, 5A, 5B, 5C, 5P, 17C(STC), 17E(STC).
Steel barrels or drums (DOT–37P) .NRC not over gal. cap.
Cylinders as prescribed for any compressed gas except acetylene.
Tank cars complying with DOT regulations (trainships only).
Tank trucks complying with DOT regulations (trainships and trailerships only).

2. Striking out in § 146.21–100 "Table D—Classification: Inflammable liquids" for the article "Diethylamine" the entries in columns 1, 2, and 3 and inserting in proper alphabetical sequence the following article in table D:

In column 1

Diethylamine

In column 2

*Clear colorless liquid*
*Flashpoint below 0° F*
*Miscible with water*

In column 3

Red

In column 4

Carboys (DOT—1A) boxed glass not over 5 gal cap.
Carboys (DOT–1D, 1EX(STC)) boxed, glass
Wooden boxes, W1C (12B, 12P)
Metal barrels or drums:
(DOT–5, 5A, 5B, 5C, 5P, 17C (STC), 17E (STC))
(DOT–37P) NRC not over 5 gal cap.
Cylinders as prescribed for any compressed gas except acetylene
Tank cars complying with DOT regulations (trainships only)
Tank trucks complying with DOT regulations (Trainships and Trailerships only)

In columns 5, 6 and 7

not permitted

**§ 146.04–5 [Amended]**

3. Striking out in § 146.04–5 "List of explosives and other dangerous articles and combustible liquids" the entries in all three columns for the articles "Caustic soda, solid", "Phosphoric acid" and "Sodium hydroxide" and inserting in proper alphabetical sequence the following articles:

| Article | Classed as— | Label required |
|---|---|---|
| Caustic soda, dry, solid, flake, bead, or granular. | Cor. | Corrosive. |
| Phosphoric acid, *liquid, or* phosphoric acid solution. | Cor. | Do. |
| Sodium hydroxide dry, solid, flake, bead or granular. *See* Caustic soda. | Cor. | Do. |

**§ 146.27–100 [Amended]**

4. Striking out in § 146.27–100 "Table K—Classification: Hazardous articles the entries in column one for Caustic soda, solid and Sodium hydroxide and in all seven columns for the article Phosphoric acid.

**§ 146.23–100 [Amended]**

5. Adding to § 146.23–100 in proper alphabetical sequence the following articles:

| Descriptive name of article | Characteristic properties caution marking required | Label required | Required conditions for transportation: Cargo vessel | Passenger vessels | Ferry vessels, passenger of vehicle | Railroad car ferry, passenger of vehicle |
|---|---|---|---|---|---|---|
| Caustic soda dry, solid, flake, bead or granular. Sodium hydroxide dry, solid, flake, bead, or granular. | A solid in the form of white flakes, powder lumps. Keep dry. In contact with moisture gives off corrosive pungent vapor and evolves heat. Caustic to skin. May destroy organic materials. | Corrosive... | Stowage: "On deck under cover", "Tween decks", "Under deck".<br>Outside containers.<br>Metal, wooden, or fiberboard box or case.<br>W1C.<br>Metal drum.<br>Fiber drum not exceeding 550 lb net weight or 55 gal. capacity must include a moisture barrier.<br>Plastic drum or pail not over 80 lb net weight and not over 6 gal capacity.<br>Bags complying with DOT regulations not over 110 lb net weight.<br>Metal portable tank or closed bin not over 660 gal capacity and 7,000 lb gross weight.<br>Fiberglass or rubber tank or closed bin not over 74 ft³ capacity.<br>Metal siftproof cargo tank or tankcar or hopper type or pneumatic vehicle. | Stowage: "On deck under cover" "Tween deck" "Under deck".<br>Outside containers. Same containers as authorized for cargo vessels. | Ferry stowage: (AA).<br>Outside containers. Same containers as authorized for cargo vessels. | Ferry stowage: (BB).<br>Outside containers. Same containers as authorized for cargo vessels. |
| Phosphoric acid, liquid, or phosphoric acid solution. | Usually shipped in aqueous solutions varying from 50 percent to 88 percent. Odorless ordinarily, has no warning properties. May cause painful burns. | Corrosive... | Stowage: "On deck protected", "On deck under cover", "Tween deck", "Under deck away from heat."<br>Outside containers: Carboys boxed glass, earthenware, clay, or stone (DOT–1A) not over 13 gal. capacity.<br>Carboys, boxed, lead (DOT–1B) not over 13 gal. capacity.<br>Carboys in kegs, glass, earthenware, clay, or stone (DOT–1C) not over 13 gal. capacity.<br>Carboys, boxed, glass (DOT–1D) not over 6½ gal. capacity.<br>Carboys in plywood drums, glass (DOT–1E) not over 7 gal. capacity.<br>Carboys, boxed, glass, earthenware, clay, or stone (DOT–1X) STC, for export only, not over 6 gal. capacity. | Stowage: "On deck protected", "On deck under cover", "Tween decks", "Under deck away from heat".<br>Outside containers: Same containers as authorized for cargo vessels. | Ferry Stowage: (AA).<br>Outside containers: Same containers as authorized for cargo vessels. | Ferry Stowage: (BB).<br>Outside containers: Same containers as authorized for cargo vessels. |





| Descriptive name of article | Characteristic properties caution marking required | Label required | Required conditions for transportation: Cargo vessel | Passenger vessels | Ferry vessels, passenger of vehicle | Railroad car ferry, passenger of vehicle |
|---|---|---|---|---|---|---|
| | | | Carboys, lead, metal-jacketed (DOT–2S) not over 15 gal capacity.<br>Steel barrels or drums (DOT–5A) not over 100 gal capacity.<br>Steel barrels or drums (DOT–5C) not over 100 gal capacity.<br>Monel drums (DOT–5M) not over 55 gal capacity.<br>Metal barrels or drums: (DOT–17H, 37A, 37B) STC, lined, not over 5 gal capacity. (DOT–37P) NRC, not over 5 gal capacity.<br>Metal drums, rubber-lined (DOT–5D) not over over 110 gal capacity.<br>Metal drums, lead-lined (DOT–5H) not over 110 gal capacity.<br>Metal drums (DOT–17C, 17E, 17F) STC, not over 55 gal capacity.<br>Cylindrical steel overpack: (DOT–6D, 37M (NRC)), WIC DOT–2S, 2SL, or 2N, not over 55 gal capacity.<br>Rubber drums (DOT–43A) not over 30 gal capacity.<br>Wooden barrels or kegs: (DOT–10A) asphalt, paraffin, or wax lined not over 50 gal capacity. (DOT 11A, 11B) WIC, not over 300 lb net weight.<br>Wooden boxes: (DOT–15A, 15B, 15C, 16A, 19A) WIC, not over 200 lb gross weight. (DOT–16A) WIC polyethylene 2U, not over 200 lb gross weight. (DOT–16D) WIC (DOT–2T, 2TL, 2S, 2SL) not over 15 gal capacity.<br>Fiberboard boxes: (DOT–12A, 12B), WIC not over 65 lb gross weight. (DOT–12P) WIC (DOT–2U polyethylene) not over 5 gal capacity.<br>Plywood or wooden box or drum (DOT–15P, 22C) WIC (DOT–2T) not over 15 gal capacity.<br>Fiber drum (DOT–21P) WIC DOT–2S, 2SL, or 2U not over 30 gal capacity.<br>Tank trucks complying with DOT regulations (trainships and trailerships only).<br>Cylinder as prescribed for any compressed gas except acetylene.<br>Tank cars complying with DOT regulations (trainships only). | | | |

6. Revising paragraph (a) (1) in the definition for corrosive materials (§ 146.23–1) and adding a note to the definition to read as follows:

**§ 146.23–1 Definition of corrosive materials.**[1]

(a) • • •

(1) A material is considered to be destructive or to cause irreversible alteration in human skin tissue if when tested on the intact skin of the albino rabbit by the technique described in 21 CFR 191.11 the structure of the tissue at the site of contact is destroyed or changed irreversibly. For the purpose of these regulations the test is modified and described as follows:

(i) Corrosion to the human skin is evaluated by a patch-test technique on the intact skin of healthy albino rabbits, each weighing 2 to 3 kilograms. A minimum of six subjects must be used for this test. The back of each animal is clipped free of hair to provide at least two test sites, each being not less than 4 square inches in area.

(ii) Liquid test materials (0.5 milliliter) or solid or semisolid test materials (0.5 gram) are introduced under a 1.5 by 1.5 inch 12-ply gauze patch which is secured in place by two ½ x 4 inch strips of adhesive tape in the form of an X.

(iii) The animals are immobilized in stocks and the trunk of each animal is loosely wrapped with an impervious material, such as a rubberized cloth, for an exposure period of 4 hours. (The impervious wrap should be applied in such a manner that the palm of the analyst's hand can be easily placed between the wrap and the animal's back.)

(iv) After 4 hours of exposure, the patches are removed and the resulting reactions are evaluated.

(v) Following this initial reading, all test sites are washed with an appropriate solvent to prevent further exposure.

(vi) Readings are again made at 24 and 48 hours after the initial application.

• • • • • •

7. Revising the exemptions for corrosive solids contained in paragraph (a) (2) of § 146.23–30 as follows:

**§ 146.23–30 Exemptions for corrosive solids.**

(a) • • •

(2) Corrosive solids in inside earthenware, glass, plastic, or paper receptacles of not more than 5 pounds capacity each or in inside metal, rigid fiber, or composition cans or cartons, or rigid plastic receptacles of not more than 10 pounds capacity each, over-packed in metal, wooden or fiberboard outside containers not exceeding 25 pounds net weight each, are, unless otherwise provided in this part, exempt from specification packaging, marking, other than name of contents, and labelling requirements.

[1] A corrosive material, not subject to the definition previously in effect in § 146.23–1 packaged before December 31, 1973, may be shipped and transported without being subject to any of the requirements in 46 CFR Part 146 until December 31, 1974. As of January 1, 1975, these materials may not be shipped or transported unless they are in compliance with 46 CFR 146.

**§ 146.23–100 [Amended]**

8. Revise the entries in § 146.23–100 for the article corrosive liquids N.O.S. as follows:

(a) By striking out in column 4, 6 and 7 the words "Cylindrical steel overpack: (DOT–6D, 37M (NRC)), W1C DOT 2S or 2SL, not over 55 gal cap" and insert in place therefor the words "Cylindrical steel overpack: (DOT–6D, 37M (NRC)), W1C, DOT 2S, 2SL or 2U not over 55 gal. cap."

(b) By adding in columns 4, 6, and 7 directly after the words "Outside Containers" the following:

Cylinders as prescribed for any compressed gas except acetylene
Tank cars complying with DOT regulations (trainships only)
Tank trucks complying with DOT regulations (trailership and trainships only.)

9. Striking out in § 146.23–100 for the article corrosive solids N.O.S. in columns 4, 5, 6, and 7 the entries following the words "Outside containers" and insert in place thereof the following:

Metal, wooden or fiberboard boxes or cases W1C
Metal drums
Fiber drums not exceeding 550 lbs net wt or 55 gal. cap. must include a moisture barrier.
Plastic drum or pail not over 80 lbs net wt and not over 6 gal. cap.
Bag complying with DOT regulations not over 110 lbs net wt.
Metal portable tank or closed bin of not over 660 gal. cap. and 7000 lbs gr. wt.
Fiberglass or rubber tank or closed bin of not over 74 cubic ft. cap.



V 38-171
SEP 5 73
XUM

Metal soft proof cargo tank or tank car, or hopper-type or pneumatic bulk vehicle.

10. Revising § 146.23-100 as follows:

(a) By striking out the entries for cylindrical steel overpacks in column 4 for the articles "Acids, liquids N.O.S." and "Antimony pentachloride solution" and by adding to column 4 of the same two articles the following entries:

Cylindrical steel overpack:
(DOT-6D, 37M (NRC)), W1C DOT 2S, 2SL or 2U not over 55 gal. cap.
Cylinders are prescribed for any compressed gas except acetylene
Tank cars complying with DOT regulations (trainships only)
Tank trucks complying with DOT regulations (trainships and trailerships only)

(b) By striking out the entries for cylindrical steel overpacks in columns 4, 5, 6, and 7 for the articles Chromic acid solution; Compounds cleaning, liquid; Drugs, chemicals, medicines or cosmetics N.O.S.; Formic acid and Hydriodic acid and by adding to columns 4, 5, 6, and 7 of the same 5 articles the following entries:

Cylindrical steel overpack:
(DOT-6D, 37M (NRC)), W1C DOT-2S, 2SL or 2U not over 55 gal cap.
Cylinders as prescribed for any compressed gas except acetylene
Tank cars complying with DOT regulations (trainships only)
Tank trucks complying with DOT regulations (trainships and trailerships only)

(R.S. 4472 as amended; R.S. 4417a, as amended; Sec. 1, 19 Stat. 252, 49 Stat. 1889, sec. 6(b)(1), 80 Stat. 937; 46 U.S.C. 170, 391a, 49 U.S.C. 1655(b)(1); 49 CFR 1.46(b).)

W. F. REA, III,
*Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.*

August 23, 1973.

[FR Doc.73-18529 Filed 9-4-73;8:45 am]

---

**Federal Aviation Administration**

**[ 14 CFR Part 39 ]**

[Docket No. 73-SO-60]

## GRUMMAN G-159 AIRPLANES

### Proposed Airworthiness Directive

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to Grumman Model G-159 airplanes.

There has been extensive corrosion of a G-159 engine mount that if allowed to progress could have resulted in failure of the mount and possible loss of the aircraft. Since this condition is likely to exist or develop in other airplanes of the same type, the proposed airworthiness directive would require inspection and reprotection of the engine mounts.

The proposed airworthiness directive is related to Amendment 39-114 (30 FR 10155), AD 65-18-3 which requires an inspection of the support tubes of the engine mount assemblies of British Aircraft Corporation Vickers Viscount Models 744, 745D and 810 series airplanes for corrosion. Vickers also manufactured the virtually identical engine mount for the Grumman Model G-159 airplanes; however, AD 65-18-3 was not applicable to these aircraft as the original corrosion protection scheme for the Model G-159 mount was deemed equivalent to that required by AD 65-18-3.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and should be submitted in duplicate to the Federal Aviation Administration, Office of the Regional Counsel, P.O. Box 20636, Atlanta, Georgia 30320. All communications received on or before October 1, 1973, will be considered by the Administrator before taking action upon the proposed rule.

The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments in the Rules Docket for examination by interested persons.

The amendment is proposed under the authority of sections 313(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

GRUMMAN AMERICAN AVIATION CORPORATION (GAAC): Applies to all Grumman Model G-159 airplanes certificated in all categories.

Compliance required as indicated.

To detect and prevent corrosion of the bore surfaces of the support tubes of the engine mount assemblies, left and right, Vickers drawing number 81037, sheet 29, accomplish the following:

(a) Engine mount inspection and reprotection categories are established as follows:

(1) Engine mount has not been inspected for corrosion or reprotected since manufactured.

(2) Engine mount has not been inspected for corrosion, but has been reprotected in accordance with Grumman Aircraft Engineering Corporation (GAEC) Customer Bulletin (CB) Number 182 or an FAA approved equivalent.

(3) Engine mount has been inspected for corrosion by X-ray or an FAA approved equivalent and reprotected in accordance with GAEC, CB Number 182 or an FAA approved equivalent, prior to September 1966.

(4) Engine mount has been inspected for corrosion by X-ray or an FAA approved equivalent and reprotected in accordance with GAEC, CB Number 182 or an FAA approved equivalent subsequent to September 1966.

(b) For categories (a)(1), (a)(2), and (a)(3) above, within 60 days from the effective date of this AD, comply with paragraph (d). Engine mounts inspected in accordance with paragraph (d)(3), found free of corrosion, and reprotected, must be reinspected and reprotected in accordance with paragraph (d)(3) at intervals not to exceed seven (7) years. The repetitive inspection may be discontinued when paragraph (d)(1) or (d)(2) is complied with.

(c) For category (a)(4) above, comply with paragraph (e) within seven (7) years from the date of initial inspection and reprotection.

(d)(1) Install a new engine mount which has been protected in accordance with GAAC CB Number 241, Addendum No. 1 or an FAA approved equivalent, or

(2) Overhaul the engine mount in accordance with GAAC CB Number 241, Addendum No. 2 and reprotect in accordance with Addendum No. 1 or FAA approved equivalents, or

(3) Inspect the engine mount for corrosion in accordance with GAAC CB Number 241, Addendum No. 3, and reprotect in accordance with Addendum No. 1 or FAA approved equivalents.

(e)(1) Install a new engine mount which has been protected in accordance with GAAC CB Number 241, Addendum No. 1, or an FAA approved equivalent, or

(2) Overhaul the engine mount in accordance with GAAC CB Number 241, Addendum No. 2, and protect in accordance with Addendum No. 1, or FAA approved equivalents.

(f) If during the course of any inspection corrosion is discovered, comply with paragraph (e) before further flight.

(g) New or overhauled engine mounts which have been protected in accordance with GAAC CB Number 241, Addendum No. 1, or an equivalent, require no further action.

Issued in East Point, Georgia, on August 14, 1973.

DUANE W. FREER,
*Acting Director, Southern Region.*

[FR Doc.73-18699 Filed 9-4-73;8:45 am]

---

**Federal Aviation Administration**

**[ 14 CFR Parts 61 and 121 ]**

[Docket No. 10453; Notice No. 73-23]

## FLIGHT TRAINING AND FLIGHT CHECKING

### Proposed Requirements

The Federal Aviation Administration is considering amending Parts 61 and 121 of the Federal Aviation Regulations to change certain flight training and flight checking requirements prescribed by those parts; to clarify certain requirement of Subpart N of Part 121 with respect to the requirement for FAA-approved check airmen used in training programs under Part 121; and to amend the proficiency check requirements of Subpart O to permit the entire proficiency check to be conducted in an approved visual simulator if the pilot being checked accomplishes two actual landings in the appropriate airplane, and if the next required proficiency check is conducted in the same manner or in accordance wtih Appendix F of Part 121.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591. All communications received on or before December 6, 1973, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments in the Rules Docket, for examination by interested persons.

In response to a number of petitions for rulemaking and recommendations received from the Air Transport Association of America (ATA), Western Airlines (WAL), American Airlines (AAL), and United Airlines (UAL), and pursuant to a continuing review by FAA of flight training and checking, and type rating programs, the FAA has decided to issue this NPRM which proposes changes to those programs that would permit more extensive use of flight simulators and training devices and would eliminate or clarify certain other requirements.

Insofar as the proposals contained in this notice are responsive to amendments petitioned for by ATA on May 13, 1971, and June 16, 1972, by WAL on April 21, 1971, by AAL on October 26, 1970, by UAL on May 6, 1971, and June 8, 1971, this notice should be considered as a partial grant of the rule making petitioned for. Changes or amendments recommended by the petitioners which are not included in this notice continue to be studied and will be treated further at a later time by rule making or otherwise.

No attempt has been made in this notice to identify those changes recommended by individual petitioners, or those which the FAA proposes on its own initiative. All of the changes proposed herein are calculated to make training and checking programs more efficient and more effective through selectively increased utilization of simulators and training devices.

The FAA has previously indicated its awareness of the rapidly developing field of simulator technology. Amendment 121-55 (35 FR 84, January 3, 1970), effective on February 2, 1970, which amended Part 61 and Part 121 training programs, stated that the FAA would continue to explore possibilities for translating that new technology into regulations which provide for the safest and most effective training programs possible. Recent operating experience and conclusions drawn from FAA surveillance of training and check programs support the validity of that poliy, and the proposals contained in this notice are made in furtherance of that policy.

Pursuant to an exemption from the requirements of § 121.424(b) and paragraph II(d) of Appendix E to Part 121 (Exemption No. 1318, issued May 14, 1971, and Exemption No. 1318B, issued December 10, 1971), issued in response to an ATA petition (on behalf of American, Delta, Eastern, Ozark, Pan American, Piedmont, Trans World, and United airlines), initial, upgrade, and transition flight training on takeoffs with a simulated failure of the most critical powerplant (after $V_1$ and before $V_2$) was conducted by these air carriers, with extensive use of visual and nonvisual simulators. This test training program was completed on May 20, 1972, and was conducted in an attempt to validate the theory that a satisfactory transfer of learning from the simulator to the airplane occurred when training in the "Engine-out" maneuver was conducted in a visual or nonvisual simulator.

The training program and study was conducted subject to certain conditions and limitations, as follows: (1) Each pilot trained under the exemption received $V_1$ engine-out training to proficiency in a visual simulator, a nonvisual simulator, or an airplane at altitude; (2) each pilot performed a minimum of one $V_1$ engine-out maneuver in the airplane during a PIC type rating flight test or second in command qualification flight check; (3) if a pilot's first $V_1$ engine-out maneuver was unsatisfactory, it was counted as a failure for purposes of the test program (unless not the result of gross error and subject to retesting in the maneuver later in the flight test); if a second engine-out maneuver was performed unsatisfactorily, the pilot was issued a Notice of Disapproval of Application (FAA Form 8060-5) for an ATR or type rating; (4) pilots whose performance of the engine-out maneuver was unsatisfactory during the flight test in the airplane were required to be retrained in accordance with the certificate holders' approved training program; (5) the acceptable level of performance was that level applicable to the conduct of maneuvers required by Appendix A to Part 61; (6) data collection and compilation was made in a form and manner satisfactory to the Administrator.

Guidelines for performance evaluation by Airmen Certification Inspectors were issued (FAA Order 8430.9, June 18, 1971).

Data on 1,098 pilots trained and checked during the program was compiled. Of that number 715 (361 PIC's and 354 SIC's) were trained in the visual simulator, 376 (144 PIC's and 232 SIC's) were trained in the non-visual simulator, and seven were trained in the airplane at altitude. Flight checking resulted in 54 failures with an overall failure rate of 4.9 percent, which the FAA considers to be an acceptable value validating the "transfer of learning" theory and supporting the changes proposed herein permitting more extensive use of the visual simulator and non-visual simulator. The program results indicate that training on the engine-out maneuver can be successfully conducted in either the visual or non-visual simulator. However, since a higher failure rate of 7.8 percent was indicated for 204 pilots transitioning to airplanes with engines mounted in dissimilar positions (i.e., fuselage-mounted to wing-mounted), and for initial training (i.e., prop to jet), and because there is some degree of difficulty of assessing pilot performance of this VFR maneuver in a non-visual simulator, it is felt that training and checking for this maneuver, with certain specified exceptions, ought to be conducted in a visual simulator.

A clarifying change to § 121.401 of Part 121 is proposed to make it clear that the check airmen required to be provided for a training program must be "approved" check airmen.

It is proposed to amend § 121.441 to permit the entire proficiency check, other than the initial second-in-command proficiency check, to be conducted in an approved visual simulator if the pilot being checked accomplishes at least two landings in the appropriate airplane during a line check or other flight check conducted by a pilot check airman. If a pilot proficiency check is conducted in accordance with this provision, the next required proficiency check would have to be conducted in the same manner, or in accordance with the various and specific requirements of Appendix F of Part 121 and substitution of a course of training in an airplane simulator under § 121.409 would not be permitted. It is anticipated that this provision would afford substantial efficiencies and advantages in simulator use and in airplane utilization if line checks are conducted with the same frequency as required proficiency checks. However, the two required landings could be accomplished on a check flight other than a line check, at the option of the certificate holder.

Appendix A of Part 61 (Practical Test Requirements for Airline Transport Pilot Certificates and Associated Class and Type Ratings), and Appendices E (Flight Training Requirements) and F (Proficiency Check Requirements) of Part 121, would be changed as follows:

APPENDIX A TO PART 61

*Paragraph I(a).* Oral equipment examination may be waived by person conducting check if the applicant has satisfactorily completed, within the preceding 60 days, a Part 121 approved training program that includes training in a cockpit procedural trainer or simulator.

*Par. II(d).* For additional type rating in an airplane group with engines mounted in similar positions or from wing-mounted engines to aft fuselage-mounted engines the takeoff with failure of the most critical power plant may be performed in a nonvisual simulator.

*Par. III(c)(2).* Performance of the manually controlled ILS approach would be permitted in a visual simulator in lieu of inflight. The person conducting the check may require the maneuver to be performed inflight.

*Par. III(d).* The circling approach maneuver would not be required for a pilot employed by a certificate holder subject to the operating rules of Part 121 if the certificate holder's manual prohibits a circling approach to be conducted in weather conditions below 1,000—3 (ceiling and visibility).

*Par. V(b).* The landing in sequence from an ILS approach would be permitted in a visual simulator in lieu of in flight, and where a simulator approved for the landing maneuver out of an ILS approach is used, the approach may be continued through the landing, and credit given for one of the three landings





FEDERAL REGISTER, VOL. 38, NO. 171—WEDNESDAY, SEPTEMBER 5, 1973

V 38 171 SEP 5 73 XUM

required by Section V. The person conducting the check may require the maneuver to be performed in flight.

*Par. V(d)*. The maneuver to a landing with simulated powerplant failure would be permitted in a visual simulator for all airplanes (presently permitted only in 3-engine airplanes). Landing with simulated failure of the most critical powerplant would be required in flight if the applicant performs the simulated powerplant landing maneuver in a visual simulator. The person conducting the check may require the maneuver to be performed in flight.

*Par. V(e)*. The circling approach maneuver would not be required for a pilot employed by a certificate holder subject to the operating rules of Part 121 if the certificate holder's manual prohibits a circling approach in weather conditions below 1,000—3 (ceiling and visibility).

*Par. V(g)*. The zero-flap visual approach would not be required if the Administrator has determined that the probability of flap extension failure on a specific airplane type is extremely remote due to system design. In making this determination, the Administrator determines whether checking on slats-only and partial-flap approaches is necessary.

APPENDIX E TO PART 121

*Par. II(d)*. Takeoffs with a simulated failure of the most critical powerplant would be permitted to be accomplished in a visual simulator in place of the present requirement that they be performed in flight. For transition training in an airplane group with engines mounted in similar positions, or from wing-mounted to aft fuselage-mounted engines, the maneuver could be performed in a nonvisual simulator.

*Par. II(e)*. Rejected takeoffs to be accomplished during a normal takeoff run would be permitted in a visual simulator in lieu of inflight.

*Par. III(a), (b), (e), (f)(10) and (11)*. Flight maneuvers and procedures under these paragraphs could all be accomplished in a nonvisual simulator.

*Par. III(1)(2)*. Transition and upgrade training in ILS instrument approaches would be permitted in a visual simulator in lieu of inflight.

*Par. III(m)(1)*. All training in nonprecision approaches would be permitted in a training device in lieu of the present requirement for such training in a visual simulator.

*Par. III(m)(2)*. The additional nonprecision instrument approach and missed approach required by this paragraph would be performed in a visual simulator.

*Par. III(n)*. Transition and upgrade training in circling approaches would be permitted in a visual simulator in lieu of the present in flight requirement. In addition, training in the circling approach maneuver would not be required for a second-in-command if the certificate holder's manual prohibits the SIC from performing a circling approach in operations under this Part.

*Par. III(o)*. Transition and upgrade training in zero-flap approaches would be permitted in a visual simulator in lieu of the present inflight requirement. Training in the zero-flap maneuver would not be required if the Administrator has determined that the probability of flap extension failure on that type airplane is extremely remote due to system design. In making this determination, the Administrator determines whether training on slats-only and partial-flap approaches is necessary.

*Par. III(p)(1)*. Transition and upgrade training in missed approaches from ILS approaches would be permitted in the visual simulator in lieu of the present inflight requirement.

*Par. III(p)(2) and (3)*. All training in other missed approaches and missed approaches that include a complete approved missed approach procedure would be permitted in a training device in lieu of the present visual simulator requirement.

*Par. III(p)(4)*. Transition and upgrade training in missed approaches that include a powerplant failure would be permitted in a visual simulator in lieu of the present inflight requirement.

*Par. IV(c)*. Transition and upgrade training for landing in sequence from an ILS instrument approach would be permitted in a visual simulator in lieu of the present inflight requirement.

*Par. IV(e)*. Transition and upgrade training in maneuvering to a landing with simulated powerplant failure in all airplanes would be permitted in a visual simulator in lieu of the present inflight requirement.

*Par. IV(f)*. Transition and upgrade training for landing under simulated circling approach conditions would be permitted in a visual simulator in lieu of the present inflight requirement.

*Par. IV(g)*. Transition and upgrade training in rejected landings would be permitted in a visual simulator in lieu of the present inflight requirement.

*Par. IV(h)*. Transition and upgrade training in zero-flap landings would be permitted in a visual simulator in lieu of the present inflight requirement.

*Par. IV(i)*. Initial, transition, and upgrade training in manual reversion would be permitted in a visual simulator in lieu of the present inflight requirement. For transition training in landings, the night landing requirement may be met during the operating experience required by § 121.434 of this Part by performing a normal landing when a check pilot serving as pilot-in-command is occupying a pilot station.

APPENDIX F TO PART 121

*Par. II(d)*. In an airplane group with aft fuselage-mounted engines, the takeoff maneuver with failure of the most critical powerplant would be permitted in a nonvisual simulator in lieu of a visual simulator.

*Par. III(d)*. The circling approach maneuver would not be required for a second-in-command if the certificate holder's manual prohibits a second-in-command from performing a circling approach in operations under Part 121.

*Par. III(e)*. The symbols "B*" and "P*" would be deleted from the "In-flight" column (as superfluous), and the symbol associated with III(e)(1) in the "Visual Simulator" column changed to "B*." At least one missed approach would be required to be performed in

*Par. V(d)*. The maneuver to a landing with simulated power plant failure would be permitted in a visual simulator for all airplanes (presently permitted only in 3-engine airplanes). Landing with simulated failure of the most critical power plant would be required in flight if the pilot performs the simulated power plant landing maneuver in a visual simulator. For other than the pilot-in-command, the maneuver may be performed with a simulated loss of power of the most critical power plant only.

These amendments are proposed under the authority of sections 313(a), 601, 602, 604, and 607 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1422, 1424, and 1427), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend Parts 61 and 121 of the Federal Aviation Regulations as set forth below.

Issued in Washington, D.C., on August 24, 1973.

C. R. MELUGIN, Jr.,
*Acting Director,*
*Flight Standards Service.*

1. It is proposed to amend paragraphs I(a), II(d), III(c), III(d), V(b), V(d), V(e), and V(g) of Appendix A of Part 61 to read as follows:

APPENDIX A

PRACTICAL TEST REQUIREMENTS FOR AIRLINE TRANSPORT CERTIFICATES AND ASSOCIATED CLASS AND TYPE RATINGS

* * * * *





| Maneuver/procedures | Required in airplane | | Permitted | | | |
|---|---|---|---|---|---|---|
| | Simulated instrument conditions | Inflight | Visual simulator | Nonvisual simulator | Training device | Waiver provisions of § 61.147(c) |
| I. Preflight. | | | | | | |
| *(a) Equipment examination (oral). As part of the practical test, the equipment examination must be closely coordinated with, and related to, the flight maneuvers portion, but may not be given during the flight maneuvers portion. Notwithstanding § 61.21, the equipment examination may be given to an applicant who has completed a ground school that is part of an approved training program under Part 121 of this chapter for the airplane type involved and who is recommended by his instructor. The equipment examination may be waived by the person conducting the check if the applicant has satisfactorily completed, within the preceding 60 days, a Part 121 approved training program that includes training in a cockpit procedural trainer or simulator. The equipment examination must be repeated if the flight maneuvers portion is not satisfactorily completed within 60 days. The equipment examination must cover— | | | | | × | × |
| * * * * * | | | | | | |
| II. Takeoffs. | | | | | | |
| * * * * * | | | | | | |
| *(d) Powerplant failure. One takeoff with a simulated failure of the most critical powerplant— (1) At a point after $V_1$ and before $V_2$ that in the judgment of the person conducting the check is appropriate to the airplane type under the prevailing conditions; or (2) At a point as close as possible after $V_1$ when $V_1$ and $V_2$ or $V_1$ and $V_R$ are identical; or (3) At the appropriate speed for non-transport category airplanes. For additional type rating in an airplane group with engines mounted in similar positions or from wing mounted engines to aft fuselage-mounted engines this maneuver may be performed in a non-visual simulator. | | | × | | | |
| * * * * * | | | | | | |
| III. Instrument Procedures. | | | | | | |
| * * * * * | | | | | | |
| (c) * * * *(2) At least one manually controlled ILS approach with a simulated failure of one powerplant. The simulated failure should occur before initiating the final approach course and must continue to touchdown or through the missed approach procedure. | | × | | × | | |
| * * * * | | | | | | |
| (d) * * * (1) * * * (2) * * * (3) * * * When the maneuver is performed in an airplane, it may be waived as provided in § 61.147(c) if local conditions beyond the control of the pilot prohibit the maneuver or prevent it from being performed as required. The circling approach maneuver is not required for a pilot employed by a certificate holder subject to the operating rules of Part 121 of this chapter, if the certificate holder's manual prohibits a circling approach in weather conditions below 1000-3 (ceiling and visibility). | | | | | | |
| * * * * * | | | | | | |
| V. Landings and Approaches to Landings. | | | | | | |
| * * * * * | | | | | | |
| *(b) Landing in sequence from an ILS instrument approach except that if circumstances beyond the control of the pilot prevent an actual landing, the person conducting the check may ac- | | | × | | | |



V 38 171 SEP 5 73 XUM

| Maneuver/procedures | Required in airplane | | Permitted | | | |
|---|---|---|---|---|---|---|
| | Simulated instrument conditions | Inflight | Visual simulator | Nonvisual simulator | Training device | Waiver provisions of § 61.51(c) |
| cept an approach to a point where in his judgment a landing to a full stop could have been made. In addition, where a simulator approved for the landing maneuver out of an ILS approach is used, the approach may be continued through the landing and credit given for one of the three landings required by this section. | | | | | | |
| • • • • • | | | | | | |
| *(d) Maneuvering to a landing with simulated powerplant failure, as follows:<br>(1) In the case of 3-engine airplanes, maneuvering to a landing with an approved procedure that approximates the loss of two powerplants (center and one outboard engine); or<br>(2) In the case of other multiengine airplanes, maneuvering to a landing with a simulated failure of 50 percent of available powerplants, with the simulated loss of power on one side of the airplane.<br>If an applicant performs this maneuver in a visual simulator, he must, in addition maneuver inflight to a landing with a simulated failure of the most critical powerplant. | | | X* | | | |
| *(e) Except as provided in paragraph (f), landing under simulated circling approach conditions, except that if circumstances beyond the control of the pilot prevent a landing, the person conducting the check may accept an approach to a point where in his judgment a landing to a full stop could have been made.<br>The circling approach maneuver is not required for a pilot employed by a certificate holder subject to the operating rules of Part 121 of this chapter, if the certificate holder's manual prohibits a circling approach in weather conditions below 1000-3 (ceiling and visibility). | | | X* | | | |
| • • • • • | | | | | | |
| *(g) A zero-flap visual approach to a point where, in the judgment of person conducting the check, a landing to a full stop on the appropriate runway could be made. This maneuver is not required for a particular airplane type if the Administrator has determined that the probability of flap extension failure on that type is extremely remote due to system design. In making this determination, the Administrator determines whether checking on slats only and partial flap approaches is necessary. | | | X* | | | |
| • • • • • | | | | | | |

2. By amending § 121.401(a)(4) to read as follows:

**§ 121.401 Training program: General.**

(a) • • •

(4) Provide enough flight instructors, simulator instructors, and approved check airmen to conduct required flight training and flight checks, and simulator training courses permitted under this Part.

• • • • •

3. By amending § 121.441 by adding a new flush paragraph following paragraph (e) to read as follows:

**§ 121.441 Proficiency checks.**

• • • • •

(e) • • •

However, the entire proficiency check (other than the initial second-in-command proficiency check) required by this section may be conducted in an approved visual simulator if the pilot being checked accomplishes at least two landings in the appropriate airplane during a line check or other check conducted by a pilot check airman. If a pilot proficiency check is conducted in accordance with this paragraph, the next required proficiency check for that pilot must be conducted in the same manner, or in accordance with Appendix F of this part, and a course of training in an airplane simulator under § 121.409 may not be substituted therefor.

4. By amending paragraphs II(d); II(e); III(a), (b), (e), and (f)(10) and (11); III(l); III(m); III(n); III(o); III(p)(1); III(p)(2); III(p)(3); III(p)(4); IV(c); IV(e); IV(f); IV(g); IV(h); IV(i); and the final flush paragraph following paragraph IV(i) of Appendix E to Part 121 to read as follows:

APPENDIX E

FLIGHT TRAINING REQUIREMENTS

• • • • •





| Maneuvers/procedures | Initial tr. | | | | | Transition tr. | | | | | Upgrade tr. | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | A/P | | Simu. | | | A/P | | Simu. | | | A/P | | Simu. | | |
| | Inflight | Static | Visual simulator | Nonvisual simulator | Training device | Inflight | Static | Visual simulator | Nonvisual simulator | Training device | Inflight | Static | Visual simulator | Nonvisual simulator | Training device |
| APPENDIX E | | | | | | | | | | | | | | | |
| II. Takeoffs: | | | | | | | | | | | | | | | |
| • • • • • | | | | | | | | | | | | | | | |
| (d) Takeoffs with a simulated failure of the most critical powerplant—<br>(1) At a point after $V_1$ and before $V_1$ that in the judgment of the person conducting the training is appropriate to the airplane type under the prevailing conditions; or<br>(2) At a point as close as possible after $V_1$ when $V_1$ and $V_1$ or $V_1$ and Vr are identical; or<br>(3) At the appropriate speed for nontransport category airplanes. | | | B | | | | | AT | | | | | | BU | |
| For transition training in an airplane group with engines mounted in similar positions, or from wing-mounted engines to aft fuselage mounted engines, the maneuver may be performed in a nonvisual simulator. | | | | | | | | | | | | | | | |
| (e) Rejected takeoffs accomplished during a normal takeoff run after reaching a reasonable speed determined by giving due consideration to aircraft characteristics, runway length, surface conditions, wind direction and velocity, brake heat energy, and any other pertinent factors that may adversely affect safety or the airplane.<br>Training in at least one of the above takeoffs must be accomplished at night. | | | B | | | | | AT | | | | | | | BU |
| • • • • • | | | | | | | | | | | | | | | |
| III. Flight Maneuvers and Procedures: | | | | | | | | | | | | | | | |
| (a) Turns with and without spoilers | | | B | | | | | AT | | | | | | BU | |
| (b) Tuck and Mach buffet | | | B | | | | | AT | | | | | | BU | |
| (c) • • • | | | | | | | | | | | | | | | |
| (d) • • • | | | | | | | | | | | | | | | |
| (e) Runaway and jammed stabilizer | | | B | | | | | AT | | | | | | BU | |
| (f) Normal and abnormal or alternate operation of the following systems and procedures: | | | | | | | | | | | | | | | |
| (1) • • • | | | | | | | | | | | | | | | |
| (2) • • • | | | | | | | | | | | | | | | |
| (3) • • • | | | | | | | | | | | | | | | |
| (4) • • • | | | | | | | | | | | | | | | |
| (5) • • • | | | | | | | | | | | | | | | |
| (6) • • • | | | | | | | | | | | | | | | |
| (7) • • • | | | | | | | | | | | | | | | |
| (8) • • • | | | | | | | | | | | | | | | |
| (9) | | | | | | | | | | | | | | | |
| (10) Automatic or other approach aids | | | B | | | | | AT | | | | | | BU | |
| (11) Stall warning devices, stall avoidance devices, and stability augmentation devices. | | | B | | | | | AT | | | | | | BU | |
| • • • • • | | | | | | | | | | | | | | | |
| (l) ILS instrument approaches that include the following: | | | | | | | | | | | | | | | |
| (1) Normal ILS approaches (manually controlled). | B | | | | | AT | | AT | | | BU | | BU | | |
| (2) Manually controlled ILS approaches with a simulated failure of one powerplant which occurs before initiating the final approach course and continues to touch down or through the missed approach procedure. | B | | | | | | | | | | | | | | |
| (m) Instrument approaches and missed approaches other than ILS which include the following: | | | | | | | | | | | | | | | |
| (1) Nonprecision approaches that the trainee is likely to use | | | | B | | | | | AT | | | | | BU | B |
| (2) In addition to subparagraph (1) of this paragraph, at least one other nonprecision approach and missed approach procedure that the trainee is likely to use. | | | B | | | | | AT | | | | | | BU | |
| • • • • • | | | | | | | | | | | | | | | |
| (n) Circling approaches which include the following: | B | | | | | | | AT | | | | | | BU | |
| (1) • • • | | | | | | | | | | | | | | | |
| (2) • • • | | | | | | | | | | | | | | | |
| (3) • • • | | | | | | | | | | | | | | | |
| Training in the circling approach maneuver is not required for a SIC if the certificate holder's manual prohibits the SIC from performing a circling approach in operations under this Part. | | | | | | | | | | | | | | | |
| (o) Zero-flap approaches. Training in this maneuver is not required for a particular airplane type if the Administrator has determined that the probability of flap extension failure on that type airplane is extremely remote due to system design. In making this determination, the Administrator determines whether training on slats only and partial flap approaches is necessary. | B | | | | | | | AT | | | | | | BU | |
| (p) Missed approaches which include the following: | | | | | | | | | | | | | | | |
| (1) Missed approaches from ILS approaches | B | | | B | | | | AT | | | | | | BU | B |
| (2) Other missed approaches | | | | B | | | | | AT | | | | | | B |
| (3) Missed approaches that include a complete approved missed approach procedure. | | | | | | | | | AT | | | | | | |
| (4) Missed approaches that include a powerplant failure | B | | | | | | | AT | | | | | | BU | |



V 38 I 171 SEP 5 73 XUM

| Maneuvers/procedures | Initial tr. | | | | | Transition tr. | | | | | Upgrade tr. | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | A/P | | Simu. | | | A/P | | Simu. | | | A/P | | Simu. | | |
| | Inflight | Static | Visual simulator | Nonvisual simulator | Training device | Inflight | Static | Visual simulator | Nonvisual simulator | Training device | Inflight | Static | Visual simulator | Nonvisual simulator | Training device |
| IV. Landings and Approaches to Landings | | | | | | | | | | | | | | | |
| • • • • • | | | | | | | | | | | | | | | |
| (c) Landing in sequence from and ILS instrument approach | B | | | | | | | AT | | | | | BU | | |
| (d) • • • | | | | | | | | | | | | | | | |
| (e) Maneuvering to a landing with simulated powerplant failure, as follows: | | | | | | | | | | | | | | | |
| (1) Except as provided in subparagraph (3) of this paragraph, in the case of 3-engine airplanes, maneuvering to a landing with an approved procedure that approximates the loss of two powerplants (center and one out-board engine). | P | | S | | | | | AT | | | | | BU | | |
| (2) Except as provided in subparagraph (3) of this paragraph, in the case of other multiengine airplanes, maneuvering to a landing with a simulated failure of 50 percent of available powerplants, with the simulated loss of power on one side of the airplane. | P | | S | | | | | AT | | | | | BU | | |
| (3) Notwithstanding the requirements of subparagraphs (1) and (2) of this paragraph, flight crewmembers who satisfy those requirements in a visual simulator must also: | | | | | | | | | | | | | | | |
| (i) Maneuver at altitude inflight with an approved procedure that approximates the loss of two powerplants (center and one outboard for 3-engine airplanes); or with the simulated failure of 50 percent of available powerplants (other multiengine airplanes) with the simulated loss of power on one side of the airplane; | | | | | | | | | | | | | | | |
| (ii) Take inflight training in one-engine inoperative landings; and | | | | | | | | | | | | | | | |
| (iii) In the case of flight crewmembers other than the pilot in command, perform the maneuver with the simulated loss of power of the most critical powerplant only; and | | | | | | | | | | | | | | | |
| (iv) In the case of a second-in-command upgrading to a pilot-in-command and who has not previously performed the maneuvers required by this paragraph in flight, meet the requirements of this paragraph applicable to initial training for pilots-in-command. | B | | | | | | | AT | | | | | BU | | |
| (f) Landing under simulated circling approach conditions | B | | | | | | | AT | | | | | BU | | |
| (g) Rejected landings that include a normal missed approach procedure after the landing is rejected. For the purpose of this maneuver the landing should be rejected at approximately 50 feet and approximately over the runway threshold. | P | | | | | | | PP, PJ | | | | | P8 | | |
| (h) Zero-flap landings if the Administrator finds that maneuver appropriate for training in the airplane. | | | B | | | | | AT | | | | | BU | | |
| (i) Manual reversion (if appropriate) | | | | | | | | | | | | | | | |
| Training in landings and approaches to landings must include the types and conditions provided in IV(a) through (i) but more than one type may be combined where appropriate. | | | | | | | | | | | | | | | |
| Training in one of the above landings must be accomplished at night. For transitioning pilots, this requirement may be met during the operating experience required under § 121.434 of this Part by performing a normal landing when a check pilot serving as pilot-in-command is occupying a pilot station. | B | | | | | AT | | | | | BU | | | | |





5. By amending paragraphs II(d), III (d), III(e), V(d)(1), and V(d)(2), and adding a new paragraph immediately following V(d)(2) of Appendix F to Part 121 to read as follows:

APPENDIX F

PROFICIENCY CHECK REQUIREMENTS

| Maneuver/procedures | Required | | Permitted | | | |
|---|---|---|---|---|---|---|
| | Simulated instrument conditions | Inflight | Visual simulator | Nonvisual simulator | Training device | Waiver provisions of § 121.441(d) |
| • • • • • | | | | | | |
| II. Takeoffs. | | | | | | |
| • • • • • | | | | | | |
| (d) Powerplant failure. One takeoff with a simulated failure of the most critical powerplant— | | | B* | | | |
| (1) At a point after $V_1$ and before $V_2$ that in the judgment of the person conducting the check is appropriate to the airplane type under the prevailing conditions; or | | | | | | |
| (2) At a point as close as possible after $V_1$ when $V_1$ and $V_2$ or $V_1$ and $V_r$ are identical; or | | | | | | |
| (3) At the appropriate speed for non-transport category airplanes. | | | | | | |
| In an airplane group with aft fuselage-mounted engines this maneuver may be performed in a non-visual simulator. | | | | | | |
| • • • • • | | | | | | |
| III. Instrument Procedures. | | | | | | |
| • • • • • | | | | | | |
| (d) • • • | | | | | | |
| (1) • • • | | | | | | |
| (2) • • • | | | | | | |
| (3) • • • | | | | | | |
| The circling approach maneuver is not required for a second-in-command if the certificate holder's manual prohibits a second-in-command from performing a circling approach in operations under this Part. | | | | | | |
| • • • • • | | | | | | |
| (e) Missed approach | | | | | | |
| (1) Each pilot must perform at least one missed approach from an ILS approach. | | | B* | | | |
| (2) Each pilot-in-command must perform at least one additional missed approach. | | | P* | | | |
| • • • • • | | | | | | |
| (d) Maneuvering to a landing with simulated powerplant failure as follows: | | | | | | |
| (1) In the case of 3-engine airplanes, maneuvering to a landing with an approved procedure that approximates the loss of two powerplants (center and one outboard engine); or | | | B* | | | |
| (2) In the case of other multiengine airplanes, maneuvering to a landing with a simulated failure of 50 percent of available powerplants, with the simulated loss of power on one side of the airplane. | | | B* | | | |
| Notwithstanding the requirements of subparagraphs (d) (1) and (2) of this paragraph, in a proficiency check for other than a pilot in command, the simulated loss of power may be only the most critical powerplant. However, if a pilot satisfies the requirements of subparagraphs (d) (1) or (2) of this paragraph in a visual simulator, he must, in addition, maneuver in flight to a landing with a simulated failure of the most critical powerplant. | | | | | | |
| • • • • • | | | | | | |

[FR Doc.73-18624 Filed 9-4-73;8:45 am]

## Federal Aviation Administration

## [ 14 CFR Part 71 ]

[Airspace Docket No. 73-SO-59]

## TRANSITION AREA

### Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Charleston, S.C. transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before October 5, 1973, will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 770, 3400 Whipple Street, East Point, Ga.

The Charleston transition area described in § 71.181 (38 FR 435) would be amended as follows:

"• • • long. 80°00'0" W.) • • •" would be deleted and "• • • long. 80°00'00" W.); within 3 miles each side of the 280° bearing from Johns Island RBN (lat 32°42'09" N., long. 80°00'10" W.), extending from the 6.5 mile radius area to 8.5 miles west of the RBN • • •" would be substituted therefor.

The proposed alteration is required to provide controlled airspace protection for IFR aircraft executing the proposed NDB RWY 9 Instrument Approach Procedure to Johns Island Airport, utilizing the Johns Island (private) Nondirectional Radio Beacon.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in East Point, Ga., on August 24, 1973.

DUANE W. FREER,
*Acting Director, Southern Region.*

[FR Doc.73-18698 Filed 9-4-73;8:45 am]

## Federal Highway Administration

## [ 23 CFR Part 770 ]

## AIR QUALITY GUIDELINES FOR USE IN FEDERAL-AID HIGHWAY PROGRAMS

### Proposed Guidelines

Pursuant to the requirement in section 109(b) of the Federal-Aid Highway Act of 1970 (23 U.S.C. 109(j)) the Federal Highway Administration proposes to issue guidelines to assure that highways constructed pursuant to Title 23, United States Code, are consistent with any approved plan for the implementation of any ambient air quality standard for any air quality control region designated pursuant to the Clean Air Act, as amended (42 U.S.C. 1857, et seq.).

Also, pursuant to section 4332(2)(C), title 42, U.S.C., the Federal Highway Administration has prepared a draft environmental impact statement for the proposed air quality guidelines. Copies of the draft environmental impact statement may be obtained for review by writing to the Environmental Development Division, Office of Environmental Policy, Federal Highway Administration, Washington, D.C. 20590.

Interested persons may participate in the proposed promulgation of air quality guidelines by submitting such written data, views, or arguments as they may desire. Comments may also be submitted on the draft environmental impact statement. Communications should be submitted to the above address before October 15, 1973. All such communications will be considered before action is taken on the proposed guidelines. Copies of all such submissions received will be available for examination at the Office of the Environmental Development Division, Federal Highway Administration, Room 3246, 400 7th Street SW., Washington, D.C.

This notice of proposed guidelines is issued under the authority of Section 6 of the Department of Transportation Act, 49 U.S.C. 1655, and the delegation of authority by the Secretary of Transportation at 49 CFR 1.48.



V 38 171 SEP 5 73 XUM

The guidelines proposed as Part 770, Subpart B of Title 23, Code of Federal Regulations, are set forth below.

Issued on August 30, 1973.

NORBERT T. TIEMANN,
*Federal Highway Administrator.*

Chapter 1 of Title 23, CFR, would be amended by adding a new part, "Part 770, Subpart B—Air Quality Guidelines" as follows:

## PART 770

### Subpart B—Air Quality Guidelines

Sec.
770.200 Purpose.
770.201 Definitions for use in this memorandum.
770.202 Policy.
770.203 Application.
770.204 Procedure.

AUTHORITY: 23 U.S.C. 109(j), 23 U.S.C. 315, and 49 CFR 1.48(b).

**§ 770.200 Purpose.**

To promulgate air quality guidelines for use in planning and construction of proposed highway improvements constructed pursuant to United States Code, Title 23.

**§ 770.201 Definitions for use in this memorandum.**

(a) *Highway agency.*—The agency with the primary responsibility for initiating and implementing the planning, design, and construction of highways. For highway sections financed with Federal-aid highway funds, the highway agency will generally be the appropriate State highway department or State department of transportation.

(b) *Environmental Protection Agency (EPA).*—The Federal agency established pursuant to 5 U.S.C., App. Reorganization Plan of 1970, No. 3.

(c) *Environmental impact statement (EIS).*—A detailed statement prepared in response to 42 U.S.C., 4332 (section 102(2) (C) of the National Environmental Policy Act of 1969).

(d) *Urban Transportation Planning Process (3–C) Planning Process).*—The continuing, comprehensive and cooperative planning process established pursuant to 23 U.S.C., 134.

(e) *Policy Board (Policy Committee, Coordinating Committee, etc.).*—That group of local officials, individuals, or representatives of agencies or organizations which has been designated by the State to provide policy guidance and direction in the conduct of the urban transportation planning process in an urbanized area.

(f) *Urban transportation plans and programs.*—Proposed areawide plans and proposed capital improvement programs developed through the urban transportation planning process.

(g) *National Ambient Air Quality Standards.*—The National Ambient Air Quality Standards established pursuant to 42 U.S.C., 1857 (section 109 of the Clean Air Act of 1970).

(h) *Air quality control region.*—An interstate or intrastate area designated by the Administrator of EPA pursuant to 42 U.S.C. 1857 (section 107 of the Clean Air Act of 1970).

(i) *Highway Section.*—A highway development proposal of substantial length between logical termini (major crossroads, population centers, major traffic generators, or similar major highway control elements) as normally included in a single location study or multiyear highway improvement program.

(j) *Highway project.*—All or a portion of a highway section which would result in a specific construction contract.

(k) *Air pollution control agency.*—The State, local, or multi-State agency as defined by 42 U.S.C., 1857 (section 302(b) of the Clean Air Act of 1970).

(l) *State implementation plan (SIP).*—The plan required by 42 U.S.C., 1857 (section 110 of the Clean Air Act of 1970), to attain and maintain a national ambient air quality standard.

**§ 770.202 Policy.**

Highway agencies planning, constructing, and maintaining highways pursuant to 23 U.S.C., shall consult with appropriate local, State and Federal air pollution control agencies and assure that decisions on highways are consistent with approved State Implementation Plans and that adequate consideration is given to preservation and enhancement of air quality.

**§ 770.203 Application.**

(a) The continuing review procedure described in § 770.204a shall be a requirement for each transportation planning process established pursuant to 23 U.S.C., 134. The requirements set forth in § 770.204a shall initially be accomplished by April 1, 1974, and shall thereafter be reviewed as a part of subsequent annual certification actions.

(b) The procedures for consideration of air quality described in § 770.204b shall apply to the processing of proposed Federal-aid highway construction projects.

(c) The procedure for review of construction specifications described in § 770.204b shall be accomplished by April 1, 1974. The changes in specifications resulting from this procedure shall be reflected in all plan specification and estimate (PS&E) submissions received after July 1, 1974.

**§ 770.204 Procedures.**

Comprehensive planning for land use, air quality and transportation are interdependent. These planning activities should be closely coordinated in the conceptual stages and throughout the highway project development process. The highway agency shall follow the appropriate procedures outlined in paragraphs (a) through (c) of this section in order to assure that the planning and construction of highways are consistent with the State Implementation Plan for attainment and maintenance of air quality standards.

(a) *Urban transportation plans and programs.*—(1) To insure that land use and transportation planning conducted pursuant to 23 U.S.C. 134 and air quality planning conducted pursuant to 42 U.S.C. 1857 and the plans resulting therefrom are coordinated, the responsible highway agency in cooperation with each 3C planning agency shall establish a continuing review procedure with the cognizant air pollution control agency to:

(i) Assess the consistency of the transportation plan and program with the approved State Implementation Plan;

(ii) Annually solicit comments from the cognizant air pollution control agency including its assessment of the consistency of the plan and program with the approved State Implementation Plan prior to plan approval by the policy board.

(iii) Identify and resolve differences with the cognizant air pollution control agency.

(2) The highway agency shall require the policy board to annually determine the consistency of the current transportation plan and program with the approved State Implementation Plan. The highway agency shall furnish FHWA a record of this determination along with any written comments solicited from the cognizant air pollution control agency and the policy boards' disposition of these comments.

(3) The Regional Federal Administrator, in consultation with the Regional Administrator of the Environmental Protection Agency, shall annually review the record on the determination of consistency of the transportation plan and program with the approved State Implementation Plan as specified in paragraph (2) above and shall assess the degree of coordination in the planning process between planning for transportation and air quality planning. Any deficiencies shall be cited to the highway agency. Significant deficiencies shall be considered grounds for withholding planning certification.

(b) *Highway projects.*—(1) The following procedures shall apply to highway sections for which an environmental impact statement (EIS) is circulated or a negative declaration is considered by the FHWA division engineer after October 15, 1973.

(i) The environmental analysis necessary to determine the need for an EIS should include an appropriate consideration of air quality.

(ii) The level of detail of the air quality analysis for the highway section shall be commensurate with the complexity of the highway proposal and with prevalent meteorological conditions. If implementation of the highway proposal is anticipated to have a significant air quality impact, comments on the consistency of the highway proposal with the approved State Implementation Plan shall be solicited from the cognizant air pollution control agency.

(iii) The draft EIS shall include an identification of the air quality impact of the proposal, a brief summary of the results of consultation with the cognizant air pollution control agency, comments received from the cognizant air pollution control agency, and the highway agency's tentative finding on the consistency of each alternative under consideration with the approved State Implementation Plan.

(iv) The final EIS shall, as may be necessary, refine and update the information included in the draft EIS.

(v) The final EIS may be adopted by the FHWA only after a determination that the proposed highway improvement is consistent with the State Implementation Plan. The determination on consistency shall be made by the Regional Federal Highway Administrator. In making this determination the Regional Federal Highway Administrator shall consider the following:

(A) The comments received from the cognizant air pollution control agency resulting from the requirements of §§ 770.204a and 770.204b and those of the agency designated pursuant to 40 CFR 51.18 (38 FR 15834, June 18, 1973). Where issues raised by either agency have not been resolved by the highway agency or division engineer prior to submission of the EIS to the FHWA Regional Administrator, the Regional Federal Highway Administrator shall not make a positive determination of consistency without first consulting with the EPA Regional Administrator.

(B) The adequacy and the conclusions of the air quality analysis made as a part of the location study and summarized in the EIS.

(C) Comments received as part of the EIS procedure and the disposition of these comments.

(vi) For those highway improvements for which a negative declaration is prepared, the FHWA division engineer's concurrence in the document shall be evidence that he has determined that the proposal will have no significant air quality impacts.

(2) The following procedures shall apply to the consideration of air quality for those highway sections for which the draft EIS is (or was) circulated for comment, but for which a final EIS is not adopted by the FHWA Regional Administrator prior to October 15, 1973:

(i) Prior to the processing of final EIS, the highway agency, in consultation with the FHWA division engineer, shall review the draft EIS and make a written determination on the adequacy of the air quality discussion included in the draft EIS. If the determination is positive, the final EIS may be processed following procedures established in PPM 90–1. The adoption of the final EIS by the Regional Federal Administrator shall be evidence of his positive finding on the consistency of the proposal with the State Implementation Plan.

(ii) If the determination concludes that additional information and/or analysis are necessary, the draft EIS shall be revised accordingly. A copy of the revised draft EIS shall then be furnished to appropriate local, State or Federal agencies with expertise in air quality for review and comment. Thirty days should be allowed for comment by interested agencies.

(iii) Comments received shall be incorporated and addressed in the final EIS as required in PPM 90–1. Adoption of the final EIS by the Regional Federal Highway Administrator shall be evidence of his positive finding on the consistency of the proposal with the State Implementation Plan.

(3) The following procedures shall apply to those highway sections for which a final EIS is approved by the Regional Federal Highway Administrator before October 15, 1973, and for which authorization to proceed with grading and drainage work on the highway section are requested after January 1, 1974:

(i) Prior to requesting additional FHWA authorizations (except preliminary engineering), the highway agency, in consultation with the FHWA division engineer, shall review the final EIS and make a written determination on the adequacy of the discussion of air quality included in the final EIS. If the determination is positive, concurrence by the FHWA division engineer shall be evidence of his finding that the highway proposal is consistent with the State Implementation Plan.

(ii) If the determination concludes that additional information or analysis are necessary, a supplemental EIS shall be prepared and distributed for review and comment to appropriate local, State and Federal agencies with expertise in air quality. Thirty days shall be allowed for comment by interested agencies.

(iii) Comments received shall be processed following the procedures outlined in PPM 90–1. Adoption of the supplement to the final EIS by the Regional Federal Highway Administrator shall be evidence of his positive finding on the consistency of the highway proposal with the State Implementation Plan.

(c) *Construction of highways.*—(1) The highway agency shall review its current construction specifications to determine whether allowable construction procedures, or the use of specific equipment or materials are consistent with the State Implementation Plan. As a part of this review the highway agency shall send a copy of its construction specifications to the cognizant air pollution control agency for review and comment.

(2) Comments received from the cognizant air pollution control agency and revisions to the construction specifications resulting from reviews by both agencies shall be sent to FHWA for approval.

(3) A similar review procedure shall be followed whenever the highway agency determines that significant changes have been made in either the highway agency specifications affecting air quality or in the State Implementation Plan.

Effective date.—AUGUST 30, 1973.

[FR Doc.73-18719 Filed 9-4-73;8:45 am]





## COST ACCOUNTING STANDARDS BOARD

[ 4 CFR Parts 331, 351, 400, 401, 402, 403, 404 ]

### NEGOTIATED DEFENSE PRIME CONTRACTS AND SUBCONTRACTS

### Miscellaneous Amendments

Parts 331, 351, 401, and 402, and portions of part 400 of the Cost Accounting Standards Board's Standards, rules and regulations have been required for use in negotiated defense prime contracts and subcontracts since October 1, 1972. Parts 403 and 404 of the Board's rules and regulations have been included in such contracts since July 1, 1973. The Board believes that minor changes to those regulations will clarify the understanding of all who use them. It therefore proposes to amend those parts as indicated below. None of the proposed amendments modifies the meaning and effect of the affected materials, and the Board does not believe that the amendments proposed, if finally adopted, make substantive changes in any of those issuances.

The Board, in publishing these proposed amendments for comment, intends to provide maximum public notice and opportunity for the public to participate in its deliberations. The Board notes, however, that since the proposed amendments do not modify its published rules, regulations and Cost Accounting Standards, but only clarify them, publication and promulgation as described in section 719(A) of Public Law 91–379 are not required. The proposed changes are summarized in the following paragraphs.

Parts 331 and 351 are renumbered to facilitate insertion of any future amendments or modifications to those parts.

The contract clause at § 331.5 is modified to restate the fact that the benefits to contractors who have not been required to file a Disclosure Statement are equal to the benefits provided to contractors who have filed such a Statement. Those benefits are in fact already derived from section (a) (5) of the Contract Clause, but the proposed amendment of section (a) (4) of that Clause states this fact more clearly.

Parts 401, 402, 403, and 404, containing Cost Accounting Standards and Part 400, Definitions, are modified to make all definitions set out in these parts uniform between Part 400 and the individual Cost Accounting Standards and to follow the practice of defining phrases only in the singular. Nonetheless in determining the meaning of any Standard, words importing the singular shall extend to the plural and words importing the plural shall include the singular unless the context shows clearly that a more limited meaning was intended.

The Cost Accounting Standards Board solicits comment on the proposed amendments from any interested persons on any matter which will assist the Board in its consideration of the amendments. Interested persons should sub-



V 38 N 171 SEP 5 73 XUM

mit written data, advice and arguments concerning the proposed amendments to the Cost Accounting Standards Board, 441 G Street NW., Washington, D.C. 20548.

To be given consideration by the Board in its determination relative to final adoption of the proposed amendments, written comments must be made to arrive no later than October 8, 1973. All written comments made pursuant to this notice will be made available for public inspection at the Board's offices during regular business hours.

1. Changes in section numbering in Part 331 and Part 351. Also revision in wording of paragraph (a)4 of § 331.50 *Contract Clause*. Parts 331 and 351 of Title 4 of the Code of Federal Regulations would be revised to read as follows:

## PART 331—CONTRACT COVERAGE

Sec.
331.10 Purpose and scope.
331.20 Definitions.
331.30 Applicability, exemption, and waiver.
331.40 Solicitation notice.
331.50 Contract clause.
331.60 Post-award disclosure.
331.70 Interpretation.
331.80 Effective date.

AUTHORITY: Sec. 103, 84 Stat. 796 (50 U.S.C. App. 2168).

### § 331.10 Purpose and scope.

The regulations contained in this part are promulgated to implement the standards and the rules and regulations established by the Cost Accounting Standards Board pursuant to 50 U.S.C. App. 2168 (Public Law 91–379, August 15, 1970). The requirements set forth herein shall be binding upon all relevant Federal agencies and upon defense contractors and subcontractors.

### § 331.20 Definitions.

(a) A "relevant Federal agency" is any Federal agency making a national defense procurement and any agency whose responsibilities include review, approval, or other action affecting such a procurement.

(b) A "defense contractor" is any contractor entering into a contract with the United States for the production of material or the performance of services for the national defense.

(c) A "defense subcontractor" is any person other than the United States who contracts, at any tier, to perform any part of a defense contractor's contract.

(d) "National defense" is any program for military and atomic energy production or construction, military assistance to any foreign nations, stockpiling, space, and directly related activity.

(e) The definition of "established catalog or market prices of commercial items sold in substantial quantities to the general public" set out in the Armed Services Procurement regulation (32 CFR 3.807–1(b)), in effect at the date of the contract, shall be used.

(f) A "negotiated subcontract" is any subcontract except a firm fixed-price subcontract made by a contractor or subcontractor after receiving offers from at least two firms not associated with each other or such contractor or subcontractor, providing (1) the solicitation to all competing firms is identical, (2) price is the only consideration in selecting the subcontractor from among the competing firms solicited, and (3) the lowest offer received in compliance with the solicitation from among those solicited is accepted.

(g) A "Disclosure Statement" is the Disclosure Statement required by Cost Accounting Standards Board regulation (Part 351 of this chapter).

### § 331.30 Applicability, exemption, and waiver.

(a) The head of each relevant Federal agency shall cause or require the clause set forth in § 331.50 captioned COST ACCOUNTING STANDARDS to be inserted in all negotiated defense contracts in excess of $100,000, other than contracts entered into by the agency where the price is based on: (1) Established catalog or market prices of commercial items sold in substantial quantities to the general public, or (2) prices set by law or regulation. Additionally, all solicitations, likely to result in a contract in which the clause set forth in § 331.50 must be inserted, shall include the notice set forth in § 331.40 captioned DISCLOSURE STATEMENT—COST ACCOUNTING PRACTICES AND CERTIFICATION.

(b) The requirements of paragraph (a) of this section shall not be applicable to:

(1) Any contract made pursuant to a special method of procurement known as "Small Business Restricted Advertising";

(2) Any contract made with a small business pursuant to partial small business set-aside procedures; or

(3) Any contract entered into under authority of section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

(4) Any contract made with a labor surplus area concern pursuant to procedures providing for a partial set-aside for such concern as set out in ASPR 1–804, 32 CFR 1.804; and FPR 1–1.804, 41 CFR 1–1.804.

(5) Any contract awarded to the Canadian Commercial Corp. in accordance with the terms of the agreement of July 27, 1956, as amended, between the Department of Defence Production (Canada) and the U.S. Departments of the Army, the Navy, the Air Force, and the Defense Supply Agency.

(6) Any contract awarded to Western Electric Co. for materials, supplies, or services which are standard items of the Bell System. This paragraph 6 expires on June 30, 1973.

(c)(1) Upon request of the Secretary of Defense, the Deputy Secretary of Defense, or the Assistant Secretary of Defense (Installation and Logistics), or outside the Department of Defense, of officials in equivalent positions, the Cost Accounting Standards Board may waive all or any part of the requirements of paragraph (a) of this section with respect to a contract or subcontract to be performed within the United States, or a contract or subcontract to be performed outside the United States by a domestic concern. A domestic concern is an incorporated concern incorporated in the United States or an unincorporated concern having its principal place of business in the United States. (In the context of this subparagraph, "concern" refers to a prospective or actual contractor. Thus, a contract with a foreign subsidiary or foreign branch or business office of a U.S. corporation would not be a contract with a domestic concern. Conversely, a contract executed by a foreign salesman or agent on behalf of a domestic concern would nevertheless be a contract with a domestic concern since the basic contractual and legal responsibility resides with the domestic concern.) Any request for a waiver shall describe the proposed contract or subcontract for which waiver is sought and shall contain (i) an unequivocal statement that the proposed contractor or subcontractor refuses to accept a contract containing all or a specified part of the Cost Accounting Standards clause and the specific reason for that refusal, (ii) a statement whether the proposed contractor or subcontractor has accepted any prime contract or subcontract with any Federal department or agency containing the Cost Accounting Standards clause, (iii) the amount of the proposed award and the sum of all awards by the department or agency requesting the waiver to the proposed contractor or subcontractor in each of the preceding 3 years, (iv) a statement that no other source of the supplies or services being procured is available to satisfy the needs of the agency on a timely basis, (v) a statement of any alternative methods of fulfilling the project or program needs and the agency's reasons for rejecting such alternatives, (vi) a statement of the steps being taken by the procuring agency to establish other sources of supply for future procurements of the products or services for which a waiver is being requested, and (vii) any other information that may aid the Board in evaluating the requested waiver.

(2) Upon request of the Secretary of Defense, the Deputy Secretary of Defense, or the Assistant Secretary of Defense (Installation and Logistics), or outside the Department of Defense, of officials in equivalent positions, the Cost Accounting Standards Board may waive all or any part of the requirements of paragraph (a) of this section with respect to a proposed contract or subcontract to be performed outside the United States by a foreign government or a foreign concern. A foreign concern is a concern that is not a domestic concern, as defined in paragraph (c)(1) of this section. Any request for a waiver shall describe the proposed contract or subcontract for which waiver is sought and shall contain (i) the amount of the proposed award and the sum of all awards by the department or agency requesting the waiver to the proposed contractor or subcontractor in each of the preceding 3 years, (ii) a statement that no other





source of the supplies or services being procured is available to satisfy the needs of the agency on a timely basis, (iii) a statement of any alternative methods of fulfilling the project or program needs and the agency's reasons for rejecting such alternatives, (iv) a statement of the steps being taken by the procuring agency to establish other sources of supply for future procurements of the products or services for which a waiver is being requested, and (v) any other information that may aid the Board in evaluating the requested waiver.

(3) In the event the agency head determines that it is impractical to secure a required Disclosure Statement in accordance with the contract clause and § 331.60, he may authorize award of such contract or subcontract. He shall within 30 days thereafter submit a report to the Cost Accounting Standards Board, setting forth all material facts.

(4) The authority in this § 331.30(c) shall not be delegated.

### § 331.40 Solicitation notice.

DISCLOSURE STATEMENT—COST ACCOUNTING PRACTICES AND CERTIFICATION

(a) Any contract in excess of $100,000 resulting from this solicitation, except contracts where the price negotiated is based on: (a) Established catalog or market prices of commercial items sold in substantial quantities to the general public, or (b) prices set by law or regulation, will be subject to the requirements of the Cost Accounting Standards Board. Any offeror submitting a proposal, which, if accepted, will result in a contract subject to the requirements of the Cost Accounting Standards Board must, as a condition of contracting, submit a Disclosure Statement as required by regulations of the Board. The Disclosure Statement must be submitted as a part of the offeror's proposal under this solicitation unless, in compliance with agency procedures, the offeror has already submitted a Disclosure Statement disclosing the practices used in connection with the pricing of this proposal, or unless post-award submission has been authorized by the Contracting Officer in accordance with regulations of the Cost Accounting Standards Board (see 4 CFR 331.60). If an applicable Disclosure Statement has already been submitted, the offeror may satisfy the requirement for submission by providing the following information: [1]

CERTIFICATION (APPLICABLE ONLY TO PROPOSALS RESULTING IN CONTRACTS SUBJECT TO COST ACCOUNTING STANDARD BOARD REQUIREMENTS)

By submission of this offer, the offeror certifies that his practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the applicable Disclosure Statement.

### § 331.50 Contract clause.

The following clause shall be inserted in all contracts subject to Cost Accounting Standards Board requirements:

COST ACCOUNTING STANDARDS

(a) Unless the Cost Accounting Standards Board has prescribed rules or regulations exempting the contractor or this contract from standards, rules, and regulations promulgated pursuant to 50 U.S.C. App. 2168 (Public Law 91–379, August 15, 1970), the contractor, in connection with this contract shall:

(1) By submission of a Disclosure Statement, disclose in writing his cost accounting practices as required by regulations of the Cost Accounting Standards Board. The required disclosures must be made prior to contract award unless the Contracting Officer provides a written notice to the contractor authorizing post-award submission in accordance with regulations of the Cost Accounting Standards Board. The practices disclosed for this contract shall be the same as the practices currently disclosed and applied on all other contracts and subcontracts being performed by the contractor and which contain this Cost Accounting Standards clause. If the contractor has notified the Contracting Office that the Disclosure Statement contains trade secrets and commercial or financial information which is privileged and confidential, the Disclosure Statement will be protected and will not be released outside of the Government.

(2) Follow consistently the cost accounting practices disclosed pursuant to paragraph (a)(1) of this section in accumulating and reporting contract performance cost data concerning this contract. If any change in disclosed practices is made for purposes of any contract or subcontract subject to Cost Accounting Standards Board requirements, the change must be applied prospectively to this contract, and the Disclosure Statement must be amended accordingly. If the contract price or cost allowance of this contract is affected by such changes, adjustment shall be made in accordance with paragraph (a)(4) or (a)(5) of this section, as appropriate.

(3) Comply with all Cost Accounting Standards in effect on the date of award of this contract or if the contractor has submitted cost or pricing data, on the date of final agreement on price as shown on the contractor's signed certificate of current cost or pricing data. The contractor shall also comply with any Cost Accounting Standard which hereafter becomes applicable to a contract or subcontract of the contractor. Such compliance shall be required prospectively from the date of applicability to such contract or subcontract.

(4)(i) Agree to an equitable adjustment as provided in the changes clause of this contract if the contract cost is affected by a change which, pursuant to paragraph (a)(3) of this section, the contractor is required to make to his established cost accounting practices whether such practices are covered by a Disclosure Statement or not.

(ii) Negotiate with the contracting officer to determine the terms and conditions under which a change to either a disclosed cost accounting practice or an established cost accounting practice, other than a change under paragraph (a)(4)(i) of this section, may be made. A change to a practice may be proposed by either the Government or the contractor, provided, however, that no agreement may be made under this provision that will increase costs paid by the United States.

(5) Agree to an adjustment of the contract price or cost allowance, as appropriate, if he or a subcontractor fails to comply with an applicable Cost Accounting Standard or to follow any practice disclosed pursuant to paragraphs (a)(1) and (a)(2) of this section and such failure results in any increased costs paid by the United States. Such adjustment shall provide for recovery of the increased costs to the United States together with interest thereon computed at the rate determined by the Secretary of the Treasury pursuant to Public Law 92–41, 85 Stat. 97, or 7 percent per annum, whichever is less, from the time the payment by the United States was made to the time the adjustment is effected.

(b) If the parties fail to agree whether the contractor or a subcontractor has complied with an applicable Cost Accounting Standard, rule, or regulation of the cost Accounting Standards Board and as to any cost adjustment demanded by the United States, such failure to agree shall be a dispute concerning a question of fact within the meaning of the disputes clause of this contract.

(c) The contractor shall permit any authorized representatives of the head of the agency, of the Cost Accounting Standards Board, or of the Comptroller General of the United States to examine and make copies of any documents, papers, or records relating to compliance with the requirements of this clause.

(d) The contractor shall include in all negotiated subcontracts which he enters into the substance of this clause except paragraph (b) of this section, and shall require such inclusion in all other subcontracts or any tier, except that this requirement shall apply only to negotiated subcontracts in excess of $100,000 where the price negotiated is not based on:

(1) Established catalog or market prices of commercial items sold in substantial quantities to the general public, or

(2) Prices set by law or regulation.

However, if this is a contract with an agency which permits subcontracts to appeal final decisions of the contracting officer directly to the head of the agency or his duly authorized representative, then the contractor shall include the substance of paragraph (b) as well.

NOTE: In any case where a subcontractor determines that the Disclosure Statement information is privileged and confidential and declines to provide it to his contractor or higher tier subcontractor, the contractor may authorize direct submission of that subcontractor's Disclosure Statement to the same Government offices to which the contractor was required to make submission of his Disclosure Statement. Such authorization shall in no way relieve the contractor of liability as provided in paragraph (a)(5) of this clause. In view of the foregoing and since the contract may be subject to adjustment under this clause by reason of any failure to comply with rules, regulations, and Standards of the Cost Accounting Standards Board in connection with covered subcontracts, it is expected that the contractor may wish to include a clause in each such subcontract requiring the subcontractor to appropriately indemnify the contractor. However, the inclusion of such a clause and the terms thereof are matters for negotiation and agreement between the contractor and the subcontractor, provided that they do not conflict with the duties of the contractor under its contract with the Government. It is also expected that any subcontractor subject to such indemnification will generally require substantially similar indemnification to be submitted by his subcontractors.

(e) The terms defined in § 331.20 of Part 331 of Title 4, Code of Federal Regulations (4 CFR 331.20) shall have the same meanings herein. As there defined, "negotiated subcontract" means "any subcontract except a firm fixed-price subcontract made by a contractor or subcontractor after receiving offers from at least two firms not associated with each other or such contractor or subcontractor, providing (1) the solicitation to all competing firms is identical, (2) price is the only consideration in selecting the subcontractor from among the competing firms solicited, and (3) the lowest offer received in compliance with the solicitation from among those solicited is accepted."

[1] (The agency issuing the solicitation should specify the data which it will accept if any in lieu of resubmission of a Disclosure Statement already submitted.)



V 38 I 171 SEP 5 73 XUM

§ 331.60 Post-award disclosure.

(a) As specified in the solicitation notice and contract clause set forth in § 331.50, Disclosure Statements must be submitted by offerors required to make disclosure prior to contract award unless the contracting officer authorizes in writing post-award submission. As specified in the contract clause set forth in § 331.50, Disclosure Statements must be submitted by prospective subcontractors required to make disclosure prior to subcontract award unless the contracting officer at the request of the contractor authorizes in writing post-award submission.

(b) Post-award submission may be authorized only when the contracting officer has made a written determination that such authorization is essential (1) to the national defense, (2) because of the public exigency; or (3) to avoid undue hardship. Each determination shall set forth facts which clearly support the determination to authorize post-award submission, and a copy of the determination shall be included in the contract file. Authorization issued pursuant to this paragraph shall specify the time, not to exceed 90 days after contract or subcontract award, by which disclosure must be made.

§ 331.70 Interpretation.

(a) Increased costs paid by the United States as referred to in paragraph (a)(5) of the Cost Accounting Standards clause in § 331.50 shall be deemed to have resulted whenever the cost paid by the Government results from application of practices other than the contractor's disclosed practices or from failure to comply with applicable Cost Accounting Standards, and such cost is higher than it would have been had the disclosed practices been followed or applicable Cost Accounting Standards been complied with.

(b) In negotiated firm fixed-price type contracts, however, "increased costs" cannot be interpreted in terms of a higher level of costs reimbursed during contract performance, since in such contracts the price to be paid would normally be the price agreed to. That price will have been based on the requirement that the contractor use his disclosed practices and comply with applicable Cost Accounting Standards. Subsequently, if the contractor fails during contract performance to follow his disclosed practices or to comply with applicable Cost Accounting Standards, any increased cost to the United States by reason of that failure must be measured by the difference between the cost estimates used in negotiations and the cost estimates that would have been used had the contractor proposed on the basis of the practices actually used during contract performance. (In cases where an offset of decreased costs allocated to firm fixed-price contracts against increased costs allocated to cost reimbursement type contracts may be involved, the provisions of paragraph (f) of this section shall apply.)

(c) The statutory requirement underlying this interpretation is that the United States not pay increased costs, including a profit enlarged beyond that in the contemplation of the parties to the contract when the contract costs, price, or profit is negotiated, by reason of a contractor's failure to use applicable Cost Accounting Standards or to follow his disclosed practices. In making price adjustments under paragraph (a)(5) of the Cost Accounting Standards clause in § 331.50, in fixed-price or cost-reimbursement incentive contracts, or contracts providing for prospective or retroactive price redetermination, the Federal agency shall apply this requirement appropriately in the circumstances.

(d) The contractor and the contracting officer may enter into an agreement as contemplated by paragraph (a)(4)(B) of the Cost Accounting Standards clause in § 331.50, covering a change in practice proposed by the Government or the contractor for all of the contractor's contracts for which the contracting officer is responsible, provided that the agreement does not permit any increase in the cost paid by the Government. Such agreement may be made final and binding, notwithstanding the fact that experience may subsequently establish that the actual impact of the change differed from that agreed to.

(e) To facilitate agreements with a contractor who has a large number of contracts affected by a proposed change in his disclosed cost accounting practices or affected by application of Cost Accounting Standards, contracting agencies are urged to establish procedures under which the contractor may seek, and in proper cases obtain, agreement with a single official concerning the impact of the proposed change or application of standards upon all such contracts of that agency.

(f) In one circumstance an adjustment to the contract price or of cost allowances pursuant to paragraph (a)(4)(B) of the Cost Accounting Standards clause in § 331.50 may not be required when an amendment to disclosed or established practices is estimated to result in increased costs being paid under a particular contract by the United States. This circumstance may arise when a contractor is performing two or more contracts, subject to Cost Accounting Standards Board rules, regulations, and standards, with an agency or agencies of the United States, and when he proposes to change a practice disclosed for all such contracts. The amendment may increase the cost paid under one or more of the contracts, while decreasing the cost paid under one or more of the contracts. In such case, the Government will not pursuant to paragraph (a)(4)(B) require price adjustment for any increased costs paid by the United States so long as the costs decreased under one or more contracts are at least equal to the increased cost under the other affected contracts, provided that the contractor and all affected contracting officers agree on the method by which the price adjustments are to be made for all affected contracts. In this situation, the contracting agencies would, of course, require an adjustment of the contract price or cost allowances, as appropriate, to the extent that the increases under certain contracts were not offset by the decreases under the remaining contracts.

(g) Where, through inadvertence, the contractor has failed to use applicable Cost Accounting Standards or to follow his disclosed practices and has not notified his contracting officer or officers of that failure, if the result of that failure is to increase costs paid under one or more contracts, while decreasing costs paid under one or more contracts, the contracting officer or officers of the agency or agencies concerned are urged, in the interest of administrative convenience, to negotiate the adjustment of the contract prices or cost allowances, as appropriate, of the affected contracts by requiring repayment of only the difference between the estimated price increases and the estimated price decreases, together with any applicable interest.

§ 331.80 Effective date.

The Disclosure Statement requirement at § 331.40 shall be included in all applicable solicitations issued on or after July 1, 1972, and all resulting contracts shall contain the contract clause at § 331.50. In any event, any other contract which is within the jurisdiction of the Cost Accounting Standards Board and which is awarded on or after October 1, 1972, shall contain that contract clause. Relevant Federal agencies shall notify the Cost Accounting Standards Board not later than June 1, 1972, of the action taken to implement this regulation.

## PART 351—BASIC REQUIREMENTS

Sec.


351.10 [Reserved]
351.20 Purpose.
351.30 Definitions.
351.40 Filing requirements.
351.50 Contract awards.
351.60 Forms.
351.70 Submission.
351.80 Incorporation of Disclosure Statement.
351.90 Adequacy of Disclosure Statement.
351.100 Effect of filing Disclosure Statement.
351.110 Early filing.
351.120 Amendment of Disclosure Statement.
351.130 Instructions and information.
351.140 Disclosure Statement.


APPENDIX

AUTHORITY: Sec. 103, 84 Stat. 796; (50 U.S.C. App. 2168).

§ 351.10 [Reserved]

§ 351.20 Purpose.

This regulation is promulgated pursuant to section 719 of the Defense Production Act of 1950, as amended by 84 Stat. 796 (Public Law 91-379), to provide the means by which affected persons can satisfy the requirements established by that law for disclosure of their cost accounting practices and to promulgate the Disclosure Statement form. The regulation also sets forth the administrative procedures to be followed by the Cost Accounting Standards Board and relevant Federal agencies in connection with such disclosures.

§ 351.30 Definitions.

A "profit center" is the smallest organizationally independent segment of a company which has been charged by management with profit and loss responsibilities.

§ 351.40 Filing requirement.

(a) The requirements of this part are applicable to all defense contractors who enter into negotiated national defense contracts with the United States in excess of $100,000 other than contracts where the price negotiated is based on (1) established catalog or market prices of commercial items sold in substantial quantities to the general public, or (2) prices set by law or regulation. A separate Disclosure Statement must be submitted covering the practices of each of the contractor's profit centers, divisions, or similar organizational units whose costs included in the total price of any contract exceed $100,000, except where such costs are based on (1) established catalog or market prices of commercial items sold in substantial quantities to the general public or (ii) prices set by law or regulation. If the cost accounting practices under contracts are identical for more than one organizational unit, then only one Statement need be submitted for those units, but each such organizational unit must be identified. A Disclosure Statement will also be required for each Corporate or Group Office whose costs are allocated to one or more corporate segments performing contracts covered by Public Law 91-379.

(b) The requirements also apply to each subcontractor of whatever tier under a prime contract subject to these provisions provided the subcontract would, if it were a prime contract with the United States, be covered by the above statement of applicability for negotiated national defense contracts.

(c) The practices disclosed pursuant to these requirements shall be followed on all contracts and subcontracts subject to Public Law 91-379 being performed by the contractor or subcontractor.

(d) The Cost Accounting Standards Board will not make Disclosure Statements public in any case when the contractor files its statement specifically conditioned on the Government's agreement to treat the Disclosure Statement as confidential information.

(e) Every contractor and subcontractor covered by this subchapter must submit a Disclosure Statement as a condition of contracting. In order to minimize the administrative burdens upon contracting agencies, the initial requirement for filing is a phased requirement. Each company which together with its subsidiaries received net awards of negotiated national defense prime contracts during Federal fiscal years 1971 (July 1, 1970 through June 30, 1971) totaling more than $30 million must submit completed Disclosure Statements prior to receipt of any contract containing the clause set forth in § 331.50 of this chapter. From time to time, the Board will announce the dates of applicability to other contractors and subcontractors. Because a failure to submit an adequate, timely Disclosure Statement may result in the denial of a contract or subcontract award, relevant Federal agencies should act promptly to assure that affected companies submit Disclosure Statements as prescribed herein at the earliest possible time.

§ 351.50 Contract awards.

(a) After October 1, 1972, no relevant Federal agency shall award any national defense contract subject to this regulation to any contractor who during Federal fiscal year 1971 received net awards of negotiated contracts totaling $30 million or more unless such contractor has submitted a completed Disclosure Statement as required herein. As set forth in the contract clause at § 331.50 of this chapter, the contracting officer may, in certain circumstances, authorized post-award submission, notwithstanding the requirement of this section.

(b) No subcontract shall be awarded to any subcontractor required to file a Disclosure Statement pursuant to the filing requirement of § 351.40 unless the subcontractor has satisfied that requirement by submitting such Statement to the Government in the manner prescribed by agency regulations and agreed to with the prime contractor under whom the subcontract is to be awarded.

§ 351.60 Forms.

Disclosure Statements shall contain complete and accurate responses to the items set forth in § 351.140. For the convenience of persons required to submit Disclosure Statements, the Cost Accounting Standards Board has devised a form, Form No. CASB-DS-1, which should be used. Copies of the form may be requested by relevant Federal agencies for distribution to affected contractors and subcontractors from the Administrative Officer of the Cost Accounting Standards Board, 441 G Street NW., Washington, DC 20548. If for any reason, copies of the form cannot be obtained, the required information shall be supplied in a form substantially in accord with the arrangement set forth in § 351.140.

§ 351.70 Submission.

Each national defense contractor shall submit a copy of each Disclosure Statement, and any amendments thereto in accordance with the method prescribed by each Federal agency for which the contractor is performing or proposes to perform contracts subject to the rules, regulations, and standards of the Cost Accounting Standards Board. Concurrently, a copy shall also be submitted to the Cost Accounting Standards Board, 441 G Street NW., Washington, DC 20548.

§ 351.80 Incorporation of Disclosure Statement.

Every solicitation subject to the standards, rules, and regulations of the Cost Accounting Standards Board shall contain a provision allowing the contractor to identify and incorporate by reference, a Disclosure Statement already on file which will be applicable to that solicitation. Such identification and incorporation shall satisfy the requirement for disclosure as a condition of contracting. Agencies may, nonetheless, require submission of additional copies of such Disclosure Statement to the extent deemed necessary.

§ 351.90 Adequacy of Disclosure Statement.

Federal agencies shall prescribe regulations by which each will determine that a Disclosure Statement has adequately disclosed the practices required to be disclosed by Cost Accounting Standards Board's standards, rules, and regulations. Agencies are urged to coordinate development of such regulations. The Disclosure Statement submitted to the Cost Accounting Standards Board in accordwith § 351.70, is for evaluation and development of Board programs only. Consequently, such submission to the Board does not satisfy the requirement for disclosure as a condition of contracting, nor does any action by the Board with respect to such statement constitute a finding of any kind regarding the adequacy of the statements, as submitted.

§ 351.100 Effect of filing Disclosure Statement.

Unless the Federal agency involved provides otherwise either by regulation or by specific notice to the contractor involved, a Disclosure Statement submitted to the agency or incorporated by reference shall be presumed adequate to meet the requirement that disclosure be made as a condition of contracting. The fact that the condition of contracting has been met shall serve only to establish what the contractor's cost accounting practices are or are proposed to be. In the absence of specific regulation or agreement, a disclosed practice shall not, by virtue of such disclosure, be deemed to have been approved by the agency involved as a proper, approved or agreed practice for pricing proposals or accumulating and reporting contract performance cost data.

§ 351.110 Early filing.

In order to permit orderly processing of Disclosure Statements, all prospective contractors and subcontractors are urged to submit Disclosure Statements as soon as possible. Notwithstanding such early filings, contractors will be bound to adhere to disclosed practices only with respect to contracts under which the contractor would otherwise be required to adhere to his disclosed practices pursuant to § 351.40.

§ 351.120 Amendment of Disclosure Statement.

(a) Disclosure Statement amendments may be submitted at any time.







V 38 171 SEP 5 73 XUM

Contractors are reminded, however, that any amendments to Disclosure Statements must be made applicable prospectively to all contracts and subcontracts subject to Cost Accounting Standards. For this, reason, all relevant Federal agencies are strongly urged to establish interagency procedures for promptly coordinating agency activities stemming from changes in disclosed practices.

(b) Disclosure Statements must be amended for practices that must be changed to comply with Cost Accounting Standards which become applicable subsequent to the initial filing of the Disclosure Statements. Equitable adjustment of contract price or cost allowance will be made as set out in paragraph (a)(4)(A) of § 331.50 of this chapter.

(c) Disclosure Statements must also be amended for changes in practices voluntarily agreed to by the parties. In this event, the contractor and the contracting officer(s) may enter into an agreement as contemplated by paragraph (a)(4)(B) of § 331.50 of this chapter. Such agreement may specify the impact that a Government or contractor proposed change in practice shall be deemed to have on costs paid under one or more existing contract(s) for which the contracting officer(s) is responsible. Such agreement may be made final and binding, notwithstanding the fact that experience may subsequently establish that actual impact of the change differed from that agreed to.

(d) Amendments shall be submitted to the same offices, including the Cost Accounting Standards Board, to which submission would have to be made were an original Disclosure Statement being filed. Revised data for Items 1.4.0 through 1.7.0, 8.1.0 and 8.2.0 must be submitted annually at the beginning of the contractor's fiscal year. If fewer than five of the other items in the Disclosure Statement on file are changed, a letter notice precisely identifying the Disclosure Statement, the specific items being amended, and the nature of the changes will suffice. If five or more items are changed, the entire Disclosure Statement shall be resubmitted. Resubmitted Disclosure Statements must be accompanied by a notation specifying the items which have been changed and the nature of the change.

**§ 351.130 Instructions and information.**

The following instructions and information shall be used by persons completing Disclosure Statements.

INSTRUCTIONS AND INFORMATION

(a) This Disclosure Statement has been designed to meet the requirements of Public Law 91-379, and persons completing it are to describe their contract cost accounting practices. For timing of requirement to file a Disclosure Statement, see § 351.40. A statement must be submitted by all defense contractors who enter into negotiated national defense contracts with the United States in excess of $100,000 other than contracts where the price negotiated is based on (1) established catalog or market prices of commercial items sold in substantial quantities to the general public, or (2) prices set by law or regulation. A separate Disclosure Statement must be submitted covering the practices of each of the contractor's profit centers, divisons, or similar organizational units, whose costs included in the total price of any contract exceed $100,000, except where such costs are based on (1) established catalog or market prices of commercial items sold in substantial quantities to the general public, or (2) prices set by law or regulation. If the cost accounting practices under contracts are identical for more than one organizational unit, then only one statement need be submitted for those units, but each such organizational unit must be identified. A Disclosure Statement will also be required for each corporate or group office when costs are allocated to one or more corporate segments performing contracts covered by Public Law 91-379, but only Part VIII of the statement need be completed.

(b) The statement must be signed by an authorized signatory of the reporting unit.

(c) The disclosure of a cost accounting practice by a contractor does not determine the allowability of particular items of cost. Irrespective of the practices disclosed by a contractor, the question of whether or not, or the extent to which, a specific element of cost is allowed under a contract remains for consideration in each specific instance. Contractors are cautioned that the determination of the allowability of cost items will remain a responsibility of the contracting officers pursuant to the provisions of the applicable procurement regulations.

(d) Unless the Federal agency involved provides otherwise, either by regulation or by specific notice to the contractor involved, a Disclosure Statement submitted to the agency or incorporated by reference should be presumed adequate to meet the requirement that disclosure be made as a condition of contracting. In the absence of specific regulations or agreement, a disclosure practice should not, by virtue of such disclosure, be deemed to have been approved by the agency involved as a proper, approved, or agreed practice for pricing proposals or accumulating and reporting contract performance cost data.

(e) The individual Disclosure Statement may be used in audits of contracts or in negotiation of prices leading to contracts. The authority of the audit agencies and the contracting officers is in no way abrogated by the material presented by the contractor in his Disclosure Statement. Contractors are cautioned that their disclosures in response to the items herein must be complete and accurate; the practices disclosed may have a significant impact on ways in which contractors will be required to comply with Cost Accounting Standards.

(f) This Disclosure Statement should be answered by checking the appropriate box or inserting the applicable Code letter which most nearly describes the reporting unit's cost accounting practices. Part I of the statement asks for general information concerning the reporting unit. Part VIII covers Corporate and Group (Intermediate) offices whose costs are allocated to one or more segments performing contracts covered by Public Law 91-379. Part VIII should be completed by each such office, and care should be taken to insure proper identification of such offices on the cover of the Disclosure Statement. In short, while a Corporation or group office may have more than one reporting unit submitting Disclosure Statements, only one statement need be submitted to cover the Corporate or Group Office operations.

(g) A number of questions in this statement may need narrative answers requiring more space than is provided. In such instances, the reporting unit should use the continuation sheets provided or a facsimile thereof. The number of the question involved should be indicated and the same coding required to answer the questions in the statement should be used in presenting the answer in the continuation sheet. The reporting unit should indicate on the last continuation sheet used, the number of such sheets that were used.

(h) Contractors to whom Public Law 91-379 is applicable are required to follow consistently their disclosed practices in pricing contract proposals and in accumulating and reporting contract performance cost data. If deviation from disclosed practices results in increased costs being paid by the Government, contractors will be required to repay to the Government the amount of the increased costs together with interest charges.

(i) Public Law 91-379 contains an access to records clause, section 719(j) of the Law states:

"For the purpose of determining whether a defense contractor or subcontractor has complied with duly promulgated cost accounting standards and has followed consistently his disclosed cost accounting practices, any authorized representative of the head of the agency concerned, of the Board, or of the Comptroller General of the United States shall have the right to examine and make copies of any documents, papers, or records of such contractor or subcontractor relating to compliance with such cost accounting standards and principles."

**§ 351.140 Disclosure Statement.**

The data which are required to be disclosed are set forth in detail in the Disclosure Statement form CASB-DS-1 which will be devised by the Cost Accounting Standards Board and will be arranged substantially as set forth below.

2. Changes for consistency of style in definitions in Parts 400, 401, 402, 403, and 404. In the indicated sections the definition of "actual costs," "indirect cost pools," "tangible capital assets," and "home office" would be changed to read as follows:

**PART 400—DEFINITIONS**

Section 400.1 is amended to read as follows:

**§ 400.1 Definitions.**

(a) • • •

*Actual cost.*—Amount determined on the basis of cost incurred as distinguished from forecasted cost. Includes standard cost properly adjusted for applicable variance.

• • • • • •

*Indirect cost pool.*—Grouping of incurred costs identified with two or more cost objectives but not identified specifically with any final cost objective.

• • • • • •

*Tangible capital asset.*—An asset that has physical substance, more than minimal value, and is expected to be held by an enterprise for continued use or possession beyond the current accounting period for the services it yields.

**PART 401—COST ACCOUNTING STANDARD—CONSISTENCY IN ESTIMATING, ACCUMULATING, AND REPORTING COSTS**

Section 401.30 is amended to read as follows:





**§ 401.30 Definitions.**

(a) • • •

(2) *Actual cost.*—Amount determined on the basis of cost incurred as distinguished from forecasted cost. Includes standard cost properly adjusted for applicable variance.

• • • • • •

(4) *Indirect cost pool.*—Grouping of incurred costs identified with two or more cost objectives but not identified specifically with any final cost objective.

• • • • • •

**PART 402—COST ACCOUNTING STANDARD—CONSISTENCY IN ALLOCATING COSTS INCURRED FOR THE SAME PURPOSE**

Section 402.30 is amended to read as follows:

**§ 402.30 Definitions.**

(a) • • •

(2) *Cost objective.*—A function, organizational subdivision contract or other work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, capitalized projects, etc.

• • • • • •

(6) *Indirect cost pool.*—Grouping of incurred costs identified with two or more cost objectives but not identified specifically with any final cost objective.

• • • • • •

**PART 403—ALLOCATION OF HOME OFFICE EXPENSES TO SEGMENTS**

Section 403.30 is amended to read as follows:

**§ 403.30 Definitions.**

(a) • • •

(2) *Home office.*—An office responsible for directing or managing two or more, but not necessarily all, segments of an organization. It typically establishes policy for, and provides guidance to the segments in their operations. It usually performs management, supervisory, or administrative functions, and may also perform service functions in support of the operations of the various segments. An organization which has intermediate levels, such as groups, may have several home offices which report to a common home office. An intermediate organization may be both a segment and a home office.

(5) *Tangible capital asset.*—An asset that has physical substance, more than minimal value, and is expected to be held by an enterprise for continued use or possession beyond the current accounting period for the services it yields.

• • • • • •

**§ 403.50 [Amended]**

In line six of § 403.50(c)(2), change "§ 331.5" to "§ 331.50".

**§ 403.70 [Amended]**

In § 403.70, in lines three and eight change "§ 351.4" to "§ 351.40"; and in line thirteen change "§ 351.5" to "§ 351.50".

**PART 404—CAPITALIZATION OF TANGIBLE ASSETS**

Section 404.30 is amended to read as follows:

**§ 404.30 Definitions.**

(a) • • •

(4) *Tangible capital asset.*—An asset that has physical substance, more than minimal value, and is expected to be held by an enterprise for continued use or possession beyond the current accounting period for the services it yields.

• • • • • •

ARTHUR SCHOENHAUT,
*Executive Secretary.*

[FR Doc.73-18685 Filed 9-4-73;8:45 am]

## ENERGY POLICY OFFICE

**[ 32A CFR Chapter XIII ]**

**PROPANE**

**Mandatory Allocation Program; Public Hearing**

On June 11-14, 1973, hearings were held concerning the operation of the voluntary allocation program for petroleum products and the need for a mandatory allocation program. These hearings indicated that shortages of certain products were being experienced in certain parts of the country. In the Energy Policy Office statement of August 9, 1973, it was indicated that a particularly difficult problem exists with propane.

Propane represents a very small fraction of our national fuel supplies. However, it is critical to certain needs such as drying of crops and heating of rural residences and trailers. Studies just concluded by the Federal Government have determined that the propane situation has continued to deteriorate. Diversion of propane from traditional agricultural and residential users to industrial and utility users will result in an absolute shortage of propane for these traditional high priority users.

Since propane supplies have been diverted from traditional high priority customers such that they do not have sufficient supplies to meet their demands this winter, a Mandatory Allocation System for propane is being established pursuant to section 203(a)(3) of the Economic Stabilization Act of 1970, as amended. Specifically this regulation aims to redirect available supplies of propane back to high priority users, encourage refiners to maximize available supplies of propane, and restrict end use consumption of propane by nonpriority users.

The Energy Policy Office also recognizes that higher prices may be necessary in order for an allocation program to be most effective, to encourage conservation, and to induce increased production and importation of propane. Accordingly, the Energy Policy Office has requested that the Cost of Living Council examine the relationship between the proposed allocation system and the Phase IV price regulations. Specifically, the Council has been asked to consider the possible amendment of the regulations to (1) provide that (a) sales of propane redirected from one purchaser to another purchaser may be made at the current sales contract price to the first purchaser, and (b) the second purchaser may roll this purchase price into his selling price for all propane sales, and (2) allow (a) sales of propane embargoed from shipment from storage to be made at a price not to exceed the purchase cost plus applicable transportation, storage, handling, and sales expense, and (b) the purchaser of such propane to roll this purchased price into his selling price for all propane sales.

It is highly desirable that refiners maximize the production and sale of propane. This can be accomplished by substituting other gaseous fuels for propane used as refinery fuel. However, as those alternate fuels have higher-valued uses, refiners cannot be expected to make that substitution without allowance for the higher costs incurred. The Energy Policy Office has requested the Cost of Living Council to consider additional actions to provide necessary incentives.

As required by section 203(a)(3) of the Economic Stabilization Act, a public hearing will be held on the proposed regulation. If the regulations are to become effective in time to significantly redirect to priority customers the supply of propane available this winter, it is necessary to shorten the notice period for the public hearing and comment. Therefore, the public hearing will be held in Washington, D.C. beginning at 9 a.m. (E.S.T.) Friday, September 7, 1973, in the General Services Administration auditorium, 18th and F Streets NW., Washington, D.C. 20240, for the purpose of receiving comments and testimony on all phases of the Proposed Program to Establish a Mandatory Allocation Program for Propane.

In addition, interested persons are invited to submit twenty (20) copies of any written comments on the proposal to the Office of Oil and Gas, Department of the Interior, Washington, D.C. 20240, Attention: L. A. D'Andrea. Comments received no later than September 7th will be considered.

JOHN A. LOVE,
*Director,*
*Energy Policy Office.*

AUGUST 31, 1973.

A new EPO REG. 3 is added to 32A CFR Chapter XIII to read as follows:

**EPO REG. 3—MANDATORY ALLOCATION PROGRAM FOR PROPANE**

Sec.
1 Purpose and intent.
2 Definitions.
3 Priority allocations.
4 Constraints on shipments from propane storage.
5 Pricing provisions.
6 Force majeure.
7 Exceptions.
8 Access to records.



V 38 171 SEP 5 73 XUM

AUTHORITY: Sec. 203(a)(3), Economic Stabilization Act as amended by PL 93-28; 12 USC 1904 (Note): EO 11695, 38 FR 1473; COLC Order 39, 38 FR 22910.

**Sec. 1. Purpose and intent.**

The purpose of this regulation is to assure that available supplies of propane are directed to those customers to whom propane is essential for their physical well-being or for the production of agricultural commodities. These regulations shall be in effect through April 30, 1974. Through this period supplies of propane will probably be insufficient to meet all market requirements. Hence, nonpriority users can expect to receive less than their full requirements and should plan to operate accordingly.

**Sec. 2. Definitions.**

"Priority customers" are those end use customers who use propane for (a) agricultural production (such as tractor fuel, poultry and pig brooding and crop drying), (b) food processing, (c) residential cooking and heating, (d) mass transit vehicles, and (e) buildings housing medical and nursing patients.

"Propane" is, for purposes of this regulation, a hydrocarbon whose chemical composition is predominantly $C_3H_8$. Propane-Butane mixes used to supply customers are included in this definition.

An "end use customer" is any final consumer of propane whether for fuel, raw material, or other use.

"Reseller" means a firm or that part of such a firm which carries on the trade or business of purchasing propane, and reselling it without substantially changing its form.

"Supplier" is any firm who produces propane in a natural gasoline plant, refinery, or elsewhere, or who imports propane for sale, transfer, or exchange to another supplier, reseller, or an end use customer. Suppliers shall include those producers of natural gas who have their gas processed for their account by others.

**Sec. 3. Allocation system.**

(a) *Priority Allocation.*—(1) All propane suppliers and resellers must first provide for the entire requirements of their priority customers for propane before making sales to nonpriority customers. Suppliers to resellers shall also provide the supplies that those resellers need to meet the requirements of their priority customers. In those instances where a reseller is supplied by more than one supplier, his needs for his priority customers shall be supplied to him in the same proportion as those suppliers sold to him in the year ended April 30, 1973.

(2) Resellers shall certify to their suppliers (in the proportions referenced in the previous sentence) their requirements of the resellers' priority customers. Such certifications shall be in the hands of their suppliers prior to the end of each month, and shall project their priority customers needs from that date through April 30, 1974. Resellers shall certify to their suppliers by September 30, 1973 (in the proportions referenced above) the amount of propane sold to nonpriority customers during the period September 1, 1972, through April 30, 1973. These reports shall be certified for correctness by an officer of the reporting company. The provisions of 18 U.S.C. 1001 shall apply to all submissions made.

(3) All propane received by resellers under priority certification shall be sold only to priority customers.

(4) Priority users or resellers to priority users of propane who are unable to find a supplier may be assigned to a supplier by the Office of Oil and Gas. Sales made at the request of the Federal Government in the base period will not be included in establishing proportional base period sales.

(5) Suppliers who do not have sufficient propane to meet needs of their priority customers and the needs of their reseller's priority customers may be assigned to another supplier by the Office of Oil and Gas to meet the balance of the priority needs of the supplier being assigned.

(b) *Nonpriority Allocation.*—(1) Suppliers will determine their total supplies of propane available for sale or internal use as a raw material during the period September 1, 1973, through April 30, 1974. From this amount they will subtract the requirements for their priority customers and the amounts certified to them by resellers as being required for reseller priority customers; leaving the supplier with a net available supply.

(2) The supplier will calculate an allocation fraction as follows: Divide the net available supply by the sum of the suppliers sales to nonpriority customers, internal raw material uses, and nonpriority sales to resellers as certified above, all during the period September 1, 1972, through April 30, 1973. This allocation fraction will be reported monthly by all suppliers to the Office of Oil and Gas.

(3) The amount which must be offered for sale or which may be used as a raw material by a supplier during the period September 1, 1973, through April 30, 1974, shall be equal to the sale to that particular customer or reseller or internal consumption during the base period September 1, 1972, through April 30, 1973, multiplied by the allocation fraction. In no event, however, shall a supplier be required to use an allocation fraction greater than 1.0. In the event a supplier's net available propane is of sufficient magnitude that its allocation fraction exceeds 1.0, the supplier may make allocations based on an allocation fraction of 1.0 and sell or use any surplus propane at its own discretion.

(4) The intent is that natural gasoline plants, refiners and others who produce or supply propane will sell to those suppliers, resellers, or end use customers the same proportion of their total propane available for sale, transfer or use after deduction of sales for priority customers as they sold in the year ending April 30, 1973. Sales made to customers of record during the base period to comply with this section are "redirected sales."

**Sec. 4. Constraints on shipments from propane storage.**

(a) All operators of propane storage facilities who store propane in excess of ½ million gallons for the account of any interest other than suppliers shall report to the Office of Oil and Gas within 10 days of the effective date of this regulation the total volume and locations of propane held by each such account. This same information shall be reported as of the end of each month within 5 days of the close of that month.

(b) Operators of such storage facilities shall not release for shipment from September 1, 1973, through April 30, 1974, to nonpriority consumers any quantity of propane which exceeds shipments from such storage to those respective consumers during the period September 1, 1972, through April 30, 1973. Amounts of such shipments in the base period shall be reported to the Office of Oil and Gas no later than September 15, 1973, by the operators of the propane storage facilities.

(c) No restrictions are imposed, however, on the release of propane for shipment to priority customers or to resellers for sale to priority customers or to suppliers who sell to priority customers, or to hardship cases certified by the Office of Oil and Gas. In the event propane embargoed for release from storage is purchased by suppliers, the volume purchased must be included in the supplier's total available propane. In the event propane embargoed for release from storage is purchased by priority customers or by resellers for sale to priority customers, the priority customer or reseller shall immediately notify his supplier of the volume purchased. The supplier will reduce the volume of propane budgeted for delivery to that priority customer or reseller by the volume of the reported purchase. The intent of this provision is to redirect propane supplies to conventional market channels. Owners of propane embargoed from shipment from storage are urged to sell such embargoed product to historic propane marketers.

**Sec. 5. Pricing provision.**

No seller of propane may charge a price in excess of the price authorized under Subpart L of Part 150, Title 6, Code of Federal Regulations.

**Sec. 6. Force majeure.**

No person shall be held liable by any other person for damages or penalties for any act or failure to act resulting directly or indirectly from compliance with this regulation or any other rule, regulation, or order issued pursuant to the mandatory allocation program for propane notwithstanding that this regulation or any other such rule, regulation, or order shall thereafter be declared by judicial or other competent authority to be invalid.

**Sec. 7. Exceptions.**

(a) In the event of exceptional hardship as a direct result of this program, persons may petition the Office of Oil and Gas for relief. In the event the Office of Oil and Gas, after thorough investigation, determines that relief is warranted, it may certify hardship and allow the petitioner the right to purchase and/or ship certain volumes of propane embargoed for release from storage.

(b) As stated in section 1, non-priority users can expect to receive less than their full requirements of propane during the period of this allocation program. This does not constitute exceptional hardship.

**Sec. 8. Access to records.**

At its discretion, the Office of Oil and Gas may request data, in a form that it may prescribe, from suppliers, resellers, users, and persons who store or transport propane. The Office of Oil and Gas may also conduct onsite investigations as it deems necessary.

[FR Doc.73-18834 Filed 8-31-73;12:50 pm]



## FEDERAL MARITIME COMMISSION

**[ 46 CFR Part 542 ]**

[General Order ...; Docket No. 73-48]

### REMOVAL OF OIL AND HAZARDOUS SUBSTANCES

#### Financial Responsibility; Extension of Time for Comments

The Commission published notice of proposed rulemaking in this proceeding August 14, 1973 (38 FR 21941), inviting comments of interested parties on or before September 4, 1973.

The proposed rules would establish regulations for the implementation of hazardous substance financial responsibility requirements imposed by the Federal Water Pollution Control Act Amendments of 1972.

Counsel for Shipowners Protection and Indemnity Associations have requested a 60 day enlargement of time to file comments. As grounds therefor counsel cites difficulty of obtaining instructions from clients located in diverse overseas localities and suggests the urgency for the early issuance of the rules is lessened by the fact that the Environmental Protection Agency's (EPA) list of hazardous substances might not be ready until after January 1, 1974.

The Commission's proposed rules are closely patterned after existing rules relating to oil pollution financial responsibility requirements. Detailed or prolonged analysis would therefore appear unnecessary. Additionally, the form or content of any rules adopted here is not dependent on whatever form EPA's list of hazardous substances may take and comment thereon need not await issuance of the list. In any event we have no concrete assurances when the EPA will in fact disclose its list of hazardous substances. It is also noted that under the terms of the Federal Water Pollution Control Act amendments of 1972, the financial responsibility provisions, as they relate to hazardous substances, become effective October 18, 1973.

Under the above circumstances the request for 60 day enlargement appears excessive. However, a limited extension of 15 days does seem warranted.

Accordingly, time for filing comments on the notice of proposed rulemaking in this proceeding is hereby enlarged to and including September 19, 1973.

By the Commission.

[SEAL] JOSEPH C. POLKING, *Assistant Secretary.*

[FR Doc.73-18738 Filed 9-4-73;8:45 am]

## INTERSTATE COMMERCE COMMISSION

**[ 49 CFR Part 1131 ]**

[Ex Parte No. 67 (Sub-No. 2)]

### STATE REGISTRATION OF EMERGENCY TEMPORARY AND TEMPORARY AUTHORITY

#### Notice of Proposed Rulemaking

Section 210a(a) of the Interstate Commerce Act, as amended (49 U.S.C. 310a (a)), enables the provision of service in interstate or foreign commerce for which there is an immediate and urgent need to a point or points or within a territory having no carrier service capable of meeting such need when this Commission, in its discretion and without hearings or other proceedings, grants temporary authority for such service by a common or contract carrier by motor vehicle. Regulations governing the issuance of temporary authorities can be found at 49 CFR Part 1131. It has come to our attention that certain State requirements concerning the registration of temporary authorities issued by us are generating delays in the provision of motor carrier services for which this Commission has found an immediate and urgent need. It is believed that such delay-causing State regulations are a burden upon interstate commerce and are prohibiting the shipping and travelling public from receiving service they immediately and urgently require. Such State regulations do not appear to be in the public interest and cannot be allowed to operate to the detriment of the public and in conflict with the principles of this Commission's economic regulation of the motor carrier industry.

The second proviso of § 1023.11 provides that a motor carrier is not to be required to register with any State emergency or temporary authority which is not to remain in effect in excess of 30 days provided: (a) the carrier has previously registered its other authority with the State and identified its vehicles as otherwise required by Part 1023, and (b) furnished to the State a telegram or other written communication describing the emergency or temporary operating authority and stating that the operations will be conducted in full conformity with the requirements for uniform registration. This regulation has been in effect for 18 months and the existence of certain problems has become evident. First, carriers are not required to register emergency temporary authority which is not to remain in effect for over 30 days if they meet the conditions in (a) and (b) above. Because emergency temporary authorities are often extended to 60 and 90 days, the 30-day limitation in § 1023.11 tends to nullify the intent of the regulation and delay the rendition of urgently needed motor carrier service.

Condition (a) above permits carriers to take advantage of this section if they have previously registered their other interstate authority with the State. A carrier which receives emergency temporary authority from this Commission and has no previously registered interstate authority (because it has no other authority from this Commission) is being required to file with the States copies of its emergency temporary authority in compliance with 49 CFR 1023.13. This process usually takes between 10 and 14 days. The carrier cannot operate during this period although it has shown an urgent need for its service. Its 30-day emergency authority is reduced by 10 to 14 days in such instances.

Condition (b) above requires that a telegram or letter be furnished to States describing the authority. Certain States have apparently refused to accept telegrams for the carriers and insist that this Commission must originate the communication. This also reduces the time period of a temporary authority and prohibits a carrier from providing a service urgently required.

Based on the foregoing, it is proposed that 49 CFR Part 1131 be amended by the addition of the following new section, presently untitled:

§ 1131._____.

Notwithstanding the provisions of § 1023.11 of this subchapter, a motor carrier shall not be required to file with a State Commission an emergency or temporary operating authority having a duration of 90 consecutive days or less if such carrier has: (a) registered its other authority granted by the Interstate Commerce Commission authorizing operations in or through the involved State (a carrier possessing no other such authority may qualify for this exception upon compliance only with condition (b) below) and identified its vehicles or drive-away operation under the provisions of those standards set forth at §§ 1023.31–1023.42 of this subchapter, both inclusive; and (b) furnished to the State Commission a telegram or other written communication from the motor carrier describing such emergency or temporary operating authority and stating that operation thereunder shall be in full accord with the requirements of those standards set forth at § 1023.1 et seq., of this subchapter.

The statutory authority for this action is to be found in part II of the Interstate Commerce Act, including particularly sections 210a(a), 204(a)(1) and (6), and 202(b) thereof [49 U.S.C. 310a(a), 304 (a)(1) and (6), and 302(b)].

It does not appear that the action proposed herein will have a significant effect upon the quality of our human environment within the meaning of the National Environmental Policy Act of 1969.



V 38 I 171
SEP 5 73
XUM

PROCEDURAL MATTERS

Oral hearings do not appear to be necessary at this time and none is contemplated. Any person wishing to present views and evidence either in support of, or in opposition to, the action proposed in this order may do so by the submission of written data, views, or arguments.

*It is ordered*, That, based on the foregoing explanation, a proceeding be, and it is hereby, instituted under part II of the Interstate Commerce Act, and particularly sections 202(b), 204(a)(1) and (6), and 210a(a) thereof, and 5 U.S.C. 553 and 559 (the Administrative Procedure Act), for the purpose of determining whether the adoption of the above-described procedures is reasonable and necessary in the public interest, and for the purpose of taking such other and further action as the facts and circumstances may justify or require.

*It is further ordered*, That no hearings be scheduled for the receipt of oral testimony unless a need therefor should later appear, but that any person interested in making representations in favor of, or against the proposed regulations is hereby invited to do so by the submission of written data, views, or arguments. An original and 15 copies of such data, views, or arguments shall be filed with the Commission on or before October 1, 1973. All such statements will be considered as evidence and as a part of the record in the proceeding.

*And it is further ordered*, That a copy of this Notice and Order be served on the National Association of Regulatory Utility Commissioners, that written materials or suggestions submitted will be available for public inspection at the Offices of the Interstate Commerce Commission, 12th and Constitution, Washington, D.C., during regular business hours; and that notice to the general public of the matter here under consideration will be given by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission.

[SEAL] JOSEPH M. HARRINGTON,
*Acting Secretary.*

[FR Doc.73-18758 Filed 9-4-73;8:45 am]





# Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF STATE

[Public Notice CM-61]

### SHIPPING COORDINATING COMMITTEE SUBCOMMITTEE ON CODE OF CONDUCT FOR LINER CONFERENCES

#### Notice of Meeting

A meeting of the Subcommittee on the Code of Conduct for Liner Conferences will be held at 1:30 p.m. on Thursday, September 20, in Room 1105, Department of State, Washington, D.C., to discuss United States positions on the draft Code of Conduct for Liner Conferences in regard to the October meeting of the Special Group on UNCTAD of the OECD Maritime Transport Committee and regarding the UN Conference of Plenipotentiaries on the Code, scheduled to convene November 12, 1973.

The meeting will be closed to the public, under a determination to do so, made under the provisions of section 10(d) of Public Law 92-463. (This meeting will follow the public meeting scheduled for 10 a.m. that morning, which had been announced in the FEDERAL REGISTER on August 13, 1973.)

For information regarding the meeting, contact Mr. Richard K. Bank, Secretary, Shipping Coordinating Committee, Department of State, Washington, D.C. 20520, area code 202-632-0704.

Dated August 23, 1973.

RICHARD K. BANK,
*Executive Secretary,*
*Shipping Coordinating Committee.*

[FR Doc.73-18731 Filed 9-4-73;8:45 am]

[Public Notice CM-62]

### STUDY GROUP 2 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

#### Notice of Meeting

The Department of State announces that Study Group 2 of the U.S. National Committee for the International Radio Consultative Committee (CCIR) will meet on September 27, 1973, at 9:30 a.m., in Room 521-J, Federal Office Building, 600 Independence Avenue SW., Washington, D.C.

Study Group 2 deals with matters relating to the communications for scientific satellites, space probes, spacecraft, exploration satellites (e.g., meteorological and geodetic), and to interference problems concerning the radioastronomy and radar astronomy services. The principle item on the agenda will be the approval of Study Group 2 papers prepared for the final meeting of the Study Groups in 1974. Subsequent to their approval by Study Group 2 the papers will be circulated to the U.S. National Committee prior to sending them to Geneva.

Members of the general public who desire to attend the meeting on September 27 will be admitted up to the limits of the capacity of the meeting room.

Dated August 27, 1973.

GORDON L. HUFFCUTT,
*Chairman,*
*U.S. CCIR National Committee.*

[FR Doc.73-18732 Filed 9-4-73;8:45 am]

[Public Notice CM-60]

### STUDY GROUPS 10 AND 11 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

#### Notice of Meeting

The Department of State announces that Study Groups 10 and 11 of the U.S. National Committee for the International Radio Consultative Committee (CCIR) will meet jointly on September 19, 1973, under the chairmanship of Mr. A. Prose Walker of the Federal Communications Commission (FCC). The meeting will convene at 10:00 a.m., in Room A-110, FCC Annex (Howich Building), 1229 20th Street NW., Washington, D.C.

Study Group 10 deals with questions relating to sound broadcasting; Study Group 11 deals with questions relating to television broadcasting. The agenda for the meeting will include consideration of the draft documents being developed as proposed contributions by the U.S. to the international meetings of the Study Groups in 1974.

Members of the general public who desire to attend the meeting on September 19 will be admitted up to the limits of the capacity of the meeting room.

Dated August 29,1973.

GORDON L. HUFFCUTT,
*Chairman,*
*U.S. CCIR National Committee.*

[FR Doc.73-18730 Filed 9-4-73;8:45 am]

## DEPARTMENT OF THE TREASURY

### Office of the Secretary

### EXPANDED METAL, OF BASE METAL, FROM JAPAN

#### Antidumping; Determination of Sales at Less Than Fair Value

AUGUST 30, 1973.

Information was received on January 12, 1973, that expanded metal, of base metal, from Japan was being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act").

A "Withholding of Appraisement Notice" is being published concurrently with this notice.

I hereby determine that, for the reasons stated below, expanded metal, of base metal, from Japan is being, or is likely to be, sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

*Statement of reasons on which this determination is based.*—The information currently before the U.S. Customs Service indicates that the proper basis of comparison for fair value purposes is between purchase price and adjusted home market price.

Purchase price was calculated on the basis of the f.o.b. Japanese port price, with deductions for included transportation charges and, where appropriate, inspection fees and insurance costs.

Adjusted home market price was calculated on the basis of a weighted average of the delivered prices, with deductions for transportation costs. An adjustment was made for differences in credit charges and packing costs.

The comparisons revealed that purchase price was lower than the adjusted home market price.

The United States Tariff Commission is being advised of this determination.

This determination is published pursuant to section 201(c) of the Act (19 U.S.C. 160(c)).

[SEAL] JAMES B. CLAWSON,
*Acting Assistant Secretary*
*of the Treasury.*

[FR Doc.73-18862 Filed 9-4-73;8:45 am]

### EXPANDED METAL, OF BASE METAL, FROM JAPAN

#### Antidumping; Withholding of Appraisement Notice

AUGUST 30, 1973.

Information was received on January 12, 1973, that expanded metal, of base metal, from Japan was being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). The information was the subject of an "Antidumping Proceeding Notice" which was published in the FEDERAL REGISTER of February 26, 1973, on page 5195. The "Antidumping Proceeding Notice" indicated that there was evidence on record concerning injury or likelihood of



V 38 171 SEP 5 73 XUM

injury or prevention of establishment of an industry in the United States.

Pursuant to section 201(b) of the Act (19 U.S.C. 160(b)), notice is hereby given that there are reasonable grounds to believe or suspect that the purchase price (section 203 of the Act; 19 U.S.C. 162) of expanded metal, of base metal, from Japan is less, or is likely to be less, than the foreign market value (section 205 of the Act; 19 U.S.C. 164).

Customs officers are being directed to withhold appraisement of expanded metal, of base metal, from Japan in accordance with section 153.48, Customs Regulations (19 CFR 153.48).

In accordance with sections 153.32(b) and 153.37, Customs Regulations (19 CFR 153.32(b), 153.37), interested persons may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 2100 K Street NW., Washington, D.C. 20229, in time to be received by his office not later than September 12, 1973. Such requests must be accompanied by a statement outlining the issues wished to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than September 19, 1973.

This notice, which is published pursuant to § 153.34(a), Customs regulations (19 CFR 153.34(a)), shall become effective upon publication in the FEDERAL REGISTER. It shall cease to be effective on December 5, 1973, unless previously revoked.

[SEAL] JAMES B. CLAWSON,
*Acting Assistant Secretary of the Treasury.*

[FR Doc.73-18863 Filed 9-4-73;8:45 am]

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

### WORLAND DISTRICT ADVISORY BOARD

### Notice of Meeting

AUGUST 28, 1973.

Notice is hereby given that the Worland, Wyoming, District Advisory Board will hold a business meeting on September 11, 1973, at the Worland District Office of the Bureau of Land Management, 1700 Robertson Avenue, Worland, Wyoming. The agenda for the meeting will include an explanation and discussion of the proposed Wyoming State district reorganization, weed and brush herbicide control and information on wildhorse regulations.

The meeting will be open to the public and will start at 9:30 a.m. m.d.t.

Any interested person may file a written statement for consideration by the board by sending it to the chairman, in care of the cochairman: Worland District Manager, P.O. Box 119, Worland, Wyoming 82401.

RICHARD E. CLEVELAND,
*Worland District Manager.*

[FR Doc.73-18706 Filed 9-4-73;8:45 am]

## National Park Service

### NATIONAL REGISTRY OF NATURAL LANDMARKS

### Revision of List

Pursuant to authority contained in the Act of August 21, 1935 (49 Stat. 666, 16 U.S.C. 461), the National Park Service, Department of the Interior is administering and implementing a natural areas program, including the National Registry of Natural Landmarks. It is the purpose of this notice to revise the National Registry of Natural Landmarks as published in the FEDERAL REGISTER of January 29, 1972 at page 1496.

It is the purpose of this revised notice, through publication of the following information and list of sites, to apprise the public as well as governmental agencies, associations, and all other organizations and individuals interested in the preservation of nationally significant natural areas, of the objectives of the Natural Landmarks Program, of the methods used in identifying potential natural landmarks, and of the criteria used in evaluating natural areas. Sites listed in this notice have been determined to be eligible for inclusion in the National Registry of Natural Landmarks. Those which have been registered are indicated by an asterisk.

Dated August 16, 1973.

ERNEST ALLEN CONNALLY,
*Associate Director, National Park Service.*

THE NATURAL LANDMARKS PROGRAM

I. THE NATIONAL REGISTRY OF NATURAL LANDMARKS AND PROCEDURES FOR REGISTRATION

A. *Program Objective.*—The objective of the Natural Landmarks Program is to assist in the preservation of a variety of significant natural areas which, when considered together, will illustrate the diversity of the country's natural history. This objective is attained through identification of sites eligible for inclusion in the national registry. Natural landmark registration is voluntary and does not change ownership.

Inclusion in the national registry is intended to (1) encourage the preservation of sites illustrating the geological and ecological character of the United States, (2) enhance the educational and scientific value of sites thus preserved, (3) strengthen cultural appreciation of natural history, and (4) foster a wider interest and concern in the conservation of the Nation's natural heritage.

B. *Inventory of natural areas.*—To provide a logical and scientific basis for the selection of natural landmarks which adequately represent the natural history of the United States the National Park Service has developed a system of natural history themes as follows:

LANDFORMS OF THE PRESENT

Plains, plateaus, mesas.
Cuestas and hogbacks.
Mountain systems.
Works of volcanism.
Hot water phenomena.
Sculpture of the land.
Eolian landforms.
River systems and lakes.
The work of glaciers.
Seashores, lakeshores, islands.
Coral islands, reefs, atolls.
Earthquake phenomena.
Caves and springs.
Meteor impact sites.

GEOLOGICAL HISTORY OF THE EARTH

Precambrian.
Cambrian—Early Silurian.
Late Silurian—Devonian.
Mississippian—Triassic.
Permian—Cretaceous.
Paleocene—Eocene.
Oligocene—Recent.

LAND ECOSYSTEMS

Tundra.
Boreal forest.
Pacific forest.
Dry coniferous forest and woodland.
Eastern deciduous forest.
Grassland.
Chaparral.
Deserts.
Tropical ecosystems.

AQUATIC ECOSYSTEMS

Marine environments.
Estuaries.
Streams.
Underground ecosystems.
Lakes and ponds.

A prime product of the natural history theme studies is an inventory of the country's natural areas. Evaluation focuses attention on these areas and often stimulates communities to take action in preserving significant sites.

C. *Natural landmarks criteria.*—The National Registry of Natural Landmarks parallels, at the national level, the National Register of Historic Places, in that it lists the natural areas that are nationally significant (natural landmarks) similar in importance to the historical or archeological areas that are nationally significant (national historic landmarks) listed in the National Register of Historic Places. The difference between the two registers is that the National Register of Historic Places includes, in addition to national historic landmarks, historic areas administered by the National Park Service and historic places of State and local significance.

To be eligible for natural landmark designation, a site must be nationally significant as possessing exceptional value or quality in illustrating or interpreting the natural heritage of our Nation, and must present a true, accurate, essentially unspoiled example of natural history.

Examples of the kinds of areas which could qualify for natural landmark designation are:





1. Outstanding geological formations or features significantly illustrating geologic processes.

2. Significant fossil evidence of the development of life on earth.

3. An ecological community significantly illustrating characteristics of a physiographic province or a biome.

4. A biota of relative stability maintaining itself under prevailing natural conditions, such as a climatic climax community.

5. An ecological community significantly illustrating the process of succession and restoration to natural condition following disruptive change.

6. A habitat supporting a vanishing, rare, or restricted species.

7. A relict flora or fauna persisting from an earlier period.

8. A seasonal haven for concentrations of native animals, or a vantage point for observing concentrated populations, such as a constricted migration route.

9. A site containing significant evidence illustrating important scientific discoveries.

10. Examples of the scenic grandeur of our natural heritage.

D. *Implementation.*—If, after study by the National Park Service, the site is considered to possess the requisite characteristics for eligibility, it is proposed to the Advisory Board on National Parks, Historic Sites, Buildings and Monuments of the Secretary of the Interior for consideration. The Advisory Board, authorized by the Act of August 21, 1935 (49 Stat. 667; 16 U.S.C. 463), is composed of 11 nonsalaried members who are appointed by the Secretary and who are competent in the fields of history, archeology, architecture, or human geography. The Advisory Board's recommendation is transmitted to the Secretary and, if approved by him, the Secretary may announce that the site is eligible for registration. The owner is then invited to apply for a certificate and bronze plaque designating the site a registered natural landmark.

Registration as a natural landmark requires agreement by the landowner to preserve, insofar as possible, the significant natural values contained in the site. In applying for such registration the owner agrees to so manage the site as to prevent the destruction or deterioration of the values upon which landmark status is based. He relinquishes none of his rights and privileges as to use of the land. Neither does the Department of the Interior gain any possessory interest in lands so designated, but will, upon request, provide consultative assistance in protecting and interpreting the natural values of the site.

Should the natural integrity of an eligible site deteriorate from either natural or man-induced causes, to the extent that national significance is lost, the site will be removed from the National Registry of Natural Landmarks.

The National Park Service will evaluate new sites and reevaluate designated sites periodically to determine their current eligibility for landmark status. Additions to and deletions from the National Registry of Natural Landmarks will be published at intervals in the FEDERAL REGISTER.

II. SITES ELIGIBLE FOR INCLUSION IN THE NATIONAL REGISTRY OF NATURAL LANDMARKS

(Sites which have been registered are indicated by an asterisk.)

ALABAMA

**Cathedral Caverns, Marshall County*—4 miles northeast of Grant.

**Shelta Cave, Madison County*—within city limits of Huntsville.

ALASKA

**Aniakchak Crater*, 24 air miles southeast of Port Heiden.

**Arrigetch Peaks*, 250 miles northwest of Fairbanks.

**Bogoslof Island*, 25 miles north of Umnak Island in the Aleutian Archipelago.

**Brown Bear Refuge*, 200 miles southwest of Anchorage.

**Clarence Rhode National Wildlife Range*, on the Bering Sea coast between Hooper Bay and Kipnuk.

**Lake George*, 44 miles northeast of Anchorage.

**Malaspina Glacier*, 25 miles west of Yakutat.

*Middleton Island*, 155 miles southeast of Anchorage.

**Mount Veniaminof*, 20 miles northeast of Port Moller on the Alaska Peninsula.

**Shishaldin Volcano*, 50 miles west of Cold Bay in the Aleutian Archipelago.

**Simeonof National Wildlife Refuge*, in the Shumagin Island Group south of the Alaska Peninsula.

**Unga Island*, in the Shumagin Island Group, 500 miles southwest of Anchorage.

**Walker Lake*, 250 air miles northwest of Fairbanks.

**Walrus Islands*, 375 miles southwest of Anchorage in Bristol Bay.

**Worthington Glacier*, 30 miles east of Valdez.

AMERICAN SAMOA

*Aunuu Island*—Off the northeast coast of Tutulla Island.

*Cape Taputapu*—On the western tip of Tutulla Island.

*Fogamoa Crater*—Or the southwest coast of Tutiula Island.

*Leala Shoreline*—On the southwest coast of Tutulla Island.

*Matafao Peak*—1½ miles south of the city of Pago Pago.

*Rainmaker Mountain*—East of Pago Pago Harbor.

*Vaiava Strait*—On the north-central coast of Tutulla Island.

ARIZONA

**Barringer Meteor Crater, Coconino County*—15 miles west of Winslow.

*Hualapai Valley Joshua Trees, Mohave County*—45 miles north of Kingman.

**Patagonia-Sonoita Creek Sanctuary, Santa Cruz County*—1 mile from Patagonia, south of Sierra Vista.

*Willcox Playa, Cochise County*—4 miles south of Willcox.

ARKANSAS

*Mammoth Spring, Fulton County*—northeast of Mammoth Spring.

CALIFORNIA

*Amboy Crater, San Bernardino County*—west of the town of Amboy.

**Audubon Canyon Ranch, Marin County*—20 miles northwest of San Francisco.

*Cinder Cone Natural Area, San Bernardino County*—24 miles east of Baker.

**Elder Creek, Mendocino County*—4 miles north of Branscomb.

**Emerald Bay, El Dorado County*—16 miles south of Tahoe City.

**Miramar Mounds, San Diego County*—12 miles north of central San Diego.

**Point Lobos, Monterey County*—near Carmel.

**Pygmy Forest, Mendocino County*—5 miles southeast of Fort Bragg.

**Rainbow Basin, San Bernardino County*—8 miles north of Barstow.

**Rancho La Brea, Los Angeles County*—Hancock Park, Wilshire Boulevard, Los Angeles.

**San Andreas Fault, San Benito County*—at Clenega Winery, 8 miles south of Hollister.

**Sand Hills, Imperial County*—15 miles west of Yuma.

*Tijuana River Estuary, San Diego County*—between the city of Imperial Beach and the U.S.-Mexico International Boundary.

**Trona Pinnacles, San Bernardino County*—7 miles south of Argus.

*Turtle Mountains Natural Area, San Bernardino County*—30 miles south-southwest of Needles.

COLORADO

**Garden of the Gods, El Paso County*—10 miles northeast of Pikes Peak.

*Lost Creek Scenic Area, Park County*—40 miles southwest of Denver.

*Raton Mesa, Las Animas County*—10 miles south of Trinidad.

*Slumgullion Earthflow, Hinsdale County*—2 miles south of Lake City.

**Summit Lake, Clear Creek County*—13 miles southwest of Idaho Springs.

CONNECTICUT

**Bartholomew's Cobble, Litchfield County, Conn.* and *Berkshire County, Mass.*, 1 mile west of Ashley Falls, Mass. (See also Massachusetts.)

*Bingham Pond Bog, Litchfield County*—1 mile east of the New York State boundary.

*Chester Cedar Swamp, Middlesex County*—2 miles west-southwest of the village of Chester.

**Dinosaur Trackway, Hartford County*—5 miles south of Hartford.

*Pachaug-Great Meadow Swamp, New London County*—1½ miles northeast of the village of Voluntown.

FLORIDA

**Big Cypress Bend, Collier County*—1 mile west of Florida 29 on Tamiami Trail (U.S. 41).

**Corkscrew Swamp Sanctuary, Collier County*—25 miles southeast of Fort Myers.

**Ichetucknee Springs, Columbia and Suwannee Counties*—Ichetucknee Springs State Park, 22 miles southwest of Lake City.

*Lignumvitae Key, Monroe County*—one-half mile north of U.S. 1 causeway, near north end of Matecumbe Key.

**Manatee Springs, Levy County*—Manatee Springs State Park, 50 miles west-southwest of Gainesville.

**Rainbow Springs, Marion County*—4 miles north-northeast of Dunnellon.

**Reed Wilderness Seashore Sanctuary, Martin County*—8 miles south of Stuart.

**Silver Springs, Marion County*—5 miles northeast of Ocala.

**Wakulla Springs, Wakulla County*—15 miles south of Tallahassee.

GEORGIA

**Cason J. Callaway Memorial Forest, Harris County*—1 mile west of Hamilton.

**Marshall Forest, Floyd County*—near Rome.

**Wassaw Island, Chatham County*—14 miles south of Savannah, in the Atlantic Ocean.



V 38 171 SEP 5 73 XUM

GUAM

*Facpi Point*—On the southwest coast of Guam.

*Fouha Point*—On the southwest coast of Guam—1 mile northwest of the village of Umatac.

*Mount Lamlam*—3 miles north-northeast of the village of Umatac.

*Punta de Dos Amantes*—2 miles north of the village of Tumon.

HAWAII

*Diamond Head, Island of Oahu*—in city of Honolulu.

*Iao Valley, Island of Maui*—West of the city of Wailuku.

*Kanaha Pond, Island of Maui*—1 mile west of Kahului Airport.

*Koolau Range Pali, Island of Oahu*—3 miles south of the village of Kaneohe, Koolaupoko District.

*Makalawena Marsh, Island of Hawaii*—near Kawikahale Point.

*Mauna Kea, Island of Hawaii*—25 miles west-northwest of the city of Hilo.

*North Shore Cliffs, Island of Molokai*—Between the villages of Halawa and Kalaupapa.

IDAHO

*The Great Rift, Power County*—25 miles northwest of American Falls.

ILLINOIS

*Allerton Natural Area, Piatt County*—28 miles southwest of Champaign.

*Forest of the Wabash, Wabash County*—3 miles south of Mount Carmel.

*Heron Pond and Wildcat Bluff Nature Preserve, Johnson County*—5 miles southwest of Vienna.

*Horseshoe Lake Nature Preserve, Alexander County*—11 miles northwest of Cairo.

*Mississippi Palisades, Carroll County*—North of Savanna.

*Volo Bog Nature Preserve, Lake County*—1½ miles north-northwest of Volo.

*Wauconda Bog Nature Preserve, Lake County*—South of the village of Wauconda.

INDIANA

*Bear Creek Canyon, Fountain County*—7 miles northeast of Covington.

*Big Walnut Creek, Putnam County*—35 miles west of Indianapolis.

*Cowles Bog, Porter County*—10 miles west of Michigan City.

*Donaldson Cave System and Woods, Lawrence County*—Spring Mill State Park, 5 miles east of Mitchell.

*Ohio Coral Reef (Falls of the Ohio)*—in Ohio River, between Jeffersonville, Ind., and Louisville, Ky. (See also Kentucky.)

*Pine Hills Natural Area, Montgomery County*—15 miles west-southwest of Crawfordsville.

*Pinhook Bog, La Porte County*—4 miles south of Waterford.

*Rise at Orangeville, Orange County*—south of West Road in Orangeville.

*Tolliver Swallowhole, Orange County*—4 miles north-northwest of Paoli.

*Wesley Chapel Gulf, Orange County*—2 miles east-southeast of Orangeville.

*Wyandotte Cave, Crawford County*—Harrison-Crawford State Forest, 30 miles west of New Albany.

IOWA

*Cayler Prairie, Dickinson County*—5 miles west of West Okoboji.

*Hayden Prairie, Howard County*—12 miles northwest of Cresco.

*White Pine Hollow Preserve, Dubuque County*—20 miles northwest of Dubuque.

KANSAS

*Baker University Wetlands, Douglas County*—3 miles south of Lawrence.

*Monument Rocks Natural Area, Gove County*—23 miles south of Oakley.

KENTUCKY

*Lilly Cornett Woods, Letcher County*—25 miles southeast of Hazard.

*Ohio Coral Reef (Falls of the Ohio)*—in Ohio River between Louisville, Ky., and Jeffersonville, Ind. (See also Indiana.)

MAINE

*Colby-Marston Preserve, Kennebec County*—2 miles north of the village of Belgrade.

*Crystal Bog, Aroostook County*—4 miles southeast of Patten.

*Gulf Hayas, Piscataquis County*—14 air miles east of Greenville.

*Meddybemps Heath, Washington County*—3 miles west of the village of Meddybemps.

*Monhegan Island, Lincoln County*—10 miles south of Port Clyde, in the Atlantic Ocean.

*Mount Katahdin, Piscataquis County*—20 miles north of Millinocket.

*Orono Bog, Penobscot County*—6 miles southwest of Old Town.

*Passadumkeag Marsh and Bogiands, Penobscot County*—2 miles east of Passadumkeag.

*Penney Pond—Joe Pond Complex, Kennebec County*—2½ miles south of the village of Belgrade.

MARYLAND

*Battle Creek Cypress Swamp, Calvert County*—on Md. 506, between Bowens and Port Republic.

*Cranesville Swamp Nature Sanctuary, Garrett County, Md.*, and *Preston County, W. Va.*—9 miles north of Terra Alta, W. Va. (See also West Virginia.)

*Sugar Loaf Mountain, Frederick County*—16 miles south of Frederick.

MASSACHUSETTS

*Acushnet Cedar Swamp, Bristol County*—northwest of New Bedford.

*Bartholomew's Cobble, Berkshire County, Mass.*, and *Litchfield County, Conn.*, 1 mile west of Ashley Falls, Mass. (See also Connecticut.)

*Fannie Stebbins Refuge, Hampden County*—5 miles south of Springfield.

*Gay Head Cliffs, Dukes County*—on western tip of Martha's Vineyard.

*Lynnfield Marsh, Essex and Middlesex Counties*—between Wakefield and South Lynnfield.

*Poutwater Pond, Worcester County*—north of Holden.

MICHIGAN

*Grand Mere Lakes, Berrien County*—2 miles southwest of Stevensville.

*Warren Woods Natural Area, Berrien County*—3 miles north of Three Oaks.

MINNESOTA

*Ancient River Warren Channel, Traverse and Big Stone Counties, Minn.*, and *Roberts County, S. Dak.*—near Browns Valley, Minn. (See South Dakota.)

*Itasca Natural Area, Clearwater County*—30 miles southeast of Bemidji.

*Lake Agassiz Peatlands, Koochiching County*—30 airline miles south of International Falls.

MISSISSIPPI

*Chestnut Oak Disjunct, Calhoun County*—16 miles north of Bruce.

*Mississippi Petrified Forest, Madison County*—17 miles north of Jackson.

MISSOURI

*Maramec Spring, Phelps County*—Maramec Spring Park, 8 miles southeast of St. James.

*Mark Twain and Cameron Caves, Marion County*—2 miles southeast of Hannibal.

*Marvel Cave, Stone County*—50 miles south of Springfield.

MONTANA

*Bug Creek Fossil Area, McCone County*—34 miles southeast of Fort Peck.

*Glacial Lake Missoula, Sanders County*—12 miles north of Perma.

*Hell Creek Fossil Area, Garfield County*—16 miles north of Jordan.

NEBRASKA

*Fontenelle Forest, Sarpy County*—1 mile south of Omaha.

NEVADA

*Hot Creek Springs and Marsh, Nye County*—35 miles south of Lund.

*Ichthyosaur Site, Nye County*—20 miles east of the town of Gabbs.

*Lunar Crater, Nye County*—70 miles east-northeast of Tonopah.

*Ruby Marsh, Elko and White Pine Counties*—50 miles south-southeast of Elko.

*Timber Mountain Caldera, Nye County.*

*Valley of Fire, Clark County*—35 miles northeast of Las Vegas.

NEW HAMPSHIRE

*East Inlet Natural Area, Coos County*—northeast of Second Connecticut Lake.

*Floating Island, Coos County*—2½ miles east-northeast of Errol.

*Franconia Notch, Grafton County*—16 miles south of Littleton.

*Heath Pond Bog, Carroll County*—2 miles northeast of Center Ossipee.

*Madison Boulder, Carroll County*—3 miles north of Madison.

*Pondicherry Wildlife Refuge, Coos County*—2 miles northeast of Whitefield Airport in Jefferson.

*Spruce Hole Bog, Strafford County*—2 miles west-southwest of Durham.

NEW JERSEY

*Great Falls of Paterson, Passaic County*—Paterson.

*Great Swamp, Morris County*—7 miles south of Morristown.

*Moggy Hollow Natural Area, Somerset County*—2 miles east of Far Hills.

*Riker Hill Fossil Site, Essex County*—In the borough of Roseland.

*Stone Harbor Bird Sanctuary, Cape May County*—Stone Harbor Borough.

*Sunfish Pond, Warren County*—3 miles northeast of the Delaware Water Gap.

*Troy Meadows, Morris County*—near Troy Hills.

NEW MEXICO

*Grants Lava Flow, Valencia County*—extends about 25 miles south from Grants, between New Mexico 117 on the east and New Mexico 53 on the west.

NEW YORK

*Bear Swamp, Albany County*—3 miles south of the village of Westerlo.

*Bergen-Byron Swamp, Genesee County*—between Bergen and Byron.

*Big Reed Pond, Suffolk County*—3 miles west of Montauk Point.

*Deer Lick Nature Sanctuary, Cattaraugus County*—4 miles southeast of Gowanda.

*Dexter Marsh, Jefferson County*—2 miles southwest of the town of Dexter.

*Ellenville Fault-Ice Caves, Ulster County*—5 miles southeast of Ellenville.

*Fall Brook Gorge, Livingston County*—1½ miles south of Genesco.

*Fossil Coral Reef, Genesee County*—4 miles northwest of Le Roy.

*Gardiner's Island, Suffolk County*—100 miles east of New York City, in Block Island Sound off Long Island.

*Hart's Woods, Monroe County*—10 miles southeast of Rochester.





*Ironsides Island, Jefferson and St. Lawrence Counties*—In St. Lawrence River, 8 miles northeast of town of Alexandria Bay.

*Lakeview Marsh and Barrier Beach, Jefferson County*—20 miles southwest of Watertown.

*McLean Bogs, Tompkins County*—1½ miles east-southeast of the village of McLean.

*Mendon Ponds Park, Monroe County*—11 miles south of Rochester.

*Mianus River Gorge, Westchester County*—2 miles south of Bedford.

*Montezuma Marshes, Seneca County*—4 miles northeast of Seneca Falls.

*Moss Lake Bog, Allegany County*—2 miles southwest of Houghton.

*Oak Orchard Creek Marsh, Genesee and Orleans Counties*—7 miles south-southeast of Medina.

*Petrified Gardens, Saratoga County*—4 miles west of Saratoga Springs.

*Round Lake, Onondaga County*—2 miles northeast of Fayetteville.

*Thompson Pond, Dutchess County*—20 miles east of Kingston.

*Zurich Bog, Wayne County*—9 miles north of the city of Newark.

NORTH DAKOTA

*Two-Top Mesa and Big Top Mesa, Billings County*—14 airline miles northwest of Fairfield.

OHIO

*Brown's Lake Bog, Wayne County*—11 miles southwest of Wooster.

*Buzzardroost Rock-Lynx Prairie, Adams County*—75 miles east of Cincinnati.

*Cedar Bog, Champaign County*—7 miles north of Springfield.

*Clear Fork Gorge, Ashland County*—4 miles south of Loudenville.

*Clifton Gorge, Greene County*—10 miles south of Springfield.

*Cranberry Bog, Licking County*—20 miles east of Columbus.

*Dysart Woods, Belmont County*—11 miles southwest of St. Clairsville.

*Glacial Grooves State Memorial, Erie County*—on Kelleys Island, 5 miles off-shore from Marblehead.

*Glen Helen Natural Area, Greene County*—in Yellow Springs.

*Holden Natural Areas, Lake and Geauga Counties*—30 miles east of Cleveland.

*Hueston Woods, Butler and Preble Counties*—4½ miles north of Oxford.

*Mentor Marsh, Lake County*—near Painesville.

*Tinkers Creek Gorge, Cuyahoga County*—12 miles southeast of Cleveland.

OREGON

*Crown Point, Multnomah County*—24 miles east of Portland.

*Horse Ridge Natural Area, Deschutes County*—16 miles southeast of Bend.

*John Day Fossil Beds, Grant County*—40 miles west of town of John Day on Oregon 19.

PENNSYLVANIA

*Bear Meadows Natural Area, Centre County*—6 miles southeast of State College.

*Boz Huckleberry Site, Perry County*—1 mile south of New Bloomfield.

*Cook Forest, Clarion County*—Cook Forest State Park.

*Ferncliff Peninsula Natural Area, Fayette County*—Ohiopyle State Park, 20 miles southeast of Connellsville.

*Ferncliff Wildflower and Wildlife Preserve, Lancaster County*—3 miles west of Wakefield.

*Florence Jones Reineman Wildlife Sanctuary, Perry and Cumberland Counties*—8 miles northwest of Carlisle.

*Hawk Mountain Sanctuary, Berks County*—30 miles north of Reading.

*Hearts Content Scenic Area, Warren County*—14 miles southwest of Warren.

*Hemlocks Natural Area, Perry County*—12 miles south of Blain.

*Hickory Run Boulder Field, Carbon County*—in the Pocono Plateau region.

*Lake Lacawac, Wayne County*—25 miles east of Scranton.

*McConnell's Mill State Park, Lawrence County*—40 miles north of Pittsburgh.

*Pine Creek Gorge, Tioga County*—12-mile roadless stretch between Ansonia and Blackwell.

*Presque Isle, Erie County*—near the city of Erie.

*Snyder-Middleswarth Natural Area, Snyder County*—5 miles west of Troxelville.

*Susquehanna Water Gaps, Perry County*—18 miles north of Harrisburg.

*The Glens Natural Area, Sullivan and Luzerne Counties*—In Ricketts Glen State Park, 25 miles east of Williamsport.

*Tinicum Wildlife Preserve, Philadelphia County*—Philadelphia.

*Tionesta Scenic and Research Natural Areas, Warren and McKean Counties*—7 miles south of Ludlow.

*Wissahickon Valley, Philadelphia County*—Fairmount Park, Philadelphia.

SOUTH DAKOTA

*Ancient River Warren Channel, Roberts County, S. Dak.*, and *Traverse and Big Stone Counties, Minn.*, near Browns Valley, Minn. (See also Minnesota.)

*Bear Butte, Meade County*—5 miles north of Fort Meade.

*Fort Randall Eagle Roost, Charles Mix County*—directly below Fort Randall Dam, on the Missouri River.

*Sieche Hollow, Marshall and Roberts Counties*—10 miles northwest of Sisseton.

*Snake Butte, Washabaugh County*—Pine Ridge Reservation.

TENNESSEE

*Dick Cove, Franklin County*—2½ miles northwest of Sewanee.

*McAnulty's Woods, Hardeman County*—within the city limits of Bolivar.

*Reelfoot Lake, Lake and Obion Counties*—near Tiptonville.

*Savage Gulf, Grundy County*—25 miles southeast of McMinnville.

TEXAS

*Attwater Prairie Chicken Preserve, Colorado County*—55 miles west of Houston.

*Caverns of Sonora, Sutton County*—16 miles southwest of Sonora.

*Devil's Sinkhole, Edwards County*—9 miles northeast of Rocksprings.

*Dinosaur Valley, Somervell County*—just west of Glen Rose.

*Enchanted Rock, Llano and Gillespie Counties*—12 miles southwest of Oxford.

*Ezell's Cave, Hays County*—within city limits of San Marcos.

*Longhorn Cavern, Burnet County*—Longhorn Cavern State Park, 11 miles southwest of Burnet.

*Natural Bridge Caverns, Comal County*—18 miles west of New Braunfels.

*Odessa Meteor Crater, Ector County*—10 miles southwest of Odessa.

*Santa Ana National Wildlife Refuge, Hidalgo County*—7 miles south of Alamo.

UTAH

*Cleveland-Lloyd Dinosaur Quarry, Emery County*—7 miles east of Cleveland.

*Joshua Tree Natural Area, Washington County*—10 miles southwest of St. George.

VERMONT

*Barton River Marsh, Orleans County*—3 miles south of Newport.

*Camel's Hump, Chittenden and Washington Counties*—midway between Montpelier and Burlington.

*Franklin Bog, Franklin County*—1 mile east-northeast of the village of Franklin.

*Lake Willoughby Natural Area, Orleans County*—Westmore Township.

*Little Otter Creek Marsh, Addison County*—2 miles north-northwest of Ferrisburg.

*Molly Bog, Lamoille County*—3½ miles northeast of the village of Stowe.

VIRGINIA

*Great Dismal Swamp, Nansemond County*—20 miles west of Norfolk.

*Seashore Natural Area*—Virginia Beach, near Cape Henry.

WASHINGTON

*Ginkgo Petrified Forest, Kittitas County*—29 miles east of Ellensburg.

*Grand Coulee, Grant County*—between towns of Grand Coulee and Soap Lake.

*Mima Mounds, Thurston County*—west of Little Rock.

*Nisqually Delta, Pierce and Thurston Counties*—15 miles east of Olympia.

*Point of Arches, Clallam County*—10 miles south of Cape Flattery.

*Steptoe Butte, Whitman County*—50 miles south of Spokane.

WEST VIRGINIA

*Cathedral Park, Preston County*—4 miles west of U.S. 219, on U.S. 50.

*Cranesville Swamp Nature Sanctuary, Preston County, W. Va.*, and *Garrett County, Md.*—9 miles north of Terra Alta, W. Va. (See also Maryland.)

*Germany Valley Karst Area, Pendleton County*—between Riverton and Mouth of Seneca.

WISCONSIN

*Ridges Sanctuary, Door County*—60 miles northeast of Green Bay.

WYOMING

*Como Bluff, Carbon and Albany Counties*—5 miles east of Medicine Bow.

*Crooked Creek Natural Area, Big Horn County*—15 miles northeast of Lovell.

*Lance Creek Fossil Area, Niobrara County*—25 miles north of Lusk.

*Two Ocean Pass, Teton County*—on the Continental Divide in Teton National Forest.

[FR Doc.73-18562 Filed 9-4-73;8:45 am]

## Office of the Secretary

[INT FES 73-51]

### CASCADE IRRIGATION DISTRICT REHABILITATION & BETTERMENT PROGRAM, YAKIMA, WASH.

### Availability of Supplement to Final Environmental Statement

The Department of the Interior has prepared a supplement to the Final Environmental Statement on the rehabilitation and betterment program for the Cascade Irrigation District in central Washington. The supplement was prepared as a result of changes in the project proposal.

Copies are available for inspection at the following locations:

Office of Ecology, Room 7620, Bureau of Reclamation
Department of the Interior
Washington, D.C. 20240
Telephone: (202) 343-4991
Division of Engineering Support, Technical Services Branch
E & R Center, Denver Federal Center
Denver, Colorado 80225
Telephone: (303) 234-3007
Office of the Regional Director, Bureau of Reclamation



V 38 171 SEP 5 73 XUM

P.O. Box 043, Boise, Idaho 83724
Telephone: (208) 342-2711, Ext. 2109
Yakima Project Office, Bureau of Reclamation
P.O. Box 1377, Yakima, Washington 98901
Telephone: (509) 248-4810, Ext. 316

Single copies of the draft statement may be obtained on request to the Commissioner of Reclamation or the Regional Director. In addition, copies may be purchased from the National Technical Information Service, Department of Commerce, Springfield, Virginia 22151. Please refer to the statement number above.

Dated August 29, 1973.

JOHN M. SEIDL,
*Deputy Assistant Secretary of the Interior.*

[FR Doc.73-18723 Filed 9-4-73;8:45 am]

## DEPARTMENT OF AGRICULTURE

### Soil Conservation Service

### NARGE CREEK FLOOD PREVENTION PROJECT MEASURE, TRADEWATER RIVER AREA PROJECT, KY.

#### Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Soil Conservation Service, Department of Agriculture has prepared a final environmental statement for the Narge Creek Flood Prevention Project Measure, USDA-SCS-RC&D-ES-(ADM)-73-RD-1(F).

The environmental statement concerns a plan for flood prevention and land drainage. The planned works of improvement include conservation land treatment, supplemented by 6.2 miles of channel modification.

The final environmental statement was filed with CEQ on August 21, 1973.

Copies are available for inspection during regular working hours at the following locations:

USDA, Soil Conservation Service
Washington Office, South Agriculture Building
Room 5105A, 12th Street and Independence Avenue SW.
Washington, D.C. 20250

USDA, Soil Conservation Service
333 Waller Avenue
Lexington, Kentucky 40504
Narge Creek Project, Kentucky
Notice of Availability of Final Environmental Statement

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151, for $4 each. Please refer to the name and number of statement when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

(Catalog of Federal Domestic Assistance Program No. 10.901, National Archives Reference Services.)

Dated August 28, 1973.

EARL E. FENTON,
*Acting Deputy Administrator for Field Services, Soil Conservation Service.*

[FR Doc.73-18741 Filed 9-4-73;8:45 am]

### POCATALICO RIVER BASIN JOINT SURVEY—INTERIM REPORT, W. VA.

#### Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Soil Conservation Service, U.S. Department of Agriculture, and the Corps of Engineers, U.S. Department of the Army, have prepared a final environmental statement for the Pocatalico River Basin Joint Survey—Interim Report, Roane, Jackson, Putnam, and Kanawha Counties, West Virginia, USDA-SCS-ES-RB-(LEG)-73-1(F).

The environmental statement concerns an interim plan to provide a water supply source for four small rural communities, as well as measures for flood prevention, streamflow regulation, incidental recreation, and watershed protection. The planned works of improvement consist of two multiple-purpose structures for floodwater and sediment detention, water supply, and streamflow regulation storage. Incidental recreation facilities will be installed at both sites. Conservation land treatment will be applied on the drainage areas above the two structures.

The final environmental statement was transmitted to CEQ on August 24, 1973.

Copies are available for inspection during regular working hours at the following locations:

Soil Conservation Service, USDA, South Agriculture Building,
Room 5227, 14th and Independence Avenue SW.
Washington, D.C. 20250
Soil Conservation Service, USDA, 209 Prairie Avenue
P.O. Box 865
Morgantown, West Virginia 26505

Copies are available for purchase from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please order by name and number of statement given above. The estimated cost is $5.50.

(Catalog of Federal Domestic Assistance Program No. 10.906, National Archives Reference Services.)

Dated August 28, 1973.

J. W. HAAS,
*Acting Deputy Administrator for Water Resources, Soil Conservation Service, USDA.*

[FR Doc.73-18742 Filed 9-4-73;8:45 am]

## DEPARTMENT OF COMMERCE

### National Technical Information Service

### GOVERNMENT-OWNED INVENTIONS

#### Notice of Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for licensing in accordance with the GSA Patent Licensing Regulations.

Copies of patent applications, either paper copy (PC) or microfiche (MF), can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22151, at the prices cited. Requests for copies of patent applications must include the PAT-APPL number and the title. Requests for licensing information should be directed to the address cited with each copy of the patent application.

Paper copies of patents cannot be purchased from NTIS but are available from the Commissioner of Patents, Washington, D.C. 20231, at $0.50 each. Requests for licensing information should be directed to the address cited below for each agency.

DOUGLAS J. CAMPION,
*Patent Program Coordinator, National Technical Information Service.*

U.S. DEPARTMENT OF HEALTH, EDUCATION AND WELFARE, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Maryland 20014.

Patent Application 291,180 Direct Digital Control Pipette; filed 22 September 1972; PC$3.00/MF$0.95.

Patent Application 354,098 Issolation and Purification of Active Principle, Fruit of Synsepalum Dulcificum and Method of Treatment of Obesity; filed 24 April 1973; PC$3.00/MF$0.95.

Patent Application 275,777 Countercurrent Chromatography with Flow Through Coil Planet Centrifuge; filed 27 July 1972; PC$3.00/MF$0.95.

Patent Application 330,647 Non Contact Photographic Identification Device or Labeling Gamma Camera Images; filed 8 February 1973; PC$3.00/MF$1.45.

Patent 3,715,281 Transgrow; filed 23 October 1970, patented 6 February 1973; not available NTIS.

U.S. DEPARTMENT OF COMMERCE, Assistant General Counsel for Administration, Washington, D.C. 20230.

Patent 3,312,949 Stack Forming Synchronizer for a Sorting Machine; filed 6 April 1964, patented 4 April 1967, not available NTIS.

Patent 3,410,100 High Vacuum Baffle Using Cooled Chevron Shaped Members; filed 18 March 1965, patented 12 November 1968; not available NTIS.

Patent 3,571,597 System for Phase Stabilizing Widely Separated Oscillators; filed 14 October 1969 patented 23 March 1971; not available NTIS.

Patent 3,329,957 Antenna System Employing Human Body as Radiator; filed 5 May 1959, patented 4 July 1967; not available NTIS.

Patent 3,397,392 Information Storage and Category Selector; filed 31 October 1966, patented 13 August 1968; not available NTIS.

Patent 3,273,160 Identing Recorder with Illumination Means; filed 15 May 1964, patented 13 September 1966; not available NTIS.

U.S. ATOMIC ENERGY COMMISSION, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent Application 223,270 A Hemodialyzer with Tapered Slit Blood Ports and Baffles; filed 3 February 1972; PC$3.00/MF$0.95.

U.S. DEPARTMENT OF THE INTERIOR, Branch of Patents, 18th and C Streets NW., Washington, D.C. 20240.

Patent Application 50,313 Removal of Sulfur Oxides from Gases with Calcium Phosphates and Phosphate Rock; filed 26 June 1970; PC$3.00/MF$0.95.

Patent 3,739,077 Multiple Conductor Bundle Support and Spacer; filed 31 May 1972, patented 12 June 1973; not available NTIS.

Patent 3,737,384 Decomposition of Halogenated Organic Compounds Using Metallic Couples; filed 23 December 1970, patented 5 June 1973; not available NTIS.

Patent 3,725,235 Dynamically Formed Electrodialysis Membranes; filed 23 March 1971, patented 3 April 1973; not available NTIS.

Patent 3,725,260 Separation of Pesticides from Lipids by GEL Permeation Chromatography; filed 28 December 1971, patented 3 April 1973; not available NTIS.

[FR Doc.73-18726 Filed 9-4-73;8:45 am]

### Office of the Secretary

### ESTIMATES OF VOTING AGE POPULATION; JULY 1, 1972

*Correction*

In FR Doc. 73-13896 appearing at page 18476 in the issue of Wednesday, July 11, 1973, make the following changes:

1. The first entry in the second column for the State of Alabama reading "2,249" should read "2,294".

2. The eighteenth entry in the second column for the State of California reading "424" should read "324".

3. The first entry in the second column for the State of Maryland reading "2,697" should read "2,679".

4. The ninth entry in the second column for the State of Texas reading "228" should read "288".

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-73-253]

### ASSISTANT REGIONAL ADMINISTRATOR ET AL.

#### Delegation of Authority

The officers appointed to the following listed positions in Region IX (San Francisco) are hereby designated to serve as Acting Deputy Regional Administrator, Region IX (San Francisco), during a vacancy in the position of, or during the absence of, the Deputy Regional Administrator, with all the powers, functions, and duties redelegated or assigned to the Deputy Regional Administrator: *Provided*, That no officer is authorized to serve as Acting Deputy Regional Administrator unless all other officers whose titles precede his in this designation are unable to act by reason of absence: *Provided, further*, That if an officer designated below is serving as Acting Regional Administrator, the officer whose title follows his in this designation shall serve as Acting Deputy Regional Administrator:



1. Assistant Regional Administrator for Administration.
2. Assistant Regional Administrator for Equal Opportunity.
3. Assistant Regional Administrator for Housing Management.
4. Regional Counsel.
5. Assistant Regional Administrator for Community Development.
6. Assistant Regional Administrator for Housing Production and Mortgage Credit.
7. Assistant Regional Administrator for Community Planning and Management.

This designation supersedes the designation effective as of January 8, 1973 (38 FR 8188, March 29, 1973).

Effective as of the 6th day of August, 1973.

ROBERT H. BAIDA,
*Regional Administrator, Region IX (San Francisco).*

[FR Doc.73-18708 Filed 9-4-73;8:45 am]

[Docket No. D-73-252]

### DEPUTY REGIONAL ADMINISTRATOR REGION IX, ET AL.

#### Delegation of Authority

The officers appointed to the following listed positions in Region IX (San Francisco) are hereby designated to serve as Acting Regional Administrator, Region IX (San Francisco), during the absence of the Regional Administrator with all the powers, functions, and duties redelegated or assigned to the Regional Administrator: *Provided*, That no officer is authorized to serve as Acting Regional Administrator unless all other officers whose title precede his in this designation are unable to act by reason of absence:

1. Deputy Regional Administrator.
2. Assistant Regional Administrator for Administration.
3. Assistant Regional Administrator for Equal Opportunity.
4. Assistant Regional Administrator for Housing Management.
5. Regional Counsel.
6. Assistant Regional Administrator for Community Development.
7. Assistant Regional Administrator for Housing Production and Mortgage Credit.
8. Assistant Regional Administrator for Community Planning and Management.

(Delegation effective May 4, 1962, 27 FR 4319; Interim Order II, 31 FR 815, January 21, 1966.)

This designation supersedes the designation effective as of January 8, 1973 (38 FR 7414, March 21, 1973).

Effective as of the 6th day of August, 1973.

ROBERT H. BAIDA,
*Regional Administrator Region IX (San Francisco).*

[FR Doc.73-18707 Filed 9-4-73;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### CONNECTICUT

#### Proposed Action Plan

The Connecticut Department of Transportation has submitted to the Federal Highway Administration of the U.S. Department of Transportation a proposed Action Plan as required by Policy and Procedure Memorandum 90-4 issued on June 1, 1973. The Action Plan outlines the organizational relationships, the assignments of responsibility, and the procedures to be used by the State to assure that economic, social and environmental effects are fully considered in developing highway projects and that final decisions on highway projects are made in the best overall public interest, taking into consideration: (1) needs for fast, safe and efficient transportation; (2) public services; and (3) costs of eliminating or minimizing adverse effects.

The proposed Action Plan is available for public review at the following locations:

1. Connecticut Department of Transportation
   Room 203
   24 Wolcott Hill Road
   Wethersfield, Connecticut 06109
2. Federal Highway Administration
   Division Office
   990 Wethersfield Avenue
   Hartford, Connecticut 06114
3. FHWA Regional Office—Region 1
   4 Normanskill Boulevard
   Delmar, New York 12054
4. U.S. Department of Transportation
   Federal Highway Administration
   Environmental Development Division
   Nassif Building, Room 3246
   400 7th Street, S.W.
   Washington, D.C. 20590

Comments from interested groups and the public on the proposed Action Plan are invited. Comments should be sent to the FHWA Regional Office shown above before September 28, 1973.

Issued on August 30, 1973.

NORBERT T. TIEMANN,
*Federal Highway Administrator.*

[FR Doc.73-18718 Filed 9-4-73;8:45 am]

### National Highway Traffic Safety Administration

[Docket No. EX 73-8; Notice 1]

### AVANTI MOTOR CORPORATION

#### Petition for Temporary Exemption

Avanti Motor Corporation of South Bend, Indiana, has applied for temporary exemption of its Avanti II from portions of Standard No. 208 and Standard No. 215 on grounds of substantial economic hardship.

Avanti manufactures 100 to 125 passenger cars a year. It requests an exemption until January 1, 1974, from the seat belt interlock requirements of 49 CFR 571.208, Standard No. 208 (paragraph S4.1.2.3) and an exemption until September 1, 1976, from the bumper corner impact requirements of 49 CFR 571.215, Standard No. 215 (paragraph S5.2).

In support of its petition for a 4-month exemption from the interlock requirements Avanti states that the hardship is caused "by the mere fact that we do not have the 1974 required interlock system





V 38 I 171 SEP 5 73 XUM

available, and will not be able to secure both the components and the electrical mechanism to operate those components before our 1974 model", scheduled for introduction January 1, 1974. The interlock option was published as an amendment to Standard No. 208 on February 24, 1972 (37 FR 3911). Avanti has been working on its system since January 1973, and intends to incorporate components from systems manufactured by General Motors, American Motors, Checker Motors, and Jim Robbins Seat Belt Co. Avanti does not explain why these components will not be available for its use as of September 1, 1973, the effective date of the interlock option. Forty vehicles are scheduled for production during the requested exemption period.

Avanti petitions for a 3-year exemption from Standard No. 215 on the basis of the need to liquidate $93,345 of inventory of noncomplying parts, and to redesign and retool front and rear bumpers and fenders. It states that "studies and prototype work have been conducted over the past year" and it briefly describes modifications c"which we are presently developing by hand for testing" that it hopes will meet the corner impact requirements. Avanti estimates that its existing tooling can be modified during the 3-year exemption period for $38,000. Lead time on most steel components in small volume is estimated as 15 to 18 months, and the company states that it is difficult, owing to its small size, to find sources interested in producing a low volume of components to its specifications.

Avanti has submitted an itemized list of affected components in inventory showing unit cost, total cost, and estimated cost to modify existing tooling. It has also submitted financial information for the period August 1, 1964, to September 30, 1972. The company submits that its net worth at the end of fiscal year 1972 was $303,587.09 and its net income after Federal income taxes $23,235.50. The financial statements for the last 3 years were prepared without audit and the preparing certified public accountant expresses no opinion on them.

This notice of receipt of a petition for a temporary exemption is published in accordance with the NHTSA regulations on this subject (49 CFR 555.7), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Interested persons are invited to submit comments on the petition of Avanti described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street, S.W., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received, are available for examination in the docket both before and after the closing date. Comments received after the closing date will also be filed and will be considered to the extent possible. Notice of disposition of the petition will be published in the FEDERAL REGISTER pursuant to the authority indicated below.

*Comment closing date.*—OCTOBER 5, 1973.

*Proposed effective date.*—Date of issuance of exemption.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159, 15 U.S.C. 1410; delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.)

Issued on AUGUST 28, 1973.

ELWOOD T. DRIVER,
*Acting Associate Administrator, Motor Vehicle Programs.*

[FR Doc.73-18728 Filed 9-4-73;8:45 am]

## AMERICAN REVOLUTION BICENTENNIAL COMMISSION

### HERITAGE '76 PROGRAM COMMITTEE

#### Notice of Meeting

Notice is hereby given, pursuant to Executive Order 11671, that the following American Revolution Bicentennial Commission Heritage '76 Program Committee meeting will be held on September 19, 1973:

HERITAGE '76 PROGRAM COMMITTEE

The Heritage '76 Program Committee will hold an open meeting (with the exception of the closed portion of the meeting asterisked below) on September 19, 1973, at 740 Jackson Place, NW., Washington, D.C., at 10 a.m.

The Committee is composed of ten Commission members, three non-Commission members, and five Heritage '76 Advisory Panel Members. The agenda items to be discussed are:

Fiscal 1975 Heritage budget*.
Proposal for a guidebook to communities on the use of revenue sharing funds for historic preservation.
Review of the Bicentennial Proposal of the Advisory Council on Historic Preservation.
Request for official recognition by Boston 200 for the 200th Anniversary of the Boston Tea Party.

Dated August 28, 1973.

HUGH A. HALL,
*Acting Director, American Revolution Bicentennial Commission.*

[FR Doc.73-18724 Filed 9-4-73;8:45 am]

## CIVIL AERONAUTICS BOARD

[Docket No. 25772]

### AERLINTE EIREANN TEORANTA

#### Postponement of Prehearing Conference and Hearing

In the matter of amendment of foreign air carrier permit service to Boston as intermediate point.

Notice is hereby given that a prehearing conference and hearing in the above-entitled application, which was previously assigned to be held on September 11, 1973, is hereby postponed until October 10, 1973, at 10 a.m. (local time), in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge Ross I. Newmann.

Since it is contemplated that hearing in this proceeding may be held immediately following conclusion of the prehearing conference, any person objecting to this procedure should notify the Administrative Law Judge on or before October 5, 1973.

Dated at Washington, D.C., August 29, 1973.

[SEAL] ROSS I. NEWMANN,
*Administrative Law Judge.*

[FR Doc.73-18736 Filed 9-4-73;8:45 am]

[Docket No. 20724]

### REMANDED ATLANTA-DETROIT/CLEVELAND/CINCINNATI INVESTIGATION

#### Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled matter is assigned to be held before the Board on October 10, 1973, at 10:00 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C.

Dated at Washington, D.C., August 29, 1973.

[SEAL] RALPH L. WISER,
*Chief Administrative Law Judge.*

[FR Doc.73-18737 Filed 9-4-73;8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

[FIFRA Docket Nos. 146 and 293; Reg. No. 218-586]

### ALLIED CHEMICAL CORP.

#### Determination and Order

Under authority granted by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 135b[c]), the Administrator of the Environmental Protection Agency on May 3, 1972, prohibited the aerial application of pesticides containing Mirex in coastal counties or parishes and on or near rivers, streams, lakes, ponds, and other aquatic areas (37 FR 10987). On June 30, 1972, the Administrator issued a Determination and Order (37 FR 13299) granting a stay of his May 3 prohibition with respect to aerial spraying of Hawaiian pineapple fields in the fall of 1972 to control mealybug wilt. The Administrator's stay was conditioned upon the implentation of a monitoring program approved by the Environmental Protection Agency.

Pending the completion of a public hearing on registrations of pesticides containing Mirex which this Agency has called pursuant to section 6(b)(2) of the FIFRA, as amended in 1972, the Acting Administrator of the Environmental Protection Agency issued a Determination and Order dated May 25, 1973, which extended through the 1973 spraying season the stay approved initially on May 30, 1972. Again, however, the prohibition against aerial spraying was stayed only on condition that a monitoring program approved by this Agency would be conducted in conjunction with spraying.

In compliance with the Administrator's Order of June 30, 1972, a monitoring program was instituted to measure the effects of Mirex when used to control mealybug wilt in Hawaii. Since results of laboratory experiments and other information had indicated that Mirex is acutely toxic to certain species of aquatic biota, the monitoring program was aimed predominantly at marine biota found in waters adjacent to those islands on which Mirex was sprayed. On these islands there are no rivers or streams in which significant numbers of other aquatic biota can be found.

As reflected in the Administrator's Order of May 25, 1973, however, information gained from this monitoring program has consistently indicated that Mirex is not accumulating significantly in marine biota. I have therefore determined to modify the required monitoring program to reduce the number of samples taken in offshore waters and to require that additional samples be collected from terrestrial biota inhabiting the islands on which Mirex is sprayed. This will allow us to determine whether greater sampling in this area would indicate occurrence of any residues in inland species. Specifically, I will require that the following elements be included in a monitoring program to be implemented in conjunction with the fall 1973 spraying of Mirex in Hawaii:

1. Aquatic sampling to be limited to those organisms which were positive for Mirex in previous samples;
2. Monitoring to include at least one terrestrial area of sufficient acreage (2,500-5,000 acres) to provide multiple sites where Mirex is likely to accumulate, i.e., ravines, water courses, (dry irrigation areas where soil or water movement occurs intermittently;
3. Terrestrial monitoring to include soils, small mammals, and birds, with each of these groups yielding five samples for a total of fifteen per collection;
4. Baseline (prespraying) samples to be collected for terrestrial species monitored;
5. Sampling collections to be made during the 1st, 4th, 12th, and 18th weeks after spraying, and also during the 24th and 36th weeks if samples containing any residues of Mirex are collected during the 12th and 18th weeks.
6. Monitoring areas, species to be sampled, and sampling and reporting methodology to be determined in conjunction with the Environmental Center and the Zoology Department of the University of Hawaii.

In thus revising the monitoring program, however, I do not wish to imply that the provisions of any order issued by this Agency are hereby extended to authorize spraying operations in Hawaii after the fall of 1973. Approval for further aerial spraying in Hawaii will be granted only if warranted by the results of monitoring done in coming months and by the record adduced at the impending public hearing on Mirex registrations.

CHARLES L. ELKINS,
*Acting Assistant Administrator for Hazardous Materials Control.*

AUGUST 31, 1973.

[FR Doc.73-18864 Filed 9-4-73;8:45 am]





## FEDERAL HOME LOAN BANK BOARD

[H. C. 162]

### AMERICAN FINANCIAL CORP. AND UNITED DAIRY FARMERS INVESTMENT CO.

#### Receipt of Application for Approval of Acquisition of Control of Evers Savings Association

AUGUST 30, 1973.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from the American Financial Corporation and the United Dairy Farmers Investment Company, Cincinnati, Ohio, savings and loan and bank holding companies, for approval of their acquisition of control of Evers Savings Association, Cincinnati, Ohio, an uninsured institution, under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(e)), and § 584.4 of the Regulations for Savings and Loan Holding Companies, said acquisition to be effected by the exchange of cash for the stock of Evers Savings Association. Following the acquisition it has proposed that said association be merged into the Hunter Savings Association, an insured subsidiary of the applicants. Comments on the proposed acquisition should be submitted to the Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, on or before October 5, 1973.

[SEAL] EUGENE M. HERRIN,
*Assistant Secretary, Federal Home Loan Bank Board.*

[FR Doc.73-18739 Filed 9-4-73;8:45 am]

## FEDERAL RESERVE SYSTEM

### FROST BANK CORPORATION

#### Proposed Retention of Data Processing Center

Frost Bank Corporation of San Antonio, Texas, has applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to retain the assets of Data Processing Center, San Antonio, Texas, an operating division of a wholly owned subsidiary, Main Plaza Corporation in San Antonio, Texas. Notice of the application was published on July 26, 1973, in the San Antonio Light, a newspaper circulated in San Antonio, Texas.

Applicant states that the proposed subsidiary would perform the activities of data processing services of an accounting nature for banks and other enterprizes. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 24, 1973.

Board of Governors of the Federal Reserve System, August 28, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-18677 Filed 9-4-73;8:45 am]

#### Federal Reserve Bank of New York

### MIDLANTIC BANKS, INC., NEWARK, NEW JERSEY

#### Order Approving Acquisition of Bank

Midlantic Banks, Inc., Newark, New Jersey, a bank holding company within the meaning of the Bank Holding Company Act, has applied for approval of the Board of Governors of the Federal Reserve System, under § 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)), to acquire 100 percent of the voting shares (less directors' qualifying shares) of Midlantic National Bank of Somerset, Bernardsville, New Jersey (Bank), a proposed new bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and none has been received. The application has been considered in light of the factors set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls seven banks with aggregate deposits of $1.4 billion,[1] representing 7.1 percent of total deposits in commercial banks in New Jersey, and is the third largest banking organization in the State. Inasmuch as Bank is a proposed new bank, the level of concentration of banking resources would not be immediately increased in any relevant area.

[1] Bank data are as of December 31, 1972.



V 38-171 SEP 5 73 XUM

Bank would be competing in the Plainfield banking market, which includes most of Somerset County, where Bank will be located, and small portions of Union and Middlesex Counties.

An office of one of Applicant's banking subsidiaries is located 9.2 miles northeast of Bernardsville in Madison, Morris County. The proposal is not likely to raise barriers to entry by other outside organizations because the Plainfield market is expected to remain attractive for further de novo entry, and a large number of independent banks are available as footholds for outside organizations. While consummation of Applicant's proposal will introduce home office protection in Bernardsville, the town is already subject to branch office protection. In addition, legislation recently signed by the Governor of New Jersey would eliminate home office protection for subsidiaries of multi-bank holding companies in 1975. Accordingly, it is concluded that consummation of the proposed acquisition would not have any adverse effect on existing or potential competition in any relevant area.

The financial and managerial resources of Applicant and its subsidiary banks are satisfactory. Bank, as a proposed new bank, has no financial or operating history; however, its prospects as a subsidiary of Applicant are good and are consistent with approval. Considerations relating to the convenience and needs of the area to be served lend some weight toward approval, since Bank will constitute an additional source of full banking services.

It is the judgment of the Federal Reserve Bank of New York that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the thirtieth calendar day following the effective date of this order or (b) later than three months after that date, and (c) Midlantic National Bank of Somerset, Bernardsville, New Jersey, shall be opened for business not later than six months after the effective date of this order. Each of the periods described in (b) and (c) may be extended for good cause by the Board, or by the Federal Reserve Bank of New York pursuant to delegated authority..

By order of the Federal Reserve Bank of New York, acting for the Board of Governors of the Federal Reserve System pursuant to delegated authority, effective August 24, 1973.

FRED W. PIDERIT, JR.,
*Vice President,*
*Federal Reserve Bank of New York.*

[FR Doc.73-18678 Filed 9-4-73;8:45 am]

## GENERAL SERVICES ADMINISTRATION

### CERTAIN INDUSTRY AND PROFESSIONAL ASSOCIATIONS

#### Notice of Meeting

The General Services Administration will conduct a meeting on September 6, 1973, for the purpose of obtaining views from industry and professional associations related to furnishing comments and recommendations on proposed Federal Procurement Regulations which might affect contractors.

The meeting is scheduled for Thursday, September 6, 1973, at the GSA Headquarters Building, 18th and F Streets NW., Washington, D.C., 9 a.m.-4 p.m., in the main Auditorium, First Floor, main entrance.

Because of space limitations, attendance is subject to advance acceptance. For additional information contact:

Harold E. Roach, Office of Procurement Management, GSA, Room 5116, 18th and F Streets NW., Washington, D.C. 20405, 202-343-7794.

Dated at Washington, D.C., on August 29, 1973.

TED TRIMMER,
*Associate Administrator.*

[FR Doc.73-18721 Filed 9-4-73;8:45 am]

## INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

### ASHLAND MINING CORP. AND SMITH AND STOVER COAL CO.

#### Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Interim Mandatory Dust Standard (2.0 mg/m³) have been received as follows:

(1) ICP Docket No. 20015, Ashland Mining Corporation, Ashland No. 11B Mine, USBM ID No. 46 02132 0, Ashland, West Virginia, Section ID No. 001 (1st Left Section).

(2) ICP Docket No. 20237, Smith & Stover Coal Company, Hunter-Burma Slope Mine, USBM ID No. 46 01505 0, Whitby, West Virginia, Section ID No. 004-0 (1st. Right), Section ID No. 004-1 (1st Right).

In accordance with the provisions of section 202(b)(4) (30 U.S.C. 842(b)(4)) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91-173), notice is hereby given that requests for public hearing as to an application for renewal may be filed within 15 days after publication of this notice. Requests for public hearing must be filed in accordance with 30 CFR Part 505 (35 F.R. 11296, July 15, 1970), as amended, copies of which may be obtained from the Panel on request.

A copy of the application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Room 800, 1730 K Street NW., Washington, D.C. 20006.

August 30, 1973.

GEORGE A. HORNBECK,
*Chairman,*
*Interim Compliance Panel.*

[FR Doc.73-18727 Filed 9-4-73;8:45 am]

## NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN

### BUDGET AND LEGISLATIVE MATTERS

#### Notice of Meeting

Notice is hereby given, PL 92-463, that the next meeting of the National Advisory Council on the Education of Disadvantaged Children will be held at 1-7 p.m., September 6, 1973 and from 9 a.m.-4 p.m., September 7, 1973, located at 425 Pennsylvania Building, 13th St. NW., Room 1012, Washington, D.C. 20004.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Education Act (20 U.S.C. 2411) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of Disadvantaged Children.

The meeting is called to discuss the budget for FY 1974 and to plan for the legislative calendar affecting education programs.

Because of limited space for the public meeting of September 6 and 7 all persons wishing to attend should call for reservations at Area Code 202/382-6945 by September 5, 1973.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on the Education of Disadvantaged Children, located in Room 1012, 425 13th St., NW., Washington, D.C. 20004.

Signed at Washington, D.C. on August 29, 1973.

ROBERTA LOVENHEIM,
*Executive Director.*

[FR Doc.73-18877 Filed 9-4-73;8:45 am]

## NATIONAL ENDOWMENT FOR THE HUMANITIES

### SUMMER SEMINARS FOR COLLEGE TEACHERS PANEL

#### Notice of Meeting

AUGUST 30, 1973.

Pursuant to Public Law 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Summer Seminars for College Teachers Panel will take place in Washington, D.C. on September 7.

The purpose of the meeting is to examine dossiers of individuals recommended to the Endowment in the field of English as possible seminar directors in the Summer Seminar program.

Based on section b (4) and (6) of 5 U.S.C. 552, the meeting will not be open to public participation. It is suggested that those desiring more specific information contact the Advisory Committee Management Officer Mr. John W. Jordan, 806 15th Street NW., Washington, D.C. 20506, or call Area Code 202-382-2031.

JOHN W. JORDAN,
*Advisory Committee Management Officer.*

[FR Doc.73-18747 Filed 9-4-73;8:45 am]



### SUMMER SEMINARS FOR COLLEGE TEACHERS PANEL

#### Notice of Meeting

AUGUST 30, 1973.

Pursuant to Public Law 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Summer Seminars for College Teachers Panel will take place in Washington, D.C., on September 10.

The purpose of the meeting is to examine dossiers of individuals recommended to the Endowment in the field of History as possible seminar directors in the Summer Seminar program.

Based on section b(4) and (6) of 5 U.S.C. 552, the meeting will not be open to public participation. It is suggested that those desiring more specific information contact the Advisory Committee Management Officer Mr. John W. Jordan, 806 15th Street NW., Washington, D.C. 20506, or call Area Code 202-382-2031.

JOHN W. JORDAN,
*Advisory Committee Management Officer.*

[FR Doc.73-18746 Filed 9-4-73;8:45 am]

### SUMMER SEMINARS FOR COLLEGE TEACHERS PANEL

#### Notice of Meeting

AUGUST 30, 1973.

Pursuant to Public Law 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Summer Seminars for College Teachers Panel will take place in Washington, D.C., on September 14.

The purpose of the meeting is to examine dossiers of individuals recommended to the Endowment in the field of Philosophy as possible seminar directors in the Summer Seminar program.

Based on section b (4) and (6) of 5 U.S.C. 552, the meeting will not be open to public participation. It is suggested that those desiring more specific information contact the Advisory Committee Management Officer Mr. John W. Jordan, 806 15th Street NW., Washington, D.C. 20506, or call Area Code 202-382-2031.

JOHN W. JORDAN,
*Advisory Committee Management Officer.*

[FR Doc.73-18748 Filed 9-4-73;8:45 am]

## SECURITIES AND EXCHANGE COMMISSION

[70-5340]

### ALLEGHENY POWER SYSTEMS, INC., ET AL.

#### Acquisitions of Common Stock and Certain Properties; Retirement of Common Stock; Restatement of Incorporation; Designation of Holding Companies

AUGUST 27, 1973.

In the matter of Allegheny Power System, Inc., 320 Park Avenue, New York, New York 10022; Monongahela Power Co., 1310 Fairmont Avenue, Fairmont, West Virginia 26554; The Potomac Edison Co., Downsville Pike, Hagerstown, Maryland 21740; The Potomac Edison Company of Virginia, Rt. 11 South, Kernstown, Virginia 22601; The Potomac Edison Company of West Virginia, 901 Wilson Street, Martinsburg, West Virginia 25401; The Potomac Edison Company of Pennsylvania, N. Grant Street Extension, Waynesboro, Pennsylvania 17268; Monterey Utilities Corp., Monongahela Power Company Building, Fairmont, West Virginia 26554.

Notice is hereby given that Allegheny Power System, Inc. (APS), a registered holding company, its subsidiary electric utility and registered holding companies, Monongahela Power Company (Monongahela) and The Potomac Edison Company (PE), PE's subsidiary electric utility companies, The Potomac Edison Company of Virginia (PE Va.), The Potomac Edison Company of West Virginia (PE W. Va.) and The Potomac Edison Company of Pennsylvania (PE Pa.) and Monongahela's electric utility subsidiary company, Monterey Utilities Corporation (Monterey), have filed an application-declaration and amendments thereto with this Commission designating Sections 5(d), 9, 10, and 12 of the Public Utility Holding Company Act of 1935 (Act) as applicable to the proposed transactions. All interested persons are referred to the application-declaration, as amended, which is summarized below, for a complete statement of the proposed transactions.

APS proposes to simplify its corporate structure through the following steps: (i) PE Va. will acquire Monterey's common stock for cash equal to the stock's underlying book value; (ii) Monterey, PE Va., PE W. Va. and PE Pa. will merge into PE; and (iii) PE will acquire the Maryland public utility properties (Maryland properties) of Monongahela for cash equal to the Maryland properties' original cost depreciated.

In effecting the merger, PE will retain its Maryland incorporation and will also become incorporated in Virginia to assure its qualification to operate as a public utility company in that state. PE will remain qualified to do business and qualify to do business as a foreign public utility in West Virginia and Pennsylvania. Monongahela will cease operations in Maryland.

The Maryland properties and the Monterey stock will be released from the Indenture dated August 1, 1945, as supplemented, between Monongahela and First National City Bank, as Trustee. Upon their acquisition by PE, the Maryland properties and the Monterey properties will become subject to the lien of the Indenture dated as of October 1, 1944, as supplemented, between PE and Chemical Bank, as Trustee (PE Indenture). The stocks of PE Va., PE W. Va., and PE Pa. are now subject to the lien of the PE Indenture. If the proposed transactions are effected, the stocks of the aforesaid PE subsidiaries will be retired and the properties of each of those subsidiaries will become subject to the lien of the PE Indenture. The cash received by Monongahela as consideration for the sale of the Maryland properties and the Monterey stock will be deposited with the Trustee under the Monongahela Indenture, subject to withdrawal as provided in that Indenture. It is stated that the proposed transactions will have no effect on the holders of the preferred stock or first mortgage bonds of PE or Monongahela.

It is proposed that PE amend and restate its Certificate of Incorporation without any change in the substance thereof. It is also proposed that PE's charter, as amended and restated, be the charter of the surviving PE company. It is stated that, subject to the consent of the state regulatory commissions having jurisdiction, the rates of PE Va., PE W. Va., PE Pa., and Monterey will be adopted by PE and there will be no effect on rates applicable to service to the customers of these companies. It is proposed that PE will, subject to the approval of the regulatory commission having jurisdiction, adopt the rates of Monongahela presently in effect for customers of the Maryland properties.

Monterey presently serves its customers with power purchased entirely from Monongahela. After the merger, PE would provide service to these former Monterey customers, purchasing the necessary power from Monongahela. Monongahela would also provide at cost other services requested by PE in connection with the Monterey properties. PE, PE Va., PE W. Va., and PE Pa. are presently parties to a Power Supply Agreement (agreement) with the Federal Power Commission. Upon implementation of the merger, applicants-declarants state that the agreement will be withdrawn and PE will provide all of the electric energy necessary to serve its customers.

Applicants-declarants request that upon consummation of the proposed transactions, a further order be issued declaring that Monongahela and PE have each ceased to be holding companies under the Act and that their registrations under the Act are no longer in effect.

Fees and expenses to be incurred in connection with the proposed transactions are to be supplied by amendment. The application-declaration states that the proposed transactions require the authorization of the State Corporation Commission of Virginia, the Public Service Commission of West Virginia, the Maryland Public Service Commission and the Public Utility Commission of



V 38 171 SEP 5 73 XUM

Pennsylvania. The Federal Power Commission is stated to have jurisdiction over certain rate aspects of the proposed transactions, and the application-declaration states that no other state or federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given, that any interested person may, not later than September 20, 1973, request in writing that a hearing be held with respect to the proposed transactions, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration, as amended, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after such date, the application-declaration, as amended and as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-18688 Filed 9-4-73;8:45 am]

[70-5381]

## CENTRAL POWER AND LIGHT CO.

### Notice of Proposed Issue and Sale of First Mortgage Bonds at Competitive Bidding

AUGUST 28, 1973.

Notice is hereby given that Central Power and Light Company (CP&L), 120 North Chaparral Street, Corpus Christi, Texas 78403, an electric utility subsidiary company of Central and South West Corporation (Central), a registered holding company, has filed a declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

CP&L proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, $46,000,000 principal amount of First Mortgage Bonds, Series M, to be dated October 1, 1973, and to mature October 1, 2003 (the "Bonds"). The interest rate (which will be a multiple of ⅛ of 1 percent) and the price (which will be not less than 99 percent nor more than 102.75 percent of the principal amount of the Bonds, exclusive of the accrued interest to be added to such price) will be determined by competitive bidding. The Bonds will be issued under and secured by CP&L's Indenture of Mortgage or Deed of Trust, dated November 1, 1943, to the First National Bank of Chicago and Robert L. Grinnell, as Trustees, as amended by the indentures supplemental thereto heretofore executed (the "Mortgage"), and to be further amended by a Supplemental Indenture to be dated October 1, 1973, which contains a prohibition until October 1, 1978, against refunding the issue with the proceeds of funds borrowed at a lower effective interest cost.

The proceeds to be derived by CP&L from the sale of the Bonds (exclusive of accrued interest and after deducting expenses of issue) will be used to retire at maturity its First Mortgage Bonds, Series A, 3⅛ percent, due November 1, 1973, in the principal amount of $22,435,000, and to finance a part of the costs of additions, extensions, betterments and improvements made and to be made to its electric utility properties, including the payment of approximately $9,700,000 of short-term notes incurred or expected to be incurred by the Company in connection with the interim financing of its construction expenditures. The proposed construction expenditures of the Company for the last two quarters of 1973 are $43,210,000 and for the calendar year 1974 are $102,410,000. The Bonds will be authenticated under the Mortgage against $76,666,667 of the available unused net expenditures for bondable property of the Company, which expenditures aggregated approximately $120,100,000 at June 30, 1973.

The fees and expenses to be paid by CP&L in connnection with the issue and sale of the Bonds are estimated to total $85,000, including legal fees of $15,000. The fees and expenses of legal counsel for the successful bidders, to be paid by the successful bidders, are estimated at $10,500 and $1,250 respectively. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction:

Notice is further given that any interested person may not later than September 24, 1973, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-18689 Filed 9-4-73;8:45 am]

[70-5378]

## CONNECTICUT GAS CO. AND CONNECTICUT LIGHT & POWER CO.

### Notice of Proposed Issue and Sale of Long-Term Notes

Notice is hereby given that The Connecticut Light and Power Company (CL&P), P.O. Box 2010, Hartford, Connecticut 06101, an exempt holding company and an electric and gas utility subsidiary of Northeast Utilities (Northeast), a registered holding company, and The Connecticut Gas Company (Connecticut Gas), a wholly owned gas utility subsidiary of CL&P, have filed a joint application-declaration and amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6, 7, 9, 10, 12(b), and 12(f) of the Act and Rules 43, 45(b)(1), and 50(a)(3) promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the amended joint application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Connecticut Gas presently has outstanding demand notes aggregating $425,000 which were issued to and acquired by CL&P before Northeast became a registered holding company. In addition, $940,000 of long-term notes have been issued to and acquired by CL&P pursuant to orders of the Commission. Connecticut Gas presently has authority to issue and sell, and CL&P has authority to acquire, an additional $235,000 of long-term notes pursuant to order of the Commission (Holding Company Act Release No. 17098). Connecticut Gas now proposes to issue and sell, and CL&P proposes to acquire, from time to time, up to an additional $500,000 of long-term notes (Notes) to meet its capital requirements. It is stated that the aggregate amount of all notes at any one time outstanding, including the outstanding demand and long-term notes and the $235,000 of authorized but unissued long-term notes and the Notes proposed to be issued hereunder, will at no time exceed $2,100,000. The funds derived from the issue and sale of the Notes will be applied towards the 1973 construction program of Connecticut Gas estimated to cost $446,000.

The Notes will mature ten years from the date the first such Note is issued, will bear interest at a rate equal to the commercial bank prime rate for short-term loans in effect from time to time in Hartford, Connecticut (adjusted as of the date of announcement of any change in such rate) and may be repaid at any time without premium.

CL&P and the Hartford Electric Company (HELCO), an electric and gas utility subsidiary of Northeast, have announced their intention to dispose of all their gas properties.[1] It is stated that as of May 7, 1973, the Companies commenced furnishing prospective purchasers with financial and operating information relative to the proposed disposition of the gas properties. Upon completion of the information-gathering process by the prospective purchasers, the Companies expect to commence detailed negotiations with each of the prospective purchasers concerning specific proposals for the acquisition of all or a portion of the gas properties.

It is stated that the Connecticut Public Utilities Commission has jurisdiction over the proposed transactions. The order of that Commission will be filed by amendment. No other State commission or Federal commission, other than this Commission, has jurisdiction over the proposed transactions. There are no fees or commission to be paid or incurred, directly or indirectly, in connection with the proposed transactions. Incidental services estimated to cost $500 will be performed at cost by Northeast Utilities Service Company, an affiliated service company.

Notice is further given that any interested person may, not later than September 20, 1973, request in writing, that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said joint application-declaration, as amended, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above stated address; and proof of service (by affidavit, or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the joint application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-18690 Filed 9-4-73;8:45 am]

[File No. 500-1]

## CONTINENTAL VENDING MACHINE CORP.

### Order Suspending Trading

AUGUST 27, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10¢ par value, of Continental Vending Machine Corporation, and the 6 percent convertible subordinated debentures due September 1, 1976 being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period August 28, 1973, through September 6, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-18687 Filed 9-4-73;8:45 am]

[File No. 500-1]

## HOME-STAKE PRODUCTION CO.

### Order Suspending Trading

AUGUST 27, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $2.50 par value, and all other securities of Home-Stake Production Company being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from August 28, 1973, through September 6, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-18687 Filed 9-4-73;8:45 am]

[812-3492]

## NEUWIRTH FUND, INC., ET AL.

### Notice of Filing of Application for Exemption

AUGUST 28, 1973.

In the matter of NEUWIRTH FUND, INC., NEUWIRTH CENTURY FUND, INC., NEUWIRTH INCOME DEVELOPMENT CORPORATION, NEUWIRTH MANAGEMENT AND RESEARCH CORPORATION, NEUWIRTH FINANCIAL CORPORATION, Middletown Bank Building, Middletown, New Jersey 07748 (812-3492).

Notice is hereby given that an application has been filed pursuant to section 6(c) of the Investment Company Act of 1940 (Act) by Neuwirth Fund, Inc. (Neuwirth Fund), Neuwirth Century Fund, Inc. (Century), Neuwirth Income Development Corporation (NIDCO) (collectively the "Funds"), registered under the Act as open-end management investment companies, and Neuwirth Management and Research Corporation (NMRC), investment adviser to Neuwirth Fund and Century, and Neuwirth Financial Corporation (NFC), investment adviser to NIDCO. The application requests an order of the Commission, in connection with the rendering of advisory services by NMRC to Neuwirth Fund and Century, and by NFC to NIDCO, (1) exempting applicants from sections 15(a) and 15(c) of the Act during the period from July 28 to July 31, 1973, and (2) exempting the applicants from section 15(a) of the Act during the period from August 1 to October 31, 1973. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

On July 28, 1973, Henry Neuwirth, the controlling stockholder of NMRC and NFC, died unexpectedly. By operation of law the voting securities of NMRC and NFC owned by Neuwirth passed to his estate. As of that date the investment advisory contracts between the Funds and NMRC and NFC automatically terminated pursuant to a contract provision, as required by section 15 of the Act, providing for termination in the event of assignment. An assignment is defined by section 2(a)(4) of the Act to be any direct or indirect transfer of a controlling block of the outstanding voting securities of the assignor by a security holder of the assignor.

On July 31, 1973, a joint meeting of the Boards of Directors of the Funds was held to consider the problems arising from Neuwirth's death. At that meeting, the directors, all of whom serve on the

[1] By order dated March 7, 1973 (Holding Company Act Release No. 17905), the Commission granted CL&P's application for an exception from the competitive bidding requirements of Rule 50 with respect to its proposed sale of the outstanding securities of Connecticut Gas.







V 38 I 171 SEP 5 73 XUM

Boards of each of the Funds voted as follows: (a) to ratify the performance of NMRC under the investment advisory contracts with Neuwirth Fund and Century, and the performance of NFC under the investment advisory contract with NIDCO, for the period from July 28 to July 31, 1973; and (b) to readopt each of the investment advisory contracts for the period from August 1 to October 31, 1973, subject to sooner immediate termination upon written notice by the Board of Directors or by a majority of the outstanding voting securities of each of the Funds. It is represented that such action was necessary in order to provide for continued management of the Funds pending final decision by the shareholders of the respective Funds on the future management of the Funds.

Section 15(a) of the Act provides, among other things, that it shall be unlawful for any person to serve or act as an investment adviser of a registered investment company except pursuant to a written contract which has been approved by the vote of a majority of the outstanding voting securities of such registered investment company.

Section 15(c) of the Act provides, among other things, that it is unlawful for any registered investment company having a board of directors to enter into, renew, or perform any investment advisory or underwriting contract unless the terms of the contract and any renewal thereof are approved by the vote of a majority of the directors who are not parties to such contract or interested persons of any such party cast in person at a meeting called for the purpose of voting on such approval.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person or transaction from any provision of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants submit that the requested exemptions from section 15(a) and 15(c) of the Act are in the public interest and consistent with the general policies of the Act.

Notice is further given, that any interested person may, not later than September 17, 1973, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in the matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-18691 Filed 9-4-73;8:45 am]

[811-2212]

## REDWOOD FUND, INC.

### Notice of Proposal Registration

AUGUST 28, 1973.

Notice is hereby given that the Commission proposes, pursuant to section 8 (f) of the Investment Company Act of 1940 (Act), to declare by order upon its own motion that Redwood Fund, Inc. (Redwood) (formerly Evergreen Fund, Inc.), 1901 Avenue of the Stars, Los Angeles, California 90067, a corporation organized under the laws of the State of California and registered under the Act as an open-end, non-diversified management investment company, has ceased to be an investment company.

Redwood was initially organized in California on June 2, 1971, under the name of El Dorado Fund, Inc. (El Dorado). On June 16, 1971, El Dorado changed its name to Evergreen Fund, Inc. (Evergreen), and on July 20, 1971, Evergreen registered under the Act by filing a Form N–8A Notification of Registration together with a Form N–8B–1 Registration Statement. On July 21, 1971, Evergreen filed a Form S–5 Registration Statement under the Securities Act of 1933 (1933 Act).

On August 23, 1971, Evergreen changed its name to Redwood, and on September 3, 1971 Redwood filed an amended Form N–8B–1 Registration Statement under the Act and a Pre-effective Amendment to the 1933 Act registration statement.

Fund has never conducted any business operations other than initial organizational activities; its registration statement under the Securities Act of 1933 never became effective and was declared abandoned on July 20, 1973; and it has abandoned any intention of making a public offering of its shares.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, on its own motion, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order, which may be issued upon the Commission's own motion where appropriate, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than September 21, 1973, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communications should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the Fund at the address stated above. Proof of service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the matter herein may be issued by the Commission upon the basis of the information stated herein, unless an order for a hearing shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-18692 Filed 9-4-73;8:45 am]

## SMALL BUSINESS ADMINISTRATION

[License Application 09/09–5165]

### RISK CAPITAL FUNDING, INC.

#### Application for License as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of section 301 (d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*), has been filed by Risk Capital Funding, Inc. (applicant), with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1973).

The officers and directors of the applicant are as follows:

William L. Mitchell, President, General Manager, Director, 8787 Shoreham Drive, West Hollywood, California 90069.

Elaine Blaine Shepard, Secretary, Director, 1217 Oakhorne Drive, Harbor City, California 90710.

Celestus A. King III, Secretary Director, 1240 Arlington Avenue, Los Angeles, California 90019.

Phylliss Anne Stones, Treasurer, Director, 15737 Royal Ridge Road, Sherman Oaks, California 90513.

Owen W. Findley, Director, 3800 Twin Oaks Way, Oakland, California 94605.

The applicant, a California corporation, with its principal place of business at 16055 Ventura Boulevard, Encino, California 91316, will begin operations with $155,000 of paid-in capital consisting of 155,000 shares of common stock sold to Phylliss Stones (51.61 percent), Elaine Shepard (16.13 percent), Celestus King (16.13 percent), and Owen Findley (16.13 percent).

Applicant will not concentrate its investments in any particular industry. As an applicant for a license pursuant to section 301(d) of the Small Business Investment Act of 1958, as amended, its investments will be made solely in small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the applicant under their management including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA rules and regulations.

Any person may, not later than September 20, 1973, submit to SBA written comments on the proposed licensee. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Encino, California.

Dated August 31, 1973.

JAMES THOMAS PHELAN,
*Deputy Associate Administrator for Investment.*

[FR Doc.73-18865 Filed 9-4-73;8:45 am]

## TARIFF COMMISSION

[TEA-I-EX-9]

### TERMINATION OF INCREASED TARIFFS ON CERTAIN PIANOS

#### Notice of Investigation and Hearing

*Investigation instituted.*—On August 28, 1973, the United States Tariff Commission, upon a petition filed on behalf of the National Piano Manufacturers Association, instituted an investigation in connection with the preparation of advice to the President, pursuant to section 351(d)(3) of the Trade Expansion Act of 1962, with respect to pianos (including player pianos, whether or not with keyboards), except grand pianos, of the kinds described in item 924.00 in part 2A of the Appendix to the Tariff Schedules of the United States.

An increased rate of duty was imposed by Presidential proclamation upon imports of the above described pianos in 1970 following an industry investigation by the Tariff Commission under section 301(b)(1) of the Trade Expansion Act of 1962. Under the proclamation the increased rate remained in force for a period of three years. The Commission conducted an investigation in 1973 under section 351(d)(3) and, upon receiving its advice, the President extended the increased rate on the subject pianos until the close of business February 20, 1974.

The Commission's function under section 351(d)(3) is to advise the President of its judgment as to the probable economic effect that a termination of this rate would have on the industry concerned.

*Public hearing ordered.*—A public hearing in connection with this investigation will be held at 10:00 a.m. e.s.t. on October 30, 1973, in the hearing room, Tariff Commission Building, 8th and E Streets NW., Washington, D.C. Appearances at the hearing should be entered in accordance with § 201.13 of the Tariff Commission's Rules of Practice and Procedure.

*Inspection of petition.*—The petition filed in this case is available for inspection at the office of the Secretary, United States Tariff Commission, 8th and E Streets NW., Washington, D.C., and at the New York City office of the Tariff Commission located in room 437 of the Customhouse.

Issued: August 29, 1973.

By order of the Commission.

[SEAL] KENNETH R. MASON,
*Secretary.*

[FR Doc.73-18701 Filed 9-4-73;8:45 am]

[22-35]

### NONFAT DRY MILK

#### Notice of Investigation and Hearing

At the request of the President (reproduced herein), the United States Tariff Commission, on the 29th day of August 1973, instituted an investigation under subsection (d) of section 22 of the Agricultural Adjustment Act, as amended (7 U.S.C. 624), to determine whether 100,000,000 pounds of nonfat dry milk described in item 115.50 of the Tariff Schedules of the United States (TSUS) may be imported into the United States during the period beginning August 29, 1973, and ending October 31, 1973, in addition to the quota-quantity specified for such article under TSUS item 950.02, without rendering or tending to render ineffective, or materially interfering with, the price support program now conducted by the Department of Agriculture for milk, or reducing substantially the amount of products processed in the United States from domestic milk.

The text of the President's letter of August 28, 1973, to the Commission follows:

Pursuant to Section 22 of the Agricultural Adjustment Act, as amended, I have been advised by the Secretary of Agriculture, and I agree with him, that there is reason to believe that additional supplies of nonfat dried milk may be imported during a temporary period ending October 31, 1973, without rendering or tending to render ineffective, or materially interfering with, the price support program for milk now conducted by the Department of Agriculture, or reducing substantially the amount of products processed in the United States from domestic milk.

Specifically, reference is made to the following article presently subject to Section 22 quantitative limitations under item 950.02 of the Tariff Schedules of the United States:

Dried milk, provided for in part 4 of schedule 1 of the Tariff Schedules of the United States Annotated (1972), described in item 115.50 (Dried milk, other than buttermilk, containing not over 3 percent of butterfat).

The Secretary has also advised me, pursuant to Section 22(b) of the Agricultural Adjustment Act, as amended, that a condition exists requiring emergency treatment with respect to nonfat dried milk and has, therefore, recommended that I take immediate action under Section 22(b) to authorize the importation of 100,000,000 pounds during a temporary period ending October 31, 1973. I have, therefore, this day issued a proclamation establishing a special temporary quota of 100,000,000 pounds to be effective through October 31, 1973. This quota is in addition to the quantities otherwise authorized to be imported under Section 22 quantitative limitations.

The United States Tariff Commission is, therefore, directed to make an investigation under Section 22 of the Agricultural Adjustment Act, as amended, and to make findings and recommendations as to whether 100,000,000 pounds of the above-described article may be imported during a temporary period ending October 31, 1973, in addition to the quantities otherwise authorized to be imported under Section 22 quantitative limitations, without rendering or tending to render ineffective, or materially interfering with, the price support program now conducted by the Department of Agriculture for milk, or reducing substantially the amount of products processed in the United States from domestic milk.

The Commission is directed to report its findings and recommendations at the earliest practicable date.

Sincerely,

(Signed) RICHARD NIXON.

*Hearing.*—A public hearing in connection with this investigation will be held in the Tariff Commission's Hearing Room, Tariff Commission Building, 8th and E Streets NW., Washington, D.C., beginning at 9:30 a.m., e.d.t., on September 10, 1973. All parties will be given opportunity to be present, to produce evidence, and to be heard at such hearing. Interested parties desiring to appear at the public hearing should notify the Secretary of the Tariff Commission, in writing, at its offices in Washington, D.C., at least by the close of business on September 7, 1973. The notification should indicate the name, address, telephone number, and organization of the person filing the request, and the name and organization of the witnesses who will testify.

Because of the limited time available, the Commission reserves the right to limit the time assigned to witnesses. Questioning of witnesses will be limited to members of the Commission and officials of the Department of Agriculture.









V 38-171
SEP 5 73
XUM

*Written submissions.*—Interested parties may submit written statements of information and views, in lieu of their appearance at the public hearing, or they may supplement their oral testimony by written statements of any desired length. In order to be assured of consideration, all written statements should be submitted at the earliest practicable date, but not later than the close of business on September 14, 1973.

With respect to any of the aforementioned written submissions, interested parties should furnish a signed original and nineteen (19) true copies. Business data to be treated as business confidential shall be submitted on separate sheets, each clearly marked at the top "Business Confidential", as provided for in § 201.6 of the Commission's rules of practice and procedure.

Issued: August 29, 1973.

By order of the Commission.

[SEAL] KENNETH R. MASON,
*Secretary.*

[FR Doc.73-18700 Filed 9-4-73;8:45 am]

## VETERANS ADMINISTRATION

### MERIT REVIEW BOARDS IN DESIGNATED MEDICAL SPECIALTIES

#### Establishment of Boards

Pursuant to the Federal Advisory Committee Act (Public Law 92-463), the Veterans Administration has determined that the establishment of the following Merit Review Boards (in designated medical specialties) is in the public interest in connection with the performance of duties imposed on the Veterans Administration by law:

Merit Review Board for Alcoholism and Dependence Programs
Merit Review Board for Basic Science Programs
Merit Review Board for Behavioral Science Programs
Merit Review Board for Cardiovascular Programs
Merit Review Board for Endocrinology Programs
Merit Review Board for Gastroenterology Programs
Merit Review Board for Hematology Programs
Merit Review Board for Immunology Programs
Merit Review Board for Infectious Disease Programs
Merit Review Board for Nephrology Programs
Merit Review Board for Neurobiology Programs
Merit Review Board for Oncology Programs
Merit Review Board for Oral Biology Programs
Merit Review Board for Respiration Programs
Merit Review Board for Surgery Programs

Signed at Washington, D.C., this 29th day of August 1973.

[SEAL] DONALD E. JOHNSON,
*Administrator.*

[FR Doc.73-18716 Filed 9-4-73;8:45 am]

## DEPARTMENT OF LABOR

### Wage and Hour Division

### CERTIFICATES AUTHORIZING THE EMPLOYMENT OF FULL-TIME STUDENTS WORKING OUTSIDE OF SCHOOL HOURS AT SPECIAL MINIMUM WAGES IN RETAIL OR SERVICE ESTABLISHMENTS OR IN AGRICULTURE

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), the regulation on employment of full-time students (29 CFR, Part 519), and Administrative Order No. 621 (36 FR 12819), the establishments listed in this notice have been issued special certificates authorizing the employment of full-time students working outside of school hours at hourly rates lower than the minimum wage rates otherwise applicable under section 6 of the Act. While effective and expiration dates are shown for those certificates issued for less than a year, only the expiration dates are shown for certificates issued for a year. The minimum certificate rates are not less than 85 percent of the applicable statutory minimum.

The following certificates provide for an allowance not to exceed the proportion of the total hours worked by full-time students at rates below $1 an hour to the total number of hours worked by all employees in the establishment during the base period in occupations of the same general classes in which the establishment employed full-time students at wages below $1 an hour in the base year; or provide the same standards authorized in certificates previously issued to the establishment.

A & W Root Beer Drive Inn, restaurant; 2800 Elizabeth Street, Pueblo, Colo.; 7-5-74.

Arrington's Food Market, food store; Front Street, Taylorsville, Miss.; 7-11-74.

Baenziger Model Market, Inc., food store; No. 1, Seguin, Tex.; 1-31-74.

Barones Food Market, food store; 1103 Holland, Saginaw, Mich.; 7-5-74.

Barrett Community Home, Inc., nursing home; Barrett, Minn.; 6-24-74.

Bethania Hospital, hospital; 1600 11th Street, Wichita Falls, Tex.; 6-8-74.

Bill Crook's Food Town, food store; No. 1, Nashville, Tenn.; 6-30-74.

W. C. Bradley Co. Farms, agriculture; Columbus, Ga.; 6-24-74.

Burger Chef, restaurant; 1000 West Clairmont Avenue, Eau Claire, Wis.; 7-14-74.

Carlie C. McLamb Grocery, food store; Route #2, Dunn, N.C.; 6-25-74.

Central Market, food store; Third and Lincoln, Hebron, Nebr.; 6-23-74.

Charles Womack Garden & Nursery, agriculture; 1602 Cherokee Road, Florence, S.C.; 7-9-74.

Checkered Apron Restaurant, Inc., restaurant; 717 Riverside Drive, Macon, Ga.; 7-1-74.

Coborn's Inc., food stores, 6-27-74: Foley, Minn.; 327 South Fifth Avenue, St. Cloud, Minn.; Six North Broadway, Sauk Rapids, Minn.

DeByle's, Inc., apparel stores, 7-2-74; Eagle River, Wis.; Minocqua, Wis.; Rhinelander, Wis.; Wisconsin Rapids, Wis.

Don's Rexall Pharmacy, drug store; 127 North Main Street, Monticello, Ind.; 7-18-74.

Downtown Drugs, drug store; 110 East Broadway, Mount Pleasant, Mich.; 7-14-74.

Eaves Restaurant Co., Inc., restaurant; Allendale, S.C.; 6-18-73 to 6-15-74.

Elliotts Restaurant, restaurant, 2915 Knight Bridge Road Columbia, S.C.; 6-30-74.

Ferguson Free Car Wash, service station; 2315 Ferguson Road, Cincinnati, Ohio; 6-30-74.

Food Fair, Inc., food store; Burnside, Ky.; 7-14-74.

Frank Dill's Bestway Market, food store; Highway 79, Dover, Tenn.; 6-21-74.

Franks IGA Foodliner, food store; 130 South Grand Avenue, Fowlerville, Mich.; 6-29-74.

Greenville Car Wash-East, Inc., car wash; 1522 Laurens Road, Greenville, S.C.; 7-25-74.

H. E. B. Food Store, food stores; No. 117, Crystal City, Tex., 6-24-74; No. 119, Gatesville, Tex., 8-3-74; No. 86, Ingleside, Tex., 7-30-74; No. 114, McAllen, Tex., 7-24-74.

Hansen's Drug Store, drug store; 20 West Eighth Street, Holland, Mich.; 7-2-74.

Hayfield Farm, agriculture; Lehman Township, Wilkes-Barre, Pa.; 6-25-74.

Hillside Farms, Inc., agriculture; Jackson and Kingston Townships, Wilkes-Barre, Pa.; 7-4-74.

Holiday Inn, motel; Allendale, S.C.; 6-18-73 to 6-15-74.

Ideal Poultry Breeding Farms, Inc., agriculture; Cameron, Tex.; 6-16-74.

Lerner Shops, apparel stores: No. 489, Colorado Springs, Colo., 7-23-73 to 3-31-74; Nos. 411 and 462, Denver, Colo.; 7-23-73 to 6-12-74; No. 487, Englewood, Colo., 7-23-73 to 4-16-74; No. 463, Lakewood, Colo., 7-23-73 to 6-12-74; No. 406, Pueblo, Colo., 7-23-73 to 6-12-74; No. 460, Westminster, Colo., 7-23-73 to 6-12-74; No. 186, Chattanooga, Tenn., 7-15-74; No. 113, Memphis, Tenn., 7-15-74; No. 350, Irving, Tex., 8-14-73; No. 33, Lynchburg, Va., 7-15-74; No. 120, Newport News, Va., 7-15-74; Nos. 77 and 306, Norfolk, Va., 7-15-74; No. 32, Portsmouth, Va., 7-15-74; Nos. 40 and 52, Richmond, Va., 7-15-74; No. 42, Roanoke, Va., 7-15-74.

Lobel's Youth Center, Inc., apparel store; 100 Broadway, East Paterson, N.J.; 6-30-74.

Luke's Foodliner, food store; One Ardmore Mall, Ardmore, Okla.; 7-14-74.

Masonic Homes Farms, agriculture; Elizabethtown, Pa.; 6-23-74.

McDonald's Hamburgers, restaurant; 2650 West 26th Street, Erie, Pa.; 7-9-74.

McIlbenny Co., agriculture; Avery Island, La.; 5-24-74.

Minimax, food store; 1001 South Broadway, LaPorte, Tex.; 8-25-74.

Minyard Food Stores, Inc., food store; 4315 Lancaster Road, Dallas, Tex.; 7-2-74.

Morgan Floral Co., agriculture; 624 West Platte Avenue, Fort Morgan, Colo.; 7-20-74.

Mount Carmel Home, nursing home; 18th Street and Fifth Avenue, Kearney, Nebr.; 6-21-74.

Noble Street Sure Save, food store; 1710 Noble Street, Anniston, Ala.; 6-30-74.

Peoples Wholesale Co., food store; Water Valley, Miss.; 6-27-74.

Pierce's Bargain Center, food store; Highway 51 South, Dyersburg, Tenn.; 7-16-74.

Randall's Food Market, Inc., food store; 9448 Long Point Road, Houston, Tex.; 6-25-74.

Red & White Super Market, food store; Nashville, N.C.; 6-19-74.

Reed Drug Co., drug stores, 7-20-74: 7810 Olson Highway, Golden Valley, Minn.; 201 South Main Street, Stillwater, Minn.; 505 South Lake Avenue, White Bear Lake, Minn.





Robie's Food Center, Inc., food stores, 6-11-74: 604 South State Street, Abbeville, La.; 1001 East Main Street, Jeanerette, La.

Rohman's Thriftway, food store; 810 Main, Concordia, Mo.; 6-22-74.

St. Vincents' Home for the Aged, nursing home; 4500 Ames Avenue, Omaha, Nebr.; 6-17-74.

Schensul's Cafeteria, Inc., restaurant; 5606 West Saginaw Street, Lansing, Mich.; 7-9-74.

Sheppard's Inn Health Facility, nursing home; 300 West Culver Road, Knox, Ind.; 6-21-74.

Skinner Nursery, agriculture; 1402 Lower Silver Lake Road, Topeka, Kans.; 6-24-74.

Smith's Food King, food stores, 6-30-74, except as otherwise indicated: No. 21, Bountiful, Utah (6-20-74); No. 50, Clearfield, Utah; No. 45, Orem, Utah; No. 1, Provo, Utah; No. 18, Salt Lake City, Utah.

Stockmen's Drug Co., drug store; 116 North Main, Gordon, Nebr.; 7-5-74.

Sunnyway Foods, Inc., food store; 212 North Antrim Way, Greencastle, Pa.; 6-28-74.

Super Drive-Ins, food stores; No. 9, Clarksville, Tenn., 7-14-74; No. 2 and 5, Nashville, Tenn., 7-10-74; No. 11, Nashville, Tenn., 7-14-74.

T. G. & Y. Stores Co., variety-department store; No. 35, Ponca City, Okla.; 6-26-74.

Terrill's Super Market, food store; 119 Main Street, Marcellus, Mich.; 6-30-74.

West Allis Trading Post, Inc., hardware store; 9721 West Greenfield Avenue, West Allis, Wis.; 6-22-74.

West End Market, food store; 1220 Clydesdale, Anniston, Ala.; 6-30-74.

Wheaton Super Valu, food store; Wheaton, Minn.; 6-26-74.

Willbrandt Farms, agriculture; 693 West Wedgewood Drive, North Muskegon, Mich.; 7-10-74.

Winky's restaurant; 1140 Wayne Avenue, Indiana, Pa.; 7-5-74.

Wright's Markets, Inc., food store; 745 Shawnee Road, Lima, Ohio; 7-6-74.

The following certificates issued to establishments permitted to rely on the base-year employment experience of others were either the first full-time student certificates issued to the establishment, or provide standards different from those previously authorized. The certificates permit the employment of full-time students at rates of not less than 85 percent of the applicable statutory minimum in the classes of occupations listed, and provide for the indicated monthly limitations on the percentage of full-time student hours of employment at rates below the applicable statutory minimums to total hours of employment of all employees.

Bill Crook's Food Town, food store; No. 5, Hickory, Tenn.; sacker, stock clerk; 10 to 11 percent; 7-14-74.

Country School West, restaurant; 2908 Mount Vernon Avenue, Evansville, Ind.; 35 to 56 percent; 6-30-74.

Gee Bee, variety-department store; Queen City Boulevard, Cumberland, Md.; stock clerk, salesclerk, cashier, wrapper; 0.2 to 3 percent; 6-30-74.

Hardee's restaurants, for the occupation of general restaurant worker, 7-14-74: 4240 East Grant Road, Tucson, Ariz., 35 to 50 percent; 1233 West St. Mary's Road, Tucson, Ariz., 35 to 63 percent.

Hudson's Bestway, food store; Water Valley, Miss.; grocery clerk; 10 to 33 percent; 7-12-74.

Kentucky Fried Chicken, restaurant; 313 Havana, Aurora, Colo.; general restaurant worker; 29 to 47 percent; 7-8-74.

Kingwood Minimax, Inc., food store; 1153 Kingwood Drive, Humble, Tex.; bagger, carry-out, janitorial, checker; 9 to 10 percent; 7-15-74.

Maple Avenue Hospital Association, hospital; Maple Avenue, DuBois, Pa.; dietary aid, custodial assistant; 2 percent; 6-30-74.

Pamplico I.G.A. Super Market, food store; Walnut Street, Pamplico, S.C.; bagger, janitorial; 15 percent; 7-10-74.

Pinkie's Grocery & Market, food store; 901 Bessemer Avenue, Llano, Tex.; carry out, sacker, stock clerk; 5 to 10 percent; 7-15-74.

RDR Discount City, variety-department stores, for the occupations of salesclerk, stock clerk, janitorial, 13 to 34 percent; 6-30-74: 315 Main Street, Swainsboro, Ga.; Millen Highway, Waynesboro, Ga.

Sloan's Discount Food, food store; 204 West Main Street, Brady, Tex.; stock clerk, salesclerk, cashier, janitorial; 8 to 15 percent; 6-26-74.

Smith's Food King, food stores, for the occupations of bagger, carry out; 26 to 33 percent; 7-8-74; No. 27, Murray, Utah; No. 28, Salt Lake City, Utah.

Super Drive-Ins, food stores, for the occupations of sacker, bottle clerk 21 to 32 percent; 6-20-74: No. 16, Antioch, Tenn.; No. 14, Memphis, Tenn.

Each certificate has been issued upon the representations of the employer which, among other things, were that employment of full-time students at special minimum rates is necessary to prevent curtailment of opportunities for employment, and the hiring of full-time students at special minimum rates will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under a certificate. The certificate may be annulled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof on or before October 3, 1973.

Signed at Washington, D.C., this 28th day of August 1973.

DONALD T. CRUMBACK,
*Authorized Representative of the Administrator.*

[FR Doc.73-18734 Filed 9-4-73;8:45 am]

## INTERSTATE COMMERCE COMMISSION

### OFFICE OF HEARINGS

[Notice 334]

### ASSIGNMENT OF HEARINGS

AUGUST 30, 1973.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC-FC-73486, Delta Bus Co., Saginaw, Michigan, Transferee & Henry A. Crooks, DBA Mio Bus Line, Onaway, Michigan Transferor, now being assigned hearing October 10, 1973 (1 day), at Lansing, Mich., in a hearing room to be later designated.

MC 113855 Sub 262, International Transport, Inc., now assigned September 10, 1973, at Kansas City, Mo., is cancelled and the application is dismissed.

MC 61955, Centropolis Transfer Co., Inc., now assigned September 19, 1973, at Jefferson City, Mo., will be held in City Hall Counsel Chambers, 238 East Heights.

MC-C-7700, East Texas Motor Freight Lines, Inc.—Investigation and Revocation of Certificates, now being assigned continued hearing October 15, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-19227 Sub 181, Leonard Bros., Trucking Co., Inc., application is dismissed.

MC 10794 Sub 3, Perrow Motor Freight Lines, Inc., now assigned September 12, 1973, at Washington, D.C., postponed to October 16, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

W-1270, Mascony Transport and Ferry Service, Inc., now being assigned October 29, 1973 (1 week), at New London, Conn., in a hearing room to be later designated.

I&S 8875, Increased Fares, Port Authority Trans-Hudson Corporation, now assigned September 24, 1973, at New York, New York, is cancelled and reassigned to September 24, 1973, at Jersey City, N.J., will be held in Freeholders Chambers, Hudson County Administration Building, 595 Newark Avenue.

No. W. 1069 Sub 1, Gulf Atlantic Transport Corp., now assigned October 29, 1973, at Washington, D.C., is postponed to November 27, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 127669 Sub 5, Cherry Hill Transit, now assigned October 29, 1973, at Trenton, N.J., is cancelled and reassigned November 26, 1973 (1 week), in Room 407, New Jersey Public Utility Commission, 28 W. State Street, Trenton, New Jersey.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-18755 Filed 9-4-73;8:45 am]

## CANADIAN RAILROADS

[Rev. S.O. No. 994; ICC Order No. 108; Amdt. No. 3]

### Rerouting or Diversion of Traffic

Upon further consideration of I.C.C. Order No. 108 (Canadian Railroads) and good cause appearing therefor:

*It is ordered,* That:

I.C.C. Order No. 108 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.*—This order shall expire at 11:59 p.m., September 15, 1973, unless otherwise modified, changed, or suspended.

*It is further ordered,* That this amendment shall become effective at 11:59 p.m., August 31, 1973, and that this amendment shall be served upon the Association of American Railroads. Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it



V 38 I 171
SEP 5 73
XUM

be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., August 27, 1973.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
*Agent.*

[FR Doc.73-18760 Filed 9-4-73;8:45 am]

## FOURTH SECTION APPLICATION FOR RELIEF

AUGUST 30, 1973.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 42739—*Iron or Steel Pipe and Related Articles to West Junction, Texas.*—Filed by Southwestern Freight Bureau, Agent (No. B-428), for interested rail carriers. Rates on iron or steel pipe and related articles, in carloads, as described in the application, from points in official (including Illinois), southern and western trunk-line territories, to West Junction, Texas.

Grounds for relief—Rate relationship.

Tariff—Supplement 15 to Southwestern Freight Bureau, Agent, tariff 259-F, I.C.C. No. 5080. Rates are published to become effective on October 1, 1973.

By the Commission.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-18754 Filed 9-4-73;8:45 am]

[Notice 345]

## MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before September 24, 1973. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-74356. By order of August 27, 1973, the Motor Carrier Board approved the transfer to Warner-Schuitema Moving & Storage Co., A Corporation, 327 E. Laketon Avenue, Muskegon, Mich. 49442, of the operation rights in Certificate No. MC-88087 issued March 12, 1957, to Henry L. Schuitema, doing business as Warner-Schuitema Moving & Storage Co., 327 E. Laketon Avenue, Muskegon, Mich. 49442, authorizing the transportation of household goods, between Muskegon, Mich., and points in Michigan, Illinois, Indiana, and Ohio; malt beverages, from Chicago, Ill., and Fort Wayne and South Bend, Ind., to Muskegon, Mich., and empty malt beverage containers on return; frozen fruits and frozen juices, from Benton Harbor, Frankfort, Grand Rapids, Hart, Manistee, Muskegon, and Traverse City, Mich., to points in Arkansas, Illinois, Iowa, Indiana, Kansas, Kentucky, Minnesota, Missouri, Nebraska, New York, Ohio, Oklahoma, Pennsylvania, Texas, West Virginia, and Wisconsin; and fruits processed for freezing, from Elk Rapids, Frankfort, Hart, Traverse City, Mich., to Chicago, Ill.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-18756 Filed 9-4-73;8:45 am]

[Notice 118]

## MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 28, 1973.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 5227 (Sub-No. 8 TA), filed August 15, 1973. Applicant: ECONOMY MOVERS, INC., P.O. Box 201, Mead, Nebr. 68041. Applicant's representative: Gailyn L. Larsen, 521 So. 14 Street (P.O. Box 81849), Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Buildings*, complete, knocked down, or in sections; (2) *building sections and building panels;* and (3) *metal prefabricated structural components*, from the plant site of American Buildings at Atlantic, Iowa, to points in Arizona, California, Colorado, Idaho, Kansas, Minnesota, Montana, Nebraska, Nevada, New Mexico, Wyoming, North Dakota, Oklahoma, Oregon, South Dakota, Wisconsin, Utah, Illinois, Washington, Missouri, and Arkansas, for 180 days. SUPPORTING SHIPPER: American Buildings Co., Inc., H. T. Holley, Traffic Mgr., P.O. Box 476, Atlantic, Iowa 50022. SEND PROTESTS TO: District Supervisor Carroll Russell, Interstate Commerce Commission, Bureau of Operations, 711 Federal Office Bldg., Omaha, Nebr. 68102.

No. MC 5227 (Sub-No. 9 TA), filed August 16, 1973. Applicant: ECONOMY MOVERS, INC., P.O. Box 201, Mead, Nebr. 68041. Applicant's representative: Gailyn L. Larsen, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Buildings*, complete, knocked down, or in sections; (2) *building sections and building panels;* and (3) *metal prefabricated structural components*, from the plant site of American Buildings Co., Inc. at Atlantic, Iowa, to points in Arizona, California, Colorado, Idaho, Kansas, Minnesota, Montana, Nebraska, Nevada, New Mexico, Wyoming, North Dakota, Oklahoma, Oregon, South Dakota, Wisconsin, Utah, Washington, Illinois, Missouri, Arkansas, Indiana, and Michigan, for 180 days. SUPPORTING SHIPPER: H. T. Holley, Traffic Manager, American Buildings Co., Inc., P.O. Box 476, Atlantic, Iowa 50022. SEND PROTESTS TO: Max H. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 320 Federal Building & Court House, Lincoln, Nebr. 68508.

No. MC 26396 (Sub-No. 89 TA), filed August 16, 1973. Applicant: POPELKA TRUCKING CO., doing business as THE WAGGONERS, P.O. Box 990, Livingston, Mont. 59047. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and wood, forest, and lumber products*, from points in Montana, to points in Tennessee, Arkansas, Alabama, Georgia, Louisiana, Mississippi, Pennsylvania, Kentucky, South Carolina, North Carolina, and Virginia, for 180 days. Supporting shipper: Rock Van & Storage, Inc., P.O. Box 1504, Missoula, Mont. 59801. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 222, U.S. Post Office Building, Billings, Mont. 59101.

No. MC 41706 (Sub-No. 17 TA) (Correction), filed July 30, 1973, published in the FEDERAL REGISTER issue of August 13, 1973, and republished as corrected this issue. Applicant: TOSE, INC., 64 West Fourth Street, Bridgeport, Pa. 19405. Applicant's representative: Anthony C. Vance, 1111 E Street NW., Suite 501, Washington, D.C. 20004.

NOTE.—The purpose of this partial republication is to add some additional supporting shippers, which were omitted in previous publication.

Supporting shippers: There are approximately 14 additional statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below.

Send protests to: Ross A. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Wm. J. Green, Jr., Federal Bldg., 600 Arch Street, Room 3238, Philadelphia, Pa. 19106. The rest of the application remains the same.

No. MC 43246 (Sub-No. 17 TA), filed August 20, 1973. Applicant: BUSKE LINES, INC., 123 West Tyler Street, Litchfield, Ill. 62056. Applicant's representative: Harold Buske (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from the plantsite and warehouse facilities of Hillsboro Glass Company at or near Hillsboro, Ill., to Detroit, Mich., for 180 days. SUPPORTING SHIPPER: R. J. LaVigne, Traffic Manager, Hillsboro Glass Company, 8325 Jefferson East, Detroit, Mich. 48214. SEND PROTESTS TO: Harold C. Jolliff, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Leland Office Bldg., 527 East Capitol Avenue, Room 414, Springfield, Ill. 62701.

No. MC 51146 (Sub-No. 328 TA), filed August 20, 1973. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, P.O. Box 2298 (Box zip 54306), Green Bay, Wis. 54304. Applicant's representative: Neil DuJardin (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal containers and container parts and accessories*, from Racine, Wis., to Danville, Ill., for 180 days. SUPPORTING SHIPPER: Continental Can Company, Inc., 150 S. Wacker Drive, Chicago, Ill. 60606 (David G. Kelly, Central Region Traffic Manager). SEND PROTESTS TO: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 83539 (Sub-No. 375 TA), filed August 13, 1973. Applicant: C & H TRANSPORTATION CO., INC., 2010 West Commerce Street (P.O. Box 5976) (Box zip 75222), Dallas, Tex. 75208. Applicant's representative: Thomas E. James (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, conduit, ducts, and tubes and related fittings, attachments, materials and accessories* used in the installation thereof, from Nazareth, Pa., to points in Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia, for 180 days. SUPPORTING SHIPPER: CARLON DIVISION, Indian Head, Inc., 23200 Chagrin Blvd., Cleveland, Ohio 44122. SEND PROTESTS TO: Gerald T. Holland, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75202.

No. MC 110252 (Sub-No. 63 TA), filed August 16, 1973. Applicant: JAMES J. WILLIAMS, INC., Off: 5711 E. Third Avenue Mail: Box 2825, Terminal Annex, Terminal ZIP (99220), Spokane, Wash. 99206. Applicant's representative: John D. Robertson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gasoline and diesel fuel*, from Calgary, Alberta, Canada, through the following points of entry on or near the Canadian-United States International Boundary Line: Eastport, Idaho (Yak, B.C.); Porthill, Idaho (Creston, B.C.); Metaline, Wash. (Nelway, B.C.); Northport, Wash. (Wanita, B.C.); Laurier, Wash. (Cascade, B.C.); and Oroville, Wash. (Osoyoos, B.C.), to points in Idaho north of the southern boundary of Idaho County and to points in Washington on and east of Highway 97, for 180 days. SUPPORTING SHIPPER: Triangle Oil Company (Owner), Time Oil Company (Dispatcher), 7716 E. Broadway Ave., Spokane, Wash. 99220. SEND PROTESTS TO: L. D. Boone, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 6049 Federal Office Bldg., Seattle, Wash. 98104.

No. MC 111045 (Sub-No. 106 TA), filed August 16, 1973. Applicant: REDWING CARRIERS, INC., Post Office Box 426, 7809 Palm River Rd., Tampa, Fla. 33601. Applicant's representative: J. V. McCoy (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molten sulphur*, in bulk, in tank vehicles, from Savannah, Ga., to Fernandina Beach, Fla., for 180 days. SUPPORTING SHIPPER: Texasgulf Inc., 811 Rusk Avenue, Room 1704, Houston, Tex. 77002. SEND PROTESTS TO: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, 5720 SW. 17th St., Room 105, Miami, Fla. 33155.

No. MC 113666 (Sub-No. 80 TA), filed August 16, 1973. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, Pa. 16229. Applicant's representative: Daniel R. Smetanick (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refractory products*, except in bulk, from Farber, Mo., to the International Boundary line between the United States and Canada located in Vermont, Maine, New Hampshire, New York, Michigan, and Minnesota, for 180 days. SUPPORTING SHIPPER: North American Refractories Co., 1012 National City E-6th Building, Cleveland, Ohio 44114. SEND PROTESTS TO: John J. England, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Bldg., Pittsburgh, Pa. 15222.

No. MC 114604 (Sub-No. 18 TA), filed August 1, 1973. Applicant: CAUDELL TRANSPORT, INC., State Farmers Market, No. 33, Forest Park, Ga. 30050. Applicant's representative: Frank D. Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas, plantains, and pineapples*, from Tampa, Fla., to points in North Carolina, Mississippi, Tennessee, Alabama, Georgia, and South Carolina, for 180 days.

NOTE.—Applicant intends to tack authority sought with existing authority where possible.

SUPPORTING SHIPPERS: Parker Banana Company, P.O. Box 1273, Municipal Docks, Tampa, Fla., and Turbana Banana Corporation, P.O. Box 9249, Coral Gables, Fla. 33134. SEND PROTESTS TO: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1252 West Peachtree Street NW., Room 309, Atlanta, Ga. 30309.

No. MC 115311 (Sub-No. 157 TA), filed August 1, 1973. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Ga. 31061. Applicant's representative: Paul M. Daniell, Suite 1600 First Federal Bldg., Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from the plantsite of Georgia-Pacific Corporation at Belleville, Ga., and Warrenton, Ga., to points in Alabama, Florida, North Carolina, South Carolina, Tennessee, Kentucky and Georgia, for 180 days. SUPPORTING SHIPPER: Georgia-Pacific Corporation, P.O. Box 909, Augusta, Ga. 30903. SEND PROTESTS TO: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 W. Peachtree Street, NW., Atlanta, Ga. 30309.

No. MC 117439 (Sub-No. 44 TA), filed August 21, 1973. Applicant: BULK TRANSPORT, INC., Mlg.: P.O. Box 89, Off.: U.S. Highway 190, Port Allen, La. 70767. Applicant's representative: John Schwab, P.O. Box 3036, Baton Rouge, La. 70821. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mineral grit and blast-cleaning grit*, in bulk, in tank vehicles, from New Orleans, La., to points in Mississippi and Alabama, for 180 days. SUPPORTING SHIPPER: Standard Paint & Varnish Co., P.O. Box 826, Harvey, La. 70058, Mr. George Malochee, Office Mgr. SEND PROTESTS







V 38 171 SEP 5 73 XUM

TO: Ray C. Armstrong, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, T-9038 U.S. Postal Service Bldg., 701 Loyola Avenue, New Orleans, La. 70113.

No. MC 127577 (Sub-No. 4 TA), filed August 20, 1973. Applicant: D. DONNELLY, LIMITED, 191 Murray Street, Montreal, Quebec, Canada. Applicant's representative: W. Norman Charles, 80 Bay Street, Glens Falls, N.Y. 12801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Magnetite*, in bulk, in dump vehicles, from Tahawus, N.Y., to Port of Entry on the International Boundary Line between the United States and Canada at or near Champlain, N.Y., for 180 days. SUPPORTING SHIPPER: Quebec Iron and Titanium Corporation, Tracy, Quebec, Canada. SEND PROTESTS TO: District Supervisor Paul D. Collins, Interstate Commerce Commission, Bureau of Operations, 52 State Street, Room 5, Montpelier, Vt. 05602.

No. MC 128375 (Sub-No. 100 TA), filed August 16, 1973. Applicant: CRETE CARRIER CORPORATION, 1444 Main, P.O. Box 249, Lincoln, Nebr. 68501. Applicant's representative: Duane W. Acklie (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rejected, returned, replacement, recalled, and obsolete motor vehicle parts, accessories and related items*; from points in the United States, to the facilities of the Maremont Corporation at or near Loudon, Pulaski, and Nashville, Tenn., for 180 days. SUPPORTING SHIPPER: Anthony T. Santella, The Maremont Corporation, 168 North Michigan Avenue, Chicago, Ill 60601. SEND PROTESTS TO: Max H. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 320 Federal Building & Court House, Lincoln, Nebr. 68508.

No. MC 128383 (Sub-No. 37 TA), filed August 13, 1973. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel; 666 Eleventh St. NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk. Class A and B explosives, and motor vehicles requiring the use of special equipment), between Chicago O'Hare International Airport, at or near Chicago, Ill.; Weir-Cook Airport at or near Indianapolis, Ind.; the Greater Cincinnati Airport at or near Cincinnati, Ohio; the Hopkins International Airport at or near Cleveland, Ohio; and the Greater Pittsburgh Airport at or near Pittsburgh, Pa., restricted to the transportation of traffic having a prior or subsequent movement by air or moving in a substitute for air service, for 180 days. SUPPORTING SHIPPERS: Skyline Air Freight, 1511 Carmen Dr., Elk Grove, Ill., 60007; Five Star Air Freight, 3rd & Governor Printz Blvd., Lester, Pa. 19118; U.S. Air Freight, O'Hare International Airport, Chicago, Ill. 60006; Air France, 1350 Avenue of the Americas, New York, N.Y. 10019; Bor-Air Freight, 351 West 38th Street, New York, N.Y. 10018; and Forty-Four Air Freight, 126–30 37th Avenue, Corona, N.Y. 11368. SEND PROTESTS TO: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Federal Bldg., Room 3238, 600 Arch Street, Philadelphia, Pa. 19106.

No. MC 134291 (Sub-No. 2 TA), filed August 16, 1973. Applicant: JOSEPH R. ST. HILAIRE, doing business as ST. HILAIRE'S DELIVERY SERVICE, Bristol, Conn. 06010. Applicant's representative: J. Aiden Connors, 145 East 49th Street, New York, N.Y. 10017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Manuscripts, proofs, page proofs, art work, film, magazines, printed matter*, between the plant site of American Can Company, Bristol Printing Division, Bristol, Conn., on the one hand, and, on the other, points in Nassau and Suffolk Counties, N.Y.; Newark, N.J.; New York, N.Y., Commercial Zone as defined by the Commission, Trenton, N.J.; Philadelphia, Pa., Commercial Zone, Wilmington, Del., and Baltimore, Md., for 180 days. SUPPORTING SHIPPER: American Can Company—Printing Division, Bristol Plant, 50 Emmett Street, Bristol, Conn. 06010. SEND PROTESTS TO: David J. Kiernan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 135 High Street, Room 324, Hartford, Conn. 06101.

No. MC 134370 (Sub-No. 11 TA), filed August 16, 1973. Applicant: OSBORNE TRUCKING CO., INC., 1008 Sierra Drive, Riverton, Wyo. 82501. Applicant's representative: Robert S. Stauffer, 3539 Boston Road, Cheyenne, Wyo. 82001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and building materials* (except in bulk, in tank vehicles), from Denver, Colo., to points in Wyoming and that part of Nebraska located on and west of U.S. Highway 83, for 180 days. SUPPORTING SHIPPERS: GAF Corporation, 32 Main Street, South Bound Brook, N.J. 08880; Gittings Lumber Co., Inc., 4501 Wynkoop Street, Denver, Colo. 80216; BLC Supply, Inc., 60 East Floyd Ave., Englewood, Colo. 80110; and The Denver Reserve Supply Company, 555 West 48th Avenue, Denver, Colo. 80216. SEND PROTESTS TO: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Bureau of Operations, Rm. 1006 Federal Bldg. & Post Office, 100 East B Street, Casper, Wyo. 82601.

No. MC 134631 (Sub-No. 17 TA), filed August 15, 1973. Applicant: SCHULTZ TRANSIT, INC., 323 East Bridge Street, P.O. Box 406, Winona, Minn. 55987. Applicant's representative: Eugene A. Schultz (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Radio, phonograph, television, and stereo cabinets, record changer bases, and speaker boxes*, with or without mechanisms, from Red Wing and Minona, Minn., to Seattle, Wash.; points in Massachusetts, Jessup, Md.; and their commercial zones, for 180 days. SUPPORTING SHIPPER: Winona Industrial Sales Corporation, 602 East Front Street, Winona, Minn. 55987. SEND PROTESTS TO: District Supervisor A. N. Spath, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 135364 (Sub-No. 7 TA), filed August 13, 1973. Applicant: MORWALL TRUCKING, INC., R.D. 3—Box 76–C, Moscow, Pa. 18444. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, Pa. 18517. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Materials and supplies* used in the manufacture and shipping of artificial Christmas trees, (a) from Nicholasville, Ky., to Blakely, Pa. and Coxsackie, N.Y., and (b) from Middlebury, Vt., and Piscataway, N.J., to Lexington, Ky.; (2) *artificial Christmas trees*, from piers located in the Norfolk, Va., harbor area and the port facilities in New York and in New Jersey within the New York, N.Y., habor area as defined by the Commission in Ex Parte No. 140, Determination of the Limits of New York and New Jersey Harbors contiguous thereto, to Coxsackie, N.Y., and Lexington, Ky.; (3) *artificial Christmas trees and materials and supplies* used in the manufacture and shipping of the above-named commodities, between the facilities of American Technical Industries, Inc., at Lexington, Ky., and Blakely, Pa., and from Blakely, Pa., to Coxsackie, N.Y.; and (4) *artificial Christmas trees*, from Lexington, Ky., to Harrisburg, and Pittsburgh, Pa.; the District of Columbia, Wilmington, Del.; New York and Mount Vernon, N.Y.; and Baltimore, Md., for 150 days. RESTRICTION: Transportation to be performed under a continuing contract with American Technical Industries, Inc., or its subsidiaries. SUPPORTING SHIPPER: American Technical Industries, Inc., 1454 Jingle Bell Lane, Lexington, Ky. 40505. SEND PROTESTS TO: Paul J. Kenworthy, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 309 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 138018 (Sub-No. 2 TA), filed August 14, 1973. Applicant: REFRIGERATED FOODS, INC., P.O. Box 1018, 3200 Blake Street, Denver, Colo. 80205. Applicant's representative: Truman A. Stockton, The 1650 Grant Street Bldg., Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *meats, meat products, meat by-products, dairy products and articles distributed by meat packinghouses* as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Wagner, S. Dak., to points in Arizona, California, Colorado, Idaho, Illinois, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, Oregon, Utah, Washington, Wisconsin, and Wyoming and (2) *meats, meat products and meat by-products* as described in (1) (except hides and commodities in bulk), and *materials, supplies, and equipment* used by meatpackers in the conduct of their business, from points in Arizona, California, Colorado, Idaho, Illinois, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, Oregon, Utah, Washington, Wisconsin, and Wyoming, to Wagner, S. Dak., for 180 days. SUPPORTING SHIPPER: Yankton Sioux Industries, 301 North Fifth Street, Minneapolis, Minn. 55403. SEND PROTESTS TO: District Supervisor Roger L. Buchanan, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.





No. MC 138551 (Sub-No. 1 TA), filed August 15, 1973. Applicant: PARCEL DISPATCH, INC., 305 North Senate Avenue, Indianapolis, Ind. 46204. Applicant's representative: Warren C. Moberly, 777 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Merchandise, equipment, and supplies*, sold, used or distributed by a manufacturer of cosmetics, except (a) glass containers, (b) enclosures for glass containers, (c) fiberboard boxes, and (d) commodities in bulk, between Cincinnati, Ohio, on the one hand, and on the other, points in Indiana, for 180 days. SUPPORTING SHIPPER: Avon Products, Inc., 175 Progress Place, Cincinnati, Ohio 45246. SEND PROTESTS TO: James W. Habermehl, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 802 Century Bldg., 36 S. Penn. St., Indianapolis, Ind. 46204.

No. MC 138571 (Sub-No. 3 TA), filed August 16, 1973. Applicant: PAUL W. MUMFORD, JR., doing business as MUMFORD HORSE TRANSPORTATION, Turf Trailer Park, Charles Town, W. Va. 25414. Applicant's representative: Bernard J. Hasson, Jr., 927 Fifteenth Street NW., Suite 306, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Livestock*, other than ordinary, for breeding, racking, show, and other special purposes, and in the same vehicle with *such livestock, personal effects of attendants, trainers, and exhibitors*, and *supplies and equipment* used in the care and exhibition of such animals, between Charles Town, W. Va., on the one hand, and, on the other, points in Pennsylvania and return, for 180 days. SUPPORTING SHIPPERS: There are approximately 37 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Robert D. Caldwell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 12th Street & Constitution Avenue NW., Washington, D.C. 20423.

No. MC 138752 (Sub-No. 1 TA), filed August 21, 1973. Applicant: BEAUFERD SCHMIDT, Rte 2, Box 26, Canton, Kans. 67428. Applicant's representative: Eugene W. Hiatt, 308 Casson Bldg., Topeka, Kans. 66603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Polyurethane foam*, from Newton, Kans., to Springfield, Mo.; Kansas City, Mo.; Monette, Mo.; Chillocothe, Mo.; St. Louis, Mo.; Oklahoma City, Okla. McGregor, Tex.; Dallas, Tex.; Fort Worth, Tex.; Mr. Vernon, Tex.; and Denver, Colo., for 180 days. SUPPORTING SHIPPER: Future Foam, Inc., P.O. Box 1017, Downtown Station, Omaha, Nebr. 68101. SEND PROTESTS TO: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 501 Petroleum Building, Wichita, Kans. 67202.

No. MC 138993 TA, filed August 14, 1973. Applicant: EVERGREEN LUMBER SALES, INC., 100 River Avenue, Eugene, Oreg. 97402, and Mail: P.O. Box 2351, Eugene, Oreg. 97402. Applicant's representative: R. B. Taylor (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, plywood, particle board, sheet rock wallboard*, between points in Oregon, on the one hand, and, on the other, points in California, Nevada, Arizona, and Utah, for 180 days. SUPPORTING SHIPPERS: A & R Lumber Sales, Inc., P.O. Box 2803, Eugene, Oreg. 97402, and Hobin Lumber Co., P.O. Box 709, Philomath, Oreg. 97370. SEND PROTESTS TO: District Supervisor A. E. Odoms, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Bldg., 319 SW. Pine Street, Portland, Oreg. 97204.

No. MC 138994 TA, filed August 16, 1973. Applicant: MELVIN'S WRECKER SERVICE, Route 5, Box 81, Mooresville, N.C. 28115. Applicant's representative: John McLain Massey, 114 Court Street, P.O. Box 1227, Statesville, N.C. 28677. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked or disabled trucks, tractors, and semitrailers, and replacement vehicles*, for the above-named vehicles, (1) from points in Alabama, Louisiana, Mississippi, Florida, Georgia, Tennessee, South Carolina, Virginia, West Virginia, Maryland, Delaware, New York, Pennsylvania, New Jersey, Connecticut, Massachusetts, Rhode Island, Ohio, Kentucky, and the District of Columbia, to points in Mecklenburg County, N.C., and (2) from points in Mecklenburg County, N.C., to points in said states; and (3) from points in South Carolina, Georgia, Virginia and Tennessee, to Iredell County, N.C.; and (4) from points in Iredell County, N.C., to points in said states, for 180 days. SUPPORTING SHIPPERS: Bay State Milling Company, 448 N. Main Street, P.O. Box 358, Mooresville, N.C. 28115, and Johnson Motor Lines, Inc., P.O. Box 10877, Charlotte, N.C. 28201. SEND PROTESTS TO: District Supervisor Terrell Price, Interstate Commerce Commission, Bureau of Operations, 800 Briar Creek Road, Room CC516, Charlotte, N.C. 28205.

No. MC 138997 TA, filed August 15, 1973. Applicant: WILLIAMS MACHINERY MOVERS, INC., 248–47 Jamaica Avenue, Bellerose, N.Y. 11426. Applicant's representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Printing, bindery and box making machinery, equipment, and parts*, (a) between points in the New York, N.Y., commercial zone as defined in the fifth supplemental report in *Commercial Zones and Terminal Areas*, 53 MCC 451, within which local operations may be conducted pursuant to the partial exemption of section 203(b)(8) of the Interstate Commerce Act (the "exempt" zone) points in Hudson and Essex Counties, N.J., on the one hand, and, on the other, points in New York, New Jersey, Pennsylvania, Delaware, Maryland, Rhode Island, Virginia, Connecticut, Massachusetts, Ohio, and the District of Columbia, and (b) between points in New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, Connecticut, Rhode Island, Massachusetts, Ohio, and the District of Columbia, under continuing contract with Heidelberg Eastern, Inc., for 180 days. SUPPORTING SHIPPER: Heidelberg Eastern, Inc., 73–45 Woodhaven Boulevard, Glendale, N.Y. 11227. SEND PROTESTS TO: Paul W. Assenza, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 139002 TA, filed August 20, 1973. Applicant: JOSEPH GEORGIANA, 26 Lafayette Street, Somerset, N.J. 08873. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Record album and book slip cases*, from New Brunswick, N.J., to New Berlin, Wis., for 180 days. SUPPORTING SHIPPER: Alexander Ungar, Inc., 15 Industrial Drive, New Brunswick, N.J. 08903. SEND PROTESTS TO: District Supervisor Robert S. H. Vance, Bureau of Operations, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-18757 Filed 9-4-73;8:45 am]

---

[Ex Parte No. 299 (Sub-No. 1)]

## LONG ISLAND RAIL ROAD CO.

### Freight Rates and Charges—1973

AUGUST 29, 1973.

By petition filed on August 24, 1973, The Long Island Rail Road Company, in accordance with the amendments to the Interstate Commerce Act effected by the Railroad Rate Adjustment Act of 1973, and the requirements and procedures



V 38 171 SEP 5 73 XUM

promulgated thereunder in Ex Parte No. 298 (49 CFR 1107), requests the Commission to permit the filing of a proposed tariff and the establishment of interim increases in freight rates and charges to offset increases in taxes under the Railroad Retirement Act, as amended. The increases in taxes become effective on October 1, 1973, and on January 1, 1974. The increases in rates and charges sought to offset those tax increases are 3.5 and 5.5 percent, respectively, to become effective on the same dates, the latter to be applied in lieu of the former beginning January 1, 1974. The petition is accompanied by a verified statement, containing statistical data, which is intended to constitute the data and information required pursuant to Ex Parte No. 298. Also, in accordance with the requirements of Ex Parte No. 298, petitioner points out that it forsees that it will be able to absorb and offset $1,770,000 of increased costs from new traffic revenues and on account of reduced expenses from improved operating procedures.

Furthermore, the petition indicates that petitioner intends to recover the balance of the increased costs by publication of a proposed tariff which sets forth the sought rate increases in the form of a terminal surcharge. Petitioner represents that this method of recovering its increased costs is necessary because it receives only about 14 percent of the through freight charges assessed on traffic moving to and from points on its lines. In order to recover 5.5 percent of total freight revenues for retirement tax purposes solely from petitioner's divisional share of line-haul rates and charges, all rates to and from points on petitioner's lines would allegedly have to be increased by 37.5 percent. Finally, application of the indicated surcharges would still allegedly leave petitioner's rates on a lower level than those of other eastern railroads, specifically, 1.5 percent lower as of October 1, 1973 and 0.2 percent lower on January 1, 1974.

In accordance with the provisions of section 15a(4) (a) and (b) of the Interstate Commerce Act, recent amendments, the order required to be issued in this proceeding within 30 days will be based solely on the Commission's analysis and verification of the data and information submitted by the railroad in accordance with Ex Parte No. 298. However, that order will be published in the FEDERAL REGISTER and will provide for notification to the Commission by all persons who are interested in participating in the subsequent hearings to be held under the provisions of section 15a(4)(c).

ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-18759 Filed 9-4-73;8:45 am]

## COST OF LIVING COUNCIL

### FOOD INDUSTRY ADVISORY COMMITTEE

#### Notice of Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770), notice is hereby given that the meeting of the Food Industry Advisory Committee, created by section 7(b) of Executive Order 11695, will be held on September 10, 1973, at 9 a.m., at 2000 M Street, NW., Room 7206, Washington, D.C.

Since the meeting will consider sensitive policy issues and possible governmental actions in connection therewith, I have determined that the meetings would fall within exemption (5) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with the operation of the Committee.

Issued in Washington, D.C., September 4, 1973.

HENRY H. PERRITT, JR.,
*Executive Secretary,*
*Cost of Living Council.*

[FR Doc.73-19019 Filed 9-4-73;12:40 pm]

## POSTAL SERVICE

### SCHEDULED INCREASES IN CERTAIN POSTAGE RATES

#### Notice of Effective Date

Notice is hereby given that the second step of phased postage rate increases, scheduled to become effective July 6, 1973 (38 FR 13697-98, May 24, 1973), and suspended until further notice (38 FR 17886, July 5, 1973), will be placed in effect on September 9, 1973, at 12:01 a.m. As announced in the FEDERAL REGISTER of May 24, 1973, this action represents the next step of scheduled rate increases for the following classes of mail: second-class; controlled circulation; third-class bulk for qualified nonprofit organizations; special fourth-class and library fourth-class. Rate increases for these classes are being phased in over periods of 5 years for some and 10 years for others, as specified in 39 U.S.C. 3626. The phased increases, the period of phasing, the rates which are not affected by the September 9, 1973, increase, as well as a summary of the applicable authority and procedures, were set forth in a notice in part II of the FEDERAL REGISTER of July 1, 1972 (37 FR 13148-50). The rates which will be placed in effect on September 9, 1973, are shown under Year "2" in schedules 1 through 7, except that the rates for regular rate third-class mail shall remain as provided in schedule "D" of said notice, pending congressional action on appropriations for fiscal year 1974.

Concurrently, surface postage rates and fees on international mail, consisting of books and sheet music, will be put in effect as follows:

(a) Argentina, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Republic of Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, and Venezuela

| *Pounds* | *Rate* |
|---|---|
| 1 | $0.17 |
| 2 | .24 |
| 4 | .38 |
| 6 | .54 |
| 8 | .72 |
| 10 | .90 |
| [1] 11 | 1.08 |
| 12 | 1.08 |
| Each additional 2 pounds or fraction [2] | $0.18 |

(b) All other countries

| *Pounds* | *Rate* |
|---|---|
| 1 | $0.17 |
| 2 | .28 |
| 4 | .48 |
| 6 | .72 |
| 8 | .96 |
| [3] 10 | 1.20 |
| 11 | 1.44 |

[1] Eleven pounds is maximum weight limit to Canada.

[2] Weight limits in section 223.2, Publication 42, apply.

[3] Charge 24 cents for each additional 2 pounds or fraction on packages weighing over 10 and up to 22 pounds, destined for Spain and Spanish possession.

(39 U.S.C. 101(d), 401, 403, 404, 3621, 3626, 3627.)

ROGER P. CRAIG,
*Deputy General Counsel.*

AUGUST 31, 1973.

[FR Doc.73-18934 Filed 9-4-73;10:35 am]





## CUMULATIVE LISTS OF PARTS AFFECTED—SEPTEMBER

**The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during September.**

**1 CFR** — Page
CFR checklist — 23771

**4 CFR**
PROPOSED RULES:
331 — 23971
351 — 23971
440 — 23971
401 — 23971
402 — 23971
403 — 23971
404 — 23971

**6 CFR**
150 — 23794, 23931
152 — 23794
PROPOSED RULES:
152 — 23806

**7 CFR**
51 — 23931
354 — 23934
725 — 23935
991 — 23771
1421 — 23935
1430 — 23939
PROPOSED RULES:
26 — 23955
1030 — 23796

**9 CFR**
82 — 23940
97 — 23940
PROPOSED RULES:
102 — 23957
104 — 23957

**10 CFR**
110 — 23953

**12 CFR**
201 — 23772
526 — 23940

**13 CFR**
PROPOSED RULES:
107 — 24028

**14 CFR**
39 — 23941
71 — 23941, 23942
288 — 23772
399 — 23777

**14 CFR—Continued** — Page
PROPOSED RULES:
39 — 23962
61 — 23962
71 — 23804, 23969
75 — 23804
121 — 23962
221 — 23804
298 — 23805

**15 CFR**
8 — 23777
376 — 23777

**19 CFR**
PROPOSED RULES:
24 — 23954
141 — 23954

**20 CFR**
PROPOSED RULES:
405 — 23802

**21 CFR**
135 — 23942

**23 CFR**
PROPOSED RULES:
770 — 23969

**24 CFR**
1700 — 23866
1710 — 23866
1715 — 23873
1720 — 23874
1914 — 23943-23945
PROPOSED RULES:
201 — 23803

**25 CFR**
256 — 23945
PROPOSED RULES:
221 — 23954, 23955

**30 CFR**
57 — 23781
PROPOSED RULES:
504 — 24024

**32 CFR**
809 — 23945

**32A CFR**
Ch. XIII — 23977

**33 CFR** — Page
PROPOSED RULES:
127 — 23804

**36 CFR**
221 — 23948
PROPOSED RULES:
7 — 23796

**38 CFR**
21 — 23948

**40 CFR**
PROPOSED RULES:
180 — 23781
52 — 23805
180 — 23806

**41 CFR**
1-9 — 23782
1-18 — 23791

**43 CFR**
4 — 23948

**45 CFR**
PROPOSED RULES:
233 — 23802
903 — 23912

**46 CFR**
PROPOSED RULES:
146 — 23959

**49 CFR**
170 — 23791
171 — 23792
172 — 23792
177 — 23792
178 — 23792
570 — 23949
1033 — 23792, 23793, 23952
PROPOSED RULES:
542 — 23979
571 — 23804
1131 — 23979

**50 CFR**
20 — 23793
32 — 23793, 23794
PROPOSED RULES:
21 — 23796

## FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

| *Pages* | *Date* |
|---|---|
| 23765-23922 | Sept. 4 |
| 23923-24184 | 5 |



V 38 I 171
SEP 5 73
XUM

federal register

WEDNESDAY, SEPTEMBER 5, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 171

PART II




# INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

■

## ELECTRIC FACE EQUIPMENT STANDARD NONCOMPLIANCE PERMITS

Nongassy Underground Coal Mines Above Watertable



V 38 - 171 SEP 5 73 XUM

## INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

[ 30 CFR Part 504 ]

### ELECTRIC FACE EQUIPMENT STANDARD NONCOMPLIANCE PERMITS

### Nongassy Underground Coal Mines Above the Watertable

Notice is hereby given that the Interim Compliance Panel, established by section 5 of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 804), proposes to issue regulations as a part of Chapter V in Title 30, Code of Federal Regulations. Such proposed regulations are identified as Part 504, and they set forth the procedure for obtaining permits for noncompliance with the electric face equipment standard as prescribed in the Act.

The Federal Coal Mine Health and Safety Act of 1969, at 30 U.S.C. 865(a)(2), provides that, commencing March 30, 1974, the electric face equipment standard shall apply to those underground coal mines which: (1) are operated entirely in coal seams located above the watertable; (2) were not classified as a gassy mine prior to March 30, 1970; and (3) were opened prior to December 30, 1969.

The Act also provides that the Interim Compliance Panel, on application filed no later than December 30, 1973, which application meets the requirements set forth in the Act, at 30 U.S.C. 865(a)(10), and in this Part 504 may issue a permit for noncompliance which will allow a coal mine operator to use nonpermissible electric face equipment in by the last open crosscut of a nongassy mine located above the watertable.

Procedures for requesting hearings on applications for noncompliance with the electric face equipment standard are specified in 30 CFR Part 505, as amended.

Interested persons may submit written comments, suggestions, or objections regarding the proposed regulations to the Interim Compliance Panel, Room 800, 1730 K Street NW., Washington, D.C. 20006, on or before Oct. 5, 1973.

Title 30 CFR Part 504 would read as follows:

### PART 504—PERMITS FOR NONCOMPLIANCE WITH THE ELECTRIC FACE EQUIPMENT STANDARD—NONGASSY UNDERGROUND COAL MINES ABOVE THE WATERTABLE

Sec.


504.1 Application of this Part 504
504.2 Definitions
504.3 Submitting Applications for Permits
504.4 Information Required
504.5 Processing of Applications
504.6 Issuance of Initial Permits
504.7 Applications for Renewal of Permits
504.8 Renewal of Permits
504.9 Additional Evidence
504.10 Public Hearings


AUTHORITY: Sec. 508, Public Law 91-173, 83 Stat. 803, 30 U.S.C. 957.

**§ 504.1 Application of this Part 504.**

This part applies to applications for permits for noncompliance submitted in accordance with the provisions of section 305 of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 865(a)(2) and (10)) and to requests for public hearings with respect to such applications. A permit for noncompliance may be issued to an operator only for electric face equipment used in an underground coal mine which: (1) is operated entirely in coal seams located above the watertable; (2) was not classified as a gassy mine prior to March 30, 1970; and (3) was opened prior to December 30, 1969. However, no permit for noncompliance will be issued for any nonpermissible electric face equipment unless such equipment was being used by an operator in connection with the mining operations in the coal mine on March 30, 1970.

**§ 504.2 Definitions.**

As used in this part:

(a) "Act" means the Federal Coal Mine Health and Safety Act of 1969 (Public Law 91-173, 30 U.S.C. 801 through 960);

(b) "Panel" means the Interim Compliance Panel, an independent agency established by section 5 of the Act (30 U.S.C. 804);

(c) "Application" means a request for a permit for noncompliance filed with the Panel in accordance with this Part 504;

(d) "Operator" means any owner, lessee, or other person who operates, controls, or supervises a coal mine and who files an application with the Panel for a permit for noncompliance with the electrical equipment standard as set forth in section 305(a)(2) of the Act;

(e) "M.E.S.A." means the Mining Enforcement and Safety Administration, U.S. Department of the Interior;

(f) "Permissible" equipment means equipment which has been approved as permissible by the M.E.S.A.;

(g) "Electric face equipment" means:

(1) Electrical equipment with an electrical rating exceeding 2,250 watts (3 horsepower) which is taken into or used inby the last open crosscut, and

(2) All electrical rock dusting equipment which is taken into or used inby the last open crosscut;

(h) "Above the watertable," as it applies to a coal mine means that all of the coal seams of such a mine are located above the elevation of the surface of a river or a tributary of a river into which a local surface water system naturally drains; and

(i) "Permit" means an initial permit for noncompliance, or a renewal thereof, issued by the Panel to an operator to use an item of nonpermissible electric face equipment inby the last open crosscut in connection with mining operations in the designated mine located above the watertable for the period of time specified in the permit.

**§ 504.3 Submitting applications for permits.**

(a) Application forms may be obtained upon request to the Interim Compliance Panel, Room 800, 1730 K Street NW., Washington, D.C. 20006.

(b) Each application shall contain the information specified herein and should be submitted on the form provided by the Panel. The original and one copy of each application shall be filed by mail or by personal delivery to the Interim Compliance Panel, Room 800, 1730 K Street NW., Washington, D.C. 20006. In order to meet the filing deadline established by the Act, applications must be received by the Panel no later than December 30, 1973, or bear a postmark date no later than December 30, 1973. Postage meter dates will not be accepted as verification of date of mailing.

(c) The accuracy of the information set forth in each application submitted shall be attested by the operator as evidenced by his signature.

(d) Prior to the time an application is mailed or delivered to the Panel, the operator or his agent shall post on the mine bulletin board a notice that an application is being filed and that a copy of the application is available at the mine office for inspection by any interested person during regular working hours. The notice shall remain posted until the operator is informed of the Panel's action on the application.

(e) A copy of each application received by the Panel will be available at the office of the Panel in Washington, D.C., for inspection by any person during official working hours.

**§ 504.4 Information required.**

The operator shall include in his application each of the following items of information:

(a) The name, address, telephone number, and M.E.S.A. identification number of the mine in which the electric face equipment for which a permit is requested is being used;

(b) The name, address, and telephone number of the operator;

(c) The name and address of a representative of the miners of such mine;

(d) A statement that notice of the application has been posted on the bulletin board of such mine;

(e) A statement that the mine has never been classified as gassy under any provision of Federal or State law;

(f) A statement that the mine is above the watertable;

(g) A statement that the mine was opened prior to December 30, 1969;

(h) A statement that the operator is unable to comply with the electric face equipment standard required by paragraph (2) of section 305(a) of the Act (30 U.S.C. 865(a)(2));

(i) A list of the nonpermissible electric face equipment for which a permit is requested, identified by type and manufacturer's serial number or other permanently marked identification number;

(j) A statement as to whether the item of equipment had ever been rated as permissible;

(k) A statement that the item of equipment was nonpermissible and was being used in connection with mining operations in the mine on March 30, 1970;

(l) A statement that this item of equipment is being used in connection with mining operations in the mine on the date of this application;

(m) A statement that the electric rating of the equipment exceeds 2,250 watts (3 horsepower) or a statement that it is rock dusting equipment;

(n) A statement of the specific actions taken to achieve compliance with the electrical equipment requirement of the Act since March 30, 1970; and

(o) A plan setting forth a schedule for achieving compliance for the item of equipment for which the permit is sought and describing the means and measures to be employed. This plan must contain information regarding one of the following:

(1) If the operator plans to replace the item of equipment for which a permit is requested with permissible equipment, he must furnish the name of the firm from which the replacement equipment will be obtained and the scheduled date of delivery. A copy of the contract or order must be submitted to satisfy this requirement;

(2) If the operator plans to have the item of equipment for which a permit is requested converted to permissible condition, he must furnish the name of the firm which will perform the conversion and the scheduled completion date. A copy of the contract order must be submitted to satisfy this requirement; or

(3) If the operator plans to use his own employees to convert this item of equipment to permissible status, he must furnish a copy of each contract or order for component parts and materials, the scheduled dates when these materials will be delivered, and an estimated date when the conversion to permissible status will be completed.

**§ 504.5 Processing of applications.**

(a) All applications timely filed in accordance with the provisions of this part will be processed by the Panel in the order in which completed applications are received.

(b) When an application for a permit for noncompliance is received, the Panel shall cause to be published in the FEDERAL REGISTER a notice giving any interested person an opportunity to file with the Panel a request for a public hearing.

(c) On or before the 15th day after publication of notice in the FEDERAL REGISTER that an application has been accepted for consideration, any interested person may file pursuant to provisions of 30 CFR Part 505, as amended, a request for a public hearing.

(d) After public hearing, or after the expiration of the aforementioned 15-day period if no hearing has been requested, the Panel shall make its determination on the merits of the application and such additional evidence as the Panel deems necessary to its determination, including, but not limited to, evidence in support of representations made in the application.

**§ 504.6 Issuance of initial permits.**

(a) If the Panel determines, after notice to all interested persons and an opportunity for a public hearing, that an application satisfies the provisions of §§ 504.3 and 504.4 of this part and that the applicant-operator, despite his diligent efforts, will be unable to comply with the electric face equipment standards of the Act, the Panel may issue to such an operator an initial permit for noncompliance.

(b) Each initial permit will be issued for the period specified by the Panel. Each permit will specify the individual item of equipment which the operator will be entitled to use in nonpermissible status.

(c) The initial permit and one copy will be mailed to the operator at the address specified in the application. A copy of the permit shall immediately be posted on the bulletin board of the affected mine by the operator or his agent.

(d) The Panel shall immediately mail a copy of any initial permit granted under this section to a representative of the miners of the mine to which it pertains, and to the public official or agency of the State charged with administering State laws relating to coal mine health and safety in such mine.

**§ 504.7 Applications for renewal of permits.**

(a) To be considered by the Panel, every application for renewal of a permit must:

(1) Be filed with the Panel not more than 90 days nor less than 30 days prior to the expiration date of the permit in effect;

(2) Be submitted on the form and in the manner prescribed in §§ 504.3 and 504.4;

(3) Specifically set forth the actions which have been taken to achieve compliance since the date of filing the previous application; and

(4) Include a detailed schedule for achieving compliance by replacement of such nonpermissible equipment with permissible equipment or by conversion of such nonperimssible equipment to permissible status.

(b) When an application for renewal of a permit for noncompliance is received, the Panel shall cause to be published in the FEDERAL REGISTER a notice giving any interested person an opportunity to file with the Panel a request for a public hearing.

(c) On or before the 15th day after publication of notice in the FEDERAL REGISTER that an application for renewal has been accepted for consideration, any interested person may file a request for a public hearing.

(d) After public hearing, or after the expiration of the 15-day period if no hearing has been requested, the Panel shall make its determination on the merits of the application for a renewal.

**§ 504.8 Renewal of permits.**

(a) If the Panel determines after notice to all interested persons and an opportunity for a public hearing that the renewal application satisfies the provisions of § 504.7 of this part and that the applicant-operator, despite his diligent efforts, will be unable to comply with the electric face equipment standard of the Act, the Panel may issue to such an operator a renewal permit for noncompliance.

(b) Each renewal permit will be issued for the period specified by the Panel. The period of noncompliance authorized by the permit shall not extend beyond March 30, 1976. Each permit will specify the individual item of equipment which the operator will be entitled to use in a nonpermissible status.

(c) The renewal permit and one copy will be mailed to the operator at the address specified in the application. A copy of the permit shall immediately be posted on the bulletin board of the affected mine by the operator or his agent.

(d) The Panel shall immediately mail a copy of any renewal permit granted under this section to a representative of the miners of the mine to which it pertains, and to the public official or agency of the State charged with administering State laws relating to coal mine health and safety in such mine.

**§ 504.9 Additional evidence.**

Each operator shall, upon request by the Panel, submit such additional information as the Panel considers necessary to make its determination, including, but not limited to, evidence in support of representations made in connection with the application.

**§ 504.10 Public hearings—practice and procedure.**

Public hearings will be conducted pursuant to the Panel's regulation governing practice and procedure for hearings, 30 CFR Part 505, as amended.

Dated August 28, 1973.

GEORGE A. HORNBECK,
*Chairman,*
*Interim Compliance Panel.*

[FR Doc.73-18539 Filed 9-4-73;8:45 am]







V 38 171
SEP 5 73
XUM

federal register

WEDNESDAY, SEPTEMBER 5, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 171

PART III

# SMALL BUSINESS ADMINISTRATION

## SMALL BUSINESS INVESTMENT COMPANIES

Proposed Rulemaking



V 38 171
SEP 5 73
XUM

## SMALL BUSINESS ADMINISTRATION

**[ 13 CFR Part 107 ]**

### SMALL BUSINESS INVESTMENT COMPANIES

**Notice of Proposed Rulemaking**

Notice is hereby given that pursuant to authority contained in section 308 of the Small Business Investment Act of 1958 (SBI Act), Public Law 85–699, 72 Stat. 694, as amended, it is proposed to revise, as set forth below, Part 107 of Chapter 1, Title 13, of the Code of Federal Regulations (revised as of January 1, 1973).

Prior to final adoption of such revision, consideration will be given to any comments, with certain exceptions outlined below under the caption "1972 Amendments." Such comments should be submitted in writing, in triplicate, to the Investment Division, Small Business Administration (SBA), Washington, D.C. 20416, on or before October 5, 1973.

*Information.*—In addition to restating the subject matter of Revision 4, Part 107, of Chapter 1, Title 13, of the Code of Federal Regulations, revised as of January 1, 1973, and amended in 38 FR 17827 (July 5, 1973), the proposed Revision 5 would (1) relax or repeal certain provisions no longer found necessary and (2) abridge and extensively revise the remaining provisions.

*1972 amendments.*—Regulations to implement the Small Business Investment Act Amendments of 1972 (Public Law 92–595, approved October 27, 1972, 86 Stat. 1314), hereafter called the "1972 Amendments" insofar as they deal with investments in Disadvantaged Concerns, were promulgated on July 5, 1973, as Amendment 12 to Revision 4 presently in force, 38 FR 17827. These regulations added to or amended § 107.3 [Definitions of the terms "Debtor Licensee", "Leverage", "Minority Enterprise Small Business Investment Company (MESBIC)" and "Section 301(d) Licensee"]; § 107.101(d)(2) [Nonprivate Funds for section 301(d) Licensees]; § 107.202(a) and (c) [Leverage in Excess of 200 Percent]; § 107.203(a) [SBA Purchase, Sale, or Guaranty of Securities Evidencing Leverage; Events of Default]; § 107.204 [Collection or Compromise of SBA Claims]; § 107.205 [Leverage for Section 301(d) Licensees]; § 107.702 [Common Control]; § 107.805 [Consideration for Issuance of Licensee Securities]; § 107.813 [Section 301(d) Licensee Wholly or Partly Owned by Licensee Companies]; and § 107.1001(b) [Financing Licensees]. An explanation of these regulations was contained in the notice of proposed rulemaking preceding promulgation, published on February 15, 1973, 38 FR 4518, and in the information part of the promulgation itself, 38 FR 17827. In the proposed revision, these same regulations (except for the definition of "MESBIC") appear in modified form, but it is not intended to change their substance. Accordingly, and since these regulations were recently adopted after an extended comment period, 38 FR 7577, no comments are invited concerning such substance, but comments on possible inadvertent changes of substance from the text recently promulgated are invited, as are comments on all regulations not specified above.

*General summary of proposed amendments.*—Proposed Revision 5 is entirely rewritten, except that the numbering system of Revision 4 has been substantially retained. Changes in captions and text, unless otherwise noted, are not intended to affect the thrust of the regulations, but have been made for clarity and brevity. It would be impractical to list all changes; however, the following changes of substance are noted.

(1) *The Audit and Examination Guide for Small Business Investment Companies*, Instructions for Preparation of the Financial Report (SBA Form 468), and SBA's System of Account Classifications, heretofore published as Appendixes 1 and 2 of Part 107 and as Part 111 of SBA Rules and Regulations, respectively, would hereafter be separately printed and distributed by SBA to all Licensees. Copies may also be obtained from SBA. Sections 107.1 (Scope of Part 107); 107.2 (Information, Forms, and Instructions); 107.1102(a) (Records); 107.1102(d) (Documents Filed With SEC); 107.1102(e) (Financial Reports to SBA); and 107.1104 (Fidelity Insurance), which refer to SBA's Audit Guide, etc., would be amended to conform to this procedural change.

(2) *Liberalizing changes.*—Section 107.101(c) would be amended to eliminate the "one-third rule," which requires no more than one-third of a Licensee's Portfolio to consist of investments in concerns classified under any single Major Group of the SIC Manual except for Real Estate Investments.

Section 107.102 would be amended so that the required $500 Licensee fee need not accompany the license application.

The proposed amendment to § 107.103 deletes the requirement that public notice of a license application include "Agent for Correspondence." Section 107.1002, which made "capital impairment" a regulatory violation, would be repealed. Instead, the description of capital impairment would be shifted to new § 107.203(d), and failure to notify SBA promptly and to cure such impairment within ninety days would become an event of default under debentures held or guaranteed by SBA. Under § 107.1008(a), "nonperformance of any of the requirements of any debenture • • • or of any written agreement with SBA • • •" will still constitute a violation of Part 107.

Under a new proviso to § 107.301(e), purchases from an underwriter in a public offering would be exempted from the requirement that Licensee keep on file a completed Size Status Declaration and a nondiscrimination certificate of the portfolio concern. Instead, a prospectus showing its size status may be retained on file.

Section 107.301(f) would be repealed, thereby eliminating the requirement that Licensees furnish Portfolio Concerns with a closing statement and retain a copy for SBA examination.

Section 107.303 would permit the acquisition of options in a Small Concern.

Under proposed § 107.501, guaranties may be issued to any creditor of a Small Concern, instead of only to banks and other lending institutions, as now. This broadened authority would be subject to certain conditions, which include a limitation of such guaranties to one hundred percent of Private Capital and a ten percent funded reserve. With the broadening of the SBICs' guaranty authority to encompass all lenders, the definition of "institutional lender" in § 107.3 would be deleted.

Proposed § 107.504 would govern all investments for less than five years, except for investments in Disadvantaged Concerns pursuant to § 107.301(a) which will continue to be permitted for a minimum period of thirty months, not to exceed half of the Portfolio. Such short-term Financing would be permitted up to twenty percent of Private Capital (instead of "total adjusted assets") as a reasonable part of overall Financing, to protect an existing investment or to finance an ownership change, and the same percentage limitation would also include purchases from a seller other than the issuer, including the underwriter of a primary public offering.

Section 107.601 Management Service provides for operating services to be performed by SBICs.

Section 107.703, which requires any pledge of ten percent or more of a Licensee's capital stock to be reported to SBA within five days, would be amended to extend the filing period to thirty days.

Section 107.809, dealing with the Investment Adviser of a Licensee, would be amended to permit Investment Advisers to perform certain management functions of an SBIC. The definition of Investment Adviser, contained in § 107.3, would also be expanded so that a Licensee may employ technical experts, either on a regular or occasional basis, to render advice or assistance on technical problems not necessarily related to the management of portfolio securities, such as feasibility, marketing, and other technical studies.

Revised § 107.812 would liberalize SBIC authority to finance changes of ownership of Small Concerns. At present, Licensees are allowed to furnish Financing for that purpose only where necessary to the growth or preservation of a Small Concern, or when it would facilitate business ownership by Disadvantaged Persons. New § 107.812 would follow the pattern of § 120.2(c)(2) governing direct SBA loans to facilitate changes of ownership, broaden the Licensee's latitude so that it may henceforth finance ownership changes that inure generally to the benefit of the Small Concern, assist in the creation of a Small Concern through corporate divestiture, or facilitate business ownership by Disadvantaged Persons. Section 107.504(b)(1) makes clear that short-term Financing for ownership change is also permitted within stated limits.

Section 107.901 has been amended to include an interpretation that options and warrants not as yet exercised will not be exclusively considered in determining presumption of Control.

Section 107.1001(a) would prohibit reinvestment financing only where the primary business activity of the Small Concern involves reinvestment. At present such Financing—except for Venture Capital Financing of certain Disadvantaged Concerns—is barred where any part of the Small Concern's activities involves reinvestment.

Section 107.1001(c) would be amended to consolidate present § 107.1001 (c) and (h), and would prohibit Financing of real estate concerns classified under SIC Manual Major Group 65 (with three exceptions—the fourth, for operative builders, is no longer needed as the current issue of the SIC Manual has reclassified that industry under Major Group 15), but would permit, as exceptional transactions, real estate acquisitions to be held without prompt and substantial improvement where an unforeseen adverse change makes such improvement impractical. The burden would be on the SBIC to demonstrate such adverse change.

Section 107.1001(e) would be amended to permit foreign investment to facilitate domestic, or foreign branch, operations.

Section 107.1001(h) would replace present § 107.1001(i) and conform to to § 120.2(d)(10), governing SBA's own financing of Agricultural enterprises.

Section 107.1004(c) would eliminate the prior approval requirement for joint Financing between a Licensee and its Associates. Instead, the SBIC would have to demonstrate that the terms of its investment are at least as favorable as those of the Associate's. Absent such equivalence, joint Financing would remain barred under § 107.1004(a) which prohibits self dealing in general.

The so-called "watch dog provision" of § 107.1004(f), permitting a Licensee to appoint a director or other representative to serve on the management of a Portfolio Concern in order to protect its investment, would be amended to change the introductory words "Nothing herein contained", to read, "Nothing contained in these regulations". A "watch dog" representative may be selected to protect an existing investment, notwithstanding the provisions of § 107.1004 (Conflicts of Interest) or other provisions of the SBIC regulations.

Existing § 107.1102(f), which requires Licensees to file Program Evaluation Reports, based on data obtained from Portfolio Concerns, is to be repealed.

Proposed § 107.1102(f) [Litigation Reports, formerly § 107.1102(g)] would exempt ordinary collection actions from the present reporting requirement of all litigation by or against Licensees.

Section 107.1102(g) [formerly § 107.1102(i)], as amended, would provide that Licensees may be required by SBA in writing to file, in addition to annual Financial Reports, other special reports. For example, a written directive may be issued in the form of a Policy and Procedural Release calling upon Licensees to endeavor to submit to SBA, data similar to those formerly included in the Program Evaluation Reports.

Section 107.1103, as amended, would (1) delete the provisions with respect to imprest checking accounts and (2) authorize one bonded officer to sign checks up to $1,000 each.

Section 107.1104, as amended, would simplify existing fidelity insurance requirements so that surety bond coverage in an amount of $25,000 would suffice.

Section 107.1105(a), amended, would (1) reduce the number of postlicensing reports (change of corporate name, address, telephone number, officers and directors, or a capital increase. Capital decreases require prior SBA approval under § 107.902) and (2) permit such report to be made within ninety days after the close of the fiscal year, instead of thirty days after the event, as now.

(3) *Other changes.*—Extensive textual changes have been made to clarify and simplify the regulations, and cross-references between related sections have been added.

The term "MESBICs" (Minority Enterprise Small Business Investment Companies) will no longer be used, and "section 301(d) Licensee" will be substituted to denote special-purpose Licensees with an investment policy limited to the Assistance of Disadvantaged Concerns. References to MESBICs throughout the SBIC Regulations would be changed to "section 301(d) Licensees." Sections of particular interest to section 301(d) Licensees include §§ 107.3, the definition of "Associate" paragraph (h); the definition of section 301(d) Licensee; 107.101(c) relating to diversification and real estate in subparagraphs (2) and (3); 107.101(d)(2) relating to nonprivate funds; 107.201(a)(2) relating to applications for Leverage; 107.202(a) relating to third-dollar Leverage; 107.203(c) relating to default on a debenture; 107.203(d) relating to capital impairment; 107.205 relating to leverage for section 301(d) Licensees; 107.301(d) relating to the investment limit, the proviso to 107.805(a) relating to consideration for section 301(d) stock; 107.813 relating to section 301(d) Licensee ownership by other SBICs; 107.1001(g) relating to an associated supplier; and 107.1101(a) relating to examination fees.

The term "Financing" has been defined to include guaranties and commitments pursuant to §§ 107.501 and 107.503, and thus subjects such deferred Financings to the same general rules as apply to immediate Financings, except for the rules governing options (§ 107.303).

With the expiration of the transitional period prescribed by the 1967 Amendments during which old section 302 debentures were treated as part of paid-in capital and paid-in surplus, paragraph (c)(2) of § 107.301 can be deleted as moot.

Section 107.1005, which prohibits the sale of Portfolio securities to Associate of a Licensee or competitors of the Small Concern, unless an SBA exemption is granted, would be extended to the disposal of other SBIC assets (including assets in liquidation), better to achieve the purpose of the present regulations.

Section 107.1102 would be amended to provide that SBIC books of account and other records are to be maintained in accordance with the guidelines set forth in SBA's System of Account Classifications. The System of Account Classifications has heretofore been published as Part 111 of SBA's Regulations, but henceforth would be separately printed and distributed by SBA to all Licensees. This would make it possible for textual changes to be made and distributed more expeditiously to all Licensees, without formal rule making procedures. Section 107.1102(b)(4), which authorizes the microfilming of SBIC records is being revised along the lines of Regulation 270.31a–2(f) recently adopted by the Securities and Exchange Commission (38 FR 7796, March 26, 1973), to permit microfilming without retention of the original hard cover record. Also, minor amendments are being made to paragraphs (d) and (e) of § 107.1102 to provide for annual financial reports to be filed on SBA Form 468, in accordance with the guidelines in SBA's Audit Guide for Small Business Investment Companies, and Instructions for Preparation of the Financial Report, SBA Form 468. The Audit Guide (heretofore called "Audit and Examination Guide") and the Instructions were published as Appendixes 1 and 2 of Part 107, Revision 4. They will henceforth be separately printed and distributed by SBA to all Licensees.

The savings clause in § 107.1302 would be restated, to provide that the legality of transactions executed in accordance with existing provisions shall be governed thereby, and shall not be adversely affected by subsequent regulatory changes or amendments.

*Interpretations.*—The interpretations set forth in §§ 107.1401 to 107.1411 are not being carried over into Revision 5. SBA will discontinue publishing interpretations as part of the SBIC Regulations but will henceforth publish from time to time interpretations and policy statements of general interest as notices in the FEDERAL REGISTER.

Dated August 29, 1973.

THOMAS S. KLEPPE,
*Administrator.*

---

### PART 107—SMALL BUSINESS INVESTMENT COMPANIES

REGULATIONS


Sec.
107.1 Scope of Part 107.
107.2 Information, forms, and instructions.

DEFINITIONS

107.3 Defintion of terms.

OPERATIONAL REQUIREMENTS

107.101 Operation requirements.








V 38 171
SEP 5 73
XUM

LICENSE

Sec.
107.102 License application.
107.103 Public notice.
107.104 Transferability of license.
107.105 Surrender of license.

BORROWING BY LICENSEE

107.201 Funds to Licensee.
107.202 Leverage in excess of two hundred percent.
107.203 SBA purchase, sale or guaranty of securities evidencing Leverage; events of default.
107.204 Collection or compromise of SBA claims.
107.205 Leverage for section 301(d) Licensee.

FINANCING OF SMALL CONCERNS (EQUITY CAPITAL FINANCING, LONG-TERM LOANS), GUARANTIES, AND COMMITMENTS)

107.301 General.

EQUITY CAPITAL

107.302 Equity capital.
107.303 Stock options and conversion rights.
107.304 Refinancing; first refusal on new indebtedness.

LONG-TERM LOANS

107.401 Provisions applicable to long-term loans.

GUARANTIES AND COMMITMENTS

107.501 SBIC guaranty of loans.
107.502 [Reserved]
107.503 Commitments.
107.504 Other permissible Financing.

MANAGEMENT SERVICES

107.601 Management services.

CONTROL OF LICENSEE

107.701 Changes in ownership or control of Licensee.
107.702 Common control.
107.703 Pledge of Licensee's shares.

LAWFUL OPERATIONS

107.801 Amendments to Act and regulations.
107.802 Other laws.
107.803 Operations under Act.
107.804 [Reserved]
107.805 Consideration for issuance of Licensee's securities.
107.806 Retention of investments.
107.807 Purchases of securities from another Licensee.
107.808 Idle funds.
107.809 Investment Adviser/Manager.
107.810 Assets in liquidation.
107.811 Additional investment by bank.
107.812 Financing changes of ownership.
107.813 Section 301(d) Licensee wholly or partly owned by Licensee companies.

RESTRICTED ACTIVITIES

107.901 Control of small concern.
107.902 Voluntary capital decrease.
107.903 Mergers, consolidations, and reorganizations.

PROHIBITIONS

107.1001 Prohibited uses of funds.
107.1002 [Reserved]
107.1003 Inactive Licensees.
107.1004 Conflicts of interest.
107.1005 Disposition of assets to Licensee's Associates or to competitors of portfolio concern.
107.1006 [Reserved]
107.1007 No Government sponsorship.
107.1008 Violations based on false filings and nonperformance of agreements with SBA.

EXAMINATIONS, ACCOUNTS, RECORDS AND REPORTS

107.1101 Examination fees.
107.1102 Records and reports.
107.1103 Internal control.
107.1104 Fidelity insurance.
107.1105 Reporting changes not subject to SBA approval.

COMPLIANCE

107.1201 [Reserved]
107.1202 [Reserved]
107.1203 Exemption from civil penalty.

EXEMPTIONS

107.1301 Exemptions.
107.1302 Savings clause.


### § 107.1 Scope of Part 107.

The regulations in this part implement the Small Business Investment Act of 1958, as amended. All Licensees, including section 301(d) Licensees, must comply with all applicable regulations. SBA's Audit Guide for Small Business Investment Companies, and System of Account Classifications, set forth guidelines to be followed by all Licensees.[1]

### § 107.2 Information, forms, and instructions.

All references in this Part to SBA forms, and instructions for their preparation, are to the current issue of such forms. The forms have been filed with the Office of the Federal Register with the original document. Copies may be obtained from SBA.

DEFINITIONS

### § 107.3 Definition of terms.[2]

*Act.*—"Act" means the Small Business Investment Act of 1958, as amended.

*Assistance.*—"Assistance" or "Assisted" means financing of or management services rendered to a Small Concern by a Licensee pursuant to the Act and these regulations.

*Associate of a Licensee.*—"Associate of a Licensee" means:

(a) An officer, director, manager, agent, or Investment Advisor of such Licensee, or any person regularly serving such Licensee in the capacity of attorney at law; or

(b) Any person owning or controlling, directly or indirectly, ten or more percent of any class of stock of such Licensee; or

(c) Any officer, director, partner, manager, agent, employer, or employee of any person described in paragraphs (a) and (b) of this section; or

(d) Any person which directly or indirectly controls or is controlled by, or is under common control with, a Licensee or any person described in paragraphs (a) and (b) of this section; or

(e) Any close relative of any person described in paragraphs (a) and (b) of this section; or

(f) Any person in which (1) any person described in paragraphs (a) through (e) of this section is an officer or director or (2) any such person (or group of two or more such persons acting in concert) owns or Controls, directly or indirectly, a ten or more percent equity interest (exclusive of any interest attributable solely to ownership of equity interest in the Licensee).

(g) For the purposes of this definition, any person in any of the relationships described in paragraphs (a) through (f) of this section within six months before or after the date on which the Licensee provided Assistance, shall be deemed to have been in such relationship as of the date of the Licensee's Assistance.

(h) A section 301(d) Licensee and a participant Licensee owning stock thereof pursuant to § 107.813, as well as Associates of such section 301(d) Licensee and such participant Licensee, shall be deemed Associates of each other.

*Close relative.*—"Close relative" means ancestor, lineal descendant, brother or sister and lineal descendants of either, spouse, father-in-law, mother-in-law, son-in-law, brother-in-law, daughter-in-law, or sister-in-law.

*Control.*—"Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Licensee or a Small Concern whether through the ownership of voting securities, by contract, or otherwise.

*Debtor Licensee.*—"Debtor Licensee" means a Licensee which has leverage from SBA.

*Disadvantaged concern.*—"Disadvantaged Concern" means a Small Concern owned by a person or persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

*Financing.*—"Financing" or "Financed" means outstanding financial assistance provided to a Small Concern by a Licensee, whether through loans, guaranties, equity investments or commitments.

*Investment Adviser/Manager.*—"Investment Adviser/Manager" of a Licensee means, non-licensee person who pursuant to written contract executed in accordance with the provisions of § 107.809, on a continuing basis furnishes advice and/or assistance with respect to the portfolio operations of a Licensee.

*Leverage.*—"Leverage" means financial assistance provided to a Licensee by SBA, either through the purchase or guaranty of debentures, or through the purchase of preferred securities (see §§ 107.201 to 107.205).

*1940 Act Company.*—"1940 Act Company" means a Licensee which is registered under the Investment Company Act of 1940.

*Person.*—"Person" means a natural person or legal entity.

*Portfolio.*—"Portfolio" means the securities representing a Licensee's total outstanding Financings of Small Concerns. It does not include idle funds or assets in liquidation.

*Portfolio concern.*—"Portfolio concern" means a Small Concern Assisted by a Licensee.

*Private capital.*—"Private Capital" means the combined private paid-in capital and paid-in surplus of a Licensee, and does not include preferred capital provided by SBA, or borrowed funds.

*Real estate investment.*—"Real Estate Investment" means a Licensee's financing of a Small Concern which is classified as a real estate concern under Industry numbers 6531, 6541 and 6552 of the SIC Manual. For restrictions governing Real Estate Investments, see §§ 107.101(c) and 107.1001(c).

*SBA.*—"SBA" means the Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

*Section 301(d) Licensee.*—"Section 301(d) Licensee" means a Licensee organized under a State business or nonprofit corporation statute, and licensed pursuant to section 301(d) of the Act, the investment policy of which is limited to making investments solely in Small Concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

*"Short-term financing."*—"Short-term financing" means Financing for a term of less than five years in accordance with the regulations.

*SIC Manual.*—"SIC Manual" means the latest issue of the Standard Industrial Classification Manual, prepared by the Office of Management and Budget, and available from the U.S. Government Printing Office.[3]

*Small concern.*—"Small Concern" means a small-business concern as defined in section 103(5) of the Act (including affiliates as defined in § 121.3-2 of this chapter), which for purposes of size eligibility, meets the applicable criteria set forth in § 121.3-11 of Part 121 of this chapter.

OPERATIONAL REQUIREMENTS

### § 107.101 Operational requirements.

All Licensees shall comply with the following requirements:

(a) *Management.*—Each Licensee shall have and maintain (including through contractual arrangements) qualified management in charge of its operations who will be available at its office to the public. A manager of a Licensee shall be deemed an officer.

(b) *Office.*—The Licensee shall maintain a reasonably accessible office, which will display the license and the name of the Licensee and be open to the public during regular business hours.

(c) *Diversified investment policy—real estate.*—Unless specifically authorized in writing by SBA:

(1) *General rules*—No Licensee shall maintain more than one-third of its portfolio, as of the close of any full fiscal year, in permitted Real Estate Investments. For further provisions governing Real Estate Investments, see § 107.1001(c).

(2) *Licensees other than real estate specialist.*—Where a Licensee does not operate as an approved real estate specialist subject to paragraph (c)(3) of this section, its investments in Small Concerns classified under Major Groups 15, 65 and/or 70 of the SIC Manual shall not exceed one-third of its Portfolio in any one such Major Group nor two-thirds for any combination of such Major Groups, as of the close of any full fiscal year: *Provided, however,* That subject to paragraph (c)(1) of this Section, the foregoing shall not apply to a section 301(d) Licensee.

(3) *Real estate specialists.*—Where a Licensee maintains more than one-third of its Portfolio in Real Estate Investments pursuant to an investment policy approved by SBA, the total of its investments in Small Concerns classified under Major Group 15 (Building Construction—General Contractors) and Major Group 70 (Hotels, Rooming Houses, Camps and Other Lodging Places) of the SIC Manual shall not exceed twenty percent of its Portfolio as of the close of any full fiscal year: *Provided, however,* That this limitation shall not apply to a section 301(d) Licensee.

(4) *Prepayments.*—Prepayments of outstanding Financing or similar events occurring beyond the control of the Licensee, within the fiscal year, shall be disregarded in determining whether the Licensee meets the foregoing requirements as of the close of its fiscal year.

(d) *Minimum capital.*—(1) *General.*—Every Licensee shall have:

(i) Private Capital of at least $150,000; and

(ii) Taking additional resources into account, adequate to assure a reasonable prospect that it will be operated soundly and profitably, and managed actively and prudently in accordance with the Act and regulations.

(2) *Nonprivate funds for section 301(d) Licensees.*—(i) A section 301(d) Licensee may include nonprivate funds (e.g. funds granted under Title VII of the Economic Opportunity Act of 1964, as amended) in its Private Capital for purposes of sections 302(a), 303(c) and 306 of the Act: *Provided, however,* That the minimum capital of $150,000 specified by section 302(a)(1) of the Act may not include nonprivate funds, and that for leverage purposes nonprivate funds will be included in Private Capital only to the extent that private funds totaling at least ten percent of the nonprivate funds are also included. The limitation of the foregoing proviso shall not apply to nonprivate funds received by or irrevocably committed to a section 301(d) Licensee before July 5, 1973.

(ii) For purposes of this paragraph (d)(2), "nonprivate funds" shall mean funds obtained, directly or indirectly, from another agency or department of the Federal Government or from any State, or subdivision thereof, except as limited by P.L. 92-512 (commonly known as the General Revenue Sharing Act) and regulations of the Treasury Department, 31 CFR Part 51, 38 FR 9132 (1973). As used herein, "State" shall mean the several states, the territories and possessions of the United States, the Commonwealth of Puerto Rico and the District of Columbia.

(e) *Borrowed funds.*—Shareholders owning ten or more percent of any class of Licensee's stock may not use borrowed funds in purchasing said stock, unless the net worth of such shareholders is at least twice the amount borrowed.

LICENSE

### § 107.102 License application.

The license application shall be submitted on SBA Form 415 in accordance with accompanying instructions. A licensee fee of $500 shall be paid to SBA.

### § 107.103 Public notice.

SBA shall publish notice of the license application in the FEDERAL REGISTER. It shall include such appropriate information as the name and location of the proposed Licensee, its areas of operation, the names and addresses of its officers, directors, and owners of ten or more percent of its voting stock; and shall provide an opportunity for the submission of written comments. The proposed Licensee shall publish a similar notice in a newspaper of general circulation in the city or proposed areas of operation, and a certified copy shall be furnished to SBA within ten days.

### § 107.104 Transferability of license.

A license shall not be transferred in any manner without SBA's prior written approval.

### § 107.105 Surrender of license.

A Licensee shall not surrender its license without SBA's prior written approval. Request for approval shall be accompanied by an offer of immediate payment of all moneys owing to SBA, or by a plan satisfactory to SBA for the orderly liquidation thereof. Upon receipt of Licensee's request, SBA may remove Licensee's name from published lists of Licensees, and conduct an examination of its affairs.

BORROWING BY LICENSEE

### § 107.201 Funds to licensee.

(a) *Application procedure.*—(1) *Licensees other than section 301(d) licensees.*—A Licensee (other than a section 301(d) Licensee) may apply for Leverage pursuant to Section 303(b) of the Act on SBA Form 416 (for purchase) or SBA Form 1022 (for guaranty), in accordance with accompanying instructions.

(2) *Section 301(d) Licensees.*—A section 301(d) Licensee may apply for Leverage pursuant to section 303(c) of the Act[4] on SBA Form 1022A (for purchase

[1] SBA's Audit Guide, System of Account Classification, and Instructions for Preparation of the Financial Report, SBA Form 468, are separately printed, and distributed by SBA to all Licensees. Copies may be obtained from SBA.

[2] Defined terms are capitalized hereafter.

[3] As of the effective date of this Revision 5, the latest issue of the SBIC Manual was 1972.

[4] Section 303(c) of the Act authorizes SBA to purchase nonvoting preferred securities, and to purchase or guarantee debentures issued by section 301(d) Licensees, which may be subordinated in accordance with section 303(b) of the Act.







V 38-171 SEP 5 73 XUM

of preferred securities and debentures), on SBA Form 1022B (for exchange of debentures for preferred securities), or on SBA Form 1022 (for guaranty of debentures) in accordance with accompanying instructions. Before providing Leverage in excess of one hundred percent of Private Capital, SBA may require the section 301(d) Licensee to demonstrate the need therefore to SBA's satisfaction.

(b) *SBA Guaranty.*—(1) SBA may in its discretion agree to guarantee a Licensee's debentures unconditionally, irrespective of the validity, regularity or enforceability of such debentures or any other circumstances which might constitute a legal or equitable discharge or defense of a guarantor and, pursuant to its guaranty, to make timely payments of principal and interest, irrespective of any default by the issuing Licensee or acceleration of the maturity thereof by SBA.

(2) Persons interested in providing funds to Licensees under such guaranty may notify SBA by letter, certifying whether such lender has direct or indirect beneficial interest of ten or more percent of the actual or potential voting rights in any Licensee, or in any person directly or indirectly controlling, controlled by or under common control with, any Licensee. Such certification will not be required from lenders whose borrowers will be selected or approved by SBA or its agents. SBA will endeavor to match such offers with applications pursuant to paragraph (a) of this section but cannot assure that such offers will be accepted. SBA in its discretion may also arrange for public or private financings under its guaranty authority.

(3) No SBA guaranty shall be extended to a lender:

(i) Having a direct or indirect beneficial interest of ten or more percent of the actual or potential voting rights in the Licensee to be guaranteed, or in any person directly or indirectly controlling, controlled by, or under common control with, such Licensee; or

(ii) Having such interest involving another Licensee which has received or is about to receive pursuant to any understanding, agreement cross-dealing, reciprocal or circular arrangement any direct or indirect financing (or a commitment for financing) from another lender with SBA's guaranty. SBA may void any guaranty obtained in violation of this paragraph (b)(3), but the foregoing shall not apply to lenders whose borrowers are selected or approved by SBA or its agents.

### § 107.202 Leverage in excess of two hundred percent.

(a) In order to qualify for Leverage exceeding two hundred percent of Private Capital, at least sixty-five percent of the Licensee's total funds available for investment must be invested (or committed) in venture capital Financing of Small Concerns: *Provided, however,* That section 301(d) Licensees shall have thirty percent so invested.

(b) "Venture Capital Financing" shall mean:

(1) Common and preferred stock and equity securities as defined in § 107.302 (b) with no repurchase requirement for five years, except as may be specifically approved by SBA under § 107.901 for purposes of relinquishing Control over a Small Concern.

(2) Any right to purchase such stock or equity securities.

(3) Debentures on loans (whether or not convertible or having stock purchase rights) which are subordinated (together with security interests against the assets of the Small Concern) by their terms to all borrowings of the Small Concern, and having no part amortized during the first three years.

(c) The term "total funds available for investment" shall mean ninety percent of the sum of total short-term assets and total loans and investments of a Licensee to be set forth (in accordance with the Instructions for Preparation of the Financial Report, SBA Form 468) as Items 8 and 15, respectively, on page 1 of such Financial Report, submitted by such Licensee. Venture capital investments shall be valued on the same basis as Licensee's assets comprising its "total funds available for investment." Any financing carried as "Assets Acquired in Liquidation of Loans and Debt Securities" (Item 13) or "Amounts Due from Debtors on Sale of Assets Acquired in Liquidation of Loans and Debt Securities" (Item 14) which originally qualified as venture capital shall retain the venture capital qualification.

(d) The ratio prescribed by paragraph (a) of this section shall be maintained as of the end of each fiscal year: *Provided, however,* That, subject to SBA approval, a Licensee may temporarily maintain a lesser ratio. Approval may be granted in appropriate cases, such as prepayment of venture capital investments, raising of additional Private Capital, and Leverage recently provided.

### § 107.203 SBA purchase, sale, or guaranty of securities evidencing leverage; events of default.

(a) SBA may, upon such conditions and for such consideration as it deems reasonable, sell, assign, transfer, or otherwise dispose of any preferred security, debenture, or other security held in connection with Leverage. In such event and upon notice thereof by SBA, Licensee will make all payments of principal and of dividends or interest as shall be directed by SBA. Licensee shall hold SBA harmless from all damage or loss which SBA may sustain by reason of such disposal, limited, however, to the extent of Licensee's liability under such security, plus court costs and reasonable attorney's fees incurred by SBA.

(b) A Licensee issuing debentures pursuant to section 303(b) of the Act after the effective date of this regulation,* shall be deemed to have agreed to the following terms and conditions, as in effect at the time of such issuance and as if fully set forth in such debentures:

(1) Upon written notice by SBA, the entire indebtedness of the Licensee issued to, held or guaranteed by SBA may be declared immediately due and payable to SBA upon the happening of any one or more of the following events:

(i) Default in the payment of the principal or interest under any debenture, note or obligation of the Licensee, issued to, held or guaranteed by SBA;

(ii) Nonperformance or violation by the Licensee, as determined by SBA, or any one or more of the terms and conditions of any loan or obligation of the Licensee, issued to, held or guaranteed by SBA, or of any agreement with or conditions imposed by SBA;

(iii) Failure of the Licensee, as determined by SBA, to comply with any one or more of the provisions of the Act or regulations promulgated thereunder, as they may be amended from time to time;

(iv) Failure of the Licensee to notify SBA within twenty days from the date of an event of default or nonperformance by the Licensee under any debenture, note or indebtedness of the Licensee issued to or held by anyone other than SBA.

(2) The entire indebtedness of the Licensee issued to, held or guaranteed by SBA shall immediately become due and payable to SBA without notice, presentation or demand, whenever:

(i) Licensee is insolvent; or

(ii) Not having sufficient property to pay all of its debts, Licensee makes a voluntary assignment thereof; or

(iii) Licensee commits an act of bankruptcy as defined in 11 U.S.C. Section 21; or

(iv) A petition is filed in commencement of any bankruptcy or reorganization proceeding, receivership, dissolution or other similar creditors' rights proceeding, by or against the Licensee, whichever event shall first occur.

(3) Except with the prior written consent of SBA, Licensee will not:

(i) Repurchase or retire any of its capital stock; or

(ii) Make any distribution to its shareholders other than dividends out of retained earnings; or

(iii) Increase the salaries or other compensation of any officer, director, or employee beyond the amounts approved by SBA. In applying this provision, compensation to an officer, director or employee of a wholly owned corporation shall be deemed paid by Licensee.

(4) Except with the prior written consent of SBA, Licensee will not employ or tender any officer of employment to, or retain for professional services, for a period of two years after the date of the latest debenture issued by Licensee pursuant to section 303(b) of the Act, any person who on or within one year prior to said date:

(i) Shall have served as an officer, attorney, agent, or employee of SBA; and

(ii) As such, shall have occupied a position or engaged in activities which

* § 107.203(b) became effective as Amendment 9 to Revision 4 on May 2, 1972 (37 FR 8866).





SBA shall have determined involved discretion with respect to the granting of Assistance under the Act.

(5) Any failure on the part of SBA at any time require the performance by Licensee of any one or more of the terms or provisions of any debt instrument of Licensee issued to, held, or guaranteed by SBA shall in no way affect SBA's right thereafter to enforce the same, nor shall the waiver by SBA of any term or provision of any debt instrument of Licensee issued to, held, or guaranteed by SBA be taken or held to be a waiver of any succeeding breach of any such term or provision.

(6) If the Licensee fails to maintain either the capital requirement or the investment ratio requirement under section 303(b)(2) of the Act, and the regulations promulgated thereunder from time to time, then the aggregate amount of the outstanding indebtedness evidenced by any debt instruments issued to, held, or guaranteed by SBA which exceeds the maximum amount permitted under section 303(b)(1) shall, upon written notice by SBA, be immediately due and payable to SBA. In the event of such acceleration of payment, SBA in its sole discretion shall determine which debenture instrument or instruments, or parts thereof, shall be subject thereto.

(7) The debentures hereafter issued by a Licensee pursuant to section 303(b) of the Act, and SBA's claims relating thereto, shall be subordinate to all other debts of the Licensee, but shall have priority over all classes of stock of the Licensee upon any dissolution, winding-up, liquidation or reorganization of the Licensee, unless such debentures provide otherwise.

(c) Paragraph (b) of this section shall be applicable to section 301(d) Licensees obtaining Leverage pursuant to section 303(c) of the Act: *Provided, however,* That the capital and investment ratio requirements referred to in paragraph (b)(6) of this section shall be those prescribed by section 303(c) of the Act and § 107.202(a) thereunder.

(d) In addition to the events of default set forth in paragraph (b)(6), capital impairment occurring after [the effective date of Revision 5], shall also constitute an event of default if Licensee fails to give SBA prompt written notice as soon as it knows or should reasonably have known thereof, and if thereafter Licensee fails to cure the impairment within ninety days. In such event, SBA may, in its discretion, by written notice declare the entire indebtedness of the Licensee, issued to, held or guaranteed by SBA, immediately due and payable. Capital impairment shall be presumed when the retained earnings deficit of a section 301(d) Licensee exceeds one hundred percent, or that of any other Licensee exceeds fifty percent of Private Capital. Treasury stock shall not be considered as part of such Private Capital. The presumption of impairment may be rebutted by evidence satisfactory to SBA.

### § 107.204 Collection or compromise of SBA claims.

SBA may, upon such conditions and for such consideration as it deems reasonable, collect or compromise all claims relating to preferred securities or obligations held or guaranteed by SBA, and all legal or equitable rights accruing to it.

### § 107.205 Leverage for section 301(d) Licensees.

(a) *Charter requirements.*—SBA may, subject to the conditions prescribed in this paragraph, provide Leverage to a section 301(d) Licensee pursuant to application filed under § 107.201(a)(2). The following matters shall be appropriately provided for in the charter:

(1) *Investment policy.*—Statement of investment policy in conformity with section 301(d) of the Act. A section 301(d) Licensee licensed before July 5, 1973, shall comply with this requirement no later than ninety days from such date.

(2) *SBA's rights.*—(i) *Payment of dividends to SBA.*—Subject to the sound discretion of the board of directors, SBA shall be paid from retained earnings an annual three percent dividend on the par value of its preferred securities. Such dividends shall be payable before any amount shall be set aside or paid to any other class of stock, and shall be preferred and cumulative so that, in the event that SBA has received less than three percent in any fiscal year, such dividends shall be payable on a preferred basis from subsequent retained earnings without interest thereon. Before a declaration of dividends or any other kind of distribution (other than to SBA), SBA in its discretion may also require the preferred payment of the difference (irrespective of retained earnings) between dividends paid on its preferred securities, and cumulative dividends payable at a rate equal to the interest rate determined at the time of SBA's purchase of such preferred securities pursuant to section 303(b) of the Act for debentures with a term of fifteen years, without interest on such difference, such rate to be inscribed on the certificates offered to SBA.

(ii) *Redemption rights.*—A section 301(d) Licensee shall be entitled at its option to redeem in whole or in part preferred securities purchased by SBA on any dividend rate (after giving at least thirty days written notice), by paying SBA the par value of such securities, but not less than $50,000 par value in any one transaction, and giving SBA an undertaking to pay the additional amounts pursuant to paragraph (a)(2)(i) of this section.

(iii) *Redemption, liquidation, or distribution of assets.*—Before any redemption of stock not purchased by SBA, or liquidation in whole or in part, or any distribution of assets to other stockholders, SBA shall be paid any amounts due pursuant to paragraphs (a)(2)(i) and (iv) of this section, and the par value of its preferred stock: *Provided, however,* That such par value need not be paid SBA before the distribution of ordinary dividends from retained earnings.

(iv) *Interest subsidy before dividends.*—Debentures of a section 301(d) Licensee shall be entitled to a reduced interest rate according to section 317 of the Act. Such debentures shall specify the interest rates prescribed by sections 317 and 303(b) of the Act, together with the dates between which each applies. The interest rate as reduced by section 317 of the Act applies only to debentures purchased by SBA and not to debentures guaranteed under section 303(c) of the Act. A Licensee which has received the benefit of the rate computed pursuant to section 317 shall not pay dividends or make any distribution to stockholders other than SBA, unless it has first paid SBA the difference between the two rates for the relevant period, without interest on such difference. With respect to payment of interest, SBA shall have the same priority as applies to debentures purchased or guaranteed under section 303(b) of the Act.

(3) *Prior SBA approval required to amend charter.*—The charter shall not be amended without SBA's prior written approval.

(i) *SBA approval required to increase salaries.*—Without prior written SBA approval, a Debtor section 301(d) Licensee may not increase the salaries or other compensation of any officer, director, or employee beyond amounts previously approved by SBA.

(ii) *Exchange of outstanding debentures for preferred stock.*—A section 301(d) Licensee meeting the requirements of paragraph (iii) of this section may, in SBA's discretion, retire debentures outstanding pursuant to section 303(b) of the Act simultaneously with the issuance to SBA of preferred securities, in order to remain within the Leverage limits of section 303(c)(2)(iii) of the Act, but not otherwise.

(ii) *Preferred securities other than stock.*—A section 301(d) Licensee may issue to SBA preferred securities other than stock only if applicable law precludes the issuance of preferred stock.

(iv) *State law.*—SBA does not intend that provisions of this section not mandated by the Act shall supersede existing State law. Whenever a party claims that a conflict exists, it shall submit an opinion of independent counsel, citing authorities, for SBA's resolution of the issues involved.

FINANCING OF SMALL CONCERNS (EQUITY CAPITAL FINANCING: LONG-TERM LOANS: GUARANTIES: AND COMMITMENTS)

### § 107.301 General.

(a) *Minimum period of financing.*—Except as otherwise provided for in these regulations, Financings of Disadvantaged Concerns may be made for a minimum period of thirty months, the aggregate of such Financings for less than five years not to exceed fifty percent of the Licensee's Portfolio at the end of any fiscal year, determined without regard



V 38 171 SEP 5 73 XUM

to prepayments (or similar events beyond the Licensee's control) which occur during that fiscal year,[6] but all other Financings shall be for a minimum period of five years. Voluntary prepayment without penalty shall be permitted, unless SBA's prior written approval is obtained.

(b) *Maximum amortization.*—Amortization during the first five years (or during the first thirty months of an authorized Financing for at least thirty months) shall not be required at a rate exceeding an accumulated average based on the straight-line method of amortization.[7]

(c) *Maximum annual cost of money.*—Subject to lower rates prescribed by local law, the maximum annual cost for Financing shall not exceed fifteen percent of the average amount outstanding. Cost shall include all interest, discount and all fees, commissions and similar charges imposed, directly or indirectly, by the Licensee on the Small Concern; only charges for Advisory or Management Services pursuant to §§ 107.601 and 107.602 and charges pursuant to § 107.1004(c) shall not be included.

(d) *Overline limitation.* — Without written SBA approval, the aggregate amount of funds disbursed for securities acquired (exclusive of write-down), and of commitments and guarantees issued for a Small Concern (including affiliated concerns as defined in § 121.3-2(a) of this chapter) shall not exceed twenty percent of Licensee's Private Capital: *Provided, however,* That for section 301 (d) Licensees the limitation shall be thirty percent.

(e) *Size status and nondiscrimination.*—No assistance shall be provided unless:

(1) The Licensee and the Small Concern have executed SBA Form 480, Size Status Declaration, including Licensee's determination that applicable size standards have been met, or SBA has determined at the request of the Licensee or such concern that the latter is a Small Concern; and

(2) The Small Concern has certified on SBA Form 652-D that it will not illegally discriminate in its operations, employment practices or[8] facilities, as set forth in Part 113 of this chapter. Such forms shall be kept available for SBA's examination: *Provided, however,* That the foregoing shall not apply when the Licensee acquires the securities from an underwriter in a public offering pursuant to § 107.504(b)(3), in which event the Licensee shall keep the prospectus showing the small size status of the issuer, if available, as part of its records for SBA's examination.

EQUITY CAPITAL

**§ 107.302 Equity capital.**

(a) "Equity Capital" means funds supplied to a Small Concern as consideration for equity securities: *Provided, however,* That a Licensee shall not become a general partner in any partnership, or otherwise become jointly or severally liable for the general obligations of an unincorporated Portfolio Concern, except guaranties pursuant to § 107.501.

(b) "Equity Securities" means:

(1) Stock of any class, or any rights to purchase such stock in a Small Concern or its affiliate(s), as defined in § 121.3-2 of this chapter;

(2) Limited partnership interests, shares in a syndicate, business trust, joint stock company or association, mutual corporation, cooperative or other joint venture;

(3) Debt instruments which provide either or both of the following:

(i) A right to convert all or any portion of the debt into securities listed in paragraphs (b)(1) and (2) of this section, or

(ii) A right to acquire the securities listed in paragraphs (b)(1) and (2) of this section.

**§ 107.303 Stock options and conversion rights.**

The total cost of all shares of stock which may be acquired by a Licensee and a creditor guaranteed by it, through the exercise of options or conversion rights, may exceed the amount of funds supplied to the Small Concern, if agreed to by such concern. Subject thereto, a Licensee issuing a commitment pursuant to § 107.503, or guaranty pursuant to § 107.501, may also acquire options to purchase stock at cost agreed to by the Small Concern. Such options or conversion rights shall expire ten years from the date of such Financing, guaranty or commitment.

**§ 107.304 Refinancing: First refusal on new indebtedness.**

Whenever a Licensee provides Equity Capital to a Small Concern, it may require it to:

(a) Refinance its outstanding indebtedness so that the Licensee is the only holder of any evidence of indebtedness of such concern, and:

(b) Agree not to incur any new indebtedness without Licensee's approval and affording it an opportunity to finance such new indebtedness: *Provided, however,* That the Licensee shall allow appropriate exceptions for open account or other short-term credit.

LONG-TERM LOANS

**§ 107.401 Provisions applicable to long-term loans.**

See section 305 of the Act and § 107.301.

GUARANTY AND COMMITMENTS

**§ 107.501 SBIC guaranty of loans.**

Subject to § 107.301(a) (Minimum Period of Financing), a Licensee may guarantee to any non-associate creditor up to ninety percent of the monetary obligation of a Small Concern: *Provided, however,* That:

(a) No such guaranty shall be issued where Licensee would become subject to State regulation as an insurance, guaranty or surety business;

(b) No such guaranty may be issued except at the request of the Small Concern or where necessary to protect Licensee's existing investment;

(c) Any direct Financing plus the amount of the guaranties does not exceed the overline limits under § 107.301(d);

(d) The total financing cost to the Small Concern may not exceed the limits set by § 107.301(c);

(e) The total guaranties issued and outstanding for all Small Concerns shall not exceed one hundred percent of Private Capital; and

(f) Licensee shall maintain a funded reserve of ten percent against all such guaranties. For options in connection with guaranties, see § 107.303.

**§ 107.502 [Reserved]**

**§ 107.503 Commitments.**

(a) *General.*—A Licensee is authorized to enter into a commitment to furnish Financing to a Small Concern. A reasonable commitment fee may be charged.

(b) *Repayment period as to funds advances pursuant to Licensee's commitment.*—(1) Where a Licensee enters into a commitment to finance a Small Concern, disbursement to be made at the latter's request, it shall be lawful (not withstanding the maturity provisions of § 107.301(a)) to provide for repayment as follows:

(i) Funds advanced during the first two years of the commitment period shall become payable not less than five years after date of the commitment; and

(ii) Funds subsequently advanced shall become payable not less than three years from the respective disbursement dates.

(2) Amortization of each disbursement shall not be required at an annual average rate in excess of the principal amount thereof divided by the number of years of the respective repayment period.

(c) *Options.*—For options in connection with commitments, see § 107.303.

**§ 107.504 Other permissible financing.**

(a) *Authorization.*—A Licensee may furnish Financing pursuant to paragraph (b) of this section, within the overline limits of § 107.301(d), but the aggregate of all such Financing to any one or all Small Concerns shall not at any time exceed twenty percent of the Licensee's Private Capital.

(b) *Investments permitted.*—Notwithstanding §§ 107.301(a) and (b) and 107.302, a Licensee may make the following investments in Small Concerns:

(1) *Short-term financing.*—Financing with a term of less than five years when it constitutes a reasonably necessary part of the overall sound Financing of a Small Concern pursuant to the Act, the protection of investments, or financing ownership change pursuant to § 107.812. Paragraph (b)(1) of this section supplements the authority to make short-term investments in Disadvantaged Concerns under § 107.301(a).

(2) *Amortization rate of forty percent per annum.*—Financing with a minimum term of five years amortized at a rate not exceeding forty percent per annum of the declining principal balance outstanding, except for the final year of the term.

(3) *Securities purchased from nonissuer.*—Securities of a Small Concern purchased from a seller other than the issuer, when such acquisition constitutes a reasonably necessary part of the overall sound financing of such concern pursuant to the Act, and securities from or through an underwriter thereof within ninety days after a public offering is first lawfully made: *Provided, however,* That at least half the amount of such offering must be on behalf of the issuer. See also § 107.301(e) regarding size status and nondiscrimination certification.

MANAGEMENT SERVICES

**§ 107.601 Management services.**

(a) *General.*—Management services may be advisory or may include performance of any financial, management or operating, activity of the Small Concern. An agreement to perform operating services shall be approved annually by the principals of the Small Concern (including, if a corporation, a majority of the shareholders and the Board of Directors) and shall be subject to SBA's prior annual written approval. A Licensee shall maintain a record for examination by SBA of the time spent and charges made for such services, which shall not exceed comparable charges by established professional non-Licensee consultants.

(b) *Services through contractors.*—Management services may be performed through an associated or independent consultant under contract with the Licensee, whether or not such consultant has similar contracts with other Licensees. Such contracts must receive SBA's prior written approval before being consummated.

(c) *Management services subsidiary.*—A Licensee may organize a corporation solely to provide management services. All of its stock shall be owned and held by such Licensee, and the Licensee shall be responsible for compliance by its subsidiary with the Act and regulations. The remuneration paid to officers, directors and employees of the subsidiary of a Debtor Licensee, and any changes therein, shall be subject to SBA written approval. Reports submitted to SBA by the Licensee shall reflect consolidated figures for both corporations. The subsidiary shall maintain adequate records and make any separate reports required by SBA and it shall submit to SBA examination. Failure to do so shall be deemed non-compliance by the Licensee.

(d) *Associates.*—With prior SBA written approval, an Associate of a Licensee, or person under such Associate's control, their agent or employee may directly or indirectly perform management services for a Small Concern, with compensation, therefore, payable to or for the benefit of such person, whether or not such services are a condition of the Licensee's Financing such concern.

CONTROL OF LICENSEE

**§ 107.701 Changes in ownership or control of licensee.**

(a) *General.*—Transfer of Control over a Licensee by any means whatsoever shall be subject to prior written approval of SBA.

(b) *Prior approval requirements.*—Prior written approval of SBA shall be acquired in case of:

(1) A proposed transfer of ten or more percent of any class of Licensee's stock; or

(2) A proposed transfer which would result in the beneficial ownership by any Person, or group of Persons acting in concert, of ten or more percent of any class of its stock; or

(3) Any proposed transfer which results in a change in Control over a Licensee.

(c) *Acts prohibited.*—Without prior written approval of SBA, no such transaction shall be consummated and no officer, director, employee or other Person acting on the Licensee's behalf shall:

(1) Register on its books any transfer of shares to the proposed new owner (or owners); or

(2) Permit the proposed new owner (or owners) to exercise voting rights with respect to said shares or participate in any manner in the conduct of Licensee's affairs.

(d) *Terms used.*—(1) "Transfer," "stock transfer," or "transfer of shares" refers to the aggregate amount of shares which any Person or group of Persons acting in concert transfers or undertakes to transfer during any six month period.

(2) "Exercise of voting rights" with respect to shares of Licensee's capital stock shall include directly or indirectly procuring or voting any proxy, consent or authorization as to such voting rights at any shareholders' meeting.

(3) "Participation in the conduct of Licensee's affairs" shall include access to, custody of, or control over Licensee's corporate books, records, funds, or other assets; participation directly or indirectly in any disposition thereof; or serving as an officer, director, employee or agent of such Licensee.

(e) *Transferors' liability.*—SBA may in its discretion, as a condition of a Licensee's Leverage, require the controlling shareholder(s) to assume in writing personal liability for such Licensee's Leverage, effective only in the event of their direct or indirect participation in any violation of the requirements of this section, and terminable if SBA subsequently approves the transfer of Control and so notifies the transferor(s) in writing.

(f) *Application for approval.*—Written application for prior SBA approval shall be promptly made by the Licensee and by other parties in interest, accompanied by a processing fee of $100 for each officer, director, owner of ten or more percent of Licensee's stock, or other party involved in a proposed change of Control: *Provided, however,* That the processing fee shall not exceed $400 for any one transaction.

(g) *Public notice.*—SBA shall publish notice in the FEDERAL REGISTER concerning the application for approval of a proposed transfer of Control, including such appropriate information as the name and location of the Licensee and of the proposed transferees who will own ten or more percent of any class of its stock. The notice shall provide an opportunity to submit written comments. A similar notice shall also be published in a newspaper of general circulation in the city or locality where the Licensee is or will be located (or conduct operations), and a certified copy shall be furnished to SBA within ten days.

(h) *Standards governing SBA approval.*—(1) SBA may, as a condition of approving a proposed transfer of Control, require an increase in Licensee's Private Capital.

(2) SBA may condition its approval on the assumption in writing by the new owners of contractual liability pursuant to paragraph (e) of this section, and on such other requirements as SBA deems necessary.

(3) SBA approval shall be contingent upon full disclosure of the real parties in interest, the source of funds used, and data requested by SBA.

(i) *Reporting transactions involving possible transfer of control.*—The Licensee shall, upon obtaining knowledge thereof, promptly report to SBA the facts pertaining to any transaction or event which affords reasonable grounds for belief that a transfer of Control over such Licensee is likely to occur. If there is any doubt as to whether a particular transaction or event will result in a change of Control, such doubt shall be resolved in favor of reporting the facts to SBA.

**§ 107.702 Common control.**

Without prior written SBA approval, a Licensee shall not have an officer, director, manager, or stockholder owning or controlling directly or indirectly ten or more percent of its stock who at the same time is:

(a) An officer, director, manager or such stockholder of another Licensee; or

(b) An officer or director of any Person which directly or indirectly controls, or is controlled by, or is under common Control with, another Licensee: *Provided, however,* That officerships or directorships in, and management, ownership or Control of stock of, a section 301(d) Licensee shall be excepted from the foregoing provisions.

**§ 107.703 Pledge of Licensee's shares.**

Whenever ten or more percent of a Licensee's stock is pledged by any Person (or group of Persons acting in concert) as collateral for indebtedness, and such pledge does not involve any transfer for which prior approval is required under § 107.701, written notice of the terms of such transaction shall be furnished to SBA by the pledgor within thirty calendar days from the date of the pledge.

[6] For other short-term financing and amortization, see § 107.504(b)(1) and (2).

[7] Ibid.







V 38 I 171 SEP 5 73 XUM

LAWFUL OPERATIONS

**§ 107.801 Amendments to act and regulations.**

A Licensee shall be subject to all existing and future provisions of the Act and these regulations.

**§ 107.802 Other laws.**

Each Licensee shall comply with all applicable State or Federal laws.

**§ 107.803 Operations under Act.**

A Licensee shall engage only in the activities contemplated by the Act and in no other activities.

**§ 107.804 [Reserved]**

**§ 107.805 Consideration for issuance of licensee securities.**

(a) *General.*—A Licensee may issue its securities, including stock options to management and employees, for:

(1) Cash;

(2) Direct obligations of, or obligations guaranteed as to principal and interest by, the United States;

(3) Securities of which it is the issuer, in connection with a reclassification approved by SBA;

(4) Services previously rendered to the Licensee not to exceed the fair value thereof;

(5) Services to be rendered, on the terms and within the limits set forth in paragraph (b)(1) of this section;

(6) Physical assets to be currently employed in Licensee's operation at the fair market value thereof;

(7) As a dividend; and

(8) In connection with a merger, consolidation, or reorganization approved by SBA: *Provided, however,* That any stock issued as a part of Licensee's minimum capital pursuant to § 107.101(d) must be paid for in cash or securities permitted by the last sentence of section 308(b) of the Act: *And provided, further,* That a section 301(d) Licensee which has received Portfolio securities from a participant Licensee pursuant to § 107.813(d), may issue stock for such securities at their cost or fair market value, whichever is lower.

(b) *Stock options.*—(1) Authorized for 1940 Act companies; terms and conditions. A Licensee which is registered as an investment company under the Investment Company Act of 1940 may issue stock options, provided each such option is a "qualified stock option" as defined in section 422 of the Internal Revenue Code and is granted pursuant to a plan which provides that:

(i) The option by its terms shall provide that it is exercisable by the individual to whom it is granted only if, at all times during the period beginning with the date of the granting of the option and ending three months before the date of such exercise, such individual was an employee or officer of either the Licensee which granted such option or a wholly owned subsidiary thereof, or a successor Licensee or a wholly owned subsidiary thereof;

(ii) The aggregate number of shares of any class of stock which may be issued under options pursuant to the terms of the plan shall not exceed seven and one-half percent of the total number of outstanding shares of such class (less shares reacquired and held in the treasury) at the time the plan is adopted;

(iii) The individuals who are officers or employees of the Licensee or of a wholly owned subsidiary thereof at the time the plan is adopted may not receive options to acquire more than an aggregate of sixty-six and two-thirds percent of the total number of shares of each class of stock which may be issued under options pursuant to the terms of the plan; and

(iv) No individual may receive an option or options to purchase more than thirty-five percent of the aggregate number of shares of each class which may be issued under options pursuant to the terms of the plan.

(2) *Stock options not deemed compensation.*—Stock options issued by any Licensee including a 1940 Act company, which comply with the requirements of foregoing paragraph (b)(1) of this section shall be deemed not to constitute "compensation" for purposes of any requirement of prior written consent of SBA with respect to increases of salaries or other compensation behind the amounts approved by SBA.

(3) Licensees other than 1940 Act companies remain authorized to issue stock options which do not meet the requirements of paragraph (b)(1) of this section.

**§ 107.806 Retention of investments.**

A Licensee may retain its investment in a concern which qualified as small at the time of initial Financing, but which subsequently became large. Securities received in connection with a Portfolio Concern's merger, consolidation, or affiliation with a large business may be retained until Licensee has recovered its original investment plus a reasonable return thereon, and thereafter, so long as continued ownership does not interfere with the Financing of Small Concerns. Additional Financing may be provided only to the extent necessary to honor a commitment made while the concern was small or to protect Licensee's original investment.

**§ 107.807 Purchases of securities from another licensee.**

A Licensee may exchange with or purchase for cash from another Licensee Portfolio securities (or any interest therein):

(a) Without recourse against the seller (except for liability resulting from false representations as to matters of fact); and

(b) In the case of evidences of indebtedness, with recourse against the seller not to exceed ninety percent of the debt outstanding at the time of default by the obligor: *Provided, however,* that:

(1) Licensee shall not have at any time more than one-third of its total assets invested in such securities; and

(2) The amount for which the selling Licensee may be contingently liable shall be included in its twenty percent overline limit under § 107.301(d).

**§ 107.808 Idle funds.**

Funds of a Licensee not invested in Small Concerns or in accordance with the last sentence of section 308(b) of the Act shall be deposited without delay, or may be invested in Time Certificates of Deposit maturing within one year, issued by any bank which is a member of the Federal Deposit Insurance Corporation: *Provided, however,* That a Licensee may maintain a petty cash fund up to $500.

**§ 107.809 Investment adviser/manager.**

(a) *General.*—A Licensee may employ an Investment Manager or Adviser, as defined in § 107.3, and shall furnish SBA with a copy of the contract before its effective date. Services performed may include the actual performance of certain of Licensee's management or operating activities. However, the responsibility for the Licensee's actions shall vest with its Board of Directors. Compensation paid by a Debtor Licensee is subject to prior written SBA approval.

(b) Two or more Licensees may, with prior SBA approval, employ the same Investment Adviser or Manager.

**§ 107.810 Assets in liquidation.**

A Licensee shall dispose of property acquired in total or partial liquidation of a Portfolio asset, within a reasonable period of time. It may incur reasonably necessary expenditures for maintenance and preservation: *Provided, however,* That except as specifically approved in writing by SBA, such expenditures plus Licensee's total investment attributable to such asset shall not exceed its overline limit under § 107.301(d). Application for SBA approval shall specify all expenses estimated to be necessary pending disposal of the property.

**§ 107.811 Additional investment by bank.**

A federally regulated bank which on January 9, 1968, held fifty percent or more of any class of equity securities of a Licensee, having actual or potential voting rights, may make further investments in such Licensee only if they would not increase its percentage holding of such securities. Capital increases shall be subject to SBA postapproval under § 107.1105.

**§ 107.812 Financing changes of ownership.**

A Licensee may finance a change of ownership in a Small Concern when it will promote the sound development or preserve the existence of a Small Concern; or will assist in the creation of a Small Concern as a result of a corporate divestiture; or will facilitate ownership in a Disadvantaged Concern. For restrictions governing purchases from nonissuer, see § 107.504(b)(3).

**§ 107.813 Section 301(d) licensee wholly or partly owned by licensee companies.**

(a) *General.*—A section 301(d) Licensee may be licensed to operate as the subsidiary of one or more Licensee companies ("participant Licensee"), with or without non-Licensee participation, subject to the following conditions:

(1) *Application.*—In reviewing a license application, SBA will consider the effect on the participant Licensees of their capital contribution to the proposed section 301(d) Licensee.

(2) *Participant licensees.*—Each participant Licensee shall own at least twenty percent of the voting securities of the proposed section 301(d) Licensee, and such ownership shall constitute a presumption of active participation. Licensees proposing to own less than twenty percent of such voting securities may demonstrate to SBA's satisfaction that they will be active participants.

(3) *Capital contribution.*—The capital contribution of a participant Licensee which is no part of the statutory minimum capital of $150,000 of the section 301(d) Licensee, may be represented by securities of Small Concerns eligible for investment by a section 301(d) Licensee, at cost or fair market value, whichever is lower. Assumption by the proposed section 301(d) Licensee of any part of such participant Licensee's indebtedness held or guaranteed by SBA will not be permitted. A capital contribution shall, for purposes of the participant Licensee's Leverage, be treated as a reduction of its capital, and shall not result in excess Leverage for such participant Licensee.





(d) *Plan to relinquish control.*—A Licensee may assume Control pursuant to paragraph (c) of this section only if it has entered into a written plan, enforceable by the Small Concern or its shareholders, providing for relinquishment of Control within a reasonable period not exceeding seven years. Such plan shall expressly state that it is subject to SBA approval, that the parties consider the plan fair, and shall be filed with SBA within thirty days after Control is acquired, subject to SBA's post approval as a condition for the continuance of the license and shall be deemed approved unless Licensee is otherwise notified within ninety days after its receipt by SBA. Where an approved plan later becomes inadequate, a revised plan shall be submitted for SBA's approval. SBA approval shall be contingent upon disclosure of all relevant facts and be subject to such conditions as SBA may prescribe.

(e) *Annual reporting.*—The Licensee shall furnish to SBA with its Financial Report, SBA Form 468, a statement (in triplicate) setting forth current prospects for the implementation of the divestiture plan, and additional factors, if any, affecting the status of Control.

(f) *Enforcement actions.*—A divestiture plan shall not interfere with Licensee's enforcement of its legal rights against a Portfolio Concern. If the Licensee retains or acquires Control through enforcement action, it shall immediately notify SBA and submit within thirty days a divestiture plan for SBA approval. Subject to § 107.1005, such plan may be negotiated with parties other than the Small Concern or its shareholders.

(g) *Additional financing.*—A Licensee which has assumed Control of a Small Concern may later provide additional Financing, without an exception under § 107.1004(b)(1), but shall within thirty days resubmit its divestiture plan with appropriate amendments for SBA's approval.

**§ 107.902 Voluntary capital decrease.**

Without prior written SBA approval, a Licensee shall neither voluntarily reduce its Private Capital, nor purchase and hold more than two percent of any class of its stock.

**§ 107.903 Mergers, consolidations, and reorganizations.**

Subject to the prior written SBA approval, a Licensee may participate in a merger, consolidation or reorganization where the resultant company will qualify as a Licensee.

PROHIBITIONS

**§ 107.1001 Prohibited uses of funds.**

No funds may be provided to a Small Concern:

(a) *Relending, reinvesting, etc.*—For relending or reinvesting or if its primary business activity involves, directly or indirectly, providing funds to others, the purchase of debt obligations, factoring, or long-term leasing of equipment with no provision for maintenance or repair: *Provided, however,* That, except for commercial banks, savings banks, agricultural credit companies, and savings and loan associations not insured by the Federal Savings and Loan Insurance Corporation, the foregoing prohibition shall not apply to venture capital Financing (as defined in § 107.202(b)) of any Disadvantaged Concern, organized less than five years. Without SBA's prior written approval, all Financings pursuant to this proviso shall not exceed the Licensee's Private Capital as of the close of any full fiscal year.

(b) *Financing licensees.*—Directly or indirectly, for purchasing stock in or otherwise providing capital for a Licensee, or to repay an indebtedness to accomplish such purpose.

(c) *Real estate.*—(1) If the Small Concern is classified under Major Group 65 (Real Estate) of the SIC Manual except for:

(i) Subdividers and developers (other than cemetery subdividers and developers);

(ii) Title abstract companies; and

(iii) Agents, brokers and managers, or

(2) If the Financing will be used to acquire, or discharge an obligation relating to the prior acquisition of, realty to be held without prompt and substantial improvement, for leasing by a Small Concern which is neither an eligible real estate concern (Industry Numbers 6531, 6541 and 6552 of the SIC Manual) nor an operative builder (Industry Number 1531), or for sale to others: *Provided, however,* That prompt improvement shall not be required where an adverse change of circumstances beyond the Small Concern's control makes leasing necessary, pending improvement or sale at the earliest feasible date. Realty acquired for sale which is promptly and substantially improved, may be leased pending sale at the earliest feasible date, where such adverse change makes immediate sale impracticable. Evidence of such adverse change shall be kept for SBA's examination. Improvement shall, for the purposes of this paragraph, be deemed prompt and substantial if:

(i) An amount equal to fifty or more percent of the Financing is used for improvements; and

(ii) Such improvements are undertaken within one year from date of acquisition or date of Financing, whichever is later.

(d) *Public interest.*—For purposes contrary to the public interest, including but not limited to gambling activities, or inconsistent with free competitive enterprise.

(e) *Foreign investment.*—For use outside the United States: *Provided, however,* that a Licensee may provide funds to a domestic Small Concern:

(1) To acquire abroad materials and industrial property rights for a domestic operation; or

[1] 1940 Act companies are reminded that sections 12(d)(2) and (3) of that Act impose additional restrictions on certain investments otherwise permitted by this § 107.1001(a).



V 38 171
SEP 5 73
XUM

(2) For foreign branch operations or for transfer to a controlled foreign subsidiary, so long as the major portion of the assets and activities of such concern will remain within the United States.

(f) *Passive businesses.* If that concern is not engaged in a regular and continuous business operation.

(g) *Associated supplier.*—If fifty or more percent of the funds (or funds of the Small Concern released by such Financing) are used to purchase goods or services from a supplier which is an Associate of the Licensee: *Provided, however,* That in the case of a Section 301(d) Licensee, such limit shall be seventy-five percent.*

(h) *Agriculture.*—For use primarily in agricultural activities, agricultural activities include, but are not limited to, the production of food and fiber. However, where the Small Concern is engaged in an agricultural activity, but financial Assistance has been formally refused by an Agency of the Federal Government or an agricultural credit service supervised by the Farm Credit Administration, such concern shall be eligible for Licensee Assistance (and the Licensee shall retain in its files evidence of such refusal) unless it:

(1) Produces (or in the last growing season produced) one or more crops currently eligible for a U.S. Department of Agriculture support payment or production loan;

(2) Produces livestock otherwise than by operating a commercial feed yard for cattle or hogs which derives its income from housing and feeding animals owned by others or purchased from others solely for fattening and resale;

(3) Produces baby chicks for resale and purchases less than fifty percent of its eggs from others;

(4) Operates a poultry feed yard where any part of its income, except income from egg production, is derived from sources other than the housing and feeding of poultry owned by others; or

(5) Produces fish, and neither the production process nor the fish is novel, innovative or experimental.

**§ 107.1002 [Reserved]**

**§ 107.1003 Inactive licensees.**

(a) The Act contemplates that a Licensee shall conduct active operations to meet the needs of Small Concerns. Accordingly, inactivity constitutes a violation of these regulations.

(b) A Licensee which on the close of any full fiscal year has more than twenty-five percent of its assets in idle funds (§ 107.808) shall be presumed inactive if it has not, during the past year, provided Financing aggregating at least twenty-five percent of the average amount of its said idle funds during such fiscal year. It shall promptly file written reasons for its inactivity. The foregoing presumption may be rebutted by written evidence satisfactory to SBA.

* See § 107.1004(b)(5).

**§ 107.1004 Conflicts of interest.**

(a) *General.*—Self-dealing to the prejudice of Small Concern, or of a Licensee or its shareholders, or of SBA, is prohibited.

(b) *Prohibitions.*—Except where a written exemption may be granted by SBA in special instances in furtherance of the purposes of the Act:

(1) A Licensee shall not, directly or indirectly, provide Financing to any of its Associates.

(2) A Licensee shall not, directly or indirectly, provide Financing to an Associate of another Licensee if an Associate of the first Licensee receives, has received, or is about to receive (including receipt pursuant to any understanding, agreement, or cross-dealing, reciprocal or circular arrangement) any direct or indirect Financing or a commitment for Financing from such other Licensee or a third Licensee.

(3) No Licensee or any of its Associates shall directly or indirectly borrow money from:

(i) A concern Financed by such Licensee, or

(ii) An officer, director, or owner of ten or more percent equity interest in such concern; or

(iii) A close relative of such officer, director, or equity owner.

(4) No Licensee shall directly or indirectly provide Financing to discharge or to free other funds for use in discharging an obligation to an Associate of the Licensee: *Provided, however,* That the foregoing shall not apply to transactions by Associates in the normal course of business involving lines of credit.

(5) No Licensee shall directly or indirectly Finance, except as permitted by § 107.1001(g), the purchase of property from an Associate of the Licensee.

(c) A Licensee may provide Financing to a non-Associate also Financed by an Associate of such Licensee contemporaneously or within one year before or after the Licensee's Financing, but only on terms not less favorable to the Licensee than to the Asscociate. Licensee shall retain written evidence of the entire transaction. Where the Associate's Financing is of a different kind, the burden shall be on the Licensee to show that the terms of its Financing were at least as favorable as those of its Associate's Financing: *Provided, however,* That the foregoing shall not apply to transactions by Associates in the normal course of business involving lines of credit or short-term Financing.

(d) *Compensation to associates.*—Without the prior written approval of SBA, no Associate of a Licensee shall receive from a Small Concern, directly or indirectly, any compensation in connection with Assistance rendered by such Licensee or anything of value for procuring, attempting to procure, or influencing Licensee's action with respect thereto, except only reasonable sums for bona fide closing expenses and services performed by an Associate designated by the Licensee with the consent of such concern. "Closing Services" shall include, for example, title examination, appraisal, credit report, survey, but shall not include postclosing services, such as management consulting services. Compensation for closing services must be approved as reasonable and collected by the Licensee on the Associate's behalf; written evidence of the transaction shall be retained for SBA's examination.

(e) *Public notice.*—Before SBA grants an exemption under this section, the Licensee shall publish in a newspaper of general circulation in the locality most directly affected by the transaction, a notice prescribed by SBA, and furnish a certified copy to SBA within ten days; SBA shall publish a similar notice in the Federal Register.

(f) *Protection of investment.*—Nothing contained in these regulations shall preclude a Licensee from designating an Associate to serve as an officer, director or in any other capacity in the management of a Portfolio Concern to protect its investment: *Provided, however,* That such Associate has not other direct or indirect financial interest in the Portfolio Concern and has not served as an officer or director or in any other capacity in the management of such concern for more than thirty days prior to such Financing.

(g) *1940 Act companies.*—A 1940 Act company which has been granted an exemption by the Securities and Exchange Commission with regard to a transaction described in this section shall be exempt therefrom: *Provided, however,* That the Licensee shall promptly notify SBA and publish notice thereof pursuant to paragraph (e) of this section.

**§ 107.1005 Disposition of assets to licensee's associates or to competitors of portfolio concern.**

(a) Except with a written exemption from SBA in special instances, a Licensee shall not dispose of assets (including assets in liquidation) to any Associate. As a prerequisite to such exemption, the Licensee must demonstrate that the proposed terms of disposal are no less favorable to it than are obtainable elsewhere.

(b) Except with written approval of the Portfolio Concern which is not controlled by the Licensee, or of SBA, a Licensee shall not dispose of Portfolio securities to a competitor of such concern. The particulars of any such disposal shall be promptly reported to SBA.

**§ 107.1006 [Reserved]**

**§ 107.1007 No Government sponsorship.**

No Licensee shall represent or imply in any manner that any stock issued or obligation incurred by it has been approved by the United States, or any agency or officer thereof, and a statement to such effect shall be included in any solicitations to investors.

**§ 107.1008 Violations based on false filings and nonperformance of agreements with SBA.**

The following shall constitute a violation of these regulations:

(a) Nonperformance of any of the requirements of any debenture, preferred security, note issued to or guaranteed by SBA, or of any written agreement with SBA.

(b) Any false statement knowingly made, or misrepresentation or failure to state a material fact necessary in order to make a statement not misleading in the light of the circumstances under which the statement was made, in any document submitted to SBA.

EXAMINATIONS, ACCOUNTS, RECORDS AND REPORTS

**§ 107.1101 Examinations fees.**

(a) *General.*—Examination fees will be assessed for annual examinations made in accordance with the Act, except for the first examination of section 301(d) Licensees. As a general rule, SBA will not assess examination fees for special examinations to obtain specific information.

(b) *Rates.*—The fee structure provides rates based on the Licensee's assets as of the date of the latest certified financial statement submitted to SBA before the examination. The rate table is as follows:

| Total assets of licensee | Base rate | + | Percent of assets |
|---|---|---|---|
| $500,000 or less | $400 | + | 0 |
| $500,001–$1,000,000 | 400 | + | 0.06 over $500,000. |
| $1,000,001–$3,000,000 | 700 | + | 0.015 over $1,000,000. |
| $3,000,001–$5,000,000 | 1,000 | + | 0.008 over $3,000,000. |
| Over $5,000,001 | 1,160 | + | 0.003 over $5,000,000. |

For example, a Licensee with total assets of $2,000,000 would pay an examination fee of $850 ($700+0.015% of $1,000,000).

(c) *Additional fee.*—SBA may assess an additional fee of $100 per day if the examination is delayed or prolonged, in the judgment of SBA, by a Licensee's failure to act with reasonable business prudence in the conduct of its affairs. For example, if its records are not kept current, the resulting delay could be deemed cause for such assessment.

**§ 107.1102 Records and reports.**

(a) *Records.*—Current financial records including books of account are to be maintained in all material respects in accordance with SBA's System of Account Classifications. All financial records, and minutes of meetings of stockholders, directors, executive committees, or other officials, and all documents and supporting material relating to Licensee's transactions shall be kept at its principal office: *Provided, however,* That Portfolio items held by a custodian pursuant to written agreement shall be excepted from this requirement. All financial reports furnished to SBA shall make complete disclosure of all matters relevant to the Act and regulations.

(b) *Preservation of records.*—Each Licensee shall preserve, for the periods hereinafter specified and in a manner that permits the immediate location of any record, such documents which are the basis for financial statements required by paragraph (e) of this section, and of the accompanying independent public accountant's certificate. Each Licensee shall:

(1) Preserve permanently:

(i) All general and subsidiary ledgers (or other records) reflecting assets and valuation, liability, capital stock and surplus, income, and expense accounts;

(ii) All general and special journals (or other records forming the basis for entries in such ledgers); and

(iii) The corporate charter, bylaws, license application, and all minute books, capital stock certificates or stubs, stock ledgers, and stock transfer registers, such documents to be kept readily accessible for the first two years.

(2) Preserve for a period of at least six years following final disposition of the related loan or investment, all applications for Financing; size status declarations; lending, participation, and escrow agreements; Financing instruments; capital stock certificates and warrants of Small Concerns not surrendered or exercised; and all other documents and supporting material relating to such loan or investment, including correspondence, such documents to be kept readily accessible for the first two years.

(3) Preserve for a period of at least six years all vouchers, checkbooks, bank statements, canceled checks, cash reconciliations, ledger trial balances, memoranda, correspondence, and other documents forming the initial accounting data for entry in, or underlying records in support of, the records enumerated in paragraph (b)(1) of this section.

(4) Notwithstanding the provisions of paragraphs (b)(1) through (3) of this section, a microfilm reproduction of any records may be substituted for the original and preserved for the required time in the required manner: *Provided, however,* That Licensee shall:

(i) Cause a duplicate microfilm to be made on a current basis and stored separately from the original microfilm for the time required;

(ii) At all times have available facilities for easily readable projection and the production of easily readable facsimile enlargements.

(c) *Reports to stockholders.*—At the time any report (including any prospectus, letter, or other publication concerning the financial operations of the Licensee or any of its Portfolio Concerns) is furnished to investors, the Licensee shall file three copies with the Investment Division, SBA.

(d) *Documents filed with SEC.*—Whenever a Licensee files any report, application or document with the Securities and Exchange Commission, it shall concurrently provide SBA with a copy thereof.

(e) *Financial reports to SBA.*—(1) Each Licensee shall submit to SBA, at the end of each fiscal year, a report containing financial statements for the fiscal year; and, when requested by SBA, interim financial reports, such reports to present fairly the financial position and the results of the Licensee's operations as of the close of the reporting period. The reports are to be prepared in accordance with SBA's Instructions therefor and shall be filed on SBA Form 468 in triplicate with the Investment Division, SBA, on or before the last day of the month immediately following the end of the reporting period (in the case of an unaudited report), and on or before the last day of the third month following the end of the reporting period (in the case of an audited report). The 1940 Act companies should refer to the rules of the Securities and Exchange Commission for the reports to be filed with SEC.

(2) The report as of the end of each fiscal year shall be accompanied by the opinion of an SBA-approved independent certified public accountant or licensed public accountant, certified or licensed by the appropriate regulatory authority of a State or political subdivision thereof. Such opinion shall be based on an audit of the Licensee's accounts in accordance with generally accepted auditing standards. Guidelines to be followed are set forth in SBA's Audit Guide for Small Business Investment Companies. Copies may be obtained from SBA. Effective December 31, 1975, only certified public accountants and licensed public accountants who have received their licenses on or before December 31, 1971, will be considered qualified to render such opinions.

(f) *Litigation reports.*—When a Licensee becomes a party to litigation or other proceedings, including any action by the Licensee, or by a security holder thereof in an individual personal or derivative capacity, against an officer, director, Investment Adviser or other Associate of such Licensee for alleged breach of official duty, it shall within ten days file a report with SBA describing the proceedings, identity of and Licensee's relationship to other parties involved and, upon request, submit copies of the pleadings and other documents specified by SBA. Where such proceedings have been terminated by settlement or final judgment, the Licensee shall promptly advise SBA of the terms thereof. This paragraph shall not apply to collection actions or proceedings in enforcement of Licensee's ordinary creditors' rights.

(g) *Other reports.*—Each Licensee shall file with the Investment Division, SBA, such other reports as SBA shall require by written directive.

**§ 107.1103 Internal control.**

(a) *General.*—Each Licensee shall adopt a plan designed to safeguard its assets and monitor the reliability of its financial data, personnel, Portfolio, funds, and equipment.

(b) *Dual control.*—Licensees shall maintain dual control over disbursement of funds and withdrawal of securities. Disbursements shall be made only by means of checks requiring the signatures of two or more officers, covered by the Licensee's fidelity bond, except that checks in amounts of $1,000 or less may be signed by one bonded officer. Two or more bonded officers, or one bonded officer and one bonded employee, shall be required to open safe deposit boxes or withdraw securities from safekeeping. Licensees shall furnish to each depository bank, custodian, and entity provid-







V 38 171 SEP 5 73 XUM

ing safe deposit boxes, a certified copy of its resolution implementing the foregoing control procedures.

**§ 107.1104 Fidelity insurance.**

Each Licensee shall maintain a Brokers Blanket Bond, Standard Form No. 14, or such other form of coverage as SBA may approve, in a minimum amount of $25,000, executed by a surety holding a certificate of authority from the Secretary of the Treasury pursuant to 6 U.S.C. sections 6–13. For additional details, see SBA's Audit Guide for Small Business Investment Companies.

**§ 107.1105 Reporting changes not subject to SBA approval.**

(a) *Changes to be reported.*—Any change of Licensee's name, address, telephone number, officers or directors, charter, operating area, investment policy, or increase in capitalization not otherwise required to be reported (see, for example, § 107.701) shall be reported to SBA not later than thirty days after these events. All changes shall be subject to SBA postapproval as a condition for the continuance of the license.

(b) *SBA approval.*—Reports and requests filed pursuant hereto shall be deemed approved unless Licensee is notified to the contrary by SBA within ninety days after receipt thereof. Approval shall be contingent upon full disclosure of all relevant facts, subject to any conditions SBA may prescribe.

COMPLIANCE

**§ 107.1201 [Reserved]**

**§ 107.1202 [Reserved]**

**§ 107.1203 Exemption from civil penalty.**

Where it is impracticable to submit any required report within the prescribed time, the Licensee may, before such time has expired, promptly file an application which:

(a) Identifies such report;

(b) Certifies to an extraordinary occurrence not within the Licensee's control which makes timely submission of such report impracticable; and

(c) Is accompanied by written evidence.

SBA may thereupon exempt the Licensee, from the civil penalty provision of section 315(a) of the Act, in such manner and upon such conditions as SBA determines.

EXEMPTIONS

**§ 107.1301 Exemptions.**

A Licensee may file an application in writing with SBA to have a proposed action, which is subject to any procedural or substantive requirements, restriction, or prohibition specified under this Part, exempted from applicable provisions thereof. SBA may approve such application and grant an exemption, conditionally or unconditionally, to the extent that such exemption, from the requirement, restriction, or prohibition would not be contrary to the intents and purposes of the Act. Such application must be accompanied by supporting evidence which demonstrates to SBA's satisfaction that:

(a) The terms of the proposed action are fair and equitable; and

(b) The exemption requested is reasonably calculated to advance the best interests of the SBIC program in a manner consonant with the policy objectives of the Act and regulations.

**§ 107.1302 Savings clause.**

The legality of transactions consummated pursuant to provisions of these regulations in effect at that time shall be governed thereby, notwithstanding subsequent changes. Nothing herein shall bar SBA enforcement action with respect to any transaction consummated in violation of provisions applicable at the time, but no longer in effect.

[FR Doc.73-18639 Filed 9-4-73;8:45 am]



V 38-171 SEP 5 73 XUM

federal register

WEDNESDAY, SEPTEMBER 5, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 171

PART IV

# DEPARTMENT OF COMMERCE

## National Technical Information Service

## GOVERNMENT OWNED INVENTIONS

## AEC Patents; Availability for Licensing

No. 171—Pt. IV——1

V38-171
SEP 5 73
XUM

## DEPARTMENT OF COMMERCE

### National Technical Information Service

### GOVERNMENT-OWNED INVENTIONS

### Availability for Licensing

The Patents listed below have been issued to the U.S. Atomic Energy Commission and are available for licensing in accordance with GSA Patent Licensing Regulations. Paper copies of the patents are available from the Commissioner of Patents, Washington, D.C. 20231, at $0.50 each.

Requests for licensing information should be directed to:

U.S. Atomic Energy Commission, Assistant General Counsel for Patents, Washington, D.C. 20545

DOUGLAS J. CAMPION,
*Patent Program Coordinator,*
*National Technical Information Service.*

| PATENT | TITLE | INVENTOR |
|---|---|---|
| 2,737,779 | Condensable Vapor Extraction Apparatus | E. O. Lawrence |
| 2,738,253 | Uranium Separation Process | A. Thunaes, E. A. Brown, H. W. Smith, J. Brannen |
| 2,738,346 | Method for the Separation of Flavonoid Compounds | S. H. Wender, C. H. Ice |
| 2,738,426 | Liquid Monitoring Device | W. M. Hurst |
| 2,739,111 | Metal Production by Electrolysis | R. A. Noland, C. Marzano |
| 2,739,237 | Amplifier Circuit | J. J. Stone, Jr. |
| 2,739,285 | Current Measuring Device | A. A. Windsor |
| 2,739,286 | Alpha Survey Meter Circuit | R. W. Schede |
| 2,739,566 | Apparatus for the Production of Coatings of Purified Metals | Z. M. Shapiro, J. McDonald |
| 2,739,935 | Electrolytic Cutting of Metals | G. L. Kehl, I. Koch |
| 2,739,979 | Preparation of Boric Acid Esters | R. F. Barnes, H. Diamond, F. R. Fields |
| 2,741,541 | Production of Uranium Sulfate | S. B. Smith |
| 2,741,543 | Process for the Production of Deuterium Oxide | H. C. Urey |
| 2,741,592 | Neutronic Reactor Measuring and Safety Rod Operating Apparatus | L. B. Borst, H. W. Newson |
| 2,741,593 | Fluid Cooled Neutronic Reactor | H. E. Metcalf, H. W. Johnson, R. S. Chisholm |
| 2,741,627 | Production of Curium 243 | S. G. Thompson, B. B. Cunningham, A. Ghiorso |
| 2,741,628 | Separation of Hafnium and Zirconium Salts | W. K. Plucknett |
| 2,742,085 | Timing Apparatus | A. E. Bennett, J. C. H. Geisow |
| 2,742,348 | Fluid Contactor Apparatus | R. Spence, H. J. W. Streeton |
| 2,742,576 | Portable Scintillation Survey Meter | R. A. Dandl |
| 2,742,577 | Quartz Fiber Electroscopes | R. P. Henderson |
| 2,742,587 | Demountable Filament Assembly | W. J. Armstrong, P. I. Corbell, K. H. McPhee |
| 2,742,788 | Sewer Sampler | P. V. Renton |
| 2,743,154 | Method of Recovery of Uranium by a Resin-in-pulp Process | D. Kaufman, C. W. Lower |
| 2,743,155 | Method of Preparing the Double Halide Salts of Thorium and Alkali Metals | S. Z. Cardon |
| 2,743,156 | Uranium Recovery Process | M. C. Metziger, A. Long, E. M. Stoltz, Jr. |
| 2,743,157 | Re-extraction of Uranium from Organic Solvents | F. T. Hagemann, L. I. Katzin, M. N. Hellman |



| | | |
|---|---|---|
| 2,743,158 | Process for Producing Uranium Pentachloride | A. D. Webb, H. F. Kyle |
| 2,743,159 | Recovery of Uranium from Aqueous Solutions | G. A. Lutz |
| 2,743,161 | Preparation of Anhydrous Vanadium Trifluoride | D. E. Carpenter, C. P. Johnston, H. P. House, K. O. Johnsson |
| 2,743,168 | Sublimation Apparatus | R. Krohn, R. J. Schmidt |
| 2,743,169 | Horizontal Sublimation Apparatus | J. C. Hecker |
| 2,743,170 | Solvent Extraction Equipment | L. L. Burger |
| 2,743,173 | Method of Preparing Metal and Apparatus Therefor | G. Derge, G. P. Monet |
| 2,743,174 | Uranium-Titanium Alloys | J. R. Keeler, H. A. Saller |
| 2,743,222 | Electrolytic Process for Recovering Uranium Compounds from Carbonate Leach Liquors | G. W. Clevenger |
| 2,743,223 | Organic Compound Bond Rupturing Process | L. T. McClinton, W. M. Garrison, M. Burton |
| 2,743,224 | Submerged Reactor | L. A. Ohlinger |
| 2,743,225 | Reactor | L. A. Ohlinger, E. P. Wigner, G. J. Young, A. M. Weinberg |
| 2,743,226 | Apparatus for the Bombardment of Samples with Fast Neutrons | H. W. Newson |
| 2,743,228 | Electrolytic Cells | R. Q. Boyer |
| 2,743,342 | Magnetic Arc-Welder | E. S. Bettis, E. R. Mann |
| 2,743,371 | Electronic Analyzer | Q. A. Kerns |
| 2,743,372 | Low Weight Container for Radioactive Materials | H. J. Browne, N. B. Garden |
| 2,743,416 | Magnetic Field Measuring Device | J. M. Kelly, Jr. |
| 2,744,064 | Re-entrant Cooling Reactor | T. V. Moore |
| 2,744,893 | Separation of Flavonoid Compounds | S. H. Wender, T. B. Richmond, C. H. Ice, Q. L. Morris |
| 2,745,006 | Binary Counter | J. C. Chu, D. H. Jacobsohn |
| 2,745,017 | Ion Producing Mechanism | F. F. Oppenheimer |
| 2,745,018 | Beam Current Regulator | W. R. Baker, R. DeLiban |
| 2,745,279 | Pressure Testing Device and Method | P. E. Collins, G. M. Inman |
| 2,745,552 | Filter with Fractional Crystallization Means | W. H. Bruggeman, B. G. Voorhees |
| 2,745,964 | Arc Regulator for Calutron Ion Source | R. DeLiban |
| 2,745,965 | Calutron Receivers | E. J. Lofgren |
| 2,745,985 | Pulse Amplitude Analysers | I. A. Darroch Lewis Wantage |
| 2,746,473 | Valve Means for Charging Containers with Fluid | L. A. Ohlinger |
| 2,746,861 | Ternary Zirconium Base Alloy Containing Sn and Ti | W. Chubb, Jr., L. L. Marsh, Jr. |
| 2,747,126 | Power or Voltage Measuring Means | D. J. Nigg |
| 2,747,762 | Pressure Chamber Closure Apparatus | R. B. Meuser |
| 2,747,972 | Charge Boat for Volatilization | R. Krohn |
| 2,748,710 | Heat-Exchanger Pump | L. B. Vandenberg |
| 2,749,520 | Directional Coupling Means for Transmission Lines | B. J. Bittner |
| 2,750,254 | Process of Recovering Uranium from its Ores | R. A. Blake |
| 2,750,500 | Linear Pulse Integrator | W. R. Aiken |
| 2,750,520 | Electrostatic Measuring Device | A. S. Langsdorf, Jr. |
| 2,751,229 | Releasable Gripper for Holding an Article Suspended | A. B. Schultz |
| 2,751,273 | Particle Trajectory Plotter | B. H. Rankin |
| 2,751,344 | Electropolisher | C. A. Kienberger, R. E. Greene, A. R. Flynn |
| 2,751,505 | Neutronic Reactor Device | H. L. Anderson |
| 2,751,662 | Method of Making an Electronic Grid | W. E. Glenn, W. E. Hostetter |
| 2,751,780 | Leakage Testing Apparatus | R. F. Plott |
| 2,752,309 | Process for Water Decontamination | A. H. Emmons, R. A. Lauderdale |







XUM

| | | |
|---|---|---|
| 2,752,508 | Counting-Rate Meter | G. V. Zito |
| 2,753,250 | Solvent Extraction of Zirconium Values | H. A. Wilhelm, K. A. Walsh, J. V. Kerrigan |
| 2,753,462 | Neutron Flux Measuring Device | J. W. Moyer, H. Hurwitz, Jr. |
| 2,753,476 | Current Transfer Systems | D. A. Watt |
| 2,754,179 | Mixer-Settler | M. E. Whatley |
| 2,754,422 | Source of Highly Stripped Ions | E. J. Lofgren, W. W. Eukel |
| 2,754,423 | Calutrons of the Multiple Ion Beam Type | E. O. Lawrence |
| 2,755,253 | Neutron Scintillation Detector | C. O. Muelhause, G. E. Thomas |
| 2,755,387 | Ground Indicator for Calutrons | C. C. Waugh |
| 2,755,391 | Ionization Chamber | J. J. Keyes, Jr. |
| 2,755,441 | Counting Rate Meter | H. D. Gulnac |
| 2,755,853 | Denitration Apparatus | R. S. Edgett, A. O. Olson |
| 2,756,122 | Process for Recovering Uranium and Vanadium from Ores | D. Chalmers McLean |
| 2,756,123 | Uranium-Vanadium Recovery of Purification Process | R. H. Bailes, R. S. Long |
| 2,756,124 | Uranium Chlorination Process | J. L. Patterson, A. Bell |
| 2,756,138 | Process of Vacuum Refining Uranium | G. Meister |
| 2,756,489 | Metal Alloy | H. E. Morris |
| 2,756,857 | Positioning Device | W. H. McCorkle |
| 2,756,858 | Fuel Charging Machine | K. Kasschau |
| 2,756,925 | Centrifuge Systems | R. H. Selkirk |
| 2,756,930 | Computing Device | G. T. Falsor, H. S. Sack |
| 2,757,072 | Recovery of Free and Combined Nitric Acid from Metal Nitrate Liquors | H. M. Kapp, W. W. Weinrich |
| 2,757,799 | Automatic Filtration Equipment | C. F. Ritchie |
| 2,758,006 | Isotope Enrichment Process | J. M. Carter, M. D. Kamen |
| 2,758,007 | Ether Extraction of Uranium Salt from Solutions | A. E. Ballard |
| 2,758,023 | Method of Purifying Liquid Fuels of Nuclear Reactors | D. W. Bareis |
| 2,758,024 | Method of Dissolving Binary Alloys | H. M. Feder, R. P. Larsoo, H. B. Evans |
| 2,758,213 | Calutron Receiver | B. Peters |
| 2,758,214 | Time-of-Flight Mass Spectrometer | W. E. Glenn, Jr. |
| 2,758,706 | Inspection Conveying Apparatus | F. B. Quinean |
| 2,758,950 | Process for Producing Steel by Electroforming and Carburization | J. F. Lakner |
| 2,758,963 | Electrodeposition of Plutonium Fluoride | M. Kahn |
| 2,759,175 | Leak Detector for Pipe Joint | T. R. Spalding |
| 2,759,788 | Purification of Materials Containing Chlorides | L. Spiegler |
| 2,759,789 | Uranium Products and Methods of Using | L. Spiegler |
| 2,759,790 | Purification of Materials Containing Fluorides | L. Spiegler |
| 2,759,791 | Purification of Materials Containing Chlorides | L. Spiegler |
| 2,759,792 | Separating Hafnium from Zirconium | B. A. J. Lister, J. F. Duncan |
| 2,759,793 | Separating Hafnium from Zirconium | B. A. J. Lister, J. F. Duncan |
| 2,759,801 | Solvent Extraction Apparatus Using Jet Mixers | J. H. Yeager, K. S. Eckberg |
| 2,759,886 | Process of Treating Steel | H. F. Priest |
| 2,760,064 | Pulse Analyzer | F. R. Bell |
| 2,760,076 | Arrangement for Minimizing Negative Signals | J. T. Dalton, R. H. Stevens |
| 2,760,158 | Method and Apparatus for Measuring Electrical Current | Q. A. Kerns |
| 2,760,655 | Remote Handling Apparatus | H. E. Foskuhl |
| 2,761,063 | Electrostatic Memory System | J. H. Bigelow |
| 2,761,071 | Fast Neutron Dosimeter | G. S. Hurst |
| 2,761,756 | Process for Production of Uranium Hexafluorida | H. F. Priest |



| | | |
|---|---|---|
| 2,761,757 | Processes of Recovering Uranium | M. D. Kamen, A. DeHaan, Jr. |
| 2,761,758 | Process for Recovery of Uranium | R. S. Long, R. H. Bailes, E. S. DeHaven |
| 2,762,941 | Positive Ion Electrostatic Accelerator | C. M. Turner |
| 2,763,570 | Wetting of Heat Transfer Surfaces with Liquefied Metal Heat Transfer Media | O. C. Shepard, E. P. French |
| 2,763,611 | Method of Preventing Corrosion of Iron Metals | C. R. Breden |
| 2,763,816 | Spark Gap | W. R. Baker |
| 2,764,301 | Remote Control Manipulator | R. C. Goertz, R. G. Schmitt, R. A. Olsen |
| 2,764,470 | Purification of Uranium Oxide | C. L. Richardson, S. B. Smith, G. B. Robbins |
| 2,764,471 | Recovery of Uranium from Dilute Solutions by a Precipitation Method | G. W. Kinzer, R. D. Horin |
| 2,764,689 | Pulsed Oscillator | W. C. Struven |
| 2,764,707 | Ion Source | R. B. Crawford, J. D. Gow, W. G. Fon, L. Ruby |
| 2,766,032 | Impregnated Crucible | G. Meister |
| 2,766,110 | Method of Refining Uranium | G. Meister |
| 2,766,204 | Method for Decontamination of Radioactively Contaminated Aqueous Solution | C. S. Lowe |
| 2,766,442 | Leak Detection Apparatus | W. H. Meyer, Jr., W. Mifflin |
| 2,767,044 | Plutonium Recovery Process | C. F. Hill, S. G. Thompson |
| 2,767,047 | Process of Separating Tantalum and Niobium Values from each Other | H. A. Wilhelm, J. V. Kerrigan |
| 2,768,059 | Process for Recovery of Uranium and the Upgrading of Alkali-Uranium Fluoride Precipitates | R. H. Bailes, R. O. Lindblom, R. R. Grinstead |
| 2,768,134 | Testing Material in a Neutronic Reactor | E. Fermi (Deceased), H. L. Anderson |
| 2,768,433 | Metallic Bond and Method | T. J. O'Donnell |
| 2,768,813 | Heat Exchangers | R. Q. Boyer |
| 2,768,871 | Process Using Carbonate Precipitation | H. S. Brown, O. F. Hill, A. H. Jaffey |
| 2,768,872 | Manufacture of Uranium Tetrafluoride | D. X. Klein, H. E. Gage |
| 2,768,873 | Method of Purifying Uranium | M. C. Beese |
| 2,769,094 | Time-of-Flight Neutron Spectrometer | W. I. Linlor, B. Regent |
| 2,769,776 | Method of Making a Product Containing Uranium 237 | A. F. Reid |
| 2,769,780 | Precipitation Process | W. E. Clifford, R. E. Burns |
| 2,769,903 | Pulse Forming Network | G. D. Paxson |
| 2,770,128 | Electronic Pressure Differential Wind Direction Indicator | H. Moses |
| 2,770,196 | Electromagnetic Interaction Pump | D. A. Wat. |
| 2,770,520 | Recovery of Uranium from Phosphoric Acid and Phosphate Solutions by Ion Exchange | R. S. Long, R. H. Bailes |
| 2,770,521 | Separation of Uranium from Mixtures | L. Spiegler |
| 2,770,522 | Method of Purifying and Recovering Vanadium from Phosphate Containing Solutions | R. H. Bailes, R. R. Grinstead |
| 2,770,590 | Reactor Circulating System | J. T. Serduke |
| 2,770,591 | Heavy Water Moderated Neutronic Reactor | E. P. Wigner, L. A. Ohlinger, A. M. Weinberg, G. J. Young |
| 2,770,684 | Limited Amplifier | R. E. Thomas |
| 2,770,775 | Linear Accelerator | M. L. Good |
| 2,770,756 | Automatic Beam Stabilization | R. J. Klein |
| 2,770,781 | Wave Delaying Structure for Rectangular Wave Guides | R. B. Robertson-Shersby-Harvie, J. Dain |
| 2,770,856 | Crucible and Stopper Therefor | A. W. Becker, A. W. Woker |
| 2,771,199 | Remote Control Manipulator | D. G. Jelatis |
| 2,771,338 | Manufacture of Uranium Peroxide | L. Spiegler |
| 2,771,339 | Processes for the Purification and Recovery of Uranium | R. Q. Boyer |
| 2,771,340 | Improved Uranium Recovery and Purification Processes | M. D. Kamen, A. DeHaan, Jr. |
| 2,771,357 | Method of Melting Metal Powder in Vacuo | D. Wroughton |







XUM

| | | |
|---|---|---|
| 2,771,582 | Phase Meter | C. N. Winningstad, Q. A. Kerns |
| 2,771,999 | Filtering Apparatus | R. Q. Boyer |
| 2,772,142 | Process of Reclaiming Uranium from Solutions | R. Cummings |
| 2,773,195 | Beam Regulator | E. O. Lawrence, O. A. Kerns |
| 2,773,386 | Liquid Level Indicator | E. O. Swickard, Jr. |
| 2,773,820 | Electrolytic Process of Salvaging Uranium | R. Q. Boyer, S. B. Kilner |
| 2,773,823 | Safety Device for a Neutronic Reactor | J. J. Goett (Deceased) |
| 2,773,824 | Electrolytic Cells | R. Q. Boyer, S. B. Kilner |
| 2,773,825 | Electrolysis Apparatus | F. A. Newcombe |
| 2,773,826 | Electrolytic Apparatus for the Recovery of Rare Refractory Metals | N. C. Beese, J. W. Marden, E. Orange |
| 2,774,479 | Filtering Apparatus | R. Cummings |
| 2,774,488 | Remote-Control Manipulator | R. C. Goertz, R. A. Olsen, R. B. Wehrle, R. G. Schmitt, Jr. |
| 2,774,730 | Neutronic Reactor Having a Flattened Activity Curve | G. J. Young |
| 2,774,937 | Method of Measuring Q | M. H. Dazey |
| 2,775,399 | Mercury Bellows Pump | E. S. Robinson, A. C. Briesmeister, B. B. McInteer |
| 2,775,552 | Continuous Electrolytic Process for Reducing Uranium in Solution | R. Q. Boyer |
| 2,775,696 | Millivolt Gating Circuit | R. E. Thomas |
| 2,775,697 | Crystal Diode Coincidence Circuit | R. Madey |
| 2,775,698 | Multichannel Pulse Analyzer | P. R. Bell, G. D. Kelley, C. G. Goss |
| 2,775,741 | Phase Shifting Device | F. I. Corbell |
| 2,776,184 | Processes for Recovering and Purifying Uranium | M. D. Kamen |
| 2,776,185 | Method of Concentrating Fissionable Material | L. B. Werner, B. A. Fries, C. T. Seaborg |
| 2,776,189 | Nitric Acid Recovery and Purification | F. W. Winn |
| 2,776,263 | Corrosion Inhibitors for Deuterium Exchange Process | C. F. Hiskey, D. T. Vier |
| 2,776,368 | Coaxial Tube Coupling | H. M. Owren, V. L. Smith, D. R. Branum |
| 2,776,377 | In Vivo Radiation Scanner | H. O. Anger |
| 2,777,809 | Preparation of Uranium | M. Kolodney |
| 2,777,812 | Leak Detection System | R. W. Powell, P. H. Lee |
| 2,778,730 | Plutonium Alloy and Method of Separating It from Plutonium | F. H. Spedding, T. A. Butler |
| 2,778,792 | Method for Unloading Reactors | L. Szilard |
| 2,778,843 | Uranium Chelates of Di (Salicylal) Alkylenediimine and Process for Their Preparation | H. D. Brown, F. J. Wolter |
| 2,778,937 | Cyclotron Square Wave RF System | G. B. Rossi |
| 2,778,949 | Electrostatic Pulse Analyzer System | C. J. Borkowski, F. M. Porter |
| 2,779,657 | Recovery of Uranium from Wash Liquids | A. E. Ballard |
| 2,779,728 | Control Device for a Neutronic Reactor | W. H. Zinn, T. Brill |
| 2,779,875 | Galvanometer Pulse Analyzer System | C. J. Borkowski, F. M. Porter |
| 2,779,876 | Radioactivity-Distribution Detector | C. A. Tobias, H. O. Anger |
| 2,780,099 | Vacuum Gauge | G. A. Kuipers |
| 2,780,112 | Two Roller Anti-Friction Latch | J. M. Young |
| 2,780,455 | Combination of Acceleration Sensing and Integrating Means | H. F. Devaney |
| 2,780,514 | Method of Recovering Uranium from Aqueous Solutions | G. A. Lutz |
| 2,780,515 | Method for Improved Precipitation of Uranium Peroxide | A. J. Miller, B. M. Pitt, F. F. Grieger |
| 2,780,516 | Chemical Purification of Uranium Compounds | J. C. Nevenzal |
| 2,780,517 | Separation of Uranium from Foreign Substances | B. J. Fontana |
| 2,780,518 | Process for Recovery of Uranium from Aqueous Solutions | J. W. Gates, Jr., L. J. Andrews |







| | | |
|---|---|---|
| 2,780,519 | Recovery of Uranium from Ores | D. Kaufman, S. E. Bailey |
| 2,780,532 | Uranium Separation Process | R. M Hainer, E. C. Evers |
| 2,780,589 | Still Column with Concentric Condenser | A. K. Brewer, T. Ivan Taylor |
| 2,780,595 | Test Exponential Pile | E. Fermi (Deceased) |
| 2,780,596 | Neutronic Reactor | G. A. Anderson |
| 2,781,303 | Process of Recovering Uranium from Solution | R. Q. Boyer, S. B. Kilner |
| 2,781,304 | Electrodeposition of Uranium | H. A. Wilhelm, D. H. Ahmann |
| 2,781,307 | Apparatus for the Measurement of Neutron Absorption | E. P. Wigner |
| 2,781,308 | Neutronic Reactor Control | E. C. Creutz, W. H. Zinn |
| 2,781,309 | Radiation System | J. S. Levinger, M. B. Sampson, A. H. Snell, R. G. Wilkinson |
| 2,781,448 | Gating Circuit | W. C. Struven |
| 2,781,452 | Ion Beam Receiver | E. J. Lofgren, F. Fairbrother, Jr. |
| 2,782,081 | Pump Cylinder Assembly | J. Rotwistle |
| 2,782,091 | Uranium Recovery Process | J. J. Brunner |
| 2,782,092 | Recovery of Metal Salts from Mixtures | D. K. Klein, W. V. Wirth |
| 2,782,116 | Method of Preparing Metals | F. H. Spedding, H. A. Wilhelm, W. H. Keller |
| 2,782,117 | Method of Reclaiming Uranium | H. A. Wilhelm, C. F. Gray |
| 2,782,158 | Neutronic Reactor | J. A. Wheeler |
| 2,782,475 | Apparatus for Vacuum | H. A. Wilhelm, C. F. Gray |
| 2,782,941 | Follow-Up Mechanism | H. V. Lichtenberger, L. J. Koch |
| 2,782,993 | Automatic Control System with Remote Adjustment | W. H. Appleton, G. M. Farly |
| 2,783,320 | Pressure Switch | A. F. Fink |
| 2,783,376 | High Speed Positive Pulse Generator | W. A. Hene |
| 2,783,433 | Regulated Power Supply | W. R. Baker |
| 2,784,054 | Separation of Uranium from Other Metals By Hydriding and Extracting with Oxidizing | J. H. Carter, T. A. Butler |
| 2,784,084 | Zirconium Ternary Alloys | L. L. Marsh, Jr., W. Chubb |
| 2,784,799 | Gas Recovery System | J. Ise, Jr., G. F. Millburn |
| 2,784,910 | Pulse Height Analyzer | A. Ghiorso, A. E. Larsh, Jr. |
| 2,785,046 | Separation of Uranium from Other Metals by Hydriding | T. A. Butler |
| 2,785,047 | Method of Separating Plutonium from Contaminants | H. S. Brown, Q. F. Hill |
| 2,785,064 | Method of Forming Crucibles and Reaction Chambers for Production of Uranium of High Purity | H. A. Wilhelm |
| 2,785,065 | Method of Producing Metals from Their Halides | F. H. Spedding, H. A. Wilhelm, W. H. Keller |
| 2,785,311 | Low Voltage Ion Source | E. O. Lawrence |
| 2,785,951 | Bismuth Phosphate Process for the Separation of Plutonium from Aqueous Solutions | S. G. Thompson, G. T. Seaborg |
| 2,785,972 | Preparation of Uranium Metal | C. H. Prescott, Jr., (Deceased), J. A. Holmes |
| 2,786,143 | Source Unit for Producing Ionized Gas | L. Ruby, R. B. Crawford, W. G. Pon |
| 2,786,832 | Preparation of Flavonoid Glucosides | S. H. Wender, D. W. Fox |
| 2,787,526 | Method of Isotope Concentration | J. S. Spevack |
| 2,787,527 | Method for Recovering Boron Values | M. Kilpatrick |
| 2,787,529 | Method for Determining Boron Fluoride Ether Complex in a Composition | W. A. Winsten, I. Kirshenbaum |
| 2,787,536 | Process for Melting and Refining Uranium | F. H. Spedding, H. A. Wilhelm |
| 2,787,537 | Method of Producing Metal | H. A. Wilhelm |
| 2,787,538 | Production of Uranium | F. H. Spedding, H. A. Wilhelm, W. H. Keller |
| 2,787,587 | Isotope Exchange Process | R. W. Woodward |
| 2,787,593 | Method and Means of Producing Steam in Neutronic Reactors | H. E. Metcalf |
| 2,787,737 | Electromagnet Regulator | K. O. Macleish |



XUM

| | | |
|---|---|---|
| 2,788,656 | Means for Investigating Cases | H. H. Sander |
| 2,789,072 | Heat Treated Uranium Alloy and Method of Preparing Same | D. W. White, Jr. |
| 2,789,221 | Method and Apparatus for Nuclear Particle Acceleration | C. W. Tobias |
| 2,789,222 | Frequency Modulation System | M. D. Martin, K. R. MacKenzie, W. W. Palisades, W. W. Salsig |
| 2,789,229 | Ion Producing Mechanism | E. O. Lawrence |
| 2,789,688 | Sample Holder | W. J. Stinson |
| 2,789,878 | Protactinium Extraction Process | D. F. Peppard |
| 2,789,879 | Recovery of Uranium from Phosphoric Acid | D. Kaufman |
| 2,789,884 | Method of Preparing Pure Boric Oxide | C. J. Podden, A. R. Eberle |
| 2,789,897 | Magnesium Reduction Process for Production of Uranium | C. B. Sawyer, B. R. F. Kjellgren |
| 2,790,086 | Radiation Detecting and Measuring System | H. G. Beyer, W. J. Stinson |
| 2,790,149 | Dielectric-Loaded Wave Guides | R. B. Robertson-Shersby-Harvie, L. B. Mullett |
| 2,790,701 | Process of Recovering Uranium | M. D. Kamen |
| 2,790,760 | Neutronic Reactor | R. W. Powell |
| 2,790,761 | Neutronic Reactor | L. A. Ohlinger |
| 2,790,902 | Ion Accelerator Beam Extractor | B. T. Wright |
| 2,790,919 | Ionization Chamber for Fission Counting | J. H. Lykins, M. J. Bartkus, H. A. Kermicle |
| 2,790,931 | Electrostatic Memory System | R. W. Schumann |
| 2,790,949 | Thermionic Ionization Vacuum Gauge | O. H. Ottinger, R. R. Reenell |
| 2,791,119 | Liquid Level Indicator | W. H. Zinn, J. M. Harrer |
| 2,791,371 | Radio Frequency Ion Pump | J. S. Foster, Jr., F. Fairbrother, Jr. |
| 2,791,372 | Pump | A. A. Abbatiello |
| 2,792,412 | Recovery of Ruthenium from Aqueous Solutions | H. R. Schmidt, R. L. Moore |
| 2,792,535 | Timing Circuit | W. C. Struven |
| 2,792,634 | Tolerance Inspection Gage | J. T. Howe, F. Herze, Jr. |
| 2,793,309 | Neutron Proportional Counter | J. A. Simpson, Jr. |
| 2,793,753 | Removal of Material from Processing Tanks | D. S. Webster |
| 2,794,562 | Fuel Element Loading Apparatus for Neutronic Reactors | G. A. Anderson |
| 2,794,670 | Releasable Holder for Rod | R. L. Menegus, R. L. Akers |
| 2,794,923 | Electromagnetic Apparatus | S. W. Barnes |
| 2,795,479 | Method for Converting Uranium Ammonium Phosphate to Uranyl Fluoride | S. Bernstein, H. A. Bernhardt |
| 2,795,480 | Recovery of Uranium from Aqueous Phosphate Containing Solutions | E. F. Stephan, G. A. Lutz |
| 2,795,481 | Solvent Extraction Process for the Separation of Tantalum and Niobium Values | H. G. Hicks, W. E. Nervik, F. C. Stevenson |
| 2,795,482 | Absorption of Iodine Vapor | R. McNabney |
| 2,795,499 | Production of Metals | D. Peterson |
| 2,795,654 | High Impedence Electronic Circuit | J. R. Macdonald |
| 2,795,703 | Apparatus for Counting Fast Neutrons in the Presence of Gamma Rays | I. B. Berlman, L. D. Marinelli |
| 2,795,704 | Neutron Ion Chamber | H. B. Bryant, G. F. Erickson, S. G. Kaufman |
| 2,796,320 | Solvent Extraction Process for Purification of Thorium | F. H. Spedding, A. Kant |
| 2,796,323 | Conversion of Dimethyl Ether Boron Trifluoride Complex to Potassium Fluoborate | A. R. Eberle |
| 2,796,330 | Method of Separating and Concentrating Isotopes of Boron and Oxygen | R. H. Crist, I. Kirshenbaum |
| 2,796,392 | Process and Electrolyte for the Electrodeposition of Zirconium | M. H. Lietzke |
| 2,796,393 | Process of Recovering Uranium from Calutron Wash Solutions | R. Q. Boyer |
| 2,796,396 | Method of Intermittently Operating a Neutronic Reactor | L. Szilard |
| 2,796,398 | Means for Sustaining a Nuclear Fission Chain Reaction | E. C. Creutz, L. A. Ohlinger, E. P. Wigner, C. J. Young |



| | | |
|---|---|---|
| 2,796,411 | Radiation Shield | R. E. Zirkle, H. J. Curtis |
| 2,796,424 | Separation Process by Absorption | W. W. Schulz, R. A. Watts, Jr. R. L. Moore |
| 2,796,529 | Radiation Shield | P. Morrison |
| 2,797,050 | Remote Adjustment of Automatic Control System | K. G. Macleish |
| 2,797,081 | Carbon Burner | F. J. Sullivan, E. J. Bair, J. H. Allen |
| 2,797,142 | Method of Reducing Heavy Metal Tetrahalides | J. J. Katz |
| 2,797,143 | Uranium-Vanadium Recovery and Separation by Phosphate Precipitation | W. F. Arendale, C. F. Coleman |
| 2,797,160 | Production of Zirconium | F. H. Spedding, H. A. Wilhelm, W. H. Keller |
| 2,797,163 | Filter Media and Method of Making | W. J. Smith, R. W. James |
| 2,797,319 | Trigger Circuit | N. F. Moody |
| 2,797,328 | Transistor Oscillator | E. G. Miller, Jr. |
| 2,797,983 | Method of Determining Small Quantities of Uranium Compounds in a Gas Stream | J. Greenspan, A. S. Carlson |
| 2,798,084 | Recovery of Uranium from Aqueous Solutions | R. H. Poirier |
| 2,798,164 | Portable X-Ray or Gamma Source | S. Untermyer |
| 2,798,165 | Stable Photomultiplier Amplifier | L. K. Neher |
| 2,798,178 | Accelerator Target Positioner | H. G. Heard, W. W. Salsig, Jr. |
| 2,798,181 | Pumping Ion Source | J. S. Foster, Jr. |
| 2,798,359 | Steam Power Plant with Means for Heavy Water Concentration | J. S. Foster, G. E. Haddeland |
| 2,798,789 | Method of Separating Rare Earths | F. H. Spedding, E. J. Wheelwright, J. E. Powell |
| 2,798,847 | Method of Operating a Neutronic Reactor | E. Fermi, L. Szilard |
| 2,798,848 | Neutronic Reactor Fuel Element | K. H. Kingdon |
| 2,799,553 | Phosphate Method for Separation of Radioactive Elements | S. G. Thompson, G. T. Seaborg |
| 2,799,554 | Method of Separating Plutonium | F. Morgan |
| 2,799,555 | Method of Separating Plutonium | F. Morgan |
| 2,799,642 | Neutronic Reactor Fuel Element | H. Hurwitz, Jr., H. Brooks, C. Mannel, J. H. Payne, E. A. Luebke |
| 2,799,836 | Pulse Transformer | R. E. Heller, H. M. Owren, D. A. Mack |
| 2,800,387 | Uranium Recovery from Ores with Hydrochloric Acid and Acetone | R. B. Kimball, R. A. Ewing |
| 2,800,588 | Marking Fluoroscope Head | T. B. Carrey, M. H. Taylor |
| 2,800,589 | Crystal Dosimeter | P. W. Levy |
| 2,800,797 | Proportional Waste Line Sampler | J. F. Honstead |
| 2,801,302 | Compound Action Gain Control | T. H. Guinn |
| 2,801,960 | Gold Plating Process | R. Soegmiller |
| 2,802,070 | Stabilized Feedback Amplifier | H. L. Fishbine, C. Sewell, Jr. |
| 2,802,108 | Method and Apparatus for Collecting Isotopes | W. E. Leyshon |
| 2,803,405 | Automatic Counting Apparatus | W. D. Howell |
| 2,803,601 | Reactor Unloading Means | C. M. Cooper |
| 2,803,748 | One Shake Gate Former | R. Kalibjian, V. Perez-Mendez |
| 2,803,761 | Electromagnetic Apparatus for Moving a Rod | J. N. Young |
| 2,803,885 | Gauging Apparatus | C. A. Ruggles |
| 2,804,165 | Arrangement for Replacing Filters | R. A. Blomgren, N. J. G. Bohlin |
| 2,804,369 | Production of Uranium Hexafluoride | R. D. Fowler |
| 2,804,550 | Automatic Light Control | M. Artzt |
| 2,804,573 | Gas Discharge Devices | W. J. Arrol, S. Jefferson |
| 2,805,473 | Uranium-Oxide-Containing Fuel Element Composition and Method of Making Same | J. H. Handwerk, R. A. Noland, D. E. Walker |
| 2,805,916 | Conversion of Plutonium Trifluoride to Plutonium Tetrafluoride | S. Fried, N. R. Davidson |







XUM 37 5 SEP 1973 VERIFIED

| | | |
|---|---|---|
| 2,805,985 | Electrodeposition of Plutonium | F. J. Wolter |
| 2,806,161 | Coaxring Arc Ion Source | J. S. Foster, Jr. |
| 2,806,610 | Anti-Swing Crane | R. C. Goertz |
| 2,806,764 | Uranium Recovery and Purification Process and Production of High Purity Uranium Tetrafluoride | R. H. Bailes, R. S. Long, R. R. Grinstead |
| 2,806,819 | Light Water Moderated Neutronic Reactor | R. F. Christy, A. M. Weinberg |
| 2,806,820 | Neutronic Reactor | E. P. Wigner |
| 2,806,910 | Quartz Fibre Electroscope | R. P. Henderson |
| 2,807,082 | Welding Process | J. Zambrow, H. H. Hausner |
| 2,807,518 | Process for Recovery of Uranium and Vanadium from Carbonate Solutions by Reduction-Precipitation | D. A. Ellis, R. O. Lindblom |
| 2,807,519 | Process for the Production of an Activated Form of $UO_2$ | M. J. Polissar |
| 2,807,580 | Thermal Nuclear Reactor | F. W. Fenning, R. F. Jackson |
| 2,807,581 | Neutronic Reactor | E. Fermi (Deceased), L. Szilard |
| 2,807,722 | Pulse Generator | C. W. Roeschke |
| 2,807,723 | High Power Pulsed Oscillator | S. Singer, L. K. Neher |
| 2,807,727 | Neutronic Reactor Shield | E. Fermi (Deceased), W. H. Zinn |
| 2,807,785 | Line-Above-Ground Attenuator | R. B. Wilds, J. R. Ames |
| 2,807,857 | Production of Thoria Ware | F. Murray, I. E. Denton, D. Wilkinson |
| 2,808,312 | Process for Treating Volatile Metal Fluorides | A. J. Rudge, A. J. Lowe |
| 2,808,986 | Electronic Digital Computer | J. J. Stone, Jr., E. R. Mann, E. S. Bettis |
| 2,809,091 | Solvent Extraction Process | A. A. Jonke |
| 2,809,157 | Neutronic Reactor | H. E. Metcalf |
| 2,809,887 | Method of Alloying Reactive Metals with Aluminum or Beryllium | O. J. C. Runnalls |
| 2,809,931 | Neutronic Reactor System | F. Daniels |
| 2,810,626 | Process for Producing Uranium Hexafluoride | R. D. Fowler |
| 2,810,689 | Fluid Moderated Reactor | E. P. Wigner, L. A. Ohlinger, G. J. Young, A. M. Weinberg |
| 2,810,828 | Pulse Amplitude Analyzer | G. W. Gray, A. S. Jensen |
| 2,811,411 | Method of Processing Monazite Sand | G. D. Calkins |
| 2,811,412 | Method of Recovering Uranium Compounds | R. H. Poirier |
| 2,811,413 | Fluorination Process | T. S. McMillan |
| 2,811,414 | Process for Producing Uranium Halides | E. V. Murphree |
| 2,811,415 | Extraction Method of Separating Uranium, Plutonium, and Fission Products from Compositions Containing Same | G. T. Seaborg |
| 2,811,416 | Process of Removing Plutonium Values from Solution with Group IVB Metal Phospho-Silicate Compositions | E. R. Russell, A. W. Adamson, J. Schubert, G. E. Boyd |
| 2,811,423 | Redistributor for Liquid-Liquid Extraction Columns | J. G. Bradley |
| 2,811,487 | Neutron Reactor Having a $Xe^{135}$ Shield | H. E. Stanton |
| 2,811,923 | Direct Current Electromagnetic Pump | A. H. Barnes |
| 2,812,232 | Prevention of Scale Formation in Uranium Solvent Extractor | J. W. Delapleine |
| 2,812,233 | Metal Extraction Process | G. W. Lewis, Jr., D. E. Rhodes |
| 2,812,303 | Atomic Power Plant | F. Daniels |
| 2,812,304 | Means for Cooling Reactors | J. A. Wheeler |
| 2,813,001 | Uranium Purification Process | J. R. Ruhoff, C. E. Winters |
| 2,813,002 | Uranium Purification Process | C. E. Winters |
| 2,813,003 | Alkaline Carbonate Leaching Process for Uranium Extraction | A. Thunaes, E. A. Brown, A. T. Rabbitts |
| 2,813,004 | Process for Separating Plutonium from Impurities | A. C. Wahl |
| 2,813,018 | Production of Uranium | A. E. Ruehle, J. W. Stevenson |
| 2,813,022 | Method of Conducting a Person Between a Safe Region and a Dangerous Region | H. A. Moulthrop |





| | | |
|---|---|---|
| 2,813,064 | Isotopic Fractionation Process of Uranium | A. Clark |
| 2,813,070 | Method of Sustaining a Neutronic Chain Reacting System | E. Fermi (Deceased), M. C. Leverett |
| 2,813,073 | Neutron Reactor Fuel Element Utilizing Zirconium-Base Alloys | H. A. Saller (Deceased), J. R. Keeler, E. R. Szumachowski |
| 2,813,598 | Method for Removal of Light Isotope Product from Liquid Thermal Diffusion Units | J. D. Hoffman, J. K. Ballou |
| 2,813,978 | Electron Emission Regulating Means | I. R. Brenholdt |
| 2,813,979 | Apparatus for Producing Ions of Vaporizable Materials | C. Starr |
| 2,814,477 | Retort Assembly | C. C. Loomis, W. J. Ash |
| 2,814,728 | Ion Beam Collimator | A. S. Langsdorf, Jr. |
| 2,814,772 | Electrical Circuits Using Cold-Cathode Triode Valves | F. S. Goulding |
| 2,814,849 | Process of Producing Refractory Uranium Oxide Articles | N. E. Hamilton |
| 2,814,857 | Ceramic Fuel Element Material for a Neutronic Reactor and Method of Fabricating Same | W. H. Duckworth |
| 2,315,261 | Uranium Precipitation Process | A. Thunaes, E. A. Brown, H. W. Smith, R. Simard |
| 2,815,262 | Separation Process for Thorium Salts | G. L. Bridger, M. E. Whatley, K. C. Shaw |
| 2,815,264 | Processing of Monazite Sand | G. D. Calkins, E. C. Bohlmann |
| 2,815,265 | Metal Recovery Process | L. B. Werner, O. F. Hill |
| 2,815,266 | Method of Preparing $PuF_4$ | R. E. Heath, A. E. Florin |
| 2,815,277 | Method for Removing Sodium Oxide from Liquid Sodium | W. H. Bruggeman, B. G. Voorhees |
| 2,815,319 | Fast Neutronic Reactor | A. H. Snell |
| 2,815,321 | Isotope Conversion Device | E. P. Wigner, L. A. Ohlinger, G. J. Young |
| 2,815,968 | Seal for Rotating Shaft | R. T. Coffman |
| 2,816,005 | Extraction of Uranyl Nitrate from Aqueous Solutions | N. H. Furman, R. J. Mundy |
| 2,816,042 | Refractory Article and Process of Manufacturing Same | N. E. Hamilton |
| 2,816,068 | Reactor Control | W. J. Ruano |
| 2,816,122 | Method of Recovering Thorium | R. W. Fisher |
| 2,816,476 | High-Speed Camera | B. T. Rogers, Jr., W. C. Davis |
| 2,816,704 | Seal for High Speed Centrifuge | C. W. Skarstrom |
| 2,816,813 | Fractional Distillation Separation of Plutonium Values from Light Element Values | B. B. Cunningham |
| 2,816,860 | Means for Controlling a Nuclear Reactor | V. C. Wilson, L. Slotin, W. F. Overbeck, D. K. Froman |
| 2,817,019 | Shock-Excited Oscillator | R. Greveling |
| 2,817,036 | Spark Gap Switch | R. B. Neal |
| 2,817,060 | Non-Destructive Flaw Detection Apparatus | M. J. Stateman, H. R. Holloway |
| 2,817,350 | Device for Control of Oxygen Partial Pressure | H. Bradner, H. S. Gordon |
| 2,817,605 | Method for Sealing the Pores in a Carbon Body | M. C. Sanz, C. R. Malmstrom, J. M. Nuding, H. P. Yockey |
| 2,817,763 | Ion Source for a Calutron | J. G. Backus |
| 2,818,208 | Gas Metering Pump | C. M. George |
| 2,818,324 | Liquid-Liquid Extraction Columns | J. D. Thornton |
| 2,818,504 | Logarithmic Amplifier | J. A. DeShong, Jr. |
| 2,818,507 | Velocity Selector Method for the Separation of Isotopes | R. J. Britten |
| 2,818,605 | Method of Making a Refractory Material | H. I. Miller |
| 2,818,726 | Automatic Calibrating System for Pressure Transducers | E. L. Amonette, G. W. Rodgers |
| 2,819,053 | Acceleration Integrator | K. E. Pope |
| 2,819,143 | Plutonium Separation Method | J. L. Dreher, S. G. Thompson |





XUM 37 5 SEP 1973 V38-171-183

| | | |
|---|---|---|
| 2,819,144 | Separation of Plutonium from Uranium and Fission Products by Adsorption | G. T. Seaborg, J. E. Willard |
| 2,819,280 | Plutonium Compounds and Process for Their Preparation | F. J. Wolter, H. C. Diehl, Jr. |
| 2,819,296 | Electronic Trigger Circuit | J. A. G. Russell |
| 2,819,401 | Apparatus for Controlling the Position of an Ion Beam in a Calutron | E. O. Lawrence |
| 2,819,944 | Purification Process | H. L. Wibbles, E. I. Miller |
| 2,820,182 | Photosensitive Relay Control Circuit | C. F. Martin |
| 2,820,192 | Tube Tester | H. T. Gittings, Jr., J. F. Kalbach |
| 2,820,367 | Device for Conveying and Rotating Objects | C. E. Frantz, J. Roslund |
| 2,820,692 | Process of Dissolving Zirconium Alloys | R. S. Shor, S. Vogler |
| 2,820,751 | Process for Producing Jacketed Bodies | H. A. Saller (Deceased) |
| 2,820,753 | Nuclear Reactor | H. I. Miller, R. C. Smith |
| 2,820,759 | Method of Separating Froths from Liquid | G. F. Monet |
| 2,820,895 | Pulse Height Analyzer | C. W. Johnstone |
| 2,820,896 | Multichannel Pulse-Height Analyzer | J. T. Russell, H. W. Lefevre |
| 2,821,505 | Process of Coating Metals with Bismuth or Bismuth-Base Alloys | J. G. Beach |
| 2,821,632 | Apparatus for Producing Ions of Vaporizable Materials | B. T. Wright |
| 2,821,636 | Go-Devils | S. Jefferson |
| 2,821,662 | Ion Source | W. A. Bell, Jr., L. O. Love, W. K. Prater |
| 2,822,239 | Method of Separating Plutonium | H. S. Brown, O. F. Hill |
| 2,822,260 | Decontamination of Uranium | H. M. Feder, N. R. Chellow |
| 2,822,472 | Negative Gate Generator | C. S. Jones, T. E. Eaton |
| 2,822,473 | Pulse Duration Lengthener | W. R. Aiken |
| 2,822,479 | Radiation Counter | W. W. Goldsworthy |
| 2,822,578 | Injection-Moulding Apparatus | G. M. Lobell |
| 2,826,624 | Vapor Shield for Induction Furnace | S. L. Reese, S. O. Samoriga |
| 2,826,708 | Plasma Generator | J. S. Foster, Jr. |
| 2,827,429 | Cooled Neutronic Reactor | C. R. Binner, C. B. Wilkie |
| 2,827,569 | Stabilized Oscillator | P. L. Jessen, H. J. Price |
| 2,828,425 | Pulse Amplitude Analyzer | M. H. Greenblatt |
| 2,828,875 | Remote Handling Arrangements | D. W. Ginns |
| 2,829,293 | Lead Severing Contrivance | W. Widmaier |
| 2,829,316 | Control and Fault Detector Circuit | C. N. Winningstad |
| 2,829,408 | Centrifugal Casting Machine | A. B. Shuck |
| 2,830,066 | Separation Process for Transuranic Element and Compounds Thereof | L. B. Magnusson |
| 2,830,871 | Uranium Recovery Process | D. Kaufman, C. S. Abrams |
| 2,830,873 | Fluoride Volatility Process for the Recovery of Uranium | J. J. Katz, H. H. Hyman, I. Sheft |
| 2,830,874 | Ion Exchange Process for the Recovery and Purification of Materials | R. S. Long, R. H. Bailes |
| 2,830,894 | Production of Uranium | F. H. Spedding, H. A. Wilhelm, W. H. Keller |
| 2,830,896 | Uranium Alloys | A. U. Seybolt |
| 2,830,921 | Production of Uranium Tubing | E. C. Creutz |
| 2,830,939 | Process of Separating Plutonium Values by Electrodeposition | A. C. Wahl |
| 2,830,944 | Neutronic Reactor | E. P. Wigner, A. M. Weinberg, G. J. Young |
| 2,831,122 | Radiation Sources | M. H. Brucer |
| 2,831,162 | Time-Interval Measuring Device | J. E. Gross |
| 2,831,750 | Separating Protactinium with Manganese Dioxide | G. T. Seaborg, J. W. Gofman, R. W. Stoughton |
| 2,831,806 | Neutronic Reactor | E. P. Wigner |
| 2,831,807 | Neutronic Reactor | R. J. McGerry |
| 2,831,990 | Electromagnetic Apparatus for Moving a Rod | J. N. Young |



| | | |
|---|---|---|
| 2,823,116 | Method of Preparing Sintered Zirconium Metal from its Hydrides | R. F. Angier |
| 2,823,179 | Detection of Coating Failures in a Neutronic Reactor | A. H. Snell, S. K. Allison |
| 2,823,350 | Method of Locating Grounds | K. Macleish |
| 2,823,976 | Recovery of Thorium and Uranium Values from Aqueous Solutions | G. D. Calkins |
| 2,823,977 | Method of Dissolving Uranium Metal | L. A. Slotin |
| 2,823,978 | Precipitation Method of Separating Plutonium from Contaminating Elements | J. E. Sutton |
| 2,824,056 | Reactor Unloading | M. C. Leverett |
| 2,824,234 | Method and Means for Radiation Dosimetry | J. W. Schulte, J. F. Suttle |
| 2,824,252 | Ionization Chamber | W. C. Redman, F. R. Shonka |
| 2,824,365 | Soldering of Aluminum Base Metals | G. F. Erickson |
| 2,824,732 | Apparatus for Melting and Pouring Metal | F. A. Harris |
| 2,824,783 | Separation of Scandium From Aqueous Solutions | D. F. Peppard, E. S. Nachtman |
| 2,824,784 | Method for the Preparation of Stable Actinide Metal Oxide-Containing Slurries and of the Oxides Therefor | R. S. Hansen, R. E. Minturn |
| 2,824,841 | Scintillator Composition for Counters and Method of Making | W. L. Buck, R. K. Swank |
| 2,824,967 | Calutron | M. D. Karmen |
| 2,824,973 | Radiation Detector System | J. C. Gundlach, G. G. Kelley |
| 2,825,105 | Metal Production and Casting | T. T. Magel |
| 2,825,599 | Grab Mechanisms | K. H. Dent |
| 2,825,688 | Power Generating Neutronic Reactor System | H. C. Vernon |
| 2,825,689 | Neutronic Reactor and Fuel Element Therefor | L. Szilard, G. J. Young |
| 2,825,818 | Gas Phototube Circuit | J. H. Richardson |
| 2,826,495 | Alloy for Use in Nuclear Fission | F. H. Spedding, H. A. Wilhelm |
| 2,831,996 | Ion Source | E. F. Martino |
| 2,832,002 | Time Calibrated Oscilloscope Sweep | H. M. Owren, V. L. Smith, B. M. Johnson |
| 2,832,113 | Ingot Mold | A. J. Mangold, Jr., J. W. Mahaffey, S. L. Reese |
| 2,832,732 | Fuel Assembly for a Neutronic Reactor | E. P. Wigner |
| 2,832,733 | Heavy Water Moderated Reactor | L. Szilard |
| 2,832,793 | Process for Separation of Heavy Metals | R. B. Duffield |
| 2,833,616 | Separation of Uranium from Zirconium and Niobium by Solvent Extraction | E. E. Voiland |
| 2,833,617 | Fluorine Process for Separation of Materials | G. T. Seaborg, H. S. Brown |
| 2,833,618 | Separating Uranium Containing Solids Suspended in a Liquid | E. C. Creutz, E. P. Wigner |
| 2,833,799 | Recovery of Tetravalent Cations from Aqueous Solutions | R. L. Moore |
| 2,833,800 | Process for Purifying Plutonium | D. F. Mastick, A. C. Wahl |
| 2,833,927 | Method of Separating Isotopes of Uranium in a Calutron | F. A. Jenkins |
| 2,833,965 | Electrical Protective Device | W. R. Baker |
| 2,834,672 | Method of Producing Uranium | L. S. Foster, T. T. Magel |
| 2,834,722 | Electrochemical Decontamination and Recovery of Uranium Values | J. A. McLaren, J. H. Goode |
| 2,835,553 | Reduction of Acidity of Nitric Acid Solutions by Use of Formaldehyde | T. V. Healy |
| 2,835,573 | Hot Pressing with a Temperature Gradient | H. H. Hausner |
| 2,835,608 | Process of Preparing Uranium-Impregnated Graphite Body | M. A. Kanter |
| 2,835,630 | Treatment of Metals Prior to Electroplating | R. A. U. Huddle, O. Flint |
| 2,835,687 | Isotope Fractionation Process | G. H. Clewett, DeWayne A. Lee, W. B. Schaap |
| 2,835,848 | Multi-Electrode Tube Pulse Memory Circuit | J. C. Gundlach, J. B. Reeves |







XUM 37 5 SEP 73 V3813A

| | | |
|---|---|---|
| 2,835,890 | Directional Antenna | B. J. Bittner |
| 2,836,548 | Surface Treatment of Metallic Uranium | A. G. Gray, E. W. Schweikher |
| 2,836,554 | Air Cooled Neutronic Reactor | E. Fermi (Deceased) L. Szilard |
| 2,836,759 | Linear Accelerator | S. A. Colgate |
| 2,837,401 | Separation of Plutonium from Aqueous Solutions by Ion-Exchange | J. Schubert |
| 2,837,402 | Method of Reducing Plutonium Compounds | I. B. Johns |
| 2,837,474 | Corrosion Inhibition | G. H. Cartledge |
| 2,837,475 | Neutronic Reactor Having Localized Areas of High Thermal Neutron Densities | H. W. Newson |
| 2,837,476 | Steam Stirred Homogeneous Nuclear Reactor | H. M. Busey |
| 2,837,477 | Chain Reacting System | E. Fermi (Deceased), M. C. Leverett |
| 2,837,548 | Separation Process Using Complexing and Adsorption | F. H. Spedding, J. A. Ayres |
| 2,837,639 | Pulse Amplitude Analyzers | G. W. Gray, A. S. Jensen |
| 2,837,640 | Pulse Height Analyzer | W. W. Goldsworthy |
| 2,837,818 | Method of Solid State Welding | S. Storchheim |
| 2,838,366 | Oxidative Method of Separating Plutonium from Neptunium | L. J. Beaufait, Jr. |
| 2,838,367 | U-Extraction-Improvements in Elimination of Mo by Use of Ferric Ion | H. M. Clark, D. Duffey |
| 2,838,368 | Treatment of Ammonium Nitrate Solutions | T. W. Boyer, J. G. MacHutchin, L. Yaffe |
| 2,838,369 | Process for the Concentration of Ores Containing Gold and Uranium | A. M. Gaudin, J. Dasher |
| 2,838,370 | Recovery of Uranium and Thorium from Aqueous Solutions | G. D. Calkins |
| 2,838,371 | Method of Separating Plutonium from Lanthanum Fluoride Carrier | G. W. Watt, R. H. Goeckermann |
| 2,838,451 | Gas Cooled Nuclear Reactors | E. Long, W. Rodwell |
| 2,838,452 | Plates with Oxide Inserts | J. M. West, J. F. Schumar |
| 2,838,661 | Binary Storage Element | J. C. Chu |
| 2,839,357 | Solvent Extraction Process for Uranium Recovery | H. M. Clark, D. Duffey |
| 2,839,358 | Process of Recovering Uranium | T. D. Price, N. M. Jeung |
| 2,839,614 | Magnetic Recording Head | L. C. Merrill |
| 2,839,619 | Pulse Amplifier | C. W. Johnstone |
| 2,839,706 | Pulsed Ion Source | C. E. Anderson, K. W. Ehlers |
| 2,840,136 | Tube Flanging Apparatus Having Spiral Cam Actuated Flanging Rollers | H. J. Bellaris |
| 2,840,451 | Separation of Inorganic Salts from Organic Solutions | L. I. Katzin, J. C. Sullivan |
| 2,840,452 | Recovery of Uranium from Pitchblende | A. E. Ruehle |
| 2,840,464 | Method of Separating Fission Products from Fused Bismuth-Containing Uranium | R. H. Wiswall |
| 2,840,467 | Inhibition of Corrosion | J. E. Atherton, Jr., D. H. Gurinsky |
| 2,840,471 | Photographic Film Developer | F. G. Berry |
| 2,840,480 | Refractory Coating for Graphite Molds | S. D. Stoddard |
| 2,840,522 | Reactor and Novel Method | G. J. Young, L. A. Ohlinger |
| 2,840,788 | Loaded Waveguides | L. B. Mallett, B. G. Loach, G. L. Adams |
| 2,841,018 | Quick Releasable Drive | J. J. Dickson |
| 2,841,026 | Nut Screw Mechanisms | J. A. P. Glass |
| 2,841,464 | Precipitation Method of Separation of Neptunium | L. B. Magnusson |
| 2,841,466 | Uranium Extraction | C. D. Harrington, Jr. V. Opie |
| 2,841,468 | Recovery of Uranium from Carbonate Leach Liquors | H. F. Wilson |
| 2,841,469 | Plutonium Carrier Metathesis with Organic Reagent | S. G. Thompson |
| 2,841,539 | Heat Treatment of Electroplated Uranium | F. F. Hoglund |
| 2,841,545 | Power Reactor | W. H. Zinn, |







| | | |
|---|---|---|
| 2,841,727 | Quantizing Tube | G. W. Gray, A. S. Jensen |
| 2,842,224 | De-Entrainment Column | A. J. Mooradian |
| 2,842,436 | Selective Rejection of Iron and Aluminum in Hydrometallurgical Recovery of Metals | A. J. Beyer, J. Orndorf |
| 2,842,736 | Polarograph | J. W. Heyd, F. E. Ohmart |
| 2,843,451 | Processes of Recovering Uranium from a Calutron | D. O. Baird, L. R. Zumwelt |
| 2,843,452 | Precipitation of Protactinium | R. L. Moore |
| 2,843,453 | Separation of Plutonyl Ions | R. E. Coonick, W. A. McVey |
| 2,843,478 | High Temperature Brazing Alloy for Joining Fe Cr Al Materials and Austenitic and Ferritic Stainless Steels | R. R. Cost |
| 2,843,500 | Coated Alloys | C. G. Harmon, L. S. O'Bannon |
| 2,843,543 | Neutronic Reactor | R. F. Christy |
| 2,843,815 | Transistor High Voltage Power | G. E. Driver |
| 2,844,639 | Thermo-Electric Generator | K. C. Jordan |
| 2,844,735 | Method of Testing for Leaks | E. C. Creutz, Wm. A. McAdams, M. H. Foss |
| 2,844,740 | Multiple Spark Gap Switch | A. E. Schofield |
| 2,845,530 | Pulse Sorter | E. J. Wade |
| 2,845,544 | Neutron Measuring Method and Apparatus | G. T. Seaborg, J. W. Cofman, G. Friedlander |
| 2,845,560 | Neutron Counter | C. D. Curtis, C. L. Carlson M. P. Tubinis |
| 2,845,596 | Peak Reading Voltmeter | A. L. Dyer |
| 2,845,716 | Aligning Jig | J. S. Culver, W. C. Tunnell |
| 2,845,762 | Can Handling Fixtures | L. R. Kelman, F. L. Yagoda |
| 2,846,084 | Electronic Master Slave Manipulator | R. C. Goertz, W. M. Thompson, R. A. Olsen |
| 2,846,523 | Square Wave Amplifier | M. A. Leavitt, I. C. Lutz |
| 2,846,762 | Metal Plating Process | D. E. Walker, R. A. Noland |
| 2,846,872 | Leakage Testing Method | W. A. McAdams, M. H. Foss |
| 2,847,268 | Pulse Amplitude Distribution Recorder | G. Cowper |
| 2,847,270 | Calutron Oscillograph System | Q. A. Kerns |
| 2,847,273 | Manganese Dioxide Method for Preparation of Protactinium | L. I. Katzin |
| 2,847,274 | Sulfide Method Plutonium Separation | R. E. Duffield |
| 2,847,275 | Uranium Recovery Process | J. H. Yeager |
| 2,847,276 | Solvent Extraction of Neptunium | J. F. Butler |
| 2,847,277 | Precipitation of Uranium Peroxide of Low Fluoride Content from Solutions Containing Fluorides | E. J. King, H. M. Clark |
| 2,847,278 | Precipitation of Zirconium, Niobium, and Ruthenium from Aqueous Solutions | A. S. Wilson |
| 2,847,283 | Pulsed Mixer-Settler Solvent Extraction Contactors | W. B. Figg |
| 2,847,284 | Apparatus for Catalytically Combining Gases | H. M. Busey |
| 2,847,321 | Metal Surface Treatment | L. D. Eubank |
| 2,847,331 | Hydrogen Isotope Targets | R. W. Ashley |
| 2,847,575 | Calutrons | E. D. Kane |
| 2,847,576 | Calutron System | E. O. Lawrence |
| 2,847,577 | Calutron | F. H. Schmidt |
| 2,847,635 | Electrical Regulating Apparatus Including an Ionic Current Regulator | H. W. Brackney |
| 2,847,644 | High Sensitivity Electroscope | F. R. Shonka, A. J. Okleshen |
| 2,848,266 | Remote Retrieving Tool | L. W. Fromm, Jr. |
| 2,848,300 | Process of Separating Uranium from Aqueous Solution by Solvent Extraction | J. C. Werf |
| 2,848,301 | Separation of Plutonium Hydroxide from Bismuth Hydroxide | G. W. Watt |
| 2,848,325 | Fuel Elements for Nuclear Reactors and Process of Making | W. E. Roake |
| 2,848,351 | Nitric Acid Pickling Process | R. R. Boller, L. D. Eubank, J. W. Robinson |

| | | |
|---|---|---|
| 2,848,352 | Fuel Elements and Method of Making | R. A. Noland, C. Marzano |
| 2,848,404 | Neutronic Reactor | M. Treshow |
| 2,848,619 | Ion Source Unit for a Calutron | W. M. Brobeck |
| 2,848,620 | Ion Producing Mechanism | J. G. Backus |
| 2,848,621 | Calutron Ion Source | F. Oppenheimer |
| 2,848,622 | Calutron Ion Source | F. Oppenheimer |
| 2,848,625 | Gamma and X-Ray Dosimeter and Dosimetric Method | G. V. Taplin, C. H. Douglas, S. C. Sigoloff |
| 2,848,796 | Alloy Coatings and Method of Applying | L. D. Eubank, E. R. Boller |
| 2,848,797 | Metal-Coated Articles and Method of Making | L. D. Eubank |
| 2,848,800 | Method of Jacketing Uranium Bodies | J. O. Maloney, J. B. Tepe, E. B. Haines |
| 2,848,804 | Method and Means for Closing Tubes by Spinning | E. E. Graves, R. H. Coonfere |
| 2,848,817 | Means for Determining Centrifuge Alignment | W. Q. Smith |
| 2,848,881 | Thermally Shielded Moisture Removal Device | O. E. Miller |
| 2,849,246 | Closure Device | S. M. Linzell, D. J. Dorcy |
| 2,849,277 | Process of Securing Plutonium in Nitric Acid Solutions in Its Trivalent Oxidation State | J. R. Thomas |
| 2,849,279 | Catalytic Promotion of the Adsorption of Vanadium on an Anionic Exchange Resin | R. H. Bailes, D. A. Ellis |
| 2,849,282 | Method of Separation | G. E. Boyd |
| 2,849,283 | Separation of Uranyl Nitrate by Extraction | R. W. Stoughton, F. L. Steahly |
| 2,849,284 | Method of Separating Uranium Suspensions | E. P. Wigner, W. A. McAdams |
| 2,849,285 | Method of Purifying Uranium | J. W. Kennedy (Deceased), E. G. Segre |
| 2,849,286 | Method of Processing Monazite Sand | M. A. Walt, M. Smuts |
| 2,849,307 | Method of Flux Treatment for Treating Uranium | F. Foote |
| 2,849,308 | Flux Composition and Method for Treating Uranium-Containing Metal | F. Foote |
| 2,849,313 | Preparation of Metal Powder Compacts Prior to Pressing | H. Mansfield |
| 2,849,337 | Metal Coating Baths | J. W. Robinson |
| 2,849,340 | Filter Treatment | J. B. Sutton, J. V. P. Torrey |
| 2,849,348 | Electrodeposition of Nickel on Uranium | A. G. Gray |
| 2,849,387 | Corrosion Resistent Jacketed Metal Body | E. W. Brugmann |
| 2,849,388 | Corrosion Resistent Jacketed Metel Body | E. W. Brugmann |
| 2,849,389 | Corrosion Resistant Jacketed Metal Body | E. W. Brugmann |
| 2,849,390 | Welded Jacketed Uranium Body | D. H. Gurinsky |
| 2,849,467 | Separation of Radioactive Columbium Tracer | L. E. Glendenin, H. Gest |
| 2,849,616 | Isotope Separators | C. G. Bacon |
| 2,850,447 | Neutronic Reactor | L. A. Ohlinger, E. P. Wigner, G. J. Young, A. M. Weinberg |
| 2,850,634 | Calutron Structure | D. Price |
| 2,850,635 | Regulator for Calutron Ion Source | B. F. Millar |
| 2,850,636 | Ion Producing Mechanism | J. G. Backus |
| 2,850,638 | Ion Producing Mechanism | K. R. MacKenzie |
| 2,850,639 | Calutron Receivers | F. H. Schmidt, K. F. Stone |
| 2,851,332 | Preparation of Halides of Plutonium | C. S. Garner, I. B. Johns |
| 2,851,333 | Process of Separating Plutonium from Uranium | H. S. Brown, O. F. Hill |
| 2,851,338 | Method of Testing Coatings | I. B. Johns, A. S. Newton |
| 2,851,409 | Neutronic Reactor Fuel Element and Core System | W. T. Moore |
| 2,851,410 | Neutronic Reactor Construction | H. C. Vernon, J. J. Gosett (Deceased) |
| 2,851,427 | Method of Purifying Catalysts | G. G. Joris |





| | | |
|---|---|---|
| 2,851,607 | Calutron Receivers | E. J. Lofgren |
| 2,851,609 | Ion Producing Mechanism (Arc External to Block) | W. M. Brobeck |
| 2,851,766 | Plural Metallic Coatings on Uranium and Method of Applying Same | A. G. Gray |
| 2,852,041 | Fluid Selecting Apparatus | W. J. Stinson |
| 2,852,301 | Slug Handling Devices | J. R. Gentry |
| 2,852,319 | Thrust Bearing | F. R. Heller |
| 2,852,336 | Peroxide Process for Separation of Radioactive Materials | G. T. Seaborg, I. Perlman |
| 2,852,337 | Processes of Chlorination of Uranium Oxides | S. Rosenfeld (Deceased) |
| 2,852,338 | Separation of Plutonium from Elements Having an Atomic Number not Less than 92 | F. T. Fitch, D. S. Russell |
| 2,852,349 | Apparatus for Liquid Phase Extraction | T. E. Hicks, H. R. Lehman, B. Rubin |
| 2,852,364 | Melting and Purification of Uranium | F. H. Spedding, C. F. Gray |
| 2,852,419 | Process of Decontaminating Material Contaminated with Radioactivity | D. C. Overholc, M. D. Peterson, M. F. Acken |
| 2,852,456 | Neutronic Reactor | E. J. Wade |
| 2,852,457 | Nuclear Reactors | E. Long, J. W. Ashley |
| 2,852,458 | Apparatus for Controlling Neutronic Reactors | J. R. Dietrich, J. M. Harrer |
| 2,852,459 | Apparatus for Detecting and Locating Presense of Fluids | R. R. Williamson |
| 2,852,460 | Fuel-Breeder Fuel Element for Nuclear Reactor | W. E. Abbott, R. Balent |
| 2,852,461 | Neutronic Reactor | E. Fermi (Deceased), W. H. Zinn, H. L. Anderson |
| 2,852,685 | Ion Source for Calutrons | J. R. Tolmie |
| 2,852,686 | Calutron Receiver | K. R. MacKenzie |
| 2,852,687 | Isotope Separating Apparatus | M. K. Kudravetz, H. B. Greene |
| 2,852,688 | Calutrons | W. M. Pierson |
| 2,852,689 | Ion Producing Mechanism | E. O. Lawrence (Deceased) |
| 2,852,690 | Calutrons | E. O. Lawrence (Deceased) |
| 2,852,746 | Voltage-Controlled Transistor Oscillator | P. F. Scheele |
| 2,852,823 | Casting Apparatus | C. F. Gray, R. H. Thompson |
| 2,853,228 | Oscillatory Pump | N. Underwood |
| 2,853,237 | Scanner for Exposing and Analyzing Multi-Channel Film | D. J. Zaffarano, J. Weber, Jr., W. A. Rhinehart |
| 2,853,441 | Surface Treatment of Uranium | O. Flint |
| 2,853,446 | Fuel-Breeder Element for a Nuclear Reactor | W. E. Abbott, R. Balent |
| 2,853,616 | Calutron Structure | J. L. Roush |
| 2,853,623 | X-Ray Pulse Generator | Q. A. Kerns |
| 2,853,624 | Radiation Shielding Device | E. P. Wigner, G. J. Young |
| 2,853,625 | Discharge Device for Radioactive Material | L. A. Ohlinger |
| 2,853,657 | Magnets | H. B. Hofacker |
| 2,853,695 | Electrostatic Memory System | J. C. Chu |
| 2,853,859 | Cold Traps | W. I. Thompson |
| 2,854,315 | Electrolytic Reduction of Nitric Acid Solutions Containing Radioactive Waste | H. W. Alter, D. L. Barney |
| 2,854,713 | Casting Method and Apparatus | C. F. Grey, R. H. Thompson |
| 2,854,737 | Copper Coated Uranium Article | A. G. Gray |
| 2,854,738 | Nickel Coated Uranium Article | A. G. Gray |
| 2,855,114 | Loading Device | L. A. Ohlinger |
| 2,855,269 | The Separation of Plutonium from Uranium and Fission Products | G. E. Boyd, A. W. Adamson, J. Schubert, E. R. Russell |
| 2,855,270 | Process of Recovering Uranium | J. M. Carter, C. E. Larson |
| 2,855,271 | Separation of Uranium Hexafluoride from Organic Fluoro Compounds | W. F. Libby |
| 2,855,281 | Apparatus for Condensation and Sublimation | R. J. Schmidt, F. Fuis, Jr. |

| | | |
|---|---|---|
| 2,855,354 | Neutronic Reactors | H. L. Anderson |
| 2,855,355 | Jacketed Uranium Slug | L. A. Ohlinger, C. M. Cooper |
| 2,855,519 | Tamperproof Film Badge | L. F. Kocher |
| 2,855,899 | Device for Controlling Insertion of Rod | B. J. Beaty |
| 2,856,237 | Metal Sprayer for Use in Vacuum or Inert Atmosphere | R. E. Monroe |
| 2,856,261 | Iodate Method for Purifying Plutonium | R. W. Stoughton, R. B. Duffield |
| 2,856,262 | Adsorption Procedure in Preparing $U^{233}$ | R. W. Stoughton |
| 2,856,263 | Process for the Recovery and Purification of Uranium | J. M. Carter, M. D. Kamen |
| 2,856,336 | Neutronic Reactor Control | H. E. Metcalf |
| 2,856,337 | Method of Operating Nuclear Reactors | S. Untermyer |
| 2,856,339 | Neutronic Reactors | E. P. Wigner, G. J. Young |
| 2,856,340 | Shaped Fissionable Metal Bodies | E. P. Wigner, G. J. Young |
| 2,856,341 | Nuclear Reactor Slug Provided with Thermocouple | W. R. Kanne |
| 2,856,418 | Separation Process for Transuranic Element and Compounds Thereof | M. Calvin |
| 2,856,510 | Inert-Gas Shield for Welding | S. O. Jones, F. V. Daly |
| 2,856,526 | Gating Circuits | L. C. Merrill |
| 2,856,532 | Pulsed Ion Source | E. F. Martina |
| 2,857,241 | Process Using Potassium Lanthanum Sulfate for Forming a Carrier Precipitate for Plutonium Values | A. H. Angerman |
| 2,857,268 | Superconducting Vanadium Base Alloy | H. J. Cleary |
| 2,857,285 | High Temperature Refractory Coating for Graphite Molds | S. D. Stoddard |
| 2,857,324 | Engineering Test Reactor | D. R. deBoisblanc, M. E. Thomas, R. M. Jones, G. H. Hanson, J. W. Webster, C. F. Leyse |
| 2,857,483 | Distributed Amplifier Incorporating Feedback | F. R. Bell, Jr. |
| 2,857,745 | Separation of Fluid Mixtures | R. Lipscomb, A. Craig S. Labrow, J. F. Dunn |
| 2,858,187 | Uranium Recovery | F. T. Fitch, A. J. Cruikshank |
| 2,858,196 | Extraction Apparatus | A. E. Ballard, H. R. Brigham |
| 2,858,262 | Protectively Covered Article and Method of Manufacture | H. F. Flott |
| 2,858,447 | Radiation Dosimeter and Dosimetric Methods | G. W. Taplin |
| 2,858,452 | Radiation Wave Detector | L. F. Wouters |
| 2,858,596 | Crucible Lining Method | W. H. Bone, W. W. Schmidt |
| 2,859,092 | Solvent Extraction Process for the Recovery of Metals from Phosphoric Acid | R. H. Bailes, R. S. Long |
| 2,859,093 | Zirconium Phosphate Adsorption Method | E. R. Russell, A. W. Adamson, J. Schubert, G. E. Boyd |
| 2,859,094 | Uranium Extraction Process Using Synergistic Reagents | J. M. Schmitt, C. A. Blake, Jr., K. B. Brown, C. F. Coleman |
| 2,859,095 | Process of Producing $Cm^{244}$ and $Cm^{245}$ | W. M. Manning, M. H. Studier, H. Diamond, P. E. Fields |
| 2,859,096 | Process for Production of Uranium Hexafluoride | R. D. Fowler |
| 2,859,097 | Preparation of Plutonium Halides | M. E. Davidson, J. J. Katz |
| 2,859,138 | Composition and Method for Coating a Ceramic Body | M. K. Blanchard |
| 2,859,156 | Electrolytic Preparation of $UF_4$ | A. L. Allen, R. W. Anderson, E. W. Powell |
| 2,859,163 | Cadmium-Rare Earth Borate Glass as Reactor Control Material | O. L. Floets, W. E. Ray |
| 2,859,164 | Sampling Device for pH Measurement in Process Streams | C. E. Michelson, W. W. Carson, Jr. |
| 2,859,353 | Circuits for Current Measurements | R. J. Cox |
| 2,859,431 | Visual Alarm System | J. M. Morris |
| 2,860,031 | Process for Utilizing Organic Orthophosphate Extractants | R. R. Grinstead |



| | | |
|---|---|---|
| 2,860,032 | Wet Method of Preparing Plutonium Tribromide | N. R. Davidson, E. K. Hyde |
| 2,860,093 | Isotope Conversion Device and Method | E. P. Wigner, L. A. Ohlinger |
| 2,860,241 | Ratio Computer | R. F. Post |
| 2,860,242 | Differential Pulse Height Discriminator | L. D. Test |
| 2,860,269 | Gas Discharge Devices | S. Jefferson |
| 2,860,270 | Pulsed Ion Source | F. C. Ford, S. G. Zizzo, B. Cook, J. W. Ruff |
| 2,860,948 | Separation of Neptunium from Plutonium by Chlorination and Sublimation | S. M. Fried |
| 2,860,949 | Plutonium Separation Method | L. J. Beaufait, Jr., F. R. Stevenson, G. K. Rollefson |
| 2,860,950 | Method of Preparing Metal Halides | A. V. Henrickson |
| 2,860,956 | Production of Metals and their Compounds | T. V. Arden, F. H. Burstall, G. R. Davies, R. F. Linstead, R. A. Wells |
| 2,861,033 | Horizontal Boiling Reactor System | M. Treshow |
| 2,861,034 | Neutronic Reactor Shield and Spacer Construction | E. P. Wigner, L. A. Ohlinger |
| 2,861,035 | Control Rod | W. H. Zinn, H. V. Ross |
| 2,861,201 | Electronic Pulse Scaling Circuits | E. H. Cooke-Yarborough |
| 2,861,242 | Magnetometer | M. A. Leavitt |
| 2,861,789 | Accelerometer | K. H. Pope |
| 2,861,866 | Wet Fluoride Separation Method | G. T. Seaborg, J. W. Gofman |
| 2,862,105 | Multi-Channel Pulse Height Analyzer | K. Boyer, C. W. Johnstone |
| 2,862,113 | Regenerative Transistor Amplifier | L. J. Kabell |
| 2,862,862 | Formation by Irradiation of an Expanded Celluler, Polymeric Body | A. Charlesby, M. Ross |
| 2,862,526 | Method of Separating Hydrogen Isotope | O. N. Salmon |
| 2,863,062 | Method of Measuring the Integrated Energy Output of a Neutronic Chain Reactor | W. J. Sturm |
| 2,863,716 | Sulphur Dioxide Leaching of Uranium Containing Material | A. Thunaes, F. T. Rabbitts, K. D. Hester, H. W. Smith |
| 2,863,718 | Plutonium Concentration and Decontamination Method | D. C. Overholt, F. W. Tober |
| 2,863,719 | Method of Improving the Carrier precipitation of Plutonium | H. J. Kamack, J. H. Balthis |
| 2,863,729 | Combination of Hydrogen and Oxygen | H. F. McDuffie, C. H. Secoy |
| 2,863,735 | System for Conversion of $UF_4$ to $UF_6$ | D. C. Brater, J. W. Pike |
| 2,863,814 | Neutronic Reactor Fuel Element | K. A. Kesselring, A. U. Seybolt |
| 2,863,815 | Nuclear Reactor | R. V. Moore, J. H. Bowen, K. H. Dent |
| 2,863,816 | Neutronic Reactor Fuel Element | J. T. Stacy |
| 2,863,817 | Reactor Coolant Tube Seal | W. J. Morris |
| 2,863,818 | Jacketed Reactor Fuel Element | K. F. Smith, R. J. Van Thyne |
| 2,863,830 | Process for Decontaminating Liquid Fluorocarbons of Oil Suspended Therein | H. Schneider, B. J. Massey |
| 2,863,892 | Separation of Plutonium from Lanthanum by Chelation-Extraction | R. A. James, S. G. Thompson |
| 2,864,042 | Servomotor Control System | S. M. MacNeille |
| 2,864,664 | Separation of Uranium, Plutonium, and Fission Products | R. Spence, M. W. Lister |
| 2,864,665 | Reduction of Plutonium to $Pu^{+3}$ by Sodium Dithionite in Potassium Carbonate | D. R. Miller, H. R. Hockstra |
| 2,864,666 | Production of Uranium Tetrachloride | V. P. Calkins |
| 2,864,667 | Anionic Exchange Process for the Recovery of Uranium and Vanadium from Carbonate Solutions | R. H. Bailes, D. A. Ellis, R. S. Long |
| 2,864,668 | Uranium Extraction Process | W. H. Baldwin, C. E. Higgins |
| 2,864,731 | Forming Protective Films on Metal | D. H. Gurinsky, O. F. Kammerer, J. Sadofsky, J. R. Weeks |
| 2,864,758 | Neutronic Reactor Fuel Element | M. H. Shakelford |
| 2,864,759 | Nuclear Reactors | E. Long, J. W. Ashley |
| 2,864,841 | Process for the Recovery of Plutonium | H. A. Potratz |





XUM 37 5 SEP 1973 V38 1973

| | | |
|---|---|---|
| 2,865,291 | Pumps for Liquid Current-Conducting Material | D. A. Watt |
| 2,865,703 | Process of Purifying Uranium | G. T. Seaborg |
| 2,865,704 | Method of Separating Uranium, Plutonium, and Fission Products by Bromination and Distillation | A. H. Jaffey, G. T. Seaborg |
| 2,865,705 | Improvement upon the Carrier Precipitation of Plutonium Ions from Nitric Acid Solutions | R. A. James, S. G. Thompson |
| 2,865,737 | Method of Purifying Uranium Metal | R. E. Blanco, B. H. Mirrison |
| 2,865,826 | Neutronic Reactor | H. B. Stewart |
| 2,865,827 | Power Generation from Liquid Metal Nuclear Fuel | O. E. Dwyer |
| 2,865,829 | Slug Ejector | H. W. Belles, R. N. Lyon |
| 2,865,832 | Electrolytic Dissolution of Stainless Steel | E. C. Pitzer |
| 2,866,680 | Alkyl Pyrophosphate Metal Solvents Extractants and Process | R. S. Long |
| 2,866,741 | Control Rod for a Nuclear Reactor and Method of Preparation | H. H. Hausner |
| 2,866,939 | Zero Suppression for Recorders | W. G. S. Fort |
| 2,867,500 | Method for Removing Contamination from Precipitates | G. W. Stahl |
| 2,867,501 | Volatile Chloride Process for the Recovery of Metal Values | W. R. Hanley |
| 2,867,530 | Plutonium-Cerium Alloy | A. S. Coffinberry |
| 2,867,640 | Oxalate Process for Separating Element 94 | J. W. Gofman |
| 2,867,729 | Secondary Electron Multipliers | G. A. Morton, M. W. Green |
| 2,867,748 | Heavy Ion Linear Accelerator | C. M. Van Atta, L. Smith, E. R. Beringer |
| 2,867,803 | Circular Cavity Slot Antenna | P. L. Kerley |
| 2,868,619 | Process for the Recovery of Plutonium | D. M. Ritter |
| 2,868,620 | Method of Making Plutonium Dioxide | C. S. Garner |
| 2,868,636 | Process of Preparing Uranium Metal | C. H. Prescott, Jr. F. L. Reynolds |
| 2,868,706 | Device for Charging or Discharging | S. Untermyer, E. Hutter |
| 2,868,707 | Process of Making a Neutronic Reactor Fuel Element Composition | H. W. Alter, J. K. Davidson, R. S. Miller, J. L. Mewherter |
| 2,868,708 | Neutronic Reactor | H. C. Wernon |
| 2,868,817 | Plutonium-Cupferron Complex and Method of Removing Plutonium from Solution | R. A. Potrats |
| 2,868,974 | Resonant Cavity Excitation System | W. R. Baker, J. Reidel |
| 2,868,987 | Liquid Target | W. W. Salsig, Jr., M. D. Martin |
| 2,868,990 | Neutron Source | W. A. Reardon, D. H. Lennox, R. G. Nobles |
| 2,868,991 | High Energy Gaseous Plasma Containment Device | V. Josephson, J. E. Hammel |
| 2,868,992 | Reactor Viewing Apparatus | G. S. Monk |
| 2,869,784 | Multiplier Circuit | R. E. Thomas |
| 2,869,786 | Adder Circuit | D. H. Jacobsohn, L. C. Merrill |
| 2,869,979 | Slurry Solvent Extraction Process for the Recovery of Metals from Solid Materials | R. R. Grinstead |
| 2,869,980 | Process for the Recovery of Metals from High-Lime Carnotite Ores | R. R. Grinstead |
| 2,869,981 | Process of the Purification of Uranium | S. Rosenfeld (Deceased) |
| 2,869,982 | Recovery of PuValues by Fluorination and Fractionation | H. S. Brown, D. S. Webster |
| 2,869,983 | Separation of Metal Salts by Adsorption | D. M. Gruen |
| 2,870,031 | Graphite Extrusions | T. M. Benziger |
| 2,870,075 | Nuclear Reactor Unloading | M. C. Leverett, J. F. Howe |
| 2,870,076 | Method and Apparatus for Improving Performance of a Fast Reactor | L. J. Koch |
| 2,870,339 | Fabrication of Neutron Sources | J. H. Birden |
| 2,870,407 | Method of Peak Current Measurement | G. E. Baker |
| 2,870,484 | Spherical Die | J. P. Livingston |



| | | |
|---|---|---|
| 2,870,907 | Forming Tubes and Rods of Uranium Metal by Extrusion | E. C. Creutz |
| 2,871,042 | Supporting and Heat Insulation Means | B. W. Birmingham, E. H. Brown, R. B. Scott, P. C. Vander Arend |
| 2,871,092 | Niobium-Tantalum Separation | H. A. Wilhelm, R. A. Foos |
| *2,871,176 | (See bottom of page 50 ) | |
| 2,871,251 | Process for the Separation of Heavy Metals | J. W. Gofman, R. E. Connick, A. C. Wahl |
| 2,871,361 | Calutron Assembling and Disassembling Apparatus | R. E. Andrews |
| 2,871,362 | Calutron Assembling and Disassembling Means | R. E. Andrews, J. Thornton |
| 2,871,363 | Calutron Assembling and Disassembling Apparatus | R. E. Andrews |
| 2,871,364 | Calutrons | E. O. Lawrence (Deceased) |
| 2,871,555 | Method of Jacketing Fissionable Materials | L. M. Foster |
| 2,871,558 | Sheathing Uranium | E. W. Colbeck |
| 2,872,105 | Rotor End Cap | F. C. Rushing |
| 2,872,284 | Recovery of Protactinium | K. A. Kraus, G. E. Moore |
| 2,872,285 | Solvent Extraction of Uranium Values | H. M. Feder, M. Ader, L. E. Ross |
| 2,872,286 | Bismuth Phosphate Carrier Process for Pu Recovery | T. G. Pinsel |
| 2,872,287 | Method of Separating Tetravalent Plutonium Values from Cerium Sub-group Rare Earth Values | R. B. Duffield, R. W. Stoughton |
| 2,872,288 | Carbonate Method of Separation of Tetravalent Plutonium from Fission Product Values | R. B. Duffield, R. W. Stoughton |
| 2,872,296 | Continuous Dissolver Extractor for Processing Metal | R. B. Lemon, J. A. Buckham |
| 2,872,307 | Thorium-Carbon Alloys | H. A. Wilhelm, R. E. Rundle |
| 2,872,308 | Metal Compositions | A. U. Seybolt |
| 2,872,310 | Zirconium Alloy | H. A. Wilhelm, D. Peterson, R. F. Russi, Jr. |
| 2,872,343 | Method of Protectively Coating Uranium | L. D. Eubank, S. Euclid, E. R. Boller |
| 2,872,348 | Fused Salt Method for Coating Uranium with a Metal | L. D. Eubank |
| 2,872,361 | Stripping Metal Coatings | H. T. Siefen, J. M. Campbell |
| 2,872,363 | Method of Working Beryllium | R. E. Macherey |
| 2,872,387 | Anodic Treatment of Uranium | M. Kolodney |
| 2,872,389 | Treatment of Uranium Surfaces | C. J. Slunder |
| 2,872,394 | Recovery of Uranium from Tungsten | K. C. Newman |
| 2,872,398 | Neutron-Irradiated Structures | E. L. Ashley, J. W. Ashley, H. W. Bowker, R. H. Hall, J. W. Kendall |
| 2,872,399 | Self-Reactivating Neutron Source for a Neutronic Reactor | H. W. Newsom |
| 2,872,400 | Reactor Monitoring | S. J. Bughee, V. Hanson, D. F. Babcock |
| 2,872,401 | Jacketed Fuel Element | E. P. Wigner, L. Szilard |
| 2,872,402 | Method of Preparation of Material for Neutron Bombardment | C. L. Ura, O. Simman, R. B. Briggs |
| 2,872,467 | Preparation of Oxalates of Metals of Atomic Number Greater Than 88 | R. B. Duffield |
| 2,872,545 | Remote Controlled Switching Device | J. C. Hobbs |
| 2,872,574 | Cloverleaf Cyclotron | E. M. McMillan, D. L. Judd |
| 2,872,719 | Method of Fabricating Small Spherical Pellets | H. C. Bressfield, C. T. Durham, Jr. |
| 2,873,065 | Differential Analyzer | E. G. Sorensen, C. M. Gordon |
| 2,873,108 | Apparatus for High Purity Metal Recovery | T. T. Magel |
| 2,873,165 | Uranium Recovery Process | R. H. Bailes, R. S. Long, R. S. Olson, H. O. Kerlinger |
| 2,873,167 | Processes of Reclaiming Uranium from Solutions | L. R. Zumwelt |
| 2,873,168 | Recovery of Pu from Cerium Trifluoride by Fluorination | H. S. Brown, E. O. Bohlmann |

| | | | | | |
|---|---|---|---|---|---|
| 2,873,169 | Basic Peroxide Precipitation Method of Separating Plutonium from Contaminants | G. T. Seaborg, I. Perlman | 2,874,235 | Ultra-Stabilized D. C. Amplifier | E. C. Hartwig, R. W. Kuenning, R. C. Acker |
| 2,873,170 | Anion Exchange Method for Separation of Metal Values | E. K. Hyde, B. A. Raby | 2,874,295 | Mass Separators | F. Oppenheimer, J. W. Bell |
| 2,873,174 | Reactor Nozzle Assembly | F. C. Capuder, J. R. Dearwater | 2,874,296 | Calutron Ion Source | E. J. Lofgren |
| 2,873,184 | Thermal Decomposition of Uranium Compounds | T. T. Magel, L. Brewer | 2,874,305 | Radiation Integrator | H. M. Wilson, F. M. Glass |
| 2,873,185 | Deposition of Metal on Nonmetal Filament | T. T. Magel | 2,874,306 | Measuring Apparatus | T. P. Kohman, B. S. Weissbourd |
| 2,873,186 | Thorium-Silicon-Beryllium Alloys | F. G. Foote | 2,874,307 | Reactor Shield | E. P. Wigner, L. A. Ohlinger, G. J. Young, A. M. Weinberg |
| 2,873,209 | Leveling Metal Coatings | H. A. Gage | 2,874,326 | Linear Accelerator | N. C. Christofilos, I. J. Polk |
| 2,873,238 | Method of Making Jacketed Fuel Slug | L. A. Ohlinger, G. J. Young | 2,874,459 | Method and Apparatus for Fabricating Tubular Units | G. W. Heldeman |
| 2,873,242 | Neutronic Reactor System | M. Treshow | 2,874,852 | Elevating Mechanism | H. S. Frederick, M. A. Kinsella |
| 2,873,243 | Means for Shielding and Cooling Reactors | E. P. Wigner, L. A. Ohlinger, G. J. Young, A. M. Weinberg | 2,874,860 | Hand Truck for Handling Equipment | D. W. King |
| 2,873,375 | Thermally Operated Vapor Valve | J. G. Dorward, Jr. | 2,875,021 | Method of Separating Uranium Values, Plutonium Values and Fission Products by Chlorination | H. S. Brown, G. T. Seaborg |
| 2,873,376 | Ion Producing Mechanisms | W. M. Brobeck | 2,875,022 | Method of Forming Plutonium-Bearing Carrier Precipitates and Washing Same | B. F. Faris |
| 2,873,388 | Pulse Counter | D. E. Trumbo | 2,875,023 | Process of Recovering Uranium from Its Ores | F. Galvanek, Jr. |
| 2,873,400 | Ion Switch | B. Cook | 2,875,024 | Separation of Barium Values from Uranyl Nitrate Solutions | E. R. Tompkins |
| 2,873,603 | Method of Testing Hermetic Containers | L. B. Borst | 2,875,025 | Process of Forming Plutonium Salts from Plutonium Oxalates | C. S. Garner |
| 2,873,853 | Canned Slug | M. Burton | 2,875,026 | Precipitation Method of Separating Plutonium from Contaminating Elements | R. B. Duffield |
| 2,874,025 | Oxidation of Transuranic Elements | R. L. Moore | 2,875,041 | Method of Making Alloys of Beryllium with Plutonium and the Like | O. J. C. Runnals |
| 2,874,026 | Process of Preparing a Fluoride of Tetravalent Uranium | E. J. Wheelwright | 2,875,143 | Push-Pull Power Reactor | D. K. Froman |
| 2,874,106 | Homogeneous Nuclear Reactor | R. P. Hammond, H. M. Busey | 2,875,285 | Detector for Telephone Surreptitious Listening Techniques | E. D. Hightower |
| 2,874,107 | Device for Treating Materials | L. A. Ohlinger, G. J. Young F. Seitz | 2,875,339 | Calutron Ion Source | W. M. Brobeck |
| 2,874,108 | Test-Hole Construction for a Neutronic Reactor | L. A. Ohlinger, G. J. Young F. Seitz | | | |
| 2,874,109 | Means for Terminating Nuclear Reactions | C. M. Cooper | | | |
| *2,871,176 | Nuclear Reactor Component Cladding Material | J. E. Draley, W. E. Ruther | | | |





| | | | | | |
|---|---|---|---|---|---|
| 2,875,343 | Personnel Dosimeter | R. D. Birkhoff, H. H. Hubbell, Jr., R. M. Johnson, Jr. | 2,877,406 | Non-Destructive Method and Means for Flaw Detection | R. Hochschield |
| 2,875,345 | Method and Apparatus for Handling Radioactive Products | D. Nicoll | 2,877,408 | Inspection Means for Induction Motors | A. W. Williams |
| 2,875,346 | Overall Optical Viewer | G. S. Monk | 2,877,447 | Binary Excess-3 Converter | C. M. Kenrich, B. L. Crew |
| 2,876,867 | Brake Device | T. J. O'Donnell | 2,878,100 | Formation of Uranium Precipitates | J. M. Googin, Jr. |
| 2,876,949 | Centrifugal Separators | C. Skarstrom | 2,878,382 | Precision Time-Delay Circuit | R. Creveling |
| 2,877,087 | Uranium Separation Process | W. H. McVey, W. H. Ross | 2,878,387 | Beam Control Probe | A. W. Chesterman |
| 2,877,088 | Method and Apparatus for Making Uranium-Hydride Compacts | W. W. Wellborn, J. R. Armstrong | 2,878,401 | High Voltage Generator | A. J. Schemin |
| 2,877,089 | Elution of Uranium from Resin | D. C. McLean | 2,879,130 | Process for Recovering Uranium | G. E. MacWood, C. W. Wilder, D. Altman |
| 2,877,090 | Process Using Bismuth Phosphate as a Carrier Precipitate for Fission Products and Plutonium Values | T. G. Finzel | 2,879,144 | Pumps | J. D. Thornton |
| 2,877,091 | Dehydration of Deuterium Oxide Slurries | C. F. Kiskey | 2,879,216 | Neutronic Reactor | H. Hurwitz, Jr., C. Mannal, E. A. Luebke, J. H. Payne, H. Brooks |
| 2,877,092 | Coordination Compound-Solvent Extraction Process for Uranium Recovery | W. H. Ross | 2,879,228 | Process for Purifying Crude Perfluorocarbons | R. E. Holston |
| 2,877,093 | Adsorption Method for Separating Metal Cations | E. R. Tompkins, G. W. Parker | 2,879,247 | Molded Sealing Element | S. W. Bradford, W. J. Skinner |
| 2,877,094 | Adsorption Method for Separating Metal Cations | J. X. Khym | 2,879,664 | Annular Impactor Sampling Device | G. W. C. Tait |
| 2,877,109 | Process for Separating Uranium Fission Products | F. H. Spedding, T. A. Butler, I. B. Johns | 2,880,059 | Production of Uranium-Calcium Fluroide | W. B. Tolley |
| 2,877,131 | Method and Coating Composition for Protecting and Decontaminating Surfaces | D. C. Overhold, M. D. Peterson | 2,880,155 | Control for Neutronic Reactor | H. V. Lichtenberger, R. A. Cameron |
| 2,877,149 | Method of Hot Rolling Uranium Metal | A. R. Kaufmann | 2,880,262 | Structure for Sub-Assemblies of Electronic Equipment | F. R. Bell, C. C. Harris |
| 2,877,170 | Support Device for Use in a Nuclear Reactor | F. G. Greenhalgh, E. Long | 2,880,318 | Peak Limiting Amplifier | W. W. Goldsworthy, J. B. Robison |
| 2,877,171 | Means for Shielding Reactors | M. Burton, L. T. McClinton, W. M. Garrison | 2,880,636 | Cutting and Wedging Jacket Remover | M. Freedman, S. Raynor |
| 2,877,250 | Recovery of Uranium Values | K. B. Brown, D. J. Crouse, Jr. J. G. Moore | 2,881,094 | Process of Coating with Nickel by the Decomposition of Nickel Carbonyl | T. B. Hoover |
| 2,877,314 | Electric Contact Means | J. W. Grear, Jr. | 2,881,391 | Velocity Indicator for Extrusion Press | F. J. Digney, Jr., N. Augusta, F. Bevilacqua |
| 2,877,348 | Logarithmic Amplifier | E. J. Wade, R. S. Stone | 2,881,619 | Coaxial Control Rod Drive Mechanism for Neutronic Reactors | R. J. Fox, L. C. Oakes |





XUM 37 5 BMS 1711 83V

| | | |
|---|---|---|
| 2,882,123 | Process for the Recovery of Uranium from Phosphatic Ore | R. S. Long |
| 2,882,124 | Solvent Extraction Process for Plutonium | G. T. Seaborg |
| 2,882,125 | Volatile Fluoride Process for Separating Plutonium from Other Materials | F. H. Spedding, A. S. Newton |
| 2,882,129 | Nitric Acid Recovery from Waste Solutions | A. S. Wilson |
| 2,882,248 | Ion Exchange Substances by Saponification of Allyl Phosphate Polymers | J. Kennedy |
| 2,882,396 | High Energy Particle Accelerator | E. D. Courant, H. S. Snyder, M. S. Livingston |
| 2,882,406 | Ion Source Unit for Calutron | D. H. Sloan, H. P. Yockey, F. H. Schmidt |
| 2,882,407 | Calutron | E. O. Lawrence (Deceased) W. M. Brobeck |
| 2,882,408 | Ion Source for a Calutron | E. J. Lofgran |
| 2,882,409 | Dual Heated Ion Source Structure Having Arc Shifting Means | E. O. Lawrence (Deceased) |
| 2,882,410 | Ion Source | W. M. Brobeck |
| 2,882,411 | Ion Producing Mechanism | F. F. Oppenheimer |
| 2,882,442 | Method for Stabilizing Klystrons | D. W. Magnuson, P. F. Smith |
| 2,883,264 | Solvent Extraction of Thorium Values from Aqueous Solutions | J. C. Warf |
| 2,883,330 | Liquid Metal Compositions Containing Uranium | R. J. Teitel |
| 2,883,535 | Thyratron Switch | R. Creveling, N. A. Bourgeois, Jr. |
| 2,883,536 | Electronic Phase Control Circuit | J. D. Salisbury, W. W. Klein, C. F. Hansen |
| 2,883,541 | Ion Producing Mechanism (Charge Cups) | W. M. Brobeck |
| 2,883,551 | High Voltage Generator | O. V. Zito |
| 2,883,553 | Fabrication of Neutron Sources | J. H. Birden |
| 2,883,580 | Pulsed Ion Source | W. D. Kilpatrick |
| 2,884,305 | Plutonium Purification Process Employing Thorium Pyrophosphate Carrier | E. L. King |
| 2,884,364 | Method of Electroplating on Uranium | E. W. Rebol, R. F. Wehrmann |
| 2,884,529 | Gaseous Scintillation Counter | C. Eggler, C. M. Huddleston |
| 2,885,260 | Method for Decontamination of Reactor Solutions | W. J. Maraman, H. R. Basman, R. D. Baker |
| 2,885,283 | Plutonium-Aluminum Alloys | F. W. Schonfeld, C. R. Tipton, Jr. |
| 2,885,329 | Method for Electro-Nickel Plating Wolfram Carbide | H. L. Slatin |
| 2,885,335 | Nuclear Reactor Fuel Element | R. V. Moore, G. Packman |
| 2,885,496 | Low-Level Direct Current Modulator | Q. A. Kerns |
| 2,885,497 | Drift Compensated Direct Coupled Amplifier | A. A. Windsor |
| 2,885,552 | Particle Beam Tracking Circuit | O. A. Anderson |
| 2,885,893 | Reactor Control Mechanism | J. A. Lane, R. E. Engberg J. M. Welch |
| 2,886,406 | Recovery of Plutonium and Neptunium from Aqueous Solutions | G. T. Seaborg, R. C. Thompson, F. W. Albough |
| 2,886,407 | Treatment of Plutonium Solution with No or $NO_2$ Prior to Removal of Tetravalent Plutonium from said Solutions by Carrier Precipitation | G. E. Moore |
| 2,886,408 | Enhancing Precipitations by Applying Soluble Complex Fluorine - Containing Reagents | G. W. Stahl |
| 2,886,409 | Improved Processes for Recovering and Purifying Uranium | T. D. Price, A. V. Henrickson |
| 2,886,410 | Non-Aqueous Dissolution of Massive Plutonium | J. G. Reavis, J. A. Leary K. A. Walsh |
| 2,886,429 | Method for the Reduction of Uranium Compounds | W. H. Cooke (Deceased) J. W. C. Crawford |
| 2,886,430 | Uranium Compositions | H. P. Allen, J. D. Grogan |
| 2,886,431 | Vanadium Alloys | K. F. Smith, R. J. Van Thyne |
| 2,886,433 | Production of Sheet from Particulate Material | A. Blainey |



| | | |
|---|---|---|
| 2,886,468 | Nickel Plating Process | T. B. Hoover, T. E. Zava |
| 2,886,503 | Jacketed Fuel Elements for Graphite Moderated Reactors | L. Szilard, E. P. Wigner, E. C. Creutz |
| 2,886,504 | Plutonium-Cerium-Copper Alloys | A. S. Coffinberry |
| 2,886,775 | Variable Time-Interval Generator | J. E. Gross |
| 2,887,355 | Method of Preparing Protactinium Values | L. I. Katzin, R. G. Larson, R. C. Thompson, Q. Van Winkle |
| 2,887,357 | Dry Fluorine Separation Method | C. T. Seaborg, J. W. Gofman, R. W. Stoughton |
| 2,887,358 | Large Scale Method for the Production and Purification of Curium | G. H. Higgins, W. W. T. Crane |
| 2,887,373 | Method of Cleaning Metal Surfaces | H. W. Winkler, J. W. Morfitt, T. H. Litle |
| 2,887,876 | Apparatus for Testing Expansion of Movable Members | M. Frankel, W. B. Shank |
| 2,888,563 | Calutron Cathode Interlock Circuit | L. W. Baldwin |
| 2,888,564 | Calutron Protective Circuit | F. H. Schmidt |
| 2,888,565 | Calutron | W. M. Brobeck |
| 2,888,566 | Ion Source Slit Cleaner for Calutron | E. O. Lawrence (Deceased) |
| 2,888,878 | Neutronic Reactor Fuel Pump | W. G. Cobb |
| 2,889,462 | Calutron Ion Source | F. F. Oppenheimer |
| 2,890,098 | Reduction of Plutonium Values in an Acidic Aqueous Solution with Formaldehyde | C. M. Olson |
| 2,890,099 | Recovery of Uranium from Low Grade Uranium Bearing Ores | H. B. Rhodes, W. F. Pesold, J. M. Hirshon |
| 2,890,110 | Production of Plutonium from Plutonium Fluoride | R. D. Baker |
| 2,890,158 | Neutronic Reactor | L. A. Ohlinger, E. P. Wigner A. M. Weinberg, G. J. Young |
| 2,890,221 | Method for Preparing Normorphine | H. Repoport, M. Look |
| 2,890,337 | Ion Beam Focusing Means for Calutron | J. G. Backus |
| 2,890,338 | High Voltage Regulator | B. T. Wright |
| 2,890,339 | Ion Producing Mechanism | F. F. Oppenheimer |
| 2,890,340 | Calutron | W. M. Brobeck, E. J. Lofgren, R. L. Thornton |
| 2,890,348 | Particle Accelerator | T. Ohkawa |
| 2,890,932 | Separation by Adsorption | C. S. Lowe |
| 2,890,933 | Recovery of Uranium Values from Uranium Bearing Raw Materials | E. J. Michel, R. R. Porter |
| 2,890,954 | Plutonium Alloys | W. Chynoweth |
| 2,891,155 | Precision Time Delay Generator | B. J. Carr, V. D. Peckham |
| 2,891,161 | Calutron | W. E. Parkins |
| 2,891,162 | Calutron Receiver | S. W. Barnes |
| 2,891,163 | Calutron | A. F. Clark |
| 2,891,168 | Portable Source of Radioactivity | R. C. Goertz, K. R. Ferguson, E. W. Rylander, L. M. Safranski |
| 2,891,839 | Production of Curium 245 | S. K. Hulet, S. G. Thompson |
| 2,891,840 | Method of Processing Neutronic Reactor Fuel Elements | M. H. Curtis |
| 2,891,841 | Recovery of Plutonium Values from Dilute Solution by Partial Precipitation of Carrier Compounds | D. M. Ritter |
| 2,892,044 | Linear Amplifier | E. Fairstein |
| 2,892,091 | Continuous Alpha Air Monitor | D. R. Sawle |
| 2,892,114 | Continuous Plasma Generator | W. K. Kilpatrick |
| 2,892,387 | Internal Cutting Device | W. H. Russell, Jr. |
| 2,892,676 | Improved Process of Plutonium Carrier Precipitation | B. J. Faris |
| 2,892,677 | Separation of Uranium from Thorium and Protactinium | W. K. R. Musgrave |
| 2,892,678 | Method of Maintaining Plutonium in a Higher State of Oxidation During Processing | S. G. Thompson, D. R. Miller |
| 2,892,679 | Ion-Exchange Method for Separating Radium from Radium-Barium Mixtures | M. E. Fuentesville |
| 2,892,680 | Recovery of Cesium from Waste Solutions | W. H. Burgus |
| 2,892,681 | Separation Process for Zirconium and Compounds Thereof | H. W. Crandall, J. R. Thomas |







XUM 37 5 DMS 1711 83V

| | | |
|---|---|---|
| 2,892,701 | Pyrochemical Decontamination Method for Reactor Fuel | A. G. Buyers |
| 2,892,765 | Neutron Density Control in a Neutronic Reactor | G. J. Young |
| 2,892,855 | Recovery of Uranium by Cycloalkyldi-Thiocarbamate Complexing | O. R. Neville |
| 2,893,575 | Loading Machine for Reactors | S. L. Simon |
| 2,893,822 | Separation of Uranium From Other Metals | H. H. Hyman |
| 2,893,823 | Separation of Uranium from Thorium | N. H. Hellman |
| 2,893,874 | Uranium Recovery Process | H. H. Hyman, J. H. Dreher |
| 2,893,825 | Separation of Protactinium from Contaminants | J. G. Malm, S. Fried |
| 2,893,826 | Platinum Hexafluoride and Method of Fluorinating Plutonium Containing Mixtures Therewith | J. G. Malm, B. Weinstock, H. H. Claassen |
| 2,893,827 | Separation of Americium from Promethium | R. S. Prasady |
| 2,893,863 | Process for Removing Aluminum Coatings | J. Plox |
| 2,893,928 | Preparation of Plutonium | M. Kolodney |
| 2,893,936 | Process for Continuously Separating Irradiation Products of Thorium | L. P. Hatch, F. T. Miles, T. V. Sheehan, R.H. Wiswall, R. J. Heus |
| 2,894,135 | Charge Bottle for a Mass Separator | P. H. Davidson |
| 2,894,137 | Calutron Receiver | H. F. York |
| 2,894,138 | Slit Adjustment Clamp | K. R. McKenzie |
| 2,894,320 | Coating Uranium from Carbonyls | D. H. Gurinsky, S. Steingiser |
| 2,894,647 | Positioning Device | W. H. McCorkle |
| 2,894,688 | Electronic Analog Computer for Determining Radioactive Disintegration | H. P. Robinson |
| 2,894,804 | Process of Extracting Uranium and Radium from Ores | C. W. Sawyer, R. W. Handley (Deceased) |
| 2,894,805 | Separation Process for Actinide Elements and Compounds Thereof | L. B. Werner, I. Perlman, M. Calvin |
| 2,894,806 | Recovery of Protactinium from Aqueous Solutions | R. E. Elson |
| 2,894,807 | Cation Exchange Method for the Recovery of Protactinium | J. C. Sullivan |
| 2,894,808 | Method for Recovering Uranium from Oils | L. H. Gooch |
| 2,894,810 | Columbic Oxide Adsorption Process for Separating Uranium and Plutonium Ions | R. H. Beaton |
| 2,894,811 | Process for Making Uranium Hexafluoride | H. Rosen |
| 2,894,812 | Dissolution of Plutonium Containing Carrier Precipitate by Carbonate Metathesis and Separation of Sulfide Impurities Therefrom by Sulfide Precipitation | R. B. Duffield |
| 2,894,816 | Solvent Extraction of Ruthenium | H. H. Hyman, C. R. Leader |
| 2,894,817 | Polonium Separation Process | D. G. Karraker |
| 2,894,818 | Separation of Ruthenium from Aqueous Solutions | M. Beederman, S. Vogler, H. H. Hyman |
| 2,894,827 | Uranium Separation Process | E. K. Hyde, L. I. Katzin, M. J. Wolf |
| 2,894,832 | Process of Producing Actinide Metals | T. T. Magee |
| 2,894,837 | Method for Producing Cemented Carbide Articles | E. I. Onstott |
| 2,894,866 | Method for Annealing and Rolling Zirconium Base Alloys | M. L. Picklesimer |
| 2,894,883 | Method of Electropolishing | D. E. Walker, R. A. Noland |
| 2,894,884 | Method of Applying Nickel Coatings on Uranium | A. C. Grey |
| 2,894,885 | Method of Applying Copper Coatings to Uranium | A. G. Gray |
| 2,894,889 | Jacketed Uranium Slugs and Method | S. H. Paine, Jr. |
| 2,894,890 | Jacketing Uranium | H. A. Saller (Deceased) J. R. Keeler |
| 2,894,891 | Nuclear Reactor | J. J. Grebe |
| 2,894,892 | Neutronic Reactor Charging and Discharging | W. H. Zinn |
| 2,894,893 | Fuel Element for Nuclear Reactor | K. G. Carney, Jr. |
| 2,895,047 | Timing Circuit | J. W. Boyd |



| | | |
|---|---|---|
| 2,895,051 | Apparatus for Measuring Neutron Cross Sections | L. Cranberg |
| 2,895,053 | Measuring Projector | J. V. Franck, P. S. Broadhead, E. W. Skiff |
| 2,895,791 | Separation Process for Protactinium and Compounds Thereof | Q. Van Winkle |
| 2,895,798 | Barium Recovery Process | H. E. Blanco |
| 2,895,806 | Method for Determining the Stability of Fluorocarbon Oils | Z. D. Sheldon, H. M. Haendler |
| 2,895,849 | Method of Preparing Coated Refractory Ware | M. L. Perlman, D. Lipkin, S. I. Weissman |
| 2,897,045 | Extraction of Uranium | R. D. Kesler, D. D. Rabb |
| 2,897,046 | Separation of Thorium from Uranium by Extraction | E. G. Hohlmann |
| 2,897,047 | Method of Dissolving Metallic Uranium | W. W. Schulz |
| 2,897,048 | Uranium Recovery Process | J. W. Stevenson, R. G. Werkema |
| 2,897,049 | Treatment of Fission Product Waste | J. B. Huff |
| 2,897,077 | Plutonium-Uranium-Titanium Alloys | A. S. Coffinberry |
| 2,897,124 | Pretreating Thorium for Electroplating | J. G. Beach, G. R. Schaer |
| 2,897,605 | Method and Apparatus for Determining Charged Particle Motion | Q. A. Kerns |
| 2,897,697 | Method of Rolling Uranium | C. S. Smith |
| 2,897,718 | Dimension Measuring Optical Sighting Device | G. E. Kerr |
| 2,898,185 | Adsorption Method for Separating Thorium Values from Uranium Values | G. E. Boyd, E. R. Russell, J. Schubert |
| 2,898,186 | Solubilization of Actinide Metal-Containing Slag | H. H. Hopkins, Jr. |
| 2,898,187 | Production of Uranium Tetrafluoride | W. E. Shaw, R. M. Spenceley, F. M. Teetzel |
| 2,898,203 | Removal of Chloride from Aqueous Solutions | W. W. Schulz |
| 2,898,252 | Method of Heat-Treating Uranium-Silicon Alloys | S. T. Zigler |
| 2,898,277 | Method of Fixing Nitrogen for Producing Oxides of Nitrogen | F. Herteck, S. Dondes |
| 2,898,280 | Fuel Rod Clusters | A. B. Schultz |
| 2,898,281 | Neutronic Reactor Control | S. Untermyer, E. Hutter |
| 2,898,444 | Apparatus and Method for Welding End Closure to Container | E. C. Frantz, T. B. Correy |
| 2,898,473 | Method of Preparing Polonium-Boron Sources | J. H. Birden |
| 2,898,497 | Airborne Radiation Detector | T. R. Cartmell |
| 2,898,555 | Resonant Cavity Excitation System | W. R. Baker |
| 2,899,054 | Refractory Die for Extruding Uranium | E. C. Creutz |
| 2,899,268 | Recovery of Uranium from Aqueous Phosphate-Containing Solutions | I. Igelsrud, E. F. Stephan |
| 2,899,269 | Method of Preparing Metal Fluorides | J. J. Katz, I. Sheft |
| 2,899,270 | Production of Thorium Fluoride | W. H. Zachariasen |
| 2,899,295 | Separation of Tin from Alloys | W. T. Kattner |
| 2,899,297 | Method of Producing Dense Consolidated Metallic Regulus | T. T. Magel |
| 2,899,298 | Process of Producing Shaped Plutonium | R. J. Anicetti |
| 2,899,451 | Recovery of Uranium by Aromatic Dithiocarbomate Complexing | O. K. Neville |
| 2,899,452 | Thorium Oxalate-Uranyl Acetate Coupled Procedure for the Separation of Radioactive Materials | J. W. Gofman |
| 2,899,557 | Apparatus for Producing Shadowgraphs | R. R. Wilson |
| 2,900,226 | Recovery of Uranium Values from Residues | W. S. Schaap |
| 2,900,228 | Selective Separation of Uranium from Thorium, Protactinium and Fission Products by Peroxide Dissolution Method | G. T. Seaborg, J. W. Gofman, |
| 2,900,229 | Uranium Leaching and Recovery Process | L. A. McLaine |
| 2,900,230 | Method of Disintegrating Refractory Bodies | R. F. Larsen, R. C. Vogel |

| | | |
|---|---|---|
| 2,900,237 | Apparatus for Charging a Receptacle with a Dense Sublimate Form or Uranium Chloride | F. H. Davidson |
| 2,900,263 | Method of Preparing a Fuel Element for a Nuclear Reactor | J. H. Handwerk, R. A. Bach |
| 2,900,315 | Sheathed Tube and Apparatus and Method of Production Thereof | L. A. Ohlinger |
| 2,900,316 | Reactor Control Device | H. B. Kaufman, Jr., A. Weiss |
| 2,900,424 | Method for Producing Isotopic Methanes and Partially Halogenated Derivatives Thereof | J. W. Frazer |
| 2,900,516 | Fast Neutron Spectrometer | F. J. Davis, P. W. Reinhardt, C. S. Hurst |
| 2,900,518 | Continuously Sensitive Bubble Chamber | R. H. Good |
| 2,900,548 | Plasma Generator | W. H. Bostick, V. G. McIntosh |
| 2,901,007 | Apparatus for Handling Mixtures of Solid Materials | J. P. Hubbell |
| 2,901,172 | Electronic Multiplier Circuit | R. E. Thomas |
| 2,901,313 | Separation of Plutonium from Water Insoluble Fluorides Derived from Nitrate Solutions of Plutonium Uranium and Fission Products | A. G. Maddock, F. Smith |
| 2,901,314 | Removal of Uranium from Organic Liquids | S. P. Vavalides |
| 2,901,315 | Process of Oxidizing Plutonium | C. D. Coryell |
| 2,901,343 | Dissolution of Aluminum Jackets from Uranium Cores by Nitric Acid Containing Mercuric Nitrate | J. H. Paterson |
| 2,901,345 | Plutonium-Cerium-Cobalt and Plutonium-Cerium-Nickel Alloys | A. S. Coffinberry |
| 2,901,347 | Nickel-Chromium-Germanium Alloys for Stainless Steel Brazing | J. A. McGurty, E. S. Funston |
| 2,901,408 | Coating Method | R. G. Townsend |
| 2,901,496 | Salicylate Process for Thorium Separation from Rare Earths | G. A. Cowan |
| 2,901,613 | Detector for Modulated and Unmodulated Signals | H. H. Patterson, G. H. Webber |
| 2,901,617 | Calutron Receiver | S. W. Barnes |
| 2,901,619 | Calutron Ion Source Slit Cleaner | A. H. Starr |
| 2,901,620 | Isotope Separating Apparatus Control | S. W. Barnes |
| 2,901,621 | Calutron Face Plate | W. M. Brobeck |
| 2,901,622 | Calutron Control Device | L. W. Baldwin |
| 2,901,623 | Vapor Valve | L. F. Wouters |
| 2,901,624 | Mass Spectrometry | A. O. C. Nier |
| 2,901,714 | Transformer | W. R. Baker |
| 2,902,338 | Separation of Thorium from Uranium | R. W. Bane |
| 2,902,339 | Recovery of Plutonium from Aqueous Solutions | E. J. Reher |
| 2,902,340 | Chemical Method of Treating Fissionable Material | C. M. Olson |
| 2,902,361 | Uranium-Tantalum Alloy | R. L. Reed |
| 2,902,362 | Plutonium-Uranium Alloy | F. W. Schonfeld, A. S. Conffinberry |
| 2,902,380 | Slip Casting Method | A. G. Allison |
| 2,902,415 | Purification of Uranium Fuels | L. W. Niedrach, A. C. Claus |
| 2,902,422 | Nuclear Reactor Fuel Rod Assembly | E. Hutter |
| 2,902,423 | Neutronic Reactor Producing Thermo-electric Power | E. A. Luebke, L. B. Vandenberg |
| 2,902,424 | Homogeneous Nuclear Power Reactor | L. D. P. King |
| 2,902,454 | Solvent Composition for Recovery of Metal Values from Aqueous Solutions by Solvent Extraction | R. L. Moore |
| 2,902,503 | Recovery of Uranium by Secondary Xanthate Complexing | O. K. Neville |
| 2,902,590 | Method of Making Composite Fuel Elements | R. A. Nolend, C. C. Stone |
| 2,902,614 | Accelerated Plasma Source | W. R. Baker |
| 2,903,331 | Uranium Solvent Extraction Process | C. D. Harrington |
| 2,903,332 | Separation of Ruthenium from Aqueous Solutions | C. F. Callis, R. L. Moore |





| | | |
|---|---|---|
| 2,903,333 | Rare Earth-Actinide Separation by Adsorption | C. S. Lowe, W. H. McVey |
| 2,903,334 | Preparation of Uranium Trioxide | J. S. Buckingham |
| 2,903,335 | Separation of Fission Products from Plutonium by Precipitation | G. T. Seaborg, S. G. Thompson, N. R. Davidson |
| 2,903,351 | Thorium-Beryllium Alloys and Method of producing Same | F. H. Spedding, H. A. Wilhelm, W. H. Keller |
| 2,903,383 | Radioactive Object and Method of Making | L. M. Dorfman, F. J. Shipko |
| 2,903,402 | Recovery of Valuable Material from Graphite Bodies | L. W. Frooma, Jr. |
| 2,903,581 | Phase Detector | D. O. Kippenhan |
| 2,903,506 | Tapered Defining Slot | F. W. Pressey |
| 2,903,507 | Calutron Receiver Structure | J. L. Roush |
| 2,904,160 | Positioning Device | R. R. Wall, D. L. Peterson |
| 2,904,429 | Plutonium-Thorium Alloys | F. W. Schonfeld |
| 2,904,487 | Control Device | J. J. Dickson |
| 2,904,488 | Nuclear Reactor Fuel Systems | B. J. Thamer, R. M. Bidwell, R. P. Hammond |
| 2,904,665 | Vacuum Trap | H. S. Cordon |
| 2,904,720 | Ion Accelerator | J. S. Bell |
| 2,905,338 | Indexing Mechanism | L. J. Koch |
| 2,905,525 | Method of Separation of Plutonium from Carrier Precipitates | L. R. Dawson |
| 2,905,527 | Method of and Apparatus for Withdrawing Light Isotope Product from a Liquid Thermal Diffusion Plant | M. Dole |
| 2,905,528 | Method for Preparation of $UO_2$ Particles | J. R. Johnson, A. J. Taylor |
| 2,905,552 | Production of Uranium Metal by Carbon Reduction | R. B. Holden, R. M. Powers, O. J. Elsber (Deceased) |
| 2,905,599 | Electrolytic Cladding of Zirconium on Uranium | J. J. Wick |
| 2,905,611 | Fuel Element for a Neutronic Reactor | L. Tonks |
| 2,905,612 | Central Control System | L. B. Borst |
| 2,906,597 | Reduction in Pu Recovery Processes | D. M. Ritter, R. P. S. Black |
| 2,906,598 | Preparation of High Density $UO_2$ | J. M. Googin |
| 2,906,618 | Process for Production of Uranium | J. W. C. Crawford |
| 2,906,683 | Reactor Cooling | C. F. Quackenbush |
| 2,906,852 | Welding Method | A. A. Cornell, J. V. Dunbar, J. H. Ruffner |
| 2,906,872 | Rise Time Delay Discriminator | C. W. Johnstone |
| 2,906,876 | Calutron Receiver | W. O. Brunk |
| 2,906,877 | Calutron | F. F. Oppenheimer |
| 2,906,903 | Low Voltage 14 Mev. Neutron Source | E. R. Graves, R. N. Little, Jr. |
| 2,907,017 | Impedance Alarm System | R. G. Gowen |
| 2,907,023 | Ground Clearance Indicator | L. V. Skinner |
| 2,907,628 | Neptunium Solvent Extraction Process | L. R. Dawson, P. R. Fields |
| 2,907,629 | Continuous Process for the Conversion of $UF_6$ to $UF_4$ | S. H. Smiley, D. C. Brater, R. H. Nimmo |
| 2,907,630 | Preparation of Uranium Hexafluoride | S. Lawroski, A. A. Jonke, R. K. Steunenberg |
| 2,907,631 | Method of Reducing Plutonium with Ferrous Ions | J. L. Dreher, D. E. Koshland S. G. Thompson, J. E. Willard |
| 2,907,639 | Method of Controlling Corrosion in a Neutronic Reactor | C. F. Kidder, C. K. Sloan |
| 2,907,700 | Stripping Process for Plutonium | M. Kolodney |
| 2,907,705 | Thermal Fission Reactor Compositions and Method of Fabricating Same | A. Bleiney |
| 2,907,706 | Neutronic Reactor Fuel Element | W. A. Horning, D. D. Lanning, D. J. Donahue |
| 2,907,897 | Pressure Transducer | H. H. Sander |
| 2,908,547 | Separation of Uranium, Plutonium, and Fission Products | C. M. Nicholle, I. Wells, R. Spence |
| 2,908,548 | Manufacture of $UF_4$ | W. S. Calcott |

| | | |
|---|---|---|
| 2,908,563 | Process for Production of Plutonium from Its Oxides | S. I. Weissman, M. L. Perlman, D. Lipkin |
| 2,908,621 | Producing Energy and Radioactive Fission Products | E. Segre, J. W. Kennedy (Deceased), G. T. Seaborg |
| 2,908,822 | Apparatus for Measuring Total Neutron Cross Sections | L. Cranberg |
| 2,909,405 | Method for the Recovery and Purification of Berkelium | E. K. Hulet |
| 2,909,406 | Process for Decontaminating Thorium and Uranium with Respect to Ruthenium | A. B. Meservey, R. H. Rainey |
| 2,909,486 | Inhibiting the Polymerization of Nuclear Coolants | E. T. Colichman |
| 2,909,487 | Nuclear Reactor Coolant | E. T. Colichman |
| 2,909,488 | Nuclear Reactor Coolant | E. T. Colichman |
| 2,909,731 | Cavity Excitation Circuit | J. V. Franck |
| 2,910,177 | Reactor Component | E. C. Creutz |
| 2,910,344 | Method of Preparing $UF_6$ | N. R. Davidson, S. Fried |
| 2,910,345 | Preparation of Polonium, Protactinium or Mixtures Thereof in Aqueous Solution from Bismuth, Lead, Zirconium and/or Columbium Values | Q. Van Winkle, K. A. Kraus |
| 2,910,379 | Method of Coating Graphite with Stable Metal Carbides and Nitrides | D. H. Gurinsky |
| 2,910,416 | Neutronic Reactor | F. Daniels |
| 2,910,417 | Uranium Bismuthide Dispersion in Molten Metal | R. J. Teitel, E. Patchogue |
| 2,910,418 | Neutronic Reactor | E. C. Creutz, L. A. Ohlinger, A. M. Weinberg, C. J. Young |
| 2,910,442 | Solvent for Extracting Actinide Salts | L. Kaplan |
| 2,910,519 | Method for Producing Isotopic Methanes from Lithium Carbonate and Lithium Hydride | J. W. Frazer |
| 2,911,282 | Method of Recovering Plutonium Values from Aqueous Solutions by Carrier Precipitate | R. A. James, S. G. Thompson |
| 2,911,333 | Process for Recovery of Uranium Values from Impure Solutions Thereof | S. B. Kilner |
| 2,911,290 | Multistage Fluidized Bed Reactor | A. A. Jonke, J. E. A. Crase, N. M. Levitz |
| 2,911,344 | Nuclear Reactor Control System | E. P. Epler, S. H. Henauer, L. C. Oakes |
| 2,911,533 | Electron Irradiation of Solids | A. C. Damask |
| 2,911,587 | Proton Resonance Monitor | J. H. Bayly |
| 2,911,598 | Variable Time Delay Means | R. E. Clemenson |
| 2,912,302 | Processes for Separating and Recovering Constituents of Neutron-Irradiated Uranium | R. E. Connick, G. C. Pimentel, J. W. Cofman |
| 2,912,303 | Dissolution of Lanthanum Fluoride Precipitates | B. A. Fries |
| 2,912,577 | Multichannel Analyzer | G. G. Kelley |
| 2,913,307 | Method of Preparing Plutonium Tetrafluoride | R. L. Beede, H. H. Hopkins, Jr. |
| 2,913,510 | Radioactive Battery | J. H. Birden, K. C. Jordan |
| 2,913,670 | Wide Band Regenerative Frequency Divider and Multiplier | E. F. Laine |
| 2,914,378 | Elution of Uranium Values from Ion Exchange Resins | R. H. Kennedy |
| 2,914,399 | Removal of Certain Fission Product Metals from Liquid Bismuth Compositions | O. E. Dwyer, H. E. Howe, E. R. Avrutik |
| 2,914,425 | Method for Soldering Normally Non-Solderable Articles | J. C. McGuire |
| 2,914,433 | Heat-Treated U-Nb Alloys | R. K. McGeary, W. M. Justusson |
| 2,914,454 | Neutronic Reactor Fuel Element | D. H. Gurinsky, R. W. Powell, M. Fox |
| 2,914,594 | Thermal Couple for Measuring Temperature in a Reactor | W. R. Kanne |
| 2,914,697 | Time Calibrated Oscilloscope Sweep Circuit | V. L. Smith, H. K. Carstensen |
| 2,914,847 | Solid State Bonding of Thorium with Aluminum | S. Storchheim |







| | | |
|---|---|---|
| 2,915,016 | Volume Compensating Means for Pulsating Pumps | D. L. W. Weaver, R. S. MacCormack, Jr. |
| 2,915,362 | Plutonium-Hydrogen Reaction Product, Method of Preparing Same and Plutonium Powder Therefrom | S. Fried, H. L. Baumbach |
| 2,915,387 | Plutonium Cleaning Process | M. Kolodney |
| 2,915,445 | Formation of Intermetallic Compound Dispersions | J. S. Bryner |
| 2,915,815 | Method of Making Fuel Elements | C. H. Bean, R. E. Macherey |
| 2,916,349 | Continuous Chelation-Extraction Process for the Separation and Purification of Metals | H. W. Crandall, T. E. Hicks, B. Rubin, J. R. Thomas |
| 2,916,710 | Loaded Wave-Guides for Linear Accelerator | W. Walkinshaw, L. B. Mullett |
| 2,916,809 | Tungsten Base Alloys | D. H. Schell, H. Sheinberg |
| 2,917,358 | Uranous Iodate as a Carrier for Plutonium | D. R. Miller, G. T. Seaborg, S. G. Thompson |
| 2,917,359 | Separation of Fission Product Values from Hexavalent Plutonium by Carrier Precipitation | T. H. Davis |
| 2,917,360 | Method of Producing Tetrafluoride | W. B. Tolley, R. C. Smith |
| 2,917,361 | Method of Recovering Transuranic Elements for an Atomic Number Below 95 | G. T. Seaborg, R. A. James |
| 2,917,362 | Method Of Oxidizing Plutonium Ion with Bismuthate Ion | C. S. Garner |
| 2,917,382 | Separation of Plutonium | H. M. Feder, R. L. Nuttall |
| 2,917,383 | Fabrication of Uranium-Aluminum Alloys | H. A. Saller, (Deceased) |
| 2,917,406 | Method of Increasing the Dispersibility of Slurry Particles | J. F. McBride |
| 2,917,443 | Nuclear Reactor | J. J. Grebe |
| 2,917,444 | Neutronic Reactor Control | R. S. Dreffin |
| 2,917,445 | Neutronic Reactor Control Rod Drive Apparatus | L. C. Oakes, C. S. Walker |
| 2,917,597 | Pressure Sensing Device | K. E. Pope |
| 2,917,633 | Radiation Detection and Telemetering System | H. K. Richards |
| 2,917,647 | Geiger-Muller Type Counter Tube | I. L. Fowler, L. A. K. Watt |
| 2,918,349 | Extraction of Plutonium Values from Organic Solutions | G. T. Seaborg |
| 2,918,350 | Uranium Decontamination | J. S. Buckingham, J. L. Carroll |
| 2,918,366 | Decontamination of Neutron-Irradiated Reactor Fuel | A. G. Buyers, E. E. Motta, F. D. Rosen |
| 2,918,700 | Radioactive Concentrator and Radiation Source | L. P. Hatch |
| 2,918,717 | Self-Sintering of Radioactive Wastes | E. G. Struxness, K. Z. Morgan, J. R. Johnson, T. N. McVay |
| 2,919,175 | Process of Recovering Uranium | S. B. Kilner |
| 2,919,186 | Uranium Alloys | E. W. Colbeck |
| 2,919,236 | Nuclear Reactor Including a Package Safety Device | W. H. Zinn |
| 2,919,710 | Two-Way Freeze Valve | K. D. Lantz, P. M. Clark |
| 2,919,972 | Removal of Chloride from Aqueous Solutions | M. L. Hyman, J. K. Savolainen |
| 2,920,024 | Molten Fluoride Nuclear Reactor Fuel | C. J. Barton, W. R. Grimes |
| 2,920,025 | Neutronic Reactor | J. B. Anderson |
| 2,920,200 | Ion Source | W. T. Leland |
| 2,920,234 | Device and Method for Producing a High Intensity Arc Discharge | J. S. Luce |
| *2,920,235 | (See bottom of last page) | |
| 2,920,236 | Apparatus for Heating Ions | E. S. Chambers, A. A. Carren, D. G. Kippenhan, W. A. S. Lamb, R. J. Riddell, Jr. |
| 2,921,007 | Thermal Neutronic Reactor | E. I. Spinrad |
| 2,921,199 | Method of Operating a Calutron | P. H. Davidson |
| 2,921,850 | Nickel - Base Alloy | H. Inouye, W. D. Manly, T. K. Roche |
| 2,922,036 | Paralyzer for Pulse Height Distribution Analyzer | E. Fairstein |
| 2,922,044 | Calutron | E. J. Lofgren |

| | | |
|---|---|---|
| 2,922,048 | High Coaxial Photomultiplier Tube | N. W. Glass |
| 2,922,061 | Particle Accelerator | L. C. Teng |
| 2,922,711 | Production of Purified Uranium | L. Burris, Jr., J. B. Knighton, H. M. Feder |
| 2,922,882 | Control System for Isotope Separating Apparatus | S. W. Barnes |
| 2,922,886 | Method and Apparatus for Testing the Presence of Specific Atomic Elements in a Substance | J. L. Putman |
| 2,922,890 | Magnetic Method for Producing High Velocity Shock Waves in Gases | V. Josephson |
| 2,823,588 | Random Pulse Generator | W. G. Nielson |
| 2,923,601 | Method of Isotope Concentration | T. I. Taylor, W. Spindel |
| 2,923,607 | Process of Separating Zirconium Values from Hafnium Values by Solvent Extraction with an Alkyl Phosphate | D. F. Peppard |
| 2,923,670 | Method and Means for Electrolytic Purification of Plutonium | C. W. Bjorklund, R. Benz, W. J. Maraman, J. A. Leary, K. A. Walsh |
| 2,923,822 | Electromagnetic Separation of Isotopes | S. W. Barnes, C. M. Cantrell |
| 2,923,852 | Apparatus for Producing High Velocity Shock Waves & Gases | F. R. Scott, V. Josephson |
| 2,924,294 | Apparatus for Cleaning Gases with Electrostatically Charged Particles | H. F. Johnstone |
| 2,924,483 | Fuel Handling Mechanism | L. J. Koch, E. Hutter |
| 2,924,506 | Solvent Extraction Process for Plutonium | H. H. Anderson, L. B. Asprey |
| 2,924,877 | Method of Jacketing a Fissionable Body | E. C. Creutz |
| 2,925,322 | Method of Separating Plutonium | H. G. Heal |
| 2,925,323 | Method for the Recovery of Cesium Values | S. J. Rimshaw |
| 2,925,327 | Continuous Gas Analyzer | S. Katz, C. W. Weber |
| 2,925,431 | Cationic Exchange Process for the Separation of Rare Earths | G. R. Choppin, S. G. Thompson, S. C. Harvey |
| 2,925,509 | Low Energy Counting Chambers | F. M. Hayes |
| 2,925,512 | High Energy Gaseous Discharge Device | V. Josepheon |
| 2,926,067 | Concentration of Pu Using an Iodate Precipitate | B. A. Prior |
| 2,926,068 | Method for the Preparation of Plutonium Halides and Oxylielides | W. R. Davidson, J. J. Katz |
| 2,926,083 | Ternary Alloy-Containing Plutonium | J. T. Weber |
| 2,926,111 | Method of Forming a Protective Coating on Ferrous Metal Surfaces | D. G. Schweitzer, J. R. Weeks, O. F. Kammerer, D. H. Gurinsky |
| 2,926,113 | Heat Treated U-Mo Alloy | R. K. McGeary, W. M. Justusson |
| 2,926,127 | Neutronic Reactor with Accessible Thimble and Emergency Cooling Features | W. H. McCorkle |
| 2,926,251 | Ion Acceleration System | J. S. Luce, J. A. Martin |
| 2,926,261 | Ultrasonic Neutron Dosimeter | R. Truell, J. de Klerk, P. W. Levy |
| 2,927,070 | Control Limiter Device | J. A. De Shong, Jr. |
| 2,927,071 | Jacketed Uranium Nuclear Reactor Fuel Element | W. R. Huey |
| 2,927,165 | Non-Blocking Stabilized Feed Back Amplifier | E. Fairstein |
| 2,927,232 | Intense Energetic Gas Discharge | J. S. Luce |
| 2,928,168 | Iron Coated Uranium and Its Production | A. G. Gray |
| 2,928,721 | Method for Producing Thorium Tetrachloride | E. A. Mason, C. M. Cobb |
| 2,928,779 | Neutronic Reactor Construction and Operation | J. T. Weillis, J. M. West |
| 2,928,780 | Source of Products of Nuclear Fission | P. Harteck, S. Dondes |
| 2,928,781 | Cooled Neutronic Reactor | E. P. Wigner, E. C. Creutz |
| 2,928,910 | Rotary Switch | J. P. E. Watterberg, |
| 2,928,966 | Arc Discharge and Method of Producing the Same | R. V. Neidigh |
| 2,929,706 | Delta Phase Plutonium Alloys | E. M. Cramer, F. H. Ellinger, C. C. Land |
| 2,929,707 | Method of Fabricating a Uranium-Zirconium Hydride Reactor Core | I. F. Weeks, W. V. Goeddel |



| | | |
|---|---|---|
| 2,929,741 | Method for Coating Graphite with Metallic Carbides | M. A. Steinberg |
| 2,929,767 | Convection Reactor | R. P. Hammond, L. D. King |
| 2,929,768 | Nuclear Reactor Core Design | J. E. Mahlmeister, W. S. Peck, W. V. Haberer, A. C. Williams |
| 2,929,932 | Radiation Measuring Devices | G. M. B. Bouricius, G. K. Rusch |
| 2,929,951 | Ion-Stabilized Electron | D. Finkelstein |
| 2,930,738 | Regeneration of Reactor Fuel Elements | W. E. Roaks, W. L. Lyon |
| 2,931,570 | $N^2$ Scaler | C. W. Johnstone |
| 2,931,701 | Process for Separating Plutonium by Repeated Precipitation with Amphoteric Hydroxide Carriers | B. F. Faris |
| 2,931,702 | Metathesis of Plutonium Carrier Lanthanum Fluoride Precipitate with an Alkali | R. B. Duffield |
| 2,931,706 | Preparation of Dibasic Aluminum Nitrate | A. T. Gresky, E. O. Nurmi, D. L. Foster, R. P. Wischow, J. E. Savleinan |
| 2,931,721 | Regeneration of Reactor Fuel Elements | W. L. Lyon |
| 2,931,761 | Neutronic Reactor Control | H. Hurwitz, Jr. |
| 2,931,762 | Neutronic Reactor | E. Fermi (Deceased) |
| 2,931,889 | Apparatus for Arc Welding | J. W. Lingefelter |
| 2,931,939 | Electron Gun | N. C. Christofilos, K. W. Ehlers |
| 2,932,887 | Method and Alloy for Bonding to Zirconium | F. L. McCusig, H. D. Misch |
| 2,933,369 | Concentration of Pu Using Oxalate Type Carrier | D. M. Ritter, R. F. S. Black |
| 2,933,421 | Dissolution Method of Removing Bonding Agents | H. H. Hyman |
| 2,933,442 | Electronuclear Reactor | E. O. Lawrence, E. M. McMillan, L. W. Alvarez |
| 2,933,611 | Neutron Source | J. S. Foster, Jr. |
| 2,933,630 | High Voltage Ion Source | J. S. Luce |
| 2,934,402 | Precipitation Method for The Separation of Plutonium and Rare Earths | S. G. Thompson |
| 2,934,403 | Recovery of Americium | M. Ader, H. H. Hyman |
| 2,934,404 | Scavenger and Process of Scavenging | C. M. Olson |
| 2,934,425 | Method for Purifying Uranium | J. B. Knighton, M. M. Feder |
| 2,934,478 | Process of Electroplating Metals with Aluminum | W. C. Schickner |
| 2,934,482 | Nuclear Reactor Fuel Element and Method of Manufacture | H. Brooks |
| 2,934,483 | Process of Making Fuel Elements for Neutronic Reactors and Articles Produced Thereby | W. A. Bostrom, R. B. Roof, Jr. |
| 2,935,401 | Control Rod Alloy Containing Noble Metal Additions | W. K. Anderson, W. E. Ray |
| 2,935,456 | Variable Area Control Rod for Nuclear Reactor | N. E. Huston |
| 2,935,686 | Frequency Stabilizing System | Q. A. Kerns, O. A. Anderson |
| 2,936,110 | Method of Centrifuge Operation | K. Cohen |
| 2,936,119 | Simultaneous Differential | D. M. Collier, L. A. Macke, J. F. Palmer |
| 2,936,213 | Process of Reducing Plutonium to Tetravalent State | D. F. Mastick |
| 2,936,231 | Separation of Rare Earth Metal Fission Products from Liquid U-Bi | R. H. Wiswall |
| 2,936,273 | Steam Forming Neutronic Reactor and Method of Operating It | S. Untermyer |
| 2,936,274 | Determination of Specific Neutronic Reactivity | G. Dessauer |
| 2,936,277 | Reactor Control System | J. H. MacNeill, J. T. Estabrook |
| 2,936,318 | Fission Product Removal From Organic Solutions | R. M. Moore |
| 2,936,363 | Apparatus and Method for Arc Welding | R. A. Noland, C. C. Stone |
| 2,936,372 | Radiation Dosimeter | W. R. Baldwell, Jr., G. D. Adams |





XUM

| | | |
|---|---|---|
| 2,936,401 | Radiation Detector | H. H. Wilson, F. M. Class |
| 2,937,438 | Method for Joining Aluminum to Stainless Steel | L. C. Lamon |
| 2,937,654 | Tube Shearing Valve | L. B. Wilmor |
| 2,937,924 | Separation of Plutonium From Fission Products by a Colloid Removal Process | J. Schubert |
| 2,937,925 | Solvent Extraction Process for Uranium from Chloride Solutions | C. A. Blake, Jr., K. B. Brown, D. E. Horner |
| 2,937,939 | Method of Producing Niobium Metal | H. A. Wilhelm, E. R. Stevens |
| 2,937,981 | Suppression of Water Decomposition | A. O. Allen, C. J. Hochanadel |
| 2,937,982 | Method of Making $UO_2$-Bi Slurries | H. T. Hahn |
| 2,937,984 | Control Rod Drive | R. A. Chapelliér |
| 2,938,121 | Personnel Neutron Dosimeter | J. J. Fitzgerald, C. G. Detwiler, Jr. |
| 2,938,768 | Method of Separating Pu From Methathesizing $BiPO_4$ Carrier | W. J. Know, S. G. Thompson |
| 2,938,769 | Separation of Hafnium from Zirconium | L. G. Overholser, C. J. Barton, Sr., J. W. Ramsey |
| 2,938,784 | Nuclear Fuel Composition | F. H. Spedding, H. A. Wilhelm |
| 2,938,791 | Method of Producing Shaped Bodies from Powdered Metals | A. Blainey |
| 2,938,807 | Method of Making Refractory Bodies | J. C. Anderson |
| 2,938,843 | Superheating in a Boiling Water Reactor | M. Treshow |
| 2,938,844 | Neutronic Reactor Counter Method and System | C. B. Graham, I. Spievak |
| 2,938,846 | Fuel Element Fabrication Method | J. N. Nix, J. E. Cunningham |
| 2,938,996 | High Pressure Dies | W. B. Wilson |
| 2,939,633 | Automatic Counter | H. F. Robinson |
| 2,939,803 | Method of Impregnating a Porous Material | G. N. Steele |
| 2,940,819 | Concentration Process for Plutonium Ions, in an Oxidation State not Greater than +4, in Aqueous Acid Solution | G. T. Seaborg, S. G. Thompson |
| 2,940,915 | High Temperature, High Power Heterogeneous Nuclear Reactor | E. P. Hammond, H. M. Busey, |
| 2,941,933 | Fuel Element for Nuclear Reactor | W. E. Roake, E. A. Evans, D. W. Brite |
| 2,942,109 | Scintillation Spectrometer | P. R. Bell, J. E. Francis |
| 2,942,116 | Neutron Absorption and Shielding Device | I. R. Axelrad |
| 2,942,736 | Crane Positioning Apparatus | W. Landsiedel, H. Wolff |
| 2,942,937 | Adsorption-Bismuth Phosphate Method for Separating Phosphate | E. R. Russell, A. W. Adamson, G. E. Boyd |
| 2,942,938 | Method of Dissolving Massive Plutonium | J. F. Facer, W. L. Lyon |
| 2,942,939 | Separation of Plutonium Values from other Metal Values in Aqueous Solutions by Selective Complexing and Adsorption | R. H. Beaton |
| 2,942,943 | Process for Separating Iodine-132 from Fission Products | M. W. Greco, G. Samos, W. D. Tucker |
| 2,942,944 | Process of Preparing Zirconium Oxychloride | H. A. Wilhelm, M. L. Andrews |
| 2,942,968 | Method of Separating Uranium from Alloys | F. Chiott, H. E. Shoemaker |
| 2,943,195 | Heating and Cooling System for Calutron | A. M. Starr |
| 2,943,275 | Transformer for Joining Unbalanced to Balanced Transmission Means | B. J. Bittner, R. H. Opperman |
| 2,943,921 | Catalytic Recombiner for a Nuclear Reactor | L. D. P. King |
| 2,944,258 | Dual-Ridge Antenna | D. K. Yearout, H. L. Jergins |
| 2,944,873 | Single-Step Conversion $UO_3$ to $UF_4$ | J. E. Moore |
| 2,945,293 | Process for Jacketing a Core | G. A. Last |
| 2,945,740 | Ruthenium Decontamination Method | A. T. Gresky |
| 2,945,793 | Process for Coloring Diamonds | R. A. Dugdale |
| 2,945,794 | Neutronic Reactor Operational Method and Core System | C. E. Winters, C. B. Graham, J. S. Culvea, R. H. Wilson |
| 2,945,972 | Ion Source | C. W. Blue, J. E. Luce |
| 2,946,914 | Apparatus for Producing and Manipulating Plasmas | E. A. Colgate, J. P. Ferguson, H. P. Forth, R. E. Wright |







| | | |
|---|---|---|
| 2,946,699 | Process of Impregnating Graphite with a Uranium Compound | M. C. Sanz, R. R. Randolph, C. Starr |
| 2,947,080 | Method of Making Fuel Elements | L. W. Katez, R. W. Campbell, R. H. W. Heartel |
| 2,947,465 | Means and Method for Producing a Vacuum | M. A. Otavka |
| 2,947,471 | Centrifuge End Cap | J. W. Beams, L. B. Snoddy (Deceased) |
| 2,947,472 | Centrifuge Apparatus | C. Skarstrom, K. Cohen, H. C. Urey |
| 2,947,601 | Complex Fluorides of Plutonium and an Alkali metal | G. T. Seaborg |
| 2,947,621 | Ternary Alloys of Uranium, Columbium, and Zirconium | F. G. Foote |
| 2,947,676 | Method of Making Wire Fuel Elements | J. L. Zambrow |
| 2,947,774 | Preparation of Alkyl Pyrophosphate Extractants | C. A. Levine, W. E. Skiens G. R. Moore |
| 2,947,867 | Control for Isotope Separating Apparatus | H. W. Brackney |
| 2,947,902 | Magnetic Grid | R. F. Post |
| 2,948,572 | Centrifuges | J. W. Beams, L. B. Snoddy (Deceased) |
| 2,948,586 | Fused Salt Process for Recovery of Values from Used Nuclear Reactor Fuels | R. H. Moore |
| 2,949,045 | Housings and Mountings for Centrifuges | F. C. Rushing |
| 2,949,202 | Loading and Unloading Device | M. Treshow |
| 2,949,390 | Method of Protecting Tantalum Crucibles against Reaction with Molten Uranium | H. M. Feder, N. R. Chellow |
| 2,949,414 | Self-Regulating Boiling-Water Nuclear Reactors | J. A. Ransohoff, J. D. Flewchan |
| 2,949,416 | Concentric Tubular Fuel Element | C. W. Wheelock |
| 2,950,166 | Method for Separation of Plutonium from Uranium and Fission Products by Solvent Extraction | G. T. Seaborg, W. J. Bleedel, M. T. Welling, Jr. |
| 2,950,167 | Method of Inhibiting Corrosion in Uranyl Sulfate Solutions | K. G. Bohlmann, J. C. Criess, Jr. |
| 2,950,168 | Concentration and Decontamination of Solutions Containing Plutonium Values by Bismuth Phosphate Carrier Precipitation Methods | G. T. Seaborg, S. G. Thompson |
| 2,950,188 | Method of Suppressing $UAl_4$ Formation in U-Al Alloys | M. L. Picklesimer, W. C. Thurber |
| 2,950,388 | Mass Spectrometer | F. A. White |
| 2,950,604 | Heat Transfer Method | W. R. Gambill, N. D. Greene |
| 2,950,962 | Reduction of Fluoride to Metal | O. N. Carlson, F. A. Schmidt F. H. Spedding |
| 2,950,967 | Plutonium-Zirconium Alloys | F. W. Schonfeld, J. T. Weber |
| 2,951,018 | Electrodeposition of Neptunium | G. T. Seaborg, A. C. Wahl |
| 2,951,020 | Method for Electrodepositing Polonium | R. F. Wehrmann |
| 2,951,023 | Method of Producing $U^{233}$ | G. T. Seaborg, R. W. Stoughton |
| 2,951,158 | Radiation Wave Detection | L. F. Wouters |
| 2,951,181 | Sampling Oscilloscope | R. M. Sugerman, E. Patchogue |
| 2,951,201 | Zero-Time Indicator | H. H. Sander |
| 2,951,448 | Centrifugal Pump and Shaft Sealing Means | F. C. Rushing |
| 2,951,729 | Gas Bearing | C. W. Skarstrom |
| 2,951,730 | Cushioned Bearing | F. C. Rushing |
| 2,951,731 | Centrifuges | F. C. Rushing |
| 2,951,740 | Processing of Neutron-Irradiated Uranium | H. H. Hopkins, Jr. |
| 2,951,793 | Electrolysis of Thorium and Uranium | W. M. Hansen |
| 2,952,012 | Analog-to-Digital Data Converter | G. W. Rodgers, D. F. Anderson, G. R. Bussey, L. H. Minnear, J. E. Althouse |
| 2,952,056 | Apparatus and Method for Injection Casting | A. E. Shuck |
| 2,952,139 | Refrigeration System Especially for Very Low Temperature | F. B. Kennedy, H. R. Smith, Jr. |
| 2,952,511 | Separation of Plutonium Values from Uranium and Fission Product Values | A. G. Maddock, A. H. Booth |

| | | |
|---|---|---|
| 2,952,535 | Sintering Metal Oxides | W. E. Roake |
| 2,952,600 | Neutronic Reactor Control Element | H. W. Newson |
| 2,952,601 | Nuclear Conversion Apparatus | G. T. Seaborg |
| 2,952,603 | Jacketed Fissionable Member | E. R. Boller, J. W. Robinson |
| 2,952,640 | Cesium Recovery from Aqueous Solutions | C. A. Goodall |
| 2,952,641 | Strontium Precipitation | T. R. McKenzie |
| 2,952,802 | Electromagnetic Release Mechanism | C. Michelson |
| 2,953,510 | Neutronic Reactor | H. L. Anderson |
| 2,953,918 | Range Increaser for Pneumatic Gauges | A. W. Fowler, G. B. Seaborn, Jr. |
| 2,953,993 | Pump Construction | G. Stricklard, F. L. Horn, H. T. White |
| 2,954,157 | Molecular Vacuum Pump | E. K. Eckberg |
| 2,954,273 | Process of Eliminating Hydrogen Peroxide in Solutions Containing Plutonium Values | J. G. Barrick, B. A. Fries |
| 2,954,335 | Neutronic Reactor | E. P. Wigner |
| 2,954,421 | Low-Loss Cable and Method of Fabrication | R. L. McCarthy, J. M. Stone |
| 2,955,913 | Separation of Rare Earths by Solvent Extraction | D. F. Peppard, G. W. Mason |
| 2,955,937 | Oxidation Resistant Chromium Alloy | J. A. McCurty, J. F. Collins, V. P. Calkins |
| 2,955,997 | Irradiation Method of Converting Organic Compounds | A. O. Allen, J. M. Caffrey, Jr. |
| 2,956,169 | Ion Pulse Generation | R. F. King, C. D. Moak, V. E. Parker |
| 2,956,195 | Hollow Carbon Arc Discharge | J. S. Luce |
| 2,956,201 | Particle Accelerator and Method of Controlling the Temperature Thereof | R. B. Neal, W. J. Gallagher |
| 2,956,771 | Mass Spectrometer Leak | W. R. Shields |
| 2,956,858 | Method of Separating Rare Earths by Ion Exchange | F. H. Spedding, J. E. Powell |
| 2,957,080 | Method and Means for Radiation Dosimetry | J. W. Schulte, J. F. Suttle |
| 2,957,094 | Neutron Source | M. K. Barnander, R. J. Jones |
| 2,957,210 | Cave Window | M. Levenson |
| 2,957,709 | Sealing Means for Relatively Rotatable Members | C. W. Skarstrom |
| 2,958,779 | Scintillation Exposure Rate Detector | W. G. Spaar |
| 2,959,326 | Fluid Controlling Means | H. N. Pouliot |
| 2,960,398 | Direct Ingot Process for Producing Uranium | W. H. Leaders, W. S. Knecht |
| 2,960,653 | Pulsed Indicator Circuit | W. I. Linlor, Q. A. Kerns |
| 2,960,687 | Coincidence Occurrence Indicator | G. H. Robison, N. Merrick, J. F. Dickson |
| 2,961,159 | Multi-Channel Electric Pulse Height Analyzer with Binary Coded Decimal Display | J. D. Gallagher, J. L. McKibben |
| 2,961,390 | Method of Preparing Uranium, Thorium, or Plutonium Oxides in Liquid Bismuth | J. K. Davidson, W. L. Robb |
| 2,961,391 | Water Boiler Reactor | L. D. P. King |
| 2,961,392 | Neutronic Reactors | E. P. Wigner |
| 2,961,393 | Power Breeder Reactor | H. O. Monson |
| 2,961,415 | Settable Neutron Radiation Shielding Material | I. R. Axelrad |
| 2,961,558 | Co-Axial Discharges | J. S. Luce, L. F. Smith |
| 2,961,559 | Methods and Means for Obtaining Hydromagnetically accelerated Plasma Jet | J. L. Marshall, Jr. |
| 2,961,652 | Radio Altimeters | R. W. Bogle |
| 2,961,653 | Radio Ranging Devices | R. W. Bogle |
| 2,962,351 | Treatment for Improving the Operation of Strong Base Anion Exchange Resins | F. C. Stevenson |
| 2,963,223 | Multiple Input Binary Adder Employing Magnetic Drum Digital Computing Apparatus | E. H. Cooke |
| 2,964,124 | Separation of Gases by Diffusion | R. E. Peierls, F. E. Simon, H. S. Arms |
| 2,964,130 | Separation of Ruthenium Compounds from Gaseous Mixtures | E. J. Newby, D. A. Hanson, C. E. May |



| | | |
|---|---|---|
| 2,964,710 | Accelerator Target Positioner and Control Circuit Therefor | K. F. Stone, R. J. Force, W. W. Olson, D. S. Cagle |
| 2,965,781 | Neutron-Counter | S. B. Gunst, R. T. Bayard |
| 2,965,840 | Metal Resistivity Measuring Device | R. G. Meyers, C. J. Renkin, Jr. |
| 2,966,709 | Casting Furnaces | R. H. Ruppel, C. E. Winters |
| 2,966,794 | Deflection Pressure Tester | C. M. Cooper |
| 2,966,799 | Sensitive Pressure Gauge | W. P. Bell |
| 2,967,141 | Neutronic Reactor Fuel Element | M. L. Picklesimer, W. C. Thurber |
| 2,967,209 | Recovery of Ruthenium Values | W. E. Crummitt, W. H. Hardwick |
| 2,967,257 | Ion Pump | M. Milleron |
| 2,967,809 | Method and Apparatus for Controlling Direct-Cycle Neutronic Reactors | G. A. Reed |
| 2,967,811 | Fuel Elements for Thermal-Fission Nuclear Reactors | O. Flint |
| 2,967,812 | Neutronic Reactor Fuel Composition | W. C. Thurber |
| 2,967,943 | Gaseous Discharge Device | J. D. Gow |
| 2,968,007 | Automatic Frequency Control System | C. F. Hansen, J. D. Salisbury |
| 2,968,183 | Sampling System | B. A. Hannaford, C. L. Segaser, C. L. Terry, R. R. Rosenberg |
| 2,968,547 | Production of Plutonium Metal | W. L. Lyon, R. H. Moore |
| 2,968,601 | Fuel Element for Neutronic Reactors | T. C. Evans, E. G. Reasley, Jr. |
| 2,968,602 | Reactor-Flash Boiler-Flywheel Power Plant | E. Loeb |
| 2,968,715 | Fusion Welding Method and Apparatus | W. L. Wymand, W. I. Steinhamp |
| 2,968,731 | Beta-Gamma Personnel Dosimeter | D. M. Davis, E. D. Gupton, J. C. Hart, A. F. Hull |
| 2,969,307 | Method of Testing Thermal Neutron Fissionable Material for Purity | H. L. Anderson E. Fermi (Deceased) |
| 2,969,308 | Method of Producing Inergetic Plasma for Neutron Production | P. R. Bell, R. J. Mackin, Jr., A. Simon |
| 2,969,309 | Neutronic Reactor Fuel Element and Method of Manufacture | M. H. Finniston, G. S. Plail |
| 2,969,310 | Neutronic Reactor System | J. J. Goett (Deceased) |
| 2,969,311 | Means for Producing Plutonium Chain Reactions | E. P. Wigner, A. M. Weinberg |
| 2,969,312 | Type Fuel Element | H. O. Houson |
| 2,969,313 | Nuclear Reactor | J. J. Grebe |
| 2,969,507 | Blocking Oscillator Double Pulse Generator Circuit | J. A. Haase |
| 2,969,712 | High Temperature Microscope and Furnace | D. M. Olson |
| 2,969,915 | Electronic Multiplier | D. M. Collier, L. A. Meeks, J. P. Palmer |
| 2,970,035 | Separation of Plutonium Ions from Solution by Adsorption on Zirconium Pyrophosphate | R. W. Stoughton |
| 2,970,050 | Process for Removing Noble Metals from Uranium | J. B. Knighton |
| 2,970,885 | Corrosion Reduction | S. Greenberg, R. D. Misch, W. E. Ruther |
| 2,971,153 | Microwave Horns and Circuitry for Plasma Measurements | C. D. Wharton, A. L. Gardner |
| 2,971,907 | Filter Media and Method of Making | W. J. Smith |
| 2,973,492 | Pulse Inverting Transformer | D. A. Mack |
| 2,974,006 | Direct Coversion of Uranium Turnings to Uranium Tetrafluoride | O. E. Fry |
| 2,974,012 | Preparation of Beryllium Oxide of High Purity | E. Cooperstein, G. R. Anderson |
| 2,974,096 | Fuel Slug Rupture Detector | R. E. Paul |
| 2,974,248 | Neutron-Insensitive Beta-Gamma Dosimeter | J. A. Aurier, R. E. Zedler, G. S. Hurst |
| 2,974,251 | Method and Means for Increasing Electron Emission | A. J. Bureau |
| 2,975,113 | Method of an Irradiation Transmutation Capsule | C. M. Gordon |
| 2,975,114 | Reactor | S. K. Allison |
| 2,975,115 | Bellows Seal on Reactor Coolant Tube | E. P. Wigner, L. A. Ohlinger, C. J. Young |



XUM 37 5 SMS 1781834

| | | |
|---|---|---|
| 2,975,116 | Neutronic Reactor | F. Daniels |
| 2,975,117 | Fast Neutron Reaction System | W. H. Zinn |
| 2,975,119 | Vertical Rod Drive Mechanism | C. D. Emmons |
| 2,975,414 | Radio Ranging Device | R. W. Bogle |
| 2,975,770 | Steam Generator | H. O. Monson |
| 2,975,912 | Charging Device | S. L. Handforth |
| 2,976,121 | Processing of Cesium Metal Cyanides | O. H. Koski |
| 2,976,227 | Neutronic Reactor | J. A. Wheeler |
| 2,977,194 | Method of Reducing Aqueous Radioactive Nuclear Wastes to Solid Form | J. W. Loeding, A. A. Jonke |
| 2,977,204 | Method of Improving Corrosion Resistance of Zirconium | D. W. Shannon |
| 2,977,220 | Process of Producing Uranium | T. K. Wood, (Deceased) |
| 2,977,297 | Reactor Fuel Assembly | E. A. Evans, R. J. Anicotti, W. E. Roake |
| 2,977,814 | Two-Speed Device | G. S. Brunson, Jr. |
| 2,978,118 | Manipulator For Slave Robot | R. C. Goertz, J. H. Grimson, F. A. Kohut |
| 2,978,294 | Solvent Extraction Process for Protactinium | E. K. Hyde, I. I. Katzin, M. J. Wolf |
| 2,978,295 | Recovery of Plutonium by Carrier Precipitation | R. H. Goeckermann |
| 2,978,358 | Method of Obtaining Uniform Coatings on Graphite | I. E. Campbell |
| 2,978,398 | Neutronic Reactor | H. E. Metcalf, H. W. Johnson |
| 2,979,379 | Extraction of Uranium | E. G. Schmieding, A. E. Ruehle |
| 2,979,399 | Preparation of Compacts made from Uranium and Beryllium by Sintering | R. F. Angier |
| 2,979,620 | Air Radioactivity Monitor | R. L. Bradshaw, J. W. Thomas |
| 2,979,635 | Clashing Beam Particle Accelerator | R. J. Burleigh |
| 2,980,905 | Radio Ranging Device | J. W. Gratian, A. Gratian, R. T. Nisset, M. E. Bourns, H. R. Crane |
| 2,981,591 | Method for Recovering Plutonium Values from Solution using a Bismuth Hydroxide Carrier Precipitate | B. F. Faris |
| 2,981,592 | Method and Apparatus for Calcining Salt Solutions | S. Lawroski, A. A. Jonke, R. G. Taecker |
| 2,981,643 | Process for Descaling and Decontaminating Metals | R. D. Reybarn |
| 2,981,672 | Nuclear Reactor Fuel Element | W. E. Kingston |
| 2,982,599 | Production of Plutonium Fluoride from Bismuth Phosphate Precipitate Containing Plutonium Values | H. S. Brown, E. G. Bohlmann |
| 2,982,600 | Uranium Decontamination with Respect to Zirconium | S. Vogler, M. Beederman |
| 2,982,601 | Separation of Uranyl and Ruthenium Values by the Tributyl Phosphate Extraction Process | A. S. Wilson |
| 2,982,603 | Preparation of Anhydrous Cerium Chloride, Uranium Bromide, or Plutonium Fluoride | K. M. Harmon, E. Wichers |
| 2,982,604 | Preparation of Neptunium Hexafluoride | G. T. Seaborg, H. W. Brown |
| 2,982,702 | Pretreating Uranium for Metal Plating | R. F. Wehrmann |
| 2,982,708 | Fuel for Neutronic Reactors and Process of Making | B. M. Abraham, H. K. Flotow |
| 2,982,709 | Neutronic Reactor Design to Reduce Neutron Loss | F. T. Miles |
| 2,982,710 | Food Irradiation Reactor | C. F. Leyse, G. E. Putnam |
| 2,982,711 | System for Unloading Reactors | A. C. Rand, Jr. |
| 2,982,713 | Merchant Marine Ship Reactor | M. F. Sankovich, J. F. Mumm, D. C. North, Jr., H. R. Rock, D. K. Geaton |
| 2,982,785 | Cesium Recovery | T. McKenzie, W. W. Schulz |
| 2,982,917 | Method and Apparatus for Pulsing A Charged Particle Beam | K. Aaland, R. W. Kuenning, R. K. Harmon |
| 2,983,042 | Tube Splitting Apparatus | C. K. Frantz, W. E. Cawley |
| 2,983,144 | Electronic Bivane Wind Direction Indicator | H. Moses |



| | | |
|---|---|---|
| 2,983,145 | Specific Heat Indicator | F. L. Horn, J. E. Binns |
| 2,983,658 | Heterogeneous Nuclear Reactor Employing Small Unclad Bodies of Fissionable Material as Fuel | H. H. Hyman, J. J. Katz |
| 2,983,659 | Neutronic Reactor Burial Assembly | M. Treshow |
| 2,983,660 | Fabrication of Tube Type Fuel Element for Nuclear Reactors | E. Loeb, J. H. Nicklas |
| 2,983,663 | Fuel Element for Nuclear Reactors | C. H. Bassett |
| 2,983,989 | Broaching and Tube-Installing Apparatus | C. E. Frantz, W. E. Cawley |
| 2,984,613 | Fuel Element for Nuclear Reactors | C. H. Bassett |
| 2,984,744 | Means for Visualizing Fluid Flow Patterns | F. Z. Lynch, L. D. Palmer, H. F. Peppendiek, G. M. Winn |
| 2,984,833 | Super-Regenerative Radio Ranging Device | R. T. Nisset, H. R. Crane, A. C. Gratian, J. W. Gratian |
| 2,984,995 | Modified Ball and Socket Coupling | D. D. Kalen |
| 2,985,505 | Salt Conversion Process | H. H. Van Tuyl |
| 2,985,574 | Overall Control System for High Flux Pile | H. W. Newson, E. P. Wigner, E. P. Epler, T. E. Cole |
| 2,985,824 | Nondestructive Eddy Current Testing | C. J. Ranken, Jr. |
| 2,986,508 | Neutronic Reactor Structure | A. M. Weinberg, H. C. Vernon |
| 2,986,509 | Fuel Element for Nuclear Reactor | J. G. Duffy, Jr. |
| 2,986,510 | Massive Leakage Irradiator | E. P. Wigner, L. Szilard, R. F. Christy, F. L. Friedman |
| 2,986,772 | Eccentric Rolling of Powder and Bonding Agent Into Spherical Pellets | G. Patton, Jr. |
| 2,987,375 | Purification of Fluoride Salts | W. R. Grimes |
| 2,987,454 | Electrolytic Process for Producing Metals | B. Kopelman, R. B. Holden |
| 2,987,455 | Method and Apparatus for Reactor Safety Control | N. E. Huston, R. G. Hoff, C. W. Wheelock |
| 2,987,458 | Twisted Ribbon Fuel Element | C. R. Breden, A. B. Schultz |
| 2,987,816 | Bonding Aluminum Metals | R. A. Noland, D. E. Walker |
| 2,988,429 | Spiral Contractor for Solvent Extraction Column | C. R. Cooley |
| 2,988,697 | Linear Selsyn or Synchro-transmitter | A. Hirsch |
| 2,988,812 | Method of Fabricating Tubular Units | L. A. Ohlinger |
| 2,988,938 | Control for Rolling Mill | A. B. Shuck, W. C. Shaw |
| 2,989,367 | Arsenate Carrier Precipitation Method of Separating Plutonium from Neutron Irridated Uranium and Radioactive Fission Products | S. G. Thompson, D. R. Miller, R. A. James |
| 2,989,368 | Cesium Recovery from Aqueous Solutions | R. A. Schneider |
| 2,989,453 | Pressure System Control | W. H. Esselman, G. M. Kaplan |
| 2,989,454 | Nuclear Reactor | G. R. Breden, J. R. Dietrich |
| 2,989,556 | Method of Preparing Complexes of Plutonium with Diketones | J. S. Dixon, J. J. Katz, E. F. Orlemann |
| 2,990,240 | Process for Segregating Uranium from Plutonium and Fission-Product Contamination | C. V. Ellison, T. C. Runion |
| 2,990,241 | Improvement in Decontamination of Aqueous Acidic Solutions Containing Plutonium and Fission Product Values by providing Cerous and/or Mercuric Ions Therein Prior to a Bismuth Phosphate Carrier Precipitation | B. F. Faris, H. K. Strassel |
| 2,990,242 | Extraction of Hexavalent Plutonium from Aqueous Acidic Solutions with Ethyl Sulfide | G. T. Seaborg |
| 2,990,243 | Adsorption of Plutonium and/or Fission Products from Aqueous Solution | R. H. Beaton |
| 2,990,244 | Extraction of Thorium and Uranium Values from Acid Leach Liquors | K. B. Brown, D. J. Crouse, Jr. |
| 2,990,245 | Metathesis of Bismuth Phosphate Plutonium Carrier Precipitate with an Alkali | I. Perlman, S. G. Thompson, B. B. Cunningham |
| 2,990,273 | Uranium Recovery from Metallic Masses | P. Chiotti |
| 2,990,274 | Uranium-Titanium-Niobium Alloys | S. Greenberg |
| 2,990,348 | Method and Apparatus for Producing Power | E. O. Hollan |
| 2,990,349 | Reactor | W. G. Roman |

| | | |
|---|---|---|
| 2,990,351 | Nuclear Reactor Element | M. C. Sanz, C. N. Scully |
| 2,990,352 | Metal Sheathed Bodies | H. M. Finniston, L. M. Wyatt, O. S. Plail |
| 2,990,353 | Nuclear Reactor Control System | D. F. Howard, E. E. Motta |
| 2,990,354 | Nuclear Fission Chain Reacting System | H. L. Anderson, J. S. Brown |
| 2,990,355 | Means for Controlling Reactions | L. W. Nordheim, E. P. Wigner |
| 2,990,356 | Control Rod Drive | R. A. Chapellier, I. Rogers |
| 2,990,357 | Method and Apparatus for Controlling Neutron Density | E. P. Wigner, G. J. Young |
| 2,990,358 | Control Means for Reactor | J. H. Manley |
| 2,990,359 | Fuel Element Support | W. L. Wyman |
| 2,990,360 | Neutronic Reactor Control Rod and Method of Fabrication | S. W. Porembka, Jr. |
| 2,990,476 | Radiation Source | J. D. Gow |
| 2,991,112 | Self-Centering Positive Locking Grapnel | C. G. Hopper |
| 2,991,150 | Purification of Plutonium Using a Cerium Precipitate as a Carrier for Fission Products | B. F. Faris, C. M. Olson |
| 2,991,192 | Process of Coating Graphite with Niobium-Titanium Carbide | F. A. Halden, W. D. Smiley, F. M. Hruz |
| 2,991,236 | Separating Liquid Moderator from a Slurry Type Reactor | H. C. Vernon |
| 2,991,237 | Thorium Dispersion in Bismuth | J. S. Bryner |
| 2,991,238 | Pinched Plasma Reactor | J. A. Phillips, B. R. Suydam, J. L. Tuck |
| 2,991,601 | Process of Forming Powdered Material | J. Glatter, B. E. Schaner, T. J. Burke |
| 2,991,905 | Gas Seal | H. Monson, E. Hutter |
| 2,991,980 | Heat Transfer Means | A. P. Fraas, G. F. Wislicenus |
| 2,992,048 | Tool Assembly with Bi-Directional Bearing | G. E. Longhurst |
| 2,992,066 | Preparation of Plutonium Trifluoride | L. L. Burger, W. E. Roake |
| 2,992,067 | Dissolution of Zirconium and Alloys Thereof | J. L. Swanson |
| 2,992,172 | Fuel Elements for Nuclear Reactors | A. Blainey, H. Lloyd |
| 2,992,175 | Neutronic Reactor Shielding | L. B. Borst |
| 2,992,178 | High Strength Control Rods for Neutronic Reactors | B. Lustman, E. F. Losco, I. Cohen |
| 2,992,179 | Fuel Element for Nuclear Reactors | C. H. Bassett |
| 2,992,249 | Ion Exchange Adsorption Process for Plutonium Separation | G. E. Boyd, E. R. Russell, M. D. Taylor |
| 2,992,700 | Electrostatic Air Cleaning Device and Method | L. Silverman, D. M. Anderson |
| 2,992,886 | Method for Dissolving Zirconium-Uranium Compositions | T. A. Gens |
| 2,992,887 | Leaching of Uranium Ores Using Alkaline Carbonates and Bicarbonates at Atmospheric Pressure | A. Thunaes, E. A. Brown, A. T. Rabbitts, R. Simrad, H. J. Herbst |
| 2,992,888 | Process of Treating or Forming an Insoluble Plutonium Precipitate in the Presence of an Organic Surface Active Agent | J. H. Balthis |
| 2,992,889 | Method for Separating Plutonium and Fission Products Employing an Oxide as a Carrier for Fission Products | T. H. Davies |
| 2,992,915 | Pyrometallurgical Method | P. A. Nelson |
| 2,992,981 | Neutronic Reactor Core | W. B. Thomson, A. Corbin, Jr. |
| 2,992,982 | Coupled Fast-Thermal Power Breeder Reactor | R. Avery |
| 2,993,786 | Hot Pressing to Form Canned Uranium Slugs | S. B. Roboff, W. E. Kingston |
| 2,993,850 | Fast Neutron Reactor | H. Soodak, E. P. Wigner |
| 2,993,851 | High Temperature and Neutron Producing System | G. P. Thomson, M. Blackman |
| 2,993,852 | Neutronic Reactor | R. F. Christy |
| 2,994,019 | Integral Positioning and Indicating Device | C. E. Frantz, W. E. Cawley, R. F. Warnick |
| 2,994,038 | Electrical Load anticipator and Recorder | J. B. Russell, R. J. Thomas |
| 2,994,072 | Photoelectric Control for Tape Positioning | J. W. Woody, Jr. |





| | | |
|---|---|---|
| 2,994,423 | Apparatus for Sheathing Rods | G. W. K. Ford, L. M. Wyatt, O. S. Plail |
| 2,994,577 | Method of Removing Iodine from Gases and Filter Medium Therefor | L. Silverman |
| 2,994,579 | Dissolution of a Cerium-Type Plutonium-Containing Fluoride Carrier | A. C. Wahl |
| 2,994,650 | Preparation of Pure Metals from their Compounds | H. L. Slatin |
| 2,994,652 | Method for Producing Diboron Tetrachloride | J. W. Frazer, R. T. Holzmann |
| 2,994,656 | Fuel Element Construction | L. R. Zumwalt |
| 2,994,657 | Chimney for Boiling Water Reactor | M. Petrick |
| 2,994,837 | Adjustable Double Pulse Generator | J. W. Gratian, A. C. Gratian |
| 2,994,951 | Method of Applying Metallic Coatings | J. W. Robinson, L. D. Eubank |
| 2,995,419 | Method for Dissolving Lanthanum Fluoride Carrier for Plutonium | D. E. Koshland, Jr., J. E. Willard |
| 2,995,471 | Method for Treating Graphite Product | D. H. Gurinsky |
| 2,995,588 | Extraction of Tetravalent Plutonium Values with Methyl Ethyl Ketone, Methyl Isobutyl Ketone Acetophenone or Methone | G. T. Seaborg |
| 2,995,925 | Ultrasonic Flaw Detection Method | D. C. Worlton |
| 2,996,330 | Remotely Operated Manipulator | E. L. Hutto |
| 2,996,352 | Precipitation of Plotonous Peroxide | J. G. Barrick, J. P. Manion |
| 2,996,375 | Process of Recovering Alkali Metals | J. Wolkoff |
| 2,996,443 | Fissile Material and Fuel Elements for Neutronic Reactors | B. E. Schaner |
| 2,996,444 | Fuel Element Construction | M. T. Simnad |
| 2,996,526 | Extraction of Tetravalent Plutonium Values from Aqueous Acid Solutions by 2(B-Ethylbutoxy) Ethanol | G. T. Seaborg |
| 2,996,662 | Magnetic Densitometer | J. A. McCann, R. H. Jones |
| 2,997,289 | Apparatus for the Production of Lithium Metal | F. S. Baker, H. B. Graene |
| 2,997,431 | Method of Initiating and Sustaining an Energetic Plasma for Neutron Production | F. R. Bell, R. J. Mackin, Jr., A. Simon |
| 2,997,436 | Gas Ionizing and Compressing Device | E. M. Little, D. B. Thomson, V. Josephson, F. R. Scott |
| 2,997,587 | Neutronic Reactor Core Instrument | L. S. Mims |
| 2,997,641 | Plasma Generator Device | W. R. Baker, O. A. Anderson, H. P. Furth |
| 2,997,744 | Method of Graphite Preparation | S. D. Stoddard, W. T. Harper |
| 2,997,883 | Acceleration Integrating Means | D. F. Wilkes |
| 2,998,917 | Electrical Load Anticipator and Recorder | J. V. Werme |
| 2,999,058 | Nuclear Reactor Fuel Element | C. W. Wheelock, R. D. Baumeister |
| 2,999,059 | Nuclear Reactor | M. Treshow |
| 2,999,060 | Control Means for a Nuclear Reactor | R. J. Teitel |
| 2,999,168 | Linear Count-Rate Meter | J. J. Henry |
| 2,999,187 | Differential Fault Sensing Circuit | J. H. Roberts |
| 3,000,377 | Method and Apparatus for Metabolic Assay | B. M. Tolbert, M. R. Kirk, E. M. Baker |
| 3,000,695 | Compounds and Composition Containing Plutonium | G. T. Seaborg |
| 3,000,697 | Transuranic Element, Composition Thereof, and Methods for Producing, Separating and Purifying Same | A. C. Wahl |
| 3,000,726 | Production of Metals | F. H. Spedding, H. A. Wilhelm, W. H. Keller |
| 3,001,144 | Direct Coupled Amplifier for Small Currents | R. A. Dandl |
| 3,001,238 | Method of Making Metal Bonded Carbon Bodies | W. V. Goeddel, M. T. Simnad |
| 3,001,847 | Optical Transcribing Oscilloscope | Q. A. Kerns |
| 3,002,095 | Single-Crystal Neutron Spectrometer | D. L. Holcomb |
| 3,002,852 | Method of Forming Tantalum Silicides on Tantalum Surfaces | M. G. Bowman, H. Krikorian |
| 3,002,910 | Catalytic Conversion of Organic Compounds Using Penetrating Radiation | J. M. Caffrey, Jr. |

| | | |
|---|---|---|
| 3,002,911 | Radiolysis of Organic Compounds | J. W. Sutherland, A. O. Allen |
| 3,002,912 | Reactors | L. Spitzer, Jr. |
| 3,003,002 | Purification of Ether | R. N. Feinstein |
| 3,003,050 | Welding Torch | T. B. Correy |
| 3,003,080 | Apparatus for Minimizing Energy Losses from Magnetically Confined Volumes of Hot Plasma | R. F. Post |
| 3,004,628 | Rectified Absorption Method for the Separation of Hydrogen Isotopes | C. d'A Hunt, D. N. Hanson |
| 3,005,079 | Method and Apparatus for Effecting Thermal Bonds | H. O. Monson, R. A. Jarosz |
| 3,005,158 | Core Saturation Blocking Oscillator | R. J. Spinrad |
| 3,005,334 | Apparatus for Non-Destructive Inception of Cantilevered Members | E. R. Taylor, C. H. Mahoney, C. R. Lay |
| 3,005,680 | Method of Separating Neptunium from Plutonium in Aqueous Inorganic Solution | G. T. Seaborg |
| 3,005,681 | Process for Separating Plutonium (IV) Values from Uranium and Fission Product Values, e.g. Zirconium and Columbium, Utilizing a Lanthanum Oxalate Carrier Precipitate | R. W. Stoughton |
| 3,005,682 | Method of Dissolving Plutonium Dioxide in Nitric Acid Using Cerium Ions | A. S. Wilson |
| 3,005,683 | Separation of Technetium from Aqueous Solutions by Coprecipitation with Magnetite | S. J. Rimshaw |
| 3,005,760 | Method of Opposing Irradiation-Induced Viscosity Increase in Employment of Organic Fluids | R. O. Bolt |
| 3,005,764 | Neutronic Reactor Structure | F. Daniels |
| 3,005,763 | Density Control in a Reactor | J. Marshall, Jr. |
| 3,005,767 | Rotating Plasma Device | K. Boyer, J. E. Hammel, C. L. Longmire, D. E. Nagle, P. L. Ribe, J. L. Tuck |
| 3,005,794 | Method of Using and Manufacturing Plastic Equivalent to Organic Materials | F. R. Shonka, J. E. Rose, G. Failla |
| 3,005,931 | Ion Gun | R. A. Dandl |
| 3,005,950 | Precision Integrator for Minute Electric Currents | A. Hemmendinger, F. J. Holmer |
| 3,005,954 | Apparatus for Control of High Energy Accelerators | H. G. Heard |
| 3,006,835 | Neutron Source Using Magnetic Compression of Plasma | W. E. Quinn, E. M. Little, K. Boyer, J. L. Tuck, W. C. Elmore |
| 3,006,859 | Processing of Radioactive Waste | B. T. Allemann, B. M. Johnson, Jr. |
| 3,008,884 | Process for Making Neutron Absorbing Bodies | G. H. Schipperait, R. B. Lang |
| 3,008,904 | Processing of Radioactive Waste | B. M. Johnson, Jr., C. B. Barton |
| 3,009,062 | Absorption Analyzer | W. A. Brookshank, Jr., J. E. Strain, H. M. Rendon, Jr. |
| 3,009,242 | Zirconium-Cladding of Thorium | R. J. Beaver |
| 3,009,767 | Separation of Transuranic Elements from Rare Earth Compounds | T. P. Kohman |
| 3,009,768 | Continuous Process for Preparing Uranium Hexafluoride from Uranium Tetrafluoride and Oxygen | J. B. Adams, J. C. Bresee, L. H. Ferris, C. D. Scott |
| 3,009,807 | Yttrium Decontamination | D. H. Dennison |
| 3,009,866 | Neutronic Reactor | A. P. Fraas, C. H. Mills |
| 3,009,869 | Fuel Element for Nuclear Reactors | C. H. Bassett |
| 3,009,881 | Method of Stabilizing Polyphenyl Coolants | J. G. Burr, J. D. Strong |
| 3,010,021 | Method for Measuring Radiation | W. C. Roesch, R. C. McCall |
| 3,010,889 | Fuel Element | P. Fortescue, L. R. Zumwalt |
| 3,011,054 | Method and Apparatus for the Detection of Leaks in Pipe Lines | S. Jefferson, J. F. Cameron |
| 3,011,863 | Separation of Uranium and Plutonium Oxides | C. E. Benedict, W. L. Lyon |
| 3,011,923 | Surface Treatment of Molybdenum Metal | C. O. Coffer |
| 3,011,962 | Nuclear Reactors | L. J. Koch, R. E. Rice, Jr., M. Novick, A. A. Denst, A. J. Higers |



| | | |
|---|---|---|
| 3,012,139 | Automatic Mass Spectrometer | M. L. Hanson, C. D. Tebor, Jr. |
| 3,012,210 | Directional Couplers | D. J. Nigg |
| 3,012,811 | Gripping Tool | R. J. Sandrock |
| 3,012,848 | Method for Sensing Degrees of Fluidization in Fluidized Bed | R. P. Levey, Jr., A. H. Fowler |
| 3,012,849 | Dissolution of Zirconium-Containing Fuel Elements | F. L. Horn |
| 3,012,955 | High Temperatures Reactor | R. M. Kulsrud, L. Spitzer, Jr. |
| 3,012,956 | Radiation Facility for Nuclear Reactors | E. L. Currier, Jr., J. H. Nicklas |
| 3,013,859 | Separation of Scandium Values from Iron Values by Solvent Extraction | C. W. Kuhlman, Jr. G. Lang |
| 3,013,909 | Method of Chemical Decontamination of Stainless Steel Nuclear Facilities | G. P. Pence, J. L. Zegger |
| 3,013,953 | Process for Separating Azeo-tropic Mixtures by Extractive and Convective Distillation | J. W. Fraser |
| 3,013,978 | Removal of Fission Products from Water | J. Rosinski |
| 3,014,134 | Ion Rocket Engine | K. W. Ehlers, F. Voelker |
| 3,014,857 | Plasma Device | J. D. Gow, J. M. Wilcox |
| 3,015,031 | Personal Radiation Monitor | D. H. Dilworth, C. J. Borkowski |
| 3,015,618 | Apparatus for Heating a Plasma | T. H. Stix |
| 3,015,748 | Pyratron with Translational Closure Fields | E. C. Hartwig, D. B. Cummings, R. F. Post |
| 3,016,341 | Reactor | L. Spitzer, Jr. |
| 3,016,342 | Controlled Nuclear Fusion Reactor | S. A. Colgate, M. Kruskal M. Rosenbluth, J. L. Tuck |
| 3,016,438 | Resonator Particle Separator | J. F. Blewett |
| 3,016,459 | Mass Spectrometry | L. Friedman |
| 3,016,473 | Phase Differential Indicating Circuit | F. A. Kirsten |
| 3,017,242 | Removal of Cesium by Sorption from Aqueous Solutions | L. L. Ames |
| 3,017,286 | Method for Coating Graphite with Niobium Carbide | J. S. Kane, J. H. Carpenter, O. H. Krikorian |
| 3,018,159 | Method of Removing Radioactive Iodine from Gases | L. Silverman |
| 3,018,169 | Method of Making Delta Zirconium Hydride Monolithic Moderator Pieces | J. B. Vetrano |
| 3,018,238 | Method of Forming a Fuel Element for a Nuclear Reactor | E. H. Layer, Jr., C. S. Post |
| 3,018,239 | Experimental Liquid Metal Fuel Reactor | J. J. Keppell, G. H. Thomas, R. F. Demise, J. L. Bunts, Jr. |
| 3,018,240 | Spring Driven Actuating Mechanism for Nuclear Reactor Control | F. Bevilacqua, D. F. Uecker, E. F. Groh |
| 3,018,253 | Process for Producing Alkyl Arthophosphoric Acid Extractents | R. R. Grinstead |
| 3,018,386 | Amplitude Discriminator Having Separate Triggering and Recovery Controls Utilizing Automatic Triggering Control Disabling Clamp | R. L. Chase |
| 3,018,460 | Connector | D. J. Stevens |
| 3,018,980 | Vehicle for Slave Robot | R. C. Goertz, J. F. Lindberg |
| 3,020,161 | Process for Removal of Radionuclides from Milk | G. K. Murthy, J. E. Campbell, Jr., K. B. Masurovsky, L. F. Edmondson |
| 3,020,632 | Method of Joining Carbides to Base Metals | M. H. Krikorian, J. D. Farr, W. G. Whitterman |
| 3,020,647 | Glove Box Attachment | H. L. Butts |
| 3,020,736 | Flexible Coupling | E. F. Babelay |
| 3,020,750 | Digitel Q Meter | W. L. Briscoe |
| 3,021,272 | Plasma Heating and Confining Device | W. R. Baker, A. Bratenahl, A. B. Kunkel |
| 3,021,708 | Flowmeter | G. S. November, F. Schutz |
| 3,022,134 | Separation of Curium and Americium | F. R. Fields, N. M. Isaac |
| 3,022,160 | Reconditioning Fuel Elements | H. L. Brandt |
| 3,022,162 | Brazing Alloys | R. G. Donnelly, R. G. Cilliland, G. M. Slaughter |
| 3,022,236 | Radio Frequency Plasma Containing Device | A. J. Ulrich, J. W. Butler, A. J. Hatch |

| | | |
|---|---|---|
| 3,022,240 | Nuclear Reactor Fuel Element | C. H. Bassett |
| 3,022,933 | Multiple Electron Beam Ion Pump and Source | R. E. Ellis |
| 3,023,040 | Coupler for Tool and Cable | W. E. Cawley, C. E. Frantz |
| 3,023,078 | Production of Uranium Tetrafluoride | R. J. Allen, H. O. Petrow |
| 3,023,085 | Method of Combining Hydrogen and Oxygen | J. F. McBride |
| 3,023,097 | Reprocessing Uranium Dioxide Fuels | L. Burris, Jr., A. Schneider |
| 3,023,119 | Coated Mold for Casting Plutonium | J. W. Anderson, F. Miley, W. C. Pritchard |
| 3,024,009 | Condensation Can | E. T. Booth, B. A. Jacobsohn, R. B. Pontius, C. B. Slade |
| 3,024,172 | Electrolytic Separation Process and Apparatus | M. E. McLain, M. W. Roberts |
| 3,024,181 | Fuel Element | R. C. Howard, J. E. Bokros |
| 3,024,182 | Plasma Energization | H. P. Furth, E. S. Chambers |
| 3,024,965 | Apparatus for Vacuum Deposition of Metals | N. Milleron |
| 3,025,143 | Separation Apparatus | J. B. Huff |
| 3,025,162 | Dimension Stabilized Fixed Photographic Type Emulsion and a Method for Producing Same | F. C. Gilbert |
| 3,025,371 | Shockproof Magnetic Reed Switch | E. Medal |
| 3,025,429 | Ion Magnetron | J. D. Gow, R. W. Layman |
| 3,025,442 | Switching Transmitter Positioning of Synchros | H. Wolff |
| 3,027,143 | Apparatus for Improving Hydrodynamic Conditions Within a Conduit | W. T. Furgerson, G. Samuels, Jr. |
| 3,027,391 | Metal Phthalocyanines | M. A. Frigerio |
| 3,028,256 | Method for Forming a Coating of Molybdenum Carbide on a Carbon Body | M. T. Simnad |
| 3,028,329 | Nuclear Reactor Fuel Element with Improved Heat Transfer Characteristics | J. E. Mahlmeister |
| 3,028,317 | Neutron Detector | T. M. Ryan |
| 3,029,130 | Plutonium Recovery from Neutron-Bombarded Uranium Fuel | R. H. Moore |
| 3,029,142 | Reactor Fuel Scavenging Means | A. S. Coffinberry |
| 3,029,184 | Process for Controlling Animal Growth Rate | W. J. Visak |
| 3,029,197 | Boiling Reactors | S. Untermyer |
| 3,029,198 | Nuclear Reactor Fuel Element | W. F. Anderson, T. T. Shimazaki, D. R. Tallefson, A. M. Stelle |
| 3,029,199 | Plasma Device | W. R. Baker, A. Bratenahl, H. P. Furth |
| 3,029,200 | Removal of Radioactive Ions from Waters | W. B. Silker |
| 3,027,796 | Sodium-Water Heat Exchange | W. R. Simmons, L. J. Koch |
| 3,029,842 | Valve | A. M. Arkelyan, C. L. Rickard |
| 3,030,175 | Preparation of High Purity $UF_4$ | J. E. Magner, R. S. Long, D. A. Ellis, R. E. Grinstead |
| 3,030,176 | Uranium Separation Process | W. L. Lyon |
| 3,030,294 | Neutronic Reactor Control Element | E. J. Beaver, C. F. Leitten, Jr. |
| 3,030,510 | Method and Apparatus for Measuring Radiation | S. D. Reader |
| 3,030,543 | Method and Apparatus for Trapping Ions in a Magnetic Field | J. S. Luce |
| 3,030,547 | High Voltage, High Current Spark Gap Switch | R. S. Dike, D. W. Lier, A. E. Schofield, J. L. Tuck |
| 3,031,174 | Fluid Purifier and Sealing Valve | W. F. Swanton |
| 3,031,261 | Uranium Recovery from Nuclear Fuel | R. C. Vogel, W. A. Rodger |
| 3,031,294 | Aluminum Production Method | A. W. Searey, D. J. Meschi |
| 3,031,304 | Fine Grain Nuclear Emulsion | A. J. Oliver |
| 3,031,342 | Graphite Impregnation Method | F. Kertesz, H. J. Buttram |
| 3,031,383 | Method and Apparatus for Determining Amalgam Decomposition Rate | R. W. Johnson, C. C. Wright |
| 3,031,389 | Method of Making Fuel Bodies | W. V. Goeddel, M. T. Simnad |



| | | |
|---|---|---|
| 3,031,393 | Coupled Diaphragm Nuclear Reactor Safety Device | A. J. Saur, W. K. McCarty, Jr. L. E. Johnson |
| 3,031,394 | Biological Irradiation Facility | W. H. McCorkle, H. S. Cern |
| 3,031,396 | Stabilized Pinch Machine | O. A. Anderson |
| 3,031,397 | Reactor Control | P. Fortescue, D. Nicoll |
| 3,031,398 | High Energy Gaseous Plasma Containment Device | J. L. Tuck |
| 3,031,608 | Voltage Regulator | R. L. Von Sechen, F. F. Scheele |
| 3,031,846 | Hydraulic Servo | D. E. Wiegand |
| 3,032,356 | Explosive Means to Separate Casing Members | M. B. Botaford |
| 3,032,490 | Destruction of Neutral Particles in a Device for Producing a High Density Plasma | A. Simon |
| 3,032,492 | Fuel Element for Neutronic Reactors | J. T. Staley, H. A. Saller (Deceased), S. W. Parembka, Jr. |
| 3,032,497 | Method of Removing Strontium Ions | D. W. Rhodes, J. R. McHenry, L. L. Ames, Jr. |
| 3,033,229 | High Pressure Regulator | R. W. Remage |
| 3,033,549 | Water Cooled Retort Cover | W. J. Ash, J. F. Pozzi |
| 3,033,645 | Precipitation of Plutonous Peroxide | B. F. Faris |
| 3,033,753 | Erythropoietic Factor | W. F. White, E. J. Schluster |
| 3,033,771 | Method for the Preparation of Binary Nitrogen-Fluorine Compounds | J. W. Frazer |
| 3,033,773 | Solid Gas Suspension Nuclear Fuel Assembly | D. C. Schluderberg, J. W. Ryon |
| 3,033,774 | Control System for Neutronic Reactors | F. E. Craver |
| 3,034,088 | Cable Connector | J. M. Caller |
| 3,034,689 | Discharge Valve for Granular Material | L. D. Stoughton, S. T. Robinson |
| 3,034,814 | Coupling | E. Frisch, C. G. Johnson |
| 3,034,854 | Separation of Californium from Curium Solvent Extraction | D. F. Peppard, G. W. Mason |
| 3,034,868 | Continuous Treatment Apparatus | E. K. Erickson |
| 3,034,889 | Decontamination of Uranium | F. H. Spedding, T. A. Butler |
| 3,034,977 | Nuclear Superheater for Boiling Water Reactor | R. J. Holl, R. W. Klecker, C. B. Graham |
| 3,034,978 | Reactor Having MgK-UO$_2$ Slurry Helically Positioned in a Graphite Moderator | M. B. Rodin, J. C. Carter |
| 3,035,894 | Method of Preparing Uranium Pentafluoride | W. E. Hobbs |
| 3,035,893 | Preparation of High-Density, Compactible Thorium Oxide Particles | K. H. McCorkle, A. T. Kleinstauber, C. E. Schulling, O. C. Dean |
| 3,035,993 | Reflector Control of a Boiling Water Reactor | M. Treshow |
| 3,035,996 | Tripping Circuit | G. W. Lees, E. D. McCormick |
| 3,036,172 | Fast Acting Current Switch | T. H. Batzer, J. F. Ryan, D. B. Cummings |
| 3,036,811 | Ultra High Vacuum Valve | W. A. Fry |
| 3,036,881 | Catalyzed Oxidation of Uranium in Carbonate Solutions | W. E. Clifford |
| 3,036,963 | Method and Apparatus for Injecting and Trapping Electrons in a Magnetic Field | N. C. Christofilos |
| 3,037,685 | Method for Pumping Gases at Low Vacuum Pressures | N. Milleron |
| 3,037,796 | Threaded Adaptor for Lugged Pipe Ends | J. E. Robb |
| 3,037,839 | Preparation of $UO_2$ for Nuclear Reactor Fuel Pellets | J. M. Googin |
| 3,037,840 | Method for Preparation of Spherical $UO_4$ | J. F. Gregory, Jr. R. F. Lovey, Jr. |
| 3,037,921 | Method and Apparatus for Producing Neutrons and Other Radiations | J. L. Tuck |
| 3,037,922 | Heat Transfer and Tritium Producing System | E. F. Johnson |
| 3,037,924 | Jacketed Body | E. C. Creutz |
| 3,038,099 | Cusp-Pinch Device | W. R. Baker, J. F. H. Watteau |
| 3,038,249 | Zirconium-Titanium-Beryllium Brazing Alloy | R. G. Gilliland, F. Patriarca, O. M. Slaughter, L. C. Williams |

| | | |
|---|---|---|
| 3,038,731 | Vacuum Sealing Means for Low Vacuum Pressures | N. Milleron |
| 3,038,844 | Separations by Electrodialysis | W. H. Webb, J. D. Vie |
| 3,038,997 | Area Radiation Monitor | F. W. Manning, S. E. Groothuis, J. H. Lykins, J. R. Mahoney & D. M. Papke |
| 3,039,014 | Superfast Thermalization of Plasma | C. C. Chang |
| 3,039,032 | Error Compensator for a Position Transducer | A. H. Fowler |
| 3,039,846 | Method for the Recovery and Purification of Gaseous $UF_6$ from Gaseous Mixtures and $UF_4O$ and $UF_4NO_2$ Products Produced Thereby | P. R. Ogle, Jr. |
| 3,039,847 | Separation of Metal Values from Nuclear Reactor Poisons | D. O. Campbell G. I. Cathers |
| 3,039,944 | Fuel Element | L. R. Zumwalt |
| 3,039,948 | Nuclear Reactor with Powdered Fuel | D. Krucoff |
| 3,040,660 | Electric Initiator with Exploding Bridge Wire | L. H. Johnston |
| 3,041,136 | Flame Denitration and Reduction of Uranium Nitrate to Uranium Dioxide | W. H. Hedley, R. J. Roehrs & C. M. Henderson |
| 3,041,260 | Nuclear Fuel Material | W. B. Goeddel |
| 3,041,263 | Molten Plutonium Fueled Fast Breeder Reactor | R. M. Kiehn, R. E. Peterson, L. D. P. King, E. O. Swickard, Jr. |
| 3,041,266 | Fluorine Cell Anode Assembly | R. E. Cable, W. B. Goode, Jr., W. K. Henderson, G. H. Montillon |
| 3,041,287 | Heavy Metal Loaded Plastic Scintillating Compositions | M. Hyman, Jr. |
| 3,042,594 | Vibration Compaction | J. J. Hauth |
| 3,043,653 | Recovery of Uranium from Zirconium-Uranium Nuclear Fuels | T. A. Gens |
| 3,043,727 | Plutonium Alloys Containing Controlled Amounts of Plutonium Allotropes Obtained by Application of High Pressures | R. O. Elliott K. A. Gschneidner, Jr. |
| 3,044,847 | Self-Moderating Fertile Compounds | D. T. Peterson, J. Rexer |
| 3,044,944 | Methods of Preparation of Element 95 | G. T. Seaborg, R. A. James |
| 3,044,945 | Sheet Plasma Device | O. A. Anderson |
| 3,044,946 | High Density Nuclear Fuel Composition | F. B. Litton |
| 3,044,947 | Apparatus for Loading and Unloading a Machine | J. H. Payne |
| 3,045,108 | Fuel Container Closure | C. C. Stone, R. A. Noland |
| 3,045,528 | Dark-Field Illumination System | D. U. Norgran |
| 3,046,087 | Solvent Extraction Process for Separating Uranium and Plutonium from Aqueous Acidic Solutions of Neutron Irradiated Uranium | F. R. Bruce |
| 3,046,088 | Protactinium Extraction | F. L. Horn |
| 3,046,089 | Process of Treating Uranium Hexafluoride and Plutonium Hexafluoride Mixtures with Sulfur Tetrafluoride to Separate Same | M. J. Steindler |
| 3,046,090 | Production of Uranium Monocarbide | R. M. Fowers |
| 3,046,212 | Nuclear Reactor | C. R. Anderson |
| 3,046,402 | Multiple Thickness Times Density Gamma Gauge | N. H. Cherry |
| 3,046,650 | Braze Bonding of Columbium | R. L. Heestand, M. L. Picklesimer |
| 3,047,360 | Process for Extracting Neptunium and Plutonium from Nitric Acid Solutions of Same Containing Uranyl Nitrate with a Tertiary Amine | J. C. Sheppard |
| 3,047,480 | Plasma Device Utilizing Self-Trapping of Plasma Current and Magnetic Field | R. H. Lovberg L. C. Burkhardt |
| 3,047,484 | Iron Base Alloys and Articles Made Therefrom | J. T. Stacy H. A. Saller (deceased) |
| 3,047,601 | Separation of Thorium from Rare Earth Values in Aqueous Acidic Solution by Solvent Extraction with an Alkyl Phosphate-Oxygen Containing Organic Diluent | O. Johnson |
| *2,920,235 | Method and Apparatus for Producing Intense Energetic Gas Discharge | F. R. Bell, J. S. Luce |





PATENTS WHICH HAVE ISSUED TO THE COMMISSION AND WHICH ARE AVAILABLE TO THE PUBLIC FOR LICENSING IN ACCORDANCE WITH THE LICENSING POLICY OF THE COMMISSION

| | | |
|---|---|---|
| 3,036,674 | COMPRESSION SEAL AND SEALING MATERIAL THEREFOR | T. G. Branin, Lancaster, Pa. |
| 3,043,323 | BAKABLE ULTRA-HIGH VACUUM VALVE | J. T. Mark and I. H. Gantz, Lancaster, Pa. |
| 3,048,474 | CATALYTIC RECOMBINATION OF RADIOLYTIC GASES IN THORIUM OXIDE SLURRIES | L. E. Morse, Oak Ridge, Tenn. |
| 3,048,532 | CRUCIFORM CONTROL ROD JOINT | A. G. Thorp, II Pittsburgh, Pa. |
| 3,048,533 | NEUTRONIC REACTOR MANIPULATING DEVICE | L. A. Ohlinger, Los Angeles, Calif. |
| 3,048,534 | CONTROL MEANS FOR NEUTRONIC REACTOR | L. Tonks, Schenectady, N.Y. |
| 3,049,400 | SOLVENT EXTRACTION PROCESS FOR THE SEPARATION OF URANIUM AND THORIUM FROM PROTACTINIUM AND FISSION PRODUCTS | R. H. Rainey, Knoxville, Tenn. and J. G. Moore, Clinton, Tenn. |
| 3,049,401 | PROCESS FOR DISSOLVING BINARY URANIUM-ZIRCONIUM OR ZIRCONIUM-BASE ALLOYS | A. A. Jonke, Elmhurst, Ill., J. J. Barghusen, Joliet, Ill. and N. M. Levitz, Bellwood, Ill. |
| 3,049,402 | SOLVENT EXTRACTION FOR SEPARATING ACTINIDE AND LANTHANIDE METAL VALUES | R. A. Hildebrandt, Bellwood, Ill., H. H. Hyman, Chicago, Ill. and S. Vogler, Chicago, Ill. |
| 3,049,423 | METHOD FOR OBTAINING PLUTONIUM METAL FROM ITS TRICHLORIDE | J. G. Reavis, J. A. Leary and W. J. Maraman, Los Alamos, N. Mex. |
| 3,049,480 | METHOD OF OPERATING A HEAVY WATER MODERATED REACTOR | H. C. Vernon, Oak Ridge, Tenn. |
| 3,049,481 | NON-CORROSIVE REACTOR FUEL SYSTEM | C. C. Herrick, Los Alamos, N. Mex. |
| 3,049,483 | NEUTRONIC REACTORS AND CONTROL MEANS THEREFOR | E. A. Kassalring Schenectady, N.Y. |
| 3,049,485 | SUPPORT STRUCTURE | J. Tatlock, Culchati near Warrington, England J. A. F. Glass Woolton, Liverpool, Eng. |
| 3,049,486 | NUCLEAR REACTOR FUEL-BREEDER FUEL ELEMENT | E. L. Currier, Silver Spring, Md. J. H. Nicklas, Riverdale, Md. |
| 3,049,487 | DIRECT-CYCLE-BOILING-WATER NUCLEAR REACTOR | J. M. Harrer, Elmhurst Ill. L. W. Fromm, Glen Ellyn, Ill. V. M. Kolba Plainfield, Ill. |
| 3,049,628 | DIRECT COUPLED PROGRESSIVE STAGE PULSE COUNTER APPARATUS | W. M. Kaufman, Monroeville, Pa. |
| 3,049,690 | QUICK DISCONNECT ELECTRICAL CONNECTOR | F. J. Sparber, Belen, N. Mex. |
| 3,050,236 | RENEWABLE LIQUID GETTERING PUMP | T. H. Batzer, Livermore, Calif. |
| 3,052,142 | APPARATUS FOR SHEARING TUBULAR JACKETS | J. P. Simon, Glen Elly, Ill. |
| 3,052,361 | LIQUID CYCLONE CONTRACTOR | M. E. Whatley, Oak Ridge, Tenn. and W. H. Woods, Oak Ridge, Tenn. |
| 3,052,513 | STRIPPING OF URANIUM FROM ORGANIC EXTRACTANTS | D. J. Crouse, Oak Ridge, Tenn. |
| 3,052,514 | PROCESS FOR RECOVERING URANIUM FROM AQUEOUS PHOSPHORIC ACID LIQUORS | J. M. Schmitt, Oak Ridge, Tenn. |
| 3,052,532 | CASTING SLIPS FOR FABRICATION OF REFRACTORY METAL WARE | S. D. Stoddard, Los Alamos, N. Mex., D. E. Nuckolls, Los Alamos, N. Mex., and R. E. Cowan, Los Alamos, N. Mex. |
| 3,052,536 | PREPARATION OF ACTINIDE-ALUMINUM ALLOYS | R. H. Moore Kennewick, Wash. |
| 3,052,537 | PREPARATION OF URANIUM-ALUMINUM ALLOYS | R. H. Moore Kennewick, Wash. |



XUM

| | | |
|---|---|---|
| 3,052,611 | METHOD OF PRODUCING URANIUM METAL BY ELECTROLYSIS | R. D. Piper, Des Peres, Mo. |
| 3,052,613 | METHOD AND APPARATUS FOR CONDUCTING A NUCLEAR CHAIN REACTION | E. P. Wigner, Chicago, Ill., L. A. Ohlinger, Chicago, Ill., and Calo J. Young, Chicago Ill. |
| 3,052,614 | FREQUENCY CONTROL OF RF HEATING OF GASEOUS PLASMA | E. W. Harold, Atherton, Calif. |
| 3,052,615 | NUCLEAR FLASH STEAM GENERATOR | F. L. Johns, F. C. Gronemeyer, and H. R. Dusbabek, Los Angeles, Calif. |
| 3,052,616 | REACTOR CONTROL DEVICE | R. H. Graham, Los Altos, Calif. |
| 3,052,617 | STELLARATOR INJECTOR | R. F. Post, Walnut Creek, Calif. |
| 3,052,637 | GLASS COMPOSITION AND PROCESS OF MAKING | A. M. Bishay, Chicago, Ill. |
| 3,052,801 | ELECTRICAL PULSE COUNTER APPARATUS | W. M. Kaufman Monroeville, Pa. T. A. Jeeves, Penn Hills Township, Pa. |
| 3,054,147 | METHOD FOR SOLVENT-ISOSTATIC PRESSING | F. B. Archibald Pleasanton, Calif. |
| 3,054,201 | IDENTIFICATION BADGE DETACHABLE CLIP | M. T. Burns, Chicago, Ill. |
| 3,054,896 | APPARATUS FOR ELECTRON BEAM HEATING CONTROL | W. H. Jones, West Chester, Ohio and J. S. Reece, Glendale, Ohio |
| 3,054,926 | ELECTRON DISCHARGE DEVICE | M. H. Graham, Houston, Texas |
| 3,054,989 | DIODE STEERED MAGNETIC-CORE MEMORY | A. S. Melmed, Flushing, N.Y., R. Laupheimer, Westbury, N.Y., and R. T. Shevlin, Flushing, N.Y. |
| 3,055,631 | ELECTROSTRICTION VALVE | D. O. Kippenhan, Castro Valley, Calif. |
| 3,056,023 | MASS SEPARATION OF HIGH ENERGY PARTICLES | L. Marshall, Ballport, N.Y. |
| 3,056,028 | NEUTRON SHIELDING STRUCTURE | J. T. Mattingly, Danville, Calif. |
| 3,056,071 | ELECTRICAL OIL STRUCTURE | W. R. Baker, Orinda, Calif. and A. Hartwig, Richmond, Calif. |
| 3,057,717 | PROCESS OF URANIUM METAL CONTAINING FUEL ELEMENTS | R. H. Moore, Kennewick, Wash. |
| 3,059,303 | GRIPPER DEVICE FOR TOPES | H. J. Ballarts, Richland, Wash. |
| 3,059,688 | MULTIPLE SHAFT TOOL HEAD | H. P. Colbert, Paducah, Ky. |
| 3,059,908 | HEAT EXCHANGER | T. H. Fox, T. Richey, and G. R. Winders, Lynchburg, Va. |
| 3,060,108 | NON-CORROSIVE PLUTONIUM FUEL SYSTEMS | A. S. Coffinberry and J. T. Waber, Los Alamos, N. Mex. |
| 3,060,111 | NUCLEAR REACTOR | J. Sherman, Pittsburgh, Pa., J. E. Sharbaugh, West Mifflin, Pa., W. L. Fauth, Canonsburg, Pa., N. J. Palladino, Centre County, Pa., and P. G. De Huff, Bethel Park, Pa. |
| 3,061,533 | CONTROL MEANS FOR A BOILING WATER NUCLEAR REACTOR POWER SYSTEM | R. H. Shannon, W. Chester, Pa. and H. E. Williamson, San Jose, Calif. |
| 3,063,005 | TRANSFORMER APPARATUS | J. Nicol, Westford, Mass. W. Franzen, Wayland, Mass. |
| 3,063,290 | SYSTEM FOR ULTRASONIC INSPECTION OF TUBULAR OBJECTS | J. A. Kaserman, Knoxville, Tenn. and R. B. Oliver, Kingston, Tenn. |
| 3,063,792 | CONTINUOUS PRECIPITATION METHOD FOR CONVERSION OF URANYL NITRATE TO URANIUM TETRAFLUORIDE | G. M. Reinhart, Hamilton, Ohio, and T. J. Collopy, Cincinnati, Ohio |
| 3,063,794 | PREPARATION OF REFRACTORY OXIDE CRYSTALS | W. R. Grimes, Kingston, Tenn., J. H. Shaffer and G. M. Watson, Oak Ridge Tenn. |







| | | |
|---|---|---|
| 3,063,829 | METHOD FOR OBTAINING PLUTONIUM METAL AND ALLOYS OF PLUTONIUM FROM PLUTONIUM TRICHLORIDE | J. G. Reavis, J. A. Leary and W. J. Maraman, Los Alamos, N. Mex. |
| 3,063,830 | SEPARATION OF URANIUM PLUTONIUM AND FISSION PRODUCTS FROM NEUTRON-BOMBARDED URANIUM | A. E. Martin, Downers Grove, Ill., I. Johnson, Clarendon Hills, Ill., L. Burris, Naperville, Ill., I. O. Winsch, Downers Grove, Ill., and H. M. Feder, Park Forest, Ill. |
| 3,063,923 | FUSED REACTOR FUELS | S. W. Mayer, Canoga Park, Calif. |
| 3,065,044 | RECOVERY OF ALUMINUM FROM FISSION PRODUCTS | R. E. Blanco and I. R. Higgins, Oak Ridge, Tenn. |
| 3,065,537 | METHOD OF BRAZING | P. Patriarca, Knoxville, Tenn., and G. M. Slaughter, Oak Ridge, Tenn. |
| 3,065,864 | REMOTE CONTROL MANIPULATOR | R. T. Coffman, Richland, Wash. |
| 3,066,763 | INVERTED CONTROL ROD LOCK-IN DEVICE | W. G. Brussalis and G. E. Bost, Pittsburgh, Pa. |
| 3,067,116 | PROTECTED NUCLEAR FUEL ELEMENT | J. Kittel, Naperville, Ill. and J. F. Schumar, San Diego, Calif. |
| 3,067,117 | METHOD OF PREPARING A FUEL ELEMENT FOR A NUCLEAR REACTOR | J. J. Hauth and R. J. Anicetti, Richland, Wash. |
| 3,067,133 | WATER TREATMENT | R. W. Pitman and W. R. Conley, Richland, Wash. |
| 3,067,339 | FLOW GATING | W. J. Poppelbaum Champaign, Ill. |
| 3,067,344 | PULSE STRETCHER EMPLOYING CAPACITOR CHARGED THROUGH INTEGRATING CIRCUIT AND DISCHARGED BY DELAYED TRANSISTOR CLAMP | D. R. Branum and W. F. Cummins, Livermore, Calif. |
| 3,067,365 | GUIDE FOR POLARIZED NEUTRONS | V. L. Sailor, East Patchogue, N.Y. and R. W. Aichroth, Islip, N.Y. |
| 3,068,093 | METHOD OF PURIFYING THORIUM | A. J. Darnell, Altadena, Calif., W. A. McCollum, N. Hollywood, Calif. and C. J. Meechan, Reseda, Calif. |
| 3,068,159 | PROCESS FOR COOLING A NUCLEAR REACTOR | L. B. Borst, Oak Ridge, Tenn. |
| 3,068,160 | MECHANICALLY-JOINED PLATE-TYPE ALUMINUM-CLAD FUEL ELEMENT | J. H. Erwin, Concord, Tenn. |
| 3,068,161 | METHOD AND APPARATUS FOR CONTROL OF A NUCLEAR REACTOR | W. E. Cawley, Richland, Wash. |
| 3,068,163 | METHOD AND MEANS FOR SUPPORTING REACTOR FUEL CONTAINERS IN AN ASSEMBLY | E. L. Curries, Silver Spring, Md., J. H. Nicklas, Byattsville, Md., and C. A. Coombs, Wash. D. C. |
| 3,068,352 | METHOD OF OBTAINING AN IMPROVED WELD IN INERT ARC WELDING | T. B. Correy, Richland, Wash. |
| 3,069,228 | METHOD OF DEHYDRATING URANIUM TETRAFLUORIDE | J. O. Davis, C. C. Fogel and W. E. Palmer, Harrison, Ohio |
| 3,069,337 | IRRADIATION METHOD AND APPARATUS | C. P. Cabell, Richland, Wash. |
| 3,069,338 | FUEL ELEMENT FOR NEUTRONIC REACTORS | B. E. Schaner, Bethel, Pa. and R. A. Wolfe, West Mifflin, Pa. |
| 3,069,341 | NEUTRONIC REACTORS | F. Daniels, Madison, Wis. |
| 3,069,344 | APPARATUS FOR THE DENSIFICATION AND ENERGIZATION OF CHARGED PARTICLES | R. F. Post, Walnut Creek, Calif. and F. H. Coensgen, Pleasanton, Calif. |
| 3,069,628 | PULSE RATE DIVIDER | H. C. McDonald, Livermore, Calif. |
| 3,069,654 | METHOD AND MEANS FOR RECOGNIZING COMPLEX PATTERNS | P. V. C. Hough, Ann Arbor, Mich. |
| 3,069,854 | METHOD OF MAKING TUNGSTEN FILAMENTS | J. W. Fraser, Livermore, Calif. |
| 3,070,420 | METHOD OF MAKING SPHERICAL ACTINIDE CARBIDE | G. D. White, Joliet, Ill. and D. C. O'Rourke, Worth, Ill. |
| 3,070527 | COMPOSITE FUEL ELEMENT | W. J. Hurford, Mt. Lebanon, Pa., R. B. Gordon, Los Angeles, Calif. and W. A. Johnson, Pepper Pike Village, Ohio |
| 3,070,529 | NEUTRONIC REACTOR | E. P. Wigner, Princeton N. J. |

| | | |
|---|---|---|
| 3,070,530 | NEUTRONIC REACTOR POWER PLANT | H. E. Metcalfe, Los Angeles County, Calif. |
| 3,070,537 | FUEL SUBASSEMBLY CONSTRUCTION FOR RADIAL FLOW IN A NUCLEAR REACTOR | H. Treshow, Del Mar, Calif. |
| 3,070,538 | FUEL ASSAY REACTOR | E. I. Spinrad, Naperville, Ill., H. A. Sandmeier, Chicago, Ill., and F. H. Martens, Pleinfield, Ill. |
| 3,071,459 | PRODUCTION OF HAFNIUM METAL | G. W. Elger, Albany, Oreg., and R. W. Boubel, Cincinnati, Ohio |
| 3,071,527 | NUCLEAR REACTOR | C. Young, Hawthorne, N.Y. |
| 3,071,628 | REFINING FLUORINATED COMPOUNDS | A. L. Linch, Wilmington, Del. |
| 3,071,734 | COAXIAL FILAMENT TRANSFORMERS FOR PULSE CIRCUITS | D. O. Kippenhan, Castro Valley, Calif. |
| 3,072,475 | METHOD OF MAKING ALLOYS OF SECOND RARE EARTH SERIES METALS | R. D. Baker, Los Alamos, N. Mex. and B. R. Hayward, Whittier, Calif. |
| 3,072,550 | REACTOR SYSTEM AND CONTROL VALVE | F. Fortescue, LaJolla, Calif., C. Eckard, Solana Beach, Calif. and D. Rose, San Diego, Calif. |
| 3,072,552 | FUEL ELEMENT INTERLOCKING ARRANGEMENT | F. Fortescue and D. Nicoll LaJolla, Calif. |
| 3,072,553 | NUCLEAR REACTOR | C. Starr, Pacific Palisades, Calif. |
| 3,072,786 | BEAM SPLITTER | W. B. Jones, Berkeley, Calif. and P. F. McWalters, Oakland, Calif. |
| 3,072,851 | PULSE AMPLIFIER FOR ALTERING THE SHAPE OF UNDERSHOOTS | E. Fairstein and R. A. Dandl Oak Ridge, Tenn. |
| 3,073,698 | DISPERSION HARDENING OF URANIUM METAL | W. Arbiter, Yonkers, N.Y. |
| 3,073,717 | COATED CARBON ELEMENT FOR USE IN NUCLEAR REACTORS AND THE PROCESS OF MAKING THE ELEMENT | P. J. Pyle, San Diego, Calif. and G. L. Allen, Pacific Beach, Calif. |
| 3,073,767 | REACTOR FUEL ELEMENTS TESTING CONTAINER | G. K. Whitham and R. R. Smith Idaho Falls, Idaho |
| 3,073,768 | NEUTRON SOURCE | J. L. Richmond, Miamisburg, Ohio and C. E. Wells, Farmersville, Ohio |
| 3,073,961 | SHIPPING CONTAINERS FOR RADIOACTIVE MATERIAL | H. D. Nachber, Burnt Hills, N.Y., E. E. Bigg, F. J. Tarlullo, and E. O. Georgs, Schenectady, N.Y. |
| 3,074,153 | DUCTILE CHROMIUM | S. J. Paprocki and C. W. Cunningham, Columbus, Ohio |
| 3,074,375 | EXPERIMENTAL ANIMAL MAINTENANCE | M. P. Finkel, Chicago, Ill. |
| 3,074,776 | GASEOUS DISPOSAL PROCESS | R. F. Ryan, Lynchburg, Va. F. R. Thomasson, Madison Heights, Bedford, Va. J. H. Hicks, Bedford, Va. |
| 3,074,868 | METHOD OF OPERATING A NEUTRONIC REACTOR | A. Turkevich, Chicago, Ill. |
| 3,074,871 | ALLOY COMPOSITION FOR NEUTRONIC REACTOR CONTROL RODS | B. Lustman, Pittsburgh, Pa., E. F. Losco, Whitehall Borough, Pa., H. J. Snyder, Bethel Park, Pa., R. R. Eggleston, Whitehall Borough, Pa. |
| 3,075,115 | ION SOURCE WITH SPARE CHARGE NEUTRALIZATION | J. W. Flowers, Gainsville, Fla., J. S. Luce, Danville, Calif., and W. L. Stirling, Oak Ridge, Tenn. |
| 3,075,385 | HYGROMETER | C. M. Stover, Albuquerque, N. Mex. |
| 3,075,583 | SMALL-ANGLE DRILL-HOLE WHIPSTOCK | D. E. Nielsen, Livermore, Calif., J. L. Olsen and W. F. Bennett, Las Vegas, Nev. |
| 3,075,637 | REFRACTORY METAL TUBE DRAWING | C. H. Bean, La Grange, Ill., F. J. Karasek, Naperville, Ill. |
| 3,075,694 | PARTICLE SEPARATION METHOD | N. G. Anderson, Oak Ridge, Tenn. |
| 3,075,825 | LOW TEMPERATURE PROCESS FOR THE REMOVAL AND RECOVERY OF CHLORIDES AND NITRATES FROM AQUEOUS NITRATE SOLUTIONS | J. K. Savolainen, Oak Ridge, Tenn. |
| 3,075,925 | RADIATION SHIELDING COMPOSITION | H. L. Donegan, Livermore, Calif. |







| | | |
|---|---|---|
| 3,076,078 | THERMAL RELAY DEVICE | R. O. Murdoch(title in Murdoch interest to U.S.) Albuquerque, N. Mex., and F. A. Record, Danvers, Mass. |
| 3,076,091 | MEASURING CIRCUIT | J. R. Mahoney, Oak Ridge, Tenn. |
| 3,076,894 | GAMMA RAY THICKNESS GAUGES | J. L. Putman, S. Jefferson and R. B. Owen, Abingdon, England |
| 3,077,113 | ROCKET PORT CLOSURE | J. T. Mattingly, Danville, Calif. |
| 3,077,378 | SEPARATION OF EUROPIUM FROM OTHER LANTHANIDE RARE EARTHS BY SOLVENT EXTRACTION | D. F. Peppard, Oak Ridge, Tenn., E. P. Horwitz, Park Forest, Ill., and C. W. Mason, Clarendon Hills, Ill. |
| 3,077,505 | HIGH TEMPERATURE THERMO-COUPLE | A. M. Eshaya, Bellport, N.Y. |
| 3,077,712 | VACUUM TRAP AND VALVE COMBINATION | N. Milleron, Berkeley, Calif. and L. L. Levenson, Livermore, Calif. |
| 3,078,551 | METHOD OF MAKING A TUBE AND PLATE CONNECTION | P. Patriarca, Knoxville, Tenn., C. E. Chubert, Lenoir City, Tenn. and G. M. Slaughter, Oak Ridge, Tenn. |
| 3,079,136 | REUSABLE REACTION VESSEL | T. S. Soine, Richland, Wash. |
| 3,079,179 | COAXIAL TUBE COUPLING | H. R. Niemath, Elmhurst, Ill. |
| 3,079,225 | PROCESS FOR SEPARATING AMERICIUM AND CURIUM FROM RARE EARTH ELEMENTS | R. D. Baybarz, Powell, Tenn. and M. H. Lloyd, Oak Ridge, Tenn. |
| 3,079,251 | BRAZING ALLOYS | R. G. Donnally, G. M. Slaughter, Oak Ridge, Tenn., and R. G. Gilliland, Knoxville, Tenn. |
| 3,079,317 | PRODUCTION OF TRITIUM | G. H. Jenke, Oak Ridge, Tenn., E. M. Shapiro, Springfield Township, Delaware County, Pa., M. Elliott, Bluepoint N.Y. |
| 3,079,321 | SODIUM DEUTERIUM REACTOR | K. D. Oppenheimer, Mamaroneck, N.Y. and R. A. Weisberg, Yonkers, N.Y. |
| 3,079,323 | COUPLING-CONTROL ROD DRIVE COUPLING MECHANISM | B. C. Hawke, San Diego, Calif. |
| 3,080,308 | SIMPLIFIED SODIUM GRAPHITE REACTOR SYSTEM | R. W. Dickinson, Van Nuys, Calif. |
| 3,081,068 | COLD TRAP | N. Milleron, Berkeley, Calif. |
| 3,081,226 | PROCESS FOR REDUCING EXOGENOUS CHLOESTERAL LEVELS IN ANIMAL ORGANISMS | N. R. DiLuzio, Memphis, Tenn. |
| 3,081,237 | DOUBLE-BAKED, SELF-CHANNELLING ELECTRODE | R. D. Piper, Des Peres, Mo. and R. F. Leifield, St. Louis, Mo. |
| 3,081,247 | MODERATOR ELEMENTS FOR UNIFORM POWER NUCLEAR REACTOR | R. Balent, Tarzana, Calif. |
| 3,081,619 | CONTINUOUS ANALYZER UTILIZING BOILING POINT DETERMINATION | W. S. Pappas, Oak Ridge, Tenn. |
| 3,082,163 | METHOD FOR PREPARING URANIUM MONOCARBIDE-PLUTONIUM MONO-CARBIDE SOLID SOLUTION | A. E. Ogard, J. A. Leary and W. J. Maraman, Los Alamos, N. Mex. |
| 3,084,041 | PROCESS OF PRODUCING A NIOBIUM-TIN COMPOUND | S. T. Zegler, Park Forest, Ill., and J. E. Darby, Wheaton, Ill. |
| 3,084,055 | CADMIUM PHOSPHATE GLASS | H. W. Carpenter, Northridge, Calif., and F. D. Johnson, Chatsworth, Calif. |
| 3,084,273 | HIGH CURRENT RADIO FREQUENCY ION SOURCE | M. E. Abdelaziz, Naperville, Ill. |
| 3,084,281 | ION SOURCE (R.F. INDUCTION TYPE) | C. B. Mills, Packanak Lake, N.J. |
| 3,085,173 | APPARATUS FOR TRAPPING ENERGETIC CHARGED PARTICLES AND CONFINING THE RESULTING PLASMA | G. Gibson, Hayward, Calif., W. C. Jordan, Livermore, Calif. and E. J. Lauer, Alamo, Calif. |
| 3,085,189 | ENERGY-TRANSFER SYSTEMS | F. C. Thonemann, W. T. Cowhig and P. A. Davenport, Oxford, England |
| 3,086,864 | METHOD OF SUPPRESSING GASTROINTESTINAL UREASE ACTIVITY | W. J. Visek, Chicago, Ill. |



XUM

| | | |
|---|---|---|
| 3,086,926 | METHOD OF DISSOLVING REFRACTORY ALLOYS | D. H. Helton, Clinton, Tenn. and J. E. Savolainen, Oak Ridge, Tenn. |
| 3,086,930 | ALLOY FOR FUEL OF NEUTRONIC REACTORS | C. H. Bloomster and Y. R. Katayama, Richland, Wash. |
| 3,086,935 | AN ASSEMBLY OF PARALLEL PLATES | E. F. Groh, Naperville, Ill. and D. H. Lennox, Elmhurst, Ill. |
| 3,087,045 | WELDING APPARATUS | T. S. Correy, D. E. DeWitt and I. V. Nelson, Richland, Wash. |
| 3,087,056 | HIGH VOLTAGE ELECTRODES | J. J. Murray, Oakland, Calif. |
| 3,087,781 | PREPARATION OF SPHERICAL URANIUM DIOXIDE PARTICLES | R. F. Lewey, Oak Ridge, Tenn. and A. E. Smith, South Clinton, Tenn. |
| 3,087,876 | METHOD OF SINTERING URANIUM DIOXIDE | J. A. Stavrolakis, Venis, Ohio and C. H. Henderson, Pittsburgh, Pa. |
| 3,087,877 | METHOD OF MAKING FUEL BODIES | W. V. Goeddel, San Diego, Calif. and H. Y. Simnad, LaJolla, Calif. |
| 3,087,879 | CONTROL ROD | D. E. Walker, Park Forest, Ill. and S. Matras, Chicago, Ill. |
| 3,087,881 | BOILING WATER REACTOR WITH FEED WATER EJECTION NOZZLES | M. Treshow, Hinsdale, Ill. |
| 3,088,200 | MAGNETIC SHAPING PROCESS | D. M. Birdsall, Livermore, Calif. and R. H. Riley, Hayward, Calif. |
| 3,088,671 | MULTIPLIER CIRCUIT | R. L. Chase, Blue Point, N.Y. |
| 3,088,800 | DISSOLUTION OF URANIUM FUELS BY MONO- OR DIFLUOROPHOSPHORIC | R. Johnson, Shoreham, N.Y. F. L. Horn, Sayville, N.Y. and C. Strickland, Blue Point, N.Y. |
| 3,088,823 | SEPARATION OF URANIUM METAL FROM OXIDE AND SLAG IN THE REDUCTION OF URANIUM TETRA-FLUORIDE | O. R. Magoteaux Cincinnati, Ohio |
| 3,088,890 | METHOD OF FABRICATING A GRAPHITE-MODERATED REACTOR | H. E. Kreta, Chicago, Ill. |
| 3,088,891 | FUEL ELEMENTS FOR NEUTRONIC REACTORS | F. C. Foote, Chicago, Ill. and E. R. Jette(deceased) Los Alamos, N. Mex. |
| 3,088,892 | DISPERSION ELEMENT CONSISTING OF CERMIUM COATED UO, PARTICLES UNIFORMLY DISTRIBUTED IN A ZIRCALOY MATRIX | F. M. Cain and J. E. Eck Apollo, Pa. |
| 3,088,894 | CONFINEMENT OF HIGH TEMPERATURE PLASMA | H. E. Koenig, Rotterdam, N.Y. |
| 3,088,895 | BOILING SLURRY REACTOR AND METHOD OF CONTROL | M. Petrick, Joliet, Ill. and J. F. Marchaterre, Naperville, Ill. |
| 3,088,904 | NUCLEAR REACTOR | R. C. Post, Richardson, Texas |
| 3,089,092 | SYNCHROTRON RADIO FREQUENCY PHASE CONTROL SYSTEM | M. Plotkin, Massapequa Park, N.Y., E. C. Lake E. Patchogue, N.Y. and M. S. Snyder, Bellport, N.Y. |
| 3,089,098 | STABILIZED TRANSISTOR AMPLIFIER | J. B. Moe, Albuquerque, N. Mex. |
| 3,089,751 | SELECTIVE SEPARATION OF URANIUM FROM FERRITIC STAINLESS STEELS | R. J. Bearer, Knoxville, Tenn. and J. H. Cherubini Oak Ridge, Tenn. |
| 3,089,768 | DIMENSIONALLY STABLE CORROSION RESISTANT NUCLEAR FUEL | J. H. Kittel, Naperville, Ill. |
| 3,089,830 | METHOD OF MAKING A COMPARTMENTED FUEL ELEMENT FOR A NUCLEAR REACTOR | R. K. McGeary and E. Frisch, Pittsburgh, Pa. |
| 3,089,838 | SAFETY SYSTEM FOR CONTROL ROD | J. A. Paget, Poway, Calif. |
| 3,089,839 | CONTROL ROD DRIVE MECHANISM FOR A NUCLEAR REACTOR | B. C. Hawke, W. Lones, San Diego, Calif. and F. J. Liederbach Philadelphia, Pa. |
| 3,089,840 | NUCLEAR POWER PLANT | J. C. Carter, Elmhurst, Ill. R. H. Armstrong, Park Forest, Ill. and M. J. Janicke, Downers Grove, Ill. |



| | | |
|---|---|---|
| 3,089,957 | GAMMA RADIATION DOSAGE-MEASURING GLASSES AND METHODS OF USING | A. M. Bishay, Chicago, Ill. |
| 3,090,117 | METHOD OF BRAZING BERYLLIUM | C. S. Hanks and R. W. Keil, Los Alamos, N. Mex. |
| 3,090,480 | SAMPLE CAN HANDLING MECHANISM | W. D. Egnor, Schenectady, N.Y. and G. L. Romine, Scotia, N.Y. |
| 3,090,894 | CRYOGENIC MAGNETS | R. F. Post, Walnut Creek, Calif. and C. H. Taylor, Livermore, Calif. |
| 3,091,847 | METHOD OF MANUFACTURE OF METAL ENCASED CORE MATERIAL | E. J. Peters, Santa Susana, Calif. |
| 3,093,452 | PRECIPITATION OF ZIRCONIUM AND FLUORIDE IONS FROM SOLUTIONS | B. J. Newby, Idaho Falls, Idaho |
| 3,093,562 | FLOW SYSTEM FOR REACTOR | W. H. Zinn, Hinsdale, Ill. |
| 3,093,563 | COMPOSITE NEUTRONIC REACTOR | J. R. Hauke, Scarsdale, N.Y. |
| 3,093,566 | NUCLEAR REACTOR FUEL ELEMENT | E. L. Currier, Silver Spring, Md. and J. H. Nicklas, Riverdale, Md. |
| 3,093,569 | TRAVELING WAVE PYROTRON | R. F. Post, Walnut Creek, Calif. |
| 3,093,733 | RESONATOR PARTICLE SEPARATOR | J. F. Blewett, Bellport, N.Y. and J. D. Kiesling, River Edge, N.J. |
| 3,093,738 | AUTOMATIC HAND COUNTER | J. R. Mann, Nashville, Tenn. and A. E. Wainwright, Golden, Colo. |
| 3,094,869 | REMOTE RECORDING ANNULAR VANE ASSEMBLY | G. Wehmann, Idaho Falls, Idaho |
| 3,096,220 | CORROSION PROTECTION OF ALUMINUM | R. S. Dalrymple, Chesterfield Co., Va. and W. E. Nelson, San Jose, Calif. |
| 3,096,263 | NUCLEAR REACTOR FUEL ELEMENTS AND METHOD OF PREPARATION | W. E. Kingston, Bayside, N.Y. B. Kopelman, Flushing, N.Y. and H. H. Haegner, New York, N.Y. |
| 3,096,269 | COUNTER ROTATING PLASMA DEVICE | K. Halbach, D. Veron, Berkeley, Calif., and W. R. Baker, Orinda, Calif. |
| 3,096,411 | ACCELERATION RESPONSIVE SWITCH | A. F. Chabrek and R. L. Mansell Albuquerque, N. Mex. |
| 3,096,438 | APPARATUS FOR THE MASS ANALYSIS OF PLASMA ON A CONTINUOUS BASIS | R. V. Meidigh, Knoxville, Tenn. |
| 3,097,543 | VARIABLE-THROW CAM | E. C. Godsil, E. Y. Robinson, Livermore, Calif. |
| 3,097,630 | STEAM GENERATOR | R. W. Kinyon and G. D. Whitman, Oak Ridge, Tenn. |
| 3,097,920 | REMOVAL OF CESIUM FROM AQUEOUS SOLUTIONS BY ADSORPTION | K. C. Knoll, Richland, Wash. |
| 3,098,022 | COVERING A CORE BY EXTRUSION | A. J. Kernie, Richland, Wash. |
| 3,098,025 | FOIL ELEMENT FOR NUCLEAR REACTOR | R. A. Noland, Chicago, Ill. D. E. Walker, Park Forest Ill. and B. I. Spinrad, Naperville, Ill. |
| 3,098,028 | PLUTONIUM ELECTROREFINING CELL | L. J. Mullins, C. W. Bjorklund and W. J. Maraman, Los Alamos, N. Mex. |
| 3,098,709 | FLUORINATION OF OXIDIC NUCLEAR FUEL | J. A. Leary, Los Alamos, N.Mex. W. J. Mecham, Hinsdale, Ill. and J. D. Gabor, Cicero, Ill. |
| 3,098,807 | HIGH ENERGY RATE EXTRUSION OF URANIUM | L. Lewis, Bridgeport, Conn. |
| 3,098,812 | APPARATUS FOR CONTROL OF A BOILING REACTOR RESPONSIVE TO STEAM DEMAND | M. Treshow, Del Mar, Calif. |
| 3,098,944 | GAMMA PROPORTIONAL COUNTER CONTAINING HIGH Z GAS AND LOW Z MODERATOR | R. Fox, Oakland, Calif. |
| 3,100,183 | FUEL COMPOSITION FOR NUCLEAR REACTORS | J. C. Anderson, Niagara Falls, N.Y. |
| 3,100,184 | TRITIUM PRODUCTION BY NEUTRON-IRRADIATION OF ALUMINUM-LITHIUM ALLOY | B. M. Abraham, Chicago, Ill. |
| 3,100,187 | REFLECTOR FOR NEUTRONIC REACTORS | A. F. Fraas, Knoxville, Tenn. |

| | | |
|---|---|---|
| 3,100,188 | REACTOR MODERATOR STRUCTURE | A. P. Fraas, Knoxville, Tenn. and J. J. Tudor, Oak Ridge, Tenn. |
| 3,100,255 | METHOD FOR AIR CARBON-ARC CUTTING OR GOUGING | J. Miller, Clinton, Tenn. |
| 3,100,263 | CONTINUOUS ROTATION SCATTERING CHAMBER | J. W. Verba and R. A. Hawryluk, Rochester, N.Y. |
| 3,100,281 | AN APPARATUS FOR MEASURING ANNULAR OFFSET BETWEEN A FIRST METAL TUBE AND A SECOND METAL TUBE SPATIALLY DISPOSED WITHIN THE FIRST TUBE | J. C. Spanner, Richland, Wash. |
| 3,100,284 | PULSE SYNTHESIZING GENERATOR | Q. A. Kerns, Orinda, Calif. |
| 3,100,573 | EXHIBIT STAND | G. R. Cox, Bellport, N.Y. |
| 3,100,655 | BAYONET TYPE COUPLING WITH PIVOTED SEGMENT RELEASE MEANS | R. O. Work, Albuquerque, N. Mex. |
| 3,100,683 | ABSORPTION OF CERIUM VALUES FROM AQUEOUS SOLUTIONS | F. F. Roberts, Richland, Wash. |
| 3,100,686 | METHOD FOR PREPARATION OF SINTERABLE BERYLLIUM OXIDE | B. J. Strum, Oak Ridge, Tenn. |
| 3,100,730 | METHOD FOR REDUCING THE IMPURITY RESISTIVITY OF SODIUM | R. F. Post, Walnut Creek, Calif. |
| 3,100,742 | FUEL ELEMENT FOR A NEUTRONIC REACTOR | R. K. McGeary, F. R. Winslow Pittsburgh, Pa. |
| 3,101,058 | DIAPHRAGM PUMPING SYSTEM | W. H. Carr, Oak Ridge, Tenn. and E. R. Dobyns, Cocoa Beach, Fla. |
| 3,101,246 | RECOVERY AND SEPARATION OF LITHIUM VALUES FROM SALVAGE SOLUTIONS | D. L. Hansford, Houston, Texas and E. W. Raabe, Cincinnati, Ohio |
| 3,101,258 | SPRAY CALCINATION REACTOR | B. M. Johnson, Kennewick, Wash. |
| 3,101,309 | FASTENER FOR AN ASSEMBLY OF PLATES | E. F. Groh, Naperville, Ill. |
| 3,101,310 | MAGNETIC END CLOSURES FOR PLASMA CONFINING AND HEATING DEVICES | R. F. Post, Walnut Creek, Calif. |
| 3,101,406 | ELECTRONIC INTEGRATING CIRCUIT | R. H. Engelmann, Castro Valley, Calif. |
| 3,101,409 | DRIFT CONTROL IN AN ANALYTICAL GAMMA RAY SPECTROMETER | L. E. Fite, Bryan, Texas |
| 3,102,678 | DIFFUSION PUMP | L. Levenson, Livermore, Calif. |
| 3,102,849 | A PROCESS OF DISSOLVING FUEL ELEMENTS OF NUCLEAR REACTORS | E. M. Vander Wall, H. T. Hahn, Idaho Falls, Idaho and D. L. Bauer, Pocatello, Idaho |
| 3,102,850 | METHOD OF PREPARING A CERAMIC FUEL ELEMENT | W. T. Ross, C. H. Bloomster and R. E. Bardsley, Richland, Wash. |
| 3,102,851 | NEUTRONIC REACTION SYSTEM | E. P. Wigner, Oak Ridge, Tenn. |
| 3,103,475 | REACTOR | L. Szilard, Chicago, Ill. |
| 3,103,853 | HYDRAULIC SERVO CONTROL MECHANISM | R. E. Hussey, East Longmeadow, Mass. and M. J. Gottsche, Hampden, Mass. |
| 3,104,134 | NON-ROTATING DRILL GUIDE ASSEMBLY | D. E. Nielsen, Livermore, Calif., J. L. Olsen and W. F. Bennett, Las Vegas, Nev. |
| 3,104,295 | FAST OPENING SWITCH | M. Bender, F. K. Bennett and A. F. Kuckes, Princeton, N.J. |
| 3,104,345 | PLASMA GENERATOR | J. M. Wilcox, Berkeley, Calif. and W. R. Baker, Orinda, Calif. |
| 3,104,502 | APPARATUS FOR GRINDING SPHERICAL BODIES | R. F. Burch, Richland, Wash. |
| 3,104,542 | REMOTELY CONTROLLED DUST SAMPLER | M. F. Scoggins, Richland, Wash. |
| 3,105,026 | FUEL ELEMENT FOR NUCLEAR REACTORS | J. J. Dickson, Silver Spring, Md. |
| 3,105,030 | FUEL ELEMENT FOR A NEUTRONIC REACTOR | R. K. McGeary and F. R. Winslow, Pittsburgh, Pa. |







| | | |
|---|---|---|
| 3,105,035 | CONSTRUCTION OF NUCLEAR FUEL ELEMENTS | S. J. Weems, Harbor, Fla. |
| 3,105,036 | PRESSURIZED WATER REACTOR CORE WITH PLUTONIUM BURNUP | K. H. Puechl, Pitcairn, Pa. |
| 3,105,037 | CONCENTRIC TUBE FUEL ELEMENT SPRING ALIGNMENT SPACER DEVICE | S. J. Weems, Harbor, Fla. |
| 3,105,052 | PREPARATION OF REFRACTORY OXIDE MICROSPHERE | C. C. Haws, Knoxville, Tenn. |
| 3,105,189 | A POSITIONAL DATA SYSTEM | G. A. Forster, Westmont, Ill. |
| 3,105,215 | AN ELECTRICAL THREE DIMENSIONAL FUNCTION PROGRAMMER | W. F. Siebold, Arnold, Md. |
| 3,105,995 | MOLDING APPARATUS | F. G. Fleming, Livermore, Calif. |
| 3,107,976 | NIOBIUM-TANTALUM SEPARATION | E. L. Koerner, Tonawanda, N.Y. M. Smutz and H. A. Wilhelm, Ames, Iowa |
| 3,108,466 | BLAST YIELD METER | H. N. Sander, M. Cowan, Albuquerque, N. Mex. and S. C. Hight, South Orange, N.J. |
| 3,108,859 | PULSED EXTRACTION COLUMN | O. H. Koski, Richland, Wash. |
| 3,109,677 | SELF-RELEASING GRAPPLING DEVICE | D. A. Hoover, Richland, Wash. |
| 3,109,724 | FILTER FOR HIGH VELOCITY GAS STREAMS | R. A. Heckman, H. F. Warner, Livermore, Calif. |
| 3,109,730 | DUCTILE URANIUM FUEL FOR NUCLEAR REACTORS AND METHOD OF MAKING | S. T. Zegler, Forest Park, Ill. |
| 3,109,731 | PRODUCTION OF ACTINIDE METAL | J. E. Knighton, Joliet, Ill. |
| 3,109,735 | SINTERING METHOD | J. M. Googin, Oak Ridge, Tenn. |
| 3,109,752 | OXIDATION-RESISTANT COATING ON ARTICLES OF YTTRIUM METAL | D. R. Wilder, and C. D. Wirkus, Ames, Iowa |
| 3,109,766 | CELLULAR CORE FOR CURVED SURFACES | C. B. Morris, Madison, Wis. |
| 3,109,774 | ERYTHROPOIETIC FACTOR PREPARATION | W. F. White, Lombard, Ill. and G. W. Weber, Chicago, Ill. |
| 3,110,023 | SYSTEM FOR MEASURING DISTANCE BY THE UTILIZATION OF PULSE ECHOES | M. W. Horrell, Detroit, Mich. and E. R. Sanders Amherst, N.Y. |
| 3,110,555 | SEPARATION OF PROTACTINUM FROM MOLTEN SALT REACTOR FUEL COMPOSITIONS | J. H. Shaffer, M. J. Kelly, Oak Ridge, Tenn., J. E. Strain and D. E. Cumeo, Kingston, Tenn. |
| 3,110,556 | PROCESS FOR SEPARATING YTTRIUM FROM THE RARE EARTHS BY SOLVENT EXTRACTION | D. F. Peppard, Oak Park, Ill. and G. W. Mason, Clarendon Hills, Ill. |
| 3,110,835 | FLEXIBLE GEIGER COUNTER | H. G. Richter, Chapel Hill, N.C. and A. S. Gillespie, Durham County, N.C. |
| 3,110,872 | RADIO FREQUENCY ATTENUATOR | S. Ciordano, Fort Jefferson Station, N.Y. |
| 3,111,374 | RECOVERY OF ACTINIDES FROM AQUEOUS NITRIC ACID SOLUTIONS | M. Ader, Park Forest, Ill. |
| 3,111,458 | ERYTHROPOIETIC FACTOR PURIFICATION AND PRODUCT | W. F. White, Lombard, Ill., E. Goldwasser, G. F. Weber Chicago, Ill. and R. Egan Bound Brook, N.J. |
| 3,111,475 | FUEL ELEMENT FOR A NUCLEAR REACTOR | J. K. Davidson, Wheaton, Md. |
| 3,111,477 | FUEL ELEMENT | R. W. Bean, San Diego, Calif. |
| 3,111,963 | NOVEL FLOW DEVICE | R. E. Brockwell, Oak Ridge, Tenn. |
| 3,112,095 | FLUID PRESSURE AND CAM OPERATED VACUUM VALVE | T. H. Batzer, Livermore, Calif. |
| 3,112,115 | GOLD PRESSURE VESSEL SEAL | A. E. Smith, Clinton, Tenn. |
| 3,112,196 | METAL ALLOY SUITABLE FOR CONTROLLING THERMAL NEUTRON REACTORS | R. J. Schier, Richland, Wash. |
| 3,112,275 | REGENERATION OF HYDROCARBON SOLUTIONS OF TRIALKYL PHOSPHATE USED IN PROCESSING OF NUCLEAR FUEL | C. W. Pollock, Richland, Wash., and T. R. McKenzie, Pasco, Wash. |
| 3,113,007 | SCAVENGING OF RADIOACTIVE AEROSOLS | J. Rosinski, Cicero, Ill. and D. K. Werle, Franklin Park, Ill. |

| | | |
|---|---|---|
| 3,113,082 | HEAT GENERATION | D. H. Imhoff, Walnut Creek, Calif. and W. H. Harker, Livermore, Calif. |
| 3,113,091 | NUCLEAR REACTOR AND THERMIONIC FUEL ELEMENT THEREFOR | M. S. Nasor and R. L. Hirsch, Northridge, Calif. |
| 3,113,220 | GUARD RING SEMICONDUCTOR JUNCTION | F. S. Goulding, Lafayette, Calif. and W. L. Hansen, Berkeley, Calif. |
| 3,113,517 | BOMB STABILIZING STRUCTURE | J. L. Kelley, New Orleans, La. and C. E. Runyan, Albuquerque, N. Mex. |
| 3,113,755 | VIBRATION DAMPING AND SHOCK MOUNT | D. J. Stevens, Overland Park, Kans. and G. W. Forman, Lawrence, Kans. |
| 3,114,263 | SUBCOOLING DETECTOR | J. A. McCann, Scotia, N.Y. |
| 3,114,682 | METHOD OF PREPARING CHROMIUM DIOXIDE | F. A. Scott and L. K. Madge, Richland, Wash. |
| 3,114,693 | VENTED FUEL ELEMENT FOR GAS-COOLED NEUTRONIC REACTORS | W. T. Furgerson, Del Mar, Calif. |
| 3,114,716 | METHOD OF PREPARING RADIOACTIVE CESIUM SOURCES | T. C. Quinby, Kingston, Tenn. |
| 3,115,194 | NUCLEAR REACTOR APPARATUS FOR EARTH PENETRATION | W. M. Adams, Livermore, Calif. |
| 3,115,446 | FUEL ELEMENTS FOR NUCLEAR REACTORS | H. M. Finniston, Abingdon, England |
| 3,115,447 | NUCLEAR REACTOR FUEL ELEMENT ASSEMBLY | F. G. Stengel, Bridgeville, Pa. |
| 3,115,451 | LOGIC CIRCUIT | G. H. Strong, Richland, Wash. and M. L. Faught, Kennewick, Wash. |
| 3,115,452 | COMPOSITE CONTROL ROD | H. R. Rock, Lynchburg, Va. |
| 3,115,453 | EMERGENCY SHUTDOWN FOR NUCLEAR REACTORS | J. A. Paget, Poway, Calif., S. L. Koute, San Diego, Calif., R. S. Stone, Del Mar, Calif. and H. B. Stewart, Rancho Santa Fe, Calif. |
| 3,115,462 | METHOD OF INHIBITING IRRADIATION-INDUCED VISCOSITY INCREASE OF ORGANIC FLUIDS | G. H. Denison, R. O. Bolt, San Rafael, Calif., J. W. Kent, El Cerrito, Calif. and F. A. Christiansen, Manhattan Beach, Calif. |
| 3,115,467 | METHOD OF INHIBITING IRRADIATION-INDUCED VISCOSITY INCREASE OF ORGANIC FLUIDS | G. H. Denison, R. O. Bolt, San Rafael, Calif., J. W. Kent, El Cerrito, Calif. and F. A. Christiansen, Manhattan Beach, Calif. J.G. Carroll, El Cerrito, Calif. |
| 3,115,575 | IMPROVED ION-PRODUCING MECHANISM FOR CALUTRONS | W. A. Bell, Oak Ridge, Tenn. and W. K. Prater, Knoxville, Tenn. |
| 3,116,106 | PREPARATION OF HIGH-DENSITY THORIUM OXIDE SPHERES | R. A. McNees, and A. J. Taylor, Oak Ridge, Tenn. |
| 3,116,155 | MAGNESIUM OXIDE SLIP CASTING METHOD | S. D. Stoddard and D. E. Muckolls, Los Alamos, N.Mex. |
| 3,116,209 | METHOD FOR EXCHANGING ENERGY WITH A PLASMA BY MAGNETIC PUMPING | L. S. Hall, Livermore, Calif. |
| 3,116,211 | METHOD AND APPARATUS FOR EXAMINING FUEL ELEMENTS FOR LEAKAGE | R. M. Smith, M. W. Echo and C. B. Doc, Idaho Falls, Idaho |
| 3,116,214 | REACTOR MODERATOR STRUCTURE | B. L. Greenstreet, Oak Ridge Tenn. |
| 3,116,350 | PRODUCTION OF SLIP CAST CALCIA HOLLOWARE | S. D. Stoddard, D. E. Muckolls and R. E. Cowen, Los Alamos, N. Mex. |
| 3,116,660 | HIGH SPEED KERR CELL FRAMING CAMERA | W. C. Gose and L. F. Gilley, Livermore, Calif. |
| 3,116,980 | PULSE COLUMN | E. S. Grimmett, Idaho Falls, Idaho |
| 3,117,372 | STABILIZED RARE EARTH OXIDES FOR A CONTROL ROD AND METHOD OF PREPARATION | R. A. McNees, and R. A. Potter, Oak Ridge, Tenn. |
| 3,117,912 | METHOD OF PRODUCING NEUTRONS | D. H. Imhoff, Walnut Creek, Calif. and W. H. Harker, Livermore, Calif. |
| 3,118,698 | GRIPPING DEVICE FOR CYLINDRICAL OBJECTS | J. F. Pilger, Richland, Wash. |







| | | |
|---|---|---|
| 3,118,764 | LIQUID PHASE SINTERING OF METALLIC CARBIDES | J. F. Hammond, J. D. Sease, Knoxville, Tenn. |
| 3,119,036 | RADIATION MONITOR CONTAINING TWO CONCENTRIC IONIZATION CHAMBERS AND MEANS FOR INSULATING THE SEPARATE CHAMBERS | C. B. Braestrup, New York, N.Y. and R. T. Mooney, Hartsdale, N.Y. |
| 3,119,238 | CRYOGENIC | W. H. Chamberlain, Walnut Creek, Calif. and H. E. Haseck, Oakland, Calif. |
| 3,119,537 | MULTIPLE DIFFERENTIAL ROTARY MECHANICAL DRIVE | R. C. Smits, Lafayette, Calif. |
| 3,119,653 | PREPARATION OF URANIUM MONOSULFIDE | Z. Yoshioka, Westmont, Ill. |
| 3,119,658 | ALUMINUM CLADDING DISSOLUTION | W. W. Schulz, Richland, Wash |
| 3,119,723 | APPARATUS FOR CONVERTING HEAT INTO ELECTRICITY | C. E. Crouthamel, Glenn Ellyn, Ill. and H. S. Foster, Lockport, Ill. |
| 3,120,120 | ULTRASONIC METHOD OF MEASURING THICKNESS USING LAMB WAVES | D. C. Worlton and C. L. Frederick, Richland, Wash. |
| 3,120,435 | RECOVERY OF FISSION-PRODUCTS-CONTAINING MAGNESIUM-THORIUM ALLOYS | F. Chiotti, Ames, Iowa |
| 3,120,470 | METHOD OF PRODUCING NEUTRONS | D. H. Imhoff, Walnut Creek, Calif. and W. H. Harker, Livermore, Calif. |
| 3,120,476 | PYROTRON PROCESS AND APPARATUS UTILIZING ENHANCEMENT PRINCIPLE | R. F. Post, Walnut Creek, Calif. |
| 3,120,477 | METHOD FOR CONFINING A DENSE PLASMA | A. J. Hatch, Chicago, Ill. |
| 3,120,480 | CONTROL ROD FOR NUCLEAR REACTORS | E. Ledin, LaJolla, Calif. |
| 3,120,481 | MEANS FOR PRODUCING HIGH DENSITY PLASMAS | R. F. Post, Walnut Creek, Calif. |
| 3,120,493 | SUPPRESSION OF RUTHENIUM VOLATILIZATION IN EVAPORATION AND CALCINATION OF RADIOACTIVE WASTE SOLUTION | W. E. Clark and H. W. Godbee, Oak Ridge, Tenn. |
| 3,120,827 | METHOD OF FORMING METAL PLATES WITH EXPLOSIVES | M. T. Abegg, Albuquerque, N. Mex. and E. A. Norwood, San Diego, Calif. |
| 3,121,034 | ZIRCONIUM ALLOY TREATMENT PROCESS | K. Anderko, Frankfurt am Main, H. Richter, Frankfurt am Main Niederrad Germany and H. Schleicher, Chivasso, Italy |
| 3,121,045 | CONTROL ROD FOR NUCLEAR REACTOR | A. M. Harris, San Diego, Calif. and E. Ledin, LaJolla, Calif. |
| 3,121,046 | PRESSURE VESSELS | K. A. Trickett, San Diego, Calif. and J. T. Rogers, Peterborough, Ontario Canada |
| 3,121,047 | CERAMIC COATED FUEL PARTICLES | L. D. Stoughton, Chatham, N.J., J. M. Blocher and N. D. Veigel, Columbus, Ohio |
| 3,121,052 | CALANDRIA TYPE SODIUM GRAPHITE REACTOR | E. M. Peterson, Woodlands Hills, Calif., J. E. Mahlmeister, Granada Hills, Calif., N. E. Vaughn, Reseda, Calif., W. J. Sanders, Van Nuys, Calif. and A. C. Williams, Canoga Park, Calif. |
| 3,121,128 | PROCESS OF MAKING SHAPED FUEL FOR NUCLEAR REACTORS | W. J. O'Leary, Claymont, Del. and E. A. Fisher, Fostoria, Ohio |
| 3,121,204 | NON-REFLECTIVE LIQUID TERMINATION OF A COAXIAL CABLE | S. Giordano, Fort Jefferson Station, N.Y. |
| 3,121,666 | NUCLEAR REACTOR FUEL ASSEMBLY | C. W. Wheelock, Enico, Calif. |
| 3,121,825 | ELECTRICALLY CONDUCTIVE FLOOR COVERING FOR USE IN EXPLOSIVE HAZARD AREAS | M. T. Abegg, Walnut Creek, Calif., O. D. Bottler, Alameda, Calif., J. D. Deligeas, Livermore, Calif., and F. S. Nicholson, Hayward, Calif. |
| 3,121,941 | A FLUID OPERATED TOOL FOR COUPLING TUBES TOGETHER | H. J. Bellarts, Richland, Wash. |
| 3,122,027 | LINEAR MOTION DEVICE | E. Frisch, Pittsburgh, Pa. and T. F. Widmer, Monroeville, Pa. |



XUM

| | | |
|---|---|---|
| 3,122,178 | MAGNETIC CORE PLANE THREADING MACHINE AND METHOD | J. F. Marino, New York, N.Y. and R. T. Shevlin, Kew Gardens, N.Y. |
| 3,122,414 | PROCESS FOR RECOVERY OF STRONTIUM VALUES FROM FISSION PRODUCT WASTE SOLUTIONS | D. E. Jorner, Clinton, Tenn. and R. F. Wischow, Knoxville, Tenn. |
| 3,122,424 | GRAPHITE BONDING METHOD | L. D. F. King, Santa Fe, N. Mex. |
| 3,122,458 | GRAIN REFINEMENT OF URANIUM BILLETS | L. Lewis, Bridgeport, Conn. |
| 3,122,484 | REACTOR HAVING FUEL ELEMENTS COATED WITH BURNABLE POISON | H. P. Iskenderian, Elmhurst, Ill. |
| 3,122,509 | COHERENT NUCLEAR REACTOR ELEMENTS | J. H. Handwerk and E. D. Lynch, Joliet, Ill. |
| 3,122,595 | CONTROLLED NUCLEAR REACTOR DISPERSIONS AND METHOD OF MAKING | J. H. Oxley, Columbus, Ohio |
| 3,122,648 | VERNIER CHRONOTRON UTILIZING AT LEAST TWO SHORTED DELAY LINES | R. P. Rafer, Castro Valley, Calif. |
| 3,123,165 | FRICTION-FREE BALANCE | N. J. Carson, Lockport, Ill. H. W. Ostrander, Westmont, Ill. and C. N. Hunter, Harvey, Ill. |
| 3,123,328 | SUPPORT STRUCTURE | K. A. Trickett, San Diego, Calif. and H. R. Grassmann, Solana Beach, Calif. |
| 3,123,435 | IMPROVED PROCESS OF PREPARING URANIUM CARBIDE | W. E. Miller, H. L. Stethers, Naperville, Ill. and T. R. Johnson, Glen Ellyn, Ill. |
| 3,123,436 | PREPARATION OF $PuF_3$ | R. Benz, Los Alamos, N. Mex. |
| 3,123,532 | CONTROL ROD POSITIONED BY FLUID FLOW THROUGH THE ROD CHANNEL | J. W. Michel, Oak Ridge, Tenn. |
| 3,123,533 | PRESSURE REFLIEF DEVICE FOR NEUTRONIC REACTORS | A. E. Galson, De Witt, N.Y. |
| 3,123,535 | DEVICE FOR PRODUCTION OF NUCLEAR ENERGY FROM $U^{233}$ | G. T. Seaborg, Chicago, Ill., J. W. Gofman, Berkeley, Calif. and R. W. Stoughton, Oak Ridge, Tenn. |
| 3,123,862 | ULTRA-HIGH PRESSURE DEVICE | R. P. Levey, Oak Ridge, Tenn. |
| 3,124,172 | FRACTIONATING COLUMN PRODUCT COLLECTOR CONTROL | G. D. Paxson, El Cerrito, Calif. |
| 3,124,513 | CONTROL ROD DRIVE | B. C. Hawks, San Diego, Calif. and I. C. Thompson, Ramona, Calif. |
| 3,124,514 | CORE REFLECTOR FOR NUCLEAR REACTOR | S. L. Koutz, San Diego, Calif., W. A. Falk, Poway, Calif. and F. B. Nimtz, National City, Calif. |
| 3,124,538 | METHOD FOR CONVERSION OF CESIUM ALUM TO RADIATION SOURCE MATERIAL | R. E. Lewis, Kingston, Tenn. |
| 3,124,525 | GRAPHITE PRODUCTION UTILIZING URANYL NITRATE HEXAHYDRATE | J. R. Armstrong, H. Sheinberg and D. H. Schell, Los Alamos, N. Mex. |
| 3,125,409 | THE RECOVERY OF URANIUM FROM GAS MIXTURE | S. H. Jury, Knoxville, Tenn. |
| 3,125,492 | PLASMA HEATING AND CONFINING SYSTEM | W. R. Baker, Orinda, Calif. |
| 3,125,497 | PURIFICATION PROCESS FOR URANIUM CARBIDE | W. N. Hanson, Canoga Park, Calif. |
| 3,125,678 | FAST NEUTRON DOSIMETER FOR HIGH TEMPERATURE OPERATION BY MEASUREMENT OF THE AMOUNT OF CESIUM 137 FORMED FROM A THORIUM WIRE | D. A. McCune, Scotia, N.Y. |
| 3,125,760 | FUEL LOCATING AND SUSPENDING SYSTEM FOR NEUTRONIC REACTOR CORE | J. Foster, A. M. Perry, Oak Ridge, Tenn. and A. P. Fraas, Knoxville, Tenn. |
| 3,126,251 | PLUTONIUM RECOVERY FROM NEUTRON-BOMBARDED URANIUM FUEL | R. H. Moore, Kennewick, Wash. |
| 3,127,763 | COMPACT CASCADE IMPACTS | M. Lippmann, Mount Vernon, N.Y. |
| 3,127,872 | EXPERIMENTAL ANIMAL WATERING DEVICE | M. P. Finkel, Chicago, Ill. |
| 3,128,234 | MODULAR CORE UNITS FOR A NEUTRONIC REACTOR | J. F. Cage, Saratoga, Calif. and D. B. Sherar, Gilroy, Calif. |







| | | |
|---|---|---|
| 3,128,405 | EXTRACTOR FOR HIGH ENERGY CHARGED PARTICLES | G. R. Lambertson, Oakland, Calif. |
| 3,129,329 | FAST NEUTRON SPECTROMETER USING SPACED SEMICONDUCTORS FOR MEASURING TOTAL ENERGY OF NEUTRONS CAPTURED | T. A. Love and R. B. Murray, Oak Ridge, Tenn. |
| 3,130,304 | DEEP WATER ISOTOPIC CURRENT ANALYZER | W. H. Johnston, Baltimore, Md. |
| 3,130,306 | NUCLEAR RADIATION DOSIMETER USING COMPOSITE FILTER AND A SINGLE ELEMENT FILTER | E. Storm and S. Shlaer, Los Alamos, N. Mex. |
| 3,130,307 | NEUTRON FLUX INTENSITY DETECTION | J. T. Russell, Richland, Wash. |
| 3,130,315 | METHOD AND APPARATUS FOR PRODUCING AND ANALYZING POLARIZED GAMMA RADIATION | M. Hamermesh, Villa Park, Ill., S. S. Hanna, Western Springs, Ill. and G. J. Perlow, Downers Grove, Ill. |
| 3,130,491 | BONDING METHOD | E. V. Padgett, Richland, Wash. and D. H. Warf, Pasco, Wash. |
| 3,130,841 | ARTICLE HANDLING DEVICE | K. A. Trickett, San Diego, Calif. |
| 3,131,139 | RADIATION INDUCED VULCANIZATION OF RUBBER LATEX | R. B. Mesrobian, Hinsdale, Ill., D. S. Ballantine, Blue Point, N.Y. and D. J. Metz, Stony Brook, N.Y. |
| 3,132,076 | NUCLEAR REACTOR | J. N. West and R. W. Deutsch, Clearwater, Fla. |
| 3,132,996 | CONTRA-ROTATING PLASMA SYSTEM | W. R. Baker, Orinda, Calif. and K. Halbach, Berkeley, Calif. |
| 3,132,997 | HOMOGENEOUS REACTOR FUELED WITH SUSPENDED PARTICULATE IN THE COOLANT | H. M. Busey, Los Alamos, N. Mex. |
| 3,133,248 | ELECTROMETER UTILIZING A-C AND D-C VOLTAGE BALANCING | F. R. Shonka, Riverside, Ill. |
| 3,133,867 | NEUTRONIC REACTOR FUEL ELEMENT | E. Frisch, Pittsburgh, Pa. |
| 3,134,019 | RADIATION DETECTING WITH SHUTTER GLASS | A. M. Bishay, Argonne, Ill. |
| 3,135,599 | PRODUCTION OF URANIUM METAL POWDER IN A FLUIDIZED BED AND POWDER RESULTING THEREFROM | H. M. Heidt, Powell, Tenn. |
| 3,135,665 | FUEL ELEMENT FOR A NEUTRONIC REACTOR | S. L. Koutz, R. F. Turner, San Diego, Calif. and P. Fortescue, Rancho Santa Fe, Calif. |
| 3,135,856 | METHOD AND APPARATUS FOR SEALING TUBES | C. C. Stone, Downers Grove, Ill. |
| 3,136,051 | CLADDING OF NUCLEAR FUEL ELEMENTS | F. Quinlan and R. G. Wheeler, Richland, Wash. |
| 3,136,432 | TRANSFER MECHANISM | D. Nicoll, LaJolla, Calif. and H. E. Tinin, San Diego, Cal. |
| 3,136,593 | ELECTRICAL CONNECTOR GROUNDING APPARATUS | E. F. Ehrman, Cedar Crest, N. Mex. and F. J. Sparber, Belen, N. Mex. |
| 3,136,599 | PLUTONIUM RECOVERY FROM NUCLEAR FUEL | R. H. Moore, Kennewick, Wash. |
| 3,136,600 | SEPARATION OF ACTINIDES FROM EACH OTHER | S. A. Adar, Beersheba, Israel, and F. R. Fields, Chicago, Ill. |
| 3,136,697 | HYDRAULIC SAMPLE CHANGER FOR TANK-TYPE WATER-COOLED NUCLEAR REACTORS | G. P. Arnold, F. D. Newcorn, W. D. Schafer, Los Alamos, N. Mex. and P. D. O'Brien, Albuquerque, N. Mex. |
| 3,136,698 | SERVO-CONTROLLED REGULATOR FOR NEUTRONIC REACTORS | E. R. Mann, Oak Ridge, Tenn. |
| 3,136,699 | NEUTRONIC REACTOR SYSTEM | W. H. Zinn, Chicago, Ill. |
| 3,136,700 | FUEL CHANNEL ELEMENTS FOR CIRCULATING FUEL NEUTRONIC REACTORS | H. F. Possendiek and N. D. Greene, LaJolla, Calif. |
| 3,136,715 | PROCESS OF REMOVING RUTHENIUM FROM AQUEOUS SOLUTIONS | L. L. Ames, R. Fullerton, D. W. Pearce, Richland, Wash. |
| 3,136,902 | TUNNEL DIODE DISCRIMINATOR CIRCUIT | Q. A. Kerns, Orinda, Calif. |
| 3,136,948 | D. C. INSTRUMENT TRANSFORMER SYSTEM | A. A. Windsor, Berkeley, Calif. |

| | | |
|---|---|---|
| 3,137,174 | FLUID METERING DEVICE | L. R. Hawk, Hayward, Calif. and V. E. Scribner, Pleasanton, Calif. |
| 3,137,397 | NUCLEAR REACTOR FUEL HANDLING SYSTEM | D. Nicoll, LaJolla, Calif. and J. L. Hodgecock, Encinitas, Calif. |
| 3,137,551 | ULTRA HIGH VACUUM DEVICE | J. T. Mark, Lancaster, Pa. |
| 3,137,634 | NUCLEAR REACTOR OPERATION | W. R. Silker, Kennewick, Wash. |
| 3,137,636 | REACTOR FUEL ELEMENT CONTAINING ABSORBER | M. F. Wikner, Rancho Santa Fe, Calif. |
| 3,137,657 | CERAMIC PRODUCT COMPRISING SINTERED BERYLLIA AND BENTONITE AND METHOD | J. F. Quirk, Cardiff, Calif. and F. H. Loffrus, Del Mar, Calif. |
| 3,138,453 | TUNGSTEN ELECTRODES | E. L. Foster and R. R. Walker, Columbus, Ohio |
| 3,138,535 | NUCLEAR REACTOR HAVING TRANSFER MECHANISM | F. Fortescue, LaJolla, Calif. and D. Nicoll, Del Mar, Calif. |
| 3,138,652 | CAPACITOR WITH AN INTERNAL GAS BARRIER | E. L. Ford and R. E. Hampy, Albuquerque, N. Mex. |
| 3,139,360 | INSPECTABLE SOLDERING FLUX COMPOSITION | G. Voida, Albuquerque, N. Mex. |
| 3,139,591 | AMPLIFIER APPARATUS FOR HIGH ENERGY PARTICLE ACCELERATORS | R. H. Rheaume, Centereach, N.Y., E. E. Zider and F. A. Janik, Medford, N.Y. |
| 3,139,927 | HEAT EXCHANGER | C. R. Binner, Highland Park, Ill. and C. W. Hammond, East Orange, N.J. |
| 3,140,151 | METHOD OF REPROCESSING $UO_2$ REACTOR FUEL | D. R. Foltz, Canoga Park, Calif. and W. J. Gardner, Woodland Hills, Calif. |
| 3,140,171 | PROCESS FOR PREPARATION OF URANIUM METAL | J. H. Trapp, Cincinnati, Ohio |
| 3,140,173 | TITANIUM PRIMER FOR AN EVAPORION PUMP | E. C. Hurst, Stoughton, Wis. |
| 3,140,193 | PROCESS FOR PRODUCING OXIDATION RESISTANT REFRACTORY COATING ON DENSE GRAPHITE | J.S. Kane, Livermore, Calif. |
| 3,140,234 | FAST REACTOR CORE | W. B. Loewenstein, Elmhurst, Ill. |
| 3,140,235 | DOWNFLOW PACKED BED NUCLEAR FISSION REACTOR | L. F. Hatch, Brookhaven, N.Y. and T. V. Sheehan, Hampton Bays, N.Y. |
| 3,140,236 | NUCLEAR REACTOR WITH IMPROVED BEAM TUBE | C. N. Kelber, Wheaton, Ill. |
| 3,140,237 | LARGE FAST NUCLEAR REACTOR | R. E. Peterson, Kennewick, Wash. and S. L. Stewart, Richland, Wash. |
| 3,140,238 | CHARGING AND SERVICE MACHINE FOR GAS-COOLED REACTORS | A. P. Fraas, Knoxville, Tenn. and J. J. Tudor, Oak Ridge, Tenn. |
| 3,140,394 | MEANS FOR DETERMINING THE DIRECTION AND VELOCITY OF NUCLEAR PARTICLES | A. Roberts, Chicago, Ill. |
| 3,140,397 | NEUTRON DETECTOR UNIT UTILIZING INDIUM | H. F. Henry, Greencastle, Ind. |
| 3,140,398 | NEUTRON DOSIMETER UTILIZING A FISSION FOIL | F. W. Reinhardt and F. J. Davis, Oak Ridge, Tenn. |
| 3,140,479 | TRANSISTORIZED ANALOG-TO-DIGITAL CONVERTER | R. L. Chase, Blue Point, N.Y. |
| 3,140,820 | METHOD FOR MAINTAINING VERY HIGH VACUUM IN A SYSTEM | R. E. Clausing, Oak Ridge, Tenn. |
| 3,141,084 | WEIGHTLESSNESS SWITCH | R. F. Stromberg, Albuquerque, N. Mex. |
| 3,141,092 | SELECTOR FOR FAST AND INTERMEDIATE ENERGY NEUTRONS POSITIONED | L. H. Weinberg, Schenectady, N.Y. |
| 3,141,235 | POWDERED TANTALUM ARTICLES | W. H. Lenz, Los Alamos, N. Mex. |
| 3,141,380 | DRIVE MECHANISM | A. M. Harris, San Diego, Calif. and E. Ledin, LaJolla, Calif. |
| 3,141,413 | REVERSIBLE ELECTROMAGNETIC FLUID PUMP | H. Heyman, Santa Fe, N. Mex. |
| 3,141,826 | APPARATUS AND METHOD FOR CONFINING A PLASMA | K. O. Friendrichs and H. Grad, New Rochelle, N.Y. |







| | | |
|---|---|---|
| 3,141,827 | BREEDER REACTOR CORE WITH ALTERNATE ZONES OF DEPLETED AND ENRICHED FUEL | H. F. Iskenderian, Elmhurst, Ill. |
| 3,141,829 | FUEL ELEMENT | F. Fortescue, San Diego, Calif. L. R. Zumwalt, Rancho Santa Fe, N. Mex. and D. C. Morse, San Diego, Calif. |
| 3,141,911 | PROCESS FOR THE FABRICATION OF NUCLEAR FUEL ELEMENTS | J. J. Hauth, Richland, Wash. |
| 3,143,478 | HIGH FLUX BEAM REACTOR | J. Chernick, J. M. Hastings, Patchogue, N.Y., K. W. Downes, Setauket, N.Y., J. M. Hendrie, Bellport, N.Y. and H. J. C. Koute, Brookhaven, N.Y. |
| 3,144,200 | PROCESS AND DEVICE FOR CRYOGENIC ADSORPTION PUMPING | C. E. Taylor, Livermore, Calif., A. L. Hunt, Alamo, Calif. and J. H. Omokundro, San Jose, Calif. |
| 3,144,393 | SUBCOOLED LIQUID INLET FOG COOLED NUCLEAR REACTORS | M. Raber, Yonkers, N.Y. and G. A. Sofar, White Plains, N.Y. |
| 3,145,078 | METHOD OF REPROCESSING NUCLEAR FUEL ELEMENTS | G. Strickland, Blue Point, N.Y., R. Johnson, Shoreham N.Y., F. L. Horn, Seyville, N.Y. and C. B. Bartlett, West Islip, N.Y. |
| 3,145,151 | FUEL ASSEMBLY FOR LOW POWER REACTORS | E. F. Grob, Naperville, Ill. |
| 3,145,182 | METHOD FOR IMPROVING HYDROLYSIS RESISTANCE OF URANIUM CARBIDE CONTAINING COMPOSITION | J. F. Hammond and J. D. Sease, Knoxville, Tenn. |
| 3,145,284 | SUPERCONDUCTIVE ELECTRIC SWITCH | H. L. Laquer, Espanola, N. Mex. |
| 3,145,333 | FORCE LIMITING DEVICE FOR MOTOR CONTROL | J. A. Pardini, Brookfield, Ill. and V. Butter, Chicago, Ill. |
| 3,145,956 | PARACHUTE DEPLOYMENT CONTROL ASSEMBLY | H. E. Widdows, Albuquerque, N. Mex. |
| 3,146,064 | DECONTAMINATION OF URANIUM | R. L. Moore, Richland, Wash. |
| 3,146,173 | FUEL ELEMENT | F. Fortescue, D. C. Morse, San Diego, Calif. and L. R. Zumwalt, LaJolla, Calif. |
| 3,146,281 | PRODUCTION OF ROUND PARTICLES OF CERAMIC MATERIAL | C. W. Krystyniak, A. T. Maccigrosso, Schenectady, N.Y. and G. L. Floets, Scotia, N.Y. |
| 3,146,349 | DETECTING HIDDEN EXPLOSIVES USING NEUTRON BEAMS | E. D. Jordan, Kensington, Md. |
| 3,146,622 | ATMOSPHERIC EDDY DISTURBANCE DETECTOR | H. Moses, Park Forest, Ill. |
| 3,147,088 | URANIUM-TIN-ZIRCONIUM CORROSION RESISTANT ALLOY | H. S. Kalish, Jackson Heights, N.Y. and H. H. Hausner, New York, N.Y. |
| 3,147,109 | SEPARATION OF PLUTONIUM, URANIUM, AMERICIUM AND FISSION PRODUCTS FROM EACH OTHER | J. B. Knighton, Joliet, Ill. and R. K. Steunenberg, Naperville, Ill. |
| 3,147,396 | METHOD AND APPARATUS FOR PHASING A LINEAR ACCELERATOR | D. J. Goers, R. B. Neal, Menlo Park, Calif. and E. B. Mallory, Palo Alto, Calif. |
| 3,148,941 | DISSOLUTION OF URANIUM-MOLYBDENUM REACTOR FUEL ELEMENTS | T. A. Gens, Oak Ridge, Tenn. |
| 3,148,989 | DECONTAMINATION OF MILK FROM RADIOACTIVE ANIONIC INGREDIENTS | C. K. Murthy, J. K. Gilchrist, and J. K. Campbell, Cincinnati, Ohio |
| 3,149,043 | NUCLEAR REACTOR | L. Goldstein, Monsey, N.Y., L. Joseph, Greenburgh, N.Y., M. S. Silberstein, Briarcliff Manor, N.Y. and A. A. Weinstein, Bronx, N.Y. |
| 3,149,044 | ADVANCED TEST REACTOR | D. R. de Boisblanc, Idaho Falls, Idaho and R. H. Leonard, University City, Mo. |
| 3,149,047 | RESILIENT MODERATOR STRUCTURE FOR NEUTRONIC REACTORS | A. P. Fraas, Knoxville, Tenn. |
| 3,149,611 | ANIMAL WATERING NIPPLE AND BOTTLE CAP COMBINATION | J. W. Harrison, Markham, Ill. |
| 3,149,908 | OXYCHLORIDES OF PENTAVALENT NEPTUNIUM | T. J. La Chapelle, Inglewood, Calif. |
| 3,149,909 | FLUIDIZED SOLIDS PROCESS FOR RECOVERY OF URANIUM FROM ZIRCONIUM-TYPE FUEL ELEMENTS | L. F. Hatch, Brookhaven, N.Y., J. J. Reilly, Bellport, N.Y. and W. H. Regan, Rockville, Md. |



XUM

| | | |
|---|---|---|
| 3,149,966 | OXIDATION RESISTANT CERIUM ALLOYS | K. A. Gschneidner, Los Alamos, N. Mex. |
| 3,149,968 | APPARATUS FOR CORRECTING SENSITIVITY VARIATIONS IN PHOTOMULTIPLIER TUBES | L. D. Stephens, Walnut Creek, Calif. |
| 3,150,051 | PACKAGED NUCLEAR PLANT WITH INTEGRAL SUPERHEATER AND PRESSURIZER | J. H. Ammon, Akron, Ohio |
| 3,150,053 | STEAM-WATER MIXING DEVICE FOR STEAM-COOLED REACTOR | A. J. Goldman, G. Breidenbach, New York, N.Y. |
| 3,150,054 | HIGH FLUID FLOW RATE NUCLEAR REACTOR | R. H. Fox, Livermore, Calif. |
| 3,150,055 | REACTOR | H. E. Metcalf, Chicago, Ill. |
| 3,150,057 | FUEL SUBASSEMBLY FOR NUCLEAR REACTOR | H. O. Monson, Elmhurst, Ill. and E. Hutter, Chicago, Ill. |
| 3,150,101 | ION EXCHANGE RESIN WITH SCINTILLATING PROPERTIES | A. H. Heimbuch, El Cerrito, Calif. |
| 3,150,159 | REMOVAL OF HYDROCARBON DEGRADATION PRODUCTS FROM ORGANIC SOLUTIONS | J. M. Schmitt, Oak Ridge, Tenn. |
| 3,150,281 | GLASS OF HIGH ULTRAVIOLET, TRANSMITTANCE, METHOD AND ARTICLES MANUFACTURED THEREFROM | A. M. Bishay, Chicago, Ill. |
| 3,150,291 | INCREMENTAL ELECTRICAL METHOD AND APPARATUS FOR ENERGIZING HIGH CURRENT SUPERCONDUCTING ELECTROMAGNETS | H. L. Laquer, Espanola, N. Mex. |
| 3,150,924 | PRETREATMENT OF URANIUM DIOXIDE TO PROMOTE ITS CONVERSION TO URANIUM TETRAFLUORIDE | S. H. Smiley, D. C. Brater, Oak Ridge, Tenn. and C. C. Littlefield, Kingston, Tenn. |
| 3,150,936 | TUNGSTEN TUBING EXTRUSION BILLET | J. G. Hunt, Framingham, Mass. |
| 3,150,964 | PURIFICATION OF YTTRIUM METAL | O. N. Carlson, F. A. Schmidt and J. A. Haefling, Ames, Iowa |
| 3,151,029 | CORE ASSEMBLY FOR A NUCLEAR REACTOR | F. Schwoerer, Mount Lebanon, Pa. |
| 3,151,034 | CONSOLIDATED NUCLEAR STEAM GENERATOR ARRANGEMENT | R. M. Douglass, Akron, Ohio, R. W. Earle, H. Honig, and D. C. North, Lynchburg, Va. |
| 3,152,868 | PREPARATION OF SCANDIUM HYDRIDES | C. F. Kempter, and J. C. McGuire, Los Alamos, N. Mex. |
| 3,152,887 | AMERICIUM-CURIUM SEPARATION | S. Lawroski, R. K. Steunenberg, Naperville, Ill. and J. B. Knighton, Joliet, Ill. |
| 3,152,959 | INJECTION METHOD AND APPARATUS FOR CONTROLLED FUSION DEVICES | C. C. Damm, Alamo, Calif. |
| 3,152,984 | METHOD OF DEHYDRATING AND INSOLUBILIZING AN AQUEOUS NUCLEAR REACTOR WASTE SOLUTION | W. E. Winsche and M. W. Davis, Aiken, S. C. |
| 3,153,482 | LUBRICATION OF MANDRELS FOR TUBE EXTRUSION | B. J. Bunts, Cushing, Okla. and L. A. Unnerstall, Washington, Mo. |
| 3,153,850 | METHOD AND DEVICE FOR CONTROLLING ULTRASONIC WELDING APPARATUS | D. C. Worlton, Richland, Wash. and R. A. Walker, Pasco, Wash. |
| 3,154,375 | POTASSIUM PLUTONIUM SULFATE SEPARATION PROCESS | M. Cefola, Yonkers, N.Y. |
| 3,154,376 | EMULSION CONTROL IN LIQUID-SUSPENSION EXTRACTION | B. E. Paige, K. L. Rohde and B. J. Newby, Idaho Falls, Idaho |
| 3,154,378 | PROCESS FOR PREPARING URANIUM MONOCARBIDE | A. Schneider, L. Burris and S. Lawroski, Naperville, Ill. |
| 3,154,379 | PLUTONIUM SEPARATION FROM URANIUM AND LANTHANIDES BY PRECIPITATION FROM MOLTEN CHLORIDE SOLUTIONS | G. E. Benedict and J. L. Swanson, Richland, Wash. |
| 3,154,408 | URANIUM RECOVERY FROM ORE CONCENTRATES | J. B. Knighton, Joliet, Ill., R. K. Steunenberg, Naperville, Ill. and J. P. La Plante, Palos Park, Ill. |
| 3,154,471 | NUCLEAR REACTOR | A. Radkowsky, Silver Spring, Md. |
| 3,154,500 | STRONTIUM RECOVERY PROCESS | G. Jansen, Kennewick, Wash., C. L. Richardson, A. M. Platt, Richland, Wash. and L. A. Bray, Pasco, Wash. |
| 3,154,501 | POLONIUM COMPOUND HEAT SOURCES | M. R. Hertz, Kettering, Ohio |





| | | |
|---|---|---|
| 3,156,011 | SELF-CONTAINED VARIABLE-ENVIRONMENT PRESSING DIE | D. M. Olson, Los Alamos, N. Mex. |
| 3,156,523 | ELEMENT 95 AND METHOD OF PRODUCING SAID ELEMENT | G. T. Seaborg, Chicago, Ill. |
| 3,156,526 | STAINLESS STEEL DECLADDING | L. F. Hatch, Brookhaven, N.Y., J. J. Reilly, Bellport, N.Y., C. B. Bartlett, West Islip, N.Y. and R. Johnson, Shoreham, N.Y. |
| 3,156,532 | YTTRIUM-90 GENERATOR | R. F. Doering, Smithtown, N.Y. and W. D. Tucker, Sayville, N.Y. |
| 3,156,534 | APPARATUS FOR TREATMENT OF MOLTEN MATERIAL | F. R. Josephson, Rochester, N.Y. and L. E. Burkhart, Ames, Iowa |
| 3,156,622 | APPARATUS FOR HEATING IONS IN A PLASMA | M. M. Hill, Livermore, Calif. and D. F. Martin, Alamo, Calif. |
| 3,156,623 | PLASMA SWITCHING PINCH TUBE | W. R. Baker, Orinda, Calif. |
| 3,156,625 | CORE FOR A SUPERCRITICAL PRESSURE POWER REACTOR | H. Harty, J. J. Regimbal, R. D. Widrig, Richland, Wash. and K. G. Toyoda, Pasco, Wash. |
| 3,156,747 | METHOD OF MAKING FUEL COMPACTS FOR NEUTRONIC SYSTEMS | J. E. Burke, Ballston Lake, N.Y. |
| 3,156,851 | TIMING MECHANISM | W. C. Monday, Albuquerque, N. Mex. |
| 3,156,869 | ELECTROMETER HAVING FLEXIBLE ELECTRODES AND FLEXIBLE FIBER | F. R. Shonka, Riverside, Ill. |
| 3,157,463 | EXTRACTION OF PLUTONIUM AND URANIUM VALUES FROM AQUEOUS SOLUTIONS | L. L. Burger, Richland, Wash. |
| 3,157,637 | METHOD OF SEPARATING NUCLEOTIDES | J. E. Khym, Oak Ridge, Tenn. |
| 3,157,718 | METHOD OF SINTERING CERAMIC SHAPES | W. J. O'Leary, Claymont, Del. and E. A. Fisher, Fostoria, Ohio |
| 3,157,802 | THERMIONIC ENERGY CONVERTER | R. Fox, Oakland, Calif. |
| 3,158,098 | LOW VOLTAGE DETONATOR SYSTEM | R. J. Reithel, Los Alamos, N. Mex. |
| 3,158,457 | ULTRA-CLEAN ROOM | W. J. Whitfield, Albuquerque, N. Mex. |
| 3,158,468 | SEPARATION OF AN ACTINIDE METAL FROM AN ALLOY | R. Pearlman, Tarzana, Calif. and L. A. Hanson, Canoga Park, Calif. |
| 3,158,543 | FUEL ASSEMBLY SUPPORT SYSTEM FOR NUCLEAR REACTOR | J. Sherman, Pittsburgh, Pa., J. E. Sherbaugh, West Mifflin, Pa., W. L. Fauth, Canonsburg, Pa., N. J. Palladino, Centre County, Pa. and F. G. De Huff, Bethel Park, Pa. |
| 3,158,549 | FUEL ASSEMBLY FOR NEUTRONIC REACTOR | W. D. Fowler, Poway, Calif. |
| 3,158,577 | METHOD OF TREATING RADIOACTIVE WASTE | L. A. Bray and E. C. Martin, Richland, Wash. |
| 3,158,614 | PROCESS OF PRECIPITATING PLUTONIUM AND COMPOUNDS FORMED THEREBY | G. Seaborg, J. E. Willard and S. G. Thompson, Chicago, Ill. |
| 3,158,815 | BARKHAUSEN OSCILLATION ELIMINATION MEANS | J. P. Hoice, Albuquerque, N. Mex and C. L. Anderson, Boulder, Colo. |
| 3,160,470 | DISSOLUTION OF URANIUM OXIDE | M. C. Lambert, Richland, Wash. |
| 3,160,471 | PREPARATION OF DENSE URANIUM DIOXIDE PARTICLES | I. E. Knudsen, Downers Grove, Ill. A. A. Jonke, Elmhurst, Ill. and N. M. Levitz, Bellwood, Ill. |
| 3,160,566 | PLASMA GENERATOR | R. A. Dandl and W. B. Ard, Oak Ridge, Tenn. |
| 3,160,568 | NUCLEAR REACTOR | D. R. MacFarlane, Downers Grove, Ill. |
| 3,160,817 | SEGMENTAL TIME REVERSAL DEVICE | H. L. Libby and J. T. Russell Richland, Wash. |
| 3,160,818 | INTEGRATOR UTILIZING A BLOCKING OSCILLATOR CIRCUIT | J. L. Engle, New Lisbon, N.J. |
| 3,161,462 | ELEMENT 96 AND COMPOSITIONS THEREOF | G. T. Seaborg, Berkeley, Calif. |
| 3,161,463 | METHOD FOR PURIFICATION OF PROMETHIUM-147 | F. B. Orr, Knoxville, Tenn. |





XUM 38 5 SEP 73 3 1793 03A

| | | |
|---|---|---|
| 3,161,570 | HOMOGENEOUS-LIQUID METAL-FAST REACTOR | R. F. Hammond, H. M. Busey and J. R. Humphreys, Los Alamos, N. Mex. |
| 3,161,571 | BOILING-WATER NUCLEAR REACTOR | J. M. Harrer, Elmhurst, Ill., C. F. Bullinger, Palo Alto, Calif. and V. M. Kolba, Plainfield, Ill. |
| 3,161,600 | RADIOACTIVE STRONTIUM CONTAINMENT | G. B. Barton, Kennewick, Wash. |
| 3,161,601 | RADIOACTIVE CESIUM CONTAINMENT | G. B. Barton, Kennewick, Wash. |
| 3,161,701 | METHOD OF MAKING NUCLEAR FUEL COMPACT | D. E. Johnson, Cardiff, Calif. and F. H. Loffius, Del Mar, Calif. |
| 3,161,736 | OMNIDIRECTIONAL SWITCH | R. A. Randall and D. F. Wilkes, Albuquerque, N. Mex. |
| 3,161,896 | RAM AIR INFLATED FLOTATION BAG | I. T. Holt and H. E. Widdows, Albuquerque, N. Mex. |
| 3,162,509 | PROCESS FOR PREPARATION OF SULFUR-CONTAINING COMPOUNDS OF PLUTONIUM | N. R. Davidson, Sierra Madre, Calif. |
| 3,162,527 | PLUTONIUM ALLOYS CONTAINING CONTROLLED AMOUNTS OF PLUTONIUM ALLOTROPES OBTAINED BY APPLICATION OF HIGH PRESSURES | R. O. Elliott and K. A. Gschneidner, Los Alamos, N. Mex. |
| 3,162,577 | REACTOR CONTROL WITH THORIUM CONTROL GRID | W. C. Redman, Hinsdale, Ill. |
| 3,162,578 | REACTOR AND APPARATUS FOR CONTROL THEREOF | A. Allen, Medford, Mass. |
| 3,163,759 | NEUTRON FLUX DETECTOR | R. N. Cordy, Sherman Oaks, Calif. and J. W. Flora, Denver, Colo. |
| 3,163,915 | METHOD OF FABRICATING SURFACE BARRIER DETECTORS | R. J. Fox, Oak Ridge, Tenn. |
| 3,164,019 | MASS FLOW MEASURING DEVICE | G. M. Burgwald, Belmont, Calif., L. Reiffel, Chicago, Ill., W. K. Genthe, Menomonee Falls, Wis. C. Fyfe, Fox Point, Wis. |
| 3,164,440 | GAS-SOLIDS CONTACTING METHOD | R. P. Levey, Oak Ridge, Tenn |
| 3,164,462 | PREPARATION OF THORIUM METAL FROM THE OXIDE | J. B. Knighton, Joliet, Ill. and A. V. Hartharan, Westmont, Ill., R. K. Steunenberg, Naperville, Ill. and W. H. Hauschildt, Hinsdale, Ill. |
| 3,164,718 | ION PULSE GENERATOR COMPRISING DEFLECTOR MEANS TO SWEEP AN ION BEAM ACROSS AN APERTURED MEMBER | R. F. King, Knoxville, Tenn. |
| 3,164,897 | METHOD OF BRAZING | F. Patriarca, Knoxville, Tenn. and G. M. Slaughter, Oak Ridge, Tenn. |
| 3,165,376 | PROCESS FOR SEPARATION AND RECOVERY OF VOLATILE FLUORIDE IMPURITIES FROM URANIUM HEXAFLUORIDE CONTAINING THE SAME | W. R. Gollihar, Paducah, Ky. |
| 3,165,377 | SEPARATION OF STAINLESS STEEL FROM A NUCLEAR FUEL | H. M. Katz, Fort Jefferson, N.Y. |
| 3,165,417 | HIGH STRENGTH BERYLLIA ARTICLES | F. P. Turner, Cincinnati, Ohio |
| 3,165,422 | CERAMIC COATED FUEL PARTICLES | L. D. Stoughton, Chatham, N.J., F. M. Blocher and M. D. Voigel, Columbus, Ohio |
| 3,165,427 | METHOD OF HEAT TREATING TUNGSTEN WIRE OR RIBBON | E. C. Hurst, Stoughton, Wis. |
| 3,165,448 | NUCLEAR REACTOR CORE AND FUEL ASSEMBLY | W. H. McCorkle, Hinsdale, Ill. and H. S. Cern, Chicago, Ill. |
| 3,165,475 | STRONTIUM COMPOSITION AND PROCESS OF MAKING IT | L. C. Amos, Longview, Wash. |
| 3,165,835 | APPARATUS FOR CHECKING THE ALIGNMENT OF VERTICAL CHANNELS | R. D. Duncan, Richland, Wash. |
| 3,165,922 | METHOD OF APPLYING LAMB WAVES IN ULTRASONIC TESTING | D. C. Worlton, Richland, Wash. |
| 3,166,133 | SEALING MEANS | D. W. Hall and B. D. Troyer, Boulder, Colo. |
| 3,166,136 | APPARATUS FOR WEIGHING MATERIAL IN A SEALED ENCLOSURE | R. T. Coffman, Richland, Wash. |
| 3,166,595 | N, N-DIETHYLALKYLAMIDES | J. W. Fraser, Livermore, Calif. |



| | | |
|---|---|---|
| 3,167,070 | RESPIRATOR WITH POSITIVE AIR SEAL | L. Silverman, Dover, Mass. |
| 3,167,447 | CARBON BODY TREATMENT | G. R. Tully, Poway, Calif., E. F. Disselhorst, Solana Beach, Calif. and D. E. Davis, Escondido, Calif. |
| 3,167,482 | FUEL ELEMENT | K. Katz, Pittsburgh, Pa. |
| 3,167,654 | DOUBLE PULSE RECOGNITION CIRCUIT | L. Scott, Paris, France |
| 3,167,655 | TARGET FOR A NEUTRON GENERATOR CONSISTING OF A COATING OF ONE OF THE LANTHANOID ELEMENTS ON A BASE METAL | R. Redstone, Baldock, England, and M. C. Rowland, Hitchin, England |
| 3,167,693 | LIQUID LEVEL CAPACITANCE PROBE | J. C. Bronson, Los Alamos, N. Mex. |
| 3,169,057 | SEPARATION OF PLUTONIUM, URANIUM AND FISSION PRODUCTS FROM EACH OTHER | J. B. Knighton, Joliet, Ill. and R. K. Steunenberg, Naperville, Ill. |
| 3,169,117 | NUCLEAR REACTOR FUEL PASTE COMPOSITION | R. W. Dickinson, Northridge, Calif. and D. T. Eggen, Santa Susana, Calif. |
| 3,169,187 | LOW ENERGY BETA RADIATION SYSTEM FOR FLUENT MATERIALS WITH PLURAL SCINTILLATION FIBERS IN HEXAGONAL ARRAY | C. A. Stone, South Holland, Ill., L. Reiffel, Chicago, Ill. and I. Filosofo, Padova, Italy |
| 3,169,200 | THERMOTUNNEL CONVERTER | F. N. Huffman, Baltimore, Md. |
| 3,170,234 | JOINTING OF REFRACTORY METALS BY SOLID-STATE DIFFUSION BONDING | C. O. Tarr, Cincinnati, Ohio |
| 3,170,759 | METHOD OF MAKING PLUTONIUM MONOCARBIDE | R. M. Mayfield, Glen Ellyn, Ill. and W. G. Tope, Naperville, Ill. |
| 3,170,788 | URANIUM BASE ALLOY | M. H. Binstock, Canoga Park, Calif. and H. E. Kline, Chatsworth, Calif. |
| 3,170,812 | METHOD OF VITRIFYING CERAMIC COATINGS | M. A. Schwartz, Dayton, Ohio |
| 3,170,824 | IRON ALLOY | D. B. Roach, D. A. Roberts and A. M. Hall, Columbus, Ohio |
| 3,170,841 | PYROTRON THERMONUCLEAR REACTOR AND PROCESS | R. F. Post, Walnut Creek, Calif. |
| 3,170,843 | PASTE REACTOR | R. F. Hammond, Los Alamos, N. Mex. |
| 3,170,844 | CONTROL ROD DRIVE MECHANISM | D. Nicoll, San Diego, Calif. |
| 3,170,846 | STEAM GENERATOR | B. Blumberg, Wyoming, Ohio |
| 3,170,847 | SELF-MODERATING FUEL ELEMENT | J. A. Dudek and R. L. Reed, Woodland Hills, Calif. |
| 3,170,884 | NAPHTHALENE DERIVATIVE SCINTILLATORS | R. L. Macklin, Oak Ridge, Tenn. |
| 3,171,025 | LONG STRAIGHT SECTIONS FOR ALTERNATING GRADIENT SYNCHROTRONS | T. L. Collins, Watertown, Mass. |
| 3,171,037 | SEMICONDUCTOR BISTABLE CIRCUIT WITH INTEGRAL GATE | W. J. Poppelbaum, Champaign, Ill. and N. E. Wiseman, Herts, England |





XUM 37 5 SMS 1718 3V

PATENTS WHICH HAVE ISSUED TO THE COMMISSION AND WHICH ARE AVAILABLE TO THE PUBLIC FOR LICENSING IN ACCORDANCE WITH THE LICENSING POLICY OF THE COMMISSION

| | | |
|---|---|---|
| 3,160,567 | SOLID STATE POWER MAPPING | R. Steinberg, Fairview Park, Ohio and W. B. Schwab, Cleveland, Ohio |
| 3,171,714 | METHOD OF MAKING PLUTONIUM OXIDE SPHERES | L. V. Jones, Miamisburg, Ohio, D. Ofte, Kettering, Ohio, P. A. Tucker and L. J. Wittenberg, Dayton, Ohio |
| 3,171,715 | METHOD FOR PREPARATION OF SPHERICAL THORIUM DICARBIDE AND THORIUM-URANIUM DICARBIDE PARTICLES | A. T. Kleinsteuber, Oak Ridge, Tenn. |
| 3,171,788 | ROTATING PLASMA DEVICE | J. C. Gorman, Trenton, N.J. and L. H. Kietjens, Rijnhuizen, Jutphaas, Netherlands |
| 3,171,815 | METHOD FOR PREPARATION OF THORIUM DICARBIDE AND THORIUM-URANIUM DICARBIDE PARTICLES | J. L. Kelly, O. C. Dean, Oak Ridge, Tenn. and D. E. Ferguson, Knoxville, Tenn. |
| 3,173,784 | DRAWING APPARATUS | C. H. Bean, Naperville, Ill. |
| 3,173,747 | PURIFICATION OF STRONTIUM SOLUTIONS BY ION EXCHANGE | E. J. Wheelwright, L. A. Bray, R. L. Moore and F. P. Roberts, Richland, Wash. |
| 3,173,880 | MOISTURE INDICATOR AND METHOD OF MAKING THE SAME | W. S. Pappas and C. W. Weber, Oak Ridge, Tenn. |
| 3,173,973 | GRAPHITE DISPERSION | M. C. Brockway, Columbus, Ohio |
| 3,173,983 | ARC POSITIONING SERVO | J. L. Engle, New Lisbon, N.J. |
| 3,174,153 | SWEEPING IMAGE MIRROR CAMERA | T. Anderson, Castro Valley, Calif. |
| 3,174,818 | REDUCING CORROSION OF STAINLESS STEEL IN HOT NITRIC ACID SOLUTIONS BY ADDING CARBON BLACK OR ELEMENTAL SULFUR TO THE SOLUTION | F. G. Rust, Evans, Ga. |
| 3,174,834 | FLUIDIZED BED REACTOR | R. M. Edwards, Tucson, Ariz., S. M. Robinson, Brentwood, Mo. and E. F. Sanders, St. Louis, Mo. |
| 3,174,921 | POLYMERIZATION OF ISOBUTYLENE | M. S. Matheson, Hinsdale, Ill. |
| 3,175,104 | HIGH VOLTAGE ELECTRIC GENERATOR | C. D. Curtis, Madison, Wis. |
| 3,175,131 | MAGNET CONSTRUCTION FOR A VARIABLE ENERGY CYCLOTRON | E. L. Kelly, R. J. Burleigh, J. H. Dorst and C. G. Dols, Berkeley, Calif. |
| 3,175,922 | METHOD FOR COATING ACTINIDE PARTICLES | J. M. Blocher and M. F. Browning, Columbus, Ohio |
| 3,175,931 | TREATMENT OF ALUMINUM SURFACES | C. A. Burgess, Kennewick, Wash. and J. D. Schaffer, Richland, Wash. |
| 3,175,955 | GRADIENT FUEL PLATES | E. D. Cheverton, Knoxville, Tenn. |
| 3,176,154 | THREE STATE MEMORY DEVICE | F. O. Salter, Glen Ellyn, Ill. |
| 3,176,195 | SUPERCONDUCTING SOLENOID | R. W. Boom and L. D. Roberts, Oak Ridge, Tenn. |
| 3,177,373 | TRANSISTORIZED LOADING CIRCUIT | R. H. Graham, Walnut Creek, Calif. |
| 3,177,408 | SUPERCONDUCTOR SOLENOID WITH OVERHEAT PROTECTIVE STRUCTURE AND CIRCUITRY | R. G. Mills and K. E. Wakefield, Princeton, N.J. |
| 3,177,482 | SERVO-STABILIZED ANALOG-TO-DIGITAL CONVERTER FOR HIGH RESOLUTION PULSE ANALYSIS | R. L. Chase, Blue Point, N.Y. |
| 3,177,553 | APPARATUS FOR SOLVENT-ISOSTATIC PRESSING | F. B.Archibald, Pleasanton, Calif. |
| 3,178,256 | METHOD FOR SEPARATING TRANSPLUTONIUM ELEMENTS FROM RARE EARTH FISSION PRODUCTS | F. L. Moore, Knoxville, Tenn. |
| 3,178,258 | SEPARATION OF PLUTONIUM HEXAFLUORIDE FROM URANIUM HEXAFLUORIDE BY SELECTIVE SORPTION | G. I. Cathers, Knoxville, Tenn. and R. L. Jolley, Oak Ridge, Tenn. |
| 3,178,259 | NITRIDED ELECTRODE PROCESS OF PREPARING URANIUM MONONITRIDE | E. L. Foster, Powell, Ohio and R. W. Endebrock, Columbus, Ohio |
| 3,178,356 | NUCLEAR REACTOR | C. W. Wheelock, Canoga Park, Calif. |
| 3,179,501 | COUNTERCURRENT NUCLEAR-FUEL LIQUID-LIQUID EXTRACTION APPARATUS | J. P. Duckworth, Richland, Wash. |



| | | |
|---|---|---|
| 3,179,503 | EXTRACTION OF CESIUM FROM AQUEOUS SOLUTION USING PHENOLS | D. F. Horner, Clinton, Tenn., D. J. Crouse and K. B. Brown, Oak Ridge, Tenn. |
| 3,179,581 | ELECTROCHEMICAL DOSIMETER | S. Z. Lewin, Bayside, N.Y. and R. H. Koslow, New York, N.Y. |
| 3,179,722 | METHOD OF PREPARING SPHERICAL NUCLEAR FUEL PARTICLES | H. E. Shoemaker, San Diego, Calif. |
| 3,179,723 | METHOD OF FORMING METAL CARBIDE SPHEROIDS WITH CARBON COAT | W. V. Goeddel, Poway, Calif. |
| 3,180,704 | PROCESS OF MAKING ACTINIDE SULFIDE AND SIMILAR COMPOUNDS | Y. Baskin, Chicago, Ill. |
| 3,180,756 | COPPER METALLIZING OF ALUMINA CERAMICS | R. E. Cowan, Los Alamos, N. Mex. |
| 3,180,800 | NEUTRONIC REACTOR INCLUDING MEANS FOR UNLOADING AND HERMETICALLY ENCLOSING SPENT FUEL ELEMENTS | F. Fortescue, LaJolla, Calif. and D. Micell, Del Mar, Calif. |
| 3,180,801 | HEAVY WATER MODERATED ORGANIC COOLED NUCLEAR FISSION REACTOR | R. J. Rickert, W. S. Flinn, Bloomfield, Conn. J. F. Rohlin, Wapping, Conn. and J. J. Roth, Granby, Conn. |
| 3,181,004 | BINARY MEMORY DEVICE EMPLOYING FLIP-FLOP THAT IS CONTROLLED BY IN-PHASE DRIVERS | H. Guckel, Urbana, Ill. |
| 3,181,653 | CRASH ENERGY ABSORBER FOR HEAVY APPARATUS | J. A. Moskelley, Concord, Calif. |
| 3,181,700 | IMMISCIBLE LIQUIDS SEPARATOR | J. C. Hesson, Riverdale, Ill. |
| 3,182,102 | METHOD AND APPARATUS FOR MAKING DENSE BODIES OF REFRACTORY MATERIALS | M. T. Simnad, Wellesley, Mass |
| 3,182,208 | LINEAR GATE WITH GATING PULSES APPLIED TO COLLECTOR THROUGH THE PRIMARY OF A TRANSFORMER | J. Fischer, Patchogue, N.Y., W. A. Higinbotham, Bellport, N.Y. and R. L. Chase, Blue Point, N.Y. |
| 3,182,280 | PROTECTION OF ELECTRICAL CONNECTOR CONTACT PINS | F. R. Daut and R. O. Work, Albuquerque, N.Mex. |
| 3,182,499 | METHOD OF MEASURING WIND VELOCITY | H. Moses, Park Forest, Ill. |
| 3,183,059 | PLUTONIUM ADSORPTION AND DESORPTION | A. E. Reisenauer and L. L. Ames, Richland, Wash. |
| 3,183,061 | XENON TETRAFLUORIDE AND PROCESS OF MAKING SAME | H. H. Claassen, Wheaton, Ill., H. Selig, Chicago, Ill and J. G. Malm, Naperville, Ill. |
| 3,183,166 | LOW TEMPERATURE GRAPHITE RADIATION DAMAGE REMOVAL | D. A. Schweitzer, R. M. Singer, East Islip, N.Y. and D. H. Gurinsky, Center Moriches, N.Y. |
| 3,183,390 | PHOTOMULTIPLIER | R. J. Grader, Pleasanton, Calif. and M. F. Nakada, Silver Spring, Md. |
| 3,183,499 | HIGH DIRECTIVITY SOLID CURTAIN PERIMETER INTRUSION SYSTEM | R. G. Cowen, Frederick, Md. |
| 3,183,936 | EXPANSION JOINT | R. Michel, Hyattsville, Md. |
| 3,184,604 | HIGH-DUTY-CYCLE MULTIVIBRATOR | D. O. Hale, Walnut Creek, Calif. |
| 3,184,849 | MINI-CAM TRACER PLATE | E. J. Sass, Los Alamos, N. Mex. |
| 3,184,915 | ELECTROSTATIC PROPULSION SYSTEM WITH A DIRECT NUCLEAR ELECTRO GENERATOR | C. A. Low, Cleveland, Ohio and W. R. Mickelson, Berea, Ohio |
| 3,185,063 | MAGNETICALLY ACTUATED SHUTTER | F. C. Ford, Pleasanton, Calif., E. B. Nelson, Albuquerque, N. Mex. and W. H. Trimble and S. Zizzo, Livermore, Calif. |
| 3,185,548 | PROCESS OF MAKING RADON FLUORIDE AND OF SEPARATING RARE GASES FROM EACH OTHER | F. R. Fields and M. H. Zirin, Chicago, Ill. and L. Stein, Downers Grove, Ill. |
| 3,188,169 | SEPARATION OF METAL VALUES BY CATION EXCHANGE FROM CONCENTRATED PERCHLORIC ACID SOLUTION | K. A. Kraus and F. Nelson, Oak Ridge, Tenn. |
| 3,188,231 | PROCESS OF MAKING CRUCIBLES | Z. D. Jastrzebski, Easton, Pa. |
| 3,188,278 | FUEL ELEMENT FOR A SUPERCRITICAL PRESSURE POWER REACTOR | H. Harty, J. J. Regimbal, R. D. Widrig, Richland, Wash. and K. C. Toyoda, Pasco, Wash. |
| 3,188,470 | METHOD OF DETERMINING THE NEGATIVE REACTIVITY OF NEUTRONIC MULTIPLYING SYSTEMS | C. W. Ricker, A. L. Colomb and E. R. Mann, Oak Ridge, Tenn. |







XUM 37 5 SEP 1973 3 1793 00183 4

| | | |
|---|---|---|
| 3,189,023 | BLOOD PRESSURE INDICATING DEVICE | F. Salz, N. J. Yanni, Berkeley, Calif. and M. B. Bacaner, Minneapolis, Minn. |
| 3,189,419 | ZONE-MELTING CRYSTALLIZATION TECHNIQUE | W. R. Wilcox, Torrance, Calif. |
| 3,189,445 | BINARY NICKEL BASE ALLOYS | V. P. Calkins, J. A. McGurty, Cincinnati, Ohio and E. S. Funston, Hamilton, Ohio |
| 3,189,446 | TERNARY NICKEL BASE ALLOYS | V. P. Calkins, J. A. McGurty, Cincinnati, Ohio and E. S. Funston, Hamilton, Ohio |
| 3,189,476 | METALLIZING PROCESS FOR CERAMICS | R. E. Cowan, Los Alamos, N.Mex. |
| 3,189,666 | METHOD OF PREPARING URANIUM DIOXIDE FUEL COMPACTS | R. P. Levey, Oak Ridge, and P. E. Trent, Norris, Tenn. |
| 3,189,817 | DEVICE FOR TESTING METAL SHEETS BY MEASURING THE TIME REQUIRED FOR ELECTROMAGNETIC PULSES TO PASS THERETHROUGH | C. J. Ranken, Orland Park, Ill. |
| 3,189,833 | VARIABLE TIME CONSTANT PULSE INTEGRATOR | C. W. Rodgers, Albuquerque, N. Mex. |
| 3,189,861 | ROTARY CONTACT | W. M. Cooper and J. A. Masters, Livermore, Calif. |
| 3,190,804 | METHOD FOR PRODUCING, SEPARATING AND PURIFYING PLUTONIUM | C. T. Seaborg, Chicago, Ill., J. W. Kennedy, Santa Fe, N. Mex. and A. C. Wahl, Berkeley, Calif. |
| 3,191,028 | SCANNING ELECTRON MICROSCOPE | A. V. Crewe, Palos Park, Calif. |
| 3,191,048 | LIGHT SENSITIVE ALARM SYSTEM | R. C. Cowen, Frederick, Md. |
| 3,191,092 | PLASMA PROPULSION DEVICE HAVING SPECIAL MAGNETIC FIELD | W. R. Baker, R. W. Layman and K. Halbach, Berkeley, Calif. |
| 3,191,662 | CONTINUOUS SOLUTION CONCENTRATOR | K. J. Schneider, Richland, Wash. |
| 3,191,792 | MEMBRANCE DOUBLE WALL INTERCONNECTED PRESSURE VESSEL | D. A. Hunt, Hawthorne, Calif. |
| 3,192,016 | XENON HEXAFLUORIDE AND METHOD OF MAKING | J. G. Malm, Naperville, Ill., I. Sheft, Oak Park, Ill., N. H. Classen, Wheaton, Ill. and C. L. Chernick, River Forest, Ill. |
| 3,192,054 | FOOD IRRADIATOR AND METHOD | O. A. Kuhl, Northport, N.Y. and A. B. Oltmann, Bayport, N.Y. |
| 3,192,069 | RADIOACTIVE ISOTOPE POWERED THERMOELECTRIC GENERATOR SYSTEM | J. H. Vogt, Manchester, Conn., C. H. Young and W. C. Reed, Baltimore, Md. |
| 3,192,122 | FUEL ELEMENT FOR A NUCLEAR REACTOR HAVING STACK OF THIN FUEL WAFERS SUBMERGED IN LIQUID METAL | L. R. Kelman, Naperville, Ill., and O. L. Kruger, Westmont, Ill. |
| 3,192,858 | ARMING DEVICE FOR AERIAL BOMBS | C. B. Crumb, Cincinnati, Ohio |
| 3,193,380 | URANIUM GALLIUM ALLOYS AND METHOD OF PREPARATION | W. D. Wilkinson, Maywood, Ill. and L. R. Kelman, Chicago, Ill. |
| 3,193,466 | NEUTRONIC REACTOR OPERATION | U. M. Staebler, Silver Spring, Md. |
| 3,193,467 | REACTOR CONTROL | L. A. Evans, Schenectady, N.Y. |
| 3,193,712 | HIGH VOLTAGE CABLE | C. A. Harris, Berkeley, Calif. |
| 3,194,293 | SHOCK ABSORBING CASTER WHEEL | E. J. Kindley, Albuquerque, N. Mex. |
| 3,194,701 | METHOD FOR FORMING P-N JUNCTIONS ON SEMICONDUCTORS | R. P. Lothrop, San Mateo, Calif. |
| 3,194,745 | URANIUM MONOSULFIDE-MONOCARBIDE NUCLEAR FUEL ELEMENT | J. H. Handwerk, G. D. White, Joliet, Ill. and P. D. Shalek, Champaign, Ill. |
| 3,194,937 | PORTABLE ELECTRIC WELDER | C. D. Brons, Richland, Wash., and W. W. Gaither and L. J. Rousseau, Kennewick, Wash. |
| 3,195,061 | RADIO FREQUENCY AMPLIFICATION BY STIMULATED EMISSION OF RADIATION | C. D. Jeffries, O. Chamberlain, C. H. Schultz and G. Shapiro, Berkeley, Calif. |
| 3,195,123 | ANALOGUE TO DIGITAL CONVERTER | H. I. West, Livermore, Calif. |
| 3,195,930 | DEVICE FOR COUPLING A CHARGING APPARATUS TO A REACTOR NOZZLE | R. J. Ascherl, Latina, Italy, E. T. Hubbard, Livermore, Calif., D. E. Kenner, Kennewick, Wash. and C. R. Oak, Richland, Wash. |
| 3,195,963 | STEPPED GAS BEARING | T. Anderson, Castro Valley, Calif. |



| | | |
|---|---|---|
| 3,195,977 | RECOVERY OF PLUTONIUM AND/OR URANIUM VALUES FROM AQUEOUS SOLUTIONS | A. R. Matheson, Ballston Lake, N.Y. |
| 3,195,984 | COLUMN DISSOLVER | A. E. Sands, Oak Ridge, Tenn. |
| 3,197,377 | REACTOR MONITORING MEANS | L. A. Ohlinger, Chicago, Ill. |
| 3,197,389 | METHOD FOR FABRICATING SELF-MODERATING NUCLEAR REACTOR FUEL ELEMENT | J. A. Dudek and E. L. Reed, Woodland Hills, Calif. |
| 3,197,693 | NON-DESTRUCTIVE EDDY CURRENT SUBSURFACE TESTING DEVICE PROVIDING COMPENSATION FOR VARIATION IN PROBE-TO-SPECIMEN SPACING AND SURFACE IRREGULARITIES | W. L. Libby, Richland, Wash. |
| 3,198,709 | NUCLEAR CONTROL ROD ASSEMBLY WITH IMPROVED DRIVING MECHANISM | J. W. Macomber, Bay Village, Ohio |
| 3,198,711 | THERMOELECTRIC NUCLEAR FUEL ELEMENT | J. O. McFarland, Kennewick, Wash. L. A. Pember, Pasco, Wash. J. A. Christensen, Pittsburgh, Pa. |
| 3,198,856 | METHOD OF FABRICATING A COMPOSITE NUCLEAR FUEL CORE ELEMENT | J. F. Hammond, Knoxville, Tenn. and T. D. Watts, Oak Ridge, Tenn. |
| 3,200,046 | NEUTRONIC REACTOR STRUCTURE | J. T. Carleton, Richland, Wash. |
| 3,200,491 | CLADDING PROCESS | D. E. Walker, Park Forest, Ill. and R. A. Noland, Chicago, Ill. |
| 3,201,082 | CORROSION RESISTANT SEALING STRUCTURE | R. Rosen, Elizabeth, N.J. |
| 3,201,191 | SEPARATION AND RECOVERY OF URANIUM FROM URANIUM-ALUMINUM ALLOYS | H. S. Gile, Richland, Wash. |
| 3,201,585 | MAGNETIC MOMENTUM ANALYZING SLIT WITH CURRENT CONDUCTING STRIPS SECURED TO THE MAGNETIC POLES | J. Ballam and En-Lung Chu, Palo Alto, Calif. |
| 3,201,586 | METHOD AND APPARATUS FOR RADIOACTIVE GAS ANALYSIS USING NEUTRONS OF TWO ENERGY LEVELS | R. T. Booth, New York, N.Y. |
| 3,202,465 | THRUST BEARINGS | R. C. Bushing, Pittsburgh, Pa. |
| 3,202,475 | METHOD FOR COLLECTING ZIRCONIUM TETRACHLORIDE | T. A. Gens, Oak Ridge, Tenn. |
| 3,202,476 | USE OF NICKEL ARSENIDES AND NICKEL TO PROMOTE PHASE SEPARATION IN LIQUID-LIQUID EXTRACTION | T. J. Collopy, W. S. Miller, Cincinnati, Ohio and J. H. Mueller, Fort Thomas, Ky. |
| 3,202,479 | SEPARATION OF RUTHENIUM FROM AQUEOUS SOLUTIONS | J. J. Katz, Chicago, Ill. |
| 3,202,506 | HIGH-TEMPERATURE OXIDATION-RESISTANT COBALT BASE ALLOYS | D. E. Deutsch, Walnut Creek, Calif. |
| 3,202,582 | GASEOUS NUCLEAR ROCKET | F. E. Rom, Avon Lake, Ohio |
| 3,202,585 | HIGH TEMPERATURE NIOBIUM-$UO_2$ NUCLEAR FUEL SHEET | H. F. Kling, Baltimore, Md., L. Sama, S. Priceman, Seaford, N.Y., B. Brodwin, Brooklyn, N.Y. and A. Kiss, New Rochelle, N.Y. |
| 3,202,586 | METHOD FOR CONTROLLING THE COMPOSITION OF URANIUM CARBIDE AND NUCLEAR FUEL ELEMENT THEREOF | B. A. Webb, Granada Hills, Calif. and M. R. Koenig, Citrus Heights, Calif. |
| 3,202,817 | POLYENERGETIC PARTICLE DEFLECTING SYSTEM | R. L. Belbeoch, Paris, France |
| 3,202,821 | FILM BADGE SYSTEM AND METHOD OF USING | L. F. Kocher, Richland, Wash. |
| 3,202,901 | TRANSISTORIZED REGULATED HIGH VOLTAGE SUPPLY | F. M. Glass, Norris, Tenn. |
| 3,202,951 | ALLOYS AND ELECTRICAL TRANSDUCERS | A. Krinsky, Bethesda, Md. |
| 3,205,139 | HIGH TEMPERATURE REACTOR WITH SPECIFIC DISTRIBUTION OF NON-1/v. ABSORBER AND FERTILE MATERIAL | H. B. Stewart, Rancho Santa, Fe. Calif. and E. J. Leshan, San Diego, Calif. |
| 3,205,141 | SIMULATED FUEL ASSEMBLY | J. M. Savino, Berea, Ohio and C. D. Lanzo, Rocky River, Ohio |
| 3,205,149 | FUSE DEVICE FOR A NUCLEAR REACTOR | G. V. Brynsvold, San Jose, Calif. and K. Hikido, Campbell, Calif. |
| 3,205,357 | SOLID STATE RADIATION DETECTOR | W. F. Lindsay, Santa Barbara, Calif. |







XUM 37 5 SEP 73 UNIV MICH

| | | |
|---|---|---|
| 3,206,624 | HYPERSONIC PLASMA THERMO-COUPLE | T. F. Cotter, Los Alamos, N. Mex. |
| 3,207,796 | PREPARATION OF NITROALKYL CHLORIDES | T. M. Benziger and R. K. Bohwer, Los Alamos, N. Mex. |
| 3,208,197 | DIFFUSION SEPARATION OF FLUIDS | F. E. Simon, Oxford, England, K. Fuchs and R. E. Faierla, Santa Fe, N. Mex. |
| 3,208,289 | ROTARY SHAFT CONSTRUCTION WITH DIAPHRAGM TYPE OF SEAL | E. Hutter, Chicago, Ill. and P. Elias, Bensenville, Ill. |
| 3,208,692 | TUG-TOW ARRANGEMENT FOR NUCLEAR AIRCRAFT | S. Bernstein, Oak Ridge, Tenn. |
| 3,208,773 | INSULATED TUBE COUPLING | W. E. Boudrie, Fairport, N.Y. |
| 3,208,817 | METHOD OF DISSOLVING PLUTONIUM WITH SULFAMIC ACID | W. J. Jenkins, N. Augusta, S.C. |
| 3,208,818 | METHOD FOR STABILIZING URANIUM MONOCARBIDE | R. F. Stoops and J. V. Hamme, Raleigh, N.C. |
| 3,208,819 | METHOD FOR DECONTAMINATING NUCLEAR FUELS CONTAINING RUTHENIUM COMPLEXES | R. M. Wallace, Aiken, S.C. |
| 3,208,848 | ALUMINA-COBALT-GOLD COMPOSITION | R. F. Levey, Oak Ridge, Tenn. |
| 3,208,870 | CARBIDE COATINGS FOR GRAPHITE | F. F. Criss, Los Alamos, N.Mex. |
| 3,208,872 | CARBIDE COATINGS AND GRAPHITE | C. Wohlberg, and F. F. Criss, Los Alamos, N.Mex. |
| 3,208,883 | HYDROGEN-HYDRIDE CELL | C. E. Crouthamel, Glen Ellyn, Ill. and R. R. Heinrich, Downers Grove, Ill. |
| 3,208,912 | NUCLEAR REACTOR FUEL MANAGEMENT METHOD | S. Jaye, Solana Beach, Calif. and D. H. Lee, Jr. Del Mar, Calif. |
| 3,208,916 | FUEL ELEMENT FOR A NUCLEAR REACTOR | R. J. Hennig and D. T. Asse, Richland, Wash. |
| 3,209,281 | METHOD AND APPARATUS FOR DYNAMIC PINCH PULSE MASER PUMPING | S. A. Colgate, Livermore, Calif. and A. W. Trivelpiece, Lafayette, Calif. |
| 3,210,852 | UNILINEAR DISPLACEMENT MEASURING APPARATUS | H. V. Herndon, Richland, Wash. |
| 3,211,478 | ALUMINUM FOIL ULTRA-HIGH VACUUM GASKET SEAL | T. H. Batzer, Livermore, Calif. |
| 3,211,526 | RECOVERY OF SULFURIC ACID FROM AN AQUEOUS SOLUTION CONTAINING METAL VALUES BY EXTRACTION WITH TERTIARY AMINES | D. J. Crouse, Oak Ridge, Tenn. |
| 3,211,602 | POLYTRIFLUOROCARBON ADHESIVE COMPRISING AN ALPHA-CARBOXY-METHYLACRYLATE COPOLYMER REACTED WITH AN EPOXY AND A POLY-AMINO-POLYAMIDE RESIN | H. R. Horstman, Los Alamos, N. Mex. |
| 3,211,628 | COATED METALLIC-URANIUM ARTICLE AND METHOD OF MAKING | L. D. Eubank, South Euclid, Ohio |
| 3,211,664 | URANIUM MONONITRIDE FUEL AND METHOD OF MAKING | R. W. Endebrock, Columbus, Ohio |
| 3,211,812 | METHOD OF MAKING NUCLEAR FUEL COMPACT | D. E. Johnson, Cardiff, Calif. and F. H. Lofftus, Del Mar, Calif. |
| 3,211,884 | CANNING MACHINE | E. R. Boller, Marion, Ind. |
| 3,211,937 | CARBON-COATED ELECTRO-TRANSMISSION WINDOW | R. E. Hester, San Lorenzo, Calif. W. A. Sherwood, Livermore, Calif. |
| 3,212,035 | MICROWAVE WAVEGUIDE COUPLING SEAL | K. Skarpaas, Palo Alto, Calif. |
| 3,212,036 | ALL-METAL WAVEGUIDE VACUUM GATE VALVE | K. Skarpaas, Palo Alto, Calif. |
| 3,212,940 | METHOD FOR PRODUCING P-I-N SEMICONDUCTORS | J. L. Blankenship, Knoxville, Tenn. |
| 3,212,975 | METHOD OF CONTROLLING A NUCLEAR REACTOR | J. F. Fletcher, Kennewick, Wash. and K. G. Toyoda, Pasco, Wash. |
| 3,212,982 | FAST FUEL TEST REACTOR | E. R. Astley, R. J. Hennig, Richland, Wash. and L. M. Finch, Pasco, Wash. |
| 3,212,986 | THREE TANK SEPARATE SUPERHEAT REACTOR | R. T. Pennington, San Jose, Calif. |
| 3,212,987 | NEUTRONIC REACTOR WITH INTERLOCKING DIFFUSER END GRID | A. Mason, Birmingham, Mich. |



| | | |
|---|---|---|
| 3,212,991 | CONTINUOUS SUPPORT FUEL ROD SPACER SYSTEM | G. V. Brynsvold and W. A. Sangster, San Jose, Calif. |
| 3,213,002 | ELECTROLYTIC SEPARATION OF PLUTONIUM VALUES FROM URANIUM VALUES | G. E. Benedict, Richland, Wash. |
| 3,213,032 | PROCESS FOR SINTERING URANIUM NITRIDE WITH A SINTERING AID DEPRESSANT | J. F. Hammond, Knoxville, Tenn. |
| 3,213,161 | PROCESS FOR FORMING A URANIUM MONONITRIDE-URANIUM DIOXIDE NUCLEAR FUEL | R. A. Craig, W. Hartford, Conn. |
| 3,213,162 | METHOD OF MAKING NUCLEAR FUEL COMPACT | D. E. Johnson, Cardiff, Calif. and F. H. Lofftus, Del Mar, Calif. |
| 3,213,163 | FABRICATION OF SHAPES BY PNEUMATIC IMPACTION | D. W. Brite and K. R. Sump, Richland, Wash. |
| 3,312,379 | ABSORPTION OF ENERGY BY ROTATING DISCS IN PARTICLE BEAM DEFLECTOR | R. J. Burleigh, Berkeley, Calif. and R. Peters, Lafayette, Calif. |
| 3,214,833 | CERAMIC TO METAL BONDING PROCESS | G. F. Erickson, Los Alamos, N.Mex. |
| 3,215,569 | METHOD FOR INCREASING THE CRITICAL CURRENT OF SUPERCONDUCTING ALLOYS | G. D. Knolp, J. O. Betterton, Oak Ridge, Tenn., J. O. Scarbrough and D. S. Easton, Lenoir City, Tenn. |
| 3,215,606 | NUCLEAR REACTOR WITH EMERGENCY COOLANT CROSS FLOW | A. G. Silvester, Los Gatos, Calif. |
| 3,215,607 | MULTI-REGION NEUTRONIC FUEL ELEMENT | M. Lackey, Oak Ridge, Tenn. |
| 3,215,608 | NUCLEAR REACTOR CORE CLAMPING SYSTEM | R. W. Guenther, San Jose, Calif. |
| 3,216,101 | RANGE INDICATING SYSTEM | C. W. Roeschke, Albuquerque, N. Mex. |
| 3,216,174 | APPARATUS FOR CANNING NUCLEAR REACTOR FUEL ELEMENTS | D. Nicoll, La Jolla, Calif., and J. L. Hedgecock, Encinitas, Calif. |
| 3,216,806 | OXIDATION RESISTANT COATINGS ON NIOBIUM | H. Bender, Albertson, N.Y., L. Sama, Seaford, N.Y. and H. F. Kling, Baltimore, Md. |
| 3,216,851 | COATING FOR COLUMBIUM | S. Baranow, Euclid, Ohio and R. C. Lever, Anchorage, Ky. |
| 3,216,903 | MOUNTING OF FUEL TUBE IN REACTOR SHIELDING | J. L. Bunch, Richland, Wash. |
| 3,217,199 | HOMOPOLAR GENERATOR | E. E. Mussat, Chicago, Ill. |
| 3,217,322 | F. M. RADAR SYSTEM | L. J. Kabell, Albuquerque, N. Mex. and C. W. Roeschke, Palo Alto, Calif. |
| 3,217,471 | DIFFUSION BOARD FOR FILTERING HIGH PRESSURE GASES | L. Silverman, Dover, Mass. |
| 3,217,591 | ANGLED PLATE SCANNING INTERFEROMETER | W. L. Barr and A. L. Gardner, Livermore, Calif. |
| 3,218,123 | RECOVERY OF STRONTIUM VALUES FROM SULFATE-CONTAINING WASTE SOLUTIONS | W. Davis and W. C. Yee, Oak Ridge, Tenn. |
| 3,218,160 | REGENERATION OF NUCLEAR FUEL | J. B. Knighton, Joliet, Ill., N. M. Feder, Park Forest, Ill. and R. K. Steunenberg, Naperville, Ill. |
| 3,218,235 | METHOD AND APPARATUS FOR PRODUCING A MAGNETICALLY CONFINED HOT DENSE PLASMA | A. W. Ehler, Los Angeles, Calif. |
| 3,218,781 | ELECTROSTATIC APPARATUS FOR REMOVAL OF DUST PARTICLES FROM A GAS STREAM | R. T. Allemann, R. L. Moore and U. L. Upson, Richland, Wash. |
| 3,218,845 | ULTRASONIC INSPECTION METHOD FOR INACCESSIBLE PIPE AND TUBING | D. Worlton, Richland, Wash. |
| 3,219,408 | CHEMICAL DISINTEGRATION AND RECOVERY OF URANIUM FROM SINTERED GRAPHITE URANIUM COMPACTS | M. J. Bradley, Oak Ridge, Tenn. and L. M. Ferris, Knoxville, Tenn. |
| 3,219,441 | PROCESS OF PREPARING THORIUM METAL FROM THE OXIDE | J. B. Knighton, Joliet, Ill. and A. V. Hariharan, Bombay, India |
| 3,219,474 | PROTECTIVE COATINGS FOR COLUMBIUM AND ITS ALLOYS | S. Priceman and L. Sama, Seaford, N.Y. |
| 3,219,477 | OXIDATION RESISTANT COATINGS FOR COLUMBIUM AND COLUMBIUM ALLOYS | J. Grubessich, Astoria, N.Y. and L. Sama, Seaford, N.Y. |





XUM 37 5 SEP 1973 V3811-1

| | | |
|---|---|---|
| 3,219,534 | PLASMA CONFINEMENT APPARATUS EMPLOYING A HELICAL MAGNETIC FIELD CONFIGURATION | H. P. Furth, Berkeley, Calif. |
| 3,219,535 | NUCLEAR REACTOR CONTROL MEANS | T. R. Tobbins, Beltesville, Md. |
| 3,219,541 | METHOD OF PREVENTING CARBURIZATION OF FUEL ELEMENT CLADDING METALS BY URANIUM CARBIDE FUELS | B. A. Webb, Granada Hills, Calif. |
| 3,219,236 | METHOD FOR PRODUCING HYDROSTATIC PRESSURE | E. A. Stisser, Pleasanton, Calif. |
| 3,219,276 | SWITCH ACTUATOR MECHANISM | S. Yerkovich, Los Angeles, Calif. |
| 3,219,825 | SOLID STATE DETECTION SYSTEM WITH LOW NOISE AMPLIFICATION | R. H. Canham, Glastonbury, Conn. |
| 3,219,849 | FISSION ELECTRIC GENERATOR | W. F. Krieve, Altadena, Calif. |
| 3,221,987 | TURBOCIRCULATOR | J. S. Yampolsky, San Diego, Calif. |
| 3,222,018 | LEAK VALVE | J. T. Green, Orlando, Fla. |
| 3,222,125 | DISSOLUTION OF NUCLEAR ALUMINUM-BASE FUEL | W. W. Schulz, Richland, Wash. |
| 3,222,144 | POLYCELLULAR TUBULAR GRID STRUCTURES AND METHOD OF MANUFACTURE | D. E. Davenport, Palo Alto, Calif. |
| 3,222,289 | DISSOLUTION OF ZIRCONIUM IN TITANIUM EQUIPMENT | W. E. Clark and T. A. Gens, Oak Ridge, Tenn. |
| 3,222,526 | PHOTOSENSITIVE LIGHT BEAM LOCATION INFORMATION DEVICE | J. V. Franck and P. S. Broadhead Lafayette, Calif. |
| 3,222,559 | PRODUCTION OF COMPLETELY IONIZED PLASMA | I. Alexeff, Oak Ridge, Tenn. and R. V. Neidigh, Knoxville, Tenn. |
| 3,222,670 | DATA PROCESSING | A. Harel, Framingham, Mass. |
| 3,223,598 | METHOD OF DETERMINING THE ADHESION OF METAL PLATING | G. F. Jacky, R. Sorenson, D. W. Shannon, Richland, Wash. and W. E. Tragert, Scotia, N.Y. |
| 3,224,615 | CRANE DEVICE WITH AN EXTENSIBLE GRIPPER MECHANISM | J. Henry (Deceased) |
| 3,224,665 | DIFFUSION PUMP | M. Milleron, Berkeley, Calif. and L. L. Levenson, Livermore, Calif. |
| 3,229,996 | DISCONNECTABLE TUBE COUPLING | J. J. Cadwell, San Diego, Calif. |
| 3,230,036 | METHOD FOR SEPARATING AMERICIUM AND CURIUM FROM THE LANTHANIDE RARE EARTHS AND YTTRIUM | F. A. Kappelmann and B. S. Weaver, Oak Ridge, Tenn. |
| 3,230,145 | APPARATUS FOR MAGNETICALLY CONFINING A PLASMA | H. P. Furth, Berkeley, Calif. and M. N. Rosenbluth, San Diego, Calif. |
| 3,230,146 | NUCLEAR REACTOR CORE HAVING MEANS FOR VARYING INCLINATION OF FUEL ASSEMBLIES | E. R. Astley, Richland, Wash. and L. M. Finch, Pasco, Wash. |
| 3,230,147 | METHOD AND APPARATUS FOR CONTROLLING REACTIVITY OF NUCLEAR REACTOR | A. J. M. Hitchcock, Dorchester, Dorset, England |
| 3,230,150 | METAL-CLAD FUEL ELEMENT WITH COPPER FOIL INTERLAYER | W. R. Martin, and J. R. Weir, Oak Ridge, Tenn. |
| 3,230,151 | FUEL ELEMENT FOR A NUCLEAR REACTOR | L. E. Mills, Normal, Ill, J. J. Hauth, C. H. Bloomster and D. F. Carroll, Richland, Wash. |
| 3,230,152 | COMPARTMENTED NUCLEAR REACTOR FUEL ROD AND METHOD OF MAKING | F. Kerze, Bethesda, Md. |
| 3,230,364 | SURFACE AREA MEASUREMENTS | J. T. Clarke, Stony Brook, N.Y. |
| 3,230,369 | RADIATION DOSIMETER SYSTEM USING CADMIUM-BACKED COPPER FOIL | L. J. Carr, R. D. Hiebert, E. R. Ballinger, Los Alamos, N. Mex., P. S. Harris and J. N. Larkins, Santa Fe, N.Mex. |
| 3,230,372 | NUCLEAR RADIATION DETECTOR WITH CONTROL GRID | H. P. Spracklen, Castro Valley, Calif. |
| 3,230,374 | RADIOACTIVE RADIATION EMITTING SOURCES | L. V. Jones, Miamisburg, Ohio, F. A. Tucker and L. J. Wittenberg, Dayton, Ohio |
| 3,230,418 | DEVICE HAVING HIGH-GRADIENT MAGNETIC CUSP GEOMETRY | R. A. Dandl, Oak Ridge, Tenn. and R. J. Kerr, Knoxville, Tenn. |
| 3,234,780 | TEMPERATURE COMPENSATED CONDENSATION PRESSURE ANALYZER | W. S. Pappas, Oak Ridge, Tenn. |
| 3,237,821 | GLOVE CHANGING APPARATUS AND METHOD | R. E. Hayne and J. R. Owen, Boulder, Colo. |





| | | |
|---|---|---|
| 3,238,014 | RECOVERY OF URANIUM AND PLUTONIUM VALUES FROM AQUEOUS SOLUTIONS OF AMMONIUM FLUORIDE | T. A. Gens, Oak Ridge, Tenn. |
| 3,239,105 | FUEL ELEMENT ASSEMBLY FOR A NUCLEAR REACTOR | M. J. McNelly, San Jose, Calif. |
| 3,238,288 | HIGH TEMPERATURE FURNACE | J. C. McGuire, White Rock, N.Mex. and D. D. Bowdish, Espanola, N. Mex. |
| 3,238,321 | EXPLOSIVE ACTUATED SWITCH IN WHICH CONTACT PIERCES NON-CONDUCTOR | R. C. Lawvill and H. L. Anderson, Albuquerque, N.Mex. |
| 3,238,370 | AUTOMATIC CORRECTION OF NUCLEAR INSTRUMENT TO COMPENSATE FOR NEUTRON ATTENUATION | J. V. Leeds, Pittsburgh, Pa. |
| 3,238,406 | RUGGEDIZED PHOTOIODIDE TUBE WITH SEMICYLINDRICAL CATHODE AND ANODE OF ELONGATED CROSS-SECTION | A. L. Grelich, Livermore, Calif. and M. R. McCraven, Palo Alto, Calif. |
| 3,238,414 | HIGH OUTPUT DUOPLASMATRON-TYPE ION SOURCE | G. G. Kelley, Kingston, Tenn. and O. B. Morgen, Oak Ridge, Tenn. |
| 3,238,437 | REGENERATION OF EMF CELLS HAVING MOLTEN METAL ELECTRODES AND A FUSED SALT ELECTROLYTE | M. S. Foster, Naperville, Ill. and C. E. Crouthamel, Glen Ellyn, Ill. |
| 3,238,453 | APPARATUS FOR MEASURING THE DIELECTRIC CONSTANT OF OIL UTILIZING AN ACTIVE FILTER COUPLED TO A TUNED OSCILLATOR | J. J. Henry, H. W. Johnson and J. B. Hankin, Oak Ridge, Tenn. |
| 3,238,574 | SEAL | T. H. Fields, Evanston, Ill., K. B. Martin, Joliet, Ill., E. G. Fewitt, Hinsdale, Ill. and J. G. Petkovich, Oakmont, Pa. |
| 3,238,797 | SLIP CAM ARRANGEMENT | K. D. Coughren, Richland, Wash. |
| 3,239,334 | COLUMBIUM BRAZING ALLOY | C. A. Javorsky, Los Alamos, N. Mex. and J. S. Howe, Albany, Ore. |
| 3,239,335 | DUCTILE BINARY CHROMIUM ALLOY | O. N. Carlson, F. A. Schmidt and L. L. Sherwood, Ames, Iowa |
| 3,239,667 | METHOD FOR DETERMINING THE NEUTRON FLUX ABOVE THE U-238 THRESHOLD ENERGY LEVEL | E. Roberts, Rockwood, Tenn. and J. W. Weehter, Oak Ridge, Tenn. |
| 3,239,751 | HIGH VOLTAGE RESISTOR ASSEMBLY HAVING IMPROVED CORONA SHIELDING | T. W. Sibary, Orinda, Calif. |
| 3,241,188 | PRESSURE INTENSIFIER | F. P. Febbo, R. P. Levey, and H. A. Pohto, Oak Ridge, Tenn. |
| 3,241,230 | DIFFUSION BONDING OF TUNGSTEN TO TUNGSTEN | E. I. Batista, G. S. Hanks, Los Alamos, N.Mex. and D. J. Murphy, Tucson, Ariz. |
| 3,241,955 | HIGHLY DENSIFIED AND MACHINABLE TUNGSTEN-IRON-NICKEL ALLOY | A. C. Neeley, Oak Ridge, Tenn. |
| 3,242,863 | EXPLOSIVE LINE WAVE GENERATOR | D. H. Gipson, Pleasant Hill, Calif. |
| 3,243,105 | SYSTEM FOR SEPARATING PARTICULATE SUBSTANCES BY REORIENTING GRADIENTS | M. G. Anderson, Oak Ridge, Tenn. |
| 3,243,254 | METHOD FOR EXTRACTING LANTHANIDES AND ACTINIDES | T. H. Siddall, Aiken, S.C. |
| 3,243,257 | RECOVERY OF URANIUM AND ZIRCONIUM FROM AQUEOUS FLUORIDE SOLUTIONS | C. F. Coleman, Oak Ridge, Tenn. |
| 3,243,280 | METHOD OF REMOVING HYDROGEN FROM LIQUID ALKALI METALS | E. G. Bohlmann, Concord, Tenn. and E. L. Compere, Knoxville, Tenn. |
| 3,243,349 | CARBON-COATED METAL CARBIDE PARTICLES FOR NUCLEAR REACTOR USE | W. V. Goeddel, Poway, Calif. |
| 3,243,350 | CLAD ALLOY FUEL ELEMENTS | B. Lustman and R. K. McCeary, Pittsburgh, Pa. |
| 3,243,351 | STEAM PRODUCING REACTOR AND FUEL THEREFOR | K. W. Campbell, D. H. Imhoff, R. T. Pennington and J. M. Roberts, San Jose, Calif. |
| 3,243,493 | METHOD AND APPARATUS FOR INDUCTION MELTING | R. F. Bunshah, Livermore, Calif. and R. S. Juntz, Hayward, Calif. |
| 3,243,590 | THERMOLUMINISCENT RADIATION DOSIMETER AND INTEGRAL HEATER | A. H. Foreman, Danville, Calif., J. R. Cackill, Livermore, Calif., W. A. Phillips and R. D. Taylor, Walnut Creek, Calif. |
| 3,243,613 | PANCAKE REACTOR | G. M. Grover, Los Alamos, N.Mex. |



XUM 37 5 SEP 73 ANN ARBOR MICH

| | | |
|---|---|---|
| 3,243,715 | TWO-GAS MASER OF IMPROVED EFFICIENCY AND POWER LEVEL | T. A. Welton, Oak Ridge, Tenn. |
| 3,245,114 | POWDER ROLLING OF TUNGSTEN AND ITS ALLOYS | T. J. Ready, H. D. Lewis, Los Alamos, N.Mex. and J. E. Hockett, Espanola, New Mex. |
| 3,245,118 | ELECTRICAL LEAD-THROUGH FOR PRESSURE INTENSIFIER | A. E. Smith, Clinton, Tenn. |
| 3,245,119 | ELECTRICAL LEAD-THROUGH FOR PRESSURE INTENSIFIER | R. L. Huddleston, Knoxville, Tenn. |
| 3,245,120 | ELECTRICAL LEAD-THROUGH FOR PRESSURE INTENSIFIER | R. F. Levey, Oak Ridge, Tenn. |
| 3,245,268 | WATER SAMPLER | F. S. Archibald, Pleasanton, Calif. |
| 3,246,153 | CALORIMETER CAPABLE OF SEPARATELY DETERMINING NEUTRON ENERGY ABSORPTION AND GAMMA ENERGY ABSORPTION | W. B. Lewis, Idaho Falls, Idaho |
| 3,246,196 | METHOD AND MEANS FOR IMPROVING THE ELECTRON EMISSION FROM A REFRACTORY CONDUCTING MATERIAL | R. L. Aamodt, Santa Fe, N.Mex., L. J. Brown and B. O. Nichols, Los Alamos, N.Mex. |
| 3,246,272 | POTTED ELECTRICAL COIL AND HAIR-LIKE LEAD WIRE ASSEMBLY | T. A. Wiley, Overland Park, Kan. |
| 3,249,395 | GAS-SOLIDS REACTION SYSTEM | R. F. Levey, Oak Ridge, Tenn. |
| 3,249,429 | TANTALUM BRAZING ALLOY | C. E. Armantrout, Corvallis, Ore., J. S. Howe, Albany, Ore. and C. A. Javorsky, Los Alamos, N.Mex. |
| 3,249,509 | NUCLEAR FUEL PARTICLES COATED WITH MIXTURE OF PYROLYTIC CARBON AND SILICON CARBIDE | J. M. Blocher, Columbus, Ohio |
| 3,249,800 | FAST ACTING SWITCH UTILIZING A VAPORIZABLE WIRE | M. J. Huber, Weehawken, N.J. |
| 3,250,590 | PREPARATION OF ACTINIDE MONOCARBIDE | K. J. Patkus, Chicago, Ill. and A. D. Tevebaugh, Hinsdale, Ill. |
| 3,250,842 | ELECTRON BEAM ZONE REFINING | T. Hikido, Sunnyvale, Calif. |
| 3,251,337 | SPIRAL FLUIDIZED BED DEVICE AND METHOD FOR COATING PARTICLES | R. E. Latta, Maineville, Ohio and E. E. Funston, Fairfield, Ohio |
| 3,251,645 | METHOD FOR PROCESSING ALUMINUM-CONTAINING NUCLEAR FUELS | C. E. Guthrie, Oak Ridge, Tenn. |
| 3,252,046 | NANOSECOND PULSE LIGHT SOURCE | Q. A. Kerns, Orinda, Calif., C. C. Cox, Walnut Creek, Calif., T. E. Innes, Fullerton, Calif. and W. S. Flood, Pleasant Hill, Calif. |
| 3,252,271 | PARTICLE FILTER | L. F. Hatch, Brookhaven, N.Y., J. J. Reilly, Bellport, N.Y. and S. J. Wachtel, Rocky Point, N.Y. |
| 3,252,867 | LONG LIFETIME NUCLEAR REACTOR | G. H. Conley, Pittsburgh, Pa. |
| 3,255,086 | NUCLEAR REACTOR CONTROL SYSTEM | A. J. M. Hitchcock, Lymm, England |
| 3,257,284 | METHOD OF CONTROLLING PLASMA STABILITY | R. F. Post, Walnut Creek, Calif. |
| 3,257,560 | NEUTRON COLLIMATOR WITH SURFACE COATINGS TO SUPPRESS NEUTRON REFLECTOR | I. R. Jones, Livermore, Calif. |
| 3,257,571 | POWER GENERATOR | C. R. Jones, Canoga Park, Calif. |
| 3,257,577 | PHASING OF MULTISECTION LINEAR ACCELERATORS BY ALTERNATELY TURNING ON AND OFF APPROPRIATE ELECTROMAGNETIC DRIVERS | G. A. Loew, Palo Alto, Calif. |
| 3,257,688 | METAL SHAPES HAVING INCREASED COMPRESSIVE STRENGTHS | R. F. Levey, Oak Ridge, Tenn. |
| 3,258,315 | MONOALKYL PHOSPHORIC ACID EXTRACTION OF CESIUM AND STRONTIUM VALUES | J. M. Schmitt, Oak Ridge, Tenn. |
| 3,258,429 | DECONTAMINATION SOLUTION AND METHOD | R. D. Weed, Richland, Wash. |
| 3,258,467 | EXTRACTION AND PURIFICATION OF CHLOROPHYLL | A. F. H. Anderson, and M. Calvin, Berkeley, Calif. |
| 3,258,728 | ELECTRICAL COIL AND LEAD WIRE ASSEMBLY | J. A. Peters, T. A. Wiley, Overland Park, Mo. and J. H. Lynch, Garden City, Mo. |
| 3,259,470 | APPARATUS FOR MANUFACTURING SHAPES OF URANIUM CARBIDE | F. Hofmann, Upper Bavaria, Germany and L. Schafer, Klein Auheim, Germany |



| | | |
|---|---|---|
| 3,259,473 | DISSOLUTION OF PLUTONIUM | H. H. Hopkins, R. S. Kingsley, Richland, Wash. and E. L. Conner, Yakima, Wash. |
| 3,259,745 | BORON-12 BETA DECAY NEUTRON DETECTOR | G. F. Garlick, Kennewick, Wash. and W. L. Bunch, Richland, Wash. |
| 3,259,766 | THERMIONIC NUCLEAR REACTOR | E. S. Beckjord, Pittsburgh, Pa. F. J. Fellows and R. R. Hobson, San Jose, Calif. |
| 3,260,381 | APPARATUS AND METHOD FOR TRANSFERRING OBJECTS INTO A CONDITIONED ATMOSPHERE | R. M. Wagner and G. K. Ford, Knoxville, Tenn. |
| 3,260,466 | FISSILE FUEL RECOVERY PROCESS | J. I. Wagner, Huntington, N.Y., R. M. Singer, D. G. Schweitzer, East Islip, N.Y. and H. M. Katz, Fort Jefferson, N.Y. |
| 3,260,574 | PYROLYTIC CARBON DECLADDING | L. F. Hatch, Brookhaven, N.Y., J. J. Reilly, Bellport, N.Y. and E. Wirsing, Mattituck, N.Y. |
| 3,260,575 | SINGLE STEP PROCESS FOR PREPARATION OF URANIUM DIOXIDE FROM URANIUM HEXAFLUORIDE | R. L. Heestand and C. F. Leitten, Oak Ridge, Tenn. |
| 3,260,649 | NUCLEAR REACTORS | J. B. Nims, Royal Oak, Mich., R. S. Miller, Brookfield, Wis. R. G. Palmer, Idaho Falls, Idaho, W. H. Jens, Grosse Point, Mich., M. C. Edlund, Lynchburg, Va., H. S. Bairdinger, Rustburg, Va., J. K. Davidson and C. E. Klotz, Silver Spring, Md. |
| 3,260,650 | REFLECTOR AND COOLANT SEALING STRUCTURE FOR GAS COOLED NUCLEAR REACTOR | W. A. Kalk, Poway, Calif. and J. F. Petersen, San Diego, Calif. |
| 3,260,844 | CALUTRON WITH MEANS FOR REDUCING LOW FREQUENCY RADIO FREQUENCY SIGNALS IN AN ION BEAM | E. D. Shipley, Knoxville, Tenn., O. C. Yonts and A. M. Veach, Oak Ridge, Tenn. |
| 3,260,869 | METHOD FOR REVERSIBLY EXTRACTING ENERGY FROM A PLASMA BY MAGNETIC PUMPING | L. S. Hall, Livermore, Calif. |
| 3,261,199 | ISOKINETIC SAMPLING APPARATUS | G. S. Raynor, Manorville, N.Y. |
| 3,261,378 | METHOD AND APPARATUS FOR VIBRATORY COMPACTION | J. E. Ayer, Joliet, Ill., and F. E. Soppet, Calumet Park, Ill. |
| 3,261,483 | ADAPTER VALVE | P. T. Calabretta, Fort Chester, N.Y. |
| 3,261,747 | STABILIZED IODINE LABELED 2'-DEOXY-5-IODOURIDINE | S. L. Commerford, Shirley, N.Y. |
| 3,261,756 | EMBOSSED CLADDING FUEL ELEMENT AND MANUFACTURING PROCESS THEREFOR | C. C. Ripley, San Jose, Calif. |
| 3,261,757 | NUCLEAR FUEL ELEMENT | M. Steinberg, Huntington Station, N.Y., G. Farber, Elmont, N.Y. and D. H. Gurinsky, Center Moriches, N.Y. |
| 3,261,760 | QUICK OPENING LATCH AND ANTI-VIBRATION LOCK FOR NUCLEAR REACTOR SAFETY ROD | R. E. Manoil, Idaho Falls, Idaho |
| 3,262,280 | LEVEL CONTROL FOR CRYOGENIC LIQUID | R. L. Chaney, San Leandro, Calif. |
| 3,262,756 | METHOD FOR ANALYZING INERT GAS FOR PRESENCE OF OXYGEN OR WATER VAPOR | G. W. Keilholtz, Knoxville, Tenn. and C. C. Webster, Oak Ridge, Tenn. |
| 3,262,760 | METHOD OF PREPARING HIGH DENSITY, COMPACTIBLE URANIUM DIOXIDE PARTICLES | L. E. Morse, Oak Ridge, Tenn., K. H. McCorkle, Powell, Tenn. and C. E. Schilling, Knoxville, Tenn. |
| 3,262,856 | FUSED-SALT-FUELED, MOLTEN METAL-COOLED POWER BREEDER REACTOR SYSTEM | E. S. Bettis, Knoxville, Tenn. |
| 3,262,859 | ORDERED BED NUCLEAR FUEL ASSEMBLIES | W. E. Winsche, Bellport, N.Y. |
| 3,262,885 | FISSION-PRODUCTS-CONTAINING COMPOSITION AND PROCESS OF MAKING | P. R. Rushbrook, Richland, Wash. |
| 3,263,004 | PROCESS OF MAKING A SINTERED, HOMOGENEOUS DISPERSION OF NUCLEAR FUEL AND BURNABLE POISON | C. H. Bean, Naperville, Ill. |
| 3,263,136 | HIGH ENERGY ACCELERATOR MAGNET STRUCTURE | H. S. Gordon, Orinda, Calif. |
| 3,263,145 | HIGH CURRENT REVERSING SWITCH | W. L. Dexter, Orinda, Calif. |





XUM 37 5 SEP 1973 NUCLEAR SCIENCE ABSTRACTS

| | | |
|---|---|---|
| 3,264,070 | REMOVAL OF ACTINIDE HALIDES FROM ALUMINA | D. Ramaswami, Westmont, Ill., W. M. Levitz, Bellwood, Ill., and A. A. Jonke, Elmhurst, Ill. |
| 3,264,073 | NOVEL METAL MICROSPHERES AND THEIR MANUFACTURE | C. R. Schmitt, Oak Ridge, Tenn. |
| 3,264,189 | POOL-TYPE NUCLEAR REACTOR WITH IMPROVED LIQUID SHIELD ARRANGEMENT | J. J. Begimbal, Richland, Wash. |
| 3,264,192 | MULTI-SECTION CONTROL ROD WITH THERMAL EXPANSION JOINT | E. A. Wimmer, Downers Grove, Ill. |
| 3,264,223 | URANIUM MONOSULFIDE-URANIUM-MONOPHOSPHIDE SOLID SOLUTIONS | Y. Baskin, Chicago, Ill. and F. D. Shalek, Champaign, Ill. |
| 3,264,379 | METHOD OF BOUNDING ACTINIDE OXIDE GEL PARTICLES | R. L. Hammer, Oak Ridge, Tenn. and W. H. Smith, Knoxville, Tenn. |
| 3,264,568 | ELECTRON LINEAR ACCELERATOR PHASING METHOD INVOLVING ALTERNATELY TURNING ON AND TURNING OFF THE ELECTROMAGNETIC DRIVER OF THE SECTION BEING PHASED | B. J. Geers, Belmont, Calif. R. B. Neal, Menlo Park, Calif. K. S. Mallory, Palo Alto, Calif. |
| 3,264,871 | MAGNETIC RECORDING READOUT FOR FLOWMETER | J. C. Boynton, North Hollywood, Calif. |
| 3,264,912 | PRECISION LATHES | W. M. Hovis, Kingston, Tenn. and E. E. Palmer, Knoxville, Tenn. |
| 3,265,152 | UNDERWATER REACOW | I. E. Kass, Baltimore, Md. |
| 3,265,583 | APPARATUS FOR PRODUCING AND PURIFYING PLASMA | W. R. Baker, Orinda, Calif. and K. Reibock, Berkeley, Calif. |
| 3,265,602 | METHOD OF PRODUCING HYDRAZINE | M. Steinberg, Huntington Station, N.Y., J. Prugansky, East Islip, N.Y. and H. Kramer, Bayside, N.Y. |
| 3,265,627 | ADDITION OF LITHIUM VALUES IN CONVERSION OF FISSION-PRODUCT WASTES TO A GLASS-LIKE SOLID FOR DISPOSAL | W. E. Clark, Oak Ridge, Tenn. C. L. Fitzgerald and G. D. Davis, Kingston, Tenn. |
| 3,265,967 | MICROWAVE PLASMA DENSITY MEASUREMENT SYSTEM | M. A. Heald, Swarthmore, Pa. |
| 3,265,996 | COMPACT HIGH VOLTAGE TRANSFORMER HAVING MORE UNIFORM EQUIPOTENTIAL LINE SPACING | C. W. Park, Oakland, Calif. |
| 3,266,095 | PRESSURE VESSEL SEAL | R. L. Huddleston, Knoxville, Tenn. and R. F. Levey, Oak Ridge, Tenn. |
| 3,266,790 | CUSHIONING MEDIA | R. G. Bradeen, Castro Valley, Calif. |
| 3,266,928 | OXIDATION-RESISTANT COATING ON ARTICLES OF YTTRIUM METAL | D. R. Wilder, and C. D. Wirkus, Ames, Iowa |
| 3,266,948 | CARBIDE DEPOSITION ON TANTALUM | J. C. McGuire, White Rock, N.Mex. |
| 3,266,998 | DOPPLER COEFFICIENT CONTROL FOR NUCLEAR REACTORS OPERATING IN THE FAST OR INTERMEDIATE NEUTRON ENERGY SPECTRUM | F. Greebler, San Jose, Calif. |
| 3,266,999 | GAS-COOLED, WATER MODERATED NEUTRONIC REACTOR | R. E. Wood, Idaho Falls, Idaho and W. E. Niemuth, Loveland, Ohio |
| 3,267,001 | MODERATOR REFLECTOR FAST NEUTRON REACTOR CORE | F. Greebler, San Jose, Calif. |
| 3,267,002 | METHOD FOR CONTROLLING A NUCLEAR REACTOR | L. W. Fromm, Glen Ellyn, Ill. and C. N. Kelber, Wheaton, Ill. |
| 3,267,134 | GLYCOL ESTERS OF DIFLUORO-NITROACETIC ACID | E. R. Bissell, Alamo, Calif. |
| 3,267,307 | MAGNETICALLY CHANNELED PLASMA DIODE HEAT CONVERTER | R. Fox, Rehovot, Israel |
| 3,267,406 | NON-INDUCTIVE ELECTRIC RESISTOR | R. L. Davis, Albuquerque, N.Mex. |
| 3,267,672 | GAS GENERATING DEVICE WITH INITIATOR INSULATING MEANS | J. R. Craig and D. J. Sasmor, Albuquerque, N.Mex. |
| 3,268,303 | REMOVAL OF STAINLESS-STEEL CLADDINGS FROM NUCLEAR FUEL ELEMENTS | D. Ramaswami, Westmont, Ill. and M. M. Levitz, Bellwood, Ill. |
| 3,268,410 | RADIATION REACTOR | L. D. P. King, Santa Fe, N.Mex. |
| 3,268,758 | HOLLOW GAS ARC DISCHARGE DEVICE UTILIZING AN OFF-CENTER CATHODE | J. W. Flowers, Gainesville, Fla. |



| | | |
|---|---|---|
| 3,268,976 | BROACH FOR CURVED GRAPHITE PASSAGES | E. Hollister (deceased) |
| 3,269,458 | METHOD AND APPARATUS FOR ACCURATE AND CONTROLLED COOLING | G. C. Rogers, Los Altos, Calif. |
| 3,269,232 | SYSTEM FOR COORDINATING THE OPERATIONS OF A TOOL WITH A PATTERN | V. M. Hovis, Kingston, Tenn. |
| 3,269,536 | MOVING WALL ELUTRIATOR | A. K. Postma, Corvallis, Ore. |
| 3,270,098 | METHOD OF MAKING HOLLOW, SPHERICAL $UO_2$ PARTICLES | H. N. Barr and L. A. Sundquist, Baltimore, Md. |
| 3,270,287 | TIME-SPACED MULTIPLE PULSE GENERATOR | L. W. Ducote, Castro Valley, Calif. |
| 3,270,828 | HYDRAULICALLY ACTUATED LOAD CARRYING APPARATUS | R. J. McCracken, Port Jefferson, N.Y. |
| 3,271,133 | PURIFICATION OF MOLTEN SALTS | J. B. Knighton, Joliet, Ill. and R. K. Steunenberg, Naperville, Ill. |
| 3,271,142 | METHOD FOR FORMULATING MASTER ALLOY COMPOSITIONS FOR USE IN DISPERSION HARDENED COMPACTS | J. F. Hammond, Knoxville, Tenn. and K. K. Sinha, Bombay, India. |
| 3,271,260 | LIQUID METAL FAST BREEDER REACTOR | L. C. Noderer, Windsor, Conn. |
| 3,271,264 | NEUTRONIC REACTOR WITH IMPROVED RELEASE MECHANISM BETWEEN CONTROL ROD AND ASSOCIATED DRIVE | F. Fortescue, La Jolla, Calif. and D. Nicoll, Del Mar, Calif. |
| 3,271,320 | POLONIUM RECOVERY | R. H. Moore, Kennewick, Wash. |
| 3,271,966 | CRYOSTATS | F. J. Webb, Berkshire, England |
| 3,272,601 | PREPARATION OF BINARY COMPOUNDS OF URANIUM AND THORIUM | W. N. Hansen, Thousand Oaks, Calif. |
| 3,272,658 | RADIOISOTOPE HEATED THERMOELECTRIC GENERATOR POWER FLATTENING SYSTEM | R. E. Rush, Livingston, N.J. |
| 3,272,668 | SEMICONDUCTOR DETECTOR METHOD | G. L. Miller, Babylon, N.Y. and S. E. Wagner, Brookhaven, N.Y. |
| 3,272,738 | PROCESS FOR THE REMOVAL OF METAL CORROSION PRODUCTS FROM A SOLUTION OF HYDRAZINE AND ETHYLENEDIAMINETETRAACETIC ACID | E. C. Fitzer, C. R. Fountain, Scotia, N.Y. and J. R. Ciaramello, De Witt, N.Y. |
| 3,272,756 | RADIOACTIVE WASTE DISPOSAL USING COLEMANITE | J. D. Kaser, Richland, Wash. |
| 3,272,983 | ION-PRODUCING MECHANISMS FOR CALUTRONS | A. M. Veach and O. C. Yonts, Oak Ridge, Tenn. |
| 3,273,323 | LAMINAR FLOW AIR HOOD APPARATUS | W. J. Whitfield, Albuquerque, N.Mex. |
| 3,273,557 | VACUUM FURNACE WINDOW | M. R. Borch, Livermore, Calif. and R. S. Juntz, Hayward, Calif. |
| 3,273,973 | METHOD FOR PROCESSING ALUMINUM-CONTAINING NUCLEAR FUELS | R. E. Thoma, H. R. Bennett and J. W. Ullmann, Oak Ridge, Tenn. |
| 3,273,974 | FLUIDIZATION OF SINTERABLE FINES | J. D. Gabor, Western Springs, Ill. and M. G. Baerns, Hanover, Germany |
| 3,274,030 | PHOTOCELL WITH COOLING MEANS AND METHOD OF USING SAME | R. E. Salomon, North Hills, Pa. |
| 3,274,066 | UNPURGED FUEL ELEMENT | L. R. Zumwalt, San Diego, Calif. |
| 3,274,067 | FUEL ROD DESIGN | F. Greebler, K. M. Horst, E. E. Olich and B. Wolfe, San Jose, Calif. |
| 3,274,068 | FUEL ELEMENT | S. L. Koutz and R. F. Turner, San Diego, Calif. |
| 3,274,770 | METHOD AND SYSTEM FOR SUPPLYING THRUST TO A SPACE VEHICLE | J. C. Carter, Elmhurst, Ill. and M. B. Rodin, Park Forest, Ill. |
| 3,275,421 | RECOVERY OF ACTINIDE FROM HALITE DEBRIS | D. C. Karraker, W. C. Perkins, Aiken, S.C. |
| 3,275,422 | CONTINUOUS-GAS-PHASE VOLATILITY PROCESS | G. I. Cathers, Knoxville, Tenn. and J. C. Mailen, Oak Ridge, Tenn. |
| 3,275,480 | METHOD FOR INCREASING THE CRITICAL CURRENT DENSITY OF HARD SUPERCONDUCTING ALLOYS AND THE IMPROVED PRODUCTS THEREOF | J. O. Betterton, Oak Ridge, Tenn., C. D. Kneip, Concord, Mass., D. S. Easton and J. O. Scarbrough, Lenoir City, Tenn. |
| 3,275,525 | NUCLEAR FUEL ELEMENT INCORPORATING HELICAL FISSIONABLE WIRE | C. H. Bloomster and J. J. Hauth, Richland, Wash. |



XUM 38 5 SEP 1973

| | | |
|---|---|---|
| 3,275,534 | METHOD OF PREPARING URANIUM FOR NICKEL PLATING | J. R. Lundquist and R. W. Stromatt, Richland, Wash. |
| 3,275,737 | COAXIAL CABLE TERMINATING MEANS | J. M. Caller, Albuquerque, N.Mex. |
| 3,275,916 | HIGH Q POWER CAPACITOR | J. A. Phillips and A. E. Schofield, Los Alamos, N.Mex. |
| 3,276,849 | METHOD FOR SEPARATING MEMBERS OF ACTINIDE AND LANTHANIDE GROUPS | F. L. Moore, Knoxville, Tenn. |
| 3,276,850 | METHOD OF SELECTIVELY REDUCING PLUTONIUM VALUES | R. H. Rainey, Knoxville, Tenn. |
| 3,276,861 | CALIFORNIUM AND EINSTEINIUM SEPARATION | J. B. Knighton, Joliet, Ill. and R. K. Steunenberg, Naperville, Ill. |
| 3,276,867 | CERMET MATERIALS AND PROCESS OF MAKING | D. W. Brite and K. R. Sump, Richland, Wash. |
| 3,276,969 | DEVICE FOR MONITORING SHUTDOWN NUCLEAR REACTORS | E. F. Antal, S. J. Ostrom, Kennewick, Wash., C. D. Brons, and P. B. Quinlan, Richland, Wash. |
| 3,277,301 | RADIOACTIVITY SMEAR SAMPLING METHOD AND APPARATUS USING DATA PROCESSING CARDS | J. S. Hurst, Knoxville, Tenn., W. A. Pfeifer, Norris, Tenn., M. Sanders and E. F. Gamson, Knoxville, Tenn. |
| 3,277,326 | ELECTRON GUN AND SOCKET STRUCTURE | C. Crimm and P. G. Hammersand, E. Petersburg, Pa. |
| 3,277,565 | METHOD OF CLADDING YTTRIUM HYDRIDE AND YTTRIUM BASE ALLOY HYDRIDES | K. M. Bohlander, West Chester, Ohio, E. S. Funston, Hamilton, Ohio and J. A. McCurty, Cincinnati, Ohio |
| 3,277,607 | FIXATION OF RADIOACTIVE CONTAMINATION IN SOIL | H. Overstreet, Berkeley, Calif. |
| 3,277,766 | EXPLOSIVELY RELEASABLE BOLT | F. B. Turkdoll, Sunnyvale, Calif. |
| 3,278,278 | PYROHYDROLYSIS OF CARBIDE-TYPE NUCLEAR FUEL | J. R. Flanary, Knoxville, Tenn., J. H. Goode, Sweetwater, Tenn. and G. C. Wall, Sydney, Australia |
| 3,278,384 | NEGATIVE "V" STELLARATOR | A. Lenard, Trenton, N.J., R. M. Kulsrud, J. L. Johnson and I. B. Bernstein, Princeton, N.J. |
| 3,278,386 | DELAY BED SYSTEM FOR PURIFICATION OF NUCLEAR FUEL ELEMENT PURGE STREAM | J. E. French, Escondido, Calif., K. G. Steyer and G. L. Wessman, San Diego, Calif. |
| 3,278,387 | FUEL RECYCLE SYSTEM IN A MOLTEN SALT REACTOR | L. E. McNeese and C. D. Scott, Oak Ridge, Tenn. |
| 3,278,454 | INHIBITION OF GRAIN GROWTH IN SINTERED BERYLLIUM OXIDE BODIES | P. F. Turner and H. C. Brassfield, Cincinnati, Ohio |
| 3,278,745 | RADIO-FREQUENCY PARTICLE SEPARATOR | G. A. Loew, PaloAlto, Calif. |
| 3,278,752 | WIDE ANGLE OPTICAL SYSTEM HAVING A TELECENTRIC STOP AND AN INTERFERENCE FILTER | B. B. Brixner, Los Alamos, N. Mex. |
| 3,278,769 | METHOD OF TEMPERATURE CYCLING FERROELECTRIC CERAMICS THROUGH A TEMPERATURE RANGE BELOW THE CURIE POINT THEREOF | H. N. Graham and P. L. Phelps, Livermore, Calif. |
| 3,278,892 | ACOUSTIC SPARK CHAMBER | F. A. Kirsten, Lafayette, Calif. and B. C. Maglic, Geneva, Switzerland |
| 3,279,898 | METHOD OF PREPARING PLUTONIUM MONONITRIDE | J. A. Leary and R. L. Nance, Los Alamos, N.Mex. |
| 3,279,917 | HIGH TEMPERATURE ISOSTATIC PRESSING | A. H. Ballard and R. Hendricks, Oak Ridge, Tenn. |
| 3,280,002 | SEAL FOR A CONTROL ROD APPARATUS | E. Hutter, Chicago, Ill. and T. E. Sullivan, Evergreen Park, Ill. |
| 3,281,324 | THERMAL EXPANSION IMPULSE ACTUATOR IN PLASMA JET APPARATUS | I. Henins and J. Marshall, Los Alamos, New Mex. |
| 3,281,325 | MINIMIZING THE EFFECTS OF FLUX GRADIENT IN A REACTOR | R. J. Hennig, Richland, Wash. |
| 3,281,328 | NUCLEAR FUEL ROD ASSEMBLY | V. E. Hazel, San Jose, Calif. and J. J. Zeller, Los Angeles, Calif. |
| 3,281,338 | METHOD FOR PRODUCING ULTRA-HIGH PURITY PLUTONIUM METAL | J. A. Leary and L. J. Mullins, Los Alamos, N.Mex. |
| 3,281,661 | NUCLEAR SPIN COOLING METHOD | C. D. Jeffries, Berekeley, Calif. |
| 3,282,276 | HIGH VACUUM VALVES | J. T. Mark, Lancaster, Pa. |
| 3,282,655 | PRODUCTION OF $^{131}I$ | F. N. Case and E. H. Acree, Oak Ridge, Tenn. |



| | | |
|---|---|---|
| 3,282,656 | PREPARATION OF PLUTONIUM MONOSULFIDE AND PLUTONIUM MONOPHOSPHIDE | O. L. Kruger, Westmont, Ill. J. B. Moser, Evanston, Ill. and B. J. Wrona, Joliet, Ill. |
| 3,282,681 | SEPARATION OF URANIUM AND PLUTONIUM VALUES | J. B. Knighton, Joliet, Ill. and R. K. Steunenberg, Naperville, Ill. |
| 3,282,793 | APPARATUS FOR CONTROLLING THE ATMOSPHERE OVER A NUCLEAR REACTOR | A. R. Jamrog, Chicago, Ill. |
| 3,282,806 | ELECTROREFINING OF PLUTONIUM | J. L. Long, and R. D. Schweikhardt, Arvada, Colo. |
| 3,283,479 | COMBINATION TRAP PUMP | T. H. Batzer and R. H. McFarland, Livermore, Calif. |
| 3,284,173 | PREPARATION OF PLUTONIUM HEXAFLUORIDE | J. Fischer, Lisle, Ill. |
| 3,284,190 | SEPARATION OF URANIUM FROM NOBLE AND REFRACTORY METALS | J. B. Knighton, Joliet, Ill. and R. K. Steunenberg, Naperville, Ill. |
| 3,284,195 | METHOD OF FABRICATING ARTICLES FROM POWDERS | J. M. Googin and L. M. McLaughlin, Oak Ridge, Tenn. |
| 3,284,305 | PROCESSES OF PRODUCING ENERGY BY NUCLEAR FISSION | H. C. Urey, Chicago, Ill. (Rights to AEC), K. Cohen, New York, N.Y. and F. T. Barr, Summit, N.J. (Rights to Esso Research Eng. Co.) |
| 3,284,309 | NUCLEAR POWER GENERATING APPARATUS | E. V. Murphree, Summit, N.J. |
| 3,284,550 | ULTRAHIGH PURITY CARBIDE FORMATION | R. E. Riley and K. V. Davidson, Los Alamos, N.Mex. |
| 3,284,642 | PULSE TIME DELAY CIRCUIT EMPLOYING TUNNEL DIODE AND SWITCH COMBINATION GATED IN RESPONSE TO RAMP INPUT | Q. A. Kerns, Orinda, Calif., M. Birk, Rehovoth, Israel, and T. A. Nunamaker, San Pablo, Calif. |
| 3,284,686 | METHOD OF DISCHARGING A CLOUD | H. Moses, Park Forest, Ill. and R. L. Martin, LaGrange, Ill. |
| 3,284,744 | QUADRUPOLE MAGNET WITH REDUCED LATERAL DIMENSION | G. T. Danby, Wading River, N.Y. and J. W. Jackson, Medford, N.Y. |
| 3,285,821 | NUCLEAR FUEL MODULE | J. E. Brubaker, Pittsburgh, Pa. |
| 3,285,826 | FUEL ELEMENT CONTAINING A MECHANICALLY COMPRESSIBLE MANDRIL | J. E. Lang, L. C. Wisnyi, Schenectady, N.Y. and R. A. Prosbatle, Scotia, N.Y. |
| 3,286,152 | MULTIPLE BATTERY CHARGING AND DISCHARGING CIRCUIT MEANS | J. B. Moe, Albuquerque, N.Mex. |
| 3,286,820 | TITANIUM PRIMER FOR A VACUUM PUMP | E. C. Hurst, Stoughton, Wis. |
| 3,287,084 | PROCESS FOR SEPARATING STRONTIUM VALUES FROM RARE EARTH METAL VALUES | H. H. VanTuyl, Richland, Wash. |
| 3,287,093 | NUCLEAR REACTOR FUEL MATERIAL AND A METHOD OF PREPARING THE SAME | P. A. Nelson, Wheaton, Ill. and M. G. Chasanov, Homewood, Ill. |
| 3,287,111 | ZIRCONIUM BASE NUCLEAR REACTOR ALLOY | H. H. Klepfer, Pleasanton, Calif. |
| 3,287,224 | LARGE FAST NUCLEAR REACTOR | W. B. Loewenstein, Elmhurst, Ill. |
| 3,287,228 | BOILING WATER NEUTRONIC REACTOR | C. E. Gorker, Cincinnati, Ohio |
| 3,287,278 | FAST REACTOR FUEL | R. E. Thoma, Oak Ridge, Tenn. |
| 3,287,279 | PREPARATION OF A FILTERABLE CO-PRECIPITATE OF PLUTONIUM AND URANIUM | W. L. Lyon, Fremont, Calif. |
| 3,287,518 | SENSOR FOR DETECTING TRANSIENT SHOCK PHENOMENA | D. R. Henley, Newark, Calif. |
| 3,287,672 | DISC-LOADED WAVEGUIDE TUNING MACHINE WHICH AUTOMATICALLY TUNES SUCCESSIVE CAVITIES BY INDENTING WAVEGUIDE WALL | M. L. Heinz, Mountain View, Calif. |
| 3,287,673 | ATTENUATOR FOR SUPPRESSING HIGH-ORDER CAVITY RESONANCES HAVING A TRANSVERSE ELECTRIC COMPONENT | F. G. Hammersand, E. Pittsburgh, Pa. |
| 3,287,947 | EXPLOSION APPARATUS FOR FLANGING A TUBE | C. E. Frantz, F. F. Vlacil, E. R. Astley, Richland, Wash. and W. E. Cawley, Phoenix, Ariz. |
| 3,288,360 | LIQUID CENTRIFUGE CORE | E. F. Babelay, Knoxville, Tenn. and H. P. Barringer, Oak Ridge, Tenn. |







UNIVERSITY MICROFILMS

| | | |
|---|---|---|
| 3,288,571 | PREPARATION OF URANIUM ALUMINIDES $UAl_3$ AND $UAl_{4.5}$ | W. J. Werner, Clinton, Tenn. M. C. McIlwain, Huntsville, Ala. and J. F. Hammond, Knoxville, Tenn. |
| 3,288,682 | HYDRO-PNEUMATIC APPARATUS FOR CHANGING CRITICAL CONFIGURATION OF NUCLEAR FUEL MASS | K. Rilak, Havertown, Pa. |
| 3,288,717 | METHOD FOR PREPARATION OF URANIA SOLS | L. E. Horse, Oak Ridge, Tenn. |
| 3,288,979 | GRAPHITE WELDING | L. E. Mills, Kennewick, Wash. and R. F. Boolen, Richland, Wash. |
| 3,288,993 | PLASMA PARTICLE SEPARATION AND ANALYZER HAVING A GRID STRUCTURE CONSISTING OF LINEAR TUBULAR PORTIONS | J. F. Steinhaus, Livermore, Calif. and T. O. Passell, Palo Alto, Calif. |
| 3,288,999 | HUMIDITY INSENSITIVE PROPORTIONAL COUNTER HAVING A HEATING SOURCE CONNECTED TO A WIRE ANODE | C. J. Borkowski, R. J. Fox, Oak Ridge, Tenn. and A. M. R. Ferrari, San Carlos, Argentina |
| 3,289,122 | BOMBARDMENT FREE MICROWAVE WAVEGUIDE WINDOW | B. Vural, Princeton, N.J. |
| 3,290,122 | PROCESS FOR PREPARING OXIDE GEL MICROSPHERES FROM SOLS | S. D. Clinton, A. T. Kleinsteuber, Oak Ridge, Tenn., P. A. Haas, Knoxville, Tenn. and L. J. Hirth, Boulder, Colo. |
| 3,290,179 | METHOD AND APPARATUS FOR DETERMINING DRIFT DEPTH OF IMPURITIES IN SEMICONDUCTORS | F. S. Goulding, Lafayette, Calif. |
| 3,290,221 | BOILING WATER NUCLEAR REACTOR WITH BUOYANT FUEL OR REFLECTOR CONTROL ASSEMBLY | G. E. Gorker, Cincinnati, Ohio |
| 3,290,223 | COATED NUCLEAR REACTOR FUEL PARTICLE OF $UO_2$ AND METHOD OF MAKING THE SAME | J. M. Blocher, M. F. Browning and R. W. Dayton, Columbus, Ohio |
| 3,290,477 | WELDING MEANS AND METHOD | J. A. Chopp, Denver, Colo. |
| 3,290,500 | FAST NEUTRON SPECTROMETER UTILIZING LITHIUM CONTAINING FILMS | M. S. Bokhari, Lahore, Pakistan, V. V. Verbinski, T. A. Love and R. E. Zedler, Oak Ridge, Tenn. |
| 3,290,502 | PORT APPARATUS FOR EXTRACTING MATERIALS FROM RADIOACTIVE ENCLOSURES | D. F. Skinner, T. W. Wolf and W. Z. Wade, Livermore, Calif. |
| 3,290,615 | MERCURY-WETTED FIXED ELECTRODE ELECTRIC ARC GENERATOR | F. K. Ludwig, South Bend, Ind. and J. T. D'Alessio Buenos Aires, Argentina |
| 3,290,773 | PROCESS FOR WELDING NICKEL TO NIOBIUM | C. Wohlberg and J. R. Markham, Los Alamos, N.Mex. |
| 3,291,126 | AIR COOLING UNIT FOR PROTECTIVE CLOTHING AND THE LIKE | R. R. Massick, Aiken, S.C. |
| 3,291,698 | FUEL ELEMENT | F. Porteacus, Santa Fe, Calif. |
| 3,291,699 | FUEL ELEMENT | K. A. Trickett, M. T. Simnad, San Diego, Calif. and G. J. Malek, Poway, Calif. |
| 3,291,870 | METHOD OF FABRICATING A MULTICHANNEL NUCLEAR FUEL ELEMENT | G. S. Allison, Richland, Wash. |
| 3,291,997 | METHOD AND APPARATUS FOR TRACING FLUID FLOW THROUGH POROUS MEDIA | R. H. Hawkins, E. L. Albenesius, Aiken, S.C. and C. C. Haskell, N. Augusta, S.C. |
| 3,292,255 | BRAZING ALLOYS FOR TUNGSTEN AND MOLYBDENUM | J. C. Marshall and N. C. Smith, Cincinnati, Ohio |
| 3,292,426 | VIBRATION DETECTION DEVICE | J. A. McCano, Glenville, N.Y. |
| 3,292,537 | MULTI-SIGNAL EXPLOSIVE DETONATOR | F. A. Goss, Jr. Albuquerque, N.Mex. |
| 3,292,937 | SHAFT SEAL FOR LIQUID CENTRIFUGES | C. E. Nunley, Kingston, Tenn. |
| 3,293,007 | STEAM-CORROSION-RESISTANT IRON-CHROMIUM-ALUMINUM-YTTRIUM ALLOYS AND PROCESS FOR MAKING SAME | C. S. Wukusick, Cincinnati, Ohio |
| 3,293,135 | NUCLEAR REACTOR FUEL | S. Jaye, Solana Beach, Calif. and D. H. Lee, Jr. Del Mar, Calif. |
| 3,293,168 | APPARATUS FOR COATING SUBSTRATES BY CATHRODE SPUTTERING | W. F. Schulz, San Bruno, Calif. |
| 3,293,434 | PHOTONEUTRON MONITOR FOR DETECTING REACTOR FUEL ELEMENT FAILURES | A. H. Dexter, Aiken, S.C. and A. C. Lapsley, Charlottesville, Va. |



| | | |
|---|---|---|
| 3,293,488 | LOW INDUCTANCE CAPACITOR AND SWITCHING ASSEMBLY | R. S. Dike and E. L. Kemp, Los Alamos, N.Mex. |
| 3,293,741 | BRAZING ALLOYS FOR REFRACTORY METALS | R. G. Gilliland, Oak Ridge, Tenn. |
| 3,294,209 | FRICTION MECHANISM WITH SAPPHIRE FRICTION SURFACE | R. D. Kachman, Madison Heights, Mich. and W. R. Kee, Birmingham, Mich. |
| 3,294,492 | PROCESS FOR DECLADDING ZIRCONIUM FROM ZIRCONIUM CLAD NUCLEAR FUEL ELEMENTS | C. B. Bartlett, West Islip, N.Y. E. Wirsing, Mattituck and L. P. Hatch, Brookhaven, N.Y. |
| 3,294,493 | METHOD OF SEPARATING URANIUM AND PLUTONIUM | M. J. Steindler, Park Forest, Ill., A. A. Jonke, Elmhurst, Ill., R. K. Steunenberg, M. D. Adams, Naperville, Ill. and R. C. Vogel, Hinsdale, Ill. |
| 3,294,494 | METHOD FOR REMOVING LANTHANIDES AND TRIVALENT ACTINIDES FROM AQUEOUS NITRATE SOLUTIONS | F. L. Moore, Knoxville, Tenn. |
| 3,294,645 | CONTROLLED UNLOADING OF GEOMETRICALLY ORDERED PACKED BEDS | H. Susskind, Huntington, N.Y., W. W. Becker, Shoreham, N.Y. and M. W. Maresca (deceased) |
| 3,294,660 | AMORPHOUS ZINC OXIDE SEMICONDUCTOR AND METHOD OF MAKING | W. D. Kingery, Lexington, Mass. and R. A. Mickelsen, Bellevue, Wash. |
| 3,294,688 | THERMOELECTRIC CONVERTER COMPOSITION | W. Precht, Towson, Md. |
| 3,294,698 | HOLLOW, SPHERICAL $UO_2$ NUCLEAR FUEL PARTICLES | H. N. Barr and L. A. Sundquist, Baltimore, Md. |
| 3,294,877 | VAPOR PHASE SINTERING PROCESS | J. P. Hammond, Knoxville, Tenn. |
| 3,295,082 | MAGNET COIL HAVING COOLING MEANS | R. L. Kustom, Oak Lawn, Ill. and G. E. Yurka, Berwyn, Ill. |
| 3,295,844 | SINTERING FURNACE | A. C. Neeley and W. J. Yaggi, Oak Ridge, Tenn. |
| 3,296,032 | POWER FLATTENING DEVICE FOR RADIOISOTOPE HEATED THERMOELECTRIC GENERATOR | H. Belofsky, Verona, N.J. |
| 3,296,081 | NUCLEAR REACTORS | R. Wildgoose, Derby, England |
| 3,296,085 | CALANDRIA CORE FOR SODIUM GRAPHITE REACTOR | W. S. Peck, Pacoima, Calif. R.S. Duncan, Conoga Park, Calif. and A. C. Williams, Chatsworth, Calif. |
| 3,296,123 | REMOVAL OF CESIUM FROM AQUEOUS SOLUTIONS BY ION EXCHANGE | W. E. Prout, N. J. Groh, Aiken, S.C. and E. R. Russell, Columbia, S.C. |
| 3,296,411 | WELDING JIG | J. W. Woolsey and H. I. Bowers Los Alamos, N.Mex. |
| 3,296,434 | METHOD OF OPERATING AN ION SOURCE FOR A TIME OF FLIGHT MASS SPECTROMETER | M. H. Studier, Downers Grove, Ill. |
| 3,296,440 | SHUTDOWN REACTIVITY METER FOR MEASURING THE SUBCRITICAL REACTIVITY IN A NUCLEAR REACTOR | M. A. Schultz, Pittsburgh, Pa., V. G. Shaw, Latrobe, Pa. and I. Bluestein, Pitcairn, Pa. |
| 3,296,487 | PLURAL VOLTAGE REGULATOR DISCHARGE DEVICES IN A UNITARY STRUCTURE | M. Yarmovsky, Livingston, N.J. |
| 3,296,844 | COLD-WORKING LUBRICATION | F. B. Quinlan, Richland, Wash. |
| 3,297,580 | NEUTRAL METAL CLEANING COMPOSITIONS CONTAINING HYDRAZINE AND A POLYCARBOXYLAMINO ACID | E. C. Pitzer, Scotia, N.Y. |
| 3,297,872 | METHOD AND APPARATUS FOR MONITORING DIFFUSION PUMP BACK STREAMING IN THE THROAT OF SAID PUMP | P. B. Kennedy, El Cerrito, Calif. |
| 3,298,452 | WEIGHT RESPONSIVE DISPENSER | H. C. Francke, Oak Ridge, Tenn. and E. G. Laggis, Knoxville, Tenn. |
| 3,298,564 | MACHINE FOR DISPENSING THIN ELONGATED OBJECTS | S. J. Wheatley, Clinton, Tenn. and H. K. McCaleb, Huntsville, Ala. |
| 3,298,826 | EMBRITTLEMENT-RESISTANT IRON-CHROMIUM-ALUMINUM-YTTRIUM ALLOYS | C. S. Wukusick, Cincinnati, Ohio |
| 3,298,921 | PYROLYTIC CARBON COATED PARTICLES FOR NUCLEAR APPLICATIONS | J. C. Bokros, J. Chin, R. J. Price, San Diego, Calif. and W. V. Goeddel, Poway, Calif. |
| 3,298,957 | METHOD FOR DISSOLVING ZIRCONIUM AND FORMING STABILIZED ALKALINE SOLUTIONS THEREOF | T. A. Gens, Oak Ridge, Tenn. |







XUM 37 5 SEP 73 3 1 8 3 4

| | | |
|---|---|---|
| 3,298,960 | METHOD FOR THE DISPOSAL OF WASTE SOLUTIONS USING RIGID GELS | E. C. Fitzer, Scotia, N.Y. |
| 3,298,961 | CONCENTRATION AND CONTAINMENT OF RADIOACTIVITY FROM RADIOACTIVE WASTE SOLUTIONS IN ASPHALT | G. D. Davis, Kingston, Tenn., E. J. Frederick, J. M. Holmes, Knoxville, Tenn. and H. W. Godbee, Oak Ridge, Tenn. |
| 3,299,811 | MINIMAL GAS PRODUCING LOW DETONATION RATE EXPLOSIVE AND DETONATION SOURCES | R. W. Gates, Menlo Park, Calif. |
| 3,300,284 | PREPARATION OF ACTINIDE METAL CARBIDE MICROSPHERES | R. L. Pilloton and R. L. Hamner, Oak Ridge, Tenn. |
| 3,300,388 | IN CORE SAMPLING AND SPRAY-DEVICE FOR NUCLEAR REACTORS | R. B. Jerman, Milwaukee, Wis., P. P. Santoro, Hartford, Conn. and H. F. vanKessel, Wheaton, Md. |
| 3,300,640 | MEANS FOR MEASURING PLASMA DENSITY BY RESONANT CHARGE TRANSFER WITH A BEAM OF NEUTRAL PARTICLES | H. P. Eubank, Princeton, N.J. |
| 3,300,719 | WIDE-RANGE COUNT RATE METER UTILIZING PLURAL COUNT RATE CIRCUITS AND A RANGE INDENTIFIER | S. W. Thomas, Livermore, Calif. |
| 3,300,848 | METHOD OF PREPARING OXIDES FOR NEUTRONIC REACTOR CONTROL | C. F. Leitten, R. A. Potter, Oak Ridge, Tenn. and R. E. McDonald, Clinton, Tenn. |
| 3,300,852 | METHOD FOR BONDING BERYLLIUM OXIDE TO GRAPHITE | H. J. deBruin, New South Wales, Australia |
| 3,301,041 | PRESTRESSED CONCRETE CONTAINMENT VESSEL | D. W. Mueller, Los Alamos, N.Mex. |
| 3,301,667 | PREPARATION OF URANIUM-NIOBIUM ALLOYS BY CO-REDUCTION | W. R. Gilliher and E. A. Johnston, Paducah, Ky. |
| 3,301,763 | METHOD FOR PREPARING ACTINIDE OXIDE FUEL PARTICLES AND ARTICLE THEREOF | R. L. Beatty, Clinton, Tenn. and H. Beutler, Oak Ridge, Tenn. |
| 3,301,789 | ZIRCONIUM REMOVAL FROM STRONTIUM-90 | L. A. Bray, Richland, Wash. |
| 3,302,042 | NUCLEAR REACTOR WITH THERMIONIC CONVERTER | G. M. Grover, Los Alamos, N.Mex., J. Bohdansky, Laveno, Italy and C. A. Busse, Tanio, Italy |
| 3,302,097 | ELECTRICAL APPARATUS | F. O. Bobo, Pittsburgh, Pa. and F. W. Keay, Irwin, Pa. |
| 3,302,105 | EDDY CURRENT NONDESTRUCTIVE TESTING DEVICE USING AN OSCILLOSCOPE TO IDENTIFY AND LOCATE IRREGULARITIES IN A TEST PIECE | W. L. Libby, Richland, Wash. and C. E. Wandling, Kennewick, Wash. |
| 3,302,701 | TURBULENCE PROMOTER FOR INCREASED HEAT AND MASS TRANSFER | D. G. Thomas, Oak Ridge, Tenn. |
| 3,302,993 | PROCESS OF RECOVERING STRONTIUM, CESIUM, CERIUM AND RARE EARTH VALUES FROM RADIOACTIVE SOLUTIONS | L. A. Brey, Richland, Wash. |
| 3,303,004 | METHOD FOR DISSOLVING STAINLESS STEEL MEMBERS | M. R. Bennett, Oak Ridge, Tenn. and G. I. Cathers, Knoxville, Tenn. |
| 3,303,098 | NUCLEAR-POWER SEA-WATER CONVERSION PLANT | J. F. Lagowski, Plainfield, Ill. |
| 3,303,343 | NEUTRON MONITOR AND BURST DETECTOR | F. M. Glass, Oak Ridge, Tenn. |
| 3,303,381 | VOLTAGE REGULATOR TUBE WITH INTEGRAL PLURAL SERIES DISCHARGE DEVICE | M. Yarmovsky, Livingston, N.J. |
| 3,303,426 | STRONG FOCUSING OF HIGH ENERGY PARTICLES IN A SYNCHROTRON STORAGE RING | R. A. Bath, Bonn, Germany |
| 3,303,650 | ION PROPULSION | O. C. Yonts, Oak Ridge, Tenn. |
| 3,304,206 | THERMOELECTRIC CONVERTER MODULE | R. E. Burdick, Chatsworth, Calif. and S. E. Bocklin, Pacific Palisades, Calif. |
| 3,304,249 | METHOD OF STABILIZING A FLUIDIZED BED USING A GLOW DISCHARGE | W. Katz, Port Jefferson, N.Y. |
| 3,305,005 | CAPILLARY INSERT FOR HEAT TUBES AND PROCESS FOR MANUFACTURING SUCH INSERTS | G. M. Grover, Los Alamos, N.Mex., C. A. Busse, Laveno, Italy and R. J. Carom, Ispra, Italy |
| 3,305,449 | NUCLEAR REACTOR CORE ASSEMBLY | W. T. Furgerson, Del Mar, Calif. |
| 3,305,683 | INDEXING MECHANISM FOR IRRADIATING PACKAGES | A. T. Volonakis, Emerson, N.J. |





| | | |
|---|---|---|
| 3,305,785 | TIME EXPANDER FOR MULTICHANNEL ANALYZER | E. E. Carroll, Bethel Park, Pa. |
| 3,306,008 | CONTINUOUS HIGH EXPANSION FOAM GENERATOR WITH CONTROLLED EXPANSION RATES | L. Silverman, Dover, Mass. |
| 3,306,681 | DAMPED BEARING FOR CENTRIFUGES | N. F. Barringer, Oak Ridge, Tenn. |
| 3,306,972 | SUPERCONDUCTING CABLE | C. Laverick, Downers Grove, Ill., M. H. Foss, Pittsburgh, Pa. and G. M. Lobell, Oak Forest, Ill. |
| 3,307,005 | CAM OPERATED MAGNETIC SWITCH | L. Fussell, Concord, Mass., H. E. Grier, Newton Center, Mass. (All rights to AEC), J. W. Babb, Belmont, Mass. and M. P. Mims, (deceased) (Sole license to Raytheon) |
| 3,307,016 | COLLET FOR WORKPIECE IN ELECTRIC WELDING | L. R. Vancott, San Jose, Calif. |
| 3,307,052 | PIEZOELECTRIC STRESS GAGE | F. W. Neilson, R. A. Graham and W. B. Benedick, Albuquerque, N. Mex. |

Vol. XVII — PATENTS FOR LICENSING — No. 2

May 30, 1967

| PATENT NO. | SER. NO. | INVENTION | INVENTORS | DATE |
|---|---|---|---|---|
| 3,270,496 | 353,635 | GASEOUS VORTEX REACTOR FOR A ROCKET MOTOR | F. E. Rom<br>Avon Lake, Ohio | 9-6-66 |
| 3,307,357 | 345,814 | VORTEX ROCKET REACTOR | S. A. Colgate<br>Livermore, Calif. | 3-7-67 |
| 3,307,700 | 546,488 | APPARATUS FOR CONTROLLING THE FLOW OF SOLIDS | N. H. deNevers<br>Salt Lake City, Utah | 3-7-67 |
| 3,307,884 | 402,665 | CONTROL SYSTEM FOR MAGNETIC SUSPENSION OF CENTRIFUGE ROTORS | H. F. Dunlap<br>Concord, Tenn.<br>E. C. Evans<br>W. G. S. Port<br>H. A. Kermicle<br>Oak Ridge, Tenn.<br>W. W. Smith<br>Rockwood, Tenn. | 3-7-67 |
| 3,308,296 | 353,643 | HIDDEN EXPLOSIVES DETECTOR UTILIZING LONG-LIVED RADIOACTIVE TRACER MATERIAL | E. D. Jordan<br>Kensington, Md.<br>C. L. Cowan<br>Rockville, Md. | 3-7-67 |
| 3,308,373 | 345,816 | LINE VOLTAGE LIMITER | R. L. Shaum<br>Albuquerque, N.Mex. | 3-7-67 |
| 3,309,180 | 348,921 | BRAZING ALLOYS FOR TANTALUM | R. H. Mueller<br>J. C. Marshall<br>Cincinnati, Ohio | 3-14-67 |
| 3,309,233 | 422,472 | SOLID ELECTROLYTE ELECTROCHEMICAL CELL | C. C. McPheeters<br>R. Tercovich<br>Los Alamos, N.Mex.<br>J. C. McGuire<br>White Rock, N. Mex. | 3-14-67 |
| 3,309,277 | 456,583 | NUCLEAR REACTOR AND METHOD OF FUEL MANAGEMENT THEREFOR | S. Jaye<br>D. H. Lee, Jr.<br>Solana Beach, Calif.<br>J. R. Triplett<br>Rancho Santa Fe, Calif. | 3-14-67 |
| 3,309,280 | 421,133 | PRESSURE-TURE NUCLEAR REACTOR INCLUDING FUEL ASSEMBLY WITH THERMAL BAFFLE | L. J. Balog<br>Irwin, Pa. | 3-14-67 |
| 3,309,323 | 498,172 | THORIUM OXIDE OR THORIUM-URANIUM OXIDE WITH MAGNESIUM OXIDE | T. R. Russell<br>Columbia, S.C.<br>W. E. Prout<br>H. J. Groh<br>Aiken, S.C.<br>C. W. Watt<br>Austin, Texas | 3-14-67 |







XUM 37 S 9AS 1HH183V

| | | | | |
|---|---|---|---|---|
| 3,309,767 | 2,534 | BRAZING ALLOY AND METHOD OF BRAZING WITH SAME | L. Sama<br>Seaford, N.Y.<br>C. T. Pepino, Jr.<br>Westburg, N.Y. | 3-21-67 |
| 3,310,227 | 447,588 | SURGE AND BACKSTREAMING POROUS DIAPHRAGM FILTER FOR VACUUM SYSTEM | N. Milleron<br>Berkeley, Calif. | 3-21-67 |
| 3,310,386 | 486,572 | PREPARATION OF PLUTONIUM OXIDE SOL AND CALCINED MICROSPHERES | M. H. Lloyd<br>Oak Ridge, Tenn. | 3-21-67 |
| 3,310,473 | 522,333 | SPECTRAL SHIFT REACTOR CONTROL | W. E. Winsche<br>Bellport, N.Y. | 3-21-67 |
| 3,310,477 | 414,481 | METHOD OF ISOLATING A DESULFOVIBRIO FOR USE IN REMOVING SULFATES FROM BRINE | C. R. Wilke<br>El Cerrito, Calif. | 3-21-67 |
| 3,310,500 | 510,477 | DISTILLATION METHOD FOR REPROCESSING MOLTEN SALT REACTOR FUELS | M. J. Kelly<br>Oak Ridge, Tenn. | 3-21-67 |
| 3,310,684 | 276,670 | LOAD LEVELER FOR PULSE MODULATOR | R. H. Miller<br>Mountain View, Calif. | 3-21-67 |
| 3,310,764 | 471,774 | CONNECTION SYSTEM FOR MAGNET EXCITATION COILS | R. A. Kilpatrick<br>Orinda, Calif. | 3-21-67 |
| 3,312,526 | 230,766 | METHOD AND CATALYST FOR COMBINING HYDROGEN AND OXYGEN IN THORIUM OXIDE SLURRIES | C. K. Hanson<br>M. E. Wadsworth<br>Salt Lake City, Utah<br>R. H. Horton<br>Pullman, Wash. | 4-4-67 |
| 3,312,539 | 395,967 | BRAZING ALLOYS FOR TUNGSTEN AND MOLYBDENUM | J. C. Marshall<br>H. G. Smith<br>Cincinnati, Ohio | 4-4-67 |
| 3,312,599 | 544,324 | METHOD OF INTRODUCING A COLORED GROUP SENSITIVE TO pH CHANGES INTO ENZYMES BY THE REACTION WITH 2-HYDROXY-5-NITRO-BENZYL BROMIDE | D. E. Koshland, Jr.<br>Bellport, N.Y.<br>G. Latham<br>E. Patchogue, N.Y.<br>Y. D. Karkhanis<br>Philadelphia, Pa. | 4-4-67 |
| 3,312,702 | 404,991 | 6-MERCAPTOPURINE 3-N-OXIDE | G. B. Brown<br>Mamaroneck, N.Y.<br>C. Levin<br>London, England | 4-4-67 |
| 3,312,849 | 548,805 | ISOTOPE RECEIVER FOR A CALUTRON HAVING AN OIL RESERVOIR IN ITS COLLECTION POCKET | W. A. Bell, Jr.<br>A. M. Veach<br>Oak Ridge, Tenn. | 4-4-67 |
| 3,312,908 | 367,905 | DEVICE FOR SUPERREGULATION OF AN AMPLIFIER-DISCRIMINATOR CIRCUIT | K. G. Forges<br>J. A. Bjorkland<br>Evanston, Ill. | 4-4-67 |
| 3,313,156 | 379,413 | MONITORING OF PEAK HEAT FLUX | B. P. Breen<br>South Pasadena, Calif.<br>G. Burnet, Jr.<br>Ames, Iowa | 4-11-67 |
| 3,313,935 | 398,137 | VAPOR FEED SYSTEM FOR EASY VAPORIZABLE MATERIALS TO THE ARC CHAMBER OF CALUTRONS | W. A. Bell, Jr.<br>R. M. Ennis, Jr.<br>Oak Ridge, Tenn. | 4-11-67 |
| 3,314,143 | 408,708 | METHOD FOR PRODUCING TUBE SHELLS | R. E. McDonald<br>C. F. Leitten, Jr.<br>Oak Ridge, Tenn. | 4-18-67 |
| 3,314,865 | 326,303 | ELECTROLYTIC DEPOSITION OF ACTINIDE OXIDES | J. H. Kleinpeter<br>Richland, Wash.<br>C. Jansen, Jr.<br>Kennewick, Wash. | 4-18-67 |
| 3,314,867 | 320,967 | METHOD OF ETCHING TANTALUM AND NIOBIUM FOR ELECTROPLATING | J. K. Gore<br>R. Seegmiller<br>Los Alamos, N.Mex. | 4-18-67 |
| 3,315,076 | 402,369 | DETERMINING THE THICKNESS OF A FURNACE LINING BY MEANS OF NEUTRON ACTIVATION | E. D. Jordan<br>Kensington, Md. | 4-18-67 |
| 3,315,181 | 373,893 | PULSE MODULATOR CIRCUIT | J. A. Rosenthal<br>Lafayette, Calif. | 4-18-67 |
| 3,315,479 | 558,220 | STORING HYDROGEN | R. H. Wiswall<br>Brookhaven, N.Y.<br>J. J. Reilly, Jr.<br>Bellport, N.Y. | 4-25-67 |
| 3,315,732 | 443,725 | HIGH ENERGY PARTICLE BEAM DUMP AND HEAT SINK | E. L. Garwin<br>Los Altos Hills, Calif.<br>D. R. Walz<br>J. Jurow<br>Palo Alto, Calif. | 4-25-67 |
| 3,316,069 | 346,361 | REFRACTORY METAL BRAZING PRODUCT AND PROCESS | J. C. Marshall<br>J. A. McCurty<br>C. Korton<br>Cincinnati, Ohio | 4-25-67 |





| | | | | |
|---|---|---|---|---|
| 3,316,412 | 373,895 | SINGLE FIELD POLARIZING SPECTROPHOTOMETER FOR MEASURING MASS MOTION IN A PLASMA | J. G. Hirschberg<br>Princeton, N.J. | 4-25-67 |
| 3,317,186 | 536,592 | ALIGNMENT AND SUPPORT HYDRAULIC JACK | J. Brandt<br>Menlo Park, Calif. | 5-2-67 |
| 3,317,288 | 351,873 | NIOBIUM SILICON BRAZING ALLOY FOR REFRACTORY METALS | J. C. Marshall<br>R. H. Mueller<br>Cincinnati, Ohio | 5-2-67 |
| 3,317,355 | 432,435 | HEAT TREATMENT OF PLUTONIUM | R. D. Nelson<br>Grandview, Wash. | 5-2-67 |
| 3,317,398 | 293,919 | FUEL ELEMENT ASSEMBLY | E. Hutter<br>Chicago, Ill. | 5-2-67 |
| 3,317,716 | 296,877 | HIGH SPEED REVERSING COUNTER | L. L. Ducote<br>Castro Valley, Calif. | 5-2-67 |
| 3,317,823 | 271,530 | SELF-CHECKING IONIZATION CHAMBER TYPE RADIATION DETECTOR | R. S. Brodsky<br>Annandale, Va. | 5-2-67 |
| 3,318,144 | 388,335 | SUPERSONIC TEST FACILITY | R. E. Duff<br>Livermore, Calif. | 5-9-67 |
| 3,318,246 | 442,218 | PHOSPHIDE COATING ON REFRACTORY METALS | H. A. Wilhelm<br>Ames, Iowa<br>J. H. Witte<br>Cincinnati, Ohio | 5-9-67 |
| 3,318,512 | 536,948 | METHOD FOR DEGASSING A VACUUM SYSTEM | W. I. Linlor<br>Mountain View, Calif. | 5-9-67 |
| 3,318,670 | 572,156 | PRODUCTION OF ACTINIDE ALUMINIDE IN A FLUIDIZED BED | R. S. Grimmett<br>Idaho Falls, Idaho | 5-9-67 |
| 3,318,695 | 283,126 | METHOD OF PRODUCING NUCLEAR FUEL ELEMENTS OF STAINLESS STEEL COATED $UO_2$ PARTICLES | D. E. Goslee<br>White Marsh, Md.<br>L. Frank<br>Baltimore, Md. | 5-9-67 |
| 3,318,724 | 316,782 | METHOD FOR MAKING TUNGSTEN METAL ARTICLES | R. L. Haestand<br>C. F. Leitten, Jr.<br>Oak Ridge, Tenn. | 5-9-67 |
| 3,318,779 | 462,767 | FUEL ELEMENT | R. F. Turner<br>D. A. Nehrig<br>San Diego, Calif.<br>H. I. Laon<br>Del Mar, Calif. | 5-9-67 |
| 3,319,066 | 407,602 | ADJUSTABLE WIDE RANGE RADIATION LEVEL ALARM | W. Genert<br>Pittsburgh, Pa. | 5-9-67 |
| 3,319,083 | 384,270 | UNIVIBRATOR CIRCUIT FOR DETECTING THE TIME OCCURRENCE OF INPUT PULSES THERETO | M. G. Strauss<br>Park Forest, Ill. | 5-9-67 |
| 3,319,118 | 383,264 | PROCESS AND APPARATUS FOR PRODUCING PURIFIED FAST PARTICLE BEAMS | C. C. Damm<br>Alamo, Calif. | 5-9-67 |
| 3,319,351 | 438,138 | TUBULAR EXTRUSION DRYER | B. Spriessler<br>Joppa, Md.<br>E. P. Pease<br>Baltimore, Md. | 5-16-67 |
| 3,319,497 | 440,964 | WORK-PIECE STABILIZING MEANS | E. D. Needham<br>P. A. Skasik<br>Albuquerque, N. Mex. | 5-16-67 |
| 3,320,034 | 409,305 | CONVERSION OF $U_3O_8$ TO UC | S. Strausberg<br>Woodland Hills, Calif. | 5-16-67 |
| 3,320,056 | 456,009 | LIQUID PHRASE EXTRUSION FOR FORMING REFRACTORY MATERIALS | R. F. Stoops<br>Raleigh, N.C. | 5-16-67 |
| 3,320,098 | 435,102 | TUNGSTEN-OSMIUM THERMOCOUPLE AND ELEMENT THEREOF | W. C. Kuhlman<br>Cincinnati, Ohio | 5-16-67 |
| 3,320,179 | 582,200 | OPENLY POROUS REFRACTORY NUCLEAR FUEL MICROSPHERES AND METHOD OF PREPARATION | T. A. Gens<br>Tonawanda, N.Y. | 5-16-67 |
| 3,320,381 | 455,354 | FLUID FLOW INTERLOCK AND INDICATOR | F. K. Crosby<br>Morage, Calif.<br>W. E. Eaton<br>Kensington, Calif. | 5-16-67 |
| 3,320,478 | 452,950 | HIGH COULOMB SPARK GAP SWITCH WITH SERIES MAGNET COILS FOR ROTATING THE ARC | J. L. Harrison<br>Princeton, N.J. | 5-16-67 |
| 3,320,495 | 292,290 | SURFACE-BARRIER DIODE FOR DETECTING HIGH ENERGY PARTICLES AND METHOD FOR PREPARING SAME | R. J. Fox<br>C. J. Borkowski<br>Oak Ridge, Tenn. | 5-16-67 |
| 3,320,786 | 381,602 | APPARATUS FOR WELDING A SPIRAL RIB TO A BODY | L. R. Vancott<br>San José, Calif. | 5-23-67 |







XUM
37 5 DMS 1NH183V

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| 3,321,378 | 596,341 | FUEL ELEMENT FOR A NUCLEAR REACTOR | W. B. Thomson<br>Northridge, Calif. | 5-23-67 | 3,323,133 | 485,644 | OPERATIONS TIMING DEVICE | R. A. Armer<br>H. H. Heckman<br>Berkeley, Calif. | 5-30-67 |
| 3,321,646 | 337,967 | THERMOELECTRIC CELL AND REACTOR | G. M. Grover<br>E. W. Salmi<br>Los Alamos, N. Mex.<br>R. W. Pidd<br>La Jolla, Calif. | 5-23-67 | | | | | |
| 3,321,664 | 388,735 | PLASMA ACCELERATOR HAVING RAPIDLY PULSED COIL FOR EXPELLING PLASMA | J. A. Phillips<br>J. M. Mather<br>Los Alamos, N.Mex. | 5-23-67 | | | | | |
| 3,322,330 | 428,261 | DUAL PASSAGE COLD TRAP | C. E. Miner<br>Walnut Creek, Calif.<br>R. M. Reimers<br>Berkeley, Calif. | 5-23-67 | | | | | |
| 3,322,503 | 369,025 | SILICON PRODUCTION PROCESS | H. Bloom<br>Hobart, Australia<br>W. L. Jolly<br>El Cerrito, Calif. | 5-30-67 | | | | | |
| 3,322,536 | 288,568 | TUNGSTEN SLIP CASTING METHOD | S. D. Stoddard<br>D. E. Nuckolls<br>Los Alamos, N. Mex. | 5-30-67 | | | | | |
| 3,322,563 | 305,899 | PROCESS OF PREPARING AN ADSORBENT | R. H. Moore<br>Kennewick, Wash. | 5-30-67 | | | | | |
| 3,322,660 | 259,468 | PRODUCTION OF HYDRAZINE | W. H. Johnston<br>Baltimore, Md.<br>F. W. Lampe<br>State College, Pa. | 5-30-67 | | | | | |
| 3,322,951 | 392,975 | EFFICIENT BETA-RAY EMISSION SOURCE FOR IRRADIATION APPLICATIONS | F. M. Yaworsky<br>Monongahela, Pa. | 5-30-67 | | | | | |
| 3,322,954 | 448,897 | AVERAGING LIGHT SENSOR AND RECORDING SYSTEM USING DOUBLE PHOTOCELL STRUCTURE | F. R. Bell<br>C. C. Harris<br>Oak Ridge, Tenn. | 5-30-67 | | | | | |
| 3,322,975 | 373,892 | NON-LINEAR END-OF-LINE CLIPPER CIRCUIT FOR PULSERS | W. I. Smith<br>Palmyra, N.J. | 5-30-67 | | | | | |
| 3,323,000 | 336,081 | ELECTROSTATIC DEFLECTION SYSTEM | L. Mancebo<br>Livermore, Calif. | 5-30-67 | | | | | |
| 3,323,088 | 471,775 | CHARGED PARTICLE EXTRACTING MAGNET FOR AN A ACCELERATOR | Q. R. Lambertson<br>Oakland, Calif. | 5-30-67 | | | | | |





| PATENT NO. | SER. NO. | INVENTION | INVENTORS | DATE |
|---|---|---|---|---|
| 3,323,338 | 330,212 | METHOD FOR HANDLING SMALL ELEMENTS | C. H. Allen<br>Pasco, Wash. | 6/6/67 |
| 3,323,846 | 442,836 | DRY BOX GLOVE RETAINING MEANS | L. O. Boddy<br>Westminster, Colo. | 6/6/67 |
| 3,324,005 | 419,272 | PROCESS OF PRODUCING RHENIUM FOR TUNGSTEN-RHENIUM ALLOYS BY THE IRRADIATION OF TUNGSTEN | E. F. Miller<br>Rockville, Md. | 6/6/67 |
| 3,324,325 | 486,577 | DIELECTRIC WALL STABILIZATION OF INTENSE CHARGED PARTICLE BEAMS | R. J. Briggs<br>Danville, Calif. | 6/6/67 |
| 3,324,540 | 288,574 | METHOD FOR MAKING POROUS TARGET PELLETS FOR A NUCLEAR REACTOR | A. L. Lotts<br>Knoxville, Tenn.<br>E. E. Barton<br>Oak Ridge, Tenn. | 6/13/67 |
| 3,324,543 | 443,116 | PRESSURE BONDED CERAMIC-TO-METAL GRADIENT SEALS | C. I. McVey<br>Cincinnati, Ohio<br>H. McConnaughey<br>Lynchburg, Ohio | 6/13/67 |
| 3,324,848 | 337,113 | CAPACITANCE RESPIROMETER | E. Domeier<br>A. J. Vorwald<br>Detroit, Mich. | 6/13/67 |
| 3,325,656 | 522,326 | HIGH SPEED DISCRIMINATOR WITH A WIDE DYNAMIC RANGE HAVING A WIDE AMBIENT TEMPERATURE RANGE | F. H. Sawada<br>Scotia, N.Y. | 6/13/67 |
| 3,326,042 | 422,471 | ULTRASONIC LIQUID LEVEL INDICATOR | J. D. Rose<br>Clearwater, Fla.<br>L. E. Goodwin<br>Wilmington, Del.<br>T. R. Herold<br>Aiken, S.C. | 6/20/67 |
| 3,326,048 | 456,014 | MANOMETER | G. C. Benson<br>Ann Arbor, Mich.<br>J. E. Allen<br>Ypsilanti, Mich. | 6/20/67 |
| 3,326,673 | 582,210 | PROCESS FOR SEPARATING PLUTONIUM FROM URANIUM FROM FISSION PRODUCTS | J. B. Knighton<br>Joliet, Ill.<br>W. Enoch<br>Willow Springs, Ill.<br>E. K. Steunenberg<br>Naperville, Ill. | 6/20/67 |
| 3,326,769 | 566,716 | ENERGETIC ELECTRON PLASMA BLANKET | R. V. Meidigh<br>Knoxville, Tenn.<br>W. L. Stirling<br>Oak Ridge, Tenn. | 6/20/67 |
| 3,327,127 | 340,838 | CURRENT CONTROL CIRCUIT | R. E. Pechacek<br>Berkeley, Calif. | 6/20/67 |
| 3,327,152 | 420,837 | NON-PHOTOEMISSIVE GRID FOR A PHOTOTUBE AND PROCESS FOR MAKING SAME | A. L. Greilich<br>Livermore, Calif. | 6/20/67 |
| 3,328,132 | 594,635 | METHOD OF SEPARATING $UF_6$ FROM BROMINE FLUORIDES | M. E. Bennett<br>Oak Ridge, Tenn.<br>G. I. Cathers<br>Knoxville, Tenn. | 6/27/67 |
| 3,328,139 | 435,549 | POROUS TUNGSTEN METAL SHAPES | E. S. Hodge<br>J. H. Peterson<br>Columbus, Ohio | 6/27/67 |
| 3,328,017 | 458,800 | REACTION VESSEL FOR PRODUCTION OF PLUTONIUM | W. V. Conner<br>Boulder, Colo. | 6/27/67 |
| 3,328,512 | 457,539 | ELECTRICAL CABLE ASSEMBLIES | J. R. Lembke<br>Overland Park, Kan.<br>T. W. Hininger<br>J. J. Shea<br>Kansas City, Mo. | 6/27/67 |
| 3,328,708 | 437,332 | METHOD AND APPARATUS FOR ACCELERATING IONS OF ANY MASS | B. H. Smith<br>A. Ghiorso<br>Berkeley, Calif.<br>R. M. Main<br>Oakland, Calif. | 6/27/67 |
| 3,328,960 | 480,214 | ION PROPULSION SYSTEM EMPLOYING LIFE-CYCLE WASTES AS A SOURCE OF IONIZABLE GAS | T. W. Martin<br>Nashville, Tenn. | 7/4/67 |
| 3,329,601 | 589,162 | APPARATUS FOR COATING A CATHODICALLY BIASED SUBSTRATE FROM PLASMA OF IONIZED COATING MATERIAL | D. M. Mattox<br>Albuquerque, N.Mex. | 7/4/67 |
| 3,329,745 | 493,277 | PROCESS FOR MAKING GELLED SPHERICAL PARTICLES OF OXIDES | L. D. LaGrange<br>San Diego, Calif. | 7/4/67 |
| 3,329,814 | 434,725 | STEREO POSITRON CAMERA FOR DETERMINING THE SPATIAL DISTRIBUTION OF RADIOACTIVE MATERIAL IN A TEST BODY | H. O. Anger<br>Oakland, Calif. | 7/4/67 |



XUM

| | | | | |
|---|---|---|---|---|
| 3,329,822 | 377,143 | MEANS FOR EQUALIZING TWO OUTPUT SIGNALS | K. J. Rogers Shoreham, N.Y. | 7/4/67 |
| 3,330,742 | 586,610 | ELECTROLYTIC REDUCTION OF URANIUM HEXAFLUORIDE TO URANIUM METAL IN FUSED SALT | R. D. Piper Des Peres, Mo. | 7/11/67 |
| 3,330,889 | 374,859 | PREPARATION OF HEAT SOURCES FOR RADIOISOTOPE HEATED THERMOELECTRIC GENERATORS | G. Samos Timonium, Md. J. L. Bloom Rockville, Md. | 7/11/67 |
| 3,331,526 | 384,013 | ULTRAHIGH VACUUM SEAL | L. L. Leverson Gif-Sur-Yvette, France M. Milleron Berkeley, Calif. | 7/18/67 |
| 3,331,666 | 591,042 | ONE-STEP METHOD OF CONVERTING URANIUM HEXAFLUORIDE TO URANIUM COMPOUNDS | W. C. Robinson Knoxville, Tenn. R. L. Heestand C. F. Leitten Oak Ridge, Tenn. | 7/18/67 |
| 3,331,683 | 547,033 | METHOD OF STABILIZING PLUTONIUM DIOXIDE | W. C. Pritchard Los Alamos, N.Mex. | 7/18/67 |
| 3,331,744 | 807,959 | PRODUCTION OF ISOTOPES FROM THERMONUCLEAR EXPLOSIONS | T. B. Taylor La Jolla, Calif. | 7/18/67 |
| 3,331,898 | 504,267 | METHOD FOR PREPARING METAL OXIDE MICROSPHERES | F. A. Haas Knoxville, Tenn. S. D. Clinton Oak Ridge, Tenn. | 7/18/67 |
| 3,331,962 | 397,346 | INTEGRALLY BONDED ENCAPSULATED GAMMA SOURCE | O. A. Kuhl Northport, N.Y. | 7/18/67 |
| 3,331,966 | 395,344 | ELECTRICAL CIRCUIT FOR RAPIDLY REVERSING THE DIRECTION OF CURRENT FLOW THROUGH A MAGNETIC CORE INDUCTOR | R. E. Fechacek Berkeley, Calif. | 7/18/67 |
| 3,332,614 | 407,945 | CENTRIFUGAL EXTRACTOR | D. S. Webster Aiken, S. C. W. E. Winsche Bellport, N.Y. | 7/25/67 |
| 3,332,741 | 296,145 | CRUCIBLE REACTOR AND METHOD | K. T. Yeatum Berkeley, Calif. | 7/25/67 |
| 3,332,771 | 386,456 | RECOVERY OF PLATINUM METALS | H. M. Heidt Powell, Tenn. | 7/25/67 |
| 3,333,120 | 410,335 | PULSE FORMING NETWORK VOLTAGE REGULATOR | W. T. Toulin Mountain View, Calif. | 7/25/67 |
| 3,333,180 | 373,891 | NONLINEAR RESISTANCE CIRCUIT FOR TRIPLING INPUT SIGNAL FREQUENCY | F. D. Neu Richmond, Calif. | 7/25/67 |
| 3,333,203 | 402,042 | PULSE GENERATOR WITH STANDING WAVE ENERGY STORAGE | W. R. Baker Orinda, Calif. | 7/25/67 |
| 3,333,473 | 452,033 | METHOD OF DETERMINING TUX PARTICLE SIZE DISTRIBUTION OF A POWDER | T. E. Crowder Concord, Tenn. | 8/1/67 |
| 3,333,721 | 445,808 | PROTECTIVE CONTAINER | L. J. Marek Villa Park, Ill. | 8/1/67 |
| 3,333,919 | 431,481 | STRONTIUM RECOVERY PROCESS | J. S. Buckingham Kennewick, Wash. | 8/1/67 |
| 3,334,306 | 399,940 | VOLTAGE TRANSIT SAMPLING CIRCUIT | H. J. Jensen Livermore, Calif. | 8/1/67 |
| 3,335,027 | 383,533 | NICKEL PLATING | S. H. Pitts Arvada, Colo. M. A. Thompson Boulder, Colo. | 8/8/67 |
| 3,335,060 | 488,486 | SEED-BLANKET NEUTRONIC REACTOR | R. L. Diener Pittsburgh, Pa. | 8/8/67 |
| 3,335,061 | 519,162 | METHOD OF OPERATING A BREEDER REACTOR | W. E. Winsche Bellport, N.Y. M. M. Levine Port Jefferson, N.Y. | 8/8/67 |
| 3,335,095 | 613,048 | PREPARATION OF ACTINIDE SOLS BY AMINE EXTRACTION | J. G. Moore Clinton, Tenn. | 8/8/67 |
| 3,335,493 | 490,752 | LINK CUTTER | J. P. Gallagher Albuquerque, N.Mex. | 8/15/67 |
| 3,335,998 | 502,706 | FAST-CLOSING VACUUM VALVE | M. L. Heinz Sunnyvale, Calif. | 8/15/67 |
| 3,336,495 | 343,168 | CERAMIC LOADED BUNCHER FOR LINEAR ACCELERATORS | G. A. Loew Palo Alto, Calif. | 8/15/67 |
| 3,337,257 | 493,939 | GRAPPLING SYSTEM | G. V. Brynsvold San Jose, Calif. | 8/22/67 |





| | | | | |
|---|---|---|---|---|
| 3,337,372 | 321,983 | PROCESS FOR IMPROVING PROPERTIES OF ZIRCONIUM METAL | H. E. Reed-Hill Gainesville, Fla. | 8/22/67 |
| 3,337,728 | 402,980 | MASS SPECTROGRAPH ION SOURCE WHEREIN A PULSED ARC IS PRODUCED BY VIBRATING ONE ELECTRODE | L. Friedman Patchogue, N.Y. A. P. Irsa Plainview, N.Y. | 8/22/67 |
| 3,338,665 | 268,840 | FOAM ENCAPSULATION METHOD OF NUCLEAR REACTOR SAFETY | L. Silverman Dover, Mass. | 8/29/67 |
| 3,338,686 | 455,016 | THERMAL INSULATION | C. D. Pears Birmingham, Ala. | 8/29/67 |
| 3,338,749 | 351,877 | CATHODIC HYDROGEN CELL AND METHOD OF MAKING | C. E. Johnson Elk Grove, Ill. R. R. Heinrich Downers Grove, Ill. C. E. Crouthamel Glen Ellyn, Ill. | 8/29/67 |
| 3,338,840 | 557,859 | URANIUM MONONITRIDE-SODIUM PASTE NUCLEAR FUEL | P. A. Nelson Wheaton, Ill. M. G. Chasanov Homewood, Ill. | 8/29/67 |

Vol. XVII — PATENTS FOR LICENSING — No. 4

October 31, 1967

| PATENT NO. | SER. NO. | INVENTION | INVENTORS | DATE |
|---|---|---|---|---|
| 3,339,631 | 33,330 | HEAT EXCHANGER UTILIZING VORTEX FLOW | J. A. McCurty W. C. Hecker Cincinnati, O. | 9/5/67 |
| 3,340,019 | 33,653 | PROCESS FOR THE REPROCESSING OF IRRADIATED COMPACT FUELS BY FLUORINATION | C. Pierini Mol, Belgium A. Francesconi Turnhout, Belgium J. Schmets Mol-Donk, Belgium | 9/5/67 |
| 3,340,023 | 30,098 | CELLULAR STRUCTURE | W. J. Hulsey Oak Ridge, Tenn. | 9/5/67 |
| 3,340,053 | 35,362 | GAS-PRESSURE BONDING | E. S. Hodge J. H. Peterson Columbus, Ohio M. A. Tassin, Jr. Baton Rouge, La. | 9/5/67 |
| 3,340,169 | 31,385 | METHOD FOR THE PREPARATION OF N,N-DIFLUOROALKYLAMINES | J. W. Frazer Livermore, Calif. | 9/5/67 |
| 3,340,425 | 33,399 | ION GENERATOR HAVING BEAM STABILIZATION ACCELERATING ELECTRODES | G. G. Kelley Kingston, Tenn. | 9/5/67 |
| 3,341,304 | 31,282 | SEPARATION OF URANIUM FROM URANIUM DIOXIDE-ZIRCONIUM DIOXIDE MIXTURES | B. J. Newby Idaho Falls, Idaho | 9/12/67 |
| 3,341,307 | 24,532 | OXIDATION RESISTANT NIOBIUM | C. O. Tarr C. S. Wukusick Cincinnati, O. R. C. Lover Anchorage, Ky. | 9/12/67 |
| 3,341,320 | 27,754a | PRODUCTION OF LOW PARTICLE SIZE-HIGH SURFACE AREA METAL POWDERS | S. H. Smiley Oak Ridge, Tenn. | 9/12/67 |
| 3,341,350 | 26,880 | METHOD OF PREPARING A URANIUM ARTICLE FOR A PROTECTIVE COATING | P. D. Anderson P. R. Coronado Livermore, Calif. L. M. Berry Albuquerque, N. Mex. | 9/12/67 |
| 3,341,352 | 25,866 | PROCESS FOR TREATING METALLIC SURFACES WITH AN IONIC BEAM | K. W. Ehlers Lafayette, Calif. | 9/12/67 |

| | | | | |
|---|---|---|---|---|
| 3,341,720 | 31,314 | APPARATUS FOR PRODUCING A BEAM OF ACCELERATED LIQUID METAL DROPLETS | E. S. Sowa<br>Westmont, Ill. | 9/12/67 |
| 3,342,540 | 23,781 | ANTIFLASH DEVICE | M. T. Abegg<br>W. B. Leslie<br>Albuquerque, N. Mex. | 9/19/67 |
| 3,342,697 | 27,765 | MULTISTAGE FLASH EVAPORATOR | R. P. Hammond<br>Oak Ridge, Tenn. | 9/19/67 |
| 3,343,020 | 30,339 | APPARATUS FOR THE ACCELERATION, STORAGE AND UTILIZATION OF COUNTER-ROTATING CHARGED PARTICLE BEAMS | H. S. Gordon<br>Orinda, Calif. | 9/19/67 |
| 3,343,096 | 30,914 | SYSTEM FOR PRODUCING HIGH ENERGY, HIGH INTENSITY CHARGED PARTICLE BEAMS | R. H. Rheaume<br>Stony Brook, N. Y. | 9/19/67 |
| 3,343,912 | 30,414 | RECOVERY OF ALUMINUM NITRATE FROM AQUEOUS SOLUTIONS | W. W. Schulz<br>Richland, Wash. | 9/26/67 |
| 3,343,914 | 30,411 | RECOVERING STRONTIUM FROM REACTOR FUEL REPROCESSING SOLUTIONS AS STRONTIUM SULFATE | L. A. Bray<br>Richland, Wash. | 9/26/67 |
| 3,343,915 | 31,386 | DENSIFICATION OF REFRACTORY COMPOUNDS | R. C. Rossi<br>Costa Mesa, Calif.<br>R. M. Fulrath<br>Berkeley, Calif. | 9/26/67 |
| 3,343,924 | 33,953 | SELECTIVE DECLADDING OF NUCLEAR FUEL ELEMENTS | L. J. Anastasia<br>Midlothian, Ill.<br>P. G. Alfredson<br>Sydney, Australia<br>M. J. Steindler<br>Park Forest, Ill. | 9/26/67 |
| 3,343,926 | 32,999 | OXIDATION-REDUCTION PROCEDURE FOR PARTICLE-SIZE REDUCTION OF $UO_2$ | I. W. Knudsen<br>Downers Grove, Ill.<br>M. M. Lavitz<br>Bellwood, Ill. | 9/26/67 |
| 3,343,929 | 30,431 | OXIDATION-RESISTANT BERYLLIUM ARTICLES AND PROCESS OF MAKING | R. J. Van Thyne<br>Oak Lawn, Ill.<br>J. J. Rausch<br>Evanston, Ill. | 9/26/67 |
| 3,343,979 | 31,698 | METHOD FOR DEPOSITING A TUNGSTEN-RHENIUM METAL ALLOY ON A SUBSTRATE | C. E. Heurin, Jr.<br>Oak Ridge, Tenn. | 9/26/67 |
| 3,344,034 | 33,386 | CONTROL DEVICE FOR NUCLEAR REACTORS | R. A. Smith<br>Latchworth, Eng. | 9/26/67 |
| 3,344,209 | 33,896 | FABRICATION OF MATERIALS BY HIGH ENERGY-RATE IMPACTION | J. R. Hague<br>Golden, Colo.<br>D. W. Brite<br>Richland, Wash. | 9/26/67 |
| 3,344,277 | 31,250 | RADIATION MONITOR WITH BACKGROUND COMPENSATION | K. F. Smith<br>J. B. Thompson<br>Idaho Falls, Idaho | 9/26/67 |
| 3,344,357 | 29,724 | STORAGE RING | J. P. Blewett<br>Bellport, N. Y. | 9/26/67 |
| 3,344,853 | 31,749 | APPARATUS FOR CONDENSING AND CONTROLLING THE RATE OF CONDENSATION OF AN ELECTRICALLY CONDUCTING LIQUID | R. M. Singer<br>Naperville, Ill. | 10/3/67 |
| 3,344,928 | 34,051 | HUMIC ACID AS AN ADDITIVE IN A PROCESS OF FORMING A SALT-REJECTING MEMBRANE | K. A. Kraus<br>J. S. Johnson<br>A. J. Shor<br>Oak Ridge, Tenn. | 10/3/67 |
| 3,345,120 | 27,576 | LIGH SPOT APPARATUS | R. B. Palmer<br>Shoreham, N. Y. | 10/3/67 |
| 3,345,127 | 29,776 | PROCESS FOR RECOVERING BORON VALUES FROM SCRAP MATERIALS | A. R. Eberle<br>M. W. Lerner<br>S. Plainfield, N.J.<br>L. J. Pinto<br>Bound Brook, N. J. | 10/3/67 |
| 3,345,436 | 27,010 | PROCESS OF MAKING URANIUM MONONITRIDE NUCLEAR FUEL | R. A. Craig<br>W. Hartford, Conn. | 10/3/67 |
| 3,345,440 | 30,882 | METHOD FOR MANUFACTURING FOAM CARBON PRODUCTS | J. M. Googin<br>J. M. Napier<br>Oak Ridge, Tenn.<br>M. E. Scrivner<br>Knoxville, Tenn. | 10/3/67 |
| 3,345,375 | 30,911 | PULSE MIDPOINT DETECTOR | J. H. M. van der Lans<br>E. Patchogue, N.Y. | 10/3/67 |
| 3,346,345 | 30,460 | EXTRACTION OF PLUTONIUM AND NEPTUNIUM FROM AQUEOUS SOLUTIONS | W. W. Schulz<br>Richland, Wash. | 10/10/67 |



| | | | | |
|---|---|---|---|---|
| 3,346,346 | 32,685 | METHOD FOR MELTING URANIUM OXIDE AND PLUTONIUM OXIDE | L. Schikarski<br>Hanau am Main, Germany<br>H. J. Teives<br>Ruckingen, Germany | 10/10/67 |
| 3,346,673 | 29,352 | FORMATION OF SUBMICRON URANIUM CARBIDE PARTICLES IN METALLIC URANIUM | G. A. Last<br>R. S. Kemper, Jr.<br>Richland, Wash. | 10/10/67 |
| 3,346,681 | 32,348 | METHOD OF MAKING REFRACTORY PRODUCTS | J. L. White<br>Del Mar, Calif.<br>J. M. Fontelandolfo<br>San Diego, Calif. | 10/10/67 |
| 3,346,914 | 29,008 | DEVICE FOR CONSOLIDATING METAL POWDERS | M. J. Sandstrom<br>C. L. Terrell<br>Los Alamos, N. Mex. | 10/17/67 |
| 3,347,133 | 32,965 | FAST-ACTING CASCADE VALVE | D. R. Ahlbeck<br>Worthington, Ohio<br>H. A. Cress<br>Columbus, Ohio | 10/17/67 |
| 3,347,711 | 29,443 | RADIOISOTOPE THERMOELECTRIC APPARATUS AND FUEL FORM | H. O. Banks, Jr.<br>Redondo Beach, Calif.<br>E. T. Teatum<br>L. R. Jones<br>Livermore, Calif.<br>Berkeley, Calif. | 10/17/67 |
| 3,347,768 | 30,439 | ANODIC PROTECTION FOR PLATING SYSTEM | W. I. Clark<br>D. D. Hays<br>Kennewick, Wash.<br>B. Griggs<br>G. F. Jacky<br>Richland, Wash. | 10/17/67 |
| 3,348,044 | 31,622 | AIR SAMPLING METHOD AND APPARATUS | M. Sanders<br>Knoxville, Tenn. | 10/17/67 |
| 3,348,141 | 31,993 | TIME INTERVAL MEASUREMENT UTILIZING A TUNNEL DIODE SWITCHED BY REFLECTED PULSES FROM TRANSMISSION LINES | H. J. Jensen<br>Davis, Calif.<br>E. E. Smith<br>Livermore, Calif. | 10/17/67 |
| 3,348,447 | 31,321 | DETERMINATION OF ISOTOPIC CONCENTRATIONS | J. A. Golab<br>Naperville, Ill. | 10/24/67 |
| 3,348,943 | 32,877 | REFRACTORY METAL DISPERSION | B. D. Pollock<br>Los Angeles, Calif. | 10/24/67 |
| 3,349,304 | 30,151 | LONGITUDINAL MOVEMENT MECHANISM | W. J. Wachter<br>Pittsburgh, Pa. | 10/24/67 |
| 3,349,524 | 29,369 | REACTOR CONTAINMENT VESSEL | S. H. Fistedis<br>Park Ridge, Ill. | 10/31/67 |
| 3,349,607 | 31,638 | ULTRASONIC FLAW DETECTION IN SMALL DIAMETER METAL TUBING | K. K. Klindt<br>Knoxville, Tenn. | 10/31/67 |
| 3,350,564 | 30,973 | VOID DETECTION UTILIZING NEUTRON ATTENUATION | C. F. Bonilla<br>Tenafly, N. J.<br>W. T. Sha<br>Pittsburgh, Pa. | 10/31/67 |







XUM 37 5 SEP 1973 VERIFIED

| PATENT NO. | SER. NO. | INVENTION | INVENTORS | DATE |
|---|---|---|---|---|
| 3,336,749 | 429,249(60) | NUCLEAR ROCKET MOTOR | F. E. Rom<br>Avon Lake, Ohio<br>A. F. Lietzke<br>R. E. Hyland<br>Westlake, Ohio | 8/22/67 |
| 3,341,420 | 492,771(60) | MODULAR FLUX TRAP REACTOR | R. H. Levy<br>Woodland Hills,<br>California | 9/12/67 |
| 3,350,848 | 546,144(60) | CONTINUOUS SORPTION-DESORPTION SYSTEM AND METHOD | D. C. Bratar<br>J. Dykstra, Jr.<br>S. H. Smiley<br>Oak Ridge, Tenn.<br>H. L. Kaufman<br>Kingston, Tenn. | 11/7/67 |
| 3,350,907 | 409,620(60) | METHOD FOR EXTRUDING MOLYBDENUM AND TUNGSTEN | R. E. McDonald<br>C. F. Loitten, Jr.<br>Oak Ridge, Tenn. | 11/7/67 |
| 3,350,966 | 554,911(60) | AUTOMATIC DIGITAL TOOL-SETTING SYSTEM | C. L. Moulton<br>Knoxville, Tenn. | 11/7/67 |
| 3,351,424 | 361,629(60) | SEPARATION OF CERIUM FROM OTHER RARE EARTHS | L. A. Bray<br>F. P. Roberts<br>Richland, Wash. | 11/7/67 |
| 3,351,532 | 488,487(60) | SEED-BLANKET CONVERTER-RECYCLE BREEDER REACTOR | H. F. Raab, Jr.<br>G. H. Conley<br>Pittsburgh, Pa.<br>M. J. Calpor<br>McKeesport, Pa.<br>D. H. Jones<br>Pittsburgh, Pa.<br>W. H. Hannum<br>Los Alamos, N. Mex. | 11/7/67 |
| 3,351,758 | 448,548 | WINDOWLESS HIGH-RESOLUTION SOLID STATE RADIATION DETECTOR | G. A. Armantrout<br>D. C. Camp<br>Livermore, Calif. | 11/7/67 |
| 3,351,852 | 392,348(60) | GRAPHICAL NULLING DEVICE FOR NONDESTRUCTIVE EDDY CURRENT TESTING EQUIPMENT | H. L. Libby<br>Richland, Wash. | 11/7/67 |
| 3,352,646 | 429,183(60) | PROCESS FOR PRODUCING $N_2O_3$ · 11.8HF | R. S. Seigel<br>Scarsdale, N. Y. | 11/14/67 |
| 3,352,950 | 603,692(60) | ELECTRICAL POTENTIAL METHOD FOR DISPERSION OF METAL OXIDE MICROSPHERES | D. M. Helton<br>Clinton, Tenn.<br>R. G. Wymer<br>Oak Ridge, Tenn. | 11/14/67 |
| 3,352,991 | 438,435(60) | METHOD AND APPARATUS FOR MELTING METALS BY INDUCTION HEATING | P. G. Clites<br>Silverton, Oregon | 11/14/67 |
| 3,353,097 | 350,928(60) | METHOD AND APPARATUS FOR OPTICALLY DETERMINING THE ALIGNMENT OF MAGNETIC FIELDS UTILIZING THE COTTON-MOUTON EFFECT | R. M. Johnson<br>Berkeley, Calif. | 11/14/67 |
| 3,353,448 | 323,184(60) | SIMULTANEOUS CHARGE AND READ QUANTOMETER | J. W. Thoiring<br>Pittsburgh, Pa. | 11/21/67 |
| 3,353,566 | 619,135(60) | END CLOSURE FOR NUCLEAR REACTOR CHANNEL | H. D. Cepkauskas<br>Farmington, Conn.<br>J. F. Koblin<br>Wapping, Conn. | 11/21/67 |
| 3,353,742 | 496,202(60) | BACK-STREAMING CONTROL IN A DIFFUSION PUMP | T. E. Bowman<br>Berkeley, Calif.<br>F. B. Kennedy<br>Cerrito, Calif. | 11/21/67 |
| 3,354,042 | 626,369(60) | STEAM SUPERHEATING NUCLEAR REACTOR HAVING STEAM FLOW EQUALIZER | T. B. Murdock<br>San Jose, Calif. | 11/21/67 |
| 3,354,290 | 446,134(60) | FORMING PROJECTIONS ON TUBES | R. E. Monroe<br>J. J. Vagi<br>Columbus, Ohio | 11/21/67 |
| 3,354,538 | 510,153(60) | BERYLLIUM FOIL FABRICATION | J. L. Cadden<br>D. H. Friar<br>Oak Ridge, Tenn. | 11/28/67 |
| 3,354,695 | 383,263(60) | UNIFORMLY TAPERED TRANSITION MANDREL | P. A. Szente<br>Sao Jose dos Campos, Sao Paulo, Brasil | 11/28/67 |
| 3,355,364 | 489,443(60) | PLURAL CONDUIT FLASH FILM EVAPORATOR FOR DISTILLING AND CONDENSING SEA WATER | R. F. Hammond<br>Oak Ridge, Tenn. | 11/28/67 |





| | | | | |
|---|---|---|---|---|
| 3,355,586 | 420,835(60) | MODIFIED MAGNETIC MOMENTUM SLIT INCLUDING A PAIR OF C-TYPE MAGNETS | B. Hedin<br>Geneva, Switzerland<br>H. Brechna<br>Palo Alto, Calif. | 11/28/67 |
| 3,356,254 | 476,218(60) | GLOVE PORT FOR DRY BOX | W. W. Becker<br>Shoreham, N. Y. | 12/5/67 |
| 3,356,493 | 623,196(60) | METHOD FOR PRODUCING HIGH DENSITY TUNGSTEN INGOTS | J. F. Lakner<br>Livermore, Calif.<br>G. K. Zima<br>Danville, Calif. | 12/5/67 |
| 3,356,530 | 394,091(60) | RADIOMETRIC FILM | R. Withnell<br>Manorville, N. Y. | 12/5/67 |
| 3,356,580 | 577,777(60) | METHOD AND APPARATUS FOR CONTAINING RADIOACTIVE FLUID | F. R. Ball<br>I. P. Arthur<br>San Diego, Calif. | 12/5/67 |
| 3,356,584 | 595,541(60) | FUEL PELLET FOR NUCLEAR REACTOR | C. E. Ockert<br>Broomell, Pa. | 12/5/67 |
| 3,356,585 | 637,881 | VENTED FUEL SYSTEM | E. L. Zebroski<br>Los Altos, Calif. | 12/5/67 |
| 3,356,586 | 631,105(60) | FUEL ELEMENT CONTAINING ACTIVATED CARBON | J. F. Watson<br>San Diego, Calif.<br>W. V. Goeddel<br>Poway, Calif. | 12/5/67 |
| 3,356,776 | 584,065(60) | METHOD OF FABRICATING CERAMIC NUCLEAR FUEL PRODUCT | A. B. Meservey<br>R. B. Pitts<br>Oak Ridge, Tenn.<br>J. D. Sease<br>Knoxville, Tenn. | 12/5/67 |
| 3,356,961 | 402,969(60) | VOLTAGE STRETCH CIRCUIT | J. W. Sedlmeyer<br>Las Vegas, Nevada | 12/5/67 |
| 3,356,976 | 507,256(60) | QUADRUPOLE MAGNET | W. B. Sampson<br>Bellport, N. Y.<br>R. B. Britton<br>Setauket, N. Y.<br>P. C. Kruger<br>Champaign, Ill. | 12/5/67 |
| 3,357,505 | 468,654(60) | HIGH TEMPERATURE ROCK DRILL | D. E. Armstrong<br>Santa Fe, N. Mex.<br>J. S. Coleman<br>B. B. McInteer<br>R. M. Potter<br>E. S. Robinson<br>Los Alamos, N. Mex. | 12/12/67 |
| 3,357,854 | 407,940(60) | NICKEL PLATING PROCESS | D. D. Hays<br>Kennewick, Wash. | 12/12/67 |
| 3,357,866 | 428,888(60) | THERMOELECTRIC GENERATOR | H. Belofsky<br>Verona, N. J. | 12/12/67 |
| 3,357,890 | 596,016(60) | PRESSURE VESSEL THERMAL INSULATION | R. W. Fritz<br>J. E. Hench<br>San Jose, Calif. | 12/12/67 |
| 3,358,144 | 515,487 | VARIABLE RADIATION LENGTH BUBBLE CHAMBER | M. Goldhaber<br>Bayport, N. Y. | 12/12/67 |
| 3,358,225 | 355,516(60) | LIFT-OFF COMPENSATION FOR EDDY CURRENT TESTERS | R. S. Pengeot<br>Oak Ridge, Tenn. | 12/12/67 |
| 3,358,245 | 399,413(60) | PHASE MODULATED SOLID STATE DEVICE | J. C. Pigg<br>Oak Ridge, Tenn. | 12/12/67 |
| 3,358,519 | 504,275(60) | RATCHET DRIVE | C. A. Christianson<br>Southold, N. Y. | 12/19/67 |
| 3,358,605 | 639,139(35) | PRESSURE SENSITIVE SWITCH | A. M. Ayers<br>Estancia, N. Mex. | 12/19/67 |
| 3,358,694 | 455,019 | METHOD OF REDUCING IRRITANTS IN TOBACCO BY GAMMA IRRADIATION | H. V. Boenig<br>W. A. Lambertson<br>W. J. Breun<br>H. S. Myers<br>Lexington, Ky. | 12/19/67 |
| 3,358,750 | 571,655(60) | CONDENSER TUBE | D. G. Thomas<br>Oak Ridge, Tenn. | 12/19/67 |
| 3,358,857 | 547,313(60) | LIFTING AN OBJECT CONTAINED IN A BAG | G. J. Vogel<br>Elmhurst, Ill.<br>E. L. Carle<br>Glen Ellyn, Ill.<br>W. A. Murphy<br>Palos Heights, Ill. | 12/19/67 |
| 3,359,064 | 411,167(60) | PROCESS FOR SEPARATING BERYLLIUM VALUES FROM AQUEOUS SOLUTIONS | D. J. Crouse, Jr.<br>F. G. Seeley<br>Oak Ridge, Tenn. | 12/19/67 |
| 3,359,083 | 463,973(60) | COMPOSITE STRUCTURAL METAL MEMBERS WITH IMPROVED FRACTURE TOUGHNESS | H. L. Leichter<br>Castro Valley, Calif. | 12/19/67 |
| 3,359,117 | 604,493(60) | REMOVAL OF STRONTIUM 90 FROM MILK WITH CALCIUM PYROPHOSPHATE, STRONTIUM PYROPHOSPHATE, OR MIXTURE THEREOF | B. Van't Riet<br>Richmond, Va. | 12/19/67 |

| | | | | | |
|---|---|---|---|---|---|
| 3,359,173 | 628,789(60) | LIQUID EXCURSION FULSED REACTOR | L. D. P. King<br>Santa Fe, N. Mex. | 12/19/67 | |
| 3,359,175 | 580,570(60) | NUCLEAR REACTOR | I. F. Arthur<br>F. R. Bell<br>San Diego, Calif. | 12/19/67 | |
| 3,359,419 | 493,598(60) | RADIOGRAPHIC NONDESTRUCTIVE TESTING METHOD | J. Kastner<br>Park Forest, Ill.<br>H. Berger<br>Naperwills, Ill. | 12/19/67 | |
| 3,359,421 | 499,116(60) | MAGNETOSTRICTIVE READOUT FOR WIRE SPARK CHAMBERS | V. Perez-Mendez<br>Berkeley, Calif.<br>J. M. Pfab<br>Monrovia, Calif. | 12/19/67 | |
| 3,359,452 | 496,197(60) | RESONATOR FOR SUPPORTING NON-SINUSOIDAL PERIODIC WAVEFORMS | Q. A. Kerns<br>Orinda, Calif. | 12/19/67 | |
| 3,359,621 | 488,291 | METHOD OF MAKING A DEVICE FOR MONITORING SHUT-DOWN NUCLEAR REACTORS | F. B. Quinlan<br>Richland, Wash. | 12/26/67 | |
| 3,359,788 | 436,698(60) | ULTRASONIC MEASUREMENT OF SOLUTION CONCENTRATION | D. W. Colvin<br>Clearwater, Fla. | 12/26/67 | |
| 3,360,340 | 423,093(60) | DOUBLE PULSED MIXER-SETTLER LIQUID-LIQUID EXTRACTION SYSTEM | R. E. McHenry<br>Oak Ridge, Tenn.<br>J. C. Posey<br>Knoxville, Tenn. | 12/26/67 | |
| 3,360,477 | 435,761(60) | NEUTRON SOURCE | E. H. Acres<br>Oak Ridge, Tenn.<br>W. G. Tatum<br>Lenoir City, Tenn. | 12/26/67 | |
| 3,360,646 | 429,185(60) | UNIFORM GAMMA IRRADIATION OF BULK GRAIN MATERIAL | H. M. Reiback<br>New York, N. Y.<br>O. A. Kuhl<br>Northport, N. Y. | 12/26/67 | |
| 3,360,663 | 456,013(60) | HIGH-VOLTAGE GENERATOR | A. V. Crewe<br>A. Yokosawa<br>D. J. DeCaster<br>Argonne, Ill. | 12/26/67 | |
| 3,360,678 | 439,484(60) | FAST PULSE GENERATOR UTILIZING AN ELECTRON BEAM TO CAUSE AN ABC BREAKDOWN ACROSS THE GAP REGION OF A COAXIAL LINE CENTER CONDUCTOR | Q. A. Kerns<br>Orinda, Calif. | 12/26/67 | |
| 3,360,743 | 562,953(60) | DISTRIBUTED FEEDBACK STRIP TRANSMISSION LINE OSCILLATOR | M. D. Clark<br>Albuquerque, N. Mex. | 12/26/67 | |





| PATENT NO. | SER. NO. | INVENTION | INVENTORS | DATE |
|---|---|---|---|---|
| 3,345,143 | 401,214(60) | PRODUCTION OF STOICHIOMETRIC URANIUM MONOCARBIDE | E. W. Harbach<br>Thousand Oaks, Calif. | 10/3/67 |
| 3,360,947 | 546,478(60) | CRYOGENIC PHASE SEPARATOR | J. H. Fretwell<br>H. K. Jennings<br>Los Alamos, New Mex. | 1/2/68 |
| 3,361,029 | 326,310(60) | OPTICAL SCANNING BACKGROUND DENSITY NORMALIZER | J. A. G. Russell<br>Danville, Calif.<br>F. D. Neu<br>Richmond, Calif. | 1/2/68 |
| 3,361,064 | 183,586(48) | ELECTRIC DETONATING APPARATUS | L. H. Johnston<br>Minneapolis, Minn.<br>R. Alldredge<br>Denver, Colo. | 1/2/68 |
| 3,361,149 | 500,453(60) | USE OF LIQUID HELIUM IN HYDRAULIC COMPUTERS | D. T. Meyer<br>Durham, N. C. | 1/2/68 |
| 3,361,637 | 577,094(60) | SHUTTER DEVICE FOR NUCLEAR REACTOR CORE | K. Dutta<br>B. C. Hawke<br>San Diego, Calif. | 1/2/68 |
| 3,361,638 | 629,880(60) | PYROLYTIC GRAPHITE AND NUCLEAR FUEL PARTICLES COATED THEREWITH | J. C. Bokros<br>San Diego, Calif.<br>A. S. Schwartz<br>Del Mar, Calif. | 1/2/68 |
| 3,361,676 | 616,427(60) | URANIA SOL FORMING METHOD IN THE PRESENCE OF FORMIC ACID AND A PALLADIUM-ON-THORIA CATALYST | J. F. McBride<br>Oak Ridge, Tenn.<br>W. L. Pattison<br>Knoxville, Tenn. | 1/2/68 |
| 3,361,960 | 381,600(60) | PULSED NONDESTRUCTIVE EDDY CURRENT TESTING DEVICE USING SHIELDED SPECIMEN ENCIRCLING COILS | C. J. Renken, Jr.<br>Orland Park, Ill.<br>A. Sather<br>Plainfield, Ill. | 1/2/68 |
| 3,361,963 | 388,734(60) | PRECISION INDEXING POSITIONER | P. G. Watson<br>Kensington, Calif. | 1/2/68 |
| 3,362,141 | 551,184(60) | SURFACE CONTAMINATION SAMPLER | G. W. Royster, Jr.<br>Oak Ridge, Tenn.<br>B. R. Fish<br>Knoxville, Tenn. | 1/9/68 |
| 3,362,567 | 462,144(60) | COMPLIANT FLANGE VESSEL CLOSURE | E. R. Rudock<br>Santa Cruz, Calif. | 1/9/68 |
| 3,362,642 | 546,143(60) | APPARATUS FOR APPLYING LIQUID TO THE INTERIOR OF A VESSEL IN A SPIRAL SPRAY PATTERN | R. A. Freeman<br>T. L. Murphy<br>Idaho Falls, Idaho | 1/9/68 |
| 3,362,791 | 391,811(60) | APPARATUS FOR SEPARATION OF IMMISCIBLE LIQUID PAIRS INCLUDING REMOTE INTERFACE CONTROL | A. D. Ryon<br>Oak Ridge, Tenn. | 1/9/68 |
| 3,362,914 | 646,158(60) | URANIUM CARBIDE-PLUTONIUM PHOSPHIDE AS A REACTOR FUEL | O. L. Kruger<br>Westmont, Ill.<br>J. B. Moser<br>Evanston, Ill.<br>J. W. Thompson<br>Hinsdale, Ill.<br>R. E. Meilhiot<br>Palos Hills, Ill. | 1/9/68 |
| 3,363,037 | 469,009(60) | HIGH-TEMPERATURE ISOSTATIC PRESSING OF ARTICLES | R. P. Levey, Jr.<br>Oak Ridge, Tenn.<br>A. K. Smith<br>S. Clinton, Tenn. | 1/9/68 |
| 3,363,130 | 504,276(60) | FREQUENCY TUNING OF AN ENERGETIC ARC DISCHARGE BY VARYING THE DIAMETER OF THE CYLINDRICAL HOLLOW ARC | J. W. Flowers<br>Gainesville, Fla.<br>W. A. Dunnill<br>Tullahoma, Tenn. | 1/9/68 |
| 3,363,149 | 456,873(60) | TRIP CIRCUIT | L. A. DeLateur<br>Sunnyvale, Calif. | 1/9/68 |
| 3,363,184 | 282,182(60) | POWER SCAVENGING DEQ'ING CIRCUIT FOR A LINE-TYPE PULSER | W. I. Smith<br>Palmyra, N. J. | 1/9/68 |
| 3,363,207 | 580,514(60) | COMBINED INSULATING AND CRYOGEN CIRCULATING MEANS FOR A SUPERCONDUCTIVE SOLENOID | H. Brechna<br>Palo Alto, Calif. | 1/9/68 |
| 3,363,304 | 446,133(60) | METHOD OF FABRICATING ZIRCONIUM-BERYLLIUM-EUTECTIC WIRE | F. B. Quinlan<br>Richland, Wash. | 1/16/68 |



XUM 37 5 SEP 1973 ARCHIVES

| | | | | |
|---|---|---|---|---|
| 3,364,355 | 473,568(60) | NEUTRON GENERATOR WITH OCCLUDED GAS ION SOURCE | L. Ruby<br>J. B. Rechen<br>Berkeley, Calif.<br>T. Vuletich<br>Piedmont, Calif.<br>D. K. Wells<br>Concord, Calif. | 1/15/68 |
| 3,364,636 | 556,785(60) | SUPPORT FOR CHARGED PARTICLE ACCELERATOR MAGNET SECTIONS | W. W. Salsig, Jr.<br>Kensington, Calif. | 1/23/68 |
| 3,365,573 | 425,090(60) | METHOD OF SEPARATING OF SILICON ISOTOPES USING SILICON DISULFIDE AS THE FEED MATERIAL | W. C. Davis<br>C. W. Sheridan<br>J. G. Tracy<br>Oak Ridge, Tenn. | 1/23/68 |
| 3,365,978 | 536,950(60) | ADJUSTING DEVICE FOR REMOTE CONTROL MANIPULTORS | R. K. Kirby<br>C. D. Wicker<br>Knoxville, Tenn. | 1/30/68 |
| 3,366,320 | 473,880(60) | CENTRIFUGE SAMPLE HOLDER | N. Cho<br>Knoxville, Tenn. | 1/30/68 |
| 3,366,544 | 471,772(60) | METHOD OF AND APPARATUS FOR CONTROLLING START-UP OF A NUCLEAR REACTOR | W. L. Bunch<br>Richland, Wash. | 1/30/68 |
| 3,366,549 | 562,949(60) | GAS-COOLED NUCLEAR REACTOR | K. A. Trickett<br>Rockville, Md.<br>M. T. Simnad<br>San Diego, Calif.<br>G. J. Malek<br>Poway, Calif. | 1/30/68 |
| 3,366,576 | 588,679(60) | HIGH DENSITY CERAMIC BERYLLIA-NUCLEAR FUEL COMPACT CONTAINING AN ADDITIVE FOR THE RETENTION OF FISSION PRODUCTS | R. A. Meyer<br>San Diego, Calif.<br>F. H. Lofftus<br>Del Mar, Calif. | 1/30/68 |
| 3,366,794 | 290,869(60) | SCANNING APPARATUS FOR AIDING IN THE DETERMINATION OF POINT CO-ORDINATES OF PATHS OF CHARGED PARTICLES AS RECORDED ON PHOTOGRAPHIC FILM | L. W. Alvarez<br>Berkeley, Calif. | 1/30/68 |
| 3,366,873 | 580,155(60) | LINEAR RESPONSIVE MOLTEN METAL LEVEL DETECTOR | W. R. Miller<br>Concord, Tenn.<br>L. H. Thacker<br>Knoxville, Tenn. | 1/30/68 |
| 3,367,223 | 519,393(60) | SEMICONDUCTOR LEAD CUTTER | G. F. Caraisco<br>V. F. Elischer<br>El Cerrito, Calif. | 2/6/68 |
| 3,367,398 | 498,166(60) | METHOD OF PREVENTING SEGREGATION DURING CASTING OF COMPOSITES | R. E. Riley<br>H. Sheinberg<br>Los Alamos, N. Mex. | 2/6/68 |
| 3,367,826 | 364,342(60) | BORON CARBIDE ARTICLE AND METHOD OF MAKING | W. L. Headstand<br>C. F. Leitten, Jr.<br>Oak Ridge, Tenn. | 2/6/68 |
| 3,367,849 | 353,646(60) | AMPEROMETRIC DETERMINATION OF GLUCOSE | W. J. Blaedal<br>Madison, Wis.<br>C. L. Olson<br>Columbus, Ohio | 2/6/68 |
| 3,367,881 | 643,329(60) | EXTRACTION METHOD FOR PREPARING $UO_2$ MICROSPHERES | L. E. Morse<br>Oak Ridge, Tenn. | 2/6/68 |
| 3,368,066 | 345,055(60) | FAST MULTIPLIER EMPLOYING FIELD-EFFECT TRANSISTORS | G. L. Miller<br>Westfield, N. J.<br>V. Radeka<br>E. Patchoguo, N. Y. | 2/6/68 |
| 3,368,135 | 422,469(60) | OVERVOLTAGE PROTECTION CIRCUIT FOR CONDENSER DISCHARGE SYSTEM | A. E. Schofield<br>R. O. Holm<br>Los Alamos, N. Mex. | 2/6/68 |
| 3,368,877 | 514,408(60) | PLUTONIUM CARBONITRIDE | J. L. Guyton<br>Amarillo, Tex.<br>M. A. Thompson<br>Boulder, Colo. | 2/13/68 |
| 3,368,979 | 637,042(60) | NUCLEAR FUEL COMPOSITION FOR MULTIPLICATION DETERMINATION IN REACTORS AND DRIVING SUBCRITICAL LATTICES | H. A. Robkin<br>Castro Valley, Calif.<br>C. R. Porter<br>Livermore, Calif. | 2/13/68 |
| 3,369,140 | 313,134(60) | ANNULAR CONFINEMENT OF HIGH TEMPERATURE PLASMAS | H. P. Furth<br>Berkeley, Calif. | 2/13/68 |
| 3,369,401 | 574,274(60) | TEMPERATURE-GRADIENT-INSENSITIVE RESISTANCE-TYPE LIQUID METAL LEVEL DETECTOR | N. H. Briggs<br>Oak Ridge, Tenn.<br>C. M. Burton<br>G. W. Greene<br>Knoxville, Tenn. | 2/20/68 |
| 3,369,889 | 651,630(60) | PRODUCTION OF SPHEROIDAL URANIUM METAL POWDER | F. E. Trent<br>Norris, Tenn. | 2/20/68 |

NOTICES





| | | | | |
|---|---|---|---|---|
| 3,369,890 | 619,130(60) | METHOD FOR MAKING NIOBIUM-URANIUM ALLOY WITH PREDETERMINED TOTAL VOID VOLUME AND VOID SIZE | H. A. Wilhelm<br>J. F. McClusky<br>Ames, Iowa | 2/20/68 |
| 3,370,016 | 619,131(60) | PREPARATION OF DENSE THORIA AND SULFATE CONTAINING THORIA FROM AN AQUEOUS THORIUM NITRATE SOLUTION | G. G. Briggs<br>Cincinnati, Ohio | 2/20/68 |
| 3,371,405 | 420,843(60) | METHOD OF PRODUCING POROUS NICKEL BODIES | A. L. Klibanoff<br>Boston, Mass. | 3/5/68 |
| 3,371,558 | 529,179(60) | ROTARY DRILLING DEVICE | C. Asmanes<br>Oak Ridge, Tenn. | 3/5/68 |
| 3,372,004 | 538,169(60) | PROCESS FOR MAKING POROUS SODIUM FLUORIDE PELLETS | E. W. Richardson<br>Paducah, Ky.<br>L. E. McNeese<br>Oak Ridge, Tenn. | 3/5/68 |
| 3,372,127 | 432,436(60) | BORON-LOADED LIQUID SCINTILLATOR | G. E. Thomas, Jr.<br>Naperville, Ill.<br>H. E. Jackson, Jr.<br>Elmhurst, Ill. | 3/5/68 |
| 3,372,274 | 523,513(60) | INERT RADIOACTIVE FISSION GAS SAMPLES | R. R. Landolt<br>W. Lafayette, Ind. | 3/5/68 |
| 3,372,275 | 554,292(60) | NEUTRON FILM DOSIMETER USING MULTIPLE FILTERS | L. F. Kocher<br>Richland, Wash. | 3/5/68 |
| 3,372,276 | 457,881(60) | METHOD AND SYSTEM FOR THE NON-DESTRUCTIVE INSPECTION OF VARIABLE DENSITY PLATES | J. W. Reynolds<br>Oak Ridge, Tenn.<br>H. J. Stripling, Jr.<br>Knoxville, Tenn. | 3/5/68 |
| 3,372,290 | 455,020(60) | ELECTRICAL GENERATOR | E. S. Sowa<br>Westmont, Ill.<br>C. J. Divona<br>Lockport, Ill. | 3/5/68 |
| 3,372,295 | 533,837(60) | AIR PROPORTIONAL ALPHA DETECTOR | J. R. Sparks<br>Albuquerque, N. Mex. | 3/5/68 |
| 3,373,969 | 493,597(60) | VALVE FOR VACUUM SERVICE | M. J. Taitt<br>Trafford, Pa. | 3/19/68 |
| 3,374,069 | 624,667(60) | PREPARATION OF METAL CARBONATES BY $CO_2$ - PRESSURIZING ANHYDROUS METAL ACETATES | E. L. Head<br>Los Alamos, N. Mex. | 3/19/68 |
| 3,374,092 | 502,707(60) | HIGH TEMPERATURE BRAZING ALLOYS FOR TUNGSTEN AND TANTALUM AND ALLOYS THEREOF | J. C. Marshall<br>Pottstown, Pa. | 3/19/68 |
| 3,374,149 | 641,425(60) | NUCLEAR REACTOR HEAT TRANSFER SYSTEM | H. C. Parris<br>Los Angeles, Calif. | 3/19/68 |
| 3,374,157 | 457,872(60) | ELECTROLYTE FOR THE ELECTRODEPOSITION OF TECHNETRIUM | W. D. Box<br>Oak Ridge, Tenn. | 3/19/68 |
| 3,374,355 | 649,413(35) | MAGNETIC FOCUSING OF X-RAY TUBES AND SYSTEM FOR OPERATING | L. G. Parrott<br>T. R. Cuykendall<br>K. I. Greisen<br>L. T. Finlayson<br>F. Reines<br>Santa Fe, N. Mex. | 3/19/68 |
| 3,374,356 | 651,280(35) | MAGNETIC INDUCTION ACCELERATOR WITH MEANS TO DEFLECT ACCELERATED ELECTRONS TO AN X-RAY TARGET | D. W. Kerst<br>Urbana, Ill. | 3/19/68 |
| 3,374,378 | 654,039(60) | ACCELERATION OF HEAVY PARTICLES | E. D. Courant<br>Bayport, N. Y. | 3/19/68 |
| 3,374,408 | 457,880(60) | TRANSISTOR HAVING CONSTANT GAIN OVER A BROAD TEMPERATURE RANGE | H. H. Sander<br>Albuquerque, N. Mex. | 3/19/68 |
| 3,374,409 | 491,062(60) | FAST VERTICAL STROKE MOVING COIL TRANSDUCER | A. J. Gorka<br>Naperville, Ill. | 3/19/68 |
| 3,375,149 | 23,865(48) | PLUTONIUM ETCHING PROCESS | M. Kolodney<br>New York, N. Y. | 3/26/68 |
| 3,375,369 | 471,777(60) | MATRIX CORRECTED X-RAY FLUOROMETRIC ANALYSIS METHOD | M. Goldman<br>R. P. Anderson<br>Davis, Calif. | 3/26/68 |
| 3,375,372 | 538,917(60) | PHOTO-STIMULATED RADIATION DOSIMETRY | K. Miyashita<br>State College, Pa. | 3/26/68 |
| 3,375,452 | 609,730(60) | FERRITE ADJUSTABLE KICKER MAGNET FOR EXTRACTING BEAMS OF CHARGED PARTICLES | E. B. Forsyth<br>Brookhaven, N. Y. | 3/26/68 |

NOTICES

| PATENT NO. | SER. NO. | INVENTION | INVENTORS | DATE |
|---|---|---|---|---|
| 3,358,145 | 422,100(60) | RADIATION DETECTOR READ-OUT SYSTEM | K. D. Cashion<br>Friendswood, Tex.<br>B. R. Baker<br>Houston, Tex. | 12/12/67 |
| 3,374,148 | 658,954(60) | NUCLEAR REACTOR CORE FOR A ROCKET | F. E. Rom<br>Avon, Lake, Ohio<br>A. F. Lietzke<br>R. E. Hyland<br>Westlake, Ohio | 3/19/68 |
| 3,375,664 | 569,760(60) | CONVECTION CURRENT POWER GENERATOR | W. M. Wells, Jr.<br>Livermore, Calif. | 4/2/68 |
| 3,375,676 | 642,289(60) | METHOD OF STORING HYDROGEN | J. J. Reilly, Jr.<br>Bellport, N. Y.<br>R. H. Wiswall, Jr.<br>Brookhaven, N. Y. | 4/2/68 |
| 3,376,116 | 614,782(60) | FLUID BED DENITRATION OF THORIUM NITRATE | W. J. Robertson<br>Overland, Mo.<br>G. E. Kerr<br>St. Louis, Mo. | 4/2/68 |
| 3,376,414 | 461,568(60) | CALUTRON WITH MEANS TO DIRECT CALCIUM GETTERING VAPOR INTO THE ION BEAM TO REDUCE TANK PRESSURE | W. A. Bell, Jr.<br>K. A. Speinhour<br>A. M. Veach<br>Oak Ridge, Tenn. | 4/2/68 |
| 3,376,440 | 488,295(60) | LIQUID METAL PISTON MHD GENERATOR | J. P. Palmer<br>Setauket, N. Y. | 4/2/68 |
| 3,376,470 | 479,355(60) | CAPACITOR DISCHARGE CIRCUIT FOR STARTING AND SUSTAINING A WELDING ARC | C. C. Stone<br>R. H. Olp<br>Downers Grove, Ill.<br>C. J. Pokorey<br>Glen Ellyn, Ill. | 4/2/68 |
| 3,376,544 | 571,155(60) | ELECTRICAL CONNECTOR | D. M. Locke<br>White Rock, N. Mex. | 4/2/68 |
| 3,377,251 | 642,660(60) | NUCLEAR REACTOR FOR USE IN SPACE | H. E. Hanthorn<br>H. Harty<br>Richland, Wash. | 4/9/68 |
| 3,377,257 | 23,861(48) | ELECTROLYTIC PROCESS FOR CLEANING PLUTONIUM METAL | M. Kolodney<br>New York, N. Y. | 4/9/68 |
| 3,377,355 | 461,564(60) | METHOD OF CALIBRATING HIGH-VOLTAGE PRECISION RESISTANCE POTENTIAL DIVIDERS | R. N. Lewis<br>Claredon Hills, Ill. | 4/9/68 |
| 3,377,694 | 495,359(60) | EXPLOSION WELDING OF INCOMPATIBLE METALS | C. C. Simons<br>Kennewick, Wash.<br>R. L. Bradford<br>Columbus, Ohio | 4/16/68 |
| 3,377,871 | 71,404(48) | PORTABLE TIMING MECHANISMS | F. F. Bachberger<br>Tomafly, N. J.<br>J. A. Howe<br>Wood Ridge, N. J.<br>M. Brown<br>New York, N. Y. | 4/16/68 |
| 3,377,886 | 569,758(60) | SPEED REDUCER | C. E. Frantz<br>F. F. Vlecil<br>Richland, Wash. | 4/16/68 |
| 3,378,416 | 324,169(60) | NOVEL HIGH EXPLOSIVE COMPOSITIONS | C. W. Schoenfelder<br>Livermore, Calif.<br>D. D. Perry<br>Morristown, Calif.<br>M. M. Foin<br>Westfield, N. J. | 4/16/68 |
| 3,378,449 | 656,996(60) | NUCLEAR REACTOR ADAPTED FOR USE IN SPACE | J. J. Roberts<br>Chicago, Ill.<br>E. J. Croke<br>River Forest, Ill. | 4/16/68 |
| 3,378,453 | 565,012(60) | HIGH HEAT FLUX NEUTRONIC FUEL ELEMENT | C. E. Gorker<br>Cincinnati, Ohio | 4/16/68 |
| 3,378,478 | 260,086(60) | APPARATUS FOR CONTINUOUS OXYGEN MONITORING OF LIQUID METALS | M. Kolodney<br>River Edge, N. J.<br>H. Steirmetz<br>Mousey, N. Y. | 4/16/68 |
| 3,378,685 | 457,338(60) | INFRARED NONDESTRUCTIVE TESTING TECHNIQUE INDEPENDENT OF SAMPLE SURFACE EMISSIVITY | D. E. Green<br>H. L. Libby<br>Richland, Wash. | 4/16/68 |
| 3,378,778 | 377,782(60) | APPARATUS FOR DAMPING AXIAL COHERENT BEAM INSTABILITIES IN A SYNCHROTRON PARTICLE ACCELERATOR | J. H. Martin<br>Lisle, Ill.<br>R. A. Minje<br>Naperville, Ill.<br>R. H. Hilden<br>Minneapolis, Minn.<br>F. E. Mills<br>Madison, Wis. | 4/16/68 |





| | | | | |
|---|---|---|---|---|
| 3,379,051 | 490,148(60) | MULTIPLE BEAM ULTRASONIC NON-DESTRUCTIVE TESTING DEVICE | M. F. Zeutschel<br>Kennewick, Wash.<br>N. E. Dixon<br>Pasco, Wash. | 4/23/68 |
| 3,379,460 | 534,977(60) | COUPLING AND SEAL FOR CONDUITS | R. J. Allyn<br>Bellevue, Wash. | 4/23/68 |
| 3,379,585 | 205,834(48) | CAST EXPLOSIVES COMPRISING CYCLOTRIMETHYLENE TRINITRAMINE AND NITROTOLUENES | C. L. Miller<br>Los Alamos, N. Mex.<br>J. L. Sterk<br>St. Paul, Minn. | 4/23/68 |
| 3,379,614 | 522,116(60) | NUCLEAR REACTOR FUEL CHANNEL ASSEMBLY | C. N. Drummond<br>Chappaque, N. Y. | 4/23/68 |
| 3,379,648 | 599,977(60) | SEPARATION OF TRIVALENT 4f RARE EARTHS FROM MOLTEN FLUORIDE COMPOSITIONS WITH $UF_3$ | H. F. McDuffie<br>Oak Ridge, Tenn. | 4/23/68 |
| 3,379,760 | 477,623(60) | 2-BROMOACETAMIDO-4-NITROPHENOL | M. Burr<br>New York, N. Y.<br>D. E. Koshland, Jr.<br>Bellport, N. Y. | 4/23/68 |
| 3,379,880 | 435,101(60) | DEVICE FOR FORMING REPLICA IMAGES OF PARTICLE DISTRIBUTION IN A PLASMA STREAM | F. H. Coensgen<br>Pleasanton, Calif.<br>W. F. Cummins<br>W. E. Nexsen, Jr.<br>Livermore, Calif. | 4/23/68 |
| 3,379,988 | 416,170(60) | COMPLEMENTARY PAIR FEEDBACK AMPLIFIER | R. H. Graham<br>(deceased)<br>Glastonbury, Conn. | 4/23/68 |
| 3,380,584 | 461,566(60) | PARTICLE SEPARATOR | M. J. Fulwyler<br>Los Alamos, N. Mex. | 4/30/68 |
| 3,380,761 | 475,298(60) | QUICK DISCONNECT COUPLING DEVICE | R. R. VanDevender, Jr.<br>China Lake, Calif. | 4/30/68 |
| 3,380,805 | 506,913(60) | RARE EARTH SUBOXIDES | A. K. Miller<br>Ames, Iowa | 4/30/68 |
| 3,380,863 | 23,862(48) | PLUTONIUM ETCHING | M. Kolodney<br>New York, N. Y. | 4/30/68 |
| 3,380,893 | 481,991(60) | METHOD OF INTRODUCING A COLORED GROUP SENSITIVE TO pH CHANGES INTO ENZYMES BY REACTING WITH 2-METHOXY-5-NITRO-BENZYL BROMIDE | D. E. Koshland, Jr.<br>H. C. Latham<br>E. Patchogue, N. Y.<br>H. R. Horton<br>Raleigh, N. C. | 4/30/68 |
| 3,380,916 | 455,015(60) | ION EXCHANGE PROCESS | H. Katz<br>Port Jefferson, N. Y.<br>M. Rothbart<br>Shoreham, N. Y. | 4/30/68 |
| 3,381,234 | 419,256(60) | PUSH-PULL EMITTER FOLLOWER CIRCUIT | R. Zane<br>Richmond, Calif. | 4/30/68 |
| 3,381,367 | 566,165(60) | SEMICONDUCTOR DETECTOR METHOD AND APPARATUS | G. L. Miller<br>Babylon, N. Y.<br>S. K. Wagner<br>Brookhaven, N. Y. | 5/7/68 |
| 3,382,161 | 452,948(50) | ELECTROLYTIC SEPARATION OF TRANSITION METAL OXIDE CRYSTALS | W. Kummann<br>Port Jefferson Station, N. Y.<br>A. Ferretti<br>Cambridge, Mass.<br>R. J. Arnott<br>Waltham, Mass.<br>D. B. Rogers<br>Forge Village, Mass. | 5/7/68 |
| 3,382,164 | 428,260(60) | SEPARATION OF CESIUM AND STRONTIUM BY ELECTRODIALSIS | W. H. Webb<br>H. C. Hershey<br>R. D. Mitchell<br>Rolla, Mo. | 5/7/68 |
| 3,382,359 | 470,651(60) | CALUTRON ION SOURCE HAVING A MOVABLE BAFFLE FOR IMPROVING THE ION OUTPUT | J. V. Lee<br>Oak Ridge, Tenn. | 5/7/68 |
| 3,382,500 | 553,608(60) | COORDINATE CONVERTER | A. Mayer<br>Kew Gardens, N. Y. | 5/7/68 |
| 3,383,032 | 613,053(60) | VACUUM PUMPING METHOD AND APPARATUS | N. Milleron<br>Berkeley, Calif. | 5/14/68 |
| 3,383,286 | 583,139(60) | CORE ELEMENT HANDLING SYSTEM | J. A. Paget<br>Poway, Calif. | 5/14/68 |
| 3,383,439 | 440,965(60) | PROCESS FOR MAKING GRAPHITE | G. R. Tully, Jr.<br>L. Bailey<br>Poway, Calif.<br>A. S. Schwartz<br>Del Mar, Calif. | 5/14/68 |
| 3,383,590 | 450,561(60) | RESONANT CAVITY-TYPE MONITOR FOR MEASURING THE BUNCH LENGTH OF A BEAM OF CHARGED PARTICLES IN A PARTICLE ACCELERATOR | R. F. Koontz<br>Menlo Park, Calif.<br>R. H. Miller<br>Mountain View, Calif. | 5/14/68 |





XUM
37 5 SEP 1973
V3813A

| | | | | |
|---|---|---|---|---|
| 3,383,858 | 604,294(48) | NUCLEAR ROCKET ENGINE | M. I. Willinski<br>Northridge, Calif.<br>E. A. Lamont<br>Woodland Hills, Calif. | 5/21/68 |
| 3,384,751 | 455,351(60) | BEAM PORT CLOSURE FOR NUCLEAR REACTOR | E. D. Sperry, II<br>Ridge, N. Y. | 5/21/68 |
| 3,384,849 | 554,290(60) | CRYOGENIC FLUX CONCENTRATOR | H. Brechna<br>Paris, France<br>D. A. Hill<br>Summitt, N. J. | 5/21/68 |
| 3,385,759 | 637,880(60) | FAST BURST NEUTRONIC REACTOR | E. S. Bettis<br>Knoxville, Tenn.<br>J. H. Westsik<br>Richland, Wash. | 5/28/68 |
| 3,386,040 | 477,625(60) | PARTICLE ACCELERATOR INCLUDING MEANS FOR TRANSFERRING PARTICLES BETWEEN ACCELERATOR AND STORAGE RING | A. W. Kaschke<br>Rocky Point, N. Y. | 5/28/68 |
| 3,385,276 | 372,423(60) | DEVICE FOR FORMING SMALL DIAMETER TUBING | C. F. Erickson<br>Los Alamos, N. Mex. | 6/4/68 |
| 3,386,627 | 578,902(60) | CONTROLLED UNLOADING OF GEOMETRICALLY ORDERED PACKED BEDS | H. Susskind<br>Huntington, N. Y.<br>W. W. Becker<br>Shoreham, N. Y.<br>M. W. Haresca<br>(deceased) by<br>M. Haresca,<br>Administratrix<br>E. Patchogue, N. Y. | 6/4/68 |
| 3,386,812 | 516,148(60) | CASTABLE MACHINE TOOL BIT COMPOSITION OF BORON CARBIDE AND NICKEL | H. Sheinberg<br>Los Alamos, N. Mex. | 6/4/68 |
| 3,387,079 | 434,720(60) | PROCESS FOR THE FUSION OF METAL OXIDES | W. Boppe<br>Grossauheim uber<br>Hanau, Germany<br>H. Miller<br>Wolfang uber Hanau,<br>Germany<br>W. in der Schmitten<br>Hanau am Main, Germany | 6/4/68 |
| 3,387,136 | 607,609(60) | "ON-OFF" X-RAY SOURCE | H. H. Acree<br>F. H. Case<br>Oak Ridge, Tenn.<br>J. C. Dempsey<br>Frederick, Md. | 6/4/68 |
| 3,387,174 | 654,281(60) | METHOD AND APPARATUS FOR REMOVING IMPURITY GAS PARTICLES FROM A PARTICLE BEAM | R. F. Post<br>Walnut Creek, Calif. | 6/4/68 |
| 3,387,370 | 578,432(60) | APPARATUS FOR MEASURING INCREMENTAL RADIAL DISPLACEMENT OF A CHANNEL WALL | B. B. Brenden<br>J. C. Spanner<br>Richland, Wash. | 6/11/68 |
| 3,387,969 | 476,767(60) | OXYGEN SCAVENGING METHOD | S. B. Skladzian<br>Elmhurst, Ill. | 6/11/68 |
| 3,388,008 | 451,367(60) | THERMOELECTRIC GENERATOR | R. J. Campana<br>Solano Beach, Calif.<br>J. C. Kalcher<br>El Cajon, Calif.<br>F. S. Merrill<br>W. E. Sargent<br>San Diego, Calif. | 6/11/68 |
| 3,388,011 | 494,284(60) | PROCESS FOR THE PRODUCTION OF HIGH STRENGTH STEELS | V. F. Zackay<br>Berkeley, Calif.<br>E. R. Parker<br>Orinda, Calif. | 6/11/68 |
| 3,388,254 | 577,776(60) | METHOD FOR DETERMINING THE AMOUNT OF CESIUM-137 IN IRRADIATED NUCLEAR FUEL | W. A. Haller<br>R. W. Perkins<br>J. M. Nielsen<br>Richland, Wash. | 6/11/68 |
| 3,388,321 | 371,164(60) | MAGNETO-PLASMA WAVE DEVICE | R. Bowers<br>J. R. Houck<br>Ithaca, N. Y. | 6/11/68 |
| 3,388,359 | 613,047(60) | PARTICLE BEAM FOCUSSING MAGNET WITH A SEPTUM WALL | G. R. Lambertson<br>Oakland, Calif. | 6/11/68 |
| 3,389,053 | 643,025(60) | EXPANDED BED NUCLEAR REACTOR FUEL MODULE | H. V. Chamberlain<br>Royal Oak, Mich.<br>J. J. Edwards<br>Southfield, Mich.<br>N. C. Kovacic<br>Trenton, Mich. | 6/18/68 |
| 3,389,054 | 643,026(60) | RADIAL SPLIT FLOW BREEDER REACTOR | N. C. Kovacic<br>Trenton, Mich. | 6/18/68 |
| 3,389,254 | 681,042(60) | METHOD AND APPARATUS FOR NONDESTRUCTIVE DETERMINATION OF $U^{235}$ IN URANIUM | J. T. Russell<br>Richland, Wash. | 6/18/68 |



| | | | | |
|---|---|---|---|---|
| 3,389,606 | 428,998(60) | TIME RESOLVING MECHANICAL ACCELEROMETER | B. C. Watson<br>Cambridge, Mass. | 6/25/68 |
| 3,390,078 | 425,664(60) | SEPARATING SALTS HAVING INVERTED SOLUBILITY CURVES | L. P. Hatch<br>Brookhaven, N. Y. | 6/25/68 |
| 3,390,270 | 502,698(60) | DEVICE FOR SENSING THERMAL NEUTRONS AND UTILIZING SUCH NEUTRONS FOR PRODUCING AN ELECTRICAL SIGNAL | R. L. Treinen<br>Forest Park, Ohio<br>R. H. Stentz<br>Mt. Healthy, Ohio | 6/25/68 |



| PATENT NO. | SER. NO. | INVENTION | INVENTORS | DATE |
|---|---|---|---|---|
| 3,346,461 | 532,418(60) | NUCLEAR REACTOR FUEL ELEMENT | G. V. Noteri<br>Simsbury, Conn.<br>F. T. Grubelich<br>Wethersfield, Conn. | 10/10/67 |
| 3,373,455 | 610,725(60) | REACTOR FUEL ELEMENT FOR A NUCLEAR ROCKET MOTOR | F. E. Rom<br>Avon Lake, O.<br>A. F. Lietzke<br>R. E. Hyland<br>Westlake, O. | 4/16/68 |
| 3,390,449 | 566,091(60) | METHOD FOR PREPARATION AND ENCAPSULATION OF GERMANIUM GAMMA RAY DETECTORS | E. J. Fox<br>Oak Ridge, Tenn. | 7/2/68 |
| 3,390,559 | 665,204(60) | PIEZOMECHANICAL LOCKING MECHANISM | O. M. Steutrer<br>Albuquerque, N. Mex. | 7/2/68 |
| 3,391,238 | 433,526(60) | PREPARATION FOR MELTING OF METALS AND COMPOUNDS WITH HIGH MELTING POINTS | P. Hirschstein<br>Frankfurt am Main,<br>Germany<br>Horst Kühn<br>Hanau am Main, Germany<br>W. Wille<br>Wolfang, near Hanau,<br>Germany | 7/2/68 |
| 3,391,804 | 558,216(60) | COUNTERBALANCED MANIPULATOR | C. R. Flatau<br>Shoreham, N. Y. | 7/9/68 |
| 3,391,857 | 577,118(60) | PREHEATER FOR DIFFUSION PUMP | L. R. Lucas<br>Palo Alto, Calif.<br>R. H. Reimers<br>Oakland, Calif. | 7/9/68 |
| 3,392,005 | 645,570(60) | PREPARATION OF HIGH QUALITY URANIUM CARBIDE | L. A. Hanson<br>Canoga Park, Calif. | 7/9/68 |
| 3,392,280 | 616,425(60) | MASS SPECTROMETER UTILIZING AN ION BEAM FOR IONIZING THE GAS TO BE ANALYZED | L. Friedman<br>Patchogue, N. Y.<br>T. F. Moran<br>Decatur, Ga.<br>J. J. Leventhal<br>Mt. Sinai, N. Y. | 7/9/68 |





XUM

| | | | | |
|---|---|---|---|---|
| 3,392,494 | 511,289(60) | GRINDING DEVICES | W. T. Van Liarde<br>Mechelen, Belgium | 7/16/68 |
| 3,392,573 | 577,780(60) | AEROSOL FILTER TEST DEVICE | A. L. Bcason<br>Concord, Mass.<br>W. J. Smith<br>Arlington, Mass.<br>H. F. Surprenant<br>Littleton, Mass. | 7/16/68 |
| 3,392,910 | 304,031(60) | SEAL | E. W. Tanzberger<br>Allegany, N. Y. | 7/16/68 |
| 3,393,256 | 860,882(60) | PROCESS FOR MAINTAINING STRAIGHTNESS IN EXTRUDED CERAMIC SECTIONS | M. J. Zambernard<br>Homer City, Pa. | 7/16/68 |
| 3,393,315 | 493,594(60) | HIGH-SPEED, HIGH SENSITIVITY, IONIZING RADIATION DETECTOR | R. J. Locker<br>King of Prussia, Pa.<br>G. C. Huth<br>Rosemont, Pa. | 7/16/68 |
| 3,393,318 | 531,327(60) | IDENTIFICATION BADGE DOSIMETER | W. J. Brady<br>G. K. Iverson<br>Las Vegas, Nevada | 7/16/68 |
| 3,393,385 | 574,818(60) | QUADRUPOLE MAGNET WITH REDUCED FIELD DISTORTION | G. T. Danby<br>Wading River, N. Y.<br>J. W. Jackson<br>Medford, N. Y. | 7/16/68 |
| 3,393,386 | 593,601(60) | SEMICONDUCTING SHUNTS FOR STABILIZING SUPERCONDUCTING MAGNET COILS | R. E. Hintz<br>Concord, Calif. | 7/16/68 |
| 3,393,588 | 534,976(60) | SPINDLE GROWTH COMPENSATING SYSTEM | F. H. Broome<br>Oak Ridge, Tenn. | 7/23/68 |
| 3,393,600 | 486,575(60) | OPTICAL RANGING APPARATUS | L. Bass<br>Terre Haute, Ind. | 7/23/68 |
| 3,394,049 | 671,500(60) | NUCLEAR REACTOR CORE CONFIGURATION | R. H. Jones<br>Gaithersburg, Md. | 7/23/68 |
| 3,394,050 | 626,370(60) | METHOD OF OPERATING A NEUTRONIC REACTOR FOR REFORMING GAS MIXTURES AND PRODUCING HEAT FOR MULTI-PURPOSES | E. F. Miller<br>Rockville, Md. | 7/23/68 |
| 3,394,304 | 490,146(60) | ULTRASTABLE EDDY CURRENT NON-DESTRUCTIVE TESTING APPARATUS | D. R. Green<br>Richland, Wash. | 7/23/68 |
| 3,394,996 | 668,239(60) | FLUORIDE ADSORPTION BY THORIUM OXIDE IN AQUEOUS THORIUM NITRATE SOLUTIONS | E. C. Kiepert<br>T. H. Kato<br>Cincinnati, O. | 7/30/68 |
| 3,395,075 | 688,673(60) | COOLING SYSTEM IN A NUCLEAR REACTOR UTILIZING CONCRETE PRESSURE VESSEL | J. E. Hench<br>San Jose, Calif. | 7/30/68 |
| 3,395,294 | 442,837(60) | HIGH SPEED AMPLIFIER-DISCRIMINATOR WITH WIDE DYNAMIC RANGE | F. H. Sawada<br>Scotia, N. Y. | 7/30/68 |
| 3,395,339 | 322,327(60) | TOROIDAL EDDY CURRENT NONDESTRUCTIVE TESTING PROBE | R. L. Brown, Jr.<br>Richland, Wash. | 7/30/68 |
| 3,395,647 | 596,014(60) | JET PUMP | W. J. Clabaugh<br>Los Gatos, Calif. | 8/6/68 |
| 3,395,991 | 644,466(60) | RECOVERY OF PROTACTINIUM FROM MOLTEN FLUORIDE SALTS | W. R. Grimes<br>J. H. Shaffer<br>Oak Ridge, Tenn. | 8/6/68 |
| 3,395,992 | 609,732(60) | CONCENTRATION OF TRANSPLUTONIUM ACTINIDES FROM DILUTE SAMPLES | W. H. Daniels<br>K. Wolfsberg<br>Los Alamos, N. Mex. | 8/6/68 |
| 3,396,080 | 636,963(60) | TUNGSTEN-RHENIUM COATED CERAMIC REACTOR FUEL PARTICLES | C. E. Emerin, Jr.<br>Oak Ridge, Tenn. | 8/6/68 |
| 3,396,187 | 372,420(60) | B-DI AND TRINITRO CARBONATES AND METHOD FOR THEIR PRODUCTION | T. M. Benziger<br>L. W. Kissinger<br>H. E. Ungnade<br>Los Alamos, N. Mex. | 8/6/68 |
| 3,396,200 | 644,442(60) | PREPARATION OF 2, 4, 6-TRICHLORONITROBENZENE | R. S. George<br>R. E. Rohrer<br>Los Alamos, N. Mex. | 8/6/68 |
| 3,396,259 | 483,893(60) | METHOD FOR ELECTRO-DISCHARGE MACHINING | D. S. Easton<br>Lenoir City, Tenn. | 8/6/68 |
| 3,396,272 | 406,311(60) | ISOTOPE-POWERED X-RAY INSTRUMENT FOR DETECTING THE ARRIVAL OF AN INTERFACE IN A PIPELINE | D. M. Olson<br>Santa Fe, N. Mex. | 8/6/68 |
| 3,396,375 | 457,935(60) | FAIL-SAFE ALARM SYSTEM | D. D. Low<br>Oakland, Calif. | 8/6/68 |
| 3,396,893 | 591,349(60) | FRICTION WELDER | H. A. Cress<br>J. T. Walls<br>Columbus, O. | 8/13/68 |





| | | | | |
|---|---|---|---|---|
| 3,397,041 | 559,352(60) | SULFUR PURIFICATION BY FRACTIONAL CONDENSATION | R. D. Rivers<br>Kingston, Tenn. | 8/13/68 |
| 3,397,075 | 429,689(60) | PROCESS OF VAPOR COATING NUCLEAR FUEL WITH BERYLLIUM OXIDE AND CARBON | M. F. Browning<br>W. J. Wilson<br>Columbus, O. | 8/13/68 |
| 3,397,131 | 411,168(60) | METHOD OF PREPARING ORGANOTIN COMPOUNDS | J. G. Kircher<br>Worthington, O.<br>J. L. McFerling<br>H. J. Kahler<br>Columbus, O.<br>R. E. Wyant<br>Delaware, O. | 8/13/68 |
| 3,397,298 | 431,234(60) | WELDING TORCH | I. V. Nelson<br>Richland, Wash. | 8/13/68 |
| 3,397,813 | 602,423(60) | DUMPING CONSTRUCTION | W. S. Kelly<br>Richland, Wash.<br>F. M. Weidling<br>Kirkland, Wash.<br>R. A. Hemphill<br>Los Alamos, N. Mex. | 8/20/68 |
| 3,397,862 | 514,411(60) | WEDGE GATE VACUUM VALVE MECHANISM WITH COATED SEAT SEAL | T. H. Retzer<br>J. J. Murphy<br>Livermore, Calif.<br>C. A. Gunderson<br>San Leandro, Calif. | 8/20/68 |
| 3,397,869 | 637,041(60) | HYDROFOIL AGITATOR BLADE | D. S. Webster<br>Aiken, S. C. | 8/20/68 |
| 3,398,064 | 377,144(60) | SCANNING-COSIOMETRY METHOD AND APPARATUS | R. C. Propst<br>Aiken, S. C. | 8/20/68 |
| 3,398,098 | 645,579(60) | PREPARATION OF PURE DENSE HYPOSTOICHIOMETRIC URANIUM CARBIDE | L. A. Hanson<br>Canoga Park, Calif. | 8/20/68 |
| 3,398,278 | 508,872(60) | NEUTRON DETECTOR FOR MEASURING DOSE RATE | W. F. Splichal, Jr.<br>M. Auguste, S. C. | 8/20/68 |
| 3,398,280 | 513,861(60) | METHOD AND APPARATUS FOR DETERMINING COOLING AGE OF NUCLEAR REACTOR FUEL | H. A. Moulthrop<br>Richland, Wash. | 8/20/68 |
| 3,398,297 | 470,654(60) | FREQUENCY CONVERTER USING LARGE SIGNAL SQUARE-LAW SEMICONDUCTOR | T. Huen<br>Berkeley, Calif. | 8/20/68 |
| 3,398,549 | 614,534(60) | APPARATUS FOR REGULATING AT LOW TEMPERATURES | W. Zobel<br>Oak Ridge, Tenn. | 8/27/68 |
| 3,398,572 | 618,283(60) | TRANSDUCER FOR MEASUREMENT OF TRANSIENT VELOCITIES | K. O. Johnson<br>D. L. Robinson<br>Idaho Falls, Idaho | 8/27/68 |
| 3,398,578 | 522,797(60) | SELF-CALIBRATING LIQUID-LEVEL-MEASURING DEVICE | B. E. Dozer<br>Richland, Wash. | 8/27/68 |
| 3,398,582 | 569,555(60) | METHOD FOR MEASUREMENT OF VACUUM PRESSURE | R. H. McFarland<br>Livermore, Calif. | 8/27/68 |
| 3,398,718 | 438,800(60) | FLUIDIZED-BED COATING APPARATUS | R. L. Pilloton<br>Oak Ridge, Tenn. | 8/27/68 |
| 3,399,315 | 489,439(60) | ONCE-THROUGH LIQUID METAL PISTON MHD GENERATOR | J. R. Powell, Jr.<br>Rocky Point, N. Y. | 8/27/68 |
| 3,399,386 | 534,973(60) | APPARATUS FOR DELAYING A CONTINUOUS ELECTRICAL SIGNAL | R. A. Walker<br>Pasco, Wash. | 8/27/68 |
| 3,401,008 | 490,750(60) | PREPARATION OF THE CARBONATES OF THE RARE EARTHS | E. L. Head<br>Los Alamos, N. Mex. | 9/10/68 |
| 3,401,260 | 591,012(60) | COREOSIVE LIQUID FLOW METER | D. M. Holm<br>J. E. Deverell<br>Los Alamos, N. Mex. | 9/10/68 |
| 3,402,027 | 707,466(60) | METHOD OF SEPARATING BERKELIUM FROM CERIUM | F. L. Moore<br>Knoxville, Tenn. | 9/17/68 |
| 3,402,065 | 140,148(68) | PHENYLOXYALKANOL COATING OF PARTICLE | L. McDonald<br>Inyokern, Calif.<br>H. A. Macleod<br>Altadena, Calif. | 9/17/68 |
| 3,402,293 | 594,632(60) | COMPRESSED LITHIUM FLUORIDE DOSIMETER PELLET | A. Shambon<br>Great Neck, N. Y. | 9/17/68 |
| 3,402,632 | 440,963(60) | METROLOGY METHOD FOR CRYSTAL DEFECT DETECTION | R. Feder<br>Croton-on-Hudson, N. Y.<br>K. W. Assi<br>Mahopac, N. Y.<br>H. F. Charbnau<br>Putnam Valley, N. Y.<br>R. Mannheimer<br>Thornwood, N. Y. | 9/24/68 |
| 3,402,708 | 649,361(60) | SUIT HEATER | M. G. Grega<br>Miamisburg, O. | 9/24/68 |



XUM

| | | | | |
|---|---|---|---|---|
| 3,402,709 | 649,362(60) | SUIT HEATER | R. W. Shivers<br>Washington, D. C.<br>E. L. Beckman<br>Gaithersburg, Md. | 9/24/68 |
| 3,403,061 | 141,840(48) | PROCESS OF CONDITIONING PARTICULATE MATERIALS FOR USE IN ORGANIC EXPLOSIVES | L. McDonald<br>Inyokern, Calif. | 9/24/68 |
| 3,403,076 | 661,177(60) | MOLTEN SALT BREEDER REACTOR AND FUEL CELL FOR USE THEREIN | E. S. Bettis<br>Knoxville, Tenn. | 9/24/68 |
| 3,403,346 | 499,120(60) | HIGH ENERGY LINEAR ACCELERATOR APPARATUS | S. T. Giordano<br>Port Jefferson, N. Y. | 9/24/68 |

VOL. XVIII PATENTS FOR LICENSING No. 4

December 31, 1968

| PATENT NO. | SER. NO. | INVENTION | INVENTORS | DATE |
|---|---|---|---|---|
| 3,404,200 | 659,572(60) | METHOD OF PREPARING A CERMET NUCLEAR FUEL | C. A. Burgess<br>Kennewick, Wash. | 10/1/68 |
| 3,404,270 | 504,268(60) | RADIOACTIVE ISOTOPE-ACTIVATED LIGHT SOURCE FOR COLOR PHOTOMETER | H. H. Ross<br>Oak Ridge, Tenn. | 10/1/68 |
| 3,404,559 | 438,137(60) | TRANSDUCER FOR MEASURING PRESSURE PULSES | D. B. Lombard<br>D. V. Power<br>Livermore, Calif. | 10/8/68 |
| 3,405,032 | 656,639(60) | REACTOR CONTROL BY FREE PINION RACK AND PINION LINEAR ACTUATOR MOTION MULTIPLIER | D. M. Barrus<br>Canoga Park, Calif.<br>A. C. Williams<br>Chatsworth, Calif. | 10/8/68 |
| 3,405,233 | 471,773(60) | ISOTOPE SCANNER WHICH CREATES X-RAY AND GAMMA RADIATION IMAGES SIMULTANEOUSLY | H. O. Anger<br>Oakland, Calif. | 10/8/68 |
| 3,405,274 | 588,267(60) | DOSIMETER INCORPORATING AN ELECTRO-CHEMICAL INTEGRATING DEVICE | R. W. Lakin<br>Livermore, Calif. | 10/8/68 |
| 3,405,326 | 461,562(60) | MAGNET SWEEP CONTROL CIRCUIT | G. W. Barton, Jr.<br>Alamo, Calif.<br>R. J. Dupzyk<br>Livermore, Calif. | 10/8/68 |
| 3,405,327 | 498,170(60) | PULSE ENERGIZING AND ENERGY RECOVERY SYSTEM FOR AN ELECTROMAGNET | J. L. Cole<br>Palo Alto, Calif.<br>J. J. Murey<br>Los Altos, Calif. | 10/8/68 |
| 3,406,283 | 634,059(60) | MEANS FOR CONTROLLING CALUTRON FILAMENT ACTIVATION | C. Williams<br>Clinton, Tenn. | 10/15/68 |
| 3,406,313 | 513,862(60) | TIME SAMPLING CIRCUIT FOR AN OSCILLOSCOPE | H. W. Lefevre<br>Eugene, Oreg.<br>D. L. Wieber<br>Orinda, Calif. | 10/15/68 |
| 3,406,349 | 464,589(60) | ION BEAM GENERATOR HAVING LASER-ACTIVATED ION SOURCE | J. E. Swain<br>Livermore, Calif.<br>J. B. Truher<br>Redwood City, Calif. | 10/15/68 |





| | | | | |
|---|---|---|---|---|
| 3,407,088 | 391,810(60) | IMPREGNATION OF CELLULOSIC MATERIALS WITH MONOMERIC VINYL CHLORIDE WITH OR WITHOUT A DYE AND IN SITU POLYMERISATION BY IRRADIATION | A. M. Feibush<br>H. P. Kieltyka<br>Westfield, N. J. | 10/22/68 |
| 3,408,793 | 610,215(60) | APPARATUS FOR AUTOMATIC PREPARATIVE GAS CHROMATOGRAPHY | J. W. Frazer<br>Pleasanton, Calif. | 11/5/68 |
| 3,409,413 | 660,569(60) | METHOD OF DISSOLVING ALUMINUM-CLAD THORIA TARGET ELEMENTS | R. E. Burns<br>J. F. Phillips<br>W. W. Schulz | 11/5/68 |
| 3,409,414 | 674,067(60) | EXTRACTION OF BERKELIUM VALUES IN THE TETRAVALENT STATE USING 2-THENOYL-TRIFLUOROACTONE | F. L. Moore<br>Knoxville, Tenn. | 11/5/68 |
| 3,409,415 | 643,315(60) | METHOD OF EXTRACTING SOLUBLE METAL COMPLEXES USING AMINE SOLVENTS | F. L. Moore<br>Knoxville, Tenn. | 11/5/68 |
| 3,410,619 | 635,983(60) | FLUOROCARBON LINED GLOVEBOX | R. L. Delnay<br>Arvada, Colo.<br>L. F. Grill<br>J. L. Halat<br>Boulder, Colo. | 11/12/68 |
| 3,410,668 | 685,177(60) | RECOVERY OF PLUTONIUM FROM REFRACTORY SILICEOUS MATERIALS | W. W. Conner<br>Nederland, Colo. | 11/12/68 |
| 3,411,146 | 581,420(60) | DIGITAL DATA SORTING LOGIC SYSTEM | R. E. Knutson<br>Albuquerque, N. Mex. | 11/12/68 |
| 3,411,884 | 630,486(60) | PROCESS FOR CONCENTRATING HEAVY WATER | V. R. Thayer<br>Newark, Del. | 11/19/68 |
| 3,411,987 | 688,481(60) | DEVICE FOR MEASURING THE DEPOSITION OF SOLIDS IN NUCLEAR REACTORS | V. F. Fitzpatrick<br>Richland, Wash. | 11/19/68 |
| 3,412,248 | 508,871(60) | METHOD AND MEANS UTILIZING A PULSED ULTRAVIOLET LASER FOR READOUT OF PHOTOLUMINESCENT DOSIMETERS | J. Kastner<br>Park Forest, Ill.<br>D. N. Eggenberger<br>Downers Grove, Ill.<br>L. Voyvodic<br>Hinsdale, Ill. | 11/19/68 |
| 3,412,337 | 574,819(60) | BEAM SPILL CONTROL FOR A SYNCHROTRON | F. H. G. Lothrop<br>Lafayette, Calif. | 11/19/68 |
| 3,412,616 | 589,289(60) | ACCELEROMETER | B. C. Watson<br>Cambridge, Mass. | 11/26/68 |
| 3,413,166 | 496,729(60) | FINE GRAINED STEEL AND PROCESS FOR PREPARATION THEREOF | V. F. Zackay<br>Berkeley, Calif.<br>E. R. Parker<br>Orinda, Calif.<br>K. V. Ravi<br>Berkley, Calif. | 11/26/68 |
| 3,413,196 | 485,811(60) | FUEL ELEMENT | P. Fortescue<br>Rancho Santa Fe, Calif.<br>F. R. Bell<br>R. B. Duffield<br>San Diego, Calif. | 11/26/68 |
| 3,413,200 | 502,708(60) | A.C. ETCHING OF PLUTONIUM | K. A. Johnson<br>Monroeville, Pa. | 11/26/68 |
| 3,413,219 | 548,422(60) | COLLOIDAL HYDROUS OXIDE HYPERFILTRATION MEMBRANE | K. A. Kraus<br>J. S. Johnson<br>Oak Ridge, Tenn. | 11/26/68 |
| 3,413,235 | 456,012(60) | THERMOLUMINESCENT RADIATION DOSIMETRIC MATERIAL | D. E. Jones<br>J. R. Gaskill<br>Livermore, Calif. | 11/26/68 |
| 3,413,467 | 512,831(60) | ATMOSPHERIC NITROGEN FLUORESCENCE DETECTION APPARATUS | D. R. Westervelt<br>Los Alamos, N. Mex. | 11/26/68 |
| 3,413,528 | 533,381(60) | LITHIUM DRIFTED SEMICONDUCTOR RADIATION DETECTOR | J. Llacer<br>Stanford, Calif. | 11/26/68 |
| 3,413,529 | 534,974(60) | SEMICONDUCTOR DETECTOR HAVING A LITHIUM COMPENSATED SHELF REGION BETWEEN OPPOSITE CONDUCTIVITY TYPE REGIONS | F. S. Goulding<br>Lafayette, Calif.<br>R. P. Lothrop<br>Berkeley, Calif. | 11/26/68 |
| 3,414,403 | 541,402(60) | SILVER SEPARATION FROM AN ACID SOLUTION | L. A. Bray<br>R. L. Moore<br>Richland, Wash. | 12/3/68 |
| 3,414,570 | 556,822(60) | $N^2$, $N^4$, $N^6$--TRIPICRYLMELAMINE | M. D. Coburn<br>White Rock, N. Mex. | 12/3/68 |
| 3,414,692 | 643,319(60) | COAXIAL LOOP SHOCK SENSOR SWITCH | D. R. Henley<br>Newark, Calif. | 12/3/68 |
| 3,414,744 | 511,565(60) | MAGNETOHYDRODYNAMIC GENERATOR | M. Petrick<br>Joliet, Ill. | 12/3/68 |

| | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| 3,414,777 | 555,930(60) | AUTOMATIC SUPERCONDUCTING PUMP | H. L. Laquer<br>Espanola, N. Mex.<br>K. J. Carroll<br>E. F. Hammel<br>Los Alamos, N. Mex. | 12/3/68 | 3,419,419 | 445,865(60) | NICKEL-PLATING BOTH FOR THORIUM | R. R. Wright<br>Oak Ridge, Tenn. | 12/31/68 |
| 3,415,170 | 581,422(60) | SEALING ARRANGEMENT FOR PISTON-CYLINDER PRESSURE VESSEL | A. E. Smith<br>Clinton, Tenn. | 12/10/68 | 3,419,432 | 518,742(60) | SEAL | J. C. Hesson<br>Riverdale, Ill. | 12/31/68 |
| 3,414,527 | 614,781(60) | CAGE FOR COMPRESSING PACKING MEMBERS | R. J. Ginther<br>Creve Coeur, Mo. | 12/10/68 | 3,419,485 | 555,931(60) | ELECTROPOLISHING PLATINUM IN A MOLTEN BATH OF POTASSIUM THIOCYANATE AND POTASSIUM CYANIDE | R. Seegmiller<br>J. K. Gore<br>Los Alamos, N. Mex. | 12/31/68 |
| 3,415,977 | 582,209(60) | RESISTANCE WELDING | S. A. Bush<br>Lafayette, Colo. | 12/10/68 | 3,419,656 | 639,595(60) | METHOD OF MAKING SOLID SOLUTION CARBIDE-GRAPHITE COMPOSITIONS | R. E. Riley<br>K. V. Davidson<br>J. M. Taub<br>Los Alamos, N. Mex. | 12/31/68 |
| 3,416,103 | 540,421(60) | ELECTRONIC PULSE LINE FOR PRODUCING SYMMETRICAL SQUARE-TOPPED PULSES | W. W. Goldsworthy<br>Orinda, Calif. | 12/10/68 | 3,419,797 | 522,325(60) | NONDESTRUCTIVE EDDY CURRENT TESTING DEVICE FOR TESTING METAL TUBING AND INSTANTANEOUS DISPLAYING THE CROSS SECTION OF SAID TUBING | H. L. Libby<br>Richland, Wash. | 12/31/68 |
| 3,416,365 | 491,063(60) | METHOD OF DETERMINING ELASTIC PROPERTIES OF A METAL SAMPLE | C. L. Frederick<br>Richland, Wash. | 12/17/68 | | | | | |
| 3,416,768 | 597,494(60) | LOW LEAKAGE CONFINED SEAL | K. M. Welch<br>Stockton, Calif. | 12/17/68 | | | | | |
| 3,417,002 | 464,250(60) | METHOD AND APPARATUS FOR IMPROVING RECOVERY OF PLUTONIUM-GALLIUM ALLOYS BY ELECTROREFINING | J. A. Leary<br>L. J. Mullins, Jr.<br>J. F. Buchen<br>Los Alamos, N. Mex. | 12/17/68 | | | | | |
| 3,417,167 | 702,538(60) | METHOD OF PREPARING SPHERICAL URANIUM NITRIDE PARTICLES HAVING A POROUS INTERIOR | D. E. Kizer<br>D. E. Lozier<br>Columbus, Ohio | 12/17/68 | | | | | |
| 3,418,027 | 565,494(60) | ROTARY TABLE | C. Asmanes<br>Oak Ridge, Tenn. | 12/24/68 | | | | | |
| 3,418,475 | 481,147(60) | LEAF SPRING-MOUNTED SHUTTER DEVICE ACTIVATED BY THE INTERRUPTION OF ELECTRICAL POWER | C. R. Hudgens<br>W. Carrollton, O. | 12/24/68 | | | | | |
| 3,419,359 | 470,652(60) | FLAME IONIZATION DETECTOR | H. G. Anderson<br>R. H. Stevens<br>Oak Ridge, Tenn. | 12/31/68 | | | | | |
| 3,419,387 | 656,986(60) | PROCESS OF MAKING HIGH LOADED $UO_2$--COLUMBIUM CERMETS | E. Gordon<br>New Haven, Conn.<br>M. Fuhrman<br>Shrub Oak, N. Y. | 12/31/68 | | | | | |





VOL. XIX PATENTS FOR LICENSING No. 1

March 25, 1969

| PATENT NO. | SER. NO. | INVENTION | INVENTORS | DATE |
|---|---|---|---|---|
| 3,419,935 | 603,066(60) | HOT-ISOSTATIC-PRESSING APPARATUS | W. A. Pfeiler<br>Morris, Tenn.<br>G. K. Valentine<br>Oak Ridge, Tenn. | 1/7/69 |
| 3,420,639 | 677,504(60) | MOLTEN SALT METHOD OF SEPARATION OF AMERICIUM FROM PLUTONIUM | L. J. Mullins<br>J. A. Leary<br>Los Alamos, N. Mex. | 1/7/69 |
| 3,420,640 | 667,048(60) | PROCESS FOR DEPLETING $^{17}O$ AND $^{18}O$ IN $^{238}PuO_2$ | J. A. Porter<br>Williston, S. C. | 1/7/69 |
| 3,420,761 | 576,187(60) | LOW TEMPERATURE IRRADIATION OF MONOMER IMPREGNATED CELLULOSIC BODIES | A. M. Feibush<br>Westfield, N. J. | 1/7/69 |
| 3,420,810 | 589,468(60) | PROCESS FOR JOINING THE A AND B CHAINS OF INSULIN | F. Katsoyannis<br>Patchogue, N. Y.<br>A. M. Tometsko<br>Rochester, N. Y. | 1/7/69 |
| 3,420,999 | 550,089(60) | THERMOLUMINESCENT TISSUE EQUIVALENT DOSIMETER | C. H. Distenfeld<br>Mattituck, N. Y. | 1/7/69 |
| 3,421,010 | 523,514(60) | SPIRAL SCANNING SYSTEM EMPLOYING ROTARY AND RECIPROCATING MIRRORS FOR AUTOMATIC DATA MEASURING PROJECTORS | F. L. Toby<br>Berkeley, Calif. | 1/7/69 |
| 3,421,015 | 673,223(60) | ELECTRICAL LOAD CONTROLLER | E. M. Jones<br>Evansville, Ind.<br>R. J. Thomas<br>Paducah, Ky. | 1/7/69 |
| 3,421,071 | 538,918(60) | RECTIFIER FOR ACCELERATOR MAGNETS | R. L. Cassell<br>Port Jefferson, N. Y. | 1/7/69 |
| 3,421,125 | 623,182(60) | SOLENOID ACTUATED DEVICE | C. A. Sandoval<br>Albuquerque, N. Mex. | 1/7/69 |
| 3,421,334 | 571,652(60) | APPARATUS AND METHOD FOR SEPARATION OF HELIUM ISOTOPES | J. L. McKinney<br>Dayton, Ohio<br>W. L. Taylor<br>Cincinnati, Ohio | 1/14/69 |
| 3,421,543 | 616,431(60) | GAS, LOW PRESSURE, DIFFERENTIAL REGULATOR | M. Montag<br>Plainview, N. Y. | 1/14/69 |
| 3,421,714 | 628,791(60) | RE-ENTRY VEHICLE FOR SMALL PACKAGES | W. G. Koerner<br>Manhattan Beach, Calif. | 1/14/69 |
| 3,421,819 | 383,534(60) | OPTICAL EXTENSOMETER | T. Anderson<br>Castro Valley, Calif.<br>E. H. Lorbeer<br>Livermore, Calif. | 1/14/69 |
| 3,421,953 | 586,007(60) | CARBIDE DEPOSITION ON TANTALUM | J. C. McGuire<br>Kennewick, Wash.<br>C. Wohlberg<br>Los Alamos, N. Mex. | 1/14/69 |
| 3,422,167 | 701,872(60) | METHOD FOR PREPARING METAL OXIDE MICROSPHERES | R. A. Bowman<br>Oak Ridge, Tenn.<br>R. L. Pilloton<br>Berkeley Heights, N. J. | 1/14/69 |
| 3,422,681 | 558,217(60) | VEHICLE ACTUATED ROADSIDE AIR SAMPLING DEVICE | M. Sanders<br>Knoxville, Tenn. | 1/21/69 |
| 3,423,190 | 690,428(60) | PLUTONIUM TETRAFLUORIDE PREPARATION AND SEPARATION BY SORPTION ON SODIUM FLUORIDE | M. J. Steindler<br>Park Forest, Ill.<br>A. A. Jonke<br>Elmhurst, Ill. | 1/21/69 |
| 3,423,500 | 523,803(60) | METHOD FOR INSPECTING INACCESSIBLE SURFACES | T. G. Gregory<br>Los Alamos, N. Mex. | 1/21/69 |
| 3,423,706 | 591,056(60) | MULTIPOLE MAGNET HAVING A SEQUENTIALLY SHIM STEPPED COIL CONFIGURATION | W. B. Sampson<br>R. A. Beth<br>Bellport, N. Y.<br>R. B. Britton<br>Setauket, N. Y.<br>F. G. Kruger<br>Champaign, Ill. | 1/21/69 |
| 3,423,710 | 593,254(60) | WIDE BAND INDUCTIVE COIL DEVICE | P. K. Allen<br>Reno, Nev. | 1/21/69 |







XUM

| | | | | |
|---|---|---|---|---|
| 3,424,549 | 490,753(60) | MULTISTAGE SEPARATION OF COMPONENTS OF A SOLUTION | W. L. Godfrey<br>Pasco, Wash. | 1/28/69 |
| 3,424,653 | 645,569(60) | METHOD FOR START-UP OF A NUCLEAR REACTOR UTILIZING A DIGITAL COMPUTER | C. E. Cohn<br>Clarendon Hills, Ill. | 1/28/69 |
| 3,425,115 | 369,033(60) | METHOD AND APPARATUS FOR MAKING PEAS-IN-A-POD NUCLEAR REACTOR ELEMENT | J. H. Handwerk<br>Joliet, Ill.<br>D. E. White<br>Maywood, Ill. | 2/4/69 |
| 3,425,826 | 537,619(60) | PURIFICATION OF VANADIUM AND COLUMBIUM (NIOBIUM) | F. A. Schmidt<br>O. N. Carlson<br>H. A. Wilhelm<br>Ames, Iowa<br>W. E. Krupp<br>Simi, Calif. | 2/4/69 |
| 3,425,872 | 489,441(60) | THERMAL BATTERY HAVING HEAT GENERATING MEANS COMPRISING EXOTHERMICALLY ALLOYABLE METALS | S. C. Levy<br>Albuquerque, N. Mex. | 2/4/69 |
| 3,426,205 | 671,484(60) | METHOD FOR TAGGING SAND WITH A GASEOUS RADIOACTIVE ISOTOPE | E. H. Acree<br>Fr H. Case<br>Oak Ridge, Tenn. | 2/4/69 |
| 3,426,967 | 516,156(60) | APPARATUS FOR CENTRIFUGING ELECTRICALLY CONDUCTING LIQUIDS | M. W. Roberts<br>Chamblee, Ga.<br>M. E. McLain, Jr.<br>Smyrna, Ga. | 2/11/69 |
| 3,427,155 | 637,043(60) | BRAZING ALLOY | C. W. Fox<br>Kokomo, Ind.<br>G. M. Slaughter<br>Oak Ridge, Tenn. | 2/11/69 |
| 3,427,189 | 438,798(60) | RADIATION RESISTANT INSULATION | H. Brechna<br>Palo Alto, Calif. | 2/11/69 |
| 3,427,452 | 576,781(60) | THERMOLUMINESCENT HEAT STABLE LITHIUM FLUORIDE DOSIMETER | W. J. Martin<br>Wading River, N. Y. | 2/11/69 |
| 3,427,475 | 506,915(60) | HIGH SPEED COMMUTATING SYSTEM FOR LOW LEVEL ANALOG SIGNALS | B. Wilkinson<br>Torrance, Calif.<br>F. W. LeVier<br>Pasadena, Calif. | 2/11/69 |
| 3,428,546 | 583,119(60) | APPARATUS FOR VACUUM DEPOSITION ON A NEGATIVELY BIASED SUBSTRATE | G. A. Baum<br>Stillwater, Okla.<br>E. L. Beno<br>T. Van Vorour<br>Boulder, Colo. | 2/18/69 |
| 3,428,891 | 625,917(60) | METHOD FOR EVALUATING THE STABILITY AND OPERATING CHARACTERISTICS OF COMPOSITE SUPERCONDUCTORS | J. E. Purcell<br>Downers Grove, Ill.<br>J. M. Brooks<br>Lemont, Ill. | 2/18/69 |
| 3,428,894 | 591,657(60) | REVERSIBLE ELECTROCHEMICAL COULOMETER | G. E. Boettcher<br>Albuquerque, N. Mex. | 2/18/69 |
| 3,429,158 | 397,483(60) | PROTECTIVE CLADDING AND LUBRICANT FOR MECHANICALLY DEFORMABLE REACTIVE METALS | E. E. McDonald<br>G. A. Reimann<br>F. H. Patterson<br>Oak Ridge, Tenn.<br>C. F. Leitten, Jr.<br>Indianapolis, Ind. | 2/25/69 |
| 3,429,184 | 459,485(60) | GRAVITY METER | J. T. Russell<br>Richland, Wash. | 2/25/69 |
| 3,429,185 | 654,203(60) | OMNI-DIRECTIONAL VACUUM GAUGE PROBE | R. J. Piper<br>Huntington Beach, Calif.<br>J. A. Craig<br>El Toro, Calif.<br>R. A. Dutton<br>Chesterfield, Mo. | 2/25/69 |
| 3,429,187 | 685,003(60) | RING SLIT CONIFUGE | W. Stober<br>Penfield, N. Y. | 2/25/69 |
| 3,429,655 | 526,662(60) | METHOD AND FILTER FOR REMOVING IODINE FROM GASES | F. H. Case<br>Oak Ridge, Tenn. | 2/25/69 |
| 3,429,667 | 547,032(60) | METHOD OF QUANTITATIVE ANALYSIS OF REDUCIBLE SUBSTANCES WITH HYDRATED ELECTRONS | E. J. Hart<br>Hinsdale, Ill.<br>E. M. Fielden<br>Elmhurst, Ill. | 2/25/69 |





| | | | | |
|---|---|---|---|---|
| 3,429,669 | 673,528(60) | METHOD OF PROCESSING NUCLEAR FUEL BY SELECTIVE CIF FLUORINATION WITH SEPARATION OF $UF_6$ AND $PuF_4$ | G. Camozzo<br>W. Goossens<br>G. Pierini<br>Mol, Belgium<br>F. Coenen<br>Antwerp, Belgium<br>A. Francesconi<br>Turnhout, Belgium<br>J. J. Schmets<br>Mol-Donk, Belgium<br>A. Stynen<br>Eindhout, Belgium | 2/25/69 |
| 3,429,670 | 673,527(60) | METHOD OF FLUORINATING NUCLEAR FUEL WITH RECOVERY OF PLUTONIUM TETRAFLUORIDE AND URANIUM HEXAFLUORIDE | G. Camozzo<br>G. Pierini<br>Mol, Belgium<br>F. Coenen<br>Antwerp, Belgium<br>A. Francesconi<br>Turnhout, Belgium<br>J. J. Schmets<br>Mol-Donk, Belgium<br>A. Stynen<br>Eindhout, Belgium | 2/25/69 |
| 3,429,699 | 658,306(60) | HIGH LOADED $UO_2$-COLUMBIUM CERMETS | M. Fuhrman<br>Shrub Oak, N. Y.<br>E. Gordon<br>New Haven, Conn.<br>R. B. Holden<br>Pleasantville, N. Y. | 2/25/69 |
| 3,429,774 | 686,299(60) | PREVENTION OF SEIZING IN LIQUID METAL ENVIRONMENTS | D. H. Gurinsky<br>Center Moriches, N. Y.<br>R. M. Powers<br>Stormville, N. Y.<br>H. Susskind<br>Huntington, N. Y. | 2/25/69 |
| 3,429,798 | 641,427(60) | ELECTROCHEMICAL ETCHING OF SPIRAL LANDS | C. J. Beck<br>M. E. Birnby<br>Schenectady, N. Y.<br>F. G. Lorier<br>Ballston Lake, N. Y. | 2/25/69 |
| 3,430,043 | 494,281(60) | MINIMUM IONIZATION PARTICLE DETECTOR PRODUCED BY GAMMA RAY IRRADIATION | H. A. Blumenfeld<br>Princeton, N. J.<br>F. P. Pandolfi<br>Boston, Mass.<br>Chih-Rae Suh<br>Bayside, N. Y. | 2/25/69 |
| 3,430,230 | 492,342(60) | ANNUNCIATOR CIRCUIT | R. H. Jones<br>Scotia, N. Y. | 2/25/69 |
| 3,430,483 | 532,527(60) | DETERMINATION OF VAPOR QUALITY | L. G. Clawson<br>Dover, Mass.<br>M. B. Ziering<br>Newton Highlands, Mass. | 3/4/69 |
| 3,430,849 | 657,713(60) | LIQUID CENTRIFUGE FOR LARGE-SCALE VIRUS SEPARATION | E. F. Gibson<br>D. A. Waters<br>Oak Ridge, Tenn.<br>C. E. Dunley<br>Kingston, Tenn. | 3/4/69 |
| 3,431,104 | 570,731(60) | ZIRCONIUM BASE ALLOY | H. H. Klepfer<br>Pleasanton, Calif. | 3/4/69 |
| 3,431,201 | 664,207(60) | HYPERFILTRATION PROCESS HAVING ION EXCHANGE PRETREATMENT | J. S. Johnson<br>K. A. Kraus<br>Oak Ridge, Tenn. | 3/4/69 |
| 3,431,328 | 671,882(60) | METHOD OF MAKING A STRONTIUM-90 RADIATION SOURCE | F. N. Case<br>Oak Ridge, Tenn.<br>T. S. Mackey<br>C. E. McFarland<br>Knoxville, Tenn. | 3/4/69 |
| 3,431,329 | 701,858(60) | METHOD OF PREPARING A FUEL MATERIAL FOR USE IN A NUCLEAR REACTOR | G. D. White<br>J. H. Handwerk<br>Joliet, Ill. | 3/4/69 |
| 3,431,379 | 617,020(60) | METHOD FOR INDUCTION HEATING | C. S. Yrene<br>Albuquerque, N. Mex. | 3/4/69 |
| 3,431,413 | 594,320(60) | ROTATIONAL TECHNIQUE FOR ASSESSING QUANTITY AND DISTRIBUTION OF BODY RADIOACTIVITY | J. I. Anderson<br>D. G. Olson<br>Idaho Falls, Idaho | 3/4/69 |
| 3,431,414 | 652,632(60) | RADIATION DETECTOR AND RECORDER | L. C. Bate<br>Clinton, Tenn.<br>F. F. Dyer<br>L. H. Thacker<br>Knoxville, Tenn. | 3/4/69 |
| 3,431,502 | 720,265(60) | TARGET POSITIONER FOR ACCELERATOR EXTERNAL BEAM | K. F. Stone<br>L. T. Jackson<br>Berkeley, Calif. | 3/4/69 |







XUM

| | | | | |
|---|---|---|---|---|
| 3,431,860 | 654,038(60) | CENTRIFUGAL PUMP OF THE FREE SURFACE TYPE | R. W. Ate<br>Canoga Park, Calif. | 3/11/69 |
| 3,432,240 | 538,916(60) | LASER OPTICAL ALIGNING METHOD AND APPARATUS | W. L. Jackson<br>Hayward, Calif. | 3/11/69 |
| 3,432,336 | 392,042(60) | IMPREGNATION OF GRAPHITE WITH REFRACTORY CARBIDES | K. Langrod<br>Sherman Oaks, Calif.<br>R. L. Jones<br>Canoga Park, Calif. | 3/11/69 |
| 3,432,379 | 502,687(60) | THREE DIMENSIONAL FLEXIBLE DOVETAIL HONEYCOMB | N. V. Anderson<br>Hayward, Calif. | 3/11/69 |
| 3,432,388 | 725,558(60) | NUCLEAR REACTOR SYSTEM WITH FISSION GAS REMOVAL | F. Fortescue<br>La Jolla, Calif. | 3/11/69 |
| 3,432,390 | 656,955(60) | FUEL ASSEMBLY FOR A NUCLEAR REACTOR | E. A. Deen<br>Monroeville, Pa.<br>E. A. McCabe, Jr.<br>Pittsburgh, Pa. | 3/11/69 |
| 3,432,656 | 597,150(60) | GAGE DEVICE FOR MEASUREMENT OF DENSITY PROFILES OF SNOWPACK | J. L. Smith<br>Pleasant Hill, Calif.<br>D. W. Willen<br>Berkeley, Calif. | 3/11/69 |
| 3,432,660 | 720,174(60) | GAMMA-RAY CAMERA FOR IMAGING RADIOISOTOPE DISTRIBUTION IN A TRANSVERSE SECTION OF A ROTATING SUBJECT | H. O. Anger<br>Berkeley, Calif. | 3/11/69 |
| 3,432,662 | 591,378(60) | AUTOMATIC SEPARATION COLUMN PRODUCT ANALYZER | R. J. Walker<br>Walnut Creek, Calif. | 3/11/69 |
| 3,432,664 | 410,328(60) | HIGH VOLTAGE FIELD-REVERSAL PULSE GENERATOR USING A LASER SWITCHING MEANS TO ACTIVATE A FIELD EMISSION X-RAY TUBE | J. B. Robison<br>Livermore, Calif. | 3/11/69 |
| 3,432,665 | 617,018(60) | IRRADIATION DEVICE FOR PROVIDING A CONSTANT DOSE RATE | H. E. Kimble<br>Knoxville, Tenn. | 3/11/69 |
| 3,432,682 | 437,331(60) | TRIGGERED VOLT-SECOND GENERATOR | R. G. Huss<br>Albuquerque, N. Mex. | 3/11/69 |
| 3,432,709 | 504,274(60) | CALUTRON ION SOURCE WITH MAGNETIC FIELD INDUCING COIL WITHIN ARC CHAMBER | J. V. Lee<br>L. O. Love<br>Oak Ridge, Tenn. | 3/11/69 |
| 3,432,764 | 684,134(60) | SPECIALIZED ELECTROMETER CIRCUIT | H. A. Kermicle<br>Oak Ridge, Tenn. | 3/11/69 |
| 3,432,773 | 661,179(60) | EMITTER-FOLLOWER OSCILLATOR EMPLOYING FERROELECTRIC CERAMIC FEEDBACK NETWORK | C. E. Land<br>D. G. Schueler<br>Albuquerque, N. Mex. | 3/11/69 |
| 3,432,774 | 659,568(60) | VOLTAGE-TUNED WIEN BRIDGE OSCILLATOR | O. A. Fick<br>Livermore, Calif. | 3/11/69 |
| 3,432,783 | 663,175(60) | SUPERCONDUCTOR RIBBON | R. B. Britton<br>Setauket, N. Y.<br>K. K. Robins<br>Center Moriches, N. Y.<br>W. B. Sampson<br>Bellport, N. Y. | 3/11/69 |
| 3,433,051 | 532,541(60) | APPARATUS FOR DETERMINING MECHANICAL AND THERMAL PROPERTIES OF METALS | R. Parker<br>Danville, Calif. | 3/18/69 |
| 3,433,705 | 709,080(60) | STELLARATOR HAVING MULTI-POLE MAGNETS | C. D. Cornish<br>Fort Jefferson, N. Y. | 3/18/69 |
| 3,433,954 | 580,571(60) | SEMICONDUCTOR X-RAY EMISSION SPECTROMETER | H. R. Bowman<br>Walnut Creek, Calif.<br>S. G. Thompson<br>E. K. Hyde<br>Berkeley, Calif.<br>R. C. Jared<br>Hayward, Calif. | 3/18/69 |
| 3,433,977 | 571,156(60) | PULSE LINE HAVING COMPONENTS COAXIALLY INTERCONNECTED AND CONFINED WITH LARGE SURFACE AREA CONDUCTORS | W. L. Gagnon<br>El Sobrante, Calif.<br>D. T. Scalise<br>B. H. Smith<br>Berkeley, Calif. | 3/18/69 |
| 3,434,053 | 384,268(60) | CIRCUITS FOR AN ELECTRICAL RMS MEASURING INSTRUMENT | D. A. McKee<br>Grand Junction, Colo. | 3/18/69 |
| 3,434,061 | 580,513(60) | COMPENSATION OF PHASE DRIFT ON LONG CABLES | H. Hahn<br>E. Patchogue, N. Y.<br>H. J. Halama<br>Shoreham, N. Y. | 3/18/69 |





| | | | | |
|---|---|---|---|---|
| 3,434,122 | 351,875(60) | MULTIREMANENCE FERROELECTRIC CERAMIC MEMORY ELEMENT | C. E. Land<br>G. H. Haertling<br>Albuquerque, N. Mex. | 3/18/69 |
| 3,434,809 | 713,410(60) | SEPARATION OF ACTINIUM AND THORIUM FROM URANIUM AND ITS DAUGHTERS | D. H. Swenson<br>Miamisburg, Ohio | 3/25/69 |
| 3,435,219 | 613,078(60) | NEUTRON SPECTROMETER FOR HIGH NEUTRON FLUX | A. Kevey<br>Setauket, N. Y. | 3/25/69 |

VOL. XIX — PATENTS FOR LICENSING — No. 2

June 24, 1969

| PATENT NO. | SER. NO. | INVENTION | INVENTORS | DATE |
|---|---|---|---|---|
| 3,436,153 | 493,278(60) | OBJECT MEASURING BY INTERFEROMETRY | R. R. Baldwin<br>Clinton, Tenn. | 4/1/69 |
| 3,436,193 | 712,391(60) | PLUTONIUM SUBLIMATION | R. A. Chilenskas<br>Chicago, Ill. | 4/1/69 |
| 3,436,538 | 523,997(60) | METHOD FOR MEASURING FISSIONABLE MATERIAL CONTENT OF FUELS | D. L. Basdekas<br>San Antonio, Tex. | 4/1/69 |
| 3,438,856 | 694,536(60) | NUCLEAR REACTOR HYDRAULIC CONTROL DRIVE SYSTEM | C. C. Ripley<br>San Jose, Calif. | 4/15/69 |
| 3,439,187 | 569,759(60) | ANTILOGARITHMIC FUNCTION GENERATOR | M. G. Strauss<br>Downers Grove, Ill. | 4/15/69 |
| 3,440,037 | 506,914(60) | STAINLESS STEEL ALLOY EXHIBITING RESISTANCE TO EMBRITTLEMENT BY NEUTRON IRRADIATION | W. R. Martin<br>J. R. Weir<br>Oak Ridge, Tenn. | 4/22/69 |
| 3,440,731 | 526,327(60) | MAGNETICALLY STABILIZED FLUIDIZED BED | E. J. Tuthill<br>Belle Terre, N. Y. | 4/29/69 |
| 3,441,351 | 452,951(60) | COLOR RECORDING AVERAGING LIGHT INTENSITY METER | F. R. Bell<br>C. C. Harris<br>Oak Ridge, Tenn. | 4/29/69 |
| 3,441,451 | 591,011(60) | HIGH TEMPERATURE STRESS FREE THERMOCOUPLE JUNCTION | F. C. Salgado<br>White Rock, Los Alamos, N. Mex. | 4/29/69 |
| 3,441,478 | 717,115(60) | FUEL ELEMENT FOR NEUTRONIC REACTOR AND METHOD OF FABRICATION THEREOF | L. C. Williams<br>Clinton, Tenn. | 4/29/69 |
| 3,441,488 | 394,370(60) | ELECTROLYTIC DESALINATION OF SALINE WATER BY A DIFFERENTIAL REDOX METHOD | E. I. Onstott<br>Los Alamos, N. Mex. | 4/29/69 |







XUM

| | | | | |
|---|---|---|---|---|
| 3,441,752 | 504,269(60) | THERMIONIC CONVERTER DEVICE | G. M. Grover<br>Los Alamos, N. Mex.<br>C. A. Busse<br>Lavena, Italy<br>R. J. Caroo<br>Ispra, Italy | 4/29/69 |
| 3,441,775 | 591,001(60) | DIPOLE CURRENT LEAD FOR A PLASMA CONTAINMENT DEVICE | J. E. Hammel<br>D. A. Baker<br>L. C. Burkhardt<br>J. N. DiMarco<br>R. N. Henson<br>H. J. Karr<br>J. Marshall<br>Los Alamos, N. Mex. | 4/29/69 |
| 3,442,217 | 641,424(60) | ON-OFF SWITCH FOR ELECTROMAGNETIC PUMP | H. H. Hanlin<br>Canoga Park, Calif. | 5/6/69 |
| 3,442,642 | 728,369(60) | PREPARATION OF PLUTONIUM | W. J. Ramsey<br>J. O. Jepson<br>D. H. Wood<br>Livermore, Calif. | 5/6/69 |
| 3,443,097 | 695,971(60) | POCKET RADIATION DOSIMETER UTILIZING CAPACITOR INTEGRATOR | M. L. Smith<br>Kennewick, Wash. | 5/6/69 |
| 3,443,212 | 691,999(60) | PULSED ELECTROMAGNETIC TESTING DEVICE WITH SAMPLING MEANS | C. J. Renken<br>Orland Park, Ill. | 5/6/69 |
| 3,443,217 | 570,144(60) | VARIABLE FREQUENCY HIGH SENSITIVITY MICROWAVE SPECTROSCOPY | J. M. Brinkerhoff<br>Arlington, Mass. | 5/6/69 |
| 3,443,912 | 724,357(60) | SEPARATION OF URANIUM AND THORIUM FROM PLUTONIUM | G. L. Silver<br>Canterville, O. | 5/13/69 |
| 3,444,089 | 566,090(60) | EXCIMER SCINTILLATORS | J. G. Carter<br>L. G. Christophorou<br>Oak Ridge, Tenn. | 5/13/69 |
| 3,445,201 | 716,497(60) | ION EXCHANGE PROCESS FOR RECOVERING AMERICIUM AND CURIUM | E. J. Wheelwright<br>Richland, Wash. | 5/20/69 |
| 3,445,661 | 667,338(60) | PULSE-SHAPING TRANSMISSION-LINE TRANSFORMER FOR A DOUBLE-GAP STREAMER CHAMBER | A. C. Odian<br>F. Bulos<br>Palo Alto, Calif.<br>F. Villa<br>Los Altos, Calif.<br>D. R. Yount<br>Menlo Park, Calif. | 5/20/69 |
| 3,446,067 | 616,435(60) | FORCE READOUT SYSTEM | C. E. Frantz<br>F. F. Vlacil<br>Richland, Wash. | 5/27/69 |
| 3,446,522 | 639,253(60) | INTERNAL RETAINING RING | C. T. Hoard<br>Oakland, Calif. | 5/27/69 |
| 3,446,574 | 711,527(60) | PREPARATION OF THE RARE EARTH SESQUICARBONATES | E. L. Head<br>Los Alamos, N. Mex. | 5/27/69 |
| 3,446,703 | 683,374(60) | METHOD OF OPERATING A NUCLEAR REACTOR | M. F. Lyons<br>B. Weidenbaum<br>San Jose, Calif. | 5/27/69 |
| 3,447,032 | 648,534(60) | HIGH-VOLTAGE PULSING APPARATUS FOR A SPARK CHAMBER | T. A. Romanowski<br>Elmhurst, Ill.<br>C. J. Rush<br>Downers Grove, Ill. | 5/27/69 |
| 3,447,144 | 526,333(60) | MECHANICALLY SETTABLE MAGNETIC REGISTER | R. L. Snyder<br>New Smyrna Beach, Fla. | 5/27/69 |
| 3,448,054 | 597,145 | COOLANT SALT FOR A MOLTEN SALT BREEDER REACTOR | R. E. Thoma, Jr.<br>Oak Ridge, Tenn.<br>G. H. Hebert<br>Knoxville, Tenn. | 6/3/69 |
| 3,448,377 | 674,989(60) | METHOD UTILIZING AN ELECTRON BEAM FOR NONDESTRUCTIVELY MEASURING THE DIELECTRIC PROPERTIES OF A SAMPLE | H. Seiwatz<br>Oak Park, Ill.<br>C. M. Groom<br>Chicago, Ill. | 6/3/69 |
| 3,448,859 | 541,400(60) | RADIOACTIVE WASTE REMOVAL METHOD | W. C. Hall<br>L. D. Hassell, Jr.<br>Baltimore, Md.<br>T. R. Barker II<br>Pasadena, Md. | 6/10/69 |



| | | | | |
|---|---|---|---|---|
| 3,448,872 | 698,930(60) | FUEL ELEMENT POSITIONER | C. R. Oak<br>San Jose, Calif. | 6/10/69 |
| 3,449,143 | 520,305(60) | METHOD OF INCREASING THE CORROSION RESISTANCE OF COBALT-BASED ALLOYS TO MERCURY | E. J. Vargo<br>Beachwood, Ohio | 6/10/69 |
| 3,449,175 | 707,203(60) | ZIRCONIA-BASED THERMOELECTRIC COMPOSITIONS | C. I. McVey<br>Shaker Heights, O.<br>N. McConnaughey<br>Lynchburg, Ohio<br>H. D. Gibson<br>Cincinnati, Ohio<br>J. V. Smith<br>Springboro, Ohio | 6/10/69 |
| 3,449,177 | 562,954(60) | RADIATION DETECTOR | G. C. Huth<br>Rosemont, Pa.<br>R. A. McKinney<br>Philadelphia, Pa. | 6/10/69 |
| 3,449,245 | 504,277(60) | METHOD OF SEPARATING SALTS FROM AQUEOUS SOLUTIONS | J. S. Johnson<br>K. A. Kraus<br>A. E. Marcinkowsky<br>H. O. Phillips<br>A. J. Shor<br>Oak Ridge, Tenn. | 6/10/69 |
| 3,449,859 | 607,585(60) | TEMPERATURE CONTROL CIRCUIT | J. J. Henry<br>Oak Ridge, Tenn. | 6/10/69 |
| 3,450,576 | 499,119(60) | INHIBITION OF URANIUM METAL CORROSION | T. P. Sprague<br>Clinton, Tenn. | 6/17/69 |
| 3,450,857 | 612,296(60) | GAS SHIELDING DEVICE | W. S. Webb<br>Albuquerque, N. Mex. | 6/17/69 |
| 3,450,879 | 710,551(60) | DIELECTRIC-TYPE CHARGED PARTICLE DETECTOR | E. J. Seppi<br>Menlo Park, Calif. | 6/17/69 |
| 3,451,266 | 511,563(60) | VAPOR PRESSURE GAUGE AND CALORIMETER FOR HIGH TEMPERATURES | G. M. Grover<br>Los Alamos, N. Mex.<br>C. A. Busse<br>Laveno, Varese, Italy<br>J. Bohdansky<br>Taino, Varese, Italy | 6/24/69 |
| 3,451,467 | 658,289(60) | CENTRIFUGAL CASTING APPARATUS | J. L. Frankeny<br>Arvada, Colo.<br>K. E. Voiles<br>Denver, Colo. | 6/24/69 |
| 3,451,790 | 728,911(60) | METHOD OF SEPARATING NEPTUNIUM AND URANIUM VALUES | Sidney Katz<br>Oak Ridge, Tenn.<br>G. I. Cathers<br>Knoxville, Tenn. | 6/24/69 |
| 3,452,175 | 643,314(60) | ROLLER-BAND DEVICES | D. F. Wilkes<br>Albuquerque, N. Mex. | 6/24/69 |
| 3,452,191 | 642,663(60) | MICROWAVE DEFLECTION SYSTEM FOR SUPERCONDUCTING PARTICLE SEPARATOR | H. Hahn<br>E. Patchogue, N. Y.<br>H. J. Halama<br>Shoreham, N. Y. | 6/24/69 |
| 3,452,309 | 683,376(60) | ROLLER-BAND DEVICES | D. F. Wilkes<br>Albuquerque, N. Mex. | 6/24/69 |





XUM

VOL. XIX — PATENTS FOR LICENSING — No. 3

September 30, 1969

| PATENT NO. | SER. NO. | INVENTION | INVENTORS | DATE |
|---|---|---|---|---|
| 3,438,749 | 589,467(60) | ION EXCHANGE METHOD FOR PREPARING METAL OXIDE MICROSPHERES | F. D. Lonadier<br>Miamisburg, O.<br>W. B. Brown<br>F. C. Fushimi<br>Dayton, O.<br>G. L. Silver<br>Centerville, O. | 4/15/69 |
| 3,450,878 | 600,266(60) | DOSIMETER FOR HIGH LEVELS OF ABSORBED RADIATION | G. F. Ferdirtz<br>V. L. Bell, Jr.<br>Newport News, Va. | 6/17/69 |
| 3,453,050 | 694,985(60) | TRACE SCANNING | J. L. Arrowood<br>W. A. Croppe<br>W. W. Lee, Jr.<br>Oak Ridge, Tenn. | 7/1/69 |
| 3,453,423 | 536,590(60) | FOUR QUADRANT LOGARITHMIC MULTIPLIER FOR TIME-DEPENDENT SIGNALS | P. Fu-Yvan Ma.<br>Hsinchu, Taiwan, China | 7/1/69 |
| 3,453,430 | 695,867(60) | CONTROLLED DEFECT COLORATION DOSIMETER | A. C. Muller<br>Yaphank, N. Y. | 7/1/69 |
| 3,453,558 | 485,643(60) | OPTICAL MASER SYSTEM | M. T. Abegg<br>D. M. Hull<br>W. B. Leslie<br>Albuquerque, N. Mex. | 7/1/69 |
| 3,453,574 | 715,352(60) | HIGH-FREQUENCY, WIDE-BAND TRANSFORMER | T. de Parry<br>Elmhurst, Ill. | 7/1/69 |
| 3,454,214 | 678,116(60) | FINS FOR ELIMINATING BACK-STREAMING IN A VACUUM PUMP | N. Milleron<br>Berkeley, Calif. | 7/8/69 |
| 3,454,466 | 694,538(60) | NUCLEAR REACTOR CONTAINMENT SYSTEM FOR METROPOLITAN SITES | W. A. Pitt<br>R. B. Lemon<br>San Jose, Calif. | 7/8/69 |
| 3,454,468 | 717,23[illegible](60) | FUEL ELEMENT FOR NEUTRONIC REACTOR AND METHOD OF FABRICATION THEREOF | E. A. Franco-Ferreira<br>Nashville, Tenn. | 7/8/69 |
| 3,454,490 | 571,653(60) | CONCENTRATION OF IONS USING ION SELECTIVE MEMBRANES | R. M. Wallace<br>Aiken, S. C. | 7/8/69 |
| 3,454,814 | 568,983(60) | TUBULAR VAPOR SOURCE | L. Mancebo<br>Livermore, Calif. | 7/8/69 |
| 3,455,506 | 522,328(60) | THERMOSTATIC VALVE | H. Medal<br>Wash., D. C. | 7/15/69 |
| 3,456,113 | 646,157(60) | DETECTION, IDENTIFICATION AND ANALYSIS OF FISSIONABLE ISOTOPES | G. R. Keepin<br>Los Alamos, N. Mex. | 7/15/69 |
| 3,457,413 | 643,318(60) | DOSE EQUIVALENT RADIATION SYSTEM | J. W. Baum<br>Patchogue, N. Y. | 7/22/69 |
| 3,457,418 | 694,328(60) | OPTICAL IMAGE AMPLIFIER UTILIZING ELECTRON AVALANCHES IN A GAS | H. W. Miller<br>Albany, Calif.<br>Q. A. Kerns<br>Orinda, Calif. | 7/22/69 |
| 3,457,516 | 535,657(60) | DOUBLE DELAY-LINE FILTERS FOR PULSE AMPLIFIERS | T. V. Blalock<br>Knoxville, Tenn. | 7/22/69 |
| 3,457,517 | 645,582(60) | ELECTRON PULSE GENERATOR OF THE GROUNDED GRID TYPE EMPLOYING A DELAY LINE STORAGE MEANS | K. W. Johnson<br>Lockport, Ill.<br>T. E. Klippert<br>Lombard, Ill.<br>W. J. Kessler<br>Elmhurst, Ill. | 7/22/69 |
| 3,457,646 | 576,196(60) | LASER BEAM OPERATED X-Y TABLE | A. J. Schwemin<br>Oakland, Calif. | 7/29/69 |
| 3,458,291 | 738,837(60) | SEPARATION OF RUTHENIUM AND PLUTONIUM BY A LITHIUM FLUORIDE SORPTION TECHNIQUE | J. G. Riha<br>N. Riverside, Ill.<br>La Verne E. Trevorrow<br>Glen Ellyn, Ill.<br>M. J. Steindler<br>Park Forest, Ill. | 7/29/69 |
| 3,458,706 | 563,495(60) | TAPE REEL IDENTIFYING ARRANGEMENT EMPLOYING LIGHT REFLECTIVE CODED LABEL | D. A. Ravenhall<br>Quogue, N. Y.<br>G. Schwender<br>Shoreham, N. Y. | 7/29/69 |
| 3,458,972 | 758,931(60) | METHOD OF DEAERATING SEA WATER | R. K. Sood<br>Knoxville, Tenn. | 8/5/69 |

NOTICES





| | | | | |
|---|---|---|---|---|
| 3,459,636 | 747,321(60) | VENTED FUEL PIN | J. H. Germer<br>San Jose, Calif. | 8/5/69 |
| 3,459,925 | 500,452(60) | HIGH SPEED TEMPERATURE MONITOR | J. M. Wilson<br>M. H. Goosey<br>A. H. Dexter<br>Aiken, S. C.<br>R. W. Lee<br>Los Alamos, N. Mex.<br>W. K. Hodder<br>Glendora, Calif.<br>L. C. Page<br>Santa Ana, Calif.<br>E. R. Brady<br>Sierra Madre, Calif. | 8/5/69 |
| 3,459,960 | 635,985(60) | HIGH ENERGY PULSE GENERATOR UTILIZING A DECOUPLING TRANSFORMER | K. Aaland<br>O. S. Zucker<br>Livermore, Calif. | 8/5/69 |
| 3,460,909 | 477,355(60) | CATALYTIC COMBUSTION DETECTOR FOR GAS CHROMATOGRAPHY | T. M. Gayle<br>Oak Ridge, Tenn. | 8/12/69 |
| 3,460,917 | 710,728(60) | RECOVERY OF AMERICIUM FROM PLUTONIUM METAL USING MOLTEN SALTS | J. L. Long<br>Arvada, Colo. | 8/12/69 |
| 3,460,918 | 697,314(60) | METHOD OF CHLORINATING METALS WITH CARBON TETRACHLORIDE AND CARBON DIOXIDE | H. A. Wilhelm<br>R. M. Bergman<br>Ames, Iowa | 8/12/69 |
| 3,461,005 | 665,688(60) | P-CONTACT FOR COMPENSATED P-GERMANIUM CRYSTAL | M. A. Jamini<br>Brookhaven, N. Y. | 8/12/69 |
| 3,461,076 | 764,958(60) | PROCESS FOR PREPARING PLUTONIA AQUASOLS | M. H. Lloyd<br>T. G. Haire<br>Oak Ridge, Tenn. | 8/12/69 |
| 3,461,237 | 618,284(60) | METHOD OF ENCODING BINARY DIGITAL DATA | F. O. Salter<br>Glen Ellyn, Ill. | 8/12/69 |
| 3,461,286 | 731,521(60) | METHOD AND APPARATUS FOR MEASURING THE VOID FRACTION OF HYDROGENOUS FLUIDS | C. N. Jackson, Jr.<br>W. G. Spear<br>Richland, Wash. | 8/12/69 |
| 3,461,288 | 538,158(60) | CHEMICAL DOSIMETER | G. Oster<br>New York, N. Y. | 8/12/69 |
| 3,461,292 | 594,325(60) | LOW LEVEL RADIATION MONITOR | W. F. Splichal, Jr.<br>N. Augusta, S. C. | 8/12/69 |
| 3,461,294 | 517,868(60) | METHOD FOR GENERATING A BEAM OF IONS WHEREIN THE IONS ARE COMPLETELY POLARIZED | D. von Ehrenstein<br>Westmont, Ill.<br>D. C. Hess<br>Downers Grove, Ill. | 8/12/69 |
| 3,461,305 | 616,436(60) | SYSTEM FOR CONTROLLING THE RESPONSE OF A PHOTOELECTRIC TAPE READER BY UTILIZING AN "OR" GATE AND A DELAY TO SIMULATE SPROCKET HOLE SIGNALS | C. L. Moulton<br>Knoxville, Tenn. | 8/12/69 |
| 3,461,410 | 662,207(60) | 2-n POLE ELECTROMAGNET FOR FOCUSING CHARGED PARTICLES | R. A. Beth<br>Bellport, N. Y. | 8/12/69 |
| 3,462,797 | 593,598(60) | FABRICATION OF ELONGATED PRODUCTS | J. J. Asbury<br>Knoxville, Tenn. | 8/26/69 |
| 3,463,004 | 639,596(60) | VOLUMETRIC FLOW MEASUREMENT | R. Withnell<br>Wading River, N. Y. | 8/26/69 |
| 3,463,619 | 744,353(60) | SOLVENT EXTRACTION PROCESS FOR PURIFYING AMERICIUM AND CURIUM | G. L. Ritter<br>L. A. Bray<br>Richland, Wash. | 8/26/69 |
| 3,463,634 | 751,339(60) | CARBON REDUCTION PROCESS | H. A. Wilhelm<br>J. K. McClusky<br>Ames, Iowa | 8/26/69 |
| 3,463,635 | 679,668(60) | RECOVERY OF MERCURY FROM NUCLEAR FUEL REPROCESSING WASTES | D. W. Rhodes<br>M. W. Wilding<br>Idaho Falls, Idaho | 8/26/69 |
| 3,463,703 | 747,320(60) | FUEL PIN SPACERS | G. J. Crandall<br>Northport, Wash. | 8/26/69 |
| 3,463,738 | 725,890(60) | CONVERSION AND CONTAINMENT OF RADIOACTIVE ORGANIC LIQUIDS INTO SOLID FORM | C. L. Fitzgerald<br>Kingston, Tenn.<br>H. W. Godbee<br>Oak Ridge, Tenn.<br>K. H. McCorkle, Jr.<br>Powell, Tenn. | 8/26/69 |

NOTICES



XUM 37 S 9MS 1HH183V

| | | | | |
|---|---|---|---|---|
| 3,463,739 | 734,198(60) | METHOD FOR RECOVERING POLONIUM-210 FROM BISMUTH | W. W. Schulz<br>G. F. Schiefelbein<br>Richland, Wash.<br>L. E. Bruns<br>Kennewick, Wash. | 8/26/69 |
| 3,464,013 | 612,292(60) | PEAK CURRENT METER | J. A. Biggerstaff<br>Oak Ridge, Tenn.<br>R. Nutt<br>Knoxville, Tenn. | 8/26/69 |
| 3,464,889 | 679,828(60) | HEAT ACTUATED CONTROL ROD UTILIZING A CADMIUM-POTASSIUM MIXTURE | C. F. Erickson<br>Los Alamos, N. Mex. | 9/2/69 |
| 3,465,431 | 629,826(60) | METHOD FOR MAKING BASEBALL SEAM MAGNETIC COILS | C. D. Henning<br>Livermore, Calif. | 9/9/69 |
| 3,465,587 | 686,002(60) | DIODE SENSORS FOR LIQUID LEVEL DETECTION | W. B. Pierce<br>Los Altos, Calif. | 9/9/69 |
| 3,465,972 | 638,701(60) | DEVICE FOR CONDUCTING CRUSHING AND SCREENING OPERATION SIMULTANSOUSLY | Z. L. Ardary<br>Oak Ridge, Tenn. | 9/9/69 |
| 3,466,137 | 642,290(60) | METHOD OF REMOVING RADIO-IODINE VALUES FROM A GASEOUS MEDIUM | W. T. Ward<br>R. E. Adams<br>Oak Ridge, Tenn. | 9/9/69 |
| 3,466,203 | 634,795(60) | METHOD OF PRODUCING PURIFIED REFRACTORY METAL AND ALLOY POWDERS | C. O. Tarr<br>L. V. Owen<br>Cincinnati, O. | 9/9/69 |
| 3,466,227 | 669,957(60) | BLAST SHIELD FOR NUCLEAR REACTOR | L. M. Finch<br>Pasco, Wash. | 9/9/69 |
| 3,466,361 | 722,208(60) | TECHNETIUM-99m LABELED CHELATES | F. Richards<br>Bayport, N. Y.<br>J. Baranosky<br>Stony Brook, N. Y. | 9/9/69 |
| 3,466,445 | 674,068(60) | CONTAINER FOR RADIOACTIVE FUEL ELEMENT | A. P. Schliss<br>Albuquerque, N. Mex. | 9/9/69 |
| 3,466,499 | 626,674(60) | CANCELLATION OF EXTERNAL MAGNETIC FIELDS BY INNER AND OUTER CYLINDRICAL CURRENT SHEETS | R. A. Beth<br>Bellport, N. Y. | 9/9/69 |
| 3,466,554 | 623,190(60) | ACCELERATOR APPARATUS AND METHOD OF SHAPING CAVITY FIELDS | S. T. Giordano<br>Port Jefferson, N. Y. | 9/9/69 |
| 3,466,590 | 697,508(60) | GROUNDING DEVICE IN AN ELECTRICAL CONNECTOR | R. T. Sylvester<br>Albuquerque, N. Mex. | 9/9/69 |
| 3,468,169 | 701,008(60) | QUICK RELEASE COUPLING | E. F. Welch<br>Kansas City, Mo. | 9/23/69 |
| 3,468,757 | 721,738(60) | FUEL SUBASSEMBLY FOR A LIQUID-METAL-COOLED, FAST BREEDER NUCLEAR REACTOR | L. M. Finch<br>A. J. Anthony<br>Pasco, Wash. | 9/23/69 |
| 3,469,254 | 505,764(60) | ANALOG-TO-DIGITAL CONVERTER | M. H. Goosey<br>Aiken, S. C.<br>E. R. Brady<br>Sierra Madre, Calif. | 9/23/69 |
| 3,469,936 | 690,109(60) | BROMINE PENTAFLUORIDE DISPOSAL | A. A. Chilenskas<br>J. E. Kincinas<br>Chicago, Ill. | 9/30/69 |
| 3,470,372 | 523,002(60) | FOG DENSITY MEASUREMENT BY X-RAY SCATTERING | J. G. Bayly<br>Deep River, Ontario, Canada | 9/30/69 |
| 3,470,460 | 625,920(60) | STRETCHED REFERENCE WIRE MAGNETIC PICKUP ALIGNMENT SYSTEM | W. K. H. Panofsky<br>Los Altos Hills, Calif.<br>W. F. Marshall<br>San Carlos, Calif. | 9/30/69 |
| 3,470,462 | 402,578(60) | LOW VSWR MEASUREMENT SYSTEM WITH SLIDING LOAD AND PROBE | E. O. Weinschel<br>Bethesda, Md. | 9/30/69 |
| 3,470,503 | 703,630(60) | MULTI-CONTACT SELECTOR SWITCH FOR HIGH CURRENTS | W. L. Dexter<br>Orinda, Calif. | 9/30/69 |







| PATENT NO. | SER. NO. | INVENTION | INVENTORS | DATE |
|---|---|---|---|---|
| 3,470,902 | 620,211(60) | LIQUID FLOW CONTROL DEVICE | J. R. Hackman<br>Mount Juliet, Tenn. | 10/7/69 |
| 3,471,238 | 591,653(60) | INTERFEROMETIC METHOD AND APPARATUS | R. S. Hawke<br>Livermore, Calif. | 10/7/69 |
| 3,471,314 | 601,826(60) | PYROLYTIC CARBON COATING PROCESS | R. L. Beatty<br>Oak Ridge, Tenn.<br>D. V. Kiplinger<br>Concord, Tenn. | 10/7/69 |
| 3,471,414 | 767,821(60) | CASTABLE NEUTRON SHIELD | K. T. Foler<br>Pocatello, Idaho | 10/7/69 |
| 3,471,668 | 683,375(60) | ROLLER-BAND DEVICES | D. F. Wilkes<br>Albuquerque, N. Mex. | 10/7/69 |
| 3,471,783 | 620,212(60) | REFLECTIVE ATTENUATION AND DISPLAY OF PULSE SIGNAL BY MEANS OF AN ALLOY IMPEDANCE TRANSITION IN A TRANSMISSION LINE | R. J. Thomas<br>Oakland, Calif. | 10/7/69 |
| 3,471,826 | 540,092(60) | ELECTRICAL CONNECTOR FOR USE IN LIQUID METAL | E. Hutter<br>Chicago, Ill.<br>H. H. Hooker<br>Naperville, Ill. | 10/7/69 |
| 3,472,633 | 749,724(60) | LIQUID-LIQUID REMOVAL OF PROTACTINIUM FROM SPENT MOLTEN SALT MIXTURES CONTAINING URANIUM TETRAFLUORIDE | L. E. McNeese<br>M. E. Whatley<br>Oak Ridge, Tenn.<br>J. S. Watson<br>Knoxville, Tenn. | 10/14/69 |
| 3,472,677 | 538,923(60) | METHOD FOR APPLYING LOW DENSITY CARBON COATINGS | H. Beutler<br>Oak Ridge, Tenn.<br>M. C. Payne<br>Cincinnati, O. | 10/14/69 |
| 3,473,029 | 614,783(60) | RADIATION PLUG FOR A PARTICLE ACCELERATOR BEAM TUBE | G. W. Parker<br>Downers Grove, Ill. | 10/14/69 |
| 3,473,897 | 745,837(60) | METHOD FOR SEPARATING URANIUM AND PROTACTINIUM FROM SPENT MOLTEN FLUORIDE SALT MIXTURES CONTAINING RARE EARTH | J. H. Shaffer<br>W. R. Grimes<br>Oak Ridge, Tenn.<br>D. M. Moulton<br>Knoxville, Tenn. | 10/21/69 |
| 3,474,007 | 594,318(60) | MOLYBDENUM OXIDE FILM RESISTOR AND THE METHOD OF MAKING SAME | J. C. Hogan<br>Cincinnati, O. | 10/21/69 |
| 3,474,022 | 668,311(60) | ALARM SYSTEM FOR $UF_6$ IN AIR | H. D. Culpepper<br>W. O. Gentry<br>Oak Ridge, Tenn. | 10/21/69 |
| 3,474,671 | 712,974(60) | DEVICE FOR MEASURING THE TEMPERATURE OF A BODY UTILIZING THE INFRARED ENERGY RADIATION THEREFROM | W. J. Byron<br>Idaho Falls, Idaho | 10/28/69 |
| 3,475,309 | 648,544(60) | METHOD OF MAKING PARAMAGNETIC NICKEL FERRITE THIN FILES | R. J. Brook<br>Los Angeles, Calif.<br>W. D. Kingery<br>Marion, Mass. | 10/28/69 |
| 3,475,620 | 694,543(60) | HEAVY CURRENT ARCING SWITCH | J. G. Murray<br>Cranbury, N. J.<br>E. D. Simon<br>G. Bronner<br>Trenton, N. J.<br>G. D. Edmonds<br>Princeton, N. J. | 10/28/69 |
| 3,475,698 | 716,761(60) | TRANSISTOR OSCILLATOR HAVING INTERCHANGEABLE REACTIVE NETWORKS | J. B. Noe<br>Albuquerque, N. Mex. | 10/28/69 |
| 3,475,808 | 623,181(60) | METHOD OF CHANGING GLOVES IN A CONTROLLED ENVIRONMENT BOX | J. W. Woolsey<br>Los Alamos, N. Mex. | 11/4/69 |
| 3,475,825 | 726,301(60) | APPARATUS FOR CHECKING DISTORTION OF A REACTOR FUEL ELEMENT | K. O. Creek<br>Richland, Wash.<br>D. W. Leiby<br>Cincinnati, O. | 11/4/69 |







XUM 37 5 SEP 1973 ANL

| | | | | |
|---|---|---|---|---|
| 3,476,526 | 639,597(60) | PROCESS FOR RECOVERING FILLER FROM ELASTOMER | L. W. Hartzel<br>Dayton, O. | 11/4/69 |
| 3,476,645 | 769,661(60) | FUEL SEGREGATION LOADING ARRANGEMENT IN NUCLEAR FUEL ELEMENTS | R. F. Turner<br>San Diego, Calif. | 11/4/69 |
| 3,476,691 | 398,734(60) | PROCESS FOR PREPARING AN YTTRIA AQUASOL | J. C. Smith | 11/4/69 |
| 3,476,919 | 508,171(60) | MAGNETICALLY SETTABLE COUNTER | C. R. Bachand<br>Albuquerque, N. Mex. | 11/4/69 |
| 3,478,189 | 677,009(60) | WHEEL-TYPE ELECTRODE FOR WELDING BERYLLIUM METAL | C. L. Yates<br>Oak Ridge, Tenn. | 11/11/69 |
| 3,478,208 | 607,610(60) | 2-ARYL INDOLES AND METHODS FOR THEIR USE | D. L. Horrocks<br>Naperville, Ill.<br>H. O. Wirth<br>Argonne, Ill. | 11/11/69 |
| 3,478,886 | 628,249(60) | GRAFT-COPOLYMER COLUMN SUPPORT MATERIAL FOR LIQUID-LIQUID PARTITION CHROMATOGRAPHY | R. F. Hornbeck<br>Livermore, Calif. | 11/18/69 |
| 3,479,147 | 596,342(60) | EXTRACTION OF LITHIUM VALUES | DeWayne A. Lee<br>Knoxville, Tenn. | 11/18/69 |
| 3,479,250 | 694,728(60) | IN-REACTOR CONTROL DRIVE SYSTEM | C. C. Ripley<br>San Jose, Calif. | 11/18/69 |
| 3,479,295 | 669,956(60) | METHOD OF REDUCING RADIOACTIVE WASTE SOLUTION TO DRYNESS | T. K. Thompson<br>Idaho Falls, Idaho | 11/18/69 |
| 3,479,423 | 609,298(60) | METHOD OF FORMING COMPACTED GRAPHITE BODIES | C. Wohlberg<br>Greensburg, Pa. | 11/18/69 |
| 3,479,555 | 685,179(60) | COAXIAL LIGHT SOURCE WITH SERIES IMPEDANCE WITHIN THE ENVELOPE | R. L. Garwin<br>Los Alatos Hills, Calif. | 11/18/69 |
| 3,479,745 | 797,764(60) | DIMENSIONAL MEASURING MACHINE FOR TEST SPECIMENS | E. H. Lorbeer<br>Livermore, Calif. | 11/25/69 |
| 3,480,366 | 580,569(60) | METHOD AND APPARATUS FOR DETERMINING IMAGE ASYMMETRY IN OPTICAL LENSES | D. U. Norgren<br>Orinda, Calif. | 11/25/69 |
| 3,480,490 | 388,987(60) | MULTIPHASE EXTRUDABLE EXPLOSIVES CONTAINING CYCLOTRIMETHYLENETRINITRAMINE OR CYCLOTETRAMETHYLENETETRANITRAMINE | M. Finger<br>Hayward, Calif.<br>E. James, Jr.<br>Castro Valley, Calif.<br>F. B. Archibald<br>Pleasanton, Calif. | 11/25/69 |
| 3,480,793 | 569,761(60) | LOGARITHMIC FUNCTION GENERATOR | M. G. Strauss<br>Downers Grove, Ill. | 11/25/69 |
| 3,480,870 | 596,734(60) | PARAMETRIC PRE-AMPLIFIER CIRCUIT FOR CHARGED PARTICLE DETECTORS | R. L. Chase<br>Blue Point, N. Y.<br>V. Radeka<br>Upton, N. Y. | 11/25/69 |
| 3,480,921 | 402,371(60) | PULSE RECORDING MEANS | R. F. Matthews<br>Albuquerque, N. Mex.<br>G. J. Simmons<br>Cedar Crest, N. Mex.<br>F. J. Wymer<br>Albuquerque, N. Mex. | 11/25/69 |
| 3,482,003 | 690,700(60) | METHOD OF EXTRUSION OF RIBBED COMPOSITE MEMBERS | R. W. Levan<br>N. Augusta, S. C. | 12/2/69 |
| 3,482,144 | 639,255(60) | PHANTASTRON DRIVE FOR IGNITRONS | T. T. Anderson<br>Downers Grove, Ill. | 12/2/69 |
| 3,482,376 | 740,365(60) | APPARATUS FOR CONTINUOUS CHROMATOGRAPHIC SEPARATIONS | E. J. Tuthill<br>Belle Terre, N. Y.<br>J. J. Reilly, Jr.<br>Bellport, N. Y. | 12/9/69 |
| 3,482,692 | 764,476(60) | ELUTRIATOR | A. K. Postma<br>Benton City, Wash. | 12/9/69 |
| 3,482,940 | 707,476(60) | HIGH PRESSURE PREPARATION OF YTTRIUM SESQUICARBIDE | M. C. Krupka<br>A. L. Giorgi<br>N. H. Krikorian<br>E. G. Szklarz<br>Los Alamos, N. Mex. | 12/9/69 |





| | | | | |
|---|---|---|---|---|
| 3,482,949 | 736,033(60) | NEPTUNIUM SEPARATION FROM URANIUM | LaVerne E. Trevorrow<br>Glen Ellyn, Ill.<br>T. J. Gerding<br>Downers Grove, Ill.<br>M. J. Steindler<br>Park Forest, Ill. | 12/9/69 |
| 3,483,081 | 282,181(60) | STABILITY IMPROVEMENT FOR NUCLEAR REACTOR AUTOMATIC CONTROL SYSTEM | D. W. Sparks<br>LaGrange, Ill.<br>J. H. Tessier<br>Ingleside, Ill. | 12/9/69 |
| 3,483,211 | 640,446(60) | 3-PICRYLAMINO-1,2,4-TRIAZOLE AND ITS PREPARATION | M. D. Coburn<br>Los Alamos, N. Mex. | 12/9/69 |
| 3,483,377 | 680,428(60) | POSITION-SENSITIVE RADIATION DETECTOR | C. J. Borkowski<br>M. K. Kopp<br>Oak Ridge, Tenn. | 12/9/69 |
| 3,483,913 | 625,919(60) | METHOD OF MOLTEN METAL SEPARATION | D. E. Grosvenor<br>Burr Ridge, Ill.<br>W. E. Miller<br>Naperville, Ill. | 12/16/69 |
| 3,483,980 | 612,291(60) | COLD TRAP FILTER | J. T. Cochran<br>San Jose, Calif.<br>G. D. Collins<br>Los Altos, Calif. | 12/16/69 |
| 3,484,391 | 542,697(60) | PHENOLIC FOAM COMPOSITION | S. J. Wheatley<br>Clinton, Tenn.<br>D. B. Raina<br>Kingston, Tenn. | 12/16/69 |
| 3,484,610 | 761,470(60) | STIMULATED EXOELECTRON EMISSION DOSIMETERS | K. H. Becker<br>Oak Ridge, Tenn. | 12/16/69 |
| 3,484,689 | 397,809(60) | ANALYSIS OF NONREPETITIVE PULSE WAVEFORMS BY SELECTION AND STORAGE OF PULSE INCREMENTS | Q. A. Kerns<br>Orinda, Calif. | 12/16/69 |
| 3,484,703 | 393,599(60) | PULSE HEIGHT COMPENSATION IN TIME TO AMPLITUDE CONVERSION | F. A. Thieberger<br>Shirley, N. Y. | 12/16/69 |
| 3,484,770 | 577,117(60) | MALFUNCTION ALARM ANNUNCIATOR | F. R. Cheeseman<br>Princeton, N. J. | 12/16/69 |
| 3,484,806 | 710,810(60) | HYDROSTATIC EXTRUSION APPARATUS | R. L. Huddleston<br>Knoxville, Tenn. | 12/16/69 |
| 3,484,867 | 726,006(60) | THERMALLY STABILIZED CLASS A OR CLASS B COMPLEMENTARY TRANSISTOR PUSH-PULL AMPLIFIER | G. L. Babcock<br>Menlo Park, Calif. | 12/16/69 |
| 3,485,159 | 644,465(60) | HIGH-SPEED FRAMING CAMERA SYSTEM | G. H. McCall<br>Princeton, N. J. | 12/23/69 |
| 3,485,177 | 725,374(60) | CENTRIFUGAL PUMP HAVING A SHAFTLESS IMPELLER | H. S. Clay<br>Palo Alto, Calif. | 12/23/69 |
| 3,485,360 | 660,892(60) | PARTICLE SEPARATOR | H. P. Deinken<br>Dos Los Bell, N. Mex.<br>J. A. Zestrow<br>Los Alamos, N. Mex.<br>J. Hill<br>Espanola, N. Mex. | 12/23/69 |
| 3,485,716 | 679,826(60) | METHOD AND APPARATUS FOR INJECTING AND TRAPPING CHARGED PARTICLES IN A MAGNETIC FIELD | S. M. Bodner<br>Berkeley, Calif. | 12/23/69 |
| 3,485,757 | 413,283(60) | THERMOELECTRIC COMPOSITION COMPRISING DOPED BISMUTH TELLURIDE SILICON AND BORON | S. S. Shapiro<br>Trenton, N. J. | 12/23/69 |
| 3,486,094 | 591,656(60) | CIRCUITRY FOR OBTAINING PRECISELY CONTROLLABLE MOTION IN A MOVING COIL ACTUATOR | R. Zane<br>Richmond, Calif. | 12/23/69 |
| 3,486,146 | 669,955(60) | SUPERCONDUCTOR MAGNET AND METHOD | J. E. C. Williams<br>Cambridge, Mass. | 12/23/69 |
| 3,486,883 | 628,167(60) | STAINLESS STEEL ALLOY WITH LOW PHOSPHORUS CONTENT | J. S. Armijo<br>Newark, Calif. | 12/30/69 |
| 3,486,975 | 694,337(60) | FLUIDIC ACTUATED CONTROL ROD DRIVE SYSTEM | C. C. Ripley<br>San Jose, Calif. | 12/30/69 |







XUM 37 5 SEP 73 3 1 8 3 4

| | | | | |
|---|---|---|---|---|
| 3,486,977 | 712,565(60) | NEUTRONIC REACTOR WITH NATURAL CIRCULATION OF FLUID FUEL | J. J. Gaist<br>Schagen, N. Holland, Netherlands | 12/10/69 |
| 3,486,979 | 586,604(60) | METHOD OF PREVENTING PLUTONIUM LEAKAGE | C. Wohlberg<br>Los Alamos, N. Mex. | 12/30/69 |
| 3,487,205 | 656,997(60) | CONTROLLED FIELD LIGHT-FIBER ELECTRONIC ANALOG COMPUTER AND FUNCTION GENERATOR | W. G. Downing, Jr.<br>Livermore, Calif. | 12/30/69 |
| 3,487,265 | 690.290(60) | PROTECTION CIRCUIT HAVING EXTENDED RANGE FUSE CHARACTERISTICS | K. Aaland<br>Livermore, Calif. | 12/30/69 |
| 3,487,342 | 703,654(60) | MAGNETIC REPULSION ACTUATED SWITCH | N. J. Gibson<br>Berkeley, Calif.<br>H. H. Graham<br>Livermore, Calif. | 12/30/69 |

VOL. XX — PATENTS FOR LICENSING — No. 1

June 30, 1970

| PATENT NO. | SER. NO. | INVENTION | INVENTORS | DATE |
|---|---|---|---|---|
| 3,488,159 | 822,216(60) | JET-PULSED LIQUID-LIQUID EXTRACTION COLUMN | J. S. Moon<br>Mex. City, Mex.<br>T. Vermeulen<br>Berkeley, Calif. | 1/6/70 |
| 3,488,221 | 659,570(60) | ELECTROCHEMICAL CELL | H. Shimotake<br>Hinsdale, Ill.<br>C. E. Johnson<br>Elk Grove, Ill.<br>M. S. Foster<br>Naperville, Ill.<br>E. J. Cairns<br>Downers Grove, Ill. | 1/6/70 |
| 3,488,231 | 596,350(60) | TREATMENT OF STEEL | V. F. Zackay<br>Berkeley, Calif.<br>E. R. Parker<br>Oakland, Calif. | 1/6/70 |
| 3,488,409 | 681,574(60) | PROCESS FOR CONSOLIDATING NUCLEAR FULL PARTICLES | H. Beutler<br>Oak Ridge, Tenn.<br>J. H. Robbins<br>Oak Ridge, Tenn. | 1/6/70 |
| 3,488,494 | 646,802(60) | ION MICROSCOPE THE IMAGE OF WHICH REPRESENTS THE ITENSITY OF SECONDARY RADIATION AS A FUNCTION OF THE POSITION OF THE PRIMARY IONS CAUSING THE RADIATION | C. A. Tobias<br>Walnut Creek, Calif. | 1/6/70 |
| 3,488,993 | 707,541(60) | AMBIENT FLUID SAMPLER | G. S. Raynor<br>Manorville, N. Y. | 1/13/70 |
| 3,489,899 | 691,746(60) | CALORIMETRIC METHOD OF MEASURING RADIATION BY SOLUTION CONDUCTIVITY CHANGE | K. H. Schmidt<br>Downers Grove, Ill. | 1/13/70 |
| 3,489,900 | 694,706(60) | DOSIMETER FOR PERMANENTLY RECORDING THE EFFECTS OF AN INTEGRATED FAST NEUTRON DOSE | R. H. Kernohan<br>Oak Ridge, Tenn.<br>S. T. Sekula<br>Oak Ridge, Tenn. | 1/13/70 |

NOTICES



| | | | | |
|---|---|---|---|---|
| 3,490,438 | 645,572(60) | PERFUSION CHAMBER AND CANNULAE THEREFOR | A. A. Berndt<br>Chicago, Ill.<br>A. R. Lavender<br>Chicago, Ill.<br>J. J. Stupka<br>Chicago, Ill. | 1/20/70 |
| 3,490,881 | 755,718(60) | URANIUM OXIDE FLUORINATION WITH FLUORINE AND LFUORINE INTERHALOGENS | J. T. Holmes<br>Downers Grove, Ill.<br>D. R. Vissers<br>Naperville, Ill.<br>J. D. Gabor<br>Western Springs, Ill.<br>I. E. Knudsen<br>Murrysville, Pa. | 1/20/70 |
| 3,491,003 | 652,655(60) | METHOD OF SEPARATING POLONIUM FROM IRRADIATED BISMUTH | R. J. Baltisberger<br>Dayton, O. | 1/20/70 |
| 3,491,253 | 595,539(60) | CURRENT INTEGRATOR | F. M. Glass<br>Oak Ridge, Tenn. | 1/20/70 |
| 3,491,289 | 784,342(60) | NON-CONTACT EDDY CURRENT INSTRUMENT | R. R. Petrini<br>Livermore, Calif. | 1/20/70 |
| 3,491,293 | 726,007(60) | WIDE-RANGE MEGOHMMETER HAVING AN F.E.T. RESPONSIVE TO RAPID CHANGES IN MEASURED RESISTANCE VALUES | G. E. Seaborn, Jr.<br>Oak Ridge, Tenn. | 1/20/70 |
| 3,491,294 | 588,268(60) | PULSE ENERGY QUANTIZER | R. I. Little<br>Barrington, Ill.<br>B. G. Nelson<br>Idaho Falls, Idaho<br>F. L. Petree<br>Hamden, Conn. | 1/20/70 |
| 3,491,296 | 624,670(60) | PRECISE PEAK VOLTAGE DETECTION OF EQUAL REPETITIVE PULSES BY DIMINISHING CHARGING OF A CAPACITOR | M. Fishman<br>Saratoga, Calif. | 1/20/70 |
| 3,491,318 | 753,189(60) | BASEBALL SEAM MAGNET WITH VARIABLE MAGNETIC FIELD | C. D. Henning<br>Livermore, Calif.<br>A. K. Chargin<br>San Jose, Calif. | 1/20/70 |
| 3,491,513 | 769,658(60) | TELLURIUM HEXAFLUORIDE REMOVAL METHOD | D. R. Vissers<br>Naperville, Ill.<br>M. J. Steindler<br>Forest, Ill.<br>J. T. Holmes<br>Downers Grove, Ill. | 1/27/70 |
| 3,491,540 | 730,853(60) | METHOD OF STORING LIQUIDS UNDERGROUND | W. L. Lennemann<br>Rockville, Md. | 1/27/70 |
| 3,491,822 | 713,406(60) | SEA WATER DESALINATION | D. Ramaswami<br>Hinsdale, Ill.<br>A. A. Jonke<br>Elenhurst, Ill. | 1/27/70 |
| 3,492,030 | 761,471(60) | BELLOWS LINER | C. W. Harrison<br>Pasco, Wash.<br>E. A. Lund<br>Richland, Wash. | 1/27/70 |
| 3,492,160 | 716,436(60) | SELF REGENERATING STORAGE BATTERY | G. L. Silver<br>Centerville, O. | 1/27/70 |
| 3,492,217 | 654,036(60) | ELECTROLYTIC DISSOLVER | D. P. Keeler<br>Bartlesville, Okla.<br>W. B. Kerr<br>Idaho Falls, Idaho<br>W. G. Rounds<br>Idaho Falls, Idaho | 1/27/70 |
| 3,492,238 | 599,675(60) | SODIUM PHOSPHATE-CITRIC ACID-EDTA CLEANING SOLUTIONS FOR SCALED FERROUS METALS | C. Wohlberg<br>Hempfield, Township, Pa. | 1/27/70 |
| 3,493,743 | 710,769(60) | METHOD OF MEASURING OXYGEN CONTAMINATION OF LIQUID SODIUM | L. Newman<br>Smithtown, N. Y. | 2/3/70 |
| 3,493,792 | 811,903(60) | CONTROLLING CESIUM RESERVOIR TEMPERATURE FOR THERMIONIC CONVERTERS | S. Untermyer II<br>Portola Valley, Calif. | 2/3/70 |

NOTICES





XUM

| | | | | |
|---|---|---|---|---|
| 3,494,743 | 679,827(60) | VAPOR PHASE REACTOR FOR PRODUCING MULTICOMPONENT COMPOUNDS | J. Baughman Albuquerque, N. Mex. J. A. Corll Albuquerque, N. Mex. | 2/10/70 |
| 3,494,805 | 625,908(60) | METHOD OF INHIBITING THE CORROSION OF TANTALUM BY LIQUID LITHIUM AT HIGH TEMPERATURES | J. Y. N. Wang Lockport, Ill. | 2/10/70 |
| 3,495,125 | 710,542(60) | QUARTER-WAVE TRANSMISSION LINE RADIO FREQUENCY VOLTAGE STEP-UP TRANSFORMER | R. F. Koontz | 2/10/70 |
| 3,495,975 | 774,507(60) | EXTRACTION OF PROTACTINIUM FROM MOLTEN SALT MIXTURES INTO BISMUTH-TIN SOLUTION | W. R. Grimes OakRidge, Tenn. D. H. Moulton Knoxville, Tenn. J. H. Shaffer Oak Ridge, Tenn. | 2/17/70 |
| 3,496,017 | 546,489(60) | METHOD AND COMPOSITION FOR DECONTAMINATION OF STAINLESS STEEL SURFACES | R. D. Weed Richland, Wash. | 2/17/70 |
| 3,496,030 | 601,823(60) | ANTI-SEIZING SURFACES | R. M. Powers Stonaville, N. Y. | 2/17/70 |
| 3,496,463 | 709,625(60) | POSITION MONITORING SYSTEM FOR A PULSE-MODULATED CHARGED PARTICLE BEAM | L. H. Johnston Moscow, Idaho W. B. Pierce Los Altos, Calif. | 2/17/70 |
| 3,497,332 | 834,215(60) | BRAZING ALLOY FOR JOINING GRAPHITE TO GRAPHITE AND TO REFRACTORY METALS | R. G. Donnelly Oak Ridge, Tenn. J. H. Jones Oak Ridge, Tenn. | 2/24/70 |
| 3,498,852 | 805,864(60) | ACCELERATING LITHIUM DRIFT-IN GERMANIUM | M. A. Jamini Mayfield Heights, O. | 3/3/70 |
| 3,499,704 | 668,307(60) | FERROELECTRIC CERAMIC ELECTRO-OPTICAL DEVICE | C. E. Land Albuquerque, N. Mex. I. D. McKinney Albuquerque, N. Mex. | 3/10/70 |
| 3,500,023 | 593,600(60) | STUTTER COUNTING CIRCUIT FOR A DIGITAL CONTROL SYSTEM | J. L. Arrowood Oak Ridge, Tenn. | 3/10/70 |
| 3,500,077 | 691,861(60) | METHOD AND APPARATUS FOR ACCELERATING IONS OUT OF A HOT PLASMA REGION | R. F. Post Walnut Creek, Calif. | 3/10/70 |
| 3,501,126 | 681,684(60) | HIGH PRESSURE VALVE | J. Katich Boulder, Colo. B. J. Williams Arvada, Colo. | 3/17/70 |
| 3,501,340 | 679,639(60) | METHOD OF CLEANING GLASS AND QUARTZ SURFACES | M. Burton Mishawaka, Ind. | 3/17/70 |
| 3,501,377 | 797,744(60) | PRESSURE BALANCED FUEL BUNDLE INLET | J. H. Germer San Jose, Calif. | 3/17/70 |
| 3,501,634 | 710,813(60) | WHOLE-BODY RADIATION COUNTER WITH MEANS FOR CONTROLLING THE SCANNING VELOCITY | W. C. Roesch Richland, Wash. | 3/17/70 |
| 3,501,643 | 766,416(60) | FLYING IMAGE DIGITIZER UTILIZING MEANS FOR SWEEPING THE FOCUSED IMAGE PAST A LINEAR ARRAY OF PHOTO-DETECTORS AND GRATING MEANS FOR LOCATING RECORDED DATA IN SPACE AND TIME | M. Kawaguti Upton, N. Y. | 3/17/70 |
| 3,501,708 | 672,651(60) | HIGH COUNTING-RATE BASE LINE RESTORATION | R. L. Chase Blue Point, N. Y. L. R. Poulo Watertown, Mass. | 3/17/70 |
| 3,501,734 | 666,564(60) | METHOD AND DEVICE FOR STABILIZATION OF THE FIELD DISTRIBUTION IN DRIFT TUBE LINAC | E. A. Knapp Los Alamos, N. Mex. J. M. Potter Los Alamos, N. Mex. D. A. Swenson Los Alamos, N. Mex. | 3/17/70 |
| 3,502,450 | 659,567(60) | COMPOSITE STRUCTURE WELDED WITH TUNGSTEN-CONTAINING NICKEL-BASE FILLER METAL | H. E. McCoy Oak Ridge, Tenn. D. A. Canonico Oak Ridge, Tenn. | 3/24/70 |







| | | | | |
|---|---|---|---|---|
| 3,503,789 | 637,878(60) | METHOD OF MAKING A DYNAMIC SOLUTE-REJECTING MEMBRANE | J. S. Johnson Oak Ridge, Tenn. K. A. Kraus Oak Ridge, Tenn. | 3/31/70 |
| 3,503,893 | 609,719(60) | PROCESS FOR PRODUCING CHEMILUMINESCENCE BY REDUCTION OF METAL CHELATES | D. M. Hercules Arlington, Mass. F. E. Lytle Cambridge, Mass. | 3/31/70 |
| 3,504,044 | 758,381(60) | PROCESS FOR SYNTHESIZING TRUXENE | W. L. Harper Wartburg, Tenn. W. E. Smith Oak Ridge, Tenn. | 3/31/70 |
| 3,504,341 | 610,700(60) | SHIFT REGISTER COMPARATOR | R. L. Snyder New Smyrna, Beach, Fla. | 3/31/70 |
| 3,504,494 | 771,218(60) | INTERMITTENT POWER SOURCE | W. E. Winsche Bellport, N. Y. | 4/7/70 |
| 3,505,064 | 500,529(60) | HAFNIUM ALLOY | J. W. Hock Export, Pa. J. F. Nigon New Kensington, Pa. | 4/7/70 |
| 3,505,095 | 628,790(60) | PRE-PLATING TREATMENT FOR MARAGING STEELS | G. S. Petit Oak Ridge, Tenn. R. R. Wright Oak Ridge, Tenn. | 4/7/70 |
| 3,505,138 | 12,947(60) | METHOD OF JOINING BERYLLIA TO ANOTHER CERAMIC BODY | J. M. Nuding Canoga Park, Calif | 4/7/70 |
| 3,505,170 | 720,198(60) | FUEL SUBASSEMBLY FOR A LIQUID-METAL-COOLED FAST REACTOR | M. T. Jakub Richland, Wash. C. D. Flowers Richland, Wash. | 4/7/70 |
| 3,505,523 | 749,725(60) | PERSONNEL RADON DOSIMETER | K. H. Becker Oak Ridge, Tenn. | 4/7/70 |
| 3,505,538 | 634,794(60) | SUPERCONDUCTOR GATING OR SWITCHING DEVICES | J. L. Artley Durham, N. C. | 4/7/70 |
| 3,506,235 | 667,638(60) | FUEL CASTING APPARATUS WITH COLLAPSIBLE CORE | N. H. Katz Northridge, Calif. R. N. Beam Chatsworth, Calif. | 4/14/70 |
| 3,506,847 | 679,829(60) | LOGARITHMIC CONVERTER | O. E. Schow, III Oak Ridge, Tenn. | 4/14/70 |
| 3,506,865 | 656,956(60) | STABILIZATION OF CHARGED PARTICLE BEAMS | R. J. Briggs Lexington, Mass. | 4/14/70 |
| 3,508,414 | 710,663(60) | METHOD OF STORING HYDROGEN | R. H. Wiswall, Jr. Brookhaven, N. Y. J. J. Reilly, Jr. Bellport, N. Y. | 4/28/70 |
| 3,508,799 | 746,576(60) | GAS BEARINGS | C. M. Gordon Danville, Calif. | 4/28/70 |
| 3,508,862 | 658,989(60) | PROCESS FOR SEPARATION OF NIOBIUM AND TANTALUM | F. D. Stevenson Ames, Iowa J. E. Conway Ames, Iowa | 4/28/70 |
| 3,509,758 | 760,050(60) | GAS LEAK RATE MONITOR | J. B. Newman Idaho Falls, Idaho | 5/5/70 |
| 3,510,102 | 751,103(60) | VALVE ASSEMBLY | Z. F. Sungaila Chicago, Ill. | 5/5/70 |
| 3,510,270 | 661,167(60) | RECLAMATION OF LITHIUM ALUMINATE TARGET ELEMENTS | R. Cooperstein Kennewick, Wash. | 5/5/70 |
| 3,510,434 | 735,141(60) | METHOD OF PREPARING A NITRIDE NUCLEAR REACTOR FUEL | E. T. Weber Kennewick, Wash. W. O. Greenhalgh Richland, Wash. | 5/5/70 |
| 3,510,691 | 609,731(60) | PULSE STRETCHING CIRCUIT | R. N. Larson Houghton, Mich. | 5/5/70 |
| 3,512,852 | 805,161(60) | STABILIZED LEVITATION OF MAGNETIC ELEMENTS | G. C. North Santa Ana, Calif. | 5/19/70 |



XUM

| | | | | |
|---|---|---|---|---|
| 3,512,864 | 668,306(60) | FERROELECTRIC CERAMIC OPTICAL RETARDATION DEVICES | Gene H. Haertling<br>Albuquerque, N. Mex.<br>Cecil E. Land<br>Albuquerque, N. Mex.<br>Ira D. McKinney<br>Albuquerque, N. Mex. | 5/19/70 |
| 3,512,891 | 722,446(60) | SPHERICAL INTERFEROMETER | R. R. Baldwin<br>Clinton, Tenn. | 5/19/70 |
| 3,513,101 | 724,261(60) | PREPARATION OF STABLE SOLS OF THORIA-URANIUM TRIOXIDE | A. B. Heservey<br>Oak Ridge, Tenn. | 5/19/70 |
| 3,513,229 | 753,049(60) | METHOD FOR PRESSING THIN WALLED BORON NITRIDE ARTICLES UTILIZING A LIQUID NITROGEN PRETREATMENT | J. J. Asbury<br>Knoxville, Tenn. | 5/19/70 |
| 3,513,351 | 740,203(60) | DUOPLASMATRON-TYPE ION SOURCE INCLUDING A GAS RESERVOIR | G. G. Kelley<br>Kingston, Tenn. | 5/19/70 |
| 3,513,699 | 681,635(60) | ADIABATIC CALORIMETER | J. J. Reilly, Jr.<br>Bellport, N. Y. | 5/26/70 |
| 3,513,704 | 827,843(60) | PHOTOMETRIC THERMOMETER AND METHOD OF OPERATION | D. W. Hatcher<br>Clinton, Tenn. | 5/26/70 |
| 3,514,218 | 786,559(60) | SINGLE ACTING FOLLOWER HEART ASSIST DEVICE | C. A. Maher, Jr.<br>Wakefield, Mass. | 5/26/70 |
| 3,514,344 | 672,650(60) | METHOD OF IMPROVING THE CORROSION RESISTANCE OF STAINLESS STEEL TO SODIUM | F. A. Smith<br>Lockport, Ill.<br>E. L. Kimout<br>Evergreen Park, Ill. | 5/26/70 |
| 3,514,373 | 602,133(60) | FISSIOCHEMICAL PROCESS AND FUEL | B. H. Hamling<br>Warwick, N. Y. | 5/26/70 |
| 3,514,613 | 784,719(60) | SYSTEM PROVIDING STABLE PULSE DISPLAY FOR SOLUTION ANALYZER | D. N. Washburn<br>Clinton, Tenn. | 5/26/70 |
| 3,514,730 | 716,496(60) | COOLING SPACER STRIP FOR SUPERCONDUCTING MAGNETS | D. A. Kassner<br>Patchogue, N. Y. | 5/26/70 |
| 3,514,763 | 806,648(60) | TOTALIZING MEMORY FOR MULTICHANNEL ANALYZERS WITH INCREASED CAPACITY | N. A. Betz<br>Oak Ridge, Tenn.<br>Walter R. Burrus<br>Oak Ridge, Tenn.<br>T. A. Lewis<br>Knoxville, Tenn.<br>J. W. Reynolds<br>Oak Ridge, Tenn.<br>C. G. Slaughter<br>Oak Ridge, Tenn.<br>J. G. Sullivan<br>Knoxville, Tenn. | 5/26/70 |
| 3,515,309 | 768,629(60) | SENSITIVE BURST DIAPHRAGM FOR RELIEF OF OVERPRESSURES | K. M. Welch<br>Palo Alto, Calif. | 6/2/70 |
| 3,515,486 | 685,178(60) | OPTICAL RANGING DEVICE | R. N. Vonderohe<br>Downers Grove, Ill.<br>J. H. Doede<br>Shorewood, Minn.<br>C. W. Lindenmeyer<br>Aurora, Ill. | 6/2/70 |
| 3,515,545 | 671,883(60) | REFRACTORY AND CERAMIC BRAZING ALLOYS | D. A. Canonico<br>Oak Ridge, Tenn.<br>L. G. Bryson<br>Powell, Tenn.<br>C. M. Slaughter<br>Oak Ridge, Tenn. | 6/2/70 |
| 3,515,674 | 637,877(60) | PROCESS FOR PRODUCING CHEMILUMINESCENCE BY REDUCTION OF THE 1, 6 DIAMINOPYRENE RADICAL CATION | D. M. Hercules<br>Arlington, Mass.<br>F. E. Lytle<br>Cambridge, Mass. | 6/2/70 |
| 3,516,263 | 810,281(60) | METHOD OF STORING HYDROGEN | R. H. Wiswall, Jr.<br>Brookhaven, N. Y.<br>J. J. Reilly, Jr.<br>Bellport, N. Y. | 6/23/70 |
| 3,516,878 | 609,718(60) | ULTRA-HIGH STRENGTH PRESSURE VESSEL | D. J. Sandstrom<br>Los Alamos, N. Mex.<br>D. A. Law<br>Los Alamos, N. Mex. | 6/23/70 |





| | | | | |
|---|---|---|---|---|
| 3,517,092 | 721,144(60) | PROCESS FOR PREPARING HIGH DENSITY ISOTROPIC GRAPHITE STRUCTURES | G. R. Peterson<br>Andersonville, Tenn. | 6/23/70 |
| 3,517,193 | 756,268(60) | MAGNETICALLY PULSED TIME-OF-FLIGHT NEUTRON SPECTROMETER | H. A. Hook, Jr.<br>Oak Ridge, Tenn.<br>M. K. Wilkinson<br>Oak Ridge, Tenn.<br>G. W. Clark<br>Oak Ridge, Tenn.<br>D. D. Bates<br>Oak Ridge, Tenn. | 6/23/70 |
| 3,517,194 | 776,220(60) | POSITION-SENSITIVE RADIATION DETECTOR | C. J. Borkowski<br>Oak Ridge, Tenn.<br>M. K. Kopp<br>Oak Ridge, Tenn. | 6/23/70 |
| 3,517,195 | 742,090(60) | HIGH INTENSITY X-RAY TUBE | G. A. Lavitt<br>Livermore, Calif. | 6/23/70 |
| 3,517,265 | 721,757(60) | DEIONIZING AND FAULT PROTECTION CIRCUIT FOR A LINE-TYPE PULSER | R. W. Bradford<br>Menlo Park, Calif. | 6/23/70 |
| 3,517,322 | 699,575(60) | PHASE DETECTOR | C. M. Lay<br>Oak Ridge, Tenn. | 6/23/70 |
| 3,517,431 | 635,961(60) | METHOD OF MAKING COMBINATION FUEL RODS | J. E. Ayer<br>Joliet, Ill. | 6/30/70 |
| 3,517,432 | 726,244(60) | DIFFUSION BONDING OF CERAMICS | D. J. Sandstrom<br>Los Alamos, N. Mex. | 6/30/70 |
| 3,518,063 | 672,649(60) | PURIFICATION OF BERYLLIUM BY LIQUID-LIQUID EXTRACTION | F. G. Seeley<br>Oak Ridge, Tenn.<br>D. J. Crouse, Jr. | 6/30/70 |
| 3,518,163 | 718,685(60) | SODIUM-COOLED FAST-FLUX TEST REACTOR | D. R. deBoisblanc<br>Idaho Falls, Idaho | 6/30/70 |
| 3,518,414 | 643,324(60) | DIGITAL FILTER FOR SUPPRESSING NONSTATISTICAL NOISE BURSTS IN DIGITAL AVERAGING | L. S. Goodman<br>Downers Grove, Ill.<br>F. O. Salter<br>Glen Ellyn, Ill. | 6/30/70 |
| 3,518,427 | 734,688(60) | A UNIVERSAL PLANAR X-RAY RESONATOR | R. M. J. Cotterill<br>Downers Grove, Ill. | 6/30/70 |
| 3,518,496 | 700,234(60) | SUPERCONDUCTOR MAGNETIC ENERGY STORAGE SYSTEM | D. C. Schweitzer<br>Bayport, N. Y. | 6/30/70 |



XUM

| PATENT NO. | SER. NO. | INVENTION | INVENTORS | DATE |
|---|---|---|---|---|
| 3,518,861 | 747,904(60) | METHOD OF MAKING AN OMEGA SHAPED ANNULUS | L. E. Génens<br>Mokena, Ill.<br>R. Kleb<br>Downers Grove, Ill. | 7/7/70 |
| 3,519,328 | 684,135(60) | SHORT DURATION OPTICAL SHUTTER | D. D. Grossman<br>Cambridge, Mass. | 7/7/70 |
| 3,519,374 | 740,235(60) | PARTIAL ADMISSION VALVE MECHANISM FOR ROTARY ENGINE | P. O. Tauson<br>Bradford Woods, Pa. | 7/7/70 |
| 3,519,385 | 712,377(60) | METHOD FOR SEPARATING MOLYBDENUM FROM TECHNETIUM | E. C. Hurst<br>Powell, Tenn.<br>H. B. Hupf<br>Oak Ridge, Tenn. | 7/7/70 |
| 3,519,400 | 612,297(60) | METHOD OF CENTRIFUGAL SEPARATION AND RECOVERY OF CHEMICAL SPECIES UTILIZING A LIQUID MEDIUM | N. G. Anderson<br>Oak Ridge, Tenn. | 7/7/70 |
| 3,519,490 | 685,059(60) | HIGH TEMPERATURE THERMAL CONTROL FOIL SHUTTER | A. R. Lieberman<br>Baltimore, Md. | 7/7/70 |
| 3,519,822 | 660,883(60) | TIME OF FLIGHT TO KINETIC ENERGY CONVERTER FOR A NUCLEAR PARTICLE SPECTROMETER | G. A. Sleege<br>Ames, Iowa | 7/7/70 |
| 3,520,356 | 581,328(60) | VAPOR GENERATOR FOR USE IN A NUCLEAR REACTOR | F. R. Bell<br>R. N. Quade<br>San Diego, Calif. | 7/14/70 |
| 3,520,482 | 758,936(60) | PREPARATION AND PURIFICATION OF CRYSTALLINE BORON | M. J. Sawitski<br>Dayton, Ohio | 7/14/70 |
| 3,520,621 | 639,598(60) | REMOTE LEVELLING MEASUREMENT | R. A. Blesch<br>Lisle, Ill.<br>C. G. Porter<br>New York, N. Y.<br>O. S. Reading<br>Bellport, N. Y. | 7/14/70 |
| 3,520,640 | 577,316(60) | FLUID CIRCULATOR | J. S. Yampolsky<br>F. R. Bell<br>P. Fortescue<br>San Diego, Calif. | 7/14/70 |
| 3,520,644 | 740,616(60) | ROTARY ENGINE COMPENSATING ECCENTRIC | R. W. Kalkbrenner<br>Irwin, Pa. | 7/14/70 |
| 3,520,679 | 799,911(60) | METHOD FOR REMOVING SILICA FROM SILICEOUS MATERIALS | E. L. Christensen<br>Wm. J. Maraman<br>J. C. Carmichael<br>Los Alamos, N. Mex. | 7/14/70 |
| 3,520,734 | 771,511(60) | MOST POWERFUL RADIOISOTOPE HEATED THERMOELECTRIC GENERATOR PROVIDING FOR INTACT RE-ENTRY OF THE HEAT SOURCE MEANS FROM SPACE | M. R. Scheve<br>C. N. Young<br>Baltimore, Md. | 7/14/70 |
| 3,520,910 | 711,529(60) | p-Nitrophenyl-p'-Guanidinobenzoate HCl | T. Chase, Jr.<br>Center Moriches, N. Y.<br>E. N. Shaw<br>Shoreham, N. Y. | 7/21/70 |
| 3,521,089 | 734,689(60) | PIEZOELECTRIC FEEDTHROUGH DEVICE | O. M. Stuetzer<br>Albuquerque, N. Mex. | 7/21/70 |
| 3,521,165 | 761,060(60) | METER FOR MEASURING RMS VALUES OF PULSED CURRENT SIGNALS | A. T. Visser<br>Downers Grove, Ill. | 7/21/70 |
| 3,521,207 | 763,260(60) | POWER SUPPLY FOR SUPER CONDUCTING MAGNET | R. B. Britton<br>W. B. Sampson<br>Bellport, N. Y. | 7/21/70 |
| 3,521,239 | 698,338(60) | TOTALIZING MEMORY FOR MULTICHANNEL ANALYZERS WITH INCREASED CAPACITY | W. R. Burrus<br>Oak Ridge, Tenn. | 7/21/70 |
| 3,521,959 | 664,225(60) | METHOD FOR DIRECT SPECTROGRAPHIC ANALYSIS OF MOLTEN METALS | V. A. Fassel<br>G. W. Dickinson<br>Ames, Iowa | 7/28/70 |
| 3,522,885 | 722,445(60) | PARALLEL FLOW HEMODIALYZER | A. R. Lavender<br>Chicago, Ill.<br>F. W. Markley<br>Naperville, Ill. | 8/4/70 |
| 3,523,677 | 786,558(60) | FAST ACTING ELECTROMAGNETIC GAS VALVE | G. C. North<br>Santa Ana, Calif. | 8/11/70 |
| 3,524,056 | 695,977(60) | DOUBLE FOCUSING SPECTROGRAPH EMPLOYING A ROTATABLE QUADRUPOLE LENS TO MINIMIZE DOPPLER BROADENING | H. A. Enge<br>Winchester, Mass.<br>D. L. Smith<br>Vero Beach, Fla. | 8/11/70 |





| | | | | |
|---|---|---|---|---|
| 3,524,097 | 722,753(60) | HIGH POWER HYDROGEN THYRATRON | L. Mancebo<br>Livermore, Calif. | 8/11/70 |
| 3,524,130 | 758,879(60) | NON-CONTACT SPARK-GAP CURRENT TOOL-SETTING DEVICE | C. Asmanes<br>Oak Ridge, Tenn. | 8/11/70 |
| 3,524,924 | 745,262(60) | BACKUP CONTROL ROD SYSTEM | J. H. Germer<br>San Jose, Calif. | 8/18/70 |
| 3,525,228 | 796,350(60) | NONBOILING LIQUID TARGET FOR A HIGH-ENERGY PARTICLE BEAM | E. L. Anderson<br>Palo Alto, Calif. | 8/25/70 |
| 3,525,229 | 797,080(60) | ON-OFF THERMAL SWITCH FOR A CRYOPUMP | B. S. Denhoy<br>Brentwood, Calif. | 8/25/70 |
| 3,525,386 | 793,042(60) | THERMAL CONTROL CHAMBER | G. M. Grover<br>Los Alamos, N. Mex. | 8/25/70 |
| 3,525,669 | 764,460(60) | INSULATED DUCTS FOR NUCLEAR REACTOR | J. H. Germer<br>San Jose, Calif. | 8/25/70 |
| 3,525,670 | 784,343(60) | TWO-PHASE FLUID CONTROL SYSTEM | N. J. Brown<br>Livermore, Calif. | 8/25/70 |
| 3,525,953 | 681,199(60) | PLASMA TUNING MEANS WHEREIN THE RESONANT FREQUENCY OF A CAVITY RESONATOR TRACKS THE FREQUENCY OF AN IONIZING CONTROL FREQUENCY | S. L. Halverson<br>Chicago Hts., Ill. | 8/25/70 |
| 3,527,098 | 802,011(60) | GROOVED MELT WIRES | F. G. Salgado<br>J. F. Torbert<br>Los Alamos, N. Mex. | 9/8/70 |
| 3,527,110 | 775,742(60) | MIRROR POSITIONER FOR A ROTATING MIRROR CAMERA | B. T. Rogers, Jr.<br>Embudo, N. Mex. | 9/8/70 |
| 3,527,243 | 816,238(60) | LIQUID LEVEL CONTROL | M. Hontag<br>Plainview, N. Y. | 9/8/70 |
| 3,527,350 | 852,701(60) | APPARATUS FOR CONTINUOUS CHROMATOGRAPHY | E. J. Tuthill<br>Belle Terre, N. Y.<br>J. Fedulen<br>Blue Point, N. Y. | 9/8/70 |
| 3,527,615 | 824,610(60) | THERMAL BATTERY HAVING PROTECTIVELY COATED CALCIUM ANODE ALLOY SHORTING | R. F. Clark<br>K. A. Grothaus<br>Albuquerque, N. Mex. | 9/8/70 |
| 3,527,669 | 730,466(60) | MOLTEN-SALT-FUELED NUCLEAR BREEDER REACTOR AND FUEL CELL FOR USE THEREIN | E. S. Bettis<br>Knoxville, Tenn. | 9/8/70 |
| 3,527,873 | 787,419(60) | COMPOSITE SUPERCONDUCTING CABLE HAVING A POROUS MATRIX | H. Brechna<br>Palo Alto, Calif.<br>E. L. Garwin<br>Los Altos Hills, Calif. | 9/8/70 |
| 3,527,944 | 766,433,(60) | MULTIPLE SEMI-CONDUCTOR RADIATION DETECTORS WITH COMMON INTRINSIC REGION | H. W. Kraner<br>Bellport, N. Y. | 9/8/70 |
| 3,527,948 | 782,577(60) | COBALT-RHENIUM ENERGY SOURCE | F. N. Rhines<br>Gainesville, Fla.<br>J. A. Donovan<br>W. R. McDonell<br>Aiken, S. C. | 9/8/70 |
| 3,527,977 | 733,846(60) | MOVING ELECTRONS AS AN ACID TO INITIATING REACTIONS IN THERMONUCLEAR DEVICES | A. E. Ruark<br>Kensington, Md. | 9/8/70 |
| 3,528,016 | 690,245(60) | CAPACITOR BIASING FOR VARIABLE REMOTE CONTROL PULSE DELAYS | R. F. Koontz<br>Menlo Park, Calif. | 9/8/70 |
| 3,528,034 | 747,953(60) | ESTABLISHMENT OF HARMONIC FREQUENCIES IN A PENNING-TYPE DISCHARGE | E. D. Shipley<br>Knoxville, Tenn.<br>O. C. Yonts<br>Oak Ridge, Tenn. | 9/8/70 |
| 3,529,046 | 738,418(60) | UTILIZING LITHIUM OXIDE AND PRECURSORS AS SINTERING AID FOR HOT PRESSING BERYLLIUM OXIDE | R. Hendricks, Jr.<br>Oak Ridge, Tenn. | 9/15/70 |
| 3,529,234 | 690,222(60) | VAPOR QUALITY MEASURING DEVICE | R. D. Keen<br>Canoga Park, Calif. | 9/15/70 |
| 3,530,332 | 826,098(60) | MULTI-PERIODIC ACCELERATING STRUCTURE | S. T. Giordano<br>Port Jefferson, N. Y. | 9/22/70 |
| 3,531,182 | 758,958(60) | MULTIREMANENT FERROELECTRIC CERAMIC OPTICAL DEVICES | C. E. Land<br>D. G. Schueler<br>Albuquerque, N. Mex. | 9/29/70 |
| 3,531,248 | 718,351(60) | FORMING GRAPHITE MATERIAL FROM FURFURYL ALCOHOL | H. Shinberg<br>Los Alamos, N. Mex. | 9/29/70 |

| | | | | |
|---|---|---|---|---|
| 3,531,324 | 841,828(60) | SECONDARY POWER-PRODUCING CELL | A. K. Fischer<br>Western Springs, Ill.<br>V. A. Maroni<br>Riverside, Ill.<br>A. D. Tevebaugh<br>Hinsdale, Ill.<br>E. J. Cairns<br>Downers Grove, Ill. | 9/29/70 |
| 3,531,340 | 786,580(60) | METHOD FOR MOUNTING THIN BERYLLIUM WINDOWS | R. F. Bunshaft<br>Livermore, Calif.<br>R. S. Juntz<br>Hayward, Calif. | 9/29/70 |
| 3,531,639 | 782,563(60) | ENVIRONMENTAL GAS MONITOR FOR LOW LEVEL RADIOACTIVE GASES | J. W. Baum<br>Patchogue, N. Y.<br>P. S. Littlefield<br>Rockland, Mass. | 9/29/70 |

VOL. XX — PATENTS FOR LICENSING — No. 3

December 29, 1970

| PATENT NO. | SER. NO. | INVENTION | INVENTORS | DATE |
|---|---|---|---|---|
| 3,533,047 | 815,372 | HIGH VOLTAGE COAXIAL CONNECTOR | Hugh B. McFarlane | 10/6/70 |
| 3,533,273 | 656,640 | THERMAL SURFACE IMPEDANCE METHOD AND MEANS FOR NON-DESTRUCTIVE TESTING | Donald R. Green | 10/13/70 |
| 3,534,409 | 735,726(60) | IMPLANTABLE CIRCULATORY SUPPORT SYSTEM | J. R. Lance,<br>R. K. Disney,<br>A. Selz &<br>F. O. Tanson | 10/20/70 |
| 3,534,811 | 784,738(60) | BALL-LOADED HIGH ENERGY PARTICLE BEAM DUMP | Dieter R. Walz | 10/20/70 |
| 3,535,059 | 742,089(60) | ROTARY ENGINE VALVE | Ralph Kalkbrenner | 10/20/71 |
| 3,535,079 | 711,746(60) | METHOD FOR FRACTIONATION OF CARBON ISOTOPES | A. A. Palko | 10/20/70 |
| 3,535,081 | 758,391(60) | METHOD FOR MAKING GRAPHITE | W. L. Harper and<br>W. E. Smith | 10/20/70 |
| 3,535,087 | 771,217(60) | DEVICE FOR PRODUCING AND HYDRATED ELECTRONS | E. J. Hart &<br>K. H. Schmidt | 10/20/70 |
| 3,535,103 | 720,391(60) | METHOD OF MAKING METAL ALLOY POWDERS | Cyrus E. Whitfield | 10/20/70 |
| 3,535,132 | 690,823(60) | TITANIUM CARBIDE MOLTEN METAL BARRIER AND METHOD OF PRODUCTION | M. C. Lunde | 10/20/70 |
| 3,535,205 | 715,080(60) | METHOD FOR EFFECTING UNIFORM RADIATION OF SAMPLES | L. C. Bate and<br>F. F. Dyer | 10/20/70 |
| 3,535,206 | 751,102(60) | PNEUMATIC SCRAM ROD DRIVE | John H. Germer | 10/20/70 |
| 3,535,355 | 728,348(60) | PROCESS FOR PRODUCING DERIVATIVES OF WEAKLY ACIDIC CHEMICAL COMPOUNDS | W. L. Jolly,<br>T. Birchall and<br>D. S. Rustad | 10/20/70 |



| | | | | |
|---|---|---|---|---|
| 3,535,494 | 679,782(60) | CURVE-FOLLOWING APPARATUS | J. D. Caylor | 10/20/70 |
| 3,535,500 | 648,189(60) | BINARY RADIX CONVERTER | Michael J. C. Hu | 10/20/70 |
| 3,535,531 | 749,047(60) | HIGH-VOLUME AIRBORNE-PARTICLE LIGHT SCATTERING DETECTOR SYSTEM HAVING RECTANGULARY SHAPED ELONGATED ZONE | William E. Neitzel | 10/20/70 |
| 3,535,646 | 708,907(60) | LOW PASS FILTER CIRCUIT | Truman H. Quinn | 10/20/70 |
| 3,535,803 | 825,892(60) | DEPTH GAUGE PROBE ASSEMBLY | K. O. Creek and<br>D. W. Leiby | 10/27/70 |
| 3,536,106 | 756,265(60) | METHOD FOR MEASUREMENT AND TRANSFER OF SMALL FLUID VOLUMES | N. G. Anderson | 10/27/70 |
| 3,536,420 | 811,904(60) | CONDENSATE PURIFIER FOR DIFFUSION PUMP | Claire E. Miner | 10/27/70 |
| 3,536,253 | 801,521(60) | ZONAL CENTRIFUGE | N. G. Anderson<br>and C. E. Nunley | 10/27/70 |
| 3,536,544 | 392,073(48) | TRINITROTOLUENE EXPLOSIVE COMPOSITIONS CONTAINING A POLYCYCLIC AROMATIC HYDROCARBON | Otis K. Pennington,<br>Harold J. Gryting<br>Louis McDonald | 10/27/70 |
| 3,536,793 | 703,547(60) | METHOD OF MAKING POROUS METAL CARBIDE AGGLOMERATES | R. E. Norman &<br>R. H. Speas | 10/27/70 |
| 3,537,271 | 751,101(60) | LEVEL CONTROL FOR CRYOGENIC LIQUIDS | M. Montag | 11/3/70 |
| 3,537,424 | 703,596 | RESIN IMPREGNATION OF CELLULAR MEMBERS | R. L. Sadler | 11/3/70 |
| 3,537,966 | 680,351(60) | RADIATION TREATMENT OF MINE WASTE WATERS | M. Steinberg and<br>J. Pruzansky | 11/3/70 |
| 3,537,988 | 703,521(60) | HYPERFILTRATION METHOD REMOVING ORGANIC SOLUTE FROM AQUEOUS SOLUTIONS | A. E. Marcinkowsky<br>J. S. Johnson<br>K. A. Kraus &<br>J. R. Kuppers | 11/3/70 |
| 3,538,434 | 645,580 | METHOD FOR DETECTING ONE OF HEAVY WATER AND ORDINARY WATER IN THE PRESENCE OF THE OTHER OF HEAVY WATER AND ORDINARY WATER | D. P. Brown,<br>C. F. Garlic and<br>N. S. Porter | 11/3/70 |
| 3,541,448 | 727,178(60) | DIGITAL TIME INTERVALOMETER WITH ANALOGUE VERNIER TIMING | R. Nutt | 11/17/70 |
| 3,541,762 | 808,120(60) | ANNULAR PACKED-BED FILTER | A. A. Jonke<br>Devabaktuni Ramaswami<br>& N. M. Levitz | 11/24/70 |
| 3,541,855 | 781,438 | ANEMOMETER FOR MEASURING HORIZONTAL WIND VELOCITIES | P. Frenzen &<br>R. L. Hart | 11/24/70 |
| 3,542,525 | 801,390(60) | CYCLING ZONE ADSORPTION PROCESS | R. L. Pigford<br>B. Baker III &<br>D. E. Blum | 11/24/70 |
| 3,542,995 | 829,955(60) | MEASUREMENT AND CONTROL OF FOCUS IN ELECTRON BEAM WELDING | R. A. Boone & | 11/24/70 |
| 3,543,136 | 792,306(60) | HIGH VOLTAGE DIRECT CURRENT GENERATOR | H. A. Enge | 11/24/70 |
| 3,543,147 | 717,262(60) | PHASE ANGLE MEASUREMENT SYSTEM FOR DETERMINING AND CONTROLLING THE RESONANCE OF THE RADIO FREQUENCY ACCELERATING CAVITIES FOR HIGH ENERGY CHARGED PARTICLE ACCELERATORS | V. J. Kovarik | 11/24/70 |
| 3,543,171 | 803,904(60) | FERRITE BIAS REGULATOR FOR A SYNCHROTRON RESONATOR | B. H. Smith | 11/24/70 |
| 3,543,192 | 703,653(60) | CONSTANT-IMPEDANCE VARIABLE-DELAY TRANSMISSION LINE | E. M. Rowe &<br>R. H. Hilden | 11/24/70 |
| 3,543,286 | 819,290(60) | MULTI-GEOMETRIC PATTERN ELECTRIC GENERATOR | R. H. Stentz &<br>A. W. Bauer | 11/24/70 |

| | | | | |
|---|---|---|---|---|
| 3,549,325 | 721,675(60) | DUAL TEMPERATURE ISOTOPE EXCHANGE PROCESS | D. F. Babcock | 12/22/70 |
| 3,549,489 | 769,655(60) | SYSTEM FOR DETECTING SODIUM BOILING IN A REACTOR | P. R. Pluta | 12/22/70 |
| 3,549,491 | 777,793(60) | NUCLEAR REACTOR FUEL ELEMENT HOLD-DOWN AND TIGHTING MECHANISM | M. L. Johnson | 12/22/70 |
| 3,549,492 | 823,888(60) | FLUID SUPPORTED CAPSULE HOLDER FOR HOMOGENEOUSLY IRRADIATING SAMPLES | E. Ricci T. H. Handley & M. G. Willey | 12/22/70 |
| 3,549,493 | 793,040(60) | FAST SODIUM-COOLED REACTOR CORE STRUCTURE | J. H. Germer | 12/22/70 |
| 3,549,494 | 751,246(60) | FLOW MEASURING DEVICE FOR SODIUM-COOLED REACTORS | J. H. Germer | 12/22/70 |
| 3,549,877 | 629,877(60) | A SYSTEM FOR COMPUTING AND CONTINUOUSLY DISPLAYING INCREMENTS OF MOVEMENT OF AN OBJECT IN USEABLE UNITS OF MEASURE | C. M. Lay | 12/22/70 |
| 3,550,064 | 847,870(60) | ELECTRICAL CONNECTOR PLUG AND CONNECTOR ASSEMBLY | J. M. Caller & P. J. Konnick | 12/22/70 |
| 3,551,119 | 692,727(35) | A PRECIPITATION METHOD OF RECOVERING ELEMENT 95 FROM CONTAMINANTS | Louis B. Werner | 12/29/70 |
| 3,544,307 | 772,073(60) | PURIFICATION OF POLONIUM | R. E. Ellis & C. J. Kershner | 12/1/70 |
| 3,544,922 | 813,486(60) | IMPEDANCE MATCHING COUPLER SYSTEM FOR A VARIABLE RESISTIVE LOAD IMPEDANCE | R. A. McConnell | 12/1/70 |
| 3,545,964 | 722,209(60) | GOLD RECOVERY PROCESS | S. M. Hansen & D. F. Snoeberger | 12/8/70 |
| 3,546,012 | 716,592(60) | LITHIUM SULPHATE ULTRASONIC TRANSDUCER | N. E. Dixon & W. J. Coleman | 12/8/70 |
| 3,546,026 | 761,057(60) | FIBER STRENGTHENED THERMOELECTRIC MATERIAL | E. K. Beauchamp & J. E. Morenz | 12/8/70 |
| 3,546,423 | 739,575(60) | WELD WIRE FEED CONTROL | J. A. Chopp, M. O'Brien, M. O. Roberts & H. Scholz | 12/8/70 |
| 3,546,455 | 794,501(60) | NEUTRON FLUX PLOTTING DEVICE | K. G. Porges | 12/8/70 |
| 3,546,485 | 778,103(60) | BIDIRECTIONAL ANALOG GATE | T. J. Davis | 12/8/70 |
| 3,546,541 | 743,700(60) | SUPERCONDUCTING CURRENT LOOP HAVING PREFERENTIAL CURRENT FLOW | D. G. Schweitzer & P. D. Adams | 12/8/70 |
| 3,546,575 | 771,795(60) | METHOD AND APPARATUS FOR ENHANCEMENT OF NUCLEAR POLARIZATION BY OPTICAL PUMPING IN SOLIDS AND LIQUIDS | C. D. Jeffries & E. F. Hollenauer | 12/8/70 |
| 3,546,577 | 740,207(60) | APPARATUS FOR NONDESTRUCTIVELY MEASURING THE POSITION AND PARTICLE-DENSITY PROFILE OF AN ACCELERATOR BEAM | F. Hornstra, Jr. & W. H. DeLuca | 12/8/70 |
| 3,546,583 | 758,561(60) | ELECTRODE ASSEMBLY FOR DETECTING PARTICLES IN FLUID SUSPENSION | J. D. Perrings | 12/8/70 |
| 3,546,996 | 814,967(60) | RELEASE LATCH ACTUATED BY TEMPERATURE EXCURSION | R. J. Grijalva & G. F. Queener | 12/15/70 |



| | | | | |
|---|---|---|---|---|
| 3,547,185 | 826,102(60) | METHOD FOR PROMOTING DROPWISE CONDENSATION ON COPPER AND COPPER ALLOY CONDENSING SURFACES | D. M. Eissenberg | 12/15/70 |
| 3,547,547 | 806,920(60) | ANALYTICAL PHOTOMETER WITH MEANS FOR MEASURING, HOLDING AND TRANSFERRING DISCRETE LIQUID VOLUMES AND METHOD OF USE THEREOF | N. G. Anderson | 12/15/70 |
| 3,547,676 | 529,181(60) | PYROLYTIC CARBON STRUCTURES AND PROCESS FOR MAKING SAME | J. C. Bokros, J. Chin and R. J. Price | 12/15/70 |
| 3,547,685 | 754,308(60) | METHOD OF INHIBITING THE CORROSION OF TANTALUM BY LIQUID LITHIUM | J. Y. N. Wang and K. G. Figlik | 12/15/70 |
| 3,547,709 | 728,910(60) | CORROSION-RESISTANT URANIUM | G. S. Petit and R. R. Wright | 12/15/70 |
| 3,547,796 | 786,711(60) | APPARATUS FOR ELECTROPOLISHING SPHERICAL SURFACES | W. L. Randall | 12/15/70 |
| 3,548,191 | 807,081(60) | PLASTIC TRACT-TYPE DETECTOR FOR SLOW NEUTRONS HAVING THE NEUTRONS COVERSION SUBSTANCE UNIFORMLY DISPERSED THEREIN | W. W. Schultz S. L. Jones | 12/15/70 |
| 3,548,352 | 847,869(60) | ACTUATING DEVICE | C. A. Sandoval | 12/15/70 |
| 3,548,646 | 803,154(60) | TENSILE TEST APPARATUS | W. R. Holman | 12/22/70 |
| 3,548,931 | 771,796(60) | VESSEL FOR A SODIUM-COOLED REACTOR | J. H. Germer & C. E. Boardman | 12/22/70 |
| 3,549,257 | 787,525(60) | OPTICAL EXTENSOMETER | I. Murray | 12/22/70 |
| 3,549,323 | 721,676(60) | DUAL TEMPERATURE ISOTOPE EXCHANGE PROCESS | D. F. Babcock | 12/22/70 |
| 3,549,324 | 721,674 (60) | DUAL TEMPERATURE ISOTOPE EXCHANGE PROCESS | D. F. Babcock | 12/22/70 |
| 3,549,325 | 721,675(60) | DUAL TEMPERATURE ISOTOPE EXCHANGE PROCESS | D. F. Babcock | 12/22/70 |
| 3,549,489 | 769,655(60) | SYSTEM FOR DETECTING SODIUM BOILING IN A REACTOR | P. R. Pluta | 12/22/70 |
| 3,549,491 | 777,793(60) | NUCLEAR REACTOR FUEL ELEMENT HOLD-DOWN AND TIGHTING MECHANISM | M. L. Johnson | 12/22/70 |
| 3,549,492 | 823,888(60) | FLUID SUPPORTED CAPSULE HOLDER FOR HOMOGENEOUSLY IRRADIATING SAMPLES | E. Ricci T. H. Handley & M. G. Willey | 12/22/70 |
| 3,549,493 | 793,040(60) | FAST SODIUM-COOLED REACTOR CORE STRUCTURE | J. H. Germer | 12/22/70 |
| 3,549,494 | 751,246(60) | FLOW MEASURING DEVICE FOR SODIUM-COOLED REACTORS | J. H. Germer | 12/22/70 |
| 3,549,877 | 629,877(60) | A SYSTEM FOR COMPUTING AND CONTINUOUSLY DISPLAYING INCREMENTS OF MOVEMENT OF AN OBJECT IN USEABLE UNITS OF MEASURE | C. M. Lay | 12/22/70 |
| 3,550,064 | 847,870(60) | ELECTRICAL CONNECTOR PLUG AND CONNECTOR ASSEMBLY | J. M. Caller & P. J. Konnick | 12/22/70 |
| 3,551,119 | 692,727(35) | A PRECIPITATION METHOD OF RECOVERING ELEMENT 95 FROM CONTAMINANTS | Louis B. Werner | 12/29/70 |

| PATENT NO. | SER. NO. | INVENTION | INVENTORS | DATE |
|---|---|---|---|---|
| 3,554,374 | 741,959 | PLUGGING COMPOUND COLLECTOR | R. C. Bleir | 1/12/71 |
| 3,554,630 | 758,940 | ALIGNMENT TELESCOPE | B. T. Rogers, Jr. | 1/12/71 |
| 3,554,693 | 789,619 | SEPARATION OF SCANDIUM FROM RARE EARTH ELEMENTS | A. Orlandini J. Korkisch | 1/12/71 |
| 3,554,709 | 737,356 | SELECTIVE ION-EXCHANGE SEPARATION OF ALKALI METALS | A. Orlandini J. Korkisch | 1/12/71 |
| 3,554,783 | 773,351 | LOW TEMPERATURE METHOD FOR COATING NUCLEAR FUELS WITH MULTIPLE CARBON COATINGS | H. Beutler | 1/12/71 |
| 3,554,807 | 577,449 | THERMOELECTRIC ELEMENTS COMPRISING BISMUTH-BISMUTH BROMIDE OR BISMUTH-BISMUTH CHLORIDE | J. D. Kellner | 1/12/71 |
| 3,554,867 | 692,729 | METHOD OF OBTAINING AMERICIUM | C. Thompson | 1/12/71 |
| 3,554,920 | 722,711 | ENERGY INDEPENDENT RADIOPHOTOLUMINESCENCE DOSIMETER WITH GOOD FADING STABILITY | K. H. Becker | 1/12/71 |
| 3,555,278 | 784,720 | POTENTIAL ALPHA RAY ACTIVITY METER | C. L. Schroeder | 1/12/71 |
| 3,555,284 | 784,739 | MULTISTATION, SINGLE CHANNEL ANALYTICAL PHOTOMETER AND METHOD OF USE | W. C. Anderson | 1/12/71 |
| 3,555,411 | 799,166 | COLD CATHODE MAGNETRON IONIZATION GAUGE WITH CATHODES FORMING POLE PIECES FOR CYLINDRICAL MAGNET | R. O. Woode | 1/12/71 |
| 3,559,434 | 733,845 | SYSTEM FOR THE SUPPRESSION OF TRANSIENT NOISE PULSES | E. M. Sheen | 1/12/71 |
| 3,556,486 | 797,612 | COMBINATION LINEAR LIFTING AND TRANSLATION MECHANISM | V. J. Rutkauskas | 1/19/71 |
| 3,556,963 | 743,309 | ELECTROCHEMICAL PROCESS FOR CUTTING BERYLLIUM | W. B. Distler J. Wiesner | 1/19/71 |
| 3,556,967 | 756,264 | ELECTROPHORETIC SEPARATION UTILIZING LIQUID CENTRIFUGE | N. G. Anderson | 1/19/71 |
| 3,558,122 | 827,842 | A LIQUID METAL PURIFIER | A. Jerose | 1/26/71 |
| 3,558,344 | 722,537 | CARBONACEOUS COATING FOR CARBON FOAM | G. R. Peterson C. E. Stooksbury | 1/26/71 |
| 3,558,750 | 703,573 | METHOD OF MAKING NUCLEAR FUEL BODIES | R. E. Davis D. W. Stevens G. R. Tully | 1/26/71 |
| 3,558,862 | 816,235(60) | CIRCUIT FOR DIMENSIONAL VERIFICATION OF PUNCHED TAPES | D. E. McMillan | 1/26/71 |
| 3,558,865 | 628,244 | WEAPONS EFFECT DISPLAY SYSTEM | W. Berndt F. Rieneker, Jr. W. G. Downing | 1/26/71 |
| 3,558,879 | 712,568 | ELECTROSTATIC DEFLECTOR FOR SELECTIVELY AND ADJUSTABLY BENDING A CHARGED PARTICLE BEAM | J. D. Larson J. A. Benjamin | 1/26/71 |
| 3,558,880 | 751,090 | APPARATUS FOR DISPLAYING THE IMAGE ELECTRON SIGNAL FROM A SCANNING ELECTRON MICROPROBE | N. Knieeley V. Zuuk | 1/26/71 |
| 3,558,919 | 741,762 | AVALANCHE-TRANSISTOR PULSE-TRAIN GENERATOR | L. B. Olk | 1/26/17 |
| 3,558,935 | 775,250 | GASEOUS-FUELED NUCLEAR REACTORS FOR ELECTRICAL POWER PRODUCTION | E. C. Gritton B. Finkel | 1/26/71 |
| 3,559,409 | 836,087 | METHOD FOR CONSTRUCTING A LINED UNDERGROUND CAVITY BY UNDERREAMING, GROUTING, AND BORING THROUGH THE GROUTING | W. H. Johnson | 2/2/71 |





| | | | | |
|---|---|---|---|---|
| 3,562,480 | 844,821 | THERMOLUMINESCENT DOSIMETER BADGE | A. Korba | 2/9/71 |
| 3,562,634 | 784,072 | METHOD FOR DETERMINING THE STATE OF CHARGE OF NICKEL CADMIUM BATTERIES BY MEASURING THE FARAD CAPACITANCE THEREOF | N. Latner | 2/9/71 |
| 3,562,752 | 382,505 | DISTANCE INDICATING SYSTEM | C. W. Roeschke | 2/9/71 |
| 3,564,218 | 722,046 | BIDIRECTIONAL COUNTING SYSTEM | C. M. Lay | 2/16/71 |
| 3,564,246 | 477,627 | GAMMA COMPENSATED FISSION THERMOCOUPLE | R. G. Morrison | 2/16/71 |
| 3,565,258 | 603,221 | PARALLEL FLOW HEMODIALYZER | A. R. Lavender P. W. Markley | 2/23/71 |
| 3,565,591 | 811,319 | TITANIUM-ZIRCONIUM-GERMANIUM BRAZING ALLOY | D. A. Canonico H. C. Cole C. W. Houck | 2/23/71 |
| 3,566,071 | 506,613 | METHOD OF METALS JOINING | R. L. Marchett G. Burton, Jr. J. F. Smith W. L. Frankhouser | 2/23/71 |
| 3,566,185 | 806,649 | SPUTTER-TYPE PENNING DISCHARGE FOR METALLIC IONS | B. F. Gavin | 2/23/71 |
| 3,566,406 | 325,032 | RADIO ALTIMETER | L. J. Kabell C. W. Roeschke | 2/23/71 |
| 3,566,677 | 836,729 | METHOD AND APPARATUS FOR MONITORING CONTENT OF FLOWING STREAMS | B. T. Cole R. H. Stevens | 3/2/71 |
| 3,566,695 | 831,476 | LIQUID METAL PRESSURE GAGE | C. A. Guderjahn | 3/2/71 |
| 3,566,904 | 816,236 | LIQUID FLOW CONTROL SYSTEM | H. S. Davie | 3/2/71 |
| 3,567,192 | 736,723 | VESSEL PACKING ARTICLE | F. Kerse, Jr. | 3/2/71 |
| 3,567,496 | 751,338 | METHOD OF PRODUCING PLASTIC IMPREGNATED CONCRETE | M. Steinberg P. Colombo L. E. Kukacka B. Manowitz | 3/2/71 |
| 3,567,646 | 362,556 | STABLE CESIUM COMPOUNDS | J. H. Gray, III | 3/2/71 |
| 3,567,648 | 814,313 | DISSOLUTION OF STAINLESS STEEL CLAD NUCLEAR FUEL ELEMENTS | W. J. Welsh R. D. Pierce | 3/2/71 |
| 3,567,662 | 677,002 | LOW TEMPERATURE METHOD FOR PREPARING FOAM PRODUCT | C. R. Schmitt | 3/2/71 |
| 3,567,881 | 883,736 | ROLLER-BAND INERTIAL SWITCH | F. A. Duimstra D. O. Schuler | 3/2/71 |
| 3,567,896 | 860,879 | METHOD AND APPARATUS FOR HOT PRESSING | J. Y. Chang | 3/2/71 |
| 3,567,925 | 748,067 | CHARGED PARTICLE DETECTOR | M. L. Muga H. E. Taylor | 3/2/71 |
| 3,567,971 | 763,258 | TIME-SAMPLING PULSE-AMPLIFIER | W. W. Goldsworthy | 3/2/71 |
| 3,568,002 | 776,658 | MULTI-ACTION FLUX PUMP | K. Robins R. B. Britton | 3/2/71 |
| 3,568,397 | 837,071 | METHOD FOR ENCAPSULATING RING-SHAPED OBJECTS | V. C. Hammond | 3/9/71 |
| 3,568,449 | 863,167 | CONSTRUCTION OF LAND MASS BOUNDED BY WATER | M. A. Lakas | 3/9/71 |
| 3,568,640 | 842,851 | WIRE COATING TOOL | H. Kuettner | 3/9/71 |
| 3,568,766 | 806,169 | CORRUGATED HEAT EXCHANGE MEMBER FOR EVAPORATION AND CONDENSATION | D. G. Thomas | 3/9/71 |
| 3,568,946 | 811,026 | APPARATUS FOR ELIMINATING LINE TWIST | J. I. Anderson D. Parker | 3/9/71 |
| 3,569,615 | 750,789 | METHOD AND APPARATUS FOR TRANSMITTING VIDEO INFORMATION WITH AMPLITUDE REPRESENTATION OF POSITION INFORMATION | F. E. R. Oberbeck W. J. Poppelbaum | 3/9/71 |

| | | | | |
|---|---|---|---|---|
| 3,569,697 | 798,284 | THERMOLUMINESCENT DOSIMETER FOR PROVIDING A TOTAL RADIATION MEASURE OF RADIOACTIVITY IN A FLUID MEDIUM TO WHICH THE DOSIMETER IS EXPOSED | D. E. McCurdy | 3/9/71 |
| 3,569,701 | 805,262 | FREREGULATION OF HIGH VOLTAGE SUPPLY CIRCUIT FOR A MEDICAL NUCLEAR SPECTROMETER | M. M. Satterfield<br>G. R. Dyer | 3/9/71 |
| 3,569,704 | 752,940 | RADIATION DOSIMETER | J. F. Mitchell | 3/9/71 |
| 3,569,705 | 846,788 | METHOD FOR PRODUCING POLARIZED ATOMS | M. S. Kaminsky | 3/9/71 |
| 3,569,714 | 876,932 | PROTECTED RADIOISOTOPIC HEAT SOURCE | C. G. Anderson<br>V. L. Avona<br>D. F. Kelly | 3/9/71 |
| 3,569,715 | 757,657 | ELECTRO-OPTICAL TELEMETRY SYSTEM RECEIVER UTILIZING NEGATIVE FEEDBACK TO ELIMINATE ATMOSPHERICALLY-INDUCED LOW FREQUENCY LIGHT BEAM INTENSITY VARIATIONS | R. R. Horning | 3/9/71 |
| 3,569,784 | 777,759 | SOLID STATE CIRCUIT | D. G. Carroll<br>J. E. Manick | 3/9/71 |
| 3,569,791 | 868,441 | REMANENT-FREE FULSING MAGNETS | U. Vogel | 3/9/71 |
| 3,569,822 | 815,429 | ANTIFERROELECTRIC VOLTAGE REGULATION | F. W. Neilson<br>O. M. Stuetzer | 3/9/71 |
| 3,569,995 | 755,194 | LOW ENERGY RADIATION DOSIMETER IN THE RANGE OF 15 KeV AND BELOW | B. J. Mellon<br>L. E. Lorensen | 3/9/71 |
| 3,570,106 | 812,435 | METHOD FOR PRODUCING SEAMLESS REFRACTORY METAL TUBING | J. A. McCurty<br>C. O. Tarr | 3/16/71 |
| 3,570,530 | 675,885 | PRESSURE REGULATOR FOR A CIRCULATING FLUID SYSTEM | F. Fuis, Jr. | 3/16/71 |
| 3,571,576 | 766,434 | COMPRESSION OF STATISTICAL DATA FOR COMPUTER TAPE STORAGE | M. M. Satterfield | 3/23/71 |
| 3,571,595 | 816,237 | VARIABLE RATE NEUTRON SOURCE | G. L. Silver | 3/23/71 |
| 3,571,850 | 816,362 | HOT-ISOSTATIC-PRESSING APPARATUS | B. A. Pohto<br>C. D. St. Onge | 3/23/71 |
| 3,571,922 | 743,701 | METHOD OF FABRICATING A STRAINED SUPER-CONDUCTOR MAGNET | D. G. Schweitzer<br>L. J. Nicolosi | 3/23/71 |
| 3,572,141 | 840,566 | ROLLER-BAND DEVICES | D. F. Wilkes | 3/23/71 |
| 3,572,403 | 735,119 | APPARATUS FOR BLENDING PARTICLES | F. T. Matteson, Jr.<br>D. W. Stevens | 3/23/71 |
| 3,572,890 | 776,736 | MICROSCOPE SLIDE AND SPINNER | E. R. Adamik | 3/30/71 |
| 3,572,937 | 773,113 | A METHOD AND APPARATUS FOR INTERFEROMETRIC MEASUREMENT OF MACHINE SLIDE ROLL | R. R. Baldwin | 3/30/71 |
| 3,573,036 | 594,636 | METHOD FOR PRODUCING STOICHIOMETRIC URANIUM DIOXIDE COMPOSITIONS | W. F. Fairbanks<br>J. A. McCurty | 3/30/71 |
| 3,573,086 | 782,714 | FIBROUS CARBON OR GRAPHITE PRODUCTS AND METHOD OF MAKING SAME | F. Lambín, Jr. | 3/30/71 |
| 3,573,109 | 819,527 | PRODUCTION OF METAL RESISTANT TO NEUTRON IRRADIATION | I. S. Levy | 3/30/71 |
| 3,573,120 | 757,977 | URANIUM ETCHANT AND METHOD | F. B. Waldrop<br>M. J. Bezik | 3/30/71 |
| 3,573,165 | 805,560 | PRODUCTION OF HIGH PURITY NICKEL-66 | J. J. Pinajian | 3/30/71 |



| | | | | |
|---|---|---|---|---|
| 3,573,166 | 747,161 | HYDRAULIC CONTROL ROD DRIVE SYSTEM | J. H. Germer | 3/30/71 |
| 3,573,167 | 734,961 | KINETIC INTENSE NEUTRON GENERATOR REACTOR | L. D. Percival King | 3/30/71 |
| 3,573,424 | 844,115 | METHOD FOR REMOVAL OF THE POROUS PORTION OF A BUTT WELD | F. H. Macherey | 4/6/71 |
| 3,573,458 | 811,027 | POSITRON CAMERA WITH MULTIPLANE FOCUSING | H. Anger | 4/6/71 |
| 3,573,462 | 796,352 | SEALED CONTAINER WITH PRESSURE RELIEF FOR HAZARDOUS MATERIAL | C. A. Wilkins<br>F. D. R. King | 4/6/71 |
| 3,573,615 | 668,303 | SYSTEM FOR MEASURING A PULSE CHARGE | D. I. Porat<br>R. L. Anderson | 4/6/71 |
| 3,573,639 | 882,247 | RATEMETER WITH AUTOMATIC DEAD-TIME CORRECTION | A. J. Metz<br>R. H. Howard | 4/6/71 |
| 3,574,103 | 757,978 | LAMINATED CELLULAR MATERIAL FORM | A. Latkin | 4/6/71 |
| 3,574,531 | 825,073 | STRONTIUM EXTRACTION PROCESS | W. W. Schulz | 4/13/71 |
| 3,574,532 | 809,032 | WASH TREATMENT TO RESTORE THE DEGRADED DZEHPA-TBP USED IN FISSION PRODUCT EXTRACTIONS | W. W. Schulz<br>S. J. Beard | 4/13/71 |
| 3,574,533 | 824,207 | METHOD OF PREPARING BERYLLIUM NITRATE SOLUTIONS | P. T. Godeseibois | 4/13/71 |
| 3,574,548 | 849,204 | PROCESS FOR MANUFACTURING A CELLULAR CARBON BODY | A. E. Sands<br>H. E. Scrivner | 4/13/71 |
| 3,574,558 | 822,212 | JET-MIXED LIQUID EXTRACTION COLUMN | T. Vermeulen<br>D. R. Kahn | 4/13/71 |
| 3,574,580 | 774,274 | PROCESS FOR PRODUCING SINTERED DIAMOND COMPACT AND PRODUCTS | H. D. Stromberg<br>D. R. Stephens | 4/13/71 |
| 3,574,612 | 796,176 | NICKEL-CHROMIUM ALLOY | R. F. Manesa | 4/13/71 |
| 3,574,654 | 744,319 | METHOD OF PRODUCING SPERODIAL AGGLOMERATES | R. E. Cowan<br>E. F. Ehart | 4/13/71 |
| 3,575,049 | 1,482 | SONIC FLOW METER | T. J. Boland | 4/13/71 |
| 3,575,803 | 751,100 | REACTOR FUELING METHOD | F. Graebler | 4/20/71 |
| 3,575,804 | 747,160 | ELECTROMAGNETIC FLUID VALVE | C. C. Ripley | 4/20/71 |
| 3,575,805 | 784,679 | NUCLEAR REACTOR CONTROL ROD DRIVE ASSEMBLY | J. Dempsey | 4/26/71 |
| 3,575,808 | 809,324 | FUEL SUBASSEMBLY FOR A LIQUID-METAL-COOLED, FAST BREEDER REACTOR | M. T. Jakub<br>G. M. Heason<br>A. J. Anthony | 4/20/71 |
| 3,575,841 | 762,460 | SYSTEM FOR REMOVING PARTICLES FROM A FLUID BY MEANS OF AN ELECTRIC FIELD | C. A. Harris | 4/20/71 |
| 3,575,874 | 820,195 | NUCLEAR FUEL CONTAINING PLUTONIUM BOROCARBIDES | D. B. Sullenger | 4/20/71 |
| 3,575,875 | 821,098 | METHOD FOR PREPARING URANIUM-CONTAINING AQUASOLS EMPLOYING A PLATINUM OXIDE CATALYST | W. L. Pattison<br>J. F. McBride | 4/20/71 |
| 3,576,050 | 761,472 | APPARATUS FOR MAKING PRESSED POWDER SLEEVES | C. E. Thomas | 4/27/71 |
| 3,576,210 | 884,852 | HEAT PIPE | D. S. Trent | 4/27/71 |
| 3,576,441 | 20,288 | ANALYTICAL PHOTOMETER-TO-DIGITAL COMPUTER INTERFACING SYSTEM FOR REAL TIME DATA REDUCTION | R. K. Adams<br>J. T. Hutton | 4/27/71 |
| 3,576,622 | 732,962 | NICKEL-BASE ALLOY | H. E. McCoy, Jr. | 4/27/71 |
| 3,576,925 | 726,243 | METHOD OF PREPARING FUEL PLATES FOR NUCLEAR REACTOR | J. H. Handwerk<br>J. T. Dusek<br>G. D. White | 4/27/71 |
| Re. 27,025 | 846,985 | PROCESS OF CONDITIONING PARTICULATE MATERIALS WITH AN ORGANO SILICON COATING FOR USE IN ORGANIC EXPLOSIVES | L. McDonald | 1/12/71 |





MUX 37 5 DMS 1971 3831

| PATENT NO. | SER. NO. | INVENTION | INVENTORS | DATE |
|---|---|---|---|---|
| 3,566,661 | 748,444 | METAL FORMING | G. P. McCafferty<br>F. Rudolph, Jr.<br>H. P. Shane | 3/2/71 |
| 3,576,994 | 841,573 | NEUTRON RADIOGRAPHY OF DEUTERATED TISSUE | F. B. Parks<br>M. Brown | 5/4/71 |
| 3,577,026 | 836,088 | METHOD FOR PRODUCING IONS UTILIZING A CHARGE-TRANSFER COLLISION | W. Haeberli | 5/4/71 |
| 3,577,199 | 852,360 | MEASURING IRRADIATION-INDUCED DEFORMATIONS OF MATERIALS | W. W. Schultz | 5/4/71 |
| 3,577,225 | 824,944 | METHOD FOR SEPARATING URANIUM, PROTACTINIUM, AND RARE EARTH FISSION PRODUCTS FROM SPENT MOLTEN FLUORIDE SALT REACTOR FUELS | J. H. Shaffer<br>D. M. Moulton<br>W. R. Grimes | 5/4/71 |
| 3,577,283 | 805,384 | METHOD OF CASE HARDENING VANADIUM AND VANADIUM ALLOYS | R. M. Mayfield<br>J. A. Zic<br>G. F. Hill | 5/4/71 |
| 3,577,317 | 820,750 | CONTROLLED FUSION REACTOR | C. H. Woods | 5/4/71 |
| 3,577,339 | 7,387 | FILTRATION METHOD OF SEPARATING LIQUIDS FROM EXTRANEOUS MATERIALS | J. N. Baird, Jr.<br>J. S. Johnson<br>K. A. Kraus<br>J. J. Perona | 5/4/71 |
| 3,577,344 | 794,980 | FIBROUS THERMAL INSULATION AND METHOD OF MAKING SAME | Z. L. Ardery<br>A. W. Maxey<br>C. D. Reynolds | 5/4/71 |
| 3,577,485 | 796,175 | METHOD FOR PREPARATION OF CARBONITRIDE NUCLEAR FUEL MATERIALS | R. L. Beatty<br>J. M. Leitnaker<br>K. J. Notz, Jr. | 5/4/71 |
| 3,577,774 | 801,389 | AN ELECTROSTATIC ULTRASONIC NON-DESTRUCTIVE TESTING DEVICE | R. W. Staffeon<br>M. F. Zeutschel | 5/4/71 |
| 3,578,442 | 768,225 | MEANS FOR VENTING HELIUM FROM A RADIOISOTOPE CONTAINER | C. G. Anderson | 5/11/71 |
| 3,580,705 | 764,494 | SELECTIVE STRIPPING OF PLUTONIUM FROM ORGANIC EXTRACTS | C. F. Coleman<br>B. S. Weaver | 5/25/71 |
| 3,580,802 | 818,374 | DEVICE FOR DETERMINING THE SHAPE OF MAGNETIC SURFACES IN TOROIDAL CONFIGURATIONS CONTAINING PLASMA | J. L. Johnson<br>N. K. Winsor<br>J. M. Dawson<br>R. M. Sinclair<br>J. C. Hosea | 5/25/71 |
| 3,580,804 | 805,156 | LIFTING MECHANISM AND REFUELING MACHINE | J. A. Leget | 5/25/71 |
| 3,580,822 | 839,510 | METHOD FOR PRODUCING A RADIATION RESISTANT MANGANESE ACTIVATED ALUMINUM OXIDE SCINTILLATOR | R. W. Allison, Jr.<br>R. W. Brokloff<br>J. R. Woodyard | 5/25/71 |
| 3,581,577 | 803,155 | ACCELERATION SENSITIVE ACTUATOR | G. A. Ray, Jr.<br>J. H. Von Dreele | 6/1/71 |
| 3,582,218 | 867,340 | MULTISTATION PHOTOMETRIC ANALYZER | M. G. Anderson | 6/1/71 |
| 3,582,652 | 2,346 | METHOD FOR READING A THERMOLUMINESCENT DOSIMETER | R. C. McCall | 6/1/71 |
| 3,582,817 | 823,887 | LASER EXCITATION APPARATUS | V. A. Gibson | 6/1/71 |
| 3,582,849 | 881,787 | ELECTROMAGNETIC APPARATUS FOR PRODUCING AND CONTAINING HIGH TEMPERATURE PLASMAS | R. F. Post<br>R. W. Moir | 6/1/71 |
| 3,583,161 | 569,282 | RADIOISOTOPE/ELECTRO-THERMAL THRUSTER | R. Simms | 6/8/71 |
| 3,583,361 | 886,168 | ION BEAM DEPOSITION SYSTEM | A. Laudel, Jr. | 6/8/71 |





| | | | | |
|---|---|---|---|---|
| 3,584,241 | 836,361 | SCHMITT TRIGGER WITH CONTROLLED HYSTERESIS | M. Nakumura | 6/8/71 |
| 3,584,297 | 820,194 | IMPEDANCE MEASURING DEVICE | O. H. Koshi | 6/8/71 |
| 3,584,308 | 832,249 | BIDIRECTIONAL LOGIC CIRCUITS EMPLOYING DUAL STANDARD ARRAYS OF BISTABLE MULTIVIBRATORS | F. D. Neu | 6/8/71 |
| 3,586,484 | 827,185 | MULTISTATION ANALYTICAL PHOTOMETER AND METHOD OF USE | M. G. Anderson | 6/22/71 |
| 3,586,603 | 766,431 | NUCLEAR FUEL ROD HAVING AN OFFSET PLENUM | D. P. Hines | 6/22/71 |
| 3,586,641 | 843,224 | ENHANCEMENT OF SUPERCONDUCTIVITY OF LANTHANUM AND YTTRIUM SESQUICARBIDE | M. C. Krupka<br>A. L. Giorgi<br>N. H. Krikorian<br>E. G. Szklarz | 6/22/71 |
| 3,586,757 | 850,151 | FLEXIBLE STRIPLINE TRANSMISSION LINE | M. Heldeman, Jr. | 6/22/71 |
| 3,587,301 | 785,173 | HOLOGRAPHIC INTERFEROMETER FOR ISOPACHIC STRESS ANALYSIS | H. H. M. Chau | 6/28/71 |
| 3,587,33 | 1,675 | GLOVE BOX TURNTABLE CAM ROTATING MECHANISM | R. D. Duncan | 6/28/71 |
| 3,587,613 | 843,110 | ELECTRO-FLUID VALVE HAVING STRIP ELECTRODES | J. W. Mark<br>H. H. Barney | 6/28/71 |
| 3,587,632 | 863,759 | OVERPRESSURE RELIEF VALVE HAVING A FAIL-SAFE RELEASABLE VALVE STEM GUIDE | H. S. Clay | 6/28/71 |
| 3,588,505 | 837,460 | METHOD AND APPARATUS FOR MEASURING FAST NEUTRON FLUENCES WITH CADMIUM SULFIDE OR CADMIUM SELENIDE | R. T. Johnson, Jr. | 6/28/71 |
| 3,588,593 | 811,028 | METHOD OF OPERATING AN ION-GETTER VACUUM PUMP WITH GUM AND GRID STRUCTURE ARRANGED FOR OPTIMUM IONIZATION AND SUBLIMATION | M. Rabinowitz<br>E. L. Garwin | 6/28/71 |
| 3,588,692 | 799,167 | CIRCUIT FOR DEVELOPING A PULSE HAVING AN AMPLITUDE DETERMINED BY THE CAPACITANCE FOR CAPACITOR COUPLED THERETO | O. H. Koski | 6/28/71 |
| 3,588,729 | 834,429 | NONBLOCKING PREAMPLIFER | M. M. Satterfield | 6/28/71 |
| 3,590,250 | 830,970 | VALVE AND PULSE WIDTH MODULATED DATA-LINK USING INFRARED LIGHT TO CONTROL AND MONITOR POWER SUPPLY FOR MODULATOR FOR HIGH ENERGY LINEAR ACCELERATOR | R. L. Witkover | 6/29/71 |
| 3,590,286 | 784,988 | THERMIONIC CONVERTER CELLS FOR NUCLEAR REACTOR | R. A. Becker<br>F. R. Hill<br>R. K. Hobson | 6/29/71 |
| 3,591,474 | 841,347 | SUPERCONDUCTING CYLINDERS FOR FLUX DETECTORS | J. M. Godking<br>D. L. Stolfa | 7/6/71 |
| 3,591,806 | 20,287 | MULTI-CRYSTAL TOMOGRAPHIC SCANNER FOR MAPPING THIN CROSS-SECTION OF RADIOACTIVITY IN AN ORGAN OF THE HUMAN BODY | A. B. Brill<br>J. A. Patton<br>J. J. Erickson<br>P. H. King | 7/6/71 |
| 3,591,807 | 577,441 | PHOTON DETECTOR UTILIZING A WELL-TYPE SCINTILLATION CRYSTAL | C. W. Mays<br>R. D. Lloyd<br>D. R. Atherton | 7/6/71 |
| 3,592,059 | 837,459 | METHOD OF DETECTING INHOMOGENEITIES IN CERAMICS | A. W. Nutt, Jr.<br>J. H. Hendwerk | 7/13/71 |
| 3,593,110 | 858,828 | DIRECT-CURRENT GENERATOR FOR SUPERCONDUCTING CIRCUITS | R. P. Huebener | 7/13/71 |
| 3,593,058 | 20,289 | CROSSED-FIELD ELECTRON INJECTOR FOR AN ELECTRON ACCELERATOR | N. A. Hogg | 7/13/71 |
| 3,595,629 | 850,150 | PLUTONIUM AND NEPTUNIUM EXTRACTION PROCESS | W. W. Schulz | 7/27/71 |





XUM

| | | | | |
|---|---|---|---|---|
| 3,596,506 | 810,282 | TOOL FORCE MONITOR | A. R. Wilson, Jr. | 8/3/71 |
| 3,596,853 | 851,152 | SPACE HEAT SOURCE | C. G. Anderson | 8/3/71 |
| 3,597,192 | 781,583 | PREPARATION OF TANTALUM METAL | H. A. Whilhelm<br>F. A. Schmidt<br>R. M. Bergman | 8/3/71 |
| 3,597,344 | 728,333 | TREATMENT OF TALL OIL | F. N. Case | 8/3/71 |
| 3,597,596 | 797,509 | RADIOCHEMICAL COUNTER FOR BULK MATERIALS | J. L. Lawless<br>O. H. Willoughby | 8/3/71 |
| 3,597,612 | 793,944 | POWER PULSE MONITORING PROBE | L. R. Boyd | 8/3/71 |
| 3,597,613 | 851,174 | METHOD OF MEASURING BORON CONCENTRATION IN WATER BY NEUTRON ABSORPTION | V. Rajagopal | 8/3/71 |
| 3,597,659 | 860,526 | MOUNT FOR ELECTRONIC CIRCUITS AND THE LIKE AND METHOD FOR MAKING SAME | C. K. Hoffman<br>J. A. Lester<br>G. R. Urish | 8/3/71 |
| 3,597,695 | 827,255 | SINGLE CAVITY REGENERATIVE LASER PULSE AMPLIFIER | J. E. Swain<br>L. L. Steinmetz<br>F. Rainer | 8/3/71 |
| 3,597,849 | 849,420 | PERIPHERAL SCANNING SYSTEM | A. E. Gael | 8/10/71 |
| 3,597,939 | 836,360 | CONTROL ASSEMBLY FOR A NUCLEAR REACTOR INCLUDING AN OFFSET COUPLING | C. C. Ripley<br>F. L. Suckow | 8/10/71 |
| 3,598,032 | 876,933 | PRODUCING STEREOPHOTOGRAPHS WITH A CLOSED CIRCUIT TELEVISION SYSTEM | S. W. Zohn<br>U. J. Dimond | 8/10/71 |
| 3,598,968 | 795,808 | CODED ARRANGEMENT OF INDUCTIVELY DETECTABLE ELECTRICAL CONDUCTING SEGMENTS | R. A. Victor | 8/10/71 |
| 3,598,975 | 829,913 | TIME PROPORTIONING PROCESS INTERFACE FOR DIRECT COMPUTER CONTROL | W. R. Miller<br>C. A. Mossman | 8/10/71 |
| 3,599,120 | 864,480 | DOUBLE HELIX MICROWAVE STRUCTURE FOR COUPLING A MICROWAVE MAGNETIC FIELD FROM A FIRST TO A SECOND REGION | R. M. Thibault<br>D. W. Schutt | 8/10/71 |
| 3,599,319 | 715,124 | METHOD AND APPARATUS FOR PRODUCING FINE GRAINED THERMOELECTRIC MATERIAL | M. Weinstein<br>N. Hommet | 8/17/71 |
| 3,600,011 | 859,469 | JOINT UTILIZING WEDGESHAPED RECTANGULAR LOCKING SHAFTS | K. L. Alvis | 8/17/71 |
| 3,600,091 | 36,723 | BRIGHT LINE EMISSION SOURCE FOR ABSORPTION SPECTROSCOPY | J. A. Golab<br>J. P. Bobis<br>F. R. George | 8/17/71 |
| 3,600,155 | 858,338 | SODIUM PURIFICATION PROCESS | P. F. DeVries<br>J. M. Scarborough | 8/17/71 |
| 3,600,157 | 822,695 | RARE EARTH ADDITIONS TO URANIUM AND URANIUM ALLOYS | C. E. Jaynes | 8/17/71 |
| 3,600,277 | 764,477 | REFUELING APPARATUS AND METHOD FOR FAST REACTORS | J. H. Germer | 8/17/71 |
| 3,600,281 | 834,427 | MICROSTABILIZED SUPERCONDUCTOR | W. H. Bergmann | 8/17/71 |
| 3,600,291 | 794,761 | METHOD OF PRODUCING DENSE CARBON FROM ANTHRACENE | R. H. Wiley | 8/17/71 |
| 3,600,323 | 864,154 | METHOD FOR PREPARING STABLE URANIA-PLUTONIA SOLS | O. K. Tallent | 8/17/71 |
| 3,600,578 | 864,443 | REACTOR POWER LEVEL SENSING DEVICE USING CHERENKOV RADIATION | K. C. Porges<br>R. Gold | 8/17/71 |
| 3,600,580 | 859,783 | CHARGED PARTICLE BEAM DENSITY MEASUREMENT DEVICE | U. Vogel | 8/17/71 |
| 3,600,585 | 616,422 | PLUTONIUM HEAT SOURCE | D. P. Kelly<br>J. A. Powers<br>P. A. Tucker | 8/17/71 |
| 3,600,934 | 887,695 | EDDY CURRENT SYSTEM FOR VIBRATION TESTING OF CANTILEVERED NONFERROUS ARTICLES | D. E. Hendrix<br>H. A. Kermisle | 8/24/71 |
| 3,601,612 | 852,273 | WIRE SPARK CHAMBER WITH MAGNETOSTRICTIVE READOUT | V. Perez-Mendez | 8/24/71 |





| | | | | |
|---|---|---|---|---|
| 3,601,656 | 51,239 | SILICON DIODE PROTECTION MEANS | B. H. Smith<br>L. L. Reginato | 8/24/71 |
| 3,602,685 | 561,252 | METHOD OF ELECTRON BEAM WELDING | F. R. Itoh | 8/31/71 |
| 3,602,713 | 53,057 | PASSIVE MOISTURE METER | J. Kastner<br>B. G. Oltman<br>Y. Feige | 8/31/71 |
| 3,602,742 | 838,948 | CIRCUIT FOR GENERATING A PULSE IN RESPONSE TO A RADIATION BURST | R. G. Huss | 8/31/71 |
| 3,602,763 | 871,889 | CATHODE FOR DUOPLASMATRON-TYPE ION SOURCE | R. R. Hall | 8/31/71 |
| 3,439,356 | 463,772 | PRESSURE-TEMPERATURE SENSOR | J. E. Kinzer | 4/15/71 |

VOL. XXI — PATENTS FOR LICENSING — No. 3

December 28, 1971

| PATENT NO. | SERIAL NO. | INVENTION | INVENTORS | DATE |
|---|---|---|---|---|
| 3,603,096 | 883,703(60) | APPARATUS FOR INSTALLING A REINFORCED VESSEL IN AN UNDERGROUND CAVITY | W. M. Wells<br>Livermore, Calif. | 9/7/71 |
| 3,603,107 | 32,670(70) | TEMPERATURE CONTROL SYSTEM | A. J. Elliott<br>M. O. Jones<br>Livermore, Calif. | 9/7/71 |
| 3,603,139 | 728,686(60) | PULSED ACOUSTIC IMAGE CONVERTER | Shuh-pen Ying<br>Ann Arbor, Mich. | 9/7/71 |
| 3,603,415 | 751,454(60) | THULIUM OXIDE HEAT SOURCE AND METHOD FOR FORMING SAME | C. H. Allen<br>C. E. Leach<br>Pasco, Wash. | 9/7/71 |
| 3,603,796 | 793,384(60) | SEGMENTED GAMMA RAY DETECTOR AMPLIFIER | R. L. Chase<br>Blue Point, N.Y. | 9/7/71 |
| 3,603,797 | 18,125(70) | TWO-DIMENSIONAL POSITION-SENSITIVE RADIATION DETECTOR | C. J. Borkowski<br>M. K. Kopp<br>Oak Ridge, Tenn. | 9/7/71 |
| 3,603,813 | 881,811(60) | FIELD EFFECT TRANSISTOR AS A BUFFER FOR A SMALL SIGNAL CIRCUIT | J. N. Hall<br>Palo Alto, Calif. | 9/7/71 |
| 3,603,887 | 10,969(70) | HIGH VOLTAGE REGENERATIVE PULSE MODULATOR | J. D. Doss<br>D. C. Hagerman<br>Los Alamos, N. Mex. | 9/7/71 |
| 3,603,980 | 865,297(60) | DIGITALLY CONTROLLED RAMP GENERATOR | W. J. Poppelbaum<br>Urbana, Ill.<br>D. C. Rollenhagen<br>Syracuse, N.Y. | 9/7/71 |
| 3,604,251 | 817,505(60) | CAPACITIVE ULTRASONIC DEVICE FOR NONDESTRUCTIVELY TESTING A SAMPLE | N. E. Dixon<br>Pasco, Wash. | 9/14/71 |
| 3,604,931 | 883,737(60) | NEUTRON DOSIMETER INCLUDING A STEP WEDGE FORMED OF AN ALPHA-ATTENUATING MATERIAL | J. Kastner<br>B. G. Oltman<br>Ill. | 9/14/71 |

| | | | |
|---|---|---|---|
| 3,605,486 | 4,664(70) | METHOD AND APPARATUS FOR MEASURING ADHESION OF MATERIAL BONDS | N. C. Anderholm 9/20/71<br>A. Goodman<br>Albuquerque, N. Mex. |
| 3,605,777 | 36,035(70) | CLOSURE MECHANISM | O. O. Curry 9/20/71<br>J. C. Dresser<br>Albuquerque N. Mex.<br>J. A. Moeller<br>Phoenix, Ariz. |
| 3,607,010 | 812,515(60) | CHEMICAL EXCHANGE METHOD OF CONCENTRATING CARBON ISOTOPES | L. L. Brown 9/21/71<br>Oak Ridge, Tenn. |
| 3,607,056 | 864,557(60) | PREPARATION OF A SUPERCONDUCTING SCANDIUM-CARBON PHASE | A. L. Giorgi 9/21/71<br>N. H. Krikorian<br>E. G. Szklarz<br>M. C. Krupka |
| 3,607,145 | 789,359(60) | PLUTONIUM SEPARATION FROM URANIUM | D. A. Wenz 9/21/71<br>Downers Grove, ILL. |
| 3,607,146 | 4,022(70) | PREPARATION OF CHEMICALLY REACTIVE URANIUM TRICHIDE | R. K. Ballard 9/21/71<br>Salt Lake City, Utah |
| 3,607,249 | 4,375(70) | COBALT-IRON-TANTALUM HIGH-TEMPERATURE-STRENGTH ALLOY | F. C. Robertshaw 9/21/71<br>J. L. Bartos<br>Ohio |
| 3,607,254 | 768,638(60) | DISPERSION STRENGTHENING OF ALUMINUM ALLOYS BY REACTION OF UNSTABLE OXIDE DISPERSIONS | J. P. Hammond 9/21/71<br>Knoxville, Tenn. |
| 3,607,627 | 766,432(70) | STELLERATOR CONFIGURATION UTILIZING INTERNAL SEPARATRICES | H. P. Furth 9/2/71<br>G. V. Sheffield<br>J. L. Johnson<br>Princeton, N.J. |
| 3,607,631 | 774,227(60) | MODERATED THERMIONIC REACTOR CORE | R. R. Hobson 9/21/71<br>R. N. Scott<br>P. R. Hill<br>California |
| 3,607,638 | 26,575(70) | FUEL ELEMENT VENTING SYSTEM | O. S. Seim 9/21/71<br>Wheaton, Ill. |
| 3,607,643 | 813,450(60) | REACTOR CORE WITH REMOVABLE CORE ELEMENTS | J. A. Paget 9/21/71<br>Imperial Beach, Calif. |
| 3,607,645 | 741,960(60) | REACTOR CORE RADIAL LOCKING DEVICE | R. S. Stanklewicz 9/21/71<br>Ellington, Conn. |
| 3,607,672 | 8,695(70) | METHOD FOR PRODUCING FIBROUS CARBON STRUCTURES | C. R. Schmitt 9/21/71<br>Oak Ridge, Tenn. |
| 3,607,988 | 764,211(60) | STEREOISOMERIC WINDOWS OF POLYMER COMPLEX FOR IMPROVED RESISTANCE TO RADIATION DAMAGE | O. A. Henry 9/21/71<br>West Indies<br>D. G. Gardner<br>Livermore, Calif. |
| 3,608,023 | 855,230(60) | ENCAPSULATING METHOD | D. D. Scarborough 9/21/71<br>Redington Shores, Fla. |
| 3,609,093 | 758,959(60) | PHOTOCHROMIC RADIATION DOSIMETER | L. A. Harreh 9/28/71<br>Albuquerque, N. Mex. |
| 3,609,351 | 838,433(60) | TRAVELING WAVE PARTICLE SEPARATOR INCLUDING A RECTANGULAR WAVE GUIDE LINED WITH A DIELECTRIC MATERIAL | J. W. Dawson 9/28/71<br>Clarendon Hills, Ill.<br>R. L. Kustom<br>Oak Lawn, Ill. |
| 3,609,978 | 1,088(70) | METHOD OF REMOTELY CONSTRUCTING A ROCH | J. D. Michie 10/5/71<br>R. C. DeHart<br>San Antonio, Tex. |
| 3,610,752 | 3,152(70) | PREPARING PRINTED CIRCUIT BOARDS BY REFECTED RAYS | F. C. Wilson 10/5/71<br>Queens Village, N.Y. |
| 3,610,923 | 885,790(60) | CANTED MAGNETIC FIELD FOR CALUTRON ION SOURCE | W. A. Bell,Jr. 10/5/71<br>A. M. Veach<br>Oak Ridge, Tenn. |
| 3,610,926 | 856,278(60) | DOSIMETER FORMED OF A RADIATION SENSITIVE THERMOLUMINESCENT MATERIAL AND METHOD OF READING THE SAME | F. Kastner 10/5/71<br>Downers Grove, Ill.<br>B. G. Oltman<br>Worth, Ill. |
| 3,611,029 | 856,337(60) | SOURCE FOR HIGHLY STRIPPED IONS | T. H. Stix 10/5/71<br>Rehovot, Israel |
| 3,611,092 | 11,995(70) | ELECTRONICALLY SWITCHED DYNAMIC BRAKE FOR A D.C. MOTOR | A. R. Wilmunder 10/5/71<br>Palo, Alto, Calif. |
| 3,611,173 | 873,221(60) | CHARGE SENSITIVE PREAMPLIFIER USING OPTO-ELECTRONIC FEEDBACK | F. S. Goulding 10/5/71<br>Lafayette, Calif.<br>W. L. Hansen<br>Walnut Creek, Calif.<br>J. T. Walton<br>Orinda, Calif. |
| 3,611,233 | 849,984(60) | PULSE TRANSFORMER USING STRIPLINE WINDINGS | H. Haldeman, Jr. 10/5/71<br>Downers Grove, Ill. |







| | | | |
|---|---|---|---|
| 3,611,398 | 24,289(70) | BALANCED DIPOLE ANTENNA | G. H. Schnetzer 10/5/71<br>Albuquerque, N. Mex. |
| 3,612,804 | 788,269(60) | INDUCTION HEATING DEVICE FOR SUCCESSIVE BAR-LIKE MEMBERS | N. R. Balzer 10/12/71<br>Parma, Ohio |
| 3,612,858 | 10,174(70) | DEVICE FOR MEASURING THE POSITION, SIZE AND INTENSITY OF HIGH ENERGY PARTICLES | T. De Parry 10/12/71<br>Elmhurst, Ill. |
| 3,612,868 | 50,270(70) | HIGH SENSITIVITY STIMULATED EXOELECTRON EMISSION RADIATION DOSIMETERS | K. H. Becker 10/12/71<br>Oak Ridge, Tenn.<br>J. S. Cheka<br>Knoxville, Tenn.<br>R. B. Gammage<br>Oak Ridge, Tenn.<br>E. M. Robinson<br>Knoxville, Tenn. |
| 3,612,869 | 14,987(70) | LARGE VOLUME PLANAR PAIR Ge(Li) DETECTOR | J. J. Baum 10/12/71<br>Anaheim, Calif.<br>R. W. Helenberg<br>Calumet City, Ill. |
| 3,12,875 | 82,380 | MOSSBAUER SPECTROMETER | R. N. Ord 10/12/71<br>Richland, Wash. |
| 3,613,512 | 866,928(60) | PNEUMATIC CONTROL ROD DRIVE INCLUDING A SCRAM CUSHION | W. E. Taft 10/19/71<br>Los Getos, Calif. |
| 3,614,465 | 773,835(60) | PROGRAMMABLE TIMER | E. W. Kenderdine 10/19/71<br>Sandia Park, N. Mex. |
| 3,614,606 | 813,449(60) | CAPACITIVE-COUPLED PROBE FOR MEASURING POTENTIALS IN A PLASMA | J. A. Schmidt 10/19/71<br>Middleton, Wis.<br>D. W. Kerst<br>Madison, Wis. |
| 3,614,670 | 874,191(60) | SWITCHABLE MICROWAVE CIRCULATOR WHEREIN GROUND PLANES ARE COMPRISED OF FOILS HAVING ELECTRICALLY CONDUCTIVE PARTICLES | R. G. Wilson 10/19/71<br>San Jose, Calif. |
| 3,614,694 | 858,818(60) | COAXIAL CABLE HIGH-VOLTAGE PULSE ISOLATION TRANSFORMER | R. F. Koontz 10/19/71 |
| 3,614,724 | 26,570(70) | DETECTION SYSTEM | W. L. Brown 10/19/71<br>J. M. Portlock<br>Albuquerque, N. Mex. |
| 3,615,171 | 46,191(70) | PROCESS OF SEPARATING YTTRIUM FROM LANTHANIDE RARE EARTHS | G. W. Mason 10/26/71<br>Clarendon Hills, Ill.<br>S. Lewey<br>A. F. Bollmeier<br>Joliet, Ill.<br>D. F. Peppard<br>Oak Park, Ill. |
| 3,615,267 | 806,293(60) | SEPARATION OF NEPTUNIUM FROM URANIUM HEXAFLUORIDE CONTAINING THE SAME | W. R. Golliher 10/26/71<br>R. L. Harris<br>R. A. LeDoux<br>Paducah, Ky. |
| 3,615,268 | 780,101(60) | ISOLATION AND PURIFICATION OF AMERICIUM FROM OTHER 5f AND 4f ELEMENTS BY EXTRACTION CHROMATOGRAPHY | F. L. Moore 10/26/71<br>Knoxville, Tenn. |
| 3,615,381 | 775,475(60) | PROCESS FOR PRODUCING DISPERSION-HARDENED SUPERALLOYS BY INTERNAL OXIDATION | J. P. Hammond 10/26/71<br>Knoxville, Tenn.<br>J. Y. Chang<br>Oak Ridge, Tenn. |
| 3,615,817 | 796,579(60) | METHOD OF DECONTAMINATING RADIOACTIVE METAL SURFACES | W. T. Jordan 10/26/71<br>Pittsburgh, Pa.<br>C. A. Zimmerman<br>Idaho Falls, Idaho |
| 3,615,828 | 17,404(70) | SECONDARY POWER-PRODUCING CELL | A. K. Fischer 10/26/71<br>Western Springs, Ill. |
| 3,615,920 | 29,261(70) | HIGH TEMPERATURE BRAZE HEAT TREATMENT FOR PRECIPITATION HARDENING MARTENSITIC STAINLESS STEELS | J. A. Talento 10/26/71<br>Pittsburgh, Pa. |
| 3,616,280 | 809,508(60) | NONAQUEOUS ELECTROPLATING SOLUTIONS AND PROCESSING | V. E. Arnold 10/26/71<br>Albuquerque, N. Mex. |
| 3,616,326 | 868,440(60) | SEPARATION OF RARE EARTHS BY ELECTROLYSIS WITH POROUS CARBON ELECTRODES | E. I. Onstott 10/26/71<br>Los Alamos, N. Mex. |
| 3,616,369 | 687,410(60) | RADIATION-INDUCED IONIC POLYMERIZATION CONTROLLED BY THE PRESENCE OF LEWIS ACIDS OR LEWIS BASES | T. F. Williams 10/26/71<br>Knoxville, Tenn. |

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 3,616,378 | 856,464(60) | HIGH-PRESSURE RADIOLYTIC OXIDATION OF CYCLOHEXANE | F. N. Case 10/26/71<br>Oak Ridge, Tenn.<br>D. E. Bailey<br>Knoxville, Tenn.<br>D. L. Keu<br>Rockwood, Tenn. | 3,620,808 | 697,281(60) | METHOD OF FORMING A THERMAL EMISSIVITY COATING ON A METALLIC SUBSTRATE | J. E. Monroe,Jr. 11/16/71 |
| 3,617,585 | 860,281(60) | METHOD FOR PREPARING OXIDE GEL MICROSPHERES FROM SOLS | P. A. Haas 11/2/71<br>Knoxville, Tenn.<br>S. D. Clinton<br>Oak Ridge, Tenn. | 3,620,852 | 15,237(70) | PROCESS FOR PRODUCING COBALT ALLOYS | J. C. Y. Chow 11/16/71<br>Northport, N.Y.<br>A. H. Fleitman<br>Smithtown, N.Y.<br>Kokomo, Ind. |
| 3,618,770 | 8,502(70) | COLD TRAP | L. E. Pohl 11/9/71<br>Los Gatos, Calif.<br>P. Roy<br>Saratoga, Calif. | 3,620,859 | 49,188(70) | CHEMICAL POLISHING OF METALLIC SODIUM | H. S. Isaacs 11/16/71<br>Shoreham, N. Y.<br>R. M. Singer<br>East Islip, N.Y. |
| 3,618,923 | 852,565(60) | APPARATUS FOR THE DISTILLATION OF POLONIUM FROM BISMUTH | L. R. Michels 11/9/71<br>San Jose, Calif. | 3,620,916 | 817,955(60) | BED NUCLEAR REACTOR | J. W. Hilborn 11/16/71<br>Chalk River, Ontario<br>C. G. Lennox<br>Pinawa, Manitoba<br>W. G. Mathers<br>Pinawa, Manitoba |
| 3,619,178 | 887,039(60) | PROCESS FOR DIRECTLY REDUCING PLUTONIUM DIOXIDE TO PLUTONIUM | R. E. Felt 11/9/71<br>Richland, Wash. | 3,620,917 | 874,749(60) | METHOD OF OPERATING A RADIOISOTOPE RADIATION SOURCE | R. Flaherty 11/16/71<br>Pittsburgh, Pa. |
| 3,619,180 | 781,802(60) | STRESS-CORROSION-RESISTANT ALLOY | R. W. Staehle 11/9/71<br>Columbus, Ohio<br>Juan Royuela<br>Madrid, Spain | 3,621,223 | 861,381(60) | HIGH FREQUENCY SIGNAL CORRELATOR | I. Alexeff 11/16/71<br>Oakridge<br>R. V. Neidigh<br>Knoxville, Tenn.<br>W. R. Wing<br>Pella, Iowa |
| 3,619,366 | 822,211(60) | FUEL SUBASSEMBLY FOR A NUCLEAR REACTOR | W. Chubb 11/9/71<br>Worthington, Ohio<br>D. L. Keller<br>R. A. Wullaert<br>V. W. Storhok<br>Columbus, Ohio | 3,621,238 | 71,042(70) | GAMMA INSENSITIVE AIR MONITOR FOR RADIOACTIVE GASES | R. A. Jalbert 11/16/71<br>Los Alamos, N. Mex.<br>R. D. Reibert<br>Los Alamos, N. Mex. |
| 3,620,078 | 49,483(70) | SWING SHIELD FOR ROTO-SLIDE SAMPLER | O. S. Raynor 11/16/71<br>Manorville, N. Y. | 3,621,254 | 30,715(70) | DIFFERENTIAL PRESSURE NUCLEAR RADIATION FLUX DETECTOR | C. J. Borkowski 11/16/71<br>Oak Ridge, Tenn. |
| 3,620,208 | 873,223(60) | EKG AMPLIFYING ELECTRODE PICKUP | W. R. Higley 11/16/71<br>H. L. Silcocks<br>J. A. Waggoner<br>Livermore, Calif. | 3,621,257 | 17,403(70) | BETA PARTICLE DETECTION IN THIN NUCLEAR DETECTORS | V. L. Gelezunas 11/16/71<br>King of Prussia, Pa.<br>F. A. Johston<br>King of Prussia, Pa. |
| 3,620,604 | 1,004(70) | METALLIZING CHARGER VIEWING SYSTEM | T. H. Benham 11/16/71<br>Joliet, Ill. | | | | |
| 3,620,687 | 818,822(60) | ORGANIC PHASE REDUCTION OF PLUTONIUM IN A PUREX TYPE PROCESS | A. S. Wilson 11/16/71<br>Richland, Washington | | | | |



| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 3,621,261 | 813,489(60) | RADIOISOTOPE FUEL CAPSULE | F. T. Princiotta 11/16/71<br>Baltimore, Md.<br>H. N. Barr<br>Baltimore, Md. | 3,623,946 | 467,821(60) | NUCLEAR REACTOR | R. R. Hobson 11/30/71<br>T. E. Griffin<br>San Jose, Calif. |
| 3,621,306 | 885,576(60) | METHOD OF DETERMINING BONDING IN A COMPOSITE SUPERCONDUCTOR | J. R. Purcell 11/16/71<br>Downers Grove, Ill. | 3,623,947 | 467,822(60) | NUCLEAR REACTOR AND THERMIONIC CONVERTER CELLS THEREFOR | R. R. Hobson 11/30/71<br>T.E. Griffin<br>San Jose, Calif. |
| 3,621,639 | 880,040(60) | DUST FILTER APPARATUS UTILIZING GRANULAR SOLID FILTER MEDIA | E. F. Edwards 11/23/71<br>Whittier<br>J. Fukuzawa<br>Monterey Park<br>R. L. Solnick<br>Newport Beach, Calif. | 3,624,239 | 10,516(70) | PULSED LASER-IGNITED THERMONUCLEAR REACTOR | A. P. Fraas 11/30/71 |
| | | | | 3,624,240 | 22,294 | FEEDBACK STABILIZATION OF A MAGNETICALLY CONFINED PLASMA | C. C. Damm 11/30/71<br>Alamo, Calif.<br>R. F. Post<br>Walnut Creek, Calif. |
| 3,621,892 | 855,231(60) | RESIN VACUUM DEGASSING AND DISPENSING SYSTEM AND METHOD | T. J. Gilleapie 11/23/71<br>Seminole, Fla. | 3,624,370 | 874,192 | DIGITAL PLOTTING DEVICE | J. Gray, Jr. 11/30/71<br>Wheaton, Ill. |
| 3,622,303 | 552,317(60) | METHOD FOR REMOVING HYDROGEN FROM ALKALI METALS AND THE LIKE | E. F. Hill 11/23/71<br>Southfield, Mich. | 3,624,443 | 68,579 | TWO-PLASMA GUN MAGNETIC FIELD LOADING METHOD | J. E. Harmel 11/30/71<br>Los Alamos, N. Mex. |
| | | | | 3,624,527 | 72,387(70) | MAGNETICALLY SELF-SHAPING SEPTUM FOR BEAM DEFLECTION | E. D. Hudson 11/30/71<br>Knoxville, Tenn. |
| 3,622,312 | 844,202(60) | METHOD FOR REJUVENATING REFRACTORY ARTICLES | C. F. Holcombe, Jr. 11/23/71<br>Oak Ridge, Tenn. | 3,624,709 | 886,631(60) | CONTINUOUS-READING PLUGGING-TEMPERATURE METER | J. P. Petrek 11/30/71<br>Kennewick, Wash. |
| 3,622,480 | 874,030(60) | METHOD OF INCREASING THE CONCENTRATION OF OXYGEN-18 IN AN OXYGEN-CONTAINING COMPOUND | E. R. Johnson 11/23/71<br>Chevy Chase, Md.<br>E. N. Ladov<br>Maple Shade, N.J.<br>E. W. Holtzscheiter<br>College Park, Md. | 3,624,759 | 11,991(70) | CLOSED FLUID SYSTEM PRESSURIZATION | R. D.Carson 11/30/71<br>La Grange, Ill. |
| | | | | 3,624,772 | 874,734(60) | READING AND WRITING MACHINE USING RAISED PATTERNS | A. P. Grunwald 11/30/71<br>Chicago, Ill. |
| 3,622,481 | 874,031(60) | METHOD OF PRODUCING COMPOUNDS ENRICHED IN OXYGEN-18 | E. R. Johnson 11/23/71<br>Chevy Chase, Md.<br>E. N. Ladov<br>Maple Shade, N.J. | 3,625,661 | 849,200(60) | SEPARATION OF TITANIUM FLUORIDE AND NIOBIUM FLUORIDE FROM GASEOUS URANIUM HEXAFLUORIDE | L. W. Anderson 11/30/71<br>Oak Ridge, Tenn.<br>M. J. Stephenson<br>Oak Ridge, Tenn. |
| 3,622,830 | 10,515(70) | OBJECT POSITIONING LINKAGE HAVING A SINGLE-SHAFT PLURAL PISTON ACTUATOR | H. S. Clay 11/23/71<br>Los Altos Hills, Calif. | 3,625,675 | 812,360(70) | NOVEL IRON-CHROMIUM-BERYLLIUM ALLOY SYSTEM | F. C. Robertshaw 11/30/71<br>R. J. Perkins<br>Cincinnati, Ohio |
| 3,623,145 | 40,653(70) | HIGH ENERGY CHEMICAL LASER SYSTEM | D. W. Gregg 11/23/71<br>Lafayette<br>R. K. Pearson<br>Pleasanton, Calif. | 3,625,680 | 771,633(60) | METHOD FOR PRODUCING POROUS URANIUM | J. J. Asbury 11/30/71<br>Knoxville, Tenn. |

*See page -11- for Pat. No. 3,625,767 and 3,625,818

| | | | | |
|---|---|---|---|---|
| 3,626,183 | 54,951(70) | RADIOISOTOPE ANALYTICAL INSTRUMENT FOR CEMENT ANALYSIS OF CONCRETE | P. F. Berry, J. D. Hall, T. Furuta, Austin, Tex. | 12/7/71 |
| 3,626,184 | 16,802(71) | DETECTOR SYSTEM FOR A SCANNING ELECTRON MICROSCOPE | A. V. Crewe, Palos Park, Ill. | 12/7/71 |
| 3,626,305 | 794,314(60) | HIGH ENERGY ION ACCELERATOR | H. P. Furth, M. N. Rosenbluth, Princeton, N.J. | 12/7/71 |
| 3,626,404 | 797,765(60) | THREE DIMENSIONAL DISPLAY SYSTEM | D. Ophir, East Patchogue, N.Y.; D. J. Shepard, San Jose, Calif.; R. J. Spinrad, Santa Monica, Calif. | 12/7/71 |
| 3,627,041 | 32,678(70) | GAS RECOVERY SYSTEM | R. A. Heckman, Castro Valley, Calif. | 12/14/71 |
| 3,627,479 | 766,438(60) | CHEMICAL-ELECTRO-CHEMICAL CYCLE FOR DESALINATION OF WATER | W. C. Yee, Oak Ridge, Tenn. | 12/14/71 |
| 3,627,487 | 868,494(60) | PROCESS FOR ENRICHING CARBON-13 | B. E. Jepson, Dayton, Ohio | 12/14/71 |
| 3,627,654 | 878,197(60) | ELECTROLYTIC PROCESS FOR CLEANING HIGH-CARBON STEELS | G. S. Petit, R. R. Wright, Oak Ridge, Tenn. | 12/14/71 |
| 3,627,691 | 1,484(70) | METHOD OF PREPARING A CALIFORNIUM-252 NEUTRON SOURCE | A. R. Boulogne, J. P. Faraci, Aiken, S.C. | 12/14/71 |
| 3,629,061 | 824,926(60) | FUEL SUBASSEMBLY FOR NUCLEAR REACTOR | R. C. Noyes, Hartford, Conn.; M. C. Andrews, Newington, Conn. | 12/21/71 |
| 3,629,062 | 823,704(60) | TRANSFER MACHINE FOR NUCLEAR REACTOR | H. O. Muenchow, Avon, Conn. | 12/21/71 |
| 3,629,065 | 844,041(60) | APPARATUS FOR INCREASING POWER DENSITY IN A BOILING LIQUID NUCLEAR REACTOR | W. M. Knox, Schenectady, N.Y. | 12/21/71 |
| 3,629,070 | 813,689(60) | TEMPERATURE ACTIVATED REACTOR CORE CLAMP | R. S. Stankievicz, Ellington, Conn. | 12/21/71 |
| 3,629,132 | 799,118(60) | PROCESS FOR SEPARATING SPECIFIC RADIOELEMENTS, SINGLY OR MULTIPLY, FROM A MIXTURE OF RADIOACTIVE ELEMENTS | C. J. Maletskos, Gilucester, Mass.; C. W. Tang, Cambridge, Mass. | 12/21/71 |
| 3,629,133 | 814,311(60) | PRODUCTION OF PREDOMINANTLY CRYSTALLINE SOLS OF URANIA | J. P. McBride, Oak Ridge, Tenn.; K. H. McCorkle, Powell, Tenn.; W. L. Pattison, Knoxville, Tenn. | 12/21/71 |
| 3,629,134 | 814,523(60) | METHOD OF MAINTAINING VARIABLE DENSITY DISSOLVER SOLUTIONS CRITICALLY SAFE | D. W. Rhoes, Idaho Falls, Idaho | 12/21/71 |
| 3,629,135 | 766,653(60) | METHOD OF DISSOLVING RADIOACTIVE CONTAMINATED ORGANIC ION EXCHANGE RESINS | M. W. Wilding, Idaho Falls, Idaho | 12/21/71 |
| 3,629,138 | 867,095(60) | METHOD FOR EXCHANGING COUNTERIONS IN ACTINIDE OXIDE SOLS | I. L. Thomas, Oak Ridge, Tenn. | 12/21/71 |
| 3,630,942 | 799,905(60) | REMOVAL OF ORGANIC IODIDE FROM RADIOIODINE-CONTAINING ATMOSPHERES | B. A. Soldano, W. T. Ward, Oak Ridge, Tenn. | 12/21/71 |
| 3,625,767 | 885,791(60) | THERMAL BATTERY | R. F. Clark, K. R. Grothaus, Albuquerque, N. Mex. | 12/7/71 |
| 3,625,818 | 730,202(60) | FLEXIBLE CORE REACTOR | R. C. Ross, Armonk, N.Y.; G. Breidenbach, New York, N.Y. | 12/7/71 |

[FR Doc.73-18204 Filed 9-4-73;8:45 am]



XUM

172

federal register

September 6, 1973—Pages 24185–24326

THURSDAY, SEPTEMBER 6, 1973

WASHINGTON, D.C.

Volume 38 ■ Number 172

Pages 24185–24326

PART I

## HIGHLIGHTS OF THIS ISSUE

**This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.**

**UNITED NATIONS DAY**—Presidential Proclamation ..... 24193

**NATIONAL HIGHWAY WEEK**—Presidential Proclamation . 24191

**PUBLIC GATHERINGS**—U.S. District Court reinstates National Capital Parks regulations with modifications ..... 24218

**IMPORTATION OF MILK AND MILK PRODUCTS**—USDA proposes certain restrictions on products originating in rinderpest or foot-and-mouth disease infected countries; comments by 10–6–73 ..... 24219

**BRAND NAME OR EQUAL**—GSA revision of requirements to provide for evaluation in terms of salient characteristics; effective 10–15–73 ..... 24210

**OTC MARGIN STOCK**—FRS list of selected stocks current as of September 4, 1973 ..... 24275

**MAIL RATES**—CAB proposes final and temporary rates for the transportation of mail by air (2 documents) .. 24245, 24248

**COMMERCIAL TRUCKS AND BUSES**—DOT proposes amendment on combining lighting devices and reflectors .. 24223

**GASOLINE**—CLC technical changes concerning retail prices on gasoline and No. 2 diesel fuel ..... 24214

**DRUGS AND PESTICIDES**—FDA and EPA amend previously published agreement; effective 9–6–73 ..... 24233, 24253

**NEW DRUGS**—FDA proposes conditions for establishment of international clinical research standards; comments by 12–5–73 ..... 24220

**FOOD ADDITIVES**—

FDA notice of petition for additional safe-use level of plasticizer in vinyl films for food-packaging applications ..... 24234

FDA notice of withdrawal of petition proposing safe use of slimicide ..... 24234

(Continued inside)

**PART II:**

**WALKING-WORKING SURFACES**—Labor Department proposes revision of Occupational Safety and Health Standards; comments by 11–2–73 .... 24299



V 38-172

SEP 6 73

XUM

# REMINDERS

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

### Rules Going Into Effect Today

This list includes only rules that were published in the FEDERAL REGISTER after October 1, 1972.

page no. and date

EPA—Light duty diesel regulations for 1975–76 model year vehicles.... 21348; 8–7–73

F&D—Recodification, technical changes, and updating of chloramphenicol monographs..... 21254; 8–7–73

federal register

Area Code 202 Phone 523–5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by the Executive Branch of the Federal Government. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $2.50 per month or $25 per year, payable in advance. The charge for individual copies is 20 cents for each issue, or 20 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.





**MEAT GROSS MARGIN RULES**—CLC amends Stage A, effective 7–18–73 ..... 24213

**SAVINGS AND LOAN ASSOCIATIONS**—
FHLBB adopts amendments concerning mutual to stock conversions (2 documents); effective 8–27–73 ..... 24201, 24202
FHLBB preapproves additional activities for service corporations; effective 9–6–73 ..... 24200
FHLBB proposals relating to investments in or by certain service corporations; comments by 10–8–73 ..... 24228

**COST ACCOUNTING STANDARDS BOARD**—Promulgation of standard for unallowable costs ..... 24195

**CERTIFICATED AIR CARRIERS**—CAB proposal on reporting and accounting requirements for transport-related revenues and expenses; comments by 10–5–73 ..... 24223

**MEETINGS**—
Department of Commerce: Census Advisory Committee of the American Statistical Association, 9–13 and 9–14–73 ..... 24232
Semiconductor Manufacturing and Test Equipment Technical Advisory Committee, 9–13 and 9–20–73 (2 documents) ..... 24231, 24232
HEW: Mental Health Small Grant Committee, 9–20 and 9–21–73 ..... 24238
Transplantation and Immunology Committee, 9–19 and 9–20–73 ..... 24240
Carcinogen Metabolism and Toxicology Segment Advisory Group, 9–5–73 ..... 24236
Diagnostic Research Advisory Group, 9–12–73 ..... 24237
Automation in the Medical Laboratory Sciences Review Committee, 9–5 and 9–6–73 ..... 24234
Cancer Control Advisory Committee, 9–10–73 ..... 24235
Artificial Kidney-Chronic Uremia Advisory Committee, 9–8–73 ..... 24234
Biometry and Epidemiology Contract Review Committee, 9–12–73 ..... 24235
Information and Resources Segment Advisory Group, 9–6–73 ..... 24238
Bladder-Prostate Cancer Advisory Committee, 9–17–73 ..... 24235
Allergy and Immunology Research Committee, 9–24 and 9–25–73 ..... 24234
Heart and Lung Program-Project Committee, 9–28 and 9–29–73 ..... 24237
Vision Research Program Committee, 9–21–73 ..... 24240
Cancer Clinical Investigation Review Committee, 9–24, 9–25, and 9–26–73 ..... 24235
Social Problems Research Review Committee, 9–10 and 9–11–73 ..... 24239
Clinical Program-Projects Research Review Committee, 9–28 and 9–29–73 ..... 24236
Mental Health Services Research Review Committee, 9–10 through 9–12–73 ..... 24238
Clinical Projects Research Review Committee, 9–20 through 9–22–73 ..... 24236
Narcotic Addiction and Drug Abuse Review Committee, 9–19 through 9–21–73 ..... 24238
Epidemiologic Studies Review Committee, 9–13 and 9–14–73 ..... 24237
Preclinical Psychopharmacology Research Review Committee, 9–17 and 9–18–73 ..... 24239
Neuropsychology Research Review Committee, 9–13 through 9–15–73 ..... 24239
Personality and Cognition Research Review Committee, 9–22 and 9–23–73 ..... 24239
Experimental Psychology Research Review Committee, 9–14 and 9–15–73 ..... 24237
Social Sciences Research Review Committee, 9–20 and 9–21–73 ..... 24240
Metropolitan Mental Health Problems Review Committee, 9–10–73 ..... 24238
Crime and Delinquency Review Committee, 9–12 and 9–13–73 ..... 24236
Clinical Psychopharmacology Research Review Committee, 9–20 and 9–21–73 ..... 24236
National Advisory Neurological Diseases and Stroke Council, 9–6–73 ..... 24239
Breast Cancer Epidemiology Committee, 9–10–73 ..... 24235
Study Sections of HEW's NIH Division of Research Grants (List of 45 Study Sections), 9–6–73 through 9–30–73 ..... 24240
Health Insurance Benefits Advisory Council, 9–21–73 ..... 24242
President's Committee on Mental Retardation, 9–21 and 9–22–73 ..... 24242
Department of Defense: USAF Scientific Advisory Board, 9–10–73 ..... 24230
Citizen's Advisory Committee on Environmental Quality, 9–9 and 9–10–73 ..... 24252

# Contents

**THE PRESIDENT**

**Proclamation**

National Highway Week, 1973 ..... 24191
United Nations Day, 1973 ..... 24193

**EXECUTIVE AGENCIES**

**AGRICULTURAL MARKETING SERVICE**

**Rules and Regulations**

Milk in the Boston Regional Marketing area, et al; order suspending a certain provision of the orders ..... 24216
Processed 1973–74 olives; establishment of grade and size requirements for limited use ..... 24215
Valencia oranges grown in Arizona and designated part of Calif.; limitation of handling ..... 24215

**AGRICULTURE DEPARTMENT**

*See* Agricultural Marketing Service; Animal and Plant Health Inspection Service; Soil Conservation Service.

**AIR FORCE DEPARTMENT**

**Notices**

Scientific Advisory Board; meeting ..... 24230

**ANIMAL AND PLANT HEALTH INSPECTION SERVICE**

**Proposed Rules**

Milk and milk products; restrictions on importation ..... 24219

**ASSISTANT SECRETARY FOR HOUSING MANAGEMENT**

**Notices**

Regional Administrators, et al.; redelegation of authority regarding property disposition ..... 24243

**ASSISTANT SECRETARY FOR HOUSING PRODUCTION AND MORTGAGE CREDIT**

**Proposed Rules**

Property improvement and mobile home loans; assignment of security ..... 24222

*(Continued on next page)*



V 38 I 172 SEP 6 73 XUM

**ATOMIC ENERGY COMMISSION**

Notices

Duquesne Light Co., et al.; extension of completion date ... 24244
Metropolitan Edison Co., et al.; hearing ... 24244

**CITIZENS ADVISORY COMMITTEE ON ENVIRONMENTAL QUALITY**

Notices

Meeting ... 24252

**CIVIL AERONAUTICS BOARD**

Proposed Rules

Accounting and reporting requirements for transport-related revenues and expenses ... 24223

Notices

Priority and nonpriority domestic service mail rates (2 documents) ... 24245, 24248

**COMMERCE DEPARTMENT**

*See also* Domestic and International Business Administration; Social and Economic Statistics Administration.

Notices

Arthur W. Even; decision of appeals board; correction ... 24232

**COST ACCOUNTING STANDARDS BOARD**

Rules and Regulations

Accounting for unallowable costs ... 24195
Definitions; miscellaneous amendments ... 24195

**COST OF LIVING COUNCIL**

Rules and Regulations

Phase III regulations; Stage A meat gross margin rules ... 24213
Phase IV price regulations; amendment ... 24214
Recodified pay rules for Phase IV; correction ... 24214

Proposed Rules

Executive and variable compensation; correction ... 24219

**DEFENSE DEPARTMENT**

*See* Air Force Department.

**DEFENSE SUPPLY AGENCY**

Rules and Regulations

Official information; availability to public ... 24206

**DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION**

Notices

Duty-free entry of scientific articles:
Desert Research Institute, et al ... 24230
U.S. Environmental Protection Agency, et al ... 24231
University of California; correction ... 24231
Semiconductor Manufacturing and Test Equipment Technical Advisory Committee; meetings (2 documents) ... 24231, 24232

**ENVIRONMENTAL PROTECTION AGENCY**

Notices

Health, Education, and Welfare Department and Environmental Protection Agency; agreement on mutual responsibility ... 24253

**FEDERAL AVIATION ADMINISTRATION**

Rules and Regulations

Area high route waypoint names; change ... 24204
Control zone and transition area; designation and alteration ... 24204
Transition area; alteration ... 24204

Proposed Rules

Transition area; alteration ... 24222

**FEDERAL COMMUNICATIONS COMMISSION**

Rules and Regulations

Amateur Radio Service; licensing and operation of repeater stations ... 24211
Limitations on use of frequencies ... 24211

**FEDERAL DISASTER ASSISTANCE ADMINISTRATION**

Notices

Major disaster; amendments:
New Hampshire ... 24242
Pennsylvania ... 24242

**FEDERAL HIGHWAY ADMINISTRATION**

Proposed Rules

Trucks and buses; combination of lighting and reflections ... 24223

**FEDERAL HOME LOAN BANK BOARD**

Rules and Regulations

Federal Savings and Loan Insurance Corporations; mutual to stock conversion (2 documents) ... 24201, 24202
Federal Savings and Loan System; additional activities for service corporations ... 24200

Proposed Rules

Federal Savings and Loan System; service corporations ... 24228

**FEDERAL MARITIME COMMISSION**

Proposed Rules

Contract rate increases on less than statutory notice in event of tariff currency depreciation; extension of time for filing comments ... 24228

Notices

Agreements filed:
City of Los Angeles and Japan Line, Ltd., et al ... 24253
St. Louis Terminals Corp. and Granite Terminals Corp ... 24253

**FEDERAL POWER COMMISSION**

Notices

*Hearings, etc.:*
Algonquin Gas Transmission Co ... 24254
Appalachian Power Co ... 24254
Arkansas Power and Light Co ... 24255
Beren Corp ... 24255
Blake Hamman ... 24255
Boston Edison Co ... 24256
Central Vermont Public Service Corp ... 24257
City of Seattle ... 24257
Colorado Interstate Gas Co. (2 documents) ... 24258
Consumers Power Co. and Detroit Edison Co ... 24258
Dayton Power and Light Co ... 24259
Devon Corp ... 24259
Dyco Petroleum Corp ... 24260
El Paso Electric Co ... 24260
El Paso Natural Gas Co. (5 documents) ... 24260–24262
Exxon Corp. et al ... 24263
Herman Geo. Kaiser ... 24263
Hurley Petroleum Corp. et al ... 24263
Iowa Southern Utilities Co ... 24263
Kissinger Petroleums Corp ... 24264
Louisville Gas and Electric Co ... 24274
Lowell Gas Co ... 24265
Michigan Wisconsin Pipe Line Co. (2 documents) ... 24265, 24274
Midwestern Gas Transmission Co ... 24265
Mobil Oil Corp ... 24265
New England LNG Co., Inc ... 24266
Northern Michigan Exploration Co., et al ... 24267
Northern States Power Co ... 24268
Northern Natural Gas Co ... 24268
Ohio Edison Co ... 24268
Pacific Gas and Electric Co ... 24269
Panhandle Eastern Pipeline Co ... 24270
Petroleum Corp. of Delaware, et al ... 24270
Reserves dedication in the Texas Gulf Coast and Southern Louisiana ... 24270
Ryder Scott Management Co., Inc., et al ... 24270
South Carolina Electric and Gas Co. (3 documents) ... 24271
Southern California Edison Co. (2 documents) ... 24271, 24272
Sun Oil Co ... 24272
Tartan Resources Corp ... 24273
Virginia Electric and Power Co ... 24273

**FEDERAL RESERVE SYSTEM**

Notices

Formation of bank holding company:
Bankshares of Laramie, Inc ... 24274
First Western Corp ... 24274
Mercantile Bancorporation, Inc.; acquisition of bank ... 24274
OTC margin stocks; list ... 24275







**FISH AND WILDLIFE SERVICE**

Rules and Regulations

Monte Vista National Wildlife Refuge, Colo.; hunting (2 documents) ... 24212

**FOOD AND DRUG ADMINISTRATION**

Rules and Regulations

D&C Brown No. 1 and External D&C Violet No. 2; color additives and certification; correction ... 24206

Proposed Rules

Clinical data of new drugs generated outside the United States; adoption of international clinical research standards ... 24220

Notices

Agreement between Health, Education, and Welfare and Environmental Protection Agency; matters of mutual responsibility ... 24233
Dow Chemical Co.; withdrawal of petition for food additives ... 24234
Esso Research Engineering Co ... 24234
GRAS or prior-sanctioned direct human food ingredients:
Availability of information; correction ... 24233
Opportunity to submit unpublished safety data; correction ... 24233

**GENERAL SERVICES ADMINISTRATION**

Rules and Regulations

Brand name or equal procurement; general policies ... 24210

Notices

Commission on Government Procurement; lead agency assignments concerning recommendations ... 24279

**HEALTH, EDUCATION, AND WELFARE DEPARTMENT**

*See also* Food and Drug Administration; National Institutes of Health; Social Security Administration.

Notices

Assistant Secretary (Public Affairs); statement of mission, organization, and functions ... 24241
President's Committee on Mental Retardation; meeting ... 24242

**HOUSING AND URBAN DEVELOPMENT DEPARTMENT**

*See* Assistant Secretary for Housing Management; Assistant Secretary for Housing Production and Mortgage Credit; Federal Disaster Assistance Administration; Interstate Land Sales Registration Office.

**INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)**

Notices

Eastern Associated Coal Corp.; application for renewal permit ... 24280

**INTERIOR DEPARTMENT**

*See* Fish and Wildlife Service; National Park Service.

**INTERNAL REVENUE SERVICE**

Rules and Regulations

Income tax; taxable years beginning after December 31, 1953; correction ... 24206

**INTERSTATE COMMERCE COMMISSION**

Rules and Regulations

Car service; Norfolk and Western Railway Co ... 24212

Proposed Rules

Motor contract carriers; lease and interchange of vehicles ... 24228

Notices

Assignment of hearings ... 24282
Exemption under mandatory car service rules ... 24283
Florida Specialized Carriers Interstate Rate Conference, Inc.; agreement ... 24282
Hagerstown Motor Express Co., Inc.; petition for declaratory order ... 24283
Motor carrier:
Alternate route deviation notices ... 24283
Applications and certain other proceedings (2 documents) ... 24284, 24296
Board transfer proceedings ... 24289
Temporary authority applications ... 24290
Filing of motor carrier intrastate applications ... 24294
Reading Co., et al.; rerouting or diversion of traffic ... 24283
Southern Motor Carriers Rate Conference, Inc.; agreement ... 24283

**INTERSTATE LAND SALES REGISTRATION OFFICE**

Notices

Order of suspension:
Eleuthera Island Club ... 24243
Highland Meadow Estates ... 24243

**LABOR DEPARTMENT**

*See* Occupational Safety and Health Administration.

**NATIONAL INSTITUTES OF HEALTH**

Notices

Meetings:
Allergy and immunology research committee ... 24234
Artificial Kidney-Chronic Uremia Advisory Committee ... 24234
Automation in the Medical Laboratory Sciences Review Committee ... 24234
Biometry and Epidemiology Contract Review Committee ... 24235
Bladder-Prostate Cancer Advisory Committee ... 24235
Breast Cancer Epidemiology Committee ... 24235
Cancer Clinical Investigation Review Committee ... 24235
Cancer Control Advisory Committee ... 24235
Carcinogen Metabolism and Toxicology Segment Advisory Group ... 24236
Clinical program-projects Research Review Committee ... 24236
Clinical Projects Research Review Committee ... 24236
Clinical Psychopharmacology Research Review Committee ... 24236
Crime and Delinquency Review Committee ... 24236
Diagnostic Research Advisory Group ... 24237
Epidemiologic Studies Review Committee ... 24237
Experimental Psychology Research Review Committee ... 24237
Heart and Lung Program-Project Committee ... 24237
Information and Resources Segment Advisory Group ... 24238
Mental Health Services Research Review Committee ... 24238
Mental Health Small Grant Committee ... 24238
Metropolitan Mental Health Problems Review Committee ... 24238
Narcotic Addiction and Drug Abuse Review Committee ... 24238
National Advisory Neurological Diseases and Stroke Council ... 24239
Neuropsychology Research Review Committee ... 24239
Personality and Cognition Research Review Committee ... 24239
Preclinical Psychopharmacology Research Review Committee ... 24239
Social Problems Research Review Committee ... 24239
Social Sciences Research Review Committee ... 24240
Transplantation and Immunology Committee ... 24240
Vision Research Committee ... 24240
Various Study Sections ... 24240

**NATIONAL PARK SERVICE**

Rules and Regulations

Public gathering activities; limitations ... 24218

**OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION**

Proposed Rules

Walking-working surfaces; occupational safety and health standards ... 24299

Notices

Illinois Developmental Plan; modifications ... 24281

**RENEGOTIATION BOARD**

Rules and Regulations

Common carriers by water; mandatory exemptions from renegotiation ... 24210

Notices

Transportation by water as common carrier; extension of time for filing financial statement ... 24281

**SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION**

Rules and Regulations

Penalty procedures; correction ... 24210

**SMALL BUSINESS ADMINISTRATION**

Notices

Massachusetts Venture Capital Corp.; application for license as small business investment company ... 24281




V 38 I 172
SEP 6 73
XUM

CONTENTS


SOCIAL AND ECONOMIC STATISTICS ADMINISTRATION
Notices
Census Advisory Committee of the Statistical Association; public meeting ---------- 24232

SOCIAL SECURITY ADMINISTRATION
Notices
Health Insurance Benefits Advisory Council; meeting------- 24242

SOIL CONSERVATION SERVICE
Notices
Hurricane Creek Watershed Project, Tennessee; availability of final environmental statement_ 24230

TRANSPORTATION DEPARTMENT
*See* Federal Aviation Administration; Federal Highway Administration.

TREASURY DEPARTMENT
*See* Internal Revenue Service.

VETERANS ADMINISTRATION
Notices
National Cemetery System; acquisition ---------- 24281


# List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month. In the last issue of the month the cumulative list will appear at the end of the issue.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1973, and specifies how they are affected.

**3 CFR**
PROCLAMATIONS:
4239 ---------- 24191
4240 ---------- 24193

**4 CFR**
400 ---------- 24195
405 ---------- 24195

**6 CFR**
130 ---------- 24213
140 ---------- 24214
150 ---------- 24214
152 ---------- 24214
PROPOSED RULES:
152 ---------- 24219

**7 CFR**
908 ---------- 24215
932 ---------- 24215
1001 ---------- 24216
1002 ---------- 24216
1004 ---------- 24216
1006 ---------- 24216
1007 ---------- 24216
1011 ---------- 24216
1012 ---------- 24216
1013 ---------- 24216
1015 ---------- 24216
1030 ---------- 24216
1033 ---------- 24216
1036 ---------- 24216
1040 ---------- 24216
1044 ---------- 24216
1046 ---------- 24216
1049 ---------- 24216
1050 ---------- 24216
1060 ---------- 24216
1061 ---------- 24216
1062 ---------- 24216
1063 ---------- 24216
1064 ---------- 24216
1065 ---------- 24216
1068 ---------- 24216
1069 ---------- 24216
1070 ---------- 24216
1071 ---------- 24216
1073 ---------- 24216
1075 ---------- 24216
1076 ---------- 24216
1078 ---------- 24216
1079 ---------- 24216
1090 ---------- 24216
1094 ---------- 24216
1096 ---------- 24216
1097 ---------- 24216
1098 ---------- 24216
1099 ---------- 24216
1101 ---------- 24216
1102 ---------- 24216
1106 ---------- 24216
1108 ---------- 24216
1120 ---------- 24216
1121 ---------- 24216
1124 ---------- 24216
1125 ---------- 24216
1126 ---------- 24216
1127 ---------- 24216
1128 ---------- 24216
1129 ---------- 24216
1130 ---------- 24216
1131 ---------- 24216
1132 ---------- 24216
1133 ---------- 24216
1134 ---------- 24216
1136 ---------- 24216
1137 ---------- 24216
1138 ---------- 24216
1139 ---------- 24216

**9 CFR**
PROPOSED RULES:
94 ---------- 24219

**12 CFR**
545 ---------- 24200
546 ---------- 24201
563 ---------- 24202
PROPOSED RULES:
545 ---------- 24228

**14 CFR**
71 (2 documents) ---------- 24204
75 ---------- 24204
PROPOSED RULES:
71 ---------- 24222
241 ---------- 24223

**21 CFR**
8 ---------- 24206
9 ---------- 24206
PROPOSED RULES:
130 ---------- 24220

**24 CFR**
PROPOSED RULES:
201 ---------- 24222

**26 CFR**
1 ---------- 24206

**29 CFR**
PROPOSED RULES:
1910 ---------- 24300

**32 CFR**
1285 ---------- 24206
1453 ---------- 24210

**33 CFR**
401 ---------- 24210

**36 CFR**
50 ---------- 24218

**41 CFR**
1–1 ---------- 24210

**46 CFR**
PROPOSED RULES:
538 ---------- 24228

**47 CFR**
81 ---------- 24211
97 ---------- 24211

**49 CFR**
1033 ---------- 24212
PROPOSED RULES:
393 ---------- 24223
1057 ---------- 24228

**50 CFR**
32 (2 documents) ---------- 24212





# Presidential Documents

## Title 3—The President

PROCLAMATION 4239

## National Highway Week, 1973

*By the President of the United States of America*

### A Proclamation

Since the United States was established, nearly two centuries ago, highways have been our Nation's lifelines.

In our early days, the roads—crude as they were—enabled our Nation to expand until the Atlantic was linked to the Pacific. Roads symbolized the adventurous spirit of our ancestors as wagon trains rolled ever westward into new sections of our country.

And as the highway system expanded, so, too, did our Nation's economy.

Today, highways are a vital connecting link in America's balanced transportation system. They are essential to the achievement of our economic and social goals. And they continue to manifest the American spirit of independence, enabling us to come and go when and where we please.

At the same time, highway transportation poses new challenges today that can be met only by determined and imaginative effort.

We must work to enhance the efficiency of all transportation so that we can better conserve our fuel supplies and reduce urban congestion. I urge all Americans to join in this effort, to make use of public transportation and carpools wherever possible, and to otherwise save motor fuel.

We must harmonize highway transportation with our environment so that we can more fully enjoy the blessings of nature and the works of man.

All of us must do our very best to prevent highway accidents, reducing the unacceptable price we pay each day in death and suffering on our roadways.

The Federal-Aid Highway Act of 1973, which I recently signed into law, will provide a major tool in meeting these challenges by giving State and local officials a broader range of alternative solutions as they address their transportation requirements.



V 38 172 SEP 6 73 XUM

Only by meeting these challenges today can we continue to enjoy the full benefits of our highway system tomorrow.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby proclaim the week beginning September 23, 1973, as National Highway Week. I urge Federal, State, and local government officials, as well as highway industry and other organizations, to hold appropriate observances during that week, recognizing the benefits which highway transportation has provided for our country in the past and reflecting on how we can best continue to realize those benefits in the future.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of September, in the year of our Lord nineteen hundred seventy-three, and of the Independence of the United States of America the one hundred ninty-eighth.

Richard Nixon

[FR Doc.73-19028 Filed 9-4-73;2:44 pm]





PROCLAMATION 4240

# United Nations Day, 1973

*By the President of the United States of America*

## A Proclamation

Each year the peoples of the world celebrate October 24 as United Nations Day, recalling the date in 1945 when the United Nations Charter came into force. This is an appropriate occasion for people everywhere to renew their adherence to the Charter ideals of peace and human rights, and their determination to promote economic and social progress and a greater measure of justice and freedom for all.

This year the anniversary occurs at a time of dramatic change in world affairs. We sense the promise of a more peaceful world and the opportunity for new strides in international cooperation.

As the world climate improves, the prospects will grow for using the United Nations to alleviate political disputes and for broadening its constructive activity in the social, economic and technological fields.

In some areas, international cooperation is already a longstanding tradition—moving the international mails, regulating international communications and transportation, preventing the worldwide spread of disease, developing international standards of practice in labor, and many others.

More recently, the United Nations and other international agencies have begun to work in other areas—devising safeguards, for example, for the production of nuclear energy and rules concerning man's use of outer space; extending the rule of law over the exploitation of the oceans; protecting the environment; protecting the rights of refugees and prisoners of war; and inhibiting the international traffic in narcotic drugs. Efforts are also underway to cope with the problems of population growth and with the hijacking of aircraft and other forms of international terrorism.

In the years ahead the growing interdependence of nations will inevitably require international institutions to be even more effective in dealing with this new agenda. We need to create new arrangements to control new technologies for the common good. We must bridge the interests of rich and poor countries on matters of trade and aid. We must facilitate the exchange of technical and scientific knowledge and encourage modes of cooperative behavior which will permit nations to live together in concord.

Within this framework I hope all Americans will continue to appreciate and analyze, soberly and realistically, the benefits they and all peoples gain from international cooperation—within the United Nations and other institutions—to meet the challenges of the modern world.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate Wednesday, October 24,



V 38 - 172 SEP 6 73 XUM

1973, as United Nations Day. I urge the citizens of this Nation to observe that day with community programs which will promote understanding and support for the United Nations and its affiliated agencies.

I have appointed Donald S. MacNaughton to be United States National Chairman for United Nations Day and, through him, I call upon State and local officials to encourage citizens' groups and agencies of communication—press, radio, television, and motion pictures—to engage in appropriate observances of United Nations Day in cooperation with the United Nations Association of the United States of America and other interested organizations.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of September, in the year of our Lord nineteen hundred seventy-three, and of the Independence of the United States of America the one hundred and ninety-eighth.

Richard Nixon

[FR Doc.73-19029 Filed 9-4-73;2:44 pm]





# Rules and Regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

## Title 4—Accounts

### CHAPTER III—COST ACCOUNTING STANDARDS BOARD

### PART 400—DEFINITIONS

#### Miscellaneous Amendments

Section 400.1(a) is amended by inserting the following definitions alphabetically:

**§ 400.1 Definitions.**

(a) • • •

*Directly associated cost.*—Any cost which is generated solely as a result of the incurrence of another cost, and which would not have been incurred had the other cost not been incurred.

• • • • • •

*Expressly unallowable cost.*—A particular item or type of cost which, under the express provisions of an applicable law, regulation, or contract, is specifically named and stated to be unallowable.

• • • • • •

*Unallowable cost.*—Any cost which, under the provisions of any pertinent law, regulation, or contract, cannot be included in prices, cost reimbursements, or settlements under a Government contract to which it is allocable.

(84 Stat. 796, sec. 103; 50 U.S.C. App. 2168)

ARTHUR SCHOENHAUT,
*Executive Secretary.*

[FR Doc.73-18680 Filed 9-5-73;8:45 am]

### PART 405—ACCOUNTING FOR UNALLOWABLE COSTS

#### Negotiated National Defense Contracts

The Standard on Accounting for Unallowable Costs is one of a series being promulgated by the Cost Accounting Standards Board pursuant to section 719 of the Defense Production Act of 1950, as amended, Pub. L. 91-379, 50 U.S.C. app. 2168, which provides for the development of Cost Accounting Standards to be used in connection with negotiated national defense contracts.

Work preliminary to the development of this Standard was started as a result of recognition of the continuing problem concerning the accounting treatment of unallowable contract costs. There has been a lack of uniformity or comparability in the cost accounting treatment accorded unallowable costs after specific determination of their unallowability. There have also been reported problems concerning the content of indirect-cost allocation bases where unallowable costs are involved. Further, there have been instances reported of inclusion of unallowable costs in the base for progress payment billings.

There is no present requirement in agency regulations for contractor identification of unallowable costs. As a result, reports prepared by Government auditors contain frequent references to costs which are known to be unallowable but disclosed only through an audit. The Board has concluded that the identification of costs determined to be unallowable should be the subject of a Cost Accounting Standard.

This Standard requires the identification of specific costs at the time such costs first become defined or authoritatively designated as unallowable. The Standard also establishes guidelines for the cost accounting treatment to be accorded such identified costs. The Board believes that application of this Standard will provide a greater degree of uniformity in the determination of costs of negotiated defense contracts.

Early research on this Standard included a review of available literature on the subject, a review of the decisions of contract appeals boards and courts, and meetings with contractors and other organizations and individuals concerning their operations and philosophy relative to the treatment of unallowable costs.

This research led to the publication of a proposed Cost Accounting Standard in the FEDERAL REGISTER of March 30, 1973, with an invitation for interested parties to submit written data, views, and comments to the Board. To assure that those who had already expressed interest in the proposed Standard had an opportunity to comment, the Board supplemented the FEDERAL REGISTER notice by sending copies of the published material directly to several hundred organizations and individuals.

Responses were received from 67 sources, consisting of individual companies, Government agencies, professional associations, industry associations, public accounting firms and others. All of these comments have been carefully considered by the Board. Those comments which are of particular significance are discussed below, together with an explanation of the changes made to the proposed Standard published in the FEDERAL REGISTER of March 30, 1973.

Government commentators generally regarded a requirement for identification of unallowable costs as being reasonable and desirable as long as it recognized that there is room for agency judgment relative to the allowability of individual cost elements. The reaction from industry sources was generally in opposition to a Standard on this subject. The reaction from other commentators was mixed. The Board notes that in the comments by industry representatives are a significant number of admissions that at least some unallowable costs can be identified clearly in advance and, in fact, are so identified by many contractors.

The Board has greatly benefited from the many comments it received on the Standard as published in the FEDERAL REGISTER of March 30, 1973. The Board take this opportunity to express its appreciation for the suggestions it has received, and for the time devoted to assisting the Board in this endeavor by the many companies and individuals involved.

1. *General—Need for a Standard.*—Those who took specific exception to the need for or propriety of a Standard raised a number of issues. Following is a summary and discussion of each of the major issues raised:

(a) *Existing procurement regulations and procedures are adequate to resolve what is essentially an administrative issue, and are more appropriately relied upon for accomplishing the stated purposes of the Standard.*

The Board does not agree with this argument. Although the regulations of procurement agencies deal extensively with the definition of those items of cost which are not to be accepted as allowable under Government contracts, they do not require contractor identification of unallowable costs and provide only minimal guidance as to the cost accounting treatment to be accorded such costs.

The Board notes that the idea of "unallowable costs" is a concept not generally applied in commercial cost accounting, and that it apparently has no direct relevance to the process of allocating costs incurred to final cost objectives. The Board's function is to promulgate Cost Accounting Standards to "be used by all relevant Federal agencies and by defense contractors and subcontractors in estimating, accumulating, and reporting costs in connection with the pricing, administration and settlement of all negotiated prime contract and subcontract national defense procurements with the United States in excess of $100,000." The identification and measurement of unallowable costs are directly relevant to this function. In the performance of its assigned responsibility, therefore, the Board finds that a Standard establishing



V 38-172 SEP 6 73 XUM

a concept of unallowable costs and providing for the identification, measurement, and reporting of such costs will be useful and desirable.

The Board believes that recognition of the cost accounting concept that all costs incurred in carrying on the activities of an enterprise are allocable to the cost objectives of the enterprise is essential to the maintenance of sound and consistent contract cost accounting. This is particularly significant in providing for consistent policies governing allocations of indirect costs, as discussed in greater detail in connection with the issue of indirect-cost allocation bases. It is also important in connection with the profit determinations of the Renegotiation Board, where it is necessary to determine the total costs properly allocable to renegotiable contracts. Cost Accounting Standards should result in determination of costs which are allocable to contracts and other cost objectives. The use of Cost Accounting Standards, however, has no direct bearing on allowability determinations.

(b) *The published proposal constitutes an inflexible procedural requirement rather than a cost accounting standard; it deals with minutiae and will necessitate considerable additional accounting effort and record keeping.*

The Standard does not specify or require any specific type or detail of record keeping. The Board does not believe that a requirement for contractor identification of costs known to be unallowable, or which have clearly been designated as unallowable, represents an undue burden. It is reinforced in this belief by the fact, as stated in several of the comments received and as further shown by the Board's research, that many contractors already provide this identification, and often with a greater detail of recorded cost segregation than is required by the Standard. Revised wording has been provided to make clear the Board's intent to require only such detail and depth of cost allocation and record keeping as is necessary to provide appropriate cost visibility. Provisions for accounting recognition of unallowable costs are considered appropriate for a Standard.

The Board does not agree that this Standard deals with minutiae. A significant amount of the time of both Government and contractor personnel is spent in identifying contract costs and in negotiating their allowability. The cumulative impact of unallowable costs can significantly affect contract cost reimbursement and pricing. For example, in fiscal year 1973, the Department of Defense disallowed costs exceeding $200 million. The Board believes that a Standard which will foster earlier and more precise identification of unallowable costs, and thereby narrow the areas of cost search, disagreement and negotiation of differences, will be beneficial.

(c) *A Standard requiring specific identification of unallowable costs will only lead to added controversy and impair the freedom of contracting parties to negotiate equitable treatment of costs.*

This issue is closely related to the first issue discussed above, but is addressed to the problems and interpretative differences involved in the classification of costs as allowable or unallowable.

The Board acknowledges that there may seldom be full agreement between the parties to a contract as to all of the specific items of costs which are unallowable under pertinent laws, regulations and contractual provisions, and that negotiation must, therefore, be resorted to as a practical means of resolving differences. The Standard does not contemplate interference with such negotiations. However, by requiring consistent cost accounting recognition and appropriate accounting treatment of costs agreed to be unallowable, or which are authoritatively designated as unallowable, the Standard should encourage more definitive negotiated agreements. More specificity in agreements should help to limit the areas of future negotiation or dispute to those where there is a rational basis for disagreement.

2. *Directly Associated Costs.*—The published version of the proposed Standard defined a directly associated cost as, "Any cost which is generated solely as a result of the incurrence of another cost and which would not have been incurred had the other cost not been incurred." It then provided, in effect, that directly associated costs of identified unallowable costs should be included with the unallowable costs with which they associated, and be accorded similar cost accounting treatment. These provisions of the Standard, which were intended solely to cover costs which were incremental with respect to identified unallowable costs, drew comment from disparate sources. Those who disagreed with any attribution of nonallowability to costs which were not unallowable by nature but merely by association were opposed to the directly associated cost concept. Also, some of those favoring such attribution, while not opposed to the concept, interpreted the Standard as encroaching upon, or narrowing the application of, existing regulatory provisions governing cost disallowances, and expressed disagreement with the proposed coverage on this basis. After careful consideration of the comments on this issue, the Board has concluded that coverage in the Standard of directly associated costs is appropriate and necessary.

The Board notes that various regulatory provisions use such nondefinitive terms as "corollary administrative costs," "related collection costs," "related legal costs," "incidental costs relating thereto," "other related costs," etc., in describing unallowable costs. In such cases, the Board considers that the identification and measurement of costs covered by these broadly worded provisions is a function of cost accounting, and therefore appropriate for coverage in this Cost Accounting Standard as directly associated costs.

In light of the above considerations, the Board has retained coverage of directly associated costs. The Board, however, recognizes that treatment of a cost as an unallowable directly associated cost in certain circumstances could result in double counting with respect to a class or category of costs included in an indirect-cost pool that will be allocated over a base containing the designated unallowable cost with which the cost in question is associated. In such circumstances, the Standard requires that the cost shall not be classified as a directly associated cost, but rather shall be retained in the indirect-cost pool and allocated through the regular allocation process.

3. *Expressly Unallowable Costs.*—The requirement in the proposed Standard for contractor identification of "costs which are patently unallowable" gave rise to expressions of concern on the part of a number of respondents. These ranged from allegations of general impracticability of compliance to apprehensions that the lack of a clear definition would lead to overzealous implementation by auditors and contracting officers and to increased controversy.

Various alternative suggestions were made by commentators. One such suggestion was that identification be required only when there is mutual agreement on unallowable costs by the parties to a contract. This, however, would be likely to minimize one of the benefits of the Standard; namely, the reduction of the time and effort spent in audit and negotiation covering costs whose nonallowability is obvious. Also, items requiring agreement are covered by other provisions of the Standard.

A second suggestion made by respondents was that this requirement be made applicable only to costs which the contractor considers or determines to be "patently" unallowable. This suggestion, however, is subject to the obvious criticism that any requirement that would provide the party subject thereto with absolute freedom of choice as to what constitutes compliance would be of dubious effectiveness. The Standard, of course, clearly provides for the contractor to be the party having the primary responsibility for making the initial determination as to what costs incurred by him are obviously unallowable.

A third suggestion offered by respondents was that the Standard provide a definition, or examples, covering the costs which are considered to be "patently" unallowable. The Board felt that this suggestion had merit. Because of apparent confusion as to the usage of the term "patently," the Board has substituted the word "expressly" in the Standard, and has included a definition of "expressly unallowable cost." Most of the items of cost that are of the type required to be accounted for as expressly unallowable are specified in agency procurement regulations (e.g., ASPR 15–205). It would not be practical to list





the items of cost that may be made expressly unallowable under the specific provisions of contracts. The Board, in its definition of an "expressly unallowable cost," has used the word "expressly" in the broad dictionary sense—that which is in direct or unmistakable terms.

With regard to the stated concern about overzealous implementation by auditors and contracting officers, the Board has previously stated that the administration of its rules, regulations, and Cost Accounting Standards should be reasonable. The Board anticipates that this rule of reason be applied in the implementation of this Standard. Thus, where a good faith effort has been made by a contractor, in the development and implementation of his cost accounting rules, procedures, and practices, to provide for identification of expressly unallowable costs, it is intended that inadvertent failure to properly classify a particular item of cost will not be regarded as noncompliance.

The Board has retained the requirement for contractor identification of costs which are unequivocally made unallowable by the express provisions of an applicable law, regulation or contract. The Standard, however, has been revised to make clearer the accounting distinction between costs which are either expressly unallowable or mutually agreed to be unallowable and costs which are designated as unallowable by the unilateral exercise of a contracting officer's authority under contract disputes procedures. Solely for the purposes of this distinction, the provision in the revised Standard setting forth the identification requirement for expressly unallowable and mutually agreed unallowable costs also specifies that these are costs which shall be excluded from Government-contract billings, claims, or proposals.

4. *Indirect-cost allocation bases.*—By far the largest number of comments were addressed to the requirement in paragraph (c) of § 405.40 of the proposed Standard, that unallowable costs shall be subject to the same cost accounting requirements as allowable costs in determining the content of cost-oriented bases for allocation of indirect costs. This is an issue which appears to have produced an almost complete polarization of the viewpoints of Government representatives and of the parties with whom they contract.

Current agency regulations (e.g., ASPR 15–203(c)) provide, in essence, that indirect-cost allocation bases should not be fragmented for purposes of removing individual elements therefrom. They therefore provide that unallowable costs in an allocation base shall "bear" their pro rata share of the indirect costs in the pool being distributed. The wording of these regulatory provisions has commonly been interpreted as meaning that the indirect costs shall assume the allowability status of the costs in the allocation base. Comments on this regulatory requirement, therefore, have centered on the issue of making otherwise allowable costs unallowable, rather than on the broader accounting principles that should govern cost allocation.

As previously indicated, the Board believes that the issues concerning cost allocation and those relating to cost allowance are distinct and separate. Allowability should not be a factor in the selection or in the determination of the content of an allocation base used to distribute a pool of indirect costs. The appropriateness of a particular allocation base should be determined primarily in terms of its distributive characteristics. Any selective fragmentation of that base which eliminates given base elements for only some of the relevant cost objectives would produce a distortion in the resulting allocations. The Board, therefore, is retaining the requirement that unallowable costs be subject to the same cost accounting principles as those governing allowable costs.

Where an item, activity, or function has been deemed unallowable by other relevant authority, the Board in this Standard has approached the determination of the costs related to the unallowable item, activity, or function in three stages (a) Its direct cost, (b) its directly associated cost, and (c) the indirect costs allocable by means of a base containing such costs. This has been done because, while there is usually no question that the relevant authority intended that the direct cost (a) be disallowed, there may be questions as to whether costs (b) and (c), otherwise allowable, were intended to be disallowed. The latter two costs are, therefore, required to be separately identified and measured so that their allowability can be resolved through the procurement process.

In concluding that indirect-cost allocation bases should not be fragmented solely for purposes of removing unallowable base elements, the Board is not implying that the elimination of all or part of a base element for other purposes is always inappropriate and inconsistent with sound cost accounting.

5. *Contracting Officer decision.*—Many respondents questioned the requirement, in paragraph 405.40(a) of the proposed Standard, for identifying as unallowable those costs "designated as unallowable as a result * * * of * * * a final decision of the contracting officer issued pursuant to contract disputes procedures." Concern was expressed that this gave too much standing to the unilateral administrative decision of the contracting officer, and did not recognize contractors' right of appeal to the boards of contract appeals and the courts.

The Board recognizes that legitimate disagreements over allowability often are not finally resolved by contracting officers' decisions. The Board notes, however, that the Standard distinguishes between costs which are "expressly unallowable" and costs which are "designated as unallowable." To further the distinction, and to remove a possible source of misinterpretation, the words "final decision" have been changed to "written decision," to conform to wording in agency regulations governing disputes procedures. The Board believes that, although the written decisions of contracting officers pursuant to formal disputes clause procedures are subject to appeal and possible reversal, they nevertheless constitute authoritative designations, and represent the culmination of a process of audit and negotiation. Furthermore, they are binding on the parties to a contract until and unless changed on appeal. The Board, therefore, considers that any definitive designations of unallowable costs which are provided in the contracting officers' written decisions warrant identification, and it has retained this requirement.

A further objection was raised by some commentators to the requirement, in paragraph (a) of 405.50 of the published proposal, for future recognition of costs identified as unallowable, or of other costs incurred for the same purpose in like circumstances. The observation was made that future circumstances might warrant different conclusions as to allowability.

The Board recognizes that identical costs may be unallowable under one set of circumstances, but nevertheless be determined to be allowable under different conditions, or as a result of changed criteria. The Board, however, believes that specific designations of the allowability status of particular classes or categories of cost should be given consideration in the evaluations of any like costs which are governed by the same allowability criteria and which are incurred for the same purpose in like circumstances. The provisions in the Standard which reflect this viewpoint have been clarified.

The Board notes that the identification of costs covered by an adverse contracting officer decision will not prevent a contractor from continuing to claim such costs, where disagreement as to allowability continues. It serves merely to identify the costs for special consideration, thereby helping to assure adequate reevaluations, and to promote resolution of the issues involved in the disagreement. Reversal of the contracting officer's decision by a final appeals board or court ruling would, of course, relieve the contractor of any identification requirement under the Standard covering the costs involved in the ruling.

6. *Accountability for unallowable costs.*—A number of comments were received concerning what some writers interpreted as an unnecessary and improper requirement for detailed accountability covering costs which are absorbed by the contractor and therefore should not be of any legitimate concern to the customer. The Board does not intend requiring cost identification or cost allocation which is not relevant to the determination of Government contract cost. The Standard requires identification of unallowable costs only to the extent needed for audit verification of the costs which are included in, or which provide backup support for, proposals, billings, or claims. Appropriate revisions have been made in the Standard.



V 38 172 SEP 6 73 XUM

7. *Colleges and universities.*—A number of comments were received from university officials expressing concern that, because colleges and universities contracting with the Government are subject to a different set of contract cost reimbursement principles than commercial organizations, and operate in a different accounting environment, the proposed Standard might present implementation problems if applied to these institutions. These comments have been carefully considered, and supplementary discussions have been held with some of the officials concerned.

On the basis of its analysis of the practices described by commentators as having been deemed acceptable in the past, and of the underlying principles and contractual requirements, the Board believes that the Standard, as revised, can be applied to colleges and universities without any disruption of practices which are acceptable under applicable laws and regulations.

Particular concern was expressed over what was reported to be a common situation, where certain costs, such as faculty salaries, are excluded from contract costs even though such costs may directly pertain to work performance which is an intrinsic part of the contract project. The Board notes that specific identification with, or allocation to, individual contracts and other final cost objectives is not required for costs which will not be included in, nor constitute pertinent backup support for, any proposal, billing, or claim. The Standard requires only that sufficient identification be provided to enable verification of the allocability status of unallowable costs and the accounting treatment actually accorded such costs. The Board, therefore, does not believe that any special provision is required covering the situation described.

8. *Materiality.*—A number of comments were received suggesting that the question of materiality be given more consideration in the Standard. The recognition of the materiality problem in paragraph (f) of § 405.50 of the proposed Standard was endorsed, but concern was expressed that limiting application to circumstances where there was a "low incidence of negotiated Government contracts relative to other types of work" would render the provision ineffective.

Several instances of potential problem areas were mentioned. One of these concerned the situation where corporate headquarters' expenses are allocated to segments which are involved in a relatively insignificant volume of Government contract work. Another cited the case of a standard cost accounting system covering the manufacture of standard products which may incidentally be used as material or components in contract work. A third referred to the problem of determining "true" cost of an individual product in a joint-product, joint-cost production situation. Another problem area is that involving determination of the share of indirect expense to be assigned as costs of a proscribed organizational or functional activity.

The Board recognizes that accounting for unallowable costs (which are themselves often determined only through negotiation) is an area where the question of materiality should be given special consideration. In providing this consideration, many factors should be taken into account. These include not only the materiality of the total unallowable costs, but also the materiality of the refinements in determinations of unallowable costs which might be achieved through requiring detailed application of the Standard, as contrasted with negotiating the agreements authorized under the proposed paragraph (f) of § 405.50. The Board, accordingly, has revised the Standard to include an amended paragraph (c) which, "based upon considerations of materiality," permits agreements that will satisfy the purpose of the Standard. The Board believes that, in applying the materiality provision of the revised paragraph (c), consideration should be given to the criteria listed in the section titled "MATERIALITY" in the Board's March 1973 "Statement of Operating Policies, Procedures and Objectives."

9. *Improperly allocated costs.*—One commentator raised a question concerning the accounting treatment to be accorded costs which are disallowed because they are erroneously allocated to the contract under which they are claimed. The Board does not believe that the Standard needs to deal with accounting errors of this type. It is obvious that the accounting treatment to be accorded any item of cost should be determined by that cost's correct positioning in the cost accounting structure.

10. *Cost/benefit.*—Only limited comments were received on the subject of the implementation cost of the Standard, and several of these indicated only minimal impact. Of those claiming significant additional implementation expense, none provided any data as justification for the claim. The Board has concluded from its research that the Standard, as revised, constitutes a reasonable requirement, and that the costs of implementation will be minimal. The potential benefits to the audit and negotiation processes accruing from the increase in visibility and in uniformity of cost accounting treatment will be substantial and will greatly outweigh any added costs.

11. *Effective date and application.*—With respect to the date that this Standard becomes effective, it is anticipated that its provisions will be applicable to all solicitations issued on or after January 1, 1974, which are likely to lead to contracts covered by Standards, rules, and regulations of the Cost Accounting Standards Board.

There is also being published today an amendment to Part 400, Definitions, to incorporate in that part the words and phrases defined in § 405.30 of the Standard.

Sec.
405.10 General applicability.
405.20 Purpose.
405.30 Definitions.
405.40 Fundamental requirement.
405.50 Techniques for application.
405.60 Illustrations.
405.70 Exemptions.

AUTHORITY: The provisions of this Part 405 are issued under 84 Stat. 796, Sec. 103 (50 U.S.C. App. 2168).

### § 405.10 General applicability.

This Standard shall be used by defense contractors and subcontractors under Federal contracts entered into after the effective date hereof, and by all relevant Federal agencies, in estimating, accumulating, and reporting costs in connection with the pricing, administration, and settlement of all negotiated prime contract and subcontract national defense procurements with the United States in excess of $100,000, other than contracts or subcontracts where the price negotiated is based on (a) established catalog or market prices of commercial items sold in substantial quantities to the general public, or (b) prices set by law or regulation.

### § 405.20 Purpose.

(a) The purpose of this Cost Accounting Standard is to facilitate the negotiation, audit, administration and settlement of contracts by establishing guidelines covering: (1) Identification of costs specifically described as unallowable, at the time such costs first become defined or authoritatively designated as unallowable; and (2) the cost accounting treatment to be accorded such identified unallowable costs in order to promote the consistent application of sound cost accounting principles covering all incurred costs. The Standard is predicated on the proposition that costs incurred in carrying on the activities of an enterprise—regardless of the allowability of such costs under Government contracts—are allocable to the cost objectives with which they are identified on the basis of their beneficial or causal relationships.

(b) This Standard does not govern the allowability of costs. This is a function of the appropriate procurement or reviewing authority.

### § 405.30 Definitions.

(a) The following definitions of terms which are prominent in this Standard are reprinted from Part 400 of this chapter for convenience. Other terms which are used in this Standard and are defined in Part 400 of this chapter have the meanings ascribed to them in that part unless the text demands a different definition or the definition is modified in paragraph (b) of this section:

(1) *Directly associated cost.*—Any cost which is generated solely as a result of the incurrence of another cost, and which would not have been incurred had the other cost not been incurred.

(2) *Expressly unallowable cost.*—A particular item or type of cost which, under the express provisions of an applicable law, regulation, or contract, is specifically named and stated to be unallowable.

(3) *Indirect cost.*—Any cost not directly identified with a single final cost objective, but identified with two or more final cost objectives or with at least one intermediate cost objective.

(4) *Unallowable cost.*—Any cost which, under the provisions of any pertinent law, regulation, or contract, cannot be included in prices, cost reimbursements, or settlements under a Government contract to which it is allocable.

(b) The following modifications of definitions set forth is Part 400 of this chapter are applicable to this Standard: None.

### § 405.40 Fundamental requirement.

(a) Costs expressly unallowable or mutually agreed to be unallowable, including costs mutually agreed to be unallowable directly associated costs, shall be identified and excluded from any billing, claim, or proposal applicable to a Government contract.

(b) Costs which specifically become designated as unallowable as a result of a written decision furnished by a contracting officer pursuant to contract disputes procedures shall be identified if included in or used in the computation of any billing, claim, or proposal applicable to a Government contract. This identification requirement applies also to any costs incurred for the same purpose under like circumstances as the costs specifically identified as unallowable under either this paragraph or paragraph (a) above.

(c) Costs which, in a contracting officer's written decision furnished pursuant to contract disputes procedures, are designated as unallowable directly associated costs of unallowable costs covered by either (a) or (b) above shall be accorded the identification required by paragraph (b) above.

(d) The costs of any work project not contractually authorized, whether or not related to performance of a proposed or existing contract, shall be accounted for, to the extent appropriate, in a manner which permits ready separation from the costs of authorized work projects.

(e) All unallowable costs covered by paragraphs (a) through (d) above shall be subject to the same cost accounting principles governing cost allocability as allowable costs. In circumstances where these unallowable costs normally would be part of a regular indirect-cost allocation base or bases, they shall remain in such base or bases. Where a directly associated cost is part of a category of costs normally included in an indirect-cost pool that will be allocated over a base containing the unallowable cost with which it is associated, such a directly associated cost shall be retained in the indirect-cost pool and be allocated through the regular allocation process.

(f) Where the total of the allocable and otherwise allowable costs exceeds a limitation-of-cost or ceiling-price provision in a contract, full direct and indirect cost allocation shall be made to the contract cost objective, in accordance with established cost accounting practices and Standards which regularly govern a given entity's allocations to Government contract cost objectives. In any determination of unallowable cost overrun, the amount thereof shall be identified in terms of the excess of allowable costs over the ceiling amount, rather than through specific identification of particular cost items or cost elements.

### § 405.50 Techniques for application.

(a) The detail and depth of records required as backup support for proposals, billings, or claims shall be that which is adequate to establish and maintain visibility of identified unallowable costs (including directly associated costs), their accounting status in terms of their allocability to contract cost objectives, and the cost accounting treatment which has been accorded such costs. Adherence to this cost accounting principle does not require that allocation of unallowable costs to final cost objectives be made in the detailed cost accounting records. It does require that unallowable costs be given appropriate consideration in any cost accounting determinations governing the content of allocation bases used for distributing indirect costs to cost objectives. Unallowable costs involved in the determination of rates used for standard costs, or for indirect-cost bidding or billing, need be identified only at the time rates are proposed, established, revised, or adjusted.

(b) The visibility requirement of paragraph (a) above may be satisfied by any form of cost identification which is adequate for purposes of contract cost determination and verification. The Standard does not require such cost identification for purposes which are not relevant to the determination of Government contract cost. Thus, to provide visibility for incurred costs, acceptable alternative practices would include (1) the segregation of unallowable costs in separate accounts maintained for this purpose in the regular books of account, (2) the development and maintenance of separate accounting records or workpapers, or (3) the use of any less formal cost accounting techniques which establishes and maintains adequate cost identification to permit audit verification of the accounting recognition given unallowable costs. Contractors may satisfy the visibility requirements for estimated costs either (1) by designation and description (in backup data, workpapers, etc.) of the amounts and types of any unallowable costs which have specifically been identified and recognized in making the estimates, or (2) by description of any other estimating technique employed to provide appropriate recognition of any unallowable costs pertinent to the estimates.

(c) Specific identification of unallowable costs is not required in circumstances where, based upon considerations of materiality, the Government and the contractor reach agreement on an alternate method that satisfies the purpose of the Standard.

### § 405.60 Illustrations.

(a) An auditor recommends disallowance of certain direct labor and direct material costs, for which a billing has been submitted under a contract, on the basis that these particular costs were not required for performance and were not authorized by the contract. The contracting officer issues a written decision which supports the auditor's position that the questioned costs are unallowable. Following receipt of the contracting officer's decision, the contractor must clearly identify the disallowed direct labor and direct material costs in his accounting records and reports covering any subsequent submission which includes such costs. Also, if the contractor's base for allocation of any indirect cost pool relevant to the subject contract consists of direct labor, direct material, total prime cost, total cost input, etc., he must include the disallowed direct labor and material costs in his allocation base for such pool. Had the contracting officer's decision been against the auditor, the contractor would not, of course, have been required to account separately for the costs questioned by the auditor.

(b) A contractor incurs, and separately identifies, as a part of his manufacturing overhead, certain costs which are expressly unallowable under the existing and currently effective regulations. If manufacturing overhead is regularly a part of the contractor's base for allocation of general and administrative (G&A) or other indirect expenses, the contractor must allocate the G&A or other indirect expenses to contracts and other final cost objectives by means of a base which includes the identified unallowable manufacturing overhead costs.

(c) An auditor recommends disallowance of the total direct indirect costs attributable to an organizational planning activity. The contractor claims that the total of these activity costs are allowable under the Armed Services Procurement Regulation as "Economic Planning Costs" (ASPR 15-205.47); the auditor contends that they constitute "Organization Costs" (ASPR 15-205.23) and therefore are unallowable. The issue is referred to the contracting officer for resolution pursuant to the contract disputes clause. The contracting officer issues a written decision supporting the auditor's position that the total costs questioned are unallowable under the Regulation. Following receipt of the contracting officer's decision, the contractor must identify the disallowed costs and specific other costs incurred for the same purpose in like circumstances in any subsequent estimating, cost accumulation or reporting for Government contracts, in which such costs are included. If the contracting officer's decision had supported the contractor's contention, the costs questioned by the auditor would have been allowable "Economic Planning Costs," and the contractor would not have been required to provide special identification.

(d) A defense contractor was engaged in a program of expansion and diversification of corporate activities. This in-







V 38 172 SEP 6 73 XUM

volved internal corporate reorganization, as well as mergers and acquisitions. All costs of this activity were charged by the contractor as corporate or segment general and administrative (G&A) expense. In the contractor's proposals for final Segment G&A rates (including corporate home office allocations) to be applied in determining allowable costs of its defense contracts subject to section XV, Part 2, of the Armed Services Procurement Regulation, the contractor identified and excluded the expressly unallowable costs (as listed in ASPR 15-205.23) incurred for incorporation fees and for charges for special services of outside attorneys, accountants, promoters, and consultants. In addition, during the course of negotiation of interim bidding and billing G&A rates, the contractor agreed to classify as unallowable various in-house costs incurred for the expansion program, and various directly associated costs of the identifiable unallowable costs. On the basis of negotiations and agreements between the contractor and the contracting officers' authorized representatives, interim G&A rates were established, based on the net balance of allowable G&A costs. Application of the rates negotiated to proposals, and on an interim basis to billings, for covered contracts constitutes compliance with the Standard.

(e) An official of a company, whose salary, travel, and subsistence expenses are charged regularly as general and administrative (G&A) expenses, takes several business associates on what is clearly a business entertainment trip. The entertainment costs of such trips is expressly unallowable because it constitutes entertainment expense, and is separately identified by the contractor. The contractor does not regularly include his G&A expenses in any indirect-expense allocation base. In these circumstances, the official's travel and subsistence expenses would be directly associated costs for identification with the unallowable entertainment expense. However, unless this type of activity constituted a significant part of the official's regular duties and responsibilities on which his salary was based, no part of the official's salary would be required to be identified as a directly associated cost of the unallowable entertainment expense.

**§ 405.70 Exemptions.**

None for this Standard.

*Effective date.*—The effective date of this Standard is reserved.

ARTHUR SCHOENHAUT,
*Executive Secretary.*

[FR Doc.73-18679 Filed 9-5-73;8:45 am]

## Title 12—Banks and Banking

## CHAPTER V—FEDERAL HOME LOAN BANK BOARD

### SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[No. 73-1151]

### PART 545—OPERATIONS

#### Additional Activities for Service Corporations

AUGUST 15, 1973.

The Federal Home Loan Bank Board, by Resolution No. 72-1555, dated December 26, 1972, proposed to amend § 545.9-1 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR Part 545) for the purpose of preapproving certain new activities for service corporations. Notice of such proposed rulemaking was duly published in the FEDERAL REGISTER on January 5, 1973 (37 FR 891-2), with an invitation for interested persons to submit written comments by January 31, 1973.

On the basis of its consideration of all relevant material presented by interested persons and otherwise available, the Board considers it desirable to adopt the proposed amendments with the changes discussed herein. The Board also considers it desirable to further amend § 545.9-1 in several other respects.

The amendments to § 545.9-1(a)(4) and (b)(2) which are adopted based upon the proposal in Resolution No. 72-1555 permit service corporations in which Federal savings and loan associations may invest to act as trustees under deeds of trust, escrow agents, and agents or brokers for title insurance companies. Such service corporations are also permitted to invest in one or more savings accounts of FSLIC-insured institutions owning stock in such service corporations. However, these amendments differ from the proposal in two respects. First, the proposal would have permitted such service corporations to act as trustees under deeds of trust, escrow agents and agents or brokers for title insurance companies only if these activities were either established as de novo organizations or acquired as going businesses for no consideration. On further consideration, the Board believes that these conditions are unnecessary and therefore rejects them. Second, the proposal would have permitted type "a" service corporations (that is, those which comply with the terms of § 545.9-1(a)) to own title insurance companies. The Board rejects this portion of the proposal because there appears to be no substantial interest in this activity.

In addition to adopting amendments based upon the above-mentioned proposal, the Board amends § 545.9-1 in several other respects. First, subdivision (i) of § 545.9-1 is revised to list thereunder in subdivisions (*a*) through (*d*) the types of loans which Federal association service corporations may originate, purchase, sell and service. This change requires appropriate renumbering of other subdivisions of § 545.9-1(a)(4). Second, under said subdivision (*a*), service corporations may make real estate loans secured by other than first liens. Before this amendment, real estate loans were required to be secured by first liens. Real estate loans may be made now on a prudent basis.

Third, subdivision (c) of § 545.9-1(a)(4)(i) permits Federal association service corporations to originate, purchase, sell and service "loans, with or without security, for the altering, repairing, improving, equipping or furnishing of any residential real estate".

Fourth, the introductory clause of § 545.9-1(a)(4), subdivision (xiii) (now subdivision (xii)) of § 545.9-1(a)(4) and § 545.9-1(b)(2) are amended to permit Federal associations to engage in any "preapproved" activity (that is, those activities specified in § 545.9-1(a)(4)) through a joint venture without prior Board approval. However, approval of the Board will continue to be required before any type "b-2" service corporation (generally, one which is wholly-owned by a Federal association; see § 545.9-1(b)(3)(ii)) performs any activity through a joint venture if a director, officer or controlling person of any savings and loan association owning any of the service corporation's stock has any direct or indirect beneficial interest in the joint venture. This is accomplished by adding a new subdivision (iii) to § 545.9-1(b)(3). Also, subdivision (x) of § 545.9-1(a)(4), which had provided preapproval for certain limited types of service corporation joint ventures, is revoked because it was not as broad in scope as the joint venture preapproval adopted herein.

Fifth, § 545.9-1(a)(4)(xiii) and (b)(2) are amended to state that the Board will not approve any additional service corporation activity on a case-by-case basis unless such activity is "reasonably related to the activities of Federal savings and loan associations". This amendment states the Board's past and present policy on this matter and is intended to reduce the number of applications filed by deterring those involving non-related activities which in any case would not be approved.

Accordingly, the Federal Home Loan Bank Board hereby amends said § 545.9-1 by revising paragraphs (a)(4) and (b)(2) thereof and by adding a new subdivision (iii) to paragraph (b)(3) thereof to read as set forth below, effective September 6, 1973.

Since all of these amendments to § 545.9-1 either were afforded public comment, relieve restriction or set forth existing Board policy, the Board hereby finds that notice and public procedure with respect to said amendments are unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and since publication of said amendments for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of said amendments would in the opinion of the Board likewise be unnecessary for the same reasons, the Board hereby provides that said amendments shall become effective as hereinbefore set forth.

**§ 545.9-1 Service corporations.**

(a) *General service corporations.*—Subject to the provisions of this section, a Federal association which has a charter in the form of Charter N or Charter K (rev.) may invest in the capital stock, obligations, or other securities of any service corporation organized under the laws of the State, District, Commonwealth, territory, or possession in which the home office of such association is located if:

* * * * * *

(4) Substantially all of the activities of such service corporation, performed directly or through one or more wholly-owned subsidiaries or joint ventures, consist of one or more of the following:

(i) Originating, purchasing, selling, and servicing any of the following:

(*a*) Loans, and participations in loans, on a prudent basis and secured by real estate, including brokerage and warehousing of such real estate loans;

(*b*) Loans, and participations in loans, secured by first liens upon mobile homes, including brokerage and warehousing of such mobile home loans;

(*c*) Loans, with or without security, for the altering, repairing, improving, equipping or furnishing of any residential real estate; and

(*d*) Educational loans;

(ii) Making any of the following kinds of investments:

(*a*) An investment of the types specified in § 545.9 or § 545.9-3; or

(*b*) An investment in a savings account or accounts in any insured institution (as defined in § 561.1 of this chapter) which is a stockholder in such service corporation, if such service corporation does not receive any consideration, other than interest at the current market rate, in connection with opening or maintaining any savings account in such insured institution;

(iii) Performing the following services, primarily for savings and loan associations with home offices in the same State, District, Commonwealth, territory, or possession:

(*a*) Clerical services, accounting, data processing, and internal auditing;

(*b*) Credit information, appraising, construction loan inspection, and abstracting;

(*c*) Development and administration of personnel benefit programs, including life insurance, health insurance, and pension or retirement plans;

(*d*) Research, studies, and surveys;

(*e*) Purchasing of office supplies, furniture, and equipment;

(*f*) Development and operation of storage facilities for microfilm or other duplicate records;

(*g*) Advertising and other services to procure and retain both savings accounts and loans;

(iv) Acquisition of unimproved real estate lots, and other unimproved real estate for the purpose of prompt development and subdivision, principally for construction of housing or for resale to others for such construction, or for use as mobile home sites;

(v) Development and subdivision of, and construction of improvements (including improvements to be used for commercial or community purposes, when incidental to a housing project) for sale or for rental on, real estate referred to in subdivision (iv) of this subparagraph;

(vi) Acquisition of improved residential real estate and mobile homes to be held for rental;

(vii) Acquisition of improved residential real estate for remodeling, rehabilitation, modernization, renovation, or demolition and rebuilding for sale or for rental;

(viii) Maintenance and management of rental real estate referred to in subdivisions (v), (vi), and (vii) of this subparagraph, and any real estate owned by holders of its capital stock;

(ix) Serving as insurance broker or agent, primarily dealing in policies for savings and loan associations, their borrowers and accountholders, which provide protection such as home owners', fire, theft, automobile, life, health, accident, and title but excluding private mortgage insurance;

(x) Serving in the capacity of trustee under deeds of trust or escrow agent;

(xi) Activities reasonably incidental to the activities described in the foregoing subdivisions of this subparagraph (4); and

(xii) Such other activities reasonably related to the activities of Federal savings and loan associations as the Board may approve on application therefor by any such service corporation or otherwise.

(b) *Other service corporations.*—In addition to investment in a service corporation which meets the requirements of paragraph (a) of this section, a Federal association which has a charter in the form of Charter N or Charter K (rev.) may invest in the capital stock, obligations, or other securities of any service corporation organized under the laws of the State, District, Commonwealth, territory, or possession in which the home office of the association is located if:

* * * * * *

(2) The activities of such corporation, performed directly or through one or more wholly-owned subsidiaries or joint ventures, consist solely of one or more of the activities specified in subdivisions (i) through (xi) of paragraph (a)(4) of this section, and such other activities reasonably related to the activities of Federal savings and loan associations as the Board may approve upon application therefor by such corporation or otherwise; and

(3) The following limitations are complied with:

* * * * * *

(iii) In the case of a service corporation of the type described in subdivision (ii) above, the approval of the Board is required before any activity of such service corporation is performed through one or more joint ventures if a director, officer or controlling person of any savings and loan association owning any of such service corporation's capital stock has a direct or indirect beneficial interest in the joint venture.

* * * * * *

(Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464) Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
*Assistant Secretary.*

[FR Doc.73-18837 Filed 9-5-73;8:45 am]

[No. 73-1243]

### PART 546—MERGER, DISSOLUTION, REORGANIZATION, AND CONVERSION

#### Mutual to Stock Conversions

AUGUST 27, 1973.

The third unnumbered paragraph of section 5(i) of the Home Owners' Loan Act of 1933, as amended (12 U.S.C. 1464(i)), among other things, authorizes Federal mutual savings and loan associations to convert to the stock form upon an equitable basis and subject to the approval by regulations or otherwise of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation (the "Corporation" or "FSLIC"). This authority has been implemented by § 546.5 of the Board's rules and regulations for the Federal Savings and Loan System (12 CFR 546.5). Under Title IV of the National Housing Act, as amended (12 U.S.C. 1724 et seq.) the Board, as operating head of the Federal Savings and Loan Insurance Corporation, has authority to regulate any such conversion involving a State-chartered association whose accounts are insured by the Corporation. This authority has been implemented by § 563.22-1 of the rules and regulations for Insurance of Accounts (12 CFR 563.22-1), whose requirements are substantially similar to those of § 546.5.

Since December 5, 1963, the Board has maintained a moratorium on conversions of all FSLIC-insured institutions, both Federally chartered and State chartered, from the mutual to stock form. Hence, since that date §§ 546.5 and 563.22-1 have been without substantive effect. In addition, the Board has long been of the view that §§ 546.5 and 563.22-1 are totally inadequate to govern mutual to stock conversions and prescribe standards for such conversions, which, if generally followed, would produce seriously improper results. On January 3, 1973 the Board proposed to revoke §§ 546.5 and 563.22-1 and to adopt a new Part 563b of the rules and regulations for Insurance of Accounts, designed to govern mutual to stock conversions by both Federally chartered and State chartered FSLIC-insured associations. On March 9, 1973 the Board briefly extended the comment period on its January 3 proposals and







V 38 I 172 SEP 6 73 XUM

announced that the Board intended to issue revised proposed regulations.

On August 16, 1973, the President signed into law Pub. L. 93–100, section 4 of which added a new subsection (j) to section 402 of the National Housing Act, as amended (12 U.S.C. 1725). New subsection (j) provides as follows:

(j)(1) Except as provided in paragraph (2), until June 30, 1974, the Corporation shall not approve, under regulations adopted pursuant to this title or section 5 of the Home Owners' Loan Act of 1933, by order or otherwise, a conversion from the mutual to the stock form of organization involving or to involve an insured institution, including approval of any application for such conversion pending on the date of enactment of this subsection, except that this sentence shall not be deemed to limit now or hereafter the authority of the Corporation to approve conversions in supervisory cases. The Corporation may by rule, regulation, or otherwise and under such civil penalties (which shall be cumulative to any other remedies) as it may prescribe take whatever action it deems necessary or appropriate to implement or enforce this subsection.

(2) After December 31, 1973, the Corporation may approve any study application filed prior to May 22, 1973, pursuant to regulations in effect and adopted pursuant to this title or section 5 of the Home Owners' Loan Act of 1933.

In a companion resolution, Resolution No. 73–1244, dated August 27, 1973, the Board revises, effective August 27, 1973, § 563.22–1 so that it is a temporary regulation designed to implement said section 402(j). The preamble to said companion Resolution No. 73–1244 is incorporated herein by reference and explains in greater detail the nature of the Board's action and states in general terms the Board's future plans with respect to further revisions of, and final adoption of, proposed Part 563b.

Accordingly, the Federal Home Loan Bank Board hereby revises said § 546.5 to read as set forth below, effective August 27, 1973.

Since the above amendment consists of a temporary regulation to implement the provisions of the new section 402(j) of the National Housing Act, as amended, the Board hereby finds that notice and public procedure thereon are unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b). The Board hereby finds, for the same reason, that publication of the amendment for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date thereof is also unnecessary. Accordingly, the Board hereby provides that the amendment shall become effective as hereinbefore set forth.

**§ 546.5 Conversion from Federal to State charter under the last paragraph of subsection (i) of section 5 of the Home Owners' Loan Act.**

(a) Except as provided in paragraph (b) of this section, no Federal association may convert from the mutual to the stock form of organization without the approval of the Board and the Federal Savings and Loan Insurance Corporation, and until June 30, 1974, the Board and the Corporation shall not grant such approval, except that this section shall not limit the authority of the Board and the Corporation to approve conversions in supervisory cases as determined by the Board.

(b) After December 31, 1973, the Board and the Corporation may approve any study application to convert pursuant to regulations then in effect and adopted pursuant to Title IV of the National Housing Act, as amended, or section 5 of the Home Owners' Loan Act of 1933, as amended.

(c) A violation of paragraph (a) of this section by a Federal association shall render the association liable for those civil penalties applicable to it as an insured institution prescribed in § 563.22–1 (c) of this chapter (which penalties shall be cumulative to any other available actions and remedies).

(d) As used in this section, the terms "convert" and "study application" shall have the same meanings as those given to such terms in § 563.22–1 of this chapter.

(Sec. 4, P.L. 93–100, August 16, 1973; sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943–48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
*Assistant Secretary.*

[FR Doc.73-18835 Filed 9-5-73;8:45 am]

## SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

[No. 73-1244]

## PART 563—OPERATIONS

### Mutual to Stock Conversions

AUGUST 27, 1973.

The third unnumbered paragraph of section 5(i) of the Home Owner's Loan Act of 1933, as amended (12 U.S.C. 1464 (i)), among other things, authorizes Federal mutual savings and loan associations to convert to the stock form upon an equitable basis and subject to the approval by regulations or otherwise of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation (the "Corporation" or "FSLIC"). This authority has been implemented by § 546.5 of the Board's rules and regulations for the Federal Savings and Loan System (12 CFR 546.5). Under Title IV of the National Housing Act, as amended (12 U.S.C. 1724 et seq.) the Board, as operating head of the Federal Savings and Loan Insurance Corporation, has authority to regulate any such conversion involving a State-chartered association whose accounts are insured by the Corporation. This authority has been implemented by § 563.22–1 of the rules and regulations for Insurance of Accounts (12 CFR 563.22–1), whose requirements are substantially similar to those of § 546.5.

Since December 5, 1963, the Board has maintained a moratorium on conversions of all FSLIC-insured institutions, both Federally chartered and State chartered, from the mutual to stock form. Hence, since that date §§ 546.5 and 563.22–1 have been without substantive effect. In addition, the Board has long been of the view that §§ 546.5 and 563.22–1 are totally inadequate to govern mutual to stock conversions and prescribe standards for such conversions, which, if generally followed, would produce seriously improper results. On January 3, 1973 the Board proposed to revoke §§ 546.5 and 563.22–1 and to adopt a new Part 563b of the rules and regulations for Insurance of Accounts, designed to govern mutual to stock conversions by both Federally chartered and State chartered FSLIC-insured associations. On March 9, 1973, the Board briefly extended the comment period on its January 3 proposals and announced that the Board intended to issue revised proposed regulations.

On August 16, 1973, the President signed into law Pub. L. 93–100, section 4 of which added a new subsection (j) to section 402 of the National Housing Act, as amended (12 U.S.C. 1725). New subsection (j) provides as follows:

(j)(1) Except as provided in paragraph (2), until June 30, 1974, the Corporation shall not approve, under regulations adopted pursuant to this title or section 5 of the Home Owners' Loan Act of 1933, by order or otherwise, a conversion from the mutual to the stock form of organization involving or to involve an insured institution, including approval of any application for such conversion pending on the date of enactment of this subsection, except that this sentence shall not be deemed to limit now or hereafter the authority of the Corporation to approve conversions in supervisory cases. The Corporation may by rule, regulation, or otherwise and under such civil penalties (which shall be cumulative to any other remedies) as it may prescribe take whatever action it deems necessary or appropriate to implement or enforce this subsection.

(2) After December 31, 1973, the Corporation may approve any study application filed prior to May 22, 1973, pursuant to regulations in effect and adopted pursuant to this title or section 5 of the Home Owners' Loan Act of 1933.

In a companion resolution, Resolution No. 73–1243, dated August 27, 1973, the Board revises § 546.5 so that it is a temporary regulation designed to implement said section 402(j). For the same purpose, the Board hereby revises said §563.22–1 to read as set forth below, effective August 27, 1973.

The purpose of this preamble is twofold: to explain in greater detail the nature of the Board's actions as described in the previous paragraph and to state in general terms the Board's future plans with respect to further revisions of, and final adoption of, proposed Part 563b. The preamble to the companion resolution will consist of a cross-reference to this preamble.

In general terms, section 402(j) imposes two statutory moratoria on mutual to stock conversions involving or to involve any institution whose accounts are insured by the FSLIC (with the exception of supervisory cases). The one moratorium extends through December 31, 1973, and applies to certain study applications. The other mortatorium extends until June 30, 1974, and applies to all other mutual to stock conversions within the Board's jurisdiction. Section 402(j) explicitly recognizes the Board's jurisdiction, as operating head of the FSLIC, over all mutual to stock conversions involving or to involve any insured institution.

The longer moratorium contained in section 402(j)(1) is implemented by paragraph (a) in both new § 546.5 and new § 563.22–1. The shorter moratorium contained in section 402(j)(2) is implemented by paragraph (b) in both new § 546.5 and new § 563.22–1.

The authority to impose civil penalties, which was granted to the Corporation by the second sentence of section 402(j)(1), is implemented by paragraph (c) in both new § 546.5 and new § 563.22–1. The full meaning of the former paragraph (c) is specified by reference to the latter paragraph (c).

Paragraph (d) of § 546.5 and paragraphs (d) and (e) of § 563.22–1 contain definitions of terms. Such paragraphs are adopted pursuant to the grant of implementing and enforcement authority contained in the second sentence of section 402(j)(1) and pursuant to existing authority under section 5(a) of the Home Owners' Loan Act of 1933 and section 402(a) of Title IV of the National Housing Act. The term "study application" is defined by paragraph (c) of § 563.22–1 to refer solely to the five study applications filed with the Board and the Corporation between July 26, 1972, and September 22, 1972. The term "convert" is defined by paragraph (d) of § 563.22–1. However, certain prohibited activities included within the term may occur if authorized in writing by the Corporation.

The Board received a very heavy volume of public comment on its January 3, 1973, proposals during and following the comment period thereon. On March 12 and 13, 1973, two days of public hearings were held on the proposals, resulting in an 800 page transcript. During May 1973 extensive testimony on the subject of conversions was taken by the Subcommittee on Bank Supervision and Insurance of the House Committee on Banking and Currency. Then Acting Board Chairman Kamp testified at those hearings and the Board presented lengthy written materials to the Subcommittee both during and following the hearings.

Following a review of the views and information obtained and produced as a result of the activities described above and otherwise available, the Board directed the preparation of a comprehensive, in-depth analysis of the basic issues involved in mutual to stock conversion plans, along with a full description of the advantages and disadvantages of all options open to the Board. This further analysis was designed to ensure that all significant aspects of the information available to the Board were taken into full account. Following careful consideration of the analysis presented, the Board has reached a number of determinations. With respect to the timing of the Board's future actions in the area of mutual to stock conversions, the Board presently intends to adhere to the following schedule.

1. By the latter part of October 1973 the staff is to present to the Board a draft of revised proposed conversion regulations.

2. By mid-November 1973 revised proposed conversion regulations are to be published in the FEDERAL REGISTER with a comment period ending December 31, 1973.

3. Subsequent to such publication the five study applicants will be able to revise their applications on the basis of the revised proposed regulations and to file such revised applications with the Board which will process them to the extent practicable consistent with preparation of final conversion regulations.

4. By approximately January 31, 1974, final conversion regulations are expected to be adopted.

5. Between the date of adoption of final conversion regulations and June 30, 1974, preliminary and final approval may be given to any revised conversion applications received from study applicants, if appropriate.

6. During such period, other applicants may file conversion applications which may, in the Board's discretion and subject to the limitations of its resources, be processed and to which preliminary approval may be given, if appropriate. Following June 30, 1974, final approval may be given to these other applications, if appropriate.

7. Following June 30, 1974, further applications received will be processed in accordance with regulations then in effect.

With respect to the substance of the revised proposed regulations, the Board's principal determination is that they must contain substantially greater disincentives to shifts of funds among associations and other financial institutions than were contained in the January 3, 1973, proposals. The Board has come to the view that, in today's economic, technological and social environment, the financial and managerial stability of the system of FSLIC insured institutions will be unacceptably threatened unless the so-called "windfall" aspect of mutual to stock conversions is virtually eliminated. The Board acts as the exclusive chartering, supervisory and insuring authority for all Federal savings and loan associations and as the exclusive insuring authority for State chartered associations holding most of the assets of such associations. In those capacities the Board has a weighty statutory responsibility regarding the stability, safety and soundness of the system of FSLIC insured institutions and must give great emphasis to these factors in determining the equity of conversion standards, controls and procedures to be effective on a national basis.

Further, the Board is concerned that a conversion involving a "windfall" distribution of capital stock to accountholders without payment would subject associations preferring to remain mutual to excessive pressure to convert without proper regard to whether a conversion of a particular association will better able it to serve the thrift and home financing needs of its community. It is of major concern to the Board that the act of conversion be a matter of free choice and that any conversion regulation not contain provisions whose effect might be to force an association to convert regardless of considerations of public or economic benefit.

In order to avoid these and other problems, the Board presently intends to issue revised proposed regulations requiring that all eligible accountholders as of a distribution record date have an opportunity on a pro rata basis to purchase all the capital stock of the converting institution at its full pro forma market value (less any underwriting discounts or commissions); that those eligible accountholders who do not purchase will not receive any distribution of capital stock or cash; and that the capital stock not purchased must be sold to the public, who may include accountholders, borrowers and management of the converting association. The requirement that the converting association receive the proceeds from the sale of its stock will not be altered in the case of conversion by way of merger or holding company acquisition.

Further, the Board presently intends that the revised proposed regulations will require that the net worth of the converting association as of the date of conversion will be reserved on its books (with no subsequent additions thereto) for the benefit of its accountholders as of the date of conversion payable only in the event of a subsequent full liquidation of the converted association. As those accountholders close their accounts subsequent to conversion, the amount of this reserve account will be reduced pro tanto on the books of the converted association until the reserve account eventually terminates. Such interests in this reserve account would not be affected by any subsequent merger involving the converted association.

It is also intended that the system of time averaging and the treatment of predecessor accounts in the January 3, 1973, proposals will be substantially simplified. An additional intended change would permit plans of conversion to be approved by a vote of a majority of the eligible outstanding votes, unless State law requires a higher percentage.

A further advantage of the above described provisions is that they would directly foster a significant influx of capital into savings and loan associations. This will strengthen the converted associations and will also provide them with an additional source of future capital which can be used to help satisfy the pressing home financing needs of the Nation.

Since the above amendment consists of a temporary regulation to implement the provisions of the new section 402(j) of the National Housing Act, as amended, the Board hereby finds that notice and







V 38 I 172 SEP 6 73 XUM

public procedure thereon are unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b). The Board hereby finds, for the same reason, that publication of the amendment for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date thereof is also unnecessary. Accordingly, the Board hereby provides that the amendment shall become effective as hereinbefore set forth.

**§ 563.22–1 Change of State-chartered mutual institution to a guaranty or permanent stock type institution.**

(a) Except as provided in paragraph (b) of this section, no insured institution may convert from the mutual to the stock form of organization without the approval of the Corporation, and until June 30, 1974, the Corporation shall not grant such approval, except that this section shall not limit the authority of the Corporation to approve conversions in supervisory cases as determined by the Corporation.

(b) After December 31, 1973, the Corporation may approve any study application to convert pursuant to regulations then in effect and adopted pursuant to Title IV of the National Housing Act, as amended, or section 5 of the Home Owners' Loan Act of 1933, as amended.

(c) A violation of paragraph (a) of this section by an insured institution shall render the insured institution liable for a civil penalty not exceeding one thousand dollars (which penalty shall be cumulative to any action or remedy otherwise available to the Corporation) per day for each day that the insured institution is in violation of paragraph (a) of this section which penalty the Corporation may recover by suit or otherwise for its own use.

(d) As used in this section and in § 546.5 of this chapter, the term "convert" includes, but is not limited to, any of the following activities except to the extent that such activities may be authorized in writing by the Corporation:

(1) Adopting a plan of conversion by an insured institution's board of directors or giving public notice by press release, direct mailing or in any other matter that such board of directors intends to adopt a plan of conversion;

(2) Submitting a plan of conversion by means of a notice of meeting, proxy statement or otherwise to the members of an insured institution;

(3) Holding a meeting of the members of an insured institution to obtain a vote upon a plan of conversion; or

(4) Issuing, offering, selling, distributing, exchanging, or accepting payment for capital stock of an insured institution in order to effect a conversion of the insured institution from the mutual to the stock form of organization, whether directly or indirectly or through a merger or acquisition.

(e) As used in this section and in § 546.5 of this chapter, the term "study application" means the 5 study applications filed after the Board's announcement of July 26, 1972, that it would accept study applications to obtain additional information relevant to the possible termination of its "moratorium" on conversions and before the Board's Resolution No. 72–1112 of September 22, 1972, stating that the Board would not accept further study applications under its announcement of July 26, 1972.

(Secs. 4, P.L. 93–100, August 16, 1973; secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended, 12 U.S.C. 1725, 1726, 1730); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,

[FR Doc.73–18836 Filed 9–5–73;8:45 am]

## Title 14—Aeronautics and Space

### CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 73–GL–29]

### PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

#### Designation of Control Zone and Alteration of Transition Area

On page 16080 of the FEDERAL REGISTER dated June 20, 1973, the Federal Aviation Administration published a notice of proposed rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a control zone and alter the transition area at East St. Louis, Illinois.

Interested persons were given 30 days to submit written comments, suggestions or objections regarding the proposed amendment.

No objections have been received and the amendment as so proposed is hereby adopted as set forth:

In § 71.171 (38 FR 351), the following control zone is added:

EAST ST. LOUIS, ILL.

Within a 5-mile radius of the BI State Parks Airport (latitude 38°34'30'' N., longitude 90°10'00'' W.) and within 3 miles each side of the 129° bearing from the airport extending from the 5-mile-radius area to 8 miles southeast. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

In § 71.181 (38 FR 435), the following transition area is amended to read:

EAST ST. LOUIS, ILL.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the BI State Parks Airport (latitude 38°34'30'' N., longitude 90°10'00'' W.) and within 3 miles each side of the 129°bearing from the airport extending from the 7-mile radius area to 8 miles southeast.

This amendment shall be effective 0901 G.m.t., October 11, 1973.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act, (49 U.S.C. 1655(c).)

Issued in Des Plaines, Ill., on August 8, 1973.

R. O. ZIEGLER,
*Acting Director,*
*Great Lakes Region.*

[FR Doc.73–18795 Filed 9–5–73;8:45 am]

[Airspace Docket No. 73–NW–07]

### PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

#### Alteration of Transition Area

On July 20, 1973, a notice of proposed rulemaking was published in the FEDERAL REGISTER (38 FR 19414) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of the Eugene, Oregon, Transition Area.

Interested persons were given thirty days in which to submit written data, views, or arguments. No objections were received and the proposed amendment is hereby adopted without change.

*Effective date.*—This amendment shall be effective 0901 G.m.t., November 8, 1973.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c).)

Issued in Seattle, Wash., on August 27, 1973.

C. B. WALK, JR.,
*Director, Northwest Region.*

In § 71.181 (38 FR 435) the description of the Eugene, Oregon, Transition Area is amended to read as follows:

EUGENE, OREGON

That airspace extending upward from 700' above the surface within 2-miles east and 10-miles west of the Eugene VORTAC 007° radial, extending from the VORTAC to 14-miles north; within 2-miles southeast and 3-miles northwest of the Eugene VORTAC 030° radial, extending from the VORTAC to 13-miles northeast; that airspace south of Eugene bounded on the east by a line 4.5 miles east of and parallel to the Eugene VORTAC 172° radial, on the south by an arc of a 21-mile radius circle centered on the Eugene VORTAC, on the west by a line 5-miles northwest of and parallel to the Eugene VORTAC 224° radial; within 2-miles each side of the Eugene VORTAC 272° radial extending from the VORTAC to 12-miles west; that airspace extending upward from 1200-feet above the surface, east of Eugene bounded on the north by V–121; on the east by Longitude 123°01'00'' W, on the southeast by V–452; that airspace northeast of Eugene, bounded on the north by V–536, on the south by V–121 and on the west by V–23E.

[FR Doc.73–18794 Filed 9–5–73;8:45 am]

[Airspace Docket No. 73–WA–38]

### PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

#### Change of Area High Route Waypoint Names

The purpose of this amendment to Part 75 of the Federal Aviation Regulations is to change certain waypoint names to five-letter words.

To simplify the coding system for area navigation (RNAV) waypoints, the Federal Aviation Administration (FAA) is assigning five-letter names to all waypoints not collocated with the navigation facility. These same five letters will serve as the waypoint name, location identifier and computer code. To ease the additional workload caused by the large number of name changes, these changes have been divided into four groups, each located in a different section of the United States, and each becoming effective on a different charting date.

Since the identifying names of waypoints is a minor matter upon which the public is not particularly interested, notice and public procedure thereon are unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, this amendment will become effective more than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, as hereinafter set forth.

Section 75.400 (37 FR 22974, 23330, 23631, 24419, 24894, 26003, 26709, 38 FR 700, 1625, 1924, 3589, 4710, 6990, 12904, 13368, 14271, 14272, 15364, 19815) is amended as follows:

Wherever waypoint names appear in the designation of area high routes, they are amended as specified and on the effective date as specified.

Effective 0902 G.m.t., November 8, 1973:

"Reptile, Fla." to "Reply"; "Hialeah, Fla." to "Hight"; "Barford, Fla." to "Barca"; "Andy, Fla." to "Andre"; "Ponte Verdra, Fla." to "Ponte"; "Apopka, Fla." to "Aport"; "Archer, Fla." to "Archi"; "Peninsula, Fla." to "Penny"; "Sailfish, Fla." to "Sails"; "Tarpon, Fla." to "Tarpo"; "Chester, Fla." to "Chest"; "Bay, Fla." to "Babys"; "Darby, Fla." to "Darbs"; "Gateway, Fla." to "Gauge"; "Halibut, Fla." to "Halbi"; "Neptune, Fla." to "Nepta"; "Pike, Fla." to "Pinks"; "Shand, Fla." to "Shave"; "Bonefish, Fla." to "Bondi";

"Bremen, Ga." to "Breme"; "Social Circle, Ga." to "Socle"; "Canton, Ga." to "Cante"; "Oliver, Ga." to "Olive"; "Amsterdam, Ga." to "Amour"; "Kenwood, Ga." to "Kenny"; "Russell, Ga." to "Rushy"; "Mauk, Ga." to "Mauks"; "Lanier, Ga." to "Lands"; "Sinclair, Ga." to "Sinca"; "Springfield, Ga." to "Spong"; "Texas, Ga." to "Taxii"; "Stone Mountain, Ga." to "Stone";

"Fort Payne, Ala." to "Payne"; "Iron Mountain, Ala." to "Irony";

"Gilbert, S.C." to "Giles"; "Irmo, S.C." to "Irmos"; "Gramling, S.C." to "Grams"; "Society, S.C." to "Soche"; "Ritter, S.C." to "Rites"; "Azalea, S.C." to "Azana"; "Badger, S.C." to "Baggy"; "Shining Rock, S.C." to "Shine";





"Lincolnton, N.C." to "Linco"; "Semora, N.C." to "Semlo"; "Beech Mountain, N.C." to "Beech"; "Surf City, N.C." to "Surfy"; "Clarkton, N.C." to "Clark";

"Red Banks, Miss." to "Banks";

"Duck River, Tenn." to "Ducks"; "Ashport, Tenn." to "Ashop"; "Elmwood, Tenn." to "Elman":

Effective 0901 G.m.t., December 6, 1973:

"Tightwad, Mo." to "Tight"; "Hawk, Mo." to "Hawks"; "Bogard, Mo." to "Bogie"; "West Plaines, Mo." to "Wests"; "Redfield, Mo." to "Field"; "Sprott, Mo." to "Sprot"; "Lawson, Mo" to "Lasso";

"Waldron, Ark." "Waldo"; "Birdeye, Ark." to "Birle"; "Horatio, Ark." to "Horeb";

"Kenner, La." to "Kenna"; "Montpelier, La." to "Monza"; "Gueydan, La." to "Guest"; "Burkeville, La." to "Burke";

"Refinery, Tex." to "Refix"; "Tenaha, Tex." to "Tenna"; "Maryneal, Tex." to "Marne"; "Canadian, Tex." to "Canas"; "Telegraph, Tex." to "Tella"; "Plains, Tex." to "Plain"; "Rochester, Tex." to "Rocks"; "Crowell, Tex." to "Crows"; "Hye, Tex." to "Hyeto"; "Yantis, Tex." to "Yanti"; "Diversion, Tex." to "Diver";

"Kay, Okla." to "Kayes"; "Tangier, Okla." to "Tangy";

"Dresden, Kans." to "Dress"; "Lenora, Kans." to "Lenny"; "Potter, Kans." to "Potsy"; "Walcott, Kans." to "Walco"; "Enterprise, Kans." to "Enter"; "Larrabee, Kans." to "Larch"; "Factory, Kans." to "Facto";

"Granada, Colo." to "Grand"; "Sanford, Colo." to "Sandy"; "Gypsum, Colo." to "Monte"; "Cabin Creek, Colo." to "Cabin"; "Gilcrest, Colo." to "Gilly"; "Blanco, Colo." to "Bland"; "Maybelle, Colo." to "Maybe"; "Shawnee, Colo." to "Shawn"; "Hog Back, Colo." to "Gogan"; "Monument, Colo." to "Month"; "Almont, Colo." to "Almon"; "Strasburg, Colo." to "Stras"; "Rullson, Colo." to "Rulis"; "Golden, Colo." to "Golde"; "Redstone, Colo." to "Redds"; "Wiggins, Colo." to "Wiggi";

"Volcano, N. Mex." to "Volca"; "Defiance, N. Mex." to "Defer"; "Two Wells, N. Mex." to "Wells"; "Springer, N. Mex." to "Sprin"; "Vaughan, N. Mex." to "Vault"; "Jal, N. Mex." to "Jalop"; "Jewett, N. Mex." to "Jewel"; "Mora, N. Mex." to "Moras";

"Cameron, Ariz." to "Camel"; "Peak, Ariz." to "Peaks"; "Sheldon, Ariz." to "Shell"; "Sycamore, Ariz." to "Sycmo"; "Brenda, Ariz." to "Brent"; "Terrace, Ariz." to "Terra"; "Manila, Ariz." to "Manla"; "Mule, Ariz." to "Muley"; "Shumway, Ariz." to "Shuma"; "Kofa, Ariz." to "Koffa";

"Hill Creek, Utah" to "Hills"; "Nebo, Utah" to "Nebos"; "Clear Lake, Utah" to "Clera"; "Arinosa, Utah" to "Aries"; "Fool Creek, Utah" to "Fools"; "Ioka, Utah" to "Iokas"; "Greenwood, Utah" to "Grees"; "Ferron, Utah" to "Feron"; "Lake Shore, Utah" to "Lakes"; "Corrington, Utah" to "Coing"; "La Salle, Utah" to "LaSal"; "Spring Bay, Utah" to "Spree"; "White Cliffs, Utah" to "White";

"Grafton, Nev." to "Graft"; "Bristol, Nev." to "Brisk"; "El Dorado, Nev." to "Dodie"; "Connors Pass, Nev." to "Conns"; "Tenabo, Nev." to "Tenbo"; "Adamsville, Nev." to "Adapt"; "Wheeler, Nev." to "Whell"; "Delaplain, Nev." to "Della"; "Coleman, Nev." to "Coles";

"Fenner, Calif." to "Fenny"; "Morrow, Calif." to "Morro"; "Mesquite, Calif." to "Mesic"; "Kirkwood, Calif." to "Kirin"; "Virginia, Calif." to "Virga"; "Rosi, Calif." to "Rosin"; "Malo, Calif." to "Perch"; "Rabbit, Calif." to "Rabbi"; "Buckhorn, Calif." to "Bucko"; "Mayfair, Calif." to "Mayan"; "Gateway Pine, Calif." to "Gates"; "Manteca, Calif." to "Manca"; "Palisades, Calif." to "Palis"; "Stanislaus, Calif." to "Stani"; "Beaumont, Calif." to "Beaut"; "Easton, Calif." to "Easta"; "Wild Rose, Calif." to "Wildy"; "Chubbock, Calif." to "Chubs"; "Sawmill, Calif." to "Sawed"; "Washington, Calif." to "Washy"; "Hill, Calif." to "Hilly"; "Likely Pines, Calif." to "Liked"; "Redwood, Calif." to "Redoo"; "Cypress, Calif." to "Ceres"; "Apricot, Calif." to "Fruit"; "Maple, Calif." to "Leafs"; "Yucca, Calif." to "Yucan";

Effective 0901 G.m.t., January 3, 1974:

"Sherwood, Oreg." to "Shero"; "Dayville, Oreg." to "Dayah"; "Quartz, Oreg." to "Quart"; "Pauline, Oreg." to "Paula"; "Hemlock, Oreg." to "Hemlo";

"Bothell, Wash." to "Boths"; "Coulee, Wash." to "Coule"; "Sumner, Wash." to "Summa"; "Lowden, Wash." to "Lowes"; "Cumberland, Wash." to "Combo"; "Yacolt, Wash." to "Yacht";

"McCammon, Idaho" to "MaCam"; "Horseshoe, Idaho" to "Horse"; "Grays Lake, Idaho" to "Grays"; "Knox, Idaho" to "Knoxs"; "Chester, Idaho" to "Chess"; "Oreana, Idaho" to "Oriel"; "Grangeville, Idaho" to "Granl";

"Holter, Mont." to "Holte"; "Eden, Mont." to "Edens"; "Moulton, Mont." to "Moult"; "Brockway, Mont." to "Brock"; "Jeffers, Mont." to "Jeffe"; "Millegan, Mont." to "Mille"; "Lima, Mont." to "Limes"; "Big Horn, Mont." to "Biggs"; "Rockvale, Mont." to "Rocco"; "Brandenburg, Mont." to "Brink"; "Heldy, Mont." to "Hides";



V 38 I 172 SEP 6 73 XUM

"Tank, Wyo." to "Tanks"; "Bordeau, Wyo." to "Borax"; "Quealy, Wyo." to "Queen"; "Slater, Wyo." to "Slate"; "Vermillion, Wyo." to "Veron"; "Clearmont, Wyo." to "Clear"; "Split Rock, Wyo." to "Split";
"Ruskin, Nebr." to "Ruski"; "Melton, Nebr." to "Melto"; "Sand, Nebr." to "Sands"; "Plum Creek, Nebr." to "Plums"; "Angora, Nebr." to "Anglo"; "Cumminsville, Nebr." to Cumin"; "Dry Creek, Nebr." to "Dries"; "Seneca, Nebr." to "Senca"; "Bonesteel, Nebr." to "Bones"; "North Star, Nebr." to "North"; "Trumbull, Nebr." to "Trump";
"Garden Grove, Iowa" to "Garde"; "Runnels, Iowa" to "Rundi"; "Elberon, Iowa" to "Elber"; "Corwith, Iowa" to "Corey"; "Kamrar, Iowa" to "Kamra"; "Ute, Iowa" to "Utero"; "Oranto, Iowa" to "Orato"; "Shipley, Iowa" to "Ships"; "West Union, Iowa" to "Union"; "Danbury, Iowa" to "Danny";
"Lark, N. Dak." to "Larks";
"Turtle Creek, S. Dak." to "Turts"; "Reva, S. Dak." to "Revas"; "Ash Creek, S. Dak." to "Ashey"; "Bonilla, S. Dak." to "Bonil"; "Mud Butte, S. Dak." to "Muddy";
Effective 0901 G.m.t., January 31, 1974:
"Denmark, Wis." to "Denny";
"Chapin, Ill." to "Chaps"; "Scales Mound, Ill." to "Scale"; "Marine, Ill." to "Marin"; "Jerseyville, Ill." to "Jerry"; "Morrison, Ill." to "Morri"; "Anna, Ill." to "Annam"; "Cantrall, Ill." to "Canta"; "Woodstock, Ill." to "Stock"; "Mounds, Ill." to "Moods"; "Papi, Ill." to "Poppy"; "Prairie, Ill." to "Prays"; "Warren, Ill." to "Wrens";
"Calumet, Ky." to "Calpe"; "Woodbine, Ky." to "Woodi"; "Shoutout, Ky." to "Shuto"; "Sadler, Ky." to "Sader"; "Minerva, Ky." to "Miner"; "Canter, Ky." to "Canto";
"Mellott, Ind." to "Melot"; "San Pierre, Ind." to "Perry"; "Sunman, Ind." to "Suman"; "Foresman, Ind." to "Fores"; "Gosport, Ind." to "Gospo"; "Borden, Ind." to "Borde"; "Mayhue, Ind." to "Mayhu"; "Tippecanoe, Ind." to "Tippy"; "Leopold, Ind." to "Lepol"; "Judyville, Ind." to "Judys" "Osgood, Ind." to "Ogden";
"Wolverine, Mich." to "Wolvi"; "Carsonville, Mich." to "Carte"; "Nirvana, Mich." to "Nirva"; "Kinderhook, Mich." to "Kinds"; "Sanilac, Mich." to "Sanil"; "Holt, Mich." to "Holts"; "Vermontville, Mich." to "Vermi";
"Thackery, Ohio" to "Thack"; "Shilot, Ohio" to "Shilo"; "Marble, Ohio" to "March"; "Balsam, Ohio" to "Balsa"; "Henrietta, Ohio" to "Henri"; "Spot, Ohio" to "Spots"; "Conifer, Ohio" to "Conic"; "Burt, Ohio" to "Burts"; "Cameron, Ohio" to "Cameo"; "Rittman, Ohio" to "Ritzs";
"Fancy Gap, Va." to "Faney"; "Copper Valley, Va." to "Coppa"; "Rescue, Va." to "Resco";
"Kinball, W. Va." to "Kimbo"; "Rensford, W. Va." to "Renfo"; "Princess, W. Va." to "Prins"; "Warwood, W. Va." to "Watts";
"Riddle, Pa." to "Rides"; "Horn, Pa." to "Horns"; "Ormsby, Pa." to "Ormby"; "Furnace, Pa." to "Furna"; "Avis, Pa." to "Avast"; "Maiden, Pa." to "Maids"; "Ulster, Pa." to "Ulema"; "Schooner, Pa." to "Schoo"; "Bucktown, Pa." to "Bucks"; "Newton, Pa." to "Nesto";
"Cherry Plain, N.Y." to "Cheri"; "Sardine, N.Y." to "Sardi"; "Gowanda, N.Y." to "Gower"; "Water Mill, N.Y." to "Water"; "Loon Lake, N.Y." to "Loons"; "Blakely, N.Y." to "Blake"; "Hamlet, N.Y." to "Hamet"; "Spad, N.Y." to "Spads"; "Belle Terre, N.Y." to "Belle"; "Empire, N.Y." to "Empty"; "Frontier, N.Y." to "Fawns";
"Davey, Maine" to "Daves"; "Merrimack, Maine" to "Merry";
"Boundary, Md." to "Bound"; "Marbury, Md." to "Marby";
"Mary Ann, Mass." to "Marys"; "Whaler, Mass." to "Whale"; "Summer, Mass." to "Sumta";
"Tugboat, N.J." to "Tugbo"; "Pennwell, N.J." to "Penns";
"Holland, Vt." to "Holly";
"Eloy, Ariz." to "Elope"; "Willcox, Ariz." to "Willy"; "Ventana, Ariz." to "Venta";
"Kings, Ga." to "Kicks";
"Dibble, Okla." to "Dibbs"; "Stigler, Okla." to "Stick";
"Magnolia, Tex." to "Magno";
"Peoria, Ill." to "Peony";

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c).)

Issued in Washington, D.C., on August 29, 1973.

H. B. HELSTROM,
*Chief, Airspace and Air Traffic Rules Division.*

[FR Doc.73-18857 Filed 9-5-73;8:45 am]

## Title 21—Food and Drugs

### CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### SUBCHAPTER A—GENERAL

### PART 8—COLOR ADDITIVES

### PART 9—COLOR CERTIFICATION

### D & C Brown No. 1 and External D & C Violet No. 2

*Correction*

In FR Doc. 73-15209, appearing at page 19969 for the issue for Thursday, July 26, 1973, in the eleventh paragraph of § 9.230 the figure in parentheses that now reads "(2.5-xylylazo)" should read "(2,5-xylylazo)".

## Title 26—Internal Revenue

### CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 7241]

### PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

*Correction*

In FR Doc. 72-22153, appearing at page 28742 in the issue of December 29, 1972, in the penultimate line of paragraph (a)(2) of § 1.507-6, the letter "c" which appears in parentheses at the end of the line should read "a".

## Title 32—National Defense

### CHAPTER XII—DEFENSE SUPPLY AGENCY

### SUBCHAPTER B—MISCELLANEOUS

[DSAR 5400.14]

### PART 1285—AVAILABILITY TO THE PUBLIC OF OFFICIAL INFORMATION

### Redesignation

JUNE 30, 1967.

Part 1260 was added to the Code of Federal Regulations by an amendment published at 32 FR 11324, August 4, 1967, to be effective July 4, 1967. The title of this part was inadvertently omitted from a revision of Title 32, Chapter XII, Subchapter A, published at 34 FR 17267, October 24, 1969. Consequently, Part 1260 was deleted from the January 1, 1970, edition of 32 CFR Parts 1000–1399, based on the October 24, 1969, amendment. However, the provisions of Part 1260 have continued to be applied to questions of public availability of information during this period. Therefore, it has been found necessary to republish Part 1260, and redesignate it as Part 1285 of Subchapter B. Redesignated Part 1285 is republished without substantive change, and remains effective as of July 4, 1967.

As redesignated, Part 1285 is added to Subchapter B of Chapter XII of Title 32 of the Code of Federal Regulations to read as set forth below.

By order of the Director, Defense Supply Agency.

GEORGE W. JOHNSON, Jr.,
*Colonel, USAF,*
*Staff Director, Administration.*

Part 1285 is added to Title 32 of the Code of Federal Regulations, reading as follows:

Sec.
1285.1 References.
1285.2 Purpose.
1285.3 Scope.
1285.4 General.
1285.5 Responsibilities.
1285.6 Procedures.

AUTHORITY: The provisions of this Part 1285 issued under 5 U.S.C. 552, 559.

### § 1285.1 References.[1]

(a) DOD Directive 5400.7, Availability to the Public of Department of Defense Information.

(b) DSAR 5400.12, Provision of Information to Congress.

(c) DSAR 7230.1, Schedule of Fees and Charges for Copying, Certification, and Search of Records.

(d) DSAR 4185.8, Technical Data and Information Required for Defense Supply Agency; Determination of Requirements and Procurement of.

(e) 5 U.S.C. 551 (Section 2 of the Administrative Procedure Act).

(f) DSAR 5205 series.

(g) 18 U.S.C. 1905 (Confidential Trade Information).

[1] Reference material may be obtained from Department of Defense, Defense Supply Agency, and Superintendent of Documents.





(h) Public Law 86-36 (50 U.S.C. 402 note) (National Security Agency Reporting Exemption).

(i) 35 U.S.C. 181–188 (Patent Secrecy).

(j) Armed Services Procurement Regulation.

### § 1285.2 Purpose.

To announce the policies and to prescribe the procedures governing the release to the public of Defense Supply Agency (DSA) documentary material or records, or information therefrom, pursuant to the provisions of § 1285.1(a).

### § 1285.3 Scope.

This DSAR is applicable to HQ DSA and to DSA field activities.

### § 1285.4 General.

(a) *Background.*—Section 1285.1(a) describes the kinds of official records and information that must be made available to the public, describes the kinds of information that need not be made available to the public, requires facilities be made available to the public for the examination and copying of records, and provides procedures for the review of refusals to release records and information to the public. Requests from Members of Congress are governed by § 1285.1(b). Additional guidance with respect to release of procurement information is contained in § 1285.1(j).

(b) *Definition of "records."*—(1) In determining whether documentary material qualifies as a "record", consideration should be given to the Act of July 7, 1943, ch. 192, sec. 1 (44 U.S.C. 366) which defines the word "record" for records disposal purposes as follows:

[It] includes all books, papers, maps, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by any agency of the U.S. Government in pursuance of Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government, or because of the informational value of data contained therein.

(2) The term "records" does not include objects or articles such as structures, furniture, paintings, sculpture, three-dimensional models, vehicles, equipment, etc., whatever their historical value or value as "evidence."

(3) Records are not limited to permanent or historical documents but include contemporaneous documents as well.

(c) *Policy.*—(1) *General.* (i) It is the policy of DSA to make available to the public the maximum amount of information concerning its operations and activities. Exceptions to the requirements for disclosure will be made in accordance with the provisions of subparagraph (4) of this paragraph and the release procedures in § 1285.6.

(ii) Information exempt from public disclosure under provisions of subparagraph (4) of this paragraph should be made available to the public when its disclosure is not inconsistent with statutory requirements or with § 1285.1(f) and when officials determine that no significant purpose would be served by withholding the information. The determination of whether a significant purpose is served by withholding information under provisions of subparagraph (4) of this paragraph is within the sole discretion of the DSA official authorized by this Part 1285 to deny release.

(iii) Records and other documents or related material may be withheld from the public only as authorized by this Part 1285. In no event shall the determination that requested information comes within any of the specific exemptions in subparagraph (4) of this paragraph, or that information has not been properly requested be influenced by the possibility that its release might suggest administrative error or inefficiency or might embarrass DSA or an official of DSA.

(2) *Availability of records.*—(i) Subject to the exemptions in subparagraph (4) of this paragraph and the procedural requirements of § 1285.6, any record in the possession of DSA will be made available upon the request of any person. Copies of records which have been published in the FEDERAL REGISTER or made available for inspection and copying under provisions of subparagraph (3) of this paragraph, should also be furnished, when practicable, upon request by any person.

(ii) In determining whether documentary material qualifies as a "record", consideration will be given to the definition of a "record" in paragraph (b) of this section.

(iii) A request for a record will be honored if:

(a) The requestor describes the record sought with sufficient particularity to enable DSA to locate the record with a reasonable amount of effort.

(b) The requestor is willing and able to pay the cost associated with locating and providing a copy of the record sought, as determined by § 1285.1(c).

(c) The requestor complies with the requirements of this Part 1285 regarding the time, place, and procedure for obtaining a copy of the record.

(iv) In order for a record to be considered "identifiable," it must exist at the time of the request. There is no obligation to "create" a record for the purpose of satisfying a request for information. When the information requested exists in the form of several records at several locations, the applicant should be referred to those sources if gathering the information would be burdensome.

(v) When the record requested was originated by another agency, the request will be referred promptly and directly to that agency for disposition. The originating agency of a record should consult with other agencies having a significant interest in the content of a requested document before determining whether to make it available. A member of the public requesting material primarily concerning a Member of Congress or Congressional Committee, or a transcript of testimony given before a Congressional Committee will be advised to direct his request to the Member or Committee concerned.

(vi) Elements of DSA will avoid creating procedural obstacles when internal DSA or Department of Defense organizational questions arise, particularly where reorganization or transfer of functions contributes to an improperly directed request. DSA personnel will make all reasonable efforts to assist private persons in directing requests for information to the appropriate authorities.

(3) *Inspection and copying of opinions, orders, and manuals.*—(i) Subject to the exemptions set forth in subparagraph (4) of this paragraph, DSA will make available for public inspection and copying in an appropriate facility or facilities in accordance with the procedures in § 1285.6 the following materials, unless such materials are published and copies offered for sale:

(a) All final opinions (including concurring and dissenting opinions) and orders in adjudication, as defined in § 1285.1(e) that may be cited, used, or relied upon as precedents in future adjudication.

(b) Statements of policy and interpretations of less than general applicability affecting the public but not published in the FEDERAL REGISTER.

(c) Administrative staff manuals and instructions, or portions of such, which establish DSA policy or interpretation of policy that is determinative of the rights of members of the public. This provision does not apply to instructions for employees on the tactics and techniques to be used in performing their duties, or to instructions relating only to the internal management of the Agency. Examples of manuals and instructions not normally made available are:

(1) Those issued for audit and inspection purposes.

(2) Those which prescribe operational tactics, standards of performance, or criteria for defense, prosecution, or settlement of cases.

(3) Operations and maintenance manuals and technical information concerning munitions, equipment, and systems.

(ii) When feasible, all material published in the FEDERAL REGISTER will be made available for inspection and copying, along with any available index of that published material, in the same facility or facilities provided for inspection and copying of opinions, orders, and manuals.

(iii) Identifying details which if revealed would create a clearly unwarranted invasion of personal privacy may be deleted from any final opinion, order, statement of policy, interpretation, staff manual, or instruction made available for inspection and copying. In every such case, the justification for the deletion must be fully explained in writing.

(iv) No order, opinion, statement of policy, interpretation, staff manual, or



V 38-172 SEP 6 73 XUM

instruction which is issued, promulgated, or adopted after July 4, 1967, which is not indexed and either made available or published, may be relied upon, used, or cited as a precedent against any member of the public unless he has actual and timely notice of its terms. If the order, opinion, statement of policy, interpretation, staff manual, or instruction was issued, promulgated, or adopted before July 4, 1967, it need not be indexed but must be made available in accordance with subdivision (i) of this subparagraph.

(*a*) In determining whether an order, opinion, statement of policy, interpretation, staff manual, or instruction is likely to be used or relied upon as precedent, the primary test will be whether it is intended to provide binding guidance for decisions or evaluations by subordinates or for future decisions by the same authority in adjudications of cases affecting the public, where similar facts or issues are presented.

(*b*) With regard to the precedental effect of an adjudication, opinions, and orders of the Boards of Review exemplify the type that shall be made available for inspection and copying since they may be relied upon, used or cited in future adjudications. By contrast, orders and opinions resulting from adjudications such as those involving internal personnel (including military personnel) proceedings and security proceedings are not required to be made available to the general public for inspection and copying since they are not relied upon, used, or cited in future adjudications.

(v) The cost to DSA of copying any such opinion, order, or statement of policy or interpretation will be imposed on the person requesting the document, under provisions of § 1285.1(c).

(4) *Exemptions.*—(i) Documentary material which would otherwise have to be made available under subparagraphs (2) and (3) of this paragraph, may be withheld from public disclosure if it comes within a specific exemption. However, even exempted material should be made available if, in the judgment of the releasing authority, no significant purpose would be served by withholding it from the requestor under an applicable exemption and its release is not inconsistent with statutory requirements or § 1285.1(f).

(ii) The following types of records may be withheld from public disclosure:

(*a*) Those requiring protection in the interest of national defense or foreign policy according to the criteria established by § 1285.1(f) or by Executive order.

(*b*) Those containing rules, regulations, orders, manuals, directives, and instructions relating to the internal personnel rules or to the internal practices of the Department of Defense. Examples include:

(*1*) Operating rules, guidelines, and manuals for Department of Defense investigators, inspectors, auditors, or examiners, and schedules or methods which cannot be disclosed to the public without substantial prejudice to the effective performance of a significant function of the Department of Defense. Some of those materials would reveal:

(*i*) Negotiating and bargaining techniques.

(*ii*) Bargaining limitations and positions.

(*iii*) Inspection schedules and methods.

(*iv*) Audit schedules and methods.

(*2*) Personnel and other administrative matters such as examination questions and answers used in training courses or in the determination of the qualifications of candidates for employment, entrance to duty, advancement or promotion.

(*c*) Those containing information which statutes authorize or require be withheld from the public. The authorization or requirement may be found in the terms of the statute itself or in Executive orders or in regulations authorized by, or in implementation of the statute. Examples include:

(*1*) Trade technical and financial information provided in confidence by businesses, governed by § 1285.1(g).

(*2*) National Security Agency information, governed by § 1285.1(h).

(*3*) Any records containing information relating to inventions which are the subject of patent applications on which Patent Secrecy Orders have been issued, governed by § 1285.1(i).

(*d*) Those containing information which DSA receives from anyone including an individual, a foreign nation, an international organization, a State or local government, a corporation, or any other organization with the understanding that it will be retained on a privileged or confidential basis, or similar commercial or financial records which DSA develops internally, if they are in fact the kinds of records which are normally considered privileged or confidential. Such records include documents containing:

(*1*) Information customarily considered privileged or confidential under the rules of evidence in the Federal courts, such as information coming within the doctor-patient, lawyer-client, or priest-penitent privileges.

(*2*) Commercial or financial information received in confidence in connection with loans, bids or proposals, as well as other information received in confidence or privileged, such as trade secrets, inventions and discoveries, or other proprietary data.

(*3*) Statistical data and commercial or financial information concerning contract performance, income, profits, losses, and expenditures, if received in confidence from a contractor or potential contractor.

(*4*) Information such as research data, formulae, designs, drawings, and other technical data and reports which:

(*i*) Are significant as items of valuable property acquired in connection with research, grants, or contracts.

(*ii*) Would likely be held in confidence if owned by private parties.

(*5*) Personal statements given in the course of inspections or investigations, where such statements are received in confidence from the individual and retained in confidence.

(*e*) Except as provided in (*1*) of this subdivision, internal communications within and among elements of Federal agencies and of the Department of Defense.

(*1*) Examples include: (*i*) Staff papers containing staff advice, opinions, or suggestions.

(*ii*) Information received or generated by DSA preliminary to a decision or action, including draft versions of documents, where premature disclosure would harm the authorized appropriate purpose for which the records are being used.

(*iii*) Advice, suggestions, or reports prepared on behalf of the Department of Defense by boards, committees, councils, groups, panels, conferences, commissions, task forces, or other similar groups that are formed by a component to obtain advice and recommendations.

(*iv*) Records of Department of Defense evaluations of contractors and their products which in effect constitute recommendations or advice and could be used improperly to the advantage or to the detriment of private interests.

(*v*) Advance information on such matters as proposed plans to procure, lease or otherwise acquire and dispose of materials, real estate, facilities, or functions, when such information would provide undue or unfair competitive advantage to private personal interests.

(*vi*) Records which are exchanged among agency personnel or within and among elements of Federal agencies and the Department of Defense preparing for anticipated legal proceedings before any Federal, state, or military court or before any regulatory body.

(*vii*) Reports of inspections, audits, investigations, or surveys which pertain to safety, security or the internal management, administration, or operation of the Department of Defense.

(*2*) If any such intra-agency or inter-agency information requested would routinely be made available through the discovery process in the course of litigation with DSA, then it should not be withheld from the general public. If, however, the information would only be made available through the discovery process by special order of the court based on the particular needs of a litigant balanced against the interests of DSA in maintaining its confidentiality, then the record or document should not be made available to a member of the general public.

(*f*) Information in personnel and medical files, as well as information in similar files that, if disclosed to a member of the public, would result in a clearly unwarranted invasion of personal privacy.

(*1*) Examples of files similar to personnel and medical files include:

(*i*) Those compiled to evaluate or adjudicate the suitability of candidates for civilian employment and the eligibility of individuals, civilian, military, or industrial for security clearances.





(*ii*) Files containing reports, records, and other material pertaining to personnel matters in which administrative action, including disciplinary action, may be taken.

(*2*) In determining whether the release of information would result in a clearly unwarranted invasion of privacy, consideration should be given in cases such as those involving alleged misconduct, to the relationship of the alleged misconduct to an individual's official duties, the amount of time which has passed since the alleged misconduct, and the degree to which the individual's privacy has already been invaded. Thus, the release of information concerning alleged misconduct which is closely related to official duties, which has occurred recently, and which has already been exposed to the public is less likely to constitute a clearly unwarranted invasion of personal privacy.

(*3*) When the sole and exclusive basis for withholding information is protection of the personal privacy of an individual, the information should not be withheld from him or from his designated legal representative. An individual's personnel, medical, or similar files may be withheld from him or from his designated legal representative for reasons other than the protection of his personal privacy when valid Civil Service Commission regulations or other valid regulations so authorize.

(*g*) Investigatory files compiled for the purpose of enforcing civil, criminal, or military law, including Executive orders, or regulations validly adopted pursuant to law.

(*1*) Examples include:

(*i*) Statements of witnesses and other material based on the information developed during the course of the investigation and all materials prepared in connection with related Government litigation or adjudicative proceedings.

(*ii*) Lists of firms or individuals suspended under procurement regulations when the lists are compiled in connection with investigations of irregularities.

(*2*) The right of individual litigants to investigatory files currently available by law is not diminished.

(*h*) Those contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions.

(*i*) Those containing geological and geophysical information and data, including maps, concerning wells.

(*5*) *Identification and Marking "FOR OFFICIAL USE ONLY".* (i) Records which are not classified under § 1285.1(f) but which are authorized by § 1285.1(a) to be withheld from general public disclosure under subparagraph (4) of this paragraph and which for a significant reason should not be given general circulation shall be considered as being "FOR OFFICIAL USE ONLY" (FOUO).

(ii) A record that is considered "FOR OFFICIAL USE ONLY" may be marked "FOR OFFICIAL USE ONLY" when such marking is deemed necessary to insure that all persons having access to the record are aware that it should not be publicly released and should not be handled indiscriminately. Individual folders, records, and files covering specific kinds of subject matter, normally falling within the exemptions of subparagraph (4) of this paragraph such as personnel and medical files, bids, proposals, and the like, which are covered by rules and regulations specifying what may be released publicly, do not require the "FOUO" marking unless handled under circumstances where marking is essential to insure protection of the information involved.

(*a*) The marking shall not be used on records which are classified under § 1285.1(f) but, if otherwise proper under this Part 1285, may be applied to information or material which has been declassified.

(*b*) Information contained in a technical document for which a determination has been made that a distribution statement under § 1285.1(d) is appropriate shall not be marked "FOUO."

(iii) Material which is considered "FOR OFFICIAL USE ONLY" must be safeguarded from general disclosure irrespective of whether the material is physically marked with the term "FOR OFFICIAL USE ONLY."

(iv) Whenever necessary to assure proper understanding, individual paragraphs which contain FOUO information shall be marked with symbol "FOUO." In classified documents, this marking should be applied only to paragraphs which contain FOUO information and do not contain classified information.

**§ 1285.5 Responsibilities.**

(a) The Chief, Publications Division, Office of Administration, HQ DSA, will review DSA publications to assure that those which meet the criteria for publication in the FEDERAL REGISTER are prepared in proper form and transmitted promptly for publication in the FEDERAL REGISTER, as required by DSAR 5025.19, Publications of Documents in the FEDERAL REGISTER.

(b) The Chief, Administrative Management Division, Office of Administration, HQ DSA, will:

(1) Serve as the point of contact for referring members of the public, except the news media, desiring to examine and copy records to the appropriate staff element within HQ DSA, or within the DSA Administrative Support Center having custody of the records.

(2) Maintain for examination and copying by the public a copy of the material and documents referred to in paragraph (e)(3) of this section.

(3) Process requests for records received under provisions of § 1285.6(a)(1).

(4) Process to the Director/Deputy Director, DSA after coordination with the Counsel, HQ DSA, and other appropriate HQ DSA staff elements appeals from refusals to provide a record.

(c) The Special Assistant for Public Affairs, HQ DSA will serve as the central point of contact for the release of information to the news media.

(d) The Heads of HQ DSA Principal Staff Elements will:

(1) Review all instructions for which they are the proponent to insure that such instructions are not inconsistent with the provisions of this Part 1285.

(2) Recommend at the time instructions for which they are the proponent are prepared for publication whether the document should be published in the FEDERAL REGISTER, as required by DSAR 5025.19, Publication of Documents in the FEDERAL REGISTER.

(3) Insure that the provisions of this Part 1260 are followed in processing requests for records from members of the public.

(4) Coordinate with other HQ DSA staff elements to the extent considered necessary, requests from the public for information.

(e) The Heads of DSA Primary Level Field Activities will:

(1) Insure that the provisions of this Part 1260 are followed in processing requests for records from members of the public.

(2) Provide convenient facilities where members of the public may examine and copy documents to which they are entitled.

(3) Maintain for examination and copying by the public a copy of the following:

(i) All references listed in § 1285.1.

(ii) DSAH 5025.2, DSA Field Establishment Directory which reflects the mailing addresses of all activities of DSA.

(iii) DSAH 5025.1, Defense Supply Agency Index of Publications and Forms (HSI's, Handbooks, Manuals and Regulations) which contains, among other things, a topical index of the publications issued by HQ DSA.

(iv) DSAM 5015.1, Files Maintenance and Disposition which contains a functional description of all records and files generated by DSA. This Manual also contains a topical index.

(v) A copy of such local indexes of opinions, orders, statement of policy, and publications that may exist, or that may be prepared in the future.

(4) Arrange for the collection of fees prescribed in § 1285.1(c) associated with locating and providing copies of documentary material requested.

(5) Furnish the Director, DSA, Attention: DSAH–XA a copy of all refusals to provide a record made under provisions of § 1285.6. In the case of the Defense Contract Administration Services Regions, the copy will be forwarded through the Deputy Director for Contract Administration Services, DSA.

(6) Establish safeguards to insure that the official records of the activity are properly safeguarded during the time they are made available for examination by a member of the public.

(7) Insure that internal operating procedures provide for prompt response to all requests for records.



V 38 I 172
SEP 6 73
XUM

§ 1285.6 Procedures.

(a) *Requests for records or for permission to examine records.*—(1) Members of the public may make requests for copies of records or for permission to examine or copy records directly to the Head of the DSA activity having custody of the records, if the whereabouts of the document is known. If the exact whereabouts is not known, and it is reasonably certain that the document is in the custody of DSA, the requestor should submit his request to the Director, Defense Supply Agency, Attention: DSAH–XA, Cameron Station, Alexandria, Va. 22314.

(2) Requests must identify each record with sufficient particularity to enable the custodian to locate the record with a reasonable amount of effort. Information as to where the record originated, its subject, date, number, or other identification that would enable the custodian to locate the document should be provided by the requestor when possible.

(3) Because certain information and documents are exempt from the imposition of fees under provisions of 1285.1(c) the requestor need not submit payment for services with his initial written request. When it is anticipated that the cost of the record search and reproduction of the documents may exceed $10, the requestor will be so advised and requested to submit payment prior to furnishing the records. In other instances, the requestor will be advised at the time the record is found as to the charges involved.

(4) Refusal to make a record available may be made only by the Heads of DSA Primary Level Field Activities or the Heads of HQ DSA Principal Staff Elements. The refusal may be appealed to the Director/Deputy Director, DSA. The appeal should be filed with the official who refused release of the record in order that the appeal may be processed through command channels to the Director, DSA for a final decision.

(b) *Processing requests for records or for permission to examine records.*—(1) Upon receipt of a request for records or for permission to examine records, the DSA activity having custody of the records will collect the documents, determine whether they are releasable under provisions of this Part 1285, determine the fees to be charged, and advise the requestor accordingly.

(2) If the request is for permission to examine releasable records, the requestor will be advised as to where and when during normal working hours he may appear for this purpose. Every reasonable effort will be made to accommodate individuals granted permission to examine records; however, overtime is not authorized for this purpose.

(3) If a final reply to a request cannot be made within 10 working days of receipt, the requestor will be given an interim reply and an estimated date on which he may receive a final reply.

(4) The DSA official having custody and control of any DSA record requested by a member of the public is authorized to make such record available unless the record falls within one of the exceptions listed in § 1285.4(c)(4). In such case the request will be referred promptly to the head of the primary level field activity or the head of a HQ DSA principal staff element, as appropriate. The fact that a record has been marked "FOR OFFICIAL USE ONLY" does not relieve the official who is authorized to release the record from the responsibility of reviewing the requested record for the purpose of determining whether an exemption under § 1285.4(c)(4)(i) is applicable.

(5) Requests for records will be denied only by the head of a DSA primary level field activity or the head of an HQ DSA principal staff element upon a determination that:

(i) The record is subject to one of the exemptions set forth in § 1285.4(3)(4), or

(ii) The record cannot be found because it has not been properly identified; or

(iii) The applicant has unreasonably failed to comply with the procedural requirement for obtaining the record set forth in paragraph (a) of this section.

(6) When a request for a record is refused, the official who made the determination will explain the basis for the denial and will advise the requestor that he may appeal the denial to the Director/Deputy Director, DSA. Any refusal will be in writing, and a copy of the refusal will be furnished the Director, DSA, Attention: DSAH–XA. In the case of the Defense Contract Administration Services Regions, the copy will be forwarded through the Deputy Director for Contract Administration Services, DSA.

[FR Doc.73–17068 Filed 9–5–73;8:45 am]

## CHAPTER XIV—THE RENEGOTIATION BOARD

### SUBCHAPTER B—RENEGOTIATION BOARD REGULATIONS UNDER THE 1951 ACT

### PART 1453—MANDATORY EXEMPTIONS FROM RENEGOTIATION

#### Common Carriers by Water

Section 1453.3(d)(2), *Fiscal years ending on or after December 31, 1953, is* amended by deleting in subdivision (1) thereof, the words "January 1, 1972", and inserting in lieu thereof the words "January 1, 1973".

(Sec. 109, 65 Stat. 22 (50 U.S.C.A., App. Sec. 1219).)

Dated August 31, 1973.

W. S. WHITEHEAD,
*Chairman.*

[FR Doc.73–18927 Filed 9–5–73;8:45 am]

## Title 33—Navigation and Navigable Waters

## CHAPTER IV—SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

### PART 401—SEAWAY REGULATIONS AND RULES

#### Penalty Procedures; Correction

On page 21922 of the FEDERAL REGISTER of August 14, 1973, under § 401.201, *Delegation of authority*, (a) should read as follows:

§ 401.201 Delegation of authority.

(a) The Secretary of Transportation, by 49 CFR 1.50a, has delegated to the Administrator of the Saint Lawrence Seaway Development Corporation the authority vested in him under Title I of the Ports and Waterways Safety Act of 1972, Pub. L. 92–340, as it pertains to the operation of the Saint Lawrence Seaway.

* * * * *

Dated August 28, 1973.

ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION,
[SEAL] D. W. OBERLIN,
*Administrator.*

[FR Doc.73–18853 Filed 9–5–73;8:45 am]

## Title 41—Public Contracts and Property Management

## CHAPTER 1—FEDERAL PROCUREMENT REGULATIONS

[FPR Amdt. 117]

### PART 1–1—GENERAL

#### Subpart 1–1.3—General Policies

BRAND NAME OR EQUAL PROCUREMENT

This amendment of the Federal Procurement Regulations changes the language of the clause in § 1–1.307–6 and the procedures in §§ 1–1.307–7 and 1–1.307–8 dealing with the procurement of brand name products or equal. The changes provide that "or equal" products will be evaluated to determine whether they meet all salient characteristics set forth in the solicitation rather than to determine whether the "or equal" product and the "brand name" product are equal "in all material respects."

Section 1–1.307–6(a)(2) is amended, as follows:

§ 1–1.307–6 Invitation for bids, "brand name or equal" descriptions.

(a) * * *

(2) In addition, the following clause shall be included in the invitation:

BRAND NAME OR EQUAL

(As used in this clause, the term "brand name" includes identification of products by make and model.)

(a) If items called for by this invitation for bids have been identified in the schedule by a "brand name or equal" description, such identification is intended to be descriptive, but not restrictive, and is to indicate the quality and characteristics of products that will be satisfactory. Bids offering "equal" products (including products of the brand name manufacturer other than the one described by brand name) will be considered for award if such products are clearly identified in the bids and are determined by the Government to meet fully the salient characteristics requirements listed in the invitation.

(b) Unless the bidder clearly indicates in his bid that he is offering an "equal" product, his bid shall be considered as offering a brand name product referenced in the invitation for bids.

(c)(1) If the bidder proposes to furnish an "equal" product, the brand name, if any, of the product to be furnished shall be inserted in the space provided in the invitation for bids, or such product shall be otherwise clearly identified in the bid. The evaluation of bids and the determination as to equality of the product offered shall be the responsibility of the Government and will be based on information furnished by the bidder or identified in his bid as well as other information reasonably available to the purchasing activity. CAUTION TO BIDDERS. The purchasing activity is not responsible for locating or securing any information which is not identified in the bid and reasonably available to the purchasing activity. Accordingly, to insure that sufficient information is available, the bidder must furnish as a part of his bid all descriptive material (such as cuts, illustrations, drawings, or other information) necessary for the purchasing activity to (i) determine whether the product offered meets the salient characteristics requirement of the invitation for bids, and (ii) establish exactly what the bidder proposes to furnish and what the Government would be binding itself to purchase by making an award. The information furnished may include specific references to information previously furnished or to information otherwise available to the purchasing activity.

* * * * *

Section 1–1.307–7(a) is amended, as follows:

§ 1–1.307–7 Bid evaluation and award, "brand name or equal" descriptions.

(a) Bids offering products which differ from brand name products referenced in a "brand name or equal" purchase description shall be considered for award where the contracting officer determines in accordance with the terms of the clause in § 1–1.307–6(a)(2) that the offered products meet fully the salient characteristics requirements listed in the invitation. Bids shall not be rejected because of minor differences in design, construction, or features which do not affect the suitability of the products for their intended use.

* * * * *

Section 1–1.307–8(b) is amended, as follows:

§ 1–1.307–8 Procedure for negotiated procurements and small purchases.

* * * * *

(b) The clause set forth in § 1–1.307–6(a)(2) may be adapted for use in negotiated procurements. If use of the clause is not practicable (as may be the case in exigency purchases), suppliers shall be suitably informed that proposals offering products different from the products referenced by brand name will be considered if the contracting officer determines that the offered products meet fully the salient characteristics requirements of the solicitation.

* * * * *

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).)

*Effective date.*—This regulation is effective October 15, 1973, but may be observed earlier.

Dated August 28, 1973.

ARTHUR F. SAMPSON,
*Administrator of General Services.*

[FR Doc.73–18852 Filed 9–5–73;8:45 am]





## Title 47—Telecommunication

## CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

### PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA—PUBLIC FIXED

#### Limitations on Use of Frequencies

In the matter of amendment of Part 81 of the rules to conform §§ 81.361(a) to 83.360(a) with respect to the limitations on the use of frequencies enumerated in both sections.

1. The frequencies listed in § 81.361(a) of the rules are assignable to limited coast stations for communication with ship stations operating on the same carrier frequency. All but two of these frequencies are listed in § 83.360(a) of the rules as assignable to shipboard stations. The assignment for shipboard stations, under § 83.360(a), includes the express condition that the frequency assigned be used for business and operational communications. This express limitation does not appear, however, in the text of § 81.361(a).

2. Although § 81.361(a) of the rules does not specify that the frequencies listed therein are to be used only for business and operational communications, other rule sections inferentially so provide. Section 81.3(g), defining this class of station, and §§ 81.355(a)(5) and 81.7 (s) and (t), specifying the nature of communications to be exchanged, essentially provide that the stations operating on the frequencies listed in § 81.361(a), will be used for business and operational communications.

3. There is a need, however, for the convenience of the public, for the inclusion of this condition in § 81.361(a) of the rules. The attached Appendix amends Part 81 by including, in explicit terms, the business and operational communications restriction as part of the language of § 81.361(a) and fulfills this need.

4. The amendment adopted herein is editorial in nature, and hence the prior notice, procedure, and effective date provisions of 5 U.S.C. 553, do not apply. Authority for the promulgation of the amendment is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

5. Accordingly, Part 81 of the Commission's rules is amended as shown below effective September 7, 1973.

Adopted: August 27, 1973.

Released: August 28, 1973.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] JOHN M. TORBET,
*Executive Director.*

In Part 81 of Chapter I of Title 47 of the Code of Federal Regulations § 81.361 is amended as follows:

§ 81.361 Frequencies available.

(a) The following carrier frequencies may be authorized to limited coast stations for business and operational communications with ship stations operating on the same carrier frequency. The conditions of use are set forth in paragraph (b) of this section.

| CARRIER FREQUENCY (kHz) | | |
|---|---|---|
| 2065.0 | 6213.5 | 16,565.0 |
| 2079.0 | 6518.6 | 16,568.5 |
| 2096.5 | 8281.2 | 16,572.0 |
| 4136.3 | 8284.4 | 22,094.5 |
| 4139.5 | 12,421.0 | 22,098.0 |
| 4434.9 | 12,424.5 | 22,101.5 |
| 6210.4 | 12,428.0 | 22,105.0 |
| | | 22,108.5 |

* * * * *

[FR Doc.73–18770 Filed 9–5–73;8:45 am]

[Docket No. 18803]

### PART 97—AMATEUR RADIO SERVICE

#### Extension of Time

In the matter of Amendment of Part 97 of the Commission's rules concerning the licensing and operation of repeater stations in the Amateur Radio Service.

1. The Commission has under consideration, on its own motion, the extension of the license term of all amateur stations licensed prior to October 17, 1972, and operating to automatically retransmit the radio signals of other amateur radio stations or as remotely controlled stations prior to that date. The purpose of our action herein is to preclude any unnecessary interruption of any on-going service due to delays in processing applications.

2. In Docket 18803, the Commission adopted rules pertaining to the licensing and operation of amateur repeater stations. Those rules became effective on October 17, 1972. All stations licensed after October 17 had to comply with those rules. However, to provide continuity of operation and to assure continued public service activities, existing repeater stations were granted a grace period to June 30, 1973, to bring their operations into full compliance with the rules and to obtain a new license. At the request of the American Radio Relay League, this period was extended to August 30, 1973.

3. We find that more than adequate time has been given to those previously existing stations to allow their operations to be brought into compliance with the rules. However, because of the initially heavy administrative work load imposed upon the Commission, the fact that initially filed applications were generally inadequate, and because of the lack of processing personnel during the summer months, we find that there has been inadequate time for all existing licensees to actually receive their license documents evidencing their full compliance with the rules. Therefore, we will allow all amateur stations licensed prior to October 17, 1972, which were operating to automatically retransmit radio signals of other amateur stations or as a remotely controlled station, and for which



V 38-172 SEP 6 73 XUM

a timely and sufficient application for renewal or modification was filed to continue operation until final action is taken on the application. An application will be considered as being timely filed if it was received by the Commission on or before August 30, 1973. The application will be considered as one for renewal or modification if it proposes to license transmitting apparatus which was previously operated as a repeater or remotely controlled station.

4. Accordingly, the Commission by the Chief, Safety and Special Radio Services Bureau, pursuant to the delegated authority in § 0.331(b)(1) of the Commission's rules, orders that all amateur stations licensed prior to October 17, 1972, which were automatically retransmitting radio signals from other amateur stations or licensed as remotely controlled stations and for which a timely and sufficient application has been filed, may continue to operate until such time as the Commission takes final action on the application.

Adopted August 29, 1973.

Released August 30, 1973.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] CHARLES A. HIGGINBOTHAM,
*Acting Chief, Safety and Special Radio Services Bureau.*

[FR Doc.73-18770 Filed 9-5-73;8:45 am]

## Title 49—Transportation

### CHAPTER X—INTERSTATE COMMERCE COMMISSION

### SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1114; Amdt. 3]

### PART 1033—CAR SERVICE

#### Norfolk and Western Railway Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 30th day of August 1973.

Upon further consideration of Service Order No. 1114 (37 FR 22872; 38 FR 5877 and 18025), and good cause appearing therefor:

*It is ordered*, That:

Service Order No. 1114 (*Norfolk and Western Railway Company authorized to operate over tracks of Penn Central Transportation Company, George P. Baker, Richard C. Bond, and Jervis Langdon, Jr., trustees*) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.*—The provisions of this order shall expire at 11:59 p.m., October 31, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

*Effective date.*—This amendment shall become effective at 11:59 p.m., August 31, 1973.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended, (49 U.S.C. 1, 12, 15, and 17(2)); interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911 (49 U.S.C. 1(10–17), 15(4), and 17(2)).)

*It is further ordered*, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-18926 Filed 9-5-73;8:45 am]

## Title 50—Wildlife and Fisheries

### CHAPTER I—BUREAU OF SPORT FISHERIES AND WILDLIFE, FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

### PART 32—HUNTING

#### Monte Vista National Wildlife Refuge, Colo.

The following special regulation is issued and is effective on September 6, 1973.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

COLORADO

MONTE VISTA NATIONAL WILDLIFE REFUGE

The public hunting of geese, ducks, coots, mergansers, mourning doves, sora and Virginia rails, and Wilson's snipe on the Monte Vista National Wildlife Refuge, Colorado, is permitted in accordance with conditions as outlined below, but only on the area designated by signs as open to hunting:

(1) Ducks, coots and mergansers—September 29, 1973, through October 9, 1973, inclusive, and November 10, 1973, through January 13, 1974, inclusive.

(2) Canada geese—November 10, 1973, through December 31, 1973, inclusive. Hunting of Canada geese is restricted to those persons who have secured a special Colorado state permit for the Special San Luis Valley Goose Hunt.

(3) Mourning doves—September 29, 1973, through October 9, 1973, inclusive.

(4) Sora and Virginia rails—September 29, 1973, through October 9, 1973, inclusive.

(5) Wilson's snipe—September 29, 1973, through October 9, 1973, inclusive.

This open area, comprising 5,314 acres, is delineated on maps available at refuge headquarters, Monte Vista, Colorado, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 10597 West 6th Ave., Denver, Colorado 80215. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of geese, ducks, coots, mergansers, mourning doves, sora and Virginia rails, and Wilson's snipe, subject to the following special conditions:

(1) Shooting hours will be from one-half hour before sunrise until sunset for ducks, geese, coots and mergansers.

(2) Shooting hours will be from sunrise to sunset on mourning doves, sora and Virginia rails and Wilson's snipe.

(3) During the 1973–74 season, all hunters, except pheasant hunters, must register at the refuge office before entering the hunting area at one of the six designated parking areas. Upon completion of the day's hunt, the hunter must return to the refuge office to complete a questionnaire regarding the hunt.

(4) Use of steel shot will be required on opening days (September 29 and November 10) and on alternate days thereafter. Specific dates for use of steel shot are: September 29; October 1, 3, 5, 7, 9; November 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30; December 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30; January 1, 3, 5, 7, 9, 11, 13. On other than "steel shot days" hunters will be permitted to use weapons and shells in accordance with State and Federal regulations.

(5) Steel shot shells in 12 gauge only, #2 and #4 shot, will be available for sale at refuge headquarters, at $4.00 per box.

(6) In the event that the supply of steel shot shells is exhausted at some time during the migratory bird season, hunting will then be authorized on all remaining days without checking in or out at the refuge office and with legal weapons and shells as permitted by State and Federal regulations.

(7) Dogs—Not to exceed two dogs per hunter may be used in the hunting of the above species.

(8) Boats—The use of boats is prohibited. One or two-man life rafts that can be carried by an individual from the parking areas to the hunting area may be used to retrieve dead or wounded birds.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 14, 1974.

M. A. MARSTON,
*Regional Director, Bureau of Sport Fisheries and Wildlife, Denver, Colorado.*

AUGUST 24, 1973.

[FR Doc.73-18858 Filed 9-5-73;8:45 am]

### PART 32—HUNTING

#### Monte Vista National Wildlife Refuge, Colo.

The following special regulation is issued and is effective on September 6, 1973.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

COLORADO

MONTE VISTA NATIONAL WILDLIFE REFUGE

The public hunting of rabbits, skunk, badger, raccoon, coyote, bobcat, and feral cat on the Monte Vista National Wildlife Refuge, Colorado, is permitted from September 29, 1973, through October 9, 1973, inclusive, and November 10, 1973, through January 13, 1974, inclusive, but only on the area designated by signs as open to hunting. This open area, comprising 5,314 acres is delineated on maps available at refuge headquarters, Monte Vista, Colorado, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 10597 West 6th Avenue, Denver, Colorado 80215.

Hunting shall be in accordance with all applicable State regulations governing the hunting of rabbits, skunk, badger, raccoon, coyote, bobcat, and feral cat, subject to the following special conditions:

(1) Hunting Hours—Shooting hours shall coincide with the most restrictive hours as those set by Federal and State proclamation for migratory waterfowl, except during the pheasant season when they shall coincide with the hours set by State proclamation for the hunting of pheasants.

(2) Use of steel shot will be required on opening days (September 29 and November 10) and on alternate days thereafter. Specific dates for use of steel shot are: September 29; October 1, 3, 5, 7, 9; November 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30; December 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30; January 1, 3, 5, 7, 9, 11, 13. On other than "steel shot days" hunters will be permitted to use weapons and shells in accordance with State and Federal regulations.

(3) During the 1973–74 season, all hunters, except pheasant hunters, must register at the refuge office before entering the hunting area at one of the six designated parking areas. Upon completion of the day's hunt the hunter must return to the refuge office to complete a questionnaire regarding the hunt.

(4) Steel shot shells in 12 gauge only, #2 and #4 shot, will be available for sale at refuge headquarters, at $4.00 per box.

(5) In the event that the supply of steel shot shells is exhausted at some time during the migratory bird season, hunting will then be authorized on all remaining days without checking in or out at the refuge office and with legal weapons and shells as permitted by State and Federal regulations.

(6) Dogs—Not to exceed two dogs per hunter may be used in the hunting of the above species.

(7) Hunting with rifles and hand guns is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 14, 1974.

CHARLES R. BRYANT,
*Refuge Manager.*

AUGUST 24, 1973.

[FR Doc.73-18859 Filed 9-5-73;8:45 am]





## Title 6—Economic Stabilization

### CHAPTER I—COST OF LIVING COUNCIL

### PART 130—COST OF LIVING COUNCIL PHASE III REGULATIONS

#### Stage A Meat Gross Margin Rules

The purpose of these amendments is to amend 6 CFR 130.57d and 6 CFR 130.127 in order to make certain corrections and modifications with respect to the gross margin rules applicable for the period July 18 through September 11, 1973, to firms which sell meat derived from swine and sheep.

It has been brought to the attention of the Cost of Living Council that certain firms producing both beef products and pork and lamb products—particularly those producing sausage and similar items of mixed beef and nonbeef content—are not able to control revenues under the special price rule for swine and sheep provided in 6 CFR 130.57d(e) because their cost and pricing records are not kept on the basis of beef and nonbeef items.

Accordingly, this amendment provides an alternative gross margin rule for the period July 18 through September 11, 1973, applicable to firms subject to 6 CFR 130.57d which sell meat derived from swine and sheep. Under the alternative rule, both (1) pork and lamb (i.e., swine and sheep) raw material costs for the period July 18 through September 11, 1973, and (2) beef raw material costs for that period, are included in the formula which limits permissible total sales revenues for that period. However, the beef raw material costs are determined at the cost levels which prevailed during the meat ceiling base period. Under this rule the aggregate beef and nonbeef costs and revenues are controlled without the need for separate records isolating costs and prices for swine and sheep items.

Section 130.57d has also been amended to permit sales revenues for the period July 18 through September 11, 1973, to exceed permissible total sales revenues under both the special price rule for swine and sheep (§ 130.57d(e)) and the alternative gross margin rule discussed above where the excess is attributable to increases in allowable costs, other than meat raw material cost, incurred prior to July 18, 1973. It was not the intent of the Council in promulgating the special pricing rule for swine and sheep for Stage A to exclude from the computation of permissible sales revenues those increases in allowable costs (other than meat raw material costs) which were incurred prior to the effective date of the special price rule for swine and sheep.

Section 130.57d has been further amended to permit firms which used the alternative gross margin rule to take into account increases in the price of imported beef which were permissible during the freeze.

Conforming changes have been made in the meat ceiling price rules contained in Subpart M of Part 130, Title 6 of the Code of Federal Regulations. Because the purpose of this amendment is to provide immediate guidance and information with respect to the current Stage A price regulations applicable to meat items, the Council finds that publication in accordance with normal rule making procedure is impracticable and that good cause exists for making this amendment effective in less than 30 days.

(Economic Stabilization Act of 1970, as amended, Pub. L. 92–210, 85 Stat. 743; Pub. L. 93–28, 87 Stat. 27; E.O. 11695, 38 FR 1473; E.O. 11730, 38 FR 19345; Cost of Living Council Order No. 14; 38 FR 1489)

In consideration of the foregoing, Title 6 of the Code of Federal Regulations is amended as follows, effective 4:00 p.m., e.s.t., July 18, 1973.

Issued in Washington, D.C., on August 31, 1973.

JOHN T. DUNLOP,
*Director, Cost of Living Council.*

1. Paragraph (e)(3) of § 130.57d is amended to read as follows:

§ 130.57d Special price adjustment rule for firms engaged in the slaughtering and processing of livestock or the manufacturing of meat products.

* * * * * * *

(e) *Special pricing rule for swine and sheep.*

* * * * * * *

(3) Sales revenues in the period July 18–September 12, 1973, may exceed the permissible total sales revenue calculated in accordance with paragraph (e)(1) of this section if the excess results from (i) seasonal patterns or a change in product mix, or (ii) price increases placed in effect prior to 4:00 p.m., e.s.t., July 18, 1973, to the extent that those price increases reflect increases in allowable costs, other than meat raw material costs, incurred after the base period as defined in this section and before 4:00 p.m., e.s.t., July 18, 1973. Records sufficient to justify any excess shall be maintained.

2. The following paragraph (h) is added to § 130.57d:

§ 130.57d Special price adjustment rule for firms engaged in the slaughtering and processing of livestock or the manufacturing of meat products.

* * * * * * *

(h) Alternative Rule.—(1) As an alternative to the special pricing rule in paragraph (e) of this section a firm may control revenues during Stage A in accordance with this paragraph. All other provisions of this section apply except as modified by this paragraph.

(2) Effective 4:00 p.m., e.s.t., July 18, 1973 until 11:59 p.m. e.s.t., September 11, 1973, except as provided in paragraph (h)(4) of this section, permissible total sales revenues for the period July 18–September 12, 1973 may not exceed an amount derived from the following computation: the base period gross margin



V 38-172
SEP 6 73
XUM

multiplied by the meat raw material during the period July 18–September 12, 1973, plus pork and lamb raw material cost during the period July 18–September 12, 1973, plus discounted beef raw material costs during the period July 18–September 12, 1973. This computation is illustrated by use of the following equation:

| Base period gross margin per hundredweight. | × | Meat raw material for the period July 18 to Sept. 12, 1973, measured by hundredweight. | + | Pork and lamb raw material costs for the period July 18 to Sept. 12, 1973. | + | Discounted beef raw material costs for the period July 18 to Sept. 12, 1973. | = | Permissible total sales revenues for the period July 18 to Sept. 12, 1973. |
|---|---|---|---|---|---|---|---|---|

(3) In computing meat raw material and meat raw material costs for the period July 18–September 12, 1973 for the purpose of determining permissible total sales revenues for the period July 18–September 12, 1973, a firm must exclude all livestock, semiprocessed livestock, and meat products purchased and resold without change in form.

(4) Sales revenues in the period July 18–September 12, 1973, may exceed the permissible total sales revenue calculated by application of the formula provided in paragraph (h)(2) of this section if the excess results from (i) seasonal patterns or a change in product mix; (ii) increases in the price of imported beef pursuant to § 130.123(b) of this title; or (iii) price increases placed in effect prior to 4:00 p.m., e.s.t., July 18, 1973, to the extent that those price increases reflect increases in allowable costs, other than meat raw material costs, incurred after the base period as defined in this section and before 4:00 p.m., e.s.t., July 18, 1973. Records sufficient to justify any excess shall be maintained.

(5) The following definitions apply for purposes of this paragraph, notwithstanding any other provision of this section.

"Discounted beef raw material cost" means meat raw material cost as defined in paragraph (c) of this section, except that—

(i) the term "inventory" excludes swine, sheep, lamb, and pork;

(ii) the term "livestock" excludes swine and sheep;

(iii) the term "cost" means not more than the sum of the average costs for beef raw material items during the meat ceiling base period as defined in § 130.123 of this title (the average cost of a beef raw material item is determined by dividing the net cost by the volume of that item purchased during the meat ceiling base period); and

(iv) the term "value" means the value assigned to inventory, in accordance with the customary accounting practice of the firm concerned, based upon costs as defined in subparagraph (iii) of this definition.

"Livestock" means, for the purpose of calculating the base period gross margin, cattle, swine, and sheep.

"Meat products" means "meat" as defined in § 130.123 of this title.

"Pork and lamb raw material cost" means meat raw material cost as defined in this paragraph, except that meat raw material excludes cattle and beef.

**§ 130.127 [Amended]**

3. Paragraph (a) of § 130.127 is amended by deleting the period which concludes that paragraph and adding the words "or § 130.57d(h)."

4. Paragraph (b) of § 130.127 is amended by deleting the period which concludes that paragraph and adding the words "or § 130.57d(h)."

[FR Doc.73-19021 Filed 9-5-73;12:41 am]

## PART 140—COST OF LIVING COUNCIL FREEZE REGULATIONS

## PART 150—COST OF LIVING COUNCIL PHASE IV PRICE REGULATIONS

### Scope Sections

Sections 140.1(a) and 150.1(b) are amended as set forth below to effect technical changes which conform the scope provisions of Parts 140 and 150 to the recent amendment extending the freeze on retail prices of gasoline and No. 2–D diesel fuel until 11:59 p.m., local time September 7, 1973.

This amendment makes clear that it is the intent of the Cost of Living Council that the provisions of Part 140 remain in effect with respect to the retail sale of gasoline and No. 2–D diesel fuel as long as the freeze on these products is continued. It is not the Council's intent to authorize the application of exemptions under Part 150 to retail sales of gasoline and No. 2–D diesel fuel until September 8, when the petroleum regulations become effective for these retail sales.

Because the purpose of this amendment is to provide immediate guidance as to Cost of Living Council decisions, I find that publication in accordance with normal rule making procedure is impracticable and that good cause exists for making this amendment effective in less than 30 days. Interested persons may submit comments regarding this amendment. Communications should be addressed to the Office of the General Counsel, Cost of Living Council, Washington, D.C. 20508.

(Economic Stabilization Act of 1970, as amended, Pub. L. 92–210, 85 Stat. 743, Pub. L. 93–28, 87 Stat. 27, E.O. 11695, 38 FR 1473, E.O. 11730, 38 FR 19345, Cost of Living Council Order No. 14, 38 FR 1489)

In consideration of the foregoing, Chapter I of Title 6 of the Code of Federal Regulations is amended as follows, effective immediately.

Issued in Washington, D.C., on August 31, 1973.

JOHN T. DUNLOP,
*Director,*
*Cost of Living Council.*

1. Section 150.1(b) is amended to read as follows:

**§ 150.1 Scope.**

* * * * *

(b) The price rules of Part 130 of this chapter remain effective until 11:59 p.m., e.s.t., September 11, 1973, with respect to sales of food subject to Subpart F of that part and with respect to sales of meat subject to Subpart M of that part. Part 140 of this chapter also remains effective with respect to sales of food and meat subject to Subpart I of that part until 11:59 p.m., e.s.t., September 11, 1973, and with respect to retail sales of gasoline and No. 2–D diesel fuel until 11:59 p.m., local time, September 7, 1973.

* * * * *

2. Section 140.1(a) is amended to read as follows:

**§ 140.1 Purpose and scope.**

(a) The purpose of this part is to implement the provisions of Executive Order 11730 which continues the freeze on prices for commodities and services imposed by Executive Order 11723. Except as provided in paragraph (b), the provisions of this part are in addition to the provisions of Part 130 of this title with respect to prices charged or received for commodities and services beginning 9:00 p.m., e.s.t., June 13, 1973 and shall not operate to abrogate any requirements imposed under Part 130. This part shall remain in general effect until 11:59 p.m.. e.s.t., August 12, 1973, after which Phase IV shall commence except that the freeze on prices for food as modified in Subpart I shall remain in effect until 11:59 p.m., e.s.t., September 11, 1973 and the freeze on prices for retail sales of gasoline and No. 2–D diesel fuel shall remain in effect until 11:59 p.m., local time, September 7, 1973. To the extent that the provisions of this part are in conflict with the provisions of Part 130, the provisions of this part control, except that the provisions of this part shall not operate to permit prices higher than permitted under Part 130. The provisions of this part do not extend to:

(i) Wages and salaries, which continue to be subject to the program established pursuant to Executive Order 11695;

(ii) Interest and dividends, which continue to be subject to the program established by the Committee on Interest and Dividends;

(iii) Rents, which continue to be subject to controls only to the limited extent provided in Executive Order 11695.

* * * * *

[FR Doc.73-19020 Filed 9-4-73;12:41 am]

## PART 152—COST OF LIVING COUNCIL PHASE IV PAY REGULATIONS

### Recodified Pay Rules for Phase IV

*Correction*

In FR Doc. 73-18703 appearing at page 23614 in the issue of Friday, August 31, 1973, make the following changes:





1. In the 2d line of § 152.105(b) the words "the subparagraph" should read "this section".

2. In § 152.107(d)(2), 19th line, "CLC" should read "CLC–32".

## Title 7—Agriculture

## CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Regulation 448]

## PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

### Limitation of Handling

This regulation fixes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period September 7–13, 1973. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 908. The quantity of Valencia oranges so fixed was arrived at after consideration of the total available supply of Valencia oranges, the quantity of Valencia oranges currently available for market, the fresh market demand for Valencia oranges, Valencia orange prices, and the relationship of season average returns to the parity price for Valencia oranges.

**§ 908.748 Valencia Orange Regulation 448.**

(a) *Findings.*—(1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this section to limit the respective quantities of Valencia oranges that may be marketed from District 1, District 2, and District 3 during the ensuing week stems from the production and marketing situation confronting the Valencia orange industry.

(i) The committee has submitted its recommendation with respect to the quantities of Valencia oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Valencia oranges continues to be weak. Prices f.o.b. averaged $3.27 per carton on a sales volume of 477 carlots during the week ended August 30, 1973, compared with $3.28 per carton on sales of 464 carlots a week earlier. Track and rolling supplies at 294 cars were down 33 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the respective quantities of Valencia oranges which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this section until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this section, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on September 4, 1973.

(b) *Order.*—(1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period September 7, 1973 through September 13, 1973, are hereby fixed as follows:

(i) District 1: Unlimited movement;

(ii) District 2: 450,000 cartons;

(iii) District 3: Unlimited movement.

(2) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" have the same meaning as when used in said marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674))

Dated September 5, 1973.

CHARLES R. BRADER,
*Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.73-19116 Filed 9-5-73;8:45 am]

## PART 932—OLIVES GROWN IN CALIFORNIA

### Subpart—Rules and Regulations

ESTABLISHMENT OF GRADE AND SIZE REQUIREMENTS FOR PROCESSED 1973–74 OLIVES

The following amendment of the Subpart—Rules and Regulations prescribes the grade and size requirements for California olives processed during the 1973–74 crop year for use in the production of limited use styles (halved, sliced, quartered, chopped or minced, and "segmented") of canned ripe olives. It relaxes the size requirements that would otherwise apply to such olives during said crop year pursuant to the provisions of the Federal marketing order for olives grown in California.

The publication hereof gives notice of the approval of amendment, as hereinafter set forth, of the rules and regulations (Subpart—Rules and Regulations; 7 CFR 932.108–932.161) currently effective pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 932, as amended (7 CFR Part 932), regulating the handling of olives grown in California, hereinafter referred to collectively as the "order." This is a regulatory program effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The amendment of said rules and regulations was unanimously recommended by the Olive Administrative Committee, established under said marketing agreement and order as the agency to administer the terms and provisions thereof.

The provisions of paragraphs § 932.52 (a)(2) and (a)(3) of the order specify, in terms of minimum weights for individual olives according to variety, the minimum sizes of processed olives that may be used in the production of Whole or Pitted styles of canned ripe olives. Section 932.52(a)(3) also provides that processed olives smaller than the sizes so prescribed, as recommended annually by the committee and approved by the Secretary, may be authorized for limited use (production of Halved, Sliced, or Chopped or Minced styles of canned ripe olives) but any such limited use size olives so used shall be not smaller than the applicable size specified in the paragraph except for the tolerances recommended



V 38-172 SEP 6 73 XUM

to, and approved by, the Secretary. Pursuant thereto this amendment establishes, for olives from the 1973–74 crop utilized for limited use, the minimum sizes specified in said § 932.52(a) (3) and includes a size tolerance of 20 percent for undersize Variety Group 1 olives and 15 percent for undersize Variety Group 2 olives. The same size requirements will apply to olives used in the production of quartered and "segmented" styles (segmented style olives means olives that meet the standards for quartered style except that the pitted olives shall each have been cut lengthwise into more than four approximately equal parts) pursuant to the provisions of § 932.155(d). The amendment includes, for olives used to produce the halved or sliced styles, the grade requirements specified in § 932.52 and modified in § 932.149. The minimum grade for the chopped or minced style is currently specified in § 932.149. The minimum grade of olives used to produce quartered or "segmented" styles is currently specified in § 932.155.

This liberalization reflects the committee's appraisal of the 1973–74 olive crop and marketing conditions and are its recommendations for the minimum grade and sizes of olives that will provide consumers with good quality fruit of the styles specified herein and for improving returns to producers pursuant to the declared policy of the act.

It is hereby found that amendment of said rules and regulations, as hereinafter set forth, is in accordance with the provisions of the marketing agreement and order, and will tend to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended.

A new § 932.153a is added reading as follows:

**§ 932.153a Establishment of grade and size requirements for processed 1973–74 olives for limited use.**

(a) Grade.—On and after September 7, 1973, any handler may use processed olives of the respective variety groups in the production of halved or sliced styles of canned ripe olives if such olives were processed after September 6, 1973, and meet the grade requirements specified in § 932.52(a)(1) as modified by § 932.149.

(b) *Sizes.*—On and after September 7, 1973, any handler may use processed olives in the production of halved, sliced, or chopped or minced styles of canned ripe olives if such olives were processed during the period September 7, 1973, through August 31, 1974, and meet the following requirements:

(1) The processed olives shall be identified and kept separate and apart from any olives processed before September 7, 1973, or after August 31, 1974;

(2) Variety Group 1 olives, except the Ascolano, Barouni, or St. Agostino varieties, shall be of a size which individually weigh 1/90 pound: *Provided*, That not to exceed 20 percent of the olives in any lot or sublot may be smaller than 1/90 pound;

(3) Variety Group 1 olives of the Ascolano, Barouni, or St. Agostino varieties shall be of a size which individually weight 1/140 pound: *Provided*, That not to exceed 20 percent of the olives in any lot or sublot may be smaller than 1/140 pound;

(4) Variety Group 2 olives, except the Obliza variety, shall be of a size which individually weigh 1/180 pound; *Provided*, That not to exceed 15 percent of the olives in any lot or sublot may be smaller than 1/180 pound;

(5) Variety Group 2 olives of the Obliza variety shall be of a size which individually weigh 1/140 pound: *Provided*, That not to exceed 15 percent of the olives in any lot or sublot may be smaller than 1/140 pound.

It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rule making procedure and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), and good cause exists for making the provisions hereof effective at the time hereinafter set forth, in that (1) the time intervening between the date when the information upon which this amendment is based became available and the time such amendment must become effective in order to effectuate the declared policy of the act is insufficient; (2) the handling of the 1973 crop of olives is expected to begin on or about September 7, 1973 and amendment of the rules and regulations should be in effect by that time so as to apply to the handling of the entire crop to effectuate the declared policy of the act; (3) unless modified by this amendment, the more restrictive requirements of the order provisions would then apply to the handling of the crop; (4) compliance with the amended rules and regulations will require of handlers no special preparation therefor which cannot be completed by the effective time hereof; (5) in order to facilitate the handling of the 1973 crop the industry should have knowledge of the revised requirements, contained in this amendment, as soon as possible; and (6) this amendment was unanimously recommended by members of the Olive Administrative Committee at an open meeting on August 15, 1973, at which all interested persons were afforded an opportunity to submit their views.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).)

Dated August 31, 1973, to become effective September 7, 1973.

CHARLES R. BRADER,
*Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.73-18931 Filed 9-5-73;8:45 am]

## CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

### MILK IN THE BOSTON REGIONAL MARKETING AREA, ET AL.

### Order Suspending a Certain Provision of the Orders

In the matter of:

7 CFR PARTS AND MARKETING AREAS

1001 Boston Regional.
1002 New York-New Jersey.
1004 Middle Atlantic.
1006 Upper Florida.
1007 Georgia.
1011 Appalachian.
1012 Tampa Bay.
1013 Southeastern Florida.
1015 Connecticut.
1030 Chicago Regional.
1033 Ohio Valley.
1036 Eastern Ohio-Western Pennsylvania.
1040 Southern Michigan.
1044 Michigan Upper Peninsula.
1046 Louisville-Lexington-Evansville.
1049 Indiana.
1050 Central Illinois.
1060 Minnesota-North Dakota.
1061 Southeastern Minnesota - Northern Iowa (Dairyland).
1062 St. Louis-Ozarks.
1063 Quad Cities-Dubuque.
1064 Greater Kansas City.
1065 Nebraska-Western Iowa.
1068 Minneapolis-St. Paul, Minnesota.
1069 Duluth-Superior.
1070 Cedar Rapids-Iowa City.
1071 Neosho Valley.
1073 Wichita, Kansas.
1075 Black Hills, South Dakota.
1076 Eastern South Dakota.
1078 North Central Iowa.
1079 Des Moines, Iowa.
1090 Chattanooga, Tennessee.
1094 New Orleans, Louisiana.
1096 Northern Louisiana.
1097 Memphis, Tennessee.
1098 Nashville, Tennessee.
1099 Paducah, Kentucky.
1101 Knoxville, Tennessee.
1102 Fort Smith, Arkansas.
1106 Oklahoma Metropolitan.
1108 Central Arkansas.
1120 Lubbock-Plainview, Texas.
1121 South Texas.
1124 Oregon-Washington.
1125 Puget Sound, Washington.
1126 North Texas.
1127 San Antonio, Texas.
1128 Central West Texas.
1129 Austin-Waco, Texas.
1130 Corpus Christi, Texas.
1131 Central Arizona.
1132 Texas Panhandle.
1133 Inland Empire.
1134 Western Colorado.
1136 Great Basin.
1137 Eastern Colorado.
1138 Rio Grande Valley.
1139 Lake Mead.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the orders regulating the handling of milk in the aforesaid marketing areas.

It is hereby found and determined that for September 9–30, 1973 the following provision in each of the above listed orders does not tend to effectuate the declared policy of the Act:

The word "second" in §§ 1001.61(a), 1002.50a(a), 1004.50(a), 1006.50(a), 1007.51(a), 1011.51(a), 1012.50(a), 1013.50(a), 1015.61(a), 1030.51(a), 1033.51(a), 1036.50(a), 1040.50(a), 1044.51(a), 1046.51(a), 1049.50(a), 1050.51(a), 1060.51(a), 1061.51(a), 1062.51(a), 1063.50(b), 1064.51(a), 1065.51(a), 1068.53, 1069.51(a), 1070.50(b), 1071.51(a), 1073.51(a), 1075.51(a), 1076.51(a) 1078.50(b), 1079.50(b), 1090.51(a), 1094.51(a), 1096.51(a), 1097.51(a), 1098.51(a), 1099.51(a), 1101.51(a), 1102.51(a), 1106.51(a), 1108.51(a), 1120.50(a), 1121.51(a), 1124.51(a), 1125.50(a), 1126.51(a), 1127.51, 1128.50(b), 1129.50(b), 1130.51(a), 1131.51(a), 1132.51(a), 1133.50(a), 1134.51(a), 1136.50(a), 1137.51(a), 1138.51(a), and 1139.50(a).

STATEMENT OF CONSIDERATION

This suspension will result in the Class I price for September 9–30, 1973 under each of the aforesaid orders being based on the basic formula price for the preceding month. Presently, Class I prices are based on the basic formula price for the second preceding month.

Class I prices under such orders are determined by adding a specified differential to the basic formula price, which is an average of prices paid for manufacturing grade milk in Minnesota and Wisconsin. Without the suspension, the Class I price under each order for all of September would be that determined by adding the appropriate Class I differential to the July basic formula price of $5.78. Under the suspension, Class I prices for September 9–30 will be based on the basic formula price for August. The August price (to be announced by September 5) is expected to be about $6.50.

The suspension will result in producers in all 61 Federal order markets receiving on September 9 a Class I price increase of about 70 cents per hundredweight that was previously scheduled for October 1. Although no provisions in the Red River Valley and Southern Illinois orders (Parts 1104 and 1032) are being suspended, Class I prices under these orders nevertheless will be increased through this action. The Red River Valley Class I price is tied to the Class I price under the Oklahoma Metropolitan order. The Southern Illinois Class I price is based on the St. Louis-Ozarks Class I price.

An immediate increase in Federal order Class I prices is essential to the production of adequate supplies of milk for fluid consumption. In recent months, milk producers throughout the country have been experiencing an unprecedented rise in the cost of feed for dairy cattle. The tight supplies of protein have dominated the feed situation. For the month ending in mid-August, the average price of soybean meal (the principal high-protein feed for dairy cows) was $372 per ton. A year ago, soybean meal was bringing $133 a ton. The average cost of 16 percent protein dairy ration increased to $132 per ton in August, about 60 percent above a year earlier. Corn prices also have risen, averaging about $2.68 per bushel in August. This was more than double the price a year ago. The prospective strong demand for feed grains suggests that feed prices will remain well above those of a year earlier.

Milk prices, on the other hand, have not kept pace with rising feed costs. This is indicated by the milk-feed price ratio, which is a numerical measure of the pounds of concentrate ration equal in value to a pound of milk. For July 1973, this ratio was down 23 percent from a year ago, which at 1.29 was the lowest July ratio since 1963. Last year's July ratio was 1.68. At the current ratio, the milk-feed price relationship is not conducive to heavy grain and concentrate feeding.

Dairy farmers have been facing significant cost increases for other milk production inputs as well. These include recent increases over last year of 8 percent for farm machinery, 9 percent for fertilizer, 24 percent for seed, 12 percent for building and fencing materials, 8 percent for wages, 6 percent for taxes, and 9 percent for interest.

Concurrently with rising milk production costs, prices for slaughter cattle have risen to new highs. This has provided a strong inducement for heavy culling of milk cows by dairymen.

Under these conditions, dairy farmers have not had the incentive to maintain milk production at the level necessary to meet the expected demand for milk and milk products during the forthcoming fall and winter months. Nationally, milk production has been declining steadily since the beginning of the year. For January through June, production was 2.2 percent less than for the same period a year ago. July production was 3.3 percent less than a year earlier. Milk cow numbers for July dropped 2.5 percent from July 1972, and milk per cow was down 0.9 percent.

On the demand side, national sales of milk and dairy products have been rising steadily. For January through May 1973, total commercial use of all milk was up 2.4 percent from a year earlier.

In 59 of the 67 Federal order markets for which there are comparable data, producer receipts for January through June 1973 decreased 1.9 percent from the comparable 1972 period. Production in July was 3.4 percent below a year ago. Producer milk used in Class I, on the other hand, increased 1.4 percent from last year in the January-June period. July Class I utilization was up 1.5 percent. The opening of schools in September will result in a greater demand for milk, which will continue through the fall and winter months when supplies are expected to be short.

Under these circumstances, immediate action should be taken under the Federal milk order program to encourage milk production and the retention of resources devoted to dairying. Producers are faced daily with mounting production costs. They are urgently in need of added income to meet these costs. Without the immediate price increase, there will be no inducement to reverse the present movement of resources out of dairying.

As noted, the average price for manufacturing grade milk in Minnesota and Wisconsin for August is expected to increase about 70 cents per hundredweight. This very substantial one-month increase is a reflection of the significant supply-demand changes within the dairy industry. Such a price change, which can be expected to be a major incentive for increased milk production, should be reflected immediately in Federal order Class I prices rather than at the later October 1 date when the price increase otherwise would take place.

The suspension is based on a public hearing that began August 28 in Clayton, Mo. In the notice of hearing, it was stated that "Proposal No. 1 contemplates price adjustments for each of the markets effective with respect to September deliveries. Since the remaining time obviously does not allow for consummation of amendatory action by September 1, evidence will be received with respect to the propriety of suspension action to establish Class I prices on and after September 1 on a more current basis relative to advancing manufacturing milk prices."

At the hearing, a substantial number of producer groups asked that emergency suspension action be taken to increase September Class I prices. Certain other producer groups indicated, however, that emergency action for September is not necessary. These groups were cooperatives whose members are receiving prices for Class I milk in excess of the minimum order Class I prices.

There is every indication that milk producers in all Federal order markets are experiencing significantly higher production costs. Not all producers in each market are receiving above-order prices for their milk. It is essential to the adequacy of the total supply of milk for fluid consumption that Class I prices in all Federal order markets be increased immediately.

It is hereby found and determined that notice of proposed rulemaking, public procedure thereon, and thirty days' notice of the effective date hereof are impractical, unnecessary, and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the aforesaid marketing areas in that it is necessary to provide at the earliest opportunity an added incentive for dairy farmers to produce adequate supplies of pure and wholesome milk for fluid consumption. This action is necessary in recognition of present or potential milk shortages in many of such markets and a threatened general shortage of Grade A milk supplies.

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Producers requested this suspension at a hearing that began August 28









V 38-172
SEP 6 73
XUM

in Clayton, Mo. Interim emergency action is necessary pending a detailed review of conditions in individual markets as described at the hearing.

Therefore, good cause exists for making this order effective September 9, 1973.

*It is therefore ordered*, That the aforesaid provisions of the orders are hereby suspended for September 9–30, 1973.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).)

*Effective date.*—September 9, 1973.

Signed at Washington, D.C., on September 4, 1973.

CLAYTON YEUTTER,
*Assistant Secretary.*

[FR Doc.73–19077 Filed 9–5–73;8:45 am]

## Title 36—Parks, Forests, and Memorials

### CHAPTER I—NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

### PART 50—NATIONAL CAPITAL PARKS REGULATIONS

#### Public Gatherings

The United States District Court for the District of Columbia in a Quaker Action Group, et al. v. Morton, et al., Civ. No. 688–69, has entered judgment as follows:

This cause having come before the Court for trial under the remand mandate of the United States Court of Appeals for the District of Columbia Circuit, —— U.S. App. D.C. ——, 460 F. 2d 854, 864 (1971); trial having been conducted; the Court having entered Findings of Fact and Conclusions of Law in this matter on August 22, 1973; now, in accordance therewith.

It is by the Court this 28th day of August 1973, ORDERED, ADJUDGED, AND DECREED:

1. That the 100/500 limitations on demonstrations on the sidewalk in front of the White House and in Lafayette Park contained in the August 1967 memorandum of T. Sutton Jett and subsequently incorporated in the revised Regulations of the Department of the Interior are invalid and void as an unconstitutional infringement of the plaintiffs' rights to freedom of speech and to assemble peacefully and petition the Government for a redress of grievances.

2. That any limitation of less than 750/3000 on demonstrations on the sidewalk in front of the White House and in Lafayette Park would be invalid and void as an unconstitutional infringement of plaintiffs' rights to freedom of speech and to assemble peaceably and petition the Government for a redress of grievances.

3. That the permit requirement of 36 CFR 50.19 does not confer impermissibly broad discretion on government officials to grant or deny permits in violation of First Amendment rights except as set forth in paragraphs 1 and 2 of this Order, in this connection:

a. The requirements of and standards for a permit or notice are reasonable.

b. The restrictions on rush hour demonstrations are reasonable.

c. The ban on the use of sound amplification systems on the White House sidewalk is reasonable.

d. The requirement of marshals for simultaneous demonstrations in Lafayette Park and the White House sidewalk is reasonable.

e. The ban on continuous demonstrations lasting beyond 24 hours or beyond 7 consecutive days by one group is reasonable.

4. That the preliminary injunction issued by this Court in this case, as modified by the Court of Appeals, is dissolved.

The effective date of the National Capital Parks Public Gathering Regulation, 36 CFR 50.19, as amended at 37 FR 24899, November 23, 1972, was postponed by publication at 35 FR 17552, November 14, 1970, pending this Court action. Under the terms of this judgment, 36 CFR 50.19 becomes effective on September 4, 1973, except that: In compliance with the Court's judgment (pending appellate consideration of the matter) the participant limitation on public gathering activities sought to be conducted on the White House sidewalk shall be 750, and in Lafayette Park shall be 3000. (This is in lieu of the 100/500 limitation provided by 36 CFR 50.19 (g) (2) and (3).)

Persons desirous of obtaining a permit under 36 CFR 50.19 to conduct public gathering activities after noon, Tuesday, September 4, 1973, on lands administered by National Capital Parks, National Park Service, should obtain and execute a Public Gathering Permit Application form. Such forms may be obtained from the Director, National Capital Parks, National Park Service, 1100 Ohio Drive SW., Washington, D.C. 20242.

Dated September 4, 1973.

ROGERS C. B. MORTON,
*Secretary of the Interior.*

[FR Doc.73–19082 Filed 9–5–73;8:45 am]





# Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

## COST OF LIVING COUNCIL

### [ 6 CFR Part 152 ]

### EXECUTIVE AND VARIABLE COMPENSATION

#### Notice of Proposed Rulemaking

*Correction*

In FR Doc. 73–18704 appearing at page 23628 in the issue of Friday, August 31, 1973, make the following changes:

1. In § 152.124(d) (2) (i), line 14 should read "§ 152.130) and who are subject to self-adminis-".

2. In § 152.124(d) (2) (ii), delete the word "to" in the 7th line.

3. In § 152.124(d) (3) (iv), line 4 should be deleted.

4. In § 152.125(b) (1), last line, "pursuant to § 152.129," should be between the 3d and 4th lines of § 152.125(b) (2) (ii).

5. In § 152.125(d) (2) (ii), delete the word "to" from the 7th line.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

### [ 9 CFR Part 94 ]

### MILK AND MILK PRODUCTS

#### Proposed Restrictions on Importation

The purpose of the proposal is to place certain restrictions on the importation of milk and milk products originating in any county designated in § 94.1 as infected with rinderpest or foot-and-mouth disease. The proposal would require:

(a) The milk or milk product to be in a liquid form in a hermetically sealed container which was processed by heat after packed and sealed which makes the product shelf stable without refrigeration,

(b) Shipment of the milk or milk products to be transported without refrigeration, and

(c) Each shipment to be accompanied by a certificate issued by an appropriate foreign official certifying to the specified processing required: *Provided*, That upon specific request the Deputy Administrator may permit milk and milk products to be brought into the United States for further processing or without further processing when he determines that such action will not endanger the livestock or poultry of the United States.

*Statement of consideration.*—Research has shown that the virus of rinderpest and foot-and-mouth disease is present in the milk of infected ruminants. Veterinary Sciences Research scientists have advised that the most commonly used method for pasteurization, the high temperature-short time process, is not adequate to provide acceptable assurance that the virus would be destroyed. The chief method of producing nonfat milk powder also is considered inadequate for virus destruction. In addition, the processing procedures are such that recontamination of fully processed product may occur.

Most foreign dairy products are subject to rigid eligibility requirements for United States entry. The Food and Drug Administration administers the Import Milk Act which imposes strict standards for fluid milk and cream and condensed and evaporated milk. Additionally, Food and Drug Administration requirements apply to other types of milk products.

Foreign Agricultural Service administers Section 22 of the Agricultural Adjustment Act which regulates the importation of dairy products through a quota system. The regular annual quota for nonfat dry milk is 1,807,000 pounds and is allotted to Canada and Australia.

During the past year, market conditions together with depletion of stocks previously held by the Commodity Credit Corporation resulted in a severe domestic shortage of nonfat dry milk. Subsequently, Proclamation No. 4177 authorized an additional temporary quota of 25 million pounds to be imported during the period December 30, 1972, through February 15, 1973. Some five million pounds of this originated in foot-and-mouth disease infected countries. The temporary quota of 25 million pounds, however, was not sufficient to supply the demand and on April 25, 1973, Proclamation No. 4213 authorized the importation of an additional temporary quota of 60 million pounds. Available information indicates that over 24 million pounds of this amount originated in rinderpest or foot-and-mouth disease countries.

Of the various types of imported dairy products, it is believed that nonfat dry milk is the most dangerous with respect to introduction of foreign diseases. Milk powders have long been used in the preparation of feed formulations for swine and calves. The Department is concerned that some of the nonfat milk powder from rinderpest or foot-and-mouth disease countries may contain rinderpest or foot-and-mouth disease virus and may reach susceptible animals. This could occur when quantities of the milk powder or formulations utilizing the powder are diverted from human consumption and into livestock feeds. Any number of conditions that result in spoilage and contamination with bacteria, filth, or vermin could cause such diversions. Under current operations, the importer furnishes Veterinary Services with a notarized affidavit which certifies that the product will not be used in livestock feeds, however, this would not be sufficient protection if the product was sold to a subsequent purchaser without his knowledge of such certification, resulting in possible use of the product in animal feeds if it became contaminated.

The Department has no basis for estimating the frequency or quantities of importations which might be authorized under future temporary quotas, nor can any valid estimate as to what portion of any such quota will come from rinderpest or foot-and-mouth disease countries be made. Based on the two recent temporary quotas and the knowledge received of production capabilities, it is reasonable to believe that some portion of the quota would be filled by rinderpest or foot-and-mouth disease countries. The Department also expects that some users of the milk powders will submit an application to become an approved establishment to handle a restricted import.

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that, pursuant to section 2 of the Act of February 2, 1903, as amended; and section 306 of the Act of June 17, 1930, as amended (19 U.S.C. 1306; 21 U.S.C. 111), the Animal and Plant Health Inspection Service is considering amending 9 CFR Part 94.

A new § 94.15 would be added to read:

**§ 94.15 Milk and milk products.**

Milk and milk products originating in a country designated in § 94.1 as infected with rinderpest or foot-and-mouth disease may be imported into the United States if: (a) (1) The milk or milk product is in a liquid form in a hermetically sealed container and was processed by heat after packing and sealing so that the product is shelf stable without refrigeration, (2) shipments of the milk or milk product are transported to the United States without refrigeration, and (3) each shipment is accompanied by a certificate of a salaried veterinary officer of the national government of the country of origin certifying that the milk and milk products have been processed in accordance with paragraph (a) (1) of this section: *Provided*, That upon specific request the Deputy Administrator, Veterinary Services, may permit other milk and



V 38 I 172
SEP 6 73
XUM

milk products to be imported into the United States under conditions prescribed by him for such specific cases when he determines that such action will not endanger the livestock or poultry of the United States; *However*, if such other milk or milk product is to be imported for further processing it must, in addition to the permission obtained from the Deputy Administrator, Veterinary Services, be consigned and shipped directly to an establishment which has been approved for this purpose and which has provided the Deputy Administrator, Veterinary Services, with satisfactory evidence that it has the equipment, facilities, and capabilities to properly store, handle, process, and utilize the specific shipment of milk or milk product so as to prevent the introduction or dissemination of animal or poultry diseases into the United States.

Any person who wishes to submit written data, views, or arguments concerning the proposed amendment may do so by filing them with the Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Hyattsville, Maryland 20782, before October 6, 1973.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Center Building, Room 870, Hyattsville, Maryland, during regular business hours, in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue of the FEDERAL REGISTER.

Done at Washington, D.C., this 31st day of August 1973.

G. H. WISE,
*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc.73-18932 Filed 9-5-73;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

### [ 21 CFR Part 130 ]

### CLINICAL DATA ON NEW DRUGS GENERATED OUTSIDE THE UNITED STATES

### Proposal To Adopt International Clinical Research Standards

The Commissioner of Food and Drugs is concerned over the loss in the new drug approval process in the United States of clinical data from studies performed by experts abroad. Expertise in clinical pharmacology and the clinical investigation of drugs exists in many countries. The Food and Drug Administration's (FDA's) access to data produced by drug studies performed outside of the United States has been limited largely to review of the published literature. As a result, in reviewing a new drug application (NDA) submitted for approval the agency has relied almost exclusively on clinical investigations performed in the United States even though the new drug regulations (21 CFR 130.3 and 130.4) permit inclusion of studies performed outside of this country. It is in the interest of the public health for the FDA, whenever possible, to have access to and consider detailed information resulting from all studies which are well-conceived, well-controlled, and conducted by qualified experts, wherever they are performed. Utilization of such information will reduce the duplication of effort of clinical investigators here and abroad, making available a larger pool of talent for drug research, and will decrease the duplication of clinical studies and thus the total number of patients and volunteers exposed to investigational drugs during the early trial periods. Such utilization may also result in useful drugs becoming available to the public at an earlier date.

A "Notice of Claimed Investigational Exemption for a New Drug" (IND) is required whenever an investigational drug is shipped abroad for clinical study, and although an IND is not required when an investigational drug is manufactured and studied abroad, the FDA will accept one on a voluntary basis. Whenever an IND is filed, regardless of whether one is required, all of the requirements of the law and regulations must be met. Since the IND requirements do not apply to drugs manufactured and investigated abroad, and where one is not voluntarily submitted, it is necessary that regulations be available under which such clinical studies will be acceptable for consideration as a part of IND's and NDA's under review in the United States. This will assist manufacturers in their planning for and submission of such studies. It is anticipated that these regulations will be changed as experience is gained.

It is necessary to define the conditions under which foreign clinical studies may be regarded as acceptable ethically under the standards imposed by United States laws and regulations. It is the policy of the FDA not to accept studies in support of IND's or NDA's that have not been performed under standards of ethics acceptable to the world community.

The standard most universally accepted, and most nearly comparable to the United States requirements, is in the Declaration of Helsinki, adopted by the 18th World Medical Assembly, Helsinki, Finland, 1964. The Helsinki standards are as follows:

DECLARATION OF HELSINKI

RECOMMENDATIONS GUIDING DOCTORS IN CLINICAL RESEARCH

* * * * *

I. BASIC PRINCIPLES

1. Clinical research must conform to the moral and scientific principles that justify medical research and should be based on laboratory and animal experiments or other scientifically established facts.

2. Clinical research should be conducted only by scientifically qualified persons and under the supervision of a qualified medical man.

3. Clinical research cannot legitimately be carried out unless the importance of the objective is in proportion to the inherent risk to the subject.

4. Every clinical research project should be preceded by careful assessment of inherent risks in comparison to foreseeable benefits to the subject or to others.

5. Special caution should be exercised by the doctor in performing clinical research in which the personality of the subject is liable to be altered by drugs or experimental procedure.

II. CLINICAL RESEARCH COMBINED WITH PROFESSIONAL CARE

1. In the treatment of the sick person, the doctor must be free to use a new therapeutic measure, if in his judgment it offers hope of saving life, reestablishing health, or alleviating suffering. If at all possible, consistent with patient psychology, the doctor should obtain the patient's freely given consent after the patient has been given a full explanation. In case of legal incapacity, consent should also be procured from the legal guardian; in case of physical incapacity the permission of the legal guardian replaces that of the patient.

2. The doctor can combine clinical research with professional care, the objective being the acquisition of new medical knowledge, only to the extent that clinical research is justified by its therapeutic value for the patient.

III. NONTHERAPEUTIC CLINICAL RESEARCH

1. In the purely scientific application of clinical research carried out on a human being, it is the duty of the doctor to remain the protector of the life and health of that person on whom clinical research is being carried out.

2. The nature, the purpose and the risk of clinical research must be explained to the subject by the doctor.

3a. Clinical research on a human being cannot be undertaken without his free consent after he has been informed; if he is legally incompetent, the consent of the legal guardian should be procured.

3b. The subject of clinical research should be in such a mental, physical and legal state as to be able to exercise fully his power of choice.

3c. Consent should as a rule, be obtained in writing. However, the responsibility for clinical research always remains with the research worker; it never falls on the subject even after consent is obtained.

4a. The investigator must respect the right of each individual to safeguard his personal integrity, especially if the subject is in a dependent relationship to the investigator.

4b. At any time during the course of clinical research the subject or his guardian should be free to withdraw permission for research to be continued. The investigator or the investigating team should discontinue the research if in his or their judgment, it may, if continued, be harmful to the individual.

The regulations under the Federal Food, Drug, and Cosmetic Act (21 CFR 130.3 and 130.37) governing clinical research differ from these standards more in language than in principle in that the FDA regulations specifically state consent is required for patients in all cases except where the investigator deems it not feasible or, in his professional judgment, contrary to the best interests of the patient. Both standards require consent in all cases where the drug is being administered primarily for the accumulation of scientific knowledge. In the United States, where it is required, consent must be in writing in any Phase I and II investigation, and the decision whether to obtain consent orally or in writing is left to the discretion of the investigator in Phase III.





The FDA regulations also differ from the Declaration of Helsinki principles in that they require that the protocols for investigational drug studies on institutionalized patients be approved by an institutional review committee prior to inception of the study and the makeup of the committee is required to contain membership from varying backgrounds. However, many institutions abroad do have peer review committees of clinical research and, in some cases, include in the membership nonphysician professionals, e.g., nurses.

There is no desire to attempt to impose upon other countries the specific requirements for research in humans that apply in this country. Additionally the United States does not wish to reject valid scientific data generated under world ethical standards. The regulations proposed herein will permit acceptance of data performed under the ethical standards of the Declaration of Helsinki and where a review committee (composed of individuals who are scientists and, where practicable, individuals who are otherwise qualified and not including the investigator himself) has approved the research protocols from both the scientific and ethical standpoint prior to initiation of the study.

The scientific requirements to be applied to acceptance of foreign clinical drug studies should be the same as those recognized by scientists throughout the world as essential to the acquisition of valid data. The investigators performing the studies must be experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs. Such investigators, as in the United States, are usually associated with medical schools or with outstanding independent institutions and are recognized by their peers for the quality of their investigations and soundness of their conclusions. Facilities utilized by the investigator must be suitable for the complexity of the investigation undertaken. Adequate records to document conclusions of such a study are essential to the scientific process and must be available as needed to support the conclusions.

Based on the experience of the FDA, foreign data dealing with the clinical pharmacology and clinical safety and efficacy in the early phases of clinical investigation (i.e., Phase I and II, 21 CFR 130.3 Form FD 1571, item 10.1) would be the most useful for consideration in connection with IND's and NDA's. This would bring to bear the expertise of clinical pharmacologists wherever it exists on the complexities of drug studies.

The primary purposes of this proposal are to promote the public safety by eliminating unnecessary duplication of human research and to foster the availability to the American public in a timely fashion of important new drugs being studied abroad. In view of this, international manufacturers are expected, where a significant new drug is studied both abroad and in the United States and adequate data appear available for approval of the drug, to submit the data for review by the FDA at the same time they are submitted for review in a foreign country.

Accordingly, the Commissioner concludes it is in the public interest to accept results of clinical investigations performed in other countries in support of IND's and NDA's when such investigations were conducted in accordance with sound scientific and ethical principles of research as set forth herein.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201, 505, 507, 701, 52 Stat. 1040–1041, 1050–1053, as amended, 1055 (21 U.S.C. 321, 355, 357, 371)), and under authority delegated to the Commissioner (21 CFR 2.120), it is proposed that Part 130 be amended by adding a new section as follows:

**§ 130.____ Clinical data generated outside the United States and not subject to a "Notice of Claimed Investigational Exemption for a New Drug."**

(a) The Food and Drug Administration's access to data produced by drug studies performed outside of the United States and not covered by a "Notice of Claimed Investigational Exemption for a New Drug" (IND) is limited largely to review of published literature. The Commissioner of Food and Drugs has concluded that it is in the interest of the public health, whenever possible, to have access to and consider detailed information resulting from those studies performed abroad which are well-conceived, well-controlled, performed by qualified experts, and conducted in accordance with ethical principles acceptable to the world community.

(b) Such studies may be utilized to support clinical investigations in the United States and in support of the safety and effectiveness of a new drug in a new drug application (NDA) provided all the following conditions are met:

(1) For each investigator's studies, the IND sponsor or NDA applicant verifies that:

(i) The investigator is well qualified by scientific training and experience to conduct investigational studies of the subject drug and he is affiliated with a recognized medical school or with an independent institution recognized for its excellence or is otherwise appropriately qualified. Documentation of the investigator's qualifications shall be submitted.

(ii) He has adequate facilities appropriate for the complexity of the studies performed.

(iii) He maintains detailed case records and will make available to the sponsor these records and any additional background data from such records, including hospital or other institutional records, should such background data be requested by the Food and Drug Administration.

(iv) He has conducted the studies in conformance with the "Declaration of Helsinki" recommendations which read as follows:

DECLARATION OF HELSINKI RECOMMENDATIONS GUIDING DOCTORS IN CLINICAL RESEARCH

* * * * *

I. BASIC PRINCIPLES

1. Clinical research must conform to the moral and scientific principles that justify medical research and should be based on laboratory and animal experiments or other scientifically established facts.

2. Clinical research should be conducted only by scientifically qualified persons and under the supervision of a qualified medical man.

3. Clinical research cannot legitimately be carried out unless the importance of the objective is in proportion to the inherent risk to the subject.

4. Every clinical research project should be preceded by careful assessment of inherent risks in comparison to foreseeable benefits to the subject or to others.

5. Special caution should be exercised by the doctor in performing clinical research in which the personality of the subject is liable to be altered by drugs or experimental procedure.

II. CLINICAL RESEARCH COMBINED WITH PROFESSIONAL CARE

1. In the treatment of the sick person, the doctor must be free to use a new therapeutic measure, if in his judgment it offers hope of saving life, reestablishing health, or alleviating suffering. If at all possible, consistent with patient psychology, the doctor should obtain the patient's freely given consent after the patient has been given a full explanation. In case of legal incapacity, consent should also be procured from the legal guardian; in case of physical incapacity the permission of the legal guardian replaces that of the patient.

2. The doctor can combine clinical research with professional care, the objective being the acquisition of new medical knowledge, only to the extent that clinical research is justified by its therapeutic value for the patient.

III. NONTHERAPEUTIC CLINICAL RESEARCH

1. In the purely scientific application of clinical research carried out on a human being, it is the duty of the doctor to remain the protector of the life and health of that person on whom clinical research is being carried out.

2. The nature, the purpose and the risk of clinical research must be explained to the subject by the doctor.

3a. Clinical research on a human being cannot be undertaken without his free consent after he has been informed; if he is legally incompetent, the consent of the legal guardian should be procured.

3b. The subject of clinical research should be in such a mental, physical and legal state as to be able to exercise fully his power of choice.

3c. Consent should, as a rule, be obtained in writing. However, the responsibility for clinical research always remains with the research worker; it never falls on the subject even after consent is obtained.

4a. The investigator must respect the right of each individual to safeguard his personal integrity, especially if the subject is in a dependent relationship to the investigator.

4b. At any time during the course of clinical research the subject or his guardian should be free to withdraw permission for research to be continued. The investigator or the investigating team should discontinue



V 38-172
SEP 6 73
XUM

the research if in his or their judgment, it may, if continued, be harmful to the individual.

(v) An explanation as to how the research conformed to the principles of the "Declaration" is provided (e.g., for nontherapeutic clinical research, it should be clear that the nature, purpose and risk of the research was explained to the subject and his consent was obtained).

(vi) His proposed study has been reviewed for scientific and ethical considerations and approved by a review committee (composed of individuals who are scientists and, where practicable, individuals who are otherwise qualified) prior to initiation of the study. In this regard the addition of other health professionals or laymen to the committee is optional; the investigator himself cannot have participated in the review of his own protocol; and a statement that the review committee has reviewed the proposed study shall be submitted.

(2) The IND sponsor or NDA applicant submits a detailed summary of the preclinical and clinical data and a description of the components, composition, and manufacturing procedures as described in Form FD 1571, items 1, 2, 3, 4, and 5 (§ 130.3(a)), to give significance to the preclinical and clinical data submitted and to permit comparison with data obtained from other studies on the drug.

(c) Data from studies performed abroad and conducted in accordance with the requirements of this section may be utilized without duplication of the studies in the United States as appropriate. For example, data from Phase I studies may permit beginning Phase II studies in the United States; data from Phase II may permit initiation of later and more extensive Phase II studies in the United States; Phase II studies may on occasion be unnecessary in the United States, depending upon the magnitude and quality of the studies and the drug under investigation; data from Phase III studies may be utilized to supplement Phase III studies performed in the United States. (For definition of Phases I, II, III, see Form FD 1571, item 10.1 (§ 130.3(a).) When studies from abroad have been performed prior to initiation of United States studies under an IND, the sponsor shall arrange a meeting with the appropriate Division, Office of Scientific Evaluation, Bureau of Drugs, following the Division's review of the data, to determine what additional studies will be required in the United States. If studies have been essentially completed in the United States and abroad and the data from the latter are to be incorporated as part of an NDA submission, they should be included at the time of submission of the NDA, if possible, but may be submitted as an amendment at any time.

(d) Studies conducted abroad commencing 60 days after the publication of the final regulation will not be accepted in support of new drug applications unless they comply with this section or a waiver is granted by the Food and Drug Administration for good cause shown. Studies conducted abroad and already completed or commencing prior to 60 days after the publication of the final regulation will not be accepted in support of new drug applications unless they comply with the requirements of paragraphs (b) (1)(i)–(v) and (2) of this section or a waiver is granted by the Food and Drug Administration for good cause shown.

Interested persons may, on or before December 4, 1972, file with the Hearing Clerk, Department of Health, Education, and Welfare, Room 6–88, 5600 Fishers Lane, Rockville, Md. 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated August 24, 1973.

A. M. SCHMIDT,
*Commissioner of Food and Drugs.*

[FR Doc.73-18711 Filed 9-5-73;8:45 am]

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner (Federal Housing Administration)

### [ 24 CFR Part 20 ]

[Docket No. R-73-236]

### PROPERTY IMPROVEMENT AND MOBILE HOME LOANS

### Assignment of Security

The Department of Housing and Urban Development is considering amending Part 201 of Title 24 of the Code of Federal Regulations, Subpart A, "Property Improvement Loans".

The amendment would require that prior to filing claim for reimbursement for loss on a defaulted loan, an insured lending institution must record an assignment of any security it holds, in connection with the defaulted loan, to the United States. Under present procedures the recording of such assignments is optional with the insured lender. The purpose of the amendment is to reduce delays in placing assignments of record.

All interested persons are invited to submit written comments or suggestions in triplicate with respect to this proposal, on or before October 8, 1973, addressed to the Rules Docket Clerk, Office of General Counsel, Room 10256, Department of Housing and Urban Development, 451—7th Street, SW., Washington, D.C. 20410. All relevant material will be considered before adoption of a final rule. A copy of each communication will be available for public inspection during regular business hours at the above address.

The proposed rule is issued pursuant to 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

In consideration of the foregoing, it is proposed to amend § 201.11 as follows:

Section 201.11(h) is redesigned as paragraph (i) and a new paragraph (h) is added to read:

**§ 201.11 Claims.**

* * * * *

(h) *Recordation.*—Where security has been recorded the insured shall, prior to filing claim, place of record an assignment to the United States of America of said security.

* * * * *

Dated August 30, 1973.

SHELDON B. LUBAR,
*Assistant Secretary for Housing Production and Mortgage Credit.*

[FR Doc.73-18908 Filed 9-5-73;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### [ 14 CFR Part 71 ]

[Airspace Docket No. 73-GL-34]

### TRANSITION AREA

### Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition area at Robinson, Illinois.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 E. Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before October 8, 1973, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

Two new instrument approach procedures have been developed to the Robinson Municipal Airport, Robinson, Illinois, based upon the Robinson VOR. In addition, the criteria for designation of transition areas have been changed. Accordingly, it is necessary to alter the Robinson, Illinois transition area to adequately protect the aircraft executing the new approach procedures.





In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (38 FR 435), the following transition area is amended to read:

ROBINSON, ILL.

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Robinson, Ill., Municipal Airport (latitude 39°01'00" N., longitude 87°39'00" W.) and within 5 miles each side of the 348° and 091° bearings from the Robinson Municipal Airport extending from 7-mile-radius area to 12 miles north and east of the airport, excluding the area which overlies the Sullivan, Indiana, transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Des Plaines, Ill., on August 6, 1973.

R. O. ZIEGLER,
*Acting Director, Great Lakes Region.*

[FR Doc.73-18797 Filed 9-5-73;8:45 am]

### Federal Highway Administration

### [ 49 CFR Part 393 ]

[Docket No. MC-51; Notice No. 73-22]

### TRUCKS AND BUSES

### Combination of Lighting Devices and Reflectors

The Director of the Bureau of Motor Carrier Safety is considering a revision of § 393.22 of the Motor Carrier Safety Regulations (49 CFR 393.22) to clarify the circumstances in which a clearance lamp and a tail lamp or identification lamp may be combined in the same shell or housing. The revision would make it clear that the present prohibition against combining a clearance lamp on a commercial motor vehicle operated in interest or foreign commerce with a tail lamp or identification lamp on that vehicle applies only to optical combinations in which two lamps use the same lens, not to configurations that locate both lamps in the same module.

This proposal stems from a petition for rulemaking filed by the Truck Safety Equipment Institute (TSEI), an association of manufacturers of motor vehicle equipment. The petition points out that § 393.22 of the Motor Carrier Safety Regulations begins with an authorization for combining two or more lighting devices or reflectors in the same shell or housing, with certain enumerated exceptions. Among the exceptions is paragraph (c) of § 393.22, which provides: "No clearance lamp may be combined with any tail lamp or identification lamp". The quoted language, says TSEI, appears to conflict with paragraph S4.4.1 of Motor Vehicle Safety Standard No. 108 (49 CFR 571.108), which precludes the combination of a clearance lamp with a tail or identification lamp only when the two are "combined optically". The petitioner says that it is common practice among vehicle manufacturers to use modular lamps—a single unit bolted on to the rear structural member of a trailer—containing a clearance lamp, a turn signal lamp, and a combination tail lamp-stop lamp. Each lamp has its own lens and is optically separate from the others. TSEI contends that, because of the optical separation of the lamps, the objective of the regulatory prohibition against combining a clearance lamp with a tail or identification lamp is met, and the additional prohibition against use of the same module to house the lamps "adds nothing to the safety value of the lamp function, and is likely to be interpreted differently by different individuals." TSEI asks that § 393.22 be amended to make its language conform to the language of Motor Vehicle Safety Standard No. 108.

Since its adoption in 1962, the language in paragraph (c) of § 393.22 has been consistently interpreted by the Bureau of Motor Carrier Safety to allow combining a clearance lamp and a tail or identification lamp in the same module as long as both lamps do not use a common lens. The Bureau has construed the reference to "one shell or housing" in the introductory clause of § 393.22 to mean the inner lamp assembly, rather than the outer casing of a multi-lamp module. Under this interpretation, § 393.22 is not inconsistent with paragraph S4.4.1 of Motor Vehicle Safety Standard No. 108.

Nevertheless, it appears that a literal reading of § 393.22 may mislead some persons into concluding that a combination of a clearance lamp and an identification lamp in the same module is prohibited. The possibility of confusion should be minimized because a manufacturer's failure to understand the rule's purport may result in a costly and unnecessary overdesign.

For these reasons, the Director proposes to revise § 393.22 for the purpose of clarifying its language and to make it conform verbally more closely to Motor Vehicle Safety Standard No. 108. Specifically, the Director proposes to revise § 393.22 of the Motor Carrier Safety Regulations (Subchapter B in Chapter III of title 49) to read as follows:

**§ 393.22 Combination of lighting devices and reflectors.**

(a) *Permitted combinations.*—Except as provided in paragraph (b) of this section, two of more lighting devices and reflectors (whether or not required by the rules in this part) may be combined optically if—

(1) Each required lighting device and reflector conforms to the applicable rules in this part; and

(2) Neither the mounting nor the use of a non-required lighting device or reflector impairs the effectiveness of a required lighting device or reflector or causes that device or reflector to be inconsistent with the applicable rules in this Part.

(b) *Prohibited combinations.*—(1) A turn signal lamp must not be combined optically with a head lamp or other lighting device or combination of lighting devices that produces a greater intensity of light than the turn signal lamp.

(2) A turn signal must not be combined optically with a stop lamp unless the stop lamp function is always deactivated when the turn signal is activated.

(3) A clearance lamp must not be combined optically with a tail lamp or identification lamp.

Interested persons are invited to submit written data, views, or arguments pertaining to the proposed revision. All comments submitted should refer to the docket number and notice number appearing at the top of this document and should be submitted in three copies to the Director, Bureau of Motor Carrier Safety, Washington, D.C. 20590. All comments received before the close of business on November 30, 1973, will be considered before further action is taken. Comments will be available for examination in the public docket of the Bureau of Motor Carrier Safety, located in room 4136, 400 Seventh Street, SW., Washington, D.C., both before and after the closing date for comments.

This notice of proposed rulemaking is issued under the authority of section 204 of the Interstate Commerce Act, as amended, 49 U.S.C. 304, section 6 of the Department of Transportation Act, 49 U.S.C. 1655, and the delegations of authority by the Secretary of Transportation and the Federal Highway Administrator at §§ 1.48 and 389.4 of Title 49, CFR.

Issued on August 29, 1973.

ROBERT A. KAYE,
*Director, Bureau of Motor Carrier Safety.*

[FR Doc.73-18857 Filed 9-5-73;8:45 am]

## CIVIL AERONAUTICS BOARD

[Docket No. 25837]

### [ 14 CFR Part 241 ]

### AMENDMENT OF THE ACCOUNTING AND REPORTING REQUIREMENTS FOR TRANSPORT-RELATED REVENUES AND EXPENSES

### Notice of Proposed Rule Making

AUGUST 28, 1973.

Notice is hereby given that the Civil Aeronautics Board has under consideration proposed amendments to Part 241 of its Economic Regulations (14 CFR Part 241) which would revise the accounting and reporting requirements for operating revenues: (1) To provide for gross reporting of all operating revenues and expenses; (2) to change the name of the present functional classification "4900 Nontransport Revenues" to "4900 Transport-Related Revenues"; (3) to establish a new functional expense classification "7100 Transport-Related Expenses"; (4) to eliminate the present subclassifications "4100 Federal Subsidy" and "4600 Incidental Revenues-Net"; (5) to provide fuller disclosure of some of the



V 38-172 SEP 6 73 XUM

items presently included in the incidental revenues subclassification; and (6) to reclassify two of the items presently included in the incidental items to other functional classifications.

The principal features of the proposed amendments are described in the attached Explanatory Statement and the proposed amendments are set forth in the proposed rule. The amendments are proposed under the authority of secs. 204 (a) and 407 of the Federal Aviation Act of 1958, as amended, (72 Stat. 743, 766 (49 U.S.C. 1324, 1377).)

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material received on or before October 5, 1973, will be considered by the Board before taking final action on the proposed rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 712, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

EXPLANATORY STATEMENT

Under the Uniform System of Accounts and Reports, all revenue and expenses directly related to the performance of services which grow from, and are incidental to, the air transportation services performed by the air carrier (other than those related revenues and expenses whose magnitude or scope is too substantial to be treated as "incidental" adjuncts to air transportation services) are presently recorded in subclassification "4600 Incidental Revenues—Net" and reported as a single-line item on the income statement of CAB Form 41 under the broad functional classification "Nontransport revenues."

The incidental revenues subclassification includes accounts for the revenues and related expenses from hotel, restaurant, and food services; rents; limousine services; interchange sales; general service sales; and air cargo services. Also, the incidental accounts include, but do not separately disclose, items which are becoming increasingly important to air carrier operations, such as mutual aid, in-flight liquor sales, and substitute services.

We are of the tentative view that the present accounting and reporting of these incidental items should be changed, for at least three reasons. First, netting these incidental revenues and expenses may distort the presentation of air carrier operating results in reports to the Board. Second, some of the items included in the incidental accounts may require greater disclosure. Third, we are concerned that the present classification of these revenues as "nontransport" tends to become confused with the classification "8100 Nonoperating Income and Expense—Net," as well as with the nonoperating objective account "86 Income from Nontransport Ventures."

As an example of the distortion resulting from netting incidental revenues and expenses, in 1972 gross incidental revenues and expenses for trunks and Pan Am domestic operations were $309,282,813 and $241,330,232, respectively. Yet, these revenues and expenses were reported to the Board as a net amount, $67,952,581, classified as nontransport operating revenues. Thus, air carrier operating revenues and expenses were both understated by $241,330,232. Although this understatement does not affect net income, it does distort any comparisons of revenues and expenses and any ratios using revenues and expenses.

An example of the need for greater disclosure can be seen by examining in-flight liquor sales. Revenues and expenses from in-flight liquor sales are presently included in profit and loss account 10 "Hotel, restaurant and food service," and are presented on CAB Form 41 as revenues net of expenses, in the "Incidental revenues (net)" category. In the absence of fuller disclosure on this item, the Board is therefore unable to make any determination as to the particular effect of in-flight liquor sales on carrier operations, as we would be able to if the proposed revisions were adopted, requiring: disclosure of revenues and expenses from in-flight liquor sales in profit and loss account 09, with a detailed breakdown on schedule P-4 of Form 41, and separate presentation of incidental revenues and expenses on CAB Form 41.

We are, therefore, proposing to revise the accounting and reporting for incidental revenues: (1) To provide for gross reporting of all revenues and expenses, (2) to change the name of the present functional classification "4900 Nontransport Revenues" to "4900 Transport-Related Revenues," (3) to establish a new functional expense classification "7100 Transport-Related Expenses," (4) to eliminate the present subclassifications "4100 Federal Subsidy" and "4600 Incidental Revenues—Net," and (5) to provide fuller disclosure of some of the revenues and expenses presently included in the incidental revenues subclassification.

We are also taking this occasion to propose a reclassification of two items presently included in the incidental category: (1) "Foreign exchange fluctuation adjustments," which is a clearing account for gains and losses from transactions involving currency conversions resulting from normal, routine, day-to-day fluctuations in rates of foreign exchange, would be reclassified to the general and administrative function; and (2) "hotels" would be reclassified to the nonoperating income and expense function, on the ground that hotels do not involve services which are performed as an incidental adjunct to air transportation services and which provide improved utilization of plant and organization required for the performance of air transportation services.

In order to afford the carriers sufficient lead time in which to accommodate the foregoing changes, we contemplate concluding this rulemaking proceeding as expeditiously as possible, so that any proposed changes which we make final may be made effective commencing January 1, 1974, at which time all accounts and reports would reflect the proposed changes.

It is proposed to amend Part 241 of the Economic Regulations (14 CFR Part 241) as follows:

1. Amend the Table of Contents of the Uniform System of Accounts and Reports so that the table in pertinent part reads:

Sec.

. . . . . .

11 Functional Classification—Operating Expenses of Group II and Group III Air Carriers.
12 Objective Classification—Operating Revenues and Expenses.
13 [Reserved]

. . . . . .

2. Amend Section 1—Introduction to System of Accounts and Reports, by revising paragraphs (a) and (b) of sec. 1–6 to read as follows:

**Sec. 1–6 Accounting entities.**

(a) Separate accounting records shall be maintained for each air transport entity for which separate reports to the Civil Aeronautics Board are required to be made by sections 21(i) or 31(h), as applicable, and for each separate corporate or organizational division of the air carrier. For purposes of this Uniform System of Accounts and Reports, each nontransport entity conducting an activity which is not incidental to the air carrier's transport activities and each transport-related activity or group of activities qualifying as a nontransport venture pursuant to paragraph (b) of this section, whether or not formally organized within a distinct organizational unit, shall be treated as a separately operated organizational division.

(b) As a general rule, any activity or group of activities comprising a transport-related service provided for in transport-related revenue and expense accounts 09 through 18 shall be considered a separate nontransport venture under circumstances in which either: (1) A Separate corporate or legal entity





has been established to perform such services, (2) the aggregate annual revenue rate, as determined in section 2–1(d), during either of the prior two years exceeds the greater of $1 million per annum or one percent of the air carrier's total annual transport revenues, or (3) the aggregate annual expense rate, as determined in section 2–1(d), during either of the prior two years exceeds the greater of $1 million or one percent of the carrier's total annual operating expenses: *Provided,* That revenues and expenses from in-flight sales, section 406 subsidy, interchange sales and mutual aid assistance shall be considered related to air transportation and accounted for accordingly, regardless of the revenue or expense standard set forth above.

. . . . . .

3. Amend Section 2—General Accounting Policies, by revising paragraphs (c) and (d) of sec. 2–1 to read as follows:

. . . . . .

(c) For purposes of this section, investments by the air carrier in resources or facilities used in common by the regulated air carrier activity and those transport-related revenue services defined as separate nontransport ventures under section 1–6(b) shall not be allocated between such entities but shall be reflected in total in the appropriate accounts of the entity which predominantly uses the facility or resource. Where the entity of predominate use is a nontransport venture, the air carrier shall reflect the investment in account 1520, Advances to Nontransport Divisions.

(d) For purposes of this Uniform System of Accounts and Reports, all revenues shall be assigned to or apportioned between accounting entities on bases which will fully recognize the services provided by each entity, and expenses, or costs, shall be apportioned between accounting entities on such bases as will result: (1) With respect to transport-related services, in the assignment thereto of proportionate direct overheads, as well as direct labor and materials, of the applicable expense functions prescribed by this system of accounts and reports, and (2) with respect to separate ventures, in the assignment thereto of proportional general and administrative overheads as well as the direct overheads, labor, and materials.

. . . . . .

4. Amend Section 7—Chart of Profit and Loss Accounts, the amended chart to read in pertinent part as follows:

**PROFIT AND LOSS CLASSIFICATIONS**

**Section 7—Chart of Profit and Loss Accounts**

| Objective classification of profit and loss elements | | Functional or financial activity to which applicable (00) | | |
|---|---|---|---|---|
| | | Group I carriers | Group II carriers | Group III carriers |
| | OPERATING REVENUES AND EXPENSES | | | |
| | Transport revenues: | | | |
| 01 | Passenger | | | |
| 01.1 | Passenger—first class | 31, 32 | 31, 32 | 31, 32. |
| 01.2 | Passenger—coach | 31, 32 | 31, 32 | 31, 32. |
| 02 | United States mail. | | | |
| 02.1 | Priority | 31, 32 | 31, 32 | 31, 32. |
| 02.2 | Nonpriority | 31, 32 | 31, 32 | 31, 32. |
| 03 | Foreign Mail | 31, 32 | 31, 32 | 31, 32. |
| 06 | Property | | | |
| 06.1 | Express | 31, 32 | 31, 32 | 31, 32. |
| 06.2 | Freight | 31, 32 | 31, 32 | 31, 32. |
| 06.3 | Excess passenger baggage | 31, 32 | 31, 32 | 31, 32. |
| 07 | Charter and special | | | |
| 07.1 | Passenger | 32 | 32 | 32. |
| 07.2 | Property | 32 | 32 | 32. |
| | Transport related revenues and expenses: | | | |
| 08 | Section 406 subsidy | 40 | 40 | 40. |
| 09 | In-flight sales | | | |
| 09.1 | Liquor and food—gross revenues | 40 | 40 | 40. |
| 09.2 | Movies and stereo—gross revenues | 40 | 40 | 40. |
| 09.3 | Other—gross revenues | 40 | 40 | 40. |
| 09.4 | Liquor and food—depreciation expense | 71 | 71 | 71. |
| 09.5 | Liquor and food—other expense | 71 | 71 | 71. |
| 09.6 | Movies and stereo—depreciation expense | 71 | 71 | 71. |
| 09.7 | Movies and stereo—other expense | 71 | 71 | 71. |
| 09.8 | Other—depreciation expense | 71 | 71 | 71. |
| 09.9 | Other—expense | 71 | 71 | 71. |
| 10 | Restaurant and food service (Ground) | | | |
| 10.1 | Gross revenues | 40 | 40 | 40. |
| 10.2 | Depreciation expense | 71 | 71 | 71. |
| 10.3 | Other expenses | 71 | 71 | 71. |
| 11 | Rents | | | |
| 11.1 | Gross revenues | 40 | 40 | 40. |
| 11.2 | Depreciation expense | 71 | 71 | 71. |
| 11.3 | Other expenses | 71 | 71 | 71. |
| 12 | Limousine service | | | |
| 12.1 | Gross revenues | 40 | 40 | 40. |
| 12.2 | Depreciation expense | 71 | 71 | 71. |
| 12.3 | Other expenses | 71 | 71 | 71. |
| 13 | Interchange Sales | | | |
| 13.1 | Associated companies—gross revenues | 40 | 40 | 40. |
| 13.2 | Outside—gross revenues | 40 | 40 | 40. |
| 13.3 | Associated companies—depreciation expense | 71 | 71 | 71. |
| 13.4 | Associated companies—other expense | 71 | 71 | 71. |
| 13.5 | Outside—depreciation expense | 71 | 71 | 71. |
| 13.6 | Outside—other expense | 71 | 73 | 71. |
| 14 | General service sales | | | |
| 14.1 | Associated companies-gross revenues | 40 | 40 | 40. |
| 14.2 | Outside-gross revenues | 40 | 40 | 40. |
| 14.3 | Associated companies-depreciation expense | 71 | 71 | 71. |
| 14.4 | Associated companies-other expense | 71 | 71 | 71. |
| 14.5 | Outside-depreciation expense | 71 | 71 | 71. |
| 14.6 | Outside-other expense | 71 | 71 | 71. |
| 15 | Mutual aid | | | |
| 15.1 | Receipts | 49 | 49 | 49. |
| 15.2 | Payments | 71 | 71 | 71. |
| 16 | Substitute (replacement) service | | | |
| 16.1 | Gross revenues | 40 | 40 | 40. |
| 16.2 | Expense | 71 | 71 | 71. |
| 17 | Air cargo service | | | |
| 17.1 | Gross revenues | 40 | 40 | 40. |
| 17.2 | Depreciation expense | 71 | 71 | 71. |
| 17.3 | Other expense | 71 | 71 | 71. |
| 18 | Other transport related items | | | |
| 18.1 | Gross revenues | 40 | 40 | 40. |
| 18.2 | Depreciation expense | 71 | 71 | 71. |
| 18.3 | Other expense | 71 | 71 | 71. |
| | . . . . . | | | |
| | Transport expenses: | | | |
| 21 | General management personnel | 53, 69 | 53, 55, 64, 67, 68 | 53, 55, 61, 62, 63, 65, 66, 68 |
| 23 | Pilots and copilots | 51 | 51 | 51. |
| 24 | Other flight personnel | 51, 69 | 51, 55 | 51, 55. |
| 25 | Maintenance labor | | | |
| 25.1 | Labor-airframes | | 52 | 52. |
| 25.2 | Labor-aircraft engines | | 52 | 52. |
| 25.3 | Labor-other flight equipment | | 52 | 52. |
| 25.6 | Labor-flight equipment | 52 | | |
| 25.9 | Labor-ground property and equipment | 52, 53 | 52, 53 | 52, 53. |
| | . . . . . | | | |
| 75.9 | General ground property | 70 | 70 | 70. |
| 76 | Foreign exchange fluction adjustments | 68 | 68 | 68. |
| 77 | Uncleared expense credits | | | |
| | . . . . . | | | |



V 38 I 172
SEP 6 73
XUM

5. Amend Section 8—General, by changing paragraphs (d)(1) and (d)(2) to read:

(d) • • •

(1) *Operating Revenues.*—(i) This primary classification shall include revenues of a character usually and ordinarily derived from the performance of air transportation and air transportation-related services, which relate to services performed during the current accounting year, and adjustments of a recurrent nature applicable to services performed in prior accounting years. (See section 2–7.)

(ii) Operating revenues shall be subclassified in terms of functional activities as provided in section 9.

(2) *Operating Expenses.*—(i) This primary classification shall include expenses of a character usually and ordinarily incurred in the performance of air transportation and air transportation-related services, which relate to services performed during the current accounting year, and adjustments of a recurring nature attributable to services performed in prior accounting years. (See section 2–7.)

(ii) Operating expenses shall be subclassified in terms of functional activities as provided in sections 10 and 11.

• • • • • •

6. Amend Section 9—Functional Classification-Operating Revenues, by revising Function 4900 to read:

**4900 Transport-Related Revenues.**

This classification is prescribed for all air carrier groups and shall include all revenues from the United States Government as direct grants or aids for providing air transportation facilities and all revenues from services which grow from and are incidental to the air transportation services performed by the air carrier.

Revenues related to services of a magnitude or scope beyond an incidental adjunct to air transportation services shall not be included in this classification (see section 1–6(b)). Revenues applicable to such services shall be included in profit and loss classification 8100, Nonoperating Income and Expense—Net, and the accounting modified to conform with that of a nontransport division whether or not the service is organized as a nontransport division.

7. Amend Section 10—Functional Classification-Operating Expenses of Group I Air Carriers, and Section 11—Functional Classification-Operating Expenses of Group II and Group III Air Carriers, by adding to each such section a new function 7100, to follow function 7000 in each such section, the new function to read as follows:

**7100 Transport-Related Expenses.**

This function shall include all expense items applicable to the generation of transport-related revenues included in section 9, Function 4900.

Such expense related to services of a magnitude or scope beyond an incidental adjunct to air transportation services shall not be included in this function (see section 1–6(b)). Expenses applicable to the generation of such revenues shall be included in profit and loss classification 8100, Nonoperating Income and Expense—Net, and the accounting modified to conform with that of a nontransport division whether or not the service is organized as a nontransport division.

This function shall also include expenses representing increases in costs incurred in common with the air transport service, to the extent such increases result from the added transport-related services, as well as a pro rata share of the costs incurred by the air carrier in operating facilities which are used jointly with others. As a general rule, this function shall not include those expenses, other than joint facilities costs, which would remain as an essential part of the air transport services if the transport-related services were terminated.

In accordance with the provisions of sections 22(d) and 32(d), as applicable, each air carrier shall file with the Civil Aeronautics Board a statement of accounting procedures setting forth methods used in assigning or prorating expenses between transport-related services and transport operations.

8. Amend Section 12—Objective Classification-Operating Revenues, as follows:

A. By revising the section heading to read:

**Section 12—Objective Classification-Operating Revenues and Expenses**

B. By revising account 00 to read:

**00 General Instructions.**

(a) Basic objective accounts, applicable to all air carrier groups, are established for recording all revenue and expense elements. These basic accounts are in certain areas subdivided to provide greater detail for indicated air carrier groups.

(b) Each air carrier shall credit the gross revenues accruing from services ordinarily associated with air transportation and transportation-related services to the appropriate account established for each revenue source. Expenses incident to transport and transport-related services shall be charged to the accounts established in this section in accordance with the objectives served by each expenditure. However, direct costs of forwarding traffic as a result of interrupted trips, and refunds of sales, shall be charged to the applicable revenue account.

(c) To the end that the integrity of the prescribed objective accounts shall not be impaired, each air carrier shall: (1) Charge the appropriate account prescribed for each service purchased or expense element incurred expressly for the benefit of the air carrier regardless of whether incurred directly by the air carrier or through an agent or other intermediary, and (2) except as provided in objective account 77, Uncleared Expense Credits, credit or charge, as appropriate, the account prescribed for each expense element which may be involved in distributions of expenses between (i) separate operating entities of the air carrier, (ii) transport-related services and transport services, or transport functions, (iii) balance sheet and profit and loss elements, and (iv) the air carrier and others, when the expenses are incurred initially by or for the benefit of the air carrier. At the option of the air carrier, standard rates applicable to each objective account comprising a particular pool of expenses subject to assignment between two or more activities, may be established for proration purposes, provided the rates established are predicated upon the experience of the air carrier and are reviewed and modified as appropriate at least once each year.

C. By inserting the following subheading between accounts 00 and 01:

TRANSPORT REVENUES

D. By revising paragraph (b) of account 07, Charter and Special, to read:

**07 Charter and Special.**

• • • • • •

(b) This account shall not include revenues or fees received from other air carriers for flight facilities furnished or operated by the accounting air carrier where the remuneration paid by the party receiving transportation accrues directly to, and the responsibility for providing transportation is that of other air carriers. Such revenues and related expenses shall be included in profit and loss accounts 11, Rents; 13, Interchange Sales; or 18, Other Transport-Related Revenues and Expenses.

• • • • • •

E. By inserting the following subheading before account 08, Section 406 Subsidy:

TRANSPORT-RELATED REVENUES AND EXPENSES

F. By deleting account 09, Foreign Exchange Fluctuations Adjustments, and inserting the following account:

**09 In-Flight Sales.**

(a) Record here revenues from and expenses related to transport-related services performed while in flight.

(b) This account shall be subdivided as follows by all air carrier groups:

09.1 Liquor and food—gross revenues.
09.2 Movies and stereo—gross revenues.
09.3 Other—gross revenues.
09.4 Liquor and food—depreciation expense.
09.5 Liquor and food—other expense.
09.6 Movies and stereo—depreciation expense.
09.7 Movies and stereo—other expense.
09.8 Other—depreciation expense.
09.9 Other—expense.

G. By revising account 10, Hotel, Restaurant and Food Service, to read:

**10 Restaurant and Food Service (Ground).**

(a) Record here revenues from and expenses related to the operation of restaurants and similar facilities, and from sales of food. (See section 12–51.)

(b) This account shall be subdivided as follows by all air carrier groups:





10.1 Gross revenues.
10.2 Depreciation expense.
10.3 Other expense.

H. By revising the caption and paragraphs (a) and (c) of account 13, Interchange Sales—Associated Companies, the revised account 13 to read, in part:

**13 Interchange Sales.**

(a) Record here the revenues or fees from and the expenses related to services provided associated companies and other than associated companies by the air carrier under aircraft interchange agreements. This account shall be charged and the applicable operating expense objective accounts shall be credited, except as provided in operating expense objective account 77, Uncleared Expense Credits, with the expenses attaching to services provided all companies under aircraft interchange agreements.

• • • • • •

(c) This account shall be subdivided as follows by all air carrier groups:

13.1 Associated companies—gross revenues.
13.2 Outside—gross revenues.
13.3 Associated companies—depreciation expense.
13.4 Associated companies—other expense.
13.5 Outside—depreciation expense.
13.6 Outside—other expense.

I. By revising account 14, General Service Sales—Associated Companies, the revised account 14 to read:

**14 General Service Sales.**

(a) Record here the revenues, commisions or fees from and expenses related to other than air transportation and aircraft interchange services provided to associated and outside companies by the air carrier. This account shall include the contractual fees or other revenues from and expenses related to services provided to associated and other companies in the operation of facilities which are used jointly with associated and other companies as well as revenues from and the costs related to the sale of supplies, parts and repairs sold directly or furnished as a part of services to associated and other companies.

(b) This account shall not include consideration received from sales of property, equipment, materials or supplies when disposed of as a part of a program involving retirement of property and equipment as opposed to routine sales and services to associated and other companies unless such disposition is conducted as a normal part of the incidental sales activity. Such retirement gain or loss shall be included in capital gains and losses accounts. Maintenance parts, materials or supplies sold as a service to others shall be charged to this account at cost without adjustment of related obsolescense or depreciation reserves.

(c) This account shall be subdivided as follows by all air carrier groups:

14.1 Associated companies—gross revenues.
14.2 Outside—gross revenues.
14.3 Associated companies—depreciation expense.
14.4 Associated companies—other expense.
14.5 Outside—depreciation expense.
14.6 Outside—other expense.

J. By deleting account 15, Interchange Sales—Outside and inserting the following account:

**15 Mutual Aid.**

(a) Record here the receipts and payments under agreements with other air cariers providing for mutual financial assistance in the case of work stoppages. Gross amounts shall be recorded.

(b) This account shall be subdivided as follows by all air carriers:

15.1 Receipts.
15.2 Payments.

K. By deleting account 16, General Service Sales—Outside, and inserting the following account:

**16 Substitute (replacement) Service.**

(a) Record here revenues from and expenses related to substitute service. This account shall include as revenues all monies received from substitute carriers and as expense all monies paid to substitute carriers.

(b) This account shall be subdivided as follows by all air carrier groups:

16.1 Gross revenues.
16.2 Expense.

L. By revising the caption and paragraphs (a) and (b) of account 18, Other Incidental Revenues, the revised account 18 to read, in part:

**18 Other Transport-Related Revenues and Expenses.**

(a) Record here revenues from and expenses related to transport-related services not provided for in profit and loss accounts 10 through 17, inclusive, such as revenues and expenses incident to the operation of flight facilities by the accounting air carrier, except those operated under aircraft interchange agreements, where the remuneration paid by the party receiving transportation accrues directly to, and the responsibility for providing transportation is that of, other air carriers; and the revenues and expenses incident to vending machines, parcel rooms, storage facilities, etc.

(b) [Reserved]

• • • • • •

9. Amend Section 13—Objective Classification—Operating Expenses, as follows:

A. By deleting the section heading and inserting the following subheading after Section 12, account 19:

TRANSPORT EXPENSES

B. By deleting account 00, General Instructions.

C. By revising account 51, Passenger Food Expense, to read:

**51 Passenger Food Expense.**

(a) Record here the cost of food and refreshments served passengers except food costs arising from interrupted trips.

(b) If the air carrier prepares its own food, the initial cost and expenses incurred in the preparation thereof shall be accumulated in a clearly identified clearing account through which the cost of food shall be cleared to this account, to profit and loss account 36, Personnel Expenses, and to profit and loss account 10, Restaurant and Food Service (Ground), on bases which appropriately allocate the cost of food served passengers, the cost of food provided employees without charge and the cost of food sold.

D. By inserting a new account 76, Foreign Exchange Fluctuation Adjustments, between accounts 75 and 77, as follows:

• • • • • •

**75 Depreciation.**

• • • • • •

**76 Foreign Exchange Fluctuation Adjustments.**

Record here gains or losses from transactions involving currency conversions resulting from normal, routine, day-to-day fluctuations in rates of foreign exchange in accordance with provisions of section 2–3. Gains or losses of a nonroutine abnormal character shall not be entered in this account but in a profit and loss account 85, Foreign Exchange Adjustments.

**77 Uncleared Expense Credits.**

• • • • • •

E. By inserting, following the entire text of section 12, as herein revised, a caption indicating that section 13 has been deleted and reserved, as follows:

**Section 13 [Reserved]**

10. Amend Section 22—General Reporting Instructions, as follows:

A. By revising paragraph (a), in pertinent part, to read:

• • • • • •

| Schedule No. | Schedule title | Filing frequency |
|---|---|---|
| • | • | • |
| P-4 | Transport-Related Revenues and Expenses; Explanation of Special Items; Explanation of Deferred Federal Income Tax Adjustments, Dividends Declared and Retained Earnings Adjustments. | Do. |
| • | • | • |

B. By revising paragraph (d)(10) to read:

(d) • • •

• • • • • •

(10) Procedures for assigning or prorating expenses between transport-related services and transport operations, as prescribed by section 10–7100 or 11–7100.

• • • • • •

11. Amend Section 24—Profit and Loss Elements, by revising paragraphs (a) through (e) of the Schedule P–4 section to read as follows:

• • • • • •

*Schedule P–4—Transport-Related Revenues and Expenses; Explanation of Special Items; Explanation of Deferred Federal Income Tax Adjustments,*



V 38-172
SEP 6 73
XUM

*Dividends Declared and Retained Earnings Adjustments*

(a) This schedule shall be filed by all route air carriers.

(b) Separate sets of this schedule shall be filed for each separate operating entity of the air carrier.

(c) Transportation-related operations shall be reported in this schedule in conformance with instructions in section 9–4900, Transport-Related Revenues, and sections 10–7100 and 11–7100, Transport-Related Expenses.

(d) [Reserved].

(e) The totals of transport-related gross revenues and gross expenses reported in this schedule shall agree with the corresponding amounts reported for classifications 4900 and 7100 on Schedule P–1.

* * * * * *

12. Amend Section 32—General Reporting Instructions, as follows:

A. By revising paragraph (a), in pertinent part, to read:

| Schedule No. | Schedule title | Filing frequency |
|---|---|---|
| * | * | * |
| P-31..... | Transport Revenues..... | Do. |
| P-1..... | Transport-Related Revenues and Expenses; Explanation of Special Items; Explanation of Deferred Federal Income Tax Adjustments, Dividends Declared and Retained Earnings Adjustments. | Do. |
| * | * | * |

B. By revising paragraph (d)(9) to read:

(d) * * *

* * * * * *

(9) Procedures for assigning or prorating expenses between transport operations and transport-related operations, as prescribed by section 10–7100 or 11–7100.

* * * * * *

13. Amend schedules P–1.1, P–1.2, P–1(a), and P–2(a) of Form 41 to reflect the foregoing changes in accounting, as shown in Exhibits A, B, C and D attached hereto and made a part hereof.[1]

14. Amend schedule P–4 of Form 41 to provide more detailed disclosure of transport-related revenues and expenses, as shown in Exhibit E attached hereto and made a part hereof.[1]

[FR Doc.73–18653 Filed 9–5–73;8:45 am]

## FEDERAL HOME LOAN BANK BOARD

**[ 12 CFR Part 545 ]**

[No. 73–1152]

### FEDERAL SAVINGS AND LOAN SYSTEM

**Service Corporations**

AUGUST 15, 1973.

The Federal Home Loan Bank Board considers it desirable to propose an amendment to § 545.9–1 of the rules and regulations for the Federal Savings and Loan System (12 CFR 545.9–1) in order to require prior Board approval for certain investments in and by certain service corporations in which Federal savings and loan associations may invest.

Service corporations in which Federal associations may invest are commonly categorized by the number of their savings and loan association stockholders. Type "b–2" service corporations are those in which less than 5 savings and loan associations (including any Federal association) held capital stock or one such association holds more than 40 percent of such stock (see § 545.9–1(b)(3)(ii)).

The Board proposes to require prior approval, under certain conditions, for any investment (1) by a Federal association in a type "b–2" service corporation or in a corporation which will become a type "b–2" service corporation as a result of such investment, and (2) by a type "b–2" service corporation directly or indirectly through one or more wholly-owned subsidiaries or joint ventures of such service corporation. Approval would be required if the purpose of any of these investments is to acquire a going business for an amount exceeding the fair market value of the tangible net assets attributable to that business from a director or officer of a Federal association owning stock in such service corporation or from an entity in which a director or officer of a Federal association has a direct or indirect beneficial interest or is a director, officer, controlling person, partner or trustee.

Accordingly, the Federal Home Loan Bank Board hereby proposes to amend § 545.9–1(b)(3) by adding a new subdivision (iv) thereto to read as set forth below.

Interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue NW., Washington, D.C., 20552, by October 8, 1973, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the general regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

§ 545.9–1 Service corporations.

* * * * * *

(b) *Other service corporations.*—In addition to investment in a service corporation which meets the requirements of paragraph (a) of this section, a Federal association which has a charter in the form of Charter N or K (rev.) may invest in the capital stock, obligations, or other securities of any service corporation organized under the laws of the State, District, Commonwealth, territory, or possession in which the home office of the association is located if:

* * * * * *

(3) The following limitations are complied with:

* * * * * *

(iv) In the case of a service corporation of the type described in subdivision (ii) of this subparagraph, the approval of the Board is required for any investment

(*a*) By a Federal association in such a service corporation or in a corporation which will become such a service corporation as a result of such investment, and

(*b*) By such a service corporation directly or indirectly through one or more wholly-owned subsidiaries or joint ventures of such service corporation

If the purpose of such investment is to acquire a going business for an amount exceeding the fair market value of the tangible net assets attributable to that business from a director or officer of a Federal association which owns any of the capital stock of such a service corporation or from an entity in which a director or officer of such Federal association has a direct or indirect beneficial interest or is a director, officer, controlling person, partner or trustee.

* * * * * *

(Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

EUGENE M. HERRIN,
*Assistant Secretary.*

[FR Doc.73–18838 Filed 9–5–73;8:45 am]

## FEDERAL MARITIME COMMISSION

**[ 46 CFR Part 538 ]**

[General Order 19; Docket No. 73–53]

### INCREASES IN CONTRACT RATES

**Rules Governing Filing; Enlargement of Time To File Comments**

Upon request of counsel for Pacific Coast European Conferences, and good cause appearing, time within which comments shall be submitted in response to the notice of proposed rulemaking in this proceeding (38 FR 22495; August 21, 1973) is enlarged to and including October 17, 1973. Replies of Hearing Counsel shall be submitted on or before October 31, 1973. Answers to Hearing Counsel's replies shall be submitted on or before November 12, 1973.

By the Commission.

[SEAL] JOSEPH C. POLKING,
*Assistant Secretary.*

[FR Doc.73–18875 Filed 9–5–73;8:45 am]

## INTERSTATE COMMERCE COMMISSION

**[ 49 CFR Part 1057 ]**

[Ex Parte No. MC–43 (Sub-No. 1)]

### MOTOR CONTRACT CARRIERS

**Lease and Interchange of Vehicles**

AUGUST 31, 1973.

Notice of filing of petition for reopening and modification of the leasing regulations, or, in the alternative, for the institution of a rulemaking proceeding, filed August 2, 1973.

[1] Filed as part of the original document.





Petitioner: Common carrier conference—irregular route.

Petitioner's representatives: James E. Wilson, Jon F. Hollengreen, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, D.C. 20004.

Petitioner, a conference of the American Trucking Associations, Inc., requests (1) that the Commission reopen and modify § 207.4(a)(3) of the leasing regulations (49 CFR 1057.4(a)(3)) to preclude the trip leasing of equipment with driver to regulated carriers, following movements by motor contract carriers for shipper affiliates, or (2) in the alternative, that the Commission institute a rulemaking proceeding to accomplish the same purpose. The Conference takes the position that in order to maintain the balance between private and for-hire motor carriage, the present regulation prohibits the leasing of equipment and drivers to authorized carriers by private carriers unless the lease is for 30 days or more; and that the principal exception to the 30-day rule allows authorized (common or contract) carriers to lease their vehicles and drivers to other authorized (common or contract) carriers on what would otherwise be empty one-way runs of their equipment. Petitioner contends that the 30-day regulation has been subverted by shippers through the creation of motor contract carrier subsidiaries and that this circumvention of the pertinent regulations has placed an unwarranted burden on petitioner's member common carriers. Petitioner requests, therefore, modification of the leasing regulations to preclude the trip-lease of equipment by a motor contract carrier following a movement by that carrier for a shipper affiliate.

No oral hearing is contemplated at this time. Any interested person (including petitioner) desiring to participate may file with this Commission an original and fifteen (15) copies of his written representations, views, or argument in support, or against, the relief sought in the petition (including any potential environmental effects thereof) on or before November 5, 1973. A copy of each such representation should be served upon petitioner's representatives. Written material or suggestions submitted will be available for public inspection at the Offices of the Interstate Commerce Commission, 12th and Constitution, Washington, D.C., during regular business hours.

Notice to the general public of the matter herein under consideration will be given by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73–18919 Filed 9–5–73;8:45 am]



V 38-172 SEP 6 73 XUM

# Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF DEFENSE

### Department of the Air Force

### USAF SCIENTIFIC ADVISORY BOARD

### Notice of Meeting

AUGUST 31, 1973.

The Secretary of the Air Force has requested Dr. Raymond L. Bisplinghoff, Deputy Director of the National Science Foundation, to make an independent review of the B-1 Program. The review is being conducted under the auspices of the USAF Scientific Advisory Board. The initial planning session will be held on September 10, 1973, at Rockwell International Corporation, Los Angeles, California. Due to the classified nature of the material, this meeting will be closed to the public. For further information contact the Scientific Advisory Board Secretariat at (202) 697-4648.

JOHN W. FAHRNEY,
*Colonel, USAF, Chief, Legislative Division, Office of The Judge Advocate General.*

[FR Doc.73-18839 Filed 9-5-73;8:45 am]

## DEPARTMENT OF AGRICULTURE

### Soil Conservation Service

### HURRICANE CREEK WATERSHED PROJECT, TENNESSEE

### Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Soil Conservation Service, U.S. Department of Agriculture, has prepared a final environmental statement for the Hurricane Creek Watershed Project, Humphreys and Dickson Counties, Tennessee, USDA-SCS-ES-WS-(ADM)-72-30(F).

The environmental statement concerns a plan for watershed protection, flood prevention, and industrial water supply. The planned works of improvement include conservation land treatment throughout the watershed, supplemented by (1) seven single-purpose floodwater-retarding structures and (2) one multiple-purpose structure for flood prevention and industrial water supply.

The final environmental statement was transmitted to the Council on Environmental Quality on August 29, 1973.

Copies are available for inspection during regular working hours at the following locations:

Soil Conservation Service, USDA, South Agriculture Building, Room 5227, 14th and Independence Avenue SW., Washington, D.C. 20250.

Soil Conservation Service, USDA, 561 U.S. Courthouse, Nashville, Tennessee 37203.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please order by name and number of statement. The estimated cost is $4.30.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services)

J. U. HAAS,
*Acting Deputy Administrator for Water Resources, Soil Conservation Service.*

AUGUST 29, 1973.

[FR Doc.73-18802 Filed 9-5-73;8:45 am]

## DEPARTMENT OF COMMERCE

### Domestic and International Business Administration

### DESERT RESEARCH INSTITUTE, ET AL.

### Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before September 26, 1973.

Amended regulations issued under cited Act, as published in the February 24, 1972 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket Number: 74-00035-52-41700. Applicant: Desert Research Institute, University of Nevada System, SAGE Building, Stead Campus, Reno, Nevada 89507. Article: System 100 Dye laser, diffraction grating, 1200 line/mm, and spare flash tubes. Manufacturer: Electro-Photonics, Ltd., United Kingdom. Intended use of article: The foreign article is intended to be used in research to study the properties of the atmosphere, clouds, and air pollution. Specifically, the article will provide a means of obtaining optical backscatter from the atmosphere and thereby measuring the composition of the atmosphere including gases, particulates and cloud structure. The article will also be used (1) to train graduate students in the technology of optical radar and remote sensing techniques including resonance, Raman and other wavelength dependent effects and (2) to train students in a laser course on the theory and application of lasers. Application received by Commissioner of Customs: July 18, 1973.

Docket Number: 74-00061-99-03400. Applicant: New York League for the Hard of Hearing, 71 West 23rd Street, New York, New York 10010. Article: (2) Two Suvag I Auditory Training Units, (3) Three Body Movement Micros, and (1) One Junction box. Manufacturer: SEDI, France. Intended use of article: The foreign article is intended to be used in research on the aural health care and educational training for the hard of hearing. Specifically, the article will be used in a study of training restricted bands of restricted hearing, such as the area of the eight carnial nerve. Application received by Commissioner of Customs: August 8, 1973.

Docket Number: 74-00062-00-54500. Applicant: Tulane Medical School, Department of Ophthalmology, 1430 Tulane Avenue, New Orleans, Louisiana 70112. Article: Optical Attachment for Zeiss Photocogulator. Manufacturer: SADAMEL, France. Intended use of article: The foreign article is intended to be used in training resident-trainees in a prescribed course in the use of the laser photocogulator. Specifically, the article as an attachment will facilitate both the means of clinical treatment and the adaption of the resident-trainee staff to the mode and method of clinical treatment. Application received by Commissioner of Customs: August 8, 1973.

Docket Number: 74-00063-00-33900. Applicant: Yale University, Purchasing Department, 260 Whitney Avenue, New Haven, Connecticut 06510. Article: Automatic Petrographic Heating and Freezing Stage. Manufacturer: Centre National De La Recherche Scientifique', France. Intended use of article: The foreign article is intended to be used in research on the origin of fluid inclusions in metamorphic rocks. Specifically, the use is to determine the compositions of fluid inclusions and the temperature and pressure conditions in metamorphic rock when the fluid inclusions were found. Application received by Commissioner of Customs: August 8, 1973.

Docket Number: 74-00064-33-46040. Applicant: Princeton University, Purchasing & Office Services, P.O. Box 33, Princeton, New Jersey 08540. Article: Electron Microscope, Model Elmiskop IA. Manufacturer: Siemens AG, West Germany. Intended use of article: The foreign article is intended to be used in the following research studies on (1) high resolution ultra-structural analysis of microtubules from the nerve axon, spindle apparatus, cilia and flagella, and other parts of eucargotic cells (2) the relationships between the microtubules and their associated structures (3) characterization of the microtubule organizing centers in these organelles (4) the *in vivo* and *in vito* growth and assembly of microtubules and (5) monitoring the content and purity of cell fractions in conjunction with biochemical and biophysical studies on microtubules. Application received by Commissioner of Customs: August 8, 1973.

A. H. STUART,
*Director,*
*Special Import Programs Division.*

[FR Doc.73-18841 Filed 9-5-73;8:45 am]





### SEMICONDICTOR MANUFACTURING AND TEST EQUIPMENT

### Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Semiconductor Manufacturing and Test Equipment Technical Advisory Committee will be held Thursday, September 20, 1973, at 10:30 a.m. in Room 4833, Main Commerce Building, 14th and Constitution Avenue, Washington, D.C.

Members advise the Office of Export Control, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to semiconductor manufacturing and test equipment, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

Agenda items are as follows:

1. Comments on minutes of previous meeting.
2. Presentation of papers or comments by the public.
3. Review of work-program of subcommittees.
   a. Test equipment.
   b. Production equipment.
4. Executive session:
   a. Review of work program of subcommittees.
      (1) Test equipment.
      (2) Production equipment.
   b. Formulation of recommendations.
5. Adjournment.

The public will be permitted to attend the discussion of agenda items 1-3, and a limited number of seats—approximately 15—will be available to the public for these agenda items. To the extent time permits, members of the public may present oral statements to the committee. Interested persons are also invited to file written statements with the committee.

With respect to agenda item 4, "Executive Session," the Assistant Secretary of Commerce for Administration, on August 9, 1973, determined, pursuant to section 10(d) of Public Law 92-463, that this agenda item should be exempt from the provisions of Sections 10(a)(1) and (a)(3), relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in 5 USC 552(b)(1).

Further information may be obtained from William W. Clarke, Chairman of the committee, Bureau of East-West Trade, Room 4317, U.S. Department of Commerce, Washington, D.C. 20230 (A/C 202+967-2420).

Minutes of those portions of the meeting which are open to the public will be available 30 days from the date of the meeting upon written request addressed to: Central Reference and Records Inspection Facility, U.S. Department of Commerce, Washington, D.C. 20230.

Dated August 30, 1973.

STEVEN LAZARUS,
*Deputy Assistant Secretary for East-West Trade.*

[FR Doc. 73-18765 Filed 9-5-73;8:45 am]

### UNIVERSITY OF CALIFORNIA

### Notice of Decision on Application for Duty-Free Entry of Scientific Article; Correction

In the notice of decision for duty-free entry of scientific articles appearing at page 22052 in the FEDERAL REGISTER of Wednesday, August 15, 1973, the following correction should be made.

Docket Number 72-00431-65-46070 should be corrected to read:

Docket Number: 72-00481-65-46070. Applicant: University of California, Lawrence Livermore Laboratory, P.O. Box 805, Livermore, CA 94550. Article: Scanning electron microscope, Model S-4 * * *

A. H. STUART,
*Director,*
*Special Import Programs Division.*

[FR Doc.73-18840 Filed 9-5-73;8:45 am]

### U.S. ENVIRONMENTAL PROTECTION AGENCY, ET AL.

### Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before September 26, 1973.

Amended regulations issued under cited Act, as published in the February 24, 1972 issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket Number: 74-00066-33-46040. Applicant: U.S. Environmental Protection Agency, National Environmental Research Center, Cincinnati, Ohio 45268. Article: Electron Microscope, Model JEM 100B with Side Entry Goniometer and accessories. Manufacturer: JEOL, Ltd., Japan. Intended use of article: The foreign article is intended to be used in research investigation in the areas of advanced waste treatment, analytical quality control, environmental toxicology, and water supply. Specifically, the article will be used for (1) high resolution studies of virus infected cells, virions, isolated viral nucleic acids and proteins, and small parasitic bacteria such as those of the Bdellovibrio type; (2) particulate identification in water samples, visualization of the colloidial material after treatment of waste waters, and determination of polymer attachment in the process of flocculation and stabilization and (3) the investigation of smoke and dust particulates of importance to inhalation toxicology as well as tissue pathology and morphology after animal exposure to these pollutants. Application received by Commissioner of Customs: August 13, 1973.

Docket Number: 74-00067-33-46500. Applicant: American National Red Cross, Blood Research Laboratory, 9312 Old Georgetown Road, Bethesda, Maryland 20014. Article: Ultramicrotome, Model LKB 8800A. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The foreign article is intended to be used in the study of biological specimens, principally derived from blood and blood-forming tissues, but including other human and animal organs. Specifically the article will be used in studies of platelet adhesion to collagen, the role of macromolecules in the central of normal and cancer cell behavior, the antigenic nature of blood cells, the nature of—and means of protection against—freezing injury in a variety of materials, including mammalian hearts, and in age-related changes in the cellular components of blood. Application received by Commissioner of Customs: August 13, 1973.

Docket Number: 74-00068-33-41700. Applicant: Hospital of Albert Einstein College of Medicine, 1825 Eastchester Road, Bronx, New York 10461. Article: Medilase 791 $CO_2$ Surgical Laser. Manufacturer: Laser Industries Ltd., Israel. Intended use of article: The foreign article is intended to be used in the study of tumor growth in mice and rats and the results are to be compared with excision to similar tumors in humans to objectively ascertain the place of the carbon dioxide laser in clinical surgery



V 38-172
SEP 6 73
XUM

particularly with reference to burns, tumors and infections. Application received by Commissioner of Customs: July 30, 1973.

Docket Number: 74–00069–33–46040. Applicant: Albert Einstein College of Medicine, Department of Pathology, 1300 Morris Park Avenue, Bronx, New York 10461. Article: Electron Microscope, Model Elmiskop 102 and accessories. Manufacturer: Siemens AG, West Germany. Intended use of article: The foreign article is intended to be used to study the morphological effects of prolonged and chronic exposure to high oxygen tensions in lung using tissue from experimental animals, cells from tissue gradients and isolated material taken from fractions run on gradients.

The article will also be used to train students and post-doctoral fellows in use of the electron microscope and its application. Application received by Commissioner of Customs: August 13, 1973.

Docket Number: 74–00070–11–56595. Applicant: Syracuse University, Department of Mechanical & Aerospace Engineering, 139 Link Hall, Syracuse, New York 13210. Article: Plenum Chamber System. Manufacturer: Reaves Industrial Furnaces, Ltd., United Kingdom. Intended use of article: The foreign article is intended to be used in research on noise abatement. Specifically, the article will be used in the investigation of the aerodynamic noise produced by heated supersonic air jets and the assessment of methods for reduction of such noise. Application received by Commissioner of Customs: August 15, 1973.

Docket Number: 74–00072–33–46040. Applicant: DHEW, NCI, Bethesda, Maryland 20014. Article: Electron Microscope, Model HU–12 with high resolution tilt stage. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The foreign article is intended to be used in the research study of normal and malignant cells and cell components, both in thin section and in homogenized and pelleted material, and in the penetration and replication of viruses, particularly oncogenic viruses. Application received by Commissioner of Customs: August 16, 1973.

Docket Number: 74–00073–33–46040. Applicant: University of California, Davis California Primate Research Center, Davis, California 95616. Article: Electron Microscope, Model EM 10. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The foreign article is intended to be used in research on pulmonary diseases, reproductive and perinatal biology, infectious diseases and behavioral biology. The article will be required to examine (1) tissues from the respiratory system of nonhuman primates and rodents, (2) tissues from the central nervous system, locomotor system, and integamentary system of embryonic and fetal nonhuman and human primates including tissue of the maternal reproductial system and placenta, and (3) tissues of nonhuman primate hosts for experimental spontaneous viral, bacterial, and parasite diseases. The article will also be used in the education of postdoctoral fellows and graduate students studying the problems related to research in pulmonary diseases, reproductive and perinatal biology, infectious diseases, and behavioral biology. The courses will be numbered for the graduate students and nonspecific for the postdoctoral fellows. Application received by Commissioner of Customs: August 17, 1973.

Docket Number: 74–00074–33–46040. Applicant: Mount Sinai School of Medicine of City Univ. of N.Y., Otolaryngology Department, Fifth Avenue and 100th Street, New York, New York 10029. Article: Electron Microscope, Model EM 9S–2. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in research on ultrastructural studies on the development of mammalian hearing and in problems concerning carcinogenesis. The article will also be used for the instruction of resident physicians in ultrastructural topics. Application received by Commissioner of Customs: August 17, 1973.

A. H. STUART,
*Director,*
*Special Import Programs Division.*

[FR Doc.73–18842 Filed 9–5–73;8:45 am]

## SEMICONDUCTOR MANUFACTURING AND TEST EQUIPMENT TECHNICAL ADVISORY COMMITTEE

### Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a meeting of the Production Equipment Subcommittee of the Semiconductor Manufacturing and Test Equipment Technical Advisory Committee will be held Thursday, September 13, 1973, at 9:00 a.m. at Texas Instruments Co., 13500 North Central Expressway, Dallas, Tex.

Members advise the Office of Export Control, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to semiconductor manufacturing and test equipment, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

Agenda items are as follows:

1. Opening remarks and review of purpose of subcommittee by Howard Steenbergen, Chairman.
2. Presentation of papers or comments by public.
3. Item by item review of each major category of production equipment used in semiconductor manufacture.
4. Executive session:
   a. Review of production equipment capabilities of Communist countries.
   Item by item review of each major category of production equipment used in semiconductor manufacture.
   c. Generation of Final Report of Subcommittete for Sept. 20, meeting of the Committee.
5. Adjournment.

The public will be permitted to attend the discussion of agenda items 1–3, and a limited number of seats will be available to the public for these agenda items. To the extent time permits, members of the public may present oral statements to the subcommittee. Interested persons are also invited to file written statements, with the subcommittee.

With respect to agenda item 4, "Executive session," the Assistant Secretary of Commerce for Administration, on August 9, 1973, determined, pursuant to Section 10(d) of Pub. L. 92–463, that this agenda item should be exempt from the provisions of sections 10(a)(1) and (a)(3), relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in 5 U.S.C. 552(b)(1).

Further information may be obtained from Howard Steenbergen, Chairman of the subcommittee, Wright-Patterson Air Force Base, Ohio 45433 (A/C 513+255–3802).

Minutes of those portions of the meeting which are open to the public will be available 30 days from the date of the meeting upon written request addressed to: Central Reference and Records Inspection Facility, U.S. Department of Commerce, Washington, D.C. 20230.

Dated August 30, 1973.

STEVEN LAZARUS,
*Deputy Assistant Secretary,*
*for East-West Trade.*

[FR Doc.73–18764 Filed 9–5–73;8:45 am]

## Office of the Secretary

[Case No. 432]

## ARTUR W. EVEN

## Decision of Appeals Board

*Correction*

In FR Doc. 73–17010 appearing at page 22167 in the issue of Thursday, August 16, 1973, the headings should read as set forth above.

## Social and Economic Statistics Administration

## CENSUS ADVISORY COMMITTEE OF THE AMERICAN STATISTICAL ASSOCIATION

### Notice of Public Meeting

The Census Advisory Committee of the American Statistical Association will convene on September 13 and 14, 1973, at 9:00 a.m. The Committee will meet in Room 2113, Federal Building 3, at the Bureau of the Census in Suitland, Maryland.

The Census Advisory Committee of the American Statistical Association was established in 1919 to advise the Director, Bureau of the Census in all aspects of the Bureau's statistical programs, and to respond to the Bureau's requests for opinions and judgements in the whole area of its operations.

The Committee is composed of 16 members appointed by the President of the American Statistical Association.

The agenda for the September 13 meeting is: (1) Staff changes, Census role in the Federal Government Statistical system, program priorities, and other general topics, (2) Evaluation of Census Counts with Special Reference to Sub-National Areas, (3) Planning processes in the Census Bureau, (4) Publication policy on errors in data, and (5) Thoughts on the 1980 Census.

The agenda for the September 14 meeting, which will adjourn at 12:30 p.m. is: (1) Confidentiality policy, programs and procedures; and (2) Retail Trade Survey.

A limited number of seats—approximately 15—will be available to the public. A brief period will be set aside on September 14 for public comment and questions. Extensive questions or statement must be submitted in writing to the Committee Guidance and Control Officer at least three days prior to the meeting.

Persons planning to attend and wishing additional information concerning this meeting should contact the Committee Guidance and Control Officer, Mr. James L. O'Brien, Assistant Chief, Statistical Research Division, Bureau of the Census, Room 3581, Federal Building 3, Suitland, Maryland. (Mail address: Washington, D.C. 20233.) Telephone 301–763–7134.

EDWARD D. FAILOR,
*Administrator, Social and*
*Economic Statistics Administration.*

[FR Doc.73–18843 Filed 9–5–73;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Food and Drug Administration

## GRAS OR PRIOR-SANCTIONED DIRECT HUMAN FOOD INGREDIENTS

### Notice of Opportunity To Submit Unpublished Safety Data

*Correction*

In FR Doc. 73–15220 appearing at page 20051 for the issue of Thursday, July 26, 1973, in the third column on page 20052 under the entry "Branch Unsaturated" the word now spelled "Rhodnyl iso-Valerate" should be spelled "Rhodinyl iso-Valerate".

## STATUS OF REVIEW OF GRAS AND PRIOR-SANCTIONED DIRECT HUMAN FOOD INGREDIENTS

### Notice of Availability of Information

*Correction*

In FR Doc. 73–15206, appearing at page 20054 for the issue of Thursday, July 26, 1973, in the third paragraph of the second column on page 20055 the citation that now reads "(35 FR 18632)" should read "(35 FR 18623)" and the citation now reading "(36 FR 12084)" should read "(36 FR 12984)".





## AGREEMENT BETWEEN DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE AND ENVIRONMENTAL PROTECTION AGENCY

### Notice Regarding Matters of Mutual Responsibility; Amendment

On December 22, 1971, the Department of Health, Education, and Welfare, Food and Drug Administration (FDA) and the Environmental Protection Agency (EPA) published in the FEDERAL REGISTER a Memorandum of Agreement regarding matters of mutual responsibility under the Federal Food, Drug, and Cosmetic Act and the Federal Insecticide, Fungicide, and Rodenticide Act (36 FR 24234). Since the publication of that Agreement, it has become apparent that additional information should be included with respect to the processing of applications for approval of drugs under the Federal Food, Drug, and Cosmetic Act and for registration of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act.

In view of the recent amendment of the Federal Insecticide, Fungicide, and Rodenticide Act (86 Stat. 973), the term "pesticide" replaces the term "economic poison" wherever it appears in the Agreement. Item 3 of the Agreement has also been amended by agreement between FDA and EPA to add eight additional paragraphs (par. g through par. n), to further detail each agency's responsibilities on the regulation of drugs and pesticides. The amendment reads as follows:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

ENVIRONMENTAL PROTECTION AGENCY

MEMORANDUM OF AGREEMENT REGARDING MATTERS OF MUTUAL RESPONSIBILITY UNDER FEDERAL FOOD, DRUG, AND COSMETIC ACT AND FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

* * * * * *

3. Applications for approval of drugs under FFDCA and for registration of pesticides under FIFRA will be processed as follows:

* * * * * *

g. Submissions for approval will be to the agency having primary jurisdiction in the format required by that agency which will be considered acceptable by the other agency in lieu of that normally required. Where specific requirements of the two agencies conflict in matters such as manufacturing, formulation, and labeling, the requirements of the agency of primary jurisdiction will apply.

h. The application of a product for any of, but not necessarily limited to, the uses listed below is considered to be both a human drug and a pesticide. The agency for primary jurisdiction regarding such products will be FDA and secondarily EPA.

(i) Pediculicides and scabicides intended to control parasites on humans.

(ii) Products intended to relieve the effect of insect bites on humans which also claim to repel the insects causing such bites.

(iii) Products intended to prevent diaper rash by treatment of diapers.

(iv) Fungicides for human use, i.e., athlete's foot which also claim to destroy such fungus on inanimate objects.

i. The application of a product for any of, but not necessarily limited to, the uses listed below is considered to be both a pesticide and a human drug. The agency for primary jurisdiction regarding such products will be EPA and secondarily FDA.

(i) Disinfectants and sanitizers intended for use on inanimate objects but including claims for use on humans.

j. Certain pesticides subject to the laws administered by EPA are also deemed to be animal drugs and subject to the laws administered by FDA under, but not necessarily limited to, the following conditions:

(i) Products for oral administration such as tablets, boluses, drinking water preparations, medicated blocks, and medicated feeds, including liquid feeds and supplements (these do not apply to articles solely for the control of fecal breeding flies, nor solely for sanitizing the drinking water of animals).

(ii) Products administered parenterally.

(iii) Products which are absorbed through the skin surface as in demodectic mange conditions.

(iv) Products introduced into wound or body openings, except for screwworms control, including application to the ear canal, for the control of ear mites; such conditions often require supportive treatment.

(v) Products applied topically for their systemic action in an animal.

k. The application of a pesticide for any of the uses listed below is considered to be both an animal drug and a pesticide. The agency for primary jurisdiction regarding such articles will be FDA, except in those cases where the drug use is regarded as not a new animal drug. In this event, since FDA has no preclearance requirements for products so considered, the submission for registration will be to EPA. However, the product will not be registered until EPA has been notified by FDA that the product is in compliance with the requirements of the FFDCA.

(i) Treatments for control of horse bots.

(ii) Treatments that are administered orally or parenterally for control of cattle grubs.

(iii) Treatments for control of demodectic mange mites.

(iv) Treatments that are administered orally or parenterally for control of fleas (or other external parasites).

(v) Treatments for control of ear mites.

(vi) Treatments for control of ticks if the produc labeling includes claims for control of ear mites.

(vii) Aquatic treatments intended to control parasites and/or disease of fish in ponds or aquariums.

(viii) Animal drinking water treatments with direct or implied claims for control of animal parasites or diseases.

(ix) Any other product with a mode of action similar to that under j.

l. The application of a pesticide for any of the uses listed below will be regarded solely as a pesticide usage except where it has an action described in j, in which case it is considered to be both an animal drug and a pesticide. In these cases, the agency for primary jurisdiction will be EPA.

(i) Treatments that are administered topically for control of cattle grubs which include application by spray, dip, pour-on, spot-on, back rubber or dust.

(ii) Treatments for control of screwworms that are administered topically.

(iii) Treatments for control of wool maggots that are administered topically.

(iv) Treatments for control of horn fly or face fly that are administered topically.

(v) Treatments for control of sarcoptic, psoroptic, and chorioptic mange mites that are administered topically.



V 38-172
SEP 6 73
XUM

(vi) Treatments that are administered topically, for control of ticks except as listed in item k(vi).

(vii) Treatments for control of sheep keds that are administered topically.

(viii) Treatments for control of fleas that are administered topically.

(ix) Treatments that are administered orally solely for control of horn fly and/or face fly in cattle manure.

(x) Aquatic treatments of ponds or aquariums solely for control of algae or bacterial slime and any other aquatic treatments solely for pest control which do not include claims for control of parasites or diseases of fish.

(xi) Sanitizers intended to sanitize aquarium equipment.

(xii) Sanitizers applied to inanimate surfaces and/or in drinking water of animals that do not include any direct or implied claims to control disease.

m. If a product that is subject to joint jurisdiction is deemed to be either a new human or animal drug, prior to registration by EPA, it must be in full compliance with the requirements for FDA approval of a new drug application, to include publication of its approval where required by the FFDCA (i.e. new animal drug), regardless of the agency of primary jurisdiction.

n. If a manufacturer proposing a new product is unable to determine the agency of primary jurisdiction, a presubmission inquiry may be submitted to either agency. FDA and EPA will jointly consider the inquiry and advise the manufacturer of their conclusions in this matter.

* * * * *

Dated August 24, 1973.

For the Food and Drug Administration.

A. M. SCHMIDT,
*Commissioner.*

Dated August 22, 1973.

For the Environmental Protection Agency.

CHARLES L. ELKINS,
*Acting Assistant Administrator for Hazardous Materials Control.*

*Effective date.*—This agreement is effective on September 6, 1973.

Dated August 28, 1973.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[FR Doc.73-18799 Filed 9-5-73;8:45 am]

[FAP 3B2838]

## DOW CHEMICAL CO.

### Notice of Withdrawal of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (Sec. 409(b), 72 Stat. 1786 (21 U.S.C. (348(b))), the following notice is issued:

In accordance with § 121.52, *Withdrawal of petitions without prejudice*, of the procedural food additive regulations (21 CFR 121.52), Dow Chemical Co., Bennett Bldg., 2030 Dow Center, Midland, Mich. 48640, has withdrawn its petition (FAP 3B2838), notice of which was published in the FEDERAL REGISTER of November 2, 1972 (37 FR 23372), proposing that § 121.2505, *Slimicides* (21 CFR 121.2505), be amended to provide for the safe use of 2,2-dibromo-3-nitrilopropionamide as a slimicide in the manufacture of paper and paperboard that contact food.

Dated August 24, 1973.

VIRGIL O. WODICKA,
*Director, Bureau of Foods.*

[FR Doc.73-18800 Filed 9-5-73;8:45 am]

[FAP 3B2901]

## ESSO RESEARCH AND ENGINEERING CO.

### Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (Sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 3B2901) has been filed by Esso Research and Engineering Co., Post Office Box 536, Linden, N.J. 07036, proposing that § 121.2511, *Plasticizers in polymeric substances* (21 CFR 121.2511), be amended to provide for an additional safe-use level of diisononyl adipate as a plasticizer in vinyl films for food-packaging applications.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report are available in the office of the Assistant Commissioner for Public Affairs, Rm. 15B-42 or the office of the Hearing Clerk, Food and Drug Administration, Rm. 6-86, 5600 Fishers Lane, Rockville, Md. 20852.

Dated August 28, 1973.

VIRGIL O. WODICKA,
*Director, Bureau of Foods.*

[FR Doc.73-18801 Filed 9-5-73;8:45 am]

## National Institutes of Health

## ALLERGY AND IMMUNOLOGY RESEARCH COMMITTEE

### Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Allergy and Immunology Research Committee, National Institute of Allergy and Infectious Diseases, September 24-25, 1973, 9:00 a.m., National Institutes of Health, Building 31C, Conference Room 7. This meeting will be open to the public from 9:00 a.m. to 9:45 a.m., September 24, to discuss administrative matters relating to the allergy and immunology research programs of the Institute, and closed to the public from 9:45 a.m. to 5:00 p.m., September 24, and from 9:00 a.m. to 12 noon, September 25, 1973, to review, discuss, evaluate, and/or rank grant applications in accordance with the provisions set forth in section 552(b)4 of title 5 U.S. Code for grants and contracts, and 10(d) of Pub. L. 92-463. Attendance by the public will be limited to space available.

Mr. Robert Schreiber, NIAID Information Officer, National Institutes of Health, Building 31, Room 7A34, telephone 496-5717, will furnish a summary of the meeting and a roster of the committee members.

Dr. Luz A. Froehlich, Executive Secretary of the Allergy and Immunology Research Committee, NIAID, National Institutes of Health, Westwood Building, Room 703, telephone 496-7131, will furnish substantive information.

(Catalog of Federal Domestic Assistance Program No. 13-301, National Institutes of Health)

Dated August 27, 1973.

ROBERT W. BERLINER,
*Acting Deputy Director, National Institutes of Health.*

[FR Doc.73-18813 Filed 9-5-73;8:45 am]

## ARTIFICIAL KIDNEY-CHRONIC UREMIA ADVISORY COMMITTEE

### Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Artificial Kidney-Chronic Uremia Advisory Committee, National Institute of Arthritis, Metabolism, and Digestive Diseases, September 18, 1973, 8:45 a.m., National Institutes of Health, Building 31, Conference Room 5. This meeting will be open to the public from 8:45 a.m. to 9:45 a.m., September 18, 1973, to discuss administrative reports and closed to the public from 9:45 a.m. to 5 p.m., September 18, 1973, to discuss and review artificial kidney contracts in accordance with the provisions set forth in section 552(b)4 of Title 5 U.S. Code and 10(d) of Pub. L. 92-463. Attendance by the public will be limited to space available.

Name of the person from whom rosters of committee members, summary of the meeting, and other information pertaining to the meeting may be obtained: Mr. Victor Wartofsky, Information Officer, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Maryland (301) 496-3583.

Dated August 27, 1973.

ROBERT W. BERLINER,
*Acting Deputy Director, National Institutes of Health.*

(Catalog of Federal Domestic Assistance Program No. 13.828, National Institutes of Health)

[FR Doc.73-18809 Filed 9-5-73;8:45 am]

## AUTOMATION IN THE MEDICAL LABORATORY SCIENCES REVIEW COMMITTEE

### Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Automation in the Medical Laboratory Sciences Review Committee, National Institute of General Medical Sciences, September 5-6, 1973, 9 a.m., National Institutes of Health, Building 31C, Conference Room 7. This meeting will be open to the public from 9 a.m. to 11 a.m., September 5, 1973, for opening remarks and general discussion, and closed to the public from 11 a.m. to 5 p.m., September 5, and from 9 a.m. to 5 p.m., September 6, 1973, to review, discuss, evaluate, and rank contract proposals in accordance with the provisions set forth in section 552(b) 4 of Title 5 U.S. Code for grants and contracts and 10(d) of Pub. L. 92-463. Attendance by the public will be limited to space available.

Mr. Paul Deming, Information Officer, NIGMS, Building 31, Room 4A46, Bethesda, Maryland 20014, Telephone: 301-496-5676, will furnish a summary of the meeting and a roster of committee members.

Substantive program information may be obtained from Dr. Robert S. Melville, Executive Secretary, Westwood Building, Room 954, Telephone: 301-496-7081.

Dated August 27, 1973.

ROBERT W. BERLINER,
*Acting Deputy Director, National Institutes of Health.*

[FR Doc.73-18807 Filed 9-5-73;8:45 am]

## BIOMETRY AND EPIDEMIOLOGY CONTRACT REVIEW COMMITTEE

### Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Biometry and Epidemiology Contract Review Committee, National Cancer Institute, September 12, 1973, 9:00 a.m., National Institutes of Health, Building 31, Conference Room 3. This meeting will be open to the public from 9:00 a.m. to 9:30 a.m., September 12, 1973, to discuss program plans for the Biometry and Epidemiology Branches, and closed to the public from 9:30 a.m. to 5:00 p.m., September 12, 1973, to review contracts in accordance with the provisions set forth in Section 552(b) 4 of Title 5 U.S. Code and 10(d) of Pub. L. 92-463. Attendance by the public will be limited to space available.

Mr. Frank Karel, Associate Director for Public Affairs, NCI, Building 31, Room 10A31, National Institutes of Health, Bethesda, Maryland 20014 (301-496-1911) will furnish summaries of the open/closed meeting and roster of committee members.

Mr. Harvey Geller, Executive Secretary, Landow Building, Room C519, National Institutes of Health, Bethesda, Maryland 20014 (301-496-6014) will provide substantive program information.

Dated August 27, 1973.

ROBERT W. BERLINER,
*Acting Deputy Director, National Institutes of Health.*

[FR Doc.73-18810 Filed 9-5-73;8:45 am]

## BLADDER-PROSTATE CANCER ADVISORY COMMITTEE

### Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Bladder-Prostate Cancer Advisory Committee, National Cancer Institute, September 17, 1973, at 9:00 a.m., National Institutes of Health, Building 31, Conference Room 9. This meeting will be open to the public from 9:00 a.m. to 10:00 a.m., to discuss the progress of the National Prostatic Cancer Project. Attendance by the public will be limited to space available. The meeting will be closed to the public from 10:00 a.m., until adjournment, for the review of one grant in the field of prostatic cancer, in accordance with the provisions set forth in section 552(b)4 of Title 5 U.S. Code and 10(d) of Pub. L. 92-463.

Mr. Frank Karel, Associate Director for Public Affairs, NCI, Building 31, Room 10A31, National Institutes of Health, Bethesda, Maryland 20014 (301-496-1911) will furnish summaries of the open/closed meeting and roster of committee members.

Dr. Thomas J. King, Executive Secretary, Westwood Building, Room 853, National Institutes of Health, Bethesda, Maryland 20014 (301-496-7194) will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.391, National Institutes of Health.)

Dated August 27, 1973.

ROBERT W. BERLINER,
*Acting Deputy Director, National Institutes of Health.*

[FR Doc.73-18812 Filed 9-5-73;8:45 am]

## CANCER EPIDEMIOLOGY COMMITTEE

### Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Breast Cancer Epidemiology Committee, National Cancer Institute, which is sponsoring a Workshop on "Genetics and Susceptibility to Human Breast Cancer" on September 10, 1973, 9:00 a.m. to 5:00 p.m. and 8:00 p.m. to 10:00 p.m. and on September 11, 1973, 8:30 a.m. to 12:00 noon, at the Montgomery Room, Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Maryland. This meeting will be open to the public at all times to critically review the current status of familial and genetic studies in human breast cancer, to discuss areas needing further investigation and to make recommendations as to where future studies should be directed. Attendance by the public will be limited to space available.

Mr. Frank Karel, Associate Director for Public Affairs, NCI, Building 31, Room 10A31, National Institutes of Health, Bethesda, Maryland 20014 (301-496-1911) will furnish summaries of the open meeting and roster of committee members and participants.

Dr. Bernice T. Radovich, Executive Secretary, Landow Building, Room B-404, National Institutes of Health, Bethesda, Maryland 20014 (301-496-6773) will provide substantive program information.

Dated August 27, 1973.

ROBERT W. BERLINER,
*Acting Deputy Director, National Institutes of Health.*

[FR Doc.73-18832 Filed 9-5-73;8:45 am]

## CANCER CLINICAL INVESTIGATION REVIEW COMMITTEE

### Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Clinical Investigation Review Committee, National Cancer Institute, September 24-26, 1973, National Institutes of Health, Building 31, Conference Room 5. This meeting will be open to the public from 8:30 a.m. to 5:00 p.m., September 24, to discuss the operating procedures of the Cancer Clinical Investigation Review Committee, and closed to the public from 8:30 a.m., September 25, until adjournment September 26 for the review of research grant applications in the field of clinical trials in cancer in accordance with the provisions set forth in section 552(b) 4 of Title 5, U.S. Code, and section 10(d) of Pub. L. 92-463. Attendance by the public will be limited to space available.

Mr. Frank Karel, Associate Director for Public Affairs, NCI, Building 31, Room 10A31, National Institutes of Health, Bethesda, Maryland 20014 (301-496-1911) will furnish summaries of the open/closed meeting and roster of committee members.

Dr. William G. Hammond, Executive Secretary, Westwood Building, Room 10A03, National Institutes of Health, Bethesda, Maryland 20014 (301-496-7058) will provide substantive program information.

Dated August 27, 1973.

(Catalog of Federal Domestic Assistance Program No. 13.314, National Institutes of Health)

ROBERT W. BERLINER,
*Acting Deputy Director, National Institutes of Health.*

[FR Doc.73-18816 Filed 9-5-73;8:45 am]

## CANCER CONTROL ADVISORY COMMITTEE

### Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Control Advisory Committee, National Cancer Institute, September 10, 1973, at 9:00 a.m., National Institutes of Health, Building 31, Conference Room 7. This meeting will be open to the public from 9:00 a.m. to 3:00 p.m., for the Committee to discuss and advise the National Cancer Institute on: (1) Director's Report; (2) Status of upcoming planning conferences; (3) Report on implementation of rehabilitation conference recommendations, and (4) Report on developments on USA-USSR exchange program. Attendance by the public will be limited to space available. The meeting will be closed to the public from 3:00 p.m. until adjournment, for discussion and consideration of approximately 25 ongoing contracts in the fields of Training and Education, Detection and Diagnosis, Rehabilitation, Treatment, and Program Management, and therefore is exempt from disclosure under Title 5 U.S.C., section 552(b)4 and section 10(d) of Public Law 92-463.







V 38-172 SEP 6 73 XUM

Mr. Frank Karel, Associate Director for Public Affairs, NCI, Building 31, Room 10A31, National Institutes of Health, Bethesda, Maryland 20014, (301–496–1911) will furnish summaries of the open/closed meeting and a roster of committee members.

Dr. Robert L. Woolridge, Executive Secretary, Building 31, Room 10A19, National Institutes of Health, Bethesda, Maryland 20014, (301–496–1946) will provide substantive program information.

Dated August 27, 1973.

ROBERT W. BERLINER,
*Acting Deputy Director,*
*National Institutes of Health.*

[FR Doc.73–18808 Filed 9–5–73;8:45 am]

## CARCINOGEN METABOLISM AND TOXICOLOGY SEGMENT ADVISORY GROUP

### Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Carcinogen Metabolism & Toxicology Segment Advisory Group, National Cancer Institute, September 5, 1973, 9:00 a.m. to 4:00 p.m., National Institutes of Health, Landow Building, Conference Room B301. This meeting will be open to the public from 2:30 to 4:00 p.m., to discuss possible new activities of the Carcinogen Metabolism & Toxicology Segment and closed to the public from 9:00 a.m. to 2:30 p.m. to discuss and review one contract and several unsolicited proposals in the fields of metabolism and toxicology in accordance with the provisions set forth in Section 552(b)4 of Title 5, U.S. Code and section 10(d) of Pub. L. 92–463. Attendance by the public will be limited to space available.

Mr. Frank Karel, Associate Director for Public Affairs, NCI, Building 31, Room 10A31, National Institutes of Health, Bethesda, Maryland 20014 (301–496–1911) will furnish summaries of the open/closed meeting and roster of committee members.

Dr. James M. Sontag, Executive Secretary, Landow Building, Room A–306, National Institutes of Health, Bethesda, Maryland 20014 (301–496–5471) will provide substantive program information.

Dated August 27, 1973.

ROBERT W. BERLINER,
*Acting Deputy Director,*
*National Institutes of Health.*

[FR Doc.73–18805 Filed 9–5–73;8:45 am]

## CLINICAL PROGRAM-PROJECTS RESEARCH REVIEW COMMITTEE

### Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Clinical Program-Projects Research Review Committee, National Institute of Mental Health, September 28–29, 1973, 9 a.m.–5 p.m., Statler Hilton Hotel, Washington, D.C. This meeting will be open to the public from 9 a.m.–12 noon, September 28, 1973, for announcements and reports of recent administrative, legislative, and program developments and closed to the public from 12 noon–5 p.m. on September 28, 1973 and 9 a.m.–5 p.m. on September 29, 1973 to review grants in accordance with the provisions set forth in section 552(b)4 of Title 5 U.S. Code and 10(d) of Pub. L. 92–463.

Attendance by the public will be limited to space available. The NIMH Information Officer who will furnish summaries of the meeting and rosters of committee members is Mr. Ronald E. McMillen, Acting Director, Office of Communications, National Institute of Mental Health, Room 15–105 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, telephone 443–3600. The Executive Secretary from whom substantive program information may be obtained is Julian J. Lasky, Ph. D., Acting Executive Secretary, 5600 Fishers Lane, Room 10 C–23B, Rockville, Maryland 20852, telephone 301–443–4708.

Dated August 27, 1973.

ROBERT W. BERLINER,
*Acting Deputy Director,*
*National Institutes of Health.*

(Catalog of Federal Domestic Assistance Program No. 13.242, Mental Health Research Grants)

[FR Doc.73–18818 Filed 9–5–73;8:45 am]

## CLINICAL PROJECTS RESEARCH REVIEW COMMITTEE

### Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Clinical Projects Research Review Committee, National Institute of Mental Health, September 20–22, 1973, 9 a.m.–5 p.m., Hotel Washington, Washington, D.C. This meeting will be open to the public from 9 a.m.–12 noon on September 20, 1973, for announcements and reports of recent administrative, legislative, and program developments and closed to the public from 12 noon–5 p.m. on September 20, 1973 and 9 a.m.–5 p.m. on September 21 and 22, 1973, to review grants in accordance with the provisions set forth in section 552(b) 4 of Title 5 U.S. Code and 10(d) of Pub. L. 92–463.

Attendance by the public will be limited to space available.

The NIMH Information Officer who will furnish summaries of the meeting and rosters of committee members is Mr. Ronald E. McMillen, Acting Director, Office of Communications, National Institute of Mental Health, Room 15–105 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, telephone 443–3600.

The Executive Secretary from whom substantive program information may be obtained is Julian J. Lasky, Ph. D., Executive Secretary, Parklawn Building, 5600 Fishers Lane, Room 10 C–23B, Rockville, Maryland, telephone 301–443–4708.

Dated August 27, 1973.

(Catalog of Federal Domestic Assistance Program No. 13.242, Mental Health Research Grants)

ROBERT W. BERLINER,
*Acting Deputy Director,*
*National Institutes of Health.*

[FR Doc.73–18820 Filed 9–5–73;8:45 am]

## CLINICAL PSYCHOPHARMACOLOGY RESEARCH REVIEW COMMITTEE

### Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Clinical Psychopharmacology Research Review Committee, National Institute of Mental Health, September 20–21, 1973, 9:00 a.m., Rockville, Maryland. This meeting will be open to the public from 9:00 a.m. to 10:00 a.m., September 20, for announcements and reports of recent administrative, legislative, and program developments and closed to the public from 10:00 a.m. on September 20 to 5:00 p.m. on September 21 to review grants in accordance with the provisions set forth in section 552(b)4 of Title 5 U.S. Code and 10(d) of Pub. L. 92–463.

Attendance by the public will be limited to space available.

The NIMH Information Officer who will furnish summaries of the meeting and rosters of committee members is Mr. Ronald E. McMillen, Acting Director, Office of Communications, National Institute of Mental Health, Room 15–105 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, telephone 443–3600.

The Acting Executive Secretary from whom substantive program information may be obtained is Ronald S. Lipman, Ph. D., Chief, Clinical Studies Section, Psychopharmacology Research Branch, National Institute of Mental Health, Room 9–101 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, telephone 443–4467.

Dated August 27, 1973.

(Catalog of Federal Domestic Assistance Program No. 13.242, Mental Health Research Grants)

ROBERT W. BERLINER,
*Acting Deputy Director,*
*National Institutes of Health.*

[FR Doc.73–18830 Filed 9–5–73;8:45 am]

## CRIME AND DELINQUENCY REVIEW COMMITTEE

### Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Crime and Delinquency Review Committee, National Institute of Mental Health, September 12–13, 1973, 9:00 a.m., Fairfax Hotel, 2100 Massachusetts Avenue, Washington, D.C. This meeting will be open to the public from 9:00 a.m. to 10:00 a.m., September 12, for announcements and reports of recent administrative, legislative, and program developments and closed to the public from 10:00 a.m. to 7:00 p.m., September 12, and 8:00 a.m. to 5:00 p.m., September 13, to review grants in accordance with the provisions set forth in section 552(b)4 of Title 5 U.S. Code and 10(d) of Pub. L. 92–463. Attendance by the public will be limited to space available. The NIMH Information Officer who will furnish summaries of the meeting and rosters of committee members is Mr. Ronald E. McMillen, Acting Director, Office of Communications, National Institute of Mental Health, Room 15–105 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, telephone 443–3600.

The Executive Secretary from whom substantive program information may be obtained is Arthur K. Leabman, Executive Secretary, Crime and Delinquency Review Committee, Center for Studies of Crime and Delinquency, Parklawn Building, Room 12C–04, 5600 Fishers Lane, Rockville, Maryland 20852, telephone 443–3728.

Dated August 27, 1973.

(Catalog of Federal Domestic Assistance Program Nos. 13.242 and 13.244)

ROBERT W. BERLINER,
*Acting Deputy Director,*
*National Institutes of Health.*

[FR Doc.73–18829 Filed 9–5–73;8:45 am]

## DIAGNOSTIC RESEARCH ADVISORY GROUP

### Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Diagnostic Research Advisory Group, National Cancer Institute, September 12, 1973, 8:30 a.m., National Institutes of Health, Building 31, Conference Room 6. This meeting will be open to the public from 1:00 p.m. to 2:00 p.m., to discuss general program considerations of breast cancer demonstration projects. Attendance by the public will be limited to space available. The meeting will be closed to the public from 8:30 a.m. to noon and 2:00 p.m. to 5:00 p.m., for review of 40 contract proposals in the field of diagnostic research, in accordance with the provisions set forth in section 552(b)4 of Title 5 U.S. Code, and section 10(d) of Pub. L. 92–463.

Mr. Frank Karel, Associate Director for Public Affairs, NCI, Building 31, Room 10A31, National Institutes of Health, Bethesda, Maryland 20014 (301–496–1911) will furnish summaries of the closed meeting and roster of committee members.

Dr. Kenneth B. Olson, Executive Secretary, Building 31, Room 3A06, National Institutes of Health, Bethesda, Maryland 20014 (301–496–1591) will provide substantive program information.

Dated August 27, 1973.

ROBERT W. BERLINER,
*Acting Deputy Director,*
*National Institutes of Health.*

[FR Doc.73–18806 Filed 9–5–73;8:45 am]

## EPIDEMIOLOGIC STUDIES REVIEW COMMITTEE

### Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Epidemiologic Studies Review Committee, National Institute of Mental Health, September 13–14, 1973, 9:00 a.m. to 4:30 p.m., Conference Room B, 5600 Fishers Lane, Rockville, Md. 20852. This meeting will be open to the public from 9–9:30 a.m., September 13, 1973, for announcements and reports of recent administrative, legislative, and program developments and closed to the public from 9:30 a.m.–4:30 p.m., September 13, 1973, and 9:00 a.m.–4:30 p.m., September 14, 1973, to review grants in accordance with the provisions set forth in section 552(b)4 of Title 5 U.S. Code and 10(d) of Pub. L. 92–463.

Attendance by the public will be limited to space available.

The NIMH Information Officer who will furnish summaries of the meeting and rosters of the committee members is Mr. Ronald E. McMillen, Acting Director, Office of Communications, National Institute of Mental Health, Room 15–105 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, telephone 443–3600.

The Executive Secretary from whom substantive program information may be obtained is Dr. Robert Markush, Chief, Center for Epidemiologic Studies, NIMH, Room 10C09, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20852, telephone 443–3774.

Dated August 27, 1973.

(Catalog of Federal Domestic Assistance Program No. 13.242, Mental Health Research Grants)

ROBERT W. BERLINER,
*Acting Deputy Director,*
*National Institutes of Health.*

[FR Doc.73–18822 Filed 9–5–73;8:45 am]

## EXPERIMENTAL PSYCHOLOGY RESEARCH REVIEW COMMITTEE

### Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Experimental Psychology Research Review Committee, National Institute of Mental Health, September 14–15, 1973, 9:30 a.m.–5:00 p.m., Dupont Plaza Hotel, Washington, D.C. This meeting will be open to the public from 9:30 a.m. to 10:00 a.m., September 14, 1973, for announcements and reports of recent administrative, legislative, and program developments and closed to the public from 10:00 a.m., September 14 to 5:00 p.m., September 15, 1973, to review grants in accordance with the provisions set forth in section 552(b) 4 of Title 5 U.S. Code and 10(d) of Pub. L. 92–463.

Attendance by the public will be limited to space available.

The NIMH Information Officer who will furnish summaries of the meeting and rosters of committee members is Mr. Ronald E. McMillen, Acting Director, Office of Communications, National Institute of Mental Health, Room 15–105 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, telephone 443–3600.

The Executive Secretary from whom substantive program information may be obtained is Dr. John T. Hammack, Executive Secretary, Experimental Psychology Research Review Committee, Room 10–95 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, telephone 443–3936.

Dated August 27, 1973.

(Catalog of Federal Domestic Assistance Program No. 13.242 Mental Health Research Grants)

ROBERT W. BERLINER,
*Acting Deputy Director,*
*National Institutes of Health.*

[FR Doc.73–18826 Filed 9–5–73;8:45 am]

## HEART AND LUNG PROGRAM-PROJECT COMMITTEE

### Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Heart and Lung Program-Project Committee, National Heart and Lung Institute, September 28–29, 1973, 8:30 a.m., National Institutes of Health, Building 31, Conference Room 9. This meeting will be open to the public from 8:30 a.m. to 9:30 a.m., September 28, 1973, to discuss administrative and program details; and closed to the public from 10:00 a.m., September 28, 1973, until the adjournment on September 29, 1973, to review grants, in accordance with the provisions set forth in section 552(b)4 of Title 5 U.S. Code and 10(d) of Pub. L. 92–463. Attendance by the public will be limited to space available.

Mr. Hugh Jackson, Information Officer, NHLI, NIH Landow Building, Room C918, phone 496–4236, will furnish summaries of the meeting and rosters of the committee members. Substantive information may also be obtained from the Executive Secretary, Dr. Arthur W. Mer-







V 38-172
SEP 6 73
XUM

rick, NHLI, NIH Westwood Building, Room 655, phone 496–7351.

Dated August 27, 1973.

(Catalog of Federal Domestic Assistance Program No. 13.346, National Institutes of Health)

ROBERT W. BERLINER,
*Acting Deputy Director,*
*National Institutes of Health.*

[FR Doc.73–18814 Filed 9–5–73;8:45 am]

## INFORMATION AND RESOURCES SEGMENT ADVISORY GROUP

### Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Information and Resources Segment Advisory Group, National Cancer Institute, September 6, 1973, 9:00 a.m. to 5:00 p.m., National Institutes of Health, Building 31, Conference Room 3. This meeting will be open to the public from 9:00 to 10:00 a.m., to discuss the program of the Segment and closed to the public from 10:00 a.m. to 5:00 p.m., to discuss and review approximately ten Request for Proposals in the field of Carcinogenesis Research in accordance with the provisions set forth in section 552(b) 4 of Title 5, U.S. Code and section 10(d) of Pub. L. 92–463. Attendance by the public will be limited to space available.

Mr. Frank Karel, Associate Director for Public Affairs, NCI, Building 31, Room 10A31, National Institutes of Health, Bethesda, Maryland 20014 (301–496–1911) will furnish summaries of the open/closed meeting and roster of committee members.

Dr. Marcia D. Litwack, Executive Secretary, Landow Building, Room A–306D, National Institutes of Health, Bethesda, Maryland 20014 (301–496–5471) will provide substantive program information.

Dated August 27, 1973.

ROBERT W. BERLINER,
*Acting Deputy Director,*
*National Institutes of Health.*

[FR Doc.73–18811 Filed 9–5–73;8:45 am]

## MENTAL HEALTH SERVICES RESEARCH REVIEW COMMITTEE

### Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Mental Health Services Research Review Committee, National Institute of Mental Health, September 10, 11, and 12, 1973, 8:30 a.m., Shoreham Hotel, Washington, D.C. This meeting will be open to the public from 8:30 a.m. to 10:00 a.m., September 10, 1973, for announcements and reports of recent administrative, legislative, and program developments and closed to the public from 10:00 a.m., September 10, 1973, to 5:30 p.m. September 12, 1973, to review grants in accordance with the provisions set forth in section 552(b) 4 of Title 5 U.S. Code and 10(d) of Pub. L. 92–463.

Attendance by the public will be limited to space available.

The NIMH Information Officer who will furnish summaries of the meeting and rosters of committee members is Mr. Ronald E. McMillen, Acting Director, Office of Communications, National Institute of Mental Health, Room 15–105 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, telephone 443–3628.

Dated August 27, 1973.

(Catalog of Federal Domestic Assistance Program No. 13.242 Mental Health Research Grants)

ROBERT W. BERLINER,
*Acting Deputy Director,*
*National Institutes of Health.*

[FR Doc.73–18819 Filed 9–5–73;8:45 am]

## MENTAL HEALTH SMALL GRANT COMMITTEE

### Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Mental Health Small Grant Committee, National Institute of Mental Health, September 20–21, 1973, at the Hotel Washington, Washington, D.C. This meeting will be open to the public from 4 p.m. to 5 p.m., September 20, for announcements and reports of recent administrative, legislative, and program developments and closed to the public from 10 a.m., to 4 p.m., September 20, 1973, and 9 a.m., to 5:30 p.m., September 21, 1973, to review grants in accordance with the provisions set forth in section 552(b) 4 of Title 5 U.S. Code and 10(d) of Pub. L. 92–463.

Attendance by the public will be limited to space available.

The NIMH Information Officer who will furnish summaries of the meeting and rosters of committee members is Mr. Ronald E. McMillen, Acting Director, Office of Communications, National Institute of Mental Health, Room 15–105 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, telephone 443–4337.

Dated August 27, 1973.

(Catalog of Federal Domestic Assistance Program No. 13. 242 Mental Health Research Grants)

ROBERT W. BERLINER,
*Acting Deputy Director,*
*National Institutes of Health.*

[FR Doc.73–18803 Filed 9–5–73;8:45 am]

## METROPOLITAN MENTAL HEALTH PROBLEMS REVIEW COMMITTEE

### Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Metropolitan Mental Health Problems Review Committee, National Institute of Mental Health on September 10, 1973, from 9:00 a.m. to 6:00 p.m. at the Sheraton-Silver Spring Motor Inn, 8727 Colesville Road, Silver Spring, Maryland. This meeting will be open to the public from 9:00 a.m. to 10:00 a.m. on September 10, 1973, for announcements and reports of recent administrative, legislative, and program developments and closed to the public from 10:00 a.m. to 6:00 p.m. on that date to review grants in accordance with the provisions set forth in section 552(b) 4 of Title 5 U.S. Code and 10(d) of Pub. L. 92–463.

Attendance by the public will be limited to space available.

The NIMH Information Officer who will furnish summaries of the meeting and rosters of committee members is Mr. Ronald E. McMillen, Acting Director, Office of Communications, National Institute of Mental Health, Room 15–105 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, telephone 443–3600.

The Executive Secretary from whom substantive program information may be obtained is Mr. A. Robert Polcari, Executive Secretary, Center for Studies of Metropolitan Problems, National Institute of Mental Health, Room 12C–16 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, telephone 443–3373.

Dated August 27, 1973.

(Catalog of Federal Domestic Assistance Program No. 13.242)

ROBERT W. BERLINER,
*Acting Deputy Director,*
*National Institutes of Health.*

[FR Doc.73–18828 Filed 9–5–73;8:45 am]

## NARCOTIC ADDICTION AND DRUG ABUSE REVIEW COMMITTEE

### Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Narcotic Addiction and Drug Abuse Review Committee, National Institute of Mental Health, September 19–21, 1973, 9:00 a.m., Parklawn Building, Rockville, Maryland. This meeting will be open to the public from 9:00 a.m. to 10:00 a.m., September 19, for announcements and reports of recent administrative, legislative, and program developments and closed to the public from 10:00 a.m., September 19 to 5:00 p.m., September 21 to review grants in accordance with the provisions set forth in section 552(b) 4 of Title 5 U.S. Code and 10(d) of Pub. L. 92–463.

Attendance by the public will be limited to space available.

The NIMH Information Officer who will furnish summaries of the meeting and rosters of committee members is Mr. Ronald E. McMillen, Acting Director, Office of Communications, National Institute of Mental Health, Room 15–105 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, telephone 443–3600.

The Executive Secretary from whom substantive program information may be obtained is Miss Dorothea de Zafra, Room 13–33 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, telephone 443–1556.

Dated August 27, 1973.

(Catalog of Federal Domestic Assistance Program No. 13.242)

ROBERT W. BERLINER,
*Acting Deputy Director,*
*National Institutes of Health.*

[FR Doc.73–18821 Filed 9–5–73;8:45 am]

## NATIONAL ADVISORY NEUROLOGICAL DISEASES AND STROKE COUNCIL

### Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the special meeting of the National Advisory Neurological Diseases and Stroke Council, September 6, 1973, at 8:30 a.m., in Conference Room 9, Building 31–C, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public. The purpose of this special meeting is to discuss program planning and extramural grant and contract activities of the Institute for Fiscal Year 1974. Attendance by the public will be limited to space available.

1. The Institute Information Officer who will furnish summaries of the meeting and rosters of committee members is: Mrs. Ruth Dudley, Building 31, Room 8A03, phone: 496–5751.

2. The Executive Secretary from whom substantive program information may be obtained is: Dr. Murray Goldstein, Room 757, Westwood Building, NIH, phone: 496–7705.

Dated August 27, 1973.

(Catalog of Federal Domestic Assistance Program No. 13.356, National Institutes of Health)

ROBERT W. BERLINER,
*Acting Deputy Director,*
*National Institutes of Health.*

[FR Doc.73–18831 Filed 9–5–73;8:45 am]

## NEUROPSYCHOLOGY RESEARCH REVIEW COMMITTEE

### Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Neuropsychology Research Review Committee, National Institute of Mental Health, September 13–15, 1973, 9:00 a.m. to 5:00 p.m., Dupont Plaza Hotel, Washington, D.C. This meeting will be open to the public from 9:00 a.m. to 10:00 a.m., September 13, 1973, for announcements and reports of recent administrative, legislative, and program developments and closed to the public from 10:00 a.m. September 13 to 4:00 p.m. September 15, 1973, to review grants in accordance with the provisions set forth in section 552(b) 4 of Title 5 U.S. Code and 10(d) of Pub. L. 92–463. Attendance by the public will be limited to space available.

The NIMH Information Officer who will furnish summaries of the meeting and rosters of committee members is Mr. Ronald E. McMillen, Acting Director, Office of Communication, National Institute of Mental Health, Room 15–105 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, telephone 443–3600.

The Executive Secretary from whom substantive program information may be obtained is Dr. Leonard Lash, Executive Secretary, Neuropsychology Research Review Committee, Room 10–95 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, telephone 443–3936.

Dated August 27, 1973.

(Catalog of Federal Domestic Assistance Program No. 13.242 Mental Health Research Grants)

ROBERT W. BERLINER,
*Acting Deputy Director,*
*National Institutes of Health.*

[FR Doc.73–18824 Filed 9–5–73;8:45 am]

## PERSONALITY AND COGNITION RESEARCH REVIEW COMMITTEE

### Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Personality and Cognition Research Review Committee, National Institute of Mental Health, September 22–23, 1973, 9:00 a.m.–5:00 p.m., Holiday Inn, Silver Spring, Maryland. This meeting will be open to the public from 9:00 a.m. to 9:30 a.m., September 22, 1973, for announcements and reports of recent administrative, legislative, and program developments and closed to the public from 9:30 a.m., September 22 to 5:00 p.m., September 23, 1973, to review grants in accordance with the provisions set forth in section 552(b) 4 of Title 5 U.S. Code and 10(d) of Pub. L. 92–463.

Attendance by the public will be limited to space available.

The NIMH Information Officer who will furnish summaries of the meeting and rosters of committee members is Mr. Ronald E. McMillen, Acting Director, Office of Communications, National Institute of Mental Health, Room 15–105 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, telephone 443–3600.

The Executive Secretary from whom substantive program information may be obtained is Dr. E. Wayne Herron, Executive Secretary, Personality and Cognition Research Review Committee, Room 10C–06 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, telephone 443–3942.

Dated August 27, 1973.

(Catalog of Federal Domestic Assistance Program No. 13.242 Mental Health Research Grants)

ROBERT W. BERLINER,
*Acting Deputy Director,*
*National Institutes of Health.*

[FR Doc.73–18825 Filed 9–5–73;8:45 am]

## PRECLINICAL PSYCHOPHARMACOLOGY RESEARCH REVIEW COMMITTEE

### Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Preclinical Psychopharmacology Research Review Committee, National Institute of Mental Health, September 17–18, 1973, 9:00 a.m., Conference Room C, Parklawn Building, Rockville, Maryland. This meeting will be open to the public from 9:00 a.m. to 9:30 a.m. on September 17, 1973, for announcements and reports of recent administrative, legislative, and program developments and closed to the public from 9:30 a.m. on September 17, 1973, to 5:00 p.m. on September 18, 1973, to review grants in accordance with the provisions set forth in section 552(b)4 of Title 5 U.S. Code and 10(d) of Pub. L. 92–463.

Attendance by the public will be limited to space available.

The NIMH Information Officer who will furnish summaries of the meeting and rosters of committee members is Mr. Ronald E. McMillen, Acting Director, Office of Communications, National Institute of Mental Health, Room 15–105 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, telephone 443–3600.

The Executive Secretary from whom substantive program information may be obtained is Dr. Earl Usdin, Executive Secretary and Chief, Pharmacology Section, Psychopharmacology Research Branch, National Institute of Mental Health, Room 9–95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, telephone 301–443–3948.

Dated August 27, 1973.

(Catalog of Federal Domestic Assistance Program No. 13.242 Mental Health Research Grants)

ROBERT W. BERLINER,
*Acting Deputy Director,*
*National Institutes of Health.*

[FR Doc.73–18823 Filed 9–5–73;8:45 am]

## SOCIAL PROBLEMS RESEARCH REVIEW COMMITTEE

### Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Social Problems Research Review Committee, National Institute of Mental Health, September 10–11, 1973, 9:00 a.m., Mayflower Hotel, Washington, D.C. This meeting will be open to the public from 9:00 to 9:30 a.m., September 10, for announcements and reports of recent administrative, legislative, and program developments and closed to the public from 9:30 a.m. to 6:00 p.m. on September 10 and from 9:00 a.m. to 6:00 p.m. on September 11 to review grants in accordance with the provisions set forth in section 552(b)4 of Title 5 U.S. Code and 10(d) of Pub. L. 92–463. Attendance by the public will be limited to space available.

The NIMH Information Officer who will furnish summaries of the meeting and rosters of committee members is Mr.



V 38-172 SEP 6 73 XUM

Ronald E. McMillan, Acting Director, Office of Communications, National Institute of Mental Health, Room 15–105 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, telephone 443–3600.

The Acting Executive Secretary from whom substantive program information may be obtained is Mr. Edward J. Flynn, Acting Chief, Applied Research Branch, Division of Extramural Research Programs, National Institute of Mental Health, Room 10–99 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, telephone 443–3566.

Dated August 27, 1973.

(Catalog of Federal Domestic Assistance Program No. 13.242)

ROBERT W. BERLINER,
*Acting Deputy Director,*
*National Institutes of Health.*

[FR Doc.73–18817 Filed 9–5–73;8:45 am]

## SOCIAL SCIENCES RESEARCH REVIEW COMMITTEE

### Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Social Sciences Research Review Committee, National Institute of Mental Health, September 20–21, 1973, 9:00 a.m.–5:00 p.m., Holiday Inn, Chevy Chase, Maryland. This meeting will be open to the public from 9:00 a.m. to 9:30 a.m., September 20, 1973, for announcements and reports of recent administrative, legislative, and program developments and closed to the public from 9:30 a.m., September 20 to 5:00 p.m., September 21, 1973, to review grants in accordance with the provisions set forth in section 552 (b)4 of Title 5 U.S. Code and 10(d) of Pub. L. 92–463.

Attendance by the public will be limited to space available.

The NIMH Information Officer who will furnish summaries of the meeting and rosters of committee members is Mr. Ronald E. McMillen, Acting Director, Office of Comunications, National Institute of Mental Health, Room 15–105 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, telephone 443–3600.

The Acting Executive Secretary from whom substantive program information may be obtained is Dr. David Pearl, Acting Executive Secretary, Social Sciences Research Review Committee, Room 100C–06, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, telephone 443–3942.

Dated August 27, 1973.

(Catalog of Federal Domestic Assistance Program No. 13.242 Mental Health Research Grants)

ROBERT W. BERLINER,
*Acting Deputy Director,*
*National Institutes of Health.*

[FR Doc.73–18827 Filed 9–5–73;8:45 am]

## TRANSPLANTATION AND IMMUNOLOGY COMMITTEE

### Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Transplantation and Immunology Committee, National Institute of Allergy and Infectious Diseases, September 19–20, 1973, 8:30 a.m. to 5:00 p.m., National Institutes of Health, Building 31, Room 7A–24. This meeting will be open to the public from 8:30 a.m. to 12:00 noon on September 19, and from 1:00 p.m. to 5:00 p.m. on September 20 to discuss reports of 1973 activities and possible new programs for FY 1974 and closed to the public from 1:00 p.m. to 5:00 p.m. on September 19 and from 8:30 a.m. to 12:00 noon on September 20, to review contracts in accordance with the provisions set forth in section 552(b)4 of Title 5 U.S. Code and 10(d) of Pub. L. 92–463. Attendance by the public will be limited to space available.

Mr. Robert Schreiber, Information Officer, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A–34, phone 496–5717 will furnish summaries of the meeting and rosters of committee members.

Dr. Donald Kayhoe, Executive Secretary of the Transplantation and Immunology Committee, National Institute of Allergy and Infectious Diseases, National Institutes of Health, Building 31, Room 7A–23, phone 496–4733, will furnish substantive program information.

Dated August 27, 1973.

(Catalog of Federal Domestic Assistance Program No. 13–301, National Institutes of Health)

ROBERT W. BERLINER,
*Acting Deputy Director,*
*National Institutes of Health.*

[FR Doc.73–18804 Filed 9–5–73;8:45 am]

## VISION RESEARCH PROGRAM COMMITTEE OF THE NATIONAL EYE INSTITUTE

### Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Vision Research Program Committee of the National Eye Institute on September 21, 1973, 8:30 a.m., National Institutes of Health, Building 31, Conference Room 2. This meeting will be open to the public from 8:30 a.m. to 9:45 a.m. on September 21, for discussion on status of NEI contract activities, new programs, and future committee activities.

The meeting will be closed to the public from 9:45 a.m. to approximately 12 noon to review grant applications in accordance with the provisions set forth in Section 552(b) 4 of Title 5 U.S. Code and 10(d) of Pub. L. 92–463. Attendance by the public will be limited to space available.

Mr. Julian Morris, Information Officer, NEI, Building 31, Room 6A–27, National Institutes of Health, 496–5248, will furnish summaries of the meeting and rosters of the committee members. Substantive program information may also be obtained from Dr. Samuel Schwartz, Chief, Scientific Programs Branch, NEI, Building 31, Room 6A–47, National Institutes of Health, 496–5301.

Dated August 27, 1973.

(Catalog of Federal Domestic Assistance Program No. 13.331, National Institutes of Health)

ROBERT W. BERLINER,
*Acting Deputy Director,*
*National Institutes of Health.*

[FR Doc.73–18815 Filed 9–5–73;8:45 am]

## ADVISORY COMMITTEES

### Notice of Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of meetings of the following study sections and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

The Information Office of the Division of Research Grants, Mr. Richard Turlington, will furnish summaries of the closed meetings and rosters of committee members. Substantive information may be obtained from each Executive Secretary whose name, room number and telephone extension are listed below his Study Section. Mr. Turlington and the Executive Secretaries are all located in the Westwood Building, National Institutes of Health, Bethesda, Maryland 20014. Mr. Turlington's room number is 433, telephone 496–7441.

These meetings will be open to the public to discuss administrative details relating to Study Section business for approximately one hour at the beginning of the first session of the first day of the meeting and closed thereafter in accordance with the provisions set forth in section 552(b)4 of Title 5 U.S. Code and section 10(d) of Pub. L. 92–463 in order to review, discuss and evaluate and/or rank grant applications. Attendance by the public will be limited to space available.

| Study section | Date | Time | Location of meeting |
|---|---|---|---|
| Allergy and immunology, Dr. Mischa E. Friedman, room 320, telephone 496–7380. | Sept. 20–22 | 8:45 | Linden Hill, Terrace Room, Bethesda, Md. |
| Applied physiology and bioengineering, Mrs. Ileen E. Stewart, room 318, telephone 496–7581. | Sept. 20–21 | 9:00 | Room 3, bldg. 31, Bethesda, Md. |
| Bacteriology and mycology, Dr. Milton Gordon, room A–27, telephone 496–7340. | Sept. 13–15 | 8:30 | Holiday Inn, Lobby Room, Chevy Chase, Md. |
| Biochemistry, Dr. William R. Sanslone, room 350, telephone 496–7516. | Sept. 21–23 | 9:00 | Holiday Inn, Franklin Room, Chevy Chase, Md. |
| Biomedical communications, Mrs. Ileen E. Stewart, room 318, telephone 496–7581. | Sept. 18 | 9:00 | Room 9, bldg. 31, C-wing, Bethesda, Md. |
| Biophysics and biophysical chemistry A, Dr. Irvin Fuhr, room 237, telephone 496–7069. | Sept. 14–15 | 9:00 | Shoreham Hotel, Board Room, Washington, D.C. |





| Study section | Date | Time | Location of meeting |
|---|---|---|---|
| Biophysics and biophysical chemistry B, Dr. John B. Wolff, room 233, telephone 496–7070. | Sept. 28–29 | 8:30 | Room 7, bldg. 31, C-wing, Bethesda, Md. |
| Cardiovascular and pulmonary,[1] Dr. Wendell H. Kyle, room 339, telephone 496–7901. | Sept. 20–22 | 8:30 | Holiday Inn, Spring Room W, Silver Spring, Md. |
| Cardiovascular and renal,[2] Dr. Floyd O. Atchley, room 339, telephone 496–7901. | Sept. 27–29 | 8:30 | Holiday Inn, Montgomery Room, Bethesda, Md. |
| Cell biology, Dr. Evelyn A. Horenstein, room 238, telephone 496–7020. | Sept. 13–15 | 9:00 | Holiday Inn, Franklin Room, Chevy Chase, Md. |
| Communicative sciences, Mr. Frederick J. Gutter, room 321, telephone 496–7550. | Sept. 14–16 | 2:00 | Room 10, bldg. 31, C-wing, Bethesda, Md. |
| Computer and biomathematical sciences, Dr. Bernice S. Lipkin, room 310, telephone 496–7568. | Sept. 17–19 | 9:00 | Room 8, bldg. 31, C-wing, Bethesda, Md. |
| Dental, Dr. Ethel B. Jackson, room 234, telephone 496–7818. | Sept. 25–27 | 9:00 | Room 10, bldg. 31, C-wing, Bethesda, Md. |
| Developmental behavioral sciences, Dr. Bertie H. R. Woolf, room 236, telephone 496–7471. | Sept. 20–22 | 8:30 | Shoreham Hotel and Motor Inn, Club Room B, Washington, D.C. |
| Epidemiology and disease control, Mr. Glenn G. Lamson, Jr., room 236, telephone 496–7471. | do | 8:30 | Shoreham Hotel, Club Room A, Washington, D.C. |
| Experimental psychology, Dr. A. Keith Murray, room 220, telephone 496–7004. | Sept. 12–14 | 9:30 | Shoreham Hotel, Caucus Room, Washington, D.C. |
| Experimental therapeutics, Dr. Anne R. Bourke, room 319, telephone 496–7830. | Sept. 13–15 | 9:00 | Room 4, bldg. 31, Bethesda, Md. |
| General medicine A, Dr. Harold M. Davidson, room 354, telephone 496–7707. | Sept. 23–26 | 8:30 | Holiday Inn, Montgomery Room, Bethesda, Md. |
| General medicine B, Dr. William F. Davis, Jr., room 322, telephone 496–7730. | Sept. 6–8 | 10:00 | Room 8, bldg. 31, C-wing, Bethesda, Md. |
| Genetics, Dr. Katherine S. Wilson, room 349, telephone 496–7271. | Sept. 20–22 | 9:00 | Room 9, bldg. 31, C-wing, Bethesda, Md. |
| Hematology, Dr. Joseph E. Hayes, Jr., room 355, telephone 496–7508. | Sept. 19–21 | 9:00 | Holiday Inn, Adams Room, Chevy Chase, Md. |
| Human embryology and development, Dr. Samuel Moss, room 221, telephone 496–7597. | Sept. 20–22 | 9:00 | Room 6, bldg. 31, C-wing, Bethesda, Md. |
| Immunobiology, Dr. James H. Turner, room A–25, telephone 496–7789. | do | 9:00 | Kenwood County Club, Pine Room, Bethesda, Md. |
| Medicinal chemistry A, Dr. Asher A. Hyatt, room 222, telephone 496–7286. | Sept. 21–23 | 2:00 | Holiday Inn, Woodmont Room W, Bethesda, Md. |
| Medicinal chemistry B, Mr. Richard P. Bratzel, room 222, telephone 496–7286. | Sept. 13–15 | 9:00 | Room 8, bldg. 31, C-wing, Bethesda, Md. |
| Metabolism, Dr. Robert M. Leonard, room 218, telephone 496–7091. | Sept. 20–22 | 8:30 | Sheraton-Silver Spring Motor Inn, Counsel Room, Silver Spring, Md. |
| Microbial chemistry, Dr. Gustave Silber, room 337, telephone 496–7130. | do | 8:30 | Holiday Inn, Lobby Room, Chevy Chase, Md. |
| Molecular biology, Dr. Donald T. Disque, room 328, telephone 496–7830. | Sept. 13–15 | 9:00 | Room 7, bldg. 31, C-wing, Bethesda, Md. |
| Neurology A, Dr. William E. Morris, room 326, telephone 496–7305. | Sept. 20–22 | 9:00 | Room 4, bldg. 31, Bethesda, Md. |
| Neurology B, Dr. William E. Morris (acting), room 326, telephone 496–7305. | do | 8:30 | Sheraton, Board Room, Silver Spring, Md. |
| Nutrition, Dr. John R. Schubert, room, 206, telephone 496–7318. | Sept. 24–26 | 8:30 | Room 9, bldg. 31, C-wing, Bethesda, Md. |
| Pathology A, Dr. William B. Savchuck, room 337, telephone 496–7305. | Sept. 12–14 | 9:00 | Kenwood Country Club, Pine Room, Bethesda, Md. |
| Pathology B, Dr. James K. MacNamee, room 352, telephone 496–7244. | Sept. 13–15 | 8:30 | Shoreham Hotel, Board Room, Washington, D.C. |
| Pharmacology, Dr. Lawrence M. Petrucelli, room 331, telephone 496–7408. | do | 9:00 | Room 9, bldg. 31, C-wing, Bethesda, Md. |
| Physiological chemistry, Dr. Robert L. Ingram, room 338, telephone 496–7837. | Sept. 20–22 | 9:00 | Holiday Inn, Adams Room, Chevy Chase, Md. |
| Physiology, Dr. Clara E. Hamilton, room 219, telephone 496–7878. | Sept. 21–22 | 9:00 | Room 10, bldg. 31, C-wing, Bethesda, Md. |
| Population research, Miss Carol A. Campbell, room 210, telephone 496–7140. | Sept. 28–30 | 9:00 | Room 8, bldg. 31, C-wing, Bethesda, Md. |
| Radiation, Dr. Robert L. Straube, room 248, telephone 496–7510. | Sept. 13–15 | 9:00 | Shoreham Hotel, Executive Room, Washington, D.C. |
| Reproductive biology, Dr. Robert T. Hill, room 286, telephone 496–7318. | Sept. 19–21 | 9:00 | Holiday Inn, Woodmont East Room Bethesda, Md. |
| Surgery A, Dr. Raymond J. Holvig, room 336, telephone 496–7771. | Sept. 7–8 | 8:30 | Sheraton, Counsel Room, Silver Spring, Md. |
| Surgery B, Dr. Joe W. Atkinson, room 348, telephone 496–7506. | Sept. 7–8 | 8:30 | Sheraton, Quorum Room, Silver Spring, Md. |
| Toxicology, Dr. Rob. S. McCutcheon, room 226, telephone 496–7570. | Sept. 20–22 | 8:30 | Room 7, bldg. 31, Bethesda, Md. |
| Virology, Dr. Claire H. Winestock, room 340, telephone 496–7128. | Sept. 13–15 | 9:00 | Room 6, bldg. 31, C-wing, Bethesda, Md. |
| Visual sciences A, Dr. Orvil E. A. Bolduan, room 2A–05, telephone 496–7180. | Sept. 12–14 | 9:00 | Holiday Inn, Spring Room, Silver Spring, Md. |
| Visual sciences B, Dr. Mario A. Jakus, room 353, telephone 496–7251. | Sept. 20–22 | 9:00 | Room 8, bldg. 31, C-wing, Bethesda, Md. |

[1] Formerly cardiovascular and pulmonary research A.
[2] Formerly cardiovascular and pulmonary research B.

Dated August 27, 1973.

(Catalog of Federal Domestic Assistance Program Nos. 13.101–13.371, National Institutes of Health)

ROBERT W. BERLINER,
*Acting Deputy Director,*
*National Institutes of Health.*

[FR Doc.73–18833 Filed 9–5–73;8:45 am]

## Office of the Secretary

## ASSISTANT SECRETARY (PUBLIC AFFAIRS)

### Statement of Mission, Organization, and Functions

Part 1 of the Statement of Mission, Organization, and Functions for the Department of Health, Education, and Welfare, Office of the Secretary, is amended to change Chapter 1H Assistant Secretary (Public Affairs). The amended Chapter reads as follows:

SECTION 1–H.00 *Mission.*—The Assistant Secretary for Public Affairs serves as the principal advisor to the Secretary on matters pertaining to the Department's public affairs. His mission is to devise, foster, direct, and coordinate programs and activities which will increase the public's knowledge and understanding of the services the Department provides.

SEC. 1–H.10 *Organization.*—The Assistant Secretary for Public Affairs reports to the Secretary and directs the Office of Public Affairs which consists of:

Editorial Operations Division
Service Support Division
Public Information Division
Audiovisual Communications Division

SEC. 1–H.20 *Functions.*—A. *Assistant Secretary for Public Affairs.*—1. Provides executive leadership, policy direction, and management strategy for the Department's public affairs programs and activities.

2. Counsels and acts for the Secretary and his staff in carrying out responsibilities under statutes, Presidential directives, and Secretarial orders for informing the general public, specific publics, DHEW employees, and other Federal employees of the programs, policies, and services of the Department.

3. Establishes and enforces policies and practices which produce a clear, efficient, and consistent flow of information to the general public and other audiences about Department programs and activities.

4. Manages and directs the activities of the Office of Public Affairs. For all public affairs elements of the Department, has concurrence or signoff authority over staffing levels, budget, and selection of key personnel; establishes general operating policies and guidelines; participates in the development of major Public Affairs materials and plans.

B. *Editorial Operations Division.*—1. Develops and coordinates the application of Department policies, plans, and strategies for dissemination of information to the public.

2. Plans the preparation of, coordinates the gathering of material for, edits, and produces publications with Department-wide implications, such as the HEW Newsletter.

3. Directs the HEW Speakers' Bureau. Prepares speech material and background information for the Secretary and other key DHEW officials.

4. Conducts research and prepares fact sheets on various elements of the Department for dissemination internally and externally.

C. *Service Support Division.*—1. Develops and implements policies and practices for coordination, reviewing, and approving publishing plans and activities of the operating agencies and regional offices.

2. Reviews and approves distribution plans for publications produced by the Department.

3. Maintains constant liaison with public affairs and other key officials in the operating agencies and regional offices to foster informational programs and activities.



V 38-172
SEP 6 73
XUM

4. Provides direction and technical assistance to operating agencies and regional offices on the management of public affairs programs and activities.

5. Establishes and maintains standards, procedures, and systems governing the management of public affairs operations within the Department.

6. Evaluates public affairs programs and operations for accuracy and effectiveness.

7. Carries out projects on special information programs.

D. *Public Information Division.*—1. Provides information to the news gathering and reporting media, on HEW activities on a daily basis.

2. Prepares new releases and other news material issued by the Secretary and other key officials of the Department.

3. Provides central review and coordination of news releases and other news material issued by the operating agencies and regional offices.

4. Coordinates and arranges news conferences, briefings, interviews, and appearances of the Secretary and other key HEW officials on radio and television and with the print media.

E. *Audiovisual Communications Division.*—1. Develops and implements policies and guidelines on the use of audiovisual material in fostering HEW programs and projects.

2. Provides technical assistance to operating agencies and regional offices on the application of audiovisual techniques and the production of audiovisual material.

3. Reviews and approves plans of operating agencies and regional offices to produce and use audiovisual materials.

4. Provides complete audiovisual services as required, including the planning and production of audiovisual material for use by the media and the overseeing of production of audiovisual materials by contractors.

Dated August 31, 1973.

ROBERT H. MARIK,
*Assistant Secretary for Administration and Management.*

[FR Doc.73-18878 Filed 9-5-73;8:45 am]

## PRESIDENT'S COMMITTEE ON MENTAL RETARDATION

### Notice of Meeting

The President's Committee on Mental Retardation was established to provide advice and assistance in the area of mental retardation to the President including evaluation of the adequacy of the national effort to combat mental retardation; coordination of activities of Federal agencies; provision of adequate liaison between Federal activities and related activities of State and local governments, foundations and private organizations; develop information designed for dissemination to the general public. The Committee will meet Friday and Saturday, September 21-22, 1973, from 9:00 a.m. to 4:00 p.m. in Kansas City, Missouri, at the Crown Center Hotel. The Committee will discuss health, education, services, and legal rights as they relate to the mentally retarded. These meetings are open to the public.

Dated August 28, 1973.

FRED J. KRAUSE,
*Executive Director, President's Committee on Mental Retardation.*

[FR Doc.73-18879 Filed 9-5-73;8:45 am]

## Social Security Administration

## HEALTH INSURANCE BENEFITS ADVISORY COUNCIL

### Notice of Meeting

Notice is hereby given, pursuant to Pub. L. 92-463, that the Health Insurance Benefits Advisory Council, established pursuant to section 1867 of the Social Security Act, as amended, which advises the Secretary of Health, Education, and Welfare on Medicare and Medicaid matters, will meet on Friday, September 21, 1973, at 9 a.m. in Room 4131 of the Department of Health, Education, and Welfare's North Building, Third and C Streets SW., Washington, D.C. 20201.

The Council will consider matters relating to the Medicare and Medicaid programs. Also, the Mental Health Committee of HIBAC which is studying the coverage of mental illness under Medicare will meet in the aforementioned room during the Council's break for lunch. The Committee will consider matters relating to the study.

Both of these meetings are open to the public.

Further information on the Council may be obtained from Mr. Max Perlman, Executive Secretary, Health Insurance Benefits Advisory Council, Room 585, East Building, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone 301-594-9134. Members of the public planning to attend should send written notice of intent to the Executive Secretary.

Dated August 30, 1973.

(Catalog of Federal Domestic Assistance Program Nos. 13.800, Health Insurance for the Aged—Supplementary Medical Insurance; and 13.714, Medical Assistance Program)

MAX PERLMAN,
*Executive Secretary, Health Insurance Benefits Advisory Council.*

[FR Doc.73-18872 Filed 9-5-73;8:45 am]

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Federal Disaster Assistance Administration

[Docket No. NFD-123; FDAA-399-DR]

### NEW HAMPSHIRE

### Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of New Hampshire, dated July 11, 1973, and published July 18, 1973 (38 FR 19148) is hereby amended. Notice is hereby given that on August 28, 1973, the President amended his declaration of a major disaster of July 11, 1973, for New Hampshire as follows:

I have determined that the damage in certain areas of the State of New Hampshire resulting from severe storms and flooding during the period August 2-4, 1973, is of sufficient severity and magnitude to warrant amendment of my July 11, 1973, declaration of a major disaster. You are to determine the specific areas within the State eligible for Federal assistance under this amendment.

In order to provide Federal assistance, you are hereby authorized to extend the incidence period to include that time period, as requested by Governor Thomson, and to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

The purpose of this amendment is to add the incidence period of August 2-4, 1973, due to severe storms and flooding in Hillsborough County, New Hampshire.

Dated August 29, 1973.

(Catalog of Federal Domestic Assistance Program No. 50.002, Disaster Assistance)

WILLIAM E. CROCKETT,
*Acting Administrator, Federal Disaster Assistance Administration.*

[FR Doc.73-18849 Filed 9-5-73;8:45 am]

[Docket No. NFD-124]

### PENNSYLVANIA

### Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Pennsylvania, dated July 18, 1973, and published July 24, 1973 (38 FR 19852), and amended July 24, 1973, and published July 31, 1973 (38 FR 20359), is hereby further amended. Notice is hereby given that on August 23, 1973, the President amended his declaration of a major disaster of July 17, 1973, for Pennsylvania as follows:

I have determined that the damage in certain areas of the State of Pennsylvania resulting from severe storms and flooding during the period August 2-3, 1973, is of sufficient severity and magnitude to warrant amendment of my July 17, 1973, declaration of a major disaster. You are to determine the specific areas within the State eligible for Federal assistance under this amendment.

In order to provide Federal assistance, you are hereby authorized to extend the incidence period to include that time period, as requested by Lieutenant Governor Kline, and to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

The purpose of this amendment is to add the incidence period of August 2-3, 1973, due to severe storms and flooding in Montgomery County, Pennsylvania.

Dated: August 29, 1973.

(Catalog of Federal Domestic Assistance Program No. 50.002, Disaster Assistance)

WILLIAM E. CROCKETT,
*Acting Administrator, Federal Disaster Assistance Administration.*

[FR Doc.73-18848 Filed 9-5-73;8:45 am]





## Office of Assistant Secretary for Housing Management

[Docket No. D-73-254]

## REGIONAL ADMINISTRATORS ET AL.

### Redelegation of Authority Regarding Property Disposition

The redelegation of authority by the Assistant Secretary for Housing Management published at 35 FR 16106, October 14, 1970, as amended at 36 FR 13854, July 27, 1971, 36 FR 21539, November 10, 1971, and 37 FR 10408, May 20, 1972, is amended in the following respects:

1. A new section C is added to read as follows:

SEC. C. *Additional authority redelegated.*—Each Construction/Contracting Specialist, Property Disposition program, in each Area and Insuring Office is designated a contracting officer and is authorized to exercise the authorities redelegated in paragraph 8 of section A.

2. A new section D is added to read as follows:

SEC. D. *Authority redelegated to a specific employee of the Department.*—Frank Egee, Property Disposition Branch, Housing Management Division, Chicago Area Office, is designated contracting officer and is authorized to exercise the authorities redelegated in paragraph 8 of section A.

3. The present section C is redesignated as section E and is amended to read:

SEC. E. *Exercise of redelegated authority.*—Redelegations of authority in sections A through D shall not be construed to modify or otherwise affect the administrative and supervisory powers of the Regional Administrator, Area Director, and Insuring Office Director, or any of them, to whom a delegate is responsible.

(Secretary's delegation of authority to redelegate published at 36 FR 5005, March 16, 1971)

*Effective date.*—This amendment to the redelegation of authority is effective as of August 30, 1973.

H. R. CRAWFORD,
*Assistant Secretary for Housing Management.*

[FR Doc.73-18847 Filed 9-5-73;8:45 am]

## Office of Interstate Land Sales Registration

[Docket No. N-73-191]

## ELEUTHERA ISLAND CLUB

### Order of Suspension

In the matter of Eleuthera Island Club OILSR No. 0-0778-60-23 Administrative Proceedings Division File No. Z-134.

Notice is hereby given that:

On June 25, 1973, the Department of Housing and Urban Development, Office of Interstate Land Sales Registration, published in the FEDERAL REGISTER a Notice of Proceedings and Opportunity for Hearing, pursuant to 44 U.S.C. 1508, informing the Developer of alleged untrue statements or omissions of material facts in the Developer's Statement of Record. The Developer has failed to request a hearing pursuant to 24 CFR 1720.160 within 15 days of said Notice. Accordingly, pursuant to 15 U.S.C. 1706(d) and 24 CFR 1710.45(b)(1), the Order of Suspension is being issued as follows:

*Order of suspension.*—1. L. Gillarde Land Company, Ltd., hereinafter referred to as the Developer, being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90-448) (15 U.S.C. 1701 et seq.) and the Rules and Regulations lawfully promulgated thereto pursuant to 15 U.S.C. 1718, has filed its Statement of Record covering its subdivision, located in the Bahama Islands (OILSR No. 0-0778-60-23) which became effective on November 21, 1969, pursuant to 24 CFR 1710.21 of the Interstate Land Sales Regulations. Said Statement is still in effect.

2. Pursuant to lawful delegation, as authorized by 15 U.S.C. 1715, the authority and responsibility for administration of the Interstate Land Sales Full Disclosure Act has been vested in the Interstate Land Sales Administrator.

3. Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1710.45(b)(1), if it appears to the Interstate Land Sales Administrator at any time that a Statement of Record, which is in effect, includes any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statement therein not misleading, the Administrator may, after notice, and after an opportunity for a hearing requested within 15 days of receipt of such notice, issue an order suspending the Statement of Record.

4. A Notice of Proceedings and Opportunity for Hearing was published in the FEDERAL REGISTER on June 25, 1973, pursuant to 44 U.S.C. 1508, informing the Developer of information obtained by the Office of Interstate Land Sales Registration showing an untrue statement of a material fact or an omission of a material fact required to be stated therein or necessary to make the statements therein not misleading in the above-specified Statement of Record. The Developer was notified of his right to request a hearing and that if he failed to request a hearing he would be deemed in default and the proceedings would be determined against him, the allegations of which would be determined to be true. The developer has failed to request a hearing pursuant to 24 CFR 1720.160 within 15 days of publication of said Notice of Proceedings and Opportunity for Hearing.

Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1710.45(b)(1), the Statement of Record filed by the Developer covering its subdivision is hereby suspended, effective as of the date of publication of this order of Suspension in the FEDERAL REGISTER. This Order of Suspension shall remain in full force and effect until the Statement of Record has been properly amended as required by the Interstate Land Sales Full Disclosure Act and the implementing Regulations.

Any sales or offers to sell made by the Developer or its agents, successors, or assigns while this Order of Suspension is in effect will be in violation of the provisions of said Act.

Issued in Washington, D.C., August 30, 1973.

By the Secretary.

GEORGE K. BERNSTEIN,
*Interstate Land Sales Administrator.*

[FR Doc.73-18846 Filed 9-5-73;8:45 am]

[Docket No. N-73-190]

## HIGHLAND MEADOW ESTATES

### Order of Suspension

In the matter of Highland Meadow Estates, OILSR No. 0-1110-36-44, Administrative Proceedings Division File No. Z-176.

Notice is hereby given that:

On June 21, 1973, the Department of Housing and Urban Development, Office of Interstate Land Sales Registration, published in the FEDERAL REGISTER a Notice of Proceedings and Opportunity for Hearing, pursuant to 44 U.S.C. 1508, informing the Developer of alleged untrue statements or omissions of material facts in the Developer's Statement of Record. The Developer has failed to request a hearing pursuant to 24 CFR 1720.160 within 15 days of said Notice. Accordingly, pursuant to 15 U.S.C. 1706(d) and 24 CFR 1710.45(b)(1), the Order of Suspension is being issued as follows:

*Order of suspension.* 1. United Brokers Corporation, hereinafter referred to as the Developer, being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Public Law 90-448) (15 U.S.C. 1701 et seq.) and the Rules and Regulations lawfully promulgated thereto pursuant to 15 U.S.C. 1718, has filed its Statement of Record covering its subdivision, located in New Mexico (OILSR No. 0-1110-36-44) which became effective on May 8, 1970, pursuant to 24 CFR 1710.21 of the Interstate Land Sales Regulations. Said Statement is still in effect.

2. Pursuant to lawful delegation, as authorized by 15 U.S.C. 1715, the authority and responsibility for administration of the Interstate Land Sales Full Disclosure Act has been vested in the Interstate Land Sales Administrator.

3. Pursuant to 15 U.S.C. 1706(d) and 24 CFR 1710.45(b)(1), if it appears to the Interstate Land Sales Administrator at any time that a Statement of Record, which is in effect, includes any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statement therein not misleading, the Administrator may, after notice, and after an opportunity for a hearing requested within 15 days of receipt of such notice, issue an order suspending the Statement of Record.

4. A Notice of Proceedings and Opportunity for Hearing was published in the FEDERAL REGISTER on June 21, 1973, pur-



V 38-172 SEP 6 73 XUM

suant to 44 U.S.C. 1508, informing the Developer of information obtained by the Office of Interstate Land Sales Registration showing an untrue statement of a material fact or an omission of a material fact required to be stated therein or necessary to make the statements therein not misleading in the above-specified Statement of Record. The Developer was notified of his right to request a hearing and that if he failed to request a hearing he would be deemed in default and the proceedings would be determined against him, the allegations of which would be determined to be true. The Developer has failed to request a hearing pursuant to 24 CFR 1720.160 within 15 days of publication of said Notice of Proceedings and Opportunity for Hearing.

Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1710.45 (b)(1), the Statement of Record filed by the Developer covering its subdivision is hereby suspended, effective as of the date of publication of this Order of Suspension in the FEDERAL REGISTER. This Order of Suspension shall remain in full force and effect until the Statement of Record has been properly amended as required by the Interstate Land Sales Full Disclosure Act and the implementing Regulations.

Any sales or offers to sell made by the Developer or its agents, successors, or assigns while this Order of Suspension is in effect will be in violation of the provisions of said Act.

Issued in Washington, D.C., August 30, 1973.

By the Secretary.

GEORGE K. BERNSTEIN,
*Interstate Land Sales Administrator.*

[FR Doc.73-18845 Filed 9-5-73;8:45 am]

## ATOMIC ENERGY COMMISSION

[Docket No. 50-334]

### DUQUESNE LIGHT COMPANY, ET AL.

#### Order Extending Completion Date

Duquesne Light Company, Pennsylvania Power Company, and Ohio Edison Company are the holders of Construction Permit No. CPPR-75 issued by the Commission on June 26, 1970, for construction of the Beaver Valley Power Station, Unit 1, a 2,660 thermal megawatt pressurized water nuclear reactor presently under construction at the applicants' site on the south bank of the Ohio River in Shippingport Borough, Beaver County, Pennsylvania, approximately one mile from Midland, Pennsylvania, approximately 22 miles from Pittsburgh, Pennsylvania, and approximately five miles from East Liverpool, Ohio.

On July 2, 1973, Duquesne Light Company filed a request for an extension of the completion date because construction has been delayed. It has been determined that the delay is due to several interdependent reasons which include (1) the necessity of completely redesigning the circulating water system to a closed system, (2) the lack of sufficient numbers of qualified welders, (3) the flooding of the Ohio River in June 1972 and in November–December 1972, (4) lower productivity of labor than anticipated for nuclear construction, (5) major revisions in the seismic design criteria as a result of the AEC Regulatory staff review of the Preliminary Safety Analysis Report, (6) changes in the electrical design and construction criteria due to the adoption of new standards and guidelines, and (7) the applicants' underestimation of the original construction schedule. The Director of Regulation having determined that this action involves no significant hazards consideration, and good cause having been shown, the bases for which are set forth in a memorandum dated August 28, 1973, from R. C. DeYoung to A. Giambusso:

*It is hereby ordered,* That the latest completion date for Construction Permit No. CPPR-75 is extended from September 1, 1973, to June 30, 1975, with the earliest completion date being December 1, 1974.

Date of issuance August 29, 1973.

For the Atomic Energy Commission.

A. GIAMBUSSO,
*Deputy Director for Reactor Projects, Directorate of Licensing.*

[FR Doc.73-18792 Filed 9-5-73;8:45 am]

[Docket No. 50-320]

### METROPOLITAN EDISON CO., ET AL.

#### Notice of Hearing

AUGUST 31, 1973.

In the matter of Metropolitan Edison Co., et al. (Three Mile Island Nuclear Station, Unit 2), Docket No. 50-320.

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), the National Environmental Policy Act of 1969 (NEPA), and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities", and Part 2, "Rules of Practice", notice is hereby given that, subject to conditions set forth in this Board's Order of August 13, 1973, a hearing will be held concerning the Three Mile Island Nuclear Station, Unit 2 (the facility) of the Applicants, Metropolitan Edison Company, Jersey Central Power and Light Company, and Pennsylvania Electric Company.

The hearing will consider the single issue as to whether activities concerning the off-site right-of-way clearing and construction of the off-site portion of the Juniata transmission line should continue to be suspended pending completion of the full NEPA environmental review. The hearing will be held at a time and place to be set in the future by the Atomic Safety and Licensing Board (Licensing Board) designated herein, to be held in the vicinity of the facility in Dauphin County, Pennsylvania. Construction of the facility was authorized by Provisional Construction Permit No. CPPR-66 issued by the Atomic Energy Commission on November 4, 1969. The instant facility is subject to the provisions of section C of Appendix D to 10 CFR Part 50, which sets forth procedures applicable to review of environmental considerations for production and utilization facilities for which construction permits were issued prior to January 1, 1970.

The Licensing Board designated by the Chairman of the Atomic Safety and Licensing Board Panel will consist of Charles A. Haskins, Esq. (Chairman), Dr. M. Stanley Livingston and Dr. John R. Lyman.

On April 10, 1973, the Director of Regulation published in the FEDERAL REGISTER (38 FR 9105) a notice entitled "Determination To Rescind Suspension of Certain Construction Activities at the Three Mile Island Nuclear Generating Station * * *" That document provided that any person whose interest might be affected might file a request for a hearing on or before May 11, 1973.[1] On May 2, 1973, such a request was received from Citizens for a Safe Environment and the Environmental Coalition on Nuclear Power (Petitioners), joint intervenors in the ongoing licensing proceeding for Three Mile Island Nuclear Station, Unit 1. Answers to the request were filed by Applicants and the AEC Regulatory Staff.

By order dated July 11, 1973, this Board afforded Petitioners an opportunity to file a further pleading in amplification of their May 2, 1973, pleading, which Petitioners duly filed on July 19, 1973. Answers were filed by Applicants and the Regulatory Staff on July 30, 1973.

As set out in this Board's order of August 13, 1973, referred to above, a public hearing will be held and Petitioners will be admitted as a party.

A prehearing conference or conferences will be held by the Licensing Board at a date and place to be set by it, to consider pertinent matters in accordance with the Commission's rules of practice. The date and place of the hearing will be set by the Board at or after the prehearing conference. Notices as to the dates and places of the prehearing conference and the hearing will be published in the FEDERAL REGISTER.

For further details pertinent to the matter under consideration see documents entitled "Final Environmental Statement Related to Operation of Three Mile Island Nuclear Station, Units 1 and 2" dated December 1972 and "Amended Discussion and Findings by the Directorate of Licensing, U.S. Atomic Energy Commission, Related to Consideration of Suspension Pending NEPA Environmental Review of the Provisional Construction Permits for the Three Mile Island Nuclear Generating Station, Units 1 and 2" dated December 9, 1972, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Government Publications Section, State Library of Pennsylvania, Box 1601 (Education Building), Harrisburg, Pennsylvania, 17126. Copies of the Commission's Final Environmental Statement may be obtained by request to the Deputy Director for Reactor Projects, Directorate of Licensing, U.S. Atomic Energy Commission, Washington, D.C., 20545.

[1] The notice also provided that if a request for a hearing was timely filed, the effectiveness of the order partially rescinding the suspension would be stayed pending appropriate disposition of such request.





An answer to this notice, pursuant to the provisions of 10 CFR 2.705 of the Commission's rules of practice, must be filed by the parties to this proceeding (other than the regulatory staff) on or before September 26, 1973.

Any person who wishes to make an oral or written statement in this proceeding, but who has not filed a petition for leave to intervene as noted above, may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715 of the Commission's rules of practice. Limited appearances will be permitted at the time of the hearing in the discretion of the Licensing Board, within such limits and on such conditions as may be determined by it. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, United States Atomic Energy Commission, Washington, D.C. 20545, on or before September 26, 1973.

A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of the hearing as specified above. A member of the public does not have the right to participate unless he has been granted the right to intervene as a party or the right of limited appearance.

Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, ATTENTION: Chief, Public Proceedings Branch, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Pending further order of the Licensing Board, parties are required to file, pursuant to the provisions of 10 CFR 2.708 of the Commission's rules of practice, an original and twenty (20) conformed copies of each such paper with the Commission.

Issued at Washington, D.C., this 31st day of August 1973.

It is so ordered.

For the Atomic Safety and Licensing Board designated to rule on petitions.

CHARLES A. HASKINS,
*Chairman.*

[FR Doc.73-18871 Filed 9-5-73;8:45 am]

## CIVIL AERONAUTICS BOARD

[Dockets Nos. 23080-1 etc.; Order 73-8-144]

### DOMESTIC PRIORITY AND NONPRIORITY SERVICE MAIL RATES

#### Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 30th day of August 1973.

Priority and nonpriority domestic service mail rates—Phase 1, Docket 23080-1; Domestic service mail rate case, Docket 16349; Nonpriority mail rates, Docket 18381.

By Order 70-12-48, December 8, 1970, the Board reopened the domestic priority[1] and nonpriority[2] service mail rates as of December 12, 1970, and instituted an investigation to determine the fair and reasonable rates of compensation to be paid on and after December 12, 1970, for domestic U.S. mail services rendered by the U.S. air carriers.[3] The services pertain to U.S. mail carried: (1) Between points within the 50 States; (2) between the 50 States and certain territories and/or possessions of the United States; (3) between the United States and foreign "stub-end" points in Canada and Mexico; and, (4) between and within certain territories and/or possessions.

A prehearing conference was held in July 1971, but procedural dates were thereafter deferred in order to afford the Postmaster General and the parties an opportunity to study new services and possible modification of existing services that would affect the rates to be established. These efforts failed to produce meaningful results, and a supplemental prehearing conference was held in April 1973. Meanwhile, on March 28, 1973, the Postal Service had commenced tendering mail in containers to Flying Tiger, paying for the service at rates contained in a petition filed by Flying Tiger on March 22.

In light of this development and numerous similar filings by most of the trunkline carriers, which reflected a significant change in transportation of mail by air, on July 10, 1973, we divided this investigation into two phases: (1) A past period December 12, 1970, through March 27, 1973, and (2) the period on and after March 28, 1973.[5] Our action severing the past and future periods was taken at the urging of the Board's Bureau of Economics and of the Postmaster General. The Postmaster General particularly stressed the long open-rate period and the need to conclude Phase 1 expeditiously. We agree that protracted open-rate periods are undesirable and that the time and resources of the parties and the Board at this time should be devoted to the multitude of issues presented in Phase 2. By this order, we are therefore proposing to establish final mail rates for the certificated carriers for the Phase 1 past period.[6] By separate order issued simultaneously herewith, we are also proposing industrywide temporary mail rates to be effective pending conclusion of the investigation in Phase 2.

In general, the final rates proposed herein for the past period reflect increments to the prior effective multielement rates based upon a comparison of the adjusted operating expenses per revenue ton-mile plus provision for return and taxes for the domestic services of the trunklines and Flying Tiger[7] during the period under review with base-period results for similar services and the same carriers upon which the prior priority and nonpriority mail rates were predicated.[8] These base periods for the priority and nonpriority rate determinations are the fiscal year 1965 and calendar year 1967, respectively. To maintain annual period comparisons and, at the same time, reflect continued cost changes experienced by the industry during the past period, we have divided the past period of more than two and one-quarter years into two parts covering: (1) The 12½ months December 12, 1970, through and including December 31, 1971, which will be based on the adjusted results reported for the calendar year 1971; and (2) the 15 months January 1, 1972, through and including March 27, 1973, based on the adjusted results reported for the calendar year 1972.

The Board finds that the cost comparison approach utilized serves as an acceptable basis for determining the fair and reasonable domestic service mail rates in this proceeding, particularly in dealing with known results for a past period. In our opinion, on the basis of past experience, it is not unreasonable to assume that the movement of total economic costs amply describes the cost

[1] Established by Order E-25610, August 28, 1967.

[2] Established by Order 70-4-9, April 2, 1970.

[3] These include the domestic trunklines, the local service carriers, four additional combination air carriers (Alaska Airlines, Inc., Caribbean-Atlantic Airlines, Inc., Pan American World Airways, Inc. and Trans Caribbean Airways, Inc.), three all-cargo carriers (Airlift International, Inc., The Flying Tiger Line Inc., and Seaboard World Airlines, Inc.), and numerous air taxi/commuter operators whose mail services are compensated for in whole or in part at rates equivalent to the domestic service mail rates.

[4] Separate service mail rates are established for intra-Alaska and intra-Hawaiian services, which rates are not disturbed by the findings herein.

[5] Order 73-7-29.

[6] Rates for the air-taxi and commuter carrier parties will be proposed by separate order.

[7] The other carrier parties carry such a small proportion of the total domestic service mail that consideration of their costs was not required in determining the reasonable rates.

[8] The reported data have been adjusted to reflect conformance with the load factor, seating configuration, and return on investment standards adopted by the Board in the Domestic Passenger-Fare Investigation, Docket 21866 (DPFI).



V 38 172 SEP 6 73 XUM

changes taking place for the provision of the classes of domestic mail services involved in this investigation. Accordingly, we conclude that the total cost comparison bases from which we have derived our rate proposals herein produces results within an acceptable zone of reasonableness.

1. *Economic Cost Base for Priority Mail Services.*—As indicated above, the base period for the determination of the priority service mail rate increments in our proposal is the fiscal year 1965. For the domestic trunk carriers and Flying Tiger, the reported operating expenses for domestic services in fiscal 1965 were 46.71 cents per revenue ton-mile (Appendix A). To provide for return on investment at 10.5 percent and taxes at 48 percent requires a markup of 14.49 percent (Appendix D), producing a total economic cost for the fiscal year 1965 of 53.48 cents per revenue ton-mile.

2. *Economic Cost Base for Nonpriority Mail Services.*—The base period for the prior nonpriority mail rates was calendar year 1967. Reported operating expenses for the selected carriers in that year were 41.65 cents per revenue ton-mile. However, due to the extended lag time involved until decision was reached in that case, the Board provided an increment of 4.4 percent in the rates determined for the period on and after July 1, 1969, recognizing the increase in operating expenses reported for the fiscal year 1969 over the base year. Therefore, we will likewise increase the reported operating expenses in 1967 by 4.4 percent here, producing an adjusted base operating cost of 43.48 cents per revenue ton-mile (Appendix A). Provision for return and taxes, similar to that reflected for the priority cost base above, adds 16.01 percent for a recognized total economic cost base for 1967 of 50.55 cents per revenue ton-mile.

3. *Recognized Economic Costs—1971.*—The reported operating expenses for the base carrier group in 1971 was 50.22 cents per revenue ton-mile (Appendix A). In Phase 7 of the DPFI,[9] the Board adopted load factor standards to be recognized for the trunkline carriers for ratemaking purposes. Since this standard was first applied by the Board in May 1971, we are proposing to reflect approximately 50 percent of the computed annual capacity reduction for determining the recognized level of operating expenses in calendar year 1971, or a net capacity reduction of 4.2 percent (Appendix B). The cost impact for this adjustment goes only to the capacity costs, those operating costs which are related to the movement of the aircraft which provides the available capacity for traffic; and, inasmuch as the capacity costs are computed to be 64.9 percent of the total operating expenses in the review period, the capacity reduction of 4.2 percent produces a related operating expense decrease of 2.7 percent. Application of this net cost adjustment to the reported operating expenses results in a recognized operating cost per revenue ton-mile of 48.86 cents. Provision of the recognized return at 12.0 percent on investment plus taxes at 48 percent in 1971 calls for a markup of 17.09 percent, or a recognized total economic cost per revenue ton-mile of 57.21 cents in 1971 (Appendix A).

4. *Priority and Nonpriority Mail Service Cost Increments—1971.*—As we previously concluded, the increments for mail service costs correlate with those for total economic expenses. Thus, the relationship of the recognized economic cost per revenue ton-mile of 57.21 cents in 1971 as related to the base costs in fiscal year 1965 of 53.48 cents produces an increment for priority mail service costs in 1971 of 7.0 percent. The relationship of the recognized 1971 economic costs to the adjusted base costs in 1967 of 50.44 cents per revenue ton-mile results in a 1971 increment for nonpriority mail service costs of 13.4 percent.

5. *Recognized Economic Costs—1972.*—Reported operating expenses per revenue ton-mile in 1972 for the base carriers amounted to 49.65 cents. Application of the load-factor standards is again required as in our 1971 economic cost determination, above, but for a full year in 1972. However, in addition to the load-factor standards, the Board also adopted seating configuration standards for ratemaking purposes in arriving at the fare increase which it authorized effective September 5, 1972.[11] As detailed in Appendix C, the imposition of the seating standards would increase the reported available seat-miles from 203.08 to 210.14 billion. Since this standard was not applicable until almost the last quarter of 1972, this adjustment at 25 percent would increase the capacity base for 1972 to 204.84 billion available seat-miles. Application of the load-factor standards would in turn reduce this capacity to 196.99 billion seat-miles, or a net reduction of 3.8 percent from the reported capacity. This reduction, at 64.9 percent for capacity costs, translates into a net operating cost decrease of 2.5 percent for 1972, which adjusts the reported operating expense per revenue ton-mile to 48.41 cents. Provision for return and taxes at rates of 12.0 and 48 percent, respectively, at a markup of 16.20 percent, produces a recognized total economic cost per revenue ton-mile in 1972 of 56.25 cents (Appendix A).

6. *Priority and Nonpriority Mail Service Cost Increments—1972.*—Similar to the computations made for 1971, above, the relationship of the recognized total economic costs per revenue ton-mile in 1972 of 56.25 cents to the 53.48 cents for 1965 and 50.44 cents for 1967 indicates priority and nonpriority mail service cost increments in 1972 of 5.2 percent and 11.5 percent for priority and nonpriority mail, respectively.

7. *Reasonableness of the Cost Findings.*—The previous rates for priority and nonpriority mail became effective on January 1, 1967, and July 1, 1969, respectively, and remained in effect at the same levels until December 12, 1970. Although the rates were opened on the latter date, nevertheless, the Postal Service has been making payments under that rate structure for over six years in the case of priority mail and four years in the case of nonpriority mail. Between 1967 and 1970, domestic passenger fares were increased four times, totaling about 11 percent; and the three increases permitted by the DPFI in 1971 and 1972 totaled an additional 12 percent. General-commodity freight rates were increased each year from 1969 through 1973 by 5 to 10 percent, and minimum-charge shipments and specific commodity rates have also seen very large increases. Thus, the proposed increases in priority and nonpriority mail rates of 7.0 and 13.4 for 1971 and 5.2 and 11.5 percent for 1972 appear to be well within the zone of reasonableness.[12] The 25.01 cents per revenue ton-file for the trunkline carriers, which also compares favorably with the overall 1972 yields of 22.45 and 34.84 cents per revenue ton-mile for the same carriers for domestic freight and express, respectively.

8. *Rate Structure.*—The previous rates and rate structure established for compensation to the carriers for the carriage of U.S. domestic priority and nonpriority mail were: [13]

(a) For priority mail—the sum of a linehaul rate of 24 cents per nonstop great-circle mail ton-mile and terminal charges of 2.34, 4.68, and 9.36 cents per pound of priority mail originated at stations classified X, Y and Z, respectively; and

(b) For nonpriority mail—the sum of 11.33 cents per nonstop great-circle nonpriority mail ton-mile and terminal charges of 2.34, 4.68, and 9.36 cents per pound of nonpriority mail originated at stations classified X, Y and Z, respectively.

In our opinion, continuation of the multielement rate structure of linehaul and terminal charges for the past period will provide the appropriate relationship of total mail yield to the economic costs for the various classes of scheduled air carriers performing the domestic services involved in this proceeding. Therefore, adjustment of the prior rates to reflect the appropriate 1971 and 1972 economic cost increments above those for the applicable base periods should produce reasonable mail yields for the periods December 12, 1970, through December 31, 1971, and January 1, 1972, through March 27, 1973, respectively. We propose to effect the rate changes for this past period by amendment of the rate paragraphs of Orders E–25610 and 70–4–9, since no other changes are proposed in the conditions of service set forth in those orders with respect to the transportation of priority and nonpriority mail.

[9] Order 70–4–9, supra, at pages 19 and 20.
[10] Order 71–4–59/60, April 9, 1971.
[11] Order 72–8–50, August 10, 1972.
[12] The 1972 increases are not in addition to the 1971 increases. The percentage increases shown for each year are based on a comparison of the proposed rate with the preexisting final service rate.
[13] For priority mail by Order E–25610, supra, and for nonpriority mail by Order 70–4–9, supra.





PROPOSED FINDINGS AND CONCLUSIONS

On the basis of the foregoing, the Board proposes to issue an order to include the following findings and conclusions: [14]

1. The fair and reasonable final rates of compensation to be paid by the Postmaster General to Airlift International, Inc., Alaska Airlines, Inc., Allegheny Airlines, Inc., American Airlines, Inc., Braniff Airways, Inc., Caribbean-Atlantic Airlines, Inc., Continental Air Lines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., The Flying Tiger Line Inc., Frontier Airlines, Inc., Hughes Air Corp., Mohawk Airlines, Inc., National Airlines, Inc., Northeast Airlines, Inc., North Central Airlines, Inc., Northwest Airlines, Inc., Ozark Air Lines, Inc., Pan American World Airways, Inc., Piedmont Aviation, Inc., Seaboard World Airlines, Inc., Southern Airways, Inc., Texas International Airlines, Inc., Trans Caribbean Airways, Inc., Trans World Airlines, Inc., United Air Lines, Inc., and Western Air Lines, Inc.

(a) for the transportation by air of nonpriority mail (i.e., all mail other than airmail and air parcel post, which may be tendered from time to time by the Postal Service and carried on a space-available basis) other than that for which rates are elsewhere established, the facilities used and useful therefor, and the services connected therewith, between the points at issue in Docket 23080–1, are (1) from December 12, 1970, through December 31, 1971, a linehaul charge of 12.85 cents per nonstop great-circle ton-mile and terminal charges of 2.65, 5.31, and 10.61 cents per pound at stations of origin classified as X, Y, and Z, respectively,[15] and (2) from January 1, 1972, through March 27, 1973, a linehaul charge of 12.63 cents per nonstop great-circle ton-mile and terminal charges of 2.61, 5.22, and 10.44 cents per pound at stations of origin classified as X, Y, and Z, respectively;

(b) for the transportation by air of mail other than that for which rates are elsewhere established, the facilities used and useful therefor, and the services connected therewith, between the points at issue in Docket 23080–1, are: (1) From December 12, 1970, through December 31, 1971, a linehaul charge of 25.68 cents per nonstop great-circle ton-mile and terminal charges of 2.50, 5.01, and 10.02 cents per pound at stations of origin classified as X, Y, and Z, respectively, and (2) from January 1, 1972, through March 27, 1973, a linehaul charge of 25.25 cents per nonstop great-circle ton-mile and terminal charges of 2.46, 4.92, and 9.85 cents per pound at stations of origin classified as X, Y, and Z, respectively.

2. These findings and conclusions shall be implemented by the following amendments to Board orders, effective December 12, 1970;

(a) Order 70–4–9, dated April 2, 1970, as amended, shall be further amended as follows:

(1) Amend paragraphs (A)(1) and (A)(2)(a)–(g) on pages 1 and 2 of Order 70–4–9 to read as follows:

(A) The fair and reasonable rates of compensation to be paid by the Postmaster General for the transportation by air of nonpriority mail (i.e., all mail other than airmail and air parcel post, which may be tendered from time to time by the Postal Service and carried on a space-available basis) other than that for which rates are elsewhere established, the facilities used and useful therefor, and the services connected therewith to: [16]

Airlift International, Inc.
Alaska Airlines, Inc.
Allegheny Airlines, Inc.
American Airlines, Inc.
Braniff Airways, Inc.
Caribbean-Atlantic Airlines, Inc.
Continental Air Lines, Inc.
Delta Air Lines, Inc.
Eastern Air Lines, Inc.
The Flying Tiger Line Inc.
Frontier Airlines, Inc.
Hughes Air Corp.
Mohawk Airlines, Inc.
National Airlines, Inc.
Northeast Airlines, Inc.
North Central Airlines, Inc.
Northwest Airlines, Inc.
Ozark Air Lines, Inc.
Pan American World Airways, Inc.
Piedmont Aviation, Inc.
Seaboard World Airlines, Inc.
Southern Airways, Inc.
Texas International Airlines, Inc.
Trans Caribbean Airways, Inc.
Trans World Airlines, Inc.
United Air Lines, Inc.
Western Air Lines, Inc.

for operations over their routes authorized under certificates in effect on or subsequent to December 12, 1970:

(1) On and after December 12, 1970, within the 48 contiguous States and the District of Columbia; between points in the 48 contiguous States and the District of Columbia, on the one hand, and, on the other hand, Hilo and Honolulu, Hawaii; San Juan, Puerto Rico; St. Croix and St. Thomas, Virgin Islands; Wake Island, Agana, Guam; Pago Pago, American Samoa; Acapulco, Guaymas, La Paz, Mazatlan, Merida, Mexico City, Monterrey, Puerto Vallarta, Tampico, and Veracruz, Mexico; and terminal points in Canada; between Honolulu, Hawaii, on the one hand, and, on the other hand, Agana, Guam; Wake Island; and Pago Pago, American Samoa; between points in Puerto Rico, on the one hand, and St. Croix and St. Thomas, Virgin Islands, on the other; between points in Puerto Rico; and between St. Croix and St. Thomas, Virgin Islands;

(2) From December 12, 1970, through January 2, 1973, between points in the 48 contiguous States and the District of Columbia, on the one hand, and Anchorage, Cordova, Fairbanks, Juneau, Ketchikan, Kodiak, and Yakutat, Alaska, on the other;

(3) On and after January 3, 1973, between points in the 48 contiguous States and the District of Columbia, on the one hand, and points in the State of Alaska, on the other; shall be the sum of the linehaul charges and the terminal charges computed as follows:

(2) Amend the first paragraph under "1. Linehaul charges" on page 3 of Order 70–4–9 to read as follows:

1. *Linehaul charges.*—For the period December 12, 1970, through December 31, 1971, the linehaul charge shall be the product of the nonpriority mail ton-miles times the linehaul rate of 12.85 cents per nonpriority mail ton-mile. For the period January 1, 1972, through March 27, 1973, the linehaul charge shall be the product of the nonpriority ton-miles times the line-haul rate of 12.63 cents per nonpriority mail ton-mile. The nonpriority mail ton-miles for each shipment shall be computed by using the nonstop great-circle miles between the station of origin and station of destination for each shipment as the standard mileage between such points.

(3) Amend paragraph 2(a) on page 3 of Order 70–4–9 to read as follows:

2. *Terminal charges.*—(a) The terminal charge for each shipment of nonpriority mail shall be the product of the pounds of nonpriority mail in each shipment times the terminal rate per pound set forth below for the station of origin of the mail shipment:

| Station of origin | Terminal rate per pound (cents) | |
|---|---|---|
| | Dec. 12, 1970 to Dec. 31, 1971 | Jan. 1, 1972 to Mar. 27, 1973 |
| Class X | 2.65 | 2.61 |
| Class Y | 5.31 | 5.22 |
| Class Z | 10.61 | 10.44 |

(b) Order E–25610, dated August 28, 1967, as amended, shall be further amended as follows:

(1) Amend paragraph (2) on pages 1 and 2 of Order E–25610 to read as follows:

(2) The fair and reasonable rates of compensation to be paid by the Postmaster General for the transportation by air of mail other than that for which rates are elsewhere established, the facilities used and useful therefor, and the services connected therewith to:

Airlift International, Inc.
Allegheny Airlines, Inc.
Eastern Air Lines, Inc.
Frontier Airlines, Inc.
Hughes Air Corp.
Mohawk Airlines, Inc.
Northeast Airlines, Inc.
North Central Airlines, Inc.
Ozark Air Lines, Inc.
Piedmont Aviation, Inc.
Southern Airways, Inc.
Texas International Airlines, Inc.
United Air Lines, Inc.

[14] Based on the estimate set out in Appendix E, the rates proposed herein will produce approximately $28.5 million additional mail revenues to the carriers when applied to the reported results for the calendar years 1971 and 1972 and the first quarter of 1973. At an average rate increase of about $1.05 million per month, we estimate that the increased mail revenues for the past period will approximate $29 million.
[15] As defined by Order 70–4–9.
[16] The final rates for civil domestic mail of the second, third, and fourth classes established by Order 72–6–95, dated June 21, 1972, for the carriers, points, and dates specified therein are not affected by this order.



V 38-172 SEP 6 73 XUM

for operations over their entire systems as constituted on or subsequent to December 12, 1970, and

Alaska Airlines, Inc.
American Airlines, Inc.
Braniff Airways, Inc.
Caribbean-Atlantic Airlines, Inc.
Continental Air Lines, Inc.
Delta Air Lines, Inc.
The Flying Tiger Line, Inc.
National Airlines, Inc.
Northwest Airlines, Inc.
Pan American World Airways, Inc.
Seaboard World Airlines, Inc.
Trans Caribbean Airways, Inc.
Trans World Airlines, Inc.
Western Air Lines, Inc.

for operations over their routes within the 48 contiguous States and the District of Columbia insofar as authorized under certificates for interstate air transportation; over their routes between points within the 48 contiguous States and the District of Columbia, on the one hand, and on the other, points in the State of Alaska; Hilo and Honolulu, Hawaii; Acapulco, Merida, Mexico City, and Monterrey, Mexico; San Juan, Puerto Rico; points in the Virgin Islands; and terminal points in Canada; and between points in Puerto Rico, on the one hand, and points in the Virgin Islands, on the other; between points in Puerto Rico; and between points in the Virgin Islands; which are in effect on or subsequent to December 12, 1970, shall be computed by obtaining the sum of (1) the linehaul charges, and (2) the terminal charges, computed as follows:

(2) Amend the first paragraph under "1. Linehaul charges" on page 2 of Order E–25610 to read as follows:

1. *Linehaul charges.*—For the period December 12, 1970, through December 31, 1971, the linehaul charge shall be the product of the mail ton-miles times the linehaul rate of 25.68 cents per mail ton-mile. For the period January 1, 1972, through March 27, 1973, the linehaul charge shall be the product of the mail ton-miles times the linehaul rate of 25.25 cents per mail ton-mile. The mail ton-miles for each shipment shall be computed by using the nonstop great-circle miles between the station of origin and station of destination for each shipment as the standard mileage between such points.

(3) Amend paragraph 2(a) on page 2 of Order E–25610 to read as follows:

2. *Terminal charges.*—(a) The terminal charge for each shipment of mail shall be the product of the pounds of mail in each shipment times the terminal rate per pound set forth below for the station of origin of the mail shipment:

| Station of origin | Terminal rate per pound (cents) | |
|---|---|---|
| | Dec. 12, 1970 to Dec. 31, 1971 | Jan. 1, 1972 to Mar. 27, 1973 |
| X | 2.50 | 2.46 |
| Y | 5.01 | 4.92 |
| Z | 10.02 | 9.85 |

3. The final service mail rates here fixed and determined are to be paid in their entirety by the Postmaster General.

4. The investigation in Docket 23080–1 is terminated with respect to the air carriers listed in paragraph 1 above.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and the regulations promulgated in 14 CFR Part 302:

*It is ordered,* That:

1. All interested persons, and particularly Airlift International, Inc., Alaska Airlines, Inc., Allegheny Airlines, Inc., American Airlines, Inc., Braniff Airways, Inc., Continental Air Lines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., The Flying Tiger Line Inc., Frontier Airlines, Inc., Hughes Air Corp., National Airlines, Inc., North Central Airlines, Inc., Northwest Airlines, Inc., Ozark Air Lines, Inc., Pan American World Airways Inc., Piedmont Aviation, Inc., Seaboard World Airlines, Inc., Southern Airways, Inc., Texas International Airlines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., Western Air Lines, Inc., and the Postmaster General are directed to show cause why the Board should not adopt the foregoing findings and conclusions and fix, determine, and publish the final rates specified above.

2. If there is objection to the rates proposed herein, notice thereof accompanied by written answer and supporting documents shall be filed within 14 days after the date of service of this order.

3. If objection and accompanying answer are not filed within 14 days after the date of service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order fixing the final rates and incorporating the findings and conclusions stated herein.[17]

4. This order shall be served upon the parties enumerated in paragraph 1 above.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,[18] *Secretary.*

[FR Doc.73-18929 Filed 9-5-73;8:45 am]

[Docket No. 23080-2; Order 73-8-145]

## PRIORITY AND NONPRIORITY DOMESTIC SERVICE MAIL RATES—PHASE 2

### Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 30th day of August 1973.

By Order 70–12–48, dated December 8, 1970, the Board opened the domestic priority [1] and nonpriority [2] service mail rates as of December 12, 1970, and instituted an investigation to determine the fair and reasonable rates of compensation to be paid thereafter for domestic U.S. mail services.[3] A prehearing conference was held in July 1971, but several months thereafter the Board deferred all further procedural steps in order to afford the Postmaster General and the carriers an opportunity to study new services and possible modification of existing services which would affect the rate ultimately to be established.[4] These proceedings having failed to produce meaningful results, a supplemental prehearing conference was held in April 1973.

On July 10, 1973, we separated this investigation into two phases, the first to establish mail rates for the period December 12, 1970, through March 27, 1973, and the second to establish rates for the period on and after March 28, 1973, the date transportation of mail in containers began.[5] In Order 73–8–144, issued contemporaneously herewith, we are proposing to establish final multielement service mail rates for the Phase 1 period (Docket 23080–1).

This order concerns Phase 2 of this investigation, which relates to what has become known as the container mail program. The program had its genesis in a decision by the Postmaster General to tender for air transportation in containers airmail and nonpriority mail, including mail previously shipped by surface transportation. Before the institution of this program, all domestic mail was tendered to the carriers in sacks for carriage as either airmail or nonpriority mail, the principal difference being that airmail is by law entitled to priority service. Under the new system, however, no distinction is made in the classes of mail shipped in containers.

On March 22, 1973, The Flying Tiger Line Inc., filed a petition to establish final service mail rates for the transportation of containerized mail between 22 city pairs on its domestic route system. The petitioned rates are applicable only during daylight hours and are based on the daylight container rates embodied in the carrier's freight rate tariff.[6] On March 28, 1973, the Postal Service began tendering container mail to Flying Tiger in the markets and at the rates proposed therein and has used these rates as a basis for making progress payments for container services subject to modification depending upon the final service mail rates established in this proceeding.

Subsequent to the Flying Tiger petition, most of the trunkline carriers filed with the Board petitions proposing a variety of temporary and final service mail rates for the transportation of containerized mail in various markets in night (standard) and daylight service.[7]

[17] Note is taken of the fact that hearing in Docket 23080–1 is currently scheduled for September 18, 1973 before Administrative Law Judge Harry H. Schneider. It is anticipated that if objection and answer are not timely filed the Law Judge would postpone or recess the hearing pending further Board action.

[18] Appendices A–E filed as part of the original document.

[1] Airmail and air parcel post.

[2] All mail other than airmail and air parcel post.

[3] The services pertain to U.S. mail carried (1) between points within the 50 states; (2) between the 50 states and certain territories and/or possessions of the U.S.; (3) between the U.S. and foreign "stub end" points in Canada and Mexico; and (4) between and within certain territories and possessions.

[4] Order 71–10–85, October 21, 1971.

[5] Order 73–7–29.

[6] Tariff C.A.B. No. 19.

[7] American, Continental, Eastern, Northwest, Pan American, Trans World, United, and Western.





The Postal Service filed answers in support of each of these petitions and has commenced shipping containers both in daylight and standard service in a number of markets at the various proposed rates.

Although the petitioned rates vary by carrier, by market, by type of container, by time of day, and in other details, they all have in common certain characteristics. The rates are stated in terms of a pivot-weight charge for the type of container used to transport the mail (e.g., A–2, LD–3, LD–7) with a further charge for each 100-pound increment by which the shipment weight exceeds the pivot weight of the container; separate additional charges are levied for pickup and delivery of the containers at Postal Service facilities; and the services to which the rates apply are, in most instances, to be offered under virtually the same terms and conditions as those which presently apply to the transportation of general freight commodities in containers.

During the time these petitions have been before the Board, there has been a dispute between the Postal Service and several trunkline carriers not only as to the proper temporary rates for container service, but also as to the appropriate distribution of mail among the carriers pursuant to the Postal Reorganization Act. An open-court settlement was reached by the parties in an injunction action in the District of Columbia District Court on August 7, 1973, in which the Postal Service agreed to distribute containerized mail fairly and equitably among the carriers, who in turn agreed to provide container service in their domestic markets at the temporary rates set forth in their petitions filed with the Board. This settlement, along with the uniform industrywide temporary rates we are proposing herein, should bring an end to the dispute and permit the efficient transportation of mail to continue at reasonable charges.[8]

We propose to establish temporary multielement domestic service mail rates for the certificated carriers for sack mail and for standard and daylight container mail, container minimum-charge weights, and pickup and delivery rates to be effective pending completion of Phase 2 of this investigation.[9] Effective October 1, 1973, we proposed one rate and one set of conditions for mail in sacks, whether it be airmail or nonpriority mail, in conformity with the removal of distinctions applicable to the transportation of all classes of mail by air inherent in the container program. For the period March 28 through September 30, 1973, we propose to continue as temporary rates for airmail and nonpriority mail the rates proposed in Order 73–8–144 for the period ending March 27, 1973.

[8] These actions largely dissipate the charges and counter-charges in motions filed by United and answers thereto, which will be dealt with by separate order.

[9] We shall propose temporary rates for the air-taxi and commuter operator parties by separate order.

The rates we propose constitute uniform, systemwide mail rates reflecting the new circumstances presented by the use of containers for the carriage of mail and the carriage of all loose-sack mail on a priority basis. These services are significantly different from past mail service, and the rates proposed herein reflect the differences in costs of service.

The establishment of uniform systemwide rates for sack and container mail is consistent with the policy the Board has traditionally followed with respect to mail as well as other transportation services over which the Board has exercised its ratemaking jurisdiction. Not only will an industrywide rate structure place all carriers on an equal rating basis, but it should in this instance have the additional salutary effect of ending the uneconomic competition for container mail which has resulted in the plethora of rate petitions and the court action discussed previously. Uniform rates will be effective for every carrier in every market, and the Postal Service can go about its business of shipping container and sack mail at reasonable rates on the basis of service considerations.

The proposed temporary rates and charges (except pickup and delivery charges) are predicated on the calendar 1972 cost and traffic data submitted by the trunks and Flying Tiger in Phase 1 of this investigation, with appropriate adjustments to the reported cost and investment data to reflect conformance with the seating-configuration, load-factor, and rate-of-return standards adopted in the *Domestic Passenger-Fare Investigation.*[10] Allocation of aircraft capacity costs is based on the space method applied by the Board in the *Nonpriority Mail Rates* case.[11] Densities are those developed from studies in the *Domestic Air Freight Rate Investigation* (Docket 22859). Relative tons enplaned, also employed in the *Nonpriority* decision, have been used to allocate traffic servicing costs to mail for temporary rate purposes.

Based on 1972 costs and traffic volume, the total economic cost (capacity and noncapacity costs plus an increment for taxes and return on investment) for the trunks and Flying Tiger for the transportation of domestic mail is 26.64 cents per great-circle ton-mile. In order to establish a multielement rate formula, we tentatively find that a 65/35 percentage relationship between the linehaul and terminal charges is appropriate. Although a ratio of 80 percent linehaul to 20 percent terminal was established in the *Domestic Service Mail Rate* case,[12] the 65/35 ratio more closely approximates the ratio of linehaul to terminal costs which is being experienced in airline operations today. The linehaul and terminal charges on this basis are 17.32 and 9.32 cents per mail ton-mile.

The terminal charges in the domestic mail rate structure established in the *Service Mail* and *Nonpriority* cases were based on a 1–2–4 relationship of rates per pound of mail originated at stations classified X, Y, and Z, respectively. Applying the same 1–2–4 relationship to the volumes of mail originated at each of the standard classification stations, the 9.32-cent per ton-mile terminal cost breaks down into terminal charges of 4.48, 8.96, and 17.92 cents per pound of sack mail originated at stations classified X, Y, and Z, respectively.

The proposed standard container [13] rate structure consists of the same linehaul element we have proposed for sack mail, and terminal charges reflecting the savings in ground handling costs generated by shipping mail in containers instead of sacks. This saving, which we have calculated to be 2.31 cents per pound of originated mail, was derived from a comparison of the ground handling times for sack mail and containerized freight developed in the Parson's study in Docket 22859. Subtracting the saving from each of the sack-mail terminal charges results in terminal charges for containers of 2.17, 6.65, and 15.61 cents per pound of mail originated at stations classified X, Y, and Z, respectively.

Because the costs of handling containers is presumably the same whether the container is shipped during the daytime or at night, we propose the same terminal charges for daylight container mail as for standard container mail. However, the proposed linehaul charges are lower. Daylight container service for mail, like daylight container service for freight, may be properly considered as off-peak in character since, like freight, it will be largely provided in the belly compartments of passenger aircraft typified by low cargo space load factors. The petitioning carriers have apparently recognized the off-peak nature of this service by basing their daylight container mail proposals on applicable daylight container freight rates; however, these container freight rates are predicated on purely promotional considerations and, as such, do not in our judgment provide a proper foundation upon which to base rates for mail. On the other hand, since it is reasonable to assume that daylight container mail will fill a substantial portion of otherwise unused belly space, we feel that it is unfair to charge this mail with a full share of present unused capacity costs.

We have therefore developed mail rates for daylight containers by assuming, on combination aircraft, the same 53 percent cargo space load factor as experienced in all-cargo services, which are presumably scheduled to meet the demands of both freight shippers and the

[10] Phase 6A (Seating Configuration), Order 72–5–101, May 26, 1972, Phase 6B (Load Factor), Order 71–4–54, April 9, 1971; and Phase 8 (Rate of Return), Order 71–4–58, April 9, 1971.

[11] Order 70–4–9, April 2, 1970. Since one rate is proposed for all sack mail, a reduced priority weighting is not applied to nonpriority mail.

[12] Order E–25610, August 28, 1967.

[13] The proposed standard container rate will be applicable on flights departing between 9 p.m. and 6 a.m., and the proposed daylight container rate will be applicable on flights departing between 6:01 a.m. and 8:59 p.m.



V 38-172 SEP 6 73 XUM

Postal Service. Stated differently, we propose to allocate capacity costs to daylight container mail as if the combination aircraft on which it is carried were operated with a belly compartment load factor of 53 percent instead of the 30 to 35 percent cargo space load factors currently being achieved on these aircraft, thereby reducing considerably the share of unused capacity cost allocable to this mail. Applying the load factor so assumed to the capacity costs of mail translates into a linehaul charge for daylight container mail which is 56.8 percent of that for sack mail and standard container mail, or 9.84 cents per ton-mile.

In order to assure reasonable utilization of the space occupied by containers, we propose minimum chargable weights[14] for each of the container types reported in the carriers' petitions as being used to transport mail similar, at least conceptually, to the variety of pivot weights used by the domestic air carriers to price their containerized freight services. Under this structure, there will be a minimum charge for the shipment of each container equal to the product of its minimum weight[15] times the rate applicable to the service (standard or daylight) in which the container is moved. The minimum-charge weights which we propose to establish for each standard container are as follows:

| Container Type: | *Minimum-charge weight, lbs.* |
|---|---|
| A–1 | 5,600 |
| A–2 | 6,000 |
| A–3 | 6,200 |
| LD–1 | 2,200 |
| LD–3 | 2,000 |
| LD–5 | 3,350 |
| LD–7 | 4,750 |
| LD–11 | 3,350 |
| LD–W | 800 |

We find these charges reasonable for this temporary rate period. To begin with, they are well within the range of pivot weights embodied in the carriers' rate petitions for the above-mentioned containers; for example, our proposed weight of 6,000 pounds for the A–2 container is roughly halfway between the A–2 pivot weights of 5,870 pounds and 6,200 pounds proposed, respectively, by Northwest and United. They also reflect a density[16] which, on the one hand, should continue to facilitate the containerizing and shipping of letter mail during peak periods while, on the other hand, allowing the Postal Service some flexibility to containerize lower-density mail.

Each of the carrier rate petitions includes charges for pickup and delivery services. These charges in all instances consist of two separate sets of charges for two different types of service—the first for pickup and delivery of containers at Postal Service facilities located in numerous cities throughout the country, which rates are either the same as or similar to the charges in their freight rate tariff applicable to the pickup and delivery of containers in such cities,[17] and the second for the same services when performed to and from postal facilities on or adjacent to airports, which vary by carrier and by city, and are purportedly based on individual carrier costs of providing the service. Both types of service are governed by the same rules and regulations which govern the airport-to-airport transportation of containerized mail shipments, except for several rules and provisions which relate to specific aspects of the subject services themselves.

We propose to adopt the charges embodied in the aforementioned freight tariff for the pickup and delivery of A–1, A–2, A–3, LD–1, LD–3, LD–5, LD–7, and LD–W containers as our temporary charges for pickup and delivery of these containers at Postal Service facilities in the cities listed in this tariff.[18] These freight charges are largely based on pass-through of local cartage costs, and we perceive no reason why the costs of picking up and delivering a container filled with mail should be either more or less than the costs of performing these services for a container filled with airfreight. Accordingly, we tentatively find such charges reasonable for this service for this period of temporary rates.

For pickup and delivery at airport and airport-adjacent facilities, we propose to adopt the following set of charges for each of the types of containers used to transport mail:

| Container type: | *Charge* |
|---|---|
| A–1, A–2, A–3, and LD–7. | $40, or the applicable freight tariff rate, whichever is lower. |
| LD–5 | $20 |
| LD–1 and LD–3 | 13 |
| LD–11 | 22 |
| LD–W | 5 |

These charges were determined by comparing, to each other, each of the petitioned charges for this service in numerous major hub cities[19] which are expected to generate substantial volumes of container mail traffic, and selecting from the charges so compared the ones most representative thereof for each of the container types. Although the selected charges are in some cities below those proposed by the carriers, they are above them in other cities so that, on balance, we believe they will fairly and reasonably remunerate the carriers for the provision of this service until this investigation is completed. In several of the sampled cities, however, we note that the charge selected for the type A–2 and LD–7 containers was considerably higher than charges embodied in the carriers' freight tariff for pickup and delivery of these containers at such points. Since it is reasonable to assume that the costs to pickup or deliver these containers to and from airport postal facilities, which are obviously in close proximity to aircraft, are substantially less than the costs to pickup or deliver them to and from regular postal facilities, which may be located at considerable distances from airports, the applicable tariff charge should be more indicative of the service's cost than the selected charge, and, therefore, we believe the Postal Service is entitled to the benefit of the lower tariff rate whenever such differences exist.

Since we intend to keep the present dual system of airmail and nonpriority rates for sack mail in effect as temporary rates from March 28 to September 30, 1973, we propose to continue in effect for this period the same conditions of carriage for these two classes of mail as prescribed in the *Domestic* and *Nonpriority* cases, respectively, *supra*. On and after October 1, 1973, we propose that the conditions of service applicable to airmail shall apply to all sack mail. For the transportation of mail in containers and for pickup and delivery of container mail, we propose to adopt the terms and conditions of service proposed in a majority of the rate petitions on file with the Board (Appendixes E and F).[20] The proposed terms and conditions are virtually the same as those embodied in the carriers' freight tariff for the transportation and pickup and delivery of containerized freight and are apparently satisfactory to the Postal Service since it has supported each of the rate petitions in which the subject conditions have been proposed. Accordingly, we find such terms and conditions reasonable for this period of temporary rates.

Although it is obviously impossible at this time, in the absence of any experienced data on the relative volumes of sack and container mail to be transported by the carriers in different markets, to predict accurately the results which will obtain under the proposed rates and charges, we believe that they will provide reasonable compensation for the transportation of domestic mail pending the completion of Phase 2 of this proceeding. Applied to the revenue ton-miles of container mail carried by Flying Tiger in April 1973, the ton-mile yield from our proposed daylight container rate is very close to the yield experienced by Flying Tiger during that month under the rate proposed in its petition. Based on 1972 traffic volume, the proposed standard and daylight container rates also compare favorably with freight container rates and the petitioned rates for similar pivot weights and densities and markets; for example, as reflected in Appendix C attached, our proposed daylight container formula produces a yield of 11.6 cents per ton-mile in the New York-Los Angeles market for the transportation of mail in A–2 type containers, as contrasted with a yield of 11.2 cents per ton-mile from the transportation in that market of general freight commodities in these containers at currently applicable airfreight rates. As reflected in Appendix D, the ton-mile yield produced by transporting mail in LD–3 containers between Chicago and Los Angeles is 23.41 cents under the formula proposed for standard container service and 21.64 cents under the formula for this same service proposed in the petition of Northwest.[21] Another rough estimate of the results for the proposed sack and container rates was obtained by comparing the actual 1972 priority and nonpriority mail yields experienced by each of the carriers with yields constructed by applying the proposed rates to their 1972 mail volumes as reported on Form 41. This comparison, embodied in Appendix B, shows most of the trunkline carriers receiving higher yields under the new temporary rate formulas than they did under the old rate formulas and the local service carriers and several of the shorter-haul trunk carriers achieving considerably higher mail yields than they have in the past.[22] Based on these tests and comparisons, and bearing in mind that overall mail revenues should increase as more mail is shipped in containers, we conclude that the temporary rates and charges proposed herein will produce results well within the zone of reasonableness for the services involved.

PROPOSED FINDINGS AND CONCLUSIONS

On the basis of the foregoing, the Board proposes to issue an order to include the following tentative findings and conclusions:

1. The fair and reasonable temporary rates of compensation to be paid by the Postmaster General

(a) From March 28 through September 30, 1973, for the transportation by air of nonpriority mail (i.e., all mail other than airmail and air parcel post, which may be tendered from time to time by the Postal Service in sacks and carried on a space-available basis) other than that for which rates are elsewhere established, the facilities used and useful therefor, and the services connected therewith, to Airlift International, Inc., Allegheny Airlines, Inc., Eastern Air Lines, Inc., Frontier Airlines, Inc., Hughes Air Corp., North Central Airlines, Inc., Ozark Air Lines, Inc., Piedmont Aviation, Inc., Southern Airways, Inc., Texas International Airlines, Inc., United Air Lines, Inc.,

for operations over their entire systems as constituted on or subsequent to March 28, 1973, and

Alaska Airlines, Inc.
American Airlines, Inc.
Braniff Airways, Inc.
Caribbean-Atlantic Airlines, Inc.
Continental Air Lines, Inc.
Delta Air Lines, Inc.
The Flying Tiger Line Inc.
National Airlines, Inc.
Northwest Airlines, Inc.

[13] Chargeable weight as used herein means the gross weight of the shipment less the actual empty weight of the container in the shipment.

[15] Under standard freight practice, the minimum weight of a container is related to the internal cubic capacity of the container times a standard density.

[16] Approximately 13 pounds per cubic foot. The densities of airmail and nonpriority mail from the study in Docket 22859 are 12.41 and 18.86 pounds per cubic foot, respectively.

[17] ATP Tariff No. 3–C, C.A.B. No. 19, Section I.

[18] We propose that the charges for LD–11 containers shall be the same as tariff rates for LD–7 containers.

[19] For example, Boston, Chicago, Seattle, Philadelphia, and Los Angeles.

[20] An exception has been made with respect to limitation of liability for loss or damage to container mail shipments.

[21] Yields for the carrier-proposed rates were computed at the pivot weights reflected in their petitions or at our proposed minimum charge weights, whichever was lower.

[22] For example, whereas American experienced yields of 27.07 and 15.35 cents per ton-mile of priority and nonpriority mail transported in calendar 1972, we have estimated that it would achieve priority and nonpriority mail yields of 28.48 cents and 17.11 cents per ton-mile from March 28 to September 30 of this year and, thereafter, a sack yield of 24.87 cents under the proposed single rate for sack mail. On the other hand, the new temporary rate formulas would give Allegheny a sack mail yield of 45.14 cents per ton-mile as compared with the ton-mile yields of 40.98 and 23.31 cents which that carrier achieved from the transportation of priority and nonpriority mail during 1972.

[23] As defined in Order 70–4–9.





Alaska Airlines, Inc.
Allegheny Airlines, Inc.
American Airlines, Inc.
Braniff Airways, Inc.
Caribbean-Atlantic Airlines, Inc.
Continental Air Lines, Inc.
Delta Air Lines, Inc.
Eastern Air Lines, Inc.
Frontier Airlines, Inc.
The Flying Tiger Line Inc.
Hughes Air Corp.
National Airlines, Inc.
North Central Airlines, Inc.
Northwest Airlines, Inc.
Ozark Air Lines, Inc.
Pan American World Airways, Inc.
Piedmont Aviation, Inc.
Seaboard World Airlines, Inc.
Southern Airways, Inc.
Trans World Airlines, Inc.
Texas International Airlines, Inc.
Western Air Lines, Inc.
United Air Lines, Inc.

for operations over their routes within the 48 contiguous States and the District of Columbia insofar as authorized under certificates for interstate air transportation; over their routes between points within the 48 contiguous States and the District of Columbia, on the one hand, and, on the other, points in the State of Alaska; Hilo and Honolulu, Hawaii; Acapulco, Merida, Mexico City, and Monterrey, Mexico; San Juan, Puerto Rico; points in the Virgin Islands; and terminal points in Canada; and between points in Puerto Rico, on the one hand, and points in the Virgin Islands, on the other; between points in Puerto Rico; and between points in the Virgin Islands; which are in effect on or subsequent to March 28, 1973, shall be the sum of a linehaul charge of 25.25 cents per nonstop great-circle ton-mile and terminal charges of 2.46, 4.92, and 9.85 cents per pound at stations or origin classified as, X, Y, and Z, respectively, subject to the terms and conditions specified in Order E–25610, dated August 28, 1967.

(c) On and after October 1, 1973, for the transportation by air of mail in sacks other than that for which rates are elsewhere established, the facilities used and useful therefor, and the services connected therewith, to

Airlift International, Inc.
Allegheny Airlines, Inc.
Eastern Air Lines, Inc.
Frontier Airlines, Inc.
Hughes Air Corp.
North Central Airlines, Inc.
Ozark Air Lines, Inc.
Piedmont Aviation, Inc.
Southern Airways, Inc.
Texas International Airlines, Inc.
United Air Lines, Inc.

for operations over their entire systems as constituted on or subsequent to October 1, 1973, and

Alaska Airlines, Inc.
American Airlines, Inc.
Braniff Airways, Inc.
Continental Air Lines, Inc.
Delta Air Lines, Inc.
The Flying Tiger Line Inc.
National Airlines, Inc.
Northwest Airlines, Inc.
Pan American World Airways, Inc.
Seaboard World Airlines, Inc.
TransWorld Airlines, Inc.
Western Air Lines, Inc.

for operations over their routes within the 48 contiguous States and the District of Columbia insofar as authorized under certificates for interstate air transportation; over their routes between points within the 48 contiguous States and the District of Columbia, on the one hand, and, on the other, points in the State of Alaska; Hilo and Honolulu, Hawaii; Acapulco, Merida, Mexico City, and Monterrey, Mexico; San Juan, Puerto Rico; points in the Virgin Islands; and terminal points in Canada; and between points in Puerto Rico, on the one hand, and points in the Virgin Islands, on the other; between points in Puerto Rico; and between points in the Virgin Islands; which



V38-172 SEP 6 73 XUM

are in effect on or subsequent to October 1, 1973, shall be the sum of a linehaul charge of 17.32 cents per nonstop great-circle ton-mile and terminal charges of 4.48, 8.96, and 17.92 cents per pound at stations of origin classified as X, Y, and Z, respectively, subject to the terms and conditions specified in Order E–25610, dated August 28, 1967.[24]

(d) On and after March 28, 1973, for the transportation by air of mail in containers, the facilities used and useful therefor, and the services connected therewith, for the carriers and between the points listed in subparagraph (c) above, (1) between 9:00 p.m. and 6:00 a.m. local time, the sum of a linehaul charge of 17.32 cents per nonstop great-circle ton-mile and terminal charges of 2.17, 6.65, and 15.61 cents per pound at stations of origin classified as X, Y, and Z, respectively, and (2) between 6:01 a.m. and 8:59 p.m. local time, the sum of a linehaul charge of 9.84 cents per nonstop great-circle ton-mile and terminal charges of 2.17, 6.65, and 15.61 cents per pound at stations of origin classified as X, Y, and Z, respectively; subject to the terms and conditions set forth in Appendix E attached hereto, and subject to a minimum charge for each container equal to the product of the rate specified in (1) or (2) above, as applicable, times the minimum chargeable weight set forth below for the container in which the mail is transported:

| Container Type: | *Minimum Charge Weight, lbs.* |
|---|---|
| A–1 | 5600 |
| A–2 | 6000 |
| A–3 | 6200 |
| LD–1 | 2200 |
| LD–3 | 2000 |
| LD–5 | 3350 |
| LD–7 | 4750 |
| LD–11 | 3350 |
| LD–W | 800 |

(e) The mail ton-miles for each shipment shall be computed by using the nonstop great-circle ton-miles between the station of origin and station of destination for each shipment as the standard mileage between such points.

(f) On and after March 28, 1973, for the pickup and the delivery of mail in containers, for the carriers and at the points listed in subparagraph (c) above, (1) at Postal Service facilities other than the facilities mentioned in subparagraph (2) below, the charges in ATP Tariff No. 3–C, C.A.B. No. 19, applicable to the pickup and delivery of A–1, A–2, A–3, LD–1, LD–3, LD–5, LD–7, and LD–W containers in the cities listed in this tariff,[25] and (2) at Postal Service facilities located on or adjacent to airports, the charges set forth below for each of the types of containers used to transport mail:

| Container type: | *Charge* |
|---|---|
| A–1, A–2, A–3 and LD–7. | $40, or the applicable freight tariff rate, whichever is lower. |
| LD–5 | $20 |
| LD–1 and LD–3 | 13 |
| LD–11 | 22 |
| LD–W | 5 |

subject to the terms and conditions set forth in Appendix F attached hereto.

2. The temporary service mail rates, including both linehaul and terminal charges, container minimum charges, and pickup and delivery charges, established herein shall be paid in their entirety by the Postmaster General and shall be subject to retroactive adjustment to March 28, 1973, as may be required by the order establishing final service mail rates in Docket 23080–2.

3. The petitions filed by American Airlines, Inc., Eastern Air Lines, Inc., Northwest Airlines, Inc., Pan American World Airways, Inc., and United Air Lines, Inc., insofar as they request the establishment of temporary container mail rates in Docket 23080–2 are dismissed.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and the regulations promulgated in 14 CFR Part 302;

*It is ordered*, That:

1. All interested persons, and particularly Airlift International, Inc., Alaska Airlines, Inc., Allegheny Airlines, Inc., American Airlines, Inc., Braniff Airways, Inc., Continental Air Lines, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., The Flying Tiger Line Inc., Frontier Airlines, Inc., Hughes Air Corp., National Airlines, Inc., North Central Airlines, Inc., Northwest Airlines, Inc., Ozark Air Lines, Inc., Pan American World Airways, Inc., Piedmont Aviation, Inc., Seaboard World Airlines, Inc., Southern Airways, Inc., Texas International Airlines, Inc., Trans World Airlines, Inc., United Air Lines, Inc., Western Air Lines, Inc., and the Postmaster General, are directed to show cause why the Board should not adopt the foregoing findings and conclusions and fix, determine, and publish the temporary rates and charges specified therein pending the fixing of final rates and charges in this investigation.

2. Further procedures herein shall be in accordance with the rules of practice, 14 CFR Part 302, and if there is any objection to the rates and charges or to the other findings and conclusions proposed herein, notice thereof shall be filed within 15 days, and, if notice is filed, written answer and supporting documents shall be filed within 30 days, after the date of service of this order.

3. If notice of objection is not filed within 15 days, or if notice is filed and answer is not filed within 30 days, after service of this order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of an order fixing temporary service mail rates, minimum container charges, and pickup and delivery charges, and the Board may enter an order incorporating the findings and conclusions proposed herein and fixing and determining the temporary rates and charges herein specified.

4. If notice of objection and answer are filed presenting issues for hearing, issues going to the establishment of the fair and reasonable temporary rates and charges herein shall be limited to those specifically raised by such answers except as otherwise provided in 14 CFR 302.307.

5. Docket 25710 be, and it hereby is consolidated into Docket 23080–2.

6. The motions of American Airlines, Inc., Pan American World Airways, Inc., Northwest Airlines, Inc., United Air Lines, Inc., and Trans World Airlines, Inc., to amend their petitions in Docket 23080–2 be, and they hereby are granted.

7. The motions of the Postmaster General for consolidation of Dockets 25646, 25670, and 25710 into Docket 23080–2 be, and they hereby are dismissed as moot.[26]

8. This order shall be served upon the parties listed in paragraph 1 above.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,[27]
*Secretary.*

[FR Doc.73-18930 Filed 9-5-73;8:45 am]

## CITIZENS' ADVISORY COMMITTEE ON ENVIRONMENTAL QUALITY

### NOTICE OF MEETING

The Citizens' Advisory Committee on Environmental Quality will meet on September 9–10, 1973, in Moran and Moose, Wyoming. The Committee advises the President and the Council on Environmental Quality on matters pertaining to environmental quality.

On September 9, the Committee will take a bus tour conducted by the National Park Service to review programs and problems related to the management of Grand Teton National Park. The tour will depart from Jackson Lake Lodge, Moran, Wyoming, at 8:30 a.m. On September 10 at 9:30 a.m., the Committee will meet at the JY Ranch, Moose, Wyoming. The purpose of the meeting is to review pending Committee business and consider future Committee activities. Subjects to be discussed include land use and urban growth, energy conservation, park and recreation management, Committee publications, and other current environmental issues.

A limited number of seats—approximately 10—will be available to observers from the press and the public on a reserved, first-come basis. Requests to attend the meeting must be submitted in writing or by telephone no later than Friday, September 7, 1973, to Lawrence N. Stevens, Executive Director, Citizens' Advisory Committee on Environmental Quality, 1700 Pennsylvania Avenue NW., Washington, D.C. 20006, telephone 202–223–3040. Oral statements or questioning of Committee members or other participants by observers in attendance at the meeting will not be permitted. Members of the public may file written statements with the Committee before or after the meeting.

Requests for information should be submitted to Lawrence N. Stevens (address given above).

LAWRENCE N. STEVENS,
*Executive Director.*

[FR Doc.73-19081 Filed 9-5-73;10:00 am]

## ENVIRONMENTAL PROTECTION AGENCY

### AGREEMENT BETWEEN DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE AND ENVIRONMENTAL PROTECTION AGENCY

#### Notice Regarding Matters of Mutual Responsibility; Amendment

CROSS REFERENCE: For a document giving notice of an amended agreement between the Department of Health, Education, and Welfare, Food and Drug Administration (FDA) and the Environmental Protection Agency (EPA) on matters of mutual responsibility under the Federal Food, Drug, and Cosmetic Act and the Federal Insecticide, Fungicide and Rodenticide Act, see FR Doc. 18799, "Agreement between the Department of Health, Education, and Welfare and the Environmental Protection Agency" appearing at page 24233 of this issue of the FEDERAL REGISTER.

## FEDERAL MARITIME COMMISSION

### CITY OF LOS ANGELES, ET AL.

#### Notice of Agreements Filed

Notice is hereby given that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763 (46 U.S.C. 814)).

Interested parties may inspect and obtain a copy of the agreements at the Washington office of the Federal Maritime Commission, 1405 I Street, NW., Room 1015; or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, Louisiana, and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before September 26, 1973. Any person desiring a hearing on the proposed agreements shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreements (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreements filed by:

Burt Pines, Esq.
City Attorney
Harbor Division
P.O. Box 151
San Pedro, California 90733

Agreement No. T–2849, between the City of Los Angeles (City) and Japan Line, Ltd., Kawasaki Kisen Kaiska, Ltd., Mitsui O.S.K. Lines, Ltd., and Yamashita-Shinnihon Steamship Co., Ltd. (the Lines), is a 2-year nonexclusive preferential berth assignment agreement providing for the Lines' use of approximately 17.84 acres of terminal property at Los Angeles, California. The facility is to be used for the docking and mooring of vessels, for the receipt, handling, loading, unloading, storage, transporting and delivery of containerized cargo and for uses incidental thereto. As compensation the Lines will pay City the total amount of all charges accruing for dockage, wharfage, wharf storage, wharf demurrage, and all other charges which accrue under Port of Los Angeles Tariff No. 3, with a minimum payment of $332,227 per annum and a maximum payment of $413,476 per annum. In computing the minimum and maximum compensation, the Lines shall be entitled to a credit each month in the amount of all revenues received by City from secondary users of the premises.

Agreement No. T–2849–A, between the same parties, provides for the nonexclusive preferential assignment to the Lines of a twin-lift gantry type container crane at Berths 129–131, at rates set forth in the Port of Los Angeles Tariff No. 3, with a maximum annual compensation of $120,541. City will permit secondary use by other persons and will retain revenues received therefrom.

Dated August 31, 1973.

By order of the Federal Maritime Commission.

JOSEPH C. POLKING,
*Assistant Secretary.*

[FR Doc. 73-18873 Filed 9-5-73;8:45 am]

### ST. LOUIS TERMINALS CORP. AND GRANITE CITY TERMINALS CORP.

#### Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763 (46 U.S.C. 814)).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street, NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before September 26, 1973. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. E. J. Sheppard IV, Attorney for St. Louis Terminal Corporation, Morgan, Lewis & Bocklus, 1140 Connecticut Avenue NW., Washington, D.C. 20036

Agreement No. T–2843, between St. Louis Terminals Corporation (Terminals) and Granite City Terminals Corporation (Granite City), provides for the 25-year sublease (with renewal options) to Granite City of certain marine terminal property at Granite City Harbor in the Missouri-Illinois Metropolitan District, which Terminals leases from Bi-State Development Agency (Bi-State). Granite City will use the premises as a public river-rail-truck terminal for the handling of waterborne cargo and uses incidental thereto. Granite City is subject to all of the terms, provisions, and conditions of Agreement No. T–2840, as amended, between Bi-State and Terminals. As compensation, Granite City will collect and retain as its own property all revenue derived from the operation of said terminal facilities.

Dated August 31, 1973.

By order of the Federal Maritime Commission.

JOSEPH C. POLKING,
*Assistant Secretary.*

[FR Doc.73-18874 Filed 9-5-73;8:45 am]

[24] On and after October 1, 1973, the temporary rates for sack mail to and from points previously subject to the nonpriority mail rate but not included in domestic priority mail rate orders (i.e., Wake Island; Agana, Guam; Pago Pago, American Samoa; Guaymas, La Paz, Mazatlan, Puerto Vallarta, Tampico, and Veracruz, Mexico) will thus be the mail rates established by Board orders applicable to those points (i.e., Orders 68–9–9, dated September 4, 1968, and 69–10–149, dated October 30, 1969, as amended).

[25] The charges for LD–11 containers shall be the same as the tariff rates for LD–7 containers.

[26] Dockets 25646 and 25670 were consolidated into Docket 23080–2 by Order 73–7–29, July 10, 1973.

[27] Appendices A–F filed as part of the original document.







V 38-172 SEP 6 73 XUM

## FEDERAL POWER COMMISSION

[Docket No. RP73-98]

### ALGONQUIN GAS TRANSMISSION CO.

### Order Rejecting Proposed Increase in Rates and Charges and Permitting Intervention

AUGUST 29, 1973.

On June 8, 1973, Algonquin Gas Transmission Co. (Algonquin) tendered for filing First Revised Sheet Nos. 11–C and 11–D of its FPC Tariff, Original Volume No. 1. The tendered sheets reflect a change in the rate form for Synthetic Natural Gas (SNG) sales from a one part rate of $1.80 per Mcf, to a two part, Demand-Commodity form of rate.[1]

The proposed revised rate consists of a monthly Demand Charge of $15.90 per Mcf of contract demand plus a Commodity Charge described as the average cost of feedstock per Mcf of SNG produced during the billing month. The proposed revised tariff also contains a minimum monthly bill consisting of the Demand Charge plus the Commodity Charge specified above multiplied by a minimum volume of SNG for the particular billing month.

Algonquin requests an effective date of one day after the service under the initial rate is instituted (estimated to be October 16, 1973) and, accordingly, requests waiver of Section 154.22 of the Commission's regulations under the Natural Gas Act to permit the filing to be made at this time.

Section 154.38(d) of the regulations under the Natural Gas Act requires that a specific rate (cents or dollars and cents per unit) be stated in filed rate schedules and that no periodic adjustment provisions may be included in a rate schedule or tariff which purports to change the specified rate. The rate formula Algonquin proposes here is clearly not in conformance with our regulations. The Commodity Charge which Algonquin proposes is unknown and would not be known with any certainty until after the monthly bill is computed. We must assume that Algonquin is, therefore, seeking waiver of Section 154.38 of our Regulations.

As we stated in Opinion Nos. 637 and 637–A, Algonquin may file for an increase in rates under section 4(e) of the Natural Gas Act provided such increase is cost based, and the increased costs are reasonably and prudently incurred. However, we cannot accept for filing the rates proposed in this docket since the filing constitutes a radical departure from our regulations under the Natural Gas Act as well as from the guidelines laid down in Opinion Nos. 637 and 637–A. Algonquin here is attempting to not only increase its rates but also to, in effect, include a tracking provision in its SNG rate to allow it to adjust its monthly Commodity Charge to correspond to changes in the price of naphtha feedstock from its supplier, Algonquin SNG, Inc. In Opinion 637–A we stated that we intend to insure that increases in rates reflect actual costs which are reasonably and prudently incurred. (See Opinion 637–A, mimeo p. 4.) Algonquin here is proposing a rate which would thwart that intent.

Finally, we note that Algonquin has filed no cost and revenue data, nor testimony and exhibits, to support the alleged increases in costs.

Accordingly, we shall deny Algonquin's request for waiver of § 154.38(d) of our regulations, and we shall reject Algonquins' filing, without prejudice to Algonquin filing a rate conforming to our regulations and supported by appropriate testimony and exhibits from Algonquin and from Algonquin SNG, Inc. to support both the increase in feedstock costs and the proposed level of the Demand Component of the rate.

The Algonquin Customer Group[2] filed a protest to the proposed increase on July 16, 1973, and also urges rejection of the filing. Boston Gas' protest also makes reference to a petition to intervene which it filed in response to Algonquin's April 16, 1973, filing, and which it believes is properly filed in this proceeding. We shall treat Boston Gas' pleading as a proper petition to intervene in this proceeding, and, as such, grant the petition. However, should Algonquin choose to refile the proposed revised rate, Boston Gas will be required to file a new petition to intervene in order to become a party to any future proceeding. Boston Gas' intervention is limited to further proceedings concerning the filing of June 8, 1973, in this docket.

*The Commission finds:*

(1) Participation of the above-named petitioner to intervene may be in the public interest.

(2) It is necessary and appropriate in the public interest and to aid in the enforcement of the Natural Gas Act that Algonquin's proposed tariff sheets, tendered on June 8, 1973, in Docket No. RP73–98 be rejected as hereinafter provided.

*The Commission orders:*

(A) Algonquin's request for waiver of § 154.38(d) of the regulations under the Natural Gas Act is hereby denied.

(B) Algonquin's proposed tariff sheets, tendered on June 8, 1973, in Docket No. RP73–98 are hereby rejected.

(C) The above-named petitioner is hereby permitted to intervene in this proceeding subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenor shall be limited to matters affecting rights and interests specifically set forth in its petition to intervene; and *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

APPENDIX A

Boston Gas Company
Bristol and Warren Gas Company
Brockton Taunton Gas Company
Cape Cod Gas Company
Commonwealth Gas Company
The Connecticut Gas Company
Connecticut Natural Gas Corporation
Fall River Gas Company
The Hartford Electric Light Company
Town of Middleborough, Municipal Gas and Electric Department
New Bedford Gas and Edison Light Company
The Newport Gas Light Company
North Attleboro Gas Company
City of Norwich, Department of Public Utilities
Pequot Gas Company
South County Gas Company
The Southern Connecticut Gas Company
Tiverton Gas Company

[FR Doc.73-18907 Filed 9-5-73;8:45 am]

[1] By filing also made on June 8, 1973, Algonquin tendered the above described initial rate for filing. That rate was accepted for filing by order issued August 10, 1973, in Docket Nos. CP72–35 and CP69–41. An earlier filing of an initial and revised rate, tendered in April 16, 1973, was rejected by order issued June 5, 1973.

[2] See Appendix A for membership.

[Docket No. E-7775]

### APPALACHIAN POWER CO.

### Order Dismissing Complaint

AUGUST 29, 1973.

Appalachian Power Co. (Appalachian) filed on September 21, 1972, proposed rate changes in its FPC Rate Schedule Nos. 26, 27, 30–38, 40–44, 46–51, and 54 to become effective on October 21, 1972. Notice of the proposed increases, issued October 2, 1972, provided that the closing dates for petitions to intervene, protests, and comments would be October 16, 1972.

Timely petitions to intervene, motions to reject, and protests were filed by Virginia Polytechnic Institute and State University (VPI), City of Danville, City of Martinsville, City of Salem, City of Bedford, and City of Radford (Five Cities and VPI). City of Richland filed a protest and petition to intervene. By order of October 20, 1972, we permitted the interventions and accepted Appalachian's filing in the proceeding, hearing in which is now scheduled to commence on October 9, 1973.

On July 10, 1973, the Cities of Richland and Martinsville filed a complaint alleging that the proposed rates, which became effective at the end of the suspension period on March 22, 1973, were discriminatory because the rates charged to those cities were higher than the rates charged to large industrial customers of Appalachian.

We considered the possibility of such discrimination in our October 20, 1972, order suspending the rates. There we stated that the proposed increase "* * * may be unjust, unreasonable, unduly discriminatory, or preferential * * *" For this reason, we ordered the evidentiary hearing pending in this docket.

The present complaint does nothing more than allege issues that cannot be dealt with summarily and are already set for hearing in the pending proceeding and raises no new facts which wafrant any change in our prior order.

*The Commission finds*

The complaint by the Cities of Richland and Martinsville raises no new issues or facts which warrant modification or change in the prior order in this docket.

*The Commission orders*

The complaint of the Cities of Richland and Martinsville is dismissed.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-18881 Filed 9-5-73;8:45 am]





[Docket Nos. E-8250; E-8142; E-8071]

### ARKANSAS POWER AND LIGHT CO.

### Order Amending Prior Order

AUGUST 29, 1973.

On August 7, 1973, Arkansas Power and Light Co. (APLC) filed a Motion for Clarification of the Commission's Order of July 3, 1973, in Docket No. E–8142 and of July 31, 1973, in the above-captioned consolidated dockets.

In its motion APLC states that in Ordering Paragraph (C) of the Commission's Order Accepting Proposed Rate Increase for Filing and Instituting Investigation of Debt Adjustment Provision Under section 206 of the Federal Power Act, issued July 3, 1973, in Docket No. E–8142, the Commission directed APLC to file its prepared testimony and exhibits in that docket by September 4, 1973. In its Order of July 31, 1973, the Commission consolidated Docket No. E–8142 with Docket Nos. E–8250 and E–8071 and stated in Finding Paragraph (6) the procedural dates in the July 3, 1973, Order "should be amended as hereinafter ordered." In Ordering Paragraph (B) of the July 31, 1973, Order, the Commission required APLC to file an updated cost of service in Docket Nos. E–8250 and E–8071 within 60 days of the issuance of the order. In its motion of August 2, 1973, APLC asks whether the service of evidence by Company and Staff in Docket No. E–8142 will be the same schedule as established in Docket Nos. E–8071 and E–8250 and therefore, APLC's direct evidence in Docket No. E–8142 would be due at the same time as its updated cost of service is to be filed.

As hereinafter stated, the Commission finds that APLC's direct evidence in Docket No. E–8142 should be filed on October 1, 1973, the same due date for its updated cost of service in Docket Nos. E–8250 and E–8071.

*The Commission finds*

Good cause exists to amend the Commission Order of July 31, 1973, to provide for APLC's direct evidence in Docket No. E–8142 to be served on October 1, 1973.

*The Commission orders*

(A) The Commission Order of July 31, 1973, is hereinafter amended to provide for APLC's service of direct evidence on October 1, 1973, in Docket No. E–8142.

(B) Staff's evidence in Docket Nos. E–8250 and E–8071 shall be served in accordance with the procedural dates set forth in the order of July 31, 1973. Staff's evidence in Docket No. E–8142 shall be served on January 4, 1974.

(C) APLC's motion for clarification is hereby granted.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-18882 Filed 9-5-73;8:45 am]

[Docket Nos. CI74–116 and CI74–117]

### BEREN CORP.

### Notice of Applications

AUGUST 28, 1973.

Take notice that on August 20, 1973, Beren Corp. (Applicant), 1130 Vickers-KSB&T Building, Wichita, Kans. 67202, filed in Docket Nos. CI74–116 and CI74–117 applications pursuant to section 7(c) of the Natural Gas Act for certificates of public convenience and necessity authorizing sales for resale and deliveries of natural gas in interstate commerce to El Paso Natural Gas Co. from acreage in Lea County, New Mexico, and Eddy County, New Mexico, respectively, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Applicant states that it commenced the sales of gas to El Paso from both areas on July 1, 1973, within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sales for two years from the end of the sixty-day emergency periods within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). Applicant proposes to sell approximately 1,000 Mcf of gas per day in Docket No. CI74–116 and approximately 2,000 Mcf of gas per day in Docket No. CI74–117, all at 55.0 cents per Mcf at 14.65 p.s.i.a., subject to upward and downward Btu adjustment.

It appears reasonable and consistent with the public interest in these cases to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said applications should on or before September 14, 1973, file with the Federal Power Commission, Washintgon, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, hearings will be held without further notice before the Commission on these applications if no petitions to intervene are filed within the time required herein, if the Commission on its own review of the matter finds that grants of the certificates are required by the public convenience and necessity. If petitions for leave to intervene are timely filed, or if the Commission on its own motion believes that formal hearings are required, further notice of such hearings will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearings.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-18772 Filed 9-5-73;8:45 am]

[Docket No. CI74–94]

### BLAKE HAMMAN

### Notice of Petition for Disclaimer of Jurisdiction or for Permission and Approval To Abandon

AUGUST 27, 1973.

Take notice that on July 23, 1973, Blake Hamman, Continental Life Building, Fort Worth, Tex 76102, filed in Docket No. CI74–94 a petition for disclaimer of jurisdiction over the sale of natural gas from its Winford No. 1 well in Jack County, Texas, or in the alternative, an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon the sale of natural gas from said well to George Mitchell and Associates, Inc. (Mitchell), for resale to Natural Gas Pipeline Company of America (Natural), all as more fully set forth in the filing which is on file with the Commission and open to public inspection.

Applicant, pursuant to a gas contract dated August 1, 1967, agreed to sell to Mitchell all of his gas from the Winford No. 1 well at 16.5 cents per Mcf at 14.65 p.s.i.a. Applicant states that under Article IV of such contract the buyer, Mitchell, reserved the right to deliver this gas to a third party and that he was aware that Mitchell delivered this gas into a pipeline belonging to Natural, but that he was never so advised that this gas was being sold to any third party inasmuch as all dealings and payments



V 38-172 SEP 6 73 XUM

in connection with this sale with Mitchell were made for gas only and not for any plant processing.[1] Applicant further states that he has not adopted, ratified, or confirmed any other contract for the sale of this gas other than his contract with Mitchell.

Applicant believes that the Federal Power Commission in these circumstances has no jurisdiction over the sale of gas from this well and requests that the Commission make such a determination. In the event the Commission finds that it does have jurisdiction over this well, he requests authorization to abandon the said operation. Applicant states that under Article XII of his contract to Mitchell, he may cancel this sale by giving thirty days notice to Mitchell and he did so on May 1, 1973, with a view of trying to enter into a contract with a convenient intrastate purchaser with a pipeline under 25 pounds of pressure.

Any person desiring to be heard or to make any protest with reference to said petition should on or before September 21, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest, in accordance with requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such a hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-18773 Filed 9-5-73;8:45 am]

[1] Article IV states "Buyer shall maintain and operate a gathering system and compression plant adequate to receive and deliver to a third party purchaser all gas produced from lands covered hereby. Gas required for the development and operation of the lands covered hereby shall be excluded from the terms of this purchase agreement. Buyer shall have the right to remove all of its property installed by a third party designated by Buyer within a reasonable time after the termination of this Contract."

---

[Docket No. E-8187]

## BOSTON EDISON CO.

### Order Accepting for Filing Initial Rate Schedule, Instituting an Investigation, Granting Waiver Request, Establishing Hearing Procedures, and Permitting Intervention

AUGUST 24, 1973.

On May 7, 1973, Boston Edison Co. (Edison) tendered for filing as an initial rate schedule a transmission agreement between it and New England Power Co. (NEPCO). Under the agreement Edison will wheel power on behalf of NEPCO over its 115 kv transmission lines to NEPCO's Quincy-Weymouth area which previously has been served by Edison. The proposed service will provide Edison with approximately $624,976 in revenues based on the twelve months ended October, 1973. Edison requests waiver of the Commission's Regulations to permit the proposed rate schedule to become effective as of November 1, 1972. In support of its requested waiver Edison states that NEPCO started supplying its 115 kv load in that area on November 1, 1972, and Edison was unable to submit this agreement earlier due to the length of the negotiating process.

On June 8, 1973, the Commission's Secretary notified Edison that the filing was deficient and informed Edison that a filing date would not be assigned this docket until the deficiency had been cured. On July 27, 1973, Edison cured the deficiency and reiterated its request for an effective day of November 1, 1972. In view of the circumstances presented we will grant the requested waiver and permit the proposed to take effect November 1, 1972.

Public notice of Edison's tendered proposal was issued on May 30, 1973, which required protest and petitions to intervene be filed by June 11, 1973. The Town of Norwood, Mass. (Norwood), timely filed a protest, petition to intervene and motion to consolidate this proceeding with Docket No. E-7784.

In its request for leave to intervene Norwood asserts that the refusal of Boston Edison to agree with Norwood for wheeling, while at the same time providing wheeling to NEPCO as set forth in the tendered agreement of November 1, 1972, is discriminatory in violation of section 205 of the Federal Power Act, as well as in violation of the antitrust laws.

Edison filed an answer to Norwood's petition on June 26, 1973, in which Edison asserts that Norwood has no interest in this proceeding. Edison further states that the special contract rate in this docket is not the same, not derived from the same formula and does not cover any service offered under the tariff filing in Docket No. E-7784. Edison concludes that Norwood's motions, being without substance, can only be designed to harass.

By order issued May 31, 1973, in Indiana and Michigan Electric Co., Docket No. E-7740 we set minimum standards for those who would raise anticompetitive issues. These standards are that the petition to intervene must clearly specify (1) the facts relied upon, (2) the anticompetitive practices challenged and (3) the requested relief which is within this Commission's authority to direct. (Mimeo p. 3). Our review of Norwood's petition to intervene indicates that it fails to specify the relief it seeks and fails to demonstrate that such relief is within this Commission's authority to direct. Accordingly, we shall limit Norwood's participation in this proceeding to matters other than the alleged anticompetitive activities. This action is without prejudice to Norwood's right to file an appropriate amended petition which sets forth the relief for the alleged anticompetitive conduct that is within this Commission's authority to grant.

The issues raised by the above pleadings cannot be decided summarily but rather require development in an evidentiary proceeding. Moreover, Edison's filing raises other issues, inter alia, rate of return, embedded debt cost adjustment provision, allocation method, depreciation rate, and the ratchet provision, which require development in an evidentiary hearing. The proposed rates and charges have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or preferential or otherwise unlawful. Accordingly, we shall institute an investigation under section 206 of the Federal Power Act. Under the Federal Power Act the Commission may not suspend an initial rate schedule. We must therefore deny Norwood's motion for suspension. Since the issues raised in this proceeding and in Docket No. E-7784 are separable and since consolidation of these dockets would result in delaying the proceedings in Docket No. E-7784 which was filed on October 3, 1972, we will deny Norwood's motion for consolidation of these dockets.

*The Commission finds*

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission enter upon an investigation and hearing concerning the lawfulness of the transmission agreement tendered by Edison on May 7, 1973, as an initial rate schedule and whether the rates and charges therein contained are in the public interest.

(2) The disposition of this proceeding should be expedited in accordance with the procedure set forth below.

(3) Good cause exists to waive the notice requirements of the Commission's Regulations.

(4) Norwood's participation in this proceeding may be in the public interest.





*The Commission orders*

(A) Boston Edison's proposed transmission agreement with NEPCO executed on November 1, 1972, and tendered as an initial rate schedule on May 7, 1973, is hereby accepted for filing.

(B) The notice requirements of the Commission's Regulations are hereby waived and Edison's proposed initial rate schedule described above is hereby made effective November 1, 1972.

(C) Norwood's motion to consolidate this proceeding with Docket No. E-7784 is hereby denied for the reasons stated above.

(D) Pursuant to the authority of the Federal Power Act, particularly section 206 thereof, the Commission's rules of practice and procedure, and the regulations under the Federal Power Act (18 CFR, Chapter I), an investigation is hereby instituted to determine through an evidentiary hearing, commencing with a prehearing conference on November 27, 1973, at 10:00 a.m., e.s.t., in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, the lawfulness of the transmission agreement tendered by Edison on May 7, 1973, as an initial rate schedule and whether the rates and charges therein contained are in the public interest.

(E) At the prehearing conference on November 27, 1973, all prepared testimony together with Edison's entire rate filing shall be admitted to the record subject to appropriate motions, if any, by parties to this proceeding. All parties will be expected to come to this conference prepared to effectuate the provisions of § 1.18 of the Commission's rules of practice and procedure.

(F) On or before September 25, 1973, Edison shall serve its prepared testimony and exhibits. On or before October 23, 1973, the Commission Staff shall serve its prepared testimony and exhibits. The prepared testimony and exhibits of Norwood shall be served on or before November 6, 1973. Any rebuttal evidence by Edison shall be served on or before November 20, 1973. Cross-examination of the evidence will commence on December 4, 1973, at 10:00 a.m., e.s.t.

(G) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control the proceedings in accordance with the policies expressed in the Commission's rules of practice and procedure.

(H) The above-named petitioner is hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenor shall be limited to matters affecting rights and interests specifically set forth in its petition to intervene and matters other than alleged antitrust violations, and *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it may be aggrieved because of any order or orders issued by the Commission in this proceeding.

(I) The Secretary of the Commission shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-18774 Filed 9-5-73;8:45 am]

---

[Docket Nos. E-7685; E-7798]

## CENTRAL VERMONT PUBLIC SERVICE CORP.

### Notice of Extension of Time and Postponement of Hearing

AUGUST 29, 1973.

On August 16, 1973, Central Vermont Public Service Corp., joined by its wholesale customers and the Commission Staff, filed a joint motion to extend the procedural dates pending presentation of a settlement agreement in the above-designated proceedings.

Upon consideration, notice is hereby given that:

(A) The time is extended to and including October 30, 1973, within which briefs on exceptions may be filed to the decision issued August 1, 1973, in Docket No. E-7685. Briefs opposing exceptions to the decision may be filed on or before October 19, 1973.

(B) The procedural dates fixed by notice issued June 27, 1973, in Docket No. E-7798 are further modified as follows:

Service of Intervener Testimony, November 9, 1973.
Service of Company Rebuttal evidence, December 3, 1973.
Cross-Examination, December 13, 1973 (10 a.m., e.s.t.).

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-18883 Filed 9-5-73;8:45 am]

---

[Project No. 553]

## CITY OF SEATTLE

### Order Ruling on Motion for Extension of Time

AUGUST 28, 1973.

By motion filed July 31, 1973, Staff has requested an extension of time of the date set by our Order of January 24, 1973, for the filing of the Staff draft environmental impact statement and incidentally thereto, all subsequent dates in the schedule including the date set for hearing in this proceeding.[1]

Staff notes that on June 7, 1973, we issued our Order No. 485 which amended Part 2 of our general rules to provide guidelines for the preparation of applicants' environmental reports pursuant to our Order No. 415-C. On page 7 of Order No. 485 we stated:

"Moreover, in relevant applications now pending before the Commission, Staff shall use the guidelines to determine deficiencies in the information submitted and to request necessary additional information."

Staff Counsel then stated that in view of the retroactive effect of Order No. 485 staff applied the guidelines to the information currently available to it and determined that due to certain deficiencies in the information additional data was required prior to issuing the draft environmental impact statement.

The additional time requested, if granted, would change the filing date for Staff's draft environmental impact statement from August 1, 1973, to November 1, 1973, and all other scheduled dates in our Order of January 24, 1973, accordingly.

Applicant's reply filed August 7, 1973, opposes the requested extension of time by staff, while intervenors' North Cascades Conservation Council, Wilderness Society, et al. reply filed August 13, 1973, supports staff's request.

We are aware of the extreme necessity for construction of new generation at this time; however, we cannot overlook the requirements of the National Environmental Policy Act and recent court interpretations of that Act calling for an independent evaluation by Commission staff of environmental impacts of proposed projects and circulation of an adequate draft statement for comment. Issuance of an incomplete draft environmental impact statement by Staff would be self-defeating and could well lead to much greater delay.

Reluctant as we are to permit any extension of schedules fixed by orders, the necessity for the circulation of an adequate draft environmental impact statement outweighs the delay involved. In granting Staff's request for additional time, we are directing it to expedite the studies and to file the statement no later than October 24, 1973.

*The Commission orders*

The dates set forth in Ordering Paragraph (B) of our Order of January 24, 1973, are changed, insofar as necessary to grant Staff's Motion as follows:

[1] The schedule prescribed by our Order of January 24, 1973, was:

1. On August 1, 1973, Staff filing of its draft environmental impact statement, issuance of public notice of the availability of the statement and circulation for comments.
2. On September 7, 1973, filing of all comments to the Staff's draft environmental impact statement.
3. On November 1, 1973, filing of Staff's and Intervenor's testimony and exhibits and filing of Staff's final environmental impact statement.
4. On December 3, 1973, commencement of hearing in this proceeding.

The schedule proposed by Staff's Motion for Extension of Time is:

1. On November 1, 1973, filing of Staff's draft environmental impact statement, issuance of public notice of the availability of the statement, and circulation for comments.
2. On December 17, 1973, filing of all comments to the Statement.
3. On February 1, 1974, filing of Staff's and Intervenor's testimony and exhibits and filing of Staff's final environmental impact statement.
4. On March 4, 1974, commencement of hearing in this proceeding.



V 38-172 SEP 6 73 XUM

1. On October 24, 1973, Staff shall file a draft environmental impact statement.

2. At the same time that the Commission Staff's draft environmental impact statement is filed with the Secretary, public notice of the availability of the Commission Staff's statement shall be made available to the parties to this proceeding, the Council on Environmental Quality, the general public and other appropriate Federal, State and local agencies. All comments shall be filed with the Secretary by December 10, 1973.

3. On January 24, 1974, the Commission Staff and Intervenors, respectively, shall file, with the Secretary, an original and 10 copies of all direct testimony and exhibits, including qualifications of witnesses with copies served on all parties.

4. On January 24, 1974, the Commission Staff shall also file an original and 10 copies of the Commission Staff's final environmental impact statement. Copies of the final environmental impact statement shall be served on all participants.

5. In order that the parties may have a sufficient period of time in which to prepare cross-examination on the Staff's final environmental impact statement, the hearing in this proceeding shall commence on Febuary 25, 1974.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-18884 Filed 9-5-73;8:45 am]

[Docket No. RP72-122]

## COLORADO INTERSTATE GAS CO.

### Proposed Change in Rates Under Purchased Gas Adjustment Clause Provisions

AUGUST 24, 1973.

Take notice that Colorado Interstate Gas Co., a division of Colorado Interstate Corp. (CIG), on August 15, 1973, tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1. The proposed changes would increase the commodity rate under each of CIG's jurisdictional rate schedules by 2.39 cents per Mcf to reflect actual and estimated increased purchased gas costs.

The filing is made pursuant to the provisions of section 21 of CIG's FPC Gas Tariff, Second Revised Volume No. 1, which, according to CIG, authorizes the company annually to reflect changes in its cost of purchased gas.

CIG states that copies of the filing have been served upon the company's jurisdictional customers and other interested persons, including public bodies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 17, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-18775 Filed 9-5-73;8:45 am]

[Docket No. RP73-93]

## COLORADO INTERSTATE GAS CO.

### Notice of Extension of Time and Postponement of Prehearing Conference and Hearing

AUGUST 24, 1973.

On August 21, 1973, Commission Staff Counsel filed a motion for an extension of the procedural dates fixed by order issued April 27, 1973, in the above-designated matter. The motion states that there were no objections to the request.

Upon consideration, notice is hereby given that the procedural dates in the above-designated matter are modified as follows:

Staff Service September 7, 1973
Prehearing Conference September 25, 1973 (10:00 a.m., e.d.t.)
Intervenor Service October 1, 1973
Company Rebuttal October 18, 1973.
Hearing October 30, 1973 (10:00 a.m., e.s.t.)

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-18776 Filed 9-5-73;8:45 am]

[Docket No. E-7984]

## CONSUMERS POWER CO. AND DETROIT EDISON CO.

### Order Instituting Investigation and Hearing

AUGUST 28, 1973.

On December 27, 1971, Consumers Power Co. (Consumers) submitted an initial rate filing pursuant to section 205 of the Federal Power Act and Part 35.12 of the Commission's rules.[1] The Detroit Edison Co. (Detroit) filed a similar agreement on March 6, 1972 for sale to Commonwealth Edison Co. (Commonwealth) of portions of the initial output of the Ludington Pumped Storage Plant, which will comprise six units of 312 MW generating and 323 MW pumping capability each upon project completion in 1974, to be owned jointly by Detroit and Consumers.[2] The initial filings provide for the sale to Commonwealth of up to ⅓ of the Ludington output for the first ten years of operation and up to ⅙ output for five years thereafter.

Estimates of annual charges to be paid to Consumers and Detroit total $18,042,336 for each of the first ten years and $9,021,168 for each of the last 5 years of the 15-year term, based on an investment of $343,232,000 and an annual fixed charge rate of 15.77 percent with a return component of 10.32 percent. Consumers and Detroit submitted data indicating that if consideration be given to transmission and interconnection investment costs required for the Commonwealth sale but excluded from rate design computations, then total charges to be paid by Commonwealth over the 15-year term would yield a levelized rate of return of 8.30 percent. Notwithstanding such additional costs, the Commission calculates that Consumers and Detroit will realize a 12.5 percent return on equity from the proposed fixed charges, on the questionable assumption that incremental senior capital costs of 8.5 percent on long term debt and 8.75 percent on preferred stock used by Consumers and Detroit were reasonable. We therefore find that good cause exists for the institution of an investigation and hearing pursuant to section 206 of the Federal Power Act for the purpose of determining the justness and reasonableness of the proposed rate filings.

Written notice of the filings was issued by the Commission on March 22, 1973 and published on March 30, 1973 (38 FR 8311), stating that any person desiring to be heard or to make any protest with reference to the application should on or before April 12, 1973 file with the Federal Power Commission petitions or protests. No petition, protest or request to be heard having been received, the Commission finds it in the public interest to extend the period within which to file petitions in this Docket.

*The Commission finds*

Pursuant to the provisions of section 206 of the Federal Power Act, an investigation and hearing should be instituted for the purpose of determining the justness and reasonableness of the proposed rate filings submitted in this docket by Consumers Power Co. on December 27, 1971, and by Detroit Edison Co. on March 6, 1972.

*The Commission orders*

(A) Pursuant to the provisions of section 206 of the Federal Power Act, an investigation and hearing is hereby instituted for the purpose of determining the justness and reasonableness of the proposed rate filings.

(B) A prehearing conference shall be held on September 26, 1973, for the purpose of establishing necessary hearing procedures, including a schedule for the submission of evidence, if any, by the parties to the proceeding, and for the expeditious resolution of other related matters as may be required.

[1] Consumers-Commonwealth Agreement dated June 1, 1971, and amendment thereto dated August 15, 1971, were submitted on December 27, 1971, and were assigned a filing date of May 8, 1972, upon submittal of requisite supporting data. Designated: Consumers Power Company, Rate Schedule FPC No. 28.

[2] Detroit-Commonwealth Agreement dated June 1, 1971, and Amendment thereto dated August 15, 1971, were submitted on March 6, 1972, and were assigned a filing date of June 12, 1972 upon submittal of supporting data. Designated: The Detroit Edison Company, Rate Schedule FPC No. 16. The Consumers-Detroit Agreements are to become effective on the earliest of (a) the commercial operation date of the fifth unit of the Ludington plant; (b) January 1, 1974, if at least one unit is declared to be in commercial operation; or, (c) the commercial operation date of the first unit if such date is subsequent to January 1, 1974.





(C) The initial rate schedules tendered by Consumers and Detroit are hereby accepted for filing subject to the conditions stated herein. The effective date shall be the earliest of the following: (a) The commercial operation date of the fifth unit of the Ludington plant; (b) January 1, 1974, if at least one unit is declared to be in commercial operation; or, (c) the commercial operation date of the first unit if such is subsequent to January 1, 1974.

(D) Any person desiring to intervene in this proceeding should file a petition to intervene with the Federal Power Commission, Washington, D.C. 20426, in accordance with § 1.8 of the Rules of practice and procedure (18 CFR 1.8). All such petitions should be filed on or before September 25, 1973.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-18885 Filed 9-5-73;8:45 am]

[Docket No. E-8189]

## DAYTON POWER AND LIGHT CO.

### Notice of Proposed Changes in Rates

AUGUST 27, 1973.

Take notice that The Dayton Power and Light Co. (Dayton), on August 9, 1973, tendered for filing revised tariff sheets to its FPC Electric Tariff Original Volume No. 1. The revised tariff sheets which are proposed as substitute sheets for the two revised tariff sheets filed by Dayton on May 11, 1973, applicable to service to municipalities for resale, would become effective on September 10, 1973. Dayton's rate filing of May 11 was suspended until September 10, 1973, by Commission order issued July 9, 1973.

Dayton states that the substitute tariff sheets are filed in compliance with paragraph (G) of the July 9 order and include amendments to the fuel adjustment clause of the rate schedule, together with a revised statement of the derivation of the fuel cost adjustment factor. As revised in the substitute sheets, following the revised definition therein contained, that factor is reduced from that contained in the May 11 rate filing from 0.0109 cents to 0.0108 cents per Kilowatt-hour, and the base cost of fuel reflected in the rates and charges is reduced from 41.96 cents to 41.24 cents per one million Btu. Copies of the August 9 filing have been served upon the 13 municipal customers and interveners in this proceeding.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 12, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary,*

[FR Doc.73-18778 Filed 9-5-73;8:45 am]

[Docket No. CI74-118]

## DEVON CORP.

### Notice of Application and Petition for Disclaimer of Jurisdiction Over Liquid Products Sale and Facilities

AUGUST 30, 1973.

Take notice that on August 20, 1973, Devon Corp. (Applicant), 3300 Liberty Tower, Oklahoma City, Oklahoma 73102, filed in Docket No. CI74-118 an application pursuant to section 7(c) of the Natural Gas Act and § 2.75 of the Commission's general policy and interpretations (18 CFR 2.75) for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Southern Natural Gas Co. (Southern) from the Big Escambia Creek Field, Escambia County, Alabama, and for an order declaring that the transportation and sale of condensate and light liquid products to Southern, together with Applicant's facilities necessary to such operations are not subject to the Commission's jurisdiction, all as more fully set forth in the application and petition which are on file with the Commission and open to public inspection.

Applicant proposes under the optional gas pricing procedure to sell approximately 67.5 Mcf of gas per day to Southern from the Big Escambia Creek Field at an initial rate of 55.0 cents per million Btu at 14.65 p.s.i.a., pursuant to a contract dated December 1, 1972. Said contract provides for a 1.0-cent per million Btu price escalation every two years, for reimbursement to the seller for ⅞ of any new or increased taxes and for a term of 20 years. Applicant also requests pregranted abandonment authorization.

Applicant states that its contract with Southern was the result of arm's length negotiations and that the contract with its price provisions is competitive with offers from other potential buyers, including potential purchasers in the intrastate market. Applicant asserts that the contract price with adjustments is substantially lower than prices for base load sales of liquefied natural gas or synthetic gas for which applications for authorization are pending or have been approved by the Commission. Applicant alleges that it will incur substantial costs in removing sulfur from the natural gas prior to its delivery to Southern.

Applicant requests that the Commission issue an order declaring that the sale of liquid products and facilities necessary therefor in the Big Escambia Creek Field are not within the Commission's jurisdiction. Applicant states that it, along with other producers in the field, intend to construct a gas treatment plant to treat the gas to remove the sulfur, carbon dioxide, and liquid hydrocarbons. Applicant plans to remove the condensate from the gas stream and then pump it into storage tanks, after stabilization in the gas treating plant. By an Option Agreement dated December 1, 1972, Applicant has granted Southern an option to purchase both the condensate and light liquid products from this point. Under this arrangement Applicant would deliver the condensate and light liquid products at Southern's liquid meters located immediately downstream from its storage tanks.

Applicant indicates that Southern, after taking delivery of both the condensate and light liquid products would transport both commodities to its Maximum Utilization Plant, which it proposes in Docket No. CP73-154 to construct in the Big Escambia Creek Field. The condensate and light liquid products would be converted into methane for delivery into Southern's interstate gas system. Applicant asserts that the Commission does not have jurisdiction over the sale and facilities necessary therefor since liquid hydrocarbons are not natural gas as that term is used in the Natural Gas Act.

Applicant requests that the Commission consolidate its proposal in the instant application with the proceedings in Mallard Exploration Inc. (Operator), et al., Docket No. CI73-698, and Exxon Corp., Docket No. CI73-839.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 24, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.



V 38-172 SEP 6 73 XUM

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-18886 Filed 9-5-73;8:45 am]

[Docket No. CI74-110]

**DYCO PETROLEUM CORP.**
**Notice of Application**

AUGUST 27, 1973.

Take notice that on August 14, 1973, Dyco Petroleum Corp. (Applicant), 607 Philtower Building, Tulsa, Okla. 74103, filed in Docket No. CI74-110, an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Northern Natural Gas Co. from the Weaver No. 3-23 Well, Ellis County, Okla., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell for two years approximately 750 Mcf of gas per day at 46.0 cents per Mcf at 14.65 p.s.i.a. the first year and 46.5 cents per Mcf the second year, plus tax reimbursement and subject to upward and downward Btu adjustment from 930 Btu per cubic foot, within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). Monthly deliveries are estimated at 22,500 Mcf of gas. Applicant states that it holds a small producer certificate and is filing the instant application because of the present uncertainty of its status.[1]

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 10, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-18777 Filed 9-5-73;8:45 am]

[Docket No. E-8366]

**EL PASO ELECTRIC CO.**
**Notice of Application**

AUGUST 30, 1973.

Take notice that on August 14, 1973, El Paso Electric Co. (Applicant), filed an application with the Federal Power Commission seeking authority pursuant to Section 204 of the Federal Power Act to issue 300,000 shares of Common Stock which, based upon recent market prices for the Company's Common Stock, would raise approximately $3,600,000.

The Applicant is incorporated under the laws of the State of Texas with its principal business office at El Paso, Texas, and is engaged in the electric utility business in the States of Texas and New Mexico in an area in the Rio Grande Valley extending approximately 110 miles northwesterly from El Paso to the Caballo Dam in New Mexico and approximately 120 miles southeasterly from El Paso to Van Horn, Texas, with a population of approximately 456,000 of whom 360,000 reside in the Metropolitan area of El Paso.

The aggregate proceeds from the proposed financing will be used to repay outstanding short-term bank loans, which at the time of the sale, are expected to total $5,200,000.

Any person desiring to be heard or to make any protest with reference to application should, on or before September 12, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-18888 Filed 9-5-73;8:45 am]

[Docket No. CP70-138]

**EL PASO NATURAL GAS CO.**
**Notice of First Supplement to Petition To Amend**

AUGUST 24, 1973.

Take notice that on August 16, 1973, El Paso Natural Gas Co. (El Paso) filed in Docket No. CP70-138 a supplement to the petition filed therein on March 27, 1973, seeking issuance of an order amending the order of the Commission authorizing the importation of natural gas from Canada issued on May 12, 1970, as amended by order issued on February 9, 1971, in the subject docket so as to conform such order to the Fourth Service Agreement, as amended, as hereinafter described, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

El Paso states that by order issued May 12, 1970, as amended February 9, 1971, in Docket No. GP70-138, El Paso was authorized to import from Canada, at a point on the International Boundary near Sumas, Washington (Sumas Import), natural gas to be purchased from Westcoast Transmission Co. Ltd. (Westcoast) in accordance with the terms and conditions of an Agreement between El Paso and Westcoast dated October 10, 1969, as amended (Fourth Service Agreement). Provision is made under the Fourth Service Agreement for the delivery and receipt of 725,000 Mcf daily which commenced on November 1, 1971, which daily quantity was increased to 800,000 Mcf daily on November 1, 1972.

Pursuant to Commission order issued July 13, 1973, a formal hearing is to commence on August 28, 1973, respecting El Paso's petition.

El Paso states in its supplemental filing that Westcoast and El Paso have agreed, as set forth in a Letter Agreement dated August 14, 1973, to modify the Third Amending Agreement to satisfy an objection raised by the National Energy Board of Canada respecting the impact of the Third Amending Agreement upon the provision in the Fourth Service Agreement requiring a comparison of the rate paid by El Paso to Westcoast with the rate paid to Westcoast by its Canadian customer, British Columbia Hydro and Power Authority and an adjustment in the El Paso rate, if necessary, so as to assure that the rate paid by El Paso is not at any time less than 105 percent of the rate paid by Westcoast's Canadian customer.

El Paso requests that its petition of March 27, 1973, be supplemented to the extent set forth in its new filing, and that the Commission amend its said import order of May 12, 1970, as amended, to the extent necessary to conform to the terms and conditions of the Fourth Service Agreement, as so amended by the modified Third Amending Agreement.

El Paso also requests the Commission to provide a shortened time period for the submission of protests to El Paso's supplemental filing and for new petitions for leave to intervene, so that the hearing in this proceeding might commence as scheduled on September 28, 1973.

Any person desiring to be heard or to make any protest with reference to said filing should on or before September 10, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Parties who have petitioned to intervene pursuant to the Notice Of Petition To Amend issued April 26, 1973, need not file a new petition in this proceeding.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-18779 Filed 9-5-73;8:45 am]

[Docket No. RP72-154]

**EL PASO NATURAL GAS CO.**
**Notice of Proposed Change in Rate**

AUGUST 24, 1973.

Take notice that El Paso Natural Gas Co. (El Paso), on August 16, 1973, tendered for filing a notice of change in rates under its FPC Gas Tariff, First Revised Volume No. 3, applicable to service rendered to its Northwest Division System customers. Such change in rates is proposed to become effective on October 1, 1973. The proposed rate change is submitted for the purpose of compensating El Paso for increases in its cost of purchased gas for the period April 1, 1973, through September 30, 1973, and is filed in accordance with the provisions of El Paso's Purchased Gas Adjustment Clause (PGAC) in effect in El Paso's said tariff.

The annualized increase in El Paso's Northwest Division System domestic purchased gas costs aggregates $2,750,783 based upon adjusted Northwest Division System domestic purchased gas volumes for the twelve (12) month period ending June 30, 1973. Additional increased purchased gas costs, aggregating $12,577,712, have occurred as a result of changes in the cost of gas purchased from El Paso's Canadian supplier, Westcoast Transmission Co. Ltd. When applied to El Paso's Northwest Division System total sales volumes for the same period, the aggregate of the increased domestic and imported purchased gas costs equates to 3.40¢ per Mc.f. (0.326¢ per therm).

In addition, El Paso has accrued in Account 191, Unrecovered Purchased Gas Cost, $3,358,403 applicable to increases in its Northwest Division System purchased gas costs, both domestic and imported, which have occurred during the period January 1, 1973, through June 30, 1973. Such costs, when applied to El Paso's Northwest Division System jurisdictional sales volumes for the same period, produce an additional increase in rates of 1.44¢ per M c.f. (0.13¢ per therm) to be applied as a surcharge to all rate schedules identified in the subject filing.

El Paso included in its filing Alternate Tariff Sheets, with a proposed October 1, 1973, effective date, proposing to amend the currently effective PGAC so as to provide that gas cost adjustments pertaining to purchases of Canadian gas from Westcoast Transmission Co. Ltd., at Sumas, Washington, be computed on a 95 percent load factor basis, rather than on the basis of the most recent billing as the PGAC now provides. El Paso states that as a result of the wide fluctuation in monthly purchase levels at Sumas, significant fluctuations in the adjustments in rates under current PGAC provisions occur. The alternate proposal is designed to eliminate such fluctuations. The alternate method of computing gas cost adjustments under the proposed revisions in the PGAC included in the instant filing reflects a reduction in the total annual change in the cost of gas purchased from $15,328,495, equating to 3.40¢ per M c.f. (0.326¢ per therm) to $7,521,238, equating to 1.67¢ per M c.f. (0.160¢ per therm). Such reduction would change the proposed current adjustment level from a total of 4.84¢ per M c.f. (0.464¢ per therm), under present PGAC provisions to 3.11¢ per M c.f. (0.298¢ per therm) under the proposed revised PGAC provisions. The Alternate Tariff Sheets also included a Statement of Rates Sheet, reflecting lower rate adjustments based upon the proposed 95 percent load factor method of determining the annualized cost for the Sumas purchases. El Paso proposes that the alternate sheets be accepted by the Commission in lieu of the tendered revised tariff sheet in the event that the Commission finds the 95 percent load factor method appropriate.

Copies of the filing have been served upon all parties of record at Docket Nos. RP72-151 and RP72-154, and, otherwise, upon all Northwest Division System customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 12, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. El Paso's proposed tariff sheet and rate filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-18780 Filed 9-5-73;8:45 am]

[Docket No. CP74-46]

**EL PASO NATURAL GAS CO.**
**Notice of Application**

AUGUST 28, 1973.

Take notice that on August 20, 1973, El Paso Natural Gas Co. (Applicant), P.O. Box 1492, El Paso, Tex. 79978, filed in Docket No. CP74-46 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a liquefied natural gas (LNG) plant, the sale for resale and delivery of vaporized LNG and the modification of certain existing measuring facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate an LNG plant located adjacent to Compressor Station No. 14, Benton County, Washington. The proposed LNG plant will have a liquefaction capacity of 6,000 M c.f. of gas per day, an LNG storage capacity of 348,000 barrels equivalent to approximately 1.2 million M c.f. vaporous gas, and a vaporization withdrawal capacity of up to 150,000 M c.f. per day. Applicant intends to liquefy gas for storage during the off-peak season of April through October by curtailment, if necessary, of deliveries to its customers and to vaporize the LNG on days of high demand during the period of November through March.

Applicant states that it intends to make the supplemental LNG service available to its existing customers presently being served under its ODL-1 or DS-1 Rate Schedules, FPC Gas Tariff, First Revised Volume No. 3. It is stated that the customers electing to receive peak shaving LNG service as herein proposed will be charged a capacity charge estimated to be 1.493 cents per 100.000 Btu, a demand charge estimated to be 1.803 cents per 100.000 Btu and a delivery charge estimated to be 4.108 cents per 100.000 Btu.

Applicant also proposes to increase the measurement capacities at the Prineville Meter Station, Crook County, Ore., at the Castle Rock Meter Station, Cowlitz County, Wash., and at the Smelterville Meter Station, Shoshone County, Idaho.

The total estimated cost of the proposed facilities is $12,280,951 which will be initially financed from current working funds.

The stated purpose of these proposals is to augment Applicant's ability to satisfy the firm service requirements of the growing residential and small commercial market of its customers during peak demand periods and to avoid curtailments of firm service therein.

Any person desiring to be heard or to make any protest with reference to said

[1] By decision of December 12, 1972, in Texaco Inc., et al. v. F.P.C., Docket No. 71-1560, et al., the United States Court of Appeals for the District of Columbia Circuit set aside Commission Order No. 428, as amended, which promulgated small producer regulations. The Commission has petitioned the Supreme Court of the United States for a writ of certiorari in this matter.





V 38-172 SEP 6 73 XUM

application should on or before September 21, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-18781 Filed 9-5-73;8:45 am]

---

[Docket Nos. RP72-150, RP72-155]

## EL PASO NATURAL GAS CO.

### Notice of Proposed Changes in Rate

AUGUST 28, 1973.

Take notice that El Paso Natural Gas Co. (El Paso), on August 16, 1973, tendered for filing a notice of change in rates under its FPC Gas Tariff, Original Volume No. 1, applicable to service rendered to its Southern Division System customers. El Paso requests a proposed effective date of October 1, 1973. El Paso states that the proposed rate change is submitted for the purpose of compensating El Paso for increases in its cost of purchased gas for the period April 1, 1973, through September 30, 1973, and is filed in accordance with the provisions of El Paso's Purchase Gas Adjustment Clause (PGAC) in effect in El Paso's said tariff.[1]

El Paso maintains that the annualized increase in El Paso's Southern Division System purchased gas costs aggregates $19,700,784 based upon adjusted Southern Division System purchased gas volumes for the twelve (12) month period ending June 30, 1973. When applied to El Paso's Southern Division System total sales volumes for the same period, El Paso states that the purchased gas cost increase equates to 1.45¢ per Mcf.

In addition, El Paso says that it has accrued in Account 191, Unrecovered Purchased Gas Cost, $10,490,073 applicable to increases in its Southern Division System purchased gas costs which have occurred during the period January 1, 1973, through June 30, 1973. El Paso contends that such costs, when applied to El Paso's Southern Division System jurisdictional sales volumes for the same period produce an additional increase in rates of 1.79¢ per Mcf to be applied as a surcharge to all rate schedules identified in the subject filing.

Also take notice that El Paso, on August 16, 1973, tendered for filing a notice of change in rates with respect to certain special rate schedules contained in its FPC Gas Tariff, Third Revised Volume No. 2 and Original Volume No. 2A, applicable to service rendered to certain of its Southern Division System customers. According to El Paso such change in rates is proposed to become effective as of October 1, 1973, and is in an amount of 2.61¢ per Mcf to be uniformly applied to each affected rate schedule. El Paso states that the proposed rate change is submitted for the purpose of compensating El Paso for increases in its cost of purchased gas, to maintain parity of treatment among similar purchasers and to give effect to the keyed nature of the pricing provisions in the affected rate schedules.

El Paso says that this notice was filed under the provisions of El Paso's Purchased Gas Adjustment Clause (PGAC), contained in its FPC Gas Tariff, Original Volume No. 1 and is occasioned solely by, and will compensate El Paso only for, increases in the cost of purchased gas occurring in its Southern Division System operations which will become effective on or before September 30, 1973.[2] El Paso maintains that the net increase in rates proposed by such concurrent notice of change is 2.61¢ per Mcf. The pricing provisions contained in all of the special rate schedules affected by the instant notice of change in rates provide that the applicable rate thereunder shall be keyed to, and identical with, the rate in effect from time to time under a designated rate schedule contained in Original Volume No. 1 of El Paso's FPC Gas Tariff.

El Paso further states that the instant tender is being filed in order to adjust the rates applicable to special Rate Schedules X-7, X-14 and X-25 of Third Revised Volume No. 2 and special Rate Schedules FS-25, FS-26, FS-27, FS-28, FS-29, FS-34, FS-35, and FS-45 of Original Volume No. 2A and service now rendered and to be rendered to Northern Natural Gas Company under a Letter Agreement dated December 27, 1972, and proposed special Rate Schedule X-30 of Third Revised Volume No. 2.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 13, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. El Paso's proposed tariff sheets and rate filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-18887 Filed 9-5-73;8:45 am]

---

[Docket No. CP74-47]

## EL PASO NATURAL GAS CO.

### Notice of Application

AUGUST 30, 1973.

Take notice that on August 20, 1973, El Paso Natural Gas Co. (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP74-47 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of pipeline and appurtenant facilities in Eddy County, New Mexico, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to construct and operate approximately 20.2 miles of 16-inch pipeline and appurtenant facilities from its existing South Carlsbad Compressor Station to its mainline Pecos River Station. The proposed pipeline would have a designed transportation capacity of 101,000 Mcf of gas per day.

The cost of the proposed facilities is $1,587,008 which will be financed from working funds, supplemented, as necessary, by short term borrowings.

The purpose of the proposed pipeline facilities is to transport natural gas recently attached from approximately 27 wells in the South Carlsbad Area of Eddy County for use of Applicant's Southern Division System. Applicant states that it has temporarily been transporting a portion of these supplies via its existing 12¾-inch Eunice-Carlsbad line and through an exchange arrangement which Northern Natural Gas Co. (Northern), on a best efforts basis, pursuant to the

[1] As explained in the accompanying letter of transmittal, the instant notice of change in rates does not give effect to increased purchased gas costs which will result from the Commission's Opinion No. 662 and accompanying order, issued August 7, 1973, at Docket No. AR70-1 (Phase I) for the reason that sufficient information and data are not presently available to determine the impact of such opinion and order on El Paso's cost of purchased gas.

[2] The concurrently filed notice of change in rates does not give effect to increased purchased gas costs which will result from the Commission's Opinion No. 662 and accompanying order, issued August 7, 1973, at Docket No. AR70-1 (Phase I) for the reason that sufficient information and data are not presently available to determine the impact of such opinion and order on El Paso's cost of purchased gas. For the same reasons, the instant notice of change in rates does not give effect to such increased costs.





letter order of the Commission dated March 7, 1973, and within the contemplation of Section 157.22 of the regulations under the Natural Gas Act (18 CFR 157.22). It is stated that these arrangements have become increasingly unsatisfactory as Applicant is unable to effect a net increase in the volume of gas placed on the Southern Division due to capacity restraints on its and Northern's existing facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 24, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-18889 Filed 9-5-73;8:45 am]

---

## EXXON CORP. ET AL.

### Notice of Further Postponement of Hearing

AUGUST 24, 1973.

In the matter of Exxon Corp., Docket No. CI73-751, Shenandoah Oil Corp., Docket Nos. CI73-799 and CI73-800, and SOC Gas Systems, Inc., Docket No. CI73-801.

On August 15, 1973, a notice was issued postponing the hearing to September 5, 1973, because of calendar conflicts in the Office of the Administrative Law Judges. On August 22, 1973, Staff counsel requested a further postponement to September 11, 1973.

Upon consideration, notice is hereby given that the hearing is further postponed to September 11, 1973, at 10:00 a.m. in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-18782 Filed 9-5-73;8:45 am]

---

[Docket No. CI73-592]

## HERMAN GEO. KAISER

### Notice of Extension of Time and Postponement of Hearing

AUGUST 24, 1973.

On August 13, 1973, Herman Geo. Kaiser requested a postponement of the hearing scheduled in the above-designated matter by order issued July 25, 1973.

Upon consideration, notice is hereby given that the procedural dates in the above-designated matter are modified as follows:

Direct Testimony and Evidence of Applicant and Intervenors supporting application, September 24, 1973.
Direct Testimony and Evidence of Staff and Intervenors opposing exceptions, October 17, 1973.
Hearing, October 18, 1973 (10:00 a.m., e.d.t.).
All Rebuttal Testimony and Evidence, October 18, 1973.
Administrative Law Judge Decision shall be rendered on or before, November 30, 1973.
Briefs on Exceptions by all Parties on or before, December 12, 1973.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-18783 Filed 9-5-73;8:45 am]

---

[Docket No. CS71-878 et al.]

## HURLEY PETROLEUM CORP. ET AL.

### Order Clarifying Order To Show Cause and to Require Resumption of Deliveries of Natural Gas

AUGUST 29, 1973.

In the matter of Hurley Petroleum Corp.; Car-Tex Producing Co.; Texas Eastern Transmission Corp.; Docket No. CS71-878, CI73-431, CI73-558, CI61-1379, CI73-578, CP74-15.

On July 19, 1973, Hurley Petroleum Corp. (Hurley), filed in Docket No. CS71-878, et al., a petition for clarification of the order issued July 12, 1973, in said dockets. Hurley and Car-Tex Producing Co. (Car-Tex) were ordered to show cause why they or each of them should not be held to be in violation of section 7(b) of the Natural Gas Act and § 157.18 of the Commission's regulations thereunder for not having obtained abandonment authorization before abandoning jurisdictional sales. Texas Eastern Transmission Corp. was ordered to show cause why it should not be held to be in violation of section 7(c) of the Natural Gas Act by operating facilities to take natural gas dedicated to Arkansas Louisiana Gas Company and Car-Tex. Hurley and Car-Tex were ordered to resume the sale and delivery of gas as made under the certificates issued in Docket Nos. CS71-878 and CI61-1379, respectively.

Hurley states that under its gas purchase contract dated January 12, 1961, with Car-Tex for the sale of gas authorized in Docket No. CS71-878, the buyer is obligated to take only the quantities of casinghead gas from Hurley's oil wells up to the maximum capacity of buyer's gathering system. The contract is silent as to the disposition of the gas available in excess of the maximum capacity of buyer's facilities or to the volumes of gas which are undelivered due to equipment breakdowns. Hurley believes that our order of July 12, 1973, requiring resumption of the sales and deliveries of gas under the contract requires that the excess volumes of gas and the undelivered gas be flared.

Paragraph (D) of the order issued July 12, 1973, in the instant dockets does not require Hurley to flare either the excess or undelivered volumes of gas. We did not suggest, and certainly did not compel, Hurley to flare gas where it can possibly be avoided. Our intention is to require the resumption of sales and deliveries only insofar as they were authorized under certificates issued by and undertaken under rate schedules on file with the Commission. Hurley may market separately the excess and/or the undelivered gas to others on an emergency basis within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29). Hurley may also file an application pursuant to section 7(c) of the Natural Gas Act for authorization to sell and deliver the excess and/or undelivered gas to others for a longer term than the sixty-day emergency period. In addition or alternatively, Hurley might sell the excess or undelivered gas under authorization of its small producer certificate.

By the Commission.

[SEAL] KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-18890 Filed 9-5-73;8:45 am]

---

[Docket No. E-8368]

## IOWA SOUTHERN UTILITIES CO.

### Notice of Proposed Electric Service Agreement

AUGUST 30, 1973.

Take notice that on August 20, 1973, Iowa Southern Utilities Co. (Iowa Southern) of Centerville, Iowa tendered for filing its proposed new Electric Service Agreement including Attachments A and E dated July 26, 1973, between it and Seymour Municipal Utilities (Seymour) of Seymour, Iowa. Iowa Southern tendered also its Seventh Revised Sheet No. 5 to its FPC Electric Tariff Original Volume No. 1, revised to show the new proposed effective date for the proposed Seymour Agreements.

Iowa Southern stated that Seymour requested the proposed new Service Agreement because the advent of a new industry in their community does not allow them to carry the entire load and



V 38-172 SEP 6 73 XUM

their system is designed such that it is not possible for them to carry a portion of the load. Iowa Southern requests that the Commission waive its 30-day filing requirement to allow the proposed new Agreement to become effective on August 1, 1973.

Any person desiring to be heard or to protest said application should file a petition to intervene or protests with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 14, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-18891 Filed 9-5-73;8:45 am]

---

[Docket No. CI73-817]

## KISSINGER PETROLEUMS CORP. (OPERATOR), ET AL.

### Order Granting Intervention and Fixing Date for Hearing

AUGUST 30, 1973.

The above-named Applicant has filed applications pursuant to section 7(c) of the Natural Gas Act,[1] and pursuant to § 2.75[2] of the Commission's general policy statements, the Optional Procedure for Certificating New Producer Sales of Natural Gas set forth in Order No. 455,[3] (hereinafter § 2.75) for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas in interstate commerce.

On May 29, 1973, Kissinger Petroleums Corp. (Operator), et al. (Kissinger) on its own behalf and on the behalf of Martin J. Freedman, a signatory party, and Inter-American Petroleum Corp., a non-signatory, filed in Docket No. CI73-817 an application pursuant to § 2.75 of the Commission's rules of practice and procedure (18 CFR 2.75) on sales to McCulloch Interstate Gas Corporation (McCulloch) from the Spotted Horse Field, Campbell County, Wyoming, Montana-Wyoming sub-area, Rocky Mountain Area. The sale contract, dated February 23, 1973, extends for a 20-year term or the life of the oil and gas leases, whichever is greater, and provides for an initial price of 35 cents per Mcf with 1 cent escalations each year. There is no Btu adjustment and no tax reimbursement. Gas is to be delivered and measured at the Wellhead but the volume is to be adjusted to a residue volume for payment. The buyer receives all plant liquids and fuel at no cost.

The contract may be terminated by the buyer in the event a final order by the Commission permitting the sale is not issued within ninety days of the date of the contract. The ninety-day period expired May 24, 1973, five days prior to the date the application was filed.

Notice of Kissinger's application in Docket No. CI73-817 was noticed on June 19, 1973, and was published in the FEDERAL REGISTER on July 2, 1973 (38 CFR 17534).

A late petition to intervene was filed by the American Public Gas Association.

A formal hearing has been requested, and we find a hearing is desirable to determine, on the record, whether the present and future public convenience and necessity will be served by certificating these sales, and whether the proposed rate is just and reasonable, taking into consideration all factors bearing on maintenance of an adequate and reliable supply of gas, delivered at the lowest reasonable cost.

This hearing is not the proper forum for the relitigation of the propriety of the § 2.75 procedures; that matter is now before the Court of Appeals. See n.3, supra. This hearing will be addressed solely to the issues of public convenience and necessity, and the justness and reasonableness, of the particular sales and rates herein proposed.

Those parties and intervenors desiring to submit cost and noncost data should structure their evidence to reflect the tests under § 2.75 for determining the justness and reasonableness of the rate sought.

No intervenor has questioned McCulloch's need for the additional natural gas supplies that will be available to it as a result of these purchases. However, we are unable to determine the extent of McCulloch's need for new supplies since it has failed to submit the certification required by § 2.75h (18 CFR 2.75h). Accordingly, we shall require McCulloch to present evidence as to its need for additional supplies of natural gas and whether or not a comparable supply of natural gas is available to McCulloch at any rate lower than the rates proposed in these applications.

*The Commission finds*

(1) It is necessary and in the public interest that the above-docketed proceeding be set for a formal hearing.

(2) It is desirable and in the public interest to allow the above-named petitioner to intervene in this proceeding.

*The Commission orders*

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 7, 14, 15 and 16 thereof, the Commission's rules of practice and procedure, and the Regulations under the Natural Gas Act (18 CFR, Chapter I) a public hearing on the issues presented by the applications herein shall be held commencing October 16, 1973, at 10 a.m. (e.d.t.) in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

(B) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding pursuant to the Commission's rules of practice and procedure.

(C) Applicant and all intervenors supporting the applications shall file their direct testimony and evidence on or before September 24, 1973. All testimony and evidence shall be served upon the Presiding Administrative Law Judge, the Commission Staff, and all parties to these proceedings.

(D) The Commission Staff and all intervenors opposing the applications shall file their direct testimony and evidence on or before October 1, 1973. All testimony and evidence shall be served upon the Presiding Administrative Law Judge, and all other parties to these proceedings.

(E) All rebuttal testimony and evidence shall be served on or before October 8, 1973. All parties submitting rebuttal testimony and evidence shall serve such testimony and evidence upon the Presiding Administrative Law Judge, the Commission Staff, and all other parties to these proceedings.

(F) The above-named petitioners are permitted to intervene in these proceedings subject to the rules and regulations of the Commission; *Provided, however;* That the participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in said petitions for leave to intervene; and *Provided, further;* That the admission of such interests shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any order or orders of the Commission entered in these proceedings.

(G) The Administrative Law Judge's decision shall be rendered on or before November 9, 1973. All briefs on exceptions shall be due on or before November 16, 1973, and replies thereto shall be due on or before November 27, 1973.

By the Commission.

[SEAL] KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-18892 Filed 9-5-73;8:45 am]

---

[1] 15 U.S.C. § 717, et seq. (1970).

[2] 18 C.R.F. § 2.75.

[3] Statement Of Policy Relating To Optional Procedure For Certificating New Producer Sales of Natural Gas, Docket No. R-441, —— F.P.C. —— (issued August 3, 1972, appeal pending sub nom. John E. Moss, et al. v. F.P.C., No. 72-1837 (D.C. Cir.)

[4] Opinion And Order Issuing Certificate Of Public Convenience and Necessity And Determining Just And Reasonable Rates, Opinion No. 659, Belco Petroleum Corporation, Agent, et al., Docket Nos. CI73-293, et al., —— F.P.C. ——, —— (issued May 30, 1973, slip op. at para. 21, p. 5).





[Docket No. CP74-54]

## LOWELL GAS CO.

### Order To Show Cause

AUGUST 28, 1973.

On January 15, 1973, New England LNG Co., Incorporated (NELNG), requested in Docket No. CP73-185 a certificate of public convenience and necessity authorizing the sale for resale of approximately 170,000 Mc.f. vaporous gas equivalent of liquefied natural gas (LNG) to Connecticut Natural Gas Corp. (CNG Corp.). Notice of the application was issued January 18, 1973, and published in the FEDERAL REGISTER on January 23, 1973 (38 FR 2354).

Lowell Gas Co. (Lowell) was involved in the NELNG-CNG Corp. transaction as follows: Lowell commingled gas owned by NELNG at CNG Corp.'s Rocky Hill, Connecticut storage facility, 134,981 Mc.f. of gas which Lowell acquired from Hopkinton, Massachusetts (as indicated by a letter from CNG Corp. to NELNG, Exhibit I, Docket No. CP73-185). In addition, in that docket NELNG reported that on December 1, 1972, 173,314 Mc.f. of gas at Rocky Hill was traded by NELNG to Lowell for a like amount in storage at Tewksbury, Massachusetts. Lowell, in turn, sold to Cape Cod Gas Co. (Cape) 306,740 Mc.f. of gas in place at Rocky Hill, which amount included the 173,314 Mc.f. from NELNG.

On July 23, 1970, NELNG filed in Docket No. CP71-18,[1] an abbreviated application pursuant to section 7(c) of the Natural Gas Act for certificate authority to render LNG service to gas distribution utilities in the New England area. The Commission issued an order granting that certificate on January 14, 1971, 45 F.P.C. 142. The Commission conditioned its January 14, 1971, order in section F, which declared the certificate requested was granted "without prejudice to the Commission's issuance of an order in the future requiring Lowell Gas Co. to file for authorization pursuant to Section 7(e) of the Natural Gas Act for its storage facilities and services * * *." We here seek to determine whether issuance of such an order requiring Lowell to file Section 7 applications is now appropriate.

*The Commission finds*

(1) Lowell Gas Co., a corporation having its principal place of business in Lowell, Massachusetts, may have provided service which may make it a "natural gas company" within the meaning of the Natural Gas Act.

(2) That good cause exists for, and the public interest in administering the Natural Gas Act demands that Lowell Gas Co. show cause why it should not be required to file an application for a certificate of public convenience and necessity for the storage of natural gas sold and transported for interstate commerce and stored with the jurisdictional gas of its affiliate, New England LNG Company, Incorporated; for the exchange of its gas at Tewksbury, Massachusetts, for an equal amount of its affiliate's at Rocky Hill, Connecticut; for its sale in place at Rocky Hill to Cape Cod Gas Co.

(3) That good cause exists for, and the public interest in administering the Natural Gas Act demands that Lowell Gas Co. disclose all transactions and ownership agreements with its affiliate, NELNG or any other company that may possibly involve transactions in interstate commerce.

*The Commission orders*

(A) That Lowell Gas Co. show cause why it should not be required to file an application for a certificate of public convenience and necessity for the commingled storage of natural gas with the jurisdictional gas of its affiliate, New England LNG Co., Inc.; for the exchange of its gas at Tewksbury, Massachusetts, for an equal amount of its affiliate's at Rocky Hill, Connecticut; for its sale in place at Rocky Hill to Cape Cod Gas Co.

(B) That Lowell Gas Co. disclose all transactions and ownership agreements with its affiliate, New England LNG Co., Inc., or any other company that may possibly involve transactions in interstate commerce.

(C) That Lowell Gas Co. is hereby required to file with the Commission in compliance with § 1.9(c) of the Commission's rules of practice and procedure within 30 days a written answer to paragraphs A and B above.

By the Commission.

[SEAL] KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73 18893 Filed 9-5 73;8:45 am]

---

[1] Notice of Application was issued on July 30, 1970, and published in the FEDERAL REGISTER on August 6, 1970 (35 FR 12972).

[Docket No. CP73 114]

## MICHIGAN WISCONSIN PIPE LINE CO.

### Notice of Service Agreements

AUGUST 27, 1973.

Take notice that on August 17, 1973, Michigan Wisconsin Pipe Line Co. (Michigan Wisconsin) tendered for filing sixty-three (63) executed service agreements providing for increased service to its customers commencing September 1, 1973. The company states that the above service was authorized by Commission order issued July 25, 1973 in Docket No. CP73-114. Also enclosed in the filing was an Exhibit A to Michigan Consolidated Gas Company's presently effective service agreement providing for the purchase of release gas under section 7.4 of Michigan Wisconsin's Rate Schedule ACQ-1 for the contract year commencing September 1, 1973. Michigan Wisconsin states that copies of this filing have been served on all customers and interested state commissions. An effective date of September 1, 1973, is requested.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 12, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-18785 Filed 9-5-73;8:45 am]

---

[Docket Nos. RP71-16 et al.]

## MIDWESTERN GAS TRANSMISSION CO.

### Order Amending Prior Order

AUGUST 29, 1973.

By order of July 24, 1973, the Commission accepted a settlement agreement proffered in this docket and set procedural dates relating to an issue reserved by the agreement for hearing. In ordering paragraphs (D) and (E) of the July 24 order, reference is made to a prehearing conference. In light of the nature of this proceeding, a prehearing conference would appear to be unnecessary. The date so prescribed shall, therefore, be the date prescribed for the service of Midwestern's prepared testimony and exhibits.

*The Commission finds*

Good cause exists to amend the Commission's order of July 24, 1973, in this docket so as to eliminate the prehearing conference ordered therein and direct that Midwestern's prepared testimony shall be served on the date originally reserved for the prehearing conference.

*The Commission orders*

(A) The order of July 24, 1973, is hereby amended to eliminate the prehearing conference ordered therein and the date ordered for such conference shall be the date on which Midwestern shall serve its prepared testimony and exhibits.

(B) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-18894 Filed 9-5-73;8:45 am]

---

[Docket No. CI74-122]

## MOBIL OIL CORP., ET AL.

### Notice of Application

AUGUST 27, 1973.

Take notice that on August 20, 1973, Mobil Oil Corp. (Applicant), Three



V 38-172 SEP 6 73 XUM

Greenway Plaza East, Suite 800, Houston, Tex. 77046, filed in Docket No. CI74-122 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for and delivery of natural gas in interstate commerce to El Paso Natural Gas Co. from the Azalea (Atoka/Devonian) Field, Midland County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has commenced the sale of gas within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sale for fifteen months from the end of the sixty-day emergency period within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant proposes to sell gas on a best efforts basis, estimated to be 1,100 Mcf per day, at 40.0 cents per Mcf at 14.65 p.s.i.a., subject to upward and downward Btu adjustment. Monthly deliveries are estimated to be 34,100 Mcf of gas.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 14, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-18784 Filed 9-5-73;8:45 am]

[Docket No. CP73-185]

## NEW ENGLAND LNG CO., INC.

### Findings and Order Granting Intervention and Conditionally Issuing Certificate of Public Convenience and Necessity and Order To Show Cause

AUGUST 28, 1973.

On January 15, 1973, New England LNG Co., Inc. (NELNG), requested a certificate of public convenience and necessity authorizing the sale for resale of approximately 170,000 Mc.f. vaporous gas equivalent of liquefied natural gas (LNG) to Connecticut Natural Gas Corporation (CNG Corp.). Notice of application was issued January 18, 1973, and published in the FEDERAL REGISTER on January 23, 1973 (38 FR 2354).

CNG Corp., has filed a petition to intervene in the subject docket. In the event there is a formal hearing, CNG Corp.'s petition is in support of the application.

We determine that this application is appropriate for consideration under the shortened procedure set forth in § 1.32 (b) of the Commission's rules of practice and procedure.

In accordance with a letter of intent between NELNG and CNG Corp., dated June 19, 1972, NELNG and an affillate, Lowell Gas Co. (Lowell) stored certain quantities of LNG in the CNG Corp. facilities at Rocky Hill, Connecticut. For this storage service CNG Corp. received an option to purchase from NELNG only a quantity equivalent to one-third of the quantity of LNG stored by Lowell and NELNG as of December 1, 1972, at the average cost of the gas to NELNG plus transportation. Such quantity purchased included the boiloff experienced by this quantity prior to December 1, 1972. Any LNG purchased under the option, if exercised by CNG Corp., is to be purchased from NELNG only. The quantity of LNG available for sale to CNG Corp., in accordance with the Letter of Intent, would be 181,093 Mc.f. equivalent based on the maximum volume of 543,279 Mc.f. equivalent in Rocky Hill storage during December 1, 1972.

In addition to the above transaction, the subject of this application, we find the following transaction to be directly and indirectly involved. The gas which NELNG proposed to sell to CNG Corp. was reportedly acquired under a service agreement between it and Philadelphia Gas Works (PGW). By this service agreement NELNG furnished PGW "Natural Gas" which has to be transported to PGW by Texas Eastern Transmission Corp. (TET). PGW then was to deliver LNG to NELNG within a delivery period of "approximately between October 25, 1972, and November 15, 1972". NELNG states in their response to Staff's request for additional information that the gas it proposes to sell to CNG Corp. was transported into storage at Rocky Hill for NELNG "During the period beginning October 2, 1972, and ending October 25, 1972". This information on delivery periods indicates that the gas in place on December 1, 1972, was not processed and delivered in accordance with the service agreement attached to the application as "Exhibit H" as stated.

Actual acquisition and transportation of the LNG into storage for the accounts of Lowell and NELNG was reportedly as follows:

1. Lowell acquired 134,981 Mc.f. from Hopkinton LNG, Inc., and transported it from Hopkinton, Massachusetts, to Rocky Hill, Connecticut.

2. NELNG acquired 408,298 Mc.f. from PGW. Of this amount only 165,313 Mc.f. was transported from Philadelphia to Rocky Hill, Connecticut, and 242,985 Mc.f. was transported from Carlstadt, New Jersey, to Rocky Hill, Connecticut. The LNG transported from Carlstadt appears to have been an exchange between NELNG, South Jersey Gas Co. and Philadelphia Electric Co.

All transportation of LNG appears to have been accomplished by means of over-the-road cryogenic vehicles operating under ICC tariffs. This transportation is not subject to regulation by FPC;[1] however, it establishes the interstate status of the gas NELNG proposes to sell.

CNG Corp. stores LNG for NELNG pursuant to a letter agreement filed as "Exhibit I" of the instant application. This letter is an agreement between NELNG and CNG Corp. only and in effect places NELNG in the position of acting as agent for Lowell insofar as the storage of gas at Rocky Hill is concerned. This is also indicated in the CNG Corp. letter to NELNG, dated November 28, 1972, and made part of "Exhibit I", wherein reference is made of the agreement between the two companies. In this letter CNG Corp. states "Since our records show only the total quantity for both Lowell and New England, it will be necessary for you to break down the quantity between those two companies". This breakdown is apparently to be done on some method of allocation. This indicates complete commingling of the gas in the storage facilities. CNG Corp. has not sought authorization from FPC for the storage service provided by reasons of this Letter of Intent.

On November 28, 1972, CNG Corp. notified NELNG of its election to purchase a quantity of LNG equivalent to one third of the quantity stored in the Rocky Hill facilities by Lowell and NELNG as of December 1, 1972. This quantity would be 181,093 Mc.f. as previously discussed. However, NELNG proposes to sell in place approximately 170,000 Mc.f. which will not fulfill the terms of the agreement or optior as exercised in entirety. In addition to this proposed sale to CNG Corp., NELNG reports that on December 1, 1972, 173,314 Mc.f. was traded to Lowell for a like amount in storage in Tewksbury, Massachusetts, and that Lowell sold to Cape Cod Gas Co. (Cape) 306,740 Mc.f. in place at Rocky Hill.

This sale to Cape by Lowell involved the 173,314 Mc.f. which was traded to Lowell by NELNG. The date of the sale as reported by NELNG was December 1, 1972. This is in conflict with Lowell's notice and petition in Docket No. CP73-161. Here Lowell stated that it was concurrently making an emergency sale to Cape. This would date the sale as being

[1] See Order Terminating Proposed Rulemaking Proceeding in Docket No. R-377.





effective as of December 18, 1972, as indicated in the verification of the notice and petition. Lowell has not conformed with the requirements (Order No. 402-A) of notification as to the nature of the emergency or the required filings within 10 days after the 60-day limitation on short-term sales or deliveries.

It appears that the following transactions may have been subject to FPC jurisdiction:

1. NELNG furnishing "Natural Gas" to PGW as implied in the Service Agreement (Exhibit H).
2. The NELNG exchanges of LNG with South Jersey Gas Co. and the Philadelphia Electric Co.
3. The storage of LNG by CNG Corp. at its Rocky Hill, Connecticut facilities for NELNG, Lowell, and Cape.
4. The exchange of LNG stored in Rocky Hill, Connecticut, to Lowell by NELNG.
5. The sale of LNG stored in Rocky Hill, Connecticut, to Cape by Lowell.
6. The proposed sale of LNG stored in Rocky Hill, Connecticut, to CNG Corp., by NELNG.

and that all of the companies involved in the transactions discussed herein may have, because of the nature of the transactions and the absence of State jurisdiction in such transactions, relinquished exemption from FPC jurisdiction under section 1(c) of the Natural Gas Act, and that CNG Corp., may have relinquished its exemption by storage of gas involved in interstate gas sales without FPC approval.

In the above analysis, the Commission has interpreted the order terminating the proposed rulemaking in Docket No. R-377 such that, although the Commission has disclaimed jurisdiction of over-the-road transportation of LNG and other nonpipeline modes of transportation of LNG in interstate commerce it nevertheless has retained jurisdiction of the sale of LNG in interstate commerce regardless of the mode of transportation.

*The Commission finds*

(1) It is in the public interest to dispose of the application in Docket No. CP73-185 under the shortened procedure prescribed by § 1.32(b) of the Commission's rules of practice and procedure.

(2) Applicant, New England LNG Company, Inc., a corporation having its principle place of business in Lowell, Massachusetts, at the commencement of the service authorized herein, will be a "natural gas company" within the meaning of the Natural Gas Act.

(3) The service hereinbefore described as more fully described in the application in this proceeding, will involve the sale of natural gas in interstate commerce subject to the jurisdiction of the Commission and the sale thereof are subject to the requirements of subsection c of section 7 of the Natural Gas Act.

(4) Applicant is able and willing properly to do the acts, perform the service proposed, and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(5) The transportation and sale of natural gas enabling applicant to render the proposed LNG service are required by the public convenience and necessity, and a certificate should be issued as hereinafter ordered and conditioned.

(6) The public convenience and necessity require that the certificate issued and the rights granted hereunder be conditioned upon the applicant's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in paragraphs (a), (c) (3), (e), and (f) of § 157.20 of the regulations.

(7) It is desirable to allow the above-named petitioner to become an intervener in this proceeding in order that they may establish the facts and law from which the nature and validity of their alleged rights and interests may be determined and show what further action may be appropriate under the circumstances in the administration of the Natural Gas Act.

(8) That good cause exists for, and the public interest in administering the Natural Gas Act demands that the certificate be conditioned on New England LNG Co., Inc., giving further information to show why it should not be required to file an application for a certificate of public convenience and necessity for the above set forth additional transactions.

*The Commission orders*

(A) A certificate of public convenience and necessity is issued to applicant, New England LNG Co., Inc., authorizing the transportation and sale and proposed LNG service as hereinbefore described, all as more fully described in the application, as supplemented, in this proceeding, upon the terms and conditions of paragraphs B through G of this order.

(B) Applicant shall file a tariff sheet acceptable to the Commission for its proposed LNG service, substantially as shown in its supplemental application, and pursuant to parts 154 and 155 of the Commission's regulations.

(C) That the certificate be conditioned on NELNG furnishing information to show why furnishing natural gas to PGW in exchange for LNG as implied in the Service Agreement (Exhibit H) should not be subject to this Commission's jurisdiction under section 1(b) of the Natural Gas Act and why NELNG should not be required to apply for and obtain a certificate of public convenience and necessity under sections 7(c) and 7(e) of the Natural Gas Act.

(D) That the certificate be conditioned on NELNG furnishing information to show why gas of South Jersey Gas Co. and Philadelphia Electric transported from Carlstadt should not be subject to this Commission's jurisdiction under section 1(b) of the Natural Gas Act and why NELNG should not be required to apply for and obtain a certificate of public convenience and necessity under sections 7(c) and 7(e) of the Natural Gas Act.

(E) That the certificate be conditioned on NELNG furnishing information to show why the storage of LNG by CNG Corp. at its Rocky Hill facilities for NELNG should not be subject to this Commission's jurisdiction under section 1(b) of the Natural Gas Act and why NELNG should not be required to apply for and obtain a certificate of public convenience and necessity under sections 7(c) and 7(e) of the Natural Gas Act.

(F) That the certificate be conditioned on NELNG furnishing information to show why the sale of LNG stored in Rocky Hill to Cape should not be subject to this Commission's jurisdiction under section 1(b) of the Natural Gas Act and why NELNG should not be required to apply for and obtain a certificate of public convenience and necessity under sections 7(c) and 7(e) of the Natural Gas Act.

(G) That the certificate be conditioned on NELNG furnishing information to show why the exchange with Lowell of gas in Rocky Hill for gas in Tewksbury, Massachusetts, should not be subject to this Commission's jurisdiction under section 1(b) of the Natural Gas Act and why NELNG should not be required to apply for and obtain a certificate of public convenience and necessity under sections 7(c) and 7(e) of the Natural Gas Act.

(H) The above-named petitioner is hereby permitted to become an intervenor in this proceeding subject to the rules and regulations of the Commission: *Provided, however;* That the participation of such intervenor shall be limited to matters affecting asserted rights and interests specifically set forth in the petition to intervene; and *Provided, further:* That the admission of such intervenor shall not be construed as recognition by the Commission that they or any of them might be aggrieved by any order or orders entered in these proceedings.

By the Commission.

[SEAL] KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-18904 Filed 9-5-73;8:45 am]

## NORTHERN MICHIGAN EXPLORATION CO. ET AL.

### Order Remanding Proceedings to the Presiding Administrative Law Judge

AUGUST 27, 1973.

In the matter of Northern Michigan Exploration Co., Docket No. CI72-301 and CI72-770, Michigan Gas Storage Co., Docket No. CP72-112, Trunkline Gas Co., Docket No. CP72-128, and Corbin J. Robertson, et al., Docket No. CI73-495.

In a supplemental decision issued in these proceedings on August 3, 1973, the Presiding Administrative Law Judge concluded that the certificates applied for should be granted. In so concluding, he approved the proposed sale of the natural gas in question at a base price of 46.4¢ per Mc.f. The transaction concerns the sale in Louisiana of natural gas by Corbin J. Robertson, et al., to the



V 38-172 SEP 6 73 XUM

Northern Michigan Exploration Co. (NOMECO), and the subsequent sale of such gas by NOMECO to its parent, the Consumers Power Co., of Michigan.

The Supplemental Decision does not reflect two filings which significantly affect the base price. On July 27, 1973, the Michigan Gas Storage Co., which would participate in the transportation of the gas, and NOMECO filed a petition to reopen the record to receive evidence concerning contract amendments of July 24, 1973, that would increase the base price from 46.4¢ to 62.2¢ per Mc.f. On July 30, 1973, Corbin J. Robertson, et al., filed an amended application for sales at 62.2¢ per Mc.f. Notice of the latter filing was given on August 9, 1973, with responses due by August 31.

The foregoing filings have been followed by three motions and certain responses to them. NOMECO and the Michigan Gas Storage Co. moved on August 10 for an expedited schedule for the filing of exceptions to the August 3 decision, on the principal ground that the contracts carrying the 62.2¢ price will expire on October 23, 1973. An intervenor, the Central Illinois Light Co., moved on August 14 for an extension of time, on the ground that exceptions to the August 3 decision would not be meaningful in light of the price rise, and on the further ground that the Commission should first resolve the procedural questions that have arisen. On the basis of similar reasoning, the Staff on August 16 also moved for a postponement of the briefing schedule.

It seems to us essential that these proceedings again be remanded to the Presiding Administrative Law Judge, so that the record may be reopened for the receipt of evidence concerning the new price of the gas. It would be unrealistic for us to undertake to decide this case in the absence of record evidence on this central issue. And because price is a central issue, we also believe that a further Supplemental Decision by the Presiding Administrative Law Judge is necessary. In its absence, it seems to us that the parties would be hard put to know to what they are excepting.

We are, however, mindful of the contract deadline of October 23, 1973. It is our hope and current expectation that we will be able to decide this case by that date. We believe that we can do so, and that in the process the need for a full record can be met and the interests of the parties can be reasonably accommodated. To meet these objectives, we shall remand the case forthwith, and we will ask the Presiding Administrative Law Judge to arrange a further public hearing at the earliest feasible date. While we would prefer to give the Administrative Law Judge wide discretion in the fixing of procedural dates, we believe that we must, given the peculiar circumstances that exist here, prescribe deadlines. We shall, thus, ask that the hearing be scheduled so that a Supplemental Decision can be issued no later than September 14, and so that briefs on exceptions and briefs opposing exceptions will be filed as soon thereafter as possible, but in no event later than September 24 and October 5, respectively.

*The Commission further finds*

(1) Further hearings in these proceedings would be in the public interest, in light of the filing on July 27, 1973, by the Northern Michigan Exploration Co. and the Michigan Gas Storage Co. of their petition for limited reopening, and the amended contracts attached thereto, and in light of the filing on July 30, 1973, by Corbin J. Robertson, *et al.*, of its amended application.

(2) The filing of exceptions and briefs opposing exceptions to the Supplemental Decision of August 3, 1973, should be postponed until a further Supplemental Decision has been issued.

*The Commission orders*

(A) These proceedings are hereby remanded to the Presiding Administrative Law Judge, and further public hearings shall be held before him at such place in Washington, D.C., and commencing on such early date, as he may in his discretion provide. At such public hearings, evidence may be introduced concerning the price issue raised by the petition and its attachments filed by the Northern Michigan Exploration Co. and the Michigan Gas Storage Co. on July 27, 1973, and the amended application filed by Corbin J. Robertson, et al., on July 30, 1973. Upon the conclusion of such hearings, but no later than September 14, 1973, the Presiding Administrative Law Judge shall issue a Supplemental Decision. All parties will be entitled to file exceptions and replies thereto, as well as to the Supplemental Decision of August 3, 1973, in accordance with a schedule to be fixed by the Presiding Administrative Law Judge, but exceptions shall be required by him to be filed no later than September 24, 1973, and briefs opposing exceptions shall be required to be filed no later than October 5, 1973.

(B) All interested persons desiring to be heard in these remanded proceedings who are not already parties may file petitions to intervene on or before September 7, 1973.

By the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-18786 Filed 9-5-73;8:45 am]

[Project No. 108]

## NORTHERN STATES POWER CO.

### Notice of Further Extension of Time

AUGUST 29, 1973.

On June 6, 1973, a notice was issued postponing the procedural dates and fixing September 5, 1973, as the date for hearing in the above-designated matter. The September 5, 1973, date is in conflict with the calendar of the Office of Administrative Law Judges.

Upon consideration, notice is hereby given that the hearing is postponed to September 13, 1973, at 10 a.m., e.d.t. in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-18895 Filed 9-5-73;8:45 am]

[Docket No. RP73-48]

## NORTHERN NATURAL GAS CO.

### Notice of Proposed Changes in Rates and Charges

AUGUST 30, 1973.

Take notice that on August 15, 1973, Northern Natural Gas Co. (Northern) tendered for filing revisions in its FPC Gas Tariff, Original Volume No. 4, consisting of Original Sheet No. 3a, First Revised Sheet Nos. 4, 5, and 7 and Second Revised Sheet No. 1.

Northern states that the changes are made pursuant to the purchased gas adjustment clause (PGA) contained in its tariff, as approved by the Commission in this docket on March 27, 1973. Northern asserts that its proposed increase of 6.23¢ per Mc.f. is necessitated by an increase of the price of the gas it purchases from Colorado Interstate Gas Co. (Colorado). According to Northern, this proposal will increase revenues from jurisdictional customers by $53,788. In the event that Northern receives refunds from Colorado as a result of final Commission action in this docket, it states that such refunds will be flowed through to its customers. An effective date of October 1, 1973, is requested.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 15, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-18896 Filed 9-5-73;8:45 am]

[Docket No. E-7705]

## OHIO EDISON CO.

### Order Approving Rate Settlement

AUGUST 29, 1973.

This proceeding involves revised rate schedules filed by Ohio Edison Co. (Edison) on January 27, 1972, which contain proposed increased rates and charges of approximately $1,140,995 (18.5 percent) annually, based upon sales for the twelve month period ended December 31, 1970. The revised schedules also include proposed tariff changes, including a new fuel adjustment clause, new load-shedding provisions, and the deletion of provisions relating to rendering service in certain areas by Edison and its municipal customers. Twenty Ohio municipal customers jointly petitioned for and were granted leave to intervene.[1] By order issued March 31, 1972, the Commission provided for hearing and suspended the filing until September 1, 1972, at which time it became effective subject to refund.

In hearing held on November 10, 1972, Edison's prepared testimony and exhibits and its rate filing of January 27 were received in evidence. The direct cases of the municipal interveners and the Commission Staff, together with Edison's rebuttal case were received in evidence. Thereafter, the parties entered into negotiations which resulted in a settlement of all issues in this proceeding. A Settlement Agreement and a motion for approval thereof were filed on February 12, 1973, jointly by Edison and the Municipal Interveners. The Presiding Adminstrative Law Judge, on February 14, 1973, certified the joint motion and Agreement to the Commission. Public notice of the filing and certification of the Agreement was issued on March 2, 1973, and published in the FEDERAL REGISTER on March 9, 1973 (38 FR 6435). No comments or protests have been received.

The proposed Settlement Agreement is summarized as follows:

(1) Edison will file with the Commission new rate schedules applicable to Municipal Resale Service—Primary Voltage, and Municipal Resale Service—Transmission Voltage (Exhibit A to Agreement), to become effective upon approval by the Commission. These rate schedules are estimated to yield revenues of $6,904,400, annually as shown in the settlement cost of service reflected in the Agreement (Exhibit B) and in the Appendix A hereto. Edison will make refunds to its customers to reflect the difference between amounts collected under the rates filed on January 27, 1972, and the settlement rates, for the period commencing September 1, 1972, until the settlement rates become effective, with interest at 7 percent per annum.

(2) The proposed load-shedding provisions contained in the January 27, 1972, rate filing will be deleted and the parties agree to undertake a joint study to arrive at a load-shedding program which will be incorporated in amendments to individual power supply contracts as filed in the future.

(3) The parties agree to undertake a joint study and effort for the purpose of realigning their long-term power supply relationships, involving studies of the feasibility of joint ownership or other contractual agreements, relating to generating capacity.

As shown in the Agreement (Exhibit B), and as set forth in Appendix hereto, the proposed settlement rates are based upon a cost of service for wholesale, jurisdictional customers in the amount of $6,904,400, representing an annual increase of $742,100 compared with the proposed increase of $1,140,995 mentioned above, based upon sales for the 12 months ended December 31, 1970, over and above the rates in effect prior to September 1, 1972. The overall rate of return of 7.75 percent reflected in the cost of service is based upon the company's capitalization and cost of capital as of December 31, 1971, adjusted, including an allowance of 11.79 percent for common equity as shown in Appendix A hereto. We find this rate of return to be just and reasonable.

Based upon our review of the provisions of the Agreement, all the evidence and the positions of the parties as stated on the record, as certified to us by the Presiding Judge, we conclude that the proposed settlement of all issues herein provides a reasonable and appropriate resolution of the issues herein and that the public interest would be served by our approval of the settlement.

*The Commission finds*

The settlement of this proceeding upon the basis of the Settlement Agreement certified to the Commission by the Presiding Administrative Law Judge is reasonable and appropriate in the public interest in carrying out the provisions of the Federal Power Act and should be approved and made effective as hereinafter ordered.

*The Commission orders*

(A) The Settlement Agreement, as described herein, is approved and made effective for the period commencing September 1, 1972, subject to the terms and conditions of this order.

(B) Edison shall fully comply with each of the provisions of the Settlement Agreement and the terms and conditions of this order.

(C) Prior to Edison's effectuating any change in rates and charges pursuant to the Tax Adjustment provisions of its new rate schedules, described above, Edison shall submit appropriate data and computations showing the basis for such proposed change in rates, pursuant to the notice and other requirements of Part 35 of the Commission's regulations Under the Federal Power Act.

(D) This order is without prejudice to any findings or orders which have been made, or may hereafter be made, by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its Staff, Ohio Edison Co., or any other party or person affected by this order, in any proceeding now pending or hereafter instituted by or against Ohio Edison Company or any other person or party.

(E) The Commission Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

(F) Edison shall file rates reflecting the terms and conditions of this order within 30 days of issuance of this order and upon compliance therewith this docket will be terminated.

By the Commission.

[SEAL] KENNETH F. PLUMB,
*Secretary.*

OHIO EDISON COMPANY

WHOLESALE FOR RESALE SERVICE TO MUNICIPALITIES

SETTLEMENT COST OF SERVICE

Test Year Ended 12/31/70, Adjusted

| | |
|---|---|
| Rate Base | $21,741,800 |
| Total Operating Expenses | 4,597,700 |
| Total Income Taxes | 621,700 |
| Return at 7.75%** | 1,685,000 |
| Total Revenue Requirements | 6,904,400 |

**

OHIO EDISON CO., CAPITALIZATION AND RATE OF RETURN, DEC. 31, 1971, ADJUSTED

| | Capital amounts | Percentage: Capital ratios | Percentage: Cost factors | Percentage: Weighted totals |
|---|---|---|---|---|
| Long-term debt | $527,542 | 53.42 | 5.78 | 3.09 |
| Preferred stock | 100,000 | 10.13 | 5.38 | .54 |
| Common equity | 345,161 | 34.95 | 11.79 | 4.12 |
| Deferred taxes acc/amort | 14,836 | 1.50 | | |
| Total | 987,539 | 100.00 | | 7.75 |

[FR Doc.73-18906 Filed 9-5-73;8:45 am]

[Docket No. E-7777]

## PACIFIC GAS AND ELECTRIC CO.

### Notice of Further Extension of Time and Postponement of Prehearing Conference and Hearing

AUGUST 24, 1973.

On August 13, 1973, Pacific Gas and Electric Co. filed a response to Motion of Commission Staff Counsel for extension of the service dates. Pacific Gas and Electric Co. was unaware of a conflicting commitment when contacted by the Staff regarding the proposed extension. The motion states that no party has any objection to the proposed schedule.

Upon consideration, notice is hereby given that the procedural dates are further modified as follows:

Prehearing Conference, September 25, 1973 (10:00 a.m., e.d.t.).
Intervenors' Service Date, October 2, 1973.
Company Rebuttal Date, October 16, 1973.
Hearing, October 24, 1973 (10:00 a.m., e.d.t.).

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-18787 Filed 9-5-73;8:45 am]

[1] The 20 Ohio municipal interveners are: Cities of Amherst, Cuyahoga Falls, Galion, Hubbard, Niles, Oberlin, Wadsworth; and Villages of Beach City, Brewster, Columbiana, Grafton, Hudson, Lodi, Lucas, Milan, Monroeville, Prospect, Seville, South Vienna, Wellington.



V 38-172
SEP 6 73
XUM

[Docket No. CP74-44]

## PANHANDLE EASTERN PIPELINE CO.

### Notice of Application

AUGUST 29, 1973.

Take notice that on August 17, 1973, Panhandle Eastern Pipe Line Co. (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP74-44 an application pursuant to section 7 of the Natural Gas Act and § 157.7(g) of the regulations thereunder (18 CFR 157.7 (g)) for a certificate of public convenience and necessity authorizing the construction and for permission and approval for the abandonment, for a 12-month period commencing on the date of authorization, and operation of field gas compression and related metering and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in the construction and abandonment of facilities which will not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed construction and abandonment will not exceed $3,000,000 and the cost for any single project will not exceed $500,000. These costs will be financed from funds available from company operations.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 24, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by §§ 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-18901 Filed 9-5-73;8:45 am]

[Docket No. CI73-723, etc.]

## PETROLEUM CORPORATION OF DELAWARE ET AL.

### Notice of Postponement of Hearing

AUGUST 24, 1973.

On August 22, 1973, The Petroleum Corporation of Delaware, et al., requested a postponement of the hearing scheduled by notice issued July 30, 1973, from August 27 to August 30, 1973. The request states that all parties support the request and Staff counsel does not object. However, August 27 conflicts with the schedule of the Administrative Law Judge.

Upon consideration, notice is hereby given that the hearing in the above matter is postponed to September 5, 1973, at 10:00 a.m. in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-18788 Filed 9-5-73;8:45 am]

[Docket No. R-433]

## RESERVES DEDICATION IN THE TEXAS GULF COAST AND SOUTHERN LOUISIANA AREAS

### Order Denying Rehearing

AUGUST 29, 1973.

Associated Gas Distributors (AGD) on July 20, 1973, filed an application for rehearing of the Commission's order issued June 21, 1973, in the above-entitled proceeding denying AGD's motion to make the submittal by pipelines of reserves dedication reports in the Texas Gulf Coast and Southern Louisiana Areas mandatory, in lieu of voluntary as now provided in Order No. 459 issued November 10, 1972, in Docket No. 433.[1]

AGD requests clarification as to whether the omission of Docket No. R-389-B from the caption of our June 21 order was an oversight. It was not. While the reasons given in support of its motion included, inter alia, reference to the pending proceeding in Docket No. R-389-B, the relief requested related directly to the action taken by the Commission in Order No. 459 (Docket No. R-433). It was for this reason that the caption referred only to the rulemaking proceeding in Docket No. R-433.

AGD states that the purpose of its motion was to provide additional information on "productivity" for purposes of computing new gas costs in Docket No. R-389-B, the rulemaking proceeding initiated to determine the just and reasonable rate nationally for sales from wells commenced on or after January 1, 1973. The collection of such data would place a considerable additional burden on producers, pipelines, and our staff. There is also a serious question as to the usefulness of the requested data in view of the lack of comparability between such data and the reserve estimates of the American Gas Association (AGD) which have been used in previous producer rate cases.[2] Finally, while the Form 15 data for 1972 will not be filed until December 31, 1973, as AGD notes, it would take the pipelines at least 90 days, perhaps longer in some instances, to complete the reports requested by AGD, and staff review thereof would take another 60 days.[3] Consequently, the granting of AGD's motion would also involve a delay in the issuance of a final order in Docket No. R-389-B.

AGD also points out that Form 15 data will include only proved reserves and suggests that such data is not the most reliable source of gas reserve information in the light of major downward revisions in Form 15 estimates in recent years. This simply shows that the Form 15 estimates have been on the high side. It also points up another difficulty with the use of the "proved and probable" reserves reported in Order No. 459 in determining costs in Docket No. R-389-B. "Probable" reserves by definition are more speculative than "proved" reserves. Accordingly, if "proved" reserve estimates are subject to major revision, then "probable" reserve estimates would be subject to even greater revision and thus less useful.

The application for rehearing by AGD presents no new facts or principles of law which were not fully considered by the Commission in its June 21 order, or which having now been considered, warrant any modification of that order.[4]

*The Commission orders*

The application for rehearing filed by AGD on July 20, 1973, is denied.

By the Commission.

[SEAL] KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-18880 Filed 9-5-73;8:45 am]

[Docket No. CI73-870]

## RYDER SCOTT MANAGEMENT CO., INC. ET AL.

### Notice Canceling Hearing

AUGUST 28, 1973.

By order issued on July 31, 1973, the above-designated matter was set for hearing to commence on August 29, 1973. On August 10, 1973, Ryder Scott Management Co., Inc., et al., filed a motion to dismiss its application for a limited term certificate.

Upon consideration, notice is hereby given that the hearing in the above-designated matter is cancelled.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-18897 Filed 9-5-73;8:45 am]

[Docket No. E-8052]

## SOUTH CAROLINA ELECTRIC AND GAS CO.

### Notice of Filing of Settlement Agreement

AUGUST 27, 1973.

Take notice that on August 17, 1973, South Carolina Electric and Gas Co. (South Carolina) filed in the above-referenced docket a Settlement Agreement (Agreement) dated May 17, 1973. According to South Carolina's transmittal letter, the Agreement is between South Carolina and the Saluda River Electric Cooperative, Inc., on behalf of its member cooperatives.[1]

South Carolina states that under the terms of the Agreement, the Company's proposed increased rates were not to become effective as to those customers until June 15, 1973. South Carolina further states that since this date fell during the past price freeze, South Carolina did not begin billing these customers at the higher rate until August 13, 1973.

Any person desiring to be heard or to protest said filing should file comments or protests with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such comments or protests should be filed on or before September 19, 1973. Protests and comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-18789 Filed 9-5-73;8:45 am]

[Docket No. E-8052]

## SOUTH CAROLINA ELECTRIC & GAS CO.

### Notice of an Extension of Time and Postponement of the Prehearing Conference and Hearing

AUGUST 29, 1973.

On August 24, 1973, The City of Orangeburg, South Carolina, and South Carolina Electric & Gas Co. filed a motion for a revision of the procedural dates fixed by the order issued May 15, 1973, in the above-designated matter. The motion states that Staff Counsel has no objection to the proposed changes.

Upon consideration, notice is hereby given that the procedural dates are modified as follows:

Service of Testimony and Exhibits by Intervenors, October 17, 1973.
Service of Rebuttal Evidence by S.C.E. & G., October 31, 1973.
Cross-Examination, November 7, 1973 (10 a.m., e.s.t.).

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-18902 Filed 9-5-73;8:45 am]

[Docket No. E-8052]

## SOUTH CAROLINA ELECTRIC & GAS CO.

### Notice of Termination of FPC Rate Schedules

AUGUST 27, 1973.

Take notice that on July 16, 1973, South Carolina Electric and Gas Co. (South Carolina) in purported compliance with the Commission's order issued in this docket on May 15, 1973, filed notices of termination of the following FPC Rate Schedules: No. 20, No. 23, and No. 24. Customers served under the subject rate schedules are Palmetto Electric Cooperative, Inc., and Berkeley Electric Cooperative, Inc. South Carolina lists the termination date of all of the contracts as September 30, 1973.

South Carolina states that notices of termination have been served on the affected customers.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 12, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-18790 Filed 9-5-73;8:45 am]

[Project No. 2730]

## SOUTHERN CALIFORNIA EDISON CO.

### Notice of Application for Preliminary Permit for Unconstructed Project and Petition Disclaiming Federal Power Commission Jurisdiction

AUGUST 29, 1973.

Public notice is hereby given that application has been filed under the Federal Power Act (16 U.S.C. 791a-825r) by Southern California Edison Co. (Correspondence to: Mr. R. E. Woodbury, Vice President and General Counsel, Southern California Edison Co., 2244 Walnut Grove Avenue, Rosemead, California 91770) for a preliminary permit for proposed Project No. 2730, to be known as Black Star Project, located in Orange County, California, near the cities of Orange, Santa Ana, Anaheim, and Fullerton.

The proposed Black Star Project would include an upper reservoir in Black Star Canyon with a storage capacity of 19,200 acre-feet at a maximum elevation of 2,125 feet. The upper reservoir would be formed by an earthfill dam 246 feet high and 1,720 feet long, with an ungated spillway in the natural rock of the left abutment. Four dikes would prevent the reservoir from inundating adjacent lands in the Cleveland National Forest.

The project would also include a lower reservoir in Fremont Canyon with a storage capacity of 21,800 acre-feet at a maximum elevation of 1,129 feet. The lower reservoir would be formed by an earthfill dam 328 feet high and 970 feet long, with an ungated spillway in the natural rock of the right abutment.

The upper and lower reservoirs would be connected by a tunnel 13,300 feet long, through which the project's 13,000 acre-feet of usable storage would flow. The powerhouse, to be located at the lower reservoir, would contain four reversible pump-turbine, motor-generator units with a total rated capacity of 1,235 mw.

Water would be purchased from the Municipal Water District of Orange County for initial filling of the reservoirs and subsequently for makeup water to compensate for evaporation and seepage losses. A water supply line 18,600 feet long would connect the lower reservoir to the District facilities.

Applicant proposes to use power generated at the project in its interconnected 230 kv transmission system.

The application for a preliminary permit was accompanied by a petition to disclaim Federal Power Commission jurisdiction. Applicant asserts that no navigable waters or lands of the United States would be affected by the project.

Any person desiring to be heard or to make protest with reference to said application should on or before October 30, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-18898 Filed 9-5-73;8:45 am]

---

[1] Rehearing of the June 21 order was granted for purposes of further consideration by order issued August 6, 1973.

[2] While AGD states that the AGA reserve estimates for 1971 do not include gas discovered on leases sold in the December 1970 Federal lease sale, it overlooks the fact that the 1972 AGA report of reserve additions does not exclude the December 1970 lease results and for 1972 productivity dropped to 286 Mc.f./ft. Opinion No. 659-A, mimeo pp. 6-7.

[3] While AGD might be willing to use the reports prior to the completion of staff review, producers presumably would insist upon staff clearance in view of the fact that staff review may involve the disallowance of some of the claimed reserves.

[1] Little River Electric Cooperative, Inc., Broad River Electric Cooperative, Inc., and Berkeley Electric Cooperative, Inc.







V 38 172 SEP 6 73 XUM

[Docket No. E-8176]

## SOUTHERN CALIFORNIA EDISON CO.

### Order Granting an Application for Rehearing in Part and Denying an Application for Rehearing

AUGUST 29, 1973.

Anza Electric Cooperative, Inc. (Anza), on July 30, 1973, and the Cities[1] on August 6, 1973, filed applications for rehearing of the Commission's order issued July 6, 1973, in the above docket. In that order the Commission accepted the May 8, 1973, proposed rate increase filing of Southern California Edison Co. (Edison), suspended the proposed increase for 60 days, and provided for hearing.

In support of its application Anza claims that the rate filing is of such a magnitude that the Commission abused its discretion in not granting a full five-month suspension.

Anza points out that at the time the contract was executed "it was generally assumed the California Public Service Commission had jurisdiction"; and under California law rate increases may be made effective only after final Commission order. Therefore it claims that the decision in Richmond Power and Light, et al., v. F.P.C., —— F. 2d —— (CADC No. 72-1963) applies and that Edison's rate increase to Anza cannot be made effective until after Commission action approving the new rate. Anza further points out that its contract with Edison was subject to termination upon 90 days notice to Anza but that Edison had not given such notice. Anza concedes that after such notice Edison could make a unilateral rate increase filing.

In its petition to intervene, filed June 14, 1973, Anza stated it would effectively waive such contract provisions if a five month suspension is ordered. If on rehearing, the Commission does not order a five-month suspension, Anza requests that the Commission's order issued June 14, 1973, in Gulf States Utilities Co., Docket No. E-8121 is controlling and that the rate increase should not become effective until two months after Edison gives notice of termination of the outstanding contracts.

Article V of Anza's contract with Edison provides, inter alia:

> The rates, including terms and conditions stated in this contract, are subject to change by any regulatory body now in existence or hereafter created by law having jurisdiction in the manner prescribed by law. In the event of such change, the new rates and terms and conditions as prescribed shall apply to this contract for the unexpired terms hereof. In the event that any regulatory body shall order a rate increase, Cooperative may at its option terminate this contract at any time by written notice to Company.

Based upon our review of Anza's contracts with Edison, we believe that California law does not apply to Edison's rate increase filing since Article V contains the language, "subject to change by any regulatory body now in existence or hereinafter created by law having jurisdiction in the manner prescribed by law." While Edison had the right to make a unilateral rate increase filing under Artivle V of the contract that article permits the rate increase to be made effective only after Commission order. We note, as Anza concedes in its pleading, that Edison could also make a unilateral rate increase filing if it gave the 90-day notice of termination required by Article XI of the contract to Anza.[2] However, since Edison has not given the notice required by Article XI of its contract, we shall accept the filing as being made pursuant to Article V which would permit the rates to become effective only after Commission order. Accordingly, we will amend our July 6, 1973, to provide that Edison's rate increase as to Anza may be made effective only after Commission order.

Cities in support of its application for rehearing states the Commission's two-month suspension of Edison's rate increase filing is inconsistent with its "responsibilities under the Economic Stabilization Act and Executive Orders issued thereunder and that the Commission grant rehearing and reject the filing. In the alternative, Cities asks, citing several cases it maintains are supportive of its position, that the suspension period be extended to December 7, 1973, the full statutory period. Also, Cities claim Edison has overstated several aspects of its rate increase filing and therefore the filing should be rejected. Finally, Cities notes, as it did in its Protest and Motion to Reject the Filing filed June 19, 1973, that if Edison is granted the proposed increase a price squeeze will exist as to Cities.

With respect to the claims by Anza and Cities that the Commission erred in not ordering a five-month suspension, it is well settled that the length of the period of suspension is a matter within our discretion and reasons or basis as to the period of suspension are not required. (Municipal Light Boards of Reading and Wakefield, Massachusetts v. F.P.C., 450 F.2d 1341 (CADC 1971) certiorai denied 405 U.S. 989 (1972). Moreover, insofar as the July 6, 1973, order dealt with the period of suspension, such order was procedural in that the substantive issues were set for hearing. Accordingly, the order, insofar as it deals with the length of suspension, is not subject to a petition for rehearing under section 313(a) of the Federal Power Act. F.P.C., v. Metropolitan Edison Co., 304, U.S. 375 (1938).

The remaining arguments raised by Cities and Anza are matters which cannot be dealt with summarily and require development at an evidentiary hearing which we have already ordered in this proceeding.

*The Commission finds*

(1) Anza's application for rehearing will be granted in part since we will, for the reasons set forth above, amend our July 6, 1973, order in this docket to provide that any rate increase as to Anza may become effective only after a Commission order approving the rate increase in whole or in part. In all other respects, the application raises no new issues not previously considered which warrant further modification of our July 6, 1973, order.

(2) The application for rehearing filed by Cities presents no issues or facts not previously considered or which warrant modification of our order of July 6, 1973, in this docket.

*The Commission orders*

(A) The application for rehearing by Cities is denied.

(B) Anza's application for rehearing is granted in part since we hereby amend our July 6, 1973, order in this docket to provide that any rate increase as to Anza may become effective only after a Commission order approving the rate increase in whole or in part. In all other respects, the application raises no new issues not previously considered which warrant further modification of our July 6, 1973, order.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-18899 Filed 9-5-73;8:45 am]

[1] Cities of Anaheim, Riverside, Banning, Colton, and Azuza, California.

[2] Article XI of Anza's contract with Edison states, in relevant part: "Either party may terminate this contract by giving notice in writing to the other party at least ninety days prior to the effective date of termination."

[Docket No. CI74-133]

## SUN OIL CO.

### Notice of Application

AUGUST 30, 1973.

Take notice that on August 17, 1973, Sun Oil Co. (Applicant), P.O. Box 2880, Dallas, Texas 75221, filed in Docket No. CI74-133 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Transcontinental Gas Pipe Line Corp. from the Bear Field, Beauregard Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell up to 1,000 Mc.f. of gas per day for three years at 35.0 cents per Mc.f. at 15.025 p.s.i.a. within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Estimated monthly sales are 5,200 Mc.f. of gas.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 17, 1973, file with





the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by §§ 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure therein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-18900 Filed 9-5-73;8:45 am]

[Project No. 2716]

## VIRGINIA ELECTRIC AND POWER CO.

### Notice of Application for License for Unconstructed Project

AUGUST 29, 1973.

Public notice is hereby given that application for a major license under the Federal Power Act (16 U.S.C. 791a–825r) was filed on July 31, 1973, by Virginia Electric and Power Co. (Correspondence to: Mr. Stanley Ragone, Senior Vice President, Virginia Electric and Power Co., P.O. Box 26666, Richmond, Virginia 23261; copies to Arnold H. Quint, Esq., Hunton, Williams, Gay, and Gibson, 1730 Pennsylvania Avenue NW., Washington, D.C. 20006), for the proposed Bath County Pumped Storage Project No. 2716. The project would be located on Back Creek and Little Back Creek, tributaries of the Jackson River in the James River Basin, in Bath County, Virginia, about 9 miles northeast of Mountain Grove, Virginia. The transmission lines would cross portions of Bath, Highland, Augusta, and Rockbridge Counties, Virginia. The proposed project would affect the interest of interstate or foreign commerce and lands of the United States in the George Washington National Forest.

The proposed pumped storage project would consist of: (1) An upper reservoir created by building a 2,400-foot long, 425-foot high, zoned rock and earth-fill dam across Little Back Creek, with a usable storage capacity of 24,300 acre-feet, of which 1,800 acre-feet could be for flood storage and 22,500 acre-feet would be power storage between elevation 3,215 and 3,320 feet, with a surface area at full power pool of 265 acres: (2) water conduits which will be composed of; (a) three intake structures in the Upper Reservoir; (b) a set of two fixed-wheel gates provided for each of the three intakes; (c) three power tunnels, each of which will be concrete-lined, 28.5 feet in inside diameter and approximately 7,500 feet long connecting each upper intake with two steel-lined 1,300-foot long, 18 feet inside diameter underground penstocks; (d) a single shaft surge tank, approximately 55 feet in inside diameter, for each of the power tunnels: (3) A powerhouse located on the west side of the lower reservoir which will be of the indoor type, housing six 350 mw reversible pumping-generating units: (4) A transmission switching station erected on top of the powerhouse containing transformers to step-up the generator voltage to 500 KV, the transmission line voltage: (5) A lower reservoir created by placing a 2,400-foot long and 155-foot high zoned rock and earth-fill dam across Back Creek, with a total usable storage capacity of 28,200 acre-feet, of which 2,500 acre-feet would be for flood storage, 3,200 acre-feet would be conservation storage, and 22,500 acre-feet would be power storage, with water level fluctuation for power between elevations 2,118 and 2,058 feet, and with a surface area of 555 acres at full power pool and a concrete gravity gated ogee spillway will be provided at the right abutment of the lower reservoir dam; low level outlet works would consist of a gated concrete conduit passing through the dam at the right abutment; and (6) two 500 KV transmission lines, one extending approximately 50 miles in an east-northeasterly direction to Valley Substation to be constructed near Burketown, Virginia, and one extending approximately 35 miles in a southeasterly direction to Applicant's existing Lexington Substation.

A recreation complex downstream of the Lower Dam to be built by Applicant will offer approximately one mile of stream side fishing, ponds totaling approximately 100 acre surface area which will allow swimming, boating and fishing, hiking trails and nature walks, camping, and a Visitors Center located inside of the Lower Dam.

Any person desiring to be heard or to make protest with reference to said application should on or before October 29, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-18903 Filed 9-5-73;8:45 am]

[Docket No. CI74-114]

## TARTAN RESOURCES CORP.

### Notice of Application

AUGUST 27, 1973.

Take notice that on August 16, 1973, Tartan Resources Corp. (applicant), P.O. Box 2566, Houston, Tex. 77001, filed in Docket No. CI74-114 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Transcontinental Gas Pipe Line Corp. from the West El Campo Field, Wharton County, Tex., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it intends to commence the sale of gas within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sale for twenty-four months from the end of the sixty-day emergency period within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). Applicant proposes to sell approximately 90,000 Mc.f. of gas per month at 14.7 p.s.i.a.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 10, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required



V 38-172 SEP 6 73 XUM

herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-18791 Filed 9-5-73;8:45 am]

[Docket No. E-8355]

## LOUISVILLE GAS AND ELECTRIC CO.

### Notice of Proposed Tariff Change

AUGUST 28, 1973.

Take notice that Louisville Gas and Electric Co. (LG&E) on August 10, 1973, tendered for filing a proposed electric rate schedule agreement whereby LG&E will transmit over its system power and energy sold by East Kentucky Rural Electric Cooperative Corp. (East Kentucky) to Salt River Rural Electric Cooperative Corp. (Salt River), and whereby certain other exchanges of power and energy during periods of emergencies may be made between LG&E and East Kentucky.

According to LG&E it has heretofore been supplying power and energy under its Rate Schedule FPC No. 22 to certain of Salt River's load centers. LG&E states that Salt River has contracted with East Kentucky to purchase from it the requirements of the load centers heretofore supplied by LG&E, to begin September 13, 1973. LG&E has filed a notice of concellation of its Rate Schedule FPC No. 22 to become effective September 12, 1973. Docket No. E-8354 LG&E states that under the proposed rate schedule, LG&E will accept power and energy scheduled to it by East Kentucky through the system of Kentucky Utilities Co. and transmit the same to the load centers of Salt River, for which service a transmission toll of .08¢ (.8 mill) per kilowatt-hour charged.

According to LG&E copies of the filing were served upon East Kentucky Rural Electric Cooperative Corp. and Salt River Rural Electric Cooperative Corp.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission. 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 7, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

MARY B. KIDD,
*Acting Secretary.*

[FR Doc.73-19037 Filed 9-5-73;8:45 am]

[Docket No. RP72-118]

## MICHIGAN WISCONSIN PIPE LINE CO.

### Notice of Proposed Revised Tariff Sheet

SEPTEMBER 4, 1973.

Take notice that on August 18, 1973, Michigan Wisconsin Pipe Line Co. (Michigan, Wis.) tendered for filing its Second Substitute Fourth Revised Sheet No. 27F to its FPC Gas Tariff, Second Revised Volume No. 1.

Michigan Wisconsin states that the above-revised tariff sheet reflects the change in its cost of gas purchased from Midwestern Gas Transmission Co. and increases in advance payments to producers and is being filed pursuant to section 15 of its FPC Gas Tariff, Second Revised Volume No. 1 and its Settlement Agreement in Docket No. RP72-118.

Michigan Wisconsin further states that it is proposing no change in its demand/commodity rates because its rate changes proposed on Docket No. RP73-102 will become effective November 1, 1973. By Michigan Wisconsin's statement, the revised tariff sheet accordingly provides for an increase in the Base Tariff Rate of .14¢ per Mcf and a decrease in the Current Cost of Gas Adjustment of .14¢ per Mcf which is equal to the annual effect of Midwestern's rate changes per Mcf of sales during the Determination Period.

Michigan Wisconsin requests a waiver of the requirements of Part 154 of the Commission's Regulations under the Natural Gas Act to the extent necessary to permit this filing to be made and to become effective September 1, 1973.

According to Michigan Wisconsin, copies of the filing have been mailed to its customers and all interested parties in Docket No. RP72-118.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 7, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19040 Filed 9-5-73;8:45 am]

## FEDERAL RESERVE SYSTEM

## BANKSHARES OF LARAMIE, INC.

### Formation of Bank Holding Company

AUGUST 29, 1973.

Bankshares of Laramie, Inc., Laramie, Wyoming, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 per cent or more of the voting shares of Bank of Laramie, Laramie, Wyoming. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank, to be received not later than September 25, 1973.

Board of Governors of the Federal Reserve System, August 29, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-18855 Filed 9-5-73;8:45 am]

## FIRST WESTERN CORP.

### Formation of Bank Holding Company

First Western, Corp., Sioux Falls, South Dakota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 per cent (less directors' qualifying shares) of the voting shares of Western State Bank, Sioux Falls, South Dakota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank, to be received not later than, September 25, 1973.

Board of Governors of the Federal Reserve System, August 29, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-18856 Filed 9-5-73;8:45 am]

## MERCANTILE BANCORPORATION, INC.

### Acquisition of Bank

Mercantile Bancorporation, Inc., St. Louis, Missouri, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 90 percent or more of the voting shares of Noland Road Bank, Independence, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 25, 1973.

Board of Governors of the Federal Reserve System, August 29, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-18854 Filed 9-5-73;8:45 am]

## FEDERAL RESERVE SYSTEM

[Regs. G, T, and U]

## OTC MARGIN STOCK

### List

In accordance with § 207.2(f)(2) of Regulation G, "Securities Credit by Persons other than Banks, Brokers, or Dealers", § 220.2(e)(2) of Regulation T, "Credit by Brokers and Dealers", and § 221.3(d)(2) of Regulation U, "Credit by Banks for the Purpose of Purchasing or Carrying Margin Stocks", there is set forth below the list of stocks traded over the counter, current as of September 4, 1973, that the Board of Governors has determined (in accordance with the criteria set forth in the Supplements to those regulations) to have the degree of national investor interest, the depth and breadth of market, the availability of information respecting the stock and its issuer, and the character and permanence of the issuer to warrant subjecting such stock to the requirements of such regulations.

Stocks appearing on the list have not been approved, in any way, by the Board and representation by any person that their appearance on the list indicates approval by the Board or any Government agency is unlawful.

The requirements of 5 U.S.C. 553 with respect to notice and public participation were not followed in connection with the issuance of this list because following such requirements is unnecessary due to the objective character of the criteria for inclusion on the list, specified in 12 CFR 207.5 (d) and (e). No additional useful information would be gained by public participation. The requirements of 5 U.S.C. 553 with respect to deferred effective date have not been followed in connection with the issuance of this list, because following such requirements would allow speculators to reap unfair profits and would not aid other persons affected thereby.

Board of Governors of the Federal Reserve System acting by its Director of the Division of Supervision and Regulation pursuant to delegated authority (12 CFR 265.2(c)(13)), September 4, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*



LIST OF OTC MARGIN STOCKS

SEPTEMBER 4, 1973.

This list of "OTC margin stocks" is comprised of stocks traded over the counter (OTC) that have been determined by the Board of Governors of the Federal Reserve System to be subject to margin requirements as of September 4, 1973, pursuant to § 207.2(f) of Federal Reserve Regulation G, "Securities Credit by Persons other than Banks, Brokers, or Dealers," § 220.2(e) of Regulation T, "Credit by Brokers and Dealers," and § 221.3(d) of Regulation U, "Credit by Banks for the Purpose of Purchasing or Carrying Margin Stocks."

The list is published from time to time by the Board as a guide for lenders subject to the regulations and the general public. Stocks will be added to the list, or deleted, in the interim between publications as deemed appropriate by the Board. This list supersedes the previous list of OTC margin stocks published as of May 15, 1972, including changes thereto. For current information contact the nearest Federal Reserve Bank.

CAUTION: Stocks appearing on the list have not been approved, in any way, by the Board and representation by any person that their appearance on the list indicates approval by the Board or is based on approval by any government agency is unlawful.

Any inquiry relating to this list or to Regulations G, T, U, or X should be addressed to the nearest Federal Reserve Bank.

AITS, INC., $.10 par common.
AVM CORPORATION, $1.00 par common.
ACMAT CORPORATION, No par common.
ACUSHNET COMPANY, $1.00 par common.
ADDISON-WESLEY PUBLISHING COMPANY, INC. Class B, no par common.
ADVANCE ROSS CORPORATION, $.10 par common.
AFFILIATED BANKSHARES OF COLORADO, INC., $5.00 par common.
ALBANY INTERNATIONAL CORPORATION, $1.25 par common.
ALEXANDER & ALEXANDER SERVICES, INC., $1.00 par common.
ALEXANDER & BALDWIN, INC. No par common.
ALLEGHENY BEVERAGE CORPORATION, $1.00 par common.
ALLIED TELEPHONE COMPANY, $2.00 par common.
ALLYN AND BACON, INC., $.50 par common.
ALODEX CORPORATION, $.10 par common.
ALPEX COMPUTER CORPORATION, $.10 par common.
AMAREX, INC., $1.00 par common.
AMERICAN BANKERS INSURANCE COMPANY OF FLORIDA, $1.00 par common.
AMERICAN BANKERS LIFE ASSURANCE COMPANY OF FLORIDA, $1.00 par common.
AMERICAN BEEF PACKERS, INC., $1.00 par common.
AMERICAN ELECTRONIC LABORATORIES, INC. Class A, $1.00 par common.
AMERICAN EXPRESS COMPANY, $.60 par common; $1.66⅔ par cumulative convertible preferred; Series $1.50, Series $2.30.
AMERICAN FAMILY LIFE ASSURANCE COMPANY OF COLUMBUS, $1.00 par common.
AMERICAN FIDELITY LIFE INSURANCE COMPANY, $1.00 par common.
AMERICAN FINANCIAL CORPORATION, No par common.
AMERICAN FLETCHER CORPORATION, $5.00 par common.
AMERICAN FURNITURE COMPANY, INC., $1.00 par common.
AMERICAN GREETINGS CORPORATION, Class A, $1.00 par common.
AMERICAN HERITAGE LIFE INVESTMENT CORPORATION, $1.00 par common.
AMERICAN INCOME LIFE INSURANCE COMPANY, $1.00 par common.
AMERICAN INTERNATIONAL GROUP, INC., $2.50 par common.
AMERICAN MICRO-SYSTEMS, INC., $1.00 par common.
AMERICAN NATIONAL FINANCIAL CORPORATION, $1.00 par common.
AMERICAN NUCLEAR CORPORATION, $.04 par common
AMERICAN RE-INSURANCE COMPANY, $1.50 par capital
AMERICAN RESERVE CORPORATION, $2.00 par common.
AMERICAN SAVINGS & LOAN ASSOCIATION, $.33⅓ par permanent reserve guarantee stock.
AMERICAN SECURITY AND TRUST COMPANY, $3.33⅓ par capital.
AMERICAN TELEVISION AND COMMUNICATIONS CORPORATION, $.75 par common.
AMERICAN WELDING & MANUFACTURING COMPANY, THE, No par common.
AMTERRE DEVELOPMENT INC., $.01 par common.
ANADITE, INC., No par common.
ANHEUSER-BUSCH, INC., $1.00 par common.
ANIXTER BROTHERS, INC., $1.00 par common.
APPLEBAUMS' FOOD MARKETS, INC., $1.00 par common.
ARDEN-MAYFAIR, INC., $1.00 par common.
ARIZONA BANK, THE, $2.50 par capital.
ARKANSAS WESTERN GAS COMPANY, $2.50 par common.
ARROW-HART, INC., $1.00 par common.
ARVIDA CORPORATION, $1.00 par common.
ASSOCIATED COCA-COLA BOTTLING COMPANY, INC., $.50 par common.
ASSOCIATED MADISON COMPANIES, INC., $.50 par common.
ASSOCIATED TRUCK LINES, INC., Class A, $3.00 par common.
ATLANTA GAS LIGHT COMPANY, $5.00 par common.
ATLANTIC BANCORPORATION, $1.00 par common.
AUTO-TRAIN CORPORATION, $.20 par common.
BCC, INC., $.50 par common.
BMA CORPORATION, $2.00 par common.
BAIRD-ATOMIC, INC., $1.00 par common.
BALL CORPORATION, $2.50 par common.
BALLY MANUFACTURING CORPORATION, $.66⅔ par common.
BANCO CREDITO Y AHORRO PONCENO, $5.00 par common.
BANCO POPULAR DE PUERTO RICO, $10.00 par common.
BANCOHIO CORPORATION, $6.66⅔ par common.
BANGOR HYDRO-ELECTRIC COMPANY, $5.00 par common.
BANK BUILDING & EQUIPMENT CORPORATION OF AMERICA, $1.33⅓ par common.
BANK OF TOKYO OF CALIFORNIA, THE, $5.00 par common.
BANKAMERICA CORPORATION, $3.125 par common.
BANKAMERICA REALTY INVESTORS, $1.00 par shares of beneficial interest.
BANKERS SECURITY LIFE INSURANCE SOCIETY, $2.00 par common.
BANKS OF IOWA, INC. No par common, $2.50 stated value.
BAATA, GEORGE COMPANY, INC., $.10 par common.
BARBER-GREENE COMPANY, $5.00 par common.



V 38-172
SEP 6 73
XUM

BARDEN CORPORATION, THE $1.00 par common.
BARNES-HIND PHARMACEUTICALS, INC. No par common.
BARNETT BANKS OF FLORIDA, INC., $2.00 par common.
BASSETT FURNITURE INDUSTRIES, INC., $5.00 par common.
BAYLESS, A. J. MARKETS, INC., $1.00 par common.
BAYSTATE CORPORATION, $7.50 par common.
BEELINE FASHIONS, INC. No par common.
BEKINS COMPANY, THE. No par common.
BENEFICIAL STANDARD CORPORATION, Class A, $1.00 par common, Class B, $1.00 par common.
BETZ LABORATORIES, INC., $.10 par common.
BI-LO, INC., $.33⅓ par common.
BIBB COMPANY, THE. No par common.
BIRD & SON, INC. No par common.
BLACK HILLS POWER AND LIGHT COMPANY, $1.00 par common.
BLUE CHIP STAMPS, $1.00 par common.
BOB EVANS FARMS, INC. No par common.
BOHEMIA, INC. No par common.
BONANZA INTERNATIONAL, INC. No par common.
BOOZ, ALLEN & HAMILTON, INC., $.25 par common.
BRENCO, INC., $1.00 par common.
BROWNING, $1.00 par common.
BUCKBEE-MEARS COMPANY, $.10 par common.
BUCKEYE INTERNATIONAL, INC. No par common.
BURNUP & SIMS INC., $.10 par common.
BUTLER MANUFACTURING COMPANY. No par common,
CBT CORPORATION, $10.00 par common.
CP FINANCIAL CORPORATION, $1.00 par common.
CALIFORNIA-PACIFIC UTILITIES COMPANY, $5.00 par common.
CALIFORNIA WATER SERVICE COMPANY, $12.50 par common.
CALIFORNIA-WESTERN STATES LIFE INSURANCE COMPANY, $2.50 par common-capital.
CAMERON-BROWN INVESTMENT GROUP. Warrants (expire 11/15/76).
CAMERON FINANCIAL CORPORATION, $3.33⅓ par common.
CAMPBELL TAGGART, INC., $1.00 par common.
CANNON MILLS COMPANY, $5.00 par common.
CAPITAL MORTGAGE INVESTMENTS, $1.00 par shares of beneficial interest.
CAROLINA CARIBBEAN CORPORATION, $.83⅓ par common.
CASCADE NATURLAL GAS CORPORATION, $25.00 par cumulative convertible junior preferred.
CAYMAN CORPORATION, $.10 par common.
CEDAR POINT, INC., $1.00 par common.
CLINTON OIL COMPANY, $.03⅓ par common.
CLOW CORPORATION, $6.25 par common.
COASTAL STATES CORPORATION, $1.00 par common.
COCA-COLA BOTTLING COMPANY CONSOLIDATED, $1.00 par common.
COCA-COLA BOTTLING COMPANY OF LOS ANGELES. No par common.
COCA-COLA BOTTLING COMPANY OF MIAMI, INC., THE, $.10 par common.
COGAR CORPORATION, $.60 par common.
COGNITRONICS CORPORATION, $.20 par common.
COLLEGE UNIVERSITY CORPORATION. No par common.
COLONIAL FIRST NATIONAL BANK, $1.00 par common.
COLONIAL LIFE & ACCIDENT INSURANCE COMPANY. Class B, nonvoting, $1.00 par common.
COMBANKS CORPORATION, $1.00 par common.
COMBINED INSURANCE COMPANY OF AMERICA, $1.00 par common.
COMMERCE BANCSHARES, INC., $10.00 par common.
COMMERCIAL TRUST COMPANY OF NEW JERSEY, $5.00 par capital.
COMMONWEALTH TELEPHONE COMPANY, $6.66⅔ par common.
COMPUTER MACHINERY CORPORATION, $.10 par common.
COMPUTER USAGE COMPANY, $.25 par common.
CONNECTICUT GENERAL INSURANCE CORPORATION, $2.50 par common.
CONSOLIDATED PAPERS, INC., $12.50 par common.
CONTINENTAL BANK (Pennsylvania), $5.00 par common.
CENCOR, INC., $1.00 par common.
CENTRAL BANKING SYSTEM, INC., $2.50 par capital.
CENTRAL JERSEY BANK & TRUST COMPANY, THE, $2.50 par capital.
CENTRAL NATIONAL CORPORATION (Virginia), $5.00 par common.
CENTRAL VERMONT PUBLIC SERVICE CORPORATION, $6.00 par common.
CENTRAN BANCSHARES CORPORATION, $8.00 par common.
CENTRONICS DATA COMPUTER CORPORATION, $.01 par common.
CHAMPION PARTS REBUILDERS, INC., $.10 par common.
CHANCE, A. B. COMPANY, $2.50 par common.
CHARTER BANKSHARES CORPORATION, $3.00 par common.
CHESAPEAKE INSTRUMENT CORPORATION, $1.00 par common.
CHICAGO BRIDGE & IRON COMPANY, $5.00 par common.
CHUBB CORPORATION, THE, $1.00 par common
CHURCH'S FRIED CHICKEN, INC., $.12 par common.
CINCINNATI FINANCIAL CORPORATION, $2.00 par common.
CITIZENS AND SOUTHERN CORPORATION, THE (South Carolina), $2.50 par common.
CITIZENS & SOUTHERN NATIONAL BANK, The (Georgia), $2.50 par common.
CITIZENS UTILITIES COMPANY, Series A, $1.00 par common; Series B, $1.00 par common.
CITY NATIONAL CORPORATION, $5.00 par common.
CLARK, J. L. MANUFACTURING COMPANY, $1.00 par common.
CLEVELAND TRUST COMPANY, THE, $20.00 par common.
CLEVEPAK CORPORATION, $1.00 par common.
CONTRAN CORPORATION, $1.00 par common.
CONWED CORPORATION, $5.00 par common.
CORNELIUS COMPANY, THE, $.20 par common.
COUSINS PROPERTIES INC., $1.00 par common.
CRADDOCK-TERRY SHOE CORPORATION, $1.00 par common.
CROSS COMPANY, THE, $5.00 par common.
CRUM AND FORSTER, $1.25 par common.
CRUTCHER RESOURCES CORPORATION, $1.00 par common.
CULLUM COMPANIES, INC., $1.00 par common.
CURTIS NOLL CORPORATION, No par common.
DAMSON OIL CORPORATION, $.40 par common.
DANIEL INTERNATIONAL CORPORATION, $2.00 par common.
DART DRUG CORPORATION, Class A, $1.00 par common.
DATA GENERAL CORPORATION, $.01 par common.
DATA 100 corporation, $.50 par common.
DATA PACKAGING CORPORATION, $.10 par common.
DAYTON MALLEABLE IRON COMPANY, THE, no par common.
DECISION DATA COMPUTER CORPORATION, $.10 par common.
DECORATOR INDUSTRIES, INC., no par common.
DEKALB AGRESEARCH, INC., Class B, no par common.
DELHI INTERNATIONAL OIL CORPORATION, $.10 par common.
DELUXE CHECK PRINTERS, INC., $1.00 par common.
DEPOSIT GUARANTY CORPORATION, no par common.
DETREX CHEMICAL INDUSTRIES, INC., $2.00 par common.
DETROITBANK CORPORATION, $10.00 par common.
DIAGNOSTIC DATA, INC., $1.00 par capital.
DIAMOND CRYSTAL SALT COMPANY, $2.50 par common.
DIAMONDHEAD CORPORATION, $1.00 par common.
DICK, A. B. COMPANY, $1.00 par common.
DISC INCORPORATED OF AMERICA, $1.00 par common.
DIXON, JOSEPH CRUCIBLE COMPANY, THE, $10.00 par capital.
DOCUTEL CORPORATION, $.10 par common.
DONALDSON COMPANY, INC., $5.00 par common.
DORCHESTER GAS CORPORATION, $.10 par common.
DOW JONES & COMPANY, INC., $1.00 par common.
DOWNE COMMUNICATIONS, INC., $1.00 par common.
DOWNTOWNER CORPORATION, $1.00 par common.
DOYLE DANE BERNBACH INC., $.50 par common.
DUNKIN' DONUTS INC., $1.00 par common.
DURIRON COMPANY, INC., THE, $1.25 par common.
ERC CORPORATION, $2.50 par common.
ECONOMICS LABORATORY, INC., $1.00 par common.
EDUCATIONAL DEVELOPMENT CORPORATION, $.20 par common.
EL PASO ELECTRIC COMPANY. No par common.
ELBA SYSTEMS CORPORATION. No par common.
ELECTRO-NUCLEONICS, INC., $.02½ par common.
ELLIS BANKING CORPORATION, $1.00 par common.
EMPIRE GENERAL CORPORATION, $1.00 par common.
ENERGY CONVERSION DEVICES, INC., $.01 par common.
EQUITY OIL COMPANY, $1.00 par common.
ERIE TECHNOLOGICAL PRODUCTS, INC., $2.50 par common.
FAIR LANES, INC., $1.00 par common.
FAMILY LIFE INSURANCE COMPANY, Class A, nonvoting, $1.00 par common.
FARMER BROTHERS COMPANY, $1.00 par common.
FARMERS GROUP, INC., $1.00 par common.
FARMERS NEW WORLD LIFE INSURANCE COMPANY, $1.00 par common.
FIDELITY AMERICAN BANKSHARES, INC., $5.00 par common.
FIDELITY CORPORATION (Virginia), $1.00 par common.
FIDELITY CORPORATION OF PENNSYLVANIA, $1.00 par common.
FIDELITY UNION LIFE INSURANCE COMPANY, $1.00 par common.
FIRST ALABAMA BANCSHARES, INC., $2.50 par common.





FIRST & MERCHANTS CORPORATION (Virginia), $7.50 par common.
FIRST AT ORLANDO CORPORATION, $2.50 par common.
FIRST BANC GROUP OF OHIO, INC., No par common, $5.00 stated value.
FIRST BANK SYSTEM, INC., $2.50 par capital.
FIRST CITY BANCORPORATION OF TEXAS, INC., $6.50 par common.
FIRST COLONY LIFE INSURANCE COMPANY, $1.00 par common.
FIRST COMMERCE CORPORATION, $5.00 par common.
FIRST COMMERCIAL BANKS INC., $5.00 par common.
FIRST EMPIRE STATE CORPORATION, $5.00 par common.
FIRST JERSEY NATIONAL CORPORATION, $5.00 par common.
FIRST MISSISSIPPI CORPORATION, $1.00 par common.
FIRST MORTGAGE INSURANCE COMPANY, $1.00 par common.
FIRST NATIONAL BANK OF MARYLAND, THE, $5.00 par common.
FIRST NATIONAL HOLDING CORPORATION, (Georgia), $5.00 par common.
FIRST OKLAHOMA BANCORPORATION, INC., $5.00 par common.
FIRST SECURITY CORPORATION, $1.25 par common.
FIRST TENNESSEE NATIONAL CORPORATION, $5.00 par common.
FIRST TEXAS FINANCIAL CORPORATION, $1.00 par common.
FIRST UNION, INC., $10.00 par common.
FIRST WESTERN FINANCIAL CORPORATION, $1.00 par common.
FLEXSTEEL INDUSTRIES, INC., $1.00 par common.
FLICKINGER, S. M., COMPANY, INC., $2.50 par common.
FLORIDA COMMERCIAL BANKS, INC., $1.00 par common.
FLORIDA MINING & MATERIALS CORPORATION, $1.00 par common.
FLORIDA NATIONAL BANKS OF FLORIDA, INC., $12.50 par common.
FLORIDA TELEPHONE CORPORATION, $2.50 par common.
FOREST OIL CORPORATION, $1.00 par common.
FORT WORTH NATIONAL CORPORATION, $5.00 par common.
FOSTER GRANT COMPANY, INC., $1.00 par common.
FOTOMAT CORPORATION, $.10 par common.
FOUNDERS FINANCIAL CORPORATION, $1.00 par common.
FRANKLIN ELECTRIC COMPANY, INC. No par common.
FRANKLIN LIFE INSURANCE COMPANY, THE, $2.00 par common.
FRANKLIN NEW YORK CORPORATION, $5.00 par common; $25.00 par convertible preferred.
FRASER MORTGAGE INVESTMENTS. No par shares of beneficial interest.
FREDERICK & HERRUD, INC., $.10 par common.
FRIENDLY ICE CREAM CORPORATION, $1.00 par common.
FRISCH'S RESTAURANTS, INC., No par common.
FUNK SEEDS INTERNATIONAL, INC., $.10 par common.
FURR'S CAFETERIAS, INC., No par common.
GALBREATH FIRST MORTGAGE INVESTMENTS. No par shares of beneficial interest.
GARFINCKEL, BROOKS BROTHERS, MILLER & RHOADS, INC., $.50 per common.
GATES LEARJET CORPORATION, $1.00 par common.
GATEWAY TRANSPORTATION COMPANY, INC., $.62½ par common.
GENERAL AIRCRAFT CORPORATION, $1.00 par common.
GENERAL AUTOMATION, INC., $.10 par common.
GENERAL CRUDE OIL COMPANY, $.80 par common.
GENERAL HEALTH SERVICES, INC., $1.00 par common.
GENERAL REINSURANCE CORPORATION, $2.00 par common.
GEORGE WASHINGTON CORPORATION, $1.00 par common.
GIFFEN INDUSTRIES, INC., $1.00 per common.
GILFORD INSTRUMENT LABORATORIES, INC. No par common.
GIRARD COMPANY, THE, $1.00 par common.
GLOBE LIFE AND ACCIDENT INSURANCE COMPANY, $1.00 par common.
GOVERNMENT EMPLOYEES INSURANCE COMPANY, $4.00 par common. Warrants (expire 08/01/78).
GOVERNMENT EMPLOYEES LIFE INSURANCE COMPANY, $1.50 par common.
GRAHAM MAGENTICS INC., $.10 par common.
GRAPHIC CONTROLS CORPORATION, $1.00 par common.
GRAPHIC SCIENCES, INC., $.50 par common.
GREAT COMMONWEALTH LIFE INSURANCE COMPANY, $1.00 par common.
GREAT SOUTHERN CORPORATION, $2.00 par common.
GREATER JERSEY BANCORPORATION, $5.50 par common.
GREEN MOUNTAIN POWER CORPORATION, $3.33⅓ par common.
GREY ADVERTISING INC., $1.00 par common.
HALL, FRANK B. & COMPANY INC., $.50 par common.
HAMILTON BANCSHARES, INC., no par common.
HAMILTON INTERNATIONAL CORPORATION, $1.00 par common.
HANOVER INSURANCE COMPANY, THE, $2.00 par capital.
HARPER & ROW, PUBLISHERS, INC., $.10 par common.
HARRIS BANKCORP, INC., $16.00 par common.
HARTFORD NATIONAL CORPORATION, $6.25 par common.
HAVATAMPA CIGAR CORPORATION, $7.50 par common.
HAWAII BANCORPORATION, INC., $2.00 par common.
HAWKEYE BANCORPORATION, $3.00 par common.
HAWTHORNE FINANCIAL CORPORATION, $1.00 par capital.
HEATH TECNA CORPORATION, No par common.
HERITAGE BANCORPORATION, No par common.
HEXCEL CORPORATION, $1.00 par common.
HOOK DRUGS, INC., No par common.
HOOVER COMPANY, THE, $2.50 par common.
HORACE MANN EDUCATORS CORPORATION, $1.00 par common.
HUDSON UNITED BANK, $8.00 par capital.
HUGHES SUPPLY, INC., $1.00 par common.
HUNTINGTON BANCSHARES, INC., $10.00 par common.
HYATT CORPORATION, $.50 par common.
HYSTER COMPANY, $.50 par common.
ISI CORPORATION, No par common.
INDEPENDENT LIFE & ACCIDENT INSURANCE COMPANY, THE, nonvoting, $1.00 par common.
INDIANA NATIONAL CORPORATION, No par common.
INDIANAPOLIS WATER COMPANY, $7.50 par common.
INDUSTRIAL NUCLEONICS CORPORATION, $1.00 par common.
INFOREX INC., $.25 par common.
INFORMATICS, INC., $.10 par common.
INFORMATION INTERNATIONAL, INC., $.25 par common.
INTEL CORPORATION, No par common.
INTERDATA, INC., $.01 par common.
INTERFINANCIAL INC., $1.00 par common.
INTERMOUNTAIN GAS COMPANY, $1.00 par common.
INTERNATIONAL BANK (Washington, D.C.), $1.00 par common, Class A, $1.00 par common.
INTERSTATE CORPORATION, THE, $1.00 par common.
INTERWAY CORPORATION, $1.00 par common.
INTEXT, INC., No par common.
IOWA SOUTHERN UTILITIES COMPANY, $10.00 par common.
IVEY, J. B. & COMPANY, $2.50 par common.
JAMESBURY CORPORATION, $1.00 par common.
JEFFERSON NATIONAL LIFE INSURANCE COMPANY, $1.00 par capital.
JOSLYN MANUFACTURING AND SUPPLY COMPANY, $1.25 par common.
KMS INDUSTRIES, INC., $.01 par common.
KAISER STEEL CORPORATION, $.66⅔ par common.
KALVAR CORPORATION, $.02 par capital.
KAMAN CORPORATION, Class A, $1.00 par common.
KAMPGROUNDS OF AMERICA, INC., $.12½ par common.
KEARNEY & TRECKER CORPORATION, $2.00 par common.
KELLWOOD COMPANY, No par common.
KELLY SERVICES, INC., $1.00 par common.
KEMPERCO, INC., $5.00 par common.
KENTUCKY CENTRAL LIFE INSURANCE COMPANY, Class A, nonvoting, $1.00 par common.
KEYES FIBRE COMPANY, $1.00 par common.
KEYSTONE CUSTODIAN FUNDS, INC., Class A, nonvoting, no par common
KNAPE & VOGT MANUFACTURING COMPANY, $2.00 par common.
KNUDSEN CORPORATION, $.00 par common.
KOSS CORPORATION, $.01 par common.
KUHLMAN CORPORATION, $1.00 par common.
KUSTOM ELECTRONICS, INC., $.10 par common.
LA-Z-BOY CHAIR COMPANY, $1.00 par common.
LADD PETROLEUM CORPORATION, $.10 par common.
LANCASTER COLONY CORPORATION, $4.00 par common.
LANCE, INC., $1.25 par common.
LANDMARK BANKING CORPORATION OF FLORIDA, $1.00 par common.
LAWSON PRODUCTS, INC., No par common, $1.00 stated value.
LAWTER CHEMICALS, INC., $1.00 par common.
LEADVILLE CORPORATION, $1.00 par common.
LEE WAY MOTOR FREIGHT, INC., $1.00 par common.
LEGGETT & PLATT, INC., $1.00 par common.
LIBERTY HOMES, INC., $1.00 par common.
LIBERTY NATIONAL LIFE INSURANCE COMPANY, $2.00 par common-capital.
LIFE INSURANCE COMPANY OF GEORGIA, $2.50 par capital.
LIFE INVESTORS, INC., $1.00 par common.
LIN BROADCASTING CORPORATION, $2.00 par common.
LINCOLN FIRST BANKS, INC., $10.00 par common; $4.50 par cumulative preferred.
LINCOLN MORTGAGE INVESTORS, $1.00 par shares of beneficial interest.
LITCO CORPORATION OF NEW YORK, $5.00 par common.
LOCTITE CORPORATION, No par common.
LONE STAR BREWING COMPANY, $1.00 par common.



V 38-172 SEP 6 73 XUM

LOWE'S COMPANIES, INC., $.50 par common.
MCI COMMUNICATIONS CORPORATION, $.10 par common.
MLS INDUSTRIES, INC., $.10 par common.
MADISON GAS AND ELECTRIC COMPANY, $8.00 par common.
MAJOR REALTY CORPORATION, $.01 par common.
MALLINCKRODT CHEMICAL WORKS. Class A, nonvoting, $1.00 par common.
MANCHESTER LIFE & CASUALTY MANAGEMENT CORPORATION, $1.00 par common.
MANHATTAN LIFE INSURANCE COMPANY, THE, $2.00 par guarantee capital shares.
MANUFACTURERS BANK (Los Angeles), $3.75 par capital.
MANUFACTURERS NATIONAL CORPORATION, $10.00 par common.
MARCUS CORPORATION, THE, $1.00 par common.
MARTHA WHITE FOODS, INC., $1.00 par common.
MARY KAY COSMETICS, INC., $.10 par common
MARYLAND NATIONAL CORPORATION, $5.00 par common.
MAUI LAND & PINEAPPLE COMPANY, INC. No par common
McCORMICK & COMPANY, INC. Nonvoting, no par common.
McQUAY-PERFEX INC., $1.00 par common.
MEASUREX CORPORATION. No par common
MEDCOM, INC., $.10 par common.
MEDIAN MORTGAGE INVESTORS. No par shares of beneficial interest.
MEDIC-HOME ENTERPRISES, INC., $.10 par common.
MEDICENTERS OF AMERICA, INC., $1.00 par common.
MEDTRONIC, INC., $.10 par common.
MELLON NATIONAL CORPORATION, $1.00 par common.
MERCANTILE BANCORPORATION INC., $5.00 par common.
MERVYN'S, $1.00 par common.
MEYER, FRED, INC., Class A, no par common.
MICHIGAN NATIONAL CORPORATION, $10.00 par common.
MIDLANTIC BANKS, INC., $10.00 par common.
MIDWESTERN UNITED LIFE INSURANCE COMPANY, $1.00 par common.
MILLIPORE CORPORATION, $.16⅔ par common.
MINNESOTA FABRICS, INC., $.05 par common.
MRS. SMITH'S PIE COMPANY, $1.00 par common.
MOGUL CORPORATION, THE. No par common.
MONARCH CAPITAL CORPORATION, $1.00 par common.
MONFORT OF COLORADO, INC., $1.00 par common.
MONUMENTAL CORPORATION, $3.50 par common.
MOORE, SAMUEL AND COMPANY. No par common.
MORTGAGE INVESTORS OF WASHINGTON, $1.00 par shares of beneficial interest.
MOTOR CLUB OF AMERICA, $.50 par common.
MUTUAL SAVINGS LIFE INSURANCE COMPANY, $1.00 par common.
MYERS INDUSTRIES, INC. No par common.
NBT CORPORATION, $4.00 par common.
NCNB CORPORATION, $2.50 par common.
NFF CORPORATION, $.10 par common.
NN CORPORATION, $5.00 par common.
NRG INC., $.10 par common.
NATIONAL CITY CORPORATION, $8.00 par common.
NATIONAL LIBERTY CORPORATION, $1.00 par common.
NATIONAL LIFE OF FLORIDA CORPORATION, $1.00 par common.
NATIONAL MORTGAGE FUND, $1.00 par shares of beneficial interest.
NATIONAL OLD LINE INSURANCE COMPANY, Class BB, nonvoting $1.00 par common.
NATIONAL PATENT DEVELOPMENT CORPORATION, $.01 par common.
NATIONAL STATE BANK, THE (Elizabeth, New Jersey), $4.00 par common.
NATIONAL WESTERN LIFE INSURANCE COMPANY, Class A, common.
NATIONWIDE CORPORATION, Class A, $2.50 par common.
NEW ENGLAND GAS AND ELECTRIC ASSOCIATION, $4.00 par common.
NEW ENGLAND MERCHANTS COMPANY, INC., $5.00 par common.
NEW JERSEY NATIONAL CORPORATION, $5.00 par common.
NEW JERSEY NATURAL GAS COMPANY, $5.00 par common.
NIELSEN, A. C. COMPANY, Class A, $1.00 par common, Class B, $1.00 par common.
NORTH CAROLINA NATURAL GAS CORPORATION, $2.50 par common.
NORTHEAST BANCORPORATION INC., $5.00 par common.
NORTHERN CALIFORNIA SAVINGS AND LOAN ASSOCIATION, No par guarantee capital stock.
NORTHERN STATES BANCORPORATION, $5.00 par common.
NORTHRUP, KING & COMPANY, $1.00 par common.
NORTHWEST NATURAL GAS COMPANY, $3.00⅓ par common.
NORTHWESTERN FINANCIAL CORPORATION, $1.00 par common.
NORTHWESTERN NATIONAL LIFE INSURANCE COMPANY, $1.25 par common.
NORTHWESTERN PUBLIC SERVICE COMPANY, $7.00 par common.
NORTRUST CORPORATION, $10.00 par common.
NOXELL CORPORATION, Class B, nonvoting, $1.00 par common.
OCEAN DRILLING & EXPLORATION COMPANY, $.50 par common.
OFFSHORE LOGISTICS, INC., No par common.
OHIO CASUALTY CORPORATION, $.50 par common.
OIL SHALE CORPORATION, THE, $.15 par common.
OLD REPUBLIC INTERNATIONAL CORPORATION, $1.00 par common.
OLYMPIA BREWING COMPANY, $10.00 par common.
OMEGA-ALPHA, INC., $5.00 par common.
OPTICAL COATING LABORATORY, INC., No par common.
ORBANCO, INC., No par common.
ORMONT DRUG & CHEMICAL COMPANY, INC., $.10 par common.
OTTER TAIL POWER COMPANY, $5.00 par common.
OVERSEAS NATIONAL AIRWAYS, INC., $1.00 par common.
OZITE CORPORATION, $1.00 par common.
PVO INTERNATIONAL INC., $5.00 par common.
PABST BREWING COMPANY, No par common.
PACCAR INC., $12.00 par common.
PACIFIC GAMBLE ROBINSON COMPANY, $5.00 par common.
PACIFIC LUMBER COMPANY, THE, $3.33⅓ par capital.
PACIFIC STANDARD LIFE COMPANY, $1.00 par common.
PAN AMERICAN BANCSHARES, INC., $1.00 par common.
PAN OCEAN OIL CORPORATION, $.01 par common.
PARK-OHIO INDUSTRIES, INC., $1.00 par common.
PARKER DRILLING COMPANY, $1.00 par common.
PARKVIEW-GEM, INC., $1.00 par common.
PATRICK PETROLEUM COMPANY, $.10 par common.
PAULEY PETROLEUM INC., $1.00 par common.
PAY LESS DRUG STORES (California), No par common.
PAY'N SAVE CORPORATION, No par common.
PEACHTREE DOORS INC., $1.00 par common.
PEERLESS INSURANCE COMPANY, $2.50 par common.
PENNSYLVANIA GAS AND WATER COMPANY, No par common, $10.00 stated value.
PENNSYLVANIA LIFE COMPANY, $.50 par common.
PENNZOIL OFFSHORE GAS OPERATORS INC., Class B, $1.00 par common.
PETERSON, HOWELL & HEATHER, INC., No par common.
PETRO-LEWIS CORPORATION, $1.00 par common.
PETTIBONE CORPORATION, $10.00 par common.
PHILADELPHIA LIFE INSURANCE COMPANY, $1.00 par common.
PHILADELPHIA NATIONAL CORPORATION, $1.00 par common.
PIEDMONT AVIATION, INC., $1.00 par common.
PIONEER WESTERN CORPORATION, $1.00 par common.
PITTSBURGH NATIONAL CORPORATION, $5.00 par common.
PLANNED MARKETING ASSOCIATES, INC., $1.00 par common.
POPEIL BROTHERS, INC., $.40 par common.
POST CORPORATION, $1.00 par common.
POTT INDUSTRIES INC., $1.00 par common.
PRESTO PRODUCTS, INC., $.10 par common.
PRESTON TRUCKING COMPANY, INC., $1.00 par common.
PRINCETON AMERICAN BANCORP, $4.00 par common.
PROFESSIONAL GOLF COMPANY, $.50 par common.
PROGRESSIVE CORPORATION, THE, $1.00 par common.
PROVIDENT LIFE AND ACCIDENT INSURANCE COMPANY, $5.00 par common.
PROVIDENT LIFE INSURANCE COMPANY, $2.50 par common.
PROVIDENT NATIONAL CORPORATION, $1.00 par common.
PUBLIC SERVICE COMPANY OF NORTH CAROLINA, INC., $1.00 par common.
PUBCO CORPORATION, $.40 par common.
QUALITY INNS INTERNATIONAL, INC., $1.00 par common.
RAYCHEM CORPORATION, No par common.
RAYGO, INC., $.05 par common.
RAYMOND CORPORATION, THE, $1.50 par common.
RECOGNITION EQUIPMENT INC., $.25 par common.
REDKEN LABORATORIES, INC., $.50 par common.
REGENCY ELECTRONICS, INC., No par common.
REID-PROVIDENT LABORATORIES, INC., $1.00 par common.
RELIANCE UNIVERSAL, INC., $1.25 par common.
REPUBLIC NATIONAL BANK OF DALLAS, $6.00 par common-capital.
REPUBLIC NATIONAL LIFE INSURANCE COMPANY, $1.00 par common.
REYNOLDS AND REYNOLDS COMPANY, THE. Class A, $1.25 par common.
RIGGS NATIONAL BANK OF WASHINGTON, D.C., THE, $5.00 par common.
RIVAL MANUFACTURING COMPANY, $1.00 par common.
ROADWAY EXPRESS, INC. No par common.
ROUSE COMPANY, THE, $.01 par common.
RUSSELL STOVER CANDIES, INC., $1.00 par common.
SAFECO CORPORATION, $5.00 par common.





SAGA ADMINISTRATIVE CORPORATION, $1.00 par common.
ST. PAUL COMPANIES, INC., THE, $3.00 par common.
SAMSONITE CORPORATION. No par common.
SANTA ANITA CONSOLIDATED, INC. No par common.
SCOPE INC., $1.00 par common.
SCOTTISH INNS OF AMERICA, INC., $.10 par common.
SCOTT'S LIQUID GOLD, INC., $.10 par common.
SCRIPTO, INC., $.50 par common.
SEA WORLD, INC., $.50 par common.
SEALED AIR CORPORATION, $.01 par capital.
SEATTLE-FIRST NATIONAL BANK, $10.00 par common.
SECURITY LIFE AND ACCIDENT COMPANY, Series A, $2.00 par common.
SECURITY NATIONAL BANK (New York), $5.00 par common.
SECURITY NEW YORK STATE CORPORATION, $5.00 par common.
SECURITY PACIFIC CORPORATION, $10.00 par common.
SEISCOM DELTA INC., $.10 par common.
SENSORMATIC ELECTRONICS CORPORATION, $.01 par common.
SEVEN-UP COMPANY, THE, $1.00 par common.
SHAWMUT ASSOCIATION, INC., $5.00 par common.
SHIPPERS DISPATCH, INC., $1.00 par common.
SHONEY'S BIG BOY ENTERPRISES, INC., $1.00 par common.
SHOP RITE FOODS, INC., $3.33⅓ par common.
SMITHFIELD FOODS, INC., $1.00 par common.
SNAP-ON TOOLS CORPORATION, $1.00 par common.
SOUTH CAROLINA INSURANCE COMPANY, $1.00 par common.
SOUTHERN CALIFORNIA FIRST NATIONAL CORPORATION, $5.00 par common.
SOUTHERN CALIFORNIA WATER COMPANY, $5.00 par common.
SOUTHERN INDUSTRIES CORPORATION. No par common.
SOUTHLAND FINANCIAL CORPORATION, $1.00 par common.
SOUTHLAND PAPER MILLS, INC. No par common.
SOUTHWEST BANCSHARES, INC., $5.00 par common.
SOUTHWEST GAS CORPORATION, $1.00 par common.
SOUTHWESTERN LIFE CORPORATION, $2.50 par common.
SOVERIGN CORPORATION, $1.00 par common.
SPECTRA-PHYSICS, INC., $.20 par common.
STA-RITE INDUSTRIES, INC., $2.00 par common.
STANADYNE, INC., $1.00 par common.
STANDARD REGISTER COMPANY, THE, $.50 par common.
STATE STREET BOSTON FINANCIAL CORPORATION, $10.00 par common.
STEAK N SHAKE, INC., $.50 par common.
STORAGE TECHNOLOGY CORPORATION, $.10 par common.
SUBURBAN BANCORPORATION, $5.00 par common.
SUGARDALE FOODS, INC. No par common.
SUPERIOR ELECTRIC COMPANY, THE, $1.00 par common.
SYNERCON CORPORATION, $1.00 par common.
T.I.M.E.-DC, INC., $2.00 par common, $10.00 par convertible preferred.
TALLY CORPORATION, $.16⅔ par common.
TAMPAX INC., $.25 par common.
TAYLOR WINE COMPANY, INC., THE, $2.00 par common.
TELE-COMMUNICATIONS, INC., $1.00 par common.
TELECOM CORPORATION, $1.00 par common.
TELECREDIT, INC., $.01 par common.
TELEPHONE UTILITIES, INC., $1.00 par common.
TEENNESSEEE VALLEY BANCORP., INC., $6.66⅔ par common.
TEXAS COMMERCE BANCSHARES, INC., $4.00 par common.
THERMO ELECTRON CORPORATION, $1.00 par common.
TIBURON VINTNERS, INC., $.25 par common.
TIFFANY & COMPANY, $1.00 par common.
TIME HOLDINGS, INC., $2.00 par common.
TITAN GROUP, INC., $1.00 par common.
TORO COMPANY, THE, $1.00 par common.
TOWLE MANUFACTURING COMPANY. No par common.
TRACOR, INC. Common.
TRANSCONTINENTAL GAS PIPE LINE CORPORATION, $.50 par common.
TRANSOCEAN OIL, INC., $1.00 par common.
TRANSOHIO FINANCIAL CORPORATION, $1.00 par common.
TRANSPORT LIFE INSURANCE COMPANY, $1.00 par common.
TRIANGLE CORPORATION, THE, $.50 par common.
TRICO PRODUCTS CORPORATION. No par common.
TRITON OIL & GAS CORPORATION, $1.00 par common.
TWIN DISC, INC. No par common.
TYSON FOODS, INC. Common.
UB FINANCIAL CORPORATION, $5.00 par common.
UNAC INTERNATIONAL CORPORATION. Common.
UNICAPITAL CORPORATION, $1.00 par common.
UNICOA CORPORATION, $2.50 par common.
UNION PLANTERS CORPORATION, $5.00 par common.
UNION SPECIAL CORPORATION, $1.00 par common.
UNITED BANKS CORPORATION OF NEW YORK, $5.00 par common.
UNITED BANKS OF COLORADO, INC., $5.00 par common.
UNITED FIRST FLORIDA BANKS, INC., $1.00 par common.
UNITED FOUNDERS LIFE INSURANCE COMPANY, $.25 par common.
UNITED SERVICES LIFE INSURANCE COMPANY, $1.00 par common.
U.S. BANCORP, $10.00 par common.
UNITED STATES BANKNOTE CORPORATION, $1.00 par common.
U.S. TRUCK LINES, INC. OF DELAWARE, $1.00 par common.
UNITED STATES TRUST COMPANY OF NEW YORK, $5.00 par capital.
UNITED TENNESSEE BANCSHARES CORPORATION, $2.00 par common.
UNITED VIRGINIA BANKSHARES, INC., $10.00 par common.
UNIVERSAL FOODS CORPORATION, $1.00 par common.
UPPER PENINSULA POWER COMPANY, $9.00 par common.
VAIL ASSOCIATES, INC., No par common.
VALLEY NATIONAL BANK OF ARIZONA, $2.50 par common.
VAN DYK RESEARCH CORPORATION, $.10 par common.
VARIABLE ANNUITY LIFE INSURANCE COMPANY, THE, $1.00 par common.
VICO CORPORATION, $1.00 par common.
VIRGINIA NATIONAL BANKSHARES, INC., $5.00 par common.
VOLUME SHOE CORPORATION, $.50 par common.
WAGNER MINING EQUIPMENT, INC., $.10 par common.
WARNER-ELECTRIC BRAKE & CLUTCH COMPANY, $1.00 par common.
WASHINGTON NATIONAL CORPORATION, $5.00 par common.
WASHINGTON NATURAL GAS COMPANY, $5.00 par common.
WASTE MANAGEMENT, INC., $1.00 par common.
WEBB RESOURCES, INC., $.10 par common.
WEEDEN & COMPANY. No par common,
WEIGHT WATCHERS INTERNATIONAL, INC., $.25 par common.
WELLINGTON MANAGEMENT COMPANY. Class A, $.10 par common.
WESTERN CASUALTY AND SURETY COMPANY, THE, $1.25 par capital.
WESTERN COMPANY OF NORTH AMERICA, THE, $.30 par common.
WESTERN GEAR CORPORATION, $1.00 par common.
WESTERN PUBLISHING COMPANY, INC., $1.00 par common, $2.50 stated value.
WESTMORELAND COAL COMPANY, $5.00 par common.
WETTERAU FOODS, INC., $1.00 par common.
WHITE SHIELD CORPORATION, $.05 par common.
WIEN AIR ALASKA, INC., $1.00 par common.
WILLAMETTE INDUSTRIES, INC., $.50 par common.
WINTER PARK TELEPHONE COMPANY, THE, $1.25 par common.
WISCONSIN POWER & LIGHT COMPANY, $5.00 par common.
WOLVERINE-PENTRONIX, INC., $1.00 par common.
WOODWARD & LOTHROP INC., $10.00 par common.
WORLD SERVICE LIFE INSURANCE COMPANY, $1.00 par common.
YELLOW FREIGHT SYSTEM, INC., $1.00 par common.
YOUNKER BROTHERS, INC. No par common.
ZIONS UTAH BANCORPORATION. No par common.

[FR Doc.73-18767 Filed 9-5-73;8:45 am]

## GENERAL SERVICES ADMINISTRATION

### LEAD AGENCY ASSIGNMENTS

#### Recommendations of the Commission on Government Procurement

The purpose of this notice is to disseminate to interested parties the names of lead agencies official contacts and task group leaders responsible for developing a proposed executive branch position on the 149 recommendations of the Commission on Government Procurement.

The person whose name appears first after the Agency name in the following list is that agency's official liaison for all matters pertaining to the recommendations of the Commission on Government Procurement. Immediately following are the recommendations for which the named agency is responsible. The recommendations are identified by the Part of the report in which they appear and their numerical designation in that Part. For instance, B–11 represents recommendation in Part B of the report. Immediately following the recommendation number is the name and phone number of the Task Group Leader in charge of the Agency's activity for the indicated recommendation.

Pursuant to Executive Order 11717 and President Nixon's subsequent statement



V 38-172
SEP 6 73
XUM

on May 28, 1973, the General Services Administration is now responsible for directing and coordinating the development of proposed Executive Branch positions and implementation regarding the issues raised by the recommendations of the Commission on Government Procurement. The responsibility for such activity is in the Office of Federal Management Policy, Office of Procurement Management (AMC), General Services Administration, Washington, D.C. 20405. All questions or correspondence regarding procedures or coordination relative to the recommendations of the Commission on Government Procurement should in the future be addressed to that office, Attention:

Mr. H. E. Tetirick (202-343-6194).

Lead Agency:

ATOMIC ENERGY COMMISSION:
Joseph L. Smith (301-973-4123), Director of Contracts, Washington, D.C. 20545.

| COGP Record No. | Contact | Telephone |
|---|---|---|
| B-11 | C. Armstrong | 301-973-4542 |
| B-12 | D. Shilley | 301-973-3316 |
| G-13 to G-20 | T. J. Davin | 301-973-4542 |
| G-21 to G-24 | H. B. Ragan | 301-973-4383 |
| H-4 and 5 | do | 301-973-4383 |

CIVIL SERVICE COMMISSION:
Donald J. Biglin (202-632-6161), Director, Bureau of Management Services, 2000 E Street NW., Room 5554, Washington, D.C. 20415.

| COGP Record No. | Contact | Telephone |
|---|---|---|
| A-15 to 17 and 20 | A. W. Howerton | 202-632-6013 |
| A-18 and 19 | W. R. Collins | 202-632-5631 |
| A-21 | J. J. Bean | 202-632-5663 |

DEPARTMENT OF AGRICULTURE:
T. M. Baldauf (202-447-3937), Director, Office of Plant and Operations, Washington, D.C. 20250.

| COGP Record No. | Contact | Telephone |
|---|---|---|
| D-16 | B. D. Ensley | 202-447-3571 |
| D-17 | R. P. Bartlett | 202-447-4038 |

Lead Agency:
DEPARTMENT OF DEFENSE:
BG M. J. Tashjian, USAF (202-697-7909), Director of Procurement Policy, OASD (I. & L.), Department of Defense, Washington, D.C. 20301.

| COGP Record No. | Contact | Telephone |
|---|---|---|
| A-2 to A-11 | L. E. Hopkins | 202-697-3025 |
| A-28 | C. E. Deardorff | 202-695-7092 |
| A-29, 30, A-40 to A-42 | A. Kallios | 202-697-6321 |
| A-32 | E. F. Smith | 202-697-0536 |
| A-33 | J. Perry | 202-695-2267 |
| A-34 | P. E. Wight | 202-695-6706 |
| A-35 | H. H. Conner | 202-695-6709 |
| A-36 | C. P. Downer | 202-697-0729 |
| A-37 | R. E. Larkin | 202-274-7711 |
| B-3 | W. N. Jackomis | 202-697-3681 |
| H-10 | C. E. Deardorff | 202-695-7029 |
| C-1 to C-8 and 10 12. | R. E. Coffin | 202-697-4176 |
| C-9 | F. S. Petersen | 202-697-9351 |
| D-7 | N. L. Wilansky | 202-695-4599 |
| G-1 to G-12 | J. Phelan | 202-692-7130 |
| H-1 to H-3 | G. J. Keefe | 202-274-6441 |

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE:
John M. Donovan (202-963-3343), Acting Deputy Assistant Secretary for Grants and Procurement Management, Washington, D.C. 20201.

| COGP Record No. | Contact | Telephone |
|---|---|---|
| A-38 | A. Schwartz | 202-443-2710 |
| F-1 | T. Reynolds | 202-755-7090 |

Lead Agency:
DEPARTMENT OF JUSTICE:
Mr. Irving Jaffe (202-739-3306), Deputy Assistant Attorney General, Civil Division, Room 3607, Washington, D.C. 20530.

| COGP Record No. | Contact | Telephone |
|---|---|---|
| J-1 | M. M. Weinstein | 202-739-3352 |

DEPARTMENT OF LABOR:
Mr. Richard Strom (202-961-2094), Office of Procurement Policy (OPP), Room 6213, Main Labor Building, Washington, D.C. 20210.

| COGP Record No. | Contact | Telephone |
|---|---|---|
| A-43 | H. Rose | 202-961-3423 |
| A-44 and 46 | J. O. Hall | 202-382-8851 |
| A-45 | L. Gold | 202-961-2673 |

DEPARTMENT OF TRANSPORTATION:
Mr. Douglas L. Siegel (202-426-4237), Director, Installations and Logistics, Washington, D.C. 20590.

| COGP Record No. | Contact | Telephone |
|---|---|---|
| B-9 | D. L. Siegel | 202-426-4237 |

Lead Agency:
GENERAL SERVICES ADMINISTRATION:
Mr. M. J. Timbers (703-557-8667), Commissioner, Federal Supply Service, Washington, D.C. 20405.

| COGP Record No. | Contact | Telephone |
|---|---|---|
| A-30 and 31 | J. J. Lordan | 202-343-7717 |
| D-1 and 5 | L. Smith | 703-557-8610 |
| D-2 | T. F. Parsons | 703-557-8570 |
| D-3 and 4 | C. C. Travis | 703-557-7580 |
| D-6 | C. D. Yenkel | 703-557-8604 |
| D-8 to D-10 | F. D. Kehew | 703-557-8470 |
| D-11 to D-15 | J. L. DeProspero | 202-254-3370 |
| D-18 | H. D. Miller | 703-557-8810 |
| D-19 | J. F. Reuteman | 703-557-8500 |
| E-1 to E-4 | W. A. Meisen | 202-343-4731 |
| F-2 | P. A. Marcantonio | 202-343-3816 |
| J-2 | P. G. Read | 703-557-7560 |

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION:
Mr. George J. Vecchietti (202-755-2255), Director of Procurement, Washington, D.C. 20546.

| COGP Record No. | Contact | Telephone |
|---|---|---|
| A-12 to A-14 | E. Golden | 202-755-2242 |
| B-7 and 8 | E. M. James | 202-755-3393 |
| I-14 to I-16 | L. Rawlez | 202-755-3082 |

Lead Agency:
NATIONAL SCIENCE FOUNDATION:
Mr. Wilbur W. Bolton, Jr. (202-632-5772), Acting Deputy Assistant Director for Administration, 1800 G Street NW., Room 640, Washington, D.C. 20550.

| COGP Record No. | Contact | Telephone |
|---|---|---|
| B-1 to B-4 | R. L. Bisplinghoff | 202-632-4370 |
| I-1 to I-13 | Dr. B. Anelier-Johnson | 202-967-3111 |

OFFICE OF MANAGEMENT AND BUDGET:
Mr. James D. Currie (202-395-5193), Organization and Special Projects Division, Room 10236, NEOB, Washington, D.C. 20503.

| COGP Record No. | Contact | Telephone |
|---|---|---|
| A-1 | D. C. Mecum | 202-395-4980 |
| A-22 to A-26 | J. Currie | 202-395-5193 |
| A-27 | G. H. Strauss | 202-395-3172 |
| B-6 | H. Loweth | 202-395-4640 |

THE RENEGOTIATION BOARD:
Dr. George Lenches (202-254-8256), 2000 M Street NW., Washington, D.C. 20446.

| COGP Record No. | Contact | Telephone |
|---|---|---|
| J-3 to J-6 | G. Lenches | 202-254-8256 |

Lead Agency:
SMALL BUSINESS ADMINISTRATION:
Mr. Robert F. McDermott (202-382-5050), Director, Office of Procurement Assistance, 1441 L Street NW., Room 622, Washington, D.C. 20416.

| COGP Record No. | Contact | Telephone |
|---|---|---|
| A-47 to A-49 | R. F. McDermott | 202-382-5050 |

Issued in Washington, D.C. on August 28, 1973.

HAROLD S. TRIMMER, JR.,
*Associate Administrator for Federal Management Policy.*

[FR Doc.73-18722 Filed 9-5-73;8:45 am]

## INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

### EASTERN ASSOCIATED COAL CORP.

#### Application for Renewal Permit; Notice of Opportunity for Public Hearing

Application for Renewal Permit for Noncompliance with the Interim Mandatory Dust Standard (2.0 mg/m$^3$) has been received as follows:

ICP Docket No. 20113, Eastern Associated Coal Corporation, Joanne Mine, USBM ID No. 46 01430 0, Rachel, West Virginia, Section ID No. 004-0 (3 South Mains), Section ID No. 017-0 (2 Right-1 West), Section ID No. 016-0 (1 Left-3 West), Section ID No. 012-0 (16 Left-2 South), Section ID No. 013-0 (8 Right-3 East), Section ID No. 014-0 (3 West Mains).





In accordance with the provisions of section 202(b)(4) (30 U.S.C. 842(b)(4)) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Pub. L. 91-173), notice is hereby given that requests for public hearing as to an application for renewal may be filed within 15 days after publication of this notice. Requests for public hearing must be filed in accordance with 30 CFR Part 505 (35 FR 11296, July 15, 1970), as amended, copies of which may be obtained from the Panel on request.

A copy of the application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Room 800, 1730 K Street NW., Washington, D.C. 20006.

GEORGE A. HORNBECK,
*Chairman, Interim Compliance Panel.*

AUGUST 31, 1973.

[FR Doc.73-18870 Filed 9-5-73;8:45 am]

## RENEGOTIATION BOARD

### PERSONS HOLDING PRIME CONTRACTS OR SUBCONTRACTS FOR TRANSPORTATION BY WATER AS COMMON CARRIER

#### Extension of Time for Filing Financial Statements Under the Renegotiation Act of 1951

Every person who held a prime contract or subcontract for transportation by water as a common carrier at any time during the calendar year 1972 is hereby granted an extension of time until December 1, 1973 for filing a financial statement for such year pursuant to section 105(e)(1) of the Renegotiation Act of 1951, as amended.

Dated August 31, 1973.

W. S. WHITEHEAD,
*Chairman.*

[FR Doc.73-18928 Filed 9-5-73;8:45 am]

## SMALL BUSINESS ADMINISTRATION

[Application No. 01/01-5273]

### MASSACHUSETTS VENTURE CAPITAL CORP.

#### Notice of Application for a License as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 461 et seq.), has been filed by Massachusetts Venture Capital Corporation (applicant) with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1973).

The officers and directors of the applicant are as follows:

Thomas J. Brown, 12 Hickory Lane, Canton, Massachusetts 02021, President, Director.
George H. Whitney, 282 Beacon Street, Boston, Massachusetts 02116, Treasurer, Director.
Richard A. Soden, 42 Gray Street, Boston, Massachusetts 02116, Clerk.
Evelyn M. Beasley, 28 Cobb Place, Newton, Massachusetts 02168, Director.
Hamilton Coolidge, 235 Goddard Avenue, Brookline, Massachusetts 02146, Director.
Leland Goldberg, 14 Marcus Road, Sharon, Massachusetts 02067, Director.
John H. Lamothe, 53 Cypress Road, Wellesley Hills, Mass. 02181, Director.
Herbert Lyken, 349 Chestnut Street, Randolph, Massachusetts 02368, Director.
Alan T. Monroe, 493 Blue Hills Parkway, Milton, Massachusetts 02186, Director.
Calvin V. Perry, 25 O'Rourke Path, Newton Centre, Mass. 02159, Director.
Vincent Ryan, 104 Pleasant Valley Road, Westwood, Massachusetts 02090, Director.
Henry B. Shepard, Jr., 34 Spooner Road, Chestnut Hill, Mass. 02167, Director.
R. Courtney Whitin, Jr., 118 Myrtle Street, Boston, Massachusetts 02114, Director.

The applicant, a Massachusetts corporation with its principal place of business located at 100 Federal Street, Boston, Massachusetts 02110, will begin operations with $710,000 of paid-in capital and paid-in surplus, consisting of $135,000 of Common Stock having all voting rights, $70,000 of Class A Preferred Stock, and $505,000 of Class B Preferred Stock. The Voting Common Stock will be owned by The Boston Urban Foundation, a charitable trust, located at 90 Warren Street, Roxbury, Massachusetts 02119. The Massachusetts Business Development Corporation located at 1 Boston Place, Boston, Massachusetts 02106, will be the sole owner of the Class A Preferred Stock. The Class B Preferred Stock will be owned by twelve stockholders, including among others, four Insurance Companies, four Banks, and two Universities.

The applicant will not concentrate its investments in any particular industry. As a small business investment company under section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA rules and regulations.

Any person may, on or before September 21, 1973, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Boston, Massachusetts.

Dated: August 31, 1973.

JAMES THOMAS PHELAN,
*Deputy Associate Administrator for Investment.*

[FR Doc.73-18876 Filed 9-5-73;8:45 am]

## VETERANS ADMINISTRATION

### NATIONAL CEMETERY SYSTEM

#### Notice of Acquisition

The Veterans Administration gives notice that in accordance with Pub. L. 93-43 there was established in the Veterans Administration on June 18, 1973, a National Cemetery System for the interment of deceased servicemen and veterans. The National Cemetery System shall consist of:

a. National cemeteries transferred from the Department of the Army to the Veterans Administration by the National Cemeteries Act of 1973 on September 1, 1973.

b. Cemeteries under the jurisdiction of the Veterans Administration on June 18, 1973.

c. Any other cemetery, memorial, or monument transferred to the Veterans Administration by the National Cemeteries Act of 1973, or later acquired or developed by the Administrator.

Pursuant to the provisions of Public Law 93-43, notice is further given that all rules, regulations, orders, permits, and other privileges issued or granted by the Secretary of the Army, the Secretary of the Navy, or the Secretary of the Air Force with respect to the cemeteries, memorials, and monuments transferred to the Veterans Administration by this Act, unless contrary to the provisions of such Act, shall remain in full force and effect until modified, suspended, overruled, or otherwise changed by the Administrator of Veterans Affairs, by any court of competent jurisdiction, or by operation of law.

Dated August 31, 1973.

By direction of the Administrator.

[SEAL] RUFUS H. WILSON,
*Associate Deputy Administrator.*

[FR Doc.73-18844 Filed 9-5-73;8:45 am]

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

### ILLINOIS DEVELOPMENTAL PLAN

#### Modifications to Illinois Developmental Plan

1. *Submission of modifications.*—Pursuant to section 18(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) and § 1902.12 of Title 29, Code of Federal Regulations, notice is hereby given that modifications to the Occupational Safety and Health Plan for



V 38-172 SEP 6 73 XUM

the State of Illinois have been submitted to the Assistant Secretary of Labor for Occupational Safety and Health. The State made these modifications in response to public comments received pursuant to the notice of submission of the Illinois Plan and its availability for public comment which appeared at 38 FR 2188.

The public comments from groups representing employers and workers and one individual included requests for a hearing on the plan on the basis of particularized objections to its standards-setting procedures, certain penalty questions and coverage of political subdivision employees, among others. The clarifications and modifications submitted by the State seem to cure the alleged inadequacies of the plan, and accordingly there appear to be no outstanding objections warranting a hearing. Consequently, the several requests for a hearing are hereby denied. However, it is appropriate to afford under § 1902.12 of Title 29, Code of Federal Regulations, an additional opportunity for public comment on the modifications of the plan.

The modifications, to which comments which will be considered in the Assistant Secretary's decision on the plan should be addressed, include the following: recordkeeping and reporting regulations; a revised timetable for the implementation of the Plan; variance regulations to be patterned after 29 CFR Part 1905; provision for the adoption of Federal Standards and the abrogation of existing Illinois Health and Safety Rules; a detailed description of the State's variance procedures; coverage of public employees; a description of its voluntary compliance program; draft Rules of Procedure for Promulgating, Modifying or Revoking Occupational Safety or Health Standards and Rules of Procedure for Advisory Committees on Standards; course outlines to be used in the State's training program for its inspectors and its Industrial Hygiene Unit and an increase in staff of the Industrial Hygiene Unit; provision for the submission of written comments pursuant to the State's standards-setting procedure; and a letter from the Office of the Governor reaffirming its support and approval of the Plan as modified.

Included in the modifications are also proposals for the following amendments to the State's legislation: deletion of the provision for independent review of the findings of the Industrial Hygiene Unit; deletion of the requirement that every petition for a hearing on a proposed standard must be signed by (5) employees or (5) employers or by a majority of employers in a specified industry; provision for a penalty for the violation of posting requirements; provisions for notices of public hearings on proposed standards to appear in a newspaper of general circulation within the state; amendment of its provision for judicial review of standards to provide that the petition for judicial review shall not operate as an automatic stay of a standard; provision for a criminal penalty for the falsification of records; provision requiring the posting of variance applications at places where employee notices are normally posted; provision for the publishing of decisions relating to standards in a newspaper of general circulation within the state; provision that temporary variances shall remain in effect for a maximum of two years; and provision that all rules made by the Industrial Commission shall be published annually.

2. *Location of plan for inspection and copying.*—A copy of the plan with modifications, may be inspected and copied during normal business hours at the following locations: Office of Federal and State Operations, Occupational Safety and Health Administration, Room 305, 400 First Street NW., Washington, D.C. 20210; Assistant Regional Director, Occupational Safety and Health Administration, U.S. Department of Labor, 300 South Wacker Drive, Room 1201, Chicago, Illinois 60606; and Illinois Department of Labor, or Illinois Industrial Commission, 160 LaSalle Street, Chicago, Illinois 60601.

3. *Public participation.*—Interested persons are hereby given until October 8, 1973, to submit to the Assistant Secretary written data, views, and arguments concerning the plan, as modified. The submissions are to be addressed to the Director, Office of Federal and State Operations, Occupational Safety and Health Administration, Railway Labor Building, Room 305, 400 First Street NW., Washington, D.C. 20210. The written comments will be available for public inspection and copying at the above address.

After consideration has been given to all material submitted, a final decision as to the approval or disapproval of the modified plan will be issued.

Signed at Washington, D.C., this 23d day of August 1973.

JOHN STENDER,
*Assistant Secretary of Labor.*

[FR Doc.73-18798 Filed 9-5-73;8:45 am]

## INTERSTATE COMMERCE COMMISSION

[Notice No. 335]

### ASSIGNMENT OF HEARINGS

AUGUST 31, 1973.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after September 6, 1973.

MC 127834 Sub 87, Cherokee Hauling & Rigging, Inc., now assigned October 2, 1973, at Washington, D.C., is cancelled and transferred to modified procedure.

W 552 Sub 15, American Commercial Barge Line Co., W 654 Sub 8, Warrior & Gulf Navigation Company—Extension—Tug & Barge, now assigned October 29, 1973, at New Orleans, La., in the East Court Room, U.S. Court of Appeals, 600 Camp Street.

MC 33919 Sub 7, Fairchild General Freight, Inc., now assigned October 4, 1973, at Portland, Oreg., is postponed indefinitely.

MCC 8105, Leavitts Freight Service, Inc., V. Contract Carrier Service, Inc., now being assigned hearing October 4, 1973 (2 days), will be held in Room 40, Multnomah Bldg., 319 SW. Pine Street, Portland, Oreg.

MC-F-11875, Ace Doran Hauling & Rigging Co.—Purchase (Portion)—Smith's Truck Lines, now being assigned hearing October 16, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-F-11890, Howard Sober, Inc.—Purchase (Portion)—Insured Transporters, Inc., now being assigned hearing October 17, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 52110 Sub 133, Brady Motorfrate, Inc., now being assigned hearing October 17, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 107515 Sub 847, Refrigerated Transport Co., Inc., now being assigned hearing October 23, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 83835 Sub 101, Wales Transportation, Inc., now being assigned hearing October 29, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

I. & S. 8865, T.O.F.C. Service, Between New York, N.Y., and New England Points, now assigned September 12, 1973, is cancelled.

MC-76032 Sub 297, Navajo Freight Lines, Inc., now assigned September 10, 1973, at Kansas City, Mo., is cancelled and the application is dismissed.

MC 97699 Sub 39, Barber Transportation Co., now being assigned hearing October 1, 1973 (2 wks.), at Denver, Colo., in a hearing room to be later designated.

MC 76032 Sub 290, Navajo Freight Lines, Inc., application dismissed.

MC 29120 Sub 157, All-American, Inc., application dismissed.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-18913 Filed 9-5-73;8:45 am]

[Sec. 5a Application No. 110]

## FLORIDA SPECIALIZED CARRIERS INTERSTATE RATE CONFERENCE, INC.

### Application for Approval of Agreement

AUGUST 15, 1973.

The Commission is in receipt of the above-entitled and numbered application for approval of an agreement under the provisions of Section 5a of the Interstate Commerce Act.

Filed July 27, 1973 by:
A. M. Downey, Jr., General Manager
Florida Specialized Carriers Interstate Rate Conference, Inc.
1021 Seaboard Coast Line Railroad Building
500 West Water St.
Jacksonville, Fla. 32202.

Agreement involves: Organization and procedures between and among common carriers by motor vehicle, members of the Florida Specialized Carriers Interstate Rate Conference, Inc., relative to the joint consideration, initiation, establishment and change of rates, rules, regulations, classifications and practices applicable thereto, for the transportation, in interstate commerce, of articles requiring specialized handling because of size or weight and oilfield, refinery, and pipeline machinery, materials, supplies, and equipment between points in the State of Florida.

The complete application may be inspected at the Office of the Commission in Washington, D.C.

Any person desiring to protest and participate in this proceeding shall notify the Commission in by September 26, 1973. As provided by the General Rules of Practice of the Commission, persons other than applicants should fully disclose their interest, and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigation and determine the matters involved without public hearing.

By the Commission.

ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-18924 Filed 9-5-73;8:45 am]

[No. MC-C-8102]

## HAGERSTOWN MOTOR EXPRESS CO., INC.

### Petition for Declaratory Order; Extension of Time for Filing Comments

AUGUST 30, 1973.

By notice published in the FEDERAL REGISTER on July 19, 1973 (38 FR 19303), all persons desiring to participate in this proceeding were directed to file an original and fifteen (15) copies of written representations, views, and arguments on or before September 10, 1973.

At the request of the Maryland Public Service Commission, the time for filing such representations has been extended until October 1, 1973.

A copy of each representation shall also be filed on petitioner's representative, Charles E. Creager, Suite 523, 816 Easley Street, Silver Spring, Md. 20910.

By the Commission.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-18914 Filed 9-5-73;8:45 am]

[Ex Parte No. 241; Third Rev. Exemption No. 22; Amdt. 3]

## EXEMPTION UNDER PROVISION OF MANDATORY CAR SERVICE RULES

Upon further consideration of Third Revised Exemption No. 22 issued January 12, 1973.

*It is ordered*, That, under authority vested in me by Car Service Rule 19, Third Revised Exemption No. 22 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, amended to expire October 31, 1973.

This amendment shall become effective August 31, 1973.

Issued at Washington, D.C., August 27, 1973.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
*Agent.*

[FR Doc.73-18916 Filed 9-5-73;8:45 am]

[Rev. S.O. 994, I.C.C. Order 76, Amdt. 3]

## READING CO.

### Rerouting or Diversion of Traffic

Upon further consideration of I.C.C. Order No. 76 (Reading Company, Richardson Dilworth, and Andrew L. Lewis, Jr., Trustees) and good cause appearing therefor:

*It is ordered*, That:

I.C.C. Order No. 76 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.*—This order shall expire at 11:59 p.m., November 15, 1973, unless otherwise modified, changed, or suspended.

*It is further ordered*, That this amendment shall become effective at 11:59 p.m., August 31, 1973, and that this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., August 23, 1973.

INTERSTATE COMMERCE COMMISSION,
R. D. PFAHLER,
*Agent.*

[FR Doc.73-18915 Filed 9-5-73;8:45 am]

[Sec. 5a Application No. 46; Amdt. 9]

## SOUTHERN MOTOR CARRIERS RATE CONFERENCE, INC.

### Notice of Approval of Amendment to Agreement

AUGUST 15, 1973.

The Commission is in receipt of an application in the above-entitled proceeding for approval of an amendment to the agreement therein approved.

Filed August 6, 1973 by:

W. C. Brown, Jr.
Southern Motor Carriers Rate Conference, Inc.
1307 Peachtree St. NE.
Atlanta, GA 30309
Attorney-In-Fact.

Robert E. Born
J. Michael May
1000 Fulton Federal Building
Atlanta, GA 30303
Of Counsel.

The amendment involves: Establish a South-Western Interterritorial Committee in lieu of the South-Southwest and South-Middlewest Interterritorial Committees, and make other incidental changes made necessary by the foregoing change.

The complete amended application may be inspected at the Office of the Commission in Washington, D.C.

Any person desiring to protest and participate in this proceeding shall notify the Commission in writing on or before September 26, 1973. As provided by the general rules of practice of the Commission, persons other than applicants should fully disclose their interest, and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigation and determine the matters involved without public hearing.

By the Commission.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-18917 Filed 9-5-73;8:45 am]

[Notice No. 20]

## MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

AUGUST 31, 1973.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commissions's Revised Deviation Rules-Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(9)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against theuse of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed by October 8, 1973.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC-1515 (Deviation No. 660) (Cancels Deviation No. 650), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third St., Cleveland, Ohio 44113, filed August 14, 1973. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over a deviation route as







V 38-172
SEP 6 73
XUM

follows: From junction Pennsylvania Highway 291 and Interstate Highway 95 (access ramp) near Philadelphia, Pa., over Interstate Highway 95 via Chester, Pa., and Wilmington, Del., to Baltimore, Md., to junction the Harbor Tunnel Thruway, thence over the Harbor Tunnel Thruway to junction the Baltimore-Washington Expressway, with the following access routes: (1) from junction U.S. Highway 13 and Sellers Road, over Sellers Road to junction Interstate Highway 95, (2) from junction Pennsylvania Highway 291 and Sellers Road, over Sellers Road to junction Interstate Highway 95, (3) from junction U.S. Highway 13 and Maryland Highway 273, over Maryland Highway 273 to junction Interstate Highway 95, (4) from junction U.S. Highway 222 and U.S. Highway 40 near Perryville, Md., over U.S. Highway 222 to junction Interstate Highway 95, (5) from Aberdeen, Md., over Maryland Highway 22 to junction Interstate Highway 95, and (6) from junction Maryland Highway 43 (White Marsh Boulevard) and U.S. Highway 40 over Maryland Highway 43 to junction Interstate Highway 95, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over a pertinent service route as follows: from Philadelphia, Pa., over Pennsylvania Highway 291 to Chester, Pa., thence over U.S. Highway 13 via Wilmington, Del., to State Road, Del., thence over U.S. Highway 40 to Baltimore, Md., thence over the Baltimore-Washington Expressway to junction Harbor Tunnel Thruway, south of Baltimore, Md., and return over the same route.

No. MC-1515 (Deviation No. 661) (Cancels Deviation No. 633), GREYHOUND LINES, INC. (Eastern Division) 1400 West Third St., Cleveland, Ohio 44113, filed August 14, 1973. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) from junction U.S. Highway 31 and Interstate Highway 10 at Spanish Fort, Ala., over Interstate Highway 10 to junction U.S. Highway 331, thence over U.S. Highway 331 to junction U.S. Highway 90 at Defuniak Springs, Fla., with the following access routes: (a) from Pensacola, Fla., over U.S. Highway 29 to junction Interstate Highway 10, (b) from Milton, Fla., over Florida Highway 191 to junction Interstate Highway 10, and (c) from Crestview, Fla., over Florida Highway 85 to junction Interstate Highway 10, and (2) from Jacksonville, Fla., over Interstate Highway 10 to junction U.S. Highway 19, thence over U.S. Highway 19 to junction U.S. Highway 90 at Monticello, Fla., with the following access routes: (a) from Lake City, Fla., over U.S. Highway 441 to junction Interstate Highway 10, (b) from Live Oak, Fla., over U.S. Highway 129 to junction Interstate Highway 10, and (c) from Madison, Fla., over Florida Highway 53 to junction Interstate Highway 10, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over pertinent service routes as follows: (1) From Montgomery, Ala., over U.S. Highway 31 via Flomaton, Ala., to Mobile, Ala., (2) from Marianna, Fla., over U.S. Highway 90 via Pensacola, Fla., to Bridgehead, Ala., thence over U.S. Highway 98 via Fairhope, Ala., to Point Clear, Ala., (3) from Dothan, Ala., over U.S. Highway 231 to junction Florida Highway 73, thence over Florida Highway 73 to Marianna, Fla., thence over U.S. Highway 90 to Lake City, Fla., (4) from Chattanooga, Tenn., over U.S. Highway 41 via Macon, Ga., to Lake City, Fla., thence over U.S. Highway 90 to Jacksonville, Fla., and (5) from junction Alabama Highway 104 and U.S. Highway 98 (about two miles north of Fairhope, Ala.), over Alabama Highway 104 to junction Alabama Highway 59 (about one-half mile south of Robertsdale, Ala.), and return over the same routes.

No. MC-1515 (Deviation No. 662), GREYHOUND LINES, INC. (Eastern Division) 1400 West Third St., Cleveland, Ohio 44113, filed August 14, 1973. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over a deviation route as follows: From Hartford, Conn., over Interstate Highway 84 to junction Interstate Highway 684, thence over Interstate Highway 684 to junction Interstate Highway 287 near White Plains, N.Y., thence over Interstate Highway 287 to junction Interstate Highway 87, thence over Interstate Highway 87 to New York, N.Y., with the following access route: from New Britain, Conn., over city streets to Junction Interstate Highway 84, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property, over pertinent service routes as follows: (1) From Hartford, Conn., over U.S. Highway 5 to junction Connecticut Highway 175, thence over Connecticut Highway 175 to Newington, Conn., thence over Connecticut Highway 174 to New Britain, Conn., thence over Connecticut Highway 71 to junction Connecticut Highway 72, thence over Connecticut Highway 72 to junction U.S. Highway 5, thence over U.S. Highway 5 to junction U.S. Highway 1, thence over U.S. Highway 1 to junction Connecticut Turnpike (Interstate Highway 95) near Milford, Conn., thence over the Connecticut Turnpike and the New England section of the New York Thruway to New York, N.Y., (2) from Old Saybrook, Conn., over U.S. Highway 1 via Port Chester, N.Y., to New York, N.Y., (3) from Hartford, Conn., over U.S. Highway 5 to junction Connecticut Highway 72, north of Berlin, Conn. (also from Hartford over Maple Avenue to junction U.S. Highway 5, thence over U.S. Highway 5 to junction Connecticut Highway 175, thence over Connecticut Highway 175 to Newington, Conn., thence over Connecticut Highway 174 to New Britain, Conn., thence over Connecticut Highway 71 to junction Connecticut Highway 72, on or near the City of New Britain-Town of Berlin line, thence over Connecticut Highway 72 to junction U.S. Highway 5), thence over U.S. Highway 5 to Meriden, Conn., thence over U.S. Highway 5 and Alternate U.S. Highway 5 to New Haven, Conn., and (4) from New York, N.Y., over city streets and via the New England section of the New York Thruway to junction with the Connecticut Turnpike at the Connecticut-New York State line near Port Chester, N.Y., thence via the Connecticut Turnpike to the New Haven County, Conn., line near Milford, Conn., and return over the same routes.

No. MC-109780 (Deviation No. 46), CONTINENTAL TRAILWAYS, INC., 1501 South Central Avenue, Los Angeles, Calif. 90021, filed July 16, 1973. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over a deviation route as follows: From the junction of U.S. Highway 66 and Interstate Highway 40 at East Ludlow Junction, Calif., over Interstate Highway 40 to junction U.S. Highway 66 and Mountain Springs Road at West Java Junction, Calif. and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Albuquerque, N. Mex., over U.S. Highway 66 via McConnico and Topock, Ariz., to junction unnumbered highway near Victorville, Calif., and return over the same route.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-18920 Filed 9-5-73;8:45 am]

[Notice No. 69]

## MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

AUGUST 31, 1973.

The following publications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by the new Special Rule 1100.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable by the Commission.





MOTOR CARRIERS OF PROPERTY

No. MC 87720 (Sub-No. 83) (REPUBLICATION OF PETITION FOR MODIFICATION OF PERMIT), filed August 28, 1972, published in the FEDERAL REGISTER issue of November 29, 1972, and republished, as granted, this issue. Petitioner: BASS TRANSPORTATION COMPANY, INC., P.O. Box 391, Flemington, N.J., 08822. Petitioner's representative: Bert Collins, 5 World Trade Center, Suite 6193, New York, N.Y. 10048. An Initial Decision and Order of the Commission, Administrative Law Judge Morton B. Margulies, dated June 21, 1973, and served July 6, 1973, became the effective Order of the Commission by Notice dated August 6, 1973, and served August 15, 1973, and finds that the petitioner's above-referenced permit should be modified to include authority to transport chemicals (except in bulk), with the proviso that to the extent the additional authority is duplicative it shall not constitute the issuance of more than one operating right, such that the authority granted in No. MC-87720 (Sub-No. 83) reads as follows: *Chemicals* (except in bulk), *plastic pellets or granules and powder*, and *plastic scrap*, between points in Bergen, Essex, Middlesex, and Union Counties, N.J., on the one hand, and, on the other, points in that part of Pennsylvania, on and east of a line beginning at the Pennsylvania-Maryland State line and extending along unnumbered highway (formerly portion U.S. Highway 111) through Shrewsbury and Jacobus, Pa., to junction Interstate Highway 83, thence along Interstate Highway 83 through York, Pa., to junction unnumbered highway (formerly portion U.S. Highway 111), thence along unnumbered highway to junction Pennsylvania Highway 295, thence along Pennsylvania Highway 295 through Zions View and Strinestown, Pa., to junction Interstate Highway 83, thence along Interstate Highway 83 through Lemoyne, Pa., to junction unnumbered highway (formerly portion U.S. Highway 111), thence along unnumbered highway to junction U.S. Highway 15, near Harrisburg, Pa., and thence along U.S. Highway 15 to the Pennsylvania-New York State line; and between points in Bergen, Essex, Hunterdon, Middlesex, and Union Counties, N.J., on the one hand, and, on the other, points in Connecticut, Massachusetts, New York, and Rhode Island; under a continuing contract or contracts with Tenneco Inc., of Piscataway, N.J., and restricted against duplicative operating rights. Because it is possible that other parties who have relied upon the notice of the petition as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a permit in this proceeding will be withheld until October 8, 1973, during which period any proper party in interest may file an appropriate protest and petition for further hearing or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 124408 (Sub-No. 9) (REPUBLICATION), filed September 15, 1972, published in the FEDERAL REGISTER issue of November 2, 1972, and republished this issue. Applicant: THOMPSON BROS., INC., P.O. Box 457, Toronto, S. Dak. 57268. Applicant's representative: A. R. Fowler, 2288 University Avenue, St. Paul, Minn. 55114. An Order of the Commission, Review Board Number 1, dated August 10, 1973, and served August 24, 1973, finds that the present and future public convenience and necessity requires operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, of *frozen potato products*, in vehicles equipped with mechanical refrigeration, from Clark, S. Dak., to points in Alabama, Arkansas, California, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin, restricted to the transportation of traffic originating at the plantsite or storage facilities utilized by Midwest Food Sales, Inc., in or near Clark, S. Dak.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a certificate in this proceeding will be withheld until October 8, 1973, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 136240 (REPUBLICATION), filed November 2, 1971, published in the FEDERAL REGISTER issue of February 3, 1972, and republished this issue. Applicant: HARRY SAMDAL, doing business as HETTINGER BUS COMPANY, Hettinger, N. Dak. 58639. Applicant's representative: Lyle G. Stuart, 104 Main Street, Hettinger, N. Dak. 58639. The Third Supplemental Order of the Commission, Operating Rights Board, dated August 13, 1973, and served August 24, 1973, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over regular routes, of *general commodities* (except articles of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment), between Bismarck and Hettinger, N. Dak., from Bismarck over U.S. Highway 10 to junction North Dakota Highway 6, thence over North Dakota Highway 6 to junction North Dakota Highway 21, thence over North Dakota Highway 21 to junction North Dakota Highway 8, thence over North Dakota Highway 8 to junction U.S. Highway 12, and thence over U.S. Highway 12 to Hettinger, and return over the same route, serving all intermediate points, subject to the condition that no service shall be provided in the transportation of articles weighing in the aggregate more than 300 pounds from one consignor at one location to one consignee at one location on any one day; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a certificate in this proceeding will be withheld until October 8, 1973, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 136980 (REPUBLICATION), filed August 3, 1972, published in the FEDERAL REGISTER issue of January 11, 1973, and republished this issue. Applicant: TERRANCE W. SHEARER, Rural Delivery No. 1, Hinsdale Highway, Box 237, Olean, N.Y. 14760. Applicant's representative: David P. Feldman, 714 Genesee Building, Buffalo, N.Y. 14202. An Order of the Commission, Operating Rights Board, dated August 8, 1973, and served August 23, 1973, finds that operation by applicant, in interstate or foreign commerce, as a *contract carrier* by motor vehicle, over irregular routes, of *engine parts, pump parts, compressor parts*, and *turbine parts*, between the plant site and facilities of Dresser Industries, Inc., Dresser Clark Division, at Olean, N.Y., La Guardia Airport, Kennedy International Airport, Monroe County Airport, and Buffalo International Airport, N.Y., and Newark Airport, N.J., on the one hand, and, on the other, points in Allegany, Cattaraugus, Cayuga, Chautauqua, Delaware, Erie, Monroe, Nassau, Niagara, Onondaga, Ontario, Orleans, Oswego, St. Lawrence, Steuben, Wayne, Wyoming, and Yates Counties, N.Y., under a continuing contract or contracts with Dresser Industries, Inc., Dresser Clark Division, of Olean, N.Y., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice of the



V 38-172 SEP 6 73 XUM

application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a permit in this proceeding will be withheld until October 8, 1973, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 20492 (NOTICE OF FILING OF PETITION TO MODIFY A COMMODITY DESCRIPTION), filed July 20, 1973. Petitioner: FRANCIS P. RYAN CORPORATION, P.O. Box 488, Route 14, Barre, Vt. 05641. Petitioner's representative: Paul J. Goldstein, 109 Church Street, New Haven, Conn. Petitioner presently holds a motor *common carrier* certificate in No. MC 20492 issued June 25, 1968, authorizing transportation, over irregular routes, of *contractors' equipment, machinery, and supplies*, (1) between points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, and Rhode Island; and (2) between points in the above specified states on the one hand, and, on the other, points in New York. By the instant petition, petitioner seeks to modify its commodity description to read: "Commodities the transportation of which because of size or weight requires the use of special equipment, and of related machinery parts and related contractor's materials and supplies when their transportation is incidental to the transportation of commodities which by reason of size or weight, require the use of special equipment." Any interested person or persons desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition by October 8, 1973.

No. MC 26120 (NOTICE OF FILING OF PETITION TO MODIFY PERMIT), filed July 18, 1973. Petitioner: GEORGE L. HOOKER, INC., Tuscarawas Road, Uhrichsville, Ohio 44683. Petitioner presently holds a motor *contract carrier* permit in No. MC 26120 issued April 3, 1961, authorizing as pertinent, transportation, over irregular routes, of *vitrified clay sewer pipe and fittings* from Diamond and Uhrichsville, Ohio, to points in Florida, restricted to a transportation service to be performed under a continuing contract or contracts with Universal Sewer Pipe Corporation and the United States Concrete Pipe Co.; and (2) *vitrified clay sewer pipe and fittings therefore, and clay conduit, clay base, drain block, and materials* used in the installation and insulation, thereof, from Diamondsville and Uhrichsville, Ohio, to points in Georgia, North Carolina, and South Carolina, and *empty pallets and reshipments* of the commodities described in (2) above, from points in Georgia, North Carolina, and South Carolina, restricted to a transportation service to be performed under a continuing contract or contracts with Universal Sewer Pipe Company, United States Concrete Pipe Co., and Heat Transmission Conduit Company. By the instant petition, petitioner seeks to (A) eliminate Universal Sewer Pipe Company as a contracting shipper in the authority described in (1) and (2) above to reflect a planned merger between Universal Sewer Pipe Company and the United States Concrete Pipe Company, and (B) extend the authority described in (1) and (2) above to authorize transportation of "vitrified clay sewer pipe and fittings from Uhrichsville, Ohio to points in Florida and Georgia, under a continuing contract or contracts with Superior Clay Corporation." Any interested person or persons desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition by October 8, 1973.

No. MC 66101 (NOTICE OF FILING OF PETITION FOR MODIFICATION, CLARIFICATION, AND AMENDMENT OF CERTIFICATE), filed August 20, 1973. Petitioner: AFT SERVICES, INC., Newark, N.J. Petitioner's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Petitioner holds a certificate in No. MC–66101, issued June 4, 1971, authorizing it to perform service in interstate or foreign commerce, over irregular route, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, livestock, household goods, as defined by the Commission, and commodities requiring dump or tank trucks), between New York, N.Y., on the one hand, and, on the other, points in New York and New Jersey, within 35 miles of Columbus Circle, New York, N.Y. By the instant petition, petitioner requests that an order be entered (1) to amend its certificate to read: *General Commodities* (except those of unusual value, and except dangerous explosives, livestock, household goods (when transported as a separate and distinct service in connection with so-called "household movings") and commodities requiring dump or tank trucks), over irregular routes, between the New York, N.Y., commercial zone, as defined in *Commercial Zones and Terminal Areas*, 53 M.C.C. 451, within which local operations may be conducted pursuant to the partial exception of section 203(b)(8) of the Interstate Commerce Act, and those points in New Jersey within 5 miles of New York, N.Y., and all of any municipality in New Jersey any part of which is within 5 miles of New York, N.Y., on the one hand, and, on the other, points and places in New York and New Jersey, within 35 miles of Columbus Circle, New York, N.Y., or (2) the Commission issue an appropriate order that the petitioner be empowered and permitted to designate as its terminal area, all points within which local operations may be conducted in the New York, N.Y., commercial zone as defined by the Commission.

NOTE.—No oral hearing is contemplated at this time, but anyone wishing to make representations in favor, or against, the relief sought in the petition may do so by the submission of written data, views, or arguments. An original and fifteen copies of such data, views, or arguments shall be filed with the Commission on or before November 5, 1973. A copy of each representation should be served upon petitioner's representative. Written material or suggestions submitted will be available for public inspection at the Offices of the Interstate Commerce Commission, 12th and Constitution Avenues, Washington, D.C., during regular business hours.

Notice to the general public of the matter herein under consideration will be given by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection and by filing a copy thereof with the Director, Office of the Federal Register.

No. MC 116763 (Sub-No. 10) (NOTICE OF FILING OF PETITION TO EXTEND A COMMODITY DESCRIPTION), filed August 16, 1973. Petitioner: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Petitioner's representative: J. G. Dall, Jr., 111 E Street NW., Washington, D.C. 20004. Petitioner presently holds a motor *common carrier* certificate in No. MC 116763 (Sub-No. 10) issued May 18, 1960, authorizing as pertinent, transportation over irregular routes, of *meats and sausage* (cooked, cured or preserved, with or without cereal or vegetable ingredients), *soups, gelatin and animal fat shortening*, in containers, not moving under refrigeration, from Austin, Minn., to points in Alabama, Florida, Georgia, North Carolina, South Carolina, and Tennessee. By the instant petition, petitioner seeks to add meat curing compounds as an additional commodity to those stated in the above-described authority. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition by October 8, 1973.

No. MC 119493 (NOTICE OF FILING OF PETITION TO MODIFY COMMODITY DESCRIPTIONS), filed August 6, 1973. Petitioner: MONKEM COMPANY, INC., West 20th Street Road, P.O. Box 1196, Joplin, Mo. 64801. Petitioner's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Petitioner presently holds a motor *common carrier* certificate in No. MC 119493 issued April 15, 1960, authorizing as pertinent, transportation over irregular routes, of (a) *manufactured animal and poultry feeds, fishmeal, meat scraps, cottonseed meal, soybean meal, rice, rice bran and such other byproducts of soybeans, cottonseed, and rice* as are used as animal or poultry feeds or ingredients thereof, from points in Louisiana, Arkansas, Tennessee, and Mississippi, to points in Missouri, Iowa, Oklahoma, Kansas, Nebraska, and Illinois; (b) *cottonseed meal, soybean meal, and such other byproducts of cottonseed and soybeans* as are used as animal or poultry feeds or ingredients thereof, from points in Missouri, to points in Kansas, Oklahoma, Nebraska, Iowa, and Illinois; (c) *manufactured animal and poultry feeds, dehydrated and suncured alfalfa meal, and such oat and corn byproducts* as are used as animal or poultry feeds or ingredients thereof, from points in Nebraska, Iowa, Kansas, Oklahoma and Missouri, to points in Arkansas, Louisiana, Mississippi, Illinois, and Tennessee; (d) *manufactured animal and poultry feeds, steamed bone meal, meat scraps, dehydrated and suncured alfalfa, and such oat and corn byproducts* as are used as animal or poultry feeds or ingredients thereof, from points in Nebraska, Iowa, Kansas, Oklahoma, and Illinois, to points in Missouri; and (e) *steamed bone meal, meat scraps, soybean meal, and such soybean byproducts* as are used as animal or poultry feeds or ingredients thereof, from points in Illinois, to points in Nebraska, Iowa, Missouri, Kansas, Oklahoma, and Arkansas. By the instant petition, petitioner seeks to modify the above-described commodity descriptions to read as follows: "(a) manufactured animal and poultry feed and ingredients thereof, (b) ingredients of animal and poultry feeds, (c) manufactured animal and poultry feed and ingredients thereof, (d) manufactured animal and poultry feed and ingredients thereof, and (e) ingredients of animal and poultry feed." Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments, in support of or against the petition by October 8, 1973.

No. MC 127951 (Sub-Nos. 2, 7, and 9) (NOTICE OF FILING OF PETITION TO MODIFY PERMITS), filed July 27, 1973. Petitioner: SOUTHEASTERN CARRIERS, INC., 6945 Willow Lane, P.O. Box 4763, Miami Lakes, Fla. 33014. Petitioner's representative: Bernard C. Pestcoe, Suite 511, Biscayne Building, 19 West Flagler Street, Miami, Fla. 33130. Petitioner presently holds motor *contract carrier* permits in No. MC 127951 (Sub-Nos. 2, 7, and 9) issued November 12, 1969, November 12, 1969, and July 2, 1971, respectively, authorizing as pertinent, transportation over irregular routes, of carpeting, carpet underlays, and carpet adhesives, from specified points in Connecticut, Rhode Island, Massachusetts, Delaware, Georgia, and New Jersey to various points in Florida, in Sub-No. 2 under a continuing contract or contracts with Northern Distributors, Inc., of Miami, Fla., Knight and Wall Co. of Tampa, Fla., and Flamingo Wholesale Distributors, Inc., of North Miami Beach, Fla.; in Sub-No. 7 under a continuing contract or contracts with the same shippers as listed immediately above; and in Sub-No. 9 under a continuing contract or contracts with Northern Distributors, Inc., of Miami, Fla. By the instant petition, petitioner seeks to: (1) delete Knight and Wall Co. and Flamingo Wholesale Distributors, Inc., from the authority specified in Sub-Nos. 2 and 7; and (2) add as additional contracting shippers Ludlow Corporation and Copper Distributors, Inc., to all of the authority described above. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition by October 8, 1973.

No. MC 135743 (NOTICE OF FILING OF PETITION FOR REMOVAL OF A RESTRICTION), filed August 7, 1973. Petitioner: HAROLD WILLIMAS, doing business as WILLIAMS MOVING CO., City Highway West, P.O. Box 209, Dexter, Mo. 63841. Petitioner's representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, Mo. 63101. Petitioner presently holds a motor *common carrier* certificate in No. MC 135473 issued May 16, 1973, authorizing transportation over irregular routes, of *used household goods*, restricted to the transportation of traffic having a prior or subsequent movement in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic, between points in Ripley, Carter, Wayne, Madison, Bollinger, Perry, Cape Girardeau, Butler, Stoddard, Scott, Mississippi, New Madrid, Pemiscot, and Dunklin Counties, Mo.; Randolph, Greene, and Mississippi Counties, Ark.; Obion, Lake, Dyer, and Lauderdale Counties, Tenn.; Fulton, Hickman, Carlisle, Ballard, and McCracken Counties, Ky.; and Alexander, Pulaski, Union, Jackson, Randolph, Monroe, and Massac Counties, Ill., on the one hand, and on the other, points in Arkansas, Tennessee, Kentucky, Missouri, and Illinois. By the instant petition, petitioner seeks removal of the restriction on used household goods. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition by October 8, 1973.

No. MC 136064 (NOTICE OF FILING OF PETITION TO ADD A CONTRACTING SHIPPER), filed August 21, 1973. Petitioner: NORTH GEORGIA TRANSPORT COMPANY, INC., 2209 Crestmoor Drive, Nashville, Tenn. 37215. Petitioner's representative: William P. Jackson, Jr., 919 18th Street NW., Washington, D.C. 20006. Petitioner presently holds a motor *contract carrier* permit in No. MC 136064 issued January 2, 1973, authorizing transportation, over irregular routes, of *such commodities* as are distributed by dealers in petroleum, petroleum products, and service station supplies (except liquefied petroleum gas), between points in Alabama, Georgia, Kentucky, and Tennessee, restricted against traffic originating at points in Kentucky, and further restricted to a transportation service to be performed under a continuing contract or contracts with North Georgia Oil Company, Mid-Tennessee Oil Company, and Richland Oil Company. By the instant petition, petitioner seeks to add B & S Oil Company as an additional contracting shipper to the authority described above. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition by October 8, 1973.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's Special Rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

Applications for certificates or permits which are to be processed concurrently with applications under Section 5 governed by Special Rule 240 to the extent applicable.

No. MC 35628 (Sub-No. 351), filed July 31, 1973. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, 134 Grandville SW., Grand Rapids, Mich. 49502. Applicant's representative: Leonard D. Verdier, Jr., 900 Old Kent Building, Grand Rapids, Mich. 49502. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except Classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between points in Massachusetts.

NOTE.—Applicant states that the requested authority can be tacked at Springfield, Worcester, and Boston, Mass., to provide service to and from points in the United States (except Hawaii and Alaska) either direct or interline service. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. The instant application is a matter directly related to MC–F 11947, published in the FEDERAL REGISTER issue of August 8, 1973. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 121555 (Sub-No. 4), filed July 1, 1973. Applicant: PARCEL DISPATCH, INC., 305 North Senate Avenue, Indianapolis, Ind. 46204. Applicant's representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are ordinarily dealt in by retail stores and mail order houses in retail delivery only for retail stores and mail order houses only to retail customers, only, from Indianapolis, Ind., to points in Indiana, and *rejected shipments* on return.

NOTE.—The purpose of this application is to convert applicant's Certificate of Registration in MC 121555 (Sub-No. 4) into a Certificate of Public Convenience and Necessity. The instant application is a matter directly related to MC–F 11927 published in the FR issue of July 19, 1973. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Washington, D.C.

No. MC–F–11966. Authority sought for purchase by NEW ENGLAND MOTOR FREIGHTS INC., 520 Main Street, Wallington, N.J., of the operating rights and







V 38-172 SEP 6 73 XUM

property of DELAWARE VALLEY EXPRESS, INC., P.O. Box 24, Hankins, New York 12741, and for acquisition by MORRIS FRIEDMAN, DAVID GOLDMAN, AND JACOB GOLDMAN, 520 Main St., Wallington, N.J., of control of such rights through the purchase. Applicants' attorney: MORTON E. KIEL, 140 Cedar Street, New York, N.Y. 10006. Operating rights sought to be transferred: *General commodities* with exceptions as a *common carrier* over irregular routes, between New York, N.Y., on the one hand, and, on the other, points in Sullivan County, N.Y. Vendee is authorized to operate as a *common carrier* in New Jersey, Rhode Island, Connecticut, Massachusetts, and New York. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11967. Authority sought for purchase by CREGER FREIGHT LINES, INC., Old Tyburn Road and Corbin Lane, Morrisville, Pa. 19067, of the operating rights of CALVALCADE TRUCKING, INC., Old Tyburn Road, Fairless Hills Pa., 19030, and for acquisition by ALBERT H. CREGER, Old Tyburn Road and Corbin Lane, Morrisville, Pa., of control of such rights through the purchase. Applicants' attorney: V. BAKER SMITH, 2107 The Fidelity Building, Philadelphia, Pa. 19109. Operating rights sought to be transferred: *Tinware*, as a *common carrier* over irregular routes, between Philadelphia, Pa., on the one hand, and, on the other, points in Connecticut, Delaware, Maryland, New Jersey, New York, Virginia, and the District of Columbia. Vendee is authorized to operate as a *common carrier* in New York, New Jersey, and Pennsylvania. Application has not been filed for temporary under section 210a(b).

No. MC–F–11968. Authority sought for purchase by SALT CREEK FREIGHTWAYS, 3333 West Yellowstone, Casper, Wyoming 82601, of the operating rights and property of BUTTE-BOZEMAN DELIVERY SERVICE, 712 East Main, Bozeman, Montana 59715, and for acquisition by WILLIAM UTZINGER, WILLIAM D. UTZINGER, and C. E. OGDEN, 3333 West Yellowstone, Casper, Wyo. 82601, of control of such rights through the purchase. Applicants' attorney: JOHN R. DAVIDSON, Rm. 805, Midland Bank Building, Billings, Montana 59101. Operating rights sought to be transferred: *General commodities* with exceptions as a *common carrier* over regular routes between Butte, Mont., and Bozeman, Mont., serving the intermediate points of Belgrade, Manhattan, Three Forks, Logan, Cardwell, and Whitehall, Mont., between Bozeman, Mont., and West Yellowstone, Mont., serving all intermediate points. Vendee is authorized to operate as a *common carrier* in Montana, Wyoming, Colorado, and Nebraska. Application has been filed for temporary under section 210a(b).

No. MC–F–11969. Authority sought for merger by BEKINS MOVING & STORAGE CO., INC., a New Mexico Corporation, 5304 Menau Blvd. NE., Albuquerque, NM 87110, and BEKINS MOVING & STORAGE CO., a Texas Corporation, 5342 E. Mockingbird Lane, Dallas, TX 75206, of the operating rights and property of (A) O.K. VAN & STORAGE CO. OF NEW MEXICO, 2315 S. Valley Dr., Las Cruces, NM 88001, and (B) O.K. VAN & STORAGE, INC., P.O. Box 9691, El Paso, TX 79987, and for acquisition by THE BEKINS COMPANY, 1335 S. Figueroa St., Los Angeles, CA 90015, of control of such rights and property through the transaction. Applicants' attorneys: Russell Bernhard,1625 K St. NW., Washington, DC 20006, and Eldon R. Clawson, 1335 S. Figueroa St., Los Angeles, CA 90015. Operating rights sought to be merged: (A) *Used household goods*, as a *common carrier* over irregular routes, between points in Dona Ana and Otero Counties, N. Mex., with restriction; (B) *used household goods*, as a *common carrier* over irregular routes, between points in El Paso, Tex., with restriction. BEKINS MOVING & STORAGE CO., INC., a New Mexico Corporation, and BEKINS MOVING & STORAGE CO., a Texas Corporation, holds no authority from this Commission. However, they are affiliated with (1) BEKINS MOVING & STORAGE CO., a Missouri Corporation, (2) BEKINS MOVING & STORAGE CO., a Oklahoma Corporation, (3) BEKINS MOVING & STORAGE CO., a Missouri Corporation, and (4) BEKINS MOVING & STORAGE CO., a Oklahoma Corporation. (1) and (2) are authorized to operate as *brokers* in all points in the U.S. except Alaska and Hawaii, and (3) and (4) are authorized to operate as *common carriers*, in Kansas, Missouri, and Oklahoma. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11970. Authority sought for purchase by GENERAL TRANSPORTATION INCORPORATED, P.O. Box 670, Eager-Springerville Highway, Springerville, Ariz. 85938, of a portion of the operating rights and property of CROSBY LUMBER & SUPPLY, INC., P.O. 670, Springerville, Arizona, 85938, and for acquisition by CROSBY DEVELOPMENT, INC., P.O. Box 100 Greer, Ariz., of control of such rights through the purchase. Applicants' attorney: DONALD PARKER CROSBY, P.O. Box 670 Springerville, Ariz. 85938. Operating rights sought to be transferred: *Lumber*, as a *common carrier* over irregular routes from Snowflake, Cutter, Fredonia, and Payson, Ariz., to Port Huenome, Los Angeles, and San Diego, Calif., with no transportation for compensation on return except as otherwise authorized, from points in Arizona, to points in Nevada, with no transportation for compensation on return except as otherwise authorized, from points in Los Angeles County, Calif., and points in that part of California north of Interstate Highway 80 to Phoenix, Ariz., with no transportation for compensation on return except as otherwise authorized, with restriction. Vendee is authorized to operate as a *common carrier* in Arizona, New Mexico, Texas, and Oklahoma. Application has been filed for temporary authority under Section 210a(b).

No. MC–F–11971. Authority sought for control and merger by ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, P.O. Box 471, Akron, Ohio 44309, of the operating rights and property of SHUMPERT TRUCK LINE, INC., 1720 Central Ave., Memphis, Tenn. 38100, and for acquisition by GALEN J. ROUSH, 1077 Gorge Boulevard, Akron, Ohio 44309, of control of such rights and property through the transaction. Applicants' attorneys: WILLIAM O. TURNEY, 2001 Massachusetts Ave. N.W., Washington, D.C. 20036, and DOUGLAS W. FARIS, 1077 Gorge Blvd., P.O. Box 471, Akron, Ohio 44309. Operating rights sought to be controlled and merged: *General commodities* as a *common carrier* over regular routes with exceptions, between Memphis, Tenn., and Amory, Miss., between points in Mississippi. Service is authorized to and from all intermediate on the above-specified routes, between Amory, Miss., and Aliceville, Ala., serving the intermediate points of Sulligent, Vernon, Millport, Reform, and Carrollton, between Columbus, Miss., and Reform, Ala., serving no intermediate points, and with service at Columbus, with restrictions, serving various off-route points. Serving Gattman, Miss., as an intermediate point in connection with carrier's authorized regular route operations between Amory, Miss., and Aliceville, Ala. Vendee is authorized to operate as a *common carrier* in Ohio, Texas, Oklahoma, Pennsylvania, Kansas, Illinois, Kentucky, Rhode Island, Alabama, Georgia, North Carolina, Tennessee, South Carolina, New Jersey, New York, Virginia, Delaware, Maryland, West Virginia,. Wisconsin, and The District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11972. Authority sought for control and merger by MURPHY MOTOR FREIGHT LINES, INC., 2323 Terminal Road, St. Paul, Minn. 55113 of the operating rights of MIDDLE STATES MOTOR FREIGHT, INC., 5723 Este Ave., Cincinnati, Ohio, 45232, and for acquisition by EDWARD L. MURPHY, JR., AND STANLEY L. WASIE, 2323 Terminal Road, St. Paul, Minn. 55113, of control of such rights through the transaction. Applicants' attorneys: DAVID AXELROD, 39 So. La Salle St., Chicago, Ill. 60603 and JACK B. JOSSELSON, 700 Atlas Bank Bldg., 524 Walnut St., Cincinnati, Ohio 45202. Operating rights sought to be controlled and merged: *General commodities* with exceptions, as a *common carrier* over regular routes, between junction U.S. Highways 35 and 40 and Columbus, Ohio, serving all intermediate points between Dayton, Ohio, and Springfield, Ohio, between Dayton, Ohio, and junction Ohio Highway 4 and U.S. Highway 40, between junction Ohio Highways 4 and 444 and junction Ohio Highway 444 and U.S. Highway 40, between Dayton, Ohio, and Vandalia, Ohio, serving no intermediate points, with restrictions, between Cincinnati, Ohio, and





Chicago, Ill., serving all intermediate points; and the off-route points of Covington, Newport, and Belleview, Ky., those in Ohio within 30 miles of Cincinnati, and those in Illinois within 30 miles of Chicago, serving the plant site of the Ford Motor Company at the intersection of Westport Road and Murphy Lane, Jefferson County, near Louisville, Ky., as an off-route point in connection with carrier's authorized regular-route operations to and from Louisville, Ky., between Salem, Ind., and Leipsic, Ind., serving the intermediate points of Campbellsburg, Saltillo, and Livonia, Ind., between Salem, Ind., and Louisville, Ky., serving all intermediate points, and the off-route points of Becks Mills and Martinsburg, Ind.; and the off-route points within 10 miles of Salem for pick-up of livestock only, between Salem, Ind., and Cincinnati, Ohio, and the off-route points of Canton, Harristown, New Philadelphia, South Boston, and Little York, Ind.; and the off-route points within 20 miles of Salem, for pick-up of livestock and cream, between Louisville, Ky., and junction Interstate Highway 65 and Indiana Highway 56, as an alternate route for operating convenience only, in connection with carrier's regular-route operations authorized herein, between Cincinnati, Ohio, and Louisville, Ky., as an alternate route in connection with carrier's authorized regular-route operations. *General commodities* with exceptions as a *common carrier* over irregular routes between Dayton and Cincinnati, Ohio, and a point on U.S. Highway 40 at the Ohio-Indiana State line, on the one hand, and on the other, points in that part of Ohio west of U.S. Highway 23 and south of U.S. Highway 40, including points on the indicated portions of the highways specified, with restrictions, between the plant site of the Nachman Corporation at or near Milford, Ill., on the one hand, and, on the other, points in that part of Ohio on, south and west of a line beginning at the Indiana-Ohio State line and extending over U.S. Highway 40 to junction U.S. Highway 23, and thence over U.S. Highway 23 to the Ohio-Kentucky State Line, between Columbus, Ohio, on the one hand, and, on the other, points in Ohio, Vendee is authorized to operate as a *common carrier* in Minnesota, South Dakota, Illinois, North Dakota, Indiana, Nebraska, Michigan, Ohio, New York, and Missouri. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11973. Authority sought for purchase by TERMINAL TRANSPORT COMPANY, INC., 248 Chester Avenue SE., Atlanta Ga. 30316, of the operating rights of CENTRAL STATES TRANSPORTATION COMPANY, INC., Eastern & Moonachie Ave., Carlstadt, N.J., and for acquisition by TEXAS GAS TRANSMISSION CORP., 3800 Frederica St., Owensboro, Ky. 42301, and AMERICAN COMMERCIAL LINES, INC., 2919 Allen Parkway, Houston, Tex. 77019, of control of such rights through the purchase. Applicants' attorney: HAROLD H. CLOKEY, 414 The Equitable Building, Atlanta, Ga. 30303. Operating rights sought to be transferred: *General commodities*, with exceptions as a *common carrier* over regular routes, between Boston, Mass., and Buffalo, N.Y., serving the intermediate and off-route points of Syracuse and Rochester, N.Y., restricted to westbound traffic only; Framingham, Springfield, Worcester, Westfield, Marlboro, Westboro, and North Grafton, Mass., restricted to eastbound traffic only; Niagara Falls, N.Y., and Brockton and Milford, Mass., and those within 10 miles of Boston, Mass., and those within 10 miles of Buffalo, N.Y. Vendee is authorized to operate as a *common carrier* in Kentucky, Illinois, Ohio, Indiana, Georgia, Tennessee, Alabama, Florida, Michigan, Mississippi, and Missouri. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11974. Authority sought for merger into CHEMICAL EXPRESS CARRIERS, INC., 1200 Simons Building, Dallas, Tex. 75201, of the operating rights and property of STUBBS TRANSPORT, INC., 8192 East Skelly Drive, Tulsa, Okla. 74101, and for acquisition by CHEMICAL EXPRESS COMPANY, 1200 Simons Bldg., Dallas, Tex. 75201, of control of such rights and property through the transaction. Applicants' attorney: LEROY HALLMAN, 4555 First National Bank Building, Dallas, Tex. 75202. Operating rights sought to be merged: *Gasoline*, as a *common carrier* over irregular routes, from the Magnolia Petroleum Plant near Electra, Tex., and from Burkburnett, Tex., to Sunray, Okla., *Motor fuel*, from Sunray, Okla., to Wichita Falls, Tex., *Casinghead gasoline*, from points in Archer, Clay, Jack, Montague, Wichita, Wilbarger, and Young Counties, Tex., (except Wichita Falls, Tex., and points within 5 miles thereof), to Sunray, Okla., *Motor fuel gasoline*, from Sunray, Okla., to points in Archer, Clay, Jack, Montague, Wichita, Wilbarger, and Young Counties, Tex., with restrictions, *Petroleum* products, in bulk, in tank trucks, from Tulsa and Okmulgee, Okla., to points in Benton, Washington, Crawford, Sebastian, Franklin, Johnson, Pope, Van Buren, Carroll, and Boone Counties, Ark., from Cleveland, Okla., to points in Benton, Carroll, Boone, Washington, Crawford, Sebastian, Franklin, and Johnson Counties, Ark., from Bristow, Okla., to points in Benton, Washington, Crawford, and Sebastian Counties, Ark., *Doors, glazed windows, plywood, moulding, window frames* and *parts* thereof, *window glass* and *plate glass, empty containers, store fixtures*, and *insulation board*, from Henryetta, Okla., and points within 5 miles thereof, to points in Arkansas, Kansas, and Missouri, and *Putty* and *used store fixtures*, from points in the destination territory described immediately above, to Henryetta, Okla., and points within 5 miles thereof. CHEMICAL EXPRESS CARRIERS, INC., is authorized to operate as a *common carrier* in Texas, New Mexico, Oklahoma, Arkansas, Louisiana, Colorado, Kansas, Alabama, Mississippi, Missouri, Arizona, Utah, Georgia, Illinois, Indiana, Ohio, North Carolina, South Carolina, Wisconsin, Florida, Tennessee, Iowa, Michigan, Nebraska, California, Kentucky, New Jersey, Pennsylvania, and Nevada. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11976. Authority sought for purchase by WITTE TRANSPORTATION COMPANY, 2481 Cleveland Ave., North, St. Paul Minn. 55113, of the operating rights of JOHN D. TURCK, Preston, Minn. 55965, and for acquisition by SPACE CENTER, INCORPORATED, 444 Lafayette Road, St. Paul, Minn. 55101, of control of such rights through the purchase. Applicants' attorney: WILLIAM S. ROSEN, 630 Osborn Building, St. Paul, Minn. 55102. Operating rights sought to be transferred: *Household goods, emigrant movables*, and *general commodities*, with exceptions as a *common carrier* over irregular routes, between Preston, Minn., and points in Minnesota and Iowa with 15 miles of Preston, on the one hand, and, on the other, South St. Paul, St. Paul, Minneapolis, Austin, Albert Lea, Newport, and Winona, Minn., and points in Iowa and Wisconsin within 150 miles of Preston. *Tankage, meat scraps*, and *bone meal*, from Austin, Minn., to points in that part of Wisconsin on and south of U.S. Highway 16 within 150 miles of Preston, Minn., with no transportation for compensation on return except as otherwise authorized. Vendee is authorized to operate as a *common carrier* in Wisconsin, Minnesota, North Dakota, Illinois, Michigan, Missouri, and Iowa. Application has been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73 18922 Filed 9 5-73;8:45 am]

[Notice No. 346]

## MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before September 26, 1973. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.



V 38 - 172 SEP 6 73 XUM

No. MC-FC-74451. By order of August 30, 1973, the Motor Carrier Board approved the transfer to J & D, Inc., doing business as J & D Transport, Sturdevant, Wis., of a portion of the operating rights in Certificate No. MC-123499 issued April 23, 1971, to Lowell L. Treffert, Inc., Franksville, Wis., authorizing the transportation of malt beverages, in containers, from St. Louis, Mo., to Kenosha and Twin Lakes, Wis. William C. Dineen, 710 North Plankinton Ave., Milwaukee, Wis. 53203. Attorney for applicants.

No. MC-FC-74456. By order of August 30, 1973, the Motor Carrier Board on reconsideration approved the transfer to M. L. Yockstock, Inc., Altoona, Iowa, of that portion of the operating rights in Certificate No. MC-117815 (Sub-No. 2) issued May 25, 1961, to Pulley Freight Lines, Inc., Des Moines, Iowa, authorizing the transportation of animal and poultry feed, and animal and poultry feed ingredients, between Des Moines, Iowa, and points within two miles thereof, on the one hand, and, on the other, points in Wisconsin; animal and poultry feed, from Des Moines, Iowa, to points in Illinois, Minnesota, Missouri, Nebraska, and South Dakota; and feed ingredients, and rejected shipments of animal and poultry feed, from points in Illinois, Minnesota, Missouri, Nebraska, and South Dakota, to Des Moines, Iowa. Larry D. Knox, 9th Floor, Hubbell Building, Des Moines, Iowa 50309. Attorney for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-18918 Filed 9-5-73;8:45 am]

[Notice No. 119]

## MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 29, 1973.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, by September 21, 1973. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 808 (Sub-No. 48 TA), filed August 21, 1973. Applicant: ANCHOR MOTOR FREIGHT, INC., 21111 Chagrin Blvd., P.O. Box 22005, Cleveland, Ohio 44122. Applicant's representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, Ohio 44122. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New automobiles and new automobile chassis*, in truckaway service, from the plantsite of General Motors Corporation at Norwood, Ohio, to points in Connecticut, for 180 days. SUPPORTING SHIPPER: General Motors Corporation, 30007 Van Dyke Avenue, Warren, Mich. 48090. SEND PROTESTS TO: Franklin D. Bail, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 181 Federal Office Bldg., 1240 East Ninth Street, Cleveland, Ohio 44199.

No. MC 6078 (Sub-No. 75 TA), filed August 20, 1973. Applicant: D. F. BAST, INC., 1425 North Maxwell Street, P.O. Box 2288, Allentown, Pa. 18001. Applicant's representative: Donald L. Proffit (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, conduit, ducts, and tubes and related fittings, attachments, materials, and accessories used in the installation thereof*, from Nazareth, Pa., to points in Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia, for 180 days. SUPPORTING SHIPPER: Carlon Division, Indian Head, Inc., 23200 Chagrin Blvd., Cleveland, Ohio 44122. SEND PROTESTS TO: F. W. Doyle, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Wm. J. Green, Jr. Federal Bldg., 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 51146 (Sub-No. 329 TA), filed August 21, 1973. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, P.O. Box 2298, (Box zip 54306), Green Bay, Wis. 54304. Applicant's representative: Neil DuJardin (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, one gallon or less in capacity, from Streator, Ill., to points in Minnesota, for 180 days. SUPPORTING SHIPPER: Owens-Illinois, Inc., 405 Madison Avenue, Toledo, Ohio 43666 (Noley B. Pauley, Jr., Mgr. Rates & Service—Corporate Transportation). SEND PROTESTS TO: District Supervisor John E. Ryden, Bureau of Operations, Interstate Commerce Commission, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 51146 (Sub-No. 330 TA), filed August 21, 1973. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, P.O. Box 2298 (Box zip 54306), Green Bay, Wis. 54304. Applicant's representative: Neil DuJardin (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese and specialty gift packs*, from Monroe and Madison, Wis., to Cincinnati, Ohio; Indianapolis, Ind.; Livonia, Mich.; Washington, D.C.; Jersey City, N.J.; Boston, Mass.; Springfield, Mass.; New York City, Buffalo, and Long Island, N.Y.; Cleveland, Ohio; Philadelphia and Pittsburgh, Pa. and Baltimore, Md., for 180 days. SUPPORTING SHIPPER: Swiss Colony Stores, Inc., 1112 7th Avenue, Monroe, Wis. 53566 (Roger Rothenbuehler, Traffic Manager). SEND PROTESTS TO: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 62538 (Sub-No. 19 TA), filed August 22, 1973. Applicant: ASHTON TRUCKING CO., 1201 North Broadway, P.O. Box 472, Monte Vista, Colo. 81144. Applicant's representative: Leslie R. Kehl, Suite 1600 Lincoln Center, Denver, Colo. 80203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, in bulk, from Commerce City, Colo., to Lubbock, Tex., for 180 days. SUPPORTING SHIPPER: Colorado Milling & Elevator Company, P.O. Box 718, Denver, Colo. 80202. SEND PROTESTS TO: District Supervisor Herbert C. Ruoff, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 99780 (Sub-No. 26 TA), filed August 20, 1973. Applicant: CHIPPER CARTAGE COMPANY, INC., 1327 NE. Bond Street, Peoria, Ill. 61603. Applicant's representative: Robert L. Lang (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh meats and packinghouse products* as defined in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificate*, 61 MCC 209 and 766 (except hides and commodities in bulk), from the plant site and/or cold storage facilities utilized by Wilson and Company, Inc., at Cedar Rapids, Iowa, to Bloomington, Columbus, Crawfordsville, Elkhart, Frankfort, Greencastle, Indianapolis, Kokomo, Lafayette, Lebanon, Marion, Mishawaka, Muncie, and South Bend, Ind., for 180 days. SUPPORTING SHIPPER: A. N. Brent, Manager of Transportation, 4545 North Lincoln Boulevard, Oklahoma City, Okla. 73105. SEND PROTESTS TO: District Supervisor Richard K. Shullaw, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S.





Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 103051 (Sub-No. 283 TA), filed August 20, 1973. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Avenue North, P.O. Box 90408, Nashville, Tenn. 37209. Applicant's representative: Russell E. Stone (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn syrup*, in bulk, in tank vehicles, from Lebanon, Tenn., to points in Alabama, Arkansas, Georgia, Kentucky, Mississippi, Missouri, North Carolina, Tennessee, and Virginia, for 180 days. SUPPORTING SHIPPER: Corn Sweeteners, Inc., P.O. Box 1445, Cedar Rapids, Iowa 52404. SEND PROTESTS TO: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 803 1808 West End Building, Nashville, Tenn. 37203.

No. MC 107515 (Sub-No. 866 TA), filed July 27, 1973. Applicant: REFRIGERATED TRANSPORT CO., INC., 3901 Jonesboro Road SE., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Paul M. Daniell, Suite 1600, First Federal Bldg., Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen meat and frozen seafood*, from Philadelphia, Pa., to points in Virginia, for 150 days. SUPPORTING SHIPPER: Colonial Beef Co., 3333 South Third Street, Philadelphia, Pa. 19148. SEND PROTESTS TO: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree St. NW., Atlanta, Ga. 30309.

No. MC 107515 (Sub-No. 867 TA), filed August 1, 1973. Applicant: REFRIGERATED TRANSPORT CO., INC., 3901 Jonesboro Road SE., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Paul M. Daniell, Suite 1600, First Federal Bldg., Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsite and warehouse facilities of Mrs. Smith's Pie Co. at Pottstown, Pa., to points in North Carolina, South Carolina, Georgia, Florida, and Alabama, for 150 days. SUPPORTING SHIPPER: Mrs. Smith's Pie Company, Charlotte and South Streets, Pottstown, Pa. 19464. SEND PROTESTS TO: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1252 W. Peachtree St. NW., Room 309, Atlanta, Ga. 30309.

No. MC 107515 (Sub-No. 868 TA), filed August 1, 1973. Applicant: REFRIGERATED TRANSPORT CO., INC., 3901 Jonesboro Road SE., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Paul M. Daniell, Suite 1600, First Federal Bldg., Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantside and other facilities of Seabrook Farms Co., Inc., Seabrook, N.J., to points in Tennessee, Georgia, Florida, North Carolina, South Carolina, Alabama, Louisiana, and Virginia, for 180 days. SUPPORTING SHIPPER: Seabrook Farms Co., Inc., Seabrook Farms, N.J. SEND PROTESTS TO: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1252 West Peachtree Street NW., Room 309, Atlanta, Ga. 30309.

No. MC 110098 (Sub-No. 139 TA), filed August 22, 1973. Applicant: ZERO REFRIGERATED LINES, 1400 Ackerman Road, P.O. Box 20380, San Antonio, Tex. 78220. Applicant's representative: T. W. Cothren (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plantsite of Madison Foods at Madison, Nebr., to points in New Mexico, Texas, Oklahoma, Arkansas, and Louisiana, for 180 days. SUPPORTING SHIPPER: Armour and Company, Fresh Meats Division, Greyhound Tower, Phoenix, Ariz. 85077. SEND PROTESTS TO: Richard H. Dawkins, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 301 Broadway Building, Room 206, San Antonio, Tex. 78205.

No. MC 110988 (Sub-No. 298 TA) (CORRECTION), filed August 10, 1973, published in the FEDERAL REGISTER issue of August 27, 1973, and republished as corrected this issue. Applicant: SCHNEIDER TANK LINES, INC., 200 West Cecil Street, Neenah, Wis. 54956. Applicant's representative: David A. Petersen (same address as applicant).

NOTE.—The purpose of this partial republication is to correct the MC number to No. MC 110988 (Sub-No. 298 TA) in lieu of No. MC 51146 (Sub-No. 298 TA), which was published in error. The rest of the application remains the same.

No. MC 110988 (Sub-No. 299 TA), filed August 21, 1973. Applicant: SCHNEIDER TANK LINES, INC., 200 West Cecil Street, Neenah, Wis. 54956. Applicant's representative: David A. Petersen (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium hypochlorite*, in bulk, in rubber-lined trailers, from Milwaukee, Wis., to points in Illinois, for 180 days. SUPPORTING SHIPPER: Hydrite Chemical Corporation, 1237 W. Bruce Street, Milwaukee, Wis. 53204 (Edward A. Wex, Exec. Vice Pres.). SEND PROTESTS TO: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 111729 (Sub-No. 394 TA), filed August 22, 1973. Applicant: PUROLATOR COURIER CORP., 2 Nevada Drive, Lake Success (NHP-PO), N.Y. 11040. Applicant's representative: John M. Delany (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Small emergency replacement parts, machine tools, and electrical parts*, restricted against the transportation of packages weighing in the aggregate more than 50 pounds from one consignor to one consignee on any one day, (a) between Chicago, Ill., on the one hand, and, on the other, points in Wisconsin and (b) between Milwaukee, Wis., on the one hand, and, on the other, points in Illinois (except Chicago, Ill.), and (2) *small automotive parts and supplies of all kinds*, restricted against the transportation of packages weighing in the aggregate more than 50 pounds from one consignor to one consignee on any one day, between Chicago, Melrose Park, and Broad View, Ill., on the one hand, and, on the other, Milwaukee, Green Bay, and Madison, Wis., for 90 days. SUPPORTING SHIPPERS: (1) Oster Corporation, 5055 N. Lydell Avenue, Milwaukee, Wis.; (2) International Harvester Company, 420 South First Street, Milwaukee, Wis.; (3) Wisconsin Bearing Company, 1310 S. 43rd Street, Milwaukee, Wis.; and (4) R. B. Tool & Manufacturing Co., 3510 W. Kiehnau Avenue, Milwaukee, Wis. SEND PROTESTS TO: Anthony D. Giaimo, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 111729 (Sub-No. 395 TA), filed August 22, 1973. Applicant: PUROLATOR COURIER CORP., 2 Nevada Drive, Lake Success (NHP-PO), N.Y. 11040. Applicant's representative: John M. Delany (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Business papers, records, audit, and accounting media of all kinds, and advertising material*, (a) between Findlay, Ohio, on the one hand, and, on the other, Fort Wayne and Indianapolis, Ind.; Champaign, Ill.; Louisville, Ky.; and Lansing, Mich., and (b) between Chicago, Ill., on the one hand, and, on the other, Genoa and Gypsum, Ohio, for 90 days. SUPPORTING SHIPPERS: (1) Marathon Oil Company, Findlay, Ohio 45840, and (2) United States Gypsum Company, 101 South Wacker Drive, Chicago, Ill. SEND PROTESTS TO: Anthony D. Giaimo, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 112627 (Sub-No. 17 TA), filed August 23, 1973. Applicant: OWENS BROS., INC., P.O. Box 247, Dansville, N.Y. 14437. Applicant's representative: S. Michael Richards, 44 North Avenue, Webster, N.Y. 14580. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Columbus, Ohio, to Lakeville, N.Y., and *return empty containers and pallets*, in the reverse direction, for 180 days. SUPPORT-



V 38-172 SEP 6 73 XUM

ING SHIPPER: Mr. Francis E. West, President, West Beer Dist., Inc., Lakeville, N.Y. SEND PROTESTS TO: Morris H. Gross, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 104, 301 Erie Blvd., West, Syracuse, N.Y. 13202.

No. MC 113828 (Sub-No. 209 TA), filed August 22, 1973. Applicant: O'BOYLE TANK LINES, INCORPORATED, Mfg: P.O. Box 30006, Washington, D.C. 20014, and Off: 5320 Marinelli Drive, Montrose Industrial Park, Rockville, Md. 20852. Applicant's representative: Michael A. Grimm (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, in bulk, from Lugoff, S.C., to Salem, Va., for 180 days. SUPPORTING SHIPPER: Star Foundry Products, Inc., Inc., Route 1, Box 266, Salem, Va. 24153. SEND PROTESTS TO: Robert D. Caldwell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 12th Street & Constitution Avenue NW., Washington, D.C. 20423.

No. MC 114265 (Sub-No. 26 TA), filed August 22, 1973. Applicant: RALPH SHOEMAKER, doing business as SHOEMAKER TRUCKING CO., 8624 Franklin Road, Boise, Idaho 83705. Applicant's representative: F. L. Sigloh, P.O. Box 7651, Boise, Idaho 83705. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood and steel trusses combined*, from the plantsite of Trus-Joist Corporation, Dubuque, Iowa, to points in Wyoming, Colorado, New Mexico, Utah, Arizona, Nevada, and California, for 180 days. SUPPORTING SHIPPER: Trus-Joist Corporation, 900 E. Park Blvd., Boise, Idaho 83706. SEND PROTESTS TO: C. W. Campbell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 550 West Fort Street, Box 07, Boise, Idaho 83724.

No. MC 114457 (Sub-No. 161 TA), filed August 20, 1973. Applicant: DART TRANSIT COMPANY, 780 N. Prior Avenue, St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potatoes and frozen potato products*, from Grand Forks, N. Dak., to points in Connecticut, Maryland, Massachusetts, Michigan, New Jersey, New York, Ohio, and Pennsylvania, for 180 days. RESTRICTION: Restricted to traffic originating at the plantsite and storage facilities of Western Potato Service, Inc. at Grand Forks, N. Dak. and destined to points in the named states. SUPPORTING SHIPPER: Western Potato Service, Inc., P.O. Box 1391, Grand Forks, N. Dak. SEND PROTESTS TO: District Supervisor Raymond T. Jones, Bureau of Operations, Interstate Commerce Commission, 448 Federal Bldg. & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 114604 (Sub-No. 19 TA), filed August 7, 1973. Applicant: CAUDELL TRANSPORT, INC., State Farmers Market, #33, Forest Park, Ga. 30050. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs*, from the distribution facility of Heinz U.S.A. at Greenville, S.C., to points in Alabama, Georgia, Mississippi, Tennessee, and the New Orleans, La., commercial zone, for 180 days. RESTRICTION: Restricted to traffic originating at and destined to the points and territories shown. SUPPORTING SHIPPER: Heinz U.S.A., Division of H. J. Heinz Co., P.O. Box 57, Pittsburg, Pa. 15230. SEND PROTESTS TO: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree St. NW., Atlanta, Ga. 30309.

No. MC 115654 (Sub-No. 21 TA), filed August 20, 1973. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 1193, 809 Ewing Avenue, Nashville, Tenn. 37202. Applicant's representative: Walter Harwood, 404 James Robertson Parkway, Nashville, Tenn. 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery, confectionery products, chocolates, and related chocolate items*, in vehicles equipped with mechanical refrigeration, except commodities in bulk, from Atlanta, Ga., to points in Jefferson, Etowah, St. Clair, Calhoun, and Talladega Counties, Ala., for 150 days. SUPPORTING SHIPPER: M. & M./Mars, Inc., High Street, Hackettstown, N.J. 07840. SEND PROTESTS TO: Joe J. Tate, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 803, 1808 West End Building, Nashville, Tenn. 37203.

No. MC 117883 (Sub-No. 180 TA), filed August 22, 1973. Applicant: SUBLER TRANSFER, INC., 791 East Main Street, P.O. Box 62, Versailles, Ohio 45380. Applicant's representative: Edward J. Subler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in "Descriptions in Motor Carrier Certificates," 61 MCC 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plantsite and storage facilities of Madison Foods, Inc., at Madison, Nebr., to points in Connecticut, Delaware, Indiana, Kentucky, Maine, Maryland, Massachusetts, New Hampshire New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to traffic originating at Madison, Nebr., for 180 days. SUPPORTING SHIPPER: Armour and Company, Fresh Meats Division, Greyhound Tower, Phoenix, Ariz. 85077. SEND PROTESTS TO: Paul J. Lowry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5514-B Federal Building, 550 Main Street, Cincinnati, Ohio 45202.

No. MC 118959 (Sub-No. 106 TA) filed August 20, 1973. Applicant: JERRY LIPPS, INC., 130 S. Frederick St., Cape Girardeau, Mo. 63701. Applicant's representative: John L. Bruemmer, 121 W. Doty Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building* materials and supplies (except commodities in bulk), from Louisville and points in its commercial zone, and from the plant site and storage facilities of Bird & Son, Inc., at Bardstown, Ky., to Springfield, Ky., restricted to (1) traffic from the plant site of American Standard Corporation at Louisville, Ky., shall be restricted to destinations lying east of U.S. Highway 83 and (2) Tacking of this authority with carrier's certificate No. MC 118959 (Sub-No. 85) at the plant site of Tech-Panel Corporation, Springfield, Ky., shall be for the purpose of joinder only, and no service shall be provided thereby to the states of Alabama, Georgia, Louisiana, Mississippi, North Carolina, and South Carolina, for 180 days. SUPPORTING SHIPPERS: Bird & Son, Inc., Shawhan Lane, Bardstown, Ky. 40004; American Standard, Inc., P.O. Box 2003; General Plywood Corp., 234 Silver, New Albany, Ind.; Queen Products Company, Inc., 1234 Rowan, Louisville, Ky. SEND PROTESTS TO: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th Street, St. Louis, Mo. 63101.

NOTE.—Applicant does intend to talk with MC 118959 (Sub-No. 85).

No. MC 119789 (Sub-No. 176 TA), filed August 22, 1973. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, 1612 E. Irving Blvd., Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as above). Authority sought to operate as a *commom carrier*, by motor vehicle, over irregular routes, transporting: *Refined sugar*, in packages, from Gramercy, La., to points in Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Missouri, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, and the District of Columbia, for 180 days. SUPPORTING SHIPPER: Colonial Sugars Company, Gramercy, La. 70052. SEND PROTESTS TO: Transportation Specialist Gerald T. Holland, Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75202.

No. MC 119934 (Sub-No. 194 TA), filed August 22, 1973. Applicant: ECOFF TRUCKING, INC., 625 East Broadway, Fortville, Ind. 46040. Applicant's representative: J. F. Crouch (same address as above). Authority





sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molasses*, in bulk, in tank vehicles, from New Orleans, La., to Louisville, Ky., for 180 days. SUPPORTING SHIPPER: Colonial Molasses Company, 400 No. Gayoso St., New Orleans, La. 70119. SEND PROTESTS TO: District Supervisor James W. Habermehl, Bureau of Operations, Interstate Commerce Commission, 802 Century Bldg., 36 S. Penn. Street, Indianapolis, Ind. 46204.

No. MC 123556 (Sub-No. 5 TA), filed August 14, 1973. Applicant: RAHIER TRUCKING, INC., 1822 South First Street, Yakima, Wash. 98901. Applicant's representative: Warren L. Dewar, Jr., 303 East D Street, Yakima, Wash. 98901. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, in trucks or trailers not exceeding a payload of 24,000 pounds per unit, from points in Los Angeles, County, Calif., to Yakima, Wash., for 180 days. SUPPORTING SHIPPER: Associated Grocers, Inc., 3301 South Norfolk Street, Seattle, Wash. 98118. SEND PROTESTS TO: District Supervisor W. J. Huetig, Bureau of Operations, Interstate Commerce Commission, 450 Multnomah Bldg., 319 SW. Pine St., Portland, Oreg. 97204.

No. MC 124027 (Sub-No. 7 TA), filed August 21, 1973. Applicant: MIDWEST BULK, INCORPORATED, 1100 Winneconne Avenue, P.O. Box 726, Neenah, Wis. 54956. Applicant's representative: John L. Bruemmer, 121 West Doty Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Shredded auto scrap*, from Kingsford, Mich., to points in Wisconsin, Michigan, Iowa, Illinois, and Minnesota, for 180 days. SUPPORTING SHIPPER: East Kingsford Iron & Metal Company, 100 East Superior Avenue, Iron Mountain, Mich. 49801 (Norman J. Mainville, Jr., Owner). SEND PROTESTS TO: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 124027 (Sub No. 8 TA) filed August 21, 1973. Applicant: MIDWEST BULK, INCORPORATED, 1100 Winneconne Avenue, P.O. Box 726, Neenah, Wis. 54956. Applicant's representative: John L. Bruemmer, 121 W. Doty Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coke*, in bulk, from Neenah and Appleton, Wis., to points in Illinois, Indiana, Wisconsin, and the Upper Peninsula of Michigan, for 180 days. SUPPORTING SHIPPERS: A. E. Schultz Corporation, P.O. Box 726, Neenah, Wis. 54956 (S. L. Laurin, Vice Pres.) and Koppers Company, Inc., St. Paul, Minn. 55104 (W. J. Goodlet, Manager, Sales). SEND PROTESTS TO: District Supervisor John E. Ryden, Bureau of Operations, Interstate Commerce Commission, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 124328 (Sub-No. 56 TA) filed August 22, 1973. Applicant: BRINK'S INCORPORATED, 234 E. 24th Street, Chicago, Ill. 60616. Applicant's representative: John G. O'Keefe, O'Hare Plaza, Suite 650, 5725 E. River Road, Chicago, Ill. 60631. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Precious metals and/or coins in bags, bars, bullion and specie*, from Laredo, Tex., to Chicago, Ill.; Newark, N.J.; Providence, R.I.; points in Los Angeles County, Calif.; and Fairfield, Conn., and between Chicago, Ill. and New York, N.Y. and points in Union, Essex and Middlesex Counties, N.J., and from Kellogg, Idaho, to Chicago, Ill.; points in Los Angeles County, Calif.; New York, N.Y.; and Newark, N.J., for 180 days. SUPPORTING SHIPPER: Saul Quinn, Assistant Traffic Manager, Philipp Brothers Division of Engelhard Minerals & Chemical Corporation, 299 Park Avenue, New York, N.Y. 10017. SEND PROTESTS TO: Richard K. Shullaw, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 133801 (Sub-No. 4 TA), filed August 20, 1973. Applicant: FEDERATION TRUCKING CORP., 1101 Prospect Avenue, Brooklyn, N.Y. 11218. Applicant's representative: William D. Traub, 10 East 40th Street, New York, N.Y. 10016. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Collating, binding and inserting machines, counter stackers, trimmers, newspaper stuffing and mail-room machinery and equipment*, between points in the New York, N.Y. Commercial Zone as defined by the Commission, and Hauppage, N.Y., on the one hand, and, on the other, points in New York, New Jersey, Connecticut, Massachusetts, Pennsylvania, Rhode Island, Delaware, Maryland, Virginia, North Carolina, South Carolina, Ohio, and the District of Columbia, for 180 days. SUPPORTING SHIPPER: Muller-Martini Corp., 40 Rabro Drive, Hauppauge, N.Y. 11787. SEND PROTESTS TO: Marvin Kampel, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 136831 (Sub-No. 2 TA), filed August 17, 1973. Applicant: GEORGE HUSACK, 167 Locust Drive, Schnecksville, Pa. 18078. Appplicant's representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, Pa. 17011. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lamps, lampshades, flocked paper, plastic lampshades and parts and accessories* for lamps and lampshades, and *materials and supplies and equipment* used or useful in the production, storage, distribution or use of lamps and lampshades, from the plantsite of the Keystone Lamp Manufacturing Corporation, Washington Township, Lehigh County, Pa., to Dayton, Ohio and between the said plantsite and Elizabeth and West Paterson, N.J., for 180 days. SUPPORTING SHIPPER: Keystone Lamp Mfg. Corp., Slatington, Pa. 18080. SEND PROTESTS TO: F. W. Doyle, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Wm. J. Green, Jr., Federal Bldg., 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 139011 TA, filed August 20, 1973. Applicant: GERALD N. HJERMSTAD, doing business as HJERMSTAD TRUCKING, Florence, S. Dak. 57735. Applicant's representative: Irving A. Hinderaker, P.O. Box 766, Watertown, S. Dak. 57201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alfalfa meal, alfalfa pellets, and alfalfa cubes*, from Twin Brooks, S. Dak., to points in North Dakota, Minnesota, Iowa, Nebraska, and Missouri for 180 days. SUPPORTING SHIPPER: Twin Brooks Alfalfa Mill, Inc., Russell Wiese, Secretary, P.O. Box 10, Twin Brooks, S. Dak. 57269. SEND PROTESTS TO: J. L. Hammond, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 139012 TA, filed August 20, 1973. Applicant: BIG T BROKERS, INC., doing business as BIG T LINES, 230 Abbott Street, Salinas, Calif. 93901. Applicant's representative: John Paul Fischer, 140 Montgomery Street, San Francisco, Calif. 94104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, viz.: *dessert mixes; dessert preparations*, other than frozen; *food*, cooked, cured, preserved or prepared, frozen; *food*, prepared, NOI; *fruit*, canned or preserved, including *crushed fruit and fruit butter; fruit, fresh*, cold pack (frozen fresh fruit, either sweetened or not sweetened); *jams, jellies*, or *preserves*, edible; *peanut butter* (peanut paster) or *peanut spread; pies*, NOI, not baked requiring baking, frozen; *sauces or toppings, ice cream or desert*, dry, liquid or paste; *syrup*, flavoring or fruit; and *labels, containers or items* related to packaging of above foodstuffs, between points in Wayne, Medina, and Summit Counties, Ohio; Clarion and Erie Counties, Pa.; and Cook County, Ill., on the one hand, and points in Yakima County, Wash.; Multnomah, Marion, and Washington Counties, Oreg.; Adam, Arapahoe, and Jefferson Counties, Colo.; Ventura, San Bernardino, Los Angeles, Orange, San Diego, Monterey, and Santa Cruz Counties, Calif.; and Maricopa County, Ariz., on the other, for 180 days. SUPPORTING SHIPPER: J. M. Smucker Co., P.O. Box 1447, Salinas, Calif. SEND PROTESTS TO: District Supervisor Claud W. Reeves, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 138360 TA PETITION FOR MODIFICATION OF TEMPORARY AU-



V 381172 SEP 6 73 XUM

THORITY, filed June 27, 1973. Applicant: PRESTON DOBBS, doing business as PRESTON DOBBS TRUCK SERVICE, P.O. Box 11, Hamilton, Miss. 39746. Applicant's representative: Harold D. Miller, Jr., P.O. Box 22567, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except Classes A and B explosives and commodities in bulk), and *empty trailers*, between Aberdeen and Tupelo, Miss., on the one hand, and on the other, points in Clay, Lee, and Monroe Counties, Miss., restricted to traffic having a prior or subsequent movement by rail in trailer-on-flatcar service.

NOTE.—The above-described authority has been granted by the Motor Carrier Board by order dated March 9, 1973. This republication is to show that applicant requests that the facilities of American Colloid Company at or near White Springs, Miss. be added as an additional destination point.

SEND PROTESTS TO: Alan C. Tarrant, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, Miss. 39201.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-18925 Filed 9-5-73;8:45 am]

## NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

AUGUST 31, 1973.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's Rules of Practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

Alaska Docket No. 73-216-N/F/A, filed July 26, 1973. Applicant: CLARENCE WREN, doing business as DILLINGHAM CONSTRUCTION COMPANY, P.O. Box 81, Dillingham, Alaska 99576. Applicant's representative: Andrew E. Hoge, 921 West Sixth Avenue, Anchorage, Alaska 99501. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities*, within a 50-mile radius of Dillingham, Alaska (including Dillingham, Alaska). HEARING: Date, time, and place not shown. Requests for procedural information should be addressed to the Alaska Transportation Commission, 750 MacKay Bldg., 338 Denali Street, Anchorage, Alaska 99501, and should *not* be directed to the Interstate Commerce Commission.

California Docket No. 54249, filed August 20, 1973. Applicant: AIRPORT DRAYAGE COMPANY, 710 Dubuque Street, South San Francisco, Calif. 94080. Applicant's representative: E. H. Griffiths, 1182 Market Street, Suite 207, San Francisco, Calif. 94102. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities*, subject to exceptions and restrictions noted, as follows: (A) Between all points and places located in the following areas and along the following routes: (1) U.S. Highway 101 between San Rafael and Chualar, inclusive, and points within 10 miles of said route; (2) State Highway 17 between San Rafael and Santa Cruz, inclusive, and points within 10 miles of said route; (3) State Highway 1 between San Francisco and Carmel, inclusive, and points within 10 miles of said route, including the off route point of Carmel Valley; (4) State Highway 9 between Los Gatos and Santa Cruz, inclusive, and points within 5 miles of said route; (5) State Highway 152 between San Felipe and State Highway 1, at Watsonville, inclusive, and points within 5 miles of said route; (6) State Highway 156 between San Felipe and its intersection with U.S. Highway 101 south of Gilroy, inclusive, and points within 5 miles of said route; (7) State Highway 129 between its intersection with U.S. Highway 101 and State Highway 1, at Watsonville, inclusive, and points within 5 miles of said route; (8) State Highway 68 between Salinas and Monterey, inclusive, and points within 5 miles of said route; (9) Interstate Highway 80 between San Francisco and Roseville, inclusive, and points within 20 miles of said route; (10) Interstate Highway 580, U.S. Highways 205 and 5, between San Francisco and Stockton, inclusive, and points within 20 miles of said route; (11) State Highway 4 between Pinole and Stockton, inclusive, and points within 5 miles of said route; (12) State Highway 24 between Oakland and Concord, inclusive, and points within 5 miles of said route; (13) State Highway 84 between Livermore and Redwood City, inclusive, and points within 5 miles of said route; (14) Interstate Highway 680 between Vallejo and its intersection with State Highway 17 near Milpitas, inclusive, and points within 10 miles of said route; and (15) State Highway 99 between Sacramento and Fresno, inclusive, and points within 10 miles of said route; (B) Carrier may serve between any two points named above whether named in one or more than one of the above numbered paragraphs; and carrier may make use of any and all streets, roads, highways, and bridges, in performing the service herein authorized; and (C) Carrier shall not transport any shipments of: (1) Used household goods and personal effects not packed in accordance with the crated property requirements set forth in Item No. 5 of Minimum Rate Tariff No. 4-B; (2) Automobiles, Trucks and Buses, viz: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis; (3) Livestock, viz: bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags, or swine; (4) Commodities when transported in bulk in dump trucks or in hopper-type trucks; (5) Commodities when transported in motor vehicles equipped for mechanical mixing in transit; (6) Liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles; (7) logs; (8) Fresh fruit and vegetables; and (9) Trailer Coaches and Campers, including integral parts and contents when the contents are within the trailer coach or camper. HEARING: Date, time, and place not shown. Requests for procedural information should be addressed to the California Public Utilities Commission, State Bldg., Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102, and should *not* be directed to the Interstate Commerce Commission.

California Docket No. 54265 filed August 23, 1973. Applicant: HASLETT COMPANY, 1991 Dennison Street, Oakland, Calif. 94604. Applicant's representative: Marvin Handler, Handler, Baker & Greene, 100 Pine Street, Suite 2550, San Francisco, Calif. 94111. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities*, subject to exceptions and restrictions noted, as follows: (A) Between all points in the San Francisco-East Bay Cartage Zone embraced by the followed boundary: Beginning at the point where the San Francisco-San Mateo County Boundary Line meets the Pacific Ocean; thence easterly along said boundary line to Lake Merced Boulevard; thence southerly along said Lake Merced Boulevard and Lynnewood Drive to South Mayfair Avenue; thence westerly along said South Mayfair Avenue to Crestwood Drive; thence southerly along Crestwood Drive to Southgate Avenue; thence westerly along Southgate Avenue to Maddux Drive; thence southerly and easterly along Maddux Drive to a point one mile west of Highway U.S. 101; thence southeasterly along an imaginary line one mile west of and paralleling Highway U.S. 101 (El Camino Real) to its intersection with the southerly boundary line of the City of San Mateo; thence northeasterly, northwesterly, northerly and easterly along said southerly boundary to Bayshore Highway (U.S. 101 Bypass); thence leaving said boundary line and continuing easterly along the projection of last said course to its intersection with





Belmont (or Angelo) Creek; thence northeasterly along Belmont (or Angelo) Creek to Seal Creek; thence westerly and northerly to a point one mile south of Toll Bridge Road; thence easterly along an imaginary line one mile southerly and paralleling Toll Bridge Road and San Mateo Bridge and Mt. Eden Road to its intersection with State Sign Route 17; thence continuing easterly and northeasterly along an imaginary line one mile south and southeasterly of and paralleling Mt. Eden Road and Jackson Road to its intersection with an imaginary line one mile easterly of and paralleling State Sign Route 9.

Thence northerly along said imaginary line one mile easterly of and paralleling State Sign Route 9 to its intersection with "B" Street, Hayward; thence easterly and northerly along "B" Street to Center Street; thence northerly along Center Street to Castro Valley Boulevard; thence westerly along Castro Valley Boulevard to Redwood Road; thence northerly along Redwood Road to William Street; thence westerly along William Street and 168th Avenue to Foothill Boulevard; northwesterly along Foothill Boulevard to the southerly boundary line of the City of Oakland; thence easterly and northerly along the Oakland Boundary Line to its intersection with the Alameda-Contra Costa County Boundary Line; thence northwesterly along last said line to its intersection with Arlington Avenue (Berkeley); thence northwesterly along Arlington Avenue to a point one mile northeasterly of San Pablo Avenue (Highway U.S. 40); thence northwesterly along an imaginary line one mile easterly of and paralleling San Pablo Avenue (Highway U.S. 40) to its intersection with County Road No. 20 (Contra Costa County); thence westerly along County Road No. 20 to Broadway Avenue (also known as Balboa Road); thence northerly along Broadway Avenue (also known as Balboa Road) to Highway U.S. 40; thence northerly along Highway U.S. 40 to Rivers Street; thence westerly along Rivers Street to 11th Street; thence northerly along 11th Street to Johns Avenue; thence westerly along Johns Avenue to Collins Avenue; thence northerly along Collins Avenue to Morton Avenue; thence westerly along Morton Avenue to the Southern Pacific Company right-of-way and continuing westerly along the prolongation of Morton Avenue to the shore line of San Pablo Bay; thence southerly and westerly along the shore line and waterfront of San Pablo Bay to Point San Pablo; thence southerly along an imaginary line from Point San Pablo to the San Francisco waterfront at the foot of Market Street; thence westerly along said waterfont and shore line to the Pacific Ocean; thence southerly along the shore line of the Pacific Ocean to the point of beginning.

(B) From, to and between all points on and within 10 miles on either side of the following routes: (1) Between Oakland and Auburn via Interstate Highway 80; (2) Between San Francisco and Roseville on Interstate Highway 80 including all points within 20 miles of the city limits of Sacramento; (3) Between Oakland and Sacramento via California State Route 24 and Interstate Highways 680 and 80; (4) Between Sacramento and Woodland via California State Route 16 and Interstate Highway 5; (5) Between the junction of Interstate Highway 80 and State Route 113 South of Davis and Marysville via State Routes 113, 99 and 20; (6) Between Roseville and Yuba City via State Routes 65 and 20; (7) Between Auburn and Jackson via California State Route 49; (8) Between North Sacramento and Elverta via unnumbered highway and between said unnumbered highway and Interstate Highway 80 via another unnumbered highway through Rio Linda; (9) Between Interstate Highway 80 and U.S. Highway 50 via unnumbered highway through Folsom; (10) Between U.S. Highway 50 at Clarksville and California State Route 16 via unnumbered highway through Latrobe; (11) Between Sacramento and Citrus via unnumbered highway through Fairoaks; (12) Between U.S. Highway 50 at Shingle Springs and Latrobe via unnumbered highway; (13) Between Roseville and Folsom via unnumbered highway; (14) Between California State Route 16 and lone via California State Route 104; (15) Between lone and Pine Grove via California State Route 88 through Martell and Jackson; (16) Between U.S. Highway 50 east of Shingle Springs and El Dorado via unnumbered highway; (17) Between Sacramento and California State Route 49 north of Drytown via California State Route 16; (18) Between Sacramento and points within a radius of ten miles thereof, on the one hand, and, on the other, Grass Valley, Nevada City, points and places within a radius of five miles of Grass Valley and of Nevada City and intermediate points on California State Highway 49 between Nevada City and Auburn but not including Auburn.

(19) Locally between all points on California State Highway 49 between Nevada City and Auburn but not including Auburn, including also all points and places within a radius of five miles of Grass Valley and of said Nevada City, California: Over and along U.S. Highway 40 and California State Highway 49. Over and along any streets and highways in the named cities and to reach any point or places within which carrier is authorized to render service; (20) Between Clarksville, including Clarksville, and route; (22) Between Oakland and Pa-Clarksville, including Clarksville, and the off-route points of El Dorado and Diamond Springs: From Sacramento over U.S. Highway 50 to Pollock Pines and return over the same route; (21) Between Sacramento and Jackson serving the intermediate points of Sloughouse, Michigan Bar, Drytown, Amador City, Sutter Creek, and Martell: From Sacramento over California State Highway 16 to junction California State Highway 49, thence over California State Highway 49 to Jackson, and return over the same route; (22) Between Oakland and Pacific House via State Highways 17 and 238, Interstate Highways 580 and 205, State Highway 99 and U.S. Highway 50; (23) Between San Francisco and Stockton via Interstate Highway 80, State Highways 17 and 238, Interstate Highways 580 and 205, State Highway 99 and U.S. Highway 5; (24) Between Stockton and Sacramento via State Highway 99 including all points within 20 miles of the city limits of Stockton; (25) Between Stockton and Los Angeles Basin Territory (see note) over State Highway 99 and Interstate Highway 5; (26) Between Hercules and Stockton via State Highway 4; (27) Between Manteca and Interstate Highway 5 via State Highway 120; (28) Between Stockton and Modesto via State Highway 99; (29) Between Los Angeles Basin Territory and junction with Interstate Highway 580 near Tracy over Interstate Highway 5; (30) Between junction of Interstate Highway 580 near Tracy and Maricopa via State Highway 33; (31) Between Maricopa and junction with Interstate Highway 5 and State Highway 99 north of Wheeler Ridge over State Highway 166; (32) Between Taft and State Highway 99 over California Highway 119 to a point approximately 10 miles south of Bakersfield; (33) Between McKittrick and Bakersfield over California Highway 58; (34) Between Woodlake and junction with State Highway 99 near Bakersfield over California Highway 65; (35) Between Fresno and junction with Interstate Highway 5 near Kettleman City via State Highway 41.

(36) Between Visalia and junction with California Highway 198 near Lemoncove over State Highway 216; (37) Between junction with State Highway 98 north of Exeter and junction with State Highway 99 north of Bakersfield over State Highway 65; (38) Between Corcoran and Lindsay over State Highway 137; (39) Between Porterville and junction with State Highway 43 south of Corcoran over State Highway 190; (40) Between Orosi and Woodlake over State Highway 69; (41) Between Kingsburg and junction with State Highway 69 near Woodlake over State Highway 201; (42) Between Tulare and junction with State Highway 180 near Orange Cove over State Highway 63; (43) Between Fresno and junction with State Highway 63 near Orange Cove over State Highway 180; (44) Between Fresno and Mendota over State Highway 180; (45) Between Firebaugh and Madera over State Highway 145; (46) Between Merced and Gustine over State Highway 140; (47) Between Hanford and Bakersfield over State Highway 43; (48) Between junction with Interstate 5 and junction with State Highway 65 north of Exeter over State Highway 198; (49) Between Oakland and San Jose via California State Route 17 and U.S. Highway 101 and Interstate Highway 280; (50) Between Rodeo and Concord via California State Route 4; (51) Between Novato and Salinas via U.S. Highway 101; (52) Between junction of State Highway No. 4 near Pacheco and junction State Highway No. 17 near Warm Springs via U.S. Highway 21; (53) Between Milpitas and Saratoga over State Highways 237 and 85; (54)



V 38-172 SEP 6 73 XUM

Between Oakland and Santa Cruz via State Highway No. 17; (55) Between Salinas and Monterey via State Highway 68; (56) Between Santa Cruz and Monterey via State Highway No. 1; (57) Between Vallejo and Napa via State Highway 29; and (58) Between junction U.S. Highway No. 101 near Ignacio and Vallejo via State Highways 37 and 48. Through routes and rates may be established between any and all points specified above. For operating convenience carrier may make use of any street, road, highways, ferry, or bridge necessary or convenient for the purpose of performing the service authorized above. No service is to be performed locally between points in the Los Angeles Basin Territory.

(C) Carrier shall not transport any shipment of: (1) Used household goods and personal effects not packed in accordance with the crated property requirements; (2) Automobiles, trucks and buses viz: new and used, finished or unfinished passenger automobiles (including jeeps), ambulance, hearses and taxis; freight automobile chassis, trucks, truck chassis, truck trailer, trucks and trailers combined, buses and bus chassis; (3) Livestock, viz: bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags or swine; (4) Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerated equipment; (5) Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids, in bulk, in tank trucks, tank trailers, tank semi-trailers or a combination of such highway vehicles; (6) Commodities transported in bulk in dump trucks or in hopper-type trucks; (7) Commodities when transported in motor vehicles equipped for mechanical mixing in transit; and (8) Logs.

NOTE.—LOS ANGELES BASIN TERRITORY: Los Angeles Basin Territory includes that area embraced by the following boundary; Beginning at the point the Ventura County-Los Angeles County boundary line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects California Highway 118, approximately 2 miles west of Chatsworth; easterly along California Highway 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Angeles National Forest boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundary to the county road known as Mill Creek Road; westerly along Mill Creek Road to the county road 3.8 miles north of Yucaipa; southerly along the said county road to and including the unincorporated community of Yucaipa; westerly along Redlands Boulevard to U.S. Highway 99, northwesterly along U.S. Highway 99 to the corporate boundary of the City of Redlands; westerly and northerly along said corporate boundary to Brookside Avenue; westerly along Brookside Avenue to Barton Avenue; westerly along Barton Avenue and its prolongation to Palm Avenue; westerly along Palm Avenue to La Cadena Drive; southwesterly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U.S. Highway 60.

Southwesterly along U.S. Highways 60 and 395 to the county road approximately 1 mile North of Perris; easterly along said county road via Nuevo and Lakeview to the corporate boundary of the City of San Jacinto; easterly, southerly, and westerly along said corporate boundary to San Jacinto Avenue; southerly along San Jacinto Avenue to California Highway 74, westerly along California Highway 74 to the corporate boundary of the City of Hemet; southerly, westerly, and northerly along said corporate boundary, to the right-of-way of the Atchison, Topeka & Santa Fe Railway Company; southwesterly along said right-of-way to Washington Avenue; southerly along Washington Avenue through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to the County road intersecting U.S. Highway 395, 2.1 miles north of the unincorporated community of Temecula; southerly along said county road to U.S. Highway 395; southeasterly along U.S. Highway 395 to the Riverside County-San Diego County boundary line; westerly along said boundary line to the Orange County-San Diego County boundary line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shore line of the Pacific Ocean to the point of beginning.

*HEARING.*—Date, time and place not shown. Requests for procedural information should be addressed to the California Public Utilities Commission, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102, and should not be directed to the Interstate Commerce Commission.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-18921 Filed 9-5-73;8:45 am]

## MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

### Extension of Time for Filing Requests To Participate

In the matter of MC-C-8133 filed August 3, 1973, and published August 22, 1973, special notice to indicate the extension of time for filing requests to participate in a petition for relief from the provisions of 49 CFR 1090.5(a) to permit participation in joint intermodal TOFC service.

Any interested person or persons desiring to participate in this proceeding as published in the FEDERAL REGISTER issue of August 22, 1973, should file an original and six copies of his or their representations, views or arguments in support of or against the petition by October 5, 1973.

By the Commission.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-18923 Filed 9-5-73;8:45 am]





## CUMULATIVE LISTS OF PARTS AFFECTED—SEPTEMBER

The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during September.


1 CFR — Page
CFR checklist 23771

3 CFR
PROCLAMATIONS:
4239 24191
4240 24193

4 CFR
PROPOSED RULES:
331 23971
351 23971
400 23971, 24195
401 23971
402 23971
403 23971
404 23971
405 24195

6 CFR
130 24213
140 24214
150 23794, 23931, 24214
152 23794, 24214
PROPOSED RULES:
152 23806, 24219

7 CFR
51 23931
354 23934
725 23935
908 24215
932 24215
991 23771
1001 24216
1002 24216
1004 24216
1006 24216
1007 24216
1011 24216
1012 24216
1013 24216
1015 24216
1030 24216
1033 24216
1036 24216
1040 24216
1044 24216
1046 24216
1049 24216
1050 24216
1060 24216
1061 24216
1062 24216
1063 24216
1064 24216
1065 24216
1068 24216
1069 24216
1070 24216
1071 24216
1073 24216
1075 24216
1076 24216
1078 24216
1079 24216
1090 24216
1094 24216
1096 24216
1097 24216

7 CFR—Continued — Page
1098 24216
1099 24216
1101 24216
1102 24216
1106 24216
1108 24216
1120 24216
1121 24216
1124 24216
1125 24216
1126 24216
1127 24216
1128 24216
1129 24216
1130 24216
1131 24216
1132 24216
1133 24216
1134 24216
1136 24216
1137 24216
1138 24216
1139 24216
1421 23935
1430 23939
PROPOSED RULES:
26 23955
1030 23796

9 CFR
82 23940
97 23940
PROPOSED RULES:
94 24219
102 23957
104 23957

10 CFR
110 23953

12 CFR
201 23772
526 23940
545 24200
546 24201
563 24202
PROPOSED RULES:
545 24228

13 CFR
PROPOSED RULES:
107 24028

14 CFR
39 23941
71 23941, 23942, 24204
75 24204
288 23772
399 23777
PROPOSED RULES:
39 23962
61 23962
71 23804, 23969, 24222
75 23804
121 23962
221 23804
241 24223
298 23805

15 CFR — Page
8 23777
376 23777

19 CFR
PROPOSED RULES:
24 23954
141 23954

20 CFR
PROPOSED RULES:
405 23802

21 CFR
8 24206
9 24206
135 23942
PROPOSED RULES:
130 24220

23 CFR
PROPOSED RULES:
770 23969

24 CFR
1700 23866
1710 23866
1715 23873
1720 23874
1914 23943-23945
PROPOSED RULES:
201 23803, 24222

25 CFR
256 23945
PROPOSED RULES:
221 23954, 23955

26 CFR
1 24206

29 CFR
PROPOSED RULES:
1910 24300

30 CFR
57 23781
PROPOSED RULES:
504 24024

32 CFR
809 23945
1285 24206
1453 24210

32A CFR
Ch. XIII:
EPO Reg. 3 23977

33 CFR
401 24210
PROPOSED RULES:
127 23804

36 CFR
50 24218
221 23948
PROPOSED RULES:
7 23796




V 38-172 SEP 6 73 XUM

38 CFR — Page
21 — 23948

40 CFR
PROPOSED RULES:
180 — 23781
52 — 23805
180 — 23806

41 CFR
1-1 — 24210
1-9 — 23782
1-18 — 23791

43 CFR
4 — 23948

45 CFR — Page
PROPOSED RULES:
233 — 23802
903 — 23912

46 CFR
PROPOSED RULES:
146 — 23959
542 — 23979
538 — 24228

47 CFR
81 — 24211
97 — 24211

49 CFR
170 — 23791
171 — 23792
172 — 23792

49 CFR—Continued — Page
177 — 23792
178 — 23792
570 — 23949
1033 — 23792, 23793, 23952, 24212
1115 — 23953

PROPOSED RULES:
393 — 24223
542 — 23979
571 — 23804
1057 — 24228
1131 — 23979

50 CFR
20 — 23793
32 — 23793, 23794, 24212

PROPOSED RULES:
21 — 23796


FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

| Pages | Date |
|---|---|
| 23765–23922 | Sept. 4 |
| 23923–24184 | 5 |
| 24185–24326 | 6 |



federal register

THURSDAY, SEPTEMBER 6, 1973
WASHINGTON, D.C.
Volume 38 ■ Number 172
PART II

# DEPARTMENT OF LABOR

## Occupational Safety and Health Administration

■

## WALKING-WORKING SURFACES

Proposed Occupational Safety and Health Administration

No. 172—Pt. II——1

V 38-172 SEP 6 73 XUM

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

[ 29 CFR Part 1910 ]

[S-73-8]

### WALKING-WORKING SURFACES

### Occupational Safety and Health Standards

Pursuant to section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), Secretary of Labor's Order No. 12-71 (36 FR 8754), and 29 CFR Part 1911, it is hereby proposed to amend Part 1910 of Title 29, Code of Federal Regulations, by revising Subpart D thereof as indicated below.

Written comments concerning the proposed revision may be mailed to the Director, Office of Standards, Room 400 First Street N.W., Washington, D.C. 20210, before November 2, 1973. The comments received will be available for public inspection and copying at the Office of Standards at the address given above.

In addition, interested persons may file written objections to the proposed revision, or any portion thereof, and request an informal hearing with respect thereto, before November 2, 1973, in accordance with the following conditions:

1. The objections must include the name and address of the objector;

2. The objections must be postmarked on or before 1973;

3. The objections must specify with particularity the provision of the proposed revision to which the objection is taken, and must state the grounds therefor;

4. Each objection must be separately stated and numbered; and

5. The objections must be accompanied by a summary of the evidence which the objector purposes to adduce at the requested hearing.

The essential issues presented by the proposed revision represent the material differences between the present Subpart D and the proposed revision. The material differences are summarized as follows:

1. A policy is advanced to consider as de minimis violation of standards differences from structural and dimensional requirements when the differences are trifling and do not directly or immediately relate to the safety or health of employees. Experience with the standards since their effective date of August 27, 1971, suggests that there are many situations where there are such differences. Abatement of the differences in these situations may also be costly, and perhaps impossible for the employer when he lacks sufficient control of the premises.

2. Some changes in format are made in the subpart, which are intended to permit easier reading; e.g., increasing the number of section designations and placing relevant definitions closer to substantive requirements.

3. In the standards dealing with fixed industrial stairs, allowing for ship stairs as an acceptable means of going from one level to another under certain conditions.

4. The standards governing the specifications for standard railings are made more flexible, and provision is made expressly for accomodation of the requirements of the standards with the rules of other Federal agencies with different regulatory objectives.

5. Provision is made for the use of spiral stairs in the standards dealing with fixed industrial stairs.

6. In the case of scaffolding, some allowance is made for the use of safety belts and/or safety nets to be used in place of scaffolding guardrails, where the guardrails cannot be properly installed. Further, minimum plank spacing is specified, and changes are made in the wire gauge allowed for protection between guardrails and toeboards.

7. More explicit requirements are provided for a climbing ladder or stairway to be used with a manually propelled scaffold.

As revised, Subpart D of Part 1910 reads as follows:

**Subpart D—Walking-Working Surfaces**


Sec.
1910.21 Application.

GENERAL

1910.22 Scope.
1910.22a Housekeeping.
1910.22b Aisles and passageways.
1910.22c Covers and guardrails.
1910.22d Floor-loading protection.

GUARDING FLOOR AND WALL OPENINGS AND HOLES

1910.23a Purpose; definition.
1910.23b Stairway and other floor openings.
1910.23c Ladderway opening or platform.
1910.23d Hatchway; chute floor opening.
1910.23e Skylight opening.
1910.23f Pit; trapdoor floor opening.
1910.23g Other floor openings.
1910.23h Floor holes.
1910.23i Doors or gates opening on stairways.
1910.23j Protection for wall openings and holes.
1910.23k Platforms and runway.
1910.23l Stairway and railing guards.
1910.23m Stairway railings and guards.
1910.23n Railing, toeboards, and cover specifications.

FIXED INDUSTRIAL STAIRS

1910.24a General application.
1910.24b Definitions.
1910.24c Where fixed stairs are required.
1910.24d Industrial stair strength.
1910.24e Stair width.
1910.24f Angle of stairway rise.
1910.24g Industrial stair treads.
1910.24h Length of industrial stair; landings.
1910.24i Railings and handrails.
1910.24j Open risers.
1910.24k Spiral stairway.

PORTABLE WOODEN LADDERS

1910.25 Application of requirements.
1910.25a Materials.
1910.25b Construction requirements.
1910.25c Care and use of ladders.
1910.25d Definitions.

PORTABLE METAL LADDERS

1910.26a Requirements.
1910.26b Testing.
1910.26c Care and maintenance of ladders.
1910.26d Definitions.

FIXED LADDERS

1910.27 General application.
1910.27a Definitions.
1910.27b Design requirements.
1910.27c Specific features.
1910.27d Clearance.
1910.27e Special requirements.
1910.27f Pitch.
1910.27g Manhole steps and ladders.
1910.27h Maintenance.

SAFETY REQUIREMENTS FOR SCAFFOLDING

1910.28a General requirements for scaffolds.
1910.28b General requirements for wood pole scaffolds.
1910.28c Tube and coupler scaffolds.
1910.28d Tubular welded frame scaffolds.
1910.28e Outrigger scaffolds.
1910.28f Measons' adjustable multiple-point suspension scaffolds.
1910.28g Two-point suspension scaffolds (swinging scaffolds).
1910.28h Stone setters' adjustable multiple-point suspension scaffolds.
1910.28i Single-point adjustable suspension scaffolds.
1910.28j Boatswain's chairs.
1910.28k Carpenters' bracket scaffolds.
1910.28l Bricklayers' square scaffolds.
1910.28m Horse scaffolds.
1910.28n Needle beam scaffolds.
1910.28o Plasterers', decorators', and large area scaffolds.
1910.28p Interior hung scaffolds.
1910.28q Ladder-jack scaffolds.
1910.28r Window-jack scaffolds.
1910.28s Roofing brackets.
1910.28t Crawling boards or chicken ladders.
1910.28u Float or ship scaffolds.
1910.28v Definitions.

MANUALLY PROPELLED MOBILE LADDER STANDS AND SCAFFOLDS (TOWERS)

1910.29a General requirements.
1910.29b Mobile tubular welded frame scaffolds.
1910.29c Mobile tubular welded sectional folding scaffolds.
1910.29d Mobile tube and coupler scaffolds.
1910.29e Mobile work platforms.
1910.29f Mobile ladder stands.
1910.29g Definitions.

OTHER WORKING SURFACES

1910.30a Dockboards (bridge plates).
1910.30b Machine areas.
1910.30c Vats.


### § 1910.21 Application.

(a) The substance of the standards which are published in this Subpart D reflect in large measure certain national consensus standards published by the American National Standards Institute (ANSI). The ANSI standards are the following:

(1) ANSI Z4.1–1968, Requirements for Sanitation in Places of Employment.

(2) ANSI A58.1–1955, Minimum Design Loads in Building and Other Structures.

(3) ANSI A12.1–1967, Safety Requirements for Floor and Wall Openings, Railings, and Toeboards.

(4) ANSI A64.1–1968, Requirements for Fixed Industrial Stairs.

(5) ANSI A14.1–1968, Safety Code for Portable Wood Ladders.

(6) ANSI A14.2–1956, Portable Metal Ladders.

(7) ANSI A14.3–1956, Safety Code for Fixed Ladders.

(8) ANSI A10.8–1969, Safety Requirements for Scaffolding.

(9) ANSI A92.1–1971, Standards for Manually Propelled Mobile Ladder Stands and Scaffolds.

(10) ANSI B56.1–1969, Safety Standard for Powered Industrial Trucks.





(11) ANSI B24.1–1963, Safety Standard for Forging.

(12) ANSI 01.1–1954, Safety Code for Woodworking Machinery.

(b) Subpart D was first published in the FEDERAL REGISTER on May 29, 1971 (36 FR 10469) and made effective August 28, 1971. Experience with the standards contained therein since that effective date have indicated many situations where there are structural and dimensional differences between the specific requirements of a particular standard and the actual practices of an employer. Many differences have been trifling, and in addition have had no direct or immediate effect upon the safety or health of employees. At the same time, however, the cost to an employer of literal compliance with such a standard may be disproportionately high. When these circumstances are present, any requirement for abatement is considered impractical, and perhaps not even feasible when an employer lacks sufficient control of the premises. Accordingly, in such circumstances, a notice of de minimis violation shall be issued in accordance with section 9(a) of the Act and Part 1903 of this chapter instead of a citation for a violation involved.

(c) The execution of the requirements of portions of this part may actually be carried out by persons other than the employer because of proprietary or contractual relationships. Nevertheless, the employer has a duty for the meeting of the standards. The standards are for the protection of his employees.

GENERAL

### § 1910.22 Scope.

This Subpart D applies to all permanent places of employment, except where domestic, mining, or where agricultural work only is performed.

### § 1910.22a Housekeeping.

(a) All places of employment, passageways, storerooms, and service rooms shall be kept clean and orderly to the extent that the nature of the work allows.

(b) The floor of every workroom shall be maintained in a clean and, so far as practicable, a dry condition. Where wet processes are used, drainage shall be maintained, and false floors, platforms, mats, or other dry standing places should be provided where practicable.

(c) To facilitate cleaning, every floor, working place, and passageway shall be kept free from protruding nails, splinters, holes, or loose boards.

### § 1910.22b Aisles and passageways.

(a) Where mechanical handling equipment is used, sufficient safe clearances shall be allowed for aisles, at loading docks, through doorways and wherever turns or passage must be made. Aisles and passageways shall be kept clear and in good repair, with no obstruction across or in aisles that could create a hazard. Permanent aisles and passageways shall be appropriately marked.

### § 1910.22c Covers and guardrails.

Covers, guardrails or some other means of equivalent effect shall be provided to protect employees from open pits, tanks, vats, and ditches, and similar openings presenting a hazard of falling, except as otherwise provided for in this subpart.

### § 1910.22d Floor-loading protection.

(a) The floor-loading capacity (the weight and distribution of safe loads on a floor) of each floor of a building on which an employee is working shall be determined by a registered professional engineer, architect, or other person who is qualified by training or experience to apply the scientific principles required to make the determination. The floor-loading capacity as so determined shall not be exceeded.

(b) The floor-load capacity determined under paragraph (a) of this section shall be marked on a sign made of durable material in easy-to-read letters. The sign shall be conspicuously posted on each floor. The sign shall be maintained in good condition.

(c) The requirements of paragraph (a) of this section do not apply when: (1) A floor is built on an earth (soil) base in a multi-floor building; (2) the building is of one-story construction, and the floor is at grade level, without cellar or basement with the total floor being supported by earth (soil base).

(d) The employer shall not exceed the floor-loading capacity determined under this section.

GUARDING FLOOR AND WALL OPENINGS AND HOLES

### § 1910.23a Purpose; definitions.

(a) *Purpose.*—(1) The purpose of the sections under the centerhead "guarding floor and wall openings and holes" is to protect employees working in areas where floor and wall openings present hazards to the safety of employees. The primary hazard is falling.

(2) The standards in the sections under the centerhead "guarding floor and wall openings and holes" shall not apply to industrial grating holes nor to the working face of floor openings which are occupied by elevators, dumb waiters, conveyors, machinery, piping, or containers; the loading and unloading areas of automotive truck and railroad docks, or platforms, scaffolds, pits and trenches and which are occupied for the purpose of providing access to a product, facility or process equipment while being worked upon.

(b) *Definitions.*—As used in §§ 1910.23b through 1910.23n the definitions contained in this paragraph shall apply.

(1) *Floor hole.*—An opening measuring more than 1 inch in its least dimension, in any floor, pavement, or yard, through which materials or tools may fall on persons or into machinery or equipment.

(2) *Floor opening.*—An opening measuring 4 inches or more in its least dimension, in any floor, platform, pavement, or yard, into which employees may step; such as a hatchway, stair or ladder opening, pit, or large manhole. Floor openings occupied by elevators, dumb waiters, conveyors, piping, machinery, or containers are excluded from this definition.

(3) *Handrail.*—A single bar or pipe supported on brackets from a wall or partition, as on a stairway or ramp, to furnish persons with a handhold in case of tripping.

(4) *Platform.*—A working space for persons, elevated above the surrounding floor or ground; such as a balcony or platform for the operation of machinery and equipment.

(5) *Runway.*—A passageway for persons, elevated above the surrounding floor or ground level, such as a footwalk along shafting or a walkway between buildings.

(6) *Railing.*—A vertical barrier erected along exposed edges of a floor opening, wall opening, ramp, platform, or runway to prevent falls of persons.

(7) *Standard strength and construction.*—Any construction of railings, covers, or other guards that meets the requirements of the sections under the centerhead "Guarding Floors and Wall Openings and Holes".

(8) *Toeboard.*—A vertical barrier at floor level erected along exposed edges of a floor opening, wall opening, platform, runway, or ramp to prevent falls of materials.

(9) *Stair railing.*—A vertical barrier erected along exposed sides of a stairway to prevent falls of persons.

(10) *Wall hole.*—An opening less than 30 inches but more than 1 inch high, of unrestricted width, in any wall or partition; such as a ventilation hole or drainage scupper.

(11) *Wall opening.*—An opening at least 30 inches high and 18 inches wide, in any wall or partition, through which persons may fall; such as an opening for a window, a yard-arm doorway or chute opening.

### § 1910.23b Stairway and other floor openings.

Every stairway floor opening shall be guarded by a standard railing constructed in accordance with § 1910.23n. The railing shall be on all exposed sides, except at the entrance to the stairway. Alternatively, the guarding may consist of a floor-opening cover of standard strength. In the latter situation, standard railings on all exposed sides (except at the entrance to the stairway) shall be used when the cover is removed and the stairway is in use.

### § 1910.23c Ladderway opening or platform.

Every ladderway floor opening or platform shall be guarded by a standard railing with a standard toeboard on all exposed sides (except at entrance to opening), with the passage through the railing either provided with a raising or swinging gate or chain or so offset that a person cannot walk directly into the opening.

### § 1910.23d Hatchway; chute floor opening.

(a) (1) Every hatchway and chute floor opening shall be guarded by one of the means prescribed in either subparagraph (2) or (3) of the paragraph.



V 38-172 SEP 6 73 XUM

(2) A removable or hinged floor opening cover of sufficient strength shall be provided. When cover is off and hatchway or chute is open, the opening shall be protected by a standard guardrail so as to leave only one exposed side. When the opening is not in use, the cover shall be replaced.

(3) A removable railing with toeboards on all sides of the opening shall be provided as required by the usage of the opening or a fixed standard railing with toeboards on all exposed sides. The removable railings shall be kept in place when the opening is not in use and shall preferably be hinged or otherwise mounted so as to be conveniently replaceable.

(b) Where operating conditions necessitate the feeding of material into any hatchway or chute opening, protection shall be provided to prevent a person from falling through the opening.

**§ 1910.23e Skylight opening.**

Every skylight opening shall be guarded by a skylight screen or a fixed standard railing on all exposed sides.

**§ 1910.23f Pit; trapdoor floor opening.**

Every pit and trapdoor floor opening shall be guarded whenever practicable by a floor opening cover of standard strength and construction which should be hinged in place. While the cover is not in place, the pit or trap opening shall be guarded by a person designated by the employer, or shall be protected on all exposed sides by removable standard railings.

**§ 1910.23g Other floor openings.**

(a) Every manhole floor opening shall be guarded by a standard manhole cover which need not be hinged in place. While the cover is not in place, the manhole opening shall be guarded by a person designated by the employer, or shall be protected by removable standard railings.

(b) Every temporary floor opening shall have standard railings, or shall be guarded by a person designated by the employer.

**§ 1910.23h Floor holes.**

(a) Every floor hole into which persons can accidentally trip shall be guarded by either:

(1) A standard railing with standard toeboard on all exposed sides, or

(2) A floor hole cover of standard strength and construction that should be hinged in place. While the cover is not in place, the floor hole shall be guarded by a person designated by the employer, or shall be protected by a removable standard railing.

(3) Every floor hole into which persons cannot accidentally walk (on account of fixed machinery, piping, equipment, or walls) shall be protected by a cover that leaves no openings more than 1 inch wide. The cover shall be securely held in place to prevent tools or materials from falling through.

**§ 1910.23i Doors or gates opening on stairways.**

Where doors or gates open directly on a stairway, a platform shall be provided, and the swing of the door shall not reduce the effective width to less than 28 inches.

**§ 1910.23j Protection for wall openings and holes.**

(a) Every wall opening from which there is a drop of more than 4 feet shall be guarded by one of the following:

(1) A rail, picket fence, half door, or equivalent barrier. (The guard may be removable but when the guard is removable it shall be hinged or otherwise mounted so as to be conveniently replaceable. Where there is exposure below to falling materials, a removable toeboard or the equivalent shall also be provided. When the opening is not in use for handling materials, the guard shall be kept in position regardless of a door to the opening. In addition, a grab handle shall be provided on each side of the opening with its center approximately 4 feet above floor level and of standard strength and mounting.); or

(2) Extension platform onto which materials can be hoisted for handling, which shall have side rails or equivalent guards of standard specifications.

(b) Every chute wall opening from which there is a drop of more than 4 feet shall be guarded by one or more of the barriers specified in paragraph (a) of this section, or such other guards as the conditions render appropriate.

(c) Every window wall opening at a stairway landing from which there is a drop of more than 4 feet, and where the bottom of the opening is less than 3 feet above the platform or landing, shall be guarded by standard slats, standard grill work (as specified in § 1910.23n(k)) or standard railing. Where the window opening is below the landing, or platform, a standard toeboard shall be provided.

(d) Every temporary wall opening shall have adequate guards but these need not be of standard construction.

(e) Where there is a hazard of materials falling through a wall hole, and the lower edge of the near side of the hole is less than 4 inches above the floor, and the far side of the hole more than 5 feet above the next lower level, the hole shall be protected by a standard toeboard, or an enclosing screen either of solid construction, or as specified in § 1910.23n(k).

**§ 1910.23k Platforms and runways.**

(a)(1) Every platform or runway six feet or more above an adjacent floor or ground level where an employee works shall be guarded by a standard railing (or the equivalent as specified in § 1910.23n) on all open sides.

(2) When the requirement prescribed in subparagraph (1) of this paragraph is not feasible because it would result in an impairment of the work being performed or because some accommodation is needed so that the rules of another Federal agency may be met, such as those of the U.S. Department of Agriculture under the Wholesome Meat Act (21 U.S.C. 601), alternative protection may be provided for employees which is as safe as that which would be afforded by § 1910.23k(a)(1).

(3) The guarding requirement in subparagraph (1) of this paragraph does not apply to the entrance to a ramp, stairway, fixed ladder, or ship stair.

(4) The railing required by § 1910.23k(a)(1) shall be provided with a toeboard wherever, beneath the open sides, a person can pass, there is moving machinery, or there is equipment with which falling materials could create a hazard.

(b) Runways used exclusively for special purposes (such as oiling, shafting, or filing tank cars) may have the railing on one side omitted where operating conditions necessitate such omission, provided the falling hazard is minimized by using a runway of not less than 18 inches wide. Where persons entering upon runways become thereby exposed to machinery, electrical equipment, or other danger not a falling hazard, additional guarding than those specified may be essential for protection.

**§ 1910.23l Stairway and railing guards.**

Regardless of height, open-sided floors, walkways, platforms, or runways above dangerous equipment, pickling or galvanizing tanks, degreasing units, and similar hazards shall be guarded with a standard railing and toeboard.

**§ 1910.23m Stairway railings and guards.**

(a) Every flight of stairs having three or more risers shall be equipped with standard stair railings or standard handrails as specified in subparagraphs (1) through (5) of this paragraph, the width of the stair to be measured clear of all obstructions except handrails:

(1) On stairways less than 44 inches wide having both sides enclosed, at least one handrail, preferably on the right side descending.

(2) On stairways less than 44 inches wide having one side open, at least one stair railing on the open side.

(3) On stairways less than 44 inches wide having both sides open, one stair railing on each side.

(4) On stairways more than 44 inches wide but less than 88 inches wide, one handrail on each enclosed side and one stair railing on each open side.

(5) On stairways 88 or more inches wide, one handrail on each enclosed side, one stair railing on each open side, and one intermediate stair railing located approximately midway of the width.

(b) Winding stairs shall be equipped with a handrail offset to prevent walking on all portions of the treads having width less than 6 inches.

**§ 1910.23n Railing, toeboards, and cover specifications.**

(a) *Standard railing.*—A "standard railing" shall consist of a top rail, intermediate rail, and posts, and shall have a





minimum vertical height of 36 inches to 42 inches nominal from the upper surface of the top rail to the floor, platform, runway, or ramp level. The top rail of the "standard railing" shall be smooth-surfaced throughout its length. The intermediate rail of the "standard railing" shall be about halfway between the top rail and the floor, platform, runway, or ramp. The end of the rails of the "standard railing" shall not overhang the terminal posts to the extent of causing a projection hazard.

(b) *Stair railing.*—A "stair railing" shall be of similar construction to standard railing, but the vertical height shall be not more than 34 inches nor less than 30 inches from the upper surface of the top rail to the surface of the tread in line with the face of the riser at the forward edge of the tread.

(c) *Various specifications.*—Minimum requirements for "standard railings" under various types of construction are specified in the following subparagraphs. Dimensions specified are based on the U.S. Department of Agriculture Wood Handbook, No. 72, 1955 (No. 1 [S4S] Southern Yellow Pine [Modulus of Rupture 7,400 p.s.i.]) for wood; ANSI G41.5–1970, American National Standard Specifications for Welded and Seamless Steel Pipe, for pipe.

(1) *Wood railings.*—For wood railings, the posts shall be of at least 2-inch by 4-inch stock spaced not to exceed 6 feet; the top and intermediate rails shall be of at least 2-inch by 4-inch stock. If top rail is made of two right-angle pieces of 1-inch by 4-inch stock, posts may be spaced on 8-foot centers, with 2-inch by 4-inch intermediate rail.

(2) *Pipe railings.*—For pipe railing, posts and top and intermediate rails shall be at least one and one-half inches nominal outside diameter with posts spaced not more than eight feet on centers.

(3) *Structural steel railings.*—For structural steel railings, posts and top and intermediate rails shall be of 2-inch by 2-inch by $\frac{3}{8}$-inch angles or other metal shapes of equivalent bending strength with posts spaced not more than 8 feet on centers.

(4) *Anchors.*—Anchoring of posts and framing of members for railings of all types shall be of such construction that the completed structure shall be capable of withstanding a load of at least 200 pounds applied to the top rail horizontally.

(5) *Others.*—Other types, sizes, and arrangements of railing construction are acceptable provided they meet the following conditions:

(i) A smooth-surfaced top rail at a height above floor, platform, runway, or ramp level not less than 36 inches to 42 inches nominal;

(ii) A strength to withstand at least the minimum requirement of 200 pounds applied to the top rail horizontally;

(iii) Protection between top rail and floor, platform, runway, ramp, or stair treads, equivalent at least to that afforded by a standard intermediate rail;

(iv) Elimination of overhang of rail ends unless such overhang does not constitute a hazard; such as, baluster railings, scrollwork railings, panelled railings.

(d) *Standard toeboard.*—(1) A "standard toeboard" shall be from two to six inches nominal in vertical height from its top edge to the level of the floor, platform, runway, or ramp. The toeboard shall be securely fastened in place. The clearance of the toeboard above the floor, platform, runway, or ramp level shall be the lowest that is practical under the existing circumstances. It is expected that in most situations, there shall be a minimum clearance above the level of the floor, platform, runway, or ramp. The toeboard shall be made of substantial material which is either solid or which has openings of not more than one inch in the greatest dimension.

(2) When materials are piled to such a height that the standard toeboard does not provide protection, substantial paneling or screening from the floor to the intermediate rail, or the toprail shall be provided.

(e) *Handrails.*—(1) A handrail shall consist of a lengthwise member mounted directly on a wall or partition by means of brackets attached to the lower side of the handrail so as to offer no obstruction to a smooth surface along the top and both sides of the handrail. The handrail shall be of rounded or other section that will furnish an adequate handhold for anyone grasping to avoid falling. The ends of the handrail should be turned in to the supporting wall or otherwise arranged so as not to constitute a projection hazard.

(2) The height of handrails shall be not more than 34 inches nor less than 30 inches from upper surface of handrail to surface of tread in line with face of riser at the forward edge of the tread.

(3) The size of handrails shall be: (i) When of hardwood, two inches nominal in outside diameter; and (ii) when of metal pipe at least one and one-half inches nominal outside diameter. The length of brackets shall be such as to give a clearance between the handrail and the wall or any projection thereon of at least one and one-half inches. The spacing of brackets shall not exceed eight feet.

(4) The mounting of handrails shall be such that the completed structure is capable of withstanding a load of at least 200 pounds applied in any direction at any point on the rail.

(f) *Clearance of handrails and railings.*—All handrails and railings shall have a clearance of not less than one and one-half inches between the handrail or railing and any other object.

(g) *Floor opening covers.*—Floor opening covers may be of any material that meets the following strength requirements:

(1) Trench or conduit covers and their supports, when located in plant roadways, shall be designed to carry a truck rear-axle load of at least 20,000 pounds.

(2) Manhole covers and their supports, when located in plant roadways, shall be designed to carry a truck rear-axle load of at least 20,000 pounds. Compliance with local standard highway requirements concerning the strength of manhole covers shall be accepted as compliance with this subparagraph.

(3) The construction of floor opening covers may be of any material that meets the surrounding floor strength requirements. Covers projecting not more than 1 inch above the floor level may be used, providing all edges are chamfered to an angle with the horizontal of not over 30 degrees. All hinges, handles, bolts, or other parts shall set flush with the floor or cover surface.

(h) *Skylight screens.*—Skylight screens shall be of such construction and mounting that they are capable of withstanding a load of at least 200 pounds applied perpendicularly on the screen. They shall also be of such construction and mounting that under ordinary loads or impacts, they will not deflect downward sufficiently to break the glass below them. The construction shall be of grillwork with openings not more than 4 inches long or of slatwork with openings not more than 2 inches wide with length unrestricted.

(i) *Wall opening barriers.*—Wall opening barriers (rails, picket fences, and half doors) shall be of such construction and mounting that, when in place at the opening, the barrier is capable of withstanding a load of at least 200 pounds applied in any direction (except upward) at any point on the top rail or corresponding member.

(j) *Wall opening grab handles.*—Wall opening grab handles shall be not less than 12 inches in length and shall be so mounted as to give 3 inches clearance from the side framing of the wall opening. The size, material, and anchoring of the grab handle shall be such that the completed structure is capable of withstanding a load of at least 200 pounds applied in any direction at any point on the handle.

(k) *Wall opening screens.*—Wall opening screens shall be of such construction and mounting that they are capable of withstanding a load of at least 200 pounds applied horizontally at any point on the near side of the screen. They may be of solid construction, of grillwork with openings not more than 8 inches long, or of slatwork with openings not more than 4 inches wide with length unrestricted.

**§ 1910.24a General application.**

(a) The sections under the centerhead "Fixed Industrial Stairs" contain specifications for the safe design and construction of fixed industrial stairs. The term "fixed industrial stairs" includes interior and exterior stairs around machinery, tanks, and other equipment; and stairs leading to or from floors, platforms, or pits.

(b) The sections under the centerhead "Fixed Industrial Stairs" do not apply to stairs used as a means of egress (see Subpart E of this part), to construction operations in private residence, or to articulated stairs, such as may be



V 38-172 SEP 6 73 XUM

installed on floating roof tanks or on dock facilities, the angle of which changes with the rise and fall of the base support.

FIXED INDUSTRIAL STAIRS

**§ 1910.21b Definitions.**

As used in the sections under the centerhead "Fixed Industrial Stairs", unless the context requires otherwise, fixed industrial stair terms shall have the meaning ascribed in this section.

(a) *Handrail.*—A single bar of wood or pipe supported on brackets from a wall or partition to provide a continuous handhold for persons using a stair.

(b) *Nose, nosing.*—That portion of a tread projecting beyond the face of the riser immediately below.

(c) *Open riser.*—The air space between the treads of stairways without upright members (risers).

(d) *Platform.*—An extended step or landing breaking a continuous run of stairs.

(e) *Railing.*—A vertical barrier erected along exposed sides of stairways and platforms to prevent falls of persons. The top member of railing usually serves as a handrail.

(f) *Rise.*—The vertical distance from the top of a tread to the top of the next higher tread.

(g) *Riser.*—The upright member of a step situated at the back of a lower tread and near the leading edge of the next higher tread.

(h) *Ship stair.*—A series of treads with a slope greater than that of a fixed industrial stair, with handrails attached leading from one level or floor to another, or leading to platforms, pits, boiler rooms, crossovers or around machinery, tanks and other equipment in restricted spaces, in which a fixed industrial stair can not be fitted.

(i) *Stairs, stairway.*—A series of steps leading from one level or floor to another, or leading to platforms, pits, boiler rooms, crossovers, or around machinery, tanks, and other equipment that are used more or less continuously or routinely by employees, or only occasionally by specific individuals. A series of steps and landings having three or more risers constitutes stairs or stairway.

(j) *Tread.*—The horizontal member of a step.

(k) *Tread run.*—The horizontal distance from the leading edge of a tread to the leading edge of an adjacent tread.

**§ 1910.21c Where fixed stairs are required.**

Fixed stairs shall be provided for access from one structure level to another where operations necessitate regular travel between levels, and for access to operating platforms at any equipment which requires attention routinely during operations. Fixed stairs shall also be provided where access is required to elevations for such purposes as gauging, inspection, regular maintenance, etc., where such work may expose employees to acids, caustics, gases, or other harmful substances, or for which purposes the carrying of tools or equipment by hand is normally required. (It is not the intent of this section to preclude the use of fixed ladders for access to elevated tanks, towers, and similar structures, overhead traveling cranes, etc., where the use of fixed ladders is common practice.)

**§ 1910.21d Industrial stair strength.**

Fixed industrial stairs shall be designed, constructed, and installed to carry a minimum live load of 100 pounds per square foot. Industrial stair treads shall be designed to carry a minimum concentrated load of 300 pounds on the center line of tread span.

**§ 1910.21e Stair width.**

Fixed industrial stairs shall have a minimum width of 22 inches.

**§ 1910.21f Angle of stairway rise.**

(a) Fixed industrial stairs shall be installed at angles to the horizontal of between 30 and 50 degrees with a minimum rise of 6½ inches and a maximum rise of 8½ inches.

(1) Any uniform combination of rise-tread dimensions may be used that will result in a stairway at an angle to the horizontal within the permissible range.

(2) If an indicated elevation cannot be accomplished with fixed industrial stairs under this requirement because of physical restrictions and limited access to elevation, a ship stair may be installed in accordance with standard engineering practices.

**§ 1920.21g Industrial stair treads.**

Each tread and the top landing of an industrial stair, where risers are used, shall have a nose which extends one-half inch to 1 inch beyond the face of the lower riser. Noses shall have an even leading edge. Riser height and tread width shall be uniform throughout any flight of stairs.

**§ 1910.21h Length of industrial stair; landings.**

Industrial stairs shall have landings at intervals of not more than 12 feet of vertical rise. The stairway platforms shall be not less than the width of the stairway and have a minimum of 30 inches in length measured in the direction of travel.

**§ 1910.21i Railings and handrails.**

Standard railings shall be provided on open sides of all exposed stairways and stair platforms. Handrails shall be provided on at least one side of closed stairways. Stair railings and handrails shall be installed in accordance with § 1910.23n.

**§ 1910.21j Open risers.**

Industrial stairs having treads of less than a nine-inch width may have open risers.

**§ 1910.21k Spiral stairway.**

(a) A stair having a closed circular form in its plan view with uniform sector shaped treads attached to and radiating about a supporting column. The effective tread is delineated by the nosing radius line, the exterior arc (center-line of railing) and the overlap radius line (nosing radius line of tread above). Effective tread dimensions are taken along a line perpendicular to the center-line of the tread.

(1) A single-way tread shall have an exterior arc chord of at least 10" and minimum effective tread dimension of 6", measured 11" from the exterior arc.

(2) A two-way tread shall have an exterior arc chord of at least 18½" and a minimum effective tread dimension of 10", measured 22" from the exterior arc.

(3) A limited-access tread shall have an exterior arc chord of at least 8½" and minimum effective dimension of 5", measured 9" from the exterior arc. This limited access stair may be used for access to elevated tanks, towers and similar structures, overhead traveling cranes, etc., where the use of fixed ladders is common practice.

(4) The angle of stairway rise is to be between 30° and 50° to the horizontal measured on a line 11" in from the center-line of railing (two-way stair measured 22" in from the center-line of the exterior railing).

(5) The stair is to be designed, constructed and installed to carry a live load of five times the normal live load anticipated.

(6) The anchorage of posts and framing members for railings of all types shall be designed using standard engineering practices for stresses, safety factors, etc. The completed railing shall be designed and constructed to withstand a load of 25 pounds per linear foot applied in any direction at the top of the railing. The intermediate rail shall be capable of withstanding a horizontal load of 20 pounds per linear foot. The end of terminal posts shall be capable of withstanding a load of 200 pounds applied in any direction at the top of the post. The above loads are not additive. In lieu of the intermediate rail, vertical balusters may be used if the distance between balusters does not exceed 9". On a two-way stair a single-line handrail, supported from the center post, will be provided with a minimum clearance between railings of 42".

(7) Vertical clearance shall be 6'–6".

PORTABLE WOODEN LADDERS

**§ 1910.25 Application of requirements.**

The sections under the centerhead "Portable Wooden Ladders" are intended to prescribe rules and establish minimum requirements for the construction, care, and use of the common types of portable wood ladders, in order to insure safety under normal conditions of usage. Special wooden ladders such as fruitpicker's ladders, combination step and extension ladders, shelf ladders, and library ladders and other similar types of ladders are not covered by these sections.

**§ 1910.25a Materials.**

(a) *Requirements applicable to all wood parts.*—(1) All wood parts shall be of the species specified in Table D–5, seasoned to a moisture content of not more than 15 percent; smoothly machined and





dressed on all sides; free from sharp edges and splinters; sound and free by accepted visual inspection from shake, wane, compression failures, decay, or other irregularities except as hereinafter provided. Low density wood shall not be used.

(2) Black streaks in western hemlock shall not be considered an irregularity, except that chambers associated with black streaks, when present in the part, shall be limited as specified for pitch and bark pockets.

(b) *Permissible irregularities in side rails and back rails.*—(1) The general slope of grain in side rails of minimum dimension shall not be steeper than 1 in 12, except that for ladders under 10 feet in length and having flat steps for treads, the general slope of grain shall not be steeper than 1 in 10. The slope of grain in areas of local grain deviation shall not be steeper than 1 in 12 or 1 in 10 as specified above when occurring on the edges or in the outer one-fourth of the width of the wide face. Local areas of grain deviation within the center half of the width of the wide face may contain grain slope as steep as 1 in 8. Local deviations of grain associated with otherwise permissible irregularities are permitted.

(2) Knots shall not appear in narrow faces of side rails. Knots, if tight and sound and less than one-half inch in diameter, are permitted on the wide face provided they are at least one-half inch back from either edge and not more frequent than 1 to any 3 feet of ladder length.

(3) Pitch and bark pockets are permitted provided they are not more than one-eighth inch in width, or more than 2 inches in length, or more than one-half inch in depth, and then only if they are not more frequent than 1 to any 3 feet of ladder length.

(4) Checks are permitted on side rails provided they are not more than 6 inches in length or more than one-half inch in depth.

(5) Occurrences of compression wood in relatively small amounts and positively identified by competent and conscientious visual inspection of side rails are permitted provided no single streak shall exceed one-half inch in width nor shall the aggregate of streaks exceed one-fourth of the face of the side rail. Borderline forms of compression wood not positively identified by competent and conscientious visual inspection are permitted. Ladder parts containing bow or crook which would interfere with the operation of the ladder shall not be used.

(c) *Permissible irregularities in flat steps, rungs, and cleats.*—(1) The general slope of grain in flat steps of minimum dimension shall not be steeper than 1 in 12, except that for ladders under 10 feet in length the slope of grain shall not be steeper than 1 in 10. The slope of grain in areas of local deviation shall not be steeper than 1 in 12 or 1 in 10 as specified above. For all ladders, cross grain not steeper than 1 in 10 are permitted in lieu of 1 in 12, provided the size is increased to afford at least 15 percent greater calculated strength than for ladders built to minimum dimensions. Local deviations of grain associated with otherwise permissible irregularities are permitted.

(2) The general slope of grain and that in areas of local deviations of grain shall not be steeper than 1 in 15 in rungs and cleats. For all ladders cross grain not steeper than 1 in 12 are permitted in lieu of 1 in 15, provided the size is increased to afford at least 15 percent greater calculated strength for ladders built to minimum dimensions. Local deviations of grain associated with otherwise permissible irregularities are permitted.

(3) Knots over one-eighth inch in diameter shall not appear in rungs. Knots shall not appear in the narrow faces of flat steps and cleats. Knots appearing in the wide faces of flat steps and cleats shall not exceed a diameter of one-fourth inch.

(d) *Classification of species of wood.*—Table D–5 gives a list of native woods, divided into four groups on the basis of mechanical properties considered from the standpoint of use for ladder construction.

(1) All minimum dimensions and specifications set forth hereinafter for side rails and flat steps are based on the species of wood listed in Group 3 in Table D–5 except where otherwise provided. The species of all other groups may be substituted for those of Group 3 when used in sizes that provide at least equivalent strength. (See Table D–5 for suggested methods of size adjustment.)

(2) All minimum dimensions and specifications set forth hereinafter for rungs and cleats are based on the species of wood listed in Group 1 in Table D–5. Cleats may be made of species of any other group: *Provided*, That the cross-sectional dimensions specified for Group 1 species are increased by the factors shown in this subdivision (based on the percentages of Table D–5) for the species group of which the cleats are to be made.

FACTOR FOR INCREASE IN

| Species group | Each dimension | Width only (thickness unchanged) |
|---|---|---|
| 1 | 1.00 | 1.00 |
| 2 | 1.03 | 1.05 |
| 3 | 1.11 | 1.19 |
| 4 | 1.17 | 1.26 |

(e) *Metal parts.*—All metal parts shall be made of aluminum, steel, wrought iron, malleable iron, or other material, adequate in strength for the purpose intended.

**§ 1910.25b Construction requirements.**

(a) *Basis of requirements.*—(1) Dimensions specified hereinafter for wood ladders are the minimum dressed cross-sectional dimensions for the types of ladders herein designated, based on the species of woods specified in § 1910.25a(d) of this subpart, at a moisture content of 15 percent. The dimensions for side rails are based on a mortise or gain as specified for the various types of ladders for step or rung attachments. Where the strength of the side rails or back legs is reduced by a greater mortise or gain than shown, or where it is desired to use a cross section for any wood part either dimension of which is less than that specified, the required dimensions may be found as indicated in subparagraph (2) of this paragraph.

(2) For the side rails of single extension and sectional ladders, the proposed section shall develop an actual stress per square inch not greater than 2,150 pounds for Group 1 woods, 2,000 pounds for Group 2 woods, 1,600 pounds for Group 3 woods, or 1,375 pounds for Group 4 woods when computed by the following formula applying to rectangular sections, with a maximum tolerance of 5 percent over these stresses:

$$S=\frac{3LD\,(P+W/16)}{2B(D^2-d)}\quad\frac{1.5LD\,(25+W/16)}{B(D^3-0.67)}$$

$P$ = 25 pounds, which is the normal component on each rail of a load of 200 pounds at the center of the ladder, equally distributed between the rails, when the foot of the ladder is moved out of the perpendicular by one-quarter of its length.
$S$ = Stress in extreme fiber in pounds per square inch.
$W$ = Weight of ladder in pounds.
$L$ = Maximum working length of ladder in inches.
$B$ = Net thickness of each side rail in inches.
$D$ = Depth of side rail in inches.
$d$ = Diameter of hole bored for rung ($d$ shall be taken as not less than 0.67).

(3) Adjustment of sizes for wood parts of stepladders and other ladder types covered by this section may be made as follows:

(i) The dimensions specified in later sections for parts having rectangular cross sections generally represent only one of a number of possible combinations of thickness and width which could satisfy the requirements for strength and stiffness. Depending upon the material sizes available, manufacturing practices, and like factors, parts produced by a particular manufacturer may or may not agree exactly with the sizes given later. The following provisions of this subparagraph provide means for determining equality of load-carrying capacity of parts of different sizes or of determining sizes needed to provide equality.

(ii) Any changes in dimensions shall result in a change in the width-thickness ratio for side rails of back legs not greater than 25 percent from the ratio for a corresponding ladder as now covered in this section.

(iii) Where both dimensions are different from those specified, the load-carrying capacity in bending of a part will be equal to or greater than that of a part of specified dimensions if the ratio $P_2/P_1$ is not less than 1, where

$$\frac{P_2}{P_1}=\frac{B_2D_2^2}{B_1D_1^2}$$

and

$B$ = Dimensions of the part at right angles to the direction of load (width of a step, thickness of a side rail or back leg).
$D$ = Dimensions of the part parallel to the direction of load (thickness of a step, width of a side rail or back leg).
$B_1D_1$ = Dimensions as specified.
$B_2D_2$ = Dimensions of part being considered.



V 38-172 SEP 6 73 XUM

(iv) The dimensions to be used in the computations are net dimensions. For example, in the case of a stepladder side rail, the dimension B is to be taken as the gross thickness of the rail minus the depth of the gains for the steps. Where there is a rung hole at the center of depth of a rail, a somewhat more accurate comparison may be made by the use of the formula

$$\frac{P_2}{P_1} = \frac{B_2 D_2 (D_2^2 - d_2^2)}{B_1 D_1 (D_1^2 - d_1^2)}$$

where the symbols have the same meanings as previously stated and $d$ is the diameter of the hole for the rung tenon. In most instances the difference in results calculated by this and by the earlier formula will be slight.

(b) *Portable stepladders.*—Stepladders longer than 20 feet shall not be used. Stepladders as hereinafter specified shall be of three types:

Type I—Industrial stepladder, 3 to 20 feet for heavy duty, such as utilities, contractors, and industrial use.

Type II—Commercial stepladder, 3 to 12 feet for medium duty, such as painters, offices, and light industrial use.

Type III—Household stepladder, 3 to 6 feet for light duty, such as light household uses.

(1) *General requirements.*—(i) Slope is the inclination of side rails or back legs with respect to the vertical and is expressed as a deviaton from the vertical per unit lehgth of the member. Stepladders shall be so constructed, that when in the open position, the slope of the front section shall not be less than 3½ inches and the slope of the back section not less than 2 inches, for each 12-inch length of side rail.

(ii) A uniform step spacing shall be employed which shall be not more than 12 inches. Steps shall be parallel and level when the ladder is in position for use.

(iii) The minimum width between side rails at the top step, inside to inside, shall be not less than 11½ inches. From top to bottom, the side rails shall spread at least 1 inch for each foot of length of stepladder.

(iv) When minimum thickness of side rails is used, steps shall be closely fitted into the grooves in the side rails one-eighth inch in depth with a tolerance of one thirty-second inch, and shall be firmly secured as hereinafter described; or they shall be closely fitted into metal brackets of an equivalent strength, which in turn shall be firmly secured to the side rails. The depth of groove herein provided may be increased in proportion to the thickness of side rails as provided in subparagraphs (2)(i), (3)(i), and (4)(i) of this paragraph.

(v) All stepladders shall have a top with wood or metal brackets or fittings tightly secured to the top, side rails, and back legs, to allow free swinging of the back section without excessive play or wear at the joints.

(vi) A metal spreader or locking device of sufficient size and strength to securely hold the front and back sections in open positions shall be a component of each stepladder. The spreader shall have all sharp points covered or removed to protect the user. For type III ladder, the pail shelf and spreader may be combined in one unit (the so-called shelf-lock ladder).

(vii) When measured along the front edge of the side rails, all stepladders shall measure within 3 inches of the specified length.

(viii) Where bucket shelves are provided, they shall be constructed to support a load of 25 pounds and shall be so fastened that they can be folded up when the ladder is closed.

(ix) All metal parts and fittings shall be securely attached by means of rivets, bolts, screws, or equivalent fasteners.

(2) *Type I industrial stepladder.* (i) (A) The minimum dimensions of the parts of the Type I stepladder shall be as shown in Table D–2 when made of Group 2 or Group 3 woods.

(B) The minimum thickness of side rails provides for the cutting of a groove of one-eighth inch in depth with the tolerance indicated in paragraph (b)(1)(iv) of this section.

(ii) Steps shall be secured with at least two 6–d nails at each end, or the equivalent thereof. Each step shall be reinforced by a steel rod not less than 0.160 inch in diameter with standard commercial tolerances, which shall pass through metal washers of sufficient thickness and diameter on each end to prevent pressing into the side rails, and a truss block which shall be fitted between the rod and the center of each step or by a metal angle brace on each end firmly secured to the steps and side rails, or by construction of equivalent strength and safety. Where the rod reinforcement construction is used, the bottom step shall also be provided with a metal angle brace on each end which shall be securely attached to the bottom step and side rails. In addition, all steps 3⅝ inches wide and 27 inches or more in overall length and all steps 4¼ inches wide and 32 inches or more in overall length shall be provided with a metal angle brace at each end securely attached to the step and side rail.

(iii) The back legs shall be braced by one of the following methods:

(A) The back legs shall be braced with 1⅛ inch diameter rungs of Group I woods (see Table D–5), or material of equivalent strength, having ⅞ inch diameter tenons or oval wood rungs, or rectangular wood rungs of equivalent strength, spaced not more than 12 inches apart. The back legs shall be bored with holes either extending through the legs or to within three-sixteenths inch of the outside face of the legs, the size of the hole to be such as to insure a tight fit for the rung. The shoulder of the rung shall be forced firmly against the leg, and the tenon secured in place with a nail, or the equivalent thereof, to prevent turning of the rungs. The back legs shall be braced by a metal angle brace on each side, securely fastened to the rung and the back legs, one rung to be braced for each 4 feet of length or fraction thereof, on ladders 4 feet or more in length, with braces required only on the bottom rung for ladders that are 4 feet or shorter. Where rungs are more than 28 inches in length between the back legs they shall be provided with center bearing consisting of a wood bar not less than ¾ by 2 inches in cross-section securely nailed to each rung passing through it and long enough to include each rung longer than 28 inches.

(B) The back leg shall be braced with horizontal wood bars of Group 1, 2, or 3 woods in Table D–5 and not less than ¾ by 2½ inches in cross-section spaced not more than 12 inches apart. The ends of the bars shall fit into metal sockets of not less than 20-gauge (Manufacturers Standard) steel, or other material of equivalent strength, or into mortises of not less than one-eighth inch (tolerance of ± one-thirty-second inch) in depth in the back legs. A steel rod not less than 0.160 inch in diameter with standard commercial tolerance shall pass through the back legs, the bar, and at each end through metal washers of sufficient diameter and thickness to prevent pressing into the back legs. The back legs shall also be braced by a metal angle brace on each side, securely fastened to the bar and to the legs, one bar to be so braced for at least each 4 feet of length or fraction thereof, with braces required only on bottom bar for ladders that are 4 feet or shorter. Metal sockets when used shall be attached to the back legs by rivets or by means of a rod running through the socket or equivalent thereof.

TABLE D-2

DIMENSIONS FOR TYPE I STEP LADDER

| | Length, 12 feet and less | | Length, 14 and 16 feet | | Length, 18 and 20 feet | |
|---|---|---|---|---|---|---|
| | *Thickness (inch)* | *Depth (inches)* | *Thickness (inch)* | *Depth (inches)* | *Thickness (inch)* | *Depth (inches)* |
| Side rails | ¾ | 3¼ | ¾ | 3½ | 1 13/16 | 3½ |
| Back legs | ¾ | 2⅝ | ¾ | 2⅝ | 1 13/16 | 2⅝ |
| Steps | ¾ | 3⅝ | ¾ | 4¼ | ¾ | 4¼ |
| Tops | ¾ | 5½ | ¾ | 5½ | ¾ | 5½ |

TABLE D-3

DIMENSIONS FOR TYPE II STEP LADDER

| | Length, 3 to 8 feet | | Length, 10 feet | | Length, 12 feet | |
|---|---|---|---|---|---|---|
| | *Thickness (inch)* | *Depth (inches)* | *Thickness (inch)* | *Depth (inches)* | *Thickness (inch)* | *Depth (inches)* |
| Side rails | ¾ | 2⅝ | ¾ | 2⅝ | ¾ | 3 |
| Back legs | ¾ | 1⅝ | ¾ | 1¾ | ¾ | 2 |
| Steps | ¾ | 3½ | ¾ | 3½ | ¾ | 3⅝ |
| Tops | ¾ | 5 | ¾ | 5 | ¾ | 5 |





(iv) The back legs shall be reinforced by a rivet through the depth of the leg above the hinge point, by metal plates or collars at the hinge point, or by other means suitable for preventing splitting of the back leg from the hinge pin to the top.

(3) *Type II commercial stepladders.*—(i) (A) The minimum dimensions of the parts of the Type II stepladder shall be as given in Table D–3 when made of Group 2 or Group 3 woods.

(B) The minimum thickness of side rails provides for the cutting of a groove of one-eighth inch in depth with the tolerance indicated in paragraph (b)(1)(iv) of this section, and shall be increased when grooves of greater depth are used.

(ii) Steps shall be secured with at least two 6–d rails at each end, or the equivalent thereof. Each step shall be reinforced by a steel rod not less than 0.160 inch in diameter with standard commercial tolerances which shall pass through metal washers of sufficient thickness and diameter on each end to prevent pressing into the side rails, and a truss block shall be fitted between the truss rod and center of each step; or by a metal angle brace on each end firmly secured to the steps and side rails; or by construction of equivalent strength and safety. Where the rod reinforcement construction is used, the bottom step shall be provided further with a metal angle brace on each end which shall be securely attached to the bottom step. In addition all steps 27 inches or more in overall length shall be provided with a metal angle brace at each end securely attached to the step and side rails.

(iii) The back legs shall be braced by one of the three following methods:

(A) (*1*) With ⅞-inch diameter wood dowels of Group 1 woods (see Table D–5) or material of equivalent strength having not less than ⅝-inch tehons firmly secured in the back legs and spaced not more than 12 inches apart. The back legs shall be bored with holes either extending through the legs or to within three-sixteenths inch of the outside face of the legs, the size of the holes to be such as to insure a tight fit for the dowel. The shoulder of the dowel shall be forced firmly against the leg and the tenon secured in place with a nail, or the equivalent thereof, to prevent turning of the dowel.

(*2*) A bar connecting two or more of the dowels shall be provided on all ladders of 6 feet or more. The cross-sectional dimensions of the bar shall be the same as the cross-sectional dimensions of the back legs, and the dowels shall pass through holes at the centerline of the bar. The bar shall be attached at the center of the length of the lower two dowels on a 6-foot ladder and shall extend upward one dowel for each 2 feet of added length.

(B) With wood dowels as set forth in this subparagraph (3)(iii)(A) of this paragraph, plus an inverted V bracing of ¾- by 1½-inch material through which the dowels extend two-thirds of the way up the back.

(C) With horizontal bracing of Group 1, 2, 3, or 4 woods (see Table D–5) not less than ¾ by 2 inches in cross-section, the ends of which shall fit into metal sockets of not less than 20-gauge (Manufacturing Standard), steel, or other material of equivalent strength or into mortises not less than one-eighth inch in depth in back legs. The bars shall be reinforced by steel rods not less than 0.160 inch in diameter with standrad commercial tolerances which shall pass through the back legs, the bar, and, at each end, through metal washers of sufficient diameter and thickness to prevent pressing into the back legs. The spacing of such braces shall not exceed 3 feet, and there shall be one brace on 3- and 4-foot ladders, two braces on 5- and 6-foot ladders, three braces on 7- and 8-foot ladders, and four braces on 10- and 12-foot ladders. The bottom bar shall not be more than 18 inches from the bottom of the ladder, and, where only one bar is used, it shall be braced by a metal angle brace on each end securely attached to the bar and the back leg.

(4) *Type III household stepladder.*—(i) The minimum dimensions of the parts of the Type III stepladder shall be as follows when made of Group 2 or Group 3 woods:

| | Length, 3 to 6 feet | |
|---|---|---|
| | Thickness (inch) | Depth (inches) |
| Side rails | ¾ | 2½ |
| Back legs | ¾ | 1 5/16 |
| Steps | ¾ | 3 |
| Top | ¾ | 5 |

The minimum thicknesses of side rails provide for the cutting of a groove one-eighth inch in depth with the tolerance indicated in paragraph (b)(1)(iv) of this section, and shall be increased when grooves of greater depth are used.

(ii) Steps shall be secured with at least one 6-d nail at each end, or the equivalent thereof. Each step shall be reinforced by a steel rod not less than 0.160 inch in diameter with standard commercial tolerance which shall pass through metal washers of sufficient thickness and diameter to prevent pressing into the side rails, or by a metal brace at each end firmly secured to steps and side rails or by construction of equivalent strength and safety. Where the rod reinforcement construction is used, the bottom step shall be provided further with a metal angle brace on each end which shall be securely attached to the bottom step and side rail.

(iii) Back legs shall be braced by one of the two following methods or by a construction of equivalent strength and safety:

(A) By diagonal slats or groups 1, 2, 3, or 4 wood (see Table D–5) not less than 5/16 by 1¼ inches securely fastened to the back legs by nails, screws, or the equivalent thereof.

(B) With horizontal bracing of Groups 1, 2, 3, or 4 wood (see Table D–5) not less than ⅝ by 1⅝ inches in cross section, the ends of which shall fit into metal sockets of not less than 20-gauge (Manufacturing Standard), steel or other material of equivalent strength or into mortises not less than one-eighth inch in depth in back leg. The bars shall be reinforced by steel rods not less than 0.160 inch in diameter with standard commercial tolerances which shall pass through the back leg, the bar, and at each end through metal washers of sufficient diameter and thickness to prevent pressing into each leg. The spacing of such bars shall not exceed 3 feet, and there shall be one brace on 3- and 4-foot ladders, two braces on 5- and 6-foot ladders. The bottom bar shall be not more than 18 inches from the bottom of the ladder.

(C) *Portable rung ladders.*—Portable rung ladders as herein specified shall be of four types, as follows: Single ladder; two-section extension ladder; sectional ladder; trestle and extension trestle ladder.

(*1*) *General requirements.*—(*i*) The base or lower portion of a ladder may have either parallel sides or flared sides in accordance with commercial practices.

(*ii*) Rungs shall be parallel, level, and uniformly spaced. The spacing shall be not more than 12 inches, except as hereinafter specified.

(*iii*) All holes for wood rungs shall either extend through the side rails or be bored so as to give at least a thirteen-sixteenths-inch length of bearing of the rung tenon. In through-bored construction, the rungs shall extend at least flush with the outside rail surface. All holes shall be located on the center line of the wide face of the side rails and shall be of such size as to insure a tight fit for the rung. The shoulder of the rung shall be forced firmly against the side rails and the tenon secured in place with a nail or the equivalent thereof, for the sole purpose of preventing the turning of the rung and maintaining the rung position in the side rail.

(*iv*) Round rungs shall be of Group 1 woods (see Table D–5), shall be not less than 1⅛ inches in diameter for lengths up to 36 inches between side rails and 1¼ inches in diameter for lengths over 36 up to and including 72 inches, and shall have not less than seven-eighths-inch-diameter tenons, or rungs of equivalent strength and bearing shall be provided. When rungs are 28 inches or more in length between side rails, they shall, in addition, be provided with center bearing.

(*v*) Oval rungs or rungs of any other cross section may be used provided they are secured by a nail at each end or the equivalent thereof and have at least the same strength and bearing as round rungs of the same length.

(*vi*) All metal parts and fittings shall be securely attached by means of rivets, bolts, screws, or equivalent fasteners.

(*vii*) The construction and assembly of the movable parts shall be such that they shall operate freely and securely without binding or unnecessary play.

(*viii*) When measured along the side rails, no rung ladder or section thereof shall be more than 4 inches shorter than the specified length.



V 38 - 172 SEP 6 73 XUM

(ix) Nonslip bases when used shall be securely bolted, riveted, or attached by equivalent construction to the side rails.

(x) Hooks when used shall be securely bolted or riveted to the side rails or equivalent construction and shall be of such dimensions as to withstand the loads imposed upon them.

(2) *Single ladder.* (i) Single ladders longer than 30 feet shall not be used.

(ii) The minimum dimensions of the side rails of the single ladder shall be as follows when made of Group 2 or Group 3 woods.

| Length of ladder (feet) | Thickness (inches) | Depth (inches) |
|---|---|---|
| Up to and including 16 | 1¼ | 2¼ |
| Over 16 up to and including 22 | 1¼ | 2¾ |
| Over 22 up to and including 30 | 1¼ | 3 |

(iii) Smaller side rails will be acceptable in all ladders of this type when reinforced by a steel wire, rod, or strap running the length of the side rails and adequately secured thereto. Where such reinforcement is used, the reinforced rails shall be equivalent in strength to the side rails specified in this subparagraph (2) (ii) of this paragraph.

(iv) The width between the side rails at the base, inside to inside, shall be at least 11½ inches for all ladders up to and including 10 feet. Such minimum widths shall be increased at least one-fourth inch for each additional 2 feet of length.

(3) *Two-section ladder.*—(i) Two-section extension ladders longer than 60 feet shall not be supplied. All ladders of this type shall consist of two sections, one to fit within the side rails of the other, and arranged in such a manner that the upper section can be raised and lowered.

(ii) The minimum dimensions of the side rails of the two-section extension ladder shall be not less than specified in Table D–4 of this section.

(iii) The minimum dimensions of side rails set forth in Table D–4 are based on the maximum working length, which is the size of ladder less the minimum overlap, which shall be as follows:

| Size of ladder (feet): | Overlap (feet) |
|---|---|
| Up to and including 36 | 3 |
| Over 36 up to and including 48 | 4 |
| Over 48 up to and including 60 | 5 |

(iv) Smaller side rails will be acceptable in all ladders of this type when reinforced by a steel wire, rod or strap running the length of the side rails and adequately secured thereto. Where such reinforcement is used, the reinforced rails shall be equivalent in strength to the side rails specified in Table D–4.

(v) The minimum distance between side rails of the bottom section, inside to inside, shall be 14½ inches on ladders up to and including 28 feet; 16 inches on all ladders over 28 feet up to and including 40 feet; 18 inches on all ladders over 40 feet.

(vi) All locks and guide irons shall be of metal and shall be of such construction and strength as to develop the full strength of the side rails. All locks shall be positive in their action. The guide irons shall be securely attached and so placed as to prevent the upper section from tipping or falling out while it is being raised, lowered, or is in use.

(vii) (A) Ladders of this type may be equipped with a rope and pulley. When a ladder is so equipped, the rope and pulley shall be securely attached to the ladder in a manner not weakening either the rungs or the side rails. The pulley shall be not less than 1¼ inches in diameter.

(B) The rope used with the pulley shall be not less than five-sixteenths inch in diameter having a minimum breaking strength of 560 pounds, and shall be of sufficient length for the purpose intended.

(4) *Sectional ladder.* (i) Assembled combinations of sectional ladders longer than lengths specified in § 1910.25b(c) (3) shall not be used.

(ii) The minimum dimensions of side rails shall be as follows for Group 2 or Group 3 woods:

| Assembled length of ladder (feet) | Thickness (inches) | Depth (inches) |
|---|---|---|
| Up to and including 21 | 1¼ | 2¾ |
| Over 21 up to and including 31 | 1⅜ | 3⅜ |

(iii) Ladders of this type shall have either straight sides slightly converging toward the top of each section, or shall have flaring sides at the bottom of the first (or bottom) section, with the top section having converging side rails to a width that shall be not less than 4 inches. Except for the top section, the minimum width between side rails shall be 11 inches.

(A) Adjacent sections shall be joined by means of a groove in the bottom end of each rail of the upper of the two sections setting firmly over extensions outside the side rails of the topmost rung of the next lower section and, at the same time, a groove in the top end of each rail of the lower of the two sections setting firmly over the bottom rung, inside the side rails, of the section next above.

(B) The distance between the two rungs (topmost rung of one section, bottom rung of the section next above) mentioned in subparagraph (4) (iii) (A) of this paragraph shall not be less than 1 foot.

(C) The fit between rail grooves and rungs mentioned in subparagraph (4) (iii) (A) of this paragraph shall be such as to provided a good fit without binding or unnecessary play.

(D) The grooved ends of the section shall be reinforced with a metal plate of not less 18-gauge (Manufacturing Standard) material properly secured thereto, and a rivet adjacent to the groove, extending through the depth of the rail, or the equivalent thereof.

(5) *Trestle and extension trestle ladder.*—(i) Trestle ladders, or extension sections or base sections of extension trestle ladders longer than 20 feet shall be used.

(ii) The minimum dimensions of the side rails of the trestle ladder, or the base sections of the extension trestle ladder, shall be as follows for Group 2 or Group 3 woods:

| Size of ladder (feet) | Thickness (inches) | Depth (inches) |
|---|---|---|
| Up to and including 16 | 1⅝ | 2¾ |
| Over 16 up to and including 20 | 1⅞ | 3 |

(iii) The minimum dimensions of the side rails of the extension section of the extension trestle ladder, which shall have parallel sides, shall be as follows for Group 2 or Group 3 woods:

| Size of ladder (feet) | Thickness (inches) | Depth (inches) |
|---|---|---|
| Up to and including 12 | 1⅝ | 2¼ |
| Over 12 up to and including 16 | 1⅞ | 2½ |
| Over 16 up to and including 20 | 1⅝ | 2¾ |

Table D–4—Dimensions of Side Rails for Two-Section Ladder

| Size of ladder, overall length (feet) | Rail: Thickness (inches) | | Rail: Depth (inches) |
|---|---|---|---|
| **For group 2 woods** | | | |
| 16 | 1⅝ | × | 2 |
| 20 | 1⅝ | × | 2¼ |
| 24 | 1⅝ | × | 2½ |
| 28 | 1⅝ | × | 2¾ |
| 32 | 1⅝ | × | 2¾ |
| 36 | 1⅝ | × | 2¾ |
| 40 | 1⅝ | × | 2¾ |
| 44 | 1⅝ | × | 3 |
| **For group 3 woods** | | | |
| 16 | 1¼ | × | 2 |
| 20 | 1¼ | × | 2¼ |
| 24 | 1¼ | × | 2½ |
| 28 | 1¼ | × | 2¾ |
| 32 | 1⅜ | × | 2¾ |
| 36 | 1⅜ | × | 3 |
| 40 | 1⅜ | × | 3 |
| 44 | 1⅜ | × | 3¼ |
| 48–52 | 1⅜ | × | 3¾ |
| 56–60 | 1⅜ | × | 3¾ |

(iv) Trestle ladders and base sections of extension trestle ladders shall be so spread that when in an open position the spread of the trestle at the bottom, inside to inside, shall be at least 5½ inches per foot of the length of the ladder.

(v) The width between the side rails at the base of the trestle ladder and base sections of the extension trestle ladder shall be at least 21 inches for all ladders and sections up to and including 6 feet. Longer lengths shall be increased at least 1 inch for each additional foot of length. The width between the side rails of the extension sections of the trestle ladder shall be not less than 12 inches.

(vi) The tops of the side rails of the trestle ladder and of the base section of the extension trestle ladder shall be beveled, or equivalent construction, and shall be provided further with a metal hinge to prevent spreading.

(vii) A metal spreader or locking device to hold the front and back sections in an open position, and to hold the extension section securely in the elevated position shall be a component of all extension trestle ladders and all trestle ladders over 12 feet in length.

(viii) Rungs shall be parallel and level. On the trestle ladder, or on the base sections of the extension trestle ladder, rungs shall be spaced not less than 8 inches or more than 18 inches apart; on the extension section of the extension trestle ladder, rungs shall be spaced not less than 6 inches or more than 12 inches apart.

(d) *Special-purpose ladders.*—All special-purpose ladders shall comply with the appropriate requirements of paragraphs (a), (b), and (c) of this section, except as hereinafter modified in this paragraph.

(1) *Platform stepladder.*—A platform stepladder is a modification of a portable stepladder with a working platform provided near the top.

(i) Platform stepladders shall be made in accordance with the requirements for type I stepladders or in accordance with the requirements for type II stepladders.

(ii) The slope of the back section shall be such that a vertical from the back edge of the platform will strike the floor at a distance measured toward the front section of not less than 3 inches from the base of the back section.

(iii) The minimum width between side rails at the platform shall be not less than 15 inches.

(iv) The back legs and side rails shall extend at least 24 inches above the platform and shall be connected with a top member to form a three-sided rail, or equivalent construction shall be provided.

(v) Platforms shall be so constructed as to be capable of supporting a load of 200 pounds placed at any point on the platform.

(vi) A separate spreader may be omitted from platform ladders in which the height to the platform is 6 feet or less. If the spreader is omitted, the platform shall be so designed as to function as a spreader or locking device to hold the front and back sections securely in an open position, with the connection between side rails and back legs being through the metal parts of the platform. The wood parts of a combined wood and metal platform functioning as a spreader shall not be depended upon to contribute to the spreading or locking action.

(2) *Painter's stepladder.*—(i) Painter's stepladders longer than 12 feet shall not be used.

(ii) Painter's stepladders shall be made in accordance with the requirements of type II stepladders except for the following:

(A) The top may be omitted.

(B) A rope spreader may be substituted for the metal spreader required in paragraph (b) (1) (vi) of this section. The rope shall not be less than No. 6 sash cord or its equivalent.

(3) *Mason's ladder.*—A mason's ladder is a special type of single ladder intended for use in heavy construction work.

(i) Mason's ladders longer than 40 feet shall not be used.

(ii) The minimum dimensions of the side rails when made of Group 2 or Group 3 woods and rungs (Group 1 woods) of the mason's ladder shall be as follows:

| Length of ladder (feet) | Side rails: Thickness (inches) | Side rails: Depth (inches) | Diameter: Rung (inches) | Diameter: Tenon (inches) |
|---|---|---|---|---|
| Up to and including 22 | 1⅝ | 3⅝ | 1⅝ | 1 |
| Over 22 up to and including 40 | 1⅝ | 4½ | 1⅝ | 1 |

(iii) The width between the side rails at the bottom rung, inside to inside, shall be not less than 12 inches for all ladders up to and including 10 feet. Such minimum widths shall be increased by at least one-fourth inch for each additional 2 feet of length.

(iv) Rungs shall be parallel and level and shall be spaced not less than 8 inches or more than 12 inches apart.

(A) *Trolley and side-rolling ladders.*—(*1*) *Length.*—Trolley ladders and side-rolling ladders longer than 20 feet should not be used.

(2) *Dimensions.*—The dimensions of the side rails shall not be less than the following for Group 2 or Group 3 woods:

| Length of side rail (feet) | Thickness (inch) | Depth (inches) |
|---|---|---|
| Up to and including 10 | 2 5/32 | 3 |
| Over 10 up to and including 20 | 2 5/32 | 3¼ |

The minimum thickness of side rails provide for the cutting of a groove not over one-eight inch in depth and shall be increased when grooves of greater depth are used. Flat steps shall have the following minimum dimensions for Group 2 or Group 3 woods:

| Length of step (inches) | Thickness (inch) | Width (inches) |
|---|---|---|
| Up to and including 16 | 2 5/32 | 3 |
| Over 16 up to and including 20 | 2 5/32 | 3½ |
| Over 20 up to and including 24 | 2 5/32 | 3½ |
| Over 24 up to and including 28 | 2 5/32 | 4 |

(3) *Width.*—The width between the side rails, inside to inside, shall be at least 12 inches.

(4) *Step attachment.*—Flat steps shall be inset in the side rails one-eighth inch and secured with at least two 6-d nails at each end or the equivalent thereof. They shall be reinforced with angle braces or a 5/16-inch steel rod.

(5) *Locking device.*—Locking devices should be provided on all trolley ladders.

(6) *Tracks.*—(i) Tracks shall be wood, or metal (excluding cast iron), or a combination of these materials.

(ii) Tracks for the top end of ladders shall be fastened securely and shall be so constructed that the wheels will not jump the track. Tracks shall be so designed as to provide for all probable loads to which they will be subjected.

(iii) The supports shall be securely fastened by lag screws, machine, hook, or toggle bolts, or their equivalent.

(iv) Tracks for side-rolling ladders shall be supported by metal or wood brackets securely screwed or bolted to shelving or other permanent structure at not over 3 feet.

(7) *Wheel carriages.*—(i) Wheel carriages shall be so designed as to provide for all loads to which they will be subjected. Two-point suspension should be used.

(ii) The wheel carriage for the top end of the ladder shall be securely fastened to the top of the ladder with metal brackets bolted either to the side rails or to the top step. When bolted to the top step, this step shall be secured to the side rail with metal braces in addition to those otherwise provided. The wheel carriage shall be so designed that a loose or broken wheel will not allow the ladder to drop or become detached from the track.

(iii) The wheel carriage for the bottom end of the ladder shall be securely fastened to the bottom of the ladder.

(iv) The wheels at the upper end of the ladder shall have minimum wheel base of 8 inches.

(v) When wheels are used at the bottom of the ladder, there shall be at least one wheel supporting each side rail.

(vi) Running gear for bottoms of both trolley and side-rolling ladders shall be so designed and constructed as to provide for any load to which they will be subjected.

### § 1910.25c Care and use of ladders.

(a) *Care.*—To insure safety and serviceability the following precautions on the care of ladders shall be complied with:

(1) Ladders shall be maintained in good condition at all times, the joint between the steps and side rails shall be tight, all hardware and fittings securely attached, and the movable parts shall operate freely without binding or undue play.

(2) Metal bearings of locks, wheels, pulleys, etc., shall be frequently lubricated.

(3) Frayed or badly worn rope shall be replaced.

(4) Safety feet and other auxiliary equipment shall be kept in good condition to insure proper performance.

(5) Ladders shall be stored in such a manner as to provide ease of access or inspection, and to prevent danger of accident when withdrawing a ladder for use.

(6) Wood ladders, when not in use, shall be stored at a location where they will not be exposed to the elements, but where there is good ventilation. They shall not be stored near radiators, stoves, steam pipes, or other places subjected to excessive heat or dampness.

(7) Ladders stored in a horizontal position shall be supported at a sufficient number of points to avoid sagging and permanent set.

(8) Ladders carried on vehicles shall be adequately supported to avoid sagging and securely fastened in position to minimize chafing and the effects of road shocks.







V 38-172
SEP 6 73
XUM

(9) Ladders shall be kept coated with a suitable protective material.

(10) Ladders shall be inspected frequently and those which have developed defects shall be withdrawn from service for repair or destruction and tagged or marked as "Dangerous, Do Not Use."

(11) Rungs shall be kept free of grease and oil.

(b) *Use.*—The following safety precautions shall be observed in connection with the use of ladders:

(1) Portable rung and cleat ladders shall, where possible, be used at such a pitch that the horizontal distance from the top support to the foot of the ladder is one-quarter of the working length of the ladder (the length along the ladder between the foot and the top support). The ladder shall be so placed as to prevent slipping or it shall be lashed, or held in position. Ladders shall not be used in a horizontal position as platforms, runways, or scaffolds;

(2) Ladders for which dimensions are specified shall not be used by more than one man at a time, nor with ladder jacks and scaffold planks where the use by more than one man is anticipated, unless the ladders have larger dimensions of the parts specifically designed for use by the number of men involved.

(3) Portable ladders shall be so placed that the side rails have secure footing. The top rest for portable rung and cleat ladders shall be reasonably rigid and shall have ample strength to support the applied load.

(4) Ladders shall not be placed in front of doors opening toward the ladder unless the door is blocked, open, locked, or guarded.

(5) Ladders shall not be placed on boxes, barrels, or other unstable bases to obtain additional height.

(6) To support the top of the ladder at a window opening, a board shall be attached across the back of the ladder, extending across the window and provided firm support against the building walls or window frames.

(7) When ascending or descending, the employee shall face the ladder.

(8) Ladders with broken or missing steps, rungs or cleats, broken side rails, or other faulty equipment shall not be used; improvised repairs shall not be made.

(9) Short ladders shall not be spliced together to provide long sections.

(10) Ladders made by fastening cleats across a single rail shall not be used.

(11) Ladders shall not be used as guys, braces, or skids, or for other than their intended purposes;

(12) Tops of the ordinary types of stepladders shall be not be used as steps;

(13) On two-section extension ladders the minimum overlap for the two sections in use shall be as follows:

| Size of ladder (feet): | Overlap (feet) |
|---|---|
| Up to and including 36 | 3 |
| Over 36 up to and including 48 | 4 |
| Over 48 up to and including 60 | 5 |

(14) Portable rung ladders with reinforced rails (see § 1910.25b (c) (2) (iii) and (3) (iv)) shall be used only with the metal reinforcement on the under side. Ladders of this type shall be used with great care near electrical conductors, since the reinforcing itself is a good conductor;

(15) No ladder shall be used to gain access to a roof unless the top of the ladder shall extend at least 3 feet above the point of support, at eave, gutter, or roof line;

(16) Adjustment of extension ladders shall only be made by the employee when standing at the base of the ladder, so that the employee may observe when the locks are properly engaged. Adjustment of extension ladders from the top of the ladder (or any level over the locking device) is a dangerous practice and shall not be done. Adjustment shall not be made while the employee is standing on the ladder.

(17) Middle and top sections of sectional or window cleaner's ladders shall not be used for bottom section unless the employer equips them with safety shoes.

(18) Extension ladders shall always be erected so that the upper section is resting on the bottom section.

(19) The employer shall equip all portable rung ladders with nonslip bases when there is a hazard of slipping. Nonslip bases are not a substitute for care in safely placing, lashing, or holding a ladder that is being used upon oily, metal, concrete, or slippery surfaces.

(20) The bracing on the back legs of step ladders is designed solely for increasing stability and not for climbing.

(21) When service conditions warrant, hooks shall be attached at or near the top of portable ladders to give added security.

TABLE D-5—CLASSIFICATION OF VARIOUS SPECIES OF WOOD ACCEPTABLE FOR USE IN LADDERS

The species are listed alphabetically within each group. The position of any species within a group therefore bears no relation to its strength or acceptability.

Where ladders are desired for use under conditions favorable to decay, it is recommended that the heartwood of decay-resistant species be used, or that the wood be given a treatment with a wood preservative. The species having the most durable heartwood are marked with an asterisk (*), and these should be preferred where resistance to decay is required.

GROUP 1

The allowable fiber stress in bending for the species listed herein when used for side rails shall not exceed 2,150 pounds per square inch. These species may be substituted for Group 3 woods on the following basis: The dimensions may be not more than 10 percent smaller for each cross-section dimension, or the thickness may remain unchanged, in which case the width may not be more than 15 percent smaller if used edgewise (as in a rail) or 25 percent smaller if used flatwise (as in a tread).

| | |
|---|---|
| White ash | Fraxinus americana, pennsylvanica, quadrangulata |
| Beech | Fagus grandifolia |
| Birch | Betula lenta, alleghaniensis, nigra (2) |
| Rock elm | Ulmus thomasii |
| Hickory | Carya ovata, laciniosa, tomentosa, glabra |
| Locust* | Robinia pseudoacacia, Gleditsia triacanthos |
| Hard maple | Acer nigrum, saccharum |
| Red maple | Acer rubrum (3) |
| Red oak | Quercus velutina, marilandica, kelloggii, falcata var. pagodaefolia, laurifolia, ellipsoidalis, rubra, nuttallii, palustris, coccinea, shumardii, falcata, laevis, phellos |
| White oak | Quercus arizonica, douglasii, macrocarpa, lobata, prinus, muehlenbergii, emoryi, gambelii, oblongifolia, virginiana, garryana, lyrata, stellata, michauxii, bicolor, alba |
| Pecan | Carya illinoensis, cordiformis, myristiciaeformis (4), aquatics (4) |
| Persimmon | Diospryros virginiana |

GROUP 2

The allowable fiber stress in bending for the species listed herein when used for side rails shall not exceed 2,000 pounds per square inch. These species may be substituted for Group 3 woods on the following basis: The dimensions may be not more than 7½ percent smaller for each cross-section dimension, or the thickness may remain unchanged, in which case the width may be not more than 11 percent smaller if used edgewise (as in a rail) or 20 percent smaller if used flatwise (as in a tread).

| | |
|---|---|
| Douglas fir (coast region) | Pseudotsuga menziesii |
| Western larch | Larix occidentalis |
| Southern yellow pine. | Pinus taeda, palustris, echinata, elliotii, rigida, virginiana |

GROUP 3

The allowable fiber stress in bending for the species listed herein when used for side rails shall not exceed 1,600 pounds per square inch.

| | |
|---|---|
| Red alder | Alnus ruba, rhombifolia (2) |
| Oregon ash | Fraxinus latifolia |
| Pumpkin ash | Flaxinus profunda |
| Alaska cedar* | Chamaecyparis nootkatensis |
| Port Oxford cedar.* | Chamaecyparis lawsoniana |

NOTE 4: This species is not included under this common name in American Lumber Standards nomenclature, but strength data are available and it is accordingly included in this classification.

### § 1910.25 Definitions.

(a) As used in the sections under the centerhead "Portable Wood Ladders", unless the context requires otherwise, portable wood ladder terms shall have the meanings assigned in this section.

(b) *Ladders.*—A ladder is an appliance usually consisting of two side rails joined at regular intervals by crosspieces called steps, rungs, or cleats, on which a person may step in ascending or descending.

(c) *Stepladder.*—A stepladder is a self-supporting portable ladder, nonadjustable in length, having flat steps and a hinged back. Its size is designated by the overall length of the ladder measured along the front edge of the side rails.





(d) *Single ladder.*—A single ladder is a non-self-supporting portable ladder, nonadjustable in length, consisting of but one section. Its size is designated by the overall length of the side rail.

(e) *Extension ladder.*—An extension ladder is a non-self-supporting portable ladder adjustable in length. It consists of two or more sections traveling in guides or brackets so arranged as to permit length adjustment. Its size is designated by the sum of the lengths of the sections measured along the side rails.

(f) *Sectional ladder.*—A sectional ladder is a non-self-supporting portable ladder, nonadjustable in length, consisting of two or more sections of ladder so constructed that the sections may be combined to function as a single ladder. Its size is designated by the overall length of the assembled sections.

(g) *Trestle ladder.*—A trestle ladder is a self-supporting portable ladder, nonadjustable in length, consisting of two sections hinged at the top to form equal angles with the base. The size is designated by the length of the side rails measured along the front edge.

(h) *Extension trestle ladder.*—An extension trestle ladder is a self-supporting portable ladder, adjustable in length, consisting of a trestle ladder base and a vertically adjustable single ladder, with suitable means for locking the ladders together. The size is designated by the length of the trestle ladder base.

(i) *Special-purpose ladder.*—A special-purpose ladder is a portable ladder which represents either a modification or a combination of design or construction features in one of the general purpose types of ladders previously defined, in order to adapt the ladder to special or specific uses.

(j) *Trolley ladder.*—A trolley ladder is a semifixed ladder, nonadjustable in length, supported by attachments to an overhead track, the plane of the ladder being at right angles to the plane of motion.

(k) *Side-rolling ladder.*—A side-rolling ladder is a semifixed ladder, nonadjustable in length, supported by attachments to a guide rail, which is generally fastened to shelving, the plane of the ladder being also its plane of motion.

(l) *Wood characteristics.*—Wood characteristics are distinguishing features which by their extent and number determine the quality of a piece of wood.

(m) *Wood irregularities.*—Wood irregularities are natural characteristics in or on wood that may lower its durability, stength, or utility.

(n) *Cross grain.*—Cross grain (slope of grain) is a deviation of the fiber direction from a line parallel to the sides of the piece.

(o) *Knot.*—A knot is a branch or limb, imbedded in the tree and cut through in the process of lumber manufacture, classified according to size, quality, and occurrence. The size of the knot is determined as the average diameter on the surface of the piece.

(p) *Pitch and bark pockets.*—A pitch pocket is an opening extending parallel to the annual growth rings containing, or that has contained, pitch, either solid or liquid. A bark pocket is an opening between annual growth rings that contains bark.

(q) *Shake.*—A shake is a separation along the grain, most of which occurs between the rings of annual growth.

(r) *Check.*—A check is a lengthwise separation of the wood, most of which occurs across the rings of annual growth.

(s) *Wane.*—Wane is bark, or the lack of wood from any cause, on the corner of a piece.

(t) *Decay.*—Decay is disintegration of wood substance due to action of wood-destroying fungi. It is also known as dote and rot.

(u) *Compression failure.*—A compression failure is a deformation (buckling) of the fibers due to excessive compression along the grain.

(v) *Compression wood.*—Compression wood is an aberrant (abnormal) and highly variable type of wood structure occurring in softwood species. The wood commonly has density somewhat higher than does normal wood, but somewhat lower stiffness and tensile strength for its weight in addition to high longitudinal shrinkage.

(w) *Low density.*—Low-density wood is exceptionally light in weight and usually deficient in strength properties for the species.

PORTABLE METAL LADDERS

### § 1910.26a Requirements.

(a) *General.*—Specific design and construction requirements are not a part of sections under the centerhead "Portable Metal Ladders", because of the wide variety of metal and design possibilities. However, the design shall be such as to produce a ladder without structural defects or accident hazards such as sharp edges, burrs, etc. The metal selected shall be of sufficient strength to meet the test requirements, and shall be protected against corrosion unless inherently corrosion resistant. The employer shall obtain reasonable assurances that the design requirements of this section are met.

(1) Because of the varied conditions, and the wide variety of ladder uses, ladders may be designed with parallel side rails, with side rails varying uniformly in separation along the length (tapered), or with side rails flaring at the base to increase stability.

(2) The design of the side rails shall be such as to insure a product which will conform to the requirements of this section.

(3) The spacing of rungs or steps shall be on 12-inch centers.

(4) Rungs or steps to side rail connections shall be so constructed as to insure rigidity as well as strength.

(5) Rungs and steps shall be corrugated, knurled, dimpled, coated with skid-resistant material, or otherwise treated to minimize the possibility of slipping.

(6) Hardware shall meet strength requirements of the ladder's component parts, and shall be of a material that is protected against corrosion unless it is inherently corrosion-resistant. Metals shall be so selected as to avoid excessive galvanic action.

(b) *General specifications-straight and extension ladders.*—(1) The minimum width between side rails of a straight ladder or any section of an extension ladder shall be 12 inches.

(2) The length of single ladders or individual sections of ladders shall not exceed 30 feet. Two-section ladders shall not exceed 46 feet in length and over two-section ladders shall not exceed 60 feet in length.

(3) Based on the nominal length of the ladder each section of a multisection ladder shall overlap the adjacent section by at least the number of feet stated in the following:

| Nominal length of ladder (feet): | Overlap (feet) |
|---|---|
| Up to and including 36 | 3 |
| Over 36, up to and including 48 | 4 |
| Over 48, up to 60 | 5 |

(4) Extension ladders shall be equipped with positive stops which will insure the overlap specified in the table above.

(5) (i) Extension ladders may be equipped with a rope and pulley. Any rope and pulley shall be securely attached to the ladder in such a manner as not to weaken either the rungs or the side rails. The pulley shall be not less than 1¼ inches in diameter.

(ii) The rope used with the pulley shall be not less than five-sixteenths inch in diameter, having a minimum breaking strength of 560 pounds, and shall be of sufficient length for the purpose intended.

(c) *General specifications—stepladders.*—(1) Stepladders shall be designed and constucted to give a minimum slope of 3½ inches per foot of length of the front section, and a minimum slope of 2 inches per foot of length of the back section, except that special ladders designed for straight-in-wall work shall maintain at least 1¼ inch back slope per foot of length.

(2) The minimum width between the side rails at the top step shall be 12 inches. The width spread of the side rails shall increase a minimum of 1 inch per foot of length. The width of the step or tread shall not be less than 3 inches.

(3) The length of a stepladder is measured by the length of the front rail. To be classified as a standard length ladder, the measured length shall be within plus or minus one-half inch of the specified length. Stepladders shall not exceed 20 feet in length.

(4) The pail shelf shall be designed to fold completely within the ladder.

(5) The back section may be designed with either rungs or cross bracing as long as it meets the general and testing requirements.

(6) Steps shall be corrugated, knurled, dimpled, coated with skid-resistant materials, or otherwise treated to minimize the possibility of slipping.

(7) The bottoms of the four rails shall be supplied with insulating nonslip material for the safety of the user.

(8) A metal spreader or locking device of sufficient size and strength to securely



V 38-172 SEP 6 73 XUM

hold the front and back sections in the open position shall be a component of each stepladder. The spreader shall have all sharp points or edges covered or removed to protect the employee.

(d) *General specifications—trestles and extension trestle ladders.*—(1) Trestle ladders or extension sections or base sections of extension trestle ladders shall be not more than 20 feet in length.

(2) The minimum distance between side rails of the trestle or extension sections or base section at the narrowest point shall not be less than 12½ inches. The width spread shall not be less than one inch per foot of length of side rail.

(3) Spread of base when section is open shall not be less than 5½ inches per foot of base section side rail.

(4) The extension locking device shall be designed to withstand all load tests.

(5) A metal spreader or locking device of sufficient size and strength to securely hold the front and back sections in the open position shall be a component of each trestle ladder. The spreader shall have all sharp points or edges covered or removed to protect the employee.

(e) *General specifications—platfrom ladders.*—(1) The length of a platform ladder shall not exceed 20 feet. The length of a platform ladder shall be measured along the front rail from the floor to the platform.

(2) Minimum width between side rails at platform level shall be 14 inches. Width spread shall not be less than 1 inch per foot of rise.

(3) Slope of the front rail when unit is in open position shall not be less than 3½ inches per foot of rise, and the back section shall have a minimum slope of 1 inch per foot of rise.

(4) The platform shall be at least 20 inches from the top of the ladder, and shall have an area of not less than 200 square inches nor more than 400 square inches.

(5) The back legs and side rails of a platform ladder shall extend at least 20 inches above the platform and shall be connected with the top member to form a three-sided top guard rail, or equivalent construction shall be provided.

(6) Spreaders shall be provided where the hinging apparatus is not designed to lock the unit open.

### § 1910.26b Testing.

(a) *General.*—The tests in this section are intended to insure uniform testing methods for metal ladders. The employer shall obtain reasonable assurances that the prescribed test methods have been applied, when the employer does not perform the testing.

(b) *Straight and extension ladders.*—(1) Ladder inclined strength is measured by placing the ladder unit in a flat, horizontal position supported 6 inches from the ends of the side rails. When testing extensions, the unit is opened to the required overlap. A load of 200 pounds is applied equally to the side rails at the center of the unit by means of a beam. The ladder shall withstand this test with no permanent deformation or other visible weakening of the structure. This test is based on a 200-pound man using the ladder, set at 75½° to the ground. With the man on the center rung, the component of his 200-pound weight at right angles to the ladder will be 50 pounds. Applying the load factor of 4, the test weight becomes 200 pounds.

(2) Test unit need only be of sufficient length for test purposes, and is to consist of the base and fly sections of an extension ladder with all the hardware or fittings attached. The ladder unit is placed in a vertical position and a downward load of 775 pounds equally distributed on the ends of the side rails of the upper portion of the test unit. The unit shall withstand this test with no permanent deformation or other visible weakening of the structure.

(3) A test unit of at least three rungs is to be used from the maximum width portion of the ladder. A load of 800 pounds shall be applied to a 3½ inch wide block resting on the center of the widest rung. A rung of 14 inches or less in length shall withstand this test with no permanent deformation or other visible weakening of the structure. A rung of more than 14 inches in length may have a permanent deflection of not more than one-eighth inch provided the rung cross section is not deformed and there is no other visible weakening of the structure.

(4) With at least a three-rung test unit set in a vertical position, a load of 800 pounds shall be applied to a 3½ inch wide block resting on the center rung as near to the side rail as possible. On removing the load, the unit shall show no indication of failure in the fasteners attaching the rungs to the side rail.

(5) The rung shall be so secured to the side rail that a torque load of 360 inch-pounds applied to the rung at a side rail shall cause no visible relative motion between the rung and the side rail.

(6) With the ladder extended to its maximum working length, and resting horizontally on level supports located 6 inches from each end of the ladder, a weight of 50 pounds shall be suspended from one of the side rails midway between supports. The deflection of the loaded rail, and the difference in deflection between the loaded and unloaded rails shall not exceed the values in Table D–6.

(7) Deflections in Table D–6 are to be determined by measuring at the midpoint between supports, the distance from the outside edges of both rails to the floor or other reference surface both before and after the test load of 50 pounds is applied to one rail of the ladder. The test is to be repeated, loading the other rail of the ladder. The angle (a) between the loaded and unloaded rails and the horizontal is to be calculated from the trigonometric equation:

$$\text{Sine } a = \frac{\text{Difference in deflection}}{\text{Ladder width}}$$

(c) *Step, trestle, extension trestle, and platform ladders.*—(1) (i) Load test of the entire ladder is made with the ladder in an open position, and an 800-pound load applied to the center of the top. Resistance to a side rail bending is tested by placing an 800-pound load on the center of the middle step. The strength of the step section is tested by applying an 800-pound load to a 3½ inch-wide block resting on the center of the longest or bottom step. The pail shelf shall be so constructed as to support a distributed load of 50 pounds.

(ii) In each test case, the unit shall withstand the load without failure or permanent deformation.

(2) Set ladder in open position on a level floor. Place a 200-pound distributed load on the top step. The ladder is then subjected to a horizontal pulling load, applied at the top step, of 12-pound force to the side; 58-pound force to the front; 33-pound force to the back. In each test, all side rails shall remain on the floor.

TABLE D–6—TABLE OF DEFLECTIONS

| Length of ladder in feet | Maximum deflection of loaded rail in inches | Maximum difference in deflection between loaded and unloaded rails in degrees from horizontal |
|---|---|---|
| 20 | 3.0 | 3.6 |
| 24 | 3.8 | 4.7 |
| 28 | 4.6 | 5.4 |
| 32 | 5.5 | 5.7 |
| 36 | 6.4 | 6.1 |
| 40 | 7.2 | 6.5 |
| 44 | 8.0 | 6.5 |
| 48 | 8.8 | 6.5 |

### § 1910.26c Care and maintenance of ladders.

(a) *General.*—To get maximum safety good safe practices in the use and care of ladder equipment shall be used by the employer. The rules in this section are considered essential to the safety of the employees.

(b) *Care of ladders.*—(1) Ladders, like any tool, shall be handled with care and not be subjected to unnecessary dropping, jarring, or misuse.

(2) Ladders shall be stored on racks when not in use. The racks shall have sufficient supporting points to prevent any possibility of excessive sagging.

(3) Ladders transported on vehicles shall be properly supported. Supporting points shall be of a softer material, such as hardwood or rubber-covered iron pipe, to minimize the chafing and effects of road shock.

(4) Ladders used by employees shall be maintained in good condition. Hardware fittings and accessories shall be checked frequently and kept in good condition.

(5) Ropes or cables shall be inspected frequently and replaced if defective.

(6) Complete ladder inspection shall be performed with reasonable frequency. If a ladder is involved in any of the following, immediate inspection shall be made:

(i) If a ladder tips over, the ladder shall be inspected for side rail dents or bends, or excessively dented rungs, all rung-to-side-rail connections, hardware connections, and rivets shall be inspected.





(ii) If a ladder is exposed to excessive heat as in the case of fire, the ladder shall be inspected visually for damage and tested for deflection and strength characteristics.

(iii) If a ladder is to be subjected to highly corrosive acids or alkali solutions, a protective coating such as asphalt and varnish shall be applied to the equipment.

(iv) If a ladder is exposed to oil or grease or other slippery materials, it shall be cleaned of oil, grease, or slippery materials.

(7) Any ladder having a defect likely to prejudice the safety of an employee using the ladder is to be marked and taken out of service until repaired.

(c) *Use of ladders.*—(1) Portable non-self-supporting ladders shall be erected at a pitch providing the maximum balance and strength. Generally, this is a pitch of 75½ degrees. A simple guide for setting up a ladder at the proper angle is to place the base a distance from the vertical wall equal to one-fourth the working length of the ladder.

(2) A portable ladder shall be treated as a one-man working ladder based on a 200-pound load.

(3) The ladder-base section shall be placed with a secure footing, such as that provided by the use of safety shoes or a foot-ladder board on hard slick surfaces.

(4) The top of the ladder shall be placed with the two rails supported, unless the ladder is equipped with a single support attachment. Such an attachment shall be substantial and large enough to support the ladder under load.

(5) When ascending or descending, the climber shall face the ladder.

(6) Ladders shall not be tied or fastened together to provide longer sections, except by the hardware fittings which make the ladders safe for an endorsement by a manufacturer for extended uses. Suitability of a hardware fastener for this purpose shall establish an inference of compliance with this standard.

(7) Ladders shall not be used as a brace, skid, guy or gin pole, gangway, or for other uses than that for which they were intended, unless they are specifically recommended for use by the manufacturer and the employer has ready and available evidence of this recommendation.

(8) Employers shall caution employees to take proper safety measures when metal ladders are used in areas containing electric circuits to prevent short circuits or electrical shock.

### § 1910.26d Definitions.

As used in the sections under the centerhead entitled "Portable Metal Ladders", unless the context requires otherwise, portable metal ladders terms shall have the following meanings:

(a) *Ladder.*—A ladder is an appliance usually consisting of two side rails joined at regular intervals by cross pieces called steps, rungs, or cleats, on which a person may step in ascending or descending.

(b) *Step ladder.*—A step ladder is a self-supporting portable ladder, nonadjustable in length, having flat steps and a hinged back. Its size is designated by the overall length of the ladder measured along the front edge of the side rails.

(c) *Single ladder.*—A single ladder is a non-self-supporting portable ladder, nonadjustable in length, consisting of but one section. Its size is designated by the overall length of the side rail.

(d) *Extension ladder.*—An extension ladder is a non-self-supporting portable ladder adjustable in length. It consists of two or more sections traveling in guides or brackets so arranged as to permit length adjustment. Its size is designated by the sum of the lengths of the sections measured along the side rails.

(e) *Platform ladder.*—A self-supporting ladder of fixed size with a platform provided at the working level. The size is determined by the distance along the front rail from the platform to the base of the ladder.

(f) *Sectional ladder.*—A sectional ladder is a non-self-supporting portable ladder, non-adjustable in length, consisting of two or more sections so constructed that the sections may be combined to function as a single ladder. Its size is designated by the overall length of the assembled sections.

(g) *Trestle ladder.*—A trestle ladder is a self-supporting portable ladder, nonadjustable in length, consisting of two sections, hinged at the top to form equal angles with the base. The size is designated by the length of the side rails measured along the front edge.

(h) *Extension trestle ladder.*—An extension trestle ladder is a self-supporting portable ladder adjustable in length, consisting of a trestle ladder base and a vertically adjustable single ladder, with suitable means for locking the ladders together. The size is designated by the length of the trestle ladder base.

(i) *Special-purpose ladder.*—A special-purpose ladder is a portable ladder which represents either a modification or a combination of design or construction features in one of the general-purpose types of ladders previously defined, in order to adapt the ladder to special or specific uses.

## FIXED LADDERS

### § 1910.27 General application.

The sections under the centerhead "Fixed Ladders" prescribe minimum requirements for the structural soundness and use of fixed ladders. The sections do not apply to portable wood, metal or other types of special ladders, job-made ladders, or to special-purpose types of ladders on structures used for storage of water, grains, or animal feed, nor to ladders attached to structures when the ladders are used only for maintenance, fire-fighting, or emergency escape purposes. Further, the sections do not apply to electrical power transmission-line towers; oil or gas well drilling or pumping derricks, triangulation, radio, television, and microwave antenna communications towers and structures used exclusively for the support of these facilities, chimneys or stacks, manholes to underground utilities and facilities.

### § 1910.27a Definitions.

As used in the sections under the centerhead "Fixed Ladders", fixed ladder terms shall have the meanings set forth in this section, unless the context clearly indicates differently:

(a) *Ladder.*—A ladder is an appliance usually consisting of two side rails joined at regular intervals by crosspieces called steps, rungs, or cleats, on which a person may step in ascending or descending.

(b) *Fixed ladder.*—A fixed ladder is a ladder permanently attached to a structure, building, or equipment.

(c) *Individual-rung or step ladder.*—An individual-rung or step ladder is a fixed ladder each rung or step of which is individually attached to a structure, building, or equipment, or manhole.

(d) *Rail ladder.*—A rail ladder is a fixed ladder consisting of side rails joined at regular intervals by rungs or cleats and fastened in full length or in sections to a building, structure, or equipment.

(e) *Railings.*—A railing is any one or a combination of those railings constructed in accordance with § 1910.23; a standard railing is a vertical barrier erected along exposed edges of floor openings, wall openings, ramps, platforms, and runways to prevent falls of persons.

(f) *Pitch.*—Pitch is the included angle between the horizontal and the ladder measured on the opposite side of the ladder from the climbing side.

(g) *Fastenings.*—A fastening is a device to attach a ladder to a structure, building, or equipment.

(h) *Rungs.*—Rungs are ladder crosspieces on which a person may step in ascending or descending.

(i) *Cleats.*—Cleats are ladder crosspieces of rectangular cross-section places on edge on which a person may step in ascending or descending.

(j) *Steps.*—Steps are the cross-pieces of a ladder on which a person may step in ascending or descending.

(k) *Cage.*—A cage is a guard that may be referred to as a cage or basket guard which is an enclosure that is fastened to the side rails of the fixed ladder or to the structure to encircle the climbing space of the ladder.

(l) *Well.*—A well is a permanent complete enclosure around a fixed ladder.

(m) *Ladder safety device.*—A ladder safety device is any device, designed to eliminate or reduce the possibility of accidental falls and which may incorporate such features as life belts, friction brakes, and sliding attachments.

(n) *Grab bars.*—Grab bars are individual handholds placed adjacent to or as an extension above ladders for the purpose of providing access beyond the limits of the ladder.

(o) *Through ladder.*—A through ladder is one from which a man getting off at the top must step through the ladder in order to reach the landing.

(p) *Side-step ladder.*—A side-step ladder is one from which a man getting off at the top must step sideways from the ladder in order to reach the landing.

### § 1910.27b Design requirements.

(a) *Design considerations.*—All ladders, and fastenings used by an employer



V 38 172 SEP 6 73 XUM

shall be designed to meet the following load requirements:

(1) The minimum design live load shall be a single concentrated load of 200 pounds.

(2) The number and position of additional concentrated live-load units of 200 pounds each as determined from anticipated usage of the ladder shall be considered in the design.

(3) The live loads imposed by persons occupying the ladder shall be considered to be concentrated at such points as will cause the maximum stress in the structural member being considered.

(4) The weight of the ladder and attached appurtenances together with the live load shall be considered in the design of rails and fastenings.

(b) *Design stresses.*—Design stresses for wood components of ladders shall not exceed those specified in the sections of this part prescribing standards for portable wood ladders. All wood parts of fixed ladders shall meet the requirements of § 1910.25a.

(c) For fixed ladders consisting of wood side rails and wood rungs or cleats, used at a pitch in the range 75 degrees to 90 degrees, and intended for use by no more than one person per section, single ladders are permitted.

(d) An employer shall obtain reasonable assurances that the design requirements of this section have been met concerning ladders and fasteners used by his employees.

### § 1910.27c Specific features.

(a) *Rungs and cleats.*—(1) All rungs shall have a minimum diameter of three-fourths inch for metal ladders or of material of equivalent strength except as covered in paragraph (g)(1) of this section, and a minimum diameter of $1\frac{1}{8}$ inches for wood ladders.

(2) The distance between rungs, cleats, and steps shall not exceed 16 inches and shall be uniform throughout the length of the ladder.

(3) The minimum clear length of rungs or cleats shall be 12 inches.

(4) Rungs, cleats, and steps shall be free of splinters, sharp edges, burrs, or projections which may be a hazard.

(5) The rungs of an individual-rung ladder shall be so designed that the foot cannot slide off the end. A suggested design is shown in figure D–1.

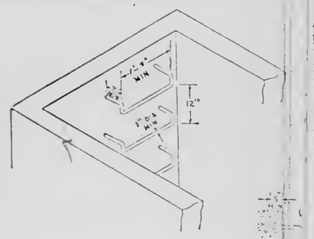



FIGURE D–1.—Suggested design for rungs on individual-rung ladders.

(b) *Side rails.*—Side rails which may be used as a climbing aid shall of such cross sections as to afford adequate gripping surface without sharp edges, splinters, or burrs.

(c) *Fastenings.*—Fastenings shall be an integral part of fixed ladder design.

(d) *Splices.*—All splices made by whatever means shall meet design requirements as stated in § 1910.27(b). All splices and connections shall have smooth transition with original members with no sharp or extensive projections.

(e) *Electrolytic action.*—Adequate means shall be employed to protect dissimilar metals from electrolytic action when such metals are joined.

(f) *Welding.*—All welding shall be in accordance with the "Code for Welding in Building Construction" (AWSD1.0–1966).

(g) *Protection from deterioration.*—(1) Metal ladders and appurtenances shall be painted or otherwise treated to resist corrosion and rusting when its location makes such treatment appropriate. Ladders formed by individual metal rungs imbedded in concrete, which serve as access to pits and to other areas under floors, are frequently located in an atmosphere that causes corrosion and rusting. Such individual metal rungs shall have a minimum diameter of 1 inch or shall be painted or otherwise treated to resist corrosion and rusting.

(2) Wood ladders, when used under conditions where decay may occur, shall be treated with a nonirritating preservative, and the details shall be such as to prevent or minimize the accumulation of water on wood parts.

(3) When different types of materials are used in the construction of a ladder, the materials used shall be so treated as to have no deleterious effect one upon the other.

### § 1910.27d Clearance.

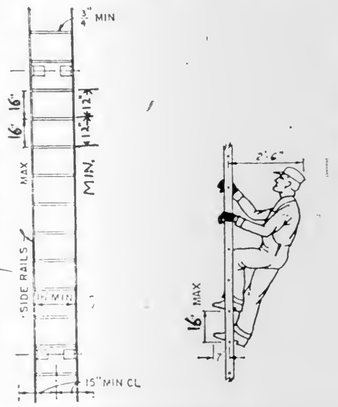
(a) *Climbing side.*—On fixed ladders, the perpendicular distance from the centerline of the runs to the nearest permanent object on the climbing side of the ladder shall be 36 inches for a pitch of 76 degrees, and 30 inches for a pitch of 90 degrees, and (fig. D–2 of this section), with minimum clearances for intermediate pitches varying between these two limits in proportion to the slope, except as provided in paragraphs (c) and (e) of this section.

(b) *Ladders without cages or wells.*—A clear width of at least 15 inches when possible, shall be provided each way from the centerline of the ladder in the climbing space, except when cages or wells are used.

(c) *Ladders with cages or baskets.*—Ladders equipped with cage or basket are excepted from the provisions of paragraphs (a) and (b) of this section, but shall conform to the provisions of § 1910.27e(a)(5). Fixed ladders in smooth-walled wells are excepted from the provisions of paragraph (a) of this section; but shall conform to the provisions of § 1910.27e(a)(6).

(d) *Clearance in back of ladder.*—The distance from the centerline of rungs, cleats, or steps to the nearest permanent object in back of the ladder shall be not less than 7 inches, when possible, except that when unavoidable obstructions are encountered, minimum clearances as shown in figure D–3 shall be provided.

(e) *Clearance in back of grab bar.*—The distance from the centerline of the grab bar to the nearest permanent object in back of the grab bars shall be not less than 4 inches. Grab bars shall not protrude on the climbing side beyond the rungs of the ladder which they serve.




RAIL LADDER WITH BAR STEEL RAILS AND ROUND STEEL RUNGS

FIG. D-2

Minimum Ladder Clearances

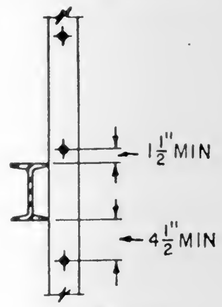



FIG. D-3

Clearance for Unavoidable Obstruction at Rear of Fixed Ladder

(f) *Step-across distance.*—The step-across distance from the nearest edge of ladder to the nearest edge of equipment or structure shall be not more than 12 inches, or less than 2½ inches (fig. D–4)





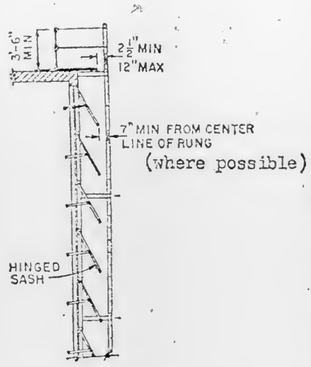



FIG. D-4

Ladder Far from Wall

(g) *Hatch cover.*—Counterweighted hatch covers shall open a minimum of 60 degrees from the horizontal. The distance from the centerline of rungs or cleats to the edge of the hatch opening on the climbing side shall be not less than 24 inches from offset wells or 30 inches for straight wells. There shall be no protruding potential hazards within 24 inches of the centerline of rungs or cleats; any such hazards within 30 inches of the centerline of the rungs or cleats shall be fitted with deflector plates placed at an angle of 60 degrees from the horizontal as indicated in figure D–5

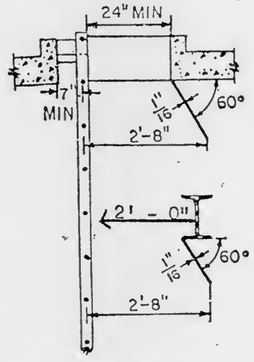
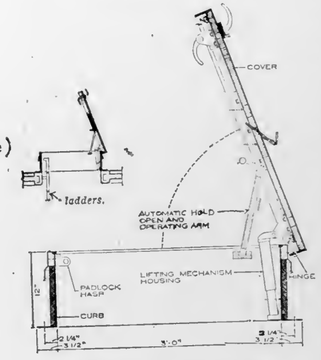



FIG. D-5

Deflector Plates for Head Hazards

The relationship of a fixed ladder to an appropriately counterweighted hatch cover is illustrated in figure D–6.




Relationship of Fixed Ladder to a Safe Access Hatch

FIG. D-6

### § 1910.27e Special requirements.

(a) *Cages or wells.*—(1) Cages or wells (when used) shall be built, as shown on the applicable drawings, covered in detail in figures D–7, D–8, and D–9, or of equivalent construction.

(2) Cages or wells (except as provided in paragraph (e) of this section) conforming to the dimensions shown in figures D–7, D–8, and D–9 shall be provided on ladders of more than 20 feet to a maximum unbroken length of 30 feet.

(3) Cages shall extend a minimum of 42 inches above the top of landing, unless protection is provided.

(4) Cages shall extend down the ladder to a point not less than 7 feet nor more than 8 feet above the base of the ladder, with bottom flared not less than 4 inches.

(5) Cages shall not extend less than 27 nor more than 28 inches from the centerline of the rungs of the ladder. Cage shall not be less than 27 inches in width. The inside shall be clear of projections. Vertical bars shall be located at a maximum spacing of 40 degrees around the circumference of the cage; this will give a maximum spacing of approximately $9\frac{1}{2}$ inches, center to center.

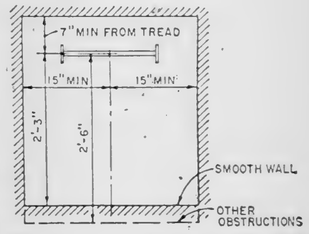



FIGURE D–7.—Clearance diagram for fixed ladder in well.

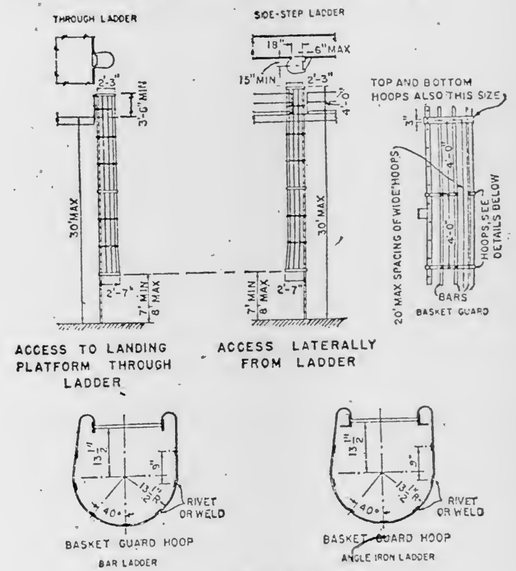



FIG. D-8

Cages for Ladders More Than 20 Feet High



V 38-172
SEP 6 73
XUM

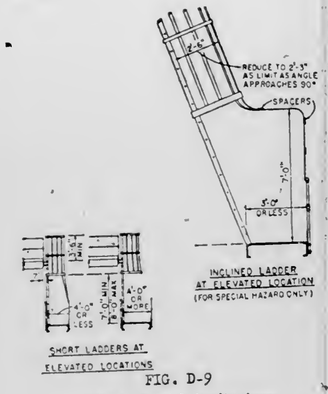



FIG. D-9

Cages — Special Applications

(6) Ladder wells shall have a clear width of at least 15 inches measured each way from the centerline of the ladder. Smooth-walled wells shall be a minimum of 27 inches from the centerline of rungs to the well wall on the climbing side of the ladder.

(b) *Landing platforms.*—When ladders are used to ascend to heights exceeding 20 feet, landing platforms shall be provided for each 30 feet of height or fraction thereof, except that, where no cage, well, or ladder safety device is provided, landing platforms shall be provided for each 20 feet of height or fraction thereof. Each ladder section shall be offset from adjacent sections. Where installation conditions (even for a short, unbroken length) require that adjacent sections be offset, landing platforms shall be provided at each offset.

(2) Where user has to step a distance greater than 12 inches from the centerline of the rung of a ladder to the nearest edge of structure or equipment, a landing platform shall be provided. The minimum step-across distance shall be 2½ inches.

(3) All landing platforms shall be equipped with standard railings and toeboards, so arranged as to give safe access to the ladder. Platforms shall be not less than 24 inches in width and 30 inches in length.

(4) One rung of any section of ladder shall be located at the level of the landing laterally served by the ladder. Where access to the landing is through the ladder, the same rung spacing as used on the ladder shall be used from the landing platform to the first rung below the landing.

(c) *Ladder extensions.*—The side rails of through or side-step ladder extensions shall extend 3½ feet above any landing or other walking surface. For through ladder extensions, the rungs shall be omitted from the extension and shall have not less than 18 nor more than 24 inches clearance between rails. For side-step or offset fixed ladder sections at landings, the side rails and rungs shall be carried to the next regular rung beyond or above the 3½ feet minimum (fig. D-10).

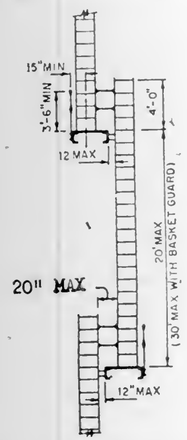



FIG. D-10

Offset Fixed Ladder Sections

(d) *Grab bars.*—Grab bars shall be spaced by a continuation of the rung spacing when they are located in the horizontal position. Vertical grab bars shall have the same spacing as the ladder side rails. Grab-bar diameters shall be the equivalent of the round-rung diameters.

(e) *Ladder safety devices.*—Ladder safety devices may be used on ladders in lieu of cage protection. No landing platform is required in these cases. All ladder safety devices such as those that incorporate lifebelts, friction brakes, and sliding attachments shall meet the design requirements of the ladder which they serve.

**§ 1910.27f Pitch.**

(a) *Preferred pitch.*—The preferred pitch of fixed ladders shall be considered to come in the range of 75 degrees and 90 degrees with the horizontal (fig. D-11).

(b) *Pitch.*—Fixed ladders within the pitch range of 60 and 75 degrees with the horizontal are permitted only where it is found necessary to meet conditions of installation. Lesser pitch ranges are not permissible.

(c) *Pitch greater than 90 degrees.*—Ladders having a pitch in excess of 90 degrees with the horizontal are prohibited.

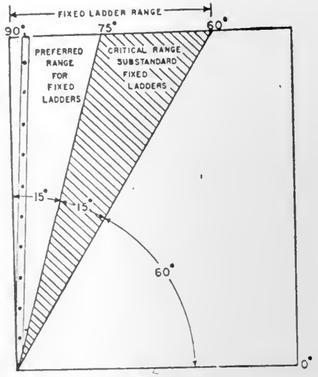



FIG. D-11

Pitch of Fixed Ladders

**§ 1910.27g Manhole steps and ladders.**

(a) Entrance into a manhole shall be by steps that are cast or mortared into the walls of riser or conical top sections or by portable ladder. Portable ladders shall conform to the requirements of §§ 1910.25 and 1910.26.

(b) Manhole steps that are cast or mortared into the walls of riser or conical top sections shall meet the following requirements:

(1) For steps, appurtenances and fastenings, the minimum design live load shall be a single concentrated load of 300 lbs.

(2) The live loads imposed by employees occupying the steps shall be considered to be concentrated at the such points as will cause the maximum stress in the structural member being considered.

(3) Steps in riser and conical top sections shall be aligned in each section so as to form a continuous ladder with steps equally spaced vertically in the assembled manhole at a maximum design distance of 16 inches apart. Steps shall be so designed that the foot cannot slide off the end.

(4) Steps shall be embedded in the riser or conical top section wall a minimum distance of 3 inches.

(5) When dissimilar types of materials are used in the steps, appurtenances and fastenings, the materials shall be treated to prevent deleterious effects.

(6) The portion of the step projecting into the riser or cone opening shall be free of any hazardous sharp edges, burrs, or projections.

(7) Ferrous metal steps not painted or treated to resist corrosion shall have a minimum cross sectional dimension of 1 inch.

(8) The minimum length of steps shall be 10 inches.





(9) The step shall project a minimum clear distance of 4 inches from the wall of the riser or cone section measured from the point of embedment.

**§ 1910.27(h) Maintenance.**

The employer shall maintain all ladders in a safe condition; i.e., a condition which is otherwise required under this Subpart D. All ladders shall be inspected with reasonable frequency. A reasonable frequency of inspections depends upon the use and exposure of the ladders.

SAFETY REQUIREMENTS FOR SCAFFOLDING

**§ 1910.28a General requirements for scaffolds.**

(a) (1) Scaffolds shall be furnished in accordance with the sections under the centerhead "Safety Requirements for Scaffolding" for employees engaged in work that cannot be done safely from the ground or from solid construction.

(2) The requirements of these sections on the use of scaffolding apply to operation, and use of scaffolds in other than construction operations. Requirements for construction, alteration, and repair of buildings or works, including painting or decorating, are to be found in Subpart L of Part 1926 of this chapter. In this regard, see § 1910.12, which applies Part 1926 of this chapter to such activities. In situations where the work contemplated by a standard is not normally performed by the employer, or when it is performed by a manufacturer the employer shall nevertheless obtain reasonable assurances that the standard has been met.

(b) This section and the remaining sections under the centerhead "Safety Requirements for Scaffolding" shall not apply when ladders conforming to the requirements of this Subpart D are used.

(c) When it is not practicable to install and use guardrails for employee protection on scaffolds as required by this section, safety belts, which are properly secured to a lanyard and life line or a safety net properly installed, may be used instead of scaffold guardrails.

(d) The footing or anchorage for scaffolds shall be sound, rigid, and capable of carrying the maximum intended load without settling or displacement. Unstable objects such as barrels, boxes, loose brick, or concrete blocks shall not be used to support scaffolds or planks.

(e) (1) Guardrails and toeboards shall be installed on all open sides and ends of platforms more than 10 feet above the ground or floor except:

(i) Scaffolding wholly within the interior of a building and covering the entire floor area of any room therein and not having any side exposed to a hoistway, elevator shaft or other wall opening, stairwell, or other floor openings, and

(ii) Needle-beam scaffolds and floats in use by structural iron workers.

(2) Guardrails shall be 2 x 4 inches or the equivalent, installed no less than 36 inches or not more than 42 inches nominal high, with a midrail, when required, of 1- x 4-inch lumber or equivalent. Supports shall be at intervals not to exceed ten feet. Toeboards shall be a minimum of 4 inches in height.

(f) Scaffolds and their components shall be capable of supporting without failure at least four times the maximum intended load.

(g) Scaffolds and other devices mentioned or described in this section shall be maintained in safe condition. Scaffolds shall not be altered or moved horizontally while they are in use or occupied.

(h) Any scaffold damaged or weakened from any cause shall be repaired and shall not be used until repairs have been completed.

(i) Scaffolds shall not be loaded in excess of the working load for which they are intended.

(j) All load-carrying timber members of scaffold framing shall be a minimum of 1,500 f. (Stress Grade) construction grade lumber. All dimensions are nominal sizes as provided in the American Lumber Standards, except that where rough sizes are noted, only rough or undressed lumber of the size specified will satisfy minimum requirements.

NOTE.—Where nominal sizes of lumber are used in place of rough sizes, the nominal size lumber shall be such as to provide equivalent strength to that specified in tables D-7 through D-12 and D-16.

(k) All planking shall be scaffold Grade as recognized by grading rules for the species of wood used.

(l) Nails or bolts used in construction of scaffolds shall be of adequate size and in sufficient numbers at each connection to develop the designed strength of the scaffold. Nails shall not be subjected to a straight pull and shall be driven their full length.

(m) All planking or platforms shall be overlapped (minimum 12 inches) or secured from movement.

(n) An access ladder or equivalent safe access shall be provided.

(o) Scaffold planks shall extend over their end supports not less than 6 inches nor more than 18 inches and shall be laid tightly with their edges close together extending across the entire bearer from pole to pole. The scaffold planks shall be laid tightly with no opening greater than one inch through which tools or materials can fall.

(p) The poles, legs, or uprights of scaffolds shall be plumb, securely and rigidly braced to prevent swaying and displacement.

(q) Materials being hoisted onto a scaffold shall have a tag line or some other method of equivalent effect shall be used to control the load.

(r) Overhead protection shall be provided for men on a scaffold exposed to overhead hazards.

(s) Scaffolds shall be provided with a screen in the opening between the toeboard and the guardrail, with the screen extending along the entire opening. The screen shall consist of No. 19 gauge U.S. Standard Wire one-half-inch mesh, or other material of equivalent strength for the protection of employees who are required to work or pass under the scaffolds.

(t) Employees shall not be permitted to work on scaffolds during storms or high winds.

(u) Employees shall not be permitted to work on scaffolds covered with ice or snow, except that employees may be permitted to work under such conditions for the purpose of removing ice or snow from a scaffold in order to eliminate the hazardous condition.

(v) Tools, materials, and debris shall not be allowed to accumulate on a scaffold in quantities sufficient to cause a hazard.

(w) Only treated or protected fiber rope shall be used for or near any work involving the use of corrosive substances or chemicals.

(x) Wire or fiber rope used for scaffold suspension shall be capable of supporting at least six times the intended load.

(y) When acid solutions are used for cleaning buildings wire rope supported scaffolds shall be used.

(z) The use of shore scaffolds or lean-to scaffolds is prohibited.

(aa) Lumber sizes, when used in this section, refer to nominal sizes except where otherwise stated.

(bb) Scaffolds shall be secured to permanent structures, through use of anchor bolts, reveal bolts, or other equivalent means. Window cleaners' anchor bolts shall not be used.

(cc) Special precautions shall be taken to protect scaffold members, including any wire or fiber ropes, when using a heat-producing process.

**§ 1910.28b General requirements for wood pole scaffolds.**

(a) Scaffold poles shall bear on a foundation of sufficient size and strength to spread the load from the poles over a sufficient area to prevent settlement. All poles shall be set plumb.

(b) Where wood poles are spliced, the ends shall be squared and the upper section shall rest squarely on the lower section. Wood splice plates shall be provided on at least two adjacent sides and shall not be less than 4 feet 0 inches in length, overlapping the abutted ends equally, and have the same width and not less than the cross-sectional area of the pole. Splice plates of other materials of equivalent strength may be used.

(c) Independent pole scaffolds shall be set as near to the wall of the building as practicable.

(d) All pole scaffolds shall be securely guyed or tied to the building or structure. Where the height or length exceeds 25 feet, the scaffold shall be secured at intervals not greater than 25 feet vertically and horizontally.

(e) Putlogs or bearers shall be set with their greater dimensions vertical, long enough to project over the ledgers of the inner and outer rows of poles at least 3 inches for proper support.

(f) Every wooden putlog on single pole scaffolds shall be reinforced with a



V 38-172 SEP 6 73 XUM

¾ x 2-inch steel strip or equivalent secured to its lower edge throughout its entire length.

(g) Ledgers shall be long enough to extend over two pole spaces. Ledgers shall not be spliced between the poles. Ledgers shall be reinforced by bearing blocks securely nailed to the side of the pole to form a support for the ledger.

(h) Diagonal bracing shall be provided to prevent the poles from moving in a direction parallel with the wall of the building, or from buckling.

(i) Cross bracing shall be provided between the inner and outer sets of poles in independent pole scaffolds. The free ends of pole scaffolds shall be cross braced.

(j) Full diagonal face bracing shall be erected across the entire face of pole scaffolds in both directions. The braces shall be spliced at the poles.

(k) Platform planks shall be laid with their edges close together so the platform will be tight with no spaces through which tools or fragments of material can fall.

(l) Where planking is lapped, each plank shall lap its end supports at least 12 inches. Where the ends of planks abut each other to form a flush floor, the butt joint shall be at the centerline of a pole. The abutted ends shall rest on separate bearers. Intermediate beams, shall be provided where necessary to prevent dislodgment of planks due to deflection, and the ends shall be nailed or cleated to prevent their dislodgment.

(m) When a scaffold turns a corner, the platform planks shall be laid to prevent tipping. The planks that meet the corner putlog at an angle shall be laid first, extending over the diagonally placed putlog far enough to have a good safe bearing, but not far enough to involve any danger from tipping. The planking running in the opposite direction at right angles shall be laid so as to extend over and rest on the first lay of planking.

(n) When moving platforms to the next level, the old platform shall be left undisturbed until the new putlogs or bearers have been set in place, ready to receive the platform planks.

(o) Guardrails not less than 2 x 4 inches or the equivalent and not less than 36 inches or more than 42 inches nominal high, with a mid-rail, when required, of 1 x 4-inch lumber or equivalent, and toeboards, shall be installed at all open sides on all scaffolds more than 10 feet above the ground or floor. Toeboards shall be a minimum of 4 inches in height. Wire mesh shall be installed in accordance with § 1910.28a(s).

(p) All wood pole scaffolds 60 feet or less in height shall be constructed and erected in accordance with tables D–7 through D–12 of this Subpart D. If they are over 60 feet in height they shall be designed by a registered professional engineer and constructed and erected in accordance with such design.

(q) Wood-pole scaffolds shall not be erected beyond the reach of effective firefighting apparatus.

TABLE D–7—MINIMUM NOMINAL SIZE AND MAXIMUM SPACING OF MEMBERS OF SINGLE POLE SCAFFOLDS LIGHT DUTY

| | Maximum height of scaffold | |
|---|---|---|
| | 20 feet | 60 feet |
| Uniformly distributed load | Not to exceed 25 pounds per square foot. | |
| Poles or uprights | 2 by 4 in | 4 by 4 in. |
| Pole spacing (longitudinal) | 6 ft. 0 in | 10 ft. 0 in. |
| Maximum width of scaffold | 5 ft. 0 in | 5 ft. 0 in. |
| Bearers or putlogs to 3 ft. 0 in. width | 2 by 4 in | 2 by 4 in. |
| Bearers or putlogs to 5 ft. 0 in. width | 2 by 6 in. or 3 by 4 in | 2 by 6 in. or 3 by 4 in. (rough). |
| Ledgers | 1 by 4 in | 1¼ by 9 in. |
| Planking | 1¼ by 9 in. (rough) | 2 by 9 in. |
| Vertical spacing of horizontal members | 7 ft. 0 in | 7 ft. 0 in. |
| Bracing, horizontal and diagonal | 1 by 4 in | 1 by 4 in. |
| Tie-ins | 1 by 4 in | 1 by 4 in. |
| Toeboards | 4 in. high (minimum) | 4 in. high (minimum). |
| Guardrail | 2 by 4 in | 2 by 4 in. |

All members except planking are used on edge.

TABLE D–8—MINIMUM NOMINAL SIZE AND MAXIMUM SPACING OF MEMBERS OF SINGLE POLE SCAFFOLDS

MEDIUM DUTY

| | |
|---|---|
| Uniformly distributed load. | Not to exceed 50 pounds per square foot. |
| Maximum height of Scaffold. | 60 ft. |
| Poles or uprights | 4 by 4 in. |
| Pole spacing (longitudinal). | 8 ft. 0 in. |
| Maximum width of scaffold. | 5 ft. 0 in. |
| Bearers or putlogs | 2 by 9 in. or 3 by 4 in. |
| Spacing of bearers or putlogs. | 8 ft. 0 in. |
| Ledgers | 2 by 9 in. |
| Vertical spacing of horizontal members. | 9 ft. 0 in. |
| Bracing, horizontal | 1 by 6 in. or 1¼ by 4 in. |
| Bracing, diagonal | 1 by 4 in. |
| Tie-ins | 1 by 4 in. |
| Planking | 2 by 9 in. |
| Toeboards | 4 in. high (minimum). |
| Guardrail | 2 by 4 in. |

All members except planking are used on edge.

TABLE D–9—MINIMUM NOMINAL SIZE AND MAXIMUM SPACING OF MEMBERS OF SINGLE POLE SCAFFOLDS

HEAVY DUTY

| | |
|---|---|
| Uniformly distributed load. | Not to exceed 75 pounds per square foot. |
| Maximum height of Scaffold. | 60 ft. |
| Poles or uprights | 4 by 4 in. |
| Pole spacing (longitudinal). | 6 ft. 0 in. |
| Maximum width of scaffold. | 5 ft. 0 in. |
| Bearers or putlogs | 2 by 9 in. or 3 by 5 in. (rough). |
| Spacing of bearers or putlogs. | 6 ft. 0 in. |
| Ledgers | 2 by 9 in. |
| Vertical spacing of horizontal members. | 6 ft. 6 in. |
| Bracing, horizontal and diagonal. | 2 by 4 in. |
| Tie-ins | 1 by 4 in. |
| Planking | 2 by 9 in. |
| Toeboards | 4 in. high (minimum). |
| Guardrail | 2 by 4 in. |

All members except planking are used on edge.

TABLE D–10—MINIMUM NOMINAL SIZE AND MAXIMUM SPACING OF MEMBERS OF INDEPENDENT POLE SCAFFOLDS LIGHT DUTY

| | Maximum height of scaffold | |
|---|---|---|
| | 20 feet | 60 feet |
| Uniformly distributed load | Not to exceed 25 pounds per square foot. | |
| Poles or uprights | 2 by 4 in | 4 by 4 in. |
| Pole spacing (longitudinal) | 6 ft. 0 in | 10 ft. 0 in. |
| Pole spacing (transverse) | 6 ft. 0 in | 10 ft. 0 in. |
| Ledgers | 1¼ by 4 in | 1¼ by 9 in. |
| Bearers to 3 ft. 0 in. span | 2 by 4 in | 2 by 4 in. |
| Bearers to 10 ft. 0 in. span | 2 by 6 in. or 3 by 4 in | 2 by 9 (rough) or 3 by 8 in. |
| Planking | 1¼ by 9 in | 2 by 9 in. |
| Vertical spacing of horizontal members | 7 ft. 0 in | 7 ft. 0 in. |
| Bracing, horizontal and diagonal | 1 by 4 in | 1 by 4 in. |
| Tie-ins | 1 by 4 in | 1 by 4 in. |
| Toeboards | 4 in. high | 4 in. high (minimum). |
| Guardrail | 2 by 4 in | 2 by 4 in. |

All members except planking are used on edge.





TABLE D–11—MINIMUM NOMINAL SIZE AND MAXIMUM SPACING OF MEMBERS OF INDEPENDENT POLE SCAFFOLDS

MEDIUM DUTY

| | |
|---|---|
| Uniformly distributed load. | Not to exceed 50 pounds per square foot. |
| Maximum height of scaffold. | 60 ft. |
| Poles or uprights | 4 by 4 in. |
| Pole spacing (longitudinal). | 8 ft. 0 in. |
| Pole spacing (transverse). | 8 ft. 0 in. |
| Ledgers | 2 by 9 in. |
| Vertical spacing of horizontal members. | 6 ft. 0 in. |
| Spacing of bearers | 8 ft. 0 in. |
| Bearers | 2 by 9 in. (rough) or 2 by 10 in. |
| Bracing, horizontal | 1 by 6 in. or 1¼ by 4 in. |
| Bracing, diagonal | 1 by 4 in. |
| Tie-ins | 1 by 4 in. |
| Planking | 2 by 9 in. |
| Toeboards | 4 in. high (minimum). |
| Guardrail | 2 by 4 in. |

All members except planking are used on edge.

TABLE D–12—MINIMUM NOMINAL SIZE AND MAXIMUM SPACING OF MEMBERS OF INDEPENDENT POLE SCAFFOLDS

HEAVY DUTY

| | |
|---|---|
| Uniformly distributed load. | Not to exceed 75 pounds per square foot. |
| Maximum height of scaffold. | 60 ft. |
| Poles or uprights | 4 by 4 in. |
| Pole spacing (longitudinal). | 6 ft. 0 in. |
| Pole spacing (transverse). | 8 ft. 0 in. |
| Ledgers | 2 by 9 in. |
| Vertical spacing of horizontal members. | 4 ft. 6 in. |
| Bearers | 2 by 9 in. (rough). |
| Bracing, horizontal and diagonal. | 2 by 4 in. |
| Tie-ins | 1 by 4 in. |
| Planking | 2 by 9 in. |
| Toeboards | 4 in. high (minimum). |
| Guardrail | 2 by 4 in. |

All members except planking are used on edge.

TABLE D–13—TUBE AND COUPLER SCAFFOLDS LIGHT DUTY

Uniformly distributed load: Not to exceed 25 p.s.f.
Post spacing (longitudinal): 10 ft. 0 in.
Post spacing (transverse): 6 ft. 0 in.

| Working levels | Additional planked levels | Maximum height |
|---|---|---|
| 1 | 8 | 125 ft. |
| 2 | 4 | 125 ft. |
| 3 | 0 | 91 ft. 0 in. |

TABLE D–14—TUBE AND COUPLER SCAFFOLDS MEDIUM DUTY

Uniformly distributed load: Not to exceed 50 p.s.f.
Post spacing (longitudinal): 8 ft. 0 in.
Post spacing (transverse): 6 ft. 0 in.

| Working levels | Additional planked levels | Maximum height |
|---|---|---|
| 1 | 6 | 125 ft. |
| 2 | 0 | 78 ft. 0 in. |

TABLE D–15—TUBE AND COUPLER SCAFFOLDS HEAVY DUTY

Uniformly distributed load: Not to exceed 75 p.s.f.
Post spacing (longitudinal): 6 ft. 6 in.
Post spacing (traverse): 6 ft. 0 in.

| Working levels | Additional planked levels | Maximum height |
|---|---|---|
| 1 | 6 | 125 ft. |

**§ 1910.28c Tube and coupler scaffolds.**

(a) A light-duty tube and coupler scaffold shall have all posts, bearers, runners, and bracing of nominal 2-inch O.D. steel tubing. The posts shall be spaced not more than 6 feet apart by 10 feet along the length of the scaffold. Other structural metals may be used but such metal must be designed to carry an equivalent load.

(b) A medium-duty tube and coupler scaffold shall have all posts, runners, and bracing of nominal 2-inch O.D. steel tubing. Posts spaced not more than 6 feet apart by 8 feet along the length of the scaffold shall have bearers of nominal 2½ inch O.D. steel tubing. Posts spaced not more than 5 feet apart by 8 feet along the length of the scaffold shall have bearers of nominal 2-inch O.D. steel tubing. Other structural metals when used must be designed to carry an equivalent load.

(c) A heavy-duty tube and coupler scaffold shall have all posts, runners, and bracing of nominal 2-inch O.D steel tubing, with the posts spaced not more than 6 feet apart by 6 feet 6 inches along the length of the scaffold. Other structural metals may be used but must be designed to carry an equivalent load.

(d) Tube and coupler scaffolds shall be limited in heights and working levels to those permitted in tables D–13, 14 and 15, of this section. Drawings and specifications of all tube and coupler scaffolds above the limitations in Tables D–13, 14, and 15 of this section shall be designed by a registered professional engineer and copies made available to the employer for inspection purposes.

(e) All tube and coupler scaffolds shall be constructed and erected to support four times the maximum intended loads as set forth in Tables D–13, 14, and 15 of this section, or as set forth in the specifications by a registered professional engineer copies which shall be made available to the employer for inspection purposes.

(f) All tube and coupler scaffolds shall be erected by a designated competent person.

(g) Posts shall be accurately spaced, erected on suitable bases, and maintained plumb.

(h) Runners shall be erected along the length of the scaffold located on both the inside and the outside posts at even height. Runners shall be interlocked to form continuous lengths and coupled to each post. The bottom runners shall be located as close to the base as possible. Runners shall be placed not more than 6 feet 6 inches on centers.

(i) Bearers shall be installed transversely between posts and shall be securely coupled to the posts bearing on the runner coupler. When coupled directly to the runners, the coupler must be kept as close to the posts as possible.

(j) Bearers shall be at least 4 inches but not more than 12 inches longer than the post spacing or runner spacing. Bearers may be cantilevered for use as brackets to carry not more than two planks.

(k) Cross bracing shall be installed across the width of the scaffold at least every third set of posts horizontally and every fourth runner vertically. Such bracing shall extend diagonally from the inner and outer runners upward to the next outer and inner runners.

(l) Longitudinal diagonal bracing shall be installed at approximately a 45-degree angle from near the base of the first outer post upward to the extreme top of the scaffold. Where the longitudinal length of the scaffold permits, such bracing shall be duplicated beginning at every fifth post. In a similar manner longitudinal diagonal bracing shall also be installed from the last post extending back and upward toward the first post. Where conditions preclude the attachment of this bracing to the posts, it may be attached to the runners.

(m) The entire scaffold shall be tied to and securely braced against the building at intervals not to exceed 30 feet horizontally and 26 feet vertically.

(n) Guardrails not less than 2x4 inches or the equivalent and not less than 36 inches or more than 42 inches nominal high, with a mid-rail, when required, of 1x4-inch lumber or equivalent, and toeboards, shall be installed at all open sides on all scaffolds more than 10 feet above the ground or floor. Toeboards shall be a minimum of 4 inches in height. Wire mesh shall be installed in accordance with § 1910.28a (s).

**§ 1910.28d Tubular welded frame scaffolds.**

(a) Metal tubular frame scaffolds, including accessories such as braces, brackets, trusses, screw legs, and ladders, shall be designed and proved to support safely four times the maximum intended load.

(b) Spacing of panels or frames shall be consistent with the loads imposed.

(c) Scaffolds shall be properly braced by cross bracing or diagonal braces, or both, for securing vertical members together laterally, and the cross braces shall be of such length as will automatically square and align vertical members so that the erected scaffold is always plumb, square, and rigid. All brace connections shall be made secure.

(d) Scaffold legs shall be set on adjustable bases or plain bases placed on mud sills or other foundations adequate to support the maximum intended load.

(e) The frames shall be placed one on top of the other with coupling or stacking pins to provide proper vertical alinement of the legs.



V 38-172 SEP 6 73 XUM

(f) Where uplift may occur, panels shall be locked together vertically by pins or other equivalent suitable means.

(g) Guardrails not less than 2 x 4 inches or the equivalent and not less than 36 inches or more than 42 inches nominal high, with a mid-rail, when required, of 1- x 4- inch lumber or equivalent, and toeboards shall be installed at all open sides on all scaffolds more than 10 feet above the ground or floor. Toeboards shall be a minimum of 4 inches in height. Wire mesh shall be installed in accordance with § 1910.28a(s).

(h) All tubular metal scaffolds shall be constructed and erected to support four times the maximum intended loads.

(i) To prevent movement, the scaffold shall be secured to the building or structure at intervals not to exceed 30 feet horizontally and 26 feet vertically.

(j) Planking shall be in conformity with § 1910.28a(k).

(k) Drawings and specifications for all frame scaffolds over 125 feet in height above the base plates shall be designed by a registered professional engineer, and copies of the drawings and specifications shall be available for inspection purposes.

(l) All tubular welded frame scaffolds shall be erected by a designate competent person.

(m) Frames and accessories for scaffolds shall be maintained in good repair. Any noncompliance with matters otherwise required by this subpart shall be immediately corrected before further use of the scaffold. Any broken, bent, excessively rusted, altered, or otherwise structurally damaged frames or accessories shall not be used.

(n) Inspections of frames and accessories shall be made by the employer with reasonable frequency to assure compliance with the requirements of the sections of this subpart relating to scaffolds. A reasonable frequency will depend on the circumstances governing the particular use of the scaffolding.

**§ 1910.28e Outrigger scaffolds.**

(a) Outrigger beams shall extend not more than 6 feet beyond the face of the building. The inboard end of outrigger beams measured from the fulcrum point to the extreme point of support, shall be not less than one and one-half times the outboard end in length. The beams shall rest on edge, the sides shall be plumb, and the edges shall be horizontal. The fulcrum point of the beam shall rest on a secure bearing at least 6 inches in each horizontal dimension. The beam shall be secured in place against movement and shall be securely braced at the fulcrum point against tipping.

(b) The inboard ends of outrigger beams shall be securely supported either by means of struts bearing against sills in contact with the overhead beams or ceiling, or by means of tension members secured to the floor joists underfoot, or by both if necessary. The inboard ends of outrigger beams shall be secured against tipping and the entire supporting structure shall be securely braced in both directions to prevent any horizontal movement.

(c) Unless outrigger scaffords are designed by a registered professional engineer, they shall be constructed and erected in accordance with table D–16. Outrigger scaffolds designed by a registered professional engineer shall be constructed and erected in accordance with such design. A copy of the detailed drawings and specifications showing the sizes and spacing of members shall be kept on the job.

(d) Planking shall be laid tight and shall extend to within 3 inches of the building wall. Planking shall be nailed or bolted to outriggers.

(e) Where there is danger of material falling from the scaffold, a wire mesh or other enclosure shall be provided between the guardrail and the toeboard.

(f) Where additional working levels are required to be supported by the outrigger method, the plans and specifications of the outrigger and scaffolding structure shall be designed by a registered professional engineer.

TABLE D-16—MINIMUM NOMINAL SIZE AND MAXIMUM SPACING OF MEMBERS OF OUTRIGGER SCAFFOLDS

| | Light duty | Medium duty |
|---|---|---|
| Maximum scaffold load | 25 p.s.f. | 50 p.s.f. |
| Outrigger size | 2 x 10 in. | 3 x 10 in. |
| Maximum outrigger spacing | 10 ft 0 in | 6 ft 0 in. |
| Planking | 2 x 9 in. | 2 x 9 in. |
| Guardrail | 2 x 4 in. | 2 x 4 in. |
| Guardrail uprights | 2 x 4 in. | 2 x 4 in. |
| Toeboards | 4 in. (minimum). | 4 in. (minimum). |

**§ 1910.28f Masons' adjustable multiple-point suspension scaffolds.**

(a) The scaffold shall be capable of sustaining a working load of 50 pounds per square foot and shall not be loaded in excess of that figure.

(b) The scaffold shall be provided with hoisting machines that meet nationally recognized testing standards, such as those of Underwriters' Laboratories Inc. or Factory Mutual Research Corp.

(c) The platform shall be supported by wire ropes in conformity with § 1910.28a(x), suspended from overhead outrigger beams.

(d) The scaffold outrigger beams shall consist of structural metal securely fastened or anchored to the frame of the building or structure.

(e) Each outrigger beam shall be equivalent in strength to at least a standard 7-inch, 15.3-pound steel I-beam, be at least 15 feet long, and shall not project more than 6 feet 6 inches beyond the bearing point.

(f) Where the overhang exceeds 6 feet 6 inches, outrigger beams shall be composed of stronger beams or multiple beams and be installed in accordance with the approved designs and instructions of a registered professional engineer.

(g) If channel iron outrigger beams are used in place of I-beams, they shall be securely fastened together with the flanges turned out.

(h) All outrigger beams shall be set and maintained with their webs in a vertical position.

(i) A stop bolt shall be placed at each end of every outrigger beam.

(j) The outrigger beam shall rest on suitable wood-bearing blocks.

(k) All parts of the scaffold such as bolts, nuts, fittings, clamps, wire rope, and outrigger beams and their fastenings, shall be maintained in sound and good working condition and shall be inspected before each installation and periodically thereafter.

(l) The free end of the suspension wire ropes shall be equipped with proper size thimbles and be secured by splicing or other equivalent means. The running ends shall be securely attached to the hoisting drum and at least four turns of rope shall at all times remain on the drum.

(m) When single outrigger beam is used, the steel shackles or clevises with which the wire ropes are attached to the outrigger beams shall be placed directly over the hoisting drums.

(n) The scaffold platform shall be equivalent in strength to at least 2-inch planking.

(o) Guardrails not less than 2 x 4 inches or the equivalent and not less than 36 inches or more than 42 inches nominal high, with a mid-rail, when required, of 1 x 4-inch lumber or equivalent, and toe boards, shall be installed at all open sides on all scaffolds more than 10 feet above the ground floor. Toeboards shall be a minimum of 4 inches in height. Wire mesh shall be installed in accordance with § 1910.28a(s).

(p) Overhead protection shall be provided on the scaffold, not more than 9 feet above the platform, consisting of 2-inch planking or material of equivalent strength laid tightly, when employees are at work on the scaffold and an overhead hazard exists.

(q) Each scaffold shall be installed or relocated in accordance with designs and instructions, of a registered professional engineer, and supervised by a competent designated person.

**§ 1910.28g Two-point suspension scaffolds (swinging scaffolds).**

(a) Two-point suspension scaffold platforms shall be not less than 20 inches nor more than 36 inches wide overall. The platform shall be securely fastened to the hangers by U-bolts or by other equivalent means.

(b) The hangers of two-point suspension scaffolds shall be made of wrought iron, mild steel, or other equivalent material having a cross-sectional area capable of sustaining four times the maximum intended load, and shall be designed with a support for guardrail, intermediate rail, and toeboard.

(c) When hoisting machines are used on two-point suspension scaffolds, such machines shall be of a design tested and approved by a nationally recognized testing laboratory, such as Underwriters' Laboratories, Inc. or Factory Mutual Research Corp., using nationally recognized testing standards.

(d) The roof irons or hooks shall be of wrought iron, mild steel, or other equivalent materials of proper size and design, in good condition and securely installed. Tie-backs of three-fourth inch diameter manila rope or the equivalent shall serve as a secondary means of anchorage, installed at approximately right angles to the face of the building or structure and secured to a structurally sound portion of the building.

(e) Outrigger beams, when used, shall consist of structural metal securely fastened to the frame of the building or structure.

(f) Any outrigger beams which are used shall be equivalent in strength to at least a standard 7 inch, 15.3-pound steel I-beam; shall be at least 15 feet long; and shall not project more than 6 feet 6 inches beyond the bearing point.

(g) Where the overhang exceeds 6 feet 6 inches, outrigger beams shall be composed of stronger beams or multiple beams and be in accordance with designs and instructions approved by a registered professional engineer.

(h) If two-channel iron outrigger beams are used, they shall be securely fastened together with the flanges turned out.

(i) All outrigger beams shall be set and maintained with their webs in a vertical position.

(j) If a weight is used to counterbalance the suspended rated load on the overhang of the outrigger beam, the size of the weight, its position, arrangement, and method used to secure it shall be determined and specified by a registered professional engineer. A copy of the detailed drawings, specifications, and instructions for using weights shall be kept on the job and be available for inspection.

(k) Guardrails not less than 2 x 4 inches or the equivalent and not less than 36 inches or more than 42 inches nominal high, with a mid-rail, when required, of 1-x-4 inch lumber or equivalent, and toeboards, shall be installed at all open sides of all scaffolds, more than 10 feet above the ground or floor. Toeboards shall be a minimum of 4 inches in height. Wire mesh shall be installed in accordance with § 1910.28(a)(s).

(l) Two-point suspension scaffolds shall be suspended by wire or fiber ropes. Wire and fiber ropes shall conform to § 1910.28a(x).

(m) The blocks for fiber ropes shall be of standard 6-inch size, consisting of at least one double and one single block. The sheaves of all blocks shall fit the size of rope used.

(n) All wire ropes, fiber ropes, slings, hangers, platforms, and other supporting parts shall be inspected before every installation. Periodic inspections shall be made while the scaffold is in use.

(o) On suspension scaffolds designed for a working load of 500 pounds, no more than two men shall be permitted to work at one time. On a suspension scaffold with a working load of 750 pounds, no more than three men shall be permitted to work at any one time. Each workman shall be protected by a safety lifebelt attached to a lifeline. The lifeline shall be securely attached to substantial members of the structure (not scaffold), or the securely rigged lines, which will safety suspend the workman in case of a fall.

(p) Where acid solutions are used, fiber ropes are not permitted unless they are acid-proof.

(q) Two-point suspension scaffolds shall be securely lashed to the building or structure to prevent them from swaying. Window cleaners' anchors shall not be used for this purpose.

(r) The platform of every two-point suspension scaffold shall be one of the following types:

(1) The side stringer of ladder-type platforms shall be clear straight grained spruce or materials of equivalent strength and durability. The rungs shall be of straight-grained oak, ash, or hickory, at least 1⅛ inch in diameter, with seven-eighths inch tenons mortised into the side stringers at least seven-eighths inch. The stringers shall be tied together with the tie rods not less than one-quarter inch in diameter, passing through the stringers and riveted up tight against washers on both ends. The flooring strips shall be spaced not more than five-eighths inch apart except at the side rails where the space may be 1 inch. Ladder-type platforms shall be constructed in accordance with table D–17.

(2) Plank-type platforms shall be composed of not less than nominal 2- x 8-inch unspliced planks, properly cleated together on the underside starting 6 inches from each end; intervals in between shall not exceed 4 feet. The plank-type platform shall not extend beyond the hangers more than 18 inches. A bar or other effective means shall be securely fastened to the platform at each end to prevent its slipping off the hanger. The span between hangers for plank-type platforms shall not exceed 10 feet.

(3) Beam platforms shall have side stringers of lumber not less than 2 x 6 inches set on edge. The span between hangers shall not exceed 12 feet when beam platforms are used. The flooring shall be supported on 2- x 6-inch cross-beams, laid flat and set into the upper edge of the stringers with a snug fit, at intervals of not more than 8 feet, securely nailed in place. The flooring shall be of 1- x 6-inch material properly nailed. Floorboards shall not be spaced more than one-half inch apart.

TABLE D-17—SCHEDULE FOR LADDER-TYPE PLATFORMS

| | Length of platform (feet) | | | | |
|---|---|---|---|---|---|
| | 12 | 11 & 16 | 18 & 20 | 22 & 24 | 28 & 30 |
| Side stringers, minimum cross section (finished sizes): | | | | | |
| At ends (in.) | 1¾ x 2¾ | 1¾ x 2¾ | 1¾ x 3 | 1¾ x 3 | 1¾ x 3½ |
| At middle (in.) | 1¾ x 3½ | 1¾ x 3½ | 1¾ x 4 | 1¾ x 4½ | 1¾ x 5 |
| Reinforcing strip (minimum) | A ¾x2-in. steel reinforcing strip or its equivalent shall be attached to the side or underside full length. | | | | |
| Rungs | Rungs shall be 1⅛-in. minimum, diameter with at least ⅞-in. diameter tenons, and the maximum spacing shall be 12 in. center to center. | | | | |
| Tie rods: | | | | | |
| Number (minimum) | 3 | 4 | 4 | 5 | 6 |
| Diameter (minimum) | ¼ in. | ¼ in. | ¼ in. | ¼ in. | ¼ in. |
| Flooring, minimum finished size (in.) | ½ x 2¾ | ½ x 2¾ | ½ x 2¾ | ½ x 2¾ | ½ x 2¾ |

**§ 1910.28h Stone setters' adjustable multiple-point suspension scaffolds.**

(a) The scaffold shall be capable of sustaining a working load of 25 pounds per square foot and shall not be overloaded. Scaffolds shall not be used for storage of stone or other heavy materials.

(b) The hoisting machine and its supports shall be of a type tested and approved using nationally recognized standards by a nationally recognized testing laboratory such as Underwriters Laboratories, Inc. or Factory Mutual Research Corp.

(c) The platform shall be securely fastened to the hangers by U-bolts or other equivalent means.

(d) The scaffold unit shall be suspended from metal outriggers, iron brackets, wire rope slings, or iron hooks which will safely support the maximum intended load.

(e) Outriggers when used shall be set with their webs in a vertical position, securely anchored to the building or structure and provided with stop bolts at each end.

(f) The scaffold shall be supported by wire rope conforming with § 1910.28a(x), suspended from overhead supports.

(g) The free ends of the suspension wire ropes shall be equipped with proper size thimbles, secured by splicing or other equivalent means. The running ends shall be securely attached to the hoisting drum and at least four turns of rope shall remain on the drum at all times.

(h) Guardrails not less than 2 by 4 inches or the equivalent and not less than 36 inches or more than 42 inches nominal high, with a mid-rail, when required, of 1- by 4-inch lumber or equivalent, and toeboards shall be installed at all open sides on all scaffolds more than 10 feet above the ground or floor. Toeboards shall be a minimum of 4 inches in height. Wire mesh shall be installed in accordance with § 1910.28a(s).

(i) When two or more scaffolds are used on a building or structure they shall not be bridged one to the other but shall be maintained at even height with platforms butting closely.

(j) Each scaffold shall be installed or relocated in accordance with designs and instructions of a registered professional engineer, and such installation or relocation shall be supervised by a competent designated person.

**§ 1910.28i Single-point adjustable suspension scaffolds.**

(a) The scaffolding, including power units or manually operated winches, shall







V 38 172 SEP 6 73 XUM

be of a type tested and approved using nationally recognized standards and by a nationally recognized testing laboratory, such as Underwriters' Laboratories Inc. or Factory Mutual Research Corp.

(b) The power units may be either electrically or air motor driven.

(c) All power-operated gears and brakes shall be enclosed.

(d) In addition to the normal operating brake, all-power driven units must have an emergency brake which engages automatically when the normal speed of descent is exceeded.

(e) Guards, mid-rails, and toeboards shall completely enclose the cage or basket. Guardrails shall be no less than 2 by 4 inches or the equivalent installed no less than 36 inches nor more than 42 inches above the platform. Mid-rails shall be 1 by 6 inches or the equivalent, installed equidistant between the guardrail and the platform. Toeboards shall be a minimum of 4 inches in height.

(f) The hoisting machines, cables, and equipment shall be regularly serviced and inspected after each installation and every 30 days thereafter.

(g) The units may be combined to form a two-point suspension scaffold. Such scaffold shall comply with § 1910.28g.

(h) The supporting cable shall be straight for its entire length, and the operator shall not sway the basket and fix the cable to any intermediate points to change his original path of travel.

(i) Equipment shall be maintained and used in accordance with the manufacturers' instructions.

(j) Suspension methods shall conform to applicable provisions of §§ 1910.28f and 1910.28g.

**§ 1910.28j Boatswain's chairs.**

(a) The chair seat shall be not less than 12 by 24 inches, and of 1-inch thickness. The seat shall be reinforced on the underside to prevent the board from splitting.

(b) The two fiber rope seat slings shall be of $\frac{5}{8}$-inch diameter, reeved through the four seat holes so as to cross each other on the underside of the seat.

(c) Seat slings shall be of at least $\frac{3}{8}$-inch wire rope when a workman is conducting a heat producing process such as gas or arc welding.

(d) The workman shall be protected by a safety life belt attached to a lifeline. The lifeline shall be securely attached to substantial members of the structure (not scaffold), or to securely rigged lines, which will safely suspend the employee in case of a fall.

(e) The tackle shall consist of correct size roller bearing on bushed blocks and properly spliced $\frac{5}{8}$-inch diameter first-grade manila rope.

(f) The roof irons, hooks, or the object to which the tackle is anchored shall be securely installed. Tiebacks when used shall be installed at right angles to the face of the building and securely fastened to a chimney. Or some other structure which will safely suspend the employee in case of a fall.

**§ 1910.28k Carpenters' bracket scaffolds.**

(a) The brackets shall consist of a triangular wood frame not less than 2 by 3 inches in cross section, or of metal of equivalent strength. Each member shall be properly fitted and securely joined.

(b) Each bracket shall be attached to the structure by means of one of the following:

(1) A bolt no less than five-eighths inch in diameter which shall extend through the inside of the building wall.

(2) A metal stud attachment device.

(3) Welding to steel tanks.

(4) Hooking over a well-secured and adequately strong supporting member.

The brackets shall be spaced no more than 10 feet apart.

(c) No more than two persons shall occupy any given 10 feet of a bracket scaffold at any one time. Tools and materials shall not exceed 75 pounds in addition to the occupancy.

(d) The platform shall consist of not less than two 2- by 9-inch nominal size planks extending not more than 18 inches or less than 6 inches beyond each end support.

(e) Guardrails not less than 2 by 4 inches or the equivalent and not less than 36 inches or more than 42 inches nominal high, with a mid-rail, when required, of 1- by 4-inch lumber or equivalent, and toeboards, shall be installed at all open sides on all scaffolds more than 10 feet above the ground or floor. Toeboards shall be a minimum of 4 inches in height. Wire mesh shall be installed in accordance with § 1910.28a(s).

**§ 1910.28l Bricklayers' square scaffolds.**

(a) The squares shall not exceed 5 feet in width and 5 feet in height.

(b) Members shall be not less than those specified in Table D–18.

(c) The squares shall be reinforced on both sides of each corner with 1- by 6-inch gusset pieces. They shall also have braces 1 by 8 inches on both sides running from center to center of each member, or other means to secure equivalent strength and rigidity.

(d) The squares shall be set not more than 5 feet apart for medium duty scaffolds, and not more than 8 feet apart for light duty scaffolds. Bracing 1 x 8 inches, extending from the bottom of each square to the top of the next square, shall be provided on both front and rear sides of the scaffold.

TABLE D–18—MINIMUM DIMENSIONS FOR BRICKLAYERS' SQUARE SCAFFOLD MEMBERS

| Members: | *Dimensions (inches)* |
|---|---|
| Bearers or horizontal members | 2 by 6. |
| Legs | 2 by 6. |
| Braces at corners | 1 by 6. |
| Braces diagonally from center frame | 1 by 8. |

(e) Platform planks shall be at least 2- by 9-inch nominal size. The ends of the planks shall overlap the bearers of the squares and each plank shall be supported by not less than three squares.

(f) Bricklayers' square scaffolds shall not exceed two tiers in height and shall be so constructed and arranged that one square shall rest directly above the other. The upper tiers shall stand on a continuous row of planks laid across the next lower tier and be nailed down or otherwise secured to prevent displacement.

(g) Scaffolds shall be level and set upon a firm foundation.

**§ 1910.28m Horse scaffolds.**

(a) Horse scaffolds shall not be constructed or arranged more than two tiers or 10 feet in height.

(b) The members of the horses shall be not less than those specified in Table D–19.

(c) Horses shall be spaced not more than 5 feet for medium duty and not more than 8 feet for light duty.

(d) When arranged in tiers, each horse shall be placed directly over the horse in the tier below.

(e) On all scaffolds arranged in tiers the legs shall be nailed down to the planks to prevent displacement or thrust and each tier shall be substantially cross braced.

TABLE D–19—MINIMUM DIMENSIONS FOR HORSE SCAFFOLD MEMBERS

| Members: | *Dimensions (inches)* |
|---|---|
| Horizontal members or bearers | 3 by 4. |
| Legs | 1¼ by 4½. |
| Longitudinal brace between legs | 1 by 6. |
| Gusset brace at top of legs | 1 by 8. |
| Half diagonal braces | 1¼ by 4½. |

(f) Horses or parts which have become weak or defective shall not be used.

(g) Guardrails not less than 2 by 4 inches or the equivalent and not less than 36 inches or more than 42 inches nominal high with a mid-rail, when required, of 1- by 4-inch lumber or equivalent and toeboards, shall be installed at all open sides on all scaffolds more than 10 feet above the ground or floor. Toeboards shall be a minimum of 4 inches in height. Wire mesh shall be installed in accordance with § 1910.28a(s).

**§ 1910.28n Needle beam scaffold.**

(a) Wood needle beams shall be in accordance with § 1910.28a (f) and (j) and shall not be less than 4 by 6 inches in size, with the greater dimension placed in a vertical direction. Metal beams or the equivalent conforming to § 1910.28a (f) and (j) may be used.

(b) Ropes or hangers shall be provided for supports. The span between supports on the needle beam shall not exceed 10 feet for 4- by 6-inch timbers. Rope supports shall be equivalent in strength to 1-inch diameter first-grade manila rope.

(c) The ropes shall be attached to the needle beams by a scaffold hitch or a properly made eye splice. The loose end of the rope shall be tied by a bowline knot or by a round turn and one-half hitch.

(d) The platform span between the needle beams shall not exceed 8 feet when using 2-inch scaffold plank. For spans greater than 8 feet, platforms shall be designed based on design requirements for the special span. The overhang of each end of the platform planks shall be not less than 1 foot and not more than 18 inches.

(e) When one needle beam is higher than the other or when the platform is not level the platform shall be secured to prevent slipping.

(f) All unattached tools, bolts, and nuts used on needle beam scaffolds shall be kept in suitable containers.

(g) One end of a needle beam scaffold may be supported by a permanent structural member conforming to § 1910.28a (f) and (j).

(h) Each employee working on a needle beam scaffold 20 feet or more above the ground or floor shall be protected by a safety belt attached to a lifeline. The lifeline shall be securely attached to substantial members of the structure (not scaffold), or to securely rigged lines, which will safely suspend the employee in case of a fall.

**§ 1910.28o Plasterers', decorators', and large area scaffolds.**

(a) Plasterers', decorators', lathers', and ceiling workers' inside scaffolds shall be constructed in accordance with the general requirements set forth for independent wood pole scaffolds.

(b) Guardrails not less than 2 by 4 inches or the equivalent and not less than 36 inches or more than 42 inches nominal high, with a mid-rail, when required, of 1- by 4-inch lumber or equivalent, and toeboards, shall be installed at all open sides on all scaffolds more than 10 feet above the ground or floor. Toeboards shall be a minimum of 4 inches in accordance with § 1910.28a(s).

(c) All platform planks shall be laid with the edges close together.

(d) When independent pole scaffold platforms are erected in sections, such sections shall be provided with connecting runways equipped with substantial guardrails.

**§ 1910.28p Interior hung scaffolds.**

(a) An interior hung scaffold should be hung or suspended from the roof structure or substantial ceiling beams.

(b) The suspended steel wire rope shall conform to § 1910.28a(x). Wire may be used provided the strength requirements of § 1910.28a(x) are met.

(c) For hanging wood scaffolds, the following minimum nominal size material is recommended:

(1) Supporting bearers 2 by 9 inches on edge.

(2) Planking 2 by 9 inches with maximum span 7 feet for heavy duty and 10 feet for light duty or medium duty.

(d) Steel tube and coupler members may be used for hanging scaffolds with both types of scaffold designed to sustain a uniform distributed working load up to heavy duty scaffold loads with a safety factor of four.

(e) When a hanging scaffold is supported by means of wire rope, such wire rope shall be wrapped at least twice around the supporting members and twice around the bearers of the scaffold, with each end of the wire rope secured by at least three standard wire-rope clips.

(f) All overhead supporting members shall be inspected and checked for strength before the scaffold is erected.

(g) Guardrails not less than 2 by 4 inches or the equivalent and not less than 36 inches or more than 42 inches nominal high, with a mid-rail, when required, of 1- by 4-inch lumber or equivalent, and toeboards, shall be installed at all open sides on all scaffolds more than 10 feet above the ground or floor. Toeboards shall be a minimum of 4 inches in height. Wire mesh shall be installed in accordance with § 1910.28a(s).

**§ 1910.28q Ladder-jack scaffolds.**

(a) All ladder-jack scaffolds shall be limited to light duty and shall not exceed a height of 20 feet above the floor or ground.

(b) All ladders used in connection with ladder-jack scaffolds shall be heavy-duty ladders and shall be designed and constructed in accordance with this subpart.

(c) The ladder jack shall be so designed and constructed that it will bear on the side rails in addition to the ladder rungs, or if bearing on rungs only, the bearing area shall be at least 10 inches on each rung.

(d) Ladders used in conjunction with ladder jacks shall be so placed, fastened, held, or equipped with devices so as to prevent slipping.

(e) The wood platform planks shall be not less than 2 inches nominal in thickness. Both metal and wood platform planks shall overlap the bearing surface not less than 12 inches. The span between supports for wood shall not exceed 8 feet. Platform width shall be not less than 18 inches.

(f) No more than two persons shall occupy any given 8 feet of any ladder-Jack scaffold at any one time.

(g) Ladder-jack scaffolds shall be provided with suitable guardrails unless safety belts with lifelines are attached and provided for the employee.

**§ 1910.28r Window-jack scaffolds.**

(a) Window-jack scaffolds shall be used only for the purpose of working at the window opening through which the jack is placed.

(b) Window jacks shall not be used to support planks placed between one window jack and another or for other elements of scaffolding.

(c) Window-jack scaffolds shall be provided with suitable guardrails unless safety belts with lifelines are attached and provided for the employee. Window-jack scaffolds shall be used by no more than one employee.

**§ 1910.28s Roofing brackets.**

(a) Roofing brackets shall be constructed to fit the pitch of the roof.

(b) Brackets shall be secured in place by nailing in addition to the pointed metal projections. The nails shall be driven full length into the roof. When rope supports are used, they shall consist of first-grade manila of at least three-quarter-inch diameter, or equivalent.

(c) A substantial catch platform shall be installed below the working area of roofs more than 20 feet from the ground to eaves with a slope greater than 3 inches in 12 inches without a parapet. In width the platform shall extend 2 feet beyond the projection of the eaves and shall be provided with a standard guardrail as required by § 1910.28a(e)(2). This provision shall not apply where employees engaged in work upon such roofs are protected by a safety belt attached to a lifeline.

(d) Where employees are required to work near the edge of a flat roof or a roof with a slope no greater than 3 inches in 12 inches they shall be protected by one of the following:

(1) A catch platform as required by paragraph (c) of this section or

(2) By a standard guardrail as required by § 1910.28(e)(2) or an equivalent barrier. These guards may be of removable construction or portable guardrails if they are of equivalent strength and protection or

(3) When the nature of the work to be done on the roof is not extensive enough to justify the installation of guards as indicated above, employees shall be protected by a safety belt properly secured to prevent falling.

**§ 1910.28t Crawling boards or chicken ladders.**

(a) Crawling boards shall be not less than 10 inches wide and 1 inch thick, having cleats 1 x 1½ inches. The cleats shall be equal in length to the width of the board and spaced at equal intervals not to exceed 24 inches. Nails shall be driven through and clinched on the underside. The crawling board shall extend from the ridge pole to the eaves when used in connection with roof construction, repair, or maintenance.

(b) A firmly fastened lifeline of at least three-quarter-inch rope shall be strung beside each crawling board for a handhold.

(c) Crawling boards shall be secured to the roof by means of adequate ridge hooks or equivalent effective means.

**§ 1910.28u Float or ship scaffolds.**

(a) Float or ship scaffolds shall support not more than three men and a few light tools, such as those needed for riveting, bolting, and welding. They shall be constructed in accordance with paragraphs (b) through (f) of this section, unless substitute designs and materials provide equivalent strength, stability, and safety.

(b) The platform shall be not less than 3 feet wide and 6 feet long, made of three-quarter-inch exterior plywood.

(c) Under the platform, there shall be two supporting bearers made from 2- x 4-inch, or 1- x 10-inch rough, selected lumber, or better. They shall be free of knots or other flaws and project 6 inches beyond the platform on both sides. The ends of the platform shall extend about 6 inches beyond the outer







V 38-172 SEP 6 73 XUM

edges of the bearers. Each bearer shall be securely fastened to the platform.

(d) An edging of wood not less than ¾ x 1½ inches, or equivalent, shall be placed around all sides of the platform to prevent tools from rolling off.

(e) Supporting ropes shall be 1-inch diameter manila rope or equivalent, free from deterioration, chemical damage, flaws, or other imperfections. Rope connections shall be such that the platform cannot shift or slip. If two ropes are used with each float, they should be arranged so as to provide four ends which are to be securely fastened to an overhead support. Each of the two supporting ropes shall be hitched around one end of a bearer and pass under the platforms to the other end of the bearer where it is hitched again, leaving sufficient rope at each end for the supporting ties.

(f) Each workman shall be protected by a safety belt attached to a lifeline. The lifeline shall be securely attached to substantial members of the structure (not scaffold) or to securely rigged lines, which will safely suspend the workman in case of a fall.

§ 1910.28v **Definitions.**

As used in the sections under the centerhead "Safety Requirements for Scaffolding", the scaffolding terms shall have the meaning set forth in this section, unless the context requires otherwise:

(a) *Bearer (Putlog).*—A horizontal member of a scaffold upon which the platform rests and which may be supported by ledgers.

(b) *Boatswain's chair.*—A seat supported by slings, attached to a suspended rope, designed to accommodate one workman in a sitting position.

(c) *Brace.*—A tie that holds one scaffold member in a fixed position with respect to another member.

(d) *Bricklayers' square scaffold.*—A scaffold composed of framed wood squares which support a platform limited to light and medium duty.

(e) *Carpenters' bracket scaffold.*—A scaffold consisting of wood or metal brackets supporting a platform.

(f) *Coupler.*—A device for locking together the component parts of a tubular metal scaffold. The material used for the couplers shall be of a structural type, such as drop-forged steel, malleable iron, or structural grade aluminum. The use of gray cast iron is prohibited.

(g) *Crawling board or chicken ladder.*—A plank with cleats spaced and secured at equal intervals, for use by a worker on roofs, not designed to carry any material.

(h) *Double pole or independent pole scaffold.*—A scaffold supported from the base by a double row of uprights, independent of support from the walls and constructed of uprights, ledgers, horizontal platform bearers, and diagonal bracing.

(i) *Float or ship scaffold.*—A scaffold hung from overhead supports by means of ropes and consisting of a substantial platform having diagonal bracing underneath, resting upon and securely fastened to two parallel plank bearers at right angles to the span.

(j) *Guardrail.*—A rail secured to uprights and erected along the exposed sides and ends of platforms.

(k) *Heavy duty scaffold.*—A scaffold designed and constructed to carry a working load not to exceed 75 pounds per square foot.

(l) *Horse scaffold.*—A scaffold for light or medium duty, composed of horses supporting a work platform.

(m) *Interior hung scaffold.*—A scaffold suspended from the ceiling or roof structure.

(n) *Ladder jack scaffold.*—A light duty scaffold supported by brackets attached to ladders.

(o) *Ledger (stringer runner).*—A horizontal scaffold member which extends from post to post and which supports the putlogs or bearer forming a tie between the post.

(p) *Light duty scaffold.*—A scaffold designed and constructed to carry a working load not to exceed 25 pounds per square foot.

(q) *Manually propelled mobile scaffold.*—A portable rolling scaffold supported by casters.

(r) *Masons' adjustable multiple-point suspension scaffold.*—A scaffold having a continuous platform supported by bearers suspended by wire rope from overhead supports so arranged and operated as to permit the raising or lowering of the platform to desired working positions.

(s) *Maximum intended load.*—The total of all loads including the working load, the weight of the scaffold, and such other loads as may be reasonably anticipated.

(t) *Medium duty scaffold.*—A scaffold designed and constructed to carry a working load not to exceed 50 pounds per square foot.

(u) *Mid-rail.*—A rail approximately midway between the guardrail and platform, used when required, and secured to the uprights erected along the exposed sides and ends of platforms.

(v) *Needle beam scaffold.*—A light duty scaffold consisting of needle beams supporting a platform.

(w) *Outrigger scaffold.*—A scaffold supported by outriggers or thrustouts projecting beyond the wall or face of the building or structure, the inboard ends of which are secured inside of such a building or structure.

(x) *Putlog.*—A scaffold member upon which the platform rests.

(y) *Roofing bracket.*—A bracket used in sloped roof construction, having provisions for fastening to the roof or supported by ropes fastened over the ridge and secured to some suitable object.

(z) *Runner.*—The lengthwise horizontal bracing or bearing members or both.

(aa) *Scaffold.*—Any temporary elevated platform and its supporting structure used for supporting employees or materials or both.

(bb) *Single-point adjustable suspension scaffold.*—A manually or power-operated unit designed for light duty use, supported by a single wire rope from an overhead support so arranged and operated as to permit the raising or lowering of the platform to desired working positions.

(cc) *Single pole scaffold.*—Platforms resting on putlogs or crossbeams, the outside ends of which are supported on ledgers secured to a single row of posts or uprights and the inner ends of which are supported on or in a wall.

(dd) *Stone setters' adjustable multiple-point suspension scaffold.*—A swinging-type scaffold having a platform supported by hangers suspended at four points so as to permit the raising or lowering of the platform to the desired working position by the use of hoisting machines.

(ee) *Toeboard.*—A barrier secured along the sides and ends of a platform, to guard against the falling of material.

(ff) *Tube and coupler scaffold.*—An assembly consisting of tubing which serves as posct, bearers, braces, ties, and runners, a base supporting the posts, and special couplers which serve to connect the uprights and to join the various members.

(gg) *Tubular welded frame scaffold.*—A sectional, panel, or frame metal scaffold substantially build up of prefabricated welded sections which consist of posts and horizontal bearer with intermediate members. Panels or frames shall be braced with diagonal or cross braces.

(hh) *Two-point suspension scaffold (swinging scaffold).*—A scaffold, the platform of which is supported by hangers (stirrups) at two points, suspended from overhead supports so as to permit the raising or lowering of the platform to the desired working position by tackle or hoisting machines.

(ii) *Window jack scaffold.*—A scaffold, the platform of which is supported by a bracket or jack which projects through a window opening.

(jj) *Working load.*—Load imposed by men, materials, and equipment.

(kk) *Floor.*—The main level or bottom or lower part of a room or space, on which an employee stands, as distinguished from a scaffold or platform or other narrower structure except that this does not include a flat roof.

(ll) *Roof.*—The cover of any building or the top of any building.

MANUALLY PROPELLED MOBILE LADDER STANDS AND SCAFFOLDS (TOWERS)

§ 1910.29a **General requirements.**

(a) The sections under the centerhead "Manually Propelled Mobile Ladder Stands and Scaffolds (Towers)" are intended to prescribe requirements for the design, construction, and use of mobile work platforms (including ladder stands but not including aerial ladders) and rolling (mobile) scaffolds (towers). The purpose is to protect employees using this equipment from hazards. When an employer is not immediately involved in matters relating to the design and construction of the equipment, he shall obtain reasonable assurances that the requirements of these sections have been met.





(b) *Working loads.*—(1) Work platforms and scaffolds shall be capable of carrying the design load under varying circumstances depending upon the conditions of use. Therefore, all parts and appurtenances necessary for their safe and efficient utilization must be integral parts of the design.

(2) Specific design and construction requirements are not a part of this section because of the wide variety of materials and design possibilities. However, the design shall be such as to produce a mobile ladder stand or scaffold that will safely sustain the specified loads. The material selected shall be of sufficient strength to meet the test requirements and shall be protected against corrosion or deterioration.

(i) The design working load of ladder stands shall be calculated on the basis of one or more 200-pound persons together with 50 pounds of equipment each.

(ii) The design load of all scaffolds shall be calculated on the basis of:

*Light.*—Designed and constructed to carry a working load of 25 pounds per square foot.

*Medium.*—Designed and constructed to carry a working load of 50 pounds per square foot.

*Heavy.*—Designed and constructed to carry a working load of 75 pounds per square foot.

All ladder stands and scaffolds shall be capable of supporting at least four times the design working load.

(3) The materials used in mobile ladder stands and scaffolds shall be of standard manufacture and conform to standard specifications of strength, dimensions, and weights, and shall be selected to safety support the design working load.

(4) Nails, bolts, or other fasteners used in the construction of ladders, scaffolds, and towers shall be of adequate size and in sufficient numbers at each connection to develop the designed strength of the unit. Nails shall be driven full length.

(5) All exposed surfaces shall be free from sharp edges, burrs or other hazards.

(c) *Work levels.*—(1) The maximum work level height shall not exceed four (4) times the minimum or least base dimension of any mobile ladder stand or scaffold. Where the basic mobile unit does not meet this requirement, suitable outrigger frames shall be employed to achieve this least base dimension, or provisions shall be made to guy or brace the unit against tipping.

(2) The minimum platform width for any work level shall not be less than 20 inches for mobile scaffolds (towers). Ladder stands shall have a minimum step width of 16 inches.

(3) The supporting structure for the work level shall be rigidly braced, using adequate cross bracing or diagonal bracing with rigid platforms at each work level.

(4) The steps of ladder stands shall be fabricated from slip resistant treads.

(5) The work level platform of scaffolds (towers) shall be of wood, aluminum, or plywood planking, steel or expanded metal, for the full width of the scaffold, except for necessary openings. Work platforms shall be secured in place. All planking shall be 2-inch (nominal) scaffold grade minimum 1,500 f. (stress grade) construction grade lumber or equivalent.

(6) All scaffold work levels 10 feet or higher above the ground or floor shall have a standard (4-inch nominal) toeboard.

(7) All work levels 10 feet or higher above the ground or floor shall have a guardrail of 2- by 4-inch nominal or the equivalent installed no less than 36 inches or more than 42 inches high, with a midrail, when required, of 1- by 4-inch nominal lumber or equivalent.

(8) A climbing ladder shall be provided for access and egress. It shall be fastened or built into the scaffold by sound design and engineering. It shall be located so that its use will not alter the stability of the scaffold. The rungs of the climbing ladder shall be equally spaced, but shall be not less than 12 inches nominal or more than 16 inches nominal between the rungs. Horizontal-end rungs used for platform supports may also be used as the climbing ladder if they are spaced in accordance with the requirements of the previous sentence, and if there is sufficient clearance between the rungs and the edge of the platform to afford an adequate hand-hold. If the aforementioned requirements cannot be met, a portable ladder with rungs equally spaced, but not less than 12 inches nominal or more than 16 inches nominal separating the rungs, shall be securely fixed to the scaffold. A clearance in the back of the ladder of 7 inches nominal from the center of the rungs to the nearest scaffold structural member shall be provided.

(d) *Wheels or casters.*—(1) Wheels or casters shall be properly designed for strength and dimensions to support four (4) times the design working load.

(2) All scaffold casters shall be provided with a positive wheel or swivel lock or both to prevent movement. Ladder stands shall have at least two (2) locking casters or other means of locking the unit in position and at least two (2) of the four (4) casters shall be of the swivel type.

(3) Where leveling of the elevated work platform is required, screw jacks or other suitable means for adjusting the height shall be provided in the base section of each mobile unit.

§ 1910.29b **Mobile tubular welded frame scaffolds.**

(a) *General.*—Units shall be designed to comply with the requirements of § 1910.29a of this subpart.

(b) *Bracing.*—Scaffolds shall be properly braced by cross braces and/or diagonal braces for securing vertical members so the erected scaffold is always plumb, square, and rigid.

(c) *Spacing.*—Spacing of panels or frames shall be consistent with the loads imposed. The frames shall be placed one on top of the other with coupling or stacking pins to provide proper vertical alignment of the legs.

(d) *Locking.*—Where uplift may occur, panels shall be locked together vertically by pins or other equivalent means.

(e) *Erection.*—Only the manufacturer of a scaffold or his qualified designated agent shall be permitted to erect or supervise the erection of scaffolds exceeding 50 feet in height above the base, unless such structure is approved in writing by a registered professional engineer, or erected in accordance with the instructions furnished by the manufacturer.

§ 1910.29c **Mobile tubular welded sectional folding scaffolds.**

(a) *General.*—Units including sectional stairway and sectional ladder scaffolds shall be designed to comply with the requirements of § 1910.29a.

(b) *Stairway.*—An integral stairway and work platform shall be incorporated into the structure of each sectional folding stairway scaffold.

(c) *Bracing.*—An integral set of pivoting and hinged folding diagonal and horizontal braces and a detachable work platform shall be incorporated into the structure of each sectional folding ladder scaffold.

(d) *Sectional folding stairway scaffolds.*—Sectional folding stairway scaffolds shall be designed as medium duty scaffolds except for special base (open end) sections which are designed for high clearance. These special base sections shall be designed as light duty scaffolds. When upper sectional folding stairway scaffolds are used with a special high clearance base, the load capacity of the entire scaffold shall be reduced accordingly. The width of a sectional folding stairway scaffold shall not exceed 4½ feet. The maximum length of a sectional folding stairway scaffold shall not exceed 6 feet.

(e) *Sectional folding ladder scaffolds.*—Sectional folding ladder scaffolds shall be designed as light duty scaffolds including special base (open end) sections which are designed for high clearance. For certain special applications, the six-foot (6') folding ladder scaffolds, except for special high clearance base sections, shall be designed for use as medium duty scaffolds. The width of a sectional folding ladder scaffold shall not exceed 4½ feet. The maximum length of a sectional folding ladder scaffold shall not exceed 6 feet 6 inches for a six-foot (6') long unit, 8 feet 6 inches for an eight-foot (8') unit or 10 feet 6 inches for a ten-foot (10') long unit.

(f) *End frames.*—The end frames of sectional ladder and stairway scaffolds shall be designed so that the horizontal bearers provide supports for multiple planking levels.

(g) *Erection.*—Only the manufacturer of the scaffold or similarly qualified person shall be permitted to erect or supervise the erection of scaffolds exceeding 50 feet in height above the base, unless such structure is approved in writing by a registered professional engineer, or erected in accordance with instructions furnished by the manufacturer.



V 38-172 SEP 6 73 XUM

§ 1910.29d Mobile tube and coupler scaffolds.

(a) *Design.*—Units shall be designed to comply with the applicable requirements of § 1910.29a.

(b) *Material.*—The material used for the couplers shall be of a structural type, such as a drop-forged steel, malleable iron or structural grade aluminum. The use of gray iron is prohibited.

(c) *Erection.*—Only the manufacturer of the scaffold or his qualified designated agent shall be permitted to erect or supervise the erection of scaffolds exceeding 50 feet in height above the base, unless such structure is approved in writing by a registered professional engineer, or erected in accordance with instructions furnished by the manufacturer.

§ 1910.29e Mobile work platforms.

(a) *Design.*—Units shall be designed for the use intended and shall comply with the requirements of § 1910.29a.

(b) *Base width.*—The minimum width of the base of mobile work platforms shall not be less than 20 inches.

(c) *Bracing.*—Adequate rigid diagonal bracing of vertical members shall be provided.

§ 1910.29f Mobile ladders stands.

(a) *Design.*—Units shall comply with applicable requirements of § 1910.29a.

(b) *Base width.*—The minimum base width shall conform to § 1910.29a(c)(1). The maximum length of the base section shall be the total length of combined steps and top assembly, measured horizontally, plus five-eighth inch per step of rise.

(c) *Steps.*—Steps shall be uniformly spaced, and sloped, with a rise of not less than nine (9) inches, nor more than ten (10) inches, and a depth of not less than seven (7) inches. The slope of the steps section shall be a minimum of fifty-five (55) degrees and a maximum of sixty (60) degrees measured from the horizontal.

(d) *Handrails.*—(1) Units having more than five (5) steps or 60 inches vertical height to the top step shall be equipped with handrails.

(2) Handrails shall be a minimum of 29 inches high. Measurements shall be taken vertically from the center of the step.

(e) *Loading.*—The load (see § 1910.25a (b)(2)(i)) shall be applied uniformly to a 3½ inches wide area front to back at the center of the width span with a safety factor of four (4).

§ 1910.29g Definitions.

As used in the sections under the centerhead "Manually propelled mobile ladder stands and scaffolds (towers)", unless the context indicates otherwise, manually propelled mobile ladder stand and scaffold (tower) terms shall have the meanings ascribed in this section.

(a) *Bearer (Putlog).*—A horizontal member of a scaffold upon which the platform rests and which may be supported by ledgers.

(b) *Brace.*—A tie that holds one scaffold member in a fixed position with respect to another member.

(c) *Climbing ladder.*—A separate ladder with equally spaced rungs usually attached to or included in the scaffold structure for climbing and descending.

(d) *Coupler.*—A device for locking together the components of a tubular metal scaffold which shall be designed and used to safely support the maximum intended loads.

(e) *Design working load.*—The maximum intended load, being the total of all loads including the weight of the men, materials, equipment, and platform.

(f) *Equivalent.*—Alternative design or features, which will provide an equal degree or factor of safety.

(g) *Guardrail.*—A barrier secured to uprights and erected along the exposed sides and ends of platforms to prevent falls of persons.

(h) *Handrail.*—A rail connected to a ladder stand running parallel to the slope and/or top step.

(i) *Ladder stand.*—A mobile fixed size self-supporting ladder consisting of a wide flat tread ladder in the form of stairs. The assembly may include handrails.

(j) *Ledger (stringer, runner).*—A horizontal scaffold member which extends from post to post and which supports the bearer forming a tie between the posts.

(k) *Mobile scaffold (tower).*—A light, medium or heavy duty scaffold mounted on casters or wheels.

(l) *Mobile.*—"Manually propelled."

(m) *Mobile work platform.*—Generally a fixed work level one frame high on casters or wheels, with bracing diagonally from platform to vertical frame.

(n) *Runner (stringer, ledger).*—The lengthwise horizontal bracing and or bearing members.

(o) *Scaffold.*—Any temporary elevated platform and its necessary vertical, diagonal, and horizontal members used for supporting workmen and materials. (Also known as a scaffold tower.)

(p) *Toeboard.*—A barrier at platform level erected along the exposed sides and ends of a scaffold platform to prevent falls of materials.

(q) *Tube and coupler scaffold.*—An assembly consisting of tubing which serves as posts, bearers, braces, ties and runners, a base supporting the posts, and uprights, and serves to join the various members, usually used in fixed locations.

(r) *Tubular welded frame scaffold.*—A sectional, panel or frame metal scaffold substantially built up of prefabricated welded sections, which consist of posts and bearers with intermediate connecting members and braced with diagonal or cross braces.

(s) *Tubular welded sectional folding scaffold.*—A sectional, folding metal scaffold either of ladder frame or inside stairway design, substantially built of prefabricated welded sections, which consist of end frames. Platform frame, inside inclined stairway frame and braces, or hinged connected diagonal and horizontal braces, capable of being folded into a flat package when the scaffold is not in use.

(t) *Work level.*—The elevated platform, used for supporting workmen and their materials, comprising the necessary vertical, horizontal, and diagonal braces, guardrails, and ladder for access to the work platform.

OTHER WORKING SURFACES

§ 1910.30 Dockboards (bridge plates).

(a) Portable and powered dockboards shall be strong enough to carry the load imposed on them.

(b) Portable dockboard shall be secured in position, either by being anchored or equipped with devices which will prevent their slipping.

(c) Powered dockboards shall be designed and constructed in accordance with standard engineering practices.

(d) Handholds, or other effective means, shall be provided on portable dockboards to permit safe handling.

(e) Positive protection shall be provided to prevent railroad cars from being moved while dockboards or bridge plates are in position.

§ 1910.30b Machine areas.

(a) Machines shall be so located as to give (1) enough clearance between machines so that the movement of one operator will not interfere with the work of another, (2) ample room for cleaning machines and handling the work, including material and scrap. The arrangement of machines shall be such that operators will not stand in aisles.

(b) Aisles shall be provided of sufficient width to permit the free movement of employees bringing and removing material. This aisle space is to be independent of working and storage space and should be defined by marking.

(c) Wood platforms used on the floor in front of machines shall be sustantially constructed.

§ 1910.30c Vats.

(a) Sides of vats shall extend to a height of not less than 36 inches above the floor, working platform, or ground.

(b) Large vats divided into sections shall be provided with substantial walkways between sections. Each walkway shall be provided with a standard handrail on each exposed side. These handrails may be removable, if necessary.

(c) Covers shall be removed only from that portion of vats on which men are working and a portable railing shall be placed at this point to protect the operator.

(d) Employees shall not ride or step on logs or other material in vats.

Signed at Washington, D.C., this 22d day of August 1973.

JOHN STENDER,
*Assistant Secretary of Labor.*

[FR Doc.73-18479 Filed 9-5-73;8:45 am]



V 38-172
SEP 6 73
XUM

V 38-172

SEP 6 73

XUM

*Just Released*

## CODE OF FEDERAL REGULATIONS

(Revised as of July 1, 1973)

| | |
|---|---|
| Title 29—Labor (Parts 0–499) | $4.00 |
| Title 32—National Defense (Parts 590–699) | 2.05 |
| Title 32—National Defense (Parts 1000–1399) | 1.60 |

*[A Cumulative checklist of CFR issuances for 1973 appears in the first issue of the Federal Register each month under Title 1]*

**Order from Superintendent of Documents,**
**United States Government Printing Office,**
**Washington, D.C. 20402**

V 38-173
SEP 7 73
XUM

# federal register

September 7, 1973—Pages 24327–24625

FRIDAY, SEPTEMBER 7, 1973

WASHINGTON, D.C.

Volume 38 ■ Number 173

Pages 24327–24625

PART I

## HIGHLIGHTS OF THIS ISSUE

**This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.**

**ENVIRONMENT**—
EPA approval of Florida air pollution control compliance schedule; effective 9–22–73 ..... 24333
EPA lists nine compounds as toxic water pollutants ..... 24342

**OVER THE COUNTER DRUGS**—FDA requests data by 11–6–73 on active ingredients in antiperspirants and topical antibiotics ..... 24391

**FOOD ADDITIVES**—FDA provides for safe use of certain resin in food-packaging; effective 9–7–73 ..... 24354

**NEW ANIMAL DRUGS**—FDA approves use of chloramphenicol for dogs and withdraws approval of "Led-O-San" (2 documents); effective 9–7–73 and 9–17–73 respectively ..... 24355, 24390

**PLASTIC BEVERAGE BOTTLES**—FDA notices of petition to use copolymers in manufacture, and requirement for environmental impact reports ..... 24391

**OCCUPATIONAL SAFETY**—OSHA regulations on submission of changes to State plans; effective 9–7–73 ..... 24361

**CARCINOGENS**—OSHA notice of recommendations by the Standards Advisory Committee ..... 24375

**MEETINGS**—
USDA: Oregon Dunes National Recreation Area Advisory Council, 10–5–73 ..... 24390
SEC: Broker-Dealer Model Compliance Program Advisory Committee, 9–13 through 9–15–73 ..... 24379
American Revolution Bicentennial Commission Horizons '76 Advisory Group, 9–11 and 9–12–73 ..... 24395
NIH: National Institute of Mental Health, Alcohol Training Review Committee, 9–20 and 9–21–73 ..... 24393

(Continued inside)

**PART II:**
**POLLUTION**—EPA proposes effluent limitations guidelines and new source performance standards (3 documents); comments by 10–9–73 ..... 24462, 24466, 24470

**PART III:**
**MINIMUM WAGE**—Labor Department determinations and monthly index for Federally assisted construction (2 documents) ..... 24476, 24574

# REMINDERS

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

### Rules Going Into Effect Today

This list includes only rules that were published in the FEDERAL REGISTER after October 1, 1972.

page no. and date

**SEPTEMBER 7**

FCC—Availability of programs produced by non-network suppliers to commercial television stations and CATV systems. 8–7–73; 21265

—FM broadcast stations in Marion, Ill., and Ocala and Dunnellon, Fla. 20619–20620; 8–2–73

—FM broadcast stations in Lyon, Kans. 21169; 8–6–73

—Geneva radio regulations; allocation of frequency ..... 20618; 8–2–73

CORP OF ENGINEERS—Navigation regulation concerning the Taylor Creek, Fla. 21404; 8–8–73

APHIS—Standard of composition for frankfurters and certain other cooked sausage products .... 14741; 6–5–73

**SEPTEMBER 8**

FAA—Requirement that all airplanes having a passenger seating capacity greater than 19 be equipped with an approved electronic public address system and an interphone communication system that are in satisfactory operating condition at takeoff . . 21493; 8–9–73

DOT—Drawbridge operation regulations. 21631; 9–10–73


federal register

Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by the Executive Branch of the Federal Government. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $2.50 per month or $25 per year, payable in advance. The charge for individual copies is 20 cents for each issue, or 20 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.




### HIGHLIGHTS—Continued


National Institute of Mental Health, Juvenile Problems Research Review Committee, 9–13 and 9–14–73 ..... 24394

National Institute of Mental Health, Alcoholism and Alcohol Problems Review Committee, 9–19 through 9–21–73 ..... 24393

National Cancer Institute, Breast Cancer Experimental Biology Committee, 9–10 and 9–11–73..... 24393

National Institute of Neurological Diseases and Stroke, Neurological Disorders Program–Project Review Committee, 9–21 and 9–22–73..... 24393

National Institute of Neurological Diseases and Stroke, Communicative Disorders Review Committee, 9–22 and 9–23–73..... 24393

FPC: National Power Survey, Technical Advisory Committee on Research and Development, 9–12 through 9–14–73 .... ..... 24405

Task Force–Administrative of the Technical Advisory Committee on Fuels, 9–13 and 9–14–73... ..... 24405

Technical Advisory Committee on Fuels, 10–3–73..... 24405

NASA: Space Program Advisory Council, 9–20 and 9–21–73 ..... 24420

Labor Department: Advisory Council on Employee Welfare and Pension Benefit Plans, 9–18–73..... ..... 24420

Federal Safety Advisory Council, 9–12–73 ..... ..... 24421

HEW: Office of Education, Advisory Council on Developing Institutions, 10–1 and 10–2–73..... 24394

Commission on Civil Rights: New Mexico State Advisory Committee, 9–18–73..... ..... 24398

Interior Department: National Park Service Honokohau Study Advisory Commission, 9–15–73 ..... ..... 24389


# Contents


**AGRICULTURAL MARKETING SERVICE**

**Rules and Regulations**

Lemons grown in California; limitation of shipments..... 24345

Papayas grown in Hawaii; limitation of shipments..... 24345

Processed fruits and vegetables and products thereof; U.S. standards for grades of canned ripe olives..... 24344

**AGRICULTURE DEPARTMENT**

*See* Agricultural Marketing Service; Animal and Plant Health Inspection Service; Farmers Home Administration; Forest Service.

**AMERICAN REVOLUTION BICENTENNIAL COMMISSION**

**Notices**

Horizons '76 Advisory Group; meeting ..... 24395

**ANIMAL AND PLANT HEALTH INSPECTION SERVICE**

**Rules and Regulations**

Scabies in cattle; area released from quarantine..... 24346

**Proposed Rules**

Dressed poultry; handling and marking ..... 24374

**ATOMIC ENERGY COMMISSION**

**Notices**

Consumers Power Co.; issuance of amendment to facility license.. 24395

Dairyland Power Cooperative; conversion of provisional operating authority to provisional license ..... 24395

Delmarva Power & Light Co.; receipt of application for construction permits and facility licenses ..... 24396

Honeywell, Inc.; issuance of by-product material license..... 24396

Northern Indiana Public Service Co.; order delaying evidentiary hearings ..... 24397

Potomac Electric Power Co.; receipt of application permits and facility licenses..... 24397

**CIVIL AERONAUTICS BOARD**

**Rules and Regulations**

Uniform system of accounts and reports for certificated air carriers; accounting for traffic and revenue from free or reduced-rate passengers..... 24351

**Notices**

New England service investigation; oral argument..... 24397

**CIVIL RIGHTS COMMISSION**

**Notices**

Arizona; postponement of hearing ..... 24398

New Mexico State Advisory Committee; meeting..... 24398

**CIVIL SERVICE COMMISSION**

**Rules and Regulations**

Excepted service; Department of Labor ..... 24344

**Notices**

Civil engineer; establishment of minimum rates and rate ranges.. 24398

**COMMERCE DEPARTMENT**

*See* Foreign Direct Investments Office; Maritime Administration.

**CUSTOMS SERVICE**

**Rules and Regulations**

General provisions; field organization, Region I..... 24354

Vessels in foreign and domestic trades; foreign clearance of vessels ..... 24354

**Proposed Rules**

Customs field organization; Region V..... 24374

**Notices**

Foreign currencies; certification of rates..... 24388

**EDUCATION OFFICE**

**Notices**

Advisory Council on Developing Institutions; public meeting... 24394

**EMPLOYMENT STANDARDS ADMINISTRATION**

**Notices**

Index to general wage determination decisions and modifications as of August 3, 1973..... 24574

Minimum wages for Federal and federally assisted construction; general wage determination decisions; modifications and supersedeas decisions..... 24477

**ENVIRONMENTAL PROTECTION AGENCY**

**Rules and Regulations**

Approval and promulgation of implementation plans; compliance schedules ..... 24333

Toxic pollutant effluent standards; list of toxic pollutants..... 24342

**Proposed Rules**

Effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources:

Cement manufacturing point source category..... 24462

Feedlots category..... 24466

Phosphate manufacturing point source category..... 24470

**Notices**

Pretreatment standards; hearing.. 24398



*(Continued on next page)*


24329




V 38 - 173 SEP 7 73 XUM

## CONTENTS


**ENVIRONMENTAL QUALITY COUNCIL**

**Notices**

Atlantic Outer Continental Shelf and Gulf of Alaska oil and gas development: environmental hearings ---------- 24398

**FARMERS HOME ADMINISTRATION**

**Rules and Regulations**

Final payment on loans secured by real estate; authorization---- 24346

**FEDERAL AVIATION ADMINISTRATION**

**Rules and Regulations**

Airworthiness directives:
- Beech Model 18 Series Airplanes ---------- 24347
- DeHavilland Aircraft---------- 24349
- Mitsubishi Model MU-2B airplanes ---------- 24349

Standard instrument approach procedures; miscellaneous amendments ---------- 24350
Transition area; designation---- 24350

**FEDERAL COMMUNICATIONS COMMISSION**

**Rules and Regulations**

Radio broadcast services; CATV; memorandum opinion and order granting stay---------- 24367
Stations on shipboard in the maritime services; frequency assignments ---------- 24368

**Notices**

*Hearings, etc.:*
- Columbia Broadcasting System, Inc ---------- 24399
- International Record Carriers- 24399
- Lexington County Broadcasters, Inc., and William D. Hunt--- 24401

Overseas common carrier services; trial of new processing procedures ---------- 24403

**FEDERAL INSURANCE ADMINISTRATION**

**Rules and Regulations**

National Flood Insurance Program:
- Areas eligible for sale of insurance (3 documents)-- 24355–24357
- Identification of special hazard areas (2 documents)-- 24358, 24360

**FEDERAL POWER COMMISSION**

**Notices**

Meetings, National Power Survey:
- Technical Advisory Committee on Fuels (2 documents)---- 24405
- Technical Advisory Committee on Research and Development ---------- 24405

*Hearings, etc.:*
- Apexco, Inc---------- 24405
- Belco Petroleum Corp--------- 24406
- Cities Service Oil Co. et al---- 24404
- Clinton Oil Co---------- 24406
- Corpening Enterprises-------- 24407
- Eascogas LNG, Inc., et al------ 24407
- El Paso Natural Gas Co. (2 documents) ---------- 24408
- Emerald Producing Corp. and Emerald Petroleum Corp---- 24408
- Florida Power & Light Co---- 24409
- Hoover and Bracken Oil Properties, Inc---------- 24409
- J. M. Huber Corp---------- 24410
- H. L. Hunt et al---------- 24410
- MRT Exploration Co---------- 24411
- Mesa Petroleum Co---------- 24403
- Douglas B. Marshall, et al----- 24411
- Midwest Oil Corp---------- 24412
- Mobil Oil Corp. et al---------- 24412
- National Exploration Co------- 24414
- Northern Natural Gas Co. and El Paso Natural Gas Co----- 24414
- Occidental Petroleum Corp--- 24415
- Perry, Adams & Lewis, Inc----- 24415
- Producer's Gas Co. (2 documents) ---------- 24416, 24417
- Rate changes; order setting matter for formal hearing-- 24417
- South Carolina Electric & Gas Co ---------- 24418
- Southwestern Electric Power Co. and Cody C. Beasley----- 24418
- Stingray Pipeline Co. et al--- 24419
- Sun Oil Co. et al---------- 24419

**FEDERAL RESERVE SYSTEM**

**Notices**

Manufacturers Hanover Corp.; acquisition of assets---------- 24419

**FEDERAL TRADE COMMISSION**

**Rules and Regulations**

Prohibited trade practices:
- Hofmann Construction Co. and Kenneth H. Hofmann------- 24352
- Stretch-ees, Inc., et al--------- 24353

**FISH AND WILDLIFE SERVICE**

**Rules and Regulations**

Hunting; national wildlife refuges in certain States (17 documents) ---------- 24369–24373

**FOOD AND DRUG ADMINISTRATION**

**Rules and Regulations**

Food additives; adhesives-------- 24354
New animal drugs; chloramphenicol ---------- 24355

**Proposed Rules**

Food additives; correction:
- Carob bean gum; transfer from GRAS list---------- 24374
- Mannitol and sorbitol; affirmation of GRAS status--------- 24375
- Methyl paraben and propyl paraben; affirmation of GRAS status ---------- 24375
- Substances prohibited from use in food---------- 24374

**Notices**

American Cyanamid Co.; Led-O-San; withdrawal of new animal drug application---------- 24390
Filing of petitions for food additives:
- E. I. DuPont de Nemours & Co- 24391
- Rohm & Haas Co---------- 24391

Over-the-counter antiperspirant drug products and topical antibiotic drugs; request for data and information---------- 24391
Plastic bottles for carbonated beverage and beer use; requirement of environmental impact analysis ---------- 24391

**FOREST SERVICE**

**Notices**

Oregon Dunes National Recreation Area Advisory Council; meeting ---------- 24390

**HEALTH, EDUCATION, AND WELFARE DEPARTMENT**

*See* Education Office; Food and Drug Administration; National Institutes of Health.

**HOUSING AND URBAN DEVELOPMENT DEPARTMENT**

*See* Federal Insurance Administration; Interstate Land Sales Registration Office.

**INTERIOR DEPARTMENT**

*See also* Fish and Wildlife Service; Land Management Bureau; National Park Service.

**Notices**

Colorado River waters; reservation for use on Federally owned lands in Arizona and California- 24389
Proposed irrigation distribution system for San Luis Water District; availability of draft environmental statement---------- 24389

**INTERSTATE COMMERCE COMMISSION**

**Rules and Regulations**

Commercial zones; Kansas City, Mo. and Kan---------- 24368

**Notices**

Assignment of hearings---------- 24421
Motor carrier, broker, water carrier, and freight forwarder applications ---------- 24422

**INTERSTATE LAND SALES REGISTRATION OFFICE**

**Notices**

Apple Valley Enterprises, Inc.; hearing (2 documents)-------- 24394

**JUSTICE DEPARTMENT**

**Notices**

Wheeling-Pittsburgh Steel Corp.; proposed consent judgment in action to enjoin discharge of pollutants ---------- 24388

**LABOR DEPARTMENT**

*See also* Employment Standards Administration; Labor-Management and Pension-Welfare Reports Office; Occupational Safety and Health Administration.

**Notices**

Hubbard Shoe Co., Inc.; certification of eligibility of workers to apply for adjustment assistance ---------- 24421
Federal Safety Advisory Council; meeting ---------- 24421

**LABOR-MANAGEMENT AND WELFARE-PENSION REPORTS OFFICE**

**Notices**

Advisory Council on Employee Welfare and Pension Benefit Plans; meeting---------- 24420






## CONTENTS


**LAND MANAGEMENT BUREAU**

**Notices**

Associate State Director, et al.; delegation of authority-------- 24389

**MARITIME ADMINISTRATION**

**Notices**

National Shipping Corp.; application for operating-differential subsidy ---------- 24390

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**Notices**

NASA Space Program Advisory Council; meeting---------- 24420

**NATIONAL INSTITUTES OF HEALTH**

**Notices**

Meetings, certain advisory bodies:
- Alcohol Training Review Committee ---------- 24393
- Alcoholism and Alcohol Problems Review Committee----- 24393
- Breast Cancer Experimental Biology Committee---------- 24393
- Communicative Disorders Review Committee---------- 24393
- Juvenile Problems Research Review Committee---------- 24394
- Neurological Disorders Program— Project Review Committee ---------- 24393

**NATIONAL PARK SERVICE**

**Notices**

Honokohau Study Advisory Commission; meeting---------- 24389

**OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION**

**Rules and Regulations**

Changes to State plans for development and enforcement of State standards---------- 24361

**Proposed Rules**

Standards Advisory Committee on Carcinogens; receipt of recommendations and availability for inspection ---------- 24375

**SECURITIES AND EXCHANGE COMMISSION**

**Notices**

Broker-Dealer Model Compliance Program Advisory Committee; meeting ---------- 24379
Guidelines on utilization and dissemination of undisclosed material information; extension of time for comments---------- 24383

*Hearings, etc.:*
- Aztec Products, Inc---------- 24379
- BBI, Inc---------- 24379
- Beneficial Laboratories, Inc--- 24379
- CIC Industries, Inc---------- 24379
- Citizens and Southern Capital Corp ---------- 24380
- Coastal State Gas Corp-------- 24380
- Coastal States Gas Producing Co ---------- 24380
- Colorado Interstate Gas Co---- 24380
- Colorado Interstate Corp----- 24381
- Eastern Utilities Associates---- 24381
- Equity Funding Corporation of America ---------- 24381
- Excelsior Income Shares, Inc-- 24382
- FDF 120 Accumulator Plan---- 24382
- First Leisure Corp---------- 24383
- Giant Stores Corp---------- 24383
- Industries International Inc--- 24383
- Innoven Capital Corp--------- 24384
- Investors Variable Payment Fund, Inc., and IDS New Dimensions Fund, Inc--------- 24384
- Koracorp Industries, Inc------ 24386
- League Life Separate Acct. #1- 24386
- Mutual Securities Fund of Boston ---------- 24386
- Rocky River Realty Co------- 24386
- Royal Properties, Inc---------- 24387
- Southern Co---------- 24387
- Triex International Corp------ 24388
- Trionics Engineering Corp----- 24388
- U.S. Financial Inc---------- 24388

**TRANSPORTATION DEPARTMENT**

*See* Federal Aviation Administration.

**TREASURY DEPARTMENT**

*See* Customs Service.

**VETERANS ADMINISTRATION**

**Rules and Regulations**

Security, law enforcement, and standards of conduct on VA property ---------- 24364




V 38 I 173 SEP 7 7 3 XUM

# List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month. In the last issue of the month the cumulative list will appear at the end of the issue.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1973, and specifies how they are affected.


5 CFR
213 ... 24344

7 CFR
52 ... 24344
910 ... 24345
928 ... 24345
1866 ... 24346

9 CFR
73 ... 24346
PROPOSED RULES:
381 ... 24374

14 CFR
39 (3 documents) ... 24347, 24349
71 ... 24350
97 ... 24350
241 ... 24351

16 CFR
13 (2 documents) ... 24352, 24353

19 CFR
1 ... 24354
4 ... 24354
PROPOSED RULES:
1 ... 24374

21 CFR
121 ... 24354
135b ... 24355
135c ... 24355
PROPOSED RULES:
121 (4 documents) ... 24374, 24375

24 CFR
1914 (3 documents) ... 24355–24357
1915 (2 documents) ... 24358, 24360

29 CFR
1953 ... 24361
PROPOSED RULES:
1910 ... 24375

38 CFR
1 ... 24364
2 ... 24366
17 ... 24366

40 CFR
52 ... 24333
129 ... 24342
PROPOSED RULES:
411 ... 24462
412 ... 24466
422 ... 24470

47 CFR
73 ... 24367
83 ... 24368

49 CFR
1048 ... 24368

50 CFR
32 (17 documents) ... 24369–24373






# Rules and Regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

## Title 40—Protection of Environment

### CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

### SUBCHAPTER C—AIR PROGRAMS

### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

### Approval and Promulgation of Compliance Schedules

On August 23, 1973 (38 FR 22736), the Administrator approved certain compliance schedules and promulgated others to satisfy the requirements of 40 CFR 51.15(a)(2) and section 110 of the Clean Air Act, as amended. This publication includes amendments and revisions to the schedules promulgated on August 23, 1973, and it includes the Administrator's approval of certain individual compliance schedules submitted by the State of Florida pursuant to § 51.15(a)(2).

In the earlier publication, compliance schedules for air pollution sources subject to Tennessee State Air Pollution Control Regulations, chapter VII, sections 8.B.1 and 9.1, were inadvertently omitted. These schedules are promulgated below. The source categories involved are (1) general process sulfur oxide sources, and (2) sulfuric acid plants.

In this publication the Administrator approves 462 compliance schedules for individual air pollution sources in the State of Florida. These schedules were submitted by Florida too late to permit a complete review in time for the August 23, 1973, publication. All schedules have now been reviewed, and with a few exceptions all of those submitted are approved below. Schedules that were not considered approvable have been returned to Florida with the recommendation that they be revised and resubmitted. Sources that would have been subject to these latter schedules, had they been approved, remain subject to Federal categorical compliance schedules promulgated on August 23, 1973, at 38 FR 22740.

All of the schedules approved below have been determined to be consistent with the substantive requirements of 40 CFR Part 51 that pertain to compliance schedules; they have also been determined to be consistent with the approved control strategies for the State of Florida; and each schedule was adopted by the State after a public hearing and reasonable notice in accordance with the procedural requirements of 40 CFR Part 51. An evaluation of each schedule is available for public inspection at the following address: The Environmental Protection Agency, 1421 Peachtree Street NE., Atlanta, Georgia, 30309.

Finally, there are promulgated below two revisions to the publication of August 23, 1973. First, in all categorical schedules which were promulgated by the Environmental Protection Agency on August 23, 1973, sources were given thirty days from the effective date of those schedules to certify compliance or submit alternative schedules, approvable by the Administrator, in order to be exempt from the promulgated schedules. Thirty days from publication had been intended as the appropriate reasonable time to allow for making such certifications and submittals. The effective date of those regulations, however, was made thirty days from publication. This gave a source actually sixty days from publication to take advantage of the exemption—an option inconsistent with the requirement of many of the promulgated schedules that a source comply with a first increment of progress by October 1, 1973. Because of this inconsistency and because of the fact that it was created by oversight, the Administrator has determined to revise the earlier promulgation to require that sources certify compliance or submit approvable alternative schedules by October 1, 1973.

Second, the preamble to the publication of August 23, 1973, notes that initial increments in the Federally promulgated schedules for Tennessee applicable to boilers and furnaces of more than 250 million Btu per hour heat input, are to be delayed in order to allow time for review of a State proposed revision to the emission limitation involved. By error those increments were not delayed in one of the schedules. In the present publication they are revised to reflect the delay intended in the earlier publication.

These regulations are effective on September 22, 1973. This date is considered to be appropriate because it is the effective date of the regulations these regulations revise or amend. (See 38 FR 22736.)

(42 U.S.C. 1857c-5.)

Dated August 29, 1973.

JOHN QUARLES,
*Acting Administrator.*

Part 52 of Chapter 1, title 40, of the Code of Federal Regulations is amended as follows:

### Subpart K—Florida

1. Section 52.524 is amended by adding a new paragraph (c), as follows:

**§ 52.524 Compliance schedules.**

* * * * *

(c) The compliance schedules for the sources identified below are approved as meeting the requirements of § 51.15 of this chapter. All regulations cited are air pollution control regulations of the State, unless otherwise noted.

[Effective date, immediately]

| Location (Florida) and source | Regulation involved | Date of adoption | Final compliance date |
|---|---|---|---|
| **AIR QUALITY CONTROL REGION NO. 018** | | | |
| **BREVARD COUNTY** | | | |
| Sharpes: | | | |
| Houdaille-Duval-Wright Co., Permit No. AO 5-369 | 17-2.04(2) | Apr. 17, 1973 | July 1, 1974 |
| Melbourne: | | | |
| IGA Market, Board Order, AP-773-73 | 17-2.04(6)(a) | July 11, 1973 | July 1, 1975 |
| Eau Gallie: | | | |
| Macasphalt Corp., Florida Hot Mix Division, Permit No. AO 5-326. | 17-2.04(2) | Apr. 17, 1973 | July 1, 1974 |
| Titusville: | | | |
| Orlando Utilities Commission, Indian River Plant: | | | |
| Unit No. 1, Permit No. AO 5-505 | 17-2.04(6)(e) 2.c | do | July 1, 1975 |
| Unit No. 2, Permit No. AO 5-506 | 17-2.04(6)(e) 2.c | do | Do. |
| Melbourne: | | | |
| Winn Dixie Stores, Inc., No. 10, Permit No. SO 5-112 | 17-2.04(6)(a) | do | Mar. 2, 1974 |
| Eau Gallie: | | | |
| Winn Dixie Stores, Inc., No. 89, Permit No. SO 5-144 | 17-2.04(6)(a) | do | Do. |
| Satellite Beach: | | | |
| Winn Dixie Stores, Inc., No. 104, Permit No. SO 5-113 | 17-2.04(6)(a) | do | Do. |
| **LAKE COUNTY** | | | |
| Eustis: | | | |
| Florida Food Products Inc.: | | | |
| Citrus Peel Dryer, Permit No. AO 35-59 | 17-2.04 (2) and (4) | Apr. 17, 1973 | June 1, 1975 |
| Citrus Peel Cooler, Permit No. AO 35-60 | 17-2.04 (2) and (4) | do | Do. |
| Leesburg: | | | |
| Growers Container Cooperative, Inc., Board Order, AP-789-73. | 17-2.04(6)(a) | July 11, 1973 | May 1, 1975 |



V 38-173 SEP 7 73 XUM

[Effective date, immediately] Continued

| Location (Florida) and source | Regulation involved | Date of adoption | Final compliance date |
|---|---|---|---|
| **LAKE COUNTY—continued** | | | |
| **Astatula:** | | | |
| Mascasphalt Corp., No. 9 Unit, Permit No. AO 35-420 | 17-2.04(2) | Apr. 17, 1973 | July 1, 1974 |
| **Okahumpka:** | | | |
| Mascasphalt Corp., No. KO-20 Unit, Permit No. AO 35-9 | 17-2.04(2) | do | June 30, 1974 |
| **Leesburg:** | | | |
| Walling Crate Co., Board Order, AP-757-73 | 17-2.04(2) | July 11, 1973 | July 1, 1975 |
| **ORANGE COUNTY** | | | |
| **Lockhart:** | | | |
| Basio Asphalt & Construction Corp., Permit No. AO 48-466 | 17-2.04(2) | Apr. 17, 1973 | June 30, 1973 |
| **Orlando:** | | | |
| Fairvilla Fresh Fruit Co. (Coca Cola Foods Division), Permit No. AO 48-751 | 17-2.04(6)(c) | do | July 1, 1975 |
| Fairway Market, Board Order, AP-788-73 | 17-2.04(6)(a) | July 11, 1973 | Do. |
| Goodyear Recapping Industries, Permit No. AO 48-461 | 17-2.03(1) | Aug. 17, 1973 | June 30, 1973 |
| Orange County Concrete (Florida Mining & Materials Corp.), Permit No. AO 48-867 | 17-2.04(2) | do | Sept. 30, 1973 |
| Orlando General Hospital, Permit No. SO 48-419 | 17-2.04(6)(a) | do | Sept. 18, 1973 |
| **Pine Hills:** | | | |
| Orlando Paving Co., Permit No. AO 48-2093 | 17-2.04(2) | do | June 1, 1974 |
| **Orlando:** | | | |
| Orlando Utilities Commission, Lake Highland Plant: | | | |
| Boiler No. 1, Permit No. AO 48-501 | 17-2.04(6)(c) 2.c | do | July 1, 1975 |
| Boiler No. 2, Permit No. AO 48-502 | 17-2.04(6)(c) 2.c | do | Do. |
| Boiler No. 3, Permit No. AO 48-503 | 17-2.04(6)(c) 2.c | do | Do. |
| Boiler No. 4, Permit No. AO 48-504 | 17-2.04(6)(c) 2.c | do | Do. |
| **Plymouth:** | | | |
| Plymouth Citrus Products Cooperative: | | | |
| Heil Dryer No. 6, Permit No. AO 84-3 | 17-2.04(2) | do | Nov. 30, 1973 |
| Heil Dryer No. 5, Permit No. AO 48-4 | 17-2.04(2) | do | Do. |
| **Taft:** | | | |
| Taft Asphalt, Permit No. AO 48-818 | 17-2.04(2) | do | July 1, 1974 |
| **Winter Garden:** | | | |
| Winter Garden Citrus Products Cooperative: | | | |
| Dryer No 2, Permit No. AO 48-44 | 17-2.04(2) | do | July 30, 1973 |
| Dryer No. 4, Permit No. AO 48-49 | 17-2.04(2) | do | Do. |
| **Winter Park:** | | | |
| Winter Park Memorial Hospital, Permit No. SO 48-402 | 17-2.04(6)(a) | do | May 15, 1974 |
| **Orlando:** | | | |
| Winn Dixie Stores, Inc.: | | | |
| Store No. 20, Permit No. SO 48-102 | 17-2.04(6)(a) | do | Mar. 2, 1974 |
| Store No. 41, Permit No. SO 48-109 | 17-2.04(6)(a) | do | Do. |
| **Winter Garden:** | | | |
| Store No. 48, Permit No. SO 48-101 | 17-2.04(6)(a) | do | Do. |
| **Maitland:** | | | |
| Store No. 69, Permit No. SO 48-103 | 17-2.04(6)(a) | do | Do. |
| **Apopka:** | | | |
| Store No. 78, Permit No. SO 48-104 | 17-2.04(6)(a) | do | Do. |
| **Pine Castle:** | | | |
| Store No. 98, Permit No. SO 48-106 | 17-2.04(6)(a) | do | Do. |
| **Orlando:** | | | |
| Store No. 103, Permit No. SO 48-107 | 17-2.04(6)(a) | do | Do. |
| Store No. 121, Permit No. SO 48-2009 | 17-2.04(6)(a) | do | Do. |
| **OSCEOLA COUNTY** | | | |
| **Kissimmee:** | | | |
| City of Kissimmee (Electric Generating Facility), Permit No. AO 49-648 | 17-2.04(1)(a) | Apr. 17, 1973 | Jan. 1, 1975 |
| **St. Cloud:** | | | |
| The Marks—St. Cloud, Inc., Permit No. SO 49-493 | 17-2.04(6)(a) | do | May 15, 1974 |
| **Kissimmee:** | | | |
| Osceola Fruit Distributors, Inc., Permit No. AO 49-357 | 17-2.04(2) | do | July 15, 1973 |
| Osceola Tire Service, Permit No. AO 49-439 | 17-2.03(1) | do | June 1, 1973 |

[Effective date, immediately]—Continued

| Location (Florida) and source | Regulation involved | Date of adoption | Final compliance date |
|---|---|---|---|
| **SEMINOLE COUNTY** | | | |
| **Sanford:** | | | |
| D. F. Asphalt Co., Permit No. AO 59-630 | 17-2.04(2) | Apr. 17, 1973 | Oct. 20, 1973 |
| **Forest City:** | | | |
| Hi Acres Concentrate, Inc., Permit No. AO 59-54 | 17-2.04(2) | do | Jan. 1, 1975 |
| **Fern Park:** | | | |
| K-Mart (Colonial Stores, Inc.), Permit No. SO 59-448 | 17-2.04(6)(a) | do | May 15, 1974 |
| **North Orlando:** | | | |
| Mascasphalt Corp., Unit 5, Permit No. AO 59-554 | 17-2.04(2) | do | July 1, 1974 |
| **Sanford:** | | | |
| Seminole Memorial Hospital, Permit No. SO 59-362 | 17-2.04(6)(a) | do | May 15, 1974 |
| **VOLUSIA COUNTY** | | | |
| **Enterprise:** | | | |
| Florida Power Corp., Turner Plant: | | | |
| Unit No. 1, Permit No. AO 64-378 | 17-2.04(6)(c) 2.c | Apr. 17, 1973 | Jan. 15, 1975 |
| Unit No. 2, Permit No. AO 64-379 | 17-2.04(6)(c) 2.c | do | Do. |
| Unit No. 3, Permit No. AO 64-380 | 17-2.04(6)(c) 2.c | do | Do. |
| Unit No. 4, Permit No. AO 64-381 | 17-2.04(6)(c) 2.c | do | Do. |
| **Daytona Beach:** | | | |
| K-Mart (Colonial Stores Inc.), Permit No. SO 64-446 | 17-2.04(6)(a) | do | May 15, 1974 |
| **Orange City:** | | | |
| Meadow Gold of Florida (Beatrice Foods Inc.), Permit No. SO 64-467 | 17-2.04(6)(a) | do | Do. |
| **New Smyrna Beach:** | | | |
| Winn Dixie Stores, Inc., Store No. 4, Permit No. SO 64-98 | 17-2.04(6)(a) | do | Mar. 2, 1974 |
| **Deland:** | | | |
| Store No. 47, Permit No. SO 64-86 | 17-2.04(6)(a) | do | Do. |
| Store No. 52, Permit No. SO 64-77 | 17-2.04(6)(a) | do | Do. |
| **Daytona Beach:** | | | |
| Store No. 62, Permit No. SO 64-78 | 17-2.04(6)(a) | do | Do. |
| **Port Orange:** | | | |
| Store No. 109, Permit No. SO 64-82 | 17-2.04(6)(a) | do | Do. |
| **Deltona:** | | | |
| Store No. 113, Permit No. SO 64-95 | 17-2.04(6)(a) | do | Do. |

**AIR QUALITY CONTROL REGION No. 049**

**ALACHUA COUNTY**

| | | | |
|---|---|---|---|
| **Gainesville:** | | | |
| Colonial Stores, Inc., Store No. 7714, Sunshine Mall, Permit No. SO 01-2015. | 17-2.04(6) (a) | May 15, 1973 | Mar. 15, 1974 |
| Colonial Stores, Inc., Store No. 7713, Royal Park Plaza, Permit No. SO 01-2016. | 17-2.04(6) (a) | do | Do. |
| **BRADFORD COUNTY** | | | |
| **Starke:** | | | |
| Bradford County Hospital, Board Order, AP-781-73 | 17-2.04(6) (a) | July 11, 1973 | Mar. 15, 1974 |
| **CLAY COUNTY** | | | |
| **Green Cove Springs:** | | | |
| Clay Memorial Hospital, Board Order, AP-782-73 | 17-2.04(6) (a) | July 11, 1973 | Mar. 15, 1974 |
| **Solite Corp.:** | | | |
| Kiln No. 2, Permit No. AO 10-2032 | 17-2.04(2) | May 15, 1973 | Jan. 1, 1974 |
| Kiln No. 3, Permit No. AO 10-2033 | 17-2.04(2) | do | Do. |
| Kiln No. 4, Permit No. AO 10-2034 | 17-2.04(2) | do | Do. |
| Kiln No. 5, Permit No. AO 10-2035 | 17-2.04(2) | do | Do. |







[Effective date, immediately]—Continued

| Location (Florida) and source | Regulation involved | Date of adoption | Final compliance date |
|---|---|---|---|
| **COLUMBIA COUNTY** | | | |
| **Lake City:** | | | |
| American Wood Products, Permit No. AO 12-2036 | 17-2.04(2) | May 15, 1973 | June 5, 1974 |
| **DIXIE COUNTY** | | | |
| **Cross City:** | | | |
| Georgia-Pacific Corp., Permit No. AO 15-2040 | 17-2.04(2) | do | July 1, 1974 |
| **DUVAL COUNTY** | | | |
| **Jacksonville:** | | | |
| Asphalt Contracting Co., Permit No. AO 16-2031 | 17-2.04(2) | May 15, 1973 | July 1, 1973 |
| Colonial Stores, Inc., 5950 Ramona Blvd., Permit No. SO 16-2020. | 17-2.04(6)(a) | do | Mar. 15, 1974 |
| Colonial Stores, Inc., 7450 Beach Blvd., Permit No. SO 16-2021. | 17-2.04(6)(a) | do | Do. |
| Colonial Stores, Inc., 925 South McDuff Ave., Permit No. SO 16-2026. | 17-2.04(6)(a) | do | Do. |
| Colonial Stores, Inc., Store No. 7200 University Blvd., Permit No. SO 16-2027. | 17-2.04(6)(a) | do | Do. |
| Jacksonville Electric Authority, Kennedy Station: | | | |
| Unit No. 8, Permit No. AO 16-734 | 17-2.04(6)(e) | do | June 30, 1975 |
| Unit No. 9, Permit No. AO 16-733 | 17-2.04(6)(e) | do | Do. |
| Unit No. 10, Permit No. AO 16-732 | 17-2.04(6)(e) | do | Do. |
| Jacksonville Electric Authority, Northside Station, Unit No. 1, Permit No. AO 16-731. | 17-2.04(6)(e) | do | Do. |
| Jacksonville Electric Authority, Southside Station: | | | |
| Unit No. 1, Permit No. AO 16-726 | 17-2.04(6)(e) | do | Do. |
| Unit No. 2, Permit No. AO 16-727 | 17-2.04(6)(e) | do | Do. |
| Unit No. 3, Permit No. AO 16-728 | 17-2.04(6)(e) | do | Do. |
| Unit No. 4, Permit No. AO 16-729 | 17-2.04(6)(e) | do | Do. |
| Unit No. 5, Permit No. AO 16-730 | 17-2.04(6)(e) | do | Do. |
| National Merchandise Co.: | | | |
| Old Warehouse, Liberty St., Permit No. SO 16-2028 | 17-2.04(6)(a) | do | Mar. 15, 1974 |
| New Warehouse, Liberty St., Permit No. SO 16-2029 | 17-2.04(6)(a) | do | Do. |
| Pic N' Save, Store No. 1, University Blvd., Permit No. SO 16-2030. | 17-2.04(6)(a) | do | Do. |
| Ross's Store, Inc., Board Order, AP-777-73 | 17-2.04(6)(a) | July 11, 1973 | Do. |
| St. Regis Paper Co. | | | |
| Recovery Boiler No. 1, Permit No. AO 16-287 | 17-2.04(6)(d) | May 15, 1973 | July 1, 1975 |
| Recovery Boiler No. 1, Permit No. AO 16-287 | 17-2.04(6)(d) 1.b. | do | May 1, 1975 |
| Recovery Boiler Nos. 2 and 3, Permit No. AO 16-288 | 17-2.04(6)(d) 1.a. | do | July 1, 1975 |
| Recovery Boiler Nos. 2 and 3, Permit No. AO 16-288 | 17-2.04(6)(d) 1.b. | do | May 1, 1975 |
| Bark Boiler No. 1, Permit No. AO 16-286 | 17-2.04(2) | do | Apr. 1, 1975 |
| Bark Boiler No. 2, Permit No. AO 16-82 | 17-2.04(2) | do | Do. |
| Lime Kiln Stack No. 1, Permit No. AO 16-280 | 17-2.04(2) | do | Oct. 1, 1974 |
| Lime Kiln Stack No. 2, Permit No. AO 16-281 | 17-2.04(2) | do | Do. |
| Lime Kiln Stack No. 3, Permit No. AO 16-282 | 17-2.04(2) | do | Do. |
| Noncondensable Gas Sources, Permit No. AO 16-2090 | 17-2.04(4) | do | June 1, 1975 |
| Winn-Dixie Store No. 35, 4414 Hendricks Ave., Permit No. SO 16-2022. | 17-2.04(6)(a) | do | Mar. 15, 1974 |
| Winn-Dixie Store No. 45, 1410 North Edgewood Ave., Permit No. AO 16-2023. | 17-2.04(6)(a) | do | Do. |
| Winn-Dixie Store No. 60, 3978 St. John's Ave., Permit No. AO 16-2024. | 17-2.04(6)(a) | do | Do. |
| Winn-Dixie Store No. 129, 5300 Firestone Ave., Permit No. AO 16-2025. | 17-2.04(6)(a) | do | Do. |
| Woolco Department Stores: | | | |
| Lenox Avenue Store, Board Order, AP-778-73 | 17-2.04(6)(a) | July 27, 1973 | Do. |
| Store No. 6149, Board Order, AP-779-73 | 17-2.04(6)(a) | do | Do. |

[Effective date, immediately]—Continued

| Location (Florida) and source | Regulation involved | Date of adoption | Final compliance date |
|---|---|---|---|
| **GADSDEN COUNTY** | | | |
| **Havana:** | | | |
| Dresser Minerals (Pennsylvania Glass Sand Co.): | | | |
| (a) Raymond Mill Exhaust, Permit No. AO 20-1033 | 17-2.04(2) | May 15, 1973 | Jan. 1, 1974 |
| (b) Transport System, Permit No. AO 20-1034 | 17-2.04(2) | do | Do. |
| (c) Cooler Discharge Stack, Permit No. AO 20-1035 | 17-2.04(2) | do | Do. |
| (d) Dryer No. 2, Permit No. AO 20-1036 | 17-2.04(2) | do | Do. |
| **Quincy:** | | | |
| Floridin Co., (Pennsylvania Glass Sand Corp.): | | | |
| Stack No. 4, East Dryer Stack, No. 2 Dry Department, Permit No. AO 20-2002. | 17-2.04(2) | do | Feb. 1, 1975 |
| Stack No. 5, Center Dryer Stack, No. 2 Dry Department, Permit No. AO 20-2001. | 17-2.04(2) | do | May 1, 1975 |
| Stack No. 6, West Dryer Stack, No. 2 Dry Department, Permit No. AO 20-2000. | 17-2.04(2) | do | July 1, 1975 |
| Stack No. 9, Mill Cyclone Stack, No. 5 Mill Department, Permit No. AO 20-2010. | 17-2.04(2) | do | Sept. 1, 1973 |
| Stack No. 10, Separator Cyclone, No. 5 Mill Department, Permit No. AO 20-2009. | 17-2.04(2) | do | Do. |
| Stack No. 12, Mill Cyclone, No. 2 Mill Department, Permit No. AO 20-2008. | 17-2.04(2) | do | Aug. 1, 1974 |
| Stack No. 13, Elevator Cyclone, No. 2 Mill Department, Permit No. AO 20-2007. | 17-2.04(2) | do | Do. |
| Stack No. 16, No. 2 Raymond Mill, No. 3 Mill Department, Permit No. AO 20-2013. | 17-2.04(2) | do | Oct. 1, 1974 |
| Stack No. 17, No. 3 Raymond Mill, No. 3 Mill Department, Permit No. AO 20-2011. | 17-2.04(2) | do | Do. |
| Stack No. 19, Cyclone Collector for No. 1 Dryer, Permit No. AO 20-2015. | 17-2.04(2) | do | Dec. 1, 1973 |
| Stack No. 20, Cyclone Collector for No. 2 Dryer, Permit No. AO 20-2016. | 17-2.04(2) | do | June 1, 1974 |
| Pat Higdon Industries, Permit No. AO 20-614 | 17-2.04(2) | do | Aug. 30, 179 |
| **HAMILTON COUNTY** | | | |
| **White Springs:** | | | |
| Occidental Chemical Co.: | | | |
| Sulfuric Acid Plant A, Permit No. AO 24-600 | 17-2.04(6)(b)1 | May 15, 1973 | July 1, 1975 |
| Sulfuric Acid Plant B, Permit No. AO 24-605 | 17-2.04(6)(b)1 | do | Do. |
| **LEON COUNTY** | | | |
| **Tallahassee:** | | | |
| City of Tallahassee, Power System Unit No. 1, Permit No. AO 37-2047. | 17-2.04(6)(e)2 | May 15, 1973 | Apr. 1, 1975 |
| Colonial Stores, Inc.: | | | |
| Store No. 7276, 1111 Apalachee Parkway, Permit No. SO 37-2017. | 17-2.04(6)(a) | do | Mar. 15, 1974 |
| Store No. 7229, 1847 West Tennessee St., Permit No. SO 37-2018. | 17-2.04(6)(a) | do | Do. |
| Store No. 7232, Thomasville Rd., Permit No. SO 37-2019 | 17-2.04(6)(a) | do | Do. |
| Elberta Crate & Box Co., Permit No. AO 37-2038 | 17-2.04(2) | do | June 5, 1974 |
| Hammons Asphalt Paving Inc., Permit No. AO 37-2039 | 17-2.04(2) | do | July 4, 1974 |
| Moody Construction Co., Permit No. AO 37-2037 | 17-2.04(2) | do | Jan. 1, 1974 |
| **LIBERTY COUNTY** | | | |
| **Hosford:** | | | |
| A. M. Schuler & Son, Pole Co., Permit No. SC-73008 | 17-2.04(6)(a) | May 15, 1973 | Sept. 15, 1973 |
| **Telogia:** | | | |
| B. M. Harmon, Construction Co., Permit No. AO 39-1049 | 17-2.04(2) | do | July 30, 1973 |
| **Hosford:** | | | |
| Florida Veneer Co., Permit No. SO 39-2000 | 17-2.04(6)(a) | do | Dec. 1, 1974 |

[Effective date, immediately]—Continued

| Location (Florida) and source | Regulation involved | Date of adoption | Final compliance date |
|---|---|---|---|
| **Telogia:** | | | |
| Tanneco Chemicals, Inc.: | | | |
| Wood Boiler, Permit No. AO 39-942 | 17-2.04(2) | do | Do. |
| Fuel Oil Boiler, Permit No. AO 29-940 | 17-2.04(6)(e)3. | do | May 24, 1974 |
| **MARION COUNTY** | | | |
| **Ocala:** | | | |
| Certified Grocers of Florida, Permit No. SO 42-420 | 17-2.04(6)(a) | Apr. 17, 1973 | Feb. 22, 1974 |
| Gibson's Products Co. of Ocala, Permit No. SO 42-2008 | 17-2.04(6)(a) | do | Mar. 1, 1974 |
| **Dunnellon:** | | | |
| J. T. Goethe Lumber Co.: | | | |
| Bark Boiler, Permit No. AO 42-521 | 17-2.04(2) | do | Dec. 30, 1974 |
| Tee Pee Burner, Permit No. SO 42-474 | 17-2.04(6)(a) | do | Do. |
| **Ocala:** | | | |
| Junie Counts Construction Co., Broad Order, AP-783-73 | 17-2.04(2) | July 11, 1973 | May 31, 1974 |
| Ocala Cleat Co., Inc., Permit No. AO 42-750 | 17-2.04(6)(a) | Apr. 17, 1973 | Aug. 30, 1973 |
| Shelton's Thriftway, Inc., Permit No. SO 42-258 | 17-2.04(6)(a) | do | May 30, 1973 |
| **NASSAU COUNTY** | | | |
| **Fernandina Beach:** | | | |
| Container Corp. of America: | | | |
| Power Boiler No. 3, Permit No. AO 45-2085 | 17-2.04(6)(e)2.c. | May 15, 1973 | Jan. 1, 1975 |
| Power Boiler No. 3, Permit No. AO 45-2085 | 17-2.04(6)(e)2.a. | do | Do. |
| Power Boiler No. 4, Permit No. AO 45-2086 | 17-2.04(6)(e)2.c. | do | Do. |
| Power Boiler No. 4, Permit No. AO 45-2086 | 17-2.04(6)(e)2.a. | do | July 1, 1975 |
| Power Boiler No. 5, Permit No. AO 45-2087 | 17-2.04(6)(e)2.c. | do | Jan. 1, 1975 |
| Power Boiler No. 5, Permit No. AO 45-2087 | 17-2.04(6)(e)2.a. | do | July 1, 1975 |
| Recovery Boiler No. 3, Permit No. AO 45-2088 | 17-2.04(6)(d)1.a. | do | Do. |
| Recovery Boiler No. 3, Permit No. AO 45-2088 | 17-2.04(6)(d)1.b. | do | Do. |
| Recovery Boiler No. 4, Permit No. AO 45-2089 | 17-2.04(6)(d)1.a. | do | Do. |
| ITT Rayonier, Inc.: | | | |
| Power Boiler No. 1, Permit No. AO 45-2074 | 17-2.04(6)(e)2 | do | Do. |
| Power Boiler No. 2, Permit No. AO 45-2075 | 17-2.04(2) | do | Do. |
| Power Boiler No. 3, Permit No. AO 45-2076 | 17-2.04(2) | do | Do. |
| Power Boiler No. 4, Permit No. AO 45-2077 | 17-2.04(6)(e) | do | Do. |
| Primary Chlorine Tower Vents, Permit No. AO 45-2078 | 17-2.03(1) | do | Do. |
| SO2 Recovery Towers, Permit No. AO 45-2079 | 17-2.03(1) | do | Do. |
| Lime Rock Tower, Permit No. AO 45-2080 | 17-2.03(1) | do | Do. |
| Absorption Tower, Permit No. AO 45-2081 | 17-2.03(1) | do | Do. |
| Flash Chlorine Tower Washer Vent, Permit No. AO 45-2082 | 17-2.03(1) | do | Do. |
| Hot Caustic Extraction Stage Tank Blow Vents, Permit No. AO 45-2083 | 17-2.03(1) | do | Do. |
| Chlorine Dioxide Retention Tank Vents, Permit No. AO 45-2084 | 17-2.03(1) | do | Do. |
| **PUTNAM COUNTY** | | | |
| **Palatka:** | | | |
| Food Fair Stores, Inc., Permit No. SO 54-2031 | 17-2.04(6)(a) | May 15, 1973 | Sept. 30, 1973 |
| Hudson Pulp & Paper Co.: | | | |
| Recovery Boiler No. 1, Permit No. AO 54-2058 | 17-2.04(6)(d)1 | do | July 1, 1975 |
| Recovery Boiler No. 2, Permit No. AO 54-2059 | 17-2.04(6)(d)1 | do | Do. |
| Recovery Boiler No. 3, Permit No. AO 54-2060 | 17-2.04(6)(d)1 | do | Do. |
| Smelt Dissolving Tank No. 1, Permit No. AO 54-2061 | 17-2.04(2) | do | Do. |

[Effective date, immediately]—Continued

| Location (Florida) and source | Regulation involved | Date of adoption | Final compliance date |
|---|---|---|---|
| Smelt Dissolving Tank No. 2, Permit No. AO 54-2062 | 17-2.04(2) | do | Do. |
| Smelt Dissolving Tank No. 3, Permit No. AO 54-2063 | 17-2.04(2) | do | Do. |
| Lime Kiln No. 1, Permit No. AO 54-2064 | 17-2.04(2) | do | Do. |
| Lime Kiln No. 2, Permit No. AO 54-2065 | 17-2.04(2) | do | Do. |
| Lime Kiln No. 3, Permit No. AO 54-2066 | 17-2.04(2) | do | Do. |
| Combination Boiler No. 1, Permit No. AO 54-2072 | 17-2.04(2) | do | Do. |
| Combination Boiler No. 4, Permit No. AO 54-2073 | 17-2.04(2) | do | Do. |
| Power Boiler No. 1, Permit No. AO 54-2067 | 17-2.04(6)(e) | do | Do. |
| Power Boiler No. 2, Permit No. AO 54-2068 | 17-2.04(6)(e) | do | Do. |
| Power Boiler No. 3, Permit No. AO 54-2069 | 17-2.04(6)(e) | do | Do. |
| Power Boiler No. 4, Permit No. AO 54-2070 | 17-2.04(6)(e) | do | Do. |
| Power Boiler No. 5, Permit No. AO 54-2071 | 17-2.04(6)(e) | do | Do. |
| **SUWANEE COUNTY** | | | |
| **Live Oak:** | | | |
| Florida Power Corp.: | | | |
| Boiler No. 1, Permit No. AO 61-2044 | 17-2.04(6)(e)2.c. | May 15, 1973 | Jan. 15, 1975 |
| Boiler No. 2, Permit No. AO 61-2045 | 17-2.04(6)(e)2.c. | do | Do. |
| Boiler No. 3, Permit No. AO 61-2046 | 17-2.04(6)(e)2.c. | do | Do. |
| **TAYLOR COUNTY** | | | |
| **Perry:** | | | |
| The Buckeye Cellulose Corp.: | | | |
| Recovery Boiler No. 1, Permit No. AO 62-2091 | 17-2.04(6)(d)1. | May 15, 1973 | July 1, 1975 |
| **WAKULLA COUNTY** | | | |
| **St. Marks:** | | | |
| City of Tallahassee, S. O. Purdom Electric Generating Units: | | | |
| Unit No. 1, Permit No. AO 65-2050 | 17-2.04(6)(e)2. | May 15, 1973 | Apr. 1, 1975 |
| Unit No. 2, Permit No. AO 65-2051 | 17-2.04(6)(e)2. | do | Do. |
| Unit No. 3, Permit No. AO 65-2052 | 17-2.04(6)(e)2. | do | Do. |
| Unit No. 4, Permit No. AO 65-2053 | 17-2.04(6)(e)2. | do | Do. |
| Units Nos. 5 and 6, Permit No. AO 65-2054 | 17-2.04(6)(e)2. | do | Do. |
| Unit No. 7, Permit No. AO 65-2055 | 17-2.04(6)(e)2. | do | Do. |

**AIR QUALITY CONTROL REGION NO. 050**

**BROWARD COUNTY**

| | | | |
|---|---|---|---|
| **Pompano Beach:** | | | |
| Broward County Incinerator Number 2: | | | |
| Old Unit, Permit No. SO 6-2064 | 17-2.04(6)(a) | May 15, 1973 | Dec. 31, 1974 |
| New Unit, Permit No. SO 6-2065 | 17-2.04(6)(a) | do | Do. |
| **Fort Lauderdale:** | | | |
| City of Fort Lauderdale: | | | |
| North Unit, Permit No. SC-612 | 17-2.04(6)(a) | do | June 30, 1973 |
| South Unit, Permit No. SC-613 | 17-2.04(6)(a) | do | Do. |
| Nichols Unit, Permit No. SC-614 | 17-2.04(6)(a) | do | Do. |
| **Deerfield Beach:** | | | |
| Houdaille Duval Wright, Permit No. AO 6-2063 | 17-2.04(2) | do | June 14, 1974 |
| **DADE COUNTY** | | | |
| **Homestead:** | | | |
| City of Homestead, Diesel Engines, Permit No. AO 13-2057 | 17-2.04(1) | May 15, 1973 | Jan. 6, 1975 |





[Effective date, immediately]—Continued

| Location (Florida) and source | Regulation involved | Date of adoption | Final compliance date |
|---|---|---|---|
| **Miami:** | | | |
| City of Miami, Department of Sanitation, city of Miami Incinerator, Permit No. SO 13-2061. | 17-2.04(6)(a) | do | Mar. 8, 1975 |
| **North Miami Beach:** | | | |
| Dade County Public Works Department, Northeast Incinerator, Permit No. SO 13-2062. | 17-2.04(6)(a) | do | July 1, 1975 |
| **Miami:** | | | |
| General Portland, Inc.: | | | |
| Number 1 Kiln, Permit No. AC-481 | 17-2.04(6)(f) | do | Aug. 30, 1973 |
| Number 2 Kiln, Permit No. AC-73013 | 17-2.04(6)(f) | do | Do. |
| Number 1 Clinker Cooler, Permit No. AC-482 | 17-2.04(6)(f) | do | Do. |
| Number 2 Clinker Cooler, Permit No. AC-73019 | 17-2.04(6)(f) | do | Do. |
| U.S. Foundry & Manufacturing Corp., Permit No. AO 13-2066 | 17-2.04(2) | do | July 1, 1975 |
| **INDIAN RIVER COUNTY** | | | |
| **Vero Beach:** | | | |
| City of Vero Beach: | | | |
| Unit Nos. 1 and 2, Permit No. AO 31-422 | 17-2.04(6) | May 15, 1973 | Mar. 11, 1974 |
| Unit No. 3, Permit No. AO 31-524 | 17-2.04(6)(e)2 | do | Do. |
| **MONROE COUNTY** | | | |
| **Key West:** | | | |
| Utility Board of the city of Key West, Unit No. 1, 2, 3, 4, and 5, Permit No. AO 44-1119. | 17-2.04(6)(e)2. | May 15, 1973 | June 30, 1974 |
| **PALM BEACH COUNTY** | | | |
| **Belle Glade:** | | | |
| Atlantic Sugar Association: | | | |
| Unit No. 1, Permit No. AO 50-2031 | 17-2.04(2) | May 15, 1973 | July 1, 1975 |
| Unit No. 2, Permit No. AO 50-2032 | 17-2.04(2) | do | Do. |
| Unit No. 3, Permit No. AO 50-2033 | 17-2.04(2) | do | Do. |
| **Rivera Beach:** | | | |
| Eastern Cement: | | | |
| Ship loading, Permit No. AO 50-2067 | 17-2.04(3) | do | Jan. 6, 1975 |
| Truck loading, Permit No. AO 50-2067 | 17-2.04(3) | do | Oct. 4, 1973 |
| **Belle Glade:** | | | |
| Florida Sugar Corp.: | | | |
| Unit No. 4, Permit No. AO 50-2034 | 17-2.04(6)(e)3. | do | July 1, 1975 |
| Unit No. 5, Permit No. AO 50-2035 | 17-2.04(6)(e)3. | do | Do. |
| **South Bay:** | | | |
| Gulf & Western Food Products Co: | | | |
| Unit Nos. 2 and 3 (common stack), Permit No. AO 50-2054 | 17-2.04(2) | May 15, 1973 | Do. |
| Unit No. 4, Permit No. AO 50-2053 | 17-2.04(2) | do | Do. |
| Unit No. 5, Permit No. AO 50-2055 | 17-2.04(2) | do | Do. |
| Unit No. 6, Permit No. AO 50-2056 | 17-2.04(2) | do | Do. |
| **Pahokee:** | | | |
| Osceola Farms Co: | | | |
| Unit No. 1, Permit No. AO 50-2048 | 17-2.04(2) | do | Do. |
| Unit No. 2, Permit No. AO 50-2049 | 17-2.04(2) | do | Do. |
| Unit No. 3, Permit No. AO 50-2050 | 17-2.04(2) | do | Do. |
| Unit No. 4, Permit No. AO 50-2051 | 17-2.04(2) | do | Do. |
| Unit No. 5, Permit No. AO 50-2052 | 17-2.04(2) | do | Do. |
| **Belle Glade:** | | | |
| Sugar Growers Coop of Florida: | | | |
| Unit No. 1, Permit No. AO 50-2044 | 17-2.04(2) | do | Do. |
| Unit No. 2, Permit No. AO 50-2045 | 17-2.04(2) | do | Do. |
| Unit No. 3, Permit No. AO 50-2046 | 17-2.04(2) | do | Do. |
| Unit No. 5, Permit No. AO 50-2047 | 17-2.04(2) | do | Do. |
| Tallsman Sugar Corp.: | | | |
| Unit No. 1, Permit No. AO 50-2036 | 17-2.04(2) | do | Do. |
| Unit No. 2, Permit No. AO 50-2037 | 17-2.04(2) | do | Do. |

[Effective date, immediately]—Continued

| Location (Florida) and source | Regulation involved | Date of adoption | Final compliance date |
|---|---|---|---|
| Unit No. 3, Permit No. AO 50-2038 | 17-2.04(2) | do | Do. |
| Unit No. 4, Permit No. AO 50-2039 | 17-2.04(2) | do | Do. |
| Unit No. 5, Permit No. AO 50-2040 | 17-2.04(2) | do | Do. |
| **Bryant:** | | | |
| United States Sugar Corp.: | | | |
| Unit No. 1, Permit No. AO 50-2041 | 17-2.04(2) | do | Do. |
| Unit No. 2, Permit No. AO 50-2042 | 17-2.04(2) | do | Do. |
| Unit No. 3, Permit No. AO 50-2043 | 17-2.04(2) | do | Do. |
| **ST. LUCIE COUNTY** | | | |
| **Fort Pierce:** | | | |
| City of Fort Pierce: | | | |
| Diesel Units, Permit No. AO 56-424 | 17-2.04(6)(e)2. | May 15, 1973 | Jan. 30, 1975 |
| Package Boiler Unit, Permit No. AO 56-425 | 17-2.04(6)(e)2. | do | Do. |
| Unit No. 5, Permit No. AO 56-426 | 17-2.04(6)(e)2. | do | Do. |
| Unit No. 6, Permit No. AO 56-427 | 17-2.04(6)(e)2. | do | Do. |
| Unit No. 4, Permit No. AO 56-428 | 17-2.04(6)(e)2. | do | Do. |

**AIR QUALITY CONTROL REGION NO. 051**

**CHARLOTTE COUNTY**

| | | | |
|---|---|---|---|
| **Port Charlotte:** | | | |
| Macasphalt Corp., Permit No. AO 8-2023 | 17-2.04(2) | May 15, 1973 | June 14, 1974 |
| **COLLIER COUNTY** | | | |
| **Immokalee:** | | | |
| Fred's Market, Permit No. SO 11-2002 | 17-2.04(6)(a)2.a. | May 15, 1973 | Mar. 8, 1974 |
| **DESOTO COUNTY** | | | |
| **Nocatee:** | | | |
| Hercules, Inc.: | | | |
| Steam Boiler No. 1, Permit No. AO 14-2014 | 17-2.04(2) | May 15, 1973 | Sept. 30, 1973 |
| Steam Boiler No. 2, Permit No. AO 14-2015 | 17-2.04(2) | do | Do. |
| Steam Boiler No. 3, Permit No. AO 14-2016 | 17-2.04(2) | do | Do. |
| Steam Boiler No. 4, Permit No. AO 14-2017 | 17-2.04(2) | do | Do. |
| Steam Boiler No. 5, Permit No. AO 14-2018 | 17-2.04(2) | do | Do. |
| Steam Boiler No. 6, Permit No. AO 14-2019 | 17-2.04(2) | do | Do. |
| **GLADES COUNTY** | | | |
| **Moore Haven:** | | | |
| Glades County Sugar Growers Co-op Association: | | | |
| Steam Boiler No. 1, Permit No. AO 22-2037 | 17-2.04(2) | May 15, 1973 | July 1, 1975 |
| Steam Boiler No. 2, Permit No. AO 22-2038 | 17-2.04(2) | do | Do. |
| Steam Boiler No. 3, Permit No. AO 22-2039 | 17-2.04(2) | do | Do. |
| Steam Boiler No. 4, Permit No. AO 22-2040 | 17-2.04(6)(e)2.c. | do | Do. |

[Effective date, immediately]—Continued

| Location (Florida) and source | Regulation involved | Date of adoption | Final compliance date |
|---|---|---|---|
| **HENDRY COUNTY** | | | |
| Clewiston: | | | |
| Everglades Sugar Refinery, Permit No. AO 26-2025 | 17-2.04(6)(e)2.c | May 15, 1973 | July 1, 1975 |
| U.S. Sugar Corp.: | | | |
| Steam Boiler No. 1, Permit No. AO 26-2028 | 17-2.04(2) | do | Do. |
| Steam Boiler No. 2, Permit No. AO 26-2029 | 17-2.04(2) | do | Do. |
| Steam Boiler No. 3, Permit No. AO 26-2030 | 17-2.04(2) | do | Do. |
| Steam Boiler No. 5, Permit No. AO 26-2031 | 17-2.04(2) | do | Do. |
| Steam Boiler No. 6, Permit No. AO 26-2032 | 17-2.04(2) | do | Do. |
| Steam Boiler No. 7, Permit No. AO 26-2033 | 17-2.04(2) | do | Do. |
| Steam Boiler No. 9, Permit No. AO 26-2034 | 17-2.04(6)(e)2.c | do | Do. |
| Bagasse Dryer, Permit No. AO 26-2035 | 17-2.04(2) | do | Do. |
| **HIGHLANDS COUNTY** | | | |
| Avon Park: | | | |
| Ewell Engineering & Contracting Co., Permit No. AO 28-2013 | 17-2.04(2) | May 15, 1973 | June 14, 1974 |
| Florida Home Juice, Permit No. AO 28-2041 | 17-2.04(2) | do | Feb. 28, 1975 |
| Florida Power Corp.: | | | |
| Steam Boiler Unit No. 1, Permit No. AO 28-2022 | 17-2.04(6)(e)2c | do | Feb. 15, 1974 |
| Steam Boiler Unit No. 2, Permit No. AO 28-2021 | 17-2.04(6)(e)2a | do | July 1, 1975 |
| Steam Boiler Unit No. 2, Permit No. AO 28-2021 | 17-2.04(6)(e)2.c | do | Feb. 15, 1974 |
| Lake Placid: | | | |
| St. Regis Paper Co.: | | | |
| Steam Boiler No. 1, Permit No. AO 28-2026 | 17-2.04(6)(e)2.c | do | Jan. 1, 1975 |
| Steam Boiler No. 2, Permit No. AO 28-2027 | 17-2.04(6)(e)2.c | do | Do. |
| Sebring: | | | |
| Sebring Utilities Commission, Permit No. AO 28-2020 | 17-2.04(6)(e)2.c | do | July 1, 1975 |
| **LEE COUNTY** | | | |
| Fort Myers: | | | |
| Harper Bros., Permit No. AO 36-2012 | 17-2.04(2) | May 15, 1973 | June 14, 1974 |
| Warren Bros., Permit No. AO 3 -2010 | 17-2.04(2) | do | June 1, 1974 |
| **SARASOTA COUNTY** | | | |
| Sarasota: | | | |
| Warren Bros., Permit No. AO 58-2011 | 17-2.04(2) | May 15, 973 | July 1, 1974 |

AIR QUALITY CONTROL REGION NO. 052

**CITRUS COUNTY**

| | | | |
|---|---|---|---|
| Inverness: | | | |
| Carroll Contracting, Inc., Permit No. AO 9-2020 | 17-2.04(2) | Apr. 17, 1973 | July 1, 1974 |
| Red Level: | | | |
| Florida Power Corp., Crystal River Plant: | | | |
| Unit No. 1, Permit No. AO 9-376 | 17-2.04(6)(e)2.a | do | July 1, 1975 |
| Unit No. 2, Permit No. AO 9-377 | 17-2.04(6)(e)2.a | do | Do. |
| Unit No. 1, Permit No. AO 9-376 | 17-2.04(6)(e)2.c | do | Feb. 1, 1975 |
| Unit No. 2, Permit No. AO 9-377 | 17-2.04(6)(e)2.c | do | Do. |
| **HARDEE COUNTY** | | | |
| Wauchula: | | | |
| Peace River Processors, Inc., Permit No. AO 25-2124 | 17-2.04(6)(e)3 | May 15, 1973 | July 1, 1975 |
| Revell Crate Co., Permit No. SO 25-2017 | 17-2.04(1)(a)(b)(c) | do | Jan. 1, 1974 |

[Effective date, immediately]—Continued

| Location (Florida) and source | Regulation involved | Date of adoption | Final compliance date |
|---|---|---|---|
| **HERNANDO COUNTY** | | | |
| Brooksville: | | | |
| Brooksville Citrus Growers Association, Permit No. AO 27-167. | 17-2.04(6)(e) | May 15, 1973 | July 1, 1975 |
| Chemical Lime, Inc.: | | | |
| (a) Dryer, Permit No. AO 27-389 | 17-2.04(2) | do | Mar. 24, 1975 |
| (b) Kiln, Permit No. AO 27-390 | 17-2.04(2) | do | Do. |
| (c) Hydrator Plant, Permit No. AO 27-391 | 17-2.04(2) | do | Do. |
| (d) Bagging Operation, Permit No. AO 27-392 | 17-2.04(2) | do | Do. |
| Dairy Service Corp., Citrus Peel Dryer, Permit No. AO 27-2002. | 17-2.04(2) | do | June 2, 1975 |
| **HILLSBOROUGH COUNTY** | | | |
| Tampa: | | | |
| American Can Co., Permit No. AO 29-2169 | 17-2.04(5) | May 15, 1973 | July 1, 1975 |
| American Oil Co., Permit No. AO 29-2133 | 17-2.04(6)(e)3 | do | Mar. 1, 1974 |
| Plant City: | | | |
| Borden Inc., Permit No. AO 29-2082 | 17-2.04(3) | do | July 1, 1975 |
| Zephyr Hills: | | | |
| C. F. Industries: | | | |
| Phosphate plant, Permit No. AO 29-2083 | 17-2.04 (2), (3) (6)(c). | do | Do. |
| Sulfuric acid plants, Permit No. AO 29-2083 | 17-2.04(6)(b)1 | do | Sept. 1, 1973 |
| Tampa: | | | |
| Cone Bros. Contracting Co., East Osborne Ave., Permit No. AO 29-2165. | 17-2.04(2) | do | May 1, 1974 |
| Cone Bros. Contracting Co., 1814 North 12th St., Permit No. AO 29-2166. | 17-2.04(2) | do | Do. |
| Davenport Drugs, Inc., Permit No. SO 29-2035 | 17-2.04(6)(a) | do | Oct. 1, 1973 |
| Detsco Terminals, Inc., Permit No. AO 29-2119 | 17-2.04 (2) and (3) | do | July 1, 1975 |
| Eastern Associated, Permit No. AO 29-2170 | 17-2.01 (2) and (3) | do | Do. |
| Plant City: | | | |
| Florida Sip, Inc., Permit No. AO 29-2121 | 17-2.04(2)(6)(e)3 | do | July 1, 1974 |
| Tampa: | | | |
| Florida Steel Corp., Permit No. AO 29-2177 | 17-2.04 (2) and (3) | do | July 1, 1975 |
| General Portland Inc.: | | | |
| Kiln Nos. 1-5, Case No. 20589 | 17-2.04(6)(f) | do | Aug. 1, 1973 |
| Clinker cooler Nos. 1-6, Case No. 20589 | 17-2.04(6)(f) | do | Do. |
| Material handling, Case No. 20589 | 17-2.04(3) | do | Do. |
| Fugitive dust generation, Case No. 20589 | 17-2.04(3) | do | Do. |
| All other sources, Permit No. AO 29-2181 | 17-2.04 (2), (3), (6)(f). | do | July 1, 1975 |
| Brandon: | | | |
| Gant Shopping Center, Permit No. SO 29-2037 | 17-2.04(6)(a) | do | Oct. 1, 1973 |
| Gibsonton: | | | |
| Gardinier, Inc., Permit No. AO 29-2180 | 17-2.04(6)(b) | do | July 1, 1975 |
| Tampa: | | | |
| W. R. Grace & Co., 1604 36th St., Permit No. AO 29-2182 | 17-2.04(2)(3) | do | Do. |
| W. R. Grace & Co., 35th and 3d Ave., Permit No. AO 29-2132 | 17-2.04(2)(3) | do | Do. |
| Port Sutton: | | | |
| International Minerals & Chemicals Corp. Permit No. AO 29-2173. | 17-2.04 (2), (3) | do | Do. |
| Tampa: | | | |
| Jos Schlitz Brewing Co., Permit No. AO 29-2112 | 17-2.04(6)(e)3 | do | Do. |
| Kaiser Agricultural Chemicals: | | | |
| Cooler and dryer, granulation plant, Permit No. AO 29-2130. | 17-2.04 (2), (3) | do | July 1, 1974 |
| Nitric acid plant, Permit No. AO 29-2129 | 17-2.04(6)(g)2 | do | July 1, 1975 |
| Loading and unloading facilities, Permit No. AO 29-2128 | 17-2.04(3) | do | Do. |
| Mineral Aggregates, Inc., Permit No. AO 29-2172 | 17-2.04(2) | do | Jan. 1, 1975 |
| National Gypsum Co.: | | | |
| Holo-Flite Unit, Permit No. AO 29-2174 | 17-2.04(2) | do | July 1, 1975 |
| Rock dryer, Permit No. AO 29-2175 | 17-2.04(2) | do | Do. |
| Wallboard dryer, Permit No. AO 29-2176 | 17-2.04(2) | do | Do. |
| Nitram, Inc., Permit No. AO 29-2179 | 17-2.04 (2), (3), (6)(a), (e) 3, (g). | do | Do. |







[Effective date, immediately]—Continued

| Location (Florida) and source | Regulation involved | Date of adoption | Final compliance date |
|---|---|---|---|
| Penny-Saver Grocery, Permit No. SO 29-2034 | 17-2.04(6)(a) | do | Oct. 1, 1973 |
| Reynolds Metal Co., Permit No. AO 29-2178 | 17-2.03(1); 17-2.04(5). | do | July 1, 1975 |
| River Gulf Terminal, Inc., Permit No. AO 29-2188 | 17-2.04 (3), (2) | do | Do. |
| Robbins Manufacturing Co., Permit No. AO 29-2125 | 17-2.04(6)(a) | do | Mar. 1, 1974 |
| Seaboard Coastline Railroad, Permit No. AO 29-2180 | 17-2.04 (2), (3) | do | July 1, 1975 |
| Security Feeds (Feeds for Florida, Inc.) Permit No. AO 29-2183. | 17-2.04(3) | do | Do. |
| Tampa, city of: Tampa Municipal Incinerator, Board Order, No. 73-40. | 17-2.04(6)(a) | do | Mar. 1, 1975 |
| Tampa, city of: Water Department, Permit No. AO 29-2122 | 17-2.04(6)(e)3 | do | Mar. 1, 1974 |
| Tampa Electric Co., Hookers Point Units Nos. 1-6, Permit No. AO 29-2093. | 17-2.04(6)(e) 2 a, b, c, e. | do | June 30, 1974 |
| North Ruskin: | | | |
| Big Bend Station: | | | |
| Units Nos. 1 and 2, Permit No. AO 29-2092 | 17-2.04(6)(e)2d | do | July 1, 1975 |
| Unit No. 1, Permit No. AO 29-2092 | 17-2.04(6)(e)2a | do | Sept. 30, 1974 |
| Unit No. 2, Permit No. AO 29-2092 | 17-2.04(6)(e)2a | do | Aug. 30, 1973 |
| Tampa: | | | |
| F. J. Gannon Station: | | | |
| Units Nos. 1-4, Permit No. AO 29-2191 | 17-2.04(6)(e)2 a, c | do | Apr. 30, 1975 |
| Units Nos. 5 and 6, Permit No. AO 29-2191 | 17-2.04(6)(e)2d | do | July 1, 1975 |
| Unit No. 5, Permit No. AO 29-2191 | 17-2.04(6)(e)2a | do | July 30, 1974 |
| Unit No. 6, Permit No. AO 29-2191 | 17-2.04(6)(e)2a | do | May 30, 1974 |
| Brandon: | | | |
| Thriftway Food Store, Permit No. SO 29-2036 | 17-2.04(6)(a) | do | Oct. 1, 1973 |
| **LEVY COUNTY** | | | |
| Inglis: | | | |
| Florida Power Corp.: | | | |
| Stack No. 1, Units Nos. 1, 3, and 5, Permit No. AO 38-2041 | 17-2.04(6)(e) | May 15, 1973 | Feb. 15, 1974 |
| Stack No. 2, Units Nos. 2 and 4, Permit No. AO 38-2042 | 17-2.04(6)(e) | do | Do. |
| Stack No. 3, Unit No. 6, Permit No. AO 38-2043 | 17-2.04(6)(e) | do | Do. |
| Chiefland: | | | |
| Georgia-Pacific Corp.: | | | |
| Boiler No. 1, Permit No. AO 38-2028 | 17-2.04(2) | do | July 1, 1974 |
| Boiler No. 2, Permit No. AO 38-2029 | 17-2.04(2) | do | Do. |
| Boiler No. 3, Permit No. AO 38-2030 | 17-2.04(2) | do | Do. |
| **MANATEE COUNTY** | | | |
| Piney Point: | | | |
| Borden, Inc. Chemical Division Smith Douglas: | | | |
| Sulfuric acid plant, Permit No. AO 41-2042 | 17-2.04(6)(b)1 | May 15, 1973 | July 1, 1975 |
| Auxiliary boiler, Permit No. AO 41-2043 | 17-2.04(6)(e)2.c | do | Apr. 1, 1974 |
| Port Manatee: | | | |
| Manatee Terminals, Inc., Permit No. AO 41-2044 | 17-2.04(3) | do | June 11, 1974 |
| **PASCO COUNTY** | | | |
| New Port Richey: | | | |
| Des Little & Sons, Inc., Permit No. AO 51-2123 | 17-2.04(2) | May 15, 1973 | July 8, 1974 |
| Dade City: | | | |
| Evans Packing Co., Citrus feed mills, Permit No. AO 51-2055 | 17-2.04(2) | do | June 1, 1975 |
| Lykes Pasco Packing Co. (citrus processing plant): | | | |
| Power plant boiler No. 2, Permit No. AO 51-2071 | 17-2.04(6)(e)2c | do | July 1, 1975 |
| Power plant boiler No. 3, Permit No. AO 51-2075 | 17-2.04(6)(e)2c | do | Do. |
| Power plant boiler No. 4, Permit No. AO 51-2076 | 17-2.04(6)(e)2c | do | Do. |
| Power plant boiler No. 5, Permit No. AO 51-2077 | 17-2.04(6)(e)2c | do | Do. |
| Vitamin plant boiler, Permit No. AO 51-2078 | 17-2.04(6)(e)2c | do | Do. |
| Concentrate plant boiler, Permit No. AO 51-2079 | 17-2.04(6)(e)2c | do | Do. |
| Holiday: | | | |
| Winn Dixie Stores, Inc., Store No. 605, Permit No. SO 51-2007 | 17-2.04(6)(a) | do | Jan. 1, 1974 |

[Effective date, immediately]—Continued

| Location (Florida) and source | Regulation involved | Date of adoption | Final compliance date |
|---|---|---|---|
| **PINELLAS COUNTY** | | | |
| Clearwater: | | | |
| David Hilcore & Co., Inc., Permit No. AO 52-2046 | 17-2.04(2) | do | June 2, 1975 |
| St. Petersburg: | | | |
| Florida Power Corp.—Bartow Plant—Weedon Island: | | | |
| Unit No. 1, Permit No. AO 52-2037 | 17-2.04(6)(e)2c | do | Jan. 5, 1974 |
| Unit No. 2, Permit No. AO 52-2038 | 17-2.04(6)(e)2c | do | Do. |
| Unit No. 3, Permit No. AO 52-2039 | 17-2.04(6)(e)2c | do | Do. |
| Florida Power Corp., Bayboro plant, 13th Ave. South at 3d St.: | | | |
| Unit No. 2, Permit No. AO 52-2041 | 17-2.04(6)(e)2c | do | Feb. 15, 1974 |
| Unit No. 3, Permit No. AO 52-2045 | 17-2.04(6)(e)2c | do | Do. |
| Unit No. 4, Permit No. AO 52-2046 | 17-2.04(6)(e)2c | do | Do. |
| Oldsmar: | | | |
| Florida Power Corp., Higgins Plant: | | | |
| Unit No. 1, Permit No. AO 52-2040 | 17-2.04(6)(e)2c | do | Do. |
| Unit No. 2, Permit No. AO 52-2044 | 17-2.04(6)(e)2c | do | Do. |
| Unit No. 3, Permit No. AO 52-2042 | 17-2.04(6)(e)2c | do | Do. |
| Largo: | | | |
| Moorefield Paving Contractors, Inc., Permit No. AO 52-2047 | 17-2.04(2) | do | Jan. 1, 1974 |
| Tarpon Springs: | | | |
| Stauffer Chemical Co.: | | | |
| (a) Boiler, Permit No. AO 52-2054 | 17-2.04(6)(e)3 | do | June 4, 1975 |
| (b) Roaster, Permit No. AO 52-2055 | 17-2.04(3)(6)(c)1b | do | June 1, 1975 |
| (c) Phosphorus furnace, Permit No. AO 52-2053 | 17-2.04(1) | do | Do. |
| (d) Nodulizing kiln, Permit No. AO 52-2050 | 17-2.04 (2), (6)(c)1.b. | do | Do. |
| Dunedin: | | | |
| H. P. Hood & Sons, Inc., Boiler house, Permit No. AO 52-2031 | 17-2.04(6)(e)3 | do | Jan. 1, 1974 |
| St. Petersburg: | | | |
| Kresge Store, Permit No. SO 52-2010 | 17-2.04(6)(a)3 | do | Do. |
| Pinellas Cigar Co., Permit No. SO 52-2008 | 17-2.04(6)(a)3 | do | Do. |
| St. Petersburg Beach: | | | |
| St. Johns Catholic Church, Permit No. SO 52-2011 | 17-2.04(6)(a)3 | do | Do. |
| **POLK COUNTY** | | | |
| South Pierce: | | | |
| Agrico Chemical Co., Permit No. AO 53-2145 | 17-2.04(3) | May 15, 1973 | July 1, 1975 |
| Pierce: | | | |
| Agrico Chemical, Permit No. AO 53-2146 | 17-2.04(2)(3) | do | Do. |
| Lake Wales: | | | |
| Atoma Packing Co., Permit No. AO 53-358 | 17-2.04(2) | do | Do. |
| Lakeland: | | | |
| Rine Seal Asphalt Co., Permit No. AO 53-2154 | 17-2.04(2) | do | Jan. 1, 1974 |
| Borden, Inc., Chemical Division, Permit No. AO 53-2111 | 17-2.04(3) | do | July 1, 1975 |
| Bradley: | | | |
| Brewster Phosphates, Inc., Permit No. AO 53-2026 | 17-2.04(2)(3) | do | June 1, 1975 |
| Bartow: | | | |
| C. F. Chemical Industries, Inc.: | | | |
| Sulfuric acid plants Nos. 1 and 2, Permit No. AO 53-2091 | 17-2.04(6)(b) | do | July 1, 1975 |
| Sulfuric acid plants Nos. 3 and 4, Permit No. AO 53-2084 | 17-2.04(6)(b) | do | Do. |
| Sulfuric acid plants Nos. 5 and 6, Permit No. AO 53-2094 | 17-2.04(6)(b) | do | May 1, 1975 |
| Lakeland: | | | |
| City of Lakeland Power Plants: | | | |
| Unit No. 7, Boiler No. 12, Permit No. AO 53-576 | 17-2.04(6)(e) | do | June 1, 1975 |
| Unit No. 4, Boiler No. 9, Permit No. AO 53-577 | 17-2.04(6)(e) | do | Do. |
| Gas Turbines Nos. 1, 2, and 3, Permit No. AO 53-578 | 17-2.04(6)(e) | do | Do. |
| Larsen plant, Unit No. 5, Boiler No. 10, Permit No. AO 53-579. | 17-2.04(6)(e) | do | Do. |
| Larsen plant, Unit No. 6, Boiler No. 11, Permit No. AO 53-580. | 17-2.04(6)(e) | do | Do. |

[Effective date, Immediately]—Continued

| Location (Florida) and source | Regulation involved | Date of adoption | Final compliance date |
|---|---|---|---|
| **SUMTER COUNTY** | | | |
| Sumterville: | | | |
| Dixie Lime & Stone Co.: | | | |
| Quick lime plant, Permit No. AO 60-711 | 17-2.04(2) | Apr. 17, 1973 | Feb. 15, 1975 |
| Hydrosludge plant, Permit No. AO 60-712 | 17-2.04(2) | do | Do. |
| Cantonment: | | | |
| Boise Cascade Corp., Board Order, AP-784-73 | 17-2.04(2) | July 11, 1973 | May 24, 1974 |
| Baldwin: | | | |
| Brickestaff Clay Products Co., Permit No. AO 17-2903 | 17-2.04(2) | May 15, 1973 | Jan. 1, 1974 |
| Pensacola: | | | |
| Escambia Treating Co., Permit No. AO 17-587 | 17-2.04(2) | do | Oct. 30, 1973 |
| Century: | | | |
| Louisiana Land & Exploration Co.: | | | |
| (a) Wiggins Lake Products, Facility No. 1, Permit No. AO 17-522 | 17-2.04(6)(h)2a | do | July 1, 1974 |
| (b) Wiggins Lake Products, Treating Facilities No. 2, Permit No. AO 17-526 | 17-2.04(6)(h)2a | do | Do. |
| Gonzales: | | | |
| Monsanto Corp.: | | | |
| (a) Adiponitrile synthesis, Permit No. AO 17-627 | 17-2.01(2) | do | Mar. 15, 1974 |
| (b) Ammonia oxidation, Permit No. AO 17-581 | 17-2.04(6)(g) | do | Do. |
| Cantonment: | | | |
| St. Regis Paper Co.: | | | |
| (a) No. 1 Power Boiler, No. 1 Mill, Permit No. AO 17-512 | 17-2.04(6)(e)2 | do | July 1, 1973 |
| (b) No. 2 Power Boiler, No. 2 Mill, Permit No. AO 17-513 | 17-2.04(6)(e)2 | do | Do. |
| (c) No. 3 Power Boiler, No. 1 Mill, Permit No. AO 17-514 | 17-2.04(6)(e)2 | do | Do. |
| (d) No. 4 Power Boiler, No. 2 Mill, Permit No. AO 17-515 | 17-2.04(6)(e)2 | do | Do. |
| (e) No. 1 Power Boiler, No. 2 Mill, Permit No. AO 17-516 | 17-2.04(6)(e)2 | do | Do. |
| (f) No. 2 Power Boiler, No. 2 Mill, Permit No. AO 17-626 | 17-2.04(6)(e)2 | do | Do. |
| **AIR QUALITY CONTROL REGION NO. 085** | | | |
| **BAY COUNTY** | | | |
| Panama City: | | | |
| Arizona Chemical Co., Permit No. AO 03-744 | 17-2.03(1); 17-2.04(2). | May 15, 1973 | Mar. 1, 1974 |
| Cove Contractors, Permit No. AO 03-366 | 17-2.04(6)(e)3 | do | Jan. 1, 1974 |
| Industrial Lime Co.: | | | |
| Power Boiler No. 4, Permit No. AO 03-601 | 17-2.04(6)(e)2 | do | Do. |
| Power Boiler No. 5, Permit No. AO 03-602 | 17-2.04(6)(e)2 | do | Do. |
| Gulf Power Co., Smith Generating Station, Board Order, AP-765-73. | 17-2.04(6)(e) 2 a and d. | July 30, 1973 | July 1, 1975 |
| **CALHOUN COUNTY** | | | |
| Blountstown: | | | |
| Hayes Forest Products Industries: | | | |
| Power Boiler (Wigwam Burner), Permit No. SO 07-502 | 17-2.04(6)(a) | May 15, 1973 | Nov. 1, 1974 |
| Power Burner (26-foot diameter), Permit No. SO 07-503 | 17-2.04(6)(a) | do | Do |
| **ESCAMBIA COUNTY** | | | |
| Century: | | | |
| Alpro-Sullivan Co.: | | | |
| (a) Acrylics with common stack, Permit No. AO 17-1073 | 17-2.04(2) | May 15, 1973 | Aug. 30, 1973 |
| (b) Dry shaving cyclone, Permit No. AO 17-1075 | 17-2.04(2) | do | Do. |
| Davisville: | | | |
| Atmore Pole & Timber Co., Permit No. AO 17-983 | 17-2.04(6)(a) | do | Dec. 30, 1973 |
| Pensacola: | | | |
| American Creosote Works, Inc., Permit No. AO 17-980 | 17-2.04(2) | do | Jan. 15, 1974 |
| Lake Wales: | | | |
| Citrus World, Inc.: | | | |
| 160,000 per hour waste heat evaporator, Permit No. AO 53-676 | 17-2.01(2) | do | June 1, 1974 |
| Hot cooler, Permit No. AO 53-568 | 17-2.04(2) | do | Do. |
| Air cooler, hour waste, Permit No. AO 53-569 | 17-2.01(2) | do | Do. |
| Feed cooler, Permit No. AO 53-570 | 17-2.04(2) | do | Do. |
| Storage bin cooler system, Permit No. AO 53-571 | 17-2.04(2) | do | Do. |
| Pellet cooler system, Permit No. AO 53-572 | 17-2.04(2) | do | Do. |
| Air conveyed, discharge stack, Permit No. AO 53-573 | 17-2.04(2) | do | Do. |
| Auburndale: | | | |
| Coca-Cola Co., Foods Division, Isolers, Permit No. AO 53-2150 | 17-2.04(6)(e)3 | do | July 1, 1975 |
| Bartow: | | | |
| Lake Hamilton Citrus, Inc., Permit No. AO 53-2168 | 17-2.04(2) | do | June 1, 1974 |
| Lake Wales: | | | |
| Lake Asphalt Corp., Unit No. 1, Permit No. AO 53-2131 | 17-2.04(2) | do | Jan. 1, 1974 |
| Nichols: | | | |
| Mobil Chemical Co., Permit No. AO 53-2142 | 17-2.01 (2), (3) | do | July 1, 1975 |
| Loughman: | | | |
| Florida Rock Paving Co., Permit No. AO 53-2160 | 17-2.04(2) | do | June 1, 1974 |
| Lakeland: | | | |
| Owens-Illinois, Permit No. AO 53-2167 | 17-2.04(2) | do | Jan. 1, 1974 |
| Multitex: | | | |
| Rayonier Co., Permit No. AO 53-2084 | 17-2.04(6)(b) | do | July 1, 1975 |
| Davenport: | | | |
| Standard Sand & Silica Co.: | | | |
| Flint Rock dryer, Permit No. AO 53-2156 | 17-2.01(2) | do | July 1, 1974 |
| Flint Rock dryer, Permit No. AO 53-2158 | 17-2.01(2) | do | Do. |
| No. 1 silica dryer, Permit No. AO 53-2157 | 17-2.01(2) | do | Do. |
| Fort Meade: | | | |
| Sun Coast Canning Co., citrus feed mill, Permit No. AO 53-2161 | 17-2.01(2) | do | July 1, 1975 |
| Bartow: | | | |
| Swift & Co., Permit No. AO 53-2135 | 17-2.01 (2), (3), (6)(b). | do | Do. |
| USS Agri-Chemical Co., Permit No. AO 53-2139 | 17-2.04 (2), (6)(b), (6)(d). | do | Do. |
| Fort Meade: | | | |
| USS Agri-Chemical Co., Permit No. AO 53-2141 | 17-2.04 (2) and (3); 17-2.04(6)(b), (6)(d). | do | Do. |
| Lakeland: | | | |
| West Gillen Department Store, Permit No. SO 53-3001 | 17-2.04(6)(a) | do | Jan. 1, 1974 |
| Winn-Dixie Food Store (Lake Parker Shopping Mall), Permit No. SO 53-3025. | 17-2.04(6)(a) | do | Do. |
| Bartow: | | | |
| W. R. Grace & Co., Bartow Works, Permit No. AO 53-2136 | 17-2.04 (2), (3), (6)(b). | do | July 1, 1975 |
| W. R. Grace & Co., Mareo Chemical Division, Permit No. SO 53-3024. | 17-2.04(6)(a)3 | do | Jan. 1, 1974 |
| Lakeland: | | | |
| Yogurt Master, Permit No. SO 53-3030 | 17-2.04(6)(a) | do | Do. |





[Effective date, Immediately]—Continued

| Location (Florida) and source | Regulation involved | Date of adoption | Final compliance date |
|---|---|---|---|
| Pensacola: | | | |
| Weis Fricker Mahogany Co., Permit No. AO 17-396 | 17-2.04(2) | do | May 24, 1974 |
| Gulf Power Co., Crist Generating Station Board Order, AP-765-73. | 17-2.04(6)(e) 2 a and d. | July 30, 1973 | July 1, 1975 |
| **GULF COUNTY** | | | |
| Port St. Joe: | | | |
| Basic Magnesia Inc.: | | | |
| Magnesium Oxide Calciner No. 1, Permit No. AO 23-339 | 17-2.04(2) | May 15, 1973 | Jan. 1, 1974 |
| Magnesium Oxide Calciner No. 2, Permit No. AO 23-340 | 17-2.04(2) | do | Do. |
| St. Joe Paper Co.: | | | |
| Power Boiler No. 3, Permit No. AO 23-445 | 17-2.04(6)(e)3 | do | May 24, 1974 |
| Power Boiler No. 4, Permit No. AO 23-446 | 17-2.04(2) | do | Do. |
| Power Boiler No. 5, Permit No. AO 23-447 | 17-2.04(6)(e)3 | do | Do. |
| Power Boiler No. 6, Permit No. AO 23-448 | 17-2.04(6)(e)3 | do | Do. |
| Power Boiler No. 7, Permit No. AO 23-449 | 17-2.04(6)(e)3 | do | Do. |
| Power Boiler No. 8, Permit No. AO 23-450 | 17-2.04(6)(e)3 | do | Do. |
| **JACKSON COUNTY** | | | |
| Marianna: | | | |
| Dixie Lime & Stone Co., Green Valley Plant, Permit No. AO 32-1059. | 17-2.04(2) | May 15, 1973 | Jan. 1, 1974 |
| Graceville: | | | |
| Gold Kist Peanuts, Permit No. AO 32-1080 | 17-2.04(2); 17-2.04(6)(e)3. | do | Apr. 30, 1974 |
| Sueads: | | | |
| Gulf Power Co., Scholz Generating Station, Board Order, AP-765-73. | 17-2.04(6)(e) 2 a and d. | July 30, 1973 | July 1, 1975 |
| **SANTA ROSA COUNTY** | | | |
| Pace: | | | |
| Air Products & Chemicals, Inc. (Escambia Chemical Corp.): | | | |
| No. 2 Nitric Acid Plant, Permit No. AO 57-2003 | 17-2.04(6)(g)2 | May 15, 1973 | July 1, 1975 |
| No. 1 Nitric Acid Plant, Permit No. AO 57-2002 | 17-2.04(6)(g)2 | do | Do. |
| Jay: | | | |
| Amerada-Hess Oil, Permit No. AO 57-2001 | 17-2.04(6)(h)2 | do | Do. |
| Exxon Co., U.S.A.: | | | |
| Facility No. 2, Permit No. AO 57-1066 | 17-2.04(6)(h)2 | do | Do. |
| Facility No. 3, Permit No. AO 57-1096 | 17-2.04(6)(h)2 | do | Do. |
| Facility No. 4, Permit No. AO 57-1101 | 17-2.04(6)(h)2 | do | Do. |
| Facility No. 5, Permit No. AO 57-1115 | 17-2.04(6)(h)2 | do | Do. |
| Sun Oil Co., Permit No. AO 57-1001 | 17-2.04(6)(h)2 | do | Do. |

## Subpart RR—Tennessee

2. In § 52.2223, paragraphs (a) (1) and (2) are revised, and paragraphs (a) (4), (5), and (6) are redesignated (a) (5), (6), and (7), and a new paragraph (a) (4) is added, as follows:

### § 52.2223 Compliance schedules.

(a) *Federal compliance schedules—State program.*—(1) Except as provided in paragraph (a) (5) of this section, the owner or operator of any boiler or furnace of more than 250 million Btu per hour heat input subject to the requirements of Tennessee air pollution control regulation chapter VI, section 4.B.1, as contained in the Tennessee implementation plan, shall notify the Admnistrator, no later than January 1, 1974, of his intent to utilize either low-sulfur fuel or stack gas desulfurization to meet these requirements.

(2) Any owner or operator of a stationary source subject to paragraph (a) (1) of this section who elects to utilize low-sulfur fuel shall be subject to the following compliance schedule:

(i) January 31, 1974: Submit to the Administrator a projection of the amount of fuel, by types, that will be substantially adequate to enable compliance with the applicable regulation on July 1, 1975, and for at least one year thereafter.

(ii) March 31, 1974: Sign contracts with fuel suppliers for fuel requirements as projected above.

(iii) April 30, 1974: Submit a statement as to whether boiler modifications will be required. If modifications will be required, submit plans for such modifications.

(iv) May 31, 1974: Let contracts for necessary boiler modifications, if applicable.

(v) October 31, 1974: Initiate onsite modifications, if applicable.

(vi) June 1, 1975: Complete onsite modifications, if applicable.

(vii) July 1, 1975: Achieve compliance with the requirements of Tennessee air pollution control regulation chapter VI, section 4.B.1, and certify compliance to the Administrator.

(viii) If a performance test is necessary for a determination as to whether compliance has been achieved, such a test must be completed on or before July 1, 1975. Ten days prior to such a test, notice must be given to the Administrator to afford him the opportunity to have an observer present.

(ix) Five days after the deadline for completing increments (ii) through (vi) in this subparagraph certification as to whether the increments were met shall be made to the Administrator.

* * * * * * *

(4) Except as provided in subparagraph (5) of this paragraph, the owner or operator of any stationary source subject to the requirements of Tennessee air pollution control regulations chapter VII, section 6.B.1 (section 8.B.1 in the revised regulations), and chapter VII, section 7.1 (section 9.1 in the revised regulations), as contained in the Tennessee implementation plan, shall comply with the following compliance schedule:

(i) November 15, 1973: Submit to the Administrator a final control plan, which describes at a minimum the steps which will be taken by the source to achieve compliance with the applicable regulations.

(ii) January 1, 1974: Negotiate and sign all necessary contracts for emission control systems or process modifications, or issue orders for the purchase of component parts to accomplish emission control or process modification.

(iii) February 1, 1974: Initiate onsite construction or installation of emission control equipment or process modification.

(iv) May 1, 1975: Complete onsite construction or installation of emission control equipment or process modification.

(v) July 1, 1975: Achieve compliance with the applicable regulations and certify such compliance to the Administrator.

(vi) If a performance test is necessary for a determination as to whether compliance has been achieved, such a test must be completed on or before July 1, 1975. Ten days prior to such a test, notice must be given to the Administrator to afford him the opportunity to have an observer present.

(vii) Five days after the deadline for completing increments (ii) through (iv) in this subparagraph certification as to whether the increments were met shall be made to the Administrator.

* * * * * * *

**Subparts C—Alaska, G—Colorado, J—District of Columbia, K—Florida, N—Idaho, O—Illinois, V—Maryland, X—Michigan, HH—New York, MM—Oregon, PP—South Carolina, RR—Tennessee, WW—Washington, XX—West Virginia, YY—Wisconsin [Amended]**

§§ 52.84, 52.327, 52.476, 52.524, 52.677, 52.730, 52.1080, 52.1175, 52.1677, 52.2123, 52.2223, 52.2481, 52.2524, 52.2758 [Amended]

4. The following sections are revised uniformly: Paragraph (b) (9) in § 52.84, paragraph (b) (5) in § 52.327, paragraph (b) (5) in §52.476, paragraph (b) (6) in § 52.524, paragraph (d) (5) in § 52.677, paragraph (b) (3) in § 52.730, paragraph (b) (5) in § 52.1080, paragraph (d) (3) in § 52.1175, paragraph (d) (12) in § 52.1677, paragraph (c) (11) in § 52.1975, para-



V 3 8 1 1 7 3
SEP 7 7 3
XUM

graph (c) (14) in § 52.2123, paragraphs (a) (5) and (e) (16) in § 52.2223, paragraph (d) (3) in § 52.2481, paragraph (b) (9) (i)–(iii) in § 52.2524, paragraph (c) (3) in § 52.2758. As revised these paragraphs read as follows:

. . . . . .

. . . (i) None of the above subparagraphs shall apply to a source which is presently in compliance with applicable regulations and which has certified such compliance to the Administrator by October 1, 1973. The Administrator may request whatever supporting information he considers necessary for proper certification.

(ii) Any compliance schedule adopted by the State and approved by the Administrator shall satisfy the requirements of this paragraph for the affected source.

(iii) Any owner or operator subject to a compliance schedule in this paragraph may submit to the Administrator no later than October 1, 1973, a proposed alternative compliance schedule. No such compliance schedule may provide for final compliance after the final compliance date in the applicable compliance schedule of this paragraph. If promulgated by the Administrator, such schedule shall satisfy the requirements of this paragraph for the affected source.

. . . . . .

[FR Doc.73-18629 Filed 9-6-73;8:45 am]

SUBCHAPTER D—WATER PROGRAMS

## PART 129—TOXIC POLLUTANT EFFLUENT STANDARDS

### List of Toxic Pollutants

On July 6, 1973, notice was published in the FEDERAL REGISTER (38 FR 18044) that the Environmental Protection Agency was proposing a list of toxic pollutants pursuant to section 307(a) (1) of the Federal Water Pollution Control Act, as amended (33 U.S.C.A. section 1317(a) Supp 1973), (the Act) which provides in part:

> The Administrator shall, within ninety days after the date of enactment of this title, publish (and from time to time thereafter revise) a list which includes any toxic pollutant or combination of such pollutants for which an effluent standard (which may include a prohibtion of the discharge of such pollutants or combinations of such pollutants) will be established under this section.

That proposed list included aldrin-dieldrin, benzidine, cadmium, cyanide, DDT (DDE, DDD), endrin, mercury, polychlorinated biphenyls, and toxaphene.

Written comments on the proposed rulemaking were invited and received from interested parties and are on file with the Agency. All comments have been considered by the Environmental Protection Agency and certain ones have been adopted. These and other principal changes are discussed below.

Several comments dealt with the manner in which the inorganic components of the list were specified and argued that certain insoluble or innocuous forms of these substances should not be included in broad categories such as "all cadmium compounds." Effluent standards which must be developed for the listed pollutants will include analytical and sampling procedures which will distinguish between the toxic and innocuous forms of the designated pollutants.

A number of commenters expressed the opinion that the proposed selection criteria were vague and inadequate. It was obvious from the comments received that a great deal of confusion existed as to what materials could potentially be selected as toxic pollutants.

Accordingly, EPA has refined these criteria to make them more specific. These criteria entail two major advantages. First, they will provide for more informed public participation, by identifying the kinds of pollutants which the Agency proposes to examine and the types of data which are sought for each pollutant. Second, dischargers will be placed on notice concerning the class of pollutants which may become subject to standards under Section 307(a).

It is our intent that the process of selecting pollutants for the list of toxic pollutants will be a continuing one; as additional evidence is developed, additional pollutants will be added to the list.

Pollutants were chosen for inclusion on the initial list in light of the following criteria:

1. Data from laboratory or field studies indicate that the pollutant could, if discharged into water, constitute a serious environmental threat. The types of data examined in making this judgment are set forth in Part I below.

2. The pollutant is discharged, or has the potential to be discharged, from point sources and constitutes a very serious environmental threat.

3. Data are available to establish effluent standards meeting the requirements of the Act.

4. Standard setting under Section 307 (a) is appropriate, and is necessary because the prospective timing and effectiveness of abatement actions under other provisions of the Act are not commensurate with the nature and seriousness of the problems identified by the above criteria.

#### I. EXPLANATION OF CRITERIA

The first criterion concerns the actual or potential damage that a water discharge of these materials may create by virtue of certain toxicological properties.

Detailed toxicological data are examined to determine whether one or more of these types of effects are known: bioaccumulation, carcinogenic, mutagenic and teratogenic effects, and high acute toxicity. Specifically, the following types of data are reviewed:

1. Available data concerning whether a substance or its chemical or biological transformation product is bioaccumulated through an aquatic mechanism to the extent that they result in:

(a) Reproductive impairment in any important species, or

(b) Concentrations in food sources in excess of applicable Federally established tolerance levels.

2. Data concerning carcinogenic, mutagenic, and teratogenic effects. Materials likely to be carcinogenic, mutagenic, or teratogenic to man are further evaluated as to their chemical, biological, and physical stability in water.

3. Data concerning high order of toxicity as measured by short-term lethality tests. In this connection a classification of a substance as "highly toxic" to man according to classifications established by the Department of Transportation and the Environmental Protection Agency (36 FR 2934, February 12, 1971, 40 CFR 162.8) and the Environmental Protection Agency and the Food and Drug Administration testing procedures (40 CFR 162.8 and 21 CFR 191.10) is particularly relevant. According to the references cited above, substances which have an oral LD50 of 50 mg/kg of body weight or less or have a dermal LD50 of 200 mg/kg of body weight of less are defined as highly toxic to mammals and are examined further. The term "oral LD50" means that single oral dose which is lethal to one-half of the test population within 14 days. The term "dermal LD50" means that dose dermally absorbed in 24 hours which is lethal to one-half of the test population within 14 days.

For the protection of aquatic life, substances proposed to be classified as "highly toxic" according to the National Academy of Sciences water pollution ranking system may be considered for inclusion in the list. Such substances are those which are toxic to aquatic life as measured by a 96 hour LC50 of 10 mg/1 or less. The term "LC50" means that concentration of a substance in water which is lethal to one-half of the test population in the specified time periods. Testing methods such as those found in "Standard Methods for the Examination of Water and Wastewater," 13th Edition, part 231, 1971, or their equivalent will be considered adequate.

The second criterion concerns the seriousness of discharges or potential discharges of the pollutant from point sources. Relevant here are such factors as the nature and extent of toxic effects associated with the pollutant, the extent to which discharges of the pollutant have been identified, and the production, distribution, and use pattern of the pollutant. Data must be available from well documented field studies showing damage to important organisms from discharges of the compound into waters, or technically sufficient to show the material has the potential to be environmentally harmful after being discharged from point sources to the water.

The third criterion concerns setting effluent standards for pollutants on the list. The following are representative of the categories of data useful in standard setting for each material.

1. Toxicity to man and other organisms;
2. Carcinogenicity, mutagenicity, and teratogenicity data;
3. Transport paths of the material in the environment;
4. Bioaccumulation and bioconcentration;
5. Chemical, physical, and biological transformations in the environment;
6. Reliability and accuracy of analytical procedures;
7. Chemical characteristics;
8. Production and industrial or commercial utilization;
9. Sources of the pollutant to water;
10. Environmental incidents attributable to the material (fish kills, etc.);
11. Presence of the material in the environment, residue levels in various organisms, ambient concentrations in rivers, lakes, etc.;
12. State and Federal regulatory requirements concerning the material;
13. Classes and characteristics of waters into which the material is discharged.

The fourth criterion concerns the overall environmental effect of the control measures available, including the use of substitute products, and possible effects upon ground water or other environmental media.

#### II. THE POLLUTANTS SELECTED

The emergency standards promulgated by the Department of Labor for occupational carcinogens (38 FR 10929, May 3, 1973), have forced a shift in the manufacture of benzidine from the previous producers to the end users. The resulting potential for increased water pollution by this known carcinogen and the adverse effects on the environment which may result, require the listing of benzidine. Public comments have indicated that the material should be included, and that discharges should be severely controlled. Other public comments indicated that the material does not meet the selection criteria as proposed July 6, 1973. Benzidine does meet the criteria set forth herein. It was also asserted that the DOL standards would protect both the work place and the environment. However, those standards are designed to prevent occupational exposure, not to control discharges into water.

Mercury is on the list because its organic form is known to bioaccumulate to the extent that it poses a threat to the health of man through concentration in food sources, so as to exceed applicable tolerance levels. Control of point source discharges is urgently needed, and available data are sufficient for standard setting. Public comments noted that the discharge of this material should be severely restricted. Some comments were received recommending deletion of the material from the list because of questions of solubility and demethylation of mercury and its compounds. It should be noted, however, that all forms of mercury in the aquatic environment can be methylated to methylmercury, the most hazardous form.

Aldrin-dieldrin are on the list because of their high order of toxicity to aquatic organisms and their bioaccumulative properties. Control is necessary now and there are adequate data to support effluent standards. Some comments indicated that aldrin-dieldrin should be deleted because of possible conflict with on-going cancellation proceedings under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The Administrator has an obligation to control toxic pollutants under FWPCA which is independent of his authority under FIFRA. These responsibilities cannot be abdicated. Moreover, it is too early to ascertain the precise determinations which will be required under the FWPCA, and the impact on the FIFRA proceedings. Accordingly, deletion of aldrin-dieldrin is not considered to be warranted at this time.

Cadmium is included on the list because of toxicity to aquatic organisms. From our studies, it was determined that there are several hundred dischargers of cadmium, and controls are urgently needed. Public comment supported the inclusion of this material because of its high order of toxicity to aquatic organisms, potential concentrations in the food web, and its widespread discharge.

Some commenters objected to the inclusion of "Cadmium and all cadmium compounds" on the list because some relatively innocuous forms of the element would be included. The final effluent standards will distinguish among the various forms in which the element may occur.

DDT, DDD, and DDE are on the list because of their acute toxicity to aquatic organisms, and their bioaccumulative properties, which are known to cause harmful effects in higher life forms, such as birds. The data are sufficient for the establishment of effluent standards. Public response in favor of inclusion of DDT, DDD, and DDE noted the existence of much data on the harmful effects of these materials. One commenter stated that DDD degrades rapidly, and does not have many of the effects associated with DDT. It was determined, however, that DDD should also be included because of its toxicity and bioaccumulative properties.

Endrin is highly toxic to aquatic life at low concentrations. Considerable data are available on endrin, and control of point sources is necessary at present. Those public comments that supported its inclusion cited considerable data, and urged stringent control. One commenter alleged that the sole manufacturing facility is under control, and that further restriction is unnecessary and redundant. However, available technical and scientific data support inclusion. Moreover, the manufacturer of the material is not the only point source, since formulators also contribute endrin contaminated wastes to the environment.

Polychlorinated biphenyls are on the list because of their high order of toxicity to man and aquatic organisms, and because of their bioaccumulative potential. The data are adequate, and the point source discharges require prompt control. Public comments indicated that the materials should be included because of their widespread use, and their demonstrated harm to aquatic life. These commenters urged that discharges be as low as possible. No comments were received recommending deletion of polychlorinated biphenyls.

Toxaphene is on the list because of its high order of toxicity to aquatic life. Considerable data are available concerning this compound, and prompt control of known point sources is required. Public comments in support of the material being included cited much of the available toxicity data. Some commenters argued that this material did not meet the selection criteria published in connection with the proposed list of July 6, 1973. Toxaphene does meet the criteria set forth in this notice.

Since toxaphene has infrequently been reported to be present in the environment, some commenters urged its deletion. However, controls are necessary because the material continues to be manufactured, formulated, and distrib-





V 38-173 SEP 7 73 XUM

uted in large quantities. Thus, the potential for harmful discharges is considerable.

Cyanide is on the list because of its high order of toxicity to aquatic life. There are many different types of point source discharges and a variety of receiving bodies of water which must be protected from the discharge of this material. The data are adequate to support effluent standards. The public commenters in favor of inclusion cited data on toxicity to aquatic life in very low concentrations. Those commenters who recommended deletion for the most part objected to inclusion of "all cyanide compounds." It was argued that only compounds which dissociate in water to form toxic concentrations of cyanide ion or hydrogen cyanide should be included. The proposed effluent standards will take these comments into account, and may specify special sampling, analysis, and reporting requirements.

III. THE LENGTH OF THE LIST.

Several commenters recommended that the final list include a larger number of pollutants than were included on the proposed list. In addition, a number of commenters requested shortening the list. Most of the latter recommended removal of specific pollutants; these recommendations have been discussed in the preceding section.

As required by section 515 of the Act, EPA notified the Effluent Standards and Water Quality Information Advisory Committee on June 6, 1973, of our intention to propose effluent standards for toxic pollutants under section 307(a). The Committee held hearings on the proposed list in Washington, D.C. (July 16), Chicago, Ill. (July 30), New York, N.Y. (August 1), and San Francisco, Calif. (August 3). The Committee has agreed to provide scientific and technical information concerning the listed pollutants, but has made no recommendations to date concerning the length of the list.

Pursuant to the consent decree entered into by EPA in the case of *NRDC v. Fri*, Civ. Action No. 849–73 (D.D.C.), EPA must publish proposed standards for all pollutants included on this initial list no later than December 3, 1973.

Additional toxic pollutants lists may be published in the future under section 307(a). The Agency will examine a wide range of pollutants in constituting such lists. Among those which will be examined are the following pollutants which were identified in public comments on the initial list:

| | |
|---|---|
| arsenic | ortho-chlorophenol |
| selenium | beta-naphthol |
| chromium | alpha-naphthol |
| lead | beryllium |
| asbestos | nickel |
| sevin | antimony |
| zinc | heptachlor |
| chlordane | camphor |
| lindane | methyl parathion |
| acridine | parathion |
| hydroquinone | di-n-butyl phthalate |

The Agency will examine other pollutants in addition, including chlorinated hydrocarbons, organophosphates, heavy metals, and materials listed as occupational carcinogens by the Department of Labor (38 FR 10929, May 3, 1973).

Persons interested in assisting the Environmental Protection Agency in setting standards for the pollutants listed in Section IV are invited to submit scientific and technical data, and other information concerning the listed pollutants, to Dr. C. Hugh Thompson, Chairman, Hazardous and Toxic Substance Regulation Task Force, Office of Water Program Operations, Environmental Protection Agency, Washington, D.C. 20460. In particular, the thirteen categories of standard-setting data set forth in Section I above are sought for all pollutants listed in Section IV. The Agency is also interested in obtaining data on technology for waste control treatment and disposal of the pollutants listed in Section IV.

In addition, the Agency will review any data submitted on pollutants proposed to be placed on future lists. The pollutants listed above are merely representative of pollutants identified in public comment which may be candidates for selection. Data on those pollutants, and on other pollutants which may be candidates for selection, should be submitted to the Chairman, Hazardous and Toxic Substance Regulation Task Force, at the address set forth in the preceding paragraph.

Dated August 31, 1973.

JOHN QUARLES,
*Acting Administrator.*

IV. THE LIST OF TOXIC POLLUTANTS

Pursuant to section 307(a) of the Federal Water Pollution Control Act, as amended, effluent standards will be established for the pollutants listed below:

1. Aldrin (1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a-hexahydro-1,4,5,8 endo-exodimethanonaphthalene).
   Dieldrin (1,2,3,4,10,10-hexachloro 6,7-epoxy - 1,4,4a,5,6,7,8,8a - octahydro - 1,4 - endo,exo-5,8-dimethanonaphthalene).
2. Benzidine and its salts (para-para'-diaminobiphenyl).
3. Cadmium and all cadmium compounds.
4. Cyanide and all cyanide compounds.
5. DDD (TDE) 1,1 - dichloro - 2,2 - bis(para-chlorophenyl) -ethane.
   DDE(dichlorodiphenyldichloroethylene) 1, 1 - dichloro-2,2 - bis(para-chlorophenyl) ethylene.
   DDT(dichlorodiphenyltrichloroethane) 1,1, 1 - trichloro-2,2-bis(para-chlorophenyl) ethane.
6. Endrin (1,2,3,4,10,10-hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a - octahydro - 1,4 - endo - endo-5,8-dimethanonaphthalene).
7. Mecury and all mercury compounds.
8. Polychlorinated biphenyls (PCB's).
9. Toxaphene (chlorinated camphene).

[FR Doc.73-19018 Filed 9-6-73;8:45 am]

## Title 5—Administrative Personnel

### CHAPTER I—CIVIL SERVICE COMMISSION

### PART 213—EXCEPTED SERVICE

#### Department of Labor

Section 213.3315 is amended to show that one position of Special Assistant to the Deputy Assistant Secretary, Employment Standards Administration, is excepted under Schedule C.

Effective in September 7, 1973, § 213.3315(a)(36) is added as set out below.

**§ 213.3315 Department of Labor.**

(a) *Office of the Secretary.*

• • • • • •

(36) One Special Assistant to the Deputy Assistant Secretary, Employment Standards Administration.

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73-19078 Filed 9-6-73;8:45 am]

## Title 7—Agriculture

### CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTION, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

### PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

#### Subpart—United States Standards for Grades of Canned Ripe Olives

ADDITION OF SEGMENTED STYLE

Notice is hereby given that the U.S. Department of Agriculture is amending the United States Standards for Grades of Canned Ripe Olives. The amendment which adds a "Segmented Style" is in accordance with the Agricultural Marketing Act of 1946, as amended, and with 5 U.S.C. 553, which allows an agency to dispense with the Notice of Proposed Rule Making procedures under certain circumstances.

NOTE.—Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable state laws and regulations.

*Statement of consideration leading to the amendment*

There is an increasing market potential for segmented style ripe olives—a style not recognized in the current U.S. grade standards. To permit the marketing of this new style, the rules and regulations (7 CFR 932.108–932.161) of the Marketing Agreement and Order No. 932, as amended (7 CFR, Part 932) regulating the handling of olives grown in California were amended, effective December 12, 1972.

The Olive Administrative Committee, at its July 18, 1973 meeting, voted unanimously to request that the U.S. Standards be amended to provide for the segmented style.

It is hereby found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule making procedure, and postpone the effective date of this amendment until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because:





(1) The processing industry affected by the amended grade standards is similar with the amendment—having requested it be made;

(2) Additional time is not needed for the industry to make preparations for compliance with the amended standards;

(3) The amendment set forth herein establishes specifications for a segmented style of canned ripe olives which should be made available at the start of the crop year, September 1, 1973, to facilitate operations under Marketing Order No. 932 (7 CFR, Part 932).

Accordingly, the amendments to the U.S. Standards for Grades of Canned Ripe Olives set forth herein shall become effective on September 1, 1973.

Dated: August 31, 1973.

E. L. PETERSON,
*Administrator, Agricultural Marketing Service.*

1. Section 52.3753 is amended to read:

**§ 52.3753 Styles of canned ripe olives.**

• • • • • •

(e) *Segmented.* "Segmented" olives are pitted olives in which each olive is cut lengthwise into more than four approximately equal parts.

(f) *Sliced.* • • •

(g) *Chipped or Minced.* • • •

(h) *Broken pitted.* • • •

**§ 52.3754 [Amended]**

2. In Section 52.3754, paragraphs (a), (b), and (c) are amended by inserting the word, "segmented" between the words "quartered" and "sliced" in the third lines.

• • • • •

3. Table IV is amended by adding the word "segmented" after the word "quartered" in the heading and after the word "quartered"—and on the same line—in the listing of styles.

• • • • •

**§ 52.3761 [Amended]**

4. § 52.3761 (d)(1), (e)(1), and (f)(1) introductory sentences are amended to read:

*Ripe type*—(i) *Whole; pitted; halved; quartered; ensuing; segmented.* • • •

**§ 52.3762 [Amended]**

5. § 52.3762(a)(2) is amended by inserting the word, "segmented" between the words "quartered" and "sliced" in the third line.

• • • • •

**§ 52.3763 [Amended]**

6. § 52.3763 (c)(1)(i), (d)(1)(i), and (e)(1)(i) are amended in the introductory text to read:

(i) *Whole; pitted; halved; quartered; segmented.* (i) • • •; or per 9 ounces in quartered or segmented styles:

• • • • •

**§ 52.3764 [Amended]**

7. § 52.3764 (b), (c), and (d) are amended by inserting the word, "segmented" after the word, "quartered" at the end of line 2.

[FR Doc.73-19001 Filed 9-6-73;8:45 am]

## CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 603]

### PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

#### Limitation of Handling

This regulation fixes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period Sept. 9–15, 1973. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910. The quantity of lemons so fixed was arrived at after consideration of the total available supply of lemons, the quantity of lemons currently available for market, the fresh market demand for lemons, lemon prices, and the relationship of season average returns to the parity price for lemons.

**§ 910.903 Lemon Regulation 603.**

(a) *Findings.*—(1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of lemons that may be marketed during the ensuing week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation with respect to the quantity of lemons it deems advisable to be handled during the ensuing week. Such recommendation resulted from consideration of the factors enumerated in the order. The committee further reports the demand for lemons continues about unchanged as to sizes and grades. Sales this week are expected to fall about 15 percent because of the short selling week, and f.o.b. price is expected to remain about the same as last week. Average f.o.b. price was $7.83 per carton the week ended Sept. 1, 1973, compared to $7.76 per carton the previous week. Track and rolling supplies at 119 cars were up 2 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation for regulation together with its supporting information has been submitted by the committee, however, the Secretary has modified the recommendation to provide for the shipment of a greater quantity of lemons, retaining the same effective date, and such information is being disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on September 4, 1973.

(b) *Order.*—(1) The quantity of lemons grown in California and Arizona which may be handled during the period September 9, 1973, through September 15, 1973, is hereby fixed at 225,000 cartons.

(2) As used in this section, "handled", and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: September 6, 1973.

CHARLES R. BRADER,
*Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.73-19210 Filed 9-6-73;8:45 am]

[Papaya Reg. 3, Amdt. 3]

### PART 928—PAPAYAS GROWN IN HAWAII

#### Limitation of Shipments

This amendment to Papaya Regulation 3, as amended (37 FR 28410; 38 FR 2959, 21269), continues the requirement that all papayas handled grade at least Hawaii No. 1 grade. Such fruit when handled to destinations within the production area must weight at least 14 ounces while papayas grading Hawaii Fancy must weigh not less than 16 ounces. Unless so amended the minimum grade for papayas handled to destinations within the production area would revert to Hawaii No. 2 grade on September 10, 1973.



V 38-173 SEP 7 73 XUM

Ample supplies of papayas of the Hawaii No. 1 and higher grades are available to supply the market. The proposal was recommended by the Papaya Administrative Committee established pursuant to the said marketing agreement and order. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Notice was published in the FEDERAL REGISTER issue of August 17, 1973 (38 FR 22240) that the Department was giving consideration to a proposal to amend Papaya Regulation 3, § 928.303, effective pursuant to the marketing agreement and Order No. 928 (7 CFR Part 928), regulating the handling of papayas grown in Hawaii, to extend the quality regulations, currently in effect, through December 31, 1973. This notice allowed interested persons until August 28, 1973, to submit written data, views, or arguments pertaining to the proposal. One response was received. A handler from the Island of Oahu, Hawaii filed an objection to continuing the requirement that papayas handled to intrastate markets must grade at least Hawaii No. 1. He urged that handlers be permitted to handle Hawaii No. 2 grade papayas to such markets. He stated that the Honolulu market represents a convenient outlet for Hawaii No. 2 grade papayas and restricting the marketing of such grade would result in an inadequate supply. The objection was fully and carefully considered in the light of crop and marketing conditions. It is estimated that production during the September–December period will total 12 million pounds, 31.7 percent more than during the comparable period last year. Hence, adequate supplies of Hawaii No. 1 and better grade papayas should be available to supply the fresh market demand in both the intrastate and export markets during such period.

*Findings.*—(1) Pursuant to the marketing agreement and Order No. 928 (7 CFR Part 928), regulating the handling of papayas grown in Hawaii, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations of the Papaya Administrative Committee, and upon other available information, it is hereby found that the limitation of shipments of papayas, as hereinafter set forth, and in the manner herein provided, will tend to effectuate the declared policy of the act.

(2) The recommendation by the Papaya Administrative Committee reflects current appraisal of the 1973 Hawaiian papaya crop and the current and prospective market conditions for such fruit. Shipments of Hawaiian papayas are now in progress and current regulations would permit the handling of Hawaii No. 2 grade papayas within the production area after September 9, 1973. The amendment will provide fruit of a more desirable quality to the Hawaiian consumer without materially reducing the total supply available, while standardizing the quality of all papayas offered for consumption throughout the United States.

(3) It is hereby further found that good cause exists for not postponing the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that shipments of the current crop of such papayas are underway and are expected to continue during the period September 10 through December 31, 1973, and such amendment should be applicable to all such shipments in order to effectuate the declared policy of the act; notice of proposed rulemaking concerning this amendment with an effective date, as hereinafter specified, was published in the FEDERAL REGISTER (38 FR 22240); the regulatory provisions of this amendment are identical with the aforesaid recommendation of the committee; information concerning such provisions and effective time has been disseminated among handlers of such papayas; the regulatory requirements are the same as those currently in effect; and compliance with the provisions of this regulation will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

*Order.*—Paragraph (a)(1) of § 928.303 (Papaya Regulation 3; 37 FR 28410; 38 FR 2949; 21269) is revised to read as follows:

**§ 928.303 Papaya Regulation 3.**

(a) During the period September 10, 1973, through December 31, 1973, no handler shall ship any container of papayas:

(1) To any destination within the production area unless said papayas grade at least Hawaii No. 1 and are of the size which individually weigh not less than 14 ounces: *Provided*, That papayas handled as Hawaii Fancy grade shall be of a size which individually weigh not less than 16 ounces.

* * * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: September 5, 1973.

CHARLES R. BRADER,
*Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.73-19175 Filed 9-6-73;8:45 am]

## CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

### SUBCHAPTER E—ACCOUNT SERVICING

[FHA Instruction 451.4]

### PART 1866—FINAL PAYMENT ON LOANS SECURED BY REAL ESTATE

#### Amended Regulations

Section 1866.2 of Title 7, Chapter XVIII, of the Code of Federal Regulations is amended to add a provision providing for the prompt issuance by the county supervisor of a release or satisfaction of a real estate mortgage upon receipt of full payment calculated from the latest Transaction Record that reflects all loan advances and other charges have been paid where acceptable under state statutes. This will expedite the issuance of releases or satisfactions for loans paid in full or refinanced and involving an insured lender. In accordance with 5 U.S.C. 553, this amendment is being published without notice of proposed rulemaking inasmuch as it involves only a rule of agency procedure of benefit to borrowers and any delay in its adoption would be contrary to the public interest. Accordingly, this amendment shall be effective upon publication in the FEDERAL REGISTER.

As amended, § 1866.2 reads as follows:

* * * * * *

**§ 1866.2 Authorization.**

The County Supervisor is authorized to execute necessary releases and satisfactions and return the security instruments and related documents to the borrower in the following instances: Upon receipt of full payment of the borrower's account, including any amounts owed the loan insurance account, and upon receipt of a paid note and for insured loans, Form FHA 451–20, "Notice and Acknowledgment of Final Payment," from the holder of the note; or upon receipt of a memorandum from the Finance Office stating that the amount of the payment is sufficient to pay the note in full if acceptable under state statutes; or upon receipt of full payment calculated from the latest Transaction Record that reflects all loan advances and other charges to the borrower's account if a release or satisfaction under these conditions is acceptable under state statutes; or upon receiving a note from the Finance Office indicating the account is satisfied by approved debt settlement action; or when the United States Attorney has accepted a compromise offer in full settlement of the account and has asked that appropriate action be taken to satisfy the security instrument(s).

* * * * * *

AUTHORITY: 7 U.S.C. 1989; 42 U.S.C. 1480; 40 U.S.C. 442; 42 U.S.C. 2942; 5 U.S.C. 301; delegation of authority by the Sec. of Agri., 38 FR 14944, 14948, 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 38 FR 14914, 14952, 7 CFR 2.70; delegations of authority by Dir., OEO, 29 FR 14764, 33 FR 9850.

Dated August 27, 1973.

FRANK B. ELLIOTT,
*Administrator, Farmers Home Administration.*

[FR Doc.73-19000 Filed 9-6-73;8:45 am]

## Title 9—Animals and Animal Products

## CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

### SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS; EXTRAORDINARY EMERGENCY REGULATION OF INTRASTATE ACTIVITIES

### PART 73—SCABIES IN CATTLE

#### Area Released From Quarantine

This amendment releases Quay County in New Mexico from the areas quarantined because of cattle scabies. Therefore, the restrictions pertaining to the interstate movement of cattle from quarantined areas contained in 9 CFR Part 73, as amended, do not apply to the excluded area, but will continue to apply to the quarantined areas described in § 73.1a. Further, the restrictions pertaining to the interstate movement of cattle from nonquarantined areas contained in said Part 73 apply to the excluded area.

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, and the Act of July 2, 1962 (21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, 134f), Part 73, Title 9, Code of Federal Regulations, restricting the interstate movement of cattle because of scabies, is hereby amended as follows:

In § 73.1a, paragraph (c) relating to the State of New Mexico is amended to read:

**§ 73.1a Notice of quarantine.**

* * * * *

(c) Notice is hereby given that cattle in certain portions of the State of New Mexico are affected with scabies, a contagious, infectious and communicable disease; and therefore, the following areas in such State are hereby quarantined because of said disease:

*New Mexico.*

(1) Curry County.
(2) Roosevelt County.
(3) Torrance County.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141.

*Effective date.*—The foregoing amendment shall become effective August 31, 1973.

The amendment relieves restrictions no longer deemed necessary to prevent the spread of cattle scabies, and should be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 31st day of August 1973.

G. H. WISE,
*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc.73-18999 Filed 9-6-73;8:45 am]





## Title 14—Aeronautics and Space

## CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 73-CE-12-AD; Amdt. 39-1708]

### PART 39—AIRWORTHINESS DIRECTIVES

#### Beech Model 18 Series Airplanes

Evaluation of radiographs submitted to the Department of Transportation, Federal Aviation Administration, in accordance with Airworthiness Directive (AD) 72–20–5 (Amendment 39–1632) applicable to Beech Model 18 Series airplanes, has uncovered a high percentage of unsatisfactory plates. Many of the radiographs were of such poor quality as to preclude a determination of compliance with AD 72–20–5 as well as AD 67–8–2 (Amendment 39–716), applicable to the same aircraft. Accordingly, AD 72–20–5 was revised to require mandatory reinspection and modification to the aircraft involved due to the inadequate inspections, the existence of undetected cracks and wing failures. For similar reasons, AD 67–8–2 (Amendment 39–716) must also be changed.

The new AD, which will supersede AD 67–8–2, sets forth specific procedures for accomplishment of the X-Ray inspection of both outer wing panels to assure satisfactory compliance with the AD. It further provides that the initial set of radiographs required by this AD be submitted to the FAA for inspection within two days after such inspection. In addition, this AD further provides for the replacement of all early version outer wing panels with later model panels containing heavier walled lower spar tubes or strapping wing within two years after the effective date of this amendment.

Since it is found that immediate corrective action is required, notice and public procedure are impracticable and contrary to the public interest, and good cause exists for making this AD effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator 14 CFR 11.89 (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new AD.

BEECH.—Except as shown by Paragraph D, applies to Models 18A, 18B, 18D, 18S, A18A, A18D, S18A, SA18A, S18B, S18D, SA18D, C18S, AT–11, C–45, C45A, UC–45B, UC–45F, AT–7, AT–7A, AT–7B, AT–7C, JRB–1, JRB–2, JRB–3, JRB–4, SNB–1, SNB–2, SNB–2C, C45G, TC–45G, C45H, TC–45H, TC–45J (SNB–5), RC–45J (SNB–5P), JRB–6, D18C, D18CT, D18S (Serial Nos. A–1 through A–440 inclusive), and D18S (Serial Nos. A–441 and up equipped with any outboard wing panel now or hereafter replaced in service) airplanes with 1500 hours or more time in service, except any model airplane listed herein equipped with outboard wing panels containing P/N 181410–5 tube of .120 inch wall thickness.

Compliance: Required as indicated.

To detect fatigue cracks in outboard wing panels, accomplish the following:

A. Within 25 hours' time in service after the effective date of this AD and thereafter at intervals not to exceed 500 hours' time in service from the date of the last inspection:

(1) Inspect both outboard wing panel assemblies for Beech Part Number. Identification plate is located on inboard side of root rib near the front spar. Wing panel assemblies P/N 414–181200 or 414–110000 are exempted from X-Ray inspections required by this paragraph.

(2) If both outboard wing panels are identified as assembly P/N 414–181200 inspect the lower front spar tube, P/N 181410–5 by ultrasonic testing methods to determine the wall thickness. If it is determined to be of .120 wall thickness, the X-Ray inspection required by this paragraph is not required. If the wall thickness is less than .120, proceed with the X-Ray inspection. (These panels were original equipment on the D18S airplanes. S/N A–441 and up wing panels utilized .120 walled tubes.) Ultrasonic testing to be accomplished utilizing equipment manufacturer's test procedures. (Branson Model 103 and procedures have been found to be satisfactory.)

(3) Inspect, using X-Ray method, the lower cap at the tips of the welds, as shown by Figures 1 and 2, at both left and right wing stations 102 and 111 in accordance with MIL–STD–453 and the following:

(a) Use fine grain film such as Kodak AA or Kodak M sandwiched between lead screens of .005 inch thickness. Penetrameter properties and locations and film identification are shown in Figures 1 and 2.

(b) Load the wing on the side being inspected by applying a 75 to 100 pound upward force at the junction of wing rib number 10 and the front spar. Place a support under and along the number 10 rib so as to distribute the force.

(c) Position the X-Ray source as shown in Figure 1.

(d) Obtain at least ten radiographs, usually from six "shots" of the source so as to have density at inspection sites of 1.5 to 2.8 on the densitometer or National Bureau of Standards density scale. Ascertain that the radiographs show the penetrameter outline and the "2T" hole, then examine for faint dark narrow lines perpendicular to the spar centerline at inspection sites. Such lines indicate presence of fatigue cracks.

(e) Use of gamma ray sources and procedures must be approved by Chief, Engineering and Manufacturing Branch, FAA, Central Region.

B. If a fatigue crack is found in an outboard wing panel, replace with an airworthy wing panel assembly, Beech P/N 414–181200 or P/N 414–110000, (or other repair and modification covered in Paragraph E) prior to further flight unless ferry flight is authorized by FAA with concurrence by the Chief, Engineering and Manufacturing Branch, FAA, Central Region. Report the location and length of the crack and methods of confirmation to FAA on Form 8330–2.

C. Within two days after compliance with the initial inspection requirement of this AD send the radiographs required by Paragraph A with a statement of the total time and airplane model and serial designations to DOT/FAA, Engineering and Manufacturing Branch, Room 220, Terminal Building, Mid-Continent Airport, Wichita, Kansas 67209. FAA findings will be transmitted to senders of radiographs.

D. Within the next 25 hours' time in service after the effective date of this AD all owners/operators of aircraft models listed in the applicability statement of this AD are to report status of aircraft as to X-Ray, mod-



V 38-173 SEP 7 73 XUM

ified by STC or wing panel replaced with later assembly to: DOT/FAA, Engineering and Manufacturing Branch, Room 220, Terminal Building, Mid-Continent Airport, Wichita, Kansas 67209.

E. Within two years (24 months) after the effective date of this AD, unless previously accomplished:

(1) Replace all early model wing panel assemblies (with spar tube wall thickness of .095 inches) with later model airworthy wing panel assemblies, Beech P/N 414–181200 or P/N 414–110000; or

(2) Modify the airplane by strapping wing by incorporating manufacturer's approved kit, or STC SA895SW or STC SA2000WE, or any other STC which specifically exempts affected airplanes from compliance with this AD.

F. Inspection procedures different from ones specified herein may only be used if approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This amendment supersedes AD 67–8–2.

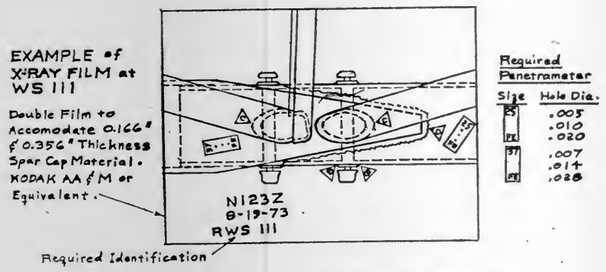
This amendment becomes effective September 10, 1973.

(Sections 313(a), 601 and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423), and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655 (c)).)

Issued in Kansas City, Missouri, on on August 27, 1973.

JOHN M. CYROCKI,
*Director, Central Region.*

FIGURE 2




LEGEND of INSPECTION SITES

| SYMBOL | DESCRIPTION | NO. of SITES/WING |
|---|---|---|
| ◁ | Tips of Tang Welds, Top & Bottom of Spar Tube | 4 |
| ◁ | Edges of Thru-Bolt Tube Welds | 16 |
| ◁ | Edges of Diagonal Brace Welds | 2 |
| ◁ | Tips of 'Fishmouth' Splice Welds, Top & Bottom of Spar Tube. | 2 |

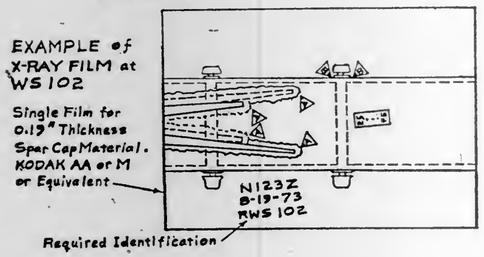
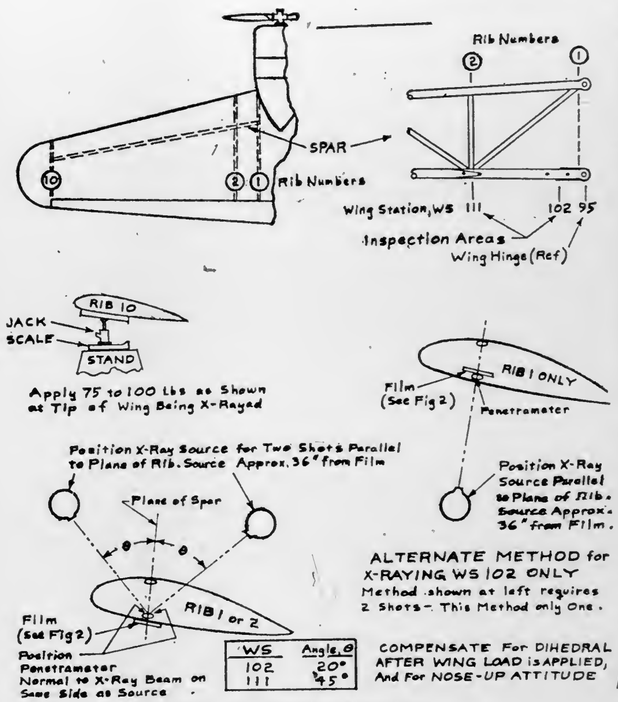







FIGURE 1




[FR Doc.73-18793 Filed 9-6-73;8:45 am]

[Docket No. 73-EA-57, Amdt. 39-1710]

## PART 39—AIRWORTHINESS DIRECTIVES

### DeHavilland Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to deHavilland DHC–6 type airplanes.

There have been reports of cracking of the nonmetallic cable quadrants used for the powerplant and flap controls in the cockpit roof. Such cracking can result in binding and compromise of control of the airplane. Since the foregoing deficiency can exist in other airplanes of similar type design, an airworthiness directive is being issued which will require periodic inspection and replacement, when necessary, of the quadrant.

In view of the hazard to air safety, expeditious adoption of this amendment is required and therefore notice and public procedure hereon are impractical and cause exists for making the amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 [31 FR 13697] § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

DEHAVILLAND: Applies to DHC–6 Type Aircraft, Serial No. 1 and subsequent, certificated in all categories.

To detect cracks and preclude jamming of controls in the overhead control console accomplish the following:

1. Within the next 25 hours' time in service after the effective date of this AD, unless already accomplished, visually inspect the cable quadrant Part Numbers C6–CE–1010–27 and –29 in the overhead console for cracks.

2. If no cracks are found, repeat the visual inspections at intervals of 200 hours' time in service and also following any maintenance performed on the overhead console or on the section of control runs entering the console.

3. Replace the quadrant before further flight if cracks are found that meet or exceed the criteria of Paragraph 3.1 (a) through (d) of deHavilland Service Bulletin No. 6/298, Rev. A, dated April 18, 1973.

4. Repeat the visual inspections at intercals of 100 hours' time in service if cracks are found that meet or are less than the criteria specified in Paragraph 3.2 (a) through (d) of the Service Bulletin.

5. The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to deHavilland Aircraft of Canada, Limited, Downsview, Ontario. These documents also may be examined at FAA, Eastern Region, Federal Bldg., J. F. K. International Airport, Jamaica, N.Y., and at FAA headquarters, 800 Independence Avenue SW., Washington, D.C. A historical file on this AD which includes the incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and at the Eastern Region. The repetitive inspection intervals required by (2) and (4) may be increased by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region, upon receipt of substantiating data submitted through an FAA maintenance inspector.

This amendment is effective September 12, 1973.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Jamaica, N.Y., on August 28, 1973.

ROBERT H. STANTON,
*Director, Eastern Region.*

[FR Doc.73-19015 Filed 9-6-73;8:45 am]

[Docket No. 12734; Amdt. No. 39-1716]

## PART 39—AIRWORTHINESS DIRECTIVES

### Mitsubishi Model MU–2B Airplanes

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring installation of a modified nose gear actuator assembly and reinforcement of the structure to which the nose landing gear actuator is attached on Mitsubishi Model MU–2B airplanes, was published in the FEDERAL REGISTER on April 13, 1973, at 38 FR 9314.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No comments were received.

This amendment is made under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR § 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:



V 38-173
SEP 7 73
XUM

MITSUBISHI HEAVY INDUSTRIES, LTD. Applies to Mitsubishi Model MU-2B airplanes (S/N 004, and 006 through 038); MU-2B-10, and -15 airplanes (S/N 101, and 103 through 120); MU-2B-20, and -25 airplanes (S/N 005, 102, and 121 through 271).

Compliance is required as indicated.

To prevent the failure of the nose gear actuating system, accomplish the following: Within the next 100 hours' time in service after the effective date of this AD, unless already accomplished, modify the nose gear actuating assembly and its supporting structure in accordance with Mitsubishi MU-2 Service Bulletin No. 155, dated June 26, 1972, or an equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA, Pacific-Asia Region.

This amendment becomes effective October 8, 1973.

Issued in Washington, D.C., on August 29, 1973.

C. R. MELUGIN, JR.,
*Acting Director,*
*Flight Standards Service.*

[FR Doc.73-19016 Filed 9-6-73;8:45 am]

---

[Airspace Docket No. 73-SO-19]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

### Designation of Transition Area

On July 18, 1973, a notice of proposed rulemaking was published in the FEDERAL REGISTER (38 FR 19131), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate the Sebring, Fla., transition area.

Interested persons were afforded an opportunity to participate in the rulemaking through the submission of comments. All comments received were favorable except those submitted by the United States Air Force (USAF). The USAF objected on the basis that a portion of the transition area falls within the boundary of R-2901 and that approximately 50 sorties per month, operating in visual flight rule conditions, hold over Lake Istokpoga at 6,000 feet MSL awaiting clearance to enter R-2901 at 1,500 feet MSL.

A review of the proposal, in light of the comments received, disclosed the following:

1. R-2901 is a joint use restricted area, with Miami ARTC Center as the controlling facility for R-2901 and IFR operations at Sebring. Miami Center will issue control instructions, as necessary, to insure that aircraft executing instrument approaches or instrument departures at Sebring do not transgress R-2901 when it is in use by the using agency (USAF).

2. The USAF requires a ceiling of 7,000 feet and visibility of five miles for its aircraft to conduct operations into R-2901. With weather minimums as such, there would be no requirement for aircraft operating into Sebring to utilize instrument flight procedures, and few IFR operations are anticipated while R-2901 is being utilized by the USAF. Therefore, the objection by the Air Force to the designation of the Sebring, Fla., transition area is not valid from an aeronautical standpoint.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., November 8, 1973, as hereinafter set forth.

In § 71.181 (38 FR 435), the following transition area is added:

SEBRING, FLA.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Sebring Air Terminal (Latitude 27°27'20" N., Longitude 81°20'30" W.); within 3 miles each side of the 164° bearing from Sebring RBN (Latitude 27°27'37" N., Longitude 81°21'00" W.), extending from the 6.5-mile-radius area to 8.5 miles south of the RBN.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in East Point, Ga., on August 28, 1973.

DUANE W. FREER,
*Acting Director, Southern Region.*

[FR Doc.73-19017 Filed 9-6-73;8:45 am]

---

[Docket No. 13145; Amdt. No. 880]

## PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

### Miscellaneous Amendments

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAP's) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAP's for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260-3, 8260-4, or 8260-5 and made a part of the public rulemaking dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 FR 5609).

SIAP's are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. Copies of SIAP's adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAP's may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue SW., Washington, D.C. 20591, or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft, or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150.00 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30.00 each.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by originating, amending, or canceling the following VOR-VOR/DME SIAP's, *effective October 18, 1973.*

Albuquerque, N.M.—Albuquerque Int'l Arpt., VOR Rwy. 8, Amdt. 15
Baker, Oreg.—Baker Municipal Arpt., VOR/DME Rwy. 12, Amdt. 8
Hazlehurst, Ga.—Hazlehurst Arpt., VOR/DME Rwy. 32, Amdt. 5
Lancaster, S.C.—Lancaster Arpt., VOR/DME-A, Amdt. 1
Mayaguez, P.R.—Mayaguez Arpt., VOR Rwy. 8, Amdt. 2
Medford, Oreg.—Medford-Jackson County Arpt., VOR/DME 2 Rwy. 14, Amdt. 1
Ogden, Utah—Ogden Municipal Arpt., VOR Rwy. 7, Amdt. 14, Canceled
Ogden, Utah—Ogden Municipal Arpt., VOR-1, Rwy. 07 (TAC), Orig.
Ogden, Utah—Ogden Municipal Arpt., VOR-2, Rwy. 07 (TAC), Orig.
Redding, Calif.—Redding Municipal Arpt., VOR Rwy. 34, Amdt. 5
Redding, Calif.—Redding Municipal Arpt., VOR/DME Rwy. 34, Amdt. 3
Tangier, Va.—Tangier Island Arpt., VOR/DME Rwy. 1, Amdt. 2
Vacaville, Calif.—Nut Tree Arpt., VOR-A, Orig.

• • • *effective September 6, 1973*

Jacksonville, Ill.—Jacksonville Municipal Arpt., VOR Rwy. 13, Amdt. 2
Lincoln, Ill.—Logan County Arpt., VOR/DME Rwy. 3, Amdt. 3
Springfield, Ill.—Capital Arpt., VOR Rwy. 22, Amdt. 14

• • • *effective June 14, 1973*

Albany, N.Y.—Albany County Arpt., VOR/DME Rwy. 1, Amdt. 4

2. Section 97.25 is amended by originating, amending, or canceling the following SDF-LOC-LDA SIAP's, *effective October 18, 1973.*

Albuquerque, N.M.—Albuquerque Int'l Arpt., LOC (BC) Rwy. 17, Amdt. 11
Merced, Calif.—Merced Municipal Arpt., LOC (BC) Rwy. 12, Orig.

• • • *effective September 27, 1973*

Covington, Ky.—Greater Cincinnati Arpt., LOC (BC) Rwy. 36, Orig.

• • • *effective September 20, 1973*

Philadelphia, Pa.—Philadelphia Int'l Arpt., LOC (BC) Rwy. 27R, Amdt. 1

• • • *effective September 6, 1973*

Springfield, Ill.—Capital Arpt., LOC (BC) Rwy. 22, Amdt. 8

3. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAP's, *effective October 18, 1973.*

Albuquerque, N.M.—Albuquerque Int'l Arpt., NDB Rwy. 35, Amdt. 4
Salem, Oreg.—McNary Field, NDB Rwy. 31, Amdt. 11
San Antonio, Tex.—San Antonio Int'l Arpt., NDB Rwy. 12R, Amdt. 14





• • • *effective September 6, 1973*

Springfield, Ill.—Capital Arpt., NDB Rwy. 4, Amdt. 12

4. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAP's, *effective October 18, 1973.*

Albuquerque, N.M.—Albuquerque Int'l Arpt., ILS Rwy. 35, Amdt. 30
Miami, Fla.—Miami Int'l Arpt., ILS Rwy. 9L, Amdt. 16
Redding, Calif.—Redding Municipal Arpt., ILS Rwy. 34, Amdt. 3
Salem, Ore.—McNary Field, ILS Rwy. 31, Amdt. 16
San Antonio, Tex.—San Antonio Int'l Arpt., ILS Rwy. 12R, Amdt. 3

• • • *effective October 11, 1973*

Dallas-Fort Worth, Tex.—Dallas-Fort Worth Regional Arpt., ILS Rwy. 17R, Orig.
Dallas-Fort Worth, Tex.—Dallas-Fort Worth Regional Arpt., ILS Rwy. 35L, Orig.

• • • *effective September 20, 1973*

Philadelphia, Pa.—Philadelphia Int'l Arpt., ILS Rwy. 9L, Amdt. 22, Canceled

• • • *effective September 13, 1973*

Dallas-Fort Worth, Tex.—Dallas-Fort Worth Regional Arpt., ILS Rwy. 17L, Orig.
Dallas-Fort Worth, Tex.—Dallas-Fort Worth Regional Arpt., ILS Rwy. 35R, Orig.

• • • *effective September 6, 1973*

Springfield, Ill.—Capital Arpt., ILS Rwy. 4, Amdt. 17

5. Section 97.31 is amended by originating, amending, or canceling the following Radar SIAP's, *effective October 18, 1973.*

Albuquerque, N.M.—Albuquerque Int'l Arpt., RADAR-1, Amdt. 18
Ogden, Utah—Ogden Municipal Arpt., RADAR-1, Amdt. 3

• • • *effective October 11, 1973*

Dallas-Fort Worth, Tex.—Dallas-Fort Worth Regional Arpt., RADAR-1, Orig.

6. Section 97.33 is amended by originating, amending, or canceling the following RNAV SIAP's, *effective October 18, 1973.*

Albuquerque, N.M.—Albuquerque Int'l Arpt., RNAV Rwy. 8, Amdt. 2

• • • *effective September 6, 1973*

Springfield, Ill.—Capital Arpt., RNAV Rwy. 4, Amdt. 1
Springfield, Ill.—Capital Arpt., RNAV Rwy. 22, Amdt. 2

• • • *effective August 29, 1973*

Miami, Fla.—Dade-Collier Training and Transition Arpt., RNAV Rwy. 9, Orig., Canceled

*Correction*

In Docket Nr. 12884, Amendment 868, to Part 97 of the Federal Aviation Regulations, published in the FEDERAL REGISTER dated June 18, 1973, on page 15832, under Section 97.29 effective July 26, 1973, disregard procedure under New York, N.Y.—John F. Kennedy Int'l Arpt., ILS Rwy. 4L, Amdt. 1; Original remains in effect.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1948 (49 U.S.C. 1438, 1354, 1421, 1510); Sec. 6(c) Department of Transportation Act, (49 U.S.C. 1655(c) and 5 U.S.C. 552(a)(1)).)

Issued in Washington, D.C., on August 30, 1973.

JAMES M. VINES,
*Chief,*
*Aircraft Programs Division.*

NOTE.—Incorporation by reference provisions in §§ 97.10 and 97.20 (35 FR 5610) approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.73-19014 Filed 9-6-73;8:45 am]

---

## CHAPTER II—CIVIL AERONAUTICS BOARD

### SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-820; Amdt. 6]

## PART 241—UNIFORM SYSTEM OF ACCOUNTS AND REPORTS FOR CERTIFICATED AIR CARRIERS

### Accounting for Traffic and Revenues From Free or Reduced-Rate Passengers

Adopted by the Civil Aeronautics Board at its office in Washington, D.C.

By circulation of EDR-241, dated April 18, 1973 (Docket 25435), and publication at 38 FR 10118, the Board gave notice that it had under consideration amendments to Part 241 which would classify revenue from persons (other than ministers of religion) traveling at free or reduced rates pursuant to section 403 of the Federal Aviation Act and Part 223 of the Economic Regulations, and travel agents, cargo agents and tour conductors traveling at reduced fares, as "Other Operating Revenues" and would classify the related traffic statistics as "nonrevenue." For monitoring purposes, revenue from the foregoing passengers and related nonrevenue passenger-miles would be reported quarterly on CAB Form 41 Schedule P-2, "Notes to Income Statement."

In EDR-241, the Board pointed out that there is a significant divergence among the carriers in accounting for, and reporting, passengers traveling under reduced-rate transportation authorized by section 403(b) of the Act resulting in distortions of passenger revenues, revenue passenger-miles and yields. It was the Board's view that such distortions could be eliminated by separating the revenues of persons receiving reduced-rate transportation under section 403(b) (other than ministers of religion), as well as travel agents, cargo agents and tour conductors traveling at reduced fares, from revenues resulting from services provided the general public, since the carriers are under no common-carrier obligation to provide such services and presumably do not add capacity therefor.

Interested persons were afforded an opportunity to participate in the rulemaking proceeding, and due consideration was given to all relevant matters presented. Comments were filed by Braniff Airways, Inc., Continental Air Lines, Inc., Frontier Airlines, Inc., National Airlines, Inc., North Central Airlines, Inc., Northwest Airlines, Inc., Ozark Air Lines, Inc., and Pan American World Airways, Inc.

Upon consideration of the comments received, the Board has determined to adopt the amendments as proposed.

Basically, the comments in opposition to the proposed amendments submitted by Continental, Frontier, North Central, and Northwest allege that complying with the rule would be a substantial and costly burden, that the additional information obtained is insignificant, and that there is no significant divergence in the current treatment of this data.

All carriers opposed to the rule claimed that a substantial and costly burden would be placed upon them if this rule was implemented. Continental, North Central and Northwest all claimed that the ticket stock was not adequate for the required breakdown and that this would require that the ticket agent examine all tickets for reduced fares. Frontier and Northwest contend that burdensome computer input system revisions would be needed. Other comments included the need of North Central to make accounting system revisions, the requirement on Frontier station agents to input more data, the duplicate recording and computation of current yield procedures required of Northwest, and Continental's need to expand reporting from three to six categories of passengers, thus doubling information to be recorded by gate agents. Northwest also argued that the revision does not reflect worldwide practice as the ICAO includes any passenger paying more than 25 percent of the normal fare as a revenue passenger.

Continental, Frontier, and North Central all suggested that the desired information could be obtained through less burdensome methods such as spot checks, estimates, or accounting department analysis.

Braniff, National, Ozark, and Pan American, in general, supported the rule. Braniff, however, suggested that the proposed definition of "Traffic, nonrevenue" be revised to include only passengers traveling under reduced rates which are equivalent to 25 percent or less of the normal fare; and Pan American suggests that the proposed definition of nonrevenue traffic be clarified as to the extent to which it includes reduced-rate transportation furnished to foreign government officials pursuant to agreement with, or at the direction of, foreign governments.

National, Northwest, Ozark, and Pan American all felt that if the proposed rules were implemented, a reasonable degree of time[1] would be needed to conform.

It is the judgment of the Board that the carriers opposing the proposed rule have not presented a convincing case against the need for such a rule. Their main argument is that the implementation of the rule would place a substantial and costly burden on the carriers,

[1] Northwest (some time in 1974), Ozark (January 1, 1974), and Pan American (60 days).



V38-173 SEP 7 73 XUM

and not that such a rule is not needed. We are not persuaded that the burden imposed is not greatly outweighed by the regulatory need for the data in the format of the proposed rule and find that the amendments are necessary for the figures to reflect the purpose and intent of the revenue passenger classification. Measurement of the carriers' productive use of capacity, as indicated by their revenue-passenger load factor, should not reflect the free and reduced-rate passengers covered by this rule. Also, the carriers' average yield is often used as an indicator of the average fare produced by their fare structures.

We also believe that the carriers are sufficiently innovative and possess the necessary resources to solve any problems caused by the implementation of this rule. For example, the problem, posed by Continental, North Central, and Northwest, of the adequacy of ticket stock could possibly be solved by placing an identification sticker on the tickets of passengers, traveling at free or reduced fares, covered by this rule rather than completely redesigning the present ticket stock.

Braniff's suggestion to revise the definition of nonrevenue traffic to include only passengers traveling at a reduced rate of 25 percent or less of the normal fare is not in line with the concept, as expressed in the proposed rule, that the passenger-revenue classification is intended to encompass revenues from transportation services offered to the public and not revenue received from airline employees, officers, and the like traveling under reduced-rate transportation.

In regard to Pan American's suggestion that we clarify the treatment of foreign officials traveling at reduced rates, we believe the rule, as proposed, delineates in a clear manner between services offered to the general public and those not so offered.

The Board does agree with the carriers who claim that time will be needed to implement the proposed rule. Therefore, the rule will be made effective on January 1, 1974, and all accounts and reports should reflect the amendments of that date.

In consideration of the foregoing, the Board hereby amends Part 241 of the Economic Regulations (14 CFR Part 241) effective January 1, 1974, as follows:

1. Amend the definitions of "Traffic, nonrevenue" and "Traffic, revenue" in Section 03—Definitions for Purposes of this System of Accounts and Reports, as follows:

**Section 03—Definitions for Purposes of This System of Accounts and Reports**

* * * * *

*Traffic, nonrevenue*—passengers and cargo transported by air for which no remuneration or token service charges are received by the air carrier. Airline employees, officers and directors, or other persons, except for ministers of religion, who are traveling under reduced-rate transportation authorized by section 403(b) of the Federal Aviation Act and Part 223 of the Board's Economic Regulations, travel agents, cargo agents, and tour conductors traveling at reduced fares are also considered nonrevenue traffic.

* * * * *

*Traffic, revenue*—passengers and cargo transported by air for which remuneration is received by the air carrier. Airline employees, officers and directors, or other persons, except for ministers of religion, who are traveling under reduced-rate transportation authorized by section 403(b) of the Federal Aviation Act and Part 223 of the Board's Economic Regulations, travel agents, cargo agents, and tour conductors traveling at reduced fares, and other passengers and cargo carried for token service charges, are not considered as revenue traffic.

* * * * *

2. Amend paragraph (a) of Account 01 Passenger and paragraph (a) of Account 19 Other Operating Revenues, in Section 12—Objective Classification—Operating Revenues, as follows:

**Section 12—Objective Classification—Operating Revenues**

**01 Passenger.**

(a) Record here revenue from the transportation of passengers by air, including infants transported at reduced fares, berth charges, surcharges for premium services and other similar charges. Revenue from airline employees, officers and directors, or other persons, except for ministers of religion, who are traveling under reduced-rate transportation authorized by section 403(b) of the Federal Aviation Act and Part 223 of the Board's Economic Regulations, as well as revenue from travel agents, cargo agents and tour conductors traveling at reduced fares, and revenues from service charges for passengers traveling on a nonrevenue basis shall be recorded in objective account 19 Other Operating Revenues.

* * * * *

**19 Other Operating Revenues.**

(a) Record here revenues associated with air transportation conducted by the air carrier, not provided for in profit and loss accounts 01 through 09, inclusive, such as revenue from (1) airline employees, officers and directors, or other persons, except for ministers of religion, who are traveling under reduced-rate transportation authorized by section 403(b) of the Federal Aviation Act and Part 223 of the Board's Economic Regulations, as well as travel agents, cargo agents and tour conductors traveling at reduced fares, (2) service charges for failure to cancel or for late cancellation of air transportation reservations, and (3) nontransportation service charges collected on both revenue and nonrevenue flights.

* * * * *

3. Amend Section 24—Profit and Loss Elements, by adding paragraph (h) to Schedule P-2 Notes to Income Statement, as follows:

**Section 24—Profit and Loss Elements**

* * * * *

*Schedule P-2—Notes to Income Statement*

* * * * *

(h) Revenue from airline employees, officers and directors, or other persons, except for ministers of religion, who are traveling under reduced-rate transportation authorized by section 403(b) of the Federal Aviation Act and Part 223 of the Board's Economic Regulations as well as travel agents, cargo agents and tour conducters traveling at reduced fares (included in Account 3919 on Schedule P-1.1 or P-1.2) and related nonrevenue passenger miles (included in item K160 on Schedule T-1(a)) shall be reported in this schedule on a quarterly basis.

* * * * *

(Secs. 204(a) and 407 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743 and 766, as amended; 49 U.S.C. 1324 and 1377.)

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND, *Secretary.*

NOTE: The reporting requirements herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

[FR Doc.73-19076 Filed 9-6-73;8:45 am]

## Title 16—Commercial Practices

## CHAPTER I—FEDERAL TRADE COMMISSION

[Docket C-2429]

## PART 13—PROHIBITED TRADE PRACTICES

### Hofmann Construction Co., et al.

Subpart—Advertising falsely or misleadingly: § 13.73 *Formal regulatory and statutory requirements;* 13.73-92 Truth in Lending Act; § 13.155 *Prices;* 13.155-95 Terms and conditions; 13.155-95(a) Truth in Lending Act; Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements;* 13.1623-95 Truth in Lending Act; Prices; § 13.1823 *Terms and conditions;* 13.1823-20 Truth in Lending Act; Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements;* 13.1852-75 Truth in Lending Act; § 13.1905 *Terms and conditions;* 13.1905-60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147; 15 U.S.C. 45, 1601-1605.) [Cease and desist order, Hofmann Construction Co. et al., Concord, California, Docket C-2429, August 2, 1973.]

*In the Matter of Hofmann Construction Co., a Corporation Doing Business as Hofmann Company, and Kenneth H. Hofmann, Individually and as an Officer of Said Corporation*

Consent order requiring a Concord, California, builder-developer, among other things to cease violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of consumer credit, such information as required by Regulation Z of the said Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

*It is ordered,* That respondents Hofmann Construction Co., a corporation, its successors and assigns, and its officers, and Kenneth H. Hofmann, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device (hereinafter, in this and other paragraphs of this order, referred to as "respondents"), in connection with any extension or arrangement of consumer credit or advertisement to aid, promote, or assist directly or indirectly any arrangement or extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR 226) of the Truth in Lending Act (P.L. 90-321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Representing, directly or by implication, in any advertisement to promote the sale of residential real estate, as "advertisement" is defined in Regulation Z:

a. The rate of any finance charge unless respondents state the rate of that charge expressed as an "annual percentage rate," as required by § 226.10(d)(1) of Regulation Z.

b. The amount of the downpayment required or that no downpayment is required, the amount of any installment payment, the dollar amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for credit, unless all of the following items are stated in terminology prescribed under § 226.8 of Regulation Z, as required by § 226.10(d)(2) thereof:

(1) The cash price;

(2) The amount of the downpayment required or that no downpayment is required, as applicable;

(3) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;

(4) The amount of the finance charge expressed as an annual percentage rate; and

(5) The deferred payment price.

c. The rate of any finance charge other than the annual percentage rate.

2. Representing, directly or by implication, in any advertisement to promote the sale of mobile homes, as "advertisement" is defined in Regulation Z:

a. The amount of the downpayment required or that no downpayment is required, the amount of any installment payment, the dollar amount of any finance charge, the number of installments or the period of repayment, or that there is no charge for credit, unless all of the following items are stated in terminology prescribed under § 226.8 of Regulation Z, as required by § 226.10(d)(2) thereof:

(1) The cash price;

(2) The amount of the downpayment required or that no downpayment is required, as applicable;

(3) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;

(4) The amount of the finance charge expressed as an annual percentage rate;

(5) The deferred payment price.

b. The rate of any finance charge other than the annual percentage rate.

3. Failing in any consumer credit transaction or advertisement to make all disclosures determined in accordance with §§ 226.4 and 226.5 of Regulation Z, at the time and in the manner, form, and amount required by §§ 226.6, 226.8, and 226.10 of Regulation Z.

*It is further ordered,* That respondents deliver a copy of this order to cease and desist to each operating division and to all present and future personnel of respondents engaged in the consummation of any extension of consumer credit, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

*It is further ordered,* That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent, such as dissolution, assignment, or sale, resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

*It is further ordered,* That the individual respondent named herein promptly notifies the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

*It is further ordered,* That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

Issued August 2, 1973.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.73-18941 Filed 9-6-73;8:45 am]

[Docket C-2432]

## PART 13—PROHIBITED TRADE PRACTICES

### Stretch-ees, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.30 *Composition of goods:* 13.30-75 Textile Fiber Products Identification Act; § 13.45 *Content;* § 13.73 *Formal regulatory and statutory requirements:* 13.73-90 Textile Fiber Products Identification Act. Subpart—Misbranding or mislabeling: § 13.1185 *Composition:* 13.1185-80 Textile Fiber Products Identification Act; § 13.1200 *Content;* § 13.1212 *Formal regulatory and statutory requirements:* 13.1212-80 Textile Fiber Products Identification Act; Subpart—Misrepresenting oneself and goods—Goods: § 13.1590 *Composition:* 13.1590-70 Textile Fiber Products Identification Act; Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 *Composition:* 13.1845-70 Textile Fiber Products Identification Act; § 13.1850 *Content;* § 13.1852 *Formal regulatory and statutory requirements:* 13.1852-70 Textile Fiber Products Identification Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 72 Stat. 1717; 15 U.S.C. 45, 70.) [Cease and desist order, Stretch-ees, Inc., et al., Brooklyn, N.Y., Docket C-2432, August 16, 1973.]

*In the Matter of Stretch-ees, Inc., a Corporation, and Harvey Lerner, and Max Aig, Individually and as Officers of Said Corporation, Take-12, Inc., a Corporation Trading as Born Free, and Harvey Lerner, Max Aig and Samuel Bernstein, Individually and as Officers of Said Corporation*

Consent order requiring two Brooklyn, N.Y., corporations, manufacturers of textile fiber products, namely ladies' garments, among other things to cease misbranding their products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

*It is ordered,* That respondents Stretch-ees, Inc., a corporation, its successors and assigns, and its officers, and Harvey Lerner and Max Aig, individually and as officers of said corporation, and Take-12, Inc., a corporation, its successors or assigns, trading as Born Free, or trading under any other name or names, and its officers, and Harvey Lerner, Max Aig and Samuel Bernstein, individually and as officers of said corporation, and respondents' representatives, agents, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the introduction, delivery for introduction, sale, advertising or offering for sale, in commerce or the transportation, or causing to be transported in commerce, or the importation into the United States, of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, of any textile fiber product which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported, after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as the terms "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act do forthwith cease and desist from:

A. Misbranding such textile fiber products by:

1. Falsely or deceptively stamping, tagging, labeling, invoicing, advertising,







V 38-173
SEP 7 73
XUM

or otherwise identifying such products as to the name or amount of the constituent fibers contained therein.

2. Failing to affix a stamp, tag, label, or other means of identification to each such textile fiber product showing in a clear, legible and conspicuous manner each element of information required to be disclosed by Section 4(b) of the Textile Fiber Products Identification Act.

3. Failing to affix labels to samples, swatches, or specimens of textile fiber products used to promote or effect the sale of such textile fiber products showing in words and figures plainly legible all the information required to be disclosed by Section 4(b) of the Textile Fiber Products Identification Act.

*It is further ordered,* That respondents notify the Commission at least 30 days prior to any change in the corporate respondents such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

*It is further ordered,* That the respondent corporations shall forthwith distribute a copy of this order to each of its operating divisions.

*It is further ordered,* That the individual respondents herein promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business or employment. Such notice shall include respondents' current business and address, the nature of the business or employment in which they are engaged as well as a description of their duties and responsibilities.

*It is further ordered,* That respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

Issued August 16, 1973.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.73-18940 Filed 9-6-73;8:45 am]

## Title 19—Customs Duties

[T.D. 73-249]

## CHAPTER I—BUREAU OF CUSTOMS

## PART 1—GENERAL PROVISIONS

### Changes in Customs Field Organization

AUGUST 29, 1973.

On March 12, 1973, notice of a proposal to make several organizational changes in Customs Region I was published in the FEDERAL REGISTER (38 FR 6694). No comments were received in response to the notice.

Accordingly, by virtue of the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR Ch. II), and pursuant to authority provided by Treasury Department Order No. 190, Rev. 9 (38 FR 17517), the following changes in the organization of Customs Region I are hereby adopted as set forth below:

1. Norton, Vermont, is hereby designated as a port of entry in the St. Albans, Vermont, Customs district, with boundaries coextensive with the corporate limits of the City of Norton, Vermont, and its designation as a Customs station under the supervision of the Port of Island Pond, Vermont, is hereby revoked.

2. Newport, Vermont, is hereby designated as Customs station under the supervision of the Port of Derby Line, Vermont, and its designation as a Customs port in the St. Albans, Vermont, Customs district, is hereby revoked.

3. The designation of Island Pond, Vermont, as a Customs port in the St. Albans, Vermont, Customs district, is hereby revoked.

To reflect these changes, the table in § 1.2(c) of the Customs Regulations is amended by inserting "Norton, Vermont (including the territory described in T.D. 73-249)" directly above "Richford, Vt." and deleting "Newport, Vt." and "Island Pond, Vt." in the column headed "Ports of Entry" in the St. Albans, Vermont, district (Region I), and the table in § 1.3(d) of the Customs regulations is amended by substituting "Newport, Vermont" and "Derby Line, Vermont" for "Norton, Vt." and "Island Pond.", in the columns headed "Customs stations" and "Port of entry having supervision", respectively.

(Sec. 1, 37 Stat. 434, sec. 1, 38 Stat. 623, as amended; 19 U.S.C. 1, 2.)

*Effective date.*—This amendment shall become effective October 9, 1973.

[SEAL] JAMES B. CLAWSON, *Assistant Secretary of the Treasury.*

[FR Doc.73-19035 Filed 9-6-73;8:45 am]

[T.D. 73-250]

## PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

### Requirements for Clearance

Supplemental Rule E(4) of the Federal Rules of Civil Procedure (28 U.S.C. Appendix) provides that, if a vessel is in the constructive custody of a United States Marshal, he may make a written request that Customs refuse clearance until it is released in accordance with the Federal Rules. In addition, certain immigration laws of the United States (section 231, 66 Stat. 195, section 233, 66 Stat. 198, section 237, 66 Stat. 201, section 243, 66 Stat. 214, as amended, section 251, 66 Stat. 219, sections 253, 254, 66 Stat. 221, section 255, 66 Stat. 222, section 256, 66 Stat. 223, section 272, 66 Stat. 226, as amended, section 273, 66 Stat. 227; 8 U.S.C. 1221, 1223, 1227, 1253, 1281, 1283-1286, 1322, 1323) provide for clearance to be denied to a vessel for certain violations.

To conform the Customs Regulations with the cited statutory provisions, the regulations are hereby amended by adding two additional clearance requirements as paragraphs (b) (23) and (24) of § 4.61, and by inserting footnotes in proper numerical order to read as follows:

**4.61 Requirements for clearance.**

* * * * * * *

(b) Before clearance is granted to a vessel bound to a foreign port, the district director shall verify compliance with the requirements in respect of the following matters which are more fully stated in the provisions of law or of these regulations indicated in the list:

* * * * * * *

(23) Attached or arrested vessel.[10a]
(24) Immigration laws.[10b]

[10a] See Federal Rules of Civil Procedure, Supplemental Rule (Admiralty and Maritime) E(4)(b) (28 U.S.C. Appendix).

[10b] See 8 U.S.C. 1221, 1223, 1227, 1253, 1281, 1283-1286, 1322, and 1323; 8 CFR 280 (CRA 17-18-A).

* * * * * * *

(R.S. 251, as amended, sec. 624, 46 Stat. 759; 5 U.S.C. 301, 19 U.S.C 66, 1624.)

Because this amendment merely conforms the Customs regulations to statutory requirements for granting clearance to vessels, notice and public procedure thereon are unnecessary and good cause exists for dispensing with a delayed effective date under the provisions of 5 U.S.C. 553.

*Effective date.*—This amendment shall become effective October 9, 1973.

Approved August 29, 1973.

[SEAL] VERNON D. ACREE, *Commissioner of Customs.*

JAMES B. CLAWSON, *Acting Assistant Secretary of the Treasury.*

[FR Doc.73-19036 Filed 9-6-73;8:45 am]

## Title 21—Food and Drugs

## CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## SUBCHAPTER B—FOOD AND FOOD PRODUCTS

## PART 121—FOOD ADDITIVES

## SUBPART F—FOOD ADDITIVES RESULTING FROM CONTACT WITH CONTAINERS OR EQUIPMENT AND FOOD ADDITIVES OTHERWISE AFFECTING FOOD

### Adhesives

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 3B2878) filed by Hazleton Laboratories, Inc., 9200 Leesburg Turnpike, Vienna, Va. 22180, and other relevant material, concludes that the food additive regulations (21 CFR Part 121) should be amended, as set forth below, to provide for safe use of tri(nonylphenyl)phosphite-formaldehyde resins as a stabilizer in food-packaging adhesives.





Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)), and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2520(c)(5) is amended by alphabetically adding a new item to the list of substances as follows:

**§ 121.2520 Adhesives.**

* * * * * * *

(c) * * *
(5) * * *

| Components of Adhesives | Limitations |
|---|---|
| *Substances* | |
| * * * | * * * |
| Tri(nonylphenyl) phosphite-formaldehyde resins. | As identified in § 121.2562(c)(4)(iii). For use only as a stabilizer. |

* * * * * * *

Any person who will be adversely affected by the foregoing order may at any time on or before October 9, 1973, file with the Hearing Clerk, Food and Drug Administration, Rm. 6-86, 5600 Fishers Lane, Rockville, Md. 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Objections may be accompanied by a memorandum or brief in support thereof. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

*Effective date.*—This order shall become effective September 7, 1973.

(Secs. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1).)

Dated August 30, 1973.

SAM D. FINE, *Associate Commissioner for Compliance.*

[FR Doc.73-19010 Filed 9-6-73;8:45 am]

## SUBCHAPTER C—DRUGS

## PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

## PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

### Chloramphenicol

The Commissioner of Food and Drugs has evaluated new animal drug applications (65-364V and 65-365V) filed by John D. Copanos, Inc., 6110 Robinwood Road, Baltimore, Md. 21225, covering use of chloramphenicol for administration orally or by injection to dogs. The applications are approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 135b and 135c are amended as follows:

1. Part 135b is amended in § 135b.77 by revising paragraph (b) to read as follows:

**§ 135b.77 Chloramphenicol injection, veterinary.**

* * * * * * *

(b) *Sponsor.*—See code Nos. 054 and 076 in § 135.501(c) of this chapter.

* * * * * * *

2. Part 135c is amended in § 135c.99 by revising paragraph (b) to read as follows:

**§ 135c.99 Chloramphenicol oral solution, veterinary.**

* * * * * * *

(b) *Sponsor.*—See Code Nos. 054 and 076 in § 135.501(c) of this chapter.

* * * * * * *

*Effective date.*—This order shall be effective September 7, 1973.

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i).)

Dated August 29, 1973.

FRED J. KINGMA, *Acting Director, Bureau of Veterinary Medicine.*

[FR Doc.73-19008 Filed 9-6-73;8:45 am]

## Title 24—Housing and Urban Development

## CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-201]

## PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

### Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

**§ 1914.4 Status of participating communities.**

* * * * * * *

| State | County | Location | Map No. | State map repository | Local map repository | Effective date of authorization of sale of flood insurance for area |
|---|---|---|---|---|---|---|
| * * * | * * * | * * * | * * * | * * * | * * * | * * * |
| Illinois | Morgan | Jacksonville, city of. | | | | Sept. 4, 1973 Emergency. |
| Michigan | Arenac | Arenac, township of. | | | | Do. |
| Do | Kent | Ada, township of | | | | Do. |
| New Jersey | Hunterdon | Lambertville, city of. | | | | Do. |
| Pennsylvania | Allegheny | Sharpsburg, borough of. | | | | Do. |

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969.)

Issued August 27, 1973.

GEORGE K. BERNSTEIN, *Federal Insurance Administrator.*

[FR Doc.73-18850 Filed 9-6-73;8:45 am]



V 38-173 SEP 7 73 XUM

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-202]

## PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

### Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 Status of participating communities.

| State | County | Location | Map No. | State map repository | Local map repository | Effective date of authorization of sale of flood insurance for area |
|---|---|---|---|---|---|---|
| Missouri | St. Louis | Richmond Heights, city of. | | | | Sept. 5, 1973. |
| New York | Nassau | Oyster Bay, town of. | | | | Sept. 5, 1973. Emergency. |
| Pennsylvania | Berks | Ontelaunee, township of. | | | | Do. |
| Do. | Luzerne | Dallas, township of. | | | | Do. |
| Texas | Hidalgo | McAllen, city of. | | | | Do. |

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969.)

Issued August 29, 1973.

GEORGE K. BERNSTEIN,
*Federal Insurance Administrator.*

[FR Doc.73-18909 Filed 9-6-73;8:45 am]





[Docket No. FI-203]

## PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

### Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies (1) the effective date of the authorization of the sale of flood insurance in the area under the emergency or under the regular flood insurance program; (2) the effective date on which the community became ineligible for the sale of flood insurance because of its failure to submit land use and control measures as required pursuant to § 1909.24(a); or (3) the effective date of a community's formal reinstatement in the program pursuant to § 1909.24(b). The entry reads as follows:

§ 1914.4 Status of participating communities.

| State | County | Location | Map No. | State map repository | Local map repository | Effective date of authorization of sale of flood insurance for area |
|---|---|---|---|---|---|---|
| Florida | Manatee | Bradenton Beach, city of. | 1 12 081 0345 01 | Department of Community Affairs, 2571 Executive Center, Circle East, Howard Bldg., Tallahassee, Fla. 32301.<br>State of Florida Insurance Department, Treasurer's Office, the Capitol, Tallahassee, Fla. 32304. | City of Bradenton Beach, City Hall, 207 First St. North, Bradenton Beach, Fla. 33510. | June 30, 1970. Emergency.<br>June 11, 1971. Regular.<br>Sept. 15, 1972. Suspension.<br>Aug. 29, 1973. Reinstated. |
| Illinois | Du Page | Carol Stream, village of. | | | | Sept. 4, 1973. Emergency. |
| Maryland | Kent | Chestertown, city of. | | | | Do. |
| Michigan | Ottawa | Spring Lake, township of. | | | | Do. |
| New Jersey | Middlesex | South Plainfield, borough of. | | | | Do. |
| Oregon | Douglas | Winston, city of. | 1 41 019 2158 01 | Executive Department, State of Oregon, Salem, Oreg. 97310.<br>Oregon Insurance Division, Department of Commerce, 158 12th Street NE., Salem, Oreg. 97310. | City Administrator, City of Winston, P.O. Drawer 750, Winston, Oreg. 97496. | Mar. 10, 1972. Emergency.<br>Sept. 14, 1973. Regular. |
| Pennsylvania | Blair | Roaring Spring, borough of. | | | | Sept. 4, 1973. Emergency. |
| South Dakota | Pennington | Rapid City, city of. | 1 46 103 2250 01 through 1 46 103 2250 09 | South Dakota Planning Agency, State State Capitol Bldg., Pierre, S. Dak. 57501.<br>South Dakota Department of Insurance, Insurance Bldg., Pierre, S. Dak. 57501. | Department of Public Works, Division of Engineering, 22 Main Street, Rapid City, S. Dak. 57701. | Apr. 2, 1974. Emergency.<br>Sept. 14, 1973. Regular. |
| Wisconsin | Wood | Wisconsin Rapids, city of. | 1 55 141 5100 01 through 1 55 141 5100 05 | Department of Natural Resources, P.O. Box 450, Madison, Wis. 53701.<br>Wisconsin Insurance Department, 212 North Bassett St., Madison, Wis. 53703. | City Attorney, city of Wisconsin Rapids, P.O. Box 360, Wisconsin Rapids, Wis. 54494. | Apr. 30, 1971. Emergency.<br>Sept. 14, 1973. Regular. |

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969.)

Issued August 29, 1973.

GEORGE K. BERNSTEIN,
*Federal Insurance Administrator.*

[FR Doc.73-18910 Filed 9-6-73;8:45 am]



V 38-173 SEP 7 73 XUM

[Docket No. FI-199]

## PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

### List of Communities With Special Hazard Areas

The Federal Insurance Administrator finds that comment and public procedure and the use of delayed effective dates in identifying the areas of communities which have special flood or mudslide hazards, in accordance with 24 CFR Part 1915, would be contrary to the public interest. The purpose of such identifications is to guide new development away from areas threatened by flooding, a purpose which is accomplished pursuant to statute by denying subsidized flood insurance to structures thereafter built within such areas. The practice of issuing proposed identifications for comment or of delaying effective dates would tend to frustrate this purpose by permitting imprudent or unscrupulous builders to start construction within such hazardous areas before the official identification became final, thus increasing the communities' aggregate exposure to loss of life and property and the agency's financial exposure to flood losses, both of which are contrary to the statutory purposes of the program. Accordingly, the Department is not providing for public comment in issuing this amendment and it will become effective upon publication in the FEDERAL REGISTER.

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

§ 1915.3 List of communities with special hazard areas.

| State | County | Location | Map No. | State map repository | Local map repository | Effective date of identification of areas which have special flood hazards |
|---|---|---|---|---|---|---|
| Arkansas | Green | Paragould, city of. | H 05 055 3030 01 through H 05 055 3030 03 | Arkansas Insurance Department, 400 University Tower Bldg., Little Rock, Ark., 72205. Arkansas Insurance Department, 400 University Tower Bldg., Little Rock, Ark. 72204. | City Clerk's Office, City Hall, 221 West Court St., Paragould, Ark. 72450. | Sept. 7, 1973. |
| Colorado | Boulder | Broomfield, city of. | H 08 013 0253 01 | Colorado Water Conservation Board, room 102, 1845 Sherman St., Denver, Colo. 80203. Colorado Division of Insurance, 106 State Office Bldg., Denver, Colo. 80203. | City Manager's Office, City of Broomfield, No. 8 Garden Office Center, Broomfield, Colo. 80020. | Do. |
| Connecticut | Middlesex | Chester, town of. | H 09 007 0120 01 through H 09 007 0120 06 | Department of Environmental Protection, Director of Water and Related Resources, room 207 State Office Bldg., Hartford, Conn. 06115. Connecticut Insurance Department, State Capitol Bldg., 165 Capitol Ave., Hartford, Conn. 06115. | Town Office Bldg., Main St., Chester, Conn. 06412. | Do. |
| Florida | Volusia | Daytona Beach, city of. | H 12 127 0780 05 through H 12 127 0780 12 | Department of Community Affairs, 2571 Executive Center Circle East, Howard Bldg., Tallahassee, Fla. 32301. State of Florida Insurance Department, Treasurer's Office, the Capitol, Tallahassee, Fla. 32304. | City Manager's Office, City of Daytona Beach, P.O. Box 551, Daytona Beach, Fla. 32015. | Do. |
| Do | do | Daytona Beach Shores, city of. | H 12 127 0782 02 | do | City Hall, 3050 South Atlantic Ave., Daytona Beach Shores, Fla. 32016. | Do. |
| Do | do | Holly Hill, city of. | H 12 127 1410 01 H 12 127 1410 02 | do | City Manager's Office, city of Holly Hill, Ten Sixty Five Ridgewood Ave., Holly Hill, Fla. 32017. | Do. |
| Do | do | Ormond Beach, city of. | H 12 127 2375 05 through H 12 127 2375 11 | do | Ormond Beach City Hall, 22 South Beach St., Ormond Beach, Fla. 32074. | Do. |
| Illinois | Cook | Westchester, village of. | H 17 031 9120 01 H 17 031 9120 02 | Department of Local Government Affairs, 309 West Washington St., Chicago, Ill. 60606. Illinois Insurance Department, 525 West Jefferson St., Springfield, Ill. 62702. | Westchester Village Hall, 10240 Roosevelt Rd., Westchester, Ill. 60153. | Do. |
| Do | Du Page | Roselle, village of. | H 17 043 7500 01 H 17 043 7500 02 | do | Roselle Village Hall, 31 South Prospect St., Roselle, Ill. 60172. | Do. |
| Louisiana | Iberia Parish | Jeanerette, town of. | H 22 045 1120 01 | State Department of Public Works, P.O. Box 44155, Capitol Station, Baton Rouge, La. 70804. Louisiana Insurance Department, Box 44214, Capitol Station, Baton Rouge, La. 70804. | Town Hall, town of Jeanerette, 1010 East Main St., Jeanerette, La. 70544. | Do. |
| Do | Iberville Parish | White Castle, town of. | H 22 047 2430 01 H 22 047 2430 02 | do | Town Clerk's Office, town of White Castle, Town Hall—Box 100, White Castle, La. 70788. | Do. |
| Do | St. Bernard Parish. | Unincorporated areas. | H 22 087 0000 08 through H 22 087 0000 16 | do | Office of the Parish Engineer, St. Bernard Courthouse, Chalmette, La. 70043. | Mar. 12, 1970, Mar. 31, 1970, and Aug. 31, 1973. |
| Do | St. Mary Parish | Baldwin, town of. | H 22 101 0110 01 | do | Mayor's Office, town of Baldwin, Baldwin, La. 70514. | Sept. 7, 1973. |
| Massachusetts | Middlesex | Bedford, town of. | H 25 017 0090 01 through H 25 017 0090 04 | Division of Water Resources, Water Resources Commission, State Office Bldg., 100 Cambridge St., Boston, Mass. 02202. Massachusetts Division of Insurance, 100 Cambridge St., Boston, Mass. 02202. | Office of the Board of Selectmen, town of Bedford, Bedford, Mass. 01730. | Do. |





| State | County | Location | Map No. | State map repository | Local map repository | Effective date of identification of areas which have special flood hazards |
|---|---|---|---|---|---|---|
| New Jersey | Bergen | Wood-Ridge, borough of. | H 34 003 3750 01 | Bureau of Water Control, Department of Environmental Protection, P.O. Box 1390, Trenton, N.J. 08625. New Jersey Department of Insurance, State House Annex, Trenton, N.J. 08625. | Office of the Borough, 85 Humboldt St., | Do. |
| Do | Morris | Boonton, township of. | H 34 027 0360 01 | do | Boonton Township Clerk's Office, R.D. No. 1, Box 201, Powerville Rd., Boonton, N.J. 07005. | Do. |
| Do | Somerset | Far Hills, borough of. | H 34 035 0090 01 H 34 035 0090 02 | do | Office of the Engineer, borough of Far Hills, Bernardsville, N.J. 07924. | Do. |
| New York | Erie | Cheektowaga, town of. | H 36 029 1117 01 through H 36 029 1117 06 | New York State Department of Environmental Conservation, Division of Resources Management Services, Bureau of Water Management, Albany, N.Y. 12201. New York State Insurance Department, 123 William St., New York, N.Y. 10038, and 324 State St., Albany, N.Y. 12210. | Town of Cheektowaga, Town Hall, Broadway and Union Rd., South Cheektowaga, N.Y. 14227. | Do. |
| Do | Steuben | Painted Post, village of. | H 36 101 4620 01 | do | Village Hall, village of Painted Post, Painted Post, N.Y. 14870. | Do. |
| Pennsylvania | Clinton | Dunnstable, township of. | H 42 035 4550 01 through H 42 035 4550 03 | Department of Community Affairs, Commonwealth of Pennsylvania, Harrisburg, Pa. 17120. Pennsylvania Insurance Department, 108 Finance Bldg., Harrisburg, Pa. 17120. | Dunnstable Township Board of Supervisors, Clinton County, R.D. No. 1, Loc Haven, Pa. 17745. | Do. |
| Do | Huntingdon | Mapleton, borough of. | H 42 061 4840 01 H 42 061 4840 02 | do | Mapleton Borough, Meeting Hall, Mapleton Depot, Pa. 17060. | Do. |
| Do | Lackawanna | Olyphant, borough of. | H 42 069 6250 01 H 42 069 6250 02 | do | Borough Secretary, Borough Bldg., 110 Willow St., Olyphant, Pa. 18447. | Do. |
| Do | Wyoming | Tunkhannock, borough of. | H 42 131 8630 01 H 42 131 8630 02 | do | Triton Hose Company Bldg., Warren St., Tunkhannock, Pa. 18657. | Do. |

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969.)

Issued August 24, 1973.

GEORGE K. BERNSTEIN,
*Federal Insurance Administrator.*

[FR Doc.73-18851 Filed 9-6-73;8:45 am]



V 38-173 SEP 7 73 XUM

[Docket No. FI-204]

## PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

### List of Communities With Special Hazard Areas

The Federal Insurance Administrator finds that comment and public procedure and the use of delayed effective dates in identifying the areas of communities which have special flood or mudslide hazards, in accordance with 24 CFR Part 1915, would be contrary to the public interest. The purpose of such identifications is to guide new development away from areas threatened by flooding, a purpose which is accomplished pursuant to statute by denying subsidized flood insurance to structures thereafter built within such areas. The practice of issuing proposed identifications for comment or of delaying effective dates would tend to frustrate this purpose by permitting imprudent or unscrupulous builders to start construction within such hazardous areas before the official identification became final, thus increasing the communities' aggregate exposure to loss of life and property and the agency's financial exposure to flood losses, both of which are contrary to the statutory purposes of the program. Accordingly, the Department is not providing for public comment in issuing this amendment and it will become effective September 7, 1973.

Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

**§ 1915.3 List of communities with special hazard areas.**

| State | County | Location | Map No. | State map repository | Local map repository | Effective date identification of areas which have special flood hazards |
|---|---|---|---|---|---|---|
| California | San Mateo | Colma, town of | H 06 081 0780 01 through H 06 081 0780 01 | Department of Water Resources, P.O. Box 388, Sacramento, Calif. 95802. California Insurance Department, 107 South Broadway, Los Angeles, Calif. 90012, and 1407 Market St., San Francisco, Calif. 94103. | City Attorney, 2160 Crocker Plaza, San Francisco, Calif. | Sept. 14, 1973. |
| Connecticut | New Haven | Orange, town of | H 09 009 0538 01 through H 09 009 0538 08 | Department of Environmental Protection, Director of Water and Related Resources, room 207 State Office Bldg., Hartford, Conn. 06115. Connecticut Insurance Department, State Capitol Bldg., 165 Capitol Ave., Hartford, Conn. 06115. | Town Hall, 617 Orange Center Rd., Orange, Conn. 06477. | Do. |
| Louisiana | Ascension Parish | Gonzales, town of | H 22 005 0870 01 | State Department of Public Works, P.O. Box 44155, Capitol Station, Baton Rouge, La. 70804. Louisiana Insurance Department, Box 44214, Capitol Station, Baton Rouge, La. 70804. | Town of Gonzales, 201 South Irma Ave., Gonzales, La. 70737. | Do. |
| Missouri | St. Louis | Ferguson, city of | H 29 189 2700 01 through H 29 189 2700 02 | Water Resources Board, P.O. Box 271, Jefferson City, Mo. 65101. Division of Insurance, P.O. Box 690, Jefferson City, Mo. 65101. | City Manager, City Hall, 110 Church St., Ferguson, Mo. 63135. | Do. |
| Do | do | Rock Hill, city of | H 29 189 6860 01 through H 29 189 6860 02 | do | City Hall, 9620 Manchester Rd., Rock Hill, Mo. 63119. | Do. |
| Do | do | University City, city of | H 29 189 7890 01 through H 29 189 7890 03 | do | City of University City, 6801 Delmar Blvd., University City, Mo. 63130. | Do. |
| New Jersey | Camden | Somerdale, borough of | H 34 007 3080 01 through H 34 007 3080 02 | Bureau of Water Control, Department of Environmental Protection, P.O. Box 1390, Trenton, N.J. 08625. New Jersey Department of Insurance, State House Annex, Trenton, N.J. 08625. | Borough Clerk, Borough of Somerdale, Somerdale Municipal Bldg., Somerdale & Post Rds., Somerdale, N.J. 08083. | Do. |
| New York | Chemung | Big Flats, town of | H 36 015 0535 01 through H 36 015 0535 10 | New York State Department of Environmental Conservation, Division of Resources Management Services, Bureau of Water Management, Albany, N.Y. 12201. New York State Insurance Department, 123 William St., 324 State St., Albany, N.Y. 12210. | Big Flats Town Hall, 176 Maple St., Big Flats, N.Y. 14814. | Do. |
| Do | Steuben | Corning, town of | H 36 101 1360 01 through H 36 101 1360 36 | do | Town of Corning, Corning, N.Y. 14830. | Do. |
| Do | do | South Corning, village of | H 36 101 5830 01 through H 36 101 5830 02 | do | Village Clerk's Office, 113 Park Ave., Corning, N.Y. 14830. | July 13, 1973. |
| Do | Westchester | Mamaroneck, village of | H 36 119 3180 01 through H 36 119 3180 02 | do | Village Manager, Village of Mamaroneck, Village Hall, Mamaroneck, N.Y. 10543. | Do. |
| Oregon | Douglas | Winston, city of | H 041 2158 01 | Executive Department, State of Oregon, Salem, Oreg. 97310. Oregon Insurance Division, Department of Commerce, 158 12th Street NE., Salem, Oreg. 97310. | City Administrator, City of Winston, P.O. Drawer 750, Winston, Oreg. 97496. | Do. |
| Do | Lincoln | Toledo, city of | H 041 2880 01 through H 041 2880 02 | do | City of Toledo, City Hall, 206 North Main St., Toledo, Oreg. 97391. | Do. |
| Philadelphia | Huntingdon | Alexandria, borough | H 42 061 0080 01 | Department of Community Affairs, Commonwealth of Pennsylvania, Harrisburg, Pa. 17120. Pennsylvania Insurance Department, 108 Finance Bldg., Harrisburg, Pa. 17120. | Fire Hall, Alexandria, Pa. 16611. | Do. |





| State | County | Location | Map No. | State map repository | Local map repository | Effective date identification of areas which have special flood hazards |
|---|---|---|---|---|---|---|
| Do | Tioga | Lawrenceville, borough of | H 42 117 4330 01 | do | Lawrenceville Borough, Mechanic and Franklin Sts., Lawrenceville, Pa. 16929. | Do. |
| Do | Venango | Franklin, city of | H 42 121 3010 01 through H 42 121 3010 03 | do | City Building, Franklin, Pa. 16323. | Do. |
| Do | Westmoreland | North Huntingdon, township of | H 42 129 3900 01 through H 42 129 3900 06 | do | Town House, North Huntingdon, Township, Irwin-Harriniie Rd., Irwin, Pa. 15642. | Do. |
| Do | Lycoming | Clinton, township of | H 42 131 2730 01 through H 42 131 2730 10 | do | Clinton Township Office, R.D. No. 1, Montgomery, Pa. 17752. | Do. |
| Do | York | Paradise, township of | H 42 133 8417 01 through H 42 133 8417 03 | do | Paradise Township, R.D. No. 1, Abbottstown, Pa. 17301. | Do. |
| Do | do | Wrightsville, borough of | H 42 122 9500 01 | do | Wrightsville Borough Office, South Second St., Wrightsville, Pa. | Do. |
| South Dakota | Pennington | Rapids City, city of | H 46 103 2250 01 through H 46 103 2250 09 | South Dakota Planning Agency, State Capitol Bldg., Pierre, S. Dak. 57501. South Dakota Department of Insurance, Insurance Bldg., Pierre, S. Dak. 57501. | Department of Public Works, Division of Engineering, 22 Main St., Rapid City, S. Dak. 57701. | Do. |
| Wisconsin | Wood | Wisconsin Rapids, city of | H 55 141 5400 01 through H 55 141 5400 06 | Department of Natural Resources, P.O. Box 450, Madison, Wis. 53701. Wisconsin Insurance Department, 212 North Bassett St., Madison, Wis. 53703. | City Attorney, city of Wisconsin Rapids, P.O. Box 500, Wisconsin Rapids, Wis. 5404. | Do. |

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969.)

Issued August 29, 1973.

GEORGE K. BERNSTEIN,
*Federal Insurance Administrator.*

[FR Doc.73-18911 Filed 9-6-73;8:45 am]

## Title 29—Labor

## CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

## PART 1953—CHANGES TO STATE PLANS FOR THE DEVELOPMENT AND ENFORCEMENT OF STATE STANDARDS

On March 19, 1973, notice of proposed rulemaking was published in the FEDERAL REGISTER (38 FR 7237) concerning proposed rules under section 18 of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 667) for procedures for the submission, approval, or rejection of changes to State plans for the development and enforcement of State standards.

Several issues were raised in the public comments received in response to these regulations dealing with the stringency of the requirements for the review of changes, the potential for delay, and the need to separate developmental steps from other types of changes in State plans. Other public comments viewed the regulations as too flexible, lacking in criteria for review of changes, and not permitting public participation in the review procedure except during the annual evaluation of the plan. These comments were reviewed keeping in mind that the Act provides for a Federal occupational safety and health program with participation by the States under very definite conditions. Because the State programs have just begun implementation under the requirements of the Act, it would be inappropriate at this time to reduce the opportunity for public input and review of changes to plans. The advisory opinion procedure, however, does provide for informal contact and review of planned changes by Federal and State offices prior to the formal review of the change. After a period of experience with the State programs and evaluation of their operations revisions to these regulations will be considered as appropriate.

After consideration of the relevant material which has been submitted by interested persons, the proposal is hereby adopted with some changes. The significant changes are: (1) Further delineation of the types of changes, the procedures for submission, and the criteria for public notice and review; (2) reservation of Subpart C on Federal program change supplements for later publication and public comment; and (3) deletion of references to procedures for withdrawal of plan approval and evaluation procedures pending issuance of separate regulations for these areas. The new Part 1953 shall be effective on September 7, 1973.

**Subpart A—General**

Sec.
1953.1 Purpose and scope.
1953.2 General policies.
1953.3 Publication.

**Subpart B—Developmental Change Supplements**

1953.10 Definitions.
1953.11 Submission and consideration.

**Subpart C—Federal Program Change Supplements [Reserved]**

**Subpart D—Evaluation Change Supplements**

1953.30 Definitions.
1953.31 Submission and consideration.

**Subpart E—State Initiated Change Supplements**

1953.40 Definitions.
1953.41 Submission and consideration.

**Subpart F—Advisory Opinions**

1953.50 Definitions.
1953.51 Submission and consideration.

AUTHORITY: Secs. 8(g), 18, 84 Stat. 1600, 1608, 29 U.S.C. 657(g), 667.

### Subpart A—General

**§ 1953.1 Purpose and scope.**

(a) This part applies to the provisions of section 18 of the Williams-Steiger Occupational Safety and Health Act of 1970 (hereinafter referred to as the Act) relating to State plans for the development and enforcement of State safety and health standards. The provisions of this part set forth the procedures by which the Assistant Secretary for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) under a delegation of authority from the Secretary of Labor (Secretary's Order 12–71, 36 FR 8754, May 12, 1971) will review changes in a State plan approved in accordance with section 18(c) of the Act and Part 1902 of this chapter, and also provide advisory opinions on proposed changes to be made by a State in implementing its plan.

(b) (1) States may submit plans covering any occupational safety and health issue with respect to which a Federal standard has been promulgated under section 6 of the Act. These plans must meet the criteria in section 18(c) of the Act and Part 1902 either at the time of submission or in any event not later than the three year period immediately following commencement of the plan's operation, where the plan is developmental.

(2) The Act provides for discretionary concurrent Federal and State authority during this three year developmental period and until the Assistant Secretary determines on the basis of actual operations that the State is applying the criteria of section 18 of the Act and Part



V 38-173 SEP 7 73 XUM

1902. During the period of concurrent Federal and State authority, as well as after a determination has been under section 18(e) that the plan is meeting the criteria of the Act and Part 1902, the State plan will be continually evaluated under section 18(f) of the Act as to the manner in which the provisions (including any assurances) are implemented.

(c)(1) In accordance with section 18(c) of the Act the Assistant Secretary is authorized to approve State plans and any modifications to these plans. In submitting plans the States have provided assurances that they will continue to meet the requirements in section 18(c) of the Act and 29 CFR Part 1902 during the time the States participate in the Federal program. Such assurances are a fundamental basis for approval of plans. (See 29 CFR 1902.3(c)(1), (d)(1)). This Part establishes procedures for review of those modifications (hereinafter referred to as changes) that are necessary to fulfill the State's assurances, the requirements of the Act, and 29 CFR Part 1902. Responsibility for review of changes is a separate function, but related to the exercise of concurrent authority under section 18(e) of the Act and continuing evaluation under section 18(f) of the Act.

(2) Changes to a plan can be separated into several categories. As the State plan is implemented, supplements will be required to meet developmental schedules approved as part of the plan. These developmental step supplements must be completed within three years after commencement of operations under the plan. The development of the Federal program and the continuing evaluation of the State programs will also require that changes be made in the plans. In addition there could be State initiated changes that would have an impact on the effectiveness of the State program.

(d) Because of the States' need to continue an on-going program, this Part also provides for advisory opinions to requesting States. These opinions, while not final decisions under the review procedures established in this Part will provide the States with a basis for operation pending formal review of a change supplement.

**§ 1953.2 General policies.**

(a) Approval of a plan submitted under section 18(b) of the Act is based on a finding that the State has or will have, an "at least as effective" program for the enforcement and setting of standards and will meet the criteria in § 1902.3 of the Chapter within a three year developmental period when all of the planned activities are performed. The State must also continue to apply the criteria in section 18(c) of the Act and 29 CFR Part 1902, as well as comply with the provisions of the plan and any assurances contained therein as long as the plan continues in operation. Supplements to the plan will be reviewed in the context of the entire plan as it moves through its developmental and operational stages.

(b) The regulations in this part will apply both before and after determinations have been made under section 18(e) of the Act and will be amended as necessary. Any interested person may file with the Assistant Secretary, Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C. 20210, a written petition for revision, amendment or revocation of any of the provisions of this Part. The petition should include, or be accompanied by, the proposed rule desired and a statement of the reasons therefor and intended effect thereof.

(c) Upon reasonable notice to interested persons, the Assistant Secretary may in any particular proceeding prescribe additional or alternative procedures in order to expedite the review process or for any other good cause which may be consistent with the applicable laws.

(d) Advisory opinions are designed to facilitate implementation of changes in a State plan. In general these opinions will be given for proposed changes such as the adoption of regulations or standards prior to promulgation by the States and submission as a formal change.

(e) Copies of all supplements to a plan, all public comments thereon, and all advisory opinions shall be available for inspection and copying at the expense of the person requesting the copy at the locations specified in the Subpart of Part 1952 of this chapter relating to the State plan. The locations include the Office of Federal and State Operations, the Office of the Assistant Regional Director for the Occupational Safety and Health Administration (hereinafter referred to as the Assistant Regional Director) in whose Region the State is located, and an office or offices of the State which have been designated by the State for this purpose. The most current copy of a State plan will be located in the State and Regional office pending submission of the change supplements to the Assistant Secretary.

**§ 1953.3 Publication.**

Whenever a State is required under its law to publish notice of the subject matter of any change required by this Part prior to its adoption by the State, a republication by the State as in § 1902.11(a) of this Chapter will not be required. Where the subject matter of the change is not subject to public notice under State law, republication by the State as provided in § 1902.11(a) of this Chapter may be required unless the Assistant Secretary determines the change is minor. Such a minor change could include notice that the State had completed intermediate steps in the implementation of its Management Information System or its staff training program.

## Subpart B—Developmental Change Supplements

**§ 1953.10 Definitions.**

(a) Each State with a developmental plan must set forth in its plan those changes which are designed to make its program at least as effective as the Federal program and a timetable for making such changes in accordance with 29 CFR 1902.2(b). A developmental change includes the completion of these developmental steps as well as amendments required in response to failure to meet any steps in the developmental schedule.

(b) Developmental steps must be completed within the three year period immediately following commencement of operations. (See § 1902.2(b) of this chapter). The date of "commencement of operations" is ordinarily the plan approval date if the State initiates inspections and enforcement activity with respect to standards covered by the approved plan in accordance with the legal authority existing in the State at the time of approval. But in any case, commencement of operations can be no later than the effective date of the grant approved under section 23(g) of the Act. A State may also commence operations by initiating inspections and enforcement activity at some point after approval and prior to the effective date of the grant. Following approval, each State will submit a letter to the Assistant Regional Director setting the date for commencement operations. These letters will be included in the approved plans.

**§ 1953.11 Submission and consideration.**

(a) A supplement is required whenever a State completes a developmental step or fails to meet any developmental step. If a State fails to submit the required supplement when the developmental step was scheduled for completion, the Assistant Regional Director shall notify the State that a supplement is required and set a time period for submission of the supplement generally not to exceed 30 days.

(b)(1) An authorized representative of the State agency or agencies designated under section 18(c)(1) to administer the plan shall submit the supplement with 6 copies to the appropriate Assistant Regional Director for the Occupational Safety and Health Administration.

(2) When a developmental step is missed, the supplement should contain the change with related documentation on the impact of the change on the State plan as well as the following information: (i) An explanation of why the step was not completed; (ii) a new date for completion of the step; (iii) a revised developmental schedule showing specific actions the State proposes to take whenever the missed step would require a new timetable; and (iv) a demonstration that the current operating program is substantial enough to contribute to the protection of employees in the State through the enforcement of standards. Where appropriate, changes requiring legislative action will be supported as required in § 1902.2(b) of this chapter.

(c) Upon receipt of the supplement, the Assistant Regional Director shall make a preliminary review of the changes. If his examination reveals any defect in the supplement, the Assistant Regional Director shall offer assistance to the State and shall provide the agency an opportunity, generally not to exceed





30 days, to cure such defect. After the preliminary review and after affording the State such opportunity to cure defects, the Assistant Regional Director shall promptly submit the supplement to the Assistant Secretary.

(d)(1) Upon receipt of the supplement from the Assistant Regional Director, the Assistant Secretary shall examine the change and supporting material. If examination discloses no cause for rejecting the change, the procedure provided in § 1902.11 of this chapter for public comment and approval of State plans shall be followed.

(2) If examination discloses cause for rejecting the change, the Assistant Secretary shall provide the State a reasonable time, generally not to exceed 30 days, to submit to the Assistant Regional Director for review and submission to the Assistant Secretary a revised supplement, or to show cause why a proceeding should not be commenced either for rejection of the change or for failure to meet the developmental schedule, in accordance with the procedures in § 1902.17 of this chapter on rejection of State plans.

(e) The Assistant Secretary shall review a supplement in the context of the entire plan to see whether it meets the assurances provided in the plan for an "at least as effective" program and whether there is a reasonable exception that the plan will meet the requirements of the Act and the criteria in Part 1902 within the three year developmental period. The decision shall reflect the Assistant Secretary's determination as to whether the supplement meets these requirements.

(f) If a timely request is submitted by the State, a final decision on a developmental change supplement will, to the extent practicable, be made no later than 60 days after the close of the period for written public comment or a hearing, whichever is relevant, unless the Assistant Secretary determines that the change is minor. The Assistant Secretary may defer publication of minor changes until the end of each full year of operations under the plan. The deferral of publication would not be appropriate where the change under consideration included a failure to meet a developmental step.

## Subpart C—Federal Program Change Supplements [Reserved]

## Subpart D—Evaluation Change Supplements

**§ 1953.30 Definitions.**

An evaluation change would be required as a result of an evaluation finding by the Assistant Secretary. Special and periodic evaluations of a State program may show that some portion of a State plan has an adverse impact on the implementation of the State program. Examples of such evaluation findings would include a report that the public employee program as approved is not, in operation, providing for a program as effective as the standards in the approved plan; or that through a reduction in personnel or funding, the State may no longer have adequate resources for administration and enforcement of standards.

**§ 1953.31 Submission and consideration.**

(a) Within 30 days after an evaluation report has been made, the Assistant Regional Director shall advise the State of the evaluation findings that would require a supplement and the reasons therefor. The notification shall also contain a time period, generally not to exceed 30 days, for the submission of the supplement.

(b)(1) An authorized representative of the State agency or agencies designated under section 18(c)(1) to administer the plan shall submit the supplement with 6 copies to the appropriate Assistant Regional Director. The supplement shall contain the change as well as a timetable for completion of any change when necessary with related documentation on the impact of the change on the State plan and its responsiveness to the Federal evaluation report.

(2) The State may also show cause, in response to the request for an evaluation change supplement, why a supplement should not be required on the ground that the State program is meeting the requirements for an "at least as effective" program. The procedures in this Subpart would be applicable thereto.

(c) Upon receipt of the supplement, the Assistant Regional Director shall make a preliminary review of the change. If his examination reveals any defect in the supplement, the Assistant Regional Director shall offer assistance to the State and shall provide the agency with an opportunity, generally not to exceed 30 days, to cure such defect. After the preliminary review and after affording the State agency such opportunity to cure any defects, the Assistant Regional Director shall promptly submit the supplement to the Assistant Secretary.

(d)(1) Upon receipt of the supplement from the Assistant Regional Director, the Assistant Secretary shall examine the change and supporting material. If his examination discloses no cause for rejecting the change the procedures provided in § 1902.11 of this chapter for public comment and approval of State plans shall be followed.

(2) If examination discloses cause for rejecting the change, the Assistant Secretary shall provide the State a reasonable time, generally not to exceed 30 days, to submit to the Assistant Regional Director for review and submission to the Assistant Secretary a revised supplement, or to show cause why a proceeding should not be commenced for rejection of the change or for failure to submit a change, in accordance with the procedures in § 1902.17 of this chapter on rejection of State plans.

(e) The Assistant Secretary shall review the supplement in the context of the entire plan to see whether it meets the objections set out in the evaluation report as well as the requirements for an "at least as effective" State program. The decision shall reflect the Assistant Secretary's determination as to whether the supplement meets those requirements.

## Subpart E—State Initiated Change Supplements

**§ 1953.40 Definitions.**

A State initiated change would be any change to the State plan other than those defined in Subparts B, C, and D of this Part. Examples of State initiated changes include actions which would effect Federal funding under section 23(g) of the Act such as an increase or decrease in personnel, or coverage of additional issues under the plan; and also legislative, regulatory or administrative policy changes which impact on the effectiveness of the State program including a reassignment of enforcement personnel or legislation restricting coverage under the plan. Such policy changes would not ordinarily include court cases or administrative decisions in individual cases except as they are reflected in State legislative, regulatory, or administrative policy changes.

**§ 1953.41 Submission and consideration.**

(a) A State initiated change supplement is required whenever the State takes with regard to its plan an action not otherwise covered by this Part that would impact on the effectiveness of the State program. The State shall notify the Assistant Regional Director of the change and submit the required supplement within 30 days after notifying the Assistant Regional Director if the change involves legislative amendments or affects Federal funding under section 23(g) of the Act. Other State initiated changes may be submitted at any time generally not to exceed 6 months after the change occurred. If the State fails to notify the Assistant Regional Director of the change or fails to submit the required supplement within 30 days after notification, the Assistant Regional Director shall notify the State that a supplement is required and set a time period for submission of the supplement generally not to exceed 15 days.

(b)(1) An authorized representative of the State agency or agencies designated under section 18(c)(1) to administer the plan shall submit the supplement with 6 copies to the appropriate Assistant Regional Director. The supplement shall contain the change with related documentation on the impact of the change on the State plan.

(2) The State may also show cause why a supplement should not be required on the grounds that it does not impact on the effectiveness of the State program and that additional Federal funding is not required. The procedures in this Subpart would be applicable thereto.

(c) Upon receipt of the supplement, the Assistant Regional Director shall make a preliminary review of the change. If his examination reveals any defect in the supplement, the Assistant Regional Director shall offer assistance to the State and shall provide the agency with an opportunity, generally not to exceed



V 38 173 SEP 7 73 XUM

30 days, to cure such defect. After the preliminary review and after affording the State such opportunity to cure defects, the Assistant Regional Director shall promptly submit the supplement to the Assistant Secretary.

(d) (1) Upon receipt of the supplement from the Assistant Regional Director, the Assistant Secretary shall examine the change and any supporting material. If examination discloses no cause for rejecting the change, the procedure in § 1902.11 of this chapter for public comment and approval of State plans shall be followed.

(2) If examination discloses cause for rejecting the change, the Assistant Secretary shall provide the State a reasonable time, generally not to exceed 30 days, to submit to the Assistant Regional Director for review and submission to the Assistant Secretary a revised supplement, or to show cause why a proceeding should not be commenced either for rejection of the change or for failure to submit the change, in accordance with the procedures in § 1902.17 of this Chapter on rejection of state plans.

(e) The Assistant Secretary shall review the supplement in the context of the entire plan to determine its impact on the "at least as effective as" status of the plan. The decision shall reflect the Assistant Secretary's determination as to whether the change meets that requirement.

### Subpart F—Advisory Opinions

**§ 1953.50 Definitions.**

(a) An authorized representative of a State agency or agencies designated under section 18(c)(1) to administer a plan may request an advisory opinion from the Assistant Regional Director. These opinions are designed to provide the State with a basis for implementing a change. For example, prior to publication of standards, the State may want a preliminary opinion that the standards are at least as effective as the Federal standards standards or that a regulation that will be proposed for public comment in the State appears to meet the requirements of section 18 of the Act and Part 1902.

(b) A request for an advisory opinion ordinarily will be considered inappropriate when extensive investigation or evaluation would be necessary. A requesting State will be informed if the same or substantially similar course of action is under review for an advisory opinion in another State or if it has been the subject of a current evaluation, approval, or disapproval proceeding by the Assistant Secretary.

**§ 1953.51 Submission and consideration.**

(a) The request for advice should be submitted in writing to the Assistant Regional Director in whose Region the State is located and should include full and complete information regarding the proposed course of action. Conferences with members of the Regional and National office staff may be held before and after submittal of the request and submission of additional information may be required.

(b) (1) On the basis of the facts submitted, as well as other information available to him, including information from interested persons where relevant, the Assistant Regional Director, after appropriate consultation with the Office of Federal and State Operations and the Office of the Solicitor will provide an advisory opinion to the State and may take such oother action as may be appropriate.

(2) Because of the possibility that the subject matter of an advisory opinion may change during promulgation by the State as a final change, and in order to provide for public comment on the final change, these opinions cannot bind the Assistant Secretary in making his final decision following the procedures specified in the appropriate subparts of this part. If the Assistant Secretary decides to revoke or rescind the advisory opinion, notice of such recission or revocation will be given to the requesting State so that it may discontinue the course of action taken. The Assistant Secretary will not proceed against the requesting State with respect to any action taken in good faith reliance upon the advice given under this Subpart, where all relevant facts are fully, completely, and accurately presented and where such action was promptly discontinued upon notification by the Assistant Secretary.

(c) When a State has obtained an advisory opinion under this Part, the formal change supplement submitted under the applicable Subpart of this Part shall specify in what areas, if any, it differs from the material submitted for an advisory opinion.

(d) No later than 15 days after the State has been sent the requested advice, the advisory opinion, and any supplementary information will be placed with the requesting State's plan at the location specified in the Subpart of Part 1952 of this chapter relating to the State plan.

Signed at Washington, D.C., this 4th day of September 1973.

JOHN STENDER,
*Assistant Secretary of Labor.*

[FR Doc.73-19071 Filed 9-6-73;8:45 am]

---

**Title 38—Pensions, Bonuses, and Veterans' Relief**

**CHAPTER I—VETERANS ADMINISTRATION**

**SECURITY, LAW ENFORCEMENT, AND STANDARDS OF CONDUCT ON VETERANS ADMINISTRATION PROPERTY**

The enactment of the National Cemeteries Act of 1973 (Public Law 93-43, 87 Stat. 75) on June 18, 1973, provides the Administrator of Veterans' Affairs with the authority to make all needful rules and regulations for the governing of the property under his charge and control, and to annex to such rules and regulations reasonable penalties for infractions thereof, within the limitations of a maximum fine of $50, or 30 days imprisonment, or both, to ensure their enforcement. The purpose of this authority is to provide for the maintenance of law and order and the protection of persons and property on lands and in buildings (including cemeteries) which are under the jurisdiction of the Veterans Administration (and not under the charge and control of the General Services Administration). As it is necessary to the orderly functioning of Veterans Administration facilities and the protection of the general public that there immediately be such law enforcement authority, it is found impracticable and contrary to the public interest to give preliminary notice and to postpone the effective date of these rules and regulations until 30 days after publication. Therefore, pursuant to this authority, Veterans Administration rules and regulations governing security, law enforcement, and standards of conduct on Veterans Administration property, as set forth below, are hereby adopted.

### PART 1—GENERAL PROVISIONS

1. In Part 1, a centerhead and §§ 1.218, 1.219, and 1.220 are added to read as follows:

SECURITY, LAW ENFORCEMENT, AND STANDARDS OF CONDUCT ON VETERANS ADMINISTRATION PROPERTY

**§ 1.218 Authority, applicability, and responsibility.**

Pursuant to 38 U.S.C. 218, the following rules and regulations apply at all property under the charge and control of the Veterans Administration (and not under the charge and control of the General Services Administration) and to all persons entering in or on such property. The head of the facility is charged with the responsibility for the enforcement of these rules and regulations, and he shall cause these rules and regulations to be posted in a conspicuous place on the property.

(a) *Closing property to public.*—The head of the facility, or his designee, shall establish visiting hours for the convenience of the public and shall establish specific hours for the transaction of business with the public. The property shall be closed to the public during other than the hours so established. In emergency situations, the property shall be closed to the public when reasonably necessary to ensure the orderly conduct of Government business. The decision to close a property during an emergency shall be made by the head of the facility or his designee. The head of the facility or his designee shall have authority to designate areas within a facility as closed to the public.

(b) *Recording presence.*—Admission to property during periods when such property is closed to the public will be limited to persons authorized by the head of the facility or his designee. Such persons may be required to sign a register and/or display identification documents when requested to do so by the hospital police, or other authorized individual. No person, without authorization, shall enter upon or remain on such property while the property is closed. Failure to leave such premises by unauthorized persons shall constitute an offense under this paragraph.





(c) *Preservation of property.*—The improper disposal of rubbish on property; the spitting on property; the creation of any hazard on property to persons or things; the throwing of articles of any kind from a building; the climbing upon the roof or any part of the building, without permission; or the willful destruction, damage, or removal of Government property or any part thereof, without authorization, is prohibited. The destruction, mutilation, defacement, injury, or removal of any monument, gravestone, or other structure within the limits of any national cemetery is prohibited.

(d) *Conformity with signs and emergency directions.*—The head of the facility, or his designee, shall have authority to post signs of a prohibitory and directory nature. Persons, in and on property, shall comply with such signs of a prohibitory or directory nature, and during emergencies, with the direction of police authorities and other authorized officials. Tampering with, destruction, marring, or removal of such posted signs is prohibited.

(e) *Disturbances.*—Conduct on property which creates loud or unusual noise; which unreasonably obstructs the usual use of entrances, foyers, lobbies, corridors, offices, elevators, stairways, or parking lots; which otherwise impedes or disrupts the performance of official duties by Government employees; which prevents one from obtaining medical or other services provided on the property in a timely manner; or the use of loud, abusive, or otherwise improper language; or unwarranted loitering, sleeping, or assembly is prohibited. In addition to measures designed to secure voluntary terminations of violations of this paragraph the head of the facility or his designee may cause the issuance of orders for persons who are creating a disturbance to depart the property. Failure to leave the premises when so ordered constitutes a further disturbance within the meaning of this rule, and the offender is subject to arrest and removal from the premises.

(f) *Gambling.*—Participating in games for money or other personal property, or the operating of gambling devices, the conduct of a lottery or pool, or the selling or purchasing of numbers tickets, in or on property is prohibited.

(g) *Alcoholic beverages and narcotics.*—Operating a motor vehicle on property by a person under the influence of alcoholic beverages, narcotic drugs, hallucinogens, marijuana, barbiturates, or amphetamines is prohibited. Entering property under the influence of any narcotic drug, hallucinogen, marijuana, barbiturate, amphetamine, or alcoholic beverage (unless prescribed by a physician) is prohibited. The use on property of any narcotic drug, hallucinogen, marijuana, barbiturate, or amphetamine (unless prescribed by a physician) is prohibited. The introduction or possession of alcoholic beverages or any narcotic drug, hallucinogen, marijuana, barbiturate, and amphetamine on property is prohibited, except for liquor or drugs prescribed for use by medical authority for medical purposes. Provided such possession is consistent with the laws of the State in which a facility is located, liquor may be used and maintained in quarters assigned to employees as their normal abode, and away from the abode with the written consent of the head of the facility which specifies a special occasion for use and limits the area and period for the authorized use.

(h) *Soliciting, vending, and debt collection.*—Soliciting alms and contributions commercial soliciting and vending of all kinds, displaying or distributing commercial advertising, or collecting private debts in or on property is prohibited. This rule does not apply to (1) national or local drives for funds for welfare, health, or other purposes as authorized by the "Manual on Fund Raising Within the Federal Service" issued by the Civil Service Commission under Executive Order 10927 of March 18, 1961 (26 FR 2383; 3 CFR, 1959–1963 Comp.), (2) concessions or personal notices posted by employees on authorized bulletin boards, and (3) solicitation of labor organization membership or dues under Executive Order 11491 of October 29, 1969, as amended (3 CFR Ch. IV).

(i) *Distribution of handbills.*—The distributing of materials such as pamphlets, handbills, and/or flyers, and the displaying of placards or posting of materials on bulletin boards or elsewhere on property is prohibited, except as authorized by the head of the facility or his designee or when such distributions or displays are conducted as part of authorized Government activities.

(j) *Photographs for news, advertising, or commercial purposes.*—Photographs for advertising or commercial purposes may be taken only with the written consent of the head of the facility or his designee. Photographs for news purposes may be taken at entrances, lobbies, foyers, or in other places designated by the head of the facility or his designee.

NOTE.—For Veterans Administration policy with respect to photographing patients and activities on Veterans Administration property see MP-1, Part I, paragraph 410.08. Available at any Veterans Administration station.

(k) *Dogs and other animals.*—Dogs and other animals, except seeing-eye dogs, shall not be brought upon property except as authorized by the head of the facility or his designee.

(l) *Vehicular and pedestrian traffic.*—Drivers of all vehicles in or on property shall drive in a careful and safe manner at all times and shall comply with the signals and directions of police and all posted traffic signs. The blocking of entrances, driveways, walks, loading platforms, or fire hydrants in or on property is prohibited; parking in unauthorized locations or in locations reserved for other persons or contrary to the direction of posted signs is prohibited. Creating excessive noise on hospital or cemetery premises by muffler cut out, the excessive use of a horn, or other means is prohibited. Operation of a vehicle in a reckless or unsafe manner, drag racing, bumping, overriding curbs, or leaving the roadway is prohibited.

(m) *Weapons and explosives.*—No person while on property shall carry firearms, other dangerous or deadly weapons, or explosives, either openly or concealed, except for official purposes.

(n) *Demonstrations.*—(1) All visitors are expected to observe proper standards of decorum and decency while on Veterans Administration property. Toward this end, any service, ceremony, or demonstration, except as authorized by the head of the facility or his designee, is prohibited.

(2) For the purpose of the prohibition expressed in this paragraph, unauthorized demonstrations or services shall be defined as, but not limited to, picketing, or similar conduct on Veterans Administration property; any oration or similar conduct to assembled groups of people, unless the oration is part of an authorized service; the display of any placards, banners, or foreign flags on Veterans Administration property unless approved by the head of the facility or his designee; disorderly conduct such as fighting, threatening, violent, or tumultuous behavior, unreasonable noise or coarse utterance, gesture or display or the use of abusive language to any person, present; and partisan activities which may be described as commentary or actions in support of, or in opposition to, or attempting to influence, any current policy of the Government of the United States, or any private group, association, or enterprise.

(o) *Key security.*—The head of the facility or his designee, will determine which employees, by virtue of their duties, shall have access to keys or barrier-card keys which operate locks to rooms or areas on the property. The unauthorized possession, manufacture, and/or use of such keys or barrier cards is prohibited. The surreptitious opening or attempted opening of locks or card-operated barrier mechanisms is prohibited.

(p) *Sexual misconduct.*—Any act of sexual gratification on Veterans Administration property involving two or more persons, who do not reside in quarters on the property, is prohibited. Acts of prostitution or solicitation for acts of prostitution on Veterans Administration property is prohibited. For the purposes of this paragraph, an act of prostitution is defined as the performance or the offer or agreement to perform any sexual act for money or payment.

**§ 1.219 Offenses and penalties.**

(a) *Penalty limitations.*—Conduct in violation of the rules and regulations set forth in § 1.218 subjects an offender to arrest and removal from the premises. Whoever shall be found guilty of violating these rules and regulations while on any property under the charge and control of the Veterans Administration is subject to a fine as set forth in the schedule in paragraph (b) of this section or, if appropriate, the payment of fixed sum in lieu of appearance (forfeiture of collateral) as may be provided for in



V 38-173
SEP 7 73
XUM

rules of the United States District Court. Violations of § 1.218 not included in the schedule of offenses and penalties subjects an offender to a fine of not more than $50, or imprisonment of not more than 30 days, or both.

(b) *Schedule of offenses and penalties.*—An offender who violates any of the offenses listed in this paragraph may also be imprisoned for not more than 30 days.

| | |
|---|---|
| (1) Improper disposal of rubbish on property | $40 |
| (2) Spitting on property | 5 |
| (3) Throwing of articles from a building or the unauthorized climbing upon any part of a building | 5 |
| (4) Willful destruction, damage, or removal of Government property without authorization | 50 |
| (5) Defacement, destruction, mutilation or injury to, or removal, or disturbance of, gravemarker or headstone | 50 |
| (6) Failure to comply with signs of a directive and restrictive nature posted for safety purposes | 10 |
| (7) Tampering with, removal, marring, or destruction of posted signs | 10 |
| (8) Entry into areas posted as closed to the public or others (trespass) | 10 |
| (9) Unauthorized demonstration or service in a national cemetery or on other Veterans Administration property | 50 |
| (10) Creating a disturbance during a burial ceremony | 25 |
| (11) Disorderly conduct which creates loud, boisterous, and unusual noise, or which obstructs the normal use of entrances, exits, foyers, offices, corridors, elevators, and stairways, or which tends to impede or prevent the normal operation of a service or operation of the facility | 25 |
| (12) Failure to depart premises by unauthorized persons | 5 |
| (13) Unauthorized loitering, sleeping or assembly on property | 5 |
| (14) Gambling — participating, in games of chance for monetary gain or personal property; the operation of gambling devices, a pool or lottery; or the taking or giving of bets | 40 |
| (15) Operation of a vehicle under the influence of alcoholic beverages or nonprescribed narcotic drugs, hallucinogens, marijuana, barbiturates, or amphetamines | 50 |
| (16) Entering premises under the influence of alcoholic beverages or nonprescribed narcotic drugs, hallucinogens, marijuana, barbiturates or amphetamines | 50 |
| (17) Unauthorized use on property of alcoholic beverages or narcotic drugs, hallucinogens, marijuana, barbiturates, or amphetamines | 50 |
| (18) Unauthorized introduction on Veterans Administration controlled property of alcoholic beverages or narcotic drugs, hallucinogens, marijuana, barbiturates, or amphetamines or the unauthorized giving of same to a patient or beneficiary | 50 |
| (19) Unauthorized solicitation of alms and contributions on premises | 5 |
| (20) Commercial soliciting or vending, or the collection of private debts on property | 5 |
| (21) Distribution of pamphlets, handbills, and flyers | 5 |
| (22) Display of placards or posting of material on property | 5 |
| (23) Unauthorized photography on premises | 10 |
| (24) Failure to comply with traffic directions of hospital police | 15 |
| (25) Parking in spaces posted as reserved for physically disabled persons | 25 |
| (26) Parking in no-parking areas, lanes, or crosswalks so posted or marked by yellow borders or yellow stripes | 10 |
| (27) Parking in emergency vehicle spaces, areas and lanes bordered in red or posted as EMERGENCY VEHICLES ONLY or FIRE LANE, or parking within 15 feet of a fire hydrant | 25 |
| (28) Parking within an intersection or blocking a posted vehicle entrance or posted exit lane | 10 |
| (29) Parking in spaces posted as reserved or in excess of a posted time limit | 5 |
| (30) Failing to come to a complete stop at a STOP sign | 20 |
| (31) Failing to yield to a pedestrian in a marked and posted crosswalk | 15 |
| (32) Driving in the wrong direction on a posted one-way street | 10 |
| (33) Operation of a vehicle in a reckless or unsafe manner, drag racing, overriding curbs, or leaving the roadway | 35 |
| (34) Exceeding posted speed limits | 20 |
| (35) Creating excessive noise in a hospital or cemetery zone by muffler cut out, excessive use of a horn, or other means | 5 |
| (36) Failure to yield right of way to other vehicles | 15 |
| (37) Possession of firearms, carried either openly or concealed, whether loaded or unloaded (except by Federal or State law enforcement officers on official business) | 50 |
| (38) Introduction or possession of explosives, or explosive devices which fire a projectile, ammunition, or combustibles | 50 |
| (39) Knives which exceed a blade length of 3 inches: switchblade knives; any of the variety of hatchets, clubs, and hand-held weapons; and brass knuckles | 25 |
| (40) The unauthorized possession of any of the variety of incapacitating liquid or gas-emitting weapons | 25 |
| (41) Unauthorized possession, manufacture, or use of keys or barrier card-type keys to rooms or areas on the property | 35 |
| (42) The surreptitious opening, or attempted opening, of locks or card-operated barrier mechanisms on property | 50 |
| (43) Soliciting for, or the act of, prostitution | 50 |
| (44) Any unlawful sexual activity | 40 |

**§ 1.220 Enforcement and other laws.**

(a) Facility Veterans Administration police and investigators found qualified and duly appointed by heads of facilities to act as special investigators for the purposes of 38 U.S.C. 218(a)(3), will enforce §§ 1.218 and 1.219 and other Federal laws on Veterans Administration property in accordance with operating procedures issued by respective Veterans Administration Department Directors and under the direction of the head of the facility.

(b) Nothing contained in Veterans Administration rules and regulations set forth in §§ 1.218 and 1.219 shall be construed to abrogate any other Federal laws or regulations or any State and local laws and regulations applicable to the area in which the Veterans Administration property is situated.

## PART 2—DELEGATION OF AUTHORITY

2. In Part 2, § 2.6(a)(8) is amended to read as follows:

**§ 2.6 Administrator's delegations of authority to certain officials (38 U.S.C. 212(a)).**

Employees occupying or acting in the positions designated in this section are delegated authority as indicated:

(a) *Department of Medicine and Surgery.*—The Chief Medical Director is delegated authority:

* * * * * *

(8) To authorize Directors of Veterans Administration property and facilities under the charge and control of the Veterans Administration to appoint special policemen (hospital police) who shall act as special investigators with the power to enforce Federal laws and Veterans Administration rules and regulations, and to arrest for crimes committed on Veterans Administration property.

* * * * * *

## PART 17—MEDICAL

3. In Part 17, § 17.66 is revised to read as follows:

**§ 17.66 Authority for disciplinary action.**

The good conduct of beneficiaries receiving hospitalization for observation and examination or for treatment, or receiving domiciliary or nursing home care in facilities under direct and exclusive jurisdiction of the Veterans Administration, will be maintained by corrective and disciplinary procedure formulated by the Veterans Administration. Such corrective and disciplinary measures, to be selectively applied in keeping with the comparative gravity of the particular offense, will consist, in respect to hospital patients, of such penalties as the withholding for a determined period of pass privileges, exclusion from entertainments, or disciplinary discharge; and, in respect to domiciled members, such penalties as confinement to sections or grounds, deprivation of privileges, enforced furlough, or disciplinary discharge. Also, for any violation of the Veterans Administration rules set forth in § 1.218, or other Federal laws on Veterans Administration property, a beneficiary is subject to the penalty prescribed for the offense.

**§ 17.66 [Amended]**

4. Immediately following § 17.66, the centerhead is changed to read "Ceremonies".





**§ 17.70 [Revoked]**

5. Section 17.70, Conduct on Veterans Administration hospital and center reservations, is revoked.

These VA Regulations are effective August 22, 1973.

Approved August 22, 1973.

By direction of the Administrator.

[SEAL] RICHARD L. ROUDEBUSH,
*Assistant Deputy Administrator.*

[FR Doc.73-19030 Filed 9-6-73;8:45 am]

## Title 47—Telecommunications

## CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 73-890; Docket No. 18179]

## PART 73—RADIO BROADCAST SERVICES

### Memorandum Opinion and Order Granting Stay of Rule on Territorial Exclusivity in Non-Network Program Arrangements

In the matter of amendment of Part 73 of the Commission's rules with respect to the availability of television programs produced by non-network suppliers to commercial television stations and CATV systems.

1. The Commission has before it for consideration, the "Request for Stay" filed on August 16, 1973, by the Association of Maximum Service Telecasters (AMST) wherein it is requested that the Commission stay the effective date (September 7, 1973) of the First Report and Order (FCC 73-806, 38 FR 21265) in this proceeding pending action on its petition for reconsideration. Rust Craft Broadcasting filed a similar "Request for Stay" on August 23, 1973. Statements in support of the AMST Request for Stay were filed by the National Association of Broadcasters (NAB); Kelly Broadcasting Company (KCRA-TV, Sacramento, California); Kansas State Network (KARD-TV, Wichita, Kansas); and McGraw-Hill Broadcasting Company, Inc. (WRTV, Indianapolis, Indiana). Another pleading entitled "Comments of Kaiser Broadcasting Corporation on Request for Stay" was filed on August 23, 1973. All the foregoing parties state that they will file timely petitions for reconsideration.[1]

2. The First Report and Order adopted the new rule (§ 73.658(m) of the rules) concerning territorial exclusivity in nonnetwork program arrangements which reads as follows:

**§ 73.658 Affiliation agreements and network program practices; territorial exclusivity in non-network program arrangements.**

* * * * * *

(m) *Territorial exclusivity in non-network arrangements.* No television station shall enter into any contract, arrangement or understanding, express or implied, with a nonnetwork program producer, distributor, or supplier, or other person which prevents or hinders another television station located in a community over 25 miles away, as determined by the reference points contained in § 76.53 of this chapter, from broadcasting any program purchased by the former station from such nonnetwork program producer, distributor, or supplier, or other person. As used in this subsection, the term "community" is defined as the community specified in the instrument of authorization as the location of the station.

NOTE.—Contracts, arrangements, or understandings that are complete under the practices of the industry prior to August 7, 1973, will not be disturbed. Extensions or renewals of such agreements are not permitted because they would in effect be new agreements without competitive bidding. However, such agreements that were based on the broadcaster's advancing "seed money" for the production of a specific program or series that specify two time periods—a tryout period and a period thereafter for general exhibition—may be extended or renewed as contemplated in the basic agreement.

Thus, territorial exclusivity in television nonnetwork program arrangements is limited to 25 miles from the reference point (set forth in the rule) of the community of license of a television station.

3. AMST contends that the primary effect of the rule, rather than just making programs available for "overshadowed" cities, would be to prevent television "stations in at least 35 of the top 100 markets from obtaining exclusive rights against direct competitors in their very own markets." AMST is referring to the multicity markets, whether the market is hyphenated or nonhyphenated, and states that such markets have been consistently treated as a single market by the marketplace, the networks, the rating services, the stations themselves and the Commission. AMST contends that the stations in these 35 or more markets are not overshadowed stations, but rather are direct competitors, that the rule would encourage program duplication, and that the effect of the rule is not consistent with the Commission's explicit recognition that exclusivity serves the public interest. AMST states that this general rule is not necessary to achieve the Commission's objective to assist stations in overshadowed markets in their attempt to secure nonnetwork programming.

4. AMST also contends that the Commission's action will radically reduce exclusivity that television stations now have against cable television retransmission which was provided in the 1972 cable rules adopted in Docket No. 18397. The specific rule referred to by AMST is § 76.153(c) of the Rules which provides that a station licensed to one city in a hyphenated market cannot obtain exclusivity against cable retransmission within the 35 mile zone (with certain exceptions) of any other designated community in the market unless it has secured over-the-air exclusivity against the stations licensed to the other community. It is contended that the parties did not have notice and opportunity to comment on this cable aspect of the proceeding because the last date for filing comments on the territorial exclusivity portion of this proceeding was March 10, 1969.

5. AMST states that it has standing to file this petition for reconsideration because it participated in the "time" exclusivity portion of this proceeding, and also participated extensively in the cable proceeding (Docket No. 18397). It is claimed that if the effective date of the rule is not stayed pending action on its petition for reconsideration, irreparable injury will be caused to television stations because contracts entered into between August 7, 1973, and the date on which the petitions for reconsideration are disposed of will be subject to the new rule even if the rule is modified on reconsideration. AMST points out that if a stay is granted, any contracts finalized during that period that specified territorial exclusivity greater than that permitted by the new rule could be made subject to all provisions of that rule (including the provision concerning the August 7 date) if the Commission does not modify that rule on reconsideration, and that should parties negotiate contracts specifying exclusivity in excess of 25 miles, they would do so with the knowledge that any exclusivity exceeding 25 miles would have to be reduced. Thus AMST urges that the Commission should, at the very least, stay the rule as it affects the multicity markets, and states that the Commission could tailor the stay so that its effect would not be applicable to the "overshadowed" markets.

6. Rust Craft, a licensee of both VHF and UHF stations, bases its request on the contention that the rule will hinder the development of all-channel television broadcasting as well as reduce exclusivity now permitted under the cable rules.

7. The NAB, Kelly, KSN, and McGraw-Hill statements are in full support of the AMST request for stay. Kelly, KSN and McGraw-Hill point out the specific problems concerning their own respective multicity markets both as to over-the-air exclusivity and cable retransmission. Kaiser, a multiple UHF licensee, agrees with AMST's request that a stay should be granted, but objects to the AMST suggestion that the Commission could, if it grants the stay, except the "overshadowed" markets from the effect of the stay, because an exception as to "overshadowed" cities would discriminate against stations in a select few markets that are within 25 miles of the "overshadowed" markets.

8. While we are of the opinion that the parties could, by contract, adequately protect themselves from irreparable injury should the rule be modified on reconsideration, we believe the best course of action is to order a general stay of the rule for approximately sixty days to enable us to fully consider the material that the parties state they will submit on the multi-city market question (both as to over-the-air exclusivity and exclusivity against cable retransmission), and thereafter take whatever action, if any, is appropriate. It is true that the 1972 cable rules (Docket 18397) were adopted after the comments were filed in the territorial portion of this proceeding. So that as little disruption as possible of negotiations of contracts will oc-

[1] On August 27, 1973, the Corinthian Stations et al. filed a statement in support of the AMST request for stay, and Broadcast-Plaza, Inc. (WTIC-TV, Hartford, Connecticut) filed a separate request for stay on August 28, 1973.



V38-173 SEP 7 73 XUM

cur, should the rule be modified in any respect, we shall grant a stay of the effective date of the rule until November 12, 1973. Of course, should the rule not be modified, all contracts finalized on or after August 7, 1973, will be subject to the rule as adopted on July 26, 1973.

9. In view of the foregoing, the requests for stay are Granted to the extent indicated above; and the effective date of § 73.658(m) of the Commission's rules is Stayed until November 12, 1973.

Adopted: August 29, 1973.

Released: August 29, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[1]
VINCENT J. MULLINS,
*Acting Secretary.*

[FR Doc.73-19022 Filed 9-6-73;8:45 am]

## PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

### Frequencies and Conditions of Use

Order.—In the matters of Editorial amendments to § 83.351 of the Commission's rules and regulations.

1. In 1971, Dockets 18682 and 19076 were adopted which, among other things, amended § 83.351 of the Commission's rules and regulations. By this Order, it is intended merely to editorially correct, update, and place in proper numerical order the frequencies and conditions of use appearing therein. Additionally, correct frequency parameters are specified through the addition of a category heading.

2. Authority for these amendments appear in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and in § 0.231(d) of the Commission's rules and regulations. Since the amendments are editorial in nature as specified above, the prior notice, procedure and effective date provisions of 5 U.S.C. 553, are not applicable.

3. In view of the above, it is ordered, That the rule amendments set forth below are adopted effective September 7, 1973.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082, (47 U.S.C. 154, 303).)

Adopted August 27, 1973.

Released August 28, 1973.

[SEAL] JOHN M. TORPET,
*Executive Director.*

Part 83 of Title 47 of Chapter I of the Code of Federal Regulations is amended as follows:

In § 83.351(a) the Table is amended by deleting and adding certain frequencies and conditions of use; and in paragraph (b), footnote (6) is deleted and designated [Reserve], footnote (24) is amended and footnotes (34), (36), and (58) are deleted and designated [Reserved] to read as follows:

[1] Commissioners Johnson and Reid absent.

**§ 83.351 Frequencies available.**

(a) • • •

| Carrier frequency (kHz) | See section | Conditions of use |
|---|---|---|
| • | • | • |
| 1708 | 83.372 | 22, 24. |
| • | • | • |
| 2003 | 83.366, 83.354 | 7, 20, 39. |
| | 83.372 | 22, 35, 62. |
| | 83.358 | 7, 12, 39, 40. |
| • | • | • |
| 2065.0 | 83.362 | 11, 23, 25. |
| 2079.0 | 83.362 | 11, 23, 25. |
| 2082.5 | 83.358, 83.362 | 12, 25, 26. |
| • | • | • |
| 2118 | 83.354 | 7, 20, 39. |
| | 83.372 | 7, 22, 39. |
| • | • | • |
| 2131 | 83.354 | 7, 20, 37, 39. |
| | 83.370, 83.371 | 7, 17, 19, 39. |
| 2142 | 83.354 | 7, 12, 20, 39. |
| | 83.358 | 7, 8, 39, 40. |
| • | • | • |
| 2182 | 83.106 | 1, 9, 43. |
| • | • | • |
| 2203 | 83.358 | 12, 25, 30, 40. |
| • | • | • |
| 2214 | 83.362 | 11. |
| • | • | • |
| 2382 | 83.354 | 7, 20, 39. |
| | 83.370 | 7, 17, 39. |
| • | • | • |
| 2130 | 83.354 | 7, 20, 39. |
| | 83.372 | 7, 22, 39, 61. |
| • | • | • |
| 2479 | 83.372 | 22, 35, 68. |
| 2482 | 83.372 | 7, 22, 39, 68. |
| • | • | • |
| 2638 | 83.358 | 7, 12, 39, 40. |
| 2670 | 83.358, 83.363 | 7, 12, 39. |
| 2734 | 83.354 | 7, 21, 39. |
| | 83.358 | 7, 12, 39, 40. |
| | 83.362 | 7, 11, 39, 41. |
| • | • | • |
| 2830 | 83.358, 83.362 | 7, 11, 12, 39, 40. |
| • | • | • |
| 4130.0 | 83.354 | 14, 20, 27. |
| 4136.3 | 83.360 | 13, 16. |
| 4139.5 | 83.360 | 13, 16. |
| 4367.8 | 83.354 | 3, 21, 64. |
| • | • | • |
| 4134.9 | 83.360 | 13, 16. |
| 6147.5 | 83.354 | 3, 5, 15, 21. |
| 6210.4 | 83.360 | 13, 16. |
| 6213.5 | 83.360 | 13, 16. |
| 6451.9 | 83.354 | 3, 5, 15, 21. |
| 6455.0 | 83.354 | 3, 4, 15, 21. |
| 6518.6 | 83.360 | 13, 16. |
| 8201.5 | 83.355 | 18, 27. |
| • | • | • |
| 22,108.5 | 83.360 | 13, 16. |
| 156.275 | 83.359 | 10, 33, 40, 41, 45. |
| 156.300 | 83.359 | 10, 33, 40, 44. |
| 156.325 | 83.359 | 10, 33, 40, 41, 45. |
| 156.350 | 83.359 | 10, 33, 40, 41, 49. |
| 156.375 | 83.359 | 10, 33, 40, 49. |
| 156.400 | 83.359 | 10, 33, 40, 49. |
| 156.425 | 83.359 | 10, 33, 40, 41, 50, 54. |
| 156.450 | 83.359 | 10, 33, 40, 41, 49, 50. |
| 156.475 | 83.359 | 10, 33, 41, 50, 53. |
| 156.500 | 83.359 | 10, 33, 40, 41, 49. |
| 156.525 | 83.359 | 10, 33, 40, 50, 52. |
| 156.550 | 83.359 | 10, 33, 40, 41, 49. |
| 156.575 | 83.359 | 10, 33, 41, 50, 53. |
| 156.600 | 83.359 | 10, 33, 40, 41, 45. |
| 156.625 | 83.359 | 10, 33, 40, 50, 52. |
| 156.650 | 83.359 | 10, 33, 40, 41, 46, 59. |
| 156.675 | 83.359 | 10, 33, 35, 40, 41, 45. |
| 156.700 | 83.359 | 10, 33, 40, 41, 45. |
| 156.725 | 83.359 | 10, 33, 35, 40, 41, 45. |
| 156.750 | 83.359 | 10, 33, 42, 47, 56. |
| 156.800 | 83.233, 83.359 | 10, 33, 10, 41, 43. |
| 156.850 | 83.359 | 10, 33, 41, 48, 57. |
| 156.875 | 83.359 | 10, 33, 40, 49. |
| 156.900 | 83.359 | 10, 33, 40, 41, 49. |
| 156.925 | 83.359 | 10, 33, 41, 50, 53. |
| 156.950 | 83.359 | 10, 33, 40, 41, 49. |
| 156.975 | 83.359 | 10, 33, 40, 41, 49. |
| 157.000 | 83.359 | 10, 33, 40, 41, 45. |
| 157.025 | 83.359 | 10, 33, 40, 41, 49. |
| 157.200 | 83.359 | 10, 33, 38, 41, 51. |
| 157.225 | 83.359 | 10, 33, 38, 41, 51. |
| 157.250 | 83.359 | 10, 33, 38, 41, 51. |
| 157.275 | 83.359 | 10, 33, 38, 41, 51. |
| 157.300 | 83.359 | 10, 33, 38, 41, 51. |
| 157.325 | 83.359 | 10, 33, 38, 51. |
| 157.350 | 83.359 | 10, 33, 38, 41, 51. |
| 157.375 | 83.359 | 10, 33, 38, 51. |
| 157.400 | 83.359 | 10, 33, 38, 41, 51. |
| 157.425 | 83.359 | 10, 33, 40, 49, 55. |

(b) • • •

(24) Authorization for use is withdrawn effective January 1, 1977.

• • • • • • •

[FR Doc. 73-18769 Filed 9-6-73; 8:45 am]

## Title 49—Transportation

## CHAPTER X—INTERSTATE COMMERCE COMMISSION

### SUBCHAPTER A—GENERAL RULES AND REGULATIONS

## PART 1048—COMMERCIAL ZONES

[No. MC-C-258 (Sub-No. 3)]

### Kansas City, Mo.-Kansas City, Kans. Commercial Zone

At a session of the Interstate Commerce Commission, Review Board Number 2, held at its office in Washington, D.C., on the 1st day of June 1973.

It appearing, that on August 28, 1970, Review Board Number 3 entered its report and order, 112 M.C.C. 103, in this proceeding specifically defining the zone adjacent to and commercially a part of Kansas City, Mo.-Kansas City, Kans.;

It further appearing, that by joint petition filed March 5, 1973, the Blue Springs Chamber of Commerce and Blue Springs Industry, Inc., seek redefinition and extension in certain respects of the Kansas City, Mo.-Kansas City, Kans., commercial zone limits;

And it further appearing, that investigation of the matters and things involved in said petition having been made, and said board having made and filed a report herein containing its findings of fact and conclusions thereon, which report is hereby made a part hereof;

It is ordered, That § 1048.8 as prescribed in this proceeding on August 28, 1970 (49 CFR 1048.8), be, and it is hereby, vacated and set aside, and the revision set forth below is hereby substituted in lieu thereof. (49 Stat. 543, as amended 544, as amended 546, as amended, 49 U.S.C. 302, 303, and 304.)

*It is further ordered*, That this order shall become effective on August 1, 1973, and shall continue in effect until further order of the Commission.

*And it is further ordered*, That notice of this order shall be given to the general public by depositing a copy thereof in the office of the secretary of the Commission by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission, Review Board Number 2.

[SEAL] JOSEPH M. HARRINGTON,
*Acting Secretary.*

**§ 1048.8 Kansas City, Mo.-Kansas City, Kans.**

The zone adjacent to and commercially a part of Kansas City, Mo.-Kansas City, Kans., within which transportation by motor vehicle, in interstate or foreign commerce, not under a common control, management, or arrangement for a continuous carriage to or from a point beyond the zone is partially exempt from regulation under section 203(b)(8) of the Interstate Commerce Act (49 U.S.C. 303(b)(8)), includes and is comprised of all points in the area bounded by a line as follows:

Beginning on the north side of the Missouri River at the western boundary line of Parkville, Mo., thence along the western and northern boundaries of Parkville to the Kansas City, Mo., corporate limits, thence along the western, northern, and eastern corporate limits of Kansas City, Mo., to its junction with U.S. Bypass 71 (near Liberty, Mo.), thence along U.S. Bypass 71 to Liberty, thence along the northern and eastern boundaries of Liberty to its junction with U.S. Bypass 71 south to Liberty, thence south along U.S. Bypass 71 to its junction with the Independence, Mo., corporate limits, thence along the eastern Independence, Mo., corporate limits to its junction with Interstate Highway 70, thence along Interstate Highway 70 to its junction with the Blue Springs, Mo., corporate limits, the ice along the western, northern, and eastern corporate limits of Blue Springs, Mo., to its junction with U.S. Highway 40, thence east along U.S. Highway 40 to its junction with Brizen-Dine Road, thence south along the southerly extension of Brizen-Dine Road to its junction with Missouri Highway AA, thence along Missouri Highway AA to its junction with the Blue Springs, Mo., corporate limits, thence along the southern and western corporate limits of Blue Springs, Mo., to its junction with U.S. Highway 40, thence west along U.S. Highway 40 to its junction with the Lee's Summit, Mo., corporate limits, thence along the eastern Lee's Summit corporate limits to the Jackson-Cass County line, thence west along Jackson-Cass County line to the eastern corporate limits of Belton, Mo., thence along the eastern, southern, and western corporate limits of Belton to the western boundary of Richards-Gebaur Air Force Base, thence along the western boundary of said Air Force base to Missouri Highway 150, thence west along Missouri Highway 150 to the Kansas-Missouri State line, thence north along the Kansas-Missouri State line to 110th Street, thence west along 110th Street to its junction with U.S. Highway 69, thence north along U.S. Highway 69 to its junction with 103d Street, thence west along 103d Street to its junction with Quivera Road (the corporate boundary of Lenexa, Kans.), thence along the eastern and southern boundaries of Lenexa to Black Bob Road, thence south along Black Bob Road to 119th Street, thence east along 119th Street to the corporate limits of Olathe, Kans., thence south and east along the Olathe corporate limits to Schlagel Road, thence south along Schlagel Road to Olathe Morse Road, thence west along Olathe Morse Road to the northeast corner of Johnson County Airport, thence south, west, and north along the boundaries of said airport to Pflumm Road, thence north along Pflumm Road to its junction with Olathe Martin City Road, thence west along Olathe Martin City Road to its junction with Murden Road, thence south along Murden Road to its junction with Olathe Morse Road (the corporate boundary of Olathe, Kans.), thence west and north along said corporate boundary to its intersection with U.S. Highway 56, thence northeast along U.S. Highway 56 to its junction with Parker Road, thence north along Parker Road to the northern boundary of Olathe, thence east and north along the northern corporate limits of Olathe to Pickering Road, thence north along Pickering Road to 107th Street (the corporate boundary of Lenexa, Kans.), thence along the western and northern boundaries of Lenexa to Pflumm Road, thence north along Pflumm Road to its junction with Kansas Highway 10, thence along Kansas Highway 10 to its junction with Kansas Highway 7, thence along an imaginary line due west across the Kansas River to the Wyandotte County-Leavenworth County line (142d Street) at Loring, Kans., thence westerly along Country Route No. 32, a distance of three-fourths of a mile to the entrance of the facilities at Mid-Continent Underground Storage, Loring, thence from Loring in a northerly direction along Loring Lane and Linwood Avenue to the southern boundary of Bonner Springs, Kans., thence along the southern, western, and northern boundaries of Bonner Springs to its intersection with Kansas Highway 7, thence southeast along Kansas Highway 7 to its junction with Kansas Highway 32, thence east on Kansas Highway 32 to the corporate boundary of Kansas City, Kans., thence north, west, and east along the corporate boundaries of Kansas City, Kans., to its junction with Cernech Road and Pomeroy Drive, thence northwesterly along Pomeroy Drive to its junction with 79th Street, thence along 79th Street to its junction with Walcott Drive at Pomeroy, Kans., thence due west 1.3 miles to its junction with an unnamed road, thence north along such unnamed road to the entrance of Powell Port facility, thence due north to the southern bank of the Missouri River, thence east along the southern bank of the Missouri River to a point directly across from the western boundary of Parkville, Mo., thence across the Missouri River to the point of beginning.

[FR Doc.73-19084 Filed 9-6-73;8:45 am]

## Title 50—Wildlife and Fisheries

## CHAPTER I—BUREAU OF SPORT FISHERIES AND WILDLIFE, DEPARTMENT OF THE INTERIOR

## PART 32—HUNTING

### Alamosa National Wildlife Refuge, Colorado

The following special regulation is issued and is effective on September 7, 1973.

**§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.**

COLORADO

ALAMOSA NATIONAL WILDLIFE REFUGE

The public hunting of geese, ducks, coots, mergansers, mourning doves, sora, and Virginia rails and Wilson's snipe on the Alamosa National Wildlife Refuge, Colorado, is permitted in accordance with conditions as outlined below, but only on the area designated by signs as open to hunting:

(1) Ducks, coots, mergansers—September 29, through October 9, 1973, inclusive and November 10, 1973 through January 13, 1974 inclusive.

(2) Canada geese—November 1, through December 31, 1973, inclusive. Hunting of Canada geese is restricted to those persons who have secured a special Colorado State permit for the Special San Luis Valley Goose Hunt.

(3) Mourning dove—September 29, through October 9, 1973 inclusive.

(4) Sora and Virginia rails—September 29, through October 9, 1973, inclusive, and November 1, through November 9, inclusive.

(5) Wilson's snipe—September 29, through October 9, 1973, inclusive.

This open area, comprising 3,267 acres, is delineated on maps available at refuge headquarters, Alamosa, Colorado and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 10597 West Sixth Avenue, Denver, Colorado 80215. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of geese, ducks, coots, mergansers, mourning doves, sora, and Virginia rails and Wilson's snipe, subject to the following special conditions:

(1) Dogs—Not to exceed two dogs per hunter, may be used only to retrieve wounded or dead ducks.

(2) Boats—The use of boats is prohibited.

(3) Admittance—Entrance to the area open to hunting and parking of vehicles will be restricted to designated parking areas.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 13, 1974, inclusive.

M. A. MARSTON,
*Regional Director, Bureau of Sport Fisheries and Wildlife, Denver, Colorado.*

AUGUST 23, 1973.

[FR Doc.73-18997 Filed 9-6-73;8:45 am]

## PART 32—HUNTING

### Cape Romain National Wildlife Refuge, South Carolina

The following special regulations are issued and are effective on September 14, 1973.

**§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.**

SOUTH CAROLINA

CAPE ROMAIN NATIONAL WILDLIFE REFUGE

Public hunting of rails on the Cape Romain National Wildlife Refuge, South Carolina, is permitted only on the area designated by signs as open to hunting. This open area, comprising approximately 12,000 acres, is delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 17 Executive Park Drive NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State regulations covering the hunting of rails, and shall be subject to the following special conditions:

(1) Open season: September 14-November 22, 1973.

(2) Guns must be encased or otherwise rendered incapable of firing except when in the designated hunting area.

(3) The use of dogs is permitted.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas





V 38 - 173 SEP 7 73 XUM

generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 22, 1973.

C. EDWARD CARLSON,
*Regional Director, Bureau of Sport Fisheries and Wildlife.*

AUGUST 28, 1973.

[FR Doc.73-18954 Filed 9-6-73;8:45 am]

## PART 32—HUNTING

### Bear River Migratory Bird Refuge, Utah

The following special regulation is issued and is effective September 7, 1973.

**§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.**

UTAH

BEAR RIVER MIGRATORY BIRD REFUGE

The public hunting of ducks, coots, mergansers, and whistling swans on the Bear River Migratory Bird Refuge, Utah, is permitted from October 6, 1973 through January 6, 1974, inclusive; and geese, from October 13, 1973 through December 16, 1973, inclusive, but only on the area designated by signs as open to hunting. This open area, comprising 12,855 acres, is delineated on maps available at refuge headquarters, Brigham City, Utah, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 10597 West 6th Avenue, Denver, Colorado 80215. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese, coots, mergansers, and whistling swans subject to the following special conditions:

(1) Iron Shot.—The exclusive use of 12 gage iron shot in Area A will be required on odd numbered days beginning October 7, 1973 and continue through the balance of the waterfowl hunting season or until the refuge supply of iron shot is exhausted if this occurs first.

(2) Hunting areas.—Area A—No hunting is permitted from roadways or within 100 yards of any roadway. Area B—No hunting is permitted from roadways or adjacent area as posted by signs.

(3) Boat use.—The use of boats is permitted except that airthrust boats and aircycles may not be used in Unit 2 on week-ends and holidays. Airthrust boats and aircycles may be launched only from designated boat ramps. Boats may be left at designated areas 1 week prior to and during the hunting season. All boats and trailers must be removed within 2 weeks after the close of the hunting season.

(4) Parking.—Hunters may park cars only at designated areas within the refuge.

(5) Hunter check station.—Each hunter who enters Area A is requested to register at the checking station and check out before leaving the refuge. Those hunting in Area B are not required to register on entering or leaving the refuge.

(6) Routes of travel.—To reach open hunting areas, travel is permitted on foot or bicycle over roads between Units 1 and 2 and Units 2 and 3. Travel by boat from checking station using the canal between Units 1 and 2 or down main river channel into Unit 2, or using the canal between Units 2 and 3. Travel by boats and trailers over dike roads to designated parking and launching areas. Airthrust boats and aircycles may use designated travel lanes across a closed portion of the refuge leading to the open area south and southwest of the refuge.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 6, 1974.

LLOYD F. GUNTHER,
*Refuge Manager, Bear River Migratory Bird Refuge, Brigham City, Utah.*

AUGUST 30, 1973

[FR Doc.73-18961 Filed 9-6-73;8:45 am]

## PART 32—HUNTING

### Crab Orchard National Wildlife Refuge, Illinois

The following special regulation is issued and is effective on September 7, 1973.

**§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.**

ILLINOIS

CRAB ORCHARD NATIONAL WILDLIFE REFUGE

Public hunting of pheasants, bobwhite quail, and rabbits on the Crab Orchard National Wildlife Refuge, Illinois, is permitted from November 10, 1973 through January 15, 1974. The hunting of raccoons, opossums, skunks, and weasels is permitted from November 10, 1973 through January 31, 1974. The hunting of crows is permitted from December 1, 1973 through February 15, 1974. The hunting of coyotes is permitted from September 1, 1973 through February 28, 1974. Hunting is permitted only on the area designated by signs as open to hunting. This open area, comprising 9,380 acres is delineated on a map available at the refuge headquarters, Carterville, Illinois 62918, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Hunting shall be in accordance with all applicable State and Federal regulations.

The provisions of this special regulation supplements the regulations which govern hunting on wildlife refuges generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through February 28, 1974.

L. A. MEHRHOFF, Jr.,
*Project Manager, Crab Orchard National Wildlife Refuge, Carterville, Illinois.*

AUGUST 29, 1973.

[FR Doc.73-18959 Filed 9-6-73;8:45 am]

## PART 32—HUNTING

### Crab Orchard National Wildlife Refuge, Illinois

The following special regulation is issued and is effective on September 7, 1973.

**§ 32.32 Special regulations; big game; for individual wildlife refuge areas.**

ILLINOIS

CRAB ORCHARD NATIONAL WILDLIFE REFUGE

The public hunting of deer on the Crab Orchard National Wildlife Refuge on an area designated by signs as open to hunting is permitted with bow and arrow from one-half hour before sunrise to one-half hour before sunset daily from October 1, 1973, through November 11, 1973, and from one-half hour before sunrise until one-half hour before sunset November 19, 1973, through December 31, 1973, except during the period December 3, through December 9, 1973, inclusive. Shotgun or single shot muzzle loading rifle hunting of deer is permitted from 6:30 a.m. to 4 p.m. from November 16, 1973, through November 18, 1973, and from December 7, 1973 through December 9, 1973. This open area comprising 9,380 acres is delineated on maps available at refuge headquarters, Carterville, Illinois, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of deer.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 31, 1973.

L. A. MEHRHOFF, Jr.,
*Project Manager, Crab Orchard National Wildlife Refuge, Carterville, Illinois.*

AUGUST 29, 1973.

[FR Doc.73-18958 Filed 9-6-73;8:45 am]

## PART 32—HUNTING

### Des Lacs National Wildlife Refuge, North Dakota

The following special regulation is issued and is effective on September 7, 1973.

**§ 32.32 Special regulations; big game, for individual wildlife refuge areas.**

NORTH DAKOTA

DES LACS NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Des Lacs National Wildlife Refuge, North Dakota, is permitted only on the area designated by signs as open to hunting. This area, comprising 17,740 acres, is delineated on a map available at the refuge headquarters and from the Area Manager, Bureau of Sport Fisheries and Wildlife, Federal Building, Bismarck, North Dakota 58501. Hunting shall be in accordance with all applicable State Regulations covering the hunting of deer, subject to the following conditions.

(1) Hunting is permitted from 12:00 noon to sunset November 9 and from sunrise to sunset November 10 through November 18, 1973.

(2) All hunters must exhibit their hunting license, deer tag, game and vehicle contents to Federal and State Officers upon request.

The provisions of this special regulation supplement the regulations which govern hunting on Wildlife Refuge Areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32 and are effective through November 18, 1973.

CHARLES S. PECK,
*Refuge Manager, Des Lacs National Wildlife Refuge, Kenmare, North Dakota.*

AUGUST 27, 1973.

[FR Doc.73-18951 Filed 9-6-73;8:45 am]

## PART 32—HUNTING

### Hagerman National Wildlife Refuge, Texas

The following special regulation is issued and is effective on September 7, 1973.

**§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.**

TEXAS

HAGERMAN NATIONAL WILDLIFE REFUGE

Public hunting of rabbits on the Hagerman National Wildlife Refuge, Texas, is permitted only on the area designated by signs as open to hunting. This open area, comprising 2,644 acres, is delineated on maps available at refuge headquarters, 15 miles northwest of Sherman, Texas, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, New Mexico 87103. Hunting shall be in accordance with all applicable State regulations governing the hunting of rabbits subject to the following special conditions:

(1) The open season for hunting rabbits on the refuge extends from September 1 through September 30, 1973, inclusive.

(2) Shooting hours will begin at 12 noon daily and end at sunset.

(3) Hunting with rifles or handguns is not permitted.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through September 30, 1973.

BERT M. ANDUSS,
*Refuge Manager, Hagerman National Wildlife Refuge, Sherman, Texas.*

AUGUST 29, 1973.

[FR Doc.73-18953 Filed 9-6-73;8:45 am]

## PART 32—HUNTING

### Long Lake National Wildlife Refuge, North Dakota

The following special regulations are issued and are effective on September 7, 1973.

**§ 32.32 Special regulations; big game; for individual wildlife refuge areas.**

NORTH DAKOTA

LONG LAKE NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Long Lake National Wildlife Refuge, North Dakota, is permitted only on the area designated by signs as open to hunting. This open area, comprising approximately 19,500 acres, is delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sports Fisheries and Wildlife, 10597 West 6th Avenue, Denver, Colorado 80215. Hunting shall be in accordance with all applicable State regulations, covering the hunting of deer subject to the following conditions.

(1) Hunting is permitted from 12 Noon to sunset November 9, 1973, and from sunrise to sunset November 10, 1973, through November 18, 1973.

(2) All hunters must exhibit their hunting license, deer tag, game, and vehicle contents to Federal and State officers upon request.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 18, 1973.

JIM MATTHEWS,
*Refuge Manager, Arrowwood National Wildlife Refuge, Edmunds, North Dakota.*

AUGUST 29, 1973.

[FR Doc.73-18960 Filed 9-6-73;8:45 am]

## PART 32—HUNTING

### Lostwood National Wildlife Refuge, North Dakota

Public hunting of sharp-tailed grouse and Hungarian partridge on the Lostwood National Wildlife Refuge, North Dakota, is permitted only on that area designated by signs as open to hunting during the period September 15 through December 31, 1973. The open area, comprising 4,720 acres during the period September 15 through November 18 and 26,101 acres during the period November 19 through December 31, 1973, is delineated on maps available at the refuge headquarters, Lostwood, North Dakota, and from the Area Manager, Bureau of Sport Fisheries and Wildlife, Federal Building, Bismarck, North Dakota 58501. Hunting shall be in accordance with all applicable State regulations and the following special condition.

1. Vehicle travel is restricted to public highways and the refuge entrance road from State Highway No. 8 to refuge headquarters. All other roads and trails are closed to vehicles.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 1, 1974.

CHARLES S. PECK,
*Refuge Manager, Lostwood National Wildlife Refuge, Lostwood, North Dakota.*

AUGUST 27, 1973.

[FR Doc.73-18950 Filed 9-6-73;8:45 am]

## PART 32—HUNTING

### Lostwood National Wildlife Refuge, North Dakota

Public hunting of deer on the Lostwood National Wildlife Refuge, North Dakota, is permitted only on the area designated by signs as open to hunting during the period November 9 through 18, 1973. This open area, comprising 25,300 acres, is delineated on a map available at the refuge headquarters, Lostwood, North Dakota, and from the Area Manager, Bureau of Sport Fisheries and Wildlife, Federal Building, Bismarck, North Dakota 58501. Hunting shall be in accordance with all applicable State regulations and the following special conditions:

1. Vehicle travel is restricted to public highways and the refuge entrance road from State Highway No. 8 to refuge headquarters. All other roads and trails are closed to vehicles.

2. A one square mile area around the refuge headquarters complex will be closed to hunting and marked by "Closed Area" signs.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuges generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 1, 1974.

CHARLES S. PECK,
*Refuge Manager, Lostwood National Wildlife Refuge, Lostwood, North Dakota.*

AUGUST 27, 1973.

[FR Doc.73-18952 Filed 9-6-73;8:45 am]

## PART 32—HUNTING

### Mingo National Wildlife Refuge, Missouri

The following special regulations are issued and are effective on September 7, 1973.

**§ 32.32 Special regulations; big game; for individual wildlife refuge areas.**

MISSOURI

MINGO NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Mingo National Wildlife Refuge, Puxico, Missouri, is permitted only on the area designated by signs as open to hunting. This open area, comprising 6,000 acres, is delineated on maps available at refuge





V 38-173
SEP 7 73
XUM

headquarters, Puxico, Missouri, and from the office of the Area Manager, Bureau of Sport Fisheries and Wildlife, 601 East 12th, Kansas City, Missouri 64106. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer subject to the following special conditions.

(1) Hunting with bows and arrows only is permitted.

(2) Hunters must register when entering or leaving the area.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 31, 1973.

GERALD L. CLAWSON,
*Refuge Manager.*

AUGUST 28, 1973.

[FR Doc.73-19003 Filed 9-6-73;8:45 am]

## PART 32—HUNTING

### National Wildlife Refuges, North Dakota

The following special regulations are issued and are effective on September 7, 1973.

**§ 32.32 Special regulations; big game; for individual wildlife refuge areas.**

NORTH DAKOTA

ARROWWOOD NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Arrowwood National Wildlife Refuge, North Dakota, is permitted only on the area designated by signs as open to hunting. The open area comprising 11,063 acres is delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 10597 West 6th Avenue, Denver, Colorado 80215. Hunting shall be in accordance with all applicable State regulations, covering the hunting of deer subject to the following conditions.

(1) Hunting is permitted from 12 Noon to sunset on November 9, 1973 and from sunrise to sunset November 10, 1973 through November 18, 1973.

(2) All hunters must exhibit their hunting license, deer tag, game and vehicle contents to Federal and State Officers upon request.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 18, 1973.

CHASE LAKE NATIONAL WILDLIFE REFUGE

Public hunting of deer on Chase Lake National Wildlife Refuge, North Dakota; is closed for the 1973 season.

JIM MATTHEWS,
*Refuge Manager, Arrowwood National Wildlife Refuge, Edmunds, North Dakota.*

AUGUST 29, 1973.

[FR Doc.73-18956 Filed 9-6-73;8:45 am]

## PART 32—HUNTING

### National Wildlife Refuges in Certain States

The following special regulations are issued and are effective on October 6, 1973.

**§ 32.32 Special regulations; big game; for individual wildlife refuge areas.**

MISSISSIPPI

YAZOO NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Yazoo National Wildlife Refuge is permitted only on the areas designated by signs as open to hunting. This open area, comprising approximately 10,500 acres, is delineated on a map available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 17 Executive Park Drive NE., Atlanta, Ga. 30329. Hunting shall be in accordance with all State regulations governing the hunting of deer subject to the following special conditions:

(1) Open season: Archery—November 3–16, 1973, Sundays excluded. Gun—December 31, 1973–January 5, 1974.

(2) Bag limit: One deer of either sex during the archery hunt. One buck with antlers 4 inches or longer during the gun hunt.

(3) Weapons: Archery—Longbows only; crossbows and all firearms prohibited. Gun—Shotguns larger than 410 gauge and rifles larger than 22 caliber. No sidearms (pistols or revolvers) permitted.

(4) A refuge deer hunting permit is required for the gun hunt.

(5) Firearms may not be discharged within 250 yards of residences or the refuge headquarters. The carrying of loaded firearms in vehicles and shooting from or across county or State roads is prohibited.

(6) All deer killed must be checked out at a refuge checking station.

(7) Hunters may enter the hunting area no earlier than 1 hour before sunrise. Archery hunters must depart the hunting afea immediately after sunset and gun hunters must depart the hunting area no later than 1 hour after sunset.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 5, 1974.

TENNESSEE

TENNESSEE NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Tennessee National Wildlife Refuge, Tenn., is permitted only on the areas designated by signs as open to hunting. These open areas, comprising 2,800 acres for bow hunting only, 700 acres for muzzleloading rifle hunting, and 3,300 acres for gun and bow hunting, are delineated on a map available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 17 Executive Park Drive NE., Atlanta, Ga. 30329. Hunting shall be in accordance with all applicable State regulations governing the hunting of deer subject to the following special conditions:

(1) The open season for archery hunting of deer on the refuge is October 6–14, 1973.

(2) The open season for muzzleloading rifles on the refuge is December 29 and 30, 1973.

(3) The open season for gun and bow hunting of deer on the refuge is December 27, 28, and 29, 1973.

(4) The bag limit is one deer of either sex per hunter during the archery hunt, the muzzleloader rifle hunt, and the gun-bow hunt.

(5) The use of dogs is not permitted.

(6) Camping on the area is not permitted.

(7) Driving of deer is prohibited.

(8) Hunters may enter public hunting area at sunrise and must be out of the area ½ hour after sunset.

(9) All hunters must wear protective clothing of fluorescent red, orange, or yellow material of at least 100 square inches.

(10) Bow hunters who wish to hunt deer on Britton Ford Peninsula on October 6 will be required to possess a refuge permit. Permits for hunting this area will be issued to the first 300 people who make a request for this permit at the refuge office in Paris, Tennessee. No permit will be required to hunt Britton Ford Peninsula October 7 through October 14. Also, no permit will be necessary to hunt Sulphur Well Island or the Duck River area south of Interstate 40 during the refuge archery hunt October 6–14, 1973.

(11) Muzzleloading rifle hunters who wish to hunt Britton Ford Peninsula and Sulphur Well Island on December 29 and 30 will be required to possess a refuge permit. Permits for hunting this area will be issued to the first 100 people who make a request for this permit at the refuge office in Paris, Tennessee. Up to 35 people will be allowed to hunt Britton Ford Peninsula per day and up to 15 people may hunt on Sulphur Well Island each day.

(12) Hunters must check in and out of the designated checking station.

(13) Hunters desiring to hunt deer on the area open to gun hunting will require a refuge permit. Hunters under 18 years of age must be accompanied by a responsible adult. Applications will consist of self-addressed, stamped envelope furnished by the hunter(s) to the refuge office, Bureau of Sport Fisheries and Wildlife, Box 849, Paris, Tennessee 38242, after August 1, 1973. Hunters must submit self-addressed, stamped envelope in time to be received by August 31, 1973.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 30, 1973.

C. EDWARD CARLSON,
*Regional Director, Bureau of Sport Fisheries and Wildlife.*

AUGUST 29, 1973.

[FR Doc.73-18963 Filed 9-6-73;8:45 am]





## PART 32—HUNTING

### Seney National Wildlife Refuge, Michigan

The following special regulation is issued and is effective on September 7, 1973.

**§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.**

MICHIGAN

SENEY NATIONAL WILDLIFE REFUGE

Public hunting of Woodcock and Wilson's Snipe (Jacksnipe) on the Seney National Wildlife Refuge is permitted only on the area designated as open to hunting. This open area, comprising 33,525 acres, is delineated on maps available at refuge headquarters, Seney, Michigan, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

Hunting shall be in accordance with all applicable State regulations covering the hunting of Woodcock and Wilson's Snipe (Jacksnipe) subject to the following special conditions:

(1) All motorized conveyances are prohibited from traveling on dikes or off established roads and trails. Motorized bikes, All-Terrain Vehicles, and snowmobiles are not permitted on the refuge.

The provisions of this special regulation supplements the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 14, 1973.

CHARLES A. HUGHLETT,
*Acting Regional Director, Bureau of Sport Fisheries and Wildlife, Twin Cities, Minnesota.*

AUGUST 23, 1973.

[FR Doc.73-18964 Filed 9-6-73;8:45 am]

## PART 32—HUNTING

### Sherburne National Wildlife Refuge, Minnesota

The following special regulation is issued and is effective on September 7, 1973.

**§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.**

MINNESOTA

SHERBURNE NATIONAL WILDLIFE REFUGE

Public hunting of ducks, coots, rails, Wilson snipe, and woodcock on the Sherburne National Wildlife Refuge is permitted only on the areas designated by signs as open to hunting. These open areas, comprising 6,829 acres for ducks, coots, rails, Wilson snipe, and woodcock (designated Area B on map) [1]; and 10,850 acres for Wilson snipe and woodcock (designated Area A on map) [1], are delineated on a map available at refuge headquarters, Box 158, Princeton, Minnesota 55371, and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

Hunting shall be in accordance with all applicable State regulations covering the hunting of these species subject to the following special conditions:

(1) All motorized conveyances are prohibited from traveling off of established roads and parking areas open to such travels.

(2) Parking of vehicles is restricted to designated parking areas.

(3) Overnight camping and open fires are prohibited.

(4) Boats, without motors, may be used on the St. Francis River only from designated river access sites.

(5) Construction of any permanent artificial scaffold, platform, blind, or other construction is prohibited.

(6) Boats and decoys must be removed from the refuge at completion of days hunt.

(7) Field possession of ducks and coots in area of refuge closed to hunting of ducks and coots is prohibited.

The provisions of this special regulation supplements the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 18, 1973.

CHARLES A. HUGHLETT,
*Acting Regional Director, Bureau of Sport Fisheries and Wildlife.*

AUGUST 16, 1973.

[FR Doc.73-18955 Filed 9-6-73;8:45 am]

## PART 32—HUNTING

### Slade National Wildlife Refuge, North Dakota

The following special regulation is issued and is effective on September 7, 1973.

**§ 32.32 Special regulations; big game; for individual wildlife refuge areas.**

NORTH DAKOTA

SLADE NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Slade National Wildlife Refuge, North Dakota, is permitted only on the area designated by signs as open to hunting. This open area, comprising 2,840 acres, is delineated on a map available at the refuge headquarters and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 10597 West 6th Avenue, Denver, Colorado 80215. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer subject to the following conditions:

(1) Hunting is permitted from 12 Noon to sunset November 9, 1973, and from sunrise to sunset November 10, 1973, through November 18, 1973.

(2) All hunters must exhibit their hunting license, deer tag, game, and vehicle contents to Federal and State officers upon request.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Regulations, Part 32, and are effective through November 18, 1973.

JIM MATTHEWS,
*Refuge Manager, Arrowwood National Wildlife Refuge, Edmunds, North Dakota.*

AUGUST 30, 1973.

[FR Doc.73-18962 Filed 9-6-73;8:45 am]

## PART 32—HUNTING

### Upper Souris National Wildlife Refuge, North Dakota

The following special regulation is issued and is effective on September 7, 1973.

**§ 32.32 Special regulations; big game; for individual wildlife refuge areas.**

NORTH DAKOTA

UPPER SOURIS NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Upper Souris National Wildlife Refuge, North Dakota, is permitted on all areas except those designated as closed. The open areas, comprising 31,800 acres, are delineated on maps available at headquarters, Foxholm, North Dakota, and from the office of the Area Manager, Bureau of Sport Fisheries and Wildlife, P.O. Box 1897, Bismarck, North Dakota 58501. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer subject to the following conditions:

(1) The open season for hunting deer on the refuge is from noon November 9 to sunset November 18, 1973, CST.

(2) The refuge shall be closed to all vehicular travel except the main public roads.

(3) Regular gun license permits the taking of white-tailed deer with forked antlers on at least one side. Hunters with Special Unit III–A licenses may take white-tailed deer of any age or sex or an antlered mule deer buck.

(4) Deer are the only species that may be taken; it is unlawful to carry firearms after the deer tag is used. The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 18, 1973.

DON R. PERKUCHIN,
*Refuge Manager, Upper Souris National Wildlife Refuge, Foxholm, North Dakota.*

AUGUST 29, 1973.

[FR Doc.73-18957 Filed 9-6-73;8:45 am]

[1] Map filed as part of the original document.



V 38-173
SEP 7 73
XUM

# Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

## DEPARTMENT OF THE TREASURY

### Customs Service

[ 19 CFR Part 1 ]

### CUSTOMS FIELD ORGANIZATION

### Notice of Proposed Changes in Customs Region V

AUGUST 29, 1973.

In order to provide better Customs service to carriers, importers, and the public, it is considered desirable to extend the port limits of Greenville, Mississippi.

Accordingly, notice is hereby given that, by virtue of the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR Ch. II), and pursuant to the authorization provided by Treasury Department Order No. 190, Rev. 9 (38 FR 17517), it is proposed to extend the port limits of Greenville, Mississippi, in the New Orleans, Louisiana, Customs district (Region V), to include all of Washington County, Mississippi.

Prior to the adoption of the foregoing proposal, consideration will be given to any relevant data, views, or arguments which are submitted to the Commissioner of Customs, Attention: Regulations Division, Washington, D.C. 20229, and received on or before October 9, 1973.

Written material or suggestions submitted will be available for public inspection in accordance with § 103.3(b) of the Customs regulations (19 CFR 103.3(b)), at the Regulations Division, Headquarters, United States Customs Service, Washington, D.C., during regular business hours.

[SEAL] JAMES B. CLAWSON,
*Acting Assistant Secretary of the Treasury.*

[FR Doc.73-19034 Filed, 9-6-73;8:45 am]

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

[ 9 CFR Part 381 ]

### HANDLING AND MARKING DRESSED POULTRY

### Notice of Proposed Rulemaking

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that the Animal and Plant Health Inspection Service of this Department has been requested to delete from the poultry products inspection regulations (9 CFR Part 381) those provisions allowing the production, labeling, and movement between official establishments or importation of dressed poultry. No change is proposed with respect to the exemption of dressed poultry from certain restrictions of the Act and the regulations when necessary to avoid conflict with religious dietary requirements. Current regulations define "dressed poultry" as poultry which has been slaughtered for human food with head, feet, and viscera intact and from which the blood and feathers have been removed.

This request, from several poultry industry and trade associations, is based on their contention that the poultry industry no longer produces dressed poultry for movement between official establishments nor imports any such poultry and therefore such regulatory provisions are no longer needed.

The Department is seeking further data, views, or arguments concerning this matter.

Any person wishing to submit written data, views, or arguments concerning the proposed amendments may do so by filing them in duplicate with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by November 16, 1973.

Any persons desiring opportunity for oral presentation of views should address such requests to the Inspection Standards and Regulations Staff, Scientific and Technical Services, Meat and Poultry Inspection Program, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, so that arrangements may be made for such views to be presented prior to the date specified in the preceding paragraph. A record will be made of all views orally presented.

All written submissions and records of oral views made pursuant to this notice will be made available for public inspection in the Office of the Hearing Clerk during regular hours of business, unless the person makes the submission to the Staff identified in the preceding paragraph and requests that it be held confidential. A determination will be made whether a proper showing in support of the request has been made on grounds that its disclosure could adversely affect such person by disclosing information in the nature of trade secrets or commercial or financial information obtained from any person and privileged or confidential. If it is determined that a proper showing has been made in support of the request, the material will be held confidential; otherwise, notice will be given of denial of such request and an opportunity afforded for withdrawal of the submission. Requests for confidential treatment will be held confidential (7 CFR 1.27(c)).

Comments on the proposal should bear a reference to the date and page number of this issue of the FEDERAL REGISTER.

Done at Washington, D.C. on August 31, 1973.

G. H. WISE,
*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc.73-19083 Filed 9-6-73;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

[ 21 CFR Part 121 ]

### SUBSTANCES PROHIBITED FROM USE IN FOOD

*Correction*

In FR Doc. 73-15216, appearing at page 20040 for the issue for Thursday, July 26, 1973, the following corrections are made:

1. In § 121.106(d)(2)(iii), the word now spelled "detectine" should be spelled "detecting".

2. In § 121.106(d)(8)(i) the word now spelled "detectably" should be spelled "detectable".

3. In § 121.106(d)(9)(i), "CoSo," should be "CoSo'".

4. In § 121.106(d)(10(i), the formula now reading "4,4(2,3-dimethyltetramethylene)" should read "4,4(2,3-dimethyltetramethylene)".

5. In § 121.106(e)(2), the formula now reading "4,4i-Methylenebis" should read "4,4'-Methylenebis".

[ 21 CFR Part 121 ]

### CAROB BEAN GUM

### Proposed Transfer From GRAS List to Food Additive Regulation for Direct Human Food Use and Affirmation of GRAS Status as Indirect Human Food Ingredient

*Correction*

In FR Doc. 73-15215, appearing at page 20041 for the issue for Thursday, July 26, 1973, the following corrections should be made:

1. In the first column on page 20042, the word now spelled "applicable" in the fourth line from the bottom should be "applicable".

2. In the second column, eight lines from the top, the word now spelled "asset" should be "assert".





3. In the first column on page 20043, in the third paragraph, the word now spelled "Ora" in the second line should be "Oral". In the eighth line the words now spelled "materna or feta surviva" should be "maternal or fetal survival".

[ 21 CFR Part 121 ]

### MANITOL AND SORBITOL

### Affirmation of GRAS Status of Direct Human Food Ingredients

*Correction*

In FR Doc. 73-15214, appearing at page 20046 for the issue for Thursday, July 26, 1973, the seventh and eighth lines of § 121.104(g)(3)(iv) should read as follows: "(§ 121.1(1)(25)), 26 percent in chewing gum (§ 121.1(1)(6)), 40 percent in soft".

[ 21 CFR Part 121 ]

### METHYL PARABEN AND PROPYL PARABEN

### Affirmation of GRAS Status of Direct Human Food Ingredients

*Correction*

In FR Doc. 73-15212 appearing at page 20048 for the issue for Thursday, July 26, 1973 the following corrections are made:

1. In the third column in the paragraph beginning "Studies in rats," in the seventh line the word now spelled "blucuronic" should be spelled "glucuronic".

2. In the third column on page 20050 the paragraph that begins with "the Commissioner"; in the fourth line the word now spelled "the" should be "those".

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

[ 29 CFR Part 1910 ]

### STANDARDS ADVISORY COMMITTEE ON CARCINOGENS

### Notice of Receipt of Recommendations of the Committee and of Their Availability for Public Inspection

Notice is hereby given that the Standards Advisory Committee on Carcinogens, established under section 7 of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1592), submitted to the Assistant Secretary of Labor for Occupational Safety and Health, on August 27, 1973, its recommendations for a standard for certain carcinogens. The full text of the recommended standard is set forth in an appendix to this notice.

The number appearing in parentheses in the lower right corner of each recommendation records the voting of the Committee members. The first number indicates the affirmative votes, the second number indicates the negative votes, and any third number indicates abstentions.

Copies of the recommended standard will also be made available for inspection, and copying, upon request, at the U.S. Department of Labor, Office of Standards, Railway Labor Building, Room 500, 400 First Street NW., Washington, D.C. 20210, and at the following regional offices:

John F. Kennedy Federal Building, Government Center, Room No. E308, Boston, Mass. 02203; 1515 Broadway, New York, N.Y. 10036; Penn Square Building, Room 623, 1317 Filbert Street, Philadelphia, Pa. 19107; 1375 Peachtree Street NE., Suite 587, Atlanta, Ga. 30309; 300 South Wacker Drive, Room 1201, Chicago, Ill. 60606; Seventh Floor, Texaco Building, 1512 Commerce Street, Dallas, Tex. 75201; 823 Walnut Street, Waltower Building, Room 300, Kansas City, Mo. 64104; Federal Building, Room 15010, Post Office Box 3588, 1961 Stout Street, Denver, Colo. 80202; 9470 Federal Building, 450 Golden Gate Avenue, Box 36017, San Francisco, Calif. 94102; 506 Second Avenue, 1808 Smith Tower Building, Seattle, Wash. 98104.

Signed at Washington, D.C. this 29th day of August 1973.

JOHN H. STENDER,
*Assistant Secretary of Labor.*

APPENDIX

PROPOSED STANDARD FOR CERTAIN CARCINOGENS AS RECOMMENDED BY THE STANDARDS ADVISORY COMMITTEE ON CARCINOGENS AUGUST 27, 1973

§ 1910.93c Carcinogens.

(a) *Purpose.*—The purpose of this standard is to prevent any worker contact or exposure to any of the listed carcinogens as detected by the most sensitive, feasible sampling and analytical methods available.

(b) *Scope and application.*—This section applies to any workplace in which a carcinogen is manufactured, processed, used, repackaged, released handled or stored, but shall not apply to any workplace involving only shipment of carcinogens in appropriate, sealed containers.

(c) *Terminology.*—For the purpose of this standard: (1) "carinogen" includes one or more of the fourteen substances listed below.

| Compound No. | Chemicals | Chemical abstract registry No. |
|---|---|---|
| 1 | 2-Acetylaminofluorene | 53963 |
| 2 | 4-Aminodiphenyl | 92671 |
| 3 | Benzidine (and its salts) | 92875 |
| 4 | 3,3'-Dichlorobenzidine (and its salts) | 91941 |
| 5 | 4-Dimethylaminoazobenzene | 60117 |
| 6 | alpha-Naphthylamine | 134327 |
| 7 | beta-Naphthylamine | 91598 |
| 8 | 4-Nitrobiphenyl | 92933 |
| 9 | N-Nitrosodimethylamine | 62759 |
| 10 | beta-Propiolactone | 57578 |
| 11 | bis-Chloromethyl ether | 542881 |
| 12 | Methyl Chloromethyl ether | 107302 |
| 13 | 4,4'-Methylene (bis)-2-chloroaniline | 101144 |
| 14 | Ethylenelmine | 151564 |

(2) "Regulated area" is an area in which there is potential exposure to a carcinogen and where entry and exit shall be restricted and controlled by the employer.

(3) "Decontamination" is the safe removal from the work environment or inactivation of a carcinogen to eliminate residual carcinogen as detectible by the most sensitive, feasible sampling and analytical methods available.

(4) "Disposal" is the safe removal of inactivation of a carcinogen to prevent introduction of the carcinogen into regulated areas, nonregulated areas, or the external environment.

(5) "Feasible" is capable of being accomplished successfully within the best practicable technology as it exists or may develop.

(6) "Closed system" is an operation involving a carcinogen where the containment prevents the release of the carcinogen, as detected by the most sensitive, feasible, continuous sampling and analytical methods available, into regulated areas, non-regulated areas, or the external environment.

(7) "Isolated system" is a fully enclosed structure, which is impervious to the passage of a carcinogen, other than the vessel of containment of the carcinogen, and which would prevent the entry of the carcinogen into regulated areas, non-regulated areas, or the external environment, should leakage or spillage from the vessel of containment occur.

(8) "Laboratory type hood" is a device enclosed on three sides and the top and bottom, designed and maintained so as to draw air inward at an average linear face velocity of 150 feet per minute with a minimum of 125 feet per minute; designed, constructed, and maintained in such a way that an operation involving a carcinogen within the hood does not require the insertion of any portion of any employees' body other than his hands and arms. c.f. the American Conference of Governmental Industrial Hygienists "Industrial Ventilation, A manual of Recommended Practice" section on laboratory hoods details and operation when handling and using highly toxic substances, and the section "Hood Design Data."

(9) "Open vessel system" is an operation involving a carcinogen in an open vessel, not in an isolated system, not in a laboratory-type hood, nor in other systems affording equivalent protection, which may allow the entry of a carcinogen into regulated areas, non-regulated areas, or the external environment.

(10) "Nonregulated area" is any area under the control of the employer which is not subject to the provisions of this section because there is no potential for exposure to a carcinogen.

(11) "External environment" is any environment external to the regulated and non-regulated areas.

(12) "Redundant protection" is a backup system for operations involving carcinogens which is capable of providing immediate protection should the primary system fail.

(13) "Protective work clothing" is clothing designed to protect the worker against contact with or exposure to carcinogens in the regulated areas.

(14) "Emergency" is an unforeseen circumstance or set of circumstances re-



V 38-173
SEP 7 73
XUM

sulting in the release of a carcinogen which may result in the exposure or contact with the carcinogen as evidenced by its detection either by the most sensitive, feasible sampling and analytical methods available or by other obvious evidence such as physical detection or an indication of equipment failure or impending failure, which emergency calls for immediate action.

(d) *Requirements for areas containing carcinogens.*—A regulated area shall be established by the employer where a carcinogen is manufactured, processed, used, repackaged, released, handled or stored. All such areas shall be regulated in accordance with the requirements for the following categories of operations involved:

(1) *Isolated System.*—Where a carcinogen is contained within an isolated system, such as a "glove box", employees and other authorized individuals working with such a system shall be required to wash their hands and arms upon completion of the assigned task and before engaging in other unrelated activities.

(2) *Closed system operation.*—Where a carcinogen is stored in sealed containers, or contained in a closed system, such as fully enclosed process or transfer equipment, including pipes; sample ports or openings, if present, are not in use while a carcinogen is contained within:

(i) Access to the regulated area shall be restricted to only employees who work in that area and other authorized individuals.

(ii) Before entering the regulated area each workday all employees and other authorized individuals shall be provided with and be required to wear new or decontaminated appropriate protective work clothing.

(iii) During the workday, such employees and other authorized individuals shall be required to remove and leave that clothing at the point of exit upon each exit from the regulated area.

(iv) Such employees and other authorized individuals shall be required to wash hands and face upon each exit from the regulated area, close to the point of exit.

(v) Such employees and other authorized individuals shall be required to remove and place all protective work clothing in an appropriate container (for purposes of decontamination or disposal) after last exit of the day from the regulated area.

(vi) Such employees and other authorized individuals shall be required to shower after last daily exit from the regulated area, close to the point of exit.

(3) *Transfer from a closed system, charging or discharging point operations,* or otherwise opening a closed system. In operations involving "laboratory type hoods", or in locations where a carcinogen is contained in an otherwise "closed system", but is transferred, charged, or discharged into other normally closed containers:

(i) Access to the regulated area shall be restricted to only employees who work in that area and other authorized individuals.

(ii) Continuous local exhaust ventilation followed by appropriate decontamination and disposal shall be maintained to prevent the dispersion of the carcinogen to regulated areas, non-regulated areas, or the external environment.

(iii) Before entering the regulated area each work day, all employees and other authorized individuals shall be provided with and be required to wear new or decontaminated, appropriate protective work clothing, such as smocks, coveralls or long-sleeved shirts and long pants.

(iv) Such employees and other authorized individuals shall be required to remove and leave that clothing at the point of exit upon each exit from the regulated area.

(v) Employees and other authorized individuals in the regulated area involved in carcinogen handling operations shall be provided with and be required to wear and use appropriate personal protective equipment adequate to prevent exposure to a carcinogen.

(vi) Such employees and other authorized individuals shall be required to wash hands and face upon each exit from the regulated area, close to the point of exit.

(vii) Such employees and other authorized individuals shall be required to shower after last exit of the day from the regulated area, close to the point of exit.

(viii) Employees and other authorized individuals in the regulated area shall be required to remove and place all protective equipment in an appropriate container at the hood site or charging, discharging or transfer point after work at that site or point.

(4) *Open vessel systems.*—(i) Open vessel system operations, as defined above in paragraph c(9), shall be prohibited.

(5) *Maintenance and Decontamination Activities.*—In decontamination of carcinogen(s), either as a part of clean-up of leaks or spills, maintenance or repair operations on systems or equipment, or any operation involving work in an area where direct contact with a carcinogen could result, each employee or other authorized individual entering that area shall:

(i) Be provided with, and be required to wear, a decontaminated, full, impervious, pressurized, air-supplied suit upon entering that area and while engaged in such operations;

(ii) Be decontaminated before leaving that area and before removing the suit; and

(iii) Be required to shower after removing such suit.

(6) *"Out-of-doors systems".*—No distinction shall be made between out-of-door regulated areas and indoor regulated areas.

(e) *General regulated areas requirements.*—In addition to the regulated types of systems listed in paragraph (d) of this section the following requirements apply to all regulated areas:

(1) Each employer shall establish and maintain a list of employees entering a regulated area. The list shall be made available on request to authorized representatives of the Secretary of Labor and the Secretary of Health, Education, and Welfare.

(2) The employer shall provide all work clothing, protective clothing, equipment, and wash and shower supplies including towels, required by this section.

(3) Any required shower rooms shall be provided in accordance with § 1910.-141. Shower supplies may be introduced into a shower room only through a non-contaminated area.

(4) No food, beverage, drug, or cosmetic shall be permitted within a regulated area.

(5) No smoking or smoking materials, tobacco products, or chewing materials shall be permitted within a regulated area.

(6) Appropriate instructions and signs shall be posted at the entrance to, and exit from, regulated areas to inform employees of the procedures that must be followed in entering and leaving a regulated area.

(7) Any equipment, material, or any other items that are to be taken into or removed from a regulated area by any employees or other authorized individuals shall be taken in or removed from such area in such a manner which does not contaminate outside the regulated area.

(8) When only removal of outer clothing or personal protective equipment is required under paragraph (d) of this section, at point of exit from a regulated area, an employee must be able, upon exit from the regulated area, to enter the change room, remove outer work garments and equipment and leave them in that room in an appropriate container.

(9) When change and shower facilities are required under paragraph (d) of this section at point of exit from a regulated area, they shall be arranged so that upon exit, an employee must be able to enter a separate dirty change room where he can undress completely and leave every item of clothing and equipment in approved containers. All clothing shall be decontaminated before laundering. He must then be able to shower in an adjacent room which he can enter through an entrance designed to prevent the escape of carcinogens from the dirty change room to the shower room. Thereafter, he must be able to enter a clean change room where his street clothes are in his locker.

(10) When work area garments or protective clothing and equipment are required under paragraph (d) of this section to be worn in a regulated area, a clean change room must be provided so that before entering the regulated area, the employee or other authorized individuals can change into clean work area garments or protective clothing and equipment in an area not containing contaminated or used work clothing or equipment and without passing through such a contaminated area to enter the regulated area. The clean change room shall have individual storage facilities





for storage of street clothes and clean protective clothing and equipment.

(11) Continuous general mechanical exhaust ventilation shall be provided in regulated areas, or other positive means provided, so that contaminated air from the regulated area does not flow to non-regulated areas. Local exhaust ventilation may satisfy this requirement. Clean makeup air shall replace air removed.

(12) In emergencies, immediate measures shall be initiated, including all of the following:

(i) Evacuation from potentially affected area as soon as the emergency has been determined.

(ii) The release shall be contained and stopped as expeditiously as possible by duly-trained, authorized, and continually available emergency team operating under the conditions described in (d)(5). The makeup of the team shall be determined by need.

(iii) Medical surveillance shall be instituted for any individuals present in the potentially affected area.

(iv) Normal operations in the area are to be resumed only after effective decontamination.

(v) Safe escape in case of an emergency shall be readily possible by satisfactory means of egress.

(vi) Specific emergency procedures shall be prescribed, the terms of such procedures shall be posted, and the employees shall be familiarized with their terms and rehearsed in their application.

(vii) The emergency first aid procedures that shall be used shall be specifically appropriate to the hazard for each carcinogen and these procedures shall be generally recognized as effective.

(f) *Signs and labels.*—(1) Entrances to regulated areas shall be prominently posted with legible signs bearing the legend:

CANCER HAZARD AREA

AUTHORIZED PERSONNEL ONLY

For isolated environment operations, the sign shall be posted on or near the structure containing the isolated system.

(2) Equipment, material, and clothing contaminated with a carcinogen shall not be removed from a regulated area, unless it is either decontaminated or sealed in impervious containers bearing the legend:

DANGER

Contaminated with
CANCER HAZARD AGENT

(3) Entrances to every regulated area for operations described in paragraph (d)(5) of this section shall be prominently posted with legible signs bearing the legend:

CANCER HAZARD IN THIS AREA

FULL IMPERVIOUS PRESSURIZED AIR-SUPPLIED SUIT REQUIRED AT ALL TIMES

AUTHORIZED PERSONNEL ONLY

(g) *Decontamination.*—Decontamination processes shall be established and implemented to remove carcinogens from surfaces of equipment, materials, and the decontamination facility, that are known to be contaminated with a carcinogen.

(h) *Waste disposal.*—Waste disposal methods and processes shall be established and implemented which do not permit carcinogens to be introduced into regulated areas, non-regulated areas, or the external environment.

(i) *Performance Standard.*—(1) Whenever a carcinogen is present, no measurable exposure or contact shall be permitted by any route, oral, respiratory, or skin.

(2) For the purpose of this paragraph "present" shall mean manufactured, processed, used, packaged, released, handled, stored, or otherwise present.

(3) For the purpose of this paragraph "measurable" shall mean detectable, by

(i) the most sensitive, feasible, approved reliable methods of environmental and personal monitoring, and

(ii) the most sensitive approved tests for detecting a carcinogen or its metabolites in biological fluids.

(j) *Monitoring.*—To provide information enabling the employer to comply with the requirements of this regulation, personal and environmental sampling procedures and monitors appropriate to each carcinogen or combination of carcinogens and capable of detecting by the most sensitive, feasible methods available, shall be used by employers to detect and provide a record of the presence of any level of carcinogen in regulated areas and non-regulated areas, and to monitor the discharge of carcinogen into the external environment.

NOTE.—It should be an urgent concern of the Department of Labor in conjunction with the National Institute for Occupational Safety and Health and the Environmental Protection Agency to undertake and/or contract for the development of monitors which shall have a sensitivity of at least one part of carcinogen per billion parts of air (v/v), individual analytical results to be produced by such monitor at intervals no greater than two hours throughout the working day. Of equally urgent concern should be the development of backup detection methods capable of producing a warning or signal at intervals no greater than ten minutes, with sensitivity of at least 100 parts per billion. Methods of equivalent detection shall be developed for water and other wastes. These achievements shall be viewed as milestones on the pathway to achieve the objective of no exposure rather than as ultimate targets.

(k) *Medical.*—(1) *Surveillance.*—(i) The employer, at his cost shall provide and make available to all employees by a company designated physician, or by another duly-qualified physician of their choice, a comprehensive history and physical examination consisting of diagnostic tests and periodicity specific to the carcinogen and in no less detail than guidelines set forth by the Secretary of the Department of Labor after consultation with the Secretary of Health, Education, and Welfare.

(2) *Records.*—(i) The physician(s) charged with the implementation of the medical program shall maintain the appropriate medical records. If the examination is performed by other than a company-designated physician, a copy of the results of that examination shall be forwarded to the company-designated physician and these records shall be treated in a confidential manner.

(ii) Only physicians and medical consultants of the Department of Labor, physicians designated by the company, and physicians designated and authorized by the employee shall have access to the medical records, where confidentiality of these documents shall be preserved.

(iii) Medical records shall be maintained for the duration of the employee's employment; a copy of these records shall be maintained by the company-designated physician; and in addition, at the termination of employment, the records shall be forwarded by registered mail to the Director of the National Institute for Occupational Safety and Health.

(iv) In the event that an employer ceases business without a successor, medical records shall be forwarded by registered mail to the Director of the National Institute for Occupational Safety and Health.

(l) *Labeling.*—All containers of carcinogens for use other than process equipment shall be labeled prominently with the words:

CANCER—HAZARD

DANGER—AVOID ALL CONTACT AND EXPOSURE

For opening and use by authorized personnel. The chemical and common name shall be clearly identified.

(m) *Training and indoctrination.*—(1) All employees who may periodically or routinely enter a regulated area, including maintenance and supervisory personnel, where any carcinogen is manufactured, processed, used, repackaged, released, handled or stored, shall be provided with an indoctrination program which shall include definitive information concerning:

(i) The nature of the hazards, including local and systemic toxicity, of any of the carcinogens or other potentially hazardous chemicals present in the regulated area.

(ii) The specific nature of the operation or procedure, such as manufacturing, processing, use, repackaging, releasing, handling or storing, which could result in exposure to employees to any of the carcinogens.

(iii) The purpose for and application of a medical surveillance program.

(iv) The purpose for and application of an air monitoring program, and basic understanding of the significance of the various monitoring values.

(v) The purpose for and application of decontamination practices and procedures.

(vi) The purpose for and significance of emergency practices and procedures including bimonthly emergency drill procedures.

(vii) The employee's specific role in emergency procedures.

(viii) Specific information to aid the employee in the recognition and evalua-



V 38-173 SEP 7 73 XUM

tion of conditions and situations which may result in the release of a carcinogen into a regulated area, non-regulated area, or the external environment.

(ix) The purpose for and applications of specific first aid procedures and practices.

(x) A presentation of the *Standard on Certain Carcinogens* at the employee's first indoctrination program and annually thereafter.

(xi) Assurance by the employer that the employee has a firm understanding of the purpose and applications of the basic information required above.

(xii) Specific training material for workers and supervisors shall be made available through the Office of the Assistant Secretary of Labor for Occupational Safety and Health or the Director of the National Institute for Occupational Safety and Health.

(xiii) The employer shall maintain a record of the administered indoctrination program.

(n) *Reporting.*—Every employer subject to this section shall report in writing to the Occupational Safety and Health Administration, Office of Standards, the following information:

(1) The address of each of his regulated areas;

(2) The name and other identifying information as to the particular carcinogens present in each of his regulated areas;

(3) The approximate number of employees entering each of his regulated areas during a representative week of normal operations in the regulated areas; and

(4) The manner in which the carcinogens are present in each of his regulated areas, e.g., whether a carcinogen is manufactured, processed, used, repackaged, released, or otherwise handled.

(o) *Permit for the Use of Carcinogens.*—A use permit system shall be initiated as an integral part of the permanent standard to provide for effective regulation of conditions and practices concerning carcinogens to enhance the implementation of the standard.

[FR Doc.73-18869 Filed 9-6-73;8:45 am]





# Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

### AZTEC PRODUCTS, INC.

**Order Suspending Trading**

AUGUST 31, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.05 par value, and all other securities of Aztec Products, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to sec. 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 1, 1973, through September 10, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-18968 Filed 9-6-73;8:45 am]

[File No. 500-1]

### BBI, INC.

**Order Suspending Trading**

AUGUST 31, 1973.

The common stock, $0.10 par value, of BBI, Inc., being traded on the American Stock Exchange and the PBW Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of BBI, Inc., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to secs. 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above-mentioned exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 1, 1973, through September 10, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-18970 Filed 9-6-73;8:45 am]

[File No. 500-1]

### BENEFICIAL LABORATORIES, INC.

**Order Suspending Trading**

AUGUST 31, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, warrants, units, and all other securities of Beneficial Laboratories, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to sec. 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 1, 1973, through September 10, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-18969 Filed 9-6-73;8:45 am]

## BROKER-DEALER MODEL COMPLIANCE PROGRAM ADVISORY COMMITTEE

**Notice of Public Meetings**

Pursuant to sec. 10(a)(2) of the Federal Advisory Committee Act, Public Law 92-463, 86 Stat. 770, the Securities and Exchange Commission announces the following public advisory committee meetings.

The Commission's Advisory Committee on a Model Compliance Program for Broker-Dealers, established on October 25, 1972 (Securities Exchange Act Release No. 9835), will hold meetings open to the public at the Appraisers' Building, 630 Sansome Street, Room 1329, San Francisco, California on September 13, 1973, and at the office of the National Association of Securities Dealers, Inc., 425 California Street, Room 1400, San Francisco, California on September 14-15, 1973. These meetings will commence at 9:00 local time.

This Advisory Committee was formed to assist the Commission in developing a model compliance program to serve as an industry guide for the broker-dealer community. Assisted by this Committee's work the Commission plans to publish a guide to broker-dealer compliance under the securities acts in order to advise broker-dealers of the standard to which they should adhere if investor confidence in the fairness of the market place is to be warranted and sustained. The Committee's recommendations are not intended to result in the expansion of Commission rules governing broker-dealers but to inform broker-dealers as to the existing requirements and how they may comply with them.

The Committee's scheduled meetings will be for the purpose of reviewing drafts and proposals concerning the Committee's proposed report to the Commission on these compliance guidelines for broker-dealers.

These meetings are open to the public. Any interested person may attend and appear before or file statements with the Advisory Committee—which statements, if in written form, may be filed before or after the meeting or, if oral, at the time and in the manner and extent permitted by the Advisory Committee.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

AUGUST 31, 1973.

[FR Doc.73-18967 Filed 9-6-73;8:45 am]

### C I C INDUSTRIES, INC.

[File 500-1]

**Order Suspending Trading**

AUGUST 31, 1973.

The 11 percent Debentures due June 1975 of C I C Industries, Inc., being traded on the New York Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of C I C Industries, Inc., being traded otherwise than on a national securities exchanges, and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to secs. 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above-mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 3, 1973, through September 12, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-18971 Filed 9-6-73;8:45 am]



V 38-173 SEP 7 73 XUM

[File No. 811-868]

## CITIZENS AND SOUTHERN CAPITAL CORP.

### Filing of Application

AUGUST 31, 1973.

Notice is hereby given that the Citizens and Southern Capital Corporation (Applicant), P.O. Box 4899, Atlanta, Georgia, 30302, a closed-end, nondiversified investment company registered under the Investment Company Act of 1940 (Act) and licensed as a small business investment company under the Small Business Investment Act of 1958, has filed an application pursuant to sec. 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Pursuant to an Agreement and Plan of Reorganization approved by its stockholders on May 29, 1973, Applicant transferred substantially all of its assets to Citizens and Southern Holding Company (Holding Company) in exchange for the assumption by Holding Company of substantially all the liabilities of Applicant and the transfer by Holding Company to Applicant of shares of the issued and outstanding common stock of the Citizens and Southern National Bank (the Bank). Following this exchange with Holding Company, Applicant consummated a liquidation distribution of the Bank stock by delivering the Bank stock to the Stock Transfer Division of the Bank as exchange agent for Applicant's shareholders. Applicant's shareholders, with the exception of the Bank received a prorata liquidation distribution of the Bank stock. The Bank, as a shareholder of Applicant, received certain assets of Applicant (which could not be transferred to Holding Company pursuant to Federal Regulations) and Bank stock. Applicant retained, and presently holds as its sole asset, an amount of cash for the purposes of paying any shareholders of Applicant who dissented from the transaction and paying Applicant's expenses in connection with the transaction and the liquidation and dissolution of Applicant. Any moneys remaining will be paid to Holding Company.

Applicant, which will be dissolved under Georgia law immediately following completion of those acts necessary to terminate Applicant as a legal entity, represents as follows: the transaction set forth in the Agreement and Plan of Reorganization has been consummated; the Small Business Investment Company license of Applicant has been surrendered; all dissenting shareholders have been paid; and the Exchange Agent is exchanging shares of the Bank stock for shares of Applicant's stock. Applicant is in a state of liquidation and the only activities now being conducted by Applicant are those necessary to legally terminate Applicant as a business entity. Applicant no longer has any employees or separate office and does not hold itself out as being engaged in the business of investing, reinvesting or trading in securities.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

*Notice is further given*, That any interested person may, not later than September 25, 1973, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application may be issued by the Commission upon the basis of the information stated in the application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-18984 Filed 9-6-73;8:45 am]

---

[File 500-1]

## COASTAL STATES GAS PRODUCING CO.

### Order Suspending Trading

AUGUST 31, 1973.

First Mortgage Bonds Series E 7¾ percent due 1991 of Coastal States Gas Producing Company being traded on the New York Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and First Mortgage Bonds Series A 5 percent due 1983, Series B 5 percent due 1985, Series C 6½ percent due 1986, Series D 7⅝ percent due 1989, and Series E 7¾ percent due 1991; 5½ percent Sinking Fund Debentures due 1977; and 6 percent Sinking Fund Debentures due March 1980 of Coastal States Gas Producing Company being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to secs. 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above-mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 3, 1973, through September 12, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-18973 Filed 9-6-73;8:45 am]

---

[File 500-1]

## COLORADO INTERSTATE GAS CO.

### Order Suspending Trading

AUGUST 31, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the First Mortgage 3.35 percent Pipeline Bonds due July 1974, First Mortgage 4.70 percent Pipeline Bonds due March 1979, and 4¾ percent Debentures due April 1984 of Colorado Interstate Gas Company being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, pursuant to sec. 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 3, 1973 through September 12, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-18974 Filed 9-6-73;8:45 am]





---

[File 500-1]

## COLORADO INTERSTATE CORP.

### Order Suspending Trading

AUGUST 31, 1973.

Debentures, 8½ percent, due April 1991, of Colorado Interstate Corporation being traded on the New York Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and 8½ percent Debentures due April 1991, First Mortgage 7½ percent Pipeline Bonds due June 1992, First Mortgage 8 percent Pipeline Bonds due June 1989, Preferred 5 percent Cum., Preferred 5.35 percent Cum., and Preferred 5.50 percent Cum. of Colorado Interstate Corporation being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, pursuant to secs. 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 3, 1973 through September 12, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-18975 Filed 9-6-73;8:45 am]

---

[File No. 70-5379]

## EASTERN UTILITIES ASSOCIATES BROCKTON EDISON CO.

### Notice of Certain Proposed Transactions

AUGUST 29, 1973.

Notice is hereby given that Eastern Utilities Associates (EUA), P.O. Box 2333, Boston, Massachusetts, 02107, a registered holding company, and Brockton Edison Company (Brockton), 36 Main Street, Brockton, Massachusetts, 02403, its electric utility subsidiary company, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act) designating secs. 6, 7, 9, 10, and 12 of the Act and Rules 43, 44, and 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Brockton proposes to increase its capital stock by $8,000,000 consisting of 320,000 additional shares of its common stock, par value $25.00 per share and to sell such additional shares to EUA at par value. This additional common stock will be pledged by EUA to The First National Bank of Boston as Trustee under EUA's Indenture and Deed of Trust dated as of October 1, 1953, as supplemented.

Brockton also proposes to issue 30,000 shares of its — percent preferred stock, par value $100.00 per share and to sell such shares at competitive bidding. The preferred stock's dividend rate (which shall be a multiple of .04 percent of the par value) and the price to be paid for the preferred stock (which shall not be less than $100 nor more than $102.75 per share) will be determined by competitive bidding.

Brockton further proposes to issue and sell $10,000,000 principal amount of its First Mortgage and Collateral Trust Bonds at competitive bidding, said Bonds to mature on a single date not earlier than September 1, 1978 nor later than September 1, 2003. The proposed interest rate to be paid on the Bonds (which shall be a multiple of ⅛ of 1 percent) and the price to be paid to Brockton (which shall not be less than 100 percent or more than 102¾ percent of the principal amount) will be determined by competitive bidding. The bonds will be issued under the Indenture of First Mortgage and Deed of Trust dated as of September 1, 1948, between Brockton and State Street Bank and Trust Company, Trustee, as heretofore supplemented and as to be further supplemented by a Ninth Supplemental Indenture between Brockton and the Trustee.

The proceeds from the sale of the additional common stock will be applied to reduce $8,000,000 in advances on open account from EUA. The net proceeds from the sale of the new preferred stock and the new Bonds will also be applied to reduce such advances from EUA and any balance not so applied will be applied to the prepayment or reduction of Brockton's short-term notes to banks. Such borrowings from EUA and from banks have been or will be incurred in part to provide funds for construction purposes and in part for the purchase of securities of Montaup Electric Company (or to repay borrowings so incurred).

Applicants-declarants state that the proposed increases in capital stock and the proposed issuance and sale of common stock, preferred stock and Bonds are subject to the jurisdiction of the Department of Public Utilities of the Commonwealth of Massachusetts. It is stated that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions. Fees and expenses to be incurred in connection with the proposed transactions (to be paid by Brockton) and fees and expenses of counsel for the bidders (to be paid by the successful bidders) will be supplied by amendment.

Notice is further given that any interested person may, not later than September 27, 1973, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated addresses and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-18991 Filed 9-6-73;8:45 am]

---

[File No. 500-1]

## EQUITY FUNDING CORP. OF AMERICA

### Order Suspending Trading

AUGUST 31, 1973.

The common stock, $0.30 par value, of Equity Funding Corporation of America being traded on the New York Stock Exchange, the Midwest Stock Exchange, the Pacific-Coast Stock Exchange, the Philadelphia - Baltimore - Washington Stock Exchange, the Boston Stock Exchange; warrants to purchase the $0.30 par value common stock being traded on the American Stock Exchange and the Philadelphia - Baltimore - Washington Stock Exchange; 9½ percent debentures due 1990 being traded on the New York Stock Exchange; and 5½ percent convertible subordinated debentures due 1991 being traded on the New York Stock



V 38-173 SEP 7 73 XUM

Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Equity Funding Corporation of America being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to secs. 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 4, 1973 through September 13, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-18976 Filed 9-6-73;8:45 am]

[File No. 812-3494]

## EXCELSIOR INCOME SHARES, INC.

### Notice of Application

AUGUST 31, 1973.

Notice is hereby given that Excelsior Income Shares, Inc. (the Fund), 20 Exchange Place, New York, New York 10005, a diversified, closed-end management investment company registered under the Investment Company Act of 1940 (Act), has filed an application for an order of the Commission pursuant to Section 6(c) of the Act declaring that James H. Walker (Walker) shall not be deemed an "interested person" of the Fund within the meaning of Section 2(a)(19) of the Act solely by reason of his status as a director of the Equitable Life Assurance Society of the United States (Equitable). All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Walker, a member of the board of directors of the Fund, is also a director of Equitable, a mutual insurance company incorporated under the laws of New York, which is in the business of selling life insurance and variable annuities. Equitable sells individual variable annuities funded by separate accounts that are registered under the Securities Act of 1933. Solely because it sells variable annuity contracts and HR-10 plans, Equitable has registered as a broker-dealer under the Securities Exchange Act of 1934 and is a member of the National Association of Securities Dealers, Inc. (NASD).

In December, 1971, Equitable organized a wholly-owned brokerage subsidiary, Equico Securities, Inc. (Equico), which is a member of the Philadelphia-Baltimore-Washington Stock Exchange. Equico is not at present registered as a broker-dealer under the Securities Exchange Act of 1934, nor is it at present a member of the NASD. The Fund is informed that Equico deals only in listed securities, and acts as a broker solely for Equitable.

The Fund represents that neither Equitable nor Equico has ever engaged in securities transactions on behalf of the Fund or participated in the distribution of shares of the Fund. Furthermore, the Fund warrants that, so long as Walker remains a director of the Fund, it will not knowingly purchase any securities from or through, or sell any securities to or through, Equitable or any subsidiary of Equitable, and Equitable will not be permitted to participate in any distribution of the Fund's shares.

The Fund represents, that Walker in no way participates in the day-to-day operations of Equitable, and that he is neither a director nor an officer of Equico, nor in any other way a participant in the day-to-day operations of Equico.

Section 2(a)(19) of the Act, in pertinent part, defines an "interested person" of an investment company to include any broker or dealer registered under the Securities Exchange Act of 1934, or any affiliated person of such broker or dealer. Section 2(a)(3) of the Act defines an affiliated person of another person to include any director of such other person.

Walker, as director of Equitable, is an affiliated person of a broker or dealer, and is thus an "interested person" of the Fund.

Section 6(c) of the Act provides that the Commission may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions from any provision of the Act or of any rule or regulation under the Act if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

The Fund contends that Walker should not be deemed an "interested person" of the Fund because his affiliation with Equitable does not affect, and will not impair, his independence in acting on behalf of the Fund and its shareholders, and the requested exemption is therefore consistent with the provisions of sec. 6(c) of the Act.

Notice is further given that any interested person may, not later than September 26, 1973, at 5:30 p.m., submit to the Commission in writing a request for hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in the application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS.
*Secretary.*

[FR Doc.73-18985 Filed 9-6-73;8:45 am]

[File No. 811-1747]

## FDF 120 ACCUMULATOR PLAN FINANCIAL PROGRAMS, INC.

### Notice of Application

AUGUST 31, 1973.

Notice is hereby given that The FDF 120 Accumulator Plan (Applicant), formerly FDF Monthly Accumulation Plan (MAP) For the Accumulation of Shares of Financial Dynamics Fund, Inc., registered as a unit investment trust under the Investment Company Act of 1940 (the Act), and Financial Programs, Inc. (Sponsor), 900 Grant Street, Denver, Colorado 80201, the sponsor and depositor of Applicant, have filed an application pursuant to sec. 8(f) of the Act for an order declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Applicant, which filed a registration statement on Form N-8B-2 in October 1968, was created to facilitate monthly purchases by investors over a long term of shares of Financial Dynamics Fund, Inc. (the Fund), a diversified, open-end investment company. Shares of the Fund, which were sold to direct investors with a sales charge, were acquired by Applicant without sales charges. Applicant's monthly payment plans were, however, sold with a front-end sales charge, that is, up to 50 percent of the first year's payments could be used to pay the sales charges on a plan. In May 1971, Applicant elected to be governed by subsection 27(h) of the Act rather than by subsection 27 (a) and (d) of the Act, and thus became a "spread load" company, which, among other things, meant that no more than 20 percent of any payment could be deducted for sales loads. Applicant's assets were held by, and in the custody of the United Bank of Denver National Association (the Custodian) and a custodial fee was charged to plan-holder accounts to cover the custodian services.

On June 22, 1972, pursuant to action by the Fund's board of directors, the charge on the sale of Fund shares was eliminated, and since that date, Fund shares have been offered to the public at net asset value. The Sponsor has assumed all expenses incident to the adoption of a no-load sales policy by the Fund, and Applicant has ceased selling monthly payment plans and has ceased charging a maintenance fee with respect to existing monthly payment plans.

On April 30, 1973, the Fund, the Sponsor, and the Custodian terminated the custodianship of Applicant's assets. All former holders of Applicant's monthly payment contractual investment plans are now shareholders of record of the Fund, and all of such shareholders accounts are being maintained and serviced by the Sponsor pursuant to the investment supervisory and services agreement between Sponsor and the Fund. Applicant's outstanding monthly payment plan certificates are deemed to represent the shares of Fund now held of record by the respective former planholders, and, at the option of such former planholders, such plan certificates may be surrendered, for Fund share certificates or for redemption at net asset value. The Fund will mail to former planholders of Applicant notices of termination of the custodianship. The notice will describe the rights and options available to them as record owners of Fund shares maintained in open investment accounts. All expenses in connection with the termination of the custody agreement and the distribution of the underlying shares of Fund have been assumed by Sponsor.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than September 25, 1973, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted or he may request he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address stated above. Proof of such service (by affidavit or in case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. At any time later than said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in such application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-18986 Filed 9-6-73;8:45 am]

[File No. 500-1]

## FIRST LEISURE CORP.

### Order Suspending Trading

AUGUST 31, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.10 par value and all other securities of First Leisure Corporation, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to sec. 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 3, 1973 through September 12, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-18977 Filed 9-6-73;8:45 am]

[File No. 500-1]

## GIANT STORES CORP.

### Order Suspending Trading

AUGUST 31, 1973.

The common stock, $.10 par value, of Giant Stores Corp. being traded on the American Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Giant Stores Corp. being traded otherwise than on a national securities; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to secs. 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 4, 1973 through September 13, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-18978 Filed 9-6-73;8:45 am]

[File No. S7-491]

## GUIDELINES ON THE UTILIZATION AND DISSEMINATION OF UNDISCLOSED MATERIAL INFORMATION

### Extension of Time for the Submission of Comments

On August 1, 1973, the Securities and Exchange Commission solicited comments from interested members of the public concerning an ongoing study by the Commission's staff of the utilization and dissemination of nonpublic material information. Reference should be made to Securities Exchange Act Release No. 10316 (Aug. 1, 1973).

In response to numerous requests from individuals and organizations for an extension of time with which they may develop and prepare meaningful comments on the important issues, the Commission has determined to extend the period for the submission of comments so that comments may be submitted up to and including October 15, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

AUGUST 30, 1973.

[FR Doc.73-18990 Filed 9-6-73;8:45 am]

[File No. 500-1]

## INDUSTRIES INTERNATIONAL, INC.

### Order Suspending Trading

AUGUST 31, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, and all other securities of Industries International, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to sec. 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 4, 1973 through September 13, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-18980 Filed 9-6-73;8:45 am]









V 38-173 SEP 7 73 XUM

[File No. 812-3472]

## INNOVEN CAPITAL CORP.

### Filing of Application

AUGUST 29, 1973.

Notice is hereby given that InnoVen Capital Corporation (Applicant), Park 80 Plaza West-One, Saddle Brook, New Jersey 07662, a Delaware corporation incorporated on September 27, 1972, has filed an application pursuant to sec. 6(c) of the Investment Company Act of 1940 (Act), for an order of the Commission exempting it from all the provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Applicant was organized to make venture capital investments. Its authorized capital stock consists of 3,220 shares of Voting Common Stock, par value $.01 per share (Voting Common Stock); 19,800 shares of Non-Voting Convertible Preferred Stock, par value $.01 per share (Non-Voting Preferred Stock); and 23,020 shares of Non-Voting Common Stock, par value $.01 per share (Non-Voting Common Stock).

All of the shares of Applicant's Voting Common Stock were issued on November 8, 1972, for an aggregate consideration of $200,000, to Messrs. Gerald A. Lodge, John R. Andrews, Jr., and Raun J. Rasmussen, who continue to hold such shares. Messrs. Lodge, Andrews, and Rasmussen constitute the three-man Board of Directors of Applicant and serve, respectively as Chairman of the Board, President and Treasurer, and Executive Vice-President and Secretary of Applicant.

Applicant represents that it has not made, and does not propose to make, a public offering of its securities. Since its incorporation, Applicant has solicited 12 prospective investors, including Monsanto Company (Monsanto), a Delaware corporation, and Techno-Ventures, Inc. (Techno-Ventures), a Delaware corporation which is a wholly-owned subsidiary of Emerson Electric Company (Emerson). Monsanto and Techno-Ventures have each purchased 5,000 shares of Applicant's Non-Voting Preferred Stock at a price of $1,000 per share as of May 7, 1973.

Under purchase agreements dated as of April 30, 1973, between Applicant and Monsanto and Applicant and Techno-Ventures, Applicant has agreed to offer to transfer to Monsanto and Emerson, without further consideration, manufacturing or marketing licenses which it may acquire from companies in which it invests, as well as any options it may acquire to purchase stock from major shareholders of companies in which it invests.

No other person has purchased any capital stock of Applicant, and Applicant states that it does not intend to sell any of its capital stock to any person pending the determination of this Application, or until the expiration of nine months from May 7, 1973, whichever shall first occur. Consistent with the foregoing, Applicant states it may, however, during this period, negotiate with potential investors for the sale of shares of its Non-Voting Preferred Stock subsequent to the disposition of this Application. If and when any additional shares of Applicant's capital stock are sold, Applicant represents that only Non-Voting Preferred Stock will be sold.

It was originally intended, and is still contemplated, that Applicant will negotiate with and sell to institutional and corporate investors, in transactions not involving any public offering, up to 19,800 shares of its Non-Voting Preferred Stock at a price of $1,000 per share, thus creating an investment pool of $20,000,000 when aggregated with the $200,000 paid in by Messrs. Lodge, Andrews, and Rasmussen for their shares of Voting Common Stock.

It was similarly contemplated that, with the exception of Monsanto and Techno-Ventures and perhaps one other institutional investor, no investor would purchase Non-Voting Preferred Stock in an amount equal to 10 percent or more of the capital of Applicant. To the extent that less than $20,000,000 in capital is raised, Applicant states that it is possible that investments by others could be equal to 10 percent or more of Applicant's capital. However, no such actual or potential investor will invest more than a de minimis portion of its own assets in Applicant.

Pursuant to a resolution of Applicant's Board of Directors, no investor will be permitted to purchase shares of Applicant's Non-Voting Preferred Stock unless (1) such purchaser's investment represents less than 5 percent of its assets or (2) such purchaser's investment represents less than 10 percent of Applicant's capital. Furthermore, such stock will be sold to no more than 35 institutional or corporate investors, none of which will be an investment company within the meaning of Section 3 of the Act.

Applicant states that it has not registered as an investment company pursuant to sec. 8 of the Act, in reliance upon sec. 3(c)(1) of the Act which exempts from the definition of "investment company" an issuer whose outstanding securities are owned by not more than one hundred persons and which is not making and does not propose to make a public offering of its securities.

Section 3(c)(1) further provides that, for purposes of determining the number of the issuer's shareholders, the shareholders of a corporate investor shall be counted if such corporate investor itself owns 10 percent or more of the outstanding voting securities of the issuer

Applicant states that it has filed the application because it recognizes that a question of its status under sec. 3(c)(1) may exist even though the securities to be issued to corporate investors are "non-voting."

Applicant submits that it is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act for the Commission to enter an order exempting Applicant from all of the provisions of the Act for the reason that Applicant's present and potential investors, both by virtue of their institutional or corporate character, and by virtue of the de minimis nature of their investment in Applicant do not require the protections afforded by the Act.

Section 6(c) of the Act provides that the Commission, by order upon application, may conditionally or unconditionally exempt any person or transaction from any provision or provisions of the Act to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than September 24, 1973, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-18994 Filed 9-6-73;8:45 am]

---

[File No. 812-3480]

## INVESTORS VARIABLE PAYMENT FUND, INC., ET AL.

### Filing of Application

AUGUST 30, 1973.

Notice is hereby given that Investors Variable Payment Fund, Inc. (Variable), IDS New Dimensions Fund, Inc. (New Dimensions), and IDS Progressive Fund, Inc. (Progressive), 1000 Roanoke Building, Minneapolis, Minnesota, 55402, Nevada corporations and open-end investment companies registered under the Investment Company Act of 1940 ("Act") (collectively referred to as Applicants), have filed an application for an order pursuant to sec. 17(d) of the Act and Rule 17d-1 thereunder permitting the Applicants (a) to enter into Exchange and Recapitalization Agreements with Fotomat Corporation (Fotomat) which provide for, among other things, the exchange of certain notes of Fotomat and warrants to purchase stock of Fotomat for other notes of Fotomat and warrants to purchase stock of Fotomat; and (b) to carry out the transactions contemplated by such Exchange and Recapitalization Agreements. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein which are summarized below.

Fotomat is a Delaware corporation principally engaged in the retail sale of film processing, film, photographic equipment and supplies.

Applicants presently hold, in the aggregate, $6,000,000 principal amount of 6 percent Convertible Subordinated Notes of Fotomat due October 1, 1984, (the 6 percent Notes) and warrants, expiring October 22, 1979, to purchase an aggregate of 240,000 shares of the Common Stock of Fotomat at a price of $20.00 per share, issued by certain stockholders of Fotomat in conjunction with the issuance of the 6 percent Notes (the Stockholders Warrants). Variable holds $3,000,000 principal amount of the 6 percent Notes and Stockholders Warrants to purchase 120,000 shares of Fotomat's Common Stock, and New Dimensions and Progressive each holds $1,500,000 of the 6 percent Notes and Stockholders Warrants to purchase 60,000 shares of Fotomat's Common Stock. The 6 percent Notes and Stockholders Warrants held by Applicants were purchased by them in October 1969. An additional $4,000,000 principal amount of 6 percent Notes and Stockholders Warrants to purchase another 160,000 shares of Fotomat Common Stock were also purchased in October 1969 by certain other investors and are now held by such other investors or their transferees.

In addition to its other businesses, Fotomat has operated two photo-processing plants on a joint venture basis for approximately one year. The management of Fotomat has informed the Applicants that in its view it would be desirable for Fotomat to expand into the field of photo processing on its own and that, accordingly, it has developed a proposed program calling for four processing plants to be placed in operation and future expansion dependent upon experience. Under the terms of the 6 percent Notes, and particularly the restrictions imposed on the amount of indebtedness which Fotomat may incur, Fotomat would be unable to implement its proposed program to enter the photo-processing area on the scale envisioned.

Fotomat has, therefore, requested the holders of the 6 percent Notes to agree to Fotomat's incurring up to $6,000,000 of indebtedness for the purpose of acquiring photographic processing facilities and equipment and up to $2,000,000 of indebtedness for general corporate purposes. It has also negotiated a transaction whereby Heizer Corporation (Heizer) and Bessemer Securities Corporation (Bessemer), who hold in the aggregate approximately 40 percent of Fotomat's Common Stock, warrants to purchase additional shares of Fotomat's Common Stock and approximately $9,500,000 of senior and subordinated notes of Fotomat (including $2,646,000 of the 6 percent Notes) will exchange $5,996,000 principal amount of such notes (other than the 6 percent Notes which will be retained by them) for 59,960 shares of a new class of Preferred Stock, Series A. This transaction will have the effect of reducing Fotomat's presently outstanding long-term indebtedness. In connection with such exchange, Fotomat has requested the consent of the holders of the 6 percent Notes to the payment of dividends on the Preferred Stock, Series A, to be issued.

Applicants propose to enter into Exchange Agreements with Fotomat pursuant to which the 6 percent Notes in the aggregate principal amount of $6,000,000 would be exchanged for $6,000,000 aggregate principal amount of Fotomat's 8½ percent Senior Notes due October 1, 1981 (the Notes), and the Stockholder Warrants to purchase an aggregate of 240,000 shares of Common Stock of Fotomat would be exchanged for new warrants issued by Fotomat to purchase an aggregate of 240,000 shares of its Common Stock (the Warrants). Each of the Applicants would receive, on such exchange, Notes having the same principal amount as the principal amount of the 6 percent Notes presently held by it and Warrants to purchase the same number of shares of Common Stock of Fotomat as are purchasable upon exercise of the Stockholders Warrants presently held by it. The Notes will not be convertible into Common Stock. The Warrants will be exercisable at an initial exercise price of $10.00, payable in cash or in Notes valued at par until October 1, 1984, except that such expiration date may be accelerated by Fotomat under certain conditions.

Investors Diversified Services, Inc. (IDS), a Minnesota corporation engaged in providing a broad range of financial services, acts as distributable of the shares issued by each of Variable, New Dimensions and Progressive. IDS also acts as investment adviser to each of Variable, New Dimensions and Progressive. Each of Variable, New Dimensions and Progressive has on its board of directors six individuals who are also directors of each of the other Applicants. Three other individuals are directors of both New Dimensions and Progressive. In addition, nine individuals serve as the same officers of each of the Applicants and such officers include all of the officers of Variable and Progressive and nine of the ten officers of New Dimensions.

Section 17(d) and Rule 17d-1, as here pertinent, make it unlawful for any affiliated person of a registered investment company, or any affiliated person of such person to effect any transaction in connection with a joint enterprise or other joint arrangement in which such registered investment company, or a company controlled by such registered investment company, is a participant unless an application regarding such joint enterprise or arrangement has been filed with and an appropriate order has been granted by the Commission. Rule 17d-1 provides that in passing upon such application the Commission will consider whether the participation of such registered or controlled company in such joint enterprise or arrangement on the basis proposed is consistent with the provisions, policies and purpose of the Act and the extent to which such participation is on a basis different from or less advantageous than that of other participants.

By reason of the relationship described above, each of the Applicants may be deemed to be an "affiliated person" of each of the other Applicants or of the principal underwriter for the other Applicants. The execution by the respective Applicants of the Exchange Agreements and their carrying out of the transactions contemplated thereby and by the Notes and Warrants may be deemed to constitute a joint enterprise or joint arrangement.

The Applicants contend that the proposed recapitalization of Fotomat will substantially improve the position of each of the Applicants in Fotomat and that the participation in the recapitalization by each of the Applicants will be on the same basis.

Notice is further given, that any interested person may, no later than September 24, 1973, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicants at the address stated above. Proof of such service (by affidavit or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or







V 38-173 SEP 7 73 XUM

advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-18995 Filed 9-6-73;8:45 am]

[File No. 500-1]

## KORACORP INDUSTRIES, INC.

### Order Suspending Trading

AUGUST 27, 1973.

The common stock, $1 par value, of Koracorp Industries, Incorporated being traded on the New York Stock Exchange and the Pacific Coast Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Koracorp Industries, Incorporated being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to secs. 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from August 28, 1973 through September 6, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-18992 Filed 9-6-73;8:45 am]

[File No. 811-2153]

## LEAGUE LIFE SEPARATE ACCOUNT NO. 1

### Filing of Application

AUGUST 31, 1973.

Notice is hereby given that League Life Separate Account No. 1 (Applicant), 15600 Providence Drive, Southfield, Michigan 48075, a unit investment trust registered under the Investment Company Act of 1940 (Act), has filed an application pursuant to Section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations set forth therein which are summarized below.

Applicant was organized as a separate account of the League Life Insurance Company (Company), a Michigan insurance corporation, to enable the Company to offer variable annuity contracts. Although Applicant registered under the Act on December 28, 1970, by filing a Notification of Registration, it is a dormant organization that does not engage in any business activities, has no shareholders, has neither assets nor liabilities, and has never made and does not intend to make a public offering of its securities.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than September 26, 1973, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in the matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-18987 Filed 9-6-73;8:45 am]

[File No. 812-3463]

## MUTUAL SECURITIES FUND OF BOSTON

### Order Pursuant to Section 6(c) of the Act for Limited Exemptions

AUGUST 31, 1973.

Mutual Securities Fund of Boston (Fund), 53 State Street, Boston, Massachusetts, a trust created under the laws of Massachusetts and an open-end, diversified investment company registered under the Investment Company Act of 1940 (Act), and all of its trustees, Joseph Leonard and William Priess, have filed a joint application pursuant to sec. 6(c) of the Act for exemptions from: (1) The provisions of sec. 16(a) of the Act to the extent necessary to extend to October 31, 1973, the period specified in sec. 16(a) of the Act within which a meeting of the holders of the outstanding voting securities of Fund (Beneficiaries) must be held to elect directors (trustees) of Fund pursuant to the requirements of sec. 16(a) of the Act, and (2) the provisions of secs. 32(a)(1) and 32(a)(2) of the Act insofar as is necessary to permit the filing with the Commission of financial statements of Fund for the fiscal year ended March 31, 1973, certified by Arthur Young & Company, provided the Beneficiaries of Fund ratify the selection of said firm at the next meeting of Beneficiaries.

The Commission on August 3, 1973, issued a notice of the filing of said application (Investment Company Act Release No. 7921). The notice gave interested persons an opportunity to request a hearing and stated that an order disposing of the matter might be issued on the basis of the information stated therein unless a hearing should be ordered. No request for a hearing has been filed and the Commission has not ordered a hearing.

The matter has been considered and it has been found that the granting of the requested exemptions is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

*It is ordered*, Pursuant to sec. 6(c) of the Act, that the application for the aforementioned exemptions from secs. 16(a), 32(a)(1), and 32(a)(2) of the Act to the extent noted be, and it hereby is, granted, effective forthwith.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-18988 Filed 9-6-73;8:45 am]

[File No. 70-5382]

## ROCKY RIVER REALTY CO.

### Notice of Proposed Purchase

AUGUST 30, 1973.

Notice is hereby given that The Rocky River Realty Company (Rocky River), Selden Street, Berlin, Connecticut, 06037, a nonutility subsidiary of Northeast Utilities (Northeast), a registered holding company, has filed an application-declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating secs. 6 and 7 of the Act and Rules 44 and 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, as amended, which is summarized below, for a complete statement of the proposed transactions.

Rocky River proposes to purchase, pursuant to an agreement dated August 9, 1973, with Bernard Abrams, John B. Abrams, Robert D. Miller, and David Kotkin (Sellers) approximately 24 acres of land, together with warehouse and office buildings and site improvements, situated near Newington, Connecticut.

Rocky River proposes to pay the purchase price of the above described property, $1,275,000, in the following manner: (a) By assumption of four existing mortgages with an aggregate unpaid principal amount of $795,317.12 on the closing date of October 1, 1973, maturing variously from August 22, 1975, to September 1, 1986, and bearing interest varying from 5½ percent to 7 percent per annum; (b) by assumption of sewer liens of the Metropolitan District Commission in the aggregate amount of $29,094.39 as of October 1, 1973; and (c) by issuing its unsecured purchase money note to the Sellers in the aggregate amount of $441,962.67 bearing interest at 6 percent from September 1, 1973, and maturing January 2, 1974.

Rocky River proposes to obtain the funds with which to pay the aforesaid $441,962.67 note to the Sellers by borrowing from Northeast through a series of 5-year subordinated unsecured notes to be repaid within the five-year period from the proceeds of long term permanent financing, the nature and amount of which has not yet been determined. It is stated that the issue and sale of the 5-year subordinated notes, as well as the long term financing, will be the subject of separate applications to the Commission.

Rocky River further proposes to lease to Northeast Utilities Service Company (Services), the service company of the Northeast system, the property acquired in the foregoing manner for the purpose of providing additional facilities. It is stated that the lease will be at Rocky River's net costs, which will include compensation for the use of its capital. It is further stated that estimates of Rocky River's management indicate that the proposed purchase and lease arrangement will result in lower costs than would the construction of similar facilities.

It is stated that no fees or commissions are to be paid or incurred, directly or indirectly, in connection with the proposed transactions and that incidental services estimated at $500 will be performed at cost by Services. It is further stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Rocky River submits that the sale of its promissory note and assumption by it of the aforesaid mortgages should be exempt from Rule 50 by reason of clause (a)(5) thereof on the ground that the proposed transactions do not lend themselves as a practical matter to competitive bidding.

Notice is further given that any interested person may, not later than September 24, 1973, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration, as amended, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended, or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-18989 Filed 9-6-73;8:45 am]

[File No. 500-1]

## ROYAL PROPERTIES INC.

### Order Suspending Trading

AUGUST 30, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $5 par value and all other securities of Royal Properties Incorporated, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to sec. 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from August 31, 1973, through September 9, 1973.

By the Commission.

GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-18982 Filed 9-6-73;8:45 am]

[File No. 70-5261]

## SOUTHERN COMPANY

### Notice of Post-Effective Amendments

AUGUST 29, 1973.

Notice is hereby given that The Southern Company (Southern), P.O. Box 720071, Atlanta, Georgia 30346, a registered holding company, and two of its electric utility subsidiary companies, Alabama Power Company (Alabama) and Georgia Power Company (Georgia) have filed with this Commission, further post-effective amendments to their application-declaration in this proceeding pursuant to secs. 6(a), 6(b), 7, and 12 of the Public Utility Holding Company Act of 1935 (Act) and Rules 45 and 50 promulgated thereunder as applicable to the proposed transactions.

By Orders dated December 26, 1972, and April 27, 1973 (Holding Company Act Release Nos. 17824 and 17945, respectively), the Commission, among other things, authorized Southern, Georgia, and Alabama to issue and sell unsecured notes to banks and/or commercial paper to dealers from time to time through March 31, 1974, up to an aggregate principal amount outstanding at any one time of $175,000,000, $300,000,000, and $130,000,000 for Southern, Georgia, and Alabama, respectively. In connection therewith applicants-declarants had collectively made arrangements with a group of New York banks for lines of credit aggregating $140,000,000, solely to provide backup for their commercial paper obligations under the above authorizations.

In said further posteffective amendments, it is stated that in addition to these lines of credit for the collective use of the three applicants-declarants, Georgia has made arrangements with the following New York City banks for lines of backup credit (supplemental credits) in the maximum amount indicated for each:

| | |
|---|---|
| Morgan Guaranty Trust Company | $35,000,000 |
| First National City Bank | 60,000,000 |
| Bankers Trust Company | 55,000,000 |
| Chemical Bank | 50,000,000 |
| Total | $200,000,000 |

No deposit balances are to be required in respect of the supplemental credits, but in lieu thereof each bank will charge a fee. The fee to be charged by each bank will vary and range from a minimum of .50 of 1 percent per annum to a maximum of .95 of 1 percent per annum based on a prime rate of 9½ percent per annum. Should the prevailing prime rate increase by 1 percent, the maximum fee would increase to 1.05 percent per annum. Three of the four banks will apply the fee rates to the total amount of their respective loan commitments whether or not any loans are outstanding thereunder; the other bank will apply the fee rate only to the unused balance of its commitment.

Borrowings under the supplement credits may be made through March 31, 1974. The interest rate to be charged by each bank will be based on a different formula: (a) on the basis of ¾ of 1 percent above its prevailing rate for 90-day bankers' acceptances; (b) and (c), on the basis of 120 percent and 115 percent, respectively, of their current prime rate; and (d), on its current rate for 90-day







V 38-173 SEP 7 73 XUM

certificates of deposit with certain adjustments. It is estimated that the lowest interest rate will be 10.875 percent per annum and the highest 12.27 percent per annum, under formulae (a) and (d), respectively.

The above-described supplemental credits may be cancelled by Georgia in whole or in part on three-days notice.

The terms and conditions of all other bank borrowings by the applicants-declarants (including Georgia) heretofore in this proceeding authorized will remain unchanged.

It is indicated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the transactions proposed in said posteffective amendments; a statement of the fees and expenses to be incurred in connection with said transactions will be supplied by amendment.

Notice is further given that any interested person may, not later than September 17, 1973, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said posteffective amendments to the application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as now amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulations, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-18993 Filed 9-6-73;8:45 am]

[File No. 500-1]

## TRIEX INTERNATIONAL CORP.

### Order Suspending Trading

AUGUST 31, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.01 par value, of Triex International Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to sec. 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period September 1, 1973, through September 10, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-18981 Filed 9-6-73;8:45 am]

[File No. 500-1]

## TRIONICS ENGINEERING CORP.

### Order Suspending Trading

AUGUST 31, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, and all other securities of Trionics Engineering Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to sec. 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 4, 1973, through September 13, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-18979 Filed 9-6-73;8:45 am]

[File No. 500-1]

## U.S. FINANCIAL INCORPORATED

### Order Suspending Trading

AUGUST 31, 1973.

The common stock, $2.50 par value, of U.S. Financial Incorporated being traded on the New York Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of U.S. Financial Incorporated being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to secs. 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 1, 1973, through September 10, 1973.

By the Commission.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-18983 Filed 9-6-73;8:45 am]

# DEPARTMENT OF THE TREASURY

## Customs Service

[T.D. 73-248]

## FOREIGN CURRENCIES

### Certification of Rates

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified the following rates of exchange which varied by 5 per centum or more from the quarterly rate published in Treasury Decision 73-190 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following daily rates:

| | |
|---|---|
| Belgium franc: | |
| August 23, 1973 | $0.026385 |
| France franc: | |
| August 22, 1973 | 0.2312 |
| August 23, 1973 | .2303 |
| Norway krone: | |
| August 22, 1973 | 0.1792 |
| August 23, 1973 | .1785 |
| August 24, 1973 | .1793 |
| Switzerland franc: | |
| August 21, 1973 | 0.3283 |
| August 23, 1973 | .3265 |

[SEAL] JOHN D. ROBISON,
*Acting Director, Appraisement and Collections Division.*

[FR Doc.73-19074 Filed 9-6-73;8:45 am]

# DEPARTMENT OF JUSTICE

## UNITED STATES v. WHEELING-PITTSBURGH STEEL CORP.

### Notice of Proposed Consent Judgment

In accordance with Departmental Policy, 28 CFR § 50.7, 38 FR 19029, Notice is hereby given that on August 29, 1973, a proposed partial consent decree in *United States* v. *Wheeling-Pittsburgh Steel Corporation* was lodged with the United States District Court for the Western District of Pennsylvania. The proposed decree would establish effluent limitations for discharges from the company's coke plant located in Follansbee, West Virginia.

The Department of Justice will receive until October 9, 1973, written comments relating to the proposed judgment. Comments should be addressed to the Assistant Attorney General for the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *Wheeling-Pittsburgh Steel Corporation*, D.J. Ref. 90-5-1-1-102.

The proposed consent decree may be examined at the office of the United States Attorney, Seventh Avenue and Grant Street, Pittsburgh, Pennsylvania, at the Region III Office of the Environmental Protection Agency, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania, and at the Pollution Control Section, Land and Natural Resources Division, Department of Justice, Room 2623, Department of Justice Building, Ninth Street and Pennsylvania Avenue Northwest, Washington, D.C. A copy of the proposed consent judgment may be obtained in person or by mail from the Pollution Control Section. In requesting a copy, please enclose a check in the amount of $1.70 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

WALLACE H. JOHNSON,
*Assistant Attorney General, Land and Natural Resources Division.*

[FR Doc.73-18948 Filed 9-6-73;8:45 am]





# DEPARTMENT OF THE INTERIOR

## Bureau of Land Management

## ASSOCIATE STATE DIRECTOR, ET AL.

### Delegation of Authority

Pursuant to redelegation of authority to State Director contained in FEDERAL REGISTER dated August 10, 1973 (FR Doc. 73-16605), the

Associate State Director, State Office
Chief, Division of Management Services, State Office
Chief, Branch of Administrative Management, State Office

are delegated the following procurement authority:

1. Negotiated contracts: May enter into contracts pursuant to section 302(c)(2) of the Federal Property and Administrative Services Act, regardless of amount. This authority is to be used for rental of equipment and aircraft and for procurement of supplies and services required for emergency fire suppression and presuppression, where the order exceeds $2,500.

2. Open market purchases: May enter into contracts pursuant to section 302(c)(3) of the Federal Property and Administrative Services Act, for supplies, services, and rental of equipment and aircraft not to exceed $2,500 per transaction; and for construction not to exceed $2,000 per transaction; provided that the requirement is not available from established sources of supply.

3. Established sources of supply: May procure supplies and services available from established sources of supply regardless of amount.

4. Capitalized property: May enter into contracts, under authority of subparagraphs 1, 2, or 3 above, as appropriate, for purchase of capitalized property.

If the purchase is to be charged to fire suppression funds, or if the item is it not included in an approved equipment budget, prior approval of purchase by the Assistant Director, Administration is required. This authority may be exercised only in a true emergency situation such as for immediate use in suppression of active fires and delivery for use on that fire is attainable.

The authority granted above may not be redelegated. This delegation of authority modifies previous redelegations of authority for the individuals named with regard to the procurement of capitalized property.

This redelegation of authority is effective September 10, 1973.

R. O. BUFFINGTON,
*Acting State Director.*

[FR Doc.73-18966 Filed 9-6-73;8:45 am]

## National Park Service

## HONOKOHAU STUDY ADVISORY COMMISSION

### Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Honokohau Study Advisory Commission will be held from 9 a.m. to 1 p.m. on September 15, 1973, in the Farrington High School Cafetorium, 1564 North King Street, Honolulu, Hawaii.

The Commission was established by Public Law 92-346 to provide advice to the Secretary of the Interior on matters relating to the making of a study of the feasibility and desirability of establishing as a part of the National Park System an area comprising the site of Honokohau National Historic Landmark.

Members of the Commission are as follows:

Colonel Arthur Chun, Kailua-Kona (Chairman); Rev. Henry K. Boshard, Kailua-Kona; Ms. Nani Mary Bowman, Honolulu; Mr. Fred Cachola, Waianae; Mr. Alika Cooper, Hilo; Dr. Kenneth P. Emory, Honolulu; Mr. Homer A. Hayes, Honolulu; Mr. Kwai Wah Lee, Hilo; Ms. Iolani Luahine, Kailua-Kona; Mr. George Naope, Hilo; Mrs. Abbie Napeahi, Hilo; Mr. George Pinehaka, Honaunau, Kona; Mr. David K. Roy, Kailua-Kona; Mr. Filipo Springer, Holualoa; and Mrs. Emily Kaai Thomas, Honolulu.

The matters to be considered at the meeting are:

1. Review of basic data gathered to date;

2. Review of outline of report;

3. Gathering of supplemental data and ideas from interested persons, agencies, and organizations.

The meeting will be open to the public, and participation is encouraged. Any person may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing further information concerning the meeting, or who wish to submit written statements, may contact Robert L. Barrel, State Director, Hawaii, National Park Service, 677 Ala Moana Boulevard, Suite 512, Honolulu, Hawaii 96813.

Minutes of the meeting will be available for public inspection four weeks after the meeting at the Office of the State Director, Hawaii, and the Regional Director, Western Region, National Park Service, 450 Golden Gate Avenue, San Francisco, California 94102.

Dated August 31, 1973.

IRA WHITLOCK,
*Acting Associate Director, National Park Service.*

[FR Doc.73-19198 Filed 9-6-73;10:37 am]

## Office of the Secretary

[INT DES 73-54]

## PROPOSED IRRIGATION DISTRIBUTION SYSTEM FOR SAN LUIS WATER DISTRICT

### Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement for the proposed irrigation distribution system for San Luis Water District, Merced and Fresno Counties, California, under the distribution system loan program (Public Law 84-130).

The environmental statement concerns the proposed construction of a water distribution network for the purpose of furnishing irrigation water to 35,600 acres of the San Luis Water District on the west side of the San Joaquin Valley in Merced and Fresno Counties, California. Copies are available for inspection at the following locations:

Office of Ecology, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240, Telephone (202) 343-4491.

Division of Engineering Support, Technical Services Branch, E&R Center, Denver Federal Center, Denver, Colorado 80225, Telephone (303) 234-3007.

Office of the Regional Director, Bureau of Reclamation, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825, Telephone (916) 481-6100.

Single copies of the draft environmental statement may be obtained on request to the Commissioner of Reclamation or the Regional Director. In addition, copies may be purchased from the National Technical Information Service, Department of Commerce, Springfield, Virginia 22151. Please refer to the statement number above. Comments on the draft statement are requested to be submitted on or before October 23, 1973.

Dated August 31, 1973.

JOHN M. SEIDL,
*Deputy Assistant Secretary of the Interior.*

[FR Doc.73-18965 Filed 9-6-73;8:45 am]

## COLORADO RIVER

### Notice of Reservation of Waters for Use on Federally Owned Lands in Arizona and California

Pursuant to the authority contained in the Boulder Canyon Project Act, dated December 21, 1928, 45 Stat. 1057, as amended, and consistent with the Supreme Court Decree of March 9, 1964, in Arizona v. California et al., 376 U.S. 340, notice is given that there is hereby reserved to the United States, out of the waters of the Colorado River, the annual consumptive use in 800 acre-feet for use on federally owned lands in Arizona and 1,000 acre-feet for use on federally owned lands in California, administered by the Bureau of Land Management of



V38-173 SEP 7 73 XUM

the Department of the Interior. The water is for culinary, sanitary, and related nonagricultural, domestic uses on Bureau of Land Management campsites, concession areas, and cabin sites involved in the recreational program of the Bureau of Land Management along the lower Colorado River.

The aforesaid reservations of water are subject and/or subordinate to:

(a) all existing rights to the use of the Colorado River waters, including, without limitation, present perfected rights and perfected rights described in Article II (D) of the aforesaid Supreme Court Decree:

(b) rights described in and provisions of existing water delivery contracts entered into by the Secretary of the Interior pursuant to the provisions of the Boulder Canyon Project Act or other applicable Federal statutes;

(c) the availability of water under the provisions of the Colorado River Compact, signed at Santa Fe, New Mexico, November 24, 1922, and the Boulder Canyon Project Act;

(d) the provisions of the Mexican Water Treaty, signed at Washington, D.C., on February 3, 1944; and

(e) the provisions of the Supreme Court Opinion of June 3, 1963, 373 U.S. 546, and the Supreme Court Decree of March 9, 1964, in Arizona v. California, et al., 376 U.S. 340.

The aforesaid reservation of water for use in Arizona is also subject and/or subordinate to the provisions of:

(a) the Colorado River Basin Project Act of September 30, 1968, 82 Stat. 885, particularly section 301(b);

(b) the Contract for Delivery of Water between the United States and the State of Arizona, dated February 9, 1944; and

(c) the Contract between the United States and the Central Arizona Water Conservation District for Delivery of Water and Repayment of Costs of the Central Arizona Project, Contract No. 14-06-W-245, dated December 15, 1972, particularly Article 8.7(c).

The aforesaid reservation of water for use in California is also subject and/or subordinate to the provisions of the California Limitation Act, Chapter 16, California Stats. 1929, page 38, approved March 4, 1929, and the California Seven Party Priority Water Agreement, dated August 18, 1931.

Dated August 30, 1973.

JACK O. HORTON,
*Assistant Secretary of the Interior.*

[FR Doc.73-19004 Filed 9-6-73;8:45 am]

## DEPARTMENT OF AGRICULTURE

### Forest Service Pacific Northwest Region

### OREGON DUNES NATIONAL RECREATION AREA ADVISORY COUNCIL

#### Notice of Meeting

The Oregon Dunes National Recreation Area Advisory Council will meet on Friday, October 5, at 10:00 a.m. in the Neighborhood Facility in Coos Bay, Oregon.

The purpose of this meeting is to discuss the inholdings within the National Recreation Area and to listen to those who have questions about this subject.

The meeting will be open to the public. Persons who wish to attend should notify Pamela Wilson, P.O. Box 1148, Corvallis, Oregon, 97330. The telephone number is 503-752-4211, extension 502. Written statements may be filed with the committee before or after the meeting.

The committee has established the following rules for public participation. Any member of the public who wishes to speak must be recognized by the council chairman. The council chairman will decide the time when public participation will take place.

Dated September 5, 1973.

SPENCER T. MOORE,
*Forest Supervisor.*

[FR Doc.73-18998 Filed 9-6-73;8:45 am]

## DEPARTMENT OF COMMERCE

### Maritime Administration

[Docket No. S-386]

### NATIONAL SHIPPING CORP.

#### Notice of Application

Notice is hereby given that National Shipping Corporation has filed an application for operating-differential subsidy on one (1) hatchless bulk carrier (to be constructed) of approximately 40,000 deadweight tons. Said vessel will be used primarily in the carriage of wood products from the West Coast of Canada to the East Coast of the United States and phosphate from Florida to the West Coast of Canada, but may at times be operated in other worldwide service in the foreign commerce of the United States in the carriage of liquid bulk cargoes and dry bulk cargoes not subject to the cargo preference statutes including 10 U.S.C. 2631, 46 U.S.C. 1241, and 15 U.S.C. 616a.

Any party having an interest in such application and who would contest a finding of the Board that the service now provided by vessels of United States registry for the worldwide carriage of liquid and dry bulk cargoes, not subject to the cargo preference statutes, moving in the foreign commerce of the United States or in any particular trade in the foreign commerce of the United States is inadequate, must, on or before September 20, 1973, notify the Secretary in writing of his interest and of his position and file a petition for leave to intervene in accordance with the Board's rules of practice and procedure (46 CFR Part 201). Each such statement of interest and petition to intervene shall state whether a hearing is requested under sec. 605(c) of the Merchant Marine Act, 1936, as amended, and with as much specificity as possible the facts that the intervenor would undertake to prove at such hearing.

In the event that a sec. 605(c) hearing is ordered to be held, the purpose of such hearing will be to receive evidence relevant to whether the service already provided by vessels of U.S. registry for the worldwide movement of liquid and dry bulk cargoes in the foreign oceanborne commerce of the United States is inadequate and whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Maritime Subsidy Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing the Maritime Subsidy Board will take such action as may be deemed appropriate.

Dated August 31, 1973.

By Order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
*Secretary.*

(Catalog of Federal Domestic Assistance Program No. 11.504, Operating-Differential Subsidies (ODS).)

[FR Doc.73-18939 Filed 9-6-73;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

[Docket No. FDC-D-638; NADA No. 6-226V]

### AMERICAN CYANAMID CO.

#### Led-O-San; Notice of Withdrawal of New Animal Drug Application

In the FEDERAL REGISTER of July 17, 1973 (38 FR 19059), the Commissioner of Food and Drugs published a notice proposing to withdraw approval of new animal drug application (NADA) No. 6-226V for Led-O-San (a product which contains calcium polysulfide and hexachlorophene) marketed by American Cyanamid Co., Post Office Box 400, Princeton, N.J. 08540.

American Cyanamid Co. responded to said notice by requesting that NADA No. 6-226V be withdrawn. No other persons responded to the notice if opportunity for hearing.

Based on the grounds that there is a lack of substantial evidence that the drug will have all of the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling, the Commissioner concludes that approval of said NADA should be withdrawn. Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-351; 21 U.S.C. 360b) and under authority delegated to the Commissioner (21 CFR 2.120), approval of NADA No. 6-226V, including all amendments and supplements thereto, is hereby withdrawn effective on September 17, 1973.

Dated August 30, 1973.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[FR Doc.73-19011 Filed 9-6-73;8:45 am]





[FAP 3B2926]

### E. I. Du PONT de NEMOURS & CO.

#### Notice of Filing of Petition for Food Additives

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 3B2926) has been filed by E. I. Du Pont de Nemours & Co., Wilmington, Del. 19898, proposing that the food additive regulations (21 CFR Part 121) be amended to provide for use of acrylonitrile styrene copolymers modified with butadiene styrene in the manufacture of bottles intended to hold soft drinks.

An environmental impact analysis report has been submitted by the petitioner. Copies of the report are available in the Office of the Assistant Commissioner for Public Affairs, Rm. 15B-42 or the Office of the Hearing Clerk, Food and Drug Administration, Rm. 6-86, 5600 Fishers Lane, Rockville, Maryland 20852.

As indicated elsewhere in this issue of the FEDERAL REGISTER, Food and Drug Administration actions on substances used or intended for use in the fabrication of plastic bottles for carbonated beverage and beer use will have a significant effect on the quality of the human environment and, therefore, will require an environmental impact statement. As this additional notice indicates, consideration is also being given to the necessity for the preparation of an environmental impact statement for plastic bottles that have been authorized for other beverage uses.

In the meantime, the petition is being reviewed with respect to the proposed safe use of the additive in the fabrication of bottles intended to hold soft drinks.

Dated August 13, 1973.

VIRGIL O. WODICKA,
*Director, Bureau of Foods.*

[FR Doc.73-19005 Filed 9-6-73;8:45 am]

[FAP 2B2806]

### ROHM & HAAS CO.

#### Notice of Withdrawal of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Rohm & Haas Co., Independence Mall West, Philadelphia, PA 19105, has withdrawn its petition (FAP 2B2806), notice of which was published in the FEDERAL REGISTER of August 2, 1972 (37 FR 15443), proposing that § 121.2597 *Polymer modifiers in semirigid and rigid vinyl chloride plastics* (21 CFR 121.2597) be amended to provide for the safe use of copolymers produced by copolymerizing one or more of the monomers listed in paragraph (a)(1)(i) with styrene, provided that such copolymers contain no more than 75 weight-percent of polymer units derived from styrene; such copolymers being used alone or blended with currently regulated polymers, as modifiers in semirigid and rigid vinyl chloride plastic food-contact articles.

Dated August 28, 1973.

VIRGIL O. WODICKA,
*Director, Bureau of Foods.*

[FR Doc.73-19012 Filed 9-6-73;8:45 am]

### MANUFACTURERS AND DISTRIBUTORS OF PLASTIC BOTTLES FOR CARBONATED BEVERAGES AND BEER USE

#### Requirement of Environmental Impact Analysis Reports

Major Federal actions significantly affecting the quality of the human environment require an environmental impact statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA). Numerous food additive regulations have been issued for substances intended for fabrication into food containers. The Food and Drug Administration has also given advisory opinions to inquirers that certain substances fabricated into food containers are food additives under the conditions of their intended use.

The Commissioner of Food and Drugs recognizes the need for issuance of environmental impact statements concerning containers for food use. Full consideration in these statements will be given to the environmental issues relevant to FDA approvals of regulations for food additives and other agency actions taken on substances suitable for use in fabricating such containers. At this time, the Commissioner concludes that an environmental impact statement is necessary for FDA actions on substances used or intended for use in the fabrication of plastic bottles for carbonated beverage and beer use.

Section 6.1(e) of FDA's procedures for preparation of environmental impact statements (21 CFR 6.1(e)) provides that applications or petitions submitted on or after March 15, 1973, requesting action by the agency shall include an environmental impact analysis report. In order to initiate consideration of current proposals as well as prior actions, petitioners for food additive regulations, and all persons marketing articles pursuant to existing food additive regulations as well as recipients of advisory opinions (except those opinions stating that a substance is not subject to the Federal Food, Drug, and Cosmetic Act) issued prior to March 15, 1973, for substances used or intended for use in the fabrication of plastic bottles for carbonated beverage and beer use, are hereby notified that they are required to submit by December 6, 1973, an environmental impact analysis report containing the information prescribed by 21 CFR 6.1(g) and 121.51(c)(H). The Commissioner encourages joint submissions by trade associations and other groups covering related raw materials and/or finished products. Relevant data and information is also requested from all other interested persons.

The Food and Drug Administration is limiting this requirement for environmental impact analysis reports to substances suitable for fabrication of plastic bottles for carbonated beverage and beer use. The necessity of submitting environmental impact analysis reports for other plastic food containers and for other forms of food packaging will be announced by publication in the FEDERAL REGISTER at a later time.

This notice is issued pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1042, 1055, 72 Stat. 1784-1788, as amended; 21 U.S.C. 321(s), 348, 371(a)) and the National Environmental Policy Act (42 U.S.C. 4332(2)(C)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated August 30, 1973.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[FR Doc.73-19006 Filed 9-6-73;8:45 am]

### OVER-THE-COUNTER ANTIPERSPIRANT DRUG PRODUCTS AND OVER-THE-COUNTER TOPICAL ANTIBIOTIC DRUGS

#### Safety and Efficacy Review; Request for Data and Information

The FDA is undertaking a review of all over-the-counter (OTC) drug products for human use currently marketed in the United States, to determine that these OTC products are safe and effective for their labeled indications. This review will utilize expert panels working with FDA personnel.

A notice outlining procedures for this review was published in the FEDERAL REGISTER of May 11, 1972 (37 FR 9464).

To facilitate this review and a determination as to whether an OTC drug for human use is generally recognized as safe and effective and not misbranded under its recommended conditions of use, and to provide all interested persons an opportunity to present for the consideration of the reviewing experts the best data and information available to support the stated claims for all dosage forms of antiperspirant drug products and topical antibiotic drugs, the administration invites submission of data, published and unpublished, and other information pertinent to all active ingredients in such preparations.

FDA is aware that the following is not a complete list, but only representative of the kinds of active ingredients used in such products. FDA has conducted a literature search on each of them:



V 38-173 SEP 7 73 XUM

I. ANTIPERSPIRANTS

| | |
|---|---|
| Aluminum Chlorhydroxide | Sodium Aluminum Lactate |
| Aluminum Chloride | Aluminum Salts, General |
| Aluminum Formate | Zinc Peroxide |
| Aluminum Hydroxide | Zinc Phenolsulfonate (Zinc Sulfocarbolate) |
| Aluminum Phenolsulfonate (Aluminum Sulfocarbolate) | Zinc Salts, General |
| Aluminum Sulfate | Zirconyl Hydroxychloride |
| Aluminum Hydroxy Lactate | |

II. TOPICAL ANTIBIOTICS

| | |
|---|---|
| Bacitracin | Gramicidin |
| Neomycin | Tyrothricin |
| Polymyxin | |

FDA's literature search on antiperspirants covered the United States of America literature and other leading English language literature published since 1950 from the following sources:

Medlars (NLM and SUNY)
FDA Clinical Experience Abstracts
Quarterly Cumulative Index Medicus
Current List of Medical Literature
Index Medicus
JAMA Subject Index
DeHaen Drugs in Use
International Pharmaceutical Abstracts
Excerpta Medica
Abstracts of World Medicine
Biological Abstracts
Chemical Abstracts

FDA's literature search on topical antibiotics covered the United States of America literature and other leading English language literature published since 1965 from the following sources:

Medlars (SUNY)
FDA Clinical Experience Abstracts
DeHaen Drugs in Use
RINGDOC

The bibliographies of the literature searches are available to interested persons.

Interested persons are also invited to submit data on any other active ingredients used in antiperspirant or topical antibiotic drugs.

The FDA is aware that safety data on these ingredients may be available as a result of testing related to nondrug products, such as cosmetics. All interested parties are encouraged to submit at this time all available safety data for these ingredients, so that the conclusions reached will reflect the best information available.

This panel is not charged with reviewing the safety or effectiveness of the use of these ingredients in nondrug products such as cosmetics (e.g., deodorants for which no drug claims are made). However, the conclusions of the panel with respect to these ingredients for drug use may be utilized by the Food and Drug Administration in determining whether their use in cosmetics can continue to be justified. Thus, although the report and monograph prepared by this panel will cover only OTC drug use, the conclusions may well have a direct and substantial impact on all uses of these ingredients in consumer products.

To be considered, eight copies of the data and/or views must be submitted, preferably bound, indexed, and on standard size paper (approximately 8½ by 11 inches). All submissions must be in the format described below:

OTC DRUG REVIEW INFORMATION

I. Label(s) and all labeling (preferably mounted and filed with the other data—facsimile labeling is acceptable in lieu of actual container labeling).

II. A statement setting forth the quantities of active ingredients of the drug.

III. Animal safety data.
A. Individual active components.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.
B. Combinations of the individual active components.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.
C. Finished drug product.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.
3. Documented case reports.
4. Pertinent marketing experiences that may influence a determination as to the safety of each individual active component.
5. Pertinent medical and scientific literature.
B. Combinations of the individual active components.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.
3. Documented case reports.
4. Pertinent marketing experiences that may influence a determination as to the safety of combinations of the individual active components.
5. Pertinent medical and scientific literature.
C. Finished drug product.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.
3. Documented case reports.
4. Pertinent marketing experiences that may influence a determination as to the safety of the finished drug product.
5. Pertinent medical and scientific literature.

IV. Human safety data.
A. Individual active components.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.
3. Documented case reports.
4. Pertinent marketing experiences that may influence a determination as to the safety of each individual active component.
5. Pertinent medical and scientific literature.
B. Combinations of the individual active components.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.
3. Documented case reports.
4. Pertinent marketing experiences that may influence a determination as to the safety of combinations of the individual active components.
5. Pertinent medical and scientific literature.
C. Finished drug product.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.
3. Documented case reports.
4. Pertinent marketing experiences that may influence a determination as to the safety of the finished drug product.
5. Pertinent medical and scientific literature.

V. Efficacy data.
A. Individual active components.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.
3. Documented case reports.
4. Pertinent marketing experiences that may influence a determination on the efficacy of each individual active component.
5. Pertinent medical and scientific literature.
B. Combinations of the individual active components.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.
3. Documented case reports.
4. Pertinent marketing experiences that may influence a determination on the efficacy of combinations of the individual active components.
5. Pertinent medical and scientific literature.
C. Finished drug product.
1. Controlled studies.
2. Partially controlled or uncontrolled studies.
3. Documented case reports.
4. Pertinent marketing experiences that may influence a determination on the efficacy of the finished drug product.
5. Pertinent medical and scientific literature.

VI. A summary of the data and views setting forth the medical rationale and purpose (or lack thereof) for the drug and its ingredients and the scientific basis (or lack thereof) for the conclusion that the drug and its ingredients have been proven safe and effective for the intended use. If there is an absence of controlled studies in the material submitted, an explanation as to why such studies are not considered necessary must be included.

VII. If the submission is by a manufacturer, a statement signed by the person responsible for such submission, that to the best of his knowledge it includes unfavorable information, as well as any favorable information, known to him pertinent to an evaluation of the safety, effectiveness, and labeling of such a product. Thus, if any type of scientific data is submitted, a balanced submission of favorable and unfavorable data must be submitted. The same would be true of any other pertinent data or information submitted, such as consumer surveys or marketing results.

In order to avoid duplication, interested persons should not in their submissions include published literature listed in the FDA literature search. An abstract of all such literature will be provided to the panel. Upon request, the panel will be provided with the complete article. Interested persons may, of course, refer to such literature in their submissions by citation.

Submissions or requests for copies of the bibliographies of the FDA literature searches should be forwarded to:

Food and Drug Administration
Bureau of Drugs
OTC Drug Products Evaluation Staff (BD-109)
5600 Fishers Lane
Rockville, Maryland 20852

Data and information must be submitted on or before November 9, 1973.

Dated August 29, 1973.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[FR Doc.73-19007 Filed 9-6-73;8:45 am]





## National Institutes of Health

### ALCOHOL TRAINING REVIEW COMMITTEE

#### Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Alcohol Training Review Committee, National Institute of Mental Health, September 20-21, 1973, 7 p.m. to 9 p.m. (September 20), 9 a.m. to 5 p.m. (September 21), Conference Room C Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852. This meeting will be open to the public from 9 a.m. to 10 a.m., September 21, for announcements and reports of recent administrative, legislative, and program developments and closed to the public from 7 p.m. to 9 p.m., September 20, and 10 a.m. to 5 p.m., September 21, to review grants in accordance with the provisions set forth in section 552(b)(4) of Title 5 U.S. Code and 10(d) of P.L. 92-463.

Attendance by the public will be limited to space available.

The NIAAA Information Officer who will furnish summaries of the meeting and rosters of committee members is Mr. Harry C. Bell, Associate Director for Public Affairs, National Institute of Alcohol Abuse and Alcoholism, Room 6C-15 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, telephone 443-3306.

The Executive Secretary from whom substantive program information may be obtained is Dr. Melvin D. Davidoff, Executive Secretary, Alcohol Training Review Committee, Room 16-C-26 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, telephone 443-1056.

Dated August 27, 1973.

ROBERT W. BERLINER,
*Acting Deputy Director, NIH.*

(Catalog of Federal Domestic Assistance Program No. 13.244.)

[FR Doc.73-18942 Filed 9-6-73;8:45 am]

### ALCOHOLISM AND ALCOHOL PROBLEMS REVIEW COMMITTEE

#### Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Alcoholism and Alcohol Problems Review Committee, National Institute of Mental Health, September 19-21, 1973, 9:00 a.m., at The Embassy Row Hotel, Washington, D.C. This meeting will be open to the public from 9:00-10:00 a.m., September 19, 1973, for announcements and reports of recent administrative, legislative, and program developments and closed to the public from 10:00 a.m. to 3:30 pm.., September 19-21, 1973, to review grants in accordance with the provisions set forth in Section 552(b) 4 of Title 5 U.S. Code and 10(d) of P.L. 92-463.

Attendance by the public will be limited to space available.

The NIAAA Information Officer who will furnish summaries of the meeting and rosters of committee members is Mr. Harry C. Bell, Associate Director for Public Affairs, National Institute of Alcohol Abuse and Alcoholism, Room 6C-15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, telephone 443-3306.

The Executive Secretary from whom substantive program information may be obtained is James C. Teegarden, Ph. D., Executive Secretary, National Institute on Alcohol Abuse and Alcoholism, NIMH, Room 6C-03, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, telephone 443-4223.

Dated August 27, 1973.

ROBERT W. BERLINER,
*Acting Deputy Director, NIH.*

(Catalog of Federal Domestic Assistance Program No. 13.242.)

[FR Doc.73-18944 Filed 9-6-73;8:45 am]

### BREAST CANCER EXPERIMENTAL BIOLOGY COMMITTEE

#### Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Breast Cancer Experimental Biology Committee, National Cancer Institute, September 10-11, 1973, 8:30 a.m., National Institutes of Health, Landow Building, Conference Room C-418. This meeting will be closed to the public all day September 10 and from 8:30 until noon September 11 for the discussion and review of approximately 16 contracts in the fields of experimental biology, in accordance with the provisions set forth in Section 552(b)4 of Title 5 U.S. Code, and Section 10(d) of P.L. 92-463. The meeting will be open to the public from 1:30 p.m., until adjournment September 11, to discuss program plans for Fiscal Year 1974. Attendance by the public will be limited to space available.

Mr. Frank Karel, Associate Director for Public Affairs, NCI, Building 31, Room 10A31, National Institutes of Health, Bethesda, Maryland 20014 (301/496-1911) will furnish summaries of the open/closed meeting and roster of committee members.

D. Jane Taylor, Ph.D., Executive Secretary, Landow Building, Room A404, National Institutes of Health, Bethesda, Maryland 20014 (301/496-6718) will provide substantive program information.

Dated August 27, 1973.

ROBERT W. BERLINER,
*Acting Deputy Director, NIH.*

[FR Doc.73-18945 Filed 9-6-73;8:45 am]

### COMMUNICATIVE DISORDERS REVIEW COMMITTEE

#### Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Communicative Disorders Review Committee, National Institute of Neurological Diseases and Stroke, National Institutes of Health, September 22, 1973, at 2:30 P.M., in the Statler Hilton Hotel, Embassy East Room, Dallas, Texas, and on September 23, 1973, at 9:00 A.M., in the Gold Room. This meeting will be open to the public from 2:30 P.M. until 3:30 P.M. on September 22nd, to discuss program planning and program accomplishments and closed to the public from 3:30 P.M. until the conclusion of the meeting on September 23rd, to review, discuss and evaluate and/or rank program project grant applications in accordance with the provisions set forth in section 552(b) 4 of Title V U.S. Code and section 10(d) of P.L. 92-463. Attendance by the public will be limited to space available.

1. The Institute Information Officer who will furnish summaries of the meeting and rosters of committee members is: Mrs. Ruth Dudley, Information Officer, NINDS, Bldg. 31, Room 8A03, Maryland, telephone 496-5751.

2. The Executive Secretary from whom substantive program information may be obtained is: Dr. J. Buckminster Ranney, Room 7A16A, Westwood Bldg., Bethesda, Maryland, telephone 496-7725.

Dated August 27, 1973.

ROBERT W. BERLINER,
*Acting Deputy Director, NIH.*

(Catalog of Federal Domestic Assistance Program No. 13.356, National Institutes of Health.)

[FR Doc.73-18947 Filed 9-6-73;8:45 am]

### NEUROLOGICAL DISORDERS PROGRAM-PROJECT REVIEW COMMITTEE

#### Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Neurological Disorders Program-Project Review Committee, National Institute of Neurological Diseases and Stroke, National Institutes of Health, September 21-22, 1973, at 9:00 A.M., in the Holiday Inn, Versailles II Room, Bethesda, Maryland. This meeting will be open to the public from 9:00 A.M. until 10:00 A.M. on September 21, to discuss program planning and program accomplishments and closed to the public from 10:00 A.M. until the conclusion of the meeting, to review, discuss and evaluate and/or rank program project grant applications in accordance with the provisions set forth in section 552(b) 4 of Title V US Code and section 10(d) of P.L. 92-463. Attendance by the public will be limited to space available.

1. The Institute Information Officer who will furnish summaries of the meeting and rosters of committee members is: Mrs. Ruth Dudley, Information Officer, NINDS, Bldg. 31, Room 8A03, Bethesda, Maryland, telephone 496-5751.

2. The Executive Secretary from whom substantive program information may be obtained is: Dr. Leon J. Greenbaum, Jr., Room 7A03A, Westwood Bldg., Bethesda, Maryland, telephone 496-7003.

Dated August 27, 1973.

ROBERT W. BERLINER,
*Acting Deputy Director, NIH.*

(Catalog of Federal Domestic Assistance Program No. 13.356, National Institutes of Health.)

[FR Doc.73-18946 Filed 9-6-73;8:45 am]



V38-173 SEP 7 73 XUM

## JUVENILE PROBLEMS RESEARCH REVIEW COMMITTEE

### Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Juvenile Problems Research Review Committee, National Institute of Mental Health, September 13–14, 1973, 8:45 a.m.–5:00 p.m., Conference Room No. 5, Bldg. No. 31, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public from 8:45–9:15 a.m., September 13, 1973, for announcements and reports of recent administrative, legislative, and program developments and closed to the public from 9:15 a.m. to 5:00 p.m., September 13, 1973 and 8:45 a.m. to 5:00 p.m., September 14, 1973, to review grants in accordance with the provisions set forth in section 552(b)4 of Title 5 U.S. Code and 10(d) of P.L. 92–463.

Attendance by the public will be limited to space available. The NIMH Information Officer who will furnish summaries of the meeting and rosters of committee members is Mr. Ronald E. McMillen, Acting Director, Office of Communications, National Institute of Mental Health, Room 15–105 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, telephone 443–3600.

The Executive Secretary from whom substantive program information may be obtained is Dr. Joseph R. Marches, Executive Secretary, Juvenile Problems Research Review Committee, Applied Research Branch, Division of Extramural Research Programs, National Institute of Mental Health, NIH, Room 10–99 Parklawn Building, Rockville, Maryland 20852.

Dated August 27, 1973.

ROBERT W. BERLINER,
*Acting Deputy Director, NIH.*

(Catalog of Federal Domestic Assistance Program No. 13.242 Mental Health Research Grants)

[FR Doc.73–18943 Filed 9–6–73;8:45 am]

### Office of Education

## ADVISORY COUNCIL ON DEVELOPING INSTITUTIONS

### Notice of Public Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), that the next meeting of the Advisory Council on Developing Institutions will be held on October 1 and 2 from 9 a.m. to 4 p.m. in room 3008 at the Office of Education, 400 Maryland Avenue SW., Washington, D.C.

The Advisory Council on Developing Institutions was established by title III of the Higher Education Act of 1965 as amended. The Council is governed by the provisions of part D of the General Education Provisions Act and of the Federal Advisory Committee Act (P.L. 92–463). The Council shall assist the Commissioner in identifying the characteristics of developing institutions through which the purpose of title III may be achieved, and in establishing the priorities and criteria to be used in making grants under section 304(a) of that title.

The meeting of the Council shall be open to the public. The proposed agenda includes election of a Chairperson and Secretary, discussion of the process of evaluation and criteria for the Basic Program, explanation of the process and documents for evaluating proposals for the Advanced Program, and planning for a final report of the Council. Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the Deputy Commissioner of Higher Education located in Room 4025, 400 Maryland Avenue, SW.

Signed at Washington, D.C., on August 30, 1973.

PRESTON VALIEN,
*Director, College and University Unit, Office of the Deputy Commissioner for Higher Education.*

[FR Doc.73–18949 Filed 9–6–73; 8:45 am]

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of Interstate Land Sales Registration

[Docket No. N–73–192; Administrative Division Docket No. 73–80]

### APPLE VALLEY ENTERPRISES, INC.

### Notice of Hearing

Notice is hereby given that:

1. Apple Valley Enterprises, Inc., its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90–448) (15 U.S.C. 1701 et seq.), received a Notice of Proceedings and Opportunity for Hearing dated August 26, 1973, which was sent to the developer pursuant to 15 U.S.C. 1706(d) and 24 CFR 1710.45(b)(1) informing the developer of information obtained by the Office of Interstate Land Sales Registration showing that a change had occurred which affected material facts in the Developer's Statement of Record for Apple Valley Ranchettes Units 1 and 4, located in Cochise County, Arizona, and the failure of the Developer to amend the pertinent sections of the Statement of Record and Property Report.

2. The Respondent filed an answer August 8, 1973, in answer to the allegations contained in the Notice of Proceedings and Opportunity for a Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for a Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(b), *It is hereby ordered,* That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Administrative Law Judge Paul N. Pfeiffer, in Room 2251, Department of HUD Building, 451 7th Street SW., Washington, D.C., on September 17, 1973, at 10 a.m.

The following time and procedure is applicable to such hearing:

All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410, on or before September 10, 1973.

5. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceeding shall be determined against Respondent, the allegations of which shall be deemed to be true, and an Order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated August 31, 1973.

By the Secretary.

GEORGE K. BERNSTEIN,
*Interstate Land Sales Administrator.*

[FR Doc.73–19069 Filed 9–6–73;8:45 am]

[Docket No. N–73–193; Administrative Division Docket No. 73–81]

### APPLE VALLEY ENTERPRISES, INC.

### Notice of Hearing

Notice is hereby given that:

1. Apple Valley Enterprises, Inc., its officers and agents, hereinafter referred to as "Respondent," being subject to the provisions of the Interstate Land Sales Full Disclosure Act (Pub. Law 90–448) (15 U.S.C. 1701 et seq.), received a Notice of Proceedings and Opportunity for Hearing dated July 24, 1973, which was sent to the developer pursuant to 15 U.S.C. 1706(d) and 24 CFR 1710.45(b)(1) informing the developer of information obtained by the Office of Interstate Land Sales Registration showing that a change had occurred which affected material facts in the Developer's Statement of Record for Apple Valley Ranchettes Units 2, 3, and 5, located in Cochise County, Arizona, and the failure of the Developer to amend the pertinent sections of the Statement of Record and Property Report.

2. The Respondent filed an answer August 8, 1973, in answer to the allegations of the Notice of Proceedings and Opportunity for a Hearing.

3. In said Answer the Respondent requested a hearing on the allegations contained in the Notice of Proceedings and Opportunity for a Hearing.

4. Therefore, pursuant to the provisions of 15 U.S.C. 1706(d) and 24 CFR 1720.160(b), *It is hereby ordered,* That a public hearing for the purpose of taking evidence on the questions set forth in the Notice of Proceedings and Opportunity for Hearing will be held before Administrative Law Judge Paul N. Pfeiffer, in Room 2251, Department of HUD Building, 451 7th Street SW., Washington, D.C., on September 17, 1973 at 10:00 a.m.

The following time and procedure is applicable to such hearing:

All affidavits and a list of all witnesses are requested to be filed with the Hearing Clerk, HUD Building, Room 10150, Washington, D.C. 20410, on or before September 10, 1973.

5. The Respondent is hereby notified that failure to appear at the above scheduled hearing shall be deemed a default and the proceeding shall be determined against Respondent, the allegations of which shall be deemed to be true, and an order Suspending the Statement of Record, herein identified, shall be issued pursuant to 24 CFR 1710.45(b)(1).

This Notice shall be served upon the Respondent forthwith pursuant to 24 CFR 1720.440.

Dated August 31, 1973.

By the Secretary.

GEORGE K. BERNSTEIN,
*Interstate Land Sales Administrator.*

[FR Doc.73–19070 Filed 9–6–73;8:45 am]

## AMERICAN REVOLUTION BICENTENNIAL COMMISSION

### HORIZONS '76 ADVISORY GROUP

### Notice of Meeting

Notice is hereby given, pursuant to Executive Order 11671, that the following American Revolution Bicentennial Commission Horizons '76 Advisory Group meeting will be held on September 11 and 12, 1973.

The Horizons '76 Advisory Group will hold open meetings on September 11, 1973 and September 12, 1973 in Room 2008, New Executive Office Building, 726 Jackson Place NW. The Advisory Group membership is composed of thirty-five persons.

Items on the agenda include:

SEPTEMBER 11

Small group sessions with discussions in the areas of Citizenship, Community Development and Transportation, Health, Leisure and Environment, Economy and Human Values and Understanding.

SEPTEMBER 12

Status report on Commission activities.
Recommendations from group sessions held on September 11.
Evaluation and recommendation of the following proposals requesting official recognition:
- Green Survival—American Association of Nurserymen.
- Land '76—The Nature Conservancy.
- Expanded Keep America Beautiful Day Program—KAB, Inc.
- Double Arrow—Speech Communications Association.
- Handicapped Assistance Program—Oklahoma Foundation for Research and Development Utilization.
- Urban Environment—Schools of Architecture at the University of California—Rensselaer Polytechnic Institute.

Presentation of the Bicentennial Information System (BINET).

Dated August 29, 1973.

HUGH A. HALL,
*Acting Director, American Revolution Bicentennial Commission.*

[FR Doc.73–18938 Filed 9–6–73;8:45 am]

## UNITED STATES ATOMIC ENERGY COMMISSION

[Docket No. 50–255]

### CONSUMERS POWER COMPANY

### Notice of Issuance of Amendment to Facility License

The Atomic Energy Commission (the Commission) has issued, effective as of the date of issuance, Amendment No. 5 to Provisional Operating License No. DPR–20. The license authorizes the Consumers Power Company to possess and operate the Palisades Plant located in Covert Township in Van Buren County, Michigan. This amendment authorizes less restriction on the use of the previously authorized 4,000 kilograms of uranium-235.

The Consumers Power Company held a Special Nuclear Material license for possession of reactor fuel and fission chambers that was to be incorporated in the facility operating license when issued. However, through an administrative error the authorization was written for use of the uranium-235 for reactor fuel only. Therefore, this amendment corrects the error and permits the use of small quantities of the material contained in fission chambers. The use of the material for this purpose has been previously evaluated and found acceptable.

The Commission has found that the application for amendment complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations published in 10 CFR Chapter I. The Commission has made the findings (relating to its review of the application) which are set forth in the amendment and has concluded that the issuance of this amendment will not be inimical to the common defense and security or to the health and safety of the public and does not involve a significant hazards consideration.

For further details with respect to this amendment, see (1) the licensee's application for amendment dated August 1, 1973, and (2) the amendment to Facility License No. DPR–20, which are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C., and at the Kalamazoo Public Library, 315 South Rose Street, Kalamazoo, Michigan. A copy of Item (2) may be obtained upon request sent to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Directorate of Licensing.

Dated at Bethesda, Maryland, this 20th day of August 1973.

For the Atomic Energy Commission.

ROBERT J. SCHEMEL,
*Chief, Operating Reactors Branch No. 1 Directorate of Licensing.*

[FR Doc.73–19033 Filed 9–6–73;8:45 am]

[Docket No. 50–409]

### DAIRYLAND POWER COOPERATIVE

### Conversion of Provisional Operating Authorization to Provisional Operating License

Notice is hereby given that the Atomic Energy Commission ("the Commission") has converted Provisional Operating Authorization (POA) No. DPRA–6, issued to the Dairyland Power Cooperative (DPC) pursuant to 10 CFR Part 115 of the Commission's regulations, to Provisional Operating License No. DPR–45 pursuant to 10 CFR Part 50 of the Commission's regulations. POA No. DPRA–6 was issued to DPC by the Commission on October 31, 1969 and authorized operation of the Commission's La Crosse Boiling Water Reactor (LACBWR) located in Vernon County, Wisconsin, at power levels up to 165 megawatts (thermal). DPC has purchased the LACBWR from the Commission and plans to continue to operate the facility at the same power level and in the same manner as previously authorized under POA No. DPRA–6.

Part 115 of the Commission's regulations applies to certain Commission-owned reactors exempt from the licensing requirements of the Atomic Energy Act of 1954, as amended (Act). Generally, the procedures established in Part 115 parallel those of 10 CFR Part 50, which applies to reactors subject to the licensing requirements of the Act. In accordance with the provisions of Part 115, LACBWR was reviewed at the construction authorization stage, and again at the operating authorization stage, by the AEC regulatory staff and the Commission's Advisory Committee on Reactor Safeguards (ACRS). The public hearing procedures followed in the case of LACBWR also correspond to the procedures followed by the Commission with respect to Part 50 facilities. At the construction authorization stage a public hearing was held before an atomic safety and licensing board; and at the operating authorization stage the Commission provided an opportunity for a further public hearing.

In correspondence with the Commission, DPC has referred to its forthcoming application for conversion of the LACBWR provisional operating license to a full-term operating license. No such license will be issued, however, prior to the completion of safety and environmental reviews by the AEC regulatory staff, the issuance of a report by the ACRS, and the publication of an appropriate notice of proposed action and opportunity for hearing.







V 38 173 SEP 7 73 XUM

Provisional Operating License No. DPR–45 is effective as of its date of issuance and shall expire eighteen months thereafter unless extended for good cause shown, or upon an earlier superseding licensing action. This license supersedes and terminates POA No. DPRA–6.

The Commission has found that DPC's Application dated May 22, 1972, and supplements thereto dated July 14 and 21, 1972, and July 25, 1973, comply with the requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations published in 10 CFR Chapter I. The Commission has made the remainder of the findings required by the Act and the Commission's regulations, which are set forth in the license, and has concluded that the issuance of the license will not be inimical to the common defense and security or to the health and safety of the public. DPC has satisfied the provisions of 10 CFR Part 140 for financial protection and, concurrent with the issuance of the license, DPC is being required to execute an indemnity agreement.

Since operation of the facility and the operating staff and procedures are as previously reviewed and approved by the Commission and are not altered by the conversion of this provisional operating authorization to a provisional operating license, the Commission's regulatory staff also has concluded that this action does not involve significant hazards considerations, and that, therefore, notice of the proposed conversion of POA No. DPRA–6 is not required.

For further details with respect to this action, see (1) DPC's Application dated May 22, 1972, and supplements thereto dated July 14 and 21, 1972, and July 25, 1973, (2) Provisional Operating License No. DPR–45 and Change No. 12, and (3) the public records in Docket No. 115–5 relating to the authorization and operation of LACBWR which are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Sparta Free Library, P.O. Box 347, Sparta, Wisconsin 54565. A copy of item (2) may be obtained upon request sent to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Maryland, this 28th day of August 1973.

For the Atomic Energy Commission.

DENNIS L. ZIEMANN,
*Chief, Operating Reactors Branch No. 2, Directorate of Licensing.*

[FR Doc.73–18936 Filed 9–6–73;8:45 am]

[Docket Nos. 50–450, 50–451]

## DELMARVA POWER & LIGHT CO. AND PHILADELPHIA ELECTRIC CO.

### Notice of Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicants' Environmental Report; Time for Submission of Views on Antitrust Matter

Delmarva Power & Light Company, 800 King Street, Wilmington, Delaware 19899 and Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101 (the applicants), pursuant to section 103 of the Atomic Energy Act of 1954, as amended, have filed an application which was docketed on August 16, 1973, for authorization to construct and operate two generating units utilizing high temperature gas-cooled reactors. The application was tendered on April 30, 1973. Following a preliminary review for completeness, it was accepted on June 15, 1973.

The proposed nuclear facilities, designated by the applicants as the Summit Power Station, Units 1 and 2 will be located on a site in New Castle County, Delaware, approximately 1.2 miles south of the Chesapeake and Delaware Canal, 5 miles northeast of Middletown, Delaware and 15 miles southwest of Wilmington, Delaware. Each reactor is designed for initial operation at approximately 2,000 megawatts thermal, with a net electrical output of approximately 785 megawatts.

A notice of hearing with opportunity for public participation is being published separately.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Office of Antitrust and Indemnity, Directorate of Licensing, on or before October 30, 1973. The request should be filed in connection with Dockets Nos. 50–450–A and 50–451–A.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW.; Washington, D.C. 20545 and at the Newark Free Library, Elkton Road and Delaware Avenue, Newark, Delaware 19711.

The applicants also filed, pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in Appendix D to 10 CFR Part 50, an environmental report dated April 1973. Following a preliminary review for completeness, it was rejected on June 15, 1973 for lack of sufficient information. The applicants submitted a supplement to the environmental report on July 30, 1973 and the report was accepted. The report has been made available for public inspection at the aforementioned locations. The report, which discusses environmental considerations related to the proposed construction of the Summit Power Station, Units 1 and 2 is also being made available at the Delaware State Planning Office, Tomas Collins Building, 530 South Dupont Highway, Dover, Delaware 19901 and at the Wilmington Metropolitan Area Planning and Coordinating Council, 4613 Robert Kirkwood Highway, Wilmington, Delaware 19808.

After the report has been analyzed by the Commission's Director of Regulation or his designee, a draft environmental statement will be prepared by the Commission. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement, requesting comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials thereon will be made available when received.

Dated at Bethesda, Md., this 20th day of August 1973.

For the Atomic Energy Commission.

DARRELL G. EISENHUT,
*Acting Chief, Gas Coolant Reactors Branch, Directorate of Licensing.*

[FR Doc.73–18380 Filed 8–30–73;8:45 am]

[License No. 12–12267–03E]

## HONEYWELL, INC.

### Notice of Issuance of Byproduct Material License

Please take notice that the Atomic Energy Commission has, pursuant to § 32.26 of 10 CFR Part 32, issued License No. 12–12267–03E to Honeywell, Incorporated, 1500 West Dundee Road, Arlington Heights, Illinois 60004, which authorizes the distribution of Model TC 100A fire detector to persons exempt from the requirements for a license pursuant to § 30.20 of 10 CFR Part 30.

1. The devices are designed to detect incipient fires by responding to the products of combustion produced by thermal decomposition of building materials or contents prior to the appearance of visible smoke, flame, or appreciable heat. The sensitive element of the detector is an ionization chamber in which air flowing into the chamber is made conductive by alpha particles emitted by americium-241.

2. The byproduct material incorporated in the detector is americium in the oxide form contained in foils manufactured by Nuclear Radiation Developments (Model A–001) or by the Radiochemical Centre (Model AMM). The nominal activity contained in the unit is 12.2 microcuries but the maximum activity is 13.4 microcuries.

3. Each exempt unit will have a label identifying the manufacturer (Honeywell, Incorporated) and the byproduct material (americium 241) contained in the unit and recommending that the unit be returned to Honeywell, Incorporated for disposal.

A copy of the license and a safety evaluation containing additional information, prepared by the Directorate of Licensing, are available for public inspection at the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C.

For the Atomic Energy Commission.

Dated at Bethesda, Maryland, September 4, 1973.

JAMES C. MALARO,
*Chief, Materials Branch, Directorate of Licensing.*

[FR Doc.73–19032 Filed 9–6–73;8:45 am]





[Docket No. 50–367]

## NORTHERN INDIANA PUBLIC SERVICE CO.

### Order Delaying Evidentiary Hearings

In the matter of Bailly Generating Station, Nuclear 1.

On August 29, 1973, the Joint Intervenors in the subject proceeding filed a motion requesting the instant Atomic Safety and Licensing Board (Board) to issue an Order that the next session of Evidentiary Hearings[1] be postponed until September 18, 1973, and that they be required to make available copies or summaries of their written testimony on September 13, 1973, instead of September 6, 1973. The primary basis for the motion is the recent illness of Mr. Theodore Falls, a principal technical consultant to the Joint Intervenors. The motion asserts that Mr. Falls' incapacitation will be of long duration, thereby, requiring the Joint Intervenors to seek a substitute witness in the preparation of their direct case.

On September 4, 1973, the Chairman of the Board, by telephone, consulted with all counsel to the proceeding on the motion, and agreement was reached whereby the Evidentiary Hearings scheduled for the week of September 11–14, 1973, commencing at 9 am, local time, will be rescheduled to commence on September 18, 1973, at the same time and place. With the exception of the first week, the schedule as outlined in the Board's Order of August 15, 1973, will remain in effect, with the further understanding that the hearings will continue every week—Tuesdays through Fridays—until completed.

In addition, Joint Intervenors have agreed to make available on September 6, 1973, copies or summaries of their written testimony in existence on that date. Any remaining copies or summaries of written testimony shall be made available on September 13, 1973.

There being good cause for granting the postponement of the schedule Evidentiary Hearings until September 18, 1973, the motion is granted in accordance with the understanding reached by the parties and the Chairman on September 4, 1973.

*It is so ordered.*

The Atomic Safety and Licensing Board.

Issued at Washington, D.C., this 5th day of September 1973.

JEROME GARFINKEL,
*Chairman.*

[FR Doc.73–19145 Filed 9–6–73;8:45 am]

[1] See Board's Order of August 15, 1973, which sets out the schedule for the resumption of the Evidentiary Hearings.

[Docket Nos. 50–448, 50–449]

## POTOMAC ELECTRIC POWER CO.

### Notice of Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicant's Environmental Report; Time for Submission of Views on Antitrust Matter

Potomac Electric Power Company (the applicant), pursuant to section 103 of the Atomic Energy Act of 1954, as amended, has filed an application which was docketed on August 9, 1973 for authorization to construct and operate two single cycle, forced circulation, boiling water nuclear reactors. The application was tendered on July 2, 1973. Following a preliminary review for completeness, it was found acceptable for docketing on August 6, 1973.

The proposed nuclear facilities, designated by the applicant as the Douglas Point Nuclear Generating Station, Units 1 & 2 are located on the east bank of the Potomac River, about 30 miles south-southwest of Washington, D.C., in Charles County, Maryland and are designed for initial operation at approximately 3,579 megawatts (thermal), with a net electrical output of approximately 1,178 megawatts.

A notice of hearing with opportunity for public participation is being published separately.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Office of Antitrust and Indemnity, Directorate of Licensing, on or before October 30, 1973. The request should be filed in connection with Dockets Nos. 50–448–A & 50–449–A.

The applicant has also filed, pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in Appendix D to 10 CFR Part 50, an environmental report dated August 8, 1973. The report has been made available for public inspection at the aforementioned locations. The report, which discusses environmental considerations relative to the proposed construction of the Douglas Point Nuclear Generating Station, Units 1 and 2, is also being made available at the Department of State Planning, 301 West Preston Street, Baltimore, Maryland 21201, and at the Metropolitan Washington Council of Governments, 1225 Connecticut Avenue NW., Washington, D.C. 20036.

After the report has been analyzed by the Commission's Director of Regulation or his designee, a draft environmental statement will be prepared by the Commission. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement, requesting comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials thereon will be made available when received.

Dated at Bethesda, Md., this 14th day of August 1973.

For the Atomic Energy Commission.

WALTER R. BUTLER,
*Chief, Boiling Water Reactors, Branch 1, Directorate of Licensing.*

[FR Doc.73–18379 Filed 8–30–73;8:45 am]

## CIVIL AERONAUTICS BOARD

[Docket No. 22973]

### NEW ENGLAND SERVICE INVESTIGATION

#### Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled matter is assigned to be held before the Board on October 3, 1973, at 10 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

Dated at Washington, D.C., August 31, 1973.

[SEAL] RALPH L. WISER,
*Chief Administrative Law Judge.*

[FR Doc.73–19075 Filed 9–6–73;8:45 am]



V 38-173 SEP 7 73 XUM

## CIVIL SERVICE COMMISSION

### CIVIL ENGINEER, DOVER, DEL.

#### Notice of Establishment of Minimum Rates and Rate Ranges

Under authority of 5 U.S.C. 5303 and Executive Order 11721, the Civil Service Commission has established special minimum salary rates and rate ranges as follows:

GS-810 CIVIL ENGINEER

Geographic coverage: Dover Air Force Base, Delaware.
Effective date: First day of the pay period beginning on or after September 16, 1973.

PER ANNUM RATES

| Grade | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
|---|---|---|---|---|---|---|---|---|---|---|
| GS-5 | $10,007 | $10,264 | $10,521 | $10,778 | $11,035 | $11,292 | $11,549 | $11,806 | $12,063 | $12,320 |
| GS-7 | 11,105 | 11,422 | 11,739 | 12,056 | 12,373 | 12,690 | 13,007 | 13,324 | 13,641 | 13,958 |

All new employees in the specified occupational level will be hired at the new minimum rates.

As of the effective date, the base will process a pay adjustment to increase the pay of employees on the roles in the affected occupational levels. An employee who immediately prior to the effective date was receiving basic compensation at one of the statutory rates shall receive basic compensation at the corresponding numbered rate authorized by this notice on or after each date. The pay adjustment will not be considered an equivalent increase within the meaning of 5 U.S.C. 5335.

Under the provisions of section 3–2b, chapter 571, FPM, the base may pay the travel and transportation expenses to first post of duty under 5 U.S.C. 5723, of new appointees to positions cited.

(This special rate schedule for computer purposes is designated as Table No. 413.)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73-19079 Filed 9-6-73;8:45 am]

## COMMISSION ON CIVIL RIGHTS

### ARIZONA

#### Postponement of Hearing

Notice is hereby given that the public hearing of the U.S. Commission on Civil Rights which was scheduled to commence on September 17, 1973, at the Navajo Civic Center, Window Rock, Arizona, has been postponed. When a new date for the hearing is established an announcement will be made.

Dated at Washington, D.C., September 5, 1973.

STEPHEN HORN,
*Acting Chairman.*

[FR Doc.73-19139 Filed 9-6-73;8:45 am]

### NEW MEXICO STATE ADVISORY COMMITTEE

#### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the New Mexico State Advisory Committee will convene at 9:00 a.m. on September 8, 1973, at the Four Seasons Motor Inn, 2500 Carlisle Boulevard NE., Albuquerque, New Mexico 87110.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Southwestern Regional Office of the Commission, Room 209, New Moore Building, 106 Broadway, San Antonio, Texas 78205.

The purpose of this meeting shall be to discuss the role and functions of the State Advisory Committees, formulate plans for the reconstruction of the New Mexico State Advisory Committee, and design followup activity to the New Mexico Committee's Indian Project.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., September 4, 1973.

ISAIAH T. CRESWELL, JR.,
*Advisory Committee Management Officer.*

[FR Doc.73-19140 Filed 9-6-73;8:45 am]

## COUNCIL ON ENVIRONMENTAL QUALITY

### ATLANTIC OUTER CONTINENTAL SHELF AND GULF OF ALASKA

#### Oil and Gas Development; Environmental Hearings

On August 14, 1973, the Council on Environmental Quality announced a series of public hearings to be held on the Environmental Impact of Potential Oil and Gas Development on the Atlantic Outer Continental Shelf and in the Gulf of Alaska. Dates, hours, and locations for the hearings are as follows:

WASHINGTON, D.C.:
September 12—9 a.m. to 5 p.m.; 7 p.m. to 10 p.m.
September 13—9 a.m. to 5 p.m.
National Academy of Sciences Auditorium, South Side of the 2100 Block of C Street NW., Washington, D.C. 20418.

BOSTON, MASS.:
September 18—9 a.m. to 5 p.m.; 7 p.m. to 10 p.m.
September 19—9 a.m. to 5 p.m.
Department of Transportation, Transportation Systems Center Auditorium, Kendall Square, Cambridge.

ANCHORAGE, ALASKA:
September 26—9 a.m. to 5 p.m.; 7 p.m. to 10 p.m.
September 27—9 a.m. to 5 p.m.
Anchorage Westward Ho Hotel, Anchorage, Alaska.

MINEOLA, NEW YORK:
October 3—9 a.m. to 5 p.m.; 7 p.m. to 10 p.m.
October 4—9 a.m. to 5 p.m.
Nassau County Social Services Building Auditorium, County Seat Drive, Mineola, Long Island.

PHILADELPHIA, PA. AND OCEAN CITY, MD.:
October 11—9 a.m. to 5 p.m.; 7 p.m. to 11 p.m.
Drexel University Mandel Theater, Drexel University, 32nd and Chestnut Street, Philadelphia, Pa. 19104.
October 12—1 p.m. to 5 p.m.; 7 p.m. to 11 p.m.
October 13 (if necessary)—9 a.m.–Noon.
Ocean City Convention Hall, Ocean City, Md.

JACKSONVILLE, FLA.:
October 16 and 17.
Location to be announced.

For additional information, refer to 38 FR 21956.

W. G. SAVAGE,
*Administrative Officer.*

[FR Doc.73-18937 Filed 9-6-73;8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

### PRETREATMENT STANDARDS

#### Notice of Hearing

On July 19, 1973, the Administrator of the Environmental Protection Agency published proposed pretreatment standards under section 307(b)(1) of the Federal Water Pollution Control Act, Public Law 92–500 (38 FR 19236). The period for public comment closed on September 4, 1973. Section 307(b)(1) requires that there be an "opportunity for public hearing" prior to promulgation of the standards, and at least one commenter has requested that a public hearing be held on the proposed pretreatment standards. Accordingly, notice is hereby given that a hearing on the proposed pretreatment standards will be held on Wednesday, September 26, 1973, at 9:30 a.m. in Room 3908, Waterside Mall, 401 M Street SW., Washington, D.C.

The hearing is intended to provide an opportunity for interested persons to state their views or arguments or to provide information on the proposed pretreatment standards. It is necessary that this hearing be held on less than 30 days' notice, since the Agency is obligated under the terms of a decree entered in the case of *N.R.D.C.* v. *Fri*, D.D.C. Civil No. 849–73, to promulgate the standards on or before October 15, 1973, and there must be sufficient time between the hearing and the date of promulgation to give the Agency an opportunity for meaningful consideration of the record of the hearing.

Mr. Robert V. Zener is hereby designated the Presiding Officer for the hearing. He will have responsibility for maintaining order, excluding irrelevant or repetitious material, and scheduling presentations.





In order to assist in the scheduling of statements, persons wishing to make a statement at the hearing are requested to file a notice of such intention, together with an estimate of the length of the statement, not later than five days prior to the hearing, to Mr. Robert V. Zener, Acting Deputy General Counsel, Waterside Mall, Room 511 West Tower, 401 M Street SW., Washington, D.C. 20460, 202/755–0753.

Dated September 5, 1973.

ROBERT L. SANSOM,
*Assistant Administrator for Air and Water Programs.*

[FR Doc.73-19182 Filed 9-6-73;8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

[FCC 73–888]

### COLUMBIA BROADCASTING SYSTEM, INC. ET AL.

#### Memorandum Opinion and Order Granting Waiver of Prime Time Access Rule

In the matter of request by Columbia Broadcasting System, Inc. for continued waiver of the prime time access rule for "one-time" network news and public affairs programs.

1. The Commission here considers a letter request by Columbia Broadcasting System, Inc. (CBS), dated August 16, 1973, asking (inter alia) for continuation of the waiver of the "prime time access rule", § 73.658(k) of the Commission's rules, with respect to "one-time" network news and public affairs programs, those not part of a regular series. A waiver of the rule to this effect has been in effect almost since it went into operation October 1, 1971, the last extension being through August 31, 1973. See 32 FCC 2d 55 (FCC 71–1036, October 1971) 37 FCC 2d 570 (FCC 72–906, October 1972), and 40 FCC 2d 355 (FCC 73–359, March 1973). The present CBS request is for continuation of the waiver until the final resolution of this and other matters by a decision in Docket 19622, the overall proceeding concerning the prime time access rule. CBS refers to its earlier submissions (including comments in Docket 19622) as to the reasons which assertedly support the waiver, and also asserts that extension at this time would be in accord with the Commission's general policy of maintaining the status quo, with respect to the prime time rule, pending the final decision mentioned.

2. Upon consideration of this matter, we are of the view that extension of the waiver is warranted, essentially in the form urged by CBS. In reaching this conclusion, we are not unmindful of the arguments which have been advanced against this waiver in the past (chiefly by Westinghouse Broadcasting Co., Inc.). Also, in view of the length of time which is likely to elapse before any fundamental change in the rule will become effective (at least until September 1974), it is not necessarily appropriate to maintain the status quo in the administration of the rule, in all respects. Nonetheless, the presentation of "special" news and public affairs programs of national significance is a matter of importance, and we do not find, in the material which has been filed in the overall proceeding (Docket 19622) reason to abandon speedily a policy designed to promote the presentation of such material by the networks, via waiver of the rule. In this case, it appears that the public interest is better served by continuation of the waiver policy, pending the completion of our overall consideration.

3. In view of the foregoing, *It is ordered*, That a waiver of § 73.658(k)(1) of the Commission's rules, the prime time access rule, is granted to the American Broadcasting Companies, Inc. (ABC), Columbia Broadcasting System, Inc. (CBS) and National Broadcasting Company, Inc. (NBC) networks, and their owned and affiliated stations in the top 50 markets, to present, without counting toward the permissible three hours of prime time network material, "one-time-only" news and public affairs programs (those not part of a series) through a date 30 days after the release of a decision in Docket 19622 which deals with the subject of network news and public affairs programming.

Released: August 31, 1973.

Adopted: August 29, 1973.

[SEAL] FEDERAL COMMUNICATIONS COMMISSION,[1]
VINCENT J. MULLINS,
*Acting Secretary.*

[FR Doc.73-19024 Filed 9-6-73;8:45 am]

[FCC 73–887; Docket No. 19660 RM–690]

### INTERNATIONAL RECORD CARRIERS

#### Memorandum Opinion and Order Re Oral Argument En Banc

In the matter of International Record Carriers' scope of operations in the continental United States, including possible revisions to the formula prescribed under section 222 of the Communications Act.

1. The Commission has before it (a) Amended Complaint and Petition and Motion for Interim Relief filed May 17, 1973, by The Western Union Telegraph Company (WU), (b) Oppositions thereto filed June 29, 1973, by RCA Global Communications, Inc. (RCAGC), ITT World Communications Inc. (ITT WC), Western Union International, Inc. (WUI) and TRT Telecommunications Corporation, [38 FR 16660] and (c) Reply to Oppositions filed July 12, 1973, by WU.

2. WU's Amended Complaint and Petition and Motion for Interim Relief filed May 17, 1973, is an amendment to a Complaint and Petition filed July 23, 1970 requesting the Commission, pursuant to sections 222(e)(3) and 201(a) of the Communications Act, to issue an order increasing the division of charges for landline handling of outbound and inbound international message traffic from 6½¢ to 13¢ per word for full-rate messages with proportionate increases for other message classes.

3. The original Complaint and Petition noted that the landline handling charges for international telegrams were only about one-half of the charges existing in 1970 for the handling of interstate domestic telegrams. On the basis of the amended Complaint and Petition, it appears that due to an increase in charges for domestic telegrams, current charges for handling international telegrams are only at about one-third the level of domestic telegram handling charges.[1]

4. On December 13, 1972, the Commission adopted a Notice of Inquiry and proposed rulemaking instituting this Docket Proceeding and incorporated, for appropriate action, WU's original request for increase in landline charges for international messages together with a number of related issues concerning existing methods and practices of pickup and delivery of international traffic originating in or destined to the hinterland, and the overall relationship between WU and the international carriers.

5. In the likelihood that a determination of the appropriate landline charges in a proceeding involving other complex and related issues will be time-consuming, WU's amended pleading requests that the Commission grant it an interim increase in landline haul charges from 6½¢ to 11½¢ per word for full-rate messages and from 3¼¢ to 5¾¢ per word for letter telegrams with appropriate increases in other message classes.

WU PLEADING

6. In support of its requested interim increase WU maintains that it is faced with an immediate crisis in the form of severely depressed earnings from its Public Message Service (PMS) requiring immediate remedial relief. It asserts that in 1972 it incurred losses of over $15 million in providing total PMS, or a negative 8.9 percent return on investment, and that over two-thirds ($10.4 million) of this PMS deficiency has been incurred in the landline handling of international telegrams.[2] Continuation of these losses, asserts WU, would prejudice its long-term ability to provide vital public services. WU believes that landline haul charges for international messages should be set at a level equivalent to those of domestic messages. The latter charges, according to WU, while keeping interstate operations in the black, will not produce a fair return for the entire PMS, or regain an improving earning trend necessary to enable the company to restore its ability to raise new capital

[1] Commissioner Robert E. Lee dissenting; Commissioners Johnson and Reid absent; Commissioner H. Rex Lee dissenting and issuing a statement filed as part of original document.

[1] Increases in domestic telegram handling charges became effective August 13, 1973.

[2] According to WU, this is the greatest PMS deficiency in any recent year except 1971 when earnings were adversely affected by the largest strike in its history.



V38-173 SEP 7 73 XUM

and refinance existing debt at a reasonable cost. Further and major increases in domestic PMS charges at this time would, in WU's opinion, be imprudent and disrupt hoped for favorable reaction to service improvements from its modernization program.

7. In view of this, WU seeks an increase in revenues from the landline handling of international messages, which it characterizes as the largest contributor to the PMS earning deficiency.[3] It points out that there has been but one increase in such charges since 1958.[4] On the other hand, it states, rising unit costs required interstate PMS rates to be increased a number of times to 300 percent of the 1958 level. It believes the interim increases sought are no more than sufficient to meet a basic minimum revenue requirement for landline handling and are justified on the basis of the pleadings filed.

8. WU submitted the results of a cost study (which it states was made on a conservative estimate) showing that, on the basis of 1972 results, and assuming a pretax return of 18 percent, the revenue requirement in 1972 for the landline haul was $29.643 million, compared to actual landline haul revenues for that year of $14.260 million. It points out that its interim rate increase request would have resulted in $24.983 million and stresses that in reaching this figure as an interim goal it understated its cost for the service, and that by using a 9 percent target pretax return it also understated its return requirements.

9. Anticipating that the international record carriers (IRC's) would be unwilling to absorb the increased interim charges and, therefore, pass them on to the public, WU recommends that the existing maximum levels applicable to International Public Message Service charges of the bellwether carrier (RCAGC) be removed.[5] With such removal it suggests that the international carriers would be free, pursuant to section 203 and Part 61 of the Rules, to file increased charges for International Telegram Services, supported by relevant cost and market data. In the interim, to assure protection of the public, WU proposes that the Commission impose an accounting order with respect to any such increases requiring WU and the international carriers to account for any increased charges collected from the public and to effect a refund of such portion, if any, of the interim increase found, after hearing, to be excessive.

10. WU appended its amended Complaint and Petition with a Memorandum of Law directed to the Commission's authority to grant, pursuant to sections 4(i), 4(j), 201(a) and 222(e)(3) of the Communications Act, the requested interim relief. The company also submitted affidavits of two officers, setting forth facts in support of its pleading.[6]

OPPOSITION PLEADINGS

11. In view of the similarity of the oppositions of the international carriers (RCAGC, WUI, ITTWC and TRT), they are summarized without specific identification as follows:

(a) An interim increase, without hearing, is contrary to the hearing requirements of sections 201(a) and 222(e)(3)[7], which require, as indicated by the Commission in prior cases as well as rule, a determination on the record after opportunity for hearing; no exception is made for interim relief, and there are material issues of fact;

(b) the matter of landline divisions is at issue in Docket No. 19660, along with a number of other matters involving the relationship between WU and the record carriers, all of which the Commission has stated are interrelated; a grant of interim relief to WU would violate that procedure, and such request is tantamount to a tardy request for reconsideration of this procedure which is barred by statute;

(c) Western Union has argued, in oral argument in Docket No. 19660 on the question of whether prior section 222 authority is necessary to the filing by IRC's of free hinterland direct access tariffs; that, in view of the potential $6 million loss to it from such practices, there should be a hearing and an investigation on such matter in the context of section 222 prior to the filing of such tariffs; similarly, there should be a hearing on the requested interim landline increase in view of the potential $9.5 million impact on the IRC's; [8]

(d) an accounting order against WU will not necessarily safeguard the IRC's in view of past Commission action on domestic PMS and telex increases; moreover, the use of millions of dollars would be lost during the interim period; nor would a pass-through to the public in the form of increased international message rates necessarily protect the IRC's since such increase could diminish volume to an extent affecting total international PMS revenues;

(e) to grant the requested interim increase would cause possible irreparable injury to the international carriers unless the Commission also grants their requests for new operating centers and direct access proposals contained in Docket No. 19660, which could provide an alternative to increased international charges;

(f) WU's claims of severe financial crisis are dubious; WU's Annual Report for 1972 shows overall net earnings of $40.8 million, the highest since 1968, and it has recently floated a $60.5 million bond issue;

(g) the validity of WU's cost allocations which base revenue requirements for landline haul upon an allocation of costs between the domestic service and domestic handling of international messages is questionable because it omits to take into account declining volume of domestic traffic and generally stable volume of international traffic and in effect transfers a large revenue requirement burden from domestic users to international users; accordingly, a full hearing is required to measure the impact of this burden before any increase is ordered; and

(h) an accounting order against the international carriers (assuming a pass-through to the public) is impractical; the administrative details and cost of maintaining a file on all customers who send messages during the interim period, locating them, and determining the amount of the refund, would be staggering.

DISCUSSION

12. We have carefully reviewed the points and authorities advanced by WU to support the proposition that the Commission, notwithstanding the hearing requirements of section 222(e)(3), is empowered to grant interim relief, pending completion of such hearing. We have also reviewed the international carriers' oppositions with equal care. We believe that the question is sufficiently important to warrant a full briefing and oral argument on the conditions, if any, under which the Commission may grant interim relief to WU.

Accordingly, *It is ordered*, That oral argument is hereby scheduled to be heard before the Commission *en banc* at its offices in Washington, D.C., on September 25, 1973, at 9:00 A.M. on the following question:

Under what circumstances, if any, may the Commission grant the request of Western Union, in whole or in part, for an interim increase in landline charges for outbound and inbound international messages?

*It is further ordered*, That the parties to the oral argument, and the time allotted to each, shall be as follows:

| | *Minutes* |
|---|---|
| Western Union Telegraph Company | 60 |
| ITT World Communications Inc | 15 |
| Western Union International, Inc | 15 |
| RCA Global Communications, Inc | 15 |
| TRT Telecommunications Corporation | 15 |

*Provided, however*, That should the parties agree among themselves to a different allocation of time, or should the international carriers agree among themselves on a different allocation of the time allotted to them as a group, the Commission should be so notified one week in advance of the date set herein for oral argument; and

*Provided, further*, That The Western Union Telegraph Company may reserve for rebuttal a portion of the time allocated to it.

*It is further ordered*, That the above-named parties shall, on or before, September 17, 1973, file an original and 19 copies of a brief on the matters in question.

Adopted: August 29, 1973.

Released: August 31, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[9]

[SEAL] VINCENT J. MULLINS, *Acting Secretary.*

[FR Doc.73-19023 Filed 9-6-73;8:45 am]

[3] WU states that it plans to file a further amendment updating its original petition.

[4] In 1966 a 1¢ per full-rate word, or an 18 percent increase was granted. Western Union Telegraph Co. RM-642, 2 FCC 2d 892, 3 FCC 2d 314.

[5] International Telegraph Message case, 25 FCC 535, 640 (1958) prescribed a fair rate of return in the range of 7.5 to 8.5 percent for RCACG.

[6] Copies of workpapers underlying the affidavits were furnished to the Commission and the international record carriers to permit an expedited review.

[7] Memoranda of Law and/or Points and Authorities were filed by WUI, RCAGC and ITTWC in support of this proposition.

[8] Oral Argument, February 13, 1973 (Docket No. 19960).





[Docket Nos. 19568 and 19569 and File Nos. BPH-7605 and 7658; FCC R-307]

## LEXINGTON COUNTY BROADCASTERS, INC. AND WILLIAM D. HUNT

### Memorandum Opinion and Order Enlarging Issues

In re applications of Lexington County Broadcasters, Inc., Cayce, South Carolina and William D. Hunt, Cayce, South Carolina, for construction permits.

1. This proceeding, involving the mutually exclusive applications of Lexington County Broadcasters, Inc. (Lexington County) and William D. Hunt (Hunt) for a new FM broadcast station in Cayce, South Carolina, was designated for hearing on a standard comparative issue by an Order issued by the Chief of the Broadcast Bureau, acting under delegated authority of the Commission, 37 FR 16820, published August 19, 1972. On September 5, 1972, Lexington County filed a petition to enlarge issues, requesting several issues against Hunt, including a Rule 1.65 issue on the ground that Hunt allegedly failed to fully report the broadcast interests of his wife, Agnes C. Hunt. By Memorandum Opinion and Order, released April 27, 1973,[1] the Review Board denied Lexington County's petition, stating, with respect to the Rule 1.65 issue, that, "[w]hile Hunt did not report [certain] changes [in his wife's broadcast interests], the omissions are not serious, appear to be the result of inadvertence, and appear to have no decisional significance," 40 FCC 2d at 696, 27 RR 2d at 420. Shortly thereafter, on May 14, 1973, Lexington County filed another petition to enlarge issues (styled a "petition to broaden issues") which is now before the Board [38 FR 18585].[2] In its petition, Lexington County requests the Board to add the following six issues against Hunt:

(1) To determine the extent to which William D. Hunt concealed material facts from the Commission with respect to his pending application and whether William D. Hunt has kept his application current and complete as required by Section 1.65 of the Commission's Rules.

(2) To determine whether William D. Hunt's proposed bookkeeper, Agnes C. Hunt, engaged in fraudulent billing practices while Comptroller-Treasurer at Station WTMP, Tampa, Florida.

(3) To determine the facts and circumstances surrounding the Station WTMP promotion, "Soul Night", the use of the proceeds therefrom, and the participation of Agnes C. Hunt, therein.

(4) To determine whether any person other than William D. Hunt has an interest in the latter's application and, if so, the nature and extent of such interest.

(5) To determine whether grant of the application of William D. Hunt would contravene the Commission's policies against "cross-interests".

(6) To determine whether, in light of the above issues, William D. Hunt is qualified to become a Commission licensee.

2. Lexington County's petition is predicated upon Agnes C. Hunt's relationship with: (a) her husband's application; (b) Speidel Broadcasters, Inc.;[3] and (c) Station WXRY(FM), Columbia, South Carolina.[4] Petitioner contends that events have occurred since the filing of its September 5 petition (see paragraph 1, *supra*) which demonstrate that the Board was misled with respect to Mrs. Hunt's actual relationship to her husband's application and the reasons that he concealed pertinent information concerning her other broadcast interests; and that most of these facts were not revealed until release of the Commission's Memorandum Opinion and Order in Docket 19674 (*WOIC, Inc.*, 39 FCC 2d 355, 26 RR 2d 790) on February 1, 1973, designating the renewal application of Station WOIC for hearing. According to Lexington County, the Commission found that serious questions had been raised concerning improper conduct by WOIC's licensee in the operation of Station WTMP, Tampa Florida. The Commission therefore designated issues to determine whether the licensee engaged in fraudulent billing practices at WTMP and whether it diverted to its own use funds which WTMP had collected in connection with a "Soul Night" contest it promoted.[5] Lexington County contends that Hunt concealed the fact that his wife was a party to his application because of her involvement in the purported misconduct by WOIC's licensee.[6] In addition to being a party to the application, petitioner contends, Mrs. Hunt is also a principal of her husband's proposed station, since she originated the proposal, has been active in implementing it, and is willing to invest in it funds held jointly with her husband, co-sign notes for it, work at the station at a management level without salary, and participate in the formulation of station policy.[7] Lexington County also maintains that the Commission's cross-interest policy would be violated if Hunt's application is granted because Mrs. Hunt would then be chief financial officer of her husband's proposed station, the bookkeeper at WOIC, and, in addition, would have a 50 percent interest in a bookkeeping service which maintains the books of Station WXRY(FM) in Columbia (see note 4, *supra*).[8]

3. The Broadcast Bureau and Hunt oppose the petition on procedural and substantive grounds. They maintain that Lexington County has not sufficiently supported its allegations that Mrs. Hunt was involved in the purported misconduct at WTMP,[9] that she has any undisclosed interests in her husband's application, or that her bookkeeping service for more than one station in the area gives rise to a cross-interest issue. In addition, the Bureau contends that the issues relating to the acts of misconduct are unwarranted since the misconduct was allegedly committed at another station by a proposed employee who is not a stockholder, officer or director of the applicant. Hunt maintains, furthermore, that the assistance his wife has willingly offered him in pursuance of his application does not raise any hidden interest question, but only demonstrates her fealty to him.

4. In reply, Lexington County contends that Hunt has attempted to quash any inquiry into his wife's involvement in the application, or into her interests in WOIC's renewal application, in order to isolate his application from the taint stemming from the fraudulent practices which have been raised in WOIC's renewal application, and in which Mrs. Hunt apparently participated, since these disclosures would have affected his

[1] Commissioners Johnson and Reid absent.

[2] 40 FCC 2d 694, 27 RR 2d 416.

[3] Also before the Board for consideration are: (a) opposition, filed May 29, 1973, by the Broadcast Bureau; (b) opposition, filed May 30, 1973, by Hunt; and (c) reply, filed June 14, 1973, by Lexington County.

[4] In mid-1968, when Speidel Broadcasters, Inc., the licensee of Station WTMP(AM), Tampa, Florida, was allegedly engaged in fraudulent billing practices and misuse of monies collected in a contest that station sponsored, Agnes C. Hunt was an officer and director of several standard broadcast stations, including WTMP and WOIC(AM), Columbia, South Carolina, all of whose corporate licenses were owned or controlled by Speidel Broadcasters. Thereafter, control of these stations' licensee corporations was transferred, with Commission approval, to Joe Speidel III, as an individual. Mrs. Hunt terminated her positions with WTMP when its license was assigned, with Commission approval, in 1972, to a new corporate owner. At present, she holds no other positions with the Speidel stations except for WOIC.

[5] Agnes C. Hunt is a 50 percent partner in Broadcasting Accounting Service, which performs accounting services for WXRY(FM).

[6] The issues read as follows:

(1) To determine whether standard broadcast Station WTMP, while under the ownership and control of Joe Speidel III, engaged in fraudulent billing practices;

(2) To determine with respect to the aforenoted period, the facts and circumstances surrounding the Station WTMP promotion, "Soul Night", and the use of the proceeds therefrom.

[7] Lexington County maintains that Agnes C. Hunt was directly involved in the business practices of WTMP and that her involvement is evidenced by copies of correspondence between her and a client of WTMP who was allegedly fraudulently billed by the station. Copies of the correspondence are attached to the petition.

[8] Lexington County contends that these facts are borne out by Hunt's own application and by depositions he and his wife gave in September 1972.

[9] The Board notes that the city of Columbia is located immediately east of Cayce and is within Hunt's proposed service area.

[9] Hunt also opposes addition of the misconduct issue on the basis that investigating the facts surrounding the alleged misconduct in this proceeding would interfere with the conduct of the collateral proceeding in Docket 19674 involving WOIC's renewal application.



V38-173
SEP 7 73
XUM

application. Petitioner also contends that Mrs. Hunt was the impetus behind the application and that her role in "fomenting, formulating and financially undergrading" it was important and of the type normally associated with control and ownership. Finally, petitioner maintains that Mrs. Hunt's interlocking relationship as bookkeeper at her husband's station, as an officer, director, and bookkeeper of WOIC, and as an accountant of WXRY(FM), violates the Commission's cross-interest doctrine since Mrs. Hunt will have access to confidential information which could potentially impair competition among the three stations.

5. The Review Board is of the opinion that Lexington County filed its petition inexcusably late and that no good cause for the untimeliness has been shown. See *RKO General, Inc. (WNAC–TV)*, ____ FCC 2d ____, 27 RR 2d 1537 (1973); *WIOO, Inc.*, 40 FCC 2d 217, 26 RR 2d 1611 (1973). The allegations are based, for the most part, on facts which have been a matter of Commission record for nearly eight months before the petition was filed. No new or additional facts supporting these issues were revealed by the February 1, 1973, Commission Memorandum Opinion and Order, *supra*, in Docket 19674, and, even assuming that that Order provided information upon which this petition is based, there is no justification for the delay of over three months after it was released before Lexington County filed its petition. *Cf. Chapman Radio and Television Co.*, 38 FCC 2d 508, 25 RR 2d 1187 (1972). Furthermore, there is no merit to most of petitioner's allegations. We do believe, however, that the petition raises a serious question concerning the possible effect Mrs. Hunt's relationship with three stations in the Columbia-Cayce area may have on competition among those stations. See *The Edgefield-Saluda Radio Co.* (*WJES*), 5 FCC 2d 148, 8 RR 2d 611 (1968). We will consider the issues *seriatim*.

6. On the merits, petitioner's request for the addition of issues relating to Mrs. Hunt's involvement with WOIC and WTMP is deficient. The Commission's February 1, 1973, Memorandum Opinion and Order, *supra*, in Docket 19674, does not "make clear" that Mrs. Hunt participated in the fraudulent practices at issue in the WOIC renewal proceeding, as petitioner contends,[10] and no showing has been made in the instant petition that Mrs. Hunt was involved in either the conduct of the "Soul Night" contest or in the alleged fraudulent billing practices at WTMP. Petitioner's allegations concerning Mrs. Hunt's involvement in the alleged misconduct are based on speculation and surmise, and are therefore procedurally infirm. See § 1.229(c) of the Commission's rules. In addition, Mrs. Hunt's role in connection with the Speidel radio stations is explained in affidavits of Mrs. Hunt and Joe Speidel, III, which are attached to Hunt's opposition. According to the affidavits, Mrs. Hunt was named director and, in some cases, an officer of Speidel Broadcasters, Inc. stations, but she was not involved in the daily operations of the stations or in the maintenance of billing records; and, furthermore, she was unable to furnish billing information when it was sought (see note 10, *supra*) only because records had been destroyed in a fire. In view of the foregoing, issues against Hunt in this proceeding are clearly unwarranted. *Cf. Michael D. Haas*, 38 FCC 2d 451, 22 RR 2d 1114 (1972). Likewise, Lexington County's request for a Rule 1.65 issue is without merit. Mrs. Hunt's connections with WOIC have been previously reported.[11] While Hunt failed to list the pendency of WOIC's *renewal* application until an amendment to his application was filed on February 26, 1973, the omission is not serious and does not appear to be of any decisional significance. See *RKO General, Inc. (WNAC–TV), supra; Auburn Publishing Company*, 34 FCC 2d 134, 24 RR 2d 29 (1972). *Cf. Gross Broadcasting Co. (KJOG–TV)*, FCC 2d, 27 RR 2d 1543 (1973). Petitioner's request for a real party-in-interest issue is also premised on conjecture and surmise. Specifically, petitioner fails to show that Mrs. Hunt will exercise control over the proposed station[12] merely on the bases of her relationship with her husband, the general nature of the assistance she has given him in preparing the application, her willingness to release her interest in jointly held property in order that her husband may use it in connection with the proposed station, her promise to work at the proposed station without salary, or her promise to co-sign notes. *Cf. Central Westmoreland Broadcasting Co.*, 40 FCC 2d 21, 26 RR 2d 1638 (1973).

7. The Board is of the view, however, that Mrs. Hunt's roles: (a) as bookkeeper for WXRY(FM); (b) as comptroller-treasurer for WOIC; and (c) as bookkeeper for her husband's proposed FM station, raise serious questions as to whether a grant of Hunt's application may violate the Commission's long-standing cross-interest policy. Simply stated, her connections with all three of these stations could potentially impair competition among them and that would certainly not be in the public interest. See *Shenandoah Life Insurance Co.*, 19 RR 1 (1959); *Martin Lake Broadcasting Co.*, 21 FCC 2d 180, 18 RR 2d 245 (1970). See also *K&M Broadcasters, Inc.*, 19 FCC 2d 947, 17 RR 2d 543 (1969). The cross-interest policy emanating from § 73.240 of the Commission's rules technically applies only where an applicant has a "meaningful relationship" with a station in the same service and when there is a 1 mv/m overlap between these stations. There is no question that there would be 1 mv/m overlap between Hunt's proposed station and WXRY;[13] and although WOIC is a standard broadcast station, and Hunt is applying for an FM station, the public interest considerations underlying the Commission's cross-interest policy appear to be equally applicable. Thus, the potential for the impairment of arms length competition among WOIC, WXRY and Hunt's proposed station presents a substantial question and must be explored in hearing. As Lexington County states in its reply, "with respect to each station, Mrs. Hunt will have access to confidential information including . . . financial records, costs, salaries, customer lists, and rate deals. The potential for abuse . . . need not be belabored." Therefore, an appropriate issue will be added. *Cf. Town Radio, Inc.*, 26 FCC 2d 44 (1970); *Bangor Broadcasting Corp.*, 33 FCC 2d 677, 23 RR 2d 711 (1972).

8. *Accordingly, it is ordered*, That the petition to broaden issues, filed May 14, 1973, by Lexington County Broadcasters, Inc., is granted to the extent indicated below, and is denied in all other respects; and

9. *It is further ordered*, That the issues in this proceeding are enlarged to include the following:

To determine whether Agnes C. Hunt's interests as bookkeeper in WXRY(FM) and in her husband's proposed station, as well as in WOIC as its comptroller-treasurer, provide a potential for the impairment of open, arms length competition among broadcast stations serving substantially the same area, contrary to the principles underlying the Commission's cross-interest policy, and, if so, the effect thereof on the basic and/or comparative qualifications of William D. Hunt to be a Commission licensee.

10. It Is Further Ordered, That the burdens of proceeding with the introduction of evidence and proof under the issue added herein Shall Be on William D. Hunt.

Adopted: August 27, 1973.

Released: August 28, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[14]

[SEAL] VINCENT J. MULLINS,
*Assistant Secretary.*

[FR Doc.73-19025 Filed 9-6-73;8:45 am]

[10] In *WOIC, Inc., supra*, the Commission determined that serious questions had been raised concerning alleged wrongdoings at WTMP, but, regarding Mrs. Hunt's involvement, stated only that, as comptroller of the Speidel Corp., she had responded to an inquiry from James Brown Productions regarding an accounting of the money it spent at the station in 1968 for advertising by replying that "we are unable to supply the information you request from the station's records."

[11] See our April 27, 1973, Memorandum Opinion and Order, *supra*.

[12] "[The test for determining whether a third person is a real party in interest is whether that person has an ownership interest, or is or will be in a position to actually or potentially control the operation of the station." *Sumiton Broadcasting Co., Inc.*, 15 FCC 2d 400, 405, 14 RR 2d 1000, 1007 (1968).

[13] Although there was no showing by Lexington County that a 1 mv/m overlap with WXRY(FM) would result if Hunt's application were granted, the Board is taking official notice that such an overlap would occur and would be substantial. Hunt's application indicates that his proposed site is within the vicinity of the transmitter-antenna site of WXRY(FM). Furthermore, Cayce and Columbia are separated only by the Congaree River and the license files of WXRY and WOIC show that their primary contours now cover Cayce, and Hunt's application shows that his 1 mv/m contour would encompass Columbia. In view of these facts, Lexington County's failure to show 1 mv/m overlap is not fatal. *Cf. Golden West Broadcasters*, 16 FCC 2d 918, 15 RR 2d 938 (1969).

[14] Board member Nelson did not participate. Board member Pincock concurred in result.





## OVERSEAS COMMON CARRIER SERVICES

### Trial of New Procedures for Processing Section 214 Applications

AUGUST 31, 1973.

Effective September 10, 1973, the Commission is informally instituting, on a trial basis, new procedures for processing formal and informal applications relating to overseas common carrier services filed pursuant to section 214 of the Communications Act of 1934. The new procedures will be in effect until March 31, 1974.

Under the new procedures, an overseas carrier applying for section 214 authority will serve other interested common carriers at the time of filing of the application. (Service to other parties now performd by the Commission will continue.) Certificates of service will accompany the applications when filed.

Public notice will be given, as is presently done, of applications acceptable for filing, after which all interested parties will have 14 days rather than the present 20 days in which to file comments. In the case of applications requesting section 214 authority for projects involving unusual questions or major construction, *e.g.*, cable/satellite use questions, environmental impact questions, etc., the Commission may specify a longer pleading period.

The Commission hopes to reduce the delay in processing applications by use of the new experimental procedures while still affording enough time for comments to be filed. Extension of time to file comments will be granted for good cause shown.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

[FR Doc.73-19026 Filed 9-6-73;8:45 am]

## FEDERAL POWER COMMISSION

[Docket No. G-6083, *et al.*]

### MESA PETROLEUM CO.

### Notice of Petition To Amend

AUGUST 27, 1973

Take notice that on August 6, 1973, Mesa Petroleum Co. (Petitioner), P.O. Box 2009, Amarillo, Texas 79105, filed in Docket No. G-6083, *et al.*, a petition to amend the orders issuing certificates of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act to Pubco Petroleum Corporation (Pubco) by substituting Pubco as certificate holder, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner states that it has acquired the producing properties of Pubco and proposes to continue without change sales of natural gas in interstate commerce authorized to be made by Pubco.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 21, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
*Secretary.*

| Docket No. and date filed | Applicant | Purchaser and location | Price per Mcf | Pressure base |
|---|---|---|---|---|
| G-6083 | Mesa Petroleum Co. (successor to Pubco Petroleum Corp.). | El Paso Natural Gas Co., Blanco Mesa Verde Field, San Juan County, N. Mex. | [1] [2] 25.593 | 15.025 |
| G-8083 | do | Southern Union Gathering Co., Blanco Mesa Verde Field, San Juan County, N. Mex. | 15.064 | 15.025 |
| G-8083 | do | El Paso Natural Gas Co., Blanco Mesa Verde Field, San Juan County, N. Mex. | [1] [2] 25.454 | 15.025 |
| G-8083 | do | do | [1] [2] 25.784 | 15.025 |
| G-9140 | do | do | [1] [2] 25.593 | 15.025 |
| G-9685 | do | El Paso Natural Gas Co., Blanco Pictured Cliffs, San Juan and Rio Arriba Counties, N. Mex. | [1] [2] 25.536 | 15.025 |
| G-10289 | do | El Paso Natural Gas Co., Ignacio Blanco Field, La Plata County, Colo. | [1] [2] 22.019 | 15.025 |
| G-10602 | do | El Paso Natural Gas Co., Blanco Mesa Verde Field, Rio Arriba County, N. Mex. | [1] [6] [2] 26.191<br>[1] [6] 33.243 | 15.025<br>15.025 |
| G-11081 | do | El Paso Natural Gas Co., Blanco Mesa Verde Field, San Juan County, N. Mex. | [1] [2] 25.593 | 15.025 |
| G-13101 | do | Southern Union Gathering Co., Blanco Mesa Verde Field, San Juan County, N Mex. | 15.064 | 15.025 |
| G-13881 | do | do | 15.064 | 15.025 |
| G-14220 | do | El Paso Natural Gas Co., Blanco Pictured Cliffs, San Juan and Rio Arriba Counties, N. Mex. | [1] [2] 25.536 | 15.025 |
| G-19795 | do | El Paso Natural Gas Co., Aztec Pictured Cliffs Field, San Juan County, N. Mex. | [1] [4] 25.08 | 15.025 |
| G-20138 | do | El Paso Natural Gas Co., Blanco Pictured Cliffs, San Juan and Rio Arriba Counties, N. Mex. | [1] [4] 25.536 | 15.025 |
| G-20142 | do | Southern Union Gathering Co., Blanco Mesa Verde Field, San Juan County, N. Mex. | 15.064 | 15.025 |
| C160-175 | do | El Paso Natural Gas Co., Basin Dakota Field, San Juan and Rio Arriba Counties, N. Mex. | [1] [7] 24.179 | 15.025 |
| C161-502 | do | Kansas-Nebraska Natural Gas Co., Inc., Shield Field, Logan County, Colo. | [8] 10.0 | 16.4 |
| C161-987 | do | El Paso Natural Gas Co., Blanco Pictured Cliffs, San Juan and Rio Arriba Counties, N. Mex. | [1] [4] 25.536 | 15.025 |
| C164-903 | do | Colorado Interstate Gas Co., Patrick Draw Area (Desert Springs), Sweetwater County, Wyo. | [9] 16.624 | 14.65 |
| C165-1280 | do | El Paso Natural Gas Co., Aztec Pictured Cliffs Field, San Juan County, N. Mex. | [1] [4] 25.08 | 15.025 |
| C167-640 | do | Mountain Fuel Supply Co., West Side Canal Area, Moffat County, Colo. | [8] 16.0 | 15.025 |
| C168-1098 | do | Southern Natural Gas Co., Bayou Gentilly Field, Plaquemines Parish, La. | [8] 23.25 | 15.025 |
| C172-127 | do | Transwestern Pipeline Co., Haystack Field, Chaves County, N. Mex. | [1] 29.31 | 14.65 |

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

[1] Includes upward B.t.u. adjustment.
[2] Subject to refund in Docket No. R172-242.
[3] Subject to refund in Docket No. R172-58.
[4] Subject to refund in Docket No. R172-184.
[5] Rate for wells completed prior to June 1, 1970.
[6] Rate for wells completed after June 1, 1970.
[7] Subject to refund in Docket No. R172-243.
[8] Subject to downward B.t.u. adjustment.
[9] Amendment to a pending application.

[FR Doc.73-18771 Filed 9-6-73;8:45 am]



V 38-173 SEP 7 73 XUM

[Docket No. G-4579, et al.]

## CITIES SERVICE OIL CO. (OPERATOR), ET AL.

### Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

AUGUST 28, 1973.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 21, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

| Docket No. and date filed | Applicant | Purchaser and location | Price per Mcf | Pressure base |
|---|---|---|---|---|
| G-4579 D 8-14-73 | Cities Service Oil Co. (Operator) et al., P.O. Box 300, Tulsa, Okla. 74102. | Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Morrow formation, Morton County, Kans. | (1) | -------- |
| G-11803 D 8-13-73 | Mobil Oil Corp., Three Greenway Plaza East, Suite 800, Houston, Tex. 77046. | Skelly Oil Co., Eunice Area, Lea County, N. Mex. | (2) | -------- |
| G-12125 C 8-17-73 | Texaco, Inc., P.O. Box 130, Bellaire, Tex. 77401. | Texas Eastern Transmission Corp., Chapman Ranch Field, Nueces County, Tex. | [3] 15.0 | 14.65 |
| C161-1123 D 8-14-73 | Cities Service Oil Co. | Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Morrow formation, Morton County, Kans. | (1) | -------- |
| C161-1176 C 8-13-73 | Exxon Corp., P.O. Box 2180, Houston, Tex. 77001. | Tennessee Gas Pipeline Co., a division of Tenneco Inc., Bully Camp Field, Lafourche Parish, La. | [4] 29.35 | 15.025 |
| C162-825 D 8-8-73 | Mobil Oil Corp. | El Paso Natural Gas Co., Rojo Caballos Field, Pecos County, Tex. | (5) | -------- |
| C162-1077 D 8-11-73 | Cities Service Oil Co. | Colorado Interstate Gas Co., a division of Colorado Interstate Corp., Morrow formation, Morton County, Kans. | (1) | -------- |
| C173-705 (C163-209) F 8-2-73 [6] | BLMP Oil Co. (successor to Exxon Co.-USA), 501 First National Bldg., Oklahoma City, Okla. 73102. | Arkansas Louisiana Gas Co., South Pine Hollow Field, Pittsburg County, Okla. | 13.21 | 14.65 |
| C173-928 (G-4579) F 8-14-73 [7] | Dallas McCasland (successor to Cities Service Oil Co.), P.O. Box 763, Hobbs, N. Mex. 88240. | El Paso Natural Gas Co., Jalmat Pool, Lea County, N. Mex. | [8] 17.6397 | 14.65 |
| C174-72 (G-16007) (G-12750) F 7-31-73 | Green Pipe & Supply Co. (successor to Stag Oil Co. and Oklahoma Natural Gas), P.O. Box 1383, Tulsa, Okla. | Cities Service Gas Co., Wakita Trend Field, Grant County, Okla. | 15.0 | 14.65 |
| C174-73 A 8-2-73 | The California Co., a division of Chevron Oil Co., 1111 Tulane Ave., New Orleans, La. 70112. | Natural Gas Pipeline Co. of America, Block 181 Field-Extension, West Cameron Area, offshore La. | [9] 45.0 | 15.025 |
| C171-74 (G-2570) B 8-6-73 | Phil O'Neal P.O. Box 20567, Oklahoma City, Okla. 73124. | Signal Oil & Gas Co., Morris Lease, Carter County, Okla. | Uneconomic | -------- |
| C171-76 (G-2712) B 8-2-73 | Cities Service Oil Co., P.O. Box 300, Tulsa, Okla. 74102. | Tennessee Gas Pipeline Co., a division of Tenneco Inc., Mariposa Field, Brooks County, Tex. | [10] | -------- |
| C171-77 (G-12967) B 8-2-73 | Austral Oil Co., Inc., 2700 Exxon Bldg., Houston, Tex. 77002. | United Gas Pipe Line Co., Lake Hatch Field, Terrebonne Parish, La. | Unproductive | -------- |
| C171-81 A 8-6-73 | The California Co., a division of Chevron Oil Co. | Natural Gas Pipeline Co. of America, Block 266 Field, East Cameron Area, offshore Louisiana. | [9] 45.0 | 15.205 |
| C171-83 (C162-825) F 8-3-73 | The Superior Oil Co. (successor to Mobil Oil Corp.), P.O. Box 1521 Houston, Tex. 77001. | El Paso Natural Gas Co., Rojo Caballos Field, Pecos County, Tex. | [4] 31.0 | 14.65 |
| C174-84 A 8-6-73 | Pennzoil Producing Co., 900 Southwest Tower, Houston, Tex. 77002. | Arkansas Louisiana Gas Co., Mount Olive Field, Union Parish, La. | 25.75 | 15.025 |
| C171-85 (G-3166) F 8-6-73 | Houston Oil & Minerals Corp. (successor to Exxon Corp., U.S.A.), 242 The Main Bldg., 1212 Main St., Houston, Tex. 77002. | United Gas Pipe Line Co., Roanoke Field, Jefferson Davis Parish, La. | [11] 26.0 | 15.025 |
| C171-92 (G-3465) B 8-2-73 | Phillips Petroleum Co., Bartlesville, Okla. 74003. | Diamond Shamrock Corp., Jack Johnson Lease, Hutchinson County, Tex. | Depleted | -------- |
| C174-93 (G-2844) (G-14350) (G-14889) (G-8733) (G-14888) B 8-2-73 | Atlantic Richfield Co., P.O. Box 2819, Dallas, Tex. 75221. | Warren Petroleum Co., Blinebry Field, Lea County, N. Mex. | [12] | -------- |
| C174-97 (C169-980) B 8-13-73 | Beacon Resources Corp. (Operator) et al., 312 Union Center Bldg., Wichita, Kans. 67202. | Cities Service Gas Co., Wildcat Field, Barber County, Kans. | Uneconomic | -------- |
| C174-103 (C170-109) B 8-10-73 | Phillips Petroleum Co. | Panhandle Eastern Pipe Line Co., Berryman No. 1 Well, Ellis County, Okla. | Unproductive | -------- |
| C174-104 (C166-1279) B 8-7-73 | Edwin L. Cox (Operator) et al., 3800 First National Bank Bldg., Dallas, Tex. 75202. | Valley Gas Transmission, Inc., Seifta Field, Duval County, Tex. | Uneconomic | -------- |

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.





| Docket No. and date filed | Applicant | Purchaser and location | Price per Mcf | Pressure base |
|---|---|---|---|---|
| C174-106 (C169-534) F 8-8-73 | W. W. F. Oil Corp. (Operator) et al. (successor to Amerada Hess Corp.), P.O. Box 1746, Shreveport, La. 71166. | Tennessee Gas Pipeline Co., a division of Tenneco Inc., Southwest Belle Isle Field, St. Mary, Terrebonne and/or Iberia Parishes, La. | [4] 26.75 | 15.025 |
| C174-106 (C162-581) F 8-9-73 | B. J. Knott et al (successor to Rimco Royalty Co.), 509 Praetorian Bldg., Dallas, Tex. 75201. | El Paso Natural Gas Co., Blanco Field, San Juan County, N. Mex. | [13] [14] 21.33 | 15.025 |

[1] Acreage assigned to gas purchaser.
[2] The Oil Conservation Commission of the State of New Mexico has reclassified two oil wells as gas wells. Applicant states that such gas wells are automatically covered by its contract with Northern Natural Gas Co.
[3] Applicant is willing to accept a certificate at the applicable area rate, subject to downward B.t.u. adjustment.
[4] Subject to downward B.t.u. adjustment.
[5] Acreage assigned to The Superior Oil Co. and Gulf Oil Corp.
[6] Being renoticed to reflect a change in price from 18 cents per Mcf to 13.21 cents per Mcf. Originally noticed on May 10, 1973, in Docket No. G-4616 et al.
[7] Being renoticed, because by letter filed Aug. 14, 1973, Applicant shows the correct price to be 17.6397 cents per Mcf. Originally noticed on July 16, 1973, in Docket No. C160-475 et al.
[8] Includes 0.1397 cents per Mcf tax reimbursement.
[9] Applicant is willing to accept a certificate at an initial rate of 26 cents per Mcf, subject to B.t.u. adjustment; however, the contract price is 45 cents per Mcf.
[10] Well plugged and abandoned and lease terminated.
[11] Applicant is willing to accept a certificate at an initial rate of 22.375 cents per Mcf, subject to upward B.t.u. adjustment; however, the contract price is 26 cents per Mcf.
[12] The Oil Conservation Commission of the State of New Mexico has reclassified oil wells as gas wells.
[13] Subject to upward and downward B.t.u. adjustment.
[14] Rate in effect subject to refund in Docket No. R173-212.

[FR Doc.73-18905 Filed 9-6-73;8:45 am]

## NATIONAL POWER SURVEY—TECHNICAL ADVISORY COMMITTEE ON FUELS

### Notice of Meeting and Agenda

Agenda for a meeting of the Task Force—Administrative of the Technical Advisory Committee on Fuels, to be held at the Federal Power Commission Offices, 825 North Capitol St. NE., Washington, D.C. 20426, September 13 and 14, 1973, 9:30 A.M., E.d.s.t., Room 6200.

1. Meeting called to order.
2. Objectives and purposes of meeting.
A. Approval of minutes of meeting August 7, 1973.
B. Review comments of task force reports.
C. Continue the drafting of TAC on Fuels report.
D. Other business.
E. Date for next Task Force—Administrative meeting.
3. Adjournment.

NOTE.—This will be a meeting of the Task Force—Administrative for the purpose of preparing draft report of TAC on Fuels. It is anticipated the meeting will require two days. Committee members who desire to contribute to the preparation of the report are invited to attend.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or if oral, at the time and in the manner permitted by the committee.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19058 Filed 9-6-73;8:45 am]

## NATIONAL POWER SURVEY—TECHNICAL ADVISORY COMMITTEE ON FUELS

### Notice of Meeting and Agenda

Agenda for a meeting of the Task Force—Administrative of the Technical Advisory Committee on Fuels to be held at the Federal Power Commission Offices, 825 North Capitol St. NE., Washington, D.C. 20426, September 13 and 14, 1973, 9:30 A.M., E.d.s.t., Room 6200.

1. Meeting called to order.
2. Objectives and purposes of meeting.
A. Approval of minutes of meeting August 7, 1973.
B. Review comments of task force reports.
C. Continue the drafting of TAC on Fuels report.
D. Other business.
E. Date for next Task Force—Administrative meeting.
3. Adjournment.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or if oral, at the time and in the manner permitted by the committee.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19059 Filed 9-6-73;8:45 am]

## NATIONAL POWER SURVEY—TECHNICAL ADVISORY COMMITTEE ON RESEARCH AND DEVELOPMENT

### Notice of Meeting and Agenda

Agenda Ninth Meeting of the Technical Advisory Committee on Research and Development to be held at the Federal Power Commission Offices, 825 North Capitol Street, NE., Washington, D.C., 8:30 a.m., September 12, 13, and 14, 1973, Room 5200.

1. Meeting called to order by FPC Coordinating Representative.
2. Objectives and purposes of meeting.

SEPTEMBER 12

A. Approval of minutes of June 14 meeting.
B. Report of Task Force on Environmental Research (8:30 a.m.–12:30 p.m.).
C. Report of Task Force on Energy Systems Research (1 p.m.–5 p.m.).

SEPTEMBER 13

D. Report of Task Force on Energy Conversion Research (8:30 a.m.–12:30 p.m.).
E. Report of Task Force on Energy Distribution Research (1 p.m.–5 p.m.).

SEPTEMBER 14

F. Report of Task Force on Energy Sources Research (8:30 a.m.–12:30 p.m.).
G. Meeting among TAC Chairman and Five Task Force Chairmen (1 p.m.–5 p.m.).
H. Other business.
I. Dates of future meetings.
3. Adjournment.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or, if oral, at the time and in the manner permitted by the committee.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19041 Filed 9-6-73;8:45 am]

[Docket No. CI74-134]

## APEXCO, INC.

### Notice of Application

AUGUST 30, 1973.

Take notice that on August 21, 1973, Apexco, Inc. (Applicant), P.O. Box 2299, Tulsa, Oklahoma 74101, filed in Docket No. CI74-134 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Transwestern Pipeline Company from the South Carlsbad Field, Eddy County, New Mexico, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell approximately 30,000 Mcf of gas per month for one year at 55.0 cents per Mcf at 14.65 p.s.i.a., subject to upward and downward B.t.u. adjustment, within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). Upward B.t.u. adjustment is limited to 1,175 B.t.u. per cubic foot.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 17, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the



V 38-173 SEP 7 73 XUM

Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19044 Filed 9-6-73;8:45 am]

[Docket Nos. CI73-892, CI73-893]

## BELCO PETROLEUM CORP.

### Order Consolidating Proceedings, Setting Proceedings for Formal Hearing, Permitting Intervention, Prescribing Procedures and Fixing Date of Hearing

AUGUST 31, 1973.

On April 15, 1971, the Commission, acting pursuant to the authority of the Natural Gas Act, as amended, particularly sections 4, 5, 7, 8, 10, and 16 thereof (52 Stat. 822, 823, 824, 825, 826, 830; 56 U.S.C. sections 717c, 717d, 717f, 717g, 717i, and 717), issued Order 431 promulgating a Statement of General Policy with respect to the establishment of measures to be taken for the protection of as reliable and adequate service as present natural gas supplies and capacities will permit.

Belco Petroleum Corporation (Belco) has filed in the two above-entitled dockets two applications, pursuant to section 7(c) of the Natural Gas Act and Commission Order No. 431 (Docket No. 418) for limited term certificates of public convenience and necessity with pre-granted abandonment, authorizing the operation of certain facilities for the emergency sale of gas to El Paso Natural Gas Company (El Paso). Belco proposes to sell the gas under the two, two year limited-term certificates from acreage in Lea (Docket No. CI73-892) and Eddy (Docket No. CI73-893) Counties, New Mexico. Both points of sale are located in the Permian Basin.

Applicant proposes to sell approximately 5000 Mcf of gas per day from the Lea County acreage and approximately 10,000 Mcf per day from the Eddy County acreage. The contractually agreed rate for both sales is 55.0¢ per Mcf at 14.65 psia subject to upward and downward Btu adjustment from a base of 1,000 Btu per cubic foot. This rate exceeds the current ceiling of 35¢ for the Permian Basin.

In Order 431, the Commission amended Part 2, Subchapter A, General Rules, Chapter I, Title 18 of the Code of Federal Regulations by adding a new § 2.70, which reads:

(3) The Commission recognizing that additional short-term gas purchases may still be necessary to meet the 1971-72 demands will continue the emergency measures referred to earlier for the stated 60-day period. If the emergency purchases are to extend beyond the 60-day period, paragraph 12 in the Notice issued by the Commission on July 17, 1970, in Docket No. R-398A should be utilized (35 FR 11638). The Commission will consider if the pipeline demonstrates emergency need • • •

Paragraph 12 of R-389A provided, in part, that applicants, requesting certificates for sales of natural gas in excess of the ceiling or guideline rate, shall state the grounds for claiming that the present or future public convenience and necessity requires issuance of a certificate on the terms proposed in the application.

The applications in this proceeding represent a sizable volume of gas potentially available to the interstate market. It is of critical importance that interstate pipelines procure emergency supplies of gas to avoid disruption of service to consumers; nevertheless, we must determine whether the rate to be paid serves the public convenience and necessity. It is therefore necessary that these applications be set for public hearing and expeditious determination. The hearing will be held to allow presentation, cross-examination, and rebuttal of evidence by any participant. This evidence should be directed to the issue of whether the present or future public convenience and necessity requires issuance of limited term certificates on the terms proposed in the applications.

Notice of the two applications was given with July 12, 1973, as the date on which protests or petitions to intervene were due. On July 5, 1973, El Paso intervened in support of both applications. No protests or petitions to intervene opposing the applications have been filed.

The Commission finds:

(1) Good cause exists to consolidate the proceedings in Docket Nos. CI73-892 and CI73-893 for the purposes of hearing and decision.

(2) Good cause exists to set for formal hearing the applications for limited-term certificates herein.

(3) It may be in the public interest to permit El Paso, which filed a timely petition, to intervene in this proceeding.

*The Commission orders:*

(A) The applications for limited-term certificates for sale of natural gas filed in Docket Nos. CI73-892 and CI73-893 are hereby consolidated and set for hearing.

(B) Pursuant to the authority contained in and subject to the authority conferred upon the Federal Power Commission by the Natural Gas Act, including particularly sections 7, 15, and 16, and the Commission's Rules and Regulations under that Act, a public hearing shall be held commencing October 15, 1973, at 10 a.m., e.d.t., at a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, concerning whether the present or future convenience and necessity requires the issuance of limited-term certificates for the sale of natural gas on the terms proposed in these applications and whether the issuance of said certificates should be conditioned in any way.

(C) El Paso Natural Gas Company is hereby permitted to become an intervenor, subject to their rules and regulations of the Commission: *Provided, however,* That participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene: *And, Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order of the Commission entered in these proceedings.

(D) The applicant seeking the limited-term certificate and the proposed purchaser, El Paso, shall, on or before October 1, 1973, file with the Commission and serve on all parties to this proceeding, including Commission Staff, all testimony to be sponsored in support of the instant application.

By the Commission.[1]

[SEAL] KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19045 Filed 9-6-73;8:45 am]

[Docket No. CI74-125]

## CLINTON OIL CO.

### Notice of Application

AUGUST 30, 1973.

Take notice that on August 20, 1973, Clinton Oil Company (Applicant), 217 North Water Street, Wichita, Kansas 67202, filed in Docket No. CI74-125 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Panhandle Eastern Pipe Line Company from the Little Sandy Creek Pool, Barber County, Kansas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it intends to commence the sale of gas within the contemplation of § 157.29 of the Regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sale for six months from the end of the sixty-day emergency period, within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant proposes to sell up to 2,000 Mcf of gas per day at 45.0 cents per Mcf at 14.65 psia, subject to upward and downward Btu adjustment. Monthly deliveries are estimated to be 30,000 Mcf of gas. Initial upward Btu adjustment is estimated to be 3.825 cents per Mcf of gas.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days

[1] Commissioner Moody dissenting filed a separate statement appended hereto.





for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 17, 1973, file with the Federal Power Comission, Washington, D.C. 20426, a petition to intervene or a protest in accordane with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to interevene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by section 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19056 Filed 9-6-73;8:45 am]

[Docket No. CI73-889]

## CORPENING ENTERPRISES

### Order Setting Matter for Formal Hearing, Permitting Intervention, Prescribing Procedures and Fixing Date of Hearing

AUGUST 31, 1973.

On April 15, 1971, the Commission, acting pursuant to the authority of the Natural Gas Act, as amended, particularly Sections 4, 5, 7, 8, 10, and 16 thereof (52 Stat. 822, 823, 824, 825, 826, 830; 56 U.S.C. Sections 717c, 717d, 717f, 717g, 717i, and 717), issued Order 431 promulgating a Statement of General Policy with respect to the establishment of measures to be taken for the protection of as reliable and adequate service as present natural gas supplies and capacities will permit.

A. V. Corpening, Jr., d.b.a. Corpening Enterprises (Corpening) has filed in Docket No. CI73-889 an application pursuant to section 7(c) of the Natural Gas Act and Commission Order No. 431 in Docket No. R-418, for a limited-term certificate of public convenience and necessity with pre-granted abandonment, authoriing the operation of certain facilities for emergency sale of gas to Cities Service Gas Company (Cities Service) from acreage in Payne County, Oklahoma.

The application provides that Corpening sell Cities Service a maximum of 3,000 Mcf per day or 1500 Mcf per day on a best effort basis for a term of two years. The proposed rate of 50.0¢ per Mcf which is subject to upward and downward Btu adjustment from a 1,000 B.t.u. base, exceeds the area ceiling rate of 23.75¢ per Mcf. The application provides for an increase of 1.0¢ per Mcf at the end of the first year.

Public notice of the application was given with July 16, 1973, as the date on which protests or petitions to intervene were due. On July 13, 1973, Cities Service filed a petition to intervene in support of the application. No protests or other petitions to intervene were received.

In order 431, the Commission amended Part 2, Subchapter A, General Rules, Chapter I, Title 18 of the Code of Federal Regulations by adding a new § 2.70, which reads:

(3) The Commission recognizing that additional short-term gas purchases may still be necessary to meet the 1971-1972 demands will continue the emergency measures referred to earlier for the stated 60-day period. If the emergency purchases are to extend beyond the 60-day period, paragraph 12 in the Notice issued by the Comission on July 17, 1970, in Docket No. R-389A should be utilized (35 FR 11638). The Commission will consider if the pipeline demonstrates emergency need. • • •

Paragraph 12 of R-389 provided, in part, that applicants, requesting certificates for sales of natural gas in excess of the ceiling or guideline rate, shall state the grounds for claiming that the present or future public convenience and necessity requires issuance of a certificate on the terms proposed in the application.

The application in this proceeding represents a sizable volume of gas potentially available to the interstate market. It is of critical importance that interstate pipelines procure emergency supplies of gas to avoid disruption of service to consumers; nevertheless, we must determine whether the rate to be paid serves the public convenience and necessity. It is therefore necessary that this application be set for public hearing and expeditious determination. The hearing will be held to allow presentation, cross-examination, and rebuttal of evidence by any participant. This evidence should be directed to the issue of whether the present or future public convenience and necessity requires issuance of a limited-term certificate on the terms proposed in that application.

The Commission finds:

(1) Good cause exists to set for formal hearing the application for a limited-term certificate herein.

(2) It may be in the public interest to permit Cities Service Gas Company, which filed a timely petition, to intervene in this proceeding.

The Commission orders:

(A) The application for limited-term certificate for sale of natural gas filed in Docket No. CI73-889 is hereby set for hearing.

(B) Pursuant to the authority contained in and subject to the authority conferred upon the Federal Power Commission by the Natural Gas Act, including particularly Sections 7, 15, 16, and the Commission's Rules and Regulations under that Act, a public hearing shall be held commencing October 1, 1973, at 10 a.m., e.d.t., at a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, concerning whether the present or future convenience and necessity requires the issuance of a limited-term certificate for the sale of natural gas on the terms proposed in this application and whether the issuance of said certificate should be conditioned in any way.

(C) Cities Service Gas Company is hereby permitted to become an intervenor, subject to the rules and regulations of the Commission; *Provided, however,* That participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order of the Commission entered in these proceedings.

(D) The applicant seeking the limited-term certificate and the proposed purchaser, Cities Service, shall, on or before September 17, 1973, file with the Commission and serve on all parties to this proceeding, including Commission Staff, all testimony to be sponsored in support of the instant application.

By the Commission.[1]

[SEAL] KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19061 Filed 9-6-73;8:45 am]

[Docket Nos. CP73-47, etc.]

## EASCOGAS LNG, INC., AND DISTRIGAS CORP.—STATEN ISLAND PROJECT

### Notice of Availability of Final Environmental Impact Statement

SEPTEMBER 4, 1973

Notice is hereby given in the captioned Dockets that on September 4, 1973, as required by § 2.82(b) of Commission Order No. 415-C, a draft environmental impact statement prepared by the staff of the Federal Power Commission was made available. This statement deals with the environmental impact of the proposals by Eascogas LNG, Inc. (Eascogas) and Distrigas Corporation (Distrigas) in Docket Nos. CP73-47, CP73-78, CP73-88, CP73-132, CP73-148, CP73-205, and CP73-230 wherein authorization pursuant to section 3 and section 7(c) of the Natural Gas Act are sought. The administrative action here involved arises from

[1] Commissioner Moody, dissenting, filed a separate statement appended hereto.



V 38-173 SEP 7 73 XUM

applications from Eascogas and Distrigas seeking authorization pursuant to section 3 of the Natural Gas Act to import liquefied natural gas (LNG) from Algeria to terminals at Staten Island, New York, and Providence, Rhode Island. Concurrent with the Eascogas and Distrigas applications, Distrigas Corporation of New York (DONY) has been ordered by the Commission to file an application seeking approval, pursuant to section 7 of the Natural Gas Act, to construct certain facilities necessary for DONY to unload, store, revaporize, and distribute the imported LNG. This application would include the construction of an unloading dock, two 900,000 barrel LNG storage tanks, vaporizer units, and other appurtenant facilities. In addition, Distrigas Pipeline Corporation (Distrigas Pipeline) has filed an application to construct and operate approximately 6,000 feet of 24-inch transmission line with a 2,675 foot segment of 30-inch underwater pipeline loop.

This statement discusses the existence and operation of the Distrigas facilities on Staten Island. A separate statement is being prepared for the importation of LNG to facilities in Providence, Rhode Island.

This statement has been sent to the Council on Environmental Quality and to Federal, state, and local agencies, and all parties to the proceeding. In addition, a limited number of copies are available from the Federal Power Commission's Office of Public Information, Room 1000, Union Center Plaza, 825 North Capitol Street NE., Washington, D.C. 20426. Additional copies may be ordered from the National Technical Information Service, Department of Commerce, Springfield, Virginia 22151. Copies are available for review at the Federal Power Commission's Regional Office located at 26 Federal Plaza (22nd Floor), New York, New York 10007.

Any person who wishes to do so may file comments on the staff draft statement for the Commission's consideration. All comments must be filed on or before October 19, 1973. Any person who wishes to present evidence regarding environmental matters in this proceeding must file with the Commission a petition to intervene pursuant to § 1.8 of the Commission's Rules of Practice and Procedure. Petitioners must also file timely comments on the draft statement in accordance with § 2.82(c) of Order No. 415–C. All petitions to intervene must be filed on or before October 19, 1973.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-18934 Filed 9-6-73;8:45 am]

---

[Docket Nos. RP71-137, RP72-151]

## EL PASO NATURAL GAS CO.

### Notice of Further Extension of Time

AUGUST 31, 1973.

On August 29, 1973, Cascade Natural Gas Corporation filed a motion for a further extension of time for filing rebuttal evidence as required by notice issued August 10, 1973, in the above-designated matter. The motion states that the parties (twenty-one and Staff Counsel) participating in the above matter have either indicated support for or concurrence in the request.

Upon consideration, notice is hereby given that the time is postponed to September 21, 1973, for the service of rebuttal evidence in the above matter. The hearing is still scheduled to commence immediately upon conclusion of the hearing in Docket Nos. G–10426, et al., now scheduled for October 23, 1973.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19063 Filed 9-6-73;8:45 am]

---

[Docket No. CP73-334]

## EL PASO NATURAL GAS CO.

### Notice of Further Extension and Postponement of Prehearing Conference

AUGUST 30, 1973.

On August 28, 1973, El Paso Natural Gas Company filed a motion for a further extension of time to file evidence and for postponement of prehearing conference as fixed by order issued August 7, 1973, and amended by notice issued August 23, 1973, in the above-designated matter. By letter dated August 29, 1973, El Paso advised that the intervenors have no objection to the motion.

Upon consideration, notice is hereby given that the procedural dates are further modified as follows:

Service of Evidence and Testimony—September 21, 1973.
Prehearing Conference—October 10, 1973 (10:00 a.m., e.d.t.).

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19047 Filed 9-6-73;8:45 am]

---

[Docket Nos. CI73-886, CI73-887]

## EMERALD PRODUCING CORP. ET AL.

### Order Consolidating Proceedings Setting Matter for Formal Hearing, Permitting Intervention, Prescribing Procedures, and Fixing Date of Hearing

AUGUST 31, 1973.

On April 15, 1971, the Commission, acting pursuant to the authority of the Natural Gas Act, as amended, particularly sections 4, 5, 7, 8, 10, and 16 thereof (52 Stat. 822, 823, 824, 825, 826, 830; 56 U.S.C. section 717c, section 717d, section 717f, section 717g, section 717i, and section 717), issued Order 431 promulgating a Statement of General Policy with respect to the establishment of measures to be taken for the protection of as reliable and adequate service as present natural gas supplies and capacities will permit.

On June 13, 1973, Emerald Petroleum Corporation filed an application for a certificate limited to a one year term with pregranted abandonment in Docket No. CI73–887 for a sale of gas to Southern Natural Gas Company from acreage in the Bayou Pigeon Field, Iberia Parish, South Louisiana, at a proposed rate of 50.0 cents subject to upward and downward Btu adjustment from a base of 1,000 Btu per cubic foot. A letter agreement submitted with the application provides for the sale of an average daily quantity of gas produced from the Emerald Petroleum well equal to the lesser of 2,400 Mcf or 80 percent of seller's deliverability.

Emerald Petroleum began a 60 day emergency sale pursuant to Order No. 418 to Southern Natural on May 31, 1973, at a rate of 50.0 cents; however, deliveries ceased on June 3, 1973, due to force majeure (high waters caused a separation of the pipeline from Emerald Petroleum's well to Southern Natural's platform). Emerald Petroleum advised that it is estimated that repairs will not be made for at least 45 days due to persistent flood conditions and that upon completion of the repairs it will resume its emergency deliveries to Southern Natural for the balance of the 60-day period.

On June 13, 1973, Emerald Producing Corporation[1] filed in Docket No. CI73–886 an application for a one-year limited-term certificate with pregranted abandonment for a sale to Southern Natural from acreage in the Diamond Field, Plaquemines Parish, South Louisiana, at a rate of 50.0 cents subject to upward and downward Btu adjustment from a base of 1,000 Btu per cubic foot. A letter agreement submitted concurrently with the application provides for the sale of an average daily quantity of gas equal to the lesser of 2,400 Mcf or 80 percent of seller's deliverability.

Emerald Producing commenced a 60-day emergency sale to Southern Natural at a rate of 50.0 cents on July 18, 1973, pursuant to Order No. 418; the sale will end September 16, 1973.

The base area rate for South Louisiana, the area from which both sales will be made, as determined by the Commission in Opinion No. 518 is 26.875 cents per Mcf.

Public notice of both applications was given with July 12, 1973, given as the date on which protests or petitions to intervene were due in Docket No. CI73–887, and with July 16, 1973, as the date in Docket No. CI73–886. On July 12, 1973, Southern Natural Gas Company filed petitions to intervene in support of both of the above applications. No protests nor petitions to intervene in opposition to the applications have been received.

In order 431, the Commission amended Part 2, Subchapter A, General Rules, Chapter I, Title 18, of the Code of Federal Regulations by adding a new § 2.70, which reads:

(3) The Commission recognizing that additional short-term gas purchases may still

[1] Emerald Petroleum and Emerald Producing are separate corporations with common management.





be necessary to meet the 1971–1972 demands will continue the emergency measures referred to earlier for the stated 60-day period. If the emergency purchases are to extend beyond the 60-day period, paragraph 12 in the Notice issued by the Commission on July 17, 1970, in Docket No. R–389A should be utilized (35 FR 11638). The Commission will consider if the pipeline demonstrates emergency need. * * *

Paragraph 12 of R–389A provided, in part, that applicants, requesting certificates for sales of natural gas in excess of the ceiling or guideline rate, shall state the grounds for claiming that the present or future public convenience and necessity requires issuance of a certificate on the terms proposed in the application.

The applications in this proceeding represent a sizable volume of gas potentially available to the interstate market. It is of critical importance that interstate pipeline procure emergency supplies of gas to avoid disruption of servce to consumers; nevertheless, we must determine whether the rate to be paid serves the public convenience and necessity. It is therefore necessary that these applications be set for public hearing and expeditious determination. The hearing will be held to allow presentation, cross-examination, and rebuttal of evidence by any participant. This evidence should be directed to the issue of whether the present or future public convenience and necessity requires issuance of limited-term certificates on the terms proposed in the applications.

The Commission finds:

(1) Good cause exists to consolidate the proceedings in Docket Nos. CI73–886 and CI73–887 for the purposes of hearing and determination.

(2) Good cause exists to set for formal hearing the applications for limited-term certificates herein.

(3) It may be in the public interest to permit Southern Natural Gas Company, which filed timely petitions, to intervene in this consolidated proceeding.

The Commission orders:

(A) The applications for limited-term certificate for sale of natural gas filed in Docket Nos. CI73–886 and CI73–887 are hereby consolidated and set for hearing.

(B) Pursuant to the authority contained in and subject to the authority conferred upon the Federal Power Commission by the Natural Gas Act, including particularly Sections 7, 15, and 16, and the Commission's Rules and Regulations under that Act, a public hearing shall be held commencing November 5, 1973, at 10 a.m., e.s.t., at a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, concerning whether the present or future convenience and necessity requires the issuance of limited-term certificates for the sale of natural gas on the terms proposed in these applications and whether the issuance of said certificates should be conditioned in any way.

(C) Southern Natural Gas Company of America is hereby permitted to become an intervenor, subject to the rules and regulations of the Commission: *Provided, however,* That participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene: *And provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order of the Commission entered in these proceedings.

(D) The applicants seeking the limited-term certificate and the proposed purchaser, Southern Natural, shall on or before October 22, 1973, file with the Commission and serve on all parties to this proceeding, including Commission Staff, all testimony to be sponsored in support of the instant application.

By the Commission.[1]

[SEAL] KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19048 Filed 9-6-73;8:48 am]

---

[Docket No. E-8008]

## FLORIDA POWER & LIGHT CO.

### Notice of Extension of Time

AUGUST 31, 1973.

On August 29, 1973, Staff Counsel filed a motion for an extension of time to file its exhibits and testimony as required by the notice issued May 2, 1973. The motion states that there is no opposition to the new date.

Upon consideration, notice is hereby given that the service date for testimony and exhibits by Staff is postponed to September 10, 1973. The other dates are unchanged.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19062 Filed 9-6-73;8:45 am]

---

[Docket Nos. CI73-863, etc.]

## HOOVER AND BRACKEN OIL PROPERTIES, INC.

### Order Consolidating Proceedings, Granting Intervention, Setting Hearing Date, and Prescribing Procedure

AUGUST 31, 1973.

On June 8, 1973, Hoover and Bracken Oil Properties, Inc. (Hoover and Bracken), filed in Docket Nos. CI73–863, CI73–864, and CI73–865 applications requesting issuance of limited term certificates of public convenience and necessity with pregranted abandonment authority, pursuant to section 7(c) of the Natural Gas Act and the Commission's Regulations thereunder, for the sale of gas to Northern Natural Gas Company (Northern) from three units located in Hemphill and Hansford Counties, Texas Railroad District No. 10 (Hugoton Anadarko Area).

Specifically, Hoover and Bracken proposes to sell and deliver to Northern for two years following the commencement of 60 day emergency sales all the gas attributable to its interest in the units dedicated under three contracts dated April 24, 1973. Monthly deliveries are estimated at 150,000 Mcf (Bradstreet Unit—CI73–863), 78,750 Mcf (Lackey Unit—CI73–864) and 150,000 Mcf (Campbell Unit—CI73–865). The proposed initial base rates of 50.0 cents per Mcf exceed the applicable area base rate of 21.5 cents per Mcf established by the Commission's Opinion No. 586. The base rate proposed in Docket No. CI73–863 is subject to upward and downward Btu adjustment from a base of 1,000 Btu's per cubic foot, whereas the base rates proposed in Docket Nos. CI73–864 and CI73–865 are subject to upward and downward Btu adjustment from a base of 925 Btu's per cubic foot plus reimbursement for all existing and future taxes.

Hoover and Bracken states that it will commence 60 day emergency sales to Northern from the Bradstreet and Lackey Units upon completion of the necessary facilities. A 60 day emergency sale from the Campbell Unit commenced on May 15, 1973, pursuant to § 157.29 of the Regulations. An extension to continue the sale until August 13, 1973, was granted by letter dated July 13, 1973.

Late petitions to intervene in each of the above applications were filed by Northern on July 13, 1973.

The applications in this proceeding represent a sizable volume of gas potentially available to the interstate market. It is of critical importance that interstate pipelines procure emergency supplies of gas to avoid disruption of service to consumers, nevertheless, we must determine whether the rate to be paid serves the public convenience and necessity. It is therefore necessary that these applications be set for public hearing and expeditious determination. The hearing will be held to allow presentation, cross-examination, and rebuttal of evidence by any participant. This evidence should be directed to the issue of whether the present or future public convenience and necessity requires issuance of limited-term certificates on the terms proposed in these applications.

The Commission finds:

(1) Docket Nos. CI73–863, CI73–864, and CI73–865 should be consolidated for hearing and decision as they involve common questions of fact and law.

(2) The intervention of Northern in this proceeding may be in the public interest.

(3) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the issues in this proceeding be scheduled for hearing in accordance with the procedures set forth below.

The Commission orders:

(A) The applications listed at the head of this order are hereby consolidated for hearing and decision.

(B) Northern is hereby permitted to intervene in this proceeding, subject to the Rules and Regulations of the Com-

[1] Commissioner Moody, dissenting, filed a separate statement appended hereto.



V 38-173 SEP 7 73 XUM

mission: *Provided, however,* That the participation of such intervener shall be limited to matters affecting asserted rights and interests as specifically set forth in said petitions for leave to intervene; and *Provided, further,* That the admission of said intervener shall not be construed as recognition by the Commission that it might be aggrieved by any order or orders of the Commission entered in this proceeding.

(C) Pursuant to the authority of the Natural Gas Act, particularly sections 7 and 15 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Natural Gas Act, a public hearing shall be held on September 27, 1973, at 10 a.m., e.d.t., in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, concerning the issue of whether certificates of public convenience and necessity should be granted as requested by the applicants.

(D) On or before September 13, 1973, Hoover and Bracken and any supporting party shall file with the Commission and serve upon all parties, including Commission Staff, their testimony and exhibits in support of their positions.

(E) An Administrative Law Judge to be designated by the Chief Administrative Law Judge—See Delegation of Authority, 18 CFR 3.5(d)—shall preside at, and control this proceeding in accordance with the policies expressed in the Commission's Rules of Practice and Procedure and the purposes expressed in this order.

By the Commission.[1]

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-19066 Filed 9-6-73;8:45 am]

[Docket No. CI74-111]

## J. M. HUBER CORP.

### Notice of Application

AUGUST 30, 1973.

Take notice that on August 15, 1973, J. M. Huber Corporation (Applicant), 2000 West Loop South, Houston, Texas 77027, filed in Docket No. CI74-111 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Transwestern Pipeline Corporation from the Yates King No. 1 Well, South Carlsbad Area, Eddy County, New Mexico, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it intends to commence the sale of gas within the contemplation of § 157.29 of the Regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sale for one year from the end of the sixty-day emergency period within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). Applicant proposes to sell approximately 67,500 Mcf of gas per month at 55.0 cents per Mcf at 14.65 p.s.i.a., subject to upward and downward Btu adjustment. Upward Btu adjustment is limited to 1,175 Btu per cubic foot of gas.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 14, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-19054 Filed 9-6-73;8:45 am]

[Docket No. CI73-899]

## H. L. HUNT ET AL.

### Order Setting Matter for Formal Hearing, Permitting Intervention, Prescribing Procedures and Fixing Date of Hearing

AUGUST 31, 1973.

On April 15, 1971, the Commission, acting pursuant to the authority of the Natural Gas Act, as amended, particularly Sections 4, 5, 7, 8, 10, and 16 thereof (52 Stat. 822, 823, 824, 825, 826, 830; 56 U.S.C. section 717c section 717d, section 717f, section 717g, section 717i, and section 717), issued Order 431 promulgating a Statement of General Policy with respect to the establishment of measures to be taken for the protection of as reliable and adequate service as present natural gas supplies and capacities will permit.

On June 18, 1973, H. L. Hunt (Operator) *et al.* (Hunt) filed in Docket No. CI73-899, an application, pursuant to Section 7(c) of the Natural Gas Act and Order No. 431 in Docket No. R-418, for a limited-term certificate of public convenience and necessity with pre-granted abandonment, authorizing the operation of certain facilities for the emergency sale of gas to Texas Gas Transmission Corporation (Texas Gas).

The application provides that Hunt will sell all available gas up to 4,000 Mcf per day gas from the Grosse Isle Field, Vermilion Parish, Louisiana, at a rate of 50.0¢ per Mcf subject to upward and downward Btu adjustment from a base of 1,000 B.t.u. The base area rate for South Louisiana as determined in Commission Opinion No. 598 is 26.875¢ per Mcf.

Hunt requests that the certificate be granted for a term of one year. Hunt commenced a sale to Texas Gas pursuant to Order No. 418 on June 12, 1973, at a rate of 50.0¢. However, the subject wells ceased producing approximately 2 days after service commenced and are now being reworked.

In Order 431, the Commission amended Part 2, Subchapter A, General Rules, Chapter I, Title 18 of the Code of Federal Regulations by adding a new § 2.70, which reads:

> (3) The Commission recognizing that additional short-term gas purchases may still be necessary to meet the 1971–1972 demands, will continue the emergency measures referred to earlier for the stated 60-day period. If the emergency purchases are to extend beyond the 60-day period, paragraph 12 in the Notice issued by the Commission on July 17, 1970, in Docket No. R-389A should be utilized (35 FR 11638), The Commission will consider if the pipeline demonstrates emergency need • • •

Paragraph 12 of R-389A provided, in part, that applicants, requesting certificates for sales of natural gas in excess of the ceiling or guideline rate, shall state the grounds for claiming that the present or future public convenience and necessity requires issuance of a certificate on the terms proposed in the application.

The application in this proceeding represents a sizable volume of gas potentially available to the interstate market. It is of critical importance that interstate pipelines procure emergency supplies of gas to avoid disruption of service to consumers; nevertheless, we must determine whether the rate to be paid serves the public convenience and necessity. It is therefore necessary that this application be set for public hearing and expeditious determination. The hearing will be held to allow presentation, cross-examination, and rebuttal of evidence by any participant. This evidence should be directed to the issue of whether the present or future public convenience and necessity requires issuance of a limited-term certificate on the terms proposed in that application.

[1] Commissioner Moody, dissenting, filed a separate statement, filed as part of the original document.





Public notice of the application was given with protests or petitions to intervene due July 16, 1973. On July 16, 1973, Texas Gas filed a petition to intervene in support of the application. No protests nor petitions to intervene opposing the application were received.

The Commission finds:

(1) Good cause exists to set for formal hearing the application for a limited-term certificate herein.

(2) It may be in the public interest to permit Texas Gas, which filed a timely petition, to intervene in this proceeding.

The Commission orders:

(A) The application for limited-term certificate for sale of natural gas filed in Docket No. CI73-899 is hereby set for hearing.

(B) Pursuant to the authority contained in and subject to the authority conferred upon the Federal Power Commission by the Natural Gas Act, including particularly Sections 7, 15, and 16, and the Commission's Rules and Regulations under that Act, a public hearing shall be held commencing October 29, 1973, at 10:00 a.m. (e.s.t.) at a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, concerning whether the present or future convenience and necessity requires the issuance of a limited-term certificate for the sale of natural gas on the terms proposed in this application and whether the issuance of said certificate should be conditioned in any way.

(C) Texas Gas is hereby permitted to become an intervenor, subject to the rules and regulations of the Commission: *Provided, however,* That participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and: *Provided, further,* That admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order of the Commission entered in these proceedings.

(D) The applicant seeking the limited-term certificate and the proposed purchaser, Texas Gas, shall, on or before October 15, 1973, file with the Commission and serve on all parties to this proceeding, including Commission Staff, all testimony to be sponsored in support of the instant application.

By the Commission.[1]

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-19065 Filed 9-6-73;8:45 am]

[Docket No. CI74-115]

## MRT EXPLORATION CO.

### Notice of Application

AUGUST 30, 1973.

Take notice that on August 15, 1973, MRT Exploration Company (Applicant), 9900 Clayton Road, St. Louis, Missouri 63124, filed in Docket No. CI74-115 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Mississippi River Transmission Corporation from the Mills Ranch Field, Wheeler County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell for two years approximately 120,000 Mcf of gas per month at 30.0 cents per Mcf at 14.65 psia, subject to upward and downward B.t.u. adjustment, within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). Initial downward B.t.u. adjustment is estimated to be 0.30 cent per Mcf of gas.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 17, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-19055 Filed 9-6-73;8:45 am]

[Docket No. CI73-903]

## DOUGLAS B. MARSHALL ET AL.

### Order Setting Matters for Formal Hearing, Prescribing Procedures, and Fixing Date of Hearing

AUGUST 31, 1973.

On April 15, 1971, the Commission, acting pursuant to the authority of the Natural Gas Act, as amended, particularly sections 4, 5, 7, 8, 10, and 16 thereof (52 Stat. 822, 823, 824, 825, 826, 830; 56 U.S.C. sections 717c, 717d, 717f, 717g, 717i, and 717), issued Order No. 431 promulgating a Statement of General Policy with respect to the establishment of measures to be taken for the protection of as reliable and adequate service as present natural gas supplies and capacities will permit.

On June 20, 1973, Douglas B. Marshall *et al.* (Marshall) filed in Docket No. CI73-903 an application, pursuant to section 7(c) of the Natural Gas Act and Order No. 431 in Docket No. R-418, for a limited-term certificate of public convenience and necessity with pre-granted abandonment, authorizing the operation of certain facilities for the emergency sale of gas to Transcontinental Gas Pipeline Corporation (Transco).

The limited term certificate application provides that Marshall sell Transco all available gas up to 70,000 Mcf per day on a best efforts basis. Marshall proposes that the sale be limited to a maximum term of six months. Marshall's gas will be produced from acreage which has been temporarily released from a long term commitment to Northern Michigan Exploration Company *et al.* For that reason Marshall requests that the limited term certificate permit termination of the sale on or after October 23, 1973, upon 30 days' advance written notice.

Marshall has been selling gas to Transco from the subject acreage, located in Terrebonne Parish, Louisiana, at a rate of 45.0 cents per Mcf pursuant to a limited term certificate issued in Docket No. CI73-498, which sale and certificate terminated July 24, 1973. A letter agreement submitted concurrently with the application in Docket No. CI73-903 provides for an initial rate of 50.0 cents per Mcf which exceeds the base area rate of 26.875 cents per Mcf set by Commission Opinion No. 598.

Public notice of the application was given with July 12, 1973, as the date on which protests or petitions to intervene were due. None were received.

In Order 431, the Commission amended Part 2, Subchapter A, General Rules, Chapter I, Title 18, of the Code of Federal Regulations by adding a new § 2.70, which reads:

> (3) The Commission recognizing that additional short-term gas purchases may still be necessary to meet the 1971–72 demands, will continue the emergency measures referred to earlier for the stated 60-day period. If the emergency purchases are to extend beyond the 60-day period, paragraph 12 in the Notice issued by the Commission on July 17, 1970, in Docket No. R-398A should be utilized (35 FR 11638). The Commission will consider if the pipeline demonstrates emergency need • • •.

[1] Commissioner Moody, dissenting, filed a separate statement, filed as part of the original document.



V 38 - 173 SEP 7 73 XUM

Paragraph 12 of R–398A provided, in part, that applicants, requesting certificates for sales of natural gas in excess of the ceiling or guideline rate, shall state the grounds for claiming that the present or future public convenience and necessity requires issuance of a certificate on the terms proposed in the application.

The application in this proceeding represents a sizeable volume of gas potentially available to the interstate market. It is of critical importance that interstate pipelines procures emergency supplies of gas to avoid disruption of service to consumers; nevertheless, we must determine whether the rate to be paid serves the public convenience and necessity. It is therefore necessary that this application be set for public hearing and expeditious determination. The hearing should be held to allow presentation, cross-examination, and rebuttal of evidence by any participant. This evidence be directed to the issue of whether the present or future public convenience and necessity requires issuance of a limited-term certificate on the terms proposed in that application.

The Commission finds:

Good cause exists to set for formal hearing the application for a limited-term certificate herein.

The Commission orders:

(A) The application for limited-term certificate for sale of natural gas filed in Docket No. CI73–903 is hereby set for hearing.

(B) Pursuant to the authority contained in and subject to the authority conferred upon the Federal Power Commission by the Natural Gas Act, including particularly Sections 7, 15, and 16, and the Commission's Rules and Regulations under that Act, a public hearing shall be held commencing October 8, 1973, at 10:00 a.m., e.d.t., at a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, concerning whether the present or future convenience and necessity requires the issuance of a limited term certificate for the sale of natural gas on the terms proposed in this application and whether the issuance of said certificate should be conditioned in any way.

(C) The applicant seeking the limited-term certificate and the proposed purchaser, Transco, shall, on or before September 24, 1973, file with Commission and serve on all parties to this proceeding, including Commission Staff, all testimony to be sponsored in support of the instant application.

By the Commission.[1]

[SEAL] KENNETH F. PLUMB, *Secretray.*

[FR Doc.73–19046 Filed 9–6–73;8:45 am]

[1] Commissioner Moody, dissenting, filed a separate statement appended hereto.

[Docket No. CI74–127]

## MIDWEST OIL CORP.

### Notice of Application

AUGUST 30, 1973.

Take notice that on August 20, 1973, Midwest Oil Corporation (Applicant), 1700 Broadway, Denver, Colorado 80202, filed in Docket No. CI74–127 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Transwestern Pipeline Company from the South Empire Deep Unit No. 3, Eddy County, New Mexico, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it commenced the sale of gas within the contemplation of § 157.29 of the Regulation under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sale until October 15, 1974, within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). Applicant proposes to sell approximately 120,000 Mcf of gas per month at 50.0 cents per Mcf at 14.65 p.s.i.a., subject to upward Btu adjustment.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 14, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73–19049 Filed 9–6–73;8:45 am]

[Docket No. CI73–402, etc.]

## MOBIL OIL CORP. ET AL.

### Order Consolidating Proceedings, Granting Interventions and Establishing Procedure and Dates for Formal Hearing

AUGUST 31, 1973.

On December 4, 1972, Mobil Oil Corporation (Mobil) filed in Docket No. CI73–402 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas in interstate commerce to NI-Gas Supply, Inc. (NI-Gas). On January 11, 1973, NI-Gas filed in Docket Nos. CI73–478 and CI73–509 applications pursuant to Section 7(c) of the Natural Gas Act for certificates of public convenience and necessity authorizing the sale and delivery of natural gas in interstate commerce to Northern Illinois Gas Company (Northern Illinois) and to Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (TGP), respectively. NI-Gas also requests issuance of declaratory orders stating that each sale will not be considered as a sale under its small producer certificate issued in Docket No. CS69–69 since each sale involves the resale of purchased gas. TGP filed on March 20, 1973, in Docket No. CP73–245 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and/or acquisition and operation of facilities for the transportation and delivery of natural gas for NI-Gas's account to Midwestern Gas Transmission Company (Midwestern). In Docket No. CP73–244, Midwestern filed on March 20, 1973, an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity for the transportation and delivery of natural gas to Northern Illinois for the account of NI-Gas.

Mobil, in Docket No. CI73–402, requests authorization to sell gas to NI-Gas from the Block 81 Field, East Cameron Area, Offshore Louisiana, at an initial rate of 28.0¢ per Mcf at 15.025 p.s.i.a. subject to B.T.U. adjustment. Mobil estimates that it will sell 672,000 Mcf per month and it reserves for its own use up to one-third of the quantity of gas produced in excess of 22,000 Mcf per day.

NI-Gas, a wholly owned subsidiary of Northern Illinois, requests a certificate in Docket No. CI73–478 to resell in Illinois up to two-thirds of the gas purchased from Mobil in Louisiana to Northern Illinois at an estimated rate of 57.92¢ per Mcf at 15.025 p.s.i.a. Additionally, NI-Gas requests a certificate in Docket No. CI73–509 to sell the remaining gas purchased from Mobil to TGP at an initial rate of 28.0¢ per Mcf at 15.025 p.s.i.a. subject to B.t.u. adjustment.

In Docket No. CP73–245, TGP requests authorization to construct and/or acquire and operate facilities to transport gas for NI-Gas from the Block 81 Field to Portland, Tennessee, where the gas will be delivered for NI-Gas' account to Midwestern at an existing interconnection of the two pipeline systems.

Midwestern requests authorization in Docket No. CP73–244 to transport gas from Portland, Tennessee, to Illinois and to construct and operate facilities needed for the transportation service. Midwestern states that it will redeliver the gas to Northern Illinois for the account of NI-Gas at existing delivery points in Illinois.

Timely petitions to intervene in Docket No. CI73–402 have been filed by the following:

NI-Gas Supply, Inc., on December 29, 1972.
Central Illinois Light Company on January 2, 1973.
Illinois Power Company on January 2, 1973.

A timely notice of intervention was filed in this docket on December 15, 1973 by the State of New York (PSC of New York), and Associated Gas Distributors filed an untimely petition to intervene on January 22, 1973.

Timely petitions to intervene in Docket No. CI73–478 have been filed by the following:

Central Illinois Light Company on February 16, 1973.
Peoples Gas Light and Coke Company on February 26, 1973.
Tennessee Gas Pipeline Company on February 26, 1973.
Midwestern Gas Transmission Company on February 26, 1973.
Associated Gas Distributors on February 26, 1973.
Northern Illinois Gas Company on February 26, 1973.

An untimely petition to intervene was filed by Northern Indiana Public Service Company on March 1, 1973.

Timely petitions to intervene in Docket No. CI73–509 have been filed by the following:

Associated Gas Distributors on February 26, 1973.
Northern Indiana Public Service Company on February 26, 1973.
Northern Illinois Gas Company on February 26, 1973.
Central Illinois Light Company on February 26, 1973.
Tennessee Gas Pipeline Company on February 26, 1973.
Midwestern Gas Transmission Company on February 26, 1973.

In Docket No. CP73–244, timely petitions to intervene have been filed by the following:

Central Illinois Light Company on April 12, 1973.
Tennessee Gas Pipeline Company on April 16, 1973.
Northern Indiana Public Service Company on April 18, 1973.
Columbia Gas Transmission Corporation on April 19, 1973.
Peoples Gas Light and Coke Company on April 23, 1973.
Northern Michigan Exploration Company on April 23, 1973.
Consumers Power Company on April 23, 1973.
Northern Illinois Gas Company on April 23, 1973.
NI-Gas Supply, Inc., on April 23, 1973.

An untimely petition to intervene was filed by Public Service Electric and Gas Company on April 27, 1973.

In Docket No. CP73–245, timely petitions to intervene have been filed by the following:

Associated Gas Distributors on April 5, 1973.
Central Illinois Light Company on April 12, 1973.
Northern Indiana Public Service Company on April 18, 1973.
Columbia Gas Transmission Company on April 19, 1973.
Midwestern Gas Transmission Company on April 20, 1973.
Northern Illinois Gas Company on April 20, 1973.
NI-Gas Supply, Inc. on April 20, 1973.

Untimely petitions to intervene were filed in CP73–245 by the following:

Consumers Power Company on April 23, 1973.
Northern Michigan Exploration Company on April 23, 1973.
Peoples Gas Light and Coke Company on April 23, 1973.
Public Service Electric and Gas Company on April 26, 1973.

In its petitions to intervene in all of the above-described dockets, Central Illinois Light Company (Central) requests a formal hearing on the subject applications to determine if it is in the public interest for a large distributor or its subsidiary to purchase gas in the field in competition with interstate pipeline companies during a time of gas shortage. Additionally, PSC of New York requests formal hearing in Docket No. CI73–402 and Northern Indiana Public Service Company (Northern Indiana) opposes NI-Gas' application in Docket No. CI73–478 and requests formal hearing therein.

Having reviewed the petitions to intervene, we believe that the petitioners, including those who filed late, all have sufficient interests in these proceedings to warrant intervention and no delay will result in granting the late petitions to intervene. We also believe that the significant and novel questions presented by these applications require a public hearing at which time all issues bearing upon the public interest can be fully developed on the evidentiary record.

The Commission notes the interrelationship between the above described proceedings and concludes that their ultimate disposition would best be accomplished in a consolidated proceeding. Accordingly, we shall consolidate Docket Nos. CI73–402, CI73–478, CI73–509, CP73–244, and CP73–245 for hearing and disposition.

*The Commission finds:*

(1) It is necessary and in the public interest that the above-docketed proceedings be consolidated for hearing and decision.

(2) It is desirable and in the public interest to allow the above-named petitioners to intervene in these consolidated proceedings in order that they may establish the facts and the law from which the nature and validity of their alleged rights and interests may be determined and show what further action may be appropriate under the circumstances in the administration of the Natural Gas Act.

(3) It is necessary and appropriate that the consolidated proceedings in the above-named applications be set for hearing.

The Commission orders:

(A) Dockets Nos. CI73–402, CI73–478, CI73–509, CP73–244, and CP73–245 are consolidated for purposes of hearing and disposition.

(B) The above-named petitioners are permitted to intervene in this consolidated proceeding subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in said petitions for leave to intervene: *And provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(C) The direct case of Mobil Oil Corporation, NI-Gas Supply, Inc., Midwestern Gas Transmission Company, Tennessee Gas Pipeline Company, and all supporting intervenors shall be filed and served on all parties, the Presiding Administrative Law Judge and the Commission's staff on or before October 9, 1973.

(D) Pursuant to the authority of the Natural Gas Act, particularly sections 7, 15, and 16 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Natural Gas Act (18 CFR, Chapter I), a public hearing on the issues presented by the proposals of Mobil Oil Corporation, NI-Gas Supply, Inc., Midwestern Gas Transmission Company, and Tennessee Gas Pipeline Company shall be held commencing October 30, 1973, at 10:00 a.m. in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20002.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose [see Delegation of Authority, 18 CFR 3.5(d)] shall preside at the hearing in this consolidated proceeding pursuant to the Commission's Rules of Practice and Procedure.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73–19050 Filed 9–6–73;8:45 am]







V 38-173 SEP 7 73 XUM

[Docket No. CI73-857]

## NATIONAL EXPLORATION CO.

### Order Setting Matter for Formal Hearing, Permitting Intervention, Prescribing Procedures and Fixing Date of Hearing

On April 15, 1971, the Commission, acting pursuant to the authority of the Natural Gas Act, as amended, particularly Sections 4, 5, 7, 8, 10, and 16 thereof (52 Stat. 822, 823, 824, 825, 826, 830; 56 U.S.C. Sections 717c, 717d, 717f, 717g, 717i, and 717), issued Order 431 promulgating a Statement of General Policy with respect to the establishment of measures to be taken for the protection of as reliable and adequate service as present natural gas supplies and capacities will permit.

On June 5, 1973, National Exploration Company (National) filed an application, pursuant to Section 7(c) of the Natural Gas Act and Order No. 431 in Docket No. 418, for a limited-term certificate of public convenience and necessity with pregranted abandonment, authorizing the operation for one year of certain facilities for the emergency sale of gas to United Gas Pipeline Company (United), from acreage in the McCaskill Field, Karnes County, Texas.

National proposes to sell to United approximately 390,000 Mcf per month of surplus gas. Under the proposed contract, United could buy such gas on a daily basis as National would have available for sale. National states that this sale would not impair its ability to meet the demands of its other customers.

The rate to be paid for the sale is 50.0 cents per Mcf subject to upward and downward Btu adjustment from a base of 1,000 Btu per cubic foot. This rate is in excess of the applicable area rate of 24.0 cents per Mcf as determined by the Commission in Opinion No. 595.

National commenced a 60-day emergency sale to United pursuant to Order No. 418, on May 14, 1973, at a rate of 50.0 cents per Mcf. The 60-day exemption period expired on July 13, 1973. By letter of July 12, 1973, National was authorized to extend the sale for up to 60 days or until a certificate is issued in this proceeding, whichever occurs earlier.

Public notice of the application was given with July 2, 1973, as the date on which protests or petitions to intervene were due. United filed a petition to intervene in support of the application. No protests or petitions to intervene in opposition to the application were received.

In Order 431, the Commission amended Part 2, Subchapter A, General Rules, Chapter I, Title 18, of the Code of Federal Regulations by adding a new § 2.70, which reads:

> (3) The Commission recognizing that additional short-term gas purchases may still be necessary to meet the 1971-1972 demands will continue the emergency measures referred to earlier for the stated 60-day period. If the emergency purchases are to extend beyond the 60-day period, paragraph 12 in the Notice issued by the Commission on July 17, 1970, in Docket No. R-389A should be utilized (35 FR 11638). The Commission will consider if the pipeline demonstrates emergency need. • • •

Paragraph 12 of R-389A provided, in part, that applicants, requesting certificates for sales of natural gas in excess of the ceiling or guideline rate, shall state the grounds for claiming that the present or future public convenience and necessity requires issuance of a certificate on the terms proposed in the application.

The application in this proceeding represents a sizeable volume of gas potentially available to the interstate market. It is of critical importance that interstate pipelines procure emergency supplies of gas to avoid disruption of service to consumers; nevertheless, we must determine whether the rate to be paid serves the public convenience and necessity. It is therefore necessary that this application be set for public hearing and expeditious determination. The hearing will be held to allow presentation, cross-examination, and rebuttal of evidence by any participant. This evidence should be directed to the issue of whether the present or future public convenience and necessity requires issuance of a limited-term certificate on the terms proposed in that application.

The Commission finds:

(1) Good cause exists to set for formal hearing the application for a limited-term certificate herein.

(2) It may be in the public interest to permit United, which filed a timely petition, to intervene in this proceeding.

The Commission orders:

(A) The application for limited-term certificate for sale of natural gas filed in Docket No. CI73-857 is hereby set for hearing.

(B) Pursuant to the authority contained in and subject to the authority conferred upon the Federal Power Commission by the Natural Gas Act, including particularly Sections 7, 15, and 16, and the Commission's Rules and Regulations under that Act, a public hearing shall be held commencing October 23, 1973, at 10:00 a.m. (EDT) at a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, concerning whether the present or future convenience and necessity requires the issuance of a limited-term certificate for the sale of natural gas on the terms proposed in this application and whether the issuance of said certificate should be conditioned in any way.

(C) United is hereby permitted to become an intervenor, subject to the rules and regulations of the Commission: *Provided, however,* That participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene: *And provided, further,* That admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order of the Commission entered in these proceedings.

(D) The applicant seeking the limited-term certificate and the proposed purchaser, United, shall, on or before October 8, 1973, file with the Commission and serve on all parties to this proceeding, including Commission Staff, all testimony to be sponsored in support of the instant application.

By the Commission.[1]

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-19060 Filed 9-6-73;8:45 am]

---

[Docket Nos. CP73-215, CP73-221]

## NORTHERN NATURAL GAS CO. AND EL PASO NATURAL GAS COMPANY

### Order Consolidating Proceedings, Ordering the Filing of Evidence, and Setting Hearing Date

AUGUST 31, 1973.

On February 12, 1973, Northern Natural Gas Company (Northern) in Docket No. CP73-215 and on February 16, 1973, as supplemented May 7, 1973, El Paso Natural Gas Company (El Paso) in Docket No. CP73-221 filed applications pursuant to section 7(c) of the Natural Gas Act for authorization to continue sales for resale and delivery of natural gas in interstate commerce to each other and to retain in place and operate natural gas facilities previously installed pursuant to § 157.22 of the regulations under the Natural Gas Act (18 CFR 157.22), all as more fully set forth in the applications, as supplemented, in this proceeding.

Northern proposes to sell for three years ending January 31, 1976, up to 75,000 Mcf per day of raw, wet, sour, low pressure gas to El Paso which will be delivered to El Paso or Warren Petroleum Company (Warren) for El Paso's account at seven points in Lea County, New Mexico, where Northern's gathering facilities interconnet cwith El Paso's and Warren's facilities. Approximately 32,000 Mcf per day of raw gas will be delivered to Warren for processing at its Monument and Eunice Plants in Lea County. The remaining 43,000 Mcf per day will be delivered to El Paso for processing at its Jal Plant. Concurrently El Paso proposes to sell sweet, high pressure gas, estimated at 60,000 Mcf per day, to Northern which is equivalent in quantity to the amount of residue gas remaining after processing the raw gas purchased from Northern. Deliveries will be made either at the outlet of Mobil Oil Corporation's Coyanosa Plant in Pecos County, Texas, or at the point of interconnection of El Paso's and Northern's facilities in Lea County. Northern will retain a one-third interest in the liquid products attributable to the raw gas sold to El Paso with the remainder vesting in El Paso. The purpose of the proposed sale and repurchase arrangement is to allow Northern to increase its allowable production from the Lea County Fields by utilizing the excess capacity on El Paso's system in order to augment Northern's ability to provide adequate service to its customers during peak-demand periods. The parties state that they commenced service under this arrangement on December 22, 1973, within the contemplation of § 157.22 of the Regulations and were permitted to continue such emergency deliveries by the letter orders of the Commission dated March 2, 1973.

To implement these proposals, Northern installed four gas delivery interconnections between its facilities and Warren's and four interconnections between its facilities and El Paso's in Lea County, and El Paso has installed three metering and regulating stations at the points of interconnection between Northern's and its gathering systems, all pursuant to § 157.22 of the regulations. El Paso proposes to construct and operate a meter station at the point of interconnection where Northern's 16-inch mainline crosses El Paso's 12-inch Gulf-Eunice pipeline in Lea County.

Northern and El Paso estimate the total costs of their facilities to be $66,600 and $52,087 respectively, which will be financed from working funds.

Northern and El Paso have submitted the gas purchase and sales agreement of January 31, 1973, as their proposed Rate Schedules X-34 and X-30, respectively. Northern proposes to charge El Paso 18.87 cents per Mcf at 14.73 p.s.i.a. for the raw gas sold and states that pursuant to the contract, said rate will be adjusted concurrently with and in an equal amount to the amount by which the commodity rates in Northern's FPC Gas Tariff, Third Revised Volume No. 1, are adjusted under its purchased gas adjustment clause. El Paso's proposed rate to Northern is 32.05 cents per Mcf at 14.73 p.s.i.a. which is the same rate charged under its Rate Schedule X-1, FPC Gas Tariff, Original Volume No. 1, for service rendered in its Southern Division system production areas.

Northern requests authorization to include the purchase of residue gas from El Paso in the computation of its "Annual Rate Adjustment to Reflect Changes in Gas Purchased Cost" under Paragraph 20 of its FPC Gas Tariff, Third Revised Volume No. 1. Northern states that the revenue received from sales of raw gas to El Paso will approximate the cost of purchasing and gathering the gas and the operation of Paragraph 20 will allow it to recover the actual cost of repurchasing the higher priced residue gas from El Paso.

After due notice of Northern's application by publication in the FEDERAL REGISTER on March 5, 1973 (38 FR 6432), and of El Paso's application, as supplemented, on March 7, 1973 (38 FR 6229), and March 9, 1973 (38 FR 6432), respectively, no petitions to intervene, notices of intervention, or protests to the granting of the applications have been filed. Nevertheless the Commission is of the opinion that the public interest in the administration of the Natural Gas Act requires that a record be established in support of these applications and appurtenant rate schedules.

The Commission finds:

(1) The applications in Docket Nos. CP73-215 and CP73-221 are interdependent and should be consolidated.

(2) Approval of the proposals described in the applications in Docket Nos. CP73-215 and CP73-221 would not constitute a major federal action significantly affecting the quality of human environment.

(3) It is desirable and in the public interest that a record be established in support of the applications and appurtenant rate schedules.

The Commission orders:

(A) That the applications of Northern Natural Gas Company as filed in Docket No. CP73-215 be consolidated with the application of El Paso Natural Gas Company filed in Docket No. CP73-221.

(B) That Northern Natural Gas Company and El Paso Natural Gas Company shall file testimony and exhibits describing the facts pertaining to these applications, including cost and feasibility of alternatives to the proposed action and the basis for the rates proposed, on or before September 6, 1973.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held in a hearing room of the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426, on September 18, 1973, concerning the matters involved in and the issues presented by these consolidated applications.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-19068 Filed 9-6-73;8:45 am]

---

[Docket No. CI74-128]

## OCCIDENTAL PETROLEUM CORP.

### Notice of Application

AUGUST 30, 1973.

Take notice that on August 20, 1973, Occidental Petroleum Corporation (Applicant), 10889 Wilshire Boulevard, Los Angeles, California 90024, filed in Docket No. CI74-128 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale of natural gas in interstate commerce to Texas Eastern Transmission Corporation and delivery to Hydrocarbon Development Corporation for transportation to the purchaser in Hidalgo County, Texas, from the Lacal Field (La Sal Vieja Area), Willacy County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it commenced the sale of gas on August 1, 1973, within the contemplation of § 157.29 of the Regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sales for one year from the end of the sixty-day emergency period within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). Applicant proposes to sell approximately 54,000 Mcf of gas per month at 35.0 cents per M c.f. at 14.65 p.s.i.a., subject to downward Btu adjustment.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 14, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-19051 Filed 9-6-73;8:45 am]

---

[Docket No. CI74-109]

## PERRY, ADAMS & LEWIS, INC.

### Notice of Application

AUGUST 30, 1973.

Take notice that on August 13, 1973, Perry, Adams & Lewis, Inc. (Applicant), P.O. Box 248, Davenport, Oklahoma 74026, filed in Docket No. CI74-109 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Cities Service Gas Company from acreage in Kay County, Oklahoma, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

[1] Commissioner Moody, dissenting, filed a separate statement appended hereto.







V 38-173 SEP 7 73 XUM

Applicant states that it commenced the sale of gas on August 6, 1973, within the contemplation of § 157.29 of the Regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sale for two years from the end of the sixty-day emergency period within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). Applicant proposes to sell up to 3,000 M c.f. of gas per day at 45.0 cents per M c.f. at 14.65 p.s.i.a., subject to upward and downward Btu adjustment. Monthly deliveries are estimated to be 90,000 M c.f. of gas. Applicant states that it is a small producer and is filing the instant application to obtain pregranted abandonment authorization for the proposed sales.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 14, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19052 Filed 9-6-73;8:45 am]

[Docket No. CI73-837]

## PRODUCER'S GAS CO.

### Order Setting Matter for Formal Hearing, Permitting Intervention, Prescribing Procedures and Fixing Date of Hearing

AUGUST 31, 1973.

On April 15, 1971, the Commission, acting pursuant to the authority of the Natural Gas Act, as amended, particularly Sections 4, 5, 7, 8, 10, and 16 thereof (52 Stat. 822, 823, 824, 825, 826, 830; 56 U.S.C. Section 717c, Section 717d, Section 717f, Section 171g, Section 717i, and Section 717), issued Order No. 431 promulgating a Statement of General Policy with respect to the establishing of measures to be taken for the protection of as reliable and adequate service as present natural gas supplies and capacities will permit.

Producer's Gas Company (Producer's) has filed, in the above-entitled Docket No. CI73-837, an application, pursuant to section 7(c) of the Natural Gas Act and Order No. 431 in Docket No. R-418, for a limited-term certificate of public convenience and necessity with pre-granted abandonment, authorizing the operation of certain facilities for the sale of emergency gas to Northern Natural Gas Company (Northern) from acreage located in Texas Railroad District No. 10 (Hugoton-Anadarko Area).

The limited-term certificate application provides that Producer's sell approximately 2,000 M c.f. per day for a term of one year. The contractually agreed rate of 51.0 cents per M c.f. at 14.65 p.s.i.a., subject to Btu adjustment from a base of 1,000 Btu, exceeds the applicable area ceiling price of 21.5 cents established by Opinion No. 586.

Producer's commenced emergency deliveries to Northern on May 10, 1973, pursuant to Section 157.29 of the regulations. The sixty-day emergency sale expired July 9, 1973.

In Order No. 431, the Commission amended Part 2, Subchapter A, General Rules, Chapter I, Title 18 of the Code of Federal Regulations by adding a new § 2.70, which reads:

(3) The Commission recognizing that additional short-term gas purchases may still be necessary to meet the 1971-1972 demands, will continue the emergency measures referred to earlier for the stated 60-day period. If the emergency purchases are to extend beyond the 60-day period, paragraph 12, in the Notice issued by the Commission on July 17, 1970, in Docket No. R-389A should be utilized (35 FR 11638). The Commission will consider if the pipeline demonstrates emergency need • • •

Paragraph 12 of R-389A provided, in part, that applicants, requesting certificates for sales of natural gas in excess of the ceiling or guideline rate, shall state the grounds for claiming that the present or future public convenience and necessity requires issuance of a certificate on the terms proposed in the application.

The application in this proceeding represents a sizable volume of gas potentially available to the interstate market. It is of critical importance that interstate pipelines procure emergency supplies of gas to avoid disruption of service to consumers; nevertheless, we must determine whether the rate to be paid serves the public convenience and necessity. It is therefore necessary that this application be set for public hearing and expeditious determination. The hearing will be held to allow presentation, cross-examination, and rebuttal of evidence by any participant. This evidence should be directed to the issue of whether the present or future public convenience and necessity requires issuance of a limited-term certificate on the terms proposed in that application.

Pursuant to the notice of the instant application issued June 13, 1973, Northern filed a petition to intervene.

*The Commission finds*

(1) Good cause exists to set for formal hearing the application for a limited-term certificate herein.

(2) It may be in the public interest to permit Northern Natural Gas Company, which filed a timely petition, to intervene in this proceeding.

*The Commission orders*

(A) The application for limited-term certificate for sale of natural gas filed in Docket No. CI73-837 is hereby set for hearing.

(B) Pursuant to the authority contained in the subject to the authority conferred upon the Federal Power Commission by the Natural Gas Act, including particularly Sections 7, 15, and 16, and the Commission's Rules and Regulations under that Act, a public hearing shall be held commencing September 26, 1973, at 10:00 a.m. (EDT) at a hearing room of the Federal Power Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, concerning whether the present or future convenience and necessity requires the issuance of limited-term certificate for the sale of natural gas on the terms proposed in this application and whether the issuance of said certificate should be conditioned in any way.

(C) Northern Natural Gas Company is hereby permitted to become an intervenor, subject to the rules and regulations of the Commission: *Provided, however,* That participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and: *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order of the Commission entered in these proceedings.

(D) The applicant seeking the limited-term certificate and the proposed purchaser, Northern, shall, on or before September 17, 1973, file with the Commission and serve on all parties to this proceeding, including Commission Staff, all testimony to be sponsored in support of the instant application.

By the Commissioner.[1]

[SEAL] KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19067 Filed 9-6-73;8:45 am]

[1] Commissioner Moody, dissenting, filed a separate statement, filed as part of the original document.





[Docket No. CI73-871]

## PRODUCER'S GAS CO.

### Order Providing for Formal Hearing, Permitting Intervention and Establishing Procedures

AUGUST 31, 1973.

On April 15, 1971, the Commission, acting pursuant to the authority of the Natural Gas Act, as amended, particularly sections 4, 5, 7, 8, 10, and 16 thereof (52 Stat. 822, 823, 824, 825, 826, 830; 56 U.S.C. sections 717c, 717d, 717f, 717g, 717i, and 717), issued Order 431 promulgating a Statement of General Policy with respect to the establishment of measures to be taken for the protection of as reliable and adequate service as present natural gas supplies and capacities will permit.

On June 11, 1973, Producer's Gas Company (Applicant) filed in Docket No. CI73-871 an application pursuant to section 7(c) of the Natural Gas Act and § 2.70 of the Commission's General Policy and Interpretations thereunder for a limited term certificate of public convenience and necessity with pregranted abandonment, authorizing the emergency sale of natural gas to Northern Natural Gas Company (Northern) from the Mowery No. 1 Well in Ellis County, Oklahoma.

The limited term certificate application provides that Applicant sell to Northern a maximum of 2,000 M c.f. of gas per day at an initial rate of 51.0¢ (14.65 p.s.i.a.), subject to upward and downward Btu adjustment from a 1,000 Btu base for a term of one year.

Applicant states that it commenced a sixty day emergency sale to Northern on June 4, 1973. The sixty day sale expired on August 3, 1973.

In Order 431, the Commission amended Part 2, Subchapter A, General Rules, Chapter I, Title 18 of the Code of Federal Regulations by adding a new § 2.70, which reads:

(3) The Commission recognizing that additional short-term gas purchases may still be necessary to meet the 1971-1972 demands, will continue the emergency measures referred to earlier for the stated 60-day period. If the emergency purchases are to extend beyond the 60-day period, paragraph 12 in the Notice issued by the Commission on July 17, 1970, in Docket No. R-389A should be utilized (35 FR 11638). The Commission will consider if the pipeline demonstrates emergency need • • •

Paragraph 12 of R-389A provided, in part, that applicants, requesting certificates for sales of natural gas in excess of the ceiling or guideline rate, shall state the grounds for claiming that the present or future public convenience and necessity requires issuance of a certificate on the terms proposed in the application.

The application in this proceeding represents a significant volume of gas potentially available to the interstate market. It is of critical importance that interstate pipelines procure emergency supplies of gas to avoid disruption of service to consumers; nevertheless, we must determine whether the rate to be paid serves the public convenience and necessity. It is therefore necessary that this application be set for public hearing and expeditious determination. The hearing will be held to allow presentation, cross-examination, and rebuttal of evidence by any participant. This evidence should be directed to the issue of whether the present or future public convenience and necessity requires issuance of a limited-term certificate on the terms proposed in that application.

Northern Natural Gas Company filed a late petition to intervene in this proceeding on July 18, 1973, beyond the July 5, 1973, deadline established by the Notice of Application issued on June 19, 1973.

*The Commission finds*

(1) Good cause exists to set for formal hearing the application for a limited term certificate herein.

(2) It may be in the public interest to permit Northern Natural Gas Company, which filed a late petition, to intervene in this proceeding.

*The Commission orders*

(A) The application for limited term certificate for sale of natural gas filed in Docket No. CI73-871 is hereby set for hearing.

(B) Pursuant to the authority contained in and subject to the authority conferred upon the Federal Power Commission by the Natural Gas Act, including particularly Sections 7, 15, and 16, and the Commission's Rules and Regulations under that Act, a public hearing shall be held commencing September 27, 1973, at 10:00 a.m. (e.d.t.) at a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, concerning whether the present or future convenience and necessity requires the issuance of a limited-term certificate for the sale of natural gas on the terms proposed in this application and whether the issuance of said certificate should be conditioned in any way.

(C) Northern Natural Gas Company is hereby permitted to become an intervenor, subject to the rules and regulations of the Commission: *Provided, however,* That participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene: *And, provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order of the Commission entered in these proceedings.

(D) The Applicant and the proposed purchaser, Northern, shall, on or before September 17, 1973, file with the Commission and serve on all parties to this proceeding, including Commission Staff, all testimony to be sponsored in support of the instant application.

By the Commission.[1]

[SEAL] KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19053 Filed 9-6-73;8:45 am]

[Docket Nos. RI74-30, RI73-31]

## RATE CHANGES

### Order Providing for Hearing on and Suspension of Proposed Changes and Allowing Rate Changes To Become Effective Subject to Refund [2]

AUGUST 29, 1973.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

*The Commission finds*

It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

*The Commission orders*

(A) Under the Natural Gas Act, particularly Sections 4 and 15, the Regulations pertaining thereto (18 CFR, Chapter I), and the Commission's Rules of Practice and Procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Each Respondent shall comply with the refunding procedure required by the Natural Gas Act and Section 154.102 of the Regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
*Secretary.*

[1] Commissioner Moody dissenting filed a separate statement appended hereto.

[2] Does not consolidate for hearing or dispose of the several matters herein.



V 38-173 SEP 7 73 XUM

APPENDIX A

| Docket No. | Respondent | Rate schedule No. | Supplement No. | Purchaser and producing area | Amount of annual increase | Date filing tendered | Effective date unless suspended | Date suspended until— | Cents per Mcf* Rate in effect | Cents per Mcf* Proposed increased rate | Rate in effect subject to refund in docket No. |
|---|---|---|---|---|---|---|---|---|---|---|---|
| RI74-30... | H. L. Hunt | 40 | 1 | Montana-Dakota Utilities Co. (Stoneview Field, Burke and Divide Counties, N. Dak., Montana-Dakota Subarea). | $296 | 7-30-73 | ---------- | 1-30-74 | [1] 23.04 | [1] 26.0 | |
| RI74-31... | Skelly Oil Co. | 271 | 1 | El Paso Natural Gas Co. (Koon Gas Unit, La Plata County, Colo., San Juan Basin). | 11,520 | 8-6-73 | ---------- | 2-6-74 | [1] 24.0 | [1] 28.0 | |

* Unless otherwise stated, the pressure base is 15.025 p.s.i.a.
[1] Subject to upward and downward B.t.u. adjustment from a base of 1,000 B.t.u. per cubic foot.
[2] The pressure base is 14.73 p.s.i.a.

APPENDIX "A"

The proposed rate increases are suspended for five months since they exceed the rate limit for one day suspension.

The producers' proposed increased rates and charges exceed the applicable area price levels for increased rates as set forth in the Commission's Statement of General Policy No. 61-1, as amended (18 CFR 2.56).

Nothing contained in this order shall relieve the respondents of any responsibility imposed by the Economic Stabilization Act of 1970 (Pub. L. 91-379, 84 Stat. 799, as amended by Pub. L. 92-15, 85 Stat. 38), or by any Executive Order or rules and regulations promulgated pursuant to such Act.

[FR Doc.73-19043 Filed 9-6-73;8:45 am]

[Project No. 1894]

## SOUTH CAROLINA ELECTRIC & GAS CO.

### Notice of Availability of Environmental Statement for Inspection

South Carolina Electric & Gas Company on July 26, 1972, filed an application with the Federal Power Commission (1) requesting a new license under section 15 of the Federal Power Act for the existing Parr Hydroelectric Project (FPC No. 1894) located on the Broad River in Fairfield and Newberry Counties, South Carolina; (2) requesting authorization to construct and include within the new license a pumped-storage project utilizing the existing Parr reservoir enlarged to serve as the lower pool; and (3) requesting authorization to use the upper reservoir of the pumped-storage project as a cooling impoundment for a proposed nuclear electric powerplant (A.E.C. Docket No. 50-395).

Notice is hereby given that a draft environmental statement on this application is being placed in the public files of the Federal Power Commission as required by the Commission's Rules and Regulations under Order 415-C, issued December 18, 1972, effecting section 102 (1)(C) of the National Environmental Policy Act of 1969 (Public Law 91-100).

This statement is available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C., and in its Atlanta Regional Office. Copies will be available from the National Technical Information Service, Department of Commerce, Springfield, Virginia 22151, on or about September 5, 1973, or from the Commission's Office of Public Information, Washington, D.C. 20426.

The existing project is a conventional hydroelectric facility comprising a 2,715-foot-long concrete dam, and 1,850-acre reservoir with a controlled surface elevation of 257.0 feet, USC&GS, a powerhouse containing 6 generators rated at all other facilities and interests appur- 2,480 kw, each, with provisions for 2 additional units, and all other facilities and interests appurtenant to its operation.

The redeveloped project for which a license is requested of the Federal Power Commission will comprise the existing Parr powerhouse structure and generating equipment, the existing Parr dam raised 9 feet in height, an enlarged Parr reservoir having a surface area of 4,400 acres at elevation 266 feet, USC&GS, providing water for operation of the existing Parr project and serving as the lower pool of a proposed pumped-storage project consisting of a 6,800-acre upper pool (Monticello Reservoir); four random fill dams; an intake channel; a gated intake structure; four 800-foot-long surface penstocks; a semi-outdoor generating station (Fairfield Powerhouse) housing eight 83,000 horsepower pump-turbine units and eight motor-generators rated at 100,000 horsepower/64,800 kilowatts; a switchyard; associated transmission lines; and all other facilities appurtenant to operation of the project.

Immediately proposed nuclear works subject to jurisdiction of the Atomic Energy Commission, Unit I of the Virgil C. Summer Nuclear Station to be located on the south shore of Monticello reservoir, will comprise a single nuclear reactor and a single 900,000 kilowatt generator. Application for license for this facility is pending before the Atomic Energy Commission in A.E.C. Docket No. 50-395, and a construction permit has been issued by the Atomic Energy Commission. Authorization for use of the upper reservoir of the pumped-storage project as a source of condenser cooling water for this nuclear plant is requested of the Federal Power Commission in this action.

The recreational use of Parr reservoir at present consists of fishing and waterfowl hunting. Due to pumped-storage operation, presently contemplated recreational development of Parr reservoir consists of a boat launching area. The Applicant contemplates no construction of facilities for water contact recreational use within the main body of Monticello reservoir. Rather, the Applicant plans to construct a separate 300 acre subimpoundment for recreational use. A scenic overlook will be located on the eastern shore of Monticello reservoir; and 1082.5 acres of land will be purchased for future recreational use.

The existing hydroelectric units will continue to be operated as in the past; while the pumped-storage addition will provide peaking capacity. Operation of the redeveloped hydroelectric project will be coordinated with operation of the nuclear station. Its total power output will be available to assist other systems in cases of emergencies.

Any party desiring to present evidence regarding environmental matters in this proceeding must file with the Federal Power Commission a petition to intervene containing an explanation of its differing environmental position, specifying wherein its position is at variance with the environmental statement upon which the intervenor wishes to be heard, and including a discussion of the factors enumerated in Commission Order 415-C. Written statements by parties not wishing to intervene may also be filed for Commission consideration. All petitions to intervene and all written statements should be filed with the Secretary of the Commission on or before 45 days from the date of this publication. The Commission will consider all responses.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19039 Filed 9-6-73;8:45 am]

[Docket No. CI74-131]

## SOUTHWESTERN ELECTRIC POWER COMPANY AND CODY C. BEASLEY

### Notice of Application

AUGUST 30, 1973.

Take notice that on August 2, 1973, Southwestern Electric Power Company and Cody C. Beasley (Applicants), P.O. Box 1106, Shreveport, Louisiana 71156, filed in Docket No. CP74-131 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Texas Eastern Transmission Corporation (Texas Eastern) from the Elm Grove Field Area, Bossier Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants proposes to sell up to 10,000 Mcf of gas per day for six months at 45.0 cents per M c.f. at 15.025 p.s.i.a., subject to upward and downward B.t.u. adjustment, within the contemplation of Section 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). Upward B.t.u. adjustment is limited to 1,100 B.t.u. per cubic foot, and initial upward B.t.u. adjustment is estimated at 2.7 cents per M c.f. By order issued February 20, 1973, in Docket No. CI73-436 Applicants were authorized to sell gas to Texas Eastern from the Elm Grove Field Area for six months at 35.0 cents per M c.f. at 15.025 p.s.i.a. within the contemplation of Section 2.70.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 17, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19057 Filed 9-6-73;8:45 am]

[Docket No. CP-73-27 etc.]

## STINGRAY PIPELINE CO. ET AL.

### Notice Denying Request for Postponement of Prehearing Conference

AUGUST 28, 1973.

Stingray Pipeline Company, Docket No. CP73-27, Sun Oil Company, Docket No. CI73-878, Docket No. CI73-879, Docket No. CI73-880, Pennzoil Offshore Transmission Company, Docket No. CP72-292.

On August 16, 1973, Pennzoil Offshore Transmission Company requested postponement of the prehearing conference scheduled for Setember 4, 1973, by notice issued August 15, 1973, in the above-designated matter. The prehearing conference was postponed by notice issued August 15, 1973, because of a calendar conflict in the Office of the Administrative Law Judges. The conflict still exists.

Upon consideration, notice is hereby given that the above request for postponement of the prehearing conference is denied.

MARY B. KIDD,
*Acting Secretary.*

[FR Doc.73-19038 Filed 9-6-73;8:45 am]

[Docket No. CI72-662]

## SUN OIL CO., ET AL.

### Order Vacating Order in Part, Amending Order Issuing Certificate, and Accepting FPC Gas Rate Schedule Supplement for Filing

AUGUST 30, 1973.

On June 8, 1973, Sun Oil Company (Operator), *et al.* (Sun), filed an amendment to its application in Docket No. CI72-662 filed April 18, 1973, pursuant to section 7(c) of the Natural Gas Act and requested that a limited-term sale of natural gas to United Gas Pipe Line Company (United) extend from July 17, 1973, in lieu of the date of expiration of a previous limited-term certificate or the date of Commission authorization, all as more fully set forth in the amendment to the application in this proceeding.

By order dated June 14, 1973, in the subject docket, Sun was authorized to resume a sale of natural gas to United from the East Dykesville Field for a one year term from the date of the order within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). The order also accepted a contract dated March 11, 1973, as Supplement No. 1 to Sun Oil Company FPC Gas Rate Schedule No. 508. Sun, upon expiration of prior authorization in the subject docket commenced a sixty-day emergency sale of natural gas to Texas Gas Transmission Corporation on May 18, 1973 within the contemplation of § 157.29 of the Regulations under the Natural Gas Act (18 CFR 157.29). Pursuant to a letter agreement with United dated May 19, 1973, Sun requests authorization to make the subject limited-term sale to United for a one year term extending from the end of the 60-day emergency sale with Texas Gas.

The Commission finds:

(1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the Commission's order of June 14, 1973, in the subject docket be vacated in part as hereinafter ordered.

(2) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the Commission's order in the subject docket issuing a certificate of public convenience and necessity be amended as hereinafter ordered and conditioned.

(3) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the letter agreement and contract submitted by Sun should be accepted for filing as supplements to its FPC gas rate schedule.

(4) An emergency exists on the system of United which will continue for at least the term of the authorization granted herein.

The Commission orders:

(A) The Commission's order of June 14, 1973, in Docket No. CI72-662 is vacated insofar as it authorized the sale of gas to United to begin on the date of such order and accepted for filing the contract dated March 11, 1973, effective the date of such order.

(B) The order issuing a certificate of public convenience and necessity in said docket is amended by authorizing the sale of gas to United by Sun for one year from the end of its sixty-day emergency sale of natural gas to Texas Gas, July 17, 1973. In all other respects said order, as amended, shall remain in full force and effect.

(C) The contract dated March 11, 1973, submitted by Sun is accepted for filing as Supplement No. 1 to Sun Oil Company (Operator), *et al.*, FPC Gas Rate Schedule No. 508 to be effective on July 17, 1973.

(D) The letter agreement dated May 18, 1973, is accepted for filing as Supplement No. 2 to Sun Oil Company (Operator), *et al.*, FPC Gas Rate Schedule No. 508 to be effective July 17, 1973.

By the Commission.

[SEAL] KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19064 Filed 9-6-73;8:45 am]

## FEDERAL RESERVE SYSTEM

## MANUFACTURERS HANOVER CORP.

### Acquisition of Assets

This matter comes before the Board of Governors on a Request for Reconsideration filed by Manufacturers Hanover Corporation asking that the Board reconsider its Order dated June 25, 1973, whereby the Board denied the application of Manufacturer's Hanover Corporation for prior approval to acquire substantially all the assets of Citizens Mortgage Company pursuant to sec. 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)).

This request for reconsideration is filed pursuant to § 262.3(g)(5) of the Board's rules of procedure which provides:

After action by the Board on an application, the Board will not grant any request for reconsideration of its action unless the request presents relevant facts that, for good cause shown, were not previously presented to the Board, or unless it otherwise appears to the Board that reconsideration would be appropriate.

The Board finds that the request for reconsideration presents relevant facts







V 38 173 SEP 7 73 XUM

(particularly concerning the public benefits of the application) that, for good cause shown, were not previously presented to the Board, and reconsideration appears otherwise appropriate. Therefore, it appears that reconsideration is in the interest of all parties as well as in the public interest.

It is hereby ordered that the request for reconsideration of the application be, and hereby is, granted. In order to facilitate such reconsideration, comments and views regarding the proposed acquisition may be filed with the Board by September 14, 1973. Communications should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The Application, as supplemented, may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of New York.

By order of the Board of Governors,[1] effective August 31, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-19151 Filed 9-6-73;8:45 am]

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (73-67)]

### NASA SPACE PROGRAM ADVISORY COUNCIL

#### Notice of Meeting

The NASA Space Program Advisory Council will meet on September 20 and 21, 1973, Room 7002, Federal Office Building 6, 400 Maryland Avenue SW., Washington, D.C. The meeting is open to the public with the exception of the closed sessions, three of which fill the morning of September 20 and the fourth of which is scheduled from 1:00 P.M. to 2:00 P.M. on September 21. The seating capacity of the room is about 40 persons, including Council members and other participants.

The NASA Space Program Advisory Council was established as an interdisciplinary group to advise NASA senior management on Physical Sciences, Life Sciences, Space Applications, and Space Systems. The functions of the Council are to consult with and advise NASA through the Deputy Administrator with respect to the plans for the work in progress on, and accomplishments of NASA's space programs. In this capacity and within the general confines of agendas submitted for its consideration, the Council will review and advise on (1) agency and program objectives, policies, and strategies; (2) the degree to which programs achieve their objectives and contribute to overall agency objectives; and (3) the means for the effective coordination of NASA's interests and activities with the academic, scientific, and engineering communities and institutions. The current Chairman is Dr. Frederick Seitz. There are nine members on the Council and additional members on four committees which report to the Council. The following list sets forth the approved agenda and schedule for the meeting. For further information contact the Executive Secretary, Mr. J. Allen Crocker, Area Code 202-755-3818.

THURSDAY, SEPTEMBER 20

| Time | Topic |
|---|---|
| 9:00 A.M. | *Issues in the FY 1975 Budget* (Closed Session)—Council members may cite some issues on their own initiative. Other issues will be brought out by NASA. The Council should reach consensus on issues considered. |
| 10:45 A.M. | *NASA/USAF Planning for Shuttle Users* (Closed Session)—Members of the Council will be expected to comment on NASA/USAF shuttle usage planning and make appropriate recommendations. |
| 11:30 A.M. | *SPAC Membership* (Closed Session)—SPAC members should be prepared to recommend ways in which the membership base should be broadened and strengthened. Council members should endeavor to have with them the vitae to support individuals they propose for consideration. |
| 1:00 P.M. | *Skylab Update*—The Council will be briefed on the Skylab mission status with emphasis on: the vehicle situation, experimental results, medical criteria for setting the duration of Skylab occupancy, plans in connection with Comet Kohoutek, what has been learned from Skylab that could not have been learned without the presence of man, and what Skylab portends for the future. |
| 2:45 P.M. | *Space Shuttle Update*—Members of the Council will comment on this updating on technical status, problems, and schedule aspects pertaining to the Space Shuttle. |
| 3:15 P.M. | *Space Tug*—After informing the Council of Space Tug study options, phasing options, and program plans, members will be asked to comment. |

FRIDAY, SEPTEMBER 21

| | |
|---|---|
| 9:00 A.M. | *Space Shuttle Payload Planning*—The shuttle payload planning status will be reviewed and comments will be solicited from the members of SPAC. |
| 9:30 A.M. | *1973 Woods Hole Summer Study Results*—Members of the Council will be given an oral summary of NASA's view of what came out of the summer study. |
| 10:00 A.M. | *Sortie Lab (Spacelab) Update*—In order to inform the members of SPAC on the status of European planning with respect to the Spacelab, the Council will be briefed on a review of requirements, ESRO studies, and the status of agreements. |
| 10:45 A.M. | *Viking and Planetary Sterilization*—The Council will be informed of the analysis of Life Sciences subcommittee's efforts and plans. |
| 11:30 A.M. | *Joint Interests of Life Science Committee and Other Committees*—The insight obtained from an analysis of Life Sciences' thrusts for the 1980's, steps achieved, and plans contemplated will be shared for comment by the members of SPAC. |
| 1:00 P.M. | *Executive Session* (Closed)—Members of the Council will review for NASA Top Management the salient factors which influenced their recommendations. |
| 2:00 P.M. | *Administrative* — Select dates for next meeting. |
| 2:15 P.M. | Adjourn. |

HOMER E. NEWELL,
*Associate Administrator, National Aeronautics and Space Administration.*

AUGUST 31, 1973.

[FR Doc.73-19031 Filed 9-6-73;8:45 am]

## DEPARTMENT OF LABOR

### Office of Labor-Management and Welfare-Pension Reports

### ADVISORY COUNCIL ON EMPLOYEE WELFARE AND PENSION BENEFIT PLANS

#### Notice of Meeting

Pursuant to section 14 of the Welfare and Pension Plans Disclosure Act (29 U.S.C. 308e) a meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held on Tuesday, September 18, 1973, at 9:30 a.m. in Departmental Auditorium Conference Rooms B & C, 12th and Constitution Avenue NW., Washington, D.C. The meeting will be open to members of the public who signify an intention to attend.

The agenda for the meeting follows:

1. Administration of Oath to New Members.
2. Approval of Minutes of Last Meeting.
3. Bonding Experience Under the Welfare and Pension Plans Disclosure Act.
4. Pension Plan Termination Insurance.

Persons desiring to attend should notify Mr. Edward F. Lysczek, Executive Secretary to the Advisory Council, 301-427-7273.

[1] Voting for this action: Vice Chairman Mitchell and Governors Deane, Brimmer, Sheehan, Bucher, and Holland. Absent and not voting: Chairman Burns.





Signed at Washington, D.C., this 4th day of September 1973.

PAUL J. FASSER, Jr.,
*Assistant Secretary for Labor-Management Relations.*

[FR Doc.73-19073 Filed 9-6-73;8:45 am]

### Office of the Secretary

### FEDERAL SAFETY ADVISORY COUNCIL

#### Notice of Meeting

Notice is hereby given of a meeting to be held by the Federal Safety Advisory Council established to advise the Secretary of Labor with regard to occupational safety and health programs applicable to Federal employees. (Executive Order 11612; 3 CFR 1971 Comp., p. 195.)

The meeting will begin at 9 a.m., on September 12, 1973, in rooms 102 A, B, and C of the United States Department of Labor Building, 14th Street and Constitution Avenue NW., Washington, D.C.

The purpose of this meeting is to consider and discuss the report of the informal meeting between Department of Labor personnel and members of the Council. The meeting took place on August 28, 1973, to review the comments of Council members on the draft proposed regulations for safety and health programs for Federal employees.

Members of the public are invited to attend the proceedings.

Any written data, views, or arguments concerning the matter to be considered which are received by the Council on or before September 11, 1973, together with 25 duplicate copies, will be provided to the members and will be included in the minutes of the meeting.

Interested persons wishing to address the Council at the meeting should submit a request to be heard, together with 25 copies thereof, no later than September 11, 1973, stating the nature of their intended presentation and the amount of time they will need. At the commencement of the meeting the Chairman will announce the extent to which time will permit the granting of such requests.

Communications to the Council should be addressed as follows:
Mr. Eugene L. Newman
Director, Office of Federal Agency Programs
400 First Street NW., Room 409
Washington, D.C. 20210

Signed at Washington, D.C., this 5th day of September 1973.

JOHN STENDER,
*Assistant Secretary of Labor.*

[FR Doc.73-19149 Filed 9-6-73;8:45 am]

### HUBBARD SHOE CO., INC.

#### Notice of Certification of Eligibility of Workers To Apply for Adjustment Assistance

Under date of August 7, 1973, the U.S. Tariff Commission made a report of the results of its investigation (TEA-W-202) under section 301(c)(2) of the Trade Expansion Act of 1962 (76 Stat. 884) in response to a petition for determination of eligibility to apply for adjustment assistance filed by the United Shoe Workers of America, AFL-CIO, on behalf of the former workers of the Hubbard Shoe Co., Inc., Rochester, N. H. In this report the Commission found that articles like or directly competitive with women's footwear of the types produced by Hubbard Shoe Co., Inc. are, as a result in major part of concessions granted under trade agreements, being imported into the United States in such increased quantities as to cause, or threaten to cause, unemployment or underemployment of a significant number or proportion of the workers of such company or an appropriate subdivision thereof.

Upon receipt of the Tariff Commission's affirmative finding, the Department, through the Director of the Office of Foreign Economic Policy, Bureau of International Labor Affairs, instituted an investigation.

Following this, the Director made a recommendation to me relating to the matter of certification (Notice of Delegation of Authority and Notice of Investigation, 34 FR 18342; 37 FR 2472; 38 FR 22084; 29 CFR Part 90). In the recommendation she noted that concession generated imports like or directly competitive with women's footwear produced by Hubbard Shoe Co., Inc., increased substantially. In the period 1969-1972 the company's customers turned increasingly to imports. In an effort to remain competitive, the company introduced style changes, consolidated production operations and began importing. Despite these efforts, sales declined substantially and the company sustained losses. Company employment declined throughout this period and the plant was closed in April 1973. Reductions in employment prior to 1971 occurred substantially as a result of voluntary separations. Unemployment and underemployment of a significant number of the workers began in July 1971 as a result in major part from increased import competition. After due consideration I make the following certification:

"All workers, hourly, piecework, and salaried, of the Rochester, New Hampshire plant of the Hubbard Shoe Co., Inc., Rochester, New Hampshire, engaged in the production of women's footwear, who became unemployed or underemployed after July 11, 1971 are eligible to apply for adjustment assistance under Title III, Chapter 3, of the Trade Expansion Act of 1962."

Signed at Washington, D.C., this 30th day of August 1973.

HERBERT N. BLACKMAN,
*Deputy Assistant Secretary for Trade and Adjustment Policy.*

[FR Doc.73-19072 Filed 9-6-73;8:45 am]

## INTERSTATE COMMERCE COMMISSION

[Notice 336]

### ASSIGNMENT OF HEARINGS

SEPTEMBER 4, 1973.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after September 10, 1973.

Finance Docket No. 26241, Penn Central Transporation Company Reorganization, is continued to September 11, 1973, in the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-C-6980 Sub 1, Joe Jones, Jr., DBA Joe Jones Trucking Co.—Revocation of Permit—now assigned September 10, 1973, at Atlanta, Ga., is cancelled.

MC 126625 Sub 11, Murphy Surf-Air Trucking Company, Inc., application dismissed.

MC 126625 Sub 12, Murphy Surf-Air Trucking Company, Inc., application dismissed.

MC 126625 Sub 13, Murphy Surf-Air Trucking Company, Inc., application dismissed.

MC 115826 Sub 244, W. J. Digby, Inc., now assigned September 10, 1973, at Salt Lake City, Utah, is cancelled and application is dismissed.

MC 108411 Sub 5, Stearly's Motor Freight, Inc., Extension—Cranes, now being assigned hearing October 24, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 73165 Sub 321, Eagle Motor Lines, Inc., now being assigned hearing October 24, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 8948 Subs 55 and 67, Western Gillette, Inc., Extension Alternate Route-El Paso, Tex., now being assigned hearing October 30, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 136035 Sub 2, Walter S. Dunning and Walter H. Dunning, d.b.a. W. S. Dunning & Son, now being assigned hearing October 31, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 138568, W. Paul Henry, now being assigned hearing October 31, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-C-8073, Piggy-Back Service Co. and C. L. "Bill" Shupe—Investigation of Operations and Practices, now assigned September 24, 1973, at Salt Lake City, Utah, is postponed indefinitely.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-19080 Filed 9-6-73;8:45 am]



V 38 - 173 SEP 7 73 XUM

[Notice No. 70]

## MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

AUGUST 31, 1973.

The following applications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by Special Rule 1100.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d) (3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

No. MC 6078 (sub-No. 74), filed July 19, 1973. Applicant: D. F. BAST, INC., P.O. Box 2288, Allentown, Pa. 18001. Applicant's representative: Bert Collins, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Elevators, escalators, and parts thereof, and machinery, materials and supplies* used in the manufacture, installation and maintenance of elevators and escalators (except in bulk), between the plantsite and other facilities of Otis Elevator Co., at Bloomington, Ind., on the one hand, and, on the other, points in the United States in and east of Minnesota, Iowa, Missouri, Arkansas, and Louisiana.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 14702 (sub-No. 52), filed July 12, 1973. Applicant: OHIO FAST FREIGHT, INC., P.O. Box 808, Warren, Ohio 44482. Applicant's representative: Paul F. Beery, 88 East Broad Street, Suite 1660, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum articles* (except commodities in bulk), from the plantsite of Aluminum Company of America at or near Massena, N.Y., to points in Indiana, the Lower Peninsula of Michigan, and the Chicago, Ill., commercial zone.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 49387 (sub-No. 43), filed July 20, 1973. Applicant: ORSCHELN BROS. TRUCK LINES, INC., Highway 24 East, P.O. Box 658, Moberly, Mo. 65270. Applicant's representative: Herman W. Huber, 101 East High Street, Jefferson City, Mo. 65101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, plastic conduit, plastic or iron fittings and connections, valves, hydrants, and gaskets* (except Oil Field Commodities as defined in *Mercer-Extension Oil Field Commodities*, 74 M.C.C. 459), from the plantsite and storage facilities of the Clow Corporation at Columbia, Mo., to points in Illinois, Indiana and Iowa, restricted to traffic originating at the plantsite and storage facilities of the Clow Corporation at Columbia, Mo.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. Applicant further states no duplicating authority sought. If a hearing is deemed necessary, applicant requests it be held at either Jefferson City, St. Louis, or Kansas City, Mo.

No. MC 50307 (sub-No. 64), filed August 2, 1973. Applicant: INTERSTATE DRESS CARRIERS, INC., 247 West 35th Street, New York, N.Y. 10001. Applicant's representative: Herbert Burstein, One World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel and materials, supplies, and equipment* used in the manufacture thereof, between Bridgeport, Pa., on the one hand, and, on the other, Phillipsburg, N.J.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 61403 (sub-No. 222), filed July 19, 1973. Applicant: THE MASON AND DIXON TANK LINES, INC., Highway 11W, P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: W. C. Mitchell, Suite 1201, 370 Lexington Avenue, New York, N.Y. 10017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, from the plantsite of Dow Chemical, U.S.A. at or near Plaquemine, La., to points in the United States (except Alaska and Hawaii), restricted to the transportation of shipments originating at the above-named plantsite.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Houston, Tex.

No. MC 71902 (sub-No. 77), filed July 19, 1973. Applicant: UNITED TRANSPORTS, INC., 4900 North Santa Fe Street, P.O. Box 18547, Oklahoma City, Okla. 73118. Applicant's representative: Robert E. Joyner, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, Tenn. 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New foreign-made motor vehicles* (except trailers), in truckaway service, in secondary movements, from Houston, Tex., to Memphis, Tenn.; restricted against tacking and joining with any other authority held by applicant for the purpose of performing a through service.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Houston or Dallas, Tex., or Oklahoma City, Okla.

No. MC 73937 (sub-No. 16) (correction), filed May 21, 1973, published in the FEDERAL REGISTER issue of July 26, 1973, and republished, as corrected, this issue. Applicant: HOGAN STORAGE & TRANSFER COMPANY, a corporation, 721 East Fourth Avenue, Williamson, W. Va. 25661. Applicant's representative: John M. Friedman, 2930 Putman Avenue, Hurricane, W. Va. 25526. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, which because of their size or weight require the use of special equipment, and *related construction equipment and tools, and self-propelled articles, and related machinery tools, parts, and supplies* moving in connection therewith (1) between points in West Virginia, on and south of U.S. Highway 60; those in Buchanan, Dickerson, Lee, and Wise Counties, Va.; those in Athens, Gallia, Lawrence, Meigs, and Scioto Counties, Ohio; and those in Kentucky on and east of a line beginning at the Kentucky-Tennessee State line and extending along U.S. Highway 25 to Erlanger, Ky., and those north to the Kentucky-Indiana State line near Constance, Ky.; and (2) between points in (1) above, on the one hand, and, on the other, points in Tennessee; points in that part of Ohio in and east of U.S. Highway 23 extending through Portsmouth, Columbus, Fostoria, and Toledo, Ohio; points in that part of Virginia on and west of U.S. Highway 220 extending through Martinsville, Roanoke, Clifton Forge, Covington, and Monterey, Va., and those in that part of Pennsylvania on and south of U.S. Highway 322 extending through Jamestown, Meadville, and Clearfield, Pa., to Port Matilda, Pa., and on and west of U.S. Highway 220 extending through Bedford and Altoona, Pa., to Port Matilda, Pa.

NOTE.—The purpose of this republication is to indicate that although applicant seeks by the request for authority herein to eliminate a gateway at Mingo County, W. Va., this application is also a request to extend applicant's commodity authority. Applicant further states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at either Charlestown, W. Va.; Columbus, Ohio, or Washington, D.C.

No. MC 78687 (sub-No. 38), filed July 3, 1973. Applicant: LOTT MOTOR LINES, INC., 118 Monell Street, Penn Yan, N.Y. 14527. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt products*, from the facilities of the Morton Salt Company, Division of Morton International, Inc., at Milo Township, N.Y., to points in New Jersey, New York, Pennsylvania, Connecticut, Massachusetts, Rhode Island, Vermont, Maine, and New Hampshire.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. Applicant also holds contract carrier authority in MC 2505, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 9530 (sub-No. 19), filed June 20, 1973. Applicant: NORTHERN NECK TRANSFER, INC., P.O. Box 345, Montross, Va. 22520. Applicant's representative: L. C. Major, Jr., Suite 301, Tavern Square, 421 King Street, Alexandria, Va. 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Building materials*, from points in New Jersey, Pennsylvania, and Delaware, to Marlow Heights, Md., (2) *pallets*, wood, set up or knocked down, and *pallet parts*, from Lorne, Va., to points in West Virginia and North Carolina; (3) *treated and untreated lumber, timber, railroad ties, poles, and posts*, from points in that part of Virginia on and east of U.S. Highway 15 (except Franklin, Va., and points in Isle of Wight County, Va.), to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and the District of Columbia; and (4) *wooden mats* from Warsaw, Va., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and the District of Columbia.

NOTE.—Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Richmond, Va.

No. MC 79525 (sub-No. 2), filed July 5, 1973. Applicant: THE NORRIS BROTHERS COMPANY, a corporation, 2138 Davenport Avenue, Cleveland, Ohio 44114. Applicant's representative: Thomas R. Chase, 800 National City Bank Building, Cleveland, Ohio 44114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, in tank vehicles), between points in Cuyahoga County, Ohio, and points in Ohio.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio.

No. MC 99610 (sub-No. 16), filed July 27, 1973. Applicant: ROSS NEELY EXPRESS, INC., 1500 Second Street, Pratt City, Birmingham, Ala. 35214. Applicant's representatives: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, D.C. 20004, and Robert S. Richard, 57 Adams Avenue, P.O. Box 2069, Montgomery, Ala. 36103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe fittings, hydrants, valves, and parts, and accessories* for the aforenamed items (except commodities in bulk), from the facilities of United States Pipe and Foundry Company at or near Birmingham and Bessemer, Ala., to points in Tennessee, Georgia, Florida, North Carolina, and South Carolina, restricted to the transportation of traffic originating at the facilities of United States Pipe and Foundry Company at or near Birmingham and Bessemer, Ala.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., or Washington, D.C.

No. MC 102567 (sub-No. 165), filed July 9, 1973. Applicant: EARL GIBBON TRANSPORT, INC., 4295 Meadow Lane, P.O. Drawer 5357, Bossier City, La. 71010. Applicant's representative: Jo E. Shaw, 816 Houston First Savings Building, Houston, Tex. 77002. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals and plastics*, liquid and dry, in bulk, from points in Gregg and Harrison Counties, Tex., to points in the United States (except Alaska and Hawaii).

NOTE.—Applicant states that the requested authority can be tacked with its existing authority (1) at points in Gregg and Harrison Counties, Tex., on petroleum products and liquefied petroleum gases, to serve points in the United States (except Alaska and Hawaii); and (2) at points in Texas, Arkansas, and Louisiana within 150 miles of Henderson, Tex., on chemicals to provide service between the points named in (2) above, but applicant indicates it has no present intention to tack. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Houston, Tex.

No. MC 103051 (sub-No. 280), filed May 14, 1973. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Avenue, North, P.O. Box 90408, Nashville, Tenn. 37209. Applicant's representative: Russell E. Stone (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vegetable oils, animal fats, and blends thereof*, in bulk, in tank vehicles, from Chattanooga, Tenn., to points in New Jersey.

NOTE.—Common control and dual operations may be involved. Applicant states that the requested authority can be tacked with MC 103051 at Chattanooga, Tenn., to provide through service from points in Georgia to points in Tennessee, and further to provide through service from points in Alabama and Mississippi to points in Tennessee, but it has no present intention to tack. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn., or Atlanta, Ga.

No. MC 103051 (sub-No. 281), filed June 19, 1973. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Avenue North, Nashville, Tenn. 37209. Applicant's representative. Russell E. Stone (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals and fertilizer solutions*, in bulk, in tank vehicles, from Eufaula, Ala., to points in Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.

NOTE.—Common control and dual operations may be involved. Applicant states that the requested authority can be tacked with its sub 217 at points in Robertson County, Tenn., to serve points in Indiana, Michigan, Ohio, Virginia, and Missouri; and with sub 230 at Lavergne, Tenn., to serve points in Illinois, Indiana, Michigan, and Virginia, but





FEDERAL REGISTER, VOL. 38, NO. 173—FRIDAY, SEPTEMBER 7, 1973

V 38 N 173 SEP 7 73 XUM

it has no present intention to tack. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing as deemed necessary, applicant requests it be held at Nashville, Tenn., or Atlanta, Ga.

No. MC 103051 (sub-No. 282), filed June 25, 1973. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Avenue North, Nashville, Tenn. 37209. Applicant's representative: Russell E. Stone (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulfuric acid*, in bulk, in tank vehicles, from Carrollton, Ga., to Hanceville, Ala.

NOTE.—Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 103498 (sub-No. 35), filed July 9, 1973. Applicant: W. D. SMITH TRUCK LINE, INC., P.O. Drawer C, DeQueen, Ark. 71832. Applicant's representative: Donald T. Jack, Jr., 1550 Tower Building, Little Rock, Ark. 72201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particleboard*, from Corrigan, Tex., to points in Arkansas, Louisiana, Mississippi, New Mexico, and Oklahoma.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark.

No. MC 103926 (sub-No. 29), filed July 16, 1973. Applicant: W. T. MAYFIELD SONS TRUCKING CO., a Corporation, 3881 Bankhead Highway, P.O. Box 947, Mableton, Ga. 30059. Applicant's representative: R. J. Reynolds, III, 1500 Candler Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cranes, derricks, power shovels, draglines, front end loaders, backhoes, and related parts and attachments* moving in connection therewith, which because of size or weight requires the use of special equipment or handling, from the plantsites of the Bucyrus-Erie Company at Evansville, Ind., to points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Texas, restricted to traffic originating at and destined to points named above.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 105159 (sub-No. 29), filed July 5, 1973. Applicant: KNUDSEN TRUCKING, INC., 1320 West Main Street, Red Wing, Minn. 55066. Applicant's representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cheese and cheese products*, from points in Wisconsin (except Marshfield and Brown County), and Bongard and Dalbo, Minn., to Philadelphia, Pa., Richmond and Norfolk, Va., North Carolina, Columbia, S.C., Baltimore, Md., and Boston, Mass., restricted to traffic originating at the storage and production facilities serving Wildstein, a division of Brooks Bond Foods, Inc., and destined to the above-named points; (2) *cheese and cheese products*, from the plantsite and warehouse facility of Wildstein, a division of Brooke Bond Foods, Inc., at Philadelphia, Pa., to Richmond and Norfolk, Va., North Carolina, Columbia, S.C., and Baltimore, Md.; (3) *empty steel drum containers*, used for transporting cheese and cheese products, from the plantsite and warehouse facilities of Wildstein, a division of Brooke Bond Foods, Inc., at Philadelphia, Pa., to points in Wisconsin and Bongard and Dalbo, Minn.; and (4) *inedible cheese and inedible cheese products*, from the plantsite and warehouse facilities of Wildstein, a division of Brooke Bond Foods, Inc., located at or near Philadelphia, Pa., to Peoria, Ill.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 106398 (sub-No. 680), filed July 9, 1973. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, Okla. 74151. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, from Grand Junction (Mesa County), Colo., to points in the United States (except Alaska and Hawaii).

NOTE.—Dual operations and common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 106398 (sub-No. 681), filed July 9, 1973. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, Okla. 74151. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood panels*, from Charleston, S.C., to points in the United States east of Minnesota, Iowa, Missouri, Arkansas, and Louisiana.

NOTE.—Dual operations and common control may be involved. Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C.

No. MC 107012 (sub-No. 185), filed July 23, 1973. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Lincoln Highway East and Meyer Road, Fort Wayne, Ind. 46801. Applicant's representative: Terry G. Fewell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nonmotorized playground and recreational furnishings and equipment*, from Bossier City, La., to points in the United States, including Alaska and Hawaii.

NOTE.—Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 107012 (sub-No. 186), filed July 23, 1973. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Lincoln Highway East and Meyer Road, Fort Wayne, Ind. 46801. Applicant's representative: Donald C. Lewis (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lawn mowers*, from Indianolla, Miss., and Lawrenceburg, Tenn., to points in the United States, including Alaska and Hawaii, and (2) *lawn and garden tools*, from Statesville, N.C., to points in the United States, including Alaska and Hawaii.

NOTE.—Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 107107 (sub-No. 430), filed August 9, 1973. Applicant: ALTERMAN TRANSPORT LINES, INC., 12805 Northwest 42d Avenue (LeJeune Road), Opa Locka, Fla. 33054. Applicant's representative: Ford W. Sewell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foods and foodstuffs*, from points in Florida, to points in Alabama, Arkansas, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at either Tampa, Orlando, or Miami, Fla.

No. MC 107403 (sub-No. 855), filed July 6, 1973. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: Harry C. Ames, Jr., 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lime, limestone and cement*, in bulk and in bags, from the plantsites of Cheney Lime and Cement Company at Graystone (Blount County), and Landmark (Shelby County), Ala., to points in Alabama, Florida, Georgia,





Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee, and (2) *liquefied petroleum gas*, in bulk, in tank vehicles, from Milner, Ga., to points in Alabama.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 107445 (sub-No. 4), filed July 9, 1973. Applicant: UNDERWOOD MACHINERY TRANSPORT, INC., 940 West Troy Avenue, Indianapolis, Ind. 46225. Applicant's representative: K. Clay Smith, P.O. Box 33051, Indianapolis, Ind. 46203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, plastic couplings and fittings, plastic articles, and adhesive cement* used in the installation of plastic pipe, tubing, conduit valves, and fittings, from points in Licking County, Ohio, on the one hand, and, on the other, points in New York, Pennsylvania, West Virginia, Kentucky, Indiana, Michigan, Illinois, Missouri, Iowa, Wisconsin, Minnesota, and New Jersey.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind.

No. MC 107743 (sub-No. 23) (correction), filed June 15, 1973, published in the FEDERAL REGISTER issue of August 9, 1973, and republished, as corrected, this issue. Applicant: SYSTEM TRANSPORT, INC., 6523 Broadway, Spokane, Wash. 99206. Applicant's representative: S. J. Cully, Jr., P.O. Box 3456TA, Spokane, Wash. 99220. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel and iron and steel articles*, from Chicago Heights, Ill.; points in Porter County, Ind.; and points in Michigan and Ohio, to points in Idaho Montana, Oregon, Washington, and California; (2) *iron and steel; and iron and steel articles*, when transported together with nonferrous articles, from Chicago, Ill., to points in Washington and California.

NOTE.—Applicant states that the requested authority "cannot" be tacked with its existing authority. The purpose of this republication is to correctly indicate: (1) Applicant's representative as S. J. Culley, in lieu of, Gordon Roberts; and (2) the tacking information. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 108973 (sub-No. 10), filed July 16, 1973. Applicant: INTERSTATE EXPRESS, INC., 2334 University Avenue, St. Paul, Minn. 55114. Applicant's representative: Joseph J. Dudley, W-1260 First National Bank Building, St. Paul, Minn. 55101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products*, from St. Cloud, Minn., to points in Illinois, Indiana, Iowa, Kansas, Michigan, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin, with no transportation for compensation on return except as otherwise authorized; and (2) *machinery, equipment, materials and supplies* used in, or in connection with the manufacture of paper and paper products, between St. Cloud, Minn., on the one hand, and, on the other, points in Illinois, Indiana, Iowa, Kansas, Michigan, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin, under contract with Hoerner Waldorf Corporation, located at St. Paul, Minn.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 109326 (sub-No. 107), filed July 17, 1973. Applicant: C & D TRANSPORTATION CO., INC., P.O. Box 10506, New Orleans, La. 70121. Applicant's representative: William P. Jackson, Jr., 919 18th Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Gulfport, Miss., to points in Louisiana, Mississippi, Arkansas, Missouri, Illinois, Indiana, Ohio, Kentucky, Tennessee, North Carolina, South Carolina and those in that part of Alabama on and north of U.S. Highway 80, restricted against service from or to any facility of the Great Atlantic & Pacific Tea Company.

NOTE.—Common control and dual operations may be involved. Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New Orleans, La.

No. MC 109649 (sub-No. 15), filed June 27, 1973. Applicant: L. P. TRANSPORTATION, INC., Cross and Main Streets, Chester, N.Y. 10918. Applicant's representative: John L. Alfano, 2 West 45th Street, New York, N.Y. 10036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied natural gases*, in bulk, in tank vehicles, from Everett, Mass., Chattanooga, Tenn., and Roanoke, Va., to Howell Township, Manahawkin, and McKee City, N.J.

NOTE.—Common control may be involved. Applicant states that the requested authority can be tacked with its lead certificate in MC 109649 at Howell Township, Manahawkin, and McKee City, N.J., to provide a through service to points in New York, New Jersey, and Pennsylvania within 150 miles of Chester, N.Y. (including Chester); with sub 5 at Everett, Mass., to originate traffic at Newark, N.J.; sub 6 at Everett, Mass., to originate traffic at Bath, Harford, Mills, and Hudson Falls, N.Y., and points in New York on the Texas-Eastern Transmission Corporation Pipeline extending from the Pennsylvania-New York State line near Corning, N.Y., to Selkirk, N.Y.; sub 8 at Everett, Mass., to originate traffic from pipeline outlets of the Texas-Eastern Transmission Corporation (Little Big Inch Division) pipeline in Pennsylvania; and sub 11 at Everett, Mass., to originate service at Providence, R.I., providing service in all of the above to the destination points requested herein. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 110420 (sub-No. 685), filed July 2, 1973. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: Fred H. Figge (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soybean products*, dry, in bulk, from points in Illinois to Muscatine, Iowa.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its present authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 111045 (sub-No. 105), filed July 23, 1973. Applicant: REDWING CARRIERS, INC., P.O. Box 426, Tampa, Fla. 33601. Applicant's representative: J. V. McCoy (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Caustic soda*, in bulk, in tank vehicles, from McIntosh, Ala., to points in Florida.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 111401 (sub-No. 392), filed July 6, 1973. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Alvin J. Meiklejohn, Jr., Suite 1600, Lincoln Center, 1660 Lincoln Street, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Flour*, in bulk, in tank vehicles, from Enid, Okla., to points in Georgia and Arizona: (2) *petroleum wax*, in bulk, in tank vehicles, from Gulf Oil Company—U.S. Cedar Bayou Olefin plant at or near Baytown, Tex., to points in Connecticut and New Jersey; and (3) *dry plastic material*, in bulk, in tank vehicles, from Beaumont, Tex., to points in Louisiana.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Houston, Tex.

No. MC 111956 (sub-No. 28), filed July 16, 1973. Applicant: SUWAK TRUCKING COMPANY, a Corporation, 1105 Fayette Street, Washington, Pa. 15301. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap paper*, from the facilities of Clev-Pak Corporation, located in Donora, Pa., to Piermont, N.Y.



V 38 I 173
SEP 7 73
XUM

NOTE: Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 112822 (sub-No. 283), filed July 12, 1973. Applicant: BRAY LINES INCORPORATED, P.O. Box 1191, 1401 North Little Street, Cushing, Okla. 74023. Applicant's representative: Jim R. Gardner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsite and facilities utilized by Banquet Foods at or near Wellston, Ohio, to points in Alabama, Arkansas, Florida, Georgia, Illinois, Iowa, Kentucky, Louisiana, Mississippi, Missouri, Minnesota, North Carolina, South Carolina, Tennessee, Texas, and Wisconsin.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, or Kansas City, Mo.

No. MC 113621 (sub-No. 3), filed August 2, 1973. Applicant: WILLIAM BROOKHISER, ROBERT BROOKHISER, AND HAROLD BROOKHISER, a partnership, doing business as BROOKHISER TRUCKING COMPANY, Wever, Iowa 52658. Applicant's representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Liquid fertilizer*, in bulk, in tank vehicles, from West Point, Iowa, to points in Illinois and Missouri, and (2) *liquid fertilizer, aqua ammonia, and phosphoric acid*, in bulk, in tank vehicles, from points in Illinois and Missouri, to West Point, Iowa.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Kansas City, Mo.

MC 114273 (sub-No. 144), filed July 9, 1973. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Robert E. Konchar, Suite 315 Commerce Exchange Building, 2720 First Avenue NE., P.O. Box 1943, Cedar Rapids, Iowa 52406. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh, frozen, and smoked meats* from Cincinnati, Ohio, to Charleston, W. Va., Woodbridge, N.J., and points in the New York, N.Y., commercial zone.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114552 (sub-No. 87), filed July 9, 1973. Applicant: SENN TRUCKING COMPANY, a Corporation, P.O. Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 919 18th Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel electrical conduit pipe*, from the plantsite and facilities of Jones & Laughlin Steel Corp. at New Kensington, Pa., to points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114604 (sub-No. 15), filed July 12, 1973. Applicant: CAUDELL TRANSPORT, INC., State Farmers Market Building 33, Forest Park, Ga. 30050. Applicant's representative: Frank D. Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from the plantsites and warehouse facilities of Atlantic Refrigerated Warehouse, Division of Munford, Inc., at Atlanta, Ga., and its commercial zone, to points in North Carolina, those in Florida in and north of Levy, Marion, Putnam, and Flagler Counties, and Daytona Beach, Fla.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority at Atlanta, Ga., to provide a through service from points in Georgia to points in the destination territory described above. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 114604 (sub-No. 17), filed July 16, 1973. Applicant: CAUDELL TRANSPORT, INC., State Farmers Market, Bldg. 33, Forest Park, Ga. 30050. Applicant's representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd., NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, meat byproducts, dairy products, and articles distributed by meat packinghouses*, as described in Sections A, B and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, and (2) *foodstuffs*, in vehicles equipped with mechanical refrigeration, from points in Georgia to points in Alabama, those in Florida in and north of Levy, Marion, Putnam and Flagler Counties, North Carolina, South Carolina, and Daytona Beach, Fla., and Chattanooga, Tenn.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga. or Washington, D.C.

No. MC 115093 (Sub-No. 12), filed July 16, 1973. Applicant: MERCURY MOTOR EXPRESS, INC., 704 West Kennedy Boulevard, Tampa, Fla. 33606. Applicant's representative: Clayton R. Byrd (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Candy, confectionery, and related products* (except in bulk), and (2) *advertising matter, premium and display materials* when shipped in the same vehicle with commodities described in (1) above, from the plantsite and warehouse facilities of M&M/MARS, Division of Mars, Inc., located at or near Albany, Atlanta, Doraville, and Decatur, Ga., to points in Florida and South Carolina, restricted to the transportation of traffic originating at the plantsite and warehouse facilities of M&M/MARS, Division of Mars, Incorporated.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Jacksonville, Fla.

No. MC 115130 (Sub-No. 5), filed July 2, 1973. Applicant: PAULSON TRUCK LINE, INC., 2008 N. E. Airport Road, Roseburg, Oreg. 97470. Applicant's representative: Norman E. Sutherland, 1200 Jackson Tower, Portland, Oreg. 97205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Heavy machinery and other commodities*, the transportation of which, because of size or weight requires the use of special equipment, and (2) *related machinery parts, equipment and supplies*, when the transportation thereof is incidental to the transportation of heavy machinery and other commodities which by reason of size or weight require the use of special equipment, between points in Jackson and Josephine Counties, Oreg., on the one hand, and, on the other, points in Del Norte, Humboldt, Siskiyou, Modoc, Trinity, Shasta, Lassen, Tehama, Mendocino, Pulmas, and Butte Counties, Calif., restricted to traffic originating at or destined to points in the Oregon and California Counties named.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at either Portland or Medford, Oreg.

No. MC 115931 (Sub-No. 28), filed June 25, 1973. Applicant: BEE LINE TRANSPORTATION, INC., Box 925, Berwald Road, Baker, Mont. 59313. Applicant's representative: Vernon P. Williams, Aberdeen Federal Savings and Loan Building, Aberdeen, S. Dak. 57401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, and wood products*, from points in Montana to points in North Dakota, Michigan, Indiana, Ohio, Kansas, and Missouri.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Billings, Mont.

No. MC 116073 (Sub-No. 284), filed July 27, 1973. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, P.O. Box 919, Moorhead, Minn. 56560. Applicant's representative: Robert G. Tessar, 1819 4th Avenue South, Kegal Plaza, Moorhead, Minn. 56560. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles, in initial movements, and *buildings* complete or in sections transported on wheeled undercarriages, from points in Pickens County, Ala., to points in Mississippi, Tennessee, Kentucky, Georgia, Arkansas, Louisiana, Missouri, Illinois, North Carolina, South Carolina, and Florida.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala.

No. MC 116300 (Sub-No. 14), filed July 12, 1973. Applicant: NANCE AND COLLUMS, INC., P.O. Drawer J, Fernwood, Miss. 39635. Applicant's representative: Harold D. Miller, Jr., 700 Petroleum Bldg., P.O. Box 22567, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sugar*, in sacks and packages, and *condiments*, packaged in individual servings, when moving as part of a shipment of sugar, from (1) Supreme, La., to points in Georgia, North Carolina, South Carolina, Virginia, and West Virginia; (2) from points in St. John the Baptist Parish, La., to points in Arkansas, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Missouri, North Carolina, Ohio, South Carolina, Tennessee, Texas, Virginia, and West Virginia; (3) from Gramercy and Mathews, La., to points in Arkansas, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Missouri, North Carolina, Ohio, South Carolina, Tennessee, Texas, Virginia, and West Virginia; and (4) points in St. Bernard Parish, La., to points in Arkansas, Illinois, Indiana, Kansas, Kentucky, Missouri, Tennessee, and Texas.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La.

No. MC 116763 (Sub-No. 264), filed July 9, 1973. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: H. M. Richters (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned foodstuffs*, from Bloomer, Wis., to points in the United States (except Alaska, Hawaii, and Wisconsin).

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 116763 (Sub-No. 265), filed July 9, 1973. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: H. M. Richters (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from Parkesburg, Pa., to points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont, restricted to traffic originating at the facilities of the Green Giant Company, at Parkesburg, Pa., and destined to the states named above.

NOTE.—Applicant states that it cannot be tacked. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 117548 (Sub-No. 2), filed July 6, 1973. Applicant: M & M TANK LINES OF VIRGINIA, INC., P.O. Box 30006, Washington, D.C. 20014. Applicant's representative: William P. Sullivan, Federal Bar Building West, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, from Norfolk, Va., to points in Georgia, Tennessee, Kentucky, West Virginia, Pennsylvania, and New Jersey.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 119665 (Sub-No. 2), filed June 28, 1973. Applicant: APD TRANSPORT CORP., 1 Railroad Place, Maspeth, N.Y. 11378. Applicant's representative: Morton E. Kiel, 140 Cedar Street, New York, N.Y. 10006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities*, as are dealt in by a manufacturer of greeting cards (except in bulk), from West Chester, Pa., to carrier's terminal in Maspeth, N.Y., and *returned shipments* on return.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority at its terminal in Maspeth, N.Y., to provide through service to points in New Jersey, New York, and Connecticut within fifty miles of the New York, N.Y., Commercial Zone. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 119777 (Sub-No. 263), filed June 29, 1973. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Box L, Madisonville, Ky. 42431. Applicant's representative: William P. Sullivan, Federal Bar Building West, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, plastic conduit, plastic and iron fittings and connections, valves, hydrants*, and *gaskets* (except oil field commodities as defined in *Mercer-Extension Oil Field Commodities*, 74 M.C.C. 459), from the plant site and storage facilities of the Clow Corporation at Columbia, Mo., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. Applicant holds contract carrier authority in No. MC-126970 (Sub-Nos. 1 and 3), therefore dual operations may also be involved. Applicant further states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Lexington, Ky.

No. MC 119777 (Sub.-No. 264), filed June 29, 1973. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Box L, Madisonville, Ky. 42431. Applicant's representative: Ronald E. Butler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel, and iron and steel articles*, (1) from Gulfport, Miss., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas, and (2) from New Orleans, La., and Mobile, Ala., to Gulfport, Miss.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. Applicant also holds contract carrier authority in MC 126970 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Lexington, Ky., or Washington, D.C.

No. MC 124083 (Sub-No. 48), filed June 29, 1973. Applicant: SKINNER MOTOR EXPRESS, INC., 1035 S. Keystone Avenue, Indianapolis, Ind. 46203. Applicant's representative: Walter F. Jones, Jr., 601 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soda ash*, dry and in bulk, in dump vehicles, from Wyandotte, Mich., to Gas City and Indianapolis, Ind.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Detroit, Mich.

No. MC 124212 (Sub-No. 72), filed July 19, 1973. Applicant: MITCHELL TRANSPORT, INC., 6500 Pearl Road, Cleveland, Ohio 44130. Applicant's representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, Ohio 44114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, in tank vehicles, from the plant site of Diamond-Kosmos Cement Division, The Flintkote Company, located at Indianapolis, Ind., to points in Kentucky, Illinois, and Ohio.

NOTE.—Dual operations and common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 124511 (Sub-No. 18), filed July 16, 1973. Applicant: JOHN F. OLIVER, East Highway 54, P.O. Box 223, Mexico, Mo. 65265. Applicant's representative: Paul J. Maton, Suite 1620 Ten South LaSalle St., Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, plastic conduit, plastic and iron fittings and connections, valves, hydrants, and gaskets* (except Oil Field Commodities as defined in *Mercer-Extension Oil Field Commodities*, 74 M.C.C. 459), from the plantsite and storage facilities of the Clow Corporation at Columbia, Mo., to points in







V 38-173 SEP 7 73 XUM

Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Oklahoma, Tennessee, and Wisconsin.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Chicago, Ill.

No. MC 124511 (Sub-No. 19), filed July 24, 1973. Applicant: JOHN F. OLIVER, E. Highway 54, P.O. Box 223, Mexico, Mo. 65265. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* (except such articles which because of size and weight require the use of special equipment), from plantsite and storage facilities of Keystone Steel & Wire, Division of Keystone Consolidated Industries, Inc., at or near Peoria, Ill., to points in Arkansas, Kansas, and Missouri.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Chicago, Ill.

No. MC 124692 (Sub-No. 115), filed July 2, 1973. Applicant: SAMMONS TRUCKING, a Corporation, P.O. Box 1447, Missoula, Mont. 59801. Applicant's representative: Donald W. Smith, 900 Circle Tower Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel, and iron and steel articles*, from points in Minnesota and LaCrosse, Wis., to points in North Dakota, South Dakota, and Nebraska.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 125777 (Sub-No. 144), filed July 18, 1973. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, Ind. 46403. Applicant's representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Alloys, ores, scrap shapes and pig iron*, in dump vehicles, from Theodore, Ala., to points in Georgia, Illinois, Indiana, Kentucky, Maryland (except Baltimore), Michigan, New Jersey, New York, North Carolina, Ohio, Pennsylvania (except Lewistown and points in Decatur and Derry Township (Mifflin Co.)), South Carolina, West Virginia, Tennessee, Wisconsin, and Virginia, (B) *materials and supplies* used in the manufacture of alloys and pig iron, in dump vehicles, from points in Illinois, Indiana, Kentucky (except points in Marshall Co.), Maryland (except Baltimore), Michigan, New Jersey, New York, Ohio, South Carolina, West Virginia, and Pennsylvania (except Lewistown and points in Decatur and Derry Township (Mifflin Co.)), to Theodore, Ala., and (C) *alloys, ores, silicon metals, scrap metals, scrap steel shapes, pig iron, coke, limestone and clay*, in dump vehicles, between Charleston, S.C., on the one hand, and, on the other, points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, Virginia, and West Virginia, restricted against the transportation of traffic from Charleston, S.C., to Baltimore, Md.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 128117 (Sub-No. 18), filed July 24, 1973. Applicant: NORTON-RAMSEY MOTOR LINES, INC., P.O. Box 896, Hickory, N.C. 28601. Applicant's representative: Francis J. Ortman, 1100 17th St. NW., Suite 613, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Alexander, Burke, Caldwell, Catawba, Davidson, Haywood, Iredell, McDowell, and Rutherford Counties, N.C., to points in Arkansas and Louisiana.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Winston-Salem, N.C., or Washington, D.C.

No. MC 128339 (Sub-No. 3), filed June 27, 1973. Applicant: REGISTER VAN & STORAGE COMPANY, INC., 1371 Jacqueline Drive, Columbus, Ga. 31906. Applicant's representative: C. E. Walker, Suite 307, First National Bank Building, P.O. Box 1085, Columbus, Ga. 31902. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, and Classes A and B explosives), in shipper or railroad owned trailers, for movement in rail TOFC service, between railroad ramps in Columbus, Ga., on the one hand, and, on the other, points in Harris, Meriwether, Talbot, Taylor, Marion, Webster, Quitman, Chattachoochee, Stewart and Schley Counties, Ga.

NOTE.—Applicant states that the requested authority can be tacked with MC 128339 at Columbus, Ga., to serve Phenix City, Ala., further, tacking possibilities exist with its Sub 2 to provide a through service between various Alabama Counties on the one hand, and, on the other, points in the above-named Georgia Counties, but indicates it has no present intention to tack with this authority. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Columbus or Atlanta, Ga.

No. MC 128638 (Sub-No. 3), filed July 19, 1973. Applicant: CENTRAL GRAIN HAULERS, INC., Route #1, Van Meter Road, Winchester, Ky. 40391. Applicant's representative: George M. Catlett, 703–706 McClure Bldg., Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Animal and poultry feed ingredients*, in bags, and in bulk, between points in Ohio, Kentucky, Tennessee, Indiana, Illinois, Missouri, Virginia, Wisconsin, the lower peninsula of Michigan, Arkansas, and Alabama; (2) *animal and poultry feed ingredients*, in bags and in bulk, from points in Florida to points in Illinois, Indiana, Ohio, Kentucky, Tennessee, and the lower peninsula of Michigan; (3) *animal and poultry feeds and animal and poultry feed ingredients*, in bags and in bulk, from points in Ohio, Indiana, Illinois, and Kentucky, to points in Florida, Georgia, Virginia, and Tennessee; and (4) *distillers malt*, in bulk, between points in Kentucky, Indiana, Ohio, Wisconsin, and Minnesota, restricted to (1) through (4) above against the transportation of commodities in bulk, in tank vehicles.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Cincinnati, Ohio, or Louisville, Ky.

No. MC 128988 (Sub-No. 27), filed August 6, 1973. Applicant: JO/KEL, INC., P.O. Box 1249, 159 South Seventh Avenue, City of Industry, Calif. 91749. Applicant's representative: Patrick E. Quinn, 605 South 14th Street, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Upholstery and carpet tacking rims and strips, nails, adhesive cement, mechanic hand tools, and advertising materials, racks, and stands* therefore, from Conyers, Ga., to City of Industry, Calif., and points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities described in (1) above, from points in the above-described destination territory to Conyers, Ga., restricted against the transportation of commodities in bulk, under a continuing contract or contracts with Taylor Industries, Inc.,

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif., or Washington, D.C.

No. MC 128988 (Sub-No. 28), filed August 6, 1973. Applicant: JO/KEL, INC., P.O. Box 1249, 159 South Seventh Avenue, City of Industry, Calif. 91749. Applicant's representative: Patrick E. Quinn, 605 South 14th Street, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Upholstery and carpet tacking rims and strips, nails, adhesive cement, mechanic hand tools, and advertising materials, racks and stands therefor* from City of Industry, Calif., to points in Oregon, Washington, Idaho, Nevada, Arizona, New Mexico, Utah, Colorado, Wyoming, and Montana, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the





commodities described in (1) above, from points in the above-named destination states to City of Industry, Calif., restricted against the transportation of commodities in bulk, under a continuing contract or contracts with Taylor Industries, Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif., or Washington, D.C.

No. MC 129191 (Sub-No. 4), filed July 30, 1973. Applicant: RICHARD T. PLATTNER, doing business as JANS MOTOR SERVICE, 4640 West 120th Street, Alsip, Ill. 60658. Applicant's representative: Albert A. Andrin, 29 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron, steel and aluminum metal plate structures, erection equipment and parts thereof and materials and supplies* used in the erection of metal plate structures, in self-unloading equipment, from Indian Oaks, Ill., to points in Wisconsin, Ohio, Kansas, Iowa, Michigan, Indiana, Missouri, Kentucky, Minnesota, North Dakota, South Dakota, Nebraska, and Illinois, and (2) *materials and supplies* used in the erection of metal plate structures, between points in Wisconsin, Ohio, Kansas, Iowa, Michigan, Indiana, Missouri, Kentucky, Minnesota, North Dakota, South Dakota, Nebraska, and Illinois.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 129350 (Sub-No. 28), filed July 16, 1973. Applicant: CHARLES E. WOLFE, doing business as EVERGREEN EXPRESS, P.O. Box 212, Billings, Mont. 59103. Applicant's representative: Clayton Brown (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals, feed ingredients, and feed supplements* (except commodities in bulk in tank vehicles), from East St. Louis, Joliet, and LaSalle, Ill., Montpelier, Iowa, Barberton, Ohio, Pine Bend, Minn., Lawrence, Kans., and points in the Chicago, Ill., Commercial Zone, Minneapolis and St. Paul, Minn., Commercial Zone, St. Louis, Mo.-East St. Louis, Ill., Commercial Zone and Kansas City, Mo.-Kansas City, Kans., Commercial Zone, to points in Montana, South Dakota, Wyoming.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Billings, Mont.

No. MC 129387 (sub-No. 16), filed July 13, 1973. Applicant: BILL PAYNE, doing business as BILL PAYNE TRUCKING COMPANY, Highway 14 East, Huron, S. Dak. 57350. Applicant's representative: George N. Manolis, 201 Farmers & Merchants Bank Building, 50 Third Street SW., Huron, S. Dak. 57350. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* (except hides and commodities in bulk), from the plantsite and warehouse facilities of Yankton Sioux Industries at or near Wagner, S. Dak., to points in North Dakota, South Dakota, Montana, Idaho, Oregon, Washington, California, Nevada, Utah, Wyoming, Colorado, Nebraska, Kansas, Missouri, Iowa, Illinois, Indiana, Ohio, Michigan, Wisconsin, and Minnesota, and (2) *meat, meat products, meat byproducts, foodstuffs, canning plant materials, equipment, and supplies* (except hides and commodities in bulk), from the destination points named in (1) above, to the plantsite and warehouse facilities of Yankton Sioux Industries at or near Wagner, S. Dak., restricted in (1) and (2) above to traffic originating at named origins and destined to named destination.

NOTE.—Applicant states that the requested authority cannot be tacked with its present authority. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 129516 (sub-No. 21), filed July 20, 1973. Applicant: PATTON'S, INC., 2300 Canyon Road, Ellensburg, Wash. 98926. Applicant's representative: James T. Johnson, 1610 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen pet food ingredients*, from Edmonds, Wash., to points in California.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash., or Portland, Oreg.

No. MC 133919 (sub-No. 2), filed July 23, 1973. Applicant: JOHN ROSSETTI, 683 Pine Street, Burlington, Vt. Applicant's representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cheese, cheese products, and curd*, from Alburg, Milton, Richmond, Cabot, and Hinesburg, Vt., to New York, N.Y., under contract with Lucille Farm Products, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 134404 (sub-No. 10), filed July 23, 1973. Applicant: AMERICAN-TRANS FREIGHT, INC., P.O. Box 499, South Bound Brook, N.J. 08880. Applicant's representative: Bert Collins, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products*, from Trenton, Paulsboro, and Englewood, N.J., Newton, Conn., Dedham, Mass., Glens Falls, N.Y., and New Hope and Lancaster, Pa., to points in Massachusetts, Rhode Island, Maine, Vermont, New Hampshire, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, and the District of Columbia, and (2) *materials, supplies, and equipment* used or useful in connection with production, distribution or sales of the aforementioned commodities (except in bulk), from the above-named destination States to the above-named origin points, under contract with Union Camp Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 134477 (sub-No. 36), filed July 9, 1973. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, Minn. 55118. Applicant's representative: Paul Schanno (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Matches and woodenware*, from Oakland and Dixfield, Maine, and Springfield, Mass., to points in Illinois, Iowa, Minnesota, Nebraska, and Wisconsin.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 134970 (sub-No. 4), filed July 13, 1973. Applicant: UNZICKER TRUCKING, INC., P.O. Box 35, Highway 24 East, El Paso, Ill. 61738. Applicant's representative: David R. Parker, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings*, complete, knocked down or in sections, and *equipment, supplies, and component parts* used in the construction, erection, or completion of such buildings, from the plantsite of Marathon Metallic Building Company, located at El Paso, Ill., to points in Connecticut, Delaware, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, Virginia, Vermont, West Virginia, and Wisconsin.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex., or Springfield, Ill.

No. MC 136343 (Sub-No. 18), filed July 24, 1973. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 207, Milton, Pa. 17847. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Spheres, highway marking strip glass, ballotini and glass*, crushed, ground, and powdered, from the facilities of Potters Industries, Inc., located at Apex, N.C., to points in Delaware, Connecticut, Massachusetts, Rhode Island, New Hampshire, Vermont, and Maine; and (2) *Materials and supplies* used in the manufacture and sale of glass spheres (except in bulk, in tank vehicles), from points in the above named destination states to the facilities of Potters Industries, Inc., located at Apex, N.C.



V 38 I 173 SEP 7 73 XUM

NOTE.—Applicant holds contract carrier authority in MC 96098 and subs thereunder, therefore, dual operations may be involved. Common control may also be involved. Applicant states that the requested authority cannot be tacked with its present authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 136343 (Sub-No. 19), filed July 24, 1973. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 207, Milton, Pa. 17847. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Woodpulp*, from West Point, Va., to the facilities of Howard Paper Co., at Dayton and Urbana, Ohio.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. Applicant also holds contract carrier authority in MC 96098 and subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Dayton, Ohio, or Washington, D.C.

No. MC 136636 (Sub-No. 2), filed July 23, 1973. Applicant: M. H. MESENBRING, doing business as MIKE'S TRUCKING, Route 2, Bourbonnais, Ill. 60914. Applicant's representative: Paul F. Sullivan, 711 Washington Bldg., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Enameled steel silos, loading and unloading devices, waste storage tanks, livestock scales, livestock feed bunkers, forage metering devices, animal waste spreader tanks, livestock feeding systems, and parts and accessories* for the above named commodities, from the plantsites and warehouse facilities of A. O. Smith Corporation, located at De Kalb and Eureka, Ill., and Elkhorn, Wis., to points in New York and Pennsylvania.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 136786 (Sub-No. 23), filed July 19, 1973. Applicant: ROBCO TRANSPORTATION, INC., Room 205, 3033 Excelsior Boulevard, Minneapolis, Minn. 55416. Applicant's representative: Val M. Higgins, 1000 1st National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potatoes and potato products* (1) from Grand Forks, N. Dak., to points in California, Nevada, Utah, Colorado, Arizona, New Mexico, Arkansas, Louisiana, Mississippi, Alabama, Florida, Georgia, South Carolina, North Carolina, Tennessee, Kentucky, Virginia, and West Virginia, and (2) from Presque Isle, Caribou, and Washburn, Maine, to points in Texas, Louisiana, Arkansas, Mississippi, Alabama, Florida, Georgia, North Carolina, South Carolina, Tennessee, Kentucky, Virginia, West Virginia, Ohio, Indiana, Illinois, Michigan, Missouri, Iowa, Wisconsin, and Minnesota.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis-St. Paul, Minn., or Portland, Maine.

No. MC 136925 (Sub-No. 2), filed July 30, 1973. Applicant: ROSS CLARK FREIGHTWAYS, LTD., Box 169, Madoc, Ontario, Canada. Applicant's representative: Robert D. Gunderman, Suite 710 Statler Hilton, Buffalo, N.Y. 14202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Terrazzo chips, marble dust, talc, and dolomite*, from the ports of entry on the International Boundary line between the United States and Canada located in New York and Michigan, to points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Massachusetts, Maine, Maryland, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE.—Applicant also holds contract carrier authority in MC 117613 and Subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 136714 (Sub-No. 2), filed July 5, 1973. Applicant: VIRGINIA TRANSPORTATION, INC., P.O. Box 26449, 1814 Highpoint Avenue, Richmond, Va. 23201. Applicant's representative: Francis W. McInerny 1000 16th St. NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Telephone equipment, material, and supplies*, from Ashland and Arlington, Va., to points in West Virginia; and (2) *telephone materials* returned for repairs or salvage, from points in West Virginia, to Ashland and Arlington, Va.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 138436 (sub-No. 1), filed July 13, 1973. Applicant: GLEN BOCH AND ANNA BOCH, a partnership, doing business as MERCHANDISE PICKUP & DELIVERY, 2838 North 83d Terrace, Kansas City, Kans. 66109. Applicant's representative: Glen Boch (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Auto parts and accessories*, between Kansas City, Kans., on the one hand, and, on the other, points in Missouri, under contract with General Automotive Parts Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 138438 (Sub-No. 3), filed July 17, 1973. Applicant: DONALD M. BOWMAN, JR., Route 3, Box 26, Hagerstown, Md. 21740. Applicant's representative: Charles E. Creager, Suite 523, 816 Easley Street, Silver Spring, Md. 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Concrete masonry products*, on vehicles equipped with mechanical boom unloaders, from Chambersburg, Pa., to points in New York, New Jersey, Delaware, Maryland, Ohio, Virginia, West Virginia, and the District of Columbia.

NOTE.—Applicant also holds contract carrier authority in MC 117613 and Subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 138714 (Sub-No. 2), filed July 5, 1973. Applicant: VIRGINIA TRANSPORTATION, INC., P.O. Box 26449, 1814 Highpoint Avenue, Richmond, Va. 23201. Applicant's representative: Francis W. McInerny 1000 16th St. NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Telephone equipment, material, and supplies*, from Ashland and Arlington, Va., to points in West Virginia; and (2) *telephone materials* returned for repairs or salvage, from points in West Virginia, to Ashland and Arlington, Va.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 138436 (sub-No. 1), filed July 13, 1973. Applicant: GLEN BOCH AND ANNA BOCH, a partnership, doing business as MERCHANDISE PICKUP & DELIVERY, 2838 North 83d Terrace, Kansas City, Kans. 66109. Applicant's representative: Glen Boch (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Auto parts and accessories*, between Kansas City, Kans., on the one hand, and, on the other, points in Missouri, under contract with General Automotive Parts Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 138863 (sub-No. 1), filed July 9, 1973. Applicant: THOMAS H. JOY & COMPANY, a corporation, 114 Montgomery Street, Bloomfield, N.J. 07003. Applicant's representative: Paul J. Keeler, P.O. Box 253, South Plainfield, N.J. 07080. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except articles of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Newark, N.J., on the one hand, and, on the other, points in Mercer County and Montgomery Township (Somerset County), N.J., restricted to shipments having a prior or subsequent movement by air.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or New York, N.Y.

No. MC 138874 (correction), filed June 20, 1973, and published in the FEDERAL REGISTER issue of August 16, 1973, and republished, as corrected, this issue. Applicant: PACKARD, INC., P.O. Drawer H, Buras, La. 70041. Applicant's representative: Henry O'Connor, Jr., 1440 Oil & Gas Building, New Orleans, La. 70112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Oilfield equipment and materials, timbers, machinery, pipe, cement, lumber and materials, supplies and equipment* to be used in the construction, development, operation and maintenance of facilities for the discovery and development of natural gas and petroleum and *fertilizer and building materials*, used in excavating and construction of dirt work, between points in Louisiana.

NOTE.—The purpose of this republication is not a conversion proceeding as previously published but applicant's initial request for authority. If a hearing is deemed necessary, applicant requests it be held at New Orleans or Baton Rouge, La.

No. MC 138890 (sub-No. 2), filed July 23, 1973. Applicant: MOODIE, INC., 301 Acorn Street, Stevens Point, Wis. 54481. Applicant's representative: Michael J. Wyngaard, 329 West Wilson Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen and processed potatoes, frozen and processed potato products, and advertising materials, equipment, and supplies* from points in Portage County, Wis., to points in the United States (except Alaska and Hawaii), and (2) *materials, equipment, and supplies*, which are used or useful in the manufacture, sale, production, or distribution of the commodities described in part (1) above, from points in the United States (except Alaska and Hawaii), to Portage County, Wis.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant request it be held at Stevens Point, Wis., or Madison, Wis.

No. MC 138942 (correction), filed July 9, 1973, published in the FEDERAL REGISTER issue of August 16, 1973, and annotated this issue. Applicant: JOHN H. WOLFF, doing business as AURORA EDUCATIONAL TOURS, 731 South Highland, Aurora, Ill. 60507. Applicant's representative: Patrick H. Smyth, Suite 1000, 327 South La Salle Street, Chicago, Ill. 60604.

NOTE.—The previous FEDERAL REGISTER notice indicated in error that the docket number assigned to this proceeding was No. MC-138943. The correct docket number is No. MC-138942. The rest of the notice remains as previously published.

No. MC 138950 (sub-No. 1), filed July 23, 1973. Applicant: FOR-TRUCKS, INC., P.O. Box 297, Henniker, N.H. 03242. Applicant's representative: Francis P. Barrett, 60 Adams Street, P.O. Box 238, Milton, Mass. 02187. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Treated and untreated lumber, treated and untreated wooden poles, treated and untreated ties, treated and untreated wooden piling and crossarms, and related forest products and contractors supplies*, from North Billerica, Mass., to points in Orange, Rockland, Putnam, Westchester, Bronx, Kings, Queens, Manhattan, and Nassau Counties, N.Y., Bergen, Hudson, Union, and Essex Counties, N.J., and Massachusetts, Maine, New Hampshire, Vermont, Connecticut, and Rhode Island, under contract with For-Tek Division George McQuesten Co., Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Boston, Mass., or Concord, N.H.

No. MC 138974, filed July 5, 1973. Applicant: ERB TRANSPORTATION COMPANY, INC., P.O. Box 65, Crozet, Va. 22932. Applicant's representative: Harry C. Ames, Jr., 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, between Crozet, Va., on the one hand, and, on the other, points in Kentucky, Maryland, North Carolina, Pennsylvania, Virginia, West Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 138975, filed July 19, 1973. Applicant: ROBERT H. BOGART, doing business as BOGART TRUCKING, 79 Queen Avenue, Pennsville, N.J. 08070. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic material* (except in bulk, in tank vehicles), from Carneys Point, N.J., to points in Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and the District of Columbia, and *return shipments, and materials, supplies, and equipment* used in the manufacture, packaging and distribution of the above commodities (except in bulk, in tank vehicles), from points in Virginia, Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, and the District of Columbia, to Carneys Point, N.J., under contract with Budd Chemical Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

No. MC 138976, filed July 2, 1973. Applicant: FRED E. FARRIS, Faucett, Mo. 64448. Applicant's representative: Patrick E. Quinn, 605 South 14th Street, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pulpboard, fiberboard, pulpboard and fiberboard products, and materials, and supplies* used in the manufacture and processing thereof, from the plantsite of Hoerner-Waldorf Corporation at St. Joseph, Mo., to points in Nebraska, Kansas, and Iowa, under a continuing contract, or contracts with Hoerner-Waldorf Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 138978, filed July 30, 1973. Applicant: J N K MACHINE CORP., 106–108 Harrison Street, Jamestown, N.Y. 14701. Applicant's representative: Kenneth T. Johnson, Bankers Trust of Jamestown Building, Jamestown, N.Y. 14701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by mail order houses and retail stores, and in connection therewith *such equipment, materials and supplies* used in the conduct of such business, (1) between the store site of Sears, Roebuck & Co. at Busti (Chautauqua County), N.Y., on the one hand, and, on the other, points in Crawford, Erie, McKean, and Warren Counties, Pa., and (2) between the site of the warehouse of Sears, Roebuck & Co. at Ellicott (Chautauqua County), N.Y., on the one hand, and, on the other, points in Crawford, Erie, McKean, and Warren Counties, Pa., under contract with Sears, Roebuck & Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y.

No. MC 138989, filed July 23, 1973. Applicant: ROAD & SEA TRANSPORT, LIMITED, 225 Thorne Avenue, St. John, New Brunswick, Canada. Applicant's representative: Kenneth B. Williams, 111 State Street, Boston, Mass. 02109. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, between ports of entry on the International Boundary line between United States and Canada, located at or near Calais, Maine, and Woodland, Maine, restricted to traffic originating at or destined to points in the Province of New Brunswick, Canada, under contract with Tidal Chemical, Ltd.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Portland, Maine, or Boston, Mass.

No. MC 138992, filed July 13, 1973. Applicant: MFT, INC., 209 South Ruth Street, Sioux Falls, S. Dak. 57102. Applicant's representative: Donald L. Stern, 530 Univac Building, Omaha, Nebr. 68106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, packinghouse products and commodities* used by packinghouses as described in





FEDERAL REGISTER, VOL. 38, NO. 173—FRIDAY, SEPTEMBER 7, 1973



V 38-173 SEP 7 73 XUM

Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Sioux Falls, S. Dak., and Whitehall and Eau Claire, Wis., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas, under a continuing contract or contracts, with Whitehall Packing Company, Inc., and Meilman Food Industries, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Sioux Falls, S. Dak.

No. MC 138999, filed July 17, 1973. Applicant: FRED NARK AND ROBERT NARK, a Partnership, doing business as NARK BROS., Box 336, Cobleskill, N.Y. 12043. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Expanded plastic foam insulating material*, from Linden, N.J., to points in New York (except points on Long Island), under continuing contract with Apache Foam Products Division of Millmaster Onyx Corp.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

APPLICATION FILING FOR WATER CARRIER

No. W-1272, filed August 13, 1973. Applicant: WARREN BAILEY, 40 NW. 39th Street, Miami, Florida 33127. Authority sought to engage in operation, in interstate or foreign commerce as a *common carrier by water* in the transportation of *boats and yachts owned by others to be* delivered on their own bottoms, which are too large for shipment by rail or truck (over 11 feet wide or 17 feet high, all self-propelled vessels), (1) between points in Florida; and (2) between points in Texas, Louisiana, Mississippi, Alabama, Florida, Georgia, South Carolina, North Carolina, Virginia, Delaware, and New York, via the Intercoastal Waterways or coastal waters of the United States (excluding the Mississippi River).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Miami, Fla.

MOTOR CARRIER OF PASSENGERS

No. MC 3647 (Sub-No. 445), filed June 28, 1973. Applicant: TRANSPORT OF NEW JERSEY, 180 Boyden Avenue, Maplewood, N.J. 07040. Applicant representative: John F. Ward (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage, and express, and newspapers* in the same vehicle with passengers: Between Allentown and Lancaster, Pa.: From Allentown over U.S. Highway 222 to Lancaster and return over the same route, serving all intermediate points.

NOTE.—Common control may be involved. Applicant presently holds a brokerage license in No. MC-12668. If a hearing is deemed necessary, applicant requests it be held at Reading, Pa.

APPLICATIONS IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED

No. MC 107515 (Sub-No. 858), filed May 25, 1973. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Richard M. Tettelbaum, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products*, and *meat byproducts* (except in bulk, and except hides) as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Bowling Green, Ky., to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Louisiana, Kansas, Iowa, Michigan, Mississippi, Missouri, North Carolina, Ohio, South Carolina, Texas, Oklahoma, Wisconsin, Virginia, and West Virginia, restricted to the transportation of traffic originating at Bowling Green, Ky.

NOTE.—Applicant requests that the grant of authority requested herein be restricted against tacking with any of its existing authority. Common control may be involved.

No. MC 136485 (Sub-No. 3), filed June 4, 1973. Applicant: WALDORF TRANSPORTATION CO., INC., Route 4, Box 108, Waldorf, Md. 20601. Applicant's representative: Daniel B. Johnson, 716 Perpetual Building, 1111 E Street NW., Washington, D.C. 20004. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electrical equipment, electrical supplies and materials and supplies and materials* used in the installation of electrical equipment and electrical supplies (except commodities which because of size or weight require the use of special equipment, and commodities in bulk), from points in Pennsylvania, Ohio, New York, and Maryland, to Baltimore, Md., and points in Anne Arundel, Baltimore, Howard, Washington, Montgomery, Calvert, Charles, St. Mary's, and Prince Georges Counties, Md., Stafford, Fauquier, Loudoun, Fairfax, Arlington, and Prince William Counties, Va.; and the District of Columbia, restricted to service to be performed under a continuing contract or contracts with Ellen-Breslin Associates, Inc.

APPLICATIONS FOR FILING POSTAL CERTIFICATES

INTERSTATE COMMERCE COMMISSION, No. MC-137026 (NOTICE OF FILING AN APPLICATION FOR A POSTAL CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY), filed March 26, 1973. Applicant: White & Lasater, Inc., P.O. Box 707, Irving, Texas 75060. By application filed March 26, 1973, applicant seeks a Postal Certificate of Public Convenience and Necessity to transport *Mail* in the following territory: Between Dallas and Houston, Tex., over Interstate Highway 45, and return over the same route, serving the intermediate points of Conroe, Huntsville, and Corsicana, Tex. Appended to the application is a copy of a postal contract held by applicant which was in effect on July 1, 1971, the critical "grandfather" date: Route No. 75220 relating to service between Houston and Dallas, Tex.

Any interested person desiring to oppose the application may file with the Commission an original and one copy of his written representations, views, or arguments in opposition to the application within 30 days from the date of this publication in the FEDERAL REGISTER. A copy of each such pleading should be served upon applicant.

INTERSTATE COMMERCE COMMISSION, No. MC-37027 (NOTICE OF FILING AN APPLICATION FOR A POSTAL CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY), filed June 25, 1973. Applicants: John Heywood Thompson, Jr., and James Robert Smith, 108 Clearview Drive, Atlanta, Texas 75551. Applicants' representative: Gerald A. Braswell, 512 Candlewood Road, Ft. Worth, Texas 76013. By application filed June 25, 1973, applicant seeks a Postal Certificate of Public Convenience and Necessity to transport *Mail* in the following territory: Between Memphis, Tenn., and Alexandria, La., from Memphis, Tenn., over U.S. Highway 61 to Greenville, Miss., thence over U.S. Highway 82 to junction U.S. Highway 165 at or near Montrose, Ark., then over U.S. Highway 165 to Alexandria, La., and return over the same route, serving the intermediate point of Monroe, La. Appended to the application is a copy of a postal contract held by applicants which was in effect on July 1, 1971, the critical "grandfather" date: Route No. 38012 relating to service between Memphis, Tenn., and Alexandria, La.

Any interested person desiring to oppose the application may file with the Commission an original and one copy of his written representations, views, or arguments in opposition to the application within 30 days from the date of this publication in the FEDERAL REGISTER. A copy of each such pleading should be served upon applicants' representative.

INTERSTATE COMMERCE COMMISSION, No. MC-137028 (NOTICE OF FILING AN APPLICATION FOR A POSTAL CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY), filed July 5, 1973. Applicant: JOHN E. AULNER, JR., 5433 Kansas Avenue, Omaha, Nebraska 68104. By application filed July 5, 1973, applicant seeks a Postal Certificate of Public Convenience and Necessity to transport *Mail* in the following territory: (1) Between Omaha, Nebr., and Homer, Nebr., from Omaha, Nebr., over U.S. Highway 73 to Homer, Nebr., and return over the same route, serving the intermediate points of Fort Calhoun, Blair, Herman, Tekamah, Decatur, Macy, and Winnebago, Nebr., and the off-route points of Craig, Oakland, Lyons, Rosalie, Bancroft, Pender, Thurston, and Walthill, Nebr.; (2) Between Omaha, Nebr., and Wahoo, Nebr., from Omaha, Nebr., over Interstate Highway 80 to junction Nebraska Highway 370, thence over Nebraska Highway 370 to Gretna, Nebr., thence over U.S. Highway 6 to Ashland, Nebr., thence over Nebraska Highway 63 to Swedeburg, Nebr., thence over U.S. Highway 77 to Wahoo, Nebr., and return over the same route, serving the intermediate points of Gretna, Ashland, Memphis, and Ithaca, Nebr.; (3) Between Omaha, Nebr., and Creston, Iowa, from Omaha, Nebr., over Interstate Highway 480 to junction Interstate Highway 29, thence over Interstate Highway 29 to junction U.S. Highway 34, thence over U.S. Highway 34 to Creston, Iowa, and return over the same route (also return from Creston, Iowa, over U.S. Highway 34 to Emerson, Iowa, thence over U.S. Highway 59 to junction Iowa Highway 92, thence over Iowa Highway 92 to Omaha, Nebr.), serving the intermediate and off-route points of Council Bluffs, Mineola, Glenwood, Pacific Junction, Malvern, Silver City, Hastings, Emerson, Red Oak, and Stanton, Iowa; and

(4) Between Omaha, Nebr., and Stanton, Iowa, from Omaha, Nebr., over Interstate Highway 480 to junction Council Bluffs City route 7, thence over Council Bluffs City route 7 to junction Interstate Highway 29, thence over Interstate Highway 29 to junction U.S. Highway 34, thence over U.S. Highway 34 to Stanton, Iowa, and return over U.S. Highway 34 to junction Iowa Highway 242, thence over Iowa Highway 242 to Iowa Highway 92, thence over Iowa Highway 92 to junction Interstate Highway 29, thence over Interstate Highway 29 to junction Interstate Highway 480, thence over Interstate Highway 480 to Omaha, Nebr., serving the intermediate and off-route points of Council Bluffs, Pacific Junction, Glenwood, Malvern, Silver City, Hastings, Emerson, Mineola, and Red Oak, Iowa. Appended to the application are copies of four postal contracts held by applicant which were in effect on July 1, 1971, the critical "grandfather" date: Route Nos. 68034, 68032, 50810, and 51531 relating to service between Omaha, Nebr., and Homer, Nebr., between Omaha, Nebr., and Wahoo, Nebr., between Omaha, Nebr., and Creston, Iowa, and between Omaha, Nebr., and Stanton, Iowa, respectively.

Any interested person desiring to oppose the application may file with the Commission an original and one copy of his written representations, views, or arguments in opposition to the application within 30 days from the date of this publication in the FEDERAL REGISTER. A copy of each such pleading should be served upon applicant.

By the Commission.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-18912 Filed 9-6-73;8:45 am]







V 38-173 SEP 7 73 XUM

## CUMULATIVE LISTS OF PARTS AFFECTED—SEPTEMBER

**The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during September.**

**1 CFR** — Page
CFR checklist — 23771

**3 CFR**
PROCLAMATIONS:
4239 — 24191
4240 — 24193

**4 CFR**
400 — 24195
405 — 24195
PROPOSED RULES:
331 — 23971
351 — 23971
400 — 23971
401 — 23971
402 — 23971
403 — 23971
404 — 23971

**5 CFR**
213 — 24344

**6 CFR**
130 — 24213
140 — 24214
150 — 23794, 23931, 24214
152 — 23794, 24214
PROPOSED RULES:
152 — 23806, 24219

**7 CFR**
51 — 23931
52 — 24344
354 — 23934
725 — 23935
908 — 24215
910 — 24345
928 — 24345
932 — 24215
991 — 23771
1001 — 24216
1002 — 24216
1004 — 24216
1006 — 24216
1007 — 24216
1011 — 24216
1012 — 24216
1013 — 24216
1015 — 24216
1030 — 24216
1033 — 24216
1036 — 24216
1040 — 24216
1044 — 24216
1046 — 24216
1049 — 24216
1050 — 24216
1060 — 24216
1061 — 24216
1062 — 24216
1063 — 24216
1064 — 24216
1065 — 24216
1068 — 24216
1069 — 24216
1070 — 24216
1071 — 24216
1073 — 24216

**7 CFR—Continued** — Page
1075 — 24216
1076 — 24216
1078 — 24216
1079 — 24216
1090 — 24216
1094 — 24216
1096 — 24216
1097 — 24216
1098 — 24216
1099 — 24216
1101 — 24216
1102 — 24216
1106 — 24216
1108 — 24216
1120 — 24216
1121 — 24216
1124 — 24216
1125 — 24216
1126 — 24216
1127 — 24216
1128 — 24216
1129 — 24216
1130 — 24216
1131 — 24216
1132 — 24216
1133 — 24216
1134 — 24216
1136 — 24216
1137 — 24216
1138 — 24216
1139 — 24216
1421 — 23935
1430 — 23939
1866 — 24346
PROPOSED RULES:
26 — 23955
1030 — 23796

**9 CFR**
73 — 24346
82 — 23940
97 — 23940
PROPOSED RULES:
94 — 24219
102 — 23957
104 — 23957
381 — 24374

**10 CFR**
110 — 23953

**12 CFR**
201 — 23772
526 — 23940
545 — 24200
546 — 24201
563 — 24202
PROPOSED RULES:
545 — 24228

**13 CFR**
PROPOSED RULES:
107 — 24028

**14 CFR**
39 — 23941, 24347, 24349
71 — 23941, 23942, 24204, 24350
75 — 24204

**14 CFR—Continued** — Page
97 — 24350
241 — 24351
288 — 23772
399 — 23777
PROPOSED RULES:
39 — 23962
61 — 23962
71 — 23804, 23969, 24222
75 — 23804
121 — 23962
221 — 23804
241 — 24223
298 — 23805

**16 CFR**
13 — 24352, 24353

**15 CFR**
8 — 23777
376 — 23777

**19 CFR**
1 — 24354
4 — 24354
PROPOSED RULES:
1 — 24374
24 — 23954
141 — 23954

**20 CFR**
PROPOSED RULES:
405 — 23802

**21 CFR**
9 — 24206
121 — 24354
135 — 23942
135b — 24355
135c — 24355
PROPOSED RULES:
121 — 24374, 24375
130 — 24220

**23 CFR**
PROPOSED RULES:
770 — 23969

**24 CFR**
1700 — 23866
1710 — 23866
1715 — 23873
1720 — 23874
1914 — 23943–23945, 24355–24357
1915 — 24358, 24360
PROPOSED RULES:
20 — 24222
201 — 23803

**25 CFR**
256 — 23945
PROPOSED RULES:
221 — 23954, 23955

**26 CFR**
1 — 24206





**29 CFR** — Page
1953 — 24361
PROPOSED RULES:
1910 — 24300, 24375

**30 CFR**
57 — 23781
PROPOSED RULES:
504 — 24024

**32 CFR**
809 — 23945
1285 — 24206
1453 — 24210

**32A CFR**
Ch. XIII:
EPO Reg. 3 — 23977

**33 CFR**
401 — 24210
PROPOSED RULES:
127 — 23804

**36 CFR**
50 — 24218
221 — 23948
PROPOSED RULES:
7 — 23796

**38 CFR** — Page
1 — 24364
2 — 24366
17 — 24366
21 — 23948

**40 CFR**
52 — 24333
129 — 24342
PROPOSED RULES:
180 — 23781
52 — 23805
180 — 23806
411 — 24462
412 — 24466
422 — 24470

**41 CFR**
1-1 — 24210
1-9 — 23782
1-18 — 23791

**43 CFR**
4 — 23948

**45 CFR**
PROPOSED RULES:
233 — 23802
903 — 23912

**46 CFR**
PROPOSED RULES:
146 — 23959
542 — 23979
538 — 24228

**47 CFR** — Page
73 — 24367
81 — 24211
83 — 24368
97 — 24211

**49 CFR**
170 — 23791
171 — 23792
172 — 23792
177 — 23792
178 — 23792
570 — 23949
1033 — 23792, 23793, 23952, 24212
1048 — 24368
1115 — 23953
PROPOSED RULES:
393 — 24223
542 — 23979
571 — 23804
1057 — 24228
1131 — 23979

**50 CFR**
20 — 23793
32 — 23793, 23794, 24212, 24369–24373
PROPOSED RULES:
21 — 23796

## FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

| *Pages* | *Date* |
|---|---|
| 23765–23922 | Sept. 4 |
| 23923–24184 | 5 |
| 24185–24326 | 6 |
| 24327–24625 | 7 |



V 38 - 173
SEP 7 73
XUM

federal register

FRIDAY, SEPTEMBER 7, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 173

PART II

# ENVIRONMENTAL PROTECTION AGENCY

■

## EFFLUENT LIMITATIONS GUIDELINES FOR EXISTING SOURCES AND STANDARDS OF PERFORMANCE AND PRETREATMENT STANDARDS FOR NEW SOURCES

Notice of Proposed Rulemaking



V 38-173
SEP 7 73
XUM

## ENVIRONMENTAL PROTECTION AGENCY

[ 40 CFR Part 411 ]

### CEMENT MANUFACTURING POINT SOURCE CATEGORY

### Effluent Limitations Guidelines for Existing Sources and Standards of Performance and Pretreatment Standards for New Sources

Notice is hereby given that effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources set forth in tentative form below are proposed by the Environmental Protection Agency (EPA) for the cement manufacturing category of point sources pursuant to sections 301, 304 (b) and (c), 306(b) and 307(c) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1311, 1314 (b) and (c), 1316(b) and 1317(c); 86 Stat. 816 et seq.; P.L. 92-500) (the "Act").

(a) Legal authority:

(1) Existing point sources:

Section 301(b) of the act requires the achievement by not later than July 1, 1977, of effluent limitations for point sources, other than publicly owned treatment works, which require the application of the best practicable control technology currently available as defined by the Administrator pursuant to section 304(b) of the Act. Section 301(b) also requires the achievement by not later than July 1, 1983, of effluent limitations for point sources, other than publicly owned treatment works, which require the application of best available technology economically achievable which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants, as determined in accordance with regulations issued by the Administrator pursuant to section 304(b) to the Act.

Section 304(b) of the Act requires the Administrator to publish regulations providing guidelines for effluent limitations setting forth the degree of effluent reduction attainable through the application of the best practicable control technology currently available and the degree of effluent reduction attainable through the application of the best control measures and practices achievable including treatment techniques, process and procedure innovations, operating methods and other alternatives. The regulations proposed herein set forth effluent limitations guidelines, pursuant to section 304(b) of the Act, for the cement manufacturing category.

(2) New sources:

Section 306 of the Act requires the achievement by new sources of a Federal standard of performance providing for the control of the discharge of pollutants which reflects the greatest degree of effluent reduction which the Administrator determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants.

Section 306(b)(1)(B) of the Act requires the Administrator to propose regulations establishing Federal standards of performance for categories of new sources included in a list published pursuant to section 306(b)(1)(A) of the Act. The Administrator published in the FEDERAL REGISTER of January 16, 1973, (38 FR 1624) a list of 27 source categories including the cement manufacturing category. The regulations proposed herein set forth the standards of performance applicable to new sources within the cement manufacturing category.

Section 307(c) of the Act requires the Administrator to promulgate pretreatment standards for new sources at the same time that standards of performance for new sources are promulgated pursuant to section 306. Sections 411.15 and 411.25 proposed below provides pretreatment standards for new sources within the cement manufacturing category.

Section 304(c) of the Act requires the Administrator to issue to the States and appropriate water pollution control agencies information on the processes, procedures or operating methods which result in the elimination or reduction of the discharge of pollutants to implement standards of performance under Section 306 of the Act. The development document described further below in section (b)(2) of this preamble provides, pursuant to section 304(c) of the Act, preliminary information on such processes, procedures or operating methods.

(3) Thermal Discharges section 316 (a) of the Act provides a means for further consideration of thermal effluent limitations required under sections 301 and 306 of the Act. Section 316(a) states that with respect to any point source subject to the provisions of sections 301 or 306, whenever the owner or operator of any such source, after opportunity for public hearing, can demonstrate to the satisfaction of the Administrator (or, if appropriate, the State) that any effluent limitation proposed for the control of the thermal component of any discharge from such source will require effluent limitations more stringent than necessary to assure the protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife in and on the body of water into which the discharge is to be made, the Administrator (or, if appropriate, the State) may impose a different effluent limitation for the thermal component of the discharge than would ordinarily be required under sections 301 and 306 of the Act. Effluent limitations imposed under section 316(a) must assure the protection and propagation of a balanced indigenous population of shellfish, and wildlife in and on the body of water into which the discharge is to be made.

(b) Summary and basis of proposed effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources.

(1) *General methodology.*—The effluent limitations guidelines and standards of performance proposed herein were developed in the following manner. The point source category was first studied for the purpose of determining whether separate limitations and standards are appropriate for different segments within the category. This analysis included a determination of whether differences in raw material used, product produced, manufacturing process employed, age, size, waste water constituents and other factors require development of separate limitations and standards for different segments of the point source category. The raw waste characteristics for each such segment were then identified. This included an analysis of: (1) the source, flow and volume of water used in the process employed and the sources of waste and waste waters in the plant; and (2) the constituents of all waste water. The constituents of the waste waters which should be subject to effluent limitations guidelines and standards of performance were identified.

Next, the control and treatment technologies existing within each segment were identified. This included an identification of each distinct control and treatment technology, including both in-plant and end-of-process technologies, which are existent or capable of being designed for each segment. It also included an identification of, in terms of the amount of constituents and the chemical, physical, and biological characteristics of pollutants, the effluent level resulting from the application of each of the technologies. The problems, limitations and reliability of each treatment and control technology were also identified. In addition, the non-water quality environmental impact, such as the effects of the application of such technologies upon other pollution problems, including air, solid waste, noise and radiation were identified. The energy requirements of each control and treatment technology were determined as well as the cost of the application of such technologies.

The information, as outlined above, was then evaluated in order to determine what levels of technology constitute the "best practicable control technology currently available," "best available technology economically achievable" and the "best available demonstrated control technology, processes, operating methods, or other alternatives." In identifying such technologies, various factors were considered. These included the total cost of application of technology in relation to the effluent reduction benefits to be achieved from such application, the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, non-water quality environmental impact (including energy requirements) and other factors.

The data upon which the above analysis was performed included Refuse Act Permit Applications, EPA sampling and inspections, consultant reports, and industry submissions.

The pretreatment standards proposed herein are intended to be complementary





to the pretreatment standards proposed for existing sources under Part 128 of 40 CFR. The basis for such standards is set forth in the FEDERAL REGISTER of July 19, 1973, 38 FR 19236. The provisions of Part 128 are equally applicable to sources which would constitute "new sources" under section 306 if they were to discharge pollutants directly to navigable waters, except for § 128.133. That section provides a pretreatment standard for "incompatible pollutants" which requires application of the "best practicable control technology currently available," subject to an adjustment for amounts of pollutants removed by the publicly owned treatment works. Since the pretreatment standards proposed herein apply to new sources, §§ 411.15 and 411.25 below amend § 128.133 to require application of the standard of performance for new sources rather than the "best practicable" standard applicable to existing sources under sections 301 and 304(b) of the Act.

(2) *Summary of conclusions with respect to cement manufacturing category.*—General information was obtained on all plants and detailed information was collected for 132 (80 percent) of the 166 domestic cement plants identified as currently in operation. The sources and type of information consisted of: (1) Applications to the Army Corps of Engineers for Permits to Discharge under the Refuse Act Permit Program (RAPP) were obtained for 88 plants and provided data on the characteristics of intake and effluent waters, water usage (including flow diagrams in many cases), waste water treatment and control practices employed, daily production, and raw materials used; (2) a questionnaire to nine companies covering 64 plants (including 35 plants for which RAPP applications were not available) provided data on raw material analysis, dust collection and disposal methods, alkali content of the dust, plant age and year of latest modification, detailed water usage, fuels, and treatment and control methods and costs; (3) on-site inspections of 15 plants provided flow diagrams, detailed information on water management practices, and control and treatment methods, equipment, and costs; and (4) other sources of information included EPA technical reports, trade literature, personal and telephone interviews and meetings with regional EPA personnel, industry personnel, and consultants.

This information was compiled by data processing techniques and analyzed for the following: (1) identification of distinguishing features that could potentially provide a basis for subcategorization of the industry (*e.g.*, method of dust collection and disposal, type of process, raw materials, and plant size and age); (2) determination of the water usage and waste characteristics for each of the subcategories including the volume of water used, the sources of contamination in the plant, and the type and quantity of constituents in the waste waters; and (3) identification and determination of those waste water constituents which are characteristic of the industry and subject to effluent limitations guidelines and standards.

The cement manufacturing industry was segmented into two subcategories based upon the method for kiln dust collection and disposition and resulting waste water characteristics. The subcategories are: leaching plants and non-leaching plants. The scope of these subcategories is defined in §§ 411.10 and 411.20 below. The leaching category includes plants in which water comes into contact with kiln dust as an integral part of the process or in which wet scrubbing of kiln stack emissions is employed. Raw waste water loads and necessary treatment methods and technology are substantially different for plants in the leaching subcategory. Factors such as age, size of plant, raw materials, fuel used, process employed, waste water constituents, waste control technologies, and plant location further substantiated the subcategorization of the cement manufacturing industry in this manner for the purpose of the application of effluent limitations guidelines and standards of performance. The pollutants contained in raw waste water resulting from cement manufacturing are principally dissolved solids (potassium and sodium hydroxide, chlorides and sulfates), suspended solids (calcium carbonate) and waste heat.

There are relatively few operations in cement manufacturing where the addition of pollutants to the water used is inherently associated with the use of that water. For nonleaching plants, pollution generally results from practices that allow materials to come in contact with the water. Pollutant levels at these plants can be greatly reduced or eliminated by suitable in-plant control measures that prevent wastes from entering the water or by more extensive reuse and recycling of water that may become contaminated.

For the plants in the leaching subcategory, wastes are necessarily introduced into the water and recycling is not feasible. Thus, for these plants, treatment is required to reduce the pollutant loading.

The main control and treatment methods for the cement industry involve recycle and reuse of wastewater. The devices employed include cooling towers or ponds, settling ponds, containment ponds, and clarifiers. Cooling towers or ponds are used to reduce the temperature of waters used to cool process equipment. Settling ponds are used primarily to reduce the concentration of suspended solids. Containment ponds are used to dispose of waste kiln dust in the non-leaching plants. Clarifiers are mainly used to separate solids in dust-leaching plants. With the exception of plants in the leaching subcategory, most cement plants can achieve virtually complete reuse of wastewater with existing state-of-art technology.

Five alternative control and treatment technologies and the attendant costs have been identified for the cement manufacturing category: two for the non-leaching subcategory and three for the leaching subcategory.

The first alternative for the nonleaching subcategory involves recycling and reuse of all water used in manufacturing and containment or treatment of runoff from kiln-dust piles.

This alternative will result in essentially no discharge of pollutants. The investment cost of implementing this technology at a typical plant will be about $200,000 including a cooling tower ($94,000) or spray pond ($91,000), the necessary piping ($76,000), and containment dikes for kiln-dust piles ($35,000). If an evaporative cooling pond is used, it would cost about $160,000 including piping, but not including land cost.

The operating costs of this alternative will range from about $20,000 to $30,000 per year including maintenance, sludge removal, chemicals, labor cost of power, and taxes and insurance. Power costs are limited to pumping and amount to $13,000 per year.

The second alternative involves limited water reuse and in-plant controls.

This alternative consists of isolation of cooling streams from possible contamination, reuse of cooling water in feed slurry (wet-process plants), retention and reuse or treatment of miscellaneous wastewater (e.g. truck washing) and containment or treatment of runoff from dust piles and would also result in no discharge of pollutants in manufacturing effluents.

Cost of implementing this alternative will vary somewhat within the industry but on the average will be comparable to that for the first alternative.

The first alternative for leaching plants involves the segregation and treatment of the leachate stream.

The nonleaching streams of leaching plants are treated like those of nonleaching plants under this alternative. Treatment of the leachate stream consists of neutralization of the leachate with stack gases, followed by secondary sedimentation to remove both the residual suspended solids that were present in the leachate and the suspended solids (calcium carbonate) created by the neutralization with carbon dioxide.

This alternative will result in an acceptable pH of 9.0, and a suspended solids level of not more than 0.15 kg/kkg (0.30 lb/ton) of dust leached. Dissolved solids will remain at about their present level.

The cost of implementing this alternative will be about $425,000 including $165,000 for the control of nonleaching streams and the cost of installing a stack-gas neutralization system and a clarifier ($260,000). Operating costs will range from about $35,000 to $45,000 per year.

Implementation of this alternative will result in essentially no discharge of pollutants.

The third alternative for the leaching subcategory would be the abandonment of existing leaching operations.

Under this alternative, plants that presently each kiln dust would abandon the practice and adopt either the first or second alternative for nonleaching plants which will result in essentially no discharge of pollutant. The cost of dust



V 38-173 SEP 7 73 XUM

disposal is estimated to be $0.50 per ton (including hauling and piling costs). The value of wasted dust would be about $2.00 per ton (based upon cost to formulate and grind an equivalent amount of raw ingredients). Therefore, the annual cost of wasting 200 tons per day of dust that is presently leached would be $165,000.

Non-water quality environmental impacts due to the effects of the control and treatment technologies described are minimal. Some additional solid wastes will be generated by increased use of sedimentation, but the amount will be quite small compared to the larger quantity of kiln dust normally wasted. The much increased cost of dust leaching may discourage its practice at some plants and thereby add to the solid waste load and create localized dust problems on windy days. However, there are techniques available such as latex coating or water spraying to reduce this problem.

Because of the large energy requirement at a cement plant, about 1.25 million kg cal (5 million BTU) in fuel and about 120 kwhr of electric power per metric ton, the added power needed to operate the recycling systems is small (estimated to be less than 5.0 percent of the total energy requirements) in relation to the total energy requirements of a plant.

The cement manufacturing industry is successfully practicing recycling and waste water reuse at a significant number of non-leaching plants (using the first and second alternative described above). EPA has concluded that the effluent quality representing the degree of effluent reduction obtainable through the application of the best practicable control technology currently available for plants in the non-leaching subcategory is essentially no discharge of waste waters to navigable waters as defined in § 411.12 below.

For plants in the leaching subcategory, EPA has concluded that the best practicable control technology currently available is neutralization to reduce alkalinity and chemical treatment and sedimentation to reduce suspended solids (the first alternative described above). The degree of effluent reduction attainable through application of best practicable control technology currently available is set forth in § 411.12 below.

A report entitled "Development Document for Proposed Effluent Limitations Guidelines and New Source Performance Standards of the Cement Manufacturing Industry Point Source Category" which details the analysis undertaken in support of the regulations being proposed herein is available for inspection at the EPA Information Center, Room 227, West Tower, Waterside Mall in Washington, D.C., at all EPA regional offices, and at State water pollution offices. A supplementary analysis of the possible economic effect of the proposed regulations is also available for inspection at these locations. Copies of both of these documents are being sent to persons or institutions affected by the proposed regulations, or who have placed themselves on a mailing list for this purpose (see EPA's Advance Notice of Public Review Procedures, 38 FR 21202, August 6, 1973). An additional limited number of copies of both reports are available. Persons wishing to obtain a copy may write the EPA Information Center, Environmental Protection Agency, Washington, D.C. 20460, Attention: Mr. Philip B. Wisman.

(c) Summary of public participation:

Prior to this publication, the agencies and groups listed below were consulted with respect to the development of the effluent limitations guidelines and standards of performance for the cement manufacturing industry category: (a) Effluent Standards and Water Quality Information Advisory Committee (established under section 515 of the Act); (b) all interested State and U.S. Territory Pollution Control Agencies; (c) Ohio River Valley Sanitation Commission; (d) New England Interstate Water Pollution Control Commission; (e) Delaware River Basin Commission; (f) Hudson River Sloop Restoration, Inc.; (g) Conservation Foundation; (h) Portland Cement Association; (i) Environmental Defense Fund, Inc.; (j) Natural Resources Defense Council; (k) The American Society of Civil Engineers; (l) Water Pollution Control Federation; (m) National Wildlife Federation; (n) The American Society of Mechanical Engineers; (o) U.S. Department of Commerce; (p) Water Resources Council; and (q) the U.S. Department of the Interior.

The primary issues raised in the development of these proposed effluent limitations guidelines and standards of performance and the treatment of these issued herein are as follows: (1) Industry was concerned that the standards for suspended solids would exceed the capability of the treatment systems following leaching to reduce suspended solids. To determine the degree to which the standard for leaching plants would affect the treatability of suspended solids, values of: 120,000 gallons per day flow in the leaching stream; 208 tons per day of dust leached; and a dust/water ratio of 0.416 was used to calculate a concentration of 44 ppm. Using the same dust/water ratio and flow values and the mass value of 0.30 lb/ton of dust leached, a concentration of 62.5 ppm was established. Both the 44 ppm and the 62.5 ppm values are well above the minimal concentration values to obtain effective suspended solids removal in a properly designed treatment system. (2) Industry was concerned that dikes and containment basins might not be able to prevent runoff from kiln dust and materials storage piles during hurricanes and unusual storm conditions. It is the agency's intention that the dikes and containment ponds should be designed for a 10 year, 24 hour rainfall event. (3) One company in the industry objected to the standard of essentially no discharge on the basis that this would entail a burdensome cost for pumping recycling water. At least 20 percent of the plants in the industry are currently achieving the essentially no discharge standard. (4) The Natural Resources Defense Council questioned the rationale for excluding iron and aluminum as pollutants. The agency's data shows that iron and aluminum are present, if at all, in negligible amounts (0.000 to 0.001 lb/ton of product produced). (5) The Natural Resources Defense Council suggested that the Patzias process for potassium recovery be studied further for possible application in industry to recover potassium as a by-product of kiln dust. The updated costs (from 1957 to 1971) indicate a recovery cost of about $93/ton; the market price of potassium from other commercial sources at present is between $30 and $50/ton. (6) The Natural Resources Defense Council also was concerned that electrodialysis technology might be available for 1977 rather than for 1983 as the agency recommends. The agency's best engineering judgment indicated that electrodialysis technology can be adapted to fill the requirements of leachate demineralization and recycle; but, the operating parameters will have to be thoroughly outlined so that the plants in question can decide which course to pursue. A development program is likely to take more than a year thus, reducing lead time for selection and installation of equipment. In addition, the 1983 deadline provides the time necessary to evaluate other treatment methods that are being used or developed for related problems in other industries. (7) Industry requested that plants that use wet dust disposal should be grouped with leaching plants instead of with non-leaching plants. The agency's best judgement is that alternative material transfer methods, air conveying or hauling, are available to the manufacturer which do not pose as great a threat for pollutant discharge as wet disposal methods. Since the manufacturer has the option of an alternative method, plants currently using wet disposal systems should be grouped in the nonleaching subcategory.

Interested persons may participate in this rulemaking by submitting written comments in triplicate to the EPA Information Center, Environmental Protection Agency, Washington, D.C. 20460. Attention: Mr. Philip B. Wisman. Comments on all aspects of the proposed regulations are solicited. All comments received on or before October 9, 1973, will be considered.

Dated: August 31, 1973.

JOHN QUARLES,
*Acting Administrator.*

## PART 41—EFFLUENT LIMITATIONS GUIDELINES FOR EXISTING SOURCES AND STANDARDS OF PERFORMANCE AND PRETREATMENT STANDARDS FOR NEW SOURCES FOR THE CEMENT MANUFACTURING CATEGORY OF POINT SOURCES

### Subpart A—Nonleaching Subcategory

Sec.
411.10 Applicability; description of nonleaching subcategory.
411.11 Specialized definitions.
411.12 Effluent limitations guidelines representing the degree of effluent reduction obtainable by the application of the best practicable control technology currently available.
411.13 Effluent limitations guidelines representing the degree of effluent reduction obtainable by the application of the best available technology economically achievable.
411.14 Standards of performance for new sources.
411.15 Pretreatment standards for new sources.

### Subpart B—Leaching Subcategory

411.20 Applicability; description of leaching subcategory.
411.21 Specialized definitions.
411.22 Effluent limitations guidelines representing the degree of effluent reduction obtainable by the application of the best practicable control technology currently available.
411.23 Effluent limitations guidelines representing the degree of effluent reduction obtainable by the application of the best available technology economically achievable.
411.24 Standards of performance for new sources.
411.25 Pretreatment standards for new sources.

### Subpart A—Nonleaching Subcategory

**§ 411.10 Applicability; description of nonleaching subcategory.**

The provisions of this subpart are applicable to discharges resulting from the process in which several mineral ingredients (limestone or other natural sources of calcium carbonate, silica, alumina, and iron together with gypsum) are used in the manufacturing of cement and in which kiln dust is not contacted with water as an integral part of the process and water is not used in wet scrubbers to control kiln stack emissions.

**§ 411.11 Specialized definitions.**

For the purpose of this subpart: The following definitions apply in addition to, or instead of the general definitions set forth in Part 401, 40 CFR:

(a) For the purposes of this subpart, the following abbreviations shall have the following meaning: (1) kg shall mean kilogram(s); (2) kkg shall mean 1,000 kilograms; and, (3) lb shall mean pound(s).

**§ 411.12 Effluent limitations guidelines representing the degree of effluent reduction obtainable by the application of the best practicable control technology currently available.**

The following table sets forth the quantity or quality of pollutants or properties which may be discharged after application of the best practicable control technology currently available by a point source subject to the provisions of this subpart:

| *Effluent characteristic* | *Effluent limitation* |
|---|---|
| Total suspended nonfilterable solids. | Maximum for any 1-day period shall not exceed 0.005 kg/kkg product cement. |
| pH | Not to exceed 6.0 to 9.0. |
| Temperature | Not to exceed 3° C rise above inlet temperature. |

**§ 411.13 Effluent limitations guidelines representing the degree of effluent reduction obtainable by the application of the best available technology economically achievable.**

The following table sets forth the quantity or quality of pollutants or properties which may be discharged after application of the best available technology economically achievable by a point source subject to the provisions of this subpart:

| *Effluent characteristic* | *Effluent limitation* |
|---|---|
| Total suspended nonfilterable solids. | Maximum for any 1-day period shall not exceed 0.005 kg/kkg product cement. |
| pH | Not to exceed 6.0 to 9.0. |
| Temperature | Not to exceed 3° C rise above inlet temperature. |

**§ 411.14 Standards of performance for new sources.**

The following table sets forth the quantity or quality of pollutants or properties which may be discharged after application of standards of performance for new sources by a point source subject to the provisions of this subpart:

| *Effluent characteristic* | *Effluent limitation* |
|---|---|
| Total suspended nonfilterable solids. | Maximum for any 1-day period shall not exceed 0.005 kg/kkg product cement. |
| pH | Not to exceed 6.0 to 9.0. |
| Temperature | Not to exceed 3° C rise above inlet temperature. |

**§ 411.15 Pretreatment standards for new sources.**

The pretreatment standards under section 307(c) of the Act for a source within the nonleaching subcategory of sources as defined in § 411.10 of this subpart A (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to navigable waters), shall be the standards set forth in Part 128, 40 CFR, except that for the purposes of this section, § 128.133, 40 CFR, shall be amended to read as follows: "In addition to the prohibitions set forth in § 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works by a major contributing industry shall be the standard of performance for new sources specified in § 411.14: *Provided*, That if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall be correspondingly reduced for that pollutant."

### Subpart B—Leaching Subcategory

**§ 411.20 Applicability; description of leaching subcategory.**

The provisions of this subpart are applicable to discharges resulting from the process in which several mineral ingredients (limestone or other natural sources of calcium carbonate, silica, alumina, and iron together with gypsum) are used in the manufacturing of cement and in which kiln dust is contacted with water as an integral part of the process or water is used in wet scrubbers to control kiln stack emissions.

**§ 411.21 Specialized definitions.**

For the purpose of this subpart: The following definitions apply in addition to, or instead of, the general definitions set forth in Part 401, 40 CFR:

(a) For the purposes of this subpart, the following abbreviations shall have the following meaning: (1) kg shall mean kilogram(s); (2) kkg shall mean 1,000 kilograms; and, (3) lb shall mean pound(s).

**§ 411.22 Effluent limitations guidelines representing the degree of effluent reduction obtainable by the application of the best practicable control technology currently available.**

The following table sets forth the quantity or quality of pollutants or properties which may be discharged after application of the best practicable control technology currently available by a point source subject to the provisions of this subpart:

| *Effluent characteristic* | *Effluent limitation* |
|---|---|
| Total suspended nonfilterable solids. | Maximum for any 1-day period shall not exceed 0.15 kg/kkg (0.30 lb/ton) of dust leached. |
| pH | Not to exceed 6.0 to 9.0. |
| Temperature | Not to exceed 3° C rise above inlet temperature. |

**§ 411.23 Effluent limitations guidelines representing the degree of effluent reduction obtainable by the application of the best available technology economically achievable.**

The following table sets forth the quantity or quality of pollutants or properties which may be discharged after application of the best available technology economically achievable by a point source subject to the provisions of this subpart:







V 38-173
SEP 7 73
XUM

| *Effluent characteristic* | *Effluent limitation* |
|---|---|
| Total suspended non-filterable solids. | Maximum for any one-day period shall not exceed 0.005 kg/kkg (0.01 lb/ton) product cement. |
| Total dissolved solids. | Maximum for any one-day period shall not exceed 0.005 kg/kkg (0.01 lb/ton) of product cement. |
| pH | Not to exceed 6.0 to 9.0. |
| Temperature | Not to exceed 3° C rise above inlet temperature. |

**§ 411.24 Standards of performance for new sources.**

The following table sets forth the quantity or quality of pollutant effluent characteristics or properties which may be discharged after application of the standards of performance for new sources subject to the provisions of this subpart:

| *Effluent characteristic* | *Effluent limitation* |
|---|---|
| Total suspended non-filterable solids. | Maximum for any one-day period shall not exceed 0.15 kg/kkg (0.30 lb/ton) of dust leached. |
| pH | Not to exceed 6.0 to 9.0. |
| Temperature | Not to exceed 3° C rise above inlet temperature. |

**§ 411.25 Pretreatment standards for new sources.**

The pretreatment standards under section 307(c) of the Act for a source within the cement manufacturing industry leaching subcategory of sources as defined in § 411.20 (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to navigable waters), shall be the standards set forth in Part 128, 40 CFR, except that for the purposes of this section, § 128.133, 40 CFR shall be amended to read as follows: "In addition to the prohibitions set forth in § 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works by a major contributing industry shall be the standard of performance for new sources specified in § 411.12: *Provided*, That if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall be correspondingly reduced for that pollutant."

[FR Doc.73-18868 Filed 9-6-73;8:45 am]

---

**[ 40 CFR Part 412 ]**

## FEEDLOTS CATEGORY

### Effluent Limitations Guidelines for Existing Sources and Standards of Performance and Pretreatment Standards for New Sources

Notice is hereby given that effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources set forth in tentative form below are proposed by the Environmental Protection Agency ("EPA") for the feedlots category of point sources pursuant to sections 301, 304(b) and (c), 306(b) and 307(c) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1311, 1314(b) and (c) and 1316, 1316(b) and 1317(c), 86 Stat. 816 et seq.) (the "Act").

(a) Legal authority:

(1) Existing point sources:

Section 301(b) of the Act requires the achievement by not later than July 1, 1977, of effluent limitations for point sources, other than publicly owned treatment works, which require the application of the best practicable control technology currently available as defined by the Administrator pursuant to section 304(b) of the Act. Section 301(b) also requires the achievement by not later than July 1, 1983, of effluent limitations for point sources other than publicly owned treatment works, which require the application of best available technology economically achievable which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants, as determined in accordance with regulations issued by the Administrator pursuant to section 304(b) to the Act. Section 304(b) of the Act requires the Administrator to publish, within one year of enactment of the Act, regulations providing guidelines for effluent limitations setting forth the degree of effluent reduction attainable through the application of the best practicable control technology currently available and the degree of effluent reduction attainable through the application of the best control measures and practices achievable including treatment techniques, process and procedure innovations, operating methods and other alternatives.

(2) New sources:

Section 306 of the Act requires the achievement by new sources of a Federal standard of performance providing for the control of the discharge of pollutants which reflects the greatest degree of effluent reduction which the Administrator determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants.

Section 306(b)(1)(B) of the Act requires the Administrator to publish a list of categories of sources within 90 days after the date of enactment of the Act (October 18, 1972). Within one year after a category of sources is included on the list, the Administrator is required to propose regulations establishing Federal standards of performance for new sources within such category. The Administrator published in the FEDERAL REGISTER of January 16, 1973, (38 FR 1624) a list of 27 source categories, including the feedlots source category. The regulations proposed herein set forth the standards of performance applicable to new sources within the feedlots source category.

Section 307(c) of the Act requires the Administrator to promulgate pretreatment standards for new sources at the same time that standards of performance for new sources are promulgated pursuant to section 306. Sections 412.15 and 412.25 proposed below provide pretreatment standards for new sources within the feedlots category.

Section 304(c) of the Act requires the Administrator to issue to the States and appropriate water pollution control agencies information on the processes, procedures or operating methods which result in the elimination or reduction of the discharge of pollutants to implement standards of performance under section 306 of the Act. The Development Document referred to below provides, pursuant to section 304(c) of the Act, preliminary information on such processes, procedures or operating methods.

(b) Summary and basis of proposed effluent limitations guidelines and standards of performance.

(1) General methodology:

The effluent limitations guidelines and standards of performance proposed herein were developed in the following manner. The point source category was first studied for the purpose of determining whether separate limitations and standards are appropriate for different segments within the category. This analysis included a determination of whether differences in raw material used, product produced, manufacturing process employed, age, size, waste water constituents and other factors require development of separate limitations and standards for different segments of the point source category. The raw waste characteristics for each such segment were then identified. This included an analysis of: (1) source, flow and volume of water used in the process employed and the sources of waste and waste waters in the operation; and (2) the constituents (including thermal) of all waste waters, including the toxic constituents and other constituents which result in taste, odor and color in the water or aquatic organisms. The constituents of the waste waters which should be subject to effluent limitations guidelines and standards of performance were identified.

The full range of control and treatment technologies existing with each segment was identified. This included an identification of each distinct control technology, including both inplant and end-of-process technologies which are existent or capable of being designed for each segment. Also included was an identification of, in terms of the amount of constituents (including thermal) and the chemical, physical, biological characteristics of pollutants, the effluent level resulting from the application of each of the treatment and control technologies. The problems, limitations and reliability of each treatment and control technology and the required implementation time was also identified. In addition, the nonwater quality environmental impact, such as the effects of the application of such technologies upon other pollution problems, including air, solid waste, noise and radiation were also identified. The energy requirements of each control and treatment technology as well as the cost of the application of such technologies were identified.





The information, as outlined above, was then evaluated in order to determine what levels of technology constitute the "best practicable control technology currently available," "best available technology economically achievable" and the "best available demonstrated control technology, processes, operating methods, or other alternatives." In identifying such technologies, various factors were considered. These included the total cost of application of technology in relation to the effluent reduction benefits to be achieved from such application, the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, nonwater quality environmental impact (including energy requirements) and other factors.

The data on which the above analysis was performed was derived from consultant reports, site inspections, published and unpublished technical literature, State pollution control agencies and industry submissions.

The pretreatment standards proposed herein are intended to be complementary to the pretreatment standards proposed for existing sources under Part 128 of 40 CFR. The basis for such standards is set forth in the FEDERAL REGISTER of July 19, 1973, 38 FR 19236. The provisions of Part 128 are equally applicable to sources which would constitute "new sources," under section 306 if they were to discharge pollutants directly to navigable waters, except for § 128.133. That section provides a pretreatment standard for "incompatible pollutants" which requires the application of the "best practicable control technology currently available," subject to an adjustment for amounts of pollutants removed by the publicly owned treatment works. Since the pretreatment standards proposed herein apply to new sources, §§ 412.15 and 412.25 below amend § 128.133 to require application of the standard of performance for new sources rather than the "best practicable" standard applicable to existing sources under sections 301 and 304(b) of the Act.

(2) Summary of conclusions with respect to feedlots source category:

As differentiated from pasture or rangeland conditions, feedlots are concentrated, confined animal or poultry growing operations for meat, milk or egg production or stabling in pens or houses wherein the animals or poultry are fed at the place of confinement, and crop production is not sustained in the area of confinement. The feedlots industry was segmented into eighteen subcategories based upon animal type, production systems and waste characteristics. These subcategories are: open lot, beef cattle; totally housed lot, beef cattle; stall barn, dairy; free stall barn, dairy; cowyard, dairy; open dirt or "pasture" lot swine; totally housed slotted floor lot, swine; solid concrete pad, open or housed, swine; open lot, sheep; housed lot; stables for horses; broiler chickens; layer chickens (egg production); layer breeding and replacement; open lot, turkeys; housed lot, turkeys; dry lot ducks; wet lot ducks. Definition of the terms used in identifying these subcategories are given in §§ 412.11 and 412.21 below. Factors such as age, size of plant, process employed, and waste control technologies further substantiated subcategorization of the feedlots industry in this manner for the purpose of the application of effluent limitations guidelines and standards of performance.

The pollutants contained in raw waste waters or runoff resulting from all confined animal or poultry production processes are principally biochemical oxygen demand, chemical oxygen demand, dissolved solids, suspended solids, nitrates and ammonia, phosphorus and coliform bacteria. Except in the most general terms, feedlot operations do not conform to other water-using manufacturing industries. Water flows are related to rainfall, process water use (manure flushing or washing), or a combination of the two. Process waste flows relate to either the water flow system or to purely bulk solids (raw or partially degraded manure) handling systems. Methods for managing water or waste bows are normally predicated upon a number of factors such as the specific site location, animal type, production system, soil, crop, and cultural practices for the region. Among the alternatives available for managing waste flows are holding basins, ponds, or lagoons to capture and partially stabilize wastes, anaerobic-lagoon systems, modified activated sludge concepts and oxidation ditches for refined handling and partial treatment of wastes and land utilization by irrigation, bulk liquid spreading, or bulk solids spreading, to complete the waste management cycle.

The more refined concepts are municipal secondary treatment methods which are sometimes useful for simplifying waste handling and disposal (e.g. oxidation ditch in a housed slotted floor swine operation). However, because of the extremely concentrated nature of the wastes, even the secondary treated effluents are of very poor quality (ten to twenty times more concentrated than raw domestic waste). Land utilization for liquid wastes or impoundment storage/evaporation with periodic solids disposal are still required and practicable. This effectively eliminates direct discharges. In duck production, however, because of water-based growing systems and limited land availability, biological treatment with subsequent discharge of effluents is of necessity most practicable. The effluents from duck production are known to contain the general organic and nutrient pollutant parameters noted above although the data are limited on all parameters except BOD and coliform bacteria. The biological treatment systems used in the industry to accomplish efficient removal of BOD and coliform bacteria also substantially reduce the other pollutants (suspended solids, nitrogen, etc.).

For all animal types, waste management is closely interrelated with both pollution control and animal husbandry. The costs of any given type of waste management method were not found to be excessive and often directly related to animal production costs as opposed to pollution control costs. Costs for runoff control, for example, will generally range between $2 and $12 per head of beef cattle (or equivalent in raw waste load for other species). Part of these costs (e.g., for manure collection, pen cleaning, etc.) are related to animal health and sanitation requirements as operating expenses and do not affect pollution control investments. Considerably more refined technologies were also investigated and include methods' to process manure for refeeding or other by-product recovery. Such concepts as dehydration, anaerobic digestion, and microbial fermentation have been tested and there is reasonable confidence that the methods will be useful in the future. In nearly all cases, the intent is to preserve or enhance protein (feed) value which may offset feeding costs and lead to further economic benefits through resource recovery as well as pollution control. Other than the explicit requirement for land utilization for waste management, nonwater quality environmental impacts due to these technologies are minimal. Air pollution (odor) problems are inherent in the operations and can be minimized by good housekeeping, sanitizing chemicals or judicious site selection. Technology regarding solid wastes and noncontaminating land disposal is embodied in the efficient practices used throughout the industry. Net energy requirements for waste control have no significant impact and are very small (estimated to be less than 5.0 percent of total requirements) in relation to production needs.

Except for the duck production subcategories, the feedlot industry is successfully practicing storage/land disposal of process wastes and waste water at a significant portion of operations. It is therefore concluded that the effluent limitation representing the degree of effluent reduction obtainable through the application of the best practicable control technology currently available is no discharge of waste water pollutants to navigable waters subject to exception in the event of excess rainfall, floods, or similar occurrences. The duck growing industry is successfully practicing secondary treatment of waste waters using aerobic or aerated biological treatment with chlorination, at a significant number of operations. Therefore, the effluent limitation representing the average of the best of these treatment facilities can achieve an effluent containing only 2.0 pounds of BOD–5 per 1000 ducks being fed for any 30 consecutive day period and greatly reduced bacterial (coliform) con-



V 38-173 SEP 7 73 XUM

tent. Therefore, the degree of effluent reduction obtainable through the application of best practicable control technology currently available is 2.0 pounds of BOD-5 per 1000 ducks fed and a fecal coliform limit of 400 counts per 100 ml at any time. By using complete confinement dry lot buildings with no outside duck runs, waste collection and treatment, recycle of treated wastes for raw waste flushing or irrigation, the duck production subcategories may eliminate the discharge of pollutants to navigable waters. This concept is already being practiced commercially by one operation in the industry with an apparent improvement in production efficiency. It is therefore concluded that the effluent limitation representing the degree of effluent reduction obtainable through the application of the best available technology economically achievable is no discharge of process wastewater pollutants. As an adjunct to these technical findings, an economic impact analysis was conducted. This analysis revealed that no impact exists upon those operations at least as large as stipulated in 40 CFR, Parts 124 and 125. Within the animal types of beef cattle, dairy cattle, swine, and ducks an impact is expected as increases in investment in pollution control facilities are required. As a result, structural changes already projected for the industry (increases in capacity for larger facilities with coincident decrease in small operations) may be substantiated by imposing these effluent limitations. However, effects upon product price increases or employment were found to be quite small, while overall production is likely to increase.

A report entitled "Development Document for Effluent Limitations Guidelines and Standards of Performance for the Feedlots Point Source Category" which further describes the technical analysis undertaken in support of the regulations being proposed herein is available for inspection at all EPA regional offices, State water pollution control offices, and is available from the EPA Information Center, Room 227, West Tower, Waterside Mall, in Washington, D.C., at all EPA regional offices, and at State water pollution offices. A supplementary analysis of the possible economic effect of the proposed regulations is also available for inspection at these locations. Copies of both of these documents are being sent to persons or institutions affected by the proposed regulations, or who have placed themselves on a mailing list for this purpose (see EPA's Advance Notice of Public Review Procedures, 38 FR 21202, August 6, 1973). An additional limited number of copies of both reports are available. Persons wishing to obtain a copy may write the EPA Information Center, Environmental Protection Agency, Washington, D.C. 20460, Attention: Mr. Philip B. Wisman.

(c) Summary of public participation:

Prior to this publication, the agencies and groups listed below were consulted and given an opportunity to participate in the development of the effluent limitations guidelines and standards of performance for the feedlots industry. The Development Document referred to above includes as a supplement a detailed description of consultations and other participation by the public which has taken place in the course of development of these proposed regulations. The following are the principal agencies and groups consulted: Effluent Standards and Water Quality Information Advisory Committee (established under section 515 of the Act); all State and U.S. Territory Pollution Control Agencies; American National Cattlemen's Association; National Livestock Feeders Association; National Pork Producers Council; National Milk Producers Federation; National Lamb Feeders Association; National Broiler Council; American Turkey Growers Association; Poultry and Egg Institute of America; Long Island Duck Growers Cooperative; American Society of Mechanical Engineers; American Society of Civil Engineers; Hudson River Sloop Restoration, Inc.; the Conservation Foundation; Environmental Defense Fund, Inc.; National Wildlife Federation; National Resources Defense Council; Council on Agricultural Science and Technology; Water Pollution Control Federation; Department of Agriculture; Department of Commerce; Department of Health, Education and Welfare; Department of the Interior; and the Water Resources Council.

The primary issues raised in the comments about previous drafts of these proposed effluent limitations guidelines and standards of performance and the discussion of these issues herein are as follows:

The earlier drafts did not offer limitations which accounted for excessive rainfall circumstances. Water pollution from the feedlot industry is almost wholly predicated upon the occurrence of a rainfall event which causes surface runoff of manure. The other potential source is from discharges due either to the washdown or flushing of wastes from pens, barns or other feedlot facilities or overflows from continuous flow watering systems. Since the effect of rainfall runoff is generally much greater than these other sources of discharge, it is the control of runoff thereof which must provide the baseline for effluent limitations. The key issue is the definition of the degree to which runoff must be controlled. In order to avoid requiring excessive land areas to be set aside to account for runoff from rare rainfall events, limitations must be set for some maximum feasible storage requirement. It was determined that the 10 year, 24 hour storm or equivalent hydrologic event(s) would serve the purposes of the Act as a basis for limitations based on best practicable control technology currently available. Similarly, refinement of control systems to contain the runoff from the 25 year, 24 hour storm or equivalent hydrologic event(s) would meet requirements of the Act as a basis for both best available technology economically achievable, and best available demonstrated technology, processes and alternatives.

A second issue was addressed by some states and public interest groups which questioned a standard for duck growers which permits a discharge of treated effluents for 1977. It is not economically feasible to recycle or reuse treated effluents in all operations at the present. Therefore, EPA has concluded that duck growers should be excluded from no discharge requirements until 1983 by which time water minimization concepts and improved feeding facilities can be implemented. Moreover, the average circumstances of the best treatment systems now used by duck growers will achieve a significant reduction of pollutants when implemented by all operations in meeting the requirements of best practicable control technology currently available.

Interested persons may participate in this rulemaking by submitting written comments in triplicate to the EPA Information Center, Environmental Protection Agency, Washington, D.C. 20460. Attention Mr. Philip B. Wisman. Comments on all aspects of the proposed regulations are solicited. All comments received on or before October 9, 1973, will be considered, and will be available for public inspection during normal working hours at the Office of Public Affairs.

Dated August 31, 1973.

JOHN QUARLES,
*Acting Administrator.*

---

## PART 412—EFFLUENT LIMITATIONS GUIDELINES FOR EXISTING SOURCES AND STANDARDS OF PERFORMANCE AND PRETREATMENT STANDARDS FOR NEW SOURCES FOR THE FEEDLOTS POINT SOURCE CATEGORY

**Subpart A—All Subcategories Except Ducks**

Sec.


412.10 Applicability; description of all subcategories except ducks.
412.11 Special definitions.
412.12 Effluent limitations guidelines representing the degree of effluent reduction obtainable by the application of the best practicable control technology currently available.
412.13 Effluent limitations guidelines representing the degree of effluent reduction obtainable by the application of the best available technology economically achievable.
412.14 Standards of performance for new sources.
412.15 Pretreatment standards for new sources.


**Subpart B—Ducks**


412.20 Applicability; description of duck subcategory.
412.21 Special definitions.
412.22 Effluent limitations guidelines representing the degree of effluent reduction obtainable by the application of the best practicable control technology currently available.
412.23 Effluent limitations guidelines representing the degree of effluent reduction obtainable by the application of the best available technology economically achievable.
412.24 Standards of performance for new sources.
412.25 Pretreatment standards for new sources.






**Subpart A—All Subcategories Except Ducks**

### § 412.10 Applicability; description of all subcategories except ducks.

The provisions of this subpart are applicable to discharges resulting from feedlots in the following subcategories: beef cattle—open lots; beef cattle—housed lots; dairy cattle—stall barn (with milk room); dairy—free stall barn (with milking center); dairy—cowyards (with milking center); swine-dirt or pasture lots; swine—housed, slotted floor; swine—solid concrete floor, open or housed lot; sheep—open lots; sheep—housed lots; horses—stables (race tracks); chickens—broilers, housed; chickens—layers (egg production), housed; chickens—layer breeding or replacement stock, housed; turkeys—open lots; turkeys—housed.

### § 412.11 Special definitions.

For the purposes of this subpart:

(a) The term "feedlot" shall mean a concentrated, confined animal or poultry growing operation for meat, milk or egg production, or stabling, in pens or houses wherein the animals or poultry are fed at the place of confinement and crop production is not sustained in the area of confinement.

(b) The term "process waste water" shall mean any water from any source which comes into contact with any manure, litter or bedding, or any other raw material or intermediate or final material or product used in or resulting from the production of animals or poultry or direct products (e.g. milk, eggs).

(c) The term "process waste water pollutants" shall mean pollutants contained in process waste waters.

(d) The term "open lot" shall mean pens or similar confinement areas with dirt, or concrete surfaces wherein animals or poultry are substantially or entirely exposed to the outside environment except for possible small portions affording some protection by windbreaks, small shed-type shade areas. For the purposes hereof the term "open lot" is synonymous with the terms "cowyard" (dairy cattle), "pasture lot" (swine), and "dirt lot" (swine, sheep or turkeys), which are terms widely used in the industry.

(e) The term "housed lot" shall mean totally roofed buildings which may be open or completely enclosed on the sides wherein animals or poultry are housed over solid concrete or dirt floors, slotted (partially open) floors over pits or manure collection areas in pens, stalls or cages, with or without bedding materials and mechanical ventilation. For the purposes hereof, the term "housed lot" is synonymous with the terms "slotted floor" buildings (swine, beef), "barn" or "stable" (dairy cattle, horses), "houses" (turkeys, chickens), which are terms widely used in the industry.

(f) The terms "stall" barn and "free stall" barn shall mean specialized facilities wherein (1) producing cows and replacement cows are milked and fed in a fixed location (stall barn), or (2) producing cows are permitted free movement between resting and feeding areas (free stall barn).

(g) The term "milkroom" shall mean milk storage and cooling rooms normally used for stall barn dairies.

(h) The term "milking center" shall mean a separate milking area with storage and cooling facilities adjacent to a free stall barn or cowyard dairy operation.

### § 412.12 Effluent limitations guidelines representing the degree of effluent reduction obtainable by the application of the best practicable control technology currently available.

(a) The effluent limitation representing the degree of effluent reduction obtainable by the application of the best practicable control technology currently available is no discharge of process waste water pollutants to navigable waters, except for runoff which is not contained by facilities, designed, constructed, and operated to contain all process waste water in addition to the runoff from the 10 year, 24 hour rainfall event as established by the U.S. Weather Bureau for the region in which the point source discharger is located.

(b) Application of the factors listed in section 304(b) does not require variation from the effluent limitation set forth in this section for any point source subject to such effluent limitation.

### § 412.13 Effluent limitations guidelines representing the degree of effluent reduction obtainable by the application of the best available technology economically achievable.

(a) The effluent limitation representing the degree of effluent reduction obtainable by the application of the best available technology economically achievable is no discharge of process waste water pollutants to navigable waters, except for runoff which is not contained by facilities designed, constructed, and operated to contain all process waste water in addition to the 25 year, 24 hour rainfall event as established by the U.S. Weather Bureau for the region in which the point source discharger is located.

(b) Application of the factors listed in section 304(b) does not require variation from the effluent limitation set forth in this section for any point source subject to such effluent limitation.

### § 412.14 Standards of performance for new sources.

(a) The standard of performance representing the degree of effluent reduction obtainable by the application of the best available demonstrated control technology, processes, operating method, or other alternatives is no discharge of process waste water pollutants to navigable waters except for runoff which is not contained by facilities designed, constructed, and operated to contain all process waste water in addition to the runoff from the 25 year, 24 hour rainfall event as established by the U.S. Weather Bureau for the region in which the point source discharger is located.

(b) Application of the factors listed in section 306 does not require variation from the standard of performance set forth in this section for any point source subject to such standard of performance.

### § 412.15 Pretreatment standards for new sources.

The pretreatment standards under section 307(c) of the Act, for a source within the subcategories covered in this subpart which are industrial users of a publicly owned treatment works, (and which would be new sources subject to section 306 of the Act, if it were to discharge pollutants to navigable waters), shall be the standard set forth in Part 128, 40 CFR, except that for the purposes of this section, § 128.133, 40 CFR shall be amended to read as follows: "In addition to the prohibitions set forth in § 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works by a major contributing industry shall be the standard of performance for new source specified in § 412.14, 40 CFR, Part 412, provided that, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall be correspondingly reduced for that pollutant."

**Subpart B—Ducks Subcategory**

### § 412.20 Applicability; description of duck subcategory.

The provisions of this subpart are applicable to discharges from feedlots for the following subcategories:

(a) Ducks—dry lot.

(b) Ducks—wet lot.

### § 412.21 Special definitions.

For the purposes of this subpart:

(a) The term "feedlot" shall mean a concentrated, confined animal or poultry growing operation for meat, milk or egg production, or stabling, in pens or houses wherein the animals or poultry are fed at the place of confinement and crop production is not sustained in the area of confinement.

(b) The term "process waste water" shall mean any water from any source which comes into contact with any manure, litter or bedding, or any other raw material or intermediate or final material or product used in or resulting from the production of animals or poultry or direct products (e.g. milk, eggs).

(c) The term "process waste water pollutants" shall mean pollutants contained in process waste waters.

(d) The term "dry lot" shall mean a totally housed facility for growing ducks in confinement with a dry litter floor cover and expected drinking water use of up to 4.0 gallons of water per duck per day.

(e) The term "wet lot" shall mean a confinement facility for raising ducks which is open to the environment with a small portion of shelter area, and with



V 38 173 SEP 7 73 XUM

open water runs and swimming areas to which ducks have free access with water use in excess of 4.0 gallons per duck per day.

(f) For the purposes of this subpart, the following abbreviations shall have the following meaning: (1) kg shall mean kilogram(s); and (2) lb shall mean pounds.

**§ 412.22 Effluent limitations guidelines representing the degree of effluent reduction obtainable by the application of the best practicable control technology currently available.**

(a) The effluent limitation representing the degree of effluent reduction obtainable by the application of the best practicable control technology currently available is as follows:

| *Effluent characteristic* | *Effluent Limitation* |
|---|---|
| BOD5 | Maximum for any one day 1.66 kg (3.66 lb) per 1,000 ducks. Maximum average of daily values for any period of 30 consecutive days 0.91 kg (2.00 lb) per 1,000 ducks. |
| Fecal coliform | Maximum at any time 400 counts per 100 ml. |

(b) Application of the factors listed in section 304(b) does not require variation from the effluent limitation set forth in this section for any point source subject to such effluent limitation.

**§ 412.23 Effluent limitations guidelines representing the degree of effluent reduction obtainable by the application of the best available technology economically achievable.**

(a) The effluent limitation representing the degree of effluent reduction obtainable by the application of the best available technology economically achievable is no discharge of process waste water pollutants to navigable waters, except for runoff which is not contained by facilities designed, constructed, and operated to contain all process waste water in addition to the runoff from the 25 year, 24 hour rainfall event as established by the U.S. Weather Bureau for the region in which the point source discharger is located.

(b) Application of the factors listed in section 304(b) does not require variation from the effluent limitation set forth in this section for any point source subject to such effluent limitation.

**§ 412.24 Standards of performance for new sources.**

(a) The standard of performance representing the degree of effluent reduction obtainable by the application of the best available demonstrated control technology, processes, operating methods, or other alternatives is no discharge of process waste water pollutants to navigable waters, except for runoff which is not contained by facilities designed, constructed, and operated to contain all process waste water in addition to the runoff from the 25 year, 24 hour rainfall event as established by the U.S. Weather Bureau for the region in which the point source discharger is located.

(b) Application of the factors listed in section 306 does not require variation from the standard of performance set forth in this section for any point source subject to such standard of performance.

**§ 412.25 Pretreatment standards for new sources.**

The pretreatment standards under section 307(c) of the Act, for a source within the subcategories covered in this subpart which are industrial users of a publicly owned treatment works (and which would be new sources subject to section 306 of the Act, if it were to discharge pollutants to navigable waters), shall be the standard set forth in Part 128, 40 CFR, except that for the purposes of this section, § 128.133, 40 CFR shall be amended to read as follows: "In addition to the prohibitions set forth in § 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works by a major contributing industry shall be the standard of performance for new sources specified in § 412.14, 40 CFR, Part 412; provided that, if the publicly owned treatment works which receives the pollutants is committed in its NPDES permit to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall be correspondingly reduced for that pollutant."

[FR Doc.73-18866 Filed 9-6-73;8:45 am]

---

**[ 40 CFR Part 422 ]**

## PHOSPHATE MANUFACTURING POINT SOURCE CATEGORY

### Effluent Limitations Guidelines for Existing Sources and Standards of Performance and Pretreatment Standards for New Sources

Notice is hereby given that effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources set forth in tentative form below are proposed by the Environmental Protection Agency (EPA) for the phosphorus production subcategory (Subpart A), the phosphorus consuming subcategory (Subpart B), and the phosphate subcategory (Subpart C), of the phosphate manufacturing category of point sources pursuant to sections 301, 304(b) and (c), 306(b) and 307(c) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1311, 1314 (b) and (c), 1316 (b) and 1317(c); 86 Stat. 816 et seq.; P.L. 92-500) (the "Act").

(a) Legal authority.

(1) *Existing point sources.*—Section 301(b) of the Act requires the achievement by not later than July 1, 1977, of effluent limitations for point sources, other than publicly owned treatment works, which require the application of the best practicable control technology currently available as defined by the Administrator pursuant to Section 304(b) of the Act. Section 301(b) also requires the achievement by not later than July 1, 1983, of effluent limitations for point sources, other than publicly owned treatment works, which require the application of best available technology economically achievable which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants, as determined in accordance with regulations issued by the Administrator pursuant to section 304(b) to the Act.

Section 304(b) of the Act requires the Administrator to publish regulations providing guidelines for effluent limitations setting forth the degree of effluent reduction attainable through the application of the best practible control technology currently available and the degree of effluent reduction attainable through the application of the best control measures and practices achievable including treatment techniques, process and procedure innovations, operating methods and other alternatives. The regulations proposed herein set forth effluent limitations guidelines, pursuant to section 304(b) of the Act, for the phosphorus production subcategory (Subpart A), the phosphorus consuming subcategory (Subpart B), and the phosphate subcategory (Subpart S), of the phosphate manufacturing category.

(2) *New sources.*—Section 306 of the Act requires the achievement by new sources of a Federal standard of performance providing for the control of the discharge of pollutants which reflects the greatest degree of effluent reduction which the Administrator determines to be achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants.

Section 306(b)(1)(B) of the Act requires the Administrator to propose regulations establishing Federal standards of performance for categories of new sources included in a list published pursuant to section 306(b)(1)(A) of the Act. The Administrator published in the FEDERAL REGISTER of January 16, 1973 (38 FR 1624) a list of 27 source categories, including the phosphate manufacturing category. The regulations proposed herein set forth the standards of performance applicable to new sources for the phosphorus production subcategory (Subpart A), the phosphorus consuming subcategory (Subpart B), and the phosphate subcategory (Subpart C), of the phosphate manufacturing category.

Section 307(c) of the Act requires the Administrator to promulgate pretreatment standards for new sources at the same time that standards of performance for new sources are promulgated pursuant to section 306. §§ 422.15, 422.25, and 422.35, proposed below, provide pretreatment standards for new sources within the phosphorus production subcategory (Subpart A), the phosphorus consuming subcategory (Subpart B), and the phosphate subcategory (Subpart C), of the phosphate manufacturing category.

Section 304(c) of the Act requires the Administrator to issue to the States and appropriate water pollution control agencies information on the processes, procedures or operating methods which result in the elimination or reduction of the discharge of pollutants to implement standards of performance under section 306 of the Act. The report or Development Document referred to below provides, pursuant to section 304(c) of the Act, information on such processes, procedures or operating methods.

(b) Summary and basis of proposed effluent limitations guidelines for existing sources and standards of performance and pretreatment standards for new sources.

(1) *General methodology.*—The effluent limitations guidelines and standards of performance proposed herein were developed in the following manner. The point source category was first studied for the purpose of determining whether separate limitations and standards are appropriate for different segments within the category. This analysis included a determination of whether differences in raw material used, product produced, manufacturing process employed, age, size, waste water constituents and other factors require development of separate limitations and standards for different segments of the point source category. The raw waste characteristics for each such segment were then identified. This included an analysis of (1) the source, flow and volume of water used in the process employed and the sources of waste and waste waters in the operation; and (2) the constituents of all waste water. The constituents of the waste waters which should be subject to effluent limitations guidelines and standards of performance were identified.

The control and treatment technologies existing within each segment were identified. This included an identification of each distinct control and treatment technology, including both in-plant and end-of-process technologies, which are existent or capable of being designed for each segment. It also included an identification of, in terms of the amount of constituents and the chemical, physical, and biological characteristics of pollutants, the effluent level resulting from the application of each of the technologies. The problems, limitations and reliability of each treatment and control technology were also identified. In addition, the non-water quality environmental impact, such as the effects of the application of such technologies upon other pollution problems, including air, solid waste, noise and radiation were identified. The energy requirements of each control and treatment technology were determined as well as the cost of the application of such technologies.

The information, as outlined above, was then evaluated in order to determine what levels of technology constitute the "best practicable control technology currently available," "best available technology economically achievable" and the "best available demonstrated control technology, processes, operating methods, or other alternatives." In identifying such technologies, various factors were considered. These included the total cost of application of technology in relation to the effluent reduction benefits to be achieved from such application, the age of equipment and facilities involved, the process employed, the engineering aspects of the application of various types of control techniques, process changes, non-water quality environmental impact (including energy requirements) and other factors.

The data upon which the above analysis was performed included EPA permit applications, EPA sampling and inspections, consultant reports, and industry submissions.

The pretreatment standards proposed herein are intended to be complementary to the pretreatment standards proposed for existing sources under Part 128 of 40 CFR. The bases for such standards are set forth in the FEDERAL REGISTER of July 19, 1973, 38 FR 19236. The provisions of Part 128 are equally applicable to sources which would constitute "new sources," under section 306 if they were to discharge pollutants directly to navigable waters, except for § 128.133. That section provides a pretreatment standard for "incompatible pollutants" which requires application of the "best practicable control technology currently available," subject to an adjustment for amounts of pollutants removed by the publicly owned treatment works. Since the pretreatment standards proposed herein apply to new sources, §§ 422.15, 422.25 and 422.35 below amend § 128.133 to require application of the standard of performance for new sources rather than the "best practicable" standard applicable to existing sources under sections 301 and 304(b) of the Act.

(2) Summary of conclusions with respect to the phosphorus production subcategory (Subpart A), the phosphorus consuming subcategory (Subpart B), and the phosphate subcategory (Subpart C), of the phosphate manufacturing category of point sources.

(i) Categorization.

For the purpose of studying waste treatment and effluent limitations, the phosphate manufacturing category was divided into three discrete subcategories which coincide with a breakdown of the category according to the flow of materials as outlined in the Development Document for the phosphate manufacturing category.

(1) *Subpart A.*—Phosphorus Production Subcategory: Phosphorus (and by-product ferrophosphorus) production stands by itself as a smelting operation, as opposed to more conventional chemical processes. In phosphorus production, a grossly impure raw material is involved, and raw wastes and byproducts are generated which dwarf the quantities of the primary product recovered. The remainder of the industry starts with relatively pure materials, and waste streams are consequently much smaller.

(2) *Subpart B.*—Phosphorus Consuming Subcategory: The chemicals that are made directly from elemental phosphorus (dry process phosphoric acid, phosphorus pentoxide, phosphorus pentasulfide and phosphorus trichloride) may be grouped together because aqueous wastes arise primarily from sources other than the direct process stream. Air pollution abatement unit operations, product purification residues, tail gas seals, vessel cleanings, and leaks and spills are the sources of the aqueous waste streams. Phosphorus oxychloride has been added despite the fact that phosphorus is not a direct raw material of its production; however, the waste streams have similar origins.

(3) *Subpart C.*—Phosphate Subcategory: The chemicals that are made from phosphoric acid include sodium tripolyphosphate and the calcium phosphates. The calcium phosphates include both the animal or livestock feed grade and the human food grade products. These constitute a separate segment because large volumes of process water is used in their manufacture, and also because they are finely divided solid products. The former characteristic gives rise to some aqueous wastes of direct process origin; the latter characteristic gives rise to aqueous wastes from wet dust scrubbing equipment. Most of the animal feed grade phosphate of this subcategory is not made from dry process phosphoric acid produced by industries of Subpart B, the phosphorus consuming subcategory. The livestock feed grade product is mainly produced from wet process phosphoric acid.

(ii) Waste characteristics.

The pollutants contained in raw waste waters resulting from the phosphate manufacturing category include fluoride compounds, arsenic compounds, elemental phosphorus, phosphoric acid, sulfurous acid, sulfuric acid, hydrochloric acid, suspended solids, chromates, total dissolved solids and ammonia. Large volumes of cooling water are required by the industry; heat is a raw waste water problem. Five potentially harmful components were noted in raw waste water streams at objectionable concentrations. These were elemental phosphorus, fluorine compounds, arsenic compounds, free inorganic acids and chromates. Some western ores contain considerable cadmium. This element does not normally appear in the waste water discharges of the phosphate manufacturing category, even when present in the ore at a significant level. Vanadium and radium also occur in some ores and must be considered as potential waste water components.

Noncontact cooling water, process and product water, transport water, contact cooling or heater water, atmospheric seal water, scrubber water, and auxiliary process water form the principal waste water streams in phosphate manufacturing. Raw waste load data have been collected on these streams for each subcategory of the industry, and information assembled on the treatment procedures required for each waste water stream.







V 38-173 SEP 7 73 XUM

(iii) Origin of waste water pollutants in the phosphate manufacturing category.

(1) Phosphorus production subcategory: An extremely large quantity of non-contact cooling water is employed. Electrostatic precipitators utilized ahead of phosphorus removal sprays collect a dust that contains about 50 percent phosphorus pentoxide, with other solids. A sludge originates in the phosphorus condenser sump. This is a mixture of dispersed phosphorus, and other solids that escaped through the stack electrostatic precipitator.

The calciner and furnace fume scrubber liquor waste components are $SiO_2$, $Fe_2O_3$, and phosphates, sulfates and fluorides as dissolved solids. The scrubber water is highly acidic from pick-up of sulfur dioxide, and acidic fluorine compounds.

The phosphorus condenser liquor is the main "phossy" water source. Phossy water, a colloidal dispersion of elemental phosphorus, is extremely harmful to aquatic organisms and a major waste water problem. Phossy water occurs from many other sources, whenever elemental phosphorus is handled. Phossy water develops in the water seals and water covers maintained over storage and shipping containers, from washing operations to purify phosphorus, and container cleaning operations.

The slag quenching liquor stream is characterized by suspended solids and dissolved solids, primarily as sulfates. The waste water contains fluorine compounds in the soluble and suspended forms.

(2) Phosphorus Consumption Subcategory: Phossy water is generated whenever elemental phosphorus is stored and shipped. The manufacturing processes are dry, except for use of some water in phosphoric acid production. Waste water pollutants primarily originate from spills, leaks into water seals, and cleanup of equipment and shipping containers.

Water scrubbers, used to pick up fumes from casting of phosphorus pentasulfide, are a source of pollution. Phosphorus trichloride and phosphorus oxychloride manufacture utilize chlorination steps. This leads to the formation of hydrochloric acid. The chlorides do not precipitate in usual treatment operations and constitute a difficult waste water problem.

(3) Phosphate Subcategory: The aqueous wastes from this segment of the industry arise from the use of wet scrubbing equipment, spray and dust deposits, clarified waste water from centrifuges, and filtrate fractions. The pollutants are largely sodium and calcium phosphates, which give rise to suspended and soluble solids in waste water.

A defluorination process utilized in feed grade phosphate production leads to formation of a large suspended solids waste water fraction.

(iv) Treatment and control technology.

In-plant procedures to control pollution include good housekeeping, control of spills, reduction and control of start-up and shut down operations, reuse of waste water, recycle of sediment to raw material supply, salvage of sediment and incorporation in the final product salvage of intermediate products for sale as byproduct, and control of runoff and seepage from lagoons.

"End-of-pipe" waste water treatment processes include sedimentation, flocculation, precipitation, filtration, neutralization, holding basins, lagoons, spray ponds, cooling towers, condensers, disposal of solids to landfill areas, continuous monitoring of cooling water, evaporation and recycle. Treatment technology from this industry requires segregation of process water and cooling water. Process water commonly reused after lime treatment and sedimentation. Phossy water is commonly treated before reuse by holding in a settling pond, neutralization with lime, treatment with a flocculation aid and then additional clarification. Total process waste water recycle is being practiced in segments of the industry.

Air pollution control processes include precipitation, filtration, demisting, stack washing, use of separator towers, cyclone separation, and diversion of components originating in air pollution control processes to waste water treatment systems, to raw materials, and to products. Wet scrubbing of stacks leads to heavy contamination of waste water.

Solid waste control must be considered. The waste water from the phosphate industry, and treatment processes of the industry develop a considerable volume of highly hydrated fluorsilicaceous and silicaceous substance. These hydrated solid wastes form relatively unstable landfill deposits. Best practicable control technology and best available control technology as they are known today, require disposal of the pollutants removed from waste waters in this industry in the form of solid wastes and liquid concentrates. In most cases these are nonhazardous substances requiring only minimal custodial care. However, some constituents may be hazardous and may require special consideration. In order to ensure long term protection of the environment from these hazardous or harmful constituents, special consideration of disposal sites must be made. All landfill sites where such hazardous wastes are disposed, should be selected so as to prevent horizontal and vertical migration of these contaminants to ground or surface waters. In cases where geologic conditions may not reasonably ensure this, adequate legal and mechanical precautions (*e.g.* impervious liners) should be taken to ensure long term protection to the environment from hazardour materials. Where appropriate, the location of solid hazardous materials disposal sites should be permanently recorded in the appropriate office of legal jurisdiction.

(v) Treatment and control technology within subcategories.

Waste water treatment and control technologies have been studied for each subcategory of the industry to determine what is (a) The best practicable control technology currently available, (b) the best available technology economically achievable, and (c) the best available demonstrated control technology, processes, operating methods or other alternatives.

(1) Treatment in phosphorous production subcategory: The best practicable control technology currently available leads to no discharge of the waste components of process waste water from plants of the phosphorus production subcategory. Large amounts of once through cooling water are utilized in the industry. It is vitally important that this be segregated from process waste water. Process waste water can be completely recycled, and reused by lime neutralization and sedimentation. The process waste water is characterized by much suspended phosphorus, silicate, sulfate, fluoride, fluorosilicate and other suspended solids. The treatment system must be protected from excessive intrusion of rain water, and be of adequate volume to handle normal intrusion of peak rainfall periods. The presence of much fine and highly hydrated solids in the waste water typically leads to rapid sealing of most soils. Adverse geologic and hydrologic factors, associated with site selection, may create an environmental uncertainty and could require consideration of adequate impervious liners on the bottoms and sides of treatment ponds to prevent seepage to ground or surface waters.

The requirements for the best available technology economically achievable and for the best available demonstrated control technology, processes, operating methods, or other alternatives for new sources are met by the requirements for the best practicable control technology currently available.

(2) Treatment in the phosphorus consuming subcategory: Best practicable control technology currently available involves segregation of cooling water from process water and treatment and recycle, and reuse of process waste water. Prevention of leaks and spills is important in phosphoric acid production, and for all other products of the subcategory. Total recycle is required for scrubber water in phosphorus pentoxide and phosphorus pentasulfide production. Phosphoric acid is a significant raw waste water contaminant. Lime precipitation is essential in some situations, along with recycle. A special problem is encountered in this subcategory for phosphorus trichloride and phosphorus oxychloride production. The chlorides derived from the chlorination step are not wholly amenable to recycle procedures. A small discharge of total dissolved solids total suspended solids occurs in recycle blowdown. Recycle with lime precipitation and filtration are required operations in phosphorus trichloride and phosphorus oxychloride production.

Condenser coolers are in extensive use in the subcategory. Refrigerated condensers are required for phosphorus trichloride and phosphorus oxychloride production to hold hydrochloric acid





contamination to a low level. Monitoring is essential to detect and correct process leaks. Contaminated cooling water must be dealt with as process waste water.

Treatment required to achieve best available technology economically achievable, and for best available demonstrated control technology, processes, operating methods or other alternatives for new sources is unchanged from best practical control technology for most products in the subcategory. However, evaporation must be considered to deal with the blowdown from the chlorinated products, phosphorus trichloride and phosphorus oxychloride.

(3) Treatment in the phosphate subcategory: Total recycle, with lime precipitation and dry dust collection, is required in the phosphate subcategory for best practicable control technology currently available. Control of spills and good housekeeping measures are necessary and the segregation of uncontaminated cooling water is essential. Continuous monitoring of condenser cooling water for leaks and provision of emergency storage, and treatment facilities are desirable.

As no discharge of process waste water pollutants to navigable waters is achieved by best practicable control technology currently available, no modifications are required to meet best available technology economically achievable, or best available demonstrated control technology, processes, operating methods, or other alternatives.

(vi) Cost estimates for control of waste water pollutants in the phosphate manufacturing category: Cost estimates follow for processes that can achieve the various levels of treatment required for the three subcategories.

(1) The phosphorus production subcategory: No discharge of process waste water pollutants for the phosphorus production subcategory is achieved through 100 percent recycle of process waste water. No discharge of process waste water pollutants to navigable waters is achieved by 10 percent of the subcategory. Complete recycle would add $4.60/ton of product to the treatment costs of the remaining 90 percent of the subcategory. This 90 percent of the subcategory now applies recycle of phossy water, and recycle of process waste water.

(2) Phosphorus consuming subcategory: No discharge of process waste water pollutants to navigable waters is achieved by 10 percent of the subcategory at an average cost increase of $0.65/ton over the remaining portion of the subcategory. This level of discharge limitation can be achieved by the phosphorus pentoxide segment at a cost of $1.40/ton of product; by the phosphorus pentasulfide segment at a cost of $1.70/ton of product; by the phosphorus trichloride segment using evaporation at a cost of $1.70/ton of product; and, by the phosphorus oxychloride segment using evaporation at a cost of $1.25/ton of product. Best practicable control technology currently available can be achieved by the phosphorus trichloride segment at a cost of $0.70/ton of product and by the phosphorus oxychloride segment at a cost of $0.85/ton of product. All costs are in relation to plants discharging untreated waste waters.

(3) Phosphate subcategory: No discharge of process waste water pollutants to navigable waters is being achieved by all of the sodium tripolyphosphate segment. No additional cost is required to maintain this status. This level of discharge control is achieved in the feed grade dicalcium phosphate segment at a cost of $1.40/ton of product over usual practices, and in the production of food grade dicalcium phosphate at a cost of $1.40/ton of product.

(vii) Establishing daily maximum limitations: The daily maximum limitation of twice the 30 day limitation for total suspended solids and for total dissolved solids in the phosphorus trichloride and phosphorus oxychloride products of the phosphorus consuming subcategory is based on statistical studies of waste generation at existent plants.

(viii) Much consideration has been given to the nonwater quality aspects of pollution control. The large quantities of highly hydrated silicates and fluorosilicates, along with other fine precipitates formed in the treatment processes create a substantial solid waste problem. Landfill and lagoon sites of adequate size and character are essential for treatment processes. The industry produces large quantities of air pollutants. These are separated by a variety of stack treatment processes. Many of the stack wastes create solid waste and waste water problems. The phosphorus production subcategory creates the major air and solids problems.

The soluble chloride salts resultant from evaporation require disposal in a site permanently protected from leaching. These chloride salts remain soluble for an infinite time period. These salts will migrate to ground water, through the inexorable leaching processes normal to soil and normal ground water movement unless extraordinary measures are taken to check the processes.

(ix) Economic impact analysis.

The economic analysis has focused on both internal and external costs associated with the proposed levels of water pollution abatement.

The total investment and annual costs required for all subcategories of this segment of the industry to achieve no discharge of process waste water pollutants to navigable waters by 1977 are estimated at $9.3 million and $4.9 million, respectively. Two segments, phosphorus oxychloride and phosphorus trichloride are not required to achieve this effluent level by 1977, however, the costs to achieve this level of control are included for comparison.

The total cost of water pollution abatement, both operating and raw material costs, for each product has been related to the average product selling price to determine the magnitude of either price increases, if these costs can be passed on, or decreases in pre-tax profitability. These percentages range from 0.6% for phosphorus pentoxide to 1.6 percent for feed-grade dicalcium phosphate.

External cost deals basically with the assessment of economic impact of the internal costs discussed above in terms of price increases, production curtailments or plant closures, resultant employment, community and regional impacts, international trade, and future industry growth. It should be noted that a precise study of economic impact is difficult due to numerous other economic forces at work within an industry, and because of the great variability experienced from plant-to-plant in such factors as pollution control costs, profitability, and return on investment. In an economic study such as this, it is not possible to deal with these factors on an individual plant basis.

It is not expected that any significant economic impact would result from imposing the requirement of no discharge of process waste water pollutants to navigable waters on all covered segments of this category by 1977 (Best Practicable Control Technology for most industry segments). Because of this conclusion, we judge that the proposed guidelines for 1977, 1983 and new sources are economically achievable. The small price increases projected will probably be fully passed on to the consuming industry, since there are few substitutable products. Although the small costs can be passed on by all segments, the sodium tripolyphosphate, and dicalcium phosphate segments would have to absorb costs of any greater magnitude due to declining sodium tripolyphosphate markets and cost-competitive alternates for dicalcium phosphates. In general, the economic viability of no plants in the industry will be threatened by the added burden of the costs. Hence, no production curtailments or plant closures are expected and therefore, there should be no resultant unemployment, community or future growth impacts. because international trading of the products of this industry is of very small significance, and projected price increases are small, the U.S. balance of trade is not expected to be affected by the proposed guidelines.

The report entitled "Development Document for Proposed Effluent Limitations Guidelines and New Source Performance Standards for the PHOSPHORUS DERIVED CHEMICALS Segment of the Phosphate Manufacturing Point Source Category" details the analysis undertaken in support of the regulations being proposed herein and is available for inspection in the EPA Information Center, Room 227, West Tower, Waterside Mall, Washington, D.C., at all EPA regional offices, and at State water pollution control offices. A supplementary analysis prepared for EPA of the possible economic effects of the proposed regulations is also available for inspection at these locations. Copies of both of these documents are being sent to persons or institutions affected by the proposed regulations, or who have placed themselves on a mailing list for this purpose (see EPA's Advance Notice of Public Review Procedures, 38 FR 21202, August



V 38 173 SEP 7 73 XUM

6, 1973). An additional limited number of copies of both reports are available. Persons wishing to obtain a copy may write the EPA Information Center, Environmental Protection Agency, Washington, D.C. 20460, Attention: Mr. Philip B. Wisman.

(c) Summary of public participation. Prior to this publication, the agencies and groups listed below were consulted and given an opportunity to participate in the development of effluent limitations guidelines and standards proposed for the phosphate manufacturing category. All participating agencies have been informed of project developments. An initial draft of the Development Document was sent to all participants and comments were solicited on that report. The following are the principal agencies and groups consulted: (1) Effluent Standards and Water Quality Information Advisory Committee (established under section 515 of the Act); (2) all State and U.S. Territory Pollution Control Agencies; (3) the Fertilizer Institute; (4) Manufacturing Chemists Association; (4) Puerto Rico Land Association; (5) Soap and Detergent Association; (6) The American Society of Mechanic Engineers; (7) Hudson River Sloop Restoration, Inc.; (8) The Conservation Foundation; (9) Environmental Defense Fund, Inc.; (10) Natural Resources Defense Council; (11) The American Society of Civil Defense Council; (12) The American Society of Civil Engineers; (13) Water Pollution Control Federation; (14) National Wildlife Federation, and (15) the Isaac Walton League of America.

The following organizations responded with comments: FMC Corporation, Monsanto Industrial Chemicals Company, State of Pennsylvania, Division of Industrial Wastes and Erosion Control, Delaware River Basin Commission, State of Florida, Department of Pollution Control, United States Department of Inof Florida, Department of Pollution Control, United States Department of Interior, Texas Water Quality Board, General Counsel of the Department of Commerce, California Water Resources Control Board, and New York State Department of Environmental Conservation.

The comments were highly variable, ranging from full approval to total rejection.

The primary issues raised in the development of the proposed effluent limitations guidelines and standards of performance and the treatment of these issues herein are as follows:

(1) A common criticism was that few or no plants are actually achieving no discharge of process waste water pollutants to navigable waters in some segments of the industry. As noted in the Development Document, a study of the industry established that this level is being achieved in almost all of these subcategories of phosphate manufacturing. For the remainder, established alternative in-plant and treatment procedures are available for application.

(2) A number of commentators took the position that the pH range, 6.0 to 10.5 originally proposed for process waste water discharges for phosphorus trichloride and phosphorus oxychloride production as the best practicable control technology currently available was too alkaline. The range was changed to pH 6.0 to 9.0.

(3) The criticism was made that lime treatment of phosphate does not eliminate a pollutant but merely substitutes one soluble component for another; actually, lime is highly efficient in removal of many pollutants. Lime treatment of these wastes converts phosphoric acid, and many acidic components from stack washing to insoluble precipitates, without introduction of additional soluble pollutants. Sulfuric acid, sulfurous acid, hydrofluoric acid, and the fluorosilicic acids are removed by lime in remarkably beneficial precipitation reactions.

(4) A number of commenters expressed the opinion that inadequate cost information had been gathered and that these studies were not applied to plants with the full range of treatment problems. The economic impact study, however, has established that cost is not a major factor limiting the attainment of the proposed regulations.

(5) Some comments expressed the opinion that the amount of rainfall at a plant site may be the determining factor in the practicability of meeting regulations requiring no discharge of waste water pollutants. Plants practicing total recycle will have no difficulty in meeting regulations in arid regions. While it may be more difficult to practice total recycle in a humid region than in a dry region, established sound procedures for lagoon design, location, and for control of rainfall run-off are among the factors that make the regulations practicable. It is evident that drainage plans must be optimized for a recycle plant in high rainfall regions. Potential spill and fallout areas requiring control must be limited, as must natural drainage into holding areas. Modified ponds, particularly deeper ponds, can provide extra capacity to carry a plant through periods of unfavorable weather. The regulations covering discharge limitations initiate control operation at dates long into the future. This feature provides manufacturers with the time period required to make the relocation moves, in-plant changes, and waste water treatment changes essential for complying with the Act.

(6) Many comments referred to cooling water, boiler blowdown waste water problems, and water supply waste water problems. These are to be dealt with later as a separate category. Any cooling water that picks up process related pollutants from leaks becomes process waste water. It is the responsibility of the plant to monitor cooling water streams for leaks, and to treat contaminated cooling water to the standards set up for process waste water discharges.

Interested persons may participate in this rulemaking by submitting written comments in triplicate to the EPA Information Center, Environmental Protection Agency, Washington, D.C. 20460, Attention: Mr. Philip B. Wisman. Comments on all aspects of the proposed regulations are solicited. All comments received on or before October 9, 1973, will be considered.

Dated August 31, 1973.

JOHN QUARLES,
*Acting Administrator.*

## PART 422—EFFLUENT LIMITATIONS GUIDELINES FOR EXISTING SOURCES AND STANDARDS OF PERFORMANCE AND PRETREATMENT STANDARDS FOR NEW SOURCES FOR THE PHOSPHATE MANUFACTURING POINT SOURCE CATEGORY

**Subpart A—Phosphorus Production Subcategory**

Sec.
422.10 Applicability; description of phosphorus production subcategory.
422.11 Specialized definitions.
422.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
422.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
422.14 Standards of performance for new sources.
422.15 Pretreatment standards for new sources.

**Subpart B—Phosphorus Consuming Subcategory**

422.20 Applicability; description of phosphorus consuming subcategory.
422.21 Specialized definitions.
422.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
422.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.
422.24 Standards of performance for new sources.
422.25 Pretreatment standards for new sources.

**Subpart C—Phosphate Subcategory**

422.30 Applicability; description of phosphate subcategory.
422.31 Specialized definitions.
422.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.
422.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by application of the best available technology economically achievable.
422.34 Standards of performance for new sources.
422.35 Pretreatment standards for new sources.

### Subpart A—Phosphorus Production Subcategory

**§ 422.10 Applicability; description of phosphorus production subcategory.**

The provisions of this subpart are applicable to the discharges resulting from the production of phosphorus and ferrophosphorus by smelting of phosphate ore.





**§ 422.11 Specialized definitions.**

For the purpose of this subpart: the term "process waste water" shall mean any water which, during the manufacturing process, comes into direct contact with any raw material, intermediate product, by-product or product used in or resulting from the manufacture of phosphorus and ferrophosphorus.

**§ 422.12 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.**

The following limitations constitute the quantity or quality of pollutants or pollutant properties which may be discharged after application of the best practicable control technology currently available by a point source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

**§ 422.13 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.**

The following limitations constitute the quantity or quality of pollutants or pollutant properties which may be discharged after application of the best available technology economically achievable by a point source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

**§ 422.14 Standards of performance for new sources.**

The following limitations constitute the quantity or quality of pollutants or pollutant properties which may be discharged reflecting the greatest degree of effluent reduction achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants by a new point source subject to the provisions of this subpart: There shall be no discharge of process waste water pollutants to navigable waters.

**§ 422.15 Pretreatment standards for new sources.**

The pretreatment standards under section 307(c) of the Act, for a source within the phosphorus production subcategory, which is an industrial user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to navigable waters), shall be the standard set forth in Part 128, 40 CFR, except that for the purposes of this section, § 128.133, 40 CFR, shall be amended to read as follows: "In addition to the prohibitions set forth in § 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works by a major contributing industry shall be the standard of performance for new sources specified in § 422.14, 40 CFR, Part 422 provided that, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall be correspondingly reduced for that pollutant."

### Subpart B—Phosphorus Consuming Subcategory

**§ 422.20 Applicability; description of phosphorus consuming subcategory.**

The provisions of this subpart are applicable to discharges resulting from the manufacture of phosphoric acid, phosphorus pentoxide, phosphorus pentasulfide, phosphorus trichloride, and phosphorus oxychloride directly from elemental phosphorus. The production of phosphorus trichloride and phosphorus oxychloride create waste water pollutants not completely amenable to the procedures utilized for best practicable control technology currently available. The standards set for phosphorus trichloride manufacture and phosphorus oxychloride manufacture, accordingly, must differ from the rest of the subcategory at this level of treatment.

**§ 422.21 Specialized definitions.**

For the purpose of this subpart:

(a) the term "process waste water" shall mean any water which, during the manufacturing process, comes into direct contact with any raw material, intermediate product, by-product or product used in or resulting from the manufacture of phosphorus and ferrophosphorus.

(b) the term "TSS" shall mean total suspended nonfilterable solids.

(c) the term "TDS" shall mean total dissolved solids. The analytical value for this pollutant is the quantitative difference between the total solids and the total suspended nonfilterable solids.

(d) the term "kg/kkg" shall mean kilograms per 1,000 kilograms.

**§ 422.22 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.**

The following limitations constitute the quantity or quality of pollutants or pollutant properties which may be discharged after application of best practicable control technology currently available by a point source subject to these provisions of this subpart:

(a) There shall be no discharge of process waste water pollutants to navigable water from the manufacture of phosphoric acid, phosphorus pentoxide, or phosphorus pentasulfide.

(b) The following limitations constitute the maximum permissible discharge for phosphorus trichloride manufacturing on the basis of productions:

| *Effluent characteristic* | *Effluent limitation* |
|---|---|
| TSS | Maximum for any one day 1.4 kg/kkg of product (1.4 lb/1,000 lb). Maximum average of daily values for any period of thirty consecutive days 0.7 kg/kkg of product (0.7 lb/1,000 lb). |
| TDS | Maximum for any one day 10.0 kg/kkg of product (10.0 lb/1,000 lb). Maximum average of daily values for any period of thirty consecutive days 5.0 kg/kkg of product (5.0 lb/1,000 lb). |
| pH | 6.0 to 9.0. |

(c) The following table sets forth the maximum permissible discharge for phosphorus oxychloride on the basis of production:

| *Effluent characteristic* | *Effluent limitation* |
|---|---|
| TSS | Maximum for any one day 0.3 kg/kkg of product (0.3 lb/1,000 lb). Maximum average of daily values for any period of thirty consecutive days 0.15 kg/kkg of product (0.15 1,000 lb). |
| TDS | Maximum for any one day 7.0 kg/kkg of product (7.0 lb/1,000 lb). Maximum average of daily values for any period of thirty consecutive days 3.5 kg/kkg of product (3.5 lb/1,000 lb). |
| pH | 6.0 to 9.0. |

**§ 422.23 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.**

The following limitations constitute the quantity or quality of pollutants or pollutant properties which may be discharged after application of the best available technology economically achievable by a point source subject to the provisions of this subpart: there shall be no discharge of process waste water pollutants to navigable waters resulting from the manufacture of phosphoric acid, phosphorus pentoxide, phosphorus pentasulfide, phosphorus trichloride or phosphorus oxychloride.

**§ 422.24 Standards of performance for new sources.**

The following limitations constitute the quantity or quality of pollutants or pollutant properties which may be discharged reflecting the greatest degree of effluent reduction achievable through ap-



V38-173
SEP 7 73
XUM

plication of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants by a new point source subject to the provisions of this subpart: there shall be no discharge of process waste water pollutants to navigable waters.

**§ 422.25 Pretreatment standards for new sources.**

The pretreatment standards under section 307(c) of the Act, for a source within the phosphorus consuming subcategory which is an industrial user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to navigable waters), shall be the standard set forth in Part 128, 40 CFR, except that for the purposes of this section, § 128.133, 40 CFR shall be amended to read as follows: "In addition to the prohibitions set forth in § 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works by a major contributing industry shall be the standard of performance for new sources specified in § 422.24, 40 CFR, Part 422; provided that, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall be correspondingly reduced for that pollutant."

## Subpart C—Phosphate Subcategory

**§ 422.30 Applicability; description of phosphate subcategory.**

The provisions of this subpart are applicable to discharges resulting from the manufacture of sodium tripolyphosphate and calcium phosphates from phosphoric acid.

**§ 422.31 Specialized definitions.**

For the purpose of this subpart: the term "process waste water" shall mean any water which, during the manufacturing process, comes into direct contact with any raw material, intermediate product, by-product or product used in or resulting from the manufacture of phosphorus and ferrophosphorus.

**§ 422.32 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available.**

The following limitations constitute the quantity or quality of pollutants or pollutant properties which may be discharged after application of the best practicable control technology currently available by a point source subject to the provisions of this Subpart: there shall be no discharge of process waste water pollutants to navigable waters.

**§ 422.33 Effluent limitations guidelines representing the degree of effluent reduction attainable by application of the best available technology economically achievable.**

The following limitations constitute the quantity or quality of pollutants or pollutant properties which may be discharged after application of the best available technology economically achievable by a point source subject to the provisions of this Subpart: there shall be no discharge of process waste water pollutants to navigable waters.

**§ 422.34 Standards of performance for new sources.**

The following limitations constitute the quantity or quality of pollutants or pollutant properties which may be discharged reflecting the greatest degree of effluent reduction achievable through application of the best available demonstrated control technology, processes, operating methods, or other alternatives, including, where practicable, a standard permitting no discharge of pollutants by a new point source subject to the provisions of this Subpart: there shall be no discharge of process waste water pollutants to navigable waters.

**§ 422.35 Pretreatment standards for new sources.**

The pretreatment standards under section 307(c) of the Act, for a source within the phosphate manufacturing category phosphorus consuming subcategory which is an industrial user of a publicly owned treatment works (and which would be a new source subject to section 306 of the Act, if it were to discharge pollutants to navigable waters), shall be the standard set forth in Part 128, 40 CFR, except that for the purpose of this section, § 128.133, 40 CFR shall be amended to read as follows: "In addition to the prohibitions set forth in § 128.131, the pretreatment standard for incompatible pollutants introduced into a publicly owned treatment works by a major contributing industry shall be the standard of performance for new sources specified in § 422.34, 40 CFR, Part 422; provided that, if the publicly owned treatment works which receives the pollutants is committed, in its NPDES permit, to remove a specified percentage of any incompatible pollutant, the pretreatment standard applicable to users of such treatment works shall be correspondingly reduced for that pollutant."

[FR Doc.73-18867 Filed 9-6-73;8:45 am]



V 38-173 SEP 7 73 XUM

federal register

FRIDAY, SEPTEMBER 7, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 173

PART III

# DEPARTMENT OF LABOR

## Employment Standards Administration

■

## Minimum Wages for Federal and Federally Assisted Construction

Area Wage Determination Decisions, Modifications, and Supersedeas Decisions; Index

No. 173—Pt. III——1

V 38-173
SEP 7 73
XUM

## DEPARTMENT OF LABOR

### Employment Standards Administration

### MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

### General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following the Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and Federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determinations frequently and in large volume causes these procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR, Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

#### MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR, Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

#### NEW GENERAL WAGE DETERMINATION DECISIONS

New General Wage Determination Decision No. AQ–3009 for the State of Connecticut; AQ–3008 and AQ–3010 for the State of Massachusetts; and AQ–24 for the State of Nebraska respectively.

#### MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications to General Wage Determination Decisions for the following States (the numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State):

| | |
|---|---|
| Alaska: | |
| AP–902; AP–903 | May 18, 1973 |
| Arizona: | |
| AQ–1004 | July 27, 1973 |
| AQ–1005; AQ–1006 | July 20, 1973 |
| Colorado: | |
| AP–911 | June 22, 1973 |
| Montana: | |
| AP–917 | June 29, 1973 |
| New York: | |
| AP–469 | Feb. 9, 1973 |
| AQ–2001 | July 13, 1973 |

#### SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Supersedeas Decisions to General Wage Determination Decisions for the following States (the numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State; Supersedeas Decision numbers are in parentheses following the number of the decision being superseded):

| | |
|---|---|
| Arizona: | |
| AP–260(AQ–1025) | Jan. 19, 1973 |
| Florida: | |
| AP–195(AQ–4007); AP–199 (AQ–4008); AP–1102 (AQ–4009); AP–1103 (AQ–4010) | June 8, 1973 |
| Idaho: | |
| AP–273(AQ–1031); AP–274 (AQ–1028); AP–275 (AQ–1029); AP–276 (AQ–1030) | Mar. 23, 1973 |
| Nebraska: | |
| AP–524(AQ–25) | Apr. 6, 1973 |
| AP–526(AQ–26) | Apr. 20, 1973 |
| Oregon: | |
| AP–277(AQ–1023) | Mar. 23, 1973 |
| AP–284(AQ–1022) | Apr. 6, 1973 |
| Rhode Island: | |
| AP–485(AQ–2008) | Mar. 9, 1973 |
| Washington: | |
| AP–283(AQ–1021) | Apr. 6, 1973 |
| AP–906(AQ–1024) | May 25, 1973 |

Signed at Washington, D.C., this 31st day of August 1973.

WARREN D. LANDIS,
*Assistant Administrator,*
*Wage and Hour Division.*





NEW DECISION

COUNTY: Hartford
DATE: Date of Publication
DESCRIPTION OF WORK: Residential Construction (consisting of single family homes and garden type apartments up to and including 4-stories).

2-R-CONN - 1 - F

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H&W | Pension | Vacation | App. Tr. | Other |
| RESIDENTIAL CONSTRUCTION | | | | | | |
| Bricklayers | $7.95 | | | | | |
| Carpenters | 5.89 | | | | | |
| Cement masons | 7.09 | | | | | |
| Electricians | 6.18 | | | | | |
| Laborers: | | | | | | |
| Laborers | 4.65 | | | | | |
| Mason tenders | 5.00 | | | | | |
| Asphalt rakers | 6.95 | | | | | |
| Plasterers | 6.85 | | | | | |
| Pilemen | 5.85 | | | | | |
| Piledrivermen | 6.40 | | | | | |
| Plumbers | 6.10 | | | | | |
| Roofers | 5.04 | | | | | |
| Roofers' helpers | 5.00 | | | | | |
| Sheet metal workers | 7.75 | | | | | |
| Steamfitters | 5.54 | | | | | |
| Soft floor layers | 6.75 | | | | | |
| Tile setters | 5.30 | | | | | |
| Truck drivers | | | | | | |
| Power Equipment Operators: | | | | | | |
| Backhoe | 8.86 | .30 | .50+a | b | | |
| Bulldozer | 6.62 | | | | | |
| Crane | 8.86 | .30 | .50+a | b | | |
| Crawdall | 8.86 | .30 | .50+a | b | | |
| Grader | 8.39 | .30 | .50+a | b | | |
| Loader | 8.60 | .30 | .50+a | b | | |
| Oiler | 7.54 | .30 | .50+a | b | | |
| Pump | 8.24 | .30 | .50+a | b | | |
| Roller | 7.91 | | | | | |
| Shovel | 7.55 | | | | | |

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes $.15 per hour to Supplemental Unemployment Fund.

b. Seven (7) paid holidays: A through F and Good Friday.



V 38-173 SEP 7 73 XUM

NEW DECISION

STATE: Massachusetts
DECISION NO.: AQ-3,008
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

COUNTY: Suffolk
DATE: Date of Publication

13-R-MASS-a (1-1)

| RESIDENTIAL | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| ASBESTOS WORKERS | $8.955 | .55 | .50 | | .01 | |
| BRICKLAYERS | 8.65 | .60 | .70 | | .04 | |
| CARPENTERS; Soft floor layers | 8.55 | .50 | .30 | | .02 | |
| CEMENT MASONS | 8.90 | .35 | .20 | | .04 | |
| ELECTRICIANS | 5.25 | .35 | 1%+.95 | | .05 | |
| GLAZIERS | 8.55 | .25 | .36 | | .02 | |
| IRONWORKERS | 8.29 | .45 | 1.05 | | .03 | |
| LABORERS: | | | | | | |
| Laborers; Carpenter tenders; Cement finisher tenders; Wrecking laborers | 6.80 | .40 | .40 | | .05 | |
| Jackhammer op.; Pavement breakers; Wagon drills; Asphalt rakers; Carbide core drilling machine; Chain saw op.; Pipelayer; Barco type jumping tampers; Laser beam; Concrete pump; Mason tenders; Mortar mixers; Ride-on motorized buggy | 7.05 | .40 | .40 | | .05 | |
| Air track; Block pavers; Rammers; Curb setters | 7.30 | .40 | .40 | | .05 | |
| Blasters; Powdermen | 7.55 | .40 | .40 | | .05 | |
| LATHERS | 7.15 | .45 | .55 | | .01 | |
| PAINTERS: | | | | | | |
| Brush | 7.61 | .32 | .30 | | .04 | |
| Steel | 7.61a | .32 | .30 | | .04 | |
| Spray | 8.61 | .32 | .30 | | .04 | |
| PLASTERERS | 7.75 | .45 | 1.00 | | .02 | |
| PLASTERERS' TENDERS | 7.05 | .40 | .40 | | .05 | |
| PLUMBERS | 9.35 | .50 | .60 | | .03 | |
| ROOFERS | 8.00 | .30 | .20 | | | |
| SHEET METAL WORKERS | 8.73 | .46 | .45 | | .02 | |
| STEAMFITTERS | 9.26 | .51 | .65 | | .05 | |
| TILE SETTERS | 8.20 | .20 | .25 | | | |
| TILE SETTERS' HELPERS | 6.50 | .20 | .10 | | | |

FOOTNOTE:
a. Employer pays $5.00 per day extra above the brush rate.



MASS-1-PEO-1-2-3-c (1-2)

| POWER EQUIPMENT OPERATORS | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Oth |
|---|---|---|---|---|---|---|
| Shovels, cranes, truck cranes, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, cherry pickers, boring machines, rotary drills, post hole hammers, post hole diggers, pumpcrete machines, pavement breakers, mechanical hoist, cement concrete pavers, shaft hoists, steam engines, cableways, paving concrete mixers, trenching machines, hoisting engines, uke loaders, asphalt plant (on site), concrete batching &/or mixing plant (on site), crusher plant (on site), Timber jacks | $9.11 | .55 | .60 | a | .02 | |
| Boom over 150' including jib - additional $.35 per hour<br>Boom over 185' including jib - additional $.70 per hour<br>Boom over 210' including jib - additional $1.00 per hour<br>Boom over 250' including jib - additional $1.50 per hour<br>Boom over 295' including jib - additional $2.00 per hour | | | | | | |
| Master mechanic | 9.86 | .55 | .60 | a | .02 | |
| Sonic or vibratory hammers, graders, scrapers, tractors, concrete pumps, tandem scrapers, bulldozers, mulching machines, york rakes, portable steam boilers, rollers, spreaders, tampers, self-propelled or tractor drawn, asphalt pavers, mechanics maintenance, group pumps, locomotive or machines used in place thereof, portable steam generators, paving screed machines, stationary steam boilers, paving concrete finishing machines | 8.99 | .55 | .60 | a | .02 | |







MASS-1-PEO-1-2-3-c (2-2)

| POWER EQUIPMENT OPERATORS | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Oth |
|---|---|---|---|---|---|---|
| Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), wellpoint systems (operating and installing), syphons-pulsometers, concrete mixers, valves controlling permanent plant air or steam, conveyors, Jackson type tamper, single diaphragm pump | $7.625 | .55 | .60 | a | .02 | |
| Assistant engineers (firemen) | 8.31 | .55 | .60 | a | .02 | |
| Oilers and apprentices (other than truck cranes and gradalls) | 6.75 | .55 | .60 | a | .02 | |
| Oilers and apprentices on truck cranes and gradalls | 7.13 | .55 | .60 | a | .02 | |

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. 10 paid holidays: A through F; Washington's Birthday; Columbus Day; Veterans' Day; & Patriots' Day.



MASS-1-TD-1 -A 1 of 1

TRUCK DRIVERS

| BASIC HOURLY RATES | FRINGE BENEFITS PAYMENTS: H & W | PENSIONS | VACATION | APP. TR. | C |
|---|---|---|---|---|---|
| Two axle equipment | $3.97 | .24 | .35 | a+b | |
| Three axle equipment | 4.02 | .24 | .35 | a+b | |
| Four and five axle equipment | 4.12 | .24 | .35 | a+b | |
| Low bed trailer | 4.22 | .24 | .35 | a+b | |
| Specialized earth moving equipment other than conventional | 4.22 | .24 | .35 | a+b | |
| Helpers on low beds | 3.97 | .24 | .35 | a+b | |

PAID HOLIDAYS: (Where Applicable)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.
b. Holidays: A through F, Washington's Birthday, Columbus Day and Veterans' Day after 30 days employment, provided an employee works two days of the calendar week in which the holiday falls.







38 FR 24180 Sep 7 1973 NUM

NEW DECISION

STATE: Massachusetts
COUNTY: Bristol
DECISION NO.: AQ-3010
DATE: Date of Publication
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction and marine construction.

| BUILDING, HEAVY & HIGHWAY CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| ASBESTOS WORKERS: | | | | | | |
| Easton | $8.955 | .55 | .20 | | .01 | |
| Remainder of County | 8.80 | .505 | .45 | | .005 | |
| BOILERMAKERS | 8.705 | .50 | 10% | | .01 | |
| BRICKLAYERS; Cement masons; Plasterers; & Stonemasons: | | | | | | |
| Easton, N. Easton, & S. Easton | 8.45 | .55 | .45 | | .02 | |
| Acushnet, Dartmouth, Fairhaven, Fall River, Freetown, New Bedford, N. Dartmouth, Somerset, Swansea, S. Dartmouth, & Westport | 8.25 | .60 | .60 | | .02 | |
| Remainder of County | 8.78 | .62 | .55 | | .04 | |
| CARPENTERS; Soft floor layers: | | | | | | |
| Easton, N. Easton, & S. Easton | 7.80 | .35 | .50 | | | |
| Attleboro, N. Attleboro, & S. Attleboro | 8.35 | .50 | .50 | | .02 | |
| Acushnet, Dartmouth, Fairhaven, New Bedford, N. Dartmouth, & S. Dartmouth | 7.85 | .30 | .50 | | | |
| Fall River, Freetown, Seekonk, Somerset, Swansea, & Westport | 7.75 | .40 | .50 | | | |
| Remainder of County | 7.85 | .30 | .50 | | | |
| ELECTRICIANS: | | | | | | |
| Attleboro, N. Attleboro, & Seekonk | 8.65 | .38 | 1%+.25 | | .02 | |
| Acushnet, Dartmouth, Fairhaven, New Bedford, N. Dartmouth, & S. Dartmouth | 8.63 | .25 | 1%+.25 | | a | |
| Easton: | | | | | | |
| Electrical contracts less than $20,000.00 | 7.55 | 4% | 5% | | 1% | |
| Electrical contracts $20,000.00 or more | 9.15 | 4% | 5% | | 1% | |
| Fall River, Freetown, Somerset, Swansea, & Westport | 8.10 | 4% | 1%+.25 | 4% | 1/2% | |
| Remainder of County | 8.90 | .50 | 1% | | 1/20% | |
| ELEVATOR CONSTRUCTORS | 9.125 | .345 | .23 | 2%+b+c | .015 | |
| ELEVATOR CONSTRUCTORS' HELPERS | 70%JR | .345 | .23 | 2%+b+c | .015 | |
| ELEVATOR CONSTRUCTORS' HELPERS (PROB.) | 50%JR | | | | | |
| GLAZIERS | 8.55 | .25 | .36 | | .02 | |
| IRONWORKERS: | | | | | | |
| Easton, Mansfield, & N. Easton | 8.29 | .45 | 1.05 | | .03 | |
| Remainder of County | 7.70 | .45 | 1.30 | | .02 | |
| LABORERS (BUILDING): | | | | | | |
| Laborers; Carpenter tenders; Cement finisher tenders; Wrecking laborers | 6.80 | .40 | .40 | | .05 | |
| Jackhammer op.; Pavement breakers; Wagon drills; Asphalt rakers; Carbide core drilling machine; Chain saw op.; Pipelayer; Barco type jumping tampers; Laser beam; Concrete pump; Mason tenders; Mortar mixers; Ride-on motorized buggy | 7.05 | .40 | .40 | | .05 | |
| Air track; Block pavers; Rammers; Curb setters | 7.30 | .40 | .40 | | .05 | |
| Blasters; Powdermen | 7.55 | .40 | .40 | | .05 | |



| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| LABORERS (BUILDING) Cont'd: | | | | | | |
| Open air caisson; Cylindrical work & boring crew: | | | | | | |
| Laborer; Top man | $6.55 | .40 | .40 | | .05 | |
| Helper | 6.67 | .40 | .40 | | .05 | |
| Bottom men | 7.30 | .40 | .40 | | .05 | |
| Driller | 7.42 | .40 | .40 | | .05 | |
| LATHERS: | | | | | | |
| Attleboro, N. Attleboro | 7.40 | .45 | .50 | | .01 | |
| Mansfield, N. Easton, Norton, Raynham, & Taunton | 7.15 | .45 | .55 | | .01 | |
| Remainder of County | 7.50 | .45 | .50 | | .01 | |
| LEADBURNERS | 8.25 | .30 | | d | .01 | |
| LINE CONSTRUCTION: | | | | | | |
| Lineman | 7.14 | .25 | 1% | e | | |
| Equipment operators | 6.31 | .25 | 1% | e | | |
| Driver groundman | 5.58 | .25 | 1% | e | | |
| MARBLE SETTERS; Terrazzo workers | 7.65 | .50 | .50 | | | |
| MARBLE SETTERS' HELPERS | 6.50 | .20 | .10 | | | |
| MILLWRIGHTS | 8.20 | .50 | .30 | | .02 | |
| PAINTERS: | | | | | | |
| Acushnet, Dartmouth, Fairhaven, New Bedford, N. Dartmouth, & S. Dartmouth: | | | | | | |
| Brush; Roller | 7.25 | .30 | .20 | | | |
| Steel (1' to 50') | 7.75 | .30 | .20 | | | |
| Spray | 8.25 | .30 | .20 | | | |
| Remainder of County: | | | | | | |
| Brush; Taper | 7.86 | .62 | .40 | | .04 | |
| Steel | 7.86+f | .62 | .40 | | .04 | |
| Spray | 8.86 | .62 | .40 | | .04 | |
| PILEDRIVERMEN | 8.65 | .50 | .30 | | | |
| PLUMBERS; Steamfitters: | | | | | | |
| Easton | 7.95 | .25 | .40 | | .05 | |
| Acushnet, Dartmouth, Fairhaven, Fall River, Freetown, New Bedford, N. Dartmouth, Seekonk, Somerset, S. Dartmouth, Swansea, & Westport | 8.15 | .51 | .66 | | .15 | |
| Remainder of County | 8.02 | .40 | .40 | | | |
| ROOFERS: | | | | | | |
| Attleboro, Taunton | 8.00 | .30 | .20 | | | |
| Remainder of County: | | | | | | |
| Roofers; Kettlemen | 7.85 | .25 | .05 | | | |
| Helpers, Class "A" | 7.15 | .25 | .05 | | | |
| SHEET METAL WORKERS: | | | | | | |
| Acushnet, Assonet, Dartmouth, Dighton, Fairhaven, Fall River, Freetown, New Bedford, N. Dartmouth, Rehoboth, Seekonk, Somerset, Swansea, & Westport | 8.50 | .30 | .25 | | | |
| Remainder of County | 8.73 | .46 | .45 | | .02 | |
| SPRINKLER FITTERS | 8.75 | .30 | .50 | | .05 | |







| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| TERRAZZO WORKERS' HELPERS | $7.40 | .20 | .10 | | | |
| TILE SETTERS | 8.20 | .20 | .25 | | | |
| TILE SETTERS' HELPERS | 6.50 | .20 | .10 | | | |

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; & F-Christmas Day.

FOOTNOTES:
a. Employer contribution of $1.00 per journeymen Electrician per week.
b. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as vacation pay credit.
c. 6 paid holidays: A through F.
d. 9 paid holidays: A through F, Washington's Birthday, Good Friday, & Christmas Eve, providing employee has worked at least 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.
e. 7 paid holidays: A through F, & Bunker Hill Day, provided the employee is employed 10 days prior to the listed holidays.
f. Employer contributes $5.00 per day above brush rate.

MASS-1-TD-1 -A 1 of 1

| TRUCK DRIVERS-BUILDING CONSTRUCTION | BASIC HOURLY RATES | FRINGE BENEFITS PAYMENTS | | | | |
|---|---|---|---|---|---|---|
| | | H & W | PENSIONS | VACATION | APP. TR. | OTHE |
| Two axle equipment | $3.97 | .24 | .35 | a+b | | |
| Three axle equipment | 4.02 | .24 | .35 | a+b | | |
| Four and five axle equipment | 4.12 | .24 | .35 | a+b | | |
| Low bed trailer | 4.22 | .24 | .35 | a+b | | |
| Specialized earth moving equipment other than conventional | 4.22 | .24 | .35 | a+b | | |
| Helpers on low beds | 3.97 | .24 | .35 | a+b | | |

PAID HOLIDAYS: (Where Applicable)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.
b. Holidays: A through F, Washington's Birthday, Columbus Day and Veterans' Day after 30 days employment, provided an employee works two days of the calendar week in which the holiday falls.



MASS-1-EO-1-2-3-c (1-2)

| BUILDING, HEAVY & HIGHWAY CONSTRUCTION<br>POWER EQUIPMENT OPERATORS | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | O |
| Shovels, cranes, truck cranes, dragglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, cherry pickers, boring machines, rotary drills, post hole hammers, post hole diggers, pumpcrete machines, pavement breakers, mechanical hoist, cement concrete pavers, shaft hoists, steam engines, cableways, paving concrete mixers, trenching machines, hoisting engines, uke loaders, asphalt plant (on site), concrete batching &/or mixing plant (on site), crusher plant (on site), Timber jacks | $9.11 | .55 | .60 | a | .02 | |
| Boom over 150' including jib - additional $.35 per hour<br>Boom over 185' including jib - additional $.70 per hour<br>Boom over 210' including jib - additional $1.00 per hour<br>Boom over 250' including jib - additional $1.50 per hour<br>Boom over 295' including jib - additional $2.00 per hour | | | | | | |
| Master mechanic | 9.86 | .55 | .60 | a | .02 | |
| Sonic or vibratory hammers, graders, scrapers, tractors, concrete pumps, tandem scrapers, bulldozers, mulching machines, york rakes, portable steam boilers, rollers, spreaders, tampers, self-propelled or tractor drawn, asphalt pavers, mechanics maintenance, group pumps, locomotive or machines used in place thereof, portable steam generators, paving screed machines, stationary steam boilers, paving concrete finishing machines | 8.99 | .55 | .60 | a | .02 | |







38 FR 24183 Sep 7 1973 XUM

MASS-1-PPO-1-2-3-c (2-2)

BUILDING, HEAVY & HIGHWAY CONSTRUCTION

POWER EQUIPMENT OPERATORS

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Oth |
| Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), wellpoint systems (operating and installing), syphons-pulsometers, concrete mixers, valves controlling permanent plant air or steam, conveyors, Jackson type tamper, single diaphragm pump | $7.625 | .55 | .60 | a | .02 | |
| Assistant engineers (firemen) | 8.31 | .55 | .60 | a | .02 | |
| Oilers and apprentices (other than truck cranes and gradalls) | 6.75 | .55 | .60 | a | .02 | |
| Oilers and apprentices on truck cranes and gradalls | 7.13 | .55 | .60 | a | .02 | |

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. 10 paid holidays: A through F; Washington's Birthday; Columbus Day; Veterans' Day; & Patriots' Day.

MASS-8-LAB-2-3-t

HEAVY & HIGHWAY CONSTRUCTION

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Oth |
| LABORERS: Carpenter tenders; Cement finisher tenders; Laborers; Wrecking laborers | $6.05 | .40 | .40 | | .05 | |
| Asphalt rakers; Fence & guard rail erectors; Laser beam operators; Mason tenders; Pipelayers; Pneumatic drill operators; Pneumatic tool operators; Wagon drill operators | 6.30 | .40 | .40 | | .05 | |
| Air track operators; Block pavers; Rammers; Curb setters | 6.55 | .40 | .40 | | .05 | |
| Blasters; Powdermen | 6.80 | .40 | .40 | | .05 | |



MASS - 1 - TD - 2-3 D

TRUCK DRIVERS:
HEAVY AND HIGHWAY CONSTRUCTION

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Oth |
| Station wagons, panel trucks and pick-up trucks | $5.91 | .35 | .50 | a+b | | |
| Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift opers. | 6.01 | .35 | .50 | a+b | | |
| Three axle equipment and tiremen | 6.06 | .35 | .50 | a+b | | |
| Four and five axle equipment | 6.16 | .35 | .50 | a+b | | |
| Specialized earth moving equipment under 35 tons other than conventional type trucks, low bed, vachaul, mechanics, paving restoration equipment, Mechanics | 6.26 | .35 | .50 | a+b | | |
| Specialized earth moving equipment over 35 tons | 6.51 | .35 | .50 | a+b | | |
| Trailers for earth moving equipment, (double hookup) | 6.76 | .35 | .50 | a+b | | |

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.
b. Holidays: A through F, Washington's Birthday, Columbus Day and Veteran's Day after 30 days employment provided an employee works two days of the calendar week in which the holiday falls.









37-MASS-4-p (1-2)

MARINE CONSTRUCTION

POWER EQUIPMENT OPERATORS

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | O |
| Shovels, cranes, truck cranes, cherry pickers, derricks, pile drivers, two or more drum machines, lighters, derrick boats, trenching machines, mechanical hoist pavement breakers, cement concrete pavers, draglines, hoisting engines, pumpcrete machines, elevating graders, shovel dozers, front end loaders, backhoes, gradalls, cable ways, boring machines, rotary drills, post hole hammers, post hole diggers, fork lifts, timber jacks, asphalt plant (on site), concrete batching &/or mixing plant (on site), crusher plant, (on site), paving concrete mixers | $9.11 | .55 | .60 | a | .02 | |
| Booms over 150' including jib - additional $.35 per hour<br>Booms over 185' including jib - additional $.70 per hour<br>Booms over 210' including jib - additional $1.00 per hour<br>Booms over 250' including jib - additional $1.50 per hour<br>Booms over 295' including jib - additional $2.00 per hour | | | | | | |
| Master mechanic | 9.86 | .55 | .60 | a | .02 | |
| Swinger engines | 9.16 | .55 | .60 | a | .02 | |
| Portable steam boilers, portable steam generators, sonic or vibratory hammers, graders, scrapers, tandem scrapers, concrete pumps, bulldozers, tractors, york rakes, mulching machines, rollers, spreaders, tampers self-propelled or tractor drawn, asphalt pavers, concrete mixers with side loaders, mechanics - maintenance | 8.99 | .55 | .60 | a | .02 | |



37-MASS-4-p (2-2)

MARINE CONSTRUCTION

POWER EQUIPMENT OPERATORS

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Oth |
| Pumps, compressors, welding machines, heaters (power driven), valves controlling permanent plan air or steam, wellpoint systems, augers - powered by independent engines & attached to pile drivers, hydraulic saws, generators, lighting plants, syphons-pulsometers, concrete mixers, conveyors | $7.625 | .55 | .60 | a | .02 | |
| Assistant engineers (firemen) | 8.31 | .55 | .60 | a | .02 | |
| Oilers and apprentices (other than truck cranes and gradalls) | 6.75 | .55 | .60 | a | .02 | |
| Oilers and apprentices on truck cranes and gradalls | 7.13 | .55 | .60 | a | .02 | |
| Oilers on scows | 7.525 | .55 | .60 | a | .02 | |

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. 10 paid holidays: A through F; Washington's Birthday; Patriots' Day; Columbus Day; & Veterans' Day.

NEW DECISION

STATE: Nebraska
DECISION NUMBER: AQ-24
COUNTY: Hall
DATE: Date of Publication
DESCRIPTION OF WORK: Building construction (excluding single family homes and garden type apartments up to and including 4 stories)

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| Bricklayers | $6.45 | | | | | |
| Carpenters | 5.70 | | | | | |
| Electricians | 4.95 | | | | | |
| Glaziers | 3.00 | | | | | |
| Ironworkers: | | | | | | |
| Structural & Ornamental | 7.00 | .25 | .20 | .20 | | |
| Laborers: | | | | | | |
| Laborers | 2.50 | | | | | |
| Mason tenders | 3.15 | | | | | |
| Lathers | 6.00 | | | | | |
| Painters, brush | 4.3 | | | | | |
| Plasterers | 6.00 | | | | | |
| Plumbers | 4.65 | | | | | |
| Roofers | 4.50 | | | | | |
| Sheet metal workers | 4.75 | | | | | |
| Truck drivers | 2.75 | | | | | |
| Power Equipment Operators: | | | | | | |
| Bulldozers | 3.25 | | | | | |
| Cranes, Derricks, Draglines | 5.80 | | | | | |
| Scrapers | 3.25 | | | | | |





MODIFICATION P. 1

DECISION #AP-902 - Mod. #1
(38 FR 13127 - May 18, 1973)
Statewide, Alaska

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| Change: | | | | | | |
| Asbestos Workers | $11.32 | .51 | .75 | | .05 | |
| Glaziers: | | | | | | |
| Area II and Area III | 10.04 | .45 | .20 | a | .10 | |
| Painters: | | | | | | |
| Area II and III | | | | | | |
| Brush; Hardwood floor sander and/or finisher; Paperhanger; Sign painter | 10.05 | .45 | .90 | | .10 | |
| Swing stage | 10.30 | .45 | .90 | | .10 | |
| Structural steel; Tapers and dry-wall sander | 10.45 | .45 | .90 | | .10 | |
| Pot tenders; Sandblasters; Spray | 10.6 | .45 | .90 | | .10 | |
| Steeplejack; Towers | 11.85 | .45 | .90 | | .10 | |
| Plumbers; Steamfitters: | | | | | | |
| Area I | 10.57 | .60 | 1.15 | | .05 | |
| Area III | 11.70 | | | | | |

AREAS II and III
FOOTNOTE:
a. Employees who have been continuously employed for 1 year with an employer shall be granted 2 weeks vacation with 80 hours' pay. 8 Paid Holidays: A through F, Washington's Birthday and Veterans' Day.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

MODIFICATION P. 2

DECISION #AP-903 - Mod. #1
(38 FR 13133 - May 18, 1973)
Statewide, Alaska

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| Change: | | | | | | |
| Asbestos Workers | $11.32 | .51 | .75 | | .05 | |
| Glaziers: | | | | | | |
| Area II and Area III | 10.04 | .45 | .20 | a | .10 | |
| Painters: | | | | | | |
| Area II and III | | | | | | |
| Brush; Hardwood floor sander and/or finisher; Paperhanger; Sign painter | 10.05 | .45 | .90 | | .10 | |
| Swing stage | 10.30 | .45 | .90 | | .10 | |
| Structural steel; Tapers and dry-wall sander | 10.45 | .45 | .90 | | .10 | |
| Pot tender; Sandblasters; Spray | 10.6 | .45 | .90 | | .10 | |
| Steeplejack; Towers | 11.8 | .45 | .90 | | .10 | |
| Plumbers; Steamfitters: | | | | | | |
| Area I | 10.57 | .60 | 1.15 | | .05 | |
| Area III | 11.70 | | | | | |

AREAS II and III
FOOTNOTE:
a. Employees who have been continuously employed for 1 year with an employer shall be granted 2 weeks vacation with 80 hours' pay. 8 Paid Holidays: A through F, Washington's Birthday and Veterans' Day.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| DECISION #AQ-1,004 - Mod. #1 | | | | | | |
| (38 FR 20187 - July 27, 1973) | | | | | | |
| Statewide Arizona | | | | | | |
| Change: | | | | | | |
| Carpenters: | | | | | | |
| (Central and Southern Areas) | | | | | | |
| Carpenters | $8.25 | .40 | .60 | | .025 | |
| Power tools | 8.75 | .40 | .60 | | .025 | |
| (Northern Area) | | | | | | |
| Carpenters | 10.125 | .40 | .60 | | .025 | |
| Power tools | 10.625 | .40 | .60 | | .025 | |
| Electricians: (Flagstaff Area) | | | | | | |
| Electricians | | | | | | |
| Zone A | 9.35 | .40 | 1%+.60 | | 1/2% | |
| Zone B | 10.85 | .40 | 1%+.60 | | 1/2% | |
| Cable splicers | | | | | | |
| Zone A | 9.55 | .40 | 1%+.60 | | 1/2% | |
| Zone B | 11.05 | .40 | 1%+.60 | | 1/2% | |
| Electricians (Globe-Miami Area) | | | | | | |
| Electricians: | | | | | | |
| Zone A (Within 16 road miles beginning where the Southern Pacific Railroad intersects Highway 60-70 at Kaiser Crossing) | 9.775 | .45 | 1% | | 1/2% | |
| Zone B (16-28 miles) | 10.475 | .45 | 1% | | 1/2% | |
| Zone C (28-46 miles) | 11.075 | .45 | 1% | | 1/2% | |
| Zone D (46 miles and over) | 11.775 | .45 | 1% | | 1/2% | |
| Cable splicers | | | | | | |
| Zone A | 10.025 | .45 | 1% | | 1/2% | |
| Zone B | 10.725 | .45 | 1% | | 1/2% | |
| Zone C | 11.325 | .45 | 1% | | 1/2% | |
| Zone D | 12.025 | .45 | 1% | | 1/2% | |
| Electricians: (Phoenix-Kingman-Prescott Area) | | | | | | |
| Zone A | | | | | | |
| Electricians | 9.45 | .40 | 1%+.60 | | 3/4% | |
| Cable splicers | 9.92 | .40 | 1%+.60 | | 3/4% | |
| Zone B | | | | | | |
| Electricians | 11.10 | .40 | 1%+.60 | | 3/4% | |
| Cable splicers | 11.66 | .40 | 1%+.60 | | 3/4% | |
| Zone C | | | | | | |
| Electricians | 11.93 | .40 | 1%+.60 | | 3/4% | |
| Cable splicers | 12.53 | .40 | 1%+.60 | | 3/4% | |
| Electricians (Tucson Area) | | | | | | |
| Zone A | | | | | | |
| Electricians | 9.175 | .45 | 1%+.60 | | 1/2% | |
| Cable splicers | 9.425 | .45 | 1%+.60 | | 1/2% | |
| Zone B | | | | | | |
| Electricians | 9.875 | .45 | 1%+.60 | | 1/2% | |
| Cable splicers | 10.125 | .45 | 1%+.60 | | 1/2% | |



| DECISION #AQ-1,004 (cont'd) | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| Electricians: (Tucson Area) (Cont'd) | | | | | | |
| Zone C | | | | | | |
| Electricians | 10.475 | .45 | 1%+.60 | | 1/2% | |
| Cable splicers | 10.725 | .45 | 1%+.60 | | 1/2% | |
| Zone D | | | | | | |
| Electricians | 11.175 | .45 | 1%+.60 | | 1/2% | |
| Cable splicers | 11.425 | .45 | 1%+.60 | | 1/2% | |
| Electricians:(Yuma Area) | | | | | | |
| Zone A | | | | | | |
| Electricians | 9.075 | .45 | 1%+.60 | | 1% | |
| Cable splicers | 9.825 | .45 | 1%+.60 | | 1% | |
| Zone B | | | | | | |
| Electricians | 9.575 | .45 | 1%+.60 | | 1% | |
| Cable splicers | 10.325 | .45 | 1%+.60 | | 1% | |
| Zone C | | | | | | |
| Electricians | 10.075 | .45 | 1%+.60 | | 1% | |
| Cable splicers | 10.825 | .45 | 1%+.60 | | 1% | |
| Zone D | | | | | | |
| Electricians | 10.525 | .45 | 1%+.60 | | 1% | |
| Cable splicers | 11.275 | .45 | 1%+.60 | | 1% | |
| Roofers (Phoenix Area) | | | | | | |
| Roofers and Waterproofers | 7.35 | .40 | .20 | | .02 | |
| DECISION #AQ-1,005 - Mod. #2 | | | | | | |
| (38 FR 19617 - July 20, 1973) | | | | | | |
| Maricopa (Phoenix-Glendale-Mesa-Scottsdale, Tempe, Luke AFB and Williams AFB) County, Arizona | | | | | | |
| Change: | | | | | | |
| Carpenters: | | | | | | |
| Carpenters | $8.25 | .40 | .60 | | .025 | |
| Piledrivermen | 8.50 | .40 | .60 | | .025 | |
| Millwrights | 8.625 | .40 | .60 | | .025 | |
| Electricians: | | | | | | |
| Zone A | | | | | | |
| Electricians | 9.45 | .40 | 1%+.60 | | 3/4% | |
| Cable splicers | 9.92 | .40 | 1%+.60 | | 3/4% | |
| Zone B | | | | | | |
| Electricians | 11.10 | .40 | 1%+.60 | | 3/4% | |
| Cable splicers | 11.66 | .40 | 1%+.60 | | 3/4% | |
| Zone C | | | | | | |
| Electricians | 11.93 | .40 | 1%+.60 | | 3/4% | |
| Cable splicers | 12.53 | .40 | 1%+.60 | | 3/4% | |
| Roofers | 7.35 | .40 | .20 | | .02 | |





| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| DECISION #AQ-1,006 - Mod. #2 | | | | | | |
| (38 FR 19623 - July 20, 1973) | | | | | | |
| Greenlee, Maricopa and Mohave Counties, Arizona | | | | | | |
| Change: | | | | | | |
| Carpenters | $8.25 | .40 | .60 | | .025 | |
| Piledrivermen | 8.50 | .40 | .60 | | .025 | |
| Millwrights | 8.625 | .40 | .60 | | .025 | |
| Electricians:(Maricopa and Mohave Counties) | | | | | | |
| Zone A | | | | | | |
| Electricians | 9.45 | .40 | 1%+.60 | | 3/4% | |
| Cable splicers | 9.92 | .40 | 1%+.60 | | 3/4% | |
| Zone B | | | | | | |
| Electricians | 11.10 | .40 | 1%+.60 | | 3/4% | |
| Cable splicers | 11.66 | .40 | 1%+.60 | | 3/4% | |
| Zone C | | | | | | |
| Electricians | 11.93 | .40 | 1%+.60 | | 3/4% | |
| Cable splicers | 12.53 | .40 | 1%+.60 | | 3/4% | |
| Roofers: | | | | | | |
| (Maricopa and Mohave Counties) | | | | | | |
| Roofers and Waterproofers | 7.35 | .40 | .20 | | .02 | |
| Pitch and enamelers | 7.85 | .40 | .20 | | .02 | |



| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| DECISION #AP-911 - Mod. #4 | | | | | | |
| (38 FR 16604 - June 22, 1973) | | | | | | |
| Adams, Arapahoe, Boulder, Clear Creek, Denver, Douglas, Elbert, Gilpin, Jefferson, Larimer, Summit and Weld Counties, Colorado | | | | | | |
| Change: | | | | | | |
| Area A | | | | | | |
| LABORERS: | | | | | | |
| Adams, Arapahoe, Boulder, Denver, Larimer & Summit Counties. Douglas and Jefferson Counties lying North of the South line of Township 7 South; Elbert County lying West of the East line of Range 65 West and North of the South line of Township 7 South; Weld County lying south and west of the following described line: Beginning at the northwest corner of Township 4 North, Range 68 West of the 6th p.m.; thence east along the north line of said Township six (6) miles, more or less, to the east line of said Township; thence south along the east line of said Township three (3) miles, more or less to the southeast corner of Section 13, Township 4 North, Range 68 West; thence east along the eastwest center line of Township 4 North, Range 67 West, six (6) miles, more or less to the east line of said Township; thence south along the east line of Range 67 West, being the east lines of Township 4 North, 3 North, 2 North and 1 North, Range 67 west, sixteen (16) miles to the southeast corner of Section 1, Township 1 North, Range 67 West; thence east and parallel to the Base Line, twelve (12) miles more or less to the southeast corner of Section 1, Township 1 North, Range 65 West; thence south along the east line of Range 65 West, five (5) miles more or less to the Base Line, being the south line of Weld County | | | | | | |
| ZONE 1 - 0 to 30 miles from nearest basing point located in the Cities of Boulder, Denver, Dillon, Englewood, Fort Collins, Jefferson and Greeley | | | | | | |

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| AREA A Zone 1 (Cont'd | | | | | | |
| General laborers; Underpinning and shoring: 0 to 8' below working surface | $4.75 | .37 | .40 | | .05 | |
| Underpinning and shoring 8' below working surface to any depth below working surface; Power tool operators of all mechanical, air, gas and electrical tools including self-propelled buggies and cement finisher tenders; Gunnite nozzlemen and sandblasters | 5.03 | .37 | .40 | | .05 | |
| Laborers - preparing and placing of stone or any other aggregate in a sand bed to be used as exposed face of tiltup panels | 5.05 | .37 | .40 | | .05 | |
| Pipelayers | 5.25 | .37 | .40 | | .05 | |
| Jackhammer operator; Underpinning and shoring over 12' below working surface; | | | | | | |
| Beller and stemmers on caisson work | 5.30 | .37 | .40 | | .05 | |
| Mason tenders, brick and plaster | 5.35 | .37 | .40 | | .05 | |
| ZONE 2 - 30 to 70 miles from nearest basing point located in the Cities of Boulder, Denver, Dilton, Englewood, Fort Collins, Jefferson and Greeley | | | | | | |
| General laborers; Underpinning and shoring 0' to 8' below working surface | 5.20 | .37 | .40 | | .05 | |
| Underpinning and shoring 8' below working surface to any depth below working surface; Power tool operators of all mechanical, air, gas and electrical tools including self-propelled buggies and cement finisher tenders; Gunnite nozzlemen and sandblasters | 5.48 | .37 | .40 | | .05 | |
| Laborers - preparing and placing of stone or any other aggregate in a sand bed to be used as exposed face of tiltup panels | 5.50 | .37 | .40 | | .05 | |
| Pipelayers | 5.90 | .37 | .40 | | .05 | |
| Jackhammer operator: Underpinning and shoring over 12' below working surface; | | | | | | |
| Bellers and stemmers on caisson work | 5.75 | .37 | .40 | | .05 | |
| Mason tenders, brick and plaster | 5.80 | .37 | .40 | | .05 | |



| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| ZONE 3 - 70 miles and over from nearest basing point located in the Cities of Boulder, Denver, Dilton, Englewood, Fort Collins, Jefferson and Greeley | | | | | | |
| General laborers; Underpinning and shoring 0' to 8' below working surface | $5.65 | .37 | .40 | | .05 | |
| Underpinning and shoring 8' below working surface to any depth below working surface; Power tool operators of all mechanical, air, gas and electrical tools including self-propelled buggies and cement finisher tenders; Gunnite nozzleman and sandblasters | 5.93 | .37 | .40 | | .05 | |
| Laborers - preparing and placing of stone or any other aggregate in a sand bed to be used as exposed face of tiltup panels | 6.95 | .37 | .40 | | .05 | |
| Pipelayers | 6.15 | .37 | .40 | | .05 | |
| Jackhammer operator; Underpinning and shoring over 12' below working surface; | | | | | | |
| Bellers and stemmers on caisson work | 6.20 | .37 | .40 | | .05 | |
| Mason tenders, brick and plaster | 6.25 | .37 | .40 | | .05 | |
| Area B | | | | | | |
| LABORERS: | | | | | | |
| Douglas, Elbert, Jefferson and Weld Counties lying outside of the area as described in Area A and Clear Creek and Gilpin Counties | | | | | | |
| ZONE 1 - 0 to 30 miles from nearest basing point located in the Cities of Golden and Greeley | | | | | | |
| General laborers; Underpinning and shoring 0' to 8' below working surface | 4.55 | .37 | .40 | | .05 | |
| Power tool operators of all mechanical, air, gas and electrical tools incl. self-propelled buggies and cement finisher tenders; Gunnite nozzlemen and sandblasters | 4.70 | .37 | .40 | | .05 | |
| Laborers - preparing and placing of stone or any other aggregate in a sand bed to be used as exposed face of tiltup panels | 4.75 | .37 | .40 | | .05 | |
| Underpinning and shoring 8' below working surface to any depth below working surface | 4.83 | .37 | .40 | | .05 | |
| Jackhammer operator; Underpinning and shoring over 12' below working surface; Bellers and stemmers on caisson work | 4.87 | .37 | .40 | | .05 | |
| Pipelayers | 5.03 | .37 | .40 | | .05 | |
| Mason tenders, brick and plaster | 5.35 | .37 | .40 | | .05 | |







| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| ZONE 2 - 30 to 70 miles from nearest basing point located in the Cities of Golden and Greeley | | | | | | |
| General laborers; Underpinning and shoring 0' to 8' below working surface | $5.00 | .37 | .40 | | .05 | |
| Power tool operators of all mechanical, air, gas and electrical tools incl. self-propelled buggies and cement finisher tenders; Gunnite nozzlemen and sandblasters | 5.15 | .37 | .40 | | .05 | |
| Laborers - preparing and placing of stone or any other aggregate in a sand bed to be used as exposed face of tiltup panels | 5.20 | .37 | .40 | | .05 | |
| Underpinning and shoring 8' below working surface to any depth below working surface | 5.28 | .37 | .40 | | .05 | |
| Jackhammer operators; Underpinning and shoring over 12' below working surface; | | | | | | |
| Bellers and stemmers on caisson work | 5.32 | .37 | .40 | | .05 | |
| Pipelayers | 5.48 | .37 | .40 | | .05 | |
| Mason tenders, brick and plaster | 5.60 | .37 | .40 | | .05 | |
| ZONE 3 - 70 miles and over from nearest basing point located in the Cities of Golden and Greeley | | | | | | |
| General laborers; Underpinning and shoring 0' to 8' below working surface | 5.45 | .37 | .40 | | .05 | |
| Power tool operators of all mechanical, air, gas, and electrical tools incl. self-propelled buggies and cement finisher tenders; Gunnite nozzlemen and sandblasters | 5.60 | .37 | .40 | | .05 | |
| Laborers - preparing and placing of stone or any other aggregate in a sand bed to be used as exposed face of tiltup panels | 5.65 | .37 | .40 | | .05 | |
| Underpinning and shoring 8' below working surface to any depth below working surface | 5.73 | .37 | .40 | | .05 | |
| Jackhammer operators; Underpinning and shoring over 12' below working surface; Bellers and stemmers on caisson work | 5.77 | .37 | .40 | | .05 | |
| Pipelayers | 5.93 | .37 | .40 | | .05 | |
| Mason tenders, brick and plaster | 6.05 | .37 | .40 | | .05 | |



| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| DECISION #AP-917 - Mod. #3 (38 FR 17415 - June 29, 1973) Big Horn, Custer, Dawson, Richland, Roosevelt, Rosebud, and Yellowstone Counties, Montana | | | | | | |
| Change: Laborers: Custer and Dawson Counties Mason and Plasterers' tenders | $5.64 | .37 | .27 | | .03 | |
| DECISION #AP-469 - Mod. #5 37 FR 4169 - February 9, 1973 Broome County, New York | 6.96 | .78 | 1.00 | | | |
| Change: Roofers | | | | | | |
| DECISION #AQ-2,001 - Mod. #1 (38 FR 18845 - July 13, 1973) Nassau County, New York | | | | | | |
| Change: Laborers: (Building) Laborers, Building Mason tenders | $7.45 7.45 | .62 .62 | .83 .83 | .66 .66 | | |
| Omit: Laborers, Heavy and Highway Construction. | | | | | | |
| Add: Laborers, Heavy and Highway Construction. | | | | | | |





XUM

AQ-2,001 Cont'd

MODIFICATION P. 11

N.Y. 10-LAB-2-3-M

HEAVY AND HIGHWAY CONSTRUCTION

| | Basic Hourly Rate | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| Laborers: Concrete & curb form setters, asphalt rakers | $6.85 | 10% | 10% | .75+a | | |
| Asphalt workers & roller boys, asphalt top shovelers and smoothers, asphalt tampers | 6.65 | 10% | 10% | .75+a | | |
| Jackhammers, & drill men, hoppermen, carpenters' tenders, pipe jointers and setters, concrete laborers (structures), stone spreading laborers, trackmen, grading & excavating laborers, yard laborers, puddlers on concrete pavement, laborers (other than above) on concrete pavement, landscape laborers, asphalt plants (batchers & hopper men) | 6.25 | 10% | 10% | .75+a | | |

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:

a. Holidays: A through F, Columbus Day, Lincoln's Birthday, Washington's Birthday, Veterans' Day; Election Day, provided employee works or shapes up the scheduled day before and the scheduled day after the holiday.



SUPERSEDEAS DECISION

AQ-1,025 P. 2

STATE: Arizona
COUNTY: Pima
DECISION NO: AQ-1,025
DATE: Date of Publication
Supersedes Decision #AP-260, dated January 19, 1973, in 38 FR 2027
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories

| | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| ASBESTOS WORKERS | $8.48 | .50 | .65 | | .01 | |
| BOILERMAKERS | 7.95 | .60 | 1.00 | .50 | .02 | |
| BRICKLAYERS; Stonemasons: | | | | | | |
| Zone A (Tucson City limits through 10 miles) | 8.575 | .40 | .30 | | .02 | |
| Zone B (Tucson City limits 10-25 miles) | 8.95 | .40 | .30 | | .02 | |
| Zone C (Tucson City limits 25-40 miles) | 9.325 | .40 | .30 | | .02 | |
| Zone D (Tucson City limits over 40 miles) | 10.075 | .40 | .30 | | .02 | |
| CARPENTERS: | | | | | | |
| Carpenters | 8.25 | .40 | .60 | | .025 | |
| Piledrivermen | 8.50 | .40 | .60 | | .025 | |
| Millwrights | 8.62 | .40 | .60 | | .025 | |
| CEMENT MASONS | 7.58 | .30 | .45 | | .025 | |
| ELECTRICIANS: | | | | | | |
| Zone A (Within 16 miles of City Hall, Tucson) | 7.125 | .45 | 1% | | 1/2% | |
| Zone B (From 16-32 miles from City Hall) | 7.625 | .45 | 1% | | 1/2% | |
| Zone C (From 32-48 miles from City Hall) | 8.125 | .45 | 1% | | 1/2% | |
| Zone D (48 miles and over) | 8.625 | .45 | 1% | | 1/2% | |
| ELEVATOR CONSTRUCTORS | 7.58 | .185 | .20 | 2%+a | | |
| ELEVATOR CONSTRUCTORS' HELPERS | 70%JR | .185 | .20 | 2%+a | | |
| ELEVATOR CONSTRUCTORS' HELPERS (PROB.) | 50%JR | | | | | |
| IRONWORKERS | 8.58 | .58 | .625 | | .04 | |
| LATHERS: | | | | | | |
| Zone A (Area to 30 miles from Tucson) | 8.66 | .20 | | | | |
| Zone B (Area 30-40 miles from Tucson) | 9.16 | .20 | | | | |
| Zone C (Area 40-50 miles from Tucson) | 9.41 | .20 | | | | |
| Zone D (Area outside Zone C) | 10.16 | .20 | | | | |
| PAINTERS, Brush: | | | | | | |
| Zone A (1-30 miles from Tucson P.O.) | $6.25 | .29 | .25 | | .02 | |
| Zone B (31-40 miles from Tucson P.O.) | 7.00 | .29 | .25 | | .02 | |
| Zone C (41-50 miles from Tucson P.O.) | 7.25 | .29 | .25 | | .02 | |
| Zone D (51 miles and over) | 7.50 | .29 | .25 | | .02 | |
| PAINTERS, Structural steel, brush: | | | | | | |
| Zone A (1-30 miles from Tucson P.O.) | 7.20 | .29 | .25 | | .02 | |
| Zone B (31-40 miles from Tucson P.O.) | 7.95 | .29 | .25 | | .02 | |
| Zone C (41-50 miles from Tucson P.O.) | 8.20 | .29 | .25 | | .02 | |
| Zone D (51 miles and over) | 8.45 | .29 | .25 | | .02 | |
| PLASTERERS: | | | | | | |
| Zone A (0-30 miles from Tucson P.O.) | 8.12 | .35 | .60 | | | |
| Zone B (30-40 miles from Tucson P.O.) | 8.62 | .35 | .60 | | | |
| Zone C (40-50 miles from Tucson P.O.) | 8.87 | .35 | .60 | | | |
| Zone D (Over 50 miles from Tucson P.O.) | 9.62 | .35 | .60 | | | |
| PLUMBERS; Steamfitters: | | | | | | |
| FREE ZONE 0-15 miles | | | | | | |
| The "Free Zone" (Zone I shall be 15 road miles from the stated base points in Flagstaff, Yuma, Tucson and Douglas. The "Free Zone" from Phoenix shall be 15 miles radius from the stated base point. In addition, all areas within the City limits of Phoenix, Chandler, Scottsdale, Tempe, Glendale, Mesa, Kingman, Havasu City, Prescott, Winslow and Holbrook will be included as Free Zones. Any work contracted from outside of these zones will be determined from the Phoenix and Tucson basing points. | 8.10 | .50 | 1.07 | 1.00 | .10 | |
| Zone II (15 - 30 miles) | 8.40 | .50 | 1.07 | 1.00 | .10 | |
| Zone III (30 - 45 miles) | 8.75 | .50 | 1.07 | 1.00 | .10 | |
| Zone IV (Over 45 miles) | 9.85 | .50 | 1.07 | 1.00 | .10 | |
| SHEET METAL WORKERS: | | | | | | |
| Zone A (0-17 miles from Tucson) | 7.58 | .58 | 1.15 | | .01 | |
| Zone B (18-23 miles from Tucson) | 8.03 | .58 | 1.15 | | .01 | |
| Zone C (24-31 miles from Tucson) | 8.68 | .58 | 1.15 | | .01 | |
| Zone D (32-43 miles from Tucson) | 9.08 | .58 | 1.15 | | .01 | |
| Zone E (44 miles and over from Tucson) | 9.53 | .58 | 1.15 | | .01 | |
| SPRINKLER FITTERS | 8.70 | .30 | .50 | | .05 | |

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Employer credits 4% basic hourly rate of employee with over 5 years' service, 2% basic hourly rate from 6 months to 5 years' service to Vacation Fund.
6 Paid Holidays: A through F.





XUM

AQ-1,025 P. 3

LABORERS:

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Yr. | Oth |
|---|---|---|---|---|---|---|
| GROUP I<br>ALL HELPERS NOT HEREIN SEPARATELY CLASSIFIED; Cesspool diggers and installers; Chat box man; Checker, tool dispatcher; Concrete dump man-belt, pipe and/or hoseman; Dumpman and/or spotter; Fence builder, guard rail builder hwy.; Form strippers; Labor, general or construction; Landscape gardener and nurseryman; Packing rod steel and pans; Rip rap stoneman | $5.53 | .35 | .60 | | .05 | |
| GROUP II<br>CEMENT FINISHER TENDER; Concrete curer (impervious membrane); Cutting torch operator; Fine grader (highway, engineering and sewer work only); Kettleman - tarman; Power type concrete buggy | 5.64 | .35 | .60 | | .05 | |
| GROUP III<br>BANDER; CHUCKTENDER (except tunnel); Creosote tieman; Guinea chaser; Powderman helper; Rip-rap stone paver; Sandblaster (pot tender); Spikers and wrenchers | 5.75 | .35 | .60 | | .05 | |
| GROUP IV<br>CEMENT DUMPERS (skip-type mixer or handling bulk cement); Chain saw machines (on clearing and grubbing); Concrete vibrating machines; Cribber and shorer (except tunnel); Floor sanders - concrete; Hydraulic jacks, and similar mechanical tools not separately herein classified; Operators and tenders of pneumatic and electric tools; Pipe caulker and/or Backup man (pipeline); Pipe wrapper; Pneumatic gopher; Rigger/signalman (pipeline) | 5.83 | .35 | .60 | | .05 | |

AQ-1,025 P. 4

LABORERS: (cont'd)

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Yr. | Oth |
|---|---|---|---|---|---|---|
| GROUP V<br>AIR AND WATER WASH-OUT NOZZLEMAN; Asphalt rakers and ironers; Driller; Grade-setter (pipeline); Hand guided trencher and similar operated equipment; Jackhammer and/or pavement breakers; Pipe layer (including but not limited to non-metallic, transite and plastic pipe, water pipe, sewer pipe, drain pipe, underground tile and conduit); Rock slinger; Scaler (using bos'ns chair or safety belt); Tampers (mechanical - all types) | $5.97 | .35 | .60 | | .05 | |
| GROUP VI<br>CONCRETE CUTTING TORCH; CONCRETE SAW (hand guided); Driller (core, diamond, wagon or air track); Drill doctor and/or air tool repairman; Gunman and mixerman (gunite); Sandblaster (nozzleman) | 6.275 | .35 | .60 | | .05 | |
| GROUP VII<br>CONCRETE ROAD FORM SETTER; Gunite nozzleman or rodman; Drillers, Joy Mustang, PR 143, 220 Gardner-Denver, hydrosonic; Powder man; Scaler (drillers); Welders and/or pipe layers installing process piping | 6.785 | .35 | .60 | | .05 | |
| MASON TENDERS | 6.135 | .35 | .60 | | .05 | |
| PLASTERERS' TENDERS | 6.45 | .35 | .60 | | .05 | |

Employees working underground shall receive twenty cents (20¢) per hour additional above the regular rate except where herein specifically covered.



AQ-1,025 P. 5

LABORERS (cont'd)

Laborers employed where they may have a free fall over thirty (30) feet or on construction scaffolds above thirty (30) feet or bos'n chair above thirty (30) feet, or where gas masks are necessary, shall receive fifty cents (50¢) per hour in addition to their regular rate, except where inherent in classifications.

TUNNEL AND SHAFT WORKERS

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Yr. |
|---|---|---|---|---|---|
| GROUP I<br>BULL GANG, MUCKERS, TRACKMAN; DUMPMEN; Concrete crew (includes rodders and spreaders); Grout crew; Swamper (brakeman and switchmen on tunnel work) | $5.75 | .35 | .60 | | .05 |
| GROUP II<br>NIPPER; CHUCKTENDER, CABLETENDER; Vibratorman, Jackhammer; Pneumatic tools (except driller) | 5.86 | .35 | .60 | | .05 |
| GROUP III<br>GROUT GUNMAN | 5.96 | .35 | .60 | | .05 |
| GROUP IV<br>TIMBERMAN, RETIMBERMAN - wood or steel blaster, driller powderman; Cherry pickerman; Powderman - primer house; Steel form raiser and setter; Kemper and other pneumatic concrete placer operator; Miner - finisher | 6.06 | .35 | .60 | | .05 |
| GROUP IV - A<br>MINERS - Tunnel (hand or machine) | 6.26 | .35 | .60 | | .05 |
| GROUP V<br>DIAMOND DRILL | 6.395 | .35 | .60 | | .05 |
| GROUP V-A<br>SHAFT AND RAISE MINER WELDER | 6.595 | .35 | .60 | | .05 |

AQ-1,025 P. 6

POWER EQUIPMENT OPERATORS:

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Yr. | Oth |
|---|---|---|---|---|---|---|
| GROUP I<br>Air compressor operator; Field equipservicemen helper; Heavy duty repair helper; Heavy duty welder helper; Oiler; Pump operator | $6.42 | .45 | .50 | | .02 | |
| GROUP II<br>Conveyor operator; Generator operator-portable; Power grizzly operator; Self-propelled chip spreading machine-conveyor operator; Watch fireman; Welding machine operator - gasoline and diesel power | 6.73 | .45 | .50 | | .02 | |
| GROUP III<br>Concrete mixer operator - skip type; Dinky operator - (under 20 tons wt.); Driver-moto paver, Slurry seal machine, and similar type equipment; Motor crane driver; Power sweeper operator - self-propelled; Ross carrier or fork lift operator; Skip loader operator - all types with rated capacity 1-1/2 cu. yds. or less; Wheel type tractor operator (Ford, Ferguson, or similar type) with attachments such as fresno, push blade, post hole auger, mower, etc., excluding compacting equipment | 7.13 | .45 | .50 | | .02 | |
| GROUP IV<br>A-Frame boom truck or winch truck operator; Asphalt plant firemen; Elevator hoist operator (including Tuskey hoist or similar types); Grade checker (excluding civil engineer); Multiple power concrete saw operator; Pavement breaker, mechanical compactor operator, power propelled; Roller operator - all types except as otherwise classified; Screed operator; Self-propelled chip spreading machine operator (including Slurry seal machine operator) Stationary pipewrapping and cleaning machine operator; Tugger operator | 7.57 | .45 | .50 | | .02 | |





XUM

AQ-1,025 P. 7

| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Yr. | O |
| GROUP V<br>Aggregate plant operator (including crushing screening and sand plants, etc.); Asphalt laydown machine operator; Asphalt plant mixer operator; Beltcrete machine; Boring machine operator; Concrete mechanical tamping, spreading or finishing machine (incl. Clary, Johnson, or similar types); Concrete pump operator; Concrete batch plant operator, all types and sizes; Conductor, brakeman, or handler; Elevating grader operator - all types and sizes (except as otherwise classified); Field equipment serviceman; Highline cableway signalman; Kolman belt loader operator or similar type, w/belt width 48" or over; Locomotive engineer (including Dinky-20 tons wt. and over); Moto-paver and similar type equipment operator; Operating engineer rigger; Pneumatic-tired scraper operator (Turnapull, Euclid, Cat, D-W, Hancock and similar equipment) up to and incl. 12 cu. yds.; Power jumbo form setter operator; Pressure grout machine operator (as used in heavy engineering construction); Road oil mixing machine operator; Roller operator-on all types asphalt pavement; Self-propelled compactor, with blade; Skip loader operator-all types with rated capacity over 1-1/2 but less than 4 cu. yds.; Slip form operator (power driven lifting device for concrete forms); Soil cement road mixing machine operator-single pass type; Stationary Central generating plant operator-rated 300 k.w. or more; Surface heater and planer operator; Traveling pipewrapping machine operator | $8.01 | .45 | .50 | | .02 | |
| GROUP V-A<br>Heavy duty mechanic and/or welder; Pneumatic tired scraper, all sizes and types over 12 cu. yds. up to and incl. 45 cu. yds. MRC (Turnapull, Euclid, Cat D-W, Hancock, and similar equipment); Tractor operator (Pusher, Bulldozer, Scraper) up to 400 net horsepower rating; Trenching machine operator | 8.27 | .45 | .50 | | .02 | |

AQ-1,025 P. 8

| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Yr. | Other |
| GROUP VI<br>Auto-Grade Machine (CMI and similar equipment); Boring machine operator (including Mole, Badger and similar type); Concrete mixer operator-paving type, and mobile mixer; Concrete pump operator with boom attachment (truck mounted); Crane operator-crawler and pneumatic type, under 100 ton capacity MRC; Crawler type tractor operator - with boom attachment; Derrick operator; Forklift operator for hoisting personnel; Grade-all operator; Helicopter hoist; Highline cableway operator (less than 20 tons rated capacity); Mass excavator operator (150 Bucyrus Erie and similar types); Mechanical hoist operator (two or more drums); Motor grade operator - any type power blade; Motor grader operator with elevating grader attachment; Mucking machine operator; Overhead crane operator; Piledriver engineer (portable, stationary or skid rig); Pneumatic-tired scraper operator-all sizes and types (Turnapull, Euclid, Cat D-W, Hancock and similar equipment over 45 cu. yds. MRC); Power driven ditch lining or ditch trimming machine operator; Skip loader operator - all types with rated capacity 4 cu. yds. but less than 8 cu. yds.; Slip form paving machine operator (including Gunnert, Zimmerman and similar types); Specialized power digger operator - attached to wheel-type tractor; Tower crane (or similar type) operator; Tractor operator (Pusher, Bulldozer, Scraper) 400 net horsepower and over; Tugger operator (two or more); Universal equipment operator - Shovel, Backhoe, Dragline, Clamshell, etc., up to 8 cu. yds. | $8.55 | .45 | .50 | | .02 | |







AQ-1,025 P. 9

| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Yr. | Oth |
| GROUP VII<br>Crane Operator - pneumatic or crawler (100 ton hoisting capacity and over MRC rating); Helicopter pilot - FAA qualified when used in construction work; Highline cableway operator, over 20 ton rated capacity and using traveling head and tail tower; Remote control earth moving equipment operator; Skip loader operator - all types with rate capacity of 8 cu. yds. or more; Universal equipment - shovel, backhoe, dragline, clamshell, etc., 8 cu. yds. and over | $9.05 | .45 | .50 | | .02 | |
| MULTIPLE-UNIT EARTH MOVING EQUIPMENT:<br>Tractor Operator - pneumatic-tired or track type, two units - fifty cents (50¢) per hour more than the base single-unit rate established in Group V, Group V-A, or Group VI, and one dollar ($1.00) per hour for each additional unit. | | | | | | |
| All Operators, oiler, and motor crane drivers on equipment with booms of 80 and over, incl. jib shall receive .0075 (3/4 of a cent) per foot per hour premium pay additional to the regular rate of pay. | | | | | | |
| Oiler shall be required on all track or crawler-type cranes, backhoes, shovels, clamshells, draglines, gradalls, etc. | | | | | | |
| Oiler drivers shall be required on all truck mounted or self-propelled excavating and/or hoisting equipment having the configuration for two men. | | | | | | |

AQ-1,025 P. 10

| TRUCK DRIVERS | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Yr. | Oth |
| GROUP I<br>PICKUP; Station wagon; Teamsters | $5.67 | .35 | .60 | | .02 | |
| GROUP II<br>BUGGYMOBILE, 1 C.Y. OR LESS; Bulk cement spreader (2 or 3 axle); Bus driver; Dump (2 or 3 axle); Flatrack (2 or 3 axle); Water (under 2500 gal.) | 5.78 | .35 | .60 | | .02 | |
| GROUP III<br>BULK CEMENT SPREADER (4 AXLE); Dump (4 axle); Dumptor or dumpster, less than c.y.; Flatrack (4 axle); Water (2500 gal. but less than 4000 gal.) | 5.94 | .35 | .60 | | .02 | |
| GROUP IV<br>BULK CEMENT SPREADER (5 AXLE); Dump (5 axle); Dumptor or dumpster, 7 c.y. but less than 16 c.y.; Flaherty spreader or similar type equipment or leverman; Flatrack (5 axle); Slurry type equipment or leverman; Transit mix, 8 c.y., or less mixer capacity | 6.23 | .35 | .60 | | .02 | |
| GROUP V<br>BULK CEMENT SPREADER (6 AXLE); Dump (2 axle); Flatrack (6 axle); Rock truck (dart, euclid, and other similar type end dumps, single unit) less than 16 c.y. | 6.36 | .35 | .60 | | .02 | |
| GROUP V-A<br>OIL TANKER OR SPREADER TRUCK DRIVER and/or bootman, retortman or leverman | 6.50 | .35 | .60 | | .02 | |
| GROUP VI<br>BULK CEMENT SPREADER (7 AXLE); Concrete pump truck driver, (when integral part of transit mix truck); Dump (7 axle); Flatrack (7 axle); Hydro lift, Swedish crane, Iowa 300 and similar types; Ross carrier fork lift or lift truck; Transit mix, over 10.5 c.y. but less than 14 c.y. mixer capacity | 6.61 | .35 | .60 | | .02 | |

| TRUCK DRIVERS: (cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Oth |
|---|---|---|---|---|---|---|
| GROUP VII<br>BULK CEMENT SPREADER (8 AXLE); Dump (8 axle); Flatrack (8 axle) | $6.95 | .35 | .60 | | .02 | |
| GROUP VIII<br>OFF-HIGHWAY EQUIPMENT DRIVER (2 or 4 wheel power unit, i.e. Cat DW series, Euclid, International, and similar type equipment, transporting material when toy loaded or by external means, including pulling water tanks, fuel tanks, or other teamsters classifications; Bulk cement spreader (9 axle); Dump (9 axle); Dumptor or dumpster, 16 c.y. and over; Eject-alls; Flatrack (9 axle); Rock truck (Dart, Euclid, or other similar end dump types) 16 c.y. and over | 7.365 | .35 | .60 | | .02 | |
| HEAVY DUTY MECHANIC/WELDER | 8.24 | .35 | .60 | | .02 | |
| HEAVY DUTY MECHANIC/WELDER HELPER | 6.39 | .35 | .60 | | .02 | |
| FIELD EQUIPMENT SERVICEMAN or FUEL Truck driver | 7.98 | .35 | .60 | | .02 | |
| Combination Man - 30¢ over the highest rated work | | | | | | |
| Multiple-unit equipment driver - two units 50¢ per hour more than the base single unit rate established in Group 8 above; and $1.00 per hour for each additional unit | | | | | | |





SUPERSEDEAS DECISION

STATE: Florida COUNTY: Alachua
DECISION NUMBER: AQ-4007 DATE: Date of Publication
*Supersedes Decision No. AP-195 dated June 8, 1973 in 38 FR 15227.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).



| | 1-Florida-1-P (1-2) Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| Asbestos workers | $6.68 | .25 | .15 | | | |
| Boilermakers | 7.13 | .40 | .70 | | .01 | |
| Bricklayers | 7.10 | | | | | |
| Carpenters | 6.65 | .39 | .20 | .15 | .03 | |
| Accoustical workers | 6.65 | .39 | .20 | .15 | .03 | |
| Millwrights | 7.43 | .39 | .20 | .15 | .02 | |
| Piledrivermen | 6.65 | .39 | .20 | .15 | .03 | |
| Cement masons | 6.15 | .18 | | | .02 | |
| Electricians: | | | | | | |
| Wiremen | 6.80 | .25 | 1% | | 1% | |
| Cable splicers | 7.40 | .25 | 1% | | 1% | |
| Elevator constructors | 6.17 | .17 | .185 | 2%+a&b | .005 | |
| Elevator constructors' helpers | 70%JR | .17 | .185 | 2%+a&b | .005 | |
| Elevator constructors' helpers (prob.) | 50%JR | | | | | |
| Glaziers | 6.85 | | | | .01 | |
| Ironworkers, structural & ornamental | 7.00 | .42 | .40 | | | |
| Ironworkers, reinforcing | 7.00 | .42 | .40 | | | |
| Laborers: | | | | | | |
| Unskilled | 3.60 | .15 | .10 | | | |
| Air tool operator | 3.70 | .15 | .10 | | | |
| Mortar mixers | 3.70 | .15 | .10 | | | |
| Pipelayers (concrete & clay) | 3.70 | .15 | .10 | | | |
| Lathers | 5.50 | | | | .01 | |
| Painters: | | | | | | |
| Brush | 5.65 | | | | | |
| Paperhangers | 6.10 | | | | | |
| Structural steel | 6.40 | | | | | |
| Spray | 6.15 | | | | | |
| Sandblasting | 6.15 | | | | | |
| Roller | 6.15 | | | | | |
| Swing stage | 6.40 | | | | | |
| Boatswain's chair | 6.40 | | | | | |
| Plasterers | 6.40 | .18 | | | | |
| Plumbers | 7.55 | .15 | .25 | | .05 | |
| Leadburners | 6.90 | .30 | | c | .01 | |
| Line Construction: | | | | | | |
| Linemen | 7.39 | .25 | 1% | | 1% | |
| Cable splicers | 7.59 | .25 | 1% | | 1% | |
| Winch truck operator | 5.91 | .25 | 1% | | 1% | |
| Heavy equipment operator | 7.14 | .25 | 1% | | 1% | |
| Flat bed pick-up driver | 5.21 | .25 | 1% | | 1% | |
| Groundman, 1st class | 4.34 | .25 | 1% | | 1% | |
| Groundman, 2nd class | 3.43 | .25 | 1% | | 1% | |
| Marble setters | 6.20 | .15 | | | | |
| Roofers | 6.55 | .30 | | | | |
| Roofers' helpers & Kettlemen | 3.78 | .30 | | | | |
| Sheet metal workers | 5.75 | .30 | .25 | .70 | .025 | |
| Soft floor layers | 6.65 | .39 | .20 | .15 | .03 | |
| Sprinkler fitters | 8.71 | .40 | .60 | | .10 | |
| Steamfitters | 7.55 | .15 | .25 | | .05 | |
| Stone masons | 6.75 | | | | | |
| Terrazzo workers | 6.20 | .15 | | | | |
| Tile setters | 6.20 | .15 | | | | |
| Welders - receive rate prescribed for craft performing operation to which welding is incidental. | | | | | | |

FOOTNOTES:
a. Six paid holidays, A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

c. Nine paid holidays, A through F plus Christmas Eve, Washington's Birtday and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

PAID HOLIDAYS (Where Applicable)
A-New Year's Day; B-Memorial Day; C-Independence Day; D- Labor Day; E-Thanksgiving Day; F-Christmas Day.

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | O |
| **BUILDING CONSTRUCTION** | | | | | | |
| POWER EQUIPMENT OPERATORS: Cranes, derricks, clam shells, dragglines, piledriver ( including auger & boring machine for drilling in piling), backhoes, hydra cranes, grade all, shovels, patrols, cableways, tug boat captain (150 H.P. or more), multi-bowl oper (similar to R.G. LeTourneau Model L-60-2 or 3 twenty cu yd scrapers ), front end loaders, (over 4 cy cap.), side boom cats, multi-drum hoist (for rigging,), machanic (heavy equip.) tower crane (stationary, climbing & traveling), gantry cranes, locomotive cranes, bridge cranes (over 20 ton cap.), concrete pump with boom (mobile), high lift or fork lift (second floor & higher) Locomotive engineer (jobs not covered by railroad unions) | $7.33 | .30 | .25 | | .05 | |
| Bulldozers, bridge cranes (20 tons & under), highlift or forklift (up to 2nd floor), straddle buggys, hoists (other than rigging) including winch truck not mobile & used as a hoist, front end loader (over 2 cy & up to & incl., 4 cy cap.), trenching machine (ladder & wheel type) over 5' cut & over 24" width, concrete paver & scrapers | 6.29 | .30 | .25 | | .05 | |
| Concrete pumps, front end loader (2cy or less not used as hoist), mobile winch trucks, self-propelled sub-grader, asphalt paving machine concrete mixer, tractors, air compressor plant (2 or more compressors on a common manifold), lubricating engineer (mobile plant), pavement breakers, street sweeping machines | 5.48 | .30 | .25 | | .05 | |



| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | C |
| POWER EQUIPMENT OPERATORS: (CONTD) | | | | | | |
| Tractor operated sweeper, trenching machine (ladder & wheel type maximum cut 6' & maximum width 24"), firemen, self-propelled rollers, well-point pump, asphalt distributor, water truck driver, motor boat operator, oiler, mechanics' helpers, pumpman (other than well point up to & incl., 5 pumps within 300 ft. radius), self-propelled sweepers, combination pump, compressor & combustion type welding machine | 4.51 | .30 | .25 | | .05 | |

*Pending the completion of surveys which will serve as the basis for new area decisi
Agencies with projects pending should utilize the project determination procedure by
submitting SF-308 for heavy and highway construction projects. See Regulations Part
(CFR 29), Section 1.5.





SUPERSEDEAS DECISION

STATE: Florida COUNTY: Duval

DECISION NUMBER: AQ-4008 DATE: Date of Publication

*Supersedes Decision No. AP-199 dated June 8, 1973 in 38 FR 15235.

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Oth |
| Asbestos workers | $6.68 | .25 | .15 | | | |
| Boilermakers - Blacksmiths | 7.13 | .40 | .70 | | .01 | |
| Bricklayers: | | | | | | |
| Bricklayers | 6.38 | .25 | .10 | | .02 | |
| Stonemasons | 6.38 | .25 | .10 | | .02 | |
| Tile setters | 6.16 | .25 | .30 | .18 | .02 | |
| Marble masons | 6.16 | .25 | .30 | .18 | .02 | |
| Terrazzo workers | 6.16 | .25 | .30 | .18 | .02 | |
| Carpenters: | | | | | | |
| Carpenters | 6.65 | .39 | .20 | .15 | .03 | |
| Millwrights | 7.43 | .29 | .20 | | .02 | |
| Piledrivermen | 6.65 | .39 | .20 | .15 | .03 | |
| Soft floor layers | 6.65 | .39 | .20 | .15 | .03 | |
| Acoustical workers | 6.6[illegible] | .39 | .20 | .15 | .03 | |
| Cement masons | 5.9[illegible] | .25 | .10 | | .01 | |
| Electricians | 7.25 | .30 | 1[illegible] + 5.5% | 1% | | |
| Linemen: | | | | | | |
| Linemen | 7.30 | .40 | 1% | | of 1% | |
| Cable splicers | 7.50 | .40 | 1% | | of 1% | |
| Heavy equipment operators | 7.05 | .20 | [illegible] | | of 1% | |
| Winch truck operators | 5.69 | .40 | [illegible] | | of 1% | |
| Groundman 1st class | 3.95 | .40 | 1% | | of 1% | |
| Groundman 2nd class | 3.63 | .40 | 1% | | of 1% | |
| Elevator constructors | 6.17 | .17 | .185 | 2% + a&b | .005 | |
| Elevator constructors' helpers | 70%JR | .17 | .185 | 2% + a&b | .005 | |
| Elevator constructors' helpers (prob.) | 50%JR | | | | | |
| Glaziers | 6.85 | | | | .01 | |
| Ironworkers: | | | | | | |
| Structural | 7.25 | .42 | .40 | | | |
| Ornamental | 7.25 | .42 | .40 | | | |
| Reinforcing | 7.25 | .42 | .40 | | | |
| Laborers: | | | | | | |
| Laborers | 4.00 | | | | | |
| Mechanical tool, power buggy, pipelayers & gunnite workers | 4.20 | | | | | |
| Mason tenders, mortar mixers & grouters | 4.30 | | | | | |
| Gunite nozzlemen | 4.45 | | | | | |
| Highway formsetters | 4.60 | | | | | |
| Lathers | 5.94 | .21 | .10 | | .025 | |
| Painters: | | | | | | |
| Painters, brush | 5.70 | .15 | .15 | | | |
| Spray | 6.225 | .15 | .15 | | | |
| Swing stage | 6.225 | .15 | .15 | | | |
| Structural steel erected | 6.225 | .15 | .15 | | | |
| Smoke stacks, steeples, flag poles, tanks on legs above 15 ft., radio towers & lighthouses | 6.985 | .15 | .15 | | | |
| Sandblasters | 6.225 | .15 | .15 | | | |
| Bridge | 6.985 | .15 | .15 | | | |



| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| Leadburners | $6.35 | .25 | | d | .01 | |
| Plasterers | 6.26 | .25 | .15 | | .02 | |
| Plumbers: | | | | | | |
| Plumbers | 8.00 | .30 | .35 | | .06 | |
| Steamfitters | 8.00 | .30 | .35 | | .06 | |
| Air conditioning & speculative housing & refrigeration service | 6.40 | .30 | .35 | | .06 | |
| Roofers | 5.55 | .30 | | | | |
| Roofers' helpers & kettlemen | 3.78 | .30 | | | | |
| Sheet metal workers | 5.75 | .30 | .25 | .70 | .025 | |
| Sprinkler fitters | 8.71 | .40 | .60 | | .10 | |
| Welders - receive rate prescribed for craft performing operation to which welding is incidental | | | | | | |

FOOTNOTES:

a. Six paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. 12 months service - one week vacation; 2 years service - two weeks.

d. Eight paid holidays, A through F plus Washington's Birthday and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately and following the holiday.

PAID HOLIDAYS (WHERE APPLICABLE): A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.





XUM

BUILDING CONSTRUCTION

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. |
|---|---|---|---|---|---|
| POWER EQUIPMENT OPERATORS: Cranes, derricks, clam shells, draglines, piledriver ( including auger & boring machine for drilling in piling), backhoes, hydra cranes, grade all, shovels, patrols, cableways, tug boat captain (150 H.P. or more), multi-boul oper (similar to R.O. LaTourneau Model L-60-2 or 3 twenty cu yd scrapers ), front end loaders, (over 4 cy cap.), side boom cats, multi-drum hoist (for rigging,), mechanic (heavy equip.) tower crane (stationary, climbing & traveling), gantry cranes, locomotive cranes, bridge cranes (over 20 ton cap.), concrete pump with boom (mobile), high lift or fork lift (second floor & higher) Locomotive engineer (jobs not covered by railroad unions) | $7.33 | .30 | .25 | | .05 |
| Bulldozers, bridge cranes (20 tons & under), highlift or forklift (up to 2nd floor), straddle buggys, hoists (other than rigging) including winch truck not mobile & used as a hoist, front end loader (over 2 cy & up to & incl., 4 cy cap.), trenching machine (ladder & wheel type) over 6' cut & over 24" width, concrete paver & scrapers | 6.29 | .30 | .25 | | .05 |
| Concrete pumps, front end loader (2cy or less not used as hoist), mobile winch trucks, self-propelled sub-grader, asphalt paving machine concrete mixer, tractors, air compressor plant (2 or more compressors on a common manifold), lubricating engineer (mobile plant), pavement breakers, street sweeping machines | 5.48 | .30 | .25 | | .05 |



| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | O |
|---|---|---|---|---|---|---|
| POWER EQUIPMENT OPERATORS: (CONTD) | | | | | | |
| Tractor operated sweeper, trenching machine (ladder & wheel type maximum cut 6' & maximum width 24"), firemen, self-propelled rollers, well-point pump, asphalt distributor, water truck driver, motor boat operator, oiler, mechanics' helpers, pumpman (other than well point up to & incl., 5 pumps within 300 ft. radius), self-propelled sweepers, combination pump, compressor & combustion type welding machine | 4.51 | .30 | .25 | | .05 | |

*Pending the completion of surveys which will serve as the basis for new area decisions Agencies with projects pending should utilize the project determination procedure by submitting SF-308 for heavy and highway construction projects. See Regulations Part (CFR 29), Section 1.5.





SUPERSEDEAS DECISION

STATE: Florida COUNTY: Leon
DECISION NUMBER: AQ-4009 DATE: Date of Publication
*Supersedes Decision No. AF-1102 dated June 8, 1973 in 38 FR 15241.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).





| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Oth |
|---|---|---|---|---|---|---|
| Asbestos workers | $6.68 | .25 | .15 | | | |
| Boilermakers | 7.13 | .10 | .70 | | .01 | |
| Bricklayers: | | | | | | |
| Bricklayers | 6.00 | .25 | | | .08 | |
| Stone masons | 6.00 | .25 | | | .08 | |
| Marble masons | 5.35 | .25 | | | .08 | |
| Terrazzo workers | 5.35 | .25 | | | .08 | |
| Tile setters | 5.35 | .25 | | | .08 | |
| Cement masons | 5.35 | .25 | | | .08 | |
| Plasterers | 5.60 | .25 | | | .08 | |
| Cement blocklayers | 6.00 | .25 | | | .08 | |
| Carpenters: | | | | | | |
| Carpenters | 5.45 | | | | .01 | |
| Soft floor layers | 5.45 | | | | .01 | |
| Electricians | 7.09 | | 1% | | ½of 1% | |
| Cable splicers | 7.34 | | 1% | | ½% of 1% | |
| Cable splicers helpers | 7.09 | | 1% | | ½ of 1% | |
| Elevator constructors | 6.17 | .17 | .185 | 2% +a&b | .005 | |
| Elevator constructors' helpers | 70%JR | .17 | .185 | 2% +a&b | .005 | |
| Elevator constructors' helpers (Prob.) | 50%JR | | | | | |
| Glaziers | 6.85 | | | | .01 | |
| Ironworkers, structural & ornamental | 7.00 | .27 | .15 | | | |
| Ironworkers, reinforcing | 7.00 | .27 | .15 | | | |
| Lathers | 4.54 | | | | .01 | |
| Leadburners | 6.35 | .25 | | d | .01 | |
| Millwrights | 5.23 | .19 | .15 | | .02 | |
| Painters: | | | | | | |
| Brush | 4.75 | | | | | |
| Structural steel | 5.25 | | | | | |
| Spray | 5.52 | | | | | |
| Piledrivermen | 5.20 | | | | | |
| Plumbers | 6.30 | .25 | .25 | | .05 | |
| Roofers | 6.10 | .25 | .15 | | | |
| Roofers' helpers | 3.25 | .25 | .15 | | | |
| Roofers' kettlemen | 4.15 | .25 | .15 | | | |
| Sprinkler fitters | 8.71 | .40 | .60 | | .10 | |
| Steamfitters | 6.00 | .15 | | | .01 | |

FOOTNOTES:
a. Six paid holidays: A through F.
b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.
c. Per month per employee.
d. Eight paid holidays: A through F plus Washington's Birthday and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

PAID HOLIDAYS (WHERE APPLICABLE):
A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | C |
|---|---|---|---|---|---|---|
| BUILDING CONSTRUCTION | | | | | | |
| POWER EQUIPMENT OPERATORS: Cranes, derricks, clam shells, dragglines, piledriver ( including auger & boring machine for drilling in piling), backhoes, hydra cranes, grade all, shovels, patrols, cableways, tug boat captain (150 H.P. or more), multi-bowl cyer (similar to R.O. LaTourneau Model L-60-2 or 3 twenty cu yd scrapers ), front end loaders, (over 4 cy cap.), side boom cats, multi-drum hoist (for rigging,), mechanic (heavy equip.) tower crane (stationary, climbing & traveling), gantry cranes, locomotive cranes, bridge cranes (over 20 ton cap.), concrete pump with boom (mobile), high lift or fork lift (second floor & higher) Locomotive engineer (jobs not covered by railroad unions) | $7.33 | .30 | .25 | | .05 | |
| Bulldozers, bridge cranes (20 tons & under), highlift or forklift (up to 2nd floor), straddle buggys, hoists (other than rigging) including winch truck not mobile & used as a hoist, front end loader (over 2 cy & up to & incl., 4 cy cap.), trenching machine (ladder & wheel type) over 6' cut & over 24" width, concrete paver & scrapers | 6.29 | .30 | .25 | | .05 | |
| Concrete pumps,front end loader (2cy or less not used as hoist), mobile winch trucks, self-propelled sub-grader, asphalt paving machine concrete mixer, tractors, air compressor plant (2 or more compressors on a common manifold), lubricating engineer (mobile plant), pavement breakers, street sweeping machines | 5.48 | .30 | .25 | | .05 | |





| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | C |
|---|---|---|---|---|---|---|
| POWER EQUIPMENT OPERATORS: (CONTD) | | | | | | |
| Tractor operated sweeper, trenching machine (ladder & wheel type maximum cut 6' & maximum width 24"), fireman, self-propelled rollers, well-point pump, asphalt dictributor, water truck driver, motor boat operator, oiler, mechanics' helpers pumpmn (other than well point up to & incl., 5 pumps within 300 ft. radius), self-propelled sweepers, combination pump, compressor & combustion type welding machine | 4.51 | .30 | .25 | | .05 | |

*Pending the completion of surveys which will serve as the basis for new area decisi Agencies with projects pending should utilize the project determination procedure by submitting SP-300 for heavy and highway construction projects. See Regulations Part (CFR 29), Section 1.5.

NOTICES

24304

SUPERSEDEAS DECISION

STATE: Florida
DECISION NUMBER: AQ-4010
Supersedes Decision No. AP-1103 dated June 8, 1973 in 38 FR 15243.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

COUNTY: Orange
DATE: Date of Publication

48-Florida-1-A (1-2)

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Oth |
|---|---|---|---|---|---|---|
| Asbestos workers' | $6.24 | .25 | .20 | .75 | .02 | |
| Boilermakers | 7.13 | .40 | .70 | | .01 | |
| Bricklayers: | | | | | | |
| Bricklayers | 6.15 | .35 | .20 | | | |
| Stonemasons | 6.15 | .35 | .20 | | | |
| Terrazzo workers | 6.10 | | | | | |
| Marble masons | 6.15 | .35 | .20 | | | |
| Tile setters | 6.10 | .35 | .20 | | | |
| Plasterers | 5.20 | .55 | .20 | | | |
| Cement masons | 5.40 | .35 | .20 | | | |
| Carpenters: | | | | | | |
| Carpenters | 6.65 | .40 | | .20 | .03 | |
| Piledrivermen | 6.90 | .40 | | .20 | .03 | |
| Soft floor layers | 6.65 | .40 | | .20 | .03 | |
| Electricians: | | | | | | |
| Electrical contracts less than $20,000.00 | 6.50 | .30 | 1% | | ½ of 1% | |
| All others | 7.95 | .30 | 1% | | ½ of 1% | |
| Elevator constructors | 6.06 | .195 | .20 | 2%+a&b | .005 | |
| Elevator constructors' helpers | 70%JR | .195 | .20 | 2%+a&b | .005 | |
| Elevator constructors' helpers (prob.) | 50%JR | | | | | |
| Glaziers | 5.20 | .20 | | | .005 | |
| Ironworkers, structural & ornamental | 6.80 | .35 | .25 | .43 | .01 | |
| Ironworkers, reinforcing | 6.80 | .35 | .25 | .43 | .01 | |
| Laborers: | | | | | | |
| Air tool operator | 4.75 | .15 | | | | |
| Laborers | 4.60 | .15 | | | | |
| Masons tenders | 4.75 | .15 | | | | |
| Mortar mixers | 4.75 | .15 | | | | |
| Pipelayers (concrete & clay) | 4.75 | .15 | | | | |
| Plasterers tenders | 4.75 | .15 | | | | |
| Lathers | 6.25 | .20 | .10 | | | |
| Linemen: | | | | | | |
| Linemen | 7.46 | .25 | 1% | | ½ of 1% | |
| Cable splicers | 7.96 | .25 | 1% | | ½ of 1% | |
| Groundmen: | | | | | | |
| Up to 1 year experience | 3.02 | .25 | 1% | | ½ of 1% | |
| Over 1 year experience | 4.26 | .25 | 1% | | ½ of 1% | |
| Heavy equipment operator | 7.46 | .25 | 1% | | ½ of 1% | |
| Winch truck operator | 5.89 | .25 | 1% | | ½ of 1% | |
| Pick up or flat bed operator | 4.82 | .25 | 1% | | ½ of 1% | |
| Painters: | | | | | | |
| Brush, roller (9" roll & 12" pole) | 6.35 | .30 | .30 | | .05 | |
| Spray, | 6.60 | .30 | .30 | | .05 | |
| Paperhangers | 6.85 | .30 | .30 | | .05 | |
| Sandblaster | 6.85 | .30 | .30 | | .05 | |
| Structural steel | 6.60 | .30 | .30 | | .05 | |
| Plumbers | 6.77 | .25 | .25 | .50 | .05 | |





| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| Roofers: | | | | | | |
| Roofers | $5.90 | .25 | .05 | | .05 | |
| Kettlemen | 4.45 | .25 | .05 | | .05 | |
| Roofers' helpers | 3.80 | .25 | .05 | | .05 | |
| Sheet Metal Workers | 6.34 | .20 | .20 | .20 | .01 | |
| Sprinkler Fitters | 8.71 | .40 | .60 | | .10 | |
| Steamfitters | 6.77 | .25 | .25 | .50 | .05 | |
| Welders - Receive rate prescribed for craft performing operation to which welding is incidental. | | | | | | |

FOOTNOTES:

a. Six paid holidays, A through F.

b. Employer contributes 1% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

PAID HOLIDAYS (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

NOTICES

24305

XUM

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | C |
| BUILDING CONSTRUCTION | | | | | | |
| POWER EQUIPMENT OPERATORS: Cranes, derricks, clam shells, dragglines, piledriver ( including auger & boring machine for drilling in piling), backhoes, hydro cranes, grade all, shovels, patrols, cableways, tug boat captain (150 H.P. or more), multi-bowl oper (similar to R.G. LaTourneau Model L-60-2 or 3 twenty cu yd scrapers ), front end loaders, (over 4 cy cap.), side boom cats, multi-drum hoist (for rigging,), mechanic (heavy equip.) tower crane (stationary, climbing & traveling), gantry cranes, locomotive cranes, bridge cranes (over 20 ton cap.), concrete pump with boom (mobile), high lift or fork lift (second floor & higher) Locomotive engineer (jobs not covered by railroad unions) | $7.33 | .30 | .25 | | .05 | |
| Bulldozers, bridge cranes (20 tons & under), highlift or forklift (up to 2nd floor), straddle buggys, hoists (other than rigging) including winch truck not mobile & used as a hoist, front end loader (over 2 cy & up to & incl., 4 cy cap.), trenching machine (ladder & wheel type) over 6' cut & over 24" width, concrete paver & scrapers | 6.29 | .30 | .25 | | .05 | |
| Concrete pumps, front end loader (2cy or less not used as hoist), mobile winch trucks, self-propelled sub-grader, asphalt paving machine concrete mixer, tractors, air compressor plant (2 or more compressors on a common manifold), lubricating engineer (mobile plant), pavement breakers, street sweeping machines | 5.48 | .30 | .25 | | .05 | |



| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | C |
| POWER EQUIPMENT OPERATORS: (CONTD) | | | | | | |
| Tractor operated sweeper, trenching machine (ladder & wheel type maximum cut 6' & maximum width 24"), firemen, self-propelled rollers, well-point pump, asphalt distributor, water truck driver, motor boat operator, oiler, mechanics' helpers, pumpman (other than well point up to & incl., 5 pumps within 300 ft. radius), self-propelled sweepers, combination pump, compressor & combustion type welding machine | 4.51 | .30 | .25 | | .05 | |

*Pending the completion of surveys which will serve as the basis for new area decisi Agencies with projects pending should utilize the project determination procedure by submitting SP-303 for heavy and highway construction projects. See Regulations Part (CFR 29), Section 1.5.





SUPERSEDEAS DECISION

STATE: Idaho

COUNTIES: Ada, Adams, Blaine, Boise, Butte, Camas, Canyon, Cassia, Custer, Elmore, Gem, Gooding, Jerome, Lemhi, Lincoln, Minnidoka, Owyhee, Payette, Twin Falls, Valley and Washington

DECISION NUMBER: AQ-1,028

DATE: Date of Publication

Supersedes Decision No. AP-276. Dated March 23, 1973, in 38 FR 7717

DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.



| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| ASBESTOS WORKERS | $7.46 | .50 | .72 | | | |
| BOILERMAKERS | 7.45 | .60 | 1.00 | .50 | .02 | |
| BRICKLAYERS; Stonemasons (Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, Washington Counties) | 6.45 | .25 | .30 | | | |
| BRICKLAYERS; Stonemasons (Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minnidoka, Twin Falls Counties) | 6.40 | .25 | | | | |
| BRICKLAYERS; Stonemasons (Butte, Custer, Lemhi Counties) | 5.50 | | | | | |
| CARPENTERS: Carpenters; Floor Layer; Shingler; Drywall Applicator and installer of metal studs, metal framing, accoustical material, metal partition, porcelain and enamel and metal panels, marlite and rigid or flexible plastic laminates, weatherstripping and insulation | 6.65 | .32 | .20 | .30 | .10 | |
| Saw Filer; Stationary Machine; Piledriverman; Bridgeman and Wharf Builders | 6.83 | .32 | .30 | .30 | .10 | |
| Millwrights; Machine Erector; Piledriverman's Boom Man | 6.95 | .32 | .30 | .30 | .10 | |
| CEMENT MASONS: Cement Masons | 6.20 | .22 | .20 | .10 | .10 | |
| Gunnite; Composition Floorlayer; Power Grinder; Power Trowel | 6.38 | .22 | .20 | .10 | .10 | |
| ELECTRICIANS: (Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley and Washington Counties) Electricians | 7.95 | .30 | 1% | | 1% | |
| Cable Splicers | 8.745 | .30 | 1% | | 1% | |
| ELECTRICIANS (Remaining Counties) Electricians | 8.00 | .25 | 1% | | 1% | |
| Cable Splicers | 8.80 | .25 | 1% | | 1% | |
| ELEVATOR CONSTRUCTORS | 7.23 | .345 | .23 | 2½%+a | | |
| ELEVATOR CONSTRUCTORS' HELPERS | 70%JR | .345 | .23 | 2½%+a | | |
| ELEVATOR CONSTRUCTORS' HELPERS (PROB,) | 50%JR | | | | | |
| GLAZIERS: (Ada, Adams, Boise, Canyon, Elmore, (except Mt. Home AFB), Gem, Gooding, (W. portion), Owyhee, Payette, Valley and Washington Counties | 5.50 | .25 | .20 | .2 | | |

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| IRONWORKERS (Adams, Valley and Washington Counties north of the Weiser-Gibbonsville line) Fence Erectors; Structural; Ornamental; Reinforcing | 7.56 | .48 | .65 | | .05 | |
| IRONWORKERS (Remaining Counties and south of the Weiser-Gibbonsville line in Adams, Valley and Washington Counties) Fence Erectors; Reinforcing; Structural; Ornamental | 6.94 | .40 | .65 | | .01 | |
| PAINTERS: (Ada, Adams, Boise, Camas, Elmore, Gem (incl. city of Ola), Gooding (western 1/3 of Co. incl. city of Bliss), Owyhee (incl. cities of Bruneau, Grand View, Riddle and Tindall), Valley and Washington Cos.) Brush | 6.11 | .25 | .10 | | | |
| Steel | 6.21 | .25 | .10 | | | |
| Sign | 6.23 | .25 | .10 | | | |
| Spray | 6.58 | .25 | .10 | | | |
| PAINTERS (Mountain Home AFB) Brush | 7.11 | .25 | .10 | | | |
| Sandblasting; Spray Gun | 7.58 | .25 | .10 | | | |
| Steel | 7.21 | .25 | .10 | | | |
| PAINTERS (Remaining Counties and Remaining portion of Gooding County) Brush; Perfatapers | 5.81 | .25 | .10 | | | |
| Structural Steel; Spray | 6.26 | .25 | .10 | | | |
| PLASTERERS | 5.98 | .22 | .20 | .10 | | |
| PLUMBERS; Steamfitters | 7.39 | .37 | .40 | | .05 | |
| ROOFERS (Ada, Adams, Boise, Canyon, Custer, Elmore, Gem, Lemhi, Owyhee, Payette, Valley and Washington Cos.) Kettlemen; Roofers | 6.40 | .25 | .15 | | | |
| Roofers working with coal tar and pitch products | 7.90 | .25 | .15 | | | |
| ROOFERS (Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minnidoka and Twin Falls Counties) | 5.98 | | .15 | | | |
| ROOFERS (Butte County) | 6.90 | | .20 | | | |





XUM

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| SHEET METAL WORKERS (Butte, Custer & Lemhi Counties) | 7.47 | .22 | | | .01 | |
| SHEET METAL WORKERS (Remaining Cos.) | 7.06 | .27 | .20 | | .02 | |
| SPRINKLER FITTERS | 8.70 | .30 | .50 | | .05 | |
| TILE SETTERS (Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley and Washington Counties) | 5.65 | .25 | .30 | | | |

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Employer credits 4% of basic hourly rate of employee with over 5 years' service, 2% basic hourly rate from 6 months to 5 years' service to Vacation Plan. Six Paid Holidays: A through F.



| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| GROUP I<br>GENERAL LABORERS, Sloper, Clearing and Grading, Form Stripper, Concrete Crew, Concrete Curing Crew, Carpenter Tender, Asphalt Laborer, Hopper Tender, Heater Tender, Stake Jumper, Choker Setter, Spreader and Weighman, Power Wheelbarrow, Scouring Concrete, Rip Rap Man (hand placed), Fence Erector and Installer - manual or mechanical (includes the installation and erection of fences, guard rails, median rails, reference posts, guide posts and right-of-way markers), Crusher Helper, Cribbing and Shoring (in open ditches), Machinery and Parts Cleaner, Leverman - Manual or Mechanical, Demolition - Salvage, Landscaper, Tool Room Man | $5.20 | .35 | .35 | .10 | .10 | |
| GROUP II<br>CHUCK TENDER, Driller Helper, Air Tampers, Gunite Nozzleman Tender, Pipe Wrapper, Tar Pot Tender, Concrete Sawyer, Signalman, Handling Cement, Dumpman, Steam Nozzleman, Air and Water Nozzleman (Green Cutter, concrete) Grade Checker, Vibrator (less than 4"), Pumpcrete and Grout Pump Crew, Hydraulic Monitor | 5.30 | .35 | .35 | .10 | .10 | |
| GROUP III<br>PIPELAYER including sewer, drainage, sprinkler systems and water lines, Free Air Caisson, Jackhammer, Paving Breaker, Powderman Helper, Asphalt Raker, Gasoline Powered Tamper, Electric Ballast Tamper, Sand Blasting, Form Setter - Airport Paving, Gunman (Gunite), Manhole Setter, Hand Guided Machines, such as Rotor Tillers, Trenchers, Post Hole Diggers, Walking Garden Tractors, etc., Form Setter (Highway-Curb and Gutter), Vibrator (4" and over), Timber Faller and Bucker, Metal Pan Installer | 5.40 | .35 | .35 | .10 | .10 | |







| LABORERS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| GROUP IV<br>HOD CARRIER, Mason Tender Plaster Tender, Mason Tender (Concrete), Terrazzo-Tile Tender | $5.50 | .35 | .35 | .10 | .10 | |
| GROUP V<br>HIGHSCALER, Wagon Drill, Gunite Nozzleman, Daimond Drill | 5.55 | .35 | .35 | .10 | .10 | |
| GROUP VI<br>DRILLERS on Drills with manufacturers rating 3" or over, Powderman | 5.80 | .35 | .35 | .10 | .10 | |
| GROUP VII<br>REBOUNDMAN, Chucktender, Nipper, Dumpman, Vibrator(less than 4"), Brakeman, Muckers, Bullgang | 5.35 | .35 | .35 | .10 | .10 | |
| GROUP VIII<br>FORM SETTER and Mover; Vibrator (4" and over) | 5.50 | .35 | .35 | .10 | .10 | |
| GROUP IX<br>MINERS, Machinemen, Timbermen, Steelmen, Drill Doctors, Spaders and Tuggers, Spiling and/or Caisson Workers | 5.80 | .35 | .35 | .10 | .10 | |



| POWER EQUIPMENT OPERATORS: | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| Group 1<br>Brakeman, Crusher, Plant Feeder (Mechanical), Deckhand, Drill Helpers, Grade Checkers, Heater Tender, Land Plane, Oilers, Pumpman | 5.78 | .40 | .35 | | .10 | |
| Group 2<br>Air Compressor, Assistant Refrigeration Plant Operator, Bell Boy, Bit Grinder Operator, Blower Operator (Cement), Bolt Threader Machine Operator-Broom, Cement Hog, Concrete Mixer, Concrete Saw - Multiple Cut, Discing - Harrowing or mulching (Regardless of Motive Power), Distributor Leverman, Drill Steel Threader Machine Operator, Fireman - All, Heavy Duty Mechanic Helper or Welder Helper, Hoist - Single Drum, Hydraulic Monitor Operator - Skid Mounted, Oiler on Cranes and Shovels, Pugmixer - Box or Screed Operator, Spray Curing Machine, Tractor - Rubber Tired Form Type Using Attachments | 5.94 | .40 | .35 | | .10 | |
| Group 3<br>A-Frame Truck (Hydra lift, Swedish Cranes, Ross Carrier, Hyster on Construction jobs), Battery Tunnell Locomotive, Belt Finishing Machine, Cable Tenders (Underground), Chip Spreader Machine (Self-propelled), Front End and Overhead Loaders and Similar Machines under 2 Yds. - Rubber-tired, Hoist - 2 or more Drums or Tower Hoist, Hydralift - Fork Lift and Similar (When Hoisting), Oilers (Underground), Power Loader (Bucket Elevator, Conveyors), Road Roller (Regardless of Motive Power), Service Oiler. | 6.12 | .40 | .35 | | .10 | |
| Group 4<br>Boring Machines (Earth or Rock) Quarrymaster - Joy - Tractor Mounted, Drills: Churn - Core - Calyx or Diamond, Front End and Overhead Loaders and Similar Machines - 2 Yds. and including 4 Yds. - Rubber-tired, Grout Pump, Hydra-hammer, Locomotive Engineer, Longitudinal Float Machine, Mixermobile, Spreader Machine, Tractor - Rubber-tired - using | | | | | | |

AQ-1,028 P. 7

1-IDA-SIDA-PEO-1-2-3-P (2-3)

| POWER EQUIPMENT OPERATORS: (Cont'd) | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Oth |
| Group 4 (Cont'd) Backhoe, Transverse Finishing Machine, Trenching Machines, Waggoner Compactor and Similar, Asphalt Spreaders. | 6.45 | .40 | .35 | | .10 | |
| Group 5 Concrete Plant Operator, Concrete Road Paver Dual), Elevating Grader Operator, Euclid Elevating Loader, Generator Plant Operator-Mechanic (Diesel Electric), Post Hole Auger or Punch Operator, Power Shovels and Draglines-under 1 Yd., Pumpcrete, Refrigeration Plant Operator, Road Roller (Finishing High Type Pavement), Skidder - Rubber tired, Sub Grader. | 6.63 | .40 | .35 | | .10 | |
| Group 6 Asphalt Pavers - Self-prop., Asphalt Plant Operator, Blade Operator (Motor Patrol), Concrete Slip Form Paver, Cranes - up to and including 50 ton, Crusher Plant Operator, Derrick Operator, Front End and Overhead Loaders and Similar Machines - over 4 yds. to and including 6 Yds., Koehring Scooper Heavy Duty Mechanic or Welder, Mucking Machine (Underground), Multi-batch Concrete Plant Operator, Piledriver Engineer, Power Shovels and Draglines - 1 Yd. to and including 3-1/2 Yds., Tower Crane Operator, Tractor - Crawler Type - including all attachments, Refrigeration Plant Operator (Over 1,000 Tons), Trimmer Machine Operator, Tournapulls - Euclid and Similar - to and including 40 Yds. | 6.81 | .40 | .35 | | .10 | |
| Group 7 Cableway Operator, Cranes - Over 50 Ton, Dredges, Fine Grader - CMI or Equivalent, Front End and Overhead Loaders and Similar Machines - Over 6 Yds., Power Shovels and Draglines over 3-1/2 Yds., Quad Type Tractors with all Attachments, Tournapulls - Euclid and Similar - Over 40 Yds. to and including 50 Yds., Multiple Scraper Units. | 7.14 | .40 | .35 | | .10 | |

AQ-1,028 P. 8

1-IDA-SIDA-PEO-1-2-3-P (3-3)

| POWER EQUIPMENT OPERATORS: (Cont'd) | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Oth |
| Group 8 Tournapulls - Euclid and Similar - Over 50 Yds. to and including 75 Yds. | 7.38 | .40 | .35 | | .10 | |
| Group 9 Tournapulls - Euclid and Similar - Over 75 Yds. to and including 100 Yds. | 7.63 | .40 | .35 | | .10 | |
| Group 10 Tournapulls - Euclid and Similar - Over 100 Yds. | 7.87 | .40 | .35 | | .10 | |



AQ-1,028 P. 9

1-IDA-SIDA-TD-1-2-3-R (1-2)

| TRUCK DRIVERS | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | |
| Group 1 LEVERMAN Loading at Bunkers | $5.75 | .45 | .35 | .05 | .10 | |
| Group 2 FLAT BED - 2 Axle and Pickup hauling material, Water Tank Truck (1800 gals. and under), Fork Lift (3,000 and under) | 5.81 | .45 | .35 | .05 | .10 | |
| Group 3 FLAT BED - 3 Axle, Fuel Truck (1,000 Gals. and under), Greaser, Fireman, Serviceman, Buggymobile, Man Haul (Shuttle Truck or Bus). | 5.82 | .45 | .35 | .05 | .10 | |
| Group 4 TRANSIT MIX TRUCK - 3 Yds. and under, Warehouseman, Truck Helpers, Slurry or Concrete Pumping Truck | 5.93 | .45 | .35 | .05 | .10 | |
| Group 5 FLAT BED using Power Takeoff, Water Tank Truck (over 3,800-4,000 gals.) Semi-Trailer - Low Boy - up to 96,000 lbs. GVW, Bulk Cement Tanker - up to 96,000 lbs GVW, Fork Lift - over 3,000 lbs. (Bull Lift, Hydro Lift), Ross, Hyster and similar Straddle Equipment, "A" Frame Truck (Swedish Crane, Iowa 3,000, Hydro-lift). | 5.99 | .45 | .35 | .05 | .10 | |
| Group 6 TRANSIT MIX TRUCK, over 3 yds. - 6 yds | 6.05 | .45 | .35 | .05 | .10 | |
| Group 7 WATER TANK TRUCK - over 4,000 gals., Fuel Truck - over 1,000 gals., Distributor or Spreader Truck, Field Fireman - Serviceman | 6.11 | .45 | .35 | .05 | .10 | |
| Group 8 TRANSIT MIX TRUCK - over 6-8 yds., Dumptors | 6.17 | .45 | .35 | .05 | .10 | |
| Group 9 TRANSIT MIX TRUCK - over 8 - 10 yds. | 6.29 | .45 | .35 | .05 | .10 | |

AQ-1,028 P. 10

1-IDA-SIDA-TD-1-2-3-R (2-2)

| TRUCK DRIVERS (CONT'D) | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | |
| Group 10 LOW BOY - 96,000 lbs. GVW and over, Bulk Cement Tanker - 96,000 lbs. GVW and over | $6.35 | .45 | .35 | .05 | .10 | |
| Group 11 TRANSIT MIX TRUCK - over 10 yds. | 6.41 | .45 | .35 | .05 | .10 | |
| Group 12 TURNAROCKER and similar equipment | 6.47 | .45 | .35 | .05 | .10 | |
| Group 13 TRUCK - side, end and bottom dump (6 yds. and under) | 5.9[illegible] | .45 | .35 | .05 | .10 | |
| TRUCK - side, end and bottom dump (over 6 yds. - including 12 yds.) | 6.05 | .45 | .35 | .05 | .10 | |
| TRUCK - side, end and bottom dump (over 12 yds. - including 20 yds.) | 6.29 | .45 | .35 | .05 | .10 | |
| TRUCK - side, end and bottom dump (over 20 yds. including 30 yds.) | 6.47 | .45 | .35 | .05 | .10 | |
| TRUCK - side, end and bottom dump (over 30 yds. including 40 yds.) | 6.60 | .45 | .35 | .05 | .10 | |
| TRUCK - side, end and bottom dump (over 40 yds. including 50 yds.) | 6.72 | .45 | .35 | .05 | .10 | |
| TRUCK - side, end and bottom dump (over 50 yds. including 75 yds.) | 6.96 | .45 | .35 | .05 | .10 | |
| TRUCK - side, end and bottom dump (over 75 yds. including 100 yds.) | 7.20 | .45 | .35 | .05 | .10 | |
| TRUCK - side, end and bottom dump (over 100 yds.) | 7.43 | .45 | .35 | .05 | .10 | |
| Group 14 TRUCK MECHANIC | 6.83 | .45 | .35 | .05 | .10 | |







XUM

AQ-1,028 P.11

SOUTHERN IDAHO LINE CONSTRUCTION - 8

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Oth |
| LINE CONSTRUCTION: | | | | | | |
| All work over 34.5 KV and all work on steel towers and/or multiple wood structures and all substations of 1000 KVA or greater capacity and all communications, underground work except street and highway lighting and motor traffic controls: | | | | | | |
| Groundman | $5.28 | .25 | 1% | | 3/4% | |
| Equipment Operators | 6.38 | .25 | 1% | | 3/4% | |
| Lineman | 6.99 | .25 | 1% | | 3/4% | |
| Cable Splicer | 7.68 | .25 | 1% | | 3/4% | |
| All work 34.5 KV and under when performed for an operating utility for work on highway lighting and motor traffic controlling: | | | | | | |
| Groundman | 5.21 | .25 | 1% | | 3/4% | |
| Equipment Operator | 6.09 | .25 | 1% | | 3/4% | |
| Lineman | 6.76 | .25 | 1% | | 3/4% | |



SUPERSEDEAS DECISION

STATE: Idaho
DECISION NUMBER: AQ-1,029
Supersedes Decision No. AP-275 Dated March 23, 1973, in 38 FR 7723
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

COUNT Ada
DATE: Date of Publication

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| ASBESTOS WORKERS | $ 7.46 | .50 | .72 | | | |
| BOILERMAKERS | 7.45 | .60 | 1.00 | .50 | .02 | |
| BRICKLAYERS; Stonemasons | 6.45 | .25 | .30 | | | |
| CARPENTERS: | | | | | | |
| Carpenters; Drywall applicators; Floor layers; Shinglers | 6.65 | .32 | .30 | .30 | .10 | |
| Piledrivermen | 6.83 | .32 | .30 | .30 | .10 | |
| Millwrights; Piledrivermen'a boom man | 6.95 | .32 | .30 | .30 | .10 | |
| CEMENT MASONS: | | | | | | |
| Cement Masons | 6.20 | .22 | .20 | .10 | .10 | |
| Gunnite & composition floor; Power grinder op.; Power trowel op. | 6.38 | .22 | .20 | .10 | .10 | |
| ELECTRICIANS: | | | | | | |
| Electricians | 7.95 | .30 | 1% | | 1% | |
| Cable Splicers | 8.475 | .30 | 1% | | 1% | |
| ELEVATOR CONSTRUCTORS | 7.23 | .345 | .23 | 2½%+a | | |
| ELEVATOR CONSTRUCTORS' HELPERS | 70%JR | .345 | .23 | 2½%+a | | |
| ELEVATOR CONSTRUCTORS' HELPERS (PROB.) | 50%JR | | | | | |
| IRONWORKERS: | | | | | | |
| Fence erectors; Reinforcing; Structural | 6.94 | .40 | .65 | | .01 | |
| PAINTERS | | | | | | |
| Brush | 6.11 | .25 | .10 | | | |
| Steel | 6.21 | .25 | .10 | | | |
| Sign | 6.23 | .25 | .10 | | | |
| Spray | 6.58 | .25 | .10 | | | |
| PLASTERERS | 5.98 | .22 | .20 | .10 | | |
| PLUMBERS | 7.39 | .37 | .40 | | .05 | |
| ROOFERS: | | | | | | |
| Kettlemen; Roofers | 6.40 | .25 | .15 | | | |
| Roofers working with coal tar & pitch products | | | | | | |
| SHEET METAL WORKERS | 7.90 | .25 | .15 | | | |
| SPRINKLER FITTERS | 7.06 | .27 | .20 | | .02 | |
| TILE SETTERS | 8.70 | .30 | .50 | | .05 | |
| WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental. | 5.65 | .25 | .30 | | | |

PAID H OLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a: Employer credits 4% basic hourly rate of employee with over 5 years' service, 2% basic hourly rate from 6 months to 5 years' service to Vacation Plan. Six paid holidays: A through F.

AQ-1,029 P.2

1-IDA-SIDA-LAB-1-2-3-k

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Oth |
| GROUP I | | | | | | |
| GENERAL LABORERS, Sloper, Clearing and Grading, Form Stripper, Concrete Crew, Concrete Curing Crew, Carpenter Tender, Asphalt Laborer, Hopper Tender, Heater Tender, Stake Jumper, Choker Setter, Spreader and Weighman, Power Wheelbarrow, Scouring Concrete, Rip Rap Man (hand placed), Fence Erector and Installer - manual or mechanical (includes the installation and erection of fences, guard rails, median rails, reference posts, guide posts and right-of-way markers), Crusher Helper, Cribbing and Shoring (in open ditches), Machinery and Parts Cleaner, Leverman - Manual or Mechanical, Demolition - Salvage, Landscaper, Tool Room Man | $5.20 | .35 | .35 | .10 | .10 | |
| GROUP II | | | | | | |
| CHUCK TENDER, Driller Helper, Air Tampers, Gunite Nozzleman Tender, Pipe Wrapper, Tar Pot Tender, Concrete Sawyer, Signalman, Handling Cement, Dumpman, Steam Nozzleman, Air and Water Nozzleman (Green Cutter, concrete) Grade Checker, Vibrator (less than 4"), Pumpcrete and Grout Pump Crew, Hydraulic Monitor | 5.30 | .35 | .35 | .10 | .10 | |
| GROUP III | | | | | | |
| PIPELAYER including sewer, drainage, sprinkler systems and water lines, Tree Air Caisson, Jackhammer, Paving Breaker, Powderman Helper, Asphalt Raker, Gasoline Powered Tamper, Electric Ballast Tamper, Sand Blasting, Form Setter - Airport Paving, Gunman (Gunite), Manhole Setter, Hand Guided Machines, such as Rotor Tillers, Trenchers, Post Hole Diggers, Walking Garden Tractors,etc., Form Setter (Highway-Curb and Gutter), Vibrator (4" and over), Timber Faller and Bucker, Metal Pan Installer | 5.40 | .35 | .35 | .10 | .10 | |







XUM

| LABORERS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Oth |
|---|---|---|---|---|---|---|
| GROUP IV<br>HOD CARRIER, Mason Tender Plaster Tender, Mason Tender (Concrete), Terrazzo-Tile Tender | 5.50 | .35 | .35 | .10 | .10 | |
| GROUP V<br>HIGHSCALER, Wagon Drill, Gunite Nozzleman, Daimond Drill | 5.55 | .35 | .35 | .10 | .10 | |
| GROUP VI<br>DRILLERS on Drills with manufacturers rating 3" or over, Powderman | 5.80 | .35 | .35 | .10 | .10 | |
| GROUP VII<br>REBOUNDMAN, Chucktender, Nipper, Dumpman, Vibrator(less than 4"), Brakeman, Muckers, Bullgang | 5.35 | .35 | .35 | .10 | .10 | |
| GROUP VIII<br>FORM SETTER and Mover; Vibrator (4" and over) | 5.50 | .35 | .35 | .10 | .10 | |
| GROUP IX<br>MINERS, Machinemen, Timbermen, Steelmen, Drill Doctors, Spaders and Tuggers, Spiling and/or Caisson Workers | 5.80 | .35 | .35 | .10 | .10 | |



| POWER EQUIPMENT OPERATORS: | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Oth |
|---|---|---|---|---|---|---|
| Group 1<br>Brakeman, Crusher, Plant Feeder (Mechanical), Deckhand, Drill Helpers, Grade Checkers, Heater Tender, Land Plane, Oilers, Pumpman | 5.78 | .40 | .35 | | .10 | |
| Group 2<br>Air Compressor, Assistant Refrigeration Plant Operator, Bell Boy, Bit Grinder Operator, Blower Operator (Cement), Bolt Threader Machine Operator-Broom, Cement Hog, Concrete Mixer, Concrete Saw - Multiple Cut, Discing - Harrowing or mulching (Regardless of Motive Power), Distributor Leverman, Drill Steel Threader Machine Operator, Fireman - All, Heavy Duty Mechanic Helper or Welder Helper, Hoist - Single Drum, Hydraulic Monitor Operator - Skid Mounted, Oiler on Cranes and Shovels, Pugmixer - Box or Screed Operator, Spray Curing Machine, Tractor - Rubber Tired Form Type Using Attachments | 5.94 | .40 | .35 | | .10 | |
| Group 3<br>A-Frame Truck (Hydra lift, Swedish Cranes, Ross Carrier, Hyster on Construction jobs), Battery Tunnell Locomotive, Belt Finishing Machine, Cable Tenders (Underground), Chip Spreader Machine (Self-propelled), Front End and Overhead Loaders and Similar Machines under 2 Yds. - Rubber-tired, Hoist - 2 or more Drums or Tower Hoist, Hydralift - Fork Lift and Similar (When Hoisting), Oilers (Underground), Power Loader (Bucket Elevator, Conveyors), Road Roller (Regardless of Motive Power), Service Oiler. | 6.12 | .40 | .35 | | .10 | |
| Group 4<br>Boring Machines (Earth or Rock) Quarrymaster - Joy - Tractor Mounted, Drills: Churn - Core - Calyx or Diamond, Front End and Overhead Loaders and Similar Machines - 2 Yds. and including 4 Yds. - Rubber-tired, Grout Pump, Hydra-hammer, Locomotive Engineer, Longitudinal Float Machine, Mixermobile, Spreader Machine, Tractor - Rubber-tired - using | | | | | | |







| POWER EQUIPMENT OPERATORS: (Cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Oth |
|---|---|---|---|---|---|---|
| Group 4 (Cont'd)<br>Backhoe, Transverse Finishing Machine, Trenching Machines, Waggoner Compactor and Similar, Asphalt Spreaders. | 6.45 | .40 | .35 | | .10 | |
| Group 5<br>Concrete Plant Operator, Concrete Road Paver Dual), Elevating Grader Operator, Euclid Elevating Loader, Generator Plant Operator-Mechanic (Diesel Electric), Post Hole Auger or Punch Operator, Power Shovels and Draglines-under 1 Yd., Pumpcrete, Refrigeration Plant Operator, Road Roller (Finishing High Type Pavement), Skidder - Rubber tired, Sub Grader. | 6.63 | .40 | .35 | | .10 | |
| Group 6<br>Asphalt Pavers - Self-prop., Asphalt Plant Operator, Blade Operator (Motor Patrol), Concrete Slip Form Paver, Cranes - up to and including 50 ton, Crusher Plant Operator, Derrick Operator, Front End and Overhead Loaders and Similar Machines - over 4 yds. to and including 6 Yds., Koehring Scooper Heavy Duty Mechanic or Welder, Mucking Machine (Underground), Multi-batch Concrete Plant Operator, Piledriver Engineer, Power Shovels and Draglines - 1 Yd. to and including 3-1/2 Yds., Tower Crane Operator, Tractor - Crawler Type - including all attachments, Refrigeration Plant Operator (Over 1,000 Tons), Trimmer Machine Operator, Tournapulls - Euclid and Similar - to and including 40 Yds. | 6.81 | .40 | .35 | | .10 | |
| Group 7<br>Cableway Operator, Cranes - Over 50 Ton, Dredges, Fine Grader - CMI or Equivalent, Front End and Overhead Loaders and Similar Machines - Over 6 Yds., Power Shovels and Draglines over 3-1/2 Yds., Quad Type Tractors with all Attachments, Tournapulls - Euclid and Similar - Over 40 Yds. to and including 50 Yds., Multiple Scraper Units. | 7.14 | .40 | .35 | | .10 | |



| POWER EQUIPMENT OPERATORS: (Cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Oth |
|---|---|---|---|---|---|---|
| Group 8<br>Tournapulls - Euclid and Similar - Over 50 Yds. to and including 75 Yds. | 7.38 | .40 | .35 | | .10 | |
| Group 9<br>Tournapulls - Euclid and Similar - Over 75 Yds. to and including 100 Yds. | 7.63 | .40 | .35 | | .10 | |
| Group 10<br>Tournapulls - Euclid and Similar - Over 100 Yds. | 7.87 | .40 | .35 | | .10 | |





XUM

| TRUCK DRIVERS | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| Group 1<br>LEVERMAN Loading at Bunkers | $5.75 | .45 | .35 | .05 | .10 | |
| Group 2<br>FLAT BED - 2 Axle and Pickup hauling material, Water Tank Truck (1800 gals. and under), Fork Lift (3,000 and under) | 5.81 | .45 | .35 | .05 | .10 | |
| Group 3<br>FLAT BED - 3 Axle, Fuel Truck (1,000 Gals. and under), Greaser, Tireman, Serviceman, Buggymobile, Man Haul (Shuttle Truck or Bua). | 5.87 | .45 | .35 | .05 | .10 | |
| Group 4<br>TRANSIT MIX TRUCK - 3 Yds. and under, Warehouseman, Truck Helpers, Slurry or Concrete Pumping Truck | 5.93 | .45 | .35 | .05 | .10 | |
| Group 5<br>FLAT BED using Power Takeoff, Water Tank Truck (over 1,800-4,000 gals.) Semi-Trailer - Low Boy - up to 96,000 lbs. GVW, Bulk Cement Tanker - up to 96,000 lbs GVW, Fork Lift - over 3,000 lbs. (Bull Lift, Hydro Lift), Ross, Hyster and similar Straddle Equipment, "A" Frame Truck (Swedish Crane, Iowa 3,000, Hydro-lift). | 5.99 | .45 | .35 | .05 | .10 | |
| Group 6<br>TRANSIT MIX TRUCK, over 3 yds. - 6 yds | 6.05 | .45 | .35 | .05 | .10 | |
| Group 7<br>WATER TANK TRUCK - over 4,000 gals., Fuel Truck - over 1,000 gals., Distributor or Spreader Truck, Field Tireman - Serviceman | 6.11 | .45 | .35 | .05 | .10 | |
| Group 8<br>TRANSIT MIX TRUCK - over 6-8 yds., Dumptors | 6.17 | .45 | .35 | .05 | .10 | |
| Group 9<br>TRANSIT MIX TRUCK - over 8 - 10 yds. | 6.29 | .45 | .35 | .05 | .10 | |



| TRUCK DRIVERS (CONT'D) | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| Group 10<br>LOW BOY - 96,000 lbs. GVW and over, Bulk Cement Tanker - 96,000 lbs. GVW and over | $6.35 | .45 | .35 | .05 | .10 | |
| Group 11<br>TRANSIT MIX TRUCK - over 10 yds. | 6.41 | .45 | .35 | .05 | .10 | |
| Group 12<br>TURNAROCKER and similar equipment | 6.47 | .45 | .35 | .05 | .10 | |
| Group 13<br>TRUCK - side, end and bottom dump (6 yds. and under) | 5.93 | .45 | .35 | .05 | .10 | |
| TRUCK - side, end and bottom dump (over 6 yds. - including 12 yds.) | 6.0 | .45 | .35 | .05 | .10 | |
| TRUCK - side, end and bottom dump (over 12 yds. - including 20 yds.) | 6.29 | .45 | .35 | .05 | .10 | |
| TRUCK - side, end and bottom dump (over 20 yds. including 30 yds.) | 6.47 | .45 | .35 | .05 | .10 | |
| TRUCK - side, end and bottom dump (over 30 yds. including 40 yds.) | 6.60 | .45 | .35 | .05 | .10 | |
| TRUCK - side, end and bottom dump (over 40 yds. including 50 yds.) | 6.72 | .45 | .35 | .05 | .10 | |
| TRUCK - side, end and bottom dump (over 50 yds. including 75 yds.) | 6.96 | .45 | .35 | .05 | .10 | |
| TRUCK - side, end and bottom dump (over 75 yds. including 100 yds.) | 7.20 | .45 | .35 | .05 | .10 | |
| TRUCK - side, end and bottom dump (over 100 yds.) | 7.45 | .45 | .35 | .05 | .10 | |
| Group 14<br>TRUCK MECHANIC | 6.83 | .45 | .35 | .05 | .10 | |





SUPERSEDEAS DECISION

STATE: Idaho

COUNTIES: Bannock, Bear Lake, Bingham, Bonneville, Caribou, Clark, Franklin, Fremont, Jefferson, Madison, Oneida, Power and Teton.

DECISION NUMBER: AQ-1,030

DATE: Date of Publication

Supersedes Decision No. AP-276 dated March 23, 1973 in 38 FR 7727

DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.



| | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| ASBESTOS WORKERS | $7.46 | .50 | .72 | | | |
| BOILERMAKERS | 7.45 | .60 | 1.00 | .50 | .02 | |
| BRICKLAYERS; Stonemasons (Bingham No. 1/2 of County), Bonneville, Clark, Fremont, Jefferson, Madison, and Teton Counties) | 5.50 | | | | | |
| BRICKLAYERS; Stonemasons (So. 1/2 of Bingham County, Bannock, Bear Lake, Caribou, Franklin, Oneida, and Powers Counties) | 6.50 | .25 | .15 | | | |
| CARPENTERS:<br>Carpenters; Floor Layer; Shingler; Drywall Applicator and installer of metal studs, metal framing, acoustical material, metal partition, porcelain and enamel and metal panels, marlite and rigid or flaxible plastic laminates, weatherstripping and insulation | 6.65 | .32 | .30 | .30 | .10 | |
| Saw Filer; Stationary Machine; Pile-driverman; Bridgeman and Wharf Builder | 6.83 | .32 | .30 | .30 | .10 | |
| Millwrights; Machine Erector; Pile-driverman's Boom Man | 6.95 | .32 | .30 | .30 | .10 | |
| CEMENT MASONS:<br>Cement Masons | 6.20 | .22 | .20 | .10 | .10 | |
| Gunnite & Composition Floor; Power Grinder Operator; Power Trowel Operator | 6.38 | .22 | .20 | .10 | .10 | |
| ELECTRICIANS:<br>Electricians | 8.00 | .30 | 1% | | 1% | |
| Cable Splicers | 8.80 | .30 | 1% | | 1% | |
| ELEVATOR CONSTRUCTORS | 7.23 | .345 | .23 | 2½%+a | | |
| ELEVATOR CONSTRUCTORS' HELPERS | 70%JR | .345 | .23 | 2½%+a | | |
| ELEVATOR CONSTRUCTORS' HELPERS (PROB.) | 50%JR | | | | | |
| IRONWORKERS:<br>Ornamental-Reinforcing-Structural | 6.94 | .40 | .65 | | .01 | |
| PAINTERS:<br>Brush, Perfatapers | $5.81 | .25 | .10 | | | |
| Structural Steel, Swing Stage, Spray | 6.26 | .25 | .10 | | | |
| PLASTERERS | 5.98 | .22 | .20 | .10 | | |
| PLUMBERS; Steamfitters | 7.39 | .37 | .40 | | .05 | |
| ROOFERS | 6.90 | | .20 | | | |
| SHEET METAL WORKERS | 7.47 | .22 | | | .01 | |
| SOFT FLOOR LAYERS | 5.70 | | | | | |
| SPRINKLER FITTERS | 8.70 | .30 | .50 | | .05 | |
| TERRAZZO WORKERS (Bonneville, Clark, Fremont, Jefferson, Madison, Teton Counties and No. 1/2 of Bingham Co.) | 5.50 | | | | | |
| TERRAZZO WORKERS (Remaining Cos. & So. 1/2 of Bingham Co.) | 5.40 | .25 | .15 | | | |
| TILE SETTERS (Bonneville, Clark, Fremont, Jefferson, Madison, Teton Counties and No. 1/2 of Bingham Co.) | 5.50 | | | | | |
| TILE SETTERS (Remaining Cos. & So. 1/2 of Bingham Co.) | 5.70 | .25 | .15 | | | |

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTE:
a. Employer credits 4% basic hourly rate of employee with over 5 years' service, 2% basic hourly rate for 6 months to 5 years' service to Vacation Plan. Six Paid Holidays. A through F.

AQ-1,030 P. 3

1-IDA-SIDA-LAB-1-2-3-k

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Othe |
| GROUP I<br>GENERAL LABORERS, Sloper, Clearing and Grading, Form Stripper, Concrete Crew, Concrete Curing Crew, Carpenter Tender, Asphalt Laborer, Hopper Tender, Heater Tender, Stake Jumper, Choker Setter, Spreader and Weighman, Power Wheelbarrow, Scouring Concrete, Rip Rap Man (hand placed), Fence Erector and Installer - manual or mechanical (includes the installation and erection of fence, guard rails, median rails, reference posts, guide posts and right-of-way markers), Crusher Helper, Cribbing and Shoring (in open ditches), Machinery and Parts Cleaner, Leverman - Manual or Mechanical, Demolition - Salvage, Landscaper, Tool Room Man | $5.20 | .35 | .35 | .10 | .10 | |
| GROUP II<br>CHUCK TENDER, Driller Helper, Air Tampers, Gunite Nozzleman Tender, Pipe Wrapper, Tar Pot Tender, Concrete Sawyer, Signalman, Handling Cement, Dumpman, Steam Nozzleman, Air and Water Nozzleman (Green Cutter, concrete) Grade Checker, Vibrator (less than 4"), Pumpcrete and Grout Pump Crew, Hydraulic Monitor | 5.30 | .35 | .35 | .10 | .10 | |
| GROUP III<br>PIPELAYER including sewer, drainage, sprinkler systems and water lines, Free Air Caisson, Jackhammer, Paving Breaker, Powderman Helper, Asphalt Raker, Gasoline Powered Tamper, Electric Ballast Tamper, Sand Blasting, Form Setter - Airport Paving, Gunman (Gunite), Manhole Setter, Hand Guided Machines, such as Rotor Tillers, Trenchers, Post Hole Diggers, Walking Garden Tractors, etc., Form Setter (Highway-Curb and Gutter), Vibrator (4" and over), Timber Faller and Bucker, Metal Pan Installer | 5.40 | .35 | .35 | .10 | .10 | |

AQ-1,030 P. 4

1-IDA-SIDA-LAB-1-2-3-k

| LABORERS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Othe |
| GROUP IV<br>HOD CARRIER, Mason Tender Plaster Tender, Mason Tender (Concrete), Terrazzo-Tile Tender | $5.50 | .35 | .35 | .10 | .10 | |
| GROUP V<br>HIGHSCALER, Wagon Drill, Gunite Nozzleman, Daimond Drill | 5.55 | .35 | .35 | .10 | .10 | |
| GROUP VI<br>DRILLERS on Drills with manufacturers rating 3" or over, Powderman | 5.80 | .35 | .35 | .10 | .10 | |
| GROUP VII<br>REBOUNDMAN, Chucktender, Nipper, Dumpman, Vibrator(less than 4"), Brakeman, Muckers, Bullgang | 5.35 | .35 | .35 | .10 | .10 | |
| GROUP VIII<br>FORM SETTER and Mover; Vibrator (4" and over) | 5.50 | .35 | .35 | .10 | .10 | |
| GROUP IX<br>MINERS, Machinemen, Timbermen, Steelmen, Drill Doctors, Spaders and Tuggers, Spiling and/or Caisson Workers | 5.80 | .35 | .35 | .10 | .10 | |

NOTICES





AQ-1,030 P. 5

1-IDA-SIDA-PEO-1-2-3-p (1-3)

| POWER EQUIPMENT OPERATORS: | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Oth |
| Group 1<br>Brakeman, Crusher, Plant Feeder (Mechanical), Deckhand, Drill Helpers, Grade Checkers, Heater Tender, Land Plane, Oilers, Pumpman | 5.78 | .40 | .35 | | .10 | |
| Group 2<br>Air Compressor, Assistant Refrigeration Plant Operator, Bell Boy, Bit Grinder Operator, Blower Operator (Cement), Bolt Threader Machine Operator-Broom, Cement Hog, Concrete Mixer, Concrete Saw - Multiple Cut, Discing - Harrowing or mulching (Regardless of Motive Power), Distributor Leverman, Drill Steel Threader Machine Operator, Fireman - All, Heavy Duty Mechanic Helper or Welder Helper, Hoist - Single Drum, Hydraulic Monitor Operator - Skid Mounted, Oiler on Cranes and Shovels, Pugmixer - Box or Screed Operator, Spray Curing Machine, Tractor - Rubber Tired Form Type Using Attachments | 5.94 | .40 | .35 | | .10 | |
| Group 3<br>A-Frame Truck (Hydra lift, Swedish Cranes, Koss Carrier, Hyster on Construction Jobs), Battery Tunnell Locomotive, Bolt Finishing Machine, Cable Tenders (Underground), Chip Spreader Machine (Self-propelled), Front End and Overhead Loaders and Similar Machines under 2 Yds. - Rubber-tired, Hoist - 2 or more Drums or Tower Hoist, Hydralift - Fork Lift and Similar (When Hoisting), Oilers (Underground), Power Loader (Bucket Elevator, Conveyors), Road Roller (Regardless of Motive Power), Service Oiler. | 6.12 | .40 | .35 | | .10 | |
| Group 4<br>Boring Machines (Earth or Rock) Quarry-master - Joy - Tractor Mounted, Drills: Churn - Core - Calyx or Diamond, Front End and Overhead Loaders and Similar Machines - 2 Yds. and including 4 Yds. - Rubber-tired, Grout Pump, Hydra-hammer, Locomotive Engineer, Longitudinal Float Machine, Mixermobile, Spreader Machine, Tractor - Rubber-tired - using | | | | | | |

AQ-1,030 P. 6

1-IDA-SIDA-PEO-1-2-3-p (2-3)

| POWER EQUIPMENT OPERATORS: (Cont'd) | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Oth |
| Group 4 (Cont'd)<br>Backhoe, Transverse Finishing Machine, Trenching Machines, Waggoner Compactor and Similar, Asphalt Spreaders. | 6.45 | .40 | .35 | | .10 | |
| Group 5<br>Concrete Plant Operator, Concrete Road Paver Dual), Elevating Grader Operator, Euclid Elevating Loader, Generator Plant Operator-Mechanic (Diesel Electric), Post Hole Auger or Punch Operator, Power Shovels and Draglines-under 1 Yd., Pumpcrete, Refrigeration Plant Operator, Road Roller (Finishing High Type Pavement), Skidder - Rubber tired, Sub Grader. | 6.6 | .40 | .35 | | .10 | |
| Group 6<br>Asphalt Pavers - Self-prop., Asphalt Plant Operator, Blade Operator (Motor Patrol), Concrete Slip Form Paver, Cranes - up to and including 50 ton, Crusher Plant Operator, Derrick Operator, Frunt End and Overhead Loaders and Similar Machines - over 4 yds. to and including 6 Yds., Kochring Scooper Heavy Duty Mechanic or Welder, Mucking Machine (Underground), Multi-batch Concrete Plant Operator, Piledriver Engineer, Power Shovels and Draglines - 1 Yd. to and including 3-1/2 Yds., Tower Crane Operator, Tractor - Crawler Type - including all attachments, Refrigeration Plant Operator (Over 1,000 Tons), Trimmer Machine Operator, Tournapulls - Euclid and Similar - to and including 40 Yds. | 6.81 | .40 | .35 | | .10 | |
| Group 7<br>Cableway Operator, Cranes - Over 50 Ton, Dredges, Fine Grader - CMI or Equivalent, Front End and Overhead Loaders and Similar Machines - Over 6 Yds., Power Shovels and Draglines over 3-1/2 Yds., Quad Type Tractors with all Attachments, Tournapulls - Euclid and Similar - Over 40 Yds. to and including 50 Yds., Multiple Scraper Units. | 7.14 | .40 | .35 | | .10 | |

NOTICES



XUM

AQ-1,030C P. 7

1-IDA-SIDA-PEO-1-2-3-P (3-3)

| POWER EQUIPMENT OPERATORS: (Cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Or |
|---|---|---|---|---|---|---|
| Group 8<br>Tournapulls - Euclid and Similar - Over 50 Yds. to and including 75 Yds. | 7.38 | .40 | .35 | | .10 | |
| Group 9<br>Tournapulls - Euclid and Similar - Over 75 Yds. to and including 100 Yds. | 7.63 | .40 | .35 | | .10 | |
| Group 10<br>Tournapulls - Euclid and Similar - Over 100 Yds. | 7.87 | .40 | .35 | | .10 | |

AQ-1,030 P. 8

1-IDA-SIDA-TD-1-2-3-R (1-2)

| TRUCK DRIVERS | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | C |
|---|---|---|---|---|---|---|
| Group 1<br>LEVERMAN Loading at Bunkers | $5.75 | .45 | .35 | .05 | .10 | |
| Group 2<br>FLAT BED - 2 Axle and Pickup hauling material, Water Tank Truck (1800 gals. and under), Fork Lift (3,000 and under) | 5.81 | .45 | .35 | .05 | .10 | |
| Group 3<br>FLAT BED - 3 Axle, Fuel Truck (1,000 Gals. and under), Greaser, Tireman, Serviceman, Buggymobile, Man Haul (Shuttle Truck or Bus). | 5.87 | .45 | .35 | .05 | .10 | |
| Group 4<br>TRANSIT MIX TRUCK - 3 Yds. and under, Warehouseman, Truck Helpers, Slurry or Concrete Pumping Truck | 5.93 | .45 | .35 | .05 | .10 | |
| Group 5<br>FLAT BED using Power Takeoff, Water Tank Truck (over 1,800-4,000 gals.) Semi-Trailer - Low Boy - up to 96,000 lbs. GVW, Bulk Cement Tanker - up to 96,000 lbs GVW, Fork Lift - over 3,000 lbs. (Bull Lift, Hydro Lift), Ross, Hyster and similar Straddle Equipment, "A" Frame Truck (Swedish Crane, Iowa 3,000, Hydro-lift). | 5.99 | .45 | .35 | .05 | .10 | |
| Group 6<br>TRANSIT MIX TRUCK, over 3 yds. - 6 yds | 6.05 | .45 | .35 | .05 | .10 | |
| Group 7<br>WATER TANK TRUCK - over 4,000 gals., Fuel Truck - over 1,000 gals., Distributor or Spreader Truck, Field Tireman - Serviceman | 6.11 | .45 | .35 | .05 | .10 | |
| Group 8<br>TRANSIT MIX TRUCK - over 6-8 yds., Dumptors | 6.17 | .45 | .35 | .05 | .10 | |
| Group 9<br>TRANSIT MIX TRUCK - over 8 - 10 yds. | 6.29 | .45 | .35 | .05 | .10 | |





AQ-1,030 P. 9

1-IDA-SIDA-TD-1-2-3-R (2-2)

| TRUCK DRIVERS (CONT'D) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | O |
|---|---|---|---|---|---|---|
| Group 10<br>LOW BOY - 96,000 lbs. GVW and over, Bulk Cement Tanker - 96,000 lbs. GVW and over | $6.35 | .45 | .35 | .05 | .10 | |
| Group 11<br>TRANSIT MIX TRUCK - over 10 yds. | 6.41 | .45 | .35 | .05 | .10 | |
| Group 12<br>TURNAROCKER and similar equipment | 6.47 | .45 | .35 | .05 | .10 | |
| Group 13<br>TRUCK - side, end and bottom dump (6 yds. and under) | 5.93 | .45 | .35 | .05 | .10 | |
| TRUCK - side, end and bottom dump (over 6 yds. - including 12 yds.) | 6.05 | .45 | .35 | .05 | .10 | |
| TRUCK - side, end and bottom dump (over 12 yds. - including 20 yds.) | 6.29 | .45 | .35 | .05 | .10 | |
| TRUCK - side, end and bottom dump (over 20 yds. including 30 yds.) | 6.47 | .45 | .35 | .05 | .10 | |
| TRUCK - side, end and bottom dump (over 30 yds. including 40 yds.) | 6.60 | .45 | .35 | .05 | .10 | |
| TRUCK - side, end and bottom dump (over 40 yds. including 50 yds.) | 6.72 | .45 | .35 | .05 | .10 | |
| TRUCK - side, end and bottom dump (over 50 yds. including 75 yds.) | 6.96 | .45 | .35 | .05 | .10 | |
| TRUCK - side, end and bottom dump (over 75 yds. including 100 yds.) | 7.00 | .45 | .35 | .05 | .10 | |
| TRUCK - side, end and bottom dump (over 100 yds.) | 7.45 | .45 | .35 | .05 | .10 | |
| Group 14<br>TRUCK MECHANIC | 6.83 | .45 | .35 | .05 | .10 | |

AQ-1,030 P. 10

SOUTHERN IDAHO LINE CONSTRUCTION - 8

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Oth |
|---|---|---|---|---|---|---|
| LINE CONSTRUCTION:<br>All work over 34.5 KV and all work on steel towers and/or multiple wood structures and all substations of 1000 KVA or greater capacity and all communications, underground work except street and highway lighting and motor traffic controls: | | | | | | |
| Groundman | $5.28 | .25 | 1% | | 3/4% | |
| Equipment Operators | 6.30 | .25 | 1% | | 3/4% | |
| Lineman | 6.99 | .25 | 1% | | 3/4% | |
| Cable Splicer | 7.68 | .25 | 1% | | 3/4% | |
| All work 34.5 KV and under when performed for an operating utility for work in highway lighting and motor traffic controlling: | | | | | | |
| Groundman | 5.21 | .25 | 1% | | 3/4% | |
| Equipment Operator | 6.09 | .25 | 1% | | 3/4% | |
| Lineman | 6.76 | .25 | 1% | | 3/4% | |

SUPERSEDEAS DECISION

STATE: Idaho

COUNTIES: Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce and Shoshone

DECISION NUMBER: AQ-1,031

DATE: Date of Publication

Supersedes Decision No. AP-273 dated March 23, 1973, in 38 FR 7707

DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| ASBESTOS WORKERS (That portion of Idaho Co. south of the 46th parallel) | $7.46 | .50 | .72 | | | |
| ASBESTOS WORKERS (Remainder of Counties and that portion of Idaho Co. north of the 46th parallel) | 8.15 | .25 | .37 | | | |
| BOILERMAKERS | 7.45 | .60 | 1.00 | .50 | .02 | |
| BRICKLAYERS; Stonemasons (Idaho, Clearwater, Latah, Lewis and Nez Perce Counties) | 7.65 | .30 | | | | |
| BRICKLAYERS; Stonemasons (Remainder of counties) | 6.46 | .15 | | | | |
| CARPENTERS (That portion of Idaho Co. south of the 46th parallel) | | | | | | |
| Carpenters; Floor Layer; Shingler; Drywall Applicator and installer of metal studs, metal framing, accoustical material, metal partition, porcelain and enamel and metal panels, marlite and rigid or flexible plastic laminates, weatherstripping and insulation | 6.65 | .32 | .30 | .30 | .10 | |
| Saw Filer; Stationary Machine; Piledriverman; Bridgeman and Wharf Builder | 6.83 | .32 | .30 | .30 | .10 | |
| Millwrights; Machine Erector; Piledriverman's Boom Man | 6.95 | .32 | .30 | .30 | .10 | |
| CARPENTERS (Remainder of Counties and that portion of Idaho County north of the 46th parallel) | | | | | | |
| Carpenters | 7.39 | .50 | .50 | | .035 | |
| Piledriver; Sawfilers; Stationary Power Woodworking Tool Op.; Floor Layer; Floor Finisher; Floor Sander | 7.54 | .50 | .50 | | .035 | |
| Shingler (wood and composition) | 7.59 | .50 | .50 | | .035 | |
| Carpenters working burned, charred, creosoted or similarly treated material; Millwrights; Boommen and Machine Erector | 7.64 | .50 | .50 | | .035 | |
| Piledriver working on creosoted material | 7.79 | .50 | .50 | | .035 | |



| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| CEMENT MASONS (That portion of Idaho County south of the 46th parallel) | $6.20 | .22 | .20 | .10 | .10 | |
| Cement Masons | | | | | | |
| Power Trowel; Power Grinder; Gunnite and composition Floorlayer | 6.38 | .22 | .20 | .10 | .10 | |
| CEMENT MASONS (Remainder of Counties and that portion of Idaho County north of the 46th parallel) | | | | | | |
| Cement Masons | 6.90 | .40 | .40 | | .02 | |
| Gunnite; Power Machine; Power Tools; Power Troweling Machine; Troweling Magnesite or other material with oxichloride base | 7.05 | .40 | .40 | | .02 | |
| ELECTRICIANS | | | | | | |
| Electricians; Technicians | 8.05 | .35 | 17%+.40 | | .02 | |
| Cable Splicers | 8.05 | .35 | 17%+.40 | | .02 | |
| ELEVATOR CONSTRUCTORS (That portion of Idaho County south of the 46th parallel) | | | | | | |
| Elevator Constructors | 7.23 | .345 | .23 | 2½%+a | | |
| Elevator Constructors' Helpers | 70%JR | .345 | .23 | 2½%+a | | |
| Elevator Constructors' Helpers (Prob.) | 50%JR | | | | | |
| ELEVATOR CONSTRUCTORS (Remainder of counties and that portion of Idaho County north of the 46th parallel) | | | | | | |
| Elevator Constructors | 7.66 | .345 | .23 | 2% + a | | |
| Elevator Constructors' Helpers | 70%JR | .345 | .23 | 2% + a | | |
| Elevator Constructors' Helpers (Prob.) | 50%JR | | | | | |
| GLAZIERS (That portion of Idaho Co. south of the 46th parallel) | 5.50 | .25 | .20 | .23 | | |
| GLAZIERS (Remainder of Counties and that portion of Idaho County north of the 46th parallel) | 6.29 | .25 | .25 | .23 | | |
| IRONWORKERS | | | | | | |
| Reinforcing | 7.56 | .48 | .65 | | .05 | |
| Fence Erectors-Ornamental-Structural | 7.56 | .48 | .65 | | .05 | |
| LATHERS (All Counties except Idaho County south of the 46th parallel) | 7.50 | .40 | | | | |
| MARBLE SETTERS (Idaho, Clearwater, Latah, Lewis, Nez Perce Counties) | 7.65 | .30 | | | | |
| MARBLE SETTERS (Remainder of counties) | | | | | | |
| Inside | 6.06 | .15 | | | | |
| Outside | 6.46 | .15 | | | | |
| MARBLE SETTERS' HELPERS | 6.10 | | | | | |

NOTICES





| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| PAINTERS (That portion of Idaho County south of the 46th parallel) | | | | | | |
| Brush; Paperhangers; Preparatory work | $6.11 | .25 | .10 | | | |
| Spray Gun; Sandblasting; Pot Tender; Toxic Chemicals but not restricted to such material as bitumastic; Rollers, pressure | 6.58 | .25 | .10 | | | |
| Brush, steel; Bridges; Towers; tanks on legs; Steeples incl. pipes and conduit attached | 6.21 | .25 | .10 | | | |
| Sign Painters | 6.23 | .25 | .10 | | | |
| PAINTERS (Remainder of Counties and that portion of Idaho County north of the 46th parallel) | | | | | | |
| Brush | 6.67 | .25 | .45 | | .01 | |
| Spray; Steel; Steam Cleaning; Rollers 9" or 10' handle; Finish Drywall Tapers | 6.92 | .25 | .45 | | .01 | |
| Swing Stage & over 30' high | 7.02 | .25 | .45 | | .01 | |
| Bitumastic; Sand Blast.; Bridges; Towers; Stacks; Steeples; Tanks on legs | 7.07 | .25 | .45 | | .01 | |
| T.V. Radio & Electric Transmission Towers | 7.42 | .25 | .45 | | .01 | |
| PLASTERERS (Clearwater, Idaho, Latah, Lewis and Nez Perce Counties) | 6.49 | .20 | | | | |
| PLASTERERS (Remaining Counties) | 7.50 | .40 | | | | |
| PLASTERERS' TENDERS | 5.25 | .25 | .25 | | .02 | |
| PLUMBERS; Steamfitters (That portion of Idaho County south of the 46th parallel) | 7.39 | .37 | .40 | | .05 | |
| PLUMBERS; Steamfitters (Remainder of Counties and that portion of Idaho County north of the 46th parallel) | 7.52 | .26 | .85 | .47 | .08 | |
| ROOFERS (That portion of Idaho County south of the 46th parallel) | 6.40 | .25 | .15 | | | |
| ROOFERS (Benewah, Bonner, Boundary, Kootenai, and Shoshone Counties): | | | | | | |
| Roofers | 6.20 | .30 | .15 | .50 | | |
| Roofers working with pitch products | 7.20 | .30 | .15 | .50 | | |
| ROOFERS (Remaining Counties and that portion of Idaho County north of the 46th parallel): | | | | | | |
| Kettkemen; Roofers; Waterproofers | 6.65 | | | | | |



| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| SHEET METAL WORKERS (Idaho County) | $7.06 | .27 | .20 | | .02 | |
| SHEET METAL WORKERS (Remainder of counties) | 7.65 | .32 | .50 | .50 | | |
| SPRINKLER FITTERS | 8.70 | .30 | .50 | | .05 | |
| TERRAZZO WORKERS; Tile Setters (Clearwater, Idaho, Latah, Lewis, and Nez Perce Counties) | 6.41 | .20 | | | | |
| TERRAZZO WORKERS; Tile Setters (Remainder of Counties) | 6.33 | .15 | | | | |
| TERRAZZO WORKERS' HELPERS | 6.10 | | | | | |
| TILE SETTERS' HELPERS | 6.10 | | | | | |
| WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental. | | | | | | |

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer credits 4% basic hourly rate of employee with over 5 years' service, 2% basic hourly rate from 6 months to 5 years' service to Vacation Plan. Six Paid Holidays: A through F.

NOTICES

That portion of Idaho County south of the 46th parallel

1-IDA-SIDA-LAB-1-2-3-k

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| GROUP I<br>GENERAL LABORERS, Sloper, Clearing and Grading, Form Stripper, Concrete Crew, Concrete Curing Crew, Carpenter Tender, Asphalt Laborer, Hopper Tender, Heater Tender, Stake Jumper, Choker Setter, Spreader and Weighman, Power Wheelbarrow, Scouring Concrete, Rip Rap Man (hand placed), Fence Erector and Installer - manual or mechanical (includes the installation and erection of fences, guard rails, median rails, reference posts, guide posts and right-of-way markers), Crusher Helper, Cribbing and Shoring (in open ditches), Machinery and Parts Cleaner, Leverman - Manual or Mechanical, Demolition - Salvage, Landscaper, Tool Room Man | $5.20 | .35 | .35 | .10 | .10 | |
| GROUP II<br>CHUCK TENDER, Driller Helper, Air Tampers, Gunite Nozzleman Tender, Pipe Wrapper, Tar Pot Tender, Concrete Sawyer, Signalman, Handling Cement, Dumpman, Steam Nozzleman, Air and Water Nozzleman (Green Cutter, concrete) Grade Checker, Vibrator (less than 4"), Pumpcrete and Grout Pump Crew, Hydraulic Monitor | 5.30 | .35 | .35 | .10 | .10 | |
| GROUP III<br>PIPELAYER including sewer, drainage, sprinkler systems and water lines, Free Air Caisson, Jackhammer, Paving Breaker, Powderman Helper, Asphalt Raker, Gasoline Powered Tamper, Electric Ballast Tamper, Sand Blasting, Form Setter - Airport Paving, Gunman (Gunite), Manhole Setter, Hand Guided Machines, such as Rotor Tillers, Trenchers, Post Hole Diggers, Walking Garden Tractors, etc., Form Setter (Highway-Curb and Gutter), Vibrator (4" and over), Timber Faller and Bucker, Metal Pan Installer | 5.40 | .35 | .35 | .10 | .10 | |



1-IDA-SIDA-LAB-1-2-3-k

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| LABORERS (cont'd)<br>GROUP IV<br>HOD CARRIER, Mason Tender Plaster Tender, Mason Tender (Concrete), Terrazzo-Tile Tender | $5.50 | .35 | .35 | .10 | .10 | |
| GROUP V<br>HIGHSCALER, Wagon Drill, Gunite Nozzleman, Daimond Drill | 5.55 | .35 | .35 | .10 | .10 | |
| GROUP VI<br>DRILLERS on Drills with manufacturers rating 3" or over, Powderman | 5.80 | .35 | .35 | .10 | .10 | |
| GROUP VII<br>REBOUNDMAN, Chucktender, Nipper, Dumpman, Vibrator(less than 4"), Brakeman, Muckers, Bullgang | 5.35 | .35 | .35 | .10 | .10 | |
| GROUP VIII<br>FORM SETTER and Mover; Vibrator (4" and over) | 5.50 | .35 | .35 | .10 | .10 | |
| GROUP IX<br>MINERS, Machinemen, Timbermen, Steelmen, Drill Doctors, Spaders and Tuggers, Spiling and/or Caisson Workers | 5.80 | .35 | .35 | .10 | .10 | |









2-IDA-NIDA-LAB 1-2-3- (1-2)

| (Remainder of Counties and that portion of Idaho County north of the 46th parallel) | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | O |
| LABORERS:<br>Group I<br>Carpenters tender; Concrete crewman; Concrete signalman; Crusher feeder; Demolition; Driller helper, Dumpman; Fence erector; General laborer; Grout machine header tender; Nipper; Riprap man; Scaleman; Stake jumper; Structural mover; Tailhoseman (water nozzle); Track laborer (RR); Truck loader; Timber bucker and faller; Window cleaner; Brush Hog Feeder | $5.80 | .35 | .55 | | .02 | |
| Group II<br>Cement finisher tender; Cement handler; Demolition torch; Dope pot fireman, nonmechanical; Form cleaning machine; feeder, stacker; Form setter, paving; Grade checker using level, optional; Nozzleman, water & air or steam; Pipe layer, corrugated metal culvert; Pipewrapper; Pot tender; Powderman helper; Power tool op.; gas, electric, pneumatic Railroad equipment, power driven; Rodder & spreader; Sandblast tailhoseman; Scaffold erector, wood or steel; Vibrator up to 4"; Wallpoint man; Wheelbarrow, power driven | 5.95 | .35 | .55 | | .02 | |
| Group III<br>Asphalt raker; Asphalt roller, walking; Chain saw op., w/attachments; Concrete saw, walking; Creosote material; High scaler; Jackhammer op.; Multisection pipelayer; Nozzleman; Pavement breaker; Tamper; Trencher; shawnee; Vibrator, 4" & over; Wagon drills; Water pipe liner | 6.05 | .35 | .55 | | .02 | |
| Group IV<br>Chain Saw (faller); Pipelayer (Caulker, collarman, jointer, mortarman, rigger, jacker, shorer & lagger and laser beam but not incl. laying corrugated metal culvert pipe) | 6.10 | .35 | .55 | | .02 | |



2-IDA-NIDA-LAB 1-2-3 (2-2)

| LABORERS (Cont'd): | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Othe |
| Group V<br>Concrete stack, Hod carriers; Mortar mixer; Vibrator, 4 inches and over | $6.15 | .35 | .55 | | .02 | |
| Group VI<br>Caisson worker, free air; High Scaler | 6.20 | .35 | .55 | | .02 | |
| Group VII<br>Brush machine; Drills, Gunnite; Monitor op., Air Track or similar mounting; Nozzleman | 6.25 | .35 | .55 | | .02 | |
| Group VIII<br>Air track drills with dual masts and drills; Powderman | 6.45 | .35 | .55 | | .02 | |
| TUNNEL & SHAFT, FREE AIR | | | | | | |
| Group IX<br>Class A:<br>Bull gang, pump crete crewman incl. distributing pipe, assembling & diamantle and nipper | 5.85 | .35 | .55 | | .02 | |
| Class B:<br>Brakeman, dumpman | 5.90 | .35 | .55 | | .02 | |
| Class C:<br>Miner & nozzleman for concrete and laser beam op. on tunnels | 6.30 | .35 | .55 | | .02 | |
| Class D:<br>Raise & shaft miner and laser beam op. on raises and shafts | 6.35 | .35 | .55 | | .02 | |
| Group X<br>Sand Hogs (Under compressed air conditions):<br>1 lb thru 14 lbs - 6 hrs. work | 58.80 | .35 | .55 | | .02 | |
| Over 14 lbs thru 18 lbs - 6 hrs. work | 61.50 | .35 | .55 | | .02 | |
| Over 18 lbs thru 22 lbs - 4 hrs. work | 61.50 | .35 | .55 | | .02 | |
| Over 18 lbs thru 22 lbs - 6 hrs. work | 81.75 | .35 | .55 | | .02 | |
| Over 22 lbs thru 26 lbs - 4 hrs. work | 65.70 | .35 | .55 | | .02 | |
| Over 26 lbs thru 32 lbs - 4 hrs. work | 68.10 | .35 | .55 | | .02 | |
| Over 32 lbs thru 38 lbs - 3 hrs. work | 70.80 | .35 | .55 | | .02 | |
| Over 38 lbs thru 44 lbs - 2 hrs. work | 72.10 | .35 | .55 | | .02 | |
| Outside lock & guage tender (per shift) | 49.20 | .35 | .55 | | .02 | |

(That portion of Idaho County south of the 46th parallel)

AQ-1,031 P. 9

1-IDA-SIDA-PEO-1-2-3-P (1-3)

| POWER EQUIPMENT OPERATORS: | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Oth |
|---|---|---|---|---|---|---|
| Group 1<br>Brakemen, Crusher, Plant Feeder (Mechanical), Deckhand, Drill Helpers, Grade Checkers, Heater Tender, Land Plane, Oilers, Pumpmen | 5.78 | .40 | .35 | | .10 | |
| Group 2<br>Air Compressor, Assistant Refrigeration Plant Operator, Bell Boy, Bit Grinder Operator, Blower Operator (Cement), Bolt Threader Machine Operator-Broom, Cement Hog, Concrete Mixer, Concrete Saw - Multiple Cut, Discing - Harrowing or mulching (Regardless of Motive Power), Distributor Leverman, Drill Steel Threader Machine Operator, Fireman - All, Heavy Duty Mechanic Helper or Welder Helper, Hoist - Single Drum, Hydraulic Monitor Operator - Skid Mounted, Oiler on Cranes and Shovels, Pugmixer - Box or Screed Operator, Spray Curing Machine, Tractor - Rubber Tired Form Type Using Attachments | 5.94 | .40 | .35 | | .10 | |
| Group 3<br>A-Frame Truck (Hydra lift, Swedish Cranes, Ross Carrier, Hyster on Construction jobs), Battery Tunnell Locomotive, Belt Finishing Machine, Cable Tenders (Underground), Chip Spreader Machine (Self-propelled), Front End and Overhead Loaders and Similar Machines under 2 Yds. - Rubber-tired, Hoist - 2 or more Drums or Tower Hoist, Hydralift - Fork Lift and Similar (When Hoisting), Oilers (Underground), Power Loader (Bucket Elevator, Conveyors), Road Roller (Regardless of Motive Power), Service Oiler. | 6.12 | .40 | .35 | | .10 | |
| Group 4<br>Boring Machines (Earth or Rock) Quarrymaster - Joy - Tractor Mounted, Drills: Churn - Core - Calyx or Diamond, Front End and Overhead Loaders and Similar Machines - 2 Yds. and including 4 Yds. - Rubber-tired, Grout Pump, Hydra-hammer, Locomotive Engineer, Longitudinal Float Machine, Mixermobile, Spreader Machine, Tractor - Rubber-tired - using | | | | | | |

AQ-1,031 P. 10

1-IDA-SIDA-PEO-1-2-3-P (2-3)

| POWER EQUIPMENT OPERATORS: (Cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Oth |
|---|---|---|---|---|---|---|
| Group 4 (Cont'd)<br>Backhoe, Transverse Finishing Machine, Trenching Machines, Waggoner Coupactor and Similar, Asphalt Spreaders. | 6.45 | .40 | .35 | | .10 | |
| Group 5<br>Concrete Plant Operator, Concrete Road Paver Dual), Elevating Grader Operator, Euclid Elevating Loader, Generator Plant Operator-Mechanic (Diesel Electric), Post Hole Auger or Punch Operator, Power Shovels and Draglines-under 1 Yd., Pumpcrete, Refrigeration Plant Operator, Road Roller (Finishing High Type Pavement), Skidder - Rubber tired, Sub Grader. | 6.63 | .40 | .35 | | .10 | |
| Group 6<br>Asphalt Pavers - Self-prop., Asphalt Plant Operator, Blade Operator (Motor Patrol), Concrete Slip Form Paver, Cranes - up to and including 50 ton, Crusher Plant Operator, Derrick Operator, Front End and Overhead Loaders and Similar Machines - over 4 yds. to and including 6 Yds., Koehring Scooper Heavy Duty Mechanic or Welder, Mucking Machine (Underground), Multi-batch Concrete Plant Operator, Pildriver Engineer, Power Shovels and Draglines - 1 Yd. to and including 3-1/2 Yds., Tower Crane Operator, Tractor - Crawler Type - including all attachments, Refrigeration Plant Operator (Over 1,000 Tons), Trimmer Machine Operator, Tournapulls - Euclid and Similar - to and including 40 Yds. | 6.81 | .40 | .35 | | .10 | |
| Group 7<br>Cableway Operator, Cranes - Over 50 Ton, Dredger, Fine Grader - CMI or Equivalent, Front End and Overhead Loaders and Similar Machines - Over 6 Yds., Power Shovels and Draglines over 3-1/2 Yds., Quad Type Tractors with all Attachments, Tournapulls - Euclid and Similar - Over 40 Yds. to and including 50 Yds., Multiple Scraper Units. | 7.14 | .40 | .35 | | .10 | |

NOTICES



AQ-1,031 P. 11

1-IDA-SIDA-PEO-1-2-3-P (3-3)

| POWER EQUIPMENT OPERATORS: (Cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Oth |
|---|---|---|---|---|---|---|
| Group 8<br>Tournapulls - Euclid and Similar - Over 50 Yds. to and including 75 Yds. | 7.38 | .40 | .35 | | .10 | |
| Group 9<br>Tournapulls - Euclid and Similar - Over 75 Yds. to and including 100 Yds. | 7.63 | .40 | .35 | | .10 | |
| Group 10<br>Tournapulls - Euclid and Similar - Over 100 Yds. | 7.87 | .40 | .35 | | .10 | |

AQ-1,031 P. 12

2-IDA-NIDA-PEO-1-2-3--1 (1-4)

| (Remainder of counties and that portion of Idaho County north of the 46th parallel) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| POWER EQUIPMENT OPERATORS | | | | | | |
| GROUP I<br>Bit Grinders; Bolt Threading Machine; Brakeman; Compressors, under 1000 cu. ft. per minute gas, diesel or electric power; Crusher Feeder (mechanical); Deck Hand; Drillers' Helper; Fireman & Heater Tender; Grade Checker; Helper (Mechanic or Welder, H.D.); Oiler; Pumpman; Rollers, all types on subgrade (farm type, Case, John Deere and similar - or compacting or vibrator) except when pulled by dozer with operable blade; Welding Machines. | $6.85 | .55 | .65 | | .03 | |
| GROUP II<br>A-Frame Truck (single-drum); Assistant Refrigeration Plant (under 1000 tons); Assistant Plant Operator, Fireman or Pugmixer (asphalt); Bagley or Stationary Scraper; Batch Plant & Wet Mix Operator, single unit (concrete); Belt Finishing Machine; Bending Machine (pipeline); Blower Operator (cement); Cement Hog; Compressor (1000 cu. ft. or over, 2 or more - gas, diesel or electric power); Concrete Saw (multiple cut); Distributor Leverman; Dope Pots (power agitated); Equipment Serviceman, Greaser and Oiler; Fork Lift or Lumber Stacker, Hydra Lift & similar; Gin Trucks (pipeline); Hoist, single drum; Loaders (bucket elevators and conveyors); Longitudinal Float; Mixer (portable - concrete); Pavement Breaker, Hydra-Hammer & similar); Posthold Auger or Punch; Power Broom; Railroad Ballast Regulation Operator, (self-propelled); Railroad Power Tamper Operator, (self-propelled); | | | | | | |

NOTICES





XUM
38 FR 24183
SEP 7 1973

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| GROUP II (cont'd) | | | | | | |
| Railroad Power Tamper Jack Operator, (self-propelled); Spray Curing Machine (concrete); Spreader Box (self-propelled); Straddle Buggy (Ross & similar on construction job site); Tractor (farm type R/T with attachments except backhoe); Tugger Operator. | $7.15 | .55 | .65 | | .03 | |
| GROUP III | | | | | | |
| A-Frame Truck (2 or more drums); Assistant Refrigeration Plant & Chiller Operator (over 1000 tons); Backfillers (Cleveland & similar); Belt-Crete Conveyors with Power Pack or similar; Belt Loader (Kocal or similar); Blade Operator (Motor Patrol and attachments); Boat Operators; Boom Cats (side); Boring Machine (earth); Boring Machine (rock under 8" bit) (Quarry Master, Joy or similar); Bump Cutter (Wayne, Saginaw or similar); Canal Lining Machine (concrete); Cleaning & Doping Machine (pipeline); Concrete Pumps (squeeze-crete, flow-crete, pump-crete, Whitman & similar); Drills (churn, core, calyz or diamond); Elevating Belt-type Loader (Euclid, Barber Green or similar); Elevating Grader-type Loader (Dumor, Adams, or similar) Generator Plant Engineers (diesel electric); Gunite Combination Mixer & Compressor; Hoist, (2 or more drums or Tower Hoist); Loaders, (overhead & frontend, under 4 yds., R/T); Locomotive Engineer; Mixermobile; Oiler & Cable Tender, Mucking Machine, Paver (asphalt and concrete); Pump (Grout or Jet); Refrigeration Plant Engineer (1000 tons); Rollerman (finishing pavement); Rubber-tired Scrapers (one motor with one scraper, under 40 yds.); Screed Operator; Soil Stabilizer (P & H or similar); | | | | | | |



| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| GROUP III (cont'd) | | | | | | |
| Spreader-Machine; Tractor (crawler, incl. Dozer, Scraper, Drills, Booms, Rollers, etc.); Traverse Finishing Machine; Trenching Machines (under 7 ft. depth capacity); Turnhead Operator | $7.40 | .55 | .65 | | .03 | |
| GROUP IV | | | | | | |
| H. D. Mechanic; H. D. Welder; Refrigeration Plant Engineer (1000 tons & over) Semi-automatic Welding Machine. | 7.50 | .55 | .65 | | .03 | |
| GROUP V | | | | | | |
| Asphalt Plant Operator; Crusher & Screening Plant Operator; Rubber-tired Scrapers Multi-Engine Power with one Scraper (Euclid, TS-24 & similar); Rubber-tired Scraper, One Motor with One Scraper (40 yds. & over); Single Engine with two Scrapers (Letourneau, Tandem B & similar); Surface Heater & Planer Machine. | 7.55 | .55 | .65 | | .03 | |
| GROUP VI | | | | | | |
| Automatic Subgrader (ditches & trimmers) (R.A. Hansen & similar); Backhoes (under 3 yds.); Batch & Wet Mix Operator-Multiple Units (2 and incl. 4); Clamshell Operator (under 3 yds.); Concrete Slip Form Paver; Cranes (under 65 tons); Derricks & Stifflegs (under 65 tons); Draglines (under 3 yds.); Drilling Equipment (8" bit and over) (Robbins & similar); Hydra-Cranes (Austin, Western Hydra-Hoe and similar with attachments); Loader Operator (Front End & Overhead 4 yds. to 8 yds.); Mucking Machines; Piledriving Engineers; Paver (dual drum); | | | | | | |







| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| GROUP VI (cont'd) | | | | | | |
| Quad-track or similar Equipment; Railroad Track Liner Operator (self-propelled); Rubber-tired Scrapers, Multiple Engines with two Scrapers; Shovels (under 3 yds.); Signalmen (Whirleys, Highline Hammerheads or similar); Trenching Machines (7 ft. depth and over). | $7.70 | .55 | .65 | | .03 | |
| GROUP VII | | | | | | |
| Backhoes (3 yds. and over); Batch Plant (over 4 units); Cableway Controller-Dispatcher; Cableway Operators; Clamshell Operator (3 yds. and over); Cranes (65 tons and over); Derricks & Stifflegs (65 tons and over); Draglines (3 yds. and over); Loader - (360 degrees revolving Koehring Scooper or similar); Loaders (overhead and front end over 8 yds.); Rubber-tired Scrapers (multiple engine with three or more scrapers); Shovels (3 yds. and over); Tower Crane; Whirleys and Hammerheads (all). | 7.95 | .55 | .65 | | .03 | |

Underground Work - Add 10% to the Classification.

Classification - (Not to include open pits, cuts, ditches, trenches and such work as paving, etc.)

All Crane Booms: 130' to 200' - $.15/Hr. Additional to Classification
Over 200' - - $.30/Hr. Additional to Classification

Yo-Yo Dozer: 10% Additional



(That portion of Idaho County south of the 46th parallel)

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| TRUCK DRIVERS | | | | | | |
| Group 1<br>LEVERMAN Loading at Bunkers | $5.75 | .45 | .35 | .05 | .10 | |
| Group 2<br>FLAT BED - 2 Axle and Pickup hauling material, Water Tank Truck (1800 gals and under), Fork Lift (3,000 and under) | 5.81 | .45 | .35 | .05 | .10 | |
| Group 3<br>FLAT BED - 3 Axle, Fuel Truck (1,000 Gals. and under), Greaser, Fireman, Serviceman, Buggymobile, Man Haul (Shuttle Truck or Bus). | 5.87 | .45 | .35 | .05 | .10 | |
| Group 4<br>TRANSIT MIX TRUCK - 3 Yds. and under, Warehouseman, Truck Helpers, Slurry or Concrete Pumping Truck | 5.93 | .45 | .35 | .05 | .10 | |
| Group 5<br>FLAT BED using Power Takeoff, Water Tank Truck (over 1,600-4,000 gals.) Semi-Trailer - Low Boy - up to 96,000 lbs. GVW, Bulk Cement Tanker - up to 96,000 lbs GVW, Fork Lift - over 3,000 lbs. (Bull Lift; Hydro Lift), Ross, Hyster and similar Straddle Equipment, "A" Frame Truck (Swedish Crane, Iowa 3,000, Hydro-lift). | 6.00 | .45 | .35 | .05 | .10 | |
| Group 6<br>TRANSIT MIX TRUCK, over 3 yds. - 6 yds | 6.05 | .45 | .35 | .05 | .10 | |
| Group 7<br>WATER TANK TRUCK - over 4,000 gals., Fuel Truck - over 1,000 gals., Distributor or Spreader Truck, Field Fireman - Serviceman | 6.11 | .45 | .35 | .05 | .10 | |
| Group 8<br>TRANSIT MIX TRUCK - over 6-8 yds., Dumptors | 6.17 | .45 | .35 | .05 | .10 | |
| Group 9<br>TRANSIT MIX TRUCK - over 8 - 10 yds. | 6.29 | .45 | .35 | .05 | .10 | |





XUM
38 FR 21528 3 CFR 1973 Supp.

| TRUCK DRIVERS (CONT'D) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | C. |
|---|---|---|---|---|---|---|
| Group 10<br>LOW BOY - 96,000 lbs. GVW and over, Bulk Cement Tanker - 96,000 lbs. GVW and over | $6.35 | .45 | .35 | .05 | .10 | |
| Group 11<br>TRANSIT MIX TRUCK - over 10 yds. | 6.41 | .45 | .35 | .05 | .10 | |
| Group 12<br>TURNAROCKER and similar equipment | 6.47 | .45 | .35 | .05 | .10 | |
| Group 13<br>TRUCK - side, end and bottom dump (6 yds. and under) | 5.93 | .45 | .36 | .05 | .10 | |
| TRUCK - side, end and bottom dump (over 6 yds. - including 12 yds.) | 6.05 | .45 | .35 | .05 | .10 | |
| TRUCK - side, end and bottom dump (over 12 yds. - including 20 yds.) | 6.29 | .45 | .35 | .05 | .10 | |
| TRUCK - side, end and bottom dump (over 20 yds. including 30 yds.) | 6.47 | .45 | .35 | .05 | .10 | |
| TRUCK - side, end and bottom dump (over 30 yds. including 40 yds.) | 6.60 | .45 | .35 | .05 | .10 | |
| TRUCK - side, end and bottom dump (over 40 yds. including 50 yds.) | 6.72 | .45 | .35 | .05 | .10 | |
| TRUCK - side, end and bottom dump (over 50 yds. including 75 yds.) | 6.96 | .45 | .35 | .05 | .10 | |
| TRUCK - side, end and bottom dump (over 75 yds. including 100 yds.) | 7.20 | .45 | .35 | .05 | .10 | |
| TRUCK - side, end and bottom dump (over 100 yds.) | 7.45 | .45 | .35 | .05 | .10 | |
| Group XV<br>TRUCK MECHANIC | 6.83 | .45 | .35 | .05 | .10 | |



| TRUCK DRIVERS | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| Group I<br>FLAT BED TRUCK, single rear axle; Escort Driver; Fish Truck; Fork Lift, 3,000 lbs. & under; Fuel Truck Driver (steam cleaner & washer); Helper & Swamper; Leverman Loading Trucks at Bunkers; Pickup Hauling Material; Stationary Fuel Op.; Team Driver; Tractor (small rubber tired pulling trailer or sim. equip.); Water Tank Truck 1,800 gallons | 6.50 | .57 | .50 | | | |
| Group II<br>BUS DRIVER OR MANHAUL DRIVER; Flat Bed Truck, dual rear axle; Fireman No. 1; Warehouseman | 6.55 | .57 | .50 | | | |
| GROUP III<br>BUGGY MOBILE & SIM.; Bulk Cement Tanker; Oil Tank Driver; Power Operated Sweeper; Semi-Trailer, low bed, truck & Trailer; Straddle Carrier (Ross, Hyster & sim.); Transit Mixers & Trucks Hauling Concrete (3 yds. & under); Trucks, side end and bottom dump (under 6 yds.); Water Tank Truck (1,801 - 4,000 gallons) | 6.60 | .57 | .50 | | | |
| Group IV<br>AUTO CRANE - 2000 lbs. capacity; Bulk Cement Spreader; Dumptor (6 yds. & under); Flaherty Spreader, box driver; Flat Bed Truck (using power take off); Fork Lift (over 3,000 lbs.) Oil Distributor Driver (road, bootman; leverman, helper); Rubber tired Tunnel Jumbo; Scissors Truck; Slurry Truck Driver; Transit Mixers & Trucks Hauling Concrete (over 3 yds. to 6 yds.) Trucks, side, end and bottom dump (over 6 yds. to 12 yds.); Water Tank Truck (4,001 - 6,000 gals.); Wrecker & Tow Trucks | 6.70 | .57 | .50 | | | |
| Group V<br>LOW BOY (under 50 tons); Service Greaser; Fireman No. 2 | 6.75 | .57 | .50 | | | |





| TRUCK DRIVERS (CONT'D) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| Group VI<br>A-FRAME (Swedish Crane, Iowa 3,000, hydrolift); Water Tank Truck (over 6,001 - 8,000 gals.) | 6.80 | .57 | .50 | | | |
| Group VII<br>DUMPTOR (over 6 yds.); Transit Mixers & Trucks Hauling Concrete (6 yds. to 10 yds.) Trucks, side, end & bottom dump (over 12 yds. incl. 20 yds.) | 6.85 | .57 | .50 | | | |
| Group VIII<br>LOW BOY (over 50 tons); Water Tank Truck (8,001 - 10,000 gals.); 10c for each add. 2,000 gals. | 6.90 | .57 | .50 | | | |
| Group IX<br>TRANSIT MIXERS & TRUCKS Hauling Concrete, (10 yds. to 15 yds.); Trucks, side, end & bottom dump (over 20 yds. incl. 30 yds.) | 7.00 | .57 | .50 | | | |
| Group X<br>TOURNAROCKER, DW'S & sim. w/2 or 4 wheel power tractor w/trailer or yardage scale whichever is greater | 7.05 | .57 | .50 | | | |
| Group XI<br>TRANSIT MIXERS & TRUCKS Hauling Concrete (15 yds. to 20 yds.); Trucks, side, end & bottom dump (over 30 yds. to 40 yds.) | 7.15 | .57 | .50 | | | |
| Group XII<br>TRANSIT MIXERS & TRUCKS Hauling Concrete (over 20 yds.); Trucks, side, end & bottom dump (over 40 yds. to 50 yds.) | 7.30 | .57 | .50 | | | |
| Group XIII<br>TRUCKS, side, end and bottom dumps, (over 50 yds. to 100 yds.) | 7.45 | .57 | .50 | | | |
| Group XIV<br>TRUCKS, side, end and bottom dump (over 100 yds.) | 7.60 | .57 | .50 | | | |



SOUTHERN IDAHO LINE CONSTRUCTION - g

(That portion of Idaho County south of the 46th parallel)

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| LINE CONSTRUCTION:<br>All work over 34.5 KV snd all work on steel towers and/or multiple wood structures and all substations of 1000 KVA or greater capacity and all communications, underground work except street and highway lighting and motor traffic controls: | | | | | | |
| Groundman | $5.28 | .25 | 1% | | 3/4% | |
| Equipment Operators | 6.38 | .25 | 1% | | 3/4% | |
| Lineman | 6.99 | .25 | 1% | | 3/4% | |
| Cable Splicer | 7.68 | .25 | 1% | | 3/4% | |
| All work 34.5 KV and under when performed for an operating utility for highway lighting and motor traffic controlling: | | | | | | |
| Groundman | 5.21 | .25 | 1% | | 3/4% | |
| Equipment Operator | 6.09 | .25 | 1% | | 3/4% | |
| Lineman | 6.76 | .25 | 1% | | 3/4% | |

NORTHERN IDAHO LINE CONSTRUCTION -

(Remainder of Counties and that portion of Idaho County north of the 46th parallel)

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| LINE CONSTRUCTION (Remainder of Counties and that portion of Idaho County north of the 46th parallel): | | | | | | |
| Cable Splicers; Leadman Pole Sprayer | $8.60 | .25 | 1% | | 1/2% | |
| Lineman; Pole-Sprayer; Heavy Line Equipment Man; Certified Lineman Welder | 7.76 | .25 | 1% | | 1/2% | |
| Tree Trimmer | 7.00 | .25 | 1% | | 1/2% | |
| Line Equipment Man | 6.67 | .25 | 1% | | 1/2% | |
| Head Groundman (Chipper); Head Groundman; Powderman; Jackhammer Man | 5.82 | .25 | 1% | | 1/2% | |
| Groundman; Tree Trimmer Helper | 5.49 | .25 | 1% | | 1/2% | |
| Hole Digger | 5.25 | .25 | 1% | | 1/2% | |







38 FR 24183 Sept 7 1973 XUM

AO-1,022 P. 2

SUPERSEDES DECISION

STATE: Oregon
DECISION NUMBER: AO-1,022
Supersedes Decision No. AO-284 dated April 6, 1971, in 38 FR 8927
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction and dredging.
COUNTIES: Statewide
DATE: Date of Publication

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| Lincoln Co. | | | | | | |
| Electricians | $8.21 | .25 | 1% | | .04 | |
| Cable Splicers | 9.03 | .25 | 1% | | .04 | |
| Benton; Crook; Deschutes; Jefferson; Lane (except coast portion); Linn; Marion; Polk; S 1/2 of Yamhill Cos. | | | | | | |
| Electricians | 8.30 | .25 | 1% | | .04 | |
| Cable Splicers | 8.95 | .25 | 1% | | .04 | |
| Clackamas; Clatsop; Columbia; Hood River; Multnomah; Sherman; Tillamook; Wasco; Washington; N 1/2 of Yamhill Cos. | | | | | | |
| Electricians | 8.05 | .25 | 1% + 40 | | .02 | |
| Cable Splicers | 8.70 | .25 | 1% + 40 | | .02 | |
| Harney; Jackson; Josephine; Klamath; Lake; That portion of Douglas lying east of a line running north & south from the corner of Coos Co. to the southeast corner of Lincoln Co. | | | | | | |
| Electricians | 8.40 | .25 | 1% | | .04 | |
| Cable Splicers | 8.95 | .25 | 1% | | .04 | |
| ELEVATOR CONSTRUCTORS | 8.01 | .345 | .22 | 2% + a | | |
| ELEVATOR CONSTRUCTORS' HELPERS | 70%JR | .345 | .22 | 2% + a | | |
| ELEVATOR CONSTRUCTORS' HELPERS (PROB.) | 50%JR | | | | | |
| GLAZIERS | 7.20 | .26 | .30 | 6.5% | .01 | |
| IRONWORKERS: | | | | | | |
| Reinforcing; Structural; Fence Erectors; Ornamental; Riggers; Signal Men | 7.31 | .48 | .65 | .25 | .05 | |
| LATHERS | | | | | | |
| Clackamas, Clatsop, Columbia, Gilliam, Hood River, Morrow, Multnomah, Sherman, Tillamook, Wasco, Washington, Yamhill Cos. | 6.60 | .15 | | | .01 | |
| MARBLE SETTERS | | | | | | |
| Clackamas, Clatsop, Columbia, Gilliam, Hood River North 1/2 of Lincoln, Marion, Multnomah, Morrow, Polk, Sherman, Tillamook, Wasco (north of the City of Maupin), Washington, Yamhill Cos. | 7.90 | .35 | .35 | | .02 | |
| Baker, North 1/2 of Malheur, Union, Umatilla; Wallowa Cos. | | | | | | |
| Outside | 7.85 | .30 | | | | |
| Inside | 7.65 | .30 | | | | |
| Benton, Coos, Crook, Curry, Deschutes, Douglas, Grant, Harney, Jackson, Jefferson, Josephine, Klamath, Lake, | | | | | | |







AO-1,022 P. 4

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | O |
|---|---|---|---|---|---|---|
| SHEET METAL WORKERS | | | | | | |
| Benton, Clackamas, Clatsop, Columbia, Crook, Deschutes, Gilliam, Grant, Harney, Hood River, Jefferson, Lincoln, Linn, Marion, Morrow, Multnomah, Polk, Sherman, Tillamook, Wasco, Washington, Wheeler, Yamhill Cos. | $6.94 | .33 | .24 | .28 | .02 | |
| Malheur County | 7.06 | .27 | .20 | | .02 | |
| Baker, Umatilla, Union, Wallowa Cos. | 6.50 | .22 | .30 | | 1/2% | |
| Coos, Curry, Douglas, Lane Cos. | 7.85 | .22 | .34 | | | |
| Jackson, Josephine | 6.73 | .22 | .30 | | .05 | |
| SOFT FLOOR LAYERS | 7.15 | .40 | .45 | b | .05 | |
| SPRINKLER FITTERS | 8.70 | .30 | .50 | | | |
| TILE SETTERS & TERRAZZO WORKERS | | | | | | |
| Clatsop, Clackamas, Columbia, Gilliam, Harney, Hood River, N. 1/2 of Lincoln, Marion, Morrow, Polk, Sherman, Wasco, South of the City of Tillamook, Yamhill | 7.24 | .35 | .35 | | | |
| Baker, North 1/2 of Malheur, Union, Umatilla, Wallowa Cos. | 7.18 | .30 | | | | |
| Benton, Coos, Crook, Curry, Deshutes, Douglas, Grant, Jackson, Jefferson, Josephine, Klamath, Lake, Lane, South 1/2 of Malheur, Wasco (incl. the City of Maupin and south thereof), Wheeler Cos | 6.95<br>6.04 | .35<br>.25 | .35 | | | |
| TILE SETTERS' HELPERS | | | | | | |
| WELDERS; RIGGERS: Receive rate prescribed for craft performing operation to which welding is incidental. | | | | | | |

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Employer credits 4% basic hourly rate of employee with over 5 years' service, 2% basic hourly rate from 6 months to 5 years' service to Vacation Plan. Six Paid Holidays: A through F.
b. 4% of all gross wages to be placed to the credit of employees with less than one year of service. 6% to employees with more than one year of service



AO-1,022 P. 3

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | C |
|---|---|---|---|---|---|---|
| Lane, South 1/2 of Lincoln, Linn, South 1/2 of Malheur, Wasco (incl. the City of Maupin & south thereof), Wheeler Cos. | $7.00 | .45 | .45 | | .02 | |
| PAINTERS: | | | | | | |
| Brush | 7.05 | .30 | .20 | | .03 | |
| Spray | 7.30 | .30 | .20 | | .03 | |
| High Work over 100' | 7.55 | .30 | .20 | | .03 | |
| High Towers, ground to 100' | 7.20 | .30 | .20 | | .03 | |
| High Towers, ground to 300' | 7.55 | .30 | .20 | | .03 | |
| High Towers, ground to over 300' | 8.05 | .30 | .20 | | .03 | |
| PLASTERERS | 7.35 | .50 | .60 | | .01 | |
| PLUMBERS & STEAMFITTERS: | | | | | | |
| Malheur, Wasco (except NW portion); Grant County (except SW corner); Morrow; Umatilla; Wallowa Cos. | 6.58 | .28 | .30 | | .05 | |
| Sherman, N. 1/2 of Tillamook; Wasco; Wheeler; Washington; S. N. 1/2 of Yamhill | 7.52 | .26 | .85 | .47 | .08 | |
| Coos; Curry; West Coast portion of Douglas Co; Lane (City of Florence) | 7.68 | .65 | .75 | | .07 | |
| Douglas (except coast portion); Crook; Deschutes; N.W. portion of Harney; Northern portions of Klamath and Lake Cos.; S. 1/2 of Lincoln, Linn, Benton and Jefferson Cos.; & S.W. corner of Grant County | 7.74 | .41 | .52 | | .0175 | |
| Remainder of Klamath & Lake Cos. | 7.73 | .41 | .62 | .75 | .02 | |
| Jackson; Josephine Cos. | 7.06 | .45 | .55 | .43 | .05 | |
| ROOFERS | 7.05 | .40 | .50 | | .02 | |
| Clackamas, Clatsop, Columbia, Gilliam, Hood River, Jefferson, Multnomah, Sherman, Tillamook, Wasco Cos. | | | | | | |
| Roofers | 7.30 | .45 | .55 | | | |
| Coal Tar | 7.80 | .45 | .55 | | | |
| Coal Tar in confined areas | 8.55 | .45 | .55 | | | |
| Wallowa County | 6.65 | | | | | |
| Coos, Crook, Curry, Deschutes, Douglas | | | | | | |
| Harney, Jackson, Josephine, Klamath, Lake, Lane, Malheur Cos. | 6.53 | .25 | | | | |
| Marion, Yamhill, Polk, Lincoln, Benton, Linn Counties | 6.00 | .22 | .15 | | | |



V 38 173
SEP 7 73
XUM

AQ-1,022 P. 5 1-ORE-PEO-1-2-3-c (1-5)

POWER EQUIPMENT OPERATORS

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| GROUP I<br>ASSISTANT CONVEYOR; Oiler, including plant and crusher; Crusher Feederman; Deckhand; Self-propelled Scaffolding; Guard Rail Punch Oiler; Pump under 4" Brakeman Switchman; Parts Man (Tool Room) | $6.40 | .45 | .60 | .25 | | |
| GROUP II<br>BLADE, PULLED TYPE; Truck Crane Oiler-driver, 25 ton capacity or over; Fireman, all equipment; A-Frame Truck, single drum; Tugger or Coffin type Hoist, any power; Drill Helper; Auger Oiler; Boatman; Forklift or Lumber Stacker; Temporary Heating Plant; Grade Oiler, required to check grade; Grade Checker; Tar Pot Fireman; Tar Pot Fireman (power agitated); H. D. Repairman Helper; Welder's Helper; Fireman Helicopter Radio-man (ground); Roller, Rock | 6.54 | .45 | .60 | .25 | | |
| GROUP III<br>PLANT FIREMAN; Pugmill; Truck Mounted Asphalt Spreader, with screed; Compressor, any power, under 1,000 cu. ft. total capacity; Mixer Box Concrete Plant; Concrete Conveyor; Cement Hog; Concrete Saw, self-propelled unit; Wire Mat Machine or Booming Machine; Concrete Curing Machine, self-propelled; Bucket Elevator Loader, Barber Greene and similar type; Hydraulic Pipe Press; Pump any power, 4" and over; Hydrostatic Pump; Motorman; Ballast Jack Tamper; Bell Boy, phones, etc.; Tamping Machine, mechanical self-propelled; Hydrographic Seeder Machine, straw, pump or seed; Broom Operator, self-propelled; Air Filtration Equipment; Welding Machine | 6.64 | .45 | .60 | .25 | | |
| GROUP IV<br>SCREED; Compactor, including vibratory; Compressor, over 1,000 cu. ft. total capacity; Concrete Mixer, single drum, under 5 bag capacity; | | | | | | |

AQ-1,022 P. 6 1-ORE-PEO-1-2-3-c (2-5)

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| GROUP IV (Cont'd)<br>Concrete Cooling Machine; Combination Mixer and Compressor, Gunnite work; Helicopter Hoist; Fork Lift, over 5 tons; Lull Hi-Lift or similar type, 20 ft. or over; Service Oiler (Greaser); Hydra Hammer or similar types; Pavement Breaker; Pump, more than 3, any size; Locomotive, under 40 tons; Roller, Oiling, CTB | $6.80 | .45 | .60 | .25 | | |
| GROUP V<br>CURB MACHINE, MECHANICAL BERM, CURB AND/OR CURB AND GUTTER; Wagner Factor or similar type (Without blade); Batch Plant Material Control; Power Jumbo, setting slip forms, etc. in tunnels; Slip Form Pumps, power driven hydraulic lifting device for concrete forms; Hoist, single drum; Elevator, Diesel, Gas, Engineer; Chip Spreading Machine; Lime Spreading Sweeper (Wayne Type) self-propelled; Tractor, rubber-tired 50 H. P. Flywheel and under; Trenching Machine, maximum digging capacity 3 ft. depth | 6.82 | .45 | .60 | .25 | | |
| GROUP VI<br>ASPHALT PLANT; Asphalt Paver; Maginnis, internal full slab vibrator; Concrete finishing Machine, Clary, Johnson, Bidwell, Burgess, bridge deck or similar type; Curb Machine, Mechanical Berm, Curb and/or Curb and Gutter; Concrete Joint Machine; Concrete Planer; Cast in place pipe laying machine; Concrete Paving Machine; Concrete Spreader; Loaders, Rubber-tired type, 2 1/2 cu. yds. and under; Rock Spreader, self-propelled | 6.90 | .45 | .60 | .25 | | |
| GROUP VII<br>ROLLER, ASPHALT; Concrete Mixer, single drum, 5 bag capacity and over; Beltcrete; Pumpcrete; Cement pump, Fuller-Kenyon and similar; Grouting Machine; Concrete Pump; | | | | | | |







AQ-1,022 P. 7 1-ORE-PEO-1-2-3-c (3-5)

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| GROUP VII (Cont'd)<br>Tower Mobile; A-Frame Truck, double drums; Boom Truck; Churn Drill and Earth Boring Machine; Hydraulic Backhoe, wheel type 3/8 cu. yds. and under with or without front end attachments 2 1/2 cu. yds. and under (Ford, John Deere, Case type); Elevating Grader, Tractor and towed requiring operator or grader; Pot Rammer; Ballast Regulator; Ballast Tamper Multi-Purpose; Track Liner; Tie Spacer, Shuttle Car; Locomotive, 40 tons and over | $6.96 | .45 | .60 | .25 | | |
| GROUP VIII<br>DIESEL-ELECTRIC ENGINEER, PLANT OR FLOATING; Batch Plant and/or wet mix, one and two drums; Generator; Diesel-Electric Engineer; Belt Loaders, Kolman and Ko Cal types | 7.06 | .45 | .60 | .25 | | |
| GROUP IX<br>BULLDOZER; Drill Cat; Side-Boom Cat; Compactor, with blade; Chicago Boom and similar types; Lift Slab Machine; Boom Type lifting device, 5 tons capacity or less; Cherry picker or similar type crane-hoist 5 ton capacity or less; Grizzley; Crusher Plant; Boring Machine; Surface Heater & Planer; Hydraulic Backhoe, truck type 3/8 cu. yds. Loader, front end and overhead 2 1/2 cu. yds. and under 4 cu. yds.; Pipe Cleaning Machine; Pipe Doping Machine; Pipe Bending Machine; Pipe Wrapping Machine; Bolt Threading Machine; Drill Doctor; including bit grinder; H.D. Mechanic; H.D. Welder; Machine Tool Operator; Stationary Drag Scraper; Tractor Rubber-tired over 50 H.P. Flywheel; Tractor, Rubber tired with boom attachments; Trenching Machine maximum digging capacity over 3 ft. depth | 7.12 | .45 | .60 | .25 | | |
| GROUP X<br>BULLDOZER, TWIN-ENGINE (TC 12 and similar type); Cable-Plow; Compactor, | | | | | | |

AQ-1,022 P. 8 1-ORE-PEO--2-3-c (4-5)

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| GROUP X (Cont'd)<br>Multi-engine; Driller-Percussion, Diamond, Core, Cable, Rotary and similar types Jack Operator Elevating Barges; Barge Operator, self-unloading; Combination H.D. Mechanic-Welder; Welder-Certified; Rubber tired Dozers & Pushers (Michigan, Cat, Hough type) | $7.18 | .45 | .60 | .25 | | |
| GROUP XI<br>MIXER MOBILE: Crane, 25 tons and under; Shovel, Dragline; Clamshell, Hoe, etc., under 1 cu. yd.; Gradeall, under 1 cu. yd.; Mucking Machine | 7.20 | .45 | .60 | .25 | | |
| GROUP XII<br>BLADE; Batch Plant and/or wet mix, 3 units or more; Hoist, 2 drum; Hoist, 3 or more drums; Elevating Loader, Athey and similar types; Piledriver (not crane type); Rubber-tired Scraper, single engine, single scraper; Scraper-Self-Loading, paddle wheel ladder type; Rubber-tired Scraper, twin engine; Rubber-tired Scraper, with push-pull attachments; Blade Mounted Spreaders, Ulrich and similar types; Shield Operator | 7.26 | .45 | .60 | .25 | | |
| GROUP XIII<br>BLADE, FINISH (Working with either red or blue tops); Blade, Electronically controlled by wire or laser beams; Blade, Multi-engine; Concrete Paving and Road Mixer; Bridge Crane, Locomotive, Gantry, Overhead; Derrick, under 100 tons; Hoist, Stiff leg, Guy Derrick or similar type 50 tons and over; Cableway, up to 25 tons; Crane, over 25 tons and including 40 tons; Tower Crane; Piledriver (not crane type); Floating Clamshell, etc., under 3 cu. yds.; Floating Crane (Derrick Barge), less than 30 tons; Hydraulic Backhoe, truck type over 3/8 cu. yds., Elevating Grader, operated by tractor, Sierra, Euclid or similar types; Back-Filling Machine; Shovel, etc., 1 cu. yd., but less than 3 cu. yds.; Gradeall, 1 cu. yd., and over; Back Filling Machine | 7.34 | .45 | .60 | .25 | | |

AQ-1,022 P. 9

1-ORE-PEO-1-2-3-c (5-5)

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| GROUP XIV<br>RUBBER-TIRED SCRAPER WITH TANDEM SCRAPER | $7.50 | .45 | .60 | .25 | | |
| GROUP XV<br>ROCK HOUND; Loader, 4 cu. yds. but less than 6 cu. yds. | 7.66 | .45 | .60 | .25 | | |
| GROUP XVI<br>AUTO GRADER (i.e. CMD) or TRIMMER; Tandem Bulldozer, Quad-nine and similar type; Automatic Concrete Slip Form Paver; Concrete Canal Liner; Cableway, 25 tons and over; Crane, over 40 tons and including 100 tons; Whirley, 80 tons and under; Floating Clamshell, etc., 3 cu. yds. and over; Floating Crane (Derrick Barge), 30 tons but less than 80 tons; Loader, 6 cu. yds., but less than 8 cu. yds., Loader 8 cu. yds., but lesa than 12 cu. yds.; Rubber-tired Scraper, with Tandem Scrapers, Multi-engine; Shovel, etc., 3 cu. yds. but less than 5 cu. yds.; Wheel Excavator, under 750 cu. yds. per hour | 7.84 | .45 | .60 | .25 | | |
| GROUP XVII<br>CRANE, Over 100 tons and including 200 tons; Whirley over 80 tons and including 150 tons; Floating Crane (Derrick Barge), 80 tons but less than 150 tons; Loader, 12 cu. yds. and over; Shovel, etc., 5 cu. yds. and over; Canal Trimmer | 7.98 | .45 | .60 | .25 | | |
| GROUP XVIII<br>CRANE, over 200 tons; Whirley, 150 tons and over; Floating Crane 150 tons but less than 250 tons; Wheel Excavator, over 750 cu. yds. per hour; Band Wagons, in conjunction with wheel excavator | 8.16 | .45 | .60 | .25 | | |
| GROUP XVIV<br>HELICOPTER; When used in erecting work; Floating Crane 250 tons and over; Remote controlled earth moving equipment (no one operator shall operate more than two pieces of moving equipment at one time); Underwater Equipment, remote or otherwise | 8.30 | .45 | .60 | .25 | | |

AQ-1,022 P. 10

1-ORE-LAB-1-2-3-d (1-2)

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| LABORERS<br>GROUP I<br>Asphalt plant laborers; Asphalt spreaders; Batch weighman; Broomers; Brush burner & cutters; Car & truck loaders; Carpenter tender; Change-House man or dry shack men; Choker setters; Cleam up laborers; Concrete laborers; Crusher feeders; Culvert, hand labor; Curing, concrete; Demolition, wrecking, & moving laborers; Driller helpers; Dumpers, Road oiling crew; Dumpmen (for grading crew); Elevator feeders; Fence builder (incl. Guard rail, Median rail, Reference post, Guide post, Right-of-way marker); Fine graders; Form strippers (not swinging stages); General laborers; landscaping or planting laborers; Leverman on aggregate spreader (Flaherty & similar types); Loading spotters; Material yard man (incl. electrical); Pittsburgh chipper operator or similar types; Powderman helper; Railroad track laborers; Ribbon setters (incl. steel forms); Rip Rap man (hand placed); Road pump tender; Sewer labor; Skipmen; Signalman; Slopers; Spraymen; Stake chaser-Stake setter-Grade checker; Stockpiler; Timber faller & bucker (hand labor); Toolroom man (at job site) Tunnel bull gang (above ground); Weigh man-crusher aggregate (when used) | $5.60 | .45 | .50 | .25 | .02 | |







AQ-1,022 P. 11

1-ORE-LAB-1-2-3-d (2-2)

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| LABORERS (cont'd)<br>GROUP II<br>Applicator (incl. pot-tender for same), applying protective material by hand or nozzle on utility lines or storage tanks on project; Burners; Choker splicer; Clary power spreader & similar types; Clean-up nozzleman; Greencutter (Concrete rock, etc.); Concrete power buggyman; Demolition & wrecking charred materials; Gunite nozzleman tender; Gunite or sand blasting pot tender; Handlers or mixers of all materials of an irritating nature (incl. cement & lime); Manhole builder; Powertool op., incls. but not limited to: Chipping Guns; Jackhammer, Paving breakers, Post hole digger, Air, Gas, or Electric Tampers, Vibrating screed, Vibrators (less than 4" in diameter); Ribbon setter, head; Rip rap man (head), Hand placed; Sand blasting (wet); Sewer timbermen; Timber buckers & fallers, Brush cutters (power saw); Tunnel-Muckers, Brakemen, Concrete crew, Bull gang (underground) | $5.75 | .45 | .50 | .25 | .02 | |
| GROUP III<br>Asphalt rakers; Bid grinder; Concrete saw op.; Drill doctor, Drill operator, Air tracks, Cat drills, Wagon drills, Rubber-mounted drills, & other similar types: Gunite nozzleman; High scalers, stiprrers & drillers (covers work in swinging stages, chairs or belts, under extreme conditions unusual or normal drilling, blasting, barring-down, or sloping & stripping); Powdermen; Power saw ops.(Bucking & falling merchantable logs); Pumpcrete nozzlemen; Sand blasting (Dry); Sewer pipe layers; Track liners, Anchor machines, Ballast regulators, Multiple tampers, Power jacks; Tugger op.; Tunnel--Chuck tenders, Nipper & Timbermen; Vibrators (4" & larger); Water blaster | 5.90 | .45 | .50 | .25 | .02 | |
| GROUP IV<br>Tunnel miners; Tunnel powderman | 6.05 | .45 | .50 | .25 | .02 | |

AQ-1,022 P. 12

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| TRUCK DRIVERS<br>Battery remolder; Bus or man-haul driver; Concrete buggies (power operated); Dump trucks, side, end & botton dumps, incl. semi-trucks & trains or combin. thereof: 6 cu. yds. & under; Lift jitneys, fork lifts (all sizes used in loading, unloading & transporting material on job site); Loader and/or leverman on concrete dry batch plant (manually operated); Pilot car; Solo flat bed & misc. body trucks, 0-10 tons; Truck helper; Truck mechanic helper; Warehouseman (warehouse parts, tool men & parts chaser, checker & receivers); Water wagons (rated capacity); up to 1600 gals. | 6.23 | .40 | .45 | .25 | | |
| "A" frame or hydra-lift truck w/load bearing surface; Lubrication man, fuel truck driver, fireman, wash rack, steam cleaner or combin.; Team drivers | 6.28 | .40 | .45 | .25 | | |
| Dump trucks, side, end & botton dumps, incl. semi-trucks & trains or combin. thereof: over 6 cu. yds. incl. 10 cu. yds.; Slurry truck driver or leverman; Transit mix & dry or wet trucks: 5 cu. yds. & under; Fireman (full-time basis); Water wagons (rated capacity): 1600 to 3000 gals. | 6.33 | .40 | .45 | .25 | | |
| Flaherty spreader driver or leverman; Low bed equipment, flat bed semi-trailer, truck & trailer or doubles transporting equipment or wet or dry materials; Lumber carrier driver-Straddle carrier (used in loading, unloading and transporting of materials on job site); Oil distributor driver or leverman; Water wagons (rated capacity: 3000 to 5000 gals. | 6.38 | .40 | .45 | .25 | | |
| Dumpster or similar equipment, all sizes; Transit mix & wet or dry mix trucks; Over 5 cu. yds. & incl. 7 cu. yds. | 6.43 | .40 | .45 | .25 | | |
| Dump trucks, side, end & botton dumps, incl. semi trucks & trains or combin. thereof: over 10 cu. yds. & incl. 20 cu. yds.; Transit mix & dry or wet mix trucks: over 7cu. yds. & incl. 9 cu. yds.; Truck mechanic--welder--body repairman; Water wagons (rated capacity): 5000 to 7000 gals. | 6.53 | .40 | .45 | .25 | | |

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| Dump trucks, side, end & bottom dump, incl. semi-trucks & trains or combin. thereof: over 20 cu. yds. & incl. 30 cu. yds.; Transit mix & wet or dry mix trucks: over 9 cu. yds. & incl. 11 cu. yds.; Water Wagons (Rated capacity): over 7000 gals to 10,000 gals. | 6.63 | .40 | .45 | .25 | | |
| Dump trucks, side, end & bottom dump, incl. semi trucks & trains or combin. thereof: over 30 cu. yds. & incl. 40 cu. yds.; Transit mix & wet or dry mix trucks: over 11 cu. yds. and incl. 13 cu. yds.; Wager Wagons (rated capacity): over 10,000 gals. to 15,000 gals. | 6.73 | .40 | .45 | .25 | | |
| Dump trucks, side, end & bottom dump, incl. semi-trucks & trains or combin. thereof: over 40 cu. yds. & incl. 50 cu. yds.; Transit mix and wet or dry mix trucks: over 13 cu. yds. and incl. 15 cu. yds. | 6.83 | .40 | .45 | .25 | | |
| Dump trucks, side, end & bottom dump, incl. semi-trucks & trains or combin. thereof: over 50 cu. yds. & incl. 60 cu. yds. | 7.00 | .40 | .45 | .25 | | |
| Dump trucks, side, end & bottom dump, incl. semi-trucks & trains or combin. thereof: over 60 cu. yds. & incl. 70 cu. yds. | 7.10 | .40 | .45 | .25 | | |
| Dump trucks, side, end & bottom dump, incl. semi truck & trains or combin. thereof: over 70 cu. yds. and incl. 80 cu. yds. | 7.20 | .40 | .45 | .25 | | |
| Dump trucks, side, end & bottom dump, including semi trucks & trains or combin. thereof: over 80 cu. yds. & incl. 90 cu. yds. | 7.30 | .40 | .45 | .25 | | |
| Dump trucks, side, end & bottom dump, incl. semi-trucks and trains or combin. thereof: over 90 cu. yds. & incl. 100 cu. yds. | 7.40 | .40 | .45 | .25 | | |
| Drivers and Helpers (handling sacked cement add $.15 per hour). | | | | | | |
| Winch truck - takes classification of truck on which winch is mounted. | | | | | | |



| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| Dredging: | | | | | | |
| Dipper Leverman: | | | | | | |
| (a) 5 yards and under | $7.89 | .45 | .60 | .25 | | |
| (b) Over 5 yards | 8.44 | .45 | .60 | .25 | | |
| Leverman, Hydraulic | 7.20 | .45 | .60 | .25 | | |
| Assistant Engineer (Electric Generator Operator for Primary Pump; Power Barge or Dredge) | 7.18 | .45 | .60 | .25 | | |
| Assistant Engineer (Electric, Diesel, Steam or Booster Pump); Mates and Boatmen | 7.13 | .45 | .60 | .25 | | |
| Engineer Welder; Craneman | 7.08 | .45 | .60 | .25 | | |
| Fireman; Oiler | 6.74 | .45 | .60 | .25 | | |
| Assistant Mate (Deckhand) | 6.64 | .45 | .60 | .25 | | |

LINE CONSTRUCTION - OREGON d (1-1)

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| Cable Splicers Leadman Pole Sprayer | 9.10 | .25 | 1% | | 1/2% | |
| Lineman; Pole Sprayer; Heavy Line Equipment Man; Certified Lineman | | | | | | |
| Welder | 8.26 | .25 | 1% | | 1/2% | |
| Tree Trimmer | 7.50 | .25 | 1% | | 1/2% | |
| Line Equipment Man | 7.17 | .25 | 1% | | 1/2% | |
| Head Groundman (Chipper); Head Groundman; Powderman; Jackhammer Man | 6.32 | .25 | 1% | | 1/2% | |
| Groundman; Tree Trimmer Helper | 5.99 | .25 | 1% | | 1/2% | |
| Hole Digger | 5.75 | .25 | 1% | | 1/2% | |







SUPERSEDEAS DECISION

STATE: Oregon COUNTY: Multnomah
DECISION NUMBER: AQ-1,023 DATE: Date of Publication
Supersedes Decision No. AP-277 dated March 23, 1973, in 38 FR 7692.
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| BRICKLAYERS | $7.90 | .35 | .35 | | .02 | |
| CARPENTERS | 6.78 | .55 | .40 | .35 | .03 | |
| ELECTRICIANS | 8.05 | .25 | 1%+.40 | | .02 | |
| LABORERS: | | | | | | |
| Laborers | 5.60 | .45 | .50 | .25 | .02 | |
| Mortar mixers | 5.75 | .45 | .50 | .25 | .02 | |
| TILE SETTERS | 7.24 | .35 | .35 | | | |
| PAINTERS: | | | | | | |
| Brush | 7.05 | .30 | .20 | | .03 | |
| DRYWALL TAPERS | 6.93 | .40 | .40 | .35 | .03 | |
| PLUMBERS | 7.68 | .65 | .75 | | .07 | |
| ROOFERS | 7.30 | .45 | .55 | | | |
| SHEET METAL WORKERS | 6.94 | .33 | .24 | .28 | .02 | |
| SOFT FLOOR LAYERS | 7.15 | .40 | .45 | a | .05 | |
| POWER EQUIPMENT OPERATORS: | | | | | | |
| Asphalt roller | 6.96 | .45 | .60 | .25 | | |
| Blade, finish | 7.34 | .45 | .60 | .25 | | |
| Loader, 4 cu. yds. but less than 6 cu. yds. | 7.66 | .45 | .60 | .25 | | |

FOOTNOTE:
a. 4% of all gross wages to be placed to the credit of employees with less than one (1) year of service. 6% to employees with more than one (1) year of service.







XUM 38 FR 24538

AQ-25 P. 2

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| POWER EQUIPMENT OPERATORS: | | | | | | |
| Oilers, greasers, mechanics helpers | $ 6.33 | .25 | .25 | | | |
| Oiler drivers (motor truck crane) | 6.34 | .25 | .25 | | | |
| Spread oiler | 6.95 | .25 | .25 | | | |
| Conveyors and heaters; tractors 35 HP or under air compressors, pumps and welding machine operators | 6.68 | .25 | .25 | | | |
| Bulldozers and fork lift | 7.27 | .25 | .25 | | | |
| Blades, end loaders, self-propelled scrapers | 7.37 | .25 | .25 | | | |
| Concrete pumps and tractors over 35 HP; one drum hoist; straddle truck | 7.27 | .25 | .25 | | | |
| Two drum hoist; trenching machines, pile drivers, dredges, heavy duty mechanics; shovels, draglines, clamshells, orange peel; derricks, cranes; backhoe, winch truck and side boom or cat boom; locomotives; firemen used on high pressure boilers in construction work; economobile; and electric hammers and extractors | 7.62 | .25 | .25 | | | |

SUPERSEDEAS DECISION

STATE: Nebraska
DECISION NO.: AQ-25
DESCRIPTION OF WORK: Residential Construction, single family homes and garden type apartments up to and including 4 stories.
COUNTIES: Douglas and Sarpy
DATE: Date of Publication
Supersedes Decision No. AP-521 dated April 20, 1973 in 38 FR 9937

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| BRICKLAYERS, Stonemasons | $ 7.50 | .20 | .20 | .225 | | .02 |
| CARPENTERS: | | | | | | |
| Carpenters | 7.31 | .25 | .25 | .20 | | .02 |
| Piledrivermen | 7.435 | .25 | .25 | .20 | | .02 |
| Millwrights | 7.56 | .25 | .25 | | | 1/4% |
| CEMENT MASONS | 7.09 | .25 | .20 | | | .01 |
| ELECTRICIANS | 8.68 | .40 | 1% + .40 | | | |
| GLAZIERS | 6.75 | .35 | .20 | | | |
| IRONWORKERS: | | | | | | |
| Structural, Ornamental, Reinforcing | 7.00 | .25 | .20 | .20 | | .02 |
| LABORERS: | | | | | | |
| Common laborers | 5.62 | .25 | .25 | | | |
| Buggymobile operators; mortar mixers | 5.765 | .25 | .25 | | | |
| Mason tenders | 5.765 | .25 | .25 | .40 | | |
| LATHERS | 7.15 | .25 | .25 | | | |
| PAINTERS: | | | | | | |
| Brush | 6.95 | | .15 | | | |
| Paperhangers | 7.20 | | .15 | | | |
| PLASTERERS | 7.55 | .25 | .25 | | | .02 |
| PLUMBERS; Steamfitters | 8.57 | .30 | .45 | .54 | | .05 |
| ROOFERS: | | | | | | |
| Composition | 6.58 | .15 | .20 | .20 | | .01 |
| Slate; tile | 6.88 | .15 | .20 | .20 | | .01 |
| SHEET METAL WORKERS | 7.85 | .15 | | | | |
| SOFT FLOOR LAYERS | 6.80 | | | | | |
| SPRINKLER FITTERS | 8.00 | .25 | .40 | | | .05 |
| TILE SETTERS; Terrazzo workers | 6.05 | b | .10 | | | |

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.





AQ-26 P. 2

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| BUILDING CONSTRUCTION | | | | | | |
| MARBLE, TILE AND TERRAZZO WORKERS' HELPERS | 5.20 | | | | | |
| TRUCK DRIVERS: | | | | | | |
| Single axle | 5.875 | .25 | .20 | | | |
| Tandem axle | 5.95 | .25 | .20 | | | |
| Lowboy; trailer | 6.075 | .25 | .20 | | | |
| Lumber carriers | 6.25 | .25 | .20 | | | |
| DRYWALL: | | | | | | |
| Tapers & finishers | 6.60 | .35 | | .40 | | |
| Spray | 6.85 | .35 | | .40 | | |

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day;
C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Employer contributes 4% basic hourly rate for over 5 years service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit.

b. Employer agrees to provide one-half cost of a Health & Welfare Plan (one-half cost to be paid by employee) which will provide benefits at least equal to the Omaha Construction Industry Health and Welfare Plan shall pay $.20 per hour in cash.

Welders - Receive rate prescribed for craft performing operation to which welding is incidental.

SUPERSEDEAS DECISION

STATE: Nebraska
DECISION NO.: AQ-26
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and Highway Construction.
COUNTIES: Douglas and Sarpy
DATE: Date of Publication
Supersedes Decision No. AP-526 dated April 20, 1973 in 38 FR 9937

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| BUILDING CONSTRUCTION | | | | | | |
| ASBESTOS WORKERS | $ 8.045 | .25 | .25 | 4-1/2% | .01 | |
| BOILERMAKERS | 7.80 | .30 | .85 | | .02 | |
| BOILERMAKERS' HELPERS | 7.55 | .30 | .85 | | .02 | |
| BRICKLAYERS, Stonemasons | 7.50 | .25 | .20 | .225 | | |
| CARPENTERS: | | | | | | |
| Carpenters | 7.31 | .25 | .25 | .20 | .02 | |
| Piledrivermen | 7.435 | .25 | .25 | .20 | .02 | |
| Millwrights | 7.56 | .25 | .25 | .20 | .02 | |
| CEMENT MASONS | 7.09 | .25 | .20 | | 1/4% | |
| ELECTRICIANS | 8.66 | .40 | 1% + .40 | | | |
| ELEVATOR CONSTRUCTORS | 6.93 | .185 | .20 | 2% + a | | |
| ELEVATOR CONSTRUCTORS' HELPERS | 70%1R | .185 | .20 | 2% + a | | |
| ELEVATOR CONSTRUCTORS' HELPERS (PROB.) | 50%1R | | | | | |
| GLAZIERS | 6.75 | .35 | .20 | | | |
| IRONWORKERS: | | | | | | |
| Ornamental, Reinforcing, Structural | 7.00 | .25 | .20 | .20 | | |
| LABORERS: | | | | | | |
| Common laborers | 5.62 | .25 | .25 | | .02 | |
| Buggymobile operators; mortar mixers | 5.765 | .25 | .25 | | .02 | |
| Mason tenders | 5.765 | .25 | .25 | .40 | .02 | |
| LATHERS | 7.15 | .25 | .25 | | | |
| MARBLE SETTERS | 6.05 | b | .10 | | | |
| PAINTERS: | | | | | | |
| Brush | 6.95 | | .15 | | | |
| Structural steel & paperhangers | 7.20 | | .15 | | | |
| Spray; swing stage; hazardous and sandblasting | 7.45 | | .15 | | | |
| PLASTERERS | 7.55 | .25 | .25 | | .02 | |
| PLUMBERS; Steamfitters | 8.57 | .30 | .45 | .54 | .05 | |
| ROOFERS: | | | | | | |
| Composition | 6.58 | .15 | .20 | .20 | .01 | |
| Slate; tile | 6.88 | .15 | .20 | .20 | .01 | |
| SHEET METAL WORKERS | 7.85 | .15 | | | | |
| SOFT FLOOR LAYERS | 6.80 | | | | | |
| SPRINKLER FITTERS | 8.00 | .25 | .40 | | .05 | |
| TILE SETTERS; Terrazzo workers | 6.05 | b | .10 | | | |



V 38-173 SEP 7 73 XUM

AQ-26 P. 3

| BUILDING CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| POWER EQUIPMENT OPERATORS: | | | | | | |
| Oilers, greasers, mechanics helpers | 6.38 | .25 | .25 | | | |
| Oiler drivers (motor truck crane) | 6.34 | .25 | .25 | | | |
| Spread oiler | 6.95 | .25 | .25 | | | |
| Conveyors and heaters; tractors 35 HP or under, air compressors, pumps and welding machine operators | 6.68 | .25 | .25 | | | |
| Bulldozers and fork lifts | 7.27 | .25 | .25 | | | |
| Blades, end loaders, self-propelled scrapers | 7.37 | .25 | .25 | | | |
| Concrete pumps and tractors over 35 HP; one drum hoist; straddle truck | 7.27 | .25 | .25 | | | |
| Two drum hoist; trenching machines, pile drivers, dredges, heavy duty mechanics; shovels, draglines, clamshells, orange peel; derricks, cranes; backhoe, winch truck and side boom or cat boom; locomotives; firemen used on high pressure boilers in construction work; economobile; and electric hammers and extractors | 7.62 | .25 | .25 | | | |

AQ-26 P. 4

| LINE CONSTRUCTION: | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| Linemen | 7.00 | .25 | 1% + .25 | | 1/2% | |
| Cable Splicers | 7.40 | .25 | 1% + .25 | | 1/2% | |
| Truck Driver | 5.10 | .25 | 1% + .25 | | 1/2% | |
| Groundmen: | | | | | | |
| (Inexperienced) 1st 6 months | 2.43 | .25 | 1% + .25 | | 1/2% | |
| (Inexperienced) 2nd 6 months | 3.53 | .25 | 1% + .25 | | 1/2% | |
| Thereafter | 4.63 | .25 | 1% + .25 | | 1/2% | |





AQ-26 P. 5

| HEAVY & HIGHWAY CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| CARPENTERS: | | | | | | |
| Carpenters | $ 6.38 | .20 | .20 | | | |
| Piledrivermen | 6.505 | .20 | .20 | | | |
| CEMENT FINISHER | 7.03 | .25 | .25 | | | |
| IRONWORKERS: Reinforcing and Structural | 6.78 | .20 | .20 | | | |
| LABORERS: | | | | | | |
| Common Laborer | 5.25 | .25 | .20 | .10 | .02 | |
| Towboat & Dredge Deckhands | 5.35 | .25 | .20 | .10 | .02 | |
| Form Setter Helpers | 5.45 | .25 | .20 | .10 | .02 | |
| Rakers & Screedmen on Asphalt Work; Mortar Mixers; Chain Saw Operator | 5.43 | .25 | .20 | .10 | .02 | |
| Pipelayers; Concrete Saw Operator | 5.50 | .25 | .20 | .10 | .02 | |
| Form Setters & Precast Manhole Setters Inlet Builders & Manhole Setters | 5.88 | .25 | .20 | .10 | .02 | |
| POWER EQUIPMENT OPERATORS: | | | | | | |
| Oiler; Greaser; Mechanic's Helper; Spread Oiler (less than one year's experience) | 5.18 | .25 | .20 | | | |
| Oiler Driver | 5.23 | .25 | .20 | | | |
| Tractor under 35 HP; Welding Machine; Spray Machine; Form Trencher; Belt Machine; Air Compressors; Pumps | 5.88 | .25 | .20 | | | |
| Spread Oiler (after one year's experience in classification) | 5.88 | .25 | .20 | | | |
| Concrete Mixer; Concrete Pump; Hydro-Hammer | 5.78 | .25 | .20 | | | |
| Concrete Spreader; Concrete Finishing Machine; Bulldozer; Roller; Traxcavator; Fork Lift; Winch Truck; One Drum Hoist; Oil Distributor; Asphalt Roller | 6.08 | .25 | .20 | | | |
| Blade (Patrol); Scraper over 35 HP; Tournapull over 35 HP; DW-21 over 35 HP; DW-10 | 6.23 | .25 | .20 | | | |
| Two Drum Hoist; Trenching Machine; Paving Mixer; Pile Driver; Heavy Duty Mechanic & Welder; Shovel; Dragline; Clamshell; Orange Peel; Backhoe; Derrick; Crane; Locomotive; Fireman (on boilers); Laydown Machine; Two-Drum Winch Truck; Side Boom Cat; Pug Mill Operator on Asphalt Plant; Leverman on Dredge; Tugboat Operator; Gradall Operator; Rotary Well Drilling Operator; Hydrocrane Operator; Cleveland-type back Filler Operator; Self-propelled Spreader Vibrator Operator; Slip Form Power Operator; Engineer on Dredge | 6.38 | .25 | .20 | | | |

AQ-26 P. 6

| HEAVY & HIGHWAY CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| TRUCK DRIVERS: | | | | | | |
| Single Axle Trucks | 5.43 | .25 | .20 | | | |
| Tandem Axle Trucks; Power Lift Form Trucks; Euclid Trucks & Spreader Trucks | 5.49 | .25 | .20 | | | |
| Lowboys & Tractor-Trailers | 5.62 | .25 | .20 | | | |
| Lumber Carrier | 5.79 | .25 | .20 | | | |

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| CHANNEL STABILIZATION WORK INCLUDING DREDGING, BACKFILLED PILE DIKES AND REVETMENTS: | | | | | | |
| LABORERS: | | | | | | |
| Laborers & deckhands unloading barge; piledriver towboat | 3.55 | .125 | .10 | | | |
| Piledriver deckhand and piledriver leadsman | 3.75 | .125 | .10 | | | |
| POWER EQUIPMENT OPERATORS: | | | | | | |
| Boiler (or fireman); oiler | 3.80 | .125 | .10 | | | |
| Winch or boom truck; winch (power operated) | 3.90 | .125 | .10 | | | |
| Dozer; front end loader or high lift; scoop or similar equipment | 4.15 | .125 | .10 | | | |
| Engineer on dredge (12" up to 18"); mechanic or welder | 4.20 | .125 | .10 | | | |
| Piledriver (or engine man) | 4.45 | .125 | .10 | | | |
| Derrick; dragline, clam bucket, orange peel, or crane; dredge operator or leverman; engineer on dredge (18" and over); side boom; towboat operator | 4.50 | .125 | .10 | | | |







SUPERSEDEAS DECISION

STATE: Rhode Island
DECISON NO.: AQ-2008
COUNTY: Washington
DATE: Date of Publication
Supersedes Decision No. AP-485, dated March 9, 1973, in 38 FR 6626
DESCRIPTION OF WORK: Building Construction, (Excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction, and marine construction.



5-RI-1-C 1 of 3

| BUILDING CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| Asbestos workers | 8.80 | .505 | .45 | | .005 | |
| Boilermakers | 8.705 | .50 | 10% | | .01 | |
| Bricklayers and stone masons: | | | | | | |
| Westerly, Hopkington, So. Kingstown, Charlestown, Richmond, Wakefield, Peace Dale, Kingston | 8.02 | .25 | .35 | | | |
| Exeter, Johnson, No. Kingstown, Narragansett (Including the Pier of Point Judith) | 8.57 | .25 | .35 | | .01 | |
| Carpenters and soft floor layers: | | | | | | |
| North Kingston: | | | | | | |
| Carpenters, soft floor layers & pile-drivermen | 8.25 | .35 | .35 | | .01 | |
| Millwrights | 8.50 | .35 | .35 | | .01 | |
| Remainder of County: | | | | | | |
| Carpenters, soft floor layers & pile-drivermen | 8.25 | .35 | .35 | | | |
| Millwrights | 8.50 | .35 | .35 | | | |
| Cement masons: | | | | | | |
| Westerly, Hopkington, So. Kingstown, Charlestown, Richmond, Wakefield, Peace Dale, Kingston | 6.075 | .15 | .20 | | | |
| Exeter, Narragansett, No. Kingstown | 7.95 | .50 | .35 | | | |
| Gould | | | | | | |
| Electricians: | | | | | | |
| Westerly Township | 8.80 | .75 | 1⅞+.40 | | ⅛ | |
| Remainder of County | 8.40 | .38 | 1⅞+.25 | | .02 | |
| Elevator constructors | 6.87 | .17 | .185 | ½%+a | .005 | |
| Elevator constructors' helpers | 4.81 | .17 | .185 | 2½%+a | .005 | |
| Elevator Constructors' helpers (prob) | 3.435 | | | | | |
| Glaziers | 7.74 | .42 | .30 | d | .01 | |
| Ironworkers: Structural, Ornamental, & Reinforcing | 7.70 | .45 | .80+.50 | | .02 | |
| Laborers, Building: | | | | | | |
| Laborers, carpenters' tenders, cement finisher tenders, mason tenders | 6.80 | .40 | .40 | | .05 | |
| Jackhammer, paving breaker, chain saw, pipelayers, mechanical grinder, all other pneumatic tools, barco type jumping tampers | 7.05 | .40 | .40 | | .05 | |
| Plasterers' tenders | 7.05 | .40 | .40 | | .05 | |
| Powdermen blasters | 7.55 | .40 | .40 | | .05 | |
| Laborers, Wrecking: | | | | | | |
| Laborers, signalmen | 6.80 | .40 | .40 | | .05 | |
| Aizman, burner, jackhammer | 7.05 | .40 | .40 | | .05 | |

5-RI-1-C 2 of 3

| BUILDING CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| Lathers | $7.40 | .45 | .50 | | .01 | |
| Lead Burners | 8.25 | .30 | | c | .01 | |
| Line Construction: | | | | | | |
| Linemen | 7.14 | .20 | 1% | d | | |
| Driver Groundman | 5.58 | .20 | 1% | d | | |
| Groundman | 5.07 | .20 | 1% | d | | |
| Equipment Operator | 6.31 | .20 | 1% | d | | |
| Marble, Tile and Terrazzo workers: | | | | | | |
| Exeter, N. Kingstown, Narragansett, (Including the Pier of Point Judith) | 7.50 | .25 | .35 | | | |
| Marble, Tile and Terrazzo helpers | 7.23 | | .50 | | | |
| Painters: | | | | | | |
| Brush & Roller | 7.20 | .40 | .40 | | | |
| Structural steel & steam cleaning | 7.45 | .40 | .40 | | | |
| Spray and sand or water blasting | 8.20 | .40 | .40 | | | |
| Air power brush | 7.70 | .40 | .40 | | | |
| Plasterers, Exeter, Narragansett, N. Kingston | 8.15 | .50 | .35 | | | |
| Plasterers(Westerly, Hopkington, S. Kingston, Charlestown, Richmond, Wakefield and Peace Dale) | 8.02 | .25 | .35 | | | |
| | 9.17 | .35 | .35 | | | |
| Plumbers | | | | | | |
| Roofers: | | | | | | |
| Composition, waterproofers | 7.85 | .20 | .25 | | | |
| Slate, tile, precast concrete | 8.05 | .20 | .25 | | | |
| Helpers, Class "A" | 7.00 | .20 | .25 | | | |
| Helpers, Class "B" | 6.45 | .20 | .25 | | | |
| Sheet Metal workers | 8.73 | .56 | .55 | | .05 | |
| Sprinkler fitters | 9.07 | .30 | .50 | | .01 | |
| Steamfitters | 8.82 | .35 | .80 | | .03 | |
| Truck Drivers: Building | | | | | | |
| Two-axle; dumps | 5.31 | .30 | .50 | | | |
| Three-axle; trailers | 5.39 | .30 | .50 | | | |
| Low-bed trailers (24 tons & over), Trailers (I-beam), specialized earth moving equipment (Euclid type) | 5.64 | .30 | .50 | | | |
| Euclid type equipment over 35 ton capacity | 5.89 | .30 | .50 | | | |
| Welders - receive rate prescribed for craft performing operation to which welding is incidental. | | | | | | |

PAID HOLIDAYS:
A, New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F; employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.







XUM

FOOTNOTES (Cont'd):

b. Holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

c. Holidays: A through F; Bunker Hill Day, provided employee has been employed 10 working days prior to the holiday and provided employee works the scheduled work day immediately preceding and following the holiday.

d. Paid Holiday: "D".



| HEAVY, HIGHWAY AND MARINE CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| Bricklayers, stone masons, catch basin, manhole builders | $8.57 | .25 | .35 | | .01 | |
| Carpenters, piledrivermen, N. Kingstown | 8.55 | .35 | .35 | | .01 | |
| Cement masons - finishers | 6.85 | .35 | | | | |
| Electricians: | | | | | | |
| Westerly | 8.20 | .75 | 1%+40 | | .5% | |
| Remainder of County | 8.40 | .38 | 1%+.25 | | .02 | |
| Ironworkers, struc., orn., reinf. | 7.70 | .45 | .80+.50 | | .02 | |
| Laborers: | | | | | | |
| Laborers | 6.80 | .40 | .40 | .50 | .05 | |
| Adzemen, asphalt rakers, barcotype jumping tampers, chain saw operators, concrete and power buggy operators, concrete saw operators, demolition burners, fence and guard rail erectors, highway stone spreaders, mechanical grinder operators, mortar mixers, pipelayers, pipe trench bracers, pneumatic tool operators, riprap and dry storewall builders, setters of metal forms for roadways, stumper operators, tree-toppers, tree trimmers wagon drill operators, wood chipper operators | 7.05 | .40 | .40 | | .05 | |
| Air track operator | 7.30 | .40 | .40 | | .05 | |
| Blasterers and powdermen | 7.55 | .40 | .40 | | .05 | |
| Pavers, rammers and curb setters | 7.30 | .40 | .40 | | .05 | |
| Line Construction: | | | | | | |
| Linemen | 7.14 | .20 | 1% | a | | |
| Equipment operator | 6.31 | .20 | 1% | a | | |
| Groundman | 5.07 | .20 | 1% | a | | |
| Driver groundman | 5.58 | .20 | 1% | a | | |
| Painters: | | | | | | |
| Brush & roller | 7.20 | .40 | .40 | | | |
| Structural steel & steam cleaning | 7.45 | .40 | .40 | | | |
| Spray & sand or water blasting | 8.20 | .40 | .40 | | | |
| Air Power Brush | 7.70 | .40 | .40 | | | |
| Plumbers | 9.17 | .40 | .40 | | | |
| Waterproofers | 7.85 | .20 | .25 | | | |
| Welders - receive rate prescribed for craft performing operation to which welding is incidental. | | | | | | |

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F, Bunker Hill Day provided employee has been employed 10 working days prior to the holiday and provided the employee works the scheduled work day immediately preceding and following the holiday.







| BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| Digging Machines, cranes, pile drivers, lighters, locomotives, derricks, hoists pavers, and front-end loaders 3 yds. and over | $9.35 | .40 | .40 | | .05 | |
| Economobile type equipment | 9.10 | .40 | .40 | | .05 | |
| Fork lift | 8.85 | .40 | .40 | | .05 | |
| Firemen and Oilers | 7.45 | .40 | .40 | | .05 | |
| Bulldozers, graders, spreaders, tractors, scrapers, rollers and front-end loaders less than 3 yds. | 8.00 | .40 | .40 | | .05 | |
| Rippin type backhoes | 8.30 | .40 | .40 | | .05 | |
| Maintenance Engineers | 7.90 | .40 | .40 | | .05 | |
| Well-point Installation | 8.05 | .40 | .40 | | .05 | |
| Gas or electric driven pumps, heater, concrete mixers, stone crushers, air compressors, welding machines and generators for light plants | 8.20 | .40 | .40 | | .05 | |



| BRIDGE (Incidental to Highway) and HIGHWAY CONSTRUCTION POWER EQUIPMENT OPERATOR | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| Digging machines, cranes, piledrivers, lighters, locomotives, derricks, hoists, pavers and front-end loaders 3 to 4 yds. and economobile & fuss carriers | $9.15 | .40 | .40 | | | |
| Fork lifts | 8.35 | .40 | .40 | | | |
| Firemen | 7.75 | .40 | .40 | | | |
| Oilers and apprentices | 6.90 | .40 | .40 | | | |
| Bulldozers, spreaders, rollers and front-end loaders, less than 3 yds., tractors | 7.65 | .40 | .40 | | | |
| Scrapers and graders & dozer operators | 7.775 | .40 | .40 | | | |
| Rippin type backhoe operator | 8.00 | .40 | .40 | | | |
| Maintenance engineers | 7.50 | .40 | .40 | | | |
| Gas and electric driven heaters, pumps, concrete mixers, stone crushers, air compressors, light plants and welding machines and concrete pumps | 7.775 | .40 | .40 | | | |
| Test boring machine operators | 6.625 | .40 | .40 | | | |
| Well point installation crews | 7.60 | .40 | .40 | | | |
| Operators of truck cranes with booms of 130 to 150 feet | 9.65 | .40 | .40 | | | |
| over 150 feet | 9.90 | .40 | .40 | | | |
| Operators of car cranes with booms of 130 to 180 feet | 9.65 | .40 | .40 | | | |
| over 180 feet | 9.90 | .40 | .40 | | | |

AQ- 2008 P. 7

FR-1-PEO-2-4- 0

| BRIDGES, CAISSONS, DOCKS, MARINE, PIERS, SUBBASEMENTS, SUBTERRANEAN, TUNNELS, & HEAVY CONSTRUCTION POWER EQUIPMENT OPERATORS | Basic Hourly Rate | FRINGE BENEFITS PAYMENTS H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| Dragging Machines, cranes, pile drivers, lighters, locomotives, derricks, hoists, pavers and front end loaders 3 yds. and over | $10.05 | .40 | .40 | | .05 | |
| Firemen and Oilers | 8.05 | .40 | .40 | | .05 | |
| Bulldozers, graders, spreaders, scrapers, rollers and front-end loaders less than 3 yds | 8.65 | .40 | .40 | | .05 | |
| Maintenance Engineers | 8.35 | .40 | .40 | | .05 | |
| Well-point Installation Crews | 8.85 | .40 | .40 | | .05 | |
| Gas or electric driven pumps, heaters, concrete mixers, stone crushers, air compressors, welding machines and generators for light plants | 8.65 | .40 | .40 | | .05 | |
| Boat and Tug Operators | 10.05 | .40 | .40 | | .05 | |
| Apprentices (Deckhands) | 8.15 | .40 | .40 | | .05 | |

AQ-2005 P. 5

| HEAVY & HIGHWAY CONSTRUCTION | BASIC HOURLY RATES | FRINGE BENEFITS PAYMENTS H & W | PENSIONS | VACATION | APP. TR | OTHER |
|---|---|---|---|---|---|---|
| Truck Drivers: | | | | | | |
| 2 axle - | $3.97 | .24 | .35 | a+b | | |
| 3-axle, Ready Mix Equipment | 4.02 | .24 | .35 | a+b | | |
| 4-5 axle Dump | 4.12 | .24 | .35 | a+c | | |
| Low bed trailer equipment-specialized earth moving equipment other than conventional type | 4.22 | .24 | .35 | a+b | | |
| Helpers on low bed | 3.97 | .24 | .25 | a+b | | |

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Holidays: A through F, Columbus Day, Veterans Day provided employee has worked at least two days in the calendar week in which the holiday falls.

b. Employee who has been on payroll for 1 year or more but less than 5 years and has worked 150 days during the last year of employment shall receive 1 weeks vacation; 5 years or more - 2 weeks vacation.

NOTICES



SUPERSEDEAS DECISION

STATE: Washington
COUNTY: Statewide
DECISION No. AQ-1,021
DATE: Date of Publication
Supersedes Decision Number AP-283 dates April 6, 1973, in 38 FR 8920.
DESCRIPTION OF WORK: Building construction (excluding single family homes and garden type apartments, up to and including 4 stories), heavy and highway construction and dredging

AQ-1,021 P. 2

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| ASBESTOS WORKERS | | | | | | |
| Chelan, Clallam, Douglas, Grays Harbor, Island, Jefferson, King, Kitsap, Kittitas, Lewis, Mason, Okanogan, Pacific (northern part), Pierce, San Juan, Skagit, Snohomish, Thurston, Whatcom and Yakima Counties | 8.27 | .25 | .30 | | | |
| Clark, Cowlitz, Klickitat, Pacific (southern part), Skamania & Wahkiakum Counties | 7.85 | .35 | .60 | | .06 | |
| Remaining Counties | 7.96 | .44 | .72 | | | |
| BOILERMAKERS | 7.45 | .60 | 1.00 | .50 | .02 | |
| BRICKLAYERS | | | | | | |
| Chelan, Douglas & Okanogan (Except area of Grand Coulee Dam) | 7.05 | .35 | | | | |
| Kittitas and Yakima Counties | 7.00 | .35 | .40 | | | |
| Clallam, Island, Jefferson, King, Kitsap, Snohomish & Skagit (south of the Cities of Burlington, Sedro-Woolley & Concrete) Counties | 7.78 | .40 | .35 | | .02 | |
| Grays Harbor County | 6.50 | | .35 | | | |
| Pierce County | 7.94 | .40 | .35 | | .02 | |
| Lewis, Mason & Thurston Counties | 7.15 | .40 | .30 | | | |
| San Juan, Skagit (including Cities of Burlington, Sedro-Woolley, Concrete and north thereof), & Whatcom Counties | 7.75 | .40 | .45 | | | |
| Adams (except City of Othello), Asotin, Columbia, Ferry, Garfield, Lincoln, Pend Oreille, Spokane, Stevens & Whitman Counties, Grand Coulee Dam area in Okanogan County | 8.15 | .30 | | | | |
| City of Othello in Adams County, Benton, Franklin, Grant & Walla Walla Counties | 7.85 | .30 | | | | |
| Clark, Cowlitz, Klickitat, Pacific (southern part), Skamania & Wahkiakum Counties | 7.40 | .35 | .35 | | .02 | |
| CARPENTERS | | | | | | |
| All Counties and parts of counties east of the 120th Meridian | | | | | | |
| Carpenters | 7.39 | .50 | .50 | | .035 | |
| Piledriver; Floor Layers; Floor Finishers; Floor Sanders; Saw Filers; Stationary Power Woodworking Tool Operator | 7.54 | .50 | .50 | | .035 | |
| Shingler (wood or composition) | 7.59 | .50 | .50 | | .035 | |
| Millwrights; Boom Men; Machine Erector; Carpenters (creosoted material) | 7.64 | .50 | .50 | | .035 | |
| Piledriver (creosoted material) | 7.79 | .50 | .50 | | .035 | |
| CARPENTERS (Cont'd) | | | | | | |
| All Counties and parts of Counties west of the 120th Meridian except Clark, Cowlitz, Klickitat, Pacific (southern part), Skamania and Wahkiakum Counties | | | | | | |
| Carpenters | $7.30 | .50 | .60 | | .01 | |
| Carpenters on creosoted material | 7.40 | .50 | .60 | | .01 | |
| Sawfilers; Stationary Power Saw; Floor Finisher; Floor Layer; Shingles; Floor Sander; & other Stationary Power Woodworking tools | 7.43 | .50 | .60 | | .01 | |
| Millwrights and Machine Erectors; Piledrivers; Bridge, Dock & Wharf Builders | 7.45 | .50 | .60 | | .01 | |
| Acoustical Workers | 7.46 | .50 | .60 | | .01 | |
| Boommen | 7.50 | .50 | .60 | | .01 | |
| Clark, Cowlitz, Klickitat, Pacific (southern part), Skamania and Wahkiakum Counties | | | | | | |
| Carpenters; Form Stripper; Manhole Builders; Acoustical & Drywall Applicators | 6.78 | .55 | .40 | .35 | .03 | |
| Piledrivermen, Bridge, Dock & Wharf Builders | 6.88 | .55 | .40 | .35 | .03 | |
| Floor Layers; Floor Finishers; Stationary Power Saw Operator | 6.91 | .55 | .40 | .35 | .03 | |
| Boomman | 6.98 | .55 | .40 | .35 | .03 | |
| Millwrights; Machine Erectors | 7.03 | .55 | .40 | .35 | .03 | |
| CEMENT MASONS | | | | | | |
| Lewis, Pierce, Thurston and the City of Auburn in King County | 7.20 | .40 | .50 | | .02 | |
| King (except the City of Auburn), portion of Kittitas County lying one mile west of the City of Easton, Clallam, Grays Harbor, Island, Jefferson, Kitsap, Mason, San Juan, Skagit, Snohomish, Whatcom & Pacific (northern part) Counties | 6.79 | .55 | .50 | | | |
| Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman, Yakima & Kittitas (except for western portion lying one mile west of City of Easton) Counties | 6.90 | .40 | .40 | | .02 | |

NOTICES



MUM 38 7 SEP 1973

AO-1.021 P. 3

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| ELEVATOR CONSTRUCTORS (Cont'd) | | | | | | |
| Adams, Asotin, Benton, Columbia, Franklin, Garfield, Kittitas, Kittitas, Klickitat, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla and Whitman Counties | | | | | | |
| Elevator Constructors | $7.66 | .345 | .23 | 2%+a | | |
| Elevator Constructors' Helpers | 70%JR | .345 | .23 | 2%+a | | |
| Elevator Constructors' Helpers (Prob.) | 50%JR | | | | | |
| Clark, Cowlitz, Klickitat, Pacific, (southern part), Skamania and Wahkiakum Counties | | | | | | |
| Elevator Constructors | 7.12 | .345 | .23 | 2%+a | | |
| Elevator Constructors' Helpers | 70%JR | .345 | .23 | 2%+a | | |
| Elevator Constructors' Helpers (Prob.) | 50%JR | | | | | |
| IRONWORKERS | | | | | | |
| Bridge, Structural; Fence erector; Ornamental; Riggers; Signalmen | 7.31 | .48 | .65 | .25 | .05 | |
| Reinforcing; Structural; Pence erectors; Ornamental; Riggers and signalmen | 7.56 | .48 | .65 | | .05 | |
| Clark, Cowlitz, Klickitat, Pacific, (southern part), Skamania and Wahkiakum Counties | | | | | | |
| Reinforcing; Structural; Fence erector; Ornamental; Riggers; Signalmen | 7.31 | .48 | .65 | .25 | .05 | |
| GLAZIERS | | | | | | |
| Island, King, Kitsap, Pacific (southern part), Snohomish, Clallam, Grays Harbor, Jefferson, Lewis, Mason, Pierce, San Juan, Skagit, Thurston and Whatcom Cos. | 6.85 | .22 | .35 | b | | |
| Clark, Cowlitz, Klickitat, Pacific, (southern part), Skamania and Wahkiakum Counties | 7.20 | .26 | .30 | 6.5% | .01 | |
| Adams, Asotin, Franklin, Columbia and Southeastern portion of Adams Cos. | 6.20 | .25 | .10 | e+.27 | | |
| Spokane, Ferry, Stevens, Pend Oreille, Eastern half of Lincoln, & Northern ½ of Adams counties | 6.345 | .25 | | f+.28 | | |
| Okanogan, Chelan, Douglas, Grant, Western half of Ferry and Lincoln, and the Southwestern Corner of Adams Counties | 5.95 | .21 | .15 | .21 | | |
| LATHERS | | | | | | |
| Clallam, Island, Jefferson, King, Kitsap, Pacific (northern part), San Juan, Skagit, Snohomish and Whatcom Counties | 7.50 | .40 | | | | |
| Adams, Asotin, Benton, Chelan, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla and Whitman Counties | 7.00 | .40 | | | | |

AO-1.021 P. 4

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| GERMANT MASONS (Cont'd) | | | | | | |
| Clark, Cowlitz, Klickitat, Pacific (southern part), Skamania and Wahkiakum Counties | $8.91 | .35 | .35 | | .01 | |
| ELECTRICIANS | | | | | | |
| Clallam, Jefferson, King & Kitsap Counties | | | | | | |
| Electricians | 8.435 | .25 | 1% | | .02 | |
| Cable Splicers | 9.28 | .25 | 1% | | .02 | |
| Grays Harbor, Lewis, Mason, Pierce, Pacific & Thurston Counties | | | | | | |
| Electricians | 7.66 | .35 | 1% + .40 | 4% | .04 | |
| Cable Splicers | 8.38 | .35 | 1% + .40 | 4% | .04 | |
| Island, San Juan, Skagit, Snohomish & Whatcom Counties | | | | | | |
| Electricians | 8.465 | .25 | 1% | | .01 | |
| Cable Splicers | 9.29 | .25 | 1% | | .01 | |
| Chelan, Douglas, Grant & Okanogan Counties | | | | | | |
| Electricians | 7.93 | .35 | 1% | | .02 | |
| Cable Splicers | 8.33 | .35 | 1% | | .02 | |
| Adams, Asotin, Columbia, Franklin, Garfield, Kittitas, Walla Walla & Yakima Counties | | | | | | |
| Electricians | 8.05 | .35 | 1%+.40 | | .02 | |
| Cable Splicers | 8.485 | .35 | 1%+.40 | | .02 | |
| Clark, Klickitat and Skamania Cos. | | | | | | |
| Electricians | 8.05 | .25 | 1% + .40 | | .02 | |
| Cable Splicers | 8.70 | .25 | 1% + .40 | | .02 | |
| Cowlitz and Wahkiakum Counties | | | | | | |
| Electricians | 8.65 | .25 | 1% | | .02 | |
| Cable Splicers | 9.515 | .25 | 1% | | .02 | |
| Adams, Ferry, Lincoln, Pend Oreille, Spokane, Stevens & Whitman Counties | | | | | | |
| Electricians | 8.05 | .35 | 1% + .40 | | .02 | |
| Cable Splicers | 8.08 | .35 | 1% + .40 | | .02 | |
| ELEVATOR CONSTRUCTORS | | | | | | |
| Chelan, Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Mason, Pacific, San Juan, Skagit, Skamania, Snohomish, Thurston, Wahkiakum, Whatcom and Yakima Counties | | | | | | |
| Elevator Constructors | 7.965 | .345 | .23 | 2% + a | | |
| Elevator Constructors' Helpers | 70%JR | .345 | .23 | 2% + a | | |
| Elevator Constructors' Helpers (Prob.) | 50%JR | | | | | |





AO-1.021 P. 5

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| LATHERS (Cont'd) | | | | | | |
| Clark, Cowlitz, Klickitat, Pacific (southern part), Skamania and Wahkiakum Counties | 6.60 | .15 | | | .01 | |
| MARBLE MASONS | | | | | | |
| Adams (except city of Othello), Asotin, Columbia, Ferry, Garfield, Lincoln, Pend Oreille, Spokane, Stevens and Whitman Counties | 8.15 | .30 | | | | |
| City of Othello in Adams County, Benton, Franklin, Grant and Walla Walla Counties | 7.85 | .30 | | | | |
| MARBLE MASONS | | | | | | |
| Chelan, Douglas & Okanogan (except area of Grand Coulee Dam) | 7.05 | .35 | | | | |
| Clallam, Island, Jefferson, King, Kitsap, Snohomish & Skagit (south of the Cities of Burlington, Sedro-Woolley and Concrete) Counties | 7.78 | .40 | .35 | | .02 | |
| Grays Harbor, Pierce & Pacific (southern part) Counties | 7.63 | .40 | .30 | | .02 | |
| Lewis, Mason and Thurston Counties | 7.15 | .40 | .30 | | | |
| San Juan, Skagit (including the Cities of Burlington, Sedro-Woolley, Concrete & north thereof) & Whatcom Counties | 7.50 | .35 | .25 | | | |
| Clark, Cowlitz, Klickitat, Pacific (southern part), Skamania and Wahkiakum Counties | 7.40 | .35 | .35 | | .02 | |
| MARBLE, TILE AND TERRAZZO WORKERS HELPERS | | | | | | |
| All Counties east of the Cascade Mountain Range in Washington Remaining Counties west of the Cascade Mountain Range | 6.20 | | | | | |
| PAINTERS | 6.60 | .40 | | | | |
| Adams, Asotin, Benton, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla and Whitman Counties | | | | | | |
| Brush | 6.67 | .21 | .45 | | .01 | |
| Drywall Taper | 6.92 | .21 | .45 | | .01 | |
| Steel; Spray; Sandblasters; Steam Cleaning; Roller over 9" or 10" handle | 7.02 | .21 | .45 | | .01 | |
| Swing Stage Work or High Rate (over 30') | 7.07 | .21 | .45 | | .01 | |
| Bituminatics; Bridge; Tanks on legs; Tower; Stacks; Steeples | 7.42 | .21 | .45 | | .01 | |

AO-1.021 P. 6

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| PAINTERS (Cont'd) | | | | | | |
| Chelan, Douglas, Kittitas, Okanogan and Yakima Counties | 6.29 | .21 | .35 | | .01 | |
| Brush | | | | | | |
| Spray; Steel; Roller 9" or 10" handles; Finish Drywall Taper; Steam Cleaning | 6.54 | .21 | .35 | | .01 | |
| Swing Stage over 30' high | 6.64 | .21 | .35 | | .01 | |
| Bituminatic; Bridges; Towers; Tanks on legs; Steeples; Stacks; Sand Blasting | 6.69 | .21 | .35 | | .01 | |
| Clallam County | | | | | | |
| Brush | 5.68 | | | | | |
| Tapers | 5.78 | | | | | |
| Spray; Structural Steel | 5.88 | | | | | |
| Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Mason, Pierce, San Juan, Skagit, Snohomish, Thurston, Pacific (northern part) and Whatcom Counties | | | | | | |
| Brush; Tapers | 7.37 | .40 | .27 | | .02 | |
| Spray; Structural Steel; Bridge; Sandblasting; Stacks; Steam Cleaning; Steeples; Swing Stage; Tanks on legs; Tower; Toxic material | 7.62 | .40 | .27 | | .02 | |
| Clark, Cowlitz, Klickitat, Pacific (southern part), Skamania and Wahkiakum Counties | | | | | | |
| Brush | 7.05 | .30 | .20 | | .03 | |
| Spray | 7.90 | .30 | .20 | | .03 | |
| High Work over 100' | 7.55 | .30 | .20 | | .03 | |
| High Towers, ground to 100' | 7.20 | .30 | .20 | .35 | .03 | |
| Drywall Tapers | 6.93 | .40 | .40 | | .03 | |
| PLASTERERS | | | | | | |
| Clallam, Island, Jefferson, King (except the City of Kent), Kitsap, Skagit, San Juan, Snohomish, & Pacific (northern part) Counties | 7.56 | .45 | .50 | | .02 | |
| Chelan, Douglas, Kittitas, Okanogan and Yakima Counties | 6.80 | .40 | | | | |
| Grays Harbor, King (City of Kent), Lewis, Mason, Pierce and Thurston Counties | 6.75 | .40 | .25 | | .02 | |
| Clark, Cowlitz, Klickitat, Pacific (southern part), Skamania and Wahkiakum Counties | 7.35 | .30 | .60 | | .01 | |



V 38 173 SEP 7 73 XUM

AQ-1,021 P. 8

| | Basic Hourly Rates | Fringe Benefits Payments H&W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| ROOFERS (Cont'd) | | | | | | |
| Adams, Asotin, Benton, Columbia, Jefferson, King, Kitsap, Kittitas, Klickitat, Lewis, Mason, Pacific, Pierce, Skagit, Skamania, Snohomish, Thurston and Whatcom Counties | $ 7.55 | | .20 | | | |
| Roofers; Kettlemen; Waterproofers | | | .20 | | | |
| SHEET METAL WORKERS | | | | | | |
| King County | 8.47 | | .27 | .30 | .42 | .04 |
| Island and Snohomish Counties | 7.90 | | .32 | .40 | | .03 |
| Benton, Franklin, Kittitas, Klickitat and Yakima Counties | 7.65 | | .32 | .50 | .50 | |
| Adams, Asotin, Columbia, Ferry, Lincoln, Pend Oreille, Spokane, Stevens & Whitman Counties | 7.65 | | .32 | .50 | .50 | |
| Walla Walla, Columbia & Garfield Counties | 7.65 | | .32 | .50 | .50 | |
| Cowlitz, Grays Harbor, Lewis, Pacific (northern part), Pierce, Thurston & Wahkiakum Counties | 7.79 | | .32 | .45 | .47 | .02 |
| San Juan, Skagit and Whatcom Counties | 7.92 | | .32 | .40 | .40 | .02 |
| Clark, Pacific (southern part) & Skamania Counties | 6.94 | | .33 | .24 | .28 | .02 |
| Clallam, Jefferson, Kitsap & Mason Counties | 7.97 | | .32 | .40 | .35 | .04 |
| SOFT FLOOR LAYERS | | | | | | |
| Adams, Asotin, Benton, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla and Whitman Counties | 6.42 | | .21 | .25 | | .03 |
| Grays Harbor, Mason, Pacific (northern part), Pierce and Thurston Counties | 7.59 | | .36 | .45 | | .05 |
| King, Kitsap, Snohomish Counties | 7.65 | | .36 | .45 | | |
| Clallam, Island, Jefferson, Lewis, San Juan, Skagit and Whatcom Counties | 7.03 | | .30 | .45 | | |
| Clark, Cowlitz, Klickitat, Pacific (southern part), Skamania and Wahkiakum Counties | 7.15 | | .40 | .45 | c | .05 |
| Chelan, Douglas, Kittitas, Okanogan and Yakima Counties | 6.42 | | .16 | .25 | d | |
| SPRINKLER FITTERS | | | | | | |
| Statewide (except Island, King, Kitsap, Pierce, Skagit, Snohomish and Thurston Counties) | 7.95 | | .25 | .40 | | .04 |



AQ-1,021 P. 7

| | Basic Hourly Rates | Fringe Benefits Payments H&W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| PLASTERERS (Cont'd) | | | | | | |
| Adams, Asotin, Benton, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla and Whitman Counties | 7.50 | .40 | | | | |
| PLASTERERS' TENDERS | | | | | | |
| Adams, Asotin, Benton, Columbia, Ferry, Franklin, Garfield, Grant, Lincoln, Pend Oreille, Spokane, Stevens, Walla Walla and Whitman Counties | 5.25 | .25 | .25 | | | .02 |
| PLUMBERS | | | | | | |
| Statewide (except Clallam, Clark, Jefferson & King Co's., and Chelan, Douglas and Okanogan Co's. west of the 119° 30 Min. and Kittitas County north of the 47° 15 Min. Latitude) | 7.52 | .26 | .85 | .47 | | .08 |
| Clark County | 7.36 | .59 | .66 | | | .07 |
| Clallam, Jefferson & King Counties and Chelan, Douglas and Okanogan Counties west of the 119° 30 min. and Kittitas County north of the 47° 15 min. latitude | 7.59 | .47 | .85 | .60 | | .06 |
| ROOFERS | | | | | | |
| Kittitas, Franklin, Columbia, Klickitat, Garfield and Walla Wa. | 6.15 | .20 | | | | |
| Roofers; Kettlemen | 6.80 | .20 | | | | |
| Irritable Bituminous Material; Spray (Tar, Asphalt, Gravel, Ferry, Grant, Adams, Chelan, Okanogan, Pend Oreille, Spokane, Stevens & Whitman Counties | 6.20 | .30 | .15 | .50 | | |
| Asotin and Garfield Counties | 6.65 | | | | | |
| Cowlitz, Northern part of Pacific, and Wahkiakum Counties | 6.68 | .20 | .20 | | | |
| Roofers; Kettlemen; Waterproofers | 6.93 | .20 | .20 | | | |
| Slate and Tile | | | | | | |
| Clark, Southern part of Pacific and Skamania Counties | 7.30 | .45 | .55 | | | |
| Roofers | 7.80 | .45 | .55 | | | |
| Handling of irritating material (coal tar or expoxy) | | | | | | |
| In confined areas and handling of irritating materials (coal tar or expoxy) | 8.05 | .45 | .55 | | | |





AQ-1,021 P. 10

| | Basic Hourly Rates | Fringe Benefits Payments H&W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| TILE SETTERS (Cont'd) | | | | | | |
| City of Othello in Adams County, Benton, Franklin, Grant & Walla Walla Counties | $ 7.18 | .30 | | | | |
| Kittitas and Yakima Counties | 6.75 | .25 | .25 | | | |
| Chelan, Douglas, Okanogan (except area of Grant County Dam) | 7.05 | .35 | | | | |
| Clark, Cowlitz, Klickitat, Pacific (southern part), Skamania and Wahkiakum Counties | 6.55 | .25 | .24 | | | |

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Employer contributes 2% of basic hourly rate for 5 years' service and 2% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit.
b. Six Paid Holidays: A through F.
c. Two weeks vacation with pay after 1 year of employment. Also seven paid Holidays.
d. 4% of gross wages paid by the employer to the credit of the employee with less than one year's service. 6% of all gross wages to be placed to the credit of the employee with more than one year of service.
e. All employees who have completed 1400 compensable hours of employment with one employer in a year of employment shall receive one week's vacation with full pay; pro-rata vacation shall accrue in accordance with the ratio of hours worked in one year of employment divided by 1800 hours multiplied by the one week's full pay.
f. Employer contribution of 14 cents per hour for paid holidays.
g. Employer contribution of 14½ cents per hour for paid holidays.

AQ-1,021 P. 9

| | Basic Hourly Rates | Fringe Benefits Payments H&W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| SPRINKLER FITTERS (Cont'd) | | | | | | |
| Island, King, Kitsap, Pierce, Skagit, Snohomish & Thurston Counties | $ 8.75 | .30 | .50 | | .06 | |
| TERRAZZO WORKERS | | | | | | |
| Clallam, Island, Jefferson, King, Kitsap, Skagit (south of the cities of Burlington, Mount Vernon and Concrete) & Snohomish Counties | 8.00 | .40 | .35 | | | |
| San Juan, Skagit (excluding cities of Burlington, Mount Vernon and Concrete) & Whatcom Counties | 7.50 | .35 | .25 | | | |
| Lewis, Mason & Thurston Counties | 7.15 | .40 | .30 | | | |
| Grays Harbor, Pierce & Pacific (northern part) Counties | 7.63 | .40 | .30 | | .02 | |
| Adams (except town of Othello), Asotin, Columbia, Ferry, Garfield, Lincoln, Pend Oreille, Spokane, Stevens, Whitman & Grand Coulee Dam Area | 8.31 | .30 | | | | |
| City of Othello in Adams County, Benton, Franklin, Grant & Walla Walla Counties | 7.18 | .30 | | | | |
| Chelan, Douglas, Okanogan (except area of Grand Coulee Dam) | 7.05 | .35 | | | | |
| Clark, Cowlitz, Klickitat, Pacific (southern part), Skamania and Wahkiakum Counties | 6.55 | .25 | .24 | | | |
| TILE SETTERS | | | | | | |
| Clallam, Island, Jefferson, King, Kitsap, Skagit (south of the cities of Burlington, Mount Vernon and Concrete) & Snohomish Counties | 8.00 | .40 | .35 | | .04 | |
| San Juan, Skagit (excluding cities of Burlington, Mount Vernon and Concrete) & Whatcom Counties | 7.50 | .35 | .25 | | | |
| Lewis, Mason & Thurston Counties | 7.15 | .40 | .30 | | | |
| Grays Harbor, Pierce & Pacific (northern part) Counties | 7.63 | .40 | .30 | | .02 | |
| Adams (except town of Othello), Asotin, Columbia, Ferry, Garfield, Lincoln, Pend Oreille, Spokane, Stevens, Whitman & Grand Coulee Dam Area | 8.21 | .30 | | | | |



V 38 173 SEP 7 73 XUM

East of the 120th Meridian

| DREDGING | BASIC HOURLY RATES | FRINGE BENEFITS PAYMENTS H & W | PENSIONS | VACATION | APP. TR. | OTHERS |
|---|---|---|---|---|---|---|
| LEVERMAN DIPPER: | | | | | | |
| (a) 5 yards and under | $8.29 | .45 | .45 | | | |
| (b) Over 5 yards | 8.84 | .45 | .45 | | | |
| LEVERMAN, HYDRAULIC | 7.90 | .45 | .45 | | | |
| ASSISTANT ENGINEER (Electric Generator Operator for Primary Pump, Power Barge or Dredge) | 7.58 | .45 | .45 | | | |
| ENGINEER WELDER; CRANEMAN | 7.53 | .45 | .45 | | | |
| ASSISTANT ENGINEER (Electric, Diesel, Steam or Booster Pump); Mates and Boatmen | 7.48 | .45 | .45 | | | |
| FIREMAN; OILER | 7.14 | .45 | .45 | | | |
| ASSISTANT MATE (Deckhand) | 7.04 | .45 | .45 | | | |

West of the 120th Meridian and Pacific County(Northern Part)

| DREDGING | BASIC HOURLY RATES | FRINGE BENEFITS PAYMENTS H & W | PENSIONS | VACATION | APP. TR. | OTHERS |
|---|---|---|---|---|---|---|
| DIPPER LEVERMAN: | | | | | | |
| (a) Over 5 yards | $8.64 | .45 | .65 | | | |
| (b) 5 yards and under | 8.09 | .45 | .65 | | | |
| HYDRAULIC LEVERMAN | 7.70 | .45 | .65 | | | |
| ASSISTANT ENGINEER (Electric, Generator Operator for Primary Pump, Power Barge or Dredge) | 7.38 | .45 | .65 | | | |
| ENGINEER WELDER; CRANEMAN | 7.33 | .45 | .65 | | | |
| ASSISTANT ENGINEER (Electric, Diesel, Steam or Booster Pump); Mates and Boatmen | 7.28 | .45 | .65 | | | |
| FIREMAN; OILER | 6.94 | .45 | .65 | | | |
| ASSISTANT MATE (Deckhand) | 6.84 | .45 | .65 | | | |



Clark, Cowlitz, Klickitat, southern half of Pacific, Skamania and Wahkiakum Counties

| DREDGING | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| Dipper Leverman: | | | | | | |
| (a) 5 yards and under | $7.89 | .45 | .60 | .25 | | |
| (b) Over 5 yards | 8.44 | .45 | .60 | .25 | | |
| Leverman, Hydraulic | 7.50 | .45 | .60 | .25 | | |
| Assistant Engineer (Electric Generator Operator for Primary Pump; Power Barge or Dredge) | 7.18 | .45 | .60 | .25 | | |
| Assistant Engineer (Electric, Diesel, Steam or Booster Pump); Mates and Boatmen | 7.13 | .45 | .60 | .25 | | |
| Engineer Welder; Craneman | 7.08 | .45 | .60 | .25 | | |
| Fireman; Oiler | 6.74 | .45 | .60 | .25 | | |
| Assistant Mate (Deckhand) | 6.64 | .45 | .60 | .25 | | |

LINE CONSTRUCTION - WASHINGTON - e (1-1)

| Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|
| Cable Splicers Leadman Pole Sprayer | $9.10 | .25 | 1% | | ½% |
| Lineman; Pole Sprayer; Heavy Line Equipment Man; Certified Lineman Welder | 8.25 | .25 | 1% | | ½% |
| Tree Trimmer | 7.50 | .25 | 1% | | ½% |
| Line Equipment Man | 7.17 | .25 | 1% | | ½% |
| Head Groundman (Chipper); Head Groundman; Powderman; Jackhammer Man | 6.32 | .25 | 1% | | ½% |
| Groundman; Tree Trimmer Helper | 5.99 | .25 | 1% | | ½% |
| Hole Digger | 5.75 | .25 | 1% | | ½% |





All Counties and parts of Counties East of the 120th Meridian

| LABORERS | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| Group I | | | | | | |
| Carpenters tender; Concrete crewman; Concrete signalman; Crusher feeder; Demolition; Driller helper, Dumpman; Fence erector; General Laborer; Grout machine header tender; Nipper; Riprap man; Scaleman; Stake jumper; Structural mover; Tailhoseman (water nozzle); Track laborer (RR); Truck loader; Timber bucker and faller; Window cleaner; Brush Hog Feeder | $5.80 | .35 | .55 | | .02 | |
| Group II | | | | | | |
| Cement finisher tender; Cement handler; Demolition torch; Dope pot fireman, nonmechanical; Form cleaning machine, feeder, stacker; Form setter, paving; Grade checker using level, optional; Nozzleman, water & air or steam; Pipe layer, currugated metal culvert; Pipe-wrapper; Pot tender; Powderman helper; Power tool op., gas, electric, pneumatic Railroad equipment, power driven; Rodder & spreader; Sandblast tailhoseman; Scaffold erector, wood or steel; Vibrator up to 4"; Wall-point man; Wheelbarrow, power driven | 5.95 | .35 | .55 | | .02 | |
| Group III | | | | | | |
| Asphalt raker; Asphalt roller, walking; Chain saw op. w/attachments; Concrete saw, walking; Creosote material; High scaler; Jackhammer op.; Multi-section pipelayer; Nozzleman; Pavement breaker; Tamper; Trencher; shawnee; Vibrator, 4" & over; Wagon drills; Water pipe liner | 6.05 | .35 | .55 | | .02 | |
| Group IV | | | | | | |
| Chain Saw (faller); Pipelayer (Caulker, collarman, jointer, mortarman, rigger, jacker, shorer & lagger and laser beam but not incl. laying corrugated metal culvert pipe) | 6.10 | .35 | .55 | | .02 | |
| Group V | | | | | | |
| Concrete stack, Hod carriers; Mortar mixer; Vibrator, 4 inches and over | 6.15 | .35 | .55 | | .02 | |



| Laborers (cont'd): | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| GROUP VI | | | | | | |
| Caisson worker, free air; High Scaler | $6.20 | .35 | .55 | | .02 | |
| GROUP VII | | | | | | |
| Brush machine; Drills, Gunnite; Monitor op., Air Track or similar mounting; Nozzleman | 6.25 | .35 | .55 | | .02 | |
| GROUP VIII | | | | | | |
| Air track drills with dual masts and drills; Powderman | 6.45 | .35 | .55 | | .02 | |
| TUNNEL & SHAFT, FREE AIR | | | | | | |
| GROUP IX | | | | | | |
| Class A: | | | | | | |
| Bull gang, pump crete crewman incl. distributing pipe, assembling & dismantle and nipper | 5.85 | .35 | .55 | | .02 | |
| Class B: | | | | | | |
| Brakeman, dumpman | 5.90 | .35 | .55 | | .02 | |
| Class C: | | | | | | |
| Miner & nozzleman for concrete and laser beam op. on tunnels | 6.30 | .35 | .55 | | .02 | |
| Class D: | | | | | | |
| Raise & shaft miner and laser beam op. on raises and shafts | 6.35 | .35 | .55 | | .02 | |
| GROUP X | | | | | | |
| Sand Hogs (Under compressed air conditions): | | | | | | |
| 1 lb thru 14 lbs - 6 hrs. work | $8.80 | .35 | .55 | | .02 | |
| Over 14 lbs thru 18 lbs - 6 hrs. work | 81.30 | .35 | .55 | | .02 | |
| Over 18 lbs thru 22 lbs - 4 hrs. work | 81.50 | .35 | .55 | | .02 | |
| Over 18 lbs thru 22 lbs - 6 hrs. work | 81.75 | .35 | .55 | | .02 | |
| Over 22 lbs thru 26 lbs - 4 hrs. work | 85.70 | .35 | .55 | | .02 | |
| Over 26 lbs thru 32 lbs - 4 hrs. work | 88.10 | .35 | .55 | | .02 | |
| Over 32 lbs thru 38 lbs - 3 hrs. work | 70.80 | .35 | .55 | | .02 | |
| Over 38 lbs thru 44 lbs - 2 hrs. work | 72.10 | .35 | .55 | | .02 | |
| Outside lock & guage tender (one shift) | 49.20 | .35 | .55 | | .02 | |



XUM

| Chelan, Douglas, Kittitas, Okanogan and Yakima Cos. West of the 120th Meridian | BASIC HOURLY RATES | FRINGE BENEFITS PAYMENTS H & W | PENSIONS | VACATION | APP. TR. | OT |
|---|---|---|---|---|---|---|
| LABORERS | | | | | | |
| General Labor; Carpenter Tender; Form Stripper; Rip Rap Man; Track Laborer; Stake Hopper; Choke Setter; Fence Laborer | $5.20 | .50 | .60 | | .03 | |
| Air Track & Wagon Drill Helper; Crusher Feeder; Dump & Stock Pile Man; Powder Man Helper; Sluper, Over 20 feet | 5.30 | .50 | .60 | | .03 | |
| Power Buggy; Drill Chipper; Grinder and similar light power tools; Faller and bucker (Hand); Grout Man (Power) | 5.35 | .50 | .60 | | .03 | |
| Asphalt Raker & Spreader; Cement Handler; Sack of Bulk; Dope Pot Tender; House Wreckers; Jackhammer; Pavement Breaker; Tamper Vibrator; Track Spike Puller; Concrete Saw and similar heavy power tools; Nozzleman (Air & Water) | 5.40 | .50 | .60 | | .03 | |
| Formsetter; Steel Forms; Grade Checker; Swinging Stage or Bosun Chair over water or over 25 feet in height | 5.45 | .50 | .60 | | .03 | |
| Air Track & Wagon Drill Operator; Chain Saw Operator; Gunite Man; High Scaler; Pipe Layer & Caulker; Pipe Wrapper; Sand Blaster; Timber Man; Open Ditch; Mortar Man & Hod Carrier | 5.50 | .50 | .60 | | .03 | |
| Faller & Bucker (Chain Saw); Powder Man | 5.55 | .50 | .60 | | .03 | |
| Caisson Workers; Free Air | 5.60 | .50 | .60 | | .03 | |
| TUNNEL SHAFTS, FREE AIR | | | | | | |
| Topman & Bull Gang | 5.30 | .50 | .60 | | .03 | |
| Chuck Tender; Mucker & Laborer; Nipper; Brakeman | 5.35 | .50 | .60 | | .03 | |
| Powder Man Helper | 5.45 | .50 | .60 | | .03 | |
| Miner (including Monolithic Worker); Re-Timberman; Maintenance Man; Spader | 5.55 | .50 | .60 | | .03 | |
| Miner; Shaft & Raise | 5.65 | .50 | .60 | | .03 | |
| Powder Man | 5.70 | .50 | .60 | | .03 | |



| Remaining Counties West of the 120th Meridian including northern part of Pacific County. | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| LABORERS: | | | | | | |
| GROUP I<br>General Laborer; Nipper; Truck Spotter; Pitman; Brush Cutter; Choker Setter; Concrete & Monolithic Laborer; Pot Tender; Asphalt Laborer; Ditch Digger; Driverman; Concrete Form Stripper; Carpenter Helper; Track Laborer; Well-Point and Header Laborer | $5.45 | .50 | .60 | | .03 | |
| GROUP II<br>Dumpman; Faller & Bucker; Hand, Powderman's Helper; Sluper (over 20'); Wagon Driller & Air Trac Helper | 5.55 | .50 | .60 | | .03 | |
| GROUP III<br>Groutman (pressure); Power Tools-Light Duty Chippers; Grinders; Tampers; and Similar Electric and Air Operated Tools; Swinging Scaffold or Boatswain Chair over water or over 25' in height | 5.60 | .50 | .60 | | .03 | |
| GROUP IV<br>Concrete Saw Operator; Pipe Pot Tenderer; Power Wheel Barrow or Buggy; Power Tools Heavy Duty Jackhammer; Pavement Breaker; Vibrators; Tampers (multiple & self-propelled); Rail-road Spike Puller; Rakers - Asphalt | 5.65 | .50 | .60 | | .03 | |
| GROUP V<br>Form Setter (steel forms); Grademan and Stake Hopper; Nozzleman (concrete pump, green cutter when using combination of high pressure air and water on concrete & rock, sandblast, gunnite shot-crete) | 5.70 | .50 | .60 | | .03 | |
| GROUP VI<br>Faller and bucker; Chain Saw; High Scaler; Mortarman & Hod Carrier; Pipe Layer and Caulker; Pipe Wrapper; Timberman - Sewer; Wagon Driller and Airtrac | 5.75 | .50 | .60 | | .03 | |
| GROUP VII<br>Cement Dumper - Paving; Powderman | 5.80 | .50 | .60 | | .03 | |





| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| LABORERS:(Cont'd) | | | | | | |
| GROUP VIII<br>Tunnel Work<br>Topman and Bull Gang | $5.50 | .50 | .60 | | .03 | |
| GROUP IX<br>Chuck Tender; Muck and Laborer; Nipper; Brakeman | 5.55 | .50 | .60 | | .03 | |
| GROUP X<br>Powderman' Helper | 5.65 | .50 | .60 | | .03 | |
| GROUP XI<br>Miner (Including monolithic work); Spader; Re-Timberman; Maintenance Man | 5.75 | .50 | .60 | | .03 | |
| GROUP XII<br>Miner, Shaft and raise | 5.80 | .50 | .60 | | .03 | |
| GROUP XIII<br>Powderman | 5.90 | .50 | .60 | | .03 | |
| GROUP XIV<br>1 lb. thru 14 lbs. (6 hrs.) | 52.00 | .50 | .60 | | .03 | |
| Over 14 lbs. thru 18 lbs. (6 hrs), over 18 lbs. thru 22 lbs. (4 hrs.) | 54.70 | .50 | .60 | | .03 | |
| Over 18 lbs. thru 22 lbs. (6 hrs.) | 74.95 | .50 | .60 | | .03 | |
| Over 22 lbs. thru 26 lbs. (4 hrs) | 58.90 | .50 | .60 | | .03 | |
| Over 26 lbs. thru 32 lbs. (4 hrs.) | 61.30 | .50 | .60 | | .03 | |
| Over 32 lbs. thru 38 lbs. (3 hrs.) | 64.00 | .50 | .60 | | .03 | |
| Over 38 lbs. thru 44 lbs. (2 hrs.) | 65.30 | .50 | .60 | | .03 | |
| Outside lock and gauge tender (per shift) | 46.00 | .50 | .60 | | .03 | |



| Clark, Cowlitz, Klickitat, Southern part of Pacific, Skamania and Wahkiakum Counties | BASIC HOURLY RATES | FRINGE BENEFITS PAYMENTS H & W | PENSIONS | VACATION | APP. TR. | OTHERS |
|---|---|---|---|---|---|---|
| LABORERS | | | | | | |
| GROUP I<br>Asphalt plant laborers; Asphalt spreaders; Batch weighman; Broomers; Brush burners & cutters; Car & truck loaders; Carpenter tender; Change-house man or dry shack man; Choker setters; Clean up laborers; Concrete laborers; Crusher feeders; Culvert, hand labor; Curing, concrete; Demolition, wrecking & moving laborers; Driller helpers; Dumpers, Road oiling crew; Dumpman (for grading crew); Elevator feeders; Fence builder (incl. Guard rail, Median rail, Reference post, Guide post, Right-of-way marker); Fine graders; Form strippers not swinging stages; General laborers; Landscaping or planting laborers; Leverman on aggregate spreader (Flaherty & similar types); Loading spotters; Material yard man (incl. electrical); Pittsburgh chipper operator or similar types; Powderman helper; Railroad track laborers; Ribbon setters (incl. steel forms); Rip Rap man (Hand placed); Road pump tender; Sewer labor; Skipmen; Signalmen; Slopers, spraymen; Stake chaser-Stake setter-Grade checker; Stockpiler; Timber Faller & Bucker (hand labor); Toolroom man (at job site); Tunnel bull gang (above ground); Weigh man crusher aggregate (when used) | $5.45 | .50 | .60 | .25 | .02 | |
| GROUP II<br>Applicator (incl. pot tender for same), applying protective material by hand or nozzle on utility lines or storage tanks on project; Burners; Choker splicer; Clary power spreader & similar types; Clean-up nozzleman-greencutter (concrete rock, etc.); Concrete power buggyman; Demolition & wrecking charred materials; Gunite nozzleman tender; Gunite or sand blasting pot tender; Handlers or mixers of all materials of an irritating nature (incl. cement & lime); Manhole builder; | | | | | | |



NOTICES
24556
NOTICES
24557

| | BASIC HOURLY RATES | FRINGE BENEFITS PAYMENTS H & W | PENSIONS | VACATION | APP. TR. | OTHER |
|---|---|---|---|---|---|---|
| Powertool op., incls. but not limited to: Chipping guns, Jackhammer, Paving breakers, Post hole digger, Air, Gas, or Electric, Tampers, Vibrating screed, Vibrators (less than 4" in diameter); Ribbon setter, head; Rip Rap man (head), hand placed; Sand blasting (wet); Sewer timberman; Timber buckers & Fallers, Brush cutters (power saw); Tunnel-muckers, Brakemen, Concrete crew, Bull gang (underground) | $5.60 | | .50 | .60 | .25 | .02 |
| GROUP III<br>Asphalt rakers; Bid grinder; Concrete saw op.; Drill doctor; Drill oprs., Air tracks, Cat drills, Wagon drills, Rubber-mounted drills, & other similar types; Gunite nozzleman; High scalers, Strippers & Drillers (covers work in swinging stages, chairs or belts, under extreme conditions usual to normal drilling, blasting, barring-down, or sloping & stripping); Powdermen; Power saw ops. (bucking & falling merchantable logs); Pumpcrete nozzlemen; Sand blasting (dry); Sewer pipe layers; Track liners, Anchor machines, Ballast regulators, Multiple tampers, Power jacks; Tugger op.; Tunnel -- Chuck tenders, Nippers, & Timbermen; Vibrators (4" & larger); Water blaster; Welder | 5.75 | | .50 | .60 | .25 | .02 |
| GROUP IV<br>Tunnel miners; Tunnel powderman | 5.90 | | .50 | .60 | .25 | .02 |



All Counties & portions of Counties East of the 120th Meridian

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| POWER EQUIPMENT OPERATORS | | | | | | |
| GROUP I<br>Bit Grinders; Bolt Threading Machine; Brakeman; Compressors, under 1000 cu. ft. per minute gas, diesel or electric power; Crusher Feeder (mechanical); Deck Hand; Drillers' Helper; Fireman & Heater Tender; Grade Checker; Helper (Mechanic or Welder, H.D.); Oiler; Pumpman; Rollers, all types on subgrade (farm type, Case, John Deere and similar - or compacting or vibrator) except when pulled by dozer with operable blade; Welding Machines. | $6.85 | | .55 | .65 | | .03 |
| GROUP II<br>A-Frame Truck (single-drum); Assistant Refrigeration Plant (under 1000 tons); Assistant Plant Operator, Fireman or Pugmixer (asphalt); Bagley or Stationary Scraper; Batch Plant & Wet Mix Operator, single unit (concrete); Belt Finishing Machine; Bending Machine (pipeline); Blower Operator (cement); Cement Hog; Compressor (1000 cu. ft. or over, 2 or more - gas, diesel or electric power); Concrete Saw (multiple cut); Distributor Leverman; Dope Pots (power agitated); Equipment Serviceman, Greaser & Oiler; Fork Lift or Lumber Stacker, Hydra Lift & similar; Gin trucks (pipeline); Hoist, single drum; Loaders (bucket elevators and conveyors); Longitudinal Float; Mixer (portable - concrete); Pavement Breaker, Hydra-Hammer & similar); Posthold Auger or Punch; Power Broom; Railroad Ballast Regulation Operator, (self-propelled); Railroad Power Tamper Operator, (self-propelled); Railroad Power Tamper Jack Operator, (self-propelled); Spray Curing Machine (concrete); Spreader Box (self-propelled); Straddle Buggy (Ross & | | | | | | |







| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | O |
|---|---|---|---|---|---|---|
| POWER EQUIPMENT OPERATORS (CONT'D) | | | | | | |
| GROUP II (CONT'D)<br>similar on construction job site); Tractor (farm type R/T with attachments except backhoe); Tugger Operator. | $7.15 | .55 | .65 | | .03 | |
| GROUP III<br>A-Frame Truck (2 or more drums); Assistant Refrigeration Plant & Chiller Operator (over 1000 tons); Backfillers (Cleveland & similar); Belt-Crete Conveyors with Power Pack or similar; Belt Loader (Kocal or similar); Blade Operator (Motor Patrol and attachments); Boat Operators; Boom Cats (side); Boring Machine (earth); Boring Machine (rock under 8" bit) (Quarry Master, Joy or similar); Bump Cutter (Wayne, Saginaw or similar); Canal Lining Machine (concrete); Cleaning & Doping Machine (pipeline); Concrete Pumps (squeeze-crete, flow-crete, pumpcrete, Whitman & similar); Drills Drills (churn, core, calyx or diamond); Elevating Belt-type Loader (Euclid, Barber Green or similar); Elevating Grader-type Loader (Dunor, Adams, or similar); Generator Plant Engineers (diesel electric); Gunite Combination Mixer & Compressor; Hoist, (2 or more drums or tower Hoist); Loaders, (overhead & front-end, under 4 yds., R/T); Locomotive Engineer; Mixermobile; Oiler & Cable Tender, Mucking Machine, Paver (asphalt and concrete); Pump (Grout or Jet); Refrigeration Plant Engineer (1060 tons); Rollerman (finishing pavement); Rubber-tired Scrapers (one motor with one scraper, under 40 yds.); Screed Operator; Soil Stabilizer, (P & H or similar); Spreader Machine; Tractor (crawler, incl. Dozer, Scraper, Drills, Booms, Rollers, etc.); Traverse Finishing | | | | | | |



| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Oth |
|---|---|---|---|---|---|---|
| POWER EQUIPMENT OPERATORS (CONT'D) | | | | | | |
| GROUP III (CONT'D)<br>Machine; Trenching Machines (under 7 ft. depth capacity); Turnhead Operator | $7.66 | .55 | .65 | | .03 | |
| GROUP IV<br>H.D. Mechanic; H.D. Welder; Refrigeration Plant Engineer (1000 tons & over) Semi-automatic Welding Machine. | 7.50 | .55 | .65 | | .03 | |
| GROUP V<br>Asphalt Plant Operator; Crusher & Screening Plant Operator; Rubber-tired Scrapers Multi-Engine Power with one Scraper (Euclid, TS-24 & similar); Rubber-tired Scraper, One Motor with One Scraps (40 yds. & over); Single Engine with two Scrapers (Letourneau, Tandem B & similar); Surface Heater & Planer Machine. | 7.55 | .55 | .65 | | .03 | |
| GROUP VI<br>Automatic Subgrader (ditches & trimmers) (R.A. Hansen & similar); Backhoes (under 3 yds.); Batch & Wet Mix Operator-Multiple Units (2 and incl. 4); Clamshell Operator (under 3 yds.); Concrete Slip Form Paver; Cranes (under 65 tons); Derricks & Stiffleggs (under 65 tons); Draglines (under 3 yds.); Drilling Equipment (8" bit and over) (Robbins & similar); Hydra-Cranes (Austin, Western Hydra-Hoe and similar with attachments); Loader Operator (Front End & Overhead 4 yds. to 5 yds.); Mucking Machines; Piledriving Engineers; Paver (dual drum); Quad-track or similar Equipment; Railroad Track Liner Operator (self-propelled); Rubber-tired Scrapers, Multiple | | | | | | |





XUM

| POWER EQUIPMENT OPERATORS (CONT'D) | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| GROUP VI (CONT'D) | | | | | | |
| Engines with two Scrapers; Shovels (under 3 yds.); Signalmen (Whirleys, Highline Hammerheads or similar); Trenching Machines (7 ft. depth and over). | $7.70 | .55 | .65 | | .03 | |
| GROUP VII | | | | | | |
| Backhoes (3 yds. and over); Batch Plant (over 4 units); Cableway Controller-Dispatcher; Cableway Operators; Clamshell Operator (3 yds. and over); Cranes (65 tons and over); Defricks & Stiffleges (65 tons and over); Draglines (3 yds. and over); Loader - (360 degrees revolving Koehring Scooper or similar); Loaders (overhead and front end over 8 yds.); Rubber-tired Scrapers (multiple engine with three or more scrapers); Shovels (3 yds. and over); Tower Crane; Whirleys and Hammerheads (all). | 7.95 | .55 | .65 | | .03 | |

Underground Work - Add 10% to the Classification. Classification.

(Not to include open pits, cuts, ditches, trenches and such work as paving, etc.)

All Crane Booms: 130' to 200' - $.15/hr. Additional to Classification;
Over 200' - - $.30/hr. Additional to Classification;

Yo-Yo Dozer: 10% Additional



All Counties & parts of Counties West of the 120th Meridian except Clark, Cowlitz, Klickitat, Southern part of Pacific, Skamania, & Wahkiakum Counties

| POWER EQUIPMENT OPERATORS | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| GROUP I Mechanics' Helpers (heavy duty) | $6.92 | .45 | .65 | | .04 | |
| GROUP II Brakemen; Oiler (grader checkers & stakeman) | 7.02 | .45 | .65 | | .04 | |
| GROUP III Fireman; Fireman (drier & hot plant) | 7.13 | .45 | .65 | | .04 | |
| GROUP IV Tractor (farmall type, 60 h.p. & under); Compressor (excavating and general purposes); Rollers, Tampers & Vibrators (other than plant, road mix or multilift materials) | 7.18 | .45 | .65 | | .04 | |
| GROUP V Oiler Driver on Truck Cranes (over 45 tons up to 100) | 7.20 | .45 | .65 | | .04 | |
| GROUP VI Oil Distributors; Blower Distributors and mulch seeding operator | 7.25 | .45 | .65 | | .04 | |
| GROUP VII Locomotives (dinkey air, diesel, electric, gas, steam) | 7.26 | .45 | .65 | | .04 | |
| GROUP VIII Equipment Service Oiler; Oiler Driver on truck cranes (100 tons & over) | 7.30 | .45 | .65 | | .04 | |
| GROUP IX Tractors (farmall type, over 60 h.p.); Pump (water) | 7.32 | .45 | .65 | | .04 | |
| GROUP X Post Hole Diggers (mechanical) | 7.45 | .45 | .65 | | .04 | |







| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| GROUP XI Brooms, power (Wayne, Saginaw & similar); Bulldozers (under D9 or similar); Saws (consrete); Loaders (fork lift or lumber stacker (on construction job site), Drott travel lift); Scrapers (carry-all type, single); Roller, tampers and vibrator, twin engine | $7.48 | .45 | .65 | | .04 | |
| GROUP XII Mixer (asphalt up to 4 tons per batch) Loaders (elevating Athey, Barber Greene & similar types); Loaders (overhead & front end, under 2½ yds.); Mixers (concrete & batch 200 yd.s. per hour & under); Pumps, Fuller Kenyon; Pumps, concrete and Pump crete; Roller, Tamper & Vibrator (on plant, road mix or multilift materials); Trenching Machines (under 16 inches); Batch Plant & Mixer (200 yds. per hour & under); Conveyors; Crushers (rock), washing and screening plants; Finishing Machine Operator (concrete paving); Hoists, Air Tuggers, Strato Tower Bucket, Elevators and Deck Winches (power); Power Plant Operators; Screedman; Spreaders (Blaw Knox, Cedarapids, Jaeger, Flarrety or similars); Cranes ("A" frame truck, single power drum) | 7.51 | .45 | .65 | | .04 | |
| GROUP XIII Locomotive, Mechanics or Welder (heavy duty) | 7.56 | .45 | .65 | | .04 | |
| GROUP XIV Tournapulls, Caterpillar, Euclid Scrapers and similar type equipment (25 yds. and under); Motor Patrol Graders (incl. Model 14 & similar) | 7.58 | .45 | .65 | | .04 | |
| GROUP XV Hoists on Steel Erection, Air Tuggers and Towermobiles; Compressor (steel erection incl. sandblasting, painting or same); Loaders (fork lifts w/tower) | 7.60 | .45 | .65 | | .04 | |



| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| GROUP XVI Loaders (elevating grader type, Dumor & similar); Cement Hogs; Locomotive (geared or rod engine); Paving; Scraper (carryall type, double) | $7.63 | .45 | .65 | | .04 | |
| GROUP XVII Tractors (farmall type, used as backhoes, rubber tired, Ford, Ferguson, Case & similar types, 60 h.p. & under) | 7.66 | .45 | .65 | | .04 | |
| GROUP XVIII Bulldozer (D-9 or similar) | 7.70 | .45 | .65 | | .04 | |
| GROUP XIX Trenching Machines (16 inches and over) | 7.77 | .45 | .65 | | .04 | |
| GROUP XX Bump Cutter (Concut, Christianson or similar types) | 7.78 | .45 | .65 | | .04 | |
| GROUP XXI Conveyors (beltcrete with power pack & similar types); Loaders (elevating belt type, Euclid & similar); Batch Plant, batch & Mixer (over 200 yds. per hour through 400 yds.); Mixer (concrete & batch, over 200 yds. per hour through 400 yds.), Paving (dual); Mixer, asphalt (4 tons & over per batch) | 7.83 | .45 | .65 | | .04 | |
| GROUP XXII Motor Patrol Graders (over Model 14 & similar); Derricks all-Drilling Machines (core, cable, rotary & exploration); Linked Pusher, Pay Dozer (quad 9 & similar); Mucking Machines (mole or tunnel drill and/or shield); Subgrader (Gurries, CMI and similar); Tournapulls, Caterpillar, Euclid Scrapers & similar type equipment (over 25 yds. through 40 yds.); Tractors (farmall type, used as backhoes, rubber tired Ford, Ferguson, Case & similar, over 60 h.p.); Piledriver Engineers (i.e. Foster puller or similar paving breaker); | | | | | | |





XUM

| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| GROUP XXII (cont'd) Cranes ("A" frame truck, dbl. power drum); Crawler (truck type, floating, locomotive, Whirley, either 3 yds. & under, or 150' of boom, incl. jibs, & under, or 45 tons & under); Hydralifts; Hyster Cat Cranes & attachments; Bulldozers (engaged) in yo yo operation (while clearing and scaling); Shovels (Crawler and truck type, all attachments, 3 yds. & under); Cranes, Chipper, wood w with boom attachment; Mixer, (mobile type with hoist combination); Cableways (3 yds. & under); Loaders (fork lift with power boom & swing attachment); loaders (overhead & front end, 2½ yds. up to 4 yds.) | $7.88 | .45 | .65 | | .04 | |
| GROUP XXIV Loaders (overhead & front end, 4 yds. up to 6 yds.) | 8.10 | .45 | .65 | | .04 | |
| GROUP XXV Mixers (concrete mixers & batch over 400 yds. per hour through 600 yds. per hour) | 8.14 | .45 | .65 | | .04 | |
| GROUP XXXI Tournapulls, Caterpillar, Euclid Scraper and similar type (over 40 yds. through 55 yds.) | 8.19 | .45 | .65 | | .04 | |
| GROUP XXVII Slip Form Paver (Zimmerman, CMI, and other similar types); Cableway (over 3 yds.); Crane (Crawler, truck type, floating, locomotive, Whirley, either over 3 yds. or over 150' of boom incl. jibs, or over 45 tons up to 100 tons); crane (Tower Cranes, Pecco, Lorraine, Bucyrus & similar types: Remote Control Operator (on rubber tired earth moving equipment) Helicopter Winch Operator; Shovel (Crawler and truck type, all attachments, over 3 yds. up to 6 yds.) | 8.27 | .45 | .65 | | .04 | |
| GROUP XXVIII Tournapulls, Caterpillar, Euclid Scrapers & similar type equipment (over 55 yds. through 70 yds.) | 8.49 | .45 | .65 | | .04 | |



| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| GROUP XXIX Loaders (Overhead & front end, 8 yds. and over) | $8.69 | .45 | .65 | | .04 | |
| GROUP XXX Tournapulls, Caterpillar, Euclid Scrapers & similar type equipment (over 70 yds. through 85 yds.) | 8.80 | .45 | .65 | | .04 | |
| GROUP XXXI Shovel (Crawler and truck type, all attachments, 6 yds. and over); Cranes (Crawler, truck type, floating, locomotive, Whirley, either 6 yds. & over, 200' of boom incl. jibs & over, or 100 tons and over) | 8.82 | .45 | .65 | | .04 | |
| GROUP XXXII Tournapulls, Caterpillar, Euclid Scrapers & similar type equipment (over 85 yds. through 100 yds.) | 9.10 | .45 | .65 | | .04 | |





Clark, Cowlitz, Klickitat, Southern part of Pacific, Skamania & Wahkiakum Counties

| POWER EQUIPMENT OPERATORS | BASIC HOURLY RATES | FRINGE BENEFITS PAYMENTS: H & W | PENSIONS | VACATION | APP. TR. | OTHERS |
|---|---|---|---|---|---|---|
| GROUP I ASSISTANT CONVEYOR; Oiler, including plant and crusher; Crusher Feederman; Deckhand; Self-propelled Scaffolding; Guard Rail Punch Oiler; Pump under 4" Brakeman Switchman; Parts Man (Tool Room) | $6.40 | .45 | .60 | .25 | | |
| GROUP II BLASE, PULLED TYPE; Truck Crane Oiler-driver, 25 ton capacity or Fireman, all equipment; A-Frame Truck, single drum; Tugger or Coffin type Hoist, any power; Drill Helper; Auger Oiler; Boatman; Forklift or Lumber Stacker; Temporary Heating Plant; Grade Oiler, required to check grade; Grade Checker; Tar Pot Fireman; Tar Pot Fireman (power agitated); H.D. Repairman Helper; Welder's Helper; Fireman Helicopter Radio-man (ground); Roller, Rock | 6.54 | .45 | .60 | .25 | | |
| GROUP III PLANT FIREMAN; Pugmill; Truck Mounted Asphalt Spreader, with screed; Compressor, any power, under 1,000 cu. ft. total capacity; Mixer Box Concrete Plant; Concrete Conveyor; Cement Hog; Concrete Saw, self-propelled unit; Wire Mat Machine or Booming Machine; Concrete Curing Machine, self-propelled; Bucket Elevator Loader, Barber Greene and similar type; Hydraulic Pipe Press; Pump any power, 4" and over; Hydrostatic Pump; Motorman; Ballast Jack Tamper; Bell Boy, phones, etc; Tamping Machine, mechanical self-propelled; Hydrographic Seeder Machine, straw, pump or seed; Broom Operator, self-propelled; Air Filtration Equipment; Welding Machine | 6.64 | .45 | .60 | .25 | | |



| | BASIC HOURLY RATES | FRINGE BENEFITS PAYMENTS: H & W | PENSIONS | VACATION | APP. TR. | OTHERS |
|---|---|---|---|---|---|---|
| GROUP IV SCREED; Compactor, including vibratory; Compressor, over 1,000 cu. ft. total capacity, Concrete Mixer, single drum, under 5 bag capacity; Concrete Cooling Machine; Combination Mixer and Compressor, Gunite work; Helicopter Hoist; Fork Lift, over 5 tons; Lull Hi-Lift or similar types; Pavement Breaker; Pump, more than 3, any size; Locomotive, under 40 tons; Roller, Oiling, CTB | $6.80 | .45 | .60 | .25 | | |
| GROUP V CURB MACHINE, MECHANICAL BERM, CURB AND/OR CURB AND GUTTER; Wagner Pactor or similar type (without blade); Batch Plant Material Control; Power Jumbo, setting slip forms, etc. in tunnels; Slip Form Pumps, power driven hydraulic lifting device for concrete forms; Hoist, single drum; Elevator, Diesel, Gas, Engineer; Chip Spreading Machine; Lime Spreading; Sweeper (Wayne Type); self-propelled; Tractor, rubber-tired 50 H.P. Flywheel and under; Trenching Machine, maximum digging capacity 3 ft. depth | 6.82 | .45 | .60 | .25 | | |
| GROUP VI ASPHALT PLANT; Asphalt Paver; Maginnis, internal full slab vibrator; Concrete finishing Machine, Clary, Johnson, Bidwell, Burgess, bridge deck or similar type; Curb Machine, Mechanical Berm, Curb and/or Curb and Gutter; Concrete Joint Machine; Concrete Planer; Cast in place pipe laying machine; Concrete Paving Machine; Concrete Spreader; Loaders, Rubber-tired type, 2½ cu. yds. and under; Rock Spreader, self-propelled | 6.90 | .45 | .60 | .25 | | |



NOTICES
NOTICES

AQ-1,021 P. 31
3-WAS-PEO 1-2-3 d (3-6)

| | BASIC HOURLY RATES | FRINGE BENEFITS PAYMENTS | | | | |
|---|---|---|---|---|---|---|
| | | H & W | PENSIONS | VACATION | APP. TR. | OTHERS |
| GROUP VII<br>ROLLER, ASPHALT; Concrete Mixer, single drum, 5 bag capacity and over; Beltcrete; Pumpcrete; Cement Pump, Fuller-Kenyon and similar; Grouting Machine; Concrete Pump; Tower Mobile; A-Frame Truck, double drums; Boom Truck; Churn Drill and Earth Boring Machine; Hydraulic Backhoe, wheel type 3/4 cu. yds. & under with or without front end attachments 2½ cu. yds. and under (Ford, John Deere, Case type); Elevating Grader, Tractor and towed requiring operator or grader; Pot Rammer; Ballast Regulator; Ballast Tamper Multi-Purpose; Track Liner; Tie Spacer; Shuttle Car; Locomotive 40 tons and over | $6.96 | .45 | .60 | .25 | | |
| GROUP VIII<br>DIESEL-ELECTRIC ENGINEER, PLANT OR FLOATING; Batch Plant and/or wet mix, one and two drums; Generator; Diesel-Electric Engineer; Belt Loaders, Kolman and Ko Cal types | 7.06 | .45 | .60 | .25 | | |
| GROUP IX<br>BULLDOZER; Drill Cat; Side-Boom Cat; Compactor, with blade; Chicago Boom and similar types; Lift Slab Machine; Boom Type lifting device, 5 tons capacity or less; Cherry picker or similar type crane-hoist; 5 ton capacity or less; Grizzley; Crusher Plant; Boring Machine; Surface Heater & Planer; Hydraulic Backhoe, truck type 3/8 cu. yds. Loader, front end and overhead 2½ cu. yds. and under 4 cu. yds.; Pipe Cleaning Machine; Pipe Doping Machine; Pipe Bending Machine; Pipe Wrapping Machine; Bolt Treading Machine; Drill Doctor; including bit grinder; H.D. Mechanic; H.D. Welder; Machine Tool Operator; Stationary Drag Scraper; Tractor Rubber-tired over 50 H.P. Flywheel; | | | | | | |

AQ-1,021 P. 32
3-WAS-PEO 1-2-3 d (4-6)

| | BASIC HOURLY RATES | FRINGE BENEFITS PAYMENTS | | | | |
|---|---|---|---|---|---|---|
| | | H & W | PENSIONS | VACATION | APP. TR. | OTHERS |
| Tractor, Rubber-tired with boom attachments; Trenching Machine maximum digging capacity over 3 ft. depth | $7.12 | .45 | .60 | .25 | | |
| GROUP X<br>BULLDOZER, TWIN-ENGINE (TC 12 and similar type); Cable-Flow; Compactor, Multi-engine; Driller-Percussion, Diamond, Core, Cable, Rotary and similar types; Jack Operator Elevating Barges; Barge Operator, self-unloading Combination H.D. Mechanic-Welder; Welder-Certified; Rubber-tired Dozers and Pushers (Michigan, Cat, Hough, type | 7.18 | .45 | .60 | .25 | | |
| GROUP XI<br>MIXER MOBILE; Crane, 25 tons and under; Shovel, Dragline; Clamshell, Hoe, etc., under 1 cu. yd.; Gradeall, under 1 cu. yd.; Mucking Machine | 7.20 | .45 | .60 | .25 | | |
| GROUP XII<br>BLADE; Batch Plant and/or wet mix, 3 units or more; Hoist, 2 drums; Hoist, 3 or more drums; Elevating Loader, Athey and similar types; Piledriver (not crane type); Rubber-tired Scraper, single engine, single scraper; Scraper-Self-Loading, paddle wheel ladder type; Rubber-tried Scraper, twin engine; Rubber-tired Scraper, with push-pull attachments; Blade Mounted Spreaders, Ulrich and similar types; Shield Operator | 7.26 | .45 | .60 | .25 | | |
| GROUP XIII<br>BLADE, FINISH (working with either red or blue tops); Blade, Electronically controlled by wire or laser beams; Blade, Multi-engine; Concrete Paving and Road Mixer; Bridge Crane, Locomotive, Gantry Overhead; Derrick, under 100 tons; Hoist Stiffleg, Guy Derrick or similar type 50 tons and over; Cableway, up to 25 tons; Crane, over 25 tons and including 40 tons; Tower Crane; Piledriver (not crane type); Floating Clamshell, etc., under 3 cu. yds.; | | | | | | |





AQ-1,021 P. 33
3-WAS-PEO 1-2-3d (5-6)

| | BASIC HOURLY RATES | FRINGE BENEFITS PAYMENTS | | | | |
|---|---|---|---|---|---|---|
| | | H & W | PENSIONS | VACATION | APP. TR. | OTHERS |
| Floating Crane (Derrick Barge); less than 30 tons; Hydraulic Backhoe, truck type over 3/8 cu. yds.; Elevating Grader, operated by tractor, Sierra, Euclid or similar types; Back-Filling Machine; Shovel, etc., 1 cu. yd. but less than 3 cu. yds.; Gradeall, 1 cu. yd. and over | $7.34 | .45 | .60 | .25 | | |
| GROUP XIV<br>RUBBER-TIRED SCRAPER WITH TANDEM SCRAPER | 7.50 | .45 | .60 | .25 | | |
| GROUP XV<br>ROCK HOUND; Loader, 4 cu. yds. but less than 6 cu. yds. | 7.66 | .45 | .60 | .25 | | |
| GROUP XVI<br>AUTO GRADER (i.e. CMB) or TRIMMER; Tandem Bulldozer, Quad-nine and similar type; Automatic Concrete Slip Form Paver; Concrete Canal Liner; Cableway, 25 tons and over; Crane, over 40 tons and including 100 tons; Whirley, 80 tons and under; Floating Clamshell, etc., 3 cu. yds. and over; Floating Crane (Derrick Barge), 30 tons but less than 80 tons; Loader, 6 cu. yds., but less than 8 cu. yds.; Loader 8 cu. yds. but less than 12 cu. yds.; Rubber-tired Scraper, with Tandem Scraper, Multi-engine; Shovel, etc., 3 cu. yds. but less than 5 cu. yds.; Wheel Excavator, under 750 cu. yds. per hour | 7.84 | .45 | .60 | .25 | | |
| GROUP XVII<br>CRANE, Over 100 tons and including 200 tons; Whirley over 80 tons and including 150 tons; Floating Crane (Derrick Barge); 80 tons but less than 150 tons; Loader, 12 cu. yds. and over; Shovel, etc., 5 cu. yds. and over; Canal Trimmer | 7.98 | .45 | .60 | .25 | | |
| GROUP XVIII<br>CRANE, over 200 tons; Whirley, 150 tons and over; Floating Crane 150 tons but less than 250 tons; Wheel Excavator, over 750 cu. yds. per | | | | | | |

AQ-1,021 P. 34
3-WAS-PEO 1-2-3 (6-6)

| | BASIC HOURLY RATES | FRINGE BENEFITS PAYMENTS | | | | |
|---|---|---|---|---|---|---|
| | | H & W | PENSIONS | VACATION | APP. TR. | OTHERS |
| hour; Band Wagons, in conjuction with wheel excavator | $8.16 | .45 | .60 | .25 | | |
| GROUP XVIV<br>HELICOPTER; When used in erecting work; Floating Crane 250 tons and over; Remote controlled earth moving equipment (no one operator shall operate more than two pieces of moving equipment at one time); Underwater Equipment, remote or otherwise | 8.30 | .45 | .60 | .25 | | |

All Counties and parts of Counties East of the 120th Meridian

| TRUCK DRIVERS | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| Group I<br>FLAT BED TRUCK, single rear axle; Escort Driver; Fish Truck; Fork Lift, 3,000 lbs. & under; Fuel Truck Driver (steam cleaner & washer); Helper & Swamper; Leverman Loading Trucks at Bunkers; Pickup Hauling Material; Stationary Fuel Op.; Team Driver; Tractor (small-rubber tired pulling trailer or sim. equip.); Water Tank Truck 1,800 gallons | $6.70 | .62 | .50 | | | |
| Group II<br>[illegible] DRIVER OR MANHAUL DRIVER; Flat Bed Truck, dual rear axle; Fireman No. 1; Warehouseman | 6.75 | .62 | .50 | | | |
| Group III<br>[illegible] & SIM.; Bulk Cement Tanker; Oil Tank Driver; Power Operated Sweeper; Semi-Trailer, low bed, transport & trailer; Straddle Carrier (Ross, Hyster & sim.); Transit Mixers & Trucks Hauling Concrete (3 yds. & [illegible]); Trucks, side end and bottom [illegible]; Water Tank Truck [illegible] gallons) | 6.80 | .62 | .50 | | | |
| [illegible] lbs. capacity; Bulk [illegible] Operator (6 yds. & [illegible] spreader, box driver; [illegible] power take off); [illegible] lbs.)<br>[illegible] Driver (road, bootman; [illegible] Rubber tired Tunnel [illegible] Slurry Truck Driver; Transit Mixers & Trucks Hauling [illegible] to 6 yds.)<br>[illegible] bottom dump [illegible] Water Tank [illegible] gals.); | 6.90 | .62 | .50 | | | |



| TRUCK DRIVERS (CONT'D) | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| Group V<br>LOW BOY (under 50 tons); Service Greaser; Tireman No. 2 | $6.95 | .62 | .50 | | | |
| Group VI<br>A-FRAME (Swedish Crane, Iowa 3,000, hydrolift); Water Tank Truck (over 6,001 - 8,000 gals.) | 7.00 | .62 | .50 | | | |
| Group VII<br>DUMPTOR (over 6 yds.); Transit Mixers & Trucks Hauling Concrete (6 yds. to 10 yds.) Trucks, side, end & bottom dump (over 12 yds. incl. 20 yds.) | 7.05 | .62 | .50 | | | |
| Group VIII<br>LOW BOY (over 50 tons); Water Tank Truck (8,001 - 10,000 gals.); 10¢ for each add. 2,000 gals. | 7.10 | .62 | .50 | | | |
| Group IX<br>TRANSIT MIXERS & TRUCKS Hauling Concrete (10 yds. to 15 yds.); Trucks, side, end & bottom dump (over 20 yds. incl. 30 yds.) | 7.20 | .62 | .50 | | | |
| Group X<br>TOURNAROCKER, DW'S & sim. w/2 or 4 wheel power tractor w/trailer or yardage scale whichever is greater | 7.25 | .62 | .50 | | | |
| Group XI<br>TRANSIT MIXERS & TRUCKS Hauling Concrete (15 yds. to 20 yds.); Trucks, side, end & bottom dump (over 30 yds. to 40 yds.) | 7.35 | .62 | .50 | | | |
| Group XII<br>TRANSIT MIXERS & TRUCKS Hauling Concrete (over 20 yds.); Trucks, side, end & bottom dump (over 40 yds. to 50 yds.) | 7.50 | .62 | .50 | | | |
| Group XIII<br>TRUCKS, side, end and bottom dumps, (over 50 yds. to 100 yds.) | 7.65 | .62 | .50 | | | |
| Group XIV<br>TRUCKS, side, end and bottom dump (over 100 yds.) | 7.80 | .62 | .50 | | | |



NOTICES



All Counties and parts of Counties West of the 120th Meridian except Clark, Cowlitz, Klickitat, Southern part of Pacific, Skamania, and Wahkiakum Counties



| TRUCK DRIVERS | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App Tr | Other |
|---|---|---|---|---|---|---|
| Leverman & Loaders at bunkers & batch plants; Pickup truck, Escort or Pilot car; Swampers; Warehouseman & Checkers | 7.00 | .54 | .50 | | .01 | |
| Team driver | 7.05 | .54 | .50 | | .01 | |
| Bull lifts or similar equipment used in loading or unloading trucks, warehousing; Bus or Manhaul; Dumpsters and similar equipment; Tournorockers; Tournowagon; Turnatrailer, Cat DW Series, Terra Cobra, Le Tourneau, Westinghouse, Athey wagon; Euclid; Two & four wheeled power tractor with trailer & similar top loaded equipment transporting material; Dump trucks, side, end & bottom dump, including semi-trucks & trains; Dump trucks up to & including 5 yds.; Flatbed, single rear axle; Grease truck, fuel truck; Greaser; Battery service man; Tire service man; Scissor truck; Spreader, flaherty; Tractor, small rubber-tired; Vacuum truck; Water wagon & Tank truck, up to 1600 gals.; Winch truck, single rear axle; Wrecker, tow truck & similar equipment | 7.10 | .54 | .50 | | .01 | |
| Flatbed, dual rear axle | 7.21 | .54 | .50 | | .01 | |
| Buggymobile; Hyster operators; Straddle carrier (Ross, Hyster) and similar equipment; Water wagon & tank truck, 1600 gals. to 3000 gals. | 7.27 | .54 | .50 | | .01 | |
| Transit-mix, 0 to and including 4-1/2 yds. | 7.31 | .54 | .50 | | .01 | |
| Dump trucks, over 5 yds. to and including 12 yds.; Explosive truck (Field mix) and similar equipment; Lowbed & heavy duty trailer, under 50 tons gross; Road oil distributor driver; Slurry truck; Sno-go & similar equipment; Winch truck, dual rear axle | 7.32 | .54 | .50 | | .01 | |
| Dump trucks, over 12 yds. to & including 16 yds. | 7.38 | .54 | .50 | | .01 | |
| Bulk cement tankers; Dump trucks, over 16 yds. to & including 20 yds.; Water wagon & Tank truck, over 3000 gals. | 7.43 | .54 | .50 | | .01 | |
| Bull lifts or similar equipment used in loading or unloading trucks other than warehousing | 7.43 | .54 | .50 | | .01 | |
| Transit-mix, over 4-1/2 yds. to & including 6 yds. | 7.48 | .54 | .50 | | .01 | |
| "A"- Frame or Hydralift" trucks or similar equipment | 7.58 | .54 | .50 | | .01 | |
| Dump trucks, over 20 yds. to & including 30 yds.; Lowbed & heavy duty trailer, over 50 tons gross to & including 100 tons gross | 7.60 | .54 | .50 | | .01 | |



| TRUCK DRIVERS (CONT'D) | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App Tr | Other |
|---|---|---|---|---|---|---|
| Transit-mix, over 6 yds. to & including 8 yds. | 7.64 | .54 | .50 | | .01 | |
| Dump trucks, over 30 yds. to & including 40 yds.; Lowbed & heavy duty trailer, over 100 tons gross | 7.76 | .54 | .50 | | .01 | |
| Transit-mix, over 8 yds. to & including 10 yds. | 7.80 | .54 | .50 | | .01 | |
| Dump trucks, over 40 yds. to & including 55 yds. | 7.92 | .54 | .50 | | .01 | |
| Transit-mix, over 10 yds. to & including 12 yds. | 7.97 | .54 | .50 | | .01 | |
| Transit-mix, over 12 yds. to & including 16 yds. | 8.13 | .54 | .50 | | .01 | |
| Transit-mix, over 16 yds. to & including 20 yds. | 8.29 | .54 | .50 | | .01 | |
| Transit-mix over 20 yds. | 8.45 | | | | | |
| Mechanic | 7.44 | .54 | .50 | | .01 | |
| Mehcanic Helper | 6.85 | .54 | .50 | | .01 | |



NOTICES

AQ-1,021 P. 39

3-WAS-TT 2-3-c (1-3)

Clark, Cowlitz, Klickitat, Southern part of Pacific, Skamania, and Wahkiakum Counties

TRUCK DRIVERS

| | BASIC HOURLY RATES | FRINGE BENEFITS PAYMENTS | | | | |
|---|---|---|---|---|---|---|
| | | H & W | PENSIONS | VACATION | APP. TR. | OTHERS |
| Battery rebuilders; Bus or man-haul driver; Concrete buggies (power operated); Dump trucks, side, end & bottom dumps, incl. semi-trucks & trains or combin. thereof: 6 cu. yds. & under; Lift jitneys, fork lifts (all sizes used in loading, unloading & transporting material on job site); Loader and/or leverman on concrete dry batch plant (manually operated); Pilot car; Solo flat bed & misc. body trucks, 0-10 tons; Truck helper; Truck mechanic helper; Warehouseman (warehouse parts, tool men & parts chaser, checkers & receivers); Water wagons (rated capacity); up to 1600 gals | $6.23 | .40 | .45 | .25 | | |
| "A" frame or hydra-lift truck w/load bearing surfaces; Lubrication man, fuel truck driver, tireman, wash rack, steam cleaner or combin.; Team drivers | 6.28 | .40 | .45 | .25 | | |
| Dump trucks, side, end & bottom dumps, incl. semi-trucks & trains or combin. thereof: over 6 cu. yds. & incl. 10 cu. yds.; Slurry truck driver or leverman; Transit mix & wet or dry mix trucks: 5 cu. yds. & under; Tireman (full-time basis); Water wagons (rated capacity); 1600 to 3000 gals. | 6.33 | .40 | .45 | .25 | | |
| Flaherty spreader driver or leverman; Low bed equipment, flat-bed semi-trailer, truck & trailer or doubles transporting equipment or wet or dry materials; Lumber carrier driver-Straddle carrier (used in loading, unloading and transporting of materials on job site); Oil distributor driver or leverman; Water wagons (rated capacity); 3000 to 5000 gals. | 6.38 | .40 | .45 | .25 | | |
| Dumpsters or similar equipment, all sizes; Transit mix & wet or dry mix trucks, over 5 cu. yds. & incl. 7 cu. yds. | 6.43 | .40 | .45 | .25 | | |

AQ-1,021 P. 40

3-WAS-TD-1-2-3 c (2-3)

| | BASIC HOURLY RATES | FRINGE BENEFITS PAYMENTS | | | | |
|---|---|---|---|---|---|---|
| | | H & W | PENSIONS | VACATION | APP. TR. | OTHERS |
| Dump trucks, side, end & bottom dumps, incl. semi trucks & trains or combin. thereof: over 10 cu. yds. & incl. 20 cu. yds.; Transit mix & wet or dry mix trucks; over 7 cu. yds. & incl. 9 cu. yds.; Truck Mechanic--Welder--body repairman Water wagons (rated capacity) 5000 to 7000 gals. | $6.53 | .40 | .45 | .25 | | |
| Dump trucks, side, end & bottom dumps, incl. semi trucks & trains of combin. thereof: over 20 cu. yds. & incl. 30 cu. yds.; Transit mix & wet or dry mix trucks: over 9 cu. yds. & incl. 11 cu. yds.; Water Wagons (rated capacity); over 7000 gals. to 10,000 gals. | 6.63 | .40 | .45 | .25 | | |
| Dump trucks, side, end & bottom dumps, incl. semi trucks &, trains or combin. 40 cu. yds.; Transit mix & wet or dry mix trucks: over 11 cu. yds. and incl. 13 cu. yds.; Water Wagons (rated capacity); over 10,000 gals. to 15,000 gals. | 6.73 | .40 | .45 | .25 | | |
| Dump trucks, side end & bottom dumps, incl. semi-trucks & trains or combin. thereof: over 40 cu. yds. & incl. 50 cu. yds.; Transit mix & wet or dry mix trucks: over 13 cu. yds. and incl. 15 cu. yds. | 6.83 | .40 | .45 | .25 | | |
| Dump trucks, side, end & bottom dumps, incl. semi trucks & trains or combin. thereof: over 50 cu. yds. & incl. 60 cu. yds. | 7.00 | .40 | .45 | .25 | | |
| Dump trucks, side, end & bottom dumps, incl. semi trucks & trains or combin. thereof: over 60 cu. yds. & incl. 70 cu. yds. | 7.10 | .40 | .45 | .25 | | |
| Dump trucks, side, end & bottom dumps, incl. semi truck & trains or combin. thereof: 70 cu. yds. and incl. 80 cu. yds. | 7.20 | .40 | .45 | .25 | | |



D c 1-2-3 (3-3)

| FRINGE BENEFITS PAYMENTS | | | |
|---|---|---|---|
| PENSIONS | VACATION | APP. TR. | OTHERS |
| .45 | .25 | | |
| .45 | .25 | | |

.15 per hour).

winch is mounted.

SUPERSEDEAS DECISION

STATE: Washington

COUNTIES: King, Island, Pierce, and Snohomish

DECISION NUMBER: AQ-1,024

DATE: Date of Publication

Supersedes Decision No. AP-906 dated May 25, 1973, in 38 FR 13907.

DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| BRICKLAYERS: | | | | | | |
| Pierce County | $7.94 | .40 | .35 | | .02 | |
| King, Island, Snohomish Counties | 7.78 | .40 | .35 | | .02 | |
| CARPENTERS | 7.30 | .50 | .60 | | .01 | |
| CEMENT MASONS: | | | | | | |
| Pierce, King and the City of Auburn | 7.20 | .40 | .50 | | .02 | |
| King (except City of Auburn), Island and Snohomish Counties | 6.79 | .55 | .50 | | | |
| ELECTRICIANS: | | | | | | |
| King County | 8.435 | .25 | 1% | | .02 | |
| Pierce County | 7.66 | .35 | 1%+.40 | 4% | .04 | |
| Snohomish and Island Counties | 8.445 | .25 | 1% | | .01 | |
| GLAZIERS | 6.85 | .22 | .35 | a | | |
| IRONWORKERS: | | | | | | |
| Structural; Ornamental; Reinforcing | 7.56 | .48 | .65 | | .05 | |
| PAINTERS: | | | | | | |
| Brush; Tapers | 7.37 | .40 | .27 | | .02 | |
| PLUMBERS | 7.59 | .47 | .85 | .60 | .06 | |
| ROOFERS | 7.55 | .20 | .20 | | | |
| SHEET METAL WORKERS: | | | | | | |
| Island and Snohomish Counties | 7.90 | .32 | .40 | .42 | .03 | |
| King County | 8.47 | .27 | .30 | | .04 | |
| Pierce County | 7.79 | .32 | .45 | .47 | .02 | |
| SOFT FLOOR LAYERS: | | | | | | |
| Pierce County | 7.59 | .36 | .45 | | .03 | |
| King, Snohomish Counties | 7.65 | .36 | .45 | | .05 | |
| Island County | 7.03 | .30 | .45 | | | |
| TRUCK DRIVERS | 7.00 | .54 | .50 | | .01 | |

FOOTNOTE:

a. Two weeks vacation with pay after one year of employment, also seven paid holidays; A through F plus Washington's Birthday.

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

AQ-1,024 P.2

2-WAS-LAB 1-2-3-c (1-2)

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| LABORERS: | | | | | | |
| GROUP I | | | | | | |
| General Laborer; Nipper; Truck Spotter; Fitman; Brush Cutter; Choker Setter; Concrete & Monolithic Laborer; Pot Tender; Asphalt Laborer; Ditch Digger; Drierman; Concrete Form Stripper; Carpenter Helper; Track Laborer; Well-Point and Header Laborer | $5.45 | .50 | .60 | | .03 | |
| GROUP II | | | | | | |
| Dumpman; Faller & Bucker: Hand, Powderman's Helper; Sloper (over 20'); Wagon Driller & Air Trac Helper | 5.55 | .50 | .60 | | .03 | |
| GROUP III | | | | | | |
| Groutman (pressure); Power Tools-Light Duty Chippers; Grinders; Tampers; and Similar Electric and Air Operated Tools; Swinging Scaffold or Boatswain Chair over water or over 25' in height | 5.60 | .50 | .60 | | .03 | |
| GROUP IV | | | | | | |
| Concrete Saw Operator; Pipe Pot Tenderer; Power Wheel Barrow or Buggy; Power Tools Heavy Duty Jackhammer; Pavement Breaker; Vibrators; Tampers (multiple & self-propelled); Rail-road Spike Puller; Rakers - Asphalt | 5.65 | .50 | .60 | | .03 | |
| GROUP V | | | | | | |
| Form Setter (steel forms); Grademan and Stake Hopper; Nozzleman (concrete pump, green cutter when using combination of high pressure air and water on concrete & rock, sandblast, gunnite shot-crete) | 5.70 | .50 | .60 | | .03 | |
| GROUP VI | | | | | | |
| Faller and bucker: Chain Saw; High Scaler; Mortarman & Hod Carrier; Pipe Layer and Caulker; Pipe Wrapper; Timberman - Sewer; Wagon Driller and Airtrac | 5.75 | .50 | .60 | | .03 | |
| GROUP VII | | | | | | |
| Cement Dumper - Paving; Powderman | 5.80 | .50 | .60 | | .03 | |

NOTICES





AQ-1,024 P.3

2-WAS-PEO-1 2-3-d (1-5)

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| POWER EQUIPMENT OPERATORS | | | | | | |
| GROUP I | | | | | | |
| Mechanics' Helpers (heavy duty) | $6.92 | .45 | .65 | | .04 | |
| GROUP II | | | | | | |
| Brakemen; Oiler (grader checkers & stakeman) | 7.02 | .45 | .65 | | .04 | |
| GROUP III | | | | | | |
| Fireman; Fireman (drier & hot plant) | 7.13 | .45 | .65 | | .04 | |
| GROUP IV | | | | | | |
| Tractor (farmall type, 60 h.p. & under); Compressor (excavating and general purposes); Rollers, Tampers & Vibrators (other than plant, road mix or multilift materials) | 7.18 | .45 | .65 | | .04 | |
| GROUP V | | | | | | |
| Oiler Driver on Truck Cranes (over 45 tons up to 100) | 7.20 | .45 | .65 | | .04 | |
| GROUP VI | | | | | | |
| Oil Distributors; Blower Distriburors and mulch seeding operator | 7.25 | .45 | .65 | | .04 | |
| GROUP VII | | | | | | |
| Locomotives (dinkey air, diesel, electric, gas, steam) | 7.26 | .45 | .65 | | .04 | |
| GROUP VIII | | | | | | |
| Equipment Service Oiler; Oiler Driver on truck cranes (100 tons & over) | 7.30 | .45 | .65 | | .04 | |
| GROUP IX | | | | | | |
| Tractors (farmall type, over 60 h.p.); Pump (water) | 7.32 | .45 | .65 | | .04 | |
| GROUP X | | | | | | |
| Post Hole Diggers (mechanical) | 7.45 | .45 | .65 | | .04 | |

AQ-1,024 P.4

2-WAS-PEO-1-2-3-d (2-5)

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| POWER EQUIPMENT OPERATORS (cont'd) | | | | | | |
| GROUP XI | | | | | | |
| Brooms, power (Wayne, Saginaw & similar); Bulldozers (under D9 or similar); Saws (consrete); Loaders (fork lift or lumber stacker (on construction job site), Drott travel lift); Scrapers (carry-all type, single); Roller, tampers and vibrator, twin engine | $7.48 | .45 | .65 | | .04 | |
| GROUP XII | | | | | | |
| Mixer (asphalt up to 4 tons per batch) Loaders (elevating Athey, Barber Greene & similar types); Loaders (overhead & front end, under 2½ yds.); Mixers (concrete & batch 200 yd.s. per hour & under); Pumps, Fuller Kenyon; Pumps, concrete and Pump crete; Roller, Tamper & Vibrator (on plant, road mix or multilift materials); Trenching Machines (under 16 inches); Batch Plant & Mixer (200 yds. per hour & under); Conveyors; Crushers (rock), washing and screening plants; Finishing Machine Operator (concrete paving); Hoists, Air Tuggers, Strato Tower Bucket, Elevators and Deck Winches (power); Power Plant Operators; Screedman; Spreaders (Blaw Knox, Cedarapids, Jaeger, Flarrety or similars); Cranes ("A" frame truck, single power drum) | 7.51 | .45 | .65 | | .04 | |
| GROUP XIII | | | | | | |
| Locomotive, Mechanics or Welder (heavy duty) | 7.56 | .45 | .65 | | .04 | |
| GROUP XIV | | | | | | |
| Tournapulls, Caterpillar, Euclid Scrapers and similar type equipment (25 yds. and under); Motor Patrol Graders (incl. Model 14 & similar) | 7.58 | .45 | .65 | | .04 | |
| GROUP XV | | | | | | |
| Hoists on Steel Erection, Air Tuggers and Towermobiles; Compressor (steel erection incl. sandblasting, painting or same); Loaders (fork lifts w/tower) | 7.60 | .45 | .65 | | .04 | |

NOTICES



MIX 37 7 SEP 3781834

AQ-1,024 P.5 (3-5)

2-WAS-PEO-1-2-3-d

| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| GROUP XVI<br>Loaders (elevating grader type, Dumor & similar); Cement Hogs; Locomotive (geared or rod engine); Paving; Scraper (carryall type, double) | $7.63 | .45 | .65 | | .04 | |
| GROUP XVII<br>Tractors (farmall type, used as backhoes, rubber tired, Ford, Ferguson, Case & similar types, 60 h.p. & under) | 7.66 | .45 | .65 | | .04 | |
| GROUP XVIII<br>Bulldozer (D-9 or similar) | 7.70 | .45 | .65 | | .04 | |
| GROUP XIX<br>Trenching Machines (16 inches and over) | 7.77 | .45 | .65 | | .04 | |
| GROUP XX<br>Bump Cutter (Concut, Christianson or similar types) | 7.78 | .45 | .65 | | .04 | |
| GROUP XXI<br>Conveyors (beltcrete with power pack & similar types); Loaders (elevating belt type, Euclid & similar); Batch Plant, batch & Mixer (over 200 yds. per hour through 400 yds.); Mixer (concrete & batch, over 200 yds. per hour through 400 yds.), Paving (dual); Mixer, asphalt (4 tons & over per batch) | 7.83 | .45 | .65 | | .04 | |
| GROUP XXII<br>Motor Patrol Graders (over Model 14 & similar); Derricks all-Drilling Machines (core, cable, rotary & exploration); Linked Pusher, Pay Dozer (quad 9 & similar); Mucking Machines (mole or tunnel drill and/or shield); Subgrader (Curries, CMI and similar); Tournapulls, Caterpillar, Euclid Scrapers & similar type equipment (over 25 yds. through 40 yds.); Tractors (farmall type, used as backhoes, rubber tired Ford, Ferguson, Case & similar, over 60 h.p.); Piledriver Engineers (L.B. Foster puller or similar paving breaker); | | | | | | |

AQ-1,024 P.6 (4-5)

2-WAS-PEO-1-2-3-d

| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| GROUP XXII (cont'd)<br>Cranes ("A" frame truck, dbl. power drum); Crawler (truck type, floating, locomotive, Whirley, either 3 yds. & under, or 150' of boom, incl. jibs, & under, or 45 tons & under); Hydralifts; Hyster Cat Cranes & attachments; Bulldozers (engaged) in yo yo operation (while clearing and scaling); Shovels (Crawler and truck type, all attachments, 3 yds. & under); Cranes, Chipper, wood w with boom attachment; Mixer, (mobile type with hoist combination); Cableways (3 yds. & under); Loaders (fork lift with power boom & swing attachment); loaders (overhead & front end, 2½ yds. up to 4 yds.) | $7.88 | .45 | .65 | | .04 | |
| GROUP XXIV<br>Loaders (overhead & front end, 4 yds. up to 8 yds.) | 8.10 | .45 | .65 | | .04 | |
| GROUP XXV<br>Mixer (concrete mixers & batch over 400 yds. per hour through 600 yds. per hour) | 8.14 | .45 | .65 | | .04 | |
| GROUP XXXI<br>Tournapulls, Caterpillar, Euclid Scraper and similar type (over 40 yds. through 55 yds.) | 8.19 | .45 | .65 | | .04 | |
| GROUP XXVII<br>Slip Form Paver (Zimmerman, CMI, and other similar types); Cableway (over 3 yds.); Crane (Crawler, truck type, floating, locomotive, Whirley, either over 3 yds. or over 150' of boom incl. jibs, or over 45 tons up to 100 tons); crane (Tower Cranes, Pecco, Lorraine, Bucyrus & similar types; Remote Control Operator (on rubber tired earth moving equipment) Helicopter Winch Operator; Shovel (Crawler and truck type, all attachments, over 3 yds. up to 6 yds.) | 8.27 | .45 | .65 | | .04 | |
| GROUP XXVII<br>Tournapulls, Caterpillar, Euclid Scrapers & similar type equipment (over 55 yds. through 70 yds.) | 8.49 | .45 | .65 | | .04 | |



AQ-1,024 P.7 (5-5)

2-WAS-PEO-1-2-3-d

| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| GROUP XXIX<br>Loaders (Overhead & front end, 8 yds. and over) | $8.69 | .45 | .65 | | .04 | |
| GROUP XXX<br>Tournapulls, Caterpillar, Euclid Scrapers & similar type equipment (over 70 yds. through 85 yds.) | 8.80 | .45 | .65 | | .04 | |
| GROUP XXXI<br>Shovel (Crawler and truck type, all attachments, 6 yds. and over); Cranes (Crawler, truck type, floating, locomotive, Whirley, either 6 yds. & over, 200' of boom incl. jibs & over, or 100 tons and over) | 8.82 | .45 | .65 | | .04 | |
| GROUP XXXII<br>Tournapulls, Caterpillar, Euclid Scrapers & similar type equipment (over 85 yds. through 100 yds.) | 9.10 | .45 | .65 | | .04 | |

[FR Doc.73-18661 Filed 9-6-73;8:45 am]

## INDEX TO GENERAL WAGE DETERMINATION DECISIONS AND MODIFICATIONS AS OF AUGUST 3, 1973

There is set forth below an index to general wage determination decisions and modifications as published in the FEDERAL REGISTER pursuant to the Davis-Bacon and related Acts. The index lists general wage determination decisions and modifications by State and county. An updated index is published on the first Friday of each month.

The index is published for the convenience of the public and the Department of Labor will endeavor to keep it accurate and up to date. In the event the data in the index and published general decisions do not coincide, the published general decisions shall control.

Abbreviations:
(B)—Building Construction.
(D)—Dredging Construction.
(F)—Flood Control Construction.
(H)—Heavy Construction.
(Hw)—Highway Construction.
(R)—Residential Construction.
Mod.—Modification.

Signed at Washington, D.C., this 31st day of August 1973.

WARREN D. LANDIS,
*Assistant Administrator,*
*Wage and Hour Division.*

### ALABAMA

STATEWIDE
Decision #AP-4002 (D)
38 FR 21037 - 8/3/73
AUTAUGA COUNTY
Decision #AP-119 (Hw)
37 FR 16733 - 8/18/72
Mod. #1 - 37 FR 24507 - 11/17/72
(D) - See Statewide
BALDWIN COUNTY
Decision #AM-554 (R)
36 FR 16363 - 8/20/71
Decision #AP-118 (Hw)
37 FR 18836 - 9/15/72
Mod. #1 - 37 FR 24507 - 11/17/72
(D) - See Statewide
BARBOUR COUNTY
(D) - See Statewide
(Hw) - See Autauga County
BIBB COUNTY
(D) - See Statewide
(Hw) - See Autauga County
BLOUNT COUNTY
Decision #AM-448 (R)
36 FR 16359 - 8-20-71
(D) - See Statewide
(Hw) - See Autauga County
BULLOCK COUNTY
(D) - See Statewide
(Hw) - See Autauga County
BUTLER COUNTY
(D) - See Statewide
(Hw) - See Autauga County
CALHOUN COUNTY
Decision #AP-117 (Hw)
37 FR 16732 - 8/18/72
Mod. #1 - 37 FR 24507 - 11/17/72
(D)-See Statewide
CHAMBERS COUNTY
(D)-See Statewide
(Hw)-See Autauga County
CHEROKEE COUNTY
(D)-See Statewide
(Hw)- See Autauga County
CHILTON COUNTY
(D)-See Statewide
(Hw)-See Autauga County
CHOCTAW COUNTY
(D)-See Statewide
(Hw)-See Autauga County

### ALABAMA (Cont'd)

CLARKE COUNTY
(D) - See Statewide
(Hw) - See Autauga County
CLAY COUNTY
(D) - See Statewide
(Hw) - See Autauga County
CLEBURNE COUNTY
(D) - See Statewide
(Hw) - See Autauga County
COFFEE COUNTY
(D) - See Statewide
(Hw) - See Autauga County
COLBERT COUNTY
Decision #AP-116 (Hw)
37 FR 18835 - 9/15/72
Mod. #1 - 37 FR 24507 - 11/17/72
(D) - See Statewide
CONECUH COUNTY
(D) - See Statewide
(Hw) - See Autauga County
(R) - See Baldwin County
COOSA COUNTY
(D) - See Statewide
(Hw) - See Autauga County
COVINGTON COUNTY
(D) - See Statewide
(Hw) - See Autauga County
CRENSHAW COUNTY
(D) - See Statewide
(Hw) - See Autauga County
CULLMAN COUNTY
(D) - See Statewide
(Hw) - See Autauga County
DALE COUNTY
(D) - See Statewide
(Hw) - See Autauga County
DALLAS COUNTY
(D) - See Statewide
(Hw) - See Autauga County
DE KALB COUNTY
(D) - See Statewide
(Hw) - See Autauga County
ELMORE COUNTY
(D) - See Statewide
(Hw) - See Autauga County
ESCAMBIA COUNTY
(D) - See Statewide
(Hw) - See Autauga County

### ALABAMA (Cont'd)

ETOWAH COUNTY
(D) - See Statewide
(Hw) - See Calhoun County
FAYETTE COUNTY
(D) - See Statewide
(Hw) - See Autauga County
FRANKLIN COUNTY
(D) - See Statewide
(Hw) - See Autauga County
GENEVA COUNTY
(D) - See Statewide
(Hw) - See Autauga County
GREENE COUNTY
(D) - See Statewide
(Hw) - See Autauga County
HALE COUNTY
(D) - See Statewide
(Hw) - See Autauga County
HENRY COUNTY
(D) - See Statewide
(Hw) - See Autauga County
HOUSTON COUNTY
(D) - See Statewide
(Hw) - See Autauga County
JACKSON COUNTY
(D) - See Statewide
(Hw) - See Autauga County
JEFFERSON COUNTY
Decision #AP-1105 (B,Hw)
38 FR 16597 - 6/22/73
Mod. #1 - 38 FR 18810 - 7/13/73
(D) - See Statewide
(Hw) - See Autauga County
LAMAR COUNTY
(D) - See Statewide
(Hw) - See Autauga County
LAUDERDALE COUNTY
(D) - See Statewide

### ALABAMA (cont'd)

LIMESTONE COUNTY
(D) - See Statewide
(Hw) - See Autauga County
LOWNDES COUNTY
(D) - See Statewide
(Hw) - See Autauga County
MACON COUNTY
(D) - See Statewide
(Hw) - See Autauga County
MADISON COUNTY
(D) - See Statewide
(Hw) - See Colbert County
MARENGO COUNTY
(D) - See Statewide
(Hw) - See Autauga County
MARION COUNTY
(D) - See Statewide
(Hw) - See Autauga County
MARSHALL COUNTY
(D) - See Statewide
(Hw) - See Autauga County
MOBILE COUNTY
Decision #AP-1106 (B, Hw)
38 FR 16600 - 6/22/73
Mod. #1 - 38 FR 21004 - 8/3/73
(D) - See Statewide
(R) - See Baldwin County
MONROE COUNTY
(D) - See Statewide
(Hw) - See Autauga County
MONTGOMERY COUNTY
Decision #AP-184 (B)
38 FR 11244 - 5/4/73
Mod. # 1 - 38 FR 13103 - 5/18/73
(D) - See Statewide
(Hw) - See Baldwin County
MORGAN COUNTY
(D) - See Statewide
(Hw) - See Colbert County
PERRY COUNTY
(D) - See Statewide
(Hw) - See Autauga County
PICKENS COUNTY
(D) - See Statewide
(Hw) - See Autauga County

NOTICES





### ALABAMA (Cont'd)

PIKE COUNTY
(D)-See Statewide
(Hw)-See Autauga County
RANDOLPH COUNTY
(D)-See Statewide
(Hw)-See Autauga County
RUSSELL COUNTY
(D)-See Statewide
(Hw)-See Autauga County
SAINT CLAIR COUNTY
(D)-See Statewide
(Hw)-See Calhoun County
(R)-See Blount County
SHELBY COUNTY
(D)-See Statewide
(Hw)-See Calhoun County
(R)-See Blount County
SUMTER COUNTY
(D)-See Statewide
(Hw)-See Autauga County
TALLADEGA COUNTY
(D)-See Statewide
(Hw)-See Calhoun County
(R)-See Blount County
TALLAPOOSA COUNTY
(D)-See Statewide
(Hw)-See Autauga County
TUSCALOOSA COUNTY
(D)-See Statewide
(Hw)-See Calhoun County
WALKER COUNTY
(D)-See Statewide
(Hw)-See Calhoun County
WASHINGTON COUNTY
(D)-See Statewide
(Hw)-See Autauga County
(R) - See Baldwin County
WILCOX COUNTY
(D) - See Statewide
(Hw) - See Autauga County
WINSTON COUNTY
(D) - See Statewide
(Hw) - See Autauga County

### ALASKA

STATEWIDE
Decision #AP-902 (B, Hw, H, D)
38 FR 13127 - 5/18/73
Decision #AP-903 (R)
38 FR 13133 - 5/18/73

### ARIZONA

STATEWIDE
Decision #AQ-1004 (H,Hw)
38 FR 20187 - 7/27/73
APACHE COUNTY
(H,Hw) - See Statewide
COCHISE COUNTY
(H,Hw) - See Statewide
Decision #AP-901
38 FR 12526 - 5/11/73
Mod. #1 - 38 FR 13911 - 5/25/73
Mod. #2 - 38 FR 15785 - 6/15/73
Mod. #3 - 38 FR 21005 - 8/3/73
COCONINO COUNTY
Decision #AP-297 (B)
38 FR 10557 - 4/27/73
Mod. #1 - 38 FR 12506 - 5/11/73
Mod. #2 - 38 FR 13911 - 5/25/73
Mod. #3 - 38 FR 21004 - 8/3/73
(H,Hw) - See Statewide
GILA COUNTY
(H,Hw) - See Statewide
GRAHAM COUNTY
(H,Hw) - See Statewide
GREENLEE COUNTY
Decision #AQ-1006 (B)
38 FR 19623 - 7/20/73
Mod. #1 - 38 FR 21006 - 8/3/73
MARICOPA COUNTY
(H,Hw) - See Statewide
(B) - See Greenlee County
Decision #AQ-1005 (R)
38 FR 19617 (R)
Mod. #1 - 38 FR 21005 - 8/3/73
MOHAVE COUNTY
(H,Hw) - See Statewide
NAVAJO COUNTY
(H,Hw) - See Statewide
PIMA COUNTY
(H,Hw) - See Statewide
(B) - See Cochise County
Decision #AP-260 (R)
38 FR 2027 - 1/19/73
Mod. #1 - 38 FR 9918 - 4/20/73
Mod. #2 - 38 FR 13911 - 5/25/73
Mod. #3 - 38 FR 15785 - 6/15/73
Mod. #4 - 38 FR 21004 - 8/3/73
PINAL COUNTY
(H,Hw) - See Statewide
SANTA CRUZ COUNTY
(H,Hw) - See Statewide
(B) - See Cochise County

YAVAPAI COUNTY
(H,Hw) - See Statewide
YUMA COUNTY
(H,Hw) - See Statewide

### ARKANSAS

STATEWIDE
Decision #AP-701 (Hw)
38 FR 4087 - 2/9/73
Decision #AQ-4002 (D)
38 FR 21037 - 8/3/73
ARKANSAS COUNTY
(Hw) - See Statewide
(D) - See Statewide
Decision #AP-1107 (F)
38 FR 17358 - 6/29/73
ASHLEY COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
BAXTER COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
BENTON COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
BOONE COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
BRADLEY COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
CALHOUN COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
CARROLL COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
CHICOT COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County

### ARKANSAS (Cont'd)

CLARK COUNTY
(Hw) (D) - See Statewide
(F) - See Arkansas County
CLAY COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
CLEBURNE COUNTY
(Hw) - See Statewide
(D)- See Statewide
(F) - See Arkansas County
CLEVELAND COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
COLUMBIA COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
CONWAY COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
CRAIGHEAD COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
CRAWFORD COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
CRITTENDEN COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
CROSS COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
DALLAS COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
DESHA COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County

NOTICES

ARKANSAS (Cont'd)

DREW COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
FAULKNER COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
FRANKLIN COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
FULTON COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
GARLAND COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
GRANT COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
GREENE COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
HEMPSTEAD COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F( - See Arkansas County
HOT SPRING COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
HOWARD COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
INDEPENDENCE COUNTY
(Hw) (D) - See Statewide
(F) - See Arkansas County
IZARD COUNTY
(Hw) (D) - See Statewide
(F) - See Arkansas County

ARKANSAS (Cont'd)

JACKSON COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
JEFFERSON COUNTY
(Hw) - See Statewide
(D) - See Statewide
JOHNSON COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
LAFAYETTE COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
LAWRENCE COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
LEE COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
LINCOLN COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
LITTLE RIVER COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
LOGAN COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
LENOKE COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
MADISON COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
MARION COUNTY
(Hw ) - See Statewide
(D) - See Statewide
(F) - See Arkansas County

ARKANSAS (Cont'd)

MILLER COUNTY
(Hw) - See Statewide
(D) - see Statewide
(F) - See Arkansas County
MISSISSIPPI COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
MONROE COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
MONTGOMERY COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
NEVADA COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
NEWTON COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - Arkansas County
OUACHITA COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
PERRY COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
PHILLIPS COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
PIKE COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
POINSETT COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
POLK COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County

ARKANSAS (CONT'D)

POPE COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
PRAIRIE COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
PULASKI COUNTY
(Hw) - See Statewide
(D) - See Statewide
Decision #AQ-7 (B)
38 FR 19631 - 7/20/73
Decision #AP-356 (R)
37 FR 23489 - 11/3/72
RANDOLPH COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
ST. FRANCIS COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
SALINE COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
SCOTT COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
SEARCY COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
SEBASTIAN COUNTY
(Hw) - See Statewide
(D) - See Statewide
SEVIER COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County







ARKANSAS (CONT'D)

SHARP COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
STONE COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
UNION COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
Decision #AQ-2 (B)
38 FR 18831 - 7/13/73
VAN BUREN COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
WASHINGTON COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
WHITE COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
WOODRUFF COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County
YELL COUNTY
(Hw) - See Statewide
(D) - See Statewide
(F) - See Arkansas County

CALIFORNIA

ALAMEDA COUNTY
Decision #AP-287 (B,H,Hw,D)
38 FR 8874 - 4/6/73
Mod. #1 - 38 FR 10572 - 4/27/73
Mod. #2 - 38 FR 13105 - 5/18/73
Mod. #3 - 38 FR 13912 - 5/25/73
Mod. #4 - 38 FR 15786 - 6/15/73
Mod. #5 - 38 FR 16578 - 6/22/73
Decision #AP-905 (R)
38 FR 13139 - 5/18/73
Mod. #1 - 38 FR 14507 - 6/1/73
Mod. #2 - 38 FR 15786 - 6/15/73
Mod. #3 - 38 FR 16579 - 6/22/73
ALPINE COUNTY
(B,H,Hw,D) - See Alameda County
AMADOR COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
BUTTE COUNTY
(B,H,Hw,D) - See Alameda County
CALVARAS COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
COLUSA COUNTY
(B,H,Hw,D) - See Alameda County
CONTRA COSTA COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
DELNORTE COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
ELDORADO COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
FRESNO COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County

CALIFORNIA (Cont'd)

GLENN COUNTY
(B,H,Hw,D) - See Alameda County
HUMBOLDT COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
IMPERIAL COUNTY
Decision #AQ-1007 (B,H,Hw,D)
38 FR 21038 - 8/3/73
Decision #AQ-1008 (R)
38 FR 21047 - 8/3/73
INYO COUNTY
(B,H,Hw,D) - See Imperial County
KERN COUNTY
(B,H,Hw,D) - See Imperial County
(R) - See Imperial County
KING COUNTY
(B,H,Hw,D) - See Alameda County
LAKE COUNTY
(B,H,Hw,D) - See Alameda County
LASSEN COUNTY
(B,H,Hw,D) - See Alameda County
LOS ANGELES COUNTY
(B,H,Hw,D) - See Imperial County
(R) - See Imperial County
MADERA COUNTY
(B,H,Hw,D) - See Alameda County
MARIN COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County

CALIFORNIA (Cont'd)

MARIPOSA COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
MENDOCINO COUNTY
(B,H,Hw, D) - See Alameda County
MERCED COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
MODOC COUNTY
(B,H,Hw,D) - See Alameda County
MONO COUNTY
(B,H,Hw,D) - See Imperial County
MONTEREY COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
NAPA COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
NEVADA COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
ORANGE COUNTY
(B,H,Hw,D) - See Imperial County
(R) - See Imperial County
PLACER COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
PLUMAS COUNTY
(B,H,Hw,D) - See Alameda County
RIVERSIDE COUNTY
(B,H,Hw,D) - See Imperial County
(R) - See Imperial County
SACRAMENTO COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
SAN BENITO COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
SAN BERNARDINO COUNTY
(B,H,Hw,D) - See Imperial County
(R) - See Imperial County
SAN DIEGO COUNTY
Decision #AQ-1002 - (B,H,Hw,D)
38 FR 18832 - 7/13/73
Mod. #1 - 38 FR 21006 - 8/3/73

CALIFORNIA (Cont'd)

SAN DIEGO COUNTY (Cont'd)
Decision #AQ-1003 (R)
38 FR 18839 - 7/13/73
Mod. #1 - 38 FR 21008 - 8/3/73
SAN FRANCISCO COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
SAN JOAQUIN COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
SAN LUIS OBISPO COUNTY
(B,H,Hw,D) - See Imperial County
SAN MATEO COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
SANTA BARBARA COUNTY
(B,H,Hw,D) - See Imperial County
(R) - See Imperial County
SANTA CLARA COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
SANTA CRUZ COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
SHASTA COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
SIERRA COUNTY
(B,H,Hw,D) - See Alameda County
SISKIYOU COUNTY
(B,H,Hw,D) - See Alameda County
SOLANO COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
SONOMA COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
STANISLAUS COUNTY
(B,H,Hw,D) - See Alameda County
SUTTER COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
TEHAMA COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
TRINITY COUNTY
(B,H,Hw,D) - See Alameda County

CALIFORNIA (Cont'd)

TULARE COUNTY
(B,H,Hw,D) - See Alamada County
TUOLUMNE COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
VENTURA COUNTY
(B,H,Hw,D) - See Imperial County
(R) - See Imperial County
YOLO COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County
YUBA COUNTY
(B,H,Hw,D) - See Alameda County
(R) - See Alameda County

COLORADO

STATEWIDE
Decision #AP-299 (Hw)
38 FR 11252 - 5/4/73
Mod. #1 - 38 FR 13113 - 5/18/73
Mod. # 2- 38 FR 18110 - 7/6/73
Mod. #3 - 38 FR 20161 - 7/27/73
ADAMS COUNTY
(Hw) - See Statewide
Decision #AP-911 (B,H,Hw)
38 FR 16604 - 6/22/73
Mod. #1 - 38 FR 18113 - 7/6/73
Mod. #2 - 38 FR 21009 - 8/3/73
Decision #AM-6,723 (R)
37 FR 7921 - 4-21-72
ALAMOSA COUNTY
(Hw) - See Statewide
ARAPAHOE COUNTY
(Hw) - See Statewide
(B-H-Hw) - See Adams County
(R) - See Adams County
ARCHULLTA COUNTY
(Hw) - See Statewide
BACA COUNTY
(Hw) - See Statewide
BENT COUNTY
(Hw) - See Statewide
BOULDER COUNTY
(Hw) - See Statewide
(B,H,Hw) - See Adams Co.
(R) - See Adams County
CHAFFEE COUNTY
(Hw) - See Statewide
CHEYENNE COUNTY
(Hw) - See Statewide

COLORADO (cont'd)

CLEAR CREEK
(B,H,Hw) - See Adams County
(Hw) - See Statewide
(R) - See Adams County
CONEJOS COUNTY
(Hw) - See Statewide
COSTILLA COUNTY
(Hw) - See Statewide
CROWLEY COUNTY
(Hw) - See Statewide
CUSTER COUNTY
(Hw) - See Statewide
DELTA COUNTY
(Hw) - See Statewide
DENVER COUNTY
(Hw) - See Statewide
(B-H-Hw) - See Adams County
(R) - See Adams County
DOLORES COUNTY
(Hw) - See Statewide
DOUGLAS COUNTY
(Hw) - See Statewide
(B,H,Hw) - See Adams County
(R) - See Adams County
EAGLE COUNTY
(Hw) - See Statewide
ELBERT COUNTY
(Hw) - See Statewide
(B,H,Hw) - See Adams County
(R) - See Adams County
EL PASO COUNTY
(Hw) - See Statewide
Decision #AP-918 (B,H,Hw)
38 FR 18133 - 7/6/73
Mod. #1 - 38 FR 20162 - 7/27/73
FREMONT COUNTY
(Hw) - See Statewide
GARFIELD COUNTY
Decision #AP-904 (B, H, Hw)
38 FR 13159 - 5/11/73
Mod. #1 - 38 FR 18111 - 7/6/73
(Hw) - See Statewide
GILPIN COUNTY
(B,H,Hw) - See Adams County
(Hw) - See Statewide
(R) - See Adams County
GRAND COUNTY
(Hw) - See Statewide
GUNNISON COUNTY
(B,H,Hw) - See Garfield County
(Hw) - See Statewide
HINSDALE COUNTY
(Hw) - See Statewide
HUERFANO COUNTY
(Hw) - See Statewide







COLORADO (Cont'd)

JACKSON COUNTY
(Hw) - See Statewide
JEFFERSON COUNTY
(Hw) - See Statewide
(B-H-Hw) - See Adams County
(R) - See Adams County
KIOWA COUNTY
(Hw) - See Statewide
CARSON COUNTY
(Hw) - See Statewide
LAKE COUNTY
(Hw) - See Statewide
LAPLATA COUNTY
(Hw) - See Statewide
LARIMER COUNTY
(B,H,Hw) - See Adams County
(Hw) - See Statewide
LAS ANIMAS COUNTY
(Hw) - See Statewide
LINCOLN COUNTY
(Hw) - See Statewide
LOGAN COUNTY
(Hw) - See Statewide
MESA COUNTY
(B,H,Hw) - See Garfield County
(Hw) - See Statewide
MINERAL COUNTY
(Hw) - See Statewide
MOFFAT COUNTY
(Hw) - See Statewide
MONTEZUMA COUNTY
(Hw) - See Statewide
MONTROSE COUNTY
(B,H,Hw) - See Garfield County
(Hw) - See Statewide
MORGAN COUNTY
(Hw) - See Statewide
OTERO COUNTY
(Hw) - See Statewide
OURAY COUNTY
(Hw) - See Statewide

COLORADO (Cont'd)

PARK COUNTY
(Hw) - See Statewide
PHILLIPS COUNTY
(Hw) - See Statewide
PITKIN COUNTY
(B,H,Hw) - See Garfield
(Hw) - See Statewide
PROWERS COUNTY
(Hw) - See Statewide
PUEBLO COUNTY
(Hw) - See Statewide
Decision #AP-296 (B,H,Hw)
38 FR 10567 - 4/27/73
Mod. #1 - 38 FR 13107 - 5/18/73
Mod. #2 - 38 FR 15206 - 6/6/73
Mod. #3 - 38 FR 18108 - 7/6/73
Mod. #4 - 38 FR 20161 - 7/27/73
RIO BLANCO COUNTY
(Hw) - See Statewide
RIO GRANDE COUNTY
(Hw) - See Statewide
ROUTT COUNTY
(Hw) - See Statewide
SAGUACHE COUNTY
(Hw) - See Statewide
SAN JUAN COUNTY
(Hw) - See Statewide
SAN MIGUEL COUNTY
(Hw) - See Statewide
SEDGWICK COUNTY
(Hw) - See Statewide
SUMMIT COUNTY
(B,H,HW) - See Adams County
(Hw) - See Statewide
TELLER COUNTY
(Hw) - See Statewide
WASHINGTON COUNTY
(Hw) - See Statewide
WELD COUNTY
(Hw) - See Statewide
(B,H,Hw) - See Adams County
YUMA COUNTY
(Hw) - See Statewide

CONNECTICUT

FAIRFIELD COUNTY
Decision #AP-848 (B,H,Hw)
38 FR 17359 - 6/29/73
Decision #AP-803 (D)
38 FR 10580 - 4/27/73
HARTFORD COUNTY
Decision #AP-849 (B,H,Hw)
38 FR 17363 - 6/29/73
(D) - See Fairfield County
LITCHFIELD COUNTY
Decision #AP-850 (B,H,Hw)
38 FR 17367 - 6/29/73
MIDDLESEX COUNTY
Decision #AP-851 (B,H,Hw)
38 FR 17371 - 6/29/73
(D) - See Fairfield County
NEW HAVEN COUNTY
Decision #AP-852 (B,H,Hw)
38 FR 17375 - 6/29/73
(D) - See Fairfield County
NEW LONDON COUNTY
Decision #AP-853 (B,H,Hw)
38 FR 17379 - 6/29/73
(D) - See Fairfield County
TOLLAND COUNTY
Decision #AP-854 (B,H,Hw)
38 FR 17383 - 6/29/73
WINDHAM COUNTY
Decision #AP-855 (B,H,Hw)
38 FR 17386 - 6/29/73

DELAWARE

STATEWIDE
Decision #AP-803 (D)
38 FR 10580 - 4/27/73
Decision #AQ-2092 (B,H,Hw)
38 FR 20200 - 7/27/73
Mod. #1 - 38 FR 21010 - 8/3/73
KENT COUNTY
(B,H,Hw,D) - See Statewide
NEW CASTLE COUNTY
(D) - See Statewide
(B,H,Hw) - See Statewide
SUSSEX COUNTY
(D) - See Statewide
(B,H,Hw) - See Statewide



XUM

FLORIDA

ALACHUA COUNTY
Decision #AP-195 (B)
38 FR 15227 - 6/8/73
Mod. #1 - 38 FR 18810 - 7/13/73
BAKER COUNTY
None
BAY COUNTY
Decision #AP-196 (B)
38 FR 15229 - 6/8/73
Decision #AQ-4002 (D)
38 FR 21037 - 8/3/73
BRADFORD COUNTY
None
BREVARD COUNTY (Cape Kennedy Kennedy Space Flight Center & Patrick AFB only)
Decision #AP-197 (B)
38 FR 15231 - 6/8/73
Mod. #1 - 38 FR 18810 - 7/13/73
Decision #AM-8590 (D)
37 FR 5655 - 3/17/72
Mod. #1-37 FR 24506 - 11/17/72
BROWARD COUNTY
(D) - See Brevard County
CALHOUN COUNTY
None
CHARLOTTE COUNTY
(D) - See Brevard County
CITRUS COUNTY
(D) - See Brevard County
CLAY COUNTY
None
COLLIER COUNTY
(D) - See Brevard County
COLUMBIA COUNTY
None
DADE COUNTY
Decision #AP-198 (B)
38 FR 15233 - 6/8/73
Mod. #1 - 38 FR 18810 - 7/13/73
(D) - See Brevard County
DESOTO COUNTY
None
DIXIE COUNTY
(D) - See Brevard County

FLORIDA (cont'd)

DUVAL COUNTY
Decision #AP-199 (B)
38 FR 15235 - 6/8/73
Mod. #1 - 38 FR 18114 - 7/6/73
Mod. #2 - 38 FR 18811 - 7/13/73
(D) - See Brevard County
ESCAMBIA COUNTY
Decision #AP-1100 (B)
38 FR 15237 - 6/8/73
Mod. #1 - 38 FR 16579 - 6/22/73
Mod. #2 - 38 FR 18114 - 7/6/73
Decision #AP-178 (R)
38 FR 11259 - 5/4/73
(D) - See Bay County
FLAGLER COUNTY
(D) - See Brevard County
FRANKLIN COUNTY
(D) - See Bay County
GADSDEN COUNTY
Decision #AP-179 (R)
38 FR 11260 - 5/4/73
GILCHRIST COUNTY
None
GLADES COUNTY
None
GULF COUNTY
(D) - See Bay County
HAMILTON COUNTY
None
HARDEE COUNTY
None
HENDRY COUNTY
None
HERNANDO COUNTY
(D)-See Brevard County
HIGHLANDS COUNTY
None
HILLSBOROUGH COUNTY
Decision #AP-1101 (B)
38 FR 15239 - 6/8/73
Mod. #1 - 38 FR 18811 - 7/13/73
(D) - See Brevard County
HOLMES COUNTY
None
INDIAN RIVER COUNTY
(D) - See Brevard County
JACKSON COUNTY
None
JEFFERSON COUNTY
(D) - See Bay County
(R) - See Gadsden County

FLORIDA (cont'd)

LAFAYETTE COUNTY
None
LAKE COUNTY
Decision #AP-181 (R)
38 FR 11261 - 5/4/73
LEE COUNTY
(D) - See Brevard County
LEON COUNTY
Decision #AP-1102 (B)
38 FR 15241 - 6/8/73
Mod. #1 - 38 FR 18811 - 7/13/73
(R) - See Gadsden County
LEVY COUNTY
(D) - See Brevard County
LIBERTY COUNTY
None
MADISON COUNTY
(R) - See Gadsden County
MANATEE COUNTY
(D) - See Brevard County
MARION COUNTY
None
MARTIN COUNTY
(D) - See Brevard County
MONROE COUNTY
(D) - See Brevard County
NASSAU COUNTY
(D) - See Brevard County
OKALOOSA COUNTY
(B) - See Escambia County
(D) - See Bay County
Decision #AP-180 (R)
38 FR 11260 - 5/4/73
OKEECHOBEE COUNTY
None
ORANGE COUNTY
Decision #AP-1103 (B)
38 FR 15243 - 6/8/73
(R) - See Lake County
OSCEOLA COUNTY
(R) - See Lake County
PALM BEACH COUNTY
(D) - See Brevard County
PASCO COUNTY
(D) - See Brevard County
PINELLAS COUNTY
Decision #AP-1104 (B)
38 FR 15245 - 6/8/73
Decision #AP-182 (R)
38 FR 11261 - 5/4/73
(D) - See Brevard County

FLORIDA (cont'd)

POLK COUNTY
None
PUTNAM COUNTY
None
ST. JOHNS COUNTY
(D) - See Brevard County
ST. LUCIE COUNTY
(D) - See Brevard County
SANTA ROSA COUNTY
(B) - See Escambia County;
(D) - See Bay County
(R) - See Okaloosa County
SARASOTA COUNTY
(D) - See Brevard County
SEMINOLE COUNTY
(R) - See Lake County
SUMTER COUNTY
None
SUWANNEE COUNTY
None
TAYLOR COUNTY
(D) - See Brevard County
(R) - See Gadsden County
UNION COUNTY
None
VOLUSIA COUNTY (Cape Kennedy, Kennedy Space Flight Center & Patrick Air Force Base only)
(B) - See Brevard County
(D) - See Brevard County
WAKULLA COUNTY
(D) - See Bay County
WALTON COUNTY
(B) - See Escambia County
(D) - See Bay County
(R) - See Okaloosa County
WASHINGTON COUNTY
None







GEORGIA

APPLING COUNTY
Decision #AM-473 (Hw)
36 FR 16421 - 8/20/71
ATKINSON COUNTY
(Hw) - See Appling County
BACON COUNTY
(Hw) - See Appling County
BAKER COUNTY
(Hw) - See Appling County
BALDWIN COUNTY
Decision #AM-472 (Hw)
36 FR 16420 - 8/20/71
BANKS COUNTY
Decision AM-471 (Hw)
36 FR 16419 - 8/20 71
BARROW COUNTY
(Hw) - See Banks County
BARTON COUNTY
(Hw) - See Banks County
BEN HILL COUNTY
(Hw) - See Appling County
BERRIEN COUNTY
(Hw) - See Appling County
BIBB COUNTY
(hw) - See Baldwin County
BLECKLEY COUNTY
(Hw) - See Appling County
BRANTLEY COUNTY
(Hw) - See Appling County

GEORGIA (Cont'd)

BROOKS COUNTY
(Hw) - See Appling County
BRYAN COUNTY
Decision #AM-475 (Hw)
36 FR 16424 - 8/20/71
Decision #AP-847 (D)
38 FR 15797 - 6/15/73
BULLOCH COUNTY
(Hw) - See Appling County
BURKE COUNTY
(Hw) - See Baldwin County
BUTTS COUNTY
(Hw) - See Baldwin County
CALHOUN COUNTY
(Hw) - See Appling County
CAMDEN COUNTY
(D) - See Bryan County
(Hw) - See Appling County
CANDLER COUNTY
(Hw) - See Appling County
CARROLL COUNTY
(Hw) - See Baldwin County
CATOOSA COUNTY
(Hw) - See Banks County
CHARLTON COUNTY
(Hw) - See Appling County
CHATHAM COUNTY
Decision #AQ-4001 (B,H,Hw)
38 FR 19634 - 7/20/73

GEORGIA (Cont'd)

CHATHAM COUNTY
Decision #AP-151 (R)
38 FR 4088 - 2/9/73
(D) - See Bryan County
CHATTAHOOCHEE COUNTY
(Hw) - See Baldwin County
CHATTOOGA COUNTY
(Hw) - See Banks County
CHEROKEE COUNTY
(Hw) - See Banks County
CLARKE COUNTY
(Hw) - See Baldwin County
CLAY COUNTY
(Hw) - See Appling County
CLAYTON COUNTY
Decision #AM-474 (Hw)
36 FR 16423 - 8-20-71
CLINCH COUNTY
(Hw) - See Appling County
COBB COUNTY
(B,H,Hw) - See Fulton County
(R) - See Fulton County
COFFEE COUNTY
(Hw) - See Appling County
COLQUITT COUNTY
(Hw) - See Appling County
COLUMBIA COUNTY
(Hw) - See Baldwin County
COOK COUNTY
(Hw) - See Appling County
COWETA COUNTY
(Hw) - See Baldwin County
CRAWFORD COUNTY
(Hw) - See Baldwin County
CRISP COUNTY
(Hw) - See Baldwin County
DADE COUNTY
(Hw) - See Banks County
DAWSON COUNTY
(Hw) - See Banks County
DECATUR COUNTY
(Hw) - See Appling County
DeKALB COUNTY
(B,H,Hw) - See Fulton County
(R) - See Fulton County

GEORGIA (Cont'd)

DODGE COUNTY
(Hw) - See Appling County
DOOLY COUNTY
(Hw) - See Baldwin County
DOUGHERTY COUNTY
(Hw) - See Appling County
DOUGLAS COUNTY
(Hw) - See Banks County
EARLY COUNTY
(Hw) - See Appling County
ECHOLS COUNTY
(Hw) - See Appling County
EFFINGHAM COUNTY
(Hw) - See Appling County
ELBERT COUNTY
(Hw) - See Banks County
EMANUEL COUNTY
(Hw) - See Baldwin County
EVANS COUNTY
(Hw) - See Appling County
FANNIN COUNTY
(Hw) - See Banks County
FAYETTE COUNTY
(Hw) - See Baldwin County
FLOYD COUNTY
(Hw) - See Banks County
FORSYTH COUNTY
(Hw) - See Banks County
FRANKLIN COUNTY
(Hw) - See Banks County
FULTON COUNTY
Decision #AQ-4000 (B,H,Hw)
38 FR 19637 - 7/20/73
Decision #AP-150 (R)
38 FR 3254 - 2/2/73
Mod. #1 - 38 FR 5088 - 2/23/73
GILMER COUNTY
(Hw) - See Banks County
GLASCOCK COUNTY
(Hw) - See Baldwin County
GLYNN COUNTY
(D) - See Bryan County
(Hw) - See Appling County
GORDON COUNTY
(Hw) - See Banks County
GRADY COUNTY
(Hw) - See Appling County
GREENE COUNTY
(Hw) - See Appling County

GEORGIA (Cont'd)

GWINNETT COUNTY
(Hw) - See Banks County
HABERSHAM COUNTY
(Hw) - See Banks County
HALL COUNTY
(Hw) - See Banks County
HANCOCK COUNTY
(Hw) - See Baldwin County
HARALSON COUNTY
(Hw) - See Banks County
HARRIS COUNTY
(Hw) - See Baldwin County
HART COUNTY
(Hw) - See Banks County
HEARD COUNTY
(Hw) - See Baldwin County
HENRY COUNTY
(Hw) - See Clayton County
HOUSTON COUNTY
(Hw) - See Baldwin County
IRWIN COUNTY
(Hw) - See Appling County
JACKSON COUNTY
(Hw) - See Banks County
JASPER COUNTY
(Hw) - See Baldwin County
JEFF DAVIS COUNTY
(Hw) - See Appling County
JEFFERSON COUNTY
(Hw) - See Baldwin County
JENKINS COUNTY
(Hw) - See Baldwin County
JOHNSON COUNTY
(Hw) - See Baldwin County
JONES COUNTY
(Hw) - See Baldwin County
LAMAR COUNTY
(Hw) - See Baldwin County
LANIER COUNTY
(Hw) - See Appling County
LAURENS COUNTY
(Hw) - See Appling County
LEE COUNTY
(Hw) - See Appling County
LIBERTY COUNTY
(D) - See Bryan County
(Hw) - See Bryan County
LINCOLN COUNTY
(Hw) - See Baldwin County

GEORGIA (Cont'd)

LONG COUNTY
(Hw) - See Appling County
LOWNDES COUNTY
(Hw) - See Appling County
LUMPKIN COUNTY
(Hw) - See Banks County
McDUFFIE COUNTY
(Hw) - See Baldwin County
McINTOSH COUNTY
(D) - See Bryan County
(Hw) - See Appling County
MACON COUNTY
(Hw) - See Baldwin County
MADISON COUNTY
(Hw) - See Banks County
MARION COUNTY
(Hw) - See Baldwin County
MERIWETHER COUNTY
(Hw) - See Baldwin County
MILLER COUNTY
(Hw) - See Appling County
MITCHELL COUNTY
(Hw) - See Appling County
MONROE COUNTY
(Hw) - See Baldwin County
MONTGOMERY COUNTY
(Hw) - See Appling County
MORGAN COUNTY
(Hw) - See Baldwin County
MURRAY COUNTY
(Hw) - See Banks County
MUSCOGEE COUNTY
(Hw) - See Baldwin County
NEWTON COUNTY
(Hw) - See Baldwin County
OCONEE COUNTY
(Hw) - See Baldwin County
OGLETHORPE COUNTY
(Hw) - See Baldwin County
PAULDING COUNTY
(Hw) - See Banks County
PEACH COUNTY
(Hw) - See Baldwin County
PICKENS COUNTY
(Hw) - See Banks County
PIERCE COUNTY
(Hw) - See Appling County
PIKE COUNTY
(Hw) - See Baldwin County

GEORGIA (Cont'd)

POLK COUNTY
(Hw) - See Banks County
PULASKI COUNTY
(Hw) - See Baldwin County
PUTNAM COUNTY
(Hw) - See Baldwin County
QUITMAN COUNTY
(Hw) - See Appling County
RABUN COUNTY
(Hw) - See Banks County
RANDOLPH COUNTY
(Hw) - See Appling County
RICHMOND COUNTY
(Hw) - See Baldwin County
ROCKDALE COUNTY
(Hw) - See Baldwin County
SCHLEY COUNTY
(Hw) - See Baldwin County
SCREVEN COUNTY
(Hw) - See Baldwin County
SEMINOLE COUNTY
(Hw) - See Appling County
SPALDING COUNTY
(Hw) - See Baldwin County
STEPHENS COUNTY
(Hw) - See Banks County
STEWART COUNTY
(Hw) - See Baldwin County
SUMTER COUNTY
(Hw) - See Baldwin County
TALBOT COUNTY
(Hw) - See Baldwin County
TALIAFERRO COUNTY
(Hw) - See Baldwin County
TATTNALL COUNTY
(Hw) - See Appling County
TAYLOR COUNTY
(Hw) - See Baldwin County
TELFAIR COUNTY
(Hw) - See Appling County
TERRELL COUNTY
(Hw) - See Appling County
THOMAS COUNTY
(Hw) - See Appling County
TIFT COUNTY
(Hw) - See Appling County
TOOMBS COUNTY
(Hw) - See Appling County

GEORGIA (Cont'd)

TOWNS COUNTY
(Hw) - See Banks County
TREUTLEN COUNTY
(Hw) - See Appling County
TROUP COUNTY
(Hw) - See Baldwin County
TURNER COUNTY
(Hw) - See Appling County
TWIGGS COUNTY
(Hw) - See Baldwin County
UNION COUNTY
(Hw) - See Banks County
UPSON COUNTY
(Hw) - See Baldwin County
WALKER COUNTY
(Hw) - See Banks County
WALTON COUNTY
(Hw) - See Baldwin County
WARE COUNTY
Decision #AP-155 (B)
38 FR 4073 - 2/9/73
Mod. #1 - 38 FR 5088 - 2/23/73
Decision #AP-160 (R)
38 FR 5083 - 2/23/73
Mod. #1 - 38 FR 10573 4/27/73
(Hw) - See Appling County
WARREN COUNTY
(Hw) - See Baldwin County
WASHINGTON COUNTY
(Hw) - See Baldwin COunty
WAYNE COUNTY
(Hw) - See Appling County
WEBSTER COUNTY
(Hw) - See Baldwin County
WHEELER COUNTY
(Hw) - See Appling County
WHITE COUNTY
(Hw) - See Banks County
WHITFIELD COUNTY
(Hw) - See Banks County
WILCOX COUNTY
(Hw) - See Baldwin County
WILKES COUNTY
(Hw) - See Baldwin County
WILKINSON COUNTY
(Hw) - See Baldwin County
WORTH COUNTY
(Hw) - See Appling County





HAWAII

STATEWIDE
Decision #AP-292 (R)
38 FR 9409 - 4/13/73
Decision #AP-291 (B,Hw,H)
38 FR 9404 - 4/13/73
HAWAII COUNTY
(B-H-Hw) - See Statewide
(R) - See Statewide
HONOLULU COUNTY
(B-H-Hw) - See Statewide
(R) - See Statewide
KAUAI COUNTY
(B-H-Hw) - See Statewide
(R)-See Statewide
MAUI COUNTY
(B-H-Hw) - See Statewide
(R)-See Statewide

IDAHO

Ada County
Decision #AP-274 (B,H,Hw)
38 FR 7717 - 3/23/73
Mod. #1 - 38 FR 9919 - 4/20/73
Mod. #2 - 38 FR 11212 - 5/4/73
Decision #AP-275 (R)
38 FR 7723 - 3/23/73
Mod. #1 - 38 FR 11212 - 5/4/73
ADAMS COUNTY
(B,H,Hw) - See Ada County
BANNOCK COUNTY
Decision #AP-276 (B,H,Hw)
38 FR 7727 - 3/23/73
Mod. #1 - 38 FR 9920 - 4/20/73
Mod. #2 - 38 FR 11212 - 5/4/73
BEAR LAKE COUNTY
(B,H,Hw) - See Bannock County
BENEWAH COUNTY
Decision #AP-273 (B,H,Hw)
38 FR 7707 - 3/23/73
Mod. #1 - 38 FR 17327 - 6/27/73
BINGHAM COUNTY
(B,H,Hw) - See Bannock County
BLAINE COUNTY
(B,H,Hw) - See Ada County
BOISE COUNTY
(B,H,Hw) - See Ada County
BONNER COUNTY
(B,H,Hw) - See Benewah County
BONNEVILLE COUNTY
(B,H,Hw) - See Bannock County
BOUNDARY COUNTY
(B,H,Hw) - See Benewah County
BUTTE COUNTY
(B,H,Hw) - See Ada County
CAMAS COUNTY
(B,H,Hw) - See Ada County
CANYON COUNTY
(B,H,Hw) - See Ada County
CARIBOU COUNTY
(B,H,Hw) - See Bannock County
CASSIA COUNTY
(B,H,Hw) - See Ada County
CLARK COUNTY
(B,H,Hw) - See Bannock County
CLEARWATER COUNTY
(B,H,Hw) - See Benewah County
CUSTER COUNTY
(B, H, Hw) - See Ada County
ELMORE COUNTY
(B,H,Hw) - See Ada County
FRANKLIN COUNTY
(B,H,Hw) - See Bannock County

IDAHO (cont'd)

FREMONT COUNTY
(B,H,Hw,) - See Bannock County
GEM COUNTY
(B,H,Hw) - See Ada County
GOODLING COUNTY
(B,H,Hw) - See Ada County
IDAHO COUNTY
(B,H,Hw) - See Benewah County
JEFFERSON COUNTY
(B,H,Hw) - See Bannock County
JEROME COUNTY
(B,H,Hw) - See Ada County
KOOTENAI COUNTY
(B,H,Hw) - See Benewah County
LATAH COUNTY
(B,H,Hw) - See Benewah County
LEMHI COUNTY
(B,H,Hw) - See Ada County
LEWIS COUNTY
(B,H,Hw) - See Benewah County
LINCOLN COUNTY
(B,H,Hw) - See Ada County
MADISON COUNTY
(B,H,Hw) - See Bannock County
MINIDOKA COUNTY
(B,H,Hw) - See Ada County
NEZ PERCE COUNTY
(B,H,Hw) - See Benewah County
ONEIDA COUNTY
(B,H,Hw) - See Bannock County
OWYHEE COUNTY
(B,H,Hw) - See Ada County
PAYETTE COUNTY
(B,H,Hw) - See Ada County
POWER COUNTY
(B,H,Hw) - See Bannock County
SHOSHONE COUNTY
(B,H,Hw) - See Benewah County
TETON COUNTY
(B,H,Hw) - See Bannock County
TWIN FALLS COUNTY
(B,H,Hw) - See Ada County
VALLEY COUNTY
(B,H,Hw) - See Ada County
WASHINGTON COUNTY
(B,H,Hw) - See Ada County

ILLINOIS

ADAMS COUNTY
Decision #AP-1016 (Hw)(H)
38 FR 14573 - 6/1/73
Mod. #1 - 38 FR 18813 - 7/13/73
ALEXANDER COUNTY
Decision #AP-1019 (H)(Hw)
38 FR 14589 - 6/1/73
Decision #AP-602 (D)
38 FR 1433 - 1/12/73
BOND COUNTY
Decision #AP-1018 (Hw)(H)
38 FR 14583 - 6/1/73
BOONE COUNTY
Decision #AP-1012 (H)(Hw)
38 FR 14542 - 6/1/73
Mod. #1 - 38 FR 18812 - 7/13/73
BROWN COUNTY
(H)(Hw) - See Adams County
(D) - See Alexander County
BUREAU COUNTY
Decision #AP-1013 (Hw)(H)
38 FR 14552 - 6/1/73
Mod. #1 - 38 FR 17330 - 6/29/73
Mod. #2 - 38 FR 18812 - 7/13/73
CALHOUN COUNTY
(H)(Hw) - See Bond County
(D) - See Alexander County
CARROLL COUNTY
(H)(Hw) - See Bureau County
CASS COUNTY
(H)(Hw) - See Adams County
(D) - See Alexander County
CHAMPAIGN COUNTY
Decision #AP-689 (B)
38 FR 15267 - 6/8/73
Mod. #1 - 38 FR 18811 - 7/13/73
Decision #AP-1015 (H)(Hw)
38 FR 14569 - 6/1/73
CHRISTIAN COUNTY
(H)(Hw) - See Adams County
CLARK COUNTY
(H) (Hw) - See Champaign County
CLAY COUNTY
Decision #AP-1017 (H)(Hw)
38 FR 14578 - 6/1/73
Mod. #1 - 38 FR 21011 - 8/3/73
CLINTON COUNTY
(H)(Hw) - See Bond County
COLES COUNTY
(H)(Hw) - See Champaign County.
COOK COUNTY
Decision #AP-690 (B)(H)(Hw)
38 FR 15250 - 6/8/73
Mod. #1 - 38 FR 20162 - 7/27/73







XUM

ILLINOIS

COOK COUNTY
Decision #AP-1003 (R)
38 FR 15302 - 6/8/73
Mod. #1 - 38 FR 20162 - 7/27/73
Decision #AP-4 (D)
37 FR 14570 - 7/21/72
CRAWFORD COUNTY
(H)(Hw) - See Clay County
CUMBERLAND COUNTY
(H)(Hw) - See Champaign County
DEKALB COUNTY
(H)(Hw) - See Boone County
DEWITT COUNTY
(H)(Hw) - See Champaign County
DOUGLAS COUNTY
(H) (Hw) - See Champaign County
DU PAGE COUNTY
Decision #AP-691 (B)
38 FR 15256 - 6/8/73
Mod. #1 - 38 FR 20162 - 7/27/73
Decision #AP-1004 (R)
38 FR 15305 - 6/8/73
Mod. #1 - 38 FR 20162 - 7/27/73
(H) (Hw) - See Boone County
EDGAR COUNTY
(H)(Hw) - See Champaign County
EDWARDS COUNTY
(H)(Hw) - See Clay County
EFFINGHAM COUNTY
(H)(Hw) - See Clay County
FAYETTE COUNTY
(H)(Hw) - See Clay County
FORD COUNTY
None
FRANKLIN COUNTY
(H)(Hw) - See Alexander County
FULTON COUNTY
Decision #AP-104 (H,Hw)
38 FR 14563 - 6/1/73
GALLATIN COUNTY
(H)(Hw) - See Alexander County
(D) - See Alexander County
GREENE COUNTY
(H)(Hw) - See Bond County
(D) - See Alexander County
GRUNDY COUNTY
None
HAMILTON COUNTY
(H)(Hw) - See Clay County
HANCOCK COUNTY
(H)(Hw) - See Fulton County
HARDIN COUNTY
(H)(Hw) - See Alexander County
(D) - See Alexander County
HENDERSON COUNTY
(H)(Hw) - See Fulton County

ILLINOIS (Cont'd)

HENRY COUNTY
(H)(Hw) - See Bureau County
IROQUOIS COUNTY
None
JACKSON COUNTY
(H)(Hw) - See Alexander County
(D) - See Alexander
JASPER COUNTY
(H,Hw) - See Clay County
JEFFERSON COUNTY
(H,Hw) - See Clay County
JERSEY COUNTY
(H,Hw) - See Bond County
(D) - See Alexander
JO DAVIESS COUNTY
(H)(Hw) - See Bureau County
JOHNSON COUNTY
(H,Hw) - See Alexander County
KANE COUNTY
Decision #AP-692 (B)
38 FR 15260 - 6/8/73
Mod. #1 - 38 FR 18811 - 7/13/73
Decision #AP-1005 (R)
38 FR 15309 - 6/8/73
Mod. #1 - 38 FR 18812 - 7/13/73
(H,Hw) - See Boone County
KANKAKEE COUNTY
None
KENDALL COUNTY
(H,Hw) - See Boone County
KNOX COUNTY
(H,Hw) - See Fulton County
LAKE COUNTY
Decision #AP-693 (B)
38 FR 15263 - 6/8/73
Decision #AP-1006 - (R)
38 FR 15263 - 6/18/73
(D) - See Cook County
(H,Hw) - See Boone County
LA SALLE COUNTY
None
LAWRENCE COUNTY
(H,Hw) - See Clay County
LEE COUNTY
(H,Hw) - See Bureau County
LIVINGSTON COUNTY
None
LOGAN COUNTY
(H,Hw) - See Adams County
MCDONOUGH COUNTY
(Hw) - See Boone County
McHENRY COUNTY
(H,Hw) - See Boone County
McCLEAN COUNTY
None

ILLINOIS (Cont'd)

MACON COUNTY
(Hw) - See Champaign County
MADCOPIN COUNTY
(H,Hw) - See Bond County
MADISON COUNTY
Decision #AP-694 (B)
38 FR 15266 - 6/18/73
Decision #AP-1007 (R)
38 FR 15315 - 6/8/73
(H,Hw) - See Bond County
MARION COUNTY
(H,Hw) - See Clay County
MARSHALL COUNTY
None
MASON COUNTY
(H,Hw) - See Adams County
MASSAC COUNTY
(H,Hw) - See Alexander County
MENARD COUNTY
(H,Hw) - See Adams County
MERCER COUNTY
(H,Hw) - See Fulton County
MONROE COUNTY
(H,Hw) - See Bond County
(D) - See Alexander County
MONTGOMERY COUNTY
(H,Hw) - See Bond County
MORGAN COUNTY
(H,Hw) - See Adams County
(D) - See Alexander County
MOULTRIE COUNTY
(H,Hw) - See Champaign County
OGLE COUNTY
(H,Hw) - See Bureau County
PEORIA COUNTY
Decision #AP-695 (B,D)
38 FR 15270 - 6/8/73
Mod. #1 - 38 FR 18811 - 7/13/73
Decision #AP-1008 (R)
38 FR 15319 - 6/8/73
Mod. #1 - 38 FR 18812 - 7/13/73
(H,Hw) - See Fulton County
PERRY COUNTY
(H,Hw) - See Alexander County
PIATT COUNTY
(H,Hw) - See Champaign County
PIKE COUNTY
(H,Hw) - See Adams County
(D) - See Alexander County
POPE COUNTY
(H,Hw,D) - See Alexander County

ILLINOIS (Cont'd)

PULASKI COUNTY
(H,Hw,D) - See Alexander County
PUTNAM COUNTY
None
RANDOLPH COUNTY
(H,Hw,D) - See Alexander County
RICHLAND COUNTY
(H,Hw) - See Clay County
ROCK ISLAND COUNTY
Decision #AP-696 (B)
38 FR 17276 - 6/8/73
(H,Hw) - See Bureau County
SAINT CLAIR COUNTY
Decision #AP-697 (B,H)
38 FR 15279 - 6/8/73
Mod. #1 - 38 FR 21011 - 8/3/73
Decision #AP-1009 (R)
38 FR 15324 - 6/8/73
(H,Hw) - See Bond County
(D) - See Alexander County
SALINE COUNTY
(H,Hw) - See Alexander County
SANGAMON COUNTY
Decision #AP-1010 (B,H)
38 FR 15284 - 6/8/73
Mod. #1 - 38 FR 18812 - 7/13/73
Decision #AP-1010 (R)
38 FR 15203 - 6/18/73
Mod. #1 - 38 FR 18812 - 7/13/73
(H,Hw) - See Adams County
SCHUYLER COUNTY
(H,Hw) - See Adams County
SCOTT COUNTY
(H,Hw) - See Adams County
(D) - See Alexander County
SHELBY COUNTY
(H,Hw) - See Champaign County
STARK COUNTY
(H,Hw) - See Fulton County
STEPHENSON COUNTY
(H,Hw) - See Bureau County
TAZEWELL COUNTY
(B)(R) - See Peoria County
(H,Hw) - See Fulton County
UNION COUNTY
(H,Hw) - See Alexander County
VERMILLION COUNTY
Decision #AP-699 (B,H)
38 FR 15287 - 6/18/73
(H,Hw) - See Champaign County
WABASH COUNTY
(H,Hw) - See Clay County







INDIANA (cont'd)

CRAWFORD COUNTY
Decision #AP-667 (H,Hw)
38 FR 13244 - 5/18/73
Mod. #1 - 38 FR 17333 - 6/29/73
Mod. #2 - 38 FR 18817 - 7/13/73
(D) - See Clark County
DAVIESS COUNTY
(H,HW) - See Boone County
DEARBORN COUNTY
Decision #AP-651 (B)
38 FR 13174 - 6/18/73
Mod. #1 - 38 FR 18814 - 7/13/73
(D) - See Clark County
(H,Hw) - See Bartholomew County
DECATUR COUNTY
(H,Hw) - See Bartholomew County
DEKALB COUNTY
(H,Hw) - See Adams County
DELAWARE COUNTY
Decision #AP-652 (B)
38 FR 13177 - 5/18/73
Mod. #1 - 38 FR 15787 - 6/15/73
Mod. #2 - 38 FR 18814 - 7/13/73
(H,Hw) - See Blackford County
DUBOIS COUNTY
(H,Hw) - See Crawford County
ELKHART COUNTY
(H,Hw) - See Adams County
FAYETTE COUNTY
(H,Hw) - See Blackford County
FLOYD COUNTY
(D) - See Clark County
(H,Hw) - See Bartholomew County
FOUNTAIN COUNTY
(H,Hw) - See Boone County
FRANKLIN COUNTY
(H,Hw) - See Bartholomew County
FULTON COUNTY
(H,Hw) - See Benton County
GIBSON COUNTY
(H,Hw) - See Crawford County

INDIANA (Cont'd)

GRANT COUNTY
Decision #AP-653 (B)
38 FR 13180 - 5/18/73
Mod. #1 - 38 FR 15787 - 6/15/7
Mod. #2 - 38 FR 18814 - 7/13/7
(H,Hw) - See Blackford County
GREENE COUNTY
(H,Hw) - See Boone County
HAMILTON COUNTY
(H,Hw) - See Blackford County
(R) - See Boone County
HANCOCK COUNTY
(H,Hw) - See Blackford County
(R) - See Boone County
HARRISON COUNTY
(D) - See Clark County
(H,Hw) - See Bartholomew County
HENDRICKS COUNTY
(H,Hw,) - See Boone County
(R) - See Boone County
HENRY COUNTY
(H,Hw) - See Blackford County
HOWARD COUNTY
(H,Hw) - See Benton County
HUNTINGTON COUNTY
(H,Hw) - See Adams County
JACKSON COUNTY
(H,Hw) - See Bartholomew County
JASPER COUNTY
(H,Hw) - See Benton County
JAY COUNTY
(H,Hw) - See Blackford County
JEFFERSON COUNTY
(D) - See Clark County
(H,Hw) - See Bartholomew County
JENNINGS COUNTY
(H,Hw) - See Bartholomew County
JOHNSON COUNTY
(H,Hw) - See Blackford County
(R) - See Boone County
KNOX COUNTY
(H,Hw) - See Boone County
KOSCIUSKO COUNTY
(H,Hw) - See Adams County

INDIANA (Cont'd)

LAGRANGE COUNTY
(H,Hw) - See Adams County
LAKE COUNTY
Decision #AP-654 (B,H,Hw)
38 FR 13182 - 5/18/73
Mod. #1 - 38 FR 18815 - 7/13/73
Decision #AP-4 (D)
37 FR 14670 - 7/21/72
LAPORTE COUNTY
Decision #AP-655 (B,H,Hw)
38 FR 13188 - 5/18/73
Mod. #1 - 38 FR 18815 - 7/13/73
(D) - See Lake County
LAWRENCE COUNTY
(H,Hw) - See Bartholomew County
MADISON COUNTY
(H,Hw) - See Blackford County
MARION COUNTY
Decision #AP-656 (B)
38 FR 13193 - 5/18/73
Mod. #1 - 38 FR 15787 - 6/15/73
Mod. #2 - 38 FR 18815 - 7/13/73
(R) - See Boone County
(H,Hw) - See Blackford County
MARSHALL COUNTY
(H,Hw) - See Adams County
MARTIN COUNTY
(H,Hw) - See Bartholomew County
MIAMI COUNTY
(H,Hw) - See Benton County
MONROE COUNTY
Decision #AP-657 (B)
38 FR 13196 - 5/18/73
Mod. #1 - 38 FR 18815 - 7/13/73
(H,Hw) - See Bartholomew County
MONTGOMERY COUNTY
(H,Hw) - See Boone County
MORGAN COUNTY
(R) - See Boone County
(H,Hw) - See Boone County
NEWTON COUNTY
(H,Hw) - See Benton County
NOBLE COUNTY
(H,Hw) - See Adams County

INDIANA (Cont'd)

OHIO COUNTY
(D) - See Clark County
(H,Hw) - See Bartholomew County
ORANGE COUNTY
(H,Hw) - See Bartholomew County
OWEN COUNTY
(H,Hw) - See Boone County
PARKE COUNTY
(H,Hw) - See Boone County
PERRY COUNTY
(D) - See Clark County
(H,Hw) - See Crawford County
PIKE COUNTY
(H,Hw) - See Crawford County
PORTER COUNTY
Decision #AP-658 (B,H,Hw)
38 FR 13199 - 5/18/73
Mod. #1 - 38 FR 18815 - 7/13/73
(D) - See Lake County
POSEY COUNTY
(D) - See Clark County
(H,Hw) - See Crawford County
PULASKI COUNTY
(H,Hw) - See Benton County
PUTNAM COUNTY
(H,Hw) - See Boone County
RANDOLPH COUNTY
(H,Hw) - See Blackford County
RIPLEY COUNTY
(H,Hw) - See Bartholomew County
RUSH COUNTY
(H,Hw) - See Blackford County
SAINT JOSEPH COUNTY
Decision #AP-659 (B,H,Hw)
38 FR 13203 - 5/18/73
Mod. #1 - 38 FR 18816 - 7/13/73
SCOTT COUNTY
(H,Hw) - See Bartholomew County
SHELBY COUNTY
(R) - See Boone County
(H,Hw) - See Blackford County
SPENCER COUNTY
(D) - See Clark County
(H,Hw) See Crawford County

INDIANA (Cont'd)

STARKE COUNTY
(H,Hw) - See Adams County
STEUBEN COUNTY
(H,Hw) - See Adams County
SULLIVAN COUNTY
(H,Hw) - See Boone County
SWITZERLAND COUNTY
(D) - See Clark County
(H,Hw) - See Bartholomew County
TIPPECANOE COUNTY
(B,H,Hw) - See Benton County
TIPTON COUNTY
(H,Hw) - See Benton County
UNION COUNTY
(H,Hw) - See Blackford County
VANDERBURGH COUNTY
Decision #AP-660 (B)
38 FR 13208 - 5/18/73
Mod. #1 - 38 FR 18816 - 7/13/73
(D) - See Clark County
(H,Hw) - See Crawford County
VERMILLION COUNTY
(H,Hw) - See Boone County
VIGO COUNTY
Decision #AP-661 (B)
38 FR 13211 - 5/18/73
Mod. #1 - 38 FR 15787 - 6/15/73
Mod. #2 - 38 FR 17332 - 6/29/73
Mod. #3 - 38 FR 18816 - 7/13/73
(H,Hw) - See Boone County
WABASH COUNTY
(H,Hw) - See Benton County
WARREN COUNTY
(H,Hw) - See Boone County
WARRICK COUNTY
(D) - See Clark County
(H,Hw) - See Crawford County
WASHINGTON COUNTY
(H,Hw) - See Bartholomew County
WAYNE COUNTY
(H,Hw) - See Blackford County
WELLS COUNTY
(H,Hw) - See Adams County
WHITE COUNTY
(H,Hw) - See Benton County
WHITLEY COUNTY
(H,Hw) - See Adams County

IOWA

ADAIR COUNTY
None
ADAMS COUNTY
None
ALLAMAKEE COUNTY
None
APPANOOSE COUNTY
None
AUDUBON COUNTY
None
BENTON COUNTY
None
BLACK HAWK COUNTY
Decision #AQ-17 (B,H,Hw) (City of Waterloo & abutting Municipalities
38 FR 21078 - 8/3/73
BOONE COUNTY
None
BREMER COUNTY
None
BUCHANAN COUNTY
None
BUENA VISTA COUNTY
None
BUTLER COUNTY
None
CALHOUN COUNTY
None
CARROLL COUNTY
Decision #AM-6,712 (H-Hw)
37 FR 7429 - 4-14-72
CASS COUNTY
(H-Hw) - See Carroll County
CEDAR COUNTY
None
CERRO GORDO COUNTY (MASON CITY)
Decision #AM-2,448 (B-H-Hw)
36 FR 16796 - 8-25-71
Mod. #1-36 FR 18985 - 9-24-71
Mod. #2-37 FR 4465 - 3-3-72
Mod. #3-38 FR 16579 - 6/22/73
Mod. #4-38 FR 18115 - 7/6/73
Mod. #5 - 38 FR 20163 - 7/13/73
CHEROKEE COUNTY
None
CHICHASAW COUNTY
None
CLARKE COUNTY
None

IOWA (Cont'd)

CLAY COUNTY
(H-Hw) - See Carroll County
CLAYTON COUNTY
None
CLINTON COUNTY (City of Clinton and abutting municipalities)
Decision #AQ-12 (B,H,Hw)
38 FR 21059 - 8/3/73
CRAWFORD COUNTY
(H-Hw) - See Carroll County
DALLAS COUNTY
None
DAVIS COUNTY
None
DECATUR COUNTY
None
DELAWARE COUNTY
None
DES MOINES COUNTY (City of Burlington and Abutting Municipalities; and Burlington Ordnance Plant)
Decision #AQ-16 (B,H,Hw)
38 FR 21074 - 8/3/73
DICKINSON COUNTY
None
DUBUQUE COUNTY (City of Dubuque and abutting municipalities)
Decision #AQ-13 (B,H,Hw)
38 FR 21062 - 8/3/73
EMMET COUNTY
None
FAYETTE COUNTY
None
FLOYD COUNTY
None
FRANKLIN COUNTY
None
FREMONT COUNTY
None
GREENE COUNTY
None
GRUNDY COUNTY
None

IOWA (Cont'd)

GUTHRIE COUNTY
None
HAMILTON COUNTY
None
HANCOCK COUNTY
None
HARDIN COUNTY
None
HARRISON COUNTY
None
HENRY COUNTY
None
HOWARD COUNTY
(H-Hw) - See Carroll County
HUMBOLDT COUNTY
None
IDA COUNTY
None
IOWA COUNTY
None
JACKSON COUNTY
None
JASPER COUNTY
None
JEFFERSON COUNTY
None
JOHNSON COUNTY (Iowa City)
Decision #AM-2,452 (B-H-Hw)
36 FR 16809 - 8-25-71
Mod. #1-37 FR 640 - 1-14-72
Mod. #2-38 FR 17334 - 6/29/73
Mod. #3 - 38 FR 18115 - 7/6/73
JONES COUNTY
None
KEOKUK COUNTY
None
KOSSUTH COUNTY
None
LEE COUNTY
None
LINN COUNTY (City of Cedar Rapids and Abutting Municipalities)
Decision #AP-529 (B,H,Hw)
38 FR 11271 - 5/4/73
Mod. #1-38 FR 17333 - 6/29/73
Mod. #2 38 FR 18115 - 7/6/73
LINN COUNTY (Except City of Cedar Rapids and Abutting Municipalities)
Decision #AP-536 (H,Hw)
38 FR 18139 - 7/6/73







IOWA (Cont'd)

LOUISA COUNTY
None
LUCAS COUNTY
None
LYON COUNTY
None
MADISON COUNTY
None
MAHASKA COUNTY
None
MARION COUNTY
None
MARSHALL COUNTY
None
MILLS COUNTY
None
MITCHELL COUNTY
None
MONONA COUNTY
(H-Hw) - See Carroll County
MONROE COUNTY
None
MONTGOMERY COUNTY
None
MUSCATINE COUNTY
None
O'BRIEN COUNTY
(H-Hw) - See Carroll County
OSCEOLA COUNTY
(H-Hw) - See Carroll County
PAGE COUNTY
None
PALO ALTO COUNTY
None
PLYMOUTH COUNTY
None
POCAHONTAS COUNTY
None
POLK COUNTY (City of Des Moines and Abutting Municipalities)
Decision #AQ-15 (B,H,Hw)
38 FR 21070 - 8/3/73
POLK COUNTY (Except City of Des Moines and Abutting Municipalities)
Decision #AP-215 (H-Hw)
37 FR 16266 - 8-11-72

IOWA (Cont'd)

POTTAWATTAMIE COUNTY (City of Council Bluffs and the area within 3 miles from the City limits)
Decision #AM-2,455 (B-H-Hw)
36 FR 16820 - 8-25-71
Mod. #1-37 FR 4466 - 3-3-72
POWESHIEK COUNTY
None
RINGGOLD COUNTY
(H-Hw) - See Carroll County
SAC COUNTY
None
SCOTT COUNTY
Decision #AQ-3 (B,H,Hw)
38 FR 19641 - 7/20/73
SHELBY COUNTY
None
SIOUX COUNTY
None
STORY COUNTY (City of Ames and abutting municipalities)
Decision #AQ-14 (B,H,Lw)
38 FR 21066 - 8/3/73
TAMA COUNTY
None
TAYLOR COUNTY
(H-Hw) - See Carroll County
UNION COUNTY
None
VAN BUREN COUNTY
(H-Hw) - See Carroll County
WAPELLO COUNTY
None
WARREN COUNTY
None
WASHINGTON COUNTY
None
WAYNE COUNTY
None
WEBSTER COUNTY (FORT DODGE)
Decision #AM-2,458 (B,H,Hw)
36 FR 16830 - 8-25-71
Mod. #1-37 FR 4466 - 3-3-72
Mod. #2-37 FR 11117 - 6/2/72
Mod. #3 - 38 FR 15787 - 6/15/73
Mod. #4 - 38 FR 17337 - 6/29/73
Mod. #5 - 38 FR 18115 - 7/6/73
Mod. #6 - 38 FR 18817 - 7/13/73

IOWA (Cont'd)

WINNEBAGO COUNTY
None
WINNESHIEK COUNTY
None
WOODBURY COUNTY (City of Sioux City and abutting municipalities)
Decision #AQ-11 (B,H,Hw)
38 FR 21055 - 8/3/73
WORTH COUNTY
None
WRIGHT COUNTY
None

KANSAS

ALLEN COUNTY
Decision #AP-519 (Hw)
38 FR 7732 - 3/23/73
ANDERSON COUNTY
(Hw) - See Allen County
ATCHISON COUNTY
(Hw) - See Allen County
BARBER COUNTY
Decision #AP-521 (Hw)
38 FR 7734 - 3/23/73
BARTON COUNTY
(Hw) - See Barber County
BOURBON COUNTY
(Hw) - See Allen County
BROWN COUNTY
(Hw) - See Allen County
BUTLER COUNTY
(Hw) - See Allen County
CHASE COUNTY
(Hw) - See Allen County
CHAUTAUQUA COUNTY
(Hw) - See Allen County
CHEROKEE COUNTY
(Hw) - See Allen County
CHEYENNE COUNTY
(Hw) - See Barber County
CLARK COUNTY
(Hw) - See Barber County

KANSAS (Cont'd)

CLAY COUNTY
(Hw) - See Allen County
CLOUD COUNTY
(Hw) - See Allen County
COFFEY COUNTY
(Hw) - See Allen County
COMANCHE COUNTY
(Hw) - See Barber County
COWLEY COUNTY
(Hw) - See Allen County
CRAWFORD COUNTY
(Hw) - See Allen County
DECATUR COUNTY
(Hw) - See Barber County
DICKINSON COUNTY
(Hw) - See Allen County
DONIPHAN COUNTY
(Hw) - See Allen County
DOUGLAS COUNTY
Decision #AP-503 (Hw)
37 FR 17349 - 8-25-72
Mod. #1-37 FR 20389 - 9-29-72
Mod. #2-38 FR 6523 - 3/9/73
Mod. #3-38 FR 9389 - 4/13/73
Mod. #4-38 FR 20164 - 7/27/73
EDWARDS COUNTY
(Hw) - See Barber County
ELK COUNTY
(Hw) - See Allen County
ELLIS COUNTY
(Hw) - See Barber County
ELLSWORTH COUNTY
(Hw) - See Barber County
FINNEY COUNTY
(Hw) - See Barber County
FORD COUNTY
(Hw) - See Barber County
FRANKLIN COUNTY
(Hw) - See Allen County
GEARY COUNTY
(Hw) - See Allen County
GOVE COUNTY
(Hw) - See Barber County
GRAHAM COUNTY
(Hw) - See Barber County
GRANT COUNTY
(Hw) - See Barber County





VAULT 3 SEP 7 1973 NWU

KANSAS (Cont'd)

GRAY COUNTY
(Hw) - See Barber County
GREELEY COUNTY
(Hw) - See Barber County
GREENWOOD COUNTY
(Hw) - See Allen County
HAMILTON COUNTY
(Hw) - See Barber County
HARPER COUNTY
(Hw) - See Allen County
HARVEY COUNTY
(Hw) - See Allen County
HASKELL COUNTY
(Hw) - See Barber County
HODGEMAN COUNTY
(Hw) - See Barber County
JACKSON COUNTY
(Hw) - See Allen County
JEFFERSON COUNTY
(Hw) - See Douglas County
JEWELL COUNTY
(Hw) - See Barber County
JOHNSON COUNTY
Decision #AP-531 (B,H,Hw)
38 FR 13929 - 5/25/73
Mod. #1 - 38 FR 15210 - 6/8/73
Mod. #2 - 38 FR 16584 - 6/22/73
Mod. #3 - 38 FR 18117 - 7/6/73
Mod. #4 - 38 FR 20165 - 7/27/73
Decision #AP-516 (R)
37 FR 26206 - 12/8/72
Mod. #1 - 38 FR 1435 - 1/12/73
Mod. #2 - 38 FR 4078 - 2/9/73
Mod. #3 - 38 FR 12511 - 5/11/73
Mod. #4 - 38 FR 15210 - 6/8/73
KEARNY COUNTY
(Hw) - See Barber County
KINGMAN COUNTY
(Hw) - See Allen County
KIOWA COUNTY
(Hw) - See Barber County
LABETTE COUNTY
(Hw) - See Allen County
LANE COUNTY
(Hw) - See Barber County
LEAVENWORTH COUNTY
Decision #AM-6,708 (B)
37 FR 7031 - 4/7/72
Mod. #1-37 FR 18833 - 9/15/72
Mod. #2-37 FR 20388 - 9/29/72
Mod. #3-38 FR 6522 - 3/9/73
Mod. #4-38 FR 17340 - 6/29/73
Mod. #5-38 FR 20167 - 7/27/73
(Hw) - See Douglas County
LINCOLN COUNTY
(Hw) - See Barber County
LINN COUNTY
(Hw) - See Allen County

KANSAS (Cont'd)

LOGAN COUNTY
(Hw) - See Barber County
LYON COUNTY
(Hw) - See Allen County
McPHERSON COUNTY
(Hw) See Allen County
MARION COUNTY
(Hw) See Allen County
MARSHALL COUNTY
(Hw) - See Allen County
MEADE COUNTY
(Hw) - See Barber County
MIAMI COUNTY
(Hw) - See Douglas County
MITCHELL COUNTY
(Hw) - See Barber County
MONTGOMERY COUNTY
(Hw) - See Allen County
MORRIS COUNTY
(Hw) - See Allen County
MORTON COUNTY
(Hw) - See Barber County
NEMAHA COUNTY
(Hw) - See Allen County
NEOSHO COUNTY
(Hw) - See Allen County
NESS COUNTY
(Hw) - See Barber County
NORTON COUNTY
(Hw) - See Barber County
OSAGE COUNTY
(Hw) - See Allen County
OSBORNE COUNTY
(Hw) - See Barber County
OTTAWA COUNTY
(Hw) - See Allen County
PAWNEE COUNTY
(Hw) See Barber County
PHILLIPS COUNTY
(Hw) - See Barber County
POTTAWATOMIE COUNTY
(Hw) - See Allen County
PRATT COUNTY
(Hw) - See Barber County
RAWLINS COUNTY
(Hw) - See Barber County

KANSAS (Cont'd)

RENO COUNTY
(Hw) - See Allen County
REPUBLIC COUNTY
(Hw) - See Allen County
RICE COUNTY
(Hw) - See Barber County
RILEY COUNTY
(Hw) - See Allen County
ROOKS COUNTY
(Hw) - See Barber County
RUSH COUNTY
(Hw) - See Barber County
RUSSELL COUNTY
(Hw) - See Barber County
SALINE COUNTY
(Hw) - See Allen County
SCOTT COUNTY
(Hw) - See Barber County
SEDGWICK COUNTY
Decision #AP-533 (R)
38 FR 16573 - 6/22/73
Decision #AP-532 (B)
38 FR 13922 - 5/25/73
Mod. #1 - 38 FR 20166 - 7/27/73
Decision #AP-520 (Hw)
38 FR 7733 - 3/23/73
SEWARD COUNTY
(Hw) - See Barber County
SHAWNEE COUNTY
Decision #AM-6,717 (B)
37 FR 7458-4/14/72
Mod.#1-37 FR 18833-9/15/72
Mod.#2-37 FR 20388-9/29/72
Mod.#3-38 FR 4077 - 2/9/73
Mod. #4-38 FR 6523 - 3/9/73
Mod. #5-38 FR 20168 - 7/27/73
(Hw) - See Douglas County
Decision #AP-501 (R)
37 FR 16312-8/11/72
Mod.#1-37 FR 18834-9/15/72
Mod.#2-37 FR 20388-9/29/72
Mod.#3-38 FR 4077 - 2/9/73
Mod. #4-38 FR 6523 - 3/9/73
Mod. #5-38 FR 20163 - 7/27/73

KANSAS (Cont'd)

SHERIDAN COUNTY
(Hw) - See Barber County
SHERMAN COUNTY
(Hw) - See Barber County
SMITH COUNTY
(Hw) - See Barber County
STAFFORD COUNTY
(Hw) - See Barber County
STANTON COUNTY
(Hw) - See Barber County
STEVENS COUNTY
(Hw) - See Barber County
SUMNER COUNTY
(Hw) - See Allen County
THOMAS COUNTY
(Hw) - See Barber County
TREGO COUNTY
(Hw) - See Barber County
WABAUNSEE COUNTY
(Hw) - See Allen County
WALLACE COUNTY
(Hw) - See Barber County
WASHINGTON COUNTY
(Hw) - See Allen County
WICHITA COUNTY
(Hw) - See Barber County
WILSON COUNTY
(Hw) - See Allen County
WOODSON COUNTY
(Hw) - See Allen County
WYANDOTTE COUNTY
(B,H,Hw) - See Johnson County
(R) - See Johnson County

NOTICES



KENTUCKY

ADAIR COUNTY
Decision #AP-143 (H, Hw)
38 FR 2033 - 1/19/73
Mod. #1-38 FR 14511 - 6/1/73
ALLEN COUNTY
Decision #AP-145 (H, Hw)
38 FR 2040 - 1/19/73
Mod. #1-38 FR 14513 - 6/1/73
ANDERSON COUNTY
Decision #AP-146 (H, Hw)
38 FR 2044 - 1/19/73
Mod. #1-38 FR 14514 - 6/1/73
BALLARD COUNTY
Decision #AQ-1002 (D)
38 FR 21037 - 8/3/73
(H,Hw) - See Allen County
BARREN COUNTY
(H,Hw) - See Adair County
BATH COUNTY
(H,Hw) - See Anderson County
Decision #AM-487 (R)
36 FR 16459 - 8/20/71
BELL COUNTY
(H,Hw) - See Adair County
BOONE COUNTY
Decision #AP-168 (B)
38 FR 6513 3/9/73
Decision #AP-141 (H,Hw)
37 FR 25690 - 12/1/72
Mod. #1-37 FR 26778 - 12/15/72
Mod. #2-38 FR 2008 - 1/19/73
Mod. #3-38 FR 20169 - 7/27/73
Decision #AP-602 (D)
38 FR 1433 - 1/12/73
BOURBON COUNTY
(Hw, H) - See Anderson County
(R) - See Bath County
BOYD COUNTY
Decision #AP-170 (B)
38 FR 7735 - 3/23/73
Mod. #1-38 FR 12512 - 5/11/73
Mod. #2-38 FR 18817 - 7/13/73
(H,Hw) - See Anderson County
(D) - See Boone County
BOYLE COUNTY
(H,Hw) - See Anderson County
BRACKEN COUNTY
(H,Hw) - See Anderson County
(D) - See Boone County
BREATHITT COUNTY
Decision #AP-144 (H, Hw)
38 FR 2037 - 1/19/73
Mod. #1-38 FR 14512 - 6/1/73

KENTUCKY (Cont'd)

BRECKINRIDGE COUNTY
Decision #AP-183 (R)
38 FR 11278 - 5/4/73
(H,Hw) - See Anderson County
(D) - See Boone County
BULLITT COUNTY
(D) - See Boone County
(H, Hw) - See Anderson County
(R) - See Breckinridge County
BUTLER COUNTY
(H,Hw) - See Allen County
CALDWELL COUNTY
(H,Hw) - See Allen County
CALLOWAY COUNTY
(H,Hw) - See Allen County
CAMPBELL COUNTY
(B,H,D,Hw) - See Boone County
CARLISLE COUNTY
(D) - See Ballard County
(H,Hw) - See Allen County
CARROLL COUNTY
(H,Hw) - See Anderson County
(D) - See Boone County
CARTER COUNTY
(H,Hw) - See Anderson County
CASEY COUNTY
(H,Hw) - See Adair County
CHRISTIAN COUNTY
(H,Hw) - See Allen County
CLARK COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
CLAY COUNTY
(H,Hw) - See Adair County
CLINTON COUNTY
(H,Hw) - See Adair County
CRITTENDEN COUNTY
(H,Hw) - See Allen County
(D) - See Boone County
CUMBERLAND COUNTY
(H,Hw) - See Adair County
DAVIESS COUNTY
(H,Hw) - See Allen County
(D) - See Boone County
EDMONSON COUNTY
(H,Hw) - See Allen County

KENTUCKY (cont'd)

ELLIOTT COUNTY
(H,Hw) - See Anderson County
ESTILL COUNTY
(H,Hw) - See Adair County
FAYETTE COUNTY
Decision #AP-194 (B)
38 FR 13926 - 5/25/73
(R) - See Bath County
FLEMING COUNTY
(H,Hw) - See Anderson County
FLOYD COUNTY
(H,Hw) - See Breathitt County
FRANKLIN COUNTY
(H,Hw) - See Anderson County
FULTON COUNTY
(D) - See Ballard County
(H,Hw) - See Allen County
GALLATIN COUNTY
(H,Hw) - See Anderson County
(D) - See Boone County
GARRARD COUNTY
(H,Hw) - See Adair County
GRANT COUNTY
(H,Hw) - See Anderson County
GRAVES COUNTY
(H,Hw) - See Allen County
GRAYSON COUNTY
(H,Hw) - See Anderson County
GREEN COUNTY
(H,Hw) - See Adair County
GREENUP COUNTY
(H,Hw) - See Anderson County
(D) - See Boone County

KENTUCKY (Cont'd)

HANCOCK COUNTY
(H,Hw) - See Allen County
(D) - See Boone County
HARDIN COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
(D) - See Boone County
HARLAN COUNTY
(H,Hw) - See Adair County
HARRISON COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
HART COUNTY
(H,Hw) - See Adair County
HENDERSON COUNTY
(H,Hw) - See Allen County
(D) - See Boone County
HENRY COUNTY
(H,Hw) - See Anderson County
HICKMAN COUNTY
(D) - See Ballard County
(H,Hw) - See Allen County
HOPKINS COUNTY
(H,Hw) - See Allen County
JACKSON COUNTY
(H,Hw) - See Adair County
JEFFERSON COUNTY
Decision #AP-171 (B)
38 FR 7738 - 3/23/73
Mod. #1-38 FR 13916 - 5/25/73
(D) - See Boone County
(R) - See Breckinridge County
(H,Hw) - See Anderson County

NOTICES

KENTUCKY (Cont'd)

JESSAMINE COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
JOHNSON COUNTY
Decision #AP-147 (H, Hw)
38 FR 2048 - 1/19/73
Mod. #1-38 FR 14515 - 6/1/73
KENTON COUNTY
(B,H,Hw,D) - See Boone County
KNOTT COUNTY
(H,Hw) - See Breathitt County
KNOX COUNTY
(H,Hw) - See Adair County
LARUE COUNTY
(H,Hw) - See Anderson COunty
LAUREL COUNTY
(H,Hw) - See Adair County
LAWRENCE COUNTY
(H,Hw) - See Johnson County
LEE COUNTY
(H,Hw) - See Adair County
LESLIE COUNTY
(H,Hw) - See Adair County
LETCHER COUNTY
(H,Hw) - See Breathitt County
LEWIS COUNTY
(H,Hw) - See Anderson County
(D) - See Boone County
LINCOLN COUNTY
(H,Hw) - See Adair County
LIVINGSTON COUNTY
(H,Hw) - See Allen County
(D) - See Boone County
LOGAN COUNTY
(H,Hw) - See Allen County
LYON COUNTY
(H,Hw) - See Allen County

KENTUCKY (Cont'd)

McCRACKEN COUNTY
Decision #AP-188 (B)
38 FR 9935 - 4/20/73
Mod. #1-38 FR 13916 - 5/25/73
Mod. #2-38 FR 18117 - 7/6/73
(D) - See Boone County
(H,Hw) - See Allen County
McCREARY COUNTY
(H,Hw) - See Adair County
McLEAN COUNTY
(H,Hw) - See Allen County
MADISON COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
MAGAFFIN COUNTY
(H,Hw) - See Breathitt County
MARION COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
MARSHALL COUNTY
(H,Hw) - See Allen County
MARTIN COUNTY
(H,Hw) - See Breathitt County
MASON COUNTY
(H,Hw) - See Anderson County
(D) - See Boone County
MEADE COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
(D) - See Boone County
MENIFEE COUNTY
(H,Hw) - See Adair County

KENTUCKY (Cont'd)

MERCER COUNTY
(H,Hw) - See Anderson County
METCALFE COUNTY
(H,Hw) - See Adair County
MONROE COUNTY
(H,Hw) - See Adair County
MONTGOMERY COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
MORGAN COUNTY
(H,Hw) - See Anderson County
MUHLENBERG COUNTY
(H,Hw) - See Allen County
NELSON COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
NICHOLAS COUNTY
(H,Hw) - See Anderson County
OHIO COUNTY
(H,Hw) - See Allen County
OLDHAM COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
(D) - See Boone County
OWEN COUNTY
(H,Hw) - See Anderson County
OWSLEY COUNTY
(H,Hw) - See Adair County
PENDLETON COUNTY
(H,Hw) - See Anderson County
(D) - See Boone County
PERRY COUNTY
(H,Hw) - See Breathitt County
PIKE COUNTY
(H,Hw) - See Breathitt County
POWELL COUNTY
(H,Hw) - See Adair County
PULASKI COUNTY
(H,Hw) - See Adair County
ROBERTSON COUNTY
(H,Hw) - See Anderson County
ROCKCASTLE COUNTY
(H,Hw) - See Adair County
ROWAN COUNTY
(H,Hw) - See Anderson County

KENTUCKY (Cont'd)

RUSSELL COUNTY
(H,Hw) - See Adair County
SCOTT COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
SHELBY COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
SIMPSON COUNTY
(H,Hw) - See Allen County
SPENCER COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
TAYLOR COUNTY
(H,Hw) - See Adair County
TODD COUNTY
(H,Hw) - See Allen County
TRIGG COUNTY
(H,Hw) - See Allen County
TRIMBLE COUNTY
(H,Hw) - See Anderson County
(D) - See Boone County
UNION COUNTY
(H,Hw) - See Allen County
(D) - See Boone County
WARREN COUNTY
Decision #AP-189 (B,H,Hw)
38 FR 13248 - 5/18/73
WASHINGTON COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
WAYNE COUNTY
(H,Hw) - See Adair County
WEBSTER COUNTY
(H,Hw) - See Allen County
WHITLEY COUNTY
(H,Hw) - See Adair County
WOLFE COUNTY
(H,Hw) - See Adair County
WOODFORD COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County

NOTICES





LOUISIANA

STATEWIDE
Decision #AQ-4002 (D)
38 FR 21037 - 8/3/73
ACADIA PARISH
(D) - See Statewide
Decision #AP-1107 (F)
38 FR 17358 - 6/29/73
Decision #AQ-8 (B)
38 FR 20204 - 7/27/73
ALLEN PARISH
(D) - See Statewide
(B,F) - See Acadia Parish
ASCENSION PARISH
(D) - See Statewide
(B,F) - See Acadia Parish
ASSUMPTION PARISH
(D) - See Statewide
(B,F) - See Acadia Parish
AVOYELLES PARISH
(D) - See Statewide
(F) - See Acadia Parish
BEAUREGARD PARISH
(D) - See Statewide
(B,F) - See Acadia Parish
BIENVILLE PARISH
(D) - See Statewide
(F) - See Acadia Parish
BOSSIER PARISH
(D) - See Statewide
(F) - See Acadia Parish
Decision #AQ-5 (B)
38 FR 19647 - 7/20/73
Decision #AQ-6 (R)
38 FR 19649 - 7/20/73
CADDO PARISH
(D) - See Statewide
(B,R) - See Bossier Parish
CALCASIEU PARISH
(D) - See Statewide
(B) - See Acadia Parish
(F) - See Acadia Parish

LOUISIANA (Cont'd)

CALCASIEU PARISH (cont'd)
Decision #AQ-4 (R)
38 FR 19645 - 7/20/73
CALDWELL PARISH
(D)-See Statewide
(F)-See Acadia Parish
CAMERON PARISH
(D) - See Statewide
(B,F) - See Acadia Parish
CATAHOULA PARISH
(D) - See Statewide
(F) - See Acadia Parish
CLAIBORNE PARISH
(D) - See Statewide
(F) - See Acadia Parish
CONCORDIA PARISH
(D) - See Statewide
(F) - See Acadia Parish
DE SOTO PARISH
(D) - See Statewide
(F) - See Acadia Parish
EAST BATON ROUGE PARISH
(D) - See Statewide
(B) - See Acadia Parish
EAST CARROLL PARISH
(D) - See Statewide
(F) - See Acadia Parish
EAST FELICIANA PARISH
(D) - See Statewide
(B,F) - See Acadia Parish
EVANGELINE PARISH
(D) - See Statewide
(B,F) - See Acadia Parish
FRANKLIN PARISH
(D) - See Statewide
(F) - See Acadia Parish

LOUISIANA (Cont'd)

GRANT PARISH
(D) - See Statewide
(F) - See Acadia Parish
IBERIA PARISH
(D) - See Statewide
(B,F) - See Acadia Parish
IBERVILLE PARISH
(D)-See Statewide
(B,F) - See Acadia Parish
JACKSON PARISH
(D)-See Statewide
(F)-See Acadia Parish
JEFFERSON PARISH
(D)-See Statewide
(B,F) - See Acadia Parish
JEFFERSON DAVIS PARISH
(D)-See Statewide
(B,F) - See Acadia Parish
LAFAYETTE PARISH
(D)-See Statewide
(B,F) - See Acadia Parish
LAFOURCHE PARISH
(D)-See Statewide
(B,F) - See Acadia Parish
LA SALLE PARISH
(D)-See Statewide
(F)-See Acadia Parish
LINCOLN PARISH
(D)-See Statewide
(F)-See Acadia Parish
LIVINGSTON PARISH
(D)-See Statewide
(B,F) - See Acadia Parish
MADISON PARISH
(D)-See Statewide
(F)-See Acadia Parish
MOREHOUSE PARISH
(D)-See Statewide
(F)-See Acadia Parish
NATCHITOCHES PARISH
(D)-See Statewide
(F)-See Acadia Parish
ORLEANS PARISH
(D) - See Statewide
(B) - See Acadia Parish

LOUISIANA (Cont'd)

OUACHITA PARISH
(D)-See Statewide
Decision #AP-317 (B)
37 FR 17305-8/25/72
PLAQUEMINES PARISH
(D)-See Statewide
(B,F) - See Acadia Parish
POINT COUPEE PARISH
(D)-See Statewide
(B,F) - See Acadia Parish
RAPIDES PARISH
(D)-See Statewide
Decision #AP-736 (B)
38 FR 14609 - 6/1/73
Mod. #1-38 FR 15788 - 6/15/73
Mod. #2-38 FR 17341 - 6/29/73
Mod. #3-38 FR 19605 - 7/20/73
RED RIVER PARISH
(D)-See Statewide
(F)-See Acadia Parish
RICHLAND PARISH
(D)-See Statewide
(F)-See Acadia Parish
SABINE PARISH
(D)-See Statewide
(F)-See Acadia Parish
ST. BERNARD PARISH
(D)-See Statewide
(B,F) - See Acadia Parish
ST. CHARLES PARISH
(D)-See Statewide
(B,F) - See Acadia Parish
ST. HELENA PARISH
(D)-See Statewide
(B,F) - See Acadia Parish
ST. JAMES PARISH
(D)-See Statewide
(B,F) - See Acadia Parish
ST. JOHN THE BAPTIST PARISH
(D)-See Statewide
(B,F) - See Acadia Parish
ST. LANDRY PARISH
(D)-See Statewide
(B,F) - See Acadia Parish
ST. MARTIN PARISH
(D)-See Statewide
(B,F) - See Acadia Parish

NOTICES



XUM

LOUISIANA (Cont'd)

ST. MARY PARISH
(D)-See Statewide
(B,F) - See Acadia Parish
ST. TAMMANY PARISH
(D)-See Statewide
(B,F) - See Acadia Parish
TANGIPAHOA PARISH
(D)-See Statewide
(B,F) - See Acadia Parish
TENSAS PARISH
(D) See Statewide
(F)-See Acadia Parish
TERREBONNE PARISH
(D)-See Statewide
(B,F) - See Acadia Parish
UNION PARISH
(D)-See Statewide
(F)-See Acadia Parish
VERMILION PARISH
(D)-See Statewide
(B,F) - See Acadia Parish
VERNON PARISH
(D)-See Statewide
(F)-See Acadia Parish
WASHINGTON PARISH
(D)-See Statewide
(B,F) - See Acadia Parish
WEBSTER PARISH
(D)-See Statewide
(F)-See Acadia Parish
WEST BATON ROUGE PARISH
(D)-See Statewide
(B,F) - See Acadia Parish
WEST CARROLL PARISH
(D)-See Statewide
(F)-See Acadia Parish
WEST FELICIANA PARISH
(D)-See Statewide
(B,F) - See Acadia Parish
WINN PARISH
(D)-See Statewide
(F)-See Acadia Parish

MAINE

ANDROSCOGGIN COUNTY
None
AROOSTOOK COUNTY
None
CUMBERLAND COUNTY
Decision #AP-803 (D)
38 FR 10580 - 4/27/73
FRANKLIN COUNTY
None
HANCOCK COUNTY
(D) - See Cumberland County
KENNEBEC COUNTY
None
KNOX COUNTY
(D) - See Cumberland County
LINCOLN COUNTY
(D) - See Cumberland County
OXFORD COUNTY
None
PENOBSCOT COUNTY
None
PISCATAQUIS COUNTY
None
SAGADAHOC COUNTY
(D) - See Cumberland County
SOMERSET COUNTY
None
WALDO COUNTY
(D) - See Cumberland County
WASHINGTON COUNTY
(D) - See Cumberland County
YORK COUNTY
(D) - See Cumberland County

MARYLAND

ALLEGANY COUNTY
None
ANNE ARUNDEL COUNTY
Decision #AP-847 (D)
38 FR 15797 - 6/15/73
Decision #AP-842 (B,Hw)
38 FR 14503 - 6/1/73
Mod. #1 - 38 FR 15789 - 6/15/73
Mod. #2 - 38 FR 16585 - 6/22/73
BALTIMORE CITY & BALTIMORE COUNTY
Decision #AP-856 (B,H,Hw)
38 FR 16612 - 6/22/73
Mod. #1 - 38 FR 18118 - 7/6/73
Mod. #2 - 38 FR 21011 - 8/3/73
Decision #AM-1,846 (R)
36 FR 16249 - 8/20/71
Decision #AP-803 (D)
38 FR 10580 - 4/27/73
CALVERT COUNTY
(D)-See Anne Arundel County
CAROLINE COUNTY
None
CARROLL COUNTY
None
CECIL COUNTY
(R)-See Baltimore County
CHARLES COUNTY
(D)-See Anne Arundel County
DORCHESTER COUNTY
(D)-See Anne Arundel County
FREDERICK COUNTY
None
GARRETT COUNTY
None
HARFORD COUNTY
(R)-See Baltimore County
(D)-See Anne Arundel County
HOWARD COUNTY
(R)-See Baltimore County
KENT COUNTY
(D)-See Anne Arundel County

MARYLAND (Cont'd)

MONTGOMERY COUNTY
Decision #AP-858 (B)
38 FR 17390 - 6/29/73
Mod. #1 - 38 FR 17390 - 6/29/73
Decision #AP-450 (R)
37 FR 25117 - 11/25/72
PRINCE GEORGES COUNTY
(B)-See Montgomery County
(R)-See Montgomery County
(D)-See Anne Arundel County
QUEEN ANNES COUNTY
(D) - See Anne Arundel County
ST. MARYS COUNTY
(D) - See Anne Arundel County
SOMERSET COUNTY
(D)-See Anne Arundel County
TALBOT COUNTY
(D)-See Anne Arundel County
WASHINGTON COUNTY
None
WICOMICO COUNTY
(D)-See Anne Arundel County
WORCESTER COUNTY
(D)-See Baltimore County

NOTICES





MASSACHUSETTS

BARNSTABLE COUNTY
Decision #AP-811 - (B,H,Hw, & Marine)
38 FR 12539 - 5/11/73
Mod. #1-38 FR 14516 - 6/1/73
Mod. #2-38 FR 17342 - 6/29/73
Mod. #3-38 FR 18118 - 7/6/73
Mod. #4-38 FR 21012 - 8/3/73
Decision #AP-803 - (D)
38 FR 10580 - 4/27/73
BERKSHIRE COUNTY
None
BRISTOL COUNTY
(D) - See Barnstable County
DUKES COUNTY
(D) - See Barnstable County
ESSEX COUNTY
Decision #AP-812 (B,H,Hw & Marine)
38 FR 12542 - 5/11/73
Mod. #1-38 FR 17344 - 6/29/73
Mod. #2-38 FR 18119 - 7/6/73
Mod. #3-38 FR 21012 - 8/3/73
(D) - See Barnstable County
FRANKLIN COUNTY
None
HAMPDEN COUNTY
Decision #AP-813 (B,H,Hw)
38 FR 12546 - 5/11/73
Mod. #1 - 38 FR 15211 - 6/8/73
Mod. #2 - 38 FR 18119 - 7/6/73
Decision #AP-470 (R)
38 FR 4617 - 2/16/73
Mod. #1 - 38 FR 6523 - 3/9/73
Mod. #2 - 38 FR 9394 - 4/13/73
Mod. #3-38 FR 18818 - 7/13/73

MASSACHUSETTS (cont'd)

HAMPSHIRE COUNTY
None
MIDDLESEX COUNTY
Decision #AP-814 (B,H,Hw & Marine)
38 FR 12550 - 5/11/73
Mod. #1 - 38 FR 14516 - 6/1/73
Mod. #2 - 38 FR 17346 - 6/29/73
Mod. #3 - 38 FR 18122 - 7/6/73
Mod. #4 - 38 FR 18818 - 7/13/73
Mod. #5 - 38 FR 21012 - 8/3/73
(D) - See Barnstable County
Decision #AQ-2003 (R)
38 FR 21001 - 8/3/73
NANTUCKET COUNTY
(D) - See Barnstable County
NORFOLK COUNTY
(D) - See Barnstable County
PLYMOUTH COUNTY
(D) - See Barnstable County
SUFFOLK COUNTY
Decision #AP-815 (B,H,Hw, Marine & D)
38 FR 12554 - 5/11/73
Mod. #1 - 38 FR 17348 - 6/29/73
Mod. #2 - 38 FR 18122 - 7/6/73
Mod. #3 - 38 FR 18818 - 7/13/73
Mod. #4 - 38 FR 21012 - 8/3/73
WORCESTER COUNTY
Decision #AP-816 (B,H,Hw)
38 FR 12558 - 5/11/73
Mod. #1 - 38 FR 14516 - 6/1/73
Mod. #2 - 38 FR 17350 - 6/29/73
Mod. #3 - 38 FR 18123 - 7/6/73
Mod. #4 - 38 FR 21012 - 8/3/73

MICHIGAN

ALCONA COUNTY
Decision #AP-4 (D)
37 FR 14670 - 7/21/72
Decision #AP-79 (Highway, Bridge, Airport & Sewer Cons, excl. of Bldgs.)
37 FR 28377 - 12/22/72
Mod. #1 - 38 FR 936 - 1/5/73
Mod. #2 - 38 FR 4629 - 2/16/73
ALGER COUNTY
(Hw) (D) - See Alcona County
ALLEGAN COUNTY
Decision #AP-80 (B,H)
37 FR 28822 - 12/29/72
Mod. #1 - 38 FR 5089 - 2/23/73
Mod. #2 - 38 FR 20169 - 7/27/73
Decision #AM-398 (R)
36 FR 15891 - 8/18/71
Decision #AP-77 (Highway, Bridge, Airport & Sewer Cons, excl. of Bldg.)
37 FR 28374 - 12/22/72
Mod. #1 - 38 FR 4629 - 2/16/73
Mod. #2 - 38 FR 21012 - 8/3/73
(D) - See Alcona County
ALPENA COUNTY
Decision #AP-81 (D,H)
37 FR 28825 - 12/29/72
Mod. #1 - 38 FR 5089 - 2/23/73
Mod. #2 - 38 FR 20169 - 7/27/73
(Hw,D) - See Alcona County
ANTRIM COUNTY
(Hw,D) - See Alcona County
ARENAC COUNTY
(Hw,D) - See Alcona County
BARAGA COUNTY
Decision #AP-82 (B,H)
37 FR 28850 - 12/29/72
Mod. #1 - 38 FR 5090 - 2/23/73
Mod. #2 - 38 FR 20169 - 7/27/73
(Hw,D) - See Alcona County
BARRY COUNTY
(Hw) - See Allegan County
BAY COUNTY
(D) - See Alcona County
(Hw) - See Allegan County

MICHIGAN (Cont'd)

BENZIE COUNTY
(D) - See Alcona County
(Hw) - See Alcona County
BERRIEN COUNTY
Decision # AP-83 (B,H)
37 FR 28828 - 12/12/72
Mod. #1 - 38 FR 5090 - 2/23/73
Mod. #2 - 38 FR 20170 - 7/27/73
Decision #AM-399 (R)
36 FR 15892 - 8/18/71
(D) - See Alcona County
(Hw) - See Allegan County
BRANCH COUNTY
Decision #AM-401 (R)
36 FR 15894 - 8/18/71
(Hw) - See Allegan County
CALHOUN COUNTY
Decision #AP-84 (B,H)
37 FR 28831 - 12/29/72
Mod. #1 - 38 FR 5090 - 2/23/73
Mod. #2 - 38 FR 20170 - 7/27/73
Decision #AM-400 (R)
36 FR 15892 - 8/18/71
(Hw) - See Allegan County
CASS COUNTY
(Hw) - See Allegan County
(R) - See Branch County
CHARLEVOIX COUNTY
Decision #AP-85 (B,H)
37 FR 28834 - 12/29/72
Mod. #1 - 38 FR 5091 - 2/23/73
Mod. #2 - 38 FR 20170 - 7/27/73
(Hw,D) - See Alcona County
CHEBOYGAN COUNTY
(Hw,D) - See Alcona County
CHIPPEWA COUNTY
Decision #AP-86 (B,H)
37 FR 28837 - 12/29/72
Mod. #1 - 38 FR 5091 - 2/23/73
Mod. #2 - 38 FR 20170 - 7/27/73
(Hw,D) - See Alcona County
CLARE COUNTY
(Hw) - See Alcona County
CLINTON COUNTY
(Hw) - See Allegan County

NOTICES

MICHIGAN (cont'd)

CRAWFORD COUNTY
(Hw) - See Alcona County
DELTA COUNTY
(Hw, D) - See Alcona County
DICKINSON COUNTY
(Hw) - See Alcona County
EATON COUNTY
Decision #AM-8041 (R)
36 FR 24027 - 12/17/71
(Hw) - See Allegan County
EMMET COUNTY
Decision #AP-87 (B, H)
37 FR 28839 - 12/29/72
Mod. #1 - 38 FR 5091 - 2/23/73
Mod. #2 - 38 FR 20170 - 7/27/73
(Hw, D) - See Alcona County
GENESEE COUNTY
Decision #AP-88 (B, H)
37 FR 28870 - 12/29/72
Mod. #1 - 38 FR 5092 - 2/23/73
Mod. #2 - 38 FR 20171 - 7/27/73
Decision AP-76 (Highway, Bridge, Airpost & Sewer Cons, excl. of Bldgs.)
37 FR 28372 - 12/22/72
Mod. #1 - 38 FR 4628 - 2/16/73
GLADWIN COUNTY
(Hw) - See Alcona County
GOGEBIC COUNTY
Decision #AP-89 (B, H)
37 FR 28844 - 12/29/72
Mod. #1 - 38 FR 5092 - 2/23/73
Mod. #2 - 38 FR 20171 - 7/27/73
(Hw, D) - See Alcona County
GRAND TRAVERSE COUNTY
Decision #AP-90 (B,H)
37 FR 28873 - 12/29/72
Mod. #1 - 38 FR 5092 - 2/23/73
Mod. #2 - 38 FR 20171 - 7/27/73
(Hw, D) - See Alcona County
GRATIOT COUNTY
(Hw) - See Allegan County
HILLSDALE COUNTY
(Hw) - See Allegan County
HOUGHTON COUNTY
(B, H) - See Baraga County
(Hw, D) - See Alcona County
HURON COUNTY
Decision #AP-91 (B, H)
37 FR 28879 - 12/29/72
Mod. #1 - 38 FR 5093 - 2/23/73
Mod. #2 - 38 FR 20171 - 7/27/73
(D) - See Alcona County
(Hw) - See Allegan County
INGHAM COUNTY
Decision #AP-92 (B, H)
37 FR 28844 - 12/29/72
Mod. #1 - 38 FR 5093 - 2/23/73
Mod. #2 - 38 FR 20171 - 7/27/73
(Hw) - See Allegan County
(R) - See Eaton County

MICHIGAN (Cont'd)

IONIA COUNTY
(Hw) - See Allegan County
IOSCO COUNTY
(D) (Hw) - See Alcona County
IRON COUNTY
(Hw) - See Alcona County
ISABELLA COUNTY
(Hw) - See Alcona County
JACKSON COUNTY
(Hw) - See Allegan County
KALMAZOO COUNTY
Decision #AP-93 (B,H)
37 FR 28847 - 12/29/72
Mod. #1 - 38 FR 5093 - 2/23/73
Mod. #2 - 38 FR 20171 - 7/27/73
(Hw) - See Allegan County
(R) - See Branch County
KALKASKA COUNTY
(Hw) - See Alcona County
KENT COUNTY
Decision #AP-23 (B,H)
37 FR 20443 - 9/29/72
Mod. #1 - 37 FR 22704 - 10/20/72
Decision #AM-402 (R)
36 FR 15895 - 8/18/71
KEWEENAW COUNTY
(B,H) - See Baraga County
(Hw) - See Alcona County
LAKE COUNTY
(Hw) - See Alcona County
LAPEER COUNTY
(Hw) - See Allegan County
LEELANAU COUNTY
(B,H) - See Grand Traverse County
(Hw) - See Alcona County
LENAWEE COUNTY
(Hw) - See Allegan County
LIVINGSTON COUNTY
(Hw) - See Allegan County
LUCE COUNTY
(Hw,D) - See Alcona County
MACKINAC COUNTY
(B,H) See Chippewa County
(Hw) - See Alcona County
MACOMB COUNTY
Decision #AP-600 (B,H)
37 FR 28866 - 12/29/72
Mod. #1 - 38 FR 5096 - 2/23/73
Mod. #2 - 38 FR 20172 - 7/27/73
(D) - See Alcona County
(Hw) - See Genessee County
Decision #AP-601 (B)
37 FR 28797 - 12/29/72
Mod. #1 - 38 FR 5096 - 12/23/73
Mod. #2 - 38 FR 20173 - 7/27/73

MICHIGAN (cont'd)

MANISTEE COUNTY
(Hw, D) - See Alcona County
MARQUETTE COUNTY
Decision #AP-94 (B, H)
37 FR 28852 - 12/29/72
Mod. #1 - 38 FR 5094 - 2/23/73
Mod. #2 - 38 FR 20171 - 7/27/73
(Hw, D) - See Alcona County
MASON COUNTY
Decision #AP-95 (B, H)
37 FR 28854 - 12/29/72
Mod. #1 - 38 FR 5094 - 2/23/73
Mod. #2 - 38 FR 20172 - 7/27/73
(Hw, D) - See Alcona County
MECOSTA COUNTY
(Hw) - See Alcona County
MENOMINEE COUNTY
(D) - See Alcona County
(Hw) - See Alcona County
MIDLAND COUNTY
(Hw) - See Allegan County
MISSAUKEE COUNTY
(Hw) - See Alcona County
MONROE COUNTY
(D) - See Alcona County
(Hw) - See Genessee County
MONTCALM COUNTY
(Hw) - See Allegan County
(R) - See Kent County
MONTMORENCY COUNTY
(Hw) - See Alcona County
MUSKEGON COUNTY
Decision #AP-97 (B, H)
37 FR 28857 - 12/29/72
Mod. #1 - 38 FR 5094 - 2/23/73
Mod. #2 - 38 FR 20172 - 7/27/73
Decision #AM-403 (R)
36 FR 15896 - 8/18/71
(D) - See Alcona County
(Hw) - See Allegan County
NEWAYGO COUNTY
(Hw) - See Alcona County
OAKLAND COUNTY
(B, H, R) - See Macomb County
(D) - See Alcona County
(Hw) - See Genessee County
OCEANA COUNTY
(B, H, R) - See Muskegon County
(D) - See Alcona County
(Hw) - See Allegan County
OGEMAW COUNTY
(Hw) - See Alcona County
ONTONAGON COUNTY
(B, H) - See Baraga County
(Hw, D) - See Alcona County
OSCEOLA COUNTY
(Hw) - See Alcona County

MICHIGAN (cont'd)

OSCODA COUNTY
(Hw) - See Alcona County
OTSEGO COUNTY
(Hw) - See Alcona County
OTTAWA COUNTY
(D) - See Alcona County
(Hw) - See Allegan County
(R) - See Allegan County
PRESQUE ISLE COUNTY
(D) - See Alcona County
(Hw) - See Alcona County
ROSCOMMON COUNTY
(Hw) - See Alcona County
SAGINAW COUNTY
Decision #AP-96 (B,H)
37 FR 28876 - 12/29/72
Mod. #1 - 38 FR 5095 - 2/23/73
Mod. #2 - 38 FR 20172 - 7/27/73
(Hw) - See Allegan County
SAINT CLAIR COUNTY
Decision #AP-98 (B, H)
37 FR 28860 - 12/29/72
Mod. #1 - 38 FR 5095 - 2/23/73
Mod. #2 - 38 FR 20172 - 7/27/73
(D) - See Alcona County
(Hw) - See Allegan County
SAINT JOSEPH COUNTY
(Hw) - See Allegan County
(R) - See Branch County
SANILAC COUNTY
(D) - See Alcona County
(Hw) - See Allegan County
SCHOOLCRAFT COUNTY
(D) - See Alcona County
(Hw) - See Alcona County
SHIAWASSEE COUNTY
(Hw) - See Allegan County
TUSCOLA COUNTY
(D) - See Alcona County
(Hw) - See Allegan County
VAN BUREN COUNTY
(D) - See Alcona County
(Hw) - See Allegan County
WASHTENAW COUNTY
Decision #AP-99 (B, H)
37 FR 28863 - 12/29/72
Mod. #1 - 38 FR 5095 - 2/23/73
Mod. #2 - 38 FR 20172 - 7/27/73
(Hw) - See Genesee County
WAYNE COUNTY
(B, H, R) - See Macomb County
(D) - See Alcona County
(Hw) - See Genesee County
WEXFORD COUNTY
(Hw) - See Alcona County

NOTICES





MINNESOTA

AITKIN COUNTY
None
ANOKA COUNTY
Decision #AP-638 (B)
38 FR 6540 - 3/9/73
Mod. #1 - 38 FR 11213 - 5/4/73
Decision #AP-642 (H,Hw)
38 FR 6556 - 3/9/73
Mod. #1 - 38 FR 11225 - 5/4/73
Decision #AP-644 (R)
38 FR 6562 - 3/9/73
Mod. #1 - 38 FR 11227 - 5-4-73
BECKER COUNTY
Decision #AP-49 (Hw)
37 FR 25097 - 11/25/72
BELTRAMI COUNTY
None
BENTON COUNTY
None
BIG STONE COUNTY
Decision #AP-50 (Hw)
37 FR 25098 - 11/25/72
BLUE EARTH COUNTTY
None
BROWN COUNTY
None
CARLTON COUNTY
None
CARVER COUNTY
Decision #AP-639 (B)
38 FR 6544 - 3/9/73
Mod. #1 - 38 FR 11216 - 5/4/73
Decision #AP-645 (R)
38 FR 6566 - 3/9/73
Mod. #1 - 38 FR 11230 - 5/4/73
(H,Hw) - See Anoka County

MINNESOTA (cont'd)

CASS COUNTY
(Hw) - See Becker County
CHIPPEWA COUNTY
(Hw) - See Big Stone County
CHISAGO COUNTY
None
CLAY COUNTY
(Hw) - See Becker County
CLEAR WATER COUNTY
None
COOK COUNTY
Decision #AP-643 (H,Hw)
38 FR 6559 - 3/9/73
Mod. #1 - 38 FR 11226 - 5/4/73
Decision #AP-4 - (D)
37 FR 14670 - 7/21/72
COTTONWOOD COUNTY
None
CROW WING COUNTY
None
DAKOTA COUNTY
Decision #AP-640 (B)
38 FR 6548 - 3/9/73
Mod. #1 - 38 FR 11219 - 5/4/73
Decision #AP-646 (R)
38 FR 6570 - 3/9/73
Mod. #1 - 38 FR 11233 - 5/4/73
(H,Hw) - See Anoka County

MINNESOTTA (Cont'd)

DODGE COUNTY
None
DOUGLAS COUNTY
(Hw) - See Big Stone County
FAIRBAULT COUNTY
None
FILLMORE COUNTY
None
FREEBORN COUNTY
None
GOODHUE COUNTY
None
GRANT COUNTY
(Hw) - See Big Stone County
HENNEPIN COUNTY
(B, R) - See Carver County
(H, Hw) - See Anoka County
HOUSTON COUNTY
None
HUBBARD COUNTY
(Hw) - See Becker County
ISANTI COUNTY
None
ITASKA COUNTY
None
JACKSON COUNTY
None
KANABEC COUNTY
None
KANDIYOHI COUNTY
(Hw) - See Big Stone County
KITTSON COUNTY
None
KOOCHICHING COUNTY
None
LAC QUI PARLE COUNTY
(Hw) - See Big Stone County
LAKE COUNTY
(H) (Hw)-See Cook County
(D)-See Cook County
LAKE OF THE WOODS COUNTY
None
LE SUEUR COUNTY
None
LINCOLN COUNTY
None

MINNESOTA (cont'd)

LYON COUNTY
None
MCLEOD COUNTY
None
MAHNOMEN COUNTY
None
MARSHALL COUNTY
None
MARTIN COUNTY
None
MEEKER COUNTY
None
MILLE LACS COUNTY
None
MORRISON COUNTY
None
MOWER COUNTY
None
MURRAY COUNTY
None
NICOLLET COUNTY
None
NOBLES COUNTY
None
NORMAN COUNTY
None
OLMSTEAD COUNTY
None
OTTER TAIL COUNTY
(Hw) - See Becker County
PENNINGTON COUNTY
None
PINE COUNTY
None
PIPESTONE COUNTY
None
POLK COUNTY
None
POPE COUNTY
(Hw) - See Big Stone County
RAMSEY COUNTY
(R, B) - See Dakota County
(H, Hw) - See Anoka County

NOTICES

MINNESOTA (Cont'd)

RED LAKE COUNTY
None
REDWOOD COUNTY
None
RENVILLE COUNTY
None
RICE COUNTY
None
ROCK COUNTY
None
ROSEAU COUNTY
None
SAINT LOUIS COUNTY
(D)-See Cook County
(H)(Hw)-See Cook County
CITY OF DULUTH
Decision #AP-641 (B)
38 FR 6552 - 3/9/73
Mod. #1-38 FR 11222 - 5/4/73
Mod. #2-38 FR 13916 - 5/25/73
Mod. #3-38 FR 14516 - 6/1/73
Mod. #4-38 FR 15790 - 6/15/73
Decision #AP-647 (R)
38 FR 6574 - 3/9/73
Mod. #1-38 FR 11236 - 5/4/73
Mod. #2-38 FR 13916 - 5/25/73
Mod. #3-38 FR 14516 - 6/1/73
Mod. #4-38 FR 15790 - 6/15/73
SCOTT COUNTY
(H)(Hw)-See Anoka County
(B) - See Carver County
SHERBURNE COUNTY
None
SIBLEY COUNTY
None

MINNESOTA (cont'd)

STEARNS COUNTY
None
STEELE COUNTY
None
STEVENS COUNTY
(Hw) - See Big Stone County
SWIFT COUNTY
(Hw) - See Big Stone County
TODD COUNTY
(Hw) - See Becker County
TRAVERSE COUNTY
(Hw) - See Big Stone County
WABASHA COUNTY
None
WADENA COUNTY
(Hw) - See Becker County
WASECA COUNTY
None
WASHINGTON COUNTY
(B) - See Dakota County
(H, Hw) - See Anoka County
WATONWAN COUNTY
None
WILKIN COUNTY
(Hw) - See Becker County
WINONA COUNTY
None
WRIGHT COUNTY
None
YELLOW MEDICINE COUNTY
None

MISSISSIPPI

STATEWIDE
Decision #AO-4002 (D)
38 FR 21037 - 8/3/73
Decision #AP-1107 (F)
38 FR 17358 - 6/29/73
ADAMS COUNTY
Decision #AP-166 (Hw)
38 FR 6582 - 3/9/73
(D) - See Statewide
(F) - See Statewide
ALCORN COUNTY
Decision #AP-162 (Hw)
38 FR 6578 - 3/9/73
(D) - See Statewide
(F) - See Statewide
AMITE COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Adams County
ATTALA COUNTY
Decision #AP-165 (Hw)
38 FR 6581 - 3/9/73
Mod. #1 - 38 FR 16586 - 6/22/73
(D) - See Statewide
(F) - See Statewide
BENTON COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Alcorn County
BOLIVAR COUNTY
Decision #AP-163 (Hw)
38 FR 6579 - 3/9/73
(D) - See Statewide
(F) - See Statewide
CALHOUN COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Alcorn County
CARROLL COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Bolivar County
CHICKASAW COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Alcorn County
CHOCTAW COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Alcorn County

MISSISSIPPI (cont'd)

CLAIBORNE COUNTY
Decision #AP-164 (Hw)
38 FR 6580 - 3/9/73
(D) - See Statewide
(F) - See Statewide
CLARKE COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Attala County
CLAY COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Alcorn County
COAHOMA COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Bolivar County
COPIAH COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Claiborne County
(R) - See Hinds County
COVINGTON COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Adams County
DE SOTO COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Bolivar County
FORREST COUNTY
Decision #AH-8264 (R)
37 FR 13017 - 6/30/72
(D) - See Statewide
(F) - See Statewide
(Hw) - See Adams County
FRANKLIN COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Adams County
GEORGE COUNTY
Decision #AP-167 (Hw)
38 FR 6583 - 3/9/73
(D) - See Statewide
(F) - See Statewide
(R) - See Harrison County
GREENE COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Adams County







MISSISSIPPI (cont'd)

GRENADA COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Bolivar County
HANCOCK COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See George County
(R) - See Harrison County
HARRISON COUNTY
Decision #AP-159 (B,H,Water & Sewer)
38 FR 4638 - 2/16/73
Mod. #1 - 38 FR 7196 - 3/16/73
Mod. #2 - 38 FR 16586 - 6/22/73
Decision #AP-174 (R)
38 FR 10584 - 4/27/73
(D,F) - See Statewide
(Hw) - See George County
Decision #AP-498 (R)
36 FR 16473 - 8/20/71
(D,F) - See Statewide
(Hw) - See Claiborne
HINDS COUNTY
Decision #AP-158 (B, H,)
38 FR 4636 - 2/16/73
Mod. #1 - 38 FR 7169 - 3/16/73
Mod. #2 - 38 FR 18818 - 7/13/73
HOLMES COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Claiborne County
HUMPHREYS COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Claiborne County
ISSAQUENA COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Claiborne County
ITAWAMBA COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Alcorn County
JACKSON COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See George County
(R) - See Harrison County
JASPER COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Attala County
JEFFERSON COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Adams County

MISSISSIPPI (cont'd)

JEFFERSON DAVIS COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Adams County
JONES COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Adams County
(R) - See Forest County
KEMPER COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Attala County
LAFAYETTE COUNTY
(D) - See Statewide
(R) - See Statewide
(Hw) - See Alcorn County
LAMAR COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Adams County
LAUDERDALE COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Attala County
LAWRENCE COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Adams County
LEAKE COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Attalo County
LEE COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Alcorn County
LEFLORE COUNTY
(D) - See Statewide
(F) - See Statewidh
(Hw) - See Bolivar County
LINCOLN COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Adams County
LOWNDES COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Alcorn County
MADISON COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Claiborne County
(R) - See Hinds County

MISSISSIPPI (Cont'd)

MARION COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Adams County
MARSHALL COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Alcorn County
MONROE COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Alcorn County
MONTGOMERY COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Bolivar County
NESHOBA COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Attala County
NEWTON COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Attala County
NOXUBEE COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Attala County
OKTIBBEHA COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Alcorn County
PANOLA COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Bolivar County
PEARL RIVER COUNTY
(B, H) - See Harrison County
(D) - See Statewide
(F) - See Statewide
(Hw) - See Statewide
(R) - See Harrison County
PERRY COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Adams County
PIKE COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Adams County

MISSISSIPPI (Cont'd)

PONTOTOC COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Alcorn COunty
PRENTISS COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Alcorn County
QUITMAN COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Bolivar County
RANKIN COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Claiborne County
(R) - See Hinds County
SCOTT COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Attala County
SHARKEY COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Claiborne County
SIMPSON COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Claiborne County
(R) - See Hinds County
SMITH COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Attala County
STONE COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Georgia County
(R) - See Harrison County
SUNFLOWER COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Bolivar County
TALLAHATCHIE COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Bolivar County

MISSISSIPPI (Cont'd)

TATE COUNTY
(D,F)-See Statewide
(Hw)-See Bolivar County
TIPPAH COUNTY
(D,F)-See Statewide
(Hw)-See Alcorn County
TISHOMINGO COUNTY
(D,F)-See Statewide
(Hw)-See Alcorn County
TUNICA COUNTY
(D,F)-See Statewide
(Hw)-See Bolivar County
UNION COUNTY
(D,F,)-See Statewide
(Hw)-See Alcorn County
WALTHALL COUNTY
(D,F)-See Statewide
(Hw)-See Adams County
WARREN COUNTY
(D,F)-See Statewide
(Hw)-See Claiborne County
WASHINGTON COUNTY
(D,F)-See Statewide
(Hw)-See Bolivar County
WAYNE COUNTY
(D,F)-See Statewide
(Hw)-See Adams
WEBSTER COUNTY
(D,F)-See Statewide
(Hw)-See Alcorn County
WILKINSON COUNTY
(D,F)-See Statewide
(Hw)-See Adams County
WINSTON COUNTY
(D,F)-See Statewide
(Hw)-See Attalo County
YALOBUSHA COUNTY
(D,F)-See Statewide
(Hw)-See Bolivar County
YAZOO COUNTY
(D,F)-See Statewide
(Hw)-See Claiborne County
(R)-See Hinds County

MISSOURI

ADAIR COUNTY
None
ANDREW COUNTY
None
ATCHISON COUNTY
None
AUDRAIN COUNTY
None
BARRY COUNTY
None
BARTON COUNTY
Decision #AP-509 (H-Hw)
37 FR 21783 - 10/13/72
Mod. #1 - 38 FR 20177 - 7/27/73
BATES COUNTY
None
BENTON COUNTY
None
BOLLINGER COUNTY
None
BOONE COUNTY
None
BUCHANAN COUNTY
None
BUTLER COUNTY
None
CALDWELL COUNTY
None
CALLAWAY COUNTY
None
CAMDEN COUNTY
None
CAPE GIRARDEAU COUNTY
Decision #AP-502 (D)
38 FR 1433-1/12/73
CARROLL COUNTY
None
CARTER COUNTY
None

MISSOURI (Cont'd)

CASS COUNTY
Decision #AP-531 (B,H,Hw)
38 FR 13929 - 5/25/73
Mod. #1 - 38 FR 15210 - 6/8/73
Mod. #2 - 38 FR 16581 - 6/22/73
Mod. #3 - 38 FR 18117 - 7/6/73
Mod. #4 - 38 FR 20165 - 7/27/73
Decision #AP-516 (R)
37 FR 26206 - 12/8/72
Mod. #1 - 38 FR 1435 - 1/12/73
Mod. #2- 38 FR 4078 - 2/9/73
Mod. #3 - 38 FR 12511 - 5/11/73
Mod. #4 - 38 FR 15210 - 6/8/73
CEDAR COUNTY
None
CHARITON COUNTY
None
CHRISTIAN COUNTY
None
CLARK COUNTY
None
CLAY COUNTY
(B,H,Hw) - See Cass County
(R) - See Cass County
CLINTON COUNTY
None
COLE COUNTY
None
COOPER COUNTY
None
CRAWFORD COUNTY
None
DADE COUNTY
None
DALLAS COUNTY
None
DAVIESS COUNTY
None
DE KALB COUNTY
None
DENT COUNTY
None
DOUGLAS COUNTY
None
DUNKLIN COUNTY
None
FRANKLIN COUNTY
None
GASCONADE COUNTY
None
GENTRY COUNTY
None
GREENE COUNTY
None
GRUNDY COUNTY
None
HARRISON COUNTY
None
HENRY COUNTY
None

MISSOURI (Cont'd)

HICKORY COUNTY
None
HOLT COUNTY
Decision #AP-506 (H-Hw)
37 FR 21774 - 10/13/72
Mod. #1 - 38 FR 20176 - 7/27/73
HOWARD COUNTY
None
HOWELL COUNTY
None
IRON COUNTY
None
JACKSON COUNTY
(B-H-Hw) - See Cass County
(R) - See Cass County
JASPER COUNTY
None
JEFFERSON COUNTY
(D)-See Cape Girardeau County
JOHNSON COUNTY
None
KNOX COUNTY
None
LACLEDE COUNTY
(H-Hw) - See Barton County
LAFAYETTE COUNTY
None
LAWRENCE COUNTY
(H-Hw) - See Barton County
LEWIS COUNTY
None
LINCOLN COUNTY
None
LINN COUNTY
Decision #AP-508 (H-Hw)
37 FR 21779 - 10/13/72
Mod. #1-37 FR 23057 - 10/27/72
Mod. #2-38 FR 20177 - 7/27/73
LIVINGSTON COUNTY
None
MC DONALD COUNTY
None
MACON COUNTY
None
MADISON COUNTY
None
MARIES COUNTY
None
MARION COUNTY
None
MERCER COUNTY
None
MILLER COUNTY
None

NOTICES





MISSOURI (Cont'd)

MISSISSIPPI COUNTY
(D)-See Cape Girardeau County
MONITEAU COUNTY
None
MONROE COUNTY
None
MONTGOMERY COUNTY
None
MORGAN COUNTY
None
NEW MADRID COUNTY
None
NEWTON COUNTY
None
NODAWAY COUNTY
None
OREGON COUNTY
None
OSAGE COUNTY
None
OZARK COUNTY
None
PEMISCOT COUNTY
None
PERRY COUNTY
(D)-See Cape Girardeau County
PETTIS COUNTY
(H-Hw) - See Linn County
PHELPS COUNTY
None
PIKE COUNTY
None
PLATTE COUNTY
(B-H-Hw) - See Cass County
(R) - See Cass County
POLK COUNTY
None
PULASKI COUNTY
None
PUTNAM COUNTY
None
RALLS COUNTY
None
RANDOLPH COUNTY
None
RAY COUNTY
(B, H, Hw, R) - See Cass County
REYNOLDS COUNTY
None
RIPLEY COUNTY
None

MISSOURI (Cont'd)

ST. CHARLES COUNTY
Decision #AP-534 (B,H,Hw)
38 FR 18141 - 7/6/73
Mod. #1 - 38 FR 20177 - 7/27/73
Decision #AP-504 (R)
37 FR 17881 - 9/1/72
Mod. #1-38 FR 4078-2/9/73
Mod. #2 - 38 FR 6524 - 3/9/73
Mod. #3 - 38 FR 13917 - 5/25/73
Mod. #4 - 38 FR 18124 - 7/6/73
Mod. #5 - 38 FR 20173 - 7/27/73
(D)-See Cape Girardeau County
ST. CLAIR COUNTY
None
ST. FRANCOIS COUNTY
None
ST. LOUIS COUNTY
(B-H-Hw-R) - See St. Charles County
(D) - See Cape Girardeau County
ST. LOUIS CITY
(B-H-Hw-R) - See St. Charles County
STE. GENEVIEVE COUNTY
(D)-See Cape Girardeau County
SALINE COUNTY
None
SCHUYLER COUNTY
None
SCOTLAND COUNTY
None
SCOTT COUNTY
Decision #AP-507 (H-Hw)
37 FR 21776 - 10/13/72
Mod. #1-37 FR 25109 - 11/25/72
Mod. #2-38 FR 20176 - 7/27/73
(D)-See Cape Girardeau County
SHANNON COUNTY
None
SHELBY COUNTY
None
STODDARD COUNTY
None
STONE COUNTY
None
SULLIVAN COUNTY
None
TANEY COUNTY
None

MISSOURI (cont'd)

TEXAS COUNTY
None
VERNON COUNTY
None
WARREN COUNTY
None
WASHINGTON COUNTY
None
WAYNE COUNTY
None
WEBSTER COUNTY
None
WORTH COUNTY
None
WRIGHT COUNTY
None

MONTANA

STATEWIDE
Decision #AP-914 (H,Hw)
38 FR 17396 - 6/29/73
Mod. #1 - 38 FR 19607 - 7/20/73
Mod. #2 - 38 FR 21013 - 8/3/73
BEAVERHEAD COUNTY
Decision #AP-916 (B)
38 FR 17407 - 6/29/73
Mod. #1 - 38 FR 19609 - 7/20/73
(H,Hw) - See Statewide
BIG HORN COUNTY
Decision #AP-917 (B)
38 FR 17415 - 6/29/73
Mod. #1 - 38 FR 19610 - 7/20/73
(H,Hw) - See Statewide
BLAINE COUNTY
Decision #AP-910 (B)
38 FR 16615 - 6/22/73
Mod. #1 - 38 FR 18124 - 7/6/73
Mod. #2 - 38 FR 19606 - 7/20/73
(H,Hw) - See Statewide
BROADWATER COUNTY
(H,Hw) - See Statewide
(B) - See Blaine County
CARBON COUNTY
(H,Hw) - See Statewide
CARTER COUNTY
(H,Hw) - See Statewide
CASCADE COUNTY
(B) - See Blaine County
(H,Hw) - See Statewide
CHOUTEAU COUNTY
(H,Hw) - See Statewide
(B) - See Blaine County
CUSTER COUNTY
(H,Hw) - See Statewide
(B) - See Big Horn County
DANIELS COUNTY
(H,Hw) - See Statewide
DAWSON COUNTY
(H,Hw) - See Statewide
(B) - See Big Horn County
DEERLODGE COUNTY
(B) - See Beaverhead County
(H,Hw) - See Statewide
FALLON COUNTY
(H,Hw) - See Statewide
FERGUS COUNTY
(H,Hw) - See Statewide
(B) - See Blaine County
FLATHEAD COUNTY
(H,Hw) - See Statewide
Decision #AP-913 (B)
38 FR 17392 - 6/29/73

NOTICES



XUM
38 FR 173 SEP 7 1973

MONTANA CONT'D

GALLATIN COUNTY
(B) - See Beaverhead County
(H,Hw) - See Statewide
GARFIELD COUNTY
(H,Hw) - See Blaine County
GLACIER COUNTY
(H,Hw) - See Statewide
(B) - See Blaine County
GOLDEN VALLEY COUNTY
(H,Hw) - See Statewide
GRANITE COUNTY
(H,Hw) - See Statewide
HILL COUNTY
(H,Hw) - See Statewide
(B,) - See Blaine County
JEFFERSON COUNTY
(H,Hw) - See Statewide
JUDITH BASIN COUNTY
(H,Hw) - See Statewide
(B) - See Blaine County
LAKE COUNTY
(H,Hw) - See Statewide
(B) - See Flathead County
LEWIS & CLARK COUNTY
(H,Hw) - See Statewide
(B) - See Blaine County
LIBERTY COUNTY
(H,Hw) - See Statewide
(B) - See Blaine County
LINCOLN COUNTY
(H,Hw) - See Statewide
(B) - See Flathead County
MC CONE COUNTY
(H,Hw) - See Statewide
MADISON COUNTY
(H,Hw) - See Statewide
MEAGHER COUNTY
(H,Hw) - See Statewide
(B) - See Blaine County
MINERAL COUNTY
(H,Hw) - See Statewide
MISSOULA COUNTY
(H,Hw) - See Statewide
(B) - See Flathead County
MUSSELSHELL COUNTY
(H,Hw) - See Beaverhead County
PARK COUNTY
(H,Hw) - See Statewide
PETROLEUM COUNTY
(H,Hw) - See Statewide
PHILLIPS COUNTY
(H,Hw) - See Statewide
(B) - See Blaine County

MONTANA (Cont'd)

PONDERA COUNTY
(H,Hw) - See Statewide
(B) - See Blaine County
POWDER RIVER COUNTY
(H,Hw) - See Statewide
POWELL COUNTY
(H,Hw) - See Statewide
PRAIRIE COUNTY
(H,Hw) - See Statewide
RAVALLI COUNTY
(H,Hw) - See Statewide
RICHLAND COUNTY
(H,Hw) - See Statewide
(B) - See Big Horn County
ROOSEVELT COUNTY
(H,Hw) - See Statewide
(B) - See Big Horn County
ROSEBUD COUNTY
(H,Hw) - See Statewide
(B) - See Big Horn County
SANDERS COUNTY
(H,Hw) - See Statewide
SHERIDAN COUNTY
(H,Hw) - See Blaine County
SILVERBOW COUNTY
(B) - See Beaverhead County
Decision #AP-915 (R)
38 FR 17403 - 6/29/73
Mod. #1 - 38 FR 19608 - 7/20/73
(H,Hw) - See Statewide
STILLWATER COUNTY
(H,Hw) - See Statewide
SWEETGRASS COUNTY
(H,Hw) - See Statewide
TETON COUNTY
(H,Hw) - See Statewide
(B) - See Blaine County
TOOLE COUNTY
(H,Hw) - See Statewide
(B) - See Blaine County
TREASURE COUNTY
(H,Hw) - See Statewide
VALLEY COUNTY
(B) - See Blaine County
(Hw, H) - See Statewide
WHEATLAND COUNTY
(H,Hw) - See Statewide
(B) - See Blaine County
WIBAUX COUNTY
(H,Hw) - See Statewide
YELLOW STONE COUNTY
(H,Hw) - See Statewide
(B) - See Big Horn County

NEBRASKA

ADAMS COUNTY
Decision #AP-525 (Hw)
38 FR 9413 - 4/13/73
Mod. #1 - 38 FR 13116 - 5/18/73
Mod. #2 - 38 FR 13917 - 5/25/73
Mod. #3 - 38 FR 18126 - 7/6/73
ANTELOPE COUNTY
(Hw) - See Adams County
ARTHUR COUNTY
(Hw) - See Adams County
BANNER COUNTY
(Hw) - See Adams County
BLAINE COUNTY
(Hw) - See Adams County
BOONE COUNTY
(Hw) - See Adams County
BOX BUTTE COUNTY
(Hw) - See Adams County
BOYD COUNTY
(Hw) - See Adams County
BROWN COUNTY
(Hw) - See Adams County
BUFFALO COUNTY
(Hw) - See Adams County
BURT COUNTY
(Hw) - See Adams County
BUTLER COUNTY
(Hw) - See Adams County
CASS COUNTY
(Hw) - See Adams County
CEDAR COUNTY
(Hw) - See Adams County
CHASE COUNTY
(Hw) - See Adams County
CHERRY COUNTY
(Hw) - See Adams County
CHEYENNE COUNTY
(Hw) - See Adams County
CLAY COUNTY
(Hw) - See Adams County
COLFAX COUNTY
(Hw) - See Adams County
CUMING COUNTY
(Hw) - See Adams County
CUSTER COUNTY
(Hw) - See Adams County
DAKOTA COUNTY
(Hw) - See Adams County

NEBRASKA (Cont'd)

DAWES COUNTY
(Hw) - See Adams County
DAWSON COUNTY
(Hw) - See Adams County
DEUEL COUNTY
(Hw) - See Adams County
DIXON COUNTY
(Hw) - See Adams County
DODGE COUNTY
(Hw) - See Adams County
DOUGLAS COUNTY
Decision #AP-526 (B,H,Hw)
38 FR 9937 - 4/20/73
Mod. #1 - 38 FR 11240 - 5/4/73
Mod. #2 - 38 FR 13116 - 5/18/73
Mod. #3 - 38 FR 13917 - 5/25/73
Mod. #4 - 38 FR 14534 - 6/1/73
Mod. #5 - 38 FR 16586 - 6/22/73
Decision #AP-524 (R)
38 FR 8861 - 4/6/73
Mod. #1 - 38 FR 11240 - 5/4/73
Mod. #2 - 38 FR 13116 - 5/18/73
Mod. #3 - 38 FR 16588 - 6/22/73
DUNDY COUNTY
(Hw) - See Adams County
FILLMORE COUNTY
(Hw) - See Adams County
FRANKLIN COUNTY
(Hw) - See Adams County
FRONTIER COUNTY
(Hw) - See Adams County
FURNAS COUNTY
(Hw) - See Adams County
GAGE COUNTY
(Hw) - See Adams County
GARDEN COUNTY
(Hw) - See Adams County
GARFIELD COUNTY
(Hw) - See Adams County
GOSPER COUNTY
(Hw) - See Adams County
GRANT COUNTY
(Hw) - See Adams County





NEBRASKA (Cont'd)

GREELEY COUNTY
(Hw) - See Adams County
HALL COUNTY
(Hw) - See Adams County
HAMILTON COUNTY
(Hw) - See Adams County
HARLAN COUNTY
(Hw) - See Adams County
HAYES COUNTY
(Hw) - See Adams County
HITCHCOCK COUNTY
(Hw) - See Adams County
HOLT COUNTY
(Hw) - See Adams County
HOOKER COUNTY
(Hw) - See Adams County
HOWARD COUNTY
(Hw) - See Adams County
JEFFERSON COUNTY
(Hw) - See Adams County
JOHNSON COUNTY
(Hw) - See Adams County
KEARNEY COUNTY
(Hw) - See Adams County
KEITH COUNTY
(Hw) - See Adams County
KEYAPAHA COUNTY
(Hw) - See Adams County
KIMBALL COUNTY
(Hw) - See Adams County
KNOX COUNTY
(Hw) - See Adams County
LANCASTER COUNTY
Decision #AP-522 (B)
38 FR 8391 - 3/30/73
Mod. #1 - 38 FR 14534 - 6/1/73
Mod. #2 - 38 FR 16588 - 6/22/73
Decision #AM-6,140 (R)
36 FR 21736 - 11/12/71
LINCOLN COUNTY
(Hw) - See Admas County
LOGAN COUNTY
(Hw) - See Adams County
LOUP COUNTY
(Hw) - See Adams County
MC PHERSON COUNTY
(Hw) - See Admas County
MADISON COUNTY
(Hw) - See Adams County

NEBRASKA (Cont'd)

MERRICK COUNTY
(Hw) - See Adams County
MORRILL COUNTY
(Hw) - See Adams County
NANCE COUNTY
(Hw) - See Adams County
NEMAHA COUNTY
(Hw) - See Adams County
NUCKOLLS COUNTY
(Hw) - See Adams County
OTOE COUNTY
(Hw) - See Adams County
PAWNEE COUNTY
(Hw) - See Adams County
PERKINS COUNTY
(Hw) - See Adams County
PHELPS COUNTY
(Hw) - See Adams County
PIERCE COUNTY
(Hw) - See Adams County
PLATTE COUNTY
(Hw) - See Adams County
POLK COUNTY
(Hw) - See Adams County
RED WILLOW COUNTY
(Hw) - See Adams County
RICHARDSON COUNTY
(Hw) - See Adams County
ROCK COUNTY
(Hw) - See Adams County
SALINE COUNTY
(Hw) - See Adams County
SARPY COUNTY
(B-H-Hw) - See Douglas County
SAUNDERS COUNTY
(Hw) - See Adams County
SCOTTS BLUFF COUNTY
(Hw) - See Adams County
SEWARD COUNTY
(Hw) - See Adams County
SHERIDAN COUNTY
(Hw) - See Adams County
SHERMAN COUNTY
(Hw) - See Adams County
SIOUX COUNTY
(Hw) - See Adams County

NEBRASKA (Cont'd)

STANTON COUNTY
(Hw) - See Adams County
THAYER COUNTY
(Hw) - See Adams County
THOMAS COUNTY
(Hw) - See Adams County
THURSTON COUNTY
(Hw) - See Adams County
VALLEY COUNTY
(Hw) - See Adams County
WASHINGTON COUNTY
(Hw) - See Adams County
WAYNE COUNTY
(Hw) - See Adams County
WEBSTER COUNTY
(Hw) - See Adams County
WHEELER COUNTY
(Hw) - See Adams County
YORK COUNTY
(Hw) - See Adams County

NEVADA

STATEWIDE (Excluding the Nevada Test Site & Tonopah Test Range)
Decision #AP-264 (H,Hw)
38 FR 6584 - 3/9/73
Mod. #1 - 38 FR 15212 - 6/8/73
Mod. #2- 38 FR 17351 - 6/29/73
CHURCHILL COUNTY
(H,Hw) - See Statewide
Decision #AP-907 (B)
38 FR 13941 - 5/25/73
Mod. #1 - 38 FR 15220 - 6/8/73
Mod. #2 - 38 FR 17352 - 6/29/73
CLARK COUNTY
Decision #AP-290 (R) (Excluding the Nevada Test Site)
38 FR 8914 - 4/6/73
Mod. #1 - 38 FR 17352 - 6/29/73
Decision #AP-266 (B) Excluding the Nevada Test Site)
38 FR 8395 - 3/30/73
Mod. #1 - 38 FR 17351 - 6/29/73
(H,Hw) - See Statewide
Decision #AP-912 (B,H,Hw) (Nevada Test Site including the Tonopah Test Range
38 FR 17421 - 6/29/73
Mod. #1 - 38 FR 20181 - 7/27/73
DOUGLAS COUNTY
(H,Hw) - See Statewide
(B) - See Churchill County
ELKO COUNTY
(H,Hw) - See Statewide
(B) - See Churchill County
ESMERALDA COUNTY
(H,Hw) - See Statewide
EUREKA COUNTY
(H,Hw) - See Statewide





XUM

NEVADA (Cont'd)

HUMBOLDT COUNTY
(H-Hw) - See Statewide
LANDER COUNTY
(H-Hw) - See Statewide
LINCOLN COUNTY
(B) - See Clark County (AP-266)
(H-Hw) - See Statewide
LYON COUNTY
(H-Hw) - See Statewide
(B) - See Churchill County
MINERAL COUNTY
(H-Hw) - See Statewide
(B) - See Churchill County
NYE COUNTY
(B) - See Clark County (#AP-266)
(B,H,Hw) - See Clark County (#AP-282)
(H-Hw) - See Statewide
ORMSBY COUNTY
(B) - See Churchill County
(H,Hw) - See Statewide
PERSHING COUNTY
(H-Hw) - See Statewide
STOREY COUNTY
(H-Hw) - See Statewide
WASHOE COUNTY
Decision #AP-269 (R)
38 FR 7190 - 3/16/73
Mod. #1 - 38 FR 15216 - 6/8/73
Mod. #2 - 38 FR 17351 - 6/29/73
(H,Hw) - See Statewide
(B) - See Churchill County
WHITE PINE COUNTY
(H-Hw) - See Statewide

NEW HAMPSHIRE

BELKNAP COUNTY
None
CARROLL COUNTY
None
CHESHIRE COUNTY
None
COOS COUNTY
None
GRAFTON COUNTY
None
HILLSBORO COUNTY
Decision #AP-420 (B)
38 FR 7689 - 3/23/73
Mod. #1 - 38 FR 12513 - 5/11/73
Mod. #2 - 38 FR 16589 - 6/22/73
Decision #AP-498 (R)
38 FR 8853 - 4/6/73
Mod. #1 - 38 FR 12513 - 5/11/73
Mod. #2 - 38 FR 16590 - 6/22/73
MERRIMACK COUNTY
None
ROCKINGHAM COUNTY
Decision #AP-803 (D)
38 FR 10580 - 4/27/73
Decision #AP-806 (B)
38 FR 12503 - 5/11/73
Mod. #1 - 38 FR 16591 - 6/22/73
STRAFFORD COUNTY
None
SULLIVAN COUNTY
None

NEW JERSEY

ATLANTIC COUNTY
Decision #AP-809 (B,H,Hw)
38 FR 12561 - 5/11/73
Decision #AP-803 (D)
38 FR 10580 - 4/27/73
BERGEN COUNTY
Decision #AP-810 (B,H,Hw)
38 FR 12567 - 5/11/73
(D) - See Atlantic County
BURLINGTON COUNTY
Decision #AP-829 (B,H,Hw)
38 FR 13272 - 5/18/73
(D) - See Atlantic County
CAMDEN COUNTY
Decision #AP-836 (B,H,Hw)
38 FR 13951 - 5/25/73
Mod. #1 - 38 FR 21014 - 8/3/73
(D) - See Atlantic County
CAPE MAY COUNTY
(B,H,Hw,D) - See Atlantic County
CUMBERLAND COUNTY
Decision #AP-837 (B,H,Hw)
38 FR 13957 - 5/25/73
(D) - See Atlantic County
ESSEX COUNTY
Decision #AP-826 (B,H,Hw)
38 FR 13252 - 5/18/73
GLOUCESTER COUNTY
(B,H,Hw) - See Camden County
(D) - See Atlantic County
HUDSON COUNTY
Decision #AP-828 (B,H,Hw)
38 FR 13265 - 5/18/73
Mod. #1 - 38 FR 18126 - 7/6/73
(D) - See Atlantic County
HUNTERDON COUNTY
None
MERCER COUNTY
Decision #AP-827 (B,H,Hw)
38 FR 13258 - 5/18/73
(D)-See Atlantic County

NEW JERSEY (Cont'd)

MIDDLESEX COUNTY
Decision #AP-838 (B,H,Hw)
38 FR 13963 - 5/25/73
(D) - See Atlantic County
MONMOUTH COUNTY
Decision #AP-839 (B,H,Hw)
38 FR 13971 - 5/25/73
(D) - See Atlantic County
MORRIS COUNTY
Decision #AP-840 (B,H,Hw)
38 FR 13978 - 5/25/73
(D) - See Atlantic County
OCEAN COUNTY
Decision #AP-841 (B,H,Hw)
38 FR 13985 - 5/25/73
(D) - See Atlantic County
PASSAIC COUNTY
Decision #AM-1,718 (B,H,Hw)
36 FR 14885 - 8/11/71
Mod. #1-36 FR 20080 - 10/15/71
Mod. #2-37 FR 971 - 1/21/72
Mod. #3 - 37 FR 5662 - 3/17/72
Mod. #4 - 37 FR 6137 - 3/24/72
(D) - See Atlantic County
SALEM COUNTY
(D) - See Atlantic County
SOMERSET COUNTY
Decision #AM-1,719 (B,H,Hw)
36 FR 14892 - 8/11/71
Mod. #1-36 FR 19285 - 10/1/71
Mod. #2-36 FR 20080 - 10/15/71
Mod. #3-37 FR 972 - 1/21/72
Mod. #4-37 FR 6137 - 3/24/72
(D) - See Atlantic County
SUSSEX COUNTY
None
UNION COUNTY
Decision #AP-846 (B,H,Hw)
38 FR 15333 - 6/8/73
(D) - See Atlantic County
WARREN COUNTY
None







NEW MEXICO

STATEWIDE
Decision #AQ-9 (Streets, Highways, Utilities and Light Engineering Construction)
38 FR 20219 - 7/27/73
Decision #AP-740 (Building & Heavy Engineering Construction
38 FR 18148 - 7/6/73
Mod. #1 - 38 FR 20181 - 7/27/73
BERNALILLO COUNTY
(B,HE,S,Hw,U,LE) - See Statewide
CATRON COUNTY
(B,HE,S,Hw,U,LE) - See Statewide
CHAVES COUNTY
(B,HE,S,Hw,U,LE) - See Statewide
COLFAX COUNTY
(B,HE,S,Hw,U,LE) - See Statewide
CURRY COUNTY
(B,HE,S,Hw,U,LE) - See Statewide
DE BACA COUNTY
(B,HE,S,Hw,U,LE)-See Statewide
DONA ANA COUNTY
(B,HE,S,Hw,U,LE)-See Statewide
Decision #AP-340 (R)
37 FR 19869-9/22/72
EDDY COUNTY
(B,HE,S,Hw,U,LE)-See Statewide
GRANT COUNTY
(B,HE,S,Hw,U,LE) - See Statewide
GUADALUPE COUNTY
(B,HE,S,Hw,U,LE) - See Statewide
HARDING COUNTY
(B,HE,S,Hw,U,LE)-See Statewide
HIDALGO COUNTY
(B,HE,S,Hw,U,LE)-See Statewide
LEA COUNTY
(B,HE,S,Hw,U,LE)-See Statewide
LINCOLN COUNTY
(B,HE,S,Hw,U,LE)-See Statewide
LOS ALAMOS COUNTY
(B,HE,S,Hw,U,LE)-See Statewide
LUNA COUNTY
(B,HE,S,Hw,U,LE)-See Statewide
McKINLEY COUNTY
(B,HE,S,Hw,U,LE)-See Statewide

NEW MEXICO (Cont'd)

MORAW COUNTY
(B,HE,S,Hw,U,LE)-See Statewide
OTERO COUNTY
(B,HE,S,Hw,U,LE)-See Statewide
QUAY COUNTY
(B,HE,S,Hw,U,LE)-See Statewide
RIO ARRIBA COUNTY
(B,HE,S,Hw,U,LE)-See Statewide
ROOSEVELT COUNTY
(B,HE,S,Hw,U,LE)-See Statewide
SANDOVAL COUNTY
(B,HE,S,Hw,U,LE)-See Statewide
SAN JUAN COUNTY
(B,HE,S,Hw,U,LE)-See Statewide
SAN MIGUEL COUNTY
(B,HE,S,Hw,U,LE)-See Statewide
SANTA FE COUNTY
(B,HE,S,Hw,U,LE)-See Statewide
SIERRA COUNTY
(B,HE,S,Hw,U,LE)-See Statewide
SOCORRO COUNTY
(B,HE,S,Hw,U,LE)-See Statewide
TAOS COUNTY
(B,HE,S,Hw,U,LE)-See Statewide
TORRANCE COUNTY
(B,HE,S,Hw,U,LE)-See Statewide
UNION COUNTY
(B,HE,S,Hw,U,LE) - See Statewide
VALENCIA COUNTY
(B,HE,S,Hw,U,LE) - See Statewide

NEW YORK

ALBANY COUNTY
Decision #AP-452 (H,B,Hw)
37 FR 26782 - 12/15/72
Mod. #1 - 38 FR 9397 - 4/13/73
Mod. #2 - 38 FR 18819 - 7/13/73
Mod. #3 - 38 FR 21016 - 8/3/73
ALLEGANY COUNTY
None
BRONX COUNTY
Decision #AP-487 (B,H,Hw)
38 FR 6608 - 3/9/73
Mod. #1 - 38 FR 8872 - 4/6/73
Mod. #2 - 38 FR 12514 - 5/11/73
Decision #AP-400 (R)
37 FR 13913 - 7/14/72
Mod. #1 - 37 FR 23510 - 11/3/72
Mod. #2 - 38 FR 5097 - 2/23/73
Mod. #3 - 38 FR 12514 - 5/11/73
Decision #AP-803 (D)
38 FR 10580 - 4/27/73
BROOME COUNTY
Decision #AP-469 (B,H,Hw)
38 FR 4169 - 2/9/73
Mod. #1 - 38 FR 9397 - 4/13/73
Mod. #2 - 38 FR 18126 - 7/6/73
Mod. #3 - 38 FR 21022 - 8/3/73
CATTARAUGUS COUNTY
None
CAYUGA COUNTY
Decision #AP-4 (D)
37 FR 14670 - 7/21/72
CHAUTAUGUA COUNTY
(D) - See Cayuga County
CHEMUNG COUNTY
None
CHENANGO COUNTY
None

NEW YORK (Cont'd)

CLINTON COUNTY
None
COLUMBIA COUNTY
None
CORTLAND COUNTY
None
DELAWARE COUNTY
None
DUTCHESS COUNTY
Decision #AM-1,724 (B,H,Hw)
36 FR 14921 - 8/11/71
Mod. #1-36 FR 19650 - 10/8/71
Mod. #2-37 FR 973 - 1/21/72
Mod. #3-37 FR 7029 - 4/7/72
(D) - See Bronx County
ERIE COUNTY
Decision #AP-800 (B,H,Hw)
38 FR 8404 - 3/30/73
Mod. #1 - 38 FR 9398 - 4/13/73
Mod. #2 - 38 FR 18820 - 7/13/73
(D) - See Cayuga County
ESSEX COUNTY
None
FRANKLIN COUNTY
(D) - See Cayuga County
FULTON COUNTY
None
GENESEE COUNTY
None
GREENE COUNTY
None
HAMILTON COUNTY
None
HERKIMER COUNTY
None
JEFFERSON COUNTY
Decision #AP-807 (B,H,Hw)
38 FR 12582 - 5/11/73
Mod. #1 - 38 FR 18820 - 7/13/73
Mod. #2 - 38 FR 21023 - 8/3/73
(D) - See Cayuga County





XUM
37 7 SEP 38 FR 18603

NEW YORK (Cont'd)

KINGS COUNTY
(B,H,Hw,R,D) - See Bronx County
LEWIS COUNTY
None
LIVINGSTON COUNTY
None
MADISON COUNTY
None
MONROE COUNTY
Decision #AP-453 (B,H,Hw)
37 FR 28380-12/22/72
Mod. #1 - 38 FR 18820 - 7/13/73
Mod. #2 - 38 FR 21018 - 8/3/73
(D) - See Cayuga County
MONTGOMERY COUNTY
None
NASSAU COUNTY
Decision #AQ-2001 (B,H,Hw)
38 FR 18845 - 7/13/73
(D) - See Bronx County
NEW YORK COUNTY
(B,H,Hw,R,D) - See Bronx County
NIAGARA COUNTY
Decision #AM-1,729 (B,H,Hw)
36 FR 14950 - 8/11/71
Mod. #1-36 FR 19651 - 10/8/71
Mod. #2-36 FR 20462 - 10/22/71
Mod. #3-37 FR 973 - 1/21/72
Mod. #4-37 FR 6612 - 3/31/72
(D) - See Cayuga County

NEW YORK (Cont'd)

ONEIDA COUNTY
Decision #AP-844 (B,H,Hw) (Cont'd)
38 FR 15341 - 6/8/73
Mod. #1 - 38 FR 18822 - 7/13/73
Mod. #2 - 38 FR 21026 - 8/3/73
ONONDAGA COUNTY
Decision #AP-808 (B,H,Hw)
38 FR 12587 - 5/11/73
Mod. #1 - 38 FR 18821 - 7/13/73
Mod. #2 - 38 FR 21025 - 8/3/73
ONTARIO COUNTY
None
ORANGE COUNTY
Decision #AP-845 (B,H,Hw)
38 FR 15346 - 6/8/73
Mod. #1 - 38 FR 18820 - 7/13/73
(D) - See Bronx County
ORLEANS COUNTY
(D) - See Cayuga County
OSWEGO COUNTY
(D) - See Cayuga County
OTSEGA COUNTY
None
PUTNAM COUNTY
None
QUEENS COUNTY
(B,H,Hw,R,D) - See Bronx County
RENSSELAER COUNTY
Decision #AP-860 (B,H,Hw)
38 FR 18160 - 7/6/73
Mod. #1 - 38 FR 21030 - 8/3/73
RICHMOND COUNTY
(B,H,Hw,R,D) - See Bronx County
ROCKLAND COUNTY
(D) - See Albany County

NEW YORK (cont'd)

ST LAWRENCE COUNTY
(D)-See Cayuga County
SARATOGA COUNTY
Decision #AP-451 (B,H,Hw)
37 FR 25099 - 11/25/72
Mod. #1 - 38 FR 21014 - 8/3/73
SCHENECTADY COUNTY
Decision #AP-859 (B,H,Hw)
38 FR 18156 - 7/6/73
Mod. #1 - 38 FR 21028 - 8/3/73
SCHOHARIE COUNTY
None
SCHUYLER COUNTY
None
SENECA COUNTY
None
STEUBEN COUNTY
Decision #AP-486 (B,H,Hw)
38 FR 6516 - 3/9/73
Mod. #1 - 38 FR 20184 - 7/27/73
SUFFOLK COUNTY
Decision #AM-1735 (B,H,Hw)
36 FR 14890 - 8/11/71
Mod. #1 - 36 FR 18988 - 9/24/71
Mod. #2 - 37 FR 4021 - 2/2 /72
Mod. #3 - 37 FR 22706 - 10/20/72
Mod. #4 - 37 FR 23973 - 11/10/72
(D)-See Bronx County
SULLIVAN COUNTY
None
TIOGA COUNTY
None
TOMPKINS COUNTY
None
ULSTER COUNTY
None
WARREN COUNTY
None
WASHINGTON COUNTY
None
WAYNE COUNTY
(D) - See Cayuga County
WESTCHESTER COUNTY
Decision #AM-1,736 (B,H,Hw)
36 FR 14985 - 8/11/71
Mod. #1-36 FR 19652 - 8/11/71
Mod. #2-36 FR 20463 - 10/22/71
Mod. #3-37 FR 974 - 1/21/72
Mod. #4-37 FR 6613 - 3/31/72
(D) - See Bronx County
WYOMING COUNTY
None
YATES COUNTY
None

NORTH CAROLINA

STATEWIDE
Decision #AM-1847 (Hw)
36 FR 16674 - 8/20/71
Decision #AP-156 (Sewer & Water)
38 FR 4618 - 2/16/73
ALAMANCE COUNTY
(Sewer & Water, Hw) - See Statewide
ALEXANDER COUNTY
(Sewer & Wager, Hw) - See Statewide
ALLEGHANY COUNTY
(Sewer & Water,Hw) - See Statewide
ANSON COUNTY
(Sewer & Water,Hw) - See Statewide
ASHE COUNTY
(Sewer & Water,Hw) - See Statewide
AVERY COUNTY
(Sewer & Water,Hw) - See Statewide
BEAUFORT COUNTY
Decision #AP-847 (D)
38 FR 15797 - 6/15/73
(Sewer & Water,Hw) - See Statewide
BERTIE COUNTY
(D) - See Beaufort County
(Sewer & Water,Hw) - See Statewide
BLADEN COUNTY
(Sewer & Water,Hw) - See Statewide
BRUNSWICK COUNTY
(Sewer & Water,Hw) - See Statewide
(D) - See Beaufort County
BUNCOMBE COUNTY
(Sewer & Water,Hw) - See Statewide
BURKE COUNTY
(Sewer & Water,Hw) - See Statewide
CABARRUS COUNTY
(Sewer & Water,Hw) - See Statewide
CALDWELL COUNTY
(Sewer & Water,Hw) - See Statewide
CAMDEN COUNTY
(Sewer & Water,Hw) - See Statewide
CARTERET COUNTY
(D) - See Beaufort County
(Sewer & Water,Hw) - See Statewide
CASWELL COUNTY
(Sewer & Water,Hw) - See Statewide
CATAWBA COUNTY
(Sewer & Water,Hw) - See Statewide
CHATHAM COUNTY
(Sewer & Water,Hw) - See Statewide

NOTICES





NORTH CAROLINA (Cont'd)

CHEROKEE COUNTY
(Sewer & Water,Hw) - See Statewide
CHOWAN COUNTY
(Sewer & Water) - See Statewide
(D) - See Beaufort County
(Hw) - See Statewide
CLAY COUNTY
(Sewer & Water,Hw) - See Statewide
CLEVELAND COUNTY
(Sewer & Water,Hw) - See Statewide
COLUMBUS COUNTY
(Sewer & Water,Hw) - See Statewide
CRAVEN COUNTY
(Sewer & Water,Hw) - See Statewide
(D) - See Beaufort County
CUMBERLAND COUNTY
(Sewer & Water,Hw) - See Statewide
CURRITUCK COUNTY
(Sewer & Water,Hw) - See Statewide
(D) - See Beaufort County
DARE COUNTY
(Sewer & Water,Hw) - See Statewide
(D) - See Beaufort County
DAVIDSON COUNTY
(Sewer & Water,Hw) - See Statewide
DAVIE COUNTY
(Sewer & Water,Hw) - See Statewide
DUPLIN COUNTY
(Sewer & Water,Hw) - See Statewide
DURHAM COUNTY
(Sewer & Water,Hw) - See Statewide
EDGECOMBE COUNTY
(Sewer & Water,Hw) - See Statewide
FORSUTY COUNTY
(Sewer & Water,Hw) - See Statewide
FRANKLIN COUNTY
(Sewer & Water,Hw) - See Statewide
GASTON COUNTY
(Sewer & Water,Hw) - See Statewide
GATES COUNTY
(Sewer & Water,Hw) - See Statewide
(D) - See Beaufort County
GRAHAM COUNTY
(Sewer & Water,Hw) - See Statewide
GRANVILLE COUNTY
(Sewer & Water,Hw) - See Statewide
GREENE COUNTY
(Sewer & Water,Hw) - See Statewide
GUILFORD COUNTY
(Sewer & Water,Hw) - See Statewide

NORTH CAROLINA (Cont'd)

HALIFAX COUNTY
(Sewer & Water,Hw) - See Statewide
HARNETT COUNTY
(Sewer & Water,Hw) - See Statewide
HAYWOOD COUNTY
(Sewer & Water,Hw) - See Statewide
HENDERSON COUNTY
(Sewer & Water,Hw) - See Statewide
HERTFORD COUNTY
(Sewer & Water,Hw) - See Statewide
(D) - See Beaufort County
HOKE COUNTY
(Sewer & Water,Hw) - See Statewide
HYDE COUNTY
(Sewer & Water,Hw) - See Statewide
(D) - See Beaufort County
IREDELL COUNTY
(Sewer & Water,Hw) - See Statewide
JACKSON COUNTY
(Sewer & Water,Hw) - See Statewide
JOHNSTON COUNTY
(Sewer & Water,Hw) - See Statewide
JONES COUNTY
(Sewer & Water,Hw) - See Statewide
LEE COUNTY
(Sewer & Water,Hw) - See Statewide
LENOIR COUNTY
(Sewer & Water,Hw) - See Statewide
LINCOLN COUNTY
(Sewer & Water,Hw) - See Statewide
MCDOWELL COUNTY
(Sewer & Water,Hw) - See Statewide
MACON COUNTY
(Sewer & Water,Hw) - See Statewide
MADISON COUNTY
(Sewer & Water,Hw) - See Statewide
MARTIN COUNTY
(Sewer & Water,Hw) - See Statewide
MECKLENBURG COUNTY
Decision #AP-161 (B)
38 FR 5753 - 3/2/73
Mod. #1 - 38 FR 7166 - 3/16/73
(Sewer & Water,Hw) - See Statewide
MITCHELL COUNTY
(Sewer & Water,Hw) - See Statewide
MONTGOMERY COUNTY
(Sewer & Water,Hw) - See Statewide
MOORE COUNTY
(Sewer & Water,Hw) - See Statewide
NASH COUNTY
(Sewer & Water,Hw) - See Statewide

NORTH CAROLINA (CONT'D)

NEW HANOVER COUNTY
(D) - See Beaufort County
(Sewer & Water,Hw) - See Statewide
NORTHAMPTON COUNTY
(Sewer & Water,Hw) - See Statewide
ONSLOW COUNTY
(D) - See Beaufort County
(Sewer & Water,Hw) - See Statewide
ORANGE COUNTY
(Sewer & Water,Hw) - See Statewide
PAMLICO COUNTY
(D) - See Beaufort County
(Sewer & Water,Hw) - See Statewide
PASQUOTANK COUNTY
(D) - See Beaufort County
(Sewer & Water,Hw) - See Statewide
PENDER COUNTY
(D) - See Beaufort County
(Sewer & Water,Hw) - See Statewide
PERQUIMANS COUNTY
(D) - See Beaufort County
(Sewer & Water,Hw) - See Statewide
PERSON COUNTY
(Sewer & Water,Hw) - See Statewide
PITT COUNTY
(Sewer & Water,Hw) - See Statewide)
POLK COUNTY
(Sewer & Water,Hw) - See Statewide
RANDOLPH COUNTY
(Sewer & Water,Hw) - See Statewide
RICHMOND COUNTY
(Sewer & Water,Hw) - See Statewide
ROBESON COUNTY
(Sewer & Water,Hw) - See Statewide
ROCKINGHAM COUNTY
(Sewer & Water,Hw) - See Statewide
ROWAN COUNTY
(Sewer & Water,Hw) - See Statewide
RUTHERFORD COUNTY
(Sewer & Water,Hw) - See Statewide
SAMPSON COUNTY
(Sewer & Water,Hw) - See Statewide
SCOTLAND COUNTY
(Sewer & Water,Hw) - See Statewide
STANLEY COUNTY
(Sewer & Water,Hw) - See Statewide

NORTH CAROLINA (Cont'd)

STOKES COUNTY
(Sewer & Water,Hw) - See Statewide
SURRY COUNTY
(Sewer & Water,Hw) - See Statewide
SWAIN COUNTY
(Sewer & Water,Hw) - See Statewide
TRANSYLVANIA COUNTY
(Sewer & Water,Hw) - See Statewide
TYRRELL COUNTY
(D) - See Beaufort County
(Sewer & Water,Hw) - See Statewide
UNION COUNTY
(Sewer & Water,Hw) - See Statewide
VANCE COUNTY
(Sewer & Water,Hw) - See Statewide
WAKE COUNTY
(Sewer & Water,Hw) - See Statewide
WARREN COUNTY
(Sewer & Water,Hw) - See Statewide
WASHINGTON COUNTY
(D) - See Beaufort County
(Sewer & Water,Hw) - See Statewide
WATAUGA COUNTY
(Sewer & Water,Hw) - See Statewide
WAYNE COUNTY
(Sewer & Water,Hw) - See Statewide
WILKS COUNTY
(Sewer & Water,Hw) - See Statewide
WILSON COUNTY
(Sewer & Water,Hw) - See Statewide
YADKIN COUNTY
(Sewer & Water,Hw) - See Statewide
YANCEY COUNTY
(Sewer & Water,Hw) - See Statewide

NOTICES



MX

NORTH DAKOTA

STATEWIDE
Decision #AQ-1000 (Hw)
38 FR 18849 - 7/13/73
ADAMS COUNTY
(Hw) - See Statewide
BARNES COUNTY
(Hw) - See Statewide
BENSON COUNTY
(Hw) - See Statewide
BILLINGS COUNTY
(Hw) - See Statewide
BOTTINEAU COUNTY
(Hw) - See Statewide
BOWMAN COUNTY
(Hw) - See Statewide
BURKE COUNTY
(Hw) - See Statewide
BURLEIGH COUNTY
(Hw) - See Statewide
Decision #AQ-1001 (B)
38 FR 19650 - 7/20/73
CASS COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
CAVALIER COUNTY
(Hw) - See Statewide
DICKEY COUNTY
(Hw) - See Statewide
DIVIDE COUNTY
(Hw) - See Statewide
DUNN COUNTY
(Hw) - See Statewide
EDDY COUNTY
(Hw) - See Statewide
EMMONS COUNTY
(Hw) - See Statewide
FOSTER COUNTY
(Hw) - See Statewide
GOLDEN VALLEY COUNTY
(Hw) - See Statewide

NORTH DAKOTA (Cont'd)

GRAND FORKS COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
GRANT COUNTY
(Hw) - See Statewide
GRIGGS COUNTY
(Hw) - See Statewide
HETTINGER COUNTY
(Hw) - See Statewide
KIDDER COUNTY
(Hw) - See Statewide
LAMOURE COUNTY
(Hw) - See Statewide
LOGAN COUNTY
(Hw) - See Statewide
McHENRY COUNTY
(Hw) - See Statewide
McINTOSH COUNTY
(Hw) - See Statewide
McKENZIE COUNTY
(Hw) - See Statewide
McLEAN COUNTY
(Hw) - See Statewide
MERCER COUNTY
(Hw) - See Statewide
MORTON COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
MOUNTRAIL COUNTY
(Hw) - See Statewide
NELSON COUNTY
(Hw) - See Statewide
OLIVER COUNTY
(Hw) - See Statewide
PEMBINA COUNTY
(Hw) - See Statewide

NORTH DAKOTA (Cont'd)

RANSOM COUNTY
(Hw) - See Statewide
RENVILLE COUNTY
(Hw) - See Statewide
RICHLAND COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
ROLETTE COUNTY
(Hw) - See Statewide
SARGENT COUNTY
(Hw) - See Statewide
SHERIDAN COUNTY
(Hw) - See Statewide
SIOUX COUNTY
(Hw) - See Statewide
SLOPE COUNTY
(Hw) - See Statewide
STARK COUNTY
(Hw) - See Statewide
STEELE COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
STUTSMAN COUNTY
(Hw) - See Statewide
TOWNER COUNTY
(Hw) - See Statewide
TRAILL COUNTY
(Hw) - See Statewide
WALSH COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
WARD COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
WELLS COUNTY
(Hw) - See Statewide
WILLIAMS COUNTY
(Hw) - See Statewide

OHIO

ADAMS COUNTY
Decision #AP-602 (D)
38 FR 1433-1/12/73
ALLEN COUNTY
None
ASHLAND COUNTY
None
ASHTABULA COUNTY
Decision #AP-4 (D)
37 FR 14670 - 7/21/72
ATHENS COUNTY
(D) - See Adams County
AUGLAIZE COUNTY
None
BELMONT COUNTY
None
BROWN COUNTY
(D) - See Adams County
BUTLER COUNTY
Decision #AP-669 (B)(H,Hw)
38 FR 13991 - 5/25/73
Mod. #1 - 38 FR 14535 - 6/1/73
Decision #AP-683 (R)
38 FR 14049 - 5/25/73
CARROLL COUNTY
None
CHAMPAIGN COUNTY
None
CLARK COUNTY
Decision #AP-670 (B,H,Hw)
38 FR 13996 - 5/25/73
Mod. #1 - 38 FR 14535 - 6/1/73
Decision #AP-684 (R)
38 FR 14049 - 5/25/73
CLERMONT COUNTY
Decision #AM-685 (R)
38 FR 14050 - 5/25/73
(D) - See Adams County
CLINTON COUNTY
None
COLUMBIANA COUNTY
None
COSHOCTON COUNTY
None
CRAWFORD COUNTY
None
CUYAHOGA COUNTY
Decision #AP-671 (B,H,Hw)
38 FR 14000 - 5/25/73
Mod. #1 - 38 FR 14535 - 6/1/73
Decision #AP-686 (R)
38 FR 14050 - 5/25/73
Mod. #1 - 38 FR 14537 - 6/1/73



OHIO (Cont'd)

DARKE COUNTY
None
DEFIANCE COUNTY
None
DELAWARE COUNTY
Decision #AM-420 (R)
36 FR 15963 - 8/18/71
Mod. #1 - 38 FR 4630 - 2/16/73
ERIE COUNTY
(D) - See Ashtabula County
FAIRFIELD COUNTY
(R) - See Delaware County
FAYETTE COUNTY
None
FRANKLIN COUNTY
Decision #AP-672 (B,H,Hw)
38 FR 14004 - 5/25/73
Mod. #1 - 38 FR 14535 - 6/1/73
(R) - See Delaware County
FULTON COUNTY
None
GALLIA COUNTY
(D)-See Adams County
GEAUGA COUNTY
None
GREENE COUNTY
Decision #AP-673 (B,H,Hw)
38 FR 14008 - 5/25/73
Mod. #1 - 38 FR 14535 - 6/1/73
Decision #AM-422 (R)
36 FR 15965 - 8/18/71
Mod. #1-37 FR 8619 - 4/28/72
GUERNSEY COUNTY
None
HAMILTON COUNTY
Decision #AP-674 (B,H,Hw)
38 FR 14012 - 5/25/73
Mod. #1 - 38 FR 14535 - 6/1/73
(D)-See Adams County
(R) - See Clermont County
HANCOCK COUNTY
None
HARDIN COUNTY
None
HARRISON COUNTY
None
HENRY COUNTY
None

OHIO (Cont'd)

HIGHLAND COUNTY
None
HOCKING COUNTY
None
HOLMES COUNTY
None
HURON COUNTY
None
JACKSON COUNTY
None
JEFFERSON COUNTY
None
KNOX COUNTY
None
LAKE COUNTY
(D) - See Ashtabula County
LAWRENCE COUNTY
(D)-See Adams County
LICKING COUNTY
Decision #AP-675 (B,H,Hw)
38 FR 14017 - 5/25/73
Mod. #1-38 FR 14536 - 6/1/73
(R) - See Delaware County
LOGAN COUNTY
None
LORAIN COUNTY
(D) - See Ashtabula County
LUCAS COUNTY
Decision #AP-676 - (B,H,Hw)
38 FR 14021 - 5/25/73
Mod. #1 - 38 FR 14536 - 6/1/73
(D) - See Ashtabula County
MADISON COUNTY
(R) - See Delaware County
MAHONING COUNTY
Decision #AP-687 (R)
38 FR 13903 - 5/25/73
Decision #AP-677 (B,H,Hw)
38 FR 14026 - 5/25/73
Mod. #1 - 38 FR 15792 - 6/15/73
MARION COUNTY
None
MEDINA COUNTY
None
MEIGS COUNTY
(D) - See Adams County
MERCER COUNTY
None

OHIO (Cont'd)

MIAMI COUNTY
(R) - See Greene County
MONROE COUNTY
(D)-See Adams County
MONTGOMERY COUNTY
(B)(H)(Hw) - See Greene County
(R) - See Greene County
MORGAN COUNTY
None
MORROW COUNTY
None
MUSKINGUM COUNTY
Decision #AP-678 (B,H,Hw)
38 FR 14029 - 5/25/73
Mod. #1 - 38 FR 14536 - 6/1/73
NOBLE COUNTY
None
OTTAWA COUNTY
(D) - See Ashtabula County
PAULDING COUNTY
None
PERRY COUNTY
None
PICKAWAY COUNTY
(B)(H)(Hw) - See Franklin County
(R) - See Delaware County
PIKE COUNTY
None
PORTAGE COUNTY
Decision #AP-679 (B,H,Hw)
38 FR 14033 - 5/25/73
Mod. #1 - 38 FR 14536 - 6/1/73
PREBLE COUNTY
(R) - See Greene County
PUTNAM COUNTY
None

OHIO (Cont'd)

RICHLAND COUNTY
None
ROSS COUNTY
None
SANDUSKY COUNTY
(D) - See Ashtabula County
SCIOTO COUNTY
(D)-See Adams County
SENECA COUNTY
None
SHELBY COUNTY
None
STARKE COUNTY
Decision #AP-680 (B,H,Hw)
38 FR 14038 - 5/25/73
Mod. #1-38 FR 14536 - 6/1/73
SUMMITT COUNTY
Decision #AP-681 (B,H,Hw)
38 FR 14042 - 5/25/73
Mod. #1-38 FR 14536 - 6/1/73
TRUMBULL COUNTY
Decision #AP-688 (R)
38 FR 13905 - 5/25/73
Decision #AP-682 (B,H,Hw)
38 FR 14047 - 5/25/73
Mod. #1 - 38 FR 15792 - 6/15/73
TUSCARAWAS COUNTY
None
UNION COUNTY
None
VAN WERT COUNTY
None
VINTON COUNTY
None
WARREN COUNTY
(R) - See Butler County
WASHINGTON COUNTY
(D)-See Adams County
WAYNE COUNTY
None
WILLIAMS COUNTY
None
WOOD COUNTY
None
WYANDOT COUNTY
None







XUM
37 FR 7 SEP 73
3 9031 00183 4

OKLAHOMA

ADAIR COUNTY
Decision #AM-3603 (Hw)
36 FR 16761 - 8/25/71
ALFALFA COUNTY
Decision #AM-3608 (Hw)
36 FR 16766 - 8/25/71
ATOKA COUNTY
Decision #AM-3604 (Hw)
36 FR 16763 - 8/25/71
BEAVER COUNTY
(Hw)-See Alfalfa County
BECKHAM COUNTY
DECISION #AM-3606 (Hw)
36 FR 16764 - 8/25/71
BLAINE COUNTY
(Hw)-See Beckham County
BRYAN COUNTY
(Hw)-See Atoka County
Decision #AP-341 (R)
37 FR 19870 - 9/22/72
CADDO COUNTY
Decision #AM- 3609 (Hw)
36 FR 16767 - 8/25/71
CANADIAN COUNTY
Decision #AM-3607 (Hw)
36 FR 16765 - 8/25/71
(B) - See Oklahoma County
(R)-See Oklahoma County
CARTER COUNTY
(Hw)-See Caddo County
CHEROKEE COUNTY
(Hw)-See Adair County
CHOCTAW COUNTY
(Hw)-See Atoka County
CIMARRON COUNTY
(Hw)-See Alfalfa County
CLEVELAND COUNTY
Decision #AM-3605 (Hw)
36 FR 16762 - 8/25/71
(R)-See Oklahoma County
(B) - See Oklahoma County
COAL COUNTY
(Hw)-See Cleveland County
COMANCHE COUNTY
(Hw)-See Caddo County
Decision #AP-741 (R)
COTTON COUNTY
(Hw)-See Caddo County
CRAIG COUNTY
Decision #AM-3610 (Hw)
36 FR 16768 - 8/25/72
CREEK COUNTY
(Hw)-See Canadian County
CUSTER COUNTY
(Hw)-See Beckham County

OKLAHOMA (cont'd)

DELAWARE COUNTY
(Hw) - See Craig County
DEWEY COUNTY
(Hw)-See Beckham County
ELLIS COUNTY
(Hw)-See Alfalfa County
GARFIELD COUNTY
(Hw)-See Canadian County
GARVIN COUNTY
(Hw)-See Cleveland County
GRADY COUNTY
(Hw)-See Caddo County
GRANT COUNTY
(Hw)-See Canadian County
GREER COUNTY
(Hw)-See Beckham County
HARMON COUNTY
(Hw)-See Beckham County
HARPER COUNTY
(Hw)-See Alfalfa County
HASKELL COUNTY
(Hw)-See Adair County
HUGHES COUNTY
(Hw)-See Cleveland County
JACKSON COUNTY
(Hw)-See Beckham County
JEFFERSON COUNTY
(Hw)-See Caddo County
JOHNSTON COUNTY
(Hw)-See Cleveland County
KAY COUNTY
(Hw)-See Canadian County
KINGFISHER COUNTY
(Hw)-See Canadian County
KIOWA COUNTY
(Hw)-See Beckham County
LATIMER COUNTY
(Hw)-See Atoka County
LEFLORE COUNTY
(Hw)-See Atoka County
LINCOLN COUNTY
(Hw)-See Canadian County)
(R)-See Oklahoma County
(B) - See Oklahoma County
LOGAN COUNTY
(Hw)-See Canadian County
LOVE COUNTY
(Hw)-See Caddo County
MCCLAIN COUNTY
(Hw)-See Cleveland County
MCCURTAIN COUNTY
(Hw)-See Atoka County

OKLAHOMA (cont'd)

MCINTOSH COUNTY
(Hw)-See Adair County
MAJOR COUNTY
(Hw)-See Alfalfa County
MARSHALL COUNTY
(Hw)-See Atoka County
MAYES COUNTY
(Hw)- See Craig County
MURRAY COUNTY
(Hw)-See Cleveland County
MUSKOGEE COUNTY
(Hw)-See Adair County
NOBLE COUNTY
(Hw)-See Canadian County
NOWATA COUNTY
(Hw)-See Craig County
OKFUSKEE COUNTY
(Hw)-See Cleveland County
OKLAHOMA COUNTY
Decision #AP-731 (B)
38 FR 12592 - 5/11/73
Mod. #1 - 38 FR 15792 - 6/15/73
Mod. #2 - 38 FR 19611 - 7/20/73
Mod. #3 - 38 FR 20185 - 7/27/73
Decision #AM-3612 (Hw)
36 FR 16770 - 8/25/71
Mod. #1 - 37 FR 1435 - 1/28/72
Decision #AP-304 (R)
37 FR 15789 - 8/4/72
Mod. #1-37 FR 28799-12/29/72
Mod. #2-38 FR 4078-2/9/73
OKMULGEE COUNTY
(Hw)-See Adair County
OSAGE COUNTY
(Hw) - See Craig County
(R) - See Tulsa County
OTTAWA COUNTY
(Hw) - See Craig County
PAWNEE COUNTY
(Hw) - See Craig County
PAYNE COUNTY
(Hw) - See Canadian County
PITTSBURG COUNTY
(Hw) - See Adair County

OKLAHOMA (Cont'd)

PONTOTOC COUNTY
(Hw) - See Cleveland County
POTTAWATOMIE COUNTY
(Hw) - See Cleveland County
(R) - See Oklahoma County
(B) - See Oklahoma County
PUSHMATAHA COUNTY
(Hw) - See Atoka County
ROGER MILLS COUNTY
(Hw) - See Beckham County
ROGERS COUNTY
(Hw) - See Craig County
SEMINOLE COUNTY
(Hw) - See Cleveland County
SEQUOYAH COUNTY
(Hw) - See Adair County
STEPHENS COUNTY
(Hw) - See Caddo County
TEXAS COUNTY
(Hw) - See Alfalfa County
TILLMAN COUNTY
(Hw) - See Beckham County
TULSA COUNTY
Decision #AP-364 (B)
37 FR 26249 - 12/8/72
Mod. #1-37 FR 28356-12/22/72
Mod. #2-38 FR 2010-1/19/73
Mod. #3-38 FR 13116 - 5/18/73
Mod. #4-38 FR 19611 - 7/20/73
Mod. #5-38 FR 20185 - 7/27/73
Decision #AM-3611 (Hw)
36 FR 16769 - 8/25/71
Mod. #1-37 FR 1435 - 1/28/72
Decision #AP-320 (R)
37 FR 17899 - 9/1/72
Mod. #1 - 38 FR 5099 - 2/23/73
WAGONER COUNTY
(Hw) - See Adair County
WASHINGTON COUNTY
(Hw) - See Craig County
WASHITA COUNTY
(Hw) - See Beckham County
WOODS COUNTY
(Hw) - See Alfalfa County
WOODWARD COUNTY
(Hw) - See Alfalfa County





OREGON

STATEWIDE
Decision #AP-284 (B,H,Hw,D)
38 FR 8920 - 4/6/73
Mod. #1 - 38 FR 11241 - 5/4/73
Mod. #2- 38 FR 17353 - 6/29/73
BAKER COUNTY
(B,H,Hw,D) - See Statewide
BENTON COUNTY
(B,H,Hw,D) - See Statewide
CLACKAMAS COUNTY
(B,H,Hw,D) - See Statewide
CLATSOP COUNTY
(B,H,Hw,D) - See Statewide
COLUMBIA COUNTY
(B,H,Hw,D) - See Statewide
COOS COUNTY
(B,H,Hw,D) - See Statewide
CROOK COUNTY
(B,H,Hw,D) - See Statewide
CURRY COUNTY
(B,H,Hw,D) - See Statewide
DESCHUTES COUNTY
(B-H-Hw-D) - See Statewide
DOUGLAS COUNTY
(B-H-Hw-D) - See Statewide
GILLIAM COUNTY
(B-H-Hw-D) - See Statewide
GRANT COUNTY
(B-H-Hw-D) - See Statewide
HARNEY COUNTY
(B-H-Hw-D) - See Statewide
HOOD COUNTY
(B-H-Hw-D) - See Statewide
JACKSON COUNTY
(B-H-Hw-D) - See Statewide
JEFFERSON COUNTY
(B-H-Hw-D) - See Statewide
JOSEPHINE COUNTY
(B-H-Hw-D) - See Statewide
KLAMATH COUNTY
(B-H-Hw-D) - See Statewide
LAKE COUNTY
(B-H-Hw-D) - See Statewide
LANE COUNTY
(B-H-Hw-D) - See Statewide
LINCOLN COUNTY
(B-H-Hw-D) - See Statewide
LINN COUNTY
(B-H-Hw-D) - See Statewide

OREGON (cont'd)

MALHEUR COUNTY
(B-H-Hw-D) - See Statewide
MARION COUNTY
(B-H-Hw-D) - See Statewide
MORROW COUNTY
(B-H-Hw-D) - See Statewide
MULTNOMAH COUNTY
Decision #AP-277 (R)
38 FR 7692 - 3/23/73
Mod. #1 - 38 FR 8872 - 4/6/73
Mod. #2 - 38 FR 11241 - 5/4/73
Mod. #3 - 38 FR 16593 - 6/22/73
(B-H-Hw-D) - See Statewide
POLK COUNTY
(B-H-Hw-D) - See Statewide
SHERMAN COUNTY
(B-H-Hw-D) - See Statewide
TILLAMOOK COUNTY
(B-H-Hw-D) - See Statewide
UMATILLA COUNTY
(B-H-Hw-D) - See Statewide
UNION COUNTY
(B-H-Hw-D) - See Statewide
WALLOWA COUNTY
(B,H,Hw,D) - See Statewide
WASCO COUNTY
(B,H,Hw,D) - See Statewide
WASHINGTON COUNTY
(B,H,Hw,D) - See Statewide
WHEELER COUNTY
(B,H,Hw,D) - See Statewide
YAMHILL COUNTY
(B,H,Hw,D) - See Statewide

PENNSYLVANIA (Cont'd)

ADAMS COUNTY
Decision #AP-489 (H,Hw)
38 FR 6622 - 3/9/73
Mod. #1 - 38 FR 18826 - 7/13/73
ALLEGHENY COUNTY
Decision #AP-495 (B,H,Hw)
38 FR 7771 - 3/23/73
Mod. #1 38 FR 10578 - 4/27/73
Mod. #2 - 38 FR 13117 - 5/18/73
Mod. #3 - 38 FR 15794 - 6/15/73
ARMSTRONG COUNTY
Decision #AP-831 (H,Hw)
38 FR 14055 - 5/25/73
Mod. #1 - 38 FR 15793 - 6/15/73
BEAVER COUNTY
Decision #AP-467 (H,Hw)
38 FR 2618 - 1/26/73
Mod. #1 - 38 FR 7172 - 3/16/73
Mod. #2 - 38 FR 9399 - 4/13/73
Mod. #3 - 38 FR 10578 - 4/27/73
Mod. #4 - 38 FR 12515 - 5/11/73
Mod. #5 - 38 FR 15793 - 6/15/73
BEDFORD COUNTY
Decision #AP-832 (H,Hw)
38 FR 14058 - 5/25/73
BERKS COUNTY
Decision #AQ-2000 (B,H,Hw)
38 FR 18852 - 7/13/73
Mod. #1 - 38 FR 21035 - 8/3/73
BLAIR COUNTY
(H,Hw) - See Armstrong County
BRADFORD COUNTY
(H,Hw) - See Adams County
BUCKS COUNTY
Decision #AP-404 (R)
37 fR 15229 - 7/28/72
Mod. #1 - 38 FR 2012 - 1/19/73
Mod. #2 - 38 FR 4630 - 2/16/73
Mod. #3 - 38 FR 6526 - 3/9/73
Mod. #4 - 38 FR 15224 - 6/8/73
Mod. #5 - 38 FR 18823 - 7/13/73
Mod. #6 - 38 FR 21032 - 8/3/73
Decision #AP-817 (H,Hw)
38 FR 13279 - 5/18/73
Mod. #1 - 38 FR 16591 - 6/22/73
Mod. #2 - 38 FR 18827 - 7/13/73
Mod. #3 - 38 FR 21033 - 8/3/73
BUTLER COUNTY
Decision #AP-830 (H,Hw)
38 FR 14053 - 5/25/73
Mod. #1 - 38 FR 15793 - 6/15/73
CAMBRIA COUNTY
(H,Hw) - See Butler County
CAMERON COUNTY
(H,Hw) - See Bedford County
CARBON COUNTY
(H,Hw) - See Adams County
CENTRE COUNTY
DEcision #AP-466 (H,Hw)
38 FR 2615 - 1/26/73
Mod. #1 - 38 FR 7172 - 3/16/73

PENNSYLVANIA (Cont'd)

CENTRE COUNTY (Cont'd)
Decision #AP-466 (H,Hw) (Cont'd)
Mod. #2 - 38 FR 9399 - 4/13/73
Mod. #3 - 38 FR 10578 - 4/27/73
Mod. #4 - 38 FR 12515 - 5/11/73
Mod. #5 - 38 FR 15793 - 6/15/73
CHESTER COUNTY
(H,Hw) - See Bucks County
CLARION COUNTY
(H,Hw) - See Bedford County
CLEARFIELD COUNTY
(H,Hw) - See Centre County
CLINTON COUNTY
(H,Hw) - See Bedford County
COLUMBIA COUNTY
(H,Hw) - See Adams County
CRAWFORD COUNTY
(H,Hw) - See Armstrong County
CUMBERLAND COUNTY
Decision #AP-825 (R)
38 FR 13301 - 5/18/73
Mod. #1 - 38 FR 18825 - 7/13/73
(Hw) - See Adams County
DAUPHIN COUNTY
Decision #AP-824 (R)
38 FR 13299 - 5/18/73
Mod. #1 - 38 FR 18825 - 7/13/73
(Hw) - See Adams County
DELAWARE COUNTY
Decision #AP-821 (B,H,Hw)
38 FR 13292 - 5/18/73
Mod. #1 - 38 FR 15225 - 6/8/73
Mod. #2 - 38 FR 18823 - 7/13/73
Mod. #3 - 38 FR 21035 - 8/3/73
(R,H,Hw) - See Bucks County
ELK COUNTY
(H,Hw) - See Bedford County
ERIE COUNTY
Decision #AP-834 (H,Hw)
38 FR 14060 - 5/25/73
Mod. #1 - 38 FR 15794 - 6/15/73
FAYETTE COUNTY
(H,Hw) - See Butler County
FOREST COUNTY
(H,Hw) - See Bedford County
FRANKLIN COUNTY
Decision #AP-843 (B,H,Hw)
38 FR 15352 - 6/8/73
FULTON COUNTY
(H,Hw) - See Bedford County
GREENE COUNTY
(H,Hw) - See Centre County
HUNTINGDON COUNTY
(H,Hw) - See Bedford County



XUM
38 FR 173 Sep 7
V38 I173 1973

PENNSYLVANIA (Cont'd)

INDIANA COUNTY
(H,Hw) - See Armstrong County
JEFFERSON COUNTY
(H,Hw) - See Centre County
JUNIATA COUNTY
(H,Hw) - See Adams County
LACKAWANNA COUNTY
Decision #AP-488 (B)
38 FR 6620 - 3/9/73
Mod. #1 - 38 FR 18825 - 7/13/73
Mod. #2 - 38 FR 21032 - 8/3/73
LANCASTER COUNTY
(Hw) - See Adams County
LAWRENCE COUNTY
Decision #AP-822 (B,H,Hw)
38 FR 13295 - 5/18/73
Mod. #1 - 38 FR 14537 - 6/1/73
Mod. #2 - 38 FR 15225 - 6/8/73
Mod. #3 - 38 FR 15794 - 6/15/73
LEBANON COUNTY
(Hw) - See Adams County
LEHIGH COUNTY
Decision #AP-835 (B)
38 FR 14066 - 5/25/73
Mod. #1 - 38 FR 18128 - 7/6/73
Mod. #2 - 38 FR 19611 - 7/20/73
(H,Hw) - See Adams County
LUZERNE COUNTY
Decision #AP-818 (B)
38 FR 13283 - 5/18/73
Mod. #1 - 38 FR 18127 - 7/6/73
Mod. #2 - 38 FR 19611 - 7/20/73
Mod. #3 - 38 FR 21034 - 8/3/73
(H,Hw) - See Adams County
LYCOMING COUNTY
(Hw) - See Adams County
MC KEAN COUNTY
(Hw) - See Adams County
MERCER COUNTY
Decision #AP-479 (B,H,Hw)
38 FR 5765 - 3/2/73
Mod. #1 - 38 FR 7172 - 3/16/73
Mod. #2 - 38 FR 8872 - 4/6/73
Mod. #3 - 38 FR 13117 - 5/18/73
Mod. #4 - 38 FR 15794 - 6/15/73
MIFFLIN COUNTY
(H,Hw) - See Adams County
MONROE COUNTY
(Hw, H) - See Adams County
MONTGOMERY COUNTY
Decision #AP-819 (B)
38 FR 13286 - 5/18/73
Mod. #1 - 38 FR 15225 - 6/6/73
Mod. #2 - 38 FR 18823 - 7/13/73
Mod. #3 - 38 FR 21034 - 8/3/73
(H,Hw) - See Bucks County
MONTOUR COUNTY
(H,Hw) - See Adams County

PENNSYLVANIA (Cont'd)

NORTHAMPTON COUNTY
Decision #AP-490 (B)
38 FR 6624 - 3/9/73
Mod. #1 - 38 FR 9399 - 4/13/73
Mod. #2 - 38 FR 10578 - 4/27/73
Mod. #3 - 38 FR 14537 - 6/1/73
Mod. #4 - 38 FR 18127 - 7/6/73
Mod. #5 - 38 FR 19611 - 7/20/73
(H,Hw) - See Adams County
NORTHUMBERLAND COUNTY
(H,Hw) - See Adams County
PERRY COUNTY
(Hw) - See Adams County
PHILADELPHIA COUNTY
Decision #AP-820 (B)
38 FR 13289 - 5/18/73
Mod. #1 - 38 FR 15225 - 6/8/73
Mod. #2 - 38 FR 18823 - 7/13/73
Mod. #3 - 38 FR 21034 - 8/3/73
Decision #AP-803 (D)
38 FR 10580 - 4/27/72
(H,Hw) - See Bucks County
PIKE COUNTY
(H,Hw) - See Adams County
POTTER COUNTY
(H,Hw) - See Bedford County
SCHUYKILL COUNTY
(H,Hw) - See Adams County
SNYDER COUNTY
(H,Hw) - See Adams County
SOMERSET COUNTY
(H,Hw) - See Butler County
SULLIVAN COUNTY
(H,Hw) - See Adams County
SUSQUEHANNA COUNTY
(H,Hw) - See Adams County
TIOGA COUNTY
(H,Hw) - See Adams County
UNION COUNTY
(H,Hw) - See Adams County
VENANGO COUNTY
(H,Hw) - See Armstrong County
WARREN COUNTY
(H,Hw) - See Armstrong County
WASHINGTON COUNTY
Decision #AP-481 (B,H,Hw)
38 FR 7757 - 3/23/73
Mod. #1 - 38 FR 10578 - 4/27/73
Mod. #2 - 38 FR 12518 - 5/11/73
Mod. #3 - 38 FR 13117 - 5/18/73
Mod. #4 - 38 FR 15794 - 6/15/73
WAYNE COUNTY
(H,Hw) - See Adams County

PENNSYLVANIA (Cont'd)

WESTMORELAND COUNTY
Decision #AP-482 (B,H,Hw)
38 FR 7764 - 3/23/73
Mod. #1 - 38 FR 10578 - 4/27/73
Mod. #2 - 38 FR 12518 - 5/11/73
Mod. #3 - 38 FR 13117 - 5/18/73
Mod. #4 - 38 FR 15794 - 6/15/73
WYOMING COUNTY
(H,Hw) - See Adams County
YORK COUNTY
(H,Hw) - See Adams County

PUERTO RICO

PUERTO RICO
Decision #AP-412 (B, H, Hw)
37 FR 16778 - 8/18/72

RHODE ISLAND

STATEWIDE
Decision #AP-803 (D)
38 FR 10580 - 4/23/73
BRISTOL COUNTY
(D) - See Statewide
Decision #AP-483 (B,H,Hw,Marine)
38 FR 7778 - 3/23/73
Mod. #1-38 FR 9921 - 4/20/73
Mod. #2-38 FR 12518 - 5/11/73
KENT COUNTY
(B,H,Hw,Marine) - See Bristol Co.
(D) - See Statewide
NEWPORT COUNTY
Decision #AP-484 (B,H,Hw, Marine)
38 FR 7199 - 3/16/73
Mod. #1-38 FR 9922 - 4/20/73
Mod. #2-38 FR 12518 - 5/11/73
Mod. #3-38 FR 18829 - 7/13/73
(D) - See Statewide
PROVIDENCE COUNTY
Decision #AP-495 (R)
38 FR 8862 - 4/6/73
Mod. #1-38 FR 12519 - 5/11/73
(B,H,Hw,Marine) - See Bristol Cty.
(D) - See Statewide
WASHINGTON COUNTY
Decision #AP-497 (R)
38 FR 8864 - 4/6/73
Mod. #1-38 FR 12519 - 5/11/73
Decision #AP-485 (B,H,Hw,Marine)
38 FR 6626 - 3/9/73
Mod. #1 - 38 FR 9922 - 4/20/73
Mod. #2 - 38 FR 12519 - 5/11/73
(D) - See Statewide







SOUTH CAROLINA

STATEWIDE
Decision #AM-1867 (Hw)
36 FR 16475 - 8/29/71
Decision #AP-157 (Sewer & Water)
38 FR 4619 - 2/16/73
ABBEVILLE COUNTY
(Sewer & Water,Hw) - See Statewide
AIKEN COUNTY
(Sewer & Water,Hw) - See Statewide
ALLENDALE COUNTY
(Sewer & Water,Hw) - See Statewide
ANDERSON COUNTY
(Sewer & Water,Hw) - See Statewide
BAMBERG COUNTY
(Sewer & Water,Hw) - See Statewide
BARNWELL COUNTY
(Sewer & Water,Hw) - See Statewide
BEAUFORT COUNTY
Decision #AP-847 (D)
38 FR 15797 - 6/15/73
(Sewer & Water,Hw) - See Statewide
BERKELEY COUNTY
(D) - See Beaufort County
(Sewer & Water,Hw) - See Statewide
Decision #AP-114 (R)
37 FR 15794 - 8/4/72
CALHOUN COUNTY
(Sewer & Water,Hw) - See Statewide
CHARLESTON COUNTY
(D) - See Beaufort County
(Sewer & Water,Hw) - See Statewide
(R) - See Berkeley county
CHEROKEE COUNTY
(Sewer & Water,Hw) - See Statewide
CHESTER COUNTY
(Sewer & Water,Hw) - See Statewide
CHESTERFIELD COUNTY
(Sewer & Water,Hw) - See Statewide
CLARENDON COUNTY
(Sewer & Water,Hw) - See Statewide
COLLETON COUNTY
(D) - See Beaufort County
(Sewer & Water,Hw) - See Statewide
DARLINGTON COUNTY
(Sewer & Water,Hw) - See Statewide
DILLON COUNTY
(Sewer & Water,Hw) - See Statewide
DORECHESTER COUNTY
(Sewer & Water,Hw) - See Statewide
EDGEFIELD COUNTY
(Hw) - See Statewide
FAIRFIELD COUNTY
(Sewer & Water,Hw) - See Statewide
FLORENCE COUNTY
(Sewer & Water,Hw) - See Statewide

SOUTH CAROLINA (Cont'd)

GEORGETOWN COUNTY
(D) - See Beaufort
(Sewer & Water,Hw) - See Statewide
GREENVILLE COUNTY
(Sewer & Water,Hw) - See Statewide
GREENWOOD COUNTY
(Sewer & Water,Hw) - See Statewide
HAMPTON COUNTY
(Sewer & Water,Hw) - See Statewide
HORRY COUNTY
(D) - See Beaufort County
(Sewer & Water,Hw) - See Statewide
JASPER COUNTY
(D) - See Beaufort County
(Sewer & Water,Hw) - See Statewide
KERSHAW COUNTY
(Sewer & Water,Hw) - See Statewide
LANCASTER COUNTY
(Sewer & Water,Hw) - See Statewide
LAURENS COUNTY
(Sewer & Water,Hw) - See Statewide
LEE COUNTY
(Sewer & Water,Hw) - See statewide
LEXINGTON COUNTY
(Sewer & Water,Hw) - See Statewide
McCORMICK COUNTY
(Sewer & Water,Hw) - See Statewide
MARION COUNTY
(Sewer & Water,Hw) - See Statewide
MARLBORO COUNTY
(Sewer & Water,Hw) - See Statewide
NEWBERRY COUNTY
(Sewer & Water,Hw) - See Statewide
OCONEE COUNTY
(Sewer & Water,Hw) - See Statewide
ORANGEBURG COUNTY
(Sewer & Water,Hw) - See Statewide
PICKENS COUNTY
(Sewer & Water,Hw) - See Statewide
RICHLAND COUNTY
(Sewer & Water,Hw) - See Statewide
SALUDA COUNTY
(Sewer & Water,Hw) - See Statewide
SPARTANBURG COUNTY
(Sewer & Water,Hw) - See Statewide
SUMTER COUNTY
(Sewer & Water,Hw) - See Statewide
UNION COUNTY
(Sewer & Water,Hw) - See Statewide
WILLIAMSBURG COUNTY
(Sewer & Water,Hw) - See Statewide
YORK COUNTY
(Sewer & Water,Hw) - See Statewide

SOUTH DAKOTA

STATEWIDE
Decision #AP-908 (Hw)
38 FR 15807 - 6/15/73
AURORA COUNTY
(Hw) - See Statewide
BEADLE COUNTY
(Hw) - See Statewide
BENNETT COUNTY
(Hw) - See Statewide
BON HOMME COUNTY
(Hw) - See Statewide
BROOKINGS COUNTY
(Hw) - See Statewide
BROWN COUNTY
(Hw) - See Statewide
BRULE COUNTY
(Hw) - See Statewide
BUFFALO COUNTY
(Hw) - See Statewide
BUTTE COUNTY
(Hw) - See Statewide
CAMPBELL COUNTY
(Hw) - See Statewide
CHARLES COUNTY
(Hw) - See Statewide
CLARK COUNTY
(Hw) - See Statewide
CODINGTON COUNTY
(Hw) - See Statewide
CORSON COUNTY
(Hw) - See Statewide
CUSTER COUNTY
(Hw) - See Statewide
DAVISON COUNTY
(Hw) - See Statewide
DAY COUNTY
(Hw) - See Statewide
DEUEL COUNTY
(Hw) - See Statewide
DEWEY COUNTY
(Hw) - See Statewide
DOUGLAS COUNTY
(Hw) - See Statewide

SOUTH DAKOTA (Cont'd)

EDMUNDS COUNTY
(Hw) - See Statewide
FALL RIVER COUNTY
(Hw) - See Statewide
FAULK COUNTY
(Hw) - See Statewide
GRANT COUNTY
(Hw) - See Statewide
GREGORY COUNTY
(Hw) - See Statewide
HAAKON COUNTY
(Hw) - See Statewide
HAMLIN COUNTY
(Hw) - See Statewide
HAND COUNTY
(Hw) - See Statewide
HANSON COUNTY
(Hw) - See Statewide
HARDING COUNTY
(Hw) - See Statewide
HUGHES COUNTY
(Hw) - See Statewide
HUTCHINSON COUNTY
(Hw) - See Statewide
HYDE COUNTY
(Hw) - See Statewide
JACKSON COUNTY
(Hw) - See Statewide
JERAULD COUNTY
(Hw) - See Statewide
JONES COUNTY
(Hw) - See Statewide
KINGSBURY COUNTY
(Hw) - See Statewide
LAKE COUNTY
(Hw) - See Statewide
LAWRENCE COUNTY
(Hw) - See Statewide
LINCOLN COUNTY
(Hw) - See Statewide
LYMAN COUNTY
(Hw) - See Statewide
MC COOK COUNTY
(Hw) - See Statewide





XUM
37 FR 16778 8/18/72
38 FR 15807 6/15/73

SOUTH DAKOTA (Cont'd)

MC PHERSON COUNTY
(Hw) - See Statewide
MARSHALL COUNTY
(Hw) - See Statewide
MEADE COUNTY
Decision #AP-262 (B)
38 FR 4641 - 2/16/73
Mod. #1-38 FR 9401 - 4/13/73
MELLETTE COUNTY
(Hw) - See Statewide
MINER COUNTY
(Hw) - See Statewide
MINNEHAHA COUNTY
Decision #AM-6141 (R)
36 FR 21736 - 11/12/71
Decision #AP-253 (B)
37 FR 25147 - 11/25/72
(Hw) - See Statewide
MOODY COUNTY
(Hw) - See Statewide
PENNINGTON COUNTY
(B) - See Meade County
(Hw) - See Statewide
PERKINS COUNTY
(Hw) - See Statewide
POTTER COUNTY
(Hw) - See Statewide
ROBERTS COUNTY
(Hw) - See Statewide

SOUTH DAKOTA (Cont'd)

SANBORN COUNTY
(Hw) - See Statewide
SHANNON COUNTY
(Hw) - See Statewide
SPINK COUNTY
(Hw) - See Statewide
STANLEY COUNTY
(Hw) - See Statewide
SULLY COUNTY
(Hw) - See Statewide
TODD COUNTY
(Hw) - See Statewide
TRIPP COUNTY
(Hw) - See Statewide
TURNER COUNTY
(Hw) - See Statewide
UNION COUNTY
(Hw) - See Statewide
WALWORTH COUNTY
(Hw) - See Statewide
WASHABOUGH COUNTY
(Hw) - See Statewide
YANKTON COUNTY
(Hw) - See Statewide
ZIEBACH COUNTY
(Hw) - See Statewide

TENNESSEE

STATEWIDE
Decision #AP-1107 (F)
38 FR 17358 - 6/29/73
Decision #AM-504 (Hw)
36 FR 16493 - 8/20/71
Mod. #1-37 FR 246 - 1/7/72
Mod. #2-38 FR 939-1/5/73
ANDERSON COUNTY
Decision #AP-190 (B)
38 FR 14068 - 5/25/73
Mod. #1 - 38 FR 16595 - 6/22/73
Mod. #2 - 38 FR 18128 - 7/6/73
Mod. #3 - 38 FR 20185 - 7/27/73
(Hw) - See Statewide
(F)-See Statewide
BEDFORD COUNTY
(F) - See Statewide
(Hw) - See Statewide
BENTON COUNTY
(F) - See Statewide
(Hw) - See Statewide
BLEDSOE COUNTY
(F) - See Statewide
(Hw) - See Statewide
BLOUNT COUNTY
(F) - See Statewide
BRADLEY COUNTY
(F)-See Statewide
(Hw)-See Statewide
CAMPBELL COUNTY
(F)-See Statewide
(Hw)-See Statewide
CANNON COUNTY
(F)-See Statewide
(Hw)-See Statewide
CARROLL COUNTY
Decision #AQ-4002 (D)
38 FR 21037 - 8/3/73
(F)-See Statewide
(Hw)-See Statewide
CARTER COUNTY
Decision #AP-104' (B)
37 FR 13915 - 7/14/72
(F)-See Statewide
(Hw)-See Statewide
CHEATHAM COUNTY
(F)-See Statewide
(Hw)-See Statewide
CHESTER COUNTY
(F)-See Statewide
(Hw)-See Statewide
CLAIBORNE COUNTY
(F)-See Statewide
(Hw)-See Statewide
CLAY COUNTY
(F)-See Statewide
(Hw)-See Statewide

TENNESSEE (Cont'd)

COCKE COUNTY
(F)-See Statewide
(Hw)-See Statewide
COFFEE COUNTY
(F)-See Statewide
(Hw)-See Statewide
CROCKETT COUNTY
(D)-See Carroll County
(F)-See Statewide
(Hw)-See Statewide
CUMBERLAND COUNTY
(F)-See Statewide
(Hw)-See Statewide
DAVIDSON COUNTY
Decision #AP-169 (B)
38 FR 7782 - 3/23/73
Decision #AM-505 (R)
36 FR 16494 - 8/20/72
Mod. #1-37 FR 21714 - 10/13/72
(F) - See Statewide
(Hw) - See Statewide
DECATUR COUNTY
(F) - See Statewide
(Hw) - See Statewide
DEKALB COUNTY
(F) - See Statewide
(Hw) - See Statewide
DICKSON COUNTY
(F) - See Statewide
(Hw) - See Statewide
(R) - See Davidson County
DYER COUNTY
(D) - See Carroll County
(F) - See Statewide
(Hw) - See Statewide
FAYETTE COUNTY
(D) - See Carroll County
(F) - See Statewide
(Hw) - See Statewide
FENTRESS COUNTY
(F) - See Statewide
(Hw) - See Statewide
FRANKLIN COUNTY
(F) - See Statewide
(Hw) - See Statewide
GIBSON COUNTY
(D) - See Carroll County
(F) - See Statewide
(Hw) - See Statewide
GILES COUNTY
(F) - See Statewide
(Hw) - See Statewide
GRAINGER COUNTY
(F) - See Statewide
(Hw) - See Statewide



TENNESSEE (Cont'd)

GREENE COUNTY
(F) - See Statewide
(Hw) - See Statewide
GRUNDY COUNTY
(F) - See Statewide
(Hw) - See Statewide
HAMBLEN COUNTY
(F) - See Statewide
(Hw) - See Statewide
HAMILTON COUNTY
Decision #AP-191 (B,H)
38 FR 14070 - 5/25/73
Mod. #1 - 38 FR 17353 - 6/29/73
Mod. #2 - 38 FR 20185 - 7/27/73
(F) - See Statewide
(Hw) - See Statewide
HANCOCK COUNTY
(F)-See Statewide
(Hw)-See Statewide
HARDEMAN COUNTY
(D)-See Carroll County
(Hw)-See Statewide
(F)-See Statewide
HARDIN COUNTY
(F)-See Statewide
(Hw)-See Statewide
HAWKINS COUNTY
(F)-See Statewide
(Hw)-See Statewide
HAYWOOD COUNTY
(D)-See Carroll County
(F)-See Statewide
(Hw)-See Statewide
HENDERSON COUNTY
(F)-See Statewide
(Hw)-See Statewide
HENRY COUNTY
(D)-See Carroll County
(F)-See Statewide
(Hw)-See Statewide
HICKMAN COUNTY
(F)-See Statewide
(Hw)-See Statewide
HOUSTON COUNTY
(F)-See Statewide
(Hw)-See Statewide
HUMPHREYS COUNTY
(F)-See Statewide
(Hw)-See Statewide
JACKSON COUNTY
(F)-See Statewide
(Hw)-See Statewide

TENNESSEE (cont'd)

JEFFERSON COUNTY
(F)-See Statewide
(Hw)-See Statewide
JOHNSON COUNTY
(F)-See Statewide
(Hw)-See Statewide
KNOX COUNTY
Decision #AP-192 (B)
38 FR 14073 - 5/25/73
Mod. #1 - 38 FR 17353 - 6/29/73
Mod. #2 - 38 FR 20185 - 7/27/73
(F)-See Statewide
(Hw)-See Statewide
LAKE COUNTY
(F)-See Statewide
(Hw)-See Statewide
LAUDERDALE COUNTY
(D)-See Carroll County
(F)-See Statewide
(Hw)-See Statewide
LAWRENCE COUNTY
(F)-See Statewide
(Hw)-See Statewide
(R)-See Davidson County
LEWIS COUNTY
(F)-See Statewide
(Hw)-See Statewide
LINCOLN COUNTY
(F)-See Statewide
(Hw)-See Statewide
LOUDON COUNTY
(F)-See Statewide
(Hw)-See Statewide
MC MINN COUNTY
(F)-See Statewide
(Hw)-See Statewide
MC NAIRY COUNTY
(F)-See Statewide
(Hw)-See Statewide
MACON COUNTY
(F)-See Statewide
(Hw)-See Statewide
MADISON COUNTY
(D)-See Carroll county
(F)-See Statewide
(Hw)-See Statewide
MARION COUNTY
(D) - See Statewide
(F) - See Statewide
(Hw) - See Statewide
MARSHALL COUNTY
(F)-See Statewide
(Hw)-See Statewide
(R)-See Davidson County

TENNESSEE (cont'd)

MAURY COUNTY
(F)-See Statewide
(Hw)-See Statewide
(R)-See Davidson County
MEIGS COUNTY
(F)-See Statewide
(Hw)-See Statewide
MONROE COUNTY
(F)-See Statewide
(Hw)-See Statewide
MONTGOMERY COUNTY
(F)-See Statewide
(Hw)-See Statewide
MOORE COUNTY
(F)-See Statewide
(hw)-See Statewide
MORGAN COUNTY
(F)-See Statewide
(Hw)-See Statewide
OBION COUNTY
(D)-See Carroll County
(F)-See Statewide
(Hw)-See Statewide
OVERTON COUNTY
(F)-See Statewide
(Hw)-See Statewide
PERRY COUNTY
(F)-See Statewide
(Hw)-See Statewide
PICKETT COUNTY
(F)-See Statewide
(Hw)-See Statewide
POLK COUNTY
(F)-See Statewide
(Hw)-See Statewide
PUTNAM COUNTY
(F)-See Statewide
(Hw)-See Statewide
RHEA COUNTY
(F)-See Statewide
(Hw)-See Statewide
ROANE COUNTY
(B)-See Anderson County
(F)-See Statewide
(Hw)-See Statewide

TENNESSEE (Cont'd)

ROBERTSON COUNTY
(F) - See Statewide
(Hw) - See Statewide
(R) - See Davidson County
RUTHERFORD COUNTY
(F) - See Statewide
(Hw) - See Statewide
(R) - See Davidson County
SCOTT COUNTY
(F) - See Statewide
(Hw) - See Statewide
SEQUATCHIE COUNTY
(F) - See Statewide
(Hw) - See Statewide
SEVIER COUNTY
(F) - See Statewide
(Hw) - See Statewide
SHELBY COUNTY
Decision #AP-193 (B,H,Utility)
38 FR 14075 - 5/25/73
Mod. #1 - 38 FR 18128 - 7/6/73
Mod. #2 - 38 FR 19612 - 7/20/73 - 7/20/
Decision #AP-152 (R)
38 FR 4176 - 2/9/73
(D) - See Carroll County
(Hw) - See Statewide
SMITH COUNTY
(F) - See Statewide
(Hw) - See Statewide
STEWART COUNTY
(F) - See Statewide
(Hw) - See Statewide
SULLIVAN COUNTY
Decision #AM-8623 (B)
37 FR 12013 - 6/16/72
Mod. # - 37 FR 23065 - 10/27/72
Decision #AP-137 (R)
37 FR 23051 - 10/27/72
(F) - See Statewide
(Hw) - See Statewide
SUMNER COUNTY
(F) - See Statewide
(Hw) - See Statewide
(R) - See Davidson County







XUM

TENNESSEE (cont'd)

TIPTON COUNTY
(D)-See Carroll County
(F)-See Statewide
(Hw)-See Statewide
TROUSDALE COUNTY
(F)-See Statewide
(Hw)-See Statewide
(R)-See Davidson County
UNICOI COUNTY
(F)-See Statewide
(Hw)-See Statewide
UNION COUNTY
(F)-See Statewide
(Hw)-See Statewide
VAN BUREN COUNTY
(F)-See Statewide
(Hw)-See Statewide
WARREN COUNTY
(F)-See Statewide
(Hw)-See Statewide
WASHINGTON COUNTY
Decision #AP-100 (S)
37 FR 13419 - 7/7/72
Mod. #1 - 37 FR 17316 - 8/25/72
Mod. #2 - 37 FR 22708 - 10/20/72
Decision #AP-136 (R)
37 FR 22702 - 10/20/72
(F)-See Statewide
(Hw)-See Statewide
WAYNE COUNTY
(F)-See Statewide
(Hw)-See Statewide
WEAKLEY COUNTY
(D)-See Carroll County
(F)-See Statewide
WHITE COUNTY
(F)-See Statewide
(Hw)-See Statewide
WILLIAMSON COUNTY
(F)-See Statewide
(Hw)-See Statewide
(R)-See Davidson County
WILSON COUNTY
(F)-See Statewide
(Hw)-See Statewide
(R)-See Davidson County

TEXAS

ANDERSON COUNTY
Decision #AP-717 (Streets, Highways, Runways & Incidental Constr.)
38 FR 9952 - 4/20/73
ANDREWS COUNTY
Decision #AP-707 (Streets, Highways, Runways, & Incidental Constr.)
38 FR 9942 - 4/20/73
ANGELINA COUNTY
(S,Hw,R,I) - See Anderson County
ARANSAS COUNTY
Decision #AP-711 (Streets, Highways, Runways & Incidental Constr.)
38 FR 9946 - 4/20/73

Decision #AQ-1002 (D)
38 FR 21037 - 8/3/73
ARCHER COUNTY
Decision #AP-705 (Streets, Highways, Runways & Incidental Cons.)
38 FR 9940 - 4/20/73
ARMSTRONG COUNTY
Decision #AP-725 (B)
38 FR 10597 - 4/27/73
Mod. #1 - 38 FR 15795 - 6/15/73
Mod. #2 - 38 FR 18129 - 7/6/73
Mod. #3 - 38 FR 19613 - 7/20/73
Mod. #4 - 38 FR 20186 - 7/27/73
(S,Hw,R,I) - See Archer County
Decision #AP-346 (R)
37 FR 20497 - 9/29/72
Mod. #1 - 38 FR 4080 - 2/9/73
Mod. #2 - 38 FR 17354 - 6/29/73
Mod. #3 - 38 FR 18129 - 7/6/73
Mod. #4 - 38 FR 19612 - 7/20/73
ATASCOSA COUNTY
Decision #AP-709 (Streets, Highways, Runways, Water, Sewer, & Incidental Construction)
38 FR 9944 - 4/20/73
AUSTIN COUNTY
Decision #AP-712 (Streets, Highways, Runways, Water, Sewer & Incidental Construction)
38 FR 9947 - 4/20/73
BAILEY COUNTY
Decision #AP-706 (Streets, Highways, Runways & Incidental Cons.)
38 FR 9941 - 4/20/73
Decision #AP-352 (R)
37 FR 21786 - 10/13/72
BANDERA COUNTY
(S,Hw,R,W,S,I) - See Atascosa County
BASTROP COUNTY
(S,Hw,R,W,S,I) - See Austin County
Decision #AM-7705 (R)
36 FR 22117 - 11/19/71
BAYLOR COUNTY
(S,Hw,R,I) - See Archer County

TEXAS (Cont'd)

BEE COUNTY
(S,Hw,R,I) - See Aransas County
BELL COUNTY
Decision #AP-713 (Streets, Highways, Runways & Incidental Cons.)
38 FR 9948 - 4/20/73
Mod. #1 - 38 FR 11242 - 5/4/73
BEXAR COUNTY
Decision #AP-721 (B)
38 FR 10585 - 4/27/73
Mod. #1 - 38 FR 14539 - 6/1/73
Mod. #2 - 38 FR 16595 - 6/22/73
Mod. #3 - 38 FR 19612 - 7/20/73
Mod. #4 - 38 FR 20186 - 7/27/73
Mod. #5 - 38 FR 21036 - 8/3/73
(S,Hw,R,I,W,S) - See Atascosa County
Decision #AP-732 (R)
38 FR 13302 - 5/18/73
BLANCO COUNTY
(S,Hw,R,I,W,S) - See Austin County
(R) - See Bastrop County
BORDEN COUNTY
(S,Hw,R,I) - See Bailey County
BOSQUE COUNTY
(S,Hw,R,I) - See Bell County
BOWIE COUNTY
Decision #AP-716 (Streets, Highways, Runways, & Incidental Cons.)
38 FR 9951 - 4/20/73
BRAZORIA COUNTY
Decision #AP-719 (Streets, Highways, Runways, Water, Sewer & Incidental Construction)
38 FR 9954 - 4/20/73
Decision #AM-7488 (R)
36 FR 21737 - 11/12/71
Mod. #1 - 37 FR 10695 - 5/26/72
(D) - See Aransas County
BRAZOS COUNTY
Decision #AP-718 (Streets, Highways, Runways & Incidental Cons.)
38 FR 9953 - 4/20/73
BREWSTER COUNTY
Decision #AP-708 (Streets, Highways, Runways, & Incidental Cons.)
38 FR 9943 - 4/20/73
BRISCOE COUNTY
(S,Hw,R,I) - See Archer County
BROOKS COUNTY
Decision #AP-710 (Streets, Highways, Runways & Incidental Cons.)
38 FR 9945 - 4/20/73
BROWN COUNTY
(S,Hw,R,I) - See Andrews County
BURLESON COUNTY
(S,Hw,R,I) - See Brazos County
BURNETT COUNTY
(S,Hw,R,I,W,S) - See Austin County





TEXAS (Cont'd)

CALDWELL COUNTY
(S,Hw,R,I,W,S) - See Austin County
(R) - See Bastrop County
CALHOUN COUNTY
(S,Hw,R,I) - See Aransas County
(D) - See Aransas County
CALLAHAN COUNTY
(S,Hw,R,I) - See Andrews County
CAMERON COUNTY
Decision #AP-396 (B)
38 FR 2646 - 1/26/73
Mod. #1 - 38 FR 16595 - 6/22/73
Mod. #2 - 38 FR 21036 - 8/3/73
(D) - See Aransas County
(S,Hw,R,I) - See Brooks County
Decision #AP-369 (R)
37 FR 26775 - 12/15/72
CAMP COUNTY
(S,Hw,R,I) - See Bowie County
CARSON COUNTY
(B) - See Armstrong County
(S,Hw,R,I) - See Archer County
(R) - See Armstrong County
CASS COUNTY
(S,Hw,R,I) - See Bowie County
CASTRO COUNTY
(B) - See Armstrong County
(S,Hw,R,I) - See Archer County
(R) - See Armstrong County
CHAMBERS COUNTY
Decision #AP-720 (Streets, Highways, Runways & Incidental Cons.)
38 FR 9955 - 4/20/73
(D) - See Aransas County
CHEROKEE COUNTY
(S, Hw, R, I) - See Anderson County
CHILDRESS COUNTY
(B) - See Armstrong County
(S,Hw,R,I) - See Archer County
(R) - See Armstrong County
CLAY COUNTY
(S,Hw,R,I) - See Archer County
COCHRAN COUNTY
(S,Hw,R,I) - See Bailey County
(R) - See Bailey County

TEXAS (Cont'd)

COKE COUNTY
(S,Hw,R,I) - See Andrews County
COLEMAN COUNTY
(S,Hw,R,I) - See Andrews County
COLLIN COUNTY
Decision #AP-729 (B-excluding Dallas-Fort Worth Regional Airport)
38 FR 10609 - 4/27/73
Mod. #1 - 38 FR 18129 - 7/6/73
Mod. #2 - 38 FR 20186 - 7/27/73
Mod. #3 - 38 FR 21036 - 8/3/73
Decision #AP-715 (Streets,Highways, Runways, Water,Sewer, & Incidental Cons.) (excl. the Dallas-Fort Worth Regional Airport)
38 FR 9950 - 4/20/73
Mod. #1 - 38 FR 13918 - 5/25/73
Mod. #2 - 38 FR 18129 - 7/6/73
Decision #AM-7,487 (R)
36 FR 21736 - 11/12/71
COLLINGSWORTH COUNTY
(B) - See Armstrong County
(S,Hw,R,I) - See Archer County
(R) - See Armstrong County
COLORADO COUNTY
(S,Hw,R,W,S,I) - See Austin County
COMAL COUNTY
(S,Hw,R,W,S,I) - See Atascosa County
COMANCHE COUNTY
(S,Hw,R,I) - See Andrews County
CONCHO COUNTY
(S,Hw,R,I) - See Andrews County
COOKE COUNTY
Decision #AP-714 (Streets,Highways, Runways, & Incidental Construction) (excl. the Dallas-Fort Worth Regional Airport)
38 FR 9949 - 4/20/73
CORYELL COUNTY
(S,Hw,R,I) - See Bell County
COTTLE COUNTY
(S,Hw,R,I) - See Bailey County
CRANE COUNTY
(S,Hw,R,I) - See Andrews County
Decision #AP-347 (R)
37 FR 20499 - 9/29/72
CROCKETT COUNTY
(S,Hw,R,I) - See Andrews County

TEXAS (Cont'd)

CROSBY COUNTY
(R) (S,Hw,R,I) - See Bailey County
CULBERSON COUNTY
(S,Hw,R,I) - See Brewster County
DALLAM COUNTY
(R)(B) - See Armstrong County
(S,Hw,R,I) - See Archer County
DALLAS COUNTY
(B&R) (S,Hw,R,I,W&S) - See Collin County
DAWSON COUNTY
(S,Hw,R,I) - See Bailey County
DEAF SMITH COUNTY
(R) (B) - See Armstrong County
(S,Hw,R,I) - See Archer County
DELTA COUNTY
(S,Hw,R,I) - See Bowie County
DENTON COUNTY
(R) (B) - See Collin County
(S,Hw,R,I) - See Cooke County
DE WITT COUNTY
(S,Hw,R,I) - See Aransas County
DICKENS COUNTY
(S,Hw,R,I) - See Bailey County
DIMMIT COUNTY
(S,Hw,R,I,W,S) - See Atascosa County
DONLEY COUNTY
(R) (B) - See Armstrong County
(S,Hw,R,I) - See Archer County
DUVAL COUNTY
(S,Hw,R,I) - See Brooks County
EASTLAND COUNTY
(S,Hw,R,I)- See Andrews County
ECTOR COUNTY
(S,Hw,R,I) - See Andrews County
(R) - See Crane County

TEXAS (Cont'd)

EDWARDS COUNTY
(S,Hw,R,I,W,S) - See Atascosa County
ELLIS COUNTY
(B&R) (S,Hw,R,I,W,S) - See Collin County
EL PASO COUNTY
Decision #AP-727 (B)
38 FR 10603 - 4/27/73
Mod. #1 - 38 FR 13126 - 5/18/73
Mod. #2 - 38 FR 16595 - 6/22/73
(S,Hw,R,I) - See Brewster County
ERATH COUNTY
(S,Hw,R,I) - See Andrews County
FALLS COUNTY
(S,Hw,R,I) - See Bell County
FANNIN COUNTY
(S,Hw,R,I) - See Bowie County
FAYETTE COUNTY
(S,Hw,R,I,W,S) - See Austin County
(R) - See Bastrop County
FISHER COUNTY
(S,Hw,R,I) - See Bailey County
FLOYD COUNTY
(r) (S,Hw,R,I) - See Bailey County
FOARD COUNTY
(S,Hw,R,I) - See Bailey County
FORT BEND COUNTY
(R) (S,Hw,R,I,W,S) - See Brazoria County
FRANKLIN COUNTY
(S,Hw,R,I) - See Bowie County
FREESTONE COUNTY
(S,Hw,R,I) - See Bell County
FRIO COUNTY
(S,Hw,R,I,W,S) - See Atascosa County
GAINES COUNTY
(S,Hw,R,I) - See Bailey County







XUM

TEXAS (Cont'd)

GALVESTON COUNTY
Decision #AP-724 (B)
38 FR 10594 - 4/27/73
Mod. #1 - 38 FR 14540 - 6/1/73
Mod. #2 - 38 FR 21036 - 8/3/73
(S,Hw,R,I,W,S) - See Brazoria County
Decision #AP-348 (R)
37 FR 20501 - 9/29/72
(D) - See Aransas County
GARZA COUNTY
(R) (S,Hw,R,I) - See Bailey County
GILLESPIE COUNTY
(S,Hw,R,I,W,S) - See Austin County
GLASSOCK COUNTY
(S,Hw,R,I) - See Andrews County
GOLIAD COUNTY
(S,Hw,R,I) - See Aransas County
GONZALES COUNTY
(S,Hw,R,I,W,S) - See Austin County
GRAY COUNTY
(R) (B) - See Armstrong County
(S,Hw,R,I) - See Archer County
GRAYSON COUNTY
(B)(S,Hw,R,I,W,S) - See Collin County
GREGG COUNTY
(S,Hw,R,I) - See Bowie County
GRIMES COUNTY
(S,Hw,R,I) - See Brazos County
GUADALUPE COUNTY
(S,Hw,R,I,W,S) - See Atascosa County
HALE COUNTY
(R)(S,Hw,R,I) - See Bailey County
HALL COUNTY
(S,Hw,R,I) - See Archer County
HAMILTON COUNTY
(S,Hw,R,I) - See Bell County
HANSFORD COUNTY
(R)(B) - See Armstrong County
(S,Hw,R,I) - See Archer County

TEXAS (Cont'd)

HARDEMAN COUNTY
(S,Hw,R,I) - See Archer County
HARDIN COUNTY
(S,Hw,R,I) - See Chambers County
HARRIS COUNTY
Decision #AP-722 (B)
38 FR 10588 - 4/27/73
Mod. #1 - 38 FR 14540 - 6/1/73
Mod. #2 - 38 FR 21036 - 8/3/73
(R)(S,Hw,R,I,W,S) - See Brazoria County
(D) - See Aransas County
HARRISON COUNTY
(S,Hw,R,I) - See Bowie County
HARTLEY COUNTY
(R)(B) - See Armstrong County
(S,Hw,R,I) - See Archer County
HASKELL COUNTY
(S,Hw,R,I) - See Bailey County
HAYS COUNTY
(S,Hw,R,I,W,S) - See Austin County
(R) - See Bastrop County
HEMPHILL COUNTY
(R) (B) - See Armstrong County
(S,Hw,R,I,W,S) See Archer county
HENDERSON COUNTY
(S,Hw,R,I) - See Anderson County
HIDALGO COUNTY
(R)(B) - See Cameron County
(S,Hw,R,I) - See Brooks County
HILL COUNTY
(S,Hw,R,I) - See Bell County
HOCKLEY COUNTY
(R)(S,Hw,R,I) - See Bailey County
HOOD COUNTY
(B) - See Collin County
(S,Hw,R,I) - See Cooke County
Decision #AP-301 (R)
37 FR 15232 - 7/28/72
Mod. #1-37 FR 20395 - 9/29/72

TEXAS (Cont'd)

HOPKINS COUNTY
(S,Hw,R,I) - See Bowie County
HOUSTON COUNTY
(S,Hw,R,I) - See Anderson County
HOWARD COUNTY
(S,Hw,R,I) - See Andrews County
HUDSPETH COUNTY
(S,Hw,R,I) - See Brewster County
HUNT COUNTY
(R)(B) - See Collin County
(S,Hw,R,I) - See Bowie County
HUTCHINSON COUNTY
(R)(B) - See Armstrong County
(S,Hw,R,I) - See Archer County
IRION COUNTY
(S,Hw,R,I) - See Andrews County
JACK COUNTY
(S,Hw,R,I) - See Cooke County
JACKSON COUNTY
(D) (S,Hw,R,I) - See Aransas County
JASPER COUNTY
(S,Hw,R,I) - See Anderson County
JEFF DAVIS COUNTY
(S,Hw,R,I) - See Brewster County
JEFFERSON COUNTY
Decision #AP-738 (B)
38 FR 18164 - 7/6/73
(S,Hw,R,I) - See Chambers County
Decision #AP-739 (R)
38 FR 18167 - 7/6/73
(D) - See Aransas County
JIM HOGG COUNTY
(S,Hw,R,I) - See Brooks County
JIM WELLS COUNTY
(S,Hw,R,I) - See Aransas County
JOHNSON COUNTY
(B) - See Collin County
(S,Hw,R,I) - See Cooke County
(R) - See Hood County

TEXAS (Cont'd)

JONES COUNTY
(S,Hw,R,I) - See Bailey County
KARNES COUNTY
(S,Hw,R,I) - See Aransas County
KAUFMAN COUNTY
(R)(B) - See Collin County
(S,Hw,R,I) - See Bowie County
KENDALL COUNTY
(S,Hw,R,I,W,S) - See Atascosa County
KENEDY COUNTY
(S,Hw,R,I) - See Brooks County
(D) - See Aransas County
KENT COUNTY
(S,Hw,R,I) - See Bailey County
KERR COUNTY
(S,Hw,R,I,W,S) - See Atascosa County
KIMBLE COUNTY
(S,Hw,R,I) - See Andrews County
KING COUNTY
(S,Hw,R,I) - See Bailey County
KINNEY COUNTY
(S,Hw,R,I,W,S) - See Atascosa County
KLEBERG COUNTY
(D) (S,Hw,R,I) - See Aransas County
KNOX COUNTY
(S,Hw,R,I) - See Bailey County
LAMAR COUNTY
(S,Hw,R,I) - See Bowie County
LAMB COUNTY
(R) (S,Hw,R,I) - See Bailey County
LAMPASAS COUNTY
(S,Hw,R,I) - See Bell County
LA SALLE COUNTY
(S,Hw,R,I,W,S) - See Atascosa County
LAVACA COUNTY
(S,Hw,R,I) - See Aransas County







TEXAS (Cont'd)

LEE COUNTY
(S,Hw,R,I,W,S) - See Austin County
(R) - See Bastrop County
LEON COUNTY
(S,Hw,R,I) - See Brazos County
LIBERTY COUNTY
(S,Hw,R,I) - See Chambers County
LIMESTONE COUNTY
(S,Hw,R,I) - See Bell County
LIPSCOMB COUNTY
(S,Hw,R,I) - See Archer County
(B)(R) - See Armstrong County
LIVE OAK COUNTY
(S,Hw,R,I) - See Aransas County
LLANO COUNTY
(S,Hw,R,I,W,S) - See Austin County
LOVING COUNTY
(S,Hw,R,I) - See Andrews County
(R) - See Crane County
LUBBOCK COUNTY
Decision #AP-726 (B)
38 FR 10600 - 4/27/73
Mod. #1 - 38 FR 13126 - 5/18/73
Mod. #2 - 38 FR 13918 - 5/25/73
Mod. #3 - 38 FR 16595 - 6/22/73
Mod. #4 - 38 FR 19613 - 7/20/73
Mod. #5 - 38 FR 20186 - 7/27/73
(R)(S,Hw,R,I) - See Bailey County
LYNN COUNTY
(R)(S,Hw,R,I) - See Bailey County
MCCULLOCH COUNTY
(S,Hw,R,I) - See Andrews County
MCLENNAN COUNTY
(S,Hw,R,I) - See Bell County
MCMULLEN COUNTY
(S,Hw,R,I,W,S) - See Atascosa County
MADISON COUNTY
(S,Hw,R,I) - See Brazos County
MARION COUNTY
(S,Hw,R,I) - See Bowie County
MARTIN COUNTY
(S,Hw,R,I) - See Andrews County

TEXAS (Cont'd)

MASON COUNTY
(S,Hw,R,I,W,S) - See Austin County
MATAGORDA COUNTY
(R) (S,Hw,R,I,W,S) - See Brazoria County
(R,S,Hw,R,I,W,S) - See Brazoria County
(D) - See Arnasas County
MAVERICK COUNTY
(S,Hw,R,I,W,S) - See Atascosa County
MEDINA COUNTY
(S,Hw,R,I,W,S) - See Atascosa County
MENARD COUNTY
(S,Hw,R,I) - See Andrews County
MIDLAND COUNTY
(S,Hw,R,I) - See Andrews County
(R) - See Crane County
MILAM COUNTY
(S,Hw,R,I) - See Brazos County
MILLS COUNTY
(S,Hw,R,I) - See Andrews County
MITCHELL COUNTY
(S,Hw,R,I) - See Andrews County
MONTAGUE COUNTY
(S,Hw,R,I ) - See Archer County
MONTGOMERY COUNTY
(R) (S,Hw,R,I,W,S) - See Brazoria County
MOORE COUNTY
(R) (B) - See Armstrong County
(S,Hw,R,I) - See Archer County
MORRIS COUNTY
(S,Hw,R,I) - See Bowie County
MOTLEY COUNTY
(S,Hw,R,I) - See Bailey County
NACOGDOCHES COUNTY
(S,Hw,R,I) - See Anderson County
NAVARRO COUNTY
(S,Hw,R,I) - See Bell County
NEWTON COUNTY
(S,Hw,R,I) - See Anderson County
NOLAN COUNTY
(S,Hw,R,I) - See Andrews County

TEXAS (Cont'd)

NUECES COUNTY
Decision #AP-728 (B)
38 FR 10606 - 4/27/73
Mod. #1 - 38 FR 13126 - 5/18/73
Mod. #2 - 38 FR 13918 - 5/25/73
Mod. #3 - 38 FR 15795 - 6/15/73
Mod. #4 - 38 FR 17354 - 6/29/73
Mod. #5 - 38 FR 21036 - 8/3/73
(D) (S,Hw,R,I) - See Aransas County
OCHILTREE COUNTY
(R) (B) - See Armstrong County
(S,Hw,R,I) - See Archer County
OLDHAM COUNTY
(R)(B) - See Armstrong County
(S,Hw,R,I) - See Archer County
ORANGE COUNTY
(R)(B) - See Jefferson County
(S,Hw,R,I) - See Chambers County
(D) - See Aransas County
PALO COUNTY
(B) - See Collin County
(S,Hw,R,I) - See Cooke County
(R) - See Hood County
PANOLA COUNTY
(S,Hw,R,I) - See Anderson County
PARKER COUNTY
(B) - See Collin County
(S,Hw,R,I) - See Cooke County
(R) - See Hood County
PARMER COUNTY
(S,Hw,R,I) - See Archer County
PECOS COUNTY
(S,Hw,R,I) - See Brewster County
(R) - See Crane County
POLK COUNTY
(S,Hw,R,I) - See Anderson County
POTTER COUNTY
(S,Hw,R,I) - See Archer County
(B) (R) - See Armstrong County

TEXAS (Cont'd)

PRESIDIO COUNTY
(S,Hw,R,I) - See Brewster County
RAINS COUNTY
(S,Hw,R,I) - See Bowie County
RANDALL COUNTY
(S,Hw,R,I) - See Archer County
(B) (R) - See Armstrong County
REAGAN COUNTY
(S,Hw,R,I) - See Andrews County
REAL COUNTY
(S,Hw,R,I,W,S) - See Atascosa County
RED RIVER COUNTY
(S,Hw,R,I) - See Bowie County
REEVES COUNTY
(S,Hw,R,I) - See Brewster County
(R) - See Crane County
REFUGIO COUNTY
(D) (S,Hw,R,I) - See Aransas County
ROBERTS COUNTY
(S,Hw,R,I) - See Archer County
(B) (R) - See Armstrong County
ROBERTSON COUNTY
(S,Hw,R,I) - See Brazos county
ROCKWALL COUNTY
(S,Hw,R,I,W,S) (B) (R) - See Collin Count
RUNNELS COUNTY
(S,Hw,R,I) - See Andrews County
RUSK COUNTY
(S,Hw,R,I) - See Bowie County
SABINE COUNTY
(S,Hw,R,I) - See Anderson County
SAN AUGUSTINE COUNTY
(S,Hw,R,I) - See Anderson County
SAN JACINTO COUNTY
(S,Hw,R,I) - See Anderson County
SAN PATRICIO COUNTY
(S,Hw,R,I) (D) - See Aransas County
SAN SABA COUNTY
(S,Hw,R,I) - See Andrews County
SCHLEICHER COUNTY
(S,Hw,R,I) - See Andrews County



XUM

TEXAS (Cont'd)

SCURRY COUNTY
(S,Hw,R,I) - See Bailey County
SHACKELFORD COUNTY
(S,Hw,R,I) - See Bailey County
SHELBY COUNTY
(S,Hw,R,I) - See Anderson county
SHERMAN COUNTY
(S,Hw,R,I) - See Archer County
(B)(R) - See Armstrong County
SMITH COUNTY
(S,Hw,R,I) - See Bowie County
SOMERVELL COUNTY
(S,Hw,R,I) - See Cooke County
STARR COUNTY
(S,Hw,R,I) - See Brooks County
(B) (R) - See Cameron County
STEPHENS COUNTY
(S,Hw,R,I) - See Bailey County
STERLING COUNTY
(S,Hw,R,I) - See Andrews County
STONEWALL COUNTY
(S,Hw,R,I) - See Bailey County
SUTTON COUNTY
(S,Hw,R,I) - See Andrews County
SWISHER COUNTY
(S,Hw,R,I) - See Archer County
(B)(R) - See Armstrong County
TARRANT COUNTY
(B) - See Collin County
(S,Hw,R,I) - See Cooke County
Decision #AM-11423 (R)
37 FR 11617 - 6/9/72
Mod. #1 - 37 FR 20394 - 9/29/72
TAYLOR COUNTY
(S,Hw,R,I) - See Andrews County
TERRELL COUNTY
(S,Hw,R,I) - See Brewster County
TERRY COUNTY
(S,Hw,R,I) - See Bailey County
(R) - See Bailey County
THROCKMORTON COUNTY
(S,Hw,R,I) - See Bailey County
TITUS COUNTY
(S,Hw,R,I) - See Bowie County
TOM GREEN COUNTY
(S,Hw,R,I) - See Andrews County

TEXAS (Cont'd)

TRAVIS COUNTY
Decision #AQ-10 (B)
38 FR 21082 - 8/3/73
(R) - See Bastrop County
(S,Hw,R,I,W,S) - See Austin County
TRINITY COUNTY
(S,Hw,R,I) - See Anderson County
TYLER COUNTY
(S,Hw,R,I) - See Anderson County
UPSHUR COUNTY
(S,Hw,R,I) - See Bowie County
UPTON COUNTY
(S,Hw,R,I) - See Andrews County
(R) - See Crane County
UVALDE COUNTY
(S,Hw,R,I,W,S) - See Atascosa County
VAL VERDE COUNTY
(S,Hw,R,I,W,S) - See Atascosa County
VAN ZANDT COUNTY
(S,Hw,R,I) - See Bowie County
VICTORIA COUNTY
(S,Hw,R,I) - See Aransas County
(D) - See Aransas County
WALKER COUNTY
(S,Hw,R,I) - See Brazos County
(R) - See Brazoria County
WALLER COUNTY
(S,Hw,R,I,W,S) - See Brazoria County
WARD COUNTY
(S,Hw,R,I) - See Andrews County
(R) - See Crane County
WASHINGTON COUNTY
(S,Hw,R,I) - See Brazos County
WEBB COUNTY
(S,Hw,R,I) - See Brooks County
WHARTON COUNTY
(S,Hw,R,I,W,S) - See Brazoria County

TEXAS (Cont'd)

WHEELER COUNTY
(R)(B) - See Armstrong County
(S,Hw,R,I) - See Archer County
WICHITA COUNTY
(S,Hw,R,I) - See Archer County
WILBARGER COUNTY
(S,Hw,R,I) - See Archer County
WILLACY COUNTY
(R)(B) - See Cameron County
(S,Hw,R,I) - See Brooks County
(D) - See Aransas County
WILLIAMSON COUNTY
(S,Hw,R,I,W,S) - See Austin County
(R) - See Bastrop County
WILSON COUNTY
(S,Hw,R,I,W,S) - See Atascosa County
WINKLER COUNTY
(S,Hw,R,I) - See Andrews County
(R) - See Crane County
WISE COUNTY
(D) - See Collin County
(S,Hw,R,I) - See Cooke County
(R) - See Hood County
WOOD COUNTY
(S,Hw,R,I) - See Bowie County
YOAKUM COUNTY
(S,Hw,R,I)(R) - See Bailey County
YOUNG COUNTY
(S,Hw,R,I) - See Bailey County
ZAPATA COUNTY
(S,Hw,R,I) - See Brooks County
ZAVALA COUNTY
(S,Hw,R,I,W,S) - See Atascosa County





UTAH

STATEWIDE
Decision #AP-254 (B-H-Hw)
37 FR 26255 - 12/8/72
Mod. #1-38 FR 939-1/5/73
Mod. #2-38 FR 5763 - 3/2/73
Mod. #3-38 FR 11242 - 5/4/73
Mod. #4-38 FR 19613 - 7/20/73
BEAVER COUNTY
(B, H, Hw) - See Statewide
BOX ELDER COUNTY
(B, H, Hw) - See Statewide
CACHE COUNTY
(B, H, Hw) - See Statewide
CARBON COUNTY
(B, H, Hw) - See Statewide
DAGGETT COUNTY
(B, H, Hw) - See Statewide
DAVIS COUNTY
(B, H, Hw) - See Statewide
DUCHESNE COUNTY
(B, H, Hw) - See Statewide
EMERY COUNTY
(B, H, Hw) - See Statewide
GARFIELD COUNTY
(B, H, Hw) - See Statewide
GRAND COUNTY
(B, H, Hw) - See Statewide
IRON COUNTY
(B, H, Hw) - See Statewide
JUAB COUNTY
(B, H, Hw) - See Statewide
KANE COUNTY
(B, H, Hw) - See Statewide
MILLARD COUNTY
(B, H, Hw) - See Statewide
MORGAN COUNTY
(B, H, Hw) - See Statewide
PIUTE COUNTY
(B, H, Hw) - See Statewide
RICH COUNTY
(B, H, Hw) - See Statewide
SALT LAKE COUNTY
(B, H, Hw) - See Statewide
SAN JUAN COUNTY
(B, H, Hw) - See Statewide
SANPETE COUNTY
(B, H, Hw) - See Statewide
SEVIER COUNTY
(B, H, Hw) - See Statewide
SUMMIT COUNTY
(B, H, Hw) - See Statewide
TOOELE COUNTY
(B, H, Hw) - See Statewide

UTAH - (Cont'd)

UNITAH COUNTY
(B, H, Hw) - See Statewide
UTAH COUNTY
(B, H, Hw) - See Statewide
WASATCH COUNTY
(B, H, Hw) - See Statewide
WASHINGTON COUNTY
(B, H, Hw) - See Statewide
WAYNE COUNTY
(B, H, Hw) - See Statewide
WEBER COUNTY
(B, H, Hw) - See Statewide

VERMONT

STATEWIDE (Except Rutland Co.)
Decision #AP-857 (Hw)
38 FR 16623 - 6/22/73
ADDISON COUNTY
(Hw) - See Statewide
BENNINGTON COUNTY
(Hw) - See Statewide
CALEDONIA COUNTY
(Hw) - See Statewide
CHITTENDEN COUNTY
(Hw) - See Statewide
ESSEX COUNTY
(Hw) - See Statewide
FRANKLIN COUNTY
(Hw) - See Statewide
GRAND ISLE COUNTY
(Hw) - See Statewide
LAMOILLE COUNTY
(Hw) - See Statewide
ORANGE COUNTY
(Hw) - See Statewide
ORLEANS COUNTY
(Hw) - See Statewide
RUTLAND COUNTY
None
WASHINGTON COUNTY
(Hw) - See Statewide
WINDHAM COUNTY
(Hw) - See Statewide
WINDSOR COUNTY
(Hw) - See Statewide

VIRGINIA

ACCOMACK COUNTY
Decision #AP-805 (Hw)
38 FR 11279 - 5/4/73
Mod. #1 - 38 FR 13127 - 5/18/73
Decision #AP-847 (D)
38 FR 15797 - 6/15/73
ALBEMARLE COUNTY
Decision #AM-1874 (Hw)
36 FR 16342 - 8/20/71
ALEXANDRIA CITY
Decision #AP-858 (B)
38 FR 17390 - 6/29/73
Mod. #1 - 38 FR 20187 - 7/27/73
Decision #AP-450 (R)
37 FR 25117 - 11/25/72
(D) - See Accomack County
ALLEGHENY COUNTY
Decision #AM-1875 (Hw)
36 FR 16343 - 8/20/71
Mod. #1 - 37 FR 5169 - 3/10/72
AMELIA COUNTY
Decision #AM-1871 (Hw)
36 FR 16339 - 8/20/71
AMHERST COUNTY
Decision #AM-1870 (Hw)
36 FR 16338 - 8/20/71
APPOMATTOX COUNTY
(Hw) - See Amherst County
ARLINGTON COUNTY
(B) - See Alexandria City
(R) - See Alexandria City
(D) - See Accomack County
AUGUSTA COUNTY
Decision #AM-9320 (R)
37 FR 10267 - 5/19/72
(Hw) - See Allegheny County
BATH COUNTY
(Hw) - See Allegheny County
BEDFORD COUNTY
Decision #AM-1869 (Hw)
36 FR 16337 8/20/71
Mod. #1 - 36 FR 18274 - 9/10/71
BLAND COUNTY
Decision #AM-1868 (Hw)
36 FR 16336 - 8/20/71

VIRGINIA (Cont'd)

BOTECOURT COUNTY
(Hw) - See Bedford County
BRISTOL COUNTY
(Hw) - See Bland County
BRUNSWICK COUNTY
(Hw) - See Amelia County
BUCHANAN COUNTY
(Hw) - See Bland County
BUCKINGHAM COUNTY
(Hw) - See Amherst County
BUENA VISTA CITY
(Hw) - See Allegheny County
CAMPBELL COUNTY
(Hw) - See Amherst County
CAROLINE COUNTY
Decision #AM-1873 (Hw)
36 FR 16341 - 8/20/71
Mod. #1 - 37 FR 15238 - 7/28/72
CARROLL COUNTY
(Hw) - See Bedford County
CHARLES CITY COUNTY
(Hw) - See Amelia County
CHARLOTTE COUNTY
(Hw) - See Amherst County
CHARLOTTESVILLE CITY
(Hw) - See Albermarle County
CHESAPEAKE CITY
Decision #AP-833 (B)
38 FR 14078 - 5/25/73
Mod. #1 - 38 FR 17355 - 6/29/73
Decision #AP-494 (Hw)
38 FR 7693 - 3/23/73
(D) - See Accomack County
CHESTERFIELD COUNTY
(Hw) - See Amelia County
CLARKE COUNTY
Decision #AP-406 (R)
37 FR 15234 - 7/28/72
(Hw) - See Allegheny County
CLIFTON FORGE CITY
(Hw) - See Allegheny County
COLONIAL HEIGHTS CITY
(Hw) - See Amelia County
COVINGTON CITY
(Hw) - See Allegheny County
CRAIG COUNTY
(Hw) - See Bedford County







XUM 38 FR 7 SEP 73 3FR18383 V

VIRGINIA (cont'd)

CULPEPER COUNTY
(Hw) - See Albemarle County
CUMBERLAND COUNTY
(Hw) - See Amherst County
DANVILLE CITY
(Hw) - See Amherst County
DICKENSON COUNTY
(Hw) - See Bland County
DINWIDDIE COUNTY
(Hw) - See Amelia County
ESSEX COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
FAIRFAX COUNTY
(B) - See Alexandria City
(R) - See Alexandria City
(D) - See Accomack County
FAIRFAX CITY
(B) - See Alexandria City
(R) - See Alexandria City
FALLS CHURCH CITY
(B) - See Alexandria City
(R) - See Alexandria City
FAUQUIER COUNTY
(Hw) - See Albemarle County
FLOYD COUNTY
(Hw) - See Bedford County
FLUVANNA COUNTY
(Hw) - See Albemarle County
FORT MONROE CITY
(Hw) - See Accomack County
FRANKLIN CITY
(Hw) - See Accomack County
FRANKLIN COUNTY
(Hw) - See Bedford County

VIRGINIA (cont'd)

FREDERICK COUNTY
(R) - See Clarke County
(Hw) - See Alleghany County
FREDERICKSBURG CITY
(Hw) - See Caroline County
GALAX CITY
(Hw) - See Bland County
GILES COUNTY
(Hw) - See Bedford County
GLOUCESTER COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
GOOCHLAND COUNTY
(Hw) - See Amelia County
GRAYSON COUNTY
(Hw) - See Bland County
GREENE COUNTY
(Hw) - See Albemarle County
GREENSVILLE COUNTY
(Hw) - See Accomack County
HALIFAX COUNTY
(Hw) - See Amherst County
HAMPTON CITY
(Hw) - See Chesapeake City
(D) - See Accomack County
HANOVER COUNTY
(Hw) - See Amelia County
HARRISONBURG CITY
(Hw) - See Alleghany County
HENRICO COUNTY
Decision #AP-499 (B)
38 FR 8410 - 3/30/73
Mod. #1-38 FR 11243 - 5/4/73
Mod. #2 - 38 FR 13919 - 5/25/73
Mod. #2 - 38 FR 15795 - 6/15/73
Mod. #4 - 38 FR 17355 - 6/29/73
(Hw) - See Amelia County

VIRGINIA (cont'd)

HENRY COUNTY
(Hw) - See Bedford County
HIGHLAND COUNTY
(Hw) - See Alleghany County
HOPEWELL CITY
(Hw) - See Amelia County
ISLE OF WIGHT COUNTY
(Hw) - See Accomack County
(D) - See Accomack County
JAMES CITY COUNTY
Decision #AP-407 (R)
37 FR 15235 - 7/28/72
(Hw) - See Accomack County
(D) - See Accomack County
KING AND QUEEN COUNTY
(Hw) - See Caroline County
KING GEORGE COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
KING WILLIAM COUNTY
(Hw) - See Caroline County
LANCASTER COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
LEE COUNTY
(Hw) - See Bland County
LOUDOUN COUNTY
(Hw) - See Albemarle County
LOUISA COUNTY
(Hw) - See Albemarle County
LUNENBURG COUNTY
(Hw) - See Amelia County
LYNCHBURG CITY
(Hw) - See Amherst County

VIRGINIA (cont'd)

MADISON COUNTY
(Hw) - See Albemarle County
MARTINSVILLE CITY
(Hw) - See Bedford County
MATHEWS COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
MECKLENBURG COUNTY
(Hw) - See Amelia County
MIDDLESEX COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
MONTGOMERY COUNTY
(Hw) - See Bedford County
NANSEMOND COUNTY
(Hw) - See Accomack County
(D) - See Accomack County
NELSON COUNTY
(Hw) - See Amherst County
NEW KENT COUNTY
(Hw) - See Amelia County
NEWPORT NEWS CITY
(Hw) - See Chesapeake City
(D) - See Accomack County
NORFOLK CITY
(Hw,B) - See Chesapeake City
(D) - See Accomack County
NORTHAMPTON COUNTY
(Hw) - See Accomack County
(D) - See Accomack County
NORTON CITY
(Hw) - See Bland County





VIRGINIA (cont'd)

NORTHUMBERLAND COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
NOTTOWAY COUNTY
(Hw) - See Amelia County
ORANGE COUNTY
(Hw) - See Albemarle County
PAGE COUNTY
(Hw) - See Allegheny County
PATRICK COUNTY
(Hw) - See Bedford County
PETERSBURG COUNTY
(Hw) - See Amelia County
PITTSYLVANIA COUNTY
(Hw) - See Amherst County
PORTSMOUTH CITY
(Hw,B) - See Chesapeake City
(D) - See Accomack County
POWHATAN COUNTY
(Hw) - See Amelia County
PRINCE EDWARD COUNTY
(Hw) - See Amherst County
PRINCE GEORGE COUNTY
(Hw) - See Amelia County
PRINCE WILLIAM COUNTY
(Hw) - See Albemarle County
(D) - See Accomack County
PULASKI COUNTY
(Hw) - See Bedford County
RADFORD CITY
(Hw) - See Bedford County
RAPAHANNOCK COUNTY
(Hw) - See Albemarle County
RICHMOND CITY
(B) - See Henrico County
(Hw) - See Amelia County
RICHMOND COUNTY
(Hw) - See Caroline County
ROANOKE CITY
(Hw) - See Bedford County
ROANOKE COUNTY
(Hw) - See Bedford County
ROCKBRIDGE COUNTY
(Hw) - See Allegheny County

VIRGINIA (Cont'd)

ROCKINGHAM COUNTY
(R) - See Clarke County
(Hw) - See Alleghany County
RUSSELL COUNTY
(Hw) - See Bland County
SCOTT COUNTY
(Hw) - See Bland County
SHENANDOAH COUNTY
(Hw) - See Alleghany County
(R) - See Clarke County
SMYTH COUNTY
(Hw) - See Bland County
SOUTHAMPTON COUNTY
(Hw) - See Accomack County
SOUTH BOSTON CITY
(Hw) - See Amherst County
SPOTSYLVANIA COUNTY
(Hw) - See Caroline County
STAUNTON CITY
(Hw) - See Alleghany County
STAFFORD COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
SUFFOLK CITY
(Hw) - See Accomack County
SURRY COUNTY
(Hw) - See Accomack County
(D) - See Accomack County
SUSSEX COUNTY
(Hw) - See Accomack County
TAZEWELL COUNTY
(Hw) - See Bland County
VIRGINIA BEACH CITY
Decision #AM-9321 (R)
37 FR 10266 - 5/19/72
(Hw) - See Chesapeake City
(D) - See Accomack County
WARREN COUNTY
(R) - See Clarke County
(Hw) - See Alleghany County
WASHINGTON COUNTY
(Hw) - See Bland County
WAYNESBORO CITY
(Hw) - See Alleghany County
WESTMORELAND COUNTY
(Hw) - See Caroline County
(D) - See Accomack County

VIRGINIA (Cont'd)

WILLIAMSBURG CITY
(Hw) - See Accomack County
WINCHESTER CITY
(Hw) - See Alleghany County
WISE COUNTY
(Hw) - See Bland County
WYTHE COUNTY
(Hw) - See Bland County
YORK COUNTY
(R) - See James City County
(Hw) - See Accomack County
(D) - See Accomack County

WASHINGTON

STATEWIDE
Decision #AP-283 (B,H,Hw,D)
38 FR 8920 - 4/6/73
Mod. #1 - 38 FR 9922 - 4/20/73
Mod. #2 - 38 FR 11243 - 5/4/73
Mod. #3 - 38 FR 13127 - 5/18/73
Mod. #4 - 38 FR 15795 - 6/15/73
Mod. #5 - 38 FR 17355 - 6/29/73
ADAMS COUNTY
(B,H,Hw,D) - See Statewide
ASOTIN COUNTY
(B,H,Hw,D) - See Statewide
BENTON COUNTY
(B,H,Hw,D) - See Statewide
CHELAN COUNTY
(B,H,Hw,D) - See Statewide
CLALLAM COUNTY
(B,H,Hw,D) - See Statewide
CLARK COUNTY
(B,H,Hw,D) - See Statewide
COLUMBIA COUNTY
(B,H,Hw,D) - See Statewide
COWLITZ COUNTY
(B,H,Hw,D) - See Statewide
DOUGLAS COUNTY
(B,H,Hw,D) - See Statewide
FERRY COUNTY
(B,H,Hw,D) - See Statewide
FRANKLIN COUNTY
(B,H,Hw,D) - See Statewide
GARFIELD COUNTY
(B,H,Hw,D) - See Statewide
GRANT COUNTY
(B,H,Hw,D) - See Statewide
GRAYS HARBOR COUNTY
(B,H,Hw,D) - See Statewide
ISLAND COUNTY
Decision #AP-906 (R)
38 FR 13907 - 5/25/73
Mod. #1 - 38 FR 15225 - 6/8/73
(B,H,Hw,D) - See Statewide
JEFFERSON COUNTY
(B,H,Hw,D) - See Statewide

WASHINGTON (Cont'd)

KING COUNTY
(R) - See Island County
(B,H,Hw,D)-See Statewide
KITSAP COUNTY
(B,H,Hw,D)-See Statewide
KITTITAS COUNTY
(B,H,Hw,D)-See Statewide
KLICKITAT COUNTY
(B,H,Hw,D)-See Statewide
LEWIS COUNTY
(B,H,Hw,D)-See Statewide
LINCOLN COUNTY
(B,H,Hw,D)-See Statewide
MASON COUNTY
(B,H,Hw,D)-See Statewide
OKANOGAN COUNTY
(B,H,Hw,D)-See Statewide
PACIFIC COUNTY
(B,H,Hw,D)-See Statewide
PEND OREILLE COUNTY
(B,H,Hw,D)-See Statewide
PIERCE COUNTY
(R) - See Island County
(B,H,Hw,D)-See Statewide
SAN JUAN COUNTY
(B,H,Hw,D)-See Statewide
SKAGIT COUNTY
(B,H,Hw,D)-See Statewide
SKAMANIA COUNTY
(B,H,Hw,D)-See Statewide
SNOHOMISH COUNTY
(R) - See Island County
(B,H,Hw,D)-See Statewide
SPOKANE COUNTY
(B,H,Hw,D)-See Statewide
STEVENS COUNTY
(B,H,Hw,D)-See Statewide
THURSTON COUNTY
(B,H,Hw,D)-See Statewide
WAHKIAKUM COUNTY
(B,H,Hw,D)-See Statewide
WALLA WALLA COUNTY
(B,H,Hw,D)-See Statewide
WHATCOM COUNTY
(B,H,Hw,D)-See Statewide
WHITMAN COUNTY
(B,H,Hw,D)-See Statewide
YAKIMA COUNTY
(B,H,Hw,D)-See Statewide

WASHINGTON, D. C.

WASHINGTON, D. C.
Decision #AP-823 (B,Hw,Sewer & Water)
38 FR 13304 - 5/18/73
Mod. #1 - 38 FR 15796 - 6/15/73
Mod. #2 - 38 FR 16595 - 6/22/73
Mod. #3 - 38 FR 17357 - 6/29/73
Mod. #4 - 38 FR 18131 - 7/6/73
Mod. #5 - 38 FR 20187 - 7/27/73
Decision #AP-450 (R)
37 FR 25117 - 11/25/72
Decision #AP-847 (D)
38 FR 15797 - 6/15/73

WEST VIRGINIA

STATEWIDE
Decision #AP-801 (H,Hw)
38 FR 9415 - 4/13/73
BARBOUR COUNTY
(H,Hw) - See Statewide
BERKELEY COUNTY
(H,Hw) - See Statewide
BOONE COUNTY
(H,Hw) - See Statewide
BRAXTON COUNTY
(H,Hw) - See Statewide
BROOKE COUNTY
(H,Hw) - See Statewide
CABELL COUNTY
Decision #AP-403 (B)
37 FR 14661 - 7/21/72
Mod. #1-37 FR 16722 - 8/18/72
Mod. #2-37 FR 21720 - 10/13/72
Mod. #3 - 38 FR 15226 - 6/8/73
Decision #AP-602 (D)
38 FR 1433 - 1/12/73
(H,Hw) - See Statewide
CALHOUN COUNTY
(H,Hw) - See Statewide
CLAY COUNTY
(H,Hw) - See Statewide
DODDRIDGE COUNTY
(H,Hw) - See Statewide
FAYETTE COUNTY
(H,Hw) - See Statewide
GILMER COUNTY
(H,Hw) - See Statewide
GRANT COUNTY
(H,Hw) - See Statewide
GREENBRIER COUNTY
(H,Hw) - See Statewide

WEST VIRGINIA (Cont'd)

HAMPSHIRE COUNTY
(H,Hw) - See Statewide
HANCOCK COUNTY
(H,Hw) - See Statewide
HARDY COUNTY
(H,Hw) - See Statewide
HARRISON COUNTY
(H,Hw) - See Statewide
JACKSON COUNTY
(D) - See Cabell County
(H,Hw) - See Statewide
JEFFERSON COUNTY
(H,Hw) - See Statewide
KANAWHA COUNTY
Decision #AP-402 (B)
37 FR 14659 - 7/21/72
Mod. #1 - 37 FR 20401 - 9/29/72
Mod. #2 - 37 FR 21720 - 10/13/72
Mod. #3 - 38 FR 4082 - 2/9/73
Mod. #4 - 38 FR 15226 - 6/8/73
Decision #AP-405 (R)
37 FR 15236 - 7/28/72
Mod. #1 - 37 FR 20401 - 9/29/72
Mod. #2 - 37 FR 21720 - 10/13/72
Mod. #3 - 38 FR 4082 - 2/9/73
Mod. #4 - 38 FR 15226 - 6/8/73



WEST VIRGINIA (Cont'd)

LEWIS COUNTY
(H,Hw) - See Statewide
LINCOLN COUNTY
(H,Hw) - See Statewide
LOGAN COUNTY
(H,Hw) - See Statewide
MC DOWELL COUNTY
(H,Hw) - See Statewide
MARION COUNTY
(H,Hw) - See Statewide
MARSHALL COUNTY
(H,Hw) - See Statewide
MASON COUNTY
(D) - See Cabell County
(H,Hw) - See Statewide
MERCER COUNTY
(H,Hw) - See Statewide
MINERAL COUNTY
(H,Hw) - See Statewide
MINGO COUNTY
(H,Hw) - See Statewide
MONONGALIA COUNTY
(H,Hw) - See Statewide
MONROE COUNTY
(H,Hw) - See Statewide
MORGAN COUNTY
(H,Hw) - See Statewide
NICHOLAS COUNTY
(H,Hw) - See Statewide
OHIO COUNTY
(H,Hw) - See Statewide
PENDLETON COUNTY
(H,Hw) - See Statewide
PLEASANT COUNTY
(D) - See Cabell County
(H,Hw) - See Statewide
PRESTON COUNTY
(H,Hw) - See Statewide

WEST VIRGINIA (Cont'd)

PUTNAM COUNTY
(H,Hw) - See Statewide
RALEIGH COUNTY
(H,Hw) - See Statewide
RANDOLPH COUNTY
(H,Hw) - See Statewide
RITCHIE COUNTY
(H,Hw) - See Statewide
ROANE COUNTY
(H,Hw) - See Statewide
SUMMERS COUNTY
(H,Hw) - See Statewide
TAYLOR COUNTY
(H,Hw) - See Statewide
TUCKER COUNTY
(H,Hw) - See Statewide
TYLER COUNTY
(H,Hw) - See Statewide
UPSHUR COUNTY
(H,Hw) - See Statewide
WAYNE COUNTY
(H,Hw) - See Statewide
WEBSTER COUNTY
(H,Hw) - See Statewide
WETZEL COUNTY
(D) - See Cabell County
(H,Hw) - See Statewide
WIRT COUNTY
(H,Hw) - See Statewide
WOOD COUNTY
(D) - See Cabell County
(H,Hw) - See Statewide
WYONING COUNTY
(H,Hw) - See Statewide

WISCONSIN

ADAMS COUNTY
Decision #AP-72 (Hw)
37 FR 26273 - 12/8/72
Mod. #1-38 FR 2019 - 1/9/73
Mod. #2-38 FR 12524 - 5/11/73
ASHLAND COUNTY
Decision #AP-4 (D)
37 FR 14670 - 7/21/72
Decision #AP-70 (Hw)
37 FR 26269 - 12/8/72
Mod. #1-38 FR 2018 - 1/19/73
Mod. #2-38 FR 12523 - 5/11/73
BARRON COUNTY
Decision #AP-71 (Hw)
37 FR 26271 - 12/8/72
Mod. #1-38 FR 2018-1/19/73
Mod. #2-38 FR 12524 - 5/11/73
BAYFIELD COUNTY
(D) - See Ashland County
(Hw) - See Ashland County
BROWN COUNTY
Decision #AP-53 (B)(H)(Hw)
37 FR 25643 - 12/1/72
Mod. #1-37 FR 28357-12/22/72
Mod. #2-38 FR 2015-1/19/73
Mod. #3-38 FR 5111-2/23/72
Mod. #4-38 FR 12520 - 5/11/73
(D) - See Ashland County
BUFFALO COUNTY
(Hw) - See Barron County
BURNETT COUNTY
(Hw) - See Ashland County
CALUMET COUNTY
Decision #AP-74 (Hw)
37 FR 26277 - 12/8/72
Mod. #1-38 FR 2019-1/19/73
Mod. #2-38 FR 12524 - 5/11/73
CHIPPEWA COUNTY
(Hw) - See Barron County
CLARK COUNTY
(Hw) - See Barron County
COLUMBIA COUNTY
Decision #AP-73 (Hw)
37 FR 26275 - 12/8/72
Mod. #1-38 FR 2019-1/19/73
Mod. #2-38 FR 12524 - 5/11/73
CRAWFORD COUNTY
(Hw) - See Columbia County
DANE COUNTY
Decision #AP-54 (B)(H)(Hw)
37 FR 25647 - 12/1/72
Mod. #1-37 FR 28357-12/22/72
Mod. #2-38 FR 2015-1/19/73
Mod. #3-38 FR 5111-2/23/73
Mod. #4-38 FR 12521 - 5/11/73

WISCONSIN (Cont'd)

DANE COUNTY (cont'd)
Decision #AP-65 (R)
37 FR 25606 - 12/1/72
Mod. #1 - 38 FR 28358 - 12/22/72
Mod. #2 - 38 FR 2018 - 1/19/73
Mod. #3 - 38 FR 5112 - 2/23/73
DODGE COUNTY
(Hw) - See Columbia County
DOOR COUNTY
(D) - See Ashland County
(Hw) - See Calumet County
DOUGLAS COUNTY
(D) - See Ashland County
(Hw) - See Ashland County
DUNN COUNTY
(Hw) - See Barron County
EAU CLAIRE COUNTY
Decision #AP-55 (B)(H)(Hw)
37 FR 25650 - 12/1/72
Mod. #1-38 FR 2016-1/19/73
Mod. #2-38 FR 5111-2/23/73
Mod. #3-38 FR 12521 - 5/11/73
FLORENCE COUNTY
(Hw) - See Calumet County
FOND DU LAC COUNTY
Decision #AP-75 (Hw)
37 FR 26279 - 12/8/72
Mod. #1-38 FR 2019-1/19/73
Mod. #2-38 FR 12524 - 5/11/73
FOREST COUNTY
(Hw) - See Ashland County
GRANT COUNTY
(Hw) - See Columbia County
GREEN COUNTY
(Hw) - See Columbia County
GREEN LAKE COUNTY
(Hw) - See Adams County
IOWA COUNTY
(Hw) - See Columbia County
IRON COUNTY
(D) - See Ashland County
(Hw) - See Ashland County
JACKSON COUNTY
(Hw) - See Columbia County
JEFFERSON COUNTY
(Hw) - See Columbia County
JUNEAU COUNTY
Decision #AP-56 (B)(H)(Hw)
37 FR 25654 - 12/1/72
Mod. #1-37 FR 28357-12/22/72
Mod. #2-38 FR 2016-1/19/73
Mod. #3-38 FR 5111-2/23/73
Mod. #4-38 FR 12521 - 5/11/73







XUM

WISCONSIN (Cont'd)

KENOSHA COUNTY
Decision #AP-57 (B,H,Hw)
37 FR 25658 - 12/1/72
Mod. #1-37 FR 28357 - 12/22/72
Mod. #2-38 FR 2016 - 1/19/73
Mod. #3-38 FR 12521 - 5/11/73
KEWAUNEE COUNTY
(D) - See Ashland County
(Hw) - See Calumet County
LA CROSSE COUNTY
Decision #AP-58 (B,H,Hw)
37 FR 25662 - 12/1/72
Mod. #1-37 FR 28357 - 12/22/72
Mod. #2-38 FR 2016 - 1/19/73
Mod. #3-38 FR 5112 - 2/23/73
Mod. #4-38 FR 12521 - 5/11/73
Decision #AP-66 (R)
37 FR 25609 - 12/1/72
Mod. #1 - 37 FR 28358 - 12/22/72
Mod. #2 - 38 FR 2018 - 1/19/73
Mod. #3 - 38 FR 5112 - 2/23/73
Mod. #4 - 38 FR 12523 - 5/11/73
LAFAYETTE COUNTY
(Hw) - See Columbia County
LANGLADE COUNTY
(Hw) - See Adams County
LINCOLN COUNTY
(Hw) - See Ashland County
MANITOWOC COUNTY
(D) - See Ashland County
(Hw) - See Calumet County
MARATHON COUNTY
Decision #AP-59 (B)(H)(Hw)
37 FR 25666 - 12/1/72
Mod. #1-38 FR 2017-1/19/73
Mod. #2-38 FR 5111-2/23/73
Mod. #3-38 FR 12522 - 5/11/73
MARINETTE COUNTY
(D) - See Ashland County
(Hw) - See Calumet County
MARQUETTE COUNTY
(Hw) - See Adams County
MENOMINEE COUNTY
(Hw) - See Adams County
MILWAUKEE COUNTY
Decision #AP-60 (B)(H)(Hw)
37 FR 25669 - 12/1/72
Mod. #1-37 FR 28357-12/22/72
Mod. #2-38 FR 2017-1/19/73
Mod. #3-38 FR 5111-2/23/73
Mod. #4-38 FR 12522 - 5/11/73
(D) - See Ashland County
Decision #AP-67 (R)
37 FR 25612 - 12/1/72
Mod. #1 - 37 FR 28358 - 12/22/72
Mod. #2 - 38 FR 5112 - 2/23/73

WISCONSIN (Cont'd)

MONROE COUNTY
(Hw) - See Columbia County
OCONTO COUNTY
(D) - See Ashland County
(Hw) - See Calumet County
ONEIDA COUNTY
(Hw) - See Ashland County
OUTAGAMIE COUNTY
(Hw) - See Calumet County
OZAUKEE COUNTY
(B,H,Hw) - See Milwaukee County
(D) - See Ashland County
(Hw) - See Fond du Lac County
(R) - See Milwaukee County
PEPIN COUNTY
(Hw) - See Barron County
PIERCE COUNTY
(Hw) - See Barron County
POLK COUNTY
Decision #AP-61 (B) (H) (Hw)
37 FR 25674 - 12/1/72
Mod. #1-38 FR 2017 - 1/9/72
Mod. #2- 38 FR 12522 - 5/11/73
PORTAGE COUNTY
(Hw) - See Adams County
PRICE COUNTY
(Hw) - See Ashland County
RACINE COUNTY
Decision #AP-62 (B,H,Hw)
37 FR 25678 - 12/1/72
Mod. #1-37 FR 28357 - 12/22/72
Mod. #2-38 FR 2017 - 1/19/73
Mod. #3-38 FR 12522 - 5/11/73
(D) - See Ashland County
RICHLAND COUNTY
(Hw) - See Columbia County
ROCK COUNTY
Decision #AP-63 (B,H,Hw)
37 FR 25682 - 12/1/72
Mod. #1-37 FR 28358 - 12/22/72
Mod. #2-38 FR 2018 - 1/19/73
Mod. #3-38 FR 5111 - 2/23/73
Mod. #4-38 FR 12523 - 5/11/73
RUSK COUNTY
(Hw) - See Ashland County
SAINT CROIX COUNTY
(Hw) - See Barron County
SAUK COUNTY
(Hw) - See Columbia County
SAWYER COUNTY
(Hw) - See Ashland County

WISCONSIN (Cont'd)

SHAWANO COUNTY
(Hw) - See Adams County
SHEBOYGAN COUNTY
(D) - See Ashland County
(Hw) - See Fond du Lac County
TAYLOR COUNTY
(Hw) - See Ashland County
TREMPEALEAU COUNTY
(Hw) - See Barron County
VERNON COUNTY
(Hw) - See Columbia County
VILAS COUNTY
(Hw) - See Ashland County
WALWORTH COUNTY
(Hw) - See Fond du Lac County
WASHBURN COUNTY
(Hw) - See Ashland County
WASHINGTON COUNTY
(B,H,Hw) - See Milwaukee County
(Hw) - See Fond du Lac County
(R) - See Milwaukee County
WAUKESHA COUNTY
(B,H,Hw) - See Milwaukee County
(R) - See Milwaukee County
WAUPACA COUNTY
(Hw) - See Adams County
WAUSHARA COUNTY
(Hw) - See Adams County
WINNEBAGO COUNTY
Decision #AP-64 (B,H,Hw)
37 FR 25686 - 12/1/72
Mod. #1-37 FR 28358 - 12/22/72
Mod. #2 - 38 FR 2018 - 1/19/73
Mod. #3 - 38 FR 5112 - 2/23/73
Mod. #4 - 38 FR 12523 - 5/11/73
WOOD COUNTY
(Hw) - See Adams County

WYOMING

STATEWIDE
Decision #AM-2,476 (Hw)
36 FR 17159 - 8/27/71
Mod. #1-37 FR 4470 - 3/3/72
Mod. #2-37 FR 28805 - 12/29/72
Mod. #3-38 FR 2020 - 1/19/73
ALBANY COUNTY
(Hw) - See Statewide
BIG HORN COUNTY
(Hw) - See Statewide
CAMPBELL COUNTY
(Hw) - See Statewide
CARBON COUNTY
(Hw) - See Statewide
CONVERSE COUNTY
(Hw) - See Statewide
CROOK COUNTY
(Hw) - See Statewide
FREMONT COUNTY
(Hw) - See Statewide
GOSHEN COUNTY
(Hw) - See Statewide
HOT SPRINGS COUNTY
(Hw) - See Statewide
JOHNSON COUNTY
(Hw) - See Statewide
LARAMIE COUNTY
Decision #AP-250 (B,H,Hw)
37 FR 24011 - 11/10/72
Mod. #1 - 38 FR 940 - 1/5/73
Mod. #2 - 38 FR 2021 - 1/19/73
LINCOLN COUNTY
(Hw) - See Statewide
NATRONA COUNTY
(Hw) - See Statewide
NIOBRARA COUNTY
(Hw) - See Statewide
PARK COUNTY
(Hw) - See Statewide
PLATTE COUNTY
(Hw) - See Statewide
SHERIDAN COUNTY
(Hw) - See Statewide
SUBLETTE COUNTY
(Hw) - See Statewide





WYOMING (Cont'd)

SWEETWATER COUNTY
(Hw) - See Statewide
TETON COUNTY
(Hw) - See Statewide
UINTA COUNTY
(Hw) - See Statewide
WASHAKIE COUNTY
(Hw) - See Statewide
WESTON COUNTY
(Hw) - See Statewide
YELLOWSTONE NATIONAL PARK COUNTY
(Hw) - See Statewide

[FR Doc.73-18660 Filed 9-6-73;8:45 am]

MICROFILM EDITION

# FEDERAL REGISTER

35mm MICROFILM

## Complete Set 1936–71, 202 Rolls $1,439

| Vol. | Year | Price | Vol. | Year | Price | Vol. | Year | Price |
|---|---|---|---|---|---|---|---|---|
| 1 | 1936 | $7 | 13 | 1948 | $28 | 25 | 1960 | $49 |
| 2 | 1937 | 12 | 14 | 1949 | 22 | 26 | 1961 | 44 |
| 3 | 1938 | 8 | 15 | 1950 | 28 | 27 | 1962 | 46 |
| 4 | 1939 | 14 | 16 | 1951 | 44 | 28 | 1963 | 50 |
| 5 | 1940 | 14 | 17 | 1952 | 41 | 29 | 1964 | 54 |
| 6 | 1941 | 21 | 18 | 1953 | 30 | 30 | 1965 | 58 |
| 7 | 1942 | 37 | 19 | 1954 | 37 | 31 | 1966 | 60 |
| 8 | 1943 | 53 | 20 | 1955 | 41 | 32 | 1967 | 69 |
| 9 | 1944 | 42 | 21 | 1956 | 42 | 33 | 1968 | 55 |
| 10 | 1945 | 47 | 22 | 1957 | 41 | 34 | 1969 | 62 |
| 11 | 1946 | 47 | 23 | 1958 | 41 | 35 | 1970 | 59 |
| 12 | 1947 | 24 | 24 | 1959 | 42 | 36 | 1971 | 97 |

Order Microfilm Edition from Publications Sales Branch
National Archives and Records Service
Washington, D.C. 20408

V 38-173
SEP 7 73
XUM

174

# federal register

September 10, 1973—Pages 24627–24874

MONDAY, SEPTEMBER 10, 1973
WASHINGTON, D.C.
Volume 38 ■ Number 174
Pages 24627–24874
PART I

## HIGHLIGHTS OF THIS ISSUE

**This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.**

**HOUSING ASSISTANCE**—HUD amends interest rate on mortgage insurance and home improvement loans; effective 8–25–73 ..... 24637

**NUTRITION PROGRAMS FOR THE ELDERLY**—USDA regulations regarding donations of food; effective 9–10–73 .... 24633

**TIMBER SALES**—Interior Department amends regulations on stumpage value limitations and payments; effective 10–10–73 ..... 24638

**WASTE TREATMENT**—EPA issues cost-effectiveness analysis guidelines; effective 10–10–73 ..... 24639

**ENVIRONMENTAL PROTECTION**—NASA notice of availability of impact statement for Kennedy Space Center ... 24688

**FOOD ADDITIVES**—FDA approves use of diisononyl phthalate as a plasticizer in packaging; effective 9–10–73 ..... 24643

**PEANUTS**—USDA increases loan rates for 1973 crop; effective 9–10–73 ..... 24634

**FROZEN CARROTS**—USDA proposes to amend grade standards; comments by 10–31–73 ..... 24654

**FINANCIAL REPORTING**—SEC regulations regarding effect of treasury stock transactions on accounting for business combinations..... 24635

**RELOCATION ASSISTANCE**—Interior Department amends regulations; effective 9–10–73.. ..... 24649

(Continued Inside)

**PART II:**

**U.S. SAVINGS BONDS**—Treasury Department rules governing registration, reissue, redemption and replacement of bonds; effective 9–5–73..... 24761

**PART III:**

**WATER RESOURCES COUNCIL**—Establishment of principles and standards for planning water and related land resources; effective 10–25–73 ... 24777

**PART IV:**

**PUBLIC ASSISTANCE**—HEW proposal on service programs for families, children and disabled individuals; comments by 10–10–73..... 24871



V 38-174 SEP 10 73 XUM

# REMINDERS

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

### Rules Going Into Effect Today

This list includes only rules that were published in the FEDERAL REGISTER after October 1, 1972.

page no. and date

VA—Requirement of flood insurance coverage on properties with VA loan in special flood hazard areas 20832; 8-3-73

federal register

Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by the Executive Branch of the Federal Government. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $2.50 per month or $25 per year, payable in advance. The charge for individual copies is 20 cents for each issue, or 20 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.





**NEW ANIMAL DRUGS**—FDA approves use of prednisolone tertiary butylacetate for treatment of horses, dogs and cats, and revises indications for use of tetracycline in calves (2 documents); effective 9–10–73 ..... 24643, 24644

**SODIUM CHLORATE**—EPA proposed exemption from requirement of a tolerance; comments by 10–10–73 .... 24667

**REAL ESTATE LIENS**—SEC proposes exemption of certain promissory notes from registration requirements; comments by 10–11–73 ..... 24668

**COTTON TEXTILES**—Commerce Department announces embargo of certain products from Haiti ..... 24679

**ANTIDUMPING**—Treasury Department determination on cacium pantothenate from Japan ..... 24669

**MEETINGS**—
National Endowment for the Humanities: Planning Office Panel, 9–14 and 9–15–73 ..... 24688
Interior Department: Minute Man Historical Park Advisory Commission, 9–27–73 ..... 24670
Indiana Dunes National Lakeshore Advisory Commission, 9–28–73 ..... 24670
Bonneville Regional Advisory Council, 9–18, 9–25, 9–26, 10–3 and 10–4–73 ..... 24669
DOT: Citizens' Advisory Committee on Transportation Quality, 9–17 and 9–18–73 ..... 24674
Labor Department: Business Research Advisory Council's Committee on Manpower and Employment, 9–25–73 ..... 24690
HEW: Safety and Occupational Health Study Section, 9–13 and 9–14–73 ..... 24672
Venereal Disease Control Advisory Committee, 9–12 to 9–14–73 ..... 24672
Secretary's Advisory Committee on the Rights and Responsibilities of Women, 9–13 and 9–14–73 .. 24674
Board of Advisors to the Fund for the Improvement of Postsecondary Education, 9–12 to 9–14–73 ..... 24672
U.S. Comm. on Civil Rights: New Hampshire State Advisory Committee, 9–12–73 ..... 24679
Maryland State Advisory Committee, 9–13–73 ..... 24679
Rhode Island State Advisory Committee, 9–13–73 .... 24679
Ohio State Advisory Committee, 9–15–73 ..... 24679
DOD: Advisory Group on Electron Devices, 9–11–73 ... 24669
Working Group on Special Devices, 9–11–73 ..... 24669
Working Group on Passive Devices, 9–18–73 ..... 24669
Working Group on Low Power Devices, 9–21–73 ..... 24669
Working Group on High Power Devices, 9–25 to 9–26–73 ..... 24669
Advisory Committee on Federal Pay, 9–11–73 ..... 24675
CLC: Food and Industry Wage and Salary Committee, 9–12–73 ..... 24690

# Contents

**ADVISORY COMMITTEE ON FEDERAL PAY**
Notices
Proposed Federal pay adjustment; meeting ..... 24675

**AGRICULTURAL MARKETING SERVICE**
Proposed Rules
Milk in the Wichita, Kansas, marketing area ..... 24654
Standards for grades of frozen carrots ..... 24654
Notices
Milk in Southeastern Minnesota-Northern Iowa and Minneapolis-St. Paul, Minn., marketing areas; determination of equivalent New York butter prices ... 24670

**AGRICULTURE DEPARTMENT**
*See also* Agricultural Marketing Service; Animal and Plant Health Inspection Service; Commodity Credit Corporation; Food and Nutrition Service; Rural Electrification Administration.
Rules and Regulations
Delegation of authority by the Secretary of Agriculture and general officers of the department ..... 24633
Notices
Agriculture grant and agreement regulations ..... 24671

**ANIMAL AND PLANT HEALTH INSPECTION SERVICE**
Rules and Regulations
Frankfurters and certain other cooked sausage products; correction ..... 24640

**ATOMIC ENERGY COMMISSION**
Notices
Prehearing conference and discovery incidents:
Alabama Power Co ..... 24675
Georgia Power Co ..... 24675

**BONNEVILLE POWER ADMINISTRATION**
Notice
Bonneville Regional Advisory Council; meetings ..... 24669

**CENTER FOR DISEASE CONTROL**
Notices
Meeting ..... 24672

**CIVIL AERONAUTICS BOARD**
Rules and Regulations
Statements of general policy; treatment of depreciation of wide-bodied aircraft for rate purposes ..... 24642
Terms, conditions, and limitations of certificates to engage in supplemental air transportation; prohibited control of a supplemental air carrier ..... 24642
Proposed Rules
Certified and foreign air carriers; travel group charters ..... 24664
Fees and charges for special services; filing and license fees ..... 24662
Termination of rulemaking proceeding:
Air freight industry; uniform credit, billing, and collection practices ..... 24660
Uniform system of accounts; monthly reports ..... 24661
Notices
*Hearings, etc.:*
Compagnie Nationale Air France et al ..... 24675
Eastern Air Lines, Inc. and Seaboard World Airlines, Inc ... 24677
International Air Transport Association; Conference 1 ..... 24679

**CIVIL RIGHTS COMMISSION**
Notices
State advisory committee meetings:
Maryland ..... 24679
New Hampshire ..... 24679
Ohio ..... 24679
Rhode Island ..... 24679

**COMMERCE DEPARTMENT**
*See* Maritime Administration.

**COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS**
Notices
Cotton textiles from Haiti; entry or withdrawal from warehouse for consumption ..... 24679

**COMMITTEE FOR PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY HANDICAPPED**
Notices
Procurement list, 1973; addition and proposed additions (2 documents) ..... 24680

**COMMODITY CREDIT CORPORATION**
Rules and Regulations
Crop farm-stored peanut loan and purchase program for 1973 ..... 24634

**COST OF LIVING COUNCIL**
Proposed Rules
Executive and variable compensation; correction ..... 24667
Notices
Food Industry-Wage and Salary Committee; meeting ..... 24690

*(Continued on next page)*



V 38-174 SEP 10 73 XUM

COUNCIL ON ENVIRONMENTAL QUALITY
Notice
Environmental impact statements; list of statements 24680

DEFENSE DEPARTMENT
Notices
Advisory committee meetings; correction 24669

ENVIRONMENTAL PROTECTION AGENCY
Rules and Regulations
State and local assistance; cost-effectiveness analysis (Appendix A) 24639
Proposed Rules
Sodium chlorate; proposed exemption from requirement of a tolerance 24667
Notices
Allied Chemical Corp.; determination and order 24683
Amchem products, Inc.; establishment of temporary tolerance 24682
Ciba-Geigy Corp.; filing of petition regarding pesticide chemical 24683
Nipak, Inc.; withdrawal of petition regarding pesticide chemical 24683
Uniroyal Chemical; filing of petition for food additive 24683

FEDERAL AVIATION ADMINISTRATION
Rules and Regulations
Airworthiness directives:
Allison Model 250–C20 engines 24640
Bell Model 47 series helicopters 24641
Boeing 737 series airplanes 24641
Pratt & Whitney Model JT3D engines 24641
Federal airways, area low routes, controlled airspace, and reporting points; transition area; designation 24641

FEDERAL COMMUNICATIONS COMMISSION
Notices
Common carrier services information; domestic public radio services applications accepted for filing 24683

FEDERAL HIGHWAY ADMINISTRATION
Notices
Iowa; proposed action plan 24674

FEDERAL MARITIME COMMISSION
Notices
A. B. Barone Forwarding, Inc. and C. H. Powell Co., Inc.; agreement filed 24686
F. J. Herbelin Forwarding Co., Inc. and C. H. Powell Co., Inc.; agreement filed 24686

FEDERAL RESERVE SYSTEM
Notices
United Penn Corp.; proposed acquisition of Valley Consumer Discount Co 24687

FEDERAL TRADE COMMISSION
Rules and Regulations
Prohibited trade practices; Greater Kansas City Gas Furnace & Air Conditioning Co., Inc. and Dennis G. Svejda 24634
Notices
Office of the Executive Director; organization and functions 24687

FISCAL SERVICE
Rules and Regulations
Regulations governing U.S. Savings Bonds 24761

FISH AND WILDLIFE SERVICE
Rules and Regulations
Hunting; special regulations for individual wildlife refuge areas (8 documents) 24650–24652
Notices
Nunivak National Wildlife Refuge; public hearing regarding wilderness proposal 24670

FOOD AND DRUG ADMINISTRATION
Rules and Regulations
Color additives; pyrogallol and ferric ammonium citrate; confirmation of effective date 24643
Food additives; diisononyl phthalate 24643
New animal drugs for implantation or injection; prednisolone tertiary butylacetate 24643
New animal drugs in oral dosage forms; tetracycline oral veterinary 24644

FOOD AND NUTRITION SERVICE
Rules and Regulations
Availability of donated foods for nutrition programs for the elderly 24633

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
*See also* Food and Drug Administration; Social and Rehabilitation Service.
Rules and Regulations
Solicitation documents; standardized request for proposal format and checklist 24644
Notices
Board of Advisory to Fund for the Improvement of Postsecondary Education; meeting 24672
Secretary's Advisory Committee on Rights and Responsibilities of Women; meeting 24672
Social Security Administration; organization, functions, and delegation of authority 24672

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
Rules and Regulations
Interest rate change 24637

INDIAN AFFAIRS BUREAU
Rules and Regulations
General forest regulations 24638

INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)
Notices
Mathies Coal Co., et al.; renewal permit applications; opportunity for hearing 24687

INTERIOR DEPARTMENT
*See also* Bonneville Power Administration; Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau; National Parks Service.
Rules and Regulations
Uniform relocation assistance and real property acquisition policies 24649

INTERSTATE COMMERCE COMMISSION
Notices
Assignment of hearings 24691
Fourth section applications for relief 24691
Motor carrier temporary authority applications 24691
Motor carrier transfer proceedings (2 documents) 24696

LABOR DEPARTMENT
*See also* Labor Statistics Bureau.
Notices
Organizational terminology; changes 24690

LABOR STATISTICS BUREAU
Notices
Business Research Advisory Council Committee on Manpower and Employment; meeting 24690

LAND MANAGEMENT BUREAU
Rules and Regulations
Location of mining claims 24650
Wild and free-roaming horses and burros management; protection, management, control and reservation of forage; correction 24650

MARITIME ADMINISTRATION
Notices
Waterman Steamship Corp.; application 24671

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
Notices
Kennedy Space Center; availability of environmental impact statement 24688







NATIONAL ENDOWMENT FOR THE HUMANITIES
Notices
Planning Office Panel; meeting 24688

NATIONAL PARK SERVICE
Notices
Indiana Dunes National Lakeshore Advisory Commission; meeting 24670
Minute Man National Historical Park Advisory Commission; meeting 24670

NATIONAL BUREAU OF STANDARDS
Notices
Security Equipment Catalog and Security Resources Directory; proposed development 24671

RURAL ELECTRIFICATION ADMINISTRATION
Proposed Rules
Revision in REA specification for building-out capacitors 24660

SECURITIES AND EXCHANGE COMMISSION
Rules and Regulations
Effect of treasury stock transactions on accounting for business combinations; interpretative releases 24635
Proposed Rules
Certain promissory notes directly secured by a first lien on real estate; exemption 24668
Notices
Compusamp, Inc.; order suspending trading 24688
IDS Life Variable Annuity Fund A and IDS Life Insurance Co.; notice of application 24688

SOCIAL AND REHABILITATION SERVICE
Proposed Rules
Families, children, and aged, blind, or disabled individuals; service programs 24871

TARIFF COMMISSION
Notices
Criterion Footwear, Inc.; workers' petition for a determination; notice of investigation 24689
Don Gustin Shoe Co., Inc., workers' petition for a determination; notice of investigation 24690

TRANSPORTATION DEPARTMENT
*See also* Federal Aviation Administration; Federal Highway Administration.
Notices
Citizens' Advisory Committee on Transportation Quality; meeting 24674

TREASURY DEPARTMENT
*See also* Fiscal Service.
Notices
Calcium pantothenate from Japan; determination of sales at less than fair value 24669

WATER RESOURCES COUNCIL
Notices
Principles and standards for planning water and related land resources; establishment 24777


# List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month. In the last issue of the month the cumulative list will appear at the end of the issue.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1973, and specifies how they are affected.

**6 CFR**
PROPOSED RULES:
152 24667

**7 CFR**
2 24633
250 24633
1421 24634
PROPOSED RULES:
52 24654
1073 24654
1701 24660

**9 CFR**
319 24640

**14 CFR**
39 (4 documents) 24640, 24641
71 24641
208 24642
399 24642
PROPOSED RULES:
Ch. II 24660
241 24661
298 24662
372a 24664
389 24662

**16 CFR**
13 24634

**17 CFR**
211 24635
231 24635
241 24635
251 24635
271 24635
PROPOSED RULES:
230 24668

**21 CFR**
8 24643
121 24643
135b 24643
135c 24644

**24 CFR**
203 24637
205 24637
207 24637
213 24637
220 24637
221 24637
232 24637
234 24637
235 24638
236 24638
241 24638
242 24638
244 24638

**25 CFR**
141 24638

**31 CFR**
315 24762

**40 CFR**
35 24639
PROPOSED RULES:
180 24667

**41 CFR**
3–16 24644
114–50 24649

**43 CFR**
3830 24650
4710 24650

**45 CFR**
PROPOSED RULES:
221 24872

**50 CFR**
32 (8 documents) 24650–24652



V 38-174 SEP 10 73 XUM

# Rules and Regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

## Title 7—Agriculture

### SUBTITLE A—OFFICE OF THE SECRETARY

### PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

This document delegates authority to the Assistant Secretaries and the Director of Agricultural Economics to establish and reestablish regional, state, and local advisory committees.

Part 2 of Subtitle A of Title 7 of the Code of Federal Regulations is amended as follows:

**§ 2.17 Delegations of authority to the Assistant Secretary for Marketing and Consumer Services.**

• • • • • •

(f) *Related to committee management.*—Establish and reestablish regional, state, and local advisory committees for activities under his authority. This authority may not be redelegated.

**§ 2.19 Delegations of authority to the Assistant Secretary for Conservation, Research, and Education.**

• • • • • •

(h) *Related to committee management.*—Establish and reestablish regional, state, and local advisory committees for activities under his authority. This authority may not be redelegated.

**§ 2.21 Delegations of authority to the Assistant Secretary for International Affairs and Commodity Programs.**

• • • • • •

(e) *Related to committee management.*—Establish and reestablish regional, state, and local advisory committees for activities under his authority. This authority may not be redelegated.

**§ 2.23 Delegations of authority to the Assistant Secretary for Rural Development.**

• • • • • •

(d) *Related to committee management.*—Establish and reestablish regional, state, and local advisory committees for activities under his authority. This authority may not be redelegated.

**§ 2.25 Delegations of authority to the Assistant Secretary for Administration.**

• • • • • •

(g) *Related to committee management.*—(1) • • •

(2) Establish and reestablish regional, state, and local advisory committees for activities under his authority. This authority may not be redelegated.

**§ 2.27 Delegations of authority to the Director of Agricultural Economics.**

• • • • • •

(e) *Related to committee management.*—Establish and reestablish regional, state, and local advisory committees for activities under his authority. This authority may not be redelegated.

Dated September 5, 1973.

EARL L. BUTZ,
*Secretary of Agriculture.*

[FR Doc.73-19180 Filed 9-7-73;8:45 am]

---

## CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

### SUBCHAPTER B—GENERAL REGULATIONS AND POLICIES—FOOD DISTRIBUTION

[Amdt. 17]

### PART 250—DONATION OF FOODS FOR USE IN UNITED STATES, ITS TERRITORIES AND POSSESSIONS AND AREAS UNDER ITS JURISDICTION

### Availability of Donated Foods for Nutrition Programs for the Elderly

The regulations for the operation of the Food Distribution Program (31 FR 14297), as amended, are further amended to implement the provision of Public Law 93-29 (87 Stat. 56), approved May 3, 1973, which authorizes the Secretary of Agriculture to donate foods for use in nutrition programs for the elderly established under title VII of the Older Americans Act of 1965, as amended (42 U.S.C. 3045f).

P.L. 93-29 became effective on May 3, 1973, and it is desirable to effectuate its provisions as soon as possible. Therefore, it is hereby determined that it is impracticable and contrary to the public interest to give notice of proposed rulemaking with respect to this amendment.

1. The authority citation for Part 250 is amended by adding at the end "42 U.S.C. 3045 f."

2. In § 250.1 paragraph (a) is revised to read as follows, and paragraph (b) is revised by adding a new subparagraph (15) as follows:

**§ 250.1 General purpose and scope.**

(a) *Terms and conditions.*—This part contains the regulations prescribing the terms and conditions under which foods may be obtained by Federal, State, and private agencies for use in any State (1) in schools operating nonprofit food service programs, (2) in nonprofit summer camps and service institutions for children, (3) in charitable institutions, (4) in State correctional institutions for minors, (5) in nutrition programs for the elderly, and (6) otherwise in the assistance of needy persons.

(b) *Legislation.* • • •

• • • • • •

(15) Section 707 of the Older Americans Act of 1965, as amended, which reads as follows:

(a) Agricultural commodities and products purchased by the Secretary of Agriculture under section 32 of the Act of August 24, 1935, (7 U.S.C. 612c) may be donated to a recipient of a grant or contract to be used for providing nutritional services in accordance with the provisions of this title.

(b) The Commodity Credit Corporation may dispose of food commodities under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431) by donating them to a recipient of a grant or contract to be used for providing nutritional services in accordance with the provisions of this title.

(c) Dairy products purchased by the Secretary of Agriculture under section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a-1) may be used to meet the requirements of programs providing nutritional services in accordance with the provisions of this title.

3. In § 250.3 paragraph (j) is revised to read as follows and a new paragraph (t) is added as follows:

**§ 250.3 Definitions.**

• • • • • •

(j) "Recipient agencies" means schools, summer camps for children, institutions, welfare agencies, nutrition programs for the elderly, or disaster organizations receiving foods for their own use or for distribution to eligible recipients.

• • • • • •

(t) "Nutrition program for the elderly" means a project conducted by a recipient of a grant or contract under title VII of the Older Americans Act, as amended, to assist in meeting the nutritional and social needs of persons aged sixty or older.

4. Section 250.8 is amended by adding a new paragraph (h) as follows:

**§ 250.8 Eligible recipient agencies.**

• • • • • •

(h) *Nutrition programs for the elderly.*—Nutrition programs for the elderly are eligible to receive foods under section 416, section 32, and section 709. If a nutrition program for the elderly employs a food service company to conduct its feeding operation, the provisions



V 38-174 SEP 10 73 XUM

of paragraph (b) (3) of this section shall be applicable.

This amendment shall become effective September 10, 1973.

Dated September 5, 1973.

CLAYTON YEUTTER,
*Assistant Secretary.*

[FR Doc.73-19133 Filed 9-7-73;8:45 am]

## CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

### SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regs., 1973-Crop Peanut Farm-Stored Loan and Purchase Supp., Amendment 1]

### PART 1421—GRAIN AND SIMILARLY HANDLED COMMODITIES

### Subpart—1973-Crop Farm-Stored Peanut Loan and Purchase Program

The regulations issued by the Commodity Credit Corporation, and published in 38 FR 22372, which set forth specific requirements with respect to farm-stored loan and purchase program for the 1973 crop of peanuts are hereby amended to increase the support values for farmers' stock peanuts. It is impracticable to follow the notice of proposed rulemaking procedure with respect to this amendment, because 1973-crop peanuts are being harvested and it is essential that the rates provided in this subpart be put into effect with respect to such peanuts on the earliest possible date.

Section 1421.294(a) is amended as follows:

§ 1421.294 Loan and purchase rates.

* * * * *

(a) *Loan rate.*—Subject to the discounts specified in paragraph (b) of this section, the loan rates for farmers' stock peanuts placed under farm-stored loan shall be the following rates by types per ton:

| Type: | Dollars per ton |
|---|---|
| Virginia | $335 |
| Runner | 332 |
| Southeast Spanish | 323 |
| Southwest Spanish | 319 |
| Valencia, in the Southwest area suitable for cleaning or roasting[1] | 335 |

[1] The price for all Valencia type peanuts in the Southeast and Virginia—Carolina areas and those in the Southwest area which are not suitable for cleaning and roasting will be the same as for Spanish type peanuts in the same area.

* * * * *

AUTHORITY.—62 Stat. 1070, as amended, 15 U.S.C. 714 (b) and (c); 63 Stat. 1051, as amended, 7 U.S.C. 1441, 1421, 1423, 1425

Effective date.—September 10, 1973.

Signed at Washington, D.C., on September 4, 1973.

KENNETH E. FRICK,
*Executive Vice President,*
*Commodity Credit Corporation.*

[FR Doc.73-19179 Filed 9-7-73;8:45 am]

## Title 16—Commercial Practices

### CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. C-2428]

### PART 13—PROHIBITED TRADE PRACTICES

### Greater Kansas City Gas Furnace & Air Conditioning Co., Inc. and Dennis G. Svejda

Subpart—Advertising falsely or misleadingly: § 13.73 *Formal regulatory and statutory requirements;* 13.73–92 Truth in Lending Act; § 13.155 *Prices;* 13.155–95 Terms and conditions; 13.155–95(a) Truth in Lending Act; Subpart—Misrepresenting oneself and goods—Goods: § 13.1623 *Formal regulatory and statutory requirements;* 13.1623–95 Truth in Lending Act; —Prices; § 13.1823 *Terms and conditions;* 13.1823–20 Truth in Lending Act; Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements;* 13.1852–75 Truth in Lending Act; § 13.1892 *Sales contract, right-to-cancel provision;* § 13.1905 *Terms and conditions;* 13.1905–60 Truth in Lending Act;

(Sec. 6, 38 Stat. 721 (15 U.S.C. 46). Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147 (15 U.S.C. 45, 1601–1605)) [Cease and desist order, Greater Kansas City Gas Furnace & Air Conditioning Company, Inc., et al., Kansas City, Missouri, Docket C-2428, August 2, 1973.]

*In the matter of Greater Kansas City Gas Furnace & Air Conditioning Company, Inc., a corporation, and Dennis G. Svejda, individually and as an officer of said corporation.*

Consent order requiring a Kansas City, Missouri, retailer of furnaces, heating equipment, air conditioners, and parts therefor, among other things to cease violating the Truth in Lending Act by failing to disclose to customers, in connection with the extension of consumer credit, such information as required by Regulation Z of the said Act.

Respondents are further required to cease transferring any documents of indebtedness without providing that the rights or defenses of the consumer may be asserted against any subsequent holder of the documents and to include a statement to that effect on the face of any note or other instrument evidencing indebtedness. Further, the firm must recontact and offer the right of recission to all eligible consumers who purchased on or after July 1, 1969.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

I. *It is ordered,* That respondent Greater Kansas City Gas Furnace and Air Conditioning Company, Inc., a corporation, and its officers, and Dennis G. Svejda, individually and as an officer of said corporation, trading under said corporate name or under any trade name or names, their successors and assigns, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with any extension of consumer credit or any advertisement to aid, promote or assist directly or indirectly any extension of consumer credit, as "consumer credit" and "advertisement" are defined in Regulation Z (12 CFR 226) of the Truth in Lending Act (P.L. 90–321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Failing to identify on the disclosure statement required by § 226.8(a) of Regulation Z the transaction to which the statement relates, as required by § 226.8 (a) (2) of Regulation Z.

2. Failing to disclose the date on which the finance charge begins to accrue when different from the date of the transaction, as required by § 226.8(b) (1) of Regulation Z.

3. Failing to disclose the sum of all payments required, and to describe that sum as the "total of payments", as required by § 226.8(b) (3) of Regulation Z.

4. Failing to describe the type of any security interest held or to be retained or acquired by the creditor in the connection with the transaction, as required by § 226.8(b) (5) of Regulation Z.

5. Failing to use the term "cash price", as defined in section 226.2(i) of Regulation Z, to describe the purchase price of the transaction, as required by § 226.8 (c) (1) of Regulation Z.

6. Failing to use the term "cash downpayment" to describe the downpayment in money made in connection with the transaction, as required by § 226.8(c) (2) of Regulation Z.

7. Failing to use the term "total downpayment" to describe the sum of the cash downpayment and trade-in, as required by § 226.8(c) (2) of Regulation Z.

8. Failing to use the term "unpaid balance of cash price" to describe the difference between the cash price and the total downpayment, as required by § 226.8(c) (3) of Regulation Z.

9. Failing to disclose all other charges, individually itemized, which are included in the amount financed but which are not part of the finance charge, as required by § 226.8(c) (4) of Regulation Z.

10. Failing to disclose the sum of the unpaid balance of cash price and all other charges and describe that sum as the "unpaid balance", as required by § 226.8(c) (5) of Regulation Z.

11. Failing to use the term "amount financed" to describe the amount of credit extended as required by § 226.8(c) (7) of Regulation Z.

12. Failing to disclose the sum of the cash price, all charges which are included in the amount financed but which are not a part of the finance charge, and the finance charge, and describe that sum as the "deferred payment price", as required by § 226.8(c) (8) (ii) of Regulation Z.

13. Failing to disclose the annual percentage rate, computed in accordance with § 226.5 of Regulation Z, as required by § 226.8(b) (2) of Regulation Z.

14. Failing to furnish the customer a statement containing the disclosures required by § 226.8 of Regulation Z, in the manner and form as prescribed by § 226.8 (a) of Regulation Z.

15. Failing, in any transaction in which a security interest or the future right to a security interest is retained or acquired in real property which is used or expected to be used as the principal residence of the customer, to comply with all requirements regarding the right of rescission set forth in § 226.9 of Regulation Z.

16. Making any physical changes in a customer's property or performing any work or services on such property before expiration of the three-day rescission period provided for in § 226.9(a) of Regulation Z, in any transaction in which a security interest or the future right to a security interest is retained or acquired in real property which is used or is expected to be used as the principal residence of the customer, as provided in § 226.9(c) of Regulation Z.

17. Supplying, orally or in writing, any information to a customer so as to mislead or confuse the customer, or contradict, obscure, or detract attention from the information required by Regulation Z, in violation of § 226.6(c) of Regulation Z.

18. Failing, in any consumer credit transaction or advertisement, to make all disclosures, determined in accordance with §§ 226.4 and 226.5 of Regulation Z, in the manner, form, and amount required by §§ 226.6, 226.7, 226.8, 226.9, and 226.10 of Regulation Z.

II. *It is ordered,* That respondent Greater Kansas City Gas Furnace & Air Conditioning Company, Inc., a corporation, and its officers, and Dennis G. Svejda, Individually and as an officer of said corporation, trading under said corporate name or under any trade name or names, their successors and assigns, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the transfer of any indebtedness in commerce, as "commerce" is defined in the Federal Trade Commission Act, forthwith cease and desist from:

1. Assigning, selling, or otherwise transferring respondents' notes, contracts, or other documents evidencing a purchaser's indebtedness, unless any rights or defenses which the purchaser has and may assert against respondents are preserved and may be asserted against any assignee or subsequent holder of such note, contract, or other such documents evidencing the indebtedness.

2. Failing to include the following statement clearly and conspicuously on the face of any note, contract, or other instrument of indebtedness executed by or on behalf of respondents' customers:

NOTICE

Any holder takes this instrument subject to the terms and conditions of the contract which gave rise to the debt evidenced hereby, any contractual provision or other agreement to the contrary notwithstanding.

*It is further ordered,* That respondents shall, within thirty (30) days after service upon them of this order, deliver notice of the right of rescission, in the number, manner, and form set forth in §§ 226.9 (b) and (f) of Regulation Z, to each customer in each transaction entered into by respondents on or after July 1, 1969, in which a security interest or the future right to a security interest was retained or acquired in any real property which, at the time of the transaction, was used or was expected to be used as the principal residence of the customer, and that respondents shall perform all obligations set forth in § 226.9(d) of Regulation Z in any such transaction if the customer exercises the right of rescission within the time and in the manner prescribed in § 226.9(a) of Regulation Z.

*It is further ordered,* That respondents shall maintain adequate records, to be furnished upon the request of the Federal Trade Commission, which disclose compliance with the paragraph above.

*It is further ordered,* That respondents shall forthwith deliver a copy of this order to cease and desist to all present and future salesmen and/or other persons engaged in the sale of respondents' products and/or services, and to all present and future personnel of respondents, engaged in the consummation of any extension of consumer credit or in any aspect of preparation, creation, or placing of advertising of that consumer credit, and shall secure from each such salesman and/or other person a signed statement acknowledging receipt of said order.

*It is further ordered,* That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondents' current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

*It is further ordered,* That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

*It is further ordered,* That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

Issued August 2, 1973.

[SEAL] CHARLES A. TOBIN,
*Secretary.*

[FR Doc.73-19103 Filed 9-7-73;8:45 am]

## Title 17—Commodity and Securities Exchanges

### CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Releases 33-5416, 34-10363, 35-18067, 40-7955, AS-146]

### PART 211—INTERPRETATIVE RELEASES RELATING TO ACCOUNTING MATTERS (ACCOUNTING SERIES RELEASES)

### PART 231—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES ACT OF 1933 AND GENERAL RULES AND REGULATIONS THEREUNDER

### PART 241—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

### PART 251—INTERPRETATIVE RELEASES RELATING TO THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935 AND GENERAL RULES AND REGULATIONS THEREUNDER

### PART 271—INTERPRETATIVE RELEASES RELATING TO THE INVESTMENT COMPANY ACT OF 1940 AND GENERAL RULES AND REGULATIONS THEREUNDER

### Effect of Treasury Stock Transactions on Accounting for Business Combinations

In August 1970 the Accounting Principles Board (APB) of the American Institute of Certified Public Accountants (AICPA) issued Opinion No. 16, "Business Combinations," which identifies certain conditions which must be present (or in some cases absent) if a business combination is to be accounted for as a pooling of interests. Two of these conditions, which are set forth in paragraphs 47–c and 47–d, include provisions related to the reacquisition of voting common stock within two years prior to initiation and between initiation and consummation of a business combination which is planned to be accounted for by the pooling-of-interests method. The Commission has observed that these provisions have been subject to varying interpretations in practice, and has concluded that certain of these interpretations are not compatible with concepts underlying the Opinion. Accordingly, this release sets forth the Commission's conclusions as to certain problems relating to the effect of treasury stock transactions on accounting for business combinations.

When cash or other assets are used or liabilities are incurred to effect a business combination, APB Opinion No. 16 concludes that the combination should be accounted for as a purchase. This concept might be circumvented if cash or other assets were used or liabilities were incurred to reacquire common shares and common shares were then exchanged to consummate the combination. Therefore, for the pooling-of-interests method to apply, paragraph 47–c of the Opinion requires that "none of the combining companies changes the equity interest of the voting common stock in contemplation of effecting the combination either







V 38 I 174 SEP 10 73 XUM

within two years before the plan of combinations is initiated or between the dates the combination is initiated and consummated; • • •." Further, paragraph 47–d stipulates that "each of the combining companies [may reacquire] shares of voting common stock only for purposes other than business combinations • • •."

In some cases it is difficult to determine the purposes of treasury stock acquisitions. An AICPA Accounting Interpretation of Opinion No. 16 (No. 20 issued September 1971) states: "In the absence of persuasive evidence to the contrary, however, it should be presumed that all acquisitions of treasury stock during the two years preceding the date a plan of combination is initiated (or from October 31, 1970, to the date of initiation if that period is less than two years) and between initiation and consummation were made in contemplation of effecting business combinations to be accounted for as a pooling of interests. Thus, lacking such evidence, this combination would be accounted for by the purchase method regardless of whether treasury stock or unissued shares or both are issued in the combination." The Commission believes that this presumption and conclusion should be followed.

In determining the purposes of treasury stock acquisitions, it is ordinarily appropriate to focus on the intended subsequent distribution of common shares rather than on the business reasons for acquiring treasury shares. For example, shares may be reacquired because management believes the company is overcapitalized or considers that "the price is right," but such reasons do not overcome the presumption that they were acquired in contemplation of effecting business combinations to be accounted for as poolings of interests. On the other hand, the presumption may be overcome when shares are acquired for a specific use unrelated to business combinations such as stock option or purchase plans or stock dividends, are associated with a combination accounted for as a purchase, or are acquired to resolve an existing contingent share agreement. However, the mere assertion that common shares are reacquired for such purposes, even where the assertion is formalized by action of the board of directors reserving the treasury shares, does not provide persuasive evidence that they were not reacquired in contemplation of pooling-of-interests combinations. If a resolution of the board of directors or other statement of intent were sufficient to provide persuasive contrary evidence, the restrictions on treasury stock acquisitions would be totally ineffective. Accordingly, while a board resolution made prior to acquisition of treasury shares may be useful evidence as to corporate intent, reference also must be made to the actual or probable issuance of shares for purposes unrelated to pooling-of-interests business combinations.

When treasury shares are acquired during a period beginning two years prior to initiation and ending at the date of consummation of a business combination to be accounted for as a pooling of interests (hereinafter referred to as the "restricted period") the issuance of an equivalent number of shares prior to the date of consummation would generally provide persuasive evidence that the treasury shares were not acquired in contemplation of the combination. The shares issued may be treasury shares or previously unissued shares since, with regard to the equity interests of the common shareholders, there is no substantive difference between the two. Thus, a company might "cure" a condition which would preclude pooling-of-interests accounting by selling common shares prior to consummation of the combination. The "cure" could not be effected by merely retiring treasury shares.

Paragraph 47-d of APB Opinion No. 16 includes the statement that "treasury stock acquired for purposes other than business combinations includes shares for stock option and compensation plans and other recurring distributions provided a systematic pattern of reacquisitions is established at least two years before the plan of combination is initiated." Further, "a systematic pattern of reacquisitions may be established for less than two years if it coincides with the adoption of a new stock option or compensation plan." In AICPA Accounting Interpretation No. 20 of Opinion No. 16, no reference is made to a systematic pattern of reacquisition, and some accountants have asserted that this test has been effectively superseded. The Commission does not accept this assertion. Accordingly, the Commission concludes that treasury shares acquired in the restricted period for recurring distributions should be considered "tainted" unless they are acquired in a systematic pattern of reacquisitions established at least two years before the plan of combination is initiated (or coincidentally with the adoption of a new stock option or compensation plan) and there is reasonable expectation that shares will be issued for such purposes.

A systematic pattern of reacquisitions might be demonstrated by the reacquisition of a specified number of shares in successive time periods, e.g., 1,000 shares per month. A systematic pattern might also be demonstrated where, pursuant to a formal reacquisition plan, shares are acquired based on specified criteria such as the market price of the stock and cash availability. The criteria of the reacquisition plan must be sufficiently explicit so that the pattern of reacquisitions may be objectively compared to the plan. Unanticipated interruptions caused by legal constraints on a company's ability to reacquire shares would not upset an otherwise systematic pattern of reacquisitions.

The determination of whether there is reasonable expectation that shares will be issued for the stated purposes of acquiring the shares is a matter of judgment. Generally, there would appear to be such reasonable expectation where the following circumstances exist at the time a reacquisition plan is adopted or shares are reacquired:

1. As to stock option plans, warrants or convertible securities, the quoted price of the common shares is not less than 75 percent of the exercise or conversion price.

2. As to stock purchase or bonus plans or stock dividends, either (a) shares are reacquired to fulfill existing commitments or dividends declared or (b) based on a pattern of issuing shares for such purposes in the prior two years, the shares are reacquired to fulfill anticipated requirements in the succeeding year.

A systematic pattern of reacquisitions test would not apply to treasury shares acquired for issuance in a specific "purchase" business combination or to resolve an existing contingent share agreement from a prior business combination, as these issuances would not be regarded as recurring distributions. Thus, shares acquired and reserved for these purposes at the date a pooling-of-interests business combination is consummated would not be regarded as "tainted" when, based on current negotiations, presently existing earnings levels or market price of shares, etc., there is reasonable expectation that shares will be issued for the stated purposes.

APB Opinion No. 16 does not discuss treasury share acquisitions subsequent to consummation of a business combination. In specific fact situations, subsequent reacquisitions may be so closely related to the prior combination that they should be considered part of the combination plan. Thus, significant reacquisitions closely following a combination which otherwise qualifies as a pooling of interests may invalidate the applicability of that method. Conversely, significant reacquisitions following a combination accounted for as a purchase might be associated with that purchase and would not adversely affect subsequent pooling combinations.

Because of the varying interpretations which have existed in practice, and the confusion which restated financial statements may cause to investors, the Commission has concluded that the accounting for business combinations which were completed prior to the issuance of this release should not be revised. The interpretation set forth herein should be applied to all subsequent business combinations even though shares issued in these combinations may have been reacquired prior to the date of this release.

By the Commission.

[SEAL] SHIRLEY E. HOLLIS,
*Acting Secretary.*

AUGUST 24, 1973.

[FR Doc.73-18996 Filed 9-7-73;8:45 am]





## Title 24—Housing and Urban Development

## CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING PRODUCTION AND MORTGAGE CREDIT-FEDERAL HOUSING COMMISSIONER [FEDERAL HOUSING ADMINISTRATION]

[Docket No. R–73–234]

## MORTGAGE INSURANCE AND HOME IMPROVEMENT LOANS

### Changes in Interest Rates

The following amendments are being made to this chapter to change the maximum interest rate which may be charged on a mortgage insured by this Department from 7¾ percent to 8½ percent. The Secretary has determined that such change is necessary to meet the mortgage market, in accordance with his authority contained in 12 U.S.C. 1709–1, as amended. The Secretary has, therefore, determined that advance notice and public procedure are unnecessary and that said cause exists for making this amendment effective August 25, 1973.

Accordingly, Chapter II is amended as follows:

### PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

#### Subpart A—Eligibility Requirements

1. In § 203.20 paragraph (a) is amended to read as follows:

**§ 203.20 Maximum interest rate.**

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 8½ percent per annum with respect to mortgages insured on or after August 25, 1973.

• • • • • •

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or apply Sec. 203, 52 Stat. 10, as amended; 12 U.S.C. 1709.)

2. In § 203.74 paragraph (a) is amended to read as follows:

**§ 203.74 Maximum interest rate.**

(a) The loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 8½ percent per annum with respect to loans insured on or after August 25, 1973.

• • • • • •

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or apply Sec. 203, 52 Stat. 10, as amended; 12 U.S.C. 1709.)

### PART 205—MORTGAGE INSURANCE FOR LAND DEVELOPMENT

#### Subpart A—Eligibility Requirements

Section 205.50 is amended to read as follows:

**§ 205.50 Maximum interest rate.**

The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 8½ percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after August 25, 1973.

(Sec. 1011, formerly Sec. 1010, 79 Stat. 464, 12 U.S.C. 1749jj; renumbered P.L. 89–754, Sec. 401(a), 80 Stat. 1271.)

### PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

#### Subpart A—Eligibility Requirements

In § 207.7 paragraph (a) is amended to read as follows:

**§ 207.7 Maximum interest rate.**

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 8½ percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after August 25, 1973.

• • • • • •

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies Sec. 207, 52 Stat. 16, as amended; 12 U.S.C. 1713.)

### PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

#### Subpart A—Eligibility Requirements—Projects

1. In § 213.10 paragraph (a) is amended to read as follows:

**§ 213.10 Maximum interest rate.**

(a) The mortgage or a supplementary loan shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, or the lender and the borrower, which rate shall not exceed 8½ percent per annum with respect to mortgages or supplementary loans receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after August 25, 1973.

• • • • • •

#### Subpart C—Eligibility Requirements—Individual Properties Released From Project Mortgage

2. In § 213.511 paragraph (a) is amended to read as follows:

**§ 213.511 Maximum interest rate.**

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 8½ percent per annum with respect to mortgages insured on or after August 25, 1973.

• • • • • •

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or apply Sec. 213, 64 Stat. 54, as amended; 12 U.S.C. 1715e.)

### PART 220—URBAN RENEWAL MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS

#### Subpart C—Eligibility Requirements—Projects

In § 220.576 paragraph (a) is amended to read as follows:

**§ 220.576 Maximum interest rate.**

(a) The loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 8½ percent per annum with respect to loans receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after August 25, 1973.

• • • • • •

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interpret or apply Sec. 220, 68 Stat. 596, as amended; 12 U.S.C. 1715k.)

### PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

#### Subpart C—Eligibility Requirements—Moderate Income Projects

In § 221.518 paragraph (a) is amended to read as follows:

**§ 221.518 Maximum interest rate.**

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 8½ percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after August 25, 1973. Interest shall be payable in monthly installments on the principal amount of the mortgage outstanding on the due date of each installment.

• • • • • •

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies Sec. 221, 68 Stat. 599, as amended; 12 U.S.C. 1715l.)

### PART 232—NURSING HOMES AND INTERMEDIATE CARE FACILITIES MORTGAGE INSURANCE

#### Subpart A—Eligibility Requirements

In § 232.29 paragraph (a) is amended to read as follows:

**§ 232.29 Maximum interest rate.**

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 8½ percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after August 25, 1973.

• • • • • •

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies Sec. 232, 73 Stat. 663; 12 U.S.C. 1715w.)

### PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

#### Subpart A—Eligibility Requirements—Individually Owned Units

In § 234.29 paragraph (a) is amended to read as follows:

**§ 234.29 Maximum interest rate.**

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 8½ percent per annum with respect to mortgages insured on or after August 25, 1973.

• • • • • •

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies Sec. 234, 75 Stat. 160; 12 U.S.C. 1715y.)



V38-174 SEP 10 73 XUM

## PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

### Subpart D—Eligibility Requirements—Rehabilitation Sales Projects

Section 235.540 is amended to read as follows:

**§ 235.540 Maximum interest rate.**

The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 8½ percent per annum with respect to mortgages insured on or after August 25, 1973.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies Sec. 235, 82 Stat. 477; 12 U.S.C. 1715z.)

## PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENTS FOR RENTAL PROJECTS

### Subpart A—Eligibility Requirements for Mortgage Insurance

Section 236.15 is amended to read as follows:

**§ 236.15 Maximum interest rate.**

The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 8½ percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after August 25, 1973.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies Sec. 236, 52 Stat. 498; 12 U.S.C. 1715z-1.)

## PART 241—SUPPLEMENTARY FINANCING FOR INSURED PROJECT MORTGAGES

### Subpart A—Eligibility Requirements

Section 241.75 is amended to read as follows:

**§ 241.75 Maximum interest rate.**

The loan shall bear interest at the rate agreed upon by the lender and the borrower, which rate shall not exceed 8½ percent per annum with respect to loans insured on or after August 25, 1973. Interest shall be payable in monthly installments on the principal then outstanding.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies Sec. 241, 82 Stat. 508; 12 U.S.C. 1715z-b.)

## PART 242—MORTGAGE INSURANCE FOR HOSPITALS

### Subpart A—Eligibility Requirements

Section 242.33 is amended to read as follows:

**§ 242.33 Maximum interest rate.**

The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 8½ percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after August 25, 1973. Interest shall be payable in monthly installments on the principal then outstanding.

(Sec. 211, 52 Stat. 23; 12 U.S.C. 1715b. Interprets or applies Sec. 242, 82 Stat. 5999; 12 U.S.C. 1715z-7.)

## PART 244—MORTGAGE INSURANCE FOR GROUP PRACTICE FACILITIES

### Subpart A—Eligibility Requirements

In § 244.45 paragraph (a) is amended to read as follows:

**§ 244.45 Maximum interest rate.**

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 8½ percent per annum with respect to mortgages receiving initial endorsement (or endorsement in cases involving insurance upon completion) on or after August 25, 1973.

* * * * *

(Sec. 1104, 80 Stat. 1275; 12 U.S.C. 1749aaa–3)

*Effective date.*—These amendments are effective as of August 25, 1973.

SHELDON B. LUBAR,
*Assistant Secretary-Commissioner for Housing Production and Mortgage Credit.*

[FR Doc.73–19183 Filed 9–7–73;8:45 am]

## Title 25—Indians

## CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

### SUBCHAPTER M—FORESTRY

## PART 141—GENERAL FOREST REGULATIONS

### Sales of Timber

The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9).

Beginning on page 9828 of the FEDERAL REGISTER of April 20, 1973 (38 FR 9828), there was published a notice of proposed rulemaking to revise §§ 141.7, 141.9, 141.12, 141.16, and 141.19 of Title 25 of the Code of Federal Regulations. The purpose of the revision is to increase the stumpage value limitation stated in §§ 141.7(c), 141.12, and 141.19(d) from $500 to $2,500; to increase the stumpage value limitation stated in § 141.9(b) from $5,000 to $10,000; to increase advance payments for allotment timber stated in § 141.16 from 15 to 25 percent of the stumpage value, calculated at the bid price, within 30 days of contract approval and before cutting begins, in contracts that are more than 3 years duration permissive, rather than mandatory as now stipulated by regulation; and to make editorial changes. The regulations were proposed pursuant to the authority contained in secs. 7, 8, 36 Stat. 857, 25 U.S.C. 406, 407; and sec. 6, 48 Stat. 986, 25 U.S.C. 466; 47 Stat. 1417, 25 U.S.C. 413.

Interested persons were given 30 days in which to submit written comments, suggestions or objections with respect to the proposed regulations. No objections have been received and the proposed regulations are hereby adopted without change and are set forth below.

The revised 25 CFR §§ 141.7, 141.9, 141.12, 141.16, and 141.19 shall become effective on October 10, 1973.

WILLIAM L. ROGERS,
*Deputy Assistant Secretary of the Interior.*

AUGUST 31, 1973.

**§ 141.7 Timber sales from unallotted and allotted lands.**

(a) On reservations where the volume of timber available for cutting is in excess of that which is being developed by the Indians, open market sales of Indian timber will be authorized: *Provided*, That consent is given by the authorized representative of the tribe for tribal timber and by the owners of a majority Indian interest in trust or restricted timber on allotted lands. The consent of the Secretary is required in all cases.

(b) The Secretary may sell the timber on any Indian land held under a trust or other patent containing restrictions on alienations without the consent of the owners when in his judgment such action is necessary to prevent loss of values resulting from fire, insects, disease, windthrow, or other catastrophes.

(c) Unless otherwise authorized by the Secretary, sales from unallotted lands, allotted lands, or a combination of these two ownerships having a stumpage value exceeding $2,500 will not be approved until an examination of the timber to be sold has been made by a qualified forest officer and a report setting forth all pertinent information has been submitted to the officer authorized to approve the contract as provided in § 141.13. In all such sales of timber exceeding $2,500 in value, the timber shall be appraised and sold at not less than its appraised value.

**§ 141.9 Timber sales without advertisement.**

Sales of timber may be made without advertisement with the consent of the authorized representative of the tribe for tribal timber or with the consent of the owners of a majority Indian interest in trust or restricted timber on allotted lands, and the approval of the Secretary: (a) To Indians or non-Indians when the timber is to be cut in conjunction with the granting of a right-of-way or authorized occupancy, or must be cut to protect the forest from injury, or if it is impractical to secure competition by formal advertising procedures, or when otherwise specifically authorized by statutes or regulations; or (b) To Indians who are members of the tribe for stumpage value not exceeding $10,000. Such contracts shall not be made for a longer term than 2 years. The stumpage rates in connection with such sales shall be established by the approving officer after due appraisal procedure. Timber contract forms executed under authority hereof shall be those stipulated for the sale of timber under § 141.12, and shall carry the bond requirement stipulated in § 141.14. No more than one such sale without advertisement may be made to any person or operating group of persons in any 1 calendar year. In the case of each negotiated transaction the approving officer shall establish a documented record of the transaction, including a written determination and finding that the transaction is of a type or class allowing the negotiation procedures or warranting departure from the procedures provided in § 141.8; the extent of solicitation and competition, or a statement of the facts upon which a finding of impracticability of securing competition is based; and a statement of the factors on which the award is based, including a determination as to the reasonability of the price accepted.





**§ 141.12 Contracts required.**

Except as provided in § 141.19(c), in sales of timber with an appraised stumpage value exceeding $2,500 the contract forms approved by the Secretary must be used unless a special form for a particular sale or class of sales is approved by the Secretary. The approved forms provide flexibility to meet variable conditions, but essential departures from the fundamental requirements of such contracts shall be made only with the approval of the Secretary. Unless otherwise directed, the contracts shall require that the proceeds be paid by remittance drawn to the Bureau of Indian Affairs and transmitted to the Superintendent. Contracts may be extended, modified, or assigned subject to approval of the approving officer, and may be terminated by the approving officer upon completion.

**§ 141.16 Advance payment for allotment timber.**

Unless otherwise authorized by the Secretary, and except in the case of lump sum sales, contracts for the sale of timber from trust allotments shall provide for the payment of 25 percent of the stumpage value, calculated at the bid price, within 30 days from the date of approval and before cutting begins. Additional advance payments may be specified in contracts that are more than 3 years in duration; however, no advance payment will be required that would make the sum of such payment and of advance deposits and advance payments previously applied against timber cut from the allotment exceed 50 percent of the bid stumpage value. The advance payments shall be credited against the allotment timber as it is cut and scaled, at the stumpage rates governing at the time of scaling.

**§ 141.19 Timber cutting permits.**

(a) Except as provided in § 141.20, all timber cutting that is not done under formal contract, pursuant to § 141.12, shall be done under timber cutting permit forms approved by the Secretary. Permits will be issued only with the consent of the Indian owner or the Secretary, for allotted lands, as authorized in § 141.13(b). Such consents to the issuance of cutting permits shall stipulate the minimum stumpage rates at which timber may be sold under permit.

(b) Free-use cutting permits may be issued for specified species and types of forest products by persons authorized under § 141.13 to execute timber contracts. Timber cut under this authority may be limited as to sale or exchange for other goods or services.

(c) An Indian having sole beneficial interest in an allotment may be issued an approved form of special permit to cut and sell designated timber from such allotment. The special permit shall include provision for payment by the Indian of administrative expenses pursuant to § 141.18. Unless waived by the Secretary, the permit shall also require the Indian to make a deposit with the Secretary to be returned to the Indian upon satisfactory completion of the permit or to be used by the Secretary in his discretion for planting or other work to offset damage to the land or the timber caused by the Indian's failure to comply with the provisions of the permit. As a condition to granting a special permit under authority of this paragraph, the Indian may be required to provide evidence acceptable to the Secretary that he has arranged a bona fide sale of the timber to be cut, on terms that will protect the Indian's interests. In special cases, the Secretary may authorize exceptions to the requirement of sole beneficial interest in an allotment.

(d) Permits to be valid must be approved by the Secretary. The stumpage value which may be cut in 1 calendar year by any individual under authority of paragraphs (a) and (b) of this section shall not exceed $2,500, but this limitation shall not apply to cutting under authority in paragraph (c) of this section. Essential departures from the fundamental requirements for issuance of special allotment timber cutting permits under authority of paragraph (c) of this section shall be made only with the approval of the Secretary.

[FR Doc.73–19099 Filed 9–7–73;8:45 am]

## Title 40—Protection of the Environment

## CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

### SUBCHAPTER D—GRANTS

## PART 35—STATE AND LOCAL ASSISTANCE

### Appendix A—Cost-Effectiveness Analysis

On July 3, 1973, notice was published in the FEDERAL REGISTER that the Environmental Protection Agency was proposing guidelines on cost-effectiveness analysis pursuant to section 212(2)(c) of the Federal Water Pollution Act Amendments of 1972 (the Act) to be published as appendix A to 40 CFR part 35.

Written comments on the proposed rulemaking were invited and received from interested parties. The Environmental Protection Agency has carefully considered all comments received. No changes were made in the guidelines as earlier proposed. All written comments are on file with the agency.

*Effective date.*—These regulations shall become effective October 10, 1973.

Dated September 4, 1973.

JOHN QUARLES,
*Acting Administrator.*

APPENDIX A

COST EFFECTIVENESS ANALYSIS GUIDELINES

a. *Purpose.*—These guidelines provide a basic methodology for determining the most cost-effective waste treatment management system or the most cost-effective component part of any waste treatment management system.

b. *Authority.*—The guidelines contained herein are provided pursuant to section 212 (2)(C) of the Federal Water Pollution Control Act Amendments of 1972 (the Act).

c. *Applicability.*—These guidelines apply to the development of plans for and the selection of component parts of a waste treatment management system for which a Federal grant is awarded under 40 CFR, Part 35.

d. *Definitions.*—Definitions of terms used in these guidelines are as follows:

(1) *Waste treatment management system.*—A system used to restore the integrity of the Nation's waters. Waste treatment management system is used synonymously with "treatment works" as defined in 40 CFR, Part 35.905–15.

(2) *Cost-effectiveness analysis.*—An analysis performed to determine which waste treatment management system or component part thereof will result in the minimum total resources costs over time to meet the Federal, State or local requirements.

(3) *Planning period.*—The period over which a waste treatment management system is evaluated for cost-effectiveness. The planning period commences with the initial operation of the system.

(4) *Service life.*—The period of time during which a component of a waste treatment management system will be capable of performing a function.

(5) *Useful life.*—The period of time during which a component of a waste treatment management system will be required to perform a function which is necessary to the system's operation.

e. *Identification, selection and screening of alternatives*—(1) *Identification of alternatives.*—All feasible alternative waste management systems shall be initially identified. These alternatives should include systems discharging to receiving waters, systems using land or subsurface disposal techniques, and systems employing the reuse of wastewater. In identifying alternatives, the possibility of staged development of the system shall be considered.

(2) *Screening of alternatives.*—The identified alternatives shall be systematically screened to define those capable of meeting the applicable Federal, State, and local criteria.

(3) *Selection of alternatives.*—The screened alternatives shall be initially analyzed to determine which systems have cost-effective potential and which should be fully evaluated according to the cost-effectiveness analysis procedures established in these guidelines.

(4) *Extent of effort.*—The extent of effort and the level of sophistication used in the cost-effectiveness analysis should reflect the size and importance of the project.

f. *Cost-Effective analysis procedures*—(1) *Method of Analysis.*—The resources costs shall be evaluated through the use of opportunity costs. For those resources that can be expressed in monetary terms, the interest (discount) rate established in section (f)(5) will be used. Monetary costs shall be calculated in terms of present worth values or equivalent annual values over the planning period as defined in section (f)(2). Non-monetary factors (e.g., social and environmental) shall be accounted for descriptively in the analysis in order to determine their significance and impact.



V 38-174 SEP 10 73 XUM

The most cost-effective alternative shall be the waste treatment management system determined from the analysis to have the lowest present worth and/or equivalent annual value without overriding adverse nonmonetary costs and to realize at least identical minimum benefits in terms of applicable Federal, State, and local standards for effluent quality, water quality, water reuse and/or land and subsurface disposal.

(2) *Planning period.*—The planning period for the cost-effectiveness analysis shall be 20 years.

(3) *Elements of cost.*—The costs to be considered shall include the total values of the resources attributable to the waste treatment management system or to one of its component parts. To determine these values, all monies necessary for capital construction costs and operation and maintenance costs shall be identified.

Capital construction costs used in a cost-effectiveness analysis shall include all contractors' costs of construction including overhead and profit; costs of land, relocation, and right-of-way and easement acquisition; design engineering, field exploration, and engineering services during construction; administrative and legal services including costs of bond sales; startup costs such as operator training; and interest during construction. Contingency allowances consistent with the level of complexity and detail of the cost estimates shall be included.

Annual costs for operation and maintenance (including routine replacement of equipment and equipment parts) shall be included in the cost-effectiveness analysis. These costs shall be adequate to ensure effective and dependable operation during the planning period for the system. Annual costs shall be divided between fixed annual costs and costs which would be dependent on the annual quantity of wastewater collected and treated.

(4) *Prices.*—The various components of cost shall be calculated on the basis of market prices prevailing at the time of the cost-effectiveness analysis. Inflation of wages and prices shall not be considered in the analysis. The implied assumption is that all prices involved will tend to change over time by approximately the same percentage. Thus, the results of the cost effectiveness analysis will not be affected by changes in the general level of prices.

Exceptions to the foregoing can be made if their is justification for expecting significant changes in the relative prices of certain items during the planning period. If such cases are identified, the expected change in these prices should be made to reflect their future relative deviation from the general price level.

(5) *Interest (discount) rate.*—A rate of 7 percent per year will be used for the cost-effectiveness analysis until the promulgation of the Water Resources Council's "Proposed Principles and Standards for Planning Water and Related Land Resources." After promulgation of the above regulation, the rate established for water resource projects shall be used for the cost-effectiveness analysis.

(6) *Interest during construction.*—In cases where capital expenditures can be expected to be fairly uniform during the construction period, interest during construction may be calculated as $I \times \frac{1}{2} P \times C$ where:

I = the interest (discount) rate in Section f(5).
P = the construction period in years.
C = the total capital expenditures.

In cases when expenditures will not be uniform, or when the construction period will be greater than three years, interest during construction shall be calculated on a year-by-year basis.

(7) *Service life.*—The service life of treatment works for a cost-effectiveness analysis shall be as follows:

| | |
|---|---|
| Land | Permanent |
| Structures (includes plant buildings, concrete process tankage, basins, etc.; sewage collection and conveyance pipelines; lift station structures; tunnels; outfalls) | 30–50 years |
| Process equipment (includes major process equipment such as clarifier mechanism, vacuum filters, etc.; steel process tankage and chemical storage facilities; electrical generating facilities on standby service only). | 15–30 years |
| Auxiliary equipment (includes instruments and control facilities; sewage pumps and electric motors; mechanical equipment such as compressors, aeration systems, centrifuges, chlorinators, etc.; electrical generating facilities on regular service). | 10–15 years |

Other service life periods will be acceptable when sufficient justification can be provided.

Where a system or a component is for interim service and the anticipated useful life is less than the service life, the useful life shall be substituted for the service life of the facility in the analysis.

(8) *Salvage value.*—Land for treatment works, including land used as part of the treatment process or for ultimate disposal of residues, shall be assumed to have a salvage value at the end of the planning period equal to its prevailing market value at the time of the analysis. Right-of-way easements shall be considered to have a salvage value not greater than the prevailing market value at the time of the analysis.

Structures will be assumed to have a salvage value if there is a use for such structures at the end of the planning period. In this case, salvage value shall be estimated using straightline depreciation during the service life of the treatment works.

For phased additions of process equipment and auxiliary equipment, salvage value at the end of the planning period may be estimated under the same conditions and on the same basis as described above for structures.

When the anticipated useful life of a facility is less than 20 years (for analysis of interim facilities), salvage value can be claimed for equipment where it can be clearly demonstrated that a specific market or reuse opportunity will exist.

[FR Doc.73-19104 Filed 9-7-73;8:45 am]

## Title 9—Animals and Animal Products

### CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE (MEAT AND POULTRY PRODUCTS INSPECTION), DEPARTMENT OF AGRICULTURE

### PART 319—DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION

#### Frankfurters and Certain Other Cooked Sausage Products; Correction

The notice published in the FEDERAL REGISTER of August 23, 1973 (38 FR 22621, FR Doc. 73-17902) concerning the postponement of the effective date of amended regulations for frankfurters and certain other cooked sausage products contains an error. In the fourth paragraph, the third line, the date "May 5, 1973" should read "May 5, 1971."

Done at Washington, D.C., on September 4, 1973.

G. H. WISE,
*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc.73-19126 Filed 9-7-73;8:45 am]

## Title 14—Aeronautics and Space

### CHAPTER I—FEDERAL AVIATION ADMINISTRATION

[Docket No. 73-GL-8; Amdt. 39-1715]

### PART 39—AIRWORTHINESS DIRECTIVES

#### Allison Model 250-C20 Engines

There have been failures of Part Number 6875621 fuel tube assemblies in Detroit Diesel Allison Model 250-C20 engines, which caused complete engine stoppage and the release of fuel into the engine compartment. The manufacturer has determined that similar failures could occur. Consequently, it has issued Allison Commercial Engine Bulletin No. 250-C20 CEB-1040 to provide additional supports for the fuel tube to prevent failure. Since the condition described herein may exist or develop in other engines of this same type design, an Airworthiness Directive is being issued requiring installation of the added fuel tube supports specified in Allison Commercial Engine Bulletin No. 250-C20 CEB-1040.

Since immediate action is required in the interest of safety, compliance with the notice and public procedure provisions of the Administrative Procedures Act is not practical and good cause exists for making this amendment effective in less than thirty days. In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 FR 13697 and 14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

ALLISON. Applies to Detroit Diesel Allison Model 250-C20 engine.

Compliance required within the next fifty hours time in service unless already accomplished.

To prevent failure of the P/N 6875621 power turbine governor-to-fuel control fuel tube, install the fuel tube supports specified in Allison Commercial Engine Bulletin 250-C20 CEB-1040 dated May 10, 1973, Revision 1 dated June 28, 1973, or later FAA approved revisions or an equivalent procedure approved by the Chief, Engineering and Manufacturing Branch, Great Lakes Region.

(Sec. 313(a), 601, 603 Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c).))

Issued in Des Plaines, Illinois, on August 31, 1973.

This amendment is effective September 14, 1973.

LYLE K. BROWN,
*Director, Great Lakes Region.*

[FR Doc.73-19121 Filed 9-7-73;8:45 am]





[Airworthiness Docket No. 73-SW-28; Amdt. 39-1711]

### PART 39—AIRWORTHINESS DIRECTIVES

#### Bell Model 47 Series Helicopters

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring a one-time inspection for sharp notches in the thread root and the thread relief groove of main rotor blade grips, P/N 47-120-135-1, -2, -3 or P/N 47-120-252-1, -3 on Bell Model 47 series helicopters was published in 38 FR 19048.

Interested persons have been afforded an opportunity to participate in the making of the amendment. One letter was received that recommended retirement of the affected main rotor grips, P/N 47-120-135-1, -2, and 47-120-252-1 and -3, without regard to their condition. Since compliance with the proposed inspections will assure airworthiness of these grips, the rule is herein published as proposed.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

BELL. Applies to Model 47 series helicopters certificated in all categories that are equipped with main rotor blade grips, P/N 47-120-135-1, -2, -3 or P/N 47-120-252-1, -3.

Compliance required within the next 100 hours' time in service after the effective date of this A.D., unless already accomplished.

To prevent possible fatigue cracks from developing, accomplish the following for each main rotor blade grip:

(a) Inspect the grip thread relief fillet. The inboard radius and bottom of the fillet must have a smooth finish and be free of nicks or sharp tool marks (Ref. Figure 1-22 of Bell 47D-1, 47G and 47G-2 Maintenance and Overhaul Instructions).

(b) Inspect the root radius of the 4½ inch diameter threads for sharp notches. The root radius must be smooth and free of sharp notches or grooves.

(c) If the grip thread relief fillet is not as specified in subparagraph (a) or has nicks or sharp tool marks, or if the thread root radius has a sharp notch or groove, replace the affected grip prior to next flight, except the helicopter may be flown in accordance with FAR 21.197 to a base where the grip may be replaced.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, and 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c).)

This amendment becomes effective October 10, 1973.

Issued in Fort Worth, Texas, on August 28, 1973.

HENRY L. NEWMAN,
*Director, Southwest Region.*

[FR Doc.73-19118 Filed 9-7-73;8:45 am]

[Docket No. 73-NW-11-AD; Amdt. 39-1713]

### PART 39—AIRWORTHINESS DIRECTIVES

#### Boeing 737 Series Airplanes

There have been several cracks of the web and lower flange on the aft portion of the inboard flap track of the outboard T.E. flap on Boeing 737 series aircraft. These cracks, if allowed to progress, could result in loss of the outboard T.E. flap. Since this condition is likely to exist or develop in other airplanes of the same design, an Airworthiness Directive is being issued to require inspection of the flap track for cracks and repair if necessary on all affected Boeing 737 series aircraft.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation regulations is amended by adding the following new Airworthiness Directive:

BOEING. Applies to inboard flap track P/N 65-46428-5 or -7 of the outboard T.E. flap installation of all Boeing 737 series aircraft certified in all categories.

Compliance required, on track P/N 65-46428-5 or -7 with 7000 or more flights, within the next 400 flights, unless already accomplished within the last 800 flights, and at intervals thereafter not to exceed 1200 flights from the last inspection.

(a) To detect cracks in the aft portion of the webs and lower flanges of the inboard track P/N 65-46428-5 or -7 of the outboard flap, conduct the inspections called for in paragraph 4 of Boeing Alert Service Bulletin 737-57-1082 or later FAA approved Revisions.

(b) If cracks are detected, accomplish one of the following:

(1) Repair in accordance with instruction contained in Boeing Customer Support Engineering letter 6-2710-1893 dated 16 August, 1973 or repair instructions provided in revisions to Boeing Alert Service Bulletin 737-57-1082 or in a manner approved by Chief, Engineering and Manufacturing Branch, FAA, Northwest Region. Tracks with cracks extending beyond the limits of these repair instructions must be replaced per (2) or (3) below.

(2) Replace the track with a similar track P/N 65-46428-5 or -7 and conduct the inspections required by this Directive.

(3) Replace with track P/N 65-46428-11. Installation of this track constitutes terminating action.

(c) Tracks repaired in accordance with (b)(1) above are to be reinspected using dye penetrant or eddy current inspection methods at intervals not to exceed:

(1) 3,000 flights—for tracks with repaired flanges.

(2) 1,000 flights—for tracks with a web cracked between two fastener holes.

(3) 500 flights—for tracks with cracks stopped drilled and ending in the web.

(d) For the purpose of complying with this Airworthiness Directive, subject to acceptance by the assigned FAA maintenance inspector, the number of flights may be determined by dividing each airplane's hours' time-in-service by the operator's fleet average time from takeoff to landing for the airplane type.

The manufacturing specification and procedures identified and described in this Directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1).

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), and 1421, and 1923); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

This amendment becomes effective on September 10, 1973.

Issued in Seattle, Washington, on August 30, 1973.

C. B. WALK, JR.,
*Director, Northwest Region.*

[FR Doc.73-19120 Filed 9-7-73;8:45 am]

[Docket No. 73-NE-8; Amdt. 39-1712]

### PART 39—AIRWORTHINESS DIRECTIVES

#### Pratt & Whitney Model JT3D Engines

Amendment 39-1687 (38 FR 18641) AD 73-15-2 requires the inspection of the turbine nozzle case on JT3D Engines for missing lugs within 1,000 hours time in service and at 1,000 hour intervals thereafter. After issuing amendment 39-1687, the agency determined that turbine nozzle cases with part number 669045 had been inadvertently omitted from the coverage of the AD. Therefore, the AD is being amended to include turbine nozzle case part number 669045 within the provisions of the applicability paragraph of the AD.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR 11.89), § 39.13 of Part 39 of the Federal Aviation regulations, is amended by inserting the numbers 669045 after the numbers 626669 in the applicability paragraph.

This amendment becomes effective September 14, 1973.

(Sec. 313(a), 601, 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Burlington, Massachusetts, on August 29, 1973.

FERRIS J. HOWLAND,
*Director, New England Region.*

[FR Doc.73-19119 Filed 9-7-73;8:45 am]

[Airspace Docket No. 72-CE-29]

### PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

#### Designation of Transition Area

On page 16913 of the FEDERAL REGISTER dated June 27, 1973, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation regulations so as to designate a transition area at Red Oak, Iowa.

Interested persons were given 30 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby



V38-174 SEP 10 73 XUM

adopted without change and is set forth below.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

This amendment shall be effective 0901 G.m.t., November 8, 1973.

Issued in Kansas City, Missouri, on August 21, 1973.

JOHN R. WALLS,
*Acting Director,*
*Central Region.*

In § 71.181 (38 FR 435), the following transition area is added:

RED OAK, IOWA

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Red Oak Municipal Airport (latitude 41°00'40" N., longitude 95°15'25" W.); and within 3 miles each side of a 335° bearing from the Red Oak Municipal Airport, extending from the 6-mile radius to 9½ miles northwest of the airport; and that airspace extending from 1,200 feet above the surface within 4½ miles southwest and 9½ miles northeast of the 335° bearing from the Red Oak, Iowa Airport extending from the airport to 18½ miles northwest of the airport.

[FR Doc.73-19122 Filed 9-7-73;8:45 am]

## CHAPTER II—CIVIL AERONAUTICS BOARD

### SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-821; Amdt. 208-3]

### PART 208—TERMS, CONDITIONS, AND LIMITATIONS OF CERTIFICATES TO ENGAGE IN SUPPLEMENTAL AIR TRANSPORTATION

#### Prohibited Control of a Supplemental Air Carrier; Deletion

Adopted by the Civil Aeronautics Board at its office in Washington, D.C.

By Order 73-8-17, adopted August 2, 1973, the Board denied the various "routine" petitions for rule making filed in the Supplemental Renewal Proceeding, Docket 23944, including a request by Capitol International Airways, Inc. (Capitol) to amend Part 208 of the Economic Regulations so as to delete § 208.31 [1] in its entirety. In denying this request, the Board stated that although it was not persuaded to delete this provision entirely, it would in due course revise the section so as to conform with the present text of section 408(a)5) of the Federal Aviation Act, 49 U.S.C. 1378 (a)(5). Upon further consideration, we have now decided that § 208.31 of our regulations may indeed be deleted, as superfluous.

Section 208.31 was adopted long before the 1969 amendment to the Act, at a time when approval of the acquisition of control of an air carrier was required only if the acquirer was one of the persons specifically described in the Act, to wit, any air carrier or person controlling an air carrier, any other common carrier, or any other person engaged in any other phase of aeronautics. Section 208.31 of our regulations therefore imposed special requirements applicable to acquisition of control of supplemental air carriers by certain persons not specified in the Act. However, Public Law 91-62,[2] inter alia, amended section 408(a)(5) so as to require Board approval of the acquisition of control of any air carrier by "any • • • person," rather than only those specifically described.[3] Thus there is no longer any real need for retaining our special regulation with respect to acquisition of control of one particular class of air carrier by certain particular persons.

Since this amendment is editorial in nature, in that it merely deletes a regulation which has become superfluous, and it imposes no burden on any person, the Board finds that notice and public procedure hereon are unnecessary, and the amendment may become effective immediately.

Accordingly, the Board hereby amends Part 208 of its Economic Regulations (14 CFR, Part 208) effective September 4, 1973, as follows:

1. Amend the Table of Contents of Subpart A of Part 208, by deleting and reserving § 208.31, as follows:

Sec.
208.31 [Reserved]

§ 208.31 [Reserved]

2. Delete and reserve § 208.31.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743 (49 U.S.C. 1324))

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.73-19166 Filed 9-7-73;8:45 am]

### SUBCHAPTER F—POLICY STATEMENTS

[Reg. PS-54; Amdt. 399-33]

### PART 399—STATEMENTS OF GENERAL POLICY

#### Treatment of Depreciation of Wide-Bodied Aircraft for Rate Purposes

Adopted by the Civil Aeronautics Board at its office in Washington, D.C.

In notice of proposed rule making PSDR-34,[4] the Board proposed to amend Part 399 of the regulations, Statements of General Policy (14 CFR, Part 399), to assign a common depreciation life of 16 years to all wide-bodied aircraft for rate-making purposes.

Pursuant to the notice, comments have been filed by the Department of Defense and Pan American World Airways, Inc. Upon consideration, the Board has determined to adopt the rule as proposed. The tentative findings and conclusions set forth in PSDR-34 are incorporated herein and made final.

The comment of the Department of Defense supports the proposed rule. Pan American does not object to a common service life for all wide-bodied aircraft, but it contends that that service life should be set at 15 years rather than 16 years. This request is denied.

Pan American argues that the weighted average service life of all (three-engine and four-engine) owned and leased wide-bodied aircraft is closer to 15 than 16 year , and that the average service life for owned B-747 aircraft is 14.6 years. With respect to their first point, we are not concerned in this proceeding with reviewing the reasonableness of the rates set for three-engine equipment, the question here being the reasonableness of using 16 years for the B-747. As to the latter, we tentatively found in the notice, and affirm here, that 16 years was reasonable even though at the top of the range for owned aircraft, since it represented the average for leased aircraft. In our judgment, reliance on the average for leased aircraft is fully warranted in light of the considerations expressed in our determination in Phase I of the Domestic Passenger-Fare Investigation.[5]

Pan American also asserts that the lesser flexibility of four-engine wide-bodied equipment must be taken into account. As we pointed out in the notice, the anticipated increase in traffic density should prolong the useful life of the four-engine wide-body to such an extent as to offset any lack of flexibility it may ultimately have vis-a-vis its three-engined counterparts.

Finally, it may be noted that Pan American, the only carrier to question the 16-year life, depreciates its own B-747 aircraft over a period of 16 years for accounting purposes.

Since the rule is a statement of policy the amendment may be made effective immediately.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 399 of the Statements of General Policy (14 CFR, Part 399) as follows:

Amend § 399.42, the section as amended to read as follows:

§ 399.42 **Flight equipment depreciation and residual values.**

For rate-making purposes, it is the policy of the Board that flight equipment depreciation will be based on the conventional straight-line method of accrual, employing the service lives and residual values set forth below:

| | Service life in years | Residual value as percent of cost |
|---|---|---|
| | | *Percent* |
| Turbofan equipment: | | |
| 4-engine | 14 | 2 |
| 3-engine | 14 | 2 |
| 2-engine | 14 | 2 |
| Turbojet equipment: | | |
| 4-engine | 10 | 5 |
| 2-engine | 10 | 5 |
| Turboprop equipment: | | |
| 4-engine | 12 | 5 |
| 2-engine | 10 | 15 |
| Wide-body equipment: | | |
| 4-engine | 16 | 10 |
| 3-engine | 16 | 10 |

• • • • •

(Sections 204 and 404 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743 and 760 (49 U.S.C. 1324 and 1374).)

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.73-19164 Filed 9-7-73;8:45 am]

## Title 21—Food and Drugs

## CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### SUBCHAPTER A—GENERAL

### PART 8—COLOR ADDITIVES

PYROGALLOL AND FERRIC AMMONIUM CITRATE; CONFIRMATION OF EFFECTIVE DATE

In the matter of listing pyrogallol and ferric ammonium citrate for safe use in coloring plain and chromic catgut sutures:

1. Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), (d), 74 Stat. 399-403; 21 U.S.C. 376 (b), (c), (d)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), notice is given that no objections or requests for hearing were filed in response to the order in the above-identified matter published in the FEDERAL REGISTER of May 16, 1973 (38 FR 12803). Accordingly, the regulations (§§ 8.6017 and 8.6018) promulgated thereby became effective July 16, 1973.

2. Effective September 10, 1973, § 8.501 *Provisional lists of color additives* is amended in the table in paragraph (f) by deleting "Ferric ammonium citrate" and "Pyrogallol" from the list of color additives.

Dated August 31, 1973.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[FR Doc.73-19088 Filed 9-7-73;8:45 am]

### SUBCHAPTER B—FOOD AND FOOD PRODUCTS

### PART 121—FOOD ADDITIVES

#### Subpart F—Food Additives Resulting From Contact With Containers or Equipment and Food Additives Otherwise Affecting Food

DIISONONYL PHTHALATE

The Commissioner of Food and Drugs, having evaluated the data in a petition (FAP 2B2752) filed by Esso Research and Engineering Co., Post Office Box 111, Linden, NJ 07036, and other relevant material, concludes that the food additive regulations should be amended, as set forth below, to provide for the safe use of diisononyl phthalate as a plasticizer in vinyl chloride homo- and/or copolymer films for food contact use.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1), 72 Stat. 1786; 21 U.S.C. 348(c)(1)) and under authority delegated to the Commissioner (21 CFR 2.120), § 121.2511 is amended in paragraph (b) by alphabetically adding a new item to the list of substances, as follows:

§ 121.2511 **Plasticizers in polymeric substances.**

• • • • •

(b) List of substances:

| | *Limitations* |
|---|---|
| • • • • • | |
| Diisononyl phthalate. | For use only at levels not exceeding 43 percent by weight of permitted vinyl chloride homo- and/or copolymers used in contact with food only of the types identified in § 121.2526(c), Table 1, under categories I, II, IV-B, and VIII, at temperatures not exceeding room temperature. The average thickness of such polymers in the form in which they contact food shall not exceed 0.005 inch. |
| • • • • • | |

Any person who will be adversely affected by the foregoing order may at any time on or before October 10, 1973, file with the Hearing Clerk, Food and Drug Administration, Department of Health, Education, and Welfare, Rm. 6-88, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds for the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Objections may be accompanied by a memorandum or brief in support thereof. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

*Effective date.*—This order shall become effective on September 10, 1973.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)).)

Dated August 31, 1973.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[FR Doc.73-19087 Filed 9-7-73;8:45 am]

### SUBCHAPTER C—DRUGS

### PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

#### Prednisolone Tertiary Butylacetate

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (11-080V) filed by Merck Sharp & Dohme Research Laboratories, Div. of Merck & Co., Inc., Rahway, NJ 07065, proposing revised labeling for the safe and effective use of prednisolone *tertiary* butylacetate as an anti-inflammatory agent for the treatment of horses, dogs, and cats. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), the following new section is added to Part 135b:

§ 135b.89 **Prednisolone tertiary butylacetate suspension, veterinary.**

(a) *Specifications.*—Prednisolone *tertiary* butylacetate (Pregna-1,4-diene-3, 20-dione-11B, 17α 21-triol 21-(3,3, dimethyl butyrate) suspension, veterinary contains 20 milligrams of prednisolone tertiary butylacetate per milliliter. It is sterile.

(b) *Sponsor.*—See code No. 023 in § 135.501(c) of this chapter.

(c) *Conditions of use.*—(1) It is used as an anti-inflammatory agent in horses, dogs, and cats.

(2) It is administered to horses intramuscularly at a dosage level of 100 to 300 milligrams and intrasynovially at a dosage level of 50 to 100 milligrams. It is administered intramuscularly to dogs and cats at a dosage level of 1 milligram per 5 pounds of body weight and intrasynovially at a dosage level of 10 to 20 milligrams. Intramuscular retreatment of horses in 24 to 48 hours may be necessary, depending on the general condition of the animal and the severity and duration of the disease.

[1] 14 CFR § 208.31. Section 208.31 provides as follows:

§ 208.31 *Prohibited control of a supplemental air carrier.*

Control of a supplemental air carrier shall not, without prior application to and approval by the Board, be transferred, directly or indirectly, by assignment, transfer of voting stock, or otherwise, to any person who controlled, or participated in control of, as a partner, officer, or director, any air carrier theretofore found by the Board to have committed knowing and willful violations of the Civil Aeronautics Act of 1938, as amended, the Federal Aviation Act of 1958, or any order, rule, or regulation issued pursuant to said Acts during the period such person controlled or participated in the control of said air carrier. Any such application may be approved by the Board with or without hearing. No such application shall be denied unless the Board finds, after notice to said supplemental air carrier and the parties to the proposed transfer, and after opportunity for hearing, that, in the event the proposed transfer is consummated, said supplemental air carrier will thereby be rendered unfit, unwilling, or unable to conform to the provisions of the Federal Aviation Act of 1958, and the rules, regulations, and requirements of the Board thereunder. For the purposes of this section, a transfer of 20% or more of the voting stock of the supplemental air carrier shall be deemed to constitute prima facie evidence of a transfer of control so as to require the filing of an appropriate application with the Board.

[2] 83 Stat. 103, approved by the President on August 20, 1969.

[3] Section 408(a)(5) was also amended by the addition of a proviso authorizing the Board to exempt by order any such acquisition of a noncertificated air carrier from this requirement to the extent and for such periods as may be in the public interest.

[4] 38 FR 14695, June 4, 1973 (Docket 25569).

[5] PS-45, 36 FR 7228, April 16, 1971 (Docket 21866-1).





FEDERAL REGISTER, VOL. 38, NO. 174—MONDAY, SEPTEMBER 10, 1973

V 38-174 SEP 10 73 XUM

(3) Clinical and experimental data have demonstrated that corticosteroids administered orally or parenterally to animals may induce the first stage of parturition when administered late in pregnancy and may precipitate premature parturition followed by dystocia, fetal death, retained placenta, and metritis.

(4) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

*Effective date.*—This order shall be effective on September 10, 1973.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated August 31, 1973.

FRED J. KINGMA,
*Acting Director,*
*Bureau of Veterinary Medicine.*

[FR Doc.73-19086 Filed 9-7-73;8:45 am]

SUBCHAPTER C—DRUGS

## PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

### Tetracycline Oral Veterinary

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (65-004V) filed by the Upjohn Co., Kalamazoo, MI 49001, proposing revised indications for use of tetracycline boluses in calves. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), § 135c.34 is amended by revising paragraph (b)(1) and (4), and by adding a new item 3 to table 2 in paragraph (e), as follows:

**§ 135c.34 Tetracycline oral veterinary.**

* * * * *

(b) *Sponsor.*—(1) See code No. 030 in § 135.501(c) of this chapter for conditions of use provided for in items 1 and 2 of tables 1 and 2 in paragraph (e) of this section.

* * * * *

(4) See code No. 037 in § 135.501(c) of this chapter for conditions of use provided for in table 1 and in table 2, items 1 and 2 in paragraph (e) of this section.

* * * * *

(e) *Conditions of use.* * * *

TABLE 2—IN BOLUSES

| Ingredient | Milligrams per bolus | Limitations | Indications for use |
|---|---|---|---|
| * * * | * * * | * * * | * * * |
| 3. Tetracycline..... | 500 | For calves; as tetracycline hydrochloride; administer orally 10 mg per lb of body weight per day divided into two daily doses for not more than 5 days; do not slaughter animals for food within 12 days of treatment; as sole source of tetracycline. Federal law restricts this drug to use by or on the order of a licensed veterinarian. | For treatment of bacterial pneumonia caused by organisms susceptible to tetracycline and bacterial enteritis caused by *E. coli* and Salmonella organisms susceptible to tetracycline. |

*Effective date.*—This order shall be effective September 10, 1973.

(Sec. 512(i), 82 Stat. 347; 21 U.S.C. 360b(i).)

Dated August 29, 1973.

FRED J. KINGMA,
*Acting Director,*
*Bureau of Veterinary Medicine.*

[FR Doc.73-19009 Filed 9-7-73;8:45 am]

## Title 41—Public Contracts and Property Management

## CHAPTER 3—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## PART 3-16—PROCUREMENT FORMS

### Solicitation Documents; Standardized Request for Proposed Format and Checklist

On April 19, 1973, a notice of proposed rule making was published in the FEDERAL REGISTER (38 FR 9671-9676) stating that the Department of Health, Education, and Welfare is considering an amendment to 41 CFR, Chapter 3, by adding a new § 3-16.5001, Standardized Request for Proposal (RFP) Format and Checklist for Solicitation Documents, to Subpart 3-16.50, Forms for Negotiated Procurements. The purpose of the amendment is to illustrate the acceptable minimum requirements for the format and content of requests for proposals.

Interested persons were invited to submit written data, views, or comments within 30 days after publication. Written comments were received, and after consideration of the views presented, the regulation is revised and adopted as set forth below.

(5 U.S.C. 301 (40 U.S.C. 486(c).)

*Effective date.*—These amendments shall become effective on September 10, 1973.

Dated August 31, 1973.

S. H. CLARKE,
*Deputy Assistant Secretary for Administration and Management.*

1. The table of contents for Part 3-16 is amended by adding the following entries:

**Subpart 3-16.50—Forms for Negotiated Procurement**

Sec.
3-16.5001 Standardized request for proposal (RFP) format and checklist for solicitation documents.

2. The new § 3-16.5001 is added as follows:

**§ 3-16.5001 Standardized request for proposal (RFP) format and checklist for solicitation documents.**

(a) Forms used for requesting proposals on negotiated procurements shall be in accordance with this subpart and FPR subpart 1-16.9.

(b) The purpose of these instructions is to establish the acceptable minimum requirements for the format and content of requests for proposals in order: (1) To assure that proposals are complete and contain all the essential information required by the Government, and (2) to assure a degree of uniformity in presentation which will facilitate appraisal of proposals by the Government.

(c) Generally, requests for proposals shall be in writing. Solicitations shall contain the information necessary to enable a prospective offeror to prepare a proposal, and shall contain the following information, if applicable to the procurement involved.

(d) The request for proposal shall consist of the following documents:

(1) Transmittal letter.

(2) Proposed contract provisions (including work statement).

(3) Instructions to offerors.

(i) General instructions.

(ii) Technical proposal instructions.

(iii) Business proposal instructions.

(e) Standard forms 33 and 33A will normally be used for fixed-price type contracts (procurement of hardware and administrative type supplies/services). If the forms 33 and 33A are not utilized, the business proposal instructions must include all required representations and certifications.

(f) The following format shall be utilized in preparing the transmittal letter for requests for proposals:

Date _____

Refer to RFP No._____

Gentlemen: You are invited to submit a proposal in accordance with the requirements of request for proposal No. ------ for (insert name of the procurement.

Your proposal must be received by the Contracting Officer no later than (insert date) and (time—local prevailing time) at (address to which proposals are to be sent).

Special attention is directed to the "Certification of Nonsegregated Facilities" of this solicitation. You are cautioned that failure to agree to the certification shall render your proposal nonresponsive to solicitations involving awards of contracts exceeding $10,000 which are not exempt from the provisions of the equal opportunity clause.

Your proposal must be prepared in accordance with the attached "Contract Provisions," and "Instructions to Offerors."

The RFP does not commit the Government to pay any cost for the preparation and submission of a proposal. It is also brought to your attention that the Contracting Officer is the only individual who can legally commit the Government to the expenditure of public funds in connection with this proposed procurement.

Requests for any information concerning this RFP should be referred only to (name and title of individual) who may be called on (area code and telephone number).

Sincerely,

_____

Include any of the following statements in the transmittal letter if they are applicable:

(1) If the contract is to be conditioned on the availability of funds, a clear statement of such condition must be added (see HEWPR 3-1.354).

(2) Conference of prospective offerors. The following is to be used when a preproposal conference is required. The language may be modified to adapt to the particular situation.





A conference will be held with prospective offerors at _____ on
(time)
_____, at _____
(date) (location)
for the purpose of providing information concerning the Government's requirements which may be helpful in the preparation of proposals, and to answer any questions which you have regarding this solicitation.

The success of this type of conference depends largely on the leadtime available to the Government for research in connection with questions submitted by offerors. Therefore, you are requested to mail written questions concerning any areas of uncertainty which, in your opinion, require clarification or correction, in sufficient time to be received on or before _____
Your questions should be submitted to the Contracting Officer _____ and the envelope should be marked, "Offerors Conference Question, RFP No. _____." A set of all questions and answers will be furnished simultaneously to all prospective offerors.

Because of space limitations, prospective contractors shall be limited to a total of ____ representatives.

Attendance at the preproposal conference is recommended; however, attendance is neither required nor a prerequisite for proposal submission, and will not be considered a factor in proposal evaluation.

(3) When the procurement involves a set-aside for labor surplus area or small business concerns, insert the following statement and include the appropriate "Notice of Set-Aside" clause in the request for proposal.

The prescribed clauses are set forth in FPR 1-1.706-5 and 6; and 1-1.804-2.

This is a ____ percent set-aside for (small business) (labor surplus area concerns).

(4) If multiple awards may be made insert the following: Multiple awards: More than one award may be made under this solicitation.

(5) Insert the following, if the offeror is to be informed of the Government's estimate of the level of effort required to accomplish the required effort.

(A) The Government considers the effort to be performed to require approximate man-hours as follows: (Insert a breakdown of the Government's man-hours estimates by categories.) These estimates are furnished for the offeror's information only and are not to be considered restrictive for proposal purposes; or

(B) To assist you in the preparation of your proposal, the Government considers the effort to be performed during this contract to be approximately (insert the total figure) man-hours. This number is furnished for the offeror's information only and is not considered restrictive for proposal purposes.

(6) The clause set forth in § 1-12.1102-2, *Listing of Employment Openings*, is included herein by reference. Instructions relative to the inclusion of the clause are set forth in the same FPR reference.

(g) Proposed contract provisions (including scope of work)—Each request for proposal shall contain the proposed contract provisions including the scope of work or specifications. In addition to the scope of work or specifications, this element of the request for proposal shall contain such information as the period of performance or delivery schedule, reporting requirements, the general provisions, any additional provisions, and special contract clauses.

(h) The instructions to offerors shall consist of three parts. The first will be "General Instructions," the second will be the instructions for preparation of the technical proposal and the third will be the instructions for the preparation of the business proposal. The following will precede the general instructions.

(i) *Instructions to Offeror.*—The following instructions establish the acceptable minimum requirements for the format and content of proposals. Special attention is directed to the requirements for technical and business proposals to be submitted in accordance with these instructions. You are advised that paramount consideration shall be given to the evaluation of technical proposals, as well as price, in the award of a contract.

The general instructions must contain the following statements:

(1) The proposal shall be based on a (insert type) of contract. In addition to the special provisions of this request for proposal, any resultant contract shall include the general provisions (form HEW , General Provisions for ). Any additional clauses required by Public Law, Executive order, or procurement regulations, in effect at the time of execution of the proposed contract will be included.

(2) The following shall be included unless the operating agency has authorized a different policy regarding the separation of proposals and inclusion of cost information in the technical proposal.

The proposal shall be in two parts: a "Technical Proposal" and a "Business Proposal." Each of the parts shall be separate and complete in itself so that evaluation of one may be accomplished independently of and concurrently with evaluation of the other. The technical proposal shall not contain any reference to cost, however, resources information, such as, data concerning labor hours and categories, materials, subcontracts, etc. shall be contained in the "Technical Proposal" so that the offeror's understanding of the scope of the work may be evaluated. It must disclose your technical approach in as much detail as possible, including, but not limited to the requirements of the technical proposal instructions.

(3) The wording set forth below may be modified if the operating agency has a policy of not requiring the separation of business and technical proposals.

The proposal shall be signed by an official authorized to bind your organization. ____ copies of your technical proposal and ____ copies of your business proposal shall be submitted to: (Insert complete address) as to where the proposal is to be sent and how the RFP is to be marked).

(4) LATE PROPOSALS AND MODIFICATIONS OF PROPOSALS

(This provision does not apply to normal revisions to proposals by offerors selected for discussions during the usual conduct of negotiations with such offerors or to withdrawal of proposals.)

(a) Any proposal received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made, and:

(1) It was sent by registered or certified mail not later than the fifth calendar day prior to the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th day of the month must have been mailed by the 15th or earlier);

(2) It was sent by mail (or telegram if authorized) and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation;

(3) It is the only proposal received; or

(4) It offers significant cost or technical advantages to the Government, and it is received before a determination of the competitive range has been made.

(b) Any modification of a proposal is subject to the same conditions as in (a), above, and, in addition, if sent by telegram and received at the office designated in the solicitation by telephone from the receiving telegraph office not later than the time set for opening, shall be considered if such message is confirmed by the telegraph company by sending a copy of the telegram which formed the basis for the telephone call.

(c) The only acceptable evidence to establish:

(1) The date of mailing of a late proposal or modification sent either by registered mail or certified mail is the postmark on the wrapper or on the original receipt from the post office. If neither postmark shows a legible date, the proposal or modification of proposal shall be deemed to have been mailed late.

(2) The time of receipt at a Government installation is the time-date stamp of such installation on the proposal wrapper or other documentary evidence of receipt maintained by the installation.

(d) Notwithstanding (a) and (b), above, a late modification of an otherwise successful proposal which makes the terms more favorable to the Government will be considered at any time it is received and may be accepted.

(5) You may, at your discretion, submit alternative proposals, or proposals which deviate from the requirements, *Provided*, That you also submit a proposal for performance of the work as specified in the statement of work. Such proposals may be considered if overall performance would be improved or not compromised and if they are in the best interests of the Government. Alternative proposals, or deviations from any requirement of this RFP, shall be clearly identified.

(6) The proposal submitted in response to the request for proposal may contain technical data which the offeror; or his subcontractor offeror does not want used or disclosed for any purpose other than evaluation of the proposal. The use and disclosure of any such technical data may be so restricted: *Provided*, The offeror marks the cover sheet of the proposal with the following legend, specifying the pages of the proposal which are to be restricted in accordance with the conditions of the legend:

"Technical data contained in pages____of this proposal shall not be used or disclosed, except for evaluation purposes. *Provided:* That if a contract is awarded to this offeror as a result of or in connection with the submission of this proposal the Government shall have the right to use or disclose this technical data to the extent provided in the contract. This restriction does not limit the Government's right to use or disclose technical data obtained from another source without restriction.

"The Government assumes no liability for disclosure or use of unmarked technical data and may use or disclose the data for any purpose and may consider that the proposal was not submitted in confidence and therefore is releasable under the Freedom of Information Act (5 U.S.C. 552)."

(7) The Government will evaluate technical proposals in accordance with the criteria set forth in the technical proposal instructions.

(8) The Government reserves the right to make an award without further discussion of the proposals received. Therefore, it is important that your proposal be submitted initially on the most favorable terms from both the technical and cost standpoints. Af-



V38-174
SEP 10 73
XUM

ter submission of proposals and closing thereof, no information will be released until after award.

(9) The Government reserves the right to reject any or all proposals received. It is understood that your proposal will become part of the official file on this matter without obligation to the Government.

(10) Unnecessarily elaborate brochures or other presentations beyond that sufficient to present a complete and effective proposal are not desired and may be construed as an indication of the offeror's lack of cost consciousness. Elaborate art work, expensive visual and other presentation aids are neither necessary nor wanted.

Include any of the following in the general instructions, if the item is applicable to the particular situation.

(1) If the proposed contract will involve performance or services on a Government installation insert the following paragraph:

*Site visit.*—Offerors are urged and expected to inspect the site where services are to be performed and to satisfy themselves as to all general and local conditions that may affect the cost of performance of the contract, to the extent such information is reasonably obtainable. In no event will failure to inspect the site constitute grounds for claim after the award of a contract.

(2) The following notice to offerors will be included whenever contract performance is expected to involve risk to human subjects:

NOTICE TO OFFERORS OF REQUIREMENTS FOR ADEQUATE ASSURANCE OF PROTECTION OF HUMAN SUBJECTS

Prospective contractors being considered for award will be required to give acceptable assurance that the project described herein will be subject to initial and continuing review by an appropriate institutional committee. This review shall assure that the rights and welfare of the individuals involved are adequately protected, that the risks to an individual are outweighed by the potential benefits to him or by the importance of the knowledge to be gained, and that informed consent will be obtained by methods that are adequate and appropriate.

(3) The following relates to the procurement of ADPE. Subpart 101-32.4 of the Federal Property Management Regulations (FPMR) provides for the purchasing and contracting of ADPE. FPMR 101-32.407 indicates that Government agencies should procure ADPE from different sources—"Mix a System"—when such action is both feasible and in the best interests of the Government. RFP's should address this possible course of action. Set forth below is a paragraph. Alternate Sources Procurement, which can be incorporated in RFP's to accomplish the desired result.

"The Government does not commit itself to procure any supply or service from any particular offeror by the issuance of this solicitation. The Government reserves the right to reject any and all offers received, or any part or parts thereof and to satisfy its total requirements, or any part thereof, from other sources. Such alternate sources include, but are not limited to:

"(A) Equipment becoming excess to the Government's needs which is owned by the Government, or in which the Government has accrued equity due to past rentals paid.

"(B) Equipment obtained by lease or purchase from sources other than the manufacturer thereof.

"(C) Equipment, which, because there is a substantial number of like individual components, lends itself to separate procurement (e.g., tape drives, disc drives, disc packs, etc.).

"Offerors are requested to state in their proposals the extent to which such courses of action would affect any commitment made by the offeror as to performance of the proposed system, or as to any aspect of pricing."

The clause set forth below entitled, "Warranty Exclusion and Limitation of Damages" eliminates a contractor's liability for both consequential damages and damages for breach of an implied warranty for fitness for a particular purpose. However, it imposes no limit on any remaining areas of exposure to contractual damages. This clause shall be used in all solicitation for ADPE unless the Contracting Officer determines that a higher degree of protection is in the best interest of the Government.

WARRANTY EXCLUSION AND LIMITATION OF DAMAGES

Except as expressly set forth in writing in this agreement, or except as provided in the clause entitled, "Commitments, Warranties and Representations" and except for the implied warranty of merchantability, there are no warranties expressed or implied. In no event will the contractor be liable to the Government for consequential damages as defined in the Uniform Commercial Code, Section 2-715 in effect in the District of Columbia as of January 1, 1973, i.e., Consequential damages resulting from the seller's breach include:

(a) any loss resulting from general or particular requirements and needs of which the seller at the time of contracting had reason to know and which could not reasonably be prevented by cover or otherwise; and

(b) injury to person or property proximately resulting from any breach of warranty.

(4) Where reference material is to be provided for use in preparation of proposals, insert either of the following clauses:

(A) To assist offerors in preparing their proposals, reference material consisting of (insert title or description of publications, specifications, drawings, reports, or other documentation being made available as reference material) will be available for inspection at _____. Offerors are expected to examine all reference material prior to preparation and submission of their proposals. Failure to do so will be at the offeror's risk.

or

(B) To assist offerors in preparing their proposals, reference material consisting of (insert title or description of publications, specifications, drawings, reports or other documentation being furnished as reference material) is enclosed (is being forwarded to you under separte cover). Offerors are expected to examine all reference material prior to preparation and submission of their proposal. Failure to do so will be at the offeror's risk.

Include the following statement if the reference material is to be returned to the Government:

All reference material furnished hereunder shall be returned within ____ days after the submission of proposals to _____.

(5) A statement regarding discount provisions.

(6) When telegraphic offers are authorized in a solicitation using standard form 33 (solicitation, offer, and award), a provision similar to that set forth in FPR 1-2.202-2 can be included.

(7) A statement that in the event the proposal should contain classified information, the provisions of the HEW security staff manual will apply.

(8) If options are to be solicited, include the following or similar language describing the method by which the Government will evaluate the option:

If the Government elects to exercise the option simultaneously with award, proposals will be evaluated for purposes of award on the basis of the total price for the basic quantity plus the option quantity to be exercised with award.

If the Government does not elect to exercise the option with award, evaluation will be on the basis of the quantity to be awarded exclusive of the option quantity.

(9) If an incentive type contract is being considered, a notice to the offeror of the Government's desire as to use of incentives considered applicable, objectives of the incentive performance goals, schedules, milestones, critical delivery parameters and similar information shall be included.

(ii) *Technical Proposal Instructions.*—The technical evaluation criteria and the relative weightings of each factor must be included in the RFP. It should be noted that the RFP evaluation criteria cannot be modified except for a formal modification to the RFP and no factors other than those set forth in the request for proposals shall be used in the evaluation of technical proposals. The following are examples of technical evaluation criteria that can be used in the evaluation of technical proposals and the information that can be requested:

(1) Understanding the problem and technical approach.

(A) Statement and discussion of the requirements as it is analyzed by the offeror.

(B) Prospective contractor's proposed definitive Scope of Work with explanation of technical approaches and a detailed outline of the proposed program for executing the requirements of the technical scope and achieving the objectives of the project.

(C) Preliminary layouts, sketches, diagrams, other graphic representation calculations, curves, and other data as may be necessary for presentation, substantiation, justification or understanding of the proposed approaches and program.

(D) Statement and discussion of anticipated major difficulties and problem areas, together with potential or recommended approaches for their resolution.

(E) Statement of the extent to which the proposed approach and program can be expected to meet or exceed requirements and specifications of the technical scope.

A differentiation shall be made between the areas of assured compliance, possible but not assured compliance, and noncompliance.

(F) An outline of the phases or segments into which the proposed program can be logically divided and performed if for some substantial reason they are different from the phases or segments shown in the technical scope.

(G) Schedule for the completion of the work and delivery of items specified in the technical scope. Performance or delivery schedules shall be indicated for phases or segments, as applicable, as well as for the overall program. Schedules shall be shown in terms of calendar months from the date of authorization to proceed or, where applicable, from the date of a stated event, as for example, receipt of a required approval by the contracting officer. Unless the request for proposal indicates that the stipulated schedules are mandatory, they shall be treated as desired or recommended schedules. In this event, proposals based upon the offeror's best alternative schedule, involving no overtime, extra shift or other premium, will be accepted for consideration.

(2) Qualifications.

(A) *Experience.*—General background, experience, and qualifications of the offeror. Special notation should be made of similar or related Government programs, performed for the Government including documentation with reference to the applicable con-





tract numbers and supervising cognizant agencies.

(B) *Personnel.*—Personnel who will be assigned for direct work on this program. Information is required which will show the composition of the task or work group, its general qualifications, and recent experience with similar equipment or programs. Special mention shall be made direct technical supervisors and key technical personnel, and the approximate percentage of the total time each will be available for this program. Résumés are desirable which will indicate education, background, recent experience, and specific scientific or technical accomplishments.

Additional personnel, if any, who will be required for full-time employment, or on a subcontract or consultant basis. The technical areas, character, and extent of subcontract or consultant activity will be indicated and the anticipated sources will be specified and qualified.

In addition to the evaluation criteria and the relative weightings, these technical proposal instructions must include the following statement:

Proposals which merely offer to conduct a program in accordance with the requirements of the Government's scope of work will be considered nonresponsive to this request and will not be considered further. The offeror must submit a definitive scope of work in accordance with his proposal for the end results that he proposes to accomplish in compliance with the Government's requirements.

(iii) *Business proposal instructions.*—The business proposal instruction will consist of three parts: (1) Cost and Pricing Data. The forms to be used are optional form 59, contract pricing proposal, or optional form 60, contract pricing proposal (resarch and development). The forms are illustrated in FPR 1-16.902-OF59 and 1-16.902-OF60. The instructions to offerors and footnotes must be complied with and the appropriate boxes checked or filled in by the offeror.

(2) Other Administrative Data.

(3) Representations and Certifications.

(A) *Cost and pricing data.*—The offeror, as a minimum, must submit cost proposals fully supported by cost and pricing data adequate to establish the reasonableness of the proposed amount. The attached form OF59 or 60 must be used in the preparation of your proposal and the offeror must comply with the instructions and footnotes of the form and fill in or check the appropriate boxes.

(1) The cost for individual elements, such as analytical studies, reports, etc., shall be itemized.

(2) The estimated cost of each phase or segment of the offered performance shall be itemized.

(3) Inasmuch as it may be necessary to authorize performance of the project by phases or a group of phases, the extent that these are severable should be indicated together with the effect, if any, of such severance upon the estimated cost.

(B) The following shall be set forth under the item entitled "Other Administrative Data."

OTHER ADMINISTRATIVE DATA

(1) The proposal shall stipulate that it is predicated upon all the terms and conditions of this RFP. In addition, it shall contain a statement to the effect that it is firm for a period of at least (insert number of days) from the date of receipt thereof by the Government.

(2) The proposal shall list the names and telephone numbers of persons authorized to conduct negotiations.

(3) It is HEW policy that contractors will provide all equipment and facilities necessary for performance of contracts. Exception may be granted to furnish Government-owned property, or to authorize purchase with contract funds only when approved by the head of the procuring activity. If additional equipment must be acquired, the offeror shall include the description, estimated cost of each item, and whether the prospective offeror will furnish such items with its own funds.

(4) The offeror shall identify Government-owned property in their possession and/or property acquired from Federal funds, and title to which vests in the offeror which they propose to use in the performance of the prospective contract (§§ 3-56.502 and 3-56.503).

(5) The management and control of any Government property shall be in accordance with HEW Publication (OS) 72-74, entitled, "Management of Government-Owned Personal Property Held by HEW Contractors," a copy of which will be provided upon request.

(6) The following statement should also be included in the RFP when necessary:

Bid guarantee, performance bond and payment bond requirements, if any. If a bid bond or other form of bid guarantee is required the solicitation shall include the provision required by FPR 1-10.103-3 (if applicable).

(7) Other pertinent business and administrative information can also be requested if the information desired is necessary for the evaluation of proposals.

(C) The following representations and certifications shall be included in all requests for proposals as attachments which do not contain standard form 33 or 33A.

The heading of the representations and certifications shall state: Copies of the attachment must be executed by an official authorized to bind the offeror and made a part of his business proposal.

REPRESENTATIONS AND CERTIFICATIONS

(The offeror makes the following representations and certifications as part of his proposal (check or complete appropriate boxes or blanks).)

1. SMALL BUSINESS REPRESENTATION

He ( ) is, ( ) is not, a small business concern. If he is a small business concern and is not the manufacturer of the supplies to be furnished hereunder, he also represents that all such supplies ( ) will, ( ) will not, be manufactured or produced by a small business concern in the United States, its possessions, or Puerto Rico. If a small business concern, contractor represents that he ( ) has, ( ) has not, previously been denied a Small Business Certificate of Competency by the Small Business Administration. (A small business concern for the purpose of Government procurement is a concern, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is contracting and can further qualify under the criteria concerning number of employees, average annual receipts, or other criteria, as prescribed by the Small Business Administration.) (See Code of Fdeeral Regulations, Title 13, Part 12, as amended, which contains detailed definitions and related procedures.)

NOTE.—The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

2. TYPE OF ORGANIZATION

He operates as an ( ) Individual, ( ) State or Local Agency, ( ) Partnership, ( ) Joint Venture, ( ) Nonprofit, ( ) Educational Institution, ( ) Corporation organized and existing under the laws of the State of _____.

3. REGULAR DEALER—MANUFACTURER REPRESENTATION

(Applicable only to supply contracts exceeding $10,000.) He is a ( ) regular dealer in ( ) manufacturer of, the supplies covered by this proposal.

4. CONTINGENT FEE REPRESENTATION

(Applicable only to proposals in which the aggregate amount involved exceeds $2,500.) Offeror represents: (a) That he ( ) has, ( ) has not, employed or retained any company or person (other than a full-time bona fide employee working solely for the offeror) to solicit or secure this contract, and (b) that he ( ) has, ( ) has not, paid or agreed to pay any company or person (other than a full-time bona fide employee working solely for the offeror) any fee, commission, percentage or brokerage fee, contingent upon or resulting from the award of this contract; and agrees to furnish information relating too (a) and (b) above as requested by the contracting officer. (NOTE.—For interpretation of representation, including the term "bona fide employee," see Code of Federal Regulations, Title 41, Chapter 1, Subpart 1-1.5.)

5. EQUAL OPPORTUNITY CERTIFICATION

a. Have you participated in any contractual agreement which contained the Equal Employment Opportunity Clause prescribed in Executive Orders 10925, 1114, or 11246?

( ) Yes. ( ) No.

b. Were you required pursuant to the rules and regulations of Equal Employment Opportunity (41 CFR 60-1) to file a compliance report as the result of such contractual agreement?

( ) Yes. ( ) No. If "Yes," answer question (c).

c. Did you file the necessary compliance report in accordance with the instructions contained on the appropriate report form—SF-40, SF-41, or EEO-1 (SF-100).

( ) Yes. ( ) No. If "Yes," answer question (d).

d. Name of agency requiring report _____

e. When was report filed? _____

f. Has any action been required of you to improve your compliance posture?

( ) Yes. ( ) No.

g. Name and address of Government "Compliance Agency," if known: _____

h. What is your current employment? _____

i. Have you prepared a written affirmative action compliance program?

( ) Yes. ( ) No. If "No," reason for this is:

( ) Offeror is an agency or instrumentality of state or local government.

( ) Offeror employs less than 50 persons.

( ) Offeror has not been awarded a Federal contract or subcontract of $50,000 or more since July 1, 1968.

j. *Data on subcontractors.*—(Use supplementary sheets where required.)

| Name of subcontractor and address | (1) | (2) | (3) |
|---|---|---|---|
| _____ | (□) Yes (□) No | (□) Yes (□) No | (□) Yes (□) No |
| _____ | (□) Yes (□) No | (□) Yes (□) No | (□) Yes (□) No |

(1) Previously held contracts subject to E.O. 10925, 1114, and 11246.
(2) Previously filed certificate of nonsegregated facilities.
(3) Previously filed compliance report (SF-40, SF-41, or EEO-1).



V38-174 SEP 10 73 XUM

6. CERTIFICATION OF NONSEGREGATED FACILITIES

By the submission of this offer, the offeror or subcontractor certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. He certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments, and that he will not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The offeror or subcontractor agrees that a breach of this certification is a violation of the equal opportunity clause of this contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. He further agrees that (except where he has obtained identical certifications from proposed subcontractors for specific time periods) he will obtain identical certification from proposed subcontractors prior to the award of subcontracts exceeding $10,000 which are not exempt from the provisions of the equal opportunity clause; that he will retain such certifications in his files; and that he will forward the following notice to such proposed subcontractors (except where proposed subcontractors have submitted identical certification for specific time periods).

NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENT FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES

A certification of nonsegregated facilities, as required by the May 9, 1967, order (32 FR 7439, May 19, 1967) on elimination of segregated facilities, by the Secretary of Labor must be submitted prior to the award of a subcontract exceeding $10,000 which is not exempt from the provisions of the equal opportunity clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually).

NOTE.—Failure of an offeror to agree to the certification of nonsegregated facilities shall render his offer nonresponsive to the terms of solicitations involving awards of contracts exceeding $10,000 which are not exempt from the provisions of the equal opportunity clause.

7. BUY AMERICAN CERTIFICATE

(Applies to proposals involving end products as defined by FPR 1-8.101.) The offeror hereby certifies that each end product, except the end product listed below, is a domestic source end product (as defined in the clause entitled "Buy American Act"); and that components of unknown origin have been considered to have been mined, produced, or manufactured outside the United States:

Excluded end products (show country of origin for each excluded end product).

---

---

---

8. DUPLICATION OF COST

The contractor represents and certifies that any charges contemplated and included in his estimate of cost for performance are not duplicative of any charges against any other Government contract, subcontract, or other Government source.

9. PLACE OF PERFORMANCE

Following is the name and location of the plant or place of business where the item(s) will be produced or supplied from stock or where the service will be performed.

---------- ----------
Name of plant) (City and State)

----------
(County and congressional district)

10. CERTIFICATE OF CURRENT COST OR PRICING DATA

When a certificate of cost or pricing data is required to be submitted in accordance with Federal procurement regulation (FPR) 1-3.807-3, the contractor agrees to complete, execute, and submit to the contracting officer the following:

CERTIFICATE OF CURRENT COST OR PRICING DATA

This is to certify that to the best of my knowledge and belief, cost or pricing data[1] submitted in writing, or specifically identified in writing if actual submission of the data is impracticable (see § 1-3.807-3(h)(2)), to the contracting officer or his representative in support of ----------[2] are accurate complete, and current as of

----------[3]
(date)

Firm----------
Name----------
Title----------

----------[4]
(Date of execution)

Describe the proposal, quotation, or other submission involved, giving appropriate identifying number (e.g., RFP No. ------).

The above certification shall be submitted as soon as practicable after agreement is reached on any proposed contract cost or price.

11. CERTIFICATION OF INDEPENDENT PRICE DETERMINATION

a. By submission of this proposal, each offeror certifies and in the case of a joint bid or proposal, each party thereto, certifies as to its own organizations, that in connection with this procurement:

(1) The prices in this proposal have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other offeror or with any competition;

(2) Unless otherwise required by law, the prices which have been quoted in this proposal have not been knowingly disclosed by the offeror and will not knowingly be disclosed by the prior to award, directly or indirectly to any other offeror or to any competitor; and

(3) No attempt has been made or will be made by the offeror to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.

b. Each person signing this proposal certifies that:

(1) He is the person in the offeror's organization responsible within that organization for the decision as to the prices being offered herein and that he has not participated, and will not participate, in any action contrary to (a)(1) through (a)(3) above; or

(2) He is not the person in the offeror's organization responsible within that organization for the decision as to prices being offered herein but that he has been authorized in writing to act as agent for the persons responsible for such decision in certifying that such persons have not participated, and will not participate, in any action contrary to (a)(1) through (a)(3) above, and as their agent does hereby so certify; and (ii) he has not participated, and will not participate, in any action contrary to (a)(1) through (a)(3) above.

c. This certification is not applicable to a foreign offeror submitting a proposal for a contract which requires performance or delivery outside the United States, its possessions, and Puerto Rico.

d. A proposal will not be considered for award where (a)(1), (a)(3), or (b) above has been deleted or modified. Where (a)(2) above has been deleted or modified, the proposal will not be considered for award unless the offeror furnishes with the proposal a signed statement which sets forth in detail the circumstances of the disclosure and the head of the agency, or his designee, determines that such disclosure was not made for the purpose of restricting competition.

12. PRICE STABILIZATION CERTIFICATION

(a) The offeror (Contractor) certifies that he is in compliance with the price stabilization requirements of Executive Order 11723, dated June 13, 1973, and amendments thereof, and the regulations of the Cost of Living Council as set forth in title 6, Code of Federal Regulations, Part 140, or any additions or revisions to title 6.

13. DISCLOSURE STATEMENT—COST ACCOUNTING PRACTICES AND CERTIFICATION

Any contract in excess of $100,000 resulting from this solicitation, except when the price negotiated is based on: (a) Established catalog or market prices of commercial items sold in substantial quantities to the general public, or (b) prices set by law or regulation, shall be subject to the requirements of the Cost Accounting Standards Board. Any offeror submitting a proposal which, if accepted, will result in a contract subject to the requirements of the Cost Accounting Standards Board must, as a condition of contracting, submit a disclosure statement as required by regulations of the Board. The disclosure statement must be submitted as a part of the offeror's proposal under this solicitation (see 1, below) unless (i) the offeror, together with all divisions, subsidiaries, and affiliates under common control, did not receive net awards of negotiated defense prime contracts during the period July 1, 1970, through June 30, 1971, totaling more than $30 million (see 2, below), (ii) the offeror has already submitted a disclosure statement disclosing the practices used in connection with the pricing of this proposal (see 3, below) or (iii) postaward submission has been authorized by the contracting officer.

CAUTION.—A practice disclosed in a disclosure statement shall not, by virtue of such disclosure, be deemed to be a proper, approved, or agreed to practice for pricing proposals or accumulating and reporting contract performance cost data.

() 1. CERTIFICATION OF CONCURRENT SUBMISSION OF DISCLOSURE STATEMENTS

The offeror hereby certifies that he has submitted, as a part of his proposal under this solicitation, copies of the disclosure statements as follows: (i) Original and one copy to the cognizant contracting officer; (ii) one copy to the cognizant contract auditor; and (iii) one copy to the Cost Accounting Standards Board, 441 G Street NW., Washington, D.C. 20548.

| Date of disclosure statement | Name and address of cognizant contracting officers where filed |
|---|---|

The offeror further certifies that practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in the disclosure statements.

() 2. CERTIFICATION OF MONETARY EXEMPTION

The offeror hereby certifies that, together with all divisions, subsidiaries, and affiliates under common control, he did not receive net awards of negotiated national defense prime contracts during July 1, 1970, through June 30, 1971, totaling more than $30 million.

() 3. CERTIFICATE OF PREVIOUSLY SUBMITTED DISCLOSURE STATEMENTS

The offeror hereby certifies that the disclosure statements were filed, as follows:

| Date of disclosure statement | Name and address of cognizant contracting officers where filed |
|---|---|

The offeror further certifies that practices used in estimating costs in pricing this proposal are consistent with the cost accounting practices disclosed in this disclosure statement. For additional exemptions, see Federal Procurement Regulations, Temporary Regulation 27 and supplements thereto.

(j) *Noncompetitive procurements.*—For noncompetitive procurements, the RFP shall include the transmittal letter, the offeror's representations and certifications, and the instructions relative to cost and pricing data. The following are the minimum instructions that should be included in the RFP.

INSTRUCTIONS TO OFFEROR

The following instructions establish the acceptable minimum requirements for the format and content of proposals. Special attention is directed to the requirements for technical and business proposals to be submitted in accordance with instructions herein.

GENERAL INSTRUCTIONS

(1) The proposal shall be based on a----------type of contract. In addition to the special provisions of this solicitation, any ensuing contract will include the general provisions for ----------

---

Any additional clauses required by public law, Executive order, or procurement regulations, in effect at the time of execution of the proposed contract, will be included.

(2) The proposal shall be signed by an official authorized to bind your organization. ------ copies of your proposal shall be submitted to:

(Insert complete address as to where the proposal is to be sent and mailing instructions.)

(3) You may, at your discretion, submit alternative proposals, or proposals which deviate from the requirements: *Provided*, That you also submit a proposal for performance of the work as specified in the statement of work. Such proposals may be considered if overall performance would be improved or not compromised; and if they are in the best interests of the Government. Alternative proposals, or deviations from any requirements of this solicitation shall be clearly identified.

(4) The proposal submitted in response to the request for proposal may contain technical data which you or your subcontractor(s) do not want used or disclosed for any purpose other than evaluation of your proposal. The use and disclosure of any such data may be so restricted; *Provided*, That you mark the cover sheet of the proposal with the following legend, specifying the pages of the proposal which are to be restricted in accordance with the conditions of the legend.

"Technical data contained in pages ------ of this proposal shall not be used or disclosed, except for evaluation purposes, *Provided*, That if a contract is awarded to this offeror as a result of or in connection with the submission of this proposal the Government shall have the right to use or disclose this technical data to the extent provided in the contract. This restriction does not limit the Government's right to use or disclose technical data obtained from another source without restriction."

The Government assumes no liability for disclosure or use of unmarked technical data and may use or disclose the data for any purpose and may consider that the proposal was not submitted in confidence and therefore releasable under the Freedom of Information Act (5 U.S.C. 552).

(5) The Government reserves the right to reject any or all proposals received. It is understood that your proposal will become a part of the official file on this matter without obligation to the Government.

[FR Doc.73-19159 Filed 9-7-73;8:45 am]

## CHAPTER 114—DEPARTMENT OF THE INTERIOR

## PART 114-50—UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES

### Miscellaneous Amendments

On April 13, 1973, there was published in the FEDERAL REGISTER (38 FR 9302) a proposal to amend the regulations implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 84 Stat. 1894, 1900, 42 U.S.C. 4601, 4633.

Forty-five days were given within which any interested person wishing to do so could file written comments, suggestions, or objections regarding the proposed revisions with the Office of Management Operations, Office of the Secretary, 18th and C Streets NW., Washington, D.C.

Comments on the proposed revisions were received from one organization. These comments suggested that the Department modify its regulations relating to computation of the rental replacement housing payment so as to ensure that the rental differential payment will be within the financial means of the displaced person in any case where the displacee is currently paying an excessive amount for rent. Guidelines covering this particular situation are currently under consideration by an Interagency Working Group. The Department proposes to adopt the interagency decision in this matter which will be published as guidelines in the form of a General Services Administration Federal Management Circular. Accordingly, the proposed amendments are adopted without change as set forth below, effective on September 10, 1973.

JAMES T. CLARKE,
*Assistant Secretary of the Interior.*

SEPTEMBER 4, 1973.

The table of contents for subpart 114-50.1 is revised as follows:

Change "114-50.109 (Reserved)" to read "114-50.109 Multiple Occupancy."

The table of contents for subpart 114-50.10 is revised to read as follows:

Subpart 114-50.10—Federally Assisted Programs


| Sec. | |
|---|---|
| 114-50.1000 | Acceptance of real property furnished by a State incident to Federal program. |
| 114-50.1001 | Assurances—section 210. |
| 114-50.1002 | Assurances—section 305. |
| 114-50.1003 | [Reserved] |
| 114-50.1004 | Compliance with sections 301 and 302. |
| 114-50.1005 | Inability to provide assurances prior to July 1, 1972. |
| 114-50.1006 | Inability to provide assurance for programs or projects causing displacement on or after July 1, 1972. |
| 114-50.1007 | Monitoring assurances. |
| 114-50.1008 | Grants, contracts, or agreements executed prior to July 1, 1972. |
| 114-50.1009 | Federal share of costs. |
| 114-50.1010 | Relocation assistance programs. |
| 114-50.1011 | Effective date. |
| 114-50.1012 | Appeal procedures. |


### Subpart 114-50.1—General

Section 114-50.109 is revised to read as follows:

§ 114-50.109 Multiple occupancy.

Where two or more individuals, not families, living together in a single family dwelling are displaced from such dwelling, they shall be treated as one displaced person for purposes of entitlements for replacement housing benefits under sections 203 and 204 of the act. However, each individual displaced may receive a payment for actual reasonable moving expenses as authorized under section 202(a) of the act, and in the case of families, each family shall be considered separately.

### Subpart 114-50.7—Payments in Lieu of Moving and Related Expenses

Two new paragraphs (a) and (b) are added to § 114-50.701 reading as follows:

§ 114-50.701 Displaced dwelling occupant.

• • • • •

(a) Only those persons who are displaced from a dwelling, as defined in



[1] For definition of "cost or pricing data," see FPR § 1-3.807-3.

[2] Describe the proposal, quotation, request for price adjustments, or other submission involved, giving appropriate identifying number (e.g., RFP No. ----------).

[3] This date shall be the date when the price negotiations were concluded and the contract price was agreed to. The responsibility of the contractor is not limited by the personal knowledge of the contractor's negotiator if the contractor had information reasonably available (see § 1-3.807-5(a)) at the time of agreement showing that the negotiated price is not based on accurate, complete, and current data.

[4] This date should be as close as practicable to the date when the price negotiations were concluded and the contract price was agreed upon.



V38-174 SEP 10 73 XUM

§ 114–50.201(h), may elect to receive the payment authorized under section 202(b) of the act in lieu of payment for actual reasonable moving expenses.

(b) Where two or more individuals, not families, living together in a single family dwelling are displaced from such dwelling, they shall be treated as one displaced person for purposes of entitlements under this § 114–50.701.

**Subpart 114–50.9—Replacement Housing Payment for Tenants and Certain Others**

A new paragraph (e) is added to § 114–50.903 to read as follows:

**§ 114–50.903 Computation of replacement housing rental differential payment for tenants.**

* * * * *

(e) The amount determined in accordance with this section 114–50.903 to be necessary to rent a comparable replacement dwelling, sets the upper limit of this payment. Where the amount of rent actually paid by the displaced person for a decent, safe, and sanitary replacement dwelling is less than the upper limit, computation of the differential payment shall be based on the amount of rent actually paid. However, the amount initially established as the differential payment shall not be adjusted to compensate for subsequent increases or decreases, if any, in the amount of rent actually paid by the displacee.

**Subpart 114–50.10—Federally Assisted Programs**

**§ 114–50.1003 [Reserved]**

A new § 114–50.1003 is inserted in subpart 114–50.10 and existing §§ 114–50.1003 through 114–50.1011 are renumbered 114–50.1004 through 114–50.1012, respectively. New § 114–50.1003 reads as set forth above.

In existing § 114–50.1008(c), which is renumbered § 114–50.1009(c), change the reference to "§ 114–50.1008" to read "§ 114–50.1009".

[FR Doc.73–19098 Filed 9–7–73;8:45 am]

## Title 43—Public Lands: Interior

### CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

### SUBCHAPTER C—MINERALS MANAGEMENT (3000)

[Circular 2350]

### PART 3830—LOCATION OF MINING CLAIMS

**Subpart 3831—Rights to Mineral Lands**

LOCATION OF PLACER CLAIMS

The purpose of this amendment is to correct an omission in § 3831.1 of the regulations which deals with the location of mining claims. On March 31, 1964, regulations then found at 43 CFR 185.3 were changed to eliminate repetitions and provisions made obsolete by law or the expiration of law. It was stated in the preamble of that rulemaking that no substantive changes to the regulations were intended.

A substantive change was inadvertently made, however, by omission of a footnote referring to the staking of placer claim locations. Present regulations in § 3831.1 provide in part that: "A location is made by staking the corners of the claim, * * *" The exception to this rule, which was omitted in the March 31, 1964, revision, is that placer claims may, by virtue of State law, be located by legal subdivision. States which presently provide for location in this manner are California, Nevada and Oregon.

Federal law governing location is broadly written and provides for the following of local rules. 30 U.S.C. 28 (1970) provides, in part: "The miners of each mining district may make regulations not in conflict with the laws of the United States, or with the laws of the State or Territory in which the district is situated, governing the location, manner of recording, amount of work necessary to hold possession of a mining claim, subject to the following requirements: "The location must be distinctly marked on the ground so that its boundaries can be readily traced * * *."

This amendment reinserts into the regulations the omitted provision for locating placer claims by legal subdivision where permitted by State statute.

It is the policy of the Department of the Interior to give notice of proposed rulemaking and to invite the public to participate in rulemaking except where such participation would be impracticable, unnecessary or contrary to the public interest and a specific finding to this effect is published with the rules or regulations (36 FR 8336, May 4, 1971). Public participation is unnecessary in this case since this amendment merely corrects an oversight in codifying long standing rules.

The amendment is adopted as set forth below and is, in fact, retroactive to March 31, 1964, the date of omission from the regulations.

Section 3831.1 of Subpart 3831 of Chapter II is revised to read:

**§ 3831.1 Manner of initiating rights under locations.**

Rights to mineral lands, owned by the United States, are initiated by prospecting for minerals thereon, and, upon the discovery of minerals, by locating the lands upon which such discovery has been made. A location is made by (a) staking the corners of the claim, except placer claims described by legal subdivision where State law permits locations without marking the boundaries of the claims on the ground, (b) posting notice of location thereon, and (c) complying with the State laws, regarding the recording of the location in the county recorder's office, discovery work, etc. As supplemental to the United States mining laws there are State statutes relative to location, manner of recording of mining claims, etc., in the State, which should also be observed in the location of mining claims. Information as to State laws can be obtained locally or from State officials.

JACK O. HORTON,
*Assistant Secretary of the Interior.*

AUGUST 31, 1973.

[FR Doc.73–19101 Filed 9–7–73;8:45 am]

### SUBCHAPTER D—RANGE MANAGEMENT (4000)

[Circular 2349]

### PART 4710—WILD FREE-ROAMING HORSE AND BURRO MANAGEMENT

**Protection, Management, Control and Reservation of Forage; Correction**

The purpose of this amendment is to incorporate in § 4712.1–2 the word "or" in the third line between the words "use" and "on", which was inadvertently omitted from the regulation when it was originally published in 38 FR 22004, August 15, 1973.

Since this amendment merely corrects an inadvertent typographical omission it is determined that the public participation procedure for proposed rulemaking is unnecessary. This amendment is hereby adopted and § 4712.1–2 as corrected is set forth below and shall be effective on September 7, 1973.

JACK O. HORTON,
*Assistant Secretary of the Interior.*

AUGUST 31, 1973.

**§ 4712.1–2 Intensity of management.**

Wild free-roaming horse or burro herds may be managed either as one of the components of public land use or on a specifically designated wild horse or burro range. Management practices shall be at the minimal feasible level and shall be consistent to the extent possible and practical with the maintenance of their free-roaming behavior. Management facilities should be designed and constructed to the extent possible to maintain the free-roaming behavior of the herds.

[FR Doc.73–19100 Filed 9–7–73;8:45 am]

## Title 50—Wildlife and Fisheries

### CHAPTER I—BUREAU OF SPORT FISHERIES AND WILDLIFE, FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

### PART 32—HUNTING

The following special regulation is issued and is effective on September 10, 1973.

**§ 32.12 Special regulations; migratory game birds, for individual wildlife refuge areas.**

UTAH

FISH SPRINGS NATIONAL WILDLIFE REFUGE

The public hunting of ducks, coots, and mergansers on the Fish Springs National Wildlife Refuge, Utah, is permitted from October 6, 1973, through January 6, 1974, inclusive, but only on the area designated by signs as open to hunting. This open area comprises 7,192 acres and is delineated on maps available at refuge headquarters, 66 miles southwest of Dugway, Utah 84022, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 10597 West 6th Avenue, Denver, Colorado 80215. Hunting shall be in accordance with all State and Federal regulations covering the hunting of ducks, coots, and mergansers, subject to the following special conditions:

(1) All hunters must register at the Visitor Information Station prior to hunting.





(2) Shooting upon or across dikes or roads is prohibited.

(3) Use of small boats, canoes, etc. is permitted during the hunting season, but no outboard motors or air thrust boats are allowed.

(4) Dogs may be used for hunting, but are to be kept under control at all times.

The provisions of these special regulations supplement the regulations that govern hunting on wildlife refuge areas generally that are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 6, 1974.

Dated August 30, 1973.

LELAND E. HERZBERGER,
*Refuge Manager, Fish Springs National Wildlife Refuge, Dugway, Utah.*

[FR Doc.73–19150 Filed 9–7–73;8:45 am]

### PART 32—HUNTING

**Certain National Wildlife Refuges in Idaho**

The following regulations are issued and are effective on September 10, 1973. These regulations apply to public hunting on portions of certain National Wildlife Refuges in Idaho.

*General conditions.*—Hunting shall be in accordance with applicable State regulations. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps. Special conditions applying to individual refuges are listed on the reverse side of the refuge hunting maps. No vehicle travel is permitted except on maintained roads and trails. Maps are available at refuge headquarters and from the office of the Regional Director, 1500 Northeast Irving Street, Portland, Oregon 97208.

**§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.**

Waterfowl and coot may be hunted on the following refuge areas:

Bear Lake National Wildlife Refuge, P.O. Box 837, Soda Springs, Idaho 83276.

Special condition. The use of airthrust boats is prohibited.

Camas National Wildlife Refuge, Hamer, Idaho 83425.

Deer Flat National Wildlife Refuge, Route 1, Box 1457, Nampa, Idaho 83651.

Kootenai National Wildlife Refuge, Star Route #1, Box 88, Bonners Ferry, Idaho 83805.

Special condition. Hunting permitted only Sundays, Tuesdays, Thursdays, and Saturdays.

Minidoka National Wildlife Refuge, Route 4, Rupert, Idaho 83350.

**§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.**

Upland game birds may be hunted on the following refuge areas:

Bear Lake National Wildlife Refuge, P.O. Box 837, Soda Springs, Idaho 83276.

Camas National Wildlife Refuge, Hamer, Idaho 83425.

Special condition. Pheasant and sage grouse only may be hunted.

Deer Flat National Wildlife Refuge, Route 1, Box 1457, Nampa, Idaho 83651.

Kootenai National Wildlife Refuge, Star Route #1, Box 88, Bonners Ferry, Idaho 83805.

Special condition. Pheasants may be hunted only Sundays, Tuesdays, Thursdays and Saturdays.

Minidoka National Wildlife Refuge, Route 4, Rupert, Idaho 83350.

**§ 32.32 Special regulations; big game; for individual wildlife refuge areas.**

Big game animals may be hunted on the following refuge areas:

Camas National Wildlife Refuge, Hamer, Idaho 83425.

Special condition. Antelope only may be hunted.

Deer Flat National Wildlife Refuge, Route 1, Box 1457, Nampa, Idaho 83651.

Special condition. Deer may be hunted on the Snake River Island sector only.

Grays Lake National Wildlife Refuge, P.O. Box 837, Soda Springs, Idaho 83276.

Kootenai National Wildlife Refuge, Star Route # 1, Box 88, Bonners Ferry, Idaho 83805.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally and which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through June 30, 1974.

L. EDWARD PERRY,
*Acting Regional Director, Bureau of Sport Fisheries and Wildlife.*

[FR Doc.73–19091 Filed 9–7–73;8:45 am]

### PART 32—HUNTING

**Certain National Wildlife Refuges in Nevada**

The following regulations are issued and are effective on September 7, 1973. These regulations apply to public hunting on portions of certain National Wildlife Refuges in Nevada.

*General conditions.*—Hunting shall be in accordance with applicable State regulations. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps. No vehicle travel is permitted except on maintained roads and trails. Special conditions applying to individual refuges are listed on the reverse side of maps available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1500 Northeast Irving Street, Portland, Oregon 97208.

**§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.**

Migratory game birds may be hunted on the following refuges:

Fallon National Wildlife Refuge, P.O. Box 592, Fallon, Nevada 89406.

Pahranagat National Wildlife Refuge, P.O. Box 232, Alamo, Nevada 89001.

Special conditions. (1) The use of motors on boats is not permitted.

(2) Refuge closed to goose hunting.

Ruby Lake National Wildlife Refuge, Ruby Valley, Nevada 89833.

Special condition. Waterfowl and snipe only may be hunted.

Stillwater Wildlife Management Area, P.O. Box 592, Fallon, Nevada 89406.

**§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.**

Upland game may be hunted on the following refuge areas:

Fallon National Wildlife Refuge, P.O. Box 592, Fallon, Nevada 89406.

Pahranagat National Wildlife Refuge, P.O. Box 232, Alamo, Nevada 89001.

Charles Sheldon Antelope Range, Nevada (Headquarters: P.O. Box 111, Lakeview, Oregon 97630).

Stillwater Wildlife Management Area, P.O. Box 592, Fallon, Nevada 89406.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally and which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through June 30, 1974.

L. EDWARD PERRY,
*Acting Regional Director, Bureau of Sport Fisheries and Wildlife.*

[FR Doc.73–19092 Filed 9–7–73;8:45 am]

### PART 32—HUNTING

**Wheeler National Wildlife Refuge, Ala.**

The following special regulations are issued and are effective on September 10, 1973.

**§ 32.12 Special regulations; migratory birds; for individual wildlife refuge areas.**

ALABAMA

WHEELER NATIONAL WILDLIFE REFUGE

Hunting of geese, ducks, and coots on the Wheeler National Wildlife Refuge, Ala., is suspended for the 1973–74 season due to a serious decline in numbers of wintering geese in the refuge area.

C. EDWARD CARLSON,
*Regional Director, Bureau of Sport Fisheries and Wildlife.*

AUGUST 29, 1973.

[FR Doc.73–19095 Filed 9–7–73;8:45 am]



V 38-174 SEP 10 73 XUM

## PART 32—HUNTING

### Certain National Wildlife Refuges

The following special regulations are issued and are effective on September 5, 1973.

§ 32.22 Special regulations; upland game; for individual refuge areas.

ARKANSAS

BIG LAKE NATIONAL WILDLIFE REFUGE

Public hunting of squirrels and raccoons on Big Lake National Wildlife Refuge, Arkansas, is permitted on the entire refuge except for the area ¼ mile north and ¼ mile south of refuge headquarters, and other areas which may be designated as closed by marking with "Closed Area" signs. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of upland game subject to the following special conditions:

(1) Squirrel hunting permitted in accordance with State regulations, except season closes on the refuge the day duck season in the State opens. Dogs are not permitted.

(2) Raccoon hunting permitted from October 15, 1973, until opening day of the duck hunting season in the State. Hunting will open at 12:00 noon on October 15. Hunting permitted 24 hours per day. No limit on the number of coons that can be taken per day. Dogs required during night hunts.

(3) Shotguns or rifles not larger than .22 caliber may be used.

(4) Persons are prohibited from possessing, while on the refuge, either on their person or in their vehicle, game for which there is not an open season on the refuge.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through March 1, 1974.

LOUISIANA

CATAHOULA NATIONAL WILDLIFE REFUGE

Public hunting of squirrels on the Catahoula National Wildlife Refuge is permitted on the timbered portions of the refuge. Hunting shall be in accordance with State regulations governing the hunting of squirrels except that the season extends from October 6–19, 1973. Hunters may enter the area 30 minutes prior to legal shooting time (30 minutes before sunrise) and must be out of the refuge 30 minutes after legal shooting hours (30 minutes after sunset). Unmarked feral hogs may be taken by squirrel hunters. No vehicles with tires larger than 9.00 x 16'' can be used on the refuge. All vehicles must remain on established roads and trails.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through October 19, 1973.

MISSISSIPPI

YAZOO NATIONAL WILDLIFE REFUGE

Public hunting of raccoons and opossums on the Yazoo National Wildlife Refuge, Mississippi, is permitted only on the areas designated by signs as open to hunting. These open areas, comprising approximately 10,500 acres, are delineated on a map available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 17 Executive Park Drive NE., Atlanta, Georgia 30339. Hunting shall be in accordance with all applicable State regulations governing the hunting of raccoons and opossums subject to the following special conditions:

(1) The open season extends from December 1–15, 1973, Sundays excluded, from dark to daylight.

(2) The use of dogs is optional.

(3) Firearms: Shotguns, 10 gauge or smaller (no buckshot or slugs permitted, possession illegal), rifles limited to .22 caliber (22 magnum and 222 rifles prohibited). All shotguns must be plugged to hold three shells. Sidearms (pistols and revolvers) prohibited.

(4) No firearms may be discharged within 250 yards of refuge headquarters or residences.

(5) Carrying of loaded firearms in vehicles is prohibited and shooting from vehicles or shooting from or across State or County roads is prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 15, 1973.

C. EDWARD CARLSON,
*Regional Director, Bureau of Sport Fisheries and Wildlife.*

AUGUST 29, 1973.

[FR Doc.73-19096 Filed 9-7-73;8:45 am]

## PART 32—HUNTING

### Noxubee National Wildlife Refuge, Miss.

The following special regulations are issued and are effective on October 15, 1973.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

MISSISSIPPI

NOXUBEE NATIONAL WILDLIFE REFUGE

Hunting shall be in accordance with applicable State regulations. Portions of the refuge which are open to hunting are designated by signs and delineated on maps available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 17 Executive Park Drive NE., Atlanta, Georgia 30329. Squirrels, rabbits, quail, turkey, raccoons, and opossum may be hunted in accordance with the following special conditions:

(1) Squirrels and rabbits may be hunted October 15–November 17, 1973.

(2) Quail may be hunted December 28, 1973–February 19, 1974.

(3) Turkey (gobblers only) may be hunted March 23–April 21, 1974.

(4) Raccoons and opossums may be hunted January 1–31, 1974. Hunt hours are from sunset to sunrise only.

(5) Sunday hunting is prohibited.

(6) Fires and cutting of trees are not permitted.

(7) Primitive camping is permitted in designated camping area only.

(8) Dogs are permitted during the quail, raccoon and opossum hunt only.

(9) Turkeys killed must be checked at refuge headquarters.

(10) Raccoons and opossums may be hunted only with .22 caliber firearms.

(11) Squirrels and rabbits may be hunted only with shotguns shooting No. 4 shot or smaller and .22 caliber rim fire guns.

(12) Quail may be hunted only with shotguns shooting No. 6 shot or smaller.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through April 21, 1974.

PHILLIP S. MORGAN,
*Acting Regional Director, Bureau of Sport Fisheries and Wildlife.*

AUGUST 30, 1973.

[FR Doc.73-19093 Filed 9-7-73;8:45 am]

## PART 32—HUNTING

### Catahoula National Wildlife Refuge, La.

The following special regulations are issued and are effective on September 10, 1973.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

LOUISIANA

CATAHOULA NATIONAL WILDLIFE REFUGE

Hunting of white-tailed deer on the Catahoula National Wildlife Refuge is suspended for the 1973–74 season because of damage to habitat by unusually high and prolonged flood waters and resulting stress on the deer population.

C. EDWARD CARLSON,
*Regional Director, Bureau of Sport Fisheries and Wildlife.*

AUGUST 29, 1973.

[FR Doc.73-19097 Filed 9-7-73;8:45 am]

## PART 32—HUNTING

### Shiawassee National Wildlife Refuge, Mich.

The following special regulation is issued and is effective on September 10, 1973.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

MICHIGAN

SHIAWASSEE NATIONAL WILDLIFE REFUGE

Public hunting of deer with bow and arrow is permitted on the entire refuge





area from 6:00 a.m. to 7:00 p.m. each day from December 1, 1973, through December 31, 1973, only.

Hunting shall be in accordance with all State regulations covering the hunting of deer, subject to the following conditions:

(1) All hunters must exhibit their hunting license, deer tag, game, and vehicle contents to Federal and State Officers upon request.

(2) Bow and arrow hunting will be by valid Federal permit only from December 1, 1973, through December 9, 1973. No permit will be required from December 10, 1973, through December 31, 1973.

(3) Applications for bow and arrow hunting permit must be received at the refuge office on or before October 31, 1973.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 31, 1973.

ROBERT H. TIMMERMAN,
*Refuge Manager, Shiawassee National Wildlife Refuge, Saginaw, Michigan.*

AUGUST 30, 1973.

[FR Doc.73-19094 Filed 9-7-73;8:45 am]



V38-174 SEP 10 73 XUM

# Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### [ 7 CFR Part 52 ]

### UNITED STATES STANDARDS FOR GRADES OF FROZEN CARROTS

### Proposed Amendments

Notice is hereby given that the United States Department of Agriculture is considering an amendment to the United States Standards for Grades of Frozen Carrots (7 CFR 52.701–52.711) pursuant to the authority contained in the Agricultural Marketing Act of 1946 (Sec. 205, 60 Stat. 1090, as amended, 7 U.S.C. 1624).

NOTE.—Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable state laws and regulations.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed amendment should file the same in duplicate by October 31, 1973, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250. All written submissions made pursuant to this notice will be available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

*Statement of consideration leading to the proposed amendment.*—The current United States Standards for Grades of Frozen Carrots have been in effect since 1962. The Department has received a request from the American Frozen Food Institute to increase the amount of allowable diameter variation between the largest and smallest carrots in U.S. Grade A whole style frozen carrots from 50% to 100%.

After careful consideration, the Department concurs with the request. The Grade A whole carrots that are currently marketed are generally quite small. The Department therefore concludes that (among such small units) that if the diameter of the largest carrot is not more than twice the diameter of the smallest carrot, the appearance or eating quality would not be affected to a noticeable degree.

In addition, the Department recommends that the allowable variation of size be extended (in like manner) to include the halved and quartered styles of frozen carrots.

In consideration thereof, the proposal would amend the requirements for uniformity of size and shape as applicable only:

(1) To the whole, halved and quartered styles; and

(2) To U.S. Grade A (or U.S. Fancy).

The amendment proposed is:

In Part 52, Subpart—United States Standards for Grades of Frozen carrots, in Table I, the (A) Classification portion only is deleted and the following tabular material substituted in lieu thereof:

(A)—CLASSIFICATION

| Styles | Measurement and/or shape of individual units | Uniformity in 90 percent by count, of units that are most uniform |
|---|---|---|
| Whole | 1⅜-inch maximum diameter | Unit with largest diameter, or width, is not more than twice that of unit with smallest diameter, or width. |
| Halved | 1½-inch maximum width | |
| Quartered | 1¼-inch maximum width | |
| Sliced | 2-inch maximum diameter; Approximate ¾-inch maximum thickness. | Unit with largest diameter is not more than twice that of unit with smallest diameter and uniformity of thickness does not vary markedly. |
| Diced | Approximate cube-shapes, ½ inch or less in size. | 10%, by weight, maximum may be other shapes and sizes.[1] |
| Double-diced | Approximate double-cube shapes, 1 inch or less long; ½ inch or less in cross-section diameter. | 12%, by weight, maximum may be other shapes and sizes.[1] |
| Strips | Approximate french-cut shapes, ½ inch or more long. | 12%, by weight, maximum may be less than ½ inch long. |
| Cuts | Units may vary considerably in size and shape provided over-all appearance is not materially affected. | |
| Chips | [Limited to Grade B or lower] | |

[1] Provided, presence of very small pieces does not materially affect appearance of product.

Authority.—Sec. 205, 60 Stat. 1090, as amended, 7 U.S.C. 1624.

Dated August 31, 1973.

E. L. PETERSON,
*Administrator,*
*Agricultural Marketing Service.*

[FR Doc.73-19002 Filed 9-6-73;8:45 am]

### [ 7 CFR, Part 1073 ]

[Docket No. AO 173-A29]

### MILK IN THE WICHITA, KANSAS, MARKETING AREA

### Decision on Proposed Amendments to Marketing Agreement and to Order

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Wichita, Kansas, marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR, Part 900), at Wichita, Kansas, on April 3, 1973, pursuant to notice thereof issued on March 14, 1973 (38 FR 7234).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on June 25, 1973 (38 FR 17240), filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modification: "3. Designating a cooperative as the handler on bulk tank milk," is completely changed.

The material issues on the record of the hearing relate to:

1. Diversion of producer milk.
2. Pool plant qualifications.
3. Designating a cooperative as the handler on bulk tank milk.
4. Reports included in uniform price computation.
5. Need for emergency action.

lowing findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Diversion of producer milk.* Milk diverted by a cooperative from pool plants to nonpool plants should be limited to a quantity not greater than the total producer milk physically received at all pool plants from the cooperative during the month; and milk diverted by the proprietary operator of a pool plant should not exceed the quantity of nonmember producer milk physically received at his plant. All diverted milk should be priced at the location of the plant to which diverted and only the milk of those producers from whom not less than 15 percent of their production during the month was physically received at a pool plant should qualify as diverted milk.

Diverted milk is now priced at the plant from which diverted, and none of a producer's milk must be received at a pool plant during the month to qualify his shipments to a nonpool plant as diverted milk. Also, no limitations now apply to the quantities of milk that cooperatives and proprietary handlers may divert in any month.

The changes in the diversion provisions adopted in this decision reflect substantially those proposed, and supported at the hearing, by the major cooperative in the market. It contended that, because they provide a means of associating milk with the market solely for manufacturing purposes at the expense of producers who regularly supply the market and on whom the market depends for its Class I needs, the present diversion provisions are inappropriate under current conditions in the Wichita order market. No testimony was presented in opposition to the cooperative's proposals to revise the order's diversion provisions.

The purpose of the diversion provisions is to facilitate marketing the reserve milk that is a necessary part of the market supply. Because of variations in market needs and in production, the milk of each producer is not needed every day for processing as fluid milk at the plant to which it is customarily delivered. It is necessary, however, that there be a reserve of qualified milk available for the fluctuating needs of handlers serving the market. At times, therefore, when milk of a dairy farmer regularly supplying the market is not needed at the plant to which it is usually shipped, it can be handled most economically by moving it as diverted milk from the farm to a nonpool manufacturing plant.

Only that milk from dairy farmers genuinely associated with the market, as evidenced by their deliveries to pool plants, should be eligible for diversion to nonpool plants. Otherwise, it cannot be said that such dairy farmers are supplying the Class I needs of the market. Therefore, it is provided that at least 15 percent of the production of a producer must be received at a pool plant during the month to qualify any of his production in the same month for diversion. The requirement herein adopted, which was proposed by proponent cooperative, is sufficient to establish a producer's continuing association with the fluid market and still permit the necessary flexibility in diverting milk not needed for fluid use.

Limiting diversions of producer milk by cooperatives and proprietary handlers to the quantities delivered to pool plants in the same month, as proposed by the cooperative, are reasonable standards under current conditions in the Wichita market. In conjunction with the order's performance requirements for pool plants, they will implement orderly marketing by facilitating the movement of reserve supplies of producer milk to the most practicable outlet.

Milk diverted to nonpool plants in excess of the limitations provided should not be considered producer milk. Hence, eligibility for pricing and pooling under the order would be forfeited on a quantity of milk equal to such excess. It would be the responsibility of the diverting handler to specify which milk is ineligible as producer milk. If the handler fails to make such designation, and the market administrator is unable to determine which milk is overdiverted, all milk diverted to nonpool plants by such handler would be ineligible as producer milk.

Providing for the diversion of producer milk to an other order plant for manufacturing purposes will contribute to orderly marketing. In some instances, a pool plant operator may find that his most desirable outlet for this purpose is an other order plant. Specifying under the order that such milk may be diverted as producer milk if a Class II or Class III classification is designated for such milk pursuant to the other order will tend to insure the integrity of both orders. Otherwise, such milk's eligibility to be included under a Federal order would more appropriately be determined at the other order plant where received. Diversion to such plants, if permitted unconditionally, could result in the pricing and pooling of the same milk under two orders.

As a corollary change, when milk from a dairy farmer is received at a pool plant as diverted from an other order plant, it should not be eligible for pooling as the milk of a producer under this order if a Class II or Class III classification under this order is designated for such milk and it is subject to the pricing and pooling provisions of another order.

The order's location adjustments recognize the greater value of producer milk f.o.b. plants in or near the principal population centers in the marketing area as compared to its value at other locations. In view of this, it would be inconsistent to continue to price milk as if delivered to a plant in or near the principal population centers in the market when actually delivered as diverted milk to a nonpool plant at a location at which a different price is appropriate based on the location adjustment that would be applicable to a pool plant at the same location.

When producer milk is received as diverted milk at a nonpool plant, its location value is similar to that of milk delivered by producers to a pool plant at the same distance from the market. Pricing milk at the location of the pool plant from which diverted (as now provided in the order) tends to subsidize, at the expense of producers generally, the more distant producers when the latter's milk is diverted to distant manufacturing plants rather than delivered to the market center. This is because the distant producers receive the f.o.b. market uniform price on milk that is not moved to the market and on which the full cost for the farm to market hauling has not been incurred.

2. *Pool plant qualifications.* The pooling percentage qualification for a distributing plant should be based on its total receipts of fluid milk products plus milk diverted from such plant under the diversion limits. Similarly, the quantities of milk on which the pooling percentage qualification of a supply plant is based should include milk diverted from the plant in addition to its receipts of producer milk. Qualifying percentages (unchanged by this decision) are now based on the producer milk physically received at a plant plus, in the case of distributing plants, receipts from supply plants.

"Automatic" pool status in January through August should be accorded a supply plant that was a pool plant in the preceding September through December. Automatic pooling is now provided in December–July for a supply plant that qualified as a pool plant in the preceding August–November.

A cooperative "balancing plant" should be designated a pool plant for the month if 50 percent (now 60 percent) of the producer milk of its members was received at pool plants during the month.

The proposals to amend the pooling provisions were made by the principal cooperative in the market. It stated that the present provisions are inappropriate under current conditions by providing undue incentive for pooling plants that have no real association with the market and on which the market cannot depend for its fluid needs. The changes proposed, according to the cooperative, are necessary to avoid possible dilution of returns to producers that would result from attaching milk supplies to the Wichita pool largely predestined for manufacturing.

The cooperative proposed increasing the monthly route disposition requirement for pooling distributing plants from 35 percent (25 percent in March–July) of a plant's receipts to 50 percent in all months. As proposed, the percentage would be based on a plant's total receipts of all fluid milk products (except filled milk) plus diverted milk. The percentage is now computed only on the basis of the total producer milk physically received from farms at the plant and receipts from supply plants. The cooperative also proposed that the present pooling requirement that not less than 10 percent of a distributing plant's receipts be disposed of on routes in the marketing area be changed to 15 percent of total route disposition from the plant.

The pooling qualifications for a distributing plant should be based on its route disposition relative to the quantity of approved fluid milk products physically received at such plant plus the milk of producers diverted therefrom by the plant operator or the cooperative through which the producers' milk is







V 38-174 SEP 10 73 XUM

marketed. All such milk is essentially an integral part of the plant's supply. It is appropriate, therefore, in determining a plant's pool status, to consider as its total supply all milk diverted from the plant together with all approved fluid milk products physically received at the plant. It is not necessary for this purpose to specify that such receipts be producer milk or receipts from supply plants, as now specified in the order, but should include approved milk from any source.

As indicated above, diverted milk may now be pooled without being considered as a part of the supply of the plant from which diverted in determining its qualifications to pool. In the case of a distributing plant receiving its total supply from producers, if 50 percent of producer milk associated with such plant is diverted without being counted as part of the plant's supply, the route disposition percentage requirement for pooling the plant is, in effect, reduced by 50 percent as compared to a plant that diverted no milk during the month.

Similarly, if 50 percent of producer milk associated with a pool supply plant were pooled by diversion to nonpool manufacturing plants, the supply plant, by shipping half the milk physically received at such plant to pool distributing plants, would remain pooled. In this circumstance, the plant could qualify as a pool plant by shipping as little as 25 percent of its producer milk to pool distributing plants. On the other hand, a supply plant that diverted no milk would have shipped 50 percent of its actual producer receipts to qualify for pooling.

The requirements adopted for both types of plants will provide a more equitable basis for pooling.

The quantities of fluid milk products physically received at or diverted from plants in determining their pool status should be that milk approved for fluid consumption by a "duly constituted regulatory agency." The terms "duly constituted health authority" and "approved health authority" are now used in the order to designate such approved milk. The cooperative spokesman suggested that the term "duly constituted regulatory agency" would be more appropriate in referring to approved milk throughout the order. That term is more inclusive than the designations now used for agencies having jurisdiction in this field. The agency responsible for approving milk for fluid consumption is not always specifically designated as a health authority. In some states, for example, this function is the responsibility of the state Department of Agriculture.

The cooperative's proposals to increase the monthly route disposition requirement for pooling a distributing plant from 35 percent (25 percent in March–July) of a plant's receipts to 50 percent in all months and to change the requirement for route disposition in the marketing area from 10 percent of a plant's receipts to 15 percent of the plant's total route disposition were intended to insure that only bona fide plants regularly associated with the market are pooled under the order. It can reasonably be expected that the present route disposition percentage requirements in conjunction with the changes in the other pooling provisions adopted in this decision (e.g., basing the route disposition percentage requirements on a plant's receipts of fluid milk products plus milk diverted from the plant instead of on the plant's receipts only) will substantially tend to achieve this end. In this circumstance, no change should be made on the basis of this record in the route disposition percentage requirements for pooling distributing plants.

As proposed by the cooperative, "automatic" pool status in January–August should be accorded a supply plant that qualified as a pool plant in the preceding September–December. Automatic pooling is now accorded in December–July to a plant that was a pool supply plant in the preceding August–November. In effect, August would replace December as one of the four months during which a supply plant must qualify as a pool plant to obtain automatic pool status for the eight other months of the year.

The proposed September–December qualifying period is the period of the year when supply for the market is lowest relative to fluid demand. Replacing August with December in this four-month qualifying period recognizes the change in recent years in seasonal production for the market. Although production for the market relative to demand was generally lower in August than December in the past, this is not the case now. In 1970, 1971 and 1972, for example, the proportion of producer milk used in Class I was significantly greater in December than in August. The December Class I utilization of producer milk in this three-year period exceeded that for August by an average of 5.5 percentage points. The average Class I utilization of producer milk during this period was 79.9 percent for December and 74.4 percent for August.

The cooperative's proposal to require a plant that was a pool supply plant in the preceding September-December to ship also at least 20 percent of its receipts to pool distributing plants in each subsequent month of January-August is denied. Such a plant is not now required to make any shipments to be pooled in the latter months. No testimony presented by proponent was directed specifically to the need or justification for this change in this market. It is highly questionable that in this relatively small market regular supplies of milk could be most economically handled if every plant (that might have demonstrated its regular association with the market in the preceding period of low production) were required to ship milk in the seasonally high production months when the milk is not needed for fluid processing.

A plant operated by a cooperative is now accorded pool plant status if not less than 60 percent of its producer members' milk is received at pool plants, either by direct delivery from producers' farms or as a transfer from the cooperative's plant. A plant that would qualify as a pool plant under this provision is commonly referred to as a "balancing plant."

The cooperative proposed changing the percentage qualification for a balancing plant to 50 percent (from 60 percent) of its producer members' milk received at pool distributing plants (instead of at pool distributing plants and at pool supply plants), either by direct delivery from producers' farms or as a transfer from the balancing plant. In addition, it proposed that the order be changed to require that such a plant be located in the marketing area.

A plant operated by the proponent cooperative (which incidentally now qualifies for pooling by meeting the shipping requirements for a supply plant) also serves the market as a balancing plant. In that capacity, it enables pool distributing plants to tailor their receipts each day to their bottling needs. A bottling plant that receives milk by direct delivery from the farms of designated producer members of the cooperative may accept a part or none of such deliveries on any day. That is, the total deliveries of such producers on the days the bottling plant is not operated, and the amounts in excess of its Class I needs on other days, are received at the cooperative's plant. When the direct deliveries of the producers assigned to such a distributing plant are inadequate for its needs, it obtains supplemental supplies from the cooperative's plant.

The cooperative's plant is the only pool supply plant now on the market. If this plant were to qualify for pooling as a balancing plant, rather than by meeting the shipping percentage as it now does, it would be on the basis of supplying the supplemental needs of pool distributing plants and receiving any producer member milk when it was not needed at such plants. Since the services provided by a balancing plant concern only pool distributing plants, milk received at or shipped to pool supply plants should not be included in the computation to determine a balancing plant's percentage qualification to pool.

The cooperative claims that changing conditions may make it increasingly difficult to qualify its plant for pooling on the basis of its shipping performance as a supply plant. This is because the cooperative's plant is operated to a substantial degree in carrying out the supply equalizing, or balancing function. The cooperative indicated it may need to qualify its plant under the pooling standards for a balancing plant instead of those for a supply plant. In that circumstance, the present pooling requirement for a balancing plant (supplying at least 60 percent of its total producer milk receipts to pool plants) could force it to make some unnecessary and uneconomic movements of milk.

Requiring at least 50 percent of a cooperative's member producer milk be received at pool distributing plants during the month, either by direct delivery from such members' farms or as a shipment from the cooperative's balancing plant, as proposed by the cooperative, is a reasonable basis to qualify a balancing plant for pooling in any month. The 50 percent rate is fully adequate for determining association with the market and provides sufficient safeguard against a cooperative's qualifying a plant to pool as a balancing plant in order to exploit the pool.

The proposal that a cooperative's plant must be located in the marketing area to qualify for pooling as a balancing plant should not be adopted. Proponent stated that such a provision would prevent the pooling of unneeded milk supplies, and would thereby insure that the balancing plant was genuinely associated with the market.

As above-stated, the primary function of a balancing plant is to receive a cooperative's producer member milk when it is not needed at the regulated plants to which it is regularly assigned and to provide supplemental supplies to such plants when the deliveries of the producers regularly assigned to them are inadequate for their needs. It cannot be concluded that the current situation concerning location of plants to be served in the Wichita market is such that a balancing plant must be located inside the marketing area to carry out its intended function.

3. *Designating a cooperative as the handler on bulk tank milk.* A cooperative should be the handler for milk of producers it receives for the account of the cooperative from the farm in a tank truck operated by, or under the control of, such cooperative for delivery to a pool plant. In addition, a cooperative should be the handler for all milk of producers it diverts from a pool plant to a nonpool plant.

Under the current order provisions, a cooperative may be a bulk tank handler, or a diverting handler, for milk of member producers. Also, it may elect whether to be the handler for member milk it receives from the farm for delivery to a pool plant in a tank truck owned and operated by, or under contract to, such association.

Milk produced for this market is handled through farm bulk tanks and moved to the market in tank trucks. Milk of any producer when commingled in a tank truck with that of other producers is indistinguishable from such other milk The amount of a producer's milk placed in a tank truck, and the butterfat content thereof, can be determined only by measurement at the farm and from milk samples taken at the farm. After the milk has been pumped from the farm tank into the tank truck and commingled with the milk of other producers, there is no further opportunity to measure, sample, or reject the milk of the individual producer.

When milk is picked up at the farm by a truck owned or operated by a cooperative, or by a person under contract to, or otherwise under the control of, such cooperative for delivery to a pool plant, it is the cooperative that determines the weight and butterfat content of each producer's milk. Frequently, the plant operator will not know the identity of the individual producers whose milk he receives, and will know only the aggregate amount of milk received. In such cases, the cooperative obviously must become the responsible handler for the milk as it leaves the farm.

As a bulk tank handler, a cooperative's obligation is basically limited to filing a payroll report showing the weights and butterfat content of the milk of the individual producers involved and of reporting the quantities of such milk delivered to each pool plant. The cooperative is responsible to the pool only for that portion of milk received from a producer's farm for delivery to pool plants that is not accounted as actually received at a pool plant because of a difference between the weight and test of the milk received at the plant and the weight and test as picked up at the farm. The cooperative's monetary obligaton to the pool normally will be for the difference in these amounts which usually will be shrinkage in accordance with its value under the shrinkage provisions. Even this small monetary obligation is eliminated, however, when, as in this market, the handler receives milk from the cooperative on the farm weights and tests.

The recommended decision provided that a cooperative would not be the handler for milk delivered from the farm in a tank truck under its control when such milk is received by a pool plant operator on the basis of farm weights and tests. A cooperative excepted to this provision because it believed it would be precluded from performing as a handler on any such milk.

When milk is picked up at producers' farms in a bulk tank truck under a cooperative's control and a pool plant operator receives such milk on the basis of farm weights and tests, such weights and tests are not determined by him. They are obtained by the pool plant operator from the cooperative under whose control the weight and test of the milk at each producer's farm are ascertained.

Accordingly, a cooperative should be designated as a handler, even though for somewhat limited purposes, on all tank truck milk under its control delivered to pool plants from producers' farms, whether or not it is received by the pool plant operator on the basis of farm weights and tests. This will facilitate the market administrator's obtaining the monthly reports of the weights and tests of the milk picked up at each producer's farm and of the quantity and test of such milk delivered to each pool plant. This is because, as a handler, a cooperative would be required to submit such reports directly to the market administrator instead of through the pool plant operator to whose plant the milk was delivered.

A cooperative expressed concern at the hearing that the modifications adopted might require a cooperative to be the handler for the milk of nonmember producers. Nothing in the amendments adopted would require a cooperative to pick up the milk of nonmember producers in tank trucks under the cooperative's operation or control. It does provide that if a cooperative should pick up milk of nonmember producers on routes under its control, it must assume varying degrees of responsibility with respect to such milk depending on the circumstances.

The provision adopted, which accommodates substantial flexibility in the arrangements under which cooperatives sell to pool plant operators, makes it possible for a cooperative to pick up, on its trucks or trucks under its control, the milk of nonmember producers for delivery to pool plants and for the pool plant operator to make payment directly to such nonmember producers for their milk. Thus, the degree of responsibility the cooperative will have for such milk will depend on the terms of the arrangements for its delivery to pool plants. At the same time, it will enable the cooperative to act as the marketing agent for a nonmember producer who, although he has not become a member of such cooperative, has contracted with the cooperative to act as the marketing agent for his milk. In this connection the cooperative may collect payment from pool plant operators for a nonmember producer provided such nonmember has given the cooperative authorization to make such collection.

The Capper-Volstead Act provides the criteria by which cooperative associations are determined to be qualified cooperatives under the Agricultural Marketing Agreement Act. This amendment to the order is consistent with that provision of the Capper-Volstead Act wherein it is recognized that cooperatives may "deal in the products of nonmembers" and limits such dealings to amounts not greater in value than such as are "handled by it for members."

In the event the milk of a nonmember producer is diverted as producer milk from a pool plant to a nonpool plant by a cooperative, the cooperative should be the diverting handler with respect to such milk. Here the cooperative performs the complete handling function and in such capacity obviously must be held to be responsible for order obligations applicable to such milk. Thus, all milk commingled in the truck should be handled in equal terms insofar as its producer status under the order is concerned.

Another question raised was whether, in paying a nonmember producer, a cooperative may reblend proceeds due such nonmember producer with those paid to its member producers. If the nonmember producer has signed a contract with the cooperative whereby he authorizes the cooperative to market his milk, collect payment therefor, and reimburse him on the same basis as though he were a member of the cooperative, the cooperative could pay such nonmember on the same basis as it pays its member producers. However, such a contract between the cooperative and the nonmember must specifically provide for a payment re-







V 38-174 SEP 10 73 XUM

flecting: (1) The same blending of proceeds as is otherwise done for members, (2) the same treatment of withholding for capital (revolving fund), (3) the same right of liquidation of certificates issued for a revolving fund or other capital withholding, and (4) the same privilege of sharing an ultimate distribution of proceeds if and when special distribution is made, such as dividends or returns of unused deductions.

In the absence of a written contract containing the terms set forth above, the cooperative would be required to pay a nonmember producer, for whose milk it is the handler at not less than the uniform price announced by the market administrator for the month.

4. *Reports included in uniform price computation.* The order provision excluding from the current month's uniform price computation the report of a handler who has not paid his producers for the preceding month is not appropriate under current marketing conditions.

The market administrator must compute the uniform price for each month by the 12th of the following month. Four weeks earlier (by the 14th of the month) handlers must have completed their payments for producer deliveries in the preceding month.

It is not administratively feasible to audit the records of all handlers between the final date when payments to producers for the preceding month were due and the date by which the next monthly uniform price must be computed. Within that limited period of time, it is not practicable for the market administrator to determine that each handler has actually completed his payments to individual producers and cooperatives. Handlers' cancelled checks, for example, are necessary to verify such payments. They are received by handlers from their banks periodically, usually monthly, and it cannot be expected that all handlers' cancelled checks would be available for audit within the necessary time period.

In view of the above, the requirement to exclude from the current month's uniform price computation the report of a handler who has not paid his producers for the preceding month should be discontinued.

5. *Need for emergency action.* Proponent cooperative stated that emergency conditions now exist that warrant the omission of a recommended decision on their proposals to revise the diversion provisions. It alleged that emergency action is necessary because another cooperative contemplates adding to the pool, as diverted milk, the milk of dairy farmers who would ship to a distant cheese plant. These dairy farmers, proponent claimed, are told they will receive the f.o.b. Wichita order uniform price without incurring the cost of transporting such milk to a pool plant in the marketing area. This, the cooperative argued, would result in their exploiting the Wichita pool at the expense of producers regularly supplying the market.

The conditions under which milk may be diverted and the location at which diverted milk is priced are important provisions of the order. They can significantly affect returns to producers for diverted milk. The proposed changes in the present diversion provisions could, therefore, have a significant effect on producers, currently and prospectively, subject to the order. In view of this there should be opportunity to file exceptions thereto. The request for omission of the recommended decision on proposals to revise the diversion provisions therefore is denied.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General findings. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on exceptions. In arriving at the findings and conclusions, and the the findngs and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents, a marketing agreement regulating the handling of milk, and an ORDER amending the order regulating the handling of milk in the Wichita, Kansas, marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

*It is hereby ordered,* That this entire decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Determination of producer approval and representative period. July 1973 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Wichita, Kansas, marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on September 5, 1973.

CLAYTON YEUTTER,
*Assistant Secretary.*

*Order[1] amending the order, regulating the handling of milk in the Wichita, Kansas marketing area.*

Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Wichita, Kansas, marketing area.

The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR, Part 900).

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.





Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

*Order relative to handling.* It is therefore ordered that on and after the effective date hereof the handling of milk in the Wichita, Kansas, marketing area, shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on June 25, 1973, and published in the FEDERAL REGISTER on June 29, 1973 (38 FR 17240), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein subject to the following modifications in §§ 1073.8, 1073.41 and 1073.80.

1. Section 1073.7 is revised as follows:

**§ 1073.7 Producer.**

"Producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted regulatory agency, which milk is received at a pool plant, diverted to a nonpool plant pursuant to § 1073.14(b), or accounted for by a cooperative association pursuant to § 1073.14(c), except:

(a) A producer-handler as defined in any order (including this part) issued pursuant to the Act, or

(b) A person with respect to milk that is physically received at a pool plant as diverted milk from an other order plant if a Class II or Class III classification under this order is designated for such milk and it is subject to the pricing and pooling provisions of another order issued pursuant to the Act.

2. In § 1073.8, paragraphs (c) and (d) are revised as follows:

**§ 1073.8 Handler.**

* * * * * *

(c) Any cooperative association with respect to milk of producers it diverts from a pool plant to a nonpool plant;

(d) Any cooperative association with respect to milk it receives for its account from the farm of a producer in a tank truck owned and operated by, or under the control of, such association, for delivery to a pool plant(s); and

* * * * * *

3. Section 1073.10 is revised as follows:

**§ 1073.10 Distributing plant.**

"Distributing plant" means a plant approved by a duly constituted regulatory agency for the processing or packaging of Grade A milk and from which during the month route disposition is made in the marketing area.

4. Section 1073.11 is revised as follows:

**§ 1073.11 Supply plant.**

"Supply plant" means a plant from which fluid milk products, acceptable to a duly constituted regulatory agency for distribution under a Grade A label, are shipped during the month to, and physically received at, a distributing plant.

5. Section 1073.12 is revised as follows:

**§ 1073.12 Pool plant.**

"Pool plant" means a plant specified in paragraph (a), (b) or (c) of this section that is not an other order plant or a producer-handler plant.

(a) A distributing plant that has:

(1) Route disposition, except filled milk, during the month of not less than 35 percent (25 percent for each month of March through July) of the fluid milk products, except filled milk, that are approved by a duly constituted regulatory agency for distribution under a Grade A label and are physically received at such plant, or diverted therefrom by the plant operator or a cooperative association to a nonpool plant as producer milk pursuant to § 1073.14, and route disposition, except filled milk, in the marketing area during the month is not less than 10 percent of such fluid milk products. If the entire quantity of fluid milk products, except filled milk, disposed of in packages in a particular size and form is received in such packages from other plants, all such disposition shall be credited to the plant from which such packages were received and shall be deducted from the appropriate disposition of the receiving plant; or

(2) Qualified as a pool plant in the immediately preceding month on the basis of performance standards described in paragraph (a) (1) of this section.

(b) A supply plant from which during the month not less than 50 percent of the total quantity of Grade A milk approved by a duly constituted regulatory agency that was physically received at such plant from dairy farmers and handlers described in § 1073.8(d), or diverted therefrom by the plant operator or a cooperative association as producer milk to a nonpool plant pursuant to § 1073.14, is shipped to a plant(s) described in paragraph (a) of this section. A supply plant that was a pool plant pursuant to this paragraph in each of the months of September through December shall be a pool plant in each of the following months of January through August unless the plant operator requests the market administrator in writing that such plant not be a pool plant. Such nonpool status shall be effective the first month following such notice and thereafter until the plant again qualifies as a pool plant on the basis of shipments; and

(c) A plant that is approved by a duly constituted regulatory agency to handle milk for fluid consumption, that is operated by a cooperative association, and from which during the month not less than 50 percent of the milk of producer members of such association is delivered directly or is transferred by the association to pool plants described in paragraph (a) of this section, unless such plant qualifies for the month as a pool plant under another order issued pursuant to the Act by delivering 50 percent or more of its Grade A receipts from dairy farmers to plants qualified as pool distributing plants under such other order.

6. Section 1073.14 is revised as follows:

**§ 1073.14 Producer milk.**

"Producer milk" shall be that skim milk and butterfat in milk from producers that is:

(a) Received at a pool plant directly from a producer or a handler pursuant to § 1073.8(d);

(b) Diverted by the operator of a pool plant or by a cooperative association to a nonpool plant other than a producer-handler plant, subject to the conditions of paragraph (d) of this section; or

(c) The difference between the quantity of milk as received by a handler pursuant to § 1073.8(d) from producers' farms and the quantity of such milk delivered to pool plants. For the purposes of §§ 1073.53 and 1073.82, such milk shall be deemed to have been received by such handler at the pool plant to which all other producer milk in the same tank truck was delivered.

(d) The following conditions shall apply to milk diverted from a pool plant to a nonpool plant that is not a producer-handler plant:

(1) Such milk shall be accounted for as received by the diverting handler at the location of the nonpool plant;

(2) Milk of a producer shall not be eligible for diversion from a pool plant under this section if during the month less than 15 percent of total milk of such person as a producer is received at a pool plant;

(3) The total quantity of milk diverted by a cooperative association that is greater than the total quantity of producer milk received at all pool plants during the month from the cooperative association shall not be producer milk:



V 38-174 SEP 10 73 XUM

(4) The total quantity of milk diverted by the operator (other than a cooperative association) of a pool plant that is greater than the total quantity received at such plant during the month from producers who are not members of a cooperative association shall not be producer milk;

(5) The diverting handler shall designate the dairy farmers' deliveries that are not producer milk pursuant to this paragraph. If the handler fails to make such designation, no milk diverted by him to a nonpool plant shall be producer milk;

(6) To the extent that it would result in nonpool plant status for the pool plant from which diverted, milk diverted for the account of a cooperative association from the pool plant of another handler shall not be producer milk; and

(7) Milk diverted to an other order plant shall be producer milk only if a Class II or Class III classification is designated for such milk pursuant to the provisions of another order issued pursuant to the Act and such milk is not subject to the pricing and pooling provisions of such order.

7. In § 1073.30, paragraph (c) is revised as follows:

**§ 1073.30 Reports of receipts and utilization.**

* * * * *

(c) Each cooperative association shall report with respect to milk for which it is a handler pursuant to § 1073.8(c) and (d), as follows:

(1) Receipts of skim milk and butterfat in producer milk;

(2) The quantities delivered to each pool plant of another handler pursuant to § 1073.8(d) (the utilization of which is accountable by the latter under paragraph (a) of this section);

(3) The utilization of milk received under § 1073.8(d) but not delivered to the pool plant of another handler pursuant to such paragraph, and the utilization of milk for which the cooperative is the handler pursuant to § 1073.8(c); and

(4) Such other information as the market administrator may require.

8. In § 1073.53, the section title and the introductory paragraph are revised as follows:

**§ 1073.53 Location adjustments to handlers.**

For milk received from producers or from a handler pursuant to § 1073.8(d) at a plant and classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (d) of this section or for other source milk to which a location adjustment is applicable, the price at such plant when located:

* * * * *

9. In § 1073.61, paragraph (c) is revised as follows:

**§ 1073.61 Plants subject to other Federal orders.**

* * * * *

(c) A supply plant meeting the requirements of § 1073.12(b) that also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made during the month to plants regulated under such other order than are made to plants regulated under this part, except during the months of January through August if such plant retains automatic pooling status under this part.

10. In § 1073.71, paragraph (a) is revised as follows:

**§ 1073.71 Computation of uniform prices.**

* * * * *

(a) Combine into one total the values computed pursuant to § 1073.70 for all handlers who filed the reports prescribed by § 1073.30 for the month, except those in default of payments required pursuant to § 1073.84 for the preceding month;

11. In § 1073.80, the introductory sentence in paragraph (d) is revised as follows:

**§ 1073.80 Time and method of payment.**

* * * * *

(d) Each handler who receives milk for which a cooperative association is the handler pursuant to § 1073.8(d), including the milk of producers who are not members of such association, and who the market administrator determines have authorized such cooperative association to collect for their milk, shall, on or before the second day prior to the date payments are due individual producers, pay such cooperative association for such milk as follows:

* * * * *

12. In § 1073.82, the section title and paragraph (a) are revised as follows:

**§ 1073.82 Location adjustments to producers and on nonpool milk.**

(a) For producer milk received at plants located outside Zone 1 there shall be added or deducted, as the case may be, an adjustment for each such plant for all milk at the rates specified in § 1073.53 (b) and (c); and

* * * * *

[FR Doc.73-19134 Filed 9-7-73;8:45 am]

## Rural Electrification Administration

**[ 7 CFR Part 1701 ]**

### REA SPECIFICATIONS FOR RURAL TELEPHONE FACILITIES

**Proposed Revision for Building-Out Capacitors**

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), including the amendment thereto enacted by P.L. 93-32, REA proposes to issue REA Bulletin 345-23 to announce a revision in REA Specification PE-30 for building-out capacitors. On issuance of REA Bulletin 345-23, Appendix A to Part 1701 will be modified accordingly.

Persons interested in the revision of PE-30 may submit written data, views or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, on or before October 9, 1973. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours.

A copy of the revision of REA Specification PE-30 may be secured in person or by written request from the Director, Telephone Operations and Standards Division.

The text of REA Bulletin 345-23 announcing the revision of the specification is as follows:

REA BULLETIN 345-23

SUBJECT: REA Specification for Building-Out Capacitors, PE-30

I. *Purpose.*—To announce a revision in REA Specification PE-30 for Building-Out Capacitors.

II. *General.*—REA Specification PE-30 has recently been revised to include several desirable changes. The principal changes involve the addition of requirements for pole and manhole mounted assemblies and for single-capacitor units designed for multiple mounting, improved electrical requirements and environmental testing procedures.

This specification becomes effective immediately upon issuance of this bulletin. Manufacturers of building-out capacitors now accepted in the REA program shall have a period of six months to comply in all respects with revised REA Specification PE-30. This does not preclude the adoption of the revised specification prior to the effective date.

III. *Availability of specification.*—Copies of the revised PE-30 are available upon request from the Telephone Operations and Standards Division, REA. Questions concerning the revised specifications may be referred to the Chief, Transmission Branch, Telephone Operations and Standards Division, Rural Electrification Administration, U.S Department of Agriculture, Washington, D.C. 20250, telephone number 202-447-3917.

Dated September 4, 1973.

C. R. BALLARD,
*Acting Assistant Administrator.*

[FR Doc.73-19176 Filed 9-7-73;8:45 am]

## CIVIL AERONAUTICS BOARD

**[ 14 CFR Ch. II ]**

**[EDR-143B; Docket No. 19901]**

### AIR FREIGHT INDUSTRY

**Uniform Credit, Billing and Collection Practices; Termination of Rulemaking Proceeding**

SEPTEMBER 4, 1973.

By advance notice of proposed rulemaking EDR-143, dated August 23, 1968 (33 FR 12191), the Board gave notice that it had under consideration rulemaking action to establish uniform credit, billing, and collection practices within the domestic and international air freight industry. The background of the rulemaking proceeding is as follows:

On May 20, 1968, twenty-seven air freight forwarders filed an agreement with the Board relating to uniform credit, billing, and collection practices.[1] The agreement provided that charges would be payable in cash at the time shipments are accepted or collect shipments delivered, except that credit may be extended for ten days by advance arrangement.[2] If payment is not timely received, the air freight forwarder will use its internal procedures for collection of the delinquent account during the next ten days. If the aggregate overdue balance exceeds $250 at the end of that period, then, within five days thereafter, the forwarder will notify the customer that he will be placed on a cash basis unless the account is fully paid within the next ten days. If full payment is not received within such ten-day period, then the customer must be placed on a cash basis from which he may not be removed until full payment of all of his outstanding accounts with the forwarder.[3]

The agreement further provided that it would not become effective until the Board had made its essential provisions applicable to all Board-authorized forwarders, and in that connection the parties to the agreement submitted an appropriate petition for rule making contemporaneously with the agreement. The petitioners contended that such a regulation would contribute to the financial stability of the industry and reduce the use of varying periods of credit for shippers as a competitive weapon and a discriminatory tool, while at the same time avoiding the legal and economic difficulties which could result from an attempt by the forwarders to impose an industry-wide embargo upon customers.

The Board did not reach any tentative conclusions as to whether such a rule should be adopted. Rather, the Board issued advance notice of proposed rulemaking EDR-143,[4] inviting comments and data focusing upon certain questions which were posed in the advance notice.

Comments in response to the advance notice were filed by the Air Freight Forwarders Association, on behalf of the 27 petitioners; Airlift International, Inc.; the Air Transport Association of America, on behalf of certain member carriers; the American Retail Federation; Continental Air Lines; Control Data Corporation; Emerson Electric Co.; The Flying Tiger Line Inc.; Japan Air Lines; the National Industrial Traffic League; the National Retail Merchants Association; Pan American World Airways; Radio Corporation of America; Raytheon Co.; Society of American Florists and Ornamental Horticulturists; Thatcher Glass Manufacturing Co.; 3M Co.; United Air Lines; United Parcel Service Co.; UNIVAC Division of Sperry Rand Corporation; and jointly by Wings and Wheels Express, Inc., and Air Express International Corporation.

Although considerable support was expressed for the general concept of uniform credit and billing practices, the preponderance of the comments expressed opposition to the provisions suggested by the petitioners. Many shippers said that their internal procedures for payment of bills would not lend themselves to payment within the time suggested by the petitioners. It was also said that the provision for automatically cutting off credit to shippers whose overdue accounts exceeded $250 would be unduly rigid and harsh; in this connection, some shippers and carriers contended that a creditor should be free to deal with delinquent accounts on an individual basis, taking into account the particular shipper's circumstances and other relevant factors.

We have determined to terminate the rulemaking proceeding in Docket 19901. Although we continue to believe that uniformity in billing and credit practices may be generally desirable, the particular regulatory approach suggested by the instant petitioners appears to present too many practical difficulties to warrant further consideration in this proceeding. In this connection, it should be noted that we have recently authorized discussions to be held among direct air carriers, with the participation of indirect air carriers and shippers, concerning the general questions raised by air freight credit, billing, and collection practices in interstate and overseas air transportation,[5] and we are hopeful that these discussions may provide an adequate basis for our future consideration of realistic regulatory action with respect to the subject problem.

Accordingly, the Board hereby terminates the rulemaking proceeding in Docket 19901.[6]

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743 (49 U.S.C. 1324))

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.73-19167 Filed 9-7-73;8:45 am]

[1] Docket No. 18720.

[2] In such a case, billing will be made within ten days after acceptance of prepaid shipments, or ten days after delivery of collect shipments. The credit period will run from the date of billing until the date payment is mailed, such period not to exceed ten days.

[3] However, in the case of a contested billing, the customer need not be placed on a cash basis if he has properly paid the uncontested portion and explained the difference in writing to the air freight forwarder.

[4] In EDR-143, the Board also asked for comments as to whether any such rule should apply to direct air carriers and foreign air carriers, as well as to forwarders.

[5] Order 73-6-8, June 7, 1973, 38 FR 14974 (Docket No. 25398).

[6] By EDR-238B, being issued contemporaneously herewith, we are also terminating, for similar reasons, a rulemaking proceeding in Docket 24999 with respect to monthly reporting by route air carriers of amounts due from forwarders, and the age of such amounts.

**[ 14 CFR Part 241 ]**

**[EDR 238 B; Economic Regulations Docket No. 24999]**

### UNIFORM SYSTEM OF ACCOUNTS

**Monthly Reports; Termination of Rulemaking Proceeding**

SEPTEMBER 4, 1973.

By notice of proposed rulemaking EDR-238, dated December 12, 1972 (37 FR 26835), the Board proposed to amend Part 241 of its Economic Regulations (14 CFR Part 241) so as to require route air carriers to file a monthly report of the amounts due from air freight forwarders, international air freight forwarders, and foreign indirect air carriers of property only holding a section 402 permit (foreign air freight forwarders), and of the age of these amounts, on a new Schedule B-15 of the CAB Form 41 report.

The proceeding was instituted after a review of the major air carriers by the Board's audit staff revealed that a large percentage of forwarders' accounts with direct air carriers were overdue. The Board noted that such credit practices were in violation of the carriers' tariffs, and expressed concern that they were resulting in bad-debt losses to the carriers and consequently increasing the cost of services to the traveling and shipping public. Accordingly, the Board proposed to monitor the carriers' compliance with their tariffs by means of the reporting system set forth in EDR-238.

Comments in response to the notice were filed by Air Express International Corporation; the Air Freight Forwarders Association, on behalf of its members; the Air Freight Motor Carriers Conference; the Air Transport Association of America, on behalf of certain of its members; Delta Air Lines, Inc.; Emery Air Freight Corporation; Pan American World Airways, Inc.; and Seaboard World Airlines, Inc.

We have determined to terminate the rulemaking proceeding in Docket No. 24999. The preponderance of the comments opposed the proposed rule, pointing out that for various reasons it would result in burdens and other difficulties greater than any benefits which it might provide. Although we continue to believe that more information concerning air freight accounts may be generally desirable, the particular regulatory approach proposed in EDR-238 appears to present too many practical difficulties to warrant further consideration in this proceeding. In this connection, it should be noted that we have recently authorized discussions to be held among direct air carriers, with the participation of indirect air carriers and shippers, concerning the general questions raised by air freight credit, billing, and collection practices in interstate and overseas air transportation,[1] and we are hopeful that these discussions may provide an adequate basis for

[1] Order 73-6-8, June 7, 1973, 38 FR 14974 (Docket No. 25398).





V 38-174 SEP 10 73 XUM

our future consideration of realistic regulatory action with respect to the subject problem.

Accordingly, the Board hereby terminates the rulemaking proceeding in Docket No. 24999.[2]

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743 (49 U.S.C. 1324))

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND, *Secretary.*

[FR Doc.73-19168 Filed 9-7-73;8:45 am]

---

## [ 14 CFR Parts 298, 389 ]

[EDR 253; ODR 7; Economic Regulations Organization Regulations Docket No. 25853]

## CERTAIN FILING AND LICENSE FEES

### Notice of Proposed Rulemaking

SEPTEMBER 4, 1973.

Notice is hereby given that the Civil Aeronautics Board has under consideration proposed amendments of the above parts which would adjust the current level of fees and set forth additional fees for Board services. The principal features of the proposed amendments are further described in the Explanatory Statement, and the proposed amendments are set forth in the Proposed Rule. This regulation is proposed under the authority of section 204(a) of the Federal Aviation Act of 1958 (72 Stat. 743, 49 U.S.C. 1324) and Title V of the Act of August 31, 1951 (65 Stat. 290, 5 U.S.C. 140).

Interested persons may participate in the proposed rulemaking through submission of twelve (12) copies of comments addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant matter in communications received on or before October 11, 1973, will be considered by the Board before taking action on the proposal. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 710, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND, *Secretary.*

EXPLANATORY STATEMENT

The Board's current schedule of license and filing fees has been in effect since March 1, 1968 (14 CFR 389). The schedule was constructed to recover approximately 25 percent of the costs of four operating bureaus in the areas of activity covered by the fees.[1] This amount of recovery is no longer possible at existing levels, yet the Board remains convinced that this is an appropriate goal. The Board estimates that the current total annual costs of providing for fee-associated activities is approximately $4.2 million.[2] However, at present levels, only $415 thousand, or approximately 10 percent of these costs, was recovered during fiscal 1973.

Although the Board in past years has recovered a greater amount under the existing schedule than was recovered last year, it is apparent both that the levels of prior recovery would not achieve a 25 percent recovery by reason of greatly increased costs of operations, and that under present conditions the Board is unlikely to issue the number of new authorizations issued in prior years, with a concomitant decrease in amount of fees from this source at present levels. The principal item of increased costs is reflected in the Board's salary and expense appropriation, which has grown by 80 percent since fiscal year 1966 (from $7,923,000 for 610 employees in that year, to $14,289,000 for 670 employees, in fiscal 1973). In determining the approximately $4.2 million in costs now attributable to fee-related activities, we have followed approximately the same methodology as was previously employed in fixing the 1968 level. Precise computations cannot be made, but the general goal has been to establish filing fees which would recover approximately one-quarter of the cost attributable to the activity involved. In some instances more may be recovered, in others less. In no instance is it estimated that the recovery would exceed the cost attributable to the activity.[3]

In addition to increasing the level of existing fees in various respects (see Summary of Proposed Fees infra), we also propose to establish new fees in the following categories: [4]

1. *Motions.*—The current fee schedules do not impose specific charges for the filing of motions under the Board's rules of practice. The costs of processing and reviewing motions are largely included in the cost of an underlying application subject to a fee. However, we believe that certain motions should be subject to special charges because they confer benefits beyond those contemplated in the underlying application. These are (1) motions to file otherwise unauthorized documents, e.g., further briefs or answers not provided for in the Board's rules; (2) certain motions to strike which lend themselves to use in lieu of unauthorized documents; and (3) motions for expedited action. The Board proposes to charge a $50.00 filing fee for these motions. It seems clear that parties filing these motions typically are requesting or obtaining special treatment. With particular attention to motions to strike, we note that they generally function as procedural devices for removing scandalous, impertinent, redundant, or immaterial matters or pleadings. However, motions to strike redundant or immaterial pleadings, etc., frequently appear to be used as opportunity to further argue the merits of a case. Accordingly, we propose to charge a filing fee of $50.00 where motions to strike are filed for purposes other than removing scandalous or impertinent matters or pleadings.

2. *Aircraft transactions.*—The Board also proposes to amend § 389.25 so as to provide a fee of $50 for the filing of agreements pursuant to Part 299 of the Board's Regulations. This Part grants a general exemption to direct air carriers from the requirements of section 408(a)(2) and (3) of the Act insofar as such provisions prohibit (without prior Board approval) the purchase or lease of aircraft by one air carrier from another or from a person engaged in any phase of aeronautics. Agreements relating thereto must be filed with the Board, and are thereafter reviewed by the Board's staff for conformance with the Regulations. At the present time, there is no charge for such filing. However, our review indicates that there should be such charge in view of processing costs incurred by the Board and special benefits conferred upon the parties by the exemption. For example, there were 35 such filings in fiscal year 1972, requiring careful review by the Board's staff. Additionally, the benefits to the industry are substantial in that the Regulations eliminate a formal section 408 application, remove the "prior approval" requirement and thereby expedite the consummation of these arrangements.

3. *Agreements filed for prior approval.*—Section 412 of the Act does not require that agreements be approved by the Board prior to their implementation. Nevertheless, there are certain agreements which do not become effective unless and until approved by the Board. It is our experience that these are typically complex and controversial in nature and require a great deal of the staff's time for analytical review. Accordingly, agreements and contracts for which the Board's prior approval is requested, other than those for which the requirement for prior approval has been imposed by the Board, shall be assessed a filing fee of $200.

4. *Applications to extend embargo notices.*—Part 228 of the Board's Regulations sets forth procedures whereby a carrier can apply for an extension of a previously filed embargo notice. It is our experience that the processing and review of these applications involve time and effort on the part of the Board and its staff, and can result in measurable special benefit to the applicant. Accordingly, we propose to include applications to extend embargoes filed under Part 228 in our fee schedule, and have tentatively determined to charge a filing fee of $25.00 therefor.

5. *Waiver of fees.*—Since the fee system was inaugurated, carriers have submitted many requests under § 389.23 for waiver of filing or license fees. At the present time, no charge is imposed on a request for a waiver of such fees. However, it is clear that the processing and review of waiver requests involve time and effort on the part of the Board and its staff, and confer special benefits upon the parties, and should therefore be included in our fee schedule. Accordingly, we propose charging a nominal fee of $25 for the filing of such requests, or 10 percent of the fee for which a waiver is sought, whichever is less.

SUMMARY OF PROPOSED FEES

*Proposed Filing Fees*

| Section | Proposed Fee |
|---|---|
| 298.50, Air taxi registration fee | $ 15 |
| 389.25 | |
| (a)(1), Certificates of public convenience and necessity | 300 |
| (a)(2), License fees | See below |
| (b), Agreements, general | 50 |
| *Agreements and contracts filed for prior approval | 200 |
| (c), Air cargo pickup and delivery service | 175 |
| (d), Airport notice or authorization | 40 |
| (e), Service pattern change: | |
| Part 376 | 40 |
| Parts 202 and 203 | 300 |
| (f), Name change | 300 |
| (g)(1), Delay inauguration of, or temporarily suspend service | 400 |
| *(g)(2), Applications for extension of embargo notices | 25 |
| (h), Exemptions from section 401, waivers of Parts 207, 208, 372, 372a, 373, 378, and 378a, and special operating authorizations | 300 |
| (i), 403 exemptions | 50 |
| (j), Exemptions or waivers for the performance of a specific number of charters | 100 |
| For each additional charter | 10 |
| (k), Free or reduced-rate authority, waiver of tariff regulations, and special tariff permission | 10 |
| (l), Inclusive tour charter prospectus | 50 |
| (m), Bulk inclusive tour contracts and bonds | 50 |
| (n), Study group statements | 50 |
| (o), Travel group charters | 50 |
| (p), 409 interlocks | 250 |
| (q)(1), 408 applications, general | 150 |
| Mergers and control | 3,000 |
| *(q)(2), Lease/purchase agreements | 50 |
| *(r), Motions to file unauthorized documents, to strike, and for expedited action | 50 |
| (s), Operating authorization—air freight forwarders | 400 |
| (t)(1), Operating authorization—overseas military charter operators | 400 |
| (t)(2), Bonds covering overseas military charter operations | 50 |
| (u)(1), Tariffs issued by carriers (per page) | 2 |
| (u)(2), Tariffs issued by foreign air carriers | 0 |
| (v), Tariffs issued by publishing agents (per page) | 2 |
| *(w), Waiver of fees | 25 |

*New Item.

*Proposed License Fees*

| Revenue Bracket | Proposed Annual Gross Transport Fee |
|---|---|
| $0 to $100,000 | No fee |
| $100,000 to $1,000,000 | $2,000 |
| $1,000,000 to $5,000,000 | 10,000 |
| $5,000,000 to $10,000,000 | 20,000 |
| $10,000,000 or over | 40,000 |
| Point deletion | 1,500 |

PROPOSED RULE

It is proposed to amend Part 298 of the Board's Economic Regulation (14 CFR Part 298) and Part 389 of the Board's Organization Regulations (14 CFR Part 389) as follows:

### PART 298—CLASSIFICATION AND EXEMPTION OF AIR TAXI OPERATORS

1. Amend § 298.50(c)(3) to read as follows:

**§ 298.50 Filing for registration by air taxi operators.**

* * * * *

(c) Registration shall be * * *

(3) A Fifteen ($15) dollar registration fee. This shall be in the form of a check, draft, or postal money order, payable to the Civil Aeronautics Board.

* * * * *

### PART 389—FEES AND CHARGES FOR SPECIAL SERVICES

2. Amend § 389.25 to read as follows:

**§ 389.25 Schedule of filing and license fees.**

(a) *Certificates of public convenience and necessity.*—(1) The filing fee for an application, under section 401 of the Act, (i) for a certificate of public convenience and necessity to engage in air transportation, or (ii) to amend, modify, renew, or transfer a certificate or to abandon a route or a part thereof, is $300. The fee will be refunded, on request, if the application is withdrawn prior to hearing, is dismissed under the stale-application rule of § 302.911 of this chapter, is dismissed pursuant to the denial of consolidation rule of § 302.12(e) of this chapter, or is otherwise dismissed by the Chief Administrative Law Judge prior to hearing under the authority delegated to him in § 385.10(b) of this chapter.

(2) In addition to the filing fee, one of the following license fees shall be paid by each carrier which, pursuant to its application, is issued a certificate or has its certificate amended, modified, renewed, or transferred:

(i) A fee based on annual gross transport revenue increase, for the first full Board, resulting from new, amended, modified, renewed, or transferred authority year of operations, as estimated by the thority in accordance with the following schedule:

| Over | Fee |
|---|---|
| $0 to $100,000 | No fee |
| $100,000 to $1,000,000 | $2,000 |
| $1,000,000 to $5,000,000 | 10,000 |
| $5,000,000 to $10,000,000 | 20,000 |
| $10,000,000 or over | 40,000 |

(ii) A fee of $1,500 for each point deleted where annual gross transport revenues are not estimated by the Board to increase from deletion or consolidation of points.

(iii) Within the meaning of paragraph (a)(2)(i) of this section, annual gross transport revenue increase resulting from renewed authority or authority issued to replace exemption authority shall be deemed equivalent to the difference between such revenues which the carrier will earn with the Board's authorization and such revenues which the carrier would have earned if the Board had denied such authority and the carrier's comparable prior certificate or exemption authority had expired. In the case of mergers, such annual gross transport revenue increase from transferred authority shall be deemed equivalent to the difference between such revenues which the new (or surviving) carrier will earn with the Board's authorization and such revenues which the merging carriers would have earned under their pre-existing authority if the Board had disapproved the merger. Except as provided hereinafter, such annual gross transport revenue increase from transferred authority in nonmerger cases shall be deemed equivalent to the difference between such revenues which the person acquiring the route will earn with the Board's authorization and such revenues which such person would have earned if the Board had disapproved the transfer. In cases of transfer of authority due to a reincorporation not involving any merger, consolidation or change of ownership, or to the creation of a new corporation pursuant to an acquisition of control which the Board approves under section 408 of the Act and which involves only a substitution of the new corporation for the old, no gross transport revenue increase shall be deemed to result from the transfer of authority.

(b) *Agreements.*—(1) The filing fee for a contract or agreement filed under section 412(a) of the Act is $50; except that the fee is $200 where such filing seeks Board approval prior to the effective date of the contract or agreement. *Provided, however,* That the fee shall be $50 where the Board requires a contract or agreement to be filed for prior approval.

(2) Where a filing seeks approval of more than one contract, agreement, or conference resolution, a separate filing fee will be assessed for each separate contract, agreement, or resolution. *Provided, however,* That identical resolutions in the same filing applicable to dif-

---

[1] See, OR-27, 33 FR 68, January 4, 1968. The operating Bureaus noted therein are the Bureau of Administrative Law Judges, the Bureau of Economics, the Bureau of Operating Rights, and the Office of General Counsel.

[2] These costs include certain indirect costs which were not taken into account in fixing the 1968 level of fees. Total indirect cost items now included consist of a proportionate share of management and supervisory costs, rent and depreciation of property and equipment, costs of collecting fees, costs of leave earned by the Board's employees, and other nonsalary objects such as office supplies and material etc. Indirect costs are specified by OMB Circular A-25 as an item to be included.

[3] For applications filed under section 401, the prescribed filing fees recover only a fraction of the goal of 25 percent recoupment of allocated cost and the license fees are intended to recover the balance.

[4] As can be seen from an examination of the proposed rule, we have also taken this opportunity to make certain changes to § 389.25 for the purposes of organizational clarity.

[2] By EDR-143B, being issued contemporaneously herewith, we are also terminating, for similar reasons, a rulemaking proceeding in Docket 19901 with respect to the establishment of uniform credit, billing, and collection practices within the air freight industry.







V38-174 SEP 10 73 XUM

ferent IATA conference areas will be counted as one resolution.

(c) *Air cargo pickup and delivery service.*—The filing fee for an application, under § 222.3 of this chapter, for tariff-filing authority providing for pickup and delivery service is $175.

(d) *Airport notice or authorization.*—The filing fee (1) for an airport notice, under § 202.3(a) or § 203.5(a) of this chapter, to permit a certificated route carrier to serve a point regularly through an airport not then regularly used by such carrier, or (2) for an application, under § 202.3(b)(2) of this chapter, for permission to use an airport, is $40.

(e) *Change in service pattern.*—The filing fee for an application for change in service pattern or an approved service plan is $40 for an application under Part 376 of this chapter and $300 for an application under Parts 202 and 203 of this chapter.

(f) *Change of name.*—The filing fee for an application, under Part 215 of this chapter, for a change of name or use of a trade name is $300.

(g) *Delay inauguration of or temporarily suspend service, and applications to extend property embargo notices.*—(1) The filing fee for an application, under Part 205 of this chapter, for authority to delay inauguration of service or to temporarily suspend service is $400.

(2) The filing fee for an application, under Subpart B of Part 228 of this chapter to extend a notice of embargo beyond thirty days is $25.

(h) *Exemptions from section 401, waivers of Parts 207, 208, 372, 372a, 373, 378, and 378a, and special operating authorizations.*—The filing fee for an application (1) for an exemption under section 416(b) or section 101(3) of the Act from the provisions of section 401 of the Act (except an application dealing with a specific number of charters), or (2) for a waiver of Parts 207, 208, 372, 372a, 373, 378, or 378a (except an application dealing with a specific number of charters), or (3) for a special operating authorization under section 417 of the Act, is $300.

(i) *Exemptions from section 403.*—The filing fee for an application for exemption under section 416(b) of the Act from the provisions of section 403 of the Act is $50.

(j) *Exemptions or waivers for the performance of a specific number of charters.*—The filing fee for an application for an exemption under section 416(b) or section 101(3) of the Act from the provisions of section 401 of the Act, or a request for a waiver of Parts 207, 208, 372, 372a, 373, 378 or 378a, for the performance of a specific number of charters (one-way or round-trip) is $100 plus $10 for each charter (one-way or round-trip) described, subject to a maximum fee of $300.

(k) *Free or reduced-rate authority, waiver of tariff regulations, and special tariff permission.*—The filing fee for applications (1) under § 223.8 of this chapter for authority to furnish free or reduced-rate overseas or foreign air transportation (except an application filed at the request of a U.S. Government agency or a foreign government), (2) under § 221.200 of this chapter for waiver or modification of the provisions of Part 221 with respect to the filing and posting of tariffs, or (3) for special permission under § 221.133 or § 221.191 of this chapter, is $10. With respect to applications for waiver or special tariff permission, such fee does not apply to an application which a foreign air carrier files or which a tariff publishing agent files on behalf of foreign air carriers exclusively.

(l) *Inclusive tour charter prospectus.*—The filing fee for each tour prospectus filed pursuant to § 378.10 or § 378.19 of this chapter is $50.

(m) *Bulk inclusive tour contracts and bonds.*—The filing fee for contracts and bonds covering a bulk inclusive tour or series of tours filed pursuant to § 378a.10 of this chapter is $50.

(n) *Study group statements.*—The filing fee for each study group statement filed pursuant to § 373.10 of this chapter is $50.

(o) *Travel group charters.*—The filing fee for each travel group charter filing pursuant to § 372a.22(a) of this chapter is $50.

(p) *Interlocking relationships under section 409.*—The filing fee for an application for approval of interlocking relationships under section 409 of the Act is $250.

(q) *Merger, acquisition of control etc., under section 408, and lease or purchase agreements under Part 299.*—(1) The filing fee for an application under section 408 of the Act is $150; except that the filing fee for an application for merger, consolidation, or acquisition of control of certificated air carriers is $3,000 for each certificated air carrier named in the merger, consolidation or acquisition of control.

(2) The filing fee for a lease or purchase agreement filed under Part 299 of this chapter is $50.

(r) *Motions.*—The filing fee for a motion, under Part 302 of this chapter, to strike, for leave to file an otherwise unauthorized document, or for expedited action is $50; except that there shall be no filing fee for a motion to strike impertinent or scandalous matters or pleadings.

(s) *Operating authorization—air freight forwarder.*—The filing fee for an application, under Part 296 or 297 of this chapter, for operating authorization as an air freight forwarder or international air freight forwarder is $400.

(t) *Operating authorization—overseas military personnel charter operator, and bonds covering overseas military personnel charter operations.*—(1) The filing fee for an application, under Part 372 of this chapter, for operating authorization as an overseas military personnel charter operator is $400.

(2) The filing fee for bonds covering overseas military personnel charter operations filed pursuant to § 372.24 of this chapter is $50.

(u) *Tariffs issued by carriers.*—(1) The filing fee for tariffs (including supplements and revised or additional original pages thereto) issued by an air carrier pursuant to section 403 or 1003 of the Act is $2 per page. That fee is applicable notwithstanding that the tariff contains participating foreign air carriers, but it is not applicable to a blank looseleaf page unless it cancels matter on the preceding issue of the page.

(2) There shall be no filing fee for tariffs issued by a foreign air carrier notwithstanding that the tariff contains participating air carriers.

(v) *Tariffs issued by publishing agents.*—The filing fee for tariffs (including supplements and revised or additional original pages thereto) issued by a publishing agent pursuant to section 403 or section 1003 of the Act is $2 per page, subject to the following conditions:

(1) If the tariff is issued on behalf of one or more air carriers exclusively, the filing fee is applicable to any page.

(2) If the tariff is issued on behalf of one or more foreign air carriers exclusively, no filing fee is applicable to any page.

(3) If the tariff is issued on behalf of one or more air carriers and one or more foreign air carriers, the filing fee is applicable to any page except to a page which the issuing agent states in his accompanying letter of tariff transmittal contains only:

(i) Matters pertaining exclusively to foreign air carriers, or

(ii) Changes only in matter pertaining exclusively to foreign air carriers when included on the same page together with matter (other than matter pertaining exclusively to foreign air carriers) which is reissued without change.

(4) The filing fee is not applicable to a blank looseleaf page unless it cancels matter on the preceding issue of the page other than matter pertaining only to foreign air carriers exclusively.

(5) Where two pages are published back-to-back on the same leaf and one page is not subject to a fee pursuant to paragraph (q)(3) of this section and the page on the reverse side is issued without change (except for pagination, correction number, and issued and effective dates), no fee is applicable to the latter page.

(6) The filing fee is applicable to a loose-leaf page containing a correction number check sheet unless all other pages of the tariff are exempt from filing fees.

(w) *Waivers.*—The filing fee for an application under § 389.23 of this chapter for a waiver or modification of fee is $25, or 10 percent of the fee for which a waiver is sought, whichever is less.

[FR Doc.73-19165 Filed 9-7-73;8:45 am]

---

**[ 14 CFR Part 372a ]**

[SPOR 33; Special Regulations Docket No. 25854]

## CERTIFICATED AND FOREIGN AIR CARRIERS

### Travel Group Charters

SEPTEMBER 4, 1973.

Notice is hereby given that the Civil Aeronautics Board proposes to amend Part 372a of its Special Regulations (14





CFR Part 372a) so as to authorize certificated air carriers and foreign air carriers to perform foreign-originating travel group charters organized in compliance with the rules of the country of origin, so long as: (1) those foreign rules are substantially similar to Part 372a, and (2) there is in effect, between the country of origin and the United States a formal agreement with respect to the charterworthiness of such operations. The purpose of the proposed amendment is explained in the attached explanatory statement, and the proposed amendment is set forth in the proposed rule. The amendment is proposed under the authority of section 101(3), 204(a), 401, 402, 407, 416, and 1102 of the Federal Aviation Act of 1958, as amended, (72 Stat. 737 (as amended by 75 Stat. 467, 76 Stat. 143, 82 Stat. 867, 84 Stat. 921), 743, 754, 757, 766, 771, and 797; 49 U.S.C. 1301, 1324, 1371, 1372, 1386, and 1502).

Interested persons may participate in the proposed rulemaking through submission of twelve (12) copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material received on or before October 10, 1973, will be considered by the Board before taking final action on the proposed rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 712 Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

EXPLANATORY STATEMENT

Part 372a of the Board's Special Regulations (14 CFR Part 372a)[1] governs the operation of Travel Group Charters (TGC). Essentially the part permits groups of 40 or more persons having no "prior affinity" to hire all or part of an aircraft for round-trip transportation provided the group is formed at least ninety days in advance of the flight departure date, and each participant pays at least a twenty-five percent nonrefundable deposit. The actual cost of the trip is to be borne by the participants on a pro rata basis. The part authorizes the performance of charter flights by both U.S. and foreign direct air carriers in connection with foreign-originating as well as U.S.-originating TGC's, subject to compliance with the various conditions and restrictions set forth therein.

In adopting Part 372a, the Board had been motivated by the discrimination inherent in the "prior affinity" concept, and the fact that our existing rules had proven to be extremely difficult to enforce. These concerns as to the inherent failings of the "prior affinity" concept had been shared for some time by the regulatory authorities of many other countries. During the pendency of the rulemaking proceeding which culminated in the adoption of Part 372a, several participants had argued for the adoption of special rules with respect to foreign-originating TGC's, so as to permit such charters to be operated in conformance with the originating country's rules governing TGC's (or counterpart charter concept, however designated), so long as the foreign country's rules were substantially similar to those prescribed by Part 372a. However, at the time the Board adopted Part 372a, no foreign country had as yet promulgated comparable charter rules, and the Board therefore considered it premature to attempt then to prescribe standards for determining whether another country's future rules would be substantially similar to ours. The Board did, however, express agreement in principle with the merits of the proposed "law of the country of origin" approach, and indicated its willingness to deal with this matter later, in light of future developments in the international air transportation community, and to take appropriate implementing action—by amending our rules, granting waivers, or otherwise—giving due consideration to the interests of the public and the various competing classes of carriers.[2]

Subsequent to the Board's adoption of its TGC rule and an announcement by the United Kingdom of its intention to adopt an Advance-Booking Charter (ABC) rule, embodying a comparable concept, representatives of the governments of the United States, Canada, and the 20 member states of the European Civil Aviation Conference (ECAC), met in Ottawa, Canada, from October 17 to 19, 1972, and duly issued a joint Declaration of Agreed Principles for North Atlantic Charter Flights (Ottawa Principles). The Ottawa Principles were developed as a means to establish, during a period of experimentation with non-affinity charter concepts, a generally agreed framework which would permit all North Atlantic countries to establish substantially similar rules which could be reciprocally recognized. For its part, the Department of State in announcing acceptance by the United States of the Ottawa Principles, expressed its willingness to undertake discussions with other interested authorities in order "to arrive at [a] mutually agreeable regime for particular bilateral traffic flows and to ensure fully reciprocal treatment for U.S.-originating TGC flights."[3]

By now, a number of other foreign governments have adopted their own charter regulations, which are based upon the Ottawa Principles and incorporate restrictive features similar, but not identical, to those contained in Part 372a. Moreover, bilateral agreements have been concluded between the United States and some of those foreign governments, following discussions conducted in accordance with the above-described announcement of the State Department.

In light of the above, the Board believes that it would now be appropriate to propose amending Part 372a so as to authorize foreign air carriers holding section 402 permits, as well as all certificated U.S. air carriers, to perform foreign-originated TGC's or advance-booking charters, organized in compliance with the rules of the country of origin, so long as: (1) those foreign rules are substantially similar to ours, and (2) there is in effect, between the country of origin and the United States, a formal agreement with respect to the charterworthiness of such operations.

The Board has tentatively concluded that, in order for a foreign country's rules to be considered substantially similar to our own, they must embody, at a minimum, the following restrictions and conditions:

1. The participants in each TGC/ABC group must travel together on both the outbound and inbound portions of the trip.

2. Each TGC/ABC contract must cover at least forty seats.

3. The list of actual participants (i.e., persons contractually bound to pay for a specifically identified flight) in each TGC/ABC group must be filed with appropriate regulatory authorities at least ninety days in advance of flight departure.

4. If there is to be a list of "standbys" (i.e., eligible substitutes for participants) for a TGC/ABC, and if the cost of the TGC/ABC is prorated among participants, then the number of such standbys shall not exceed three times the number of participants; but if the cost to individual TGC/ABC participants is not prorated, then the number of standbys shall not be greater than the number of seats contracted for.

5. No person shall be added to a standby list within ninety days prior to flight departure.

6. If the cost of the TGC/ABC is prorated among participants, then standbys may be substituted for participants at any time prior to flight departure; but if the cost to individual TGC/ABC participants is not prorated, then standbys may not be substituted for participants within thirty days prior to flight departure.

7. If the cost of the TGC/ABC is prorated among participants, then no more than twenty percent of the participants in any TGC/ABC group may be persons whose names were included on the standby list for that TGC/ABC flight; but if the cost to individual TGC/ABC participants is not prorated, then no more than fifteen percent of the number of seats contracted for may be sold to persons whose names were on the standby list relating to such flight.

---

[1] SPR-61, adopted September 27, 1972, 37 FR 20808, October 4, 1972.

[2] SPR-81, pp. 22-23 (mimeo).

[3] See Department of State Press Release # 296, dated December 1, 1972, containing the text of a letter from Deputy Assistant Secretary of State for Transportation and Telecommunications, Bert W. Rein, addressed jointly to the Chairman of the Canadian International Transport Policy Committee, Canadian Transport Commission, and the President of the European Civil Aviation Conference.



V 38-174 SEP 10 73 XUM

8. A TGC/ABC must be "round-trip" (i.e., including both a departure and return flight).

9. If the cost of the TGC/ABC is prorated among participants then a TGC/ABC must be for a minimum duration of at least seven days in the case of North American charters, and a minimum duration of at least ten days in the case of all other charters; but if the cost to individual TGC/ABC participants is not prorated, then during the period of April 1 to October 31, the TGC/ABC must provide for a minimum duration of at least fourteen days, and during the period of November 1 to March 31, the minimum duration must be at least ten days: *Provided, however,* That the minimum duration of non-prorated North American TGC/ABC's need not be greater than seven days.

10. If the cost of the TGC/ABC is prorated among participants, then commingling of TGC/ABC groups with other categories of charter traffic is permitted but if the cost to individual TGC/ABC participants is not prorated, then no commingling of TGC/ABC groups with other categories of charter traffic shall be permitted.

11. The direct air carrier shall maintain a list of the passengers actually carried on each TGC/ABC flight.

Our proposal to recognize the charterworthiness of foreign-originated TGC/ABC's operated pursuant to the rules of the country of origin so long as those rules embody the above-listed restrictions is grounded on our tentative conclusion that the proposed special rules will maintain, as our present rules have recently been held to maintain, "the necessary distinction between group and individually ticketed travel • • •."[4]

Although the minimum conditions which we are proposing to prescribe for foreign TGC/ABC rules include some which are less restrictive than those which we have imposed on U.S.-originating TGC's, others are included which are more restrictive than those presently contained in Part 372a. Viewed as a whole, we tentatively find that the cumulative effect of the various restrictions which we propose herein would be "to insure that charter travel [does] not become a guise for individually ticketed services."[5]

In reaching our conclusion to modify the inbound charter rules, we have given great weight to the fact that the pro rata characteristic of our TGC rule appears to be unacceptable to a number of foreign governments for charters originating in their territory. Our insistence on this one requirement, regardless of the country of origin or the flag of the carrier, could thus result in effectively aborting the TGC experiment. Moreover, as a general principle, we are mindful that the international aviation system cannot maintain its viability if every government rigidly insists on imposing its own regulatory concepts on other sovereign states. Our approach here, which is designed, as a matter of comity, to recognize the validity of rules of foreign governments for charters originating in their territory, while maintaining our own rules for charters originating in this country, represents a reasonable accommodation of the divergent viewpoints of various sovereign members of the international aviation community in dealing with a common problem.

The proposed rules should generally enable inbound TGC/ABC charters to be operated from all countries with which the United States has concluded a formal agreement with respect to the charterworthiness of this new class of charters. These agreements have thus far included, and future agreements are expected to include, a stipulation that the subject rules of the signatories are "substantially similar." To the extent that the rules of a particular foreign signatory may embody variations which do not completely comply with our proposed restrictions, authority to operate charters under such foreign rules would have to be obtained by waiver, pursuant to § 372a.3.

Finally, we are proposing a technical amendment to §372a.31, which would impose on TGC organizers who organize foreign-originated TGC/ABC flights certain requirements as to retention and disclosure of relevant records which will enable us to determine whether the rules of the country of origin are actually being followed.[6]

PROPOSED RULE

It is proposed to amend Part 372a of the Special Regulations (14 CFR Part 372a) as follows:

1. Amend the table of contents by adding a new Subpart F, the table as amended to read in part as follows:

**Subpart E—Reporting Requirements**

Sec.
372a.50 Reporting requirements.

**Subpart F—Foreign-Originating Travel Group Charters**

372a.60 Foreign-originating travel group charters.

2. Amend the definitions of "travel group charter" and "travel group charter organizer" in § 372a.2 to read as follows:

**§ 372a.2 Definitions.**

As used in this part, unless the context otherwise requires—

• • • • •

"Travel group charter" means a round-trip charter to be performed by one or more direct air carrier which is arranged and sponsored by a charter organizer for a travel group and which meets the requirements set forth in §§372a.10 or 372a.60, whichever is applicable.

"Travel group charter organizer" means (1) any citizen of the United States, as defined in section 101(13) of the Act (other than a direct air carrier), who is authorized hereunder to engage in the formation of travel groups in accordance with the provisions of this part; or (2) a foreign charter organizer.

3. Amend § 372a.22 by adding, as a new paragraph (e), matter deleted hereinabove from § 372a.2, the section, as amended, to read as follows:

**§ 372a.22 Operating authorization of charter organizer.**

• • • • •

(d) On and after May 30, 1973, • • •

• • • • •

(e) With respect to the charter contract, such charter organizer acts solely as agent for, and holds all moneys received from any source in connection therewith as agent for, the members of the travel group.

4. Amend § 372a.31 by inserting, following paragraph (a) a new paragraph (a–1), and by revising paragraph (b), the entire section, as amended, to read as follows:

**§ 372a.31 Record retention.***

(a) Every charter organizer (other than a foreign charter organizer over whom the Board has declined to exercise its jurisdiction) conducting a travel group charter pursuant to this part shall retain for 2 years after completion of the charter or series of charters true copies of the following documents at its principal or general office in the United States (or, if it is a foreign charter organizer, then at its principal or general office):

(1) All documents which evidence or reflect deposits made by, and refunds made to, each charter participant;

(2) All statements, invoices, bills, and receipts from suppliers or furnishers of goods and services in connection with the travel group charter or series of charters.

(a–1) Every charter organizer (other than a foreign charter organizer over whom the Board has declined to exercise its jurisdiction) conducting a travel group charter pursuant to Subpart F of this part shall retain for 2 years after completion of the charter at its principal or general office in the United States true copies of all documents which it is required by the applicable rules of the originating country to file with the regulatory authorities of that country or to maintain in its own files for any specified period.

(b) Every such charter organizer shall make the documents required to be retained by the provisions of the foregoing paragraphs (a) or (a–1), as the case may be, available upon request by an authorized representative of the Board and shall permit such representative to make such notes and copies thereof as he deems appropriate.

5. Amend § 372a.40 to read as follows:

**§ 372a.40 Charter not to be performed unless in compliance with part.**

A direct air carrier shall not perform air transportation in connection with a travel group charter unless it has made a reasonable effort to verify that all provisions of this part have been complied with (or, if it is a foreign-originated charter to which Subpart F applies, that all provisions of the rules of the country of origin have been complied with), and that the charter organizer's authority under this part has not been suspended by the Board (or, if it is a foreign-originated charter to which Subpart F applies, that the charter organizer's authority has not been suspended by the regulatory authorities of the country of origin): *Provided, however,* That except with respect to foreign-originated charters operated pursuant to Subpart F of this part, where a travel group is organized by a foreign charter organizer over whom the Board has declined to exercise its jurisdiction pursuant to § 372a.20a, no direct air carrier may perform air transportation in connection with such travel group charter unless the charter is formed and implemented in accordance with the general conditions and limitations set forth in Subpart B of this part and the charter organizer performs all the acts and duties which this part requires to be performed by charter organizers within the Board's jurisdiction, other than the provisions set forth in §§ 372a.22(b)(4)(iii), 372a.25 and 372a.31.

6. Amend Part 372a by adding a new Subpart F to read as follows:

**Subpart F—Foreign-Originating Travel Group Charters**

**§ 372a.60 Foreign-originating travel group charters.**

(a) Notwithstanding the general conditions and limitations set forth in Subpart B of this part or the conditions set forth in §§ 372a.22, 372a.25, 372a.27 through 372a.30, 372a.31(a)(1), or the prohibitions set forth in §§ 372a.41 and 372a.42, or the reporting requirements set forth in Subpart E of this part, direct air carriers and charter organizers (other than a foreign charter organizer over whom the Board has declined to exercise its jurisdiction) are authorized to operate and organize foreign-originating travel group or advance-booking charters (referred to herein as TGC/ABC) in compliance with the applicable rules of the originating country, so long as (1) such foreign rules conform to paragraph (b) of this section, and (2) there is in effect a formal agreement between the originating country and the United States with respect to the charterworthiness of such operations.

(b) The following are the restrictions and conditions to which foreign rules must conform in order for direct air carriers and charter organizers to operate and organize foreign-originating TGC/ABC charters pursuant to paragraph (a) of this section:

(1) The participants in each TGC/ABC group must travel together on both the outbound and inbound portions of the trip.

(2) Each TGC/ABC contract must cover at least forty (40) seats.

(3) The list of actual participants (i.e., persons contractually bound to pay for a specifically identified flight) in each TGC/ABC group must be filed with appropriate regulatory authorities at least ninety (90) days in advance of flight departures.

(4) If there is to be a list of "standbys" (i.e., eligible substitutes for participants) for a TGC/ABC, and if the cost of the TGC/ABC is prorated among participants, then the number of such standbys shall not exceed three times the number of participants; but if the cost to individual TGC/ABC participants is not prorated, then the number of standbys shall not be greater than the number of seats contracted for.

(5) No person shall be added to a standby list within ninety (90) days prior to flight departure.

(6) If the cost of the TGC/ABC is prorated among participants, then standbys may be substituted for participants at any time prior to flight departure; but if the cost to individual TGC/ABC participants is not prorated, then standbys may not be substituted for participants within thirty (30) days prior to flight departure.

(7) If the cost of the TGC/ABC is prorated among participants, then no more than twenty percent of the participants in any TGC/ABC group may be persons whose names were included on the standby list for that TGC/ABC flight; but if the cost to individual TGC/ABC participants is not prorated, then no more than fifteen percent of the number of seats contracted for may be sold to persons whose names were on the standby list relating to such flight.

(8) A TGC/ABC must be "round-trip" (i.e., including both a departure and return flight).

(9) If the cost of the TGC/ABC is prorated among participants, then a TGC/ABC must be for a minimum duration of at least seven days in the case of North American charters, and a minimum duration of at least ten days in the case of all other charters; but if the cost to individual TGC/ABC participants is not prorated, then during the period of April 1 to October 31, the TGC/ABC must provide for a minimum duration of at least fourteen days, and during the period of November 1 to March 31, the minimum duration must be at least ten days: *Provided, however,* That the minimum duration of a nonprorated North American TGC/ABC need not be greater than seven days.

(10) If the cost of the TGC/ABC is prorated among participants, then commingling of TGC/ABC groups with other categories of charter traffic is permitted, but if the cost to individual TGC/ABC participants is not prorated, then no commingling of TGC/ABC groups with other categories of charter traffic shall be permitted.

(11) The direct air carrier shall maintain a list of the passengers actually carried on each TGC/ABC flight.

[FR Doc.73-19169 Filed 9-7-73;8:45 am]

---

## COST OF LIVING COUNCIL

[ 6 CFR Part 152 ]

### EXECUTIVE AND VARIABLE COMPENSATION

**Notice of Proposed Rulemaking**

*Correction*

In FR Doc. 73-18704 appearing at page 23628 in the issue for Friday, August 31, 1973, § 152.130(e)(1) in the second column on page 23640 should be corrected to read as set forth below:

(e) *Limitation on incentive compensation*—(1) *General.* Payments, awards, or grants of incentive compensation pursuant to incentive compensation plans or practices subject to the provisions of § 152.124 or § 152.125, made with respect to a fiscal year with respect to employees who are members of an executive control group, shall not exceed an amount which is equal to the product of the allowable amount for the plan or practice unit (determined pursuant to § 152.124 or § 152.125, as applicable, and before adjustment for changes in size of plan or practice unit) and the apportionment factor for the plan or practice determined pursuant to paragraph (e)(2) of this section, multiplied by the adjustment factor for the executive control group determined pursuant to paragraph (e)(3) of this section.

---

## ENVIRONMENTAL PROTECTION AGENCY

[ 40 CFR Part 180 ]

### TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

**Sodium Chlorate; Proposed Exemption From Requirement of a Tolerance**

On the initiative of the Administrator it is proposed that sodium chlorate, when used with urea as a fire retardant, be exempted from the requirement of a tolerance in or on the raw agricultural commodity sorghum grown for seed only.

Based on available data it is concluded that:

[4] Saturn Airways, Inc. v. CAB, No. 72-1904, D.C. Cir., July 11, 1973, at 19.

[5] Id., at 21.

[6] The attached proposed rule also includes technical revisions of the definitions of "travel group charter" and "travel group charter organizer" in § 372a.2 so as to conform to the proposed substantive amendments, and would eliminate from the definition of the latter term certain substantive material, which would become incorporated in § 372a.22.

[*] Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than five years, or both. Title 18, U.S.C. § 1001.







V 38-174 SEP 10 73 XUM

1. The pesticide is useful for the purpose for which the exemption is proposed.

2. There is no reasonable expectation of residues in eggs, meat, milk, or poultry, and § 180.6(a)(3) applies.

3. The proposed exemption will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 FR 9038), it is proposed that § 180.1020 be amended by adding a new paragraph as follows:

**§ 180.1020 Sodium chlorate; exemption from the requirement of a tolerance.**

* * * * *

Sodium chlorate, when used with urea as a fire retardant, is exempted from the requirement of a tolerance for residues in or on sorghum grown for seed only when used in accordance with good agricultural practice as a desiccant in sorghum seed production.

Any person who has registered or submitted an application for the registration of an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act containing any of the ingredients listed herein may request, on or before October 10, 1973, that this proposal be referred to an advisory committee in accordance with section 408(e) of the act.

Interested persons may, on or before October 10, 1973, file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & M Streets SW., Waterside Mall, Washington, D.C. 20460, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. All written submissions made pursuant to this proposal will be made available for public inspection at the office of the Hearing Clerk.

Dated August 30, 1973.

HENRY J. KORP,
*Deputy Assistant Administrator for Pesticide Programs.*

[FR Doc.73-19105 Filed 9-7-73;8:45 am]

## SECURITIES AND EXCHANGE COMMISSION

**[ 17 CFR Part 230 ]**

[Release No. 33-5419]

### EXEMPTION OF CERTAIN PROMISSORY NOTES

**Notice of Proposed Rule Making**

Notice is hereby given that the Securities and Exchange Commission has under consideration a proposed new Rule 239 (17 CFR 230.239) under the Securities Act of 1933 (Act). The proposed rule would provide an exemption pursuant to section 3(b) of the Act for certain promissory notes directly secured by a first lien on a parcel of residential real estate. Section 3(b) authorizes the Commission to exempt from the registration requirements of the Act any issue of securities if the aggregate amount at which such issue is offered to the public does not exceed $500,000 and if the Commission finds that the enforcement of the Securities Act with respect to such securities is not necessary in the public interest and for the protection of investors by reason of the small amount involved or the limited character of the public offering.

Proposed Rule 239 exempts from registration certain first lien promissory notes. The exemption will apply only to notes originated by certain banking institutions or other regulated mortgages. In order to insure the small-issue aspect of the exemption, the following requirements are contained within the rule: (1) the aggregate unpaid principal amount of the notes and the aggregate offering price to the public cannot exceed $500,000; (2) the aggregate unpaid debt secured by the lien cannot exceed 95 percent of the property's appraised valuation; (3) the unpaid principal amount of each note cannot be less than $15,000; and (4) the notes shall be sold for cash or purchasers' obligations to pay cash within 60 days after sale.

For purposes only of the proposed rule, the term "issuer" is defined as the mortgagor or such other person who may be primarily obligated on the evidence of indebtedness secured by the lien on the property. Further, the rule makes clear that the insuring of mortgages will not destroy the exemption afforded by it.

It should be noted that the proposed rule resembles in many respects existing Rule 234 (17 CFR 230.234) under the Act. Rule 234 is designed basically to provide an exemption from registration for owners of real estate who have a limited investment in their property and issue first lien notes thereon. Rule 239, on the other hand, would generally exempt the resale of first lien mortgage notes in the so-called secondary market, which is generally limited to institutional or similar investors. The Commission proposes to retain Rule 234 in its present form in order to continue to provide an exemption from registration for homeowners and others who now rely upon it, while at the same time adopting Rule 239 to validate, within certain specified limits, the operation of the ongoing secondary market in mortgages, which appears to have operated for many years without any significant abuses.

The text of the proposed rule follows:

**§ 230.239 Exemption of certain promissory notes directly secured by a first lien on real estate.**

(a) Promissory notes directly secured by a first lien on a single parcel of real estate upon which is located a dwelling or other residential structure shall be exempt from registration under the Act if such notes are offered in accordance with the following terms and conditions:

(1) Neither the aggregate unpaid principal amount of the notes secured by the lien on the property nor the aggregate amount at which such notes are offered by the issuer to the public shall exceed $500,000;

(2) The aggregate unpaid principal amount of all indebtedness secured by the first lien on the property shall not exceed 95 percent of the appraised value of such property;

(3) The promissory notes secured by the lien on the property must be or have originated by a savings or loan association, savings bank, commercial bank, or similar banking institution which is supervised and examined by a Federal or State authority or by a mortgagee approved by the Secretary of Housing and Urban Development pursuant to 12 U.S.C. §§ 1703, 1707(b);

(4) The unpaid principal amount of each note to be offered shall not be less than $15,000;

(5) The notes shall be sold for cash or purchasers' obligations to pay cash within 60 days after sale.

(b) Interests or participations in, or promissory notes secured by a lien upon another note or notes which are in turn secured by a first lien upon real estate shall not be deemed to be directly secured by a first lien on real estate within the meaning of this rule.

(c) For purposes of this rule, the issuer is deemed to be the mortgagor or such other person who may be primarily obligated on the evidence of indebtedness secured by the lien on the property.

(d) Private mortgage insurance applicable to a promissory note or notes shall not affect the availability of the exemption afforded by this rule.

(e) No exemption shall be available under this rule for any investment contract or other security the offering of which is involved in the offering of the notes secured directly by a first lien upon residential real estate.

The foregoing action is taken pursuant to the Securities Act of 1933, particularly sections 3(b) and 19(a) thereof.

All interested persons are invited to submit their views on the proposed rule, in writing, to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549, to be received on or before October 11, 1973. All such communications will be available for public inspection and should refer to File No. S7-493.

(Secs. 3(b), 19(a), 48 Stat. 75, 85, sec. 209, 48 Stat. 908, 59 Stat. 167, 84 Stat. 1480, 15 U.S.C. 77c(b), 77s(a).)

By the Commission.

GEORGE A. FITZSIMMONS,
*Secretary.*

SEPTEMBER 6, 1973.

[FR Doc.73-19283 Filed 9-7-73;8:45 am]





# Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF THE TREASURY

**Office of the Secretary**

### CALCIUM PANTOTHENATE FROM JAPAN

**Antidumping; Determination of Sales at Less Than Fair Value**

SEPTEMBER 6, 1973.

Information was received in proper form on October 20, 1972, that calcium pantothenate from Japan was being sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act").

A "Withholding of Appraisement Notice" issued by the Secretary of the Treasury was published in the FEDERAL REGISTER of June 8, 1973 (38 FR 15086).

I hereby determine that for the reasons stated below, calcium pantothenate from Japan is being, or is likely to be, sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

*Statement of reasons on which this determination is based.*—The information before the U.S. Customs Service indicates that the proper basis of comparison for fair value purposes is between purchase price and the adjusted home market price of such or similar merchandise.

Purchase price was calculated on the basis of an ex-godown or c.i.f. price, as appropriate, for exportation to the United States, with deductions for ocean freight, inland freight, insurance charges, and shipping charges, as applicable.

Home market price was calculated on the basis of a weighted-average delivered price to purchasers in the home market with deductions, as appropriate, for inland freight charges, insurance charges, and sales promotion rebates. An adjustment was made for differences in credit costs.

Using the above criteria, purchase price was found to be lower than the adjusted home market price of such or similar merchandise.

Calcium pantothenate produced and sold by Fuji Chemical Industries, Ltd., of Tokyo, Japan, is excluded from this determination of sales at less than fair value since 100 percent of its export sales during the period under consideration were examined, and the home market price of its merchandise was found to be lower than the purchase price of such or similar merchandise in every instance.

The United States Tariff Commission is being advised of this determination.

This determination is being published pursuant to section 201(c) of the Act (19 U.S.C. 160(c)).

[SEAL] EDWARD L. MORGAN,
*Assistant Secretary of the Treasury.*

[FR Doc.73-19297 Filed 9-7-73;10:15 am]

## DEPARTMENT OF DEFENSE

**Office of the Secretary**

### ADVISORY COMMITEE MEETINGS

*Correction*

The Department of Defense Advisory Group on Electron Devices notice of meetings published at 38 FR 22806, August 24, 1973, is changed to read as follows:

The Department of Defense Advisory Group on Electron Devices, and various working groups thereof, will meet in closed sessions on dates indicated below. Unless otherwise indicated, meetings will be held at 201 Varick Street, New York, New York.

Advisory Group on Electron Devices, September 11, 1973.
Working Group on Special Devices, September 11, 1973.
Working Group on Passive Devices, September 18, 1973.
Working Group on Low Power Devices, September 21, 1973.
Meeting to be held at the Naval Electronics Laboratory Center, 271 Catalina Boulevard, San Diego, California.
Working Group on High Power Devices, September 25–26, 1973.

The purpose of the DoD Advisory Group on Electron Devices is to provide the Director of Defense Research and Engineering and the Military Departments with advice and recommendations on the conduct of economical and effective research and development programs in the field of electron devices, e.g., lasers, radar tubes, transistors, infrared sensors, etc. The group is also the vehicle for interservice coordination of planned R&D efforts.

In accordance with Public Law 92-463, Section 10d, the Director of Defense Research and Engineering has determined, on 28 Feb 1973, that the meetings of the Advisory Group are matters which fall within policies analogous to those recognized in Section 552(b) of Title 5 of the United States Code and that the public interest requires such activities to be withheld from disclosure insofar as the requirements of subsection (a)(1) and subsection (b) of section 10, Public Law 92-463 are concerned.

September 5, 1973.

MAURICE W. ROCHE,
*Director, Correspondence and Directives, OASD (Comptroller).*

[FR Doc.73-19152 Filed 9-7-73;8:45 am]

## DEPARTMENT OF THE INTERIOR

**Bonneville Power Administration**

### BONNEVILLE REGIONAL ADVISORY COUNCIL

**Notice of Public Meetings**

The Bonneville Regional Advisory Council will hold a series of regional meetings to discuss the energy situation in the Pacific Northwest. The dates and places of the meetings are as follows:

Tuesday, September 18—Burley, Idaho (Ramada Inn).
Tuesday, September 25—Portland, Oregon (Sheraton Motor Inn).
Wednesday, September 26—Spokane, Wash. (Ridpath Motor Inn).
Wednesday, October 3—Pasco, Wash. (Red Lion Inn).
Thursday, October 4—Seattle, Wash. (Seattle Downtown Hilton Hotel).

Each meeting will begin at 10:15 a.m. and will be open to interested members of the public. There is no registration fee, but there will be a charge for the no-host luncheon.

The main purpose of the meeting will be to discuss the near-term power outlook, energy conservation and curtailment, the proposed upcoming BPA rate increase, and the long-range implementation of the Hydro-Thermal Power Program.

The regional meetings of the Bonneville Regional Advisory Council provide a general forum for the free exchange of ideas as to the best ways of utilizing the energy resources of the region.

Copies of the proceedings of each meeting will be furnished on request to the Executive Secretary, Bonneville Regional Advisory Council, P.O. Box 3621, Portland, Oreg. 97208.

Dated August 29, 1973.

DAN W. SCHAUSTEN,
*Executive Secretary, Bonneville Regional Advisory Council.*

[FR Doc.73-19102 Filed 9-7-73;8:45 am]



V38-174 SEP 10 73 XUM

Fish and Wildlife Service

## NUNIVAK NATIONAL WILDLIFE REFUGE

### Notice of Public Hearing Regarding Wilderness Proposal

Notice is hereby given in accordance with provisions of the Wilderness Act of September 3, 1964 (P.L. 88-577;78 Stat. 890-896; 16 U.S.C. 1131-1136), that a public hearing will be held beginning at 7 p.m. on October 17 at the school house, Medoryuk Island, 2nd. Judicial District, Alaska, and to be continued on October 24, at 7 p.m., at the Loussac Library, Anchorage, Third Judicial District, Alaska, on a proposal leading to a recommendation to be made to the President of the United States by the Secretary of the Interior regarding the desirability of including a portion of the Nunivak Refuge within the National Wilderness Preservation System. The wilderness study included the entire acreage within Nunivak National Wildlife Refuge, which is located in the 2nd Judicial District, State of Alaska.

A study summary containing a map and information on the Nunivak Wilderness Study may be obtained from the Refuge Manager, Clarence Rhode National Wildlife Range, Box 346, Bethel, Alaska 99559, or the Area Director, Bureau of Sport Fisheries and Wildlife, 813 D Street, Anchorage, Alaska 99501.

Individuals or organizations may express their oral or written views by appearing at this hearing, or they may submit written comments for inclusion in the official record of the hearing to the Regional Director at the above address by November 23, 1973.

Dated September 4, 1973.

CHARLES M. LOVELESS,
*Acting Director, Bureau of Sport Fisheries and Wildlife.*

[FR Doc.73-19138 Filed 9-7-73;8:45 am]

National Park Service

## INDIANA DUNES NATIONAL LAKESHORE ADVISORY COMMISSION

### Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Indiana Dunes National Lakeshore Advisory Commission will be held at 9:30 a.m., E.D.T., on Friday, September 28, 1973, at the Sleeping Bear Dunes National Lakeshore Interim Visitor Center, Intersection of 109 & Welch Road, 4.4 miles south of Glen Haven, Michigan.

The purpose of the Indiana Dunes National Lakeshore Advosiry Commission is to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the administration and development of the Indiana Dunes National Lakeshore.

The members of the Commission are as follows:

Mr. William L. Lieber (Chairman), Indianapolis, Indiana.
Mr. Harry W. Frey, Michigan City, Indiana.
Mrs. Ione F. Harrington, Chesterton, Indiana.
Mr. John A. Hillenbrand II, Batesville, Indiana.
Mr. Ed Masiulis, Beverly Shores, Indiana.
Mr. Harold G. Rudd, Portage (Ogden Dunes), Indiana.
Mr. John R. Schnurlein, Valparaiso, Indiana.

The matters to be discussed at this meeting include:

1. Superintendent's report on matters relevant to Indiana Dunes National Lakeshore since the last meeting.
2. Land Acquisition Officer's report on matters relevant to Indiana Dunes National Lakeshore since the last meeting.
3. Discussion of the Gary-Lake-Porter County Regional Transportation Planning Commission Suggestions on West Beach Parking Facility.

The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact James R. Whitehouse, Superintendent, Indiana Dunes National Lakeshore, at 219-926-7561. Minutes of the meeting will be available for public inspection three weeks after the meeting at the Superintendent's Office of the Indiana Dunes National Lakeshore located at the intersection of State Park Road and U.S. Highway 12, Chesterton, Indiana.

Dated August 28, 1973.

IRA WHITLOCK,
*Acting Associate Director, National Park Service.*

[FR Doc.73-19090 Filed 9-7-73;8:45 am]

## MINUTE MAN NATIONAL HISTORICAL PARK ADVISORY COMMISSION

### Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Minute Man National Historical Park Advisory Commission will be held, commencing at 8:00 p.m., on Thursday, September 27, 1973, at Park Headquarters on Route 2A, Lincoln, Massachusetts.

The Commission was established by Public Law 86-321 to advise the Secretary of the Interior on the development of Minute Man National Historical Park.

The members of the Advisory Commission are as follows:

Mr. James DeNormandie, Lincoln, Massachusetts.
Mr. Donald E. Nickerson, Lexington, Massachusetts.
Mr. Francis S. Moulton, Jr., Concord, Massachusetts.
Mrs. Katharine S. White, Lincoln, Massachusetts.

The matters to be discussed at this meeting include land acquisition and proposed developments. In addition, the Superintendent will give a report on activities and park operations since the last Commission meeting.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and it is expected that not more than 35 persons will be able to attend. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements may contact Herbert Olsen, General Superintendent, Boston Group, National Park Service, at 617-369-6993. Minutes of the meeting will be available for public inspection four weeks after the meeting at the Office of the Boston Group, National Park Service, Liberty Street, Concord, Massachusetts.

Dated August 28, 1973.

IRA WHITLOCK,
*Acting Associate Director, National Park Service.*

[FR Doc.73-19089 Filed 9-7-73;8:45 am]

# DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

## MILK IN SOUTHEASTERN MINNESOTA-NORTHERN IOWA AND MINNEAPOLIS-ST. PAUL, MINNESOTA, MARKETING AREAS

### Determination of Equivalent Prices in August 1973 for New York Grade AA (93-Score) Butter

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable provisions of the orders, as amended, regulating the handling of milk in the aforesaid milk marketing areas, hereinafter referred to as the "orders", it is hereby found and determined as follows:

(1) Due to the limited number of days on which a price for Grade AA (93-score) butter at New York was reported by the Dairy and Poultry Market News Service, U.S. Department of Agriculture, Agricultural Marketing Service, we conclude that the prices reported do not provide an adequate basis for computing an average price for such grade of butter for August 1973.

Dairy and Poultry Market News Service regularly reports wholesale bulk butter prices for New York Grade AA (93-score) butter on Tuesday, Thursday, and Friday of each week. The average of such prices during the month is used to determine the Class II butterfat differentials pursuant to the two specified milk orders. For the first two weeks of August 1973, no quotations were reported for the New York 93-score butter. For the second half of the month, only two quotations were reported. An average of these wholesale prices is not representative for the month because the end-of-month quotations do not give proper weight to the lower level of spot market prices in the beginning of the month. It is therefore determined to be necessary to provide equivalent prices for those reporting days on which the wholesale prices at New York for Grade AA (93-score) butter were lacking.





Such equivalent prices have been determined based on spot market prices for New York Grade AA (93-score) butter on the New York Mercantile Exchange plus a normal differential between such spot prices and wholesale bulk selling prices. Using these equivalent prices in conjunction with the wholesale bulk New York Grade AA (93-score) butter prices reported during the month, it is hereby determined that the average New York Grade AA (93-score) butter price for August 1973, for purposes specified in the aforesaid orders, is 78.02 cents.

(2) Notice of proposed rulemaking, public procedure thereon, and 30 days prior notice of the effective date hereof are impracticable, unnecessary and contrary to the public interest, in that (a) the daily wholesale bulk selling price for New York Grade AA (93-score) butter has been reported by the Dairy and Poultry Market News Service, U.S. Department of Agriculture, Agricultural Marketing Service, on only two days during August 1973, and such prices are not representative prices for the entire month of August 1973; (b) the need for determination of equivalent prices could not be known until the end of August 1973, and such determination could not be made until all available data for the month had been obtained; (c) the determination of such equivalent prices is necessary to make possible the announcement of butterfat differentials pursuant to the orders on September 5, 1973; (d) this determination is necessary to give notice to all interested persons that the average of the New York Grade AA (93-score) wholesale bulk butter prices reported by the Dairy and Poultry Market News Service during August 1973 will not be the price used in computing butterfat differentials under the aforesaid orders; and (e) this determination does not require substantial or extensive preparation by any person.

Signed at Washington, D.C., on September 5, 1973.

CLAYTON YEUTTER,
*Assistant Secretary.*

[FR Doc.73-19135 Filed 9-7-73;8:45 am]

Office of the Secretary

## AGRICULTURE GRANT AND AGREEMENT REGULATIONS

### Notice of Promulgation of Policies and Procedures

Notice is hereby given that the U.S. Department of Agriculture has promulgated uniform policies and procedures applicable to administrative processes of grants and cooperative agreements.

These policies and procedures are set out as Title 4, USDA Administrative Regulations, "Agriculture Grant and Agreement Regulations."

Copies of Title 4 or any part thereof may be obtained in person or by mail from the Office of the Director, Office of Plant and Operations, U.S. Department of Agriculture, Washington, D.C. 20250.

As these policies and procedures relate to agency management, grants, and contracts, they are not subject by law to the notice and public procedure requirements for rulemaking under 5 U.S.C. 553. They are, however, subject to the Secretary's Statement of Policy (36 FR 13804). These policies and procedures incorporate existing policy contained in the Code of Federal Regulations and embody existing Government-wide policy promulgated by the Office of Management and Budget. No useful purpose would be served by public participation, and it is found upon good cause, in accordance with the Secretary's Statement of Policy, that notice and other public procedures with respect to this issuance are impracticable and unnecessary.

After review of these policies and procedures, interested parties are encouraged to submit written comments, views, or data to the Director, Office of Plant and Operations. Such comments, views, or data will be considered in future changes.

*Effective date.*—This notice shall be effective September 10, 1973.

Done at Washington, D.C., this 5th day of September 1973.

JOSEPH R. WRIGHT, Jr.,
*Assistant Secretary for Administration.*

[FR Doc.73-19130 Filed 9-7-73;8:45 am]

# DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. S-387]

## WATERMAN STEAMSHIP CORP.

### Notice of Application

Notice is hereby given that Waterman Steamship Corporation has applied for amendment of its Operating-Differential Subsidy Agreement, Contract No. MA/MSB-115 covering subsidized service on Trade Route No. 18 (U.S. Atlantic and Gulf/India, Persian Gulf, Red Sea) to permit it to carry inbound cargo from the ports of Bombay, Karachi or Cochin for discharge at United States Atlantic ports. The applicant's contract presently specifically prohibits the carriage of such cargo.

Any person, firm or corporation having any interest in such application and desiring a hearing on issues pertinent to Section 605(c) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1175), should by the close of business on September 19, 1973, notify the Secretary, Maritime Subsidy Board in writing, in triplicate, and file petition for leave to intervene in accordance with the Rules of Practice and Procedure of the Maritime Subsidy Board.

In the event a section 605(c) hearing is ordered to be held, the purpose thereof will be to receive evidence relevant to (1) whether the application is one with respect to a vessel to be operated in an essential service, served by citizens of the United States which would be in addition to the existing service, or services, and if so, whether the service already provided by vessels of United States registry in such essential service is inadequate, and (2) whether in the accomplishment of the purpose and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Maritime Subsidy Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Maritime Subsidy Board will take such action as may be deemed appropriate.

By order of the Maritime Subsidy Board/Maritime Administration.

Dated September 6, 1973.

JAMES S. DAWSON, Jr.,
*Secretary.*

[FR Doc.73-19237 Filed 9-7-73;8:45 am]

National Bureau of Standards

## SECURITY EQUIPMENT CATALOG AND A DIRECTORY OF SECURITY RESOURCES

### Proposed Development

The Law Enforcement Standards Laboratory (LESL), sponsored by the National Institute of Law Enforcement and Criminal Justice, proposes to develop a Security Equipment Catalog and a Directory of Security Resources. The catalog will present descriptions of security devices and equipment in generic classes. It will include a separate section listing manufacturers. The directory will identify resources which are capable of providing security planning or consulting services, and describe community action groups which could affect support of communitywide security projects. The purpose of this notice is to solicit comments on and contributions to the two publications.

Product listings in the catalog will describe the following aspects: the function performed, methods of operation, usual applications, cost ranges of available devices, essential and optional features, and known manufacturers currently producing that type of item. An appendix to the catalog will present the manufacturers' names, addresses, classes of security items produced, and whether purchases can be made directly or only through distributors or retailers. The catalog will be limited to those items associated with the security of homes, small business buildings, vehicles, and pedestrians. Manufacturers' catalogs and price sheets will be an acceptable response to this notice.

For inclusion as a security resource in the directory, the following information is essential: name, address, telephone number, services provided, usual type of client, years of operation, man-years of experience, and usual geographic area of operation. For community action groups the following information is essential: name, address, telephone, membership requirements, number of members, date of organization, types of projects, and modes of publicity.



V38-174 SEP 10 73 XUM

Both publications are intended to be distributed to police departments, security firms, and to the general public. Equipment descriptions and specifications and summaries of resource capabilities will be collected from interested individuals, firms, and organizations until October 31, 1973.

Send comments and contributions to:

LESL Security Equipment Project
Building 225, Room A122
National Bureau of Standards
Washington, D.C. 20234

Dated September 4, 1973.

RICHARD W. ROBERTS,
*Director.*

[FR Doc.73-19154 Filed 9-7-73;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Center for Disease Control

### NOTICE OF MEETINGS

The Director, Center for Disease Control announces the meeting dates and other required information for the following National Advisory bodies scheduled to assemble during the month of September 1973.

| Committee name | Date, time, place | Type of meeting and/or contact person |
|---|---|---|
| Safety and Occupational Health Study Section. | Sept. 13-14, 9:00 a.m., Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. | Open—9:00 a.m.—2:35 p.m. on Sept. 13. Closed—remainder of meeting. Contact Dr. John F. Bester, Room 9A-16, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. Code 301-443-4436 |

Purpose: The committee is charged with the initial review of research, training, demonstration, and fellowship grant applications for Federal assistance in programs areas administered by the National Institute for Occupational Safety and Health, and with advising the Institute staff on training and research needs.

Agenda: From 9:00 a.m. to 2:35 p.m. on September 13, the Study Section will be open for administrative and staff reports, current status of support for training, NIOSH manpower development plans, occupational medicine residence support, retention of existing training programs and stimulation of additional programs, and planned conference on training for black colleges. From 2:35 p.m. on September 13 through the end of the meeting, the Study Section will be reviewing research and demonstration grant applications and will not be open to the public, in accordance with the determination by the Director, Center for Disease Control, pursuant to the provisions of Public Law 92-463, Section 10 (d).

| Committee name | Date, time, place | Type of meeting and/or contact person |
|---|---|---|
| Venereal Disease Control Advisory Committee. | Sept. 12-14, 9:00 a.m., Room 207, Bldg. 1, Center for Disease Control, Atlanta, Ga. | Open—Contact Mr. Joe H. Miller, Room 320, Bldg. B, Center for Disease Control, Atlanta, Ga. Code 404-633-3637 |

Purpose: The committee is charged with advising on means and methods of implementing venereal disease control programs, reviewing current and proposed program operations and suggesting new areas of control emphasis.

Agenda: Items will include a status report on venereal disease, orientation and background discussion of current program emphasis, the "Venereal Disease Communications Plan" and its implementation, current and future operational research, and new areas of program emphasis.

Agenda items are subject to change as priorities dictate.

A roster of members and other relevant information regarding the open/closed sessions may be obtained from the contact persons listed above.

Dated August 29, 1973.

DAVID J. SENCER,
*Director,*
*Center for Disease Control.*

[FR Doc.73-19112 Filed 9-7-73;8:45 am]

## Office of the Secretary

## BOARD OF ADVISORS TO THE FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION

### Notice of Meeting

Notice of Public Meeting of the Board of Advisors to the Fund for the Improvement of Postsecondary Education.

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463), that a meeting of the Board of Advisors to the Fund for the Improvement of Postsecondary Education will be held on September 12, 1973, beginning at 7:30 p.m., and on September 13 and 14, beginning at 9:00 a.m., at Glenwood Manor, Overland Park, Kansas.

The purpose of the meeting is to consider priorities and procedures for fiscal 1974 guidelines for the program of Support for Improvement of Postsecondary Education authorized by section 404 of the General Education Provisions Act.

The meeting shall be open to the public. Records shall be kept of all proceedings and shall be available for public inspection at the Fund for the Improvement of Postsecondary Education, 400 Maryland Avenue SW., Room 3139, Washington, D.C. 20202, telephone number 202-962-3704.

Signed at Washington, D.C., on September 5, 1973.

VIRGINIA B. SMITH,
*Director, Fund for the Improvement of Postsecondary Education.*

[FR Doc.73-19184 Filed 9-7-73;8:45 am]

## SOCIAL SECURITY ADMINISTRATION

### Statement of Organization, Functions, and Delegations of Authority

The Statement of Organization, Functions, and Delegations of Authority for the Office of Administration in the Social Security Administration (Chapter 8 of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health, Education, and Welfare), is hereby revised to reflect the abolishment of the two present positions of Deputy Assistant Commissioner for Administration; to reflect the establishment of the new position of Director of Human Resources, with responsibility for overall guidance and direction of all employee-oriented functional components within the Office of Administration, except the Special Staff for Labor Relations and Equal Opportunity; to reflect the abolishment of the SSA Operations Research Staff; and to reflect the present functions assigned to the components of the Office of Administration. The new Statement for the Office of Administration (OA) reads as follows:

MISSION

The Office of Administration plans and directs the management program of the Social Security Administration (SSA). It provides overall administrative leadership for the Commissioner of Social Security in coordinating program administration throughout SSA, and in planment programs, policies, and activities.

ORGANIZATION

The Office of Administration, under the supervision of the Assistant Commissioner for Administration, consists of:

1. The Assistant Commissioner for Administration
2. The Immediate Office of the Assistant Commissioner for Administration
3. Functional Components within the Office of Administration

*The Assistant Commissioner for Administration.*—A. The Assistant Commissioner for Administration is directly responsible to the Commissioner of Social Security and provides general supervision to each component in the Office of Administration.

B. In the event of the absence or disability of the Assistant Commissioner for Administration, or in the event of a vacancy in this position, the Deputy Assistant Commissioner for Administration acts for him.

C. In the event of the absence or disability of both the Assistant Commissioner for Administration and the Deputy Assistant Commissioner for Administration, or in the event of vacancies in both positions, a designated OA Executive acts for them.

*Immediate Office of the Assistant Commissioner for Administration.*—The Immediate Office of the Assistant Commissioner for Administration consists of:

1. The Assistant Commissioner for Administration.
2. The Deputy Assistant Commissioner for Administration.
3. The Executive Officer.
4. The Management Coordination and Special Projects Staff.
5. The Special Staff for Labor Relations and Equal Opportunity.

*Functional Components Within the Office of Adminstration.*—The Office of Administration consists of the following functional components, each under the immediate day-to-day supervision of a director:

1. Office of the Director, Human Resources.
2. Division of Administrative Appraisal and Planning.
3. Division of Financial Management.
4. Division of Operating Facilities.
5. Division of Systems Coordination and Planning.





FUNCTIONS

*The Office of Administration* is responsible for:

1. Planning, directing, and controlling SSA management programs, policies, and activities.

2. Administering SSA-wide programs in the areas of: labor relations and equal opportunity; personnel administration; training and employee career development; administrative appraisal and planning; budget and financial management; planning, analysis and coordination of all SSA systems; facilities management and other management support activities; procurement and supply management; employee communications; audit liaison and coordination; and employee health services.

3. Providing overall administrative leadership for the Commissioner of Social Security in coordinating program administration throughout SSA.

4. Representing SSA on matters of overall program administration and management with DHEW, other Federal agencies, and non-Federal organizations.

*Immediate Office of the Assistant Commissioner for Administration.*—A. The Assistant Commissioner for Administration:

1. Is responsible to the Commissioner of Social Security for provision of overall executive leadership in coordinating program administration throughout SSA, so as to achieve the total program mission of SSA.

2. Plans, directs and controls the management, personnel and administrative programs of SSA, in order to meet the needs of SSA program administration, goals and objectives.

B. The Deputy Assistant Commissioner for Administration assists the Assistant Commissioner for Administration in the carrying out of his responsibilities and performs such duties as the Assistant Commissioner prescribes.

C. The Executive Officer assists the Assistant Commissioner for Administration and Deputy Assistant Commissioner for Administration in the overall management of OA.

D. The Management Coordination and Special Projects Staff:

1. Serves as the personal staff to the Assistant Commissioner for Administration by aiding him in coordinating and integrating the many-faceted and interrelated activities of OA, and by providing him with advice, assistance, problem identification, and recommendations for problem resolution with respect to projects, negotiations or work areas of special interest or concern to the Assistant Commissioner.

2. Conducts or directs projects of major SSA-wide importance and significance on assignment by the Assistant Commissioner for Administration.

E. The Special Staff for Labor Relations and Equal Opportunity:

1. Assists the Assistant Commissioner for Administration in directing, coordinating, developing, and appraising the effectiveness of policies for SSA-wide programs of labor relations (LR) and equal opportunity (EO), as provided for under Executive Orders 10988, 11246, 11375 and 11491, as amended.

2. Reviews the employment posture of health insurance intermediaries under contract with SSA, for compliance with the EO requirements of Executive Order 11246.

3. Conducts liaison with DHEW, other Federal agencies and various other public or private organizations on matters concerning LR, EO and civil rights.

*Functional Components Within the Office of Administration.*—The functional components within the Office of Administration have the following responsibilities:

1. *Office of the Director, Human Resources.*—The Director of Human Resources is responsible for:

a. Providing direction to the development, implementation, and maintenance of a totally integrated and coordinated SSA program responsive to the needs of SSA's human resources.

b. Representing SSA in dealings with DHEW, other Federal agencies, and sources outside the Federal establishment with respect to matters concerning personnel and human resources management programs.

c. Providing executive-level line direction and supervision to the following Human Resources components:

(1) The Division of Personnel, which is responsible for:

(a) Directing the personnel management program of SSA and developing its personnel management objectives, policies, standards and procedures.

(b) Conducting and coordinating SSA's position classification, recruitment, placement, counseling, and employee relations programs; providing personnel operations services for headquarters offices; and assisting SSA components in their personnel operations, centrally and regionally.

(c) Evaluating personnel administration in SSA and recommending or taking action to correct deficiencies.

(d) Participating in administration of programs for labor relations, equal opportunity, and employee communications.

(2) The Division of Training and Career Development, which is responsible for:

(a) Directing the employee development program of SSA and developing its employee development objectives, policies, standards, and procedures.

(b) Conducting training programs throughout SSA and overseeing, coordinating, and appraising employee development activities of SSA components.

(c) Identifying, evaluating, and developing improved training methods, aids, and techniques and negotiating for use of outside facilities and specialists in meeting training needs.

(d) Administering and coordinating the SSA Center for Continuing Education; the SSA Career and Educational Guidance Program; and the SSA Upward Mobility College.

(3) The SSA Employee Communications Staff, which is responsible for:

(a) Directing the management-employee communications program of SSA; identifying weaknesses in management-employee communications and recommending improvements; providing advice and consultation on management communications with employees; and providing assistance to and appraising management-employee communications activities in the field.

(b) Publishing a variety of informational materials, including a monthly employee magazine, a semi-monthly management newsletter, and a weekly central office bulletin; and preparing and editing administrative reports and presentations.

(4) The SSA Employee Health Service, which is responsible for:

(a) Directing the preventive health program for SSA and promoting the health, efficiency, and productive longevity of its employees, through administering mass screening programs, offering individual services, and conducting physical examination programs.

(b) Treating all types of medical emergencies in work situations, arranging other Governmental and private medical or surgical services, and providing referrals to appropriate private and community resources.

(c) Establishing and enforcing standards of employee health and comfort through a broad environmental health program, and conducting a continuing health education program.

2. The Division of Administrative Appraisal and Planning, which is responsible for:

a. Directing the appraisal of total SSA administration, planning for efficient SSA organization and operations, and developing major operating and administrative goals and measures of effectiveness for SSA program administration.

b. Identifying current and emerging administrative problems, recommending remedial actions, and continually appraising organizational effectiveness.

c. Appraising the need for and promulgating delegations of program and administrative authority throughout SSA.

d. Conducting, coordinating, and integrating long-range operational, organizational, and administrative planning; providing leadership in administrative planning for pending legislation; and developing consistent and progressive administrative policy and philosophy.

e. Representing SSA in dealings with DHEW Audit Agency and GAO site audit teams.

f. Investigating alleged program and criminal violations, employee misconduct, and other irregularities.

g. Conducting an SSA historical research program and directing SSA emergency preparedness activities.

h. Representing SSA in dealings with DHEW, other Federal agencies, and various other public or private organizations on matters of concern to the administration of SSA programs and the fulfillment of the Division's mission.

3. The Division of Financial Management, which is responsible for:



V38-174 SEP 10 73 XUM

a. Directing the financial management program of SSA; developing its financial management objectives, policies, standards, and procedures; and providing financial advice on program matters and initiating cost studies.

b. Planning, preparing, justifying, and executing the SSA budget and preparing and justifying budget estimates to finance program and other legislative changes.

c. Conducting continuing evaluation of expenditures of funds, taking actions to improve fiscal effectiveness; conducting continuing evaluation of financial systems and implementing improvements; and insuring that financial systems are integrated within SSA and with DHEW.

d. Maintaining administrative accounts, certain trust fund expenditure and receipt accounts; auditing and certifying of vouchers for administrative expenses; and preparing basic and required financial reports.

e. Representing SSA in financial management dealings with DHEW, other Federal agencies and various other public or private organizations.

4. The Division of Operating Facilities, which is responsible for:

a. Directing the management support program of SSA and developing its management support objectives, policies, standards, and procedures.

b. Directing SSA activities in the areas of: the SSA library and related services; centralized headquarters secretarial, dictation, transportation and parking services; construction or leasing of buildings; space utilization; forms and records management; printing and graphics; real and personal property management; procurement; supply and mail systems; employee safety; civil defense; and physical security.

c. Providing SSA liaison with the General Services Administration on matters related to the maintenance and servicing of headquarters facilities, and with DHEW, other Federal agencies and various other public or private organizations on matters related to the Division's mission.

5. The Division of Systems Coordination and Planning, which is responsible for:

a. Providing SSA-wide leadership and direction for systems planning and coordination, and developing, maintaining, and improving its total data processing system and plans.

b. Establishing systems policies and standards; planning overall specifications for SSA systems; and reviewing and evaluating proposed systems and equipment changes for conformance with longer range SSA systems planning goals and integration with existing SSA systems.

c. Representing SSA in dealings with DHEW, other Federal agencies, and various other public or private organizations on systems coordination, planning and policy matters.

Dated August 31, 1973.

S. H. CLARKE,
*Acting Assistant Secretary for Administration and Management.*

[FR Doc.73-19158 Filed 9-7-73;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Office of the Secretary

### SECRETARY'S ADVISORY COMMITTEE ON THE RIGHTS AND RESPONSIBILITIES OF WOMEN

#### Notice of Meeting

The Secretary's Advisory Committee on the Rights and Responsibilities of Women, which was established to review the policies, programs, and activities of the Department of Health, Education, and Welfare relative to women and to make recommendations to the Secretary on how to better the services of HEW's programs to meet these special needs of women, will meet Thursday and Friday, September 13–14, 1973, Thursday, September 13th, the Committee will meet from 9 a.m. to 5 p.m. in Room 5131, HEW—North Building, 330 Independence Ave. SW., Washington, D.C. Friday, September 14th, the Committee will meet from 10 a.m. to 12:00 noon in the Snow Room, 5th Floor, HEW—North Building, and from 1 p.m. to 4 p.m. in Room 5131, HEW—North Building. The Committee will discuss their agenda for the coming year. Friday morning the Committee will present its first annual report to the Secretary. This meeting is open to the public.

Dated September 4, 1973.

KAREN KEESLING,
*Executive Secretary, Secretary's Advisory Committee on the Rights and Responsibilities of Women.*

[FR Doc.73-19157 Filed 9-7-73;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### IOWA'S PROPOSED ACTION PLAN

#### Notice of Availability

The Iowa State Highway Commission has submitted to the Federal Highway Administration of the U.S. Department of Transportation a proposed Action Plan as required by Policy and Procedure Memorandum 90-4 issued on June 1, 1973. The Action Plan outlines the organizational relationships, the assignments of responsibility, and the procedures to be used by the State to assure that economic, social and environmental effects are fully considered in developing highway projects and that final decisions on highway projects are made in the best overall public interest, taking into consideration: (1) needs for fast, safe, and efficient transportation; (2) public services; and (3) costs of eliminating or minimizing adverse effects.

The proposed Action Plan is available for public review at the following locations:

1. Iowa State Highway Commission
   Library
   826 Lincoln Way
   Ames, Iowa 50010
2. Federal Highway Administration
   Iowa Division
   P.O. Box 627
   Ames, Iowa 50010
3. Federal Highway Administration
   Region 7 Office
   P.O. Box 7186—Country Club Station
   Kansas City, Missouri 64113
4. U.S. Department of Transportation
   Federal Highway Administration
   Environmental Development Division
   Nassif Building, Room 3246
   400 7th Street SW.
   Washington, D.C. 20590

Comments from interested groups and the public on the proposed Action Plan are invited. Comments should be sent to the FHWA Regional Office shown above before October 4, 1973.

Issued on August 31, 1973.

NORBERT T. TIEMANN,
*Federal Highway Administrator.*

[FR Doc.73-19129 Filed 9-7-73;8:45 am]

### Office of the Secretary

### CITIZENS ADVISORY COMMITTEE ON TRANSPORTATION QUALITY

#### Notice of Open Meeting

The Citizens' Advisory Committee on Transportation Quality of the Department of Transportation announces its regular meeting on Monday and Tuesday, September 17 and 18, 1973. Below is an agenda telling about the purpose and content of the meeting.

The Citizens' Advisory Committee on Transportation Quality is made up of 21 citizens from various parts of the United States who represent, as far as possible a cross-section of the Nation's citizenry. The functions of the Committee are solely advisory. Its recommendations result from the Committee's independent judgement.

The Office of Consumer Affairs, which provides staff services for the Citizens' Committee, requests that if any members of the general public are planning to attend those sessions indicated below that are open to the public, they should call in advance so that seating arrangements can be provided and so that they can be informed of any subsequent changes in arrangements. Call 202/426-4520 and ask for Mr. Kent R. Larrabee, Executive Director.





AGENDA

CITIZENS' ADVISORY COMMITTEE ON TRANSPORTATION QUALITY, SEPTEMBER 17–18, 1973—KI SUH PARK, CHAIRMAN

The meeting will convene at the Management Information Center at the Department of Transportation, Nassif Building, 400 Seventh Street, S.W., Room 10214 (10th floor—south side of the building).

9:30—Welcome—Benjamin O. Davis, Jr., Assistant Secretary for Environment, Safety, and Consumer Affairs.

*Overview of DOT.*—"This is the Department of Transportation"—a 12-minute slide presentation.

10:10—Discussion of the morning.

*A Balanced National Transportation System.*—What is it? What issues are involved? How can it be achieved?

*Discussion.*—General discussion of issues presented, of suggestions and exploration of possible recommendations to the Secretary.

12:30—Lunch.

Informal remarks by Honorable Claude S. Brinegar, Secretary of Transportation. (This session is closed to the public.)

2:00—Room 10214

*The Highway Act of 1973—how will it be implemented?* Features of the 1973 Act which are of particular interest to citizens, consumers and community groups. Committee discussion and interaction with staff.

3:45—*The growing edge of highway safety programs.*—How can this Committee assist the personal involvement of the citizenry in the cause of traffic safety? What future programs for the saving of human lives make sense but need greater citizen support? What recommendations should the Committee consider?

4:15—Committee discussion and interaction with staff.

4:45—Adjournment.

Tuesday morning, September 18, 1973. Committee will meet at the Federal Aviation Administration Building, 800 Independence Avenue, SW. Come to Conference Rooms B and C on the 8th floor.

9:30—*An orientation to the Federal Aviation Administration.*—Includes a slide presentation telling about the FAA.

10:15—*Some needs and problems within aviation today.*—Focus will be on those needs and problems that are related to consumer, citizen and community interests. Questions and interaction with the speaker.

11:00—Committee business meeting. (This session is closed to the public).

2:30—Adjournment.

This notice is given pursuant to section 10, Federal Advisory Committee Act (Public Law 92-463) and Executive Order 11686 (37 FR 21421).

Issued in Washington, D.C., on September 4, 1973.

BENJAMIN O. DAVIS, Jr.,
*Assistant Secretary for Environment, Safety and Consumer Affairs.*

[FR Doc.73-19117 Filed 9-7-73;8:45 am]

## ADVISORY COMMITTEE ON FEDERAL PAY

### PROPOSED FEDERAL PAY ADJUSTMENT

#### Notice of Meeting

The Advisory Committee on Federal Pay announces a meeting with representatives of the President's Pay Agent to discuss the proposed adjustment in Federal pay for Fiscal 1974, to be held at 9:30 a.m., September 11 in Room 101, 1016 16th Street, NW., Washington, D.C.

JEROME M. ROSOW,
*Chairman,*
*Advisory Committee on Federal Pay.*

[FR Doc.73-19298 Filed 9-7-73;10:15 am]

## ATOMIC ENERGY COMMISSION

[Docket Nos. 50-348A, 50-364A]

### ALABAMA POWER CO.

#### Prehearing Conference and Discovery Incidents

In the Matter of Alabama Power Company (Joseph M. Farley Nuclear Plant Units 1 and 2).

A Prehearing Conference will be held Monday, September 24, 1973, at 10:30 a.m. at the U.S. Tax Court, Room 2132, 1111 Constitution Avenue, NW., Washington, D.C.

*It is so ordered.*

For the Atomic Safety and Licensing Board.

Issued at Washington, D.C., this 4th day of September 1973.

WALTER W. K. BENNETT,
*Chairman.*

[FR Doc.73-19123 Filed 9-7-73;8:45 am]

[Docket No. 50-366A]

### GEORGIA POWER CO.

#### Prehearing Conference and Discovery Incidents

In the Matter of Georgia Power Company (Hatch Nuclear Plant unit 2).

A Prehearing Conference will be held Thursday, September 20, 1973, at 9 a.m., at the U.S. Tax Court, Room 2132, 1111 Constitution Avenue NW., Washington, D.C.

*It is so ordered.*

For the Atomic Safety and Licensing Board.

Issued at Washington, D.C., this 4th day of September 1973.

WALTER W. K BENNETT,
*Chairman.*

[FR Doc.73-19124 Filed 9-7-73;8:45 am]

## CIVIL AERONAUTICS BOARD

[Docket No. 25663; Order 73-9-2]

### COMPAGNIE NATIONALE AIR FRANCE ET AL.

#### Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 24th day of August 1973.

Seaboard World Airways, Inc. (Seaboard), on June 29, 1973, filed a complaint with the Board requesting suspension and investigation of cargo charter tariffs filed by Compagnie Nationale Air France (Air France), Lufthansa German Airlines (Lufthansa), Pan American World Airways, Inc. (Pan American), and Trans World Airlines, Inc. (TWA) for multiple routings from New York to Frankfurt and Paris.[1]

In its complaint, Seaboard alleges that the charter rates are unjust, unreasonable, and unjustly discriminatory and unduly prefer one shipper (I.B.M. World Trade Corporation), and should be suspended and investigated. Seaboard asserts that the rates are substantially below cost and represent unjustified discounts from existing cargo charter rates which are widely acknowledged to be uneconomic; that the special and unusual routing effectively limits their use to only one shipper and, therefore, they are unjustly discriminatory and unduly preferential; and that the rates are the product of coercive competitive bidding by IBM for varying numbers of cargo charters and constitute unlawful multicharter rates.[2]

In support of its allegations that the rates in question are uneconomic and below cost and in reply to the answers of the carriers,[3] Seaboard contrasts the derived rates per mile, ranging from $3.02 to $3.45, with Pan American's and TWA's fiscal year 1973 scheduled transatlantic freighter operating costs estimated respectively at $4.99 and $4.05 per plane mile.[4] Additionally, Seaboard contrasts these derived rates per mile with the applicable $3.60 to $4.25 general rate per mile for cargo charters of the subject carriers which Seaboard asserts are widely known to be uneconomic and have become even more uneconomic since the recent dollar devaluation. Seaboard points out that Lufthansa's claims that the Board has no jurisdiction in this matter under terms of the U.S.-Germany bilateral air agreement are not relevant since procedures of the bilateral do not govern charter rates. The carrier further maintains that Lufthansa is using direct mileages between New York on the one hand and Frankfurt and Paris on the other in computing per-mile rates and not the actual New York-Paris-Frankfurt and New York-Frankfurt-Paris mileages as its tariff routing requires.

Seaboard also maintains that the spreads between TWA's scheduled per-mile cargo costs of $4.05 and its per-mile charter rates and similarly those

[1] Appendix A which is filed as part of the original document sets forth a synopsis and analysis of the tariffs.

[2] IBM has filed a letter in Docket 25663 in which it defends its bidding practices for transatlantic cargo service. In general it maintains that all bidding carriers must comply with "all tariff, C.A.B., IATA, local, state, and federal requirements."

[3] On July 17, 1973, Seaboard filed a motion for leave to file a reply which will be received.

[4] In arriving at these estimated costs Seaboard has relied upon data submitted by the carriers as justification in Docket 23333 and Board figures published in Order 72-6-137 dated June 29, 1972. The carriers in responses to the instant complaint do not dispute the dollar levels of these estimated costs.



V 38-174 SEP 10 73 XUM

between Pan American's per-mile costs and charter rates are vastly greater than can possibly be offset by planeload operation economics; that TWA offers no actual cost figures for its cargo charter operations, and claiming that incremental costing theories are justification for these rates does not overcome this lack of cost figures. Finally, Seaboard states that at the recent IATA Cargo Conference in Geneva the four carriers agreed that $4.25 is the minimum level for operation of compensatory cargo charter service.

Air France, Lufthansa, Pan American, and TWA have all filed responses requesting Seaboard's complaint be dismissed. In general the respondents assert that Seaboard's allegations of discriminatory and preferential treatment are untenable inasmuch as the tariffs in question are open to all shippers; that the routings are not so unusual as to preclude use by any interested shipper; and that in offering these rates they will be able to utilize otherwise idle personnel and equipment thus contributing to revenues. Air France further asserts that the questioned rates are justified since any weekend rates established at higher levels would not enable Air France to attract the traffic.

Additionally, Lufthansa moves that Seaboard's complaint be dismissed on technical grounds since the procedures for rate suspension as set forth in the U.S.-Germany bilateral treaty were not followed in this case and, therefore, the Board has no jurisdiction to suspend these rates. In the alternative, Lufthansa answers the complaint on its merits maintaining Seaboard has presented no real evidence to show that the challenged rates are below cost or uneconomic; that Seaboard's charter-rate-per-mile computations in its complaint are predicated on erroneous mileage and should be 6 cents and 24 cents higher than Seaboard's figures of $3.39 and $3.21, respectively; that the El Al charter rate cited by Seaboard and recently suspended by the Board was substantially lower than Lufthansa's rates; [6] that there is no implication in the tariffs that the rates are "multiple-flight" rates; and that apparently Seaboard's complaint is based upon unwillingness to meet competition which is insufficient reason to suspend the challenged rates.

Pan American asserts that its proposed charter rate is based on $3.60 per mile, and easily justified in that the carrier expects to have spare time on a B–707 freighter; that the $3.60 per-mile rate is further justified since the carrier will save indirect costs (such as promotion and advertising) while obtaining additional revenues; and that some of the charges in question have been effective since early May 1973 at rates as low as $3.10 [8] per mile which the Board has not seen fit to suspend and, therefore, Board suspension of Pan American's rates would be inconsistent and unjustified. In response to a Seaboard challenge of its reference to a $3.60 basic per-mile rate instead of the actual $3.27 per-mile rate derived from its tariff filing, Pan American [7] notes that the difference results from a $1,300 containerization allowance applied to the $3.60 rate.[8] Further, the carrier points out that Seaboard allows an $1,800 containerization discount on its 30,000-kilogram shipment rate.

Finally, TWA moves the complaint be dismissed as untimely since Seaboard has failed to catalogue compelling reasons for not having requested suspension within the 25-day period before the effective date as required; that Seaboard has totally discounted established economic advantages of cargo charters in its comparison of the challenged rates with the forecast scheduled per-mile transatlantic freighter costs of $4.99 and $4.05 for Pan American and TWA, respectively. The carrier, moreover, contends these rates are economically justified since they are restricted to weekends; that use of the questioned rates is not conditioned upon use of a minimum number of flights; that TWA's response to IBM's competitive solicitations does not necessarily make such rates discriminatory; and that the practice of tailoring a rate to meet the shipper's needs and purposes is similar to the established practice of introducing specific commodity rates designed to afford a particular shipper opportunity to use air transportation.

Upon consideration of the tariffs, complaint and responses, the Board finds that the charter rates at issue may be unjust, unreasonable, unjustly discriminatory, unduly preferential or unduly prejudicial and should be suspended pending investigation. We are not persuaded by the various arguments advanced that the complaint be dismissed on technical or jurisdictional grounds. The procedures set forth in the U.S.-Germany bilateral air agreement apply only to scheduled services, not to charter services. Therefore, the procedures set therein do not apply to the issue at hand. Similarly, we are not persuaded by TWA's arguments that the complaint be dismissed as untimely since it is our understanding that Seaboard delayed filing its complaint only until all subject tariffs were filed in order to file a consolidated complaint.

Turning to the level of the rates, the carriers would justify the level in terms of weekend off-peak aircraft usage, increased utilization, or aircraft positioning.[9] No attempt is made to show that the rates would cover fully-allocated costs for the eastbound charters, or for a round trip involving these rates in the eastbound direction, nor does it appear that such a showing could be made. As adverted to above, Pan American's and TWA's scheduled cargo costs in fiscal 1973 are estimated to be $4.99 and $4.05 per mile, respectively. While scheduled cargo costs may not be determinative of the minimum rates permissible for cargo charter service, the differential between the charter cargo rates and the scheduled cargo costs of the U.S. carriers is significant.

Moreover, it would appear that costs are higher for multiple-stop charter operations than for normal point-to-point operations since additional expenses for items such as landing fees, fuel, and labor are incurred. Current general charter tariffs on file show a $550 stopover charge for TWA and a $1,000 accessorial charge (for loading and/or unloading cargo at specified additional points of landing at the charterer's request) for Air France and Lufthansa in addition to per-mile charges ranging from $3.60 to $4.25. Since the rates in question range from $3.02 to $3.45 per plane mile, and with one exception involve multiple stops, we conclude in the absence of any detailed cost information by the four carriers that the questioned rates are not cost supported. A further economic question is presented by the situation in which a carrier charges a lesser total price for a greater distance flown. Air France's tariffs show a charter price of $13,500 for a New York-Paris-Frankfurt [10] routing of 3,917 miles, and a charter price of $12,500 for a New York-Frankfurt-Paris routing of 4,140 miles, $1,000 less for 223 more miles.

Finally, we note that the same carriers proposing charter charges at these low levels for B–707 equipment are among the carriers who indicated at the recent IATA North Atlantic Cargo Conference in Geneva that a four dollar per plane-mile rate for DC–8–55 and B–707 equipment (plus a six percent currency surcharge from U.S. points) is the minimum point-to-point cargo charter rate [11] on a fully compensatory basis.

The Board has considered carefully the carriers' contentions that these rates are justified on the basis of aircraft positioning, spare time use of aircraft for weekends or off-peak usage, and alleged increased aircraft utilization. We cannot find that such considerations here justify rates which appear to be *prima facie* uneconomic. Basically the Board considers that cargo charter rates should be geared to fully-allocated costs.[12] It is recognized that the Board on occasion has found lawful charter rates which (1) upon their own or in conjunction with the rate applicable in the opposite direction make a contribution to profits, and (2) do not have an adverse impact upon other carriers in the market.[13] However, we cannot make findings to this effect under the circumstances here present. In *Directional Charter Rates, supra,* the Board found a unique situation to justify low charter rates, including a pronounced directionality of traffic in the Pacific due to the heavy volume of MAC traffic moving westbound, and an opportunity for eastbound charters from Hawaii to California to move papaya, a highly perishable tropical fruit which would not move by air at high rates. This is to be contrasted with the present situation where there is no marked directionality in the markets involved.[14] Further from all the matters before us it appears that a high volume of traffic is expected to move under the tariffs in question [15] consisting generally of a commodity which typically moves by air at higher rates than here under consideration and is of a relatively high value with a corresponding high value of service for the transportation involved.

We have noted the contentions before us that the routings and competitive bidding procedures employed prior to the filings of the tariffs resulted in unlawful tariffs. Without passing upon such contentions at this time, these allegations will constitute an issue in the proceeding.

In sum, the volume of traffic involved, its nature and susceptibility to movement by air at higher rates, the marked absence of pronounced directionality in the markets and the bidding procedures employed combine to convince us that the charter rates in issue do not come within the limited situation found to exist in *Directional Charter Rates* and should not be permitted to continue in effect pending investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 204(a), 403, 801 and 1002(j) thereof,

*It is ordered,* That:

1. An investigation be instituted to determine whether the rates and provisions on the tariff pages in Appendix B and rules, regulations, and practices affecting such rates and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to take appropriate action to prevent the use of such rates and provisions or rules, regulations, or practices;

2. Pending hearing and decisions by the Board, the rates and provisions on the tariff pages in Appendix B are suspended and their use deferred to and including September 4, 1974, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order of special permission of the Board;

3. This order shal be submitted to the President [16] and shall become effective September 4, 1973.

4. The investigation ordered herein be assigned for hearing before an Administrative Law Judge of the Board at a time and place hereafter to be designated;

5. Copies of this order be served upon Seaboard World Airways, Inc., Compagnie Nationale Air France, Lufthansa German Airlines, Pan American World Airways, Inc., and Trans World Airlines, Inc. which are hereby made parties to this proceeding; and

6. Motions by Seaboard and Pan American for leave to file replies are granted.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[17]

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.73-19163 Filed 9-7-73;8:45 am]

[Docket No. 25577; Order 73-8-153]

## EASTERN AIR LINES, INC. AND SEABOARD WORLD AIRLINES, INC.

### Order To Show Cause and Setting Matter for Hearing

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 31st day of August 1973.

On May 30, 1973, Eastern Air Lines and Seaboard World Airlines filed a joint application requesting approval of an equipment interchange agreement which would permit through-plane air transportation on all cargo aircraft of property and mail between Houston, Texas, and New Orleans, Louisiana, on the one hand, and London, England, on the other hand, over the junction point of New York, New York.

Petitions for leave to intervene have been filed by Delta Air Lines, National Airlines, the City and Chamber of Commerce of Houston, Texas, Airlift International, TWA, Pan American, and the City and Chamber of Commerce of New Orleans, Louisiana.[1] In addition, Delta has filed a request for a hearing on the joint application and the New Orleans parties have filed a motion for expeditious treatment. An answer in opposition to the motion of the New Orleans parties was filed by National.

Upon consideration of the pleadings and all of the relevant facts, the Board has decided to set this matter for hearing in accordance with the request of Delta. However, the Board is of the tentative view that, pending final decision upon the application following the hearing provided for herein, the public interest requires interim approval of the Agreement under sections 408 and 412 of the Act, in order to permit the parties to promptly inaugurate the all-cargo interchange services contemplated by the Agreement. The Board will, therefore, direct all interested parties to show cause, within 20 days of the service date of this order, why the tentative findings and conclusions contained herein should not be made final, and why such interim approval should not be granted. Replies to answers so filed may be filed by any interested person within 10 days following Board receipt of such answers.

For purposes of considering whether such interim approval should be granted, the Board will direct all responding parties to set forth with specificity the reasons why such approval should or should not be granted. There should be included as part of any answers or replies such evidence as is relied upon or deemed appropriate, supported by affidavits, and setting forth data in sufficient detail that without further clarification final results may be obtained from the basic data.[2]

While the Board is currently following a policy of caution in setting down route cases which could result in introducing new competition in markets where it might have an adverse effect on the overall health of the air transportation industry, the present application contemplates the award of no new operating authority. Rather, it is an attempt by the two carriers to improve their financial results by operating through services pursuant to the existing authority of each. By providing a new through single-plane all-cargo service pursuant to the interchange arrangement, significant public benefits can be achieved in a manner which will minimize potential diver-

[1] Since each petitioner has demonstrated a substantial interest in the subject matter of this proceeding the petitions will be granted.

[2] The parties should provide, in the form of footnotes or otherwise, the sources of any data included and the basis and methodology used in constructing the evidentiary material. Estimates, such as growth rates, which contain elements of judgment, should be clearly identified and the basis thereof explained in detail, and the supporting affidavit should affirm that such judgment is the best judgment of the proponent.

[6] Order 73–6–100, dated June 12, 1973.

[7] Filed by TWA effective June 21, 1973, and included by Seaboard in the instant complaint.

[7] On July 18, 1973, Pan American filed a motion for leave to file a reply to Seaboard which will be received.

[8] Pan American's original tariff filing omitted a containerization requirement although its tariff justification assumed the traffic would be containerized. Its tariff was amended to require containerization subsequent to the filing of the Seaboard complaint.

[8] We find this justification puzzling in the case of Pan American since the carrier recently has made application for exemption to carry military traffic on scheduled services at MAC charter rates pleading difficulties arising from tight aircraft and crew scheduling during peak July and August months.

[10] The tariff actually reads "Via a point in France," but for mileage computation purposes it is assumed to be Paris since this is Air France's home base.

[11] Further, we note that under the minimum cargo charter rates package currently contemplated by IATA and subject to Board approval, the subject rates would be disallowed after October 1, 1973.

[12] See Cargo Charter Charges Established by Universal Airlines, Inc., Order 72–2–30, dated February 9, 1972.

[13] *Directional Charter Rates,* 40 C.A.B. 752, 755 (1964).

[14] A comparison of North Atlantic eastbound versus westbound traffic for the 12 months ending May 1973 indicates eastbound scheduled and charter cargo traffic is 96.5% of the westbound traffic. (Source *IATA (Monthly) Summary of North Atlantic Revenue Cargo and Mail*).

[15] IBM has submitted a letter in connection with the complaint enclosing material indicating as many as 260 flights are contemplated over a one-year period.

[16] This order was submitted to the President on August 24, 1973.

[17] Appendix A and B filed as part of original document.







V 38-174
SEP 10 73
XUM

sion from other carriers operating all or part of competitive routes.[2]

At present there exists no through single-plane all-cargo service between New Orleans and Houston on the one hand, and London on the other.[4] It is patent that a through single-plane all cargo service offers public service benefits which are not available from alternative combination through services, or even connecting service in part on all-cargo aircraft. Thus, the scheduling of all-cargo flights will be determined solely on the basis of the peculiar requirements for air cargo shipments. Moreover, significant cost and time savings can achieved in avoiding the loading and unloading process inherent in a transshipment service. Since the provision of such through all-cargo service is in major part under the authorization of a carrier holding license authority limited solely to the provision of all-cargo service, it may be anticipated that primary attention will be devoted to the peculiar needs of cargo shipments.

We recognize that in the past the Board has customarily held evidentiary hearings before determining whether to approve or disapprove interchange agreements under sections 408 and 412 of the Act. See, e.g., Capital-National Equipment Interchange, 10 C.A.B. 231 (1949). C./., Eastern-American Agreement, 34 C.A.B. 828 (1961). However, the New Orleans parties have urged that the present application be granted expeditious treatment, and the applicants have contemplated possible inauguration of service by September 15, 1973. It appears, for the reasons set forth above, that prompt implementation of the service will indeed provide a significant contribution to the facilitation of the international trade of the cities of New Orleans and Houston, as well as of the United States.

In view of the foregoing, the Board has tentatively concluded that the public interest in prompt inauguration of the proposed services outweighs any apparent detriment that may be incurred as a result of contemplated diversion from alternative international cargo services for the period pending final decision on this application after hearing. Therefore, the Board has further tentatively concluded that the public interest requires such interim approval. The parties should be advised, however, that our proposed interim approval herein should not be construed as any prejudgment of the issues to be considered at the evidentiary hearings.

Our tentative conclusions as to the public interest in granting interim approval, under the circumstances of this case, draw attention to a basic question of procedure in the Board's approval of interchange agreements which the parties hereto, and other interested persons, may wish to consider in submitting comments pursuant to this Order. The Board has tenatively reached the conclusion that on many occasions no major regulatory purpose is served by requiring protracted full-blown evidentiary hearing procedures in connection with approval of interchange agreements. Under section 412 of the Act the Board has been given authority to approve intercarrier agreements involving cooperative working arrangements similar in nature to interchange agreements, without the necessity for a hearing. In section 412 proceedings, the Board, in determining whether an interchange agreement would be adverse to the public interest, would fully consider the central issues of such an interchange arrangement, namely whether the public benefits arising from the provision of a new through service, not involving the grant of additional route authority to any carrier, outweigh any detriments that might arise from the provision of such services in terms of diversion from the services of other carriers operating competing alternative services. Since the Board has considered that interchange agreements require further approval under section 408 of the Act with respect to the control and property lease aspects of the arrangement, it has habitually required an evidentiary hearing at which both section 408 and section 412 issues are litigated. It appears, nevertheless, that the section 408 issues involved in interchange agreements are not so complex that full protection of the parties' interests could not be achieved by shortened hearing procedures; or in appropriate cases, the time consuming hearing procedures might be dispensed with. The prompt implementation of the public service benefits arising from interchange arrangements found neither adverse to nor inconsistent with the public interest, would constitute a significant public interest factor in adopting such shortened procedures.

The Board is therefore considering the adoption by rule making, or otherwise, of procedures which would allow interchange agreements to be processed expeditiously with either compressed documentary presentations,[5] or wholly without hearing. In order not to delay the implementation of the instant interchange agreement, pending consideration and adoption of such revised procedures, the Board has concluded that it will follow the normal hearing procedures in this case, subject to interim *pendente lite* approval of the arrangement. In this respect our consideration of a changed procedural policy will be prospective only. However, the Board takes this occasion to invite the parties hereto, any other interested elements of the aviation industry, and interested government agencies, to submit comments in response to this order, bearing upon the public interest and legal considerations involved in the adoption of such shortened procedures.

*Accordingly, it is ordered*, That:

1. The joint application of Eastern Air Lines, Inc., and Seaboard World Airlines, Inc., for approval of an equipment interchange agreement, be and it hereby is set for hearing before an Administrative Law Judge of the Board, at a time and place to be hereafter designated.

2. The Petitions to Intervene in this proceeding filed by Delta Air Lines, Inc.; National Airlines, Inc.; the City and Chamber of Commerce of Houston, Texas; Airlift International, Inc.; Trans World Airlines, Inc.; Pan American World Airways, Inc.; and the City and Chamber of Commerce of New Orleans, Louisiana, be and they are hereby granted.

3. The joint applicants, all other parties herein, and any other interested person, be and they hereby are directed to show cause, within 20 days from the date of this Order, why the Board should not make final the tentative findings and conclusions herein, and why the Board should not issue an order temporarily approving the proposed interchange agreement pursuant to sections 408 and 412 of the Act, pending final Board decision on the application following the hearing provided for herein.

4. Answers filed pursuant to paragraph 3 shall be served upon the persons listed in paragraph 7; shall set forth with specificity the reasons why such interim approval should or should not be granted; and shall be accompanied by such supporting evidence and affidavits, in the manner described herein, as are relied upon or deemed appropriate.

5. Within 10 days after the date of filing of the answers referred to in paragraph 4, any interested person may serve and file a reply to one or more of such answers, directed solely to matters raised by such answers, and shall affix to such reply evidence and affidavits as set forth above.

6. The request of Delta Air Lines, Inc. for a hearing, and the motion of the New Orleans parties for expeditious treatment, be and they hereby are granted to the extent provided for herein, and are otherwise denied.

7. A copy of this Order shall be served upon Eastern Air Lines, Inc.; Seaboard World Airlines, Inc.; Delta Air Lines, Inc.; Pan American World Airways, Inc.; Trans World Airlines, Inc.; Airlift International, Inc.; National Airlines, Inc.; the Cities of Houston, Texas, and New Orleans, Louisiana; the Houston, Texas and New Orleans, Louisiana, Chambers of Commerce; the Departments of Transportation, Justice, Defense, and Commerce; the Postmaster General; and the Federal Aviation Administration.

8. Copies of this Order shall also be served upon all other certificated U.S. direct air carriers, and all authorized U.S. air freight forwarders.

This Order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.73-19161 Filed 9-7-73;8:45 am]

[Docket No. 24488; Order 73-8-137]

## INTERNATIONAL AIR TRANSPORT ASSOCIATION

### Order Relating to Passenger Fare Matters

Issued under delegated authority August 28, 1973.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers and other carriers embodied in the resolutions of Traffic Conference 1 of the International Air Transport Association (IATA). The agreement, which was adopted by mail vote, has been assigned the above-designated C.A.B. agreement number.

The agreement would defer the deadline for a special meeting of TC1 from June 30, 1973, to October 31, 1973, to discuss the continued effectiveness of the (1) TC1 Advance Purchase Travel Group Fares (USA-Mexico); and (2) TC1 Group Inclusive Tour Fare (Canada-Mexico).

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the following resolutions, which are incorporated in Agreement C.A.B. 23888, R-1 and R-2, are adverse to the public interest or in violation of the Act:

100(Mail 928)075u
100(Mail 928)084tt

Accordingly, *It is Ordered*, That:

Agreement C.A.B. 23888, R-1 and R-2, be and hereby is approved.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

By James L. Deegan, Chief, Passenger and Cargo Rates Division, Bureau of Economics.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.73-19162 Filed 9-7-73;8:45 am]

## COMMISSION ON CIVIL RIGHTS

### MARYLAND STATE ADVISORY COMMITTEE

#### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Maryland State Advisory Committee will convene at 8:00 p.m. on September 13, 1973, in Room G-20, Social Security Administration Building, 6401 Security Boulevard, Woodlawn, Maryland 21235.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Mid-Atlantic Regional Office of the Commission, in Room 510, 2120 L Street Northwest, Washington, D.C. 20425.

The purpose of this meeting shall be to discuss a proposed Baltimore County Education Study and an Indian Project.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., September 5, 1973.

ISAIAH T. CRESWELL, JR.,
*Advisory Committee Management Officer.*

[FR Doc.73-19142 Filed 9-7-73;8:45 am]

### NEW HAMPSHIRE STATE ADVISORY COMMITTEE

#### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New Hampshire State Advisory Committee will convene at 7:30 P.M. on September 12, 1973, at the New Hampshire Highway Motel, Concord, New Hampshire 03301.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York, New York 10007.

The purpose of this meeting shall be to determine the status of the New Hampshire Corrections System Project and discuss further plans for proceeding with the study.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., September 4, 1973.

ISAIAH T. CRESWELL, JR.,
*Advisory Committee Management Officer.*

[FR Doc.73-19141 Filed 9-7-73;8:45 am]

### OHIO STATE ADVISORY COMMITTEE

#### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Ohio State Advisory Committee will convene at 10:00 A.M. on September 15, 1973, at the Cleveland Sheraton Hotel, 219 Superior Avenue, Cleveland, Ohio 44101.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Midwestern Regional Office of the Commission, Room 1428, 219 South Dearborn Street, Chicago, Illinois 60604.

The purpose of this meeting shall be to discuss plans to develop a report and design followup activities to the recent factfinding meeting on Ohio Prisons.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., September 5, 1973.

ISAIAH T. CRESWELL, JR.,
*Advisory Committee Management Officer.*

[FR Doc.73-19144 Filed 9-7-73;8:45 am]

### RHODE ISLAND STATE ADVISORY COMMITTEE

#### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Rhode Island State Advisory Committee will convene at 4:30 p.m. on September 13, 1973, at the Central Congregational Church, 296 Angell Street, Providence, Rhode Island 02903.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York, New York 10007.

The purpose of this meeting shall be to formulate plans for a factfinding meeting on the Rhode Island State Advisory Committee's proposed Public Employment Project.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 5, 1973.

ISAIAH T. CRESWELL, JR.,
*Advisory Committee Management Officer.*

[FR Doc.73-19143 Filed 9-7-73;8:45 am]

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### CERTAIN COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN HAITI

#### Entry or Withdrawal From Warehouse for Consumption

SEPTEMBER 6, 1973.

On November 3, 1971, the United States Government, in furtherance of the objectives of, and under the terms of, the Long-Term Arrangement Regarding In-

[2] Obviously the Agreement has competitive implications and would, if approved, result in some diversion from other carriers. We will carefully consider the implications of such diversion, even on a temporary basis, in our consideration of whether, in light of the answers and replies filed pursuant to this Order, interim approval should in fact be granted.

[4] While the Pan American and Delta interchange provides combination services between New Orleans and London, the Board specifically declined to authorize all-cargo interchange services pursuant to that Agreement since no such service had been proposed by the parties at the time the interchange agreement was approved. (Sec, Order E-20806, May 12, 1964.)

[5] See Southern Airways, Inc., Service to Crossville, Tennessee, Order 73-6-45.







V 38-174
SEP 10 73
XUM

ternational Trade in Cotton Textiles done at Geneva on February 9, 1962, concluded a new comprehensive bilateral cotton textile agreement with the Government of Haiti concerning exports of cotton textiles and cotton textile products from Haiti to the United States over a five-year period beginning on October 1, 1971, and extending through September 30, 1976. Among the provisions of the agreement are those establishing a consultation level of 367,500 square yards equivalent for cotton textile products in each category not having a specific limit in Categories 39 through 63 for the second agreement year which began on October 1, 1972. Imports of cotton textile products in Category 63 from Haiti have exceeded the consultation level for the second agreement year.

Accordingly, there is published below a letter of September 6, 1973, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, directing that upon publication of that letter in the FEDERAL REGISTER, and until further notice, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 63, produced or manufactured in Haiti and exported therefrom to the United States during the period beginning October 1, 1972 and extending through September 30, 1973, be prohibited.

SETH M. BODNER,
*Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.*

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
*Department of the Treasury,*
*Washington, D.C. 20229.*

SEPTEMBER 6, 1973.

DEAR MR. COMMISSIONER: Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to the bilateral cotton textile agreement of November 3, 1971, between the Governments of the United States and Haiti, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective upon publication of this letter in the FEDERAL REGISTER, and until further notice, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 63, produced or manufactured in Haiti and which have been exported to the United States during the period beginning October 1, 1972, and extending through September 30, 1973.

Cotton Textile products in Category 63, produced or manufactured in Haiti, which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the Categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on April 29, 1972 (37 FR 8802), as amended on February 14, 1973 (38 FR 4336).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Haiti and with respect to imports of cotton textiles and cotton textile products from Haiti have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States.

Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely yours,

SETH M. BODNER,
*Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.*

[FR Doc.73-19289 Filed 9-7-73;9:30 am]

## COMMITTEE FOR PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY HANDICAPPED

### PROCUREMENT LIST 1973

#### Addition

Notice of proposed addition to the Initial Procurement List, August 26, 1971 (36 FR 16982), was published in the FEDERAL REGISTER on December 14, 1972 (37 FR 26628).

Pursuant to the above notice the following commodity is added to Procurement List 1973, March 12, 1973 (38 FR 6742).

COMMODITY

| CLASS 6230 | *Price* |
|---|---|
| Light, Marker, Distress (RF) | |
| 6230-067-5209 | Ea. $10.72 |

By the Committee.

CHARLES W. FLETCHER,
*Executive Director.*

[FR Doc.73-19260 Filed 9-7-73;8:45 am]

### PROCUREMENT LIST 1973

#### Notice of Proposed Additions

Notice is hereby given pursuant to Section 2(a)(2) of Public Law 92-28; 85 Stat. 79, of the proposed additions of the following commodities and services to Procurement List 1973, March 12, 1973 (38 FR 6742).

COMMODITIES

CLASS 7340

Spoon, Plastic, Single Pack
7340-J19-1300

CLASS 8105

Bag, Cloth, Lunch
8105-664-3715

SERVICES

INDUSTRIAL CLASS 0782

Grounds Maintenance
Goddard Space Flight Center—NASA
Greenbelt, Maryland

INDUSTRIAL CLASS 7641

Furniture Rehabilitation
Houston, Texas plus 25 mile radius

Comments and views regarding these proposed additions may be filed with the Committee not later than 30 days after the date of this FEDERAL REGISTER. Communications should be addressed to the Executive Director, Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

By the Committee.

CHARLES W. FLETCHER,
*Executive Director.*

[FR Doc.73-19252 Filed 9-7-73;8:45 am]

## COUNCIL ON ENVIRONMENTAL QUALITY

### ENVIRONMENTAL IMPACT STATEMENTS

#### List of Statements

Environment impact statements received by the Council on Environment Quality from August 27 through August 31, 1973.

NOTE.—At the head of the listing of statements received from each agency is the name of an individual who can answer questions regarding those statements.

DEPARTMENT OF AGRICULTURE

Contact: Dr. Fred H. Tschirley, Acting Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 331-E, Administration Building, Washington, D.C. 20250, 202-447-3965.

FOREST SERVICE

*Draft*

White Pine Planning Unit, Clearwater National Forest, Latah and Benewah Counties, Idaho, August 16: The statement refers to the proposed implementation of a multiple use plan for the 16,750 acre White Pine Planning Unit of the Clearwater National Forest. The Unit is broken into seven areas which will be managed for such values as timber, browse production, and recreation. Adverse impact will include soil disturbance and possible stream siltation (73 pages). (ELR Order No. 31361.) (NTIS Order No. EIS 73 1361-D.)

*Final*

Burnt Fork Planning Unit, Bitterroot National Forest, Ravalli County, Mont., August 28: The statement refers to a revised Multiple Use Plan for the Burnt Fork Planning Unit of the Bitterroot National Forest. Approximately 20,905 acres of the unit would continue to be roadless, and would be managed with an emphasis on back-country values. The remaining 28,265 acres would be open for development options and more intensive managing practices, for such values as timber, mineral, watershed, wildlife, esthetics, and recreation; 10,353 acres of previously unroaded land will be developed with roads. There will be adverse impacts upon air, soil, and water quality, and wildlife habitat (143 pages). Comments made by: USDA, EPA, and concerned citizens. (ELR Order No. 31415.) (NTIS Order No. EIS 73 1415-F.)

RURAL ELECTRIFICATION ADMINISTRATION

*Draft*

Transmission Line, Ryceville to Lexington Park, St. Marys and Charles Counties, Md., August 28: The statement refers to the proposed lending of funds to Southern Maryland Electric Cooperative, Inc., for the construction of 22.3 miles of 230 kV transmission line from Ryceville to Lexington Park, a tap switching station, and a step-down substation. There will be some construction disruption and visual impact (110 pages). (ELR Order No. 31417.) (NTIS Order No. EIS 73 1417-D.)

SOIL CONSERVATION SERVICE

*Final*

Spring Brook Watershed, Langlade and Marathon Counties, Wis., August 28: The statement considers the implementation of flood control measures on the watershed, including conservation land treatment. Structural features of the project would consist of one new flood control structure and one to replace the Antigo Lake outlet, and a 3 feet high, 1,340-feet long dike. Also included would be the clearing and snagging of 10,340 feet of Spring Brook. The project will require approximately 138 acres of agricultural land; an additional 448 acres will be occasionally flooded (63 pages). Comments made by: USDA, COE, HEW, DOI, EPA, State and regional agencies. (ELR Order No. 31416.) (NTIS Order No. EIS 73 1416-F.)

Pocatalico River Basin, several counties in West Virginia, August 29: The statement refers to a project which would involve the use of land treatment measures on 2,400 acres and the construction of 2 multipurpose dams (for water supply, flood control, sediment prevention, and low-flow augmentation). Approximately 11.5 miles of stream and 440 acres of land will be inundated; 40 residences would be displaced (65 pages). Comments made by: ARC, DOC, EPA, HEW, HUD, DOI, DOT, State, and regional agencies. (ELR Order No. 31420.) (NTIS Order No. EIS 73 1420-F.)

DEPARTMENT OF DEFENSE

AIR FORCE

Contact: Dr. Billy Welsh, Room 4D 873, The Pentagon, Washington, D.C. 20330, 202-OX 7-9297.

*Draft*

U.S. Air Force Space Launch Vehicles, California and Florida, August 30: The statement refers to the environmental impact of the Titan III, Atlas, and Scout family of space launch vehicles. The vehicles were developed and/or are being operated under the direction of the Space and Missile Systems Organization. The major activity covered by the statement is the launch, which is concentrated in, but not restricted to, California and Florida. The major environmental impact is that of short-term, nonpersistent air pollution (116 pages). (ELR Order No. 31431) (NTIS Order No. EIS 73 1431-D.)

Accounting and Finance Center, Lowry Air Force Base, Colo., August 29: The statement refers to the proposed construction of a 601,375 sq. ft. building at Lowry Air Force Base, and the relocation of the Air Force Accounting and Finance Center from its present location at 3800 York St. in Denver to the new facility. Adverse impact will include construction disruption and an increase in automobile traffic at the new facility (44 pages). (ELR Order No. 31421.) (NTIS Order No. EIS 73 1421-D.)

ARMY CORPS

Contact: Mr. Francis X. Kelly, Director, Office of Public Affairs, Attn: DAEN-PAP, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-7168.

*Draft*

Great Lakes and St. Lawrence Seaway, August 28: The statement refers to the proposed 1974 navigation season extension demonstration program on the Great Lakes and St. Lawrence Seaway. The program involves the examination of methods used to extend navigation operations which are usually suspended during the winter because of extensive ice formation. Among the methods used are ice breaking, and the use of heat additives and bubbler systems. Adverse impact includes that resulting from dredging, and possible thermal shock to fish populations if heat additives are abruptly terminated (Detroit District) (126 pages). (ELR Order No. 31419.) (NTIS Order No. EIS 73 1418-D.)

Port Everglades Harbor, Broward County, Fla., August 27: Proposed is the deepening and modifying of harbor dimensions in order to handle larger ships. An increase in shipping activity is expected to result. Dredged material will be used for beach replenishment, artificial fishing reef construction, or be deposited in diked upland areas. Construction will cause temporary turbidity. Increased traffic could increase the pollution potential of the harbor (Jacksonville District) (54 pages). (ELR Order No. 31408) (NTIS Order No. EIS 73 1408-F.)

Yazoo Headwater Project, Mississippi, August 20: The statement refers to a proposed flood control project for Ascalmore Creek and Tippo Bayou. Project measures will include levee improvement; channel work on 17 miles of channel; and the construction of water control structures and a stoplog weir. Woodland, wetland, and stream habitat totalling 6,300 acres would be committed to the project, with a reduction in extent and quality of fish and wildlife habitat, timber resources, and aesthetic amenities (Vicksburg District) (94 pages). (ELR Order No. 31382.) (NTIS Order No. EIS 73 1382-D.)

Passaic River Basin, New Jersey and New York, August 27: The statement refers to proposed Congressional authorization of flood control works in the Passaic River Basin. The major component of the project would be a dam across the Pompton and Passaic Rivers, with channel enlargement, levees, flood walls, and grading as related measures. Stream systems, fish and wildlife populations, and existing land use would be altered by the project (120 pages). (ELR Order No. 31412.) (NTIS Order No. EIS 73 1412-D.)

Bowline Point Generating Station, New York, August 23: The statement, a revised draft, refers to the proposed granting of a permit to Orange and Rockland Utilities, Inc., and the Consolidated Edison Company of New York, Inc., for a two unit, 1200 MW oil-fueled electric generating station. The station will occupy a 146-acre site, with a marine fuel oil receiving terminal extending 500 feet into the Hudson River, and subaqueous water discharge pipes. There will be construction disruption; potential for damage to marine life; a local increase in air pollution; and a loss of wetlands area. (The original draft statement was filed with the Council on October 24, 1972.) (New York District) (94 pages). (ELR Order No. 31401.) (NTIS Order No. EIS 73 1401-D.)

Falls Lake, Neuse River, Wake, Durham, and Granville Counties, N.C., August 29: The statement refers to the proposed construction and operation of a multipurpose (flood control, water supply and quality control, recreation, and fish and wildlife conservation) reservoir project on the Neuse River, near Raleigh. The project will require the acquisition of 42,259 acres, of which 12,490 acres, along with 22 miles of stream, will be inundated. There will be changes in land use, as well as economic impact, potential impact to rare and endangered species, and loss of archeological sites, along other impacts (Wilmington District) (five volumes). (ELR Order No. 31424.) NTIS Order No. EIS 73 1424-D.)

Pennypack Marine Terminal, Pa., August 29: The statement refers to the proposed granting of a permit to the Philadelphia Port Corporation for the construction of a marine terminal on the Delaware River. The project requires the rechannelization of Pennypack Creek, and an encroachment into the Delaware not to exceed 395 feet. Pennypack Creek will lose its natural meandering course, and its ecosystem will be altered. Residents of the Riverview Home for the Indigent and the House of Correction will be subjected to higher noise levels (Philadelphia District) (64 pages). (ELR Order No. 31419.) (NTIS Order No. EIS 73 1419-D.)

Alpine Lake Project, Texas, August 27: The statement refers to a recommendation of Congressional authorization for a small reservoir which will provide flood control, recreation, and water supply for the town of Alpine. Adverse impact will include the loss of 784 acres of wildlife habitat and grazing land (Albuquerque District) (44 pages). (ELR Order No. 31406.) (NTIS Order No. EIS 73 1406-D.)

*Final*

Dredging of Lewis and Clark Connecting Channel, Clatsop County, Oreg., August 29: Proposed is the dredging of a navigation channel in the lower Lewis and Clark River to connect with an existing channel in Young's Bay. The channel will be 4.4 miles long, 10 feet deep, 150 wide in the lower 8,000 feet and 100 feet wide upstream. Approximately 227,000 cubic yards of dredged material will be deposited on three diked disposal areas. Dredging will disturb 57 subaqueous acres, removing bottom organism. Other effects of the action are temporary turbidity; upstream intrusion of salt water with associated changes; and elimination or displacement of vegetation and animal life (81 pages). Comments made by: AHP, USDA, EPA, DOC, FPC, HUD, DOI, USCG, State, local, and regional agencies and citizen groups. (ELR Order No. 31422.) (NTIS Order No. EIS 73 1422-F.)

Trexler Lake, Lehigh County, Pa., August 30: The statement considers the construction of an earthfill dam on Jordan Creek, for the purposes of recreation, water supply, and flood control. Approximately 3,200 acres (1,200 of which will be inundated), will be acquired for the project; land will be taken from agricultural use and from state game preserves. Fifty percent of the Town of Lowhill, with an unspecified number of residences, will be acquired for the project (Philadelphia District). Comments made by: DOI, EPA, HEW, USDA, HUD, DOC, local agencies, and concerned citizens. (ELR Order No. 31430.) (NTIS Order No. EIS 73 1430-F.)

NAVY

Contact: Mr. Joseph A. Grimes, Jr., Special Civilian Assistant to the Secretary of the Navy, Washington, D.C. 20350, 202-697-0892.

*Draft*

ORV Use, Mirror Lake Weapons Center, Calif., August 27: The statement refers to the proposed establishment of a 180-acre Mirror Lake area of the Naval Weapons Center, China Lake, for operation of off-road vehicles. There may be increased noise and air (dust) pollution (71 pages). (ELR Order No. 31411.) (NTIS Order No. EIS 73 1411-d.)

*Supplement*

Submarine Base, New London. Supplement, Connecticut, August 27: The document supplements a draft statement which covers the proposed dredging of the Thames River at the U.S. Navy Submarine Base, New London. The draft statement was filed with the Council on May 17, 1973. The supplement details alternative means of dredge spoil dis-







V38-174
SEP 10 73
XUM

posal (96 pages). (ELR Order No. 31409.) (NTIS Order No. EIS 73 1409–D.)

FEDERAL POWER COMMISSION

Contact: Dr. Richard F. Hill, Acting Advisor on Environmental Quality, 441 G Street NW., Washington, D.C. 20426, 202–386–6084.

*Draft*

Davis Pumped Storage Project No. 2709, Tucker and Grant Counties, W. Va., August 16: The statement refers to an application by the Monongahela Power Co., the Potomac Edison Co., and the West Penn Power Co. for the construction, operation, and maintenance of the project, to be located on the Blackwater River and Red Creek. The project will consist of a 600 acre upper reservoir, a 7,000-acre lower reservoir, a powerhouse with four 50 MW units, 12 miles of 500-kV transmission line, and recreation facilities. The project will result in the inundation of 7,600 acres, eliminating wildlife habitat and livestock grazing land, as well as a section of a free flowing river and its sport fishery. (ELR Order No. 31359.) (NTIS Order No. EIS 73 1359–D.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240, 202–343–3891.

*Final*

Prototype Oil Shale Leasing Program, August 29: The statement refers to the proposed leasing of six tracts of not more than 5,120 acres each for the purpose of Oil Shale development. Two tracts are located in each of the states of Colorado, Utah, and Wyoming. Impacts of the action will include those on the land itself, on water and air quality, on fish and wildlife habitat, on competing land uses, and on social and economic patterns. The statement assesses the impacts from both prototype development and a mature industry (6 volumes). Comments made by: DOI, EPA, FPC, OEP, USDA, AEC, DOC, HEW, HUD, USN, agencies of California, Colorado, and Wyoming, and concerned citizens. (ELR Order No. 31423.) (NTIS Order No. EIS 73 1423–F.)

BUREAU OF SPORTS FISHERIES AND WILDLIFE

*Draft*

Turnbull National Wildlife Refuge, Spokane County, Wash., August 27: Proposed is the continued operation, maintenance and development of the Turnbull National Wildlife Refuge, including the acquisition of 2,795.5 acres of additional lands. The action would result in continued protection of a relatively undisturbed section of natural environment (58 pages). (ELR Order No. 31405.) (NTIS Order No. EIS 73 1405–D.)

NATIONAL SCIENCE FOUNDATION

Contact: Dr. Thomas O. Jones, Deputy Assistant to the Director, National and International Programs, Room 703, Washington, D.C. 20550, 202–632–4180.

*Draft*

Dry Valley Drilling Project, Antarctica, August 30: The statement refers to proposed support of the Dry Valley Drilling Project at McMurdo Sound, Antarctica, during the 1973–1974 austral summer. The project, part of the U.S. Antarctic Research Program, is planned to study the diverse geological framework of the region, which contains rocks and sediments ranging in age from the Precambrian to Recent. From 10 to 15 boreholes are scheduled, with core drilling to a depth of 300 meters. The most likely impact would be that resulting from unexpecting spillage of drilling muds (106 pages). (ELR Order No. 31425.) (NTIS Order No. EIS 73 1425–D.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Quality, 400 7th Street SW., Washington, D.C. 20590, 202–466–4357.

FEDERAL HIGHWAY ADMINISTRATION

*Draft*

S.R. 35, Jackson County, Ala., August 30: The proposed project is the construction of SR 35 for 5.3 miles in Jackson County. The project will require 130 to 160 acres of land and displace 10 to 23 families and 2 businesses. Loss of wildlife habitat and increased water pollution will occur (50 pages). (ELR Order No. 31426.) (NTIS Order No. EIS 73 466–5347.

I–40, Kingman-Ash Fork Highway, Yavapai County, Ariz., August 22: Proposed is the construction of a 3.41-mile section of I–40 south of the Town of Ash Fork. Adverse effects of the action include acquisition of land for right of way, alteration of the natural terrain, removal of vegetation, and inconvenience to the community during construction (50 pages). (ELR Order No. 31398.) (NTIS Order No. EIS 73 1398–D.)

Atlantic Boulevard Extension, SR 814, Broward County, Fla., August 30: The proposed project is the construction of SR 814 (Atlantic Boulevard Extension) for 3 miles. Six acres of land will be acquired for right of way. Adverse impacts are loss of agricultural and timber land, and increased noise, air and water pollution. (ELR Order No. 31429.) (NTIS Order No. EIS 73 1429–D.)

S.R. 234, Dougherty County, Ga., August 28: The project consists of widening a four mile section of S.R. 234 from two to four lanes. The project will extend from U.S. 19 west to Beattie Road. Four businesses may be displaced and an unspecified amount of land acquired for right of way. Section 4(f) land from Baldwin Park will be acquired (86 pages). (ELR Order No. 31413.) (NTIS Order No. EIS 73 1413–D.)

F.A.S. Route 471, Sanders County, Mont., August 27: Proposed is the reconstruction of approximately 8.5 miles of F.A.S. No. 471. The project follows the Prospect Creek Drainage from Glidden Gulch on the west to Daisy Creek on the east. Adverse effects of the action include acquisition of right of way, and increased noise, air, and water pollution during construction (50 pages). (ELR Order No. 31410.) (NTIS Order No. EIS 73 1410–D.)

North Freeway, Omaha, Douglas County, Nebr., August 27: Proposed is the construction of a 0.7 mile extension to the present North Freeway in Omaha. Adverse effects of the project include acquisition of right of way, relocation impacts on wildlife, possible erosion and water pollution, and conflicts with present utilities (20 pages). (ELR Order No. 31407.) (NTIS Order No. EIS 73 1407–D.)

*Final*

S.R. 331, Mushawaka, St. Joseph County, Ind., August 30: The proposed project is the construction of 0.92 miles of SR 331 in Mushawaka. The project will displace 18 families, a church, and 4 businesses. An increase in noise levels will occur (58 pages). Comments made by: USDA, DOI, EPA, and one State agency. (ELR Order No. 31432.) (NTIS Order No. EIS 73 1432–F.)

Newcastle Marginal, Weston County, Wyo., August 30: The statement is concerned with construction of a marginal route for U.S. 16 along the southern edge of the City of Newcastle. Project length is approximately 1.8 miles. Increased noise levels, dust, soil exposure and traffic disruption will occur (25 pages). Comments made by: USDA, DOI, EPA, and HUD. (ELR Order No. 31433.) (NTIS Order No. EIS 73 1433–F.)

VETERANS ADMINISTRATION

Contact: Mr. Arthur W. Farmer, Assistant Chief, Medical Director for Administration and Facilities, Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420.

*Draft*

VA Replacement Hospital, Bronx, N.Y., August 28: Proposed is the construction of a 702-bed hospital to replace the existing 1,150-bed facility which comprises the Bronx Veterans Administration Hospital. Three existing buildings will be retained and the rest demolished after construction of the new building. Adverse impacts stemming from the project are: inconvenience to hospital operation during the four-year construction period; disposal of demolition debris; and degradation of aesthetics along Segdwick Avenue (37 pages). (ELR Order No. 31414.) (NTIS Order No. EIS 73 1414–D.)

TIMOTHY ATKESON,
*General Counsel.*

[FR Doc.73–19125 Filed 9–7–73;8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

### AMCHEM PRODUCTS, INC.

#### Establishment of Temporary Tolerance

Amchem Products, Inc., Ambler, Pa. 19002, submitted a petition (PP 3G1341) requesting establishment of a temporary tolerance for residues of the plant regulator ethephon (2-chloroethyl) phosphonic acid) in or on the raw agricultural commodity grapes at 5 parts per million.

Subsequently, the petitioner amended the petition by increasing the proposed temporary tolerance for ethephon residues in or on grapes to 10 parts per million.

It has been determined that a temporary tolerance for residues of the plant regulator in or on grapes at 10 parts per million will protect the public health. It is therefore established as requested on condition that the plant regulator be used in accordance with the temporary permit being issued concurrently and which provides for distribution under the Amchem Products, Inc., name.

This temporary tolerance expires Aug. 30, 1974.

This action is taken pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(j), 68 Stat. 516; 21 U.S.C. 346a(j)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 FR 9038).

Dated August 30, 1973.

HENRY J. KORP,
*Deputy Assistant Administrator for Pesticide Programs.*

[FR Doc.73–19107 Filed 9–7–73;8:45 am]





### ALLIED CHEMICAL CORP.

[I.F. & R. Docket No. 146]

#### Determination and Order

In re Allied Chemical Corporation, Petitioner, Registration Numbers 218–495, –516, –548, –564, –565, –586, –590, –628, and –638.

By Determination and Order of March 28, 1973 (38 FR 8615), the Administrator granted a temporary and minor modification to the May 3, 1972 Order (37 FR 10987) and the June 30, 1972, Order restricting the application of Mirex bait (38 FR 13299). Because of continuing controversy since June 30, 1972, over the use of Mirex, the March 28, 1973, Order was accompanied by a Notice of Intent to Hold a Hearing to Determine whether the registration of Mirex should be cancelled or amended (38 FR 8616). The March 28 modifications were granted, primarily, to permit the United States Department of Agriculture to go forward with its Spring application program for the control of the imported fire ant, by clarifying certain restrictions in the previous Mirex Order which prohibited application of Mirex "on or near aquatic areas." As construed literally, this prohibition had included all aquatic sectors, and required that United States Department of Agriculture in its aerial program cut off Mirex application over even very small bodies of water, such as farm ponds or small streams. The need to avoid such small sectors allegedly resulted in the inability to treat large areas which were infested with fire ants. The March 28 interpretative order thereby permitted for the Spring 1973 application, the use of Mirex on or near those very small streams and farm ponds which are not shown on U.S. Geological Survey maps with a scale of 1:24,000.

The necessity for this and other slight modifications was to be considered in depth as a part of the overall risk-benefit considerations at the Mirex hearings, which it was anticipated would be completed before the Fall spraying season was underway.

However, because of the need for additional time for all interested parties to prepare adequately for a public hearing on the numerous questions posed by Mirex application, it has not been possible for hearings to be initiated and a fully developed record completed before the Fall application season. Consequently, I hereby extend for the Fall application season, the minor modifications of the March 28 Order as to the United States Department of Agriculture aerial program for control of the imported fire ant.

I further urge that, in the upcoming Mirex hearings, United States Department of Agriculture, the Registrant, Allied Chemical Corporation, as part of their evidence on the overall questions in issue at those hearings, adduce evidence in support of the contention of the United States Department of Agriculture that the modifications contained in the March 28 Order will not permit an unreasonable adverse effect on the environment and that these modifications are necessary to an effective program for the control of the imported fire ant.

All future orders as to the registered uses of Mirex will be contingent upon and derived from the evidence of record adduced at the upcoming hearings.

ORDER

1. For the Fall 1973 application, aerial broadcast of Mirex pesticides is prohibited within coastal counties; and all broadcast application aerial or otherwise is prohibited in or near aquatic areas and heavily forested areas as defined herein.

Aquatic areas are defined as: Any aquatic system including estuaries, rivers, streams, swamps, marshes, lakes, bays, ponds, or other bodies of water which are shown on U.S. Geological Topographic Surveys maps at a scale of 1:24,000, excluding intermittent streams as defined herein, but not excluding intermittent streams with a flow during the period of application, and farm ponds as defined herein, but not excluding ponds used for food production or human consumption.

Farm ponds are defined as: Man-made impoundments of water occurring on farms to be utilized for purposes such as irrigation, stock-watering, recreation.

Intermittent streams are defined as: Those streams that have continuous flow during periods of heavy rainfall, but with little or no flow during the remainder of the year.

Heavily forested areas are defined as: Forest stands having 80 percent or more crown closure with trees of any size.

2. It is urged that Registrant and U.S. Department of Agriculture, parties to the upcoming Mirex hearings as part of their evidence on the overall questions in issue, adduce whatever evidence may support the contention of USDA that the modifications contained in this Order will not permit an unreasonable adverse effect on the environment and that these modifications are necessary to an effective program for the control of the imported fire ant.

3. All other provisions and restrictions of the May 3 determination and order and the June 30 determination and order on Mirex remain in full force and effect.

AUTHORITY: 7 U.S.C. 135b.

Dated August 28, 1973.

CHARLES L. ELKINS,
*Acting Assistant Administrator for Hazardous Materials Control.*

[FR Doc.73–19108 Filed 9–7–73;8:45 am]

### ATRAZINE

#### Notice of Filing of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 4F1425) has been filed by CIBA-GEIGY Corp., Post Office Box 11422, Greensboro, N.C. 27409, proposing establishment of a tolerance (40 CFR Part 180) for negligible residues of the herbicide atrazine (2-chloro-4-ethylamino-6-isopropylamino-s-triazine) in or on the raw agricultural commodity range grasses at 0.1 part per million.

The analytical method proposed in the petition for determining residues of the herbicide is a gas chromatographic procedure using chloride specific microcoulometric detection.

Dated August 30, 1973.

HENRY J. KORP,
*Deputy Assistant Administrator for Pesticide Programs.*

[FR Doc.73–19109 Filed 9–7–73;8:45 am]

### NIPAK, INC.

#### Notice of Withdrawal of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), the following notice is issued:

In accordance with § 180.8 *Withdrawal of petitions without prejudice* of the pesticide procedural regulations (40 CFR 180.8), NIPAK, Inc., Post Office Box 338, Pryor, Okla. 74361, has withdrawn its petition (PP 2F1270), notice of which was published in the FEDERAL REGISTER of October 7, 1972 (37 FR 21364), proposing establishment of an exemption from the requirement of a tolerance for residues of the plant regulator bluret on sugar beets.

Dated August 30, 1973.

HENRY J. KORP,
*Deputy Assistant Administrator for Pesticide Programs.*

[FR Doc.73–19110 Filed 9–7–73;8:45 am]

### UNIROYAL CHEMICAL

#### Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 4H5041) has been filed by Uniroyal Chemical, Division of Uniroyal, Inc., Bethany, Conn. 06525, proposing establishment of a food additive tolerance (21 CFR Part 121) for residues of the plant regulator succinic acid 2,2-dimethylhydrazide in dried prunes at 135 parts per million resulting from application of the plant regulator to growing plums.

Dated August 30, 1973.

HENRY J. KORP,
*Deputy Assistant Administrator for Pesticide Programs.*

[FR Doc.73–19111 Filed 9–7–73;8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

[Report No. 664]

### COMMON CARRIER SERVICES INFORMATION [1]

### Domestic Public Radio Services Applications Accepted for Filing [2]

SEPTEMBER 4, 1973.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an appli-

[1] All applications listed in the appendix are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations and other requirements.

[2] The above alternative cutoff rules apply to those applications listed in the appendix as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (Part 21 of the Rules).



V38-174 SEP 10 73 XUM

cation, in order to be considered with any domestic public radio services application appearing on the attached list, must be substantially complete and tendered for filing by whichever date is earlier: (a) the close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed in the appendix if filed by the end of the 60 day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's Rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
*Acting Secretary.*

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

20155–C2–P–74—The Mountain States Telephone and Telegraph Company (KOE512). C.P. to change antenna system and location and to relocate all facilities operating on 152.66 and 152.78 MHz at 11.7 miles east-northeast of Cody, Wyoming.

20206–C2–P–(4)–74—Mobile Tel & Pager, Inc. (NEW) C.P. for a new 2-way station to operate on 454.025, 454.050, 454.250, & 152.240 MHz to be located at 1.5 miles N.E. of Barnesville on Hog Mountain, Barnesville, Georgia.

20207–C2–P–74—Radio Telephone of Mississippi, Inc. (NEW) C.P. for a new 2-way station to operate on 152.180 MHz to be located at approximately 2 miles E. of Belzoni, Mississippi.

20208–C2–P–74—Mobile Dispatch Service (KIR204) C.P. to change antenna location at Loc. #1 operating on 152.120, 454.100, 454.250, 454.325, and 454.275 MHz located at 1400 NW. 23rd Avenue, Fort Lauderdale, Florida.

20209–C2–P–74—Airvoice, Inc. (NEW) C.P. for a new 1-way signaling station to operate on 158.70 MHz to be located at 1 mile south of Americus on Murphy Mill Road, Americus, Georgia.

20210–C2–P–74—Mobile Dispatching Service (KRM963) C.P. to change antenna location operating on 158.70 MHz at 1400 NW 23rd Avenue, Ft. Lauderdale, Florida.

20211–C2–P–74—Coastal Utilities, Inc. C.P. for a new 1-way signaling station to operate on 162.840 MHz to be located at 1.24 miles South of intersection U.S. Hwy. 82 and Atlantic Coast Line Railroad, Near McIntosh, Georgia.

20212–C2–P–(2)–74—E & J Mobile Radio Service (NEW) C.P. for a new 2-way station to operate on 454.200 and 454.225 MHz to be located at 1.5 miles NE. of Hillsboro, Ohio.

20213–C2–P–(2)–74—Mobile Telephone Company of New Jersey (NEW) C.P. for a new 2-way station to operate on 454.250 and 454.275 MHz to be located at Rt. 72, 1.7 miles NW. intersection of Rt. 539, Barnegat, New Jersey.

20214–C2–P–(2)–74—Mobile Telephone Company of New Jersey (NEW) C.P. for a new 2-way station to operate on 454.075 and 454.200 MHz to be located at 2953 White Horse Pike, Egg Harbor City, New Jersey.

20215–C2–TC–74—Colfax Telephone Exchange (KMM688) Consent to Transfer of Control from Chester A. and Gladys M. Gibbs, TRANSFEROR, to Continental Telephone Corporation. TRANSFEREE. Station: KMM688, Colfax, California.

20216–C2–P–74—Lett Electronics, Inc. (KTS-250) C.P. to change antenna system operating on 158.70 MHz at 15 East 2nd Street, Hutchinson (Reno), Kansas.

20217–C2–P–74—Lett Electronics, Inc. (KEK-275) C.P. to change antenna system operating on 152.12 MHz at Loc. #2: 15 East 2nd Street, Hutchinson, Kansas.

*MAJOR AMENDMENTS*

8178–C2–P–72—Paging, Inc. (NEW) Amend to change transmitter and antenna system. All other particulars are to remain as reported on PN #597 dated May 22, 1972.

*INFORMATIVE*

It appears that the following applications may be mutually exclusive and subject to the Commission's Rules regarding ex parte presentations, by reasons of potential electrical interference.

*NEW MEXICO*

Western Mobilphone, Inc. (KKM582), 7923–C2–P–(4)–72.
Contact of Farmington, Inc. (NEW), 57–C2–P–73.

*CORRECTIONS*

20192–C2–P–74—Aircall, Inc. (KIY779) Correct PN to add; change antenna system, replace transmitter, and change emission operating on 152.24 MHz on top of Spivey Mountain, Asheville, North Carolina. All other particulars to remain as reported on PN #663 dated August 27, 1973.

21202–C2–P–74—The Mountain States Telephone and Telegraph Company (KKH476). Correct PN to change file number to 20202–C2–P–74. All other particulars to remain as reported on PN #663, dated August 27, 1973.

21203–C2–P–(4)–74—General Telephone Company of Florida (KIY397). Correct PN to change file number to 20203–C2–P–(4)–74. All other particulars to remain as reported on PN #663, dated August 27, 1973.

21204–C2–MP–(4)–74—General Telephone Company of Florida (KRS647). Correct PN to change file number to 20204–C2–MP–(4)–74. All other particulars to remain as reported on PN #663, dated August 27, 1973.

RURAL RADIO SERVICE

60046–C6–P–(2)–74—Arvig Telephone Company (NEW) C.P. for a new rural subscriber station to operate on 157.83 and 158.07 MHz temp-fixed.

60047–C6–P–74—Arvig Telephone Company (NEW) C.P. for a new rural subscriber station to operate on 459.650 to be located at Elephant Lake Lookout Tower, 0.6 mile South of Elephant Lake, Minnesota.

60048–C6–P–74—Arvig Telephone Company (NEW) C.P. for a new rural subscriber station to operate on 459.650 MHz, temp-fixed.

60049 (NEW) C.P. for a new Central office station to operate on 454.650 MHz to be located at 1.8 miles North of Ash River Falls, Minnesota.

*MAJOR AMENDMENTS*

983–C1–P/L–73—The Chesapeake and Potomac Telephone Company of Virginia. (NEW) Amend to correct frequency 152.53 to frequency 152.24. All other particulars to remain as reported on PN #611, dated August 28, 1972.

987–C1–P/L–73—The Chesapeake and Potomac Telephone Company of Virginia. (NEW) Amend to correct frequency 152.53 to frequency 152.54 and add frequency 459.375. All other particulars to remain as reported on PN #661, dated August 28, 1972.

POINT-TO-POINT MICROWAVE RADIO SERVICE

497–C1–P–74—American Telephone and Telegraph Company. (KKP96) 3.5 miles N. of Terrell, Texas. Lat. 32°47'48" N., Long. 96°16'38" W. C.P. to add a transmitter and frequencies: 3950H toward Emory, Texas, on azimuth 83°50'; 3990H toward Lindale, Texas, on azimuth 127°38'; 3950H toward East Mountain, Texas, on azimuth 79°54'; 3990H toward Marshall, Texas, on azimuth 89°24'; 3950H toward Leigh, Texas on azimuth 92°30' and 3990H toward Shreveport, La., on azimuth 107°28'.

498–C1–P–74—Same. (KKP97) 4.5 miles SW. of Emory, Texas. Lat. 32°50'12" N., Long. 95°49'50" W. C.P. to add a transmitter and frequencies: 3950H toward Emory, Texas, on azimuth 83°50'; 3990H toward Lindale, Texas, on azimuth 127°38'; 3950H toward East Mountain, Texas, on azimuth 79°54'; 3990H toward Marshall, Texas, on azimuth 89°24'; 3950H toward Leigh, Texas, on azimuth 92°30'; 3990H toward Shreveport, La., on azimuth 107°28'.

499–C1–P–74—Same. (KKP98) 2.5 miles NE. of Lindale, Texas. Lat. 32°32'16" N., Long. 95°22'27" W. C.P. to add a transmitter and frequencies: 3950H toward Emory, Texas, on azimuth 83°50'; 3990H toward Lindale, Texas, on azimuth 127°38'; 3950H toward East Mountain, Texas, on azimuth 79°54'; 3990H toward Marshall, Texas, on azimuth 89°24'; 3950H toward Leigh, Texas, on azimuth 92°30'; 3990H toward Shreveport, La., on azimuth 107°28'.

500–C1–P–74—Same. (KKP99) 2.0 miles NW. of East Mountain, Texas. Lat. 32°36'45" N., Long. 94°52'20" W. C.P. to add a transmitter and frequencies: 3950H toward Emory, Texas, on azimuth 83°50'; 3990H toward Lindale, Texas, on azimuth 127°38'; 3950H toward East Mount, Texas, on azimuth 79°54'; 3990H toward Marshall, Texas, on azimuth 89°24'; 3950H toward Leigh, Texas, on azimuth 92°30'; 3990H toward Shreveport, La., on azimuth 107°28'.

501–C1–P–74—Same. (KKT20) 4.5 miles N. of Marshall, Texas. Lat. 32°36'57" N., Long. 94°23'33" W. C.P. to add a transmitter and frequencies: 3950H toward Emory, Texas, on azimuth 83°50'; 3990H toward Lindale, Texas, on azimuth 127°38'; 3950H toward East Mountain, Texas, on azimuth 79°54'; 3990H toward Marshall, Texas, on azimuth 89°24'; 3950 toward Leigh, Texas, on azimuth 92°30'; 3990H toward Shreveport, La., on azimuth 107°28'.

502–C1–P–74—Same. (KKT21) 2.0 miles E. of Leigh, Texas. Lat. 32°36'17" N., Long. 94°-06'04" W. C.P. to add a transmitter and frequencies: 3950H toward Emory, Texas, on azimuth 83°50'; 3990H toward Lindale, Texas, on azimuth 127°38'; 3950H toward East Mountain, Texas, on azimuth 79°54'; 3990H toward Marshall, Texas, on azimuth 89°24'; 3950H toward Leigh, Texas, on azimuth 92°30'; 3990H toward Shreveport, La., on azimuth 107°28'.

503–C1–P–74—Same. (KEA49) 158 State Street, Albany, New York. Lat. 42°39'-03" N., Long. 73°45'28" W. C.P. to add a transmitter and frequencies: 3710V toward Kinderhook, New York, on azimuth 169°-11'; 3750V toward Albany, New York, on azimuth 349°14'; 3750V toward Halihan Hill, New York, on azimuth 213°55'; 3710V toward Kinderhook, New York, on azimuth 33°41'.

504–C1–P–74—American Telephone and Telegraph Company (KEE58) 4 miles North of Kingston, New York. Lat 41°59'22" N., Long. 74°01'06" W. C.P. to add a transmitter and frequencies: 3710V toward Kinderhook, New York, on azimuth 169°11'; 3750V toward Albany, New York, on azimuth 349°14'; 3750V toward Halihan, New York, on azimuth 213°55'; 3710V toward Kinderhook, New York, on azimuth 33°41'.

505–C1–P–74—Same (KEG61) 2.4 miles SE. of Kinderhook, New York. Lat. 42°21'42" N., Long. 73°41'00" W. C.P. to add a transmitter and frequencies: 3710V toward Kinderhook, New York, on azimuth 169°11'; 3750V toward Albany, New York, on azimuth 349°14'; 3750V toward Halihan, New York, on azimuth 213°55'; 3710V toward Kinderhook, New York, on azimuth 33°41'.

506–C1–P–74—General Telephone Company of the Southwest. (KLO90) 320 North Shipp Street, Hobbs, New Mexico. Lat. 32°42'09". Long. 103°08'08" W. Proposed path to Buckeye, New Mexico, on frequency 6375.2H, change antenna system and replace transmitters toward Lovington, New Mexico.

507–C1–P–74—Same. (KLO91) 8.0 miles Southwest of Buckeye, New Mexico. C.P. for proposed paths to Hobbs and Moroon Cliffs, New Mexico, on 6123.1H and 6034.2H respectively. Change antenna system and change in location to Lat. 32°41'42" N., Long. 103°33'14" W.

508–C1–P–74—Same. (KLO92) 313 West Fox Street, Carlsbad, New Mexico. Lat. 32°25'-07" N., Long. 104°13'45" W. C.P. to change antenna system, replace transmitters, and add frequency 1079.5V toward on azimuth 287°00' toward Carlsbad RI, New Mexico.

509–C1–P–74—Same. (NEW) 1 mile West of Carlsbad, New Mexico. Lat. 32°35'42" N., Long. 104°16'00" W. C.P. for a new station on frequencies: 6078.6H toward Maroon Cliffs, N. Mex., on azimuth 73°43'; 1132.5V toward Carlsbad, N. Mex., on azimuth 106°59'.

510–C1–P–74—Same. (New) 22 miles East of Carlsbad, New Mexico. Lat. 32°31'22" N., Long. 103°52'58" W. C.P. for a new station on frequencies: 6286.2H toward Buckeye, N. Mex., on azimuth 58°10'; 6330.7H toward Carlsbad RI, New Mexico, on azimuth 253°55'; 6256.5V toward Artesia Jct., N. Mex., on azimuth 318°29'.

595–C1–P–74—East Texas Transmission Company. (New). Goodman Mountain, 5.0 miles WNW of Kilgore, Texas. Lat. 32°24'39" N., Long. 94°59'16" W. C.P. for a new station on frequencies: 6226.9V, 6286.2V, and 6345.5V toward Gladewater, Texas, on azimuth of 16°17'. (NOTE.—This application "reinstates" proposed service to Gladewater, Texas, which was recently severed from pending application (1078–C1–P–72). Waiver of section 21.701(1) is requested by East Texas.)

596–C1–P–74—United Video, Inc. (New) 44th Street and Sheridan Road, Tulsa, Oklahoma. Lat. 36°05'58" N., Long. 95°54'05" W. Application for a new station on frequency 6034.2H toward Avant, Oklahoma, on azimuth 339°26'. (NOTE.—A waiver of Section 21.701(1) is requested by United.)

597–C1–P–74—United Video, Inc. (New) 4 miles South of Avant, Oklahoma. Lat. 36°26'27" N., Long. 96°03'36" W. Application for a new station on frequency: 6286.2H toward Bartlesville, Oklahoma, on azimuth 15°14'.

598–C1–P–74—MCI Telecommunications Corporation (formerly MCI Indiana-Ohio, Inc) (New) 3.0 miles SSE. of Medina, Ohio. Lat. 41°04'48" N., Long. 81°50'32" W. C.P. for a new station on frequency 6286.2H toward Nova, Ohio, on azimuth 256°28'. (Informative: Point of communication proposed in this application has been deleted from pending application 4124–C1–P–72 for the same station in order to allow for the separate consideration of the two proposals. Frequency 6226.9H toward Nova, Ohio, on azimuth 256°25' is also deleted from pending application 4124–C1–P–72).

599–C1–P–74—Same (New) 0.1 mile NE. of Hilliard, Ohio. Lat. 40°00'37" N., Long. 83°11'16" W. C.P. for a new station on frequency 10775.0V toward Columbus, Ohio, on azimuth 107°57'. (Informative: Frequencies and point of communication proposed in this application have been deleted from pending application 8878–C1–P–70 for the same station in order to allow for the separate consideration of the two proposals).

600–C1–P–74—Continental Telephone Company of California. (KNB40). Near Garberville, California. C.P. to change antenna system, replace transmitter, and add frequency 2118.4V toward Zenia, California, on azimuth 60°33'.

601–C1–P–74—Same. (KNB42) Zenia, California. Lat. 40°12'26" N., Long. 123°29'20" W. C.P. to change antenna system, replace transmitter, and add frequency 2168.4V toward Garberville, California, on azimuth 240°41'.

602–C1–MP–74 through 623–C1–MP–74—The Western Union Telegraph Company. (KGB42, KGH87, KQG27, KQG28, KQG29, KQG30, KQG31, KQG32, KQG33, KQG34, KQG35, KSG77, KSG78, KSG79, KSG80, KSG89, KSG90, KSG91, KSG92, KSG93, KSG94, KSG95). Location on existing Microwave route between Chicago, Illinois, and Pittsburgh, Pennsylvania. Mod. C.P.'s (22) to replace transmitters and reduce power from 10 to 3.5 watts on its existing construction permits file numbers 78–C1–P 72 through 99–C1–P–72.

635–C1–P–74—Western Tele-Communications, Inc. (New) C.P. for a new station at Salt Lake City, Utah, 1251 Wilmington Avenue at Lat. 40°43'25" N., Long. 111°-51'17" W. Frequency 10835V on azimuth 243°43', toward Nelson Peak, Utah.

636–C1–P–74—Same. (KPT21) Nelson Peak, Utah, 18 miles SW. of Salt Lake City, Utah. Lat. 40°36'30.5" N., Long. 112°09'34" W. C.P. to add frequency 6390.0H toward Curlew, Idaho, on azimuth 349°28'.

637–C1–P–74—Same. (KPT22) Curlew, Idaho. 17.5 miles WNW. of Malad City, Idaho. Lat. 42°16'32" N., Long. 112°34'38" W. C.P. to add frequencies: 5960.0H, 5989.7V, 6019.3H, 6078.6H, 6108.3V, and 6137.9H toward Harrison Mountain, Idaho, on azimuth 274°47'.

638–C1–P–74—Western Tele-Communications, Inc. (New) C.P. for a new station at Harrison Mtn., Idaho 12.4 miles WNW. of Malta, Idaho, at Lat. 42°20'05" N., Long. 113°36'16" W. Frequencies: 6197.2H, 6226.9V, 6286.2V, 6345.5V, 6404.8V, and 6375.2H toward Castleford, Idaho, on azimuth 280°01'. Frequencies: 6226.9H, 6286.2H, 6345.5H, and 6404.8H toward Twin Falls, Idaho, on azimuth 289°39'. Frequencies: 6226.9H, 6286.2H, 6245.5H, and 6404.8H on azimuth 306°34' toward Gooding, Idaho. Frequencies: 6226.9H, 6286.2H, 6345.5H, and 6404.8H on azimuth 342°50' toward Burley-Ruppert, Idaho.

639–C1–P–74—Same (New). C.P. for a new station at Castleford, Idaho. 8.0 miles WSW. of Castleford, Idaho. Lat. 42°30'41" N., Long. 115°01'20" W. Frequencies 5945.2H, 6004.5H, and 6123.1H on azimuth 337°44' toward Bennett Mtn., Idaho. Frequencies 5945.2H, 6004.5H, 6034.2V, and 6123.1H on azimuth 60°24', toward Jerome (Drop), Idaho.

640–C1–P–74—Same. (New). C.P. for a new station at Bennett Mtn., Idaho, 4.5 miles South of Dixie, Idaho. Lat. 43°14'55" N., Long. 115°26'09" W. Frequencies 6375.2V, 6404.8H, and 6345.5H on azimuth 315°31' toward Deer Point, Idaho.

641–C1–P–74—Same. (New). C.P. for a new station at Deer Point, Idaho, 9 miles NE. of Boise, Idaho. Lat. 43°44'37" N., Long. 116°06'32" W. Frequencies: 11175V, 10935V, and 11095V on azimuth 278°49' toward Apple Valley, Idaho.

642–C1–P–74—Same. (New). C.P. for a new station at Apple Valley, Idaho. 5.8 miles ESE. of Apple Valley, Idaho. Lat. 43°49'32" N. Long. 116°51'40" W. Frequencies: 11385V, 11625V, and 11505H on azimuth 299°18' toward New Vale, Idaho. Frequencies 11385V, 11625V, and 11505H on azimuth 354°59' toward Payette, Idaho. Frequencies 11385V, 11625V, and 11505H on azimuth 351°12' toward Weiser, Idaho. Frequencies 11385V, 11625V, and 11505H on azimuth 82°17' toward Emmett, Idaho. Frequencies 11385V, 11625V, and 11505H on azimuth 114°41' toward Boise, Idaho. Frequencies: 11585H, 11625V, and 11505H on azimuth 140°15' toward Nampa, Idaho. Frequencies: 11385V, 11625V, and 11505H on azimuth 267°23' toward Parma, Idaho.

643–C1–P–74—The Chesapeake and Potomac Telephone Company of Maryland. (KGO71) On Route #135, 1 mile SE. of Swanton, Maryland. Lat. 39°27'02" N., Long. 79°12'-59" W. C.P. to change power, replace a transmitter, and change frequency 6071.2V to 6078.6V toward Terra Alta. West Virginia on azimuth 283°35'.

644–C1–P–74—The Pacific Telephone and Telegraph Company. (KMA38) 434 South Grand Avenue, Los Angeles, California. Lat. 34°03'03" N., Long. 118°15'08" W. C.P. to add a transmitter and frequency 3770H toward Padua Hills, California, on azimuth 78°05'.

645–C1–P–74—Same. (KMQ33) 9 miles North of San Bernardino, California. Lat. 34°13'55" N., Long. 117°14'04" W. C.P. to add a transmitter and frequency 3770H toward Padua Hills, California, on azimuth 257°40'.

646–C1–P–74—The Pacific Telephone and Telegraph Company. (KMW74). Padua Hills, 3 miles North of Claremont, California. Lat. 34°08'33" N., Long. 117°43'17" W. C.P. to add transmitter and frequencies: 3730H toward Strawberry Peak, Calif., on azimuth 77°24'; 3730H toward Los Angeles, Calif., on azimuth 258°23'.

449–C1–MP–74 — MCI Telecommunications Corporation. (WOE51). Ann Arbor, Michigan. Mod. of C.P. to increase power to 5 watts for frequencies: 10775H and 11175H toward Bridgewater, Michigan.







V38-174 SEP 10 73 XUM

450–C1–MP–74—Same. (WOE52). Bridgewater, Michigan. Mod. of C.P. to increase power to 5 watts for frequencies 11265H and 11685H toward Ann Arbor, Michigan.

8943–C1–MP–73—MCI Telecommunications Corporation. 125 East 31st Street, Kansas City (Jackson), Missouri. Lat. 39°04'14" N., Long. 94°34'59" N. Mod. of C.P. to change polarization from H to V on frequency 5974.8. This entry was inadvertently left off the June 11, 1973, Public Notice.

Informative: The following applications have been amended to substitute MCI Telecommunications Corporation as the Applicant. This change results from the merger of MCI Indiana-Ohio, Inc., into MCI Telecommunications Corporation File Number: 8857–8887–C1–P–70, 4124–4130–C1–P–72, 7154–7164–C1–P–72, 3090–3093–C1–P–73, 6631–C1–P–73.

*Major Amendments*

4125–C1–P–72—MCI Telecommunications Corporation (formerly MCI Indiana-Ohio) (New). Relocate station to 2.3 miles SSE of Nova, Ohio. Lat. 40°59'55" N., Long. 82°-17'02" W. Change frequency 5974.8H MHz to 6034.2H MHz toward Medina, Ohio, on azimuth 76 deg./11 min. Change frequency 5945.2V MHz to 6034.2V MHz toward Mansfield, Ohio, on azimuth 211 deg./11 min.

4126–C1–P–72—Same (New) Mansfield, Ohio. Lat. 40°41'02" N., Long. 82°32'02" W. Change frequency 6197.2V MHz to 6286.2H MHz toward Nova, Ohio, on new azimuth 31 deg./01 min.

8878–C1–P–70—Same (New) Hilliard, Ohio. Lat. 40°00'37" N., Long. 83°11'18" W. Change frequency 5945.2V MHz to 6004.5V MHz on azimuth 257 deg./20 min. toward Vienna, Ohio. Delete Columbus, Ohio, as a point of communication.

4129–C1–P–72—Same (New) Vienna, Ohio. Lat. 39°56'13" N., Long. 83°36'26" W. Change frequency 6197.2V MHz to 6226.9V MHz toward Hilliard, Ohio, on azimuth 77 deg./04 min. Change frequency 6226.9V MHz to 6286.2V MHz toward Byron, Ohio, on azimuth 240 deg./12 min.

4130–C1–P–72—Same (New) Byron, Ohio. Lat. 39°47'11" N., Long. 83°56'49" W. Change frequency 5974.8V MHz to 6034.2V MHz toward Vienna, Ohio, on azimuth 59 deg./59 min. Change frequency 5945.2H MHz to 5974.8V MHz toward Waynesville, Ohio, on azimuth 211 deg./03 min.

8876–C1–P–70—Same (New) Waynesville, Ohio. Lat. 39°34'14" N., Long. 84°06'53" W. Change frequency 6197.2H MHz to 6256.5V MHz toward Byron, Ohio, on azimuth 30 deg./56 min. Change frequency 6226.9H MHz to 6286.2H MHz toward Mason, Ohio, on new azimuth 212 deg./29 min.

8871–C1–P–70—Same (New) Relocate station to 2.7 miles South of Mason, Ohio. Lat. 39°-19'18" N., Long. 84°19'07" W. Change frequency 5974.8H MHz to 6034.2H MHz toward Waynesville, Ohio, on azimuth 32 deg./21 min. Change azimuth of frequency 5945.2V MHz toward Cincinnati, Ohio, to 214 deg./23 min.

8874–C1–P–70—Same (New) Cincinnati, Ohio. Lat. 39°06'06" N., Long. 84°30'42" W. Change frequency 6197.2V MHz to 6286.2V MHz toward Mason, Ohio, on new azimuth 34 deg./16 min.

7009–C1–MP–73—Data Transmission Company (WKR42) 6.0 miles W. of Spring, Texas. Change polarization and azimuth of frequency 6404.8 MHz toward Houston to vertical and 160°52'.

7008–C1–MP–73—Same (WKR41) 1.0 mile S. of Montgomery, Texas. Change polarization of frequency 6152.8 MHz toward Mossy Grove to horizontal.

9947–C1–MP–73—Same (WQP23) 1.7 miles SW. of Velma, Oklahoma. Change frequency on azimuth 331°28' toward Rush Springs to 5945.2 MHz (V).

9950–C1–MP–73—Same (WQP26) 4.5 miles NE. of El Reno, Oklahoma. Change polarization of frequency 6404.8 MHz toward Bridge Creek to horizontal.

5099–C1–P–70—Eastern Microwave, Inc. (KEA64). Major amendment filed to change receive site (Gloversville) coordinates to Lat. 43°02'41" N., Long. 74°21'58" W. Change frequencies to 5989.7H MHz and 6049.0H MHz toward Gloversville, New York, on azimuth of 40°40'.

7993–C1–P–70—Same (KEM58) Major amendment filed to change receive site (from Colonie to Schenectady) coordinates to Lat. 42°48 24" N., Long. 73°54'44" W. Delete frequency 5960.0V MHz and change 6019.3V MHz and 6078.6V to 6241.7H MHz and 6301.0H MHz respectfully (via power split) toward Schenectady (via back to back parabolic antenna Passive Repeater) on azimuth of 50°01'.

*Corrections*

263–C1–P–74—Continental Telephone Company of California. (KMW63). Correct to read C.P. to change frequencies 6135H to 6034.2H toward Oregon Mtn., California, via Passive Reflectors on azimuth 33°55'. (All other particulars same as reported in Public Notice #660, dated August 6, 1973.)

373–C1–P–74—Same. (KQF43). Correct to read C.P. to add frequencies: 4010H, 4090H MHz toward Flint, Michigan, on azimuth 183°20'; 4010V, 4090V MHz toward Saginaw, Michigan, on azimuth 323°48'. (All other particulars same as reported in Public Notice #661, dated August 13, 1973.)

[FR Doc.73-19027 Filed 9-7-73;8:45 am]

## FEDERAL MARITIME COMMISSION

### A. B. BARONE FORWARDING INC. AND C. H. POWELL CO., INC.

#### Notice of Agreement Filed

Notice is hereby given that the following Agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before October 1, 1973. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Alfred E. Powell, Vice President, C. H. Powell Company, Inc., One World Trade Center, Suite 1725, New York, New York 10048.

Agreement No. FF 74–3 is a cooperative working arrangement between A. B. Barone Forwarding, Inc. (Barone, FMC No. 995) of New Orleans, Louisiana, and C. H. Powell Co., Inc. (Powell, FMC No. 176) of New York. Under the terms of the agreement Barone will supervise the movement of export shipments from the Port of New Orleans which Powell has secured and documented. Powell will maintain a telephone on Barone's premises and advertise as having an office on the premises. Barone's compensation for managing the subject shipments will be an agreed upon forwarding fee. Ocean freight brokerage received on shipments subject to the arrangement will be divided by the parties. The agreement is exclusive on the part of Powell, but not on the part of Barone who may engage or be engaged by other forwarders under other agreements.

By Order of the Federal Maritime Commission.

Dated September 5, 1973.

JOSEPH C. POLKING,
*Assistant Secretary.*

[FR Doc.73-19155 Filed 9-7-73;8:45 am]

### F. J. HERBELIN FORWARDING CO., INC., AND C. H. POWELL CO., INC.

#### Notice of Agreement Filed

Notice is hereby given that the following Agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1202; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before Oct. 1, 1973. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Alfred E. Powell, Vice President, C. H. Powell Company, Inc., One World Trade Center, Suite 1725, New York, New York 10048.

Agreement No. FF 74–2 is a cooperative working arrangement between F. J. Herbelin Forwarding Co., Inc. (Herbelin, FMC No. 474), of Houston, Texas, and C. H. Powell Co., Inc. (Powell, FMC No. 176), of New York. Under the terms of the agreement Herbelin will supervise the movement of export shipments from the Ports of Houston and Galveston which Powell has secured and documented. Powell will maintain a telephone on Herbelin's Houston and Galveston premises and advertise as having offices on the premises. Herbelin's compensation for managing the subject shipments will be an agreed upon forwarding fee. Ocean freight brokerage received on shipments subject to the arrangement will be divided by the parties. The agreement is exclusive on the part of Powell, but not on the part of Herbelin who may engage or be engaged by other forwarders under other agreements.

By order of the Federal Maritime Commission.

Dated September 5, 1973.

JOSEPH C. POLKING,
*Assistant Secretary.*

[FR Doc.73-19156 Filed 9-7-73;8:45 am]

## FEDERAL RESERVE SYSTEM

### UNITED PENN CORPORATION

#### Proposed Acquisition of Valley Consumer Discount Company

United Penn Corporation, Wilkes-Barre, Pennsylvania, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of Valley Consumer Discount Company, Exeter, Pennsylvania. Notice of the application was published on July 20, 1973 in the Times-Leader-The Evening News-Wilkes-Barre Record, a newspaper circulated in Wilkes-Barre, Pennsylvania.

Applicant states that the proposed subsidiary would engage in the activities of making, acquiring and servicing loans and other extensions of credit including the sale of credit life and credit accident and health insurance. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Philadelphia.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 26, 1973.

Board of Governors of the Federal Reserve System, August 30, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-19113 Filed 9-7-73;8:45 am]

## FEDERAL TRADE COMMISSION

### Office of the Executive Director

### STATEMENT OF ORGANIZATION

Notice is hereby given that the Statement of Organization published June 30, 1970 (35 FR 10627), as revised July 23, 1970 (35 FR 11827), March 13, 1971 (36 FR 4918), May 18 1971 (36 FR 9044), June 29, 1971 (36 FR 12254), August 18, 1971 (36 FR 15768), October 20, 1972 (37 FR 22658), January 24, 1973 (38 FR 2355), is revised to reflect the reorganization of the Office of the Executive Director by combining into one position the positions and functions of the Assistant Executive Director for Legal Coordination and the Assistant Executive Director for Field Management, to be titled the Assistant Executive Director for Regional Operations; and by transfering to the new Office of Assistant Executive Director for Regional Operations the activities of Federal-State liaison in the Bureau of Consumer Protection.

Section 10 is revised to read as follows:

SEC. 10. *Office of the Executive Director.*—The Executive Director, under the direction of the Chairman, is the chief operating official. He exercises executive and administrative supervision over all the offices, bureaus, and staff of the Commission, and, in coordination with the Office of Policy Planning and Evaluation, resolves problems concerning priorities in case handling. Immediately under his direction are the Assistant Executive Director for Regional Operations, and the Assistant Executive Director for Administration.

(a) The Assistant Executive Director for Regional Operations functions as advisor and principal assistant to the Executive Director on all substantive legal matters pertaining to Commission programs; assists the Executive Director in planning, coordinating and reviewing the full range of antitrust and consumer protection functions performed by the operating bureaus and regional offices; acts for the Executive Director in all matters concerning supervision and line management of the regional offices, guiding and directing their activities in the fields of antitrust law, consumer protection and consumer education, including investigations, trial of cases and industry and consumer counseling; acts for the Executive Director in coordinating the legal case work of the Bureau of Consumer Protection, Bureau of Competition, Bureau of Economics and the regional offices; and provides guidance and counseling to Federal, State and local officials on antitrust as well as consumer protection matters.

(b) The Assistant Executive Director for Administration functions as staff advisor to the Executive Director in all aspects of administrative management; provides administrative policy guidance to agency management and provides general supervision to the programs of management analysis and organization, personnel, budget and finance, data processing, and administrative service activities; initiates and develops long-range plans to assure that the Commission acquires and effectively utilizes the manpower, financial resources, physical facilities and management tools necessary to accomplish its mission.

Section 16 is revised to read as follows:

Sec. 16. *Bureau of Consumer Protection.*—This bureau investigates, provides guidance and counseling to businessmen and consumers, and endeavors to secure voluntary compliance with the law in all matters involving acts or practices alleged to be deceptive, unfair to consumers or involving unsafe products within the scope of the Commission's jurisdiction; and, to the extent necessary, litigates and secures compliance with final orders in all such matters. It is also responsible for developing and administering a nationwide consumer education program designed to alert the public to deceptive trade practices.

Section 18(b)(12) is amended to change the address of the Philadelphia Field Station to read as follows:

Field Station: Federal Trade Commission, Room 9202, Federal Office Building, 600 Arch Street, Philadelphia, Pa. 19106.

By direction of the Commission dated June 19, 1973.

[SEAL] CHARLES A. TOBIN,
*Secretary.*

[FR Doc.73-19114 Filed 9-7-73;8:45 am]

## INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

### MATHIES COAL CO. ET AL.

#### Applications for Renewal Permits; Notice of Opportunity for Public Hearing

Applications for Renewal Permits for Noncompliance with the Interim Mandatory Dust Standard (2.0 mg/m³) have been received as follows:





V 38-174
SEP 10 73
XUM

(1) ICP Docket No. 20091, MATHIES COAL COMPANY, Mathies UG Mine, MESA ID No. 36 00963 0, Finleyville, Pennsylvania:

Section ID No. 027 (5 Butt—18 Face), Section ID No. 029 (11 Butt L—19½ Face), Section ID No. 032 (12 Butt L—19½ Face), Section ID No. 024 (8 Butt L—20 Face), Section ID No. 030 (7 Butt L—20 Face).

(2) ICP Docket No. 20095, PITTSBURGH COAL COMPANY, Montour No. 4 Mine, MESA ID No. 36 00966 0, Lawrence, Pennsylvania:

Section ID No. 025 (4 South), Section ID No. 027 (7 North), Section ID No. 030 (5 South), Section ID No. 032 (8 Face), Section ID No. 033 (16 Face).

(3) ICP Docket No. 20165, OLD BEN COAL CORPORATION, Mine No. 26, MESA ID No. 11 00590 0, Sesser, Illinois:

Section ID No. 002 (12th through 20th East South Cross Entry Group), Section ID No. 003 (1st through 11th East South Cross Entry Group), Section ID No. 003–2 (1st through 11th East South Cross Entry Group), Section ID No. 030 (7th, 8th, 9th S. Panel off 20th East South), Section ID No. 031 (34th, 35th, 36th N. Panel off 1st East South), Section ID No. 036 (10A, 10th, 11th, 12th S. Panel off 20th East South), Section ID No. 037 (13A, 13th, 14th, 15th S. Panel off 20th East South), Section ID No. 038 (10A, 10th, 11th, 12th N. Panel off 1B East North), Section ID No. 039 (37A, 37th, 38th, 39th S. Panel off 11th East South), Section ID No. 040 (1st, 2nd, 3rd, 3A N. Panel off 1B East North), Section ID No. 041 (37A, 37th, 38th, 39th N. Panel off 1st East South).

In accordance with the provisions of section 202(b)(4) (30 U.S.C. 842(b)(4)) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91–173), notice is hereby given that requests for public hearing as to an application for renewal may be filed within 15 days after publication of this notice. Requests for public hearing must be filed in accordance with 30 CFR Part 505 (35 FR 11296, July 15, 1970), as amended, copies of which may be obtained from the Panel on request.

A copy of the application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Room 800, 1730 K Street NW., Washington, D.C. 20006.

GEORGE A. HORNBECK,
*Chairman.*
*Interim Compliance Panel.*

SEPTEMBER 5, 1973.

[FR Doc.73-19147 Filed 9-7-73;8:45 am]

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (73-68)]

### KENNEDY SPACE CENTER

**Final Environmental Impact Statement; Public Notice Regarding Availability**

Notice is hereby given of the public availability of the final Environmental Impact Statement for the Kennedy Space Center, Amendment #1.

Comments on the draft Environmental Impact Statement were previously solicited from State and local agencies and members of the public through a notice in the FEDERAL REGISTER of November 25, 1972.

Copies of the draft and final statement have been furnished to the Council on Environmental Quality, Office of Management and Budget, Environmental Protection Agency, Atomic Energy Commission, Department of Defense, Department of Transportation, Department of Commerce, and the Department of Interior.

Copies of the final statement may be obtained or examined at any of the following locations:

(a) National Aeronautics and Space Administration, Public Documents Room (Room 126), 600 Independence Avenue, SW., Washington, D.C. 20546.

(b) Ames Research Center, NASA (Building 201, Room 17), Moffett Field, Calif. 94035.

(c) Flight Research Center, NASA (Building 4800, Room 1017), P.O. Box 273, Edwards, Calif. 93523.

(d) Goddard Space Flight Center, NASA (Building 8, Room 150), Greenbelt, Md. 20771.

(e) Johnson Space Center, NASA (Building 1, Room 136), Houston, Tex. 77058.

(f) John F. Kennedy Space Center, NASA (Headquarters Building, Room 1207), Kennedy Space Center, Fla. 32899.

(g) Langley Research Center, NASA (Building 1219, Room 304), Hampton, Va. 23365.

(h) Lewis Research Center, NASA (Administration Building, Room 120), 21000 Brookpark Rd., Cleveland, Ohio 44135.

(i) George C. Marshall Space Flight Center, NASA (Building 4200, Room G–11), Huntsville, Ala. 35812.

(j) Mississippi Test Facility, NASA (Building 1100, Room A–213), Bay St. Louis, Miss. 39520.

(k) NASA Pasadena Office (Jet Propulsion Laboratory, Building 180, Room 600), 4800 Oak Grove Dr., Pasadena, Calif. 91103.

(l) Wallops Station, NASA (Library Building, Room E–105), Wallops Island, Va. 23337.

Done at Washington, D.C. this 28th day of August 1973.

By direction of the Administrator.

HOMER E. NEWELL,
*Associate Administrator, National Aeronautics and Space Administration.*

[FR Doc.73-19115 Filed 9-7-73;8:45 am]

## NATIONAL ENDOWMENT FOR THE HUMANITIES

### PLANNING OFFICE PANEL

**Notice of Meeting**

SEPTEMBER 4, 1973.

Pursuant to Public Law, 92–463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Planning Office Panel will take place in Washington, D.C., on September 14 and 15, 1973.

The purpose of the meeting is to review youthgrant applications that have been submitted to the Endowment for possible grant funding.

Based on section b (4) and (6) of 5 U.S.C. 522, the meeting will not be open to public participation. It is suggested that those desiring more specific information contact the Advisory Committeee Management Officer Mr. John W. Jordan, 806 15th Street NW., Washington, D.C. 20506, or call Area Code 202–382–2031.

JOHN W. JORDAN,
*Advisory Committee Management Officer.*

[FR Doc.73-19085 Filed 9-7-73;8:45 am]

## SECURITIES AND EXCHANGE COMMISSION

[File 500–1]

### COMPUSAMP, INC.

**Order Suspending Trading**

SEPTEMBER 4, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.01 par value, and all other securities of Compusamp, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 10:00 a.m. (edt) September 4, 1973 through midnight (edt) September 13, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-19153 Filed 9-7-73;8:45 am]

[Rel. No. 7974, 812–3500]

### IDS LIFE VARIABLE ANNUITY FUND A AND IDS LIFE INSURANCE CO.

**Application for Order**

SEPTEMBER 4, 1973.

Notice is hereby given that IDS Life Variable Annuity Fund A (Fund) and IDS Life Insurance Company ("IDS Life") IDS Tower, Minneapolis, Minnesota 55402 (herein collectively referred to as Applicants) have filed an application pursuant to Section 6(c) of the Investment Company Act of 1940 (Act) for an order of the Commission exempting Applicants from the provisions of section 22(d) of the Act to the extent described below. Fund A is an open-end diversified management investment company registered under the Act. IDS Life established Fund A on May 10, 1968, under Minnesota law as a separate account through which it will set aside and invest payments accruing from the sale of variable annuity contracts offered by IDS Life. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that they presently offer three types of individual variable annuity contracts: (1) installment purchase payment deferred annuity contracts; (2) single purchase payment deferred annuity contracts; and (3) single purchase payment immediate annuity contracts. All the contracts possess combination features; that is, purchase payments under the contracts may be allocated either to the purchase of a fixed or variable annuity, or both. Additionally, the deferred contracts contain transfer provisions whereby each contract year a contract owner may transfer accumulation values either to Fund A to provide variable benefits, or from Fund A to provide fixed dollar benefits. Applicants propose to offer an individual flexible purchase payment retirement annuity contract, based upon Fund A, which is designed for use in connection with retirement or deferred compensation plans adopted by an employer. The new individual retirement annuity contract will possess combination features and transfer privileges identical to those contained in the three individual annuity contracts presently being offered.

In connection with the sale of variable annuity contracts, charges are deducted from purchase payments to pay sales and administrative expenses. Applicants request exemptions from section 22(d) of the Act to the extent necessary to permit the following:

1. Applicants request an exemption to permit an investor to transfer accumulated values under the retirement annuity contract from the fixed dollar account to the variable account without the imposition of an additional sales and administrative charge. Applicants state that since sales and administrative charges assessed upon purchase payments under the contract are identical, irrespective of whether such payments are allocated to the fixed dollar account or the variable account, to deduct an additional sales and administrative charge from funds previously paid into the fixed dollar account incident to their transfer to the variable account would be inconsistent with the protection of investors. Applicants further state that to assess an additional sales and administrative charge upon such transfers is unjust since the effectuation of the transfer, unlike a sale, involves no sales effort and only minimal administrative expense. Applicants state that the transfer of accumulation values from the fixed to the variable accounts will be limited to one transfer each year per contract owner.

2. Applicants request an exemption to permit the usual decreasing sales and administrative charges on purchase of variable annuities to be assessed upon the basis of aggregate purchase payments received from an investor, irrespective of whether such payments are allocated to the fixed account, the variable account, or both. Applicants state that since sales and administrative charges are assessed on the basis of total purchase payments previously made, rather than at a single flat rate, the exemption is necessary if contract owners with purchase payments allocated to both the fixed dollar account and variable account are to be treated on an equal basis with contract owners who allocate payments to only one account.

3. Applicants request an exemption to permit the beneficiary of an annuitant to elect to have the proceeds payable upon the death of the annuitant, including those not derived from the viariable account, applied to a variable annuity without the imposition of a sales and administrative charge. Applicants state that under the retirement annuity contract the dollar amount of their liability to a beneficiary is fixed at the date of death of the annuitant. Applicants propose to place and hold the amount of such liability allocable to an annuitant's variable account in the general account during the interim between the date of death of the annuitant and the exercise of an option by the beneficiary. Applicants state that if the beneficiary elects to receive a variable annuity, the sums necessary to effectuate the annuity will then be transferred from the general account to the variable account. Applicants propose to allow this transfer of funds to occur without the imposition of sales and administrative charges. Applicants state that since a sales and administrative charge has already been received from the annuitant prior to his death, there is no justification for imposing a duplicate sales and administrative charge when the beneficiary of an annuitant elects to transfer the funds to the variable account.

On January 25, 1971, the Commission issued an order (Act Rel. No. 6329) exempting Applicants' present individual annuity contracts from the requirements of Section 22(d) to allow Applicants to permit transfers and compute sales and administrative charges in the manner described herein. Applicants state they believe fairness demands that these benefits be afforded under the retirement annuity contracts also.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it to any person except at a current public offering price described in the prospectus. The exemption is requested because these securities may be sold at an offering price which varies as described above.

Section 6(c) of the Act provides that the Commission may, by order upon application, conditionally or unconditionally exempt any person from any provision of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than September 28, 1973, submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address set forth above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule O–5 of the Rules and Regulations under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in the application, unless an order for hearing upon the application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-19160 Filed 9-7-73;8:45 am]

## TARIFF COMMISSION

### CRITERION FOOTWEAR, INC.

[TEA–W–207]

**Notice of Investigation**

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the former workers of Criterion Footwear, Inc., Brooklyn, New York, the United States Tariff Commission, on September 4, 1973, instituted an investigation under section 301(c)(2) of the Act to determine whether, as a result in major part of concessions granted under trade agree-





V 38-174 SEP 10 73 XUM

ments, articles like or directly competitive with footwear for women and misses (of the types provided for in items 700.43, 700.45, 700.55 and 700.60 of the Tariff Schedules of the United States) produced by said firm are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision thereof.

The optional public hearing afforded by law has not been requested by the petitioners. Any other party showing a proper interest in the subject matter of the investigation may request a hearing, provided such request is filed within 10 days after the notice is published in the FEDERAL REGISTER.

The petition filed in this case is available for inspection at the Office of the Secretary, United States Tariff Commission, 8th and E Streets, NW., Washington, D.C., and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

Issued September 4, 1973.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.73-19136 Filed 9-7-73;8:45 am]

## DON GUSTIN SHOE CO., INC.

[TEA-W-208]

### Notice of Investigation

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the former workers of the Don Gustin Shoe Co., Inc., Paterson, N.J., the United States Tariff Commission, on September 4, 1973, instituted an investigation under section 301(c)(2) of the Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with footwear for women (of the types provided for in items 700.43, 700.45 and 700.55 of the Tariff Schedules of the United States) produced by said firm are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision thereof.

The optional public hearing afforded by law has not been requested by the petitioners. Any other party showing a proper interest in the subject matter of the investigation may request a hearing, provided such request is filed within 10 days after the notice is published in the FEDERAL REGISTER.

The petition filed in this case is available for inspection at the Office of the Secretary, United States Tariff Commission, 8th and E Streets, NW., Washington, D.C., and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

Issued September 4, 1973.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.73-19137 Filed 9-7-73;8:45 am]

## COST OF LIVING COUNCIL

### FOOD INDUSTRY WAGE AND SALARY COMMITTEE

### Notice of Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770) notice is hereby given that the Food Industry Wage and Salary Committee, established under the authority of section 212(f) of the Economic Stabilization Act, as amended, section 4(a)(iv) of Executive Order 11695, and Cost of Living Council Order No. 14, will meet at 10:00 a.m., Wednesday, September 12, 1973, at 2025 M Street NW., Washington, D.C.

The agenda will consist of discussions leading to recommendations on specific Phase II and Phase III wage cases in the food area, and future wage policy.

Since the above stated meeting will consist of discussions of future food wage policy and Phase II and III cases for decision, pursuant to authority granted me by Cost of Living Council Order 25, I have determined that the meeting would fall within exemption (5) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with the operation of the Committee.

Issued in Washington, D.C., on September 7, 1973.

HENRY H. PERRITT, JR.,
*Executive Secretary,*
*Cost of Living Council.*

[FR Doc.73-19363 Filed 9-7-73;1:45 pm]

## DEPARTMENT OF LABOR

### Bureau of Labor Statistics

### BUSINESS RESEARCH ADVISORY COUNCIL'S COMMITTEE ON MANPOWER AND EMPLOYMENT

### Notice of Meeting

The BRAC Committee on Manpower and Employment will meet at 9:30 a.m., September 25, 1973, at 1515 Broadway, Room 3560, New York, New York. The agenda for the meeting is as follows:

1. Occupational Statistics: Survey of Training in Industry, Program of Projections of Employment for Localities, Survey of Employment by Occupation.
2. Improving area unemployment estimating procedures.
3. New data from the Current Population Survey—Information on "work schedules" being collected for first time in May 1973.
4. Economic and Manpower Projections for the Nation to 1985.

It is suggested that persons planning to attend this meeting as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on (Area Code 202) 961-2559.

Signed at Washington, D.C. this 4th day of September 1973.

JULIUS SHISKIN,
*Commissioner of Labor Statistics.*

[FR Doc.73-19128 Filed 9-7-73;8:45 am]

### Office of the Secretary

[Secretary of Labor's Order No. 13-73]

### ORGANIZATION AND FUNCTIONS

### Changes in Organizational Terminology

1. *Purpose.*—This order prescribes a new generic term referring to the major organizational components of the Department. This order also prescribes new official titles for the regional heads of major organizational components.

2. *Background.*—For the past ten years the major organizational components of the Department have been referred to generically as "Administrations and Offices." This has led to confusion partly because one major component is officially a "Bureau" (the Bureau of Labor Statistics) and partly because of the widespread use of the designation "Office" at lower organizational levels.

A separate confusion of reference has existed in the field regions, where the titles for heads of major organizational components have varied from one component to another. The titles in use have included Regional Administrator, Regional Administrative Office, Regional Director, Regional Manager and Regional Solicitor.

3. *Organizational Designation.*—a. The major organizational components listed below shall hereafter be referred generically by the term "agencies" in all official documents and issuances. The term "Administrations and Offices" as a generic term is now obsolete.

b. The Agencies of the Department of Labor are as follows:

(1) Manpower Administration
(2) Labor-Management Services Administration
(3) Employment Standards Administration
(4) Occupational Safety and Health Administration
(5) Office of the Solicitor
(6) Bureau of Labor Statistics
(7) Office of the Assistant Secretary for Policy, Evaluation and Research
(8) Office of the Assistant Secretary for Administration
(9) Bureau of International Labor Affairs
(10) Office of Information, Publications and Reports

c. The above changes in generic terminology do not change existing official organizational names, structures or functions.

4. *Regional titles.*—a. Effective immediately, the regional heads of the following agencies of the Department: Manpower, Labor-Management Services, Employment Standards, Occupational Safety and Health, Labor Statistics, Office of the Assistant Secretary for Administration, Office of Information, Publications and Reports, shall have the official title of "Assistant Regional Director for Manpower", "Assistant Regional Director for Labor-Management Services", "Assistant Regional Director for Employment Standards", "Assistant Regional Director for Occupational Safety and Health", "Assistant Regional Director for Labor Statistics", "Assistant Regional Director for Administration and Management", "Assistant Regional Director for Program Review and Audit", "Assistant Regional Director for Information, Publications and Reports".

b. The regional heads of the Women's Bureau shall henceforth have the official title, "Associate Assistant Regional Director, Women's Bureau/ESA".

c. The regional heads of the Office of Federal Contract Compliance shall henceforth have the official title, "Associate Assistant Regional Director, Office of Federal Contract Compliance/ESA".

d. The regional heads of the Bureau of Apprenticeship and Training shall henceforth have the official title of "Associate Assistant Regional Director, Bureau of Apprenticeship and Training/MA".

e. The various official titles currently in use for the above regional heads are now obsolete.

f. The above changes in terminology do not change existing responsibilities, authorities, or administrative relationships.

5. *Directive affected.*—All directives of the Department which conflict with the foregoing designations of official terminology are modified to the extent of the conflict.

6. *Implementation.*—Use is to be made of the new terminology in all Department documents and issuances originating after distribution of this Order. Preexisting documents and issuances shall be amended to reflect the new terminology in the course of normal updating and maintenance.

7. *Effective date.*—This order is effective June 11, 1973.

Signed at Washington, D.C., this 11th day of June 1973.

PETER J. BRENNAN,
*Secretary of Labor.*

[FR Doc.73-19127 Filed 9-7-73;8:45 am]

## INTERSTATE COMMERCE COMMISSION

[Notice 337]

### ASSIGNMENT OF HEARINGS

SEPTEMBER 5, 1973.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC-C-7777, Allied Van Lines, Inc.—Investigation and Revocation of Certificates—now assigned October 9, 1973, MC 105045 Sub 40, R. L. Jeffries Trucking Co., Inc., now assigned October 15, 1973, MC 22278 Sub 43, Takin Bros. Freight Line, Inc., now assigned October 16, 1973, MC 107012 Sub 179, North American Van Lines, Inc., now assigned October 17, 1973, at Chicago, Ill., will be held in Room 1086A, Everett McKinley Dirksen Building, 219 S. Dearborn Street.

MC 124692 Sub 113, Sammons Trucking, now being assigned hearing October 2, 1973 (1 day), will be held in the U.S. Customs Court Room 1057, 909 First Avenue, Seattle, Washington.

MC 99284 Sub 6, Sullivan's Motor Delivery, Inc., now being assigned continued hearings October 15, 1973 (3 days), at Chicago, Illinois, October 18, 1973 (2 days), at Milwaukee, Wisconsin, in hearing rooms to be later designated.

MC-C-8048, Forlow Travel Bureau, Inc. v. Mrs. Leland (Romine) Hostetler And Mrs. Hugh (Orpha) Easterday, D.B.A. Wana-Go Club, Et Al., now assigned September 25, 1973, at Chicago, Ill., is postponed indefinitely.

MC-56679 Sub 66, Brown Transport Corp., now being assigned hearing December 3, 1973 (2 weeks), at Jacksonville, Fla., in a hearing room to be later designated.

MC-136230, Interstate Warehousing Corporation, now being assigned hearing December 3, 1973 (2 weeks), at Jacksonville, Fla., in a hearing room to be later designated.

MC-136155 Sub 2, Gay Trucking Co., Inc., now being assigned hearing December 3, 1973 (2 weeks), at Jacksonville, Fla., in a hearing room to be later designated.

MC-136285 Sub 3, Southern Intermodal Logistics, Inc., now being assigned hearing December 3, 1973 (2 weeks), at Jacksonville, Fla., in a hearing room to be later designated.

MC 107496 Sub 827, Ruan Transport Corp., MC 108449 Sub 334, Indianhead Truck Line, Inc., MC 124078 Sub 510, Schwerman Trucking Co., and MC 124813 Sub 96, Umthun Trucking Co., now being assigned continued hearing October 23, 1973 (3 days), at Chicago, Ill., in a hearing room to be later designated.

MC 71459 Sub 31, O.N.C. Freight Systems, now being assigned continued hearing October 9, 1973, at Salt Lake City, Utah, in a hearing room to be later designated.

MC 66121 Sub 28, IndianBow Truck Lines, Ltd., now being assigned hearing October 29, 1973 (1 wk.), at New York, N.Y., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-19174 Filed 9-7-73;8:45 am]

### FOURTH SECTION APPLICATIONS FOR RELIEF

SEPTEMBER 5, 1973.

An application as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 42740—*Boards or Sheets to Paducah, Kentucky.* Filed by Southwestern Freight Bureau, Agent (No. B-433), for interested rail carriers. Rates on boards or sheets, in carloads, as described in the application, from points in southwestern territory, to Paducah, Kentucky.

Grounds for relief—Rate relationship.

Tariff—Supplement 37 to Southwestern Freight Bureau, Agent, tariff SW/W-2006-J, I.C.C. No. 5056. Rates are published to become effective on October 2, 1973.

FSA No. 42741—*Ethylene to Philadelphia, Pa.* Filed by Southwestern Freight Bureau, Agent (No. B-436), for interested rail carriers. Rates on ethylene, in tank-car loads, as described in the application, from specified points in Texas, to Philadelphia, Pa.

Grounds for relief—Market competition.

Tariff—Supplement 24 to Southwestern Freight Bureau, Agent, tariff 12-H, I.C.C. No. 5043. Rates are published to become effective on October 2, 1973.

FSA No. 42742—*Grain to Chicago, Illinois.* Filed by Louisville and Nashville Railroad Company (No. 2), for interested rail carriers. Rates on grain, viz: barley, corn, oats, rye, and wheat, in box cars, as described in the application, from L&N RR stations Monon through Dyer, Indiana, to Chicago, Illinois.

Grounds for relief—Motor-truck competition.

Tariff—Louisville and Nashville Railroad Company tariff 520, I.C.C. No. 48 (Monon Series). Rates are published to become effective on October 3, 1973.

FSA No. 42743—*Compressed Gases (Sulphur Dioxide) from Tacoma, Washington.* Filed by Trans-Continental Freight Bureau, Agent (No. 485), for interested rail carriers. Rates on gases, compressed, viz: Sulphur Dioxide, in tank-car loads, as described in the application, from Tacoma, Washington, to Leeds, S.C., and Le Moyne, Alabama.

Grounds for relief—Water competition.

Tariff—Supplement 59 to Trans-Continental Freight Bureau, Agent, tariff 2-K, I.C.C. No. 1852. Rates are published to become effective on October 5, 1973.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-19172 Filed 9-7-73;8:45 am]

[Notice 120]

### MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

AUGUST 31, 1973.

The following are notices of filing of application, except as otherwise specifi-





V38-174
SEP 10 73
XUM

cally noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application. for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2900 (Sub-No. 244 TA), filed August 22, 1973. Applicant: RYDER TRUCK LINES, INC., Mlg.: P.O. Box 2408, Off.: 2050 Kings Road, Jacksonville, Fla. 32203. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except commodities in bulk, household goods as defined by the Commission, and commodities requiring special equipment), (1)(a) between Memphis, Tenn., and Fort Worth, Tex.; from Memphis over U.S. Highway 70 to Little Rock, Ark., thence over U.S. Highway 67 to Dallas, Tex., and thence over U.S. Highway 80 to Fort Worth, Tex., serving Dallas, Tex., as an intermediate point; and (b) between Memphis, Tenn., and Fort Worth, Tex.; from Memphis over Interstate Highway 40 to its junction with Interstate Highway 30, thence over Interstate Highway 30 to its junction with Interstate Highway 20, and thence over Interstate Highway 20 (and the Dallas-Fort Worth Turnpike) to Fort Worth, Tex., serving Dallas, Tex., as an intermediate point; (2)(a) between Shreveport, La., and Fort Worth, Tex.; from Shreveport over U.S. Highway 80 to Fort Worth, Tex., serving Dallas, Tex., as an intermediate point; and (b) between Shreveport, La., and Fort Worth, Tex.; from Shreveport over Interstate Highway 20 (and the Dallas-Fort Worth Turnpike) to Fort Worth, Tex., serving Dallas, Tex., as an intermediate point; (3)(a) between Houston, Tex. and Fort Worth, Tex.; from Houston over U.S. Highway 75 to Dallas, Tex., thence over U.S. Highway 80 to Fort Worth, Tex., serving Dallas, Tex., as an intermediate point; and (b) between Houston, Tex., and Fort Worth, Tex.; from Houston over Interstate Highway 45 to Dallas, Tex., thence over Interstate Highway 20 (and the Dallas-Fort Worth Turnpike) to Fort Worth, Tex., serving Dallas, Tex., as an intermediate zones) Addison, Aledo, Alvarado, Allen, Arlington, Azle, Balch Springs, Bedford, Benbrook, Blue Mound, Boyd, Briar Oaks, Bristol, Britton, Burleson, Carrollton, Carswell A.F.B., Cedar Hill, Chisholm, Cleburne, Cockrell Hill, Colleyville, Copeville, Coppell, Crandall, Cresson, Crowley, Dalworthington Gardens, DeSoto, Duncanville, Egan, Edgecliff Village, Euless, Everman, Fate, Falt, Farmers Branch, Ferris, Flower Mound, Forest Hills, Forney, Frisco, Garland, Godley, Grand Prairie, Grapevine, Halton City, Haslet, Heath, Hebron, Hickory Creek, Highland Park, Highland Village, Hurst, Hutchins, Irving, Joshua, Justin, Keene, Keller, Kennedale, Kleburg, Lake Dallas, Lake Worth Village, Lancaster, Lavon, Lawrence, Lewisville, Lillian, Lisbon, Mansfield, McKinney, Mesquite, Midlothian, Murphy, Nevada, Newark, North Richmond Hills, Ovilla, Palmer, Pantego, Parker, Plano, Princeton, Prosper, Red Oak, Renner, Rhome, Richardson, Richland Hills, River Oaks, Roanoke, Rockwall, Rowlett, Royse City, Sachse, Saginaw, Sansom Park, Seagoville, Smithfield, South Lake, Springtown, Terrell, Trumbull, Venus, Watauga, Waxahachie, Weatherford, Westlake, Westover Hills, Westworth Village, White Settlement, Wilmer, and Wylie, for 180 days.

RESTRICTIONS: Restricted against the transportation of traffic moving between Fort Worth and Dallas, Tex., and all points listed in (4) above, on the one hand, and, on the other, all points in Texas which the applicant is presently authorized to serve when: (a) such traffic is moving locally; or (b) such traffic has been interlined to applicant at a point in Texas it is presently authorized to serve and is destined to Fort Worth, Tex., or a point listed in (4) above, or (c) such traffic has been interlined to applicant at Fort Worth, Dallas, or a point listed in (4) above, and is destined to a point in Texas, applicant is presently authorized to serve. SUPPORTING SHIPPERS: There are approximately 587 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: District Supervisor G. H. Fauss, Jr., Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 West Bay St., Jacksonville, Fla.

NOTE.—Applicant intends to tack with MC 2900 and subs and also intends to interlined at Dallas, Fort Worth, and all points listed in (3)(b) in the application.

No. MC 11722 (Sub-No. 37 TA), filed August 23, 1973. Applicant: BRADER HAULING SERVICE, INC., P.O. Box 655, Zillah, Wash. 98953. Applicant's representative: Douglas A. Wilson, 303 East D Street, Yakima, Wash. 98901. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sugar* in packages, bags or tote bins, from Toppenish, Sunnyside, and Moses Lake, Wash., to points in Oregon, for 180 days. SUPPORTING SHIPPER: Utah & Idaho Sugar Company, Salt Lake City, Utah 84118. SEND PROTESTS TO: District Supervisor W. J. Huetig, Bureau of Operations, Interstate Commerce Commission, 450 Multnomah Building, 319 SW. Pine, Portland, Oreg. 97204.

No. MC 82492 (Sub-No. 85 TA), filed August 24, 1973. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, Mich. 49003. Applicant's representative: William J. Boyd, 29 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from the plant site of Madison Foods, Inc., at Madison, Nebr., to points in Illinois, Indiana, Kentucky, Michigan, and Ohio for 180 days. Supporting shipper: Armour and Company, Fresh Meats Division, Greyhound Tower, Phoenix, Ariz. 85077. Send protests to: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Building, Lansing, Mich. 48933.

No. MC 103993 (Sub-No. 776 TA), filed August 24, 1973. Applicant: MORGAN DRIVE-AWAY, INC., 2800 West Lexington Avenue, Elkhart, Ind. 46514. Applicant's representative: Paul D. Borghesani (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Modular motel units*, from Charlotte, N.C., to points at or near Fredericksburg, Va., for 180 days. Supporting shipper: Modular Corporation of America, P.O. Box 2756, 501 Atlando Avenue, Charlotte, N.C. 28201. Send protests to: J. H. Gray, Interstate Commerce Commission, Bureau of Operations, Room 204, 345 West Wayne Street, Fort Wayne, Ind. 46802.

No. MC 107295 (Sub-No. 656 TA), filed August 23, 1973. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Bruce J. Kinnee (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, fittings, flashings, and related products*, from the facilities of Charlotte Pipe and Foundry, Plastics Division, located at or near Bakers Community (Union County), N.C., to points in Florida, New Mexico, Texas, Wisconsin, and Oklahoma, for





180 days. Supporting shipper: John V. Chaney, Operations Manager, Charlotte Pipe and Foundry, Plastics Division, P.O. Box 991, Bakers, N.C. Send protests to: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Leland Office Building, 527 East Capitol Avenue, Room 414, Springfield, Ill. 62701.

No. MC 113908 (Sub-No. 284 TA), filed August 23, 1973. Applicant: ERICKSON TRANSPORT CORPORATION, 2105 East Dale Street, P.O. Box 3180, Glenstone Station, Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fruit juice, fruit juice concentrate and beverage base*, in bulk, in tank and hopper vehicles, from Chicago, Ill., to Bridgeton, N.J., for 180 days. SUPPORTING SHIPPER: Golden Crown Citrus Corp., 2113 Green Leaf Street, Evanston, Ill. 60202. SEND PROTESTS TO: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 114896 (Sub-No. 9 TA), filed August 23, 1973. Applicant: PUROLATOR SECURITY INC., 1341 W. Mockingbird Lane, Suite 1101 E. Mockingbird Towers, Dallas, Tex. 75202. Applicant's representative: William E. Fullingim, 1341 W. Mockingbird Lane, Dallas, Tex. 75202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *United States bonds*, between points in the United States (except Alaska and Hawaii), for 90 days. SUPPORTING SHIPPER: General Services Administration, Federal Supply Service, Building 4 Crystal Mall, Washington, D.C. 20406. SEND PROTESTS TO: Gerald T. Holland, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75202.

No. MC 119630 (Sub-No. 12 TA), filed August 24, 1973. Applicant: VAN TASSEL, INCORPORATED, 5th and Grand, Pittsburg, Kans. 66762. Applicant's representatives: Dykeman and Williamson, 3535 N.W. 58th Street, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe*, from St. Louis, Mo., to points in Colorado, Illinois, Iowa, Kansas, Nebraska and Oklahoma, for 180 days. SUPPORTING SHIPPER: Greenstreak Pipe Products, P.O. Box 7139, St. Louis, Mo. 63177. SEND PROTESTS TO: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 501 Petroleum Building, Wichita, Kans. 67202.

No. MC 124328 (Sub-No. 57 TA), filed August 23, 1973. Applicant: BRINK'S, INC., 234 E. 24th Street, Chicago, Ill. Applicant's representative: John G. O'Keefe, O'Hare Plaza, Suite 650, 5725 East River Road, Chicago, Ill. 60631. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Silver bars*, from New York City, N.Y., to Chicago, Ill., for 180 days. SUPPORTING SHIPPER: Michael A. Mason, Vice President, Peters & Company, 141 West Jackson Boulevard, Chicago, Ill. 60604. SEND PROTESTS TO: Richard K. Shullaw, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 124962 (Sub-No. 3 TA), filed August 20, 1973. Applicant: HARRIS O. SMESTAD, doing business as, H. O. SMESTAD, Gore Field, P.O. Box 299, Great Falls, Mont. 59401. Applicant's representative: G. Robert Crotty, Jr., Great Falls National Bank Bldg., Great Falls, Mont. 59401. Authority sought to operate as a *contract carrier, by motor* vehicle, over irregular routes, transporting: *Beer and carbonated beverages*, from Los Angeles, San Francisco, and Berkeley, Calif.; Seattle, Vancouver, and Yakima, Wash.; St. Louis, Mo.; and Phoenix, Ariz., to Great Falls, Mont. for 180 days. SUPPORTING SHIPPER: Devine & Asselstine, Inc., 124 2nd Avenue S., Great Falls, Mont. 59401. SEND PROTESTS TO: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 222, U.S. Post Office Building, Billings, Mont. 59101.

No. MC 127196 (Sub-No. 14 TA), filed August 23, 1973. Applicant: KLINE TRUCKING, INC., R.D. #1, Millville, Pa. 17846. Applicant's representative: S. Berne Smith, 100 Pine Street, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Stainless steel milk holding, cooling and processing equipment and accessories;* (2) *materials, supplies and component parts* used in the manufacture and maintenance of the items in part (1); and (3) *advertising materials and displays* pertaining to the items in part (1), from Lake Mills, Wis., to Oak Brook, Ill., restricted to the transportation of shipments originating at Lake Mills, Wis., for 180 days.

NOTE.—Applicant intends, and specifically seeks authority, to tack the above authority at Oak Brook, Ill., with its existing authority at MC-127196, Sub 1, so as to transport the commodities indicated to all points in the United States (except Hawaii).

SUPPORTING SHIPPER: Babson Bros. Co., 2100 South York Street, Oak Brook, Ill. 60521. SEND PROTESTS TO: Paul J. Kenworthy, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 309 U.S. Post Office Bldg., Scranton, Pa. 18503.

No. MC 128030 (Sub-No. 47 TA), filed August 20, 1973. Applicant: THE STOUT TRUCKING CO., INC., P.O. Box 177, R.R. #1, Urbana, Ill. 61801. Applicant's representative: Robert Stout (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers and closures thereof*, from the plantsite of Midland Glass Co., Terre Haute, Ind., to points in Illinois, Michigan and Wisconsin, for 180 days. SUPPORTING SHIPPER: James V. L. Jones, Midland Glass Co., Inc., P.O. Box 557, Cliffwood, N.J. 07721. SEND PROTESTS TO: Robert G. Anderson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 129387 (Sub-No. 17 TA), filed August 22, 1973. Applicant: BILL PAYNE, doing business as BILL PAYNE TRUCKING COMPANY, Highway 14 East, P.O. Box 1271, Huron, S. Dak. 57350. Applicant's representative: George N. Manolis, 201 Farmers & Merchants Bank Bldg., Huron, S. Dak. 57350. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat byproducts, and articles distributed by meat packing houses* (except hides and commodities in bulk), from the plant site of Madison Foods, Incorporated, Madison, Nebr., to points in Washington, Oregon, California, Arizona, Nevada, North Dakota, South Dakota, Kansas, Kentucky, Virginia, West Virginia, Iowa, Missouri, Illinois, Ohio, Indiana, Michigan, Wisconsin, Minnesota, New York, Pennsylvania, New Jersey, Connecticut, Massachusetts, Vermont, New Hampshire, Maine, and the District of Columbia, Delaware, Rhode Island, and Maryland, for 180 days. SUPPORTING SHIPPER: Armour and Company, Fresh Meats Division, Greyhound Tower, Phoenix, Ariz. 85077, Donald A. Chute, Manager, Transportation & Distribution. SEND PROTESTS TO: J. L. Hammond, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 133133 (Sub-No. 6 TA), filed August 17, 1973. Applicant: FULLER MOTOR DELIVERY CO., 802 Plum Street, Cincinnati, Ohio 45202. Applicant's representative: David A. Caldwell, 900 Tri-State Bldg., Cincinnati, Ohio 45202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt products*, in bulk, in dump vehicles, from Cincinnati, Ohio, to the plant site of Kaiser Aluminum & Chemical Corporation, located near Mt. Alto, W. Va., for 180 days. SUPPORTING SHIPPER: Cargill, Incorporated, Cargill Building, Minneapolis, Minn. 55402. SEND PROTESTS TO: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Bldg., 550 Main Street, Cincinnati, Ohio 45202.

No. MC 133485 (Sub-No. 8 TA), filed August 24, 1973. Applicant: INTERNATIONAL DETECTIVE SERVICE, INC., 1828 Westminster St., Providence, R.I. 02909. Applicant's representative: Morris J. Levin, 1620 Eye Street NW., Washington, D.C. 20006. Authority sought to



V 38-174 SEP 10 73 XUM

operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Stocks, bonds, securities, bullion, legal tender, monies, negotiable and non-negotiable instruments, stamps, precious metals, precious stones, jewelry, and rare objects*, between points in Rhode Island, in armored cars escorted by armed guards, for 180 days.

NOTE.—Applicant intends to tack with MC 133485; at Providence, R.I., for points in New York and New Jersey.

SUPPORTING SHIPPERS: McAlpine Refiners, 85 Ellenfield St., Providence, R.I. 02905; Podrat Coin Exchange, 769 Hope St., Providence, R.I. 02906; Rhode Island Hospital Trust National Bank, One Hospital Trust Plaza, Providence, R.I. 02903; and Industrial National Bank of Rhode Island, 111 Westminster St., Providence, R.I. 02903. SEND PROTESTS TO: Gerald H. Curry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 187 Westminster St., Providence, R.I. 02903.

No. MC 133689 (Sub-No. 32 TA), filed August 20, 1973. Applicant: OVERLAND EXPRESS, INC., 651 1st Street SW., P.O. Box 2667, New Brighton., Minn. 55112. Applicant's representative: W. F. Hagerman (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potatoes and frozen potato products*, from Grand Forks, N. Dak., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, and the District of Columbia, for 180 days. SUPPORTING SHIPPER: Western Potato Service, Inc., P.O. Box 518, Grand Forks, N. Dak. SEND PROTESTS TO: District Supervisor Raymond T. Jones, Bureau o' Operations, Interstate Commerce Commission, 448 Federal Bldg. & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 133689 (Sub-No. 33 TA), filed August 24, 1973. Applicant: OVERLAND EXPRESS, INC., 651 1st Street SW., P.O. Box 2667, New Brighton, Minn. 55112. Applicant's representative: Charles W. Singer, 33 N. Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Madison, Nebr., to points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to traffic originating at the plant sites and storage facilities of Madison Foods, Inc. at or near Madison, Nebr., for 180 days. SUPPORTING SHIPPER: Armour and Company, Fresh Meats Division, Greyhound Tower, Phoenix, Ariz. 85077. SEND PROTESTS TO: District Supervisor Raymond T. Jones, Bureau of Operations, Interstate Commerce Commission, 448 Federal Bldg., & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401

No. MC 133775 (Sub-No. 15 TA), filed August 22, 1973. Applicant: REEFER TRANSIT LINE, INC., 55 East Washington Street, Room 2015, Chicago, Ill. 60602, and Off.: Highway 60, Worthington, Minn. 56187. Applicant's representative: Patrick H. Smyth, 327 S. LaSalle Street, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts and articles distributed by meat packing houses*, as defined in Sections A and C of Appendix I of the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities utilized by Madison Food Inc., at Madison, Nebr., to points in Connecticut, Illinois, Indiana, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, for 180 days. SUPPORTING SHIPPER: Donald A. Chute, Manager, Transportation & Distribution, Fresh Meats Division, Armour & Company, Greyhound Tower, Phoenix, Ariz. 85077. SEND PROTESTS TO: District Supervisor Richard O. Chandler, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 134755 (Sub-No. 35 TA), filed August 13, 1973. Applicant: CHARTER EXPRESS, INC., 1959 E. Turner St., P.O. Box 3772, Springfield, Mo. 65804. Applicant's representative: Warren H. Sapp, Suite 910 Fairfax Bldg., 101 W. 11th Street, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tires and tubes*, from the plant site and warehouse facilities of Lee Tire and Rubber Company located at or near Conshohocken and Fraser, Pa., to Addison, Chicago and Danville, Ill.; Muncie, Ind.; Louisville, Ky.; Benton Harbor, Detroit, Grand Rapids, Muskegon and St. Clair Shores, Mich.; Bolivar, Bridgeton, Cape Girardeau, Kansas City, Raymore, Republic, St. Charles, St. Louis and Springfield, Mo.; Omaha, Nebr.; Ashland, East Liverpool, Toledo and Youngstown, Ohio; and Pittsburgh, Pa., for 180 days. SUPPORTING SHIPPER: Lee Tire & Rubber Co., East Hector Street, Conshohocken, Pa. 19428. SEND PROTESTS TO: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 135590 (Sub-No. 3 TA), filed August 22, 1973. Applicant: GOLD COAST TRUCKING & EXPRESS, INC., 278 SW. 32nd Court, Ft. Lauderdale, Fla. 33315. Applicant's representative: Richard B. Austin, 5255 NW. 87th Avenue, 214 Palm Coast II Building, Miami, Fla. 33166. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Photographic supplies*, from, to, and between all points in Dade, Broward, and Palm Beach Counties, Fla., for 180 days. SUPPORTING SHIPPER: Eastman Kodak Company, 343 State Street, Rochester, N.Y. 14650. SEND PROTESTS TO: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, 5720 SW. 17th St., Room 105, Miami, Fla. 33155.

No. MC 135633 (Sub-No. 6 TA), filed May 30, 1973. Applicant: NATIONWIDE AUTO TRANSPORTERS, INC., 2175 Lemoine Avenue, Ft. Lee, N.J. 07024. Applicant's representative: Harold G. Hernly, 118 North St. Asaph Street, Alexandria, Va. 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor homes*, in driveaway service, from San Bernardino, Perris, Ontario, and Yuba City, Calif.; Decatur, Ind.; Marlette, Mich.; Lake Wales, Fla.; Cleburne, Tex.; and Mt. Angel, Oreg., to points in the United States, including Alaska (but excluding Hawaii), for 180 days. SUPPORTING SHIPPERS: (1) Perris Valley Camper Division, Guerdon Industries, Inc., P.O. Box 788, Perris, Calif. 92370 and (2) Wander Homes, Inc., Calypso Division, 2362 South Gardera St., San Bernardino, Calif. 92408. SEND PROTESTS TO: District Supervisor Joel Morrows, Bureau of Operations, Interstate Commerce Commission, 970 Broad St., Newark, N.J. 07102.

No. MC 138415 (Sub-No. 5 TA), filed August 20, 1973. Applicant: TRAILER EXPRESS INC., P.O. Box 321, Topeka, Ind. 46571. Applicant's representative: Michael Yoder (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Boats and boat parts*, from Syracuse, Ind., to all states in the United States and the District of Columbia (except Alaska and Hawaii), for 180 days. SUPPORTING SHIPPER: Sea Nymph Division of Stanray Corp., 201 East Chicago St., Syracuse, Ind. SEND PROTESTS TO: W. S. Ennis, Interstate Commerce Commission, Bureau of Operations, Room 204, 345 West Wayne Street, Fort Wayne, Ind. 46802.

No. MC 138763 (Sub-No. 1 TA), filed August 21, 1973. Applicant: WILLIAM C. SHAY, 108 Cook Street, Clarks Green, Pa. 18411. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mobile homes and travel trailers*, from Wilkes Barre, Pa., to Richmond, Ky., restricted to shipments which originate at the United States Department of Housing and Urban Development staging area in Wilkes Barre, Pa., for 150 days. SUPPORTING SHIPPER: U.S. Department of Housing and Urban Development, Pennsylvania Housing Recovery Office, 116 South Main Street, Wilkes Barre, Pa. 18701. SEND PROTESTS TO: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 309 U.S. Post Office Building, Scranton, Pa. 18503.





No. MC 138939 (Sub-No. 1 TA), filed August 21, 1973. Applicant: ASPHALT PRODUCTS TRANPORT CO., INC., 635 West 18th Street, P.O. Box 5924, Tucson, Ariz. 85703. Applicant's representative: Garland E. Minter (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Residual oil*, from El Paso, Tex., to points in Pima County, Ariz., for 180 days. SUPPORTING SHIPPER: Tucson Gas & Electric Company, 220 W. 6th Street, Tucson, Ariz. 85702. SEND PROTESTS TO: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 3427 Federal Bldg., 230 N. First Avenue, Phoenix, Ariz. 85025.

No. MC 139009 TA, filed July 20, 1973. Applicant: W. O. MOORE & SONS, DIVISION OF CEDAR ROCK RANCH, INC., 6877 Main Street, Lithonia, Ga. 30058. Applicant's representative: Virgil H. Smith, 1587 Phoenix Blvd., Suite 12, Atlanta, Ga. 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, household goods as defined by the Commission and those injurious or contaminating to other lading), between Conyers, Covington, Lithonia and Stone Mountain, Ga., on the one hand, and, on the other, points in DeKalb, Gwinnett, Newton, Rockdale, and Walton Counties, Ga., restricted to traffic having a prior or subsequent movement by rail in trailer-on-flatcar-service, for 180 days. Supporting shippers: Tip Top Division of Atlanta, Consolidated Warehouse, 1951 Lithonia Industrial Blvd., Lithonia, Ga. 30058; Container Corp. of America, 5853 E. Ponce de Leon Ave., Stone Mountain, Ga. 30083; Lithonia Lighting, Div., National Service Industries, P.O. Box A, Conyers, Ga. 30207; Technicarbon Co., Inc., 858 Rockdale Industrial Blvd., Conyers, Ga. 30207 and Conyers Plant, C & D Batteries, Division of Eltra Corp., P.O. Box 577, Conyers, Ga. 30207. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1252 West Peachtree St., NW., Room 309, Atlanta, Ga. 30309.

No. MC 139010 TA, filed August 21, 1973. Applicant: ARIZONA ENTERPRISES, 1918 West Grant Street, Phoenix, Ariz. 85009. Applicant's representative: Michael W. McLaughlin (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Building materials* as outlined in ICC reports in *Description of Motor Carrier Certificates*, Page 279–283, Appendix VI, from Phoenix, Tucson, Las Vegas, and Albuquerque, to, from and between points in Arizona, New Mexico, California, Nevada, Texas, Utah, Colorado, Oklahoma, Arkansas, Kansas, Missouri, Washington, Oregon, Idaho, and Wyoming, for 180 days. Supporting shipper: Roofing Wholesale Co. Inc., 1918 West Grant Street, Phoenix, Ariz. 85009. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 3427 Federal Bldg., 230 N. First Avenue, Phoenix, Ariz. 85025.

No. MC 139013 TA, filed August 21, 1973. Applicant: O & W TRUCKING COMPANY, P.O. Box 520, Moorhead, Miss. 38761. Applicant's representative: Robert L. Crook, P.O. Box 85, Ruleville, Miss. 38771. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* (except in bulk), (1) from the Port of Greenville, Greenville, Miss., to the plant site of Medart Division, Jackes Evans Manufacturing Co., Greenwood, Miss.; (2) from Granite City, Ill.; Hazlew, Mo.; Memphis, Tenn.; Birmingham, Ala.; and Vicksburg, Miss., to the plant sites of Medart Division, Jackes Evans Manufacturing Co., Greenwood, Miss.; Quality Steel Corporation, Cleveland, Miss.; and Modern Line Products Company, Indianola, Miss.; and (3) between the plant site of Medart Division, Jackes Evans Manufacturing Company, Greenwood, Miss., and the plant site of Medart Division, Jackes Evans Manufacturing Co., St. Louis, Mo., for 180 days. SUPPORTING SHIPPERS: Modern Line Products Company, P.O. Box 110, Indianola, Miss. 38751; Medart Div., Jackes Evans Mfg. Co., P.O. Box 658, Greenwood, Miss. 38930; and Quality Steel Corporation, P.O. Box 249, Cleveland, Miss. 38732. SEND PROTESTS TO: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 139020 (Sub-No. 1 TA), filed August 20, 1973. Applicant: MONTGOMERY G. DUKES, Route 2, Eden, Md. 21822. Applicant's representative: Daniel B. Johnson, 716 Perpetual Building, 1111 E Street NW., Washington, D.C. 20004. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Feed, feed ingredients, animal care products and garden supplies*, (except in bulk, in tank vehicles), (1) from points in Maryland, Virginia, Pennsylvania, and the District of Columbia, to Delmar, Del. and (2) from Delmar, Del., to points in Maryland and Virginia east of the Chesapeake Bay and south of the Chesapeake and Delaware Canal, and points in Delaware, restricted to a service to be performed under a continuing contract or contracts with Red-White Mills, Inc., for 180 days. SUPPORTING SHIPPER: Red-White Mills, Inc., P.O. Box 265, Delmar, Del. 19940. SEND PROTESTS TO: Robert D. Caldwell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 12th Street & Constitution Avenue, NW., Washington, D.C. 24023.

MOTOR CARRIERS OF PASSENGERS

No. MC 138981 (Sub-No. 1 TA), filed August 17, 1973. Applicant: ANDREW F. REYMER, doing business as LANCASTER LIMOUSINE SERVICE, 228 East Main Street, Mount Joy, Pa. 17552. Applicant's representative: William A Chesnutt, 1225-19th Street, NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special operations limited to the transportation of not more than 11 passengers in any one vehicle, not including the driver thereof, between points in Lancaster County, Pa., on the one hand, and, on the other, Washington National and Dulles International Airports, at or near Washington, D.C.; Friendship International Airport, at or near Baltimore, Md.; Newark Airport, at or near Newark, N.J.; John F. Kennedy International and LaGuardia Airports, at or near New York, N.Y.; and the Port Authority docks at New York, N.Y.; and Baltimore, Md., for 90 days. RESTRICTION: Restricted to the transportation of persons having prior or subsequent transportation by air or water. SUPPORTING ORGANIZATIONS: McCormick Travel Agency, 218 N. Duke Street, Lancaster, Pa. 17602; The Lancaster Treadway Resort Inn, Route 30 and Oregon Pike, Lancaster, Pa. 17601 and Armstrong Cork Company, W. Liberty St., Lancaster, Pa. 17604; Windward Travel Center, Inc., 33 E. Orange St., Lancaster, Pa. 17602 and Globe-Trotter Travel Service, 216 E. King Street, Lancaster, Pa. 17602. SEND PROTESTS TO: Robert P. Amerine, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 508 Federal Building, P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 139007 (Sub-No. 1 TA), filed August 21, 1973. Applicant: EXECUTIVE TRANSPORTATION SERVICE, INC., 4121 NW. 25th Street, Miami, Fla. 33142. Applicant's representative: Richard B. Austin, 8675 NW. 53rd Street, Koger Building, Suite 123, Miami, Fla. 33166. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* between Miami International Airport, Dade County, Fla.; Fort Lauderdale/Hollywood International Airport, Broward County, Fla.; Port Everglades, Broward County, Fla.; Dodge Island, Dade County, Fla.; and Miami Beach, Dade County, Fla., on the one hand, and Lion Country Safari, Palm Beach County, Fla.; Disney World and/or Sea World, Orange County, Fla.; Cypress Gardens, Polk County, Fla.; Cape Kennedy, Brevard County, Fla. and Busch Gardens, Hillsborough County, Fla., on the other hand, and from the named destination points back to the named origin points in common carriage



V 38-174 SEP 10 73 XUM

over irregular routes and irregular schedules, for 180 days. SUPPORTING SHIPPERS: (1) Flamingo Tours and Travel Agency, Inc., 111 NE. 2d Avenue, Suite 1114, Miami, Fla. 33132; (2) Jetways, Inc., 924 Biscayne Boulevard, Miami, Fla.; (3) American Tours, 245 SE. 1st Street, Miami, Fla. 33131; and (4) LIB/GO Travel, Inc. 633 Third Avenue, New York, N.Y. 10017. SEND PROTESTS TO: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, 5720 SW. 17th St., Room 105, Miami, Fla. 33155.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-19173 Filed 9-7-73;8:45 am]

[Notice 347]

## MOTOR CARRIER TRANSFER PROCEEDINGS

SEPTEMBER 5, 1973.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and transfer rules, 49 CFR Part 1132:

No. MC-FC-74714. By application filed August 29, 1973, MOORE TRANSPORTATION CO., INC. (joined by DON MOORE, doing business as MOORE TRANSPORTATION COMPANY), 3509 N. Grove St., Fort Worth, Tex. 76106, seeks temporary authority to lease the operating rights of DON PALMER, doing business as P & W TRANSPORT CO., also of Fort Worth, Tex. 76106, under section 210a(b). The transfer to MOORE TRANSPORTATION CO., INC. (joined by DON MOORE, doing business as MOORE TRANSPORTATION COMPANY), of the operating rights of DON PALMER, doing business as P & W TRANSPORT CO., is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-19170 Filed 9-7-73;8:45 am]

[Notice 348]

## MOTOR CARRIER TRANSFER PROCEEDINGS

SEPTEMBER 5, 1973.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-74549. By application filed August 29, 1973, EASTERN REFRIGERATED TRANSPORT, INC., P.O. Box 1059, Harrisonburg, Va. 22801, seeks temporary authority to lease a portion of the operating rights of SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, Va. 24401, under section 210a(b). The transfer to EASTERN REFRIGERATED TRANSPORT, INC., of the operating rights of SMITH'S TRANSFER CORPORATION, is presently pending.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-19171 Filed 9-7-73;8:45 am]





## CUMULATIVE LISTS OF PARTS AFFECTED—SEPTEMBER

**The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during September.**


**1 CFR** — Page
CFR checklist — 23771

**3 CFR**
PROCLAMATIONS:
4239 — 24191
4240 — 24193

**4 CFR**
400 — 24195
405 — 24195
PROPOSED RULES:
331 — 23971
351 — 23971
400 — 23971
401 — 23971
402 — 23971
403 — 23971
404 — 23971

**5 CFR**
213 — 24344

**6 CFR**
130 — 24213
140 — 24214
150 — 23794, 23931, 24214
152 — 23794, 24214, 24667
PROPOSED RULES:
152 — 23806, 24219

**7 CFR**
2 — 24633
51 — 23931
52 — 24344
250 — 24633
354 — 23934
725 — 23935
908 — 24215
910 — 24345
928 — 24345
932 — 24215
991 — 23771
1001 — 24216
1002 — 24216
1004 — 24216
1006 — 24216
1007 — 24216
1011 — 24216
1012 — 24216
1013 — 24216
1015 — 24216
1030 — 24216
1033 — 24216
1036 — 24216
1040 — 24216
1044 — 24216
1046 — 24216
1049 — 24216
1050 — 24216
1060 — 24216
1061 — 24216
1062 — 24216
1063 — 24216
1064 — 24216
1065 — 24216
1068 — 24216
1069 — 24216
1070 — 24216
1071 — 24216
1073 — 24216
1075 — 24216
1076 — 24216
1078 — 24216
1079 — 24216
1090 — 24216
1094 — 24216
1096 — 24216
1097 — 24216
1098 — 24216
1099 — 24216
1101 — 24216
1102 — 24216
1106 — 24216
1108 — 24216
1120 — 24216
1121 — 24216
1124 — 24216
1125 — 24216
1126 — 24216
1127 — 24216
1128 — 24216
1129 — 24216
1130 — 24216
1131 — 24216
1132 — 24216
1133 — 24216
1134 — 24216
1136 — 24216
1137 — 24216
1138 — 24216
1139 — 24216
1421 — 23935, 24634
1430 — 23939
1866 — 24346
PROPOSED RULES:
26 — 23955
52 — 24654
1030 — 23796
1073 — 24654
1701 — 24660

**9 CFR**
73 — 24346
82 — 23940
97 — 23940
319 — 24640
PROPOSED RULES:
94 — 24219
102 — 23957
104 — 23957
381 — 24374

**10 CFR**
110 — 23953

**12 CFR**
201 — 23772
526 — 23940
545 — 24200
546 — 24201
563 — 24202
PROPOSED RULES:
545 — 24228

**13 CFR**
PROPOSED RULES:
107 — 24028

**14 CFR**
39 — 23941, 24347, 24349, 24640, 24641
71 — 23941, 23942, 24204, 24350, 24641
75 — 24204
97 — 24350
208 — 24642
241 — 24351
288 — 23772
399 — 23777, 24642
PROPOSED RULES:
39 — 23962
61 — 23962
71 — 23804, 23969, 24222
75 — 23804
121 — 23962
Ch. II — 24660
221 — 23804
241 — 24223, 24661
298 — 23805, 24662
372a — 24664
389 — 24662

**16 CFR**
13 — 24352, 24353, 24634

**15 CFR**
8 — 23777
376 — 23777

**17 CFR**
211 — 24635
231 — 24635
241 — 24635
251 — 24635
271 — 24635
PROPOSED RULES:
230 — 24668

**19 CFR**
1 — 24354
4 — 24354
PROPOSED RULES:
1 — 24374
24 — 23954
141 — 23954

**20 CFR**
PROPOSED RULES:
405 — 23802

**21 CFR**
8 — 24643
9 — 24206
121 — 24354, 24643
135 — 23942
135b — 24355, 24643
135c — 24355, 24644
PROPOSED RULES:
121 — 24374, 24375
130 — 24220

**23 CFR**
PROPOSED RULES:
770 — 23969

**24 CFR**
203 — 24637
205 — 24637
207 — 24637




V 38-174 SEP 10 73 XUM

24 CFR—Continued Page
213 24637
220 24637
221 24637
232 24637
234 24637
235 24638
236 24638
241 24638
242 24638
244 24638
1700 23866
1710 23866
1715 23873
1720 23874
1914 23943–23945, 24355–24357
1915 24358, 24360
PROPOSED RULES:
20 24222
201 23803

25 CFR
141 24638
256 23945
PROPOSED RULES:
221 23954, 23955

26 CFR
1 24206

29 CFR Page
1953 24361
PROPOSED RULES:
1910 24300, 24375

30 CFR
57 23781
PROPOSED RULES:
504 24024

31 CFR
315 24762

32 CFR Page
809 23945
1285 24206
1453 24210

32A CFR
Ch. XIII:
EPO Reg. 3 23977

33 CFR
401 24210
PROPOSED RULES:
127 23804

36 CFR
50 24218
221 23948
PROPOSED RULES:
7 23796

38 CFR
1 24364
2 24366
17 24366
21 23948

40 CFR
35 24639
52 24333
129 24342
PROPOSED RULES:
180 23781, 24639
52 23805
180 23806
411 24462
412 24466
422 24470

41 CFR
1–1 24210
1–9 23782
1–18 23791
3–16 24644
114–50 24649

43 CFR
4 23948
3830 24650
4710 24650

45 CFR Page
PROPOSED RULES:
221 24872
233 23802
903 23912

46 CFR
PROPOSED RULES:
146 23959
542 23979
538 24228

47 CFR
73 24367
81 24211
83 24368
97 24211

49 CFR
170 23791
171 23792
172 23792
177 23792
178 23792
570 23949
1033 23792, 23793, 23952, 24212
1048 24368
1115 23953
PROPOSED RULES:
393 24223
542 23979
571 23804
1057 24228
1131 23979

50 CFR
20 23793
32 23793, 23794, 24212, 24369–24373, 24650–24652
PROPOSED RULES:
21 23796


FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

| Pages | Date |
|---|---|
| 23765–23922 | Sept. 4 |
| 23923–24184 | 5 |
| 24185–24326 | 6 |
| 24327–24625 | 7 |
| 24627–24874 | 10 |




federal register

MONDAY, SEPTEMBER 10, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 174

PART II


# DEPARTMENT OF THE TREASURY

## Fiscal Service

■

## REGULATIONS GOVERNING UNITED STATES SAVINGS BONDS



V 38-174 SEP 10 73 XUM

Title 31—Money and Finance: Treasury

CHAPTER II—FISCAL SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER B—BUREAU OF THE PUBLIC DEBT

# PART 315—REGULATIONS GOVERNING UNITED STATES SAVINGS BONDS

The regulations in 31 CFR, Part 315 have been revised and amended for the purpose of incorporating in a single, updated document all prior amendments thereof, as well as all relevant changes heretofore made in the offering circulars for Series E and Series H savings bonds (31 CFR, Parts 316 and 332, respectively).

Notice and public procedures are unnecessary and are dispensed with as the fiscal policy of the United States is involved and as the revision is largely declaratory of revisions and amendments of the offering circulars heretofore published in the FEDERAL REGISTER. The changes were effected under authority of section 22 of the Second Liberty Bond Act, as amended, 49 Stat. 21, as amended (31 U.S.C. 757c); section 8 of the Act of July 8, 1937, as amended, 50 Stat. 481, as amended (31 U.S.C. 738a); and 5 U.S.C. 301.

Dated September 5, 1973.

[SEAL] DAVID MOSSO,
*Deputy Fiscal Assistant Secretary.*

Department of the Treasury Circular No. 530, Ninth Revision, dated December 23, 1964, as amended (31 CFR, Part 315), is hereby further amended and issued as the Tenth Revision, effective September 5, 1973.

**Subpart A—General Information**


Sec.
315.0 Applicability of regulations.
315.1 Official agencies.
315.2 Definition of words and terms as used in these regulations.


**Subpart B—Registration**


315.5 General.
315.6 Restrictions on registration.
315.7 Authorized forms of registration.
315.8 Unauthorized registration.


**Subpart C—Limitation on Holdings**


315.10 Amounts which may be held.
315.11 Computation of amount.
315.12 Disposition of excess.


**Subpart D—Limitations on Transfer or Pledge**


315.15 Limitation on transfer or pledge.
315.16 Pledge under Department Circulars No. 154 and Public Debt Series No. 4–67.


**Subpart E—Limitation on Judicial Proceedings—No Stoppage or Caveats Permitted**


315.20 General.
315.21 Payment to judgment creditors.
315.22 Payment or reissue pursuant to judgment.
315.23 Evidence necessary.


**Subpart F—Relief for Loss, Theft, Destruction, Mutilation, Defacement, or Nonreceipt of Bonds**


315.25 After receipt by owner or his representative.
315.26 Procedure to be followed.
315.27 Nonreceipt of bond.
315.28 Recovery or receipt of bond reported lost, stolen, destroyed or not received.


**Subpart G—Interest**


Sec.
315.30 General.
315.31 Series E bonds.
315.32 Series H bonds.


**Subpart H—General Provisions for Payment and Redemption**


315.35 Payment or redemption.
315.36 Withdrawal of request for redemption.
315.37 Requests for payment.
315.38 Presentation and surrender.
315.39 Partial redemption.
315.40 Nonreceipt or loss of check issued in payment.


**Subpart I—Certifying Officers**


315.42 Persons who may certify.
315.43 General instructions to certifying officers.
315.44 Interested person not to certify.


**Subpart J—Reissue and Denominational Exchange**


315.45 General.
315.46 Requests for reissue.
315.47 Effective date.
315.48 Correction of errors.
315.49 Change of name.


**Subpart K—Minors, Incompetents, Aged Persons, Absentees, Etc.**


315.50 Payment to representative of estate.
315.51 Payment to minors.
315.52 Payment to a parent or other person on behalf of a minor.
315.53 Payment or reinvestment upon request of voluntary guardian or incompetent.
315.54 Reissue.


**Subpart L—Natural Person as Sole Owner**


315.55 Payment.
315.56 Reissue for certain purposes.


**Subpart M—Two Natural Persons as Coowners**


315.60 Payment during the lives of both coowners.
315.61 Reissue during the lives of both coowners.
315.62 After the death of one or both coowners.
315.63 Upon death of both coowners in a common disaster, etc.


**Subpart N—Two Natural Persons as Owner and Beneficiary**


315.65 Payment during the lifetime of the registered owner.
315.66 Reissue during the lifetime of the registered owner.
315.67 After the death of the registered owner.


**Subpart O—Deceased Owners**


315.70 General.
315.71 Special provisions applicable to small amounts of savings bonds, interest checks, or redemption checks.
315.72 Estates administered.
315.73 Estates not administered.


**Subpart P—Fiduciaries**


315.75 Payment.
315.76 Reissue.
315.77 Requests for reissue or payment prior to maturity or extended maturity.
315.78 Requests for payment at or after maturity.


**Subpart Q—Private Organizations (Corporations, Associations, Partnerships, Etc.) and Governmental Agencies, Units and Officers**


315.80 Payment to corporations or unincorporated associations.
315.81 Payment to partnerships.
315.82 Reissue or payment to successors of corporations, unincorporated associations, or partnerships.
315.83 Reissue or payment on dissolution of corporation or partnership.
315.84 Payment to institutions (churches, hospitals, homes, schools, etc.).
315.85 Reissue in name of trustee or agent for reinvestment purposes.
315.86 Reissue upon termination of investment agency.
315.87 Payment to governmental agencies and units.
315.88 Payment to government officers.


**Subpart R—Miscellaneous Provisions**


315.90 Waiver of regulations.
315.91 Additional requirements; bond of indemnity; social security numbers.
315.92 Preservations of rights.
315.93 Supplementa, amendments, or revisions.


AUTHORITY.—Sec. 22 of the Second Liberty Bond Act, as amended, 49 Stat. 21, as amended (31 U.S.C. 757c); sec. 8 of the Act of July 8, 1937, as amended, 50 Stat. 481, as amended (31 U.S.C. 738a); and (5 U.S.C. 301).

## Subpart A—General Information

### § 315.0 Applicability of regulations.

These regulations apply to all United States Savings Bonds of whatever series designation, bearing any issue dates whatever, to the extent specified herein and in the offering circulars governing such bonds. The provisions of these regulations with respect to bonds registered in the names of certain classes of individuals, fiduciaries, and organizations are equally applicable to bonds to which such individuals, fiduciaries, and organizations are otherwise shown to be entitled under these regulations. United States Savings Notes, issued under authority of sections 18 and 20 of the Second Liberty Bond Act, as amended (31 U.S.C. 753 and 754b), and offered in Department Circular, Public Debt Series No. 3–67 (31 CFR, Part 342), are also governed by these regulations, subject to the provisions of the offering circular. The term "savings bonds" or "bonds," as used in these regulations, refers to United States Savings Bonds and, as applicable, to United States Savings Notes. The provisions of Department Circular No. 300, current revision (31 CFR, Part 306), have no application to the securities governed by these regulations.

### § 315.1 Official agencies.

The Bureau of the Public Debt of the Department of the Treasury is charged with matters relating to savings bonds. Correspondence concerning transactions after original issue and requests for appropriate forms should be addressed to (a) the Federal Reserve Bank or Branch of the District in which the correspondent is located, or (b) the Bureau of the Public Debt, 536 South Clark Street, Chicago, Illinois 60605, or (c) the Office of the Treasurer of the United States, Securities Division, Washington, D.C. 20222, except where specific instructions are otherwise given in these regulations. Notices or documents not filed in accordance with instructions in these regulations will not be recognized. The addresses of the Federal Reserve Banks and Branches are:





Federal Reserve Bank of Boston, Boston, Massachusetts 02106.
Federal Reserve Bank of New York, New York, New York 10045. Buffalo Branch, Buffalo, New York 14240.
Federal Reserve Bank of Philadelphia, Philadelphia, Pennsylvania 19101.
Federal Reserve Bank of Cleveland, Cleveland, Ohio 44101. Cincinnati Branch, Cincinnati, Ohio 45201. Pittsburgh Branch, Pittsburgh, Pennsylvania 15230.
Federal Reserve Bank of Richmond, Richmond, Virginia 23261. Baltimore Branch, Baltimore, Maryland 21203.
Charlotte Branch, Charlotte, North Carolina 28201.
Federal Reserve Bank of Atlanta, Atlanta, Georgia 30303.
Birmingham Branch, Birmingham, Alabama 35202.
Jacksonville Branch, Jacksonville, Florida 32203.
Nashville Branch, Nashville, Tennessee 37203.
New Orleans Branch, New Orleans, Louisiana 70160.
Federal Reserve Bank of Chicago, P.O. Box 834, Chicago, Illinois 60690.
Detroit Branch, P.O. Box 1059, Detroit, Michigan 48231.
Federal Reserve Bank of St. Louis, P.O. Box 442, St. Louis, Missouri 63166.
Little Rock Branch, P.O. Box 1261, Little Rock, Arkansas 72203.
Louisville Branch, P.O. Box 899, Louisville, Kentucky 40201.
Memphis Branch, P.O. Box 407, Memphis, Tennessee 38101.
Federal Reserve Bank of Minneapolis, Minneapolis, Minnesota 55480.
Helena Branch, Helena, Montana 59601.
Federal Reserve Bank of Kansas City, Kansas City, Missouri 64198.
Denver Branch, Denver, Colorado 80217.
Oklahoma City Branch, Oklahoma City, Oklahoma 73125.
Omaha Branch, Omaha, Nebraska 68102.
Federal Reserve Bank of Dallas, Station K, Dallas, Texas 75222.
El Paso Branch, P.O. Box 100, El Paso, Texas 79999.
Houston Branch, P.O. Box 2578, Houston, Texas 77001.
San Antonio Branch, P.O. Box 1471, San Antonio, Texas 78295.
Federal Reserve Bank of San Francisco, San Francisco, California 94120.
Los Angeles Branch, P.O. Box 2077, Los Angeles, California 90051.
Portland Branch, P.O. Box 3436, Portland, Oregon 97208.
Salt Lake City Branch, P.O. Box 780, Salt Lake City, Utah 84110.
Seattle Branch, P.O. Box 3567, Seattle, Washington 98124.

### § 315.2 Definition of words and terms as used in these regulations.

(a) "Authorized issuing agent" means an incorporated bank, trust company, savings bank, savings and loan association, other organization, or agency of the United States, qualified as an issuing agent under the provisions of Department Circular, Public Debt Series No. 4–67 (31 CFR, Part 317).

(b) "Authorized paying agent" means an incorporated bank, trust company, savings bank, savings and loan association, or other financial institution qualified as a paying agent under the provisions of Department Circular No. 750, current revision (31 CFR, Part 321).

(c) "Court" means a court having jurisdiction over the parties and subject matter.

(d) "Extended maturity date" is the date on which a bond will mature and cease to bear interest under applicable extended maturity provisions.

(e) "Extended maturity period"[1] means any period after original during which the owner may retain the bonds and continue to earn interest on the maturity value or extended maturity value under applicable extended maturity provisions of the circular offering such bonds for sale.

(f) "Extended maturity value" is the value of a bond at the end of the applicable extended maturity period.

(g) "Face amount" of a bond refers to the value of the bond as shown on the face thereof.

(h) "Incompetent" refers to a person under any legal disability except minority.

(i) "Maturity date" means the date on which the bond will mature by the terms of the circular offering it for sale without regard to any extended maturity period.

(j) "Payment" and "redemption" are used interchangeably, unless otherwise indicated. They refer to payment of a bond in accordance with these regulations.

(k) "Personal trust estate" means a trust estate established by natural persons in their own right for the benefit of themselves or other natural persons in whole or in part, and common trust funds comprised in whole or in part of such trust estates.

(l) "Presented and surrendered" and "presentation and surrender" mean the actual receipt of a bond, with an appropriate request for the particular transaction, by the Chicago, Parkersburg, or Washington Office of the Bureau of the Public Debt, the Office of the Treasurer of the United States, Securities Division, or a Federal Reserve Bank or Branch, or, if the transaction is one which an authorized paying agent may handle, receipt by such authorized paying agent.

(m) "Representative of the estate of a minor, incompetent, aged person, absentee, etc.," means a guardian, conservator, or similar representative appointed by a court or otherwise legally qualified, regardless of the title by which designated. These terms do not refer to a voluntary guardian recognized under § 315.53, to a natural guardian, such as a parent, including a parent to whom custody of a child has been awarded through divorce proceedings or a parent by adoption, or to the executor or administrator of the estate of a decedent.

(n) "Reissue" means the cancellation and retirement of a bond and issue of a new bond or bonds of the same series, amount (face amount) (or the remainder thereof in case of partial redemption), and issue date.

(o) "Social security number" means an individual's social security account number or an employer identification number. An individual's number is composed of nine digits separated by two hyphens, for example, 123–45–6789; the employer identification number is composed of nine digits separated by one hyphen, for example, 12–3456789. The hyphens are an essential part of the numbers and must be included.

[1] See Appendices to current revisions of Department Circulars No. 653 and No. 905 (31 CFR, Parts 316 and 332) concerning extensions and investment yields for Series E and Series H bonds, respectively. See Department Circular, Public Debt Series No. 3–67, Revised, as amended (31 CFR, Part 342), concerning the extension and investment yields for savings notes (Freedom Shares).

## Subpart B—Registration

### § 315.5 General.

Savings bonds are issued only in registered form. The registration used on issue or reissue must express the actual ownership of an interest in the bond and, except as otherwise specifically provided in Subpart E and § 315.48 will be considered as conclusive of such ownership and interest. No designation of an attorney, agent, or other representative to request or receive payment on behalf of the owner or a coowner, or any restriction on the right of the owner or a coowner to receive payment of the bond or interest, except as provided in these regulations, may be made in the registration or otherwise. Registrations requested in applications for purchase or requests for reissue should be clear, accurate, and complete, conform with one of the forms set forth in this subpart, and include the social security number of the owner or first-named coowner.[2] However, if bonds are purchased as gifts, awards, prizes, or the like, and the social security number of the intended owner is not known, the purchaser's number must be furnished. In this event, the issuing agent will inscribe the word "GIFT" and the purchaser's number on the bond. Bonds so inscribed will not be associated with the purchaser's own holdings. The registration of all bonds owned by the same person, organization, or fiduciary should be uniform with respect to the name of the owner and, in the case of a fiduciary, the description of the fiduciary capacity. A natural person should be designated by the name by which he is ordinarily known or the one under which he does business, including preferably at least one full given name. The name of a natural person may be preceded by any applicable title, such as "Dr." or "Rev.," or followed by "M.D.," "D.D.," or other similar designation. "Sr." or "Jr.," or a similar suffix, should be included when ordinarily used or when necessary to distinguish the owner from a member of his family. If a woman is named as either second coowner or beneficiary, either the courtesy title "Miss" or "Mrs.," or her social security number must be furnished. A married woman's own given name, not that of her husband, must be used, for example, "Mrs. Mary A. Jones,"

[2] Effective October 1, 1973. Issuing agents desiring to issue bonds in the names of entities described in § 315.7 (c) (9) and (e), should obtain instructions from the Bureau of the Public Debt, Washington, D.C. 20226.



V 38-174
SEP 10 73
XUM

NOT "Mrs. Frank B. Jones." The address should include, where appropriate, the number and street, route, or any other local feature, and the Zip Code.

**§ 315.6 Restrictions on registration.**

(a) *Residence.*—Registration of bonds is restricted on original issue, but not on authorized reissue, to persons (whether natural persons or others) who are:

(1) Residents of the United States, its territories and possessions, the Commonwealth of Puerto Rico, and the Canal Zone;

(2) Citizens of the United States temporarily residing abroad; and

(3) Civilian employees of the United States or members of its Armed Forces, regardless of their residence or citizenship.

Except to the extent otherwise provided in these regulations, only a natural person may be designated as coowner or beneficiary with a natural person of any of the above classes, whether on original issue or reissue. Also, registration is not permitted in any form which includes the name of any alien who is resident of any area with respect to which the Treasury Department restricts or regulates the delivery of checks drawn against funds of the United States or any agency or instrumentality thereof.[3]

(b) *Minority.*[4]—(1) Bonds purchased by another person with funds belonging to a minor must be registered in the name of the minor without a coowner or beneficiary. Bonds purchased by a representative of a minor's estate must be registered in the name of the minor and include in the registration an appropriate reference to the guardianship estate. Bonds purchased by a representative of the estates of two or more minors, even though appointed in a single proceeding, must be registered in the name of each minor separately, with appropriate reference to his guardianship estate.

(2) Bonds purchased with funds not belonging to a minor may be registered to name the minor as owner, coowner or beneficiary. In this case, if the minor's estate is under legal guardianship, the registration should include an appropriate reference to the guardianship estate.

(3) Bonds purchased as a gift to a minor under a gifts-to-minors statute in effect in the State in which either the donor or the minor resides may be registered as provided in the applicable statute, with a parenthetical reference to the statute if it is not clearly identified by the registration. A coowner or beneficiary may not be named.

(4) Registration of bonds in the name of a natural guardian for a minor is not authorized.

(5) A minor may name a coowner or beneficiary on bonds he purchases with his wages, earnings, or other funds belonging to him and under his control.

(c) *Incompetency.*[4]—Bonds may be purchased to name as owner, coowner or beneficiary an incompetent for whose estate a guardian or similar representative has been appointed,[5] except that a coowner or beneficiary may not be named on bonds purchased with funds belonging to the incompetent. The registration must include appropriate reference to the guardianship or similar fiduciary estate.

**§ 315.7 Authorized forms of registration.**

Subject to any limitations or restrictions contained in these regulations on the right of any person to be named as owner, coowner, or beneficiary, bonds may be registered in the following forms:

(a) *Natural persons.*—In the names of natural persons in their own right, but only in one of the forms authorized by this paragraph:

(1) *Single ownership form.*—Example:

John A. Jones 123-45-6789.

(2) *Coownership form—two natural persons (only).*—In the alternative as coowners. Examples:

John A. Jones 123-45-6789 or Mrs. Ella S. Jones. Ella S. Jones 987-65-4321 or John A. Jones. No other form of registration establishing coownership is authorized.

(3) *Beneficiary form—two natural persons (only).*—Examples:

John A. Jones 123-45-6789 payable on death to Miss Iola S. Jones. John A. Jones 123-45-6789 P.O.D. Ella S. Jones 987-65-4321.

"Payable on death to" may be abbreviated to "P.O.D.", as indicated in the last example, or "POD". The first-named natural person is hereinafter referred to as the owner and the second-named natural person as the beneficiary.

(b) *Fiduciaries (including legal guardians or similar representatives, certain custodians, executors, administrators and trustees).*—(1) *General.*—A bond may be registered in the name of any person or persons or any organization, public or private, acting as fiduciary of a single duly constituted fiduciary estate, but not where the fiduciary would hold the bond merely or principally as security for the performance of a duty, obligation or service. A coowner or beneficiary may not be named in the registration except under the applicable provisions of § 315.6 (b) and (c). A common trust fund established and maintained according to law by a financial institution duly authorized to act as a fiduciary will be considered as a single duly constituted fiduciary estate within the meaning of these regulations. Registration must conform to a form authorized by this paragraph.

(2) *Guardians, conservators, similar representatives, certain custodians.*—A bond may be registered in the name and title or capacity of the legally appointed, designated or authorized representative of the estate of a minor, incompetent, aged person, absentee, etc., or in the name of such individual, followed by an appropriate reference to the estate and showing the nature of the disability or referring to the applicable statute. A coowner or beneficiary may be named only in accordance with the applicable provisions of § 315.6(b) and (c). Examples:

Tenth National Bank, guardian (or conservator, trustee, etc.) of the estate of George M. Brown 123-45-6789, a minor (or an incompetent, aged person, infirm person, or absentee).

George M. Brown 123-45-6789, a minor (or an incompetent, aged person, infirm person, or absentee) under legal guardianship (or conservatorship or trusteeship, etc.) of James F. Jones.

John R. White 123-45-6789, an adult under conservatorship of Henry C. Smith pursuant to Sec. 572, 1963 Iowa Probate Code.

James F. Green 123-45-6789, a minor (or an incompetent) under custodianship by designation of the Veterans Administration.

Frank M. Redd 123-45-6789, an incompetent for whom Eric A. Redd has been designated trustee by the Department of the Army pursuant to 37 U.S.C. 351-354.

Arnold A. Ames, as custodian for Barry B. Bryan 123-45-6789, under the California Uniform Gifts of Securities to Minors Act.

Thomas J. Reed, as custodian for Lawrence W. Reed 123-45-6789, a minor, under the laws of Georgia (Ch. 48-3, Code of Ga. Ann.).

Richard A. Roe 123-45-6789, for whom Reva L. Roe is representative payee for social security benefits (or black lung benefits, as the case may be). (If the beneficiary is a minor, the words "a minor," should appear immediately after the social security number.)

Henry L. Green 123-45-6789 or Tenth National Bank, guardian of the estate of George M. Brown, a minor.

Henry L. Green 123-45-6789 P.O.D. George M. Brown, a minor under legal guardianship of Tenth National Bank.

(3) *Executors and administrators.*—A bond may be registered in the name of the representative or representatives appointed by a court or otherwise legally qualified to act for the estate of a decedent, or in the name of an executor authorized to administer a trust under the terms of a will although he is not named as trustee. The names and capacities of all the representatives, as shown in their letters of appointment, must be included in the registration and be followed by an adequate identifying reference to the estate. Examples:

John H. Smith and Calvin N. Jones, executors of the will (or administrators of the estate) of Robert J. Smith, deceased 12-3456789.

John H. Smith, executor of the will of Robert J. Smith, deceased, in trust for Mrs. Jane L. Smith, with remainder over 12-3456789.

(4) *Trustees or life tenants under wills, deeds of trust, agreements or similar instrument.*—A bond may be registered in the name and title of the trustee (or trustees) of a duly constituted trust estate, or in the name of a life tenant, followed by an adequate identifying reference to the authority governing the trust or life tenancy. Examples:

Thomas J. White and Tenth National Bank, trustees under the will of Robert J. Smith, deceased 12-3456789.

[3] See Department Circular No. 655, current revision (31 CFR, Part 211).

[4] See examples of forms of registration under § 315.7(b)(2).

[5] Bonds should not be registered in the name of an incompetent unless there is a representative for his estate, except as provided in § 315.53.





Mrs. Jane M. Black, life tenant under the will of Robert J. Black, deceased 12-3456789.

Tenth National Bank, trusteee under agreement with Paul E. White, dated 2/1/55 12-3456789.

Carl A. Black and Henry B. Green, trustees under agreement with Paul E. White, dated 2/1/55 12-3456789.

If the trust instrument designates by title only an officer of a board or an organization as trustee, only the title of the officer should be used. Example:

Chairman, Board of Trustees, First Church of Christ, Scientist, of Chicago, Ill., in trust under the will of Robert J. Smith, deceased 12-3456789.

The names of all trustees, in the form used in the trust instrument, must be included in the registration, except as follows:

(i) If there are several trustees designated as a board or authorized to act as a unit, their names may be omitted and the words "Board of Trustees" substituted for the word "trustees." Example:

Board of Trustees of Immediate Relief Trust of Federal Aid Association, under trust indenture dated 2/1/55 12-3456789.

(ii) If the trustees do not constitute a board and are not authorized to act as a unit, and are too numerous to be designated in the registration by names and title, some or all of the names may be omitted. Examples:

John A. Smith, Henry B. Jones, et al., trustees under the will of Edwin O. Mann, deceased 12-3456789.

Trustees under the will of Edwin A. Mann, deceased 12-3456789.

(5) *Pension, retirement or similar funds, or eligible employees' savings or savings and vacation plans.*—A bond may be registered in the name and title, or title alone, of the trustee or trustees of a pension, retirement or similar fund, or an eligible employees' savings or savings and vacation plan. If the instrument creating the trust provides that the trustees shall serve for a limited term, their names may be omitted. Examples:

Tenth National Bank, trustee of pension fund of Safety Manufacturing Co., U/A with said company dated March 31, 1949 12-3456789.

Trustees of Retirement Fund of Safety Manufacturing Co., under directors' resolution adopted 3/31/49 12-3456789.

County Trust Company, trustee of the Employees' Savings Plan of Jones Co., Inc., U/A dated 1/17/59, 12-3456789.

Trustee of the Employees' Savings Plan of Brown Bros., Inc., U/A dated January 20, 1964, 12-3456789.

(6) *Funds of lodges, churches, societies, or similar organizations.*—A bond may be registered in the titles of the trustees, or a board of trustees, holding funds in trust for a lodge, church, society, or similar organization, whether or not incorporated. Examples:

Trustees of the First Baptist Church, Akron, Ohio, acting as a Board under Sec. 15 of its by-laws 12-3456789.

Trustees of Jamestown Lodge No. 1,000, Benevolent and Protective Order of Elks, under Sec. 10 of its by-laws 12-3456789.

Board of Trustees of the Lotus Club, Washington, Ind., under Art. 10 of its constitution 12-3456789.

(7) *Investment agents for religious, educational, charitable or nonprofit organizations.*—A bond may be registered in the name of a bank, trust company, or other financial institution, or an individual, as agent under an agreement with a religious, educational, charitable, or nonprofit organization, whether or not incorporated, if the agent holds funds for the sole purpose of investing and reinvesting them and paying the income to the organization. The name and designation of the agent must be followed by an adequate identifying reference to the agreement. Examples:

Tenth National Bank, fiscal agent under agreement with The Evangelical Lutheran Church of the Holy Trinity, dated 12/28/49, 12-3456789.

Sixth Trust Co., investment agent U/A dated September 16, 1962, with Central City Post, Department of Illinois, American Legion 12-3456789.

John Jones, investment agent U/A dated 9/16/62, with Central City Post, Dept. of Ill., American Legion 12-3456789.

(8) *Funds of school groups or activities.*—A bond may be registered in the title of the principal or other officer of a public, private, or parochial school holding funds in trust for a student body fund or for a class, group, or activity. If the amount purchased for any one fund does not exceed $500 (face amount), no reference need be made to a trust instrument. Examples:

Principal, Western High School, in trust for Class of 1955 Library Fund 12-3456789.

Director of Athletics, Western High School, in trust for Student Activities Association, under resolution adopted 5/12/55 12-3456789.

(9) *Public corporations, bodies, or officers as trustees.*—A bond may be registered in the name of a public corporation or a public body, or in the title of a public officer, acting as trustee under express authority of law, followed by an appropriate reference to the statute creating the trust. Examples:

Rhode Island Investment Commission, trustee of the General Sinking Fund under Ch. 35, Gen. Laws of R.I.

Superintendent of the Austin State Hospital Annex, in trust for the Benefit Fund under Sec. 3183(c), Vernon's Civil Stats. of Texas Anno.

(c) *Private organizations (corporations, associations, partnerships).*—(1) *General.*—A bond may be registered in the name of any private organization in its own right, except that of a commercial bank, which is defined for this purpose as one accepting demand deposits. The full legal name of the organization, as set forth in its charter, articles of incorporation, constitution, partnership agreement, or other authority from which its powers are derived, must be included in the registration and may be followed, if desired, by a parenthetical reference to a particular account other than a trust account, in accordance with the rules and examples authorized by this paragraph.

(2) *Corporations.*—A bond may be registered in the name of a business, fraternal, religious, or other private corporation. The words "a corporation" must be included in the registration unless the fact of incorporation is shown in the name. Examples:

Smith Manufacturing Co., a corporation 12-3456789.

Green & Redd, Inc. 12-3456789 (Depreciation Acct.).

(3) *Unincorporated associations.*—A bond may be registered in the name of a club, lodge, society, or similar self-governing association which is not incorporated. The words "an unincorporated association" must be included in the registration. This form of registration must not be used for a trust fund, a board of trustees, a partnership, a business conducted under a trade name or a sole proprietorship. If the association is chartered by or affiliated with a parent organization, the name or designation of the subordinate or local organization must be given first, followed by the name of the parent organization. The name of the parent organization may be placed in parentheses and, if well known, may be abbreviated. Examples:

The Lotus Club, an unincorporated association 12-3456789.

Local 447, Brotherhood of Railroad Trainmen, an unincorporated association 12-3456789.

Eureka Lodge No. 317 (A.F. & A.M.), an unincorporated association 12-3456789.

(4) *Partnerships.*—A bond may be registered in the name of a partnership, which will be considered as an entity. The words "a partnership" must be included in the registration. Examples:

Smith & Jones, a partnership 12-3456789.

Acme Novelty Co., a partnership 12-3456789.

(d) *Institutions (churches, hospitals, homes, schools, etc.).*—A bond may be registered in the name of a church, hospital, home, school, or similar institution conducted by a private organization or by private trustees, regardless of the manner in which it is organized or governed or title to its property is held. Descriptive words such as "a corporation" or "an unincorporated association" must not be included in the registration. Examples:

Shriners' Hospital for Crippled Children, St. Louis, Mo., 12-3456789.

St. Mary's Roman Catholic Church, Albany, N.Y., 12-3456789.

Rodeph Shalom Sunday School, Philadelphia, Pa., 12-3456789.

(e) *States, public bodies and corporations and public officers.*[3]—A bond may be registered in the name of a State, county, city, town, village, school district or other political entity, public body or corporation established by law (including a board, commission, administration, authority or agency) which is the owner or official custodian of public funds, other than trust funds, or in the full legal title of the public officer having custody of the funds. Examples:



V 38 I 174 SEP 10 73 XUM

State of Maine.
Town of Rye, N.Y. (Street Improvement Fund).
Maryland State Highway Administration.
Treasurer, City of Chicago.

(f) *Treasurer of the United States as coowner or beneficiary.*—A person who desires to have a bond become the property of the United States upon his death may designate the Treasurer of the United States as coowner or beneficiary. Examples:

George T. Jones 123-45-6789 or the Treasurer of the United States of America.
George T. Jones 123-45-6789 P.O.D. the Treasurer of the United States of America.

**§ 315.8 Unauthorized registration.**

A savings bond inscribed in a form not substantially in agreement with one of those authorized by this subpart will not be considered as validly issued. However, if the form of registration was not authorized under the regulations in effect at the time of issuance but is authorized under regulations in effect at the time the bond is presented for payment or reissue, it will be considered as having been validly issued from the date of original issue.

## Subpart C—Limitation on Holdings

**§ 315.10 Amounts which may be held.**

The amounts of savings bonds of Series E and H, issued in any one calendar year, which may be held by any one person at any one time, computed in accordance with the provisions of § 315.11, are limited as follows:

(a) *Series E*—(1) *General annual limitations.*

| Bonds issued: | Limit |
|---|---|
| May 1941 through December 1947 | $5,000 (face amount) |
| January 1948 through December 1951 | 10,000 (face amount) |
| January 1952 through April 1957 | 20,000 (face amount) |
| May 1957 through December 1965 | 10,000 (face amount) |
| (A person holding $10,000 (face amount) or more purchased between January 1, 1957, and April 30, 1957, was not entitled to additional holdings during the remainder of 1957.) | |
| January 1966 through November 1969 | 20,000 (face amount) |
| December 1, 1969, and thereafter | 5,000 (issue price) |
| (A person holding $5,000 (issue price) or more purchased between January 1, 1969, and November 30, 1969, was not entitled to additional holdings during the remainder of 1969. $5,000 (issue price) will purchase $6,650 (face amount).) | |

(2) *Special limitation.*—Trustees of an employees' savings plan (as defined in Department Circular No. 653, current revision, 31 CFR, Part 316) and trustees of an eligible savings and vacation plan may purchase $2,000 (face amount) multiplied by the highest number of employees participating in the plan at any time during the calendar year in which the bonds are issued.

(b) *Series H*—(1) *General annual limitations.*

| Bonds issued: | Limit |
|---|---|
| June 1952 through April 1957 | $20,000 (face amount) |
| May 1957 through December 1961 | 10,000 (face amount) |
| (A person holding $10,000 (face amount) or more purchased between January 1, 1957, and April 30, 1957, was not entitled to additional holdings during the remainder of 1957.) | |
| January 1962 through December 1965 | 20,000 (face amount) |
| January 1966 through November 1969 | 30,000 (face amount) |
| December 1, 1969, and thereafter | 5,000 (face amount) |
| (A person holding $5,000 (face amount) or more purchased between January 1, 1969, and November 30, 1969, was not entitled to additional holdings during the remainder of 1969). | |

(2) *Special limitation.* $200,000 (face amount) for the calendar year 1966 and each calendar year thereafter for bonds received as gifts by an organization which at the time of purchase was an exempt organization under the terms of 26 CFR 1.501(c)(3)-1.

**§ 315.11 Computation of amount.**

(a) *Definition of "person".*—The term "person" for purposes of this section shall mean any legal entity and shall include but not be limited to natural persons, corporations (public or private), partnerships, unincorporated associations, and trust estates. The holdings of each person individually and his holdings in any fiduciary capacity authorized by these regulations, such as, for example, his holdings as a guardian of the estate of a minor, as a life tenant, or as trustee under a will or deed of trust, shall be computed separately. A pension or retirement fund or an investment, insurance, annuity or similar fund or trust will be regarded as an entity regardless of the number of beneficiaries or the manner in which their respective interests are established or determined. Segregation of individual shares as a matter of bookkeeping or as a result of individual agreements with beneficiaries or the express designation of individual shares as separate trusts will not serve to constitute them separate "persons" for purposes of this section.

(b) *Bonds that must be included in computation.*—Except as provided in paragraph (c) of this section, there must be taken into account in computing the holdings of each person:

(1) All bonds registered in the name of that person alone;

(2) All bonds registered in the name of the representative of the estate of that person;

(3) All bonds originally registered in the name of that person as coowner or reissued at the request of the original owner to add the name of that person as coowner or to designate him as coowner instead of as beneficiary. However, the amount of bonds of Series E and H held in coownership form may be applied to the holdings of either of the coowners or apportioned between them.

(c) *Bonds that may be excluded from computation.*—There need not be taken into account:

(1) Bonds on which that person is named beneficiary;

(2) Bonds in which his interest is only that of a beneficiary under a trust;

(3) Bonds to which he has become entitled under Sec. 315.67 as surviving beneficiary upon the death of the registered owner, as an heir or legatee of the deceased owner, or by virtue of the termination of a trust or the happening of any other event;

(4) Bonds of Series E purchased with the proceeds of matured bonds of Series A, C-1938, and D, where such matured bonds were presented for that purpose;

(5) Bonds of Series E bearing issue dates from May 1, 1941, to December 1, 1945, inclusive, held by individuals in their own right which are not more than $5,000 (face amount) in excess of the prescribed limit;

(6) Bonds of Series E or H reissued under Sec. 315.61(a);

(7) Bonds of Series E or H reissued in the name of a trustee of a personal trust estate which did not represent excess holdings prior to such reissue;

(8) Bonds of Series E or H purchased with the proceeds of bonds of Series F, G, J, or K, at or after maturity, where such matured bonds had been presented for that purpose;

(9) Bonds of Series H issued in exchange for bonds of Series E, F, or J, and savings notes under the provisions of Department Circular No. 1036 (31 CFR, Part 339) as in effect at the time of the exchange.

**§ 315.12 Disposition of excess.**

If any person at any time acquires savings bonds issued during any one calendar year in excess of the prescribed amount, instructions should be obtained from the Bureau of the Public Debt for appropriate adjustment of the excess.

For good cause found the Secretary of the Treasury may permit excess holdings to stand in any particular case or class of cases.





## Subpart D—Limitations on Transfer or Pledge

**§ 315.15 Limitation on transfer or pledge.**

Savings bonds are not transferable and are payable only to the owners named thereon, except as specifically provided in these regulations, and then only in the manner and to the extent so provided. A savings bond may not be hypothecated, pledged as collateral, or used as security for the performance of an obligation, except as provided in Sec. 315.16.

**§ 315.16 Pledge under Department Circulars No. 154 and Public Debt Series No. 4-67.**

A bond may be pledged by the registered owner in lieu of surety under the provisions of Department Circular No. 154, current revision (31 CFR, Part 225), if the bond approving officer is the Secretary of the Treasury. In this case an irrevocable power of attorney shall be executed authorizing the Secretary of the Treasury to request payment. A bond may also be deposited as security with a Federal Reserve Bank under the provisions of Department Circular, Public Debt Series No. 4-67, current revision (31 CFR, Part 317).

## Subpart E—Limitation on Judicial Proceedings—No Stoppage or Caveats Permitted

**§ 315.20 General.**

(a) No judicial determination will be recognized which would give effect to an attempted voluntary transfer inter vivos of a bond, whether between persons designated thereon, or otherwise, or which would defeat or impair the rights of survivorship conferred by these regulations upon a surviving coowner or beneficiary, and all other provisions of this subpart are subject to this restriction. Otherwise, a claim against an owner or coowner of a savings bond and conflicting claims as to ownership of, or interest in, such bond as between coowners or between the registered owner and beneficiary will be recognized when established by valid judical proceedings, upon presentation and surrender of the bond, but only as specifically provided in this subpart.[6]

(b) Neither the Treasury Department nor any agency for the issue, reissue, or redemption of savings bonds will accept notices of adverse claims or of pending judicial proceedings or undertake to protect the interests of litigants who do not have possession of the bonds.

**§ 315.21 Payment to judgment creditors.**

(a) *Creditors.*—Payment (but not reissue) of a savings bond registered in single ownership, coownership, or beneficiary form will be made to the purchaser at a sale under a levy or to the officer authorized to levy upon the property of the registered owner or coowner under appropriate process to satisfy a money judgment. Payment will be made to such purchaser or officer only to the extent necessary to satisfy the judgment and will be limited to the redemption value current sixty days after the termination of judicial proceedings. Payment of a bond registered in coownership form pursuant to a judgment or levy against only one of the coowners will be limited to the extent of that coowner's interest in the bond. This interest may be established by an agreement between the coowner or by a judgment, decree, or order of court entered in a proceeding to which both coowners are parties.

(b) *Trustees in bankruptcy and receivers.*—Payment of a savings bond will be made to a trustee in bankruptcy, a receiver of an insolvent's estate, a receiver in equity, or a similar officer of the court, under the applicable provisions of paragraph (a) of this section, except that payment will be made at the redemption value current on the date of payment.

**§ 315.22 Payment or reissue pursuant to judgment.**

(a) *Divorce.*—A decree of divorce ratifying or confirming a property settlement agreement or otherwise settling the respective interests of the parties in a bond will not be regarded as a proceeding giving effect to an attempted voluntary transfer under the provisions of § 315.20. Accordingly, reissue of a savings bond may be made to eliminate the name of one spouse as owner, coowner, or beneficiary, or to substitute the name of one spouse for that of the other as owner, coowner, or beneficiary pursuant to such a decree. However, if the bond is registered in the name of one of the spouses with another person as coowner, there must be submitted either a request for reissue by such person or a certified copy of a judgment, decree, or order entered in a proceeding to which such other person and the spouse whose name is to be eliminated are parties determining the extent of the interest of that spouse in the bond and reissue will be permitted only to the extent of the spouse's interest. The evidence required under § 315.23 must be submitted in any case. Where the decree of divorce does not set out the terms of the property settlement agreement, a certified copy of the agreement must also be submitted. Payment rather than reissue will be made if requested.

(b) *Gifts causa mortis.*—A bond belonging solely to one person will be paid or reissued on the request of the person found by a court to be entitled thereto by reason of a gift causa mortis by the sole owner.

(c) *Date for determining rights.*—For the purpose of determining whether or not reissue shall be made under this section pursuant to judicial proceedings, the rights of all parties involved shall be those existing under these regulations at the time of the entry of the final judgment, decree, or order.

**§ 315.23 Evidence necessary.**

To establish the validity of judicial proceedings, there must be submitted certified copies of a final judgment, decree, or order of court and of any necessary supplementary proceedings. If the judgment, decree, or order of court was rendered more than six months prior to the presentation of the bond, there must also be submitted a certificate from the clerk of the court, under its seal, dated within six months of the presentation of the bond showing that the judgment, decree, or order of court is in full force. A request for payment by a trustee in bankruptcy must be supported by duly certified evidence of his appointment and qualification. A request for payment by a receiver of an insolvent's estate must be supported by a copy of the order appointing him, certified by the clerk of the court, under its seal, as being in full force on a date not more than six months prior to the date of the presentation of the bond. A request for payment by a receiver in equity or a similar officer of the court, other than a receiver of an insolvent's estate, must be supported by a copy of an order authorizing him to present the bond for redemption, certified by the clerk of the court, under its seal, as being in full force on a date not more than six months prior to the presentation of the bond.

## Subpart F—Relief for Loss, Theft, Destruction, Mutilation, Defacement, or Nonreceipt of Bonds

**§ 315.25 After receipt by owner or his representative.**

Relief, either by the issue of a substitute bond or by payment, is authorized for the loss, theft, destruction, mutilation, or defacement of a bond after receipt by the owner or his representative. As a condition for granting relief, the Secretary of the Treasury may require a bond of indemnity, in such form and with such surety as may be deemed necessary to protect the interests of the United States of America. In all cases the bond must be identified and the applicant must submit satisfactory evidence of loss, theft, or destruction, or a satisfactory explanation of the mutilation, or defacement.

**§ 315.26 Procedure to be followed.**

(a) Immediate notice of the facts concerning the loss, theft, destruction, mutilation, or defacement of a bond, together with its complete description (series, year, and month of issue, serial number, name and address of the registered owner or coowners), and the appropriate social security number, should be furnished to the Bureau of the Public Debt, P.O. Box 509, Parkersburg, West Virginia 26101. Defaced bonds and all available fragments of mutilated bonds in any form whatsoever should be submitted. That office will furnish the proper application form and instructions. The application must be made by the person or persons (including both coowners, if living), authorized under these regulations to request payment of the bond, except as follows:

(1) If the bond is in beneficiary form and the owner and beneficiary are both

[6] Title to a savings bond claimed by a finder or a purchaser will not be recognized.



V 38-174 SEP 10 73 XUM

living, both ordinarily will be required to join in the application.

(2) If a minor named on a bond as owner, coowner, or beneficiary is not of sufficient competency and understanding to request payment, both parents ordinarily will be required to join in the application.

### § 315.27 Nonreceipt of bond.

If a bond, on original issue or on reissue, is not received from the issuing agent by the registered owner or other person to whom delivery of the bond was directed, the issuing agent should be notified as promptly as possible and given all information available about the transaction. The agent will then obtain appropriate instructions and a form for applying for relief. Following approval of the application, relief will be granted by the issuance of a bond bearing the same issue date as the bond which was not received.

### § 315.28 Recovery or receipt of bond reported lost, stolen, destroyed or not received.

If a bond reported lost, stolen, destroyed, or not received, is recovered or received before relief is granted, the Bureau of the Public Debt should be notified promptly. A bond which is recovered after relief therefor has been granted belongs to the United States and shall be promptly surrendered for cancellation.

## Subpart G—Interest

### § 315.30 General.

The only savings bonds currently on sale are (a) Series E bonds, which are appreciation bonds issued at a discount and redeemable before final maturity at increasing redemption values; and (b) Series H bonds, which are current-income bonds issued at par (face amount), paying interest semiannually to maturity, or extended maturity, where authorized. Series H bonds are redeemable at par at any time after six months from issue date. Series E bonds, and Series H bonds having extended maturity periods, continue to earn interest when held to their final maturity dates.[1] Savings notes, the sale of which terminated at the close of business on June 30, 1970, have been extended for ten years.

### § 315.31 Series E bonds.

For the first six months from issue date, a Series E bond is redeemable only at purchase price. Thereafter, its redemption value increases at the beginning of each successive half-year period and at maturity, and at the beginning of each successive half-year period, and at final maturity.[1] The increment in value (interest) on a Series E bond is payable only on its redemption.

### § 315.32 Series H bonds.

(a) *Interest.*—Interest on a Series H bond is paid semiannually by check, beginning six months from issue date. Interest will cease at maturity or extended maturity for bonds having extended maturity periods, or if redeemed before maturity or extended maturity,[1] at the end of the interest period next preceding the date of redemption. However, if the date of redemption falls on an interest payment date, interest will cease on that date. For example, if a bond on which interest is payable on January 1 and July 1 is redeemed on September 1, interest will cease on the preceding July 1, and no adjustment of interest will be made for the period from July 1 to September 1. The same rules apply in case of partial redemption with respect to the amount redeemed.

(b) *Method of interest payments.*—Interest due on a Series H bond will be paid on each interest payment date by check drawn to the order of the person or persons in whose names the bond is inscribed, in the same form as their names appear in the inscription on the bond, and mailed to the address of record (that given for the delivery of interest checks in the application for purchase or the request for reissue or, if no instruction is given as to the delivery of interest checks, the address given for the owner or the first-named coowner), except that:

(1) In the case of a bond registered in the form "A payable on death to B" the check will be drawn to the order of "A" alone until the Bureau of the Public Debt receives notice of A's death. At that time the payment of interest will be suspended until the bond is presented for payment or reissue. Interest so withheld will be paid to the person entitled to the bond.

(2) Upon receipt of notice of the death of the coowner to whom interest is being mailed, payment of interest will be suspended until a request for change of address is received from the other coowner, if living, or, if not, until satisfactory evidence is submitted as to who is authorized to endorse and collect such checks on behalf of the estate of the last deceased coowner in accordance with the provisions of Subpart O.

(3) Upon receipt of notice of the death of the owner of a bond, payment of interest on the bond will be suspended until satisfactory evidence is submitted as to who is authorized to endorse and collect such checks on behalf of the estate of the decedent, in accordance with the provisions of Subpart O.

(4) Whenever practicable the accounts for all Series H bonds with the same inscription, on which interest is payable on the same dates, will be consolidated and a single check will be issued on each interest payment date for interest on all such bonds. The check inscription may vary from the inscriptions on the bonds in cases of very long inscriptions or where there is lack of uniformity in the inscriptions on the bonds.

(c) *Notices affecting delivery of interest checks.*—Notices affecting the delivery of interest checks on Series H bonds, including changes in addresses, should be sent to the Bureau of the Public Debt, 536 South Clark Street, Chicago, Illinois 60605. Each bond should be described in the notice by issue date (including year of issue), serial number, series, inscription appearing on the face of the bond, and the social security number furnished. Bonds should not be submitted. The notice must be signed by the owner or a coowner, or in the case of a minor or incompetent, as provided in (d) or (e) of this section. If the notice is not received at least one month before an interest payment date, no assurance can be given that action can be taken in time to make the change, or suspend the mailing of the interest due on that date.

(d) *Representative appointed for the estate of a minor, incompetent, absentee, etc.*—Interest on Series H bonds will be paid, in accordance with the provisions of § 315.50, to the representative appointed for the estate of an owner who is a minor, incompetent, absentee, etc. If the registration of the bonds does not include reference to the owner's status, the bonds should be submitted for reissue to the Bureau of the Public Debt, at the address shown in paragraph (c) of this section, or to a Federal Reserve Bank so that interest checks may be properly drawn and delivered. They must be accompanied by the proof of appointment required by § 315.50.

(e) *Adult incompetent's estate having no representative.*—If an adult owner of a Series H bond is incompetent to endorse and collect the interest checks and no legal guardian or similar representative has been appointed to act for him, the relative responsible for his care and support, or some other appropriate person, may apply to the Bureau of the Public Debt for recognition as voluntary guardian for the purpose of receiving, endorsing, and collecting the checks. Form PD 2513 should be used in making application for this purpose.

(f) *Reissue during interest period.*—Physical reissue of a Series H bond will be made as soon as practicable without regard to interest payment dates. If a bond is reissued between interest payment dates, interest for the entire period will ordinarily be paid on the next interest payment date by check drawn to the order of the person in whose name the bond is reissued. However, if reissue is made during a month preceding an interest payment date, the interest due on the first day of the next month may in some cases be paid to the former owner or the representative of his estate.

(g) *Endorsement of checks.*—Interest checks may be collected upon the endorsement of the payee or his authorized representative in accordance with the regulations governing the endorsement and payment of Government warrants and checks, which are contained in Department Circular No. 21, current revision (31 CFR, Part 360). A form for the appointment of an attorney in fact for this purpose may be obtained from the Office of the Treasurer of the United States or from any Federal Reserve Bank. If the owner is incompetent or deceased and no legal representative of his estate has been or will be appointed, the Bureau of the Public Debt (see (c) of this section for address), or a Federal Reserve Bank will furnish instructions upon request.

(h) *Nonreceipt or loss of check.*—If an interest check is not received or is lost after receipt, the Bureau of the Public Debt should be notified of the facts and given information concerning the amount, number, inscription of the bonds, and social security number, as well as a description of the check, if possible.

## Subpart H—General Provision for Payment and Redemption

### § 315.35 Payment or redemption.

(a) *General.*—Payment of a savings bond will be made to the person or persons entitled thereto under the provisions of these regulations, except that checks in payment will not be delivered to addresses in areas with respect to which the Department of the Treasury restricts or regulates the delivery of checks drawn against funds of the United States or any agency or instrumentality thereof.[2] Payment will be made without regard to any notice of adverse claims to a bond and no stoppage or caveat against payment of the bond will be entered. Pursuant to its terms, a savings bond may not be called for redemption by the Secretary of the Treasury prior to maturity, or the end of any authorized extension period. However, a bond may be redeemed in whole or in part at the option of the owner prior thereto, under the terms and conditions set forth in the offering circular for each series and in acordance with the provisions of these regulations. On or after the maturity date, or the final extended maturity date, the bond will be paid at the maturity value or the extended maturity value fixed by the terms of the circular and in no greater amount.

(b) *Series E.*—A Series E bond will be redeemed at any time after two months from issue date at the appropriate redemption value shown in the revision of Department Circular No. 653 current at the time of redemption.

(c) *Series H.*—A Series H bond will be redeemed at par after six months from issue date. However, a bond received for redemption during the calendar month preceding an interest payment date will not be redeemed until that date. On or after the maturity date, or the final extended maturity date, a bond presented for redemption will be paid at par.

### § 315.36 Withdrawal of request for redemption.

An owner or a coowner who has presented and surrendered a bond to the Department of the Treasury or a Federal Reserve Bank or Branch or to an authorized paying agent with an appropriate request for payment may withdraw such request if notice of intent to withdraw is given to and received by the same agency to which the bond was presented for payment prior to the issuance of a check in payment or prior to payment by the authorized paying agent. Such request may be withdrawn under the same conditions by the executor or administrator of the estate of a deceased owner or by the person or persons who would have been entitled to the bond under Subpart O, or by the legal representative of the estate of a person under legal disability, unless presentation and surrender of the bond have cut off rights of survivorship under the provisions of Subpart M or Subpart N.

### § 315.37 Requests for payment.

(a) *Form and execution of requests.*—A request for payment of a bond must be executed on the form appearing on the back of the bond unless (1) the bond is accepted by an authorized paying agent for payment or for presentation to a Federal Reserve Bank for payment without the owner's signature to the request for payment under the provisions of Department Circular No. 888, current revision (31 CFR, Part 330), or (2) authority is given for the execution of a separate or detached request.

(b) *Date of request.*—Ordinarily, requests executed more than six months before the date of receipt of a bond for payment will not be accepted; nor will a bond ordinarily be accepted for redemption more than three calendar months prior to the date redemption is requested under these regulations.

(c) *Identification and signature.*—Unless the bond is presented under provisions of paragraph (a) of this section or paragraph (b) of § 315.38, the owner or a coowner whose name is inscribed on the bond, or other persons entitled to payment under the provisions of these regulations, must appear before and establish his identity to an officer authorized to certify requests for payment (see Subpart I), and in the presence of such officer sign the request for payment in ink, adding in the space provided the address to which the check issued in payment is to be mailed. A signature by mark (X) must be witnessed by at least one disinterested person in addition to the certifying officer and must be attested by endorsement in the blank space, substantially as follows: "Witness to signature by mark" followed by the signature and address of the witness. If the name of the owner, coowner or other person entitled to payment, as it appears in the registration or in evidence on file in the Bureau of the Public Debt, has been changed by marriage or in any other legal manner, the signature to the request for payment must show both names and the manner in which the change was made, for example, "Mrs. Mary T. Jones Smith (Mrs. Mary T. J. Smith or Mrs. Mary T. Smith) changed by marriage from Miss Mary T. Jones," or "John R. Young, changed by order of court from Hans R. Jung." (See Sec. 315.49.) No request signed in behalf of the owner, a coowner or person entitled to payment by an agent or a person acting under a power of attorney will be recognized by the Department of the Treasury, except when the bond has been pledged in lieu of surety under Department Circular No. 154, current revision (31 CFR, Part 225), as provided in § 315.16.

(d) *Certification of request.*—After the request for payment has been signed by the owner, the certifying officer should complete and sign the certificate thereunder and the bond should then be presented and surrendered as provided in Sec. 315.38(a).

### § 315.38 Presentation and surrender.

(a) *All series.*—Except for cases coming within the provisions of paragraph (b) of this section, after the request for payment has been duly signed by the owner and certified as provided in Subpart I, the bond should be presented and surrendered to (1) a Federal Reserve Bank or Branch, (2) the Bureau of the Public Debt, or (3) the Office of the Treasurer of the United States, Securities Division. Usually, payment will be expedited by surrender to a Federal Reserve Bank or Branch. In all cases presentation will be at the expense and risk of the owner. Payment will be made by check drawn to the order of the registered owner or other person entitled and mailed to the address given in the request for payment or, if no address is given, to the address shown in instructions accompanying the bond.

(b) *Optional procedure for bonds of Series A to E, inclusive, in the names of individual owners or coowners only.* A natural person whose name is inscribed on the face of a bond of Series A, B, C, D, or E, either as owner or coowner in his own right, may present such bond for redemption to an authorized paying agent. If such a person is not known to the paying agent, he must establish his identity to the agent. (See § 315.43.) Such owner or coowner must sign the request for payment, and add his home or business address. Even though the request for payment may have been signed, or signed and certified, before presentation of the bond, the representative of the paying agent must be satisfied that the person presenting the bond for payment is the owner or coowner and may require him to sign the request for payment again. If the bond is in order for payment, the paying agent will make immediate payment at the appropriate redemption value without charge to the owner or co-

[1] See Appendices to current revisions of Department Circulars No. 653 and No. 905 (31 CFR Parts 316 and 332) concerning extensions and investment yields for Series E and Series H bonds, respectively. See Department Circular, Public Debt Series No. 3–67, Revised, as amended (31 CFR Part 342), concerning the extension and investment yields for savings notes (Freedom Shares).

[2] See Department Circular No. 655, current revision (31 CFR, Part 211).





V 38-174 SEP 10 73 XUM

owner. This procedure is not applicable to partial redemption cases, or deceased owner cases, or other cases in which documentary evidence is required.

**§ 315.39 Partial redemption.**

A bond of any series may be redeemed in part at current redemption value, but only in amounts corresponding to authorized denominations, upon presentation and surrender of the bond in accordance with § 315.38(a). In any case in which partial redemption is authorized, before the request for payment is signed, the phrase "to the extent of $_____ (face amount) and reissue of the remainder" should be added to the first sentence of the request. Upon partial redemption of the bond, the remainder will be reissued as of the original issue date, as provided in Subpart J. For payment of interest on Series H bonds in case of partial redemption, see Subpart G of this part.

**§ 315.40 Nonreceipt or loss of check issued in payment.**

In case a check in payment of a bond surrendered for redemption is not received within a reasonable time, or the check is lost after receipt, notice should be given to the same agency to which the bond was surrendered for payment, accompanied by a description of the bond by series, denomination, serial number, registration, and social security number. The notice should state whether or not the check was received and should give the date upon which the bond was surrendered for payment.

## Subpart I—Certifying Officers

**§ 315.42 Persons who may certify.**

The following persons are authorized to act as certifying officers for the purpose of certifying requests for payment and forms with respect to bonds:

(a) *At United States post offices.*—Any postmaster, officer-in-charge or other post office official or clerk designated for that purpose. One or more of these officials will be found at every United States post office, classified branch, or station. A post office official or clerk, other than a postmaster or officer-in-charge, should certify in the name of the postmaster or officer-in-charge, followed by his own signature and official title, for example, "John Doe, postmaster, by Richard Roe, his designee." Signatures of these officers should be authenticated by a legible imprint of the post office dating stamp.

(b) *At banks, trust companies and member organizations of the Federal Home Loan Bank System.*—Any officer of any bank or trust company incorporated in the United States, its territories or possessions, or the Commonwealth of Puerto Rico, any Federal Savings and Loan Association or other organization which is a member of the Federal Home Loan Bank System, or a domestic or foreign branch of any such institution; any officer of a Federal Reserve Bank, Federal Land Bank, or Federal Home Loan Bank; any employee of any such institution expressly authorized by it for that purpose, who must sign over the title "Designated Employee"; and Federal Reserve Agents and Assistant Agents located at the several Federal Reserve Banks. Certifications by any of these officers or designated employees must be authenticated by either a legible impression of the corporate seal of the institution or, in the case of organizations which are authorized issuing agents for bonds of Series E, by a legible imprint of the issuing agent's dating stamp.

(c) *Issuing agents not banks or trust companies.*—Any officer of a corporation not a bank or trust company and of any other organization which is an authorized issuing agent for bonds of Series E. All certifications by such officers must be authenticated by a legible imprint of the issuing agent's dating stamp.

(d) *Commissioned and warrant officers of Armed Forces.*—Commissioned and warrant officers of any of the Armed Forces of the United States, but only for members and the families of members of their respective services and civilian employees at Posts or Bases or Stations. Such certifying officer should indicate his rank and state that the person signing the request is one of the class whose request he is authorized to certify.

(e) *United States officials.*—Judges, clerks, and deputy clerks of United States courts, including United States courts for the territories, possessions, the Commonwealth of Puerto Rico, and the Canal Zone; United States Commissioners; United States Attorneys; United States Collectors of Customs and their deputies; Regional Commissioners, District Directors, Service Center Directors, and Internal Revenue agents, Internal Revenue Service; the officer in charge of any home, hospital, or other facility of the Veterans Administration, but only for patients and employees of such facilities; certain officers of Federal penal institutions designated for that purpose by the Secretary of the Treasury; certain officers of the United States Public Health Service Hospitals at Lexington, Kentucky, and Carville, Louisiana, designated for that purpose by the Secretary of the Treasury (in each case, however, only for patients or employees of the institution involved).

(f) *Officers authorized in particular localities.*—Certain designated officers in the Department of the Treasury; the Governor and Treasurer of Puerto Rico; the Governor and Commissioner of Finance of the Virgin Islands; the Governor and Director of Finance of Guam; the Governor and Director of Administrative Services of American Samoa; the Governor, paymaster, or acting paymaster and collector or acting collector of the Panama Canal; and postmasters and acting postmasters of the Bureau of Posts of the Canal Zone.

(g) *In foreign countries.*—In a foreign country requests for payment may be signed in the presence of and be certified by any United States diplomatic or consular representative, or the manager or other officer of a foreign branch of a bank or trust company incorporated in the United States whose signature is attested by an impression of the corporate seal or is certified to the Department of the Treasury. If such an officer is not available, requests for payment may be signed in the presence of and be certified by a notary or other officer authorized to administer oaths, but his official character and jurisdiction should be certified by a United States diplomatic or consular officer under seal of his office.

(h) *Special provisions.*—In the event no officer authorized to certify requests for payment of bonds is readily accessible, the Commissioner of the Public Debt, a designated official of the Bureau of the Public Debt, the Treasurer of the United States, or any Federal Reserve Bank or Branch is authorized to make special provision for any particular case.

**§ 315.43 General instructions to certifying officers.**

A certifying officer should require that a person presenting bonds, or forms with respect thereto, establish his identity by positive and reliable evidence before the bonds or forms are signed, unless the presenter is personally well known to the officer. Such officer and, if he is an officer or employee of an organization, the organization, will be held fully responsible for the adequacy of the identification. The certifying officer should place an adequate notation on the back of the bond or form, or on a separate record, showing exactly how identification was established. The certifying officer must affix to the certification his official signature, title, seal or dating stamp, address (if not shown in the seal or stamp), and the date of execution. Officers of the Public Health Service Hospitals, Veterans Administration Facilities and Federal penal institutions should use the seal of the particular institution or service, where such seal is available. A certifying officer, other than a post office official, officer of a bank or trust company, or officer of an issuing agent, who does not possess an official seal, should add a statement to that effect to his certification.

**§ 315.44 Interested person not to certify.**

A certifying officer may not certify a request for payment of a bond, or a form with respect to a bond, in which he has or is acquiring an interest, either in his own right or in a representative capacity.

## Subpart J—Reissue and Denominational Exchange

**§ 315.45 General.**

Reissue of a bond may be made only under the conditions specified in these regulations. Reissue is not authorized solely for the purpose of effecting an exchange as between authorized denominations, but in the case of authorized re-issue the new bond or bonds may be issued in any authorized denomination or denominations.

Reissue will not be made if the request therefor is received less than one full calendar month before the final maturity date of a bond. Such request, however, will be effective to establish





ownership as though the requested reissue had been made.

(a) A request for reissue of a bond received on or after its final maturity date will not be effective to name a coowner or beneficiary or to promote a beneficiary to a coowner, but requests for reissue in the names of persons who have become entitled by operation of law will be recognized as establishing the right of those persons to receive payment. Reissues under the provisions of this subpart may be made only at (1) a Federal Reserve Bank or Branch, (2) the Bureau of the Public Debt, or (3) the Office of the Treasurer of the United States, Securities Division.

**§ 315.46 Requests for reissue.**

A request for reissue should be made on the prescribed form by the person authorized under these regulations to make such request. Appropriate forms may be obtained from any Federal Reserve Bank, the Office of the Treasurer of the United States, Securities Division, or the Bureau of the Public Debt.

**§ 315.47 Effective date.**

In any case of authorized reissue, the Department of the Treasury will treat the receipt by (a) a Federal Reserve Bank or Branch, or (b) the Bureau of the Public Debt, or (c) the Office of the Treasurer of the United States, Securities Division, of a bond and an appropriate request for reissue thereof as determining the date upon which the reissue is effective. If the owner or either coowner of a bond dies after he has presented and surrendered the bond for authorized reissue, the bond will be regarded as though reissued in the decedent's lifetime.

**§ 315.48 Correction of errors.**

Reissue of a bond may be made to correct an error in the original issue, upon appropriate request supported by satisfactory proof of the error.

**§ 315.49 Change of name.**

An owner, coowner, or beneficiary whose name is changed by marriage, divorce, annulment, order of court, or in any other legal manner after the issue of a bond should submit the bond with a request on Form PD 4000 for reissue to substitute the new name for the name inscribed on the bond. The signature to the request for reissue should show the new name, the manner in which the change was made and the former name. Documentary evidence, properly certified, may be required in any appropriate case.

## Subpart K—Minors, Incompetents, Aged Persons, Absentees, Etc.

**§ 315.50 Payment to representative of estate.**

(a) If the registration of a bond shows the name of the representative of the estate of the owner or a coowner who is a minor, an incompetent, aged person, absentee, etc., the representative may obtain payment of the bond without submitting evidence of his representative capacity. In the event the representative's name is not shown, a certificate, or a certified copy of the letters of appointment, from the court making the appointment, under court seal, or other proof of qualification if not appointed by a court, must be submitted. Except in the case of corporate fiduciaries, such evidence must show that the appointment is in full force and be dated not more than one year prior to presentation of the bond for payment. After the death of the ward, and at any time prior to his discharge, the representative of the estate will be entitled to obtain payment of a bond to which the ward was solely entitled. The request for payment appearing on the back of a bond must be signed by the representative as such, for example, "John S. Jones, guardian (committee) of the estate of Henry W. Smith, a minor (an incompetent)."

(b) If the form of registration does not indicate there is a representative of the estate of a minor owner or coowner, a notice that there is such a representative will not be accepted for the purpose of preventing payment to the minor or to a parent or other person on behalf of the minor, as provided in §§ 315.51 and 315.52.

**§ 315.51 Payment to minors.**

If the owner of a savings bond is a minor and the form of registration does not indicate that there is a representative of his estate, payment will be made to him upon his request, provided he is of sufficient competency to sign his name to the request for payment and to understand the nature of the transaction. In general, the fact that the request for payment has been signed by a minor and duly certified will be accepted as sufficient proof of competency and understanding.

**§ 315.52 Payment to a parent or other person on behalf of a minor.**

If the owner of a savings bond is a minor and the form of registration does not indicate that there is a representative of his estate, and if such minor owner is not of sufficient competency to sign his name to the request for payment and to understand the nature of the transaction, payment will be made to either parent with whom he resides or, if the minor does not reside with either parent, then to the person who furnishes his chief support. His parent or the person furnishing his chief support should execute the request for payment and furnish a certificate, which may be typed or written on the back of the bond, as to his right to act for the minor. If a parent signs the request, the certificate and signature thereto should be in substantially the following form:

> I certify that I am the mother of John C. Jones and the person with whom he resides. He is ____ years of age and is not of sufficient competency and understanding to make this request.
>
> Mrs. Mary Jones on behalf of
> John C. Jones.

If a person other than a parent signs the request, the certificate and signature thereto, including a reference to the person's relationship, if any, to the minor, should be in substantially the following form:

> I certify that John C. Jones does not reside with either parent and that I furnish his chief support. He is ____ years of age and is not of sufficient competency and understanding to make this request.
>
> Mrs. Alice Brown, grandmother,
> on behalf of John C. Jones.

**§ 315.53 Payment or reinvestment upon request of voluntary guardian of incompetent.**

If the adult owner of bonds is incompetent to request and receive payment thereof and no other person is legally qualified to do so, the relative responsible for his care and support or some other person may submit an application seeking recognition as voluntary guardian for the purpose of redeeming the bonds in the following situations:

(a) If the proceeds of the bonds are needed to pay expenses already incurred, or to be incurred during any 90-day period, for the support of the incompetent or his legal dependents;

(b) If the bonds have matured and it is desired to redeem them and reinvest the proceeds in savings bonds. The proceeds of any matured appreciation type bonds ordinarily will be required to be reinvested in Series E bonds. The proceeds of matured current income bonds may be invested in Series H or Series E bonds. The new bonds must be registered in the name of the incompetent followed by words showing he is under voluntary guardianship, for example, "John Jones 123-45-6789 under voluntary guardianship." A living coowner or beneficiary named on the matured bonds must be designated on the new bonds unless he is a competent adult and furnishes a certified statement consenting to omission of his name. If an amount insufficient to purchase an additional bond of any authorized denomination of any series remains after the reinvestment, the voluntary guardian may, if he so desires, furnish additional funds sufficient to purchase another bond of either series in the lowest available denomination. If additional funds are not furnished, the remaining amount will be paid to the voluntary guardian for the use and benefit of the incompetent.

**§ 315.54 Reissue.**

A bond of which a minor or other person under legal disability is the owner or in which he has an interest may be reissued upon an authorized reissue transaction under the following conditions:

(a) A minor of sufficient competency to sign his name to the request and to understand the nature of the transaction may request reissue to add a coowner or beneficiary to a bond registered in his name alone or to which he is entitled in his own right.

(b) A bond on which a minor is named as beneficiary or coowner may be reissued in the name of a custodian for the minor under a statute authorizing gifts to minors upon the request of the adult whose name appears on the bond as owner or coowner.



V 38-174 SEP 10 73 XUM

(c) Except to the extent provided in paragraphs (a) and (b), above, and in paragraph (c) of § 315.61, reissue will be restricted to a form of registration which does not adversely affect the existing ownership or interest of the minor or such other person. Requests for reissue should be executed by the person authorized to request payment under §§ 315.50 and 315.52, or who may request recognition as voluntary guardian under § 315.53, and in the same manner.

### Subpart L—Natural Person as Sole Owner

#### § 314.55 Payment.

A savings bond registered in the name of a natural person in his own right, without a coowner or beneficiary, will be paid to him during his lifetime under Subpart H. Upon the death of the owner such bond will be considered as belonging to his estate and will be paid under Subpart O, except as otherwise provided in these regulations.

#### § 315.56 Reissue for certain purposes.

A savings bond registered in the name of a natural person in his own right may be reissued upon appropriate request by him (subject to the provisions of § 315.54), upon presentation and surrender during his lifetime, for the following purposes:

(a) *Addition of a coowner or beneficiary.*—To name another natural person as coowner or as beneficiary. Form PD 4000 should be used.

(b) *Divorce or annulment.*—To name as registered owner the other party to a divorce or annulment occurring after issue of the bond. Form PD 3360 should be used.

(c) *Certain degrees of relationship.*—To name as registered owner a person related to the owner as set forth in § 315.61(a)(2), with a beneficiary or coowner, if so desired. (Form PD 3360 may be used.)

(d) *Trustees.*—To name the trustee of (1) a personal trust estate created by the owner, or (2) a personal trust estate created by other than the owner provided (i) the owner is a beneficiary of the trust, or (ii) a beneficiary of the trust and the owner are related as set forth in § 315.61 (a)(2). (Form PD 1851 may be used.)

### Subpart M—Two Natural Persons as Coowners

#### § 315.60 Payment during the lives of both coowners.

A savings bond registered in coownership form, for example, "John A. Jones or Mrs. Mary C. Jones," will be paid to either upon his separate request, and upon payment to him the other shall cease to have any interest in the bond. If both request payment jointly, payment will be made by check drawn to their order jointly, for example, "John A. Jones AND Mrs. Mary C. Jones."

#### § 315.61 Reissue during the lives of both coowners.

(a) *General.*—A bond registered in coownership form may be reissued upon its presentation and surrender during the lifetime and competency of both coowners, upon the request of both, under the following conditions:

(1) *Marriage, divorce, or annulment of marriage.*—If one of the coowners marries, or if they are divorced or legally separated from each other, or their marriage to each other is annuled after issue of the bond, the bond may be reissued in the name of either coowner alone, or with another natural person as the new coowner or beneficiary.

(2) *Related coowners.*—If the coowners are related as: husband, wife; parent, child (including child by legal adoption or stepchild); brother, sister (including the half blood, stepbrother, stepsister, or brother or sister through adoption); grandparent, grandchild, great grandparent, great grandchild; uncle, aunt, nephew, niece (including a child of a brother or sister of the present spouse); granduncle, grandaunt, grandnephew, grandniece; father-in-law, mother-in-law, son-in-law, daughter-in-law; brother-in-law, sister-in-law—the bond may be issued in the name of:

(i) Either coowner alone, or with another natural person as the new coowner or beneficiary;

(ii) A third person related to either coowner in any of the foregoing degrees of relationship, with another natural person as coowner or beneficiary, if so desired (Form PD 1938 may be used for any of the above classes.); or

(iii) The trustee of (*a*) a personal trust estate created by either of them, or (*b*) a personal trust estate created by some other person provided (*1*) either coowner is a beneficiary of the trust, or (*2*) a beneficiary of the trust is related to either coowner in any of the foregoing degrees of relationship. (Form PD 1851 may be used.)

(3) A request for reissue to eliminate the name of one coowner may be signed by that coowner only.

(4) The provisions of this section do not apply to bonds on which the Treasurer of the United States is named as coowner.

(b) *Minor coowners.*—A minor coowner for whose estate no representative has been appointed may be promoted to sole owner upon the request of the competent coowner. A competent coowner may, upon his own request have the bond reissued to remove his name and name a custodian for the minor under a statute authorizing gifts to minors. A request for reissue signed by a minor coowner of sufficient competency to sign his name to the request and understand the nature of the transaction, and for whose estate no representative has been appointed, will be recognized if the bond is to be reissued in his name with a new coowner or beneficiary. A request for reissue to eliminate the name of a minor coowner will be recognized only if supported by evidence that a court has ordered the representative of his estate to request such reissue (see § 315.23).

(c) *Incompetent coowners.*—Reissue will not be made if one coowner is incompetent and a representative of the incompetent's estate has not been appointed by a court, except to add "under voluntary guardianship" after his name or to eliminate the other coowner from the registration. If there is a representative, the provisions of paragraph (b) of this section apply as to his execution of a request for reissue.

#### § 315.62 After the death of one or both coowners.

If either coowner dies without the bond having been presented and surrendered for payment or authorized reissue, the survivor will be recognized as the sole and absolute owner. Thereafter, payment or reissue will be made as though the bond were registered in the name of the survivor alone (see Subpart L of this part). However, a request for reissue by him must be supported by proof of death of the other coowner, and if the bond is still outstanding at the death of the survivor, proof of death of both coowners will be required. The presentation and surrender of a bond by one coowner for payment establishes his right to receive the proceeds of the bond, and if he should die before the transaction is completed, payment will be made to the legal representative of, or persons entitled to, his estate in accordance with the provisions of Subpart O. If either coowner dies after the bond has been presented and surrendered for authorized reissue (see § 315.47), the bond will be regarded as though reissued during his lifetime.

#### § 315.63 Upon death of both coowners in a common disaster, etc.

If both coowners die under such conditions that it cannot be established either by presumption of law or otherwise which died first, the bond will be considered as belonging to the estates of both equally, and payment or reissue will be made accordingly. (See Subpart O of this part.)

### Subpart N—Two Natural Persons as Owner and Beneficiary

#### § 315.65 Payment during the lifetime of the registered owner.

A savings bond registered in beneficiary form, for example, "John A. Jones payable on death to Mrs. Mary C. Jones," will be paid to the registered owner during his lifetime upon his properly executed request as though no beneficiary had been named in the registration. The presentation and surrender of the bond by the registered owner for payment establishes his exclusive right to the proceeds of the bond, and if he should die before the transaction is completed, payment will be made to the legal representative of, or the persons entitled to, his estate upon receipt of proof of appointment and qualification of the representative or the identity of the persons entitled, in accordance with the provisions of Subpart O of this part.

#### § 315.66 Reissue during the lifetime of the registered owner.

A savings bond registered in beneficiary form may be reissued upon its presentation and surrender during the lifetime of the registered owner, upon his request, as follows:





(a) To name the beneficiary designated on the bond as coowner. (Form PD 4000 may be used.)

(b) To eliminate his name as owner and to name as owner a custodian for the beneficiary, if a minor, under a statute authorizing gifts to minors. (Form PD 3360 may be used.)

(c) To eliminate the beneficiary, to substitute another natural person as beneficiary, or to name another natural person as coowner. The request of the owner must be supported by the duly certified consent of the beneficiary to elimination of his name, or by proof of his death. (Form PD 4000 may be used.)

(d) To eliminate his name as owner and to name as owner the trustee of (1) a personal trust estate created by the owner, or (2) a personal trust estate created by other than the owner if (i) the owner is a beneficiary of the trust, or (ii) a beneficiary of the trust and the owner are related as set forth in § 315.61 (a)(2). The request of the owner must be supported by the duly certified consent of the beneficiary, or by proof of his death. (Form PD 1851 may be used.)

(e) The provisions of this section do not apply to bonds on which the Treasurer of the United States is named as beneficiary.

#### § 315.67 After the death of the registered owner.

If the registered owner dies without the bond having been presented and surrendered for payment or authorized reissue and is survived by the beneficiary, upon proof of death of the owner the beneficiary will be recognized as the sole and absolute owner, and payment or reissue will be made as though the bond were registered in his name alone. (See Subpart L of this part.)

### Subpart O—Deceased Owners

#### § 315.70 General.

Upon the death of the owner of a savings bond who is not survived by a coowner or designated beneficiary and who had not during his lifetime presented and surrendered the bond for payment or an authorized reissue, the bond will be considered as belonging to his estate and will be paid or reissued accordingly as hereinafter provided, except that reissue under this subpart will not be permitted if otherwise in conflict with these regulations. If the person entitled is an alien who is a resident of an area with respect to which the Department of the Treasury restricts or regulates the delivery of checks drawn against funds of the United States of American or any agency or instrumentality thereof, payment of, and interest on, a bond will not be made so long as the restriction applies.[3] A creditor is entitled only to payment of a bond to the extent of not more than his claim.

[3] See Department Circular No. 655, current revision (31 CFR, Part 211).

#### § 315.71 Special provisions applicable to small amounts of savings bonds, interest checks or redemption checks.

Entitlement to, or the authority to dispose of, a small amount of bonds and checks issued in payment thereof or in payment of interest thereon, belonging to the estate of a decedent, may be established through the use of certain short forms, according to the aggregate face amount of bonds and checks involved (excluding checks representing interest on the bonds), as indicated by the following table:

| Amount | Circumstances | Form | To be executed by— |
|---|---|---|---|
| $100 | No administration | PD 2216 | Person who paid burial expenses. |
| 500 | Estate being administered | PD 2488-1 | Executor or administrator. |
| 500 | Estate settled | PD 2458 | Former executor or administrator, attorney or other qualified person. |

#### § 315.72 Estates administered.

(a) *In course of administration.*—If the estate of a decedent is being administered in court, the bond will be paid to the duly qualified representative of the estate or will be reissued in the names of the persons entitled to share in the estate, upon the request of the representative and compliance with the following requirements:

(1) Where there are two or more legal representatives, all must join in the request for payment or reissue, except as provided in §§ 315.77 and 315.78.

(2) The request for payment or reissue should be signed in the form, for example, "John A. Jones, administrator of the estate (or executor of the will) of Henry W. Jones, deceased," and must be supported by proof of the representative's authority in the form of a court certificate or a certified copy of the representative's letters of appointment. The certificate or the certification to the letters must be under seal of the court and, except in the case of a corporate representative, must contain a statement that the appointment is in full force and should be dated within six months of the date of presentation of the bond, unless the certificate or letters show that the appointment was made within one year immediately prior to such presentation.

(3) In case of reissue the legal representative of the estate should certify that each person in whose name reissue is requested is entitled to the extent specified for each and has consented to such reissue. A request for reissue by the legal representative should be made on Form PD 1455. If a person in whose name reissue is requested desires to name a coowner or beneficiary, such person should execute an additional request for that purpose, using Form PD 4000.

(b) *After settlement through court proceedings.*—If the estate of the decedent has been settled in court, the bond will be paid to, or reissued in the name of, the person entitled thereto as determined by the court. The request for payment or reissue should be made by the person shown to be entitled, supported by a duly certified copy of the representative's final account as approved by the court, decree of distribution, or other pertinent court records, supplemented, if there are two or more persons having an apparent interest in the bond, by an agreement executed by them concerning the disposition of the bond. Form PD 4000 should be used by the person entitled if he wishes to name a coowner or beneficiary.

#### § 315.73 Estates not administered.

(a) *Special provisions under State laws.*—If, under State law, a person has been recognized or appointed to receive or distribute the assets of a decedent's estate without regular administration, his request for payment or reissue of a bond to the person or persons entitled will be accepted provided he submits appropriate evidence of his authority.

(b) *Agreement of persons entitled.*—When it appears that no legal representative of a decedent's estate has been or will be appointed, the bond will be paid to, or reissued in the name of, the person or persons entitled, including those entitled as donees of a gift causa mortis, pursuant to an agreement and request by all persons entitled to share in the decedent's personal estate. A form of agreement for settlement without administration, Form PD 1946–1, should be used for cases in which the total face amount of bonds and redemption and interest checks belonging to the decedent's estate is in excess of $500. If the total face amount does not exceed $500, Form PD 1946 may be used. Should the persons entitled to share in the personal estate include minors or incompetents, payment or reissue of the bonds will not be permitted without administration except to them or in their names, unless their interests are otherwise protected.

### Subpart P—Fiduciaries

#### § 215.75 Payment.

A savings bond registered in the name of a fiduciary or otherwise belonging to a fiduciary estate will be paid to the fiduciary or fiduciaries in accordance with the provisions of Secs. 315.77 and 315.78.

#### § 315.76 Reissue.

(a) *In the name of person entitled—*(1) *Distribution of trust estate in kind.*—A bond to which a beneficiary of a trust estate has become lawfully entitled in his own right or in a fiduciary capacity, in whole or in part, under the terms of a trust instrument, will be reissued in his name to the extent of his interest, upon



V 38 I 174 SEP 10 73 XUM

the trustee's request and its certification that such person is entitled and has agreed to reissue in his name.

(2) *After termination of trust estate.*—If the person who would be lawfully entitled to a bond upon the termination of a trust does not desire to have distribution made to him in kind, as provided in paragraph (a) (1) of this section, the trustee should present the bond for payment before the estate is terminated. If, however, the estate is terminated without payment or reissue having been made, the bond will thereafter be paid to or reissued in the name of the person lawfully entitled upon his request and satisfactory proof of ownership, supplemented, if there are two or more persons having any apparent interest in the bond, by an agreement executed by all such persons concerning the disposition of the bond.

(3) *Upon termination of guardianship estate.*—If the estate of a minor or incompetent or of an absentee is terminated during the ward's lifetime, a bond registered to show that there is a representative of the estate will be reissued in the name of the former ward upon the representative's request and certification that the former ward is entitled and has agreed to reissue in his name (Form PD 1455 should be used), or will be paid to or reissued in the name of the former ward upon his own request, supported in either case by satisfactory evidence that his disability has been removed or that an absentee has returned to claim his property. Certification by the representative that a former minor has attained his majority, that a former incompetent has been legally restored to competency, that a legal disability of a female ward has been removed by marriage, if the state law so provides, or that an absentee has appeared to claim his property, will ordinarily be accepted as sufficient (see § 315.77 if the representative's name is not shown in the registration). Upon the termination of the estate as the result of the death of the ward, a bond registered to show that there is a representative of his estate will be reissued in accordance with the provisions of Subpart O of this part.

(4) *Upon termination of life estate.*—Upon the death of a life tenant, a bond registered in his name as life tenant may be reissued in the name of the person or persons entitled pursuant to an agreement and request of all of the persons having an interest in the remainder.

(b) *In the name of a succeeding fiduciary.*—If a fiduciary in whose name a bond is registered has been succeeded by another, the bond will be reissued in the name of the succeeding fiduciary upon appropriate request and satisfactory evidence of successorship. Form PD 1455 should be used.

(c) *In the name of financial institution as trustee of common trust fund.*—A bond held by a bank, trust company, or other financial institution as a trustee, guardian or similar representative, executor or administrator may be reissued in its name as trustee of its common trust fund to the extent that participation therein by the institution in such capacity is authorized by law or applicable regulations. A request for reissue to the institution as trustee of its common trust fund should be executed on its behalf in the capacity in which the bond is held and by the cofiduciary, if any. Form PD 1455 should be used.

### § 315.77 Requests for reissue or payment prior to maturity or extended maturity.

The following rules apply to both requests for reissue and payment by fiduciaries: A request for reissue or payment prior to maturity, or final extended maturity, as appropriate, must be signed by all acting fiduciaries unless by express statute, decree of court, or the terms of the instrument under which the fiduciaries are acting, one or more of them may properly execute the request. If the fiduciaries named in the registration are still acting, no further evidence of authority will be required. Otherwise, a request must be supported by evidence as specified below:

(a) *Fiduciaries by title only.*—If the bond is registered in the titles, without the names, of fiduciaries not acting as a board, satisfactory evidence of their incumbency must be furnished, except in the case of bonds registered in the title of public officers as trustees.

(b) *Succeeding fiduciaries.*—If the fiduciaries in whose names the bond is registered have been succeeded by other fiduciaries, satisfactory evidence of successorship must be furnished.

(c) *Boards, committees, etc.*—A savings bond registered in the name of a board, committee, commission, or other body, empowered to act as a unit and to hold title to the property of a religious, educational, charitable, or nonprofit organization or public corporation will be paid upon a request for payment signed in the name of the board or other body by an authorized officer or employee thereof. A request so signed and duly certified will ordinarily be accepted without further evidence of the signer's authority. The check in payment of the bond will be drawn in the name of the board or other body as fiduciary for the organization named in the registration or shown by satisfactory evidence to be entitled as successor thereto.

(d) *Corporate fiduciaries.*—If a public or private corporation or a political body, such as a state or county, is acting as a fiduciary, a request must be signed in the name of the corporation or other body, in the fiduciary capacity in which it is acting, by an authorized officer thereof. A request so signed and duly certified will ordinarily be accepted without further evidence of the officer's authority.

(e) *Registration not disclosing trust or other fiduciary estate.*—If the registration of the bond does not show that it belongs to a trust or other fiduciary estate or does not identify the estate to which it belongs, satisfactory evidence of ownership must be furnished in addition to any other evidence required by this section.

### § 315.78 Requests for payment at or after maturity.

A request, signed by any one or more acting fiduciaries, for payment at or after the maturity date, or an extended maturity date for bonds having extended maturity periods, will be accepted. Payment ordinarily will be made by check drawn as the bond is inscribed.

## Subpart Q—Private Organizations (Corporations, Associations, Partnerships, Etc.) and Governmental Agencies, Units and Officers

### § 315.80 Payment to corporations or unincorporated associations.

A savings bond registered in the name of a private corporation or an unincorporated association will be paid to the corporation or unincorporated association upon a request for payment on its behalf by a duly authorized officer thereof. The signature to the request should be in the form, for example, "The Jones Coal Company, a corporation, by John Jones, President," or "The Lotus Club, an unincorporated association, by William A. Smith, Treasurer." A request for payment so signed and duly certified will ordinarily be accepted without further evidence of the officer's authority.

### § 315.81 Payment to partnerships.

A savings bond registered in the name of an existing partnership will be paid upon a request for payment signed by a general partner. The signature to the request should be in the form, for example, "Smith and Jones, a partnership, by John Jones, a general partner." A request for payment so signed and duly certified will ordinarily be accepted as sufficient evidence that the partnership is still in existence and that the person signing the request is duly authorized.

### § 315.82 Reissue or payment to successors of corporations, unincorporated associations, or partnerships.

A savings bond registered in the name of a private corporation, an unincorporated association, or a partnership which has been succeeded by another corporation, unincorporated association, or partnership by operation of law or otherwise, as the result of merger, consolidation, incorporation, reincorporation, conversion, or reorganization, or which has been lawfully succeeded in any manner whereby the business or activities of the original organization are continued without substantial change, will be paid to or reissued in the name of the succeeding organization upon appropriate request on its behalf, supported by satisfactory evidence of successorship. Form PD 1540 should be used.

### § 315.83 Reissue or payment on dissolution of corporation or partnership.

(a) *Corporations.*—A savings bond registered in the name of a private corporation which is in the process of dissolution will be paid to the authorized representative of the corporation upon a duly executed request for payment, supported by satisfactory evidence of the representative's authority. Upon the termination of dissolution proceedings, the bond may be reissued in the names of those persons, other than creditors, entitled to the assets of the corporation, to the extent of their respective interests. Reissue under this subsection will be made upon the duly executed request of the authorized representative of the corporation and upon proof that all statutory provisions governing the dissolution of the corporation have been complied with and that the persons in whose names reissue is requested are entitled and have agreed to the reissue. If the dissolution proceedings are under the direction of a court, a certified copy of an order of the court, showing the authority of the representative to make the distribution requested must be furnished.

(b) *Partnerships.*—A savings bond registered in the name of a partnership which has been dissolved by death or withdrawal of a partner, or in any other manner, will be paid upon a request for payment by any partner or partners authorized by law to act on behalf of the dissolved partnership, or will be paid to or reissued in the names of the persons entitled as the result of such dissolution to the extent of their respective interests, except that reissue will not be made in the names of creditors. The request must be supported by satisfactory evidence of entitlement, including proof that the debts of the partnership have been paid or properly provided for. Form PD 2514 should be used.

### § 315.84 Payment to institutions (churches, hospitals, homes, schools, etc.).

A savings bond registered in the name of a church, hospital, home, school, or similar institution without reference in the registration to the manner in which it is organized or governed or to the manner in which title to its property is held will be paid upon a request for payment signed on behalf of such institution by an authorized representative. For the purpose of this section, a request for payment signed by a pastor of a church, superintendent of a hospital, president of a college, or by any official generally recognized as having authority to conduct the financial affairs of the particular institution will ordinarily be accepted without further proof of his authority. The signature to the request should be in the form, for example, "Shriners' Hospital for Crippled Children, St. Louis, Missouri, by William A. Smith, superintendent," or "St. Mary's Roman Catholic Church, Albany, New York, by Rev. John Jones, pastor."

### § 315.85 Reissue in name of trustee or agent for reinvestment purposes.

A savings bond registered in the name of a religious, educational, charitable or nonprofit organization, whether or not incorporated, may be reissued in the name of a bank, trust company or other financial institution, or an individual, as trustee or agent under an agreement with the organization under which the trustee or agent holds funds of the organization, in whole or in part, for the purpose of investing and reinvesting the principal and paying the income to the organization. Form PD 2177 should be used and should be signed on behalf of the organization by an authorized officer.

### § 315.86 Reissue upon termination of investment agency.

A savings bond registered in the name of a bank, trust company, or other financial institution, or individual, as agent for investment purposes only, under an agreement with religious, educational, charitable, or nonprofit organization, may be reissued in the name of the organization upon termination of the agency. The former agent should request such reissue and should certify that the organization is entitled by reason of the termination of the agency, using Form PD 1455. If such request and certification are not obtainable, the bond will be reissued in the name of the organization upon its own request, supported by satisfactory evidence of the termination of the agency.

### § 315.87 Payment to governmental agencies and units.

A savings bond registered in the name of a state, county, city, town, or village, or in the name of a Federal, State, or local governmental agency, such as a board, commission, or corporation, will be paid upon a request signed in the name of the governmental agency or unit by a duly authorized officer thereof. A request for payment so signed and duly certified will ordinarily be accepted without further proof of the officer's authority.

### § 315.88 Payment to government officers.

A savings bond registered in the official title of an officer of a governmental agency or unit will be paid upon a request for payment signed by the designated officer. The fact that the request for payment is so signed and duly certified will ordinarily be accepted as proof that the person signing is the incumbent of the designated office.

## Subpart R—Miscellaneous Provisions

### § 315.90 Waiver of regulations.

The Secretary of the Treasury reserves the right, in his discretion, to waive or modify any provision or provisions of these regulations in any particular case or class of cases for the convenience of the United States of America or in order to relieve any person or persons of unnecessary hardship, if such action would not be inconsistent with law and would not impair any existing rights, and if he is satisfied that such action would not subject the United States of America to any substantial expense or liability.

### § 315.91 Additional requirements; bond of indemnity; social security numbers.

The Secretary of the Treasury may require (a) such additional evidence as he may consider necessary or advisable, (b) a bond of indemnity, with or without surety, in any case in which he may consider such a bond necessary for the protection of the interests of the United States of America, and (c) that appropriate social security numbers be furnished for reissue or payment of any savings bond.

### § 315.92 Preservation of rights.

Nothing contained in these regulations shall be construed to limit or restrict existing rights which holders of savings bonds heretofore issued may have acquired under the circulars offering the bonds for sale or under the regulations in force at the time of purchase.

### § 315.93 Supplements, amendments, or revisions.

The Secretary of the Treasury may at any time, or from time to time, prescribe additional, supplemental, amendatory, or revised rules and regulations governing United States Savings Bonds.

[FR Doc.73-19148 Filed 9-7-73;8:45 am]







V 38-174 SEP 10 73 XUM

federal register

MONDAY, SEPTEMBER 10, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 174

PART III

# WATER RESOURCES COUNCIL

■

## WATER AND RELATED LAND RESOURCES

Establishment of Principles and Standards for Planning

No. 174—Pt. III——1

V 38-174 SEP 10 73 XUM

## WATER RESOURCES COUNCIL

### PRINCIPLES AND STANDARDS FOR PLANNING WATER AND RELATED LAND RESOURCES

#### Notice of Establishment

1. Notice is hereby given by the Water Resources Council that Principles and Standards for Planning Water and Related Land Resources have been established pursuant to sec. 103 of the Water Resources Planning Act (P.L. 89–80).

2. The full texts of the Principles and Standards are published as a part of this notice.

3. These Principles and Standards are based on several years of effort by the Water Resources Council. After extensive study, review, field testing and public hearings, the Council published on December 21, 1971, "Proposed Principles and Standards for Planning Water and Related Land Resources" (36 FR 24144) along with a draft environmental statement, and invited public comment on the proposal. Extensive views and comments were received through oral statements at the public hearings held on the proposal and through written submission to the Council during the period allowed for comment.

4. After careful consideration of the public response to its proposal, consultation with all concerned Federal agencies, including the Office of Management and Budget, the Council on Environmental Quality, and the Environmental Protection Agency, the Council made its decisions on the proposal and forwarded its recommendations to the President.

5. Indicated below are the areas, listed by subject, where the Council has made revisions in the Principles and Standards.

(1) Planning objectives.
(2) Discount rate.
(3) Retroactive application, "Grandfather Clause".
(4) Cost allocation.
(5) Public participation.
(6) Water quality evaluation.
(7) Use of economic (OBERS) projections.
(8) Unemployed and underemployed resources.
(9) Application of benefit/cost ratio.
(10) Feasible project alternatives.
(11) Impact of benefits on income distribution.

6. Revisions in the Principles and Standards are reflected as appropriate in the final environmental statement which is printed as a part of this notice. The final statement also indicates the availability of a summary of the comments received on the draft environmental statement and the availability of the original transcripts of the testimony composing the public record. The draft and final environmental statements illustrate how the Principles and Standards, by providing for explicit consideration of the environmental quality objective in plan formulation, augment the National Environmental Policy Act in fostering a full disclosure of environmental consequences.

7. Pursuant to sec. 103 of the Water Resources Planning Act (P.L. 89–80) the President approved the Principles and Standards as they appear herein.

8. The Principles and Standards are effective October 25, 1973.

ROGERS C. B. MORTON,
*Chairman.*



The United States Water Resources Council, an independent Executive Agency of the U. S. Government, is composed of the Secretaries of Interior; Agriculture; Army; Health, Education, and Welfare; Transportation; Chairman, Federal Power Commission; with participation by the Secretaries of Commerce; Housing and Urban Development; Administrator, Environmental Protection Agency; Attorney General, Department of Justice; Director, Office of Management and Budget; Chairman, Council on Environmental Quality; and the Chairmen, River Basin Commissions. Council activities encourage the conservation, development and utilization of water and related land resources on a comprehensive and coordinated basis by Federal, State, local government and private enterprise.

WATER RESOURCES COUNCIL

| MEMBERS | ALTERNATES |
|---|---|
| Rogers C. B. Morton, Chairman, Secretary of the Interior. | Jack O. Horton, Assistant Secretary. |
| Earl L. Butz, Secretary of Agriculture. | Robert W. Long, Assistant Secretary. |
| Howard H. Callaway, Secretary of the Army. | Charles R. Ford, Acting Special Assistant. |
| Caspar W. Weinberger, Secretary of Health, Education, and Welfare. | Merlin K. DuVal, Assistant Secretary. |
| Claude S. Brinegar, Secretary of Transportation. | Chester R. Bender, Commandant, U. S. Coast Guard. |
| John N. Nassikas, Chairman, Federal Power Commission. | George G. Adkins, Chief, Division of River Basins. |

| ASSOCIATE MEMBERS | ALTERNATES |
|---|---|
| Frederick B. Dent, Secretary of Commerce. | Robert M. White, Administrator, National Oceanic and Atmospheric Administration. |
| James T. Lynn, Secretary of Housing and Urban Development. | Clifford W. Graves, Deputy Assistant Secretary. |
| John R. Quarles, Jr., Deputy Administrator, Environmental Protection Agency. | |

| OBSERVERS | ALTERNATES |
|---|---|
| Roy L. Ash, Director, Office of Management and Budget. | John C. Sawhill, Associate Director. |
| Elliot L. Richardson, Attorney General, Department of Justice. | Wallace H. Johnson, Assistant Attorney General. |
| Russell E. Train, Chairman, Council on Environmental Quality. | Stephen F. Sloan, Staff Member. |
| Donel J. Lane, Chairman, Pacific Northwest River Basins Commission. | |
| R. Frank Gregg, Chairman, New England River Basins Commission. | |
| Frederick O. Rouse, Chairman, Great Lakes Basin Commission. | |
| Fred E. Morr, Chairman, Ohio River Basin Commission. | |



V 38-174 SEP 10 73 XUM

OBSERVERS (cont'd)

John W. Neuberger,
Chairman, Missouri River Basin Commission.

George W. Griebenow,
Chairman, Upper Mississippi River Basin Commission

REPRESENTATIVES OF THE MEMBERS

Water Resources Council. . . . . Reuben J. Johnson,
Acting Director.

Department of Agriculture . . . . . William B. Davey.
Eugene C. Buie.

Department of the Army . . . . . B. Joseph Tofani.
Kenneth H. Murdock.

Department of Health,
Education, and Welfare. . . . . Jesse L. Steinfeld.
Richard S. Green.

Department of the Interior . . . . . Lance Marston.
Jack C. Jorgensen.

Department of Transportation . . . . . William R. Riedel.
William D. Derr.

Federal Power Commission . . . . . George G. Adkins.

Department of Commerce . . . . . Donald R. Baker.
K. L. Kollar.

Department of Housing and . . . . . James F. Miller,
Urban Development Truman Goins.

Environmental Protection . . . . . Mark A. Pisano.
Agency Joseph A. Krivak.

Office of Management and . . . . . Thomas W. Barry.
Budget Donald G. Waldon.



REPRESENTATIVES OF THE MEMBERS (cont'd)

Department of Justice . . . . . Walter Keichel, Jr.

Council on Environmental Quality. . . . . Stephen F. Sloan.

PRINCIPLES, STANDARDS, AND PROCEDURES
FOR WATER AND RELATED LAND RESOURCES PLANNING

The Principles provide the broad policy framework for planning activities and include the conceptual basis for planning.

The Standards provide for uniformity and consistency in comparing, measuring, and judging beneficial and adverse effects of alternative plans.

The Procedures provide more detailed methods for carrying out the various levels of planning activities, including the selection of objectives, the measurement of beneficial and adverse effects, and the comparison of alternative plans for action. Procedures are developed within the framework of Principles and the uniformity of Standards but will vary with the level of planning, the type of program, and the state-of-the-art of planning.

As indicated by these definitions, the concepts of Principles, Standards, and Procedures will evolve and change. Principles, reflecting major public policy and basic public investment theory, will change and evolve slowly. Standards, representing the best available techniques for the application of Principles, will change more frequently than Principles, as progress in the development of planning and evaluation techniques takes place. Procedures, detailed methods for the application of the Principles and Standards, will be subject to even more frequent revisions as experience, research, and planning conditions require such revision.







PRINCIPLES FOR PLANNING WATER
AND RELATED LAND RESOURCES


I. Purpose and scope.
II. Objectives.
III. Other beneficial and adverse effects.
IV. General evaluation principles.
V. Plan formulation.
VI. System of accounts.
VII. Cost allocation, reimbursement, and cost sharing.
VIII. National program for Federal and federally assisted activities.
IX. Implementation of principles.
X. Application and effect.


I. PURPOSE AND SCOPE

These Principles are established for planning the use of the water and related land (hereinafter referred to as water and land) resources of the United States to achieve objectives, determined cooperatively, through the coordinated actions of the Federal, State, and local governments; private enterprise and organizations; and individuals.

These Principles provide the basis for Federal participation with river basin commissions, States, and others in the preparation, formulation, evaluation, review, revision, and transmittal to the Congress of plans for States, regions, and river basins; and for planning of Federal and federally assisted water and land resources programs and projects and Federal licensing activities as listed in the Standards.

Plans for the use of the Nation's water and land resources will be directed to improvement in the quality of life through contributions to the objectives of national economic development and environmental quality. The beneficial and adverse effects on each of these objectives will be displayed in separate accounts with other accounts for the beneficial and adverse effects on regional development and social well-being. Planning for the use of water and land resources in terms of these objectives will aid in identifying alternative courses of action and will provide the type of information needed to improve the public decisionmaking process.



II. OBJECTIVES

Existing or projected needs and problems expressed by the people through their local, State, regional, or national institutions have created a need for water and land resource management and use. These needs and problems are of such a multigovernmental nature that their resolution requires cooperation and coordination by many levels of government and private interests.

The overall purpose of water and land resource planning is to promote the quality of life, by reflecting society's preferences for attainment of the objectives defined below:

A. to enhance national economic development by increasing the value of the Nation's output of goods and sevices and improving national economic efficiency.

B. To enhance the quality of the environment by the management, conservation, preservation, creation, restoration, or improvement of the quality of certain natural and cultural resources and ecological systems.

For each alternative plan there will be a complete display or accounting of relevant beneficial and adverse effects on these two objectives.

Beneficial and adverse effects are measured in monetary or nonmonetary terms. Estimating these beneficial and adverse effects is undertaken in order to measure and display in appropriate accounts the net changes, with respect to the two objectives, that are generated by alternative plans.

The priorities and preferences of the various individuals affected will vary and, accordingly, there will likely not be full agreement among all affected on whether certain effects are beneficial or adverse or on the relative trade offs between objectives. However, when any plan is recommended from among alternative plans, there is an implicit expression of what is considered to be the affected group's priorities and preferences.









XUM

Effects on some components of the two objectives are generally regarded as favorable. These include, for example, gains in national output. For other components, however, preferences will differ. This will certainly be true of some of the components making up the environmental quality objective. For such instances, planning provides information which should facilitate planning decisions and reduce conflict over such decisions.

Thus, there are beneficial and adverse effects for national economic development and environmental quality. These are measured in quantitative units or qualitative terms appropriate to a particular effect. The accounts are not mutually exclusive with respect to beneficial or adverse effects, and final decisions as to the selection of the recommended plan will be made by considering the differences among alternative plans as to all their effects.

### A. Beneficial Effects on National Economic Development

Beneficial effects to be displayed in the national economic development account are increases in the value of the output of goods and services and improvements in national economic efficiency resulting from a plan. These include:

a. The value to users of increased outputs of goods and services; and

b. The value of output resulting from external economies.

### B. Adverse Effects on National Economic Development

Adverse effects of a plan to be displayed in the national economic development account include:

a. The value of resources required for or displaced by a plan; and

b. Losses in output resulting from external diseconomies.



### C. Beneficial and Adverse Effects on Environmental Quality

The beneficial and adverse effects of alternative plans on the environmental characteristics of the area under study or elsewhere in the Nation will be evaluated. Environmental effects will be displayed in terms of relevant physical and ecological criteria or dimensions, including the appropriate qualitative aspects. Such an evaluation would be displayed in the environmental quality account and include the effects of the proposed plan on:

a. Open and green space, wild and scenic rivers, lakes, beaches, shores, mountains and wilderness areas, estuaries, and other areas of natural beauty;

b. Archeological, historical, biological, and geological resources and selected ecological systems;

c. The quality of water, land, and air resources; and

d. Irreversible commitments of resources to future uses.

## III. OTHER BENEFICIAL AND ADVERSE EFFECTS

For each alternative plan, the beneficial and adverse effects on regional development and social well-being will be displayed where appropriate.

### A. Beneficial and Adverse Effects on Regional Development

The following beneficial or adverse effects of the proposed plan on a system of relevant planning regions (States, river basins, or communities) will be displayed where appropriate.

a. Income effects

(1) Beneficial.

(a) The value of increased outputs of goods and services resulting from a plan accruing within relevant regions; and





(b) The value of output resulting from external economies accruing within relevant regions.

(2) Adverse.

(a) The value of resources within relevant regions required for or displaced by a plan.

(b) Losses in output resulting from external diseconomies within the relevant regions.

b. Beneficial and adverse effects on other components of regional development.

(1) The number and types of jobs resulting from a plan in the region under consideration;

(2) Effects of the plan on population distribution within the region under consideration and among regions in the Nation;

(3) The effect of the plan on the economic base and economic stability of the region under consideration;

(4) The effect of the plan on the environment in the region under consideration; and

(5) The effect of the plan on other specified components of regional development.

### B. Beneficial and Adverse Effects on Social Well-Being

The beneficial and adverse effects of a plan to be displayed where appropriate in the social well-being account include:

a. Real income distribution. The effects of a plan on the real income of classes or groups that are relevant to the evaluation of a plan will be displayed. All effects, both monetary and income in kind, will be included in this display.

b. Life, health, and safety. Plan effects on life, health, and safety other than those evaluated monetarily for the national economic development objective will be included here. Measurement techniques will vary but would largely be in terms of physical units.

c. Educational, cultural, and recreational. The effect of the plan on educational, cultural, and recreational opportunities.

d. Emergency preparedness. The effects of the plan on reserve capacities and flexibilities in water resource systems and protection against interruption of the flow of essential goods and services at times of national disaster or critical need will be displayed.

e. Other. Other effects on social well-being may be identified and displayed as relevant to alternative plans.

## IV. GENERAL EVALUATION PRINCIPLES

### A. General Setting

Full employment will be assumed except where local areas of chronic unemployment, underemployment, or other conditions indicate otherwise. Plan formulation and evaluation will be based on national and regional projections of employment output, and population and the amounts of goods and services that are likely to be demanded. Actual or projected needs for water and land resources will be related to these projections. Alternative plans will take into account established standards and goals for the quality of the environment and other factors.

### B. Measurement of Beneficial and Adverse Effects

Beneficial and adverse effects of each alternative plan will be determined by comparing the conditions expected with the plan to the conditions expected without the plan. Since substantial changes may be expected even in the absence of the plan, care should be taken that this fact is properly reflected in plan formulation and evaluation.

### C. Price Relationships

When prices are used in evaluation they should reflect the real exchange values expected to prevail over the period of analysis. For this purpose, relative price relationships and the general level of









XUM

prices prevailing during the planning study will be assumed to hold generally for the future, except where specific studies and considerations indicate otherwise.

D. The Discount or Interest Rate

The discount rate will be established in accordance with the concept that the Government's investment decisions are related to the cost of Federal borrowing.

E. Consideration and Comparison of Alternatives

A range of possible alternatives capable of application by various levels of government and by nongovernmental interests, should be studied. These alternatives should be evaluated or judged as to their contributions to the objectives.

Plans, or increments thereto, will not be recommended for Federal development that, although they have beneficial effects on the objectives, would physically or economically preclude alternative non-Federal plans which would likely be undertaken in the absence of the Federal plan and which would more effectively contribute to the objectives when comparably evaluated according to these principles.

F. Period of Analysis

The period of analysis will be the lesser of (1) the period of time over which the plan can reasonably be expected to serve a useful purpose considering probable technological trends affecting various alternatives, or (2) the period of time when further discounting of beneficial and adverse effects will have no appreciable effects on design. Appropriate consideration will be given to long-term environmental and social well-being effects which may extend beyond periods significant for analysis of national economic development or regional development beneficial and adverse effects.

G. Scheduling

Plans should be scheduled for implementation in relation to needs so that desired beneficial effects are achieved efficiently. Beneficial and adverse effects occurring according to different patterns in time are affected differently by the discount process when plans are scheduled for implementation at alternative future times. Therefore,



plan formulation should analyze the alternative schedules of implementation to identify the schedule that would result in the most desirable mix of contributions to the objectives when the beneficial and adverse effects of a plan are appropriately discounted.

H. Risk and Uncertainty

Risk is characterized by a distribution of events occurring according to reasonably well-known probabilities, even though their sequence and time of occurrence cannot be determined. Frequency analysis in hydrology, where long records are available or can be mathematically simulated, is an example of predictable risk. In such situations, it may be necessary to choose between planning for average or probable conditions and planning for extreme events. When this is done, the nature of the choice and its relationship to the objectives will be clearly stated. Predictable risk; based upon past experience, should not be divorced from predictable or foreseeable trends which would alter probabilities based solely upon previous experience.

Uncertainty is characterized by the absence of any known probability distribution of events. This is often the situation in water resources planning. The nature of uncertainty associated with the planning study, strategies proposed to deal with uncertainty, and their impact on the objectives should be reported. In addition, sensitivity analysis may be employed to analyze uncertain situations.

I. Sensitivity Analysis

Plans should be examined to determine their sensitivity to data availability and to alternative assumptions as to future economic, demographic, environmental, and technologic trends. Selected projections and assumptions of alternative futures that are reasonably probable and that, if realized, would appreciably affect plan design or scheduling should be analyzed.

J. Updating Plans

Because, of rapid change in social economic, environmental, technologic, physical, and other factors, a plan that is not implemented within a reasonable time after completion should be reviewed as provided in the standards to ascertain whether it continues to be the best alternative to achieve the objectives.







V. PLAN FORMULATION

Plans will be directed to the improvement in the quality of life by meeting current and projected needs and problems as identified by the desires of people in such a manner that improved contributions are made to society's preferences for national economic development and environmental quality. These plans should be formulated to reflect national, regional, State, and local needs or problems consistent with the above two objectives.

Planning of water and land resources is a part of broader public and private planning to meet regional and local needs and to alleviate problems. Therefore, planning for water and land resources should be carefully related to other regional or local planning activities and should include active participation of all interests.

Plans for water and land resources will focus upon the specified components of the objectives desired for the designated region, river basin, State, or local planning setting. These are expressed in terms of projected needs and problems identified in each planning setting.

The planning process includes the following major steps:

(1) Specify components of the objectives relevant to the planning setting;

(2) Evaluate resource capabilities and expected conditions without any plan;

(3) Formulate alternative plans to achieve varying levels of contributions to the specified components of the objectives;

(4) Analyze the differences among alternative plans which reflect different emphasis among the specified components of the objectives;

(5) Review and reconsider, if necessary, the specified components for the planning setting and formulate additional alternative plans as appropriate; and



(6) Select a recommended plan from among the alternative plans based upon an evaluation of the trade offs between the objectives of national economic development and environmental quality and considering, where appropriate, the effects of the plans on regional development and social well-being.

A. Specification of Components of the Objectives

At the outset and throughout the planning process, the responsible planning organization will consult appropriate Federal, regional, State, and local groups to ascertain the components of the objectives that are significantly related to the use and management of the resources in the planning setting. These will be expressed in terms of needs and problems.

The components selected for use in formulating alternative plans should be of concern to the Nation, and the components should be those that can reasonably be expected to be substantially influenced through the management and development alternatives available to the planner. The components of objectives for which plans are formulated can be expected to change over time and between areas of the Nation as preferences and possibilities change and differ. These changes will be reflected in the Water Resources Council's Standards.

The objectives for which plans are formulated can also be expected to change over time as preferences and possibilities change. Changes in objectives will be accommodated only through revision of these principles.

The specified components will be defined so that meaningful alternative levels of achievement are identified. This will facilitate the formulation of alternative plans in cases where there may be technical, legislative, or administrative constraints to full achievement of objectives.

B. Evaluation of Conditions Without a Plan

The identification of the specified components of objectives will necessarily involve an appraisal of future economic and environmental conditions expected without the plan as compared with those desired by people for the planning area. In addition, a sufficient inventory and appraisal of the water and land resource base of the planning area will be necessary.

C. Formulation of Alternative Plans

The planning process involves an evaluation of alternative means, including both structural and nonstructural measures, to achieve desired effects.

Based upon identified needs and problems, alternative plans will be prepared and evaluated in the context of their contributions to the objectives. This involves comparisons between objectives, and it will be necessary to formulate alternative plans that reflect different relative emphasis between the objectives for the planning setting.

The number of alternative plans to be developed for each planning effort will depend upon complementarities or conflicts among specified components of the objectives, resource capabilities, technical possibilities, and the extent to which the design of additional alternative plans can be expected to contribute significantly to the choice of a recommended plan. Because planning staffs are limited, emphasis should be placed on examination of those alternative waters and land-use plans which may have appreciable effects on objectives.

With respect to the number of alternative plans there will be a continuing dialog among the Water Resources Council, river basin commissions, and other planning groups, emphasizing on the one hand the need for national guidelines and overview of objectives for which alternative plans are formulated, and on the other the special insights into local planning situations that field level teams may develop.

Appropriate methods and techniques for estimating beneficial and adverse effects will be used to provide reliable estimates of the consequences and feasibility of each alternative plan.

One alternative plan will be formulated in which optimum contributions are made to the national economic development objective. Additionally, during the planning process at least one alternative plan will be formulated which emphasizes the contributions to the environmental quality objective. Other alternative plans reflecting significant physical, technological, legal or public policy constraints or reflecting significant trade-offs between the national economic development and environmental quality objectives may be formulated so as not to overlook a best overall plan.



Major increments proposed for addition to a plan intended to serve a single component of an objective will be included only if the beneficial effects on that component of the addition outweigh the adverse effects. For example, an increment to an alternative plan proposed for the national economic development objective would be added only if the additional beneficial effects exceeded the additional adverse effects, and similarly for the environmental quality objective. For plans emphasizing some combination of objectives, the incremental rule applies to the combination of objectives that is relevant.

D. Analysis of Alternative Plans

The display of beneficial and adverse effects for each alternative plan will be prepared so that the differences among alternatives can be clearly shown and accurately analyzed. The analysis will provide the rationale for the selection of a recommended plan and the underlying evaluation of the various alternative plans. This analysis will provide the information on which the planning organization and others can base judgments as to the most desirable mix of beneficial effects as compared with the adverse effects.

The trade offs among alternative plans should be displayed as fully as possible for the components of all objectives and where appropriate for effects on regional development and social well-being to facilitate administrative and legislative review and decision.

E. Reconsideration of Specified Components of the Objectives

As planning proceeds, the specified components will be reviewed and reconsidered as appropriate. This reconsideration may result from new information, revised projections, changes in policy, or technological innovations. Reconsideration of components may result in modifying alternatives or developing additional alternative plans.

F. Plan Selection

From its analysis of alternative plans, the planning organization will select a recommended plan. The plan selected will reflect the relative importance attached to different objectives and the extent to which the two objectives can be achieved by carrying out the plan.





The recommended plan should be formulated so that beneficial and adverse effects toward objectives reflect, to the best of current understanding and knowledge, the priorities and preferences expressed by the public at all levels to be affected by the plan. A recommended plan must have net national economic development benefits unless the deficiency in net benefits for the national economic development objective is the result of benefits foregone or additional costs incurred to serve the environmental quality objective. In such cases, a plan with a less than unity benefit-cost balance may be recommended as long as the net deficit does not exceed the benefits foregone and the additional costs incurred for the environmental quality objective. A Departmental Secretary or head of an independent agency may make an exception to the net benefits rule if he determines that circumstances unique to the plan formulation process warrant such exception.

In addition to the recommended plan with supporting analysis, other significant alternative plans embodying different priorities between the objectives will be presented in the planning report. Included with the presentation of alternative plans will be an analysis of the trade offs among them. The trade offs will be set forth in explicit terms, including the basis for choosing the recommended plan from among the alternative plans.

VI. SYSTEM OF ACCOUNTS

A system of public information accounts will be established that displays beneficial and adverse effects of each plan to the objectives and beneficial and adverse effects on regional development and social well-being and provides a basis for comparing alternative plans. The display of beneficial and adverse effects will be prepared in such manner that the different levels of achievement in each account can be readily discerned and compared, indicating the trade offs among alternative plans.

For purposes of accounting, the distribution of beneficial and adverse effects will be shown to whomsoever they accrue. This will include display of the distribution of effects to regions, income classes, and interest groups relevant to the particular plan and will reflect the cost information specified in Section VII below. The system of accounts will display the beneficial and adverse effects in relevant regions in relation to the rest of the Nation. The Water Resources Council will establish a procedure for relating regional accounts to the rest of the Nation. The use of such reporting regions will not, however, rule out the use of other regions whose delineations are important in measuring beneficial or adverse effects on regional development.



VII. COST ALLOCATION, REIMBURSEMENT, AND COST SHARING

A. Cost Allocation

On the basis of the identification provided for in the system of accounts for beneficial and adverse effects, an allocation of appropriate costs shall be made when an allocation of costs is required for purposes of establishing reimbursement levels, pricing policies, or cost sharing between the Federal Government and non-Federal public and private interests. Each objective and each component of the objectives shall be treated comparably in cost allocation and each is generally entitled to its fair share of the mutual advantages resulting from a plan.

B. Reimbursement and Cost Sharing

Reimbursement and cost-sharing policies shall be directed generally to the end that identifiable beneficiaries bear an equitable share of cost commensurate with beneficial effects received in full cognizance of the planning objectives. Since existing cost-sharing policies are not entirely consistent with this approach to planning water and land resources, these policies are being thoroughly reviewed after which changes will be recommended.

VIII. NATIONAL PROGRAM FOR FEDERAL AND FEDERALLY ASSISTED ACTIVITIES

The principles set forth in this document are concerned with alternative plans for individual projects, States, regions, or river basins. The evaluation, systematic display, and comparison of alternative plans for a project, State, region, or river basin provide the basis for selecting a recommended plan.









XUM

The formulation of national programs for Federal and federally assisted water and land resource activities requires that priorities be established among recommended plans for projects, States, regions, and river basins. The system of accounts, together with other criteria, such as available budget resources, national policy toward the environment and public and private investment alternatives, will provide a basis for formulating national programs.

## IX. IMPLEMENTATION OF PRINCIPLES

The Water Resources Council will implement these Principles by establishing Standards for planning water and land resources in accordance with the Water Resources Planning Act.

The Water Resources Council will establish Procedures as necessary to carry out the established Principles and Standards.

Included in the Water Resources Council's Standards and Procedures will be provision for coordination, among Federal and State agencies and among public and private interests affected by water and land resource plans.

The Council will also specify appropriate Procedures for the review and transmission of planning reports to States, Federal agencies, the Office of Management and Budget, the Council on Environmental Quality, and the Congress. The Council may also provide for review of individual project studies to determine their relationships to regional and river basin plans and their conformance with the Council's evaluation Standards. The Council will consider any unresolved coordination problem.

The Water Resources Council will foster needed training and development of manpower, improvements in mathematical and other planning tools, and research to increase the efficiency of planning efforts. The Principles, Standards, and Procedures should be based at any given time on the best available interpretation of conceptual and impirical bases for planning water and land resources. The Council will encourage and support needed improvements in the application of the conceptual and theoretical planning and decisionmaking framework upon which these Principles are based. The Council will also encourage and support improvement in the conceptual and theoretical framework.



The Council in its Standards and Procedures will make adjustments for deviations from the Principles that may be required by law or Executive order.

The Water Resources Council will review these Principles from time to time and after consultation with others will recommend improvements for consideration of the President.

## X. APPLICATION AND EFFECT

These Principles for Planning Water and Land Resources shall be implemented by the Water Resources Council and shall be applied by river basin commissions, other Federal-State organizations, and each of the Federal departments and agencies. The Office of Management and Budget, the Council on Environmental Quality, and other organizations in the Executive Office of the President will use these Principles in their review of proposed project, basin, or regional plans.

The Policies, Standards, and Procedures in the Formulation, Evaluation, and Review of Plans for Use and Development of Water and Related Land Resources, approved by the President, May 15, 1962, printed as Senate Document No. 97, 87th Congress, 2d Session, together with Supplement No. 1 thereto, June 4, 1964, "Evaluation Standards for Primary Outdoor Recreation Benefits," and the amendment of December 24, 1968, 18 CFR § 704.39, "Discount Rate," are revoked.

These Principles, the Standards promulgated in connection therewith, and the above revocation shall take effect 45 days following the date of their publication by the Chairman of the Water Resources Council in the Federal Register.

Approved: September 5, 1973

Richard Nixon





## STANDARDS FOR PLANNING WATER AND RELATED LAND RESOURCES

### Table of Contents


I. Purpose and scope.
II. Objectives.
III. Other beneficial and adverse effects.
IV. General evaluation standards.
V. Plan formulation.
VI. System of accounts.
VII. Cost allocation, reimbursement, and cost sharing.
VIII. National program for Federal and Federally assisted activities.
IX. Coordination and review of planning studies.

Appendix A. Water Resources Planning Act of 1965, as amended.




## I. PURPOSE AND SCOPE

### A. Authority

These planning standards implement the Principles for Planning Water and Related Land Resources.

These standards shall apply, as appropriate, to the activities referred to in subsection B of this section except for adjustments required by law or Executive order. Adjustments required for special situations where the application of these standards is not practical may be made and will be developed by the concerned agency or entity in consultation with the Water Resources Council.

Although these standards are not binding upon State and local bodies participating in water and land resources planning, it is intended that the standards be broad and flexible enough to accommodate the goals and objectives of such entities. The standards apply to Federal participation in Federal-State cooperative planning and should also provide a useful guide to State and local planning.

The Water Resources Planning Act of 1965, as amended, is found in Appendix A.

### B. Activities Covered

1. Comprehensive planning. These standards apply to Federal participation in comprehensive framework studies and assessments and regional or river basin planning of water and land resources whether carried out--

(a) By river basin commissions established under the Water Resources Planning Act;

(b) By entities performing the functions of a river basin commission, including, but not limited to, such entities as:

(1) Federal-interstate compact commissions;

(2) Federal-State interagency committees;

(3) Federal-State coordinating committees;









XUM

(4) Federal-State development commissions;

(5) Lead Federal agency with special authorization for comprehensive planning;

(6) Other entities designated by the Council engaged in comprehensive water and land resource planning with coordinated Federal technical or financial assistance.

In formulating plans to meet the objectives all alternative means shall be considered, including, but not limited to, water and land programs to be carried out directly by the Federal Government, Federal financial and technical participation in water and land programs to be carried out by State or other non-Federal entities, and Federal licensing activities that affect the development, conservation, and utilization of water and land resources.

2. Federal and federally assisted programs and projects. These standards apply to the planning and evaluation of the effects of the following water and land programs, projects, and activities carried out directly by the Federal Government and by State or other entities with Federal financial or technical assistance;

(a) Corps of Engineers civil functions;

(b) Bureau of Reclamation projects;

(c) Federally constructed watershed and water and land programs;

(d) National parks and recreation areas;

(e) Wild, scenic, recreational rivers and wilderness areas;

(f) Wetland and estuary projects and coastal zones;

(g) Federal waterfowl refuges;

(h) Tennessee Valley Authority;



(i) Federal assistance to State and local government sponsored watershed and water and land resource programs (Watershed Protection and Flood Prevention Projects and Resource Conservation and Development Projects).

C. Levels of Planning

These standards apply to all levels of planning as defined by the Water Resources Council.

Framework studies and assessments are the evaluation or appraisal on a broad basis of the needs and desires of people for the conservation, development, and utilization of water and land resources and will identify regions or basins with complex problems which require more detailed investigations and analysis, and may recommend specific implementation plans and programs in areas not requiring further study. They will consider Federal, State, and local means and will consider both national economic development and environmental quality objectives.

Regional or river basin plans are reconnaissance-level evaluation of water and land resources for a selected area. They are prepared to resolve complex long-range problems identified by framework studies and assessments and will vary widely in scope and detail; will involve Federal, State, and local interests in plan formulation; and will identify and recommend action plans and programs to be pursued by individual Federal, State, and local entities. They will consider both national economic development and environmental quality objectives.

Implementation studies are program or project feasibility studies generally undertaken by a single Federal, State, or local entity for the purpose of authorization or development of plan implementation. These studies are conducted to implement findings, conclusions, and recommendations of framework studies and assessments and regional or river basin studies which are found to be needed in the next 10 to 15 years. As with framework studies and regional or river basin plans, they will consider both national economic development and environmental quality objectives.





D. Responsibility for Applying Standards

The Federal chairman and the representatives of the Federal agencies participating in a river basin commission established under the Water Resources Planning Act are responsible for applying these standards.

The study director provided or designated by the Water Resources Council or by river basin commissions (in their areas) and Federal members of coordinating bodies established or designated by the Council to carry out framework studies and assessments and regional or river basin planning studies are responsible for applying these standards.

The administrator of each Federal program or federally assisted program covered under this section is responsible for applying these standards to his program. Each Federal administrator shall follow these standards in establishing agency procedures for evaluation of programs and projects for conservation, development, and utilization of water and land resources.

The Board of Directors of the Tennessee Valley Authority, responsible for framework studies and assessments, regional and river basin planning studies and implementation studies for the Tennessee River Basin, and the Federal representatives of other entities performing the functions of a river basin commission shall apply these standards except for any adjustments required by law or Executive order or for special situations where the application of these standards is not practical.

Proposed Federal agency procedures, and revisions thereto, to implement these standards will be referred to the Water Resources Council for review for consistency with these standards.

E. Schedule for Applying Standards

The principles and standards will apply to all levels of planning studies. For authorized but unfunded projects the principles and standards will be applied on a selective basis to be determined by the head of the agency, with opportunity for suggestions from the Water Resources Council, and other governmental entities. Authorized plans or projects that are substantially reformulated as a result of application of these principles and standards will be submitted to Congress for reauthorization. Separable and independent elements of a project or a system also would be subject to review prior to funding for construction.



II. OBJECTIVES

A. Introduction

The Principles for Planning Water and Land Resources define the objectives of national economic development and environmental quality. These objectives provide the basis for the formulation of State, region, and river basin plans for the use of water and land resources to meet foreseeable short- and long-term needs and have been explicitly stated or implied in numerous congressional enactments and Executive actions. The most notable of these actions in water and related areas are summarized below.

In the Flood Control Act of 1936, the Congress declared that benefits to whomsoever they may accrue of Federal projects should exceed costs. Interpretation of this statute has resulted in development of various analytical procedures to evaluate the benefits and costs of proposed projects. These procedures have centered around a national economic efficiency analysis and were first published as "Proposed Practices for Economic Analysis of River Basin Projects" in May 1950 and revised in May 1958. Budget Bureau Circular No. A-47 was issued on December 31, 1952, informing the agencies of considerations which would guide the Bureau of the Budget in its evaluations of projects and requiring uniform data that would permit comparisons among projects.

On October 6, 1961, the President requested the Secretaries of Interior, Agriculture, Army, and Health, Education, and Welfare to review existing evaluation standards and to recommend improvements. Their report, "Policies, Standards, and Procedures in the Formulation, Evaluation, and Review of Plans for Use and Development of Water and Related Land Resources," was approved by the President on May 15, 1962, and published as Senate Document No. 97, 87th Congress, 2d Session. This document replaced Budget Bureau Circular No. A-47 and in turn has been superseded by the "Principles for Planning Water and Land Resources," upon their approval by the President, and by these "Standards for Planning Water and Land Resources."

By enacting laws and taking actions enumerated below and others, the Congress and the President have broadened the objectives to be considered in water and land resources planning.

The two objectives as defined in the principles and set forth in more detail in these standards provide a flexible planning framework that is responsive to and can accommodate changing national needs and priorities.









XUM

The statement of the objectives and specification of their components in these standards is without implication concerning priorities to be given to them in the process of plan formulation and evaluation. These standards, nonetheless, do recognize and make provision for a systematic approach by which the general public and decisionmakers can assess the relative merits of achieving alternative levels of satisfaction to the two objectives where there may be conflict, competition, or complementarity between them. This will provide the type of information needed to improve the public decisionmaking process.

B. Major Congressional Directives

Many laws that give new or more definitive directions to Federal participation in planning for water and land resources have been passed in recent years. Some major enactments are:

The Federal Water Project Recreation Act of 1965 (Public Law 89-72), provides for full consideration of opportunities for recreation and fish and wildlife enhancement in Federal projects under specified cost allocation and cost-sharing provisions.

The Water Resources Planning Act of 1965 (Public Law 89-80), establishes a comprehensive planning approach to the conservation, development and use of water and related land resources. The Act emphasizes joint Federal-State cooperation in planning and consideration of the views of all public and private interests. Section 103 of the Act provides that "The Council shall establish, after such consultation with other interested entities, both Federal and non-Federal, as the Council may find appropriate, and with the approval of the President, principles, standards, and procedures for Federal participants in the preparation of comprehensive regional or river basin plans and for the formulation and evaluation of Federal water and related land resources projects."

The Act further provides in section 102(b) that "The Council shall . . . maintain a continuing study of the relation of regional or river basin plans and programs to the requirements of larger regions of the Nation and of the adequacy of administrative and statutory means for the coordination of the water and related land resources policies and programs of the several Federal agencies; it shall appraise the adequacy of existing and proposed policies and programs to meet such requirements; and it shall make recommendations to the President with respect to Federal policies and programs."



The Act also provides in section 301(b) that "The Council, with the approval of the President, shall prescribe such rules, establish such procedures, and make such arrangements and provisions relating to the performance of its functions under this title, and the use of funds available therefor, as may be necessary in order to assure (1) coordination of the program authorized by this title with related Federal planning assistance programs, including the program authorized under section 701 of the Housing Act of 1954 and (2) appropriate utilization of other Federal agencies administering programs which may contribute to achieving the purpose of this Act."

The Water Resources Planning Act, as amended, in attached as Appendix A.

The Public Works and Economic Development Act of 1965 (Public Law 89-136) establishes national policy to use Federal assistance in planning and constructing public works to create new employment opportunities in areas suffering substantial and persistent unemployment and underemployment. The Act provides for establishing Federal-State regional commissions for regions that have lagged behind the Nation in economic development.

The Water Quality Act of 1965 (Public Law 89-234) and subsequent amendments provides for establishing water quality standards for interstate waters. These water quality standards provide requirements and goals that must be incorporated into planning procedures.

In authorizing the Northeastern Water Supply Study in 1965 (Public Law 89-298), Congress recognized that assuring adequate supplies of water for the great metropolitan centers of the United States has become a problem of such magnitude that the welfare and prosperity of this country require the Federal Government to assist in solution of water supply problems.

The Clean Water Restoration Act of 1966 (Public Law 89-753) provides assistance for developing comprehensive water quality control and abatement plans for river basins.

The Department of Transportation Act of 1966 (Public Law 89-670) provides standards for evaluating navigation projects and provides for the Secretary of Transportation to be a member of the Water Resources Council.





The Wild and Scenic Rivers Act of 1968 (Public Law 90-542) provides that in planning for the use and development of water and related land resources consideration shall be given to potential wild, scenic, and recreational river areas in river basin and project plan reports, and comparisons are to be made with development alternatives which would be precluded by preserving these areas.

The National Flood Insurance Act of 1968 (title XIII, Public Law 90-448) provides that States, to remain eligible for flood insurance, must adopt acceptable arrangements for land use regulation in flood-prone areas. This provision, together with Executive Order 11296, August 10, 1966, places increased emphasis on land use regulations and administrative policies as means of reducing flood damages. Planning policies must include adequate provision for these new enactments and directives in an integrated program of flood-plain management.

The Estuary Protection Act of 1968 (Public Law 90-454) outlines a policy of reasonable balance between the conservation of the natural resources and natural beauty of the Nation's estuarine areas and the need to develop such areas to further the growth and development of the Nation.

The National Environmental Policy Act of 1969 (Public Law 91-190) authorizes and directs Federal agencies in the decision-making process to give appropriate consideration to environmental amenities and values, along with technical considerations. The results of this analysis are to be included in proposals for Federal action.

The Environmental Quality Improvement Act of 1970 (title II of Public Law 91-224) further emphasizes congressional interest in improving the environment and the major responsibility that State and local governments have for implementing this policy.

The Flood Control Act of 1970 (Public Law 91-611) requires in Section 122 promulgation of guidelines designed to assure that possible adverse economic, social and environmental effects relating to any proposed project have been fully considered in developing such project, and that the final decisions on the project are made in the best overall public interest, taking into consideration the need for flood control, navigation and associated purposes, and the cost of eliminating or minimizing such adverse effects and the following:

(1) air, noise, and water pollution;



(2) destruction or disruption of man-made and natural resources esthetic values, community cohesion and the availability of public facilities and services;

(3) adverse employment effects and tax and property value losses;

(4) injurious displacement of people, businesses, and farms; and

(5) disruption of desirable community and regional growth.

The same Act also includes in Section 209 the following statement: "It is the intent of Congress that the objectives of enhancing regional economic development, the quality of the total environment, including its protection and improvement, the well-being of the people of the United States and the national economic development are the objectives to be included in federally financed water resource projects, and in the evaluation of benefits and costs attributable thereto, giving due consideration to the most feasible alternative means of accomplishing these objectives."

The Rural Development Act of 1972, Public Law 92-419, provides for improving the economic and living conditions of rural America by broadening and strengthening ongoing programs of financial and technical assistance to farmers and rural communities. It provides for the management of agricultural wastes, storage of water for rural needs, recharge of groundwater, fire protection, long term contract program for land treatment, acquisition of land rights with other Federal funds, farm research, and a land inventory and monitoring program.

The Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, establishes the goals that:

(1) the discharge of pollutants into navigable waters be eliminated by 1985;

(2) an interim goal of water quality be provided for the protection of fish, shellfish and wildlife, and for recreation by July 1, 1983;

(3) the discharge of toxic pollutants in toxic amounts be prohibited;

(4) Federal financial assistance be provided to construct publicly, owned waste treatment plants;

(5) water quality and areawide waste treatment management planning include multiobjective water resources and land use planning;

(6) Regional or river basin (Level B) plans be completed by the Water Resources Council for all river basins in the United States by 1980 (Section 209); and that

(7) a major research and demonstration effort be made to develop technology to eliminate the discharge of pollutants.

The Coastal Zone Management Act of 1972, Public Law 92-583, provides for a comprehensive, long range, and coordinated national program in marine science, to establish a National Council on Marine Resources and Engineering Development, and a Commission on Marine Science, Engineering and Resources; and for annual grants to any coastal State for the purpose of assisting in the development of a management program for the land and water resources of its coastal zone, and for annual grants to any coastal State for not more than 66 2/3 per centum of the costs of administering the State's management program.

C. Relationships of Program Measures to Objectives

Formulating courses of action that effectively contribute to the attainment of the national economic development and environmental quality objectives is the paramount task of water and land resources planning. These actions are only the means by which objectives can be attained. For instance, providing flood control or preserving a scenic river is meaningful only to the extent that such actions contribute to specific needs that can be related to the objectives. Thus, plans are to be formulated in terms of their beneficial or adverse effects on the objectives.

These standards relate primarily to the planning of water and land resource programs that contribute to specified components of the objectives. It is recognized that other programs may also contribute to these objectives. In some instances, water and land programs are the only means or are the most effective means to achieve the objectives. In the usual case, however, it is likely that a combination of water and land programs and other programs will be the most effective means to achieve the desired objectives. In the formulation of plans, therefore, these standards provide for the consideration of the full range of alternatives relevant to the needs for water and land resources.

A given plan formulated for one or several components of the objectives may affect the components of other objectives in a beneficial or adverse manner. This joint effect relationship is a common occurrence



in plan formulation. Its presence necessitates that the full range of effects of plans be shown in terms of specified components of objectives regardless of the size of the effect or the component for which an alternative plan has been formulated.

D. Objectives

1. National economic development. The national economic development objective is enhanced by increasing the value of the nation's output of goods and services and improving national economic efficiency.

National economic development reflects increases in the Nation's productive output, an output which is partly reflected in a national product and income accounting framework designed to measure the continuing flows of goods and services into direct consumption or investment.

In addition, national economic development is affected by beneficial and adverse externalities stemming from normal economic production and consumption, imperfect market conditions, and changes in productivity of resource inputs due to investment. National economic development is also affected by the availability of public goods which are not accounted for in the national product and income accounting framework. Thus, the concept of national economic development is broader than that of national income and is used to measure the impact of governmental investment on the total national output. The gross national product and national income accounts do not give a complete accounting of the value of the output of final goods and services resulting from governmental investments because only government expenditures are included. This is especially true in those situations where governmental investment is required to overcome imperfections in the private market. Therefore, national economic development as defined in these standards is only partially reflected in the gross national product and national income accounting framework.

A similar situation prevails where a private investment results in the production of final public goods or externalities that are not exchanged in the market.

Components of the national economic development objective include:

a. The value of increased outputs of goods and services resulting from a plan. Developments of water and land resources result in increased production of goods and services which can be measured in







terms of their value to the user. Increases in crop yields, expanding recreational use, and peaking capacity for power systems are examples of direct increases in the Nation's output which result from water and related land resources developments. Moreover, such developments often result in a change in the productivity of natural resources and the productivity of labor and capital used with these resources. Increased earnings from changes in land use, reduced disruption of economic activity due to droughts, floods and fluctuating water supplies, and removal of constraints on production through increased water supplies are examples of direct increases in productivity from water and land development that contribute to national output. Development of water and land resources may result in increased production from the employment of otherwise unemployed or underemployed resources, as well as contributions to increased output due to cost savings resulting in the release of resources for employment elsewhere.

b. The value of output resulting from external economies. In addition to the value of goods and services derived by users of outputs of a plan, there may be external gains to other individuals or groups.

2. Environmental quality. The environmental objective is enhanced by the management, conservation, preservation, creation, restoration, or improvement of the quality of certain natural and cultural resources and ecological systems in the area under study and elsewhere in the Nation. This objective reflects society's concern and emphasis for the natural environment and its maintenance and enhancement as a source of present enjoyment and a heritage for future generations.

Explicit recognition should be given to the desirability of diverting a portion of the Nation's resources from production of more conventional market-oriented goods and services in order to accomplish environmental objectives. As incomes and living levels increase, society appears less willing to accept environmental deterioration in exchange for additional goods and services in the market place.

Responsive to the varied spiritual, psychological, recreational, and material needs, the environmental objective reflects man's abiding concern with the quality of the natural physical-biological system in which all life is sustained.

Components of the environmental objective include the following:

a. Management, protection, enhancement, or creation of areas of natural beauty and human enjoyment such as open and green space, wild and scenic rivers, lakes, beaches, shores, mountain and



wilderness areas, and estuaries;

b. Management, preservation, or enhancement of especially valuable or outstanding archeological, historical, biological (including fish and wildlife habitat), and geological resources and ecological systems;

c. Enhancement of quality aspects of water, land, and air by control of pollution or prevention of erosion and restoration of eroded areas embracing the need to harmonize land use objectives in terms of productivity for economic use and development with conservation of the resource;

d. Avoiding irreversible commitments of resources to future uses: While all forms of development and use affect and sometimes change the tenuous balance of fragile aquatic and terrestrial ecosystems, the implication of all possible effects and changes on such systems is imperfectly understood at the present time. In the absence of absolute measures or standards for reliably predicting ecological change, these planning standards emphasize the need for a cautionary approach in meeting development and use objectives in order to minimize or preclude the possibility of undesirable and possible irreversible changes in the natural environment;

e. Others. Given its broad and pervasive nature, it is not practical to specifically identify in these standards all possible components of the environmental quality objective. If other components are recognized, they should be explicitly identified and accommodated in the planning process.

E. Effects on Objectives

For each alternative plan there will be a complete display or accounting of relevant beneficial and adverse effects on the national economic development and environmental quality objectives. Alternative plans will be formulated to optimize their contributions to the two objectives.

Beneficial and adverse effects are measured in both monetary and nonmonetary terms. Estimating these beneficial and adverse effects is undertaken in order to measure and display in appropriate accounts the net changes with respect to particular objectives that are generated by alternative plans.

The priorities and preferences of the various individuals affected will vary and, accordingly, there will likely not be full agreement among all affected on whether certain effects are beneficial or adverse or on the relative trade offs between objectives. However, when any plan is recommended from among alternative plans, there is an implicit expression of what is considered to be the affected group's priorities and preferences.

Effects on some components of the objectives are generally regarded as favorable. These include, for example, gains in national output. For other objectives and components, however, preferences will differ. This will certainly be true of some of the components making up the environmental quality objective. For such instances, planning provides information which should facilitate planning decisions and reduce conflict over such decisions.

1. Relationship of beneficial and adverse effects to objectives. Beneficial and adverse effects will be identified for national economic development and environmental quality objectives and will be displayed. Also, since beneficial and adverse effects may be of a monetary or nonmonetary nature, they may be measured in dollars or in physical, biological, or other quantitative units or qualitative terms as appropriate.

The objectives are not mutually exclusive with respect to beneficial and adverse effects. Comparisons and evaluations of plans require measurement or quantification of similar effects in terms of common standards. The selected standards may be in terms of dollars, acres of land, acre-feet or cubit-feet-per-second of water, miles of trails or



streams, number of people, and so on. The nonmonetary measures must include appropriate qualitative dimensions.

2. Incidence of beneficial and adverse effects. The distribution among groups and time of beneficial and adverse effects is an important consideration in the evaluation of plans. Those groups who are affected by a plan should be identified. Those who are benefited or adversely affected by a plan may be located within the planning area or region, or they may be in an area or region immediately adjacent, or they may be in distant regions which are noncontiguous with the planning area. The beneficial and adverse effects may also occur immediately or in the future in any of the areas or regions. These are discussed in detail in section III.

3. With and without analysis. In planning water and land resources, beneficial and adverse effects of a proposed plan should be measured by comparing the estimated conditions with the plan with the conditions expected without the plan. Thus, in addition to projecting the beneficial and adverse effects expected with the plan in operation, it is necessary to project the conditions likely to occur in the absence of a plan. Economic, social, and environmental conditions are not static, and changes will occur even without a plan. Only the new or additional changes that can be anticipated as a result of a proposed plan should be attributed as beneficial and adverse effects of the plan.

4. Monetary beneficial effects. For many goods and services the conventional market mechanism or simulation thereof provides a valid measure of exchange values, expressed in monetary terms. The values determined by the market may need adjustment to account for imperfect market conditions. Contributions to national economic development and the income component of regional development are of the monetary type of beneficial effects. In addition, certain components of the environmental quality objective can be analyzed in terms of monetary values.

5. Monetary adverse effects. Adverse effects result, just as beneficial effects do, from the implementation of a particular plan. Values for some adverse effects can be based on or derived from actual or simulated market prices. For example, the costs of goods and services used in constructing and operating a project or payment for damages even though no goods or services are being acquired can be derived from actual market prices. The prices determined by the market may need adjustment to account for imperfect market conditions. Some adverse effects are not represented by actual cash expenditures; but





market prices can be used to estimate or derive the appropriate monetary values by use of a simulated market price or by observing market prices for similar goods and services.

6. Nonmonetary beneficial effects. There are many effects which cannot or should not be expressed in monetary values. This is true of many contributions to environmental quality objective.

When effects cannot or should not be expressed in monetary terms, they will be set forth, insofar as is reasonably possible, in approriate quantitative and qualitative physical, biological, or other measures reflecting the enhancement or improvement of the characteristics relevant to the type of effects under consideration.

When specified minimum technical or institutional standards related to the environmental quality objective will be met or otherwise exceeded, they will be explicitly identified.

If particular nonmonetary beneficial effects or services are not amenable to quantitative measurement they should be described as fully as possible in appropriate qualitative terms.

7. Nonmonetary adverse effects. There are adverse effects that cannot be valued by market prices and direct compensation for these adverse effects may not be possible. Nevertheless, they should be accounted for by use of appropriate nonmonetary values or described as carefully as possible. The nonmonetary values may be expressed in terms of a physical, biological, or other quantitative units or qualtitative terms.

The adverse effects of a nonmonetary nature will generally be related to environmental quality.

F. BENEFICIAL EFFECTS ON NATIONAL ECONOMIC DEVELOPMENT

Beneficial effects in the national economic development account are the increases of the value of the output of goods and services and improvements in national economic efficiency.



1. General measurement concepts. There are two basic sources of increased output of goods and services that contribute toward enhancing national economic development. First, additional resources may be employed using normal production techniques, as, for example, in the application of irrigation water and other associated resources to land for the production of agricultural commodities or in the use of electric power and other associated resources for the production of aluminum. Second, resource productivity changes may be induced by the plan, resulting in more efficient production techniques to be used to achieve a higher level of output from the same resources or the same level of a specific output with fewer resources or the employment of otherwise unemployed or underemployed resources than would be achieved without the plan. In the latter case, the release of productive resources which can be employed elsewhere in the economy for the production of other goods and services ultimately results in an increase in national output as a consequence of a plan. These two sources of increased output may apply to situations in which the plan results in the production of final consumer goods or intermediate producer goods utilized by direct users; and they may also apply in situations in which firms are indirectly affected through economic interdependence with firms which utilize the intermediate producer goods from the plan.

For convenience of measurement and analysis, beneficial effects on national economic development are classified as follows:

a. The value of increased outputs of goods and services from a plan;

b. The value of output resulting from external economies caused by a plan.

In each case, with and without analysis must be applied to ascertain that with a plan there is a net increase in the production of goods and services, regardless of source, over those that would be obtained in the absence of the plan.

The general measurement standard for increases in the national output of goods and services will be the total value of the increase, where total value is defined as the willingness of users to pay for each increment of output from a plan. Such a value would be obtained









XUM

if the "seller" of the output was able to apply a flexible unit price and charge each user (consumer) an individual price to capture the full value of the output to the user. This concept is illustrated in figure 1.

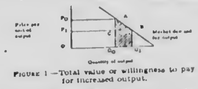


FIGURE 1.—Total value or willingness to pay for increased output.

Assuming the normal demand-output relationship, additional plan output will be taken by users as the unit price of output falls. If, as a result of the plan, output is increased by an amount $Q_1$-$Q_0$, the total value of this additional output to the users is measured by the entire shaded area on the chart. This is a larger amount than would be reflected by the market value. It is the sum of market price times increased quantity (represented by the rectangle $CEQ_1Q_0$) plus the consumer surplus for that increase (represented by the triangle ABC).

Since, in most instances, it is not possible for the planner to measure the actual demand situation, three alternative techniques can be used to obtain an estimate of the total value of the output of the plan--willingness to pay, change in net income, and the most likely alternative.

If the additional output from a plan is not expected to have a significant effect on price, actual or simulated market prices will closely approximate the total value of the output. This is true because there would be no consumer's surplus. If the additional output is expected to significantly influence market price (as in figure 1), a price midway between that expected with and without the plan may be used to estimate the total value. This would approximate the willingness to pay, including consumer surpluses, in most cases.

When outputs of a plan are intermediate goods or services, the net income of the (producer) user may be increased. Where changes in net income of each individual user can be estimated, a close approximation of the total value of the output of the plan (including consumer surpluses) will be obtained.

The cost of the most likely alternative means of obtaining the desired output can be used to approximate total value when the willingness to pay or change in net income methods cannot be used.



The cost of the most likely alternative means will generally misstate the total value of the output of a plan. This is because it merely indicates what society must pay by the next most likely alternative to secure the output, rather than estimating the real value of the output of a plan to the users. This assumes, of course, that society would in fact undertake the alternative means. Because the planner may not be able to determine whether alternative means would be undertaken in the absence of the project, this procedure for benefit estimation must be used cautiously.

Application of these general measurement standards will necessarily vary, depending upon the source by which output is increased (that is, via direct increases in production or through subsequent employment of released resources), upon the type of good or service produced (whether the output is an intermediate or final good), and upon the type and nature of available alternatives. General measurement methods for each type of situation as well as an indication of the water and land resource plan outputs to which these standards are applicable are presented below.

a. Direct output increases. Direct outputs of water and land resource plans may be in the form of either final consumer goods or intermediate goods. An effective direct or derived demand must exist for the final and intermedite goods, respectively, to include the increased output as a contribution to national economic development.

Certain consumer goods and services may result directly from water projects and be used with no additonal production resulting therefrom. Recreation, municipal water, and electric power for residential use are examples of this type of good or service. Most goods and services produced by water projects are not directly consumed, however, but are intermediate products that serve as inputs for producers of final goods or producers of other intermediate goods. The development of irrigation water for use in producing food and fiber or supplying electric power and water for industry are examples.

The values of increased output resulting directly from plans that produce final consumer goods or services is properly measured as the willingness to pay by final users for such output. When a competitive market price is not directly available, and the increased output will not be large enough to affect prices, total value of output may be estimated by simulated market prices or the use of the cost of the most likely alternative means of producing such final output. Examples





of types of outputs to which this method may be applied include:

a. Community and residential water supply:

b. Electric power provided for community and residential use; and

c. Recreation enhancement.

The value of increased output of intermediate goods and services is measured by their total value as inputs to producers of final consumer products. The intermediate product from the plan may enable the producers to increase production of final consumer goods, or reduce costs of production which in effect releases resources for use elsewhere in the economy. In either case, the total value of the intermediate goods or services to the producer is properly measured as the increase in net income received by the producers with a plan as compared with the net income received in the absence of a plan. Net income is defined as the market value of producers' outputs less the market value of producers' inputs exclusive of the cost of the intermediate goods or services resulting from a plan. Examples of types of plan outputs to which this method may be applied include:

a. Agricultural water supply; and

b. Agricultural flood damage alleviation, land stabilization, drainage, and related activities.

Where net income changes cannot be directly determined, however, the value of the intermediate goods and services to producers will be measured either in terms of competitive market values, when competitive conditions exist, or approximated by the cost of the likely alternative that the producers would utilize in the absence of a plan to achieve the same level of output. Examples of types of plan outputs to which this method may be applied include:

a. Industrial and commercial water supply;

b. Urban flood damage alleviation;

c. Electric power provided for industrial, commercial, and agricultural uses;



d. Transportation; and

e. Commercial fishery enhancement.

b. Increases in output resulting from external economies. Increased output of individual firms or industries directly affected by the plan may create situations in which related firms or industries are able to take advantage of more efficient production techniques; or consumers may be indirectly affected by a project (such as through favorable environmental changes). Such productivity changes or technological external economies can be attributed as a benefit to a plan. For example higher levels of output by directly affected firms may enable subsequent processing firms to use more efficient processing techniques and thereby release resources for use in producing other goods and services or permit the higher level of output to be processed with no additional resources.

Present techniques are not well developed for measuring the beneficial effects accruing from external economies. However, in situations where it is thought that the increased output of final consumer goods or intermediate goods used by direct users can be expected to increase the productivity or output of related firms, an attempt should be made to measure the net income change resulting from such externalities. When this is done the methodology should be carefully documented in the report.

2. Measurement of the value to users of increased outputs.

a. Water supply. Plans for the provision of water supply are generally designed to satisfy requirements for water as a final good to domestic and municipal users and as an intermediate good to agricultural and industrial users. Provision of water supply to satify requirements in these uses generally requires, either separately or in combination, an increase in water quantity, an improvement in water quality, and an improvement in the reliability of both quantity and quality.

Where it is necessary to use alternative costs for approximation of total value for water supply, as provided herein, the alternative selected must be a likely and realistic alternative directly responsive to achievement of this particular category, namely the additional output of water as an input to industrial, agricultural, and municipal uses or as a final good for community and individual uses. Moreover, the









XUM

alternative must be a viable one in terms of engineering and financing and must be institutionally acceptable. It must be more than a hypothetical project. It must be a real alternative that could and would likely be undertaken in the absence of the proposed program, for instance, the reuse or recycling of existing water supplies or the use of available groundwater, including the improvement of its quality, if necessary.

Although water supply can often be considered as a final good, there usually does not exist a market value in terms of price that directly expresses users' valuation of water supply for community and individual use. When this is the case, the total value of the water may be derived using the cost of the alternative that would provide essentially a comparable water supply service, in both quantity and quality, that would in fact be utilized in the absence of the water supply provided by the plan. Where such an alternative source is not available or would not be economically feasible, a market value for the water may be derived on the basis of the price paid by other like users or the average cost of a comparable water service from municipal water supply projects planned or recently constructed in the general region.

The total value of water to the producers using increased supplies is reflected in the change in their net income with a plan for the provision of water supply compared with their net incomes without the plan. It is recognized that for many planning studies it is not possible to either specifically identify net income changes accruing to firms using water supply for productive purposes or always possible to determine what part of a municipal supply is used for productive pursuits or for general community or individual uses as set forth below. In these cases, total value to the users can be approximated by use of the cost of the alternative that would be employed to achieve the same production that would be utilized in the absence of the water supply provided by a plan.

Water supply for irrigation is an input to the production of food and fiber. This may result in a net increase in production of specified products, the reduction in production cost, or a combination of both. Beneficial effects from the application of irrigation water supplies will be based upon total value to agricultural producers and will be measured as the increase in net farm income with and without a plan for providing irrigation water. This may be measured directly as the sum of net incomes of farm enterprises benefiting from a plan for irrigation.



Gross farm income comprises total annual receipts from the sale of crops, livestock, livestock products, and the value of perquisites, such as the rental value of the farm dwelling and the value of farm products consumed by the farm family.

Farm expenses are the costs necessary to produce and market farm products and maintain and replace all depreciable items.

Increased net income is measured as the difference between the increase in gross farm income minus the increase in farm expenses analyzed with and without a plan. Changes in net farm income may be estimated by analyzing changes in gross farm income and expenses for each separate enterprise or by the use of representative farm budgets.

b. Flood control, land stabilization, drainage, and related activities. A number of activities, such as flood control and prevention, flood-plain management, drainage, prevention of sedimentation, land stabilization, and erosion control, contribute to the objectives through improving the productivity, use, and attractiveness of the Nation's land resources. From the viewpoint of their contribution to national economic development, the effect of these activities on the output of goods and services is manifested by increasing the productivity of land or by reducing the costs of using the land resources, thereby releasing resources for production of goods and services elsewhere. These activities affect land resources in the following manner:

(1) Prevention or reduction of inundation arising from stream overflow, overland waterflow, high lake stages, and high tides, and prevention of damage from inadequate drainage;

(2) Prevention or reduction of soil erosion, including sheet erosion, gullying, flood-plain scouring, streambank cutting, shore or beach erosion, and prevention of sedimentation; and

(3) Prevention or limitation of the uses to which specified land resources will be put.

There are essentially three types of effects on use that may occur as a benefit from including these activities in a plan. The first is an increase in the productivity of land without a change in land use. The second is a shift of land resources to a more intensive use than would occur in the absence of a plan. The third is a shift of land resources







to less intensive use than would occur in the absence of a plan. In each case, the general method of calculating benefits is applicable. The distinction is made only to facilitate the application of the general method in different settings and as a means of providing criteria for the use of alternative techniques for estimating net income changes for the three classes of land utilization under the with and without analysis.

The general method to be applied in measuring effects for these and any other activities that result in a change in net productivity or a reduction in the cost of using land resources involves the measurement of the difference in net income accruing to users of land resources benefiting from such activities compared with what these users would earn in the absence of such a plan. This generally defines and establishes the limit of the willingness of users to pay for a plan that results in a change in productivity or reduction in the cost of using land resources.

Willingness to pay of the users, which is the basis for approximating the value of output from these activities, whether it be in the form of increased production of intermediate or final goods or release of resources, may be obtained by the following approaches.

(a) Productivity increase. In this situation, analysis with and without the plan indicates that the current and future enterprises employing given land resources are essentially the same with the plan as they would be without the plan. Further, it is more profitable for the given enterprise to continue to use the given land resource even without the beneficial effect of the plan than to locate at the next most efficient location. Net income change can then be measured as the difference in net income accruing to the enterprise on the specified land resource without the plan compared with what that enterprise would receive as net income with the plan on the same land resource.

(b) Changes in land use. Two situations are covered by changes in land use. These are:

(i) The situation in which the land owner benefiting from the change in land use would only utilize the land resource affected by such activity once the plan has become operative. In other words, it would not be as profitable for the benefiting landowner to utilize the affected land resource unless improved through one of the activities in this category as compared with the next most efficient location. Without such a plan the improved enterprise would occur at an alternative location. Net income change to the landowner will be measured as the difference in net income from the enterprise at an alternative location that would be utilized without the plan compared with the net income received from the



enterprise at a new location which is improved or enhanced as a result of the plan.

(ii) The situation in which enterprises that would otherwise employ a given land resource would be precluded from using the given land resources with implemention of the plan. Other enterprises less prone to incur flood damages or other adverse consequences would be allowed to use the given land resources.

Beneficial effects to the enterprises from activities in this category would be evaluated by measuring the net income change for the enterprise precluded from using the given land resources with the plan as compared with the without situation, plus the net income change for the enterprise that would be allowed to use the given land resource with the plan as compared with the without situation.

(c) Estimates of damage prevention and other measures. In the above cases, where it is not possible to directly employ net income changes to derive benefits, the estimate of actual or prospective damages to the physical properties of the enterprises involved can be employed as an approximation of net income change.

In the case of productivity change, where development will be the same with and without the plan, benefits attributable will equal total damages reduced. For the intensive land use cases, where development or use of land will be different with and without the plan, benefits can be approximated as equal to the damages these enterprises could sustain in the absence of protection if located on the affected land.

As a check on benefits derived in the form of net income change or damages prevented, observations of changes in land values for all lands may be employed.

c. Power. With respect to the computation of beneficial and adverse effects of increases in output of electric power it is emphasized that where appropriate, these should be viewed and evaluated as increments to planned or existing systems. Power supplied for general community and residential use can be considered as a final consumer good. Its value as a final good is generally reflected by the satisfaction









XUM 37 10 7 SUB 4 7 1 8 3 V

of individual residents or in terms of improved community services and facilities. Electric power provided to industrial, commercial, and agricultural uses is viewed as an energy input to the production of goods and services from these activities resulting in an increase in the output, reduction in the cost of production, or a combination thereof. The total value of electric power to the producers using such power is reflected in their willingness to pay. Where the identification and measurement of willingness to pay and satisfactions accruing to activities using electric power for industrial, municipal, and residential purposes are not possible, total value to the users will be approximated by taking account of the cost of power from the most likely alternative source and using this as the measure of the value of the power creditable to the plan. The alternative selected must be a viable one in terms of engineering, and the financing should be that most likely to the constructing entity. The costs should include any required provisions for protection of the environment. However, since the addition of a hydroelectric project to an electric system in lieu of an alternative power source usually will either increase or decrease the unit cost of producing power by existing generating facilities of the system, this cost differential must be taken into account in determining the power value of the hydroelectric project.

Normally, electric power is evaluated in terms of two components--capacity and energy. The capacity value is derived from a determination of the fixed costs of the selected alternative source of supply. The energy value is determined from those costs of the alternative which relate to and vary with the energy output of the alternative plan. These capacity and energy components of power value are usually expressed in terms of dollars per kilowatt per year of dependable capacity and mills per kilowatt-hour of average annual energy.

d. Transportation (navigation). Plans for the provision of transportation through inland waterways and harbors are established to complement or extend the overall national transportation system within and among regions to achieve an improved movement of goods from the producer to the consumer.

(1) Movement of intermediate or final goods. Transportation as applied to industrial, commercial, and agricultural activities is viewed as an essential service input resulting in savings and creation of utilities in the distribution of intermediate and final goods and services.

The beneficial effects from the movement of traffic are related to the improvements in the transportation services provided



enabling the widespread distribution of goods and services, and are measured as:

(a) The savings in the movement of commodities on the waterway when compared with movement via existing alternative modes; and

(b) The expressed willingness to pay by the shippers (producers) of commodity or traffic flow newly induced by a navigation improvement as reflected in the change in their net income.

(2) Where traffic will move in the absence of the waterway improvement. In this situation, navigation studies would include an estimate of the savings to shippers via the considered navigation improvement, measured as the product of the estimated traffic and the estimated unit savings to shippers from the movement of that traffic via the proposed navigation improvement. The unit savings would be measured as the difference between the charges shippers actually incur for transportation at the time of the study and the charges they would likely incur for transportation via the improvement.

The traffic that is estimated to move via the proposed waterway will be based on a thorough analysis of the existing traffic movements in the tributary area. The potential traffic will be carefully screened to eliminate those movements that are not, for a variety of reasons, susceptible to movement on the waterway. The traffic available for water movement after the screening process is completed will be subject to an analysis of savings as discussed immediately below, and, based on the magnitude of the indicated savings, a decision will be made as to whether or not the movement would be directed to the waterway. Only traffic for which the differences in savings is judged sufficiently large to divert the traffic to the waterway will be included in the estimated waterway traffic. Moreover, as a practical matter, it will be deemed realistic to assume a sharing of the total traffic movement among alternative modes rather than to assume complete diversion to the lower cost mode.

The estimate of savings will ordinarily be developed by comparing the full charges for movement from origin to destination via the prevailing mode of transportation with the charges via the waterway being studied where these charges encompass all applicable handling, switching assessorial charges, and net differences in inventory, storage, or other charges due to the change in transportation mode. The alternative modes of transportation to be used in estimating savings to shippers







are those actually in use at the time of the study for moving the traffic in question, or, where there are no existing movements, those modes that would most likely be used for such movements. In the latter case, the alternative mode will be chosen on the basis that the shipper would take advantage of the mode affording him the lowest total charges. The competitive, or complementary, effects of existing and authorized waterways not yet constructed, including joint land-waterway routes, should also be taken into account.

(3) Where additional flow of traffic is induced by the plan. By making new sources of supply, or by increasing the net demand for a commodity, the navigation improvement may induce more traffic movement than would be the case in the absence of such improvement. Beneficial effects creditable to the plan for such new traffic are the differences between the cost of transportation by the waterway and the value to shippers, that is, the maximum cost they would be willing to pay for moving the various units of traffic involved.

Where data are available for estimating the value at which various increments of the new traffic could be moved economically, the difference between such values and the charges for transportation by the waterway provides a measure of the estimated beneficial effects attributible to the plan.

In the absence of such data, the probable average charge that could be borne by the induced traffic may be assumed to be half way between the highest and the lowest charges at which any part of it would move. On this basis, the difference between this average and the cost by the waterway applied to the volume of new traffic is the beneficial effect of the plan.

(4) Basis for evaluation. Congress has provided the standard for computing the beneficial effects of navigation in section 7(a) of the Department of Transportation Act of 1966, as follows:

> * * * the primary direct navigation benefits of a water resource project are defined as the product of the savings to shippers using the waterway and the estimated traffic that would use the waterway; where the savings to shippers shall be construed to mean the difference between (a) the freight rate or charges prevailing at the time of the study for the movement by the alternative means



and (b) those which would be charged on the proposed waterway; and where the estimate of traffic that would use the waterway will be based on such freight rates, taking into account projections of the economic growth of the area.

Consistent with the approach above outlined, these criteria are the basis on which beneficial effects for waterway plans will be evaluated.

(c) Recreation. As national living standards continue to rise, the average person, with basic needs provided for, uses an increasing percentage of rising real income to satisfy a demand for leisure time and outdoor recreational activities such as swimming, picnicking, boating, hunting, and fishing. With general ownership of automobiles and improvement in highways, travel to distant public recreational areas has become commonplace. Consequently, a large and increasing portion of recreational demand, especially that portion which is water-oriented, is accommodated by development of Federal lands and multi-purpose reservoirs which include specific provision for enhancing recreation activities. This is consistent with the requirements of the Federal Water Projects Recreation Act of 1965 (Public Law 89-72), providing for recreation and fish and wildlife as full and equal partners with all other purposes in Federal water projects.

For the most part, outdoor recreation is produced publicly and distributed in the absence of a viable market mechanism. While the private provision of recreation opportunities has been increasing in recent years, analysis of recreation needs is conducted in the absence of any substantial amount of feedback from effectively functioning markets to guide the evaluation of publicly produced recreation goods and services. Under these conditions--and based on a with and without analysis--the increase in recreation provided by a plan, since it represents a direct consumption good, may be measured or valued on the basis of simulated willingness to pay. In computing the projected recreation demand, however, the analysis should take explicit account of competition from recreation opportunities within the area of influence of the proposed plan.

There are in existance a number of methods, or approaches, to approximating demand and what people are willing









XUM
37 OF 38 SHEETS
ANHIBEV

to pay for outdoor recreation. A generalized methodology encompassing the travel-distance approach is set forth below.

(1) An analytical approach relating travel cost to distance. Using marginal travel costs (i.e., variable costs of automobile operation directly related to the number of miles driven) taken as a measure of what people are willing to pay for water-oriented recreation and how price affects use, the relationship between price and per capita attendance can be established for recreation sites and market areas. This relationship, the conventional demand curve having a negative slope, sums up the response of users' demand to alternative prices of the recreational product (or experience). Separate demand curves are constructed to reflect each kind of recreation use, whether day-use travel, camping-use travel, or other. If there is no entrance charge at the project, per capita rates for each distance or travel cost would be consistent with the constructed demand curves.

If a fee is charged, however, the cost to the recreationist would then be equal to the fee plus his travel cost, thus diminishing the per capita use rate. Applying a range of reasonable entrance fee charges to the constructed demand schedules, additional separate day-use and camping-use demand curves for sites are constructed to determine respective attendance which may be expected under such conditions. Following this, initial project year day-use and camping-use values are computed by measuring the area under their respective demand curves. These values can be compared with market projections and existing capacities to determine if actual site demand will materialize. The initial year values are then projected throughout the life of the project consistent with the calculated recreational use predictions. The resultant figures, total values for day-use and camping-use over the life of the project, are separately discounted at the prevailing discount rate established by these standards to obtain average annual equivalent values.

(2) Other approaches. A variety of other approaches may be taken toward the evaluation of recreation goods and services. In general, however, no one method is completely satisfactory to the exclusion of all others. The applicable rule to follow, taking cognizance of the unique circumstances of a particular setting, including the availability of actual market data and experience, is to use that procedure which appears to provide the best measure or expression of willingness to pay by the actual consumer of the recreation good or service provided by the plan.



In the interim, while recreation evaluation methodology is being further developed, the following schedule of monetary unit values may be used in the preparation of plans.

(3) Simulated prices per recreation day. A single unit value will be assigned per recreation day regardless of whether the user engages in one activity or several. The unit value, however, may reflect both the quality of activity and the degree to which opportunities to engage in a number of activities are provided.

| Type of Outdoor Recreation Day | Range of Unit Day Values |
|---|---|
| General.....(A recreation day involving primarily those activities attractive to the majority of outdoor recreationists and which generally require the development and maintenance of convenient access and adequate facilities.) | $0.75-$2.25 |
| Specialized.....(A recreation day involving primarily those activities for which opportunities, in general, are limited, intensity of use is low, and often may involve a large personal expense by the user.) | 3.00- 9.00 |

Two classes of outdoor recreation days, general and specialized, are differentiated for evaluation purposes. Estimates of total recreation days of use for both categories, when applicable, will be developed.

The general class, constituting the great majority of all recreation activities associated with water projects, embraces the more usual activities, such as swimming, picnicking, boating, and most warm water fishing.

In view of the fewer alternatives available and the likelihood that higher total costs are generally incurred by those engaged in hunting and fishing activities compared with those engaged in other types of outdoor recreation, it may be anticipated that the monetary unit values applicable to fish and wildlife recreation will ordinarily be larger than those applied to other types of recreation.









The special class includes activities less often associated with water projects, such as big game hunting and salmon fishing.

A separate range of values is provided for each class in order that informed judgment may be employed in determining the applicable unit values for each individual project under consideration. Where considered appropriate, departure from the range of values provided is permissible if a full explanation is given.

(f) Commercial fishing and trapping. Water and land resource plans may include specific measures designed for the purpose of enhancing the fish and wildlife resources and associated opportunities for the direct harvesting of fish and game as a commercial product. Beneficial effects to commercial fishing, hunting, and trapping consist of the value of an increase in the volume or quality of the products expected to be marketed. This increase is determined by comparing values of future production with and without the plan.

The beneficial effects from the increase in output of fish and wildlife products resulting from a plan is measured as the total value to the final users of the output reflected by the applicable market price, minus the expenditures incurred to obtain the fish or game.

(g) Other program outputs. In addition to the more common outputs which have been dealt with in the preceding sections, plans may produce other goods and services which contribute to national economic development. Proper application of the measurement standards to these additional outputs should be guided by analogy to the outputs which have been discussed. Care must be exercised in defining types of outputs to assure that overlapping categories are not used which lead to duplication in the estimates of beneficial effects.

(3) Measurement of increases in output resulting from external economies. Technological external economies are the beneficial effects on individuals, groups, or industries that may or may not benefit from the direct output of the project. They result from a plan if an increase in the output of final consumer goods or intermediate goods takes place beyond that which would be obtained in the absence of the plan and over and above direct outputs of the plan. This increased output may result from firms which are economically related to the plan taking advantage of more efficient production techniques and thereby releasing resources for use in producing other goods and services.



The change in net income of the economically related firms will be used as an indicator of the value of this type of national economic development effect. Changes in the total value of consumer goods due to externalities because of a plan can be accounted for by using measurement techniques like those described above.

If society would obtain the project output of final consumer goods or the output of firms that utilize the intermediate goods of the project from some other source in the absence of the project, then the net income position of the related firms would be unaffected by the plan.

Some examples of potential situations for the occurence of external economies associated with final consumer goods and intermediate produced goods are presented below.

(a) Final consumer goods. Provision of additional recreation opportunities and fish and wildlife enhancement for the direct enjoyment of individuals may enable merchants of sporting goods and other suppliers of recreation equipment and services to increase their sales and net income. However, to the extent that the increased expenditures for outdoor sporting equipment and other outdoor recreation services substitute for some other consumer expenditures, there is no real gain in the Nation's output.

The provision of either water supply or electric power for community and residential use will not generally stimulate external economies to enhance national economic development. It is usually assumed that the necessary quantities of these outputs will be provided by some alternative means in the absence of the plan. As a consequence, firms that are economically related to consumers through the consumption of these products will experience the same economic conditions and have the same net income without the plan as compared with the plan.

(b) Intermediate producer goods. The utilization of intermediate goods and services from the plan by direct users may enable them to expand their output. Increased levels of output by direct users of the output of a plan may, in turn, enable economically related firms to improve the efficiency of their operation and/or expand their output and, as a result, increase their net income. Measurement of the change in the net income position of related firms should be made, if it can definately be established that a change in output by the direct users will generate a corresponding income change for the related firms.

An evaluation should be made of the output levels that will be achieved by the direct users with the plan and without the plan. If the direct users would obtain the same good or service from some other source in the absence of the plan, no external economies occur and the net income position of the related firms would be unaffected by the plan. Some examples of types of plan outputs to which this standard may be applied are presented below.

In situations where water supply is an intermediate good, its utilization by direct users may stimulate more inputs to be acquired from supplying firms, and if there is an increased output from the enterprise of the direct user additional output will be processed by related processing firms. Except for irrigation water supplies and a few industries with high water requirements, water represents a relatively small consideration in the management decision of firms. If firms or industries with relatively small water requirements would obtain their necessary water from some other source in the absence of the plan, no external economies should be included in the calculation of water supply benefits.

The provision of flood control, land stabilization, drainage, and related programs may affect the productivity of and resources resulting in increased levels of output by firms directly affected by the plan. Net income changes may also occur in economically related firms. Measurement of the net income change of the related firms should be made if it can be definitely established that a change in output by the direct users will generate a corresponding income change for the related firms. However, if the plan merely enables economic activities to shift to new locations resulting in more efficient production but no change in total output, then no external economies occur and no attempt should be made to measure net income changes of related input supply or output processing firms.

Electric power provided for industrial, commercial, and agricultural uses will frequently result in higher levels of output from these economic sectors. However, if alternative electric power or alternative energy sources would be utilized in the absence of the plan, the level of output would be unaffected and no external economies would accrue as a benefit to the plan.



To the extent that navigational facilities provide alternative transportation services that would otherwise be provided in the absence of the project, no external economies occur. In situations where the navigational facility provides a unique service, such as providing movement of bulky raw materials that would not otherwise be made available, external economies may occur to the firms economically related to the shippers.

4. Special beneficial effects from use of unemployed or underemployed labor resources. The effects of the use of unemployed or underemployed resources conceptually should be treated as an adjustment to the adverse effects of a plan on national economic development. Since this approach leads to difficulties in cost allocation and cost sharing calculations, the effects from the use of such resources should be treated as an addition to the benefits resulting from a plan.

Beneficial effects from the utilization of unemployed or underemployed labor resources may occur as a result of the plan through employment in the construction or installation of the plan.

The Council, considering data from its economic projections and the economic and rural development programs, will designate planning regions in which unemployed or underemployed labor resources exist.

Where the planning region has been designated as having unemployed or underemployed labor resources and it can be shown that these labor resources will in fact be employed or more effectively employed in construction or installation of the plan, the net additional payments to the unemployed or underemployed labor resources should be measured as a benefit.





G. Adverse Effects on National Economic Development

Achievement of beneficial effects on national economic development, and or environmental quality, requires resources to be diverted from alternative uses. The adverse effects on national economic development are the economic value that these resources would have in their alternative uses. Generally, market prices provide a valid measure of the values of goods and services foregone in alternative uses. Both public and private costs associated with the plan will be measured to indicate the total adverse effect on national economic development incurred to realize the desired objectives.

1. Sources of adverse effects. Water and land resource plans result in adverse effects to national economic development in two ways.

a. Resources required or displaced to produce final or intermediate goods and services. In situations where a physical structure is necessary to obtain the desired objective, the adverse effects on national economic development include all explicit cash expenditures for goods and services necessary to construct and operate a project throughout a given period of analysis. They consist of actual expenditures for construction; transfers from other projects, such as costs for reservoir storage; development costs; and interest during construction. If the output of the plan is an intermediate good or service, the associated costs incurred by the intermediate product user in converting it into a marketable form will be measured. These associated costs are borne by the user of the plan output but nevertheless, represent resource requirements necessary to convert the project output into a product demanded by society. Examples are production costs incurred by users of plan outputs, and costs to other producers or to processors that arise in conjunction with the physical flow of the output of the plan. Associated costs should be deducted from the value of gross outputs to obtain net beneficial effects to be compared with the national economic development adverse effects of a plan. These adverse effects occur as a result of certain resources being released and subsequently unemployed as a result of the implementation of the plan.

In situations where nonstructural measures are used to obtain the desired objective, the adverse effects on national economic development will include payments to purchase easements or rights-of-way and costs incurred for management arrangements or to implement and enforce necessary zoning. In some cases, actual cash expenditures will not be involved as when local communities are required to furnish lands, easements, and rights-of-way.

b. Decreases in output resulting from external diseconomies. External diseconomies are adverse economic effects of a plan that are not reflected in



market prices of project inputs. They result when provision of goods and services for one group necessarily results in an undesirable effect or disservice for another group. For example, the return flow from an irrigation project may create a salinity condition for downstream water users, forcing them to adopt higher cost water treatment practices. These adverse effects (external diseconomies) are not compensated, yet they should be taken into account when deciding on the desirability of a plan.

Another type of external diseconomy may occur if the plan has the direct effect of reducing the output of some firms in the project area, and this reduction causes firms that are linked to the directly affected firms to become less efficient in their operation. For example, the reduction in output by a group of firms which have their output processed by another firm may result in an inefficient operation by the processing firm.

A third type of external diseconomy may occur if the plan has an adverse direct effect on the consumption by individual consumers. For example, if a plan is instrumental in increasing congestion or pollution which results in increased costs to the consumers, this effect should be taken into account in plan evaluation.

c. Cost adjustments. A special case of benefits from cost adjustments arise when a plan creates an opportunity to use resources that would be unemployed or underemployed in the absence of the plan. These resources can include labor, fixed capital, or natural resources. Utilization of such unemployed or underemployed resources may come about (a) as a result of implementing a plan, including construction, operation, maintenance, or replacement; (b) as a result of the use of intermediate goods and services resulting from the plan; or (c) as a result of expansion of output by firms who are indirectly affected by the installation of the project or indirectly affected by consumers and firms who use final and intermediate goods, respectively. The latter two effects--(b) and (c) above--occur when use of the output of a plan results in the employment of unemployed or more effective employment of underemployed resources. Increased national output results in this situation, since with a plan otherwise unemployed or underemployed resources are in effect substituted for resources that would have been drawn from productive activities elsewhere. The market value of the increase of such production will be measured as the difference in the earnings accruing to otherwise unemployed or underemployed resources with a plan as compared with their earnings without a plan. Because of measurement problems, only benefits arising from the use of otherwise unemployed or underemployed labor resources in construction or installation of the plan, will be estimated for the national economic development account.

2. Measurement of adverse effects.









XUM

a. Resources required for or displaced by the plan. Resource requirements of the plan are the sum of the market values of the goods and services used for installations; interest during construction; operation, maintenance, and replacement; and induced costs as defined below.

Installation costs are the market values of goods and services necessary to implement a plan and place it in operation, including management and organizational arrangements, technical services, land, easements, rights-of-way, and water rights; initial and deferred construction; capital outlays to relocate facilities or to prevent or mitigate damages; transfers of installation costs from other projects; and all other expenditures for investigating, surveying, planning, designing, and installing a plan after its authorization.

Operation, maintenance, and replacement costs are the market values of goods and services needed to operate an installed plan and to make repairs and replacements necessary to maintain the physical features in sound operating condition during their economic life.

b. Decreases in output resulting from external diseconomies. While external diseconomies are difficult to measure and the effects are incidental to the project, they are nevertheless recognized adverse effects.

Induced costs are all significant adverse effects caused by the construction and operation of a plan expressed in terms of market prices and whether or not compensation is involved. Compensation for some induced costs is neither required nor possible. Induced costs include estimated net increases in the cost of government services directly resulting from the project and net adverse effects on the economy, such as increased transportation costs.

H. Beneficial and Adverse Effects on Environmental Quality

A water and land use plan may have a variety of effects--beneficial and adverse--on environmental quality. While effects on environmental quality are characterized by their nonmarket, nonmonetary nature, they provide important evidence for judging the value of proposed plans.

Beneficial effects on the environmental quality account are contributions resulting from the management, preservation, or restoration of one or more of the environmental characteristics of an area under study or elsewhere in the Nation. Such contributions generally enhance the quality of life.

Adverse environmental effects--generally the obverse of beneficial environmental effects--are consequences of the proposed plan that result in the deterioration of relevant environmental characteristics of an area under study or elsewhere in the Nation, for example, acres of open and green space, wilderness areas, estuaries, or wildlife habitat inundated or altered, or of



lands experiencing increased erosion. Such adverse effects generally detract from or diminish the quality of life.

Often, however, an environmental impact of a plan cannot be easily labeled as being beneficial or adverse, since that decision will vary with the perceptions of the individual concerned. In any case, the effect itself should be quantified and displayed for purposes of decisionmaking.

1. Measurement methods. Whether subjectively perceived or objectively measured, the criteria used to describe or evaluate the beneficial or adverse effects of a plan will vary--consistent with the relevant components of environmental quality under consideration. To the extent possible, however, beneficial or adverse effects will be displayed in terms of relevant physical and ecological criteria or dimensions, including the appropriate qualitative dimensions. For example, where the effects of a plan will be visibly evident, quantitative, and qualitative descriptions may be made in terms of established or accepted water and land classification or ecological criteria and related measures.

Where significant physical effects are less easily perceived, it may be necessary to determine their extent through instrumentation or symptomatically by the presence or absence of commonly expected characteristics. As an example, eutrophication of fresh water lakes exemplifies a less easily perceived process that is reflected symptomatically, and which is subject to measurement by instrumentation with statistical analysis of data collected over time. Therefore, its rate of change is measured by reference to previous dates or periods, with projected rates of future change based on probability analysis. As explicit an account as possible of these effects and supporting analysis should be provided.

Notwithstanding the physical or ecological criteria terms available, certain environmental effects can be presented most effectively by reference to their qualitative dimensions. For instance, it may be necessary to use this approach to show the importance of a reduction in use or availability for use of areas of natural beauty, archeological, or historical significance. Consequently, the analysis should be supported by an appropriate descriptive-qualitative interpretation and evaluation of the effects of the plan on the relevant components of environmental quality.

2. With and without analysis Existing environmental conditions will be described and presented in terms that best characterize the planning perceptions and ecology of the affected area as conditions would exist without any plan. Similar descriptions will be prepared for the time sequence of the conditions to be expected with and without the plan throughout the period of analysis. The conditions before planning is initiated will provide the data from which









to evaluate environmental effects--or prediction of change--under alternative proposals, including the consequence of failure to adopt a plan for development and use of resources in the area under study. It should be clear that environmental conditions will not remain static but will, in fact, tend to change over time regardless of whether a plan is adopted.

3. Limitations. It is not presently possible to anticipate or identify, much less measure, all environmental effects or change. Nor are there in existence evaluation standards that permit full and direct quantitative comparisons and ranking of the conditions of identifiable environmental effects that might be expected to result from a plan. Consequently, reasoned judgments by multidisciplinary teams will be required in many situations. When this is necessary, a frank expression of the state of knowledge and the limitations thereof, as well as the limitations of the analysis in each instance, is essential.

4. Classes of environmental effects. Environmental effects of plans toward the complex of conditions encompassed by the environmental quality objective are best understood and their significance interpreted by evaluating them as separable components. While these are stated in terms of beneficial effects, adverse effects should be read as the converse of each statement. Beneficial effects (and adverse effects) of plans as related to components of the environmental objective are classified and evaluated relevant to:

A. Beneficial effects resulting from the protection, enhancement, or creation of open and green space, wild and scenic rivers, lakes, beaches, shores, mountain and wilderness areas, estuaries, or other areas of natural beauty.

With regard to these kinds of resources, beneficial effects on this component of the environmental quality objective are evaluated on the basis of data such as follows, though these are not all inclusive:

1. Open and green space. These are essentially undeveloped, visually attractive natural areas strategically located where most needed to ameliorate intensifying urbanization patterns.

a. Size and measure:

(1) Total acreage (woods, fields, meadows, etc.);

(2) Pattern and distribution;

(3) Juxtaposition to community and urban areas (effect on urban sprawl).



b. A descriptive-qualitative interpretation, including an evaluation of the effects of a plan on the designated or affected open and green space.

c. Improvements:

(1) Accessibility (mileage of public roads or trails provided; easements);

(2) Public amenities (provision for limited facilities, if any);

(3) Other (specify or describe).

d. Protection and preservation:

(1) Physical (fire, bioenvironmental, etc.);

(2) Legal (dedication, easements, institutional, etc.);

(3) Special.

2. Wild and scenic rivers. These are free-flowing streams, with shorelines or watershed essentially or largely undeveloped, which possess outstandingly remarkable scenic, recreational, geological, fish and wildlife, historic, cultural, and other features.

a. Size and measure, including characterization of adjacent primitive or near natural setting:

(1) Total mileage;

(2) White water mileage;

(3) Water quality;

(4) Character and extent or acreage of streamside land;

(5) Juxtaposition to community.

b. A descriptive-qualitative interpretation, including an evaluation of the effects of a plan on the designated or affected wild or scenic river.

c. Improvements:

(1) Accessibility (trails, infrequent roads, or other minimum public access provided; easements);

(2) Public amenities (provision for limited facilities, as boat launching, picnic areas, if any);

(3) Other (specify or describe).

d. Protection and preservation:

(1) Physical (bioenvironmental);

(2) Legal (dedication or withdrawal, institutional, water quality standards, etc.);

(3) Special.

3. Lakes. Where their clarity, color, scenic setting, or other characteristics are of special interest, aesthetically pleasing lakes contribute to the quality of human experience.

a. Size and measure:

(1) Surface acreage;

(2) Shoreline mileage;

(3) Depths;

(4) Water quality.

b. A descriptive-qualitative interpretation, including an evaluation of the effects of a plan on the designated or affected lake or lakes.

c. Improvements:

(1) Accessibility (public roads and trails; easements);

(2) Drainage;

(3) Cleaning;

(4) Shoreline management, including public amenities;

(5) Other (specify or describe).



d. Protection and preservation:

(1) Physical (bioenvironmental);

(2) Legal (institutional, pollution standards, etc.);

(3) Special.

4. Beaches and shores. The juxtaposition of attractive beaches, distinctive scenic shorelines, and adjacent areas of clean offshore water provides positive public aesthetic values and recreational enjoyment.

a. Size and measure:

(1) Mileage;

(2) Acreage;

(3) Marshland acreage;

(4) Embayments.

b. A descriptive-qualitative interpretation, including an evaluation of the effects of a plan on designated or affected beaches and shores.

c. Improvements:

(1) Accessibility (public roads and trails; easements);

(2) Public amenities;

(3) Nourishment;

(4) Other (specify or describe).

d. Protection and preservation:

(1) Physical (jettys, bulkheads, etc.);

(2) Legal (dedication, institutional, etc.);

(3) Special.

5. Mountains and wilderness areas. Generally occurring at higher altitudes, these pristine areas of natural splendor and scientific interest embrace







a very special category of land use. Such areas are designated for the purpose of preserving primeval conditions, as nearly as possible, for aesthetic enjoyment and for limited forms of recreation and other scientific uses.

a. Size and measure:

(1) Acreage;

(2) Biological diversity;

(3) Pattern and distribution;

b. A descriptive-qualitative interpretation, including an evaluation of the effects of a plan on the designated or affected mountain and wilderness area.

c. Improvements:

(1) Accessibility (limited public roads and trails);

(2) Public amenities (limited facilities provided, if any);

(3) Other (specify or describe).

d. Protection and preservation:

(1) Physical (fire, bioenvironmental, etc.);

(2) Legal (dedication, institutional, etc.);

(3) Special.

6. Estuaries. Beyond their critical importance in man's harvest of economically useful living marine resources, many estuaries, coves, and bays merit special consideration as visually attractive settings that support diverse life forms of aesthetic value and as marine ecosystems of special interest.

a. Size or measure:

(1) Surface acreage;

(2) Shoreline mileage;

(3) Marshland acreage and shoreline mileage;

(4) Water quality.



b. Biological significance as a nursery, breeding, and feeding ground (name species involved).

c. A descriptive-qualitative interpretation, including an evaluation of the effects of a plan on the designated or affected estuary.

d. Improvements:

(1) Accessibility;

(2) Public amenities (facilities provided, if any);

(3) Other (specify or describe).

e. Protection and preservation:

(1) Physical;

(2) Legal;

(3) Special.

7. Other areas of natural beauty. These include any other examples of nature's visual magnificence and scenic grandeur, not accommodated in the above-specified classes, which have special appeal to the aesthetic faculties of man.

a. Size or measure:

(1) Acreage;

(2) Mileage.

b. A descriptive-qualitative interpretation, including an evaluation of the effects of a plan on designated or affected areas of natural beauty.

c. Improvements:

(1) Accessibility (public roads and trails; easements);

(2) Screening;

(3) Plantings (seedlings, grassed cover, etc.);

(4) Public amenities (scenic overlooks, if any);

(5) Other (specify or describe).

d. Protection and preservation:

(1) Physical (fire, bioenvironmental, etc.);

(2) Legal;

(3) Special.

Conversely, and in a generally parallel manner, adverse effects of a plan result from the inundation, adverse alteration, or decreases in the availability, use, and aesthetic quality of these resources.

B. Beneficial effects resulting from the preservation or enhancement of especially valuable archeological, historical, biological, and geological resources and selected ecological systems.

Excluding ecological systems which are separately evaluated below, beneficial effects on this component of the environmental objective are evaluated on the basis of data such as follows, though these are not all inclusive:

1. Archeological resources. Preservation of these resources provides a continuing opportunity for studying the development of human settlements and understanding man's cultural heritage.

a. Size or measure:

(1) Acreage;

(2) Square footage;

(3) Height or depth from ground level.

b. A descriptive-qualitative interpretation including an evaluation of the effects of a plan on the designated or affected archeological resource areas.

c. Educational:

(1) General education;

(2) Special and scientific.

d. Improvements:



(1) Accessibility (public roads and trails; easements);

(2) Interpretation and monumentation;

(3) Other (specify or describe).

e. Protection and preservation:

(1) Physical;

(2) Legal (dedication, other);

(3) Special.

2. Historical resources. Preservation of these resources provides for the study, understanding, and appreciation of the Nation's origins and the evolution of its institutions as well as its scientific and technical progress.

a. Size and measure:

(1) Acreage;

(2) Number of units (of whatever kind).

b. A descriptive-qualitative interpretation, including an evaluation of the effects of a plan on the designated or affected historical resource area.

c. Educational values:

(1) General education;

(2) Specialist.

d. Improvements:

(1) Accessibility (public roads and trails; easements);

(2) Availability (as appropriate to particular site or materials preserved);

(3) Interpretation and monumentation;

(4) Other (specify or describe).

e. Protection and preservation:







(1) Physical;

(2) Legal (dedication, other);

(3) Special.

3. Biological resources. The opportunity to observe and study biological resources--terrestrial and aquatic--leads to an enlarged understanding and appreciation of the natural world as the habitat of man.

a. Size and measure (wide variation depending on characteristics of particular animal or plant):

(1) Total land and surface acreage and shoreline mileage;

(a) Land acreage (forest, woodland, grassland, etc.);

(b) Water surface acreage and shoreline mileage;

(c) Marshland acreage and shoreline mileage.

(2) Population estimates and characteristics of fish and wildlife to include as nearly as possible:

(a) Age and size classes;

(b) Sex ratios;

(c) Distribution (density).

b. A descriptive-qualitative interpretation, including an evaluation of the effects of a plan on the designated or affected biological resource or resources.

c. Educational:

(1) General;

(2) Special and scientific.

d. Improvements:

(1) Accessibility (public roads and trails; easements;

(2) Habitat enhancement or site improvement:



(a) Sanitation;

(b) Stabilization;

(c) Increasing edges;

(d) Harvesting (to maintain balance with environmental food supply);

(e) Cover planting (species, including number or acreage);

(f) Stocking:

(i) Wildlife (species and number);

(ii) Fish (species and number);

(3) Other (specify or describe):

e. Protection and preservation:

(1) Physical;

(2) Legal (dedication, other);

(3) Special.

4. Geological resources. When of outstanding geologic or geomorphologic significance, preservation of these resources contributes to man's knowledge and appreciation of his physical environment.

a. Size and measure:

(1) Surface acreage;

(2) Subsurface acreage (estimated);

(3) Quantity (estimated in appropriate units).

b. A descriptive-qualitative interpretation, including an evaluation of the effects of a plan on the designated or affected geological resources.

c. Educational:

(1) General education;

(2) Special and scientific.

d. Improvements:

(1) Accessibility (public roads and trails; easements);

(2) Interpretation and monumentation;

(3) Other (specify and describe);

e. Protection and preservation:

(1) Physical;

(2) Legal (dedication, other);

(3) Special.

Conversely, and in a generally parallel manner, adverse effects result from the inundation, deterioration, or disruption of like kinds of resources.

5. Ecological systems. Apart from the contributions which use of the natural resource base makes to man's basic needs for food, shelter, clothing, and employment opportunities, covered elsewhere, the environmental objective embraces the concept and appreciation of the values inherent in preservation of ecological systems per se.

Each natural area, such as a watershed, a vegetation and soil type, a tidal salt marsh, a swamp, a lake, or a stream complex, represents an ecosystem, an interdependent physical and biotic environment that functions as a continuing dynamic unit, possessing not only intrinsic values but also contributing to the enrichment of the general quality of life in a variety of subtle ways. Conversely, when such natural areas are lost or otherwise diminished in size or quality, there are corresponding adverse environmental effects borne by society.

Beneficial effects resulting from preservation of ecological systems include:

a. The maintenance of a natural environment in a state of equilibrium as an intrinsic value to society;

b. The provision of the purest form of aesthetic contact with nature;



c. Contributions to the development, appreciation, and integration of a "land ethic" or environmental conscience as a part of man's culture; and

d. Scientific understanding derived from the preservation and study of natural ecological systems which contributes to the conservation of natural resources in general, the most important practical application of ecology.

Conversely, adverse effects are the reduction or loss of opportunity to society as a result of a plan.

C. Beneficial effects resulting from the enhancement of selected quality aspects of water, land, and air by control of pollution.

1. Water quality. The beneficial effects of water quality improvements will be reflected in increased value to water users and will be recorded under the national economic development or regional development objective. For example, increases in the value of the Nation's output of goods and services from improvements in water quality will be accommodated under the national economic development objective. A great deal of improvement is needed in the methods of measuring these values.

There will be other water quality beneficial effects, however, that cannot be measured in monetary terms but are nonetheless of value to the Nation. Examples of such benefits are usually in the aesthetic and ecological areas so important to mankind. Beneficial effects from these kinds of improvements are contributions to the environmental quality account and are identified, measured, and described in nonmonetary terms.

Beneficial effects to the environmental quality account from water quality control may be defined in relation to the State standards or goals established under the Federal Water Pollution Control Act Amendments of 1972 (P.L. 92-500). Reservoir storage and flow regulation for water quality may be utilized where it is the least-cost way of meeting these standards or goals.

Consistent with water quality standards or goals established for the affected planning area, water quality control beneficial effects are identified, measured, and described by methods and terms such as:

a. Physical and chemical tests including but not limited to:

(1) Dissolved oxygen;

(2) Dissolved solids;

(3) Temperature;







(4) Acidity/alkalinity;

(5) Nutrients.

b. Biological indicators including but not limited to:

(1) Coliform;

(2) Macro and micro organisms;

(3) Algae.

c. Description: By a descriptive-qualitative interpretation, including an evaluation of the effects of a plan on the aquatic community as a whole.

Conversely, adverse effects will be reflected as departures from the established water quality standards, including related damages, as a result of a plan.

2. Air quality. Air pollution is primarily a regional problem stemming principally from urban centers containing concentrations of people, industry, and transportation. In addition to its diverse social impacts, air pollution causes direct injury to natural environments, including ground cover, trees, and wildlife. In its purely physical dimensions, air pollution is accommodated within the environmental objective.

Beneficial effects to the environmental objective from air quality control may be defined in relation to regional air quality standards established under the Clean Air Act of 1970.

Consistent with air quality standards established for the affected planning area, air quality control beneficial effects are identified, measured, and described by:

a. The amount and use of open space between sources of air pollution and concentrations of people to assist in the process of atmospheric dispersion and dilution.

b. Reductions in the use of fossil fuels.

c. Reductions in damages to:

(1) Wildlife:



(a) Species;

(b) Number or density;

(c) Distribution;

(d) A descriptive-qualitative interpretation and evaluation of effects as appropriate.

(2) Ground cover:

(a) Species;

(b) Acreage and density;

(c) Distribution;

(d) A descriptive-qualitative interpretation and evaluation of effects as appropriate.

(3) Forests:

(a) Species or types;

(b) Acreage;

(c) Growth rates;

(d) Distribution;

(e) A descriptive-qualitative interpretation and evaluation of effects as appropriate.

d. Enhancement of possibilities for visual enjoyment and aesthetic appeal of natural settings and scenic landscapes.

Conversely, adverse effects will be reflected as departures from established air quality standards, including related damages, as a result of a plan.

3. Land quality. Where erosion is prevalent or spreading--largely because of inadequate land use planning and management--it, among other things, seriously detracts from the general use, appreciation, and enjoyment of terrestrial and aquatic environments.









XUM

As encompassed in the environmental quality objective soil is valued as a basic national resource rather than for its more traditional role as a primary production factor contributing to increases in national output.

Beneficial erosion control effects improving the visual attractiveness of the natural landscape include:

a. Reductions in sediment on beaches and public recreation areas;

b. Reductions in turbidity and sediment pollution of water in rivers, streams and lakes;

c. Restoration of cull banks from strip mines and other eroded sites;

d. Bank stabilization on mainline and secondary roads.

Conversely, adverse effects will reflect any increases in sedimentation, bank sloughing, or other kinds of erosion resulting from a plan.

D. Beneficial effects resulting from the preservation of freedom of choice to future resource users by actions that minimize or avoid irreversible or irretrievable effects or, conversely, the adverse effects resulting from failure to take such actions.

While the previous discussion and outline of effects of the various components has been organized essentially in terms of programs or actions affecting environmental conditions, it may also be useful to view environmental effects of a plan in broad categories emphazing the predominant considerations of each, whether aesthetic, ecological, or cultural. Following such a classification, aesthetic values in the environment generally encompass lakes, estuaries, beaches, shores, open and green space, wild and scenic rivers, wilderness areas, and other areas of natural beauty; ecological values in the environment generally embrace the physical quality of water, air, and land (erosion), biological resources, and interrelated ecological systems; and cultural values in the environment are generally accommodated by historical, archeological, and geological resources. As this system of classification is not mutually exclusive, however, it is possible for multiple public values to be reflected within each of the components.



## III. OTHER BENEFICIAL AND ADVERSE EFFECTS

For each alternative plan the beneficial and adverse effects on regional development and social well-being will be displayed where appropriate in the system of public information accounts.

### A. Beneficial and Adverse Effects on Regional Development

Through its effects--both beneficial and adverse--on a region's income, employment, population, economic base, environment, social development, and other factors, a plan may exert a significant influence on the course and direction of regional development.

The regional development account embraces several types of beneficial effects, such as (a) increased regional income; (b) increased regional employment; (c) population distribution; (d) diversification of the regional economic base; and (e) enhancement of environmental conditions of special regional concern. There are major difficulties in estimating some components of the regional development account, such as the location effects as well as estimating the effects of a plan on regional employment, population distribution, and economic base and stability. For this reason a complete display of beneficial and adverse effects for all components in the regional development account will not be made for a plan unless directed by a Department Secretary or head of an independent agency.

The evaluation of various classes of beneficial and adverse effects on the regional development account is discussed below.

1. Regional income

a. Beneficial effects. An increase in regional income is attained to the extent that water resource investment, together with other complementary investments, increases output and provides additional regional income flows than would otherwise occur in the absence of the plan. Increases in regional output and related income are evaluated in a manner paralleling computation of net income to the various purposes (water supply, power, etc.) and the externalities discussed under the national economic development objective.

Where the regional development effects relate to increases in regional income, two classes of beneficial effects occur. These are:

(1) The value of increased outputs of goods and services







accruing within relevant regions resulting from a plan, including, in addition to the value of outputs to users of the plan:

(a) The value to the relevant regions resulting from the use in construction or installation of the plan of labor resources otherwise unemployed or underemployed.

(b) Additional net income accruing to relevant regions from the construction or implementation of a plan and from other economic activities induced by operations of a plan.

(2) The value of output resulting from external economies accruing within relevant regions.

b. Adverse effects. The adverse effects of a plan upon a particular region include the adverse effects on a region's income; employment; population distribution; economic base; or environmental quality.

Adverse effects on regional income include:

(1) The value of resources within relevant regions required or displaced to achieve the outputs of a plan. This includes, in addition to the value of resources contributed from within the relevant regions:

(a) Payment through taxes, assessments or reimbursement by the relevant regions for resources contributed to the plan from outside the region.

(b) Loss of assistance payments from sources outside the region to otherwise unemployed or underemployed resources and displaced resources within the region.

(c) Losses in output in the relevant regions resulting from resources displaced and subsequently unemployed.

(d) Loss of net income in the relevant regions from other economic activities displaced by construction or operation of a plan.

(2) Losses in output resulting from external diseconomies within the relevant regions.

c. Regional incidence of national economic development. Measurement of the beneficial and adverse effects of national economic development follows the same methods outlined under subsection II F and II G above and is a matter of determining the geographic incidence of such beneficial and adverse effects in the regions under consideration and the rest of the Nation.



d. Location effects. Location or transfer effects of a plan can be beneficial or adverse, depending on the region being considered. In any case, these effects are real and important to a region even though from the national view they sum to zero across all regions in the Nation. For this reason (as well as others), regional evaluations should proceed within the framework of a system of regional accounts.

Location effects are generally estimated as a multiplier factor of the more direct project outputs on the region being considered. Several alternative means of calculating such a multiplier value are available. They include input-output studies, economic base studies, and the application of Keynesian multiplier concepts to regions. Recent studies have indicated that all three approaches provide comparable values for the same region. The Water Resources Council will provide information on the appropriate multiplier values to use for specific planning studies.

2. Regional employment. Elimination or substantial reduction of high rates of unemployment--and related underemployment--in particular geographical areas and among particular segments of the population has long been a national concern, and a concern of affected regions. Water and land resource plans undertaken in designated areas characterized by significant economic and employment problems generally result in increased regional employment. When this is the case--and under with and without analysis--beneficial effects are identified and measured as the increase in the number and types of jobs resulting from the plan.

To the extent possible, planning reports will provide reasonable estimates indicating the composition of the increased employment by the relevant service, trade, and industrial sectors, including a separate estimate for agriculture. The nature of the employment increase to each sector will be classified with regard to the level of skills required--unskilled, semiskilled, and highly skilled.

Where practicable, the estimates within each of the sectors will be further classified by other pertinent attributes of the projected employment mix, such as age classes, sex, average wages, and labor force participation rates.

Adverse effects on regional employment are any decrease in the numbers and types of jobs resulting from the development.

3. Population distribution. Contributions toward achieving specified goals for population dispersal and urban-rural balance through improved distribution of population and employment opportunities are included as beneficial effects.

Although the historic movement of the Nation toward urbanization has resulted in much social, cultural, technical, and economic progress, the evidence of recent years suggests--at least for some areas--that the increasing social and economic costs attendant on attainment of high population densities in cities and suburbs are becoming unduly burdensome. The Nation is thus confronted with the task of channeling economic growth in new directions, while significantly reducing social and economic costs.

Maintaining the rural population base while drawing some people back into outlying areas with more opportunities for employment, recreation, more and better living space, and an amenable social environment represents a responsive approach toward redirecting geographic distribution of the population while providing for economic growth and development.

Public investment programs, especially those embracing plans for water and land development and use, contribute toward regional development by providing the water and land supplies--in both quantity and quality--which are an essential prerequisite to creating new settlement opportunities or expanding upon existing rural developments and by assisting in the provision of better social services and improved cultural opportunities at reduced community costs.

These beneficial effects will occur when populations of affected planning areas are stabilized or otherwise increased through in-migrations resulting from implementation of a plan.

Beneficial effects can be measured as the improvement or increase in population and related employment toward attainment of specified distributional goals.

Conversely, adverse effects are identified and measured as increases in the concentration of population and employment contrary to specified objectives.

4. Regional economic base and stability. The economic base of a region consists of those activities which provide the basic employment and income on which the rest of the regional economy depends.



For some regions the mix of the existing economic base may be too narrow and specialized, thus restricting the region's development potential. Over an extended period such a region is likely to be subject to extensive cyclical instability with attendant adverse economic and social consequences. When a region wishes to offset the likelihood of such cyclical instability over the long run, diversification of the economic base may be a beneficial effect.

Water and land resource plans contribute needed inputs--particularly water supply, power, and transportation--that contribute to or assist in creating the essential conditions that enable an improvement in the industrial mix over time leading to a broader production base by which the region can provide a larger portion of the Nation's outputs of goods and services.

When the region under study has too great a concentration or specialization in its economic base and the water and land resource plan being evaluated would have a significant effect in promoting greater diversity, the following information should be shown in planning reports: (1) A statistical description of the area's current economic base, highlighting the employment concentrations which are of concern; (2) projections of future employment both with and without the plan; and (3) the percentage reduction in the area's expected dependence on its specialized type of employment, with as compared to without the water plan. The latter statistic will be shown in tabular displays of plan benefits.

Beneficial effects include contributions to (1) balanced local and regional economies; (2) regularizing market activity and employment fluctuations; (3) offsetting effects of climatic vagaries and accompanying uncertainty; and (4) reversal in decline of community growth.

These beneficial effects may be measured or described in a variety of ways, with primary emphasis on comparative indices relating to fluctuations in output, employment, and prices.

Conversely, adverse effects are identified and measured or described as negative effects on economic stability.

5. Environmental conditions of special regional concern. Where their impact is likely to have special reference to a region's perception of its future development needs, the special concern of a region toward particular elements of the overall environmental quality objective may be given expression through specific incorporation in the regional development effects.







As discussed above, beneficial effects toward improving, preserving, or achieving one or more of the diverse and varied components of the environmental quality objective are identified and measured in a variety of physical dimensions, or otherwise qualitatively described. When such benefits are applicable to regional development, they will be measured and evaluated in a manner consistent with that followed in the above referenced section.

### B. Beneficial and Adverse Effects on Social Well-Being

In addition to the effects described above, most water and land resource plans have beneficial and adverse effects on social well-being. These effects reflect a highly complex set of relationships and interactions between inputs and outputs of a plan and the social and cultural setting in which these are received and acted upon. These effects will be reported as appropriate in the system of accounts for each alternative plan.

With emphasis on their incidence or occurrence, beneficial effects on social well-being are contributions to the equitable distribution of real income and employment and to other social opportunities. Since they are integrally related to the basic values and goals of society, these effects are usually not subject to monetary evaluation. The normal market exchange process, however, produces monetary values which can be utilized to aid in measuring the distributional impacts of plans on real income.

Adverse effects of a plan on social well-being have detrimental impacts on the equitable distribution of real income and employment or otherwise diminish or detract from the attainment of other social opportunities. Additionally, such adverse effects include not only those incurred in the designated planning area, but also include adverse consequences elsewhere in the Nation resulting from implementation of the plan.

1. Measurement standards. Criteria used to evaluate or describe the beneficial or adverse effects of a plan will vary with the relevant social effects under consideration. Where appraisal of such diverse social and economic characteristics as income distribution, health and safety conditions, and so forth, is relevant to a proper evaluation of a plan, the measurement standards to be applied must necessarily be broad and variable. Measures used to describe effects on social well-being may be expressed in dollars, other quantitative units, and qualitative terms.



2. With and without analysis. Existing conditions encompassed by the relevant social factors will be described and presented in terms that best characterize the planning perceptions and social setting of the affected area in the situation without the plan. Planners will also prepare similar descriptions for future social conditions to be expected with and without the plan throughout the period of analysis. The situation existing before the initiation of planning will provide the data from which to evaluate significant social effects under alternative plans.

3. Limitations. In evaluating well-being effects the obtaining of detailed breakdowns and analytically useful correlations relating to various indicators, index numbers, and similar comparative statistical indicators, as well as dollar values where possible, presents many complex definitional, data, and measurement problems. Consequently, planning studies should explicitly recognize the limitations of present methods and explore innovative approaches to the identification and measurement of the social well-being effects. Such procedures should be carefully documented in the report.

4. Classes of social well-being effects. Effects of a plan on social well-being are more clearly understood and their significance interpreted by evaluating them as separable classes of social effects. While these are stated in terms of beneficial effects, adverse effects should be read as the converse of each statement. Beneficial effects (and adverse effects) of a plan include:

a. Effects on real incomes. Beneficial effects occur when designated persons or groups receive income generated as a result of the plan.

The income distribution effect can be measured as the net amount of total and per capita income accruing to designated persons or groups.

Current guidelines or yardsticks defining the family poverty line may be used as the data from which to measure and portray the estimated absolute and percentage increase toward meeting or exceeding this standard for specific geographic planning areas.

Conversely, adverse effects are identified and measured as the reduced real income of such persons or groups due to taxes, reimbursement costs, and other adverse economic effects.

b. Effects on security of life, health, and safety. Beneficial effects include contributions to (1) reducing risk of flood, drought, or







XUM

other disaster affecting the security of life, health, and safety; (2) reducing the number of disease-carrying insects and related pathological factors; (3) reducing the concentration and exposure to water and air pollution; and (4) providing a year-round consumer choice of foods that contribute to the improvement of national nutrition.

In those limited situations where historical experience is sufficiently documented to provide confidence in projecting likely future hazards, an estimate of the number of lives saved or the number of persons affected may be provided. In most instances, however, a descriptive-qualitative interpretation and evaluation of the improvement and expected results will be applicable.

Conversely, adverse effects are identified and measured or described as increases in hazards to life, health, and safety.

c. Educational, cultural, and recreational opportunities. Beneficial effects to this component include contributions to (1) improved opportunities for community services such as utilities, transportation, schools, and hospitals; and (2) more cultural and recreational opportunities such as historic and scientific sites, lakes and reservoirs, and recreation areas.

Beneficial effects to improved community services may be described in appropriate quantitative terms, while increased cultural and recreational opportunities will be set forth as the numerical increase in the relevant facilities, otherwise accounting for size, use potential, and quality.

Conversely, adverse effects are identified and measured or described as detrimental effects on education, cultural, and recreational opportunities.

d. Effects on emergency preparedness. Beneficial effects include contributions to (1) extending, maintaining, and protecting major components of the national water transportation system; (2) provision of flexible reserves of water supplies; (3) provision of critical power supplies (ample, stable, quickly responsive); (4) provision of reserve food production potential; (5) provision for the conservation of scarce fuels; (6) provision for dispersal of population and industry; and (7) supplying international treaty requirements.

While these beneficial effects will be measured in appropriate quantitative units where readily practicable, they will be largely



characterized in descriptive-qualitative terms.

Conversely, adverse effects are identified and measured or described as overloading capacities of water resource systems and increasing the risk of interruption in the flow of essential goods and services needed for special requirements of national security.

e. Other. Other effects on social well-being may be identified and displayed as relevant to alternative plans.

## VI. GENERAL EVALUATION STANDARDS

To assure consistency in the application of planning principles, uniform evaluation guides are necessary. The following general evaluation standards are to be used, to the extent applicable, in planning of water and land resources. Deviation in the application of these evaluation standards and the reasons therefor should be fully reported.

### A. General Setting

Plan formulation and evaluation shall be based upon national and regional projections of employment, output, and population and the amounts of goods and services that are likely to be demanded. The Water Resources Council has arranged for preparation and periodic revision of a set of national, regional and area economic projections as a guide to project, State, regional, and river basin planning. These projections are used by the Council as a base for its current views as to probable rates of growth in population, the gross national product, employment, productivity, and other factors. The projections also include expected rates of regional growth in relation to the level of projected national growth. The following table shows the selected national projections published by the Council and reflect the expected rates of national growth under certain assumptions. An alternative set of projections using a lower set of population growth projections and other assumptions are being prepared. The Council may change these national projections by amending these standards to include alternative futures significant to planning water and land resources.

The projections presented here and as elaborated in separate Council publications also serve as a convenient basis for preparing projections of alternative futures.







WATER RESOURCES COUNCIL

NATIONAL PROJECTIONS: SELECTED HISTORICAL AND PROJECTED DATA

| Year | (1) Population (thousands) | (2) Working age population (thousands) | (3) Total labor force participation rate (percent) | (4) Total labor force (thousands) | (5) Armed forces (thousands) | (6) Civilian labor force (thousands) | (7) Unemployment rate (percent) | (8) Civilian employment | (9) Government civilian employment (percent of civilian employment) | (10) Government civilian employment (thousands) |
|---|---|---|---|---|---|---|---|---|---|---|
| 1950 | 152,271 | 104,438 | 57.1 | 64,749 | 1,650 | 63,099 | 05.3 | 59,746 | 09.7 | 5,782 |
| 1953 | 165,931 | 119,440 | 57.7 | 68,896 | 3,061 | 65,843 | 02.9 | 62,942 | 11.0 | 6,905 |
| 1960 | 180,684 | 127,335 | 57.4 | 73,126 | 2,514 | 70,612 | 04.6 | 66,681 | 11.9 | 7,943 |
| 1965 | 194,582 | 138,799 | 56.7 | 77,178 | 2,123 | 75,055 | 04.5 | 72,178 | 12.3 | 8,882 |
| 1966 | 196,970 | 140,565 | 57.0 | 80,154 | 2,123 | 77,044 | 03.9 | 74,065 | 14.0 | 10,348 |
| 1967 | 199,118 | 142,981 | 57.8 | 82,710 | 2,448 | 78,724 | 04.0 | 75,908 | 14.8 | 11,183 |
| 1968 | 201,166 | 145,403 | 57.6 | 83,681 | 2,535 | 80,152 | 03.7 | 77,210 | 15.1 | 11,621 |
| Rate of increase 1960–1968 | 1.4% | 1.4% | — | 1.4% | 4.3% | 1.5% | — | 1.5% | — | 3.9% |
| 1980 | 235,512 | 174,316 | 58.4 | 101,753 | 3,000 | 98,753 | 04.0 | 94,803 | 16.4 | 15,514 |
| 2000 | 307,801 | 237,410 | 59.2 | 134,667 | 3,000 | 131,662 | 04.0 | 126,396 | 18.6 | 23,406 |
| 2020 | 400,053 | 294,956 | 59.8 | 176,427 | 3,000 | 173,427 | 04.0 | 166,490 | 20.8 | 34,372 |
| Rate of increase 1968–2020 | 1.3% | 1.4% | — | 1.4% | -0.3% | 1.5% | — | 1.5% | — | 2.1% |
| Source of historical data | Census | Census | Implicit | BLS | BLS | BLS | BLS | BLS | BLS | BLS |
| Method of projection | Census to 2015 (P-25 No. 311) to 2020 | Census to 2015 (P-25 No. 311) BEA to 2020 | Based on BLS modified by experience of 1966–68 | Col. 2 ×Col. 3 | Assumed average level of 3,000,000 | Col. 4 −Col. 5 | Assumed 4% | Col. 8 −Col. 7 ×Col. 6 | Trend projection | Col. 8 ×Col. 9 |

| Year | (11) Private civilian employment | (12) Private economy hours worked per year per man | (13) Private economy gross product per man per hour (1958 dollars) | (14) Private economy gross product (millions of 1958 dollars) | (15) Government gross product (millions of 1958 dollars) | (16) Gross national product (millions of 1958 dollars) | (17) Personal income (percent of gross national product) | (18) Personal income (millions of 1958 dollars) | (19) Earnings (percent of personal income) | (20) Earnings (millions of 1958 dollars) |
|---|---|---|---|---|---|---|---|---|---|---|
| 1950 | 53,954 | 2,127 | 2.78 | 319,410 | 25,878 | 345,873 | 77.3 | 274,571 | 82.8 | 226,835 |
| 1955 | 66,117 | 2,090 | 3.34 | 442,003 | 29,503 | 437,961 | 76.5 | 335,010 | 83.2 | 280,479 |
| 1960 | 58,738 | 2,021 | 3.68 | 559,808 | 48,159 | 487,582 | 78.5 | 383,053 | 82.1 | 319,781 |
| 1965 | 62,570 | 2,020 | 4.44 | 695,792 | 57,991 | 812,789 | 80.2 | 491,306 | 80.7 | 399,706 |
| 1968 | 64,715 | 1,998 | 4.74 | 809,190 | 81,795 | 674,628 | 81.6 | 550,156 | 80.4 | 442,581 |
| 1967 | 63,113 | 1,996 | 4.93 | 838,998 | 85,528 | 707,908 | 82.0 | 580,930 | 80.4 | 466,151 |
| 1968 | 65,583 | 1,977 | — | — | 88,210 | — | — | — | — | — |
| Rate of increase 1950–1968 | 1.1% | -0.4% | 3.2% | 3.8% | 3.7% | 3.5% | — | 4.3% | — | 4.1% |
| 1980 | 79,289 | 1,819 | 7.21 | 1,068,096 | 84,277 | 1,153,873 | 84.6 | 979,439 | 79.1 | 774,654 |
| 2000 | 102,930 | 1,852 | 12.69 | 2,385,782 | 122,112 | 2,505,894 | 89.0 | 2,230,196 | 77.6 | 1,730,173 |
| 2020 | 131,918 | 1,736 | 23.82 | 5,248,901 | 174,234 | 5,423,135 | 93.0 | 4,987,314 | 76.9 | 3,833,710 |
| Rate of increase 1968–2020 | 1.4% | -0.25% | 3.0% | 4.1% | 1.8% | 4.0% | — | 4.2% | — | 4.1% |
| Source of historical data | BLS | BLS | Implicit | BEA | BEA | BEA | BEA | BEA | BEA | BEA |
| Method of projection | Col. 8 −Col. 10 | Trend projection | Trend projection | Col. 11 ×Col. 12 ×Col. 13 | Col. 9 =Col. 9 (salary rate in 1958 dollars) | Col. 14 +Col. 15 | Exponential trend projection | Col. 16 ×Col. 17 | Exponential trend projection | Col. 18 ×Col. 19 |



While a relatively high rate of employment has been assumed in national projections, it is recognized that chronic unemployment and underemployment are problems in many regions. The assumption of a high rate of employment nationally does not preclude consideration of the occurrence of short-run or cyclical fluctuations in the national economy or special analyses of regions with relatively low economic activity and high rates of unemployment.

Planning will also take account of national and State environmental and social standards such as water quality standards, air quality standards, or minimum health standards.

### B. Measurement of Beneficial and Adverse Effects

In planning water and related land resources, beneficial and adverse effects of a proposed plan should be measured by comparing the estimated conditions with the plan with the conditions expected without the plan. Thus, in addition to projecting the beneficial and adverse effects expected with the plan in operation, it is necessary to project conditions likely to occur in the absence of the plan. Since economic, social, and environmental conditions are dynamic, changes will occur without the plan in a variety of factors, including regional economic activity, rates of unemployment or underemployment, and environmental conditions. Consequently, only new or additional beneficial and adverse effects resulting from the proposed plan should be attributed to it.

### C. Price Relationships

The prices of goods and services used for evaluation should reflect the real exchange values expected to prevail over the period of analysis. For this purpose, relative price relationships and the general level of prices for outputs and inputs prevailing during or immediately preceding the period of planning generally will be used as representing the price relationships expected over the life of the plan. Exceptions to the general rule will occur when the output or input of the plan affects prices, abnormal weather or other factors have temporarily affected prices, or governmental or other institutional arrangements have temporarily affected prices.

The Water Resources Council will publish periodically data on prices of agricultural and other goods and services that can be furnished efficiently for all planning activities. Included in these publications may be special analyses of price problems and simulated









XUM

prices for recreation and other project outputs or effects for which market prices are not readily available.

D. The Discount Rate

The discount rate will be established in accordance with the concept that the Government's investment decisions are related to the cost of Federal borrowing.

(a) The interest rate to be used in plan formulation and evaluation for discounting future benefits and costs, or otherwise converting benefits and costs to a common time basis, shall be based upon the estimated average cost of Federal borrowing as determined by the Secretary of the Treasury taking into consideration the average yield during the twelve months preceding his determination on interest-bearing marketable securities of the United States with remaining periods to maturity comparable to a 50-year period of investment: Provided, however, that the rate shall be raised or lowered by no more than or less than one-half percentage point for any year.

When the average cost of Federal borrowing as determined by the Secretary of the Treasury exceeds the established discount rate by more than 0.25 percentage points, the rate shall be raised 0.5 percentage points. When the average cost is less than the established rate by more than 0.25 percentage points, the rate shall be lowered 0.5 percentage points.

(b) The Water Resources Council shall determine, as of July 1, the discount rate to be used during the fiscal year. The Director of the Water Resources Council shall annually request the Secretary of the Treasury during the month of June to advise the Water Resources Council of his determination of the average cost of Federal borrowing during the preceding twelve months.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, the discount rate to be used in plan formulation and evaluation during the remainder of the fiscal year 1974 shall be 6-7/8 percent.

E. Consideration and Comparison of Alternatives

A range of possible alternatives to meet needs and problems, including types of measures and alternatives capable of application by various levels of government and by nongovernmental interests, should be studied. These alternatives should be evaluated or judged as to



their contribution to the objectives and other effects.

Plans, or increments thereto, will not be recommended for Federal development that, although they have positive contributions to the objectives, would physically or economically preclude alternative non-Federal plans which would likely be undertaken in the absence of the Federal plan and which would more effectively contribute to the objectives when comparably evaluated according to the principles.

The alternative non-Federal plan that would likely be physically displaced or economically precluded with development of the Federal plan, or increments thereto, will be evaluated for purposes of this determination on a comparable basis with the proposed Federal plan with respect to their beneficial and adverse effects on the objectives, including the treatment of national economic development effects and the discount rate used in the evaluation. Taxes foregone on the proposed Federal plan and taxes paid on the non-Federal alternative will be excluded in such comparisons for the evaluation of the national economic development objective.

F. Period of Analysis

The period of analysis will be the lesser of: (1) The period of time over which the plan will serve a useful purpose considering probable technological trends affecting various alternatives; or (2) the period of time when further discounting of beneficial and adverse effects will have no appreciable result on design. Where pertinent, however, appropriate consideration will be given to long-term environmental factors which may extend beyond periods significant for analysis of effects for national or regional economic development.

Salvage value remaining at the end of the period of analysis should be taken into account for income-producing features of the plan.

For the environmental quality objective, the goal may be to achieve a level of environmental quality during or at the end of the period of analysis and to maintain this level into the indefinite future.

One hundred years will normally be considered the upper limit of the period of analysis, and shorter periods will be used whenever appropriate for any of the considerations described above.

G. Scheduling

Plans should be scheduled for implementation in relation to needs





so that desired beneficial effects are achieved effectively. Beneficial and adverse effects occurring according to different patterns in time are affected differently by the discount process when plans are scheduled for implementation at alternative future times. Therefore, plan formulation should analyze the alternative schedules of implementation to identify the schedule that would result in the most desirable mix of contributions to the objectives when the beneficial and adverse effects of a plan are appropriately discounted.

While beneficial and adverse effects toward the objectives will accrue over different time frames for the alternative implementation schedules, the discontinued equivalent of such beneficial and adverse effects to be considered in the comparison of the alternative implementation schedules should represent the present value of the beneficial and adverse effects toward the objectives for each alternative implementation schedule at a common point in time.

H. Risk and Uncertainty

Since future events cannot be predicted with certainty, beneficial and adverse effects actually realized in the future may differ from the values expected of them at the present. In some cases, the range of variation can be anticipated and the sensitivity of proposed plans or projects to future contingencies can be evaluated.

Risk may be characterized as being reasonably predictable, since bases are available to calculate the probability or frequency of losses associated with its occurrence. For example, average losses from fires, storms, pests, and diseases can be estimated with reasonable assurance. Thus, the value attached to risk may be converted into a reasonably certain annual allowance. The net returns of a project should exclude all predictable risk, either by deducting the allowance therefor from the beneficial effects or adding such allowance to the project costs. The basis for making a risk allowance in estimating the beneficial and adverse effects of a program or project should be clearly stated.

Uncertainty is characterized by the absence of a basis for predicting the probability of occurrences. Uncertainties may result in estimating beneficial and adverse effects from such factors as fluctuations in the levels of economic activity, technological changes or innovations, and unforeseeable developments. Allowances for uncertainties must be based largely upon judgment, since information is not available for calculating a value. The nature of the uncertainty thought to surround beneficial and adverse effects should be discussed in planning reports, and specific strategies, such as flexibility in project designs, recommended to cope with it. In addition, sensitivity analysis



may be employed to analyze uncertain situations.

I. Sensitivity Analysis

Planning organizations should examine the sensitivity of plans to data availability and to key items for which alternative assumptions might be appropriate. Examples of such items include prices; discount rates; and economic, demographic, and technological trends. Selected projections and assumptions of alternative futures that are likely and that, if realized, would appreciably affect plan design or scheduling should be analyzed.

J. Updating Plans

Because of rapid change in social, economic, technologic, physical, and other factors, a plan for a project prepared under these standards that is not implemented within 10 years after completion should be reviewed to ascertain whether it continues to be the best alternative to achieve the objectives.









XUM

## V. PLAN FORMULATION

### A. Introduction

As set forth in principles, the formulation of plans will be directed to meeting current and projected needs and problems as identified by the desires of people in such a manner that improved contributions are made to society's preferences for national economic development and environmental quality.

1. Major steps in plan formulation. Plan formulation is a series of steps starting with the identification of needs and problems and culminating in a recommended plan of action. The process involves an orderly and systematic approach to making determinations and decisions at each step so that the interested public and decisionmakers in the planning organization can be fully aware of the basic assumptions employed, the data and information analyzed, the reasons and relationales used, and the full range of implications of each alternative plan of action. This process should be described in enough detail in the report of the study so that it may be replicated by others.

The plan formulation process consists of the following major steps:

1. Specify components of the objectives relevant to the planning setting;

2. Evaluate resource capabilities and expected conditions without any plan;

3. Formulate alternative plans to achieve varying levels of contributions to the specified components of the objectives;

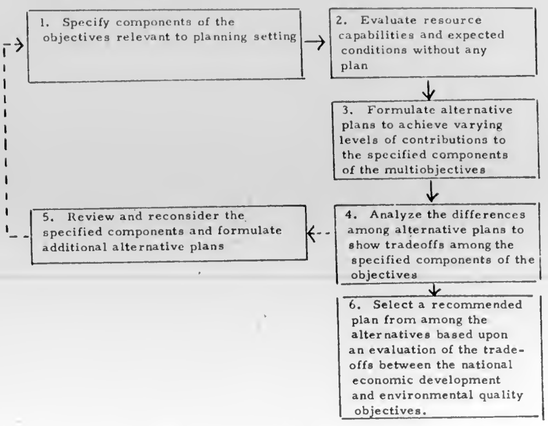
4. Analyze the differences among alternative plans to show tradeoffs among the specified components of the objectives;

5. Review and reconsider, if necessary, the specified components for the planning setting and formulate additional alternative plans as appropriate; and

6. Select a recommended plan from among the alternatives based upon an evaluation of the tradeoffs between the objectives of national economic development and environmental quality.



In the subsequent parts of this section each of these steps is described in more detail. The major steps involved in this process are shown schematically at the end of this subsection. It should be noted that the plan formulation process described herein is not just a once-through process but may be reiterated several times, with each reiteration being somewhat more detailed than the previous one. The plan formulation process must be tailored to fit a given planning situation and the detail and depth of analysis will necessarily vary with each level of planning.




2. Levels of planning. The standards for plan formulation apply to the preparation of framework studies and assessments, regional or river basin studies, and implementing studies. The important differences in the application of these plan formulation standards to different levels of planning are the relevant component needs, the level of detail with respect to beneficial and adverse effects in the decision process, and the types of alternative courses of action that are considered.







a. Framework studies and assessments (Level A). Framework studies and assessments will evaluate or appraise on a broad basis the needs and desires of people for the conservation, development, and utilization of water and land resources; will identify regions or basins with complex problems which require more detailed investigations and analysis; and may recommend specific implementation plans and programs in areas not requiring further study. They will consider Federal, State, and local means.

Framework studies and assessments of major regions are designed to:

(1) Determine the extent of water and land problems and needs;

(2) indicate the general approaches that appear appropriate for their solution; and

(3) identify specific geographic areas where regional, river basin, or implementation planning studies are needed. For framework studies and assessments, the information to be assembled should be consistent with the level of detail as outlined in guidelines for framework studies and assessments to be issued by the Water Resources Council. The framework studies and assement should identify the complementarities and conflicts among components of the objectives. Alternative courses of action will be considered for each of the specified subbasins. Framework studies and assessments usually do not provide a basis for recommending specific action for water resource development. However, comparisons should be made between alternative courses of action to indicate potential complementarities and conflicts that may exist as relative emphasis is shifted from one objective to another. This information will provide a basis for a decision as to which areas require more detailed regional, river basin, or implementation studies.

b. Regional or river basin plans (Level B). Regional or river basin plans are reconnaissance-level evaluations of water and land resources for a selected area. They are prepared to resolve complex long-range problems identified by framework studies and assessments and will vary widely in scope and detail; will focus on middle term (15 to 25 years) needs and desires; will involve Federal, State, and local interests in plan formulation; and will identify and recommend action plans and programs to be pursued by individual Federal, State, and local entities.



Regional or river basin plans are concerned with a broad array of component needs of objectives. Alternate plans will consider effects on many components of objectives, and the analysis of tradeoffs among alternatives will be quite complex. Scheduling for implementation of the various elements of the recommended plan will be presented to indicate how each element relates to projected needs and the urgency and priority associated with meeting the needs.

Section 209(a), Public Law 92-500, Federal Water Pollution Control Act as amended, October 18, 1972, provides that Level B (regional or river basin) plans be completed by the Water Resources Council for all river basins in the United States by January 1, 1980.

The identification of the more urgent elements of the plan that require early action will guide subsequent implementation studies.

c. Implementation studies (Level C). Implementation studies are program or project feasibility studies generally undertaken by a single Federal, State, or local entity for the purpose of authorization or initiation of plans. These studies are conducted to implement findings, conclusions, and recommendations of framework studies and assessments and regional or river basin studies.

Plan formulation for implementation studies will focus on the preparation of a recommended plan of action to follow in the next 10 to 15 years. Long-range projections of the need for and use of water and land resources will be considered, however, primary attention should be directed toward the formulation of a plan to meet near-term needs and alleviate problems. Such plans will be oriented toward an identified set of specific components of the two objectives for the planning area. The complexity of the plan formulation process will depend on the extent of the needs and problems in the area and the variety of planning functions that may be employed to meet the needs. In some cases, the array of component needs to consider may be large. Other implementation studies may be oriented toward a single objective and, hence, will be concerned with only a few needs and alternatives.

### B. Specification of Components

At the outset and throughout the planning process the specific components of the objectives that are significantly related to the use and management of the resources in the planning setting will be expressed in terms of needs and problems in the context of the objectives of national economic development and environmental quality.









XUM

The term "specific component of the objectives" refers to the desired achievement of types of goods, or services and environmental conditions, that are being sought as contributions to the objectives. These components can be considered and desired. The term "component needs" as used herein refers to the type, quantity, and quality of desired beneficial effects.

Reference should be made to the definition and description of objectives and benefits presented in section II as the basis to determine the full range of components of the objectives, only a few of which are presented in this section as examples to illustrate the plan formulation process.

1. National economic development. For the national economic development objective, the components will usually be expressed at two levels.

a. The first level directly relates to the objective in the sense of the specification of the actual outputs of goods and services desired. Hence, the first level of specified components of this objective will generally be depicted in terms of increased outputs of goods and services or their more efficient production such as the following:

(1) Increased or more efficient output of food and fiber;

(2) Increased or more efficient output of recreational services;

(3) Increased or more efficient production of energy;

(4) Increased or more efficient production of transportation services;

(5) Increased productivity of land for residential, agricultural, commercial, and industrial activities;

(6) Increased or more efficient production of necessary public services such as municipal and domestic water supply; and

(7) Increased or more efficient industrial output.

b. The second level of specification of the components of the national economic development objective follows from the translation of the first level specification of needs for goods and services into specific needs for water and land resources. In the context of the above, the second level specification of components would be established in terms such as the following:



(1) Water and land for irrigation;

(2) Water and land related recreation opportunities in terms of user days;

(3) Hydroelectric power needs;

(4) Inland navigation or deep draft harbor needs;

(5) Provision of flood-free land or provision of stabilized lands;

(6) Water supplies for municipal and domestic use; and

(7) Water supply for industrial use.

The above examples are not intended to exhaust either the wide variety of outputs of goods and services that can become specific components or the total range of specific water and land needs into which the first level of components is translated. The major point is that to determine the specific components of the national economic development objective, it will usually be necessary to approach the problem, first, at the general level of the types of national outputs of goods and services and then translate these into specific water and land needs or problems.

It should further be noted that the specification of components of the national economic development objective at either level should always be stated in terms of outputs (which are the beneficial effects of a plan), but never in terms of the inputs to a plan. This also holds true in the specification of the components of the environmental quality objective as well.

2. Environmental quality. The components of the environmental quality objective may be directly expressed as the achievement of specific environmental conditions such as the following:

(1) Miles of scenic river of specified characteristics;

(2) Acres of ecological areas of specified type preserved or enhanced;

(3) Reach of river meeting specified water quality standards; and

(4) Number of open space areas of specified type.





3. Participation. The actual derivation and identification of components require several different approaches. An initial point of departure is the national and regional economic analyses and projections provided by the Council. These will be useful in a first-cut definition of the economic parameters of the components of the objectives. More detailed definitions will require in-depth consultation with Federal, State, and local officials familiar with the planning setting. Direct input from the public involved at the local and regional level is important and will be accomplished by:

a. Soliciting public opinion early in the planning process;

b. Encouraging periodic expression of the public's views orally, and recording their opinions, and considering them;

c. Holding public meetings early in the course of planning to advise the public of the nature and scope of the study, opening lines of communication, listening to the needs and views of the public and identifying interested individuals and agencies;

d. Making available all plans, reports, data analysis, interpretations, and other information for public inspection.

Efforts to secure public participation should be pursued vigorously through appropriate means of public hearings, public meetings, information programs, citizens committees, etc.

Definition and specification of the components of the environmental quality objective will require direct consultation with groups identified with environmental concerns as well as with those groups within a planning setting whose actions have significant impacts on the environment. A broad spectrum of public groups and interests must be considered and consulted in the identification of the components.

4. Projected conditions. The components of the objectives will be drawn for both current and future conditions. Projections should be made for selected years over a specified planning period to indicate how changes in population and economic conditions are likely to impact on the components over time.

Economic and demographic projections should be consistent with the Council's national baseline projections which reflect differential regional growth patterns and probable future population and economic conditions of all regions of the Nation. Additional projections representing other views of the future may also be made. Such projections,



however, should be made on a comparable basis with the baseline projections to enable valid comparisons to be made between alternative plans based on these different projections. Because demands for commodities and services are a function of price, the future needs are also affected by price. Therefore, the assumptions relating to prices used to determine the future needs must be stated.

Environmental needs of the future should be identified in terms of specific features of the natural environment of the area that will assure a continuance of sources with limitations alleviated or a healthful, scenic, and aesthetically satisfying experience to all citizens. For instance, unique archeological, historical, and biological features of the area that are desired for preservation for future generations should be identified. Desired environmental conditions for the future should be explicitly stated. These environmental component needs should reflect not only current preferences but should attempt to reflect the preferences likely to prevail in the future.

5. Sensitivity tests. In view of the uncertainty, with respect to both economic and demographic change as well as the uncertainty of future preferences for the components of the environmental objective, it will be necessary in projecting the needs associated with these components to show alternative levels in the future as the basis for testing the sensitivity of alternative plans when evaluated against different levels of needs for a given component in the future.

6. Preferences. The specification of the components of the objectives must reflect the specific effects that are desired by groups and individuals of the planning area as well as the specific components declared to be in the national interest by the Congress or by the executive branch through the Water Resources Council. In this way the components of objectives will reflect local, State, and national preferences and priorities as well as the extent of complementarity and conflict among components.

In this regard, the identification and detailing of the components of the objectives should be viewed as the process of making explicit the range of preferences and desires of those affected by resource development in terms of reference that can form the basis for the formulation of plans. Rather than a single level of achievement being set forth for any specified component, a range of possible levels should set forth so that the relevant preferences can be seen for a given component. It should be anticipated that the initial specification of components will be modified (expanded or reduced) during subsequent steps in plan formulation to reflect the capability of alternative plans to satisfy component needs and to reflect technical, legislative, or administrative constraints.









UNIVERSITY OF MICHIGAN

C. Evaluation of Resource Capabilities

In very broad terms, the first step of specification of the components of objectives can be viewed as establishing the boundaries of demand (needs or problems) in the context of each objective. In the next step, evaluation of resource capabilities, the initial evaluation is made of the supply (availability) of the resources that can be employed to satisfy the current and future levels of demand.

Resources of the planning area shall be evaluated in terms of their ability to meet the current and projected demands identified for each component under two sets of conditions:

(1) Capability of resources without any planned action; and

(2) capability of water and land reproductivity enhanced through management plans. An analysis of the capability of resources to meet the projected demands without any planned action will reveal the extent and magnitude of unsatisfied component needs and indicate the requirement for some specific plan of action to assure their satisfaction. To the extent that the water and land resources without any planned action are unable to meet current and projected needs or to the extent that resource management enables the needs to be met more efficiently, there is an evident justification for formulating alternative plans.

In this formulation step, the first task is to undertake a selective inventory of the quantity and characteristics of water and land resources of the planning area and an appraisal of opportunities for further use of these resources. Problems limiting the use of resources should also be identified.

The resources inventory should include data on all physical factors appropriate to the investigation. Examples of the type of information needed include:

1. Hydrologic data such as rainfall and runoff characteristics, frequencies of high and low flows, availability of groundwater, natural lakes, marshes, and estuaries;

2. Water quality data, including dissolved oxygen temperature, turbidity, and mineralization;

3. Geology and topography of the planning area;



4. Land capability and use classifications;

5. Archeological, historical, cultural, scenic, or unique areas;

6. Biological resources; and

7. Current and planned water uses.

Based on an analysis of the inventory, the next step requires that an appraisal be made of the capability of the resources to support further use for the component needs. This would provide guidance as to the possible scope and magnitude of plans to meet the demands for each component. This appraisal would require identification of possibilities for management, development, and other opportunities for action such as:

1. Reservoir sites cataloged as to possible ranges of storage capacities;

2. Preservation of scenic streams;

3. Stream channel improvement possibilities;

4. Land treatment and enhancement measures;

5. Preservation or enhancement of fish and wildlife; and

6. Preservation or enhancement of a cultural or archeological area.

These possibilities for management, development, or other actions will indicate the resources capabilities relative to specific commodities, services, or environmental amenities desired by society. By proper selection of these development possibilities, plans may be formulated to meet the needs for each component of the objectives.

Problems likely to present impediments to the attainment of the desired levels of national or regional output of goods and services, environmental amenities, or social opportunities for the planned period should be identified. Problems may take the form of physical constraints that limit resource use, conflicts in resource use, legislation that hibits desired use or development, or other limitations.









At this point, it should be possible to generally outline the total development and resource use programs that are needed to meet current and projected needs for each component of the objectives. An examination of these potential programs may reveal conflicts and complementarities among them. In addition, other programs may also be available. These may include such alternatives as changes in production processes for increased efficiency, meeting needs by shifting demand to other areas, or encouraging more rapid rates of technological progress.

D. Formulation Of Alternative Plans

In the first two steps in the plan formulation process, the components of the objectives were specified in terms of needs and problems, the resource capability within the planning areas were evaluated, and the broad outlines of management, development, and other actions were identified. The next step is to undertake the actual design and scaling of alternative plans.

Ideally, in the presence of a situation where there are few or no constraints on planning and where the components of the objectives are essentially complementary (the satisfaction of one component need does not preclude the satisfaction of the other component needs), the formulation of a single plan would be sufficient. The only test required would be that the plan was the most efficient plan to satisfy the specified level of component needs. Although in only a few instances will this situation occur, the case does help to establish the guidelines and criteria to judge the range of alternative plans that should be formulated and the tests to be applied in formulating any given plan.

The requirement for the formulation of alternative plans derives from the basic characteristics of the approach when more than one objective is involved. First, instead of the component needs of the two objectives being complementary, it is more likely they will be in conflict the satisfaction of one will reduce the satisfaction of others. Second, given uncertainty with respect to future economic and demographic changes and the general uncertainty with respect to future preferences for the environmental quality objective, a single specified level of achievement or need satisfaction for any given component is not likely to be acceptable through time. Other factors contributing to the necessity for formulation of alternative plans include limited resources, technical planning constraints, and legal and administrative constraints.



Suggestions as to the determination of the general nature and types of alternative plans which should be formulated and the number of alternatives which should be developed within each general type are given below.

A first requirement is to determine the general types of alternatives to be developed under alternative assumptions concerning the level and magnitude of component needs in the future. Given alternative assumptions concerning future economic and demographic trends for the planning setting and the total range of component needs related thereto, a set of alternative plans should be prepared for each major assumption concerning the future. In those planning situations where there does not exist a strong linkage between water and land development and major shifts in economic and demographic trends, the Council's baseline projections will generally be used as a single set of assumptions about the future level of component needs required. Where the linkage is sufficiently strong so that water and land development may materially alter future economic or demographic trends, this relation should be reflected in alternative assumptions. Where the planning area may be unusually susceptible to other factors that could easily change in the future, it will be appropriate to establish a basis for a different set of alternative plans based on alternative assumptions concerning future change. In this instance, a sensitivity check should be made to ascertain the extent to which component needs will vary significantly given different assumptions concerning the future. If no significant variation is found, only one set of alternative plans will have to be developed.

Within a given set of assumptions concerning future change and the component needs associated thereto, the number and types of alternative plans to be developed will be determined by applying the following:

1. On a first approximation basis array component needs that are essentially complementary--that is, the satisfaction of one of these component needs does not preclude satisfaction of the other component needs or does not result in materially adding to the cost of satisfying the other component needs in the array; and

2. From the above approximation, it should be possible to group component needs and the elements of a plan to satisfy those needs that are essentially in harmony, each set representing the nucleus for an alternative plan.

At this step, relevant alternative means of meeting each of the component needs to be included in an alternative plan should be identified. All relevant means should be considered. An analysis should be made for each alternative means, including an identification of the beneficial and adverse consequences to other component needs. The assembly of information on alternative means of meeting the component needs will provide a basis for selecting the most effective means, or combination of means, of satisfying all component needs.









XUM

The significance of this step is threefold: (1) It provides information on the effectiveness of alternative means of satisfying a component need; (2) it provides information on the extent of complementarity or conflict among component needs in relation to a particular means; and (3) it provides a basis for selecting alternative means for satisfying a component need in the formulation of an alternative plan.

At this point, it should be possible to formulate alternative plans built upon the set of complementary component needs and plan elements. These essentially are the building blocks for the formulation of alternative plans. In formulating a given alternative plan, initial consideration will be given to its orientation toward fulfilling the component needs for one of the objectives. Further additions should be made for the component needs of the other objective, provided that their addition to a given plan does not significantly diminish the contributions of the overall plan to that objective toward which the plan is oriented. An analysis of the alternative plan, in terms of beneficial and adverse effects, will reveal the extent of any shortfalls against the other objective. The process is then repeated until sufficient numbers of alternative plans have been formulated so that there is at least one plan that generally satisfies each specified component need of the objectives. This does not mean that there must be a plan for each objective that excludes plan elements that significantly contribute to the component needs of the other objective nor does it mean that a given alternative plan cannot appropriately satisfy the component needs of both objectives. Additional alternative plans may be required where there are possible conflicts among the component needs within a given objective.

A precise number of alternative plans cannot be specified in advance but will be governed by the relevancy of the objectives to a given planning setting, the extent of component needs and their complementarity, the available alternative means, and the overall resource capabilities of the area under study.

To facilitate comparisons and tradeoffs among alternative plans and comparisons of beneficial and adverse effects measured in nonmonetary terms with beneficial and adverse effects measured in monetary terms, one alternative plan should be formulated in which optimum contributions are made to the component needs of the national economic development objective. Additionally, during the planning process at least one alternative plan will be formulated which emphasizes the contribution to the environmental quality objective. Other alternative plans reflecting significant tradeoffs between the national economic development and environmental quality objectives may be formulated so as not to overlook a best overall plan.

In formulating alternative plans, tests of acceptability, effectiveness, efficiency, and completeness should be applied.



The acceptability test refers to the workability and viability of the plan in the sense of acceptance of the public and compatibility within known institutional constraints.

The effectiveness test refers to technical performance of the plan and the level of contribution to the components of the objectives.

The efficiency test requires that among all acceptable alternatives, Federal and non-Federal, water and nonwater, structural or nonstructural, the given alternative plan should be the least cost means, considering all adverse effects, of achieving specified components of the objectives when comparably evaluated according to these standards.

The completeness test requires that a given alternative plan provide and account for all necessary investments or other actions that will be needed to assure the full realization of the contributions provided by the plan to the components of the objectives specified for the planning area. This may require relating the water and land resources plan to other types of public or private plans where they are crucial to the full realization of the contributions to the objectives. The rule to follow is that beneficial and adverse effects must be treated comparably when relating water and land resource plans to other plans.

In formulating alternative plans to satisfy the component needs of the environmental quality objective, consideration may be given to an alternative which explicitly precludes any significant forms of physical construction or development. Where such a "no development" alternative is considered, it must be recognized that positive action is nonetheless required to assure that the "no development" concept can be realized and, further, that the particular environmental characteristics that it is desired to maintain or enhance through the "no development" alternative may change through time as a result of changing conditions within a planning setting. Positive actions, such as zoning or public land acquisition, may be necessary to accomplish the "no development" alternative. The test of plan completeness must be very carefully applied for this type of alternative plan.

E. Analysis of Alternative Plans

In the previous formulation step, a series of alternative plans were formulated and their beneficial and adverse effects evaluated and measured in accordance with the definitions and measurement standards set forth in section III of these standards. A display of the beneficial and adverse effects will be developed for each alternative plan in a form similar to that shown and discussed in section VI, System of Accounts.

In this formulation step, an analysis and comparison of alternative plans is outlined to make the following determinations:







1. The effectiveness of given alternative plans in meeting the component needs of the objectives;

2. The differences among alternative plans in terms of their contributions to the objectives and where appropriate and their effects on regional development and social well-being; and

3. The relative value of those beneficial and adverse effects that are essentially presented in nonmonetary terms, in terms of what is given up or traded off among plans with varying degrees of contributions to the objectives.

These determinations are essential to the subsequent step for selection from among the alternatives of a recommended plan.

The first determination involves the analysis of how well each alternative plan performs against the component needs that served as the basis for its formulation. The analysis should include an appraisal of any shortfalls against component needs for which the plan was formulated and the extent of shortfall against other component needs. For instance, if a given alternative has been formulated with emphasis on the component needs for the national economic development objective, the analysis should indicate the performance of the plan in terms of those needs and further indicate the degree to which the component needs for the environmental quality objective have been fulfilled or remain unmet. For this purpose, measures of performance should be developed that characterize how a particular plan performs against the component needs of the objectives.

The second determination involves the systematic comparison of the performance of given alternatives with each other. The purpose for these comparisons is to portray the extent of difference among alternative plans as a basis for reducing the number of alternative plans to be considered in the selection of a recommended plan. The comparisons should be carried out to display the type of information on beneficial and adverse effects shown in section VI.

These comparisons will facilitate the evaluation of the significance of the differences among alternative plans. While all alternative plans will tend to differ, the degree and extent of difference is critical in reducing the number of alternative plans to be seriously considered for recommendation.

The third determination involves a special analysis designed to provide an approximation of relative monetary values to those effects to objectives that are generally characterized and displayed in nonmonetary terms. It is not the purpose of the analysis, however, to convert such effects to monetary equivalents but to gain an insight with respect to the relative value of such effects by understanding their impact upon monetary values which, as a practical matter, is a generally understood common denominator for decisionmakers.



This analysis involves extracting information from the previous evaluation involved in comparison of plans. For the purposes of the special analysis, the alternative plan that optimizes the national economic development objective is compared with the alternative plans that emphasize the environmental quality objective. Enhancement of environmental quality, for example, can be related to beneficial effects foregone or increased adverse effects in national economic development. Likewise, an increase in national economic development can be compared with adverse effects on environmental quality. From this analysis, it should be possible to develop an array of relative values for the nonmonetary effects.

While not designed to provide a basis for conversion of nonmonetary beneficial and adverse effects to monetary terms, this analysis does provide the range of monetary tradeoffs involved for the nonmonetary effects for a particular planning setting and will serve to point out that any final evaluation of the worth of nonmonetary effects must be seen in the context of the alternative way of using a particular resource.

F. Reconsideration of Components and Alternative Plans

As indicated in the introduction to this section, plan formulation should be viewed as a continuous process that must be reiterated during the overall planning process based upon the results of the initial consideration of plan formulation described above. Further, it should be noted that the level of analysis probably should not be detailed until the results of the initial or subsequent reiterations more clearly indicate the relevancy of the components of objectives to the planning setting and the range and number of alternatives that should be considered as the basis for selecting a recommended plan. It should be stressed, with respect to alternative plans, that in the last formulation step, the selection of a recommended plan, only alternatives that could be favorably recommended for various mixes of the components of the objectives will be considered.

The basis for reiteration of the plan formulation process at this point or for modifying certain steps in that process should be based upon the following considerations:

1. Level of detail inadequate as basis for selection of a recommended plan;

2. Alternatives considered result in significant shortfalls in meeting the component needs of one or both of the objectives;

3. Resource capability and alternatives considered suggest that the initial specification of component needs was in error and requires modification;







XUM

4. Public policy changes occurring during the planning study suggest change in emphasis for the objectives; and

5. Additional information obtained on resource capabilities or the technical aspects of alternative plans.

The above considerations are only suggestive of the conditions requiring reappraisal and reiteration of the plan formulation process. As a general guide, however, in determining the extent and number of reiterations that should be undertaken, a judgment must be made as to whether or not new information, further detail, or other change in the conditions listed above are likely to result in either significant changes in the component needs or in the alternatives considered.

G. Plan Selection

The culmination of the plan formualtion process is the selection of a recommended plan from among the alternative plans. Based upon the analysis of alternative plans and the results of reiterations of the plan formulation process, a set of alternative plans should be developed--each one of with, given the relevant mix of contributions to components of the objectives, could be selected on its own merits as a recommended plan or recommended course of action. It is from among these alternatives that a recommended plan will be selected.

The previous formulation steps should effectively screen the number and types of alternatives that are to be considered as candidates for a recommended plan. In general, these alternatives should possess the folllowing characteristics:

1. For the given set of component needs, each alternative plan should be the most efficient means to achieve those needs.

2. The plans should be significantly differentiated from each other, primarily in terms of emphasis on objectives; that is, each alternative plan makes a unique contribution to one or both objectives not provided for by any of the other alternatives under consideration. Using the analysis of alternatives, those alternatives that may have been formulated with essentially similar characteristics in terms of component needs with only minor differences should be screened to select the alternative that provides the best mix of contributions to the specific set of component needs.

3. Without regard to assigning priorities or weights to the component needs of a particular alternative to differentiate such alternative in terms of the other alternatives, each alternative must be "justified" in the sense that in the judgement of the planning organization the total beneficial effects



(monetary and nonmonetary) to the objectives relevant to the alternative are equal to or exceed the total adverse effects (monetary and nonmonetary) to those objectives.

Given the above screening process, the choice of a recommended plan from among the remaining alternatives is essentially a choice governed by a reasonable and rational perception of priorities and preferences about the mix of objectives. It is not a choice predicated upon an analysis of the most justified plan, since each alternative to be considered at this step of the overall formulation process can be justified on its own merits in terms of its contributions to the given mix of component needs relevant to each alternative.

If explicit priorities or weights were assigned to the beneficial and adverse effects to each component need of the objectives, it would be possible to select a best plan to be recommended with a minimum of judgment. In most cases, however, such priorities or weights will not be available and, as set forth in Principles, selection of a recommended plan will be based upon an appraisal so that the beneficial and adverse effects to the mix of objectives, to the best of current understanding and knowledge, reflect the priorities and preferences expressed by the public at all levels to be affected by the plan.

The basis of selection will be fully reported upon indicating all considerations made in the selection process. A recommended plan must have net national economic development benefits unless the deficiency in net benefits for the national economic development objective is the result of benefits foregone or additional costs incurred to serve the environmental quality objective. In such cases, a plan with a less than unity benefit-cost balance may be recommended as long as the net deficit does not exceed the benefits foregone and the additional costs incurred for the environmental quality objective. A Departmental Secretary or head of an independent agency may make an exception to the net benefits rule if he determines that circumstances unique to the plan formulation process warrant such exception.

An explicit presentation will be shown of the comparisons and resulting tradeoffs of the recommended plan to other alternative plans considered for recommendation. This will be shown in accordance with the system of accounts in section VI.







VI. SYSTEM OF ACCOUNTS

The system of public information accounts is an information system that displays beneficial and adverse effects of each plan on the objectives and on regional development and social well-being and provides a basis for comparing alternative plans. The display of beneficial and adverse effects on the national economic development and environmental quality objectives and on regional development and social well-being will be prepared in such manner that the different levels of achievement to each objective and effects on regional development and social well-being can be readily discerned and compared, indicating the tradeoffs between alternative plans.

For purposes of accounting, the distribution of beneficial and adverse effects will be shown to whomsoever they accrue. This will include display of the distribution of national economic development, environmental quality, regional development and social well-being effects to regions, income classes, and interest groups relevant to the particular plan and will reflect the cost information specified in Section VII below. The system of accounts will display the beneficial and adverse effects in relevant regions in relation to the rest of the Nation.

The system of accounts calls attention to the important aspects of information which must be generated and displayed if the decision-making process is to be effective. The evaluation framework through the system of accounts provides for a systematic investigation of the full range and extent of effects of a plan and provides for a display of this information in a format which is clear and useful to all participants in the decision process.

Four accounts will be used for displaying beneficial and adverse effects and for showing and analyzing the tradeoffs among plans. The four accounts to be used are national economic development, environmental quality, regional development, and social well-being.

Two series of displays will be prepared. In the first, gross beneficial and gross adverse effects and net beneficial effects where appropriate will be displayed in four accounts for each alternative plan. The second series of displays will be used to provide a ready comparison of the alternative plans.



In the first series of displays, beneficial and adverse effects to be shown in each account will be in accordance with the definition and discussion of beneficial and adverse effects by components of the objectives and on regional development and social well-being contained in Sections II and III Values for the national economic development account will be expressed in monetary units; values for the environmental quality account will be expressed in appropriate quantitative units or qualitative terms; and the regional development account and the social well-being account will include a combination of monetary units and other appropriate quantitative units or qualitative terms. Tables 1, 2, 3, 4, and 5 illustrate the nature and the content of the first series of displays.

Table 1 is a schematic diagram of the system of accounts and illustrates the basis for summarizing beneficial and adverse effects in each account. Table 1 indexes the detailed display of beneficial and adverse effects by components in tables 2, 3, 4, and 5. The components of the national economic development account appear in table 2. The components of the environmental quality account appear in table 3. The components of the regional development accountant appear in table 4. The components of the social well-being account appear in table 5. The tables include hypothetical data on beneficial and adverse effects as examples only. These should not be considered necessarily inclusive as to specification of components or coverage nor should they be considered mandatory. The appropriate components should be specified in each planning study.

For the purposes of accounting for regional development the standard set of economic accounting areas designated by the Water Resources Council will be used. The Council will maintain a set of economic projections for these economic accounting areas and a capacity to provide additional analysis for planning studies on request. The economic area projections will be compatible with the Council's projections of national growth.

A plan may have effects on one or more of the economic accounting areas. As many economic accounting areas as necessary will be included in order to cover the geographic area relevant to the regional development account. The effects of a plan upon the individual economic accounting areas comprising this geographic area should be identified in the planning report in order to take account of the plan in subsequent evaluations of problems and needs.

The system of accounts will also display the beneficial and adverse effects for the geographic area relevant to the evaluation of the regional development account in relation to the other parts of the Nation. The number of economic accounting areas to be used will vary, dependent on the information available and the extent of the effects of the plan. It is not proposed that the effects of a plan be identified across all of the individual economic accounting areas. The evaluation will, however, as a minimum, analyze the effects of a plan upon the geographic area relevant to the evaluation of the regional development account and the rest of the Nation. If a plan results in substantial effects upon other regions of the Nation, the regions should be identified and the effects evaluated.

The incidence of national economic development adverse and beneficial effects across the system of regional accounts must sum to the total national economic development adverse and beneficial effects evaluated for the plan. The incidence of locational effects, both beneficial and adverse, across the system of regional accounts must sum to zero for beneficial effects and must sum to zero for adverse effects. In cases when an effect category includes both national economic development effects and locational effects, the sum of the effects for that category across the system of regional accounts will equal the total national economic development effects included in the category.

The use of the standard set of economic accounting areas will not, however, rule out the use of other regions such as hydrologic regions or States whose delineations are important in measuring beneficial or adverse effects on specified components of the regional development account. However, in such cases, the evaluation should also include an analysis of the effects of a plan utilizing the standard set of economic accounting areas.

Table 4 shows information for region 1, region 2, and the rest of the Nation to illustrate that the system of regional accounts is to show the major incidence of the plan and the relation to the rest of the Nation.

The second series of displays (table 6) will be used to provide a ready comparison of alternative plans. Each of the alternative plans will be paired with the recommended plan so that the advantages and disadvantages of each can be compared. Other comparisons between alternative plans may be displayed where relevant. The information needed for this second series of displays will be taken from the first series. The information should be summarized and condensed to make it as brief and yet as meaningful as possible. Differences between the recommended plan and alternatives should be set forth in a consistent manner so that positive and negative differences in beneficial and adverse effects are readily discernible. Table 6 illustrates the nature and content of this series of displays.

These tables illustrate the system of accounts. In some cases more or less detail may be needed. Appropriate summary tables should be used.

TABLE 1-Schematic Diagram of System of Accounts

| Account | Beneficial and adverse effects |
|---|---|
| National economic development. | (See table 2 for example display of effects by component.) |
| Environmental quality. | (See table 3 for example display of effects by component.) |
| Regional development<br>Region 1,<br>Region 2,<br>Rest of Nation. | (See table 4 for example display of effects by component.) |
| Social well-being | (See table 5 for example display of effects by component.) |

TABLE 2-Beneficial and Adverse Effects for a Plan (Use Additional Tables for Each Alternative Plan)

National Economic Development

| Components | Measures of effects |
|---|---|
| Beneficial effects: | |
| A. The value of increased outputs of goods and services. Examples include: | |
| (1) Flood control | $1,000,000 |
| (2) Power | 1,000,000 |
| (3) Water supply | 1,000,000 |
| (4) Irrigation | 1,000,000 |
| (5) Recreation | 1,000,000 |







| | |
|---|---|
| (6) Use of labor resources otherwise unemployed or underemployed in construction or installation of the plan | 1,000,000 |
| B. The value of output resulting from external economies, Examples include: | |
| (1) Economies of scale in subsequent processing | 1,000,000 |
| (2) Reduced transportation costs as result of road relocation | 1,000,000 |
| Total beneficial effects | 3,000,000 |
| Adverse effects: | |
| A. The value of resources required for a plan. Examples include: | |
| (1) Project construction and OM&R | 3,000,000 |
| (2) Project pumping power | 1,000,000 |
| (3) Labor resources displaced and subsequently unemployed | 500,000 |
| B. Losses in output resulting from external diseconomies. Examples include: | |
| (1) Diseconomics of scale in subsequent processing for displaced activities | 500,000 |
| (2) Increased transportation costs as result of road relocation | 1,000,000 |
| Total adverse effects | 6,000,000 |
| Net beneficial effects | 2,000,000 |



TABLE 3.-Beneficial and Adverse Effects for a Plan (Use Additional Tables for Each Alternative Plan)

Environmental Quality

| Components | Measures of effects |
|---|---|
| Beneficial and adverse effects: | |
| A. Open and green space, wild and scenic rivers, lakes beaches, shores, mountains and wilderness areas, estuaries, and other areas of natural beauty. | Example include:<br>1. Create lake with 3,500 surface acres, 70 miles of shoreline, and depth of 80 feet, with high quality water and excellent access.<br>2. Create 600 acres of open and green space along creek, 1,000 to 1,5000 feet wide, with good access and located 4 miles from city.<br>3. Inundate 3,500 acres of open and green space, 10 miles long and 1/2-mile wide, located along stream and near city. |
| B. Archeological, historical, biological, and geological resources and selected ecological systems. | Example include:<br>1. Preserve recognized historical archeological feature and enhance access to feature.<br>2. Enhance wildlife habitat by acquisition of 500 acres mixed forest, pastureland; construction of three small ponds with 50 surface acres expected to maintain duck and pheasant population of 5,000 and 10,000 birds, respectively.<br>3. Disrupt 3,000 acres of wildlife habitat due to interior access roads and adjacent picnicking and camping sites, with |









XUM

possible decrease in deer, pheasant, and duck population.

C. The quality of water, land, and air resources.

Example include:
1. Meet State water quality standards over 200 miles of stream below reservoir.
2. Enhance esthetic appeal of land adjacent to reacrvoir by selected clearing and enhance visual enjoyment by unique desiga and location of access roads.
3. Prevent erosion by provision of 500 acres of grassed waterways and implementation of crop rotation practices on 5,000 acres of land.
4. Increase salt concentration over 50 miles of stream from X p.p.m. to Y p.p.m. due to salt load in return flows.
5. Increase erosion over 2,000 acres due to access road borrow pits and denuded recreation sites as a result of expected concentrated use; silt load downstream of reservoir estimated to increase X tons per year.

D. Ireversible commitments of resources to future uses.

Example include:
1. Preserve low cost reservoir site by recommending development of well field for municipal water supply at slightly greater cost to the national economic development objective.



2. Reservior is to be located at site with some unique species of plants and wilderness qualities due to limited access but which is a very efficient reservoir site.







TABLE 6.--BENEFICIAL AND ADVERSE EFFECTS FOR A PLAN
(USE ADDITIONAL TABLES FOR EACH ALTERNATIVE PLAN)
REGIONAL DEVELOPMENT

| Components | Measurement of Effects | Region 1 (Intensive Area) | | | | | | Region 2 (Extensive Area) | | | | | | Rest of Nation | Summary |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | Total | Farm | Direct Users City | Rec. | Other | Total | Farm | Direct Users City | Rec. | Other | Total | State Local Gov't. | | |
| Income: | | | | | | | | | | | | | | | |
| A. Beneficial effects: | | | | | | | | | | | | | | | |
| 1. The value of increased output of goods and services from the region under consideration. | | | | | | | | | | | | | | | |
| Expenditures by users | | $450,000 | | | | | | | | | | | | | |
| Flood control | | 100,000 | $100,000 | | | | | | | | | | | $300,000 | $1,000,000 |
| Power | | 1,500,000 | 100,000 | $300,000 | $ 0 | $ 0 | $ 0 | $ 0 | $ 0 | $ 0 | $ 0 | $ 0 | $ 0 | 0 | 1,000,000 |
| Irrigation | | 500,000 | 500,000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1,000,000 |
| 2. The value of output in the region under consideration resulting from income earned and expenditures by users. | | 450,000 | | | | 450,000 | 350,000 | | | | 350,000 | 350,000 | 0 | 350,000 | 1,150,000 |
| B. Adverse effects: | | | | | | | | | | | | | | | |
| 1. The value of output in the region under consideration foregone because of withdrawal of resources for use in the region under consideration. Examples include: | | | | | | | | | | | | | | | |
| Reduction in output of other users | | | | | | | | | | | | | | | |
| Reduction in output of fish and wildlife | | | | | | | | | | | | | | | |
| Reduction in recreation opportunities | | | | | | | | | | | | | | | |
| Reduction in water quality | | | | | | | | | | | | | | | |
| Reduction in output of other goods and services | | | | | | | | | | | | | | | |
| Reduction in employment | | | | | | | | | | | | | | | |
| Reduction in income | | | | | | | | | | | | | | | |
| Reduction in property values | | | | | | | | | | | | | | | |
| Reduction in tax revenues | | | | | | | | | | | | | | | |
| Reduction in population | | | | | | | | | | | | | | | |
| Reduction in regional economic activity | | | | | | | | | | | | | | | |
| 2. Adverse effects on users outside the region under consideration. Examples include: | | | | | | | | | | | | | | | |
| Increased costs | | 1,000,000 | | | | 1,000,000 | | | | | | | | | 1,000,000 |
| Reduced output | | | | | | | | | | | | | | | |
| Reduced transportation costs | | | | | | | | | | | | | | | |
| Income redistribution | | | | | | | | | | | | | | | |
| Total beneficial effects | | $450,000 | $100,000 | $300,000 | $ 0 | $ 50,000 | $350,000 | $ 0 | $ 0 | $ 0 | $350,000 | $350,000 | $ 0 | $300,000 | $1,300,000 |
| Total adverse effects | | 1,000,000 | 0 | 0 | 0 | 1,000,000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1,000,000 |
| Net effects | | -$550,000 | +$100,000 | +$300,000 | $ 0 | -$950,000 | +$350,000 | $ 0 | $ 0 | $ 0 | +$350,000 | +$350,000 | $ 0 | +$300,000 | +$300,000 |



Table 6.-- Beneficial and Adverse Effects for a Plan -- Continued

| Components | Measurement of Effects | Region 1 (Intensive Area) | | | | | | Region 2 (Extensive Area) | | | | | | Rest of Nation | Summary |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | Total | Farm | Direct Users City | Rec. | Other | Total | Farm | Direct Users City | Rec. | Other | Total | State Local Gov't. | | |
| B. Adverse effects: | | | | | | | | | | | | | | | |
| 1. The value of output in the region under consideration foregone because of withdrawal of resources for use in the region under consideration. Examples include: | | | | | | | | | | | | | | | |
| Reduction in output of other users | | $ 500,000 | $ 0 | $ 0 | $ 0 | $ 500,000 | $ 250,000 | $ 0 | $ 0 | $ 0 | $ 250,000 | $ 250,000 | $ 0 | $ 0 | $ 750,000 |
| Reduction in output of fish and wildlife | | 250,000 | 0 | 0 | 0 | 250,000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 250,000 |
| Reduction in recreation opportunities | | 500,000 | 0 | 0 | 0 | 500,000 | 250,000 | 0 | 0 | 0 | 250,000 | 250,000 | 0 | 0 | 750,000 |
| Reduction in water quality | | 250,000 | 0 | 0 | 0 | 250,000 | 250,000 | 0 | 0 | 0 | 250,000 | 250,000 | 0 | 0 | 500,000 |
| Reduction in output of other goods and services | | 500,000 | 0 | 0 | 0 | 500,000 | 250,000 | 0 | 0 | 0 | 250,000 | 250,000 | 0 | 0 | 750,000 |
| Reduction in employment | | 250,000 | 0 | 0 | 0 | 250,000 | 250,000 | 0 | 0 | 0 | 250,000 | 250,000 | 0 | 0 | 500,000 |
| Reduction in income | | 250,000 | 0 | 0 | 0 | 250,000 | 250,000 | 0 | 0 | 0 | 250,000 | 250,000 | 0 | 0 | 500,000 |
| Reduction in property values | | 250,000 | 0 | 0 | 0 | 250,000 | 250,000 | 0 | 0 | 0 | 250,000 | 250,000 | 0 | 0 | 500,000 |
| Reduction in tax revenues | | 250,000 | 0 | 0 | 0 | 250,000 | 250,000 | 0 | 0 | 0 | 250,000 | 250,000 | 0 | 0 | 500,000 |
| Reduction in population | | 250,000 | 0 | 0 | 0 | 250,000 | 250,000 | 0 | 0 | 0 | 250,000 | 250,000 | 0 | 0 | 500,000 |
| Reduction in regional economic activity | | 250,000 | 0 | 0 | 0 | 250,000 | 250,000 | 0 | 0 | 0 | 250,000 | 250,000 | 0 | 0 | 500,000 |
| 2. Loss of assistance to economic development of the region under consideration. Examples include: | | | | | | | | | | | | | | | |
| Loss of Federal expenditures | | 500,000 | 0 | 500,000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 500,000 |
| Loss of State expenditures | | | | | | | | | | | | | | | |
| Loss of local expenditures (taxes) | | | | | | | | | | | | | | | |
| Loss of property (assessment on which taxes are based) | | | | | | | | | | | | | | | |
| (1) Reduction in property values | | +500,000 | 0 | 0 | 0 | +500,000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | -500,000 | 0 |
| (2) Reduction in economic activities induced by land clearing | | | | | | | | | | | | | | | |
| Loss of property (assessment on which taxes are based) | | +250,000 | 0 | 250,000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | -500,000 | 0 |
| (1) Reduction in property values | | | | | | | | | | | | | | | |
| (2) Reduction in economic activities induced by land clearing | | +250,000 | 0 | 250,000 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | -500,000 | 0 |
| Total adverse effects | | -250,000 | -100,000 | -350,000 | 0 | +200,000 | +500,000 | 0 | 0 | 0 | +500,000 | +500,000 | 0 | -1,000,000 | -750,000 |
| Net effects | | -250,000 | -100,000 | -350,000 | 0 | +200,000 | +500,000 | 0 | 0 | 0 | +500,000 | +500,000 | 0 | -1,000,000 | -750,000 |





XUM

Table 4.-- Beneficial and Adverse Effects for a Plan -- Continued

| Components | Measurement of Effects: Region 1 (Planning Area) Total | Region 1 Direct Users Farm | Region 1 Direct Users City | Region 1 Direct Users Rec. | Region 1 Other | Region 1 State Local Gov't. | Region 2 (Adjacent Area) Total | Region 2 Direct Users Farm | Region 2 Direct Users City | Region 2 Direct Users Rec. | Region 2 Other | Region 2 State Local Gov't. | Rest of Nation | Summary |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 3. Losses in output in the region under consideration resulting from labor resources displaced and subsequently unemployed. An example is: Induced unemployment in displaced activities | 100,000 | 100,000 | 200,000 | 0 | 0 | 0 | 200,000 | 100,000 | 100,000 | 0 | 0 | 0 | 0 | 300,000 |
| 4. Loss of net income to the region under consideration from other economic activities displaced by construction or operation of a plan. An example is: Loss of net income in displaced activities induced by and stemming from agricultural operations inundated by project | +500,000 | 250,000 | 250,000 | 0 | 0 | 0 | +500,000 | 250,000 | 250,000 | 0 | 0 | 0 | 1,000,000 | 0 |
| b. Losses in output resulting from external diseconomies to users residing in the region under consideration. Examples include: Diseconomies of scale in subsequent processing for displaced activities-- | 0 | 0 | 0 | 0 | 0 | 0 | 500,000 | 0 | 0 | 0 | 500,000 | 0 | 0 | 500,000 |
| Increased transportation costs as a result of road relocations | 0 | 0 | 0 | 0 | 0 | 0 | 1,000,000 | 0 | 0 | 0 | 1,000,000 | 0 | 0 | 1,000,000 |
| Total adverse effects | 3,550,000 | 750,000 | 1,550,000 | 0 | 0 | 1,250,000 | 2,950,000 | 750,000 | 450,000 | 0 | 1,500,000 | 250,000 | -500,000 | 6,000,000 |
| Net beneficial effects | $3,250,000 | $ -50,000 | $ 150,000 | $ 400,000 | $4,000,000 | $1,250,000 | $-350,000 | $-150,000 | $ 250,000 | $ 300,000 | $-300,000 | $-250,000 | $-900,000 | $2,000,000 |

NOTE: Similarly, the incidence of beneficial and adverse effects for other components of the Regional Development account would be shown for appropriate groups or classes.



Table 4.--Beneficial and Adverse Effects for a Plan -- Continued

| Components | Measures of effects: Region 1 (Project area) | Region 2 (Adjacent area) | Rest of Nation |
|---|---|---|---|
| B. Employment: Beneficial effects: Increase in the number and types of jobs resulting from a plan in the region under consideration. Examples include: | | | |
| Employment for project construction | 200 semiskilled jobs for 4 years | 100 semiskilled jobs for 4 years | -200 semiskilled jobs for 4 years |
| Employment for project OM&R | 50 permanent semiskilled jobs | 5 permanent semiskilled jobs | -5 permanent semiskilled jobs |
| Employment in service and trade activities induced by and stemming from project operation | 900 permanent semiskilled jobs | 95 permanent semiskilled jobs | -45 permanent semiskilled jobs |
| Total beneficial effects | 200 semiskilled jobs for 4 years; 950 permanent semiskilled jobs | 100 semiskilled jobs for 4 years; 100 permanent semiskilled jobs | -200 semiskilled jobs for 4 years; -50 permanent semiskilled jobs |

- Continued



FEDERAL REGISTER, VOL. 38, NO. 174—MONDAY, SEPTEMBER 10, 1973



Table 4.--Beneficial and Adverse Effects for a Plan -- Continued

| Components | Measure of effects: Region 1 (Project area) | Region 2 (Adjacent area) | Rest of Nation |
|---|---|---|---|
| Adverse effects: Decrease in the number and types of jobs resulting from a plan in the region under consideration. An example is: | | | |
| Employment in displaced activities induced by and stemming from agricultural operations inundated by project. | 50 permanent semiskilled jobs | ---------- | -50 permanent semiskilled jobs |
| Net beneficial effects | 200 semiskilled jobs for 4 years; 900 permanent semiskilled jobs | 100 semiskilled jobs for 4 years; 100 permanent semiskilled jobs | -200 semiskilled jobs for 4 years |

- Continued



Table 4.--Beneficial and Adverse Effects for a Plan -- Continued

| Components | Measure of effects: Region 1 (Project area) | Region 2 (Adjacent area) | Rest of Nation |
|---|---|---|---|
| C. Population distribution Beneficial and adverse effects: Population distribution within the region under consideration and among regions in the Nation. Examples include: | | | |
| 1. Create 1,000 permanent jobs supporting a population of 3,500 people in a region which historically has had a high rate of out migration. | ---------- | ---------- | -500 permanent jobs and population of 1,750 people |
| 2---------- | Induced traffic as result of reduced transportation costs estimated to increase production of steel by x tons, involving y employment and z population in city which is highly industrialized presently | | -y permanent jobs and z population |

- Continued



FEDERAL REGISTER, VOL. 38, NO. 174—MONDAY, SEPTEMBER 10, 1973

V 38-174 SEP 10 73 XUM

Table 4.--Beneficial and Adverse Effects for a Plan -- Continued

| Components | Measure of effects | | |
|---|---|---|---|
| | Region 1 (Project area) | Region 2 (Adjacent area) | Rest of Nation |
| D. Regional economic base and stability: Beneficial and adverse effects: Economic base and economic stability of the region under consideration. Examples include: | | | |
| 1. Create 500 permanent jobs in a new industry offering high income stable year-around employment resulting in diversification of employment base | Create 100 permanent jobs in a new industry offering high income stable year-around employment resulting in diversification of employment base | -100 permanent jobs | |
| 2. Create 100 permanent jobs in concentrated industry with seasonal employment | -75 permanent jobs | -25 permanent jobs | |

- Continued



Table 4.--Beneficial and Adverse Effects for a Plan -- Continued

| Components | Measure of effects | | |
|---|---|---|---|
| | Region 1 (Project area) | Region 2 (Adjacent area) | Rest of Nation |
| E. Environmental conditions of special regional concern: Beneficial and adverse effects: The quality of water resources. Examples include: | | | |
| 1. Meet State water quality standards over 50 miles of stream below reservoir | Meet State water quality standards over 100 miles of stream beginning 50 miles below reservoir | Meet State water quality standards over 50 miles of stream beginning 150 miles below reservoir | |
| 2.---------- Increase in salt concentration over 25 miles of stream from point x to point y due to salt load in return flow | Increase in salt concentration over 25 miles of stream from point y to point z due to salt load in return flow | | |





Table 5.--Beneficial and Adverse Effects for a Plan
(Use Additional Tables for Each Alternative Plan)

Social Well-being

| Components | Measures of effects |
|---|---|
| Beneficial and adverse effects: | |
| A. Real income distribution. Examples include:------ | 1. Create 1,000 low to medium income permanent jobs for unskilled and semiskilled workers. |
| | 2. Plan has distribution of benefits by income class over first 20 years of operation as follows: |

| Income class (Dollars) | Percentage of adjusted gross income in class | Percentage benefits in class |
|---|---|---|
| Less than 3,000- | 11 | 22 |
| 3,000-10,000--- | 62 | 64 |
| More than 10,000 | 27 | 14 |

| | |
|---|---|
| | 3. Reimbursement, taxes, and lands, easements, and rights-of-way contributed by region 1 total $2.25 million. These contributions have a distribution by income class as follows: |

| Income class (Dollars) | Percentage of adjusted gross income in class | Percentage contributions in class |
|---|---|---|
| Less than 3,000- | 11 | 25 |
| 3,000-10,000--- | 62 | 60 |
| More than 10,000 | 27 | 15 |

| | |
|---|---|
| B. Life, health and safety. Examples include:----- | 1. Provision of 100-year flood protection to city. |
| | 2. Production of x tons of fresh vegetables during winter months. |
| | 3. Create 10 small pools with drawdown of reservoir with attendant increase in mosquito population. |

- Continued



Table 5.--Beneficial and Adverse Effects for a Plan -- Continued

| Components | Measures of effects |
|---|---|
| C. Educational, cultural, and recreational opportunities: Beneficial and adverse effects: Examples include---------- | 1. Create diversity of recreational opportunity by provision of (a) 10,000 man-days boating; (b) 5,000 man-days fishing; and (c) 20,000 man-days picnicking. Reduce excessive use of recreation facilities on peak days and thereby improving aesthetic quality of recreation experience at existing facilities. |
| | 2. Influx of 500 construction workers will place severe burden on educational facilities over 4-year construction period. |
| D. Emergency preparedness. Examples include:------- | 1. Provide 100 mw, hydroelectric power centrally located in region not dependent upon importation and movement of fuel. |
| | 2. Proposed plan for preservation of scenic river will require using optimum sustained yield of groundwater resources to serve anticipated population over next 20 years. |







XUM

Table 6.--Summary Comparison of Two Alternative Plans
(Use Additional Table for Each Relevant Comparison)

| Account | Plan B | Recommended plan | Difference (recommended plan minus Plan B) |
|---|---|---|---|
| National Economic Development: | | | |
| Beneficial effects---------- | $5,000,000 | $8,000,000 | +$3,000,000 |
| Adverse effects---------- | 5,000,000 | 6,000,000 | + 1,000,000 |
| Net beneficial effects------- | 0 | 2,000,000 | + 2,000,000 |
| Environmental Quality: (Use same component stubs for beneficial and adverse effects as illustrated in table 3. Examples follow.) | | | |
| Beneficial and adverse effects: | | | |
| A. Open and green space, lakes | A. Create lake with 3,000 surface acres, 60 miles of shoreline and depth of 70 feet with high quality water and excellent access. | A. Create lake with 3,500 surface acres, 70 miles of shoreline and depth of 80 feet with high quality water and excellent access. | A. Create larger lake by 500 surface acres, 10 miles of shoreline and 10 feet of depth. Either plan would have high quality water and excellent access. |

- Continued



Table 6.--Summary Comparison of Two Alternative Plans -- Continued

| Account | Plan B | Recommended plan | Difference (recommended plan minus Plan B) |
|---|---|---|---|
| Beneficial and adverse effects: (Con'd.) | | | |
| A. Open and green space, lakes - Continued | | Inundate 3,500 acres of open and green space, 10 miles long and 1/2 mile wide, located along stream and near city. | Inundate 3,500 acres of open and green space, 10 miles long and 1/2 mile wide, located along stream and near city. |
| B. Archeological resources: | B. Inundate recognized historical archeological feature. | ---------- | B. Do not inundate recognized historical archeological feature. |

- Continued



FEDERAL REGISTER, VOL. 38, NO. 174—MONDAY, SEPTEMBER 10, 1973



Table 6.--Summary Comparison of Two Alternative Plans -- Continued

| Account | Plan B | Recommended plan | Difference (recommended plan minus Plan B) |
|---|---|---|---|
| Regional Development: | | | |
| Region 1 - Components | | | |
| A. Income: | | | |
| Beneficial effects------- | $5,000,000 | $6,800,000 | +$1,800,000 |
| Adverse effects-------- | 3,000,000 | 3,550,000 | +550,000 |
| Net beneficial effects---- | 2,000,000 | 3,250,000 | +1,250,000 |
| B. Employment: | | | |
| Beneficial effects: | | | |
| Project construction employment--------- | 1. 300 semiskilled jobs for 3 years. | 1. 200 semiskilled jobs for 4 years. | 1. -100 semiskilled jobs per year for 3 years, but +200 semiskilled jobs for 1 year. |
| Project O&M employment---------- | 2. 40 permanent semiskilled jobs. | 2. 50 permanent semiskilled jobs. | 2. + 10 permanent semiskilled jobs. |
| Employment in service and trade activities induced by and stemming from project operation--- | 3. 850 permanent semiskilled jobs. | 3. 900 permanent semiskilled jobs. | 3. +50 permanent semiskilled jobs. |

- Continued



Table 6.--Summary Comparison of Two Alternative Plans -- Continued

| Account | Plan B | Recommended plan | Difference (recommended plan minus Plan B) |
|---|---|---|---|
| B. Employment - (Con'd.) | | | |
| Adverse effects: | | | |
| Employment in activities induced by and stemming from displaced agricultural operations---------- | 1. 15 permanent semiskilled jobs. | 1. 50 permanent semiskilled jobs. | 1. +35 permanent semiskilled jobs. |
| Net beneficial effects--- | 1. 300 semiskilled jobs for 3 years. | 1. 200 semiskilled jobs for 4 years. | 1. -100 semiskilled jobs per year for 3 years, but +200 semiskilled jobs for 1 year. |
| | 2. 875 permanent semiskilled jobs. | 2. 900 permanent semiskilled jobs. | 2. +25 permanent semiskilled jobs. |

- Continued



FEDERAL REGISTER, VOL. 38, NO. 174—MONDAY, SEPTEMBER 10, 1973

V 38-174 SEP 10 73 XUM

Table 6.--Summary Comparison of Two Alternative Plans -- Continued

| Account | Plan B | Recommended plan | Difference (recommended plan minus Plan B) |
|---|---|---|---|
| C. Population distribution: | | | |
| D. Regional economic base and stability: Beneficial and adverse effects by component evaluated in Table 4 would be compared for the alternative plans and differences between plans noted. | | | |
| E. Environmental conditions of special regional concern: | | | |
| Region 2 - Components | | | |
| A. Income: | | | |
| Beneficial effects------- | $2,500,000 | $2,600,000 | +$ 100,000 |
| Adverse effects-------- | 2,600,000 | 2,950,000 | + 350,000 |
| Net beneficial effects---- | - 100,000 | - 350,000 | - 250,000 |

- Continued



Table 6.--Summary Comparison of Two Alternative Plans -- Continued

| Account | Plan B | Recommended Plan | Difference (recommended plan minus Plan B) |
|---|---|---|---|
| B. Employment: | | | |
| Beneficial effects: | | | |
| Project construction employment------- | 1. 100 semiskilled jobs for 3 years. | 1. 100 semiskilled jobs for 4 years. | 1. Same number of semiskilled jobs per year for 3 years, but + 100 semiskilled jobs for 1 year. |
| Project O&M employment---------- | 2---------- | 2. 5 permanent semiskilled jobs. | 2. + 5 permanent semiskilled jobs. |
| Employment in service and trade activities induced by and stemming project operation.---------- | 3. 80 permanent semiskilled jobs. | 3. 95 permanent semiskilled jobs. | 3. + 15 permanent semiskilled jobs. |

- Continued



FEDERAL REGISTER, VOL. 38, NO. 174—MONDAY, SEPTEMBER 10, 1973



Table 6.--Summary Comparison of Two Alternative Plans -- Continued

| Account | Plan B | Recommended plan | Difference (recommended plan minus Plan B) |
|---|---|---|---|
| B. Employment - (Con'd.) | | | |
| Adverse effects: | | | |
| Employment in activities induced by and stemming from displaced agricultural operations---------- | 1. 5 permanent semiskilled jobs. | ---------- | 1. -5 permanent semiskilled jobs. |
| Net beneficial effects--- | 1. 100 semiskilled jobs for 3 years. | 1. 100 semiskilled jobs for 4 years. | 1. Same number of semiskilled jobs per year, for 3 years, but + 100 semiskilled jobs per year for 1 year. |
| | 2. 75 permanent semiskilled jobs. | 2. 100 permanent semiskilled jobs. | 2. 25 permanent semiskilled jobs. |

- Continued



Table 6.--Summary Comparison of Two Alternative Plans -- Continued

| Account | Plan B | Recommended plan | Difference (recommended plan minus Plan B) |
|---|---|---|---|
| C. Population distribution: | | | |
| D. Regional economic base and stability: Beneficial and adverse effects by component evaluated in Table 4 would be compared for the alternative plans and differences between plans noted. | | | |
| E. Environmental conditions of special regional concern: | | | |

- Continued



FEDERAL REGISTER, VOL. 38, NO. 174—MONDAY, SEPTEMBER 10, 1973

V 38-174 SEP 10 73 XUM

Table 6.--Summary Comparison of Two Alternative Plans -- Continued

| Account | Plan B | Recommended plan | Difference (recommended plan minus Plan B) |
|---|---|---|---|
| Rest of Nation - Components | | | |
| A. Income: | | | |
| Beneficial effects------- | - $ 500,000 | - $1,400,000 | - $ 900,000 |
| Adverse effects--------- | 700,000 | - 500,000 | - 1,200,000 |
| Net beneficial effects---- | - 1,200,000 | - 900,000 | + 300,000 |
| B. Employment: | | | |
| Beneficial effects: | | | |
| Project construction employment--------- | 1. - 300 semiskilled jobs for 3 years. | 1. - 200 semiskilled jobs for 4 years. | 1. + 100 semiskilled jobs for 3 years, but - 200 semiskilled jobs for 1 year. |
| Project O&M employment---------- | 2---------- | 2. -5 permanent semiskilled jobs. | 2. - 5 permanent semiskilled jobs. |

- Continued

134

Table 6.--Summary Comparison of Two Alternative Plans -- Continued

| Account | Plan B | Recommended plan | Difference (recommended plan minus Plan B) |
|---|---|---|---|
| B. Employment - (Con'd.) | | | |
| Beneficial effects - (Con'd.) | | | |
| Employment in service and trade activities induced by and stemming from project operation---- | 3. - 25 permanent semiskilled jobs. | 3. - 45 permanent semiskilled jobs. | 3. - 20 permanent semiskilled jobs. |
| Adverse effects: | | | |
| Employment in activities induced by and stemming from displaced agricultural operations---------- | 1. - 15 permanent semiskilled jobs. | 1. - 50 permanent semiskilled jobs. | 1. -35 permanent semiskilled jobs. |
| Net beneficial effects--- | 1. - 300 semiskilled jobs for 3 years. | 1. - 200 semiskilled jobs for 4 years. | 1. + 100 semiskilled jobs for 3 years, but - 200 semiskilled jobs for 1 year. |
| | 2. - 10 permanent semiskilled jobs. | 1. 0 permanent semiskilled jobs. | 2. + 10 permanent semiskilled jobs. |

- Continued

135

FEDERAL REGISTER, VOL. 38, NO. 174—MONDAY, SEPTEMBER 10, 1973



Table 6.--Summary Comparison of Two Alternative Plans -- Continued

| Account | Plan B | Recommended plan | Difference (recommended plan minus Plan B) |
|---|---|---|---|
| C. Population distribution: | | | |
| D. Regional economic base and stability: | | | |
| Beneficial and adverse effects by component evaluated in Table 4 would be compared for the alternative plans and differences between plans noted. | | | |
| E. Environmental conditions of special regional concern: | | | |

- Continued

136

Table 6.--Summary Comparison of Two Alternative Plans -- Continued

| Account | Plan B | Recommended plan | Difference (recommended plan minus Plan B) |
|---|---|---|---|
| Social Well-being Components (Use same component stubs for beneficial and adverse effects as illustrated in Table 5. Examples follow.) | | | |
| Beneficial and Adverse effects: | | | |
| A. Real income distribution---------- | A. Plan is neutral in distribution of benefits by income class over first 20 years' operation with percentage distribution of benefits by income class the same as percentage distribution of adjusted gross income in class. | A. Plan has distribution of benefits by income class over first 20 years of operation as follows: (Con'd. on next page) | A. Increase distribution of real income to low income persons. |

- Continued

137

FEDERAL REGISTER, VOL. 38, NO. 174—MONDAY, SEPTEMBER 10, 1973

V 38-174 SEP 10 73 XUM

Table 6.--Summary Comparison of Two Alternative Plans -- Continued

| Account | Plan B | Recommended plan | Difference (recommended plan minus Plan B) |
|---|---|---|---|
| A. Real income distribution (Con'd.) | | Following table is reflected under "Recommended plan" | |
| | Income class (Dollars) | Percentage of adjusted gross income in class | Percentage benefits in class |
| | Less than 3,000--- | 11 | 22 |
| | 3,000-10,000----- | 62 | 64 |
| | More than 10,000-- | 27 | 14 |
| B. Life, health, and safety | B. Provide 100-year flood protection to city. | B. Provide 50-year flood protection to city. | B. Do not provide 100-year flood protection to city; provide 50-year flood protection to city. |

- Continued



Table 6.--Summary Comparison of Two Alternative Plans -- Continued

| Account | Plan B | Recommended plan | Difference (recommended plan minus Plan B) |
|---|---|---|---|
| C. Educational, cultural and recreational opportunities: | C. Create diversity of recreational opportunity by provision of (a) 7,500 man-days boating, (b) 4,000 man-days fishing, and (c) 20,000 man-days picnicking. | C. Create diversity of recreational opportunity by provision of (a) 10,000 man-days boating, (b) 5,000 man-days fishing, and (c) 20,000 man-days picnicking. | C. +2,500 man-days boating and +1,000 man-days fishing. |
| D. Emergency preparedness: | D. Plan would require using optimum sustained yield of ground water resources to serve anticipated population over next 30 years with potential for overloading capacities of water resource systems. | D. Provide x kilowatts hydroelectric power generating capacity centrally located in region requiring importation of coal for conventional thermal plants. | D. Do not require use of optimum sustained yield of ground water resources; provide x kilowatts hydroelectric power generating capacity. |





VII. COST ALLOCATION, REIMBURSEMENT, AND COST SHARING

On the basis of the identification provided for in the system of accounts for beneficial and adverse effects, an allocation of appropriate costs shall be made when an allocation of costs is required for purposes of establishing reimbursement levels, pricing policies, or cost sharing between the Federal Government and non-Federal public and private interests. All components of the national economic development and the environmental quality objectives shall be generally treated comparably in cost allocation and are entitled to their fair share of the advantages resulting from a plan.

Reimbursement and cost-sharing policies shall be directed generally to the end that identifiable beneficiaries bear an equitable share of costs commensurate with beneficial effects received in full cognizance of the objectivcs. Since existing cost-sharing policies are not entirely consistent with the two objective approach to planning water and land resources, these policies will be reviewed and needed changes will be recommended.

A. Cost Allocation

1. Introduction. The existence of joint contributions toward objectives and their components requires that an allocation of appropriate costs of a plan be made for purposes of establishing reimbursement levels, pricing policies, or cost sharing between the Federal Government and non-Federal interests. Thus, when legislative or administrative policies regarding reimbursement, pricing levels, or cost sharing apply to a proposed plan an allocation of appropriate costs shall be made. If such policies do not apply, no allocation of costs is necessary unless required for other administrative reasons.

For purposes of cost allocation, only the costs included in the national economic development account will be allocated between objectives and their components. Appropriate costs comprising the allocation of national economic development costs to the objectives and their components will be identified for purposes of applying specific reimbursement and cost-sharing policies.

Objectives and their components will generally be treated comparably in the cost allocation with respect to the identification of alternatives, the evaluation of alternatives, and the determination of incremental and/or separable costs. However, the national economic development objective serves as the baseline for cost allocation since only national economic development costs are allocated.



2. Summary of the cost allocation method. The cost allocation method described herein is a modification and extension of the separable costs-remaining benefits method of cost allocation which has been used to allocate costs of a multi-purpose project to purposes served by the project.

In the two objective setting, cost allocation becomes a two-stage process involving the allocation of costs between objectives and then the further allocation of costs among components of objectives. The system of accounts showing beneficial and adverse effects for alternative plans will usually provide much of the information needed in this process. This is particularly true for incremental and separable costs which may be determined by comparing the appropriate alternatives including the alternative of no plan.

Under the first stage, the method provides for the allocation of national economic development costs between the objectives. For cases when features of a plan are included to serve the environmental quality objective and at the same time contribute incidentally to the national economic development objective, the method provides that the net incremental costs of such features be allocated to the environmental quality objective. Case 1, attached, is an example relating to this circumstance.

For cases when features of a plan are designated to serve the environmental quality objective at the loss of net beneficial effects on the components of the national economic development objective served by the plan, and for cases when the entire plan is designated to serve the environmental quality objective at the loss of net beneficial effects on national economic development, the method provides that costs equivalent to the net national economic development beneficial effects foregone be allocated to the environmental quality objective. Case 2, attached, is an example relating to the first circumstance. In the second circumstance, if the plan is unjustified in terms of the national economic development objective, and no alternative formulation can be developed that is justified in terms of this objective but the plan is recommended in view of net contributions to the environmental quality objective, then the estimation of net national economic development beneficial effects foregone should be based on the assumption that marginal benefits of alternative uses of resources required for the recommended plan are equal to the costs of those resources.

Under the second stage the method provides for the further allocation of national economic development costs allocated to the two objectives in stage 1 among the components of the objectives. In the case of the environmental quality objective, this would be done by allocating to each

component of that objective a share of the national economic development cost based on the costs, comparably evaluated, of the alternative means most likely to be undertaken in the absence of the plan of obtaining the beneficial effects attributable to each component. In the case of the national economic development objective, costs would be allocated among the components of the objective using the separable costs-remaining benefits method of cost allocation essentially as applied in the past.

3. The cost allocation method

a. Cost allocation among objectives. When features of a plan are included to serve the environmental quality objective or its components which are not economically justified, the environmental quality objective shall be allocated.

Not less than the incremental national economic development costs net of any incidental incremental national economic development beneficial effects of achieving the beneficial effects attributable to the environmental quality objective determined by identifying on a last added basis, the national economic development costs and beneficial effects of increments of scale of a plan intended primarily to serve such objectives.

When features of a plan are designated to serve the environmental quality objective or its components at the loss of net beneficial effects on the components of the national economic development objective served by the plan, or when the entire plan is designated to serve the environmental quality objective or its components at the loss of net beneficial effects on national economic development, costs equivalent to the net national economic development beneficial effects foregone shall be allocated to the environmental quality objective.

Following is an example table illustrating how the national economic development costs allocated to the two objectives may be displayed for the major alternative plans.



Table 1.--A Display of National Economic Development Costs Allocated to the Two Objectives for the Major Alternative Plans

| | NED | EQ | Total Allocated |
|---|---|---|---|
| Plan A: | | | |
| Plan element: | | | |
| 1---------- | | | |
| 2---------- | | | |
| 3---------- | | | |
| N---------- | | | |
| Plan B: | | | |
| Plan element: | | | |
| 1---------- | | | |
| 2---------- | | | |
| 3---------- | | | |
| N---------- | | | |
| Plan C: | | | |
| Plan element: | | | |
| 1---------- | | | |
| 2---------- | | | |
| 3---------- | | | |
| N---------- | | | |

b. Cost allocation among components

(1) Of the national economic development objective. National economic development costs allocated to the national economic development objective under the procedures discussed above for stage 1 shall be further allocated among components of that objective in the following manner:

Each component of the national economic development objective served by a plan shall be allocated -

Not less than the separable national economic development costs of achieving the beneficial effects, attributable to each component determined under the assumption that each component is in turn omitted last from the plan, adjusted downward by an amount equivalent to the national economic development costs allocated to the environmental quality objective in the first stage of the cost allocation method in cases when a desired contribution to such objective stems directly from the provision of service to a national economic development component.







Nor more than the lesser of the beneficial effects or the costs, comparably evaluated, of the alternative means most likely to be undertaken in the absence of the plan of obtaining the beneficial effects attributable to each component.

Remaining joint national economic development costs (the total national economic development costs allocated to the national economic development objective in stage 1 less the sum of the separable national economic development costs determined for each component of that objective) shall be allocated among all components in proportion to the lesser of beneficial effects or alternative costs less any separable costs previously allocated to each component of the national economic development objective.

In the allocation of costs among components of the national economic development objective, it would be appropriate in most instances with respect to the two components for external economies and unemployed or underemployed resources, to assume that alternative national economic development costs would be equal to such benefits evaluated for these components and that separable national economic development costs for these two components would be zero.

(2) Of the environmental quality objective. When required for establishing reimbursement levels, pricing policies, or cost sharing, the costs allocated to the environmental quality objective in stage 1 will be further allocated among components of such objective in proportion to the costs, comparably evaluated, of the alternative means most likely to be undertaken in the absence of the plan of obtaining the beneficial effects attributable to each component.

Following is an example table illustrating how the national economic development costs allocated to the components of the objectives may be displayed for the major alternative plans.



Table 2.--A Display of National Economic Development Costs Allocated to the two Objectives and Their Components for the Major Alternative Plans

| | Allocated to | |
|---|---|---|
| | NED | EQ |
| Plan A: | | |
| Plan element 1---------- | Water supply<br>Flood control<br>Recreation<br>External economies<br>Unemployed labor resources<br>Et cetera | Water quality<br>Open and green space<br>Wild rivers<br>Wetlands<br>Archeological features<br>Et cetera |
| | Total | Total |
| Plan element: | | |
| 2---------- | | |
| 3---------- | | |
| N---------- | | |
| Plan B: | | |
| Plan element: | | |
| 1---------- | | |
| 2---------- | | |
| 3---------- | | |
| N---------- | | |
| Plan C: | | |
| Plan element: | | |
| 1---------- | | |
| 2---------- | | |
| 3---------- | | |
| N---------- | | |









XUM

4. Definitions

a. Components. Components of the environmental quality objective comprise the specific beneficial contributions toward this objective in a particular planning setting. For purposes of cost allocation, components of the national economic development objective include the more traditional purposes such as power, water supply, flood control, recreation, irrigation, etc.; and two components which encompass the categories of beneficial effects for external economic and beneficial effects from the use of otherwise unemployed or underemployed labor resources.

b. Alternatives. The costs of selected alternative means of obtaining the contributions to component of an objective provide a limit on the costs to be allocated to an objective or component of an objective. The costs of selected alternative means of obtaining the contributions to one or more objectives or components are also determined to identify the incremental costs for the environmental quality objective or its components and the separable costs for the components of the national economic development objective.

A range of possible alternatives to meet needs and problems, including types of measures and alternatives capable of application by various levels of government and by nongovernmental interests, should be considered. The alternative means of obtaining the relevant contributions to the objectives to be selected for the above determinations should be those which would be physically displaced or economically precluded by the proposed plan and those which would likely be undertaken in the absence of the proposed plan.

The alternative means selected for the above determinations which would likely be physically displaced or economically precluded with implementation of the proposed plan, or increments thereto, will be evaluated on a comparable basis with the proposed plan with respect to their beneficial and adverse effects on the objectives, including the treatment of national economic development costs and the discount rate used in the evaluation.

Taxes foregone on Federal alternatives and taxes paid on non-Federal alternatives will be excluded from such evaluations for the national economic development objective.

c. Incremental costs. For purposes of cost allocation, incremental costs are defined as the national economic development costs of including features in a plan intended primarily to serve the environmental quality objective. Such incremental costs will be determined under the assumption that such objective is served in turn last. Gross incremental costs for the environmental quality objective are the total incremental costs of features included



in a plan primarily for that objective. Net incremental costs represent the gross incremental cost for the environmental quality objective less any incidental incremental national economic development beneficial effects that accrue as a result of including features in a plan for such objective.

d. Separable costs. Separable costs are defined as the difference between the national economic development costs of a plan and the national economic development costs of the plan with each component of the national economic development objective in turn omitted, adjusted downward by an amount equivalent to the national economic development costs allocated to the environmental quality objective in the first stage of the cost allocation method in cases when a desired contribution to such objective stems directly from the provisions of service to a national economic development component.

e. Remaining joint costs. Remaining joint costs are defined below as they apply to stage 2 of the cost allocation method described herein.

For allocation of costs among components of the national economic development objective, remaining joint costs are defined as the difference between the total national economic development costs allocated to the national economic development objective in the first stage of the cost allocation method and the sum of the separable costs determined for the components of the national economic development objective.

5. Application of the cost allocation method. The cost allocation method described herein shall be applied to all multiobjective reservoir projects or plans. In the case of other types of projects or plans where currently some variation of the separable costs-remaining benefits method of cost allocation is used, or another procedure to allocate project economic costs among project purposes is used, national economic development costs allocated to the national economic development objective under stage 1 of the method described herein, may continue to be allocated among components of the national economic development objective following those procedures.

6. Review of cost allocations. Cost allocations will be reviewed to the extent appropriate when new contributions are made to objectives or their contributions cease, or when there is a material change in the level of contributions made toward the objectives and their components served by a project or plan. A revised cost allocation or a modification of the existing allocation will be made if, as the result of such review, it appears that a significant inequity may result if the existing allocation is not revised or modified. Due consideration will be given, in the event of a revision or modification of an existing allocation, to the relative periods of time over which contributions are made to the various objectives and their components.







The standards followed for the existing allocation will generally be followed in the revised allocation.

In the case of minor modifications, such as the withdrawal of water for municipal water supply from existing storage space, costs may be assigned to the new component in proportion to some comparable measure of use such as storage capacity, or on the basis of the value of the contributions made. If contributions to the new component result in a reduction in the contributions made to an existing reimbursable component, the cost assigned to the new component should be no less than the loss in revenues for the existing component.

7. Case examples. Attached to this section are two case examples illustrating the use of the cost allocation method described herein.

B. Reimbursement and Cost Sharing

1. General. Current reimbursement and cost-sharing policies are being reviewed in their entirety. The basis for reimbursement and cost sharing now required, the need for adjustment of these policies, the need for new reimbursement and cost-sharing policies for the environmental quality objective and its components or entirely new approaches and appropriate repayment arrangements and interest rates for repayment are being reviewed. Until this comprehensive review is completed and approved, all current reimbursement and cost-sharing policies are considered to be in full force and effect.



ILLUSTRATION OF COST ALLOCATION METHOD

Case 1.--Incremental scale included in plan intended primarily to serve environmental quality objective.

A. Project Data

| | NED Plan A | Recommended Plan B |
|---|---|---|
| NED Objective: | | |
| Beneficial effects: | | |
| FC | $50 | $50 |
| Recreation | 20 | 30 |
| Power | 30 | 40 |
| Total | $100 | $120 |
| Adverse effects: | | |
| Project construction and OM&R | 50 | 90 |
| Net beneficial effects | 50 | 30 |
| EQ objective: | | |
| Beneficial and adverse effects | 1---------- | 1. Meet State water quality standards over 100-mile stream. |
| | 2. 3,000 acres flat water. | 2. 3,500 acres flat water. |
| | 3. Inundate 10 miles free flowing stream. | 3. Inundate 11 miles free flowing stream. |

B. Allocation of NED Costs Between Objectives

1. Incremental NED costs and incidental incremental NED benefits associated with incremental scale included in Plan B intended to serve the environmental quality objective (reservoir capacity for downstream low flow augmentation):

| | NED Plan A | Recommended Plan B | Difference |
|---|---|---|---|
| NED objective: | | | |
| Benefits | $100 | $120 | $20 |
| Costs | 50 | 90 | 40 |
| Net benefits | 50 | 30 | -20 |

Thus:
Net incremental NED costs = $20

2. Allocation of NED costs of Plan B:

| | |
|---|---|
| Total NED costs of Plan B | $90 |
| Less net incremental NED costs of Plan B (allocated to EQ objective) | -20 |
| Allocation of NED costs of Plan B to NED objective | $70 |



C. Allocation of NED Costs Among Components of the NED Objectives

1. Separable NED costs for NED components:

| | Plan B | Plan B with FC omitted | Plan B with recreation omitted | Plan B with power omitted |
|---|---|---|---|---|
| Total NED costs | $90 | $80 | $85 | $65 |

| | Separable NED costs |
|---|---|
| Flood control | $10 |
| Recreation | 5 |
| Power | 25 |
| Total | $40 |

2. Remaining joint NED costs of NED objective:

| | |
|---|---|
| Total NED costs allocated to NED objective | $70 |
| Less total separable NED costs for NED components | -40 |
| Remaining joint NED costs of NED objective | $30 |

3. NED cost allocation table for Plan B for NED components:

| | NED components | | | |
|---|---|---|---|---|
| | FC | Recreation | Power | Total |
| 1. Benefits | $50 | $30 | $40 | $120 |
| 2. Alternative NED costs | 20 | 50 | 30 | 100 |
| 3. Benefits limited | 20 | 30 | 30 | 80 |
| 4. Separable NED costs | 10 | 5 | 25 | 40 |
| 5. Remaining benefits | 10 | 25 | 5 | 40 |
| Percent distribution | 25 | 63 | 12 | 100 |
| 6. Remaining joint NED costs | 7 | 19 | 4 | 30 |
| 7. Total allocated NED costs | 17 | 24 | 29 | 70 |







Case 2.--Increment of scale in plan operated to serve environmental quality objective.

A. Project Data:

| | Recommended plan with service to EQ objective deleted | Recommended Plan C |
|---|---|---|
| NED objective: | | |
| Beneficial effects: | | |
| FC | $50 | $50 |
| Recreation | 30 | 20 |
| Power | 40 | 30 |
| Total | $120 | $100 |
| Adverse effects: | | |
| Project construction and OM&R | 90 | 80 |
| Net beneficial effects | 30 | 20 |
| EQ objective: | | |
| Beneficial and adverse effects | 1. ---------- | 1. Meets State water quality standards over 100 miles stream. |
| | 2. 3,500 acres flat water. | 2. 3,000 acres flat water. |
| | 3. Inundate 11 miles free flowing stream. | 3. Inundate 10 miles free flowing stream. |



B. Allocation of NED Costs Between Objectives

1. Incremental NED costs and incidental incremental NED benefits associated with feature included in recommended plan operated to serve the environmental quality objective (reservoir capacity for downstream low flow augmentation):

| | Recommended plan with service to EQ objective deleted | Recommended Plan C | Difference |
|---|---|---|---|
| NED objective: | | | |
| Benefits | $120 | $100 | -$20 |
| Costs | 90 | 80 | -10 |
| Net benefits | $ 30 | $ 20 | -$10 |

NOTE: In this case example it has been assumed that in the absence of providing service to the EQ objective the power and recreation components would be scaled within the plan to maximize net NED benefits. As shown above, additional incremental NED costs for specific power and recreation facilities to maximize these net benefits is assumed to be $10 under an alternative operating plan where no provision is made for low flow releases. Incremental NED benefits for power and recreation is assumed to be $20 under such an alternative operating arrangement.

A further implied assumption in this case example is that it is more efficient to forego power and recreation net benefits than it would be to add additional capacity in the reservoir to make low flow releases beyond that which maximizes power and recreation net NED benefits. This may frequently be the case, i.e., to increase reservoir capacity beyond that assumed for either alternative operating arrangements would be very costly due to, for example, major road, railroad, or bridge relocations.

In this situation where the recommended plan does not represent the inclusion of increments of scale for the EQ objective to a plan which has been scaled to maximize net NED benefits, but rather because of efficiency considerations involves a tradeoff between net NED benefits and contributions to the EQ objective, the concept of net incremental costs has to be viewed in terms of net NED benefits foregone.

Thus:
Net incremental NED costs = $10

2. Allocation of NED costs of Plan C:

| | |
|---|---|
| Total NED costs of Plan C | $80 |
| Less net incremental NED costs of Plan C (allocated to EQ objective) | -10 |
| Allocation of NED costs of Plan C to NED objective | $70 |

C. Allocation of NED Costs Among Components of NED Objective

1. Separable NED costs for NED components:

| | Plan C | Plan C with FC omitted | Plan C with recreation omitted | Plan C with power omitted |
|---|---|---|---|---|
| Total NED costs | $80 | $70 | $75 | $60 |

| | Separable NED costs |
|---|---|
| Flood control | $10 |
| Recreation | 5 |
| Power | 20 |
| Total | $35 |

2. Remaining joint NED costs of NED objective:

| | |
|---|---|
| Total NED costs allocated to NED objective | $70 |
| Less total separable NED costs for NED components | -35 |
| Remaining joint NED costs of NED objective | $35 |

3. NED cost allocation table for Plan C for NED components:

| | NED components | | | |
|---|---|---|---|---|
| | FC | Recreation | Power | Total |
| 1. Benefits | $50 | $20 | $30 | $100 |
| 2. Alternative NED costs | 30 | 40 | 25 | 95 |
| 3. Benefits limited | 30 | 20 | 25 | 75 |
| 4. Separable NED costs | 10 | 5 | 20 | 35 |
| 5. Remaining benefits | 20 | 15 | 5 | 40 |
| Percent distribution | 50 | 38 | 12 | 100 |
| 6. Remaining joint NED costs | 18 | 13 | 4 | 35 |
| 7. Total allocated NED costs | 28 | 18 | 24 | 70 |









## VIII. NATIONAL PROGRAM FOR FEDERAL AND FEDERALLY ASSISTED ACTIVITIES

### A. Introduction

With an ideally developed system of planning in which national priorities and budget constraints were integrated with local and regional priorities, the approaches in the principles and standards would result in a national program of the appropriate emphasis and size. In the ideally developed system, there would be no necessity for a second round where national priorities and budget constraints are imposed on plans developed according to other priorities.

Since we are far from the ideal system of planning, an interim approach is described below.

Up to this point, these standards have been concerned with alternative plans for projects, States, regions, or river basins. The evaluation, systematic display, and comparison of alternative plans provide an indication of the priorities given the various objectives in selecting a recommended plan whether for projects, States, regions, or river basins. Such plans include both Federal and non-Federal activities and are of concern to all levels of government.

In formulating a national program of Federal and federally assisted activities for water and land resources, national priorities must be established among recommended project, State, region, or river basin plans. The system of accounts for beneficial and adverse effects for recommended plans, together with other criteria such as available budget resources, national policy toward environmental quality, or regional development or social well-being and public and private investment alternatives, will provide information needed for formulating a national program.

The Council will develop and put into operation a national programing system to support decisions as to long-range priorities for water and land resource activities. While the elements of such a system already exist in the member departments, what is needed is a common system to bring the information together and to insure that future field planning studies are consonant with the national system.

It is essential that the planning process not only articulate the full range of choice available for meeting any given level of needs, but that it also provide information which would be a basis for determining the order in which needs are to be fulfilled. Criteria for such selections should flow from the decisions made in regard to the priorities assigned to the objectives.

Clearly, a choice exists as to which of the objectives are to be emphasized. However, having assigned priorities to these respective objectives, these decisions must then be related to the instruments available for policy implementation-the most important being the annual budget within which national priorities are reflected for all Federal and federally assisted activities.

The appropriation of funds to implement a particular plan represents the termination of one planning cycle and the initiation of another. For this reason, priorities established in the planning process may be reinforced or altered by subsequent budgeting decisions. Different types of priority decisions are required in each level of planning. Priority decisions in formulating plans for projects are responsive to the kinds and quantities of project outputs expected. In formulating plans for regions or river basins, priorities are established among alternative courses of action. In formulating national programs, priorities may be assigned among the various river basin plans which are in competition for the same limited funds.

### B. Priorities In Plan Formulation

Formulation of plans for projects can be viewed as the process of selecting specific measures for meeting identified problems and needs. Since combinations of individual measures generate different effects in a geographic area and since a multitude of such combinations is possible, formulation of plans for projects requires that priorities be established not only in regard to the objectives which are to be emphasized in each alternative formulation, but also in regard to which of the alternative formulations are to be recommended. Therefore, it should be clear that priorities are necessarily established, either explicitly or implicitly, during the process of formulating project plans.

A plan for a region or river basin is a sequence of actions or measures which upon implementation will result in meeting the problems and needs for water and land resource development. The project level of planning accords priorities and subsequently selects (assigns a priority to) that formulation which makes the most beneficial contribution to those objectives considered to be most important. However, it is not until regional or river basin level of planning is undertaken that the resulting projects are accorded a priority in terms of their time phasing or sequence of implementation.

The problems and needs for water and land resource development vary among the different regions of the Nation, a major reason for this variance being the economic, social, and environmental conditions uniquely associated with different geographic areas. It is for this reason that water and land resource plans are formulated for and apply to well-defined geographic areas, either river basins or other designated regions.

Recognizing the existence of budget constraints, a choice must be made as to whether or not each plan is to progress toward completion at the same rate or whether plans for some regions are to progress at accelerated rates. Whatever the choice, it represents a priority decision in formulating a national program.

Since plans are directed toward meeting problems and needs in designated geographic areas, choosing priorities among regional or river basin plans reflects in practical terms, the assignment of priorities to geographic areas. Therefore, in the budgetary sense, national program formulation is the allocation of a multiyear budget among geographic areas.

C. Establishing Priorities

The President and the Congress, through the authorization, budgetary, and appropriation process, are ultimately responsible for assigning priorities for implementation of Federal activities. At an earlier stage, however, the Water Resources Council has certain responsibilities with regard to priorities. These standards amplify upon those responsibilities by requiring member agencies to formulate long-range national and regional programs for water and land resource activities.

1. Project plans. To assure that adequate data are available for subsequent steps in the process of national programing for water and land resource activities, it is essential in the process of formulating plans for a project that sufficient information with respect to the contributions that alternative plans make to the objectives be clearly developed and reported.

2. Basin plans. With respect to basin or regional plans, it is necessary to establish priorities among the various activities in a plan and to present a clear statement of their most effective sequence of implementation. Many basin plans have contained early action programs which single out the projects for more immediate needs. However, the criteria for this choice generally are not related to national priorities for water and land resource activities.



Under existing procedures, priorities for Federal and federally assisted activities are usually established by agency recommendations to the President and by specification in the President's annual budget messages to the Congress. Public review of these priorities is generally limited to testimony before the various congressional subcommittees which are considering the budget requests for a particular agency.

Since the priorities set forth in the Federal budget are usually limited to actions to be undertaken within an ensuing fiscal year, State and local planning groups are forced to make highly uncertain projections in regard to the future activities of Federal water and land programs. These standards provide that river basin commissions and entities designated by the Water Resources Council to perform the functions of a river basin commission recommend long-range schedules of priorities for the collection and analysis of basic data and for the investigation, planning, and construction of projects. State members of river basin commissions have a responsibility to participate in establishing the long-range schedule of priorities. These standards require that each Federal agency that is a member of a river basin commission or entity performing the functions of a commission participate in the preparation of such a long-range schedule of priorities. Such a schedule is to reflect priorities to be accorded to previously authorized projects, as well as those recommended for authorization during each 5-year period in the schedule. The recommended schedule of priorities should accompany all requests for congressional authorization and funding. A copy of the schedule should also be forwarded to the Governors of the appropriate States for review and comment.

3. National programs. The single most perplexing problem in water and land resource programing is the integration of regional and river basin plans into a national program of Federal and federally assisted activities for the management and use of the Nation's water and land resources. In order that the Council may make a continuing study of the relation of regional or river basin plans to the requirements of larger regions of the Nation and to the Nation as a whole, these standards require that each member of the Council prepare a 5-year national program of water and land resource activities for submission through the Council to the President. The 5-year program is to include an identification of priority activities for collection and analysis of basic data and for the investigations, planning, and construction of projects which are to be initiated in each region during the period. The amount of program funds to be allocated to a particular region or basin is not to be based upon a rigid mathematical formula but, consistent with the level of funds prospectively available, upon an assessment of the relative needs for water resource activities in the respective regions. The national program





and its regional allocations is to be continually reviewed and modified periodically to reflect the changing needs for water resource activities.

## IX. COORDINATION AND REVIEW OF PLANNING STUDIES

### A. Introduction

The success of water and related land resources planning depends on meaningful participation of interests concerned with each objective at each step in the planning process. The leaders for water and related land resource planning have the challenging responsibility of achieving such participation while managing effective planning studies and facilitating decisionmaking. This responsibility will require an aggressive program to involve all concerned interests in identifying an area's problems and needs, in planning alternative solutions, and in decisions as to action.

Federal planning and participation in planning will be carried out on a coordinated basis from the earliest consideration of planning needs and priorities through initiation of an investigation or survey and the entire process of planning and review. When warranted, joint Federal agency-State planning for regions or river basins will be arranged by the Council. Full advantage is to be taken of existing field organizations and arrangements for coordination, such as river basin commissions, other regional agencies or commissions, Federal-State interagency committees, interstate bodies, and State and local agencies. When any Federal agency initiates an investigation, it shall follow the Water Resources Council's standards for appropriate coordination and consideration of problems of mutual concern with other Federal agencies and with interested regional, State, and local public agencies and private interests.

### B. National Program of Planning Studies

The Water Resources Council will prepare and keep up to date a national program of water and related land resource planning studies. This program will include a long-range schedule of priorities for:

1. Framework studies and assessments (Level A);

2. Regional or river basins plans (Level B); and

3. Implementation studies (Level C).



1. Framework studies and assessments. In accordance with section 102 of the Water Resources Planning Act, the Council will maintain a continuous study of water requirements and the adequacy of water supplies to meet them. The Council will publish periodically an assessment of the Nation's water and land resources, and will publish as needed framework studies and assessments for the major regions of the country.

The reports on framework studies and assessments will be prepared by the regional entities designated by the Council. The Council shall review such reports as to the adequacy of water supplies to meet requirements in the region; the relation of the regional programs to the larger regions of the Nation; the adequacy of administrative and statutory means for coordination among Federal agencies; the adequacy of existing policy and programs to meet such requirements; and other regional and national problems in the conservation, development, and utilization of water and land resources as the Council may determine.

Framework studies and assessments will be included in the periodic national assessment reports and as appropriate may be transmitted separately by the Council to the Congress.

2. Regional or river basin plans. As part of its comprehensive planning responsibilities, each river basin commission is directed under the Water Resources Planning Act to recommend long-range schedules of priorities for the collection and analyses of basic data and for investigation, planning, and construction of projects. Where commissions have adopted such long-range schedules, the Council and Federal departments and agencies shall use the commissions' recommendations in establishing priorities for regional or river basin plans. Planning leaders shall be provided by or designated by river basin commissions in their respective areas.

Where a river basin commission has not been established under title II of the Water Resources Planning Act, the Council may designate some other regional entity to perform the function of a river basin commission in recommending priorities for plans. Planning leaders shall be provided by or designated by the Council in these areas.

For regional or river basin plans, the Council will have prepared and will submit budgets with suitable statements of justifications for consideration in establishing the President's budget. These statements will outline a brief plan of study, including arrangements for study coordination and management.

When a budget for a regional or river basin plan has been approved, the Council will prepare terms of reference for the plan, provide or designate the planning manager, and prepare the coordination arrangements, including designation of participating Federal agencies and States. The planning manager shall submit a detailed plan prepared in accordance with the Council's Handbook for Regional or River Basin Plans for review and approval of the Council. The planning manager will be responsible for the efficient management of the plan and for organizing the study so that all concerned interests may participate in the planning process. When the components of the objectives of the regional or river basin plan have been identified, as provided in section V, Plan Formulation, the planning manager will prepare a statement of the specified components of the objectives and the probable effects of the plan on such objectives. A copy of this statement will be sent to the Water Resources Council and to the Council on Environmental Quality as a preliminary report under section 102(2)(C) of the National Environmental Policy Act of 1960.

The planning manager will submit completed reports of regional or river basin planning studies to the Water Resources Council for review. Copies shall be furnished to the Council on Environmental Quality.

The procedure for processing of reports from river basin commissions is presented below. For reports of studies in other areas, the Council will prepare its review report which may include modifications of the plan and after clearance with the Office of Management and Budget will transmit its report and the plan to the Congress for appropriate action.

a. River basin commission plan reports. These reports will be submitted to the Water Resources Council for review in accordance with the Water Resources Planning Act. Copies will be furnished to the Council on Environmental Quality. The Water Resources Council will prepare a report of its review which may include revision of plans for Federal projects included in the commission's plan.

The Council will review each plan prepared by a river basin commission with special regard to:

1. The efficacy of such plan in achieving optimum use of the water and land resources in the area involved;

2. The effect of the plan on the achievement of other programs for the development of agricultural, urban, energy, industrial, recreational, fish and wildlife, and other resources of the Nation; and



3. The contributions which such plan will make in achieving the Nation's economic and social goals.

The Council will formulate such recommendations as it deems desirable in the national interest and transmit them, together with the plan or revision of the river basin commission plan, and the views, comments, and recommendations with respect to such plan or revision submitted by any Federal agency, Governor, interstate commission, or U.S. section of an international commission, to the President for his review and transmittal to the Congress with his recommendations in regard to authorization of Federal projects.

b. Coordinated State plans. Federal agencies administering programs of Federal assistance to States and other public bodies shall report to the Council on pending applications the information required to carry out the Council's responsibility for coordination of Federal assistance programs and other Federal programs under the Water Resources Planning Act.

In carrying out its coordination function, the Council will encourage State planning agencies to submit a program for planning water and land resources which shows how Federal assistance from various sources is to be used with resources from State and other public bodies to accomplish State objectives. The Council will coordinate such State program proposals with proposed Federal planning to avoid duplication and to facilitate effective use of planning resources.

When a State program for use of Federal assistance has been approved by the Council, Federal agencies will be guided by the State program in approving applications for grants and other Federal assistance.

Copies of reports resulting from federally assisted planning shall be distributed for information by the Federal agency responsible for the program to the Water Resources Council, to the appropriate river basin commission, and to designated offices in member agencies. The Council will include a distribution list in its Handbook for Coordination of Planning Studies and Reports. These reports will be used for information in preparing the national planning program.

c. Handbook for regional and river basin plans. The Council will issue and keep up to date a Handbook for Regional or River Basin Plans. This handbook will set forth procedures for preparing work plans, establishing study management, preparing budgets, and the application of principles and standards in regional or river basin plans.





3. Implementation studies

a. Council coordination. To facilitate the coordination of water and land resources planning studies among the agencies represented on the Water Resources Council, the Federal agencies, on or before July 1 of each year, will exchange, through the Council, lists of implementation studies which are under consideration as proposed new planning starts for the fall budget submissions. The lists will include information concerning the type of study, study name, purpose, location, estimated duration, and a preliminary estimate of total cost. Information will be included on the relation of the proposed implementation study to priorities established by the Council on the basis of recommendations by river basin commissions or other regional entities and to State planning programs. On the basis of this information and the information on applications for federally assisted programs, the Council will prepare its recommendations, for "administrative use only," as to a national program of implementation studies that should be considered for initiation in the succeeding fiscal year.

Each Federal agency will (on an "administrative use only" basis) keep the Council informed of action on implementation studies included in the Council's recommended national program during the budgetary and appropriation process. When the appropriations have been approved, each Federal agency will advise the Water Resources Council which implementation studies have been funded, the assignment of study management, and any special coordination arrangements.

b. Field coordination of implementation studies. River basin commissions established under the Water Resources Planning Act serve as the principal agency for the field level coordination of Federal, State, interstate, local, and non-governmental planning efforts for the development of water and land resources in their areas of responsibility. Procedures to accomplish this will be developed by the commissions consistent with the Water Resources Planning Act and applicable rules, regulations, and guidelines of the Water Resources Council.

Where a river basin commission has not been established under title II of the Water Resources Planning Act, other entities may be requested by the Water Resources Council to coordinate planning studies.

The following are the minimum procedures for field level coordination and shall apply in those regions where a river basin commission has not been established, and may be used or adapted for use by a commission in the area where one has been established:



(1) Initiation of implementation studies. When any implementation study has been funded, the field office responsible for its initiation will inform the corresponding field offices of the other Federal departments and agencies, river basin commissions, States, and concerned local agencies of this action. This written communication will request a statement, within a specified period of time, as to what interests they may have in the proposed study, what pertinent data they may have or know about that can be made available, and what preliminary comments and suggestions on these subjects they may care to make.

(2) Coordination during studies. When the components of the objectives for an implementation study have been identified, as provided in section V, Plan Formulation, the planning organization will prepare a public statement of the specified components of the objectives and probably effects of the plan on such components. A copy of this statement will be sent to the Water Resources Council and to the Council on Environmental Quality for a preliminary report under section 102(2)(C) of the National Environmental Policy Act.

As the plan which is to be incorporated in the report is being formulated, the head of the field office responsible for the report will periodically communicate and arrange for mutually desired conferences with the corresponding field offices of Federal departments or agencies, river basin commissions, States, and concerned local agencies which have indicated an interest. The purpose of these communications and conferences are to determine what pertinent data are in existence, to arrange schedules for obtaining assistance and for obtaining additional data without duplication, to interchange information, to discuss the proposed plan and report, and to identify areas where there may be complementary or competitive effects.

(3) Field review of reports. When the report by the responsible field office has been completed. It will be submitted prior to official transmission to higher authority to the other interested field offices of Federal departments and agencies, river basin commission, States, and concerned local agencies for review and comment. Reports will be revised as may be necessary to reflect mutually acceptable changes. Suggests on which agreement is not reach and which are not otherwise resolved will be recorded in the field office comments.

c. Review of Federal implementation study reports. The following types of final reports will be referred by the responsible agency head to the heads of other departments or agencies in Washington, D.C., and States for review and comment and to the Water Resources Council office for information; and the Council on Environmental Quality in

accordance with section 102(2)(C) of the National Environmental Policy Act:

1. Reports required to be submitted to other departments or agencies a and States in accordance with existing law;

2. Reports prior to project authorization in which other agencies have participated, have an interest, or on which the originating agency desires comments or views; and

3. Reports following project authorization when, in the opinion of the head of the responsible agency, the comments or views of other departments or agencies are necessary or desirable prior to initiation of construction activities.

The Water Resources Council will review and comment on reports of implementation studies in areas covered by regional or river basin plans. The Council will also review reports that contain innovations in planning procedures or cost-sharing arrangements, or which have unresolved evaluation or coordination problems. Federally assisted studies that are submitted for Congressional approval shall be reviewed in the same manner. The Council's comments shall be included when reports on implementation studies are transmitted to the Congress.

Copies of final reports or plans not subject to headquarters review in accordance with the foregoing shall be furnished for information purposes to (a) the heads of other concerned Federal departments or agencies, (b) the Governor of the State (s) in which the project is located, (c) the Water Resources Council, and (d) the Council on Environmental Quality.

Reports of plans requiring congressional approval for project authorization shall be forwarded to the Office of Management and Budget for clearance before transmittal to the Congress. Copies of the reports will be forwarded to the Office of Management and Budget by the responsible department or agency head, together with copies of comments received from the Water Resources Council, other concerned Federal departments or agencies, and States. The responsible agency shall also determine that all statutory requirements have been met and that there is no apparent conflict with other water and land resource projects or programs.

166

d. Handbook for Coordination of Implementation Studies and Reports. The Water Resources Council has prepared and will keep up to date a Handbook for Coordination of Implementation Studies and Reports for the use of agencies represented on the Council and others concerned with implementation studies of water and land resources. The handbook will provide a summary of coordination policies, a description of agency areas of interest and responsibility, designation of agency offices and representatives which are to receive information regarding planning activities, and reports for review.

C. Notification of planning clearinghouse.

The designated field office of Federal departments or agencies responsible for federally assisted programs shall inform potential applicants for assistance in planning water and land resource development projects of the need for them to notify the planning and development clearinghouse of the State(s) and the region, or, if applicable, the metropolitan area clearinghouse of their intention to apply for assistance (Bureau of the Budget Circular A-95 and Intergovernmental Cooperation Act of 1968).

Applicants for project assistance are to include with their applications:

1. Comments made by or through clearinghouses, along with a statement that such comments have been considered prior to submission of the application; or

2. A statement that the procedures for informing clearinghouses of an intention to apply have been followed and that no comments have been received.

The responsible field offices of Federal departments or agencies are responsible for establishing working relations with the appropriate clearinghouses. The clearinghouses shall be notified when the agency initiates planning activities and a conference arranged to discuss coordination needs and arrangements. At such conferences, arrangements should be made to obtain available and pertinent base data, statistics, or other information from the clearinghouse. The need and arrangements for further consultation to assure coordination should also be discussed and agreed on.

Approved

Richard Nixon

167



FINAL ENVIRONMENTAL STATEMENT
PREPARED PURSUANT TO THE
NATIONAL ENVIRONMENTAL POLICY ACT OF 1969

PRINCIPLES AND STANDARDS
FOR PLANNING WATER AND RELATED LAND RESOURCES

I. SUMMARY

1. Purpose. The principles and standards are established for planning the use of the water and related land resources of the United States to achieve objectives, determined cooperatively, through the coordinated actions of the Federal, State, and local government; private enterprise and organizations; and individuals.

Plans for the use of the Nation's water and land resources would be directed to improvement of the quality of life through contributions to the objectives of national economic development and environmental quality.

The beneficial and adverse effects of alternative plans on each of these objectives will be displayed in separate accounts with a third and fourth account for effects on regional development and social well-being.

2. Background. The Water Resources Council began its review of principles and standards for planning water and related land resources in 1968 to carry out one of the important Congressional mandates of Public Law 89-80, the Water Resources Planning Act.

In 1969, after a preliminary report of a Special Task Force had been prepared, the Council held 10 public hearings to solicit the views, recommendations and comments of the public on the preliminary report. The Task Force's preliminary report was also widely discussed and reviewed during late 1969 and 1970 at various meetings and seminars and by numerous organizations and individuals both within and outside of the Federal Government. In addition, the proposals contained in the preliminary report were subjected to extensive analytical testing during this period.

1

After careful consideration of the final recommendations of the Special Task Force submitted in August 1970, the Council published proposed "Principles and Standards for Planning Water and Related Land Resources" along with a separate draft Environmental Statement on the proposed Principles and Standards in the "Federal Register" on December 21, 1971, (36 F. R. 24144) for a period of public review and comment, commencing on December 21, 1971, and terminating March 31, 1972. Notice was also given that as part of the review, a public hearing would be held at the National Museum of History and Technology in Washington, D. C., March 20 and 21, 1972. Reaction to the notice and publication of the Council's proposals prompted the Council to announce and hold additional public hearings in San Francisco, California, March 13 and 14, 1972, and St. Louis, Missouri, March 15 and 16, 1972. These were announced in the "Federal Register," February 5, 1972, Vol. 37, No. 25.

The Council received 11,832 comments on 23 issues from 4,782 respondents during the 100-day period of public review, and prepared a 320-page "Summary/Analysis of the Public Response . . ." for distribution to the public and all respondents.

The Council considered all the issues and various alternatives raised by the public and Federal and State agencies and forwarded its recommendations to the President, July 24, 1973. On August 3, 1973, President Nixon wrote Chairman Rogers C. B. Morton approving the new principles and standards for planning water and related land resources, as recommended in Chairman Morton's letter of July 24, 1973.

The Council's "Principles and Standards" will supersede the present criteria, "Policies, Standards and Procedures in the Formulation, Evaluation, and Review of Plans for Use and Development of Water and Related Land Resources" approved by the President May 15, 1962, printed and commonly known as Senate Document No. 97, 87th Congress, 2d session, together with Supplement No. 1, thereto, June 4, 1964, "Evaluation Standards for Primary Outdoor Recreation Benefits," and the amendment of December 24, 1968, covering the discount rate.

The public record for the period December 21, 1971, to March 31, 1972, including letters of comment and written and oral testimony, can be inspected during the hours of 8:15 a. m. to 4:15 p. m.,

2

Monday through Friday, excepting national holidays, at the headquarters of the Water Resources Council. Photostat or similar copies may be obtained at a cost of $.50 per page by writing the Water Resources Council. indicate the name of the person presenting the statement desired and page numbers as provided in Appendix II of the Council's "Summary/Analysis."

The following pertinent documents can be purchased from the National Technical Information Service, U. S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22151. Prepayment is required.

Proposed Practices for Economic Analysis of River Basin Projects, May 1958. ("Green Book"). Order # PB-209 180, $5.25.

Policies, Standards, and Procedures in the Formulation, Evaluation, and Review of Plans for Use and Development of Water and Related Land Resources, May 29, 1962. ("S. D. 97"), Order # PB-209 184, $3.00.

Report to the Water Resources Council by the Special Task Force, Procedures for Evaluation of Water and Related Land Resource Projects, June 1969. ("Blue Book"). Order # PB-209 171, $8.75.

Summary: Federal Agency Technical Comments on the Special Task Force Report Entitled "Procedures for Evaluation of Water and Related Land Resource Projects," July 1970. ("T. F. Report" - Vol. I), Order # PB-209 172, $3.00.

Summary and Index: Public Response to the Special Task Force Report entitled "Procedures for Evaluation of Water and Related Land Resource Projects," July 1970. ("T. F. Report," Vol. II), Order # PB-209 173, $3.00.

Report to the Water Resources Council by the Special Task Force: Findings and Recommendations, July 1970. ("T. F. Report," Vol. III), Order # PB-209 174, $3.00.

Report to the Water Resources Council by the Special Task Force: Principles for Planning Water and Land Resources, July 1970. ("T. F. Report," Vol. IV), Order # PB-209 175, $3.00.



Report to the Water Resources Council by the Special Task Force: Standards for Planning Water and Land Resources; July 1970. ("T. F. Report," Vol. V), Order # PB-209 176, $3.00.

Report to the Water Resources Council by the Special Task Force: A Summary Analysis of Nineteen Tests of Proposed Evaluation Procedures on Selected Water and Land Resource Projects, July 1970. ("T. F. Report," Vol. VI), Order # PB-209 177, $3.00.

Federal Register - Water Resources Council, Proposed Principles and Standards for Planning Water and Related Land Resources, Volume 36, Number 245, December 21, 1971. (Proposed) Order # PB-209 187, $3.00.

3. Objectives. Planning for the use of water and land resources would be conducted to reflect society's preferences for attainment of the objectives defined below:

a. To enhance national economic development by increasing the value of the Nation's output of goods and services and improving national economic efficiency.

b. To enhance the quality of the environment by the management, conservation, preservation, creation, restoration, or improvement of the quality of certain natural or cultural resources and ecological systems.

Components of these objectives refer to types of outputs and environmental conditions that are being sought as contributions to these objectives.

4. Effects on objectives. For each alternative plan there will be a complete display or accounting of relevant beneficial and adverse effects on national economic development and environmental quality objectives.

Beneficial and adverse effects are measured in monetary terms for the national economic development objective.

Other beneficial or adverse effects are measured in nonmonetary terms for components of the environmental quality objective. Estimating these beneficial and adverse effects is undertaken in order to measure the net changes with respect to particular objectives that are generated by alternative plans.







Thus, there are beneficial and adverse effects for national economic development and environmental quality objectives. These would be measured in monetary or quantitative units or qualitative terms appropriate to a particular effect. The objectives are not mutually exclusive with respect to beneficial or adverse effects, and final decisions as to the selection of the recommended plan would be made by considering the differences among alternative plans as to all their effects.

a. National economic development. Beneficial effects to the national economic development objective would include all effects on national output regardless of the reason a plan may be formulated. These beneficial effects include the value of increased outputs of goods and services, the value of output resulting from external economies. National economic development adverse effects are resources required for or displaced by a plan, and losses in output resulting from external diseconomies.

b. Environmental quality. The beneficial and adverse effects of the proposed plan on the environmental characteristics of an area under study or elsewhere in the Nation would be evaluated. Environmental effects will be displayed in terms of relevant physical and ecological criteria or dimensions, including the appropriate qualitative aspects. Such an evaluation would include the effects of the proposed plan on (a) open and green spaces, wild and scenic rivers, lakes, beaches, shores, mountains and wilderness areas, estuaries, and other areas of natural beauty; (b) archeological, historical, biological, and geological resources and selected ecological systems; (c) the quality of water, land, and air resources; and (d) irreversible commitments of resources to future uses.

Effects under the environmental quality account are expressed in various quantitative units or in qualitative terms. In some instances, the effects can be expressed in terms of meeting legally established standards.

5. Other beneficial and adverse effects. For each alternative plan the beneficial and adverse effects on regional development and social well-being will be displayed where appropriate in the system of public information accounts.



a. Regional development. The beneficial and adverse effects of a proposed plan on relevant planning regions (States, river basins, or communities) would be displayed in a regional development account, including income effects and effects on other components of regional development including (1) the number and types of jobs resulting from a plan in the region; (2) the effects of the plan on population distribution within the region and among regions; (3) the effects of the plan on the regional economic base and economic stability; and (4) the effect of the plan on environmental quality in the region under consideration.

Because of measurement problems, a complete display of beneficial and adverse effects for all components in the regional development account will not be made for a plan unless directed by a Department Secretary or a head of an independent agency.

b. Social well-being. The beneficial and adverse effects of a proposed plan on the social well-being account will be displayed, including the effects of a plan on the real income of classes or groups that are relevant to the evaluation of the plan; effects of the plan on life, health, and safety; effects of the plan on educational, cultural, and recreational opportunity; effects of the plan on reserve capacities and flexibilities in water resource systems and protection against interruption of the flow of essential goods and services at times of national disaster or critical needs; and effects of a plan on other relevant social factors.

6. System of accounts. A system of public information accounts would be established that displays beneficial and adverse effects of each plan to the objectives and beneficial and adverse effects on regional development and social well-being and provides a basis for comparing alternative plans. The display of beneficial and adverse effects would be prepared in such manner that the different levels of achievement to the components of each objective could br readily discerned and compared indicating the tradeoffs among alternative plans. The system of accounts will display the beneficial and adverse effects in the region under consideration in relation to other parts of the Nation.

7. The planning process. Plans will be directed to improvements in the quality of life by meeting current and projected needs and problems as identified by the desires of people in such a manner that improved contributions are made to society's preferences for national economic development and environmental quality. Plans for water and land resources will focus upon the specified components of the objectives desired for the designated region, river basin, State, or local planning setting.

The planning process would include the following major steps:

(1) Specify components of the objectives relevant to the planning setting;

(2) Evaluate resource capabilities and expected economic and environmental conditions without any plan;

(3) Formulate alternative plans to achieve varying levels of contributions to the specified components of the objectives;

(4) Analyze the differences among the alternative plans which reflect different emphases among the specified components of the objectives;

(5) Review and reconsider if necessary the specified components for the planning setting and formulate additional alternative plans as appropriate; and

(6) Select a recommended plan based upon an evaluation of the tradeoffs among the alternative plans.

Essential to this process is the formulation of alternative plans to achieve varying levels of contributions to the objectives and the active participation of all interests.

During the planning process one alternative plan will be formulated in which optimum contributions are made to the national economic development objective. Additionally, during the planning process at least one alternative plan will be formulated which emphasizes the contributions to the environmental quality objective. Other alternative plans reflecting significant physical, technological, legal or public policy constraints or reflecting significant tradeoffs between the national economic development and environmental quality objectives may be formulated.

Four tests would be applied in the formulation of any given alternative plan:

(1) The acceptability of the alternative plan to the public and compatibility with institutional constraints;



(2) The effectiveness of the alternative plan in meeting component needs of the objectives;

(3) The efficiency of the plan in meeting component needs of the objectives and a demonstration that the plan represents the least-cost means of achieving such component needs; and

(4) The completeness of the plan in accounting for all investments and other required inputs or actions.

As alternative plans are developed and subjected to these tests, the basic steps in the planning process may be reiterated as necessary with each iteration more detailed than the last.

Each alternative plan screened for final consideration should be "justified" in the sense that in the judgment of the planning organization the total beneficial effects to all objectives exceed the total adverse effects to all objectives.

From its analysis of alternative plans the planning organization will select a recommended plan. The plan selected will reflect the importance attached to different objectives and the extent to which different objectives can be achieved by carrying out the plan.

The recommended plan should be formulated so that beneficial and adverse effects toward objectives reflect, to the best of current understanding and knowledge, the priorities and preferences expressed by the public at all levels to be affected by the plan.

A recommended plan must have net national economic development benefits unless the deficiency in net benefits for the national economic development objective is the result of benefits foregone or additional costs incurred to serve the environmental objective. In such cases, a plan with a less than unity benefit-cost balance may be recommended as long as the net deficit does not exceed the benefits foregone and the additional costs incurred for the environmental objective. A Departmental Secretary or head of an independent agency may make an exception to the net benefits rule if he determines that circumstances unique to the plan formulation process warrant such exception.





In addition to the recommended plan with supporting analysis, other significant alternative plans embodying different priorities among the desired objectives would be presented in the planning report. Included with the presentation of alternative plans would be an analysis of the tradeoffs among them. The tradeoffs would be set forth in explicit terms, including the basis for choosing the recommended plan from among the alternative plans.

8. Cost allocation and reimbursement. When necessary to establish reimbursement or cost-sharing policies an allocation of appropriate costs would be made among the objectives and among components of the objectives in such a manner to insure that all objectives and components are treated comparably and receive their fair share of the advantages from an objective plan.

Reimbursement and cost-sharing policies would be directed generally to the end that identifiable beneficiaries bear an equitable share of costs commensurate with benefits received in full cognizance of the objectives. Since existing cost-sharing policies are not entirely consistent with the two objective approach to planning water and land resources, these policies will be reviewed and needed changes will be recommended.

9. The discount rate. The discount rate will be established in accordance with the concept that the Government's investment decisions are related to the cost of Federal borrowing.

The interest rate to be used in plan formulation and evaluation shall be based upon the estimated average cost of Federal borrowing as determined by the Secretary of the Treasury taking into consideration the average yield during the twelve months preceding his determination on interest-bearing marketable securities of the United States with remaining periods to maturity comparable to a 50-year period of investment. The rate shall be raised or lowered by no more than or less than one-half percentage point for any year. When the average cost of Federal borrowing as determined by the Secretary of the Treasury exceeds the established discount rate by more than 0.25 percentage points, the rate shall be raised 0.5 percentage points. When the average cost is less than the established rate by more than 0.25 percentage points, the rate shall be lowered 0.5 percentage points.



The Water Resources Council shall determine, as of July 1, the discount rate to be used during the fiscal year.

The discount rate to be used in plan formulation and evaluation during the remainder of the fiscal year 1974 shall be 6-7/8 percent.

10. National program development. The Council will formulate a national program for Federal and federally assisted water and land resource activities, including a long-range schedule of priorities among plans for projects, States, regions, and river basins.

11. Water and land planning activities covered. The principles and standards would apply to Federal participation with river basin commissions, States, and others in the preparation, formulation, evaluation, review, revision, and transmission to the Congress of plans for States, regions, and river basins; and for planning of Federal and certain federally assisted water and land resource programs and projects as listed in the standards by the Water Resources Council.

## II. EVALUATION

(Environmental Impact, Unavoidable Adverse Environmental Effects, and Irreversible and Irretrievable Commitments of Resources)

The evaluation system and system of public information accounts provide for the full and systematic display of effects, including those which are generally regarded as favorable or beneficial, those which are generally regarded as unfavorable or adverse, and those for which preferences differ and may be considered either beneficial or adverse depending upon the value judgments of those expressing the perference. The effects of an alternative plan on the environmental characteristics of an area under study or elsewhere in the Nation would be evaluated for each alternative plan formulated. Thus, environmental effects would be displayed for each alternative plan whether formulated to achieve optimum contributions to the national economic development objective, or formulated to emphasize contributions to the environmental quality objective. Environmental effects would also be displayed for alternative plans formulated to reflect various levels of

contributions to the national economic development or environmental quality objectives. The display of environmental effects and the effects on the other objectives for all alternative plans formulated would provide information which should facilitate planning decisions and reduce conflict over such decisions.

The principles and standards conform fully with the intent and the spirit of the National Environmental Policy Act of 1969 by providing for full and systematic evaluation and display of environmental effects for all alternative plans.

III. FORMULATION

(Alternatives and the Relationship Between Short-Term Uses of the Environment and Enhancement of Long-Term Productivity)

The explicit consideration of the environmental quality objective in formulating plans for the use of the Nation's water and land resources provides opportunity for consideration of significant enhancement of the quality of the environment. Rather than simply displaying environmental impacts the planning process established in the principles and standards would require that plans be directed to meeting current and projected needs and problems as identified by the desires of people in such a manner that improved contributions are made to society's preferences for national economic development or environmental quality. Impacts on regional development and social well-being are also considered where appropriate. At the outset and throughout the planning process responsible planning organizations would consult appropriate Federal, regional, State, and local groups to ascertain the components of the objectives that are significantly related to the use and management of the water and land resources in the planning setting. The identification of the specific components of objectives to be considered explicitly in plan formulation will necessarily involve an appraisal of future economic, environmental and social conditions expected without the plan as compared with those desired by people for the planning area.

The principles and standards will be applied at all levels of planning as defined by the Water Resources Council. At the broadest level of planning, that is, framework studies and assessments, specification of the components of the environmental quality objective



would be directed toward the alternative choices that should be considered and evaluated in the study responsive to the needs and aspirations of the people. These alternative choices relate to various views of the desires of people in the mix of objectives to be served in planning for the use of the Nation's water and land resources and reflect the alternative parameters and assumptions upon which the planning is based, including but not necessarily limited to alternative assumptions regarding the levels of future economic and population growth and environmental quality.

At the next more detailed level of planning defined by the Water Resources Council, that is, regional or river basin planning, specifications of the components of the environmental quality objective would generally be concerned with alternative courses of action that should be considered and evaluated in planning for the use of water and land resources of an entire region or river basin as this is the level of consideration of alternatives at which the environmental issues and tradeoffs are most likely to be relevant to decisionmaking.

At the most detailed level of planning defined by the Water Resources Council, that is, implementation studies, specification of the components of the environmental quality objective will generally be concerned with groups of interrelated or individual plan elements where environmental issues and tradeoffs are likely to be significant in the decisionmaking process.

The success of water and land resources planning will depend on meaningful participation of interests concerned with each objective at each step in the planning process. Under the principles and standards when the objectives of a framework study or assessment or regional or river basin plan have been identified the study leader responsible for the management of the study will prepare a statement of the specified components of the objectives and the probable effects of the plan on such objectives. A copy of the statement will be sent to the Water Resources Council and to the Council on Environmental Quality as a preliminary report under section 102(2)(C) of the National Environmental Policy Act of 1969. The study manager will submit completed reports of framework studies and assessments and regional or river basin planning studies to the Water Resources Council for review. Copies of such reports shall be furnished to the Council on Environmental Quality.





It is concluded that promulgation of the Principles and Standards for Planning Water and Related Land Resources will further the purposes of the National Environmental Policy Act of 1969.





[FR Doc.73-19217 Filed 9-7-73;8:45 am]

contributions to the national economic development or environmental quality objectives. The display of environmental effects and the effects on the other objectives for all alternative plans formulated would provide information which should facilitate planning decisions and reduce conflict over such decisions.

The principles and standards conform fully with the intent and the spirit of the National Environmental Policy Act of 1969 by providing for full and systematic evaluation and display of environmental effects for all alternative plans.

III. FORMULATION

(Alternatives and the Relationship Between Short-Term Uses of the Environment and Enhancement of Long-Term Productivity)

The explicit consideration of the environmental quality objective in formulating plans for the use of the Nation's water and land resources provides opportunity for consideration of significant enhancement of the quality of the environment. Rather than simply displaying environmental impacts the planning process established in the principles and standards would require that plans be directed to meeting current and projected needs and problems as identified by the desires of people in such a manner that improved contributions are made to society's preferences for national economic development or environmental quality. Impacts on regional development and social well-being are also considered where appropriate. At the outset and throughout the planning process responsible planning organizations would consult appropriate Federal, regional, State, and local groups to ascertain the components of the objectives that are significantly related to the use and management of the water and land resources in the planning setting. The identification of the specific components of objectives to be considered explicitly in plan formulation will necessarily involve an appraisal of future economic, environmental and social conditions expected without the plan as compared with those desired by people for the planning area.

The principles and standards will be applied at all levels of planning as defined by the Water Resources Council. At the broadest level of planning, that is, framework studies and assessments, specification of the components of the environmental quality objective



would be directed toward the alternative choices that should be considered and evaluated in the study responsive to the needs and aspirations of the people. These alternative choices relate to various views of the desires of people in the mix of objectives to be served in planning for the use of the Nation's water and land resources and reflect the alternative parameters and assumptions upon which the planning is based, including but not necessarily limited to alternative assumptions regarding the levels of future economic and population growth and environmental quality.

At the next more detailed level of planning defined by the Water Resources Council, that is, regional or river basin planning, specifications of the components of the environmental quality objective would generally be concerned with alternative courses of action that should be considered and evaluated in planning for the use of water and land resources of an entire region or river basin as this is the level of consideration of alternatives at which the environmental issues and tradeoffs are most likely to be relevant to decisionmaking.

At the most detailed level of planning defined by the Water Resources Council, that is, implementation studies, specification of the components of the environmental quality objective will generally be concerned with groups of interrelated or individual plan elements where environmental issues and tradeoffs are likely to be significant in the decisionmaking process.

The success of water and land resources planning will depend on meaningful participation of interests concerned with each objective at each step in the planning process. Under the principles and standards when the objectives of a framework study or assessment or regional or river basin plan have been identified the study leader responsible for the management of the study will prepare a statement of the specified components of the objectives and the probable effects of the plan on such objectives. A copy of the statement will be sent to the Water Resources Council and to the Council on Environmental Quality as a preliminary report under section 102(2)(C) of the National Environmental Policy Act of 1969. The study manager will submit completed reports of framework studies and assessments and regional or river basin planning studies to the Water Resources Council for review. Copies of such reports shall be furnished to the Council on Environmental Quality.





It is concluded that promulgation of the Principles and Standards for Planning Water and Related Land Resources will further the purposes of the National Environmental Policy Act of 1969.





[FR Doc.73-19217 Filed 9-7-73;8:45 am]





XUM

federal register

MONDAY, SEPTEMBER 10, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 174

PART IV

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Social and Rehabilitation Service

■

# FAMILIES, CHILDREN, AND AGED, BLIND, OR DISABLED INDIVIDUALS

## Service Programs



V 38-174 SEP 10 73 XUM

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Social and Rehabilitation Service

### [ 45 CFR Part 221 ]

### FAMILIES, CHILDREN, AGED, BLIND, OR DISABLED INDIVIDUALS

### Service Programs

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Administrator, Social and Rehabilitation Service, with the approval of the Secretary of Health, Education, and Welfare.

Notice of proposed rulemaking was published in the FEDERAL REGISTER on February 16, 1973 (38 FR 4608).

Final regulations responsive to comments received were published in the FEDERAL REGISTER on May 1, 1973 (38 FR 10782), with an effective date of July 1, 1973. An amendment clarifying several provisions was published on June 1, 1973 (38 FR 14375).

Public Law 93-66 signed by the President on July 9, 1973, postponed the effective date until November 1, 1973. Notice of this postponement was published in the FEDERAL REGISTER on July 25, 1973 (38 FR 19911).

The new proposals would amend the regulations published on May 1, 1973 and June 1, 1973 to:

1. Require States to establish, under the adult services program, a plan for deinstitutionalization and prevention of institutionalization of individuals through the provision of defined services (§ 221.5(a)).

2. Broaden the coverage of potential recipients, consistent with the deduction for work-related expenses enjoyed by recipients, by defining the income limit as $60 plus 150 percent (233 percent in relation to day care) of the payment standard (previously $30) (§ 221.6(a)(3)(i))

3. Permit an additional income disregard for the mentally retarded, with the amount to be established by each State; (§ 211.6(a)(3)(iii))

4. Broaden the coverage (for family planning services) to include any female of childbearing age who meets financial eligibility requirements; (§ 211.6(a)(3)(vii))

5. Allow 6 months (instead of 3) from the effective date of the final regulations for redetermination of eligibility of all current recipients of services; (§ 211.7(b))

6. Remove the cumbersome aspects of the assets test for determination of potential recipients, although States must continue to consider available resources in determining whether families and individuals are likely to become applicants for or recipients of financial assistance within 6 months;

7. Add the goal of strengthening family life (§ 221.8(a)(3)), under which States may provide family planning services; and other services including day care, to prevent child abuse and neglect (§ 211.9(b)(3));

8. Expand the definition of health-related services to encompass those necessary to a program of active treatment for alcoholics and drug addicts; (§ 221.9(b)(9))

9. Expand the definition of legal services to include those required to establish paternity of children born out of wedlock, obtain child support payments, and legally adopt a child; (§ 221.9(b)(14))

10. Add a new defined service, Special services for the mentally retarded; (§ 221.9(b)(19))

11. Provide Federal financial participation for appropriate medical services necessary for active treatment of drug addicts and alcoholics, together with medical treatment required for services to the mentally retarded, provided that any other public and private sources are utilized first. (§ 221.53(i))

12. Incorporate new statutory language concerning Federal sharing in services to children in foster care. (§ 221.55(d)(5))

The proposed regulations do not affect current provisions in Part 220 applicable to the work incentive program (WIN) and to child welfare services (CWS). Amendments to those portions of Part 220 will be published separately.

Prior to the adoption of the proposed regulations, consideration will be given to any comments, suggestions, or objections thereto which are received in writing by the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, D.C. 20201, on or before October 10, 1973. Comments received will be available for public inspection in Room 5224 of the Department's offices at 330 C Street SW., Washington, D.C., on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (area code 202-962-4451).

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).)

(Catalog of Federal Domestic Assistance No. 13754, Public Assistance—Social Services)

Dated September 5, 1973.

JAMES S. DWIGHT, Jr.,
*Administrator, Social and Rehabilitation Service.*

Approved September 5, 1973.

FRANK CARLUCCI,
*Acting Secretary.*

Part 221, Chapter II, Title 45 of the Code of Federal Regulations is amended as set forth below:

1. Section 221.2 is amended to revise paragraph (c) as follows:

**§ 221.2 Organization and administration.**

• • • • •

(c) *Opportunity to present views.*—There must be an opportunity for recipients of services to present their views about the services program. The State may permit such opportunity to be either oral or in writing.

• • • • •

2. Section 221.5 is revised as follows:

**§ 221.5 Statutory requirements for services.**

(a) In order to carry out the statutory requirements under the act with respect to family services and adult services programs, and in order to be eligible for 75 percent Federal financial participation in the costs of providing services, including the determination of eligibility for services, the State must, under the family services program, provide to appropriate members of the AFDC assistance unit the mandatory services and those optional services the State elects to include in the State plan, and must, under the Adult Services program, establish a plan for deinstitutionalization and preventing institutionalization of individuals, and include in the State plan those defined adult services which the State considers necessary to achieve that objective.

(b)(1) For the family services program, the mandatory services are family planning services, foster-care services for children, and protective services for children. The optional services are day-care services for children, educational services, employment services (non-WIN), health-related services, homemaker services, home management and other functional educational services, housing improvement services, legal services, transportation services and special services for the mentally retarded.

(2) For the adult services program, the defined services are chore services, day-care services for adults, educational services, employment services, family planning services, foster-care services for adults, health-related services, home delivered or congregate meals, homemaker services, home management and other functional educational services, housing improvement services, legal services protective services for adults, special services for the blind, transportation services and special services for the mentally retarded.

3. Section 221.6(a)(3) is amended by revising subdivisions (i) and (ii), redesignating subdivisions (iii), (iv), and (v) as (iv), (v), and (vi) and adding new subdivisions (iii) and (vii) as follows:

**§ 221.6 Services to additional families and individuals.**

• • • • •

(a)(3)(i) With respect to title IV-A, have gross monthly income which after deducting $60, (A) does not exceed 150 percent of the State's financial assistance payment standard; or (B) with respect to eligibility for day-care services, does not exceed the maximum allowable under the State's schedule of fees to be paid for such services by otherwise eligible families, as contained in the State's approved plan; or

(ii) With respect to titles I, X, XIV, or XVI, have gross monthly income which does not exceed 150 percent of the combined total of the supplementary security income benefit level provided for under title XVI of the Act (as amended by Public Law 92-603) and the State supplementary benefit level, if any (in the case of Puerto Rico, the Virgin Islands, and Guam, 150 percent of the financial assistance payment standard);

(iii) Notwithstanding the provisions of paragraph (c)(3)(i) and (ii), of this section, with respect to an otherwise eligible mentally retarded individual as defined in paragraph (c)(3)(v) of this section, the State plan shall provide for an additional deduction from gross monthly income in order to recognize the unique financial burden associated with a mentally retarded individual.

(iv) (A) In the case of eligibility under title IV-A, have a specific problem or problems which are susceptible to correction of amelioration through provisions of services and which will lead to dependence on financial assistance under title IV-A within 6 months if not corrected or ameliorated; or

(B) In the case of eligibility under title I, X, XIV, or XVI, have a specific problem or problems which are susceptible to correction or amelioration through provisions of services and which will lead to dependence on financial assistance under such title, or medical assistance, within 6 months if not corrected or ameliorated; and who are

(*1*) At least 64½ years of age for linkage to title I or title XVI with respect to the aged;

(2) Experiencing serious, progressive deterioration of sight that, as substantiated by medical opinion, is likely to reach the level of the State agency's definition of blindness within 6 months, for linkage to title X, or title XVI with respect to the blind; or

(3) According to licensed physician's opinion as approved by the State agency, experiencing a physical or mental condition which is likely to result within 6 months in permanent and total disability, for linkage to title XIV, or title XVI with respect to the disabled.

(v) Notwithstanding the provisions of this subparagraph (3) or § 221.7(b)(1), an eligible mentally retarded individual may for the period July 1, 1973, through December 31, 1973, be considered by the State as eligible for services for so much of such period as the mentally retarded individual continues to meet the eligibility requirements of § 222.55(a)(2) of this chapter, as previously in effect. "Mentally retarded individual" means an individual, not psychotic, who, according to a licensed physician's opinion, is so mentally retarded from infancy or before reaching 18 years of age that he is incapable of managing himself and his affairs independently, with ordinary prudence, or of being taught to do so, and who requires supervision, control, and care, for his own welfare, or for the welfare of others, or for the welfare of the community.

(vi) Notwithstanding the provisions of this subparagraph (3), or § 221.7(b)(1), children of migrant workers may be considered by the State to be eligible for day-care services through December 31, 1973, on the basis of the provisions of part 220 as previously in effect.

(vii) Notwithstanding the provisions of this subparagraph (3), or § 221.8(a), any female of childbearing age who requests family planning services may be considered eligible to receive such services as defined in § 221.9(b)(6)(i); provided such individual has gross monthly income which, after deducting $60, does not exceed 150 percent of the State's financial assistance payment standard under title IV-A for one adult plus one child, or, if she is part of a family unit, then the applicable payment standard for such family unit plus one child.

(4) Aged, blind, or disabled persons who are likely to become applicants for or recipients of financial assistance under the State plan within 8 months as evidenced by the fact that they are currently eligible for medical assistance as medically needy individuals under the State's title XIX plan.

**§ 221.7 [Amended]**

4. Section 221.7(b)(1) is amended by changing the time period from three months to six months.

5. Section 221.8 is amended to add a new paragraph (a)(3) as follows:

**§ 221.8 Program control and coordination.**

(a) • • •

(3) *Strengthening family life goal.*—In the case of all recipients of financial assistance under the family program, to strengthen family life by providing (i) family planning services and (ii) such defined family services in the State plan as are necessary to prevent neglect or abuse of a child who has been identified as likely to become neglected or abused as a result of home conditions which seriously threaten the child physically or emotionally.

• • • • •

6. In § 221.9, paragraphs (b)(3), (b)(9), and (b)(14) are revised and a new paragraph (b)(19) is added as follows:

**§ 221.9 Definitions of services.**

(a) This section contains definitions of all mandatory and optional services under the family services program and the defined services under the adult services program (see §§ 221.5 and 221.6).

(b)(1) *Chore services.*—This means the performance of household tasks, essential shopping, simple household repairs, and other light work necessary to enable an individual to remain in his own home when he is unable to perform such tasks himself and they do not require the services of a trained homemaker or other specialist.

(2) *Day care services for adults.*—This means personal care during the day in a protective setting approved by the State or local agency.

(3) *Day care services for children.*—This means care of a child for a portion of the day, but less than 24 hours, in his own home by a responsible person, or outside his home in a day care facility. Such care must be for the purpose of enabling the caretaker relatives to participate in employment or training, or because of the death, continued absence from the home, or incapacity of the child's mother and the inability of any member of such child's family to provide adequate and necessary care and supervision for such child. Day care may also be provided, when appropriate, for eligible children who are mentally retarded and to other recipients, to the extent necessary to accomplish the strengthening family life goal. In-home care must meet State agency standards, that as a minimum, include requirements with respect to: The responsible person's capacity and available time to properly care for children; minimum and maximum hours to be allowed per 24-hour day for such care; maximum number of children that may be cared for in the home at any one time; and proper feeding and health care of the children. Day care facilities used for the care of children must be licensed by the State or approved as meeting the standards for such licensing and day care facilities and services must comply with such standards as may be prescribed by the Secretary.

(4) *Educational services.*—This means helping individuals to secure educational training most appropriate to their capacities, from available community resources at no cost to the agency.

(5) *Employment services (non-WIN under title IV-A and for the blind or disabled).*—This means enabling appropriate individuals to secured paid employment or training leading to such employment, through vocational, educational, social, and psychological diagnostic accessments to determine potential for job training or employment; and through helping them to obtain vocational education or training at no cost to the agency.

• • • • •

(9) *Health-related services.*—This means helping individuals and families to identify health needs and to secure needed health services available under medicaid, medicare, maternal and child health programs, handicapped children's programs or other agency health services programs and from other public or private agencies or providers of health services; planning, as appropriate, with the individual and health providers to help assure continuity of treatment and carrying out of health recommendations; helping such individual to secure admission to medical institutions and other health related facilities; and providing appropriate medical services necessary to a program of active treatment of individuals who are alcoholics or drug addicts.

(10) *Home delivered or congregate meals.*—This means the preparation and delivery of hot meals to an individual in his home or in a central dining facility as necessary to prevent institutionalization or malnutrition.

(11) *Homemaker services.*—(i) For family services this means care of individuals in their own homes, and helping individual caretaker relatives to achieve adequate household and family management, through the services of a trained and supervised homemaker.

(ii) For adult services this means care of individuals in their own homes, and helping individuals in maintaining,







V38-174 SEP 10 73 XUM

strengthening, and safeguarding their functioning in the home through the services of a trained and supervised homemaker.

(12) *Home management and other functional educational services.*—This means formal or informal instruction and training in management of household budgets, maintenance and care of the home, preparation of food, nutrition, consumer education, childrearing, and health maintenance.

(13) *Housing improvement services.*—This means helping families and individuals to obtain or retain adequate housing. Housing and relocation costs, including construction, renovation or repair, moving of families or individuals, rent, deposits, and home purchase, may not be claimed as service costs.

(14) *Legal services.*—This means the services of a lawyer in solving legal problems of eligible individuals to the extent necessary to obtain or retain employment, establish paternity of children born out of wedlock, secure and collect child support payments and legally adopt a child. This does not apply to district attorneys or other public prosecuting attorneys, and excludes all other legal services, including fee generating cases, criminal cases, class actions, community organization, lobbying, and political action.

(15) *Protective services for adults.*—This means identifying and helping to correct hazardous living conditions or situations of an individual who is unable to protect or care for himself.

(16) *Protective services for children.*—This means responding to instances, and substantiating the evidence, of neglect, abuse, or exploitation of a child; helping parents recognize the causes thereof and strengthening (through arrangement of one or more of the services included in the State plan) parental ability to provide acceptable care; or, if that is not possible, bringing the situation to the attention of appropriate courts or law enforcement agencies, and furnishing relevant data.

(17) *Special services for the blind.*—This means helping to alleviate the handicapping effects of blindness through: Training in mobility, personal care, home management, and communication skills; special aids and appliances; special counseling for caretakers of blind children and adults; and help in securing talking-book machines.

(18) *Transportation services.*—This means transportation necessary to travel to and from community facilities or resources for receipt of mandatory or optional services.

(19) *Special services for the mentally retarded.*—This means helping to alleviate the handicapping effect of mental retardation through: evaluation of the individual through necessary medical and psychological services; counseling with parents or caretaker relatives of the retarded individual; sheltered employment; day care appropriate to the needs of retarded individuals; and special training for self-care.

**§ 221.30 [Amended]**

7. In § 221.30, the date in the second sentence is changed from July 1, 1973 to November 1, 1973.

8. Section 221.52 is amended by redesignating paragraph (n) as (o) and adding a new paragraph (n) to read as follows:

**§ 221.52 Expenditures for which Federal financial participation is available.**

* * * * * *

(n) When providing meals is an integral part of day care services, costs of food when limited to snacks and light meals, and not otherwise available under any public program.

9. Section 221.53(i) is revised as set forth below:

**§ 221.53 Expenditures for which Federal financial participation is not available.**

* * * * *

(i) Medical, mental health, or remedial care or services, except when they are:

(1) Part of the family planning services under title IV–A, including medical services or supplies for family planning purposes or

(2) Medical examinations which are required for admission to child-care facilities or for persons caring for children under agency auspices (but only to the extent not otherwise available from medicaid, medicare, or other public or private sources including insurance or other resources); or

(3) Appropriate medical services necessary to a program of active treatment of indiviluals who are alcoholics or drug addicts (but only to the extent not otherwise available from medicaid, medicare, or other public or private sources including insurance or other resources); or

(4) Appropriate medical or psychological services necessary to evaluation of a mentally retarded individual as provided in § 221.9(b)(19) (but only to the extent not otherwise available from medicaid, medicare, or other public or private sources including insurance or other resources).

* * * * *

10. Section 221.55(d) is revised to read as follows:

**§ 221.55 Limitations on total amount of Federal funds payable to States for services.**

* * * * *

(d) Not more than 10 percent of the Federal funds shall be paid with respect to expenditures in providing services under title IV–A to families or to individuals (eligible for services) who are not recipients of aid or assistance under State plans approved under such titles, or applicants for such aid or assistance, except that this limitation does not apply to the following services provided to eligible persons:

(1) Services provided to meet the needs of a child for personal care, protection, and supervision but only in the case of a child where the provision of such services is necessary in order to enable a member of such child's family to accept or continue in employment or to participate in training to prepare such member for employment, or because of the death, continued absence from home, or incapacity of the child's mother and the inability of any member of such child's family to provide adequate and necessary care and supervision for such child;

(2) Family planning services;

(3) Any services included in the approved State plan that are provided to an individual diagnosed as mentally retarded by a State mental retardation clinic or other agency or organization recognized by the State agency as competent to make such diagnoses, or by a licensed physician, but only if such services are needed for such individual by reason of his condition of being mentally retarded;

(4) Any services included in the approved State plan provided to an individual who has been certified as a drug addict by the director of a drug abuse treatment program licensed by the State, or to an individual who has been diagnosed by a licensed physician as an alcoholic or drug addict, but only if such services are needed by such individual as part of a program of active treatment of his condition as a drug addict or an alcoholic; and

(5) Services provided to a child who is under foster care in a foster family home (as defined in section 408 of the Social Security Act) or in a child-care institution (as defined in such section), or while awaiting placement in such a home or institution, but only if such services are needed by such child because he is under foster care.

[FR Doc.73–19242 Filed 9–7–73;8:45 am]



V 38-174 SEP 10 73 XUM

## Public Papers of the Presidents of the United States

Annual volumes containing the public messages and statements, news conferences, and other selected papers released by the White House.

Volumes for the following years are now available:

### HARRY S. TRUMAN

| | | | |
|---|---|---|---|
| 1945 | $5.50 | 1949 | $6.75 |
| 1946 | $6.00 | 1950 | $7.75 |
| 1947 | $5.25 | 1951 | $6.25 |
| 1948 | $9.75 | 1952–53 | $9.00 |

### DWIGHT D. EISENHOWER

| | | | |
|---|---|---|---|
| 1953 | $6.75 | 1957 | $6.75 |
| 1954 | $7.25 | 1958 | $8.25 |
| 1955 | $6.75 | 1959 | $7.00 |
| 1956 | $7.25 | 1960–61 | $7.75 |

### JOHN F. KENNEDY

| | | | |
|---|---|---|---|
| 1961 | $9.00 | 1962 | $9.00 |
| 1963 | $9.00 | | |

### LYNDON B. JOHNSON

| | | | |
|---|---|---|---|
| 1963–64 (Book I) | $6.75 | 1966 (Book I) | $6.50 |
| 1963–64 (Book II) | $7.00 | 1966 (Book II) | $7.00 |
| 1965 (Book I) | $6.25 | 1967 (Book I) | $8.75 |
| 1965 (Book II) | $6.25 | 1967 (Book II) | $8.00 |
| 1968–69 (Book I) | $10.50 | | |
| 1968–69 (Book II) | $ 9.50 | | |

### RICHARD NIXON

| | | | |
|---|---|---|---|
| 1969 | $14.50 | 1970 | $15.75 |
| 1971 | $15.75 | | |

Published by Office of the Federal Register, National Archives and Records Service, General Services Administration

**Order from Superintendent of Documents, U.S. Government Printing Office Washington, D.C. 20402**


V 38-174
SEP 10 73
XUM

175

federal register

September 11, 1973—Pages 24875–25154

TUESDAY, SEPTEMBER 11, 1973

WASHINGTON, D.C.

Volume 38 ■ Number 175

Pages 24875–25154

PART I

## HIGHLIGHTS OF THIS ISSUE

This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.

**ENLARGEMENT OF THE UPPER MISSISSIPPI RIVER BASIN COMMISSION**—Presidential Executive order ... 24883

**NATIONAL HISPANIC HERITAGE WEEK, 1973**—Presidential proclamation ... 24881

**ECONOMIC STABILIZATION**—CLC issues new food price rules; effective 9–9–73 ... 24885

**NUTRITION PROGRAMS FOR ELDERLY**—HEW postpones application of certain standards; effective 9–11–73 24900

**INERT INGREDIENTS IN PESTICIDES**—EPA proposes exemptions from tolerance requirements; comments by 10–11–73 ... 24918

**CANNED AND FROZEN FOODS**—USDA proposes grade standards for asparagus and red tart pitted cherries (3 documents); comments by 10–31–73 and 11–1–73 respectively ... 24904, 24907, 24910

**CORROSIVE MATERIALS**—DOT proposes amendments to classification and packaging, comments by 11–6–73 24915

**EXTRA LONG STAPLE COTTON**—USDA proposes determinations for 1974 crop; comments by 9–20–73 24911

**NONIMMIGRANT TRANSIENTS**—Justice Department eases restrictions on persons temporarily entering U.S. without visa privilege; effective 9–11–73 ... 24891

**NEW ANIMAL DRUGS**—FDA approves use of hexylcaine hydrochloride injection for mature cattle, horses and dogs; effective 9–11–73 ... 24895

**PART II:**

**MILK ORDERS**—USDA proposes revision of decision on milk classification and pricing for 10 Federal milk marketing orders; comments by 10–15–73 ... 25023

**PART III:**

**TESTING LABORATORIES**—Labor Department issues criteria and procedures for accreditation; effective 10–11–73 ... 25149

(Continued inside)



V 38-175

SEP 11 73

XUM

# REMINDERS

NOTE: There were no items published after October 1, 1972, that are eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

federal register

Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by the Executive Branch of the Federal Government. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $2.50 per month or $25 per year, payable in advance. The charge for individual copies is 20 cents for each issue, or 20 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.





MEETINGS—
Interior: Cape Cod National Seashore Advisory Commission, 9–21–73 ..... 24921
Federal Communications Commission: Panel 3 of the Technical Advisory Committee, 9–26–73 ..... 24925
Civil Rights Commission: Michigan State Advisory Committee, New York State Advisory Committee, Nebraska State Advisory Committee, 9–13–73, 9–18–73, 9–25–73 respectively ..... 24923
Labor: Business Research Advisory Council's Committee on Economic Trends and Labor Conditions, 9–18–73 ..... 29435
Standards Advisory Committee on Noise, 9–24–73 and 9–25–73 ..... 24935
Commerce: Census Advisory Committee on Privacy and Confidentiality, 9–17–73 ..... 24921
Atomic Energy Commission: General Advisory Committee Research Subcommittee, 9–19 and 9–20–73 and 10–8 and 10–9–73 ..... 24937
Advisory Committee on Reactor Safeguards, Subcommittee on D.C. Cook Nuclear Plant, 9–25–73 24937
Subcommittee on Reactor Pressure Vessels, 9–11–73 24938
Cost of Living Council: Health Industry Advisory Committee, 9–17–73 ..... 24924
Health, Education, and Welfare Department: Bioassay Operations, Segment Advisory Group, 9–13 and 9–14–73 ..... 24922
Committee on Cancer Immunobiology, 9–12, 9–13, and 9–14–73 ..... 24922
National Foundation on the Arts and the Humanities: National Council on the Arts, 9–13–73 thru 9–16–73 24936

# Contents

**Executive Order**
Enlargement of the Upper Mississippi River Basin Commission ... 24883

**Proclamation**
National Hispanic Heritage Week, 1973 ..... 24881

## EXECUTIVE AGENCIES

**AGRICULTURAL MARKETING SERVICE**
**Rules and Regulations**
Cherries grown in certain states; change of 10-day free and restricted percentage adjustment and reserve pool release period .. 24890
Lemons grown in California and Arizona; shipment limitations .. 24890
**Proposed Rules**
Almonds grown in California; revision of reporting requirements, and approval to establish, maintain, and use an operating reserve ..... 24911
Milk in Georgia and certain other marketing areas; recommended decision and opportunity to file written exceptions ..... 25023
Olives grown in California; expenses, rate of assessment, and carryover of unexpended funds .. 24910
United States standards for grades:
Canned red tart pitted cherries .. 24904
Frozen asparagus ..... 24910
Frozen red tart pitted cherries .. 24907

**AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE**
**Proposed Rules**
Extra long staple cotton; determinations regarding 1974 crop .... 24911

**AGRICULTURE DEPARTMENT**
*See also* Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Animal and Plant Health Inspection Service.

**ANIMAL AND PLANT HEALTH INSPECTION SERVICE**
**Rules and Regulations**
Countries declared to be free of Rinderpest, Foot-and-mouth disease and Swine vesicular disease ..... 24891

**ASSISTANT SECRETARY FOR HOUSING PRODUCTION AND MORTGAGE CREDIT OFFICE**
**Rules and Regulations**
Interest rate; increase; correction ..... 24896

**ATOMIC ENERGY COMMISSION**
**Notices**
Consolidated Edison Company of New York, Inc.; order reconvening hearing and reopening record ..... 24937
General Advisory Committee Research Subcommittee; meetings ..... 24937
Licensed facilities; memorandum of understanding ..... 24936
Meetings; Advisory Committee on Reactor Safeguards:
Subcommittee on D.C. Cook Nuclear Plant, Units 1 & 2 .. 24937
Subcommittee on Reactor Pressure Vessels ..... 24938
Northern States Power Co.; evidentiary hearing ..... 24937
Uranium Enrichment Services; agreements ..... 24937

**CIVIL AERONAUTICS BOARD**
**Rules and Regulations**
Dismissal of application following denial of motion for expedited hearing or for order showing cause ..... 24894
Refund of fee following dismissal of application after denial of motion for expedited hearing or for order showing cause ..... 24895
**Notices**
*Hearings, etc.:*
Air Freight Forwarders' Charters Investigation ..... 24922
Kuoni Travel Ltd., and Kuoni Travel, Inc ..... 24922
Liability and claim rules and practices investigation ..... 24923
Starline Aviation Ltd.; correction ..... 24923

**CIVIL RIGHTS COMMISSION**
**Notices**
Agenda and open meetings:
Michigan State Advisory Committee ..... 24923
Nebraska State Advisory Committee ..... 24923
New York State Advisory Committee ..... 24923

**CIVIL SERVICE COMMISSION**
**Rules and Regulations**
Excepted service:
Commerce Department ..... 24885
Health, Education, and Welfare Department ..... 24885
Selective Service System ..... 24885
Transportation Department ..... 24885
Treasury Department ..... 24885

**COAST GUARD**
**Rules and Regulations**
Gravesend Bay, New York; termination of security zone ..... 24898
**Proposed Rules**
Drawbridge operation regulations:
Alabama River, Ala ..... 24913
Ashepoo River, S.C ..... 24913
Corte Madera Creek, Cal ..... 24914
Rahway River, N.J ..... 24912
Red River, La. and Ark ..... 24913

**COMMERCE DEPARTMENT**
*See* Maritime Administration; Social and Economic Statistics Administration.

*(Continued on next page)*



V 38-175 SEP 11 73 XUM

CONSUMER PRODUCT SAFETY COMMISSION
Notices
Flammable Fabrics Act; institution of enforcement policy ..... 24923

COST OF LIVING COUNCIL
Rules and Regulations
Food industry ..... 24885
Proposed Rules
Rubber tire, paper, and soap and detergent price increases; public hearings ..... 24917
Notices
Health Industry Advisory Committee; meeting ..... 24924

EDUCATION OFFICE
Notices
Nationally recognized accrediting agencies and associations; list ... 24921

ENGRAVING AND PRINTING BUREAU
Rules and Regulations
Regulations governing conduct on building's grounds and Printing Annex building and grounds ... 24898

ENVIRONMENTAL PROTECTION AGENCY
Proposed Rules
Certain inert ingredients in pesticide formulations; exemptions from tolerance requirements ... 24918

FEDERAL AVIATION ADMINISTRATION
Rules and Regulations
General operating and flight rules; ATC transponder requirements; correction ..... 24893
IFR altitudes; miscellaneous amendments ..... 24893
Transition area:
Alteration (2 documents) ..... 24892
Designation ..... 24892
Proposed Rules
Transition area; designation ..... 24914

FEDERAL COMMUNICATIONS COMMISSION
Rules and Regulations
International Fixed Public Radio Communication Services; correction ..... 24901
Office of the Executive Director; organizational change ..... 24900
Radiolocation equipment authorized after January 1, 1973; type acceptance requirement ..... 24901
Vicinity of the Boulder, Colorado, Solar Observatory; special coordination requirements ..... 24901
Proposed Rules
MTS and WATS; new or revised classes; extension of time for filing comments ..... 24920
Notices
All amateur repeater stations; applications ..... 24924
Belo Broadcasting Corp. and WADECO, Inc.; renewal of broadcast license and construction permit ..... 24924
Panel 3 (Receivers) of the Technical Advisory Committee; meeting scheduled ..... 24925

FEDERAL MARITIME COMMISSION
Notices
Agreement filed:
American West African Freight Conference ..... 24925
City of Saint Louis and Saint Louis Terminals Corp ..... 24926
City of Memphis, et al ..... 24925

FEDERAL POWER COMMISSION
Notices
*Hearings, etc:*
Arkansas Louisiana Gas Co ..... 24926
Consolidated Edison Company of New York, Inc ..... 24927
David D. Read and E. P. Munson, Jr ..... 24927
Duke Power Co ..... 24927
Exxon Corp., et al ..... 24927
Florida Power & Light Co ..... 24927
Gerald P. Maloney, et al ..... 24928
Great Lakes Gas Transmission Co ..... 24928
J. S. Abercrombie Mineral Company, Inc., et al ..... 24928
Laclede Gas Co ..... 24928
Northern States Power Co ..... 24929
Pennzoil Producing Co. and Midwest Oil Corp ..... 24929
United Gas Pipe Line Co ..... 24929
Vanderbilt Resources Corp (2 documents) ..... 24929, 24930
Virginia Electric and Power Co. (2 documents) ..... 24930
Wisconsin Power and Light Co ..... 24931

FEDERAL RESERVE SYSTEM
Notices
Acquisition of bank:
D. H. Baldwin Co ..... 24933
Inland Financial Corp., & Jacobus Co ..... 24934
Cegrove Corp.; order denying acquisition of bank ..... 24931
Citizens and Southern Holding Company, Inc.; entry *de novo* in nonbanking activities ..... 24932
First Virginia Bankshares Corp.; proposed acquisition of Robert G. Gilkinson, Inc ..... 24933
Greenwood's Bancorporation, Inc.; formation of bank holding Co ..... 24934
Multibank Financial Corp.; order approving acquisition of bank ... 24934
U.S. Bancorp; proposed retention of Commerce Mortgage Co ..... 24935

FOOD AND DRUG ADMINISTRATION
Rules and Regulations
Hexylcaine hydrochloride injection; revised labeling for safe and effective use as an anesthetic in mature cattle, in horses, and in dogs ..... 24895

HAZARDOUS MATERIALS REGULATIONS BOARD
Proposed Rules
Corrosive materials; classification and packaging ..... 24915
Notices
Special permits issued or denied ... 24922

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
*See also* Education Office; Food and Drug Administration.
Rules and Regulations
Nutrition Program for the Elderly; postponement of application of certain standards ..... 24900

IMMIGRATION AND NATURALIZATION SERVICE
Rules and Regulations
Nonimmigrants; transits ..... 24891

INTERIOR DEPARTMENT
*See* National Park Service.

INTERSTATE COMMERCE COMMISSION
Rules and Regulations
Abandonment of railroad lines; special procedures; correction ... 24902
Car Service; Northwestern Oklahoma Railroad Co ..... 24902
Securities; expanded definition of term; correction ..... 24903
Notices
Assignments of hearings ..... 24938
Atchison, Topeka and Santa Fe Railway Co., et al.; exemption under provision of mandatory car service rule ..... 24939
Motor carrier:
Board transfer proceedings ..... 24942
Temporary authority applications ..... 24399
Rerouting or diversion of traffic:
Ann Arbor Railroad Co ..... 24938
Green Mountain Railroad Corp. 24939
Penn Central Transportation Co. ..... 24942
St. Johnsbury & Lamoille County Railroad ..... 24942

JUSTICE DEPARTMENT
*See* Immigration and Naturalization Service.

LABOR DEPARTMENT
*See* Labor Statistics Bureau; Occupational Safety and Health Administration.

LABOR STATISTICS BUREAU
Notices
Business Research Advisory Council's Committee on Economic Trends and Labor Conditions; meeting ..... 24935

MARITIME ADMINISTRATION
Notices
Tanker Construction Program; issuance of order regarding requirements of National Environmental Policy Act ..... 24921

MONETARY OFFICE
Rules and Regulations
Regulations governing conduct in or on Mint Bureau buildings and grounds ..... 24897

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES
Notices
National Council on the Arts, meeting ..... 24936







NATIONAL INSTITUTES OF HEALTH
Notices
Meetings:
Bioassay Operations Segment Advisory Group ..... 24922
Committee on Cancer Immunobiology ..... 24922

NATIONAL PARK SERVICE
Proposed Rules
Blue Ridge Parkway, North Carolina and Virginia; parking and crossing permits for hunters ... 24912
Notices
Cape Cod National Seashore Advisory Committee; meeting ..... 24921

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION
Rules and Regulations
Testing laboratories; criteria and procedures for accreditation ... 25149
Virgin Islands Plan; approval ..... 24896
Notices
Standards Advisory Committee on Noise; meeting ..... 24935

POSTAL RATE COMMISSION
Rules and Regulations
Ex parte communications; hearing procedures ..... 24898

SMALL BUSINESS ADMINISTRATION
Notices
Indiana; declaration of disaster loan area ..... 24935

SOCIAL AND ECONOMIC STATISTICS ADMINISTRATION
Notices
Census Advisory Committee on Privacy and Confidentiality; public meeting ..... 24921

TRANSPORTATION DEPARTMENT
*See also* Coast Guard; Federal Aviation Administration; Hazardous Materials Regulations Board.
Rules and Regulations
Commandant of the Coast Guard; delegation of authority; correction (2 documents) ..... 24901, 24902

TREASURY DEPARTMENT
*See* Engraving and Printing Bureau; Monetary Office.


# List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month. In the last issue of the month the cumulative list will appear at the end of the issue.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1973, and specifies how they are affected.

**3 CFR**
PROCLAMATIONS:
4241 ..... 24881
EXECUTIVE ORDERS:
11359 (superseded by 11737) ..... 24883
11635 (superseded by 11737) ..... 24883
11659 (amended by 11737) ..... 24883
11737 ..... 24883

**5 CFR**
213 (5 documents) ..... 24885

**6 CFR**
150 ..... 24885
155 ..... 24885
PROPOSED RULES:
Chapter I ..... 24917

**7 CFR**
910 ..... 24890
930 ..... 24890
1007 ..... 25024
1071 ..... 25024
1073 ..... 25024
1090 ..... 25024
1094 ..... 25024
1096 ..... 25024
1097 ..... 25024
1098 ..... 25024
1102 ..... 25024
1108 ..... 25024
PROPOSED RULES:
52 (3 documents) ..... 24904, 24907, 24910
722 ..... 24911
932 ..... 24910
981 ..... 24911

**8 CFR**
214 ..... 24891
238 ..... 24891

**9 CFR**
94 ..... 24891

**14 CFR**
71 (3 documents) ..... 24892
91 ..... 24893
95 ..... 24893
302 ..... 24894
389 ..... 24895
PROPOSED RULES:
71 ..... 24914

**21 CFR**
135b ..... 24895

**24 CFR**
205 ..... 24896
244 ..... 24896

**29 CFR**
1907 ..... 25150
1952 ..... 24896

**31 CFR**
91 ..... 24897
605 ..... 24898

**33 CFR**
127 ..... 24898
PROPOSED RULES:
117 (5 documents) ..... 24912–24914

**36 CFR**
PROPOSED RULES:
7 ..... 24912

**39 CFR**
3000 ..... 24898
3001 ..... 24898

**40 CFR**
PROPOSED RULES:
180 ..... 24918

**45 CFR**
909 ..... 24900

**47 CFR**
0 ..... 24900
2 ..... 24901
23 ..... 24901
89 ..... 24901
93 ..... 24901
PROPOSED RULES:
61 ..... 24920

**49 CFR**
1 (2 documents) ..... 24901
1033 ..... 24902
1115 ..... 24903
1121 ..... 24902
PROPOSED RULES:
172 ..... 24915
173 ..... 24915



V 38 - 175
SEP 11 73
XUM

# Presidential Documents

## Title 3—The President

PROCLAMATION 4241

## National Hispanic Heritage Week, 1973

*By the President of the United States of America*

### A Proclamation

As America's bicentennial celebration draws near, it is particularly fitting that we pay tribute to the different ethnic groups that have worked together to build our Nation. Americans of Hispanic origin have played an instrumental role in our country's history since the days when America was first opened by European explorers, and the lives of all Americans have been enriched by the lasting and diverse contributions of Hispanic culture.

In the fields as varied as music, architecture, language, education, politics, medicine, literature, industry and religion, Hispanic Americans have contributed wisdom, beauty and spiritual strength. American life today would be infinitely poorer without these contributions. With them, Americans continue to work toward the realization of a dream that is as old as the earliest Spanish explorers—the dream of a new world on a new Continent—a world in which men can reach new heights of freedom and achievement.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby proclaim the week beginning September 10, 1973, and ending September 16, 1973, as National Hispanic Heritage Week. I call upon all Americans, particularly those in the field of education, to observe that week with appropriate ceremonies and activities, and I urge all Americans to extend a cordial welcome to the recently arrived immigrants and visitors among us who represent the rich heritage of Hispanic lands.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of September, in the year of our Lord nineteen hundred seventy-three, and of the Independence of the United States of America the one hundred ninety-eighth.

Richard Nixon

[FR Doc.73-19370 Filed 9-7-73;2:39 pm]



V 38 175 SEP 11 73 XUM

# EXECUTIVE ORDER 11737

## Enlargement of the Upper Mississippi River Basin Commission

The Governors of the member States of the Upper Mississippi River Basin Commission and of the Souris-Red-Rainy River Basins Commission, together with the Water Resources Council, have requested, or concurred in, the enlargement of the Upper Mississippi River Basin Commission to include those portions of the States of Minnesota and North Dakota that are drained by the Souris-Red-Rainy Rivers system. The Souris-Red-Rainy River Basins Commission terminated on June 30, 1973, by operation of Section 7 of Executive Order No. 11359 of June 20, 1967, as amended. I have determined that it would be in the public interest to comply with the above request.

NOW, THEREFORE, by virtue of the authority vested in me by Section 201 of the Water Resources Planning Act (42 U.S.C. 1962b), and as President of the United States, it is ordered as follows:

SECTION 1. Executive Order No. 11659 of March 22, 1972, is hereby amended as follows:

(1) Section 2 is amended to read as follows:

"SEC. 2. *Jurisdiction of the Commission.* It is hereby determined that the jurisdiction of the Upper Mississippi River Basin Commission referred to in Section 1 of this order shall extend to those portions of the States of Illinois, Iowa, Minnesota, Missouri, Wisconsin, and North Dakota that are located within the Upper Mississippi, Souris, Red, or Rainy River drainage basins. The Upper Mississippi River drainage basin is defined as the drainage basin of the Mississippi River above the mouth of the Ohio River, excluding the drainage basin of the Missouri River above a point immediately below the mouth of the Gasconade River."

(2) Section 3(3) is amended to read as follows:

"(3) one member from each of the following States: Illinois, Iowa, Minnesota, Missouri, Wisconsin, and North Dakota,".

(3) Section 5 is amended to read as follows:

"SEC. 5 *Consultation with Adjoining States.* The Commission is expected to provide for procedures for consultation with the States of Indiana, Michigan, South Dakota, and Montana on any matter which might affect the water and related land resources of the headwater drainages of the Mississippi River Basin or the drainages of the Souris, Red, or Rainy River Basins in those States and to give notice to those States of meetings of the Commission."

(4) Section 6 is hereby redesignated as Section 7 and a new Section 6 is hereby inserted immediately after Section 5 as follows:

"SEC. 6 *International Coordination.* The Chairman of the Commission is hereby authorized and directed to refer to the Council any matters under consideration by the Commission which relate to areas of interest or jurisdiction of the International Joint Commission, United



V 38-175 SEP 11 73 XUM

States and Canada. The Council shall consult on these matters as appropriate with the Department of State and the International Joint Commission through its United States Section for the purpose of enhancing international coordination."

SEC. 2. All funds, property, records, employees, assets, and obligations of the Souris-Red-Rainy River Basins Commission are, with the concurrence of Governors of the affected States, transferred to the Upper Mississippi River Basin Commission, effective as of July 1, 1973.

SEC. 3. Executive Order No. 11359 of June 20, 1967, and Executive Order No. 11635 of December 9, 1971, are hereby superseded.

Richard Nixon

THE WHITE HOUSE,
*September 7, 1973.*

[FR Doc.73-19387 Filed 9-7-73;3:46 pm]





# Rules and Regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

**Title 5—Administrative Personnel**

**CHAPTER I—CIVIL SERVICE COMMISSION**

**PART 213—EXCEPTED SERVICE**

**Treasury Department**

Section 213.3305 is amended to show that one position of Staff Assistant to the Secretary and one position of Secretary to the Deputy Under Secretary are excepted under Schedule C.

Effective on September 11, 1973, §§ 213.3305(a) (47) and (48) are added as set out below.

**§ 213.3305 Treasury Department.**

(a) *Office of the Secretary.* • • •

(47) One Staff Assistant to the Secretary.

(48) One Secretary to the Deputy Under Secretary.

• • • • • •

((5 U.S.C. secs. 3301, 3302) E.O. 10577, 3 CFR 1954–58 Comp. p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73-19288 Filed 9-10-73;8:45 am]

**PART 213—EXCEPTED SERVICE**

**Department of Commerce**

Section 213.3314 is amended to show that one position of Private Secretary to the Assistant Secretary for Science and Technology is excepted under Schedule C.

Effective on September 11, 1973, § 213.3314(n)(3) is added as set out below.

**§ 213.3314 Department of Commerce.**

• • • • • •

(n) *Office of the Assistant Secretary for Science and Technology.* • • •

(3) One Private Secretary to the Assistant Secretary.

• • • • • •

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954–58 Comp. p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73-19285 Filed 9-10-73;8:45 am]

**PART 213—EXCEPTED SERVICE**

**Department of Health, Education, and Welfare**

Section 213.3316 is amended to show that one position of Commissioner, Youth Development, and one additional position of Special Assistant to the Deputy Assistant Secretary for Congressional Liaison are excepted under Schedule C.

Effective on September 11, 1973, § 213.3316(a)(31) is added and § 213.3316(f)(10) is amended as set out below.

**§ 213.3316 Department of Health, Education, and Welfare.**

(a) *Office of the Secretary.* • • •

(31) Commissioner, Youth Development.

• • • • • •

(f) *Office of the Assistant Secretary for Legislation.* • • •

(10) Four Special Assistants to the Deputy Assistant Secretary for Congressional Liaison.

• • • • • •

((5 U.S.C. secs. 3301, 3302) E.O. 10577, 3 CFR 1954–58 Comp. p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73-19284 Filed 9-10-73;8:45 am]

**PART 213—EXCEPTED SERVICE**

**Selective Service System**

Section 213.3346 is amended to show that one position of Legislation and Liaison Officer is excepted under Schedule C.

Effective on September 11, 1973, § 213.3346(h) is added as set out below.

**§ 213.3346 Selective Service System.**

• • • • • •

(h) One Legislation and Liaison Officer.

((5 U.S.C. secs. 3301, 3302) E.O. 10577, 3 CFR 1954–58 Comp. p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73-19286 Filed 9-10-73;8:45 am]

**PART 213—EXCEPTED SERVICE**

**Department of Transportation**

Section 213.3394 is amended to show that one additional position of Special Assistant to the Under Secretary is excepted under Schedule C.

Effective on September 11, 1973, § 213.3394(a)(11) is amended as set out below.

**§ 213.3394 Department of Transportation.**

(a) *Office of the Secretary.* • • •

(11) Three Special Assistants to the Under Secretary.

• • • • • •

((5 U.S.C. secs. 3301, 3302) E.O. 10577, 3 CFR 1954–58 Comp. p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73-19287 Filed 9-10-73;8:45 am]

**Title 6—Economic Stabilization**

**CHAPTER I—COST OF LIVING COUNCIL**

**PART 150—COST OF LIVING COUNCIL PHASE IV PRICE REGULATIONS**

**PART 155—PHASE IV PRICE PROCEDURES**

**Food Industry**

*Introduction.*—The purpose of this amendment to Part 150 of the Cost of Living Council Regulations is to add Subpart Q (Stage B for food). On August 22, 1973, the Council issued a Notice of Proposed Rulemaking, 38 FR 22797 (August 24, 1973) setting out the proposed regulations for Subpart Q and inviting interested persons to submit written data, views, or arguments.

The Council stated in the Notice of Proposed Rulemaking that all comments received before noon, September 4, 1973, would be considered by the Council before taking action on the proposed regulations. One hundred and forty-six comments were received before noon on September 4, 1973.

These comments were reviewed by specialists in the Council's Office of Food, the General Counsel's Office and by other staff members. Policy issues raised through these comments were discussed in a series of meetings of the Council's senior staff and, as a result, the final regulations contain a number of changes in the proposed regulations that were published on August 22.

*General.*—The largest number of comments related to (1) the formula for the gross margin rule applicable to food manufacturers and (2) the requirement of monthly compliance periods under that rule. As a result of the number of questions raised concerning the complexity of that formula, the Council has adopted a simplified formula which should substantially ease the burden on food manufacturing firms in complying with the food regulations.



V 38-175 SEP 11 73 XUM

In addition, the Council has changed the period for compliance with the gross margin rule from the accounting month to the fiscal quarter. These changes are discussed in more detail below in the section of the preamble dealing with food manufacturing.

The Council has made three clarifications and changes which are of general interest to food manufacturers, food service organizations, food wholesalers and food retailers.

First, the effective date of the new Subpart Q regulations has been moved back from 11:59 p.m., e.s.t., September 11, to 11:59 p.m., e.s.t., September 9, 1973. This means that the freeze on beef prices and the Stage A food regulations will end on the weekend rather than during the middle of the week, thereby easing the final transition of the food industry into Phase IV.

Second, the final Stage B regulations state that the profit margin test will be applied to the food industry whether or not prices are raised above the adjusted freeze price, the base price, or other authorized price. In view of the fact that the food industry has essentially remained under Phase II price controls since the beginning of Phase II, and in view of the substantial increase in price levels in the food industry since that time, virtually all food firms have long been subject to the profit margin limitation. The final Subpart Q food regulations therefore eliminate the rule, otherwise applicable, that the profit margin limitation does not apply unless a price is charged above a certain level.

Third, a similar approach has been taken with respect to the gross margin rule, applicable to food manufacturers only. The gross margin pricing rules apply upon the effective date of Subpart Q without regard to whether prices are raised above the adjusted freeze price level or any other level. This will assure that the present high level of food prices will be reduced when and to the extent that current high costs for food raw materials decline.

*Food wholesaling and retailing.*—Section 150.604, applicable to food wholesaling and retailing, has been changed to permit firms engaged in food retailing to treat as one merchandise category the entire food retailing operation at the price entity level. The single category rule, which was available to food retailers in Phase III, permits cost increases to be spread over a wider base of items thereby softening the potential price impact of cost increases in individual products.

In addition, the rule which permits food retailing firms which derive 75 percent or more of annual sales and revenues from retail food sales to select one of two fiscal years for the pricing base period has been amended to make it clear that the 75 percent rule applies to the pricing entity rather than the entire firm.

*Food service activities.*—Section 150.605 remains unchanged except with respect to the clarification concerning the profit margin limitation discussed above.

*Food manufacturing.*—The formula presented in the proposed Subpart Q regulations which determines the total permissible revenues for a product line in the control period was considered by many firms to be unnecessarily complicated and difficult to understand. That formula was stated as follows:

$$R=(B\times V)\ (C+100\%)+M+(P\times V)$$

This formula appears in the final regulation as:

$$R_2=R_1\times\frac{V_2}{V_1}\times(C+100\%)$$

The symbol $R_2$ stands for total permissible sales revenues in the current fiscal quarter, and $R_1$ stands for total sales revenues during the base period. Similarly, "V" stands for the volume of food raw material units and the subcharacter "2" indicates the current fiscal quarter and subcharacter "1" indicates the base period. "C" stands for net increase in allowable costs since the base cost period and is the percentage figure taken from line 12 of Schedule C to CLC 22. The "C" in this formula includes increases in both food raw material costs and other costs.

It can be seen from this formula that total sales revenues in the current fiscal quarter may not exceed an amount equal to the revenue in the base period, adjusted by the ratio that the volume in the current fiscal quarter bears to the base period volume, and multiplied by the net increase in total allowable costs since the base cost period. The chief advantages of this formula are that (1) all cost increases are taken from Schedule C of the CLC–22 without adjustment and (2) unfamiliar terms such as conversion costs, operating profit and base period gross margin rates are avoided.

The distinguishing characteristic of the formula is that it provides the means whereby prices are controlled on the basis of total permissible revenues for the product line concerned during a fiscal quarter and not on the basis of authorized prices for individual items. While this characteristic was present in the formula set forth in the proposed regulations, that formula made a fundamental distinction between food raw material costs in the base period and the gross margin (revenues less costs) in the base period. This distinction is not employed in the final formula.

The period for application of the "gross margin" rule has been changed from the current month to the current fiscal quarter. However, monthly reports are still required and the Council may take action to prohibit price increases or to reduce prices if the monthly reports indicate that revenues are at a rate which, when projected for the fiscal quarter, indicate that the firm will realize revenues in excess of those permitted. A further change permits the Council to take into account temporary unforeseen changes in product mix in determining whether a firm is in violation of the pricing rules. However, the regulations do not permit a firm to "make up" the revenue overage in the next quarter.

In order to permit effective operation of the new formula, the closest ending date of the base period for food manufacturing activities other than meat manufacturing has been moved back from September 12 to May 11, 1973 (coterminous with the closest ending date for the base period for meat manufacturers). The base period with respect to food manufacturing activities other than meat manufacturing remains any four consecutive fiscal quarters of the eight fiscal quarters permitted. A provision has been added to make it clear that only one base period may be used for food manufacturing activities other than meat manufacturing.

*Miscellaneous.* — Several technical changes have been made in various parts of the preexisting Phase IV regulations in order to accommodate the inclusion of Subpart Q. Among these changes are (1) an amendment to § 150.201(e) which makes it clear that the loss and low profit rules are available to food firms, and (2) the addition of several food merchandise categories to the Appendix to Subpart K.

In consideration of the foregoing, Title 6, Code of Federal Regulations is amended as set forth below.

(Economic Stabilization Act of 1970, as amended, Pub. L. 92–210, 85 Stat. 743; Pub. L. 93–28, 87 Stat. 27; E.O. 11695, 38 FR 1473; E.O. 11730, 38 FR 19345; Cost of Living Council Order No. 14; 38 FR 1489.)

Issued in Washington, D.C., on September 7, 1973.

JAMES W. MCLANE,
*Deputy Director,*
*Cost of Living Council.*

A. Part 150 of Title 6 of the Code of Federal Regulations is amended as follows:

1. A new Subpart Q is added as follows:

**Subpart Q—Food Industry**

Sec.
150.601 Purpose and scope.
150.602 Applicability.
150.603 Definitions.
150.604 Food wholesaling and retailing.
150.605 Food service activities.
150.606 Food manufacturing: Price rules.
150.607 Regulated milk and milk products rules.
150.608 Regulated milk and milk products.
150.609 Marketing cooperatives and market risk-sharing transactions.

AUTHORITY.—Economic Stabilization Act of 1970, as amended, Pub. L. 92–210, 85 Stat. 743; Pub. L. 93–28, 87 Stat. 27; E.O. 11695, 38 FR 1473; E.O. 11730, 38 FR 19345; Cost of Living Council Order No. 14; 38 FR 1489.

**Subpart Q—Food Industry**

**§ 150.601 Purpose and scope.**

This subpart provides the "Stage B" price rules whereby the food industry completes the transition from Phase III to Phase IV of the Economic Stabilization Program. This subpart supersedes Subparts F and M of Part 130 and Subpart I of Part 140 of this title effective 11:59 p.m., e.s.t., September 9, 1973.





**§ 150.602 Applicability.**

This subpart applies to all firms engaged in food manufacturing, food service activities, food wholesaling and food retailing.

**§ 150.603 Definitions.**

For purposes of this subpart—

"Base period" means:

(a) with respect to the slaughtering and processing of livestock or the manufacturing of meat products, any four consecutive fiscal quarters, at the option of the firm concerned, which began after May 25, 1970, and which ended prior to May 11, 1973; and

(b) with respect to all other food manufacturing activities, any four consecutive fiscal quarters, at the option of the firm concerned, of the eight fiscal quarters which ended prior to May 11, 1973. Only one base period may be selected with respect to these activities.

"Effective date of this subpart" means 11:59 p.m., e.s.t., September 9, 1973.

"Food" means (a) items which are produced or manufactured for human or animal ingestion except alcoholic beverages, tobacco products, or drugs, and

(b) other items which are required pursuant to § 150.606(b) to be treated as food for purposes of this subpart.

"Food manufacturing" means the trade or business of preparing, processing, making or fabricating a food item by manual labor or machinery for sale and includes the slaughtering and processing of livestock. It does not include the preparing, processing, making or fabricating of food items when those activities (a) are undertaken by a firm engaged in food wholesaling or food retailing, or both, and (b) are within the scope of or are incidental to that firm's food wholesaling or food retailing activities subject to Subpart K of this part.

"Food raw material" means, in the form in which they are received, raw, semi-processed or processed agricultural and marine products, including crops, livestock, poultry and catch from fresh water and the sea, and other edible products such as flavorings, preservatives and additives, which are incorporated into the food item concerned.

"Food raw material costs" means the dollar amount, calculated in accordance with the customary accounting practice of the firm with respect to the product line concerned, derived from adding the total cost of inventory of food raw material on the first day of the period concerned and the total cost of food raw material purchase, grown or caught during that period, and subtracting from that sum the total cost of food raw material remaining in inventory on the first day after the period concerned. Total cost of food raw material in inventory includes the cost of food raw material in semi-processed goods and finished goods in inventory on the day concerned.

"Food or food raw material units" means, at the option of the firm concerned and calculated in accordance with its customary accounting practices, either:

(a) the total units of food raw material in inventory on the first day of the period concerned, plus the total units of food raw material purchased during the period concerned, less the total units of food raw material remaining in inventory on the first day after the period concerned (input basis); or

(b) the total units of food sold during the period concerned (output basis).

"Meat" means meat as defined in § 130.123 of this title.

"Total sales revenues" means the aggregate revenue from the sale of food.

**§ 150.604 Food wholesaling and retailing.**

(a) *General rule.*—Except as provided in paragraph (b) of this section, Subpart K of this part applies to the wholesaling and retailing activities of firms subject to this subpart.

(b) Subpart K Modifications—

(1) A pricing entity of a firm engaged in food retailing, which derives 75 percent or more of its annual sales or revenues from retail food sales may, at its option, use as a pricing base period either one of the last two fiscal years which ended prior to February 5, 1973, or the most recent four consecutive fiscal quarters ending before February 5, 1973, and may apply the pricing base period chosen to both its food and nonfood retail activities.

(2) A firm engaged in food retailing may treat as one merchandise category the entire food retailing operation at the pricing entity level.

(3) The general price control rules set forth in § 150.304 including the profit margin limitation, apply to firms engaged in food wholesaling or food retailing, or both, upon the effective date of this subpart without regard to whether that firm increases the price of any item above the adjusted freeze price of that item. No price may be increased until the merchandise pricing plan required by §§ 150.306(a) or 150.310 has been submitted or completed, as the case may be.

**§ 150.605 Food service activities.**

(a) *General Rule.*—Except as provided in paragraph (b) of this section, Subpart E of this part applies to the food service activities of firms subject to this subpart.

(b) *Subpart E Modifications.*—The price rules applicable to food service activities, including the profit margin limitation, apply upon the effective date of this subpart to a firm engaged in food service activities without regard to whether that firm increases the price of any item above the adjusted freeze price of that item, the base price of that item or any other price authorized under this title.

(c) *Prenotification.*—Section 150.151 does not apply with respect to the food service activities of firms subject to this subpart.

**§ 150.606 Food manufacturing: Price rules.**

(a) *Purpose and Scope.*—The purpose of this section is to apply to food manufacturing activities, on a product line basis, a gross margin rule similar to that previously applicable only to firms engaged in the slaughtering and processing of livestock or the manufacturing of meat items. Except as provided in paragraph (b) of this section, the gross margin rule is applicable with respect to all food manufacturing activities. Under the gross margin rule, prices are controlled on the basis of total permissible revenues for the product line concerned during a fiscal quarter and not on the basis of authorized prices for individual items. Increases and decreases in food raw material costs (costs which generally fluctuate significantly) can be passed through on a dollar-for-dollar basis without prenotification and without "volatile" pricing authorization. Increases and decreases in costs other than food raw material costs may also be passed through on a dollar-for-dollar basis (subject to prenotification) in accordance with Subparts E, F, G and H of this part as modified by § 150.607.

(b) *Applicability.*—This section applies to the food manufacturing activities of all firms, except that a firm which both derives less than 20 percent of its annual sales or revenues from food manufacturing and less than $50 million of annual sales or revenues from food manufacturing may elect to price with respect to its food manufacturing activities in accordance with this section or in accordance with Subpart E of this part. A firm engaged in food manufacturing which also produces byproducts, coproducts, products, joint products, or waste products of food raw materials which are produced for industrial use or in alcoholic beverages, tobacco products or drugs (such as leather, tallow, industrial oils or malt) shall treat those byproducts as food items for purposes of this section. This section applies on the effective date of this subpart whether or not a firm subject to this section charges a price for any item in excess of the adjusted freeze price for that item.

(c) *Price Rules.*—(1) Except as provided in paragraph (c)(2) of this section and in paragraph (e)(2) of this section, any price may be charged with respect to any item in a product line as long as total sales revenues for that product line for any fiscal quarter ending after the effective date of this section do not exceed the amount derived by (i) multiplying the total sales revenues in the base period for that product line by the ratio that the volume of food or food raw material units for that products line in the fiscal quarter concerned bears to the volume of food or food raw material units for that product line in the base period, and (ii) multiplying the product in paragraph (c)(1)(i) by the net increases in allowable costs since the base cost period



V38-175 SEP 11 73 XUM

plus 100 percent. This computation is illustrated by the following equation:

$$R_2 = R_1 \times \frac{V_2}{V_1} \times (C + 100\%)$$

Where:

$R_2$ = Total sales revenues for the fiscal quarter concerned.
$R_1$ = Total sales revenues during the base period.
$V_2$ = Volume of food or food raw material units during the fiscal quarter concerned.
$V_1$ = Volume of food or food raw material units during the base period.
C = Net increases in allowable costs since the base cost period.

(2) (i) Sales revenues for any fiscal quarter may exceed the total sales revenues calculated in accordance with paragraph (c) (1) of this section only if the firm concerned demonstrates, to the satisfaction of the Council, that the excess is justified on the basis of seasonal patterns or is attributable to revenues derived from the sale of exempt items or from allowable prices pursuant to § 150.76. In determining whether a firm is in violation of this paragraph (c), the Council may take into account temporary unforeseen changes in product mix.

(ii) The requirements for prenotification provided in § 150.151 apply with respect to any price increase supported by net allowable increases in costs other than food raw material costs.

(3) A firm subject to this section may not exceed its base period profit margin as defined in § 150.31 whether or not that firm increases the price of any item above the adjusted freeze price of that item, the base price of that item or any other price authorized under this title.

(4) (i) Food raw material purchased and resold without change in form may be excluded in computing the total sales revenue during the base period. Food raw material purchased and resold without change in form shall be excluded in computing food or food raw material units and food raw material costs for any fiscal quarter ending after the effective date of this section.

(ii) The cost of freight and insurance in connection with the purchase of food raw material ("freight-in") may either be included in or excluded from food raw material costs during the base cost period as defined in § 150.607 but the treatment of "freight-in" shall be consistent as between the base cost period and each fiscal quarter ending after the effective date of this section. The cost of freight and insurance in connection with food sales ("freight-out") may either be included in or excluded from total sales revenues during the base period as defined in § 150.603 but the treatment of "freight-out" shall be consistent as between the base period and each fiscal quarter ending after the effective date of this section.

(iii) A firm which uses the futures markets in a nonspeculative manner to hedge against price risks may include as a food raw material cost during the base cost period (as defined in § 150.607) any net loss as a result of nonspeculative hedging activities with respect to the food raw material concerned during the base cost period, and may include as an offset to food raw material costs any net gain as a result of nonspeculative hedging activities with respect to the food raw material concerned during the base cost period. Similarly, any net hedging losses by that firm with respect to food markets during the base period (as defined in § 150.603) may be included as an offset to total sales revenues during the base period and any net hedging gains by that firm with respect to food markets during the base period may be included in total sales revenues during the base period. However, a firm which includes any net loss pursuant to the preceding two sentences shall include as an offset any net gain as a result of nonspeculative hedging activities in accordance with the preceding two sentences. Any net hedging losses with respect to the food raw material concerned during the fiscal quarter concerned may be included as a food raw material cost for the fiscal quarter concerned and any net hedging gains with respect to the food raw material concerned during the fiscal quarter concerned shall be included as an offset to food raw material costs for the fiscal quarter concerned. Any net hedging losses with respect to the food market concerned during the fiscal quarter concerned may be included as a food raw material cost for the fiscal quarter concerned and any net hedging gains with respect to the food market concerned during the fiscal quarter concerned shall be included as an offset to food raw material costs for the fiscal quarter concerned.

(5) For purposes of paragraph (c) of this section, the base period with respect to a new product line shall be the fiscal quarter in which the first sale occurs. The price rules of this section apply with respect to that new product line beginning with the first day after the base period. However, if a firm acquires another firm, the total sales revenues during the base period established by the acquired firm with respect to each of its product lines shall be the total sales revenues during the base period for the acquiring firm for each of those product lines and the rules of paragraph (c) of this section apply with respect to each of those product lines immediately upon acquisition.

(d) *Options and business practices.*—(1) The exercise of the options with regard to § 150.606(b), the determination of the base period, the exclusion of certain food raw materials in the computation of total sales revenues during the base period, and the method of calculating food or food raw material units shall be made as follows:

(i) In the case of a price category I or II firm, the option selected in each case shall be set forth in the initial report submitted to the Council pursuant to paragraph (e) of this section; and

(ii) In the case of a price category III firm, the option selected in each case shall be recorded in a document placed among the firm's records.

No change in the exercise of any of these options may be made without the prior written approval of the Council or the Internal Revenue Service.

(2) Any calculations made pursuant to this section must be reconciled with any change in customary business practices adopted and implemented by the firm.

(e) *Reporting and recordkeeping*—(1) *Monthly report.*—Each price category I and II firm to which this section applies shall submit monthly reports with information on costs and sales in accordance with forms and instructions issued by the Council. A monthly report shall be submitted within 30 days after the close of each accounting month except the month which concludes a fiscal quarter. The initial report submitted shall include the following information:

(i) A description of the product lines of the firm and related four-digit SIC codes;

(ii) The four consecutive fiscal quarters selected for the base period;

(iii) A statement as to whether certain food raw materials were excluded from the computation of total sales revenue during the base period pursuant to § 150.606(c)(4)(i).

(2) *Action by the Council on monthly report.*—If it appears to the Council, upon examination of a monthly report submitted pursuant to this section, that a firm's revenues with respect to a product line are at a rate that would, when projected for the fiscal quarter, exceed the revenues permitted by this section and the firm fails to demonstrate, to the satisfaction of the Council, that it will not exceed the revenues permitted by this section for that quarter or that any excess will be justified on the basis of seasonal patterns or will be attributable to revenues derived from the sale of exempt items the Council may suspend authority to implement price increases and order price reductions if necessary to assure compliance with the provisions of paragraph (c) of this section. In determining whether a firm is in violation pursuant to paragraph (e) of this section, the Council may take into account temporary unforeseen changes in product mix.

(3) *Quarterly and annual reports.*—Each price category I and II firm to which this section applies shall submit reports with information on costs, sales and profits in accordance with forms and instructions issued by the Council within 45 days after the end of each fiscal quarter or within 90 days after the end of each fiscal year.

(4) *Recordkeeping.*—Each price category III firm to which this section applies shall prepare and maintain at its principal place of business sufficient records to determine compliance with this section.





**§ 150.607 Food manufacturing: Other price rules.**

(a) *General Rule.*—Except as provided in paragraphs (b) and (c) of this section and in § 150.606, Subparts E, F, G and H of this part apply to the manufacturing activities of firms subject to this section.

(b) *Modifications to Subparts E, F, G, and H for Firms Using § 150.606.*—(1) Prenotification is not required with respect to increases in food raw material costs. Food raw materials may not be used as allowable costs for purposes of prenotification.

(2) The base cost period is the next succeeding fiscal quarter following the base period as defined in § 150.603 in which costs were incurred with respect to the product line concerned. The base cost period with respect to a new product is the fiscal quarter in which the new product concerned was first sold in arms-length trading between unrelated persons.

(3) The rules for determining maximum prices for items in a product line do not apply. The price of an item shall be determined solely in accordance with § 150.606(c).

(4) The price of an item which qualities as a "new product" pursuant to § 150.103, or as a "cusfom product" pursuant to § 150.104, shall be determined solely in accordance with § 150.606(c)

(5) Section 150.76 is inapplicable to the food manufacturing activities of firms subject to this subpart.

(c) *Subpart E Modifications for other firms.*—Subpart E of this Part applies with respect to the food manufacturing activities of firms which elect pursuant to § 150.606(b) to price in accordance with that subpart, except that "adjusted freeze price" means:

(1) With respect to food subject to Subpart I of Part 140,

(i) The highest price lawfully charged for that item prior to the effective date of this subpart, except that temporary special sales, deals and allowances in effect during the freeze base period may be excluded in the computation; and

(ii) In the case of a seasonal item priced in accordance with § 140.13(d)(2) of this chapter, the highest price lawfully charged for that item before the effective date of this subpart, except that when that price is reduced to the nonseasonal price as required by § 140.13(e) of this chapter that reduced price becomes the adjusted freeze price for that item; or

(2) With respect to meat subject to Subpart M of Part 130,

(i) The ceiling price as defined in § 130.123 of this chapter;

(ii) In the case of an imported meat item priced in accordance with § 130.121 (b) of this title, the highest price lawfully charged for that item before the effective date of this subpart;

(iii) In the case of a meat item priced in accordance with § 130.127 or § 130.128 of this chapter, the highest price lawfully charged for that item before the effective date of this subpart; and

(iv) In the case of a meat item priced in accordance with an exception granted pursuant to the provisions of Part 130 of this chapter, the highest price lawfully charged for that item before the effective date of this subpart.

**§ 150.608 Regulated milk and milk products.**

(a) *Definitions.*—For purposes of this section:

"Regulated milk and milk products" means milk and milk products with respect to which the minimum price is established or the minimum and maximum prices are established by a regulatory agency.

"Regulatory agency" means any commission, board, or other legal body established in any State or the District of Columbia, which has jurisdiction to order increases, or reductions, or both, in the prices charged for fluid milk and milk products.

"Milk and milk products" includes fluid milk (other than raw milk), low-fat milk, nonfat (skim) milk, buttermilk, cream, half-and-half, chocolate milk, and cottage cheese.

"Regulated seller of milk and milk products" means any seller of milk and milk products whose minimum selling prices are fixed by a regulatory agency and includes a firm engaged in processing, distributing, wholesaling, or retailing.

(b) *General rule.*—Notwithstanding any other provision of this part, but subject to paragraph (c) of this section, a regulated seller of milk and milk products may charge any price with respect to any item if that price has been approved as a minimum price by a regulatory agency. A regulated seller of fluid milk and milk products which is a prenotification firm, whose minimum prices for such products to its customers are established by that regulatory agency, may sell milk and milk products at the minimums so established without prenotifying.

(c) *Report by regulatory agency.*—A regulatory agency which establishes minimum prices for sellers of milk and milk products must furnish to the Council at least 15 days before the proposed increases are to be effective—

(1) A statement of the types of price increases subject to its jurisdiction and generally describing the method used for establishing prices;

(2) A certification as to each price increase it approves (in the order granting the increase or in a separate document) of the following:

(i) The former price, the date it was established, the new price, the percentage increase, and the proposed effective date of the new price;

(ii) That the increase is the minimum required to assure a continued, adequate supply of pure and wholesome milk and milk products; and

(iii) That the increases established by the regulatory agency will not result in total sales revenues which exceed the amount permitted under § 150.606(c).

(d) *Industry averages.*—If a price increase by the regulatory agency is premised on cost or other data compiled on the basis of industry averages or samples of the industry which it regulates, compliance with § 150.606(c) may be based on that industry data. However, the Council reserves the right to require the regulatory agency to submit, or to require any regulated seller of milk and milk products to provide, any additional information that the Council considers relevant, including requesting the regulatory agency to obtain from the industry or the same sample on which its increases were predicated, the following information:

(1) For processors—the base period profit margin and the profit margin in a period reflecting the new prices; or

(2) For wholesalers or retailers—the customary initial percentage markup reflected by the allowed price increases; the gross margin realized during the pricing base period; the gross margin realized by the allowed price increases; the profit margin in the base period, and the profit margin in the period reflecting the new prices.

(e) *Effective date of price increases.*—At any time within 10 days after receiving a report under paragraph (c) of this section the Council may take any action provided in paragraph (f) of this section, or it may take no action in which case the price increases permitted by this section may become effective on the date specified in the regulatory agency order.

(f) *Council Actions.*—With respect to any price increase permitted by this section, the Council may—

(1) Require the regulatory agency to furnish additional information concerning the increase;

(2) Delay the effective date of the increase pending further Council action, but not for longer than 15 days after receiving the additional information requested under paragraph (f)(1) of this section;

(3) Suspend all or part of the increase pending further action by the Council or the regulatory agency; or

(4) Approve, reject, limit, rescind, reduce, or modify the increase.

**§ 150.609 Marketing cooperatives and market risk-sharing transactions.**

(a) A marketing cooperative as defined in § 150.204(b) is subject to the pricing rules in § 150.606 with respect to its food manufacturing activities. For purposes of computing food raw material costs, a marketing cooperative shall use the imputed allowable costs determined in accordance with § 150.204(d).

(b) A firm which is engaged in market risk-sharing transactions as defined in § 150.204(b) with respect to food manufacturing activities, and which is not otherwise a marketing cooperative as defined in § 150.204(b), is subject to the pricing rules in § 150.606 with respect to those transactions. For purposes of computing raw materials costs, that firm shall use the imputed allowable costs determined in accordance with § 150.204(d).



V 38-175 SEP 11 73 XUM

(c) The limitation prescribed in § 150.-204(c)(1) applies upon the effective date of this subpart without regard to whether a price in excess of the base price, adjusted freeze price or other authorized price is charged.

§ 150.1 [Amended]

2. Section 150.1(b) is amended by substituting "September 9, 1973," for "September 11, 1973," in the two places where the latter date appears.

§ 150.201 [Amended]

3. Section 150.201(e) is amended by adding "or Q," after "Notwithstanding Subparts A, E, K,".

§ 150.201 [Amended]

4. Section 150.304(e) is amended by deleting the period and adding the following:

". until 11:59 p.m., e.s.t., September 9, 1973."

§ 150.307 [Deleted]

5. Section 150.307 is deleted.

6. The Appendix to Subpart K is amended by adding the following merchandise categories:

197 Dairy.
198 Delicatessen.
199 Grocery.
200 Meat, fish, and poultry.
201 Produce.
202 General merchandise, nonfood, sold in connection with food retailing.

B. Part 155 of Title 6 of the Code of Federal Regulations is amended in § 155.21(b)(1) to read as follows:

§ 155.21 Purpose and scope.

. . . . . .

(b) . . .

(1) Prenotifications and reports filed pursuant to subparts H, K, L, N, P, or Q of part 150;

. . . . . .

[FR Doc.73-19364 Filed 9-7-73;3:30 pm]

## Title 7—Agriculture

### CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 602]

### PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

#### Limitation of Shipments

This regulation continues the minimum size requirements currently in effect through September 29, 1973, during the period September 30, 1973, through September 28, 1974. The minimum size requirements for lemons would continue at 1.82 inches in diameter (size 235's in cartons). The requirements are those which have been found to provide consumers with lemons of acceptable size, maturity and juice content.

*Findings.*—(1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR, Part 910), regulating the handling of lemons grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The recommendations of the Lemon Administrative Committee reflect its appraisal of the crop and current and prospective marketing conditions after consideration of factors having a bearing thereon as required by said marketing agreement and order. The committee estimates that the 1973–74 season crop of lemons will be 37,450 carlots. It further estimates that regulated fresh market channels will require about 32 percent of this volume, and the remaining 68 percent will be available for utilization in processing, export, and other outlets. The volume and size composition of the crop is such that ample supplies are available in a broad range of sizes to satisfy demand in regulated channels and in other markets. The committee advises that lemons smaller than 235's have negligible sales opportunity in fresh form, because they are costly to prepare for market and have lower juice yield than larger lemons. The minimum size requirements are designed to assure consumers of adequate supplies of fruit of acceptable sizes, maturity and juice content and to improve returns to growers consistent with the declared policy of the act.

(3) It is hereby found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553). Shipments of lemons grown in the production area are currently being regulated as to size by the provisions of Lemon Regulation 499, Amendment 1, which, unless continued, will expire on September 29, 1973. The minimum size requirements prescribed by this section are the same as those currently in effect, and to be of maximum benefit in the current season such requirements should be continued in effect during the period September 30, 1973, through September 28, 1974. Notice of rulemaking concerning this section, with an effective period as herein specified, was published in the FEDERAL REGISTER (38 FR 22149) and no objection to either this section or such effective period was received. Compliance with this section will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective time thereof.

§ 910.902 Lemon Regulation 602.

*Order.*—(a) From September 30, 1973, through September 28, 1974, no handler shall handle any lemons grown in District 1, District 2, or District 3, which are of a size smaller than 1.82 inches in diameter, which shall be the largest measurement at a right angle to a straight line running from the stem to the blossom end of the fruit: *Provided*, That not to exceed 5 percent, by count, of the lemons in any type of container may measure smaller than 1.82 inches in diameter.

(b) As used in this section "handle", "handler", and "District 1", "District 2", and "District 3" each shall have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).)

Dated September 6, 1973, to become effective September 30, 1973.

CHARLES R. BRADER,
*Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.73-19279 Filed 9-10-73;8:45 am]

### PART 930—CHERRIES GROWN IN MICHIGAN, NEW YORK, WISCONSIN, PENNSYLVANIA, OHIO, VIRGINIA, WEST VIRGINIA, AND MARYLAND

#### Harvest Adjustment and Release Period

This amendment changes the 10-day free and restricted percentage adjustment and reserve pool release period from September 15–25 to November 1–11. The proposal was submitted by the Cherry Administrative Board, established pursuant to Marketing Order No. 930 (7 CFR, Part 930), regulating the handling of cherries grown in Michigan, New York, Wisconsin, Pennsylvania, Ohio, Virginia, West Virginia, and Maryland. This regulatory program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The board, in proposing such amendment, reported that under the present provision, the time between the completion of the cherry harvest and the date the recommendation must be made for an adjustment or release is insufficient for the compilation and verification of crop data and marketing information. The release date, as contained in the amendment would provide adequate time for such fact gathering and analysis.

Notice was published in the FEDERAL REGISTER issue of August 27, 1973 (38 FR 22897), that the Department was giving consideration to proposed amendment to the rules and regulations (Subpart—Rules and Regulations, 7 CFR, Part 930.101 through 930.161) effective pursuant to the applicable provisions of said Marketing Order No. 930 to establish November 1–11 as the 10-day revision of percentages and release period. The currently provided period is September 15–25. No written data, views, or





arguments were filed with respect to said proposed amendment.

After consideration of all relevant matter presented, including the proposal set forth in the notice, the recommendations and information submitted by the board, and upon other available information, it is hereby found that the amendment, as hereinafter set forth, of said rules and regulations is in accordance with said marketing order and will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) It is essential that the new release period be established before the beginning of the currently specified release period so as to provide adequate time for the necessary compilation and analysis of data relating to the cherry supply so that an appropriate recommendation regarding the release of reserve pool cherries may be made; (2) notice was given of the proposed amendment through publicity in the production area and by publication in the August 28, 1973, issue of the FEDERAL REGISTER and no objection to such proposed change was received; and (3) compliance with this amendment will not require of handlers any preparation that cannot be completed by the effective time hereof.

*Order.*—A new § 930.110 is added to read as follows:

§ 930.110 After harvest adjustment and release period.

The 10-day period provided in § 930.53 paragraphs (a) and (b)(1) for the revision of percentages and release of reserve pool cherries shall be November 1–11, of the fiscal period.

Dated September 7, 1973, to become effective September 12, 1973.

CHARLES R. BRADER,
*Acting Deputy Director, Fruit and Vegetable Division Agricultural Marketing Service.*

[FR Doc.73-19327 Filed 9-10-73;8:45 am]

## Title 8—Aliens and Nationality

### CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

### PART 214—NONIMMIGRANT CLASSES
### PART 238—CONTRACTS WITH TRANSPORTATION LINES

#### Nonimmigrants Transits

Pursuant to section 552 of Title 5 of the United States Code (80 Stat. 383) and the authority in 8 U.S.C. 1103 and 8 CFR 2.1, amendments, as set forth herein, are made in Parts 214 and 238 of Chapter I of Title 8 of the Code of Federal Regulations.

In Part 214, § 214.2(c)(1) is amended to relieve the restriction that a nonimmigrant applicant for admission under the transit without visa privilege must continue his journey within 8 hours after his arrival in this country. The amendment provides that if there is no scheduled transportation within 8 hours after an applicant's arrival in the United States continuation of his journey thereafter on the first available transport will be satisfactory. The amendment also provides for limited intermediate stops.

Pursuant to section 238(d) of the Immigration and Nationality Act, agreements have been entered into between the Acting Commissioner of Immigration and Naturalization and "JAT-YUGOSLAV AIRLINES" and "POMAIR N.V.," transportation lines operating to ports of the United States, to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries. In Part 238, § 238.(b) is, therefore, amended by adding the two specified lines to the listing of signatory transportation lines.

In the light of the foregoing, the following amendments to Chapter I of Title 8, Code of Federal Regulations, are hereby prescribed:

In § 214.2, paragraph (c)(1) is amended to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

. . . . . .

(c) *Transits*—(1) *Without visas.*—An applicant for admission under the transit without visa privilege must establish that he is admissible under the immigration laws; that he has confirmed and onward reservations to at least the next country beyond the United States, and that he will continue his journey on the same line or a connecting line within 8 hours after his arrival; however, if there is no scheduled transportation within that 8-hour period, continuation of the journey thereafter on the first available transport will be satisfactory. Transfers from the equipment on which an applicant arrives to other equipment of the same or a connecting line shall be limited to 2 in number, with the last transport departing foreign (but not necessarily nonstop foreign), and the total period of waiting time for connecting time for connecting transportation shall not exceed 8 hours except as provided above. Notwithstanding the foregoing, an applicant, if seeking to join a vessel in the United States as a crewman, shall be in possession of a valid "D" visa and a letter from the owner or agent of the vessel he seeks to join, shall proceed directly to the vessel on the first available transportation and upon joining the vessel shall remain aboard at all times until it departs from the United States.

Except for transit from one part of foreign contiguous territory to another part of the same territory, application for direct transit without a visa must be made at one of the following ports of entry: Buffalo, N.Y.; Niagara Falls, N.Y.; Boston, Mass.; New York, N.Y.; Philadelphia, Pa.; Baltimore, Md.; Washington, D.C.; Norfolk, Va.; Atlanta, Ga.; Miami, Fla.; Port Everglades, Fla.; Tampa, Fla..; New Orleans, La.; San Antonio, Tex.; Dallas, Tex.; Houston, Tex.; Brownsville, Tex.; San Diego, Calif.; Los Angeles, Calif.; San Francisco, Calif.; Honolulu, Hawaii; Seattle, Wash.; Portland, Oreg.; Great Falls, Mont.; St. Paul, Minn.; Chicago, Ill.; Detroit, Mich.; Denver, Colo.; Anchorage, Alaska; Fairbanks, Alaska; San Juan, P.R.; Ponce, P.R.; Charlotte Amalie, V.I.; Christiansted, V.I.; Agana, Guam. The privilege of transit without a visa may be authorized only under the conditions that the transportation line, without the prior consent of the Service, will not refund the ticket which was presented to the Service as evidence of the alien's confirmed and onward reservations; that the alien will not apply for extension of temporary stay or for adjustment of status under section 245 of the Act, and that until his departure from the United States responsibility for his continuous actual custody will lie with the transportation line which brought him to the United States unless at the direction of the district director he is in the custody of this Service or other custody approved by the Commissioner.

. . . . . .

§ 238.3 [Amended]

The listing of transportation lines in paragraph (b) *Signatory lines* of § 238.3 *Aliens in immediate and continuous transit* is amended by adding the following transportation lines in alphabetical sequence: . "JAT-YUGOSLAV AIRLINES" and "POMAIR N.V."

Compliance with the provisions of section 553 of Title 5 of the United States Code (80 Stat. 383) as to notice of proposed rule making and delayed effective date is unnecessary in this instance because the amendment to § 214.2(c)(1) relieves restrictions and the amendment to § 238.3(b) adds transportation lines to the listing.

*Effective date.*—This order shall become effective on September 11, 1973.

Dated September 6, 1973.

JAMES F. GREENE,
*Acting Commissioner.*

[FR Doc.73-19251 Filed 9-10-73;8:45 am]

## Title 9—Animals and Animal Products

### CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

#### SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

### PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS), AFRICAN SWINE FEVER, AND HOG CHOLERA: PROHIBITED AND RESTRICTED IMPORTATIONS

#### Countries Declared To Be Free of Rinderpest, Foot-and-Mouth Disease and Swine Vesicular Disease

*Statement of consideration.*—The purpose of these amendments is to add the Trust Territory of the Pacific Islands to the list of countries declared to be free



V 38-175 SEP 11 73 XUM

of rinderpest and foot-and-mouth disease in § 94.1 and to the list of countries considered to be free of swine vesicular disease in § 94.12. These actions will provide for the importation of swine, cattle, sheep, and other ruminants and fresh chilled or frozen meats thereof into the United States without complying with §§ 94.1, 94.12, 94.13, and 94.14 but subject to other applicable provisions of this Part and of Part 92.

Pursuant to section 2 of the act of February 2, 1903, as amended, section 306 of the act of June 17, 1930, as amended, and sections 2, 3, 4, and 11 of the act of July 2, 1962 (19 U.S.C. 1306; 21 U.S.C. 111, 134a, 134b, 134c, 134f), Part 94, Title 9, Code of Federal Regulations, is hereby amended as follows:

1. Section 94.1(a)(2) is amended by adding thereto the name of the Trust Territory of the Pacific Islands after the reference to "Trinidad."

2. Section 94.12(a) is amended by adding thereto the name of the Trust Territory of the Pacific Islands after the reference to "Luxembourg."

(Sec. 306, 46 Stat. 689, as amended; sec. 2, 32 Stat. 792, as amended; secs. 2, 3, 4, and 11, 76 Stat. 129, 130, 132 (19 U.S.C. 1306; 21 U.S.C. 111, 134a, 134b, 134c, 134f); 37 FR 28464, 28477.)

*Effective date.*—The foregoing amendments shall become effective September 6, 1973.

The amendments relieve certain restrictions presently imposed but no longer deemed necessary to prevent the introduction and dissemination of the contagion of rinderpest, foot-and-mouth disease and swine vesicular disease, and must be made effective immediately to be of maximum benefit to affected persons.

It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable and unnecessary, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 6th day of September 1973.

G. H. WISE,
*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc.73-19277 Filed 9-10-73;8:45 am]

## Title 14—Aeronautics and Space

## CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 73-SW-45]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

### Designation of Transition Area

The purpose of this amendment to Part 71 of the Federal Aviation Regulations is to designate a 700-foot transition area at Falfurrias, Tex.

On July 18, 1973, a notice of proposed rulemaking was published in the FEDERAL REGISTER (38 FR 19131) stating the Federal Aviation Administration proposed to designate the Falfurrias, Tex., transition area.

Interested persons were afforded an opportunity to participate in the rulemaking through submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., November 8, 1973, as hereinafter set forth.

In § 71.181 (38 FR 435), the following transition area is added:

FALFURRIAS, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Brooks County Airport (latitude 27°12'15" N., longitude 98°07'15" W.) and within 3 miles each side of the 163°T bearing from the Brooks County RBN (latitude 27°12'23" N., longitude 98°07'24" W.) extending from the 5-mile radius area to 8 miles southeast of the RBN.

In the notice of proposed rulemaking, the extension of the transition area was erroneously given as the 171°T radial instead of the 163°T. Action is hereby being taken to correct the radial.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Fort Worth, Tex., on August 30, 1973.

A. H. THURBURN,
*Acting Director, Southwest Region.*

[FR Doc.73-19186 Filed 9-10-73;8:45 am]

[Airspace Docket No. 73-CE-12]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

### Alteration of Transition Area

On page 19414 of the FEDERAL REGISTER dated July 20, 1973, the Federal Aviation Administration published a Notice of Proposed Rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Lincoln, Nebraska.

Interested persons were given 30 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., November 8, 1973.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Kansas City, Mo., on August 31, 1973.

JOHN M. CYROCKI,
*Director, Central Region.*

In § 71.181 (38 FR 435), the following transition area is amended to read:

LINCOLN, NEBRASKA

That airspace extending from 700 feet above the surface within a 9-mile radius of Lincoln Municipal Airport (latitude 40°50'45" N., longitude 96°45'20" W.); within the area bounded by a line five miles west of and parallel to the Lincoln ILS localizer south course clockwise along a 17-mile arc centered on the Lincoln Municipal Airport to a line 2 miles east of and parallel to the Lincoln VORTAC 015° radial; and within 5 miles west and 9 miles east of the Lincoln ILS localizer south course, extending from the 9 mile radius area to 13 miles south of the OM; that airspace extending upward from 1,200 feet above the surface bounded by a line starting at the intersection of longitude 97°25'00" W., and the south edge of V-138, thence northwest to longitude 97°42'00" W., latitude 41°00'00" N., thence north to latitude 41°05'00" N., and the southeast edge of V-220, thence northeast following the southeast edge of V-220 until intercepting the south edge of V-172, thence east to longitude 98°22'00" W., and the south edge of V-172, thence south to longitude 96°22'00" W., latitude 41°15'00" N., thence along a 35-mile arc from the Lincoln Municipal Airport clockwise to the point of beginning, excluding that portion which overlies the Beatrice, Nebraska, Fremont, Nebraska, Columbus, Nebraska, and Omaha, Nebraska, transition areas.

[FR Doc.73-19189 Filed 9-10-73;8:45 am]

[Airspace Docket No. 73-CE-13]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

### Alteration of Transition Area

On pages 19130 and 19131 of the FEDERAL REGISTER dated July 18, 1973, the Federal Aviation Administration published a notice of proposed rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Trenton, Missouri.

Interested persons were given 30 days to submit written comments, suggestions, or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., November 8, 1973.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Kansas City, Mo., on August 31, 1973.

JOHN M. CYROCKI,
*Director, Central Region.*

In § 71.181 (38 FR 435), the following transition area is amended to read:

TRENTON, MISSOURI

That airspace extending upward from 700' above the surface within a 5 mile radius of the Trenton Municipal Airport (latitude 40°05'03" N., longitude 93°35'26" W.); and within 3 miles either side of the 172° bearing from the MHW facility extending from the 5-mile radius to 8 miles south, and 3 miles either side of the 007° bearing from the MHW facility extending from the 5-mile radius to 8.5 miles north, and that airspace extending upwards from 1200 feet above the surface 5 miles west of and 9.5 miles east of the 007° bearing from the Trenton MHW facility extending to 18.5 miles north of the MHW facility and 5 miles west of and 9.5 miles east of the 172° bearing from the Trenton MHW facility extending to 18.5 miles south of the MHW facility.

[FR Doc.73-19188 Filed 9-10-73;8:45 am]





[Docket No. 9471, Amdt. 91-116]

## PART 91—GENERAL OPERATING AND FLIGHT RULES

### ATC Transponder Requirements; Correction

Amendment 91-116, issued on May 25, 1973, and published in the FEDERAL REGISTER on June 4, 1973 (38 FR 14672) added several changes, to Part 91 of the Federal Aviation Regulations, affecting the use of ATC transponder equipment in U.S. airspace. One of these changes amended § 91.90(b) to add requirements that become effective after January 1, 1975. However, in reorganizing § 91.90(b)(2)(iii), there was an inadvertant omission of one provision of the regulation that is currently effective, that will remain effective until January 1, 1975, and for which no change was proposed in the Notice or intended in the amendment. The omitted provision stated that the currently effective requirement does not apply to "IFR flights operating to or from a secondary airport located within the terminal control area," or to IFR flights operating to or from an airport outside of the terminal control area "but which is in close proximity to the terminal control area."

Accordingly, § 91.90(b)(2)(iii) is corrected to read as follows:

§ 91.90 Terminal control areas.

* * * * * * *

(b) *Group II terminal control areas.* * * *

(2) *Equipment requirements.* * * *

(iii) On and before the applicable dates specified in paragraphs (a) and (b)(2) of § 91.24, an operable coded radar beacon transponder having at least a Mode 3/A 64-code capability, replying to Mode 3/A interrogation with the code specified by ATC. On and before those dates, this requirement is not applicable to helicopters operating within the terminal control area, or to VFR aircraft operating within the terminal control area, or to IFR flights operating to or from a secondary airport located within the terminal control area, or to IFR flights operating to or from an airport outside of the terminal control area but which is in close proximity to the terminal control area, when the commonly used transition, approach, or departure procedures to such airport require flight within the terminal control area. After the applicable dates in paragraphs (a) and (b)(2) of § 91.24, that section shall be complied with, notwithstanding the exceptions in this section.

* * * * * * *

Issued in Washington, D.C., on August 31, 1973.

ALEXANDER P. BUTTERFIELD,
*Administrator.*

[FR Doc.73-19185 Filed 9-10-73;8:45 am]

## SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Reg. Docket No. 13180; Amdt. 95-237]

## PART 95—IFR ALTITUDES

### Miscellaneous Amendments

The purpose of this amendment to Part 95 of the Federal Aviation Regulations is to make changes in the IFR altitudes at which all aircraft shall be flown over a specified route or portion thereof. These altitudes, when used in conjunction with the current changeover points for the routes or portions thereof, also assure navigational coverage that is adequate and free of frequency interference for that route or portion thereof.

As a situation exists which demands immediate action in the interest of safety, I find that compliance with the notice and procedure provisions of the Administrative Procedure Act is impracticable and that good cause exists for making this amendment effective within less than 30 days from publication.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (24 FR 5662), Part 95 of The Federal Aviation Regulations is amended, effective October 11, 1973 as follows:

1. By amending Subpart C as follows:

§95.101 AMBER FEDERAL AIRWAY 1
Is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Pontiac Lake, Alas. LF/RBN | *Farewell, Alas. LF/RBN | 10000 |
| *8600—MCA Farewell LF/RBN, E-bound | | |
| Farewell, Alas. LF/RBN | McGrath, Alas. LFR | 4300 |

§95.115 AMBER FEDERAL AIRWAY 15
Is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Burwash, Yt. LFR | Northway, Alas. LFR | *#9600 |
| *8600—MOCA | | |
| #For that airspace over U.S. territory | | |

§95.1001 DIRECT ROUTES—U.S.
Is amended to delete:

| FROM | TO | MEA |
|---|---|---|
| Columbus, Miss. VOR | Hamilton, Ala. VOR | 2200 |

§95.1001 DIRECT ROUTES—U.S.
Is amended by adding:

| FROM | TO | MEA |
|---|---|---|
| Columbus, Miss. VOR | *Beaverton INT, Ala. | 2200 |
| *3000—MRA | | |
| *Beaverton INT, Ala. | Hamilton, Ala. VOR | 2200 |
| *3000—MRA | | |

Bahama Routes

1 Line is amended to read in part:

| | | |
|---|---|---|
| Malcolm INT Bh. | Eleuthera, Bh. NDB | *2000 |
| *1300—MOCA | | |

6 Line is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Eleuthera, Bh. NDB | Malcolm INT, Bh. | *2000 |
| *1300—MOCA | | |

20 Line is amended to read in part:

| FROM | TO | MEA |
|---|---|---|
| Eleuthera, Bh. NDB | Malcolm INT, Bh. | *2000 |
| *1300—MOCA | | |

§95.5000 HIGH ALTITUDE RNAV ROUTES

| FROM/TO | TOTAL DISTANCE | CHANGEOVER POINT DISTANCE FROM GEOGRAPHIC LOCATION | TRACK ANGLE | MEA | MAA |
|---|---|---|---|---|---|
| J807R is amended to read in part: | | | | | |
| Belle Terre, N.Y. W/P | 98.8 | 49.5 Belle Terre | 010/190 to COP | 18000 | 45000 |
| Cherry Plain, N.Y. W/P | | | 009/189 to Cherry Plain | | |

§95.5500 HIGH ALTITUDE RNAV ROUTES

| FROM/TO | TOTAL DISTANCE | CHANGEOVER POINT DISTANCE FROM GEOGRAPHIC LOCATION | TRACK ANGLE | MEA | MAA |
|---|---|---|---|---|---|
| J926R is amended to read in part: | | | | | |
| Golden, Colo. W/P | 118 | 56 Golden | 234/054 to COP | 18000 | 45000 |
| Redstone, Colo. W/P | | | 232/052 to Redstone | | |
| J988 is amended to read in part: | | | | | |
| Belle Terre, N.Y. W/P | 98.8 | 49.5 Belle Terre | 010/190 to COP | 18000 | 45000 |
| Cherry Plain, N.Y. W/P | | | 009/189 to Cherry Plain | | |



V 38-175 SEP 11 73 XUM

§95.7011 JET ROUTE NO. 11 is amended by adding:

| FROM | TO | | |
|---|---|---|---|
| U.S. Mexican Border | Tucson, Ariz. VORTAC | MEA 18000 | MAA 45000 |

§95.7013 JET ROUTE NO. 13 is amended to delete:

| FROM | TO | | |
|---|---|---|---|
| El Paso, Tex. VORTAC | Truth or Consequences, N.Mex. VOR | MEA 18000 | MAA 45000 |

§95.7013 JET ROUTE NO. 13 is amended by adding:

| FROM | TO | | |
|---|---|---|---|
| U.S. Mexican Border | Truth or Consequences, N.Mex. VORTAC | MEA 18000 | MAA 45000 |

§95.7022 JET ROUTE NO. 22 is amended by adding:

| FROM | TO | | |
|---|---|---|---|
| U.S. Mexican Border | Laredo, Tex. VORTAC | MEA 18000 | MAA 45000 |

§95.7026 JET ROUTE NO. 26 is amended by adding:

| FROM | TO | | |
|---|---|---|---|
| U.S. Mexican Border | El Paso, Tex. VORTAC | MEA 18000 | MAA 45000 |

§95.7152 JET ROUTE NO. 152 is amended to read in part:

| FROM | TO | | |
|---|---|---|---|
| Harrisburg, Pa. VORTAC | Int. 107M rad Harrisburg VORTAC & 066M rad Westminster VORTAC | MEA 18000 | MAA 45000 |

2. By amending Sub-part D as follows:

§95.8003 VOR FEDERAL AIRWAY CHANGEOVER POINTS

| FROM | TO | CHANGEOVER POINT DISTANCE FROM | |
|---|---|---|---|
| V-218 is amended by adding: | | | |
| Grand Rapids, Minn. VOR | Minneapolis, Minn. VOR | 80 | Minneapolis |
| V-375 is amended by adding: | | | |
| Roanoke, Va. VOR | Gordonsville, Va. VOR | 48 | Roanoke |

(Secs. 307 and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348, 1510).)

Issued in Washington, D.C. on September 4, 1973.

JAMES M. VINES,
*Chief, Aircraft Programs Division.*

[FR Doc.73-19212 Filed 9-10-73;8:45 am]

## CHAPTER II—CIVIL AERONAUTICS BOARD

[Reg. PR-137, Amdt. 19]

## PART 302—RULES OF PRACTICE IN ECONOMIC PROCEEDINGS

### Dismissal of an Application Following Denial of Motion for Expedited Hearing or for Order To Show Cause

In notice of proposed rulemaking PDR-35/ODR-6,[1] the Board proposed to amend Part 302 of the Procedural Regulations (14 CFR, Part 302) to provide for dismissal, without prejudice, of applications filed under section 401 of the Act following denial of a motion for expedited hearing or for an order to show cause with respect to any such application, where the Board finds that the underlying application, or any other section 401 application considered in connection therewith, is not likely to be designated for hearing within three years after its filing, and to further provide for refund of the filing fees for such dismissed applications.[2]

Pursuant to the notice, comments have been filed by United Air Lines, supporting the proposal, and Delta Air Lines, opposing it. Upon consideration, the Board has determined to adopt the rule as proposed. The tentative findings and conclusions set forth in PDR-35/ODR-6 are incorporated herein and made final.

Delta's basic argument is that the Federal Aviation Act requires that the dismissals contemplated by the subject rule may be made only after notice and hearing. However, we find the argument unpersuasive, since dismissals under the subject rule would reflect only an administrative determination that the application is not likely to be reached, rather than an adjudication on the merits of the application. Indeed, the purely administrative nature of the rule is demonstrated by the fact that such dismissals would be without prejudice to refiling of an application and would be accompanied by a refund of the filing fee. Moreover, as explained in the notice, the subject rule merely extends an established administrative practice, Rule 911 already provides for the dismissal of applications that have not been set for hearing within three years after the date of filing (14 CFR 302.911), and Rules 12(d)-(e) provide for dismissal in whole or in part of § 401 applications which are denied consolidation (14 CFR 302.12 (d)-(e)).

Since the rule is procedural and dismissals thereunder will be without prejudice and will be accompanied by a refund of the filing fee, so that the rule imposes no substantial burden on any person, we find that it may be made effective immediately.

Accordingly, the Civil Aeronautics Board hereby amends Part 302 of its Procedural Regulations (14 CFR, Part 302) adopted and effective September 5, 1973, as follows:

Amend § 302.911 by inserting, following paragraph (b), a new paragraph (b-1) to read as follows:

**§ 302.911 Dismissal of certain stale applications filed under section 401.**

* * * * * *

(b-1) *Mandatory dismissal of applications found likely to become stale.*—Following denial of a motion for an expedited hearing or for an order to show cause with respect to an application subject to dismissal, pursuant to the provisions of paragraph (a) of this section, the Board, upon finding that such application, or any other such application which has been considered in connection with the motion, is not likely to be designated for hearing before it becomes stale, pursuant to the provisions of paragraph (b) of this section, shall dismiss the application or applications as to which such finding has been made.

* * * * * *

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; (49 U.S.C. 1324).)

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc. 73-19259 Filed 9-10-73;8:45 am]

[Reg. OR-78, Amdt. 38]

## PART 389—FEES AND CHARGES FOR SPECIAL SERVICES

### Refund of Fee Following Dismissal of Application After Denial of Motion for Expedited Hearing or for Order To Show Cause

By Procedural Regulation PR-137, issued contemporaneously with this rule, Part 302 has been amended to provide for dismissal, without prejudice, of certain applications under section 401 of the Act following denial of a motion for an expedited hearing or for an order to show cause with respect to any such application. The amendment herein extends to such dismissals the provisions in Part 389 allowing refund of filing fees upon dismissal of section 401 applications in specified circumstances.

Since this regulation is a rule of agency organization and relieves a burden, the rule may be made effective immediately.

Accordingly, the Civil Aeronautics Board hereby amends Part 389 of its Organization Regulations (14 CFR, Part 389) adopted and effective September 5, 1973, as follows:

Amend § 389.25(a)(1) to read as follows:

**§ 389.25 Schedule of filing and license fees.**

(a) *Certificates of public convenience and necessity.*—(1) The filing fee for an application, under section 401 of the Act, (i) for a certificate of public convenience and necessity to engage in air transportation, or (ii) to amend, modify, renew, or transfer a certificate or to abandon a route or part thereof, is $200. The fee will be refunded, on request, if the application is withdrawn prior to hearing, is dismissed under the stale-application rules of paragraphs (b) or (b-1) of § 302.911 of this chapter, is dismissed pursuant to the denial of consolidation rule of § 302.12(e) of this chapter, or is otherwise dismissed by the Chief Administrative Law Judge prior to hearing under the authority delegated to him in § 385.10(b) of this chapter.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; (49 U.S.C. 1324), and Title V of the Independent Offices Appropriation Act of 1952, 65 Stat. 290; (31 U.S.C. 483a).)

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.73-19258 Filed 9-10-73;8:45 am]

[2] Issued concurrently with this rule is OR-78, amending Part 389 to provide for refund of filing fees.



## Title 21—Food and Drugs

## CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### SUBCHAPTER C—DRUGS

## PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

### Hexylcaine Hydrochloride Injection, Veterinary

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (8-018V) filed by Merck Sharp & Dohme Research Laboratories, Div. of Merck & Co., Inc., Rahway, N.J. 07065, proposing revised labeling for the safe and effective use of hexylcaine hydrochloride injection, veterinary for use as an anesthetic in mature cattle, in horses, and in dogs. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135b (21 CFR Part 135b) is amended by adding the following new section:

**§ 135b.90 Hexylcaine hydrochloride injection, veterinary.**

(a) *Specifications.*—Hexylcaine hydrochloride injection, veterinary contains 1 percent or 5 percent hexylcaine hydrochloride in a sterile aqueous solution.

(b) *Sponsor.*—See code No. 023 in § 135.501(c) of this chapter.

(c) *Conditions of use.*—(1) The drug is used as a long-lasting anesthetic for epidural anesthesia of mature cattle, of horses, and of dogs; for infiltration anesthesia (field blocking) of cattle, of horses, and of dogs; and for nerve block anesthesia of cattle and of horses.

(2) The drug is administered by injection. For epidural anesthesia, it is administered to mature cattle at a dosage level of 0.2 to 0.6 milligram per pound of body weight to effect, to horses at a dosage level of 0.2 to 0.4 milligram per pound of body weight to effect, and to dogs at a dosage level of 0.5 to 1 milligram per pound of body weight to effect. For infiltration anesthesia (field blocking) and for nerve block anesthesia, either the 1 percent solution or a 2 percent solution prepared from the 5 percent solution is administered to effect.

(3) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

*Effective date.*—This order shall be effective on September 11, 1973.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated August 31, 1973.

FRED J. KINGMA,
*Acting Director, Bureau of Veterinary Medicine.*

[FR Doc.73-19213 Filed 9-10-73;8:45 am]



V 38 I 175 SEP 11 73 XUM

Title 24—Housing and Urban Development

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING PRODUCTION AND MORTGAGE CREDIT-FEDERAL HOUSING COMMISSIONER [FEDERAL HOUSING ADMINISTRATION]

[Docket No. R-73-234]

## INTEREST RATES

### Notice of Increase; Correction

Amendments to Chapter II were published at 38 FR 22891 on August 27, 1973, increasing the maximum rate of interest which may be charged on a mortgage insured by this Department from 7 percent to 7¾ percent.

In these amendments, on page 22892 of the FEDERAL REGISTER, reference was made to Parts 1000 and 1100. However, these Parts have been superseded by Parts 205 and 244.

Accordingly, the Part numbers for "Mortgage Insurance for Land Development" and "Mortgage Insurance for Group Practice Facilities" are changed to Part 205 and 244 respectively, and the section numbers for "Maximum interest rate" for each of these parts is changed to §§ 205.50 and 244.45 respectively.

SHELDON B. LUBAR,
*Assistant Secretary-Commissioner for Housing Production and Mortgage Credit.*

[FR Doc.73-19240 Filed 9-10-73;8:45 am]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

### Approval of the Virgin Islands Plan

*Background.*—Part 1902 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) whereby the several States as defined in the Act (29 U.S.C. 652(7)) may submit for approval, plans to assume responsibilities for the development and enforcement of occupational safety and health standards.

On November 28, 1972, the Virgin Islands submitted a comprehensive developmental occupational safety and health plan in accordance with these procedures and on March 5, 1973, the plan was formally submitted to the Assistant Secretary. On March 20, 1973, a notice was published in the FEDERAL REGISTER (38 FR 7369) concerning the submission of the plan and the fact that the question of its approval was in issue before the Assistant Secretary.

The plan involves the enactment and implementation of legislation in the Virgin Islands to effectuate a program in that territory which will in most respects be patterned after the one administered by the Occupational Safety and Health Administration of the United States Department of Labor in accordance with the above-mentioned Act. The new program will be administered by the Virgin Islands Department of Labor. The principal distinctions between the Federal and the proposed territorial program are that:

(1) Administrative review of proposed penalties in the Virgin Islands will not be by an independent commission. Rather, they will be reviewed by the agency with overall responsibility for the administration of the program. This method of enforcement has been approved in the past (see the New Jersey decision, January 26, 1973; 38 FR 2426);

(2) In addition to employers who are held responsible for safety and health violations under the Federal program, owners, lessors, agents and managers who control premises used as places of employment in the Virgin Islands will also be subject to the penalties provided under this program. The funding of this program component will, however, be subject to the limitations discussed in the New Jersey decision, supra. That is, it will be necessary to determine in considering any grant application under section 23(g) of the Federal Act what portion of this program component substantially relates to employees and their places of employment in issues covered by the Federal standards because the Federal share of the funding of the State program will have to be based on an amount not exceeding the cost of this base. In addition, other sources of financing would operate to reduce the Federal share; and

(3) The Virgin Islands program will not extend to certain issues of occupational health and environmental control (Subpart G of 29 CFR, Part 1910 and Subpart D of 29 CFR, Part 1926) and Safety and Health for Maritime Employment (29 CFR 1910.13–16 and 29 CFR, Parts 1915–1918). See 29 CFR 1902.2(c) which authorizes these limitations on the scope of the plan.

Interested persons were afforded thirty days by the notice published on March 20, 1973, to submit written comments concerning the plan. Further, interested persons were afforded an opportunity to request an informal hearing with respect to the plan or any part thereof, upon the basis of substantial objections to the contents of the plan. No submissions or requests were received in response to the notice.

Since the Virgin Islands Plan was submitted the following significant actions with respect thereto have occurred:

(1) The territorial legislature has enacted the organic law forming an appropriate basis for the implementation of the proposed program;

(2) An amendment to the law has been introduced to correct an oversight which established a maximum fine of $1,000 rather than $10,000 for willful violations;

(3) A revised updated time table for implementation of the plan has been submitted for inclusion in the plan; and

(4) Preparation of draft regulations has been commenced. These regulations will remedy a deficiency with respect to the extent to which advance notice of inspections may be authorized (see Page SP 12 of the plan) by limiting such notice to those instances authorized under the Federal law and regulations (29 CFR 1903.6) in accordance with 29 CFR 1902.3(f).

*Decision.*—The Virgin Islands plan is hereby approved after careful consideration under section 18 of the Act and 29 CFR, Part 1902.

This decision incorporates requirements of the Act and implementing regulations applicable to State plans generally. It also incorporates intentions as to continued Federal enforcement of Federal standards in areas covered by the Plan and the State's developmental schedule as set out in § 1952.253 below.

Pursuant to § 1902.20(b)(iii) of Title 29, Code of Federal Regulations, the present level of Federal enforcement in the Virgin Islands will not be diminished before the legislation beomes effective on October 1, 1973, and the Standards become effective on January 1, 1974. Among other things, the U.S. Department of Labor will continue to investigate catastrophes and fatalities, investigate valid complaints under section 8(f), continue its Target Industry and Target Health Hazard programs, and inspect a cross section of all industries on a random basis. An evaluation of the State plan, as implemented, will be made on a continuing basis to assess the appropriate level of Federal enforcement activity. Federal enforcement authority will continue to be exercised after the above dates to the degree necessary or appropriate to assure adequate occupational safety and health protection to employees in the Virigin Islands.

At no time will Federal responsibilities with respect to the issues excluded from the plan (see § 1952.250(a)) be affected as a result of this approval.

Rather, the Occupational Safety and Health Administration will continue to administer and enforce these issues as if there were no State program operating within the Virgin Islands.

Part 1952 is hereby amended by adding thereto a new Subpart S reading as follows:

**Subpart S—The Virgin Islands**


1952.250 Description of the Plan.
1952.251 Where the Plan may be inspected.
1952.252 Level of Federal enforcement.
1952.253 Developmental schedule.


AUTHORITY.—Sec. 18, Pub. L. 91-956, 84 Stat. (29 U.S.C. 667).

**Subpart S—The Virgin Islands**

**§ 1952.250 Description of the Plan.**

(a) The Virgin Islands Occupational Safety and Health program will be administered and enforced by the Virgin Islands Department of Labor (hereafter called the agency). It will cover all activities of employees and places of private and public employment except those subject to Subpart G of Part 1910 and Subpart D of Part 1926 of this chapter relating to occupational health and environmental control and §§ 1910.13–1910.16 and Parts 1915–1918 of this chapter relating to maritime employment.

(b)(1) The Plan requires employers of one of more employees to furnish them employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm, and to comply with all occupational safety and health standards promulgated or issued by the agency. The standards adopted by the United States Department of Labor covering issues within the scope of the plan will be adopted by the agency. The Plan also directs employees to comply with all occupational safety and health standards and regulations that are applicable to their own actions and conduct.

(2) The Plan also requires each owner, lessor, agent or manager of any premises used in whole or in part as a place of employment to comply with safety and health standards and regulations established under the program.

(c) The Plan includes procedures for providing prompt and effective standards for the protection of employees against new and unforeseen hazards and for furnishing information to employees on hazards, precautions, symptoms, and emergency treatment; and procedures for variances and the protection of employees from hazards. It provides employer and employee representatives an opportunity to accompany inspectors and call attention to possible violations, before, during, and after inspections, protection of employees against discharge or discrimination in terms and conditions of employment, notice to employees or their representatives when no compliance action is taken upon complaints, including informal review, notice to employees of their protections and obligations, adequate safeguards to protect trade secrets, prompt notice to employers and employees of alleged violations of standards and abatement requirements, effective remedies against employers and owners, and the right to review alleged violations, abatement periods, and proposed penalties with opportunity for employee participation in the review proceedings; procedures for prompt restraint or elimination of imminent danger conditions, and procedures for inspection in response to complaints.

(d)(1) The Plan includes a legal opinion that it will meet the requirements of the Occupational Safety and Health Act of 1970, and is consistent with the laws of the Virgin Islands.

(2) A merit system of personnel administration will be used.

(3) A program of education, training, and consultation for employers and employees will be developed.

(4) The Plan is supplemented by the inclusion of implementing legislation (Virgin Islands Act No. 3421) and bill number 6003 to correct section 14(e) thereof and a revised implementation time table.

**§ 1952.251 Where the Plan may be inspected.**

A copy of the plan may be inspected and copied during normal business hours at the following locations: United States Department of Labor, Office of Federal and State Operations, Occupational Safety and Health Administration, Room 305, 400 First Street NW., Washington, D.C. 20210; Regional Office, Occupational Safety and Health Administration, Room 3445, 1515 Broadway, New York, New York 10036; Department of Labor, Government of the Virgin Islands, Dronigan's Gade, Charlotte Amalie, St. Thomas, Virgin Islands 00801; and Department of Labor, Government of the Virgin Islands, Hospital Street, Christiansted, St. Croix, Virgin Islands 00820.

**§ 1952.252 Level of Federal enforcement.**

Pursuant to § 1902.20(b)(iii) of this chapter, the present level of Federal enforcement in the Virgin Islands will not be diminished until the standards take effect. Among other things, the U.S. Department of Labor will continue to investigate catastrophes and fatalities, investigate valid complaints under section 8(f) of the Occupational Safety and Health Act of 1970, continue its target industry and target health hazard programs, and inspect a cross-section of all industries on a random basis. Thereafter, Federal enforcement will be carried out to the degree necessary to assure adequate job safety and health protection.

**§ 1952.253 Developmental schedule.**

The following is a summary of the major developmental steps provided by the plan:

| | | |
|---|---|---|
| (a) | Commencement of recruitment and staff training | September 10, 1973. |
| (b) | Effective date of implementing legislation | October 1, 1973. |
| (c) | Procedural and interpretative, regulations and standards to become effective | January 1, 1974. |
| (d) | Enforcement program to be operational | January 1, 1974. |
| (e) | Public employee program to be operational | July 15, 1974. |
| (f) | Program to be fully implemented | July 1, 1975. |

Signed at Washington, D.C., this 31st day of August 1973.

JOHN STENDER,
*Assistant Secretary of Labor.*

[FR Doc.73-19281 Filed 9-10-73;8:45 am]

Title 31—Money and Finance: Treasury

CHAPTER I—MONETARY OFFICES, DEPARTMENT OF THE TREASURY

PART 91—REGULATIONS GOVERNING CONDUCT IN OR ON THE BUREAU OF THE MINT BUILDINGS AND GROUNDS

### Miscellaneous Amendments

The Bureau of the Mint has determined to amend its regulations governing conduct in or on Mint buildings and grounds to reflect the transfer of the Old U.S. Mint Building, 88 Fifth Street, San Francisco, California, to the Treasury Department from the General Services Administration on April 5, 1972; and the transfer of the United States Mint, 16th and Spring Garden Streets, Philadelphia, Pennsylvania, to the General Services Administration on November 2, 1970, as surplus property.

The Old San Francisco Mint was deactivated in 1937 and some of its operations moved to 155 Hermann Street in San Francisco. It has recently been restored as a national landmark building for further use by the Mint. The Mint's numismatic services and data processing have been transferred from the Mint annex building in San Francisco to the Old Mint Building and the Bureau of the Mint is developing an educational and historical museum open to the public. It is expected that official entertainment may take place in connection with museum activities, and since existing regulations prohibit the consumption of alcoholic beverages on Mint property, § 91.8 is being amended to permit the Director to grant a written permit for appropriate official occasions. This is consistent with the General Services Administration building regulations, 41 CFR 101–19–306, concerning buildings under the jurisdiction of that agency.

Accordingly, Part 91 is amended by deleting the citation of authority following the table of contents, since this merely summarizes material contained in § 91.1.

Part 91 is further amended by amending § 91.1 to read as follows:

**§ 91.1 Authority.**

The regulations in this part governing conduct in and on the Bureau of the Mint buildings and grounds located as follows: U.S. Mint, Colfax, and Delaware Streets, Denver, Colorado; U.S. Bullion Depository, Fort Knox, Kentucky; U.S. Assay Office, 32 Old Slip New York, New York; U.S. Mint, 5th and Arch Streets, Philadelphia, Pennsylvania; U.S. Assay Office, 155 Hermann Street, and the Old U.S. Mint Building, 88 Fifth Street, San Francisco, California; and U.S. Bullion Depository, West Point, New York; are promulgated pursuant to the authority vested in the Secretary of the Treasury, including 5 U.S.C. 301, and that vested in him by delegation from the Administrator of General Services, 38 FR 20650 (1973), and in accordance with the authority vested in the Director of the Mint by Treasury Department Order No. 177–25 Revision 2), dated August 8, 1973, 38 FR 21947 (1973).

Part 91 is further amended by amending § 91.2 to read as follows:

**§ 91.2 Applicability.**

The regulations in this part apply to the buildings and grounds of the Bureau of the Mint located as follows: U.S. Mint, Colfax and Delaware Streets, Denver, Colorado; U.S. Bullion Depository, Fort Knox, Kentucky; U.S. Assay Office, 32 Old Slip, New York, New York; U.S.







V 38-175 SEP 11 73 XUM

Mint, Fifth and Arch Streets, Philadelphia, Pennsylvania; U.S. Assay Office, 155 Hermann Street, and the Old U.S. Mint Building, 88 Fifth Street, San Francisco, California; and U.S. Bullion Depository, West Point, New York; and to all persons entering in or on such property. Unless otherwise stated herein, the Bureau of the Mint buildings and grounds shall be referred to in these regulations as the "property".

Part 91 is further amended by amending § 91.8 to read as follows:

**§ 91.8 Alcoholic beverages, narcotics, hallucinogenic and dangerous drugs.**

Entering or being on the property, or operating a motor vehicle thereon by a person under the influence of alcoholic beverages, narcotics, hallucinogenic or dangerous drugs is prohibited. The use of any narcotic, hallucinogenic or dangerous drug in or on the property is prohibited. The use of alcoholic beverages in or on the property is prohibited except on occasions and on property upon which the Director of the Mint has for appropriate official uses granted and exemption permit in writing.

The Mint finds that notice and public procedure are not necessary under 5 U.S.C. 553(a), since the regulations pertian to the management of public property.

*Effective date.*—These amendments shall become effective on September 11, 1973.

Dated September 6, 1973.

[SEAL] MARY BROOKS,
*Director of the Mint.*

[FR Doc.73-19272 Filed 9-10-73;8:45 am]

## CHAPTER VI—BUREAU OF ENGRAVING AND PRINTING, DEPARTMENT OF THE TREASURY

## PART 605—REGULATIONS GOVERNING CONDUCT ON BUREAU OF ENGRAVING AND PRINTING BUILDING AND GROUNDS AND BUREAU OF ENGRAVING AND PRINTING ANNEX BUILDING AND GROUNDS

### Miscellaneous Amendments

These amendments delete from Part 605 the reference to obsolete delegation orders of the Administrator of General Services and the Secretary of the Treasury and insert in lieu thereof references to recently revised delegation orders. In accordance with 5 U.S.C. 553(a), notice and public procedure thereon are found to be impractical, unnecessary and not required since the amendments pertain to the management of public property.

1. The authority paragraph following the table of contents is amended by deleting "35 FR 14426" and inserting in lieu thereof "38 FR 20650"; and by deleting "(Revision 1) 35 FR 15312" and inserting in lieu thereof "(Revision 2) 38 FR 21947". As amended, the paragraph reads as follows:

AUTHORITY.—The provisions of this Part 605 issued under 5 U.S.C. 301; Delegation, Administrator, General Services, 38 FR 20650, Treasury Department Order 177-25 (Revision 2), 38 FR 21947.

2. Section 605.1 is amended by deleting "35 FR 14426 (1970)" and inserting in lieu thereof "38 FR 20605 (1973)" and by deleting "(Revision 1) 35 FR 15312 (1970)" and inserting in lieu thereof "(Revision 2) 38 FR 21947 (1973)". As amended, § 605.1 reads as follows:

**§ 605.1 Authority.**

The regulations in this part governing conduct in and on the Bureau of Engraving and Printing Building and grounds and the Bureau of Engraving and Printing Annex Building and grounds located in Washington, D.C. at 14th and C Streets SW., are promulgated pursuant to the authority vested in the Secretary of the Treasury, including 5 U.S.C. 301 and that vested in him by delegation from the Administrator of General Services, 38 FR 20650 (1973), and in accordance with the authority vested in the Director of the Bureau of Engraving and Printing by Treasury Department Order No. 177-25 (Revision 2), dated August 8, 1973, 38 FR 21947 (1973).

*Effective date.*—This amendment shall become effective on September 11, 1973.

Dated September 6, 1973.

[SEAL] JAMES A. CONLON,
*Director, Bureau of Engraving and Printing.*

[FR Doc.73-19273 Filed 9-10-73;8:45 am]

## Title 33—Navigation and Navigable Waters

## CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CCGD3-1-R2]

## PART 127—SECURITY ZONES

### Gravesend Bay, New York; Termination

This amendment terminates the security zones in the waters of Gravesend Bay, New York, surrounding the wrecked vessels Exxon Brussels and Sea Witch. The security zones are no longer needed because the vessels have been removed to a shipyard and no longer pose a navigational hazard to other vessels. Prior notice of the establishment of the security zones was given in the FEDERAL REGISTER of June 8, 1973, on page 15049.

Accordingly, Part 127 of Chapter I of Title 33 of the Code of Federal Regulations is amended by revoking § 127.302.

(46 Stat. 220, as amended, (1, 63 Stat. 503), 6(b), 80 Stat. 937; (50 U.S.C. 191, 49 U.S.C. 1655(b)); E.O. 10173, E.O. 10277, E.O. 10352, E.O. 11249, 3 CFR, 1949-1953 Comp. 358, 778, 873, 3 CFR, 1964-1965 Comp. 349, 33 CFR Part 6, 49 CFR 1.46(b).)

*Effective date.*—This amendment is effective on July 11, 1973.

Dated July 11, 1973.

FRANK OLIVER,
*Captain, U.S. Coast Guard,*
*Captain of the Port of New York.*

[FR Doc.73-19228 Filed 9-10-73;8:45 am]

## Title 39—Postal Service

## CHAPTER III—POSTAL RATE COMMISSION

[Docket No. RM74-1; Order 37]

## PART 3000—STANDARDS OF CONDUCT

## PART 3001—RULES OF PRACTICE AND PROCEDURE

### Ex Parte Communications

The Postal Rate Commission has decided to amend its rules governing ex parte communications,[1] so as to authorize certain communications in hearings held under the Postal Reorganization Act, 39 U.S.C. 3624 and 3661(c), specifically communications on procedural matters between the Officer of the Commission (or his staff) who has been designated to represent the interests of the general public on the one hand, and other participants in a proceeding, on the other hand.

The Commission's rules now contain two sections governing ex parte communications. Both sections prohibit communications to all Commission employees, including the Officer who has been designated, pursuant to the Postal Reorganization Act, 39 U.S.C. 3624(a) to represent the interests of the general public in certain proceedings before the Commission. The Assistant General Counsel, Litigation (AGCL), is the staff member so designated in all cases to date.

Commission experience has demonstrated that in certain hearing situations a prohibition against communications concerning purely procedural matters with the AGCL serves no useful purpose and results in undue complications and needless delay in the Commission's formal hearing processes.

Under the hearing procedures followed by the Commission, the parties to a proceeding are encouraged to engage in extensive pretrial development of the evidence by active utilization of available discovery processes, requests for interrogatories, and informal requests for clarification of exhibit material. The utilization of these procedures is essential to expedite the hearing process by avoiding the extensive cross-examination and delay which would result if clarification of exhibits was accomplished through formal hearing procedures.

Our experience establishes that full utilization of our pretrial procedures can best be accomplished if there is substantial informal contact between the parties; such contacts are needed for discussion of the mechanics of pretrial procedures (e.g., how much time is required to respond to a discovery request) and for the implementation of these procedures (e.g., to discuss the nature of available information, or to seek clarification of exhibits). These informal contacts frequently involve only two parties.

The AGCL is an indispensable participant during the pretrial stage. The present ex parte rules, however, hamper his effective participation by prohibiting any

[1] 39 CFR 3000.735-501 and 3001.7.





discussions between the AGCL and another participant, unless all other participants have been given actual notice and an opportunity to attend the discussions. These requirements have been cumbersome, have led to delay, and in some situations, have operated to deter the holding of otherwise desirable informal exchanges between counsel on matters of procedure.

Given these circumstances, we have concluded that when procedural matters are involved, the ex parte prohibition on AGCL does not serve a useful purpose. By their nature, procedural matters are preliminary and any decisions reached by counsel concerning them will be reflected only in the mechanical presentation of evidence for the record, but not in the evidence itself. And, it is the evidence of record, publicly available to all parties, which forms the basis for AGCL and other participants to take positions on the substantive issues of the proceeding.[2]

Moreover, so far as we are aware only one other regulatory agency, the Federal Power Commission, imposes a prohibition on ex parte communications to a staff counsel who is participating in hearing procedures. The Federal Power Commission's prohibition, however, does not extend to communications to a staff counsel relating to matters of procedure only.[3]

The Commission's ex parte rules (§ 3000.735-501) were promulgated for the Commission by the Civil Service Commission, pursuant to Executive Order 11570. We have concluded, for the reasons expressed above, that the limited amendment here proposed is consistent with that Order, including the Order's requirement that the regulations provide for "strict control" of ex parte contacts with the Commission and its employees.[4]

[2] Procedural matters of the type discussed in the text, constitute the main procedural matters on which ex parte meetings are likely to be held. However, our proposed rule is intended to apply to other procedural matters as well. By definition, procedural matters do not extend to the ultimate substantive issues in a case, and we see no basis for concluding that ex parte discussions on these matters would prejudice the public interest or the interest of other participants.

[3] See Order No. 479, —— FPC ——, issued April 6, 1973. The prohibition imposed by other agencies are generally limited to communications to employees involved in the decisional process of the agency. *See*, e.g., 47 CFR 1.1201 et seq. (FCC); 17 CFR 200.110 et seq. (SEC); 46 CFR 502.170 (FMC).

[4] In our Decision in Docket RM73-2, 38 FR 4324, issued February 13, 1973, we concluded that a proposed amendment of the Standards of Conduct to exempt the Litigation Division would be inconsistent with Executive Order No. 11570. Our Decision in that proceeding was directed to a much broader proposal than the amendment adopted herein which, in our judgment, is entirely consistent with our prior Decision. To the extent the views expressed herein go beyond those expressed in Commission testimony before the Subcommittee on Postal Service of the House Committee on Post Office and Civil Service (Hearings on Status and Performance of the United States Postal Service, June 28, 1972), our present views are based on additional study of the problem, and on our experience in the current mail classification case, Docket MC73-1.

As a precautionary measure we will require the AGCL to maintain records of any meetings held under the exemption proposed herein. This requirement is consistent with Executive Order 11570 which indicates that the control of ex parte contacts "shall include but not be limited to the maintenance of public records of such contacts which fully identify the individual involved and the nature of the public matter discussed."

Finally, the Commission finds that the amendment herein ordered involves matters of agency organization, procedure and practice, and that, accordingly, the notice requirements of the Administrative Procedure Act, 5 U.S.C. 553, do not apply. We further find that good cause exists for making these amendments effective immediately.

Accordingly, pursuant to section 3603 of the Postal Reorganization Act, 39 U.S.C. 3603, it is ordered that Parts 3000 and 3001 of the Commission's Regulations (39 CFR Parts 3000, 3001) are hereby amended, as follows, said amendment to become effective on September 11, 1973.

1. Section 3000.75 is amended to read as follows:

**§ 3000.735-501 Ex parte communications prohibited.**

(a) An employee shall not, either in an official or unofficial capacity, participate in any ex parte communication—either oral or written—with any person regarding (1) a particular matter (substantive or procedural) at issue in contested proceedings before the Commission or (2) the substantive merits of a matter that is likely to become a particular matter at issue in contested proceedings before the Commission. A particular matter is at issue in contested proceedings before the Commission when it is a subject of controversy in a hearing held under 39 U.S.C. 3624 or 3661(c). However, this section does not prohibit participation in off-the-record proceedings conducted under regulations adopted by the Commission for hearings held under 39 U.S.C. 3624 or 3661(c).

(b) The prohibitions of this section do not apply to a communication between a participant or a limited participator and the Officer of the Commission designated to represent the interest of the general public (or his staff, or the technical staff designated to supported him), if such communication relates to matters of procedure only, including matters arising in the course of requests for interrogatories or discovery and informal requests for clarification of evidentiary material. Said Officer shall file with the Commission a monthly report briefly describing any ex parte communication received pursuant to this exception, and this report, which shall be a public record of the Commission, shall identify the individuals involved and the nature of the subject matter discussed.

2. Section 3000.735-502 is amended to add the following new sentence at the end of the section:

**§ 3000.735-502 Public record of ex parte communications.**

• • • This section does not apply to ex parte communications under paragraph 3000.735-501(b).

• • • • •

3. Section 3001.7(a) of the Commission regulations is amended to read as follows:

**§ 3001.7 Ex parte communications.**

(a) *Prohibition.*—To avoid the possibility or appearance of impropriety or of prejudice to the public interest and persons involved in proceedings pending before the Commission, no person who is a party to any on-the-record proceeding or who is granted limited participation in accordance with § 3001.19(a) or his counsel, agent, or other person acting on his behalf, nor any interceder, shall volunteer or submit to any member of the Commission or member of his personal staff, to the presiding officer, or to any employee of the Commission, any ex parte off-the-record communication regarding any matter, either substantive or procedural, which is at issue, or any substantive matter which is likely to be at issue in the on-the-record proceeding, except as authorized by law; and no Commissioner, member of his personal staff, presiding officer, or employee of the Commission, shall request or entertain any such communication. For the purposes of this section, the term "on-the-record proceeding" means a proceeding noticed pursuant to § 3001.17. The prohibitions of this paragraph shall apply from the date of issuance of such notice. The prohibitions of this section do not apply to a communication between a participant or a limited participator and the Officer of the Commission designated to represent the interest of the general public (or his staff or the technical staff designated to support him), if such communication relates to matters of procedure only, including matters arising in the course of requests for interrogatories or discovery and informal requests for clarification of evidentiary material. Said Officer shall file with the Commission a monthly report briefly describing any ex parte communication received pursuant to this exception, and this report, which shal lbe a public record of the Commission, shall identify the individuals involved and the nature of the subject matter discussed.

• • • • •

These regulations were approved by the United States Civil Service Commission August 23, 1973, and are effective on September 11, 1973.

(Sec. 3603 Postal Reorganization Act, 84 Stat 759 (39 U.S.C. 3603; 5 U.S.C. 552, 553), 80 Stat. 383, 384; Executive Order 11570, 35 FR 18183.)

By the Commission.

JOSEPH A. FISHER,
*Secretary.*

[FR Doc.73-19214 Filed 9-10-73;8:45 am]



V 38 175 SEP 11 73 XUM

Title 45—Public Welfare

CHAPTER IX—ADMINISTRATION ON AGING, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 909—NUTRITION PROGRAM FOR THE ELDERLY

**Postponement of Application of Certain Standards and Organization Changes**

These amendments to the regulation for the Nutrition Program for the Elderly allow postponement of the application of certain standards for nutrition projects, and make organizational changes to reflect statutory changes and reorganization within the Department of Health, Education, and Welfare.

The first amendment set out below permits States, under certain conditions, to fund nutrition projects for the elderly, for periods of up to 90 days, even though the projects do not comply fully with certain requirements previously prescribed in regulations for such projects.

The amendment is designed to encourage the prompt initiation of nutrition projects and the start of their essential work of serving nutritious meals to the elderly. The requirements that may be postponed deal with staffing of the projects, and supporting social services. These requirements were prescribed by the Commissioner to make nutrition projects as comprehensive as possible, in order to meet a range of pressing needs of the elderly. They are still considered important to an effective nutrition program.

However, the central purpose of the program is the prevision of meals that meet ⅓ of the current Recommended Dietary Allowances, in congregate settings that reduce social isolation, and in view of the current pressing needs of some of the elderly for nutritional services, it seems appropriate to provide meals at once, even if all related social services are not fully available. On this basis the amendment provides a phase-in period, on a project-by-project basis, at the option of the State agency, for completing staffing, and provision of the full range of nutrition-related supporting social services. States are expected to take steps to assure that any project which is granted a postponement for staffing requirements is conducting an affirmative recruiting program which will insure having an adequate number of persons on its staff in the shortest possible period of time.

The additional amendments reflect the transfer of the Administration on Aging from the Social and Rehabilitation Service to the Office of Human Development within the Office of the Secretary, and the transfer by the Older Americans Comprehensive Services Amendments of 1973 (Pub. L. 93-29, Sec. 704(c)), of authority to operate this program from the Secretary to the Commissioner on Aging. These amendments to the regulation make no substantive change in the program.

It is the policy of the Department that notice of proposed rulemaking procedures be observed in the promulgation of rules and regulations governing grant programs. Compliance with these procedures is inappropriate in the present instance. Delay in availability of postponement authority would delay the prompt delivery of meals to the elderly, and would thus thwart the principal aim of the amendment. The amendment provides for optional relaxation of a requirement, and so imposes no new rule to which State or local agencies would wish to object. Since the relaxation of the rule is permitted only temporarily, the amendment does not represent a serious weakening of the requirements originally published. The amendments dealing with organization simply conform the locus of authority for the program to the existing organization of the Department and the requirements of law. Accordingly, the amendments shall become effective at once.

Part 909 of Chapter IX of Title 45 is amended as follows:

1. A new § 909.34a, is added immediately after § 909.34, as follows:

**§ 909.34a Temporary postponement of certain requirements.**

(a) If the State agency determines that a project would be prevented from beginning the prompt service of meals to elderly persons by having to comply immediately with requirements under the State plan under §§ 909.35(a) and 909.42 (a), the State agency, in making a grant or contract under this part, may postpone temporarily compliance with any or all of those requirements. However, it may not postpone requirements under portions of § 909.35(a) dealing with employment of persons aged 60 or over and members of minority groups.

(b) Such a postponement may be granted by the State agency for an initial period not to exceed ninety days from the beginning date of the project, and, with the approval of the Commissioner, for one additional period not to exceed ninety days.

(c) Such a postponement may be granted only if a State agency makes a determination that the recipient of the grant or contract is taking positive steps to comply with the requirements, and that compliance within the postponement period is feasible.

(d) The Commissioner may approve a continuation of the initial postponement if the State agency shows that the recipient of the grant or contract is taking positive steps to comply with the requirements, and that compliance within the postponement period is feasible, and that the State agency will accept review and technical assistance as deemed appropriate by the Commissioner. At the end of the second 90-day postponement period, no further postponement shall be granted.

(e) The State agency shall report in writing any initial postponement for ninety days or less to the Commissioner within five days.

2. Wherever the term "of the Social and Rehabilitation Service" appears, it is revised to read "in the Office of Human Development." Wherever the term "Secretary" appears, it is revised to read "Commissioner."

3. Section 909.6 is revised to read as follows:

**§ 909.6 Plan submission and approval.**

The State plan and all amendments thereto shall be submitted by a duly authorized officer of the State agency to the Commissioner each fiscal year in accordance with such procedures as he may prescribe. Any State plan or amendments meeting the requirements of Title VII of the Act and of this part shall be approved.

(Sec. 2, Pub. L. 92-258, 86 Stat. 88-95; Sec. 704(c), Pub. L. 93-29, 87 Stat. 57 (42 U.S.C. 3045-3045l.)

*Effective date.*—These regulations shall be effective on September 11, 1973.

Dated August 28, 1973.

ARTHUR S. FLEMMING,
*Commissioner on Aging.*

Approved August 28, 1973.

STANLEY B. THOMAS, JR.,
*Assistant Secretary for Human Development.*

Approved September 5, 1973.

FRANK CARLUCCI,
*Acting Secretary.*

[FR Doc.73-19235 Filed 9-10-73;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 0—COMMISSION ORGANIZATION

**Order Regarding Office of Executive Director**

In the matter of editorial amendment of Part 0 of the Commission's Statement of Organization with respect to the Office of the Executive Director.

This Order is being issued to reflect organization changes in the Office of the Executive Director adopted in previous action by the Commission.

This amendment relates to internal Commission organization, and hence, the prior notice, procedure, and effective date provisions of the Administrative Procedure Act are not applicable. Authority for the promulgation of this amendment is contained in section 4(i) and 5 (b) and (d) of the Communications Act of 1934, as amended, and in § 0.231(d) of the Commission's rules.

*Accordingly, it is ordered,* Effective September 17, 1973, that in Part 0 of Chapter I of Title 47 of the Code of Federal Regulations, Section 0.12 is amended as follows:

**§ 0.12 Units in the Office.**

* * * * *

(k) Procurement Division.

Adopted September 4, 1973.

Released September 5, 1973.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] JOHN M. TORBET,
*Executive Director.*

[FR Doc.73-19247 Filed 9-10-73;8:45 am]





PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS: GENERAL RULES AND REGULATIONS

**Order Regarding Applications for Radio Stations**

In the matter of amendment of Footnote US117 in Part 2 of the Commission's Rules to Require the Prior Coordination of Applications for Radio Stations in the 407-409 MHz Band in the Vicinity of the Boulder, Colorado, Solar Observatory.

1. Footnote US117 to the Table of Frequency Allocations, § 2.106 of the rules, sets forth special coordination requirements for proposed radio facilities in the 406-410 MHz band to be operated in the vicinity of radio astronomy observatories listed in the footnote. The Interdepartment Radio Advisory Committee (IRAC), acting on a request of the U.S. Department of Commerce, has recommended that footnote US117 be amended in the Commission's rules to add the Boulder, Colorado, Solar Observatory to the list of observatories contained in the note.

2. The Boulder observatory is owned and operated by the Department of Commerce for the purpose of obtaining solar data of importance to Government and the scientific community. Measurements involve the use of sensitive radio receiving equipment tuned to operate in the 406-410 MHz range. The special coordination procedure contained in US117 would minimize the chance of harmful interference being caused to the observatory by certain transmitting stations which are also authorized to operate in this band.

3. The 406-410 MHz band is allocated nationally for both Government and non-Government use. However, non-Government use of the band is limited to the radio astronomy service and to the transmission of hydrological and meteorological data in cooperation with Federal agencies on certain frequencies listed in footnote US13.

4. To extend the coordination procedure to the Boulder observatory without unduly restricting Government radio operations in the area, the IRAC concluded that the provisions of US117 should apply in this particular case to the smaller band segment 407-409 MHz. The only non-Government operation permitted within this narrower band is radio astronomy, to which the procedures of US117 do not apply. Therefore, as non-Government interests are not affected, the proposed amendment is being adopted herein without prior public notice.

5. Accordingly, pursuant to authority contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended, *It is ordered,* That effective October 12, 1973, footnote US117 to the Table of Frequency Allocations, § 2.106 of the Commission's rules, is amended as set forth in the Appendix.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082, (47 U.S.C. 154, 303).)

Adopted August 29, 1973.

Released August 31, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

Part 2 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

In § 2.106, footnote US117 is amended to read as follows:

**§ 2.106 Table of frequency allocations.**

* * * * *

US1117 In the Band 406-410 MHz, all new authorizations will be limited to a maximum of 7 watts per kHz of necessary bandwidth; existing authorizations as of November 30, 1970, exceeding this power are permitted to continue in use.

New authorizations in this band for stations, other than mobile stations, within the following areas are subject to prior coordination by the applicant with the Secretary of the Committee on Radio Frequencies of the National Academy of Science:

Arecibo Observatory: Rectangle between latitudes 17°30′ N. and 19°00′ N. and between longitudes 65°10′ W. and 68°00′ W.

Boulder, Colorado Solar Observatory (407-409 MHz only): Rectangle between latitudes 39°30′ N. and 40°30′ N. and longitudes 104° 30′ and 106°00′ W. or the Continental Divide whichever is further east.

Five College Radio Astronomy Observatory: Rectangle between latitudes 41°40′ N. and 42°50′ N. and between longitudes 71°20′ W. and 73°20′ W.

Owens Vally Radio Observatory: Two contiguous rectangles one between latitudes 36° N. and 37° N. and longitudes 117°40′ W. and 118°30′ W., and the second between latitudes 37° N. and 38° N. and longitudes 118° W. and 118°50′ W.

Pennsylvania State University Radio Astronomy Observatory: Rectangle between latitudes 40°00′ N. and 41°40″ N. and longitudes 77°15′ W. and 78°40′ W.

Sagamore Hill Radio Observatory: Rectangle between latitudes 42°10′ N. and 43°00′ N. and longitudes 70°31′ W. and 71°31′ W.

Bermillion River Observatory: Rectangle between latitudes 38°35′ N. and 41°31′ N. and longitudes 86°15′ W. and 89°30′ W. The non-Government use of this band is limited to the radio astronomy service and as provided by footnote US13.

[FR Doc. 73-19243 Filed 9-10-73;8:45 am]

PART 89—PUBLIC SAFETY RADIO SERVICES

PART 93—LAND TRANSPORTATION RADIO SERVICES

**Type Acceptance of Radiolocation Equipment; Order Extending Time**

In the matter of rules requirement in Parts 89 and 93 for type acceptance of radiolocation equipment authorized after January 1, 1973.

1. Sections 89.117(b) and 93.109(b) of the Public Safety and Land Transportation Radio Services, respectively, require that all new equipment authorized in radiolocation systems after December 31, 1972, be of a type that is listed in the Commission's Radio Equipment List and approved for licensing in the Part that governs the service in which the equipment is to be operated.

2. It appears that some difficulties may have been experienced in obtaining timely type-acceptance. In order to provide additional time to obtain type-acceptance for radiolocation equipment, the date by which this type-acceptance is required is extended to January 1, 1974. All applications received prior to that date will be granted. All applications received after that date will be returned to the respective applicants informing them that non-type accepted equipment may not be authorized.

3. Accordingly, pursuant to the authority delegated in Section 0.331(b)(1) of the Commission's Rules, *It Is Ordered,* That the date for which type-acceptance of radiolocation equipment is required is extended until January 1, 1974.

Adopted August 31, 1973.

Released September 4, 1973.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] CHARLES A. HIGGINBOTHAM,
*Acting Chief, Safety and Special Radio Services Bureau.*

[FR Doc.73-19248 Filed 9-10-73;8:45 am]

[Docket No. 19073; FCC 73-859]

PART 23—INTERNATIONAL FIXED PUBLIC RADIOCOMMUNICATION SERVICES

**Report and Order**

*Correction*

In FR Doc. 73-17286 appearing at page 22477 in the issue of Tuesday, August 21, 1973, make the following change: In the fourth line of § 23.15(b)(3), "40 plus 10 log" should read "43 plus 10 log."

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket No. 1; Amdt. 1-77]

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

**Delegation of Functions With Respect to Marine Protection, Research, and Sanctuaries Act of 1972; Correction**

In the FEDERAL REGISTER of August 1, 1973 (38 FR 20449), the Department of Transportation published a delegation to the Commandant of the Coast Guard of functions vested in the Secretary of Transportation by certain sections of the Marine Protection, Research, and Sanctuaries Act of 1972 (Pub. L. 92-532). In-

[1] Commissioners Johnson and Reid absent.



V 38 N 175 SEP 11 73 XUM

advertently, the delegation was included as a new subparagraph (4) of paragraph (o) of § 1.46 of Part 1 of Title 49 of the Code of Federal Regulations; it should have been included as a new subparagraph (5), since there was already a subparagraph (4).

In consideration of the foregoing, a new subparagraph (5) is designated, to read as follows:

**§ 1.46 Delegations to Commandant of the Coast Guard.**

• • • • •

(o) Carry out the functions vested in the Secretary by the following statutes:

• • • • •

(5) Sections 104 (a) and (g), 107(c), 108, 201, and 302(a) of the Marine Protection, Research, and Sanctuaries Act of 1972 (Public Law 92-532) relating to ocean dumping."

(Sec. 9(e), Department of Transportation Act (49 U.S.C. 1657(e)); § 1.59(m), Regulations of the Office of the Secretary of Transportation, 49 CFR 1.59(m))

*Effective date.*—The effective date of this amendment is September 11, 1973.

Issued in Washington, D.C., on August 20, 1973.

J. THOMAS TIDD,
*Acting General Counsel.*

[FR Doc.73-19238 Filed 9-10-73;8:45 am]

## PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

### Delegation of Functions Relating to Retired Serviceman's Survivor Benefit Plan; Correction

In the FEDERAL REGISTER of August 22, 1972 (37 FR 16874), the Department of Transportation published a delegation to the Commandant of the Coast Guard of authority to prescribe regulations relating to the designation and leasing of rental housing pursuant to 14 U.S.C. 475(c) and Executive Order 11645. The delegation was included as a new paragraph (p) in 49 CFR 1.46. In the FEDERAL REGISTER of October 19, 1972 (37 FR 22377), the Department published a delegation to the Commandant to carry out the functions vested in the Secretary of Transportation by Pub. L. 92-425 and Executive Order 11687, relating to the Retired Serviceman's Survivor Benefit Plan. Unmindful of its (p)'s and (q)'s, the Department likewise included this delegation as paragraph (p) in 49 CFR 1.46; it should have been included as a new paragraph (q).

In consideration of the foregoing, paragraphs (p) and (q) of § 1.46 of Part 1 of Title 49 of the Code of Federal Regulations are revised to read as follows:

**§ 1.46 Delegations to Commandant of the Coast Guard.**

• • • • •

(p) Prescribe regulations relating to the designation and leasing of rental housing pursuant to 14 U.S.C. 475(c) and Executive Order 11645 (37 FR 2923), without approval by the President or the Secretary.

(q) Carry out the functions vested in the Secretary by Pub. L. 92-425 and Executive Order 11687 (37 FR 21479), relating to the Retired Serviceman's Survivor Benefit Plan.

(Sec. 9(e), Department of Transportation Act, (49 U.S.C. 1657(e)); § 1.59(m), Regulations of the Office of the Secretary of Transportation, (49 CFR 1.59(m)).)

*Effective date.*—The effective date of this amendment is September 11, 1973.

Issued in Washington, D.C., on August 23, 1973.

J. THOMAS TIDD,
*Acting General Counsel.*

[FR Doc.73-19239 Filed 9-10-73;8:45 am]

## CHAPTER X—INTERSTATE COMMERCE COMMISSION

### SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1123, Amdt. 1]

### PART 1033—CAR SERVICE

### Northwestern Oklahoma Railroad Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 31st day of August 1973.

Upon further consideration of Service Order No. 1123 (38 FR 5174), and good cause appearing therefor:

*It is ordered,* That § 1033.1123 *Service Order No. 1123* (Frank W. Pollock, Jr., d/b/a Northwestern Oklahoma Railroad Co., authorized to operate over certain trackage abandoned by Missouri-Kansas-Texas Railroad Company) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.*—The provisions of this order shall expire at 11:59 p.m., February 28, 1974, unless otherwise modified, changed, or suspended by order of this Commission.

*Effective date.*—This amendment shall become effective at 11:59 p.m., August 31, 1973.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended (49 U.S.C. 1, 12, 15, and 17(2)), interprets or applies secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911 (49 U.S.C. 1(10-17), 15(4), and 17(2).)

*It is further ordered,* That a copy of this amendment shall be served upon the Association of American Railroads Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-19271 Filed 9-10-73;8:45 am]

### SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. 274 (Sub-No. 1)]

### PART 1121—ABANDONMENT OF RAILROAD LINES

### Special Procedures; Correction

AUGUST 30, 1973.

The purpose of this corrected order is not only to add but also to correct certain paragraphs of the publication of the FEDERAL REGISTER, Volume 37, No. 15, Saturday, January 22, 1972, at page 1046. The additions will also reflect the changes set forth in the corrected order issued by the Commission August 22, 1972, and republished in the FEDERAL REGISTER September 16, 1972, Volume 37, No. 181, Saturday, at page 18918. The additions and corrections for the January 22, 1972 issue are as follows:

1. Page 1046, delete last paragraph, and insert the following:

*It is ordered,* That Part 1121 of Title 49 of the Code of Federal Regulations be, and it is hereby amended by designating §§ 1121.1 through 1121.5 (the only regulations in this part) issued on March 31, 1971 (36 FR 7741), as Subpart A, and which has been modified in § 1121.1 Notice with the addition of an environmental statement immediately prior to the last complete sentence beginning with the words "Any protests":

In accordance with the Commission's regulations (49 CFR 1100.250) in Ex Parte No. 55 (Sub-No. 4), "Implementation Nat'l Environmental Policy Act, 1969," 340 I.C.C. 431 (1972), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall include information relating to the relevant factors set forth in Ex Parte No. 55 (Sub-No. 4), supra, Part (B)(1)-(5), 340 I.C.C. 431, 461.

**§ 1121.1 [Amended]**

Immediately following the Notice in § 1121.1(s)(3), add a new item "(4)":

• • • • •

(4) Will granting the authority sought in this application constitute a major Federal action having a significant effect upon the quality of the human environment? [Yes] [No] If yes, a statement complying with the requirements of 49 CFR 1100.250 as promulgated in *Implementation Nat'l Environmental Policy Act, 1969,* 340 I.C.C. 431, must be attached to this application.

and by adding Subpart B and Subpart C as follows:

**§ 1121.21 [Amended]**

2. Page 1047, § 1121.21(c) add the following two sentences at the end of the 4th paragraph ending with "for such hearings":

In accordance with the Commission's regulations (49 CFR 1100.250) in Ex Parte No. 55 (Sub-No. 4), Implementation Nat'l Environmental Policy Act, 1969, 340 I.C.C. 431 (1972), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall include information relating to the relevant factors set forth in Ex Parte No. 55 (Sub-No. 4), supra, Part (B)(1)-(5), 340 I.C.C. 431, 461.

3. Page 1047, § 1121.21(c) add the following paragraph (i) after paragraph (h):

(i) *Environmental Statement.*—Will granting the authority sought in this application constitute a major Federal action having a significant effect upon the quality of the human environment? [Yes] [No] If yes, a statement complying with the requirements of 49 CFR 1100.250 as promulgated in *Implementation Nat'l Environmental Policy Act, 1969,* 340 I.C.C. 431, must be attached to this application.

4. Page 1047, Subpart C, correct title to read as follows:

**Subpart C—Special Relief for Railroads Proposing Abandonments Where There Is No Significant and Material Public Objection**

5. Page 1047, § 1121.30, *Scope of special rules.* Change last 3 lines at end of paragraph after word "where" to read:

**§ 1121.30 Scope of special rules.**

• • • there is no significant and material public objection; and certain other procedural matters with respect thereto.

**§ 1121.31 [Amended]**

6. Page 1048, § 1121.31(c) at end of 5th paragraph ending with "for such hearings" add the following two sentences:

In accordance with the Commission's regulations (49 CFR 1100.250) in Ex Parte No. 55 (Sub-No. 4), *Implementation Nat'l Environmental Policy Act, 1969,* 340 I.C.C. 431 (1972), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall include information relating to the relevant factors set forth in Ex Parte No. 55 (Sub-No. 4), supra, Part (B)(1)-(5), 340 I.C.C. 431, 461.

7. Page 1048, § 1121.31, add paragraph (h) at the end of paragraph (g) as follows:

(h) *Environmental Statement.*—Will granting the authority sought in this application constitute a major Federal action having a significant effect upon the quality of the human environment? [Yes] [No] If yes, a statement complying with the requirements of 49 CFR 1100.250 as promulgated in *Implementation Nat'l Environmental Policy Act, 1969,* 340 I.C.C. 431, must be attached to this application.

8. Page 1048, § 1121.33, delete last sentence, and insert the following sentence:

**§ 1121.33 Defective or inadequate notice.**

• • • The applicant may publish, post, and serve a notice with appropriate modification unless the Commission has already determined that significant and material public objection has been registered against the proposed abandonment, in which event the Commission will so notify the applicant, thereby precluding further use of this Subpart C for the application.

9. Page 1048, § 1121.34(b), delete entire paragraph and insert the following:

**§ 1121.34 No public objection, waivers, certification.**

• • • • •

(b) *Waiver of additional fee.*—Where there is no significant and material public objection, the balance of the filing fee for an application (long form) under subpart A of this part shall be waived.

• • • • •

10. Page 1048, in § 1121.35, delete paragraphs (a), (b), (c), and (d) and insert the following:

**§ 1021.35 Public objection, withdrawal, refiling.**

(a) *Partial withdrawal.*—Where there is significant and material public objection as to only a part of the line being proposed for abandonment, the applicant, with the consent of the protestants, may rerequest that, that part of the application be withdrawn, and that a certificate be issued permitting abandonment of the remainder of the line sought to be abandoned.

(b) A notice upon which there is significant and material public objection, in whole or in part, is without prejudice to applicant's right to file and prosecute an application for the same authority, or any portion thereof, pursuant to the provisions of subparts A or B of this part.

(c) *Application may be dismissed.*—Where public objection has been found significant and material, and no application under subparts A or B is filed, the application under these rules will be deemed to have been withdrawn and will be dismissed.

(d) *No refiling within one year.*—A notice to which public objection has been found significant and material, may not be refiled under this subpart C sooner than one year from the last publication date as provided in § 1121.32(a).

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-19270 Filed 9-10-73;8:45 am]

### SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte 275]

### PART 1115—ISSUANCE OF SECURITIES, ASSUMPTION OF OBLIGATIONS, AND FILING OF CERTIFICATES AND REPORTS

### Expanded Definition of Term "Securities"

*Correction*

In FR Doc. 73-18749 appearing at page 23953 in the issue for Wednesday, September 5, 1973, in the first column the third paragraph should read as follows:

It further appearing, that since the proposed amendments to existing regulations relate to matters of practice and procedure resulting from the herein proceeding, further notice and public proceedings under 5 U.S.C. 533 are not necessary and good cause exists for making the amendments effective on October 23, 1973.

In the second column the first paragraph should read as follows:

*It is ordered,* That the term securities as found in section 20a of the Interstate Commerce Act be henceforth interpreted as including, among other things, all agreements creating a present or future interest in or indebtedness of a carrier, or in property owned, leased or otherwise employed by a carrier, and as additionally including, but not being limited to, loan agreements, credit agreements, mortgages, chattel mortgages, advances, deeds of trust, equipment trusts, security agreements, purchase agreements whose terms do not provide for full payment of the purchase price at consummation and leases of operating property or real property, but shall not at this time be interpreted to include agreements entered into for the sole purpose of acquiring motor carrier operating property;







V 38 175 SEP 11 73 XUM

# Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

[ 7 CFR Part 52 ]

### CANNED RED TART PITTED CHERRIES

### United States Standards for Grades

Notice is hereby given that the United States Department of Agriculture is proposing a revision of the United States Standards for Grades of Canned Red Tart Pitted Cherries (7 CFR 52.771–52.783). This grade standard is issued under authority of the Agricultural Marketing Act of 1946 (Sec. 205, 60 Stat. 1090, as amended (7 U.S.C. 1624)), which provides for the issuance of official U.S. grades to designate different levels of quality for the voluntary use of producers, buyers, and consumers. Official grading services are also provided under this Act upon request of the applicant and upon payment of a fee to cover the cost of such service.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposal should file the same in duplicate by Nov. 1, 1973, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250. All written submittals made pursuant to this notice will be available for public review at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

NOTE.—Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or with applicable State laws and regulations.

*Statement of consideration leading to the proposed revision.*—Current grade standards for canned red tart pitted cherries, which were last amended to become effective June 16, 1972, provide for only two grade classifications above Substandard. These are designated as U.S. Grade A (or "U.S. Fancy") and U.S. Grade C (or "U.S. Standard"). The National Red Cherry Institute has formally petitioned the Department to change these standards to add a third classification to be designated as U.S. Grade B (or "U.S. Choice").

Other changes requested by the Institute include redefining "blemished cherry" under the factor of "Freedom from defects" to be the same as the definition proposed by the Federal Food and Drug Administration in their standards of quality for canned cherries, and to adjust the allowances in the various quality factors for the different grade classifications to be as nearly as possible the same for grade standards for both canned and frozen red tart pitted cherries.

In order that grade standards may better serve the marketing of canned red tart pitted cherries, the following changes are proposed:

1. A third grade classification above Substandard, to be designated as "U.S. Grade B" (or "U.S. Choice"), would be added.

2. The score points and allowances would be realigned to accommodate the new grade classification.

3. "Blemished cherry" under the factor of "Freedom from defects" would be redefined to be the same as the proposed definition in the Food and Drug standard of quality for canned cherries.

4. Sample unit sizes for determination of compliance with requirements for the various quality factors would be provided.

5. A different format would be used, including a table, for listing allowances for the various quality factors to make them more understandable.

IDENTITY AND GRADES


Sec.
52.771 Identity.
52.772 Grades.

LIQUID MEDIA AND BRIX MEASUREMENTS

52.773 Liquid media and Brix measurements.

FILL OF CONTAINER

52.774 Fill of container.

SAMPLE UNIT SIZE

52.775 Sample unit size.

FACTORS OF QUALITY

52.776 Ascertaining the grade of a sample unit.
52.777 Ascertaining the rating for the factors which are scored.
52.778 Color.
52.779 Freedom from pits.
52.780 Defects.
52.781 Character.

ALLOWANCES FOR QUALITY FACTORS

52.782 Allowances for quality factors.

LOT COMPLIANCE

52.783 Ascertaining the grade of a lot.

SCORE SHEET

52.784 Score sheet for canned red tart pitted cherries.


AUTHORITY: Agricultural Marketing Act of 1946, sec. 205, 60 Stat. 1090, as amended; (7 U.S.C. 1624).

IDENTITY AND GRADES

**§ 52.771 Identity.**

"Canned red tart pitted cherries" means the canned product prepared from clean, sound, and mature pitted cherries of the red sour varietal group (Prunus cerasus), as such product is defined in the standard of identity for canned cherries (21 CFR 27.30), issued pursuant to the Federal Food, Drug, and Cosmetic Act.

**§ 52.772 Grades.**

(a) "U.S. Grade A" (or "U.S. Fancy") is the quality of canned red tart pitted cherries that have at least the following attributes:

(1) Reasonably good color;
(2) Practically free from pits;
(3) Practically free from defects;
(4) Good character;
(5) Normal flavor and odor; and
(6) Score not less than 90 points when scored in accordance with the scoring system outlined in this subpart.

Canned red tart pitted cherries of this grade may contain not more than eight cherries per sample unit that are less than 9/16 inch (14 mm) in diameter.

(b) "U.S. Grade B" (or "U.S. Choice") is the quality of canned red tart pitted cherries that have at least the following attributes:

(1) Good color;
(2) Reasonably free from pits;
(3) Reasonably free from defects;
(4) Reasonably good character;
(5) Normal flavor and odor; and
(6) Score not less than 80 points when scored in accordance with the scoring system outlined in this subpart.

Canned red tart pitted cherries of this grade may contain not more than 15 cherries per sample unit that are less than 9/16 inch (14 mm) in diameter.

(c) "U.S. Grade C" (or "U.S. Standard") is the quality of canned red tart pitted cherries that have at least the following attributes:

(1) Fairly good color;
(2) Fairly free from pits;
(3) Fairly free from defects;
(4) Fairly good character;
(5) Normal flavor and odor; and
(6) Score not less than 70 points when scored in accordance with the scoring system outlined in this subpart.

There is no size requirement for canned red tart pitted cherries of this grade.

(d) "Substandard" is the quality of canned red tart pitted cherries that fail to meet the requirements of "U.S. Grade C."

LIQUID MEDIA AND BRIX MEASUREMENTS

**§ 52.773 Liquid media and Brix measurements.**

(a) Brix measurement requirements for the liquid media in canned red tart pitted cherries are not incorporated in the grades of the finished product since sirup, or any other liquid medium, as such, is not a factor of quality for the purpose of the grades. The designation of liquid packing media and Brix measurements, where applicable, are as follows:

| *Designations* | *Brix measurement* |
|---|---|
| Water (cherry juice and water). | Not applicable. |
| Cherry juice | Not applicable. |
| Slightly sweetened water. | Less than 18°. |
| Slightly sweetened cherry juice. | Less than 18°. |
| Light sirup | 18° or more, but less than 22°. |
| Light cherry juice sirup. | 18° or more, but less than 22°. |
| Heavy sirup | 22° or more, but less than 28°. |
| Heavy cherry juice sirup. | 22° or more, but less than 28°. |
| Extra heavy sirup | 28° or more, but less than 45°. |
| Extra heavy cherry juice sirup. | 28° or more, but less than 45°. |

(b) The densities of the packing media, as listed in this section, are measured on the refractometer, expressed as percent by weight sucrose (degrees Brix) with correction for temperature to the equivalent at 20° C. (68° F.), but without correction for invert sugars or other substances. The degrees Brix of the packing media may be determined by any other method which gives equivalent results.

(c) Brix determination is made on the packing media 15 days or more after the cherries are canned or on the blended homogenized slurry of the comminuted entire contents of the container if canned for less than 15 days.

FILL OF CONTAINER

**§ 72.774 Fill of container.**

(a) *FDA requirements.*—Canned red tart pitted cherries shall meet the fill of container requirements as set forth in the regulations of the Food and Drug Administration (21 CFR 27.32).

(b) *Recommended minimum drained weights.*—(1) *General.*—The minimum drained weight recommendations for the various container sizes and types of packing media as listed in Table I of this section are not incorporated in the grades of the finished product since drained weight, as such, is not a factor of quality for the purpose of these grades.

(2) *Definitions.*

Sample average—Average of all the drained weights of the sample containers representing a lot.

$\overline{X}_d$—A specified minimum sample average drained weight.

LL—Lower limit for individual container drained weight.

(3) *Method for ascertaining drained weight.*—The drained weight of canned red tart pitted cherries is determined by emptying the contents of the container upon a U.S. Standard No. 8 circular sieve of proper diameter containing eight meshes to the inch (0.0937 inch (2.3 mm) ±3 percent, square openings) so as to distribute the product evenly over the sieve. Without shifting the product, incline the sieve at an angle of 17° to 20° to facilitate drainage and allow to drain for two minutes. The weight of drained cherries is the weight of the sieve and product less the weight of the dry sieve. A sieve eight inches in diameter is used for No. 3 size containers (404 × 414) and smaller, and a sieve 12 inches in diameter is used for containers larger than No. 3 size containers.

(4) *Compliance with recommended minimum drained weights.*—A lot of canned red tart pitted cherries is considered as meeting the minimum drained weight recommendations when the following criteria are met:

(i) The sample average meets the specified minimum sample average drained weight (designated as "$\overline{X}_d$" in Table I); and

(ii) The number of sample containers which fail to meet the minimum drained weight for individual containers (designated as "LL" in Table I) does not exceed the applicable acceptance number specified in Table II.

TABLE I—RECOMMENDED MINIMUM DRAINED WEIGHTS FOR CANNED RED TABT PITTED CHERRIES

| Container designation | Packed in Water | | Packed in sirup or slightly sweetened water | |
|---|---|---|---|---|
| | LL | $\overline{X}_d$ | LL | $\overline{X}_d$ |
| | *Ounces* | | *Ounces* | |
| No. 303 | 10.7 | 11.0 | 9.9 | 10.2 |
| No. 303 Cylinder | 14.0 | 14.4 | 12.7 | 13.1 |
| No. 2 | 13.1 | 13.5 | 12.3 | 12.7 |
| No. 10 | 71.2 | 72.0 | 69.4 | 70.2 |

TABLE II—SINGLE SAMPLING PLANS AND ACCEPTANCE NUMBER

| Sample Size (No. of sample containers) | 3 | 6 | 13 | 21 | 29 | 38 | 48 | 60 |
|---|---|---|---|---|---|---|---|---|
| Acceptance numbers | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 |

(c) *Recommended fill weights.*—(1) *General.*—The minimum fill weight recommendations for the various container sizes in Table III of this section are not incorporated in the grades of the finished product since fill weight, as such, is not a factor of quality for the purpose of these grades.

(2) *Definitions.*

| | |
|---|---|
| Subgroup | A group of sample containers representing a portion of a sample. |
| $\overline{X}'_{min}$ | A specified minimum lot average fill weight. |
| $LWL_{\overline{X}}$ | Lower warning limit for subgroup averages. |
| $LRL_{\overline{X}}$ | Lower reject limit for subgroup averages. |
| LWL | Lower warning limit for individual fill weight measurements. |
| LRL | Lower reject limit for individual fill weight measurements. |
| $\overline{R}'$ | A specified average range value. |
| $R_{max}$ | A specified maximum range for subgroups. |

(3) *Method for ascertaining fill weight.*—The fill weight of canned red tart pitted cherries is determined in accordance with the U.S. Standards for Inspection by Variables and the U.S. Standards for Determination of Fill Weights.

(4) *Compliance with recommended fill weights.*—Compliance with the recommended fill weights for canned red tart pitted cherries shall be in accordance with the U.S. Standards for Inspection by Variables and the U.S. Standards for Determination of Fill Weights.

TABLE III—RECOMMENDED FILL WEIGHT VALUES FOR CANNED RED TART PITTED CHERRIES

| Container designation | Fill weight values in ounces | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | $\overline{X}'_{min}$ | $LWL_{\overline{X}}$ | $LRL_{\overline{X}}$ | LWL | LRL | $\overline{R}'$ | $R_{max}$ | Sampling allowance code |
| No. 303 | 12.9 | 12.6 | 12.4 | 12.2 | 11.8 | 0.80 | 1.70 | F |
| No. 303 Cylinder | 16.8 | 16.4 | 16.2 | 15.9 | 15.4 | 1.10 | 2.20 | H |
| No. 2 | 15.8 | 15.4 | 15.2 | 14.9 | 14.4 | 1.10 | 2.20 | H |
| No. 10 | 86.7 | 85.9 | 85.5 | 85.0 | 84.1 | 2.00 | 4.20 | P |

SAMPLE UNIT SIZE

**§ 52.775 Sample unit size.**

Compliance with requirements for the size and the various quality factors is based on the following sample unit sizes for the applicable factor:

(a) Size, color, pits, and character—20 ounces of drained cherries.

(b) Defects (other than harmless extraneous material)—100 cherries.

(c) Harmless extraneous material—The total contents of each container in the sample.

FACTORS OF QUALITY

**§ 52.776 Ascertaining the grade of a sample unit.**

(a) *General.*—The grade of a sample unit of canned red tart pitted cherries is ascertained by considering the factor of flavor and odor of the product and the requirement for size (in U.S. Grade A and U.S. Grade B) which are not scored; the ratings for the factors of color, freedom from pits, defects, and character, which are scored; and the limiting rules which may be applicable.

(b) *Factors rated by score points.*—The relative importance of each factor







V 38-175
SEP 11 73
XUM

which is scored is expressed numerically on the scale of 100. The maximum number of points that may be given each factor is:

| Factors: | Points |
|---|---|
| Color | 20 |
| Freedom from pits | 20 |
| Defects | 30 |
| Character | 30 |
| Total score | 100 |

(c) *Definition.*—"Normal flavor and odor" means that the flavor and odor are characteristic of canned red tart pitted cherries and that the product is free from objectionable flavors and objectionable odors of any kind.

**§ 52.777 Ascertaining the rating for the factors which are scored.**

The essential variations within each factor which is scored are so described that the value may be ascertained for each factor and expressed numerically. The numerical range within each factor which is scored is inclusive (for example, "18 to 20 points" means 18, 19, or 20 points).

**§ 52.778 Color.**

(a) (*A*) *classification.*—Canned red tart pitted cherries that have a good color may be given a score of 18 to 20 points. "Good color" means a practically uniform color that is bright and typical of canned red tart pitted cherries which have been prepared and processed from properly ripened cherries.

(b) (*B*) *classification.*—Canned red tart pitted cherries that have a reasonably good color may be given a score of 16 or 17 points. Canned red tart pitted cherries that fall into this clasification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule). "Reasonably good color" means a reasonably uniform color, typical of canned red tart pitted cherries which have been properly prepared and processed and which color may range from a slight yellowish-red color to a slightly mottled reddish brown.

(c) (*C*) *classification.*—Canned red tart pitted cherries that have a fairly good color may be given a score of 14 or 15 points. Canned red tart pitted cherries that fall into this classification shall not be graded above U.S. Grade C, regardless of the total score for the product (this is a limiting rule). "Fairly good color" means a fairly uniform color typical of canned red tart pitted cherries which have been properly processed and which color may range from a brownish cast to mottled shades of brown.

(a) (*SStd.*) *classification.*—Canned red tart pitted cherries that fail to meet the color requirements for U.S. Grade C may be given a score of 0 to 15 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

**§ 52.779 Freedom from pits.**

(a) *General.*—The factor of freedom from pits concerns the degree of freedom from pits and pit fragments.

(b) *Definitions.*—(1) A "pit," for the purposes of the allowances in this section, is a whole cherry pit or portions of pits computed as follows:

(i) A single piece of pit shell, whether or not within or attached to a whole cherry, that is larger than one-half pit shell is considered as one pit;

(ii) A single piece of pit shell, whether or not within or attached to a whole cherry, that is not larger than one-half pit shell is considered as one-half pit;

(iii) Pieces of pit shell, within or attached to a whole cherry, when their combined size is larger than one-half pit shell are considered as one pit; and

(iv) Pieces of pit shell, within or attached to a whole cherry, when their combined size is not larger than one-half pit shell are considered as one-half pit.

(2) "Drained cherries" means pitted cherries that have been drained of packing medium by the method prescribed in this subpart.

(c) (*A*) *classification.*—Canned red tart pitted cherries that are practically free from pits may be given a score of 18 to 20 points. "Practically free from pits" means that the number of pits that may be present in the drained cherries does not exceed the allowances for this classification as set forth in Table IV.

(d) (*B*) *classification.*—Canned red tart pitted cherries that are reasonably free from pits may be given a score of 16 or 17 points. Canned red tart pitted cherries that fall into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule). "Reasonably free from pits" means that the number of pits that may be present does not exceed the allowances for this classification as set forth in Table IV.

(e) (*C*) *classification.*—Canned red tart pitted cherries that are fairly free from pits may be given a score of 14 or 15 points. Canned red tart pitted cherries that fall into this classification shall not be graded above U.S. Grade C, regardless of the total score for the product (this is a limiting rule). "Fairly free from pits" means that the number of pits that may be present in the drained cherries does not exceed the allowances for this classification as set forth in Table IV.

(f) (*SStd.*) *classification.*—Canned red tart pitted cherries that fail to meet the requirements of U.S. Grade C may be given a score of 0 to 13 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

**§ 52.780 Defects.**

(a) *General.*—The factor of defects refers to the degree of freedom from harmless extraneous material, mutilated cherries, and cherries blemished by scab, hail injury, discoloration, scar tissue, or by other means.

(1) "Cherry" means a whole cherry, whether or not pitted, or portions of such cherries which in the aggregate approximate the average size of the cherries.

(2) "Harmless extraneous material" means any vegetable substance (including, but not being limited to, a leaf or a stem, and any portions thereof) that is harmless.

(3) "Mutilated cherry" means a cherry that is so pitter-torn or damaged by other means that the entire pit cavity is exposed and the appearance of the cherry is seriously affected.

(4) "Minor blemished cherry" means any cherry blemished with skin discoloration (other than scald) having an aggregate area of a circle 9/32 inch (7 mm) or less in diameter which more than slightly affects the appearance of the cherry but does not extend into the fruit tissue.

(5) "Blemished cherry" means any cherry blemished by skin discoloration (other than scald) which in the aggregate exceeds the area of a circle 9/32 inch (7 mm) in diameter. A cherry affected by skin discoloration extending into the fruit tissue or by scab, hail injury, scar tissue, or other abnormality, regardless of size, is considered a blemished cherry.

(b) (*A*) *classification.*—Canned red tart pitted cherries that are practically free from defects may be given a score of 27 to 30 points. "Practically free from defects" means that the number of defects that may be present does not exceed the number specified for the type of defects in Table IV.

(c) (*B*) *classification.*—Canned red tart pitted cherries that are reasonably free from defects may be given a score of 24 to 26 points. Canned red tart pitted cherries that fall into this classification may not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule). "Reasonably free from defects" means that the number of defects that may be present does not exceed the number specified for the type of defects in Table IV.

(d) (*C*) *classification.*—If the canned red tart pitted cherries are fairly free from defects, a score of 21 to 23 points may be given. Canned red tart pitted cherries that fall into this classification shall not be graded above U.S. Grade C, regardless of the total score for the product (this is a limiting rule). "Fairly free from defects" means that the number of defects that may be present does not exceed the number specified for the type of defects in Table IV.

(e) (*SStd.*) *classification.*—Canned red tart pitted cherries that fail to meet the requirements for Grade C for any reason may be given a score of 0 to 20 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

**§ 52.781 Character.**

(a) *General.*—The factor of character refers to the degree of ripeness and the physical characteristics of the flesh of the cherries.

(b) (*A*) *classification.*—Canned red tart pitted cherries that have a good character may be given a score of 27 to 30 points. "Good character" means that the cherries are thick-fleshed and have a firm, tender texture.





(c) (*B*) *classification.*—Canned red tart pitted cherries that have a reasonably good character may be given a score of 24 to 26 points. Canned red tart pitted cherries that fall into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule). "Reasonably good character" means that the cherries may be reasonably thick-fleshed and may be slightly soft.

(d) (*C*) *classification.*—Canned red tart pitted cherries that have a fairly good character may be given a score of 21 to 23 points. Canned red tart pitted cherries that fall into this classification shall not be graded above U.S. Grade C, regardless of the total score for the product (this is a limiting rule). "Fairly good character" means that the cherries may be thin-fleshed, and may be soft but not mushy, or slightly tough but not leathery.

(e) (*SStd.*) *classification.*—Canned red tart pitted cherries that fail to meet the requirements for U.S. Grade C may be given a score of 0 to 20 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

ALLOWANCES FOR QUALITY FACTORS

**§ 52.782 Allowances for quality factors.**

TABLE IV—ALLOWANCES FOR QUALITY FACTORS

| Factor | Sample unit size | Maximum number permissible for the respective grade | | | | | |
|---|---|---|---|---|---|---|---|
| | | A | | B | | C | |
| Pits | Per 20 ozs. | Not more than 2 in any sample unit. | Sample average 1 per 40 ozs. | Not more than 3 in any sample unit. | Sample average 1 per 30 ozs. | 4 or more in any sample unit. | Sample average 1 per 20 ozs. |
| Defects: Total—mutilated, plus minor blemished plus blemished | Per 100 cherries. | 10 | | 15 | | 20 | |
| Blemished—limited to Harmless extraneous material. | Total contents. | 3 Average 1 piece per 60 oz. net contents. | | 7 Average 1 piece per 40 oz. net contents. | | 15 Average 1 piece per 20 oz. net contents. | |

LOT COMPLIANCE

**§ 52.783 Ascertaining the grade of a lot.**

The grade of a lot of canned red tart pitted cherries covered by these standards is determined by the procedures set forth in the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products (§§ 52.1 to 52.87).

SCORE SHEET

**§ 52.784 Score sheet for canned red tart pitted cherries.**

| | | | |
|---|---|---|---|
| Size and kind of container | | | |
| Container mark or identification | | | |
| Label | | | |
| Net weight (ounces) | | | |
| Vacuum (inches) | | | |
| Drained weight (ounces) | | | |
| Syrup designation (extra heavy, heavy, etc.) | | | |
| Brix measurement | | | |
| Size [1] | | | |
| **Factors** | | **Score points** | |
| Color | 20 | (A) | 18-20 |
| | | (B) [2] | 16-17 |
| | | (C) [2] | 14-15 |
| | | (SStd.) [2] | 0-13 |
| Freedom from pits | 20 | (A) | 18-20 |
| | | (B) [2] | 16-17 |
| | | (C) [2] | 14-15 |
| | | (SStd.) [2] | 0-13 |
| Freedom from defects | 30 | (A) | 27-30 |
| | | (B) [2] | 24-26 |
| | | (C) [2] | 21-23 |
| | | (SStd.) [2] | 0-20 |
| Character | 30 | (A) | 27-30 |
| | | (B) [2] | 24-26 |
| | | (C) [2] | 21-23 |
| | | (SStd.) [2] | 0-20 |
| Total score | 100 | | |
| Normal flavor | | | |
| Grade | | | |

[1] See size limitation for U.S. Grade A and U.S. Grade B.
[2] Indicates limiting rule.

Dated September 4, 1973.

F. L. PETERSON,
*Administrator,*
*Agricultural Marketing Service.*

[FR Doc.73-19131 Filed 9-10-73;8:45 am]

[ 7 CFR Part 52 ]

## FROZEN RED TART PITTED CHERRIES

### United States Standards for Grades

Notice is hereby given that the United States Department of Agriculture is proposing a revision of the United States Standards for Grades of Frozen Red Tart Pitted Cherries (7 CFR 52.801–52.812). This grade standard is issued under authority of the Agricultural Marketing Act of 1946 (Sec. 205, 60 Stat. 1090, as amended (7 U.S.C. 1624)), which provides for the issuance of official U.S. grades to designate different levels of quality for the voluntary use of producers, buyers, and consumers. Official grading services are also provided under this Act upon request of the applicant and upon payment of a fee to cover the cost of such service.

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposal should file the same in duplicate by Nov. 1, 1973, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250. All written submittals made pursuant to this notice will be available for public review at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

NOTE.—Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or with applicable State laws and regulations.

*Statement of consideration leading to the proposed revision.*—The National Red Cherry Institute formally requested the Department to revise the grade standards for frozen red tart pitted cherries to provide for three grade classifications above Substandard. Current grade standards which have been in effect since June 15, 1964, provide for two grade classifications above Substandard. These are designated as "U.S. Grade A" (or "U.S. Fancy") and "U.S. Grade C" (or "U.S. Standard"). It was requested that a "U.S. Grade B" (or "U.S. Choice") classification be included. Members of the Institute suggest there is a definite need for a quality level between the current Grade A and Grade C levels.

The request from the Institute also suggested the definition for "blemished cherry" under the factor of " Freedom from defects" be redefined for more clarity. It was also suggested that the requirements for the various quality factors and grade classifications be as nearly as possible the same for the grade standards for both frozen and canned red tart pitted cherries.

In accordance with the request from the National Red Cherry Institute, the proposed revision would make the following changes from the current standards:

1. A "U.S. Grade B" (or "U.S. Choice") classification would be added.

2. Score points and allowances for the various quality factors would be realigned to accommodate the new Grade B classification.

3. The definition of "blemished cherry" would be redefined and clarified.

4. Sample unit sizes for determination of compliance with requirements for the various quality factors would be included.

5. A slightly different format would be used, including a table, for listing allowances for the various quality factors which will provide for easier reading.

6. Allowances in the various quality factors for the different grade classifications would be aligned as closely as possible with those of the grade standards for canned red tart pitted cherries.

The proposed revision is as follows:

PRODUCT DESCRIPTION AND GRADES

Sec.
52.801 Product description.
52.802 Grades of frozen red tart pitted cherries.

SAMPLE UNIT SIZE

52.803 Sample unit size.

FACTORS OF QUALITY

52.804 Ascertaining the grade of a sample unit.
52.805 Ascertaining the rating for each factor.
52.806. Color.
52.807 Freedom from pits.
52.808 Freedom from defects.
52.809 Character.

ALLOWANCES FOR QUALITY FACTORS

52.810 Allowances for quality factors.

LOT COMPLIANCE

52.811 Ascertaining the grade of a lot.



V 38-175
SEP 11 73
XUM

SCORE SHEET

52.812 Score sheet for frozen red tart pitted cherries.

AUTHORITY: Agricultural Marketing Act of 1946, sec. 205, 60 Stat. 1090, as amended (7 U.S.C. 1624).

PRODUCT DESCRIPTION AND GRADES

**§ 52.801 Product description.**

Frozen red tart pitted cherries is the food prepared from properly matured cherries of the domestic (Prunus cerasus) red sour varietal group which have been washed, pitted, sorted, and properly drained; may be packed with or without a nutritive or a non-nutritive packing medium or dry sugar; and are frozen and stored at temperatures necessary for the preservation of the product.

**§ 52.802 Grades of frozen red tart pitted cherries.**

(a) "U.S. Grade A" (or "U.S. Fancy") is the quality of frozen red tart pitted cherries of which not more than eight cherries per sample unit may be less than 9/16 inch (14 mm) in diameter, and that:

(1) Possess a good red color;
(2) Are practically free from pits;
(3) Are practically free from defects;
(4) Have a good character;
(5) Possess a normal flavor; and
(6) Score not less than 90 points when scored in accordance with the scoring system outlined in this subpart.

(b) "U.S. Grade B" (or "U.S. Choice") is the quality of frozen red tart pitted cherries of which not more than 15 cherries per sample unit may be less than 9/16 inch (14 mm) in diameter, and that:

(1) Possess a reasonably good red color;
(2) Are reasonably free from pits;
(3) Are reasonably free from defects;
(4) Have a reasonable good character;
(5) Possess a normal flavor; and
(6) Score not less than 80 points when scored in accordance with the scoring system outlined in this subpart.

(c) "U.S. Grade C" (or "U.S. Standard") is the quality of frozen red tart pitted cherries that:

(1) Possess a fairly good red color;
(2) Are fairly free from pits;
(3) Are fairly free from defects;
(4) Have a fairly good character;
(5) Possess a normal flavor; and
(6) Score not less than 70 points when scored in accordance with the scoring system outlined in this subpart.

(d) "Substandard" is the quality of frozen red tart pitted cherries that fail to meet the requirements of U.S. Grade C.

SAMPLE UNIT SIZE

**§ 52.803 Sample unit size.**

Compliance with requirements for size and the various quality factors is based on the following sample unit sizes for the applicable factor:

(a) Size, color, pits, and character—20 ounces of drained cherries.

(b) Defects (other than harmless extraneous material)—100 cherries.

(c) Harmless extraneous material—The total contents of each container in the sample.

FACTORS OF QUALITY

**§ 52.804 Ascertaining the grade of a sample unit.**

(a) The grade of frozen red tart pitted cherries is determined immediately after thawing to the extent that the cherries may be separated easily and the cherries are free from ice and solidified packing media. The grade is determined by considering in addition to the requirements of the respective grade (including the requirement for size in U.S. Grade A and U.S. Grade B), the respective ratings of the factors of color, pits, absence of defects, the total score, and the limiting rules which may be applicable.

(b) The relative importance of each factor is expressed numerically on a scale of 100. The maximum number of points that may be given each factor is:

| Factors: | Points |
|---|---|
| Color | 20 |
| Freedom from pits | 20 |
| Freedom from defects | 30 |
| Character | 30 |
| Total score | 100 |

(c) "Normal flavor" means that the flavor is characteristic of frozen red tart pitted cherries and that the product is free from objectionable flavors of any kind.

**§ 52.805 Ascertaining the rating for each factor.**

The essential variations within each factor are so described that the value may be ascertained for each factor and expressed numerically. The numerical range for the rating of each factor is inclusive (for example, "18 to 20 points" means 18, 19, or 20 points).

**§ 52.806 Color.**

(a) (*A*) *Classification.*—Frozen red tart pitted cherries that possess a good red color may be given a score of 18 to 20 points. "Good red color" means that the frozen cherries possess a color that is bright and typical of properly ripened cherries and that is practically uniform in that the number of cherries that vary markedly from this color due to oxidation, improper processing, or other causes, or that are undercolored, does not exceed the number specified in Table I.

(b) (*B*) *Classification.*—Frozen red tart pitted cherries that possess a reasonably good red color may be given a score of 16 or 17 points. Frozen red tart pitted cherries that fall into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule). "Reasonably good red color" means that the cherries possess a color that is reasonably bright and typical of properly ripened cherries and that is reasonably uniform in that the number of cherries that vary markedly from this color due to oxidation, improper processing, or other causes, or that are undercolored, does not exceed the number specified in Table I.

(c) (*C*) *Classification.*—If the frozen red tart pitted cherries possess a fairly good red color, a score of 14 to 15 points may be given. Frozen red tart pitted cherries that fall into this classification shall not be graded above U.S. Grade C, regardless of the total score for the product (this is a limiting rule). "Fairly good red color" means that the frozen cherries possess a color that is fairly bright and typical of properly ripened cherries and that is fairly uniform in that the number of cherries that vary markedly from this color due to oxidation, improper processing, or other causes, or that are undercolored, does not exceed the number specified in Table I.

(d) (*SStd.*) *Classification.*—Frozen red tart pitted cherries that fail to meet the requirements of U.S. Grade C may be given a score of 0 to 13 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

**§ 52.807 Freedom from pits.**

(a) *General.*—The factor of freedom from pits concerns the degree of freedom from pits and pit fragments.

(b) *Definitions.* (1) A "pit" for the purpose of the allowances in this subpart is a whole pit or portions of pits computed as follows:

(i) A single piece of pit shell, whether or not within or attached to a whole cherry, that is larger than one-half pit shell is considered as one pit;

(ii) A single piece of pit shell, whether or not within or attached to a whole cherry, that is not larger than one-half pit shell is considered as one-half pit;

(iii) Pieces of pit shell, within or attached to a whole cherry, when their combined size is larger than one-half pit shell are considered as one pit; and

(iv) Pieces of pit shell, within or attached to a whole cherry, when their combined size is not larger than one-half pit shell are considered as one-half pit.

(2) "Drained cherries" means pitted cherries that are substantially free from any adhering sirup, sugar, or other packing medium.

(c) (*A*) *Classification.*—Frozen red tart pitted cherries that are practically free from pits may be given a score of 18 to 20 points. "Practically free from pits" means that the number of pits that may be present does not exceed the allowances for this classification specified in Table I.

(d) (*B*) *Classification.*—Frozen red tart pitted cherries that are reasonably free from pits may be given a score of 16 or 17 points. Frozen red tart pitted cherries that fall into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule). "Reasonably free from pits" means that the number of pits that may be present does not exceed the number specified in Table I.

(e) (*C*) *Classification.*—Frozen red tart pitted cherries that are fairly free from pits may be given a score of 14 or 15 points. Frozen red tart pitted cherries that fall into this classification shall not be graded above U.S. Grade C, regardless of the total score for the product (this is a limiting rule). "Fairly free from pits" means that the number of pits that may be present does not exceed the number specified in Table I.

(f) (*SStd.*) *Classification.*—Frozen red tart pitted cherries that fail to meet the requirements for U.S. Grade C may be given a score of 0 to 13 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).





**§ 52.808 Freedom from defects.**

(a) *General.*—The factor of freedom from defects refers to the degree of freedom from harmless extraneous material, mutilated cherries, and cherries blemished by scab, hail injury, discoloration, scar tissue, or by other means.

(1) "Cherry" means a whole cherry, whether or not pitted, or portions of such cherries which in the aggregate approximate the average size of the cherries.

(2) "Harmless extraneous material" means any vegetable substance (including, but not being limited to, a leaf or a stem and any portions thereof) that is harmless.

(3) "Mutilated cherry" means a cherry that is so pitter-torn or damaged by other means that the entire pit cavity is exposed and the appearance of the cherry is seriously affected.

(4) "Minor blemished cherry" means any cherry blemished with discoloration (other than scald) having an aggregate area of a circle 9/32 inch (7 mm) or less in diameter which more than slightly affects the appearance of the cherry but does not extend into the fruit tissue.

(5) "Blemished cherry" means any cherry blemished by skin discoloration (other than scald) which in the aggregate exceeds the area of a circle 9/32 inch (7 mm) in diameter. A cherry affected by skin discoloration extending into the fruit tissue or by scab, hail injury, scar tissue, or other abnormality, regardless of size, is considered a blemished cherry.

(b) (*A*) *Classification.*—Frozen red tart pitted cherries that are practically free from defects may be given a score of 27 to 30 points. "Practically free from defects" means that the number of defects that may be present does not exceed the number specified for the applicable type of defect in Table I.

(c) (*B*) *Classification.*—Frozen red tart pitted cherries that are reasonably free from defects may be given a score of 24 to 26 points. Frozen red tart pitted cherries that fall into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule). "Reasonably free from defects" means that the number of defects that may be present does not exceed the number specified for the applicable type of defect in Table I.

(d) (*C*) *Classification.*—Frozen red tart pitted cherries that are fairly free from defects may be given a score of 21 to 23 points. Frozen red tart pitted cherries that fall into this classification shall not be graded above U.S. Grade C, regardless of the total score for the product (this is a limiting rule). "Fairly free from defects" means that the number of defects that may be present does not exceed the number specified for the applicable type of defect in Table I.

(e) (*SStd.*) *Classification.*—Frozen red tart pitted cherries that fail to meet the requirements for Grade C may be given a score of 0 to 20 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

**§ 52.809 Character.**

(a) *General.*—The factor of character refers to the degree of ripeness of the cherries and the physical characteristics of the flesh of the cherries.

(b) (*A*) *Classification.*—Frozen red tart pitted cherries that have a good character may be given a score of 27 to 30 points. "Good character" means that the cherries are thick-fleshed and have a firm, tender texture.

(c) (*B*) *Classification.*—Frozen red tart pitted cherries that have a reasonably good character may be given a score of 24 to 26 points. Frozen red tart pitted cherries that fall into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule). "Reasonably good character" means that the cherries may be reasonably thick-fleshed and slightly soft.

(d) (*C*) *Classification.*—Frozen red tart pitted cherries that have a fairly good character may be given a score of 21 to 23 points. Frozen red tart pitted cherries that fall into this classification shall not be graded above U.S. Grade C, regardless of the total score for the product (this is a limiting rule). "Fairly good character" means that the cherries may be thin-fleshed and may be soft but not mushy, or slightly tough but not leathery.

(e) (*SStd.*) *Classification.*—Frozen red tart pitted cherries that fail to meet the requirements for Grade C may be given a score of 0 to 20 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

ALLOWANCES FOR QUALITY FACTORS

**§ 52.810 Allowances for quality factors.**

TABLE I—ALLOWANCES FOR QUALITY FACTORS

| Factor | Sample unit size | Maximum number permissible for the respective grade | | | | | |
|---|---|---|---|---|---|---|---|
| | | A | | B | | C | |
| Color: Very markedly or undercolored. | Per 20 ozs. | 10 | | 22 | | 37 | |
| Pits | Per 20 ozs. | Not more than 2 in any sample unit. | Sample average 1 per 40 ozs. | Not more than 3 in any sample unit. | Sample average 1 per 30 ozs. | 4 or more in any sample unit. | Sample average 1 per 20 ozs. |
| Defects: Total—mutilated, minor blemished, and blemished | Per 100 cherries. | 10 | | 15 | | 20 | |
| of which Blemished—limited to harmless extraneous material. | Total contents. | 3 | Average 1 piece per 60 oz. net contents. | 7 | Average 1 piece per 40 oz. net contents. | 15 | Average 1 piece per 20 oz. net contents. |

LOT COMPLIANCE

**§ 52.811 Ascertaining the grade of a lot.**

The grade of a lot of frozen red tart pitted cherries covered by these standards is determined by the procedures set forth in the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, Processed Products Thereof, and Certain Other Processed Food Products (§§ 52.1 through 52.87).

SCORE SHEET

**§ 52.812 Score sheet for frozen red tart pitted cherries.**

| FACTORS | | SCORE POINTS |
|---|---|---|
| Color | 20 | (A) 18-20; (B) [1] 16-17; (C) [1] 14-15; (SStd.) [1] 0-13 |
| Freedom from pits | 20 | (A) 18-20; (B) [1] 16-17; (C) [1] 14-15; (SStd.) [1] 0-13 |
| Freedom from defects | 30 | (A) 27-30; (B) [1] 24-26; (C) [1] 21-23; (SStd.) [1] 0-20 |
| Character | 30 | (A) 27-30; (B) [1] 24-26; (C) [1] 21-23; (SStd.) [1] 0-20 |
| Total score | 100 | |

Normal flavor _____
Grade _____

Size _____
Net weight (ounces) _____
Label (style of pack, ratio of fruit to sugar, etc. if shown) _____
Container mark or identification _____
Size and kind of container _____

[1] See size limitation for U.S. Grade A and U.S. Grade B.

[1] Indicates limiting rule.



V 38-175 SEP 11 73 XUM

Dated September 4, 1973.

E. L. PETERSON,
*Administrator,*
*Agricultural Marketing Service.*

[FR Doc.73-19132 Filed 9-10-73;8:45 am]

## [ 7 CFR Part 52 ]

## STANDARDS FOR GRADES OF FROZEN ASPARAGUS

### Notice of Proposed Rule Making

### Subpart—United States Standards for Grades of Frozen Asparagus

### Notice of Proposed Rulemaking

Notice is hereby given that the United States Department of Agriculture is considering an amendment to the United States Standards for Grades of Frozen Asparagus (7 CFR 52.381–52.395) pursuant to the authority contained in the Agricultural Marketing Act of 1946 (sec. 205, 60 Stat. 1090, as amended (7 U.S.C. 1624)).

All persons who desire to submit written data, views, or arguments for consideration in connection with the proposed amendments should file the same in duplicate by October 31, 1973 with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250. All written submissions made pursuant to this notice will be available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

NOTE.—Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act or with applicable state laws and regulations.

*Statement of Consideration Leading to the Proposed Amendment.*—The U.S. Department of Agriculture has received a request from the American Frozen Food Institute (AFFI) to revise slightly the United States Standards for Grades of Frozen Asparagus which have been in effect since April 8, 1970.

Currently, tough fiber development of one (1) inch or less is classified as a "minor" defect, that over one inch and up to two (2) inches is a "major" defect, and any over two inches is a "severe" defect. AFFI requests that the "minor" category be eliminated and any tough fiber be classified as at least a major defect.

Because "tough fiber" adversely affects the eating quality of frozen asparagus, the Department concurs that a more restrictive allowance for this defect is justified. Such reclassification would noticeably reduce the amount of tough fiber development that would be permitted in the U.S. Grade A and U.S. Grade B frozen asparagus. The amendment proposed is:

Table V of this subpart is revised to read as follows:

TABLE V
CLASSIFICATION OF DEFECTS
CHARACTER—DAMAGE

| Quality factors | Defects | Classification: Minor | Major | Severe |
|---|---|---|---|---|
| Character | Spears and tips styles: | | | |
| | In grade A only: Reasonably well developed (worse than plate 1 but not worse than plate 2 or 3) | × | | |
| | In all grades: | | × | |
| | Poorly developed (worse than plate 2 or 3): | | | |
| | Seedy | | | |
| | Flowered | | | × |
| | Cut spears or Cuts and Tips style: | | | |
| | In all grades: | | | |
| | Poorly developed (worse than plate 2 or 3): | × | | |
| | Seedy | | × | |
| | Flowered | | | |
| | Tough fiber development: | | × | |
| | 2 inches or less | | | × |
| | More than 2 inches or woody units of any length | | | |
| Damage | Shattered Heads—broken or shattered to the extent that it is definitely noticeable | × | | |
| | Misshapen—badly crooked or affected in appearance by doubles or malformations | × | | |
| | Poorly Cut—angle of cut less than 45 degrees—cut is ragged or partially cut | × | | |
| | Discoloration, mechanical injury, pathological or damaged by other means to the extent that the appearance and eating quality of a unit is affected: | | | |
| | Slightly | × | | |
| | Materially | | × | |
| | Seriously | | | × |

For interpretative guides, see USDA illustrations of "Stages of Development in Frozen Asparagus," which are a part of this document.

(Sec. 205, 60 Stat. 1090, as amended, (7 U.S.C. 1624).)

Dated September 4, 1973.

E. L. PETERSON,
*Administrator,*
*Agricultural Marketing Service.*

[FR Doc.73-19177 Filed 9-10-73;8:45 am]

## [ 7 CFR, Part 932 ]

## OLIVES GROWN IN CALIFORNIA

### Proposed Expenses, Rate of Assessment, and Carryover of Unexpended Funds

This notice invites written comments relative to the proposed Olive Administrative Committee expenses of $825,000 and an assessment rate of $15.00 per ton of regulated California olives to support committee activities during the 1973–74 fiscal year under marketing Order No. 932. It is also proposed that unexpended assessment income from 1972–73 and prior years be carried over as a committee reserve.

Consideration is being given to the following proposals submitted by the Olive Administrative Committee, established under the marketing agreement, as amended, and Order No. 932, as amended (7 CFR, Part 932), regulating the handling of olives grown in California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(a) That the Secretary of Agriculture find that the expenses that are reasonable and likely to be incurred by the Olive Administrative Committee during the period September 1, 1973, through August 31, 1974, will amount to $825,000.

(b) That the Secretary of Agriculture fix the rate of assessment for said period, payable by each first handler in accordance with § 932.39, at $15.00 per ton of olives.

(c) Unexpended assessment funds in excess of expenses incurred during the fiscal year ended August 31, 1973, and prior years shall be carried over as a reserve in accordance with the applicable provisions of § 932.40.

(d) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposal shall file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than September 20, 1973. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated September 6, 1973.

CHARLES R. BRADER,
*Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.73-19278 Filed 9-10-73;8:45 am]





## [ 7 CFR Part 981 ]

## ALMONDS GROWN IN CALIFORNIA

### Revision of Reporting Requirements, and Approval To Establish, Maintain, and Use an Operating Reserve

Notice is given of a proposal to amend Subpart—Administrative Rules and Regulations (7 CFR 981.441–981.482; 38 FR 9987) by revising handler reporting requirements, and to amend Subpart—Budget of Expenses and Rate of Assessment (7 CFR 981.322) by including approval for the Almond Control Board to establish, maintain, and use an operating reserve. The subparts are pursuant to the marketing agreement, as amended, and Order No. 981, as amended (7 CFR Part 981), hereinafter collectively referred to as the "order", regulating the handling of almonds grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal is based on a unanimous recommendation of the Almond Control Board.

The California almond industry is seeking ways to improve the accuracy of its crop estimates. For some time, there has been growing concern in the industry about the difference between estimates of California's almond production and actual production. The Control Board must have an accurate estimate of this production to make annual marketing policy recommendations to the Secretary. Handlers need an accurate estimate of the crop to contract sales with their customers.

To obtain more accurate crop estimates, it is necessary to accumulate data on the quantity of almonds produced in each California county. To achieve this, it is proposed that handlers indicate the county of production on the receipt which they issue pursuant to § 981.71 of the order to a producer for each lot of almonds received. Handlers are required to submit a copy of every receipt to the Control Board to enable it to establish a handler's reserve obligation and to obtain statistical information necessary for the conduct of its operations. The proposed requirements to include this additional information on the receipt form would be set forth in § 981.471 of the administrative rules and regulations.

In addition, it is proposed that handlers submit a summary report to the Control Board three times a year of the quantity of almonds received for their own account, by variety and county of production. This proposed requirement would be set forth in § 981.472.

It is also proposed that the Control Board be given approval to establish, maintain, and use an operating reserve fund pursuant to § 981.81(c). Pursuant to paragraph (c), the operating reserve fund is for marketing promotion including paid advertising, and for the maintenance and functioning and other authorized activities of the Board. For these respective activities, the amount applicable to these purposes shall not exceed approximately one crop year's budgeted expenses for such activities. The approval to establish, maintain, and use the operating reserve would be set forth as a new § 981.300 in Subpart—Budget of Expenses and Rate of Assessment.

Funds for the operating reserve are obtained from any money collected as assessments during any crop year and not expended at the end of the crop year's operations, pursuant to § 981.81 (b). It is proposed that unexpended assessment funds in excess of expenses incurred during the crop year ended June 30, 1973, be retained in the operating reserve fund.

All persons who desire to submit written data, views, or arguments in connection with the proposal should file them, in quadruplicate, with the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, to be received not later than September 21, 1973. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposal is to amend Subpart—Administrative Rules and Regulations (7 CFR 981.441–981.482; 38 FR 9987) and Subpart—Budget of Expenses and Rate of Assessment (7 CFR 981.322) as follows:

1. In § 981.471, redesignate paragraphs (a), (b), and (c) as paragraphs (b), (c), and (d), and add a new paragraph (a) reading as follows:

§ 981.471 **Records of receipts.**

(a) Each handler, on receiving almonds for his own account, shall issue to the person from whom so received a receipt for these almonds. In addition to the information required to be shown on the receipt pursuant to § 981.71, the receipt shall also show the county in which the almonds were produced.

* * * * * * *

2. Redesignate the provisions in § 981.472 as paragraph (a), and add a new paragraph (b) reading as follows:

§ 981.472 **Report of almonds received.**

* * * * * * *

(b) Each handler shall submit a summary report of almonds received during the following periods:

July 1 to December 31;
January 1 to March 31;
April 1 to June 30.

Each summary report shall be submitted to the Control Board within 30 days after the end of the reporting period and shall show the quantity of almonds received during the reporting period by variety and county of production.

3. Add a new § 981.300 reading as follows:

§ 981.300 **Operating reserve.**

(a) Approval is hereby given for the Board to establish and maintain an operating reserve fund for marketing promotion including paid advertising, and for the maintenance and functioning and other authorized activities of the Board. For the foregoing respective activities, the amount applicable to these purposes shall not exceed approximately one crop year's budgeted expenses for such activities. Approval is hereby given for the Board to use funds accumulated in the operating reserve fund for these activities.

(b) Unexpended assessment funds in excess of expenses incurred during the crop year ended June 30, 1973, shall be retained in an operating reserve fund in accordance with applicable provisions of §§ 981.80 and 981.81.

Dated September 5, 1973.

CHARLES R. BRADER,
*Acting Deputy Director,*
*Fruit and Vegetable Division.*

[FR Doc.73-19211 Filed 9-10-73;8:45 am]

## Agricultural Stabilization and Conservation Service

## [ 7 CFR Part 722 ]

## EXTRA LONG STAPLE COTTON

### Proposed Determinations Regarding 1974 Crop

The Secretary of Agriculture is preparing to make the following determinations with respect to the 1974 crop of extra long staple cotton (referred to as ELS cotton):

a. Amount of the national marketing quota.

b. Amount of the national acreage allotment.

c. Apportionment of the national acreage allotment to States and counties.

d. Date or period for conducting the national marketing quota referendum.

e. Unrestricted use sales policy.

f. Loan level and payment rate.

g. Detailed operating provisions to carry out the price support program.

The first four determinations above are to be made pursuant to the Agricultural Adjustment Act of 1938, as amended (52 Stat. 31, as amended; 7 U.S.C. 1281 et seq.):

(a) *National marketing quota.*—Section 347(b)(1) of the act requires the Secretary to proclaim the amount of the national marketing quota for the 1974 crop of ELS cotton by October 15, 1973. Such marketing quota shall be the number of standard bales of ELS cotton equal to the sum of the estimated domestic consumption and estimated exports, less estimated imports, for the 1974–75 marketing year, which begins August 1, 1974, plus such additional number of bales, if any, as the Secretary determines necessary to assure adequate working stocks in trade channels until ELS cotton from the 1975 crop becomes readily available without resort to Commodity Credit Corporation stocks. The Secretary may reduce the quota so determined for the purpose of reducing surplus stocks, but not below the minimum quota of 82,481 standard bales prescribed under section 347(b)(2) of the act.



V 38-175 SEP 11 73 XUM

(b) *National acreage allotment.*—Section 344(a) provides that the national acreage allotment for the 1974 crop of ELS cotton shall be that acreage determined by multiplying the national marketing quota in bales by 480 pounds (net weight of a standard bale) and dividing the result by the national average yield per acre of ELS cotton for the four calendar years 1969, 1970, 1971, and 1972.

(c) *Apportionment of the national acreage allotment to States and counties.*—Sections 344(b) and (e) provide that the national acreage allotment for the 1974 crop of ELS cotton shall be apportioned to States and counties on the basis of the acreage planted to ELS cotton (including acreage regarded as having been planted) during the five calendar years 1968, 1969, 1970, 1971, and 1972, adjusted for abnormal weather conditions during such period. Section 344(e) further provides that the State committee may reserve not to exceed 10 percent of its State allotment to adjust county allotments for trends in acreage, for counties adversely affected by abnormal conditions, or for small or new farms, or to correct inequities in farm allotments and to prevent hardship.

(d) *Date or period for conducting the national marketing quota referendum.*—Section 343 requires the Secretary to conduct a referendum, by secret ballot, of farmers engaged in the production of ELS cotton during 1973, by December 15, 1973, to determine whether such farmers are in favor of or opposed to the quota. If more than one-third of the farmers voting in the referendum oppose the national marketing quota, such quota shall become ineffective upon proclamation of the results of the referendum. Section 343 further requires the Secretary to proclaim the results of the referendum within 30 days after the date of such referendum.

The following determinations will be made pursuant to the Agricultural Act of 1949, as amended (63 Stat. 1051, as amended; 7 U.S.C. 1421 et seq.):

(e) *Unrestricted use sales policy.*—Section 407 of the act provides that no ELS cotton may be sold at less than 115 percent of the current loan rate.

(f) *Loan level and payment rate.*—Section 101(f) of the act (7 U.S.C. 1441(f)) requires that price support shall be made available to cooperators for the 1968 and each subsequent crop of ELS cotton, if producers have not disapproved marketing quotas therefor, through loans at a level which is not less than 50 percent or more than 100 percent in excess of the loan level established for Middling 1-inch upland cotton of such crop at average location in the United States (except that such loan level for ELS cotton shall in no event be less than 35 cents per pound). On August 27, 1973, the Secretary announced the preliminary national average loan rate of 25.26 cents per pound for Middling 1-inch upland cotton (micronaire 3.5 through 4.9), at average location. Section 101(f) also provides for price support payments at a rate which, together with the loan level established for such crop, shall be not less than 65 percent or more than 90 percent of the parity price for ELS cotton as of the month in which the payment rate is announced. Section 401 of the act (7 U.S.C. 1421) requires that, in determining the level of support in excess of the minimum level prescribed for ELS cotton, consideration shall be given to the supply of the commodity in relation to the demand therefor, the price levels at which other commodities are being supported, the availability of funds, the perishability of the commodity, the importance of the commodity to agriculture, and the national economy, the ability to dispose of stocks acquired through a price support operation, the need for offsetting temporary losses of export markets, and the ability and willingness of producers to keep supplies in line with demand.

(g) *Detailed operating provisions to carry out the price support program.*—Detailed regulations necessary to carry out the price support program on ELS cotton are also being reviewed for 1974. Provisions of this kind in effect under the current program may be found in the regulations providing the terms and conditions for payments on ELS cotton for 1968 and succeeding years (7 CFR 722.700–719 (1973 ed.), as amended by 38 FR 18451) and in the Cotton Loan Program Regulations (7 CFR 1427.1–28 and 1427.104 (1973 ed.), and as amended by 38 FR 13651 and 20090).

Prior to making any of the foregoing determinations and issuing related regulations, consideration will be given to any data, views, and recommendations which are submitted in writing to the Director, Cotton, Rice, and Oilseeds Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, Washington, D.C. 20250.

In order to be sure of consideration, all submissions must be received not later than September 20, 1973. All written submissions made pursuant to this notice will be made available for public inspection from 8:15 a.m. to 4:45 p.m., Monday through Friday, in Room 4091, South Building, 14th and Independence Avenue SW., Washington, D.C.

Signed at Washington, D.C., on September 6, 1973.

KENNETH E. FRICK,
*Administrator, Agricultural Stabilization and Conservation Service.*

[FR Doc.73-19293 Filed 9-10-73;8:45 am]

## DEPARTMENT OF THE INTERIOR

### National Park Service

### [ 36 CFR Part 7 ]

### BLUE RIDGE PARKWAY, NORTH CAROLINA AND VIRGINIA

### Parking and Crossing Permits for Hunters

Notice is hereby given that pursuant to the authority contained in section 3 of the Act of August 25, 1916 (39 Stat. 535 (16 U.S.C. 3)); the Act of June 30, 1936 (49 Stat. 2041 (16 U.S.C. 460a–2, as amended)); 245 DM–1 (34 FR 13879), as amended, National Park Service Order No. 77 (38 FR 7478), as amended; and Regional Director, Southeast Region Order No. 5 (37 FR 7721), it is proposed to amend § 7.34(d) of Title 36 of the Code of Federal Regulations as is set forth below.

The purpose of the amendment is to conform the periods during which the Superintendent, Blue Ridge Parkway, may issue permits for hunter parking and crossing, generally, with the applicable hunting seasons of the States of Virginia and North Carolina—to the extent that such hunter uses will not interfere with other recreational uses of the parkway. Due to the nature and extent of these other parkway uses at certain peak seasons, it has been determined that hunter parkway and crossing permits should be limited to the periods October 15–February 28 and April 15–May 15.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed amendment to the Superintendent, Blue Ridge Parkway, Post Office Box 7606, Asheville, N.C. 28807, on or before Oct. 11, 1973.

It is proposed to amend paragraph (d) of § 7.34 to read as follows:

**§ 7.34 Blue Ridge Parkway.**

* * * * *

(d) *Parking and crossing permits for hunters.*—During the hunting seasons prescribed by the States of North Carolina and Virginia (but not to exceed the periods October 15 through February 28 and April 15 through May 15), hunters may, under permits issued by the Superintendent, park vehicles in designated parking areas and cross Parkway lands from and to their vehicles with dogs on leash, firearms with breach or chamber open, and wildlife lawfully killed on lands adjacent to the Parkway. The loading or unloading of any hunter, dog, or game from any point within the Parkway boundaries other than at previously designated parking areas is prohibited.

* * * * *

GRANVILLE B. LILES,
*Superintendent, Blue Ridge Parkway.*

[FR Doc.73-19215 Filed 9-10-73;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### [ 33 CFR Part 117 ]

[CGD 73-196P]

### RAHWAY RIVER, N.J.

### Proposed Drawbridge Operation Regulations

At the request of the Central Railroad Company of New Jersey, the Coast Guard is considering amending the regulations for the railroad bridge across the Rahway River, mile 2.0, to permit certain periods when at least 4 hours' notice is required. The draw is presently required to open on signal. This change is being considered because of limited navigation during the times proposed.

Interested persons may participate in this proposed rulemaking by submitting written data, views, or arguments to the Commander (oan), Third Coast Guard District, Governors Island, New York, N.Y. 10004. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Third Coast Guard District.

The Commander, Third Coast Guard District, will forward any comments received before October 16, 1973, with his recommendations to the Chief, Office of Marine Environment and Systems, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by adding a new paragraph (g) to § 117.210 to read as follows:

**§ 117.210 Raritan River and Arthur Kill and their navigable tributaries, bridges.**

* * * * *

(g) Rahway River, mile 2.0, Central Railroad Company of New Jersey. The draw shall open on signal except that from December 1 through March 31, and from 10 p.m. to 6 a.m. from April 1 through November 30, the draw shall open on signal if at least 4 hours' notice is given.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; (33 U.S.C. 499, 49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5), 33 CFR 1.05–1(c)(4).)

Dated September 5, 1973.

W. M. BENKERT,
*Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.*

[FR Doc.73-19230 Filed 9-10-73;8:45 am]



Guard is considering amending the regulations for the railroad bridge across the Rahway River, mile 2.0, to permit certain periods when at least 4 hours' notice is required. The draw is presently required to open on signal. This change is being considered because of limited navigation during the times proposed.

Interested persons may participate in this proposed rulemaking by submitting written data, views, or arguments to the Commander (oan), Third Coast Guard District, Governors Island, New York, N.Y. 10004. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Third Coast Guard District.

The Commander, Third Coast Guard District, will forward any comments received before October 16, 1973, with his recommendations to the Chief, Office of Marine Environment and Systems, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by revised by adding a new subparagraph (12–a) immediately after subparagraph (12) of paragraph (i) of § 117.245 to read as follows:

**§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.**

* * * * *

(i) * * *

(12–a) Alabama River, Ala., Louisville and Nashville railroad bridge, mile 293.3. The draw shall open on signal if at least 24 hours' notice is given.

* * * * *

(Sec. 5, Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937 (33 U.S.C. 499, 49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5), 33 CFR 1.05–1(c)(4).)

Dated September 5, 1973.

W. M. BENKERT,
*Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.*

[FR Doc.73-19229 Filed 9-10-73;8:45 am]

### [ 33 CFR Part 117 ]

[CGD 73-195P]

### ALABAMA RIVER, ALA.

### Proposed Drawbridge Operation Regulations

The Coast Guard is considering revising the regulations for the Louisville and Nashville Railroad Company drawbridge, mile 293.3, Alabama River, to require at least 24 hours' notice before the draw is required to open for the passage of vessels. The draw is presently required to open on signal. This change is being considered because the draw has not opened for at least 8 years and also because other bridges in this reach of the Alabama River have been placed on the 24 hour notice provision.

Interested persons may participate in this proposed rulemaking by submitting written data, views, or arguments to the Commander (oan), Eighth Coast Guard District, Customhouse, New Orleans, Louisiana 70130. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Eighth Coast Guard District.

The Commander, Eighth Coast Guard District, will forward any comments received before October 16, 1973, with his recommendations to the Chief, Office of Marine Environment and Systems, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by adding a new subparagraph (4) to paragraph (h) of § 117.245 to read as follows:

**§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of draw tenders is not required.**

* * * * *

(h) * * *

(4) Ashepoo River, S.C.; Seaboard Coast Line drawbridge, mile 32.0. The draw need not open for the passage of vessels and paragraphs (b) through (e) of this section shall not apply to the bridge, provided that the draw shall be returned to full operation within 6 months after notification of the owner by the Commandant to take such action.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; (33 U.S.C. 499, 49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5), 33 CFR 1.05–1(c)(4).)

Dated September 5, 1973.

W. M. BENKERT,
*Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.*

[FR Doc. 73-19232 Filed 9-10-73;8:45 am]

### [ 33 CFR Part 117 ]

[CGD 73-198P]

### ASHEPOO RIVER, S.C.

### Proposed Drawbridge Operation Regulations

At the request of the Seaboard Coast Line Railroad Company, the Coast Guard is considering revising the regulations for the bridge across the Ashepoo

### [ 33 CFR Part 117 ]

[CGD 73-197P]

### RED RIVER, LA. AND ARK.

### Proposed Drawbridge Operation Regulations

The Coast Guard is considering revising the regulations for the drawbridges



V 38-175 SEP 11 73 XUM

across the Red River from mile 66.0, the location of the first drawbridge, to mile 283.1 to require at least 48 hours' notice. Those drawbridges above mile 283.1 would not be required to open for the passage of vessels. This change is being considered because of limited navigation on the Red River from mile 30.6 upward.

Interested persons may participate in this proposed rulemaking by submitting written data, views, or arguments to the Commander (oan), Second Coast Guard District, Federal Building, 1520 Market Street, St. Louis, Missouri 63103. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Second Coast Guard District.

The Commander, Second Coast Guard District, will forward any comments received before October 16, 1973, with his recommendations to the Chief, Office of Marine Environment and Systems, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by:

(1) Deleting subparagraphs (2), (2-a), (3), (4), (5), (6), and (7) of paragraph (f) of § 117.560.

(2) Adding a new subparagraph (2) to paragraph (f) of § 117.560 to read as follows:

**§ 117.560 Mississippi River and its tributaries and outlets; bridges where constant attendance of drawtenders is not required.**

. . . . . .

(f) . . .

(2) Red River, La. and Ark., mile 66.0 to mile 283.1. At least 48 hours' notice is required. The draws of the bridges need not open for a vessel that arrives at any of these bridges more than 2 hours after the time specified in the notice, unless a second notice of at least 48 hours is given. The draws of the bridges above mile 283.1 need not open for the passage of vessels.

. . . . . .

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937 (33 U.S.C. 499, 49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4).)

Dated September 5, 1973.

W. M. BENKERT,
*Read Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.*

[FR Doc.73-19231 Filed 9-10-73;8:45 am]

## [ 33 CFR Part 117 ]

[CGD 73-199P]

### CORTE MADERA CREEK, CAL.

### Proposed Drawbridge Operation Regulations

The Coast Guard is considering amending the regulations for the Northwestern Pacific railroad bridge across Corte Madera to require more frequent openings of the draw. The draw is presently required to open if at least 24 hours notice is given on weekdays and at least 72 hours notice is given for Saturdays, Sundays and holidays. The proposed amendment would require the draw to open if at least 24 hours' notice is given at all times except that from May 1 through October 31 on Saturdays, Sundays, and holidays the draw would open on signal from 8 a.m. of the first day of the holiday or weekend to 10 p.m. of the last day of the weekend or holiday. This change is being considered because of a substantial increase of vessels in the area during the period proposed.

Interested persons may participate in this proposed rulemaking by submitting written data, views, or arguments to the Commander (oan), Twelfth Coast Guard District, 630 Sansome Street, San Francisco, California 94126.

Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Twelfth Coast Guard District.

The Commander, Twelfth Coast Guard District, will forward any comments received before October 16, 1973, with his recommendations to the Chief, Office of Marine Environment and Systems, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by revising paragraph (e) of § 117.712 to read as follows:

**§ 117.712 Tributaries of San Francisco Bay and San Pablo Bay, Cal.**

. . . . . .

(e) *Corte Madera Creek, Northwestern Pacific railroad bridge near Greenbrae.*—(1) The draw shall open on signal if at least 24 hours' notice has been given. However, from May 1 through October 31 on Saturdays, Sundays, and holidays that are observed on Monday or Friday during this period, the draw shall open on signal from 8 a.m. on the first day of the holiday or weekend until 10 p.m. on the last day of the weekend or holiday. If no drawtender is present during these periods the draw shall be maintained in the fully open position.

(2) The owner of or agency controlling this bridge shall keep conspicuously posted on both sides of the bridge a copy of the provisions of this paragraph together with information stating exactly how the authorized representative may be reached.

. . . . . .

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937 (33 U.S.C. 499, 49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4).)

Dated September 5, 1973.

W. M. BENKERT,
*Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.*

[FR Doc.73-19233 Filed 9-10-73;8:45 am]

## Federal Aviation Administration

## [ 14 CFR Part 71 ]

[Airspace Docket No. 73-GL-40]

### TRANSITION AREA

### Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Hillsboro, Wisconsin.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before October 11, 1973, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A new public use instrument approach procedure has been developed for the Kickapoo Airport, Hillsboro, Wisconsin. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area at Hillsboro, Wisconsin. The new procedure will become effective concurrently with the designation of the transition area.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (38 FR 435), the following transition area is added:

HILLSBORO, WISC.

That airspace extending upward from 700 feet above the surface within a 8 mile radius of the Kickapoo Airport (latitude 43°39'24" N., longitude 90°19'41" W.).

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Des Plaines, Ill., on August 21, 1973.

R. O. ZIEGLER,
*Acting Director, Great Lakes Region.*

[FR Doc.73-19187 Filed 9-10-73;8:45 am]

## Hazardous Materials Regulations Board

## [ 49 CFR Parts 172, 173 ]

[Docket No. HM-57; Notice No. 73-6]

### CLASSIFICATION AND PACKAGING OF CORROSIVE MATERIALS

### Notice of Proposed Rule Making

On March 23, 1972, April 26, 1972, September 16, 1972, May 16, 1973, and August 3, 1973, the Hazardous Materials Regulations Board (the Board) published Docket No. HM-57, Amendment Nos. 171-14, 172-14, 172-20, 173-61, 173-74, 174-14, 175-7, 177-21, 178-26 (37 FR 5946, 8383, and 18918, 38 FR 12807 and 20837) prescribing new regulations for the classification, packaging, marking, labeling, and transportation of corrosive materials. Compliance with these amendments has been authorized as of April 21, 1972. The mandatory effective date is December 31, 1973.

When the Board extended the mandatory effective date to December 31, 1973 (38 FR 12807), it stated that several problems remained to be resolved. On August 3, 1973, the Board published Amendment Nos. 172-20, 173-74, and 178-26 in this docket which resolved several issues. This notice proposes changes to resolve the remaining difficulties except for the one involving materials corrosive only to metals. The Board expects to propose a final resolution in this matter in the near future. In this document, the Hazardous Materials Regulations Board is considering amendment of Parts 172 and 173, to add a new § 173.249a, and to amend §§ 172.5, 173.28, 173.119, 173.244, and 173.245.

*Tariff 6D.*—The proposed changes to § 172.5 are based on several different sources of information. The primary source is the Air Transport Restricted Articles Tariff No. 6D which is the tariff used by many airlines as their public disclosure on the materials authorized aboard aircraft and the conditions under which they will be transported. The materials listed in Tariff 6D are identified in § 172.5 of this document by abbreviations following the name of the material, i.e., "(Cor)" for Corrosive liquid, "(B)" for ORA B. "ORA B" means "Other Restricted Article, Group B" and is defined in Tariff 6D as "a solid material which, when wet, becomes strongly corrosive so as to be capable of causing damage to aircraft structure." These abbreviations represent the classification given the subject materials in Tariff 6D before July 28, 1973. In a recent revision to Tariff 6D, the classification of a number of materials was changed from ORA B to "corrosive material." These changes have highlighted the existence of discrepancies between the DOT Hazardous Materials Regulations and Tariff 6D regarding corrosive materials. The Board has information regarding certain materials that indicates they may not meet the corrosive material definition. Both publications use the same definition.

Based on the evaluation of the information available to the Board, it is of the opinion that many of the corrosive materials listed in the tariff are properly classed. In an effort to ascertain that the materials listed in § 172.5 as proposed herein meet the corrosive material definition, the Board requests that additional data be made available to it.

The Board is primarily interested in reviewing data representing results of the tests prescribed in § 173.240. It also requests that persons submitting data only on metals testing indicate that the material is not skin corrosive according to the test in § 173.240(a) if this is the case. They should also indicate if the material is corrosive to steel or aluminum, or both. According to the items that are finally added to § 172.5, the Board will make corresponding changes in Part 173 in the final amendment.

As an ancillary action, after the data has been reviewed and classification determinations have been completed through the rule making process, the Department will undertake to notify the Civil Aeronautics Board of all discrepancies. In this manner, it is hoped that Tariff 6D and the DOT Hazardous Materials Regulations will be made more uniform thereby facilitating compliance with all regulations. The Board intends to follow this procedure for all classes of hazardous materials as it proceeds with the updating of its own regulations.

*Additional shipping names.*—The Board has information on approximately 40 additional materials which could be corrosive, and are not named in this notice. However, on the basis of the information submitted, the Board believes that some of the materials possibly should be classed as flammable liquids or Class B poisons, and is reviewing this matter in more depth. If a material requested by a petitioner to be added to § 172.5 has a Tagliabue Open-Cup (T.O.C.) flash point slightly above 100°F. or between 80°F. and 100°F., the Board did not include the material in the list because of other pending rule making in HM-102. Any person observing that the Board has not provided for a material in this list as he requested, may request further consideration by providing data indicating that the material is not a Class B poison or a flammable liquid (open and closed cup flash point). There is no need to provide such data if these persons anticipate shipping these materials as Class B poisons, n.o.s. or corrosive liquids, n.o.s., as they deem appropriate. If the T.O.C. flash point is 80°F. or below and the material meets the definition in § 173.343, the material would be classed as a flammable liquid or a Class B poison, not a corrosive material.

*Additional packagings.*—Some persons petitioned the Board to add certain packagings in §§ 173.119(m) and 173.245. On the basis of these petitions and the satisfactory experience gained with the use of these packagings to transport materials similar to those now covered by the regulations, §§ 173.119(m) and 173.245 are proposed to be amended.

*Reconditioned drums.*—Several petitions were received to amend § 173.28(h) to provide for the use of series 17 reconditioned drums. This proposal includes a provision for limited use of these drums in a service where they have been successfully used under special permit or for materials not considered corrosive prior to revision of § 173.240.

*Small quantities and exemptions.*—The Council for Safe Transport of Hazardous Articles (COSTHA) has petitioned the Board for reconsideration of Amendment 173-61 in Docket HM-57 to amend the small quantities exemption provision of § 173.244 to relieve shippers from what it considers an unwarranted burden of regulation when packaging and shipping small quantities of corrosive liquids. The Board believes that the portion of COSTHA's petition relating to exemption from specification packaging requirements when corrosive liquids are packed in inside metal or plastic packagings each not over 32 ounces by volume or weight has merit. It proposes to exempt corrosive liquids when so packaged from specification packaging, by amending § 173.244.

*"Low hazard" corrosive liquids.*—Several petitions were received requesting that the use of certain non-DOT specification packagings be authorized for corrosive liquids not considered corrosive by shippers prior to revision of § 173.240. These materials have been identified to the Board as presenting a lesser degree of hazard. In this proposal, the Board has agreed with several of the petitioners. However, it has modified the description of the material as presented by petitioners, in an effort to assure that corrosive liquids having a higher degree of hazard would not be shipped under these provisions. A new § 173.249a is proposed to prescribe packaging for these materials. Meanwhile, the Board has been inquiring into the strength of some of the packaging referenced to determine if upgrading of the packaging is warranted and feasible. Depending on the outcome of the Board's review and the records of experience that it gathers regarding the shipment of materials in these packagings, the Board may propose further rule making in this area.

*Previously submitted data.*—Some data has been provided to the Board indicating that certain materials proposed to be classified as corrosive materials do not meet § 173.240. For example, some aluminum chloride solutions apparently do not meet § 173.240. While the Board does not dispute this data and this data has been made a part of the docket, it desires to obtain the advice of persons









V 38 175 SEP 11 73 XUM

| Article | Classed as— | Exemptions and packing (see sec.) | Label required if not exempt | Maximum quantity in 1 outside container by rail express |
|---|---|---|---|---|
| Crotonic acid | Cor | 173.244, 173.245 | do | Do. |
| Dichloroacetic acid (Cor) | Cor | 173.244, 173.245 | do | 1 quart. |
| Dichloroacetyl chloride (Cor) | Cor | 173.241, 173.247 | do | 1 gallon. |
| Dichloroisopropyl ether | Cor | 173.244, 173.245 | do | 10 gallons. |
| Dichloropentyl trichlorosilane (Cor) | Cor | No exemption, 173.280 | do | Do. |
| Dichloropropene — dichloropropane mixture | Cor | 173.241, 173.245 | do | Do. |
| Diethylpropiona and propylene dichloride mixture. | Cor | 173.244, 173.245 | do | Do. |
| Di(2-ethylhexyl) phosphoric acid | Cor | 173.244, 173.245 | do | Do. |
| Diethylene triamine, solid | Cor | 173.244, 173.245 | do | 100 pounds. |
| Diphenylmethylbromide | Cor | 173.241, 173.245b | do | Do. |
| (Cor). | | | | |
| •Diphenylmethyl bromide solution | Cor | 173.244, 173.247 | do | 1 gallon. |
| •Dye intermediate, liquid | Cor | 173.241, 173.249a | do | 10 gallons. |
| Ferric chloride, solid (B) | Cor | 173.244, 173.245b | do | 100 pounds. |
| •Ferric chloride solution | Cor | 173.244, 173.245 | do | 10 gallons. |
| Fluoboric acid (Cor) | Cor | 173.244, 173.294(a) | do | 1 gallon. |
| Fluosilicic acid (Cor) | Cor | 173.244, 173.245 | do | 1 quart. |
| Hexamethylene diamine, solid (Cor) | Cor | 173.244, 173.245b | do | 100 pounds. |
| Hexamethylene imine | Cor | 173.244, 173.245 | do | 10 gallons. |
| Hydrazine sulfate | Cor | 173.244, 173.245 | do | Do. |
| •Hydrofluoric acid solution, *containing more than 60% of water.* | Cor | 173.244, 173.245 | do | 5 gallons. |
| Iminobispropylamine | Cor | No exemption, 173.294 | do | 10 gallons. |
| Iodine pentafluoride (Cor) | Cor | 173.244, 173.245 | do | 100 pounds. |
| Isobutyric acid | Cor | 173.244, 173.245 | do | 10 gallons. |
| Isobutyric anhydride | Cor | 173.244, 173.245 | do | Do. |
| Isopentanoic acid | Cor | 173.244, 173.245 | do | Do. |
| Isopropyl acid phosphate, solid (B) | Cor | 173.244, 173.245b | do | 100 pounds. |
| Lead silicate, solid, *containing more than 8% free acid.* | Cor | 173.244, 173.245b | do | Do. |
| Mercaptoethanolamine | Cor | 173.244, 173.245 | do | 10 gallons. |
| Methyl chloroformate | Cor | 173.244, 173.245 | do | Do. |
| Methyl dichloroacetate (Cor) | Cor | 173.244, 173.245 | do | 1 quart. |
| Methyl ethyl dichlorosilane (Cor) | Cor | 173.244, 173.245 | do | 10 gallons. |
| Methyl norbornene dicarboxylic anhydride. | Cor | No exemption, 173.245 | do | 1 quart. |
| •Mining reagent, liquid (containing sodium cyanide or acid). | Cor | 173.244, 173.249a | do | 10 gallons. |
| Monoethanolamine | Cor | 173.244, 173.245 | do | Do. |
| Nonyl phenol | Cor | 173.244, 173.245 | do | 10 pints. |
| Pentafluorosulfuric acid, liquid (Cor) | Cor | 173.244, 173.245 | do | 5 gallons. |
| •Potassium hydrogen fluoride solution (Cor) | Cor | 173.241, 173.249 | do | Do. |
| Potassium hydroxide, dry or solid. *See* Caustic potash, dry, etc. | Cor | 173.244, 173.249a | do | Do. |
| Propionic acid (B) | Cor | 173.244, 173.245 | do | 10 gallons. |
| Propionic anhydride | Cor | 173.244, 173.245 | do | 10 gallons. |
| Propylene diamine | Cor | No exemption, 173.245 | do | 5 pints. |
| Stearic acid, liquid (Cor) | Cor | 173.244, 173.245 | do | 100 pounds. |
| Sodium acid pyrophosphate, solid (B) | Cor | 173.244, 173.245b | do | 100 pounds. |
| •Sodium fluoride solution (Cor) | Cor | 173.244, 173.245 | do | 5 gallons. |
| Sodium hydrogen sulfate, solid (B) | Cor | 173.244, 173.245b | do | 100 pounds. |
| •Sodium hydrogen sulfide solution | Cor | 173.244, 173.245 | do | 1 gallon. |
| Sodium hydrogen sulfite, solid (B) | Cor | 173.244, 173.245b | do | 100 pounds. |
| •Sodium methylate, alcohol mixture. | Cor | 173.244, 173.245 | do | 10 gallons. |
| Sodium monoxide, solid (B) | Cor | 173.244, 173.243b | do | 100 pounds. |
| Sodium phosphide, solid (B) | Cor | 173.244, 173.245 | do | Do. |
| Tetraethylenepentamine | Cor | 173.244, 173.245 | do | 10 gallons. |
| 1,2,3,6-tetrahydrobenzaldehyde | Cor | 173.244, 173.245 | do | Do. |
| Tetramethylammonium hydroxide, solid. | Cor | 173.244, 173.245 | do | Do. |
| •Textile treating compound mixture, liquid. | Cor | 173.244, 173.249a | do | Do. |
| Thioglycolic acid (Cor) | Cor | 173.244, 173.245 | do | 1 gallon. |
| Toluene sulfonic acid, solid (B) | Cor | 173.244, 173.245 | do | 10 gallons. |
| Trichloroacetic acid, solid (B) | Cor | 173.244, 173.245b | do | 100 pounds. |

(*Add*)

| | | | | |
|---|---|---|---|---|
| •Acetic acid (Cor) *(aqueous solution)* | Cor | 173.244, 173.245 | Corrosive | 10 gallons. |
| Acetic acid, glacial (Cor) | Cor | 173.244, 173.245 | do | Do. |
| Acetic anhydride (Cor) | Cor | 173.241, 173.247 | do | 1 gallon. |
| Acetic formic anhydride | Cor | 173.244, 173.247 | do | Do. |
| Acetyl iodide (Cor) | Cor | 173.244, 173.247 | do | Do. |
| •Acid chloride compound, liquid | Cor | 173.244, 173.247 | do | 10 gallons. |
| Acrylic acid | Cor | 173.244, 173.245 | do | 5 pints. |
| Acrylic acid, inhibited (Cor) | Cor | 173.244, 173.245 | do | 1 gallon. |
| Aluminum bromide, anhydrous, solid (B). | Cor | 173.241, 173.245b | do | 10 gallons. |
| Aluminum chloride, anhydrous, solid (B). | Cor | 173.241, 173.245b | do | Do. |
| •Aluminum chloride solution | Cor | 173.244, 173.245 | do | 10 gallons. |
| Aluminum phosphate, solid | Cor | 173.244, 173.245b | do | 100 pounds. |
| Aminoethylethanolamine | Cor | 173.244, 173.245 | do | 10 gallons. |
| 2-(2-aminoethylamino) ethanol | Cor | 173.244, 173.245 | do | Do. |
| n-Aminoethylpiperazine | Cor | 173.244, 173.245 | do | Do. |
| Aminopropyldiethanolamine | Cor | 173.244, 173.245 | do | Do. |
| n-Aminopropylmorpholine | Cor | 173.244, 173.245 | do | Do. |
| Ammonium bifluoride, solid | Cor | 173.244, 173.245 | do | 100 pounds. |
| Ammonium hydrogen fluoride, solid (B). | Cor | 173.244, 173.245 | do | 5 gallons. |
| •Ammonium hydrogen fluoride solution | Cor | 173.244, 173.245 | do | 10 gallons. |
| Amyl acid phosphate | Cor | 173.244, 173.245 | do | 100 pounds. |
| Antimony trichloride, solid (Cor) | Cor | 173.241, 173.245b | do | 5 pints. |
| •Antimony trichloride solution (Cor) | Cor | 173.244, 173.245 | do | 1 gallon. |
| Boron trifluoride-acetic acid complex (Cor). | Cor | 173.244, 173.247 | do | 100 pounds. |
| Bromoacetic acid, solid (B) | Cor | 173.244, 173.245b | do | 1 quart. |
| •Bromoacetic acid solution (Cor) | Cor | 173.244, 173.245 | do | 5 gallons. |
| Butyl acid phosphate (B) | Cor | 173.244, 173.245 | do | 10 gallons. |
| •Calcium hydrogen sulfite solution (B) | Cor | 173.244, 173.245 | do | 5 gallons. |
| Caustic potash, dry or solid. *See* Potassium hydroxide, dry, etc. | | 173.244, 173.245b | do | 100 pounds. |
| Chloroacetic acid, solid (B) | Cor | 173.244, 173.245 | do | 10 gallons. |
| Chlorophenyl trichlorosilane (Cor) | Cor | 173.244, 173.245b | do | 100 pounds. |
| Chromic fluoride, solution (Cor) | Cor | 173.244, 173.245 | do | 1 gallon. |
| •Coal tar dye, liquid *not otherwise specifically named in § 172.51* (components, phenol, acetic acid, sodium or potassium hydroxide) | Cor | 173.244, 173.249a | do | 10 gallons. |
| •Coal tar dye, liquid (components, phenol, acetic acid, sodium or potassium hydroxide) | Cor | 173.241, 173.249a | do | Do. |

In consideration of the foregoing, it is proposed to amend 49 CFR Parts 172 and 173 as follows:

**PART 172—LIST OF HAZARDOUS MATERIALS CONTAINING THE SHIPPING NAME OR DESCRIPTION OF ALL MATERIALS SUBJECT TO PARTS 170–189 OF THIS SUBCHAPTER**

In § 172.5 the list of hazardous materials would be amended as follows:

**§ 172.5 List of hazardous materials.**

(a) • • •

who posses information either supporting or opposing the proposed classification of the materials as corrosive. However, persons who have submitted any such data on materials listed in this notice should reaffirm their conclusions by simply referring to the data previously submitted. It is not necessary to resubmit the data. This procedure will permit the Board to have the benefit of the latest data available and it will avoid any oversights caused by the extremely large volume of data that has been developed in this docket.





| Article | Classed as— | Exemptions and packing (see sec.) | Label required if not exempt | Maximum quantity in 1 outside container by rail express |
|---|---|---|---|---|
| •Trichloroacetic acid solution (Cor) | Cor | 173.244, 173.245 | do | 1 quart. |
| 1,1,2-trichloroethane | Cor | 173.244, 173.245 | do | 10 gallons. |
| Trimethyl acetylchloride (Cor) | Cor | 173.244, 173.247 | do | 1 gallon. |
| Valeric acid | Cor | 173.244, 173.245 | do | 10 gallons. |
| Valeryl chloride (Cor) | Cor | 173.244, 173.245 | do | 1 gallon. |
| White acid (*ammonium bifluoride and hydrochloric acid mixture*) (Cor). | Cor | 173.244, 173.264(a) | do | Do. |
| •Zinc chloride solution (Cor) | Cor | 173.241, 173.245 | do | 1 quart. |
| Zirconium tetrachloride, solid (Change) | Cor | 173.244, 173.245b | do | 100 pounds. |
| •Acids, liquid, n.o.s | Cor | 173.244, 173.245 | do | 5 pints. |
| •Alkaline corrosive liquids, n.o.s | Cor | 173.241, 173.249 | do | 10 gallons. |
| •Antimony pentachloride solution | Cor | 173.241, 173.245 | do | 5 pints. |
| •Chromic acid solution | Cor | 173.244, 173.245, 173.287 | do | 1 gallon. |
| •Cuprichylene-diamine solution | Cor | 173.244, 173.249 | do | Do. |
| •Formic acid solution | Cor | 173.241, 173.245, 173.289 | do | 5 gallons. |
| •Hexamethylene diamine solution | Cor | 173.241, 173.249, 173.292 | do | 10 gallons. |

## PART 173—SHIPPERS

1. In Part 173 Table of Contents, § 173.249a would be added to read as follows:

Sec.
173.249a Acid chloride compound, liquid, Coal tar dye, liquid, Cleaning compound, liquid, Dye intermediate, liquid, Mining reagent, liquid, and Textile treating compound mixture, liquid.

2. In § 173.28, the introductory text of paragraph (m) would be amended to read as follows:

**§ 173.28 Reuse of containers.**

• • • • • •

(m) Specifications 17C, 17E, and 17H steel drums (§§ 178.115, 178.116, 178.118 of this subchapter) from which contents have been removed, may be reused as prescribed in this part as packagings for shipment of flammable liquids, flammable solids, oxidizing materials, radioactive materials, and corrosive liquids covered by §§ 173.249 and 173.249a, only if the following requirements, in addition to the other requirements of this section, are complied with prior to each reuse:

• • • • • •

3. In § 173.119, paragraph (m)(16) would be added to read as follows:

**§ 173.119 Flammable liquids not specifically provided for.**

• • • • • •

(m) • • •

(16) Specification 6D or 37M (nonreusable container) (§§ 178.102, 178.134 of this subchapter). Cylindrical steel overpacks with an inside specification 2S or 2SL (§§ 178.35, 178.35a of this subchapter) polyethylene container. Authorized only for materials that will not react with polyethylene and result in container failure.

4. In § 173.244, paragraph (a) would be amended to read as follows:

**§ 173.244 Exemptions for corrosive materials.**

(a) Except corrosive liquids for which no exemption is provided in § 172.5 of this subchapter and unless otherwise provided in this part, corrosive liquids are exempt from specification packaging requirements when packaged:

(1) In inside metal or plastic packaging not over 32 ounces by volume or weight each;

(2) In inside glass bottles having a capacity not over 16 ounces by volume or weight each and enclosed in an inside metal can. This packaging is also exempt from Part 177 of this subchapter, except § 177.817, and from marking and labeling requirements. However, marking name of contents on outside packaging is required for shipments by water.

• • • • • •

5. In § 173.245, paragraph (a)(4) would be amended; paragraph (a)(34) would be added to read as follows:

**§ 173.245 Corrosive liquids not specifically provided for.**

(a) • • •

(4) Specification 5A, 5B, 5C, or 5M (§§ 178.81, 178.82, 178.83, 178.90 of this subchapter). Metal barrels or drums.

• • • • • •

(34) Specification 42B (§ 178.107 of this subchapter). Aluminum drum.

6. § 173.249a would be added to read as follows:

**§ 173.249a Acid chloride compound, liquid, coal tar dye, liquid, cleaning compound, liquid, dye intermediate, liquid, mining reagent, liquid, and textile treating compound mixture, liquid.**

(a) An acid chloride compound subject to this section is a liquid acid chloride compound not otherwise specifically named in § 172.5(a) of this subchapter.

(b) A liquid cleaning compound subject to this section must not contain any corrosive material specifically named in § 172.5(a) of this subchapter, except phosphoric acid, acetic acid, and not over 15 percent sodium or potassium hydroxide.

(c) A liquid dye intermediate is a ring compound, containing amino, hydroxy, sulfonic acid, or quinone group or a combination of these groups, used in the manufacture of dyes, and not otherwise specifically named in § 172.5 of this subchapter.

(d) Liquid acid chloride compound, liquid coal tar dye, liquid cleaning compound, liquid dye intermediate, liquid mining reagent, and liquid textile treating compound mixture must be packaged as follows:

(1) In specification packagings as prescribed in § 173.245.

(2) In packaging meeting all of the specific requirements prescribed in § 173.245 including packaging type and quantity limitations for inside packagings. The packagings are not required to meet the detailed specification requirements of Part 178 of this subchapter except that size and weight limitations for package types as prescribed in Part 178 may not be exceeded.

(3) Removable (open) head fiber drum lined or coated on the inside with a plastic material, not over 55-gallon capacity.

(4) Removable (open) head metal drum, not over 55-gallon capacity.

(5) Removable (open) head polyethylene drum, not over 6.5-gallon capacity.

Interested persons are invited to give their views on these proposals. Communications should identify the docket number and be submitted in duplicate to the Secretary, Hazardous Materials Regulations Board, Department of Transportation, Washington, D.C. 20590. Communications received on or before November 6, 1973, will be considered before final action is taken on these proposals. All comments received will be available for examination by interested persons at the Office of the Secretary, Hazardous Materials Regulations Board, room 6215 Buzzards Point Building, Second and V Streets SW., Washington, D.C., both before and after the closing date for comments.

(Secs. 831–835, title 18, U.S.C., sec. 9, Department of Transportation Act (49 U.S.C. 1657); title VI, sec. 902(h), Federal Aviation Act of 1958 (49 U.S.C. 1421–1430, 1472(h), and 1655(c)))

Issued in Washington, D.C., on August 31, 1973.

W. J. BURNS,
*Director, Office of Hazardous Materials.*

[FR Doc.73 19013 Filed 9-10-73;8:45 am]

## COST OF LIVING COUNCIL

[ 6 CFR Ch. I ]

### RUBBER TIRE, PAPER, AND SOAP AND DETERGENT PRICE INCREASES

#### Notice of Public Hearings

Notice is hereby given that the Cost of Living Council will hold public hearings to receive comments from interested persons on Rubber Tire, Paper, and Soap and Detergent price increase prenotifications filed with the Cost of Living Council. The hearings will be held in the Cost of Living Council Auditorium, Room 2105, 2000 M Street NW., Washington, D.C. beginning at 9:30 a.m. on Monday, September 17, 1973, for Rubber Tires, Wednesday, September 19, 1973, for Paper, and Friday, September 21, 1973, for Soap and Detergents. The hearings



V 38 I 175 S SEP 11 73 XUM

will explore facts relating to cost justification, the relationship of prices, profits, and capital investment, and the effect of productivity and volume improvement on costs and profits. Attention will also be given to what supply increases might result directly from these price increases.

In connection with these hearings the Council has suspended the running of the 30-day prenotification period on all pending prenotifications of price increases on rubber tires, paper, and soap and detergents (SIC codes 2011—Tire and inner tube; 2822—Synthetic rubber (vulcanizable elastomers); 2296—Tire cord and fabric; 2841—Soap and other detergents; and all of SIC Group 26—Paper and allied products). The firms concerned are being notified individually of the suspension and will again be notified when the suspension is lifted. The Council intends to act promptly on these prenotifications following the hearings.

Nine rubber companies, accounting for 75 percent of industry tire sales, have prenotified price increases of 6.5 percent an average on tires and tubes. Twenty paper companies, accounting for about 35 percent of industry sales, have prenotified price increases of about 5.7 percent on average on paper, paperboard, and converted paper products. Five major soap companies, accounting for about 70 percent of industry sales, have prenotified price increases of 20.3 percent on average on soap and detergent products. The specific prenotifications involved are listed in the prenotification summaries regularly issued by the Cost of Living Council.

These public hearings will be conducted under the authority of section 207(c) of the Economic Stabilization Act of 1970, as amended, which specifies that to the maximum extent possible, formal hearings be conducted for the purpose of acquiring information bearing on a change or a proposed change in prices which have or may have a significantly large impact upon the national economy.

The Cost of Living Council is inviting public participation in the form of written submissions as well as oral presentations. The Council requests all interested persons to submit for Council consideration written suggestions and comments on Rubber Tires not later than September 22, 1973, on Paper not later than September 24, 1973, and on Soap and Detergents not later than September 26, 1973.

All written submissions should be sent to Executive Secretariat, Cost of Living Council, 2000 M Street NW., Washington, D.C. 20508. All written submissions received before 5:00 p.m., e.s.t., on the applicable closing date for comments will be made part of the official record of the hearings.

Any information or data considered by the person furnishing it to be confidential must be submitted in writing, one copy only, before the person's scheduled appearance, or by the applicable closing date for written comments. The Cost of Living Council reserves the right to determine the confidential status of the information or data and to treat it accordingly.

Any person who has an interest in the subject of the hearings, or who is a representative of a group or class of persons which has an interest in the subject of the hearings, may request the opportunity to make an oral presentation by telephoning the Executive Secretariat of the Cost of Living Council at 202–254–8610 before 5:00 p.m., e.s.t., Thursday, September 13, 1973, for the Rubber Tire hearings, Friday, September 14, 1973, for the Paper hearing and Monday, September 17, 1973, for the Soap and Detergent hearings. The person making the request should be prepared to describe the interest concerned; if appropriate to state why he is a proper representative of a group or class of persons which has such an interest; and to give a concise summary of the proposed oral presentation and a phone number where he may be contacted the requested hearing date. Oral presentations may be supplemented by written submissions filed with the Council not later than five days following the applicable hearing date.

The Council reserves the right to select the persons to be heard at the hearings, to schedule their respective presentation, and to establish the procedures governing the conduct of the hearings. Each presentation may be limited, based on the number of persons requesting to be heard.

Each person selected to be heard will be so notified by the Council before 5:00 p.m., e.s.t., September 14, 1973, for the Rubber Tire hearing, September 17, 1973, for the Paper hearing and September 18, 1973, for the Soap and Detergent hearing. Each scheduled witness must send 50 copies of his statement to the Executive Secretariat by 5:00 p.m., e.s.t., on the day preceding the applicable hearing date.

A Cost of Living Council official will be designated to preside at the hearings. They will not be judicial—or evidentiary-type hearings. Questions may be asked only by those conducting the hearings, and there will be no cross-examination of persons presenting statements. Any decision made by the Council with respect to the subject matter of the hearings will be based on all information available to the Council, from whatever source received. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity if he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and may not exceed 10 minutes each.

Any interested person may submit questions, to be asked of any person making a statement at the hearings, before 5:00 p.m., e.s.t., the day preceding the applicable hearing. Any person who makes an oral statement and who wishes to ask a question at the hearings may submit the question, in writing, to the presiding officer. The Council, or the presiding officer if the question is submitted at the hearings, will determine whether the question is relevant, and whether time limitations permit it to be presented for answer.

Due to wide public interest in the hearings, available space may not accommodate all those who wish to attend; thus members of the general public will be admitted on a first come, first served basis.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

A transcript of the hearings will be made and the entire record of the hearings, including the transcript, will be retained by the Council and made available for inspection at the Public Reference Facility of the Council, Room 2313, 2000 M Street NW., Washington, D.C., between the hours of 8:30 a.m. and 5:30 p.m., Monday through Friday. Anyone may buy a copy of the transcript from the reporter.

Issued at Washington, D.C., on September 7, 1973.

JAMES W. MCLANE,
*Deputy Director,*
*Cost of Living Council.*

[FR Doc.73-19403 Filed 9-7-73;4:33 pm]

## ENVIRONMENTAL PROTECTION AGENCY

**[ 40 CFR Part 180 ]**

### CERTAIN INERT INGREDIENTS IN PESTICIDE FORMULATIONS

**Proposed Exemptions From Requirement of Tolerance**

The Administrator of the Environmental Protection Agency has received requests to exempt 29 additional inert (or occasionally active) ingredients in pesticide formulations from tolerance requirements under the provisions of section 408 of the Federal Food, Drug, and Cosmetic Act. Based on a review of the history of use and available information on the chemistry and toxicology of these substances, the Administrator finds these substances useful as adjuvants and, when used in accordance with good agricultural practice, not a hazard to the public health.

Therefore, pursuant to provisions of the act (sec. 408(c), (e) 68 Stat. 512, 514 (21 U.S.C. 346a(c), (e))), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 FR 9038), it is proposed that § 180.1001 be amended by alphabetically inserting new items in the tables in paragraphs (c), (d), and (e), as follows:

**§ 180.1001 Exemptions from the requirement of a tolerance.**

* * * * *

(c) * * *

| Inert ingredients | Limits | Uses |
|---|---|---|
| * * * | * * * | * * * |
| **3,5-Dimethyl-4-octyn-3,6-diol** | Not more than 2.5% of pesticide formulation. | Surfactants, related adjuvants of surfactants. |
| **2-Ethyl-1-hexanol** | Not more than 2.5% of pesticide formulation. | Solvent, adjuvant of surfactants. |
| **2,4,7,9-Tetramethyl-5-decyn-4,7-diol** | Not more than 2.5% of pesticide formulation. | Surfactants, related adjuvants of surfactants. |
| * * * | * * * | * * * |

(d) * * *

| Inert ingredients | Limits | Uses |
|---|---|---|
| **α-[p-(1,1,3,3-Tetramethylbutyl)phenyl] poly(oxypropylene) block polymer with poly(oxyethylene); the poly(oxyethylene) content averages 35 moles; the poly(oxyethylene) content averages 40 moles; the molecular weight averages 3100.** | ..... | Surfactants, related adjuvants of surfactants. |
| **Ethyl and methyl esters of (C$_{10}$-C$_{18}$)-*omega*-hydroxypoly(oxyethylene) (e).** | ..... | Surfactants, related adjuvants of surfactants. |
| **α-Alkyl(C$_{10}$-C$_{18}$)-*omega*-hydroxypoly(oxyethylene); the poly(oxyethylene) content averages 3–20 moles.** | ..... | Surfactants, related adjuvants of surfactants. |
| **α-Alkyl(C$_{10}$-C$_{18}$)-*omega*-hydroxypoly(oxyethylene)sulfate and its ammonium, calcium, magnesium, potassium, sodium, and zinc salts; the poly(oxyethylene) content averages 3 moles.** | ..... | Surfactants, related adjuvants of surfactants. |
| **α-(p-Alkylphenyl)-*omega*-hydroxypoly(oxyethylene) sulfate; the solid fraction of 1 mole of alkylphenol (alkyl is a mixture of propylene tetramer and pentamer isomers and averages C$_{12}$) with 6 moles of ethylene oxide.** | ..... | Surfactants, related adjuvants of surfactants. |
| **Alkyl(C$_8$-C$_{18}$)sulfate and its ammonium, calcium, magnesium, potassium, sodium, and zinc salts.** | ..... | Surfactants, related adjuvants of surfactants. |
| **Amine salts of alkyl(C$_7$-C$_{18}$) benzenesulfonic acid (fatty acid = dimethylaminopropylamine, monoethanolamine, diethanolamine, and mono-, di-, and triethanolamine).** | ..... | Surfactants, related adjuvants of surfactants. |
| **Benzoic acid** | ..... | Preservative for formulations. |
| **Ethylene dichloride** | ..... | Solvent, cosolvent. |
| **(1,2-dichloroethane).** | ..... | |
| **FD & C Blue No. 1** | ..... | Dye. |
| **Glycerol monooleate** | ..... | Surfactants, related adjuvants of surfactants. |
| **α-Lauryl-*omega*-hydroxypoly(oxyethylene) sulfate, sodium salt; the poly(oxyethylene) content is 3–4 moles.** | ..... | Surfactants, related adjuvants of surfactants. |
| **α-(p-Nonylphenyl)-*omega*-hydroxypoly(oxyethylene) sulfate, and its ammonium, calcium, magnesium, potassium, sodium, and zinc salts; the nonyl group is a propylene trimer isomer and the poly(oxyethylene) content averages 4 moles.** | ..... | Surfactants, related adjuvants of surfactants. |





| Inert Ingredients | Limits | Uses |
|---|---|---|
| **α-(6-9-Octadecenyl-*omega*-hydroxypoly(oxyethylene); the octadecenyl group is derived from oleyl alcohol; the poly(oxyethylene) content averages 20 moles.** | ..... | Surfactants, related adjuvants of surfactants. |
| **Potassium salts of wood rosin (abietic, according to Title 21, § 121.292.** | ..... | Surfactants, related adjuvants of surfactants. |
| **Polyglyceryl phthalate ester of coconut oil fatty acids.** | ..... | Surfactants, related adjuvants of surfactants. |
| **Polyoxyethylated vegetable oil (castor, corn, cottonseed, olive, peanut, safflower, sesame, soybean, or sunflower seed oil); the polyoxyethylated sorbitol solution containing 15% water is reacted with fatty acids (mixture of C$_{16}$ and C$_{18}$ acids) containing minor amounts of associated fatty acids; the poly(oxyethylene) content averages 30 moles.** | ..... | Surfactants, related adjuvants of surfactants. |
| **Sodium dioctylsulfosuccinate** | ..... | Surfactants, related adjuvants of surfactants. Solubilizer. |
| **Sodium hydroxide** | ..... | Surfactants, related adjuvants of surfactants. |
| **Sorbitan fatty acid esters (fatty acids limited to C$_{16}$, C$_{18}$, C$_{18}$, and C$_{18}$ containing minor amounts of associated fatty acids) and their ethoxylated derivatives of sorbitan fatty acid esters; the poly(oxyethylene) content averages 16–20 moles.** | ..... | Surfactants, related adjuvants of surfactants. |
| **α-Stearoyl-*omega*-hydroxypoly(oxyethylene); the poly(oxyethylene) content averages 8 moles; if a blend of products is used, the average number of moles of ethylene oxide reacted to prepare any product in the blend has a range of 11 to 30 moles.** | ..... | Antidusting agent. Surfactants, related adjuvants of surfactants. |
| **Tall oil: fatty acids not less than 36% resin acids not more than 48%; unsaponifiables not more than 8%.** | ..... | Surfactants, related adjuvants of surfactants. |
| **α-[p-(1,1,3,3-Tetramethylbutyl)phenyl]-*omega*-hydroxypoly(oxyethylene) produced by the condensation of 1 mole of p-(1,1,3,3-tetramethylbutyl)-phenol with an average of 1.5 to 30 moles of ethylene oxide; if a blend of products is used, the average number of moles of ethylene oxide reacted to produce any product in the blend is a range of 11 to 30+50.** | ..... | Surfactants, related adjuvants of surfactants. |
| **Toluene sulfonic acid and its ammonium, calcium, magnesium, potassium, sodium, and zinc salts.** | ..... | Surfactants, related adjuvants of surfactants. |
| **Xylene sulfonic acid and its ammonium, calcium, magnesium, potassium, sodium, and zinc salts.** | ..... | Surfactants, related adjuvants of surfactants. |

Any person who has registered or submitted an application for the registration of an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act containing any of the ingredients listed herein may request on or before October 10, 1973, that this proposal be referred to an advisory committee in accordance with section 408(e) of the act.



V 38 N 175 SEP 11 73 XUM

Interested persons may, on or before October 10, 1973, file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & M Streets, SW., Waterside Mall, Washington, D.C. 20460, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. All written submissions made pursuant to this proposal will be made available for public inspection at the office of the Hearing Clerk.

Dated August 30, 1973.

HENRY J. KORP,
*Deputy Assistant Administrator for Pesticide Programs.*

[FR Doc.73-19106 Filed 9-10-73;8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

**[ 47 CFR Part 61 ]**

[Docket No. 19528]

**MTS AND WATS**

**Proposals for New or Revised Classes; Extension of Time for Filing Comments**

*Order.* In the matter of proposals for new or revised classes of Interstate and Foreign Message Toll Telephone Service (MTS) and Wide Area Telephone Service (WATS).

1. We have before us a Motion for Extension of Time in this proceeding filed by the North American Telephone Association (NATA) which requests that the time for filing of comments and reply comments be extended for ninety days, respectively. In support of its motion, NATA states: (1) That in the proposed rulemaking now before the North Carolina Utilities Commission, September 4, 1973, is the date for filing of comments, and hearings are scheduled to convene on October 2, 1973; (2) that the Attorney General of the State of Nebraska issued an opinion on July 18, 1972, that seems to enable carriers to prohibit intrastate interconnection and accordingly, (3) the entire manpower and resources of NATA have been diverted from the urgent questions raised in Docket 19528 to the urgent necessity of protecting the continued economic life and existence of the interconnect industry in these and other state proceedings which are contemplated.

2. We also have before us Extension of Time Statement of Position filed by Communications Certification Laboratory (CCL) which opposes any further extension of time for filing of comments only. In support of its position CCL states: (1) That in hearings before State Commissions of Utah, California, Missouri, Illinois, New York, and Georgia statements have been made urging delay of action by the states until the Commission acts; (2) that other parties have indicated an intent to file comments only and accordingly, (3) there is no justification for further delay.

3. Although we have previously granted two 30 day extensions, the first upon the request of the Ad Hoc Telecommunications Committee (38 FR 13663, May 24, 1973), and the second upon the request of the Association of American Railroads (AAR) (38 FR 18269, July 9, 1973) it appears that the NATA has shown cause for further extension of time. However, considering that the First Supplemental Notice herein was released April 3, 1973 (40 F.C.C. 2d 315), and the granting of the two previous extensions, the full ninety days requested does not appear warranted. *Therefore, it is ordered,* That, pursuant to authority delegated by § 0.303(c) of the Commission's rules, the time for filing of comments in this proceeding is extended from September 17, 1973, to October 17, 1973, and the time for filing of reply comments from November 16, 1973, to December 17, 1973.

4. In the First Supplemental Notice in Docket No. 19528, In the Matter of Proposals for new or revised classes of Interstate and Foreign Message Toll Telephone Service (MTS) and Wide Area Service (WATS), released April 3, 1973, the Commission announced that further proposals would be forthcoming from the Dialer and Answering Devices Advisory Committee and that such proposals would be the subject of comments submitted on or before the due date for filing of comments.

5. The Commission has received a status report, released August 16, 1973, from the Answering Devices Subcommittee in addition to the report of the Dialer Devices Subcommittee, released April 3, 1973. The report of the Answering Devices Subcommittee is not complete. However, the Chairman of the Subcommittee stated that there was no agreement on the procedures and enforcement portion of the Committee's work. The Chairman concluded that it was not possible to obtain a consensus at this time. By this order we are hereby advising parties of the availability of both of these reports and that any comments on these reports should be submitted to the Commission on October 17, 1973. This order hereby amends FCC Notice, Dialer Subcommittee Report, June 29, 1973.

6. DASA Corp., as a member of the Dialer Devices Subcommittee, in its letter to Commissioner R. E. Lee, released July 6, 1973, requested that its comments on the Dialer Devices Subcommittee Report of June 1973 be put forth in public comment. DASA, in its comments objected to severing the question of economics of independently supplied Dialer Devices from the evaluation of the Subcommittee's report. In light of the Dialer Subcommittee Chairman Dempsey's statement that additional views on the Subcommittee's Report may be forthcoming from Subcommittee members, we deem it appropriate that we have the benefit of public comments on the DASA Corp. letter of July 6, 1973.

7. Copies of the following pertinent documents may be obtained from Information Planning Associates at 310 Maple Drive, Rockville, Maryland 20850, telephone 301-340-0250:

a. FCC-CC-INTCN-D/A-73-1 Report of the FCC Dialer Advisory Subcommittee on DC Pulse Dialers, June 1973.

b. Status Report of Chairman of the Answering Devices of the FCC Advisory Committee on Dialer Devices and Automatic Answering Equipment, dated August 16, 1973 (document A-0097).

c. DASA Corp. letter of, released July 6, 1973, to the Honorable Robert E. Lee; Re Report of Dialer Devices Subcommittee on Direct Attachment of Phase I D.C. Pulse Dialers to the Telephone Network.

Adopted August 31, 1973.

Released September 5, 1973.

[SEAL] BERNARD STRASSBURG,
*Chief, Common Carrier Bureau.*

[FR Doc.73-19249 Filed 9-10-73;8:45 am]





# Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF THE INTERIOR

**National Park Service**

**CAPE COD NATIONAL SEASHORE ADVISORY COMMISSION**

**Development Policies; Notice of Meeting**

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Cape Cod National Seashore Advisory Commission will be held on Friday, September 21, 1973. The Commission members will assemble at 10:30 a.m. at the Headquarters Building, Cape Cod National Seashore, Marconi Station Area, South Wellfleet, Massachusetts, for a field trip prior to the regular business meeting at the Headquarters Building at 1 p.m.

The Commission was established by Pub. L. 87-126 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Cape Cod National Seashore.

The members of the Commission are as follows:

Mr. Joshua A. Nickerson (Chairman), Chatham, Mass.
Mr. Nathan Matchman (Vice Chairman), Provincetown, Mass.
Mr. Linnell E. Studley (Secretary), Orleans, Mass.
Mr. Ralph A. Chase, Eastham, Mass.
Mr. Arthur W. Brownell, Boston, Mass.
Dr. Norton H. Nickerson, Reading, Mass.
Mr. Stephen R. Perry, Truro, Mass.
Mr. Chester A. Robinson, Jr., Harwich, Mass.
Mr. David F. Ryder, Chatham, Mass.
Mrs. Esther Wiles, Wellfleet, Mass.

The matters to be discussed at this meeting are: (1) The operation of commercial activities of Dick's Lower Cape Gulf Service, (2) the Arthur Joseph sandpit, (3) a proposal for expansion of the North of Highland Camping Area, and (4) a proposal for replacement of the existing hangar at the Provincetown Airport. There will be a review of the 1973 summer season's activities. The Superintendent will give a progress report covering current problems and items of interest, which will be reviewed and discussed.

The meeting will be open to the public. Transportation facilities will not be provided for the tour, but members of the public may participate in the tour by providing their own transportation. Any person may file with the Commission a written statement concerning the matters to be discussed.

Anyone wishing further information concerning this meeting or who wishes to file a written statement may contact Leslie P. Arnberger, Superintendent, Cape Cod National Seashore, South Wellfleet, Mass., at 617-349-3785. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of the Superintendent, Cape Cod National Seashore, South Wellfleet, Mass.

Dated August 31, 1973.

IRA WHITLOCK,
*Acting Associate Director, National Park Service.*

[FR Doc.73-19241 Filed 9-10-73;8:45 am]

## DEPARTMENT OF COMMERCE

**Maritime Administration**

**NATIONAL ENVIRONMENTAL POLICY ACT REQUIREMENTS**

**Notice of Issuance of Order**

In FR Doc. 73-13455, appearing in the FEDERAL REGISTER issue of July 2, 1973 (38 FR 17519), revised notice was published of the intent of the Maritime Subsidy Board to issue, at a date in the near future, a final opinion and order, to be identified as Docket No. A-75, regarding conformance of the Maritime Administration Tanker Construction Program to the requirements of the National Environmental Policy Act.

The Board hereby gives notice that the Final Opinion and Order in Docket No. A-75 was served on August 30, 1973, and is available to interested persons through the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099-B, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20230.

Dated September 4, 1973.

By order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, JR.,
*Secretary.*

[FR Doc.73-19226 Filed 9-10-73;8:45 am]

**Social and Economic Statistics Administration**

**CENSUS ADVISORY COMMITTEE ON PRIVACY AND CONFIDENTIALITY**

**Notice of Public Meeting**

The Census Advisory Committee on Privacy and Confidentiality will convene on September 17, 1973 at 9:30 a.m. in Room 2113, Federal Building 3, at the Bureau of the Census in Suitland, Maryland.

The Census Advisory Committee on Privacy and Confidentiality was established on October 7, 1971 to advise the Director, Bureau of the Census, on policy and procedure concerning the purpose and scope of census inquiries and on all aspects of privacy and confidentiality as they relate to the statistical work of the Bureau.

The Committee is composed of 15 members appointed by the Secretary of Commerce.

The agenda for the meeting is: (1) Report on survey of recommendations by Committee Members; (2) Confidential Procedures in Census Bureau field operations; (3) Confidentiality, Archives and related issues, and (4) Privacy issues.

A limited number of seats—approximately 15—will be available to the public. A brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Guidance and Control Officer at least three days prior to the meeting.

Persons planning to attend and wishing additional information concerning this meeting should contact the Committee Guidance and Control Officer, Mr. Mathew E. Erickson, Legal Advisor, Bureau of the Census, Room 3686, Federal Building 3, Suitland, Maryland. (Mail address: Washington, D.C. 20233) Telephone: 301-763-2818.

EDWARD D. FAILOR,
*Administrator, Social and Economic Statistics Administration.*

[FR Doc.73-19282 Filed 9-10-73;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

**Office of Education**

**NATIONALLY RECOGNIZED ACCREDITING AGENCIES AND ASSOCIATIONS**

**List**

For the purposes of determining eligibility for Federal assistance, pursuant to Pub. L. 82-550 and subsequent legislation, the U.S. Commissioner hereby publishes additions to the list of recognized accrediting agencies and associations which he determines to be reliable authority as to the quality of training offered by educational institutions or programs either in a geographical area or in a specialized field, and the general scope of recognition granted to the accrediting bodies.

These additions may be added to the list previously promulgated by the Commissioner of Education on February 14, 1973, 38 FR 4428-4430.



V38-175 SEP 11 73 XUM

ASSOCIATIONS AND AGENCIES RECOGNIZED FOR THEIR INSTITUTIONAL ACCREDITATION OF SCHOOLS, JUNIOR COLLEGES, COLLEGES, AND UNIVERSITIES

COMMISSION ON PUBLIC SECONDARY SCHOOLS, NEW ENGLAND ASSOCIATION OF SCHOOLS AND COLLEGES

COMMISSION ON VOCATIONAL TECHNICAL INSTITUTIONS, NEW ENGLAND ASSOCIATIONS OF SCHOOLS AND COLLEGES

Dated August 20, 1973.

PETER P. MUIRHEAD,
*Acting Commissioner of Education.*

[FR Doc.73-19227 Filed 9-10-73;8:45 am]

### National Institutes of Health

#### BIOASSAY OPERATIONS SEGMENT - ADVISORY GROUP

#### Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Bioassay Operations Segment Advisory Group, National Cancer Institute, September 13-14, 1973, 9:00 a.m. to 4:30 p.m., National Institutes of Health, Building 37, Conference Room 3A15. The meeting will be closed to the public from 9:00 a.m. to 4:30 p.m., September 13, 1973, and from 9:00 a.m. to 12:00 noon, September 14, 1973, to discuss and review eight renewal contract proposals in the field of carcinogen bioassay in accordance with the provisions set forth in section 552(b)4 of Title 5, U.S. Code and section 10(d) of Pub. L. 92-463. The meeting will be open to the public from 1:15 p.m. to 4:30 p.m., September 14, 1973, to discuss the Bioassay Program within the context of the Carcinogenesis Area. Attendance by the public will be limited to space available.

Mr. Frank Karel, Associate Director for Public Affairs, NCI, Building 31, Room 10A31, National Institutes of Health, Bethesda, Maryland 20014, 301-496-1911, will furnish summaries of the open/closed meeting and roster of committee members.

Dr. James M. Sontag, Executive Secretary, Landow Building, Room A-306, National Institutes of Health, Bethesda, Maryland 20014, 301-496-5471, will provide substantive program information.

Dated September 5, 1973.

JOHN F. SHERMAN,
*Deputy Director, National Institutes of Health.*

[FR Doc.73-19399 Filed 9-10-73;8:45 am]

#### CANCER IMMUNOBIOLOGY COMMITTEE

#### Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Committee on Cancer Immunobiology, National Cancer Institute, September 12, 1973, 8:00 p.m. to 10:00 p.m.; September 13, 1973, 8:30 a.m. to 12:30 p.m., 4:00 p.m. to 6:00 p.m., and 8:00 p.m. to 10:00 p.m.; and September 14, 1973, 8:30 a.m. to 12:30 p.m., National Institutes of Health, Marriott Motel, Dulles International Airport, Virginia. The meeting will be open to the public from 8:00 p.m. to 10:00 p.m., September 12 and from 8:30 a.m. to 12:30 p.m., September 13-14, to discuss programs in cancer immunobiology. Attendance by the public will be limited to space available. The meeting will be closed to the public at all other times to discuss and review approximately eight contract proposals in the field of immunobiology, in accordance with the provisions set forth in section 552(b) 4 of Title 5 U.S. Code, and section 10(d) of Pub. L. 92-463.

Mr. Frank Karel, Associate Director for Public Affairs, NCI, Building 31, Room 10A31, National Institutes of Health, Bethesda, Maryland 20014, 301-496-1911 will furnish summaries of the open/closed meeting and roster of committee members.

Dorothy B. Windhorst, M.D., Executive Secretary, Building 10, Room 4B-11, National Institutes of Health, Bethesda, Maryland 20014, 301-496-3639 will provide substantive program information.

Dated September 6, 1973.

THOMAS J. KENNEDY, JR.,
*Acting Deputy Director National Institutes of Health.*

[FR Doc.73-19308 Filed 9-10-73;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### Hazardous Materials Regulations Board

#### SPECIAL PERMITS ISSUED

Pursuant to Docket No. HM-1, rulemaking procedures of the Hazardous Materials Regulations Board, issued May 22, 1968 (33 FR 8277) 49 CFR 170, following is a list of new DOT Special Permits upon which Board action was completed during August 1973:

| Special permit No. | Issued to—Subject | Mode or modes of transportation |
|---|---|---|
| 6786 | Shippers registered with this Board to ship large quantities of radioactive materials, n.o.s. in packaging identified as the Thermoelectric Generator Model Nos. URIPS-8A and 8B. | Highway, Rail Cargo-only Aircraft, Cargo Vessel. |
| 6787 | Shippers registered with this Board to ship certain poisonous liquids, Class B in DOT-34 polyethylene containers or non-DOT specification reusable, molded, 55 gallon polyethylene containers. | Highway, Rail, Cargo Vessel. |
| 6790 | Dow Chemical Company, Midland, Mich., to ship hydrochloric acid in non-DOT specification fiberglass reinforced plastic (FRP) cargo tank. | Highway. |
| 6793 | Shippers registered with this Board to ship ortho-chloroaniline, whiskey and other flammable liquids in non-DOT specification portable tanks. (ISO type). | Highway, Cargo Vessel. |
| 6796 | Magnaflux Corporation, Chicago, Illinois and the Department of Defense, Washington, D.C., to ship sulfur hexafluoride in non-DOT specification tube head assembly having a 6 to 1 safety factor. | Highway, Passenger-Carrying Aircraft, Cargo-only Aircraft. |
| 6797 | American Smelting & Refining Co., New York, N.Y. to ship refined arsenic trioxide in single-trip non-DOT specification 22 gage steel drums of not over 15 gallons capacity. | Rail. |
| 6799 | Procter & Gamble Co., Cincinnati, Ohio to ship a flammable liquid in a one-gallon glass bottle surrounded by ⅜ inch thick polystyrene overpacked in a corrugated, fiberboard box. | Highway. |
| 6800 | Shippers registered with this Board to ship certain corrosive liquids in non-DOT specification reusable, molded polyethylene containers of 55 gallon capacity. | Highway, Rail, Cargo Vessel. |
| 6803 | Shippers registered with this Board to ship anhydrous hydrofluoric acid in DOT Specification 4BW welded steel cylinders. | Highway. |
| 6804 | BASF Wyandotte Corporation, Parsippany, New Jersey to ship flammable liquids, n.o.s. and corrosive liquids, n.o.s. in foreign-made non-DOT specification packaging complying with DOT Specification 5, 5B or 6D/2SL, except for marking. | Highway, Rail, Cargo Vessel. |
| 6805 | Union Carbide Corporation, Tarrytown, New York, to ship certain gas mixtures in DOT Specification 3AAX steel cylinders. | Highway. |

Denied-Subject

1. Request by E. R. Squibb & Sons, Inc., New Brunswick, New Jersey for a waiver of the regulations to permit the use of only "Radioactive White I" and "Radioactive Yellow III" labels.

G. ROUSSEAU,
*Alternate Secretary.*

[FR Doc.73-19146 Filed 9-10-73;8:45 am]

## CIVIL AERONAUTICS BOARD

[Docket No. 23287]

#### AIR FREIGHT FORWARDERS' CHARTERS INVESTIGATION

#### Notice of Postponement of Hearing

Notice is hereby given that the hearing in the above-entitled proceeding is postponed indefinitely, and further procedural matters shall be held in abeyance.

Dated at Washington, D.C., September 6, 1973.

[SEAL] RICHARD M. HARTSOCK,
*Administrative Law Judge.*

[FR Doc.73-19393 Filed 9-10-73;8:45 am]

[Docket No. 25002]

#### KUONI TRAVEL, LTD. (SWITZERLAND) AND KUONI TRAVEL, INC.

#### Notice of Prehearing Conference and Hearing

Kuoni Travel Limited (Switzerland), d.b.a. Kuoni Travel, Inc., amendment of foreign air carrier permit travel group charters.

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on October 9, 1973, at 10:00 a.m. (local time) in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge Joseph L. Fitzmaurice.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before October 1, 1973.

Dated at Washington, D.C., September 6, 1973.

[SEAL] RALPH L. WISER,
*Chief Administrative Law Judge.*

[FR Doc.73-19257 Filed 9-10-73;8:45 am]





[Docket No. 19923 etc.]

#### LIABILITY AND CLAIM RULES AND PRACTICES INVESTIGATION

#### Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled matter is assigned to be held before the Board on October 24, 1973, at 10:00 a.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

Dated at Washington, D.C., September 5, 1973.

[SEAL] RALPH L. WISER,
*Chief Administrative Law Judge.*

[FR Doc.73-19261 Filed 9-10-73;8:45 am]

[Docket No. 25425]

#### STARLINE AVIATION LTD.

#### Notice of Postponement of Prehearing Conference and Hearing

*Correction*

In F.R. Doc. 73-18477, appearing at page 23435 in the issue of Thursday, August 30, 1973, in the fifth line of the second paragraph the time "10:30 a.m." should read "10:00 a.m.".

## COMMISSION ON CIVIL RIGHTS

#### MICHIGAN STATE ADVISORY COMMITTEE

#### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Michigan State Advisory Committee will convene on September 13, 1973, at 4:00 p.m., and reconvene on September 14, 1973, at 10:00 a.m., at the Kellogg Center of the Michigan State University, East Lansing, Michigan 48823.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Midwestern Regional Office of the Commission, Room 1428, 219 South Dearborn Street, Chicago, Illinois 60604.

The purpose of this meeting shall be to plan followup activity to the Revenue Sharing Assembly, prepare a report of the Assembly, and select new projects to be undertaken by the Michigan State Advisory Committee.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., September 6, 1973.

ISAIAH T. CRESWELL, JR.,
*Advisory Committee Management Officer.*

[FR Doc.73-19254 Filed 9-10-73;8:45 am]

#### NEBRASKA STATE ADVISORY COMMITTEE

#### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Nebraska State Advisory Committee will convene at 10:00 a.m. on September 25, 1973, in the Meeting Room adjacent to Main Lobby in the Clayton House, 10 and O Streets, Lincoln, Nebraska 68508.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Central States Regional Office of the Commission, Room 3103, Old Federal Office Building, 911 Walnut Street, Kansas City, Missouri 64106.

The purpose of this meeting shall be to make plans in preparation for a forthcoming factfinding meeting on the Corrections System in Nebraska.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., September 6, 1973.

ISAIAH T. CRESWELL, JR.,
*Advisory Committee Management Officer.*

[FR Doc.73-19256 Filed 9-10-73;8:45 am]

#### NEW YORK STATE ADVISORY COMMITTEE

#### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the New York State Advisory Committee will convene at 5:00 p.m. on September 18, 1973, at the Phelps Stokes Fund, 10 and East 87 Street, New York, New York 10028.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York, New York 10007.

The purpose of this meeting shall be to review the status of all New York State Advisory Committee Projects and plan for the release of the report entitle "Puerto Rican and Public Employment in New York State."

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., September 6, 1973.

ISAIAH T. CRESWELL, JR.,
*Advisory Committee Management Officer.*

[FR Doc.73-19255 Filed 9-10-73;8:45 am]

## CONSUMER PRODUCT SAFETY COMMISSION

#### FLAMMABLE FABRICS ACT

#### Notice of Institution of Enforcement Policy

On May 14, 1973, the responsibilities of the Federal Trade Commission for enforcement of the Flammable Fabrics Act, as amended (15 U.S.C. 1191-1204), were transferred to the Consumer Product Safety Commission pursuant to section 30(b) of the Consumer Product Safety Act (Pub. L. 92-573), 86 Stat. 1231 (15 U.S.C. 2079(b)).

The Consumer Product Safety Commission intends to discharge its responsibilities under the Flammable Fabrics Act vigorously, expeditiously, and without compromise in order to protect the public from the hazards to life, health, and property caused by dangerously flammable products.

The Consumer Products Safety Commission has determined that its enforcement policy for the Flammable Fabrics Act, as amended, will be to have available for use in each case the full range of enforcement procedures under that act without qualification or modification. Accordingly, notice is given that the Consumer Product Safety Commission hereby institutes an enforcement policy of using in each case arising under the Flammable Fabrics Act any and all appropriate enforcement procedures available under that act.

In order to effectuate this policy, notice is hereby given that the above stated policy is adopted and substituted for any conflicting determinations and policies of the Federal Trade Commission. The following determinations and policies of the Federal Trade Commission insofar as they apply to this Commission are terminated and set aside pursuant to section 30(e)(2) of the Consumer Product Safety Act (86 Stat. 1232 (15 U.S.C. 2079(e)(2))):

1. The Federal Trade Commission's "Flammable Fabrics Enforcement Policy" published as a notice in the FEDERAL REGISTER of November 10, 1971 (36 FR 21544), as amended by a notice published April 25, 1973 (38 FR 10184), which was corrected May 8, 1973 (38 FR 11492).

2. Any Federal Trade Commission policy or directive modifying or interpreting said Enforcement Policy, as amended.

All other rules, regulations, orders, and determinations of the Federal Trade Commission under the Flammable Fabrics Act will continue in effect until modified, terminated, superseded, set aside, or repealed by the Consumer Product Safety Commission, by any



V 38-175 SEP 11 73 XUM

court of competent jurisdiction, or by operation of law.

Dated September 4, 1973.

SAMUEL M. HART,
*Acting Secretary, Consumer Product Safety Commission.*

[FR Doc.73-19216 Filed 9-10-73;8:45 am]

## COST OF LIVING COUNCIL

### HEALTH INDUSTRY ADVISORY COMMITTEE

#### Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Health Industry Advisory Committee, created by section 6(b) of Executive Order 11695, will meet on September 17, 1973, at the Cost of Living Council offices, 2000 M Street NW., Washington, D.C.

The morning portion of the meeting, which will be held from 10:00 a.m. to 12:30 p.m., in the second floor auditorium, will be open to the public

The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Only members of the Committee, and its staff, may question the witnesses. Due to space limitations, it is possible that there will not be enough seating. For that reason, persons will be admitted on a first-come-first served basis.

While no unscheduled oral presentations will be entertained, anyone may submit a written statement by mailing it to Robert Saner, 2000 M Street NW., Washington, D.C. 20508.

Any statement received three or more days prior to the meeting will be provided to the Committee before the meeting. Any statement over three pages in length should be submitted with twenty copies.

The afternoon portion of the meeting, to run from 12:30 to 4:00 p.m., will be closed to the public. Since the afternoon meeting will be discussing the substance of Phase IV and other possible governmental actions therewith, I have determined that the meeting will fall within Exemption 5 of 5 U.S.C. 552(b) and it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with the operation of the Committee.

Issued in Washington, D.C., on September 7, 1973.

HENRY H. PERRITT, JR.,
*Executive Secretary, Cost of Living Council.*

[FR Doc.73-19402 Filed 9-7-73;4:33 pm]

## FEDERAL COMMUNICATIONS COMMISSION

### AMATEUR REPEATER STATIONS

#### Observance of Rules

AUGUST 30, 1973.

There apparently has been some confusion among amateur licensees as to the actual effective date of the rules adopted in Docket 18803. The Commission reiterates what should be clear to all amateur licensees that the rules became effective October 17, 1972. Licensees have been informed in the Report and Order, the Memorandum Opinion and Order, and by several Public Notices and Orders, that full compliance was expected as soon as possible but not later than June 30, subsequently extended to August 30. The Commission adheres to the view that all licensees have had adequate time in which to modify their operations and fully comply with our rules, although there may not have been sufficient time to obtain the licensing authorizations for repeater station, control station, and/or auxiliary link station. Licensees operating such stations under a previous authorization are cautioned their operations must otherwise fully comply with the rules. Licensees and control operators of stations not operated in compliance are subjected to appropriate enforcement action.

An excessive number of problems are being encountered with defective amateur repeater station applications, contributing to wasted effort and lengthy processing delays. The principal problems are lack of standardization, failure to supply the required information, and/or failure to present the information in a manner permitting expeditious processing. Using the experience in processing thousands of these applications, suggested application forms designed to tered errors, are being developed. Whether these forms will be adopted as official FCC forms is undetermined. However, properly prepared applications based upon these suggested forms will be acceptable for processing. Amateurs are encouraged to develop more universally accepted terms and symbols for use in their applications.

FEDERAL COMMUNICATIONS COMMISSION.
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

[FR Doc.73-19246 Filed 9-10-73;8:45 am]

[Docket No. 19744 and 19745; FCC 73R-309]

### BELO BROADCASTING CORP. AND WADECO INC.

#### Memorandum Opinion and Order Enlarging Issues

In re applications of: BELO BROADCASTING CORP. (WFAA-TV), Dallas, Texas; for renewal of broadcast license, WADECO, INC., Dallas, Texas, for construction permit for new television broadcast station.

1. Belo Broadcasting Corporation has filed a second motion to enlarge issues so inquiry can be made whether Wadeco, Inc., has complied with § 1.65 of the rules, has misrepresented facts to the Commission relating to the availability of a loan, and has the necessary qualifications to be a Commission licensee.[1] The petition was not filed within the fifteen day period allowed by § 1.229(b) of the rules and so is untimely, but the Board finds that good cause for the late filing has been shown. Much of the factual information upon which the petition is predicated was acquired at a deposition session held on June 29, 1973, in Dallas, Texas, and the petition was filed promptly thereafter. The Board does not view the depositions as having been conducted to ascertain whether grounds exist for enlargement which would have been contrary to the Commission's ruling on this subject when it adopted the discovery procedures,[2] so we reject Wadeco's opposition in this regard.

2. The § 1.65 issue is requested on the basis of Wadeco's failure to report that two of the persons who had agreed to endorse notes to be issued by the corporation in obtaining a bank loan were released from their agreements at the times they withdrew as stockholders and subscribers of the corporation. Their withdrawal as stockholders and subscribers was reported to the Commission, and Wadeco, in opposition to the petition, contends that this "was sufficient notice that their endorsements of any notes would not be forthcoming." Under other circumstances, the Board might agree with Wadeco's explanation, but the present situation requires a different result. Wadeco's reliance upon a bank loan from Castle Trust Co. has been under question by the Commission since well before the case was designated for hearing, and Wadeco has stoutly maintained, during all this time, that the loan would be forthcoming, even as recently as June 14, 1973, when it sought deletion of the financial issue against it.[3] The released endorsers are named in the April 4, 1972, bank letter as two of those whose endorsements would be required, and they were two of the most important endorsers in terms of liquid assets available to them. Their absence from the endorsing group raises additional serious questions whether the bank loan would be available to Wadeco. Under these circumstances, the substantial and significant change in Wadeco's financial showing entailed by the release of these two endorsers required specific notification rather than leaving the conclusion to be inferred from other facts which were reported. A § 1.65 issue will be added.

3. The Board is also persuaded that the inclusion of a misrepresentation issue is warranted. As already noted, Wadeco continued to maintain that the necessary loans would be forthcoming through Castle Trust, even though it has known since October of 1972 that the condition of the bank's commitment, as set out in the letter of April 4, 1972, could not be met. For the foregoing reasons, the Board will add the § 1.65, misrepresentation and qualification issue as requested by Belo.

4. *Accordingly, it is ordered,* That the second motion to enlarge issues, filed on July 20, 1973, by Belo Broadcasting Corporation IS GRANTED, and that the issues herein are enlarged by addition of the following issues:

To determine whether WADECO, Inc., has failed to comply with the requirements of § 1.65 of the Commission's Rules;

To determine whether WADECO, Inc., misrepresented facts to the Commission in connection with the availability of a $2,500,000.00 loan from the Castle Trust Company Limited, Nassau, Bahamas; and

To determine whether in the light of the evidence adduced under the preceding issues WADECO, Inc., is qualified to be a licensee of the Commission.

5. *It is further ordered,* That the burden of proceeding with the introduction of evidence on the first two issues is on Belo Broadcasting Corporation and that the burden of proof as to all the added issues is on Wadeco, Inc.

Adopted August 28, 1973.

Released August 29, 1973.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

[FR Doc.73-19245 Filed 9-10-73;8:45 am]

[1] Belo's petition to enlarge was filed July 20, 1973; Wadeco filed an opposition August 2, 1973; the Broadcast Bureau's Comments were filed July 31, 1973; and Belo's reply was filed August 8, 1973.

[2] *Discovery Procedures,* 11 FCC 2d 185, 187 (1968).

[3] The request to delete was denied by the Board on July 27, 1973, FCC 73R-279, —— FCC 2d ——, released July 31, 1973.

## PANEL 3 (RECEIVERS) OF THE TECHNICAL ADVISORY COMMITTEE

#### Meeting

SEPTEMBER 5, 1973.

Panel 3 of the Cable Television Technical Advisory Committee will hold an open meeting on Wednesday, September 26, 1973, at 9:30 a.m. The meeting will be held at the Seven Continents Restaurant, O'Hare International Airport, Chicago, Ill. The agenda of the meeting will include:

(1) Draft statement on compatibility.
(2) Approval of proposed techniques for local oscillator voltage measurements.
(3) Report of EIA-R4.2 work on direct pick-up.
(4) Adjacent sound and adjacent chroma measurements.
(5) Review of Panel's present objectives and directions.
(6) Other business.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

[FR Doc.73-19244 Filed 9-10-73;8:45 am]





## FEDERAL MARITIME COMMISSION

### AMERICAN WEST AFRICAN FREIGHT CONFERENCE

#### Notice of Agreement Filed

Notice is hereby given that the following agreement, accompanied by a statement of justification, has been filed with the Commission for approval pursuant to Section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763 (46 U.S.C. 814)).

Interested parties may inspect and obtain a copy of the agreement and the statement of justification at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement and the statement of justification at the Field Offices located at New York, N.Y., New Orleans, Louisiana, and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, by September 21, 1973. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement filed by:

John K. Cunningham, Chairman, American West African Freight Conference, 67 Broad Street, New York, New York 10004.

Agreement No. 7680-33 will modify the basic agreement of the American West African Freight Conference by increasing the admission fee for membership into the Conference from $5,000 to $7,500.

By Order of the Federal Maritime Commission.

Dated September 6, 1973.

JOSEPH C. POLKING,
*Assistant Secretary.*

[FR Doc.73-19274 Filed 9-10-73;8:45 am]

## CITY OF MEMPHIS ET AL.

#### Notice of Agreements Filed

Notice is hereby given that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763 (46 U.S.C. 814)).

Interested parties may inspect and obtain a copy of the agreements at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, Louisiana, and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, by October 1, 1973. Any person desiring a hearing on the proposed agreements shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should be also be forwarded to the party filing the agreements (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

E. J. Sheppard IV, Attorney for St. Louis Terminals Corporation, Morgan, Lewis & Bockius, 1140 Connecticut Avenue NW., Washington, D.C. 20036.

Agreement No. T-2844, between the City of Memphis, the County of Shelby, and the Memphis & Shelby County Port Commission (the Commission) and Saint Louis Terminals Corporation (Terminals), provides for the 5-year lease to Terminals of a portion of Lot 2, of the Memphis & Shelby County Port Commission's Industrial Subdivision at Memphis, Tennessee, which is to be operated as a public river-rail-truck terminal for the handling and storage of waterborne cargo. The Commission agrees to construct certain terminal facilities on the premises as outlined in the lease. As compensation the Commission shall receive a rental which is based on tonnage handled through the terminal and is subject to an annual minimum of $9,000 for the first year, $11,000 for the second year, $12,000 for the third year, $13,000 for the fourth year and $15,000 for the fifth year of the lease term. Terminals shall publish Public Tariff handling rates for each type of commodity handled and/or service rendered and said rates shall be subject to final determination by the Memphis & Shelby County Port Commission.

Agreement No. T-2844-1, between the same parties, modifies the basic agreement, No. T-2844. The purpose of the modification is to: (1) Increase the lease term from 5 to 10 years; (2) increase the minimum guaranteed annual rental for the first 5-year period of the lease term in the ratio that the final actual cost of constructing the terminal facilities, as



V 38-175 SEP 11 73 XUM

provided for in the lease, bares to $1,000,000, but not to exceed an increase of 50 percent; (3) set the minimum guaranteed annual rental for the sixth year of the lease term at $25,000; and (4) set the minimum guaranteed annual rental for the seventh, eighth, ninth and tenth years as that rental due the Commission for the sixth year of the lease term.

Agreement No. T-2844-2, between the same parties, modifies the basic agreement, No. T-2844, as amended. The purpose of the modification is to: (1) Increase the lease term from 10 years to 20 years; (2) provide for an additional 5-year extension of the lease term pending Terminals' expenditure of $150,000 for permanent capital improvements on or before April 15, 1975; (3) set the minimum guaranteed annual rental at $30,000 for the 10 and 5 year lease term extensions; and (4) relieve Terminals of certain maintenance obligations.

Agreement No. T-2844-3, between the same parties, modifies the basic agreement, as amended. The purpose of the modification is to: (1) Provide for an additional 10-year extension of the lease term pending Terminals' expenditure of $350,000 for permanent capital improvements on or before April 15, 1980; (2) provide for an additional 10-year extension of the lease term pending Terminals' expenditure of $550,000 for permanent capital improvements on or before April 15, 1990; and (3) set the minimum guaranteed annual rental at $30,000 for the proposed two 10-year extensions of the lease term.

By Order of the Federal Maritime Commission.

Dated September 6, 1973.

JOSEPH C. POLKING,
*Assistant Secretary.*

[FR Doc.73-19276 Filed 9-10-73;8:45 am]

## CITY OF ST. LOUIS AND ST. LOUIS TERMINALS CORP.

### Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763 (46 U.S.C. 814)).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, by October 1, 1973. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of Agreement Filed by:

E. J. Sheppard IV, Attorney for St. Louis Terminals Corporation, Morgan, Lewis & Bockius, 1140 Connecticut Avenue NW., Washington, D.C. 20036.

Agreement No. T-2839, between the City of St. Louis (City) and St. Louis Terminals Corporation (Terminals), provides for the 5-year lease (with three successive 5-year renewal options) to Terminals of certain dock and terminal facilities at the Port of St. Louis, Missouri, to be used as a public river-rail-truck terminal for the handling of waterborne cargo and uses incidental thereto. As compensation, City is to receive a rental based on tonnage handled through the terminal and subject to an annual minimum of $37,500. As rental for the three successive 5-year lease term extensions, City will receive for the second, third, and fourth lease term extensions respectively: (1) A 10 percent rental increase subject to a minimum of $41,250; (2) a 20 percent rental increase subject to a minimum of $45,000; and (3) a 30 percent rental increase subject to a minimum of $48,750. Terminals shall file Operation Circulars as published with City, outlining the services offered, terms and conditions, and publish the charges for these services rendered.

By Order of the Federal Maritime Commission.

Dated September 6, 1973.

JOSEPH C. POLKING,
*Assistant Secretary.*

[FR Doc.73-19275 Filed 9-10-73;8:45 am]

# FEDERAL POWER COMMISSION

[Docket No. CP72-9]

## ARKANSAS LOUISIANA GAS CO.

### Notice of Application

SEPTEMBER 4, 1973.

Take notice that on August 14, 1973, Arkansas Louisiana Gas Company (Petitioner), P.O. Box 1734, Shreveport, Louisiana 71151, filed in Docket No. CP72-9 a petition to amend the order issuing a certificate of public convenience and necessity in said docket pursuant to section 7(c) of the Natural Gas Act with regard to the exchange of natural gas between Petitioner and Cities Service Gas Company (Cities), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner was authorized by the Commission order of November 1, 1971, in said docket (46 FPC 1110), as amended on July 17, 1972 (48 FPC 102), and April 20, 1973 (49 FPC ——), to exchange up to 10,000 M c.f. of gas per day at four delivery points for gas delivered to Cities from Petitioners leases in Hemphill County, Texas, and at three delivery points for gas redelivered to Petitioner in Reno and Rice Counties, Kansas, and Caddo County, Oklahoma.

An agreement executed between Petitioner and Cities will:

(a) Add a fourth delivery point in Hemphill County, Texas, to permit Petitioner to receive for Cities' account the gas dedicated to Cities from the McCulloch-State well, Hemphill County, to which Cities has no gathering system connected, since most of the gas is dedicated to Petitioner from the well;

(b) Clarify to which particular volumes the six-cent per M c.f. transportation charge will be applied in accordance with the existing exchange agreement; and

(c) Extend the term of the existing exchange agreement through March 31, 1978, with certain qualifications as to various delivery points.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 24, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the judisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be





unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19199 Filed 9-10-73;8:45 am]

[Docket No. E-8373]

## CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.

### Notice of Termination

SEPTEMBER 5, 1973.

Take notice that on August 20, 1973, Consolidated Edison Company of New York, Inc. (Company), tendered for filing notice of termination of its Rate Schedules FPC No. 25 and FPC No. 28.

The Company states that the Rate Schedules have expired pursuant to their terms.

In its letter of transmittal, the Company requests that the Commission order that the notices of termination of FPC No. 25 and FPC No. 28 be made effective as of October 28, 1972, and December 31, 1972, respectively.

Any person desiring to be heard or to protest said application shoud file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 24, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19200 Filed 9-10-73;8:45 am]

[Docket No. CI74-146]

## DAVID D. READ AND E. P. MUNSON, JR.

### Notice of Application

SEPTEMBER 4, 1973.

Take notice that on August 24, 1973, David D. Read and E. P. Munson, Jr. (Applicants), 803 Bank of the Southwest Building, Amarillo, Texas 79109, filed in Docket No. CI74-146 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Northern Natural Gas Company from acreage in Hemphill County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that they have commenced the sale of natural gas within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and propose to continue said sale for one year from the end of the 60-day emergency period within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). Applicants propose to sell an average of 2,200 M c.f. of gas per day, subject to proportionate reduction to their 0.29288 percent interest, at 45.0 cents per M c.f. at 14.65 p.s.i.a.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 17, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19193 Filed 9-10-73;8:45 am]

[Docket No. E-7994]

## DUKE POWER CO.

### Notice of Further Extension of Time, Postponement of Prehearing Conference and Hearing

AUGUST 30, 1973.

On August 21, 1973, Duke Power Company filed a motion for a further revision of the procedural dates fixed by notice issued July 5, 1973, in the above-designated matter. The motion states that the parties have no objection to the motion.

Upon consideration, notice is hereby given that the procedural dates are further modified as follows:

Prehearing Conference, October 16, 1973 (10:00 a.m., e.d.t.).
Service of Testimony and Exhibits by Intervenors, October 24, 1973.
Service of Rebuttal Evidence by Duke, November 8, 1973.
Cross-Examination, November 27, 1973 (10:00 a.m., e.s.t.).

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19203 Filed 9-10-73;8:45 am]

[Docket Nos. CI73-751, etc.]

## EXXON CORP. ET AL.

### Notice of Further Postponement of Hearing

SEPTEMBER 4, 1973.

Exxon Corporation, Docket No. CI73-751; Shenandoah Oil Corporation, Docket Nos. CI73-799, CI73-800; SOC Gas Systems, Incorporated, Docket No. CI73-801.

On August 24, 1973, a notice was issued postponing the hearing in the above-designated matters to September 11, 1973. On August 31, 1973, Staff Counsel advised that Exxon had a conflict with September 11, 1973.

Upon consideration, notice is hereby given that the hearing is further postponed to September 18, 1973, at 10:00 a.m., e.d.t., in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19201 Filed 9-10-73;8:45 am]

[Docket No. E-8008]

## FLORIDA POWER & LIGHT CO.

### Notice of Cancellation and Unexecuted Service Agreement

SEPTEMBER 4, 1973.

Take notice that on August 21, 1973, Florida Power & Light Company, pursuant to Ordering Paragraph (J) of the Commission's Order of March 29, 1973, in the above-referenced case, submitted for filing copies of Notice of Cancellation, unexecuted Service Agreement, and Exhibit A, "Delivery Point and Service Specifications", for each point of delivery to Glades Electric Cooperative, Inc. (Rate Schedule FPC No. 12).

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 14, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any



V 38-175 SEP 11 73 XUM

person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19191 Filed 9-10-73;8:45 am]

[Docket No. ID-1549, etc.]

## GERALD P. MALONEY ET AL.

### Notice of Applications

SEPTEMBER 4, 1973.

Take notice that the following applications were filed on the stated dates, pursuant to section 305(b) of the Federal Power Act, for authority to hold the position of officer or director of more than one public utility, or the position of officer or director of a public utility and officer or director of a firm authorized to market utility securities, or the position of officer or director of a public utility and officer or director of a company supplying electric equipment to such public utility.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 10, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

| Docket No. | Name of applicant | Date filed | Name of company |
|---|---|---|---|
| 1549 | Gerald P. Maloney | July 20, 1973 | Ohio Power Co. |
| 1993 | John H. Larson | July 30, 1973 | Monongahela Power Co.<br>The Potomac Edison Co.<br>West Penn Power Co. |

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19192 Filed 9-10-73;8:45 am]

[Docket No. E-8170]

## GREAT LAKES GAS TRANSMISSION CO.

### Notice of Change in Rates

September 5, 1973.

Take notice that the Great Lakes Gas Transmission Company (Great Lakes) on August 20, 1973, tendered for filing the following tariff sheets:

Third Revised Sheet No. 1 in First Revised Volume No. 1.
Eighth Revised Sheet No. 1 in Original Volume No. 2.

Great Lakes states that foregoing tariff sheets update the Table of Contents in Volumes 1 and 2 of Great Lakes' FPC Gas Tariff and are proposed to be effective on September 20, 1973.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 24, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19202 Filed 9-10-73;8:45 am]

[Docket No. CI74-147]

## J. S. ABERCROMBIE MINERAL CO., INC., ET AL.

### Notice of Application

SEPTEMBER 4, 1973.

Take notice that on August 24, 1973, J. S. Abercrombie Mineral Company, Inc., et al. (Applicants), c/o Jerome M. Alper, 818 18th Street NW., Washington, D.C. 20006, filed in Docket No. CI74-147 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to El Paso Natural Gas Company from the Antelope Ridge Area, Lea County, New Mexico, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants propose to sell approximately 600,000 M c.f. of gas per month for two years at 55.0 cents per M c.f. at 14.65 p.s.i.a., subject to upward and downward Btu adjustment, within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). Applicants state that they are small producers but are filing the instant application for a certificate rather than make the subject sale under small producer certificates due to the uncertainty of the status of the latter certificates.[1]

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 17, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19197 Filed 9-10-73;8:45 am]

[Docket No. CP74-55]

## LACLEDE GAS CO.

### Notice of Application

SEPTEMBER 4, 1973.

Take notice that on August 29, 1973, Laclede Gas Company (Applicant), 720 Olive Street, St. Louis, Missouri 63101, filed in Docket No. CP74-55 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Mississippi River Transmission Corporation from the Mills Ranch Field, Wheeler County,

[1] By decision of December 12, 1972, in Docket 71-1560 et al., the United States Court of Appeals for the District of Columbia Circuit set aside Commission Order No. 428, as amended, which promulgated small producer regulations. The Commission has petitioned the Supreme Court of the United States for a writ of certiorari in this matter.





Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell approximately 178,960 M c.f. of gas per month for two years at 30.0 cents per M c.f. at 14.65 p.s.i.a within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70).

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 17, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19196 Filed 9-10-73;8:45 am]

[Docket No. E-8343]

## NORTHERN STATES POWER CO.

### Notice of Application

SEPTEMBER 5, 1973.

Take notice that on August 2, 1973, Northern States Power Company (Minnesota) tendered for filing Supplement No. 6, dated June 29, 1973, to the Interconnection and Interchange Agreement with Minnkota Power Cooperative, dated December 12, 1963, and designated Rate Schedule FPC No. 284. Supplement No. 6 provides a Fifth Revised Exhibit A, Fifth Revised Pake B-1 and First Revised Sheet No. 4, and a Fifth Revised Exhibit C relocating the Hillsboro Interconnection.

Any person wishing to be heard or to make any protest with reference to such Application should, on or before September 28, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The Application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19204 Filed 9-10-73;8:45 am]

[Docket Nos. CI72-321, CI73-755]

## PENNZOIL PRODUCING CO. AND MIDWEST OIL CORP.

### Notice of Postponement of Hearing

AUGUST 31, 1973.

On August 2, 1973, an order was issued fixing a hearing in the above-designated matter to commence on September 10, 1973. It now appears that calendar conflicts in the Office of Administrative Law Judges require that the hearing be postponed.

Notice is hereby given that the following procedural dates are modified:

Commencement of hearing—September 13, 1973 (10:00 a.m., e.d.t.).
Administrative Law Judge's decision to be rendered—October 12, 1973.
Briefs on exceptions due—October 23, 1973.
Briefs opposing exceptions—October 29, 1973.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19205 Filed 9-10-73;8:45 am]

[Docket No. CP74-52]

## UNITED GAS PIPE LINE CO.

### Notice of Application

SEPTEMBER 4, 1973.

Take notice that on August 27, 1973, United Gas Pipe Line Company (United), 1525 Fairfield Avenue, Shreveport, Louisiana 77101, filed in Docket No. CP74-52 an application pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(b) of the Commission's regulations thereunder, for a certificate of public convenience and necessity authorizing the construction, during the 12-month period from the date of authorization, and operation of certain natural gas facilities to enable Applicant to take into its pipeline system supplies of natural gas which will be purchased from producers thereof, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the purpose of this budget-type application is to augment its ability to act with reasonable dispatch in contracting for and connecting to its pipeline system supplies of natural gas in various producing areas generally coextensive with said system.

The total cost of the proposed facilities will not exceed $7,000,000 with no single onshore project costing in excess of $1,000,000, and no single offshore project costing in excess of $1,750,000. Applicant states that these costs will be financed with funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 25, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19206 Filed 9-10-73;8:45 am]

[Docket No. CI74-88]

## VANDERBILT RESOURCES CORP.

### Notice of Application

SEPTEMBER 4, 1973.

Take notice that on August 7, 1973, Vanderbilt Resources Corporation (Applicant), Suite 1803, 211 Ervay Building, Dallas, Texas 75201, filed in Docket



V 38-175 SEP 11 73 XUM

No. CI74-88 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Panhandle Eastern Pipe Line Company from acreage in Texas County, Oklahoma, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell approximately 40,000 M c.f. of gas per month for a term ending on the first day of the month following the expiration of one year from the date of initial delivery within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). The gas sales contract provides for a rate of 50.0 cents per M c.f. at 14.65 p.s.i.a., subject to upward and downward Btu adjustment; however, Applicant states that it is willing to accept a certificate conditioned to a rate of 45.0 cents per M c.f., subject to Btu adjustment.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 17, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19194 Filed 9-10-73;8:45 am]

[Docket No. CI74-141]

## VANDERBILT RESOURCES CORP.

### Notice of Application

SEPTEMBER 4, 1973.

Take notice that on August 22, 1973, Vanderbilt Resources Corporation (Applicant), Suite 1803, 211 Ervay Building, Dallas, Texas 75201, filed in Docket No. CI74-141 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Transwestern Pipeline Company from acreage in Sherman County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it commenced the sale of natural gas on July 24, 1973, within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sale for one year from the end of the 60-day emergency period within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). Applicant proposes to sell approximately 30,000 M c.f. of gas per month. The contract for the subject sale provides for a rate of 54.0 cents per M c.f. at 14.65 p.s.i.a., subject to upward and downward Btu adjustment with upward adjustment limited to 1,100 Btu per cubic foot. Applicant states that it is willing to accept a certificate conditioned to a rate of 45.0 cents per M c.f., subject to Btu adjustment.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on on before September 17, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19195 Filed 9-10-73;8:45 am]

[Docket No. E-8026]

## VIRGINIA ELECTRIC AND POWER CO.

### Notice of Final Decision

SEPTEMBER 4, 1973.

Notice is hereby given that the Presiding Administrative Law Judge's Initial Decision in the above-designated matter was issued and served upon all parties on July 19, 1973. No exceptions thereto having been filed, or review initiated by the Commission, the decision became effective on August 31, 1973, as the final decision of the Commission, pursuant to § 1.30 of the rules of practice and procedure (18 CFR 1.30).

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19207 Filed 9-10-73;8:45 am]

[Docket No. E-8342]

## VIRGINIA ELECTRIC AND POWER CO.

### Notice of Application

SEPTEMBER 5, 1973.

Take notice that on August 18, 1973, Virginia Electric and Power Company (Applicant) tendered for filing a supplement dated May 21, 1973, to an electric service agreement with Albemarle Electric Membership Corporation, changing transformer facilities serving the Morgan's Corner Delivery Point from 1 MVA capacity to 2 MVA capacity for anticipated future loads. The supplement, which supersedes Rate Schedule FPC No. 88-12 dated January 7, 1972, is to become effective in September 1973 upon completion of the facilities changeover.

Any person wishing to be heard or to make any protest with reference to such Application should, on or before September 28, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The Application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19208 Filed 9-10-73;8:45 am]





[Docket No. E-8158]

## WISCONSIN POWER AND LIGHT CO.

### Notice of Proposed Amendment to Fuel Price Adjustment Clause

SEPTEMBER 4, 1973.

Take notice that Wisconsin Power and Light Company (Wisconsin) of Madison, Wisconsin, on July 23, 1973, tendered for filing a proposed amendment to its proposed rate increase filing to amend its fuel price adjustment clause to comply with the Commission's requirements in Opinion No. 633 as ordered in Paragraph (H) of the Commission's Order issued June 26, 1973, in this docket. Included in the proposed amendment were the following items:

Proposed 8th Revised Sheet No. 85, Schedule W-2,
Proposed 5th Revised Sheet No. 86, Schedule W-2.1,
Proposed 7th Revised Sheet No. 89.11, Schedule W-3,
Proposed 5th Revised Sheet No. 89.12, Schedule W-3.1,
Page 2 of 3 of Statement O—Fuel Adjustment Factor,
Page 3 of 3 of Statement O—Fuel Adjustment Factor.

Wisconsin states that the proposed amendment to the fuel cost adjustment factor results in an increase in revenues for the 1972 test year as follows:

| | |
|---|---|
| Schedule W-2 | $5,132 |
| Schedule W-3 | 15,343 |
| Total increase | 20,475 |

Take notice, also, that on August 24, 1973, Wisconsin tendered for filing the following proposed rate schedules which Wisconsin states are issued pursuant to paragraph (B) Commission's order of June 26, 1973 in this docket:

RATE W-2—RESALE SERVICE TO RURAL COOPERATIVES

| Revised | Sheet | Schedule |
|---|---|---|
| 8th | 85 | W-2 |
| 5th | 86 | W-2.1 |
| 3d | 87 | W-2.2 |
| 3d | 88 | W-2.3 |
| 4th | 89 | W-2.4 |

RATE W-3—RESALE SERVICE

| | | |
|---|---|---|
| 7th | 89.11 | W-3 |
| 5th | 89.12 | W-3.1 |
| 3d | 89.13 | W-3.2 |
| 2d | 89.14 | W-3.3 |
| 3d | 89.15 | W-3.4 |
| 3d | 89.16 | W-3.5 |
| 1st | 89.17 | W-3.6 |

This proposed rate schedule filing of August 24, 1973, appears to be a replacement for the proposed rate schedule W-2 and W-3 filed April 26, 1973, which incorporates the proposed amended fuel cost adjustment clause filed by Wisconsin on June 23, 1973, as ordered by the Commission's order issued June 26, 1973, in this docket. Wisconsin states that these rates are being placed into effect for service rendered on and after September 1, 1973, subject to refund of such amounts as are found by the Commission after hearing not to be justified, together with interest thereon.

In both tendered filings, Wisconsin states that copies of the proposed rate schedules have been sent to all parties involved.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 14, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Parties who have previously filed protests or petitions to intervene need not file new protests or petitions relating only to this notice. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19190 Filed 9-10-73;8:45 am]

## FEDERAL RESERVE SYSTEM

### CEGROVE CORPORATION

### Order Denying Acquisition of Bank

Cegrove Corporation, Wayne Township, New Jersey, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of The Ramapo Bank, Wayne Township, New Jersey (Bank).

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls one bank, Pilgrim State Bank, Cedar Grove, New Jersey, with deposits of $5 million which represents approximately 0.1 percent of deposits in commercial banks in the Greater Newark market. Bank, with deposits of approximately $35 million, operates three branches and is the 22nd largest of 35 organizations operating in the market approximated by the Paterson, New Jersey, SMSA. (All deposit data are as of December 31, 1972, and all market data are as of June 30, 1972.)

The Willowbrook office of Bank is separated from Pilgrim's office by only five miles, but penetration data show that neither bank derives a significant amount of business from the service area of the other and it appears that this proposal would not eliminate significant competition. There has been close cooperation in the management and operation of the two banks and its seems unlikely that future competition will develop. Apparently, consummation of the proposal would not appreciably raise the barriers to entry in any relevant area nor affect adversely the competitive situation in any relevant area, and there remains available a significant number of potential "foothold" acquisitions to afford entry into the relevant markets. Competitive considerations are regarded as consistent with approval.

In regard to financial considerations, Bank's net income decreased from $.45 per share in 1971 to $.41 per share in 1972. Bank's recent six months' figures indicate earnings per share of $.20. Pilgrim State Bank opened in March of 1971 and has never listed a profit, and it is questionable that it could turn a profit for 1973. Both banks have an aggressive loan posture and there is some evidence of a strain on Bank's capital. The proposal contemplates an undertaking by Applicant of $1.5 million in debt. On the record herein, the Board regards it as unlikely that cash derived from operations of the proposed expanded holding company system would be sufficient to service the debt without creating an undue strain on the capital of both banks involved.

Moreover, in light of the earnings picture and Applicant's proposed debt positions of the companies involved, it is not unreasonable to conclude that outside investors would not be attracted to the holding company. The Board has serious reservations as to the ability of Applicant to service the debt or raise additional capital. As the Board has stated many times, a holding company should be a source of strength for its subsidiary banks rather than vice versa. Applicant, a highly leveraged holding company, does not appear to be in a position to assist both Bank and Pilgrim Bank, the newly formed and as yet unprofitable bank in the system. In these circumstances, and in view of the entire record, the Board views the uncertain financial prospects as considerations weighing against approval of this transaction.

It should be emphasized that there is no evidence that the present financial condition of Bank or Applicant is unsound. The Board is concerned here only with a proposed expansion of a holding company and the problems related to acquisition debt and the capital structure of the proposed expanded institution.

Applicant proposes to offer services that are not currently offered by the banks involved. There is no evidence that the relevant markets are not adequately served at the present time. Considerations relating to the convenience and



V 38 - 175 SEP 11 73 XUM

needs of the community to be served are regarded as consistent with, but lend no weight toward, approval. Managerial resources of Applicant, its subsidiary bank, and Bank are regarded as adequate but these considerations do not lend weight toward approval.

In light of the entire record, it is the Board's judgment that the proposed transaction would not be in the public interest and should be, and hereby is, denied.

By order of the Board of Governors,[1] effective August 31, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-19225 Filed 9-10-73;8:45 am]

## CITIZENS AND SOUTHERN HOLDING COMPANY, INC.

### Order Approving Entry De Novo in Nonbanking Activities

Citizens and Southern Holding Company, Inc., Atlanta, Georgia (C&S Holding), a bank holding company within the meaning of the Bank Holding Company Act of 1956, has proposed under section 4(c)(8) of the Act: (1) To engage de novo, through a newly formed subsidiary, Citizens and Southern Mortgage Company, Inc. (C&S Mortgage), in the activities of a mortgage company including servicing of loans for others and acting as investment or financial adviser; and (2) to engage de novo, through a newly formed subsidiary, Citizens & Southern Factors Inc. (C&S Factors), in the activities of a factoring company including servicing of loans for others, and personal property leasing. The proposed activities are permissible for bank holding companies under Board's Regulation Y, § 225.4(a) (1), (3), (5), and (6) (12 CFR 225.4(a)(1), (3), (5), (6)).

Notices of the proposals, affording opportunity for interested persons to express comments and views, were duly published in newspapers of general circulation in the communities to be served,[1] in accordance with the regulations.[2] The only objections received were with respect to the mortgage banking proposal. These were filed on behalf of the Independent Bankers Association of Georgia, the National City Bank of Rome, Rome, Georgia, the Citizens Federal Savings and Loan Association of Rome, Rome, Georgia, the Home Federal Savings & Loan Association, Rome, Georgia, and the First National Bank of Athens, Athens, Georgia.

The Federal Reserve Bank of Atlanta requested additional comments from all parties and upon consideration thereof approved the proposal as being in the public interest. The objectors were advised, however, that they could seek Board review of this decision in accordance with the provisions of § 265.3 of the Board's rules regarding delegation of authority (12 CFR 265.3). Thereafter, the National City Bank of Rome, the First National Bank of Athens, and the Independent Bankers Association of Georgia petitioned for such a review and Board review was authorized. Although the objections were directed, and review of the Reserve Bank's action was requested only as to the mortgage banking proposal, in view of the nature of the objections, C&S Holding was notified by the Reserve Bank not to consummate either proposal and both proposals were referred to the Board.

The petitioners for review by the Board also requested that the Board schedule a formal hearing on their objections. After full consideration thereof the Board denied the request for hearing inasmuch as the issues were such that a hearing thereon would serve no useful purpose.

The review by the Board has been accomplished and its findings and decision are as follows:

C&S Holding is wholly owned by Citizens and Southern National Bank of Atlanta, Georgia (C&S National), a registered bank holding company and the largest bank in Georgia with deposits of $1.5 billion. C&S Holding owns more than 50 percent of the stock of eight banks and 5 percent of the stock of each of 27 other banks in the State. C&S National, together with the eight subsidiary banks and the 27 "5% banks" holds deposits of $2.3 billion, representing 23 percent of the State's total deposits. The share of deposits held by this group in the State's major markets ranges from 0 percent in Muscagee County (Columbus) and Floyd County (Rome) to 47 percent in Clarke County (Athens).[3]

Two different estimation techniques applied by the staff—because precise data are not available—indicate that the C&S system has about 10 percent of the total financial resources of Georgia financial institutions, including savings and loan associations, insurance companies, etc. In mortgage lending at the end of 1972, the C&S System had 17.6 percent of total mortgage loans outstanding for all commercial banks in Georgia, and approximately 3 to 4 percent if all mortgage lenders are included. In the only major market in the State for which information is available, the Atlanta SMSA, the C&S System had 9.6 percent of the dollar volume of mortgages with maturities of five years or more.

On the basis of the foregoing the Board finds, as did the Reserve Bank, that contrary to the contentions of the objectors, C&S System does not constitute or contribute to an undue concentration of resources in the State of Georgia. This conclusion may be compared with Board actions related to the First Bank System with 28.5 percent of deposits in Minnesota (58 F.R. Bull. 172), Northwest Bancorporation with 24 percent of deposits in Minnesota (59 F.R. Bull. 194), and First Security Corporation with 28.9 percent of deposits in Utah (59 F.R. Bull. 455). Moreover, the C&S share of deposits, financial resources and mortgages will be reduced by the portions thereof attributable to the C&S "5% banks" when the State court's order for divestiture of all incidents of direct or indirect control except for 5 percent of voting stock thereof—as discussed more fully hereinafter—is complied with. In the case of State-wide deposits the reduction would be from 23 percent to approximately 18 percent at this time if the holdings of the "5% banks" were eliminated.

It is also claimed, as grounds for denying approval, that C&S National is barred, by the branch banking laws of the State, from opening loan offices at locations specified in the proposal, and that C&S National shoud not be permitted to do indirectly—through C&S Holding, its wholly-owned subsidiary—what it may not do directly.

It is not customary for a bank holding company to be a wholly-owned subsidiary of a bank which is also a bank holding company. But the relationship in this case has been recognized since 1965 by the Comptroller of the Currency and the Board when the stock of C&S Holding, which had been held in trust for C&S National stockholders since 1928, was contributed to the capital of C&S National. Since then the Board has approved acquisitions by C&S Holding of 10 percent of the stock of a bank in 1959, of additional stock in that bank in 1964, a life insurance company and an agency in 1969 and expansion of nonbanking activities of a credit service subsidiary in 1971. The activities approved in 1969 and 1971 are not permissible directly for national banks.

We refer to the foregoing as pointing to the need for a strong showing if the Board is to disregard now the organizational structure which has been recognized since 1965.

Here, C&S Holding represents that C&S Mortgage will have a separate staff, separate Board of Directors, separate offices and separate capital structure from C&S National; that C&S Mortgage will be financed initially by investment of equity capital and loans from C&S Holding; that if, to meet lenders' requirements C&S Mortgage originates any loans for C&S National, the latter will be treated like any other customer-lender and charged the usual fee for services rendered. The evidence does not justify a conclusion that C&S Mortgage is being established to avoid branch banking restrictions or that the proposed operation is planned to be the "unitary" type indicative of branch banking. Additionally, the Attorney General of Georgia has, by written opinion to the State Commissioner of Banking and Finance, held that there is no violation of the State branch banking laws indicated in the proposal with respect to C&S Mortgage. The Board is of the opinion, moreover, that the action of the Supreme Court of Georgia with respect to violations by C&S Holding and C&S National of the State bank holding company law (discussed infra) reflects what would probably occur if in carrying on the mortgage lending activities C&S Mortgage and C&S National should, notwithstanding representations made to the Board, engage in branch banking activities contrary to State law.

Protestants also claim that C&S is violating the State and Federal laws with respect to bank holding companies and thereby engaging in unfair competition.

The Board has noted the recent decision of the Supreme Court of Georgia that C&S National and C&S Holding directly and indirectly control more than 5 per cent of the voting stock of each of ten Georgia banks, in violation of the State bank holding company law; the fact that pursuant to the mandate of the Georgia Supreme Court, the Superior Court of De Kalb County has ordered the State Commissioner of Banking and Finance to take steps to require that all stock ownership in the ten banks and all incidents of indirect ownership of stock by "the C&S family" be reduced to an aggregate of 5 per cent of voting stock as allowed by State law, within two years; that the Commissioner has notified C&S that he considers the rationale of the Supreme Court's decision to be applicable to all of the C&S "5% banks" (approximately 27 in number); and that C&S officials agree with this conclusion of the State Commissioner. The Board considers it a reasonable assumption that the mandamus of the highest State court will be complied with in due course. Consequently, even if the modus operandi of C&S as regards the C&S "5% banks" should be considered as having constituted unfair competition, that practice is being corrected by the State authorities.

If, following compliance with the State court's order for divestiture of all direct or indirect incidents of control except for the 5 per cent of voting stock, it appears that C&S Holding exercises a controlling influence over management or policies of the "5% banks" the Board may then proceed with a determination of control under the Bank Holding Company Act. Initiation of such action while the State court decree is being implemented would be premature.

The objecting banks in Rome and Athens, Georgia, two of the proposed locations for mortgage lending offices, claim there is no need for another lending agency in either place, as those presently represented there are satisfying the needs of the public. However, Congress authorized the Board in section 4(c)(8) of the Bank Holding Company Act to differentiate between those nonbanking activities commenced de novo and those commenced by acquisition of a going concern. Here C&S Holding proposes to expand internally through a newly formed mortgage banking subsidiary and thus add a new lender in the Rome and Athens markets. Such entry, in the Board's view, is procompetitive, bringing an added element of competition into each market which would not otherwise be true; it should provide an increased quantity of mortgage funds for those markets and an alternative lending source for borrowers therein. Consequently the Board concludes that these public benefits outweigh any possible adverse effects.

Based on the foregoing and other considerations reflected in the record, the Board has determined that approval of the pending mortgage banking application will not result in any undue concentration of banking or financial resources, unfair competition, conflicts of interest, or unsound banking practices and that it will, in fact, produce benefits to the public in the form of greater convenience and increased competition.

The proposal to engage in factoring, servicing of loans for others and personal property leasing is not opposed, and no adverse effects are suggested or apparent. As a de novo activity it should, as pointed out above, produce public benefits in the form of increased competition and greater convenience from the provision of additional services.

Accordingly the applications are approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof; it is subject to the further condition that the proposed activities must be commenced within no less than three months after the effective date hereof unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[4] effective August 31, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-19218 Filed 9-10-73;8:45 am]

## D. H. BALDWIN COMPANY

### Acquisition of Bank

D. H. Baldwin Company, Cincinnati, Ohio, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Central Colorado Bancorp, Inc., Colorado Springs, Colorado and thereby indirectly to acquire control of State Bank of Greeley, Greeley, Colorado; Central Colorado Bank of Colorado Springs, Colorado Springs, Colorado; Rock Ford National Bank, Rocky Ford, Colorado; The Academy Boulevard Bank of Colorado Springs, Colorado Springs, Colorado. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 27, 1973.

Board of Governors of the Federal Reserve System, August 31, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-19222 Filed 9-10-73;8:45 am]

## FIRST VIRGINIA BANKSHARES CORPORATION

### Proposed Acquisition of Robert C. Gilkinson, Inc.

First Virginia Bankshares Corporation, Falls Church, Virginia, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of Robert C. Gilkinson, Inc., Washington, D.C. Notice of the application was published on August 5, 1973, in The Washington Post, a newspaper circulated in Washington, D.C.

Applicant states that the proposed subsidiary would provide portfolio investment and financial advice for individual, trusts, and corporations. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or

[1] Voting for this action: Vice Chairman Mitchell and Governors Daane, Brimmer, Sheehan, Bucher, and Holland. Absent and not voting: Chairman Burns.

[1] Atlanta, Athens, Augusta, Macon, Savannah, Valdosta, Albany, Dalton, Rome, Columbus, and Decatur, Georgia; Charlotte, North Carolina.

[2] Section 225.4(b)(1), Regulation Y (12 CFR 265.4(b)(1)).

[3] The other markets are: Richmond County (Augusta), 27 percent; Atlanta SMSA, 30 percent; Macon SMSA, 37 percent; Savannah SMSA, 38 percent; and Albany SMSA, 42 percent.

[4] Voting for this action: Chairman Burns and Governors Sheehan, Bucher, and Holland. Absent and not voting: Governors Mitchell, Daane, and Brimmer.







V38-175 SEP 11 73 XUM

at the Federal Reserve Bank of Richmond.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 27, 1973.

Board of Governors of the Federal Reserve System, August 31, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-19220 Filed 9-10-73;8:45 am]

## GREENWOOD'S BANCORPORATION, INC.

### Formation of Bank Holding Company

The Greenwood's Bancorporation, Inc., Lake Mills, Wisconsin, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a banking holding company through acquisition of 80 percent or more of the voting shares of The Greenwood's State Bank, Lake Mills, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank to be received not later than September 27, 1973.

Board of Governors of the Federal Reserve System, August 31, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-19221 Filed 9-10-73;8:45 am]

## INLAND FINANCIAL CORPORATION & JACOBUS COMPANY

### Acquisition of Bank

Inland Financial Corporation and Jacobus Company, both of Milwaukee, Wisconsin, have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 99 percent or more of the voting shares of Heritage Bank of West Bend, West Bend, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than September 27, 1973.

Board of Governors of the Federal Reserve System, August 31, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-19223 Filed 9-10-73;8:45 am]

## MULTIBANK FINANCIAL CORP.

### Order Approving Acquisition of Bank

Multibank Financial Corp., Boston, Massachusetts, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of B.M.C. Durfee Trust Company, Fall River, Massachusetts (Bank).

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls five banks with total deposits of $446.9 million, representing approximately four percent of the total deposits of commercial banks in the State, and is the sixth largest banking organization in Massachusetts. (All banking data are as of December 31, 1972.) The acquisition of Bank ($56 million in deposits) would increase Applicant's share of the total State deposits by 0.45 percent, and it would remain the sixth largest banking organization in Massachusetts. Bank is the second largest of six commercial banking organizations in the Fall River banking market[1] which is deemed the relevant market. If the five mutual savings banks located in the market are also considered, Bank is the fifth largest of eleven banking organizations in the market. Bank's market share is 30.2 percent when only the commercial banks in the market are considered, but drops to 13.3 percent if all banking organizations in the market are considered. The five mutual savings banks in the Fall River market hold aggregate deposits greater than those held by the six commercial banks in the market, and their competition with the commercial banks is likely to increase in the future through their solicitation and acceptance of accounts subject to negotiable orders of withdrawal (NOW accounts). The proposed acquisition would represent Applicant's initial entry into this market.

Applicant's banking subsidiary nearest to Bank is located approximately 12 miles away in northern Bristol County in the Attleboro market, a separate market area. There presently exists no meaningful competition between Bank and that subsidiary. Although Applicant's banking subsidiary and Bank may each lawfully open branch offices in the respective market areas of the other under Massachusetts law, consummation of the proposed transaction would not have a significant adverse effect on the development of future competition. It is not expected that, absent such consummation, Applicant's banking subsidiary would avail itself of the opportunity to open branch offices in the Fall River market in view of the present economic condition of that market. The population growth of the Fall River SMSA between 1960 and 1970 was 8.6 percent, compared to growth of 12.1 percent by the entire State over the same period. The population per banking office in the SMSA is below that of the State, and, with deposits per banking office of $7.0 million, the SMSA is substantially below the State average of $13.3 million. Further, the Greater Fall River area has been classified as a substandard employment area by the Economic Development Administration. Similarly, although Bank recently branched into the fringe of the market area of Applicant's closest banking subsidiary, future branch expansion in that market by Bank in the near future is considered unlikely in view of its limited capital base and the fact that both the population per banking office and deposits per banking office of the Attleboro area are substantially below State averages.

Should the proposed transaction be consummated, Bank would become Applicant's second banking subsidiary in Bristol County, however, there would remain seven independent banks which offer holding company access to the County. Even if Bristol County should be considered the relevant market, consummation of this proposal would not increase the level of concentration of banking resources in the County to a degree that would endanger competition since Applicant would hold thereafter only 16.5 percent of total commercial bank deposits therein. Further, the significant role of mutual savings banks in the County, holding, as they do, aggregate deposits of $834 million compared to aggregate deposits of commercial banks amounting to approximately $522 million, mitigates the significance of the 16.5 percent figure. The Board concludes that the acquisition would have no significant adverse effect on the competitive situation or the concentration of banking resources in the area.

Applicant has agreed to inject capital into certain of its subsidiary banks. In that light, the Board finds the financial condition and managerial resources of the Applicant, its subsidiaries, and Bank satisfactory; and prospects for each are favorable.

Applicant intends to have Bank offer certain services not presently offered by Bank, principally equipment leasing and accounts receivable financing, as well as to implement a capital improvement program for Bank. The communities to be served should also benefit from larger lending limits and the expertise of specialized personnel in the holding company organization to become available to Bank as a result of consummation of the proposed transaction. Accordingly, considerations relating to convenience and needs of the communities to be served are consistent with approval. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest and that the application should be approved.

Bank's sole subsidiary engages in the operation of a commercial parking lot on land owned by the subsidiary. Operation of a commercial parking lot is not an activity that is "closely related to banking", and Bank, as a subsidiary of a bank holding company, may not continue to engage in that activity either on the basis of section 4(c)(8) or section 4(c)(5) of the Act (12 U.S.C. 1843(c)(8) and (c)(5)). It is therefore expected that Bank, preferably prior to consummation of the proposed transaction, but in any event within a reasonable time after such consummation, will divest itself of that subsidiary, and approval of this application is conditioned upon such divestiture.

On the basis of the record,[2] the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Boston pursuant to delegated authority.

By order of the Board of Governors,[3] effective August 31, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-19219 Filed 9-10-73;8:45 am]

[1] The Fall River banking market is approximated by the Fall River Standard Metropolitan Statistical Area which includes the City of Fall River and the Towns of Somerset, Swansea, Westport, and Dighton in southern Bristol County, Massachusetts, and Tiverton, Little Compton, and Portsmouth in Newport County, Rhode Island.

[2] Dissenting Statement of Governor Brimmer filed as part of the original document. Copies available upon request to Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Boston.

[3] Voting for this action: Chairman Burns and Governors Sheehan, Bucher, and Holland. Voting against this action: Governor Brimmer. Absent and not voting: Governors Mitchell and Daane.





## U.S. BANCORP

### Proposed Retention of Commerce Mortgage Company

U.S. Bancorp, Portland, Oregon, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of Commerce Mortgage Company, Portland, Oregon. Notice of the application was published on July 5, 6, or 7 in newspapers of general circulation in Eugene and Portland, Oregon, Seattle, Spokane, Walla Walla, and Yakima, Washington, and Missoula, Montana.

Applicant states that the proposed subsidiary engages in the activities of a mortgage company including making loans and other extensions of credit for its own account and for the accounts of others and servicing of loans and other extensions of credit for any person. The proposed subsidiary also makes available for group policies issued to it, credit life and accident and health insurance. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for the bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consumption of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 27, 1973.

Board of Governors of the Federal Reserve System, August 31, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-19224 Filed 9-10-73;8:45 am]

## SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area 1012]

### INDIANA

### Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of July 1973, because of the effects of a certain disaster, damage resulted to residences and business property located in the State of Indiana;

Whereas, the Small Business Administration has investigated and received reports of other investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended;

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in Floyd, Lawrence, Vigo, Clay, Martin, and Owen Counties, Indiana, and adjacent affected areas, suffered damage or destruction resulting from flooding caused by heavy rains on July 20–24, 1973. Appplications will be processed under the provisions of Pub. L. 93–24.

Office: Small Business Administration, District Office, 36 South Pennsylvania Street, Indianapolis, Indiana 46204.

2. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to October 29, 1973.

Dated August 29, 1973.

THOMAS S. KLEPPE,
*Administrator.*

[FR Doc.73-19253 Filed 9-10-73;8:46 am]

## DEPARTMENT OF LABOR

### Bureau of Labor Statistics

### BUSINESS RESEARCH ADVISORY COUNCIL'S COMMITTEE ON ECONOMIC TRENDS AND LABOR CONDITIONS

### Notice of Meeting

The BRAC Committee on Economic Trends and Labor Conditions will meet at 10:00 a.m., September 18, 1973, at the General Accounting Office Building, 441 G Street, NW., Room 2106, Washington, D.C.

The meeting will be devoted to the presentation and discussion of the 1985 projections.

It is suggested that persons planning to attend this meeting as observers contact Kenneth G. Van Auken, Executive Secretary, Business Research Advisory Council on (Area Code 202) 961–2559.

Signed at Washington, D.C., this 4th day of September 1973.

JULIUS SHISKIN,
*Commissioner of Labor Statistics.*

[FR Doc.73-19280 Filed 9-10-73;8:45 am]

### Occupational Safety and Health Administration

### STANDARDS ADVISORY COMMITTEE ON NOISE

### Notice of Meeting

Notice is hereby given that the Standards Advisory Committee on Noise, established under section 7(b) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 656), will meet on Monday, September 24, 1973, and Tuesday, September 25, 1973, starting at 9:00 a.m. each day in Conference Room B, Departmental Auditorium, Constitution Avenue between 12th and 14th Streets NW., Washington, D.C.

The agenda provides for discussion of Working Draft III with a view towards voting on final recommendations.

The meeting shall be open to the public. There will be no opportunity for oral presentations at this meeting. However, written data, views, or arguments concerning the subject to be considered may be filed, together with 20 copies thereof, with the Committee's Executive Secretary by September 21, 1973. Any such



V 38-175 SEP 11 73 XUM

submissions, timely received, will be provided to the members of the committee and will be included in the record of the meeting.

Communications to the Executive Secretary should be addressed as follows:

Executive Secretary
Standards Advisory Committee on Noise
Railway Labor Building—Room 509,
OSHA–OSMC
U.S. Department of Labor,
Washington, D.C. 20210

Signed at Washington, D.C., this 6th day of September 1973.

JOHN STENTER,
*Assistant Secretary of Labor.*

[FR Doc.73–19354 Filed 9–10–73;8:45 am]

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### NATIONAL COUNCIL ON THE ARTS

#### Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that a meeting of the National Council on the Arts will be held at 9:15 a.m. on September 14, 9:15 a.m. on September 15, and 9:15 a.m. on September 16, 1973, at the Sheraton Carlton Hotel, Washington, D.C.

A portion of this meeting will be open to the public on September 15 from 9:15 a.m. to 12:30 p.m. on a space available basis. Accommodations are limited. During the open session, the following areas will be discussed: 1) Resolution on the Handicapped; 2) Museum Program; 3) Architecture + Environmental Arts; 4) Visual Arts.

The remaining sessions of this meeting, September 14, September 15 from 12:30 p.m. to 5:00 p.m., and September 16, 1973, are for the purpose of Council review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER of January 10, 1973, these sessions involving matters exempt from the requirements of public disclosure, under the provisions of the Freedom of Information Act (5 U.S.C. 552(b) (4) and (6), will not be open to the public.

Further information with reference to this meeting can be obtained from Mrs. Eleanor A. Snyder, Advisory Committee Management Officer, National Endowment for the Arts, 806 15th Street NW., Washington, D.C. 20506, or call Area Code 202–382–3642.

PAUL BERMAN,
*Director of Administration, National Foundation on the Arts and the Humanities.*

[FR Doc.73–19405 Filed 9–10–73;12:30 am]

## ATOMIC ENERGY COMMISSION

### AEC-LICENSED FACILITIES

#### Memorandum of Understanding

Both the Environmental Protection Agency (EPA) and the Atomic Energy Commission (AEC) have complementary responsibilities in areas of environmental protection and the control of radiation effects. In order to fix an appropriate interface of the respective functions of the two agencies, to further facilitate their useful cooperation, and to avoid unnecessary duplication of regulatory effort, EPA and the AEC have executed a memorandum of understanding with regard to AEC-licensed facilities. The text of the memorandum is set forth below.

Dated at Germantown, Maryland this 6th day of September 1973.

For the Atomic Energy Commission.

GORDON M. GRANT,
*Acting Secretary of the Commission.*

AEC-EPA MEMORANDUM OF UNDERSTANDING WITH RESPECT TO AEC-LICENSED FACILITIES

Both the Atomic Energy Commission (AEC) and the Environmental Protection Agency (EPA) have complementary responsibilities in areas of environmental protection and the control of radiation effects. Pursuant to Reorganization Plan No. 3 of 1970, "the functions of the Atomic Energy Commission under the Atomic Energy Act of 1954, as amended, administered through its Division of Radiation Protection Standards to the extent that such functions of the Commission consist of establishing generally applicable environmental standards[1] for the protection of the general environment from radioactive material" and all functions of the Federal Radiation Council were transferred to the Administrator of EPA. The President's message to the Congress upon transmitting Reorganization plans to establish EPA and NOAA stated that "AEC would retain responsibility for the implementation and enforcement of radiation standards through its licensing authority." In order to fix an appropriate interface of the respective functions of the two agencies, to further facilitate their useful cooperation, and to avoid unnecessary duplication with regard to AEC-licensed facilities, the AEC and EPA agree as follows:

1. AEC-licensed facilities are subject through AEC licensing authority and requirements to EPA's generally applicable environmental radiation standards, as defined in Reorganization Plan No. 3 of 1970. AEC will take appropriate action to assure that AEC-licensed facilities are operated in such a manner that routine radioactive discharges therefrom do not exceed generally applicable environmental standards established by EPA, outside the site boundary, for the protection of the general environment from radioactive material.

2. The AEC and the EPA will jointly undertake and carry out arrangements for special studies for the purpose of obtaining necessary information for establishing generally applicable environmental standards for the protection of the general environment from radioactive material discharged from AEC-licensed facilities. For example, the AEC will supply to EPA AEC data and will use its best efforts to supply reasonably obtainable licensee data, relevant to radioactive effluents and the generation of pathway models. The AEC will also participate and will take appropriate action to arrange for its licensees to participate, as may be necessary, in providing data on releases and concurrent meteorological data in support of EPA field measurements and special studies such as pathway model verification at typical licensed facilities. The EPA will endeavor to minimize the number of separate typical facilities on which field measurements will be needed in establishing pathway models.

3. It is agreed that EPA may accompany AEC inspectors on AEC inspections of AEC-licensed facilities for the purpose of becoming informed on how licensees conform with generally applicable environmental standards. Such accompaniment may, at the discretion of EPA, be on either announced or unannounced AEC inspections. It is anticipated that up to 5 such accompaniments may be made in FY 1974. EPA will determine those inspections on which it wishes to accompany AEC. The first step will be for AEC to familiarize the EPA with the scope of AEC inspections.

4. EPA will advise and obtain AEC comments prior to the publication of data relating to discharges from AEC-licensed facilities and the results of these programs.

5. EPA will furnish technical advice and assistance to AEC upon request on discharges to the environment from AEC-licensed facilities.

6. Nothing in this Memorandum of Understanding, or any activities conducted hereunder, shall be construed as precedent for, or as recognizing, any authority of EPA to duplicate or supervise inspection activities of the AEC.

For the United States Atomic Energy Commission.

WILLIAM O. DOUB,
*Commissioner.*

AUGUST 27, 1973.

For the United States Environmental Protection Agency.

CHARLES ELKINS,
*Acting Assistant Administrator for Hazardous Materials Control.*

AUGUST 21, 1973.

[FR Doc.73–19250 Filed 9–7–73;8:45 am]

[1] The word "standards," as used herein, has the same meaning as in Reorganization Plan No. 3 of 1970, as follows: "standards mean limits on radiation exposure or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material."





[Docket No. 50–247]

## CONSOLIDATED EDISON CO. OF NEW YORK, INC.

### Order Reconvening Hearing and Reopening the Record

In the matter of Consolidated Edison Company of New York, Inc., Indian Point Nuclear Generating Unit No. 2.

In accordance with responses to previous inquiries regarding reconvening of the hearing, an evidentiary hearing shall convene at 9:00 a.m. on Wednesday, September 12, 1973, in the Main Hearing Room, Woodmont Building, 8120 Woodmont Avenue, Bethesda, Maryland, to receive into evidence and to consider the scope and terms of the applicant's quality assurance operation manual, and the staff's and intervenors' comments and inquiries thereon. Also to be considered are the water quality certification contentions asserted by the State of New York, and the applicant's request for level of testing operations.

Dated September 7, 1973.

ATOMIC SAFETY AND LICENSING BOARD,
SAMUEL W. JENSCH,
*Chairman.*

[FR Doc.73–19374 Filed 9–10–73;8:45 am]

## GENERAL ADVISORY COMMITTEE RESEARCH SUBCOMMITTEE

### Notice of Meetings

SEPTEMBER 6, 1973.

In accordance with the purposes of section 26 of the Atomic Energy Act, the Research Subcommittee of the General Advisory Committee will hold meetings on September 19 and 20, and October 8 and 9, 1973, in Room 1146 at 1717 H Street, NW., Washington, D.C.

The Subcommittee will meet with members of AEC Headquarters offices, and in executive sessions, preparatory to the formulation of recommendations to the full Committee on the AEC basic research program.

I have determined, in accordance with subsection 10(d) of Pub. L. 92–463, that the meetings will consist of exchanges of opinions and views, the discussion of which, if written, would fall within exemption (5) of (5 U.S.C. 552(b)).

It is essential to close the meetings to protect the free interchange of internal views and to avoid undue interference with Committee operation.

JOHN C. RYAN,
*Advisory Committee Management Officer.*

[FR Doc.73–19326 Filed 9–10–73;8:45 am]

[Docket Nos. 50–282 and 50–306]

## NORTHERN STATES POWER CO.

### Order Regarding Hearing Dates

In the matter of Northern States Power Co. (Prairie Island Nuclear Generating Plant, Units 1 and 2).

The evidentiary hearing in this matter shall commence at 10:00 a.m., local time, on September 17, 1973, at the District Courtroom, Goodhue County Courthouse, Red Wing, Minnesota. On September 18, 19, and 20, and thereafter until further order of the Board, sessions of the hearing will be held at the U.S. Federal Building, Courtroom No. 3, 316 North Roberts Street, St. Paul, Minn.

Members of the public are invited to attend all sessions of the evidentiary hearing. Those members of the public who may wish to make oral presentations by way of limited appearance will be permitted to do so on the initial day of the evidentiary hearing.

*It is so ordered.*

Issued at Washington, D.C., this 5th day of September 1973.

THE ATOMIC SAFETY AND LICENSING BOARD.
EDWARD LUTON,
*Chairman.*

[FR Doc.73–19234 Filed 9–10–73;8:45 am]

## URANIUM ENRICHMENT SERVICES AGREEMENTS

### Provision of Facilities

Notice is hereby given that, effective upon publication of this notice in the FEDERAL REGISTER, the United States Atomic Energy Commission (AEC) offers pursuant to its Uranium Enrichment Services Criteria (38 FR 12180, May 9, 1973), to provide uranium enrichment services in facilities owned by the AEC, as authorized by the Atomic Energy Act of 1954, as amended (the Act).

Such services will be provided pursuant to the following Standard Fixed-Commitment Agreements:

1. Long-Term Fixed-Commitment Agreement Including First Core. This agreement is designed for use by persons owning a nuclear reactor. Advance payments are required under this agreement.

2. Long-Term Fixed-Commitment Agreement Excluding First Core. This agreement is designed for use by persons owning a nuclear reactor. Advance payments will not be required under this agreement if the first core has been or will be supplied by AEC under other arrangements entered into prior to May 9, 1973. However, the Commission reserves the right to require advance payments in other situations.

3. Short-Term Fixed-Commitment Agreements. This agreement is designed for use by persons fabricating fuel elements for nuclear reactors to obtain necessary working inventories of enriched uranium. To the extent permitted by prior commitments, this agreement may be entered into from six months to two years prior to initial delivery and may cover deliveries over a period of up to three years.

Upon request, the Commission will consider the use of the above agreements or appropriate modifications thereof by other persons or for other purposes.

The Long-Term Fixed-Commitment Agreements will normally be executed eight years in advance of the initial delivery thereunder. However, there will be a one-time transition period to accommodate customers requiring deliveries under the new agreements less than eight years from the date of entering into such agreement. Execution of such agreements shall be no later than December 31, 1973, for cases in which the reactor requires initial delivery prior to July 1, 1978, and no later than June 30, 1974, for cases in which the reactor requires initial delivery between July 1, 1978, and June 30, 1982. Also, customers having requirements-type agreements may convert to Long-Term Fixed-Commitment Agreements at their option. However, the AEC reserves the right to put a time limit on such option.

Dated at Germantown, Md., this 7th day of September 1973.

For the Atomic Energy Commission.

GORDON M. GRANT,
*Secretary of the Commission.*

[FR Doc.73–19373 Filed 9–10–73;8:45 am]

## ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON D. C. COOK NUCLEAR PLANT, UNITS 1 & 2

### Notice of Meeting

SEPTEMBER 7, 1973.

In accordance with the purposes of section 29 and 182b, of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards Subcommittee on the D.C. Cook project will hold a meeting on September 25, 1973 in Room 1046, at 1717 H Street NW., Washington, D.C. The purpose of this meeting will be to continue the Committee's formal Operating License review of the Donald C. Cook Nuclear Plant, Units 1 & 2. This facility is located in Lake township near Benton Harbor, Michigan.

The following constitutes that portion of the Subcommittee's agenda for the above meeting which will be open to the public:

TUESDAY, SEPTEMBER 25, 1973,
9:30 A.M.–3:30 P.M.

The Subcommittee will hear presentations by Regulatory Staff and representatives of Indiana Michigan Electric Company and their representatives and hold discussions with these groups pertainent to issuance of an Operating License for Donald C. Cook Nuclear Plant, Units 1 & 2.

In connection with the above agenda item, the Subcommittee will hold an executive session beginning at 8:30 a.m. which will involve a discussion of its preliminary views, and an executive session at the end of the day, consisting of an exchange of opinions of the Subcommittee members present and internal deliberations for the purpose of formulation of recommendations to the ACRS.



V 38-175 SEP 11 73 XUM

In addition, prior to the executive session at the end of the day, the Subcommittee may hold a closed session with the Regulatory Staff and Applicant to discuss privileged information relating to plant security and fuel/emergency core cooling system performance, if necessary.

I have determined, in accordance with subsection 10(d) of P.L. 92-463, that the executive session at the beginning and end of the meeting will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b) and that a closed session may be held, if necessary, to discuss certain information relating to site security and fuel/emergency core cooling system performance which is privileged and falls within exemption (4) of 5 U.S.C. 552(b). It is essential to close such portions of the meeting to protect such privileged information and protect the free interchange of internal views and to avoid undue interference with agency or Committee operation.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by mailing 25 copies thereof, postmarked no later than September 18, 1973, to the Executive Secretary, Advisory Committee on Reactor Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Such comments shall be based upon the Final Safety Analysis Report for this facility and related documents on file and available for public inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545, and the St. Joseph Public Library, 500 Market Street, St. Joseph, Michigan 49085.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statements and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of not more than 30 minutes at an appropriate time, chosen by the Chairman of the Subcommittee, between the hours of 1:30 p.m. and 3:00 p.m. on the day of the meeting.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee, who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled and in regard to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on September 24, 1973, to the Office of the Executive Secretary of the Committee (telephone: 301-973-5651) between 8:30 a.m. and 5:15 p.m., e.d.t.

(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) A copy of the transcript of the open portions of the meeting will be available for inspection during the following workday at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545, and within approximately nine days at the St. Joseph Public Library, 500 Market Street, St. Joseph, Michigan 49085. On request, copies of the minutes of the meeting will be made available for inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545, on or after November 25, 1973. Copies may be obtained upon payment of appropriate charges.

JOHN C. RYAN,
*Advisory Committee Management Officer.*

[FR Doc.73-19438 Filed 9-10-73;11:25 am]

## ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON REACTOR PRESSURE VESSELS

### Notice of Meeting

SEPTEMBER 7, 1973.

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards Subcommittee on Reactor Pressure Vessels will hold a meeting on September 15, 1973, at O'Hare International Airport, Chicago, Illinois. The subject scheduled for discussion is a draft report to the full committee on light water reactor pressure vessel integrity.

The Subcommittee is meeting to formulate recommendations in the form of a report to the full ACRS regarding the above subject.

I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that the meeting will be to discuss a document which falls within exemption (5) of 5 U.S.C. 552(b) and will consist of an exchange of opinions, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b). It is essential to close this meeting to protect the free interchange of internal views and to avoid undue interference with agency or Committee operations.

JOHN C. RYAN,
*Advisory Committee Management Officer.*

[FR Doc.73-19439 Filed 9-10-73;11:25 am]

## INTERSTATE COMMERCE COMMISSION

[Rev. S.O. 994; I.C.C. Order 109, Admt. 1]

### ANN ARBOR RAILROAD CO.

### Rerouting or Diversion of Traffic

Upon further consideration of I.C.C. Order No. 109 (The Ann Arbor Railroad Company) and good cause appearing therefor:

*It is ordered,* That:

I.C.C. Order No. 109 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.*—This order shall expire at 11:59 p.m., September 7, 1973, unless otherwise modified, changed, or suspended.

*It is further ordered,* That this amendment shall become effective at 11:59 p.m., August 24, 1973, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., August 24, 1973.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
*Agent.*

[FR Doc.73-19264 Filed 9-10-73;8:45 am]

[Notice No. 338]

### ASSIGNMENT OF HEARINGS

SEPTEMBER 6, 1973.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 83539 Sub 360, C & H Transportation Co., Inc., now assigned September 10, 1973, hearing is cancelled and application dismissed.

MC 83835 Sub 96, Wales Transportation, Inc., now assigned September 10, 1973, at Kansas City, Mo., is cancelled and application is dismissed.

MC-136839, Josephine Koffman & Nancy J. Nimmo, D.B.A. Bergen Limousine Rental Service, now assigned September 10, 1973, will be held in Room B-2231, 26 Federal Plaza, New York, N.Y., instead of in Room E-2222, 26 Federal Plaza.

FD 20812, Railway Express Agency, Inc., Notes, continued to October 2, 1973 for prehearing conference on the merits, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-F-11827, Joe Hodges Transportation Corporation—Purchase—Toddman Transport Co., MC 120634 Sub 19, Joe Hodges Transportation Corporation, now assigned September 24, 1973, at Dallas, Tex., is postponed indefinitely.

I. & S. M 27069, Increased Minimum Charges For Capacity Loads, now assigned October 9, 1973, at Washington, D.C., is cancelled.

MC 118610 Sub 14, L & B Express, Inc., now being assigned hearing October 30, 1973 (1 day), at Frankfort, Ky., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-19268 Filed 9-10-73;8:45 am]

[Ex Parte No. 241; 8th Rev. Exemption No. 43]

### ATCHISON, TOPEKA AND SANTA FE RAILWAY CO. ET AL.

### Exemption Under Provision of Mandatory Car Service Rules

To: The Atchison, Topeka and Santa Fe Railway Company, Burlington Northern Inc., Chicago and North Western Transportation Company, Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Chicago, Rock Island and Pacific Railroad Company, Illinois Central Gulf Railroad Company, Missouri-Kansas-Texas Railroad Company, Missouri Pacific Railroad Company, Norfolk and Western Railway Company, Soo Line Railroad Company, Union Pacific Railroad Company.

It appearing, That there are massive movements of grain in progress in the states of Iowa, Kansas, Minnesota, Montana, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming; that present supplies of plain boxcars owned by the railroads serving these states are inadequate to move the newly harvested grain to terminal elevators for safe storage; that use of available plain boxcars owned by other carriers for movements of this grain will substantially augment the car supplies of the railroads named herein.

*It is ordered,* That pursuant to the authority vested in me by Car Service Rule 19, the railroads named herein, and their short line connections, are hereby authorized to use and to accept from shippers shipments of grain originating at stations located in Iowa, Kansas, Minnesota, Montana, Nebraska, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming, when loaded into plain 40-ft. narrow-door boxcars of various ownerships without regard to the requirements of Car Service Rule 2.

*Exception.*—This exemption shall not apply to plain boxcars subject to Association of American Railroads' Car Relocation Directive No. 44.

Effective 11:59 p.m., August 31, 1973.

Expires 11:59 p.m., September 15, 1973.

Issued at Washington, D.C., August 28, 1973.

INTERSTATE COMMERCE COMMISSION,
R. D. PFAHLER,
*Agent.*

[FR Doc.73-19263 Filed 9-10-73;8:45 am]

[Rev. S.O. 994; I.C.C. Order 109, Amdt 1]

### GREEN MOUNTAIN RAILROAD CORP.

### Rerouting or Diversion of Traffic

Upon further consideration of I.C.C. Order 104 (Green Mountain Railroad Corporation) and good cause appearing therefor:

*It is ordered,* That:

I.C.C. Order No. 104 be, and it is hereby, vacated and set aside.

*It is further ordered,* That this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., August 30, 1973.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
*Agent.*

[FR Doc.73-19262 Filed 9-10-73;8:45 am]

[Notice No. 121]

### MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 5, 1973.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67, (49 CFR 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 26396 (sub-No. 90 TA), filed August 23, 1973. Applicant: POPELKA TRUCKING CO., doing business as THE WAGGONERS, P.O. Box 990, 201 W. Park, Livingston, Mont. 59047. Applicant's representative: Dave Kemp (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber wood, lumber products, and forest products*, from ports of entry on the International Boundary line between the United States and Canada located in Idaho, Montana and Washington, to points in Colorado, Idaho, Kansas, Montana, Nebraska, North Dakota, Oklahoma, South Dakota, Utah, and Wyoming, for 180 days. SUPPORTING SHIPPERS: Crows Nest Industries, Limited, Fernie, B.C., Canada; Slaughter Brothers, Inc., Kalispell, Mont. 59901; and Montana Lumber Sales, Inc., Missoula, Mont. 59801. SEND PROTESTS TO: Paul J. Labane, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 222 U.S. Post Office Building, Billings, Mont. 59101.

No. MC 52709 (Sub-No. 322 TA), filed August 23, 1973. Applicant: RINGSBY TRUCK LINES, INC., P.O. Box 192, Littleton, Colo. 80120. Applicant's representative: J. H. Watson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plant site and storage acilities of Madison Food Company at or near Madison, Nebr., to points in Arizona, Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New Mexico, Rhode Island, Vermont, Virginia, and West Virginia, for 180 days. SUPPORTING SHIPPER: Armour and Company, Fresh Meats Division, Greyhound Tower, Phoenix, Ariz. 86077. SEND PROTESTS TO: District Supervisor Roger L. Buchanan, Interstate Comerce Commission, Bureau of Operations, 2022 Federal Bldg., Denver, Colo. 80202.

No. MC 113362 (Sub-No. 258 TA), filed August 24, 1973. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, Iowa 50533. Applicant's representative: Milton D. Adams, Box 562, Austin, Minn. 55912. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Description in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities of Madison Foods, Inc. located





V 38 I 175 SEP 11 73 XUM

at Madison, Nebr., to points in Connecticut, Delaware, the District of Columbia, Indiana, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia, for 180 days. SUPPORTING SHIPPER: Armour and Co., Greyhound Tower, Phoenix, Ariz. 85077. SEND PROTESTS TO: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Bldg., Des Moines, Iowa 50309.

No. MC 113651 (Sub-No. 159 TA), filed August 23, 1973. Applicant: INDIANA REFRIGERATOR LINES, INC., 2404 North Broadway, Muncie, Ind. 47303. Applicant's representative: Henry A. Dillon (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plantsite of Madison Foods, Inc., at or near Madison, Nebr., to points in Indiana, Ohio, Kentucky, Tennessee, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, Virginia, West Virginia, Maryland, Delaware, New Jersey, Pennsylvania, New York, Connecticut, Rhode Island, Massachusetts, New Hampshire, Vermont, Maine, and the District of Columbia, for 180 days. SUPPORTING SHIPPER: Armour and Company, Fresh Meats Division, Greyhound Tower, Phoenix, Ariz. 85077. SEND PROTESTS TO: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 204, 345 West Wayne Street, Fort Wayne, Ind. 46802.

No. MC 117644 (Sub-No. 33 TA), filed August 24, 1973. Applicant: D & T TRUCKING CO., INC., 498 First St. NW., P.O. Box 2611, New Brighton, Minn. 55112. Applicant's representative: William J. Boyd, 29 S. LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from the plant site of Madison Foods, Inc., at Madison, Nebr., to points in Alabama, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Indiana, Illinois, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia, and West Virginia, for 180 days. SUPPORTING SHIPPER: Armour and Company, Fresh Meats Division, Greyhound Tower, Phoenix, Ariz. 85077. SEND PROTESTS TO: District Supervisor Raymond T. Jones, Interstate Commerce Commission, Bureau of Operations, 448 Federal Bldg. & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401

No. MC 117686 (Sub-No. 142 TA), filed August 24, 1973. Applicant: HIRSCHBACH MOTOR LINES, INC., 3324 U.S. Highway 75 N., P.O. Box 417, Sioux City, Iowa 51102. Applicant's representative: George L. Hirschbach, 309 Badgerow Building, Sioux City, Iowa 51101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packing houses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plantsite of Madison Foods, Inc., at or near Madison, Nebr., to points in Tennessee, Georgia, Alabama, Mississippi, Louisiana, Arkansas, Oklahoma, and Texas, for 180 days. SUPPORTING SHIPPER: Armour and Company, Donald A. Chute, Manager, Transportation and Distribution, Fresh Meats Division, Greyhound Tower, Phoenix, Ariz. 85077. SEND PROTESTS TO: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 711 Federal Office Building, Omaha, Nebr. 68102.

No. MC 118431 (Sub-No. 13 TA), filed August 21, 1973. Applicant: DENVER SOUTHWEST EXPRESS, INC., 8716 L Street, Omaha, Nebr. 68127. Applicant's representative: Patrick E. Quinn, 605 So. 14th Street, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, (1) from the plantsites and facilities utilized by Kitchens of Sara Lee located at or near Deerfield and Chicago, Ill., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and Washington, D.C., and (2) between the plantsites and facilities of Kitchens of Sara Lee at Deerfield and Chicago, Ill. and New Hampton, Iowa, for 180 days. RESTRICTION: The operations sought herein are restricted to a service to be performed under a continuing contract or contracts with Kitchens of Sara Lee, Deerfield, Ill. SUPPORTING SHIPPER: Kitchens of Sara Lee, Charles G. Sladek, Traffic Services Supervisor, 500 Waukegan Road, Deerfield, Ill. 60015. SEND PROTESTS TO: District Supervisor Carroll Russell, Bureau of Operations, Interstate Commerce Commission, 711 Federal Bldg., Omaha, Nebr. 68102.

No. MC 119669 (Sub-No. 37 TA), filed August 23, 1973. Applicant: TEMPCO TRANSPORTATION, INC., 546 S. 31A, P.O. Box 886, Columbus, Ind. 47201. Applicant's representative: William J. Boyd, 29 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from the plant site of Madison Foods, Inc., at Madison, Nebr., to points in Connecticut, Delaware, the District of Columbia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Rhode Island, Pennsylvania, South Carolina, Vermont, Virginia, and West Virginia, for 180 days. SUPPORTING SHIPPER: Armour and Company, Donald A. Chute, Mgr. of Transportation and Distribution, Fresh Meats Division, Greyhound Tower, Phoenix, Ariz. 85077. SEND PROTESTS TO: District Supervisor James W. Habermehl, Interstate Commerce Commission, Bureau of Operations, 302 Century Bldg., 36 S. Penn. Street, Indianapolis. Ind. 46204.

No. MC 119944 (Sub-No. 15 TA), filed August 24, 1973. Applicant: BROCKWAY FAST MOTOR FREIGHT, INC., 568 Central Avenue, Somerville, N.J. 08876. Applicant's representative: Daniel P. Dameo (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, conduit, ducts, and tubes and related fittings, attachments, materials, and accessories used in the installation thereof*, from Nazareth, Pa., to points in Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia, for 180 days. SUPPORTING SHIPPER: Carlon Division, Indian Head, Inc., 2300 Chagrin Blvd., Cleveland, Ohio 44122 (Warren C. Singer, Manager, Traffic Administration). SEND PROTESTS TO: District Supervisor Robert S. H. Vance, Bureau of Operations, Interstate Commerce Commission, 9 Clinton St., Newark, N.J. 07102.

No. MC 124213 (Sub-No. 7 TA), filed August 23, 1973. Applicant: SWIFT-LINES, INC., 7878 I Street, Omaha, Nebr. 68127. Applicant's representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, Minn. 68127. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts and articles distributed by meat packing houses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite of Madison Foods, Inc., located at or near Madison, Nebr., to points in Minnesota, Iowa,





South Dakota, North Dakota, Kansas, Missouri, Wisconsin, Illinois, and Indiana, for 180 days. SUPPORTING SHIPPER: Armour and Company, Donald A. Chute, Manager, Transportation and Distribution, Fresh Meats Division, Greyhound Tower, Phoenix, Ariz. 85077. SEND PROTESTS TO: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 711 Federal Office Building, Omaha, Nebr. 68102.

No. MC 124774 (Sub-No. 87 TA), filed August 22, 1973. Applicant: MIDWEST REFRIGERATED EXPRESS, INC., 4440 Buckingham Avenue, P.O. Box 7344, Omaha, Nebr. 68107. Applicant's representative: Clifford J. Foltz (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packing houses*, as described in Sections "A" and "C" of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plantsite of Madison Foods, Inc., Madison, Nebr., to points in Connecticut, Delaware, the District of Columbia, Indiana, Kentucky, Maine, Maryland, Michigan (Lower Peninsula), Massachusetts, North Carolina, New Hampshire, New York, New Jersey, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, and West Virginia, for 180 days. SUPPORTING SHIPPER: Armour and Company, Armour Fresh Meats Division, Greyhound Tower, Donald A. Chute, Mgr. of Transportation and Distribution, Phoenix, Ariz. 85077. SEND PROTESTS TO: Carroll Russell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 711 Federal Office Building, Omaha, Nebr. 68102.

No. MC 127042 (Sub-No. 123 TA), filed August 22, 1973. Applicant: HAGEN, INC., 4120 Floyd Blvd. (P.O. Box 98—Leads Station), Sioux City, Iowa 51108. Applicant's representative: Joseph W. Harvey (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plant site of Madison Foods, Inc., at or near Madison, Nebr., to points in Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Arizona, California, Michigan, Minnesota, Missouri, Montana, Nevada, New Mexico, North Dakota, Ohio, Oregon, South Dakota, Utah, Washington, Wisconsin, and Wyoming, for 180 days. SUPPORTING SHIPPER: Armour and Company, Donald A. Chute, Manager, Transportation and Distribution, Fresh Meats Division, Greyhound Tower, Phoenix, Ariz. 85077. SEND PROTESTS TO: Carroll Russell, District Supervisor, Bureau of Operations, 711 Federal Office Building, Omaha, Nebr. 68102.

No. MC 128007 (Sub-No. 55 TA), filed August 24, 1973. Applicant: HOFER, INC., 4032 Parkview Drive, P.O. Box 583, Pittsburg, Kans. 66762. Applicant's representative: Clyde N. Christey, 641 Harrison, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat scraps, dried blood, blood meal and bone meal*, from points in Collin County, Tex.; San Antonio, Tex.; Okmulgee County, Okla.; Tulsa, Okla.; Roswell, Clovis, and Albuquerque, N. Mex.; Lafayette and Cooper Counties, Mo., to points in Nebraska, Iowa, Missouri, Minnesota, Kansas, Arkansas, Oklahoma, South Dakota, North Dakota, and Texas, for 180 days. SUPPORTING SHIPPER: Wellens & Co., Inc., 6700 France Avenue South, Minneapolis, Minn. 55435. SEND PROTESTS TO: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 501 Petroleum Building, Wichita, Kans. 67202.

No. MC 133590 (Sub-No. 4 TA), filed August 24, 1973. Applicant: WESTERN CARRIERS, INC., 288 Franklin Street, Worcester, Mass. 01604. Applicant's representative: Robert L. Kendall, Jr., 1719 Packard Building, Philadelphia, Pa. 19102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pork carcasses, pork byproducts, and offal* (except commodities in bulk and hides), from the plant of Corn Country Pork, Inc., at Worthington, Ind., to the plant sites and storage facilities of Western Pork Packers, Inc., at New York Corporation, at Bronx, N.Y., and Western Pork Packers, Inc., a Mass. Corporation, at Worcester, Mass., for 180 days. SUPPORTING SHIPPERS: Western Pork Packers, Inc., 529 Westchester Avenue, Bronx, N.Y. 10455, and Western Pork Packers, Inc., 288 Franklin Street, Worcester, Mass. 01604. SEND PROTESTS TO: District Supervisor Joseph W. Balin, Bureau of Operations, Interstate Commerce Commission, 338 Federal Bldg. & U.S. Courthouse, 436 Dwight Street, Springfield, Mass. 01103.

No. MC 134134 (Sub-No. 14 TA), filed August 23, 1973. Applicant: MAINLINER MOTOR EXPRESS, INC., 2002 Madison Street, Omaha, Nebr. 68107. Applicant's representative: Robert V. Dwyer, Jr., 1601 Woodmen Tower, Omaha, Nebr. 68102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 MCC 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plantsite of Madison Foods, Inc., at Madison, Nebr., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, for 180 days. SUPPORTING SHIPPER: Armour and Company, Donald A. Chute, Manager, Transportation & Distribution, Fresh Meats Division, Greyhound Tower, Phoenix, Ariz. 85077. SEND PROTESTS TO: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 711 Federal Office Building, Omaha, Nebr. 68102.

No. MC 134777 (Sub-No. 21 TA), filed August 23, 1973. Applicant: SOONER EXPRESS, INC., Mlg.: P.O. Box 219, Off.: Sooner Bldg., Highway 70 South, Madill, Okla. 73446. Applicant's representative: Dale Waymire (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk and tank vehicles, from the plant site of Madison Foods (Inc.) at Madison, Nebr., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Kentucky, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and the District of Columbia, for 180 days. SUPPORTING SHIPPER: Armour and Company, Fresh Meats Division, Greyhound Tower, Phoenix, Ariz. 85077. SEND PROTESTS TO: Transportation Specialist Gerald T. Holland, Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75202.

No. MC 135874 (Sub-No. 22 TA) (CORRECTION), filed July 31, 1973, published in the FEDERAL REGISTER issue of August 22, 1973, and republished as corrected this issue. Applicant: LTL PERISHABLES, INC., 132nd & Q Streets, Mlg.: P.O. Box 37468 (Box zip 68152), Omaha, Nebr. 68137. Applicant's representative: Donald L. Stern, 7100 W. Center Road, Omaha, Nebr. 68106.

NOTE.—The purpose of this partial republication is to add the state of North Dakota as a destination point, which was omitted in previous publication. Applicant also wants to add two additional supporting shippers. The supporting shippers are Ranch Hand Foods, Inc., and The Keller Food Company, Inc. The rest of the application remains the same.

No. MC 139021 (Sub-No. 1 TA), filed August 16, 1973. Applicant: 212 AUTO SALES, INC., 325 US–20, East, P.O. Box 251, Michigan City, Ind. 46360. Applicant's representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing,



V 38-175
SEP 11 73
XUM

Mich. 48933. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used cars and pick-up trucks* sold at auctions between the auction sites of Grand Rapids Auto Auction, Inc., at or near Hudsonville, Mich.; Flint Auto Auction, Flint, Mich.; and Mid States Auto Auction, South Bend, Ind., on the one hand, and various points in Michigan, Ohio, Illinois, Wisconsin, and Indiana, on the other hand, for 180 days. SUPPORTING SHIPPERS: Flint Auto Auction, Inc., 3711 Western Road Flint, Mich. 48506; Grand Rapids Auto Auction, Inc., 2380 Port Sheldon, Jenison, Mich. 49428; Car Credit Center Corporation, 7600 South Western Ave., Chicago, Ill. 60602; Johnson Buick, Inc., 515 West Lake St., Oak Park, Ill. 60302; Mid States Auto Auction, Inc., 25784 Western Ave., South Bend, Ind. 46619; and Motor Town, Inc., 655 North Western Ave., Chicago, Ill. 60612. SEND PROTESTS TO: W. S. Ennis, Interstate Commerce Commission, Bureau of Operations, Room 204, 345 West Wayne Street, Fort Wayne, Ind. 46802.

No MC 139022 (Sub-No. 1 TA), filed August 22, 1973. Applicant: GLENN A. HODSON AND BETTY L. HODSON, doing business as TRI CITY DELIVERY, 5512 W. Yellowstone Avenue, Kennewick, Wash. 99336. Applicant's representative: Glenn A. Hodson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, with the usual exceptions, having a prior or subsequent movement by air, between Pasco and Yakima, Wash., and points in Adams, Benton, Columbia, Franklin, Grant, Yakima, and Walla Walla Counties, Wash., for 180 days. SUPPORTING SHIPPER: (1) Wits, Inc., doing business as Wits Air Freight, 2515 4th Avenue, P.O. Box 3805, Seattle, Wash. 98124; (2) Seneca Foods Corporation, P.O. Box 71, Prosser, Wash. 99350; and (3) Eastman Kodak Company, 2400 Mt. Read Boulevard, Rochester, N.Y. 14650. SEND PROTESTS TO: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 6049 Federal Office Building, Seattle, Wash. 98104.

No. MC 1934 (Sub-No. 33 TA), filed August 24, 1973. Applicant: THE ARROW LINE, INC., 105 Cherry Street, East Hartford, Conn. 06108. Applicant's representative: Rene R. Dupuis (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in special round-trip operations, during the racing season of each year, beginning and ending at New London, Conn., and extending to the site of the Narragansett Racetrack, Pawtucket, R.I., and Lincoln Downs Racetrack, Lincoln, R.I., for 180 days.

NOTE.—Applicant intends to tack with MC 1934 Sub 2.

SUPPORTING SHIPPERS: There are approximately 17 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: David J. Kiernan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 135 High Street, Room 324, Hartford, Conn. 06101.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-19267 Filed 9-10-73;8:45 am]

[Notice No. 349]

## MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before October 1, 1973. Pursuant to Section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-74321. (REPUBLISHED)[1] By order of August 24, 1973, the Motor Carrier Board approved the transfer to Nebraska-Iowa-Missouri Express, Inc., Kansas City, Mo., of a portion of Certificate No. MC-9644, issued January 7, 1971, to B. T. L., Inc., Kansas City, Mo., authorizing the transportation of general commodities, with exceptions, between points in Buchanan County, Mo., on the one hand, and on the other, points in a described area of Missouri and Iowa, and Nebraska City, Nebr., and points in its Commercial Zone. William Burns, 1508 Woodswether Road, Kansas City, Mo., and Don McCarty, 1221 Baltimore Avenue, Kansas City, Mo. 64105, Attorneys for applicants.

No. MC-FC-74421. By order of September 5, 1973, the Motor Carrier Board approved the transfer to Curtis Brothers Trucking Company, Inc., Falmouth, Va., of the operating rights in Certificate No. MC-134745 (Sub-No. 2) and Permit No. MC-133045 (Sub-No. 2) issued May 12, 1971, and March 14, 1969, respectively to E. N. Curtis and C. C. Curtis, a partnership, doing business as Curtis Brothers Trucking Company, Falmouth, Va., authorizing the transportation of various commodities from specified points and areas in Virginia to points in Delaware, Maryland, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, West Virginia, and the District of Columbia. Daniel B. Johnson, 716 Perpetual Bldg., 1111 E St. NW., Washington, D.C. 20004, Attorney for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-19269 Filed 9-10-73;8:45 am]

[1] Republished to indicate that William Burns and Don McCarty are the attorneys for the applicants in lieu of Frank W. Taylor, Jr.

[Rev. S.O. 994; I.C.C. Order 88, Amdt. 3]

## PENN CENTRAL TRANSPORTATION CORP.

### Rerouting or Diversion of Traffic

Upon further consideration of I.C.C. Order No. 88 (Penn Central Transportation Company, George P. Baker, Richard C. Bond, and Jervis Langdon, Jr., Trustees) and good cause appearing therefor:

*It is ordered*, That:

I.C.C. Order No. 88 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.*—This order shall expire at 11:59 p.m., November 30, 1973, unless otherwise modified, changed, or suspended.

*It is further ordered*, That this amendment shall become effective at 11:59 p.m., August 31, 1973, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., August 29, 1973.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER, *Agent.*

[FR Doc.73-19265 Filed 9-10-73;8:45 am]

[Rev. S.O. 994; I.C.C. Order 79, Amdt. 4]

## ST. JOHNSBURY AND LAMOILLE COUNTY RAILROAD

### Rerouting or Diversion of Traffic

Upon further consideration of Revised I.C.C. Order No. 79, (St. Johnsbury & Lamoille County Railroad) and good cause appearing therefor:

*It is ordered*, That:

Revised I.C.C. Order No. 79 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:





(g) *Expiration date.*—This order shall expire at 11:59 p.m., September 10, 1973, unless otherwise modified, changed, or suspended.

*It is further ordered*, That this amendment shall become effective at 11:59 p.m., September 3, 1973, and that this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., August 31, 1973.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER, *Agent.*

[FR Doc.73-19266 Filed 9-10-73;8:45 am]

## CUMULATIVE LISTS OF PARTS AFFECTED—SEPTEMBER

**The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during September.**


**1 CFR** — Page
CFR checklist — 23771

**3 CFR**
PROCLAMATIONS:
4239 — 24191
4240 — 24193
4241 — 24881
EXECUTIVE ORDERS:
11359 (superseded by 11747) — 24883
11635 (superseded by 11737) — 24883
11659 (amended by 11737) — 24883
11737 — 24883

**4 CFR**
400 — 24195
405 — 24195
PROPOSED RULES:
331 — 23971
351 — 23971
400 — 23971
401 — 23971
402 — 23971
403 — 23971
404 — 23971

**5 CFR**
213 — 24344, 24885

**6 CFR**
150 — 24213
140 — 24214
150 — 23794, 23931, 24214, 24885
152 — 23794, 24214
155 — 24885
PROPOSED RULES:
Ch. I — 24917
152 — 23806, 24219, 24667

**7 CFR**
2 — 24633
51 — 23931
52 — 24344
250 — 24633
354 — 23934
725 — 23935
908 — 24215
910 — 24345, 24890
928 — 24345
930 — 24890
932 — 24215
991 — 23771
1001 — 24216
1002 — 24216
1004 — 24216
1006 — 24216
1007 — 24216
1011 — 24216
1012 — 24216
1013 — 24216
1015 — 24216
1030 — 24216
1033 — 24216
1036 — 24216
1040 — 24216
1044 — 24216
1046 — 24216
1049 — 24216
1050 — 24216
1060 — 24216
1061 — 24216
1062 — 24216
1063 — 24216
1064 — 24216
1065 — 24216
1068 — 24216
1069 — 24216
1070 — 24216
1071 — 24216
1073 — 24216
1075 — 24216
1076 — 24216
1078 — 24216
1079 — 24216
1090 — 24216
1094 — 24216
1096 — 24216
1097 — 24216
1098 — 24216
1099 — 24216
1101 — 24216
1102 — 24216
1106 — 24216
1108 — 24216
1120 — 24216
1121 — 24216
1124 — 24216
1125 — 24216
1126 — 24216
1127 — 24216
1128 — 24216
1129 — 24216
1130 — 24216
1131 — 24216
1132 — 24216
1133 — 24216
1134 — 24216
1136 — 24216
1137 — 24216
1138 — 24216
1139 — 24216
1421 — 23935, 24634
1430 — 23939
1866 — 24346
7 CFR—Continued — Page
PROPOSED RULES:
26 — 23955
52 — 24654, 24904, 24907, 24910
722 — 24911
932 — 24910
981 — 24911
1007 — 25024
1030 — 23796
1071 — 25024
1073 — 24654, 25024
1090 — 25024
1094 — 25024
1096 — 25024
1097 — 25024
1098 — 25024
1102 — 25024
1108 — 25024
1701 — 24660

**8 CFR**
214 — 24891
238 — 24891

**9 CFR**
73 — 24346
82 — 23940
94 — 24891
97 — 23940
319 — 24640
PROPOSED RULES:
94 — 24219
102 — 23957
104 — 23957
381 — 24374

**10 CFR**
110 — 23953

**12 CFR**
201 — 23772
526 — 23940
545 — 24200
546 — 24201
563 — 24202
PROPOSED RULES:
545 — 24228

**13 CFR**
PROPOSED RULES:
107 — 24028

**14 CFR**
39 — 23941, 24347, 24349, 24640, 24641
71 — 23941, 23942, 24204, 24350, 24641, 24892
75 — 24204
91 — 24893




V 38-175
SEP 11 73
XUM

14 CFR—Continued


| | Page |
|---|---|
| 95 | 24893 |
| 97 | 24350 |
| 208 | 24642 |
| 241 | 24351 |
| 302 | 24894 |
| 389 | 24895 |
| 288 | 23772 |
| 399 | 23777, 24642 |
| PROPOSED RULES: | |
| 39 | 23962 |
| 61 | 23962 |
| 71 | 23804, 23969, 24222, 24919 |
| 75 | 23804 |
| 121 | 23962 |
| Ch. II | 24660 |
| 221 | 23804 |
| 241 | 24223, 24661 |
| 298 | 23805, 24662 |
| 372a | 24664 |
| 389 | 24662 |
| 16 CFR | |
| 13 | 24352, 24353, 24634 |
| 15 CFR | |
| 8 | 23777 |
| 376 | 23777 |
| 17 CFR | |
| 211 | 24635 |
| 231 | 24635 |
| 241 | 24635 |
| 251 | 24635 |
| 271 | 24635 |
| PROPOSED RULES: | |
| 230 | 24668 |
| 19 CFR | |
| 1 | 24354 |
| 4 | 24354 |
| PROPOSED RULES: | |
| 1 | 24374 |
| 24 | 23954 |
| 141 | 23954 |
| 20 CFR | |
| PROPOSED RULES: | |
| 405 | 23802 |
| 21 CFR | |
| 8 | 24643 |
| 9 | 24206 |
| 121 | 24354, 24643 |
| 135 | 23942 |
| 135b | 24355, 24643, 24895 |
| 135c | 24355, 24644 |
| PROPOSED RULES: | |
| 121 | 24374, 24375 |
| 130 | 24220 |
| 23 CFR | |
| PROPOSED RULES: | |
| 770 | 23969 |
| 24 CFR | |
| 203 | 24637 |
| 205 | 24637, 24896 |
| 207 | 24637 |
| 213 | 24637 |
| 220 | 24637 |
| 221 | 24637 |
| 232 | 24637 |
| 234 | 24637 |
| 235 | 24638 |
| 236 | 24638 |
| 241 | 24638 |
| 242 | 24638 |
| 244 | 24638, 24896 |
| 1700 | 23866 |
| 1710 | 23866 |
| 1715 | 23873 |
| 1720 | 23874 |
| 1914 | 23943–23945, 24355–24357 |
| 1915 | 24358, 24360 |
| PROPOSED RULES: | |
| 20 | 24222 |
| 201 | 23803 |
| 25 CFR | |
| 141 | 24638 |
| 256 | 23945 |
| PROPOSED RULES: | |
| 221 | 23954, 23955 |
| 26 CFR | |
| 1 | 24206 |
| 29 CFR | |
| 1907 | 25150 |
| 1952 | 24896 |
| 1953 | 24361 |
| PROPOSED RULES: | |
| 1910 | 24300, 24375 |
| 30 CFR | |
| 57 | 23781 |
| PROPOSED RULES: | |
| 504 | 24024 |
| 31 CFR | |
| 91 | 94897 |
| 315 | 24762 |
| 605 | 24898 |
| 32 CFR | |
| 809 | 23945 |
| 1285 | 24206 |
| 1453 | 24210 |
| 32A CFR | |
| Ch. XIII: | |
| EPO Reg. 3 | 23977 |
| 33 CFR | |
| 127 | 24898 |
| 401 | 24210 |
| PROPOSED RULES: | |
| 117 | 24912–24914 |
| 127 | 23804 |
| 36 CFR | |
| 50 | 24218 |
| 221 | 23948 |
| PROPOSED RULES: | |
| 7 | 23796, 24912 |
| 38 CFR | |
| 1 | 24364 |
| 2 | 24366 |
| 17 | 24366 |
| 21 | 23948 |
| 39 CFR | |
| 3000 | 24898 |
| 3001 | 24898 |
| 40 CFR | |
| 35 | 24639 |
| 52 | 24333 |
| 129 | 24342 |
| 180 | 23781 |
| PROPOSED RULES: | |
| 52 | 23805 |
| 180 | 23806, 24667, 24918 |
| 411 | 24462 |
| 412 | 24466 |
| 422 | 24470 |
| 41 CFR | |
| 1–1 | 24210 |
| 1–9 | 23782 |
| 1–18 | 23791 |
| 3–16 | 24644 |
| 114–50 | 24649 |
| 43 CFR | |
| 4 | 23948 |
| 3830 | 24650 |
| 4710 | 24650 |
| 45 CFR | |
| 909 | 24900 |
| PROPOSED RULES: | |
| 221 | 24872 |
| 233 | 23802 |
| 903 | 23912 |
| 46 CFR | |
| PROPOSED RULES: | |
| 146 | 23959 |
| 542 | 23979 |
| 538 | 24228 |
| 47 CFR | |
| 0 | 24900 |
| 2 | 24901 |
| 23 | 24901 |
| 73 | 24367 |
| 81 | 24211 |
| 83 | 24368 |
| 89 | 24901 |
| 93 | 24901 |
| 97 | 24211 |
| PROPOSED RULES: | |
| 61 | 24920 |
| 49 CFR | |
| 1 | 24901 |
| 170 | 23791 |
| 171 | 23792 |
| 172 | 23792 |
| 177 | 23792 |
| 178 | 23792 |
| 570 | 23949 |
| 1033 | 23792, 23793, 23952, 24212, 24902 |
| 1048 | 24368 |
| 1115 | 23953, 24903 |
| 1121 | 24902 |
| PROPOSED RULES: | |
| 172 | 24915 |
| 173 | 24915 |
| 393 | 24223 |
| 542 | 23979 |
| 571 | 23804 |
| 1057 | 24228 |
| 1131 | 23979 |
| 50 CFR | |
| 20 | 23793 |
| 32 | 23793, 23794, 24212, 24369–24373, 24650–24652 |
| PROPOSED RULES: | |
| 21 | 23796 |






## FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

| Pages | Date |
|---|---|
| 23765–23922 | Sept. 4 |
| 23923–24184 | 5 |
| 24185–24326 | 6 |
| 24327–24625 | 7 |
| 24627–24874 | 10 |
| 24875–25154 | 11 |



V 38 - 175 SEP 11 73 XUM

federal register

TUESDAY, SEPTEMBER 11, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 175

PART II




# DEPARTMENT OF AGRICULTURE

## Agricultural Marketing Service

■

## MILK IN GEORGIA AND CERTAIN OTHER MARKETING AREAS

### Proposed Amendments to Marketing Agreements

No. 175—Pt. II——1

V 38-175 SEP 11 73 XUM

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

**[ 7 CFR Parts 1007, 1071, 1073, 1090, 1094, 1096, 1097, 1098, 1102, 1108 ]**

[Docket No. AO–366–A8, etc.]

### MILK IN THE GEORGIA AND CERTAIN OTHER MARKETING AREAS

**Notice of Revised Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders**

| 7 CFR Part | Marketing Area | Docket No. |
|---|---|---|
| | Group I | |
| 1007 | Georgia | AO–366–A8 |
| 1071 | Neosho Valley | AO–227–A26 |
| 1073 | Wichita, Kans | AO–173–A26 |
| 1090 | Chattanooga, Tenn | AO–266–A15 |
| 1094 | New Orleans, La | AO–103–A33 |
| 1096 | Northern Louisiana | AO–257–A20 |
| 1097 | Memphis, Tenn | AO–219–A25 |
| 1098 | Nashville, Tenn | AO–184–A31 |
| 1102 | Fort Smith, Ark | AO–237–A20 |
| 1108 | Central Arkansas | AO–243–A22 |

Notice is hereby given of the filing with the Hearing Clerk of this revised recommended decision with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the aforesaid marketing areas.

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by October 15, 1973. Seventeen copies of the exceptions should be filed. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreements and to the orders as amended were formulated was conducted at Atlanta, Ga., on October 18–20, 1971, at Dallas, Tex., on November 9 and 10, 1971, and at Bloomington, Minn., on November 16–18, 1971, pursuant to notice thereof which was issued October 4, 1971 (36 FR 19604).

This hearing was a single proceeding on proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in 33 marketing areas. In addition to those listed at the beginning of this document, such marketing areas include the following:

GROUP II

| | |
|---|---|
| Red River Valley | Central West Texas |
| Oklahoma Metropolitan | Austin-Waco, Texas |
| Lubbock-Plainview, Texas | Corpus Christi, Texas |
| North Texas | Central Arizona |
| San Antonio, Texas | Texas Panhandle |
| | Rio Grande Valley |

GROUP III

| | |
|---|---|
| Minnesota-North Dakota | Minneapolis-St.Paul, Minn. |
| Southeastern Minnesota-Northern Iowa | Duluth-Superior |
| Quad Cities-Dubuque | Cedar Rapids-Iowa City |
| Greater Kansas City | Eastern South Dakota |
| Nebraska-Western Iowa | North Central Iowa |
| | Des Moines, Iowa |

The hearing notice also included the Mississippi order (Part 1103), which was later included in the recommended decision with the "Group I" orders. The Mississippi order was terminated at midnight, April 30, 1973 (38 FR 8748), at which time it ceased to be a part of this proceeding.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on August 28, 1972, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

Because of its length, and to facilitate its distribution to interested parties, the recommended decision was published in the FEDERAL REGISTER in the form of three separate documents. Each document contained the proposed amendments for the group of 11 orders listed at the beginning of such document and, for the convenience of interested parties, an identical set of findings and conclusions. These documents were published on the following dates: Group I orders—September 16, 1972 (37 FR 18984); Group II orders—September 19, 1972 (37 FR 19210); and Group III orders—September 20, 1972 (37 FR 19482).

On the basis of exceptions to the recommended decision, a number of changes in the findings and conclusions of that decision concerning the classification and pricing of milk in certain uses are appropriate. Because such changes are substantive, a revised recommended decision is being issued with an opportunity to submit exceptions thereto.

The publication procedure used for the August 28, 1972, recommended decision is again being used in the case of this revised recommended decision. The three documents constitute, however, a single revised recommended decision under this proceeding.

The material issues, findings and conclusions, rulings, and general findings of the August 28, 1972, recommended decision are set forth in full herein, subject to the following modifications. The modifications noted do not include those where the reference to "33" orders or markets was changed to "32" orders or markets because of the termination of the Mississippi order.

1. Under the heading *"General setting of the hearing."*, paragraphs 1, 3, and 6 are changed.

2. Under the heading "1. *Application of a uniform milk classification plan in the 33 markets.*", paragraphs 1 and 9 are changed, and a new paragraph is added after the last paragraph.

3. Under the heading "2. *Revision of the present Class I classification.*", paragraphs 8, 9, 11, and 14 are changed, and the 28th paragraph is deleted and three new paragraphs are substituted therefor.

4. Under the heading "3. *Classification and pricing of milk not needed for Class I use.*", the entire discussion is changed.

5. Under the subheading "(a) *Other source milk definition.*", a new paragraph is added immediately after paragraph 7, and paragraph 8 is changed.

6. Under the subheading "(b) *Accounting for nonfat milk solids added to milk and milk products.*", the last paragraph is changed.

6a. Under the subheading "(c) *Classification of milk transferred or diverted to other plants.*", paragraph 12 is changed.

7. Under the subheading "(d) Classification of *end-of-month inventory.*", paragraphs 3 and 12 are changed.

8. Under the subheading "(e) *Classification of shrinkage, milk dumped and milk disposed of for animal feed.*", paragraphs 3–5, 8, 9, 15 and 19 are changed.

9. Under the subheading "(f) *Allocation of receipts to utilization.*", paragraph 7 is deleted, and paragraphs 9, 17, and 19 are changed.

10. Under the heading "5. *Changing the butterfat differentials.*", paragraphs 3–5, 9, 10, 13, 16, 17 and 19 are changed.

11. Under the heading "6. *Advance announcement of prices for surplus milk.*", paragraphs 3 and 4 are changed.

12. Under the heading "7. *Treatment of filled milk under the Minneapolis-St. Paul and Southeastern Minnesota-Northern Iowa orders.*", paragraph 11 is deleted.

The material issues on the record of the hearing relate to:

1. Application of a uniform milk classification plan in the 32 markets;
2. Revision of the present Class I classification;
3. Classification and pricing of milk not needed for Class I use;
4. Miscellaneous classification and accounting changes:
   (a) Other source milk definition;
   (b) Accounting for nonfat milk solids added to milk and milk products;
   (c) Classification of milk transferred or diverted to other plants;
   (d) Classification of end-of-month inventory;
   (e) Classification of shrinkage, milk dumped, and milk disposed of for animal feed;
   (f) Allocation of receipts to utilization;
   (g) Obligations relative to other source milk; and
   (h) Reports;
5. Changing the butterfat differentials;
6. Advance announcement of prices for surplus milk;
7. Treatment of filled milk under the Minneapolis-St. Paul and Southeastern Minnesota-Northern Iowa orders; and
8. A uniform "equivalent price" provision.

*General setting of the hearing.* This hearing is the second of two regional hearings on the proposed use of a uniform plan for classifying milk for pricing purposes under Federal milk orders. The first hearing, which was held at Clayton, Mo., on July 14–22, 1970, was for seven midwestern markets. A recommended decision based on the seven-market hearing was issued on June 4, 1971, and exceptions have been filed. A revised recommended decision for the seven markets is being issued concurrently with this revised recommended decision.

Prior to the first hearing, the National Milk Producers Federation, an organization of cooperative associations of dairy farmers and federations of such cooperative associations, undertook the development of a uniform milk classification plan for use under milk orders. Guidelines were formulated for use by member organizations in the drafting of specific classification proposals for consideration at public hearings.

Using these guidelines as a basis for their proposals, several cooperative associations petitioned the Department for a hearing on proposals relating to the classification and pricing of milk in seven midwestern markets. After the hearing and issuance of a recommended decision, these cooperatives, along with other producer groups, requested a similar hearing for an additional 33 markets. The order for one of these markets (Mississippi) has since been terminated, and further reference to this group of markets will be in terms of the remaining 32 markets. The two hearings together involve a group of 39 markets located throughout the central part of the United States.

As in the case of the seven markets, the main thrust of the cooperatives' proposals for the 32 markets was the proposed use of an identical classification plan under each of the orders. As proposed, the new plan would have three classes of utilization rather than the two classes now provided in most of these orders. The present Class II classification would be redesignated as Class III and a new Class II classification, which would include various milk products now in Class I and Class II, would be established.

Corollary pricing proposals by the cooperatives would provide that the new Class II price under all but the Central Arizona order be the Minnesota-Wisconsin price plus an amount ranging from 10 to 20 cents, depending on the order involved. Prices would increase generally from north to south. For the Central Arizona order, which now has three classes, local producers proposed retention of the Class II price now in effect (a butter-nonfat dry milk formula price plus 25 cents).

Producers took diverse positions concerning the appropriate Class III price for the 32 markets. A number of cooperatives operating largely in the Upper Midwest proposed that the Class III price for markets in that area be based on a formula reflecting market prices for butter, nonfat dry milk and cheddar cheese. A regional cooperative operating in the southeastern United States proposed that the Class III price in four of its local markets be based on the Minnesota-Wisconsin price, with reductions of 5 to 15 cents to be applicable in three of the markets. Another regional cooperative proposed for 15 southwestern markets that the Class III price under each order for the principal surplus products be the lower of the present surplus price now in effect or the Minnesota-Wisconsin price. In the case of still three other markets, local producer groups asked that their present surplus prices (all based solely or in part on butter-nonfat dry milk formulas) be retained.

Cooperatives also proposed that a single butterfat differential apply to all prices under each order. This differential, which would be identical among the 32 orders, would be based on the Chicago butter price times a factor of 0.115.

A uniform classification plan for the 32 orders was advocated also by the Milk Industry Foundation and the International Association of Ice Cream Manufacturers, national trade associations of fluid milk and ice cream processors whose members operate in each of the 32 subject markets. Without taking a position on whether there should be two or three use classes, these groups offered alternative proposals on the classification of various milk products under either type of classification plan. Individual handlers also made proposals concerning specific aspects of the classification and pricing scheme.

A more detailed description of the proposals by producers and handlers is set forth in the discussion of the material issues.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Application of a uniform milk classification plan in the 32 markets.* Each of the 32 orders under consideration should provide for the same basic classification plan. As adopted herein, each order would provide for three classes of utilization, with the milk uses included in each class being the same for each order. Likewise, the same basic procedure would be used under each order for classifying milk transferred or diverted from pool plants to other plants, and for allocating a handler's receipts to his utilization to determine the classification of his producer milk. Each order would use the same Class II price formula. For Class III milk, two price formulas would be used, with one applying under 18 orders and the other under 14 orders. All differential butterfat received from producers would be priced at the same level regardless of use.

The statutory authority for Federal milk orders specifies that an order shall classify milk purchased by handlers from producers or associations of producers in accordance with the form in which or the purpose for which the milk is used. When each of the 32 subject orders was promulgated, the classification plan adopted reflected the marketing conditions and practices prevailing at the time in the local area concerned. Because local conditions and practices were seldom alike from market to market, the classification plans often varied from one order to another. As long as the markets remained relatively isolated from each other, marketing problems resulting from the differences in the various classification plans were minimal.

In recent years the "local" character of these markets has been disappearing. Intermarket movements of milk have become commonplace as handlers and producers alike seek to find additional outlets for milk. Such milk movements have been encouraged or facilitated by such developments as inspection reciprocity between health jurisdictions, improved highway networks and transportation equipment, conversion from can handling to farm bulk tanks, emergence of regional cooperatives, new processing and packaging techniques, and concentration of processing and packaging operations in large, specialized facilities.

Numerous cases were cited by handlers of products being distributed throughout multi-state regions from centralized processing facilities. Products frequently mentioned include frozen desserts, yogurt, various cream products and cottage cheese. Widespread distribution patterns prevail particularly for the processors of specialty products such as yogurt and sterilized cream items. Although the volume of these specialty products is relatively limited, it is probably the distribution of these products more than any others that has precipitated such general interest within the industry for uniform classification provisions among Federal orders.

Although the 32 orders have been revised from time to time to reflect the closer intermarket relationships, the classification plans of these orders continue to differ. The differences relate not only to the products included in each respective class, but also to the attendant class prices and butterfat differentials, the rules for classifying milk moved from one plant to another, the procedure for allocating a handler's receipts to his utilization, the method of classifying end-of-month inventories, and the manner of classifying shrinkage.

Such differences in the classification and pricing of milk are often disruptive to the competitive relationships of handlers and to the marketing of producer milk. Many of these differences, though, have little, if any, foundation under today's marketing conditions. It is thus concluded that a generally uniform classification and pricing plan should be incorporated in each of the 32 orders under consideration.

In conjunction with the development of uniform provisions pertaining to the classification and pricing of milk, it is desirable to also develop a single format of order provisions for use in each of these orders. All orders contain essentially the same categories of provisions, such as those relating to the definition of a pool plant or other source milk, those setting forth the class price formulas, or those describing how the uniform price shall be computed. At present, however, many of the orders are structured in such a way that provisions serving essentially the same purpose under





V 38 I 175 SEP 11 73 XUM

all orders do not appear in each order in the same place or under the same section title.

Coordination of the orders in this respect will be helpful to those in the industry who must work with several orders, a situation that is becoming increasingly common as individual cooperatives and handlers continue to expand their marketing activities into more and more regulated markets. Moreover, the opportunity to effect changes in a relatively large number of orders at the same time makes the adoption of a uniform order format a particularly desirable step at this juncture of the order program.

Each of the orders included in this document is set forth in its entirety at the end of the document. Each order reflects the revised order format as well as the classification and pricing amendments adopted herein. In adapting each order to the new format, no substantive changes have been made in those provisions not under consideration at the hearing. Since the classification and pricing amendments may be less discernable to the reader with the reprinting of the complete order, the sections in each order that encompass the basic changes in classification and pricing are listed below:

Sections 12–16, 30, 40–44, 50, 52–54, 60, 62, 74–76, and 85.

Some of the amendments adopted herein would change certain procedures under the orders that are carried out after the end of the month to which they apply. These include the submission of reports, the classification of milk, and the computation and announcement of certain class prices, butterfat differentials, and producer prices. It is intended, however, that the amendments apply only to that milk handled after the effective date of the changes. Such amendments are not intended to affect the completion of previously existing procedures with respect to milk handled prior to the effectuation of the amendments.

2. *Revision of the present Class I classification.* With certain exceptions noted below, Class I milk under each of the 32 subject orders should include all skim milk and butterfat disposed of in the form of milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milk shake and ice milk mixes containing less than 20 percent total solids. Skim milk and butterfat disposed of in any such product that is flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted likewise should be classified as Class I milk. Such classification should apply whether the products are disposed of in fluid or frozen form.

In addition, Class I milk should include all skim milk and butterfat disposed of in the form of any other fluid or frozen milk product (if not specifically designated as a Class II or Class III use) that contains by weight at least 80 percent water and 6.5 percent nonfat milk solids, and less than 9 percent butterfat and 20 percent total solids.

Skim milk disposed of in any product described above that is modified by the addition of nonfat milk solids should be Class I milk only to the extent of the weight of the skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

Class I milk should not include skim milk or butterfat disposed of in the form of evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, or whey.

As a convenience in drafting order provisions, each product designated herein as a Class I product would be defined in the 32 orders as a "fluid milk product."[1]

Class I milk should include also any skim milk and butterfat not specifically accounted for in Class II or Class III, other than shrinkage permitted a Class III classification.

Except for sterilized products, most of the products listed above for inclusion in Class I are now included in the Class I classification under each of the 32 orders. Only in the case of milk shake mixes might there be a higher classification under the adopted amendments than at present. Under some orders, such mixes are now included in the lowest class. This higher classification would be limited, however, to only those milk shake mixes containing less than 20 percent total solids.

The adopted Class I classification would not include eggnog, yogurt, cream or mixtures of cream and milk or skim milk containing 9 percent or more butterfat (such as half and half). A Class I classification now applies to eggnog in 9 of the 32 markets, and to yogurt in 18 of the markets. In all markets, sweet cream (except that in frozen, concentrated, aerated or sterilized form) and half and half are now Class I products. The classification of sour cream and sour cream mixtures, on the other hand, varies considerably among the orders.

Six of the 32 orders now include ending inventories of packaged fluid milk products in Class I. As discussed later, such inventories would not be classified as Class I milk under the revised orders.

The proposals concerning the Class I classification of milk related primarily to the use under all orders of a uniform fluid milk product definition based on product composition, and to the appropriate classification of milkshake and ice milk mixes, sterilized fluid milk products, cream, eggnog, yogurt, fluid milk products to which nonfat milk solids have been added and ending inventory. The classification of cream, eggnog, and yogurt is discussed under Issue 3 which deals with the classification and pricing of milk not needed for Class I use. The method of accounting for nonfat milk solids added to fluid milk products is discussed under Issue 4(b). The classification of ending inventory is dealt with under Issue 4(d). The remaining Class I issues are dealt with at this point.

Milkshake and ice milk mixes containing less than 20 percent total solids should be included in Class I. Such mixes containing a greater percentage of solids should be Class II products.

Cooperatives proposed that milkshake mixes that "are not further processed in a commercial establishment" be in Class I. They proposed that all other milkshake mixes be in Class II. The national organizations of fluid milk and ice cream processors, on the other hand, asked that all milkshake mixes be included in the lowest classification.

Milkshake and ice milk mixes are being marketed generally through two channels. Limited quantities of such mixes are processed for home consumption, with such mixes being distributed to consumers through food stores and on home delivery routes. The major outlet for milkshake and ice milk mixes, though, is the so-called "soft-serve" trade. Mixes processed by regulated handlers for this use are sold to commercial establishments where the product is run through a special freezer and dispensed to the public in a semisoft form.

Milkshake and ice milk mixes are basically similar in composition and purpose to what might be considered as traditional frozen desserts, such as ice cream. Although such shake mixes are intended to be consumed in a semisoft form, or even in a very thick fluid form, they are being marketed for essentially the same use as the traditional frozen desserts. This is the case whether such mixes are sold through the "soft-serve" trade or for home use. With minor exception, as noted below, milk used in milkshake and ice milk mixes thus should be classified in the same class as milk used in the traditional frozen desserts. As discussed later in this decision, the classification plan adopted herein includes frozen desserts in Class II.

It is possible that a product very similar in composition and form to chocolate milk could be marketed under the label of a milkshake mix for the purpose of having a lower classification apply to the product. Since such a product actually would have the same general form and purpose as other fluid milk products now classified as Class I under these orders, it should be included in the Class I classification. It is necessary, though, to provide some means of distinguishing between such a product and the general category of milkshake mixes that are being sold in competition with frozen desserts. For this purpose, the total solids content of the product should be used.

A standard of 20 percent or more total solids should encompass those milkshake and ice milk mixes intended for use as a type of frozen dessert. Mixes with less

[1] The reader should keep in mind that the orders do not classify products per se but rather the skim milk and butterfat disposed of in the form of a particular product or used to produce a particular product. To simplify the presentation of the findings and conclusions, however, reference is made in this decision to Class I products, Class II products and Class III products, or to certain products included in a particular class.





solids are similar in composition to chocolate milk and other flavored fluid milk products and should be a Class I product.

As proposed by cooperatives and the national organizations of fluid milk and ice cream processors, no exception to the Class I classification of milk should be made for fluid milk products in sterilized form. The sterilization of fluid milk products does not change the form or purpose of such products. As in the case of the unsterilized fluid milk products which they resemble, such sterilized products are disposed of in fluid form for consumption as a beverage. They are generally intended for use in place of their unsterilized counterparts and are thus competing for the same customers.

Returns to producers for milk disposed of in the form of fluid milk products should be the same whether such products are sterilized or unsterilized. Such products in either form are being marketed for the same beverage use. Classifying all such products in Class I will assure that the returns from producer milk used in sterilized fluid milk products will contribute on the same basis as returns from producer milk used in unsterilized fluid milk products toward inducing an adequate supply of milk for beverage use.

With the removal of any exception to the Class I classification of milk because of sterilization, specific reference must be made in the "fluid milk product" definition to the exclusion of certain products that otherwise could be construed to fall within such definition. Such products are evaporated or condensed milk or skim milk, formulas in hermetically sealed glass or all-metal containers that are especially prepared for infant feeding or dietary use, and products (such as flavored drinks in "pop" bottles) containing by weight less than 6.5 percent nonfat milk solids. These products, which are being sold in sterilized form, are now excluded from the Class I classification and, as proposed by cooperatives and handlers, such exclusion should be continued, notwithstanding the fact that they are sold to the public in fluid form. Evaporated milk and condensed milk sold for home use are intended primarily for cooking purposes. They are not consumed normally as a beverage. Infant and dietary formulas, which are being sold in hermetically sealed glass or all-metal containers, are specialized food products prepared for a limited use. Such formulas do not compete with other milk beverages consumed by the general public. Similarly, fluid products containing only a minimal amount of nonfat milk solids are not considered as being in the competitive sphere of the traditional milk beverages.

Fluid milk products should not be defined only on the basis of product composition, as was proposed by cooperatives. Contending that the present fluid milk product definition in each order does not clearly identify those products that are intended to be classified as Class I products, cooperatives proposed that a fluid milk product be defined solely in terms of moisture and milk solids content of the product. As proposed by producers, a "fluid milk product" would be any product containing at least 6.5 percent but less than 27 percent nonfat milk solids, less than 9 percent butterfat, and more than 20 percent moisture, all computed on the basis of weight.

In support of their proposal, proponents indicated that such a definition would result in a more uniform application among the 32 orders of the classification provisions. They contended that the listing of products under the current definitions does not accommodate the proper classification of new products or variations of the listed products when they are introduced on the market. Proponents pointed out that as market administrators have had to make order interpretations in response to this situation variations in interpretation and classification have resulted among the markets. Adoption of the proposed definition, it was contended, would eliminate such problems. Any product meeting the specified composition limits for a fluid milk product would be a fluid milk product regardless of the name under which the product might be marketed.

Proponents recognized, however, that their proposed fluid milk product definition would include some products not intended by them to be in Class I, and, at the same time, would exclude certain products that they wanted in this classification. To overcome this problem, proponents stated that certain products should be listed by name, either as inclusions or exclusions, to assure that the fluid milk product definition would include those products, and only those products, warranting a Class I classification.

Handlers took the position that the fluid milk product definition should continue to list by name those products intended to be included in Class I. They believe that this procedure would result in less confusion within the industry concerning the application of this definition. Also, handlers were concerned that defining a fluid milk product on the basis of product composition would deter the development and marketing of new products. They contended that the proposed composition standards could embrace a new product that was intended by the processor to be marketed in direct competition with products that would be included in Class II or Class III rather than in competition with Class I products.

The primary concern with any fluid milk product definition is that it clearly define the products or types of products that are intended to be included in the definition. The fluid milk product definition adopted herein, which incorporates both the listing of specified products and the use of composition percentages, should meet this requirement. Incorporation of this definition in each of the 32 orders will provide a uniform basis for identifying those products that are to be defined as "fluid milk products."

For simplicity, the fluid milk product definition should continue to list the generic names of those products commonly sold for consumption as beverages. The products listed in the adopted definition encompass most of the forms in which milk for fluid uses is sold. Anyone referring to this fluid milk product definition may easily ascertain in the case of most milk products whether or not a particular product is included in the definition.

A listing of products alone in the fluid milk product definition may not clearly indicate the classification of new milk products developed for fluid consumption. With certain limited exceptions noted, the fluid milk product definition is intended to include all milk products that are distributed for use as beverages. Although a new milk beverage introduced on the market might not be encompassed within the list of named products, it should be treated as a fluid milk product, nevertheless, if its composition is similar to that of the listed products. This will be the result of the standards of product composition for fluid milk products herein adopted.

As indicated, the adopted composition standards would embrace any fluid or frozen milk product not specified as a Class II or Class III product that contains by weight at least 80 percent water and 6.5 percent nonfat milk solids, and less than 9 percent butterfat and 20 percent total solids. The 9 percent butterfat standard coincides with the butterfat percentage adopted herein to delineate the mixtures of cream and milk or skim milk to be included in Class II. The total solids and water percentages represent a reasonable measure of the fluidity of those products that normally are consumed as beverages. The 6.5 percent nonfat milk solids standard is used to exclude from the fluid milk product definition those products which contain some milk solids but which are not closely identified with the dairy industry, such as chocolate flavored drinks in "pop" bottles.

These composition standards are chosen so as to conform as closely as possible to the water, solids and butterfat content of those products specifically listed in the fluid milk product definition, i.e., the traditional milk beverages. It is intended that these standards apply only to milk products, and only to such products that are being marketed for consumption in fluid form. Such standards would not be applied to products such as soups, which are not customarily thought of as milk products, or to products that would be a type of frozen dessert marketed for consumption in frozen form.

In determining whether or not a milk product in fluid form falls within the composition standards of the fluid milk product definition, such standards should be applied to the composition of the porduct in its finished form, not to the composition of the product on a skim equivalent basis. A new product not intended for beverage use might contain in its finished form somewhat more than the maximum total solids specified for a fluid milk product under the adopted composition standards. On this basis, the product would not fall within the fluid milk product definition. Application of



V 38-175
SEP 11 73
XUM

the composition standards to this product on a skim equivalent basis, however, could result in the product meeting such standards and thus being defined as a fluid milk product.

As pointed out by producers in their exceptions, applying the composition standards to products in the form in which marketed could exclude from the fluid milk product definition a new concentrated fluid product that is intended to be consumed as a beverage only after reconstitution. For the present time, however, the composition standards should be applied to a product in its finished form. A refinement of such standards may be appropriate once there has been an opportunity to evaluate their applicability under actual market conditions.

It should be noted that under the adopted classification provisions accounting for a new product on other than a skim equivalent basis would be limited solely to determining whether or not the product meets the composition standards of the fluid milk product definition. For all other purposes under the order, the product would be accounted for on a skim equivalent basis.

In applying the 6.5 percent nonfat milk solids standard, it is intended that this standard apply to such solids in any form except sodium caseinate. As set forth in the "filled milk" decision applicable to most of the 32 orders, sodium caseinate in any product is treated under the orders as a nonmilk ingredient.[2] There is no basis for changing this procedure.

The use of composition standards as a means of defining fluid milk products should not deter the development of new milk products, as handlers contended. Should the Class I classification of a new product appear to be incongruous with the intended use of the product, the hearing process remains as an avenue through which a different classification may be considered. The use of composition standards should result, however, in a more uniform classification among orders of new products developed for fluid consumption.

3. *Classification and pricing of milk not needed for Class I use.* Two use classes, Class II and Class III, should be provided in each of the 32 orders for skim milk and butterfat utilized for other than Class I purposes. The Class II price should be the basic formula price (Minnesota-Wisconsin manufacturing milk price) for the month plus 10 cents. The price under each of the orders for Class III milk should be the basic formula price for the month, but in certain markets not to exceed a butter-nonfat dry milk formula price.

Class II milk should include skim milk and butterfat disposed of in the form of eggnog, yogurt or a "fluid cream product", i.e., cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients. Any product containing 6 percent or more nonmilk fat (or oil) that resembles any of these products likewise should be in this class. Also, eggnog, yogurt and fluid cream products that are in inventory at the end of the month in packaged form should be in Class II.

Included also in this classification should be skim milk and butterfat used to produce cottage cheese, low fat cottage cheese, dry curd cottage cheese, milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, frozen dessert mixes, any concentrated milk product in bulk fluid form, plastic cream, frozen cream, anhydrous milkfat, custards, puddings, pancake mixes, and formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

A Class II classification should apply also to bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages.

Class III milk should include skim milk and butterfat used to produce cheese (other than cottage cheese, low fat cottage cheese and dry curd cottage cheese), butter, any milk product in dry form, evaporated or condensed milk (plain or sweetened) in a consumer-type package, evaporated or condensed skim milk (plain or sweetened) in a consumer-type package, and any product not otherwise specified as a Class I, Class II or Class III product.

Other Class III uses should include bulk and packaged fluid milk products and bulk fluid cream products in inventory at the end of the month, and that portion of modified (by the addition of nonfat milk solids) fluid milk products not included in Class I. Class III should include any fluid milk product or Class II product accounted for on a "disposed of" basis that is used for animal feed, or is dumped if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition. Also, shrinkage within certain limits should be classified as Class III milk.

As described later, the classification and pricing adopted herein for milk not needed for Class I use differs in some respects from that set forth in the August 28, 1972, recommended decision.

The present classification of milk used in the adopted Class II and Class III classifications is quite varied among the 32 orders. Seven of the orders provide for three use classes while 25 have two classes of utilization. Under four of the three-class orders cottage cheese is classified separately from all other uses. One order classifies cottage cheese and sales of milk to commercial food establishments in an intermediate class. Two orders have a separate use class for milk used in cheddar cheese. Substantial variation exists among the 32 orders in the classification of skim milk and butterfat in eggnog, yogurt, sour cream, milkshake mixes, and milk disposed of to commercial food establishments. The treatment of milk dumped, and milk in inventory at the end of the month, also differs under the several orders.

There is now a variety of price formulas under the 32 orders for milk in other than Class I uses. Seventeen orders use the Minnesota-Wisconsin manufacturing milk price. Three orders use a combination of the Minnesota-Wisconsin price and a butter-nonfat dry milk formula price. Four orders use a combination of a butter-nonfat dry milk formula price and a cheddar cheese formula price. Six orders use a butter-nonfat dry milk formula price, with four of these employing a seasonal adjustment. Two orders use the U.S. manufacturing milk price with a seasonal adjustment for milk used to produce butter, nonfat dry milk and cheddar cheese. This variety of price formulas can result in as many as eleven different prices for milk put to similar uses. Also, four additional prices can result under the five orders that have an intermediate classification and price for milk used to produce cottage cheese.

Cooperatives proposed that each of the 32 orders provide for an intermediate classification (Class II) for skim milk and butterfat disposed of as cream, now a Class I use, and that used to produce several other products now in the lowest-priced class under most of the orders. The proposed Class II uses would include cottage cheese, frozen desserts, milkshake mixes for further processing in commercial establishments, eggnog, yogurt, evaporated or condensed milk or skim milk, dietary and infant formulas, custards, puddings, pancake mixes, any product with 6 percent or more nonmilk fat (or oil), and fluid milk products disposed of to commercial food processors. In addition, their new Class II also would include cream, mixtures of cream and milk or skim milk containing 9 percent or more butterfat, cream in plastic, frozen, aerated or sterilized form, sour cream, sour mixtures, and anhydrous milkfat.

Under the cooperatives' proposal, the Class II price in 31 markets would be the Minnesota-Wisconsin price plus 10 to 20 cents (increasing generally from north to south). Eleven markets in the States of Minnesota, Iowa, North Dakota, South Dakota, and Tennessee would have a price differential of plus 10 cents. The remainder of the 31 markets would have plus 15 cents, except for a plus 20 cents in the Corpus Christi and Rio Grande Valley markets. A cooperative in the Central Arizona market proposed that the present Class II price, which is 25 cents over the Class III price, be retained in that market.

The Class III uses proposed by the cooperatives would include dried products, cheese (except cottage cheese), butter, condensed whey and buttermilk for animal feed, dumpage, ending inventory, shrinkage, and the non-Class I portion of modified fluid milk products.

The cooperatives' Class III pricing proposals varied by regions. A number of cooperatives operating primarily in the Upper Midwest proposed the adoption of a weighted butter-nonfat dry milk (55 percent) and cheese (45 percent) formula using "the product yield factors and make allowances used by the Department in its CCC Price Support Program." While suggesting that such a pricing formula would be inappropriate for all 32 markets, they particularly urged its adoption for 11 upper midwestern markets. For four southern markets, the principal cooperative in such markets proposed the use of the Minnesota-Wisconsin price, but with minus adjustments of 5 cents for Chattanooga, 10 cents for New Orleans, and 15 cents for Georgia. For 15 markets in the Southwest, the principal cooperative there proposed that the Class III price be the higher of the Minnesota-Wisconsin price or the current price for the lowest utilization in the respective order. Under its proposal, milk used in butter, nonfat dry milk and cheddar cheese would be priced, however, at the lower of the Minnesota-Wisconsin price or the current price for the lowest utilization in the respective order. The principal cooperative in the Central Arizona market proposed retention of the Class III price now applicable in that market, which is based on a butter-nonfat dry milk formula.

In support of their proposed Class II and Class III use categories, the several cooperatives contended that there are significant differences in the competitive position of, and demand for, milk so used. They stated that handlers demand quality milk on a regular basis for the proposed Class II products, and that in the various markets alternative supplies of milk for such uses generally cannot be obtained for less than the Class II prices they propose for producer milk. Moreover, they claimed that products in such Class II uses should bear, along with fluid milk products, part of the cost necessary to attract an adequate market supply. With respect to the Class III classification, proponents stated that their proposed Class III products are the residual uses of milk associated with fluid markets. Consequently, the local production of such products is related to the amount of reserve or excess milk in the market. Such products, they claimed, can be stored for long periods and do not need to be made on a regular basis.

Proponent cooperatives pointed out that the present Class I classification of cream and cream mixtures has placed these products in a poor competitive position in the marketplace relative to nondairy substitutes. By shifting these products to a lower-priced class, proponents hope the industry will be better able to maintain its present small share of the cream and dessert topping market and perhaps recapture some of the market that it has lost.

In support of their various Class III pricing proposals, the cooperatives urged basically that such prices reflect the net value that can be obtained by cooperatives handling reserve supplies. They claimed that such value should take into consideration (1) product values of butter, nonfat dry milk, and cheese; (2) the cost of moving milk to available outlets; and (3) the burden of "balancing" the fluid milk supply in each market.

With respect to certain southern markets, it was contended that the net value that can be obtained for reserve milk supplies tends to differ from market to market depending upon surplus disposal conditions that prevail in each market. The principal variable factor mentioned was the cost incurred in transporting reserve supplies to available processing plants. For example, there are no plants processing hard cheese, butter, or nonfat dry milk in Georgia. Consequently, the principal cooperative in the area transports much of the reserve milk supply associated with the Georgia market to manufacturing plants located in Tennessee. The amounts so transported have ranged from one to 11 million pounds per month. The cooperative stated that for the 12 months ending with August 1971 it netted an average of 37.6 cents per hundredweight less than the Georgia order Class II price on such shipments because of the cost of hauling the milk.

Extra transportation costs are incurred also by the cooperative with respect to its disposition of reserve milk supplies in the New Orleans market. In the Nashville market, on the other hand, the same cooperative realized an average of 9.7 cents over the Nashville Class II price for the milk it moved to nonpool plants for manufacturing use during the 12 months ending with August 1971. For the Chattanooga market, the cooperative realized slightly less than the Class II price for milk moved to nonpool plants.

Another condition which the cooperative contended has influenced the returns it is able to realize on reserve milk supplies is that the quantity of such milk to be processed varies both seasonally and on certain days of the week. During the month of September, the reserve milk supply handled by the cooperative is at its lowest level. In September 1970, for example, the cooperative processed less than 500,000 pounds of milk at each of its major butter-nonfat dry milk processing plants (Lewisburg, Tenn., and Franklinton, La.). The following April, it processed 23.9 and 5.8 million pounds of milk, respectively, at such plants.

Reserve milk supplies increase on Sundays compared to other days because bottling plants in the markets served by the cooperative usually process milk only 5 or, at the most, 6 days a week. The needs of bottling plants are highest on Thursdays since sales of packaged milk tend to be higher on Thursday and Friday than on other days of the week.

Because of these circumstances, this cooperative proposed that the Class III prices adopted for the southeastern markets of Georgia, New Orleans, and Chattanooga be fixed from 5 to 15 cents under the Minnesota-Wisconsin price. This was proposed to enable the cooperative to absorb the costs of transporting reserve milk supplies to manufacturing plants and of maintaining unused capacity in its manufacturing plants during the seasonally short production months and on peak bottling days.

The principal cooperative in the southwestern markets proposed that the current provisions for pricing market surplus be maintained in the several orders throughout that region since such provisions tend to recognize individual market problems of surplus disposal. The problems mentioned by the witnesses for the cooperative are (1) uneven surplus milk volumes to be disposed of, and (2) costs of transporting milk to plants for manufacturing use. They stated that each market differs as to the volume of day-to-day, weekend, holiday, and seasonal surplus to be processed, which tends to result in variations in supply balancing costs among markets. Also, the surplus in each market is situated at varying distances from available processing plants. In Texas, for example, most of the manufacturing use outlets are situated in the northern part of the State at Muenster, Sulphur Springs, and Rusk. While the cooperative operates a small cheddar cheese plant at San Antonio, Tex., at times the San Antonio surplus cannot be processed there and is transported over 300 miles to Muenster or Sulphur Springs. During the Christmas holiday weekend in 1970, the cooperative moved 75 tank truck loads of surplus milk out of Texas to plants as far north as Iowa for manufacturing.

In support of their proposed butter-nonfat dry milk-cheese product price formula for markets in the Upper Midwest proponent cooperatives pointed out that about half of the manufacturing grade milk in Minnesota and Wisconsin is now handled by as few as three cooperative associations. They contended that, because of this, cooperatives are in a position to influence the level of prices paid for such milk and, in turn, influence the level of the order prices based on the Minnesota-Wisconsin price. Any upward swing in prices, they indicated, could be detrimental to the processors of butter and nonfat dry milk.

Proponents also stated that there have been periods of time when the open market cheese prices have increased relative to prices of butter and nonfat dry milk. When this has resulted in higher pay prices at cheese plants, butter-powder plants also have tended to pay higher prices to hold their milk supplies in competition with cheese plants. Proponents argued that such higher pay prices at butter-powder plants should not be reflected in Federal order surplus prices when the market values of butter and powder are not increased also. They contended that the order price should reflect changes in the market value of manufactured products to provide handlers a fixed processing margin on the butter and nonfat dry milk they process.

The national trade associations of fluid milk and ice cream processors did

[2] Official notice is taken of the Assistant Secretary's decision issued on Oct. 13, 1969 (34 FR 16881), with respect to the Memphis, Tenn., and certain other marketing areas.







V 38 175
SEP 11 73
XUM

not take a position at the hearing on whether there should be two or three classes of utilization. It is their position that under a three-class system the only products that should be included in Class II are yogurt, eggnog, cottage cheese, cream, and any mixtures of cream and milk or skim milk containing 9 percent or more butterfat. While the associations did not endorse a three-class system, they proposed that under such a plan the difference between the Class II and Class III prices be not more than 10 cents.

Certain individual handlers, particularly those operating plants in more than one market, testified that because of intermarket competition each order should provide for the same classification and pricing scheme. One such handler testified further that the Class III price should be the lower of the Minnesota-Wisconsin price or a butter-powder formula price (Chicago butter price times 4.2, plus nonfat dry milk price times 8.2, less 48 cents). Another urged adoption of the dairy price support level as the Class III price. A third handler proposed the use of the announced price support, adjusted to a 3.5 percent butterfat basis by a differential factor of the Chicago butter price multiplied by 0.12, and further adjusted by plus 15 cents during the period September through March.

Proponents of using the dairy price support level as the Class III price urged that such price be adopted to provide a more stable price by avoiding the month-to-month changes that tend to occur in the Minnesota-Wisconsin price. Proponents pointed out that basing the Class III price on the price support level, which is announced for each marketing year (April–March), would result in handlers knowing the minimum price before the milk is received. The Minnesota-Wisconsin price is announced about 5 days after the end of each month.

*Class III.* As stated at the outset, two classes of utilization should be provided under each order for milk not needed for Class I use. Before discussing the basis for establishing an intermediate price class, consideration should be given to the Class III price issue since the level of such price bears on what the Class II price should be.

Basically, there are two questions to be resolved concerning the Class III price issue: (1) Should the Class III price be uniform among the 32 markets, and (2) what is the appropriate pricing mechanism for determining the Class III price in each market?

The purpose of the classification proposals considered at this hearing strongly suggests the same Class III price under each order. The essence of the proposals by producers and handlers alike was that a particular product should be classified in each market in the same class. Although the various witnesses were not in agreement on the classification scheme that should be adopted, the common purpose of their proposals was the resolution of the many differences among the 32 orders in the classification of milk. It was the general consensus that with the burgeoning intermarket sales of various milk products over increasingly wider areas, these differences in classification are causing undue competitive inequities among handlers in various markets seeking the same outlets for milk.

Any attempt to resolve these competitive inequities through the adoption of a uniform classification plan cannot be divorced from consideration of the prices that would be applicable to each class. The classification of milk does nothing more than determine what uses of milk will be subject to different levels of price. The equity benefits to handlers of using the same classification plan in all markets can be fully realized only if the price for each class is uniform (except for appropriate location adjustments) in all markets. The use of several different Class III price formulas in these markets, as would result under the proposals of the various cooperatives, would nullify much of the intended effectiveness of classifying a particular product in the same class in each market.

Certain cooperatives urged that the Class III price of a market reflect the supply "balancing" costs of individual cooperatives. This could lead only to a proliferation of different Class III prices rather than a reduction of price differences in these markets. In balancing milk supplies for the fluid market, a cooperative incurs various costs. The extent of these costs is dependent on many factors, including the cooperative's share of the market, the location and availability of surplus disposal outlets, whether it operates a manufacturing plant, and policies and practices of the organization and its management. If such costs were to be a main consideration in establishing the Class III price for an individual market, such price would need to vary greatly among markets since the supply balancing situation differs from market to market.

The costs of supply balancing services performed by a cooperative should be reflected as a service charge to the handlers who receive the benefit of the service. A cooperative's cost of supply balancing service varies among handlers according to each handler's procurement practices. A handler that regularly accepts the full production of a given number of producer-members of the cooperative incurs the costs of balancing his own supply. On the other hand, a handler that limits his purchases of milk from a cooperative to 5 days a week, for example, to match his daily bottling schedule shifts the burden of balancing his milk supply to the cooperative. Most supply balancing costs are attributable to the variation between the quantity of milk produced and the demand for milk for Class I use. Since the balancing costs are incurred in serving the Class I market, the incidence of the costs should fall on such use of milk. This connection between these services and the Class I demand is recognized in many of these markets through the assessment by cooperatives of a service charge on their milk delivered to handlers for Class I use.

On the basis of the above findings, it was concluded in the August 28, 1972, recommended decision that the same Class III price should prevail under each order to resolve to the fullest extent the many classification and pricing differences among these orders. Although this concept remains valid, we are persuaded by producer exceptions to the August 28 decision that complete uniformity in the pricing of Class III milk may not be attainable at this time if orderly marketing is to be preserved. For reasons described later, an alternate Class III price formula also should apply under 14 of the 32 orders rather than the one formula initially recommended. It must be emphasized, however, that the use of an alternate Class III price formula in these markets will negate in some degree the uniformity intended to be gained through classifying a particular product in the same class in each market. The adopted classification and pricing scheme will be helpful, nevertheless, in overcoming the marketing problems being experienced by handlers because of the differences in the classification and pricing plans now in use in these 32 markets.

In considering the appropriate mechanism for determining the Class III price in each market, it is consistent with the purposes of the statute authorizing milk orders that reserve milk supplies be priced at the highest practicable level compatible with orderly disposal of the milk. Excess market supplies normally must be channeled into manufactured products that compete on a national basis with similar products made from ungraded milk. It is important, therefore, that the price for surplus milk in the regulated markets be in close alignment with prices being paid by processors of manufacturing grade milk.

The Minnesota-Wisconsin price, which is now the surplus price under 17 of the 32 orders, is a representative pay price for about half of the manufacturing grade milk in the United States. This price reflects a farm price level determined by competitive conditions that are affected by the demand for all major manufactured dairy products. It also reflects the supply and demand of such products within a highly coordinated marketing system, which is national in scope. Use of the Minnesota-Wisconsin price as the Class III price, or principal Class III price determinant, will result in order prices for surplus milk that are in close alignment with the dominant price structure for raw milk within the manufacturing milk segment of the dairy industry.

Use of the Minnesota-Wisconsin price also tends to result in price parity between regulated and unregulated plants engaged in a similar enterprise since it provides the regulated manufacturer essentially the same margin for processing as is experienced in the unregulated market. The Minnesota-Wisconsin price is an average of prices being paid by processors who are meeting the competitive test of the unregulated market place. Competing processors of ungraded milk purchase their supplies from farmers at





prices commensurate with the ability of the more efficient processors to pay for raw milk. As shifts in the relationship between finished product prices take place, one group of processors may be able to pay dairymen higher prices than another. Other processors generally must meet these prices or risk the loss of their milk supplies. If a dairy concern in the unregulated manufactured products market fails to make the necessary adjustments to meet procurement competition, it will, in time, be forced out of business. This is a normal business risk in the unregulated competitive market.

If the Class III price were based solely on market prices of certain manufactured products (e.g., butter and nonfat dry milk) minus a specified processing allowance, as proposed by certain cooperatives, handlers under each order would be assured at all times, regardless of current values of milk competitively procured for the several manufactured product uses in Class III, of a predetermined operating margin. Such pool handlers are protected in procurement competition by being able, through the pool equalization fund, to pay the blended price to producers. This is an advantage not available to manufacturers purchasing unregulated milk. The unregulated processors must pay whatever price to dairy farmers is required to maintain milk supplies, which is determined from competition with other processors. Unless regulated handlers are to have a competitive advantage, or disadvantage, in the manufactured milk product market relative to unregulated plant operators, it is necessary to maintain under the milk orders a close alignment of the Class III prices with the farm prices paid by unregulated plants in the manufacturing milk industry.

In the August 28, 1972, recommended decision, the Minnesota-Wisconsin price was adopted as the Class III price under each order. This would have provided a continuation of the surplus price now applicable in 17 markets and a change in pricing for the remaining 15 markets where a number of different price formulas are now in use.

Upon further consideration of this issue in light of producer exceptions and the record evidence, it is concluded that in 14 of the 15 markets where the surplus price would have been changed the Class III price should be the Minnesota-Wisconsin price but not to exceed a butter-nonfat dry milk formula price. The markets where this pricing mechanism should apply are New Orleans, Northern Louisiana, Wichita, Central Arizona, Rio Grande Valley, Oklahoma Metropolitan, Red River Valley, North Texas, Central West Texas, Texas Panhandle, Lubbuck-Plainview, Austin-Waco, San Antonio and Corpus Christi. The Class III price for the other market, Duluth-Superior, should be the Minnesota-Wisconsin price as initially recommended.

The surplus class price in all but two of these 14 markets is now based either entirely or in part on prices derived from some type of butter-nonfat dry milk formula. In the Oklahoma Metropolitan and Red River Valley markets, the surplus price is the U.S. Manufacturing price, but with a 10-cent reduction during six months of the year for milk used in butter, nonfat dry milk or hard cheese. For most of these markets, cooperatives argued in their exceptions to the August 28 decision that the present price formulas should remain in effect in the respective markets. It was contended that these formulas represent an historical recognition of particular surplus disposal conditions in these markets and that such recognition should not be abandoned at this time.

If a uniform classification and pricing scheme is to be implemented to any substantial degree, it is not possible to continue the variety of pricing formulas now applicable in these several markets as cooperatives urge. We recognize, however, that surplus prices in most of these markets historically have been tied directly to the market values of butter and nonfat dry milk. Therefore, it is reasonable to provide that the Class III prices in these 14 markets be limited to a butter-nonfat dry milk formula price should the milk equivalent value of these products become unduly low relative to the average price being paid in Minnesota and Wisconsin for manufacturing grade milk.

The same butter-nonfat dry milk price formula should be used in each of the 14 markets in conjunction with the Minnesota-Wisconsin price. This is consistent with the development of a uniform classification scheme for these markets. The formula adopted herein would be derived from converting the market prices of butter and nonfat dry milk to their milk equivalent values and subtracting a processing allowance. Specifically, such price would be computed by multiplying the average monthly price of 92-score bulk butter at Chicago by 4.2, then multiplying the average monthly price of spray process nonfat dry milk in the Chicago area by 8.2, and then subtracting 48 cents from the sum of th above results. This formula price, when used in conjunction with the Minnesota-Wisconsin price, is commonly referred to in the trade as the "butter-powder snubber."

The adopted formula is the same, or virtually the same, as all other butter-nonfat dry milk formulas now in use under orders applicable outside the 32-market area. In all cases, such formulas are being used in conjunction with the Minnesota-Wisconsin price in the same manner as proposed herein.

As indicated, the Class III price under the Duluth-Superior order should be the Minnesota-Wisconsin price even though the surplus price in this market is now based on a butter-nonfat dry milk formula. The present surplus price historically has averaged somewhat under the Minnesota-Wisconsin price. Conditions in this market do not support a continuation of this lower price level for surplus milk being processed into products such as butter, nonfat dry milk and hard cheese, residual products that would be included in Class III under the revised Duluth-Superior order.

The Duluth-Superior order regulates the handling of milk in certain areas of Minnesota and Wisconsin. Because of their location, regulated handlers in this market are operating within the competitive sphere of the largest concentration of processors of butter, nonfat dry milk and cheese in the United States. As noted earlier, about half of the manufacturing grade milk in the country is produced in this two-State area. It is the prices being paid in this area for such milk that are used in determining the "Minnesota-Wisconsin price." Use of this price for pricing Class III milk in the Duluth-Superior market will result in producer milk used in the residual products being priced at a level commensurate with unregulated milk that is being processed in the same general area into like products. A lower return to the graded producers on the Duluth-Superior market for surplus milk priced under the order is not warranted under the competitive conditions existing in this area.

It should be noted that in all other regulated markets in this two-State area producer milk processed into the residual products is priced at the Minnesota-Wisconsin price. Such markets include Minneapolis-St. Paul, Minnesota-North Dakota, and Chicago Regional, all of which are near the Duluth-Superior market. There is no indication that regulated handlers in the Duluth-Superior market are faced with conditions uniquely different from those faced by handlers in these other markets in disposing of surplus milk.

The surplus pricing adopted for the 32 markets will result in a significantly greater coordination of surplus prices under all Federal milk orders than is now the case. With the exception of one relatively small market (Appalachian), prices under all orders for milk used in the key residual products (butter, nonfat dry milk and cheese) would be based on the Minnesota-Wisconsin price, either alone or in conjunction with the butter-powder snubber adopted herein. As noted earlier, such products are marketed within a highly coordinated marketing system that is national in scope.

*Class II.* Certain uses of producer milk not needed for Class I purposes should be priced at a somewhat higher level than that applicable to milk in the adopted Class III uses. These higher-valued uses, to be included in the Class II classification, were set forth at the beginning of this discussion on pricing surplus milk. The Class II price, which should be the same under each order, should be the Minnesota-Wisconsin price plus 10 cents.

Of the products adopted herein for inclusion in Class II, one of principal importance is cottage cheese. In 1970, about 840 million pounds of the skim milk and butterfat utilized by pool handlers under the 32 orders was used to produce cottage cheese. For this discussion the term "cottage cheese" encompasses cottage cheese (i.e., creamed cottage cheese), lowfat cottage cheese, and dry curd cottage cheese.

Five of the 32 orders under consideration now provide a higher price for milk



V 38-175 SEP 11 73 XUM

used in cottage cheese than the price provided for milk used in butter, nonfat dry milk or cheddar cheese. There are several distinguishing characteristics of cottage cheese production that support a higher price for milk in this use than for milk channeled into the residual surplus uses. There is little, if any, relationship between the quantity of cottage cheese made and the amount of reserve milk in a market, as is the case with respect to butter and nonfat dry milk, for instance. Unlike such other manufactured products, cottage cheese has a more limited storage life and must be processed on a regular basis. Thus, as in the case of fluid milk products, handlers normally want adequate supplies of fresh, high-quality producer milk to be made available at their plants at all times for cottage cheese use.

Although some cottage cheese is made in specialized country plants, as the economics of location would suggest, cottage cheese production is commonly an integral part of the processing operations of fluid milk distributing plants. Such plants are usually located in or near the populated centers of the market. This entails a greater hauling expense for producers than when the reserve milk is processed in the production area, as is generally the case with respect to butter, nonfat dry milk and hard cheese manufacture.

The adopted Class II price (the Minnesota-Wisconsin price plus 10 cents) is a reflection of some of the additional value which producer milk used in cottage cheese has to regulated handlers. Although local producers represent the regular source of milk for cottage cheese production, a handler may choose to use milk from some other source for this purpose. Such milk could not be obtained on a regular basis, however, at less than the cost of producer milk under the adopted pricing scheme.

Rather than produce his own cottage cheese, a handler might choose to purchase the finished product from some other Federal order market where a lower price applies to milk for cottage cheese. There is no indication, however, that under the adopted pricing such a handler could materially enhance his competitive position relative to handlers using producer milk. The cost of transporting cottage cheese, a somewhat bulky and perishable item, from distant areas to outlets in the 32 markets would generally negate any seeming price advantage attributable to differences in applicable order prices.

In the New Orleans market, certain handlers process a type of cheese described locally as "Creole cheese". This product, which apparently is limited to this market, was described at the hearing as being similar to cottage cheese. Accordingly, Creole cheese should be included in the same class as cottage cheese under the New Orleans order.

Milk used in yogurt should be priced at the Class II price level. Yogurt is a soft, nonfluid, "spoonable" product. It is not a beverage as are other products defined herein as fluid milk products.

Yogurt has some of the marketing characteristics of cottage cheese, although, unlike cottage cheese, very limited quantities of yogurt are made from milk priced under the 32 orders. In 1970, about 13 million pounds of skim milk and butterfat were utilized in yogurt production in the 32 markets. To the extent of this limited production, however, processors generally use regular supplies of inspected milk. Although yogurt can be made from cream and nonfat dry milk, processors prefer milk. Since yogurt has a relatively limited shelf life, it is made on a continuing basis, thus requiring a regular supply of milk at all times. As in the case of cottage cheese, these conditions warrant that producer milk in yogurt be priced at a level above the price for milk disposed of through the traditional residual uses for surplus milk.

Class II also should include frozen desserts (including commercial milkshake and ice milk mixes), custards, puddings, pancake mixes, dietary and infant formulas, and sales of bulk milk and cream to commercial food processors for use in food products. In the August 28 recommended decision, such uses of skim milk and butterfat were proposed to be included in Class III. Upon consideration of exceptions filed to that decision by cooperatives, it is concluded that market conditions support a higher price for producer milk in such uses than was initially recommended.

As producers pointed out in their exceptions, the rationale set forth in the August 28 decision for including cottage cheese in an intermediate class is in several respects applicable to these other products just listed. The demand for producer milk used in these products is related closely to the current consumer demand for such products. Thus, handlers normally want adequate supplies of producer milk made available at their plants in the quantities and at the times needed for these uses. This is in contrast to the more storable residual "hard" products. Also, the processing of such products often takes place at the market center, which entails a greater hauling expense for producers than when reserve milk is processed in the production area. Moreover, it is doubtful that handlers in general would be able to obtain alternative supplies of milk or product ingredients at less than the cost of producer milk under the adopted pricing provisions.

Cooperatives proposed that the Class II price in most of these markets range from 10 to 20 cents over the Minnesota-Wisconsin price. The lower 10-cent differential (to apply to both cottage cheese and frozen desserts) was proposed for those markets where local ungraded milk supplies represent a significant competitive factor for regulated processors of ice cream and other frozen desserts. The national associations of fluid milk and ice cream processors contended that any price differential over the Class III price for milk in an intermediate class should not be more than 10 cents per hundredweight. In supporting this position, individual handlers stressed that any greater price differential would seriously jeopardize the competitive position of regulated handlers using producer milk relative to unregulated processors relying largely on ungraded milk.

With respect to the several milk uses at issue in the cooperatives' exceptions, the preponderance of evidence at the hearing focused largely on the marketing of frozen desserts. The marketing conditions for frozen desserts are somewhat varied throughout the 32-market area. Some regulated handlers rely regularly on producer milk for use in frozen desserts. In some of the southern markets where milk supplies tend to be shorter than elsewhere, handlers use producer milk when it is available but often must supplement such milk with purchases of condensed skim milk and nonfat dry milk. Some handlers, wherever located, rely on these concentrated forms of milk entirely in processing frozen desserts. Also, the concentrated products used may be made from either graded or ungraded milk. In addition, much of the processing of frozen desserts is done at unregulated plants. Some unregulated processors rely on ungraded milk, while others use milk surplus to the needs of regulated fluid markets. Other unregulated processors use concentrated forms of milk from either graded or ungraded sources.

The marketing situation in the 32-market area for the several other milk uses in question (custards, puddings, pancake mixes, dietary and infant formulas, and sales to commercial food processors) is essentially the same as for frozen desserts.

Under these varying conditions, the Class II price should be set at 10 cents over the Minnesota-Wisconsin price. Pricing Class II milk at this level should permit regulated handlers using producer milk to remain competitive in the marketplace with the unregulated sector in the sale of Class II products. At the same time, such price will reflect the minimum additional value of such high quality producer milk supplied to regulated handlers over the widespread area covered by the 32 markets at the times and places, and in the quantities, needed for the several Class II uses.

It is recognized that under the varied conditions just described an individual handler may find that producer milk does not represent the cheapest source of milk for his Class II uses. Presumably the alternative source would be concentrated forms of milk since health regulations would not permit the receipt of ungraded supplies of whole milk at a pool distributing plant, and graded supplies would not be available on a regular basis at less than the Class II price. Under the revised allocation provisions adopted herein, receipts of nonfluid other source milk such as condensed skim milk or nonfat dry milk that are used in a Class II product would be allocated directly to the handler's Class II uses, with no obligation applying under the order to such milk. Under this arrangement, the handler could choose to use the other source milk without the cost impact of down-allocation should the cost of such milk become less than the cost of producer milk. The handler thus could rely upon whichever source of milk best fits his competitive and operational circumstances.

Classifying the several types of cream items, some of which are now in Class I while others are in Class II or Class III, in Class II will accommodate proponents' desire for a lower price for milk used in cream products and at the same time price at the same level a variety of products that compete with each other. Half and half, whether sterilized or unsterilized, and light cream are used principally by consumers in coffee. Aerated cream and sterilized and unsterilized whipping cream are used as dessert toppings. Both graded and ungraded sour cream and sour mixtures are used by consumers for similar purposes. Like classification for these cream products will result in uniform pricing to handlers for milk used in products competing in the same trade channels for essentially similar uses.

Although the present Class I cream products sold in these markets must be made from inspected milk, which is delivered regularly by producers to distributing plants, there was general agreement by producers and handlers that milk sold in the form of such products should no longer be subject to the Class I price. Relative to the total Class I sales of producer milk in these markets, cream products represent only 1.5 percent of the present Class I market. Thus, this classification change will have relatively little effect in total on the returns to producers.

In connection with the reclassification of cream products, it is desirable to define a new term—"fluid cream product." "Fluid cream product" would mean cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

With the reclassification of cream, movements of cream to or from a plant no longer should be considered in determining whether a plant meets the pooling requirements of the order.

Class II milk should include eggnog. Although eggnog is prepared for use as a beverage and is now a Class I use in 9 of the 32 markets, proponent cooperatives contended it should not be a Class I product because of competition from imitation products. Eggnog has a relatively high butterfat content and the limited sales of the product are highly seasonal. In 1970, only about 12 million pounds of eggnog, with an average butterfat content of 7 percent, were disposed of by pool handlers under the 33 orders. An estimated 40 percent of the marketings of this type of product is in the form of imitation eggnog. Classification of eggnog in Class II rather than Class I will materially enhance the competitive position of the product in the marketplace.

Most of the orders now provide that any "filled" product containing 6 percent or more nonmilk fat (or oil) shall be in the surplus price class. With the establishment of an intermediate price class under each of the 32 orders, it is appropriate that any such filled products that resemble the proposed Class II products made with milk fat likewise be included in this class. The substitution of nonmilk fat for milk fat in a product merely changes the composition of the product and not its use. For competitive reasons, a comparable classification of products made with milk fat and their filled counterparts is necessary.

Condensed milk or skim milk in bulk, plastic cream, frozen cream and anhydrous milk fat are "intermediate" products that also should be included in Class II. These products are not end uses in themselves but instead are used in making other products, including frozen desserts and food products such as candy and soup. Under the classification adopted herein, frozen desserts and food products are Class II uses for milk. Accordingly, producer milk used in the several intermediate products likewise should be priced at the Class II level.

A Class II classification should not apply to evaporated or condensed milk or skim milk in consumer-type containers as the cooperatives proposed. Such storable products should remain in the lowest price class. A Class III classification for producer milk in these products will permit such uses to remain as a competitive outlet for milk surplus to the needs of the Class I market. Such products made from milk regulated under these orders must compete over wide areas with the same products processed from ungraded milk or other graded milk that is often priced at no more than the Minnesota-Wisconsin price. Comparable pricing should prevail under these 32 orders.

Although cooperatives proposed Class II price differentials of 10, 15, 20, and 25 cents, the Class II differential for each market should be the same. The distribution of the adopted Class II products from a single plant often extends over a broad region encompassing several Federal order marketing areas. Numerous examples were cited on the record concerning the widespread sales of yogurt, cream items, frozen desserts and cottage cheese in particular. Because of this intermarket competition, a uniform Class II price differential should be provided in these orders to complement the uniform classification provisions. A price differential of 10 cents reasonably reflects the added value which handlers are able to pay for producer milk in such uses as compared to procuring milk supplies or finished products from other sources.

In proposing a generally uniform classification plan for the 32 markets, cooperatives emphasized that any new plan adopted should not result in lower total returns to producers. Handlers, on the other hand, stressed that their total cost of milk should not be increased.

Providing for classification and pricing provisions that are generally uniform among the various markets cannot necessarily encompass at the same time the maintenance of precisely the same value of producer milk in each market. With the many classification and pricing differences that now exist among the 32 orders, resolution of these differences through a uniform classification and pricing plan would be expected to have some effect on the value of producer milk in individual markets. While the provisions adopted in this decision are not designed to change the value of producer milk in the aggregate, their effect on producer returns or handlers' costs in an individual market cannot be controlling in deciding on the matter of classification and pricing here under consideration.

4. *Miscellaneous classification and accounting changes.* The following findings and conclusions relate to certain miscellaneous classification proposals by handlers and producers and to some of the order changes that are necessary to implement the revised classification plan adopted herein for each of the 32 subject orders.

(a) *Other source milk definition.* A common other source milk definition should be adopted for each order.

Because of the revised classification plan, certain changes in the present other source milk definition of each order are necessary. This definition would continue to serve, however, the present function of implementin , the identification of various categories of receipts at a regulated plant.

At present, fluid milk products from any source other than producers, cooperatives acting as a handler for farm bulk tank milk, pool plants, and plant inventory at the beginning of the month are considered as other source milk.[3] Under the revised classification plan, however, cream no longer would be defined as a fluid milk product. To facilitate the application of other provisions of each order, it is desirable, nevertheless, that fluid cream products, when in bulk form, continue to be treated in the same manner as fluid milk products for purposes of applying the other source milk definition.

Other source milk should include any receipts in packaged form of fluid cream products, eggnog or yogurt (or any filled product resembling such products). These are Class II products under the revised classification plan.

Producers and handlers proposed that Class II products received at a pool plant in packaged form and then disposed of from the plant without further processing be treated as "pass-through" products. Under this treatment such "pass-

[3] The terms "pool plant" and "nonpool plant" will be used occasionally throughout this decision. Most of the 32 orders define such terms for the purpose of distinguishing between those plants that are fully regulated under the order and those plants that are not so regulated. In some orders, the terms "fluid milk plant" and "nonfluid milk plant", or "approved plant" and "unapproved plant", are used for the same purpose. When reference is made in this decision to a "pool plant" or a "nonpool plant," it is intended (unless noted otherwise) that the reference apply correspondingly to the other types of plants.







V 38 175 SEP 11 73 XUM

through" products would not be considered as other source milk and would not be subject to the allocation and pricing provisions of the order.

Although no handler obligation would apply under the provisions adopted herein to these receipts of packaged Class II products, it is desirable for accounting purposes that such receipts be defined as other source milk. This accounting procedure will preclude the recordkeeping difficulties that might otherwise be experienced in accounting separately for inventories and sales of Class II products processed in the handler's plant versus those received at the plant in packaged form from other plants. As provided herein, such receipts of other source milk would be allocated directly to the handler's Class II utilization, rather than being allocated to the extent possible to the handler's lowest utilization as is provided in some cases for other types of other source milk.

The orders now provide that manufactured products from any source that are reprocessed, converted into, or combined with another product in the plant shall be considered as other source milk. For accounting purposes under the order, such manufactured products should include dry curd cottage cheese received at a pool plant to which cream is added before distribution to consumers. When used to produce cottage cheese or low-fat cottage cheese, the receipts of dry curd would be allocated under the adopted provisions directly to the handler's Class II utilization. No handler obligation would apply under the order to such receipts.

The orders should provide that products manufactured in a pool plant during the month and then reprocessed, converted into, or combined with another product in the same plant during the same month not be defined as other source milk. A typical processing operation would be for a handler to make condensed skim milk from producer milk and then use the condensed product in making ice cream. It is intended under this situation that the producer milk be considered as having been used to produce ice cream. The condensing operation is merely one of the steps performed by the handler in processing ice cream from raw milk.

Other source milk should include any disappearance of manufactured milk products for which the handler fails to establish a disposition. Fourteen of the 32 orders now have a provision concerning the unaccounted for disappearance of such products. The other 18 orders do not specify such disappearance as other source milk.

It is reasonable that each handler be required to account fully for all milk and milk products received or processed at his plant. Otherwise, a handler with inadequate records may have an opportunity to gain a competitive advantage over his competitors who properly account for all milk. Specifying any unexplained disappearance of manufactured milk products as other source milk will contribute to a uniform application of the regulatory plan to all handlers.

(b) *Accounting for nonfat milk solids added to milk and milk products.* Except for two orders, no change should be made in the present method of classifying the skim milk equivalent of nonfat milk solids added to a fluid milk product.

Currently, all but two of the orders under consideration provide that a modified fluid milk product shall be classified as Class I in the amount of the weight of an equal volume of an unmodified product of the same nature and butterfat content. The remaining skim milk equivalent of the nonfat milk solids in such product is classified in the lowest class.

The Neosho Valley and Fort Smith orders presently do not set forth a specific procedure for accounting for nonfat milk solids added to milk and milk products. As proposed by producers, such orders should be made uniform in this respect with the other orders under consideration.

Cooperatives proposed that the amount of a modified fluid milk product that is classified as Class I milk be the actual weight of the modified product rather than the weight of a like unmodified product. Proponents stated that the use of the weight of the modified product would accommodate some of the technical problems of laboratory analysis when this procedure is used in verifying the amount of nonfat milk solids added to natural milk or skim milk. They indicated that since the results of laboratory tests are expressed as a percentage of the weight of the product being tested, using the actual product weight factor would simplify the accurate accountability of modified products.

There was no showing of the extent to which laboratory analysis of modified products is used in verification by market administrators in these markets. Also, there is no indication that modified products are not being accounted for in an accurate manner. Thus, it is not clear from this record that the proposed procedure is necessary for more accurate product accounting or that it would result in any net saving in administrative cost.

Proponents did not attempt to demonstrate any economic basis for making the slightly greater charge for nonfat milk solids used to modify fluid milk products that would result from their proposal. Their proposed procedure would increase slightly the quantity of a modified product priced in Class I. A gallon of modified skim milk containing 11 percent nonfat milk solids, for example, would be classified in Class I on an 8.7 pounds weight factor as compared to the present basis of an 8.63 pounds weight factor.

The present method of classifying modified fluid milk products increases total Class I sales only to the extent of the volume of the unmodified product that the added nonfat milk solids replaces. In the absence of evidence that the present procedure is inappropriate, it should be continued. The present procedure is used under Federal orders generally and, therefore, carries out the objective of uniformity in this respect.

Handlers may add nonfat milk solids to several of the proposed Class II products, such as half and half and light cream. Each order should provide in this case that the entire weight of the skim milk equivalent of the solids added be classified in Class II. This procedure would differ from that applicable to modified fluid milk products in that no part of the skim milk equivalent of the added solids would be classified in the lowest class. As described in detail later, nonfat dry milk or condensed milk that is added to a Class II product would be allocated directly to the handler's Class II use. Thus, classification of the entire skim milk equivalent in Class II would not affect adversely the handler's pool obligation under this allocation procedure.

(c) *Classification of milk transferred or diverted to other plants.* Certain changes should be made in the provisions of each order that prescribe the classification of fluid milk products that are transferred or diverted from a pool plant to another plant. Several of the changes become necessary with the adoption of three classes of utilization in place of the present two classes. Other changes are appropriate for purposes of uniformity among orders and clarity in the classification of milk.

Under the adopted classification plan, fluid cream products would be classified as Class II products. If such products are transferred to another plant in packaged form, the skim milk and butterfat contained therein should be classified as Class II milk since these items are moved in final form. The classification of fluid cream products when disposed of in bulk form, however, is determinable only by following the movement of the bulk product to its subsequent use. Thus, it is necessary that fluid cream products that are transferred in bulk form from a pool plant to another plant be classified in a manner similar to that now used in classifying transfers of bulk fluid milk products.

Each order now prescribes a procedure for classifying transfers of bulk fluid milk products from a pool plant to a nonpool plant that is not another order plant or a producer-handler plant. To determine such classification, the nonpool plant's utilization must be assigned to it receipts of milk from each source. Some amplification of this procedure is appropriate to set forth clearly the priority for assigning the different types of plant use to the different sources of fluid milk products and bulk fluid cream products received at the nonpool plant.

Under the adopted assignment priorities, the first step is to assign the nonpool plant's Class I utilization to its receipts of packaged fluid milk products from all federally regulated plants. Such receipts should receive first priority on the nonpool plant's Class I use since all orders provide that such packaged transfers from a pool plant to an unregulated nonpool plant shall be classified as Class I milk. Thus, any Class I route disposition of the nonpool plant in the marketing area of a Federal order, and any transfers of packaged fluid milk products from the nonpool plant to plants fully





regulated under such order, would be assigned, first, to the nonpool plant's receipts of packaged fluid milk products from plants fully regulated under such order and, second, to any such remaining packaged receipts from plants fully regulated under other Federal orders.

A similar assignment of any such remaining disposition (i.e., the aforesaid Class I route disposition and transfers of packaged fluid milk products) then would be made to the nonpool plant's receipts of bulk fluid milk products from pool plants and other order plants. Any other Class I disposition of packaged fluid milk products from the nonpool plant, such as route disposition in unregulated areas, would be assigned to any remaining unassigned receipts of packaged fluid milk products at the nonpool plant from plants fully regulated under any Federal order.

After these assignments, any Class I use at the nonpool plant that is attributable to the Class I allocation at a Federal order plant of fluid milk products transferred in bulk from the nonpool plant to the regulated plant would be assigned next. Such use would be assigned, first, to the nonpool plant's remaining unassigned receipts of fluid milk products from plants fully regulated under that order and, second, to any such remaining receipts from plants fully regulated under other orders.

Additional unassigned Class I utilization at the nonpool plant then would be assigned to the plant's receipts of Grade A milk from dairy farmers and unregulated nonpool plants that are determined to be regular sources of Grade A milk for the nonpool plant. Any remaining unassigned receipts of fluid milk products at the nonpool plant from plants fully regulated under any order would be assigned to any of the nonpool plant's remaining Class I utilization, then to its Class III utilization, and then to its Class II utilization.

Following these assignments, any receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants would be assigned to the nonpool plant's remaining unassigned utilization in each class. Such assignment would be made in sequence beginning with the lowest class.

In determining the classification of any transfers or diversions from a pool plant to a nonpool plant, the utilization of any transfers from the nonpool plant to another unregulated nonpool plant also must be established. In this case, the same assignment priorities just outlined should apply also at the second nonpool plant.

Certain changes should be made in each order concerning the classification of products transferred from a pool plant to a producer-handler. Under the revised classification plan, bulk fluid cream products transferred from a pool plant to a producer-handler should be assigned to the extent possible to the latter's Class III use, and then Class II use. If the producer-handler does not have enough utilization in these classes to cover such transfers, any remaining transfers should be classified as Class I milk.

As in the case of all other fluid milk products, such transfers of cream are now classified as Class I milk. Such classification tends to assure that producers do not carry for producer-handlers the burden of maintaining reserve supplies for the Class I sales of producer-handlers. With the removal of cream from the Class I classification, as adopted herein, a mandatory Class I classification of cream transfers to producer-handlers would not be necessary for this purpose.

Each order should provide that fluid milk products transferred from a pool plant to a producer-handler under another order be classified as Class I milk. With one exception, this classification now applies under these orders with respect to such transfers made on an intramarket basis. The San Antonio order has no provisions for classifying such transfers since it does not contain a producer-handler definition.

The producer-handlers, in their capacity as handlers, have been exempt from the pricing and pooling provisions of the various orders. In consideration of this exemption, each order, except as noted, requires a Class I classification of all fluid milk products that are transferred from a pool plant to a producer-handler as defined under that particular order. Inasmuch as the producer-handler exemption under each order is predicated on essentially the same basis, a Class I classification of milk transferred from a pool plant regulated under one order to a producer-handler as defined under another order would be in keeping with the general basis for producer-handler exemption.

In addition to the Class I classification of all fluid milk products transferred from a pool plant to a producer-handler, several orders provide for a similar classification of all fluid milk products transferred to a government-operated plant. Such plants are exempt from the pooling and pricing provisions of the order in much the same manner as producer-handlers. It is appropriate, therefore, that the adopted method for classifying bulk fluid cream products transferred to a producer-handler likewise apply to transfers of bulk fluid cream products to government-operated plants.

The orders should be uniform with respect to the conditions under which the classification provisions apply to bulk milk movements from one regulated market to another. Although each order now has the same rules for classifying such movements of milk, their application is limited under some orders to only those movements in the form of interplant transfers. This is because such orders do not permit milk to be moved between markets by diversion.

Since the advent of farm bulk tanks, the diversion of producer milk from pool plants to manufacturing plants has been a common method of handling milk not needed for the fluid market. Under some orders, such diversions are permitted to be made only to unregulated nonpool plants. For a number of markets where available manufacturing facilities are associated with another regulated market, the orders permit producer milk to be diverted to other order plants. Corollary provisions in the order regulating the manufacturing plant specify that such milk, although having been delivered directly from the farm, shall not be considered as producer milk in the market to which diverted if the milk comes into the market for manufacturing use.

In connection with developing uniform classification provisions for the 32 orders, provision should be made under each order for the diversion of milk to other order plants for Class II or Class III use. This will contribute to a more uniform application of the classification provisions to all regulated handlers. At the same time, such provisions will foster the efficient handling of surplus milk in these markets by permitting the disposal of such milk directly from farms to manufacturing plants in other markets, rather than having such intermarket movements limited to the more expensive method of transferring milk from one plant to another. With the safeguards adopted herein, returns to producers in the market to which the milk is diverted will not be affected by the processing of this surplus milk in their market since the diverted milk will continue to be pooled in the market from which diverted.

The classification of fluid milk products transferred or diverted from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant should not be contingent upon any distance limitation. Presently, 20 of the 32 orders under consideration provide for the Class I classification of milk moved beyond a specified distance, regardless of its ultimate use at the nonpool plant. In the case of milk transferred to less distant plants, recognition is given under the classification provisions of the 20 orders to the nonpool plant's actual utilization.

Cooperatives proposed the removal of all mileage limitations affecting the classification of transfers and diversions. They claimed that these provisions are not appropriate under today's marketing conditions and that their removal would facilitate the orderly disposition of reserve milk supplies.

The conditions prompting the initial adoption of these mileage limitations no longer prevail, thereby making their continued use inappropriate. The use of mileage limitations evolved in large part from the relatively high transportation cost of milk relative to its value for manufacturing and from the administrative cost of verifying the utilization of milk transferred to plants distant from the local market. Under today's conditions of distribution, milk regularly moves greater distances as a routine matter. Moreover, Federal orders now operate throughout much of the United States. Arrangements for verifying the utilization at distant plants can be made easily through the facilities of the various market administrators' offices.

Also, the mileage limitations often are no longer consistent with the existing supply patterns. Milk is often moved considerable distances from producers' farms



V 38-175 SEP 11 73 XUM

to distributing plants. When such milk is not needed for fluid use, it is usually diverted to manufacturing plants located close to the production area. Classifying such milk in Class I because of applicable mileage limitations is not consistent with the obvious manufacturing use of the milk. Removal of such provisions will promote uniformity in classification among the 32 markets.

(d) *Classification of end-of-month inventory.* Each of the orders should be made uniform with respect to the classification of inventory on hand at the end of the month. Fluid milk products in either packaged or bulk form that are in a handler's end-of-month inventory should be classified as Class III milk. Such inventory should be subject in the following month to reclassification in a higher class. Ending inventory of fluid cream products, eggnog and yogurt, when held in bulk form, likewise should be classified in Class III and subject to reclassification. Such products held in packaged form at the end of the month should be classified as Class II milk.

Presently, 22 of the 32 orders classify all ending inventories of fluid milk products (which now include most cream products) in the lowest class. Under the remaining orders, such inventories in bulk form are classified in the lowest class, while a Class I classification applies to such inventories in packaged form. In the latter case, a handler's obligation for the Class I inventory is adjusted in the following month by whatever amount the Class I price in such month changes from the Class I price level initially applicable to the inventory. This assures that such inventory is priced on a current basis when disposed of on routes.

Cooperatives proposed that each order classify all ending inventories of fluid milk products in Class III. They claimed that this procedure would be less complicated for handlers and would facilitate the administration of the order since handlers only occasionally would have any adjustment in their pool obligation as a result of having Class III inventory reclassified in a higher class. Proponents stated that with packaged inventory in Class I, as under 10 of these orders now, each handler usually has some adjustment each month in his obligation for Class I inventory. The cooperatives' proposed classification of ending inventory was supported by handlers.

In the interest of establishing uniform classification provisions among the orders, the same procedure for classifying end-of-month inventory should be adopted for each of the orders. Either type of inventory classification procedure now being used in these markets results over the long run in essentially the same pool obligation for handlers and the same returns to producers. In this circumstance, the substantial support among the industry for classifying all ending inventories of fluid milk products in the lowest class suggests that this procedure be used under all orders. Under this procedure, such inventories would be subject in the following month to reclassification in a higher class, as determined through the allocation of a handler's receipts to his utilization. A charge to the handler at the difference between the Class III price for the preceding month and the Class I or Class II price, as applicable, for the current month would apply to any reclassified inventory. This is the same reclassification procedure that now applies under the orders to inventories of fluid milk products in bulk form.

Fluid cream products in bulk form that are on hand at the end of the month likewise should be classified in Class III. As in the case of bulk milk, the final use of cream being held in bulk form is not necessarily apparent from that form. The cream must be followed to its ultimate use, which may be in any class. Accordingly, it is reasonable to classify any closing inventory of bulk cream in Class III and then apply a reclassification charge should the cream, as beginning inventory the following month, be allocated to a higher class.

Fluid cream products, yogurt, and eggnog that are on hand in packaged form at the end of the month should be classified in Class II, the class of expected ultimate use, rather than in Class III as would be the case for ending inventories of such products in bulk form. The higher classification will accommodate the treatment adopted herein whereby such products that are received at a pool plant in packaged form and disposed of in the same packages would be permitted to "pass through" the plant without any pool obligation or down-allocation. In this connection, the ending Class II inventory, as Class II inventory on hand at the beginning of the following month, would be allocated in the following month directly to the handler's Class II utilization.

Cooperatives proposed that for classification purposes ending inventory include only those products that are actually on the premises of a pool plant. Under their proposal, the premises of a plant would be limited to a location having equipment for receiving, cooling, processing, and storing milk. However, products being held in trucks parked at that location would not be a part of the handler's closing inventory. Also, a storage facility at a distributing point for packaged products in transit to wholesale and retail outlets would not be considered under their proposal as an extension of the premises of a plant. Cooperatives proposed also that ending inventory include any bulk milk that is in transit from a pool plant to another plant at the end of the month. Proponents claimed that defining ending inventory in this manner would facilitate the administration of the order.

The present orders do not specify at what point in a handler's distribution system fluid milk products shall be or shall not be considered for classification purposes as being in a handler's closing inventory. This is a matter that has been left to the accounting guidelines established by market administrators in their administration of the orders. It is recognized that at the close of the monthly accounting period fluid milk products that have been packaged but not yet delivered to the place of sale may be at any one of several places in a handler's distribution system. Depending on the handler's method of operation, such places could include the cold storage room within his processing plant, trucks parked on or near the plant's premises, distributing points, or trucks in transit to distributing points or places of sale. No significant problems concerning the determination of what constitutes closing inventory were brought to light at the hearing. Therefore, the cooperatives' proposal in this regard need not be adopted at this time.

For the first month that the revised classification plan is effective, certain transitional provisions relating to inventory should apply. Such provisions are necessary to assure that all handlers under an order will be subject to the same pricing for milk used in packaged fluid milk products and fluid cream products whether such products enter into the month's accounting as beginning inventory or are made from current receipts of producer milk.

As indicated, 22 of the orders under consideration presently classify ending inventories of fluid milk products, including cream items, in the lowest class. Thus, in the last month that the present classification plan is effective, handlers under these orders will have paid the corresponding class price for these products. In the first month under the new plan, such inventories that had been held over in the form of a fluid milk product or a bulk fluid cream product would be allocated to the extent possible to the handler's Class III utilization. Should such inventories be allocated to a higher class, the appropriate reclassification charge would apply.

Under the new plan, beginning inventories of fluid cream products in packaged form normally would be allocated directly to a handler's Class II utilization. Such allocation assumes that the products were priced at the Class II price in the preceding month. Since this would not be the case for the first month under the new amendments, such inventories should be allocated in the first month to the extent possible to Class III, as in the case of inventories of fluid milk products and bulk fluid cream products. A reclassification charge should apply if a higher classification results.

Under the remaining 32 orders, which now classify ending inventories of packaged fluid milk products in Class I, a pool credit should apply to such inventories in the first month that the revised classification plan is effective. Under the new plan, beginning inventories of fluid milk products and, for the first month, all fluid cream products would be allocated to the extent possible to Class III. Again, this allocation assumes that such inventories were priced at the lowest class price in the preceding month. Since such inventories in packaged form will have been priced at the preceding month's Class I price, handlers under these 11 orders should receive a credit on such packaged inventories equal to the difference between the preceding month's Class I price and lowest class price. If a higher classification results





through the allocation procedure, the appropriate reclassification charge would apply.

(e) *Classification of shrinkage, milk dumped and milk disposed of for animal feed.* Each of the orders should provide for generally uniform provisions for classifying skim milk and butterfat dumped, disposed of for animal feed, or in shrinkage.

In the case of shrinkage, the cooperative associations requested that no change be made in the present order provisions, except to classify shrinkage in Class III insofar as it is now classified in the lowest class of each order.

The shrinkage provisions adopted herein are basically similar to the shrinkage provisions now effective under 27 of the 32 orders. The classification of shrinkage in the lowest use class (subject to certain limitations), as now provided in all the orders, would be continued under the adopted three-class system. Modifications of shrinkage provisions in the individual orders are in the nature of certain refinements now applicable under several of the orders.

The amount of shrinkage that may be classified in the lowest class under the 32 orders is presently limited with respect to receipts of producer milk and certain interplant transfers. In 31 of the orders, 2 percent is the maximum shrinkage allowed in the lowest class in the case of such receipts. One and one-half percent is the rate usually applicable to bulk receipts of interplant transfers, but generally no limit applies in the case of receipts of other source milk requested for lowest class use. These allowances are adopted for each order in the new uniform provisions.

Also adopted is the commonly used method of prorating total plant shrinkage to (1) those kinds of receipts on which the shrinkage limitations apply, and (2) other receipts of fluid milk products in bulk form, such as milk from other order plants or unregulated supply plants for which a Class II or Class III classification is requested. To the extent that the quantity of shrinkage prorated to the first category exceeds the established limit, the excess would be classified in Class I.

The adopted provisions recognize that shrinkage normally experienced varies with the type of handling involved. More loss is usually experienced in plant processing than in merely receiving milk for delivery to another handler. Thus, with respect to delivery of milk by a cooperative association handler from farms to plants in tank trucks, a Class III shrinkage allowance of 0.5 percent of such milk is provided. Any excess shrinkage over 0.5 percent is classified as Class I milk.

The Class III shrinkage allowance to the processing plant receiving the milk from the cooperative would be 1.5 percent. This maintains a total of 2 percent Class III shinkage allowance for such milk from producers in the receiving and processing operations.

The provisions adopted herein are designed to carry out the appropriate division of shrinkage whether the plant operator purchases the milk at farm weights and tests or at plant weights and tests. The provisions allow the plant operator up to 2 percent shrinkage in Class III if he buys the milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples. In this case, there is no shrinkage allowance for the cooperative association delivering the milk.

As provided herein, when a plant operator disposes of bulk milk by transfer to another plant, his shrinkage allowance would be reduced at the rate of 1.5 percent of the quantity transferred. Such a reduction would not apply, however, in the case of cream or skim milk transferred from the pool plant. This recognizes the fact that a handler normally experiences more shrinkage when he runs milk through a separator than when the milk is merely received and then transferred in whole form.

In the case of milk diverted from a pool plant to another plant, a shrinkage allowance in Class III of 0.5 percent would be provided the diverting handler if the operator of the plant to which the milk is diverted purchases such milk on the basis of weights and tests determined at the plant. If the milk is purchased at farm weights and tests, no shrinkage allowance would apply for the diverting handler. This is the same procedure applicable to cooperative bulk tank deliveries to pool plants. Similar handling is involved.

This kind of division of the 2 percent shrinkage allowance, both in the case of transfers from cooperatives to plants and for transfers between plants, has been found practical and has been well accepted in the markets where it now applies. Such division of the shrinkage allowance, therefore, should be included also in the Cedar Rapids-Iowa City, North Central Iowa, Des Moines, Fort Smith, and Austin-Waco orders that now treat shrinkage in a somewhat different manner.

As has been indicated, the uniform shrinkage provisions adopted would allow for certain typical variations of individual handler operations. Thus, the provisions should be adaptable to methods of milk handling now in use in all 32 markets. Testimony on the record did not provide any basis for retaining the many minor differences in shrinkage provisions that exist among these orders. In view of these conditions, it is appropriate that the orders have basically uniform shrinkage provisions.

The single exception to the maximum 2 percent shrinkage allowance will be in the Neosho Valley order that now allows up to 5 percent shrinkage in the surplus class for skim milk during April, May, and June. Although the record does not indicate why a need exists for such a substantially different allowance in one market, no change should be made in the allowance until the matter can be explored further.

A proposal in the hearing notice by two trade associations of processors would amend the orders to allow shrinkage on milk solids used in fortifying fluid milk products. While such an allowance now applicable under the North Texas order would be continued in that market, a basis for adoption in the other orders was not developed on the record. It would be important to have, for the other markets, evidence of current plant practices with respect to use of nonfat solids used for fortification and the effect of accounting and recordkeeping procedures on quantities reported as loss. Such data were not presented and thus there is no substantial basis on which to broaden the use of such provision.

Milk or milk products dumped or disposed of for animal feed are minor categories of disposition. Both cases involve quantities of milk products that for one reason or another are not salable for human consumption. Such dispositions are likely to occur in normal plant operations. Route returns that may be nonsalable because of dating regulations often may not be reprocessed economically into other products. Additives such as flavoring or nondairy solids may make reprocessing impractical. Also, in the processing of certain products culturing processes may break down, thereby making the milk unusable for further processing.

The cooperatives proposed that there be no change in the present classification of dumpage and animal feed other than to include such uses in the lowest class in those orders specifically recognizing such dispositions. Several milk dealers and two trade associations of processors also proposed that dumpage and animal feed dispositions be classified in the lowest use class. They requested, however, that these provisions be included in the several orders not now containing such provisions.

In the three-class system adopted in this decision, dumpage and animal feed dispositions are classified in the lowest use class. This conforms to the classification plans in those orders that provide specifically for such dispositions. Existing provisions recognize that such dispositions provide little or no return to the handler.

There are differences among the orders as to the type of products for which the lowest classification is permitted when disposed of for animal feed or dumped. While some of the orders apply such classification to all skim milk and butterfat so disposed of, others limit the application to skim milk in fluid milk products, and several orders provide such classification for cottage cheese and cottage cheese curd dumped or disposed of for animal feed.

The products covered by the dumpage and animal feed provisions should be limited to fluid milk products, fluid cream products, eggnog, yogurt and similar filled products. Because of their relatively limited shelf life, it is these products that are commonly found in route returns and for which handlers realize little, if any, monetary value. Such provisions also would apply to skim milk being used in the manufacture of cottage cheese but which must be dumped because of a failure in the culturing process.



V 38-175 SEP 11 73 XUM

Dumping, unlike other dispositions, involves no sales records that could aid in verification of a handler's records. Thus, advance notice to the market administrator and opportunity for verification should be required. Also, in the case of animal feed disposition, a plant operator should maintain sufficient records to establish in every instance the quantities of skim milk and butterfat involved, and show a written receipt for every disposition.

The several changes herein adopted with respect to the classification of shrinkage, dumpage and animal feed disposition will have relatively minor effect on producer returns or on handlers' costs. The quantities of milk classified in these categories are normally a very small percentage of an individual handler's total utilization. The uniform provisions adopted are similar to existing provisions found practical from experience in the majority of markets here involved. The standardization of terminology in the provisions described should result in provisions more easily understood.

Whether there may be some merit in a more general revision of the provisions for classifying shrinkage, dumpage, and animal feed disposition than is set forth herein cannot be decided on this record. If more extensive changes are in any way desirable, such matters should be considered on the basis of a thorough exploration of the issue at another hearing.

A handler proposal for a single "loss" classification including shrinkage, animal feed, and dumped products is not adopted. The proposal was not explored by interested parties on the record as to how it would affect handler and producer equities. There is no substantial basis on which to judge its merit and the proposal therefore is denied.

(f) *Allocation of receipts to utilization.* In adopting a revised classification plan under each of the 32 orders, conforming changes must be made in the provisions that prescribe how a handler's receipts from different sources shall be allocated to his utilization for the purpose of classifying producer milk. Of the 32 orders, all but 7 provide for only two classes of utilization. Thus, changes in most of the orders are necessary to provide for the allocation of receipts to three classes of utilization rather than two classes. Also, all orders must be changed with respect to the allocation of beginning inventories, as previously described.

The adoption of three use classes requires a new consideration of how other source milk shall be allocated to a handler's utilization of milk. Under the present orders, other source milk is allocated in most cases to a handler's surplus uses to the extent possible, regardless of how it actually may have been used. The producers who are relied upon for a regular supply of milk for the local fluid market thus receive the highest possible classification of their milk. Depending on the supply conditions, milk from unregulated supply plants and other Federal order plants is permitted to share in varying degrees with local producer milk in the higher value of the handler's Class I sales.

In conjunction with the revised classification plan, however, handlers using certain types of other source milk (whether in the form received or in reconstituted form) in the processing of Class II products should be permitted to have such other source milk allocated directly to their Class II uses. Under the plan adopted herein, such other source milk to which direct allocation could apply would be limited to milk products (such as nonfat dry milk and condensed milk or skim milk) that are not fluid milk products or fluid cream products.

The national associations of fluid milk and ice cream processors proposed that if a three-class system is adopted handlers should have the option of having other source milk allocated to their Class II utilization rather than allocated to the extent possible to the lowest class. It was their position that the Class II price for producer milk should not be set at a level that is any higher than the cost to handlers of obtaining alternative supplies of milk or milk products for Class II use. These groups contended that with such pricing there is no justification for "down-allocating" to Class III any receipts of other source milk which actually may have been used in Class II.

Handlers indicated further that with optional allocation a handler could choose to use other source milk without the cost impact of down-allocation should the cost of such milk become less than the cost of producer milk for Class II use. Also, these groups stated that down-allocation of other source milk would imply an intent to provide undue protection of the Class II market for producers. They maintained that such protection is not justified, or apparently intended by producers in view of no producer proposal for a compensatory payment on other source milk used in Class II.

Cooperative associations, on the other hand, urged in connection with their proposal for three classes that producers have first claim on a handler's Class II use as well as on his Class I use.

In establishing a new intermediate price class, it is not intended that this outlet for producer milk necessarily be reserved for local producers. This new use class merely recognizes that some additional value attaches to producer milk used by regulated handlers in the Class II products. Pricing this milk at a level above the Class III price serves also to reduce the burden on the Class I price of attracting a supply of producer milk for the Class I market. It is not intended that producer returns be enhanced for the purpose of also attracting a full supply of producer milk for handlers' Class II uses. Accordingly, no obligation to the pool (commonly known as a compensatory payment) would be imposed under the revised classification plan on any other source milk which regulated handlers may use in Class II or on any Class II products that may be distributed in the market by nonpool plants, either directly on routes or through pool plants.

As long as the Class II price for producer milk remains in proper relationship with the cost of alternative supplies, it is not expected that this direct allocation of nonfluid other source milk to Class II will induce handlers to use other source milk in preference to producer milk to any greater extent than presently for processing Class II products. Under the adopted Class II price, producers would represent in most circumstances the most economical source of milk for Class II use.

No provision should be made for the direct allocation to a handler's Class II utilization of other source milk received in fluid form. Unlike the handling of nonfat dry milk, it would not be unusual for a handler to commingle in his plant any receipts of fluid other source milk with his receipts of producer milk. In this circumstance, it would not be possible to know just how much of the other source milk may have been used in the processing of a Class II product. The difficulty which a handler would have in demonstrating that he actually used fluid other source milk in a Class II product, and the administrative difficulty in verifying such claimed use, warrants the allocation of such milk in essentially the same manner as now provided by the orders.

In this connection, it should be noted that under the revised classification plan each order would provide for the specific allocation to a handler's Class II and Class III utilization of any receipts of bulk fluid milk products from an other order plant or an unregulated supply plant for which the handler requests a Class II or Class III classification. Such receipts would be allocated to the extent possible first to the handler's Class III utilization and then to his Class II utilization. This would be the case even if a Class II classification were requested by the handler.

An additional proposal concerning the "down-allocation" of other source milk was offered at the hearing by a handler operating distributing plants in several of the markets under consideration. The company's spokesman indicated that in one market the milk supply being furnished to it by the local producer cooperative was withheld by the cooperative in a particular month when the company refused to enter into a "full-supply" contract. The spokesman claimed that because the cooperative controlled about 85 percent of the producer milk on the market, the company was forced to acquire a supply of milk for the remainder of the month from another market. The spokesman indicated that although having purchased the outside milk for Class I use some of the milk was down-allocated to the plant's lowest utilization. This was because of the order provisions that now result in local producers receiving in large part first priority on a handler's Class I utilization. The handler proposed that if local producers refuse to supply a pool plant with sufficient milk for its Class I needs during the month, any supplies acquired from outside the market for Class I use not be





down-allocated relative to receipts of producer milk.

The proposal should not be adopted. Any order provision intended to accommodate a handler in this one particular circumstance would be difficult to administer in an equitable manner. Handlers are not required by an order to purchase milk from any particular source. Similarly, producers are not required to supply any particular handler. In negotiating for the purchase or sale of milk, either party may find the proposed terms unsatisfactory and thus may decide not to consummate the transaction. It would be difficult, if not impossible, for a market administrator to determine, however, which party actually decided not to enter into a purchase-sales agreement. Should a handler be able to acquire outside milk at a lesser cost than would be applicable to local producer milk, such handler would have an incentive to claim that local producers refused to supply him with milk when, in fact, this was not the case.

Such administrative difficulties could be overcome, of course, through the adoption of provisions that do not down-allocate receipts of outside milk from selected sources, or from any source, for Class I use. This would be a major departure, however, from the allocation procedure now used under the present orders. This procedure, which was based on comprehensive hearings for all Federal order markets, resulted from the "compensatory payment" decisions concerning the integration of other source milk into the regulatory plan of an order.[1] Such a change would be much broader in scope than was contemplated under the handler's proposal described above and should not be adopted.

In keeping with the goal of classifying milk uniformly under the 32 orders, certain changes should be made in the orders to effect a uniform application of the allocation provisions to multiple-plant handlers. Presently, the 32 orders differ as to how the allocation procedure shall be carried out for handlers who operate two or more pool plants regulated under the same order.

Each order should provide that for purposes of allocating a multiple-plant handler's receipts to his utilization, the operations at each of his pool plants shall be considered separately. As is the case now, however, those receipts of other source milk from unregulated supply plants and other Federal order plants eligible to share with producer milk in a handler's Class I utilization should be allocated on the basis of the handler's total plant system.

This application of the allocation provisions to a multiple-plant handler is now used under six of the 32 orders. Two other orders require that allocation be on an individual-plant basis unless there are receipts of other source milk at any one of the handler's pool plants to be allocated pro rata with producer milk to the plant's Class I utilization. In this case, all allocations of the handler's receipts to utilization are done on the basis of the handler's total system. The remaining orders provide that allocation be on a system basis in all cases.

Conditions in the individual markets do not require continuance of the several allocation methods now provided in the orders under consideration. Handlers are often subject at different times to the regulatory provisions of different orders. Applying the allocation provisions uniformly among all orders will reduce unnecessary regulatory differences being experienced by these handlers. There would be little, if any, change in a handler's total obligation under the order, or in producer returns, from applying the adopted allocation procedure in those orders not now providing for allocation on an individual-plant basis.

All the orders now provide that certain receipts of milk from unregulated supply plants and other Federal order plants shall share in varying degrees with local producer milk in the receiving handler's Class I utilization at all of his pool plants combined. This procedure, which resulted from the 1964 "compensatory payment" decisions referred to earlier, should be continued. To implement this procedure in those orders being changed from system allocation to individual-plant allocation, several additional allocation steps must be provided in such orders. These involve essentially the same computations now required under the orders for the North Texas, Central West Texas, Lubbock-Plainview, Rio Grande Valley, Northern Louisiana, and Des Moines markets where individual-plant allocation is used. Such provisions are revised, however, to incorporate three classes of utilization rather than two classes.

The additional allocation steps establish a procedure whereby the milk from unregulated supply plants and other order plants will continue to be classified on the basis of the handler's total system, but will be assigned to classes at the pool plant of actual receipt. Under this procedure, the situation may arise where there is not enough utilization in a specific class at the plant of actual receipt to which such other source milk must be assigned (as determined from receipts and utilization of his entire system). In this case, an accounting technique is used for increasing the utilization in such class at the plant of actual receipt and making a corresponding reduction in the same class at one or more of his other pool plants in his system. This technique does not result, however, in changing the amount of milk to be accounted for at each plant, or the classification of milk within the handler's entire system.

(g) *Obligations relative to other source milk.* Each of the orders under consideration that provide for market-wide pooling should be revised to the extent necessary to remove the possibility of a handler being charged under the order at the Class I price for milk that already has been classified and priced as Class I milk under some Federal order. Certain of these orders already have been revised to remove any "double charge" on Class I milk. The order language previously adopted for this purpose should be made uniform, however, and should be included in the remaining orders not now containing such provisions.

No changes in this respect are necessary under the Memphis, Fort Smith, Austin-Waco, and North Central Iowa orders. These orders employ individual-handler pooling and do not provide for any handler obligation on other source milk.

A "double charge" on Class I milk received at a pool plant from an unregulated nonpool plant could result in the following manner. Producer milk could be transferred in bulk from a pool plant under the Wichita order, for example, to an unregulated nonpool plant and be assigned to the nonpool plant's Class I utilization. In determining his pool obligation, the pool plant operator would be charged for this Class I utilization of milk at the Class I price. During the same month, bulk milk could be transferred from the nonpool plant to a pool plant under the Kansas City order and be allocated to such pool plant's Class I utilization. In this case, the operator of the pool plant would be charged under the Kansas City order the difference between the order's Class I price and weighted average price for this receipt of "other source" Class I milk. Thus, to the extent of the Class I milk that was moved to the nonpool plant from the Wichita market as Class I milk, the Class I other source milk received at the Kansas City pool plant from the nonpool plant is, in effect, priced twice as Class I milk under the Federal order system.

More and more, plants are tending to specialize in the processing of certain products, or in the packaging of products in particular types of containers. It is not uncommon for milk to be transferred from a pool plant to an unregulated nonpool plant for special processing and the finished products to be moved back into the regulated market. When the milk is initially priced at the Class I price, the market price structure is in no way undermined if this milk, or its equivalent, is disposed of by the nonpool plant in the regulated market.

The orders therefore should provide that the operator of the Kansas City plant, in this example, will have no obligation to the pool on such other source Class I milk. This is achieved through a revision of the allocation provisions and the procedure for computing the pool obligation of a pool plant operator. Receipts of packaged fluid milk products at a pool plant from an unregulated supply plant would be allocated to the pool plant's Class I utilization to the extent that an equivalent amount of skim milk or butterfat disposed of to the unregulated plant by handlers fully regulated under any Federal order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order. This allocation would be made prior to any other alloca-

[1] Official notice is taken of the Assistant Secretary's decisions issued on June 19, 1964 (29 FR 9002, 9110, and 9213) with respect to all milk orders then in effect.



V 38 I 175 SEP 11 73 XUM

tion of receipts to the plant's Class I utilization, and no order obligation would apply to the milk so allocated to Class I. In the case of fluid milk products received from an unregulated supply plant in bulk form, the provisions setting forth a handler's pool obligation would specify that no payment would apply to any of such milk allocated to Class I if, as just described for packaged milk, an equivalent amount of milk received at the unregulated plant had been priced as Class I milk under some order.

In this same connection, the provisions prescribing the obligation of a partially regulated distributing plant should be changed in each marketwide pool order. When such plant's obligation is computed as though it were a pool plant, proper recognition must be given to any transfers from the plant to a regulated plant that are considered to already have been priced as Class I milk under some Federal order. Also, in computing such plant's pool obligation on route sales in a Federal order marketing area, recognition should be given to any receipt of milk at such plant from another unregulated plant if an equivalent amount of milk received at the latter plant already has been priced as Class I milk under an order.

Each order now imposes a handler assessment for administering the order on all other source Class I milk except that received in fluid form from an other order plant. This may include milk that already has been priced as Class I milk under some Federal order as described above. With the removal of a "double" Class I charge on such milk, each order should be changed to likewise remove any assessment on such milk for administrative expenses. It is presumed that such milk was subject to a similar charge under the order that initially priced the milk.

The marketwide pool orders should be changed also with respect to the application of location adjustments to other source Class I milk. As just described, each of the orders provides that a pool plant operator's obligation to the producer-settlement fund shall include a payment for fluid milk products received from an unregulated supply plant if they are allocated to Class I. The handler's payment is determined by charging him at the Class I price for the Class I other source milk and giving him a credit on the milk at the weighted average price (or uniform price in the case of those orders that do not provide for any type of seasonal production incentive plan). Both the Class I and weighted average prices are adjusted for the location of the unregulated supply plant. The adjustment of the weighted average price, though, is so limited as to be not less than the lowest class price. No such limitation is applied currently under most of the 32 orders to the Class I price adjustment.

Providing that any adjusted Class I price applicable to other source milk be not less than the Class III price is appropriate under each order. Otherwise, under certain conditions a handler could receive payment from the producer-settlement fund on Class I milk obtained from an unregulated supply plant. Such payment could result when the location differential for the distant plant is greater than the difference between the Class I and Class III prices. In this circumstance, producers under the order, in effect, would be providing the handler with a credit that reduces his cost for the distant milk below its value for manufacturing use at the point of purchase. From the standpoint of marketing efficiency, the handler should not be provided an incentive, which would be at the expense of local producers, to import such distant milk into the local market.

A similar situation now exists with respect to the obligation of the operator of a partially regulated distributing plant or an other order plant. In certain cases, the handler's obligation includes a payment to the producer-settlement fund at the difference between the Class I price applicable at his plant and either the weighted average price or the Class III price. For the same reasons, each order should provide, in computing the obligation of such a handler also, that the Class I price, as adjusted for location, shall not be less than the Class III price.

(h) *Reports.* The proposed changes in the classification of milk are not expected to require any major change in the amount of information to be submitted by handlers in their monthly reports of receipts and utilization. The reporting provisions of each order must be changed, however, to reflect the new categories of information that each market administrator will need in administering an order. These changes stem largely from the proposed reclassification of cream and the revised accounting methods necessary for implementing a three-class classification scheme.

In revising the reporting provisions of each order, such provisions should be made uniform to the extent possible. Essentially the same information is now required to be reported under each order, basically for the purposes of determining the classification of the milk and its classified value. There is considerable variation among these orders, however, in the manner in which the provisions on reports are expressed.

As proposed herein, the reporting provisions would be stated in some orders in slightly less detail than is now the case. The market administrator would have, nevertheless, no less authority than at present to obtain through handler reports, in the detail and on forms prescribed by the market administrator, any information the latter believes is necessary for administration of the order.

5. *Changing the butterfat differentials.* A single butterfat differential should apply under each order for adjusting prices to the actual butterfat content of the milk being priced. This differential should be the Chicago butter price multiplied by 0.115, rounded to the nearest one-tenth cent.

All 32 orders provide butterfat differentials for adjusting class prices and uniform prices for butterfat content. With two exceptions, each order bases the class butterfat differentials on the Chicago butter price, which would be continued under the revised orders. The Chicago butter price is the simple average of the wholesale selling prices (using the midpoint of any price range as one price) per pound of Grade A (92-score) bulk butter at Chicago as reported for the month by the U.S. Department of Agriculture. Under the Minneapolis-St. Paul and Southeastern Minnesota-Northern Iowa orders, the Class II butterfat differential is based on the price of Grade AA (93-score) butter at New York City.

The handler butterfat differentials for each class are now computed by multiplying the butter price by a specified factor. In the case of the Class I butterfat differential, the factor is 0.120 under 19 orders and 0.125 under 11 orders. One order uses a factor of 0.130 and another a factor of 0.135.

The factor most commonly used in computing the butterfat differentials applicable to the surplus prices is 0.115, as prescribed by 18 orders. Eight orders use 0.110, while the factors 0.120 and 0.108 are used under two other orders. Four orders use a factor of 0.110 during the heavy production months and 0.115 during the remainder of the year.

The butterfat differential used in adjusting the uniform price to producers under 22 of the orders is the average of the butterfat differentials for each class, weighted by the proportion of producer milk in each class. Under six other orders, the butterfat differential to producers is determined by multiplying the Chicago butter price by 0.120. Two other orders use a factor of 0.110 under a similar computation, while another provides that this differential be computed by adding 4 cents to the Chicago butter price and multiplying the sum by 0.1. Under the Memphis order, the producer butterfat differential is determined from a fixed schedule of rates in the order which are related to the Chicago butter price, i.e., for each 5-cent change in the butter price, the butterfat differential changes one-half cent per point of butterfat.

Cooperative associations proposed that all class prices and uniform prices be subject to adjustment by a single butterfat differential based on the Chicago butter price times a factor of 0.115. One handler proposed that the Class II and Class III butterfat differentials be based on the Chicago butter price times 0.110. Handlers in general opposed any change in the present Class I butterfat differentials.

Lowering the Class I butterfat differential factor to 0.115 will accommodate producers' request for a readjustment of the values of skim milk and butterfat in Class I milk at a time of declining use of butterfat in fluid milk products. In 1960, the average butterfat test of fluid milk products (including cream items) in 63 Federal order markets was 3.76 percent. In 1970, the average butterfat test for such products in 58 markets was 3.26 percent.

Comparable data for the 32 subject markets as they are presently constituted are not available. On the basis of information available for much of the area now regulated by these orders, however, there is every indication that the use of butterfat in Class I in these markets is following the national trend.[6]

The impact of this change on a handler's average cost of producer butterfat for Class I use is dependent, of course, upon the average butterfat test of his Class I products and the butterfat differential now applicable to him. Thus, handlers in the 32 markets will be affected differently from lowering the Class I butterfat differential. An analysis of 1970 data for 30 of the 32 markets will serve to illustrate the general change in handlers' costs under the revised classification plan. Data for the Ft. Smith and Austin-Waco markets are not available.

It is estimated that in 18 of the 19 markets now using a Class I butterfat differential factor of 0.120 the average butterfat test of Class I products distributed by handers (excluding cream and lowfat items) would have ranged in 1970 from 3.55 percent to 2.53 percent. Using the average test for these markets of 2.98 percent, the Class I price at test would have been increased 1.8 cents per hundredweight. For 10 of the 11 markets now using a Class I butterfat differential factor of 0.125, the average test of Class I milk would have ranged from 3.25 percent to 2.81 percent. Based on an average test of 3.01 percent, using a factor of 0.115 in these markets would have increased the Class I price at test by 3.4 cents. The price increases would have been slightly greater in the Duluth-Superior and Central Arizona markets, where factors of 0.130 and 0.135, respectively, are used. Based on estimated Class I butterfat tests of 2.73 percent and 3.10 percent, the Class I price at test would have been increased 8.0 cents per hundredweight in the Duluth-Superior market and 5.6 cents in the Central Arizona market.

Handlers opposed any change in the Class I butterfat differentials on the basis that the relationship of skim milk and butterfat values had already been altered by a change on April 1, 1971, in the purchase prices for dairy products under the Department's price support program. They pointed out that this change, as reflected in order prices, increased handlers' cost of skim milk about 10 cents per hundredweight. Handlers argued that in view of this any further increase in the value of skim milk should be delayed until there has been an opportunity to observe the market response to the effects of the price support change.

There is no evidence to suggest that Class I sales of skim milk and lowfat products were affected adversely by the price support action. Data for 58 Federal order markets indicate that average daily sales of these products in 1971 increased 2.1 million pounds over such sales in 1970. Monthly data show no drop in sales following the support price change in the early part of 1971. Adopting a lower Class I butterfat differential at this time gives recognition to the lower market value now associated with butterfat in Class I products.

Using a single factor of 0.115 for computing Class II and Class III butterfat differentials will result in a uniform adjustment of class prices for butterfat content among the markets under consideration. Continuation of the several butterfat differential factors now in use would offset to some extent the benefits to be gained through the adoption of a uniform classification plan.

A handler proposed that the butterfat differential factor for adjusting surplus prices be 0.110 rather than 0.115 as proposed by cooperatives. Proponent indicated that in disposing of surplus cream handlers usually are not able to recover their cost of such cream under the order. A Class II-Class III butterfat differential factor of 0.110, it was argued, would provide handlers with some price relief in this circumstance.

The record does not indicate that the adoption of 0.115 as the butterfat differential factor for pricing surplus milk will hinder the removal of surplus butterfat from the fluid market. Of the 32 orders, 22 now use a factor of 0.115, and one uses a factor of 0.120, for pricing surplus milk. The handler proposing the 0.110 factor was the only opponent of the 0.115 factor proposed by cooperatives. The great majority of residual butterfat is disposed of by the cooperatives rather than handlers. It must be concluded that the adoption of the handler's proposal under present marketing conditions would return to producers in most cases less than the obtainable market value for butterfat not needed for Class I purposes.

As indicated, the butterfat differential to producers under 22 of the 32 orders reflects the weighted value of butterfat in the class uses. Inasmuch as producers favor this method of reflecting skim milk and butterfat values in their pay prices, this pricing arrangement should be extended to the other 10 orders. Since the same butterfat differential would be used in adjusting each of the class prices, there is no actual need, of course, for any provision in the order for weighting the values of butterfat in the three classes in determining the producer butterfat differential.

With the use of a single butterfat differential for adjusting all prices under the order, it is necessary that each order provide only for a producer butterfat differential. No handler butterfat differentials need be set forth as such in the order, nor is there any need for pooling butterfat values in each class. All producer differential butterfat would be priced to all handlers at the same level regardless of the class in which used. The proposed revised orders attached hereto have been drafted accordingly.

Under the new pricing arrangement, the single butterfat differential for the current month should be based upon butter prices for such month and should be announced by the fifth day of the following month. This represents a change only for the pricing of Class I milk. The Class I butterfat differentials are now based on butter prices prevailing during the preceding month and are announced by the fifth day of the current month. With the use of a single butterfat differential factor in adjusting all milk prices, as adopted herein, there appears to be no need for announcing more than one butterfat differential, or for doing so before the end of the month in which it applies. The average butter price changes very little from month to month, and changes that do occur result in relatively limited changes in the butterfat differential. Each change in the price of butter is readily seen by following the daily quotations for butter. In the absence of regulation, such information would be the best available for determining trends in butter prices and should be adequate for this purpose under regulation.

It is recognized that the basic formula price of these orders is determined by adjusting the average Minnesota-Wisconsin price at test to a 3.5 percent butterfat basis by using a factor of 0.120 times the average Chicago butter price. The appropriateness of such factor for this purpose was not considered at the hearing and no consideration is given in this decision to changing this factor for such purpose. Moreover, since this method of determining the basic formula price is now used under all Federal milk orders throughout the country, it would appear that any change in this butterfat differential factor should be considered simultaneously for all orders.

6. *Advance announcement of prices for surplus milk.* The proposal by handlers to announce order prices for surplus milk at the beginning of the month rather than at the end of the month during which the prices apply should not be adopted.

Under the present orders, the prices for surplus milk are announced by the fifth day of each month. Such prices apply to producer milk delivered to handlers during the preceding month.

The national associations of fluid milk and ice cream processors proposed that the class prices to be applicable in a particular month to surplus milk be announced by the fifth day of such month. Handlers stated that under the present announcement procedure they are often disadvantaged by not knowing the costs of producer milk for manufacturing use until after the end of the month in which the milk is processed. They claimed that when there is a significant increase in the order price, the delayed notice of the increase prevents them from making corresponding adjustments in their resale prices on a timely basis. Proponents' interest in advance pricing related essentially to the prices that would be applicable to cottage cheese, cream products, yogurt, and frozen desserts, the principal Class II products processed by such handlers.

For the regulated handler processing producer milk into butter, nonfat dry milk and cheddar cheese, however, advance announcement of the applicable class price could place him at a competitive disadvantage on his sales of these

[6] Official notice is taken of the annual summaries for 1960 through 1971 of Federal Milk Order Market Statistics which were issued by the Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C.







V 38-175 SEP 11 73 XUM

manufactured products. As indicated earlier, the surplus prices under the revised classification plan generally would be based on the prices paid for manufacturing grade milk in Minnesota and Wisconsin. These prices are closely related to the market values of cheddar cheese, nonfat dry milk and butter, the principal uses for such milk in the month of delivery of the raw milk. These product prices are established on a regular basis in a market that is national in scope. The manufacturers of ungraded milk are fully aware of the movements of these product prices, which are published weekly, and can adjust their pay prices for milk in response to changes in the prices for the finished products. Regulated handlers who are processing these particular products must compete in the same national market in which the processors of manufacturing grade milk are competing and the same product price information is available to them.

In most of the markets under consideration, substantial quantities of milk are disposed of by regulated handlers in the form of butter, nonfat dry milk or cheese. In 1970 over 1 billion pounds of milk, or 88 percent of the market's total Class II use, were so disposed of by handlers in the Minneapolis-St. Paul market. In the Minnesota-North Dakota, Southeastern Minnesota-Northern Iowa, Duluth-Superior, Cedar Rapids-Iowa City, Eastern South Dakota, Oklahoma Metropolitan, and North Central Iowa markets, over 80 percent of each market's total Class II milk was used that year in manufacturing these products. Although lesser quantities of milk were used in such products in the other markets, only in four markets (Memphis, Fort Smith, Central West Texas, and Rio Grande Valley) did such uses represent less than 20 percent of the total Class II use for each market. Thus, handlers in most of the 32 markets have a very definite interest in the relationship of the applicable class price with prices being paid currently for manufacturing grade milk. Accordingly, the prices paid by regulated handlers for Class III milk should correspond very closely with the pay prices during the month of delivery for manufacturing grade milk if these handlers are to be competitive in the sale of the principal surplus products.

The same considerations are involved in the case of an advance announcement of prices for milk used in the proposed Class II products. The influence of the manufacturing milk price level on the competitive relationship of producer milk for Class II uses is similar to that for producer milk used in the proposed Class III products. Therefore, the prices for Class II milk should be announced on the same basis as the price for Class III milk.

In connection with the announcement of surplus prices, a comment should be made concerning the transition from the present pricing provisions to the new ones adopted herein. It is intended that the present surplus prices apply to producer milk delivered to handlers during the last month under the present classification and pricing scheme. Clarification of this point is pertinent since such prices would be announced following the effective date of the new pricing provisions.

7. *Treatment of filled milk under the Minneapolis-St. Paul and Southeastern Minnesota-Northern Iowa orders.* The Minneapolis-St. Paul and Southeastern Minnesota-Northern Iowa orders should be changed to provide that the skim milk ingredient of "filled milk" shall be classified and priced as Class I milk.

The provisions provided herein are substantially those which were proposed for consideration at the hearing by a cooperative association operating in these markets.

In 1968, proposals to classify and price the skim milk component of filled milk were considered for most orders at a hearing held in Memphis, Tennessee. The decision resulting from the hearing classified the skim milk component of filled milk in the same way as the skim milk component of natural milk. It provided a means of equating the cost of skim milk in filled milk if it originates from sources other than producer milk with the cost if derived from producer milk.

At the time of the 1968 hearing, the Southeastern Minnesota-Northern Iowa order had not been issued, and the Minneapolis-St. Paul order could not be amended in this respect because of a marketing area expansion to which the filled milk hearing did not apply. As a result, these orders do not contain the uniform provisions dealing with filled milk provided in all other Federal milk orders.

Filled milk is a combination of skim milk and vegetable fat or oil in about the same proportions as the skim milk and milk fat in whole milk. Well over 90 percent of the product is skim milk. In most filled milk, the skim milk portion is fresh fluid skim milk separated from whole milk. Some filled milk contains reconstituted fluid skim milk prepared from a concentrated product such as nonfat dry milk. Whether made from vegetable fat and fresh or reconstituted skim milk or any combination of the two, filled milk resembles whole milk in appearance.

Regulated handlers disposing of filled milk make a substantial savings in cost by substituting vegetable fat or oil for butterfat. This is the main incentive for the marketing of filled milk. While the difference in cost between vegetable fat and butterfat is not an issue at this hearing, it is relevant to the extent that it explains the profit motivation for marketing the product relative to the marketing of natural milk.

At the present time, no filled milk is distributed in the Minneapolis-St. Paul and Southeastern Minnesota-Northern Iowa marketing areas. In those regulated markets where filled milk is distributed, it moves in the same channels as whole milk. It is distributed by the same handlers in the course of their regular business through the same outlets for natural milk and in the same types of containers.

Filled milk, if disposed of in either the Minneapolis-St. Paul or the Southeastern Minnesota-Northern Iowa marketing area, would directly burden, obstruct, or affect interstate commerce in milk and milk products. It previously has been determined (at the time of the promulgation of each of these orders) that all milk marketed in each marketing area is in the current of interstate commerce or directly burdens, obstructs, or affects interstate commerce in milk and milk products.

Filled milk is in content substantially a product of milk and competes for the same sales outlets as milk. It follows, therefore, that the marketing of the milk ingredients in filled milk in either of the two markets would burden, obstruct, or affect interstate commerce in milk and milk products. This would be equally true whether the marketing of filled milk were by a fully regulated plant or by a plant not fully regulated because both would compete for similar outlets in the market.

Also, manufactured milk products are sometimes used in the production of filled milk. Manufactured milk products move in interstate commerce and compete in the national market, regardless of where the milk is produced. Therefore, manufactured milk products, if used in the production of filled milk for disposition in either the Minneapolis-St. Paul or Southeastern Minnesota-Northern Iowa market, likewise would burden, obstruct, or affect interstate commerce in milk and its products.

The classification of the dairy ingredients of filled milk is a proper consideration derived from the Agricultural Marketing Agreement Act. As stated in the decision resulting from the filled milk hearing in Memphis, Tenn., the

> Specific language of the Act with respect to classification is that each order shall contain terms "* * * classifying milk in accordance with the form in which or the purpose for which it is used * * *". In applying the language of the Act we here consider the form and purpose of use for both filled milk and the milk ingredient content of the filled milk.
>
> The form of filled milk and the purpose for which it is used are the same as the form and purpose of use of whole milk. Filled milk, just as whole milk, is disposed of in fluid form. It is marketed by handlers in the same types of packages and in the same trade channels as the whole milk they market, and is mainly intended as a beverage substitute for milk.
>
> Similarly, the fluid skim milk content of the filled milk is in the same form as skim milk in whole milk and serves the same purpose, providing in each case the main body of the product thereby making it a milk beverage. The addition of the nonmilk ingredients, principally vegetable fat or oil and stabilizers, does not alter the basis for Class I classification. The addition of nonmilk ingredients in fluid milk products is not a new development. The addition of vegetable fat does not involve an essentially different consideration from that for other Class I fluid milk products to which a flavoring ingredient, such as chocolate (which also contains nonmilk fat) has been added.
>
> For purpose of illustration, a product within the "fluid milk product" category containing a nonmilk additive is chocolate milk. The additive is not considered as





changing the form of this product so that it is no longer a fluid milk product. For the purposes of classification, the flavoring material has never been regarded as significant in determining the form of the product or as a basis for altering its classification.

The same reasoning applies in the case of filled milk—that the additives do not change significantly the form or the purpose of use and therefore do not constitute a basis for classification other than in Class I.

The product "filled milk" therefore should be classified, for the purpose of pricing under the orders, in the same manner as whole milk. As in the case of other fluid milk products containing some nonmilk ingredients, the classification would apply only to the milk ingredients in the product.

No opposition to the filled milk proposal was expressed at the hearing or in briefs submitted by interested parties.

Based on the testimony of proponent, which related specifically to the Minneapolis-St. Paul and Southeastern Minnesota-Northern Iowa orders, it is found that the above findings from the Memphis decision are equally applicable to this proceeding. Accordingly, they serve as the basis for concluding that the milk ingredients of filled milk should be classified and priced under the two orders as Class I milk.

Proponent testified also that filled milk may be made by combining reconstituted skim milk with vegetable fat and other minor ingredients. Reconstituted skim milk commonly is made from nonfat dry milk to which water is added to return it essentially to a form and consistency similar to fresh skim milk. Its potential as a disruptive influence on the market for producer milk is substantial, however, since the disposition of any Class I product that has been priced at the surplus price level undermines the classified pricing system.

As was found in the filled milk decision referred to earlier, filled milk made from reconstituted skim milk is, from a marketing standpoint, essentially similar to filled milk made from fresh skim milk. It is a competitor of whole milk at the consumer level. Therefore, reconstituted skim milk in filled milk, as in other fluid milk products, should be classified and priced on the same basis as all other fluid milk products to achieve uniformity in the pricing of milk for similar uses.

Federal milk orders, including the Minneapolis-St. Paul and Southeastern Minnesota-Northern Iowa orders, have contained for some time specific provisions dealing with the disposition by a regulated handler of other fluid milk products reconstituted from nonfluid milk products. The issue of proper classification and charge for such use of nonfluid milk products to produce products for Class I disposition was dealt with for most orders in the compensatory payment decisions referred to earlier in this decision. The findings and conclusions that relate to the reconstitution of milk appeared at 29 FR 9010. The regulatory treatment of reconstituted products that is described in the compensatory payment decisions and reiterated in the later filled milk decision is appropriately applicable to any reconstituted skim milk used in filled milk that may be disposed of in the Minneapolis-St. Paul and Southeastern Minnesota-Northern Iowa marketing areas.

It should be noted that these two orders now provide that a producer-handler would lose his status as such and become a fully regulated handler if he disposes of fluid milk products made from reconstituted skim milk. Since the fluid milk products definition would include filled milk under the amendments adopted herein, loss of producer-handler status would result also from the sale of reconstituted filled milk.

A definition of filled milk should be provided in the two orders to meet the specific needs of order regulation, and for such purpose only. This definition, which would be identical to the filled milk definition in all other orders, should be as follows:

> "Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

The term "filled milk" is not intended to include skim milk marketed in a form or for a purpose specifically excluded from the fluid milk product definition of either order. For example, evaporated milk is a use of skim milk and butterfat not treated as a fluid milk product in either order. If a product containing skim milk and any amount of vegetable fat were marketed in the same form and manner as evaporated milk, it would be excluded from the term "filled milk".

The regulatory treatment of filled milk adopted herein requires numerous conforming changes throughout the order. Accordingly, all the conforming changes found necessary on the basis of the Memphis hearing to implement the filled milk amendments are incorporated herein wherever applicable.

8. *A uniform "equivalent price" provision.* Each of the 32 orders included in this proceeding should be amended to the extent necessary to provide identical language for determining an equivalent price, or price constituent, when a price or price constituent is not available as prescribed by the order.

At present, all of the 32 orders except the Minnesota-North Dakota order provide for computing an equivalent price as needed. Such provisions are not identical, however, among the orders. A Dairy Division proposal for a uniform equivalent price provision under each order was supported by a witness for the National Milk Producers Federation.

An equivalent price provision is necessary in each of the orders to provide a price, or price constituent, in cases where published prices, indexes, quotations or other pricing constituents as prescribed by the order are not available. It insures that basic formula prices, class prices and butterfat differentials can be computed, as prescribed, in emergency situations without interruption.

All the orders now rely on butter price quotations for computing butterfat differentials. All rely on the Minnesota-Wisconsin price series for computing the basic formula price and Class I prices. As proposed herein, this price series would be used also in establishing Class II and Class III prices under each order.

Under unusual circumstances, these published prices and price constituents might not be available for use in computing order prices. If there were insufficient trading during the month in butter, for example, or if the specific butter price quotations were discontinued, the prescribed butterfat differentials could not be computed without an equivalent price provision. By providing for the determination of an equivalent price as needed, the Department is in a position to draw on comprehensive resource data to assure that the computation of the basic formula price, the class prices, or the butterfat differentials is not interrupted by the contingencies cited.

For these reasons, it is concluded that the Minnesota-North Dakota order should provide for the determination of an equivalent price in the same manner as the other orders included in this proceeding.

In providing for a determination of equivalent price, the same objective is sought for each order. It is appropriate, therefore, to provide for identical provisions in each order. Then, if a determination had to be made for more than one order simultaneously, there would be no question as to the applicability of the determination to each order.

Accordingly, the equivalent price provision in each order should be stated as follows:

> If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

A corollary change should be made in the Class I price provisions of the Neosho Valley order. This order provides that the Class I price shall be based in part on the Class I price "under Part 1067 of this chapter regulating the handling of milk in the Ozarks marketing area." At the time the Ozarks order was merged with the St. Louis order, a determination of equivalent price was issued for the Neosho Valley order (33 F.R. 15107) which stated in part that:

> For the purpose of computing the Neosho Valley Class I price, the Class I price announced for Zone 1 under the St. Louis-Ozarks milk order (Part 1062) will be equivalent to the price specified in § 1071.51(a)(2) of the Neosho Valley order and should be used in lieu thereof in computation of the Class I price of the Neosho Valley order until such time as the Neosho Valley order may be amended.

This determination of equivalent price, which was issued in October 1968, is still in effect. This proceeding affords an opportunity to amend the Neosho Valley order as prescribed in the determination. Thus, the order language quoted earlier should be revised to read "under Part



V 38-175 SEP 11 73 XUM

1062 of this chapter regulating the handling of milk in the St. Louis-Ozarks marketing area."

RULINGS ON PROPOSED FINDINGS AND CONCLUSIONS

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

GENERAL FINDINGS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

The following findings are hereby made with respect to each of the aforesaid tentative marketing agreements and orders:

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

RECOMMENDED MARKETING AGREEMENT AND ORDER AMENDING THE ORDER

The recommended marketing agreements are not included in this decision because the regulatory provisions thereof would be the same as those contained in the orders, as hereby proposed to be amended. The following order amending the orders, as amended, regulating the handling of milk in the aforesaid marketing areas is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. It is the same as the order amending the orders set forth in the aforementioned recommended decision issued by the Deputy Administrator, Regulatory Programs, on August 28, 1972, except for modifications in the following sections of each order. The modifications noted do not include those that have been made in each order to reflect the new FEDERAL REGISTER style for "references" within a section of the order.

## PART 1007—MILK IN GEORGIA MARKETING AREA

Sections 1007.7, 1007.12(b)(2), 1007.14, 1007.15(a)(2), 1007.16, 1007.30(a)(3), 1007.40, 1007.41(b)(2), and (3), and (c), 1007.42(d)(2)(vi), 1007.44(a), 1007.50(b), 1007.76(b)(2)(i) and (ii).

## PART 1071—MILK IN NEOSHO VALLEY MARKETING AREA

The Index and §§ 1071.12(b)(2), 1071.14, 1071.15(a)(2), 1071.16, 1071.30(a)(3), 1071.40, 1071.41(b)(2), and (3), and (c), 1071.42(d)(2)(vi), 1071.44(a), 1071.50(b), 1071.61, 1071.71(a)(2)(ii), 1071.75(b), 1071.76(a)(4) and (b)(2)(i) and (ii), and new §§ 1071.110 through 1071.122 are added.

## PART 1073—MILK IN WICHITA, KANSAS, MARKETING AREA

The Index and §§ 1073.7, 1073.12(b)(2), 1073.14, 1073.15(a)(2), 1073.16, 1073.30(a)(3), 1073.40, 1073.41(b)(2), and (3), and (c), 1073.42(d)(2)(vi), 1073.44(a), 1073.50 (b) and (c), 1073.61, 1073.71(a)(2)(ii), 1073.75(b), 1073.76(a)(4) and (b)(2)(i) and (ii), and new §§ 1073.110 through 1073.122 are added.

## PART 1090—MILK IN CHATTANOOGA, TENNESSEE, MARKETING AREA

Sections 1090.7, 1090.12(b)(2), 1090.14, 1090.15(a)(2), 1090.16, 1090.30(a)(3), 1090.40, 1090.41(b)(3) and (c), 1090.42(d)(2)(vi), 1090.44(a), 1090.50(b), 1090.76(b)(2)(i) and (ii).

## PART 1094—MILK IN NEW ORLEANS, LOUISIANA, MARKETING AREA

Sections 1094.7, 1094.12(b)(2), 1094.14, 1094.15(a)(2), 1094.16, 1094.30(a)(3), 1094.40, 1094.41(b)(2), and (3), and (c), 1094.42(d)(2)(vi), 1094.44(a), 1094.50(b) and (c), 1094.76(b)(2)(i) and (ii).

## PART 1096—MILK IN NORTHERN LOUISIANA MARKETING AREA

Sections 1096.7, 1096.12(b)(2), 1096.14, 1096.15(a)(2), 1096.16, 1096.30(a)(3), 1096.40, 1096.41(b)(2), and (3), and (c), 1096.42(d)(2)(vi), 1096.44(a), 1096.50 (b) and (c), 1096.76(b)(2)(i) and (ii).

## PART 1097—MILK IN MEMPHIS, TENNESSEE, MARKETING AREA

The Index and §§ 1097.7, 1097.12(b)(2), 1097.14, 1097.15(a)(2), 1097.16, 1097.30(a)(3), 1097.40, 1097.41(b)(2), and (3), and (c), 1097.42(d)(2)(vi), 1097.44(a), 1097.50(b), 1097.61, and new §§ 1097.110 through 1097.122 are added.

## PART 1098—MILK IN NASHVILLE, TENNESSEE, MARKETING AREA

Sections 1098.7, 1098.12(b)(2), 1098.14, 1098.15(a)(2), 1098.16, 1098.30(a)(3), 1098.40, 1098.41(b)(2), and (3), and (c), 1098.42(d)(2)(vi), 1098.44(a), 1098.50(b), 1098.76(b)(2)(i) and (ii).

## PART 1102—MILK IN FORT SMITH, ARKANSAS, MARKETING AREA

The Index and §§ 1102.7, 1102.12(b)(2), 1102.14, 1102.15(a)(2), 1102.16, 1102.30(a)(3), 1102.40, 1102.41(b)(3) and (c), 1102.42(d)(2)(vi), 1102.44(a), 1102.50(b), 1102.61, and new §§ 1102.110 through 1102.123 are added.

## PART 1108—MILK IN CENTRAL ARKANSAS MARKETING AREA

The Index and §§ 1108.12(b)(2), 1108.14, 1108.15(a)(2), 1108.16, 1108.30(a)(3), 1108.40, 1108.41(b), (2) and (3), and (c), 1108.42(d)(2)(vi), 1108.44(a), 1108.50(b), 1108.52(a), 1108.61, 1108.71(a)(2)(ii), 1108.75, 1108.76(a)(4) and (b)(2)(i) and (ii), and new §§ 1108.110 through 1108.122 are added.

## PART 1007—MILK IN GEORGIA MARKETING AREA

### Subpart—Order Regulating Handling

GENERAL PROVISIONS


Sec.
1007.1 General provisions.

DEFINITIONS

1007.2 Georgia marketing area.
1007.3 Route disposition.
1007.4 [Reserved]
1007.5 Distributing plant.
1007.6 Supply plant.
1007.7 Pool plant.
1007.8 Nonpool plant.
1007.9 Handler.
1007.10 Producer-handler.
1007.11 [Reserved]
1007.12 Producer.
1007.13 Producer milk.
1007.14 Other source milk.
1007.15 Fluid milk product.
1007.16 Fluid cream product.
1007.17 Filled milk.
1007.18 Cooperative association.
1007.19 Reload point.

HANDLER REPORTS

1007.30 Reports of receipts and utilization.
1007.31 Payroll reports.
1007.32 Other reports.

CLASSIFICATION OF MILK

1007.40 Classes of utilization.
1007.41 Shrinkage.
1007.42 Classification of transfers and diversions.
1007.43 General classification rules.
1007.44 Classification of producer milk.
1007.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1007.50 Class prices.
1007.51 Basic formula price.
1007.52 Plant location adjustments for handlers.
1007.53 Announcement of class prices.
1007.54 Equivalent price.







UNIFORM PRICES

Sec.
1007.60 Handler's value of milk for computing uniform prices.
1007.61 Computation of uniform prices for base milk and excess milk.
1007.62 Announcement of uniform prices and butterfat differential.

PAYMENTS FOR MILK

1007.70 Producer-settlement fund.
1007.71 Payments to the producer-settlement fund.
1007.72 Payments from the producer-settlement fund.
1007.73 Payments to producers and to cooperative associations.
1007.74 Butterfat differential.
1007.75 Plant location adjustments for producers and on nonpool milk.
1007.76 Payments by handler operating a partially regulated distributing plant.
1007.77 Adjustment of accounts.
1007.78 Charges on overdue accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1007.85 Assessment for order administration.
1007.86 Deduction for marketing services.

CLASS I BASE PLAN

1007.90 Definition of terms relating to the Class I base plan.
1007.91 Computation of production history base.
1007.92 Updating of production history bases.
1007.93 New producers.
1007.94 Computation of Class I base or base milk for each producer.
1007.95 Transfer of bases.
1007.96 Miscellaneous base rules.
1007.97 Hardship provisions.


AUTHORITY: The provisions of this Part 1007 issued under secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

GENERAL PROVISIONS

### § 1007.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

### § 1007.2 Georgia marketing area.

The "Georgia marketing area", hereinafter called the "marketing area", means all the territory, including all waterfront facilities connected therewith, geographically within the boundaries of the State of Georgia except the counties of Catoosa, Chattooga, Dade, Fannin, Murray, Rabun, Walker, and Whitfield. The marketing area shall include all territory that is occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments if any part of such territory is within the designated geographical limits of the marketing area.

### § 1007.3 Route disposition.

"Route disposition" means a delivery to a retail or wholesale outlet (except to a plant) either direct or through any distribution facility (including disposition from a plant store, vendor or vending machine) of a fluid milk product classified as Class I milk.

### § 1007.4 [Reserved]

### § 1007.5 Distributing plant.

"Distributing plant" means a plant in which milk approved by a duly constituted health authority for fluid consumption or filled milk is processed or packaged and which has route disposition in the marketing area during the month.

### § 1007.6 Supply plant.

"Supply plant" means a plant from which a fluid milk product acceptable to a duly constituted health authority for fluid consumption or filled milk is shipped during the month to a pool plant.

### § 1007.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) A distributing plant that has route disposition, except filled milk, during the month of not less than 50 percent of the fluid milk products, except filled milk, approved by a duly constituted health authority for fluid consumption that are physically received at such plant or diverted as producer milk to a nonpool plant pursuant to § 1007.13 and that has route disposition, except filled milk, in the marketing area during the month of not less than 15 percent of it total Class I disposition, except filled milk, during the month.

(b) A supply plant from which not less than 50 percent of the total quantity of milk approved by a duly constituted health authority for fluid consumption that is physically received from dairy farmers at such plant or diverted as producer milk to a nonpool plant pursuant to § 1007.13 during the month is shipped as fluid milk products, except filled milk, to pool plants pursuant to paragraph (a) of this section. A plant that was a pool plant pursuant to this paragraph in each of the immediately preceding months of August through February shall be a pool plant for the months of March through July unless the milk received at the plant does not continue to meet the requirements of a duly constituted health authority or a written application is filed by the plant operator with the market administrator on or before the first day of any such month requesting that the plant be designated as a nonpool plant for such month and each subsequent month through July during which it would not otherwise qualify as a pool plant.

(c) For the purpose of qualifying a supply plant under paragraph (b) of this section, a cooperative association supplying pool distributing plants during the month at least two-thirds of the producer milk of its members (including both milk delivered directly from their farms and that transferred from the supply plant(s) of the cooperative) may count (irrespective of other requirements of § 1007.9(c)) as shipments from the plant to pool distributing plants the milk delivered to pool distributing plants under § 1007.9(c); In the event the cooperative operates more than one supply plant, all such deliveries shall be assigned, for this purpose, to the supply plant nearest Atlanta, Ga.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) An exempt distributing plant; and

(3) A plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, unless such plant is qualified as a pool plant pursuant to paragraph (a) or (b) of this section and a greater volume of fluid milk products, except filled milk, is disposed of from such plant in this marketing area as route disposition and to pool plants qualified on the basis of route disposition in this marketing area than is disposed of from such plant in the marketing area regulated pursuant to the other order as route disposition and to plants qualified as fully regulated plants under such other order on the basis of route disposition in its marketing area.

### § 1007.8 Nonpool plant.

"Nonpool plant" means a plant (except a pool plant) which receives milk from dairy farmers or is a milk or filled milk manufacturing, processing, or bottling plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is a distributing plant and is not an other order plant, a producer-handler plant, or an exempt distributing plant.

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is not an other order plant, a producer-handler plant, or an exempt distributing plant.

(e) "Exempt distributing plant" means a distributing plant operated by a governmental agency.

### § 1007.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) Any cooperative association with respect to producer milk which it causes to be diverted pursuant to § 1007.13 for the account of such cooperative association;

(c) A cooperative association with respect to milk of its producer-members which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association. The milk for which a cooperative association is the handler pursuant to this paragraph shall be deemed to have been received at the location of the pool plant to which it was delivered;

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) A producer-handler; and



V 38-175 SEP 11 73 XUM

(f) Any person in his capacity as the operator of an other order plant that is either a distributing plant or a supply plant.

**§ 1007.10 Producer-handler.**

"Producer-handler" means any person who:

(a) Operates a dairy farm and a distributing plant;

(b) Receives no Class I milk from sources other than his own farm production and pool plants;

(c) Disposes of no other source milk as Class I milk;

(d) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary to produce all Class I milk handled (excluding receipts from pool plants) and the operation of the processing and packaging business are his personal enterprise and risk; and

(e) If such person had been a producer to whom a Class I base had been assigned pursuant to § 1007.94, has forfeited such Class I base in accordance with the requirement of § 1007.96(c).

**§ 1007.11 [Reserved]**

**§ 1007.12 Producer.**

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the inspection requirements of a duly constituted health authority, which milk is physically received at a pool plant or diverted pursuant to § 1007.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act or the operator of an exempt distributing plant;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1007.44(a)(8)(iii) and the corresponding step of § 1007.44(b); and

(3) Any person with respect to milk produced by him which is diverted from a pool plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk.

**§ 1007.13 Producer milk.**

"Producer milk" means the skim milk and butterfat contained in milk of a producer that is:

(a) Received at a pool plant directly from such producer or from a handler described in § 1007.9(c): *Provided*, That if the milk received at a pool plant from a handler described in § 1007.9(c) is purchased on a basis other than farm weights as determined by farm bulk tank calibration and butterfat tests determined from farm bulk tank samples, the volume by which the farm weights and butterfat as determined from the farm bulk tank samples of such milk exceed the weights and butterfat on which the pool plant's purchases are based shall be producer milk received by the handler pursuant to § 1007.9(c) at the location of the pool plant; or

(b) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant, subject to the following conditions:

(1) Such milk shall be deemed to have been received by the diverting handler at the plant to which diverted;

(2) Not less than 10 days' production of the producer whose milk is diverted is physically received at a pool plant;

(3) To the extent that it would result in nonpool plant status for the pool plant from which diverted, milk diverted for the account of a cooperative association from the pool plant of another handler shall not be producer milk;

(4) A cooperative association may divert for its account only the milk of member producers: *Provided*, That the total quantity of milk so diverted that exceeds 25 percent of the milk physically received from member producers at all pool plants during the month shall not be producer milk;

(5) The operator of a pool plant other than a cooperative association may divert for his account only the milk of producers who are not members of a cooperative association: *Provided*, That the total quantity of milk so diverted that exceeds 25 percent of the milk physically received at such plant during the month from producers who are not members of a cooperative association shall not be producer milk; and

(6) The diverting handler shall designate the dairy farmers whose milk is not producer milk pursuant to paragraph (b)(4) and (5) of this section. If the handler fails to make such designation, no milk diverted by him shall be producer milk.

**§ 1007.14 Other source milk.**

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1007.40(b)(1) from any source other than producers, handlers described in § 1007.9(c), pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1007.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1007.40(b)(1), and products produced at the plant during the some month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1007.40(b)(1)) for which the handler fails to establish a disposition.

**§ 1007.15 Fluid milk product.**

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1007.40(b) or (c)(1)(i) through (iv) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

**§ 1007.16 Fluid cream product.**

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

**§ 1007.17 Filled milk.**

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

**§ 1007.18 Cooperative association.**

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and be engaged in making collective sales of, or marketing milk or milk products for, its members.

**§ 1007.19 Reload point.**

"Reload point" means a location at which milk moved from a farm in a tank truck is transferred to another tank truck and commingled with other milk before entering a plant. A reload point shall not be considered a plant except that a reload operation on the premises of a plant shall be considered a part of the plant operation.





HANDLER REPORTS

**§ 1007.30 Reports of receipts and utilization.**

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1007.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1007.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1007.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe

**§ 1007.31 Payroll reports.**

(a) On or before the 20th day after the end of each month, each handler described in § 1007.9(a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1007.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

**§ 1007.32 Other reports.**

(a) Each handler described in § 1007.9(a), (b), and (c) shall report to the market administrator on or before the seventh day after the end of the month:

(1) The total pounds of base milk and the total pounds of excess milk; and

(2) The days for which milk was received from each producer.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1007.30 and 1007.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

**§ 1007.40 Classes of utilization.**

Except as provided in § 1007.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1007.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, low fat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, low fat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(v) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1007.15; and

(6) In shrinkage assigned pursuant to § 1007.41(a) to the receipts specified in § 1007.41(a)(2) and in shrinkage specified in § 1007.41 (b) and (c).

**§ 1007.41 Shrinkage.**

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1007.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1007.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1007.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples,



V 38 N 175 SEP 11 73 XUM

the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to §1007.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

**§ 1007.42 Classification of transfers and diversions.**

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1007.44(a)(12) and the corresponding step of § 1007.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1007.44(a)(7) or the corresponding step of § 1007.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1007.44(a) (11) or (12) or the corresponding steps of § 1007.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b) (3) of this section;

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1007.40.

(c) *Transfers to producer-handlers and transfers and diversions to exempt distributing plants.* Skim milk or butterfat in the following forms that is transferred from a pool plant to a producer-handler under this or any other Federal order or transferred or diverted from a pool plant to an exempt distributing plant shall be classified:

(1) As Class I milk, if so moved in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to its receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, an exempt distributing plant, or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1007.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

**§ 1007.43 General classification rules.**

In determining the classification of producer milk pursuant to § 1007.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1007.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1007.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1007.40, 1007.41, and 1007.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1007.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

**§ 1007.44 Classification of producer milk.**

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1007.9(a) for each of his pool plants separately and of each handler described in § 1007.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1007.41 (b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1007.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1007.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1007.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1007.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order and from an exempt distributing plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii)(*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the handler's total Class III utilization at his other pool plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in







V 38-175 SEP 11 73 XUM

each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment:

(a) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler;

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(ii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined:

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1007.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii) and (iii) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(a) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1007.45(a); or

(b) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler;

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received; and

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from any class that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1007.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1007.44(a)(14) and the corresponding step of § 1007.44(b).

**§ 1007.45 Market administrator's reports and announcements concerning classification.**

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1007.44(a)(12) and the corresponding step of § 1007.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1007.44 on the basis of such report, and, thereafter any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association, upon request by such association, the percentage of the milk caused to be delivered by the cooperative association for its members which was utilized in each class at each pool plant receiving such milk. For the purpose of this report, the milk so received shall be allocated to each class at each pool plant in the same ratio as all producer milk received at such plant during the month.





CLASS PRICES

**§ 1007.50 Class prices.**

Subject to the provisions of § 1007.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.30.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

**§ 1007.51 Basic formula price.**

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

**§ 1007.52 Plant location adjustments for handlers.**

(a) The following zones are defined for the purpose of determining location adjustments:

(1) "Northern Zone" means all the territory in the following Georgia counties:

| | |
|---|---|
| Banks. | Hall. |
| Bartow. | Hart. |
| Catoosa. | Jackson. |
| Chattooga. | Lumpkin. |
| Cherokee. | Madison. |
| Dade. | Murray. |
| Dawson. | Pickens. |
| Elbert. | Rabun. |
| Fannin. | Stephens. |
| Floyd. | Towns. |
| Forsyth. | Union. |
| Franklin. | Walker. |
| Gilmer. | White. |
| Gordon. | Whitfield. |
| Habersham. | |

(2) "Southern Zone" means all the territory in the State of Georgia that is not within the Northern Zone.

(b) The Class I price for producer milk at a plant in the Northern Zone shall be reduced 15 cents and at a plant that is outside Georgia, north of an east-west line extending from the city hall in Atlanta and more than 100 miles (by the shortest hard-surfaced highway distance as determined by the market administrator) from the nearer of the city halls in Atlanta and Augusta, Ga., shall be reduced 15 cents and an additional 1.5 cents for each 10 miles or fraction thereof in excess of 110 miles (by the shortest hard-surfaced highway distance as determined by the market administrator) that such plant is from the nearer of the city halls in Atlanta and Augusta: *Provided,* That the location adjustment pursuant to this paragraph applicable at a plant in Alabama or South Carolina shall not be more than 15 cents.

(c) For the purpose of calculating location adjustments, receipts of fluid milk products from pool plants shall be assigned any remainder of Class I milk at the transferee-plant that is in excess of the sum of producer milk receipts at such plant and that assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment shall be made first to receipts from plants at which no location adjustment is applicable pursuant to this section and then in sequence beginning with receipts from the plant with the lowest applicable location adjustment.

(d) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (b) of this section, except that the adjusted Class I price shall not be less than the Class III price.

**§ 1007.53 Announcement of class prices.**

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

**§ 1007.54 Equivalent price.**

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICES

**§ 1007.60 Handler's value of milk for computing uniform price.**

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1007.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1007.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1007.44(a)(14) and the corresponding step of § 1007.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1007.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1007.44(a)(9) and the corresponding step of § 1007.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1007.44(a)(7)(i) through (iv) and the corresponding step of § 1007.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1007.44(a)(7)(v) and (vi) and the corresponding step of § 1007.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1007.44(a)(11) and the corresponding step of § 1007.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class II price, both for the preceding month by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1007.40(b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

**§ 1007.61 Computation of uniform prices for base milk and excess milk.**

(a) For each month, the market administrator shall compute a uniform price as follows:

(1) Combine into one total the values computed pursuant to § 1007.60 for all handlers who filed the reports pursuant to § 1007.30 for the month, except those in default of payments required pursuant to § 1007.71 for the preceding month;

(2) Add an amount equal to the total value of the minus location adjustments computed pursuant to § 1007.75;

(3) Add an amount equal to one-half the unobligated balance in the producer-settlement fund;

(4) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1007.60 (f); and

(5) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The resulting figure, rounded to the nearest cent, shall be the uniform price.



V 38-175 SEP 11 73 XUM

(b) The market administrator shall compute uniform prices per hundredweight for base milk and excess milk each month, each of 3.5 percent butterfat content, as follows:

(1) Determine the aggregate amount of producer milk in each class included in the computation pursuant to paragraph (a) of this section and the hundredweight of such milk that is base milk and that is excess milk;

(2) Determine the value of the total hundredweight of milk of producers specified in § 1007.94 (c) and (d) to whom no base milk has been assigned by multiplying such volume by the Class III price;

(3) Determine the total value of excess milk by assigning such milk in series beginning with Class III to the hundredweight of milk in each class as determined pursuant to paragraph (b) (1) of this section, multiplying the quantities so assigned by the respective class prices and adding together the resulting amounts;

(4) Divide the total value of excess milk in paragraph (b) (3) of this section by the total hundredweight of such milk. The quotient, rounded to the nearest cent, shall be the uniform price for excess milk;

(5) Multiply the total hundredweight of excess milk by the uniform price for excess milk computed pursuant to paragraph (b) (4) of this section;

(6) Multiply the hundredweight of milk specified in paragraph (a) (4) (ii) of this section by the uniform price for the month;

(7) Subtract the total values arrived at in paragraph (b) (2), (5), and (6) of this section from the amount resulting from the computations pursuant to paragraph (a) (1) through (4) of this section; and

(8) Divide the amount obtained in paragraph (b) (7) of this section by the total hundredweight of base milk determined in paragraph (b) (1) of this section and subtract not less than 4 nor more than 5 cents per hundredweight. The resulting figure rounded to the nearest cent, shall be the uniform price for base milk.

**§ 1007.62 Announcement of uniform prices and butterfat differential.**

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 11th day after the end of each month the uniform prices for such month.

PAYMENTS FOR MILK

**§ 1007.70 Producer-settlement fund.**

The market administrator shall maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments into such fund pursuant to §§ 1007.71 and 1007.76 and out of which he shall make all payments from such fund pursuant to § 1007.72: *Provided*, That the market administrator shall offset the payment due to a handler against payments due from such handler.

**§ 1007.71 Payments to the producer-settlement fund.**

(a) On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a) (1) of this section exceeds the amount specified in paragraph (a) (2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1007.60.

(2) The sum of:

(i) The value at the uniform prices pursuant to § 1007.61(b), as adjusted pursuant to § 1007.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price pursuant to § 1007.61(a) applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1007.60 (f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b) (1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

**§ 1007.72 Payments from the producer-settlement fund.**

On or before the 13th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1007.71(a) (2) exceeds the amount computed pursuant to § 1007.71(a) (1). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

**§ 1007.73 Payments to producers and to cooperative associations.**

(a) Except as provided in paragraph (b) of this section, each handler shall make payment for producer milk as follows:

(1) On or before the last day of the month to each producer who had not discontinued shipping milk to such handler before the 15th day of the month, not less than the Class III price for the preceding month per hundredweight of milk received during the first 15 days of the month less proper deductions authorized in writing by such producer;

(2) On or before the 15th day of each month at not less than the applicable uniform prices for the quantities of base milk and excess milk received adjusted by the butterfat differential computed pursuant to § 1007.74, and in the case of base milk by the location adjustment computed pursuant to § 1007.75, subject to the following:

(i) Less payments made pursuant to paragraph (a) (1) of this section;

(ii) Less proper deductions authorized by such producer;

(iii) Less deductions for marketing services made pursuant to § 1007.86; and

(iv) If by such date such handler has not received full payment from the market administrator pursuant to § 1007.72 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after receipt of the balance due from the market administrator; and

(3) On or before the 15th day of the month at not less than the Class III price adjusted by the butterfat differential computed pursuant to § 1007.74 for the quantity of milk received from producers described in § 1007.94 (c) and (d) for whom no base milk has been computed.

(b) In the case of a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and which has so requested any handler in writing, together with a written promise of such association to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the association, such handler on or before the day prior to the date on which payments are due individual producers shall pay the cooperative association for milk received during the month from the producer-members of such association as determined by the market administrator an amount not less than the total due such producer-members pursuant to paragraph (a) of this section, subject to the following:

(1) Payment pursuant to this paragraph shall be made for milk received from any producer beginning on the first day of the month following receipt from the cooperative association of its certification that such producer is a member, and continuing through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association; and

(2) Copies of the written request of the cooperative association to receive payments on behalf of its members, together with its promise to reimburse and its certified list of members, shall be submitted simultaneously both to the handler and to the market administrator and shall be subject to verification by the





market administrator at his discretion through audit of the records of the cooperative association. Exceptions, if any, to the accuracy of such certification claimed by any producer or by a handler shall be made by written notice to the market administrator and shall be subject to his determination.

**§ 1007.74 Butterfat differential.**

For milk containing more or less than 3.5 percent butterfat, the uniform prices for base and excess milk shall be increased, or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

**§ 1007.75 Plant location adjustments for producers and on nonpool milk.**

(a) The uniform price and the uniform price for base milk shall be reduced according to the location of the pool plant at the rates set forth in § 1007.52(b); and

(b) The uniform price applicable to other source milk shall be adjusted at the rates set forth in § 1007.52(b) applicable at the location of the nonpool plant from which the milk was received, except that the uniform price shall not be less than the Class III price.

**§ 1007.76 Payments by handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1007.30(b) and 1007.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price pursuant to § 1007.61(a), both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a) (3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1007.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b) (1) (i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1007.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1007.60 for such handler shall include, in lieu of the value of other source milk specified in § 1007.60(f) less the value of such other source milk specified in § 1007.71(a) (2) (ii), a value of milk determined pursuant to § 1007.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1007.7(b) subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1007.30 (b) and 1007.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1007.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b) (1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1007.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b) (1) (iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1007.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b) (1) (iii) of this section applies.

**§ 1007.77 Adjustment of accounts.**

When verification by the market administrator of reports or payments of a handler discloses errors resulting in moneys due the market administrator from such handler, such handler from the market administrator, or a producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made not later than the date for making payment next following such disclosure.

**§ 1007.78 Charges on overdue accounts.**

The unpaid obligation of a handler pursuant to §§ 1007.71, 1007.77, 1007.85, and 1007.86 shall be increased one-half of 1 percent for each month or portion thereof that such obligation is overdue.



V 38-175 SEP 11 73 XUM

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

**§ 1007.85 Assessment for order administration.**

As his pro rata share of the expense of administration of this part, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

(a) Producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1007.44(a)(7) and (11) and the corresponding steps of § 1007.44(b), except such other source milk that is excluded from the computations pursuant to § 1007.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1007.76(a)(2).

**§ 1007.86 Deduction for marketing services.**

(a) Except as provided in paragraph (b) of this section, each handler in making payments for producer milk received during the month shall deduct 6 cents per hundredweight or such lesser amount as the Secretary may prescribe (except on such handler's own farm production) and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples and tests of producer milk and to provide producers with market information. Such services shall be performed by the market administrator or by an agent engaged by and responsible to him.

(b) If the Secretary determines that a cooperative association is performing for its members the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such members and, on or before the 15th day after the end of each month, pay over such deductions to the association rendering such services.

CLASS I BASE PLAN

**§ 1007.90 Definition of terms relating to the Class I base plan.**

For purposes of determination and assignment of the Class I base of each producer the following terms are defined:

(a) "Production history" means the average daily marketings of a producer during the production history period used for the determination of bases or the future updating of bases.

(b) "Production history base" means a quantity of milk in pounds per day as computed pursuant to § 1007.91.

(c) "Production history period" means the days or months to be used for the computation of the production history base of a producer.

(d) "Average daily producer milk deliveries" of any producer in any specified period used for computing a production history base means the total pounds of producer milk delivered by the producer divided by the number of days' production represented by such deliveries: *Provided*, That for any September–January period, the divisor shall be the actual days of production, or 145 whichever is greater.

(e) "Class I base" means a quantity of milk in pounds per day computed pursuant to § 1007.94 for which a producer may receive the base milk price.

(f) "Base milk" means:

(1) Milk received from a producer which is not in excess of his Class I base multiplied by the number of days of production of producer milk delivered during the month; and

(2) Milk received from a producer to whom no Class I base has been issued in the amount determined for such producer pursuant to § 1007.94 (c) and (d).

(g) "Excess milk" means milk received in excess of base milk from a producer who is delivering base milk during such month.

**§ 1007.91 Computation of production history base.**

A "production history base" shall be determined by the market administrator for each producer eligible for such base on the effective date of this provision and on March 1 of each year thereafter. The computation of production history base shall be subject to adjustments due to acquisition or disposition by transfer of Class I base or other modifications of Class I base due to hardship or loss of Class I base because of underdelivery of base. For purposes of computation of his production history base, a producer shall be considered as having been on the market during any specified period if: As a producer he delivered milk of his own production during the designated period without interruption sufficient to cause forfeiture of base pursuant to § 1007.96(a); and during such period (after the effective date of this provision) did not dispose of all his Class I base by transfer. The production history base for each producer on the effective date of this provision shall be determined by the market administrator as follows:

(a) The market administrator shall determine a production history base for each producer who delivered at least 100 days' production during the immediately preceding period of September–January by computing his average daily producer milk deliveries as defined in § 1007.90 (d) during such period.

(b) For producers who delivered milk on less than 100 days during the immediately preceding period of September–January, but at least 90 days prior to March 1, the market administrator shall determine a production history base by multiplying such producer's average daily producer milk deliveries during the months in which milk was delivered prior to March 1, by .80 and adjusting by a ratio obtained by dividing the average daily deliveries per producer during the most recent September–January period by the average daily producer milk deliveries during the same months used for such producer.

(c) Producers who have delivered milk for less than 90 days prior to March 1 shall have no initial production history base but shall be assigned a history of production in accordance with the provisions applicable for new producers.

(d) For each producer not subject to § 1007.94(d) who became a producer for this market subsequent to September 1, 1971, because the plant to which he regularly delivered milk became a fully regulated plant pursuant to this order, a production history base shall be determined, if possible pursuant to paragraph (a) or (b) of this section based on his deliveries of milk as if the nonpool plant to which he delivered had been a pool plant during the representative period.

(e) A producer not described pursuant to paragraph (d) of this section who delivered milk to a nonpool plant(s) prior to becoming a producer and who is not subject to the provisions of § 1007.94(c) shall have a production history base effective on the first day of the second month following the month in which he began deliveries of producer milk to a pool plant if a production history base can be computed pursuant to paragraph (a) or (b) of this section based on deliveries of milk from the same farm on which he is now a producer as if the plant(s) to which he delivered had been a pool plant(s) during the preceding 12 months.

(f) For a producer who held producer-handler status at any time subsequent to September 1, 1971, a production history base shall be calculated as prescribed in paragraph (a) of this section as if the milk of his own production received at his producer-handler plant had been received at a pool plant.

(g) With respect to the computation of production history base pursuant to this section, the following rules shall apply:

(1) If a producer operated more than one farm at the same time, a separate computation shall be made with respect to the average daily producer milk deliveries from each farm except that only one computation shall be made with respect to milk production resources and facilities of a producer-handler.

(2) Only one production history base shall be allowed with respect to milk produced by one or more persons where the land, buildings, and equipment are jointly used, owned or operated.

**§ 1007.92 Updating of production history bases.**

The production history base for each producer who has neither disposed of his entire base by transfer nor forfeited his base pursuant to § 1007.96(a) or after having disposed of his entire base by transfer or forfeiture, has met the delivery requirements prescribed in § 1007.93 shall be determined by the market administrator on March 1 of each year as follows:

(a) Effective March 1, 1973, the market administrator shall update the production history base for each producer as follows:

(1) Subject to the provisions of paragraph (a)(1) (i) and (ii) of this section for a producer who is assigned an initial history of production pursuant to § 1007.91 (a) or (b) on the effective date of this order, add the average daily milk deliveries of such producer during the period September 1972 through January 1973 to the production history bases computed for such producer on the effective date of this order and divide the result by 2. (i) If during the immediately preceding September through January period a producer delivered not less than his daily Class I base multiplied by the number of days in such period, then his production history base shall not be reduced. (ii) If during the immediately preceding period of September through January the producer's average daily producer milk deliveries were less than his daily Class I base then such producer's production history base shall be reduced in an amount proportionate to the amount that his daily Class I base exceeds his avarage daily deliveries during the immediately preceding September through January period but in no event, shall such producer's production history base be reduced by more than 25 percent.

(2) For producers who had not previously been assigned a production history base, a history of production shall be determined by calculating such producer's average daily producer milk deliveries during the period September 1972 through January 1973 and multiplying the result by 0.80.

(b) Effective March 1, 1974, the market administrator shall update the production history base for each producer as follows:

(1) Subject to the provisions of paragraph (b)(1) (i) and (ii) of this section for a producer who had a production history base for the 2 most recent years, determine the average daily producer milk deliveries during the immediately preceding period September through January. Add the resulting amount to the production history base determined for each of the 2 most recent years and divide the result by 3: (i) If during the immediately preceding September through January period a producer delivered not less than his daily Class I base multiplied by the number of days in such period, then his production history base shall not be reduced. (ii) If during the immediately preceding period of September through January the producer's average daily producer milk deliveries were less than his daily Class I base then such producer's production history base shall be reduced in an amount proportionate to the amount that his daily Class I base exceeds his average daily deliveries during the immediately preceding September through January period, but in no event shall such producer's production history base be reduced by more than 25 percent.

(2) Subject to the provisions of paragraph (b)(2) (i) and (ii) of this section for a producer who had a production history base for 1 year, the market administrator shall determine his average daily producer milk deliveries during the immediately preceding period of September through January and add such amount to the producer's previous production history base and divide the result by 2: (i) If during the immediately preceding period of September through January a producer delivered not less than his daily Class I base multiplied by the number of days in such period, then his production history base shall not be reduced: (ii) If during the immediately preceding period of September through January the producer's average daily producer milk deliveries were less than his daily Class I base, then such producer's production history base shall be reduced in an amount proportionate to the amount that his daily Class I based exceeds his average daily deliveries during the immediately preceding September through January period, but in no event shall such producer's production history base be reduced by more than 25 percent.

(3) For producers who have not previously been assigned a production history base, the market administrator shall assign a production history equal to such producer's average daily producer milk deliveries during the immediately preceding period of September through January and multiply the result by 0.80.

(c) Effective March 1, 1975, and on March 1 of each year thereafter the market administrator shall update the history of production for each producer as follows:

(1) Subject to the provisions of paragraph (c)(1) (i) and (ii) of this section for producers who have a production history base covering 3 or more years, the market administrator shall compute the average daily producer milk deliveries for such producer during the immediately preceding period of September through January and shall add such figure to the average daily producer milk deliveries of the preceding two years and divide the result by 3. (i) If during the immediately preceding September through January period a producer delivered not less than his daily Class I base multiplied by the number of days in such period, then his production history base shall not be reduced. (ii) If during the immediately preceding September through January period the producer's average daily producer milk deliveries were less than his daily Class I base then such producer's production history base shall be reduced in an amount proportionate to the amount that his daily Class I base exceeds his average daily deliveries during the immediately preceding September through January period, but in no event shall such producer's production history base be reduced by more than 25 percent.

(2) Subject to the provisions of paragraph (c)(2) (i) and (ii) of this section for a producer who had a production history base for the two most recent periods, determine the average producer milk deliveries during the immediately preceding period September through January. Add the resulting amount to the production history base determined for each of the two most recent periods and divide the result by 3. (i) If during the immediately preceding September through January period a producer delivered not less than his daily Class I base multiplied by the number of days in such period, then his production history base shall not be reduced. (ii) If during the immediately preceding period of September through January the producer's average daily producer milk deliveries were less than his daily Class I base then such producer's production history base shall be reduced in an amount proportionate to the amount that his daily Class I base exceeds his daily deliveries during the immediately preceding September through January period, but in no event shall such producer's production history base be reduced by more than 25 percent.

(3) Subject to the provisions of paragraph (c)(3) (i) and (ii) of this section for a producer who had a production history base for 1 year, the market administrator shall determine his average daily producer milk deliveries during the immediately preceding period of September through January and add such amount to the producer's previous production history base and divide the result by 2. (i) If during the immediately preceding period of September through January a producer delivered not less than his daily Class I base multiplied by the number of days in such period, then his production history base shall not be reduced. (ii) If during the immediately preceding period of September through January the producer's average daily producer milk deliveries were less than his daily Class I base then such producer's production history base shall be reduced in an amount proportionate to the amount that his daily Class I base exceeds his average daily deliveries during the immediately preceding September through January period, but in no event shall such producer's production history base be reduced by more than 25 percent.

(4) For producers who have not previously been assigned a production history base, the market administrator shall assign a production history equal to such producer's average daily producer milk deliveries during the immediately preceding period of September through January and multiply the result by 0.80.

(5) On March 1 of each year of which this plan is in effect, the market administrator shall determine a production history base for producers who delivered milk for less than 100 days in the immediately preceding period of September through January but who delivered milk for at least 90 days prior to March 1 by determining such producers average daily producer milk deliveries during the first 3 months in which the producer delivered milk to the market, multiplying the result by 0.80 and adjusting by a ratio obtained by dividing the average daily deliveries per producer during the most recent September–January period by the average daily deliveries per producer during the same months used for such producer.





V 38-175 SEP 11 73 XUM

§ 1007.93 New producers.

The market administrator shall determine a history of production for each producer for whom a production history base was not determined pursuant to § 1007.91 as follows:

(a) Any producer who during the immediately preceding September through January period delivered his milk to a nonpool plant which became a pool plant shall be assigned a history of production on the same basis as other producers under the order as though the deliveries to the nonpool plant had been deliveries to a pool plant.

(b) Effective on the first day of the second month following the month in which he began deliveries of producer milk to a pool plant a producer who delivered milk to a nonpool plant prior to becoming a producer as defined in this order shall be assigned a production history base on the same basis as if he had been a producer under the order and his deliveries to the nonpool plant had been deliveries to a pool plant provided that in no event shall the production history base exceed the amount of milk actually delivered by such producer under this order.

(c) A producer who delivered no milk to a nonpool plant or who delivered milk to a pool plant for less than 90 days prior to March 1 of any year and who has not acquired a history of production by transfer shall be assigned Class I base milk pursuant to the provisions of § 1007.94(c).

§ 1007.94 Computation of Class I base or base milk for each producer.

On the effective date of this provision and on March 1 of each subsequent year the market administrator shall assign a Class I base to each producer who has a production history base. Class I bases shall be assigned to producers described in § 1007.93 when they are issued production history bases. Class I bases shall be computed as follows:

(a) Compute a "Class I base percentage" as follows:

(1) Determine the sum of Class I dispositions during the preceding period of September through January:

(i) Class I producer milk pursuant to § 1007.44(c);

(ii) The Class I disposition of plants during the period when they were nonpool plants, if such plants were pool plants in the preceding January; and

(iii) The Class I disposition of his own production of a person who was a producer-handler during a portion of the year and who held producer status in the preceding January.

Multiply the sum by 1.15 and divide the result by 153:

(2) Divide the quantity computed pursuant to paragraph (a)(1) of this section by a quantity which is the total of production history bases computed pursuant to § 1007.91 or § 1007.92, whichever is applicable. The result shall be converted to a percentage by multiplying by 100 and rounding to the third decimal place. Such percentage shall be known as the "Class I base percentage."

(b) The Class I base of each producer with a production history base shall be determined by multiplying his production history base by the "Class I base percentage." For each of the months of June, July, and August the Class I base so computed shall be reduced by the percentage that the average daily pounds of producer milk classified as Class I in June, July, and August of the preceding year were less than the average daily pounds of producer milk classified as Class I in the preceding months of September through May.

(c) A producer, other than a producer pursuant to paragraph (d) of this section, who has no production history base shall be assigned base milk each month until the first March 1 on which he is eligible for a Class I base in an amount equal to 50 percent of his average daily deliveries of producer milk in such month multiplied by the number of days' production delivered by such producer during the month (1) effective with his first delivery of producer milk if he begins deliveries in the months of September through January, and (2) effective on the first day of the second month following the month in which he began delivery if he begins deliveries in the months of February through August. For each of the months of June, July, and August the base milk so computed shall be reduced by the percentage that the average daily pounds of producer milk classified as Class I in June, July, and August of the preceding year were less than the average daily pounds of producer milk classified as Class I in the immediately preceding months of September through May.

(d)(1) A producer who, after having forfeited or disposed of all of his Class I base, either continues as a producer on the market or discontinues deliveries to the market and returns to the market as a producer, shall be assigned base milk equal to 50 percent of his average daily deliveries of producer milk in such month multiplied by the number of days' production delivered by such producer during the month, such assignment to be effective on the later of the following dates: the first day of the third month following the month in which he recommences deliveries of producer milk on the market, or the first day of the twelfth month following the month in which a producer who forfeits his base ceases deliveries or a producer disposes of his Class I base. For each of the months of June, July, and August the base milk so computed shall be reduced by the percentage that the average daily pounds of producer milk classified as Class I in June, July, and August of the preceding year were less than the average daily pounds of producer milk classified as Class I in the immediately preceding months of September through May. The production history period of such producer shall begin on the later of the following dates: The date on which he first received payment for base milk or the first day of the first month eligible for use in a production history period pursuant to § 1007.93.

(2) In the application of this provision, use of the same production facilities by another person (or the same person under a different name) to produce milk after the above described forfeiture or transfer of base shall be considered as a continuation of the operation by the previous operator if the new operator is a member of the immediate family of the previous operator. It shall be applied also to any production facility to which a Class I base has not been assigned, wherever located, operated by a person

(i) With respect to requests pursuant to paragraph (a) (1), (3), (4), or (5) of this section, grant or adjust production history bases and average daily producer milk deliveries for prior years where it appears appropriate, delay forfeiture of Class I base, restore forfeited base or reduced average daily producer milk deliveries where appropriate, and permit transfer of base not otherwise possible under the order provisions.

(ii) With respect to requests pursuant to paragraph (a) (2) of this section, either reject the request or provide adjustment in the form of additional production history base and average daily producer milk deliveries for prior years where it appears appropriate and the effective date thereof of such adjustment. In considering such requests the loss of milk production due to the following shall not be considered a basis for hardship adjustment:

(a) Loss of milk due to mechanical failure of farm tank or other farm equipment; and

(b) Inability to obtain adequate labor to maintain milk production, except that hardship adjustment may be granted in the case of a producer or the son of a producer who entered into military service directly from employment in milk production.

(4) Recommendation of the Producer Base Committee shall:

(i) If to deny the request, be final upon notification to the producer, subject only to appeal by the producer to the Director, Dairy Division, within 45 days after such notification; or

(ii) If to grant the request in whole or in part, be transmitted to the Director, Dairy Division, and shall become final unless vetoed by such Director within 15 days after transmitted.

(5) Committee members shall be reimbursed by the market administrator from the funds collected under § 1007.85 for their services at $30 per day or portion thereof, plus necessary travel and subsistence expenses incurred in the performance of their duties as committee members.

(d) The market administrator shall maintain files of all requests for alleviation of hardship and the disposition of such requests. These files shall be open to the inspection of any interested person during the regular office hours of the market administrator.

In which the producer who forfeited or transferred his base has a financial interest if such facility commences production on or after the effective date of the transfer or forfeiture, or such producer acquired his financial interest in





such person later than 3 months prior to the effective date of the base transfer or forfeiture.

§ 1007.95 Transfer of bases.

Production history and Class I base may be transferred pursuant to the following rules and conditions:

(a) A transfer of base means the transfer of both the production history base and the Class I base associated with it at the time of transfer. The percentage of Class I base transferred shall be applied to the total production history base held at the time of transfer to determine the corresponding amount of production history transferred.

(b) The market administrator must be notified in writing by the holder of Class I base of the name of the person to whom the Class I base is to be transferred, the effective date of the transfer, and the amount of base to be transferred. Application for transfer must be made to the market administrator on forms approved by the market administrator and signed by the base holder(s), his heirs, executor, or trustees and by the person to whom such base is to be transferred.

(c) A transfer of an entire base may be made effective on any day of the month if application for such transfer is filed with the market administrator within 5 days thereafter. Otherwise, such transfer shall be effective on the first day of the month following that in which application is made.

(d) A transfer of a portion of a base shall be effective the first day of the month following that in which application for which such transfer is made to the market administrator, except that a portion of a base may be transferred to be effective on March 1 of any year if application for such transfer is filed with the market administrator no later than March 15.

(e) A producer who has received base by transfer on or after March 1 of any year may not transfer any portion of the base for 3 full months following the effective date of such transfer.

(f) A producer who has transferred base on or after March 1 of any year may not receive additional base by transfer for 3 full months from the effective date of such transfer.

(g) A base which is jointly held or in a partnership may be transferred in part or in its entirety only upon application signed by each joint holder or partner, his heirs, executors, or trustee and by the person to whom such base is to be transferred.

(h) A base which has been established by two or more persons operating a dairy farm jointly or as a partnership may be divided among the joint holders or partners if written notification of the agreed division of base signed by each joint holder or partner, his heirs, executor, or trustee, is received by the market administrator prior to the first day of the month on which such division is to be effective.

(i) It must be established to the satisfaction of the market administrator that the conveyance of such base is bona fide and not for the purpose of evading any provision of this order, and comes within the remaining provisions of this section.

(j) A transfer may be made only to a producer (a person who is currently a producer on the market or who will become a producer under the terms of the order by the last day of the month of transfer).

(k) In the case of an intrafamily transfer (including transfers to an estate and from an estate to a member of the immediate family) all restrictions on transferring base applicable to the transferor producer shall also apply to the transferee.

(l) A producer who receives a base pursuant to § 1007.91 (c) or (d) may not transfer such base, other than pursuant to paragraph (k) of this section, for 1 year from the date of receipt.

(m) A producer-handler who becomes a producer and receives a base may not transfer that base for a period of 1 year from the date of receipt, except to a member of the immediate family pursuant to paragraph (k) of this section.

(n) A base which has been computed from less than a full production history period may not be transferred, except as an intrafamily transfer pursuant to paragraph (k) of this section.

(o) If a base is held by a corporation, a change in ownership of the stock which transfers control to a new person or persons other than a member of the immediate family of the person transferring such stock will require a transfer of bases and compliance with all base rules therein.

§ 1007.96 Miscellaneous base rules.

The following base rules shall be observed in the determination of bases:

(a) A person who discontinues delivery of producer milk for a period of 90 consecutive days after a Class I base is issued to him shall forfeit his production history, together with any Class I base and production history base held pursuant to the provisions of this order, except that a person entering the military service may retain them until 1 year after being released from active military service.

(b) As soon as production history bases and Class I bases are computed by the market administrator, notice of the amount of each producer's production history base and Class I base shall be given by the market administrator to the producer, to the handler receiving such producer's milk, and to the cooperative association of which the producer is a member. Each handler, following receipt of such notice, shall promptly post in a conspicuous place in his plant a list or lists showing the Class I base of each producer whose milk is received at such plant.

(c) As a condition for designation as a producer-handler pursuant to § 1007.10, any person (including any member of the immediate family of such a person, any affiliate of such a person, or any business of which such a person is a part) who has held Class I base any time during the 12-month period prior to such designation shall forfeit the maximum amount of Class I and production history base held at any time during such 12-month period.

§ 1007.97 Hardship provisions.

Requests of producers for relief from hardship or inequity arising under the provisions of §§ 1007.91 through 1007.96 will be subject to the following:

(a) After bases are first issued under this plan and after bases are issued on each succeeding March 1, a producer may request review of the following circumstances because of alleged hardship or inequity:

(1) He was not issued a Class I base;

(2) His production history base is not appropriate because of unusual conditions during the base-earning period such as loss of buildings, herds, or other facilities by fire, flood, or storms, official quarantine, disease, pesticide residue, condemnation of milk, or military service of the producer or his son;

(3) Loss or potential loss of Class I base pursuant to § 1007.96(a);

(4) Loss or potential loss of Class I base because of underdeliveries pursuant to § 1007.92; and

(5) Inability to transfer base due to the provisions of § 1007.95 (l), (m), and (n).

(b) The producer shall file with the market administrator a request in writing for review of hardship or inequity not later than 45 days after notice pursuant to § 1007.96 with respect to requests pursuant to paragraph (a) (1) or (2) of this section, or not later than 45 days after the occurrence with respect to requests pursuant to paragraph (a) (3), (4), or (5) of this section, setting forth:

(1) Conditions that caused the alleged hardship or inequity;

(2) The extent of the relief or adjustment requested;

(3) The basis upon which the amount of adjustment requested was determined; and

(4) Reasons why the relief or adjustment should be granted.

(c) One or more Producer Base Committees shall be established and function as follows:

(1) Each Producer Base Committee shall consist of five producers appointed by the market administrator.

(2) Each committee shall review the requests for relief from hardship or inequity referred to it by the market administrator at a meeting in which the market administrator or his representative serves as recording secretary and at which the applicant may appear in person if he so requests.

(3) Recommendations with respect to each such request shall be endorsed at the meeting by at least three committee members and shall:



V 38-175
SEP 11 73
XUM

# PART 1071—MILK IN NEOSHO VALLEY MARKETING AREA

## Subpart—Order Regulating Handling


GENERAL PROVISIONS

Sec.
1071.1 General provisions.

DEFINITIONS

1071.2 Neosho Valley marketing area.
1071.3 Route disposition.
1071.4 [Reserved]
1071.5 [Reserved]
1071.6 [Reserved]
1071.7 Pool plant.
1071.8 Nonpool plant.
1071.9 Handler.
1071.10 Producer-handler.
1071.11 [Reserved]
1071.12 Producer.
1071.13 Producer milk.
1071.14 Other source milk.
1071.15 Fluid milk product.
1071.16 Fluid cream product.
1071.17 Filled milk.
1071.18 Cooperative association.
1071.19 Delivery period.

HANDLER REPORTS

1071.30 Reports of receipts and utilization.
1071.31 Payroll reports.
1071.32 Other reports.

CLASSIFICATION OF MILK

1071.40 Classes of utilization.
1071.41 Shrinkage.
1071.42 Classification of transfers and diversions.
1071.43 General classification rules.
1071.44 Classification of producer milk.
1071.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1071.50 Class prices.
1071.51 Basic formula price.
1071.52 Plant location adjustments for handlers.
1071.53 Announcement of class prices.
1071.54 Equivalent price.

UNIFORM PRICE

1071.60 Handler's value of milk for computing uniform price.
1071.61 Computation of uniform price.
1071.62 Announcement of uniform price and butterfat differential.

PAYMENTS FOR MILK

1071.70 Producer-settlement fund.
1071.71 Payments to the producer-settlement fund.
1071.72 Payments from the producer-settlement fund.
1071.73 Payments to producers and to cooperative associations.
1071.74 Butterfat differential.
1071.75 Plant location adjustments for producers and on nonpool milk.
1071.76 Payments by handler operating a partially regulated distributing plant.
1071.77 Adjustment of accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1071.85 Assessment for order administration.
1071.86 Deduction for marketing services.

ADVERTISING AND PROMOTION PROGRAM

1071.110 Agency.
1071.111 Composition of Agency.
1071.112 Term of office.
1071.113 Selection of Agency members.
1071.114 Agency operating procedure.
1071.115 Powers of the Agency.
1071.116 Duties of the Agency.
1071.117 Advertising, Research, Education and Promotion Program.
1071.118 Limitation of expenditures by the Agency.
1071.119 Personal liability.
1071.120 Procedure for requesting refunds.
1071.121 Duties of the market administrator.
1071.122 Liquidation.


AUTHORITY: The provisions of this Part 1071 issued under secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674).

## GENERAL PROVISIONS

### § 1071.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

## DEFINITIONS

### § 1071.2 Neosho Valley marketing area.

"Neosho Valley marketing area," hereinafter called the "marketing area," means all of the territory within the counties of Allen, Bourbon, Chautauqua, Cherokee, Crawford, Labette, Montgomery, Neosho, and Wilson, all in the State of Kansas, and the counties of Barton, Jasper, Newton, and Vernon, all in the State of Missouri.

### § 1071.3 Route disposition.

"Route disposition" means a delivery (including delivery by a vendor or sale from a plant or plant store) to a retail or wholesale outlet, other than a plant, of any fluid milk product classified as Class I milk.

### § 1071.4 [Reserved]

### § 1071.5 [Reserved]

### § 1071.6 [Reserved]

### § 1071.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means any milk plant described in paragraph (a) or (b) of this section, which is approved by the appropriate health authority having jurisdiction in the marketing area.

(a) Any plant, hereinafter referred to as a "distributing pool plant," from which:

(1) During the current delivery period there is route disposition, except filled milk, in the marketing area equal to 10 percent or more of such plant's Grade A receipts from dairy farmers as specified in paragraph (a)(2) of this section; and

(i) During the current delivery period there is disposed of as Class I milk, except filled milk, an amount not less than an applicable percentage of such plant's Grade A receipts as specified in paragraph (a)(2) of this section as follows: (*a*) April through August, 30 percent; and (*b*) September through March, 45 percent; or

(ii) During five of the six immediately preceding delivery periods, such plant was a pool plant by virtue of meeting the specifications pursuant to paragraph (a)(1)(i) of this section; and

(2) The Grade A receipts from dairy farmers to be used in calculating the percentages specified in paragraph (a)(1) of this section, for each plant shall include all receipts of Grade A milk from dairy farmers and handlers described in § 1071.9(c) subject to the following provisions:

(i) Milk diverted to another plant for the account of the operator of the plant from which the milk was diverted shall be included in the receipts of the plant from which diverted for the purposes of this section, if the milk is claimed as diverted on the report of the diverting handler filed for the month pursuant to § 1071.30 (if such claim is made by the diverting handler, milk so diverted shall be excluded from the receipts of the plant to which diverted); and

(ii) Milk received at a plant operated by a cooperative association from a handler described in § 1071.9(c)(2) shall be excluded from the cooperative association's plant receipts for the purposes of this section.

(b) Any plant, hereinafter referred to as a "supply pool plant", from which during the delivery period no less than 50 percent of the Grade A milk received from dairy farmers is shipped to a plant(s) described in paragraph (a) of this section: *Provided,* That if such plant is a pool plant during each of the months of September through March it shall be designated as a pool plant in the next succeeding months of April through August, unless the market administrator is requested by means of written application on or before the 7th day after the end of the month that the plant should not be a pool plant. All plants described in this paragraph which are operated by one handler may be considered as a unit, upon written notice to the market administrator specifying the plants to be considered as a unit and the period during which such consideration shall apply. Such notice, and the notice of any change in designation, shall be furnished on or before the 7th day following the month to which the notice applies. In any of the months of April through August a unit shall not contain plants which were not qualified as pool plants either individually or as members of another unit, during each of the previous months of September through March.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant; and

(2) A plant that either the Secretary determines disposed of a greater portion of its milk as Class I milk, except filled milk, in another marketing area regulated by another milk marketing agreement or order issued pursuant to the Act or is otherwise determined pursuant to the provisions of another milk marketing agreement or order to be subject to the pricing and payment provisions of such agreement or order.

### § 1071.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in the marketing area in consumer-type packages or dispenser units during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products are moved during the month to a pool plant qualified pursuant to § 1071.7 and which is neither an other order plant nor a producer-handler plant.

### § 1071.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any cooperative association, with respect to milk of its member producers which it causes to be diverted pursuant to § 1071.13 for the account of such association;

(c) Any cooperative association, with respect to milk of its member producers:

(1) For which it elects to report as a handler and which is delivered to the pool plant(s) of another handler in a tank truck owned, operated, or controlled, by such association; or

(2) Delivered for its account to the pool plant of another cooperative association;

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) A producer-handler; and

(f) Any person who operates an other order plant described in § 1071.7(c).

### § 1071.10 Producer-handler.

"Producer-handler" means any person who, with the approval of any health authority having jurisdiction in the marketing area, processes milk from his own farm production and disposes of all or a portion of such milk as Class I milk within the marketing area, who receives no milk from producers, and who disposes of no fluid milk products in excess of those (a) received from a pool plant, (b) received from an other order plant that are classified and priced as Class I milk under the other order, and (c) from milk of his own production.

### § 1071.11 [Reserved]

### § 1071.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk under a dairy farm permit or rating issued by the appropriate health authority having jurisdiction in the marketing area over the production of milk disposed of for consumption as Grade A milk whose milk is:

(1) Received at a pool plant; or

(2) Diverted pursuant to § 1071.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;





(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1071.44(a)(8)(iii) and the corresponding step of § 1071.44(b); and

(3) Any person with respect to milk produced by him which is diverted from a pool plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk.

### § 1071.13 Producer milk.

"Producer milk" shall be that skim milk and butterfat for each handler's account in milk received from producers pursuant to paragraphs (a) and (b) of this section as follows:

(a) For a handler operating a pool plant, producer milk shall include:

(1) Milk received directly from producers' farms (including such handler's own farm production) at such pool plant, except milk received from a handler described in § 1071.9(c); and

(2) Milk diverted by such pool plant operator pursuant to paragraph (c) of this section.

(b) For a handler described in § 1071.9(b) or (c), producer milk shall include:

(1) Milk received directly from producers' farms for its account at pool plants (such milk shall be considered as having been received by the handler at the plant to which it is delivered and then transferred to the plant operator); and

(2) Milk diverted for its account pursuant to paragraph (c) of this section.

(c) Milk diverted for the account of a pool plant operator or the account of a cooperative association from producers' farms to a nonpool plant that is not a producer-handler plant shall be considered as diverted by the handler for whose account it was diverted, if the diverting handler claimed the diversion on his report for the month filed pursuant to § 1071.30. Milk diverted shall be considered as received at the pool plant from which it was diverted for the purpose of determining applicable location adjustments.

### § 1071.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1071.40(b)(1) source other than producers, handlers described in § 1071.9(c), pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1071.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1071.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined, with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1071.40(b)(1)) for which the handler fails to establish a disposition.

### § 1071.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1071.40 (b) or (c)(1) (i) through (iv) if it contains by weight at least 30 percent water and 6.5 percent nonfat milk solids and less than 9-percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

### § 1071.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

### § 1071.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

### § 1071.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and,

(b) Is authorized by its members to make collective sales or to market milk or its products for its members.



V 38 175 SEP 11 73 XUM

§ 1071.19 Delivery period.

"Delivery period" means a calendar month, or any portion thereof during which this part is in effect.

HANDLER REPORTS

§ 1071.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1071.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1071.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1071.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1071.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1071.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1071.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1071.32 Other reports.

(a) Each handler who causes milk to be diverted shall, prior to such diversion, report to the market administrator and to the cooperative association of which such producer is a member, his intention to divert such milk, the proposed date or dates of such diversion, and the plant to which such milk is to be diverted.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1071.30 and 1071.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1071.40 Classes of utilization.

Except as provided in § 1071.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1071.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(v) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1071.15; and

(6) In shrinkage assigned pursuant to § 1071.41(a) to the receipts specified in § 107.41(a)(2) and in shrinkage specified in § 1071.41(b) and (c).

§ 1071.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1071.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent (5 percent with respect to skim milk during the months of April, May, and June) of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent (4.5 percent with respect to skim milk during the months of April, May, and June) of the skim





milk and butterfat, respectively, in milk received from a handler described in § 1071.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent (5 percent with respect to skim milk during the months of April, May, and June);

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent (4.5 percent with respect to skim milk during the months of April, May, and June) of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent (4.5 percent with respect to skim milk during the months of April, May, and June) of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent (4.5 percent with respect to skim milk during the months of April, May, and June) of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent (4.5 percent with respect to skim milk during the months of April, May, and June) of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1071.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1071.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant or by a handler described in § 1071.9(c) to another handler's pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1071.44(a)(12) and the corresponding step of § 1071.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1071.44(a)(7) or the corresponding step of § 1071.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1071.44(a) (11) or (12) or the corresponding steps of § 1071.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1071.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i)(*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1071.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:



V 38 I 175 SEP 11 73 XUM

(a) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(b) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(d) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(a) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(b) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(a) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(b) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

**§ 1071.43 General classification rules.**

In determining the classification of producer milk pursuant to § 1071.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1071.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1071.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1071.40, 1071.41, and 1071.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1071.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

**§ 1071.44 Classification of producer milk.**

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1071.9(a) for each of his pool plants separately and of each handler described in § 1071.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1071.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class II milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1071.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1071.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1071.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1071.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (a) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the handler's total Class III utilization at his other pool plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment:

(a) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler;

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1071.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handlers; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from another order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7), (vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1071.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii) and (iii) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(a) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1071.45(a); or

(b) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler;

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received; and

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from any class that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant or a handler described in § 1071.9(c) according to the classification of such products pursuant to § 1071.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1071.44(a)(14) and the corresponding step of § 1071.44(b).

**§ 1071.45 Market administrator's reports and announcements concerning classification.**

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1071.44(a)(12) and the corresponding step of § 1071.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1071.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk







V 38 175 SEP 11 73 XUM

products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each delivery period, report to each cooperative association which so requests, the amount and class utilization of the milk caused to be delivered to each handler by such cooperative association, either directly or from producers who are members of such cooperative association. For purposes of this report, the milk so delivered by a cooperative association shall be prorated to each class in the proportion that the total quantity of producer milk received by such handler was to the quantity of milk in each class.

CLASS PRICES

**§ 1071.50 Class prices.**

Subject to the provisions of §1071.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.54: *Provided*, That the price so determined shall be further adjusted by subtracting any amount by which such price exceeds the higher of, or adding any amount by which such price is less than, the lower of the following:

(1) The price for Class I milk of 3.5 percent butterfat content established for the same month or delivery period pursuant to Part 1106 of this chapter regulating the handling of milk in the Oklahoma Metropolitan marketing area less 33 cents; or

(2) The price for Class I milk of 3.5 percent butterfat content established for the same month or delivery period for Zone 1 under Part 1062 of this chapter regulating the handling of milk in the St. Louis-Ozarks marketing area, plus 15 cents.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

**§ 1071.51 Basic formula price.**

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

**§ 1071.52 Plant location adjustments for handlers.**

(a) For milk received from producers at a pool plant located more than 50 miles by shortest highway distance as measured by the market administrator, from the nearest of the city halls in Joplin or Nevada, Mo., or Chanute or Independence, Kans., and disposed of as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price computed pursuant to § 1071.50(a) shall be reduced by 10 cents if such plant is located more than 50 miles but not more than 60 miles from such city hall and by an additional 2 cents for each 15 miles or fraction thereof that such distance exceeds 60 miles;

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee-plant in a volume not in excess of that by which 105 percent of Class I disposition at the transferee-plant exceeds the sum of receipts at such plant from producers and handlers described in § 1071.9(c), and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply; and

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

**§ 1071.53 Announcement of class prices.**

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

**§ 1071.54 Equivalent price.**

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICE

**§ 1071.60 Handler's value of milk for computing uniform price.**

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1071.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1071.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1071.44(a)(14) and the corresponding step of § 1071.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1071.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1071.44(a)(9) and the corresponding step of § 1071.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1071.44(a)(7) (i) through (iv) and the corresponding step of § 1071.44 (b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1071.44(a)(7) (v) and (vi) and the corresponding step of § 1071.44 (b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1071.44(a)(11) and the corresponding step of § 1071.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class II price, both for the preceding month, by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1071.40 (b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

**§ 1071.61 Computation of uniform price.**

For each month the market administrator shall compute the uniform price per hundredweight for milk of 3.5





percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1071.60 for all handlers who filed the reports prescribed by § 1071.30 for the month and who made the payments pursuant to §§ 1071.71 and 1071.73 for the preceding month;

(b) Add an amount equal to the total value of the location adjustments computed pursuant to § 1071.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1071.60 (f); and

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

**§ 1071.62 Announcement of uniform price and butterfat differential.**

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

**§ 1071.70 Producer-settlement fund.**

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," into which he shall deposit payments made by handlers pursuant to §§ 1071.71, 1071.76, and 1071.77 and out of which he shall make payments to handlers pursuant to §§ 1071.72 and 1071.77: *Provided*, That payments due to any handler shall be offset by payments due from such handler.

**§ 1071.71 Payments to the producer-settlement fund.**

(a) On or before the 13th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1071.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1071.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received plus 5 cents of other source milk for which a value is computed pursuant to § 1071.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

**§ 1071.72 Payments from the producer-settlement fund.**

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1071.71(a)(2) exceeds the amount computed pursuant to § 1071.71(a)(1). The market administrator shall offset any payment due any handler against payments due from such handler. If the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

**§ 1071.73 Payments to producers and to cooperative associations.**

Each handler shall make payment as follows:

(a) On or before the last day of each delivery period to each producer for milk received from him during the first 15 days of such delivery period at not less than the Class III price for the preceding delivery period: *Provided*, That with respect to producers whose milk was caused to be delivered to such handler by a cooperative association which is authorized to collect payments for such milk, the handler shall, if the cooperative association so requests, pay such cooperative association at least 2 days before the end of the delivery period, an amount equal to the sum of the individual payments otherwise payable to such producers in accordance with this paragraph.

(b) On or before the 17th day after the end of each delivery period, for all milk received during such delivery period from such producer at not less than the uniform price for such delivery period computed pursuant to § 1071.61 subject to the following adjustments: (1) The butterfat and location differentials pursuant to §§ 1071.74 and 1071.75; (2) payment made pursuant to paragraph (a) of this section; (3) deductions for marketing services pursuant to § 1071.86, (4) deductions authorized by the producer; and (5) any error in payments to such producer for past delivery periods: *Provided*, That if by such date such handler has not received full payment for milk for such delivery period pursuant to § 1071.72, he may reduce uniformly per hundredweight, for all producers his payments pursuant to this paragraph, by an amount not in excess of the per hundredweight reduction in payments from the market administrator: *Provided further*, That the handler shall make such balance of payment to those producers to whom it is due on or before the date for making payments, pursuant to this paragraph, next following that on which such balance of payment is received from the market administrator: *And provided further*, That with respect to producers whose milk was caused to be delivered to such handler by a cooperative association which is authorized to collect payment for such milk, the handler shall, if the cooperative association so requests, pay such cooperative association, on or before the 15th day after the end of each delivery period an amount equal to the sum of the individual payments otherwise payable to such producer in accordance with this paragraph; and

(c) On or before the 17th day after the end of each delivery period, to each handler described in § 1071.9(c) for milk received from such handler, not less than the value of such milk as is classified pursuant to § 1071.42(a) at the class prices, as adjusted by the butterfat differential specified in § 1071.74, that are applicable at the location of the handler's pool plant.

**§ 1071.74 Butterfat differential.**

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each 0.1-percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest 0.1 cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

**§ 1071.75 Plant location adjustments for producers and on nonpool milk.**

(a) The uniform price for producer milk received at a pool plant shall be adjusted according to the location of the pool plant at the rates set forth in § 1071.52.

(b) The uniform price applicable to other source milk shall be subject to the same adjustments applicable to the uniform price under paragraph (a) of this section, except that the adjusted uniform price plus 5 cents shall not be less than the Class III price.

**§ 1071.76 Payments by handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of



V 38 175 SEP 11 73 XUM

the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1071.30(b) and 1071.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price plus 5 cents, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the uniform price plus 5 cents shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1071.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1071.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1071.60 for such handler shall include, in lieu of the value of other source milk specified in § 1071.60(f) less the value of such other source milk specified in § 1071.71(a)(2)(ii), a value of milk determined pursuant to § 1071.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during this month equivalent to the requirements of § 1071.7(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1071.30(b) and 1071.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(*c*) The value of milk determined pursuant to § 1071.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1071.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1071.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

**§ 1071.77 Adjustment of accounts.**

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

**§ 1071.85 Assessment for order administration.**

As his pro rata share of the expense of administering the order, each handler shall pay to the market administrator on or before the 16th day after the end of the month 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk received by a pool plant operator (including such handler's own production);

(b) Milk received from a handler described in § 1071.9(c);

(c) Producer milk of a handler described in § 1071.9(b);

(d) Other source milk allocated to Class I pursuant to § 1071.44(a)(7) and (11) and the corresponding step of § 1071.44(b), except such other source milk that is excluded from the computations pursuant to § 1071.60(d) and (f); and

(e) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1071.76(a)(2).

**§ 1071.86 Deduction for marketing services.**

(a) *Deduction for marketing services.* Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than himself) pursuant to § 1071.73 shall deduct 6 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to all milk received by such handler from producers during the delivery period, and shall pay such deductions to the market administrator on or before the 15th day after the end of such delivery period. Such moneys shall be used by the market administrator to sample, test, and check the weights of milk received from producers and to provide producers with market information.

(b) *Deductions with respect to members of a cooperative association.* In the case of producers who are members of a cooperative association, or who have given written authorization for the rendering of marketing services and the taking of deductions therefor by a cooperative association, and for whom the Secretary determines such a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by such producers and on or before the 15th day after the end of such delivery period pay over such deduction to the cooperative association rendering such services.





ADVERTISING AND PROMOTION PROGRAM

**§ 1071.110 Agency.**

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1071.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

**§ 1071.111 Composition of Agency.**

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1071.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1071.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1071.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

**§ 1071.112 Term of office.**

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

**§ 1071.113 Selection of Agency members.**

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1071.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmembers producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

**§ 1071.114 Agency operating procedure.**

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

**§ 1071.115 Powers of the Agency.**

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1071.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1071.110 and 1071.117.

**§ 1071.116 Duties of the Agency.**

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1071.110 and 1071.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

**§ 1071.117 Advertising, Research, Education, and Promotion Program.**

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and



V 38-175
SEP 11 73
XUM

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

**§ 1071.118 Limitation of expenditures by the Agency.**

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1071.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

**§ 1071.119 Personal liability.**

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

**§ 1071.120 Procedure for requesting refunds.**

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

**§ 1071.121 Duties of the market administrator.**

Except as specified in § 1071.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1071.113(c).

(b) Set aside the amounts subtracted under § 1071.61(d) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b) (2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1071.61(d).

(3) After the end of each calendar quarter make a refund to each producer who has made application for such refund pursuant to § 1071.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1071.61(d) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1071.110 through 1071.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

**§ 1071.122 Liquidation.**

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1071.70.

---

## PART 1073—MILK IN WICHITA, KANS., MARKETING AREA

**Subpart—Order Regulating Handling**

GENERAL PROVISIONS

Sec.
1073.1 General provisions.

DEFINITIONS

1073.2 Wichita, Kans., marketing area.
1073.3 Route disposition.
1073.4 [Reserved]
1073.5 Distributing plant.
1073.6 Supply plant.
1073.7 Pool plant.
1073.8 Nonpool plant.
1073.9 Handler.
1073.10 Producer-handler.
1073.11 [Reserved]
1073.12 Producer.
1073.13 Producer milk.
1073.14 Other source milk.
1073.15 Fluid milk product.
1073.16 Fluid cream product.
1073.17 Filled milk.
1073.18 Cooperative association.

HANDLER REPORTS

1073.30 Reports of receipts and utilization.
1073.31 Payroll reports.
1073.32 Other reports.

CLASSIFICATION OF MILK

1073.40 Classes of utilization.
1073.41 Shrinkage.
1073.42 Classification of transfers and diversions.
1073.43 General classification rules.
1073.44 Classification of producer milk.
1073.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1073.50 Class prices.
1073.51 Basic formula price.
1073.52 Plant location adjustments for handlers.
1073.53 Announcement of class prices.
1073.54 Equivalent price.

UNIFORM PRICE

1073.60 Handler's value of milk for computing uniform price.
1073.61 Computation of uniform price.
1073.62 Announcement of uniform price and butterfat differential.

PAYMENTS FOR MILK

1073.70 Producer-settlement fund.
1073.71 Payments to the producer-settlement fund.
1073.72 Payments from the producer-settlement fund.
1073.73 Payments to producers and to cooperative associations.
1073.74 Butterfat differential.
1073.75 Plant location adjustments for producers and on nonpool milk.
1073.76 Payments by handler operating a partially regulated distributing plant.
1073.77 Adjustment of accounts.
1073.78 Charges on overdue accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1073.85 Assessment for order administration.
1073.86 Deduction for marketing services.

ADVERTISING AND PROMOTION PROGRAM

1073.110 Agency.
1073.111 Composition of Agency.
1073.112 Term of office.
1073.113 Selection of Agency members.
1073.114 Agency operating procedure.
1073.115 Powers of the Agency.
1073.116 Duties of the Agency.
1073.117 Advertising, Research, Education and Promotion Program.
1073.118 Limitation of expenditures by the Agency.





Sec.
1073.119 Personal liability.
1073.120 Procedure for requesting refunds.
1073.121 Duties of the market administrator.
1073.122 Liquidation.

AUTHORITY: The provisions of this Part 1073 issued under secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

GENERAL PROVISIONS

**§ 1073.1 General provisions.**

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

**§ 1073.2 Wichita, Kans., marketing area.**

"Wichita, Kans., marketing area", hereinafter called the marketing area, means all the territory within the counties enumerated below, all within the State of Kansas, together with all territory within the boundaries so designated which is occupied by government (municipal, State or Federal) reservations or installations:

ZONE I

| | |
|---|---|
| Barber. | Marion. |
| Barton. | McPherson. |
| Butler. | Pawnee. |
| Comanche. | Pratt. |
| Cowley. | Reno. |
| Edwards. | Rice. |
| Ellis. | Rush. |
| Harper. | Russell. |
| Harvey. | Sedgwick. |
| Kingman. | Stafford. |
| Kiowa. | Sumner. |

ZONE II

| | |
|---|---|
| Clark. | Lane. |
| Finney. | Meade. |
| Ford. | Morton. |
| Gove. | Ness. |
| Grant. | Scott. |
| Gray. | Seward. |
| Greeley. | Stanton. |
| Hamilton. | Stevens. |
| Haskell. | Trego. |
| Hodgeman. | Wichita. |
| Kearny. | |

**§ 1073.3 Route disposition.**

"Route disposition" means a delivery from a distributing plant (including a delivery by a vendor, from a plant store or through a vending machine) to a retail or wholesale outlet, other than a plant, of any fluid milk product classified as Class I milk.

**§ 1073.4 [Reserved]**

**§ 1073.5 Distributing plant.**

"Distributing plant" means a plant which is approved by an appropriate health authority for the processing or packaging of Grade A milk and from which during the month route disposition is made in the marketing area.

**§ 1073.6 Supply plant.**

"Supply plant" means a plant from which fluid milk products, acceptable to an appropriate health authority for distribution under a Grade A label, are shipped during the month to and physically received at a distributing plant.

**§ 1073.7 Pool plant.**

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) Any distributing plant:

(1) From which route disposition, except filled milk, is an amount equal to 25 percent or more during the months of March through July and 35 percent during all other months of such plant's total receipts of Grade A milk direct from dairy farmers, supply plants, and handlers, described in § 1073.9(c) and route disposition in the marketing area is an amount equal to 10 percent or more of such receipts. In any case in which the entire quantity of fluid milk products, except filled milk, disposed of in packages in a particular size and form is received in such packages from other plants, all such disposition shall be credited to the plant from which such packages were received and shall be deducted from the appropriate disposition of the receiving plant; or

(2) Qualified as a pool plant in the immediately preceding month on the basis of the performance standards described in paragraph (a)(1) of this section;

(b) Any supply plant from which during the month 50 percent or more of the Grade A milk received from dairy farmers and handlers described in § 1073.9(c) is shipped to a plant(s) described in paragraph (a) of this section. Any supply plant which has shipped to a plant(s) described in paragraph (a) of this section the required percentages of its receipts during each of the months of August through November shall be designated a pool plant in each of the following months of December through July unless the plant operator requests the market administrator in writing that such plant not be a pool plant. Such nonpool plant status shall be effective the first month following such notice and thereafter until the plant again qualifies as a pool plant on the basis of shipments; and

(c) Any plant which is operated by a cooperative association and 60 percent or more of the milk delivered during the current month by producers who are members of such association is delivered directly or is transferred by the association to pool plants as described in paragraphs (a) and (b) of this section, unless such a plant qualifies for the month as a "pool plant" under another order issued pursuant to the Act by delivering 50 percent or more of its Grade A receipts from dairy farmers to plants which qualified as "pool plants" under such other order.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A distributing plant which meets the pooling requirements of another Federal order and from which route disposition, except filled milk, during the month in such other Federal order marketing area is greater than was so disposed of in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of such Class I disposition is made in such other marketing area unless, notwithstanding the provisions of this paragraph, it is regulated under such other order;

(3) A distributing plant which meets the pooling requirements of another Federal order and from which route disposition, except filled milk, during the month in this marketing area is greater than was so disposed of in such other Federal order marketing area but which plant is, nevertheless, fully regulated under such other Federal order; and

(4) A supply plant meeting the requirements of paragraph (b) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made during the month to plants regulated under such other order than are made to plants regulated under this part, except during the months of December through July, if such plant retains automatic pooling status under this part.

**§ 1073.8 Nonpool plant.**

"Nonpool plant" means any milk or filled milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act;

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act;

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant which has route disposition in consumer-type packages or dispenser units in the marketing area during the month; and

(d) "Unregulated supply plant" means a nonpool plant that is a supply plant and is neither an other order plant nor a producer-handler plant from which fluid milk products are shipped to a pool plant.

**§ 1073.9 Handler.**

"Handler" means:

(a) Any person who operates a pool plant;

(b) Any cooperative association with respect to milk of its member producers which is diverted pursuant to § 1073.13 for the account of such association;

(c) A cooperative association with respect to milk of its member producers which is received from the farm for delivery to the pool plant of another handler in a tank truck owned and operated by, or under contract to, such cooperative association if the cooperative association notifies the market administrator and the handler to whom the milk is delivered, in writing prior to the



V 38 175 SEP 11 73 XUM

first day of the month in which the milk is delivered, that it wishes to be the handler for the milk. In this case, the milk is received from producers by the cooperative association at the location of the plant to which it is delivered;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler; and

(f) Any person who operates an other order plant described in § 1073.7(d).

**§ 1073.10 Producer-handler.**

"Producer-handler" means any person who is both a dairy farmer and the operator of a distributing plant, and who meets the qualifications specified in paragraphs (a) and (b) of this section:

(a) His disposition of fluid milk products does not exceed his own farm production, receipts of fluid milk products from pool plants and receipts of packaged fluid milk products from other order plants; and

(b) The maintenance, care and management of the dairy animals and other resources necessary to produce the milk and the processing, packaging and distribution of the milk are the personal enterprise and the personal risk of such person.

**§ 1073.11 [Reserved]**

**§ 1073.12 Producer.**

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority and whose milk is:

(1) Received at a pool plant; or

(2) Diverted as producer milk pursuant to § 1073.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1073.44(a)(8)(iii) and the corresponding step of § 1073.44(b); and

(3) Any person with respect to milk produced by him which is diverted from a pool plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk.

**§ 1073.13 Producer milk.**

"Producer milk" shall be that skim milk and butterfat for each handler's account in the following milk from producers:

(a) With respect to the operations of a pool plant:

(1) Received directly from such producers;

(2) Diverted by the operator of such pool plant to a nonpool plant that is not a producer-handler plant, subject to the condition of paragraph (c) of this section; and

(3) Which is received at such pool plant from a handler described in § 1073.9(c), for all purposes other than those specified in paragraph (b)(2)(i) of this section;

(b) With respect to receipts by a cooperative association in addition to those pursuant to paragraph (a) of this section:

(1) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant by a cooperative association acting as a handler as described in § 1073.9(b), subject to the condition of paragraph (c) of this section; and

(2) For which the cooperative association is the handler as described in § 1073.9(c) to the following extent:

(i) For purposes of reporting pursuant to §§ 1073.30(c) and 1073.31(a) and making payments to producers pursuant to § 1073.73(a); and

(ii) For all purposes, with respect to any such milk which is not delivered to the pool plant of another handler; and

(c) For the purposes of location adjustments pursuant to §§ 1073.52 and 1073.75, milk diverted shall be priced at the location of the pool plant from which diverted.

**§ 1073.14 Other source milk.**

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1073.40(b)(1) from any source other than producers, handlers described in § 1073.9(c), pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1073.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1073.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1073.40(b)(1)) for which the handler fails to establish a disposition.

**§ 1073.15 Fluid milk product.**

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1073.40 (b) or (c)(1) (i) through (iv) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

**§ 1073.16 Fluid cream product.**

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

**§ 1073.17 Filled milk.**

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

**§ 1073.18 Cooperative association.**

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To be engaged in making collective sales, or marketing milk or its products for its members.

HANDLER REPORTS

**§ 1073.30 Reports of receipts and utilization.**

On or before the 8th day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1073.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1073.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1073.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

**§ 1073.31 Payroll reports.**

(a) On or before the 20th day after the end of each month, each handler described in § 1073.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1073.76 (b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

**§ 1073.32 Other reports.**

In addition to the reports required pursuant to §§ 1073.30 and 1073.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

**§ 1073.40 Classes of utilization.**

Except as provided in § 1073.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1073.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, low fat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(v) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1073.15; and

(6) In shrinkage assigned pursuant to § 1073.41(a) to the receipts specified in § 1073.41(a)(2) and in shrinkage specified in § 1073.41 (b) and (c).

**§ 1073.41 Shrinkage.**

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1073.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1073.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1073.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b)(1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of







V 38-175 SEP 11 73 XUM

milk from producers for which a cooperative association is the handler pursuant to § 1073.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

**§ 1073.42 Classification of transfers and diversions.**

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1073.44(a)(12) and the corresponding step of § 1073.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1073.44(a)(7) or the corresponding step of § 1073.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1073.44(a)(11) or (12) or the corresponding steps of § 1073.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section;

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1073.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1073.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization then to Class III utilization, and then to Class II utilization at such nonpool plant;





(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

**§ 1073.43 General classification rules.**

In determining the classification of producer milk pursuant to § 1073.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1073.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1073.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1073.40, 1073.41, and 1073.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1073.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

**§ 1073.44 Classification of producer milk.**

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1073.9(a) for each of his pool plants separately and of each handler described in § 1073.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1073.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1073.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1073.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1073.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1073.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the handler's total Class III utilization at his other pool plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler;

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1073.40(b)(1) in inventory at the beginning of the month



V 38-175 SEP 11 73 XUM

that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section:

(11) Subject to the provisions of paragraph (a)(11)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii) and (iii) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1073.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler;

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received; and

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from any class that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1073.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1073.44(a)(14) and the corresponding step of § 1073.44(b).

**§ 1073.45 Market administrator's reports and announcements concerning classification.**

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1073.44(a)(12) and the corresponding step of § 1073.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1073.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 13th day of each month report to each cooperative association, which so requests, the percentage utilization of milk received from producers or from a handler described in § 1073.9(c) in each class by each handler who in the previous month received milk from members of such cooperative association.

## Class Prices

**§ 1073.50 Class prices.**

Subject to the provisions of § 1073.52, the class prices for the month per hundredweight of milk containing 3.5-percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.80. Such price shall not be less than the Class I price established for the same month pursuant to Part 1064 (Greater Kansas City) of this chapter, nor more than the Greater Kansas City Class I price plus 60 cents.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month, but not to exceed an amount computed as follows:

(1) Multiply by 4.2 the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month;

(2) Multiply by 8.2 the weighted average of carlot prices per pound of spray process nonfat dry milk for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department; and

(3) From the sum of the amounts computed pursuant to paragraph (c)(1) and (2) of this section subtract 48 cents and round to the nearest cent.

**§ 1073.51 Basic formula price.**

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5-percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest 0.1 cent) per 0.1-percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

**§ 1073.52 Plant location adjustments for handlers.**

(a) For milk received from producers or from a handler described in § 1073.9(c) at a pool plant and which is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (a)(4) of this section, the price at such pool plant when located:

(1) In Zone I of the marketing area, shall be that computed pursuant to § 1073.50(a);

(2) In Zone II of the marketing area, shall be 5 cents more than the Zone I price;

(3) Outside the marketing area, shall be the Class I price applicable at the nearest of the city halls in Garden City, Hays, Pratt, or Wichita, Kan., subject to a reduction of 12 cents if the distance to such city hall is 70 miles or more, but less than 80 miles, plus an additional 1.5 cents for each 10 miles or fraction thereof in excess of 79 miles (all distances to be by shortest hard-surfaced highway, as determined by the market administrator); and

(4) For purposes of calculating such location adjustments, transfers of fluid milk products between pool plants shall be assigned Class I milk disposition at the receiving plant, in excess of the sum of receipts at such plant from producers (including receipts from a handler described in § 1073.9(c)) and the pounds assigned as Class I milk to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to shipping plants priced at the same zone price, next to plants priced at the other zone price, and then in sequence beginning with the plant at which the least location adjustment credit would apply.

(b) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

**§ 1073.53 Announcement of class prices.**

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

**§ 1073.54 Equivalent price.**

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.





## Uniform Price

**§ 1073.60 Handler's value of milk for computing uniform price.**

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1073.9(b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1073.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1073.44(a)(14) and the corresponding step of § 1073.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1073.74, that are applicable at the location of the pool plant;

(c) Add the following:

(1) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1073.44(a)(9) and the corresponding step of § 1073.44(b); and

(2) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class II price for the current month by the lesser of:

(i) The hundredweight of skim milk and butterfat subtracted from Class II pursuant to § 1073.44(a)(9) and the corresponding step of § 1073.44(b) for the current month; or

(ii) The hundredweight of skim milk and butterfat remaining in Class III after the computations pursuant to § 1073.44(a)(12) and the corresponding step of § 1073.44(b) for the preceding month, less the hundredweight of skim milk and butterfat specified in paragraph (c)(1) of this section;

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1073.44(a)(7)(i) through (iv) and the corresponding step of § 1073.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1073.44(a)(7)(v) and (vi) and the corresponding step of § 1073.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1073.44(a)(11) and the corresponding step of § 1073.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price, both for the preceding month, by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1073.40(b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

**§ 1073.61 Computation of uniform price.**

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5-percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1073.60 for all handlers who filed the reports prescribed by § 1073.30 for the month and who made the payments pursuant to §§ 1073.71 and 1073.73 for the preceding month;

(b) Deduct the amount of the plus adjustments and add the amount of the minus adjustments, which are applicable pursuant to § 1073.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1073.60(f); and

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

**§ 1073.62 Announcement of uniform price and butterfat differential.**

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.



V 38-175 SEP 11 73 XUM

PAYMENTS FOR MILK

**§ 1073.70 Producer-settlement fund.**

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1073.71, 1073.76, and 1073.77, and out of which he shall make all payments to handlers pursuant to §§ 1073.72 and 1073.77.

**§ 1073.71 Payments to the producer-settlement fund.**

(a) On or before the 13th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1073.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1073.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received plus 5 cents of other source milk for which a value is computed pursuant to § 1073.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

**§ 1073.72 Payments from the producer-settlement fund.**

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any (for each pool plant, if applicable), by which the amount computed pursuant to § 1073.71(a)(2) exceeds the amount computed pursuant to § 1073.71(a)(1). The market administrator shall offset any payment due any handler against payments due from such handler. If the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

**§ 1073.73 Payments to producers and to cooperative associations.**

Each handler shall make payment as follows:

(a) On or before the second working day following the 12th day after the end of the month during which the milk was received, to each producer for whom payment is not made pursuant to paragraph (c) of this section, at not less than the uniform price computed pursuant to § 1073.61 for such producer's deliveries of milk, adjusted by the butterfat differential and location adjustments computed pursuant to §§ 1073.74 and 1073.75, and less the amount of the payment made pursuant to paragraph (b) of this section. If by such date such handler has not received full payment pursuant to § 1073.72, he may reduce his total payments uniformly to all producers by not more than the amount of the reduction in payment by the market administrator. He shall, however, complete such payments pursuant to this paragraph not later than the date for making such payments next following receipt of the balance from the market administrator;

(b) On or before the 27th day of each month, to each producer:

(1) To whom payment is not made pursuant to paragraph (c) of this section; and

(2) Who is still delivering Grade A milk to such handler, a partial payment with respect to milk received from him during the first 15 days of such month computed at not less than 110 percent of the Class III price for 3.5 percent milk for the preceding month, without deduction for hauling;

(c) On or before the 14th day after the end of each month and on or before the 24th day of each month, in lieu of payments pursuant to paragraphs (a) and (b), respectively, of this section, to a cooperative association which so requests, for milk which it caused to be delivered to such handler from producers, and for which such association is determined by the market administrator to be authorized to collect payment, an amount equal to the sum of the individual payments otherwise payable to such producers. Such payments due on or before the 14th day after the end of the month shall be accompanied by a statement showing for each producer the items required to be reported pursuant to § 1073.31, and payments due on or before the 24th day of the month shall be accompanied by a statement of the amount of money for each producer; and

(d) Each handler who receives milk from a handler described in § 1073.9(c), shall, on or before the second day prior to the date payments are due individual producers, pay such handler for such milk as follows:

(1) A partial payment for milk received during the first 15 days of the month at not less than the amount prescribed in paragraph (b)(2) of this section; and

(2) In making final settlement, the value of such milk at the uniform price, adjusted pursuant to §§ 1073.74 and 1073.75, less payment made pursuant to paragraph (d)(1) of this section.

**§ 1073.74 Butterfat differential.**

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each 0.1 percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest 0.1 cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

**§ 1073.75 Plant location adjustments for producers and on nonpool milk.**

(a) For producer milk received at pool plants located outside Zone 1, there shall be added or deducted, as the case may be, an adjustment for each such plant for all milk at the rates specified in § 1073.52(a).

(b) For purposes of computations pursuant to §§ 1073.71(a)(2)(ii) and 1073.72, the uniform price shall be adjusted at the rates set forth in § 1073.52, applicable at the location of the nonpool plant(s) from which the milk was received, except that the adjusted uniform price plus 5 cents shall not be less than the Class III price.

**§ 1073.76 Payments by handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1073.30(b) and 1073.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;





(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price plus 5 cents, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the uniform price plus 5 cents shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1073.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1073.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1073.60 for such handler shall include, in lieu of the value of other source milk specified in § 1073.60(f) less the value of such other source milk specified in § 1073.71(a)(2)(ii), a value of milk determined pursuant to § 1073.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1073.7(b) subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1073.30(b) and 1073.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1073.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1073.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1073.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

**§ 1073.77 Adjustment of accounts.**

(a) Whenever verification by the market administrator of reports or payments of any handler discloses error in payments to the producer-settlement fund made pursuant to § 1073.71, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 5 days of such billing, make payment to the market administrator of the amount so billed;

(b) Whenever verification discloses that payment is due from the market administrator to any handler pursuant to § 1073.72, the market administrator shall, within 5 days, make payment to such handler;

(c) Whenever verification by the market administrator of the payment by a handler to any producer discloses payment to such producer of an amount which is less than is required by this part, the handler shall make up such payment to the producer not later than the time of making payment to producers next following the disclosure; and

(d) Whenever verification by the market administrator of the payment by a handler to any producer discloses that solely through error in computation, payment to such producer was in an amount more than was required to be paid pursuant to § 1073.73, no handler shall be deemed to be in violation of § 1073.73 if he reduces his next payment to such producer following discovery of such error by not more than such overpayment.

**§ 1073.78 Charges on overdue accounts.**

Any unpaid obligation of a handler pursuant to § 1073.71, § 1073.77(a), or § 1073.85 shall be increased one-half of 1 percent on the first day of the month following after the date such obligation is due and on the first day of each succeeding month until such obligation is paid. Any remittance received by the market administrator postmarked prior to the first of the month shall be considered to have been received when postmarked.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

**§ 1073.85 Assessment for order administration.**

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 14th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including that pursuant to § 1073.13(a)(3)) and such handler's own production;

(b) Other source milk allocated to Class I pursuant to § 1073.44(a)(7) and (11) and the corresponding steps of § 1073.44(b), except such other source milk that is excluded from the computations pursuant to § 1073.60(d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1073.76(a)(2).

**§ 1073.86 Deduction for marketing services.**

(a) Except as set forth in paragraph (b) of this section, each handler shall deduct 6 cents per hundredweight, or such lesser amount as the Secretary may prescribe, from the payments made to each producer other than himself pursuant to § 1073.73(a) with respect to all milk of such producer received by such handler during the month and shall pay such deductions to the market administrator on or before the 14th day after the end of such month. Such moneys shall be used by the market administrator to verify weights, samples and tests of milk received from, and to provide market information to such producers. The market administrator may contract



V 38-175
SEP 11 73
XUM

with a cooperative association or cooperative associations for the furnishing of the whole or any part of such services; and

(b) In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make such deductions from the payments to be made directly to producers pursuant to § 1073.73(a) as are authorized by such producers, and on or before the 14th day after the end of each month, pay over such deductions to the association of which such producers are members. When requested by the cooperative association a statement shall be supplied the cooperative association showing for each producer for whom such deduction is made the amount of such deduction, the total delivery of milk, and, unless otherwise previously provided, the butterfat test.

ADVERTISING AND PROMOTION PROGRAM

**§ 1073.110 Agency.**

"Agency" means an agency organized by producers and producers' cooperative associations in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1073.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

**§ 1073.111 Composition of Agency.**

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1073.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1073.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1073.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

**§ 1073.112 Term of office.**

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

**§ 1073.113 Selection of Agency members.**

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperative shall be eligible to select a representative(s) to the Agency under the rules of § 1073.111 and paragraph (a) of this section.

(c) Selection of Agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

**§ 1073.114 Agency operating procedure.**

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

**§ 1073.115 Powers of the Agency.**

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1073.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1073.110 and 1073.117.

**§ 1073.116 Duties of the Agency.**

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1073.110 and 1073.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

**§ 1073.117 Advertising, Research, Education, and Promotion Program.**

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:





(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

**§ 1073.118 Limitation of expenditures by the Agency.**

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1073.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

**§ 1073.119 Personal liability.**

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

**§ 1073.120 Procedure for requesting refunds.**

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

**§ 1073.121 Duties of the market administrator.**

Except as specified in § 1073.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1073.113(c).

(b) Set aside the amounts subtracted under § 1073.61(d) into an advertising and promotion fund, separately accounted for from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b) (2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1073.61(d).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1073.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1073.61(d) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1073.110 through 1073.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

**§ 1073.122 Liquidation.**

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1073.70.

## PART 1090—MILK IN THE CHATTANOOGA, TENN., MARKETING AREA

**Subpart—Order Regulating Handling**

GENERAL PROVISIONS


Sec.
1090.1 General provisions.


DEFINITIONS


1090.2 Chattanooga, Tenn., marketing area.
1090.3 Route disposition.
1090.4 [Reserved]
1090.5 [Reserved]
1090.6 [Reserved]
1090.7 Pool plant.
1090.8 Nonpool plant.
1090.9 Handler.
1090.10 Producer-handler.
1090.11 Approved dairy farmer.
1090.12 Producer.
1090.13 Producer milk.
1090.14 Other source milk.
1090.15 Fluid milk product.
1090.16 Fluid cream product.
1090.17 Filled milk.
1090.18 Cooperative association.


HANDLER REPORTS


1090.30 Reports of receipts and utilization.
1090.31 Payroll reports.
1090.32 Other reports.


CLASSIFICATION OF MILK


1090.40 Classes of utilization.
1090.41 Shrinkage.
1090.42 Classification of transfers and diversions.
1090.43 General classification rules.
1090.44 Classification of producer milk.
1090.45 Market administrator's reports and announcements concerning classification.


CLASS PRICES


1090.50 Class prices.
1090.51 Basic formula price.
1090.52 Plant location adjustments for handlers.
1090.53 Announcement of class prices.
1090.54 Equivalent price.


UNIFORM PRICES


1090.60 Handler's value of milk for computing uniform price.
1090.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).
1090.62 Announcement of uniform prices and butterfat differential.


PAYMENTS FOR MILK


1090.70 Producer-settlement fund.
1090.71 Payments to the producer-settlement fund.
1090.72 Payments from the producer-settlement fund.
1090.73 Payments to producers and to cooperative associations.
1090.74 Butterfat differential.
1090.75 Plant location adjustments for producers and on nonpool milk.
1090.76 Payments by handler operating a partially regulated distributing plant.
1090.77 Adjustment of accounts.


ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION


1090.85 Assessment for order administration.
1090.86 Deduction for marketing services.




V 38 N 175 SEP 11 73 XUM

BASE-EXCESS PLAN

Sec.
1090.90 Base milk.
1090.91 Excess milk.
1090.92 Computation of daily average base for each producer.
1090.93 Base rules.
1090.94 Announcement of established bases.

AUTHORITY: The provisions of this Part 1090 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

GENERAL PROVISIONS

**§ 1090.1 General provisions.**

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

**§ 1090.2 Chattanooga, Tenn., marketing area.**

The Chattanooga, Tenn., marketing area, hereinafter called the "marketing area", means all the territory within the boundaries of the following counties:

IN TENNESSEE

Bradley.
Hamilton.
Marion.
McMinn.
Meigs.
Monroe.
Polk.
Rhea.
Sequatchie.

IN GEORGIA

Catoosa.
Chattooga.
Dade.
Fannin.
Murray.
Walker.
Whitfield.

**§ 1090.3 Route disposition.**

"Route disposition" means any delivery (including delivery by a vendor or a sale from a plant or plant store) of any fluid milk product classified as Class I milk other than a delivery to any milk or filled milk processing plant.

**§ 1090.4 [Reserved]**

**§ 1090.5 [Reserved]**

**§ 1090.6 [Reserved]**

**§ 1090.7 Pool plant.**

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) A distributing plant approved or recognized by a duly constituted health authority for the receiving or processing of Grade A milk which during the month has route disposition, except filled milk, equal to not less than 50 percent of its receipts of milk from other pool plants and from approved dairy farmers and which has route disposition within the marketing area equal to at least 15 percent of its total Class I disposition.

(b) A supply plant which, during the month, ships fluid milk products, except filled milk, approved or recognized by a duly constituted health authority as eligible for distribution under a Grade A label in a volume equal to not less than 50 percent of its receipts of milk from approved dairy farmers to a plant specified in paragraph (a) of this section: *Provided*, That any plant which qualifies as a pool plant pursuant to this paragraph in each of the months of August through February shall be designated as a pool plant for the following months of March through July unless the operator of such plant files with the market administrator prior to the first day of any of the months of March–July a written request for withdrawal.

(c) A plant operated by a cooperative association if, during the month, the sum of the milk delivered to other pool plants by approved dairy farmers who are members of such cooperative association plus the milk which is transferred thereto from the plant operated by the cooperative association is equal to not less than 50 percent of the total volume of milk delivered to all plants by approved dairy farmers who are members of the association.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant; or

(2) Upon application to the market administrator for nonpool status and a subsequent determination by the Secretary, a plant specified in paragraph (d) (2) (i) or (ii) of this section:

(i) Any distributing plant which would otherwise be subject to the classification and pricing provisions of another order issued pursuant to the act, unless a greater volume of Class I milk, except filled milk, is disposed of from such plant to retail or wholesale outlets (except pool plants or nonpool plants) in the Chattanooga, Tenn., marketing area than in the marketing area regulated pursuant to such order; or

(ii) Any supply plant which would otherwise be subject to the classification and pricing provisions of another order issued pursuant to the act, unless such plant qualified as a pool plant for each of the preceding months of August through February.

**§ 1090.8 Nonpool plant.**

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant other than a producer-handler plant or an other order plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant other than a producer-handler plant or an other order plant, from which fluid milk products are shipped to a pool plant.

**§ 1090.9 Handler.**

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) A cooperative association with respect to milk of producers diverted for the account of such association pursuant to § 1090.13;

(c) [Reserved]

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler; and

(f) Any person who operates an other order plant described in § 1090.7(d).

**§ 1090.10 Producer-handler.**

"Producer-handler" means an approved dairy farmer who:

(a) Operates a plant from which there is route disposition in the marketing area;

(b) Receives no fluid milk products from other dairy farmers or from sources other than pool plants;

(c) Uses no milk products other than fluid milk products for reconstitution into fluid milk products; and

(d) Provides proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary for his own farm production and the operation of the processing, packaging, and distribution business are the personal enterprise and risk of such person.

**§ 1090.11 Approved dairy farmer.**

"Approved dairy farmer" means any person who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority.

**§ 1090.12 Producer.**

(a) Except as provided in paragraph (b) of this section, "producer" means any approved dairy farmer whose milk is physically received at a pool plant or diverted pursuant to § 1090.13.

(b) "Producer" shall not include:

(1) A producer-handler as described in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1090.44(a)(8)(iii) and the corresponding step of § 1090.44(b); and

(3) Any person with respect to milk produced by him which is diverted from a pool plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk.

**§ 1090.13 Producer milk.**

"Producer milk" means the skim milk and butterfat contained in milk of a producer which is:

(a) Received at a pool plant directly from a producer; or

(b) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant, subject to the following conditions:

(1) Such milk shall be deemed to have been received by the diverting handler at the plant from which diverted;

(2) In any month of September through November that less than 4 days' production of a producer is delivered to pool plants, the quantity of milk of the producer diverted during the month that exceeds that delivered to pool plants shall not be deemed to have been received at a pool plant and shall not be producer milk;

(3) A cooperative association may divert for its account the milk of any member-producer: *Provided*, That in any month of September through November the total quantity of milk so diverted that exceeds 35 percent of the milk physically received from member-producers at all pool plants during the month shall not be deemed to have been received at a pool plant and shall not be producer milk;

(4) The operator of a pool plant, other than a cooperative association, may divert for his account the milk of any producer other than a member of a cooperative association: *Provided*, That in any month of September through November the total quantity of milk so diverted that exceeds 35 percent of the milk physically received at such pool plant during the month from producers who are not members of a cooperative association shall not be deemed to have been received at a pool plant and shall not be producer milk; and

(5) The diverting handler shall designate the dairy farmers whose milk is not producer milk pursuant to paragraphs (b) (3) and (4) of this section. If the handler fails to make such designation, no milk diverted by him shall be producer milk.

**§ 1090.14 Other source milk.**

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1090.40 (b) (1) from any source other than producers, pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1090.40(b) (1);

(c) Products (other than fluid milk products, products specified in § 1090.40 (b) (1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1090.40(b)(1)) for which the handler fails to establish a disposition.

**§ 1090.15 Fluid milk product.**

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1090.40(b) or (c)(1)(i) through (iv) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

**§ 1090.16 Fluid cream product.**

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

**§ 1090.17 Filled milk.**

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

**§ 1090.18 Cooperative association.**

"Cooperative association" means any cooperative association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have and to be exercising full authority in the sale of milk of its members.

HANDLER REPORTS

**§ 1090.30 Reports of receipts and utilization.**

On or before the sixth day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) [Reserved]

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1090.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1090.9(b) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

**§ 1090.31 Payroll reports.**

(a) On or before the 20th day after the end of each month, each handler described in § 1090.9 (a) and (b) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1090.76 (b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

**§ 1090.32 Other reports.**

(a) Each handler who receives milk from producers shall report to the market administrator:

(1) On or before the date prior to diverting producer milk pursuant to § 1090.13 his intention to divert such milk, the date or dates of such diversions, and the nonpool plant to which such milk is to be diverted.

(2) On or before the sixth day after the end of each of the months of March through July, the aggregate quantity of base milk received during the month at each of his pool plants, and on or before the 20th day after the end of each of the months of March through July the pounds of base milk received during the month from each producer.







V 38-175 SEP 11 73 XUM

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1090.30 and 1090.31, each handler shall report such other information as the market administrator deems necessary to verify or establish each handler's obligation under the order.

CLASSIFICATION OF MILK

**§ 1090.40 Classes of utilization.**

Except as provided in § 1090.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1090.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b) (1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(v) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b) (1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b) (1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b) (1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1090.15; and

(6) In shrinkage assigned pursuant to § 1090.41(a) to the receipts specified in § 1090.41(a)(2) and in shrinkage specified in § 1090.41 (b) and (c).

**§ 1090.41 Shrinkage.**

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1090.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a) (1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) [Reserved]

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraphs (b) (1), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1090.9(b), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests, determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

**§ 1090.42 Classification of transfers and diversions.**

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1090.44(a)(12) and the corresponding step of § 1090.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1090.44(a)(7) or the corresponding step of § 1090.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to §1090.44(a)(11) or (12) or the corresponding steps of § 1090.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat





that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b) (3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1090.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraphs (d) (2) (i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d) (2) (ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1090.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of fluid bulk milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

**§ 1090.43 General classification rules.**

In determining the classification of producer milk pursuant to § 1090.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1090.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1090.9(b) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1090.40, 1090.41, and 1090.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1090.9(b) shall be determined separately from the operations of any pool plant operated by such cooperative association.

**§ 1090.44 Classification of producer milk.**

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1090.9(a) for each of his



V 38 I 175 S SEP 11 73 XUM

pool plants separately and of each handler described in § 1090.9(b) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1090.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1090.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1090.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1090.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1090.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the handler's total Class III utilization at his other pool plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler;

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1090.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii) and (iii) of this section, such subtraction shall be pro rata





to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1090.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler;

(ii) Should the proration pursuant to paragraph (a)(12)(i) of his section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received; and

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computation pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from any class that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1090.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1090.44(a)(14) and the corresponding step of § 1090.44(b).

**§ 1090.45 Market administrator's reports and announcements concerning classification.**

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1090.44(a)(12) and the corresponding step of § 1090.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1090.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests, the percentage of producer milk delivered by members of such association which was used in each class by each handler receiving such milk. For the purpose of this report the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

CLASS PRICES

**§ 1090.50 Class prices.**

Subject to the provisions of § 1090.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.15.

(b) *Class II price.* The Class II price shall be the basic formula price for the months plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

**§ 1090.51 Basic formula price.**

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

**§ 1090.52 Plant location adjustments for handlers.**

(a) The Class I price for producer milk (for which a location adjustment is applicable) at a plant that is north of either the southern boundary of the State of Tennessee or the northern boundary of the State of South Carolina and more than 65 miles (by the shortest hard-surfaced highway distance as determined by the market administrator) from the city hall in Chattanooga shall be reduced 15 cents and an additional 1.5 cents for each 10 miles or fraction thereof in excess of 75 miles (by the shortest hard-surface highway distance as determined by the market administrator) that such plant is from the city hall in Chattanooga.

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to that Class I disposition at the transferee-plant, which is in excess of the sum of receipts at such plant from producers and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

**§ 1090.53 Announcement of class prices.**

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

**§ 1090.54 Equivalent price.**

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICES

**§ 1090.60 Handler's value of milk for computing uniform price.**

For the purpose of computing the uniform price, the market administrator



V 38 - 175 SEP 11 73 XUM

shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1090.9(b) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1090.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1090.44(a)(14) and the corresponding step of § 1090.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1090.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1090.44(a)(9) and the corresponding step of § 1090.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1090.44(a)(7) (i) through (iv) and the corresponding step of § 1090.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1090.44(a)(7) (v) and (vi) and the corresponding step of § 1090.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1090.44(a)(11) and the corresponding step of § 1090.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

### § 1090.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).

(a) For each month the market administrator shall compute the weighted average price and for each of the months of August through February, the uniform price per hundredweight of milk of 3.5 percent butterfat content received from producers as follows:

(1) Combine into one total the values computed pursuant to § 1090.60 for all handlers who filed the reports prescribed by § 1090.30 for the month and who made the payments pursuant to §§ 1090.71 and 1090.73 for the preceding month;

(2) Add an amount equal to the total value of the location adjustments computed pursuant to § 1090.75;

(3) Add an amount equal to one-half of the unobligated balance in the producer-settlement fund;

(4) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk included in paragraph (a)(1) of this section; and

(ii) The total hundredweight for which a value is computed pursuant to § 1090.60(f); and

(5) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price," and shall be the "uniform price" per hundredweight for milk of 3.5 percent butterfat received from producers in each of the months of August through February.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, f.o.b. market, as follows:

(1) Compute the total value of excess milk for all handlers included in the computations pursuant to paragraph (a)(1) of this section as follows:

(i) Multiply the hundredweight quantity of such milk which does not exceed the total quantity of producer milk assigned to Class III milk in the pool plants of such handlers by the Class III price;

(ii) Multiply the remaining hundredweight quantity of excess milk which does not exceed the total quantity of producer milk assigned to Class II milk in the pool plants of such handlers by the Class II price;

(iii) Multiply the remaining hundredweight quantity of excess milk by the Class I price; and

(iv) Add together the resulting amounts;

(2) Divide the total value of excess milk obtained in paragraph (b)(1) of this section by the total hundredweight of such milk and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk of 3.5 percent butterfat content received from producers;

(3) From the amount resulting from the computations pursuant to paragraph (a)(1) through (3) of this section subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(4)(ii) of this section by the weighted average price;

(4) Subtract the total value of excess milk determined by multiplying the uniform price obtained in paragraph (b)(2) of this section times the hundredweight of excess milk from the amount computed pursuant to paragraph (b)(3) of this section;

(5) Divide the amount calculated pursuant to paragraph (b)(4) of this section by the total hundredweight of base milk included in these computations; and

(6) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (b)(5) of this section. The resulting figure shall be the uniform price for base milk of 3.5 percent butterfat content f.o.b. market.

### § 1090.62 Announcement of uniform prices and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 10th day after the end of each month the applicable uniform prices pursuant to § 1090.61 for such month.

## Payments for Milk

### § 1090.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1090.71, 1090.76, and 1090.77, and out of which he shall make all payments pursuant to §§ 1090.72 and 1090.77: *Provided,* That any payments due to any handler shall be offset by any payments due from such handler.

### § 1090.71 Payments to the producer-settlement fund.

(a) On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1090.60.

(2) The sum of:

(i) The value of the uniform prices, as adjusted pursuant to § 1090.75, of such handler's receipts of producer milk; and

(ii) The value at the weighted average price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1090.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.





### § 1090.72 Payments from the producer-settlement fund.

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1090.71(a)(2) exceeds the amount computed pursuant to § 1090.71(a)(1). If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

### § 1090.73 Payments to producers and to cooperative associations.

(a) Except as provided in paragraph (b) of this section, each handler shall make payment to each producer from whom milk is received during the month as follows:

(1) On or before the last day of each month to each producer who did not discontinue shipping milk to such handler before the 25th day of the month, an amount equal to not less than the Class III price for the preceding month multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized by such producer to be made from payments due pursuant to this paragraph;

(2) On or before the 15th day of the following month, an amount equal to not less than the appropriate uniform price(s), as adjusted pursuant to §§ 1090.74 and 1090.75, multiplied by the hundredweight of milk or base milk and excess milk received from such producer during the month, subject to the following adjustments:

(i) Less payments made to such producer pursuant to paragraph (a)(1) of this section;

(ii) Less deductions for marketing services made pursuant to § 1090.86;

(iii) Plus or minus adjustments for errors made in previous payments made to such producers; and

(iv) Less proper deductions authorized in writing by such producer: *Provided,* That if by such date such handler has not received full payment from the market administrator pursuant to § 1090.72 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator;

(b) In the case of a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and which has so requested any handler in writing, such handler shall on or before the 2d day prior to the date on which payments are due individual producers pay the cooperative association for milk received during the month from the producer members of such association as determined by the market administrator an amount equal to not less than the amount due such producer members as determined pursuant to paragraph (a) of this section; and

(c) Each handler who receives milk during the month from producers for which payment is to be made to a cooperative association pursuant to paragraph (b) of this section shall report to such cooperative association or to the market administrator for transmittal to such cooperative association for each such producer as follows:

(1) On or before the 25th day of the month, the total pounds of milk received during the first 15 days of such month; and

(2) On or before the 7th day of the following month (i) the pounds of milk received each day and the total for the month, together with the butterfat content of such milk, (ii) for the months of March through July the total pounds of base milk received, (iii) the amount or rate and nature of any deductions to be made from payments, and (iv) the amount and nature of payments due pursuant to § 1090.77.

### § 1090.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform prices shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

### § 1090.75 Plant location adjustments for producers and on nonpool milk.

(a) The applicable uniform prices computed pursuant to § 1090.61 to be paid for producer milk received at a pool plant shall be reduced according to the location of the pool plant where such milk was received each at the rates set forth in § 1090.52(a); and

(b) The weighted average price applicable to other source milk shall be adjusted at the rates set forth in § 1090.52 (a) applicable at the location of the nonpool plant from which the milk was received, except that the weighted average price shall not be less than the Class III price.

### § 1090.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1090.30(b) and 1090.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1090.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from



V 38 175 SEP 11 73 XUM

the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1090.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1090.60 for such handler shall include, in lieu of the value of other source milk specified in § 1090.60(f) less the value of such other source milk specified in § 1090.71(a)(2)(ii), a value of milk determined pursuant to § 1090.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1090.7(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1090.30(b) and 1090.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1090.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1090.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1090.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

**§ 1090.77 Adjustment of accounts.**

Whenever verification by the market administrator of payments by any handler discloses errors made in payments to the producer-settlement fund pursuant to § 1090.71, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, pursuant to § 1090.72, the market administrator shall, within 15 days, make such payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer or cooperative association for milk received by such handler discloses payment of less than is required by § 1090.73, the handler shall pay such balance due such producer or cooperative association not later than the time of making payment to producers or cooperative associations next following such disclosure.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

**§ 1090.85 Assessment for order administration.**

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to skim milk and butterfat contained in:

(a) Producer milk;

(b) Other source milk allocated to Class I pursuant to § 1090.44(a)(7) and (11) and the corresponding steps of § 1090.44(b), except such other source milk that is excluded from the computations pursuant to § 1090.60(d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1090.76(a)(2).

**§ 1090.86 Deduction for marketing services.**

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers for milk (other than milk of his own production) pursuant to § 1090.73, shall deduct 6 cents per hundredweight, or such amount not exceeding 6 cents per hundredweight, as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association.

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall (in lieu of the deduction specified in paragraph (a) of this section), make such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 13th day after the end of each month, pay such deductions to the cooperative association of which such producers are members, furnishing a statement showing the amount of any such deductions and the amount of milk for which such deduction was computed for each producer.

BASE-EXCESS PLAN

**§ 1090.90 Base milk.**

"Base milk" means milk received at pool plants from a producer during any of the months of March through July which is not in excess of such producer's daily average base computed pursuant to § 1090.92, multiplied by the number of days in such month.

**§ 1090.91 Excess milk.**

"Excess milk" means milk received at pool plants from a producer during any of the months of March through July which is in excess of the base milk of such producer for such month, and shall include all milk received during such months from a producer for whom no daily average base can be computed pursuant to § 1090.92.

**§ 1090.92 Computation of daily average base for each producer.**

Subject to the rules set forth in § 1090.93, the daily average base for each producer shall be an amount calculated by dividing the total pounds of milk received from such producer at all pool plants during the months of September through January immediately preceding, by the number of days from the first day of delivery by such producer during such months to the last day of January, inclusive, or by 120, whichever is more: *Provided*, That any producer who, during the preceding months of September through January, delivered his milk to a nonpool plant which became a pool plant after the beginning of such period shall be assigned a base in the same manner as if he had been a producer during such period, calculated from his deliveries during such September–January period to such plant.





**§ 1090.93 Base rules.**

The following rules shall apply in connection with the establishment and assignment of bases:

(a) Subject to the provisions of paragraph (b) of this section, the market administrator shall assign a base calculated pursuant to § 1090.92 to each person for whose account producer milk was delivered to pool plants during the months of September through January;

(b) A base which is assigned pursuant to the proviso of § 1090.92 shall be nontransferable. An entire base which is otherwise assigned shall be transferred from a person holding such base to any other person effective as of the end of any month during which an application for such transfer is received by the market administrator, such application to be on forms approved by the market administrator and signed by the baseholder, or his heirs, and by the person to whom such base is to transferred: *Provided*, That if a base is held jointly, the entire base shall be transferable only upon the receipt of such application signed by all joint holders or their heirs, and by the person to whom such base is to be transferred; and

(c) A base which has been established by two or more persons operating a dairy farm as a partnership may be divided between the partners on any basis agreed to in writing by the partners provided written notification of the agreed division of base signed by each partner is received by the market administrator prior to the first day of the month on which such division is to be effective.

**§ 1090.94 Announcement of established bases.**

On or before March 1 of each year, the market administrator shall notify each producer, and the handler receiving milk from such producer, of the daily average base established by such producer, and shall notify a cooperative association of which such producer is a member of such daily average base if the cooperative association so requests.

## PART 1094—MILK IN NEW ORLEANS MARKETING AREA

**Subpart—Order Regulating Handling**

GENERAL PROVISIONS


Sec.
1094.1 General provisions.


DEFINITIONS


1094.2 New Orleans marketing area.
1094.3 Route disposition.
1094.4 [Reserved]
1094.5 Distributing plant.
1094.6 Supply plant.
1094.7 Pool plant.
1094.8 Nonpool plant.
1094.9 Handler.
1094.10 Producer-handler.
1094.11 [Reserved]
1094.12 Producer.
1094.13 Producer milk.
1094.14 Other source milk.
1094.15 Fluid milk product.
1094.16 Fluid cream product.
1094.17 Filled milk.
1094.18 Cooperative association.


HANDLER REPORTS


Sec.
1094.30 Reports of receipts and utilization.
1094.31 Payroll reports.
1094.32 Other reports.


CLASSIFICATION OF MILK


1094.40 Classes of utilization.
1094.41 Shrinkage.
1094.42 Classification of transfers and diversions.
1094.43 General classification rules.
1094.44 Classification of producer milk.
1094.45 Market administrator's reports and announcements concerning classification.


CLASS PRICES


1094.50 Class prices.
1094.51 Basic formula price.
1094.52 Plant location adjustments for handlers.
1094.53 Announcement of class prices.
1094.54 Equivalent price.


UNIFORM PRICE


1094.60 Handler's value of milk for computing uniform price.
1094.61 Computation of uniform price.
1094.62 Announcement of uniform price and butterfat differential.


PAYMENTS FOR MILK


1094.70 Producer-settlement fund.
1094.71 Payments to the producer-settlement fund.
1094.72 Payments from the producer-settlement fund.
1094.73 Payments to producers and to cooperative associations.
1094.74 Butterfat differential.
1094.75 Plant location adjustments for producers and on nonpool milk.
1094.76 Payments by handler operating a partially regulated distributing plant.
1094.77 Adjustment of accounts.


ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION


1094.85 Assessment for order administration.
1094.86 Deduction for marketing services.


AUTHORITY: The provisions of this Part 1094 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

GENERAL PROVISIONS

**§ 1094.1 General provisions.**

The terms, definitions, and provisions, in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

**§ 1094.2 New Orleans marketing area.**

New Orleans marketing area, hereinafter referred to as the marketing area, means all territory, including incorporated municipalities, within Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, and Terrebonne Parishes, all in the State of Louisiana.

**§ 1094.3 Route disposition.**

"Route disposition" means any delivery of a fluid milk product classified as Class I milk from a milk processing plant to wholesale or retail outlets (including any delivery by a vendor and from a plant store or through a vending machine) other than a delivery to any milk or filled milk receiving and/or processing plant.

**§ 1094.4 [Reserved]**

**§ 1094.5 Distributing plant.**

Distributing plant means any plant at which fluid milk products, eligible for distribution in the marketing area under a Grade A label, are processed and packaged and from which there is route disposition of fluid milk products in the marketing area.

**§ 1094.6 Supply plant.**

Supply plant means any plant at which milk eligible for distribution in the marketing area under a Grade A label is received from dairy farmers and from which fluid milk products are moved to a distributing plant.

**§ 1094.7 Pool plant.**

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) A distributing plant from which during the month:

(1) Route disposition in the marketing area of fluid milk products, except filled milk, is at least the lesser of a daily average of 1,500 pounds or 20 percent of receipts from dairy farmers, handlers described in § 1094.9(c), and supply plants; and

(2) Total route disposition of fluid milk products, except filled milk, is 50 percent or more of receipts from dairy farmers, handlers described in § 1094.9(c), and supply plants.

(b) A supply plant from which not less than 45 percent of the Grade A milk received from dairy farmers at such plant during the month is shipped to and received at plants qualifying for the month pursuant to paragraph (a) of this section. Any supply plant meeting such shipping standard for each of the months of August through November shall continue to be a pool plant the following months of December through July unless the operator notifies the market administrator in writing before the first day of any such month of his intent to withdraw such plant as a plant qualified under this paragraph, in which case such plant thereafter shall be a nonpool plant except in any month it meets the above 45 percent shipping standard.

(c) For the purpose of meeting the minimum 45 percent shipping standard of paragraph (b) of this section by a supply plant operated by a cooperative association, all member-dairy farmer milk delivered directly from farms pursuant to § 1094.9(c), to distributing plant(s) qualified under paragraph (a) of this section will be considered to have been first received at that supply plant of the cooperative located nearest New Orleans, La., and then shipped therefrom to such distributing plant(s). The cooperative association may withdraw such supply plant from qualification under this section:

(1) If the cooperative notifies the market administrator in writing prior to or during the month of its intention not to qualify the plant under this section during that month; and

(2) The milk actually shipped during the month from such plant to plant(s)



V 38 175 SEP 11 73 XUM

qualified under paragraph (a) of this section is less than 45 percent of the Grade A milk actually received from dairy farmers at such supply plant during the month.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) Any distributing plant which would be subject to the classification and pricing provisions of another order issued pursuant to the act unless there is greater route disposition, except filled milk, during the month in the New Orleans marketing area than in the marketing area defined in such other order; and

(3) Any supply plant which would be subject to the classification and pricing provisions of another order issued pursuant to the Act unless such plant qualified as a pool plant pursuant to paragraph (b) of this section.

**§ 1094.8 Nonpool plant.**

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products are moved to a pool plant during the month, but which is neither an other order plant nor a producer-handler plant.

**§ 1094.9 Handler.**

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant(s);

(b) A cooperative association with respect to milk of producers diverted for the account of such association in accordance with § 1094.13;

(c) Any cooperative association with respect to the milk of producers which it causes to be delivered directly from the farm to the pool plant of another person in a tank truck owned and operated by, under contract to, or under the control of such association (unless the association and the person operating the pool plant both notify the market administrator, in writing, prior to the time of delivery that the pool plant operator is to be held responsible to the pool for such milk). For purposes of pricing, such milk shall be deemed to have been received by the association from producers at the location of the pool plant at which such milk is physically received;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler; and

(f) Any person who operates an other order plant described in § 1094.7(d).

**§ 1094.10 Producer-handler.**

"Producer-handler" means a dairy farmer who operates a distributing plant at which no fluid milk or fluid milk products are received during the month except his own production or transfers from a pool plant(s) and which has no receipts of milk products other than fluid milk products disposed of as Class I milk.

**§ 1094.11 [Reserved]**

**§ 1094.12 Producer.**

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority, which is received at a pool plant or by a handler described in § 1094.9(c) or is diverted pursuant to § 1094.13(d).

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1094.44(a)(8)(iii) and the corresponding step of § 1094.44(b); and

(3) Any person with respect to milk produced by him which is diverted from a pool plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk.

**§ 1094.13 Producer milk.**

"Producer milk" means the skim milk and butterfat contained in Grade A milk of a producer which is:

(a) Received at a pool plant directly from a producer;

(b) Received at a pool plant from a handler described in § 1094.9(c);

(c) Diverted from a pool plant to the pool plant of another handler. Milk so diverted shall be deemed to have been received at the location of the plant to which diverted; and

(d) Diverted by the operator of a pool plant or a cooperative association to a nonpool plant that is not a producer-handler plant, subject to the following conditions:

(1) During December through July such diversions may be made without limit;

(2) During August through November such diversions shall be limited to the amounts specified in paragraph (d)(2)(i), (ii), and (iii) of this section:

(i) A cooperative association may divert the milk of any eligible member-dairy farmer without limit during the month if the total volume of milk so diverted does not exceed 35 percent of the cooperative's total member producer milk during that month;

(ii) The operator of a pool plant may divert from such plant the milk of any eligible nonmember dairy farmer without limit during the month if the total volume of milk so diverted does not exceed 35 percent of his nonmember producer milk during that month; and

(iii) If the 35 percent limitation described in paragraph (d)(2)(i) and (ii) of this section is exceeded, the diversion of any eligible dairy farmer's milk shall be limited to 15 days' production during any such month. If this 15-day limitation is exceeded for any such dairy farmer, he shall be eligible for pooling only with respect to that milk physically received at pool plants during the month; and

(3) Diverted milk shall be deemed to have been received at the location of the plant to which diverted.

**§ 1094.14 Other source milk.**

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1094.40(b)(1) from any source other than producers, handlers described in § 1094.9(c), pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1094.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1094.40(b)(1), and products produced at the plant during the some month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1094.40(b)(1)) for which the handler fails to establish a disposition.

**§ 1094.15 Fluid milk product.**

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1094.40 (b) or (c) (1)(i) through (iv) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5-percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.





**§ 1094.16 Fluid cream product.**

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

**§ 1094.17 Filled milk.**

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

**§ 1094.18 Cooperative association.**

Cooperative association means any cooperative association of producers which the Secretary determines:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1932, as amended, known as the "Capper-Volstead Act"; and

(b) To have and to be exercising full authority in the sale of milk of its members.

HANDLER REPORTS

**§ 1094.30 Reports of receipts and utilization.**

On or before the 5th day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1094.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1094.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1094.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

**§ 1094.31 Payroll reports.**

(a) On or before the 20th day after the end of each month, each handler described in § 1094.9 (a), (b), and (c), shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1094.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

**§ 1094.32 Other reports.**

(a) Each handler who operates an other order plant with route disposition in the marketing area shall report such disposition to the market administrator on or before the seventh day after the end of each month.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1094.30 and 1094.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

**§ 1094.40 Classes of utilization.**

Except as provided in § 1094.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1094.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, dry curd cottage cheese, and Creole cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, dry curd cottage cheese, and Creole cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(v) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1094.15; and

(6) In shrinkage assigned pursuant to § 1094.41(a) to the receipts specified in § 1094.41(a)(2) and in shrinkage specified in § 1094.41 (b) and (c).

**§ 1094.41 Shrinkage.**

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1094.30, the mar-



V 38-175 SEP 11 73 XUM

ket administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a) (1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1094.9(c) and in milk diverted to such plant from another pool plant, except that, in either case, if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1094.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

### § 1094.42 Classification of transfers and diversions.

(a) *Transfers and diversions to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant or by a handler described in § 1094.9(c) to another handler's pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers or diversions shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant or divertee-plant after the computations pursuant to § 1094.44 (a) (12) and the corresponding step of § 1094.44(b);

(2) If the transferor-plant or divertor-plant received during the month other source milk to be allocated pursuant to § 1094.44(a) (7) or the corresponding step of § 1094.44(b), the skim milk or butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk;

(3) If the transferor-handler or divertor-handler received during the month other source milk to be allocated pursuant to § 1094.44(a) (11) or (12) or the corresponding steps of § 1094.44(b), the skim milk or butterfat so transferred or diverted, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant or divertee-plant; and

(4) Unless a different utilization is claimed by both handlers, skim milk or butterfat transferred to the pool plant of another handler by a cooperative association in its capacity as the operator of a pool plant or as a handler described in § 1094.9(c) shall be classified pro rata to the respective quantities of skim milk and butterfat remaining in each class at the pool plant of the transferee-handler after the computations pursuant to § 1094.44(a) (13) (i) and the corresponding step of § 1094.44(b).

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b) (3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1094.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and





(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d) (2) (i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d) (2) (ii) through (ix) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1094.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Except as provided in paragraph (d) (2) (ix) of this section, transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant;

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph; and

(ix) Transfers of bulk fluid milk products from a nonpool plant to a pool plant that are not in excess of bulk receipts during the month at such nonpool plant from pool plants shall be classified pursuant to paragraph (a) of this section as if moved directly from the first pool plant to the second pool plant with Class II or Class III utilization indicated. If the classification limitations provided in paragraph (a) of this section result in any skim milk or butterfat classified as Class I from pool plants of two or more handlers, such classification shall be shared pro rata between such handlers unless at or before the time of reporting, signed statements by operators of such plants indicate agreement on a different sharing of such Class I classification.

### § 1094.43 General classification rules.

In determining the classification of producer milk pursuant to § 1094.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1094.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1094.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1094.40, 1094.41, and 1094.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1094.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

### § 1094.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1094.9(a) for each of his pool plants separately and of each handler described in § 1094.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1094.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a) (7) (vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1094.40(b) (1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1094.40(b) (1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1094.40(b), but not in excess of the pounds of skim milk remaining in Class II;



V 38-175 SEP 11 73 XUM

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1094.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the handler's total Class III utilization at his other pool plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler;

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1094.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1094.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii) and (iii) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1094.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler;

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received; and

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from any class that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(13) Subtract in the following order from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from:

(i) Another pool plant or a handler described in § 1094.9(c) according to the classification of such products pursuant to § 1094.42(a); and

(ii) A handler described in § 1094.9(c) according to the classification of such products pursuant to § 1094.42(a)(4); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1094.44(a)(14) and the corresponding step of § 1094.44(b).

**§ 1094.45 Market administrator's reports and announcements concerning classification.**

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1094.44(a)(12) and the corresponding step of § 1094.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1094.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 11th day after the end of each month, report to each cooperative association which so requests, the percentage of producer milk delivered by members of such association which was used in each class by each handler receiving such milk. For the purpose of this report the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.



CLASS PRICES

**§ 1094.50 Class prices.**

Subject to the provisions of § 1094.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.85.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month, but not to exceed an amount computed as follows:

(1) Multiply by 4.2 the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month;

(2) Multiply by 8.2 the weighted average of carlot prices per pound of spray process nonfat dry milk for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department; and

(3) From the sum of the amounts computed pursuant to paragraph (c)(1) and (2) of this section subtract 48 cents and round to the nearest cent.

**§ 1094.51 Basic formula price.**

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

**§ 1094.52 Plant location adjustments for handlers.**

(a) For that milk which is received from producers or from a handler described in § 1094.9(c) at a pool plant more than 50 miles by shortest toll-free highway distance, as determined by the market administrator, from the nearer of the City Hall in New Orleans or the Terrebonne Parish Courthouse in Houma, La., and utilized as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price specified in § 1094.50 (a) shall be reduced at the rate set forth in the following schedule according to the location of the pool plant where such milk is received from producers:

| Zones measured from the nearer of the City Hall in New Orleans or the Terrebonne Parish Courthouse in Houma, La. (miles): | *Rate per hundredweight (cents)* |
|---|---|
| More than 50 but not more than 60 | 13.5 |
| Each additional 10 miles or fraction thereof | 1.5 |

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee-plant, in excess of the sum of receipts at such plant from producers, and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The market administrator shall determine and publicly announce the zone location of each plant of each handler according to the shortest toll-free highway distance between such plant and the City Hall in New Orleans or the Terrebonne Parish Courthouse in Houma. The market administrator shall notify the handler on or before the first day of any month in which a change in a plant location zone will apply.

(d) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

**§ 1094.53 Announcement of class prices.**

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

**§ 1094.54 Equivalent price.**

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICE

**§ 1094.60 Handler's value of milk for computing uniform price.**

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1094.9(b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1094.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage sub-





V 38-175 SEP 11 73 XUM

tracted from each class pursuant to § 1094.44(a)(14) and the corresponding step of § 1094.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1094.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1094.44(a)(9) and the corresponding step of § 1094.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1094.44(a)(7) (i) through (iv) and the corresponding step of § 1094.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1094.44(a)(7) (v) and (vi) and the corresponding step of § 1094.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1094.44(a)(11) and the corresponding step of § 1094.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

**§ 1094.61 Computation of uniform price.**

For each month, the market administrator shall compute the 3.5 percent value of all milk as follows:

(a) Combine into one total the individual values of milk of all handlers computed pursuant to § 1094.60 except those of handlers who failed to make payments required pursuant to §§ 1094.71 and 1094.73 for the preceding month;

(b) Add an amount equal to the total value of the location adjustments computed pursuant to § 1094.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the produce-settlement fund;

(d) Divide the amount computed pursuant to paragraphs (a) through (c) of this section by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk included pursuant to paragraph (a) of this section; and

(2) The total hundredweight for which a value is computed pursuant to § 1094.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" per hundredweight for milk of 3.5 percent butterfat received from producers.

**§ 1094.62 Announcement of uniform price and butterfat differential.**

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 11th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

**§ 1094.70 Producer-settlement fund.**

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1094.71, 1094.76, and 1094.77, and out of which he shall make all payments pursuant to §§ 1094.72 and 1094.77: *Provided*, That any payments due to any handler shall be offset by any payments due from such handler.

**§ 1094.71 Payments to the producer-settlement fund.**

(a) On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1094.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1094.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1094.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

**§ 1094.72 Payments from the producer-settlement fund.**

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1094.71(a)(2) exceeds the amount computed pursuant to § 1094.71(a)(1). If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

**§ 1094.73 Payments to producers and to cooperative associations.**

(a) Except as provided in paragraph (c) of this section, each handler shall make payment to each producer from whom milk is received during the month as follows:

(1) On or before the last day of each month to each producer, who did not discontinue shipping milk to such handler before the 25th day of the month, an amount equal to not less than the Class III price for the preceding month multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized by such producer to be made from payments due pursuant to this paragraph;

(2) On or before the 15th day of the following month, each handler shall make payment to each producer for milk which was received from him during the month at not less than the uniform price, as adjusted pursuant to §§ 1094.74 and 1094.75, subject to the following adjustments:

(i) Less payments made to such producer pursuant to paragraph (a)(1) of this section;

(ii) Less deductions for marketing services made pursuant to § 1094.86;

(iii) Plus or minus adjustments for errors made in previous payments to such producer;

(iv) Less deductions authorized in writing by such producer; and

(v) If by such date such handler has not received full payment from the market administrator pursuant to § 1094.72 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator.

(b) Each handler shall furnish to the producer the following information:





(1) On or before the 25th day of the month, the pounds of milk received from the producer during the first 15 days of such month;

(2) On or before the 15th day of the following month (i) the pounds of milk received from the producer each day and the total for the month, together with the butterfat content of such milk, (ii) the amount (or rate) and nature of deductions made from payments, and (iii) the amount and nature of payments due pursuant to § 1094.77.

(c) Upon receipt of a written request from a cooperative association which the Secretary determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any claim on the part of the association, each handler:

(1) Shall pay to the cooperative association, in lieu of payments pursuant to paragraph (a) of this section, on or before the 2d day prior to the date on which payments are due individual producers, an amount equal to not less than the amount due such certified members as determined pursuant to paragraph (a) of this section;

(2) Report to the cooperative association on or before the 25th day of the month, the pounds of milk received from each member of the cooperative association during the first 15 days of such month and on or before the 7th day of the following month to the cooperative association for its individual members the following information: (i) The pounds of milk received each day and the total for the month, together with the butterfat content of such milk, (ii) the amount (or rate) and nature of deductions made from payments and (iii) the amount and nature of payments due pursuant to § 1094.77. The foregoing payment and submission of information shall be made with respect to milk of each producer whom the cooperative association certifies is a member, which is received on and after the first day of the month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the association; and

(3) A copy of each such request, promise to reimburse, and a certified list of members shall be filed simultaneously with the market administrator by the association and shall be subject to verification at his discretion, through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, shall be made by written notice to the market administrator and shall be subject to his determination.

(d) Each handler shall make payment to a cooperative association for milk received from such association in its capacity as a handler pursuant to § 1094.9(a) and § 1094.9(c) as follows:

(1) On or before the 22d day of each month an amount equal to not less than the Class III price for the preceding month multiplied by the hundredweight of milk received from any cooperative association during the first 15 days of the current month; and

(2) On or before the 12th day after the end of each month in which it was received at not less than the class prices, as adjusted by the butterfat differential specified in § 1094.74, that are applicable at the location of the receiving handler's pool plant, plus the amount due the market administrator from the cooperative association on such milk pursuant to § 1094.85, less amounts paid pursuant to paragraph (d)(1) of this section.

**§ 1094.74 Butterfat differential.**

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each 0.1 percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest 0.1 cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

**§ 1094.75 Plant location adjustments for producers and on nonpool milk.**

(a) The uniform price for producer milk received at a pool plant shall be reduced according to the location of the pool plant, each at the rates set forth in § 1094.52(a); and

(b) The uniform price applicable to other source milk shall be adjusted at the rates set forth in § 1094.52(a) applicable at the location of the nonpool plant from which the milk was received, except that the uniform price shall not be less than the Class III price.

**§ 1094.76 Payments by handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1094.30(b) and 1094.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1094.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1094.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1094.60 for such handler shall include, in lieu of the value of other source milk specified in § 1094.60(f) less the



V 38-175 SEP 11 73 XUM

value of such other source milk specified in § 1094.71(a)(2)(ii), a value of milk determined pursuant to § 1094.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1094.7(b) subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1094.30(b) and 1094.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1094.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1094.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1094.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

### § 1094.77 Adjustment of accounts.

Whenever audit by the market administrator of any reports, books, records, or accounts or other verification discloses errors resulting in moneys due (a) the market administrator from a handler, (b) a handler from the market administrator, or (c) any producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

### § 1094.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may, from time to time, prescribe, to be announced by the market administrator on or before the 11th day after the end of such month, with respect to all skim milk and butterfat received by such handler in:

(a) Producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1094.44(a)(7) and (11) and the corresponding steps of § 1094.44(b), except such other source milk that is excluded from the computations pursuant to § 1094.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1094.76(a)(2).

### § 1094.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers for milk (other than milk of his own production) pursuant to § 1094.73, shall deduct 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight, as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association.

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall (in lieu of the deduction specified in paragraph (a) of this section), make such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 13th day after the end of each month, pay such deductions to the cooperative association of which such producers are members, furnishing a statement showing the amount of any such deductions and the amount of milk for which such deduction was computed for each producer.

## PART 1096—MILK IN NORTHERN LOUISIANA MARKETING AREA

**Subpart—Order Regulating Handling**

GENERAL PROVISIONS


Sec.
1096.1 General provisions.

DEFINITIONS

1096.2 Northern Louisiana marketing area.
1096.3 Route disposition.
1096.4 Plant.
1096.5 Distributing plant.
1096.6 Supply plant.
1096.7 Pool plant.
1096.8 Nonpool plant.
1096.9 Handler.
1096.10 Producer-handler.
1096.11 [Reserved]
1096.12 Producer.
1096.13 Producer milk.
1096.14 Other source milk.
1096.15 Fluid milk product.
1096.16 Fluid cream product.
1096.17 Filled milk.
1096.18 Cooperative association.

HANDLER REPORTS

1096.30 Reports of receipts and utilization.
1096.31 Payroll reports.
1096.32 Other reports.

CLASSIFICATION OF MILK

1096.40 Classes of utilization.
1096.41 Shrinkage.
1096.42 Classification of transfers and diversions.
1096.43 General classification rules.
1096.44 Classification of producer milk.
1096.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1096.50 Class prices.
1096.51 Basic formula price.
1096.52 Plant location adjustments for handlers.
1096.53 Announcement of class prices.
1096.54 Equivalent price.

UNIFORM PRICE

1096.60 Handler's value of milk for computing uniform price.
1096.61 Computation of uniform price.
1096.62 Announcement of uniform price and butterfat differential.

PAYMENTS FOR MILK

1096.70 Producer-settlement fund.
1096.71 Payments to the producer-settlement fund.
1096.72 Payments from the producer-settlement fund.
1096.73 Payments to producers and to cooperative associations.
1096.74 Butterfat differential.
1096.75 Plant location adjustments for producers and on nonpool milk.
1096.76 Payments by handler operating a partially regulated distributing plant.
1096.77 Adjustment of accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1096.85 Assessment for order administration.
1096.86 Deduction for marketing services.


AUTHORITY: The provisions of this Part 1096 issued under secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).





GENERAL PROVISIONS

### § 1096.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

### § 1096.2 Northern Louisiana marketing area.

"Northern Louisiana marketing area", hereinafter called the "marketing area", means all territory within the boundaries of the Parishes of Bossier, Caddo, Claiborne, De Soto, Lincoln, Morehouse, Ouachita, Red River, Union, and Webster, all in the State of Louisiana.

### § 1096.3 Route disposition.

"Route disposition" means any delivery of a fluid milk product(s) classified as Class I milk from a plant to wholesale or retail outlets (including any disposition by a vendor, from a plant store, or through a vending machine) other than a delivery to another plant.

### § 1096.4 Plant.

"Plant" means the land, buildings together with their surroundings, facilities and equipment whether owned or operated by one or more persons, constituting a single operating unit or establishment at which milk or milk products (including filled milk) are received and/or processed or packaged: *Provided*, That a separate establishment used only for the purpose of transferring bulk milk from one tank truck to another tank truck, or only as a distributing depot for fluid milk products in transit for route disposition shall not be a plant under this definition.

### § 1096.5 Distributing plant.

"Distributing plant" means a plant from which there is route disposition of Grade A fluid milk products during the month in the marketing area.

### § 1096.6 Supply plant.

"Supply plant" means a plant from which fluid milk products eligible for distribution in the marketing area under a Grade A label are moved to a distributing plant during the month.

### § 1096.7 Pool plant.

Except as provided in paragraph (d) of this section, pool plant" means:

(a) A distributing plant from which during the month there is route disposition, except filled milk, of not less than 50 percent of the Grade A milk received at such plant from dairy farmers and a handler described in § 1096.9(c) unless the volume so disposed of in the marketing area is less than 10 percent of such receipts or less than 1,500 pounds on a daily average;

(b) A supply plant from which a volume of fluid milk products not less than 50 percent of its Grade A receipts from dairy farmers and from a handler described in § 1096.9(c) is transferred during the month to a distributing plant(s) from which there is route disposition, except filled milk, of not less than 50 percent of its receipts of Grade A milk from dairy farmers, cooperative associations, and from other plants during the month and the volume so disposed of in the marketing area is at least 10 percent of such receipts or a daily average of 1,500 pounds whichever is less: *Provided*, That any plant which was a pool plant pursuant to this paragraph in each of the months of September through January shall be a pool plant in each of the following months of February through August in which it does not meet the shipping requirements, unless written request is filed with the market administrator prior to the beginning of any such month for nonpool status for the remaining months through August; and

(c) A nondistributing plant, which is operated by a cooperative association and which did not meet the shipping requirements of paragraph (b) of this section, shall be a pool plant in any month in which the volume of milk received at pool distributing plants directly from member producers or a handler described in § 1096.9(c) is not less than 60 percent of the total pounds of member producer milk pooled during the month, except that on written request for nonpool status for any month, made to the market administrator prior to the beginning of such month, the plant shall be a nonpool plant for the month and for each of the succeeding 11 months in which it does not qualify as a pool plant pursuant to paragraph (b) of this section.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A plant operated by a governmental agency;

(3) A distributing plant meeting the requirements of paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which the Secretary determines route disposition, except filled milk, during the month in such other Federal order marketing area was greater than route disposition in this marketing area, and which was fully subject to the classification and pooling provisions of such other order; and

(4) A distributing plant meeting the requirements of paragraph (a) of this section which also meets the pooling requirements of another Federal order on the basis of distribution in such other marketing area and from which the Secretary determines route disposition, except filled milk, during the month in this marketing area is greater than route disposition in such other marketing area but which plant is, nevertheless, fully regulated under such other Federal order.

### § 1096.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is not an other order plant, a producer-handler plant, or an exempt plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products are moved to a pool plant during the month, but which is not an other order plant, a producer-handler plant, or an exempt plant.

(e) "Exempt plant" means a plant operated by a governmental agency.

### § 1096.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) A cooperative association with respect to the milk of any member producer which it causes to be diverted pursuant to § 1096.12 for the account of such cooperative association;

(c) A cooperative association with respect to the milk of any member producer which it causes to be delivered to a pool plant in a tank truck owned and operated by or under contract to such cooperative association for the account of such cooperative association, if the cooperative association, prior to delivery, furnishes written notice to the market administrator and to the handler to whose plant the milk is delivered that it will be the handler for such milk. The milk so delivered shall be considered to have been received by such cooperative association at a pool plant at the location of the pool plant to which it is delivered;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler;

(f) Any person who operates an other order plant described in § 1096.7(d); and

(g) Any person in his capacity as the operator of an unregulated supply plant.

### § 1096.10 Producer-handler.

"Producer-handler" means any person who operates a dairy farm and a distributing plant and whose only source of supply for Class I milk is his own farm production and transfers from pool plants: *Provided*, That such person furnishes satisfactory proof to the market administrator that the maintenance, care and management of all dairy animals and other resources necessary to produce the entire amount of Class I milk handled (excluding transfers from pool plants) and the operation of the plant are each the personal enterprises of and at the personal risk of such person.

### § 1096.11 [Reserved]

### § 1096.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority which milk is received at a pool plant or by a handler described in



V 38 175 SEP 11 73 XUM

§ 1096.9(c), or is diverted from a pool plant to a nonpool plant that is not a producer-handler plant during any month(s) of February through August or in accordance with the provisions of paragraph (a) (1), (2), or (3) of this section during any month of September through January: *Provided*, That the milk so diverted shall be deemed to have been received at the location of the pool plant from which diverted: *Provided further*, That if a handler diverting milk pursuant to paragraph (a) (2) or (3) of this section diverts in excess of the limits prescribed, all diversions by such handler during the month shall be pursuant to paragraph (a) (1) of this section: *And provided further*, That if a handler diverting milk pursuant to paragraph (a) (1) of this section diverts milk of any dairy farmer in excess of the limits prescribed, such dairy farmer shall be a producer only with respect to that milk physically received at a pool plant:

(1) Not more than 10 days' production during the month unless (i) in the case of a cooperative association, all of the diversions of milk of member producers by the cooperative association during the month fall within the limits prescribed in paragraph (a) (2) of this section, or (ii) in the case of a pool handler (other than a cooperative association) diverting milk of nonmember producers, all of such diversions from such plant fall within the limits prescribed in paragraph (a) (3) of this section.

(2) The diversion is the milk of a member of a cooperative association diverted for the account of such association and the amount of member milk so diverted does not exceed 15 percent of the volume of milk from all producer members of such cooperative association received at pool plants during such month.

(3) The diversion is the milk of a producer not a member of a cooperative association, diverted by a handler in his capacity as the operator of a pool plant from which the quantity of nonmember milk so diverted does not exceed 15 percent of the total nonmember producer milk delivered to such handler during the month.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1096.44(a) (8) (iii) and the corresponding step of § 1096.44(b); and

(3) Any person with respect to milk produced by him which is diverted from a pool plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk.

**§ 1096.13 Producer milk.**

"Producer milk" means only that skim milk and butterfat contained in (a) milk received at a pool plant directly from producers, (b) milk from producers diverted in accordance with the conditions set forth in § 1096.12, or (c) milk received by a handler described in § 1096.9(c).

**§ 1096.14 Other source milk.**

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1096.40 (b) (1) from any source other than producers, handlers described in § 1096.9(c), pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1096.40(b) (1);

(c) Products (other than fluid milk products, products specified in § 1096.40 (b) (1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1096.40(b) (1)) for which the handler fails to establish a disposition.

**§ 1096.15 Fluid milk product.**

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a) (1) of this section or in § 1096.40 (b) or (c) (1) (i) through (iv) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

**§ 1096.16 Fluid cream product.**

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

**§ 1096.17 Filled milk.**

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

**§ 1096.18 Cooperative association.**

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales or marketing milk or its products for its members.

HANDLER REPORTS

**§ 1096.30 Reports of receipts and utilization.**

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1096.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1096.40(b) (1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1096.9 (b) and (c) shall report:





(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products, in such manner as the market administrator may prescribe.

**§ 1096.31 Payroll reports.**

(a) On or before the 20th day after the end of each month, each handler described in § 1096.9 (a), (b), and (c), shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1096.76 (b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

**§ 1096.32 Other reports.**

(a) Each handler, who causes milk to be diverted for his account directly from a producer's farm to a nonpool plant, shall prior to such diversion report to the market administrator and to the cooperative association of which such producer is a member his intention to divert such milk, the proposed date or dates of such diversion, and the name of the plant to which such milk is to be diverted.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1096.30 and 1096.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

**§ 1096.40 Classes of utilization.**

Except as provided in § 1096.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1096.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b) (1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(v) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b) (1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b) (1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b) (1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1096.15; and

(6) In shrinkage assigned pursuant to § 1096.41(a) to the receipts specified in § 1096.41(a) (2) and in shrinkage specified in § 1096.41(b) and (c).

**§ 1096.41 Shrinkage.**

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1096.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a) (1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1096.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quality of skim milk and butterfat, respectively, in shrinkage of milk



V 38-175 SEP 11 73 XUM

from producers for which a cooperative association is the handler pursuant to § 1096.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

**§ 1096.42 Classification of transfers and diversions.**

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant or by a handler described in § 1096.9(c) to another handler's pool plant shall be classified as Class I milk unless both handlers request the same classificaiton in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1096.44(a)(12) and the corresponding step of § 1096.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1096.44(a)(7) or the corresponding step of § 1096.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1096.44(a)(11) or (12) or the corresponding steps of § 1096.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1096.40.

(c) *Transfers to producer-handlers and transfers and diversions to exempt plants.* Skim milk or butterfat in the following forms that is transferred from a pool plant to a producer-handler under this or any other Federal order or transferred or diverted from a pool plant to an exempt plant shall be classified:

(1) As Class I milk, if moved in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to its receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, an exempt plant, or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1096.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Except as provided in paragraph (d)(2)(ix) of this section, transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other





order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant;

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph; and

(ix) Transfers of bulk fluid milk products from a nonpool plant to a pool plant shall be classified as if they were a direct transfer pursuant to paragraph (a) of this section from one pool plant to another pool plant with Class II or Class III utilization indicated: *Provided*, That if the classification limitations provided in paragraph (a) of this section result in any skim milk or butterfat covered by this subdivision being classified as Class I from pool plants of two or more handlers, such classification shall be shared pro rata between such handlers according to the respective quantities of fluid milk products each handler transferred to the nonpool plant unless, at or before the time of reporting, signed statements by operators of such plants indicate agreement on a different sharing of such Class I classification.

**§ 1096.43 General classification rules.**

In determining the classification of producer milk pursuant to § 1096.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1096.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1096.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1096.40, 1096.41, and 1096.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1096.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

**§ 1096.44 Classification of producer milk.**

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1096.9(a) for each of his pool plants separately and of each handler described in § 1096.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1096.41 (b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1096.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1096.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1096.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1096.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order and from an exempt plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the handler's total Class III utilization at his other pool plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler;

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, milk from



V 38-175 SEP 11 73 XUM

a handler described in § 1096.9(c), and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1096.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant; pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received;

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plant in sequence beginning with the plant having the least minus location adjustment;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii) and (iii) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1096.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler;

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received; and

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from any class that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant or a handler described in § 1096.9(c) according to the classification of such products pursuant to § 1096.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1096.44(a)(14) and the corresponding step of § 1096.44(b).

### § 1096.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1096.44(a)(12) and the corresponding step of § 1096.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1096.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 11th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handler were used in each class.

## Class Prices

### § 1096.50 Class prices.

Subject to the provisions of § 1096.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.47.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.





(c) *Class III price.* The Class III price shall be the basic formula price for the month, but not to exceed an amount computed as follows:

(1) Multiply by 4.2 the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month;

(2) Multiply by 8.2 the weighted average of carlot prices per pound of spray process nonfat dry milk for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department; and

(3) From the sum of the amounts computed pursuant to paragraph (c)(1) and (2) of this section subtract 48 cents and round to the nearest cent.

### § 1096.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

### § 1096.52 Plant location adjustments for handlers.

(a) For milk received from producers at a pool plant located more than 50 but not more than 60 miles by shortest hard-surfaced highway distance as determined by the market administrator, from the nearer of the city halls in Minden or Monroe, La., and classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price computed pursuant to § 1096.50(a) shall be reduced by 12 cents, plus 1 cent for each 10 miles or fraction thereof that such distance exceeds 60 miles.

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee-plant, in excess of the sum of receipts at such plant from producers and handlers described in § 1096.9(c), and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

### § 1096.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

### § 1096.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

## Uniform Price

### § 1096.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1096.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1096.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1096.44(a)(14) and the corresponding step of § 1096.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1096.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1096.44(a)(9) and the corresponding step of § 1096.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1096.44(a)(7) (i) through (iv) and the corresponding step of § 1096.44 (b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1096.44(a)(7) (v) and (vi) and the corresponding step of § 1096.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1096.44(a)(11) and the corresponding step of § 1096.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class II price, both for the preceding month, by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1096.40(b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

### § 1096.61 Computation of uniform price.

For each month, the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content as follows:

(a) Combine into one total the values computed pursuant to § 1096.60 for all pool handlers who made reports prescribed in § 1096.30 for such month and who have made payments for the previous month pursuant to § 1096.71 and § 1096.73;

(b) Add an amount equal to the sum of the deductions to be made for location adjustments pursuant to § 1096.75;

(c) Add an amount equal to not less than one-half of the unobligated balance on hand in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1096.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents. The result shall be the "uniform price" for producer milk.

### § 1096.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 10th day after the end of each month the uniform price for such month.

## Payments for Milk

### § 1096.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1096.71,



V 38 175 SEP 11 73 XUM

1096.76, and 1096.77 and out of which he shall make payments to handlers pursuant to §§ 1096.72 and 1096.77: *Provided*, That payments due to any handler shall be offset by any payment due from such handler.

**§ 1096.71 Payments to the producer-settlement fund.**

(a) On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1096.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1096.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1096.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

**§ 1096.72 Payments from the producer-settlement fund.**

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1096.71(a)(2) exceeds the amount computed pursuant to § 1096.71(a)(1). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

**§ 1096.73 Payments to producers and to cooperative associations.**

Except as provided in paragraph (c) of this section, each handler shall make payment to each producer for milk received from such producer as follows:

(a) On or before the 28th day of each month, for milk received during the first 15 days of the month at not less than the Class III price for the preceding month;

(b) On or before the 15th day after the end of each month for milk received during the month, an amount computed at not less than the uniform price per hundredweight pursuant to § 1096.61, subject to the butterfat differentials and location adjustments computed pursuant to §§ 1096.74 and 1096.75, respectively; and

(1) Less payment made pursuant to paragraph (a) of this section;

(2) Less deductions for marketing services pursuant to § 1096.86;

(3) Plus or minus adjustments pursuant to § 1096.77 for errors in previous payments made to such producers; and

(4) Less proper deductions authorized by such producer;

(c) On or before the 25th and 13th days of each month, in lieu of the payment pursuant to paragraphs (a) and (b) of this section, respectively, each handler shall pay to a cooperative association which so requests, with respect to producers for whose milk the market administrator determines such cooperative association is authorized to collect payment, an amount equal to the sum of the individual payments otherwise payable to such producers;

(d) In making the payments to producers pursuant to paragraph (b) or (c) of this section, each handler shall furnish each producer or cooperative association from whom he has received milk with a supporting statement which shall show for each month:

(1) The month and the identity of the handler and of the producer;

(2) The daily and total pounds and the average butterfat content of milk received from such producer;

(3) The minimum rate or rates at which payment to such producer is required pursuant to this part;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer; and

(e) Each handler shall make payment to a cooperative association for each hundredweight of milk received from such association in its capacity as a handler as follows:

(1) On or before the 25th day of each month for milk received during the first 15 days of the month, at not less than the Class III price for the preceding month; and

(2) On or before the 13th day after the end of each month an amount equal to not less than the applicable class prices adjusted pursuant to § 1096.74, (i) less the amounts paid pursuant to paragraph (e)(1) of this section, and (ii) plus or minus adjustments pursuant to § 1096.77 for errors in previous payments made to such cooperative association.

**§ 1096.74 Butterfat differential.**

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

**§ 1096.75 Plant location adjustments for producers and on nonpool milk.**

(a) The uniform price for producer milk received at or diverted from a pool plant shall be reduced according to the location of the pool plant, at the rates set forth in § 1096.52.

(b) For purposes of computations pursuant to §§ 1096.71 and 1096.72 the uniform price shall be adjusted at the rates set forth in § 1096.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted uniform price shall not be less than the Class III price.

**§ 1096.76 Payments by handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1096.30(b) and 1096.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations;

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under an order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and





(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1096.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1096.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1096.60 for such handler shall include, in lieu of the value of other source milk specified in § 1096.60(f) less the value of such other source milk specified in § 1096.71(a)(2)(ii), a value of milk determined pursuant to § 1096.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1096.7(b) subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1096.30(b) and 1096.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1096.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1096.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterbasis by the butterfat differential specified in § 1096.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

**§ 1096.77 Adjustment of accounts.**

Whenever audit by the market administrator of any handler's reports, books, records, or accounts, discloses errors resulting in moneys due (a) the market administrator from such handler; (b) such handler from the market administrator; or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments, as set forth in the provisions under which such error occurred.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

**§ 1096.85 Assessment for order administration.**

As his pro rata share of the expense of administration of this part each handler, except a producer-handler, shall pay to the market administrator on or before the 15th day after the end of the month, 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight as the Secretary may prescribe, as follows:

(a) Each pool handler with respect to (1) all receipts of producer milk including such handler's own production, and (2) other source milk allocated to Class I pursuant to § 1096.44(a)(7) and (11) and the corresponding steps of § 1096.44 (b), except such other source milk that is excluded from the computations pursuant to § 1096.60(d) and (f);

(b) Each cooperative association on producer milk diverted to a nonpool plant for the account of such association or received by such association as a handler described in § 1096.9(c); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1096.76(a)(2).

**§ 1096.86 Deduction for marketing services.**

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than himself) pursuant to § 1096.73 shall deduct 5 cents per hundredweight or such amount not exceeding 5 cents per hundredweight as may be prescribed by the Secretary and shall pay such deductions to the market administrator on or before the 15th day after the end of each month. Such moneys shall be used by the market administrator to provide market information and to verify the weights, samples and tests of milk received from such producers during the month. Such services shall be performed by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the service set forth in paragraph (a) of this section and for whom a cooperative association is authorized to receive payment for marketing services as set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from the payment to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers and shall pay such deductions to the cooperative association entitled to receive it, on or before the 15th day after the end of the month during which such milk was received. Such deductions shall be accompanied by a statement showing the quantity of milk for which such deduction was computed for each producer. In lieu of such statement, the handler may request the market administrator to furnish such cooperative association the information reported for such producers pursuant to § 1096.31.

---

## PART 1097—MILK IN MEMPHIS, TENNESSEE, MARKETING AREA

**Subpart—Order Regulating Handling**

GENERAL PROVISIONS

Sec.
1097.1 General provisions.

DEFINITIONS

1097.2 Memphis, Tennessee, marketing area.
1097.3 Route disposition.
1097.4 [Reserved]
1097.5 [Reserved]
1097.6 [Reserved]



V 38-175 SEP 11 73 XUM

Sec.
1097.7 Fluid milk plant.
1097.8 Nonfluid milk plant.
1097.9 Handler.
1097.10 Producer-handler.
1097.11 [Reserved]
1097.12 Producer.
1097.13 Producer milk.
1097.14 Other source milk.
1097.15 Fluid milk product.
1097.16 Fluid cream product.
1097.17 Filled milk.
1097.18 Cooperative association.

HANDLER REPORTS

1097.30 Reports of receipts and utilization.
1097.31 Payroll reports.
1097.32 Other reports.

CLASSIFICATION OF MILK

1097.40 Classes of utilization.
1097.41 Shrinkage.
1097.42 Classification of transfers and diversions.
1097.43 General classification rules.
1097.44 Classification of producer milk.
1097.45 Market administrator's reports concerning classification.

CLASS PRICES

1097.50 Class prices.
1097.51 Basic formula price.
1097.52 Plant location adjustments for handlers.
1097.53 Announcement of class prices.
1097.54 Equivalent price.

UNIFORM PRICES

1097.60 Handler's value of milk for computing uniform price.
1097.61 Computation of uniform price for each handler (including uniform prices for base milk and excess milk).
1097.62 Announcement of uniform prices for each handler and butterfat differential.

PAYMENTS FOR MILK

1097.71 Payments to market administrator.
1097.72 [Reserved]
1097.73 Payments to producers and to cooperative associations.
1097.74 Butterfat differential.
1097.75 Plant location adjustments for producers.
1097.76 [Reserved]
1097.77 Adjustment of accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1097.85 Assessment for order administration.
1097.86 Deduction for marketing services.

BASE-EXCESS PLAN

1097.90 Base milk.
1097.91 Excess milk.
1097.92 Computation of daily average base for each producer.
1097.93 Determination of monthly base for each producer.
1097.94 Base rules.
1097.95 Announcement of established bases.

ADVERTISING AND PROMOTION PROGRAM

1097.110 Agency.
1097.111 Composition of Agency.
1097.112 Term of office.
1097.113 Selection of Agency members.
1097.114 Agency operating procedure.
1097.115 Powers of the Agency.
1097.116 Duties of the Agency.
1097.117 Advertising, Research, Education and Promotion Program.
1097.118 Limitation of expenditures by the Agency.
1097.119 Personal liability.
1097.120 Procedure for requesting funds.
1097.121 Duties of the market administrator.
1097.122 Liquidation.

AUTHORITY: The provisions of this Part 1097 issued under secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–67).

GENERAL PROVISIONS

### § 1097.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

### § 1097.2 Memphis, Tennessee, marketing area.

"Memphis, Tennessee, marketing area" means all the territory, including incorporated municipalities and military reservations, within the Tennessee counties of Fayette, Hardeman (except Civil Districts 5 and 6), Haywood, Lauderdale, Madison (except Civil Districts 4 and 9), Shelby and Tipton; the Mississippi counties of De Soto, Tate, Panola (except the village of Crowder), Tunica, Lafayette, and Marshall (exclusive of Beat 5); and the townships of Mississippi and Proctor in Crittenden County, Arkansas.

### § 1097.3 Route disposition.

"Route disposition" means a delivery (including disposition from a plant store or from a distribution point and distribution by a vendor or vending machine) of any fluid milk product classified as Class I milk to a retail or wholesale outlet other than a delivery to a milk or filled milk plant. A delivery through a distribution point shall be attributed to the plant from which the Class I milk is moved through a distribution point to wholesale or retail outlets, without intermediate movement to another milk or filled milk plant.

### § 1097.4 [Reserved]

### § 1097.5 [Reserved]

### § 1097.6 [Reserved]

### § 1097.7 Fluid milk plant.

Except as provided in paragraph (c) of this section, "fluid milk plant" means:

(a) Any milk processing or packaging plant from which a volume of Class I milk, except filled milk, equal to an average of 1,000 pounds or more per day, or not less than 5.0 percent of the Class I milk, except filled milk, of such plant, is disposed of during the month as route disposition in the marketing area.

(b) Any plant from which during the month fluid milk products (bulk or packaged), except filled milk, in excess of 70,000 pounds are moved to and received at a plant(s) described pursuant to paragraph (a) of this section.

(c) The term "fluid milk plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A plant qualified pursuant to paragraph (a) or (b) of this section which would be fully regulated pursuant to the provisions of another order issued pursuant to the Act and from which the market administrator determines that a greater volume of fluid milk products, except filled milk, was disposed of during the month from such plant as route disposition in the marketing area regulated by the other order and as fluid milk products transferred as Class I milk to plants fully regulated by such other order than as route disposition in the Memphis, Tenn., marketing area and as fluid milk products transferred as Class I milk to other fluid milk plants: *Provided,* That a plant which was a fluid milk plant pursuant to paragraph (a) or (b) of this section in the immediately preceding month shall continue to be subject to all of the provisions of this part until the third consecutive month in which a greater proportion of fluid milk products, except filled milk, is disposed of as route disposition in such other marketing area or to plants fully subject to such other order, unless the other order requires regulation of the plant without regard to its qualifying as a fluid milk plant for regulation under this order subject to the proviso of this subparagraph; and

(3) A plant qualified pursuant to paragraph (a) or (b) of this section which meets the requirements for fully regulated plants under another Federal order and from which the market administrator determines a greater volume of fluid milk products, except filled milk, is disposed of during the month as route disposition in the Memphis, Tenn., marketing area and as fluid milk products transferred as Class I milk to other fluid milk plants than as route disposition in the other marketing area and fluid milk products transferred as Class I milk to plants fully regulated by such other order, and such other order which fully regulates the plant does not contain provision to exempt the plant from regulation under the particular circumstances described herein of having greater route disposition under the Memphis, Tenn., order.

### § 1097.8 Nonfluid milk plant.

"Nonfluid milk plant" means any milk or filled milk manufacturing, processing, or packaging plant other than a fluid milk plant. The following categories of nonfluid milk plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonfluid milk plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonfluid milk plant from which fluid milk products are moved during the month to a fluid milk plant and which is not an other order plant nor a producer-handler plant.





### § 1097.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more fluid milk plants;

(b) Any cooperative association with respect to milk of its member producers diverted by it pursuant to § 1097.12 for the account of such cooperative association;

(c) Any cooperative association with respect to the milk of its member-producers which it causes to be delivered directly from the farm to the fluid milk plant(s) of another handler in a bulk tank truck owned and operated by, or under contract to, or under control of such cooperative, if the cooperative association notifies the market administrator and the handler to whom the milk is delivered, in writing, that it wishes to become the handler for such milk. The cooperative association shall be considered the handler for such bulk tank milk, effective the first day of the month following receipt of such notice, and shall account for the actual receipts from each producer as determined at the farm at prices applicable to receipts from producers at plants to which the cooperative association delivers the milk. The cooperative association, once it becomes the handler for such bulk tank milk, shall remain the handler for such bulk tank milk from month to month until the cooperative association notifies the market administrator and handler that such status is to be discontinued, effective the first day of the month following receipt of such notice;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler;

(f) Any person who operates an other order plant described in § 1097.7(c); and

(g) Any person in his capacity as the operator of an unregulated supply plant.

### § 1097.10 Producer-handler.

"Producer-handler" means any person who operates an approved plant from which Class I milk is disposed of in the marketing area but who receives no milk from other dairy farmers.

### § 1097.11 [Reserved]

### § 1097.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority which milk is:

(1) Received at a fluid milk plant; or

(2) Diverted from a fluid milk plant to a nonfluid milk plant that is not a producer-handler plant for the account of the handler. Milk so diverted shall be deemed to have been received by the diverting handler at the location of the plant from which it was diverted.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a fluid milk plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1097.44 (a)(8)(iii) and the corresponding step of § 1097.44(b); and

(3) Any person with respect to milk produced by him which is diverted from a fluid milk plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk.

### § 1097.13 Producer milk.

"Producer milk" means only that skim milk and butterfat contained in milk from producers (in an amount determined by weights and measurements for individual producers, as taken at the farm in the case of milk moved from the farm in a bulk tank truck) which is:

(a) Received directly from producers at a fluid milk plant;

(b) Diverted pursuant to § 1097.12; or

(c) Received by a handler described in § 1097.9(c).

### § 1097.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1097.40 (b)(1) from any source other than producers, handlers described in § 1097.9(c), fluid milk plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1097.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1097.40 (b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1097.40(b)(1)) for which the handler fails to establish a disposition.

### § 1097.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1097.40 (b) or (c)(1) (i) through (viii) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

### § 1097.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

### § 1097.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

### § 1097.18 Cooperative association.

"Cooperative association" means any cooperative marketing association which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members.

HANDLER REPORTS

### § 1097.30 Reports of receipts and utilization.

By mailing on or before the sixth day after the end of each month or by delivery not later than the eighth day after the end of such month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his fluid milk plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the fluid milk plant to other plants;

(2) Receipts of milk from handlers described in § 1097.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other fluid milk plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1097.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products



V 38-175 SEP 11 73 XUM

required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk.

(c) Each handler described in § 1097.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

**§ 1097.31 Payroll reports.**

(a) By mailing on or before the sixth day after the end of the month, or by delivery not later than the eighth day after the end of such month, each handler described in § 1097.9 (a), (b), and (c) shall report to the market administrator, in the detail prescribed by the market administrator, the following information showing for each producer:

(1) His name and address;

(2) The number of days on which milk was received from such producer;

(3) The total pounds of milk received from such producer;

(4) The average butterfat content of such milk;

(5) The location at which such milk was received; and

(6) The amount of any deductions authorized in writing by the producer to be made in making payments to such producer.

(b) On or before the 21st day of each month, each handler described in § 1097.9 (a), (b), and (c) shall report to the market administrator, in detail and on forms prescribed by him, the name and address or appropriate identification of each producer from whom milk was received during the first 15 days of such month, the total pounds of milk received from each producer, the location at which such milk was received, the amount of any deductions authorized in writing by producers from whom such handler received milk, the total pounds of milk received from each handler described in § 1097.9(c), and the name and address of each such cooperative association.

**§ 1097.32 Other reports.**

(a) Each handler operating a partially regulated distributing plant shall report on or before the seventh day after the end of the month, the respective amounts of skim milk and butterfat in route disposition in the marketing area.

(c) In addition to the reports required pursuant to §§ 1097.30 and 1097.31 and paragraph (a) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

**§ 1097.40 Classes of utilization.**

Except as provided in § 1097.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1097.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b) (1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(v) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b) (1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b) (1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b) (1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quanity of swim milk in such product that was included within the fluid milk product definition pursuant to § 1097.15; and

(6) In shrinkage assigned pursuant to § 1097.41(a) to the receipts specified in § 1097.41(a)(2) and in shrinkage specified in § 1097.41 (b) and (c).

**§ 1097.41 Shrinkage.**

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1097.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each fluid milk plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1097.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other fluid milk plants;





(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1097.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

**§ 1097.42 Classification of transfers and diversions.**

(a) *Transfers to fluid milk plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a fluid milk plant to another fluid milk plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the conditions set forth in paragraph (a) (1), (2), and (3) of this section. For purposes of this paragraph, skim milk and butterfat transferred as bulk milk to the fluid milk plant of another handler by a handler described in § 1097.9(c) shall be considered a receipt of producer milk in the transferee plant.

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1097.44(a)(12) and the corresponding step of § 1097.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1097.44(a)(7) or the corresponding step of § 1097.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1097.44(a) (11) or (12) or the corresponding steps of § 1097.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a fluid milk plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the fluid milk plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1097.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a fluid milk plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonfluid milk plants.* Skim milk or butterfat transferred or diverted in the following forms from a fluid milk plant to a nonfluid milk plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if tranferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonfluid milk plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1097.30 for the month within which such transaction occurred; and

(*b*) The nonfluid milk plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonfluid milk plant and transfers of packaged fluid milk products from such nonfluid milk plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonfluid milk plant from fluid milk plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonfluid milk plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonfluid milk plant from fluid milk plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonfluid milk plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonfluid milk plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonfluid milk plant from fluid milk plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonfluid milk plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the



V 38-175 SEP 11 73 XUM

extent possible in the following sequence:

(a) Pro rata to receipts of fluid milk products at such nonfluid milk plant from fluid milk plants; and

(b) Pro rata to any remaining unassigned receipts of fluid milk products at such nonfluid milk plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonfluid milk plant shall be assigned to the extent possible in the following sequence:

(a) To such nonfluid milk plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonfluid milk plant; and

(b) To such nonfluid milk plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonfluid milk plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonfluid milk plant from fluid milk plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonfluid milk plant;

(vii) Receipts of bulk fluid cream products at the nonfluid milk plant from fluid milk plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonfluid milk plant; and

(viii) In determining the nonfluid milk plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonfluid milk plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

### § 1097.43 General classification rules.

In determining the classification of producer milk pursuant to § 1097.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1097.30 and shall compute separately for each fluid milk plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1097.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1097.40, 1097.41, and 1097.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1097.9 (b) or (c) shall be determined separately from the operations of any fluid milk plant operated by such cooperative association.

### § 1097.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1097.9(a) for each of his fluid milk plants separately and of each handler described in § 1097.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1097.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1097.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1097.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1097.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1097.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order; and

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the handler's total Class III utilization at his other fluid milk plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other fluid milk plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all fluid milk plants of the handler;

(*b*) Substract from the above result the sum of the pounds of skim milk in receipts at all fluid milk plants of the handler of producer milk, milk from a handler described in § 1097.9(c), fluid milk products from fluid milk plants of other handlers, and bulk fluid milk products from other order plants; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this fluid milk plant is of all such receipts remaining at this allocation step at all fluid milk plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1097.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all fluid milk plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other fluid milk plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(12) Subject to the provisions of paragraph (a)(12)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all fluid milk plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8) (i) and (ii) of this section and that are in excess of bulk fluid milk products transferred or diverted to such plant:

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other fluid milk plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another fluid milk plant according to the classification of such products pursuant to § 1097.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1097.44(a)(14) and the corresponding step of § 1097.44(b).

### § 1097.45 Market administrator's reports concerning classification.

The market administrator shall make the following reports concerning classification:

(a) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1097.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(b) Furnish to each andler operating a fluid milk plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(c) On or before the 11th day after the end of each month, report to each cooperative association which so requests, the percentage of milk delivered by such association or by its members which was allocated to each class by each handler receiving such milk.

## Class Prices

### § 1097.50 Class prices.

Subject to the provisions of § 1097.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.94.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

### § 1097.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5-percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest 0.1 cent) per 0.1-percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

### § 1097.52 Plant location adjustments for handlers.

For that milk which is received at a fluid milk plant (from producers or from a handler described in § 1097.9(c)), located 50 miles or more from the city hall in Memphis, Tenn., by shortest hard-surfaced highway distance, as determined by the market administrator, and which is transferred in the form of products designated as Class I milk in § 1097.40(a) to another fluid milk plant and assigned to Class I pursuant to the calculation provided in this section, or otherwise classified as Class I milk, the price specified in § 1097.50(a) shall be adjusted at the rate set forth in the following schedule according to the location of the fluid milk plant where such milk is received:







V 38 175 SEP 11 73 XUM

| Location of plant | Rate per hundredweight |
|---|---|
| In the State of Mississippi and 50 but less than 60 miles from the city hall in Memphis. | Add 9 cents. |
| For each additional 10 miles in excess of 50 miles | Add an additional 1.5 cents. |
| Outside the State of Mississippi and 50 but less than 60 miles from the city hall in Memphis. | Subtract 9 cents. |
| For each additional 10 miles in excess of 50 miles | Subtract an additional 1.5 cents. |

For purposes of calculating such location adjustment, fluid milk products transferred in bulk between fluid milk plants shall be assigned to the Class I disposition at the transferee-plant in excess of the sum of receipts at such plant from producers and from handlers described in § 1097.9(c) times 1.05, and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor-plants at which no location adjustment or a plus location adjustment is applicable and then in sequence beginning with the plant at which the smallest minus location adjustment would apply.

**§ 1097.53 Announcement of class prices.**

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

**§ 1097.54 Equivalent price.**

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICES

**§ 1097.60 Handler's value of milk for computing uniform price.**

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1097.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1097.44(a)(14) and the corresponding step of § 1097.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1097.74, that are applicable at the location of the fluid milk plant;

(c) Add the following:

(1) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the fluid milk plant for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1097.44(a)(9) and the corresponding step of § 1097.44(b); and

(2) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class II price for the current month by the lesser of:

(i) The hundredweight of skim milk and butterfat subtracted from Class II pursuant to § 1097.44(a)(9) and the corresponding step of § 1097.44(b) for the current month; or

(ii) The hundredweight of skim milk and butterfat remaining in Class III (exclusive of shrinkage) after the computations pursuant to § 1097.44(a)(11) and the corresponding step of § 1097.44(b) for the preceding month, less the hundredweight of skim milk and butterfat specified in paragraph (c)(1) of this section;

(d) Add or subtract, as the case may be, an amount necessary to correct errors discovered by the market administrator in the verification of reports of such handler of his receipts and utilization of skim milk and butterfat for previous months; and

(e) In computing, for the purposes of § 1097.61, the value of milk of a handler described in § 1097.9(c), the value of milk received by fluid milk plants of other handlers shall be the sum of the amounts assigned pursuant to § 1097.61(a)(2) with respect to such milk as adjusted pursuant to § 1097.75 for the location of the fluid milk plant to which delivered.

**§ 1097.61 Computation of uniform price for each handler (including uniform prices for base milk and excess milk).**

(a) For each of the months of August through February the market administrator shall compute for each handler a uniform price per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(1) Adjust the amount computed pursuant to § 1097.60 by adding or subtracting, as the case may be, the total of the location adjustments applicable pursuant to § 1097.75;

(2) For each handler operating a fluid milk plant receiving milk from a handler described in § 1097.9(c), prorate the resulting amount between such milk and producer milk;

(3) Add the amount represented by any deductions made for eliminating fractions of a cent in computing the uniform prices for the preceding month;

(4) Subtract an amount computed by multiplying the total hundredweight of producer milk in each class by 5 cents; and

(5) Divide the resulting amount by the total hundredweight of producer milk received by the handler. The result, less any fraction of a cent per hundredweight, shall be known as the uniform price for such handler for milk of 3.5 percent butterfat content f.o.b. market.

(b) For each of the months of March through July, the market administrator shall compute for each handler with respect to producer milk, a uniform price for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Follow the computations and adjustments provided for in paragraph (a)(1), (2), (3), and (4) of this section;

(2) Compute the value of excess milk received by such handler as producer milk and bulk milk from a handler described in § 1097.9(c) as follows:

(i) Multiply the quantity of such milk, not in excess of the total Class III milk included in this computation, by the Class III price less 5 cents;

(ii) Multiply the remaining quantity of such milk, not in excess of the total Class II milk included in this computation, by the Class II price less 5 cents;

(iii) Multiply the remaining quantity of excess milk by the Class I price less 5 cents; and

(iv) Add together the resulting amounts;

(3) Divide the total value of excess milk obtained in paragraph (b)(2) of this section by the total hundredweight of such excess milk and adjust to the nearest cent. The resulting figure shall be the uniform price for such handler for all excess milk of 3.5 percent butterfat content;

(4) Subtract, for each handler, the value of such handler's excess milk obtained in paragraph (b)(3) of this section from the value of all milk obtained for such handler pursuant to paragraph (b)(1) of this section; and

(5) Divide the amount obtained in paragraph (b)(4) of this section by the total hundredweight of base milk received by such handler. The result, less any fraction of a cent per hundredweight, shall be the uniform price for such handler for base milk of 3.5 percent butterfat content.

**§ 1097.62 Announcement of uniform prices for each handler and butterfat differential.**

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 13th day after the end of each month the applicable uniform prices for each handler pursuant to § 1097.61 for such month.

PAYMENTS FOR MILK

**§ 1097.71 Payments to market administrator.**

(a) On or before the 25th day of each month each handler operating a fluid milk plant shall pay to the market administrator a sum of money calculated by multiplying the hundredweight of milk received from producers and from a handler described in § 1097.9(c) during the first 15 days of such month by the Class III price for the preceding month, less proper deductions authorized in writing by producers from whom such handler received milk.

(b) On or before the 12th day after the end of each month, each handler operating a fluid milk plant shall pay to the market administrator an amount of money equal to such handler's value of milk for such month as determined pursuant to § 1097.60, as adjusted pursuant to § 1097.74, less payments made pursuant to paragraph (a) of this section for such month and less proper deductions authorized in writing by producers from whom such handler received milk.

**§ 1097.72 [Reserved]**

**§ 1097.73 Payments to producers and to cooperative associations.**

(a) On or before the last day of each month, the market administrator shall make payment to each producer for milk received from such producer during the first 15 days of such month by handlers from whom the appropriate payments pursuant to § 1097.71(a) have been received at not less than the Class III price per hundredweight for the preceding month;

(b) On or before the 15th day after the end of each month, the market administrator shall make payment to each producer for milk received from such producer or cooperative association during the month by each handler from whom the appropriate payments have been received pursuant to § 1097.71(b), such payments by the market administrator to be at not less than the uniform price(s) computed pursuant to § 1097.61(a) or (b), as applicable, subject to the following:

(1) Adjustment pursuant to §§ 1097.74 and 1097.75;

(2) Less payments made pursuant to paragraph (a) of this section;

(3) Less deductions for marketing services pursuant to § 1097.86;

(4) Less proper deductions authorized in writing by the producer;

(5) Adjusted for any error in calculating payment to such individual producer for past months; and

(6) If the market administrator has not received full payment from any handler for such month, pursuant to § 1097.71, he shall reduce uniformly per hundredweight his payments due for milk received by such handler by a total amount not in excess of the amount due from such handler. The market administrator shall make such balance of payment to such producers on or before the next date (for making payments pursuant to this paragraph) following that on which such balance of payment is received from such handler;

(c) In making payments to producers pursuant to paragraphs (a) and (b) of this section the market administrator shall, on or before the second day prior to the date payments are due to individual producers, make payment to a cooperative association which is authorized to collect payment for milk of its members and from which a written request for such payment has been received, and to a handler described in § 1097.9(c), a total amount equal to, but not less than, the sum of the individual payments otherwise payable to such producers pursuant to this section; and

(d) In making the payments pursuant to paragraphs (b) and (c) of this section, the market administrator shall furnish each producer or cooperative association with a statement, in such form that it may be retained by the producer or cooperative association which shall show:

(1) The delivery period and the identity of the handler and the producer;

(2) The total pounds of milk received from the producer, including for the months of March through July, such producer's deliveries of base and excess milk;

(3) The average butterfat content of the total pounds of milk received from the producer during the month;

(4) The minimum rates at which payment to the producer or cooperative association is required;

(5) The amount or rates per hundredweight of each deduction, together with a description of the respective deductions; and

(6) The net amount of payment to the producer or cooperative association.

**§ 1097.74 Butterfat differential.**

For milk containing more or less than 3.5 percent butterfat, the uniform prices shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

**§ 1097.75 Plant location adjustments for producers.**

In making payment pursuant to § 1097.73, the applicable uniform prices for all milk received shall be adjusted according to the location of the fluid milk plant where such milk was received at the rate provided pursuant to § 1097.52.

**§ 1097.76 [Reserved]**

**§ 1097.77 Adjustment of accounts.**

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in money due the market administrator from such handler, or due such handler from the market administrator, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

**§ 1097.85 Assessment for order administration.**

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to (a) receipts of milk at fluid milk plants from producers (including receipts from a handler described in § 1097.9(c) and such handler's own production), (b) other source milk allocated to Class I pursuant to § 1097.44(a)(7) and (11) and the corresponding steps of § 1097.44(b), (c) receipts of milk by a handler described in § 1097.9(c) in excess of that specified in paragraph (a) of this section, and (d) receipts of milk by a handler described in § 1097.9(b).

**§ 1097.86 Deduction for marketing services.**

(a) The market administrator in making payments to producers pursuant to § 1097.73 shall:

(1) Deduct 7 cents per hundredweight or such amount not exceeding 7 cents per hundredweight as may be prescribed by the Secretary, with respect to milk (other than milk of a handler's own production) of those producers for whom the marketing services set forth in paragraph (b) of this section are not being performed by a cooperative association; or

(2) If so requested in writing by a cooperative association, deduct such amount as may be authorized by the member producers of such association from the payment to be made to such producers for whom the cooperative is performing the services specified in paragraph (b) of this section and pay such amounts to the cooperative association on or before the date for making payment to producers.

(b) The monies received by the market administrator pursuant to paragraph (a)(1) of this section shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association.

BASE-EXCESS PLAN

**§ 1097.90 Base milk.**

"Base milk" means milk received by a handler from a producer during any of the months of March through July, which is not in excess of such producer's base computed pursuant to § 1097.93.

**§ 1097.91 Excess milk.**

"Excess milk" means milk received by a handler from a producer during any of the months of March through July, which is in excess of the base milk of such producer for such month, and shall include all milk from a producer for whom no base can be computed pursuant to § 1097.93.

**§ 1097.92 Computation of daily average base for each producer.**

The daily average base for each producer shall be determined by the market administrator as follows: Divide the total pounds of milk received from such producer by handlers fully regulated under the terms of the respective orders regulating the handling of milk in the Mem-







V 38-175 SEP 11 73 XUM

phis, Tenn.; Fort Smith, Ark.; and Central Arkansas marketing areas (this Part 1097 and Parts 1102 and 1108, respectively, of this chapter) during the immediately preceding period of September through January, by the total number of days in such period beginning with the first day on which milk is received from such producer by a handler regulated under any one of the aforesaid orders, but not less than 120. In the case of producers delivering milk to a handler's plant which first became a fluid milk plant during or after the end of the base-forming period, the daily average base for each producer shall be that which would have been calculated for such producer for the entire base-forming period if the handler's plant had been a fluid milk plant during such period.

**§ 1097.93 Determination of monthly base of each producer.**

Subject to the rules set forth in § 1097.94, the market administrator shall calculate a monthly base for each producer for each of the months of March through July, as follows:

(a) If milk is received by a handler as producer milk during the month, multiply such producer's daily average base computed pursuant to § 1097.92 by the number of days in such month.

(b) If milk is received as producer milk from the same farm by more than one handler and/or by handlers fully regulated under the terms of the Central Arkansas (Part 1108 of this chapter) or Fort Smith, Ark. (Part 1102 of this chapter), orders during the month, multiply such producer's daily average base computed pursuant to § 1097.92 by the number of days in such month and multiply the result by the percentages of the total pounds of milk received from such producer by handlers fully regulated under the terms of the three orders specified in § 1097.92 which were received by each handler to determine the amount of base milk received from such producer by each handler.

**§ 1097.94 Base rules.**

The following rules shall apply in connection with the establishment of bases for each producer computed pursuant to § 1097.92:

(a) An entire base or share of a joint holder shall be transferred from a person holding such base to other persons as of the end of the month during which an application for the transfer of such base is received by the market administrator, such application to be on forms approved by the market administrator and signed by the base holder(s) or by the heirs and by the person to whom such base is to be transferred subject to the following conditions:

(1) If a base is held jointly and such joint holding is terminated, the entire base may be transferred to one of the joint holders;

(2) The share of a joint base holder may be transferred to a person other than a joint holder of the base only if all shares of the entire base are at the same time transferred to the same or other persons; and

(3) If one or more bases are transferred to a producer already holding a base, a new base shall be computed by adding together the total eligible deliveries during the period of September through January of all persons in whose names such bases were earned and dividing the total by the total number of days in such period beginning with the first day on which milk was received during the months of September through January from any of such persons but not less than 120 days.

**§ 1097.95 Announcement of established bases.**

On or before February 25 of each year, the market administrator shall notify each producer of the daily average base established by such producer, or shall notify the cooperative association of which such producer is a member of such daily average base.

ADVERTISING AND PROMOTION PROGRAM

**§ 1097.110 Agency.**

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1097.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

**§ 1097.111 Composition of Agency.**

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1097.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1097.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1097.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

**§ 1097.112 Term of office.**

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

**§ 1097.113 Selection of Agency members.**

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1097.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.





**§ 1097.114 Agency operating procedure.**

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

**§ 1097.115 Powers of the Agency.**

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1097.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1097.110 and 1097.117.

**§ 1097.116 Duties of the Agency.**

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1097.110 and 1097.117;

(c) Keep minutes, books and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

**§ 1097.117 Advertising, Research, Education, and Promotion Program.**

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

**§ 1097.118 Limitation of expenditures by the Agency.**

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1097.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

**§ 1097.119 Personal liability.**

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

**§ 1097.120 Procedure for requesting refunds.**

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

**§ 1097.121 Duties of the market administrator.**

Except as specified in § 1097.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1097.113(c).

(b) Set aside the amounts substracted under § 1097.61(a)(4) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b)(2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1097.61(a)(4).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1097.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1097.61(a)(4) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1097.110 through 1097.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

**§ 1097.122 Liquidation.**

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall be distributed in an equitable manner to producers by the market administrator.



V 38-175 SEP 11 73 XUM

## PART 1098—MILK IN THE NASHVILLE, TENNESSEE, MARKETING AREA

**Subpart—Order Regulating Handling**

GENERAL PROVISIONS


Sec.
1098.1 General provisions.

DEFINITIONS

1098.2 Nashville, Tennessee, marketing area.
1098.3 Route disposition.
1098.4 [Reserved]
1098.5 Approved plant.
1098.6 [Reserved]
1098.7 Pool plant.
1098.8 Nonpool plant.
1098.9 Handler.
1098.10 Producer-handler.
1098.11 [Reserved]
1098.12 Producer.
1098.13 Producer milk.
1098.14 Other source milk.
1098.15 Fluid milk product.
1098.16 Fluid cream product.
1098.17 Filled milk.
1098.18 Cooperative association.

HANDLER REPORTS

1098.30 Reports of receipts and utilization.
1098.31 Payroll reports.
1098.32 Other reports.

CLASSIFICATION OF MILK

1098.40 Classes of utilization.
1098.41 Shrinkage.
1098.42 Classification of transfers and diversions.
1098.43 General classification rules.
1098.44 Classification of producer milk.
1098.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1098.50 Class prices.
1098.51 Basic formula price.
1098.52 Plant location adjustments for handlers.
1098.53 Announcement of class prices.
1098.54 Equivalent price.

UNIFORM PRICES

1098.60 Handler's value of milk for computing uniform price.
1098.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).
1098.62 Announcement of uniform prices and butterfat differential.

PAYMENTS FOR MILK

1098.70 Producer-settlement fund.
1098.71 Payments to the producer-settlement fund.
1098.72 [Reserved]
1098.73 Payments to producers and to cooperative associations.
1098.74 Butterfat differential.
1098.75 Plant location adjustments for producers and on nonpool milk.
1098.76 Payments by handler operating a partially regulated distributing plant.
1098.77 Adjustment of accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1098.85 Assessment for order administration.
1098.86 Deduction for marketing services.

BASE-EXCESS PLAN

1098.90 Base milk.
1098.91 Excess milk.
1098.92 Computation of daily average base for each producer.
1098.93 Base rules.
1098.94 Announcement of established bases.


AUTHORITY: The provisions of this Part 1098 issued under secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

GENERAL PROVISIONS

### § 1098.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

### § 1098.2 Nashville, Tennessee, marketing area.

"Nashville, Tennessee, marketing area," hereinafter called the "marketing area," means all the territory within the boundaries of the following:

(a) Tennessee counties of:

| | |
|---|---|
| Bedford. | Maury. |
| Cannon. | Montgomery. |
| Cheatham. | Overton. |
| Clay. | Perry. |
| Coffee. | Pickett. |
| Davidson. | Putnam. |
| DeKalb. | Robertson. |
| Dickson. | Rutherford. |
| Fentress. | Smith. |
| Giles. | Stewart. |
| Hickman. | Sumner. |
| Houston. | Trousdale. |
| Humphreys. | Warren. |
| Jackson. | Wayne. |
| Lawrence. | White. |
| Lewis. | Williamson. |
| Macon. | Wilson. |
| Marshall. | |

(b) Kentucky counties of:

| | |
|---|---|
| Allen. | Monroe. |
| Barren. | Simpson. |
| Metcalf. | Warren. |

(c) Fort Campbell military reservation.

### § 1098.3 Route disposition.

"Route disposition" means any delivery (including delivery by a vendor or a sale from a plant store) of any fluid milk product classified as Class I milk other than a delivery to a milk or filled milk processing plant.

### § 1098.4 [Reserved]

### § 1098.5 Approved plant.

"Approved plant" means the premises, buildings and facilities of any milk processing or packaging plant from which during the month Grade A milk is shipped to a pool plant, or from which there is route disposition in the marketing area.

### § 1098.6 [Reserved]

### § 1098.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) Any approved plant at which during the month fluid milk products are processed or packaged and from which (1) route disposition of fluid milk products, except filled milk, is at least 50 percent of total receipts of Grade A milk and (2) route disposition of fluid milk products, except filled milk, in the marketing area is at least 15 percent of its total route disposition of fluid milk products, except filled milk.

(b) Any approved plant from which during the month there has been delivered to plants described in paragraph (a) of this section fluid milk products, except filled milk, approved by any health authority having jurisdiction in the marketing area as eligible for distribution under a Grade A label in a volume not less than 50 percent of its receipts of milk from approved dairy farmers: *Provided*, That any plant which qualified as a pool plant pursuant to this paragraph in each of the months of August through February shall be designated as a pool plant for the following months of March through July, unless the operator of such plant files with the market administrator a written request for withdrawal prior to the first day of the month for which nonpool status is requested, in which case the plant shall remain a nonpool plant until it again qualifies for pool status.

(c) A plant operated by a cooperative association if, during the month, the sum of the milk received at other pool plants from producers who are members of such cooperative association, plus the milk which was transferred thereto from the plant operated by the cooperative association, is not less than two-thirds of the total volume of milk delivered to all plants by producers who are members of the association.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A distributing plant qualified pursuant to paragraph (a) of this section which meets the requirements of a fully regulated plant pursuant to the provisions of another order issued pursuant to the Act and from which a greater quantity of fluid milk products, except filled milk, is disposed of during the month from such plant as route disposition in the marketing area regulated by the other order than as route disposition in the Nashville, Tenn., marketing area: *Provided*, That such a distributing plant which was a pool plant under this order in the immediately preceding month shall continue to be subject to all of the provisions of this part until the third consecutive month in which a greater proportion of its route disposition is made in such other marketing area, unless the other order requires regulation of the plant without regard to its qualifying as a pool plant under this order, subject to the proviso of this paragraph: *And provided further*, On the basis of a written application made either by the plant operator or by the cooperative association supplying milk to such operator's plant, at least 15 days prior to the date for which a determination of the Secretary is to be effective, the Secretary may determine that the route disposition in the respective marketing areas to be used for purposes of this paragraph shall exclude (for a specified period of time) route disposition made under limited term contracts to governmental bases and institutions;

(3) A distributing plant qualified pursuant to paragraph (a) of this section which meets the requirements of a fully regulated plant pursuant to the provisions of another Federal order and from which a greater quantity of Class I milk, except filled milk, is disposed of during the month in the Nashville, Tenn., marketing area as route disposition than as route disposition in the other marketing area, and such other order which fully regulates the plant does not contain provision to exempt the plant from regulation, even though such plant has greater route disposition in the marketing area of the Nashville, Tenn., order; and

(4) Any supply plant which would be subject to the classification and pricing provisions of another order issued pursuant to the Act unless such plant qualified as a pool plant pursuant to the proviso of paragraph (b) of this section during the preceding August through January period:





### § 1098.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant other than a producer-handler plant or an other order plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant other than a producer-handler plant or an other order plant, from which fluid milk products are shipped to a pool plant.

### § 1098.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plant(s);

(b) A cooperative association with respect to milk of its producer members diverted pursuant to § 1098.13 for the account of such association;

(c) A cooperative association with respect to the milk of its producer members which is delivered from the farm to the pool plant(s) of another handler in a tank truck owned, operated by or under contract to, such cooperative association for the account of the cooperative association if the cooperative association has notified in writing, prior to delivery, both the market administrator and the handler to whom the milk is delivered that it wishes to be the handler for such milk. Such milk shall be considered as having been received at the location of the plant to which it was delivered;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler; or

(f) Any person who operates an other order plant described in § 1098.7(d).

### § 1098.10 Producer-handler.

"Producer-handler" means a person who:

(a) Produces milk and operates an approved plant;

(b) Uses no milk products other than fluid milk products for reconstitution into fluid milk products; and

(c) Receives no fluid milk products during the month except milk of his own production and transfers from pool plants.

### § 1098.11 [Reserved]

### § 1098.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority or produces milk acceptable for fluid consumption at Federal, State, or municipal establishments within the marketing area, which milk is received at a pool plant or diverted pursuant to § 1098.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1098.44(a)(8)(iii) and the corresponding step of § 1098.44(b); and

(3) Any person with respect to milk produced by him which is diverted from a pool plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk.

### § 1098.13 Producer milk.

"Producer milk" means only that skim milk or butterfat contained in milk of a producer which is:

(a) Received at a pool plant directly from a dairy farmer or a handler described in § 1098.9(c): *Provided*, That if the milk received at a pool plant from a handler described in § 1098.9(c) is purchased on a basis other than weights determined by farm bulk tank calibrations and butterfat tests determined by farm bulk tank samples the amount by which the total of such farm weights of such milk exceed the weights on which the pool plant's purchases are based shall be producer milk received by the handler described in § 1098.9(c) at the location of the pool plant; or

(b) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant.

### § 1098.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1098.40(b)(1) from any source other than producers, handlers described in § 1098.9(c), pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1098.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1098.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1098.40(b)(1)) for which the handler fails to establish a disposition.

### § 1098.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1098.40 (b) or (c)(1) (i) through (iv) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

### § 1098.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

### § 1098.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

### § 1098.18 Cooperative Association.

"Cooperative Association" means any cooperative marketing association of producers which the Secretary determines:

(a) To be qualified pursuant to the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and



V 38-175 SEP 11 73 XUM

(b) To be authorized by its members to make collective sales of or to market milk or its products for its members.

HANDLER REPORTS

§ 1098.30 Reports of receipts and utilization.

On or before the sixth day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1098.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1098.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1098.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers;

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1098.31 Payroll reports.

(a) On or before the sixth day after the end of each month, each handler described in § 1098.9 (a), (b), and (c) shall report to the market administrator, in the detail prescribed by the market administrator, the following information for each producer for such month:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The total pounds of base milk and excess milk;

(4) The average butterfat content of such milk; and

(5) The amount of any deductions authorized in writing by such producer to be made from payments due for milk delivered.

(b) On or before the 21st day of each month, each handler described in § 1098.9 (a), (b), and (c) shall report to the market administrator, in the detail and on forms prescribed by him, the name and address of each producer from whom milk was received during the first 15 days of such month, and the pounds of milk so received during said period from such producer.

(c) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1098.76 (b) shall report on or before the 15th day after the end of the month for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section plus the amount paid each dairy farmer.

§ 1098.32 Other reports.

(a) On or before the third day after the end of the month:

(1) Each handler described in § 1098.9 (c) shall report to each pool plant operator purchasing producer milk from such handler, on a basis of weights determined by farm bulk tank calibrations and butterfat tests determined from farm bulk tank samples, the total pounds and butterfat content of such milk delivered to each pool plant operator during the month; and

(2) The operator of each pool plant purchasing producer milk from a handler described in § 1098.9(c), on a basis other than weights determined by farm bulk tank calibrations and butterfat tests determined from farm bulk tank samples, shall report to such handler the total pounds and butterfat content of such milk received by the pool plant during the month.

(b) On or before the 21st day of each month each handler described in § 1098.9(c) shall report to the market administrator the quantities of producer milk delivered to each pool plant for the first 15 days of such month.

(c) In addition to the reports required pursuant to paragraphs (a) and (b) of this section and §§ 1098.30 and 1098.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1098.40 Classes of utilization.

Except as provided in § 1098.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1098.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, low fat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, low fat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(v) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1098.15; and

(6) In shrinkage assigned pursuant to § 1098.41(a) to the receipts specified in § 1098.41(a)(2) and in shrinkage specified in § 1098.41 (b) and (c).





§ 1098.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1098.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1098.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1098.9(c), except that, if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b)(1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1098.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1098.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1098.44(a)(12) and the corresponding step of § 1098.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1098.44(a)(7) or the corresponding step of § 1098.44 (b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1098.44(a)(11) or (12) or the corresponding steps of § 1098.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market adminstrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1098.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2) (a) and (b) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in



V 38-175 SEP 11 73 XUM

paragraph (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1098.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

### § 1098.43 General classification rules.

In determining the classification of producer milk pursuant to § 1098.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1098.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1098.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1098.40, 1098.41, and 1098.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1098.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

### § 1098.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1098.9(a) for each of his pool plants separately and of each handler described in § 1098.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1098.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1098.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1098.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1098.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1098.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v) and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii)(*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the handler's total Class III utilization at his other pool plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler;

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;





(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1098.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii) and (iii) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1098.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler;

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received; and

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from any class that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other pool plants in sequence beginning with the plant having the least minus location adjustment;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from an other pool plant according to the classification of such products pursuant to § 1098.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1098.44(a)(14) and the corresponding step of § 1098.44(b).

### § 1098.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1098.44(a)(12) and the corresponding step of § 1098.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in pro-



V 38-175 SEP 11 73 XUM

ducer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1098.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 15th day after the end of each delivery period, the market administator shall report to each cooperative association, upon request by such association, the percentage of milk caused to be delivered by such association or by its members which was used in each class by each handler receiving any such milk. For the purpose of this report, any milk so received shall be prorated to each class in the proportion that the total receipts of producer milk by such handler are allocated to such class.

CLASS PRICES

**§ 1098.50 Class prices.**

Subject to the provisions of § 1098.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.58.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

**§ 1098.51 Basic formula price.**

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

**§ 1098.52 Plant location adjustments for handlers.**

(a) For milk received from producers at a pool plant located outside the State of Tennessee and 50 miles or more by shortest hard-surfaced highway distance as determined by the market administrator, from the State Capitol at Nashville, Tennessee, and classified as Class I milk subject to the limitations pursuant to paragraph (b) of this section, the price computed pursuant to § 1098.50(a) shall be reduced by 10.0 cents, plus 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 70 miles; and

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to that Class I disposition at the transferee-plant which is in excess of the sum of receipts at such plant from producers and handlers described in § 1098.9(c), and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rate set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

**§ 1098.53 Announcement of class prices.**

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

**§ 1098.54 Equivalent price.**

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICES

**§ 1098.60 Handler's value of milk for computing uniform price.**

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1098.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1098.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1098.44(a)(14) and the corresponding step of § 1098.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1098.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1098.44(a)(9) and the corresponding step of § 1098.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1098.44(a)(7)(i) through (iv) and the corresponding step of § 1098.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1098.44(a)(7)(v) and (vi) and the corresponding step of § 1098.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1098.44(a)(11) and the corresponding step of § 1098.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

**§ 1098.61 Computation of uniform price (including weighted average price and uniform prices for base and excess milk).**

(a) For each month the market administrator shall compute the weighted average price and for each of the months of August through February the uniform price per hundredweight of milk received from producers as follows:

(1) Combine into one total the values computed pursuant to § 1098.60 for all handlers who filed the reports prescribed by § 1098.30 for the month and who are not in default of payments pursuant to § 1098.71;

(2) Add an amount equal to the total value of the location adjustments computed pursuant to § 1098.75;

(3) Add an amount equal to the unobligated balance on hand in the producer-settlement fund;





(4) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk included in paragraph (a)(1) of this section; and

(ii) The total hundredweight for which a value is computed pursuant to § 1098.60(f); and

(5) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price", and also the "uniform price" per hundredweight for milk of 3.5 percent butterfat received from producers in the months of August through February.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Compute the aggregate value of excess milk for all handlers included in the computations pursuant to paragraph (a)(1) of this section as follows:

(i) Multiply the quantity of such milk which does not exceed the total quantity of producer milk received by such handlers assigned to Class III milk by the Class III price;

(ii) Multiply the remaining quantity of excess milk which does not exceed the total quantity of producer milk received by such handlers assigned to Class II milk by the Class II price;

(iii) Multiply the remaining quantity of excess milk by the Class I price; and

(iv) Add together the resulting amounts;

(2) Divide the total value of excess milk obtained in paragraph (b)(1) of this section by the total hundredweight of such milk and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk of 3.5 percent butterfat content received from producers;

(3) From the amount resulting from the computations in paragraph (a)(1) through (3) of this section subtract an amount computed by multiplying the hundredweight of milk specified in paragraph (a)(4)(ii) of this section by the weighted average price;

(4) Subtract from the value determined pursuant to paragraph (b)(3) of this section, the total value of excess milk determined by multiplying the uniform price obtained in paragraph (b)(2) of this section by the hundredweight of excess milk;

(5) Divide the amount calculated pursuant to paragraph (b)(4) of this section by the total hundredweight of base milk included in these computations; and

(6) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (b)(5) of this section. The resulting figure shall be the uniform price for base milk of 3.5 percent butterfat content f.o.b. market.

**§ 1098.62 Announcement of uniform prices and butterfat differential.**

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 10th day after the end of each month the applicable uniform prices pursuant to § 1098.61 for such month.

PAYMENTS FOR MILK

**§ 1098.70 Producer-settlement fund.**

The market administrator shall maintain a producer-settlement fund into which he shall deposit the appropriate payments made by handlers pursuant to §§ 1098.71, 1098.76, and 1098.77, and out of which he shall make appropriate payments required pursuant to §§ 1098.73 and 1098.77.

**§ 1098.71 Payments to the producer-settlement fund.**

(a) On or before the 25th day of each month each handler receiving milk from producers or from a handler described in § 1098.9(c) (except for producers having made deliveries for less than 20 days during the month) shall pay to the market administrator for deposit into the producer-settlement fund an amount of money calculated by multiplying the hundredweight of producer milk received by him during the first 15 days of such month by the Class III price for the preceding month.

(b) On or before the 12th day after the end of each month, each person shall pay to the market administrator for deposit into the producer-settlement fund an amount of money equal to such handler's value of milk for such month as determined pursuant to § 1098.60(a), adjusted by the butterfat differential specified in § 1098.74, and § 1098.60 (b) through (f), less:

(1) Payments made pursuant to paragraph (a) of this section for such month;

(2) An amount computed by multiplying the quantities of receipts of other source milk for which a value is computed pursuant to § 1098.60(f) by the weighted average price computed pursuant to § 1098.61(a) as adjusted pursuant to § 1098.75; and

(3) Proper deductions authorized in writing by producers from whom such handler received milk.

(c) On or before the 25th day after the end of the month each handler who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (c)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

**§ 1098.72 [Reserved]**

**§ 1098.73 Payments to producers and to cooperative associations.**

(a) On or before the last day of each month, the market administrator shall make payment to each producer for milk received from such producer during the first 15 days of such month by handlers from whom the appropriate payments have been received pursuant to § 1098.71(a) at not less than the Class III price per hundredweight for the preceding month;

(b) On or before the 15th day after the end of each month, the market administrator shall make payment to each producer for milk received from such producer during the month by handlers from whom the appropriate payments have been received pursuant to § 1098.71(b), such payments by the market administrator to be at not less than the uniform price computed pursuant to § 1098.61(a) for the months for which such uniform prices are computed, and such payments to be for base and excess milk at not less than the uniform prices for base and excess milk, respectively, computed pursuant to § 1098.61(b) for the months for which such uniform prices for base and excess milk are computed subject to the following: (1) adjustments pursuant to §§ 1098.74 and 1098.75, (2) less payments made pursuant to paragraph (a) of this section, (3) less deductions for marketing services pursuant to § 1098.86, (4) less proper deductions authorized in writing by the producer, and (5) adjusted for any error in calculating payment to such individual producer for past months: *Provided*, That if the market administrator has not received full payment from any handler for such month, pursuant to § 1098.71, he shall reduce uniformly per hundredweight his payments to producers for milk received by such handler by a total amount not in excess of the amount due from such handler: *And provided further*, That the market administrator shall make such balance of payment to producers on or before the next date for making payments pursuant to this paragraph following that on which such balance of payment is received from such handler;

(c) In making payments to producers pursuant to paragraphs (a) and (b) of this section, the market administrator shall pay, on or before the second day prior to the date payments are due to individual producers, to a cooperative association which is authorized to collect payment for milk of its members and from which a written request for such payments has been received, a total amount equal to the sum of the individual payments otherwise payable to such producers pursuant to this section; and

(d) In making the payments required by paragraph (b) of this section, the market administrator shall furnish each producer or cooperative association with a supporting statement in such form that



V 38-175
SEP 11 73
XUM

it may be retained by the producer or cooperative association which shall show:

(1) The month and the identity of the handler and of the producer;

(2) The total pounds and the average butterfat content of milk delivered by the producer, including for the months in which base and excess prices apply, the pounds of base and excess milk;

(3) The minimum rate or rates at which payment to the producer or cooperative association is required;

(4) The amount or the rate per hundredweight of each deduction claimed by the handler including any deductions made pursuant to § 1098.86, together with a description of the respective deductions; and

(5) The net amount of payment to the producer or cooperative association.

**§ 1098.74 Butterfat differential.**

For milk containing more or less than 3.5 percent butterfat, the uniform prices shall be increased or decreased, respectively, for each 0.1 percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest 0.1 cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

**§ 1098.75 Plant location adjustments for producers and on nonpool milk.**

(a) In making payments to producers pursuant to § 1098.73(b), the uniform price and the uniform price for base milk pursuant to § 1098.61 for producer milk received at a pool plant shall be reduced according to the location of the pool plant, each at the rates set forth in § 1098.52(a); and

(b) The weighted average price applicable to other source milk shall be adjusted at the rates set forth in § 1098.52 (a) applicable at the location of the nonpool plant from which the milk was received, except that the weighted average price shall not be less than the Class III price.

**§ 1098.76 Payments by handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1098.30(b) and 1098.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1098.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1098.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1098.60 for such handler shall include, in lieu of the value of other source milk specified in § 1098.60(f) less the value of such other source milk specified in § 1098.71(a)(2)(ii), a value of milk determined pursuant to § 1098.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1098.7(b), subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1098.30(b) and 1098.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(*c*) The value of milk determined pursuant to § 1098.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1098.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1098.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

**§ 1098.77 Adjustment of accounts.**

Whenever audit by the market administrator of any handler's reports, books, records or accounts or other verification discloses errors resulting in money due the market administrator from such handler, or due such handler from the market administrator, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

**§ 1098.85 Assessment for order administration.**

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month, 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to receipts during the month of:

(a) Producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1098.44(a) (7) and (11) and the corresponding steps of § 1098.44(b), except such other source milk that is excluded from the computations pursuant to § 1098.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1098.76(a)(2).

**§ 1098.86 Deduction for marketing services.**

(a) Except as set forth in paragraph (b) of this section, the market administrator, in making payments to producers pursuant to § 1098.73, shall deduct an amount not exceeding 6 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk received by a handler(s) from producers during the month. Such moneys shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association. Such services shall be performed in whole or in part by the market administrator or an agent engaged by and responsible to him.

(b) In the case of producers who are members of a cooperative association which the Secretary determines is performing the services specified in paragraph (a) of this section for its members, the market administrator shall, in lieu of the deductions provided in paragraph (a) of this section, make such deductions as are authorized by such producers, and on or before the 15th day after the end of each month, pay the money so deducted to such cooperative association.

BASE-EXCESS PLAN

**§ 1098.90 Base milk.**

"Base milk" means milk received at pool plants from a producer during any of the months specified in § 1098.61 for the computation of uniform base and excess prices, which is not in excess of such producer's daily average base computed pursuant to § 1098.92, multiplied by the number of days in such month.





**§ 1098.91 Excess milk.**

"Excess milk" means milk received at pool plant from a producer during any of the months specified in § 1098.61 for the computation of uniform base and excess prices, which is in excess of the base milk of such producer for such month, and shall include all milk received during such month from a producer for whom no daily average base can be computed pursuant to § 1098.92.

**§ 1098.92 Computation of daily average base for each producer.**

Subject to the rules set forth in § 1098.93, the daily average base for each producer shall be an amount calculated by dividing the total pounds of producer milk received from such producer at all pool plants during the months of September through January immediately preceding by 153: *Provided*, That the base of a producer, who delivers milk during August and whose deliveries are temporarily discontinued during the base-forming period, shall be determined by dividing by the number of days for which deliveries are made or by 138, whichever is higher: *And provided further*, That in the case of producers delivering milk to a pool plant which was not a pool plant during all of the preceding months of September through January a daily average base for each such producer shall be computed pursuant to this paragraph on the basis of his verifiable deliveries of milk to such plant during the period September through January preceding the month in which the plant became a pool plant.

**§ 1098.93 Base rules.**

The following rules shall apply in connection with the establishment and assignment of bases:

(a) Subject to the provisions of paragraphs (b) and (c) of this section, the market administrator shall assign a base as calculated pursuant to § 1098.92 to each person for whose account producer milk was delivered to pool plants during the months specified in § 1098.92 for computation of base;

(b) A base which has been established by two or more persons operating a dairy farm as a partnership may be divided between the partners on any basis agreed to in writing by the partners provided written notification of the agreed division of base signed by each partner is received by the market administrator prior to the first day of the month in which such division is to be effective; and

(c) An entire base shall be transferred from a person holding such base to any other person, effective as of the end of any month during which an application for such transfer is received by the market administrator, such application to be on forms approved by the market administrator and signed by the baseholder, or his heirs, and by the person to whom such base is to be transferred: *Provided*, That an entire base or any portion thereof may be transferred from a producer to any other person upon adequate proof that such producer has discontinued marketing milk: *And provided further*, That if a base is held jointly, it shall be transferable only upon the receipt of such application signed by all joint holders or their heirs.

**§ 1098.94 Announcement of established bases.**

On or before February 25 of each year, the market administrator shall notify each producer and the handler receiving milk from such producer of the daily average base established by such producer.

## PART 1102—MILK IN FORT SMITH, ARKANSAS, MARKETING AREA

Subpart—Order Regulating Handling

GENERAL PROVISIONS

Sec.
1102.1 General provisions.

DEFINITIONS

1102.2 Fort Smith, Arkansas, marketing area.
1102.3 [Reserved]
1102.4 [Reserved]
1102.5 [Reserved]
1102.6 [Reserved]
1102.7 Approved plant.
1102.8 Unapproved plant.
1102.9 Handler.
1102.10 Producer-handler.
1102.11 [Reserved]
1102.12 Producer.
1102.13 Producer milk.
1102.14 Other source milk.
1102.15 Fluid milk product.
1102.16 Fluid cream product.
1102.17 Filled milk.
1102.18 Cooperative association.

HANDLER REPORTS

1102.30 Reports of receipts and utilization.
1102.31 Payroll reports.
1102.32 Other reports.

CLASSIFICATION OF MILK

1102.40 Classes of utilization.
1102.41 Shrinkage.
1102.42 Classification of transfers and diversions.
1102.43 General classification rules.
1102.44 Classification of producer milk.
1102.45 Market administrator's reports concerning classification.

CLASS PRICES

1102.50 Class prices.
1102.51 Basic formula price.
1102.52 Plant location adjustments for handlers.
1102.53 Announcement of class prices.
1102.54 Equivalent price.

UNIFORM PRICES

1102.60 Handler's value of milk for computing uniform price.
1102.61 Computation of uniform price for each handler (including uniform prices for base milk and excess milk).
1102.62 Announcement of uniform prices for each handler and butterfat differential.

PAYMENTS FOR MILK

1102.73 Payments to producers and to cooperative associations.
1102.74 Butterfat differential.
1102.75 Plant location adjustments for producers.
1102.76 [Reserved]
1102.77 Adjustment of accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1102.85 Assessment for order administration.
1102.86 Deduction for marketing services.



V 38-175
SEP 11 73
XUM

BASE-EXCESS PLAN

Sec.
1102.90 Base milk.
1102.91 Excess milk.
1102.92 Computation of daily average base for each producer.
1102.93 Determination of monthly base for each producer.
1102.94 Base rules.
1102.95 Announcement of established bases.

ADVERTISING AND PROMOTION PROGRAM

1102.110 Agency.
1102.111 Composition of Agency.
1102.112 Term of office.
1102.113 Selection of Agency members.
1102.114 Agency operating procedure.
1102.115 Powers of the Agency.
1102.116 Duties of the Agency.
1102.117 Advertising, Research, Education and Promotion Program.
1102.118 Limitation of expenditures by the Agency.
1102.119 Personal liability.
1102.120 Procedure for requesting refunds.
1102.121 Duties of the market administrator.
1102.122 Liquidation.
1102.123 Payment of advertising and promotion fund.

AUTHORITY: The provisions of this Part 1102 issued under Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

GENERAL PROVISIONS

**§ 1102.1 General provisions.**

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

**§ 1102.2 Fort Smith, Ark., marketing area.**

"Fort Smith, Ark., Marketing Area," called the marketing area in this part, means all territory within the corporate limits of Fort Smith, Ark. and Van Buren, Ark. and within the boundaries of the Camp Chaffee military reservation.

**§ 1102.3 [Reserved]**

**§ 1102.4 [Reserved]**

**§ 1102.5 [Reserved]**

**§ 1102.6 [Reserved]**

**§ 1102.7 Approved plant.**

Except as provided in paragraph (b) of this section, "approved plant" means:

(a) Any milk plant approved by any health authority having jurisdiction in the marketing area from which fluid milk products other than filled milk are disposed of for fluid consumption in the marketing area on wholesale or retail routes (including plant stores).

(b) The term "approved plant" shall not apply to the following plants:

(1) A producer-handler plant; and

(2) Any plant operated by a handler who the Secretary determines disposes of a greater portion of his fluid milk products, except filled milk, as Class I milk in another marketing area regulated by a milk marketing agreement or order issued pursuant to the Act.

**§ 1102.8 Unapproved plant.**

"Unapproved plant" means any milk or filled milk receiving, manufacturing, or processing plant other than an approved plant. The following categories of unapproved plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Unregulated supply plant" means and unapproved plant which is not an other order plant nor a producer-handler plant and from which fluid milk products eligible for distribution in the marketing area for fluid consumption are moved during the month to an approved plant.

**§ 1102.9 Handler.**

"Handler" means:

(a) Any person in his capacity as the operator of a milk plant approved by any health authority having jurisdiction in the marketing area from which fluid milk products other than filled milk are disposed of for fluid consumption in the marketing area on wholesale or retail routes (including plant stores); and

(b) Any cooperative association with respect to the milk of any producer which it causes to be diverted pursuant to § 1102.12 for the account of such cooperative association.

**§ 1102.10 Producer-handler.**

"Producer-handler" means any person who (a) produces milk, and (b) operates a milk plant approved by any health authority having jurisdiction in the marketing area from which fluid milk products for fluid consumption are disposed of in the marketing area on wholesale or retail routes (including plant stores), and (c) receives no milk from producers.

**§ 1102.11 [Reserved]**

**§ 1102.12 Producer.**

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk which is received at an approved plant: *Provided*, That such milk is produced under a dairy farm inspection permit or inspection rating issued by any health authority having jurisdiction in the marketing area for the production of milk to be disposed of for consumption as fluid milk. "Producer" shall include any such person whose milk is caused to be diverted by a handler to an unapproved plant, and milk so diverted shall be deemed to have been received at an approved plant by the handler who causes it to be diverted.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to an approved plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1102.44(a)(8) (iii) and the corresponding step of § 1102.44(b); and

(3) Any person with respect to milk produced by him which is diverted from an approved plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk.

**§ 1102.13 Producer milk.**

"Producer milk" means all skim milk and butterfat in milk produced by a producer which is received by a handler directly from producers.

**§ 1102.14 Other source milk.**

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1102.40(b)(1) from any source other than producers, approved plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1102.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1102.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1102.40(b)(1)) for which the handler fails to establish a dispositon.

**§ 1102.15 Fluid milk product.**

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1102.40(b) or (c)(1) (i) through (iv) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quality of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.





**§ 1102.16 Fluid cream product.**

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

**§ 1102.17 Filled milk.**

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

**§ 1102.18 Cooperative association.**

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines (a) to be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," (b) to have full authority in the sale of milk of its members and (c) to be engaged in making collective sales or marketing milk or its products for its members.

HANDLER REPORTS

**§ 1102.30 Reports of receipts and utilization.**

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his approved plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk; including producer milk diverted by the handler from the approved plant to other plants;

(2) [Reserved]

(3) Receipts of fluid milk products and bulk fluid cream products from other approved plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1102.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler described in § 1102.9(b) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(c) Each handler not specified in paragraphs (a) and (b) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

**§ 1102.31 Payroll reports.**

On or before the 20th day after the end of each month, each handler who operates an approved plant and each handler described in § 1102.9(b) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(a) His name and address;

(b) The total pounds of milk received from such producer;

(c) The average butterfat content of such milk; and

(d) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

**§ 1102.32 Other reports.**

(a) Each handler who operates an approved plant and each handler described in § 1102.9(b) shall report to the market administrator in the detail and on forms prescribed by the market administrator on or before the seventh day of each month of April through August, for each producer for the preceding month:

(1) His name and address or other appropriate identification;

(2) The total pounds of milk and butterfat received from such producer;

(3) The location at which such milk was received; and

(4) The number of days on which milk was received from each producer.

(b) In addition to the reports required pursuant to §§ 1102.30 and 1102.31 and paragraph (a) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

**§ 1102.40 Classes of utilization.**

Except as provided in § 1102.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1102.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(v) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1102.15; and

(6) In shrinkage assigned pursuant to § 1102.41(a) to the receipts specified in § 1102.41(a)(2) and in shrinkage specified in § 1102.41 (b) and (c).

**§ 1102.41 Shrinkage.**

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1102.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each approved plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section



V 38-175
SEP 11 73
XUM

on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product:

(i) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) [Reserved]

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other approved plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (4), (5), and (6) of this section; and

(ii) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1102.9(b), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

### § 1102.42 Classification of transfers and diversions.

(a) *Transfers to approved plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from an approved plant to another approved plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1102.44(a)(12) and the corresponding step of § 1102.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1102.44(a)(7) or the corresponding step of § 1102.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to §1102.44(a)(11) or (12) or the corresponding steps of § 1102.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from an approved plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the approved plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order classification under this paragraph shall be in accordance with the provisions of § 1102.40.

(c) *Transfers and diversions to producer-handlers.* Skim milk or butterfat transferred or diverted in the following forms from an approved plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred or diverted in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other unapproved plants.* Skim milk or butterfat transferred or diverted in the following forms from an approved plant to an unapproved plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the unapproved plant's utilization to its receipts as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1102.30 for the month within which such transaction occurred; and

(*b*) The unapproved plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition of fluid milk products in the marketing area of each Federal milk order from the unapproved plant and transfers of packaged fluid milk products from such unapproved plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such unapproved plant from approved plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such unapproved plant from other order plants;





(c) Pro rata to receipts of bulk fluid milk products at such unapproved plant from approved plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such unapproved plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the unapproved plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such unapproved plant from approved plants and other order plants;

(iv) Transfers of bulk fluid milk products from the unapproved plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such unapproved plant from approved plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such unapproved plant from other order plants;

(v) Any remaining unassigned Class I disposition from the unapproved plant shall be assigned to the extent possible in the following sequence:

(*a*) To such unapproved plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such unapproved plant; and

(*b*) To such unapproved plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such unapproved plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the unapproved plant from approved plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such unapproved plant;

(vii) Receipts of bulk fluid cream products at the unapproved plant from approved plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such unapproved plant; and

(viii) In determining the unapproved plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such unapproved plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

### § 1102.43 General classification rules.

In determining the classification of producer milk pursuant to § 1102.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1102.30 and shall compute separately for each approved plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1102.9(b) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1102.40, 1102.41, and 1102.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1102.9(b) shall be determined separately from the operations of any approved plant operated by such cooperative association.

### § 1102.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1102.9(a) for each of his approved plants separately and of each handler described in § 1102.9(b) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1102.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1102.40(b)(1) that were received in packaged form from other plans, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1102.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1102.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1102.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order; and

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the handler's total Class III utiliza-



V 38-175
SEP 11 73
XUM

tion at his other approved plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other approved plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment:

(a) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all approved plants of the handler;

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all approved plants of the handler of producer milk, fluid milk products from approved plants of other handlers, and bulk fluid milk products from other order plants; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this approved plant is of all such receipts remaining at this allocation step at all approved plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1102.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all approved plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received;

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other approved plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(12) Subject to the provisions of paragraph (a)(12)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all approved plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that were not subtracted pursuant to paragraph (a)(8)(iii) of this section that are in excess of bulk fluid milk products transferred or diverted to such plant:

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other approved plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another approved plant according to the classification of such products pursuant to § 1102.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1102.44(a)(14) and the corresponding step of § 1102.44(b).

**§ 1102.45 Market administrator's reports concerning classification.**

The market administrator shall make the following reports concerning classification:

(a) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1102.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(b) Furnish to each handler operating an approved plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(c) On or before the 12th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report, the milk received shall be prorated to each class in the proportion that the total receipts of producer milk by such handler were used in each class.

### Class Prices

**§ 1102.50 Class prices.**

Subject to the provisions of § 1102.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.95.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class price shall be the basic formula price for the month.

**§ 1102.51 Basic formula price.**

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.





**§ 1102.52 Plant location adjustments for handlers.**

(a) For milk received from producers at an approved plant located more than 50 miles by the shortest highway distance, as determined by the market administrator, from the county courthouse in Fort Smith, Ark., which is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price computed pursuant to § 1102.50(a) shall be reduced at the rate of 1.5 cents for each 10 miles or fraction thereof that such plant is distant from the county courthouse in Fort Smith, Ark.; and

(b) For purposes of calculating such adjustment, transfers of fluid milk products between approved plants shall be assigned to Class I disposition at the transferee-plant which is in excess of the sum of receipts as such plant from producers and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

**§ 1102.53 Announcement of class prices.**

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

**§ 1102.54 Equivalent price.**

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

### Uniform Prices

**§ 1102.60 Handler's value of milk for computing uniform price.**

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1102.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1102.44(a)(14) and the corresponding step of § 1102.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1102.74, that are applicable at the location of the approved plant; and

(c) Add or subtract, as the case may be, an amount necessary to correct errors discovered by the market administrator in the verification of reports of such handler of his receipts and utilization of skim milk and butterfat for previous months.

**§ 1102.61 Computation of uniform price for each handler (including uniform prices for base milk and excess milk).**

(a) For each of the months of August through February, the market administrator shall compute for each handler a uniform price per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(1) Adjust the amount computed pursuant to § 1102.60 by adding the amount represented by any deductions made for eliminating fractions of a cent in computing the uniform price(s) for such handler for the preceding month;

(2) Add an amount equal to the sum of the deductions to be made for location adjustments pursuant to § 1102.75;

(3) Subtract an amount computed by multiplying the total hundredweight of producer milk in each class by 5 cents; and

(4) Divide the resulting amount by the total hundredweight of milk received from producers by such handler. The result, less any fraction of a cent per hundredweight, shall be known as the uniform price for such handler for milk of 3.5 percent butterfat content.

(b) For each of the months of March through July, the market administrator shall compute for each handler with respect to milk received from producers, a uniform price for base milk and for excess milk, each of 3.5 percent butterfat content, as follows:

(1) Follow the computations and adjustments provided for in paragraph (a)(1), (2), and (3) of this section;

(2) Compute the value of excess milk received by such handler from producers as follows:

(i) Multiply the quantity of such milk that is not in excess of the total Class III milk included in this computation by the Class III price less 5 cents;

(ii) Multiply the remaining quantity of such milk that is not in excess of the total Class II milk included in this computation by the Class II price less 5 cents;

(iii) Multiply the remaining quantity of excess milk by the Class I price less 5 cents; and

(iv) Add together the resulting amounts;

(3) Divide the total value of excess milk obtained in paragraph (b)(2) of this section by the total hundredweight of such milk, and adjust to the nearest cent. The resulting figure shall be the uniform price for such handler for excess milk of 3.5 percent butterfat content received from producers;

(4) Subtract, for each handler, the value of such handler's excess milk obtained in paragraph (b)(3) of this section from the value of all milk obtained for such handler pursuant to paragraph (b)(1), (2), and (3), of this section and adjust by any amount involved in adjusting the uniform price of excess milk to the nearest cent; and

(5) Divide the amount obtained in subparagraph (b)(4) of this section by the total hundredweight of such handler's base milk included in this computation. The result shall be such handler's uniform price for base milk of 3.5 percent content.

**§ 1102.62 Announcement of uniform prices for each handler and butterfat differential.**

The market administrator shall announce publicly on or before:

(a) The 5th day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the applicable uniform prices for each handler pursuant to § 1102.61 for such month.

### Payments for Milk

**§ 1102.73 Payments to producers and to cooperative associations.**

Each handler shall make payment to producers as follows:

(a) On or before the 15th day after the end of the month during which the milk was received, to each producer except as provided in paragraph (c) of this section, at not less than the appropriate uniform price(s) as adjusted pursuant to §§ 1102.74 and 1102.75, for all milk received from such producer during the preceding month less the amount of payment made pursuant to paragraph (b) of this section.

(b) On or before the last day of each month, each handler shall make payment for milk received from producers during the first 15 days of the month to each producer, except as provided in paragraph (c) of this section, at not less than the Class III price for the preceding month.

(c) On or before the 13th and the third from the last day of each month, in lieu of payments pursuant to paragraphs (a) and (b) respectively of this section, each handler shall make payment to a cooperative association which so requests, with respect to producers for which such cooperative association is authorized to collect payment, in an amount equal to the sum of the individual payments otherwise payable to such producers.

**§ 1102.74 Butterfat differential.**

For milk containing more or less than 3.5 percent butterfat, the uniform prices shall be increased or decreased, respectively, for each 0.1 percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest 0.1 cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

**§ 1102.75 Plant location adjustments for producers.**

The uniform price for producer milk received at an approved plant shall be reduced according to the location of the approved plant at the rates set forth in § 1102.52.



V 38-175
SEP 11 73
XUM

§ 1102.76 [Reserved]

§ 1102.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due (a) the market administrator from such handler; (b) such handler from the market administrator; or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1102.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month four cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk (including such handler's own production), and (b) other source milk allocated to Class I pursuant to § 1102.44(a) (7) and (11) and the corresponding steps of § 1102.44 (b).

§ 1102.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than himself) pursuant to § 1102.73, shall deduct 5 cents per hundredweight or such amount not exceeding 5 cents per hundredweight as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of each month. Such moneys shall be used by the market administrator to sample, test, and check the weights of milk received and to provide producers with market information.

(b) In the case of producers for whom a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers on or before the 15th day after the end of each month and pay such deduction to the cooperative association of which such producers are members, furnishing a statement showing the amount of any such deductions, and the amount and average butterfat test of milk for which such deduction was computed for each producer. In lieu of such statement a handler may authorize the market administrator to furnish such cooperative association the information with respect to such producers reported pursuant to § 1102.31.

BASE-EXCESS PLAN

§ 1102.90 Base milk.

"Base milk" means milk received by a handler from a producer during any of the months of March through July, which is not in excess of such producer's base computed pursuant to § 1102.93.

§ 1102.91 Excess milk.

"Excess milk" means milk received by a handler from a producer during any of the months of March through July which is in excess of the base milk of such producer for such month, and shall include all milk from a producer for whom no base can be computed pursuant to § 1102.93.

§ 1102.92 Computation of daily average base for each producer.

The daily average base for each producer shall be determined by the market administrator as follows: Divide the total pounds of milk received from such producer by handlers fully regulated under the terms of the respective orders regulating the handling of milk in the Memphis, Tenn.; Fort Smith, Ark.; and Central Arkansas marketing areas (Parts 1097, 1102 and 1108, respectively, of this chapter) during the immediately preceding period of September through January by the total number of days in such period beginning with the first day on which milk is received from such producer by a handler regulated under any one of the aforesaid orders, but not less than 120. In the case of producers delivering milk to a plant which first became an approved plant during or after the end of the base-forming period, the daily average base for each producer shall be that which would have been calculated for such producer for the entire base-forming period if the plant had been an approved plant during such period.

§ 1102.93 Determination of monthly base for each producer.

Subject to the rules set forth in § 1102.94, the market administrator shall calculate a monthly base for each producer for each of the months of March through July as follows:

(a) If milk is received by a handler as producer milk during the month, multiply such producer's daily average base computed pursuant to § 1102.92 by the number of days in such month.

(b) If milk is received as producer milk from the same farm by more than one handler and/or by handlers fully regulated under the terms of the Memphis, Tenn. (Part 1097 of this chapter), or Central Arkansas (Part 1108 of this chapter) orders during the month, multiply such producer's daily average base computed pursuant to § 1102.92 by the number of days in such month and multiply the result by the percentages of the total pounds of milk received from such producer by handlers fully regulated under the terms of the three orders specified in § 1102.92 which were received by each handler to determine the amount of base milk received from such producer by each handler.

§ 1102.94 Base rules.

The following rules shall apply in connection with the transfer of daily average bases for each producer computed pursuant to § 1102.92.

(a) An entire base shall be transferred from a person holding such base to any other person effective as of the end of any month during which an application for such transfer is received by the market administrator, such application to be on forms approved by the market administrator and signed by the base-holder, or his heirs, and by the person to whom such base is to be transferred.

(b) If a base is held jointly, the entire base shall be transferred only upon the receipt of such application signed by all joint holders or their heirs, and by the person to whom such base is to be transferred.

§ 1102.95 Announcement of established bases.

On or before February 25 of each year, the market administrator shall notify each producer of the daily average base established by such producer.

ADVERTISING AND PROMOTION PROGRAM

§ 1102.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1102.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1102.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1102.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1102.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1102.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1102.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1102.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1102.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1102.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1102.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1102.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1102.110 and 1102.117.

§ 1102.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1102.110 and 1102.117;

(c) Keep minutes, books, and records, and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1102.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1102.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1102.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1102.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence or those which are criminal in nature.

§ 1102.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section,







V 38-175 SEP 11 73 XUM

be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

**§ 1102.121 Duties of the market administrator.**

Except as specified in § 1102.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1102.113(c).

(b) Set aside the amounts subtracted under § 1102.61(a)(3) and received pursuant to § 1102.123 into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b)(2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1102.61(a)(3).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1102.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1102.61(a)(3) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1102.110 through 1102.123).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

**§ 1102.122 Liquidation.**

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall be distributed in an equitable manner to producers by the market administrator.

**§ 1102.123 Payment of advertising and promotion funds.**

On or before the 15th day after the end of each month during which producer milk was received, each handler shall turn over to the market administrator the advertising and promotion funds deducted pursuant to § 1102.61(a)(3).

## PART 1108—MILK IN CENTRAL ARKANSAS MARKETING AREA

**Subpart—Order Regulating Handling**

GENERAL PROVISIONS


Sec.
1108.1 General provisions.

DEFINITIONS

1108.2 Central Arkansas marketing area.
1108.3 [Reserved]
1108.4 [Reserved]
1108.5 Distributing plant.
1108.6 Supply plant.
1108.7 Pool plant.
1108.7a Approved plant.
1108.8 Nonpool plant.
1108.9 Handler.
1108.10 Producer-handler.
1108.11 [Reserved]
1108.12 Producer.
1108.13 Producer milk.
1108.14 Other source milk.
1108.15 Fluid milk product.
1108.16 Fluid cream product.
1108.17 Filled milk.
1108.18 Cooperative association.

HANDLER REPORTS

1108.30 Reports of receipts and utilization.
1108.31 Payroll reports.
1108.32 Other reports.

CLASSIFICATION OF MILK

1108.40 Classes of utilization.
1108.41 Shrinkage.
1108.42 Classification of transfers and diversions.
1108.43 General classification rules.
1108.44 Classification of producer milk.
1108.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1108.50 Class prices.
1108.51 Basic formula price.
1108.52 Plant location adjustments for handlers.
1108.53 Announcement of class prices.
1108.54 Equivalent price.

UNIFORM PRICES

1108.60 Handler's value of milk for computing uniform price.
1108.61 Computation of uniform price (including weighted average price and base and excess prices).
1108.62 Announcement of uniform prices and butterfat differential.

PAYMENTS FOR MILK

1108.70 Producer-settlement fund.
1108.71 Payments to the producer-settlement fund.
1108.72 Payments from the producer-settlement fund.
1108.73 Payments to producers and to cooperative associations.
1108.74 Butterfat differential.
1108.75 Plant location adjustments for producers and on nonpool milk.
1108.76 Payments by handler operating a partially regulated distributing plant.
1108.77 Adjustment of accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1108.85 Assessment for order administration.
1108.86 Deduction for marketing services.

BASE-EXCESS PLAN

1108.90 Base milk.
1108.91 Excess milk.
1108.92 Computation of daily average base for each producer.
1108.93 Determination of monthly base of each producer.
1108.94 Base rules.
1108.95 Announcement of established bases.
1108.96 Monthly announcement of base milk and excess milk for each producer.

ADVERTISING AND PROMOTION PROGRAM

1108.110 Agency.
1108.111 Composition of Agency.
1108.112 Term of office.
1108.113 Selection of Agency members.
1108.114 Agency operating procedure.
1108.115 Powers of the Agency.
1108.116 Duties of the Agency.
1108.117 Advertising, Research, Education and Promotion Program.
1108.118 Limitation of expenditures by the Agency.
1108.119 Personal liability.
1108.120 Procedure for requesting refunds.
1108.121 Duties of the market administrator.
1108.122 Liquidation.


AUTHORITY: The provisions of this Part 1108 issued under secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

GENERAL PROVISIONS

**§ 1108.1 General provisions.**

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

**§ 1108.2 Central Arkansas marketing area.**

"Central Arkansas marketing area", called the "marketing area" in this part, means all the territory included within the boundaries of the counties of Clark, Conway, Craighead, Cross, Faulkner, Garland, Grant, Hot Spring, Jefferson, Lee, Lonoke, Monroe, Phillips, Poinsett, Pope, Prairie, Pulaski, Saline, St. Francis, White, and Woodruff, all in the State of Arkansas.

**§ 1108.3 [Reserved]**

**§ 1108.4 [Reserved]**

**§ 1108.5 Distributing plant.**

"Distributing plant" means an approved plant from which Class I milk, except filled milk, equal to not less than 50 percent of its receipts of producer milk, milk from a handler described in § 1108.9(c), and fluid milk products, except filled milk, from other pool plants is disposed of during the month, on routes or through plant stores, to wholesale or retail outlets (except pool plants) and from which Class I milk, except filled milk, equal to not less than 10 percent of such receipts is disposed of during the month on routes or through plant stores, to wholesale or retail outlets (except pool plants) located in the marketing area.





**§ 1108.6 Supply plant.**

"Supply plant" means:

(a) An approved plant from which fluid milk products, except filled milk, in an amount not less than 50 percent of its receipts of producer milk and milk received from a handler described in § 1108.9(c) is moved during such month to distributing plants: *Provided*, That any such plant which qualifies as a supply plant for each of the months during the period October through January shall upon written application to the market administrator, on or before the end of such period, be designated as a supply plant for the following months of February through September; or

(b) An approved plant which is operated by a cooperative association having member producers which delivers 50 percent or more of its member milk to the pool plants of other handlers and from which fluid milk products in an amount not less than 25 percent of its receipts of producer milk during the month at such plant are shipped during such month to distributing plants: *Provided*, That any such plant which qualifies as a supply plant for each of the months October through January shall, upon written application to the market administrator, on or before the end of such period, be designated as a supply plant for the following months of February through September.

**§ 1108.7 Pool plant.**

(a) Except as provided in paragraph (b) of this section, "pool plant" means a distributing plant or a supply plant.

(b) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) Any distributing plant which would otherwise be subject to the classification and pricing provisions of another order issued pursuant to the Act, unless a greater volume of Class I milk, except filled milk, was disposed of from such plant during the 6-month period immediately preceding to retail or wholesale outlets (except pool plants or nonpool plants) in the Central Arkansas marketing area than in the marketing area regulated pursuant to such other order; and

(3) Any supply plant which would otherwise be subject to the classification and pricing provisions of another order issued pursuant to the Act, unless such plant qualified as a pool plant for each of the preceding months of August through January.

**§ 1108.7a Approved plant.**

"Approved plant" means all of the buildings, premises and facilities of a plant (a) in which milk or skim milk is processed or packaged and from which any fluid milk product is disposed of during the month on routes (including routes operated by vendors and sales through plant stores) to wholesale or retail outlets (except pool plants) located in the marketing area, or (b) from which milk or skim milk is shipped during the month to a distributing plant.

**§ 1108.8 Nonpool plant.**

"Nonpool plant" means any milk or filled milk receiving, manufacturing or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products are shipped during the month to a pool plant qualified pursuant to § 1108.7, and which is not an other order plant nor a producer-handler plant.

**§ 1108.9 Handler.**

"Handler" means:

(a) Any person in his capacity as the operator of one or more approved plants.

(b) A cooperative association with respect to milk of producers diverted for the account of such association in accordance with the provisions of § 1108.12.

(c) Any cooperative association with respect to the milk of its producer members which is delivered to the pool plant of another handler in a tank truck owned or operated by or under contract to such cooperative association if the cooperative association notifies the market administrator and the handler to whom the milk is delivered, in writing, that it will be the handler for such milk for the month, such cooperative handler status to be effective the first day of the month following receipt by the market administrator of such notice and to continue until the first day of the month following receipt of a request to discontinue such cooperative handler status. Milk so delivered shall be considered to have been received by the cooperative association at the plant to which delivered and then transferred to the handler operating the plant.

(d) Any person who operates a partially regulated distributing plant.

**§ 1108.10 Producer-handler.**

"Producer-handler" means any person who operates a dairy farm and a distributing plant which during the month has no other source milk, producer milk or milk received from a handler described in § 1108.9(c).

**§ 1108.11 [Reserved]**

**§ 1108.12 Producer.**

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority which milk is received during the month at a pool plant: *Provided*, That if such milk is diverted by a handler for his account from a pool plant to a nonpool plant that is not a producer-handler plant any day during the months of February through August, or on not more than 10 days during any other month, the milk so diverted shall be deemed to have been received at a pool plant at the location of the plant from which diverted.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1108.44(a)(8)(iii) and the corresponding step of § 1108.44(b); and

(3) Any person with respect to milk produced by him which is diverted from a pool plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk.

**§ 1108.13 Producer milk.**

"Producer milk" shall be that skim milk or butterfat for each handler's account in milk (in an amount determined by weights and measurements for individual producer's deliveries, as taken at the farm in the case of milk moved from the farm in a bulk tank truck) which is received pursuant to paragraphs (a) and (b) of this section and diverted pursuant to § 1108.12 as follows:

(a) Received directly from producers' farms at a pool plant by the operator of the pool plant (except that received from a handler described in § 1108.9(c)) or diverted by the pool plant operator pursuant to § 1108.12.

(b) Received directly from producers' farms for his account by a handler described in § 1108.9(c) or diverted for his account pursuant to § 1108.12.

**§ 1108.14 Other source milk.**

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1108.40(b)(1) from any source other than producers, handlers described in § 1108.9(c), pool plants, or inventory at the beginning of the month;



V 38-175 SEP 11 73 XUM

(b) Receipts in packaged form from other plants of products specified in § 1108.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1108.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1108.40(b)(1)) for which the handler fails to establish a disposition.

**§ 1108.15 Fluid milk product.**

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1108.40 (b) or (c)(1) (i) through (iv) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

**§ 1108.16 Fluid cream product.**

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

**§ 1108.17 Filled milk.**

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

**§ 1108.18 Cooperative association.**

"Cooperative association" means any cooperative association of producers which the Secretary determines:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have and to be exercising full authority in the sale of milk of its members.

HANDLER REPORTS

**§ 1108.30 Reports of receipts and utilization.**

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1108.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1108.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in fluid milk products disposed of on routes in the marketing area.

(c) Each handler described in § 1108.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

**§ 1108.31 Payroll reports.**

(a) On or before the 20th day after the end of each month, each handler described in § 1108.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1108.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

**§ 1108.32 Other reports.**

(a) Each handler, except a producer-handler and a handler making payments pursuant to § 1108.76(a), shall report to the market administrator in the detail and on forms prescribed by the market administrator:

(1) On or before the seventh day of each month of April through August, for each producer for the preceding month:

(i) His name and address or other appropriate identification;

(ii) The total pounds of milk and butterfat received from such producer, including, for the months of March through July, the pounds of base milk;

(iii) The location at which such milk was received; and

(iv) The number of days on which milk was received from such producer;

(2) On or before the first day other source milk is received in the form of a fluid milk product at his pool plant(s), his intention to receive such product, and on or before the last day such product is received, his intention to discontinue receipt of such product; and

(3) On or before the day prior to diverting producer milk pursuant to § 1108.12 his intention to divert such milk, the date or dates of such diversion and the nonpool plant to which such milk is to be diverted.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1108.30 and 1108.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

**§ 1108.40 Classes of utilization.**

Except as provided in § 1108.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1108.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, low fat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form;

(iv) Plastic cream, frozen cream, and anhydrous milk fat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, low fat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(v) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1108.15; and

(6) In shrinkage assigned pursuant to § 1108.41(a) to the receipts specified in § 1108.41(a)(2) and in shrinkage specified in § 1108.41 (b) and (c).

**§ 1108.41 Shrinkage.**

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1108.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1108.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b)(1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1108.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

**§ 1108.42 Classification of transfers and diversions.**

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant or by a handler described in § 1108.9(c) to another handler's pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1108.44(a)(12) and the corresponding step of § 1108.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1108.44(a)(7) or the corresponding step of § 1108.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk;

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1108.44 (a) (11) or (12) or the corresponding steps of § 1108.44(b), the skim milk or butterfat so transferred up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant; and

(4) If a specified utilization of skim milk and butterfat transferred by a handler described in § 1108.9(c) to a pool plant of another handler is not claimed by both handlers, such skim milk and butterfat shall be classified pro rata to the respective quantities of skim milk and butterfat remaining in each class at the pool plant of the transferee-handler after the computations pursuant to § 1108.44(a)(13)(i) and the corresponding step of § 1108.44(b).

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (2), or (3), of this section:







V 38-175
SEP 11 73
XUM

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1108.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1108.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition of fluid milk products in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

### § 1108.43 General classification rules.

In determining the classification of producer milk pursuant to § 1108.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1108.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1108.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1108.40, 1108.41, and 1108.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1108.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

### § 1108.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1108.9(a) for each of his pool plants separately and of each handler described in § 1108.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:





(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1108.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1108.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1108.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1108.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1108.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the handler's total Class III utilization at his other pool plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the least minus location adjustment:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler;

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1108.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handlers; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1108.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii) and (iii) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the follow-



V 38-175 SEP 11 73 XUM

ing quantities represents the lower proportion of Class I milk:

(a) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1108.45(a); or

(b) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler;

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received; and

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from any class that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(13) Subtract in the following order from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from:

(i) Another pool plant or a handler described in § 1108.9(c) according to the classification of such products pursuant to § 1108.42(a); and

(ii) A handler described in § 1108.9(c) according to the classification of such products pursuant to § 1108.42(a)(4); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1108.44(a)(14) and the corresponding step of § 1108.44(b).

**§ 1108.45 Market administrator's reports and announcements concerning classification.**

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1108.44(a)(12) and the corresponding step of § 1108.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1108.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests, the percentage of producer milk delivered by members of such association which was used in each class by each handler receiving such milk. For the purpose of this report the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

CLASS PRICES

**§ 1108.50 Class prices.**

Subject to the provisions of § 1108.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.94.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

**§ 1108.51 Basic formula price.**

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92 score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

**§ 1108.52 Plant location adjustments for handlers.**

(a) For milk received from producers at a pool plant located more than 60 miles, by shortest highway distance as measured by the market administrator, from the nearest of the County Courthouse in Arkadelphia, Ark., the County Courthouse in Forrest City, Ark., or the State Capitol in Little Rock, Ark., which is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price computed pursuant to § 1108.50 (a) shall be reduced at the rate of 1.5 cents for each 10 miles or fraction thereof between such plant and such nearest point.

(b) For purposes of calculating such adjustment, transfers of fluid milk products between pool plants shall be assigned Class I disposition at the transferee-plant, in excess of the sum of receipts at such plant from producers and handlers described in § 1108.9(c), and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

**§ 1108.53 Announcement of class prices.**

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

**§ 1108.54 Equivalent price.**

If for any reason a price or pricing constitutent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constitutent that is required.

UNIFORM PRICES

**§ 1108.60 Handler's value of milk for computing uniform price.**

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1108.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1108.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1108.44(a)(14) and the corresponding step of § 1108.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1108.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1108.44(a)(9) and the corresponding step of § 1108.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1108.44(a)(7) (i) through (iv) and the corresponding step of § 1108.44(b), excluding receipts of bulk fluid cream products from another plant.

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1108.44(a)(7) (v) and (vi) and the corresponding step of § 1108.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1108.44(a)(11) and the corresponding step of § 1108.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

**§ 1108.61 Computation of uniform price (including weighted average price and base and excess prices).**

(a) For each month the market administrator shall compute the uniform price (or weighted average price) per hundredweight of milk received from producers as follows:

(1) Combine into one total the values computed pursuant to § 1108.60 for all handlers who filed the reports prescribed by § 1108.30 for the month and who made the payments pursuant to §§ 1108.71 and 1108.73 for the preceding month;

(2) Add an amount equal to the total value of the location adjustments computed pursuant to §1108.75;

(3) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(4) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a)(1) of this section by 5 cents;

(5) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1108.60(f); and

(6) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price," and, except for the months of March through July, shall be the "uniform price" for milk of 3.5 percent butterfat content received from producers.

(b) For each of the months of March through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk as follows:

(1) Subtract from the amount resulting from the computations made pursuant to paragraph (a) (1) through (4) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (a) (5) (ii) of this section by the weighted average price;

(2) Compute the aggregate value of excess milk by assigning such milk, in series beginning with Class III, to the hundredweight of producer milk in each class, multiplying the quantities of milk so assigned to each class by the respective class prices less 5 cents and adding together the resulting amounts;

(3) Divide the aggregate value of excess milk obtained in paragraph (b)(2) of this section by the total hundredweight of such milk, adjust to the nearest cent and subtract 4 cents. The resulting figure shall be the uniform price for excess milk of 3.5 percent butterfat content received from producers;

(4) Subtract an amount determined by multiplying the uniform price obtained in paragraph (b)(3) of this section, plus 4 cents, times the hundredweight of excess milk from the aggregate value of milk obtained in paragraph (b)(1) of this section;

(5) Divide the result obtained in paragraph (b)(4) of this section by the total hundredweight of base milk of handlers included in these computations; and

(6) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (b)(5) of this section. The resulting figure shall be the uniform price for base milk of 3.5 percent butterfat content f.o.b. market.

**§ 1108.62 Announcement of uniform prices and butterfat differential.**

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 11th day after the end of each month the uniform prices for such month.

PAYMENTS FOR MILK

**§ 1108.70 Producer-settlement fund.**

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1108.71, 1108.76 and 1108.77, and out of which he shall make all payments pursuant to §§ 1108.72 and 1108.77: *Provided*, That any payments due to any handler shall be offset by any payments due from such handler.

**§ 1108.71 Payments to the producer-settlement fund.**

(a) On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1108.60.

(2) The sum of:

(i) The value at the uniform prices, as adjusted pursuant to § 1108.75, of such handler's receipts of producer milk; and

(ii) The value at the weighted average price applicable at the location of the plant from which received plus 5 cents of other source milk for which a value is computed pursuant to § 1108.60.

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

**§ 1108.72 Payments from the producer-settlement fund.**

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount





V 38-175 SEP 11 73 XUM

computed pursuant to § 1108.71(a)(2) exceeds the amount computed pursuant to § 1108.71(a)(1). If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

**§ 1108.73 Payments to producers and to cooperative associations.**

(a) Except as provided in paragraph (b) of this section, each handler shall make payment to each producer from whom milk is received during the month as follows:

(1) On or before the last day of each month to each producer who did not discontinue shipping milk to such handler before the 25th day of the month, an amount equal to not less than the Class III price for the preceding month multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized by such producer to be made from payments due pursuant to this paragraph;

(2) On or before the 15th day of the following month, an amount equal to not less than the appropriate uniform price(s) adjusted by the butterfat differential and location adjustments to producers multiplied by the hundredweight of milk or base milk and excess milk received from such producer during the month, subject to the following adjustments:

(i) Less payments made to such producer pursuant to paragraph (a)(1) of this section;

(ii) Less deductions for marketing services made pursuant to § 1108.86;

(iii) Plus or minus adjustments for errors made in previous payments made to such producer; and

(iv) Less proper deductions authorized in writing by such producer: *Provided*, That if by such date such handler has not received full payment from the market administrator pursuant to § 1108.72 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator.

(b) In the case of a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and which has so requested any handler in writing, such handler shall on or before the 2d day prior to the date on which payments are due individual producers pay the cooperative association for milk received during the month from the producer members of such association as determined by the market administrator an amount equal to not less than the amount due such producer members as determined pursuant to paragraph (a) of this section.

(c) Each handler shall furnish the person to whom payment is to be made pursuant to this section with the following information:

(1) On or before the 25th day of the month, the pounds of milk received from the producer or from each member of the cooperative association during the first 15 days of such month:

(2) On or before the 7th day of the following month to a cooperative association for its individual members, or on or before the 15th day of the following month to producers:

(i) The pounds of milk received each day and the total for the month, together with the butterfat content of such milk;

(ii) For the months of March through July, the pounds of base milk received;

(iii) The amount or rate and nature of deductions made from payments; and

(iv) The amount and nature of payments due pursuant to § 1108.77.

(d) To a cooperative association with respect to receipts of milk for which it is the handler described in § 1108.9(c):

(1) On or before the 2d day prior to the last day of the delivery period, an amount equal to the rate specified in paragraph (a)(1) of this section times the volume received during the first 15 days of the delivery period; and

(2) On or before the 13th day after the end of each delivery period, an amount equal to not less than the value of such milk at applicable class price(s) adjusted by the butterfat differential pursuant to § 1108.74 less payment made pursuant to paragraph (d)(1) of this section.

**§ 1108.74 Butterfat differential.**

For milk containing more or less than 3.5 percent butterfat, the uniform prices shall be increased or decreased, respectively, for each 0.1 percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest 0.1 cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

**§ 1108.75 Plant location adjustments for producers and on nonpool milk.**

(a) The applicable uniform prices to be paid for producer milk received at a pool plant located 60 miles or more from the County Courthouse in Arkadelphia, Ark., the County Courthouse in Forrest City, Arkansas, or the State Capital in Little Rock, Ark., whichever is nearer by the shortest highway distance, as determined by the market administrator, shall be reduced according to the distance of the plant from the respective buildings designated above at the rate of 1.5 cents for each 10 miles or residual fraction thereof.

(b) For purposes of computations pursuant to §§ 1108.71 and 1108.72 the weighted average price shall be adjusted at the rates set forth in § 1108.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price plus 5 cents shall not be less than the Class III price.

**§ 1108.76. Payments by handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1108.30(b) and 1108.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition of fluid milk products in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition of fluid milk products in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price plus 5 cents, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the weighted average price plus 5 cents shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1108.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1108.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1108.60 for such handler shall include, in lieu of the value of other source milk specified in § 1108.60(f) less the value of such other source milk specified in § 1108.71(a)(2)(ii), a value of milk determined pursuant to § 1108.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1108.7(b) subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1108.30(b) and 1108.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1108.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1108.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1108.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

**§ 1108.77 Adjustment of accounts.**

Whenever audit by the market administrator of any reports, books, records, or accounts or other verification discloses errors resulting in moneys due (a) the market administrator from a handler, (b) a handler from the market administrator, or (c) any producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

**§ 1108.85 Assessment for order administration.**

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk received by a handler described in § 1108.9(c), except that transferred to another handler operating a pool plant;

(b) Producer milk of a handler operating a pool plant (including such handler's own production), plus milk received from a handler described in § 1108.9(c);

(c) Other source milk allocated to Class I pursuant to § 1108.44(a)(7) and (11) and the corresponding steps of § 1108.44(b), except such other source milk that is excluded from the computations pursuant to § 1108.60 (d) and (f); and

(d) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1108.76(a)(2).

**§ 1108.86 Deduction for marketing services.**

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers for milk (other than milk of his own production) pursuant to § 1108.73, shall deduct 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight, as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association; and

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall (in lieu of the deduction specified in paragraph (a) of this section), make such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 13th day after the end of each month, pay such deductions to the cooperative association of which such producers are members, furnishing a statement showing the amount of any such deductions and the amount of milk for which such deduction was computed for each producer.

BASE-EXCESS PLAN

**§ 1108.90 Base milk.**

"Base milk" means milk received by handlers from a producer during any of the months of March through July which is not in excess of such producer's base computed pursuant to § 1108.93.

**§ 1108.91 Excess milk.**

"Excess milk" means milk received by handlers from a producer during any of the months of March through July which is in excess of the base milk of such producer for such month, and shall include all milk from a producer for whom no base can be computed pursuant to § 1108.93.

**§ 1108.92 Computation of daily average base for each producer.**

The daily average base for each producer shall be determined by the market administrator as follows: Divide the total pounds of milk received from such producer by handlers fully regulated under the terms of the respective orders regulating the handling of milk in the Memphis, Tennessee; Fort Smith, Arkansas; and Central Arkansas marketing areas (Parts 1097, 1102 and 1108, respectively, of this chapter) during the immediately preceding period of September through January by the total number of days in such period beginning with the first day on which milk is received from such producer by a handler regulated under any one of the aforesaid orders, but not less than 120. In the case of producers delivering milk to a plant which first became a pool plant during or after the







V 38-175 SEP 11 73 XUM

end of the base-forming period, the daily average base for each producer shall be that which would have been calculated for such producer for the entire base-forming period if the plant had been a pool plant during such period.

**§ 1108.93 Determination of monthly base of each producer.**

Subject to the rules set forth in § 1108.94, the market administrator shall calculate a monthly base for each producer for each of the months of March through July, as follows:

(a) If milk is received by handlers as producer milk during the month, multiply such producer's daily average base computed pursuant to § 1108.92 by the number of days in such month;

(b) If milk is received as producer milk from the same farm by handlers regulated under this part and by handlers fully regulated under the terms of the Memphis, Tennessee (Part 1097 of this chapter), or Fort Smith, Arkansas (Part 1102 of this chapter), orders during the month, multiply such producer's daily average base computed pursuant to § 1108.92 by the number of days in such month and multiply the result by the percentages of the total pounds of milk received from such producer by handlers fully regulated under the terms of the three orders specified in § 1108.92 which were received by each handler to determine the amount of base milk received from such producer by each handler.

**§ 1108.94 Base rules.**

The following rules shall apply in connection with the transfer of daily average bases for each producer computed pursuant to § 1108.92:

(a) An entire base shall be transferred from a person holding such base to any other person effective as of the end of any month during which an application for such transfer is received by the market administrator, such application to be on forms approved by the market administrator and signed by the baseholder, or his heirs, and by the person to whom such base is to be transferred; and

(b) If a base is held jointly, the entire base shall be transferable only upon the receipt of such application signed by all joint holders or their heirs, and by the person to whom such base is to be transferred.

**§ 1108.95 Announcement of established bases.**

On or before February 25 of each year the market administrator shall notify each producer of the daily average base established by such producer.

**§ 1108.96 Monthly announcement of base milk and excess milk for each producer.**

On or before the 11th day after the end of each of the months March through July, the market administrator shall notify each handler of the amount of base milk and excess milk received from each producer.

ADVERTISING AND PROMOTION PROGRAM

**§ 1108.110 Agency.**

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1108.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

**§ 1108.111 Composition of Agency.**

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1108.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1108.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1108.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

**§ 1108.112 Term of office.**

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

**§ 1108.113 Selection of Agency members.**

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1108.111 and paragraph (a) of this section.

(c) Selection of Agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

**§ 1108.114 Agency operating procedure.**

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

**§ 1108.115 Powers of the Agency.**

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1108.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1108.110 and 1108.117.





**§ 1108.116 Duties of the Agency.**

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1108.110 and 1108.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

**§ 1108.117 Advertising, Research, Education, and Promotion Program.**

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

**§ 1108.118 Limitation of expenditures by the Agency.**

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1108.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

**§ 1108.119 Personal liability.**

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

**§ 1108.120 Procedure for requesting refunds.**

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

**§ 1108.121 Duties of the market administrator.**

Except as specified in § 1108.116, the market administrator, in addition to the other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1108.113(c).

(b) Set aside the amounts subtracted under § 1108.61(a)(4) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b)(2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1108.61(a)(4).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1108.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1108.61(a)(4) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1108.110 through 1108.122).

(d) Make the necessary audits to establish that all Agency funds are used only for authorized purposes.

**§ 1108.122 Liquidation.**

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1108.70.

Signed at Washington, D.C., on August 27, 1973.

E. L. PETERSON,
*Administrator,*
*Agricultural Marketing Service.*

[FR Doc.73-18667 Filed 9-10-73;8:45 am]



V 38-175 SEP 11 73 XUM

federal register

TUESDAY, SEPTEMBER 11, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 175

PART III

# DEPARTMENT OF LABOR

## Occupational Safety and Health Administration

■

## ACCREDITATION OF TESTING LABORATORIES

### Criteria and Procedures

No. 175—Pt. III——1

V 38-175 SEP 11 73 XUM

Title 29—Labor

## CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

## PART 1907—ACCREDITATION OF TESTING LABORATORIES

### Criteria and Procedure for Accrediting Testing Laboratories

Many of the occupational safety and health standards adopted, directly or through incorporation by reference, under the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1590 (29 U.S.C. 651)) or under the Contract Work Hours and Safety Standards Act (83 Stat. 96 (29 U.S.C. 333)) require that specified equipment, or installations, or products, be approved. The term "approved" is commonly defined in the standards by reference to some action of a nationally recognized testing laboratory or agency. For instance, 29 CFR 1910.308(d) provides that "An installation or equipment is acceptable to the Assistant Secretary of Labor and approved within the meaning of this Subpart S: (i) If it is accepted or certified, or listed, or labeled or otherwise determined to be safe by a nationally recognized testing laboratory, such as, but not limited to, Underwriters' Laboratories, Inc. and Factory Mutual Engineering Corp.; • • •" Again, 29 CFR 1926.32(a) defines "approved" as sanctioned, endorsed, accredited, certified, or accepted as satisfactory by a duly constituted and nationally recognized authority or agency."

Numerous questions have arisen with regard to these definitions. In brief, it appears that the services of some testing laboratories are refused for fear that the laboratories are not "nationally recognized." In addition, some employers are uncertain as to what is sanctioned or accredited or accepted by a "nationally recognized authority or agency."

The purpose of the accreditation regulation set out below is to remove the uncertainty, and to facilitate the enforcement of occupational safety and health standards requiring approval by providing an official register of testing laboratories accredited by the Department of Labor. Any equipment, or product, or installation tested, or listed, or certified, or labeled, or accepted, or otherwise determined to be safe by such an accredited laboratory would be deemed "approved," for purposes of the relevant definition.

Laboratories which desire to be accredited to test the equipment, installation, or products required to be approved by 29 CFR Part 1910, or 29 CFR Part 1926, are invited to apply after October 11, 1973.

Because of the need to give prompt relief to the testing laboratories whose services are being refused, and to facilitate compliance with occupational safety and health standards requiring "approval," the notice of proposed rulemaking and the public participation therein, otherwise required by 5 U.S.C. 553, are impracticable and contrary to the public interest, and good cause is found for adopting the new Part 1907 immediately. However, interested persons are invited to submit in writing, data, views, and arguments concerning the regulation to the Office of Standards, U.S. Department of Labor, Railway Labor Building, 400 First Street, NW., Washington, D.C. 20010, by October 31, 1973. The regulation will be reviewed in the light of any submissions received, and will be changed appropriately if the submissions should warrant it.

Accordingly, pursuant to section 8(g)(2) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1600 (29 U.S.C. 657)), section 107 of the Contract Work Hours and Safety Standards Act (83 Stat. 96 (29 U.S.C. 333) and Secretary of Labor's Order No. 12-71 (36 FR 8754), Chapter XVII of Title 29 of the Code of Federal Regulations is amended by adding a new Part 1907, reading as follows:

Subpart A—General

Sec.
1907.1 Purpose and scope.
1907.2 Definitions.

Subpart B—Accreditation

1907.10 Accreditation.
1907.11 Criteria of accreditation.
1907.12 Conditions of accreditation.

Subpart C—Procedures for Granting, Reviewing, Modifying, or Terminating Accreditation

1907.20 Granting of accreditation.
1907.30 Renewal of accreditation.
1907.35 Modification of accreditation.
1907.40 Revocation of accreditation.

AUTHORITY: Sec. 8, Pub. L. 91-596, 84 Stat. 1598 (29 U.S.C. 657); sec. 107, Pub. L. 91-54, 83 Stat. 96 (40 U.S.C. 333); Secretary of Labor's Order No. 12-71, 36 FR 8754.

### Subpart A—General

#### § 1907.1 Purpose and scope.

(a) This part prescribes criteria and procedures for the accreditation of laboratories which test for safety specified products, devices, systems, materials, or installations.

(b) Any product, device, system, material, or installation which is accepted, or classified, or certified, or listed, or labeled, or otherwise determined to be safe by a testing laboratory at a time when it is duly accredited shall be deemed "approved" for the purpose of the relevant definitions in Parts 1910 and 1926 of this chapter.

#### § 1907.2 Definitions.

(a) For purposes of this part, unless the context clearly requires otherwise:

(1) "Accepted" means inspected and found by an accredited testing laboratory to conform to applicable test standards;

(2) "Accredited" means accredited by the Occupational Safety and Health Administration, Department of Labor, in accordance with this part;

(3) "Accreditation" means a written recognition that a named testing laboratory complies with the criteria specified in this part;

(4) "Certified" means that a product (i) either has been tested and found by an accredited testing laboratory to conform to applicable test standards, or to be safe for use in a specified manner, or (ii) is of a kind items of which are periodically inspected by an accredited testing laboratory, and (iii) in either case, bears a label, tag, or other record of certification;

(5) "Classified" means that a product has been tested, evaluated, and classified by an accredited testing laboratory with respect to a specific hazard, or limitation or condition of performance, and has affixed to it a controlled label, authorized by the laboratory, which indicates the nature of the coverage;

(6) "Labeled" means that a product has affixed to it a controlled label, symbol, or other certification mark of an accredited testing laboratory which makes periodic inspection of the production of the product and whose labeling indicates compliance with applicable test standards or tests to determine safe use in a specified manner;

(7) "Listed" means that a product is of a kind named in a list which (i) is published by an accredited testing laboratory which makes periodic inspections of the production of that kind of product, and (ii) states that samples of such products have been tested and found to conform to applicable test standards, and found to be safe for use in a specified manner;

(8) "Manufacturer" includes the person or organization that assembles or otherwise fabricates a product, and any other person or organization authorized to attach to a product his or its name, in lieu of a manufacturer's name or identifying mark;

(9) "OSHA" means Occupational Safety and Health Administration, U.S. Department of Labor;

(10) "Product" includes materials, devices, equipment, systems, installations, as well as completely assembled products;

(11) "To test" means to employ any means to determine compliance of a product with applicable test standards;

(12) "Test method" means the technical procedures and activities required in testing;

(13) "Test procedure" means a document which details the implementation of a test method; and

(14) "Test standard" means a document which specifies the performance and safety requirements for a product. Such requirements are utilized in the preparation of test procedures for testing a product. Some test standards prescribe test procedures.

### Subpart B—Accreditation

#### § 1907.10 Accreditation.

OSHA shall accredit any laboratory which demonstrates that it satisfies all of the requirements of §1907.11.

#### § 1907.11 Criteria of accreditation.

In order to be accredited, a testing laboratory must meet all the following conditions:

(a) *General.*—(1) The laboratory maintains good housekeeping practices. These practices are evident in office areas, test areas both inside and outside storage areas, and shipping and receiving areas.

(2) The laboratory maintains a current organization chart of the company, showing key personnel and the relationship between administration, operation, and quality control.

(3) The quality control structure and responsibilities of key personnel of the laboratory are described in a quality control manual(s). The manual is kept up-to-date and the procedures and requirements stated therein are complied with. The quality control manual(s) includes information with regard to receiving, handling, and shipping of products, testing procedures, calibration program, test reports, certifications, records and files, subcontracts, and the test standards files relating to areas of accreditation.

(b) *Master file.*—The laboratory maintains a master file containing all of the relevant primary OSHA standards and test standards applicable to the category of products for which the accreditation is sought. It contains information which provides a historical record of changes to these standards. A procedure is maintained to control the use of the master file and to insure that it is kept up-to-date.

(c) *Receiving, handling and shipping controls.*—Controls for receiving, handling, and shipping are in effect, and include procedures for:

(1) Visual examination of samples (upon receipt) for evidence of shipping damage;

(2) Periodic review of handling capabilities and maintenance of equipment;

(3) Storage of items while awaiting disposition with regard to the safety of personnel and degree of protection to preclude the possibility of damage; and

(4) Shipping and receiving data containing the date of receipt, name of manufacturer, and other necessary data to accurately record and positively identify samples as received at the laboratory.

(d) *Test procedures.*—(1) For each specified product to be tested, the laboratory uses written test procedures. These test procedures will be made available upon request to the Division of Safety Standards for examination and will serve as part of the laboratory evaluation by OSHA. The procedures shall be based on pertinent test standards such as those of American National Standards Institute (ANSI), National Fire Protection Association (NFPA), American Society for Testing and Materials (ASTM), Factory Mutual Research Corporation (FMRC) or Underwriters' Laboratories, Inc., and the specific test standard shall be identified in the application form for accreditation. Where no safety test standard exists, the laboratory shall prepare and submit both a written test standard and test procedure to the Division of Safety Standards for approval.

(2) Each test procedure includes the following information, when applicable:





(i) Nomenclature and identification of the test product;

(ii) Characteristics and design criteria to be inspected or tested, including values for acceptance or rejection;

(iii) Detailed steps and operations to be taken in sequence, including verifications to be made before proceeding;

(iv) A list of measuring equipment to be used, specifying range, type, accuracy, and test in which to be used.

(v) Layout and interconnection of test equipment and test items;

(vi) Hazardous situations or operations;

(vii) Precautions to comply with established laboratory safety requirements to ensure safety of personnel, and to prevent damage to test items and measuring equipment;

(viii) Environments and other conditions to be maintained, including tolerances;

(ix) Special instructions for inspection or testing (e.g. special handling of fragile test items);

(x) Special instructions for nonconformances, anomalous occurrences or results; and

(xi) Nomenclature and designation of applicable test standard on which the test procedure is based (for example; ANSI-A92.9-1969 or U.L. 408).

(e) *Data sheet.*—The laboratory maintains data sheets and test equipment lists for all inspections and tests performed, which are appropriate for the type and scope of inspection or test operation performed and sufficient in detail to provide for complete verification and evaluation of the operations and objectives. Data sheets include the following minimum information:

(1) Date of test, name of test and supervising engineer, nomenclature of test item and name of manufacturer;

(2) Unusual occurrences and results of each phase of testing thoroughly explained; and

(3) Signature of technician performing test.

(f) *Test equipment lists.*—A test equipment list is provided prior to the equipment utilized for that test. It includes the following information:

(1) The type and manufacturer of the equipment;

(2) The serial and/or model number of the equipment; and

(3) Date of last calibration.

(g) *Calibration program.*—The laboratory has established and utilizes a documented calibration program to assure the required degree of accuracy in measurements.

(1) The accuracy of all measurement instrument standards are traceable to primary standards maintained by the National Bureau of Standards of the United States of America or the national physical laboratory maintaining such standards in the country in which the laboratory is located. This traceability may be maintained through appropriate reference standards whose accuracy and stability have been certified by such agencies.

(2) The normal accuracy of the reference standard is at least four times as great as that of the instrument being calibrated. All equipment and reference standards are calibrated at least once a year, or in accordance with the instrument manufacturers' recommended schedules or the recommendations of the National Bureau of Standards.

(3) Documented evidence of calibrated standards and test equipment is maintained by the laboratory.

(i) If the laboratory utilizes an outside facility for calibration services, then the laboratory is responsible for the adequacy and quality of that service.

(ii) The laboratory maintain certifications with copies of calibration data and equipment lists.

(4) If equipment calibrations are performed in-house, the laboratory maintains written calibration procedures, and equipment folders containing routine maintenance information, values recorded during calibration, and standards equipment utilized for the calibration.

(5) Environmental factors critical to the calibration method are controlled during calibration processes and depend upon the physical property and degree of sensitivity of the instrument involved. The environmental factors may include temperature, humidity, cleanliness, vibration, voltage, radio frequency interference, and pressure. The requirement for these controlled environments are stated in each calibration procedure.

(6) The calibration program also contains written requirements and controls for permissible error limits, labeling and tagging of calibrated equipment, and state of the art measurements.

(h) *Laboratory organization, independence and competence.*—(1) The laboratory is legally constituted to perform testing and is independent of manufacturers and vendors in that:

(i) It has no managerial affiliation with producers, suppliers, or vendors;

(ii) It has a sufficient breadth of interest or activity, so that the loss or award of a specific contract to determine compliance of a product with the applicable test standard would not be a substantial factor in the financial well-being of the laboratory;

(iii) The employment security status of the personnel of the laboratory is free of influence or control of manufacturers, suppliers, and vendors; and

(iv) The laboratory is not engaged in promotion of the product.

(2) The laboratory can demonstrate to the OSHA representatives a level of competence and experience in the area of testing for which it is seeking accreditation or in a comparable test area, in the following manner:

(i) The technical director or the equivalent personnel of the laboratory, in conjunction with other personnel, is capable of orally presenting the laboratory's capabilities, and has a working knowledge of the applicable test standards and methods for approval of items for which the laboratory is seeking accreditation;



V 38 175 SEP 11 73 XUM

(ii) The laboratory can demonstrate that it is a working laboratory which has performed testing in the field of endeavor or in a comparable field of testing for which it is seeking accreditation; and

(iii) The laboratory is prepared to submit a minimum of three customer references and three test reports.

(3) The laboratory has an acceptable degree of financial security. This may be shown by means of a copy of its most recently audited financial statement, and a list of bank and credit references.

(4) The laboratory has the necessary test and inspection equipment to test the products for which it is seeking accreditation. If the laboratory utilizes a manufacturer's in-house laboratory or subcontracts for certain tests, it assumes the responsibility for the results of all testing.

(5) The laboratory maintains an adequate followup inspection system which includes means of inspecting and/or testing an appropriate sampling of a manufacturer's production at appropriate intervals (based on volume, complexity of manufacturing process, intended use, extent of field complaints, etc.) by factory inspections, field surveys, and other forms of audit procedures.

(i) *Facilities and equipment.*—The laboratory has available all facilities and test equipment relevant to the product for which accreditation is being requested. Such equipment and facilities are capable of uniformly producing and controlling all the test conditions specified in the applicable test standards. A list of such facilities and equipment is made available to the OSHA survey team, prior to the inspection of such facilities and equipment.

(j) *Personnel.*—(1) The laboratory is under the technical direction of a graduate, registered professional engineer or scientist, and is staffed by an adequate number of personnel qualified by training and experience to conduct tests and analyze data to assure the accuracy, performance, and timeliness of testing and followup inspections. The personnel has a working knowledge of the applicable test standards and test methods.

(2) There is a technical or scientific director (chief engineer) who is responsible for program schedules, manpower control and overall supervision of all test functions and personnel and who has at least a Bachelor of Science or equivalent college degree, and five (5) years of experience in fields which he directs, and is a registered professional engineer or scientist.

(3) There is a technical or scientific supervisor (department manager) who is responsible for the supervision and performance of engineers and technicians within a group, and the supervisory control of planning and testing within that group, and who has at least a Bachelor of Science or equivalent technical college degree, and two (2) years of experience in his field of responsibility.

(4) There is an engineering or scientific employee, who is responsible for the technical adequacy and quality of testing performed either by himself or under his supervision, and of the performance of technicians assigned to him, and who has at least a Bachelor of Science degree or equivalent technical college degree, and on-the-job-training.

(5) There is a technical staff responsible for tasks assigned in the performance of test functions and/or for assistance to the engineering or scientific employee, who have at least a high school diploma or equivalent and on-the-job training or trade school training.

### § 1907.12 Conditions of accreditation.

The following conditions shall be part of every accreditation:

(a) *Evidence of accreditation.*—The accreditation of any testing laboratory shall be evidenced by a letter of accreditation from OSHA.

(b) *Period of accreditation.*—The accreditation of a testing laboratory shall be valid for a period of two years, unless terminated before or renewed after the expiration of the period. The period of validity shall be stated in the letter of accreditation.

(c) *Maintenance of qualifying conditions.*—Every accredited testing laboratory shall continue to satisfy all the conditions specified in § 1907.11 during the period of the accreditation.

(d) *OSHA identification.*—(1) The accredited laboratory shall require its OSHA identification to appear on every product which it has found to comply with the appropriate test standards. The OSHA identification shall be assigned by OSHA and shall include the laboratory's own distinctive label or trademark. It:

(i) Shall be coded or otherwise designed as to aid in detection of counterfeiting or other forms of misuse;

(ii) Shall not be readily transferable from one product to another;

(iii) Shall be directly applied to each unit of production in the form of labels or markings suitable for the environment and use of the product. If the physical size of a unit does not permit direct application, such a label or marking may be attached to the smallest package in which the unit is marketed;

(iv) Shall include either the proprietary name, certification mark, or registered trademark of the laboratory; and

(v) Shall include the name of the product classification, where this is not completely obvious.

(2) Determination of noncompliance or revocation of authority to use the OSHA identification mark for a product shall be the responsibility of the accredited laboratory. Such actions shall not prejudice resubmission of the product after deficiencies have been corrected. If the manufacturer defaults in its obligations with respect to its approved products, the laboratory may, at its discretion, terminate its approval by written notice to the manufacturer and to OSHA.

(3) The laboratory shall establish and implement appropriate procedures to prevent the misuse of its OSHA identification mark, including procedures for:

(i) Removal of the OSHA identification mark from a product found at the factory not to comply;

(ii) Recall of nonconforming products, with notice of the recall to OSHA, the manufacturer of the affected product, and the public; and

(iii) Return of separable OSHA identification marks or labels, and confirmation of obliteration or destruction of other means of directly applying the identification mark, when approval of a product is withdrawn or discontinued.

(e) *Product acceptance.*—(1) A test report shall be made to OSHA by the accredited laboratory for each submission of a product that has been tested and found to comply with applicable test standards. The test report shall be signed by an authorized representative of the laboratory, who is technically competent, responsible for the quality and accuracy of the work, and whose credentials have been previously presented to OSHA.

(i) A copy of the report shall also be forwarded to the manufacturer to serve as notification that the product complies with the applicable test standards.

(ii) The laboratory shall retain a copy of the report on file with the data accumulated during the actual testing for at least five (5) years.

(iii) The test report shall:

(A) Specify the catalog or model numbers covered by the test investigation;

(B) Specify the differences in various models;

(C) Report the results of all tests performed;

(D) Incorporate a signed statement that the product covered by the test Report complies with the applicable test standards; and

(E) Include a copy of the test procedure.

(2) A list of all products which have been approved by an accredited laboratory shall be published by that laboratory, and a copy forwarded to OSHA, on at least a quarterly basis, and shall be consolidated on an annual basis.

(3) The laboratory shall perform followup testing or inspection of the production of products which it has approved. Contractual arrangements regarding these services shall be between the laboratory and the manufacturer and shall limit the application of the OSHA identification mark only to those products which are in compliance with the applicable test standards. As part of the followup procedures, the laboratory shall:

(i) Conduct market surveys to countercheck approved products;

(ii) Investigate alleged field failures of approved products to assess adequacy of safety test standards, acceptance testing, and continuing product compliance;

(iii) Select and evaluate production samples of the products to confirm validity of prototype testing before issuances of approval notice;

(iv) Conduct a production compliance inspection of products of a manufacturer being approved for the first time, before authorizing release of products bearing the OSHA identification mark; and





(v) File a followup report to OSHA. Such a report shall be deemed a test report within the meaning of paragraph (e)(1) of this section.

(4) Authorization to apply the OSHA identification mark to approved products shall be the function of the accredited laboratory. Testing of the product, inspection at place of manufacture, observation of, or participation in, in-house testing, consulting, and any other procedures necessary shall be employed by the accredited laboratory to assure that the products comply with appropriate test standards.

(f) *Recordkeeping.*—(1) The accredited laboratory shall maintain the following records:

(i) Test reports on all products tested;

(ii) All data generated during testing;

(iii) Records supporting compliance with calibration program;

(iv) Equipment lists;

(v) Receiving and shipping records;

(vi) OSHA accreditation correspondence (application, letter of accreditation, etc.);

(vii) Organization chart and personnel files, including list of all personnel job responsibility description and job training program;

(viii) Financial records;

(ix) Quality control manual(s); and

(x) A master file containing all the OSHA regulations and standards referenced therein which are applicable to the product for which accreditation has been granted.

(2) The minimum period of retention for the records shall be five (5) years, except that shipping and receiving records need be kept only for a minimum of one (1) year.

(g) *Reports.*—(1) The accredited laboratory shall furnish OSHA an annual report detailing the extend of its activities for the year, and covering the products which it has approved during the year. The report shall include information concerning:

(i) The number of factory inspections;

(ii) Field surveys;

(iii) Laboratory check tests;

(iv) Extent of examination or testing of products;

(v) Calibration program;

(vi) List of approved products;

(vii) List of recalled products; and

(viii) Extent of audit of manufacturer's quality control procedures.

(2) The accredited laboratory shall also furnish OSHA a quarterly report which shall include the following:

(i) List of approved products.

(ii) List of recalled products.

(h) *Inspection of laboratories.*—(1) The accredited testing laboratory shall grant OSHA the right to conduct unscheduled inspections of the laboratory in order to assure continued compliance with the requirements for accreditation, and shall cooperate in the conduct of the inspections.

(2) The laboratory upon request by OSHA shall verify, at its expense, any data which it has generated.

(3) In order to compare and verify various testing techniques and interpretation of requirements, an accredited laboratory shall, at its own expense, participate in periodic reference sample test programs under the direction of OSHA.

(i) *Other conditions.*—The accredited testing laboratory shall comply with any other term or condition stated in its letter of accreditation.

## Subpart C—Procedures for Granting, Reviewing, Modifying, or Terminating Accreditations

### § 1907.20 Granting of accreditation.

(a) *Application.*—Any testing laboratory seeking accreditation may file an application therefor with the Division of Safety Standards, Office of Standards, OSHA, U.S. Department of Labor, Railway Labor Building, 400 First Street NW., Washington, D.C. 20001. The application for accreditation must be made on appropriate forms available at the Division of Safety Standards.

(b) *Action on applications.*—(1) *Defective application.*—If an application for accreditation does not contain sufficient information with regard to all the criteria of accreditation the Division of Safety Standards may deny the application. Notice of a denial shall be given to the applicant and shall state all the deficiencies of the application. A denial of an application shall be without prejudice to the submission of a new or amended application.

(2) *Adequate applications.*—If an application is not denied pursuant to paragraph (b)(1) of this section the Division shall acknowledge the receipt of the application and shall make arrangements for an onsite survey of the applicant's laboratory facilities at a mutually agreeable time.

(3) *Onsite survey.*—The Division of Safety Standards shall perform an onsite survey of the applicant's laboratory facilities for the purpose of verifying the representations of the application concerning the criteria of accreditation. The Division shall make a complete written report of the survey and shall maintain it in an appropriate file containing the application, the report and any other writing concerning the application.

(4) *Decision.*—(i) If the Division of Safety Standards is persuaded that the applicant satisfies all the criteria of accreditation it shall send to the applicant a letter of accreditation. The applicant shall keep the letter with the other records required by § 1907.12(f).

(ii) If the Division is not persuaded that the applicant satisfies all the criteria of accreditation it shall give the applicant written notice of a proposal to deny the application. The notice shall contain a statement of all the reasons for the proposed denial and shall notify the applicant that:

(A) The proposal to deny the application is based on the information in the relative application file;

(B) All the papers in the file are available to the applicant for inspection and copying;

(C) The applicant may contest the Division's reasons for the proposed denial, by giving to the Division prompt notice of its contentions;

(D) The applicant may request an opportunity to submit oral or written evidence in support of its contentions, and also to conduct such cross-examination as may be necessary for a full and true disclosure of the relevant facts; and that

(E) The application will be deemed denied, on a stated date, unless, prior to that date, the Division receives a notice of contest.

(iii) If a proposal to deny an application is contested, the Division shall make the arrangements necessary to disclose to the applicant all the facts and arguments on which the proposed denial of the application is based and to afford the applicant a full opportunity to refute those facts and arguments and to present evidence in support of its own contentions. To the maximum extent consistent with fairness the disclosures by the Division and the refutations and presentations of a contesting applicant shall be in written form and shall be made part of the application file. Any oral examination and cross-examination shall be recorded and made part of the application file.

(iv) The Division shall make a decision on the application and give notice of it to the applicant. The decision shall include a statement of findings and conclusions and the basis therefor on all the material issues presented. Findings and conclusions on issues of fact must be based solely on the evidence in the application file.

(5) *Review.*—An applicant aggrieved by a decision of the Division of Safety Standards may obtain review of the decision by filing a written application for review with the Administrator of OSHA within 20 days of receipt of the notice of the decision. The review shall be on the basis of the application file. The Administrator may affirm, modify, or reverse the decision of the Division or remand it to the Division for further proceedings.

### § 1907.30 Renewal of accreditation.

(a) *Applications.*—An accredited testing laboratory may renew its accreditation by filing with the Division of Safety Standards a completed renewal form, not less than 30, nor more than 60, days before the expiration date of its current accreditation.

(b) *Effect of application.*—When an accredited testing laboratory has filed a timely and sufficient renewal form, its current accreditation does not expire until the renewal application has been finally determined.

(c) *Action on applications.*—An application for renewal of accreditation may be granted only if the Division of Safety Standards is persuaded that the applicant continues to satisfy all the criteria of accreditation set forth in § 1907.11. As far as practicable, an application for



V 38 175 SEP 11 73 XUM

renewal of accreditation shall be processed in accordance with § 1907.20 except that the Division may waive its right to conduct an onsite survey.

**§ 1907.35 Modification of accreditation.**

(a) *Termination or limitation of accreditation.*—An accredited testing laboratory may voluntarily terminate its accreditation, either in its entirety or with respect to some of the products covered by the accreditation, by giving written notice of its intent to the Division of Safety Standards. The notice shall state the date as of which the termination is to take effect. As of the effective date of the termination, the laboratory may no longer use, nor authorize the use of, its OSHA identification labels or markings for the products involved.

(b) *Enlargement of accreditation.*—An accredited testing laboratory may apply to the Division of Safety Standards for an enlargement of its current accreditation to cover additional products. The application shall be processed and acted on in accordance with the applicable provisions of § 1907.20, except that the Division may waive the right to conduct an onsite survey.

**§ 1907.40 Revocation of accreditation.**

(a) *Grounds for revocation.*—The Division of Safety Standards may revoke an accreditation in case of (1) material misrepresentation in the application for the accreditation or its enlargement, or its renewal, or (2) failure to comply with a condition of the accreditation.

(b) *Procedure for revocation.*—(1) Except in cases of willfulness or those in which the safety of employees requires otherwise, no accreditation may be suspended or revoked unless before the institution of revocation proceeding the accredited laboratory has been given (1) written notice by the Division of Safety Standards of the facts or conduct which are believed to warrant the revocation or suspension, and (2) a reasonable opportunity to demonstrate or achieve compliance with the applicable requirements.

(2) The procedure for suspension or revocation of an accreditation shall conform, to the extent practicable, to the procedure for accreditation prescribed in § 1907.20(b) (4) and (5).

*Effective date.*—This Part 1907 shall become effective on October 11, 1973.

Signed at Washington, D.C. this 4th day of September 1973.

JOHN STENDER,
*Assistant Secretary of Labor.*

[FR Doc.73-19042 Filed 9-10-73;8:45 am]



V 38-175 SEP 11 73 XUM

**now available**
**15-year Cumulation**

# LAWS AFFECTED TABLES FOR 1956–1970

## VOLUMES 70–84
## UNITED STATES STATUTES AT LARGE

Lists all prior laws and other Federal instruments which were amended, repealed, or otherwise affected by the provisions of public laws enacted during the years 1956–1970. Includes index of popular name acts affected in Volumes 70–84.



**Price: $8.15 domestic postpaid;**
**$7.50 GPO Bookstore**

Compiled by Office of the Federal Register,
National Archives and Records Service,
General Services Administration

**Order from Superintendent of Documents,**
**U.S. Government Printing Office**
**Washington, D.C. 20402**

V 38-175
SEP 11 73
XUM

176

# federal register

September 12, 1973—Pages 25155–25420

WEDNESDAY, SEPTEMBER 12, 1973
WASHINGTON, D.C.
Volume 38 ■ Number 176
Pages 25155–25420
PART I

## HIGHLIGHTS OF THIS ISSUE

This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.

**ADMINISTRATION OF THE CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT WITH RESPECT TO FEDERAL CONTRACTS, GRANTS, OR LOANS**—Executive Order ..... 25161

**SELECTIVE SERVICE SYSTEM**—Classification procedures.. 25198

**AGRICULTURAL EXPORTS**—Commerce Department licensing system for certain September exports; effective 9–7–73 ..... 25184

**PROCESSED FRUITS AND VEGETABLES**—USDA amends inspection regulations; effective 10–1–73 ..... 25165

**CHILD PROTECTION PACKAGING**—Consumer Product Safety Commission proposes to exempt certain isosorbide-dinitrate preparations from requirements; comments by 11–9–73 ..... 25195

**BANNED SPRAY ADHESIVES**—Consumer Product Safety Commission amends order regarding Tri Chem Spray Mist Adhesive.. ..... 25216

**OCCUPATIONAL SAFETY AND HEALTH**—OSHA approves Colorado plan ..... 25172

**TEXTILE IMPORTS**—
CITA adjusts import levels for certain wool and man-made fiber products from the Republic of China ..... 25215
CITA amends tariff schedules for merchandise imported in sets; effective 10–1–73 ..... 25216

**PESTICIDES**—EPA notices of petitions to establish tolerances for use in or on certain agricultural products (2 documents) ..... 25216

**ETHYLENE OXIDE**—FDA requests data for safety and efficacy review; submissions by 12–11–73..... 25213

**GRAS STATUS**—FDA notice of filing of petition for affirmation of certain carbohydrase and protease enzyme preparations; comments by 11–12–73..... 25214

**PART II:**

**MILK ORDERS**—USDA revised recommended decision on milk classification and pricing for 11 Federal milk marketing orders; exceptions by 10–15–73..... 25281

(Continued inside)



V 38-176
SEP 12 73
XUM

**MARITIME RADIO COMMUNICATIONS**—
FCC rules on frequencies, standards and procedures for on-board communications; effective 10–12–73 ..... 25177
FCC proposes frequencies, standards and procedures for on-board communications; comments by 10–12–73 ..... 25196

**U.S. BACKED LOAN TO BRAZIL**—Treasury Department notice of invitation to bid by financial institutions; bids by 9–28–73 ..... 25206

**MEETINGS**—
HEW: National Advisory Council on Extension and Continuing Education, 10–25 and 10–26–73 ..... 25214
FPC: Technical Advisory Committee on Finance, 9–13–73 ..... 25228
Technical Advisory Committee on Fuels, 9–13 and 9–14–73 ..... 25228
NASA: Physical Sciences Committee, 9–24 and 9–25–73 ..... 25235
Interior Dept.: California State Advisory Board, 9–26 and 9–27–73 ..... 25211
National Endowment for the Humanities: Advisory Committee Public Programs Panel, 9–4–73 ..... 25235
Advisory Committee Fellowships Panel, 9–5–73 ..... 25235
Commerce Department: Federal Information Processing Standards Coordinating and Advisory Committee, 9–18–73 ..... 25211
HEW: Advisory Committee on Medicare Administration, Contracting, and Subcontracting, 9–28–73 ..... 25214
USDA: Winema National Forest Grazing Advisory Board, 9–21–73 ..... 25211
NASA: Ad Hoc Subcommittee for the Review of the Investigations on the Second and Third High Energy Astronomy Observation Missions, 9–13 and 9–14–73 ..... 25234
EPA: Effluent Standards and Water Quality Information Advisory Committee, 9–20–73 ..... 25217

federal register
Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by the Executive Branch of the Federal Government. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $2.50 per month or $25 per year, payable in advance. The charge for individual copies is 20 cents for each issue, or 20 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.



# Contents

## THE PRESIDENT

**Executive Order**
Providing for administration of the Clean Air Act and the Federal Water Pollution Control Act with respect to Federal Contracts, grants, or loans ..... 25161

## EXECUTIVE AGENCIES

**AGRICULTURAL MARKETING SERVICE**
**Rules and Regulations**
Processed fruits and vegetables and products thereof; inspection and certification ..... 25165
**Proposed Rules**
Grain sorghum; revision of U.S. standards; correction ..... 25186
Milk marketing orders:
Central Illinois marketing area ..... 25186
Northern Louisiana marketing area ..... 25190
Red River Valley and certain other marketing areas ..... 25282

**AGRICULTURE DEPARTMENT**
*See also* Agricultural Marketing Service; Forest Service.
**Notices**
Spokane and Colville Indian lands in Washington State; feed grain donations ..... 25211

**ARMY DEPARTMENT**
*See* Engineers Corps.

**CIVIL AERONAUTICS BOARD**
**Notices**
*Hearings, etc.:*
Air Freight Forwarders' Charters Investigation ..... 25214
Eastern Air Lines, Inc., and Seaboard World Airlines, Inc. ..... 25214
Universal Airlines, Inc ..... 25214

**CIVIL SERVICE COMMISSION**
**Rules and Regulations**
Excepted service:
Department of Housing and Urban Development ..... 25165
Treasury Department ..... 25165
**Notices**
Licensed practical nurse, Boston, Mass.; adjustment of minimum rates and rate ranges; correction ..... 25215
Noncareer executive assignments:
Department of Commerce (2 documents) ..... 25214, 25215
Department of the Interior (2 documents) ..... 25215
Department of the Navy ..... 25215

**COMMERCE DEPARTMENT**
*See also* Domestic and International Business Administration; National Bureau of Standards; National Technical Information Service.
**Notices**
Organization and functions:
National Bureau of Standards ..... 25212
Office of Communications ..... 25212
Patent Office ..... 25213

**COMMITTEE FOR IMPLEMENTATION OF TEXTILE AGREEMENTS**
**Notices**
Certain wool and man-made fiber textile products produced or manufactured in the Republic of China; entry or withdrawal from warehouse for consumption ..... 25215
Tariff Schedules of the U.S. annotated ..... 25216

**CONSUMER PRODUCT SAFETY COMMISSION**
**Proposed Rules**
Child protection packaging requirements for certain prescription drugs; exemption of isosorbide dinitrate-containing sublingual tablets and chewable preparations ..... 25195
**Notices**
Certain spray adhesives presenting an imminent hazard; amendment of banning order ..... 25216

**CUSTOMS SERVICE**
**Rules and Regulations**
Designation of Bureau of Customs as United States Customs Service ..... 25171
General provisions; customs stations, Region IX ..... 25171
**Proposed Rules**
Customs field organization; changes in Customs Region IX ..... 25185

**DEFENSE DEPARTMENT**
*See* Engineers Corps.

**DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION**
**Rules and Regulations**
Ratification of Bureau of Domestic Commerce actions ..... 25175
Short supply controls; licensing system for certain September exports of agricultural commodities ..... 25184

**DRUG ENFORCEMENT ADMINISTRATION**
**Notices**
Lexington Economy Drug Co.; prehearing conference ..... 25210

**EDUCATION OFFICE**
**Notices**
National Advisory Council on Extension and Continuing Education; meeting ..... 25214

**ENGINEERS CORPS**
**Rules and Regulations**
Navigation regulations; Weymouth Back River, Massachusetts ..... 25176

**ENVIRONMENTAL PROTECTION AGENCY**
**Notices**
American Spice Trade Association; filing of petition for food additive ..... 25216
Dimethyl tetrachloroterephthalate; filing of petition regarding pesticide chemical ..... 25216
Effluent Standards and Water Quality Information Advisory Committee; meeting and agenda ..... 25217

**FEDERAL AVIATION ADMINISTRATION**
**Rules and Regulations**
Airworthiness directive; Bell model helicopters ..... 25170
Establishment of jet routes and area low routes; correction of way-point location ..... 25171
Transition area; alteration ..... 25171
**Proposed Rules**
Transition area; designation ..... 25195

**FEDERAL COMMUNICATIONS COMMISSION**
**Rules and Regulations**
On-board communications in the Industrial and Maritime Mobile Services ..... 25177
**Proposed Rules**
Industrial and Maritime Mobile Services; frequencies, standards, and procedures for on-board communications ..... 25196

**FEDERAL HIGHWAY ADMINISTRATION**
**Rules and Regulations**
Parts and accessories necessary for safe operation; safe loading of commercial motor vehicles, revision; correction ..... 25182

**FEDERAL MARITIME COMMISSION**
**Notices**
Delaware River Port Authority et al.; agreements filed ..... 25217
Far East Conference; intention to approve applications ..... 25217

**FEDERAL POWER COMMISSION**
**Notices**
Technical Advisory Committee on Finance; meeting ..... 25228
Technical Advisory Committee on Fuels; meeting ..... 25228
*Hearings, etc.:*
Amoco Production Co ..... 25219

(*Continued on next page*)



V 38 - 176
SEP 12 73
XUM

Castle, Inc. 25219
Detroit Edison Co. and Consumers Power Co. 25220
Diamond Shamrock Corp. 25220
Florida Gas Transmission Co. (2 documents) 25220, 25221
Kerr-McGee Corp. 25221
Lone Star Producing Co. et al. 25221
Marigold Transmission Co. 25225
McCracken Oil Trust 25222
Northern Natural Gas Co. 25222
Northwestern Public Service Co. and Kansas-Nebraska Natural Co., Inc. 25222
Orange and Rockland Utilities, Inc. 25228
Otter Tail Power Co. 25223
Pacific Power & Light Co. (2 documents) 25223
Pioneer Natural Gas Co. 25224
Public Service Company of N.H. 25224
Ragars Oil & Gas Co. 25224
Sea Robin Pipeline Co. 25224
Tenneco Oil Co. 25225
Texaco Inc. 25225
Texas Eastern Transmission Corp. 25226
Transcontinental Gas Pipe Line Corp. 25227
Transwestern Pipeline Co. 25227
United Gas Pipe Line Co. 25227
Valley Gas Transmission, Inc. 25228
Virginia Electric and Power Co. 25228

**FEDERAL RESERVE SYSTEM**

**Notices**

Financial General Bankshares, Inc.; order conditionally approving acquisition of bank (2 documents) 25230
First Pratt Bankshares, Inc.; formation of bank holding company 25231
Piedmont Carolina Financial Services, Inc.; order approving formation of bank holding company 25231
Swiss-Israel Trade Bank et al.; determination regarding grandfather privileges 25232
Waverly Investment Co.; proposed acquisition of Mallen and Waverly Insurance Agencies 25233
Wells Fargo & Co.; order approving acquisition of Wells Fargo Mortgage Co. 25234

**FISH AND WILDLIFE SERVICE**

**Rules and Regulations**

Hunting:
Certain national wildlife refuges in Alaska 25183
Crab Orchard National Wildlife Refuge, Illinois 25183

**FOOD AND DRUG ADMINISTRATION**

**Proposed Rules**

Food standards for certain types of edible oils; termination of proposal to develop U.S. standards of identity based on International Codex standards; correction 25195

**Notices**

Ethylene oxide; safety and efficacy review; request for data and information 25213
Novo Enzyme Corp.; filing of petition for affirmation of GRAS status 25214

**FOREST SERVICE**

**Notices**

Winema National Forest Grazing Advisory Board; meeting 25211

**HEALTH, EDUCATION, AND WELFARE DEPARTMENT**

*See* Education Office; Food and Drug Administration; Social Security Administration.

**HOUSING AND URBAN DEVELOPMENT DEPARTMENT**

**Rules and Regulations**

Relocation payments and assistance and real property acquisition:
Eligibility conditions for relocation payments; notice of State agency's determination not to acquire real property 25172
Grievance procedures relating to claims and payments 25172

**INTERIOR DEPARTMENT**

*See* Fish and Wildlife Service; Land Management Bureau; National Park Service.

**INTERSTATE COMMERCE COMMISSION**

**Rules and Regulations**

Car service; Northwestern Oklahoma Railroad Co. 25183

**Notices**

Assignment of hearings 25237
Burlington Northern, Inc.; Western Railroad Traffic Association Agreement 25237
Fourth section application for relief 25238
Illinois Central Gulf Railroad Co.; electric commuter train fares 25238
Motor carriers:
Alternate route deviation notices 25238
Applications and certain other proceedings 25240
Board transfer proceedings 25243
O.N.C. Freight System et al.; lease and interchange of vehicles by motor carriers 25243
Puget Sound Traffic Association; increased freight rates and charges, 1973, nationwide 25244
Schneider Transport, Inc., and East Texas Motor Freight Lines, Inc.; Midwestern Express, Inc., extension 25244

**JUSTICE DEPARTMENT**

*See* Drug Enforcement Administration.

**LABOR DEPARTMENT**

*See* Occupational Safety and Health Administration.

**LAND MANAGEMENT BUREAU**

**Notices**

California State Advisory Board; meeting 25211

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**Notices**

Meetings:
Ad Hoc Subcommittee for Review of Investigations of High Energy Astronomy Observatory Missions 25234
Physical Sciences Committee 25235

**NATIONAL BUREAU OF STANDARDS**

**Notices**

Commercial standard, porcelain-enameled steel utensils; action on proposed withdrawal 25211
Federal Information Processing Standards Coordinating and Advisory Committee; meeting 25211

**NATIONAL ENDOWMENT FOR THE HUMANITIES**

**Notices**

Meetings:
Public Programs Panel (Films/TV) 25235
Senior Fellowships Panel 25235

**NATIONAL PARK SERVICE**

**Proposed Rules**

Cape Hatteras National Seashore, North Carolina; fishing regulations 25185

**NATIONAL TECHNICAL INFORMATION SERVICE**

**Notices**

Government-owned inventions; availability for licensing 25211

**OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION**

**Rules and Regulations**

Approved State plans for enforcement of State standards; approval of Colorado Plan 25172

**SECURITIES AND EXCHANGE COMMISSION**

**Notices**

*Hearings, etc.:*
Continental Vending Machine Corp. 25235
Counselors Investment Fund, Inc. 25236
Home-State Production Co. 25236
Koracorp Industries, Inc. 25236

**SELECTIVE SERVICE SYSTEM**

**Notices**

Registrants Processing Manual 25198

**SOCIAL SECURITY ADMINISTRATION**

**Notices**

Advisory Committee on Medicare Administration, Contracting, and Subcontracting; meeting 25214







**TARIFF COMMISSION**

**Notices**

Chain door locks; extension of time for filing written views 25236
Convertible game tables and components thereof; investigation and hearing 25236
Investigations regarding workers' petitions for determinations:
Nina Footwear Co., Inc. 25237
Zuckerman & Fox, Inc. 25237

**TRANSPORTATION DEPARTMENT**

*See* Federal Aviation Administration; Federal Highway Administration.

**TREASURY DEPARTMENT**

*See also* Customs Service.

**Notices**

Loan to government of Brazil guaranteed by U.S.; public notice of invitation to bid by financial institutions 25206


# List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month. In the last issue of the month the cumulative list will appear at the end of the issue.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1973, and specifies how they are affected.

**3 CFR**

EXECUTIVE ORDERS:
11602 (superseded by EO 11738) 25161
11738 25161

**5 CFR**

213 (2 documents) 25165

**7 CFR**

52 25165
PROPOSED RULES:
26 25186
1050 25186
1096 25190
1104 25282
1106 25282
1120 25282
1126 25282
1127 25282
1128 25282
1129 25282
1130 25282
1131 25282
1132 25282
1138 25282

**14 CFR**

39 25170
71 25171
75 25171
PROPOSED RULES:
71 25195

**15 CFR**

377 25184

**16 CFR**

PROPOSED RULES:
1700 25195

**19 CFR**

Ch. I 25171
1 25171
PROPOSED RULES:
1 25185

**21 CFR**

10 25195

**24 CFR**

42 (2 documents) 25172

**29 CFR**

1952 25172

**32A CFR**

Ch. IV 25175
BACPB Notice 1 25175

**33 CFR**

207 25176

**36 CFR**

PROPOSED RULES:
7 25185

**47 CFR**

2 25180
81 25180
83 25180
91 25182
PROPOSED RULES:
83 25196

**49 CFR**

393 25182
1033 25183

**50 CFR**

32 (2 documents) 25183



V 38 176 SEP 12 73 XUM

# REMINDERS

**Rules Going Into Effect Today**

This list includes only rules that were published in the FEDERAL REGISTER after October 1, 1972.

page no. and date

**SEPTEMBER 12**

FTC—Generic names and definitions for manufactured fibers ..... 21779; 8–13–73

**Next Week's Deadlines for Comments on Proposed Rules**

**SEPTEMBER 17**

DOT—Proposed change in Customs Region VIII, designating Columbia River (Portland, Astoria, Longview) port of entry ..... 22032; 8–15–73

EPA—Emission standards for in-use aircraft after January 1, 1983. 19050; 7–17–73

FAA—Control zone; proposed alteration. 22243; 8–17–73

—Control zone and transition area; proposed alteration .. 22243; 8–17–73

FCC—Broadcasts of sports events; practices of licensees and networks. 19915; 7–25–73

—New or revised classes of Interstate and Foreign Message Toll Telephone (MTS) and Wide Area Telephone Service (WATS) .. 13663; 5–24–73

—FM Broadcast stations in Rapid City, S. Dak.; table of assignments. 20627; 8–2–73

F&D—Compounds used in food-producing animals; procedures for determining acceptability of assay methods used for assuring the absence of residues in edible products..... 19226; 7–19–73

—Quality standard for canned cherries; revision of blemish limitation. 19226; 7–19–73

FMC—Increases in contract rates; rules governing filing .... 22495; 8–21–73

FPC—Disposal of interest in project lands and applications for certain uses of project property requiring commission approval. 21654; 8–10–73

ICC—Uniform system of accounts; accumulated depreciation on improvements to leased property 21436; 8–8–73

SBA—Revision of loan policy to State and local development companies. 22983; 8–28–73

SRA—Contracts for management consulting services; notice of proposed rulemaking .... .... 22242; 8–17–73

SRS—Public assistance programs; safeguarding information..... 22141; 8–16–73

**SEPTEMBER 18**

F&D—Food labeling for certain soft drinks; exemption when trademark serves as a statement of identity. 19404; 7–20–73

Sulfonamide-containing drugs for use in food-producing animals. 19404; 7–20–73

IRS—Depreciation allowance for property of certain public utilities . 22795; 8–24–73

JUSTICE DEPARTMENT—Labor certification exemption for aliens . 22964; 8–28–73

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION — Gross coupling weight ratings for semitrailers. 16240; 6–21–73

NATIONAL TRANSPORTATION SAFETY BOARD—Air safety enforcement proceedings; extension of comment period ..... 22561; 8–22–73

**SEPTEMBER 19**

USDA—Milk in the Chicago regional marketing area..... 23796; 9–4–73

FRA—Railroad operating practices. 21797; 8–13–73; 22043; 8–15–73

SRS—Medicaid; suspension of payments to providers; notice of proposed rulemaking.. 22415; 8–20–73

**SEPTEMBER 20**

EDUCATION OFFICE—Adult education; special projects and teacher training under Adult Education Act 18518; 7–11–73

FAA—Designation of Federal airways, area low routes, controlled airspace; and reporting points ..... 22492; 8–21–73

FCC—Radio services; reallocation and creation of frequencies for use by citizens..... 15854; 6–18–73

OIL AND GAS OFFICE—Entries of small quantities of crude oils, or finished products..... 22489; 8–21–73

**SEPTEMBER 21**

APHIS—4–D poultry products; transportation and handling 18681; 7–13–73

CUSTOMS SERVICE—Customs warehouses, container stations, and control of merchandise therein; transfer of merchandise to a container station by a container station operator. 22554; 8–22–73

EPA—Policies and procedures for providing Government owned property to contractors and for allowing contractors to acquire property at Government expense..... 22637; 8–23–73

FARM CREDIT ADMINISTRATION—Farm credit system ..... 22646; 8–23–73

FHA—Multifamily previous participation review and clearance; enforcement remedies..... 22415; 8–20–73

VA—Service-connected burial benefit; plot or interment allowance. 22561; 8–22–73

**Next Week's Hearings**

**SEPTEMBER 17**

EPA—Consideration of whether use of calcium cyanide, strychnine, sodium monofluoroacetate and sodium cyanide for pesticides should be canceled..... 23010; 8–28–73

OFFICE OF THE SECRETARY—Model lease and grievance procedure; notice of hearing ..... 22172; 8–16–73

**SEPTEMBER 18**

CAB—Priority and nonpriority domestic service mail rates investigation, to be held in Washington, D.C.... 20016; 7–27–73

—Universal Airlines, Inc.; hearing on transfer of certificates for Phoenix Airline, Inc., fitness investigation..... 22909, 8–27–73

EPA—Farm worker protection; occupational safety requirements, for pesticides, to be held in Phoenix, Ariz. 20362; 7–31–73

—Occupational safety requirements for pesticides ... 23557, 8–31–73

FHA—Lightweight vehicle exemption; advance notice of proposed rules, to be held in Washington, D.C.... 19693; 7–23–73

—Lightweight vehicle exemption; notice of public hearing ..... 22244; 8–17–73

**SEPTEMBER 20**

EPA—Occupational safety requirements for pesticides..... 23557; 8–31–73

FRA—Railroad operating practices; extension of time for filing comments; new date for public hearing . 22043; 8–15–73

SBA—Polychloroprene rubber from Japan; notice of investigation and hearing ..... 22258; 8–17–73

**SEPTEMBER 22**

FISH AND WILDLIFE SERVICE—Wilderness proposal regarding Red Rock Lakes National Wildlife Refuge. 19977; 7–26–73

**Weekly List of Public Laws**

This is a listing of public bills enacted by Congress and approved by the President, together with the law number, the date of approval, and the U.S. Statutes citation. Subsequent lists will appear every Wednesday in the FEDERAL REGISTER. Copies of the laws may be obtained from the U.S. Government Printing Office.

**The President vetoed H.R. 7935, Fair Labor Standards Amendments of 1973. Message dated Sept. 6, 1973; Weekly Compilation of Presidential Documents, Vol. 9, No. 36.**





# Presidential Documents

## Title 3—The President

### EXECUTIVE ORDER 11738

**Providing for Administration of the Clean Air Act and the Federal Water Pollution Control Act With Respect to Federal Contracts, Grants, or Loans**

By virtue of the authority vested in me by the provisions of the Clean Air Act, as amended (42 U.S.C. 1857 et seq.), particularly section 306 of that Act as added by the Clean Air Amendments of 1970 (Public Law 91–604), and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), particularly section 508 of that Act as added by the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92–500), it is hereby ordered as follows:

SECTION 1. *Policy.* It is the policy of the Federal Government to improve and enhance environmental quality. In furtherance of that policy, the program prescribed in this Order is instituted to assure that each Federal agency empowered to enter into contracts for the procurement of goods, materials, or services and each Federal agency empowered to extend Federal assistance by way of grant, loan, or contract shall undertake such procurement and assistance activities in a manner that will result in effective enforcement of the Clean Air Act (hereinafter referred to as "the Air Act") and the Federal Water Pollution Control Act (hereinafter referred to as "the Water Act").

SEC. 2. *Designation of Facilities.* (a) The Administrator of the Environmental Protection Agency (hereinafter referred to as "the Administrator") shall be responsible for the attainment of the purposes and objectives of this Order.

(b) In carrying out his responsibilities under this Order, the Administrator shall, in conformity with all applicable requirements of law, designate facilities which have given rise to a conviction for an offense under section 113(c)(1) of the Air Act or section 309(c) of the Water Act. The Administrator shall, from time to time, publish and circulate to all Federal agencies lists of those facilities, together with the names and addresses of the persons who have been convicted of such offenses. Whenever the Administrator determines that the condition which gave rise to a conviction has been corrected, he shall promptly remove the facility and the name and address of the person concerned from the list.

SEC. 3. *Contracts, Grants, or Loans.* (a) Except as provided in section 8 of this Order, no Federal agency shall enter into any contract for the procurement of goods, materials, or services which is to be performed in



V 38 - 176 SEP 12 73 XUM

whole or in part in a facility then designated by the Administrator pursuant to section 2.

(b) Except as provided in section 8 of this Order, no Federal agency authorized to extend Federal assistance by way of grant, loan, or contract shall extend such assistance in any case in which it is to be used to support any activity or program involving the use of a facility then designated by the Administrator pursuant to section 2.

SEC. 4. *Procurement, Grant, and Loan Regulations.* The Federal Procurement Regulations, the Armed Services Procurement Regulations, and, to the extent necessary, any supplemental or comparable regulations issued by any agency of the Executive Branch shall, following consultation with the Administrator, be amended to require, as a condition of entering into, renewing, or extending any contract for the procurement of goods, materials, or services or extending any assistance by way of grant, loan, or contract, inclusion of a provision requiring compliance with the Air Act, the Water Act, and standards issued pursuant thereto in the facilities in which the contract is to be performed, or which are involved in the activity or program to receive assistance.

SEC. 5. *Rules and Regulations.* The Administrator shall issue such rules, regulations, standards, and guidelines as he may deem necessary or appropriate to carry out the purposes of this Order.

SEC. 6. *Cooperation and Assistance.* The head of each Federal agency shall take such steps as may be necessary to insure that all officers and employees of his agency whose duties entail compliance or comparable functions with respect to contracts, grants, and loans are familiar with the provisions of this Order. In addition to any other appropriate action, such officers and employees shall report promptly any condition in a facility which may involve noncompliance with the Air Act or the Water Act or any rules, regulations, standards, or guidelines issued pursuant to this Order to the head of the agency, who shall transmit such reports to the Administrator.

SEC. 7. *Enforcement.* The Administrator may recommend to the Department of Justice or other appropriate agency that legal proceedings be brought or other appropriate action be taken whenever he becomes aware of a breach of any provision required, under the amendments issued pursuant to section 4 of this Order, to be included in a contract or other agreement.

SEC. 8. *Exemptions—Reports to Congress.* (a) Upon a determination that the paramount interest of the United States so requires—

(1) The head of a Federal agency may exempt any contract, grant, or loan, and, following consultation with the Administrator, any class of contracts, grants or loans from the provisions of this Order. In any such case, the head of the Federal agency granting such exemption shall (A) promptly notify the Administrator of such exemption and the justification therefor; (B) review the necessity for each such exemption annually; and (C) report to the Administrator annually all such exemptions in effect. Exemptions granted pursuant to this section shall be for a period not to exceed one year. Additional exemptions may be granted





for periods not to exceed one year upon the making of a new determination by the head of the Federal agency concerned.

(2) The Administrator may, by rule or regulation, exempt any or all Federal agencies from any or all of the provisions of this Order with respect to any class or classes of contracts, grants, or loans, which (A) involve less than specified dollar amounts, or (B) have a minimal potential impact upon the environment, or (C) involve persons who are not prime contractors or direct recipients of Federal assistance by way of contracts, grants, or loans.

(b) Federal agencies shall reconsider any exemption granted under subsection (a) whenever requested to do so by the Administrator.

(c) The Administrator shall annually notify the President and the Congress of all exemptions granted, or in effect, under this Order during the preceding year.

SEC. 9. *Related Actions.* The imposition of any sanction or penalty under or pursuant to this Order shall not relieve any person of any legal duty to comply with any provisions of the Air Act or the Water Act.

SEC. 10. *Applicability.* This Order shall not apply to contracts, grants, or loans involving the use of facilities located outside the United States.

SEC. 11. *Uniformity.* Rules, regulations, standards, and guidelines issued pursuant to this order and section 508 of the Water Act shall, to the maximum extent feasible, be uniform with regulations issued pursuant to this order, Executive Order No. 11602 of June 29, 1971, and section 306 of the Air Act.

SEC. 12. *Order Superseded.* Executive Order No. 11602 of June 29, 1971, is hereby superseded.

Richard Nixon

THE WHITE HOUSE,
September 10, 1973.

[FR Doc.73-19498 Filed 9-10-73;4:35 pm]



V 38 - 176 SEP 12 73 XUM

# Rules and Regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

## Title 5—Administrative Personnel

### CHAPTER I—CIVIL SERVICE COMMISSION

### PART 213—EXCEPTED SERVICE

#### Treasury Department

Section 213.3305 is amended to show that one position of Special Assistant to the Deputy Assistant Secretary (Enforcement, Tariff and Trade Affairs, and Operations) is excepted under Schedule C.

Effective on September 12, 1973, §213.3305(a)(49) is added as set out below.

**§ 213.3305 Treasury Department.**

(a) *Office of the Secretary* * * *

(49) One Special Assistant to the Deputy Assistant Secretary (Enforcement, Tariff and Trade Affairs, and Operations).

* * * * * *

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73-19385 Filed 9-11-73;8:45 am]

### PART 213—EXCEPTED SERVICE

#### Department of Housing and Urban Development

Section 213.3384 is amended to show that one additional position of Staff Assistant to the Assistant Secretary for Housing Management, and one position of Executive Assistant to the Assistant Secretary for Policy Development and Research are excepted under Schedule C.

Effective on September 12, 1973, § 213.3384(c)(5) is amended and § 213.3384(i) is added as set out below.

**§ 213.3384 Department of Housing and Urban Development.**

* * * * * *

(c) *Office of the Assistant Secretary for Housing Management.* * * *

(5) Four Staff Assistants to the Assistant Secretary.

* * * * * *

(i) *Office of the Assistant Secretary for Policy Development and Research.*

(1) One Executive Assistant to the Assistant Secretary.

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73-19386 Filed 9-11-73;8:45 am]

## Title 7—Agriculture

### CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTION, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

### PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

#### Inspection and Certification

A proposal to revise the Regulations Governing Inspection and Certification was published in the FEDERAL REGISTER of May 7, 1973 (38 FR 11348). Interested persons were allowed until July 5, 1973, to submit written data, views, or arguments for consideration in connection with the proposal.

These regulations are issued under the authority of the Agricultural Marketing Act of 1946 (Sec. 205, 60 Stat. 1087 et seq., as amended; 7 U.S.C. 1621 et seq.). This act authorizes official inspection and certification of processed fruits and vegetables, processed products thereof, and certain other processed food products.[1]

Such inspection and certification is voluntary and is made available upon request of financially interested parties and upon payment of a fee. The Act requires such fees to be reasonable and, as nearly as possible, to cover the cost of rendering the service.

*Statement of consideration leading to the revision of regulations.*—Comments were received from seven sources—individuals, the food processing industry, trade associations, and related interests.

One comment, from Topco Associates, Inc., expressed opposition to permitting the use of a U.S. grade statement, such as, "U.S. Grade A", on products inspected under a lot inspection program. Topco's objection indicated their concern that the product might not be graded, and that proper sanitation practices might not be observed by the plant. Topco's objection, while pertinent, is not reflected in these revisions because:

(1) Product graded on a lot basis may use a U.S. grade statement only if it has been inspected and certified by a USDA inspector as meeting the labeled grade; and

(2) To use a U.S. grade label on a lot inspected product, a plant must be surveyed and meet the same sanitation standards as plants operating under continuous inspection. The plants will be checked periodically and must be maintained in a sanitary manner.

The American Frozen Food Institute stated they had no adverse comments to offer.

In its comments, the California Date Administrative Committee requested that the proposed definition for "lot inspection" be expanded to recognize all locations at which a lot inspection could take place. The point is well taken and is included in the final document by an expanded definition of "lot". The Committee requested that the (new) requirement to separately mark or identify specific portions of lots that are to be inspected and certified separately from the whole lot, not be included. This point was not accepted because, for years, AMS has issued inspection certificates on small segments of large lots that have been inspected and certified. This has permitted the certification of small shipments made from the lot without restriction as to a specific code or days production. The certification indicates all of the codes in the lot, pertinent product information, the grade of the lot as a whole, and the number of cases involved. It is not AMS' intention to alter this policy. The requirement to separately mark and identify portions of a lot for certification will apply only when an applicant stipulates that a specific code or a specific portion of a lot is to be certified. The Committee's request to exclude plant sanitation surveys and inspection from inspection contracts between AMS and administrative agencies is not acceptable to AMS and is, therefore, not incorporated, as such, into the revised Regulations. The section caption has been slightly revised to clarify the scope of the sanitation requirements. While the clarification does not specifically include or exclude the AMS sanitation criteria in contracts with administrative agencies, neither does it prejudice the Administrator's prerogative to stipulate the sanitation criteria in contracts with administrative agencies.

The other comments received either concurred in the proposal, and/or addressed themselves to areas outside the purview of the regulations.

A few editorial changes have been made which either relocate materials into more logical sections of the regulations, or clarify the text of the revisions. No substantive changes have been made to the proposed revisions.

The revisions to the Regulations Governing Inspection and Certification contained in this subpart, and reprinted as

[1] Among such other processed food products are the following: Honey, molasses, except for stockfeed; nuts and nut products, except oil; sugar (cane, beet, and maple); sirups (blended), except from grain; tea; cocoa; coffee; spices; condiments.



V 38-176 SEP 12 73 XUM

follows, shall become effective October 1, 1973.

Dated September 5, 1973.

E. L. PETERSON,
*Administrator,*
*Agricultural Marketing Service.*

The revisions are as follows:

1. Section 52.1 is revised to read as follows:

**§ 52.1 Administration of regulations.**

• • • • •

(b) All services provided under the regulations of this part, including the hiring and licensing of inspection, grading, and sampling personnel shall be conducted without discrimination because of race, color, sex, religion, or national origin.

2. Section 52.2 is revised as follows:

**§ 52.2 Terms defined.**

• • • • •

*Approved plant.*—See "Plant, approved".

*Case or shipping case.*—"Case" or "shipping case" means a unit consisting of a given number of primary containers of the same size, the number and arrangement per unit conforming to customary trade practice. For products not physically assembled into a shipping case (i.e. stacked bright) *case* means simulating the containers in such lot into a unit consisting of the same number of primary containers corresponding to customary trade practice (or corresponding to the unit as defined above).

• • • • •

*Class.*—See "Grade".

• • • • •

*Grade or class.*—"Grade" or "class" designates a level or rank of quality.

*Grader.*—See "Inspector".

*Inspection service.*—[See *Inspection service, general,* below.]

Inspection service, general. • • •

(d) Performance by an inspector of any related services such as observing the preparation of the product from its raw state through each step in the entire process; observing conditions under which the product is prepared, processed, and packed; or observing plant sanitation as a prerequisite to the inspection of the processed product, either on a continuous or periodic basis, or checkloading the inspected processed product in connection with the distribution or marketing thereof.

*Inspection service; types of.*—(a) "Lot inspection" means the inspection and grading of specific lots of processed fruits and vegetables which may be located in plant warehouses, commercial storage, railway cars, trucks, or any other conveyance, storage facility, or other location consistent with industry practices. Generally under "lot inspection" the inspector does not have knowledge of conditions and practices under which the product is packed and his grading is limited to examination of the finished processed product only.

(b) "Continuous inspection" is the conduct of inspection and grading services in an approved plant whereby one or more inspector(s) are present at all times the plant is in operation to make in-process checks on the preparation, processing, packing, and warehousing of all products under contract and to assure compliance with sanitary requirements.

(c) Pack certification is the conduct of inspection and grading services in an approved plant whereby one or more inspector(s) perform inspection and grading services on designated lots. The inspector(s) may make in-process checks on the preparation and processing of products under contract but is not required to be present at all times the plant is in operation.

*Inspector or grader.*—"Inspector" or "grader" means • • •

*Inspector in charge.*—"Inspector in Charge" means any inspector designated on a plant working shift or in a field office laboratory as the inspector in charge of the inspection work when authorized by the Administrator to act in that capacity.

*Inspector, subordinate.*—"Subordinate inspector" means any inspector assigned to a plant or field office to work under the direction of an inspector-in-charge.

*Inspector's aide.*—"Inspector's aide" means any employee of the Department authorized to perform a limited number and type of duties under the close supervision of an inspector.

• • • • •

*Lot.*—"Lot" means any number of containers of the same size and type which contain a processed product of the same type and style located in the same warehouse or conveyance, and which is available for inspection service at any one time: *Provided,* That the number of containers comprising a lot may not exceed the maximum number specified for a sample size of 60 as outlined in the sampling plans in § 52.38: *And further provided,* That (a) if the applicant requests a separate inspection certificate covering a specific portion of a lot, such portion must be separately marked or otherwise identified in such a manner as to permit sampling, inspection, and certification of such portion as a separate lot; and (b) under in-plant (in-process) inspection, the inspector is authorized to limit the number of containers of a processed product that may be included in a lot to the production of a single working shift when such production is not in compliance with specified requirements.

*Plant.*—"Plant" means the premises, buildings, structure, and equipment (including, but not being limited to machines, utensils, vehicles, and fixtures located in or about the premises) used or employed in the preparation, processing, handling, transporting and storage of fruits and vegetables, or the processed products thereof.

*Plant, approved.*—"Approved plant" means any plant in which the facilities, sanitation, and methods of operation have been surveyed and approved for specific product(s) by the Administrator as suitable and adequate for inspection or grading service in accordance with §§ 52.81 through 52.83.

• • • • •

*Sample unit.*—"Sample unit" means a container and/or its entire contents, a portion of the contents of one or more containers or other unit of commodity, or a composite mixture of a product used for inspection.

• • • • •

**§§ 52.11, 52.25 [Amended]**

3. In §§ 52.11 and 52.25, the reference to § 52.48 is changed to read § 52.42.

4. Section 52.38 is revised to read:

**§ 52.38 Sampling plans and procedures for determining lot compliance.**

(a) Except as otherwise provided for in this section in connection with in-plant inspection and unless otherwise approved by the Administrator, samples shall be selected from each lot in the exact number of sample units indicated for the lot size in the applicable sampling plans: *Provided,* That at the discretion of the inspection service the number of sample units selected may be increased to the exact number of sample units indicated for any one of the larger sample sizes provided for in the appropriate plans.

(b) Under the sampling plans with respect to any specified requirement:

(1) If the number of deviants (as defined in connection with the specific requirement) in the sample does not exceed the acceptance number prescribed for the sample size, the lot meets the requirement;

(2) If the number of deviants (as defined in connection with the specific requirement) in the sample exceeds the acceptance number prescribed for the sample size, the lot fails the requirement.

(c) If in the conduct of on-line in-plant inspection of a product covered by a grade standard which does not contain sampling plans, the sample is examined before the lot size is known and the number of sample units exceeds the prescribed sample size for such lot, but does not equal any of the prescribed larger sample sizes, the lot may be deemed to meet or fail a specific requirement in accordance with the following procedure:

(1) If the number of deviants (as defined in connection with the specific requirement) in the nonprescribed sample does not exceed the acceptance number of the next smaller sample size, the lot meets the requirement;

(2) If the number of deviants (as defined in connection with the specific requirement) in the nonprescribed sample equals the acceptance number prescribed for the next larger sample size, additional sample units shall be selected to increase the sample to the next larger prescribed sample size;

(3) If the number of deviants (as defined in connection with the specific requirement) in the nonprescribed sample exceeds the acceptance number prescribed for the next larger sample size, the lot fails the requirement.

(d) In the conduct of on-line in-plant inspection, sampling may be performed on a time interval basis. The sampling frequency shall be specified in an applicable grade standard or other procedural instruction approved by the Administrator.

(e) In the event that the lot compliance determination provisions of a standard or specification are based on the number of specified deviations instead of deviants the procedures set forth in this section may be applied by substituting the word "deviation" for the word "deviant" wherever it appears.

(f) Sampling plans referred to in this section are those contained in Tables I, II, III, IV, and V and (g)(1) and (g)(2) of this section which follow or any other plans which are applicable. For processed products not included in these tables, the minimum sample size shall be the exact number of sample units prescribed in the table, container group, and lot size that, as determined by the inspector, most closely resembles the product, type, container, size and amount of product to be sampled.

(g)(1) *Sampling plan for dried figs.*—For each 10,000 pounds (or fraction of 10,000 pounds) of product—6 sample units of approximately 35 figs each accumulated into 1 composite (at least 200 figs). Each composite will be examined separately, and all must meet the requirement for the U.S. Grade.

(2) *Sampling plan for dried fruits other than dates and figs.*—For each 15,000 pounds (or fraction of 15,000 pounds) of product—sample units of approximately 16 ounces each accumulated into 1 composite (at least 100 ounces). Each composite will be examined separately and all must meet the requirements for the U.S. Grade.





SAMPLING PLANS AND ACCEPTANCE LEVELS

*Table I.*—Canned or similarly processed fruits, vegetables, and products containing units of such size and character as to be readily separable

| Container size group | Lot size (number of containers) [1] | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Group 1: Any type container of a volume not exceeding that of a No. 303 size can. | 3,000 or less... | 3,001-12,000 | 12,001-39,000 | 39,001-84,000 | 84,001-145,000 | 145,001-228,000 | 228,001-336,000 | 336,001-480,000 |
| Group 2: Any type of container of a volume exceeding that of a No. 303 size can but not exceeding that of a No. 3 cylinder size can. | 1,500 or less... | 1,501-6,000 | 6,001-19,500 | 19,501-42,000 | 42,001-72,500 | 72,501-114,000 | 114,001-168,000 | 168,001-240,000 |
| Group 3: Any type of container of a volume exceeding that of a No. 3 cylinder size can, but not exceeding that of a No. 12 size can. | 750 or less... | 751-3,000 | 3,001-9,750 | 9,751-21,000 | 21,001-36,250 | 36,251-57,000 | 57,001-81,000 | 84,001-120,000 |
| Group 4: Any type of container of a volume exceeding that of a No. 12 size can. | Convert to equivalent number of 6 pound net weight containers and use group 3 | | | | | | | |
| Lot inspection: | | | | | | | | |
| Sample size (number of sample units) [2] | 3 | 6 | 13 | 21 | 29 | 38 | 48 | 60 |
| Acceptance number | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| On-line in-plant inspection: | | | | | | | | |
| Sample size (number of sample units) [2] | 3 | 6 | 6 | 13 | 21 | 29 | 38 | 48 |
| Acceptance number | 0 | 1 | 1 | 2 | 3 | 4 | 5 | 6 |

[1] Under on-line in-plant inspection, a 5 percent overrun in number of containers may be permitted by the inspector before going to the next larger sample size.

[2] When a standard sample unit size is not specified in the U.S. grade standards, the sample units for the various container size groups are as follows: Groups 1, 2, and 3—1 container and its entire contents. Group 4 approximately 2 pounds of product. When determined by the inspector that a 2-pound sample unit is inadequate, a larger sample unit may be substituted.

*Table II.*—Frozen or similarly processed fruits, vegetables, and products containing units of such size and character as to be readily separable

| Container size group | Lot size (number of containers) [1] | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Group 1: Any type of container of 1 pound or less net weight. | 2,400 or less... | 2,401-9,600 | 9,601-31,200 | 31,201-67,200 | 67,201-116,000 | 116,001-182,400 | 182,401-268,800 | 268,801-384,000 |
| Group 2: Any type of container over 1 pound but not over 2½ pounds net weight. | 1,200 or less... | 1,201-4,892 | 4,801-15,600 | 15,601-33,600 | 33,601-58,000 | 58,001-91,200 | 91,201-134,400 | 134,401-192,000 |
| Group 3: Any type of container over 2½ pounds. | Convert to equivalent number of 2½-pound containers and use group 2 | | | | | | | |
| Lot inspection: | | | | | | | | |
| Sample size (number of sample units) [2] | 3 | 6 | 13 | 21 | 29 | 38 | 48 | 60 |
| Acceptance number | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| On-line in-plant inspection: | | | | | | | | |
| Sample size (number of sample units) [2] | 3 | 6 | 6 | 13 | 21 | 29 | 38 | 48 |
| Acceptance number | 0 | 1 | 1 | 2 | 3 | 4 | 5 | 6 |

[1] Under on-line in-plant inspection, a 5% overrun in number of containers may be permitted by the inspector before going to the next larger sample size.

[2] When a standard sample unit size is not specified in the U.S. standards, the sample units for the various groups are as follows: Groups 1 and 2—1 container and its entire contents. Group 3 containers up to 10 pounds—approximately 3 pounds of product. When determined by the inspector that a 3-pound sample unit is inadequate, a larger sample unit of 1 or more containers and their entire contents may be substituted for 1 or more sample units of 3 pounds.

*Table III.*—Canned, frozen, or otherwise processed fruits, vegetables, related products of a comminuted, fluid or homogeneous state

| Container size group | Lot size (number of containers) [1] | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Group 1: Any type of container of 1 pound or less. | 4,500 or less... | 4,501-18,000 | 18,001-58,500 | 58,501-126,000 | 126,001-217,000 | 217,001-342,000 | 342,001-504,000 | 504,001-720,000 |
| Group 2: Any type of container exceeding 1 pound but not exceeding 3 pounds. | 3,000 or less... | 3,001-12,000 | 12,001-39,000 | 39,001-84,000 | 84,001-145,000 | 145,001-228,000 | 228,001-336,000 | 336,001-480,000 |
| Group 3: Any type of container exceeding 3 pounds but not exceeding 10 pounds. | 1,500 or less... | 1,501-6,000 | 6,001-19,500 | 19,501-42,000 | 42,001-72,500 | 72,501-114,000 | 114,001-168,000 | 168,001-240,000 |
| Group 4: Any type of container exceeding 10 pounds. | Convert to equivalent number of 6-pound containers and use group 3 | | | | | | | |
| Lot inspection: | | | | | | | | |
| Sample size (number of sample units) [2] | 3 | 6 | 13 | 21 | 29 | 38 | 48 | 60 |
| Acceptance number | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| On-line in-plant inspection: | | | | | | | | |
| Sample size (number of sample units) [2] | 3 | 6 | 6 | 13 | 21 | 29 | 38 | 48 |
| Acceptance number | 0 | 1 | 1 | 2 | 3 | 4 | 5 | 6 |

[1] Under on-line in-plant inspection, a five percent overrun in number of containers may be permitted by the inspector before going to the next larger sample size.

[2] When a standard sample unit size is not specified in the U.S. grade standards, the sample units for the various container size groups are as follows: Groups 1, 2, and 3—1 container and its entire contents. A smaller sample unit may be substituted in group 3 at the inspector's discretion. Group 4—approximately 16 ounces of product. When determined by the inspector that a 16-ounce sample unit is inadequate, a larger sample unit may be substituted.



V 38 176 SEP 12 73 XUM

*Table IV.*—Dehydrated (low moisture) fruits and vegetables

| Container size group | Lot size (number of containers)[1] | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Group 1: Any type of container of 1 pound or less, net weight. | 1,800 or less | 1,801–7,200 | 7,201–23,400 | 23,401–50,400 | 50,401–87,000 | 87,001–136,800 | 136,801–201,600 | 201,601–288,000 |
| Group 2: Any type of container over 1 pound but not over 6 pounds net weight. | 600 or less | 601–2,400 | 2,401–7,800 | 7,801–16,800 | 16,801–29,000 | 29,001–45,600 | 45,601–67,200 | 67,201–96,000 |
| Group 3: Any type of container over 6 pounds. | Convert to equivalent number of 5-pound containers and use group 2 | | | | | | | |
| Sample size [2] | 3 | 6 | 13 | 21 | 29 | 38 | 48 | 60 |
| Acceptance number | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 |

[1] Under on-line in-plant inspection, a 5 percent overrun in number of containers may be permitted by the inspector before going to the next larger sample size.
[2] When a standard sample unit size is not specified in the U.S. grade standards, the sample units for the various container size groups are as follows: Group 1—1 container and its entire contents. Groups 2 and 3—1 container and its entire contents or a smaller sample unit when determined by the inspector to be adequate.

*Table V.*—Dates

| Container size group | Lot size (number of containers)[1] | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| Group 1: Any type of container of 1 pound or less net weight. | 2,400 or less | 2,401–9,600 | 9,601–31,200 | 31,201–67,200 | 67,201–116,000 | 116,001–182,400 | 182,401–268,800 | 268,801–384,000 |
| Group 2: Any type of container over 1 pound but not over 5 pounds net weight. | 800 or less | 801–3,200 | 3,201–10,400 | 10,401–22,400 | 22,401–38,667 | 38,668–60,800 | 60,801–89,600 | 89,601–128,000 |
| Group 3: Any type of container over 5 pounds. | Convert to equivalent number of 5-pound containers and use group 2. | | | | | | | |
| Sample size [2] | 3 | 6 | 13 | 21 | 29 | 38 | 48 | 60 |
| Acceptance number | 0 | 1 | 2 | 3 | 4 | 5 | 6 | 7 |

[1] Under on-line in-plant inspection, a five percent overrun in number of containers may be permitted by the inspector before going to the next larger sample size.
[2] Samples consist of 25-ounce sample units, each of which may be a composite of product from a sufficient number of individual containers from 1 case to make up the weight. When previous inspection results from a particular source so indicate, 1-composite sample of 25 ounces of product may be formed from the 3-sample units in the smallest sample size, and 2-composite samples of 25 ounces each may be formed from the 6-sample units in the next to smallest sample size. Sample units in larger sample sizes may not be further composited.

5. Section 52.48 is added and reads:

**§ 52.48 Charges for plant survey and inspection.**

(a) The fees to be charged for a plant survey and inspection shall be at the rates prescribed in §§ 52.42 and 52.51.

(b) Fees charged for plant survey and inspection under section 52.42 of this part will be credited back to plants entering into an inspection contract with AMS within 60 days of the survey.

6. Section 52.52 is amended to read as follows:

**§ 52.52 Charges for inspection services on a contract basis.**

(a) Irrespective of fees and charges prescribed in foregoing sections, or in this section, the Administrator may enter into contracts with applicants to perform continuous inspection services or other types of inspection services pursuant to the regulations in this part and other requirements as prescribed by the Administrator in such contract, and the charges for such inspection service provided in such contracts shall be on such basis as will reimburse the Agricultural Marketing Service of the Department for the full cost of rendering such inspection service including an appropriate overhead charge to cover as nearly as practicable administrative overhead expenses as may be determined by the Administrator.

Irrespective of fees and charges prescribed in the foregoing sections, or in this section, the Administrator may enter into a written memorandum of understanding or contract, whichever may be appropriate, with any administrative agency charged with the administration of a marketing agreement or a marketing order effective pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.) for the making of inspections pursuant to said agreement or order on such basis as will reimburse the Agricultural Marketing Service of the Department for the full cost of rendering such inspection service including an appropriate overhead charge to cover as nearly as practicable administrative overhead expenses as may be determined by the Administrator. Likewise, the Administrator may enter into a written memorandum of understanding or contract, whichever may be appropriate, with an administrative agency charged with an administration of a similar program operated pursuant to the laws of any State.

(c) Charges for year-round in-plant inspection services on a contract basis will be billed to the applicant at least once each 28 days for all hours worked with a minimum of 40 hours per week, holiday pay and night differential for each inspector and inspector's aide assigned to perform the inspection services in accordance with the following schedules:

(1) For personnel assigned on a year-round basis:

Inspector(s)-in-charge—$9.65 per hour.
Subordinate Inspector(s)—$7.00 per hour.
Inspector(s) In-charge—$9.65 per hour.

(2) For personnel assigned on less than a year-round basis:

Inspector(s)-in-charge—$10.50 per hour.
Subordinate inspector(s)—$7.70 per hour.
Inspector's aide(s)—$5.30 per hour.

(3) *Travel expense.*—Since travel time and other travel costs in reporting to an assignment under this type agreement are covered in the hourly rate, no additional reporting charges will be made.

(4) *Holiday pay.*—Eight (8) hours will be charged each holiday for each person assigned, whether or not work is performed. A 50 percent additional charge will be made for each hour worked up to 8 hours. For each hour worked above 8 hours the regular hourly rate will be charged.

(5) *Night differential.*—A 10 percent night differential charge will be made for all work performed between the hours of 6 p.m. and 6 a.m.

(6) *Overtime.*—All overtime hours will be charged at the regular rates specified herein rather than at an increased rate.

(d) Charges for less than year-round in-plant inspection services on a contract basis will be billed to the applicant at least once each 28 days for all hours with a minimum of 40 hours per week, holiday pay and night differential for each inspector and inspector's aide assigned to perform the inspection services in accordance with the following schedules:

(1) Each inspector assigned—first 280 hours—$15.00 per hour.
Each inspector assigned—in excess of 280 hours—$11.00 per hour.
Each inspector's aide—all hours—$5.30 per hour.

(2) *Travel expense.*—The above rates apply to hours worked on the assignment. The salary for inspectors enroute and other travel expenses including per diem will not be billed for inspectors assigned on this contract.

(3) *Holiday pay.*—In addition to the above charges, 8 hours will be charged for each person assigned each holiday whether or not work is performed. An additional 50 percent, not to exceed $5.50 per hour, will be charged for each hour worked up to 8 hours. The regular rate will be charged for all hours worked over 8 hours.





(4) *Night differential.*—A 10 percent differential, not to exceed $1.10 per hour, will be charged for all work performed between the hours of 6 p.m. and 6 a.m.

(5) *Overtime.*—All overtime hours will be charged at the regular rates specified herein rather than at an increased rate.

(e) No Member of, or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of any contract provided for in this section or to any benefit that may arise therefrom, but this provision shall not be construed to extend to such contract if made with a corporation for its general benefit, and shall not extend to any benefits that may accrue from the contract to a Member of, or Delegate to Congress, or a Resident Commissioner in his capacity as a farmer.

7. Section 52.53 is revised to read:

**§ 52.53 Approved identification.**

(a) *General.*—Use of the approved identification marks described and illustrated in figures 1 through 8 of this section is restricted to processed products that:

(1) Are clean, safe, and wholesome;

(2) Have been produced in an approved plant;

(3) Are truthfully and accurately labeled;

(4) Meet the quality requirements for U.S. Grade C or better;

(5) Meet applicable fill weight and/or drained weight, condition of container criteria, Brix or other characteristics of a commodity related to market value.

(6) Have been certified, or have been inspected and are eligible for certification, by an inspector; and, in addition, meet the specific requirements stated in paragraphs (b), (c), and (d) of this section.

(b) *Inspection (continuous) grade and inspection marks.*—The grade and inspection marks approved for use by plants operating under USDA continuous inspection service contracts shall be similar in form and design to the examples in figures 1 through 8 of this section. The inspection marks illustrated in figures 1 through 4 may only be used on products packed by plants operating under USDA continuous inspection.




FIGURE 1.




FIGURE 2.




Statement enclosed within a shield.

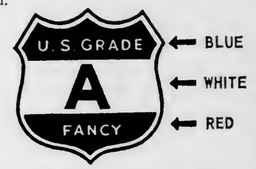
FIGURE 3.

PACKED UNDER CONTINUOUS INSPECTION OF THE U. S. DEPT. OF AGRICULTURE

Statement without the use of the shield.

FIGURE 4.

(c) *Contract in-plant inspection (other than continuous) grade marks.*—The grade marks approved for use by plants operating under USDA contract inspection service (other than continuous) requiring a resident inspector shall be similar in form and design to the examples in figures 5 through 8 of this section.




Shield using red, white, and blue background or other colors appropriate for label.

FIGURE 5.




Shield with plain background.

FIGURE 6.




Shield with plain background.

FIGURE 7.

(d) *Approved plant-lot inspection grade mark.*—Processed products that are produced in an approved plant and inspected and certified by an inspector on a lot basis may be labeled with the official mark illustrated in figure 8. Failure to have all lots, bearing such official marks, inspected and certified shall be cause for the debarment of services and such other actions as provided for in the Agricultural Marketing Act of 1946.

U. S. GRADE A

U. S. CHOICE

Statement without the use of the shield.

FIGURE 8.

(e) *Sampling marks.*—Processed products which have been packed under inspection as provided for in this section and products sampled for inspection on a lot inspection basis as provided in this part may, at the option of the Department, be identified by an authorized representative of the Department by stamping the shipping cases and inspection certificate(s) covering such lot(s) with an officially drawn sampling mark similar in form and design to the example



V 38-176 SEP 12 73 XUM

in figure 9 of this section: *Provided:* That the stamp will not be placed on shipping cases where any grade designation is on the case or packages unless the product has been inspected and meets such grades.




FIGURE 9.

(f) *Removal of labels bearing approved grade or inspection marks (figures 1 through 8).*—(1) At the time a lot of processed products, bearing approved grade or inspection marks (figures 1 through 8) is found to be mislabeled, the processor shall separate and retain such lot for relabeling. Removal and replacement of labels shall be done, under the supervision of a USDA inspector within ten (10) consecutive calendar days or within such period of time as may be mutually agreed by the processor and USDA.

(2) The processor shall be held accountable to the Department for all mislabeled products until the products have been properly labeled.

(3) Clearance for the release of the relabeled product shall be obtained, by the processor, from the inspector.

(g) *Licensing and identification of certain official devices.*—The Administrator may issue licenses permitting the manufacture, identification, and sale of any official device designated as a USDA color standard, defect guide or other similar aid under such terms and conditions as may be specified by the Administrator. Licenses shall be available to all persons meeting conditions prescribed by the Administrator, shall be nonexclusive, and shall be recoverable for cause. No person shall manufacture, identify, distribute or sell any such official device except at the direction of or under license from the Administrator. Such official devices may be marked, tagged or otherwise designated with the prefix "USDA" together with other identifying words or symbols, as prescribed by the license.

(h) *Prohibited uses of approved identification.*—Except as specified in this section, no label or advertising material used upon, or in conjunction, with a processed product, as defined by these Regulations, shall bear a brand name, trademark, product name, company name, or any other descriptive material that incorporates, resembles, simulates, or alludes to, any official U.S. Department of Agriculture certificate of quality or loading, grade mark, grade statement (except honey and maple syrup which may bear such grade mark or statement), continuous inspection mark, continuous inspection statement, sampling mark or sampling statement, or combinations of one or more thereof.

8. Section 52.54 is revised to read as follows:

**§ 52.54 Debarment of service.**

(a) The following acts or practices, or the causing thereof, may be deemed sufficient cause for the debarment, by the Administrator, of any person, including any agents, officers, subsidiaries, or affiliates of such person, from any or all benefits of the Act for a specified period. The rules of practice governing withdrawal of inspection and grading services set forth in 7 CFR Part 50 shall be applicable to such debarment action.

(1) *Fraud or misrepresentation.*—Any misrepresentation or deceptive or fraudulent practice or act found to be made or committed in connection with:

(i) The making or filing of an application for any inspection service;

(ii) The submission of samples for inspection;

(iii) The use of any inspection report or any inspection certificate, or appeal inspection certificate issued under the regulations in this part;

(iv) The use of the words "Packed under continuous inspection of the U.S. Department of Agriculture," any legend signifying that the product has been officially inspected, any statement of grade or words of similar import in the labeling or advertising of any processed product;

(v) The use of a facsimile form which simulates in whole or in part any official U.S. certificate for the purpose of purporting to evidence the U.S. grade of any processed product.

(2) *Wilful violation of the regulations in this subpart.*—Wilful violation of the provisions of this part of the Act.

(3) *Interfering with an inspector, inspector's aide, or licensed sampler.*—Any interference with, obstruction of, or attempted interference with, or attempted obstruction of any inspector, inspector's aide, or licensed sampler in the performance of his duties by intimidation, threat, assault, bribery, or any other means—real or imagined.

**§ 52.56 [Revoked]**

9. Section 52.56 is revoked.

10. Sections 52.81 through 52.87 are consolidated into new §§ 52.81–52.83 and revised to read as follows:

REQUIREMENTS FOR PLANTS TO BE APPROVED AND FOR PLANTS USING CONTRACT IN-PLANT INSPECTION SERVICES[7]

**§ 52.81 Plant survey.**

Prior to a plant being approved, or the inauguration of in-plant inspection services, and at such intervals as may be deemed necessary or appropriate, the Administrator will make, or cause to be made, a survey and inspection of the plant where such inspection services are to be performed to determine whether the plant and methods of operation are suitable and adequate for the performance of such service in accordance with:

(1) The regulations in this part, including, but not limited to, the requirements contained in §§ 52.81 through 52.83; and

(2) The terms and provisions of any contract pursuant to which the service is to be performed: *Provided,* That, such survey(s) shall be repeated at least yearly.

**§ 52.82 Basis of survey and plant inspection.**

The plant survey and inspection will be based on the Regulations issued under the Federal Food, Drug, and Cosmetic Act—Human Foods; Good Manufacturing Practice (Sanitation) in Manufacture, Processing, Packing, or Holding (21 CFR, Part 128)—as may be modified or augmented by the Federal Food and Drug Administration, U.S. Department of Health, Education, and Welfare or the Administrator of the Agricultural Marketing Service.

**§ 52.83 Reporting results of the plant survey and inauguration of inspection services.**

(1) Results of the plant survey shall be reported in writing to a designated plant official.

(2) When the plant meets the requirements for the survey, inspection services may be inaugurated at a time mutually satisfactory to the plant management and USDA.

(3) When the plant fails the requirements of the survey, contract services shall be withheld until corrective action is completed to the satisfaction of the USDA.

[FR Doc.73-19178 Filed 9-11-73;8:45 am]

[7] Compliance with the above requirements does not excuse failure to comply with all applicable sanitary rules and regulations of city, county, State, Federal, or other agencies having jurisdiction over such plants and operations.

## Title 14—Aeronautics and Space

### CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 73-SW-58; Amdt. 39-1714]

### PART 39—AIRWORTHINESS DIRECTIVES

#### Bell Model 206A, 206B, 206A-1, and 206B-1 Helicopters

There have been several reports of corrosion and plating breakdown on the main rotor strap fittings, P/N 206-010-155-11 and -15 and also on the mating pins, P/N 206-010-123-3. These surface imperfections could possibly result in fatigue cracks developing. Since this condition is likely to exist or develop in other helicopters of the Model 206 series design, an airworthiness directive is being issued in the interest of safety to reduce the service life of the main rotor strap fittings and pins from 2,400 hours to 1,200 hours and to require appropriate sealing during installation of the strap assemblies to prevent corrosion of the fittings and pins.





Since a situation exists that requires an immediate adoption of this regulation, it is found notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

*BELL.* Applies to Bell Model 206A, 206B, 206A-1 and 206B-1 helicopters certificated in all categories.
Compliance required as indicated.

To prevent possible fatigue cracks in the main rotor retention strap fittings P/N 206-010-155-11 and -15, and the main rotor retention strap pin, P/N 206-010-123-3, accomplish the following:

a. Remove and replace retention strap fittings, P/N 206-010-155-11 and -15 and pins, P/N 206-010-123-3, with 1,100 or more hours total time in service on the effective date of this AD within the next 100 hours time in service.

b. Remove and replace fittings, P/N 206-010-155-11 and -15 and pins, P/N 206-010-123-3 with less than 1,100 hours total time in service on the effective date of this AD, prior to accumulating 1,200 hours total time in service.

c. Install replacement fittings and pins in accordance with the appropriate model maintenance and overhaul information manuals and provide corrosion protection as specified in Bell Helicopter Company, Technical Bulletin No. 206-(04-1)-73-1, dated March 9, 1973, or later FAA approved revision or as specified in an equivalent procedure approved by the Chief, Engineering and Manufacturing Branch, Flight Standards Division, Southwest Region, Federal Aviation Administration.

This amendment becomes effective September 15, 1973.

This amendment is made under the authority of secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, Texas, August 31, 1973.

HENRY L. NEWMAN,
*Director, Southwest Region.*

[FR Doc.73-19300 Filed 9-11-73;8:45 am]

[Airspace Docket No. 73-CE-8]

### PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

#### Alteration of Transition Area

On Pages 19413 and 19414 of the FEDERAL REGISTER dated July 20, 1973, the Federal Aviation Administration published a notice of proposed rule making which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to alter the transition area at Dubuque, Iowa.

Interested persons were given 30 days to submit written comments, suggestions or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., November 8, 1973.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c).)

Issued in Kansas City, Missouri, on August 29, 1973.

JOHN M. CYROCKI,
*Director, Central Region.*

In § 71.181 (38 FR 435), the following transition area is amended to read:

DUBUQUE, IOWA

That airspace extending upward from 700 feet above the surface within an 8½ mile radius of the Dubuque Municipal Airport (latitude 42°24'10" N., longitude 90°42'32" W; and within 3 miles on either side of the Dubuque VORTAC 321° radial, extending from the VORTAC to 8 miles northwest of the airport reference point; and within 3½ miles on either side of the Dubuque VORTAC 131° radial, extending from the VORTAC to 15½ miles southeast of the airport reference point, and that airspace extending upward from 1,200 feet above the surface, bounded by a line beginning at latitude 42°05'00" N., longitude 91°00'00" W., thence W. along latitude 42°05'00" N., to and N. along longitude 92°15'00" W., to and counterclockwise along the arc of a 29-mile radius circle centered on the Waterloo, Iowa VORTAC, to and E. along the S. edge of V-100, to and clockwise along the arc of a 29-mile radius circle centered on the Dubuque VORTAC, to and SE. along the SW. edge of V-218, to and S. along longitude 89°55'00" W. to and SW along the NW edge of V-216, to 90°08'00" W., and S. to the N. edge of V-172, to and N. along longitude 91°00'00" W., to the point of beginning, excluding the portion which overlies the State of Illinois.

[FR Doc.73-19301 Filed 9-11-73;8:45 am]

[Airspace Docket No. 73-WA-37]

### PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

#### Correction of Waypoint Location

The purpose of this amendment to Part 75 of the Federal Aviation Regulations is to correct the "State" designation of waypoint Belle Terre. In the description of J807R, waypoint Belle Terre is designated as being located in the state of Connecticut, whereas it is actually located in the state of New York. Action is taken herein to correct that discrepancy.

Since this amendment is a minor editorial change on which the public would have no particular reason to comment, notice and public procedure thereon are unnecessary.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 GMT, November 8, 1973, as hereinafter set forth.

§ 75.400 (38 FR 700) is amended as follows:

In J807R "Belle Terre, Conn." is deleted and "Belle Terre, N.Y." is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c).)

Issued in Washington, D.C., on August 20, 1973.

CHARLES H. NEWPOL,
*Acting Chief, Airspace and Air Traffic Rules Division.*

[FR Doc.73-19302 Filed 9-11-73;8:45 am]

## Title 19—Customs Duties

### CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 73-258]

### DESIGNATION OF THE BUREAU OF CUSTOMS AS UNITED STATES CUSTOMS SERVICE

Treasury Department Order No. 165-23 provides that as of August 1, 1973, the Bureau of Customs is designated as the United States Customs Service. This necessitates amending the Customs Regulations to reflect the change in designation.

Accordingly, Chapter I, title 19 of the Code of Federal Regulations, the Customs Regulations, is amended to conform to Treasury Department Order No. 165-23 by substituting "United States Customs Service" for "Bureau of Customs" wherever the latter appears.

(R.S. 251, as amended, sec. 624, 46 Stat. 759; 5 U.S.C. 301, 19 U.S.C. 66, 1624)

Because this amendment merely conforms the Customs Regulations with a Treasury Department Order and requires no public initiative, notice and public procedure thereon is found to be unnecessary, and good cause exists for dispensing with a delayed effective date under the provisions of 5 U.S.C. 553.

*Effective date.*—This amendment shall be effective on September 12, 1973.

[SEAL] VERNON D. ACREE,
*Commission of Customs.*

Approved September 4, 1973.

EDWARD L. MORGAN,
*Assistant Secretary of the Treasury.*

[FR Doc.73-19390 Filed 9-11-73;8:45 am]

### PART 1—GENERAL PROVISIONS

[T.D. 73-257]

#### Customs Stations, Region IX

As the result of an urban renewal program the riverfront area of St. Clair, Michigan, that accommodated the St. Clair ferry operations has been converted into a waterfront park protected by a common seawall. Therefore, the St. Clair Customs station in the Detroit, Michigan, district (Region IX), no longer exists.

Accordingly, the designation of St. Clair, Michigan, as a Customs station is hereby revoked. To reflect this revocation, the table in § 1.3(d) of the Customs



V 38-176 SEP 12 73 XUM

Regulations is amended by deleting "St. Clair, Mich" from the list of "Customs stations", and "Port Huron." from the "Port of entry having supervision" listing in the Detroit, Michigan, district.

(Sec. 1, 37 Stat. 434; 5 U.S.C. 301, 19 U.S.C. 1)

Because this amendment revokes the designation of a Customs station which no longer exists, good cause is found for dispensing with notice and public procedure thereon as unnecessary, and good cause is found for the amendment to become effective on the earliest date possible, under 5 U.S.C. 553.

*Effective date.*—This amendment shall be effective on September 10, 1973.

[SEAL] LEONARD LEHMAN,
*Acting Commissioner of Customs.*

Approved August 30, 1973.

JAMES B. CLAWSON,
*Acting Assistant Secretary of the Treasury.*

[FR Doc.73-19392 Filed 9-11-73;8:45 am]

## Title 24—Housing and Urban Development

## SUBTITLE A—OFFICE OF THE SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-73-237]

## PART 42—RELOCATION PAYMENTS AND ASSISTANCE AND REAL PROPERTY ACQUISITION UNDER THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

### Eligibility Conditions for Relocation Payments; Notice of State Agency's Determination Not To Acquire Real Property

The Department is amending Title 24, Part 42 of the Code of Federal Regulations to revise § 42.55(b)(3) and add § 42.137. This amendment is necessitated by the operational difficulties in implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, with respect to those cases in which occupants move from real property after a notice of intention to acquire is issued. Because of the urgency of the situation, it is found unnecessary and infeasible to publish this amendment for comment by the public, and, therefore, the amendment shall take effect upon publication.

The newly added § 42.137 provides that where a State agency issues either a written notice of intent to acquire or firm offer to acquire, and it subsequently determines not to acquire the property, it must serve upon the owner, all persons occupying the property, and all others potentially eligible for relocation payments and assistance no later than 10 days from its determination not to acquire, a notice stating such determination and the fact that those persons moving from the premises thereafter shall not be eligible for any relocation payments and assistance.

The amendment to § 42.55(b)(3) provides that persons who move after the acquiring agency has issued a written notice of intention to acquire real property or after the issuance to the owner of a firm offer to acquire are eligible for relocation payments and assistance even though the real property is not subsequently acquired. The amendment further provides, however, that once the State agency serves on the occupants the written notice of its intention not to acquire pursuant to § 42.137, any person moving from the premises thereafter will not be eligible for relocation payments and assistance.

Part 42 is amended to read as follows:

**§ 42.55 Basic eligibility conditions.**

* * * * *

(b) *Displacement by acquisition* * * *

(3) The issuance by the acquiring agency of a written notice to the owner of its intent to acquire the real property for such project; or, if no other written notice of intent to acquire the real property is issued, the issuance by the acquiring agency to the owner of a firm offer to acquire: *Provided*, That no person moving from real property after the State agency has served upon him the notice described in § 42.137 of this Part shall be deemed eligible for any of the relocation assistance or relocation payments described in this part.

* * * * *

**§ 42.137 Notice of State agency's determination not to acquire.**

Whenever a State agency which has issued a written notice of its intent to acquire or a firm offer to acquire subsequently determines not to acquire said property, the State agency shall serve a written notice on the owner, all persons occupying the property and any other person potentially eligible for relocation payments and assistance. This notice shall state that the State agency has determined not to acquire the property and that any person moving from the premises thereafter will not be eligible for relocation payments and assistance. This notice shall be served no later than 10 days from the date of the State agency's determination not to acquire.

*Effective date.*—This amendment is effective on September 12, 1973.

JAMES T. LYNN,
*Secretary of Housing and Urban Development.*

[FR Doc.73-19377 Filed 9-11-73;8:45 am]

[Docket No. R-73-238]

## PART 42—RELOCATION PAYMENTS AND ASSISTANCE AND REAL PROPERTY ACQUISITION UNDER THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

### Subpart F—Grievance Procedures Relating to Claims and Payments

PURPOSE OF REGULATIONS AND HUD REVIEW OF CLAIMS

The purpose of the following amendments is to make minor, clarifying corrections to § 42.220 and § 42.250(c).

Since these changes are minor in nature and no substantive changes in the regulations are effected, notice and public procedure thereon are unnecessary.

In consideration of the foregoing, Part 42 is amended, effective on September 12, 1973, as hereinafter set forth:

**§ 42.220 [Amended]**

1. Section 42.220 is amended by changing "this part" wherever it appears in this section to read "Subpart B and §§ 42.140 and 42.145 of Subpart C".

2. Section 42.250(c) is revised to read as follows:

**§ 42.250 HUD review.**

* * * * *

(c) *Determination on review by HUD.*—The written determination by HUD shall be delivered to the State agency and to the claimant and shall include, but need not be limited to:

(1) The Area Director's decision on reconsideration of the claim;

(2) Findings of fact and conclusions of law, including any pertinent explanation or rationale;

(3) If the claimant is determined to have been aggrieved as to eligibility for, or the amount of, a payment under the regulations in Subpart B or under § 42.140 or § 42.145 of Subpart C, a direction to the State agency to take immediate steps to make payment to the aggrieved person in accordance with Hud's determination;

(4) A statement of claimant's right to seek judicial review.

* * * * *

(42 U.S.C. 4601; § 7(d) Department of HUD Act, 42 U.S.C. 3535(d))

*Effective date.*—These amendments are effective on September 12, 1973.

JAMES T. LYNN,
*Secretary of Housing and Urban Development.*

[FR Doc.73-19378 Filed 9-11-73;8:45 am]

## Title 29—Labor

## CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

## PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

### Approval of Colorado Plan

1. *Background.*—Part 1902 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) whereby the states may submit for approval, under the requirements of this section, plans to assume responsibility for the development and enforcement of state occupational safety and health standards.

On December 21, 1972, the State of Colorado submitted a comprehensive developmental occupational safety and health plan in accordance with these procedures to the Regional Administrator. On December 29, 1972, the plan was formally submitted to the Assistant Secretary and on January 17, 1973, a notice





was published in the FEDERAL REGISTER (38 FR 1676) concerning the submission of the plan to the Assistant Secretary and the fact that the question of approval was in issue before him. Written comments concerning the plan were submitted by the Colorado Interstate Gas Company, Eastman Kodak Company and the Public Service Company of Colorado. No other written comments were received and there were no requests for an informal hearing.

The plan identifies the Colorado Department of Labor and Employment, Division of Labor, as the state agency designated to administer the plan throughout the state. It defines the covered occupational safety and health issues as defined by the Secretary of Labor in § 1902.2(c)(1) of Chapter XVII, Title 29, Code of Federal Regulations. Upon approval, the Colorado Plan will contain some standards such as ANSI Standards, the Uniform Building Code and the National Electric Code, No. 70. As of this writing, the only State standards which will be adopted by the State are those pertaining to Powered Platforms, Manlifts and Vehicle-Mounted Work Platforms as outlined in Subpart F of 29 CFR Part 1910. The plan, as submitted, included draft legislation to be considered by the Colorado Legislature during its 1973 session amending chapter 80 and related provisions of the Colorado Revised Statutes, to bring them into conformity with the requirements of section 18(c) of the Act and 29 CFR Part 1902. The proposed legislation was accompanied by a statement of the Governor's support for it and an opinion from an attorney that the proposed legislation will meet the requirements of the Occupational Safety and Health Act of 1970 and is consistent with the constitution and other laws of the state.

With certain amendments, the proposed legislation was passed by the State Legislature during the course of our review of the plan and will become effective upon the approval of the plan by the Assistant Secretary. The plan sets out goals for bringing it into full compliance with Part 1902.

2. *Issues.*—Our review of the plan raises several significant issues which are addressed by Colorado in supplementary letters of clarification submitted to the Assistant Secretary on February 16, 1973, March 9, 1973, April 9, 1973, July 12, 1973, and August 10, 1973, are incorporated as part of the plan.

a. *Private employers.*—As originally submitted, the Colorado definition of an employer was that under the existing workmen's compensation law. Since that definition depended upon election of coverage and because seasonal agriculture employees were exempt from coverage, Colorado has amended its legislation to provide a definition of employer under section 80-2-29-(7) which will apply to all employers within the State.

b. *Public employees.*—Colorado also provides for a public employee program. However, the city and county of Denver will maintain its own program for its employees, subject to monitoring and evaluation by the state. Other political subdivisions may be allowed to develop such programs by submitting plans for approval upon the request of the director of the Division of Labor, meeting conditions paralleling those for approval of a State occupational safety and health plan for private employees under section 18 of the Federal Act. Section 1902.3(b)(3) provides that "political subdivisions of the State may have responsibility and authority for the development and enforcement of standards; such authorization is conditioned, however, on the requirement that the state agency or agencies are given adequate authority by statute, regulation, or agreement to ensure that the commitment of the State under the plan will be fulfilled." The Department of Labor and Employment is charged with the overall responsibility to coordinate or regulate these programs. This authority is essential to the maintenance of an effective and comprehensive program as required by § 1902.3(j) above and section 18(c)(6) of the Act. Only experience in the operation of Colorado's political subdivision employee coverage provisions can determine whether or not they will provide such adequate authority to the State to be responsive to its commitments, regardless of the outcome of state procedures on approval, disapproval, or rejection of political subdivision plans.

c. *Emergency temporary standards.*—In the area of emergency temporary standards, Colorado proposed to treat section 3-16-2(6) of its Administrative Procedure Act as meeting the requirements for approval of its Plan. Unlike the Federal Act which provides for a six month limit on the period of effectiveness of an emergency standard, the Colorado Act provides for a three month limit. However, the state has provided assurances that the Administrative Procedure Act does not preclude the renewal of an emergency standard for another three month period, thereby providing a six month limit as under the Federal Act.

d. *Variances.*—Section 80-2-7, of the Colorado draft legislation, as originally submitted, did not meet the requirements of § 1902.4(b)(2)(iv) concerning variances. The enacted legislation contained a revision of this section and it more closely follows the Federal Act. While the provisions of section 6(b)(6)(B) relating to the contents of an application at the present time are not included in the revision, the State, by obligating itself to adopt regulations at least as effective as 29 CFR Part 1905, has assured that the provisions of section 6(b)(6)(B) of the Federal Act, including the certification required under that section, will be covered. The revised procedure for applying for a permanent variance is the same as that of section 6(d) of the Federal Act.

In addition to the above revision of the variance procedure, Colorado legislation provides that when an employer is issued a citation but believes that he is maintaining equipment or procedures which would meet the criteria for a permanent or temporary variance under section 80-2-7, he may file an application for such variance. The petition for a variance will not affect the violation or penalty, but may result in the extension of an abatement period by the director, referee, Commission, or Colorado Court of Appeals until the variance is ruled upon by the director of the Department of Labor and Employment. If the variance is granted, the abatement period will be withdrawn by the director. If the variance is interposed solely for delay or is frivolous, the director shall refuse to act on the petition for it and shall reinstate the abatement period. At each level of review and appeal there must be a specific request to extend the abatement period while the variance is ruled upon, or the decision of the Director and/or hearing officer or the Industrial Commission is reviewed. All interested parties, including employees, will have the opportunity to participate in any proceedings and/or hearings. Inasmuch as extension of abatement is permissive under these provisions, refusal to so grant can only be appealed on the issue of "abuse of discretion." Any regular appeal of abatement must be instituted within 15 days after receipt of citation, and cannot be undertaken after such period.

Although the Federal Act does not contain these specific provisions, the Secretary has followed a similar policy where a variance application is submitted after the citation is issued. Thus, where a citation is contested under the Act, the abatement is stayed pending the outcome of the proceeding before the Review Commission and this proceeding may be continued to accommodate the outcome of a valid variance request.

The State has submitted specific assurances that it will submit proposed rules and regulations to the Occupational Safety and Health Standards Board designed to provide safeguards against possible abuse of this variance procedure, to the detriment of worker safety and health. Among the proposed regulations are to be time limitations on the time in which a variance application may be submitted after a citation as well as time limits on the review of such applications.

Although the Colorado procedure is not identical to the Federal procedure, we cannot at this time find it will not be in actual operation at least as effective as the latter. However, because of the novelty of the Colorado proposal, it will be subject to close scrutiny in the periodic evaluation of the plan by the Department. The State has promised to review this procedure with this Department by November 1, 1974. If actual operations show that in application it does not provide abatement of occupational hazards as effective as that provided under the Federal program, the State has promised to amend its legislation in the 1975 Session of its General Assembly to correct such deficency.



V 38-176 SEP 12 73 XUM

e. *Employee complaints.*—Section 80–2–6(1) of the draft legislation provided that employees were required to notify their employer if they believed that a violation of a standard existed before they could file a complaint with the Department of Labor, Division of Occupational Safety and Health. The legislation further provided that if the employer failed to remedy the alleged violation, then the employee may request inspection by the Division of Occupational Safety and Health. Since this procedure would have resulted in the diminution of the plan's prohibition against advance notice and the protection it must provide for employee complaint anonymity upon employee request, the State revised this section. Accordingly, this section now provides that employees may notify their employer of a possible violation but in any event an employee may file a complaint with the division without first notifying his employer. The legislation further provides that "the names of complainants shall not be furnished by the director without the voluntary consent of the employee." Although the Colorado proposal differs from the comparable Federal provision, it has been found to be acceptable because it does not impose a mandatory requirement on employees to notify an employer before filing a complaint. A similar section has also been approved under the Oregon Plan (37 FR 28628).

f. *Employee discrimination.* — The Colorado legislation provides that employee discrimination cases will comprise unfair labor practices under its labor relations law. Under the legislation a complaint alleging discrimination may be filed with the Industrial Commission of Colorado, which will then investigate the complaints, hold hearings, and order all appropriate relief, including reinstatement of employees with or without back pay, depending on the circumstances of the case, as provided under CRS sections 80–4–6, 80–4–7, 80–4–8, and 80–4–9. We find, as in the North Dakota decision (38 FR 2423, at 2424), that administrative proceedings where employees do not have the burden of pressing their own charges, with appropriate remedies to correct discrimination against employees, are at least as effective as the Federal procedures. In any event, Colorado has obligated itself to provide by regulation that employees filing discrimination complaints shall be provided counsel under the state's unfair labor practice law and upon removal to the courts, such provision will follow for employee representation.

(g) *Sanctions.*—In the area of sanctions, the Colorado legislation mirrors the Federal penalty provisions with two exceptions. The state has provided for an additional criminal penalty of a fine of up to $1,000 and/or imprisonment of up to six months for any person who hinders or obstructs the director or his authorized representative in the exercise of his powers under the Act or any employer who in bad faith refuses reasonable access to his premises. A second difference is that any employer who fails to correct a violation for which a citation has been issued within the period permitted for its correction may be penalized up to $1,000 for each day the violation continues, subject to a maximum of $10,000. There is no maximum level under the Federal Act. The state has further provided that any employer who knowingly exposes an employee to hazardous conditions in violation of an abatement order may also be subject to the sanctions for willful or repeated violations. The latter provision may also be used in addition to civil penalties for failure to abate violations. The operation of this variation on penalty provisions will be subject to review during the plan's operation, along with the impact of the variance appeal provisions discussed above, upon elimination of work hazards.

(h) *Imminent danger.*—For imminent danger situations, the remedy to correct the violation under the proposed legislation was limited to either issuing a citation or to issuing an order to cease those portions of the operations as may be necessary to minimize or eliminate the threat. Colorado has amended its legislation to provide that a citation and a cease order may be issued rather than merely one or the other. However, the issuance of a citation is discretionary. In order to make this section at least as effective as the Federal Act the State has promised to submit an amendment to the 1975 session of its legislature to provide that the issuance of a citation will be mandatory in "imminent danger" situations. In any event, violations which pose an imminent hazard will fall within the category of serious violations for which there is a mandatory citation.

(i) *Inspections and investigations.*—Section 80–1–12 provides for investigations and section 80–2–5(1) provides for inspections, but certain requirements of the Federal Act, such as employee participation in the inspection process and prohibition against advance notice were provided for in a section 80–1–12 "investigation" but not in an 80–2–5(1) "inspection". The Colorado legislation as enacted includes language to make it clear that in these two sections, and a third dealing with access to premises, 80–1–20, the words "inspection", "investigation", "examine" and "examination" mean "inspection", are to be used synonymously and that in effect they are procedurally the same.

3. *Decision.*—After careful consideration of the Colorado Plan and comments submitted regarding the plan, the plan is hereby approved under section 18 of the Act and 29 CFR Part 1902.

This decision incorporates requirements of the Act and implementing regulations applicable to state plans generally. It also incorporates our intentions as to continued Federal enforcement of Federal standards in areas covered by the plan and the state's developmental schedule as set out below.

Pursuant to § 1902.20(b)(1)(iii), the present level of Federal enforcement will not be diminished until the State has promulgated state standards and the standards become effective. Thereafter, Federal enforcement activity will continue to be exercised only to the degree necessary to assure occupational safety and health protection to employees in the State of Colorado.

The Colorado Plan is developmental. The following are the highlights of the schedule of developmental steps provided by the plan:

(a) Vertical and horizontal standards will be promulgated and enforcement commenced, 120 days after the standards are approved by the Secretary of Labor.

(b) Colorado Occupational Safety and Health Standards will be published within 90 days after promulgation.

(c) A public employee occupational safety and health program will be implemented within 45 days after it is approved.

(d) Operational funding of the plan and the beginning of program operations are expected to take effect by October 1, 1973.

(e) Adoption of regulations for variances, within 120 days after effective date of enabling legislation.

(f) Development of Rules of Procedure for Review and Appeals within 120 days after effective date of enabling legislation.

(g) Development and implementation of Management Information System by January 1, 1974.

(h) Agricultural standards will be promulgated by July 1, 1974.

Pursuant to section 18 of the Occupational Safety and Health Act (29 U.S.C. 667), Part 1952 is hereby amended by adding a new Subpart M as follows:

**Subpart M—Colorado**

Sec.
1952.190 Description of the plan.
1952.191 Where the plan may be inspected.
1952.192 Level of Federal enforcement.
1952.193 Developmental schedule.

AUTHORITY: Sec. 18, Pub. L. 91–956, 84 Stat. 1608 (29 U.S.C. 667).

## Subpart M—Colorado

### § 1952.190 Description of the plan.

(a)(1) The plan identifies the Department of Labor and Employment, Division of Labor, as the State agency designated to administer the plan throughout the State. It adopts the definition of occupational safety and health issues expressed in § 1902.2(c)(1) of this chapter. All standards, except those found in 29 CFR Parts 1915, 1916, 1917, and 1918 (shiprepairing, shipbuilding, shipbreaking and longshoring) and § 1910.-267 of this chapter (agricultural standards) will be adopted and enforced within 120 days after the standards are found to be at least as effective by the Secretary of Labor. Agricultural standards are expected to be adopted and enforced by July 1, 1974.





(2) The plan provides a description of personnel employed under a merit system; the coverage of employees of political subdivisions; procedures for the development and promulgation of standards, including standards for protection of employees against new and unforeseen hazards; and procedures for prompt restraint or elimination of imminent danger situations.

(b)(1) The plan includes legislation enacted by the Colorado Legislature during its 1973 legislative session amending Chapter 80 and related provisions of the Colorado Revised Statutes to bring them into conformity with the requirements of Part 1902 of this chapter. Under the legislation the Department of Labor and Employment will have full authority to enforce and administer laws respecting the safety and health of employees in all workplaces of the State. The legislation further proposes to bring the State into conformity in areas such as variances and protection of employees from hazards.

(2) The legislation is also intended to insure inspections in response to complaints; give employer and employee representatives an opportunity to accompany inspectors in order to aid inspections; notification of employees or their representatives when no compliance action is taken as a result of alleged violations, including informal review; notification of employees of their protections and obligations; protection of employees against discharge or discrimination in terms and conditions of employment; adequate safeguards to protect trade secrets; provision for prompt notice to employers and employees of alleged violations of standards and abatement requirements; effective sanctions against employers for violations of standards and orders; employer right of review to the Colorado Industrial Commission and then to the courts, and employee participiation in review proceedings. The plan also proposes to develop a program to encourage voluntary compliance by employers and employees, including provision for on-site consultation. The state's proposed consultation program should not detract from its enforcement program and the State has given assurances that it will meet the conditions set forth in the issues discussed in the Washington decision (38 FR 2421, January 26, 1973).

(c) The plan includes a statement of the Governor's support for the legislation and a legal opinion from an attorney that the legislation will meet the requirements of the Occupational Safety and Health Act of 1970 and is consistent with the Constitution and laws of Colorado. The plan sets out goals and provides a timetable for bringing it into full conformity with Part 1902.

(d) The Colorado plan includes the following documents as of the date of approval:

(1) The plan description documents including draft legislation and appendices in one volume;

(2) Letter from Gregory Rogers, OSHA Coordinator of the Department of Labor and Employment, to Charlie Y. Boyd, Project Officer, Office of Federal and State Operations, January 9, 1973, submitting the proposed legislation;

(3) Letters from James M. Shaffer, Executive Director of the Department of Labor and Employment, to Thomas C. Brown, Director, Office of Federal and State Operations, February 16, 1973, March 9, 1973, April 9, 1973, July 12, 1973, and August 10, 1973, submitting information, clarifications and revisions on several issues raised during the review process, including revision of the draft legislation.

(4) A copy of the enabling legislation as enacted by the State Legislature in its 1973 session.

(e) The public comments will also be available for inspection and copying with the plan documents.

### § 1952.191 Where the plan may be inspected.

A copy of the complete plan may be inspected and copied during normal business hours at the following locations: Director, Division of Labor, Department of Labor and Employment, 200 East Ninth Avenue, Denver, Colorado 80203; Assistant Regional Director, Occupational Safety and Health Administration, Room 15010 Federal Building, 1961 Stout Street, Denver, Colorado 80202; Office of Federal and State Operations, Occupational Safety and Health Administration, Room 305, 400 First Street NW., Washington, D.C. 20210.

### § 1952.192 Level of Federal enforcement.

Pursuant to § 1902.20(b)(1)(iii) of this chapter, the present level of Federal enforcement in Colorado will not be diminished until the State has issued standards and they have become effective. Thereafter, Federal enforcement will continue to be exercised only to the degree necessary to assure occupational safety and health protection to employees in the State of Colorado.

### § 1952.193 Developmental schedule.

The Colorado state plan is developmental. The following is the developmental schedule as provided by the plan:

(a) Vertical and horizontal standards will be promulgated and enforcement commenced, 120 days after the standards are approved by the Secretary of Labor.

(b) Colorado occupational safety and health standards will be published within 90 days after promulgation.

(c) A public employee occupational safety and health program will be implemented within 45 days after it is approved.

(d) Operational funding of the plan and the beginning of program operations are expected to take effect by October 1, 1973.

(e) Adoption of regulations for variances within 120 days after effective date of enabling legislation.

(f) Development of Rules of Procedure for Review and Appeals within 120 days after effective date of enabling legislation.

(g) Development and implementation of Management Information System by January 1, 1974.

(h) Agricultural standards will be promulgated by July 1, 1974.

Signed at Washington, D.C. this 7th day of September, 1973.

JOHN STENDER,
*Assistant Secretary of Labor.*

[FR Doc.73-19429 Filed 9-11-73;8:45 am]

---

**Title 32A—National Defense—Appendix**

**CHAPTER VI—DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION, DEPARTMENT OF COMMERCE**

[BCABP Notice 1]

**BCABP NOTICE 1—RATIFICATION OF BUREAU OF DOMESTIC COMMERCE ACTIONS**

SEPTEMBER 7, 1973.

This notice is found necessary and appropriate to promote the national defense and is issued pursuant to the Defense Production Act of 1950, as amended. In the formulation of this notice, consultation with industry representatives was impracticable since the notice has no substantive affect on industry.

Sec.
1. What this notice does.
2. Existing regulations, orders, and other actions of the Bureau of Domestic Commerce.
3. Rescission of BDC Notice 1.
4. Use of Bureau of Domestic Commerce and Business and Defense Services Administration forms.

### § 1 What this notice does.

The purpose of this notice is to furnish continuity in the defense mobilization activities of the Bureau of Competitive Assessment and Business Policy, Domestic and International Business Administration, United States Department of Commerce, which will exercise certain functions formerly handled by the Bureau of Domestic Commerce, the Business and Defense Services Administration, and the National Production Authority. To accomplish a smooth transition, it provides that outstanding actions of the Bureau of Domestic Commerce, the Business and Defense Services Administration and the National Production Authority are ratified and deemed actions of the Bureau of Competitive Assessment and Business Policy, Domestic and International Business Administration. This notice supersedes BDC Notice 1 of September 30, 1970.

### § 2 Existing regulations, orders, and other actions of the Bureau of Domestic Commerce.

All regulations, orders, and delegations of authority to other Government agencies or officials thereof, shown in List A



V 38-176 SEP 12 73 XUM

of this notice, and all other actions (including but not limited to directives), which were issued or taken by or under authority of the Director of the Bureau of Domestic Commerce, the Administrator of the Business and Defense Services Administration or the Administrator of the National Production Authority and which were in existence at the close of business November 17, 1972, are hereby adopted, ratified, and confirmed by the Deputy Assistant Secretary for Competitive Assessment and Business Policy, Domestic and International Business Administration, and shall remain in full force and effect until they expire by their terms or are revoked or amended. Any references in such actions to the Director of the Bureau of Domestic Commerce or the Bureau of Domestic Commerce, to the Administrator of the Business and Defense Services Administration or the Business and Defense Services Administration or to the Administrator of the National Production Authority or the National Production Authority shall be deemed references to the Deputy Assistant Secretary for Competitive Assessment and Business Policy or to the Bureau of Competitive Assessment and Business Policy, as the case may be.

**§ 3 Rescission of BDC Notice 1.**

This BCABP Notice 1 supersedes BDC Notice 1 of September 30, 1970, which is hereby rescinded.

**§ 4 Use of Bureau of Domestic Commerce or Business and Defense Services Administration forms.**

Pending the preparation and adoption of revised forms, and until otherwise ordered or prescribed, forms of the Bureau of Domestic Commerce or the Business and Defense Services Administration shall be deemed forms of the Bureau of Competitive Assessment and Business Policy, Domestic and International Business Administration.

This notice shall take effect September 7, 1973.

(Defense Production Act of 1950, as amended, (64 Stat. 816; 50 U.S.C. App. 2061 et seq.); Executive Order 10480, as amended, 18 FR 4939, 6201, 19 FR 3807, 7249, 21 FR 1673, 23 FR 5061, 6971, 24 FR 3779, 27 FR 9683, 11447, 3 CFR 1949–1953 Comp., p. 919; Executive Order 11725, 38 FR 17175; DMO 6400.1, 32A CFR 15; Department of Commerce Organization Order 10–3, as amended, 37 FR 25555, 38 FR 4278; and Department of Commerce, Domestic and International Business Administration Organization and Function Orders 45–1, 38 FR 9326, and 45–2, 38 FR 9327.)

BUREAU OF COMPETITIVE ASSESSMENT AND BUSINESS POLICY,
GARY M. COOK,
*Acting Deputy Assistant Secretary for Competitive Assessment and Business Policy.*

LIST A OF BCABP NOTICE 1

EXISTING BDC AND BDSA ACTIONS REGULATIONS

*Basic Rules of Priorities System*

DPS Regulation 1 (as amended March 23, 1953) (formerly BDSA Regulation 2) 18 FR 1684;

Amendment 1 (May 9, 1958) (formerly BDSA Regulation 2, Amendment 5), 23 FR 3273;

Amendment 2 (April 27, 1960) (formerly BDSA Regulation 2, Amendment 6) 25 FR 3820;

Amendment 3 (July 21, 1964) (formerly BDSA Regulation 2, Amendment 7), 29 FR 10461;

Amendment 5 (December 3, 1970), 35 FR 19575;

Amendment 6 (July 1, 1971), 36 FR 12741.

Direction 2 (June 29, 1956) (formerly BDSA Regulation 2, Direction 7) 29 FR 4911;

Direction 2, Amendment 1 (May 9, 1958) (formerly BDSA Regulation 2, Direction 7, Amendment 1), 23 FR 3272;

Direction 3 (January 16, 1957) (formerly BDSA Regulation 2, Direction 8), 22 FR 474;

Direction 4 (August 15, 1967) (formerly BDSA Regulation 2, Direction 11), 32 FR 11734.

*Operations of the Priorities and Allocations Systems Between Canada and the United States*

DPS Regulation 2 (February 1, 1956) (formerly BDSA Regulation 3), 21 FR 787.

*Compliance and Enforcement Procedures*

DPS Regulation 3 (May 15, 1956) (formerly BDSA Regulation 8), 21 FR 3254.

*Basic Rules of the Defense Materials System*

DMS Regulation 1 (as amended December 1, 1959) 24 FR 9595;

Amendment 1 (March 15, 1966) (formerly DMS Regulation 1, Amendment 2) 31 FR 4594.

Amendment 3 (July 1, 1971), 36 FR 12742.

Direction 1 (December 1, 1959), 24 FR 9607.

Direction 2 (December 1, 1959), 24 FR 9607.

Direction 3 (December 1, 1959), 24 FR 9608.

Direction 3, Amendment 1 (July 1, 1971), 36 FR 12742.

ORDERS

*Metalworking Machines*

DPS Order 1 (as amended May 24, 1963) (formerly BDSA Order M–41), 28 FR 5295.

*Iron and Steel*

DMS Order 1 (as amended August 14, 1970) (formerly BDSA Order M–1A), 35 FR 12897;

Amendment 1 (July 1, 1971), 36 FR 12742.

*Nickel Alloys*

DMS Order 2 (June 29, 1956) (formerly BDSA Order M–1B), 21 FR 4914;

Amendment 1 (August 17, 1956) (formerly BDSA Order M–1B, Amendment 1), 21 FR 6227;

Amendment 2 (January 20, 1958) (formerly BDSA Order M–1B, Amendment 2), 23 FR 383;

Amendment 3 (July 1, 1971), 36 FR 12743.

*Aluminum*

DMS Order 3 (May 6, 1953) (formerly BDSA Order M–5A), 18 FR 2639;

Amendment 1 (December 31, 1956) (formerly BDSA Order M–5A, Amendment 1), 22 FR 32;

Amendment 2 (January 20, 1958) (formerly BDSA Order M–5A, Amendment 2), 23 FR 383;

Amendment 3 (July 1, 1971), 36 FR 12743.

*Copper and Copper-Base Alloys*

DMS Order 4 (as amended October 28, 1966) (formerly BDSA Order M–11A), 31 FR 13852;

Amendment 1 (July 1, 1971), 36 FR 12744;

Schedule A (Revised as of May 15, 1972) (formerly Schedule A to BDSA Order M–11A), 36 FR 10440.

DELEGATIONS

*Delegation of Authority to Secretary of Defense*

BDC Delegation 1 (as amended May 31, 1960) (formerly BDSA Delegation 1), 25 FR 5788.

*Delegation of Authority to Atomic Energy Commission*

BDC Delegation 2 (as amended May 31, 1960) (formerly BDSA Delegation 2), 25 FR 5789.

*Delegation of Authority to Administrator of General Services Administration*

BDC Delegation 3 (May 16, 1972) (formerly BDSA Delegation 3), 37 FR 10456.

*Secretary of the Interior Delegation of Authority with Respect to Certain Industrial Chemicals Used Principally in the Petroleum Industry*

BDC Delegation 4 (February 26, 1951) (formerly BDSA Delegation 9), 16 FR 1908.

*Administrator of Production and Marketing Administration Delegation of Authority to Exercise Certain Functions*

BDC Delegation 5 (April 26, 1951) (formerly BDSA Delegation 10), 16 FR 3669.

*Emergency Delegation of Priorities and Allocation Powers*

BDC Emergency Delegation 1 (Revised as of April 18, 1972) (formerly BDSA Emergency Delegation 1), 37 FR 8681.

NOTICE

*Designation of BDC Actions To Be Taken Under The Authority of the Defense Production Act of 1950, as amended*

BDC Notice 3 (November 30, 1970), 35 FR 18279.

NOTE: BDC Notice 2 of September 30, 1970 was reissued as BCABP Notice 2 on April 13, 1973, 38 FR 9589.

[FR Doc.73–19357 Filed 9–11–73;8:45 am]

## Title 33—Navigation and Navigable Waters

### CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

### PART 207—NAVIGATION REGULATIONS

**Weymouth Back River, Massachusetts**

Pursuant to the provisions of sec. 7 of the River and Harbor Act of August 8, 1917 (40 Stat. 266; 33 U.S.C. 1), § 207.11 establishing and governing the use of a restricted area in Weymouth Back River, Weymouth and Hingham, Massachusetts is hereby revoked, effective on September 12, 1973.

Since the revocation constitutes only an agency procedural matter, notice of proposed rule making and public procedures thereto are considered unnecessary. Accordingly, § 207.11 of title 33 of the Code of Federal Regulations is hereby revoked as follows:

**§ 207.11 [Revoked]**

[Regs., August 13, 1973, 1522–01 (Subj: Withdrawal of Prohibited Area in § 207.11 CFR 33; Weymouth Back River, Mass.) DAEN–CWO–N] (Sec. 7, 40 Stat. 266 (33 U.S.C. 1).)

For the Adjutant General.

R. B. BELNAP,
*Special Advisor to TAG.*

[FR Doc.73–19311 Filed 9–11–73;8:45 am]





## Title 47—Telecommunication

### CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19665—FCC 73–884]

### ON-BOARD COMMUNICATIONS IN THE INDUSTRIAL AND MARITIME MOBILE SERVICES

1. A notice of proposed rule making in the above-captioned matter was released on January 9, 1973, and was published in the FEDERAL REGISTER on January 15, 1973, (38 FR 1513). The date for filing comments and reply comments have passed.

2. Comments were filed by: American Institute of Merchant Shipping (AIMS); Central Committee on Communication Facilities of the American Petroleum Institute (API); Land Mobile Section of the Communications and Industrial Electronics Division of the Electronic Industries Association (EIA); National Association of Business and Educational Radio, Inc. (NABER); and Santa Fe International Corporation (SANTA FE).

3. AIMS agrees in substance with the proposed rule making. API agrees in substance with the philosophy of rules proposed. EIA, in general, concurs with the proposed rule making. NABER states their awareness of the pressing needs for on-board communications. Consideration of the comments has not affected the following proposed rule sections and they are, therefore, adopted as proposed.

| | |
|---|---|
| Part 2: | § 2.1. |
| Part 81: | § 81.3(b)(1). |
| Part 83: | § 83.3(b). |
| | § 83.3(n), (o) & (p). |
| | § 83.7(k). |
| | § 83.22(b). |
| | § 83.134(b)(1) and (b)(2). |
| | § 83.811(b)(1) and (b)(2). |
| | § 83.815(a)(1) and (b)(1). |
| | § 83.825(a) through (d). |

With regard to proposed § 83.823: paragraphs (a) and (c) are now contained within § 83.162; paragraph (b), in major part, is now contained within § 83.160(a)(1) and (a)(2), and the remainder is added to § 83.164 as paragraph (c); and paragraph (d) is added to § 83.164 as paragraph (d).

4. Questions were raised and/or alternative proposals were filed by each of the commentors concerning various of the proposed rules and these are treated in the paragraphs set forth hereinafter.

5. With regard to proposed § 83.7(j), NABER expressed concern regarding possible misinterpretation of the main lobe of a directional antenna. The proposed definition was taken from No. 99[1] of the International Radio Regulations. The last sentence of No. 99 was omitted from proposed § 83.7(j) because in this proceeding the scatter mode of propagation is not planned or authorized. With regard to directional antennas used by On-Board Stations, we expect these antennas will be of the collinear array type which radiate equally in the horizontal plane, the gain being obtained by compression of energy in the vertical plane. It is not expected that there will be much use of the "yagi" type antenna because of the poor coverage to the back of such arrays. As concerns the directional properties of the antenna, it seems probable that the antenna used by an On-Board Station (on-board repeater) would be selected by the applicant from a catalog of antennas to meet a particular requirement. The antenna selected will have published directional characteristics which will be readily available to all interested persons, including the Commission. As concerns special antennas, the high cost of developing an antenna to provide a substantially different coverage pattern, taken in conjunction with the limited market for such antennas, will, as a practical matter, reduce to a minimum the number of these special antennas for which published characteristics are not readily available. We expect § 83.7(j) to be of more interest to antenna manufacturers than it is to the user. Over the years there has been wide variation in the basis used by various mobile service antenna manufacturers to express antenna gain. The intent of § 83.7(j) was, therefore, to stabilize this basis for antennas used by On-Board Stations in the Maritime Services. By relating gain to a half-wave dipole, instead of to an isotropic antenna, we are providing a practical reference which is readily determinable by all antenna manufacturers. Further, the (dB) gain or loss in a particular direction is directly applicable in computing effective radiated power, which will be of benefit to the user. Lastly, in the application form we are requiring that the applicant for an On-Board Station state the gain, relative to a half-wave dipole, of the antenna employed in those cases where an on-board repeater is installed. Further, should there be a need to do so, the Commission can require that an applicant provide substantiation of the value of antenna gain set forth in the application. In view of the foregoing, the Commission is adopting § 83.7(j) without change, as set forth in the attached Appendix.

6. NABER commented that any new uses of the Business Radio Service frequencies should be coordinated so that accurate records could be maintained to guide the orderly assignment of business applicants in areas of heavy maritime use. Considering the transient nature of ships and the fact that on-board equipment can be expected to remain with the ship on which it is licensed, the Commission believes that frequency coordination would serve no real purpose. Accordingly, no requirement for frequency coordination in the maritime service has been adopted.

7. NABER pointed out that the proposed changes for Parts 81 and 83 do not specifically authorize or prohibit use of on-board station frequencies by aircraft and requested that the rules be changed to prohibit such use. In the Business Radio Service, use of the frequencies by aircraft in flight is specifically prohibited by frequency limitation 13 in § 91.554(b). So that there will be no question about use of the frequencies by aircraft in connection with on-board stations, we have amended § 83.811(a) to show that the frequencies are not available to aircraft.

8. With regard to proposed § 83.36(d), AIMS and API strongly express the view that FCC Forms 501 and 502 be used in applying for an On-Board Station in order that all transmitters of a ship station may be included under a single instrument of authorization. In examining Forms 501 and 502 it is quickly apparent that these forms do not solicit information needed by the Commission for the technical and administrative regulation of On-Board Stations. FCC Forms 501 and 502 cannot be readily modified to include this needed information. There are substantial differences between ship stations, an integral part of the maritime mobile service, and On-Board Stations. Fundamental to these differences is the practical matter that ship stations communicate with other ship stations and/or with coast stations. In the course of doing this, they operate on frequencies which are allocated to the maritime mobile service. Radionavigation aboard ship is carried out in bands allocated to, or available to, maritime radionavigation. In contrast, On-Board Stations are intended to provide internal communications within the confines of a single vessel. They will operate on frequencies which are allocated to the Land Mobile Service. Use will be on an equal and cooperative shared basis with the Business Radio Service. Under the ship station license, since the United States conforms to the requirements of the International Radio Regulations relative to ship station license requirements, the licensee of a ship station is required to provide properly licensed operator personnel. Thus, if the On-Board Station is licensed as a part of the ship station, personnel operating that station must hold operator licenses as required by the International Radio Regulations. In contrast thereto, RTCM SC62, which considered this matter in depth, recommended that personnel operating On-Board Stations not be required to hold operator licenses. RTCM's motivation was that there are numerous crew members who are not United States citizens and are not, therefore, eligible to hold an FCC operator license. The absence of such eligibility in no way detracts from the capability of these personnel to fully and adequately perform their jobs aboard ship, including the operation of components of the On-Board Station. Further, the technical nature of the On-Board Station (see the Appendix attached hereto), permits a relaxation of the operator requirements where not required by treaty. In summary, we are persuaded that the recommendations of RTCM should take precedence and that the benefits or convenience of a single instrument of authorization, if any, are substantially less than the benefits accruing from a relaxation of the operator license requirements. Accordingly, as set forth in the attached Appendix, § 83.36(b) is being adopted to

[1] Radio Regulations, International Telecommunication Union, Geneva 1968.



V 38-176 SEP 12 73 XUM

prescribe that FCC Form 503 shall be used in application for an On-Board Station.

9. EIA, in regard to proposed § 83.131 (f), expresses the view that the frequency tolerance applicable to on-board repeater stations should be 5 parts per million, instead of the proposed tolerance of 2.5 parts per million. In support, EIA comments that the tolerance for on-board repeaters should not be different from that applicable to the Business Radio Service. We accept this view and, as set forth in the attached Appendix, have amended § 83.131(f) to show a frequency tolerance for on-board repeaters of 5 parts per million.

10. Our proposal to modify both the Petroleum and Business Radio Service rules in Part 91 to duplicate, in part, the marine availability of the frequencies, was supported by AIM and API. We have reconsidered this proposal, particularly in the light of the rule amendments to permit communication between the marine on-board stations and stations in the Business Radio Service. We have adopted rule changes solely for the Business Radio Service. Duplication in the Petroleum Radio Service is not necessary because applicants for use of the frequencies in the Petroleum Radio Service would also be eligible in the Business Radio Service.

11. AIMS and API, in regard to proposed § 83.132(a)(2)(iv), point to the need for use of an emission other than F3 for certain intraship non-voice functions. In particular, AIMS and API set forth the need, by use of a non-voice emission, to anchor towed barges under adverse environmental conditions, when those conditions require that the tug and tow be separated. AIMS and API state that under these conditions the safety of life, property and environment are directly affected. AIMS and API call attention to the current provisions of the rules applicable to the Business Radio Service (§ 91.554(b)(43)) which permits the use of emissions A1, A2, F1 and F2 and recommends that proposed § 83.132(a)(2)(iv) be amended to add the use of F2 emission. We are persuaded that the addition of emission F2 for the purpose described would be in the public interest.

12. The matter of dropping anchors by transmitted radio frequency signals was discussed in some detail in RTCM SC-62. During those discussions, it was recognized that unless appropriate steps were taken in the coding, that is, in the actuating information of the transmitted signal, it would be possible for one vessel to drop anchors aboard one or more other vessels so equipped, which are within propagation range of the radio frequency signals. The same is true, of course, under similar conditions with the raising of anchors. It is readily apparent that the lowering or raising of anchors aboard other than the intended vessel would constitute a safety hazard, which could result in loss of life and/or large amounts of property damage. Such a hazard can be removed where the coding of the transmitted signal is such that only the anchor of the intended vessel is actuated.

13. It is apparent that adequate safety regulations could appear in the regulations of either the United States Coast Guard (USCG), or those of the FCC. We have, therefore, effected coordination with the Office of Chief Counsel, USCG, and it has been agreed that appropriate safety regulations will be included in the FCC Rules and Regulations.

14. It is our view that the coding of the transmitted signal must be unambiguous and distinctive to the vessel concerned. Further, the safety considerations involved preclude an approach where we merely authorize the use of emission F2 and leave to the person operating the vessel the determination of the details of the coding to be used. Unless industry-wide coordination is effected in the assignment of codes, it is probable that two or more vessels will employ the same coding signal. Since it appears unreasonable to expect intra-industry coordination of this nature and scope, we intend to prescribe, in Part 83, the coding and technical standards applicable to the system and these are set forth in a further notice of proposed rulemaking in this proceeding.

15. AIMS and API, in regard to proposed § 83.134(h)(3) and the limitation of type accepted transmitter to a power of 4.0 watts, indicate that such limitation appears to preclude the use of a technique which may prove to be very desirable on many vessels. The technique to which AIMS and API refer is that of use of a "lossy" coaxial antenna system to carry the radio frequency energy above and below deck. Such a system is expected to require the use of a higher transmitter output power. We can concur that such a system may have a high future potential, however, the establishment of appropriate technical standards for the use of such a system goes substantially beyond the scope of this proceeding. In view thereof, we are not in this proceeding making provision for the use of "lossy" coaxial antenna systems, and have adopted, for the purpose of type acceptance, the power limitation of 4.0 watts carrier power, as set forth in the attached Appendix.

16. AIMS and API, in regard to proposed § 83.813, inquire, in effect, as to the need for or purpose served by this section. As set forth in paragraph 6 above, AIMS and API recommended that the on-board station be a part of the ship station and that FCC Forms 501 and 502 be employed in applying for an on-board station. Were Forms 501 and 502 used, § 83.813 would be redundant or repetitious. However, since the on-board station will not be a part of the ship station, it is necessary that the Commission determine that the applicant is in control of the vessel on which the on-board station is to be installed and operated. This direct relationship between Commission and licensee is deemed essential due to the relaxation of the log keeping and operator licensing requirements appearing in §§ 83.821 and 83.823. Accordingly, with some editorial change to conform to existing rules, we are adopting § 83.813 essentially as proposed, as set forth in the attached Appendix.

17. AIMS, API, and SANTE FE commented with regard to § 83.815. AIMS and API commented in regard to §§ 83.815(a)(2) and 83.815(b)(2). SANTE FE directed their comments to § 83.815(b)(2). As concerns (a)(2), AIMS and API express the view that the phrase "large oil transfer operations" is too restrictive and should be changed to "petroleum or petroleum products." As concerns paragraph (b)(2), AIMS and API indicate that paragraph (b)(2) is or appears to be in conflict with paragraph (a)(2), which conflict could be removed by adding (as italicized) words at the end of paragraph (b)(2), to read:

(2) For the loading or unloading of cargo *except as provided in § 83.815(a)(2).*

SANTA FE suggests that paragraph (b)(2) should be amended by adding (as italicized) either of two phrases, to read:

(2) For the loading or unloading of cargo *by cargo and other vessels which are primarily engaged in the carriage of cargo for hire;* or

(2) For the loading or unloading of cargo *while a vessel is within the inland waters of the United States.*

18. With regard to AIMS and API suggestion for change of § 83.815(a)(2), the phrase "large oil transfer operations" was taken from regulations adopted by the USCG and published in the FEDERAL REGISTER dated December 21, 1972 (see 37 FR 28250), on the subject of pollution prevention. In those regulations the USCG included a Part 154, entitled "Large Oil Transfer Facilities," which requires, in § 154.560, that means be provided for "two-way communication between the person in charge of the transfer operation on board the vessel and the person in charge of the facility transfer operation." While the USCG requirement can be fulfilled by the use of facilities other than radio, the view was taken in RTCM SC-62 that it would be necessary in many cases to use radio. To that end, SC-62 urged that in drafting its regulations, the Commission permit the use of the on-board station to fulfill this USCG requirement. The alternative to this approach would be for the vessel and shore facilities to operate on other frequencies which could require installation of additional radio equipment. Such alternative approach, as compared to the use of the on-board station, would increase, rather than decrease action required by the Commission to provide frequencies and licenses. The view taken by RTCM SC-62 was, therefore, considered to be the more practical approach since it would reduce the overall cost of radio facilities aboard concerned vessels. These facts notwithstanding, the Commission's concurrence to use of the on-board station for communication with shore facilities derives from the USCG pollution prevention requirement that a communication capability be provided in the case of "large oil transfer facilities".





19. Returning now to AIMS and API suggestion that the word "oil" is too restrictive and should be changed to "Petroleum and petroleum products": While we are inclined to agree, we suspect, in turn, that the proposed phrase is similarly too restrictive, since it does not cover other types of matter which should not be spilled in the water in the process of loading or unloading vessels. While we are not familiar with the background which led the USCG to select the title for Part 154, we can assume that there is an adequate basis for the title chosen. Further, should it develop that the USCG finds it appropriate to expand the scope of Part 154 by a change in title, we will at that time accept requests for a change in Part 83, § 83.815(a)(2). In view of the foregoing, since pollution prevention is the responsibility of the USCG, we will await action by that agency to amend the title of Part 154 of Title 33 of the CFR. § 83.815(a)(2) is, therefore, adopted without change, as set forth in the attached Appendix.

20. As set forth in Paragraph 14 above, AIMS, API, and SANTA FE suggested changes to § 83.815(b)(2). AIMS and API suggestion seeks to remove an apparent conflict with § 83.815(a)(2). This suggested change would remove any existing ambiguity and it is, therefore, adopted as set forth in the attached Appendix. Further changes to § 83.815 are discussed in Paragraphs 23 and 24, below.

21. SANTA FE suggested two alternatives to the proposed wording of § 83.815(b)(2). The first suggested change would, stated in context, reduce the instances where on-board stations should not be used for the loading or unloading of cargo. The effect of this first suggestion, if adopted, would be to expand the use of the on-board station for the loading or unloading of cargo, or specifically for the loading or unloading of cargo by vessels which are not engaged in the carriage of cargo for hire or do so on a secondary basis. Our objection to the use of on-board stations for the loading or unloading of cargo is because of the congestion caused to the limited number of channels available, the concentration of vessels in port and harbor areas, and the increased operational need for the channels by vessels when in these areas. Whether a vessel does or does not handle cargo for hire is not a controlling factor, since the congestion is the result of the communications generated by the loading or unloading activity. It is our view that congestion could be caused as easily by vessels not engaged in the carriage of cargo for hire as by vessels which are so engaged. We are not, therefore, adopting the first alternative change to § 83.815(b)(2) as suggested by SANTA FE.

22. SANTA FE's second alternative suggestion for change to § 83.815(b)(2) would prohibit the use of the on-board station for the loading or unloading of cargo when within inland waters of the United States, but would permit that station to be used for the loading or unloading of cargo when not within the inland waters. In their comments, SANTA FE provides no clarifying explanation or background in support of this suggested change. While their comments include the statement: "Subsidiary companies of SANTA FE International Corporation which operate offshore floating drilling, construction and pipelaying vessels primarily in foreign locations, but also in U.S. waters and/or offshore the U.S. coastline * * *," this statement cannot be construed as either enlightening or of providing definition with respect to this suggested change. In the absence of any basis from which to assess the merits or to determine the degree of need, and recognizing that the area which is not within the inland waters of the United States includes the inland waters of all other countries, we are not adopting the second alternative change to § 83.815(b)(2) suggested by SANTA FE.

23. AIMS and API, with regard to § 83.817, commented that the limitation applicable to antenna height is too restrictive and, second, that distinction is not made between an antenna used by a hand-carried mobile unit and one used by an on-board repeater. With regard to the first comment, in the case where the wheel house is on one of the lower decks, it is correct that it would be impractical to mount an antenna as proposed. With regard to the second comment, the antenna height proposed was intended to be applicable to the antenna used with an on-board repeater. We are, therefore, amending § 83.817, as set forth in the attached Appendix, to include the changes suggested by AIMS and API.

24. AIMS and API, in regard to § 83.819, comment that the procedure proposed in this section would be burdensome, since defective equipment is usually not repaired aboard ship. In the typical example which they cite, after the vessel docks any defective equipment is unplugged and replaced with equipment which performs properly. The service personnel then return the defective equipment to a service shop on shore for repair at a later time. In due course, the service shop completes repair of that equipment and it becomes available for use as a replacement unit aboard other vessels. The problem, as pointed out by AIMS and API, is that the repair of the defective equipment is usually effected well after the vessel has departed. Thus, it would be necessary to locate that vessel, which by that time will be at sea or in some other port, in order to enter in the station records the details of the repair work carried out on the defective equipment. With a large number of vessels, each of which carry multiple transceiver units, the record updating would present a major problem. We concur that under these conditions a sizable problem would be generated, without providing any particular benefit. The intent was that the station records should set forth the equipment used at that station and accurately reflect any changes thereto. In the case where repair of equipment is effected on the vessel, we are of the view that it is proper than an appropriate entry be made in the station record covering the nature of repair effected. At the same time, where a piece of equipment is defective and is replaced, the entry in the station record would cover only the replacement and not service work carried out on the defective unit at some other time and place. Accordingly, we have amended § 83.819, as set forth in the attached Appendix, to bring it into accord with the above discussion.

25. AIMS and API, in regard to § 83.821(b)(2), comment that this section makes no provision for the licensing of hand-carried transceiver units on the dock, or for operator licensing during the time those units are used to handle docking communications. The scope of change required to cover these two points goes well beyond the provisions of § 83.821(b)(2). As outlined, the dock personnel would use the hand-carried unit for communication with numerous vessels which tie-up to that or nearby docks. Were the situation such that the hand-carried unit was used solely for communication with one vessel, that unit could be a part of the on-board station of that vessel. As a practical matter, however, this unit will be used for communication with all vessels using that dock or nearby docks. Under marine licensing procedures there is no way the hand-carried unit on the dock can be licensed as one unit of the on-board station aboard many vessels. Licensing in the Business Radio Service appears to be a means of providing for this mode of communication. On-board facilities could be utilized if proposed § 83.815 is changed to permit intercommunication. On this basis, no change is required to § 83.821(b)(2). As concerns the operator licensing of personnel operating the shore-side hand-carried unit(s), such personnel must meet the requirements set forth in the rules applicable to the Business Radio Service.

26. A parallel situation exists with regard to communication between the on-board station and the shore-based radio facility which is provided to meet USCG requirements (see paragraph 18, above), during large oil transfer operations. The shore-based facility could be authorized in the Business Radio Service. In order that these two facilities may intercommunicate, it will be necessary to remove the apparent conflict which exists between on the one hand, § 83.815(a)(2) and on the other hand, § 83.815(a) and (b)(2). Accordingly, in order to effect the changes discussed in this and in Paragraph 17 above, we have amended § 83.815 (a), (b)(1) and have added a new Paragraph (c), as set forth in the attached Appendix.

27. Turning now to the Business Radio Service and the shore-based facility, our rule modifications of Part 91 have been broadened in regard to the nature of the communications that would be permitted on the frequencies. The frequencies have



V 38-176 SEP 12 73 XUM

been made available for communications from shore to vessel, relative to cargo handling. As discussed above, the scope of messages that can be handled by the on-board stations will be limited by § 83.815 and the on-board station license. The 25-foot restriction between control point and the center of radiation of the antenna, as set forth in § 91.554(b)(13), is replaced by the 10-foot above the vessel's highest working deck antenna height, see § 83.817, and effective radiated power of 2 watts limitations which are contained in the marine rules. The same frequency arrangement for simplex and mobile relay operation as established in the marine rules has been made available to the Business Radio Service. Business Radio Service licensees will be able to maintain mobile transmitter/receiver units at docks and other areas where vessels handle cargo, which can be taken aboard a vessel and used for communications where equipment is not available to operate in the marine service. It will also be possible for mobile units licensed in the Business Radio Service and operated on the dock or shore location to communicate with on-board stations in the marine services.

28. AIMS and API, in regard to § 83.821(b)(3), comment that this section is inconsistent with § 83.815(a)(2) and that § 83.821(b)(3) does not provide for the case where it is necessary to make large transfer of petroleum or petroleum products from one vessel to another. In support, AIMS and API state that the use of on-board communication facilities under these conditions would substantially contribute to the prevention of spillage, in the same manner that such facilities contribute in the transfer from ship to dock. In examining USCG regulation, Title 33, Part 154, § 154.560, we find that that section concerns only the case of large oil transfer operations from a vessel to an onshore or off-shore facility, neither of which is defined to include another vessel. While we have provided in this proceeding for the use of the on-board station as a means of complying, where necessary, with the mandatory provisions of § 154.560 of the USCG regulations, we are not persuaded that it is appropriate or desirable to expand the use of the on-board facilities beyond the scope of the present USCG regulations. Should it develop at some future date that the USCG chooses to amend their regulations, we will at that time reconsider the matter of use of the on-board station for vessel to vessel communications. Accordingly, the suggestion of AIMS and API that the on-board station be used for large oil transfer operations from vessel to vessel is not adopted. We are, however, removing the inconsistency pointed out by AIMS and API between §§ 83.821(b)(3) and 83.815(a)(2), as set forth in the attached Appendix.

29. EIA, in a general vein, stresses that equipments type accepted for use under Part 91 rules should be permitted to be used on the on-board frequencies under Part 83, even though that equipment is not type accepted under Part 83 rules. EIA points out that at the time these equipments were type accepted under Part 91, there were no 450–470 MHz allocations under Part 83. EIA expresses the view that it would be an unjust and unbearable burden, both procedurally and economically, upon the equipment suppliers to now require an additional filing for type acceptance under Part 83 rules. EIA emphasizes that the additional use of these frequencies for on-board communications is a channel sharing (Part 91 with Part 83) proceeding and that equipments type accepted under Part 91 Rules should be usable also under Part 83. EIA requests that the acceptability of such arrangements be included in the instant proceeding.

30. In considering EIA's supporting comments, we note there are equipments type accepted under Part 91 which do not conform to the limitations applicable to on-board communications. A rubber-stamp procedure such as suggested by EIA would, therefore, authorize types of equipment for use at on-board stations which do not confrom to the technical limitations imposed on those stations. In itself, this is an unacceptable arrangement. By progression, when viewed in the light of the eventual consequences, i.e., if such an arrangement is acceptable between Parts 91 and 83 it should be similarly acceptable between other Parts of the rules, it would destroy the effectiveness of the Commission's type acceptance program. This does not mean that some, or more, of the equipment type accepted under Part 1 do not meet the technical requirements for on-board stations under Part 83. In fact, some or more of the Part 91 equipment do meet the requirements applicable to on-board stations.

31. The introduction of on-board stations under Part 83 opens a sales area for equipment suppliers which previously did not exist. On the positive side, this sales area does not impose on the equipment supplier any requirement to develop a new line of equipment, or to change the technical characteristics of an existing line of equipment. To apply for type acceptance under Part 83 for Part 91 equipment, which meets the technical limitations applicable to on-board stations, the equipment supplier does not necessarily have to repeat all tests, since he can use the test data filed or on file under Part 91. This would appear to be a bonus situation for the equipment supplier. For these reasons, we are not persuaded that this is either an unjust or unbearable burden on the equipment supplier. Accordingly, we will continue the procedure as applied in the past, that is, equipment will be type accepted for the Part of the Rules under which it is to be operated. EIA's request is, therefore, denied.

32. In view of the foregoing, *It is ordered*, That pursuant to the authority contained in secs. 4(i) and 303 (a), (b), (c), (d), (e), (f), and (r) of the Communications Act of 1934, as amended, Parts 2, 81, 83, and 91 of the Commission's rules are amended, effective October 12, 1973, as set forth in the attached Appendix.

(Secs. 4, 303, 48 Stat. 1066, 1082 as amended (47 U.S.C. 154, 303).)

Adopted August 29, 1973.

Released September 6, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] VINCENT J. MULLINS, *Acting Secretary.*

APPENDIX

Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

## PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

A. Part 2, Frequency Allocations and Radio Treaty Matters; General Rules and Regulations, is amended as follows:

1. In § 2.1, the definition of Maritime Mobile Service is amended to add a Note, to read as follows:

**§ 2.1 Definitions.**

* * * * *

*Maritime mobile service.*—A mobile service between coast stations and ship stations, or between ship stations, in which survival craft stations may also participate.

NOTE.—Including use of on-board stations.

* * * * *

## PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA-PUBLIC FIXED STATIONS

B. Part 81, Stations on Land in the Maritime Services and Alaska-Public Fixed Stations, is amended as follows:

1. In § 81.3, paragraph (b)(1) is amended to read as follows:

**§ 81.3 Maritime mobile service.**

* * * * *

(b) Maritime and land mobile service.

(1) Maritime Mobile Service. A mobile service between coast stations and ship stations, or between ship stations, in which survival craft stations may also participate. (Includes use of on-board stations. Aircraft stations, when transmitting on frequencies allocated to the maritime mobile service, may communicate in this service with ship stations and coast stations.)

* * * * *

## PART 83—STATIONS ON SHIPBOARD IN MARITIME SERVICES

C. Part 83, Stations on Shipboard in the Maritime Services, is amended as follows:

[1] Commissioners Johnson and Reid absent.





1. In § 83.3, paragraph (b) is amended, and new paragraphs (n), (o) and (p) are added, to read as follows:

**§ 83.3 Maritime mobile service.**

* * * * *

(b) *Maritime mobile service.*—A mobile service between coast stations and ship stations, or between ship stations, in which survival craft stations may also participate. (Includes use of on-board stations. Aircraft stations, when transmitting on frequencies allocated to the maritime mobile service, may communicate in this service with ship stations and coast stations.)

* * * * *

(n) *On-board station.*—A station in the the maritime mobile service on board ship, including a combination of two or more on-board mobiles and an on-board repeater, intended to be used primarily for intraship operational communications on board ship and in the immediate vicinity of the ship, as related to ship security and protection, while the ship is in motion or moored.

(o) *On-board mobile.*—A hand-carried mobile transmitter and receiver operated as part of an on-board station.

(p) *On-board repeater.*—A transmitter and receiver operated as part of an on-board station, intended for the reception and automatic retransmission of signals between on-board mobiles.

2. In § 83.7, the existing paragraphs are lettered (a) through (i) and new paragraphs (j) and (k) are added, to read as follows:

**§ 83.7 Technical.**

* * * * *

(j) *Antenna power gain.*—The ratio of the power required at the input of a half-wave dipole to the power supplied to the input of the given antenna to produce, in a given direction, the same field at the same distance. When not specified otherwise, the figure expressing the gain of an antenna refers to the gain in the direction of the radiation main lobe.

(k) *Effective radiated power (ERP).*—The product of the antenna input power and the antenna power gain. This product should be expressed in watts and is referred to a half-wave dipole. (If specified in a particular direction, effective radiated power is based on the antenna power gain in that direction only.)

3. In § 83.22, add a new paragraph (h), to read as follows:

**§ 83.22 Administrative Classification of Stations.**

* * * * *

(h) On-board stations.

4. In § 83.36, paragraph (b) is amended to read as follows:

**§ 83.36 Application forms for station authorizations.**

* * * * *

(b) FCC Form 503 shall be used: (1) For filing formal application for new or modified station license in the maritime radiolocation service; and (2) In applying for an on-board station license.

* * * * *

5. In § 83.131, a new paragraph (f) is added to read as follows:

**§ 83.131 Authorized frequency tolerance.**

* * * * *

(f) The frequency tolerance authorized for on-board stations is 5.0 parts in 10⁶.

6. In § 83.132, a new subdivision (iv) is added to paragraph (a)(2), to read as follows:

**§ 83.132 Authorized classes of emission.**

(a) * * *

(2) * * *

(iv) Frequency band.

| | |
|---|---|
| For the frequency band 450–470 MHz | F3 |

* * * * *

7. In § 83.134, a new paragraph (h) is added to read as follows:

**§ 83.134 Transmitter power.**

* * * * *

(h) The power employed by on-board stations when operating shall not exceed 2.0 watts effective radiated power. These transmitters will be type accepted on the basis of a carrier power of not more than 4.0 watts, with the transmitter terminated in a dummy load of matching impedance (not connected to an antenna). The licensee shall apply appropriate measures to assure that the effective radiated power does not exceed 2.0 watts.

8. In § 83.137, paragraph (h) is amended to read as follows:

**§ 83.137 Modulation requirements.**

* * * * *

(h) Each transmitter[2] operated in the bands 156–162 and 450–470 MHz shall be equipped with an audio low-pass filter installed between the modulation limiter and the modulated (radio frequency) stage which, at audio frequencies between 3 kHz and 20 kHz, shall have an attenuation greater than the attenuation at 1 kHz by at least 60 $\log_{10}(f/3)$ decibels, where "f" is the audio frequency in kHz. At audio frequencies above 20 kHz the attenuation shall be at least 50 decibels greater than the attenuation at 1 kHz.

[2] * * *

9. In § 83.164, new paragraphs (c) and (d) are added to read as follows:

**§ 83.164 Waivers of operator requirement.**

* * * * *

(c) No radio operator license is required for the operation of an on-board station: *Provided*, That the limitations set forth in § 83.160(a)(1) and (2) shall apply.

(d) No person is required to be in attendance at the repeater of an on-board station when transmitting during the normal rendition of service.

9a. The table of contents for Part 83 is amended by adding a Subpart Z as follows:

**Subpart Z—Use of On-board Communications**

Sec.
83.811 Authorized frequencies.
83.813 Supplemental eligibility requirements.
83.815 Points of communication.
83.817 Antenna height.
83.819 Station records.
83.821 Station logs.
83.823 Station operation.
83.825 Identification of station.

AUTHORITY: Secs. 4, 303, 48 Stat. 1068, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted.

10. A new Subpart Z, entitled Use of On-Board Communications, is added to read as follows:

## Subpart Z—Use of On-Board Communications

**§ 83.811 Authorized frequencies.**

(a) The assigned frequencies set forth in paragraph (b) of this section may be used aboard vessels employing radiotelephony for on-board communications when authorized by station license. The frequencies are available on a shared and cooperative basis with stations operating in the Business Radio Service. These frequencies are not available for use by aircraft.

(b) Assigned frequencies.

(1) For two frequency simplex (duplex), paired as follows:

| Channel No. | On-board repeater (MHz) | On-board mobile (MHz) |
|---|---|---|
| 1 | 457.525 | 467.750 |
| 2 | 457.550 | 467.775 |
| 3 | 457.575 | 467.800 |
| 4 | 457.600 | 467.825 |

(2) For single frequency simplex:

457.525, 457.550, 457.575, and 457.600 MHz.

**§ 83.813 Supplemental eligibility requirements.**

(a) Subject to the basic eligibility requirements set forth in § 83.23, authorization for on-board stations may be granted to the following:

(1) State or local government subdivisions; or any agency of the Federal Government which is subject to the provisions of sec. 301 of the Communications Act;

(2) The owner or operator having control of the vessel aboard which the on-board station is to be installed and operated; or

(3) A parent corporation or its subsidiary if either corporation is the owner or operator of the vessel aboard which the on-board station is to be installed and operated.

(b) Each application shall be accompanied by a statement containing facts sufficient to establish the applicant's eligibility for license under the criteria set forth in paragraph (a) of this section.



V 38-176 SEP 12 73 XUM

**§ 83.815 Points of Communication.**

(a) Subject to the conditions and limitations imposed by the terms of the particular station license or by applicable provisions of this part with respect to the use of particular radio-channels, on-board stations on board ships in the maritime mobile service are authorized to communicate with other mobile units of the same station, except as provided in paragraph (c) of this section:

(1) Aboard the same vessel for operational communications;

(2) From ship to dock for large oil transfer operations to prevent spillage; and

(3) In the immediate vicinity of the same vessel for operational communications relating to docking or life boat and emergency drills.

(b) An on-board station may not be used:

(1) For communication with any other station, except as provided in paragraph (c) of this section; or

(2) For the loading or unloading of cargo, except as provided in paragraph (a)(2) of this section.

(c) An on-board station may communicate with a station in the Business Radio Service operating on the same frequency, provided that the communications pertain to the activities set forth in paragraphs (a)(2) and (a)(3) of this section.

**§ 83.817 Antenna height.**

The center of the radiating system of the on-board repeater antenna shall be located no higher than 10 feet above the vessel's highest working deck.

**§ 83.819 Station records.**

(a) Each on-board station shall be provided with records showing:

(1) The name of ship and identification of the on-board station;

(2) The number and type of repeater and mobile units used aboard the vessel under the on-board station authorization;

(3) The date and type of equipment which is added to or removed from the on-board station;

(4) The date and time of any failure of the equipment to operate in accordance with these rules;

(5) The date of repair, servicing, or replacement of each repeater or mobile equipment used under the on-board station authorization. Where repair is effected aboard ship, the record shall also include the nature of the repair; and

(6) The name, category of operator license and license number of the person effecting repair, servicing, or replacement of equipment employed under the on-board station authorization.

(b) The record specified in paragraph (a) of this section shall be maintained by the licensee for the duration of the station authorization, and such records shall be retained for a period of one year thereafter.

(c) The station records shall be made available to authorized Commission personnel upon request.

**§ 83.821 Station logs.**

(a) Stations authorized for use aboard vessels for on-board communications are not required to maintain a log.

**§ 83.823 Station operation.**

(a) The licensee of an on-board station shall assure;

(1) That the on-board station is operated in accordance with the Commission's rules applicable to that station;

(2) That personnel operating the mobile units are limited to designated members of the crew of the vessel aboard which the on-board station is authorized;

(3) That use of the on-board station is limited to communications between crew members aboard the same vessel; and shall prohibit use of the on-board station for communications with another vessel, except as authorized in § 83.815 of this chapter;

(4) That unnecessary transmissions are not made, as a means of avoiding harmful interference to other vessels within communication range which are employing the same frequencies.

(b) Each on-board repeater shall be furnished with automatic means to deactivate the transmitter in the event the carrier remains on for a period in excess of 3 minutes.

**§ 83.825 Identification of Station.**

(a) On-board stations shall identify transmissions by announcement in the English language as set forth in paragraphs (b), (c) and (d) of this section.

(b) Identification of station shall include the name of the vessel, followed by a number or name designating the respective mobile unit(s), for example, the identification and call would be: "S.S. United States Mobile One this is Mobile Two."

(c) Identification shall be transmitted when:

(1) The vessel is in a port or harbor, in inland waters, within 20 miles of any coastline or in a busy shipping lane; or

(2) The communications are likely to be received aboard another vessel.

(d) Identification, when required, shall be transmitted at the beginning and upon completion of a series of communications *Provided, however*: That station identification shall be transmitted at intervals not exceeding 15 minutes whenever transmissions, or a series of transmissions, is sustained for a period exceeding 15 minutes.

## PART 91—INDUSTRIAL RADIO SERVICES

D. Part 91, Industrial Radio Services is amended as follows:

1. In § 91.554, paragraph (a) is amended by adding new limitation designators (49) and (50) to certain frequencies and paragraph (b) is amended to include the new frequency limitations (49) and (50) as follows:

**§ 91.554 Frequencies available.**

(a) • • •

BUSINESS RADIO SERVICE FREQUENCY TABLE

| Frequency or band | Class of station(s) | General reference | Limitations |
|---|---|---|---|
| MHz: | | | |
| • • • • • • • | | | |
| 457.525 | Mobile | Low power general use | 13, 33, 43, 49, 50 |
| 457.550 | do | do | 13, 33, 43, 49, 50 |
| 457.575 | do | do | 13, 33, 43, 49, 50 |
| 457.600 | do | do | 13, 33, 43, 49, 50 |
| • • • • • • • | | | |
| 467.750 | Mobile | Low power general use | 13, 33, 44, 49, 50 |
| 467.775 | do | do | 13, 33, 44, 49, 50 |
| 467.800 | do | do | 13, 33, 44, 49, 50 |
| 467.825 | do | do | 13, 33, 44, 49, 50 |
| • • • • • • • | | | |

(b) • • •

(49) This frequency is used on a shared and cooperative basis with on-board stations in the maritime mobile service.

(50) Frequencies subject to this assignment limitation are herein considered collectively for use for communications concerned with cargo handling from a dock, or cargo handling facility, to a vessel alongside. Any number of the frequencies may be authorized to one licensee for the purpose. Mobile relay stations may be temporarily installed at or in the vicinity of a dock or cargo handling facility and used when a vessel is alongside the dock or cargo handling facility.

| On-vessel mobile relay (MHz): | *Associated mobile (MHz)* |
|---|---|
| 457.525 | 467.750 |
| 457.550 | 467.775 |
| 457.575 | 467.800 |
| 457.600 | 467.825 |

For single frequency simplex:

457.525, 457.550, 457.575, and 457.600 MHz.

The effective radiated power (ERP) on any frequency shall not exceed 2 watts. For an on-vessel mobile relay station the separation between the transmitter control point and the radiating portion of the antenna shall not be over 10 feet above the vessel's highest working deck.

• • • • • •

[FR Doc.73-19375 Filed 9-11-73;8:45 am]

## Title 49—Transportation

### CHAPTER III—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. MC-12; Notice No. 73-25]

### PART 393—PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

#### Safe Loading of Commercial Motor Vehicles, Revision; Correction

FR Doc. 73-18439, published at pages 23520-23524 in the issue dated Friday,





August 31, 1973, is corrected by changing the reference to "20 feet per second" in paragraph (a) of § 393.104 appearing on page 23524 to read "20 feet per second per second".

As so corrected § 393.104(a) reads as follows:

**§ 393.104 Blocking and bracing.**

(a) *Protection against longitudinal movement.*—When a motor vehicle carries cargo that is not firmly braced against a front-end structure that conforms to the requirements of § 393.106, the cargo must be secured so that, when the vehicle decelerates at a rate of 20 feet per second per second, the cargo will remain on the vehicle and will not penetrate the vehicle's front-end structure.

• • • • • •

Issued on September 6, 1973.

ROBERT A. KAY,
*Director,*
*Bureau of Motor Carrier Safety.*

[FR Doc.73-19299 Filed 9-11-73;8:45 am]

## CHAPTER X—INTERSTATE COMMERCE COMMISSION

### SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1123; Amdt. 1]

### PART 1033—CAR SERVICE

#### Northwestern Oklahoma Railroad Co.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 31st day of August 1973.

Upon further consideration of Service Order No. 1123 (38 FR 5174), and good cause appearing therefor:

*It is ordered,* That:

§ 1033.1123 *Service Order No. 1123* (Frank W. Pollock, Jr., D/B/A Northwestern Oklahoma Railroad Co., authorized to operate over certain trackage abandoned by Missouri-Kansas-Texas Railroad Company) be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.*—The provisions of this order shall expire at 11:59 p.m., February 28, 1974, unless otherwise modified, changed, or suspended by order of this Commission.

*Effective date.*—This amendment shall become effective at 11:59 p.m., August 31, 1973.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

*It is further ordered,* That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-19712 Filed 9-11-73;8:45 am]

## Title 50—Wildlife and Fisheries

### CHAPTER I—BUREAU OF SPORT FISHERIES AND WILDLIFE, FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

### PART 32—HUNTING

#### Certain National Wildlife Refuges in Alaska

The following regulations are issued and are effective on September 12, 1973. These regulations apply to public hunting on portions of certain national wildlife refuges in Alaska.

*General conditions.*—Hunting shall be in accordance with applicable State regulations. Information relative to hunting may be obtained from Refuge Managers addressed to respective refuges.

**§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.**

Upland game may be hunted on the following refuge areas:

Cape Newenham National Wildlife Refuge, P.O. Box 346, Bethel, Alaska 99559.

Clarence Rhode National Wildlife Range, P.O. Box 346, Bethel, Alaska 99559.

Nunivak National Wildlife Refuge, P.O. Box 346, Bethel, Alaska 99559.

**§ 32.32 Special regulations; big game; for individual wildlife refuge areas.**

Bering Sea National Wildlife Refuge, P.O. Box 346, Bethel, Alaska 99559.

Clarence Rhode National Wildlife Range, P.O. Box 346, Bethel, Alaska 99559.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally and which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through June 30, 1974.

DAVID L. SPENCER,
*Area Refuge Supervisor, Bureau of Sport Fisheries and Wildlife, Anchorage, Alaska.*

AUGUST 30, 1973.

[FR Doc.73-19305 Filed 9-11-73;8:45 am]

### PART 32—HUNTING

#### Crab Orchard National Wildlife Refuge, Illinois

The following special regulation is issued and is effective on September 12, 1973.

**§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.**

ILLINOIS

CRAB ORCHARD NATIONAL WILDLIFE REFUGE

Public hunting of ducks and coots on the Crab Orchard National Wildlife Refuge, Illinois, is permitted from October 20 through December 3, 1973, and the hunting of geese is permitted from November 19, 1973, through January 20, 1974, but only on the area designated by signs as open to hunting. This open area comprising 12,380 acres is dellneated on a map available at refuge headquarters, Carterville, Illinois, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Season for hunting geese will be closed when a kill quota of 24,000 Canada geese is reached. Hunting will be in accordance with all applicable State and Federal regulations subject to the following special conditions:

(1) Blinds—the building of permanent blinds of any kind or other structural works on the refuge public hunting area is prohibited. All blinds must be of a portable nature or constructed with dead vegetation located at the blind site and must be removed or dismantled at the end of the day's hunt. Blinds may not be constructed beyond the shoreline on refuge waters.

(2) All waterfowl hunting at the Grassy Point and Carterville Beach areas shall be from blind sites established by the Project Manager.

(3) No goose pits may be built on the refuge public hunting area.

(4) It is unlawful for any person to establish or use any blind for the taking of migratory waterfowl within 100 yards of any other blind on the refuge public hunting area.

(5) All persons hunting geese on the refuge public hunting area must register before entering and upon leaving the area and must register any geese taken on the area at the locations designated by the Project Manager.

(6) Hunting shall not be permitted at the Carterville Beach area as posted by the Project Manager.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuges generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 20, 1974.

CHARLES A. HUGHLETT,
*Acting Regional Director.*

AUGUST 31, 1973.

[FR Doc.73-19306 Filed 9-11-73;8:45 am]



V 38-176 SEP 12 73 XUM

Title 15—Commerce and Foreign Trade

CHAPTER III—DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION, DEPARTMENT OF COMMERCE

SUBCHAPTER B—EXPORT REGULATIONS

[13th Gen. Rev., Export Regs., Amdt.]

## PART 377—SHORT SUPPLY CONTROLS

### Licensing System for Certain September Exports of Agricultural Commodities

Section 377.3 of the Export Control Regulations sets forth licensing systems for exports of various agricultural commodities. For soybeans, cottonseed, and their meals and oils, the regulations require evidence of contracts accepted on or before June 13 (July 20 in the case of oils) for shipment prior to September 1 for soybeans, August 1 for cottonseed, and October 1 for their meals and oils. A separate licensing system applies to contracts accepted on or before June 13 for shipment of soybeans in September. Thirty two other categories of oils, protein feeds, and animal fats are subject to quotas equal to each exporter's shipments of these commodities during July-September 1972 (90 percent of that amount for inedible tallow) for shipment prior to October 1. All of these licensing systems remain in effect for contracts entered into prior to September 8, 1973.

The purpose of this document is to establish a new policy for shipments during September of all agricultural commodities subject to validated licensing, for which export contracts are entered into on, or after, September 8, 1973. Applications for export against such contracts will be licensed for 100 percent of the quantity specified in the contract, provided the application is supported by a photocopy or certified copy of the contract of sale for export to a foreign buyer entered into by the parties on or after September 8, 1973 and calling for export shipment during the month of September. Licenses issued against such applications shall expire October 15, 1973.

Exporters who choose to deliver their license applications directly to the Office of Export Control may have these hand-carried to Room 1613, Main Department of Commerce Building, 14th and E Streets NW., Washington, D.C. After normal business hours, a receiving desk is maintained in the main lobby of the building on Monday until 12 p.m., on Tuesday thru Friday until 10 p.m., and on Saturdays from 8:30 a.m. until 5 p.m.

It is anticipated that all restrictions on exports of these agricultural commodities will be terminated as of October 1, 1973.

The new policy in no way modifies or affects the reporting requirements set forth in Part 376, which remain in full force and effect.

Accordingly, § 377.3 of the Export Control Regulations is amended by redesignating paragraphs (f) and (g) as (g) and (h) respectively, and inserting a new paragraph (f) to read as follows:

**§ 377.3 Agricultural commodities.**

* * * * * * *

(f) *Licensing System for Agricultural Commodities to be Exported in September Against Contracts Entered into on or after September 8, 1973.*—(1) *Submission of application with supporting documentation.*—All exporters who wish to be considered for the issuance of a validated license for export during September against a contract entered into on or after, September 8, 1973, of any of the agricultural commodities listed in Supplement No. 1 to this Part 377, must file with the Office of Export Control, U.S. Department of Commerce, Washington, D.C. 20230, an application on forms FC–419 and FC–420, accompanied by a photocopy or certified copy of the contract of sale for export to a foreign buyer, dated on or after September 8, 1973, and which specifies shipment in September. The copy of the contract will serve in lieu of the form FC–842, Single Transaction Statement by Consignee and Purchaser, that would otherwise be required pursuant to § 375.2 of the Export Control Regulations.

(2) *Issuance of license.*—The Office of Export Control will verify the authenticity of each application and supporting documentation and will issue a validated export license for the quantity of each verified contract submitted under the terms of subparagraph (1) of this paragraph.

* * * * * * *

*Effective date of action.*—September 7, 1973.

RAUER H. MEYER,
*Director,*
*Office of Export Control.*

[FR Doc.73–19471 Filed 9–11–73;8:45 am]

## DEPARTMENT OF THE TREASURY

### Customs Service

**[ 19 CFR Part 1 ]**

### CUSTOMS FIELD ORGANIZATION

### Proposed Changes in Customs Region IX

AUGUST 31, 1973.

In order to effect a better ratio of Customs ports of entry to Customs districts and to align the Customs ports of entry with congressional representation and state interests, it is proposed to transfer the jurisdiction of the Customs ports of entry of Baudette, Noyes, Pinecreek, Roseau, and Warroad, Minnesota, from the Pembina, North Dakota, Customs district (Region IX), to the Duluth, Minnesota, Customs district (Region IX).

Accordingly, by virtue of the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR Ch. II), and pursuant to authority provided by Treasury Department Order No. 190, Rev. 9 (38 FR 17517), it is hereby proposed to transfer the jurisdiction of the Customs ports of entry of Baudette, Noyes, Pinecreek, Roseau, and Warroad, Minnesota, from the Pembina, North Dakota Customs district (Region IX), to the Duluth, Minnesota, Customs district (Region IX).

Prior to the adoption of the foregoing proposal, consideration will be given to any relevant data, views, or arguments which are submitted to the Commissioner of Customs, Attention: Regulations Division, Washington, D.C. 20229, and received not later than October 12, 1973.

Written material or suggestions submitted will be available for public inspection in accordance with section 103.3(b) of the Customs Regulations (19 CFR 103.3(b)), at the Regulations Division, Headquarters, United States Customs Service, Washington, D.C., during regular business hours.

[SEAL] JAMES B. CLAWSON,
*Acting Assistant Secretary of the Treasury.*

[FR Doc.73–19391 Filed 9–11–73;8:45 am]

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[ 36 CFR Part 7 ]**

### CAPE HATTERAS NATIONAL SEASHORE, NORTH CAROLINA

### Proposed Fishing Regulations

Notice is hereby given that pursuant to the authority contained in Section 3 of the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 3), the Act of August 17, 1937 (1, 50 Stat. 669; 16 U.S.C. 459), 245 DM–1 (27 FR 6395), National Park Service Order No. 77 (38 FR 7478), as amended, and Regional Director, Southeast Region, Order No. 5 (37 FR 7721); it is proposed to add paragraph (c) to § 7.58 of Title 36 of the Code of Federal Regulations as set forth below.

The purpose of this addition is: (1) To provide for the issuance of commercial fishing permits, authorizing commercial fishing from seashore beaches, to legal residents of the villages specified in Section 1 of the Act of August 17, 1937 (50 Stat. 669) establishing Cape Hatteras National Seashore; (2) to define the criteria for determining eligibility for a commercial fishing permit; (3) to provide for the sanitation of seashore beaches and disposal of unwanted fish and fish parts.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed addition to the Superintendent, Cape Hatteras National Seashore, P.O. Box 457, Manteo, North Carolina 27954, within 30 days of the publication of this notice in the FEDERAL REGISTER.

Paragraph (c) is added to § 7.58 of Title 36 of the Code of Federal Regulations as follows:

**§ 7.58 Cape Hatteras National Seashore Recreational Area; hunting.**

* * * * * * *

(c) *Fishing.*—(1) *Definitions.*—As used in this part:

(i) *Superintendent.*—The Superintendent of Cape Hatteras National Seashore.

(ii) *Seashore.*—Cape Hatteras National Seashore.

(iii) *Permittee.*—A person authorized to engage in commercial fishing from seashore beaches.

(iv) *Legal resident of an established village.*—An individual (excluding a corporation, partnership, or other artificial person) having domicile in one of the following Outer Banks villages referred to in Section 1 of the Act of August 17, 1937 (50 Stat. 669):

| | |
|---|---|
| Corolla. | Rodanthe. |
| Duck. | Waves. |
| Kitty Hawk. | Salvo. |
| Kill Devil Hills. | Avon. |
| Collington. | Buxton. |
| Nags Head. | Frisco. |
| Manteo. | Hatteras. |
| Wanchese. | Ocracoke. |

(v) *Commercial fishing.*—All operations preparatory to, during, and subsequent to the taking of fish by any means if a primary purpose of the taking is to sell fish.

(vi) *Commercial fishing permit.*—Written revocable authorization, issued by the Superintendent to an eligible individual, to engage in commercial fishing from the Seashore beaches. The permit will be issued on an annual basis commencing on October 1st of each year.

(2) *Commercial fishing permit required.*—A commercial fishing permit is required before engaging in commercial fishing from the seashore beaches. All other commercial fishing is prohibited.

(3) *Permits.*—Commercial fishing permits may be issued by the Superintendent or his authorized representative limited to individuals meeting the following criteria of eligibility:

(i) A legal resident of an established village.

(ii) Possession of a valid North Carolina commercial fishing license or engagement in a joint commercial fishing venture with a North Carolina commercial fishing licensee.

The permit shall be carried at all times while engaged in commercial fishing and shall be displayed upon request by the Superintendent or his representative. When two or more individuals engage in a joint commercial fishing venture involving a splitting of profits or any other assumption of proprietary interests, each individual must qualify for and have a commercial fishing permit. An employee hired by a permittee for a specific wage with no financial interest in the activity need not have a permit.

(4) *Revocation of permit.*—The Superintendent may revoke the commercial fishing permit of any permittee who ceases to meet the criteria of eligibility set forth in paragraph (c)(3) of this section or who violates any General, Special, or other related regulation governing activities at the Seashore.

(5) *Beach sanitation and conservation of aquatic life.*—Notwithstanding any General Regulation of the National Park Service to the contrary, all fishermen, commercial and sport, landing fish on the Seashore by any method and not using such fish because of size, edible quality, or other reason, shall immediately release and return such fish alive in the waters from which taken. No dead fish or part thereof may be left on any shore, beach, dock, pier, fish cleaning table or thrown back into the waters, but must be disposed of only at points or





This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.



V 38-176 SEP 12 73 XUM

places designated for the disposal thereof or removed from the seashore area.

ROBERT D. BARBEE,
*Superintendent,*
*Cape Hatteras National Seashore.*

[FR Doc.73-19329 Filed 9-11-73;8:45 am]

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### [ 7 CFR Part 26 ]

### GRAIN SORGHUM

### Proposed Revision of U.S. Standards

*Correction*

In FR Doc. 73-18559, appearing on page 23955 of the issue for Wednesday, September 5, 1973, make the following changes:

1. In item number 11 in the preamble, the word "Docket" should read "Dockage".
2. In § 26.551(a), the word "or" in the fourth line should read "of".
3. In the second paragraph after § 26.554(c), the word "portioin" in the sixth line should read "portion".
4. In the 8th and 9th lines of the third paragraph from the end of the document, the date "October 22, 1973" should read "October 23, 1973".

### [ 7 CFR Part 1050 ]

[Docket No. AO 355-A13]

### MILK IN THE CENTRAL ILLINOIS MARKETING AREA

### Decision on Proposed Amendments to Marketing Agreement and to Order

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Central Illinois marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice (7 CFR Part 900), at Bridgeton, Missouri, on May 23, 1973, pursuant to notice thereof issued on May 11, 1973 (38 FR 12926).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on July 23, 1973 (38 FR 20093), filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein subject to the following modifications:

Issue No. 2 is revised in its entirety.

The material issues on the record of the hearing relate to:

1. Pooling standards for distributing plants.
2. Designation of a cooperative as a handler on bulk tank milk.
3. Order format.
4. Emergency action.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Pooling standards for distributing plants.* The provisions of the order with respect to pool distributing plant performance standards should be modified. For purposes of determining whether a distributing plant has met the pooling percentages specified in the order, both as to the proportion of its receipts distributed on routes in the marketing area and the proportion distributed on all routes, receipts at the distributing plant should (a) exclude the amount of fluid milk products transferred without specific Class II designation to other pool distributing plants, and (b) include all Grade A milk received by transfer from other pool plants.

The order currently provides that a pool distibuting plant's total route disposition, both inside and outside the marketing area, must be at least 50 percent of its Grade A receipts from dairy farmers and cooperative associations in their capacity as bulk tank handlers during the months of August through February, and 40 percent during all other months. In addition, a pool distributing plant's route disposition in the marketing area must be not less than (a) 10 percent of such receipts, or (b) an average of 7,000 pounds per day.

A cooperative association supplying the market proposed that transfers and diversions of bulk and packaged fluid milk products from a distributing plant to other pool plants be excluded from the former plant's receipts for purposes of determining its performance percentages. Proponent contended that the proposed change in the order is needed if the possibility of loss of producer status for a substantial number of dairy farmers supplying the Central Illinois market is to be avoided. No opposition to the proposal was expressed at the hearing or in briefs.

Proponent operates a pool distributing plant that it acquired as a result of a merger with another cooperative association on November 1, 1972. Most of the fluid milk processed and packaged at this plant is distributed on routes in the marketing area. However, some of it is moved to other pool distributing plants for which proponent is a custom bottler. In addition, the association's plant is the principal supplier of bulk fluid milk for yet another pool distributing plant.

The latter plant is physically unable to receive milk directly from producers. Therefore, milk supplied to this plant is received initially at proponent's plant where it is cooled and stored until needed. It is then shipped to the second plant and pumped directly from tank trucks into the plant's own processing and packaging facilities.

The producer milk that must be received at proponent's plant in order to perform these supply plant and custom bottling plant functions ultimately is used for Class I route disposition by other pool distributing plants. The producers receipts associated with this route disposition are credited to proponent's plant while the route disposition itself is credited to the other pool plants. Proponent contends that the consequent decrease in its plant's performance percentages jeopardizes its pool status. The association projects that during the summer, when route sales to schools are down and producer receipts are near their seasonal peak, its plant will not be able to meet the total route disposition requirement now specified in the order.

Proponent cited a recent change in its plant's supply situation as an additional factor that is contributing to its pooling difficulties. In October 1972, a large pool distributing plant ceased all processing operations leaving a substantial number of producers with no immediately available fluid outlet for their milk. Subsequently, proponent began receiving the milk of a number of these producers at its plant. Proponent has continued to receive these additional supplies since that time.

The revised method of computing pooling percentages adopted herein, by excluding transfers of fluid milk not specifically designated as Class II from the shipping plant's receipts and including them in the receiving plant's receipts, will, in effect, allocate the former plant's receipts to the plant that actually made use of such receipts for route disposition. This will enable the shipping plant to continue performing services that are vital to the fulfillment of the market's fluid needs without risking its pool plant status.

In addition the modification will provide a more logical basis for computing performance percentages for a distributing plant that receives a substantial amount of milk from pool plants. Under the present order provisions, milk transferred from pool plants to a distributing plant is not counted as part of the receiving plant's receipts for purposes of determining its pool status. However, to prevent such a distributing plant from attaining pool status when most of its receipts are utilized for Class II products it is necessary that all transfers from other pool plants, and not just those transfers without a specified Class II designation be included in a transferee distributing plant's receipts for qualifying purposes.

For similar reasons, transfers from a distributing plant to pool supply plants and nonpool plants, and transfers from a distributing plant to pool distributing plants when such transfers carry a specific Class II designation, should not be excluded from the shipping plant's receipts for purposes of determining its pool status. Under normal circumstances, milk will not be so transferred unless it is to be used for manufacturing purposes at the receiving plant. If such transfers were excluded from the shipping distributing plant's receipts for qualifying purposes, the plant could conceivably maintain its pooling percentages at or above the minimum levels specified in the order even though a major portion of its





receipts were ultimately used to produce manufactured products.

2. *Designation of a cooperative association as a handler on bulk tank milk.* The order should provide that a cooperative association shall be the handler for milk of producers it receives for the account of the association from the farm in a tank truck operated by, or under the control of such association for delivery to a pool plant. In addition, a cooperative association should be the handler for all milk of producers it diverts from a pool plant to a nonpool plant.

Under the current order provisions, a cooperative may be a bulk tank handler, or a diverting handler with respect to milk of member producers. Also, it may elect whether to be the handler as to member milk it receives from the farm for delivery to a pool plant in a tank truck owned and operated by, or under contract to, such association.
tract to, such association.

Milk produced for this market is handled through farm bulk tanks and moved to the market in tank trucks. Milk of any producer when commingled in a tank truck with that of other producers is indistinguishable from such other milk. The amount of a producer's milk placed in a tank truck, and the butterfat content thereof, can be determined only by measurement at the farm and from milk samples taken at the farm. After the milk has been pumped from the farm tank into the tank truck and commingled with the milk of other producers, there is no further opportunity to measure, sample, or reject the milk of the individual producer.

When milk is picked up at the farm by a truck owned or operated by a cooperative association, or by a person under contract to, or otherwise under the control of, such association for delivery to a pool plant, it is the association that determines the weight and butterfat content of each producer's milk. Frequently, the plant operator will not know the identity of the individual producers whose milk he receives, and will know only the aggregate amount of milk received. In such cases, the association obviously must become the responsible handler for the milk as it leaves the farm.

Most often, in this market, the handler responsibility imposed on the cooperative will be limited, however. It is commonplace for cooperatives to make an agreement with pool plant operators for the latter to receive milk marketed by the cooperative on the basis of farm weights and tests. When milk is received at the pool plant on such basis, it is accounted for as a receipt at such plant from producers. The cooperative association would be required, however, to report to the market administrator the total volume of milk delivered to the pool plant(s), and to file a payroll report showing the weight and butterfat content of the milk of the individual producers involved.

The provision set forth in the recommended decision made specific reference to the possibility of such agreements between a cooperative association and a pool plant operator. While this language is revised, the revision in no way precludes such agreements for accounting for milk. A cooperative association's basic responsibilities under the order as a bulk tank handler thus will not be affected by the modifications made and, in those instances where the pool plant operator purchases on the farm weights and tests, will continue to be limited primarily to filing a report of the farm weights and tests of such milk and of the quantities delivered to each pool plant.

Another situation arises when the pool plant operator receives milk from a cooperative on the basis of its scale weight at the plant rather than on farm weights and tests. In this event, the cooperative's monetary obligations to the pool, with respect to the milk for which it is the bulk tank handler, will continue to be, as at present, with respect to any difference in the amounts of milk and butterfat as measured at the farm and those recorded at the receiving plant. This amount usually will be shrinkage in accordance with its value under the shrinkage provisions.

Several cooperative associations expressed concern at the hearing that the modifications adopted might require a cooperative to be the handler for the milk of nonmember producers. Nothing in the amendments adopted would require a cooperative association to pick up the milk of nonmember producers in tank trucks under the association's operation or control. It does provide that if a cooperative should pick up milk of nonmember producers on routes under its control, it must assume varying degrees of responsibility with respect to such milk, depending on the circumstances.

The provision adopted, which accommodates substantial flexibility in the arrangements under which cooperatives sell to pool plant operators, makes it possible for a cooperative association to pick up, on its trucks or trucks under its control, the milk of nonmember producers for delivery to pool plants and the pool plant operator to make payment directly to such nonmember producers for their milk. Thus, the degree of responsibility the cooperative will have for such milk will depend on the terms of the arrangements for its delivery to pool plants. At the same time, it will enable the cooperative to act as the marketing agent for a nonmember producer who, although he has not become a member of such association, has contracted with the cooperative association to act as the marketing agent for his milk. In this connection the cooperative association may collect payment from pool plant operators for a nonmember producer provided such nonmember has given the association authorization to make such collection.

The Capper-Volstead Act provides the criteria by which cooperative associations are determined to be qualified cooperatives under the Agricultural Marketing Agreement Act. This amendment to the order is consistent with that provision of the Capper-Volstead Act wherein it is recognized that cooperatives may "deal in the products of nonmembers" and limits such dealings to amounts not greatef in value than such as are "handled by it for members."

In the event the milk of a nonmember producer is diverted as producer milk from a pool plant to a nonpool plant by a cooperative association, the cooperative should be the diverting handler with respect to such milk. Here the cooperative performs the complete handling function and in such capacity obviously must be held to be responsible for order obligations applicable to such milk. Thus, all milk commingled in the truck should be handled on equal terms insofar as its producer status under the order is concerned.

The provisions of the present order relating to diversion to nonpool plants are revised further to make clear that milk may not be diverted to the plant of a producer-handler if the producer-handler plant is to maintain its status as a nonpool plant rather than become a pool plant. The receipt of milk from producers (other than own farm production) places a producer-handler in the same position as other handlers receiving producer milk.

Another question raised was whether, in paying a nonmember producer, a cooperative may reblend proceeds due such nonmember producer with those paid to its member producers. If the nonmember producer has signed a contract with the cooperative association whereby he authorizes the cooperative association to market his milk, collect payment therefor, and reimburse him on the same basis as though he were a member of the cooperative association, the cooperative association could pay such nonmember on the same basis as it pays its member producers. However, such a contract between the cooperative association and the nonmember must specifically provide for a payment reflecting: (1) The same blending of proceeds as is otherwise done for members, (2) the same treatment of withholding for capital (revolving fund) purposes, (3) the same right of liquidation of certificates issued for a revolving fund or other capital withholding, and (4) the same privilege of sharing in ultimate distribution of proceeds if and when special distribution is made, such as dividends or return of unused deductions.

In the absence of a written contract containing the terms set forth above, the cooperative association would be required to pay a nonmember producer, for whose milk it is the handler, at not less than the uniform price announced by the market administrator for the month.

An exception filed raised certain questions of interpretation concerning the provisions set forth in the recommended decision. Application of order provisions requires knowledge of specific factual situations. Consequently, it would not be appropriate to attempt here to deal with



V 38-176 SEP 12 73 XUM

potential market situations. The foregoing findings relate, however, to the major points raised in the exception and describe the thrust of the provisions.

In their briefs, certain cooperative associations requested that consideration of this entire issue be deferred. In view of the above findings, and the lack of any specific exceptions, it is concluded that this request should be denied.

3. *Order format.* Consideration was given at the hearing to revising the format of the Central Illinois order. It is concluded, however, that such a revision would not be appropriate at this time. Amendatory proceedings for 39 markets, including the Central Illinois market, on the proposed use of a uniform plan for classifying milk for pricing purposes under Federal milk orders are currently in progress. Consideration is being given in those proceedings to a uniform format for all 39 orders.

4. *Emergency action.* Proponent cooperative requested that emergency action be taken with respect to its proposal to revise the pool plant provisions. It claimed that emergency action is necessary if its plant is to retain its pool status through the summer months.

A suspension order, requested by proponent at the hearing pending the completion of this amendatory procedure was issued on June 26, 1973, by the Assistant Secretary. The order suspends the total route disposition requirement for the months of June through August 1973 and will enable proponent's plant to maintain its pool status during such period. In view of this action, it is concluded that a recommended decision should be issued and opportunity for filing exceptions thereto should be given. The request for emergency action is therefore denied.

RULINGS ON PROPOSED FINDING AND CONCLUSIONS

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

GENERAL FINDINGS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

RULINGS ON EXCEPTIONS

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

MARKETING AGREEMENT AND ORDER

Annexed hereto and made a part hereof are two documents, a Marketing Agreement regulating the handling of milk, and an Order amending the order regulating the handling of milk in the Central Illinois marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

*It is hereby ordered*, That this entire decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

DETERMINATION OF PRODUCER APPROVAL AND REPRESENTATIVE PERIOD

July 1973 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Central Illinois marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on September 7, 1973.

CLAYTON YEUTTER,
*Assistant Secretary.*

ORDER[1] AMENDING THE ORDER, REGULATING THE HANDLING OF MILK IN THE CENTRAL ILLINOIS MARKETING AREA

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Central Illinois marketing area.

The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

*Order relative to handling.* It is therefore ordered that on and after the effective date hereof the handling of milk in the Central Illinois marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.





the order contained in the recommended decision issued by the Deputy Administrator, Regulatory Programs, on July 23, 1973, and published in the FEDERAL REGISTER on July 27, 1973 (38 FR 20093), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein subject to the following modifications:

1. Paragraphs (c) and (d) of § 1050.9 are revised.

2. Paragraph (d) of § 1050.14 is revised.

1. Section 1050.7 is revised to read as follows:

**§ 1050.7 Producer.**

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority, and whose milk is (a) received at a pool plant, (b) diverted as producer milk pursuant to § 1050.14, or (c) accounted for by a cooperative association pursuant to § 1050.14(b).

2. In § 1050.9, paragraphs (c) and (d) are revised to read as follows:

**§ 1050.9 Handler.**

* * * * *

(c) Any cooperative association with respect to milk of producers it diverts from a pool plant to a nonpool plant pursuant to § 1050.14;

(d) Any cooperative association with respect to milk it receives for its account from the farm of a producer in a tank truck owned and operated by, or under the control of, such association, for delivery to a pool plant(s);

* * * * *

3. In § 1050.12, paragraph (a) (1) and (2) is revised to read as follows:

**§ 1050.12 Pool plant.**

* * * * *

(a) * * *

(1) Disposition of fluid milk products, except filled milk, in the marketing area on routes is 10 percent or more of its Grade A receipts from dairy farmers, handlers described in § 1050.9(d), and other pool plants, such receipts to be exclusive of fluid milk products (except filled milk) transferred without specific Class II designation to other pool plants described in this paragraph, or from which an average of not less than 7,000 pounds per day of fluid milk products, except filled milk, is distributed on routes in the marketing area; and

(2) Total disposition of fluid milk products, except filled milk, on routes is 50 percent or more of its Grade A receipts from dairy farmers, handlers described in § 1050.9(d), and other pool plants, such receipts to be exclusive of fluid milk products (except filled milk) transferred without specific Class II designation to other pool plants described in this paragraph, during the months of August through February and 40 percent during all other months;

* * * * *

4. Section 1050.14 is revised to read as follows:

**§ 1050.14 Producer milk.**

Except for milk received at a pool plant by diversion from a plant at which such milk is fully subject to the pricing and pooling provisions of this or any other order issued pursuant to the Act, "producer milk" means all skim milk and butterfat contained in milk from producers that is:

(a) Received at a pool plant from producers or from a handler described in § 1050.9(d);

(b) Represented by the difference between the quantity of milk received by a handler described in § 1050.9(d) at producers' farms and the quantity of such milk delivered to pool plants. For the purposes of §§ 1050.53 and 1050.81, such milk shall be deemed to have been received by such handler at the pool plant to which all other producer milk in the same tank truck was delivered;

(c) Diverted by a handler from a pool plant for the account of the plant operator to another pool plant(s) for not more days of production of such producer's milk than is physically received at a pool plant(s) from which diverted. For pricing purposes such diverted milk shall be deemed to be received by the diverting handler at the location of the plant to which diverted;

(d) Diverted from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant, or to a nonpool plant that is an other order plant if diverted as Class II milk, subject to the conditions of this paragraph. For pricing purposes, milk so diverted shall be deemed to be received at the plant from which diverted, unless the plant to which the milk is diverted is located more than 110 miles from the city hall in Peoria, Ill. (by shortest highway distance as determined by the market administrator) in which case the milk shall be deemed to be received by the diverting handler at the location of the plant to which diverted:

(1) During May, June and July the operator of a pool plant or a cooperative association may divert the milk production of a producer on any number of days;

(2) Subject to the conditions set forth in paragraph (d)(4) of this section, during the months of August through April the operator of a pool plant may divert the milk of a producer for not more days of production of such producer's milk than it is physically received at the pool plant from which diverted: *Provided*, That the total quantity of producer milk diverted does not exceed 35 percent of the physical receipts of producer milk at the handler's pool plant during the month, exclusive of milk of producers who are members of a cooperative association that is diverting milk and the milk of other producers that is diverted pursuant to paragraph (d)(3) of this section;

(3) Subject to the conditions set forth in paragraph (d)(4) of this section, during the months of August through April a cooperative association may divert the milk of producers for not more days of production of each producer's milk than is physically received at a pool plant: *Provided*, That the total quantity of producer milk does not exceed 35 percent of (i) its member milk physically received at pool plants during such month and (ii) other producer milk for which the cooperative association is the handler pursuant to § 1050.9(d) during such month;

(4) In the case where a cooperative association has notified the market administrator and the handler in writing prior to the first day of the month that milk of specified member producers will not be diverted by the cooperative and is not to be included in computing the cooperative association's diversion percentage for the month, milk of such producers shall be deducted from the cooperative's total receipts of member milk for the purposes specified in paragraph (d)(3) of this section and added to the total milk receipts included in computing the diversions of the pool plant handler who receives their milk for the purposes specified in paragraph (d)(2) of this section;

(5) When milk is diverted in excess of the limits specified in paragraph (d)(2) and (3) of this section, eligibility as producer milk under this section shall be forfeited on the excess quantity. In such event the diverting handler shall specify the dairy farmers whose milk is ineligible as producer milk. If a handler fails to designate such dairy farmers whose milk is ineligible, producer milk status shall be forfeited with respect to all milk diverted to nonpool plants by such handler; and

(6) Milk diverted to an other order plant under the conditions specified in this section shall be producer milk pursuant to this section only if it is not producer milk under such other order.

5. In § 1050.41, paragraph (b)(7)(iii) and (vi) is revised to read as follows:

**§ 1050.41 Classes of utilization.**

* * * * *

(b) * * *

(7) * * *

(iii) One and one-half percent of milk received in bulk from handlers described in § 1050.9(d); plus

* * * * *

(vi) One and one-half percent of bulk transfers of milk to a pool plant of another handler; less

* * * * *

6. In § 1050.80, paragraphs (b) and (d) are revised to read as follows:

**§ 1050.80 Time and method of payment for producer milk.**

* * * * *

(b) Payments required in paragraph (a) of this section for milk caused to be delivered to such handler by a cooperative association qualified under § 1050.5 shall be made to such association, or its duly authorized agent, which the market administrator determines is authorized by such producers to collect payment for



V 38-176 SEP 12 73 XUM

their milk and which has so requested the handler in writing. Such handler shall, on or before the 18th day of the following month, pay the cooperative association for milk received during the month from producers at the direction of such association as determined by the market administrator an amount equal to not less than the amounts due such producers as determined pursuant to paragraph (a) of this section, less any deductions authorized in writing by such association: *Provided*, That the association has provided the handler with a written promise to reimburse the handler the amount of any actual loss incurred by such handler because of any improper claim on the part of the cooperative association;

* * * * *

(d) On or before the 18th day of the following month, each handler, in his capacity as the operator of a pool plant, who receives milk for which a cooperative association is the handler pursuant to § 1050.9(d), including the milk of producers who are not members of such association, and who the market administrator determines have authorized such cooperative association to collect payment for their milk, shall pay such cooperative for such milk at the uniform price adjusted by applicable butterfat and location adjustments.

[FR Doc.73-19400 Filed 9-11-73;8:45 am]

---

## [ 7 CFR Part 1096 ]

[Docket No. AO-257-A22]

## MILK IN THE NORTHERN LOUISIANA MARKETING AREA

### Notice of Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and order regulating the handling of milk in the Northern Louisiana marketing area.

Interested parties may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, on or before September 27, 1973. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

### Preliminary Statement

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreement and to the order as amended, were formulated, was conducted at Shreveport, Louisiana, on May 22, 1973, pursuant to notice thereof issued on May 7, 1973 (38 FR 12232).

The material issues on the record of the hearing relate to:

1. Diversion of producer milk.
2. Pool plant qualifications.
3. Designating a cooperative as the handler on bulk tank milk.
4. Reports included in uniform price computation.
5. Location adjustments.

### Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Diversion of producer milk.*—Diverted milk should be priced at the location of the plant to which diverted and only the milk of producers from whom not less than 6 days' production during the month was physically received at a pool plant should qualify for diversion. Milk diverted by a cooperative from pool plants to nonpool plants should be limited to a quantity not greater than 15 percent of the total producer milk physically received at all pool plants from the cooperative during the month; and milk diverted by the proprietary operator of a pool plant should not exceed 15 percent of the total nonmember producer milk physically received at his plant.

Diversions of producer milk now are unlimited during February through August. In other months not more than 10 days' production of each producer may be diverted unless, in the case of a cooperative, not more than 15 percent of its member producer milk is diverted during the month, or in the case of a pool plant operator (other than a cooperative), not more than 15 percent of the total nonmember producer milk delivered to his plant during the month is diverted.

A proposal by the major cooperative in the market would have provided for diversion in all months of up to 10 days' production for any individual producer. In addition, it proposed that only the milk of those dairy farmers who held producer status for the entire two immediately preceding months would be eligible for diversion.

The cooperative testified that the present diversion provisions provide a means of associating milk with the market solely for manufacturing purposes at the expense of producers who regularly supply the market and on whom the market depends for its Class I needs. Under current marketing conditions, they contend, tighter restrictions on diversions are needed in the Northern Louisiana market. No testimony was presented in opposition to the expressed need for revision of the order's diversion provisions.

The purpose of the diversion provisions is to facilitate marketing the reserve milk that is a necessary part of the market supply. Because of variations in market needs and in production, the milk of each producer is not needed every day for processing as fluid milk at the plant to which it is customarily delivered. It is necessary, however, that there be a reserve of qualified milk available for the fluctuating needs of handlers serving the market. At times, therefore, when milk of a dairy farmer regularly supplying the market is not needed at the plant to which it is usually shipped, it can be handled most economically by moving it as diverted milk from the farm to a nonpool manufacturing plant.

Only that milk from dairy farmers genuinely associated with the market, as evidenced by their deliveries to pool plants, should be eligible for diversion to nonpool plants. It is provided, therefore, that at least 6 days' production of a producer must be received at a pool plant during the month to qualify any of his production in the same month for diversion. Also, limiting diversions of producer milk by cooperatives and proprietary handlers to 15 percent of the respective quantities of member and nonmember delivered to pool plants during any month, as adopted in this decision, will provide for diversions in February through August (during which diversions are now unlimited) on the same basis as is now the case for other months (September through January). These requirements are sufficient to establish a producer's continuing association with the fluid market and still permit the necessary flexibility in diverting milk not needed for fluid use.

The cooperative's proposal providing for diversion of 10 days' production of each producer would appear to allow up to twice as much diversion as provided under the 15 percent limitation adopted herein. It is unrealistic, however, to expect the milk of every producer to be diverted during the month. It is more practicable to divert during any particular month on a continuous basis the milk of those producers whose farms are at distant locations from the market and/or are conveniently located relative to a nonpool plant to which milk may be diverted.

In the above circumstance, it is more appropriate that the quantities of milk that may be diverted be based on aggregate producer deliveries to pool plants rather than be determined by the number of days the milk of each producer was diverted during the month. Moreover, diversion limits based on a percentage of total producer receipts, instead of on the number of delivery days of each producer, will enable the cooperative or proprietary handler affected to more readily ascertain the extent to which he is within his diversion limits at any time during the month.

Because of the relatively high Class I utilization of producer milk under the Northern Louisiana order (e.g., 83 percent in 1972), there has been little need to divert producer milk in this market. Therefore, limiting diversion to 15 percent of producer deliveries to pool plants monthly throughout the year should be adequate to facilitate the disposition of any surplus milk that may result from changing market conditions.

Milk diverted to nonpool plants in excess of the limitations provided should not be considered producer milk. Hence, eligibility for pricing and pooling under the order would be forfeited on any such excess. It would be the responsibility of the diverting handler to specify which milk is ineligible as producer milk. If the handler fails to make such designation, and the market administrator is unable to determine which milk is overdiverted, all milk diverted to nonpool plants by such handler would be ineligible as producer milk.

Providing for the diversion of producer milk to an other order plant for manufacturing purposes will contribute to orderly marketing. In some instances, a pool plant operator may find that his most desirable outlet for this purpose is an other order plant. Specifying under the order that, insofar as this order is concerned, such milk may be diverted as producer milk if a Class II or Class III classification is designated for such milk pursuant to the other order, will tend to insure the integrity of both orders. Otherwise, such milk's eligibility to be included under a Federal order would more appropriately be determined at the other order plant where received. Diversion to such plants, if permitted unconditionally, could result in the pricing and pooling of the same milk under two orders.

As a corollary change, when milk from a dairy farmer is received at a pool plant as diverted from an other order plant, it should not be eligible for pooling as the milk of a producer under this order if a Class II classification under this order is designated for such milk and it is subject to the pricing and pooling provisions of another order.

The order's location adjustments recognize the greater value of producer milk f.o.b. plants in or near the principal population centers in the marketing area as compared to its value at other locations. In view of this, it would be inconsistent to continue to price milk as if delivered to the pool plant from which diverted (as now provided in the order) when actually delivered as diverted milk to a nonpool plant at a location at which a different price is appropriate based on the location adjustment that would be applicable to a pool plant at the same location.

When producer milk is received as diverted milk at a nonpool plant, its location value is similar to that of milk delivered by producers to a pool plant at the same distance from the market. Pricing milk at the location of the pool plant from which diverted tends to subsidize, at the expense of producers generally, the more distant producers when the latter's milk is diverted to distant manufacturing plants rather than delivered to the market center. This is because the distant producers receive the f.o.b. market uniform price on milk that is not moved to the market and on which the full cost for the farm to market hauling has not been incurred.

The cooperative's proposal to allow diversions of milk of only those dairy farmers who held producer status throughout the entire two immediately preceding months is denied. The purpose of this proposal is to insure that only the milk of dairy farmers regularly associated with the market will be pooled. Other changes in the diversion provisions adopted in this decision will more appropriately achieve this end.

Allowing no diversions by dairy farmers in their first two months as producers under the order will not contribute to orderly marketing. Rather, it could tend to impede the normal maintenance and development of a dairy farmer supply of milk on which the market must depend for its Class I needs.

2. *Pool plant qualifications.*—The pooling percentage qualification for a distributing plant should be based on its total receipts of fluid milk products plus milk diverted from the plant under the diversion limits; and the pooling percentage qualification for a supply plant should be based on the milk diverted from the plant in addition to its receipts of producer milk. The qualifying percentages should remain the same as now provided in the order. However, the in-area route sales requirements for pooling a distributing plant should be revised.

The order currently requires that a pool distributing plant distribute on routes at least 50 percent of the total quantity of milk delivered directly to the plant from producers' farms during the month. In addition, at least 10 percent of such receipts, or 1,500 pounds on a daily average, whichever is less, must be distributed on routes in the marketing area. A supply plant qualifies as a pool plant if it transfers to pool distributing plants at least 50 percent of the milk delivered to the plant from producers' farms during the month.

Proponent, a cooperative supplying a majority of milk in the market, contended that the present provisions are inappropriate under current conditions by providing undue incentive for the pooling of plants that have no real association with the market and on which the market cannot depend for its fluid needs. The changes herein provided were proposed by the cooperative. They are necessary, according to the cooperative, to avoid possible dilution of returns to producers that would result from attaching to the Northern Louisiana pool milk supplies largely predestined for manufacturing.

The pooling qualifications for a distributing plant should be based on its route disposition relative to the quantity of approved fluid milk products physically received at such plant plus the milk of producers diverted therefrom by the plant operator or the cooperative through which the producers' milk is marketed. All such milk is essentially an integral part of the plant's supply. It is appropriate, therefore, in determining a plant's pool status, to consider as its total supply all milk diverted from the plant together with all approved fluid milk products physically received at the plant.

As indicated above, diverted milk may now be pooled without being considered as a part of the supply of the plant from which diverted in determining its qualifications to pool. In the case of a distributing plant receiving its total supply from producers, if 15 percent of producer milk associated with such plant is diverted without being counted as part of the plant's supply, the route disposition percentage requirement for pooling the plant is, in effect, reduced by 7.5 percent as compared to a plant that diverted no milk during the month.

Similarly, if 15 percent of producer milk associated with a pool supply plant were pooled by diversion to nonpool manufacturing plants, the supply plant, by shipping half the milk physically received at such plant to pool distributing plants, would remain pooled. In this circumstance, the plant could qualify as a pool plant by shipping only 42.5 percent of its producer milk to pool distributing plants. On the other hand, a supply plant that diverted no milk would have to ship 50 percent of its actual producer receipts to qualify for pooling.

The principal purpose of a minimum in-area distribution requirement to qualify a distributing plant for pooling is to insure that only plants associated with the market in a significant and regular manner are pooled. As indicated above, presently a distributing plant to pool, must have route disposition in the marketing area during the month, at least 10 percent of its supply, or in a daily average of at least 1,500 pounds.

The latter alternative, eliminated in this decision, was adopted in 1955 as a basis for pooling under the individual pool order then instituted in the market. Under such an order, producers are paid by a handler according to his own utilization instead of having their returns equalized based on the aggregate utilization of all handlers as provided under the present marketwide pool order. No Northern Louisiana order handler now depends on the 1,500 pound in-area route disposition option to qualify a plant for pooling.

Continuing the 1,500 pound in-area route disposition option to qualify a plant for pooling could result in the pooling of plants that are only casually or incidentally associated with the market. For example, the production of dairy farmers supplying a plant that thus qualified, but whose in-area sales were but 2 percent of its total route disposition, could not reasonably be considered a regular part of the market's supply; and the plant likewise, could not be considered as one that is primarily associated with the Northern Louisiana order market.

Elimination of the 1,500 pound daily average in-area disposition requirement as an option will not restrict any milk plant operator from disposing of any







V 38-176 SEP 12 73 XUM

fluid milk products in the marketing area. If a plant's route disposition in the marketing area were more than 1,500 pounds daily but less than 10 percent of its supply, it could reasonably be concluded that the plant was only marginally associated with the market and, unless otherwise regulated in another market, should appropriately be subject to the order as a partially regulated distributing plant.

The quantities of fluid milk products physcially received at or diverted from plants in determining their pool status should be that milk approved for fluid consumption by a "duly constituted regulatory agency." The term "duly constituted health authority" is now used in the order to designate such approved milk. The cooperative spokesman suggested that the term "duly constituted regulatory agency" would be more appropriate in referring to approved milk thoughout the order. While the milk to be regulated is not changed, that term is more inclusive than the designations now used for agencies having jurisdiction in this field. The agency responsible for approving milk for fluid consumption is not always specifically designated as a health authority. In some states, for example, this function is the responsibility of the state Department of Agriculture.

3. *Designating a cooperative as the handler on bulk tank milk.*—A cooperative should be the handler for milk of producers it receives for the account of the cooperative from the farm in a tank truck operated by, or under the control of, such cooperative for delivery to a pool plant. In addition, a cooperative should be the handler for all milk of producers it diverts from a pool plant to a nonpool plant.

Under the current order provisions, a cooperative may be a bulk tank handler, or a diverting handler, for milk of member producers. Also, it may elect whether to be the handler for member milk it receives from the farm for delivery to a pool plant in a tank truck owned and operated by, or under contract to, such association.

Milk produced for this market is handled through farm bulk tanks and moved to the market in tank trucks. Milk of any producer when commingled in a tank truck with that of other producers is indistinguishable from such other milk. The amount of a producer's milk placed in a tank truck, and the butterfat content thereof, can be determined only by measurement at the farm and from milk samples taken at the farm. After the milk has been pumped from the farm tank into the tank truck and commingled with the milk of other producers, there is no further opportunity to measure, sample, or reject the milk of the individual producer.

When milk is picked up at the farm by a truck owned or operated by a cooperative, or by a person under contract to, or otherwise under the control of, such cooperative for delivery to a pool plant, it is the cooperative that determines the weight and butterfat content of each producer's milk. Frequently, the plant operator will not know the identity of the individual producers whose milk he receives, and will know only the aggregate amount of milk received. In such cases, the cooperative obviously must become the responsible handler for the milk as it leaves the farm.

As a bulk tank handler, a cooperative's obligation is basically limited to filing a payroll report showing the weights and butterfat content of the milk of the individual producers involved and of reporting the quantities of such milk delivered to each pool plant. The cooperative is responsible to the pool only for that portion of milk received from a producer's farm for delivery to pool plants that is not accounted as actually received at a pool plant because of a difference between the weight and test of the milk received at the plant and the weight and test as picked up at the farm. The cooperative's monetary obligation to the pool normally will be for the difference in these amounts, which usually will be shrinkage in accordance with its value under the shrinkage provisions. Even this small monetary obligation is eliminated, however, when, as in this market, the handler receives milk from the cooperative on the farm weights and tests.

A cooperative expressed concern at the hearing that the modifications adopted might require a cooperative to be the handler for the milk of nonmember producers. Nothing in the amendments adopted would require a cooperative to pick up the milk of nonmember producers in tank trucks under the cooperative's operation or control. It does provide that if a cooperative should pick up milk of nonmember producers on routes under its control, it must assume varying degrees of responsibility with respect to such milk depending on the circumstances.

The provision adopted, which accommodates substantial flexibility in the arrangements under which cooperatives sell to pool plant operators, makes it possible for a cooperative to pick up, on its trucks or trucks under its control, the milk of nonmember producers for delivery to pool plants and for the pool plant operator to make payment directly to such nonmember producers for their milk. Thus, the degree of responsibility the cooperative will have for such milk will depend on the terms of the arrangements for its delivery to pool plants. At the same time, it will enable the cooperative to act as the marketing agent for a nonmember producer who, although he has not become a member of such cooperative, has contracted with the cooperative to act as the marketing agent for his milk. In this connection the cooperative may collect payment from pool plant operators for a nonmember producer provided such nonmember has given the cooperative authorization to make such collection.

The Capper-Volstead Act provides the criteria by which cooperative associations are determined to be qualified cooperatives under the Agricultural Marketing Agreement Act. This amendment to the order is consistent with that provision of the Capper-Volstead Act wherein it is recognized that cooperatives may "deal in the products of nonmembers" and limits such dealings to amounts not greater in value than such as are "handled by it for members."

In the event the milk of a nonmember producer is diverted as producer milk from a pool plant to a nonpool plant by a cooperative, the cooperative should be the diverting handler with respect to such milk. Here the cooperative performs the complete handling function and in such capacity obviously must be held to be responsible for order obligations applicable to such milk. Thus, all milk commingled in the truck should be handled in equal terms insofar as its producer status under the order is concerned.

A question that might be raised is whether, in paying a nonmember producer, a cooperative may reblend proceeds due such nonmember producer with those paid to its member producers. If the nonmember producer has signed a contract with the cooperative whereby he authorizes the cooperative to market his milk, collect payment therefor, and reimburse him on the same basis as though he were a member of the cooperative, the cooperative could pay such nonmember on the same basis as it pays its member producers. However, such a contract between the cooperative and the nonmember must specifically provide for a payment reflecting: (1) The same blending of proceeds as is otherwise done for members, (2) the same treatment of withholding for capital (revolving fund), (3) the same right of liquidation of certificates issued for a revolving fund or other capital withholding, and (4) the same privilege of sharing an ultimate distribution of proceeds if and when special distribution is made, such as dividends or returns of unused deductions.

In the absence of a written contract containing the terms set forth above, the cooperative would be required to pay a nonmember producer, for whose milk it is the handler at not less than the uniform price announced by the market administrator for the month.

A cooperative is, of course, also a handler in its capacity as an operator of a pool plant. However, there are significant differences in a cooperative's responsibilities in its various capacities as a handler. In connection with the revision of the handler definition adopted in this decision, the order language is revised (where reference is made to a cooperative association as a handler) when necessary to indicate explicitly the extent to which the order applies to a cooperative in its different capacities as a handler.

A cooperative must settle with the producer-settlement fund in the same manner as any pool plant operator (1)





for the producer milk received at its pool plant, (2) for milk diverted as producer milk to nonpool plants by the cooperative from its own pool plant(s) and from the plant(s) of other handlers, and (3) for the quantities of milk received for its account from producers' farms in tank trucks under its control that exceed the quantities of such milk delivered to pool plants.

When fluid milk products are transferred from a cooperative's pool plant to the pool plant of another handler, the order's allocation and transfer provisions apply in the same manner as on transfers between proprietary handlers' pool plants. That is, the classification of such transfers is essentially that agreed to by the operators of the transferor-plant and the transferee-plant. However, when the transferor-plant is a cooperative plant, the operator of the transferee-plant must pay the cooperative for the fluid milk products transferred at not less than the applicable class prices on or before the same dates that payments must be made for milk moved directly from producers' farms by the cooperative to pool plants.

4. *Reports included in uniform price computation.*—The order should not exclude from the current month's uniform price computation the report of a handler who has not paid his producer for the preceding month.

The market administrator must compute the uniform price for each month by the 10th of the following month. Less than four weeks earlier (by the 15th of the month) handlers must have completed their payments for producer deliveries in the preceding month.

It is not administratively feasible to audit the records of all handlers between the final date when payments to producers for the preceding month were due and the date by which the next monthly uniform price must be computed. Within that limited period of time, it is not practicable for the market administrator to determine that each handler has actually completed his payments to individual producers and cooperatives. Handlers' cancelled checks, for example, are necessary to verify such payments. They are received by handlers from their banks periodically, usually monthly, and it cannot be expected that all handlers' cancelled checks would be available for audit within the necessary time period.

In view of the above, the requirement to exclude from the current month's uniform price computation the report of a handler who has not paid his producers for the preceding month should be discontinued.

5. *Location adjustments.*—Location adjustments (the amounts by which the Class I price and the uniform price are reduced according to the location of a plant where milk is received from producers) should continue to be applied only at plants at least 50 miles from the City Hall in Minden or Monroe, Louisiana, and should be at the rate of 1.5 cents for each 10 miles or fraction thereof that a plant is located from the nearer of such point in Minden or Monroe.

The present location adjustment rate is 12 cents at plants between 50 and 60 miles from the nearer of the City Hall in Minden or Monroe, and an additional one cent for each 10 miles or fraction thereof at plants more than 60 miles from the nearer of those two basing points.

Proponent cooperative contended that the present location adjustment rates, which were incorporated in the order a number of years ago, do not now reflect the cost of transporting milk from distant plants to the market. Their revision was not opposed at the hearing.

Fluid milk products are bulky and perishable, and incur a relatively high transportation cost when moved a considerable distance. The location adjustment provisions assist in facilitating, under the minimum price provisions, the movement of milk from supply plants to the points where processed for Class I uses. Since location adjustments apply only at outlying plant locations, no location adjustment applies when milk is received directly from the farm at a plant in or near the marketing area. The transportation or hauling cost on such milk is paid for the individual producer and the hauling rate is not fixed by the order.

When milk is received at a supply plant located a considerable distance from the market, the handler, rather than the producer, incurs the cost of moving that milk from the outlying plant to the market for processing. Under these conditions, the value of producer milk delivered to a supply plant located some distance from the market is reduced in proportion to the distance and the cost of transporting such milk from the plant of first receipt to the distributing plant. If a distributing plant serving the market is located at a considerable distance from the main center of population in the marketing area, the price at such plant will reflect a value relative to such center of population equivalent to that of milk received at a supply plant similarly located.

The location adjustment rate of 1.5 cents for each 10 miles or fraction thereof, which is adopted in this decision, provides a more realistic transportation allowance from distant locations from the market than is now provided in the order. The present location adjustment rates, instituted in the order in 1958, are not appropriate under current marketing conditions.

The 1.5-cent rate for each 10 miles is recognized as being reasonably reflective of the cost of transporting milk and consequently is widely used in Federal orders. It approximates the hauling cost experience of the proponent cooperative, and its adoption will provide for the Northern Louisiana market the same rate as is used in other Federally regulated markets in the region.

Since all eight fully regulated plants now under the order are within 50 miles of the two basing points and are not subject to location pricing, the change herein adopted will not affect them. It will insure, however, that the location pricing of milk at outlying plants that might become subject to the order will approximate the order price f.o.b. the market less a reasonable allowance for the cost of moving milk to the market.

In modification of its original proposal, proponent cooperative proposed at the hearing that no location adjustment should apply at plants more than 60 miles south of Minden or Monroe. In support of this position, the cooperative spokesman contended that Class I prices in a Federal order market should relate directly to its distance from the Chicago milkshed, a major milk production area in the United States and an important alternative source of supply for order markets throughout the country. On this basis, he asserted, the greater the distance the plant location is from the Chicago milkshed, the higher the Class I price should be at that location.

As indicated above, location pricing under a given order is related to the problems of providing supplies for outlets in the marketing area regulated by that order and of achieving uniform prices for regulated handlers similarly situated. Proponent presented no problem with regard to the procuement of milk for this market or with respect to price alignment with other markets that would warrant a different application of location adjustments in a southerly direction from Minden or Monroe from that applicable in other directions. Consequently, there is inadequate basis for discontinuing the application of location adjustments in areas south from the marketing area. The proposal to eliminate location pricing at plants more than 60 miles to the south of Minden and Monroe therefore is denied.

### General Findings

The findings and determinations hereinafter set forth are supplementary and in the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and



V 38-176 SEP 12 73 XUM

wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held:

RECOMMENDED MARKETING AGREEMENT AND ORDER AMENDING THE ORDER

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Northern Louisiana marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

1. Section 1096.7 is revised as follows:

**§ 1096.7 Producer.**

"Producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted regulatory agency, which milk is received at a pool plant, diverted to a nonpool plant pursuant to § 1096.16(b) or accounted for by a cooperative association pursuant to § 1096.16(c), except:

(a) A producer-handler as defined in any order (including this part) issued pursuant to the Act, or

(b) A person with respect to milk that is physically received at a pool plant as diverted milk from an other order plant if a Class II classification under this order is designated for such milk and it is subject to the pricing and pooling provisions of another order issued pursuant to the Act.

2. In § 1096.8, paragraphs (c) and (d) are revised as follows:

**§ 1096.8 Handler.**

* * * * * * *

(c) A cooperative association with respect to milk of producers it diverts from a pool plant to a nonpool plant;

(d) Any cooperative association with respect to milk it receives for its account from the farm of a producer in a tank truck owned and operated by, or under the control of, such association, for delivery to a pool plant(s); and

* * * * * * *

3. In § 1096.13, paragraphs (a) and (b) are revised as follows:

**§ 1096.13 Pool plant.**

"Pool plant" means:

(a) A distributing plant (other than a producer-handler plant) from which the quantity of fluid milk products, except filled milk, disposed of on routes during the month is not less than 50 percent of the fluid milk products, except filled milk, that are approved by a duly constituted regulatory agency for distribution under a Grade A label and that are physically received at such plant or diverted to a nonpool plant as producer milk pursuant to § 1096.16 and such disposition on routes, except filled milk, in the marketing area during the month is not less than 10 percent of such fluid milk products; or

(b) A supply plant from which during the month not less than 50 percent of the total quantity of Grade A milk approved by a duly constituted regulatory agency that was physically received at such plant from dairy farmers and handlers described in § 1096.8(d) or diverted therefrom by the plant operator or a cooperative association as producer milk to a nonpool plant pursuant to § 1096.16 is shipped during the month to a plant(s) described in paragraph (a) of this section. A supply plant that was a pool plant pursuant to this paragraph in each of the months of September through January shall be a pool plant in each of the following months of February through August in which it does not meet the shipping requirements, unless written request is filed with the market administrator prior to the beginning of any such month for nonpool status for any of the remaining months through August; and

* * * * * * *

4. Section 1096.16 is revised as follows:

**§ 1096.16 Producer milk.**

"Producer milk" shall be that skim milk and butterfat in milk from producers that is:

(a) Received at a pool plant directly from a producer or a handler pursuant to § 1096.8(d);

(b) Diverted by the operator of a pool plant or by a cooperative association to a nonpool plant other than a producer-handler plant, subject to the conditions of paragraph (d) of this section; or

(c) The difference between the quantity of milk received by a handler pursuant to § 1096.8(d) from producers' farms and the quantity of such milk delivered to pool plants. For the purposes of §§ 1096.53 and 1096.75, such milk shall be deemed to have been received by such handler at the pool plant to which all other producer milk in the same tank truck was delivered.

(d) The following conditions shall apply to milk diverted from a pool plant to a nonpool plant that is not a producer-handler plant:

(1) Such milk shall be accounted for as received by the diverting handler at the location of the nonpool plant;

(2) Milk of a producer shall not be eligible for diversion from a pool plant under this section if during the month less than 6 days' production of such person as a producer is received at a pool plant;

(3) The total quantity of milk diverted by a cooperative association that is greater than 15 percent of the total quantity of producer milk received at all pool plants during the month from the cooperative association shall not be producer milk;

(4) The total quantity of milk diverted by the operator (other than a cooperative association) of a pool plant that is greater than 15 percent of the total quantity received at such plant during the month from producers who are not members of a cooperative association shall not be producer milk;

(5) The diverting handler shall designate the dairy farmers' deliveries that are not producer milk pursuant to this paragraph. If the handler fails to make such designation, no milk diverted by him to a nonpool plant shall be producer milk; and

(6) Milk diverted to an other order plant shall be producer milk only if a Class II or Class III classification is designated for such milk pursuant to the provisions of another order issued pursuant to the Act and such milk is not subject to the pricing and pooling provisions of such order.

5. In § 1096.41, paragraph (b)(5)(i) is revised as follows:

**§ 1096.41 Classes of utilization.**

* * * * * * *

(b) * * *

(5) * * *

(i) Two percent of receipts directly from producers, excluding milk diverted pursuant to § 1096.16; plus

* * * * * * *

6. In § 1096.46, the introductory sentence and paragraph (a)(9) are revised as follows:

**§ 1096.46 Allocation of skim milk and butterfat classified.**

After making the computations pursuant to § 1096.45, the market administrator shall determine the classification of producer milk for each handler for each month as follows:

(a) * * *

(9) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received in fluid milk products from pool plants of other handlers according to the classification assigned pursuant to § 1096.44(a); and

* * * * * * *

7. In § 1096.53, paragraph (a) is revised as follows:

**§ 1096.53 Location adjustments to handlers.**

(a) For milk received from producers at a plant located more than 50 miles, by the shortest hard-surfaced highway distance as determined by the market administrator, from the nearer of the City Hall in Minden or Monroe, Louisiana, and classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section and for other source milk for which a location adjustment is applicable, the price computed pursuant to § 1096.51(a) shall be reduced 1.5 cents for each 10 miles or fraction thereof that such plant is from the nearer of the City Hall in Minden or Monroe; and

* * * * * * *





8. In § 1096.70, the introductory sentence is revised as follows:

**§ 1096.70 Computation of the net pool obligation of each pool handler.**

The net pool obligation of each handler pursuant to § 1096.8 (a), (c), and (d) shall be a sum of money computed by the market administrator each month as follows:

* * * * * * *

9. In § 1096.71, paragraph (a) is revised as follows:

**§ 1096.71 Computation of aggregate value used to determine uniform prices.**

* * * * * * *

(a) Combine into one total the values computed pursuant to § 1096.70 for all handlers who made reports prescribed by § 1096.30 for the month, except those in default of payments required pursuant to § 1096.82 for the preceding month;

* * * * * * *

10. In § 1096.75, the section title and paragraph (a) are revised as follows:

**§ 1096.75 Location adjustments to producers and on nonpool milk.**

(a) The uniform price for producer milk shall be reduced according to the location of the plant at which the milk was physically received, at the rates set forth in § 1096.53; and

* * * * * * *

11. In § 1096.80, the introductory sentence in paragraph (f) is revised and a new paragraph (g) is added as follows:

**§ 1096.80 Time and method of payment for producer milk.**

* * * * * * *

(f) Each handler shall make payment to a cooperative association for milk received from such association in its capacity as a handler pursuant to § 1096.8(a) as follows:

* * * * * * *

(g) Each handler shall make payment to a cooperative association for milk received from such association in its capacity as a handler pursuant to § 1096.8(d), including the milk of producers who are not members of such association and who the market administrator determines have authorized such cooperative association to collect for their milk as follows:

(1) On or before the 25th day of each month for milk received during the first 15 days of the month at not less than the Class II price for the preceding month; and

(2) On or before the 13th day after the end of each month at not less than the uniform price adjusted by applicable butterfat and location adjustments, less payment made pursuant to paragraph (g)(1) of this section.

Signed at Washington, D.C., on September 6, 1973.

JOHN C. BLUM,
*Deputy Administrator,*
*Regulatory Programs.*

[FR Doc.73-19353 Filed 9-11-73;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

**[ 21 CFR Part 10 ]**

### FOOD STANDARDS FOR CERTAIN TYPES OF EDIBLE OILS

**Termination of Proposal To Develop U.S. Standards of Identity Based on International Codex Standards**

*Correction*

In FR Doc. 73-16470 appearing at page 21499 in the issue of Thursday, August 9, 1973, in paragraph 3 make the following changes: In the fourth line the word "as" should read "are"; and in the 11th line the figure "183-" should read "188-".

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[ 14 CFR Part 71 ]**

[Airspace Docket No. 73-CE-15]

### TRANSITION AREA

**Proposed Designation**

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Lees Summit, Missouri.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106. All communications received on or before October 12, 1973 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106.

A new public use instrument approach procedure is being developed for the McComas Airport, Lees Summit, Missouri. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area at Lees Summit, Missouri.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (38 FR 435), the following transition area is added:

LEES SUMMIT, MISSOURI

That airspace extending upward from 700' above the surface within a 6.5-mile radius of the McComas Airport (latitude 38°57'50'' N., longitude 94°22'25'' W.); and within 3 miles either side of the 48° bearing from the airport extending from the 6.5-mile radius to 9 miles northeast, excluding those portions which overlie Richards Gebaur, East Kansas City and the Kansas City Municipal Airport's 700' transition areas, and that airspace extending upwards from 1,200' above the surface 5 miles northwest of and 9.5 miles southeast of the 48° bearing from the Blue Springs VOR extending from 6.5 miles southwest to 18.5 miles northeast of the VOR, excluding that portion which overlies the Kansas City, Missouri transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Kansas City, Missouri, on August 23, 1973.

JOHN R. WALLS,
*Acting Director, Central Region.*

[FR Doc.73-19303 Filed 9-11-73;8:45 am]

## CONSUMER PRODUCT SAFETY COMMISSION

**[ 16 CFR Part 1700 ]**

### CHILD PROTECTION PACKAGING REQUIREMENTS FOR CERTAIN PRESCRIPTION DRUGS

**Proposed Exemption of Isosorbide Dinitrate-Containing Sublingual Tablets and Chewable Preparations**

In the FEDERAL REGISTER of April 16, 1973 (38 FR 9431), and pursuant to provisions of the Poison Prevention Packaging Act of 1970, the Commissioner of Food and Drugs promulgated a regulation (21 CFR 295.2(a)(10)) establishing child protection packaging requirements for human prescription drugs in oral dosage forms, effective April 16, 1974.

In the document's preamble, the Commissioner announced that he would consider requests for exemptions from the packaging requirements and, if reasonable grounds were furnished, would publish proposed exemptions in the FEDERAL REGISTER.

Effective May 14, 1973, section 30(a) of the Consumer Product Safety Act (Public Law 92-573, 86 Stat. 1231; 15 U.S.C. 2079(a)) transferred from the Secretary of Health, Education, and Welfare (and thereby from the Commissioner of Food and Drugs) to the Consumer Product Safety Commission functions under the Poison Prevention Packaging Act of 1970.

Subsequently, the Consumer Product Safety Commission received a request from ICI America, Inc., to exempt from said packaging requirements tableted sublingual and chewable preparations containing isosorbide dinitrate (each available in 2.5-milligram and 5-milligram dosage strengths).



V 38-176
SEP 12 73
XUM

A copy of the exemption request from ICI America, Inc., may be seen at the Office of the Secretary, Consumer Product Safety Commission, Air Rights Building, seventh floor, 7315 Wisconsin Avenue, Bethesda, Md.

Grounds given in support of the requested exemption are that both the sublingual and chewable forms of the drug are indicated for the prevention and treatment of angina pectoris. Because of the need of certain individuals to obtain rapid access to the drug for the management of angina pectoris in times of stress, the sublingual and chewable forms of the drug should be exempted from the child protection packaging requirements.

The order promulgating 21 CFR 295.2 (a)(10) excluded sublingual forms of nitroglycerin from the packaging requirements for the same reason.

Having considered the exemption request and other relevant material, the Consumer Product Safety Commission concludes that the exemption should be proposed as set forth below. Due to the revision and transfer of the Poison Prevention Packaging Act of 1970 regulations (from 21 CFR, Part 295 to 16 CFR, Part 1700) published in the FEDERAL REGISTER of August 7, 1973 (38 F.R. 21247), the amendment proposed below involves 16 CFR 1700.14(a)(10) instead of 21 CFR 295.2(a)(10).

Accordingly, pursuant to provisions of the Poison Prevention Packaging Act of 1970 (secs. 2(4), 3, 5, 84 Stat. 1670–72; 15 U.S.C. 1471(4), 1472, 1474) and under authority vested in the Commission by the Consumer Product Safety Act (sec. 30(a), 86 Stat. 1231; 15 U.S.C. 2079(a)), the Commission proposes that 16 CFR 1700.14(a)(10) be revised to read as follows:

**§ 1700.14 Substances requiring special packaging.**

(a) • • •

(10) *Prescription drugs.*—Any drug for human use that is in a dosage form intended for oral administration and that is required by Federal law to be dispensed only by or upon an oral or written prescription of a practitioner licensed by law to administer such drug, except sublingual dosage form of nitroglycerin, and except both sublingual and chewable forms of isosorbide dinitrate in dosage strengths of 5 milligrams or less, shall be packaged in accordance with the provisions of § 1700.15(a), (b), and (c).

• • • • • •

Interested persons are invited to submit, on or before November 12, 1973, written comments regarding this proposal. Comments and any accompanying material or data should be submitted, preferably in sextuplicate, addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the Office of the Secretary, seventh floor, Air Rights Building, 7315 Wisconsin Avenue, Bethesda, Md., during working hours Monday through Friday.

Dated September 4, 1973.

SAMUEL M. HART,
*Acting Secretary, Consumer Product Safety Commission.*

[FR Doc.73-19307 Filed 9-11-73;8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

**[ 47 CFR Part 83 ]**

[Docket No. 19665; FCC 73-885]

### INDUSTRIAL AND MARITIME MOBILE SERVICES

**Frequencies, Standards and Procedures for Onboard Communications**

*Further notice of proposed rulemaking.*

In the matter of Amendments of Parts 2, 81, 83, and 91—to provide frequencies, standards and procedures for on-board communications in the Industrial and Maritime Mobile Services.

1. Further notice of proposed rulemaking in the above-captioned matter is hereby given.

2. A notice of proposed rulemaking in the above-captioned matter was released on January 9, 1973, and was published in the FEDERAL REGISTER on January 15, 1973 (38 FR 1513). The First Report and Order was released on August 31, 1973.

3. In the comments filed by the American Institute of American Shipping (AIMS) and Central Committee on Communication Facilities of the American Petroleum Institute (API) in the Notice of Proposed Rulemaking, the Commission was urged to also authorize the use of emission F2 for certain intra-ship non-voice functions. In particular, AIMS and API set forth the need, by use of the non-voice (F2) emission, to anchor towed barges under adverse environmental conditions, when those conditions require that the tug and tow be separated. AIMS and API state that under these conditions the safety of life, property and environment are directly affected. This proposal was discussed in some detail in Paragraphs 8 through 11 of the First Report and Order (FCC 73-884).

4. As discussed in the First Report and Order, the coded information for the F2 transmitted signal must be unambiguous and distinctive in order that the actuating instructions are limited to the vessel concerned. To assure that the coded information is distinctive and unambiguous, the Commission intends to include in Part 83 rules to prescribe the coding and technical standards applicable to this signalling system. The system being proposed provides for the generation and keying of two audio tones with 15 characters of binary coded alpha-numeric information, taken from a standardized alphabet, which is introduced into the modulator section of the frequency modulated (FM) radiotelephone transmitter, transmitted at a rate of 300 bits per second (bps). Further brief discussion is set forth in the following paragraphs.

5. With regard to coding of the signal, we propose that the following information be transmitted in the sequence shown:

(a) The control character "SYN", transmitted twice, to establish system synchronization;

(b) Six characters, conforming to the documentation number of the vessel transmitting the command (200000–299999 & 500000–599999);

(c) Three letters selected and changed at will by the vessel operator, as a means of providing company operational or secrecy control (AAA through ZZZ);

(d) Two letters, setting forth the actuation instructions[1] (AA through ZZ); and

(e) The control character "EM", transmitted twice, to indicate termination of transmission.

6. The alphabet proposed is that referred to as USASCII[2] (United States of America Standard Code for Information Interchange). This alphabet, with minor differences, is also designated by the International Telegraph and Telephone Consultative Committee (CCITT) as Alphabet No. 5. Also, it has been adopted by the International Standards Organization (IOS). Further, within the last two years a number of maritime service electronic systems have been considered by the Radio Technical Commission for Marine Services (RTCM) for use with this alphabet. Thus, to the extent it is practicable to do so, we believe it desirable to minimize the number of alphabets which are employed in the maritime services.

7. The attached Appendix also sets forth standards with regard to:

(a) Bit sequence;
(b) Character structure;
(c) Character parity; and
(d) Sense of character parity.

These proposed standards are taken from United States of America Standards Institute publications USAS X3.15–1966 and USAS X3.25–1968.

8. We propose also a standard signaling rate of 300 bps. While this rate appears to be relatively slow, it is our understanding that modulator/demodulator (MODEM) units for operation at 300 bps. are readily available as "off the shelf" items at a nominal cost. The avoidance of premium quality MODEMs, such as may be required at the higher signaling rates, should facilitate the early development of practicable hardware. At 300 bps, the time required to transmit the 120 bits of information described in Paragraph 5, above, is 0.4 seconds.

[1] It is suggested that these letters be taken from the U.S. Naval Hydrographic Office publication "International Code of Signals." As an example, the letters "QV" indicate: "I am anchoring in position indicated." This would appear to be close enough to fulfill an instruction: "drop anchor."

[2] See page 6 and 7, USAS Institute publication USAS X3.4–1068.





9. Since the basic system is frequency modulated radiotelephony, we are proposing that two-tone frequency-shift keying (F2) be employed. As to the tones, we propose 1070 Hz, corresponding to "0" (low), and 1270 Hz, corresponding to "1" (high), be employed. Information is not available to indicate that the system employed will require or should provide for confirmation of command from the tow back to the tug. If provision for such confirming feature is required, and we look to the comments in this proceeding for information in that regard, standards for such transmission would also be included in Part 83.

10. The proposed amendments to the rules, as set forth in this Notice and Appendix, are issued pursuant to authority contained in Sections 4(i) and 303(a), (b), (c), (d), (e), (f), and (r) of the Communications Act of 1934, as amended.

11. Pursuant to applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before October 12, 1973 and reply comments on or before October 23, 1973. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may take into account other relevant information before it, in addition to the specific comments invited by this notice.

12. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all statements, briefs, or comments filed shall be furnished the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

Adopted August 29, 1973.

Released September 6, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[3]
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

APPENDIX

Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

A. Part 83, Stations on Shipboard in the Maritime Services, is amended as follows:

1. A new § 83.835 is added to read as follows:

**§ 83.835 Remote control for maneuvering or navigation.**

(a) An on-board communication channel may be used for remote control of maneuvering or navigational control systems aboard the same vessel or another vessel. The remote control system employed shall conform to the standards set forth in this section.

(1) The emission employed shall be F2. The provisions in this part applicable to the use of F3 emission are also applicable to the use of F2 emission. The transmitter must be adjusted and operated so that the instantaneous frequency deviation does not exceed the maximum value allowed for F3 emission.

(2) The binary information shall be applied to the carrier as modulation by frequency-shift keying (FSK) of the standard tones 1070 and 1270 Hz. Expressed in terms of positive logic, "0" (low) shall correspond to 1070 Hz and "1" (high) shall correspond to 1270 Hz.

(3) The alphabet employed shall be the United States Standard Code for Information Interchange (USASCII), set forth in the United States of America Standards Institute publication USAS X3.4–1968.

(4) The bit sequence shall be least significant bit first to most significant bit (bit 1 through bit 7) in ascending (consecutive) order.

(5) The character structure shall consist of 8 bits (seven bits plus one character parity bit) having equal time intervals.

(6) The character parity bit shall be transmitted and shall follow the most significant bit, bit 7, of the character to which it applies.

(7) The sense of character parity shall be odd over the eight bits, i.e., and odd number of "1."

(8) The signalling rate shall be 300 bits per second.

[FR Doc.73-19376 Filed 9-11-73;8:45 am]

[3] Commissioners Johnson and Reid absent.



V38-176 SEP 12 73 XUM

# Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## SELECTIVE SERVICE SYSTEM

### REGISTRANTS PROCESSING MANUAL

The Registrants Processing Manual is an internal manual of the Selective Service System. The following portions of that Manual are considered to be of sufficient interest to warrant publication in the FEDERAL REGISTER. Therefore these materials are set forth in full as follows:

CHAPTER 621 (REV SEP 10, 1973)—PREPARATION FOR CLASSIFICATION BY THE LOCAL BOARD

INDEX


Sec.
621.1 Introduction.
621.2 Classification prior to the lottery drawing.
621.3 Selection for classification.
621.4 Preparation for classification.
621.5 Claims for, or information relating to, deferments or exemption.
621.6 Special form for conscientious objector.
621.7 Securing information from welfare and Governmental agencies.
621.8 Use of the current information questionnaire (SSS Form 127).
table 621–1 Table guide for obtaining pre-classification information.


CHAPTER 621—PREPARATION FOR CLASSIFICATION BY THE LOCAL BOARD

SECTION 621.1 *Introduction.*—Preparation for classification by the local board includes all procedures necessary for (1) identification and selection of registrants for classification in the order of their liability for induction into the armed forces or alternate service in lieu of induction and (2) the collection of information and documentation necessary to provide the most appropriate classification for each registrant.

SEC. 621.2 *Classification prior to the lottery drawing.*—1. Preparation for classification out of the administratively assigned 1–H classification will not be initiated for any registrant who has not been assigned a random sequence number unless review of information in his file indicates that he may qualify for Class 2–M or a class lower than 1–H, or he has been enlisted or inducted as a volunteer.

a. When it appears that a registrant may qualify for a classification lower than 1–H, he will be requested to submit the proper SSS form or other documentary evidence in accordance with Table 621–1.

b. Upon receipt of the necessary information, his file will be placed before the local board for classification.

SEC. 621.3 *Selection for classification.*—1. Immediately following the lottery drawing for the appropriate year group, the Computer Service Center (CSC) will assign a random sequence number (RSN) to each registrant in that year group. The CSC will furnish to each local board a "Registrant RSN Report by SSN", which will be used to post the assigned RSN to the Registrant File Folder (SSS Form 101) and the Classification Record (SSS Form 102) for registrants in that year group. The RSN will be posted to the SSS Form 101, and on the SSS Form 102 in red ink in the left margin next to each registrant's SSN. Following the posting of RSN's for his year group, any correspondence relating to a registrant will include his RSN, shown in the following manner: RSN (73) 065.

2. An Administrative Processing Number (APN) will be designated by the Director at the time of the lottery drawing to apply against each year's First Priority Selection Group (FPSG). The designation of an APN by the Director for a First Priority Selection Group is a basis for reopening the classification of those registrants in Class 1–H in that selection group whose RSN's are equal to or below that APN, unless the Director establishes an RSN temporary processing number below the APN, limiting the processing activities as set forth in Section 621.4 to those registrants with that RSN or below. In this event, a "Registrant RSN Report" will be furnished to each local board by the CSC when the RSN temporary processing number is established or revised upward. The "Registrant RSN Report" will be used as provided in RIB Report Guide No. 152.

SEC. 621.4 *Preparation for classification.*—1. In reviewing files of registrants selected for classification, local boards shall start with the lowest RSN.

2.a. A Current Information Questionnaire (SSS Form 127) will be mailed to each registrant eligible for classification out of 1–H.

b. Upon the return of the completed SSS Form 127, the file will be reviewed by the local board compensated personnel to determine whether any other forms or requests for documentation should be mailed to the registrant. (See Table 621–1)

c. When a registrant's SSS Form 127, as submitted to the local board, has apparent errors or omissions which would preclude the local board from making a proper determination in his case, the local board shall furnish another SSS Form 127 or a written request for specific information to the registrant. Upon receipt of the requested information it will be reviewed by local board compensated personnel for completeness and clarity prior to presentation to the local board members for classification action. If necessary, additional information will be requested from the registrant.

d. If the registrant fails to return any form or submit information having a bearing on his classification prior to the time the local board considers his classification, he shall be classified on the basis of the information contained in his file.

e. The receipt and mailing of correspondence, including forms, pertaining to each registrant, shall be recorded on page 2 of the SSS Form 101.

SEC. 621.5 *Claims for, or information relating to, deferments or exemption.*—The registrant shall be entitled to present appropriate information which he believes necessary to assist the local board in determining his proper classification. Such information may include documentation, affidavits or depositions, which shall be as brief as possible. The receipt of such information shall be recorded on page 2 of the SSS Form 101.

SEC. 621.6 *Special form for conscientious objector.*—A registrant who claims to be a conscientious objector shall be given the opportunity to offer information in substantiation of his claim on a Special Form for Conscientious Objector (SSS Form 150). The local board, upon request, shall furnish to any registrant a copy of the SSS Form 150 and shall not establish any fixed time limit for its completion and return. However, the furnishing of an SSS Form 150 will not be reason for the local board to delay normal processing of the registrant, including consideration of any claims for deferment or exemption which he has made.

SEC. 621.7 *Securing information from welfare and Governmental agencies.*—The local board is authorized to request and receive information from welfare and governmental agencies whenever such information will assist in determining the proper classification of a registrant.

SEC. 621.8 *Use of the current information questionnaire (SSS Form 127).*—In addition to the use of the Current Information Questionnaire (SSS Form 127) at the time a registrant is selected for classification as provided in section 621.3, the SSS Form 127 should also be used for registrants in deferred classifications whose expiration or review dates are approaching, or whenever the local board has reason to believe that the registrant is eligible for reclassification. The SSS Form 127 should normally not be issued to registrants in lower priority selection groups nor to registrants in classes 1–C, 1–D, 1–W, 4–A, 4–F, 4–G, or 4–W.

The following table is provided as a guide for steps necessary in obtaining pre-classification information from registrants prior to submitting their file to the local board for consideration.





| If the registrant has indicated eligibility for consideration as a: | From information submitted to the Board or "Yes" Box entered on— SSS Form 100, series; and/or SSS Form 127, part: | Action required— Send him SSS Form | Send Letter requesting |
|---|---|---|---|
| Member of armed forces on active duty. | V 1 | | DD Form 53. |
| Man with completed military service with United States. | V 1 | | DD Form 214. |
| Man with completed military service with another country. | I 1<br>I 2 | | Verification of this service (In English). DD Form 44. |
| Member of a Reserve or National Guard component—other than ROTC. | V 2 | | |
| Man in ROTC or other officer procurement program. | V 3 | | DD Form 44. |
| Man whose deferment is advisable because of dependency. | IX 4 | SSS Form 118 | |
| Student preparing for the ministry. | VII 1 | SSS Form 172 | |
| Full-time minister | VII 2 | SSS Form 175 | |
| Conscientious objector | VIII | SSS Form 150 | |
| Man with a physical defect, condition or disease which, he believes, would disqualify him for military service. | II | | Doctor's statement or other medical evidence confirming his condition. |
| Man with court record | VI | SSS Form 173 | |
| Surviving son | X | SSS Form 174 | |
| Alien or dual citizen | XI 1 and 2 | SSS Form 131 | |
| Student in one of the designated medical specialist fields. | IV 1 | SSS Form 160 | |

CHAPTER 631 (REV. SEPT. 1, 1973)—ALLOCATIONS OF INDUCTIONS

INDEX


Sec.
631.1 Random selection sequence.
631.3 Calls by the Secretary of Defense.
631.4 Allocations by the Director of Selective Service.
631.5 Allocations by State Director of Selective Service.
631.6 Action by Local Board upon receipt of allocation.
631.8 Extended liability of deferred registrants.
Table 631–1 Assignment of random sequence number.
Table 631–3 1970 random selection sequence, by month and day.
Table 631–4 1970 random selection by date and sequence number.
Table 631–5 1971 random selection sequence, by month and day.
Table 631–6 1971 random selection by date and sequence number.
Table 631–7 1972 random sequence lottery drawing calendar.
Table 631–8 1972 random selection by date and sequence number.
Table 631–9 1973 random sequence lottery drawing calendar.
Table 631–10 1973 random selection by date and sequence number.
Table 631–11 1974 random sequence lottery drawing calendar.
Table 631–12 1974 random selection by date and sequence number.


CHAPTER 631—ALLOCATION OF INDUCTIONS

SECTION 631.1 *Random selection sequence.*—1. The Director of Selective Service shall establish a random selection sequence for the processing of registrants for induction. Such random selection sequence will be established by a drawing to be conducted in Washington, D.C., once each year on a date the Director shall fix, and shall be applied nationwide. The random selection method shall use 365 days or, when appropriate, 366 days to represent the birthdays (month and day only) of all registrants who, during the calendar year of the drawing, shall have attained their nineteenth but not their twentieth year of age. The drawing, commencing with the first day selected and continuing until all 365 days or, when appropriate, 366 days are drawn, shall be accomplished impartially.

2. The random selection sequence of numbers established by a lottery drawing shall determine the order of selection of those registrants included in that drawing. The random sequence number thus determined for any registrant shall apply to him so long as he remains subject to induction for military training and service by random selection. A registrant's random sequence number shall be based upon the birth date given at the time of registration (SSS Form 1). However, should a registrant furnish documentation establishing a new date of birth, prior to the day of the lottery drawing, it is will be entered on the Classification Record (SSS Form 102), corrected on the Registration Card (SSS Form 1), corrected on page 1 and entered on page 2 of the Registrant File Folder (SSS Form 101), and the verifying evidence placed in the file folder. This corrected date of birth shall be used in establishing the registrant's random sequence number. A random sequence number established for a registrant shall be equivalent, for purposes of selection, to the same random sequence number established for other registrants in other drawings. The random sequence numbers obtained shall be determine the order of selection of the registrants covered thereby.

3. All registrants born in the years 1944 through 1950 shall be assigned a birth date sequence based upon the results of the drawing held on December 1, 1969, identified as 1970 Random Selection Sequence. Registrants born during 1951 shall be assigned a similar sequence based on the drawing of July 1, 1970, identified as 1971 Random Selection Sequence, while those born in 1952 shall receive a number from the drawing of August 5, 1971, identified as 1972 Random Selection Sequence, and those born in 1953 shall receive a number from the drawing of February 2, 1972, identified as 1973 Random Selection Sequence. Charts showing the random selection sequence for each of these years are attached to this chapter. A drawing will be held annually to establish the random sequence numbers for each succeeding year of birth.

4. The applicable random sequence number is to be placed on the Registrant File Folder (SSS Form 101) in the appropriate space and on the Classification Record (SSS Form 102) on the Classification Card (SSS Form 1). The number in parentheses ( ) is used by the local board for identification of the year after the drawing was held which established the registrant's random sequence number, and indicates the first year he could be vulnerable for induction.

TABLE 631–1.—Assignment of Random Sequence Number (RSN)

| Rule | A: If registrant was born in | B: Assign RSN based on lottery held | C: Identify Random Selection Sequence (the year in which he attains age 20) by parens | D: Follow the registrants RSS (taken from column C, (2)) with his birth date sequence | | E: And his RSN will be recorded as |
|---|---|---|---|---|---|---|
| | | | (1) If he received age 20 in | (2) His RSS is | (1) If he was born on | (2) His birth-date sequence would be | |
| 1. | 1944–50 | Dec. 1, 1969 (see Table 631–3). | 1969–70 | (70) | Apr. 1, 1950 | 032 | (70)032 |
| 2. | 1951 | July 1, 1970 (see Table 631–5). | 1971 | (71) | June 2, 1951 | 304 | (71)304 |
| 3. | 1952 | Aug. 5, 1971 (see Table 631–7). | 1972 | (72) | July 4, 1952 | 142 | (72)142 |
| 4. | 1953 | Feb. 2, 1972 (see Table 631–9). | 1973 | (73) | Aug. 5, 1953 | 063 | (73)063 |

SEC. 631.3 *Calls by the Secretary of Defense.*—The Secretary of Defense may also from time to time, in accordance with the Director of Selective Service's call or requisition for men in any medical, dental, or allied specialist category required for induction into the Armed Forces.



V 38 176 SEP 12 73 XUM

SEC. 631.4 *Allocations by the Director of Selective Service.*—1. The Director of Selective Service shall, upon receipt of a call or requisition from the Secretary of Defense for men to be inducted into the Armed Forces, issue a call or requisition to the several States.

2. Upon receipt of a call or requisition from the Secretary of Defense for men in a medical, dental, or allied specialist category to be inducted into the Armed Forces, the Director of Selective Service shall issue a call or requisition to the several States as provided for in Chapter 680, RPM.

3. When the Director of Selective Service issues an induction call, he will establish an induction RSN cut-off number in a given priority group, which will apply nationally. All available registrants with RSN's equal to or below that number will be subject to induction under that call.

SEC. 631.5 *Allocations by State Director of Selective Service.*—The State Director of Selective Service shall direct each local board to select and deliver men for induction in accordance with the call or requisition received from the Director of Selective Service.

SEC. 631.6 *Action by Local Board upon receipt of allocation.*—1. When an allocation is received from the State Director of Selective Service, any member or compensated employee of the local board or any compensated employee of the Selective Service System whose official duties include the performance of administrative duties at a local board, shall, as provided by this Section, select and issue orders to report for induction to those men required to fill the call from among its registrants who have been classified in Class 1-A or Class 1-A-O and have been found acceptable for service in the armed forces and to whom a Statement of Acceptability (DD Form 62) has been mailed and who are fully available for induction, except that:

a. when a registrant in any classification has refused or otherwise failed to comply with an order of his local board to report for and submit to an armed forces examination, he may, at such time as he is in Class 1-A or 1-A-O and reached for induction, be selected and ordered to report for induction to fill an induction call even though he has not been found acceptable for service in the armed forces and a Statement of Acceptability (DD Form 62) has not been mailed to him. In such case the armed forces examination shall be performed after he has reported for induction as ordered and he shall not be inducted until he has been found acceptable for service in the Armed Forces, and

b. a registrant who has volunteered for induction may be selected and ordered to report for induction to fill an induction call even though he has not had an armed forces examination. In such case the armed forces examination shall be administered to him after he has reported for induction as ordered and he shall not be inducted until he has been found acceptable for service in the Armed Forces.

2. *Order of call*—a. *Rescheduling of postponed registrants.*—Registrants to whom orders to report for induction have previously been issued will be given a rescheduled reporting date which is the earliest possible date after expiration of the postponement.

b. *Selection of registrants not yet ordered.*—A registrant who has been identified as one who will become a member of category (2) or (3) below, on the next January 1, may, prior to December 31, be selected and ordered to report for induction in January. A registrant must be in Class 1-A or 1-A-O (except for a volunteer who may be in Class 1-H) and must have been found acceptable, or is to have his acceptability determined upon reporting for induction, in accordance with paragraphs 1, 1a, or 1b of this section, in order to be issued an induction order. Registrants who have not already been ordered and given postponements shall be selected and ordered to report for induction in the following categories and in the order indicated:

(1) Volunteers who have not attained the age of 26 years in the sequence in which they have volunteered for induction.

(2) Nonvolunteers in the Extended Priority Selection Group in the order of their random sequence number, with those registrants with lower numbers being selected first.

(3) Nonvolunteers in the First Priority Selection Group in the order of their random sequence number.

(4) Nonvolunteers in each of the lower priority selection groups, in turn, in the order of their random sequence number in each group as it is reached.

(5) Nonvolunteers who have attained the age of 19 years during the calendar year, in the order of their random sequence number.

(6) Nonvolunteers, over the age of 26 years, by year group with the youngest year group first, and within the year group by ascending RSN: Provided, that the RSN established on December 1, 1969, will apply to any registrant born prior to January 1, 1944.

(7) Nonvolunteers who have attained the age of 18 years and 6 months and who have not attained the age of 19 years in the order of the random sequence number established by the most recent lottery drawing.

3. No local board shall order an alien for induction into the Armed Forces of the United States unless the alien shall have resided in the United States for more than one year, regardless of whether he volunteers for induction. When an alien has been within the United States for two or more periods and the total of such time exceeds one year, he shall be deemed to have remained in the United States for more than one year. In computing the length of such time, any portion of one day shall be counted as one full day.

4. A registrant's random sequence number will be deemed to have been "reached" if it is equal to or lower than the highest random sequence cutoff number established by the Director of Selective Service for induction of registrants in the same priority selection group in that calendar year.

5. *Priority selection groups*—a. *Assignment to priority selection groups.*—Each registrant shall be assigned to a priority selection group, from January 1 of the year in which he attains the age of 20 until the 26th anniversary of his date of birth. Such assignment shall be based upon the registrant's year of birth. If a registrant receives a deferment or exemption while a member of any priority selection group, such deferment or exemption will not affect his priority selection group assignment.

b. *Changing priority selection groups.*—Registrants who are issued an order for induction or alternate service while in the EPSG, and who remain under such order on January 1 of the following year, will not change priority selection groups. All other registrants who were in a Priority Selection Group during the previous year will change Priority Selection Groups on January 1.

c. *The extended priority selection group (EPSG).*—There will be no EPSG in 1973. In 1974 and later years, the EPSG shall consist of registrants, regardless of their current classifications, who were members of the First Priority Selection Group in the previous calendar year, whose random sequence numbers were reached during that year, but who did not enter upon military or alternate service during that calendar year and complete sufficient srevice to qualify for Class 4-A or Class 4-W.

d. *The first priority selection group (FPSG).*—Shall consist of registrants, regardless of their current classifications, who during the calendar year have reached or will reach the twentieth anniversary of the date of their birth. For example, during 1973, the FPSG will consist only of registrants born in 1953.

e. *The second priority selection group.*—Shall consist of registrants, regardless of their current classifications, who during the calendar year have reached or will reach the twenty-first anniversary of the date of their birth, and who do not qualify for the Extended Priority Selection Group under the provisions of paragraph 5c. For example, registrants born in 1952 are assigned to the Second Priority Selection Group in 1973.

f. *The third and lower priority selection groups.*—Shall consist of registrants, regardless of their current classifications, who during the calendar year have reached or will reach consecutively higher birth date anniversaries above the twenty-first, and who do not qualify for the Extended Priority Selection Group under the provisions of paragraph 5c. For example, registrants born in 1951 are assigned to the Third Priority Selection Group in 1973.

g. *Transfer from the EPSG to a lower PSG.*—A registrant shall be transferred from the EPSG to a lower PSG when,

(1) He remains in the EPSG for one year and during that year the Secretary of Defense fails to place an induction call, or

(2) He remains in the EPSG for one year during which an induction call is placed by the Secretary of Defense, but the registrant is not issued an order to report for induction or alternate service, or

(3) He remains in the EPSG for one year during which an induction call is placed by the Secretary of Defense, and the registrant is issued an order to report for induction or alternate service which is later cancelled, and he is not issued a new order, or is issued a new order which is cancelled after the end of that calendar year.

6. *Administrative processing of selection groups.*—a. Each phase of local board administration—reclassification, orders for armed forces examination, personal appearance, appeals and so forth—shall be done in order of random sequence number and priority group insofar as practicable, so that registrants will be processed in the order of their vulnerability for induction.

b. If the Director of Selective Service, or a State Director of Selective Service with respect to registrants of his state, determines that a registrant has been assigned to an incorrect priority selection group, he may direct the reassignment of the registrant to a designated priority selection group.

SEC. 631.8 *Extended liability of deferred registrants*—1. *Extension of liability.*—The Military Selective Service Act provides that certain registrants who have been or are deferred incur extended liability beyond age 26 for training and service in the Armed Forces.

2. A registrant must have liability for induction in order for that liability to be extended by his deferment. Liability cannot be extended when the registrant was never liable for induction. If a registrant was entitled to an exemption, but was given a deferment instead because it was a lower class, he does not incur extended liability.

3. *Classifications which extend liability to age 35.*—Classification of a registrant into any of the following classes before he has attained the age of twenty-six extends his liability for training and service until he reaches the age of thirty-five:

(1) Class 1-D for persons who prior to attaining the age of twenty-six enlist or accept appointment on or after September 3, 1963, in the Ready Reserve including the National Guard.

(2) Class 1-D for members of the Reserve Officers' Training Corps and other officer training programs.

(3) Class 1-D for persons commissioned upon graduation from an Officers' Candidate School.

(4) Class 1-D for accepted aviation cadet applicants.

(5) Class 1-D for members of reserve components of the Armed Forces who are serving satisfactorily, except for those who enlisted in the National Guard prior to reaching the age of 18, and who were originally classified in 1-D prior to September 3, 1963.

(6) Class 1-S.
(7) Class 1-Y.
(8) Class 2-A.
(9) Class 2-AM.
(10) Class 2-C.
(11) Class 2-D.
(12) Class 2-M.
(13) Class 2-S.
(14) Class 3-A, except for those covered in paragraph 4.
(15) Class 4-B.
(16) Class 4-F, except for those covered in paragraph 4.

4. *Classifications Which Do not Extend Liability.*—The classification of a registrant in any of the following classes does not extend his liability.

(1) Class 1-A.
(2) Class 1-AM.
(3) Class 1-A-O.
(4) Class 1-A-OM.
(5) Class 1-C.
(6) Class 1-D, except for those covered in paragraph 3, (1) through (5).
(7) Class 1-H.
(8) Class 1-O.
(9) Class 1-OM.
(10) Class 1-W.
(11) Class 3-A under the former provisions of the law and regulations when the deferment was solely by reason of the registrant having a wife with whom he maintained a bona fide family relationship in their home and no hardship or other elements of dependency were involved.
(12) Class 4-A.
(13) Class 4-C.
(14) Class 4-D.
(15) Class 4-F relating to the exemption of medical, dental, and allied specialists whose applications for appointment as reserve officera have been rejected solely because of their physical disqualification.
(16) Class 4-G.
(17) Class 4-W.
(18) Class 5-A.

NOTE.—Table 631-2 (Rev. Jan. 1, 1973) is obsolete; Tables 631-3 through 631-12 remain in effect.

Portions of Chapter 632, Delivery and Induction, have been revised September 1, 1973, as follows:

CHAPTER 632—DELIVERY AND INDUCTION

INDEX


Sec.
632.1 Order to report for induction.
632.2 Induction of registrants distant from their own local boards.
632.3 Postponement of induction.
632.4 Cancellation of induction orders.
632.5 Directed transfer for induction.
632.6 Duty of registrant to report for and to submit to induction.
632.7 Forwarding registrants for induction.
632.8 Induction.
632.9 Records returned to the local board.
632.10 Disposition of registrants inducted or found not qualified.
632.11 Enlistment of registrants in the armed forces.
632.12 Enlistment of registrants ordered for induction.
Attachment 632-1 Sample delivery list (SSS Form 261).
Attachment 632-2 Summary of postponement provisions.
Attachment 632-3 Sample letter regarding RBJ.


CHAPTER 632—DELIVERY AND INDUCTION

SECTION 632.1 *Order to report for induction.*—1. Upon receipt of Notice of Call on Local Board (SSS Form 201), any member or compensated employee of the local board, or any compensated employee of the Selective Service System whose official duties require him to perform administrative duties at the local board shall review the file folder of each nonvolunteer registrant selected for induction to insure:

a. That his RSN is no higher than the induction cutoff established by the Director,

b. That he is assigned to the correct priority selection group and that his group has been selected,

c. That his procedural rights have been granted, or he has failed to exercise his procedural rights within the period allowed,

d. That he has been examined and found qualified, or has failed to report for or submit to an armed forces examination as ordered,

e. That, if an alien, he has an obligation,

f. That he is not eligible for a deferred or exempt class, or Class 1-O, and

g. That he will not have reached the 26th anniversary of his date of birth prior to his scheduled date of induction.

2. The scheduling and delivery of the registrant shall be in accordance with instructions of the State Director. If the registrant is a member of a recognized church, religious sect or religious organization which has historically observed certain religious holidays, and the registrant is scheduled to report for induction on one of those holidays, his induction shall be rescheduled if he so requests.

3. After it has been determined that the registrant has been properly selected for induction, any member or compensated employee of the local board, or any compensated employee of the Selective Service System whose official duties require him to perform administrative duties at the local board shall prepare for each registrant selected an Order to Report for Induction (SSS Form 252). The date specified to report for induction shall be at least 30 days after the date the order to report for induction is mailed, except that a registrant who has volunteered for induction may be selected and ordered to report for induction on any date after he has volunteered.

4. The date of mailing of the order to report for induction shall be entered on page 2 of the Registrant File Folder (SSS Form 101) or page 8 of the Classification Questionnaire (SSS Form 100) and a copy of the order to report for induction will be placed in the file folder.

5. One copy of "Before You Enter the Army" (DA Pamphlet 608-32) will be mailed with the registrant's order to report for induction.

6. A Statement of Personal History (DD Form 398) with instruction sheet will also be mailed to each registrant, except for a medical specialist, along with his order to report for induction.

SEC. 632.3 *Postponement of induction.*—

• • • • • •

20. All postponements of induction shall be recorded on the Minutes of Local Board Meeting (SSS Form 112).

21. Any postponement granted to a registrant shall be terminated prior to the scheduled termination date if information is received by the postponing authority which reveals that the cause for the postponement has ceased to exist.

SEC. 632.4 *Cancellation of induction orders.*—1. Any order to report for induction may be cancelled by the Director of Selective Service at any time prior to the registrant's induction, his failing to report therefor, or his refusing to submit to induction.

2. Any order to report for induction which has been issued to a registrant either during the period in which he may make a timely request for a personal appearance before the local board, or during the period such personal appearance is pending, shall be cancelled by the local board.

3. Any order to report for induction which has been issued to a registrant shall be cancelled by the local board whenever the classification is reopened and considered anew, except when the registrant has failed to comply with his induction order, the reopening of his classification by the local board for the purpose of placing him in or removing him from Class 4-C shall not cancel the order with which he failed to comply.

4. Any order to report for induction which has been issued to a registrant during either the period afforded the registrant to take an appeal to the appeal board or to the National Appeal Board, or during the period such an appeal is pending, shall be cancelled by the local board.

5. Whenever an appeal has been taken by the Director or a State Director, any order to report for induction which has previously been issued to the registrant for whom the appeal has been taken shall be cancelled by the local board.

6. Any cancellation of an induction order, except where the registrant has enlisted, shall be prepared on the Notice of Cancellation (SSS Form 255) in accordance with its procedural directive. The date of cancellation and mailing shall be noted on page 2 of the SSS Form 101 or page 8 of the SSS Form 100.

SEC. 632.10 *Disposition of registrants inducted or found not qualified.* 1. Upon receiving notice from the AFEES that a registrant who has been forwarded for induction has been inducted or has received a final determination of unacceptability for service in the armed forces, the local board shall reopen his classification and classify him anew.

2. A registrant who has been found unacceptable by the AFEES at his *induction* examination with "Reexamination Believed Justified" (RBJ) indicated on the Statement of Acceptability (DD Form 62) shall not be classified into Class 4-F until he is reexamined and again found unacceptable. When a local board receives a registrant's DD Form 62 with RBJ indicated, following his *induction* examination, it shall:

a. Retain the registrant in his present classification, and cancel the outstanding induction order.

b. Mail the registrant's copy of the DD Form 62, the Record of Results of Armed Forces Examination (SSS Form 220), and the Notice of Cancellation (SSS Form 255), and a letter explaining his RBJ status. A sample letter for this purpose is Attachment 632-3 to this chapter.

c. Enter on page 2 of the SSS Form 101 or page 8 of the SSS Form 100 "RBJ letter mailed" and the date.







V 38-176 SEP 12 73 XUM

d. Schedule the registrant for reexamination in accordance with Chapter 628.

If found acceptable upon reexamination, he will again be subject to selection for induction in accordance with Chapter 631.

SEC. 632.12 *Enlistment of registrants ordered for induction.*—1. Whenever a local board receives a DD Form 53 or a DD Form 44 evidencing that one of its registrants to whom an induction order has been issued, has been enlisted or appointed in the Armed Forces of the United States, including the Reserve components thereof, and the date of enlistment or appointment is at least 10 days prior to his scheduled reporting date for induction, it shall reopen his classification and cancel his order to report for induction.

2. In the case of a registrant whose induction reporting date has been postponed under any provisions of this chapter, the enlistment or appointment will be valid if it is accomplished at least 10 days prior to the rescheduled reporting date. If such a registrant's induction reporting date has not yet been rescheduled.

• • • • • •

SAMPLE LETTER REGARDING RBJ

(Local Board Stamp)

To: ---------- ----------
Date of Mailing

SSN: ----------

Dear ----------:

You have been found unacceptable for induction into the armed forces during your armed forces examination performed on ---------- (date). It has been recommended, however, that you be reexamined in ---- months, as your physical condition may have improved sufficiently by that time to qualify you for service.

You are no longer under orders to report for induction; however, you will be retained in your present classification until a final determination is made regarding your acceptability for induction, or until it is determined you will not be reexamined.

If you have a question concerning your status, please contact your local board.

----------
Authorized Signature

Portions of Chapter 641 DUTY OF REGISTRANTS have been revised as of September 10, 1973, as follows:

1641.6 *Duty to have unaltered documents in personal possession.*—(a) Every registrant who has not discharged his current military obligation under the Military Selective Service Act[1] shall, until his liability for training and service[2] has terminated, have in his personal possession except while he is on active duty (other than active duty for training or for the sole purpose of undergoing a physical examination) in the Armed Forces (1) his Registration Certificate (SSS Form 2) and Notice of Classification (SSS Form 110) showing his current classification or (2) his Status Card (SSS Form 7) most recently issued by the local board.

(b) The failure of any person to have his Registration Certificate (SSS Form 2) or Status Card (SSS Form 7) in his personal possession as required in paragraph (a) of this section shall be prima facie evidence of his failure to register.

(c) When a registrant is inducted into the Armed Forces, or enters upon active duty in the Armed Forces, other than active duty for training only or active duty for the sole purpose of undergoing a physical examination, he shall surrender his documents listed in paragraph (a) of this section to the commanding officer of the Armed Forces Examining and Entrance Station or to the responsible officer at the place to which he reports for active duty. Such officer shall return the documents to the local board that issued them.

1641.7 *Duty of registrant separated from active duty in Armed Forces.*—Every registrant who is separated from active duty in the Armed Forces prior to the 26th anniversary of the date of his birth, who has not discharged his current military obligation under the Military Selective Service Act,[1] and who does not have a Registration Certificate (SSS Form 2) or Status Card (SSS Form 7), shall, within 10 days after the date of his separation, request in writing his local board to return his Registration Certificate (SSS Form 2) or Status Card (SSS Form 7), if available, or to issue to him a duplicate thereof.

1641.8 *Duty to return Registration Certificate to local board.*—Whenever a registrant at the time he receives a duplicate Registration Certificate (SSS Form 2) from his local board has in his possession any such certificate previously issued to him by the local board or thereafter finds or regains possession of any such certificate previously issued to him, it shall be the duty of the registrant to immediately return to the local board the certificate previously issued to him upon his receipt of the duplicate certificate or upon his thereafter finding or regaining possession of such certificate previously issued to him."

SEC. 641.2 *Explanation of terms.*—1. "Liability for training and service": As used in Section 1641.6 of the Regulations, a person's responsibility for service imposed by the Military Selective Service Act. This liability commences when he reaches the age of 18 years and 6 months after having been required to register. This liability terminates when he reaches the age of 26 unless extended to age 35.

2. "Current military obligation under the Military Selective Service Act": As used in sections 1641.6 and 1641.7 of the Regulations, for Selective Service purposes a person will be considered to have discharged his current military obligation if he is separated after having served honorably for 6 months or more on active duty other than active duty for training. Twenty-four months of assigned alternate service is required of conscientious objectors to satisfy their obligation, unless sooner released by the Director or State Director of Selective Service after not less than six months of alternate service. Twenty-four months of service is also required for commissioned officers in the National Oceanic and Atmospheric Administration or the Public Health Service. Service in the Public Health Service after June 30, 1967, must have been in an office or bureau of the Public Health Service, including the National Institutes of Health, or on assignment to the Coast Guard, the Bureau of Prisons of the Department of Justice, the Environmental Protection Agency, or the National Oceanic and Atmospheric Administration.

[1] See paragraph 2 of section 641.2 for definition of "current military obligation under the Military Selective Service Act."

[2] See paragraph 1 of section 641.2 for definition of "liability for training and service."

CHAPTER 680 (REV SEP 10, 1973)—MEDICAL SPECIALISTS

INDEX


Sec.
680.1 Purpose.
680.2 Definition.
680.3 Random sequence number.
680.4 Classification.
680.5 Examinations.
680.6 Induction calls by the Secretary of Defense.
680.7 Issuance of call by the Director of Selective Service.
680.8 Issuance of call by the State Director of Selective Service.
680.9 Action by Local Board upon receipt of a call.
680.10 Postponement of induction.
680.11 State Medical Advisory Committees.
680.12 Deferments.
680.13 Alternate service.
680.14 Volunteers.
Attachment 680–1 Sample Letter to Medical Specialist Registrant Selected for Special Call.
Attachment 680–2 Reporting Medical Specialists to RIB.


CHAPTER 680—MEDICAL SPECIALISTS

SECTION 680.1 *Purpose.*—The purpose of this chapter is to establish procedures for the processing of medical specialists.

SEC. 680.2 *Definition.*—The term "medical specialists" refers to doctors of medicine, doctors of osteopathy, dentists, veterinarians, optometrists, podiatrists, and registered nurses.

SEC. 680.3 *Random sequence number.*—Medical specialists shall be assigned a Random Sequence Number (RSN) in accordance with Chapter 631 of the RPM, with the addition that all medical specialists born before 1944 shall be assigned a birthdate sequence (Random Sequence Number) based upon the results of the drawing held on December 1, 1969, identified as the 1970 Random Selection Sequence. The fact that a registrant's RSN was not reached under a regular call does not preclude its being reached, and his being called, under a special call for medical specialists.

SEC. 680.4 *Classification.*—1. Every registrant who is or becomes a medical specialist, as defined in Section 680.2, shall be placed in Class 1–AM (Medical, Dental, or Allied Specialist) unless otherwise eligible for a lower classification.

2. A medical specialist eligible for classification in Class 1–A–O, were he not a medical specialist, will be placed in Class 1–A–OM. A medical specialist eligible for classification in Class 1–O, were he not a medical specialist, will be placed in Class 1–OM.

3. Medical specialists who are classified in Class 1–AM, 1–A–OM, or 1–OM, shall be identified in correspondence and on Selective Service forms as follows:

| Medical specialty | Class 1–AM | 1–A–OM | 1–OM |
|---|---|---|---|
| Doctor of medicine | 1–AMM | 1–A–OMM | 1–OMM |
| Doctor of osteopathy | 1–AMO | 1–A–OMO | 1–OMO |
| Dentist | 1–AMD | 1–A–OMD | 1–OMD |
| Doctor of optometry | 1–AME | 1–A–OME | 1–OME |
| Doctor of podiatry | 1–AMP | 1–A–OMP | 1–OMP |
| Veterinarian | 1–AMV | 1–A–OMV | 1–OMV |
| Registered nurse | 1–AMN | 1–A–OMN | 1–OMN |

4. Medical specialists who are classified in classes other than 1–AM, 1–A–OM, or 1–OM shall be identified on Selective Service forms by placing the appropriate letter designating their specialty after the class designation in the same manner as shown in paragraph 3 above. (For example, a dentist in Class 3–A would be shown as 3 AD; a doctor of medicine in Class 4–G would be shown as 4 GM.)

5. Through the submission of Status Cards (SSS Form 7)[1] to the Computer Service Center, the Registrant Information Bank (RIB) will receive notice of each medical specialist, identified by specialty. This will enable the RIP to print out reports of medical specialists. (See Attachment 680–2.)

SEC. 680.5 *Examinations.*—1. Local boards shall forward medical specialty registrants for armed forces examinations in accordance with Chapter 628 of the RPM. A registrant who has previously been examined as a regular registrant shall, after being identified by the local board as a medical specialist, be forwarded for examination, regardless of a previous examination. Medical specialists are examined under Medical Specialists Medical Fitness Standards rather than under standards applicable to registrants subject to regular call.

2. At the time of his armed forces examination at the Armed Forces Examining and Entrance Station (AFEES), a medical specialist's professional qualifications are determined. If the registrant is found to be professionally disqualified, his Notice of Acceptability (DD Form 62) will indicate whether the disqualification is permanent or temporary with "reexamination believed justified" (RBJ). The registrant shall then be processed under either (a), (b), or (c) below:

a. In the case of a medical specialist found not acceptable because of a permanent professional disqualification (as indicated in the "Remarks" block of the DD Form 62 or by the appearance of a "Z" in the third element of the qualification symbol in the upper right-hand corner of the Report of Medical Examination (SF 88)), block 4 of Record of Results of Armed Forces Examination (SSS Form 220) should be completed by entering the "Z" symbol in the third (administrative) box of line 1, block 4, to denote permanent disqualification (entries must also be typed in boxes 1 and 2, line 1, block 4). The registrant should then be considered for classification in Class 4–F.

b. In the case of a medical specialist found not acceptable because of a temporary professional disqualification, RBJ (as indicated in the "Remarks" block of the DD Form 62, or by the appearance of a "Y" in the third element of the qualification symbol in the upper right-hand corner of the SF 88), the registrant shall not be reclassified 4–F but shall be retained in his current classification as long as he continues to qualify for that class. If no RBJ period is indicated on the DD Form 62, an RBJ period of six months should be used. The termination date of the RBJ period should be entered in boxes 1–3, line 2 of block 4, and the registrant should be processed for reexamination at the termination of the period. In such RBJ cases, the "Y" qualification symbol will be entered in the third box of line 1, block 4, of SSS Form 220. (Entries must also be typed in boxes 1 and 2, line 1, block 4.)

c. Any case in which it is not clear whether the disqualification is permanent or temporary should be processed as a temporary disqualification, RBJ, and processed as in paragraph 2b.

3. When a medical specialist fails to report for or refuses to submit to an armed forces examination or any part of the examination, he shall be processed in accordance with Chapter 628 of the RPM. Notification of the medical specialist's failure to submit to armed forces examination should be forwarded by the local board through the appropriate State Director to Headquarters, Health Services Command, Attention: HSC–PE–P, Fort Sam Houston, Texas 78234.

SEC. 680.6 *Induction Calls by the Secretary of Defense.*—The Secretary of Defense may from time to time place with the Director of Selective Service a call or requisition for men in any medical specialist category required for induction into the armed forces. This is referred to as a "Special Call."

SEC. 680.7 *Issuance of call by the Director of Selective Service.*—Upon receipt of a call or requisition from the Secretary of Defense for men in a medical specialist category to be inducted into the armed forces, the Director of Selective Service shall issue a call or requisition to the several states. The issuance of a call for the delivery of registrants shall specify the priority group and the highest RSN to be reached for registrants in the appropriate specialty who shall be selected for induction.

SEC. 680.8 *Issuance of call by the State Director of Selective Service.*—The State Director of Selective Service shall issue a call for the delivery of registrants as prescribed by the Director of Selective Service in accordance with section 680.7 of this chapter.

SEC. 680.9 *Action by Local Board upon receipt of a call.*—1. When an induction call is received from the State Director of Selective Service, any member or compensated employee of the local board, or any compensated employee of the Selective Service System whose official duties include the performance of administrative duties at a local board shall, as provided by this section, select and issue orders to report for induction to those men required to fill the call, from among its registrants who have been classified in Class 1–AM or Class 1–A–OM, who have been found fully acceptable for service in the armed forces and to whom a DD Form 62 has been mailed and who are fully available for induction, except:

a. If a medical specialist in any classification has refused or otherwise failed to comply with an order of his local board to report for and submit to an armed forces examination, he may, at such time as he is in Class 1–AM or Class 1–A–OM and reached for induction, be selected and ordered to report for induction to fill a special call as issued by the Department of Defense even though he has not been found acceptable for service in the armed forces and a DD Form 62 has not been mailed to him. In such case, the armed forces examination shall be performed after he has reported for induction as ordered, and he shall not be inducted until he has been found acceptable for service in the armed forces, or

b. A registrant in Class 1–AM or 1–A–OM who has volunteered for induction and who has not had his acceptability determined shall be forwarded for armed forces examination at the earliest practicable date. If the registrant is found acceptable, he shall be issued an order to report for induction under the provisions of the outstanding special call.

2. *Order of call.*—Fully available medical specialist registrants who have not already been ordered and given postponements shall be selected and ordered to report for induction in the following categories and in the order indicated:

(1) Volunteers, in the sequence in which they have volunteered for induction;

(2) Nonvolunteers in the First Priority Selection Group—Medical, in the order of their Random Sequence Number (RSN) established by random selection procedures prescribed in accordance with section 680.3 of this chapter;

(3) Nonvolunteers in the Second Priority Selection Group—Medical, in the order of their RSN established by random selection procedures prescribed in accordance with section 680.3 of this chapter;

(4) Nonvolunteers in the Third Priority Selection Group—Medical, in the order of their RSN established by random selection procedures prescribed in accordance with section 680.3 of this chapter;

(5) Nonvolunteers in each succeeding Priority Selection Group—Medical, in turn, after the First Priority Selection Group—Medical, in the order of their RSN established by random selection procedures prescribed in accordance with section 680.3 of this chapter, until attainment of age 35.

3. A registrant's RSN will be deemed to have been "reached" if it is equal to or lower than the highest random sequence cutoff number established by the Director of Selective Service for induction of medical specialists in the same Prority Selection Group-Medical and medical specialty for the announced special call.

4. *Identification of and assignment to priority selection groups-medical.*—a. An alien who enters the United States after he has completed his first professional degree will enter the First Priority Selection Group-Medical (1PSG–M) immediately following his first year of residing in the United States. All other medical specialists will enter the 1PSG–M immediately following the attainment of the first appropriate professional degree or diploma, or completion of internship or one year of equivalent training, whichever is later. The internship or one year of equivalent training must follow immediately upon the attainment of the appropriate professional degree.

*Example 1.*—A dentist who attained his professional degree on June 15, 1973, entered the 1PSG–M on June 16, 1973, as internship is normally not required of a dentist.

*Example 2.*—A doctor of medicine or osteopathy who attained his professional degree on June 15, 1973, and who will complete his internship on June 30, 1974, would enter the 1PSG–M on July 1, 1974.

*Example 3.*—A medical specialist who was admitted to the United States as a permanent resident alien after he received the first appropriate professional degree, and who had resided for one year in the United States as of July 1, 1973, entered the 1PSG–M on July 2, 1973.

b. Upon completion of one year in the 1PSG–M, a registrant will be assigned to the Second Priority Selection Group-Medical (2PSG–M) and will become less vulnerable for special call selection. He will be assigned to the next lower Priority Selection Group each year thereafter, in the same manner. Notation will be made on the Registrant File Folder (SSS Form 101) to show when a registrant enters the 1PSG–M and also when he enters the 2PSG–M and subsequent years of further reduced vulnerability (3PSG–M, 4PSG–M, etc.).

*Example.*—A medical specialist who entered his 1PSG–M on July 1, 1973, would enter his 2PSG–M on July 1, 1974, his 3PSG–M on July 1, 1975, his 4PSG–M on July 1, 1976, etc.

c. Initial assignment to a PSG–M for a medical specialist who is beyond his 1PSG–M year at the time this chapter is issued will be based upon the number of years which have elapsed since he met the criteria for 1PSG–M as stated in paragraph 4a.

*Example.*—A doctor of medicine completed his year of internship on June 30, 1968. His local board reclassified him into Class 1–AMM on August 21, 1973. He would be shown as being in 6PSG–M, because it is the 6th year

[1] Filed as part of the original document.







V 38-176 SEP 12 73 XUM

since his completion of his internship. He will enter the 7PSG–M on July 1, 1974.

d. Because the dates when individual medical specialists will enter the 1PSG–M and lower Priority Selection Groups-Medical will vary, local boards are instructed to use care in filing the SSS Form 101 by RSN within the Priority Selection Group-Medical.

5. *Administrative processing.*—a. When an Order to Report for Induction (SSS Form 252) is issued under a special call to a medical specialist, in accordance with section 680.9 of this chapter, copy 3 of SSS Form 252 shall be forwarded through the State Director to Headquarters, Health Services Command, Attention: HSC–PE–P, Fort Sam Houston, Texas 78234. The State Director shall reproduce two copies of SSS Form 252, forward one copy to the Director of Selective Service, Attention, Operations Division, and retain one copy. The induction order shall contain the Special Call number under which the registrant is being processed, and the registrant's medical specialty (such as doctor of medicine, doctor of osteopathy, dentist, veterinarian, optometrist, podiatrist, or registered nurse). These entries shall be typed in the upper right-hand corner of the SSS Form 252.

b. Upon receipt of the induction order of a medical specialist, Headquarters, Health Services Command, will allocate the registrant to a military service. The armed force to which the registrant is allocated will contact him regarding a Reserve commission. Upon the registrant's acceptance of the commission, a Record of Military Status of Registrant (DD Form 44) will be sent to the local board.

c. When a registered nurse has been ordered for induction, Headquarters, Health Services Command, will, upon receipt of the copy of the induction order, forward the registrant's preinduction papers to the Office of The Surgeon General, Department of the Army, Washington, D.C. The Office of The Surgeon General will then determine the registrant's rank and will allocate him to one of the armed forces which is participating in the call. The appropriate armed force will contact him regarding a Reserve Commission. Upon acceptance of a commission by the registrant, a DD Form 44 will be forwarded to the local board.

d. The scheduled induction date of a medical specialist will be at least 30 days after the date of mailing of the order to report for induction. No medical specialist will be issued an induction order with a scheduled reporting date later than the last date specified for filling the special call.

e. Notification of Entry Into Active Military Service (DD Form 53) will be forwarded to the State Director by the appropriate armed force when a medical specialist enters upon active duty.

f. The State Director shall routinely postpone the induction of any medical specialist who is ordered for induction under a special call and who cannot be commissioned prior to the date scheduled for the registrant's induction. If the postponement is for 60 days or less, the registrant shall be issued a Notice of Rescheduled Reporting Date (SSS Form 253). If the postponement is in excess of 60 days, the registrant shall be issued a Postponement of Induction (SSS Form 264) and shall subsequently be issued an SSS Form 253 not less than 30 days nor more than 60 days prior to the rescheduled reporting date. Copies of the SSS Form 253 and/or 264 shall be forwarded to National Headquarters, Attention: Operations Division, through the State Headquarters by the local board.

g. Headquarters, Health Services Command, shall be notified by fastest mail, by the State Director, of the cancellation of any induction order for a medical specialist. A copy of the Notice of Cancellation (SSS Form 255) shall be forwarded to National Headquarters by the local board.

h. Each madical specialist ordered to report for induction under the authority of a special call will be sent an explanatory letter relative to his processing (See Attachment 680–1).

6. *Report of availability of medical specialists.*—This report will be prepared only when requested by the Director of Selective Service.

7. *Reserve obligation.*—Medical specialists who accept Reserve commissions under the provisions of a special call before attaining the age of 26 will have a minimum military obligation consisting of two years of active military service, three years Ready Reserve, and one year of Standby Reserve. Those who accept a Reserve appointment after attaining the age of 26 have no further Reserve obligation after completing two years of active duty, unless otherwise obligated, provided they resign their commissions at the completion of their active duty period.

8. *Appointments for medical specialists in a reserve or National Guard unit.*—Any medical specialist selected for induction under the provisions of a special call, for whom convincing evidence is received verifying that a current application for appointment as a commissioned officer in an organized unit of the Reserve or National Guard in a medical specialist capacity was in process at the time of his selection for special call, shall have his induction postponed pending completion of processing. Upon receipt of DD Form 44, announcing the appointment, the registrant's classification shall be reopened and considered anew.

9. *Delivery for induction.*—Any medical specialist who has been ordered under the provisions of a special call and subsequently refuses an appointment as a commissioned officer in one of the military services, as tendered, will be inducted in an enlisted status. If a medical specialist fails to report for or submit to induction, his file will be processed in accordance with the provisions of Chapter 642 of the RPM.

SEC. 680.10 *Postponement of induction.*—1. Postponement of induction will be accomplished in accordance with Chapter 632 of the RPM. The Director of Selective Service or the appropriate State Director of Selective Service may postpone the induction of a medical specialist who applies or has applied for an appointment as a Reserve officer in one of the armed forces, in a medical, dental, or allied specialist category, until final action is taken on his application.

2. The Director or appropriate State Director of Selective Service may postpone, in substantiated cases of proven community need, the induction of a medical specialist for a period of approximately 90 days, or less, to assist the community in its efforts to obtain additional medical assistance.

3. Medical specialists to whom orders to report for induction have been issued, and whose inductions are postponed for a period of 60 days or less for purposes other than the obtaining of a commission, shall be rescheduled at the time of postponement, to a date certain within the 60-day period. If the medical specialist registrant is postponed for over 60 days, the local board shall give him not less than 30 days, nor more than 60 days notice of the rescheduled reporting date.

4. *Berry Plan and Osteopathic Residency Deferment.*—A physician who has been reached for induction under the provisions of a special call, for whom information has been submitted from the Department of Defense verifying that he is being considered for appointment in the Berry Plan or the Osteopathic Residency Deferment (ORD) Program, shall have his induction postponed. Upon receipt of verification (DD Form 44) that he has been appointed a Reserve commissioned officer participating in the Berry Plan or the ORD Program, the registrant's classification will be reopened and considered anew.

5. *Commissioned Officers Residency Deferment Program (CORD) of the Public Health Service.*—a. On the local board's receipt of Verification of Status of Commissioned Officers of the Public Health Service (PHS Form 1867) indicating that a medical specialist to whom an induction order has been issued has been appointed in the Reserve Corps of the Public Health Service, the board shall postpone the registrant's induction pending his entry upon active duty.

b. On the local board's receipt of Public Health Service Form 1867 for a medical specialist to whom an induction order has not been issued, indicating his participation in the CORD program, the issuance of an order to report for induction shall be postponed.

c. Upon receipt of Public Health Service Form 1867 indicating that the registrant has actually entered on active duty, the registrant's classification will be reopened and considered anew.

d. Unlike medical specialists who have been appointed as Reserve officers as members of the Berry Plan or ORD programs, and therefore entitled to classification in Class 1–D, Reserve Commissioned Officers of the Public Health Service participating in the CORD (Commissioned Officers Residency Deferment Program) are not eligible for classification in Class 1–D, but should remain in Class 1–AM or 1–A–OM.

SEC. 680.11 *State Medical Advisory Committees.*—Each State Director shall appoint a Medical Advisory Committee for his state, which shall advise local boards on the eligibility for deferment of medical specialist registrants.

Each State Medical Advisory Committee shall consist of five or more residents of the state who are medical specialists including at least one doctor of medicine and at least one dentist.

SEC. 680.12 *Deferments.*—1. A medical specialist should be classified in the lowest classification for which he is qualified except that a medical specialist will not be eligible for occupational deferment (Class 2–AM) while in the 1PSG–M.

2. Medical specialists who were classified into Class 2–A (occupational deferment) prior to January 7, 1973, on the basis of community essentiality, may be classified in Class 2–AM so long as they qualify under paragraph 3 of this section, and so long as they remain in the same position. Internship is not a basis for occupational deferment.

3. As of January 7, 1973, a medical specialist may be granted an occupational deferment only after he has entered the Second or lower PSG–M and *only* if his occupation has been found by the State Medical Advisory Committee of the state in which the registrant is practicing, to represent an especially critical community service in which the specialist is directly involved in patient care.

4. Requests for occupational deferment (Class 2–AM) by registrants who are no longer in the 1PSG–M should be forwarded by the local board, along with any supporting documentation received, through the appropriate State Director(s), to the Medical Advisory Committee (MAC) of the state in which the registrant is practicing. Upon receipt of the recommendation of the MAC, the local board should review the information submitted, giving consideration to the recommendation of the MAC with regard to whether the registrant's classification should be reopened.





SEC. 680.13 *Alternate Service.*—A medical specialist registrant in Class 1–OM will be ordered to alternate service in lieu of induction, in accordance with Chapter 660 of the RPM, at the time he would be ordered for induction if he were in Class 1–AM or 1–A–OM.

SEC. 680.14 *Volunteers.*—1. During the period of a special call, registrants in the designated medical specialty who are not already under the jurisdiction of a medical program of the armed forces or otherwise under an armed forces commitment, may volunteer for that special call by written request to the local board, if they have not attained the age of 35. Aliens admitted for temporary residence may not volunteer.

2. Medical specialists interested in joining a Medical Department of one of the military services in the absence of a special call may be directed to the following sources:

General information with regard to the Berry Plan or ORD Program:
The Assistant Secretary of Defense (Health and Environment), Attention: Berry Plan Office (or ORD Program), The Pentagon, Washington, D.C. 20301.

Information requests with regard to individual services should be directed as follows:
Army: Office of The Surgeon General, Department of the Army, Attention: DASG–PTP–D, Washington, D.C. 20314.
Navy: Office of The Surgeon General, Department of the Navy, Attention: Professional Division, Washington, D.C. 20390.
Air Force: Air Force Military Personnel Center/SG–SP, Department of the Air Force, Randolph Air Force Base, Texas 78148.
Commissioned Officer Corps of the Public Health Service: Commissioned Personnel Division, Employment Operations Division, P.H.S., Parklawn Building (Room 4–35), 5600 Fishers Lane, Rockville, Maryland 20852.

SAMPLE LETTER TO MEDICAL SPECIALIST REGISTRANT SELECTED FOR SPECIAL CALL

(Local Board Stamp)

_____
*Date of Mailing*

To:_____

SSN:_____

Dear_____:

The Health Services Command, Fort Sam Houston, Texas 78234, is the custodian of your records as a medical specialist registrant who has been selected for military service. Health Services Command will contact you very soon relative to your obtaining a commission.

If you already have applied for a commission in one of the armed forces, you should immediately inform the military office with which you are corresponding that you have received an order to report for induction. Also notify the Health Services Command of your pending application.

Until you are actually commissioned in the armed forces, however, you are not within military jurisdiction, and the armed forces cannot consider any requests from you regarding your selective service status, such as a delay in call to active duty. If you have questions related to your selective service processing, you should contact any local board.

If you accept the commission tendered you, Selective Service should be notified promptly so that you can be advised not to report for induction as directed on the enclosed order.

Please notify this local board immediately if you accept a commission.

_____
*Authorized Signature*

REPORTING MEDICAL SPECIALISTS TO RIB

1. Any medical specialist for whom the local board retains accountability will have a record established in RIB through submission of a Status Card (SSS Form 7) to the Computer Service Center (CSC).

2. Upon reclassification of medical specialists into any classification, an SSS Form 7 will be prepared using the medical identifiers shown in section 680.4 of this chapter. (For example, a dentist reclassified into Class 1–AM will be shown as Class 1 AMD; a veterinarian reclassified into 3–A will be shown as Class 3 AV).

3. For deferred or exempt medical specialists who do not require reclassification by the local board at this time, an "original" SSS Form 7 will be prepared for the Computer Service Center only, showing the registrant's current class, followed by the medical specialist identifier. (For example, a doctor of medicine in Class 3–A will be shown as Class 3 AM). The registrant's copy will be destroyed and the "date of mailing" will be the date of preparation.

4. Most medical specialists were born prior to 1953. Therefore, the SSS Form 7 will establish a new record for them in RIB. In order for this to be accomplished, it will be necessary, after completing block 1, to type "XXX" in the "Month" box of the "DATE OF THIS LOCAL BOARD MEETING" field, leaving the "DAY" and "YEAR" boxes blank and completing the remainder of block 2 only if the registrant's current class resulted from a local board action.

5. When preparing the SSS Form 7, for a registrant in Class 1–AM, 1–A–OM, or 1–OM, block 1, line 1, box 10, (PSG) must be completed to reflect his PSG–M as of the date of mailing. When completing this block for doctors of medicine and doctors of osteopathy who are in their internship, the number 0 (zero) will be typed in this box. (The letter O will *not* be used in this box). When completing the form for any other medical specialist in Class 1–AM, 1–A–OM, or 1–OM, this box must contain the number reflecting his PSG–M. (For example, the PSG box will show the numeral 1 for a medical specialist in the 1PSG–M. The numeral 10 will be shown for a registrant in the 10PSG–M). Where it is necessary to show the PSG–M with two digits, the second digit will be placed on the SSS Form 7 in the white field of the PSG block and the first digit in the blue field, immediately preceding the second digit. The PSG box will be left blank for any medical specialists in classes other than Class 1–AM, 1–A–OM, or 1–OM.

6. When the PSG box is completed, the form must also reflect the termination date of the current PSG–M. The termination date of the medical specialist's PSG–M will be entered in block 2, line 1, immediately following box 4, the "Previous Class" box. The month of termination will be entered two spaces past the field separator of the Previous Class box. After the month is entered, enter a field separator, the day of termination, a field separator, the year of termination, and a field separator. In the case of doctors of medicine or doctors of osteopathy who are performing their internship, the termination date of the internship will be entered in this space.

7. Do not place an "X" in the previously examined box unless the registrant has completed an armed forces examination *as a medical specialist.*

8. If an Individual Appeal Record (SSS Form 120) is prepared for a medical specialist, the class, with medical identifier, may be typed without spaces between the characters in order to fit into the class box.

9. Any OCR form that does not have a "Classified In" box will not have a registrant's class typed on the form.

10. This revised Chapter makes certain changes in the information to be entered on the SSS Form 7 for a medical specialist. Therefore, upon receipt of this revision, each local board shall:

(1) Submit a deletion SSS Form 7 for each medical specialist for whom an SSS Form 7 has previously been submitted to the Computer Service Center, and

(2) Submit a new SSS Form 7 in accordance with the provisions of this attachment.

[Temporary Instruction No. 603–1; 619–1]

RECORDS RELATING TO MILITARY SERVICE

1. Due to a recent fire involving certain military records, the Selective Service System has been requested to suspend destruction of any records related to an individual's military service. Therefore, all local boards are instructed to search all Registrants File Folders (SSS Form 101) which are, or become, eligible for destruction under the provisions of Chapter 619 of the RPM, and remove all military records, such as DD Forms 214, 215, 44, 53, or 1300; SF 88, 89, or 93 if issued at time of separation; or any other document related to an individual's military service. These records, together with any military records which the local board may have on hand which do not pertain to one of their accountable registrants, will be sent to the State Headquarters for retention. All records pertaining to an individual registrant will be stapled together. The State Headquarters will store these documents until they receive further instructions from National Headquarters.

2. The telegram to all State Directors dated July 17, 1973, is rescinded.

This Temporary Instruction will terminate when amended or rescinded.

Issued August 6, 1973.

[Temporary Instruction No. 642–2]

REPORTING LATE REGISTRATIONS

1. New procedures for reporting late registrations to the United States Attorney are contained in a revision of Chapter 642 which will be distributed in the near future. Until that revision is received, local boards will not report as violators registrants who have registered late.

2. Files of registrants previously reported as violators because of late registration shall be returned to the local board, unless the case has been referred to the United States Attorney.

3. Upon receipt of revised Chapter 642, local boards will review the files of all registrants referred to in paragraphs 1 and 2 above, in accordance with the procedures outlined in the revised chapter.

This Temporary Instruction will terminate when the revised Chapter 642 is received and the actions specified above have been taken.

Issued July 6, 1973.

[Temporary Instruction No. 642–4]

REPORTING LATE REGISTRATIONS

1. The requirement for reporting of late registrations to the Director of Selective Service on a monthly basis as provided in paragraph 5 of Section 642.9 of the Registrants Processing Manual is rescinded.

2. Local boards, in session with a quorum present, will continue to make determinations as provided in paragraph 3 of Section 642.9. Determinations will be made only in the case of a registrant who has registered or will register subsequent to January 1, 1973, whose registration occurred:

a. Later than 60 days after the eighteenth anniversary of the date of his birth, or

b. Later than seven months from the date on which he entered the United States in



V 38 176 SEP 12 73 XUM

the case of an alien who enters after attaining the age of 18.

3. When the local board determines that a registrant's late registration was the result of a deliberate intent not to register in a timely manner, the registrant shall be reported on a Report of Violation (SSS Form 301) addressed "United States Attorney", with no further address. The SSS Form 301 shall be mailed to National Headquarters, Attention: General Counsel, together with the registrant's file folder.

4. When the local board determines that a registrant's late registration is not the result of a deliberate intent not to register in a timely manner, or is due to circumstances beyond his control, the registrant shall not be reported on an SSS Form 301, but a notation of the local board's determination shall be made and placed in the registrant's file folder.

5. Temporary Instruction No. 642-3 was rescinded prior to distribution.

This Temporary Instruction will terminate upon receipt of a revision to Chapter 642.

Issued August 22, 1973.

[Temporary Instruction No. 631-13, 621-4]

PROCESSING REGISTRANTS BY RSN

1. Effective September 1, 1973, all registrants born in 1954, with RSN 001 through 095, classified in Class 1-H are no longer eligible for Class 1-H and shall have their classifications reopened and considered anew, under the provisions of the RPM.

2. A Registrant RSN Report listing registrants born in 1954 with RSN 001 through 095 will be distributed during the last week in August. It will be used in the processing of registrants born in 1954 in RSN sequence through RSN 095, the Administrative Processing Number (APN) established for the 1954 year of birth group.

3. The APN for registrants born in 1953 continues to be RSN 100.

4. Temporary Instruction No. 631-10 621-3 is rescinded.

This Temporary Instruction will terminate upon amendment or rescission.

Issued August 15, 1973.

BYRON V. PEPITONE,
*Director.*

SEPTEMBER 5, 1973.

[FR Doc.73-19236 Filed 9-11-73;8:45 am]

## DEPARTMENT OF THE TREASURY

### Office of the Secretary

### LOAN TO THE GOVERNMENT OF BRAZIL GUARANTEED BY THE UNITED STATES

### Public Notice of Invitation To Bid By Financial Institutions

I. INVITATION TO BID—CLASSES OF BIDDERS

The Secretary of the Treasury, acting for the Secretary of Defense by this notice and under the terms and conditions hereof invites bids on the interest rate on a $15,000,000 loan to the Government of Brazil, hereinafter referred to as the Borrower. The loan is described in Section II hereof. Bidding hereunder shall be subject to the "Regulations Governing the Sales of Treasury Bonds Through Competitive Bidding" (31 CFR 340) insofar as applicable.

The purpose of the loan is to provide private financing for the purchase by the Borrower of defense articles and services from United States sources in furtherance of the Foreign Military Sales Act, as amended, P.L. 90-626, October 22, 1968, 82 Stat. 1326; 22 U.S.C. 2571-2793 and Executive Order 11501, December 22, 1969, 34 F.R. 20169.

Bids will be received only from incorporated banks, trust companies, recognized dealers in investment securities, and other financial institutions doing business in the United States. Bids must be submitted to the Federal Reserve Bank of New York in accordance with the provisions of the last section hereof.

II. DESCRIPTION OF LOAN AGREEMENT—COMMITMENT FEE

(a) The principal features of the loan are as follows:

(1) There will be a commitment fee payable semiannually of one-quarter of one percent (¼ of 1 percent) per annum on the daily average unused amount of the commitment. The commitment fee will be calculated on a 365-day basis and actual days elapsed.

(2) There will be a commitment period from the "date of execution" of the loan agreement to and including June 30, 1974, or such earlier date as the entire commitment of the lender shall have been utilized. For this purpose, the "date of execution" will be the date on which the loan agreement is signed on behalf of the Borrower or the date on which the Department of Defense executes the guaranty agreement, whichever is later.

(3) The minimum drawdown under the loan agreement will be 1/100th of the principal amount bid.

(4) The principal is to be repayable in seven consecutive annual installments commencing on May 31, 1975, as indicated in Exhibit C attached to the loan agreement. Interest is payable on a fixed semiannual basis beginning on November 30, 1973, and thereafter on May 31 and November 30 of each year until the entire principal has been repaid. Interest is payable with the principal beginning on May 31, 1975.

(b) Bidders should fill in the blanks in the loan agreement and should furnish three signed copies when submitting the bids. Most of the blanks are self-explanatory, but the following guides are to be used for the others:

(1) At section 4.2(a). The maximum aggregate liability under the Government guaranty will be 100 percent of the principal amount bid plus 60 percent of one year's interest thereon.

(2) At section 7.1. The guaranty fee will be 1/400th of the amount of liability under the guaranty.

III. UNITED STATES GOVERNMENT GUARANTY OF LOAN—GUARANTY FEE

The loan agreement provides that the obligation of the lender is to be conditioned upon the issuance by the United States of a guaranty of timely payment of principal and interest by the borrower. The guaranty will further provide that the United States agrees that any claim which it may now or hereafter have against any beneficiary for any reason whatsoever shall not affect in any way the right of any other beneficiary to receive full and prompt payment of any amount otherwise due under this guaranty.

In addition, the borrower covenants at section 5(b) of the loan agreement that:

> Any claim which it may now or hereafter have against any person, corporation, firm or association or other entity (including without limitation, the United States, DOD, any Bank, any assignee of any Bank, and any supplier of the Defense itema) in connection with any transaction, for any reason whatsoever, shall not affect the obligation of the Borrower to make the payments required to be made to the Undersigned under this Loan Agreement, or under the Notes, and shall not be used or asserted as a defense to the payment of such obligation or as a setoff, counterclaim, or deduction against such payments.

The guaranty, which is authorized by the Foreign Military Sales Act, will be made by the Government of the United States acting through the Department of Defense. The Act provides that "any guaranties issued hereunder shall be backed by the full faith and credit of the United States".

IV. TAX EXEMPTIONS

(a) There will be *no*—

(1) Federal income tax resulting from Section 7.1 of the loan agreement which will provide that the Borrower shall pay to the lender the guaranty fee charged to the latter by the Department of Defense; (The lender will be acting merely as a conduit.)

(2) Federal stamp tax;

(3) interest equalization tax; or

(4) tax imposed by the Borrower.

(b) The interest paid on the loan by the Borrower will constitute income from sources without the United States in the hands of the lender or any holder of the promissory notes or participations in the loan. Since the interest is foreign source income, there will be no United States witholding under any circumstances.

V. THE LOAN PROMISSORY NOTES, PARTICIPATIONS—ELIGIBILITY FOR PURCHASE BY NATIONAL BANKS AS COLLATERAL FOR TREASURY TAX AND LOAN ACCOUNTS, ETC.

(a) Because of the guaranty, the loan, the promissory notes and the participations are deemed to be fully and unconditionally guaranteed obligations of the United States backed by its full faith and credit. Accordingly, they will not be subject to the lending limits of national banks or to the limitations and restrictions concerning dealing in, underwriting and purchase of investment securities.

(b) Section 1.4 of the loan agreement authorizes the sale of participations to legal entities doing business in the United States. Such participations will be acceptable from special depositaries of public money at their face amount to secure deposits under Department of the Treasury Circular No. 92, current revision (31 CFR 203), provided that they adequately identify the loan and meet the following conditions:

(1) The participation certificate contains the following provision: "Participant may assign or endorse over this participation certificate to the (*Name of the Federal Reserve Bank or Branch of the territory in which the participant is located*) in connection with a pledge of collateral security to protect a Treasury tax and loan account under Treasury regulations published at Title 31 Code of Federal Regulations, Part 203. In the event that this participation certificate is assigned to (*Same bank or branch as above*), it shall not be further assigned or sub-divided without prior written notice to that bank and the prior written consent of this bank."

(2) The participation certificate is supported by the original or certified copies of the guaranty agreement relating to the basic loan and the necessary power of attorney and resolution in favor of the Reserve Bank as prescribed in 31 CFR 203.8(d).

(3) The guaranty agreement provides that the guaranty referred to therein is transferable to any participant or beneficiary.

VI. SUBMISSION OF BIDS—ACCEPTANCE AND OPENING OF BIDS

Each bid shall be submitted in triplicate on the letter head of the bidder and shall specify a single annual rate of interest which shall apply on a 365-day basis only to the portion of the loan in use. The rate shall be expressed as a percent per annum not to exceed three decimals, for example, 5.125 percent. Each bidder may submit a bid for the entire amount of the loan or portions thereof in multiples of $5,000,000.

The bids must be enclosed and sealed in envelopes and must be received in the Securities Department of the Federal Reserve Bank of New York, 33 Liberty Street, New York, New York 10045, not later than 11 a.m., e.d.t., on September 28, 1973.

Bids will be opened at the Federal Reserve Bank at 11 a.m., e.d.t., on September 28, 1973. In determining successful bids, those specifying the lowest rate of interest will be accepted to the extent required to attain the aggregate amount of the loan. Upon the award of bids, the Government of the United States will promptly secure the signature of the borrower to the loan agreement, as well as to necessary copies thereof, and will return one copy.

[SEAL] GEORGE P. SHULTZ,
*Secretary of the Treasury.*

SEPTEMBER 6, 1973.

SUPPLEMENTARY NOTICE

Please note the following:

(1) With the respect to Exhibit B of the Loan Agreement, the bidder should not fill in the model promissory note when submitting its bid. This model promissory note will be used at the time of individual drawdowns by the borrower.

(2) It is anticipated that the initial drawdown on the loan, which will be made prior to November 15, 1973, will be in the amount of about $2,000,000. There will be another drawdown of about $4,000,000 before the end of 1973.

(3) Section II(b)(1) of the Invitation to Bid states that the aggregate liability under the Government guaranty will be 100 percent of the principal amount plus 60 percent of one year's interest. This is really a 100 percent guaranty of both principal *and* interest because if, in case of default, the lender exercises its rights under sec. 6 of the loan agreement the interest liability could not possibly exceed the stated 60 percent.

(4) Any questions concerning the invitation to bid or related documents should be telephoned, mailed or wired to the Department of the Treasury, Bureau of the Public Debt, Room 200, Washington Building, Washington, D.C. 20220. The telephone number is 202-964-2992 or 202-964-2247.

(5) If bidders desire to have representatives at the announcement of the results of the bidding, they should give to the Federal Reserve Bank Securities Department at the Liberty Street address (see Sec. VI, p. 7) timely notice of those they intend to have present at the opening. However, this is not essential to the award of bids.

(6) The results of the bidding will be announced in the Press Room on the 10th Floor. Bank representatives should enter the Bank at the Liberty Street entrance.

LOAN AGREEMENT

LOAN AGREEMENT made and entered into the ____ day of -------- 1973, between the Government of Brazil (hereinafter sometimes referred to as the "Borrower") and -------- ----------, (hereinafter sometimes referred to as the "Undersigned").

WHEREAS by public notice (which notice is incorporated in this agreement as if fully set forth herein) the Secretary of the Treasury has invited bids on a loan in the amount of $15,000,000 to the Borrower at the lowest basis cost of money;

WHEREAS the Undersigned has submitted a bid in the amount of $_____ for the hereinafter more fully described loan at an interest rate of ____ percent per annum;

NOW, THEREFORE, in consideration of the premises and of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

SECTION 1. COMMITMENT

1.1 Subject to the terms and conditions of this Loan Agreement the Undersigned agrees to make loans to the Borrower at any time and from time to time from the date of this Loan Agreement to and including 30 June 1974 or such earlier date as the entire amount of the loan bid by the Undersigned shall have been utilized.

1.2 Each borrowing hereunder shall be made on such date (hereinafter referred to as a "Disbursement Date") as may be designated by the Borrower upon three (3) days' concurrent written notice from the Borrower to the Undersigned. The initial borrowing hereunder shall be made prior to 15 November 1973. Except for the last borrowing, each such notice shall request a borrowing aggregating at least 1/100th of the principal amount bid. Each notice requesting disbursement (a) shall specify the amount of the loan to be made by the Undersigned on the Disbursement Date; (b) shall be delivered to the Undersigned at its address set forth in section 7.3 hereof; (c) shall specify the account of the Borrower at such Bank to which the proceeds of each loan are to be credited; and (d) shall have annexed thereto the documentation set forth in Exhibit A (Disbursement Procedures) annexed hereto.

1.3 The Borrower hereby agrees to pay to the Undersigned a commitment fee computed at the rate of one-quarter of one percent (¼%) per annum on the daily average unused amount of the Commitment from the date of execution of this Loan Agreement to and including 30 June 1974, or such earlier date as the entire Commitment of the Undersigned shall have been utilized. Such commitment fee shall be calculated on a 365-day basis and actual days elapsed.

1.4 The Undersigned may sell participations in the loan to legal entities doing business in the United States.

1.5 At the time at which the Borrower shall send the notices required by section 1.2 above to the Undersigned it shall deliver thereto a promissory note (which shall be substantially in the form of Exhibit B annexed hereto (with the blanks appropriately filled in)) evidencing the obligation of the Borrower to repay the amount of the loan from the Undersigned with interest thereon as hereinafter set forth. Upon request by the Undersigned at any time, the Borrower shall deliver to the Undersigned, in place of any such promissory note, two or more separate promissory notes in such amounts, aggregating not more than the amount of the note such notes shall replace, as shall be specified by the Undersigned. The promissory notes hereinabove referred to are hereinafter referred to as the "Notes" and individually as a "Note".

SECTION 2. REPAYMENT

2.1 The Borrower hereby agrees:

(a) To pay interest on the outstanding balance of the principal of the loans made under this Loan Agreement on a fixed semiannual basis, such interest payments to begin 30 November 1973, and thereafter on 31 May and 30 November of each year following, until the entire principal of the loans shall have been repaid; and

(b) To repay the principal of the loans made under this Loan Agreement in accordance with the Principal Repayment Schedule set forth in Exhibit C annexed hereto.

(i) If on any installment repayment date set forth in the Principal Repayment Schedule the Borrower shall not have availed itself of the Commitment of the Undersigned in an aggregate amount (less repayments previously made) equal to the aggregate installment of principal which is repayable on such date to the Undersigned, the Borrower shall, on such installment repayment date, repay to the Undersigned the full amount (less repayments previously made) to which it has availed itself of the Commitment of the Undersigned to such date, together with the interest accrued thereon. If at any time thereafter the Borrower shall avail itself of the Commitment of the Undersigned in an amount which would have been payable on a prior installment repayment date but for the provisions of the immediately preceding sentence, such amount, together with interest accrued thereon, shall be repayable on the next succeeding installment date of the Principal Repayment Schedule occurring after the disbursement of such amount and the said aggregate installment of principal repayable under the Principal Repayment Schedule to the Undersigned on that date shall be increased by such amount.

(ii) If by the date specified in paragraph 1.1 above, the Borrower shall not have availed itself of the entire amount of the Commitment, the installments of principal repayable to the Undersigned set forth in the Principal Repayment Schedule shall be reduced in the inverse order of the maturity thereof to the extent of the unused balance of the Commitment.







V 38-176
SEP 12 73
XUM

2.2 The Undersigned may sell or assign, at any time, in whole or in part, any one or more of the Notes and/or its rights to receive repayments.

2.3 Each Note shall be dated the Disbursement Date of the loan which such Note evidences and shall bear interest at a rate of ____ percent (____ %) per annum on the unpaid principal amount of such Note until such amount shall be paid in full. Such interest on each Note shall be payable as provided in 2.1. The Notes shall be completed by the Borrower in such a manner that repayment of such loans shall be made in the order of their disbursement, utilizing the Principal Repayment Schedule set forth in Exhibit C (as the same may be adjusted in accordance with sections 2.1(b)(i) and 2.1(b)(ii) hereof), and, in determining whether a particular loan is payable in one or more installments, utilizing a particular installment payment date only after the full utilization of the next preceding installment date.

2.4 The Borrower may, with the prior written consent of the Undersigned, which consent will not be unreasonably withheld, prepay any of the Notes held by the Undersigned, in whole or in part, on any repayment date, with accrued interest to the date of such prepayment on the amount prepaid.

2.5 Whenever any payments hereunder or under any Note shall be due on a Saturday, Sunday or public holiday under the laws of the District of Columbia, such payment may be made on the next succeeding business day, and such extension of time shall, in such case, be included in computing interest in connection with such payment, but excluded from the next interest period.

2.6. All payments by the Borrower to the Undersigned under this Loan Agreement and on the Notes, including without limitation payments of principal of, and interest on, the Notes and payment of any commitment fees or other fees or expenses hereunder, shall be payable to the Undersigned at the address set forth in section 7.3 hereof in U.S. dollars and in immediately available funds.

SECTION 3. REPRESENTATIONS AND WARRANTIES

The Undersigned has entered into this Loan Agreement and will make the loans provided for herein on the basis of the following representations and warranties of the Borrower:

3.1 The Borrower has full power, authority and legal right to incur the indebtedness contemplated in this Loan Agreement on the terms and conditions contained herein, and to execute, deliver and perform this Loan Agreement and the Notes;

3.2 The execution, delivery and performance of this Loan Agreement and the Notes will not violate any provisions of, and have been duly and validly authorized under, the laws of the Borrower, and all actions necessary to authorize the borrowings hereunder and the execution, delivery and performance of this Loan Agreement and the Notes have been duly taken; and

3.3 This Loan Agreement has been, and each of the Notes when issued will be, duly executed and delivered by persons thereunto duly authorized, and this Loan Agreement constitutes, and each of the Notes when issued will constitute, the valid, legally binding, direct and unconditional general obligation of the Borrower, enforceable in accordance with its respective terms.

SECTION 4. CONDITIONS OF LENDING

4.1 The obligation of the Undersigned to make the initial loan to be made by it hereunder is subject to the condition precedent that, prior to the first Disbursement Date, it shall have received an opinion in the English language of the Legal Adviser to the Ministry of Defense of the Government of the Borrower, dated the date of the initial Disbursement Date, to the same effect as sections 3.1, 3.2, and 3.3 hereof, and to the further effect that specified officials of the Borrower identified by name and title in such opinion are duly authorized to execute and deliver this Loan Agreement, the Notes and such other documents as may be required hereunder on behalf of the Borrower, to establish and draw upon an account of the Borrower, at the Bank to which account the Undersigned shall disburse the proceeds of all borrowings hereunder, and to certify to such Bank on behalf of the Borrower the identity, names and titles of any other or additional officials of the Borrower who thereafter may be so authorized.

4.2 The obligation of the Undersigned to make the initial loan to be made by it hereunder is subject to the further conditions precedent that, prior to the first disbursement, it shall have received:

(a) The guaranty of the United States (the "Guaranty"), executed by DOD, guarantying it against all political and credit risks of nonpayment of the obligations of the Borrower to the Undersigned hereunder (including the entire amount of the principal loaned by the Undersigned hereunder and interest thereon at the rate determined as specified herein, but excluding any amounts owing for commitment fees or other fees or expenses), up to a maximum aggregate liability to the Undersigned under the Guaranty on the part of the United States of $_____ dollars (U.S. $_____), pursuant to the Act; and

(b) An opinion of the General Counsel of DOD, to the effect that (i) DOD has full power, authority and legal right to execute, deliver and perform the Guaranty, (ii) the Guaranty has been executed in accordance with and pursuant to the terms and provisions of the Act and DOD has not, in issuing the Guaranty, exceeded the maximum amount of guaranties authorized to be issued under the Act, (iii) the Guaranty has been duly executed and delivered by a duly authorized representative of DOD, and (iv) the Guaranty constitutes the valid and legally binding obligation of the United States, enforceable in accordance with the terms thereof and backed by the full faith and credit of the United States.

4.3 The obligation of the Undersigned to make any loan to be made by it hereunder, including the initial loan, is subject to the further conditions precedent that:

(a) No event of default within the meaning of section 6 of this Loan Agreement, and no other default with respect to any of the Notes, shall have occurred;

(b) The Undersigned shall have received a Note or Notes payable to its order (or to the order of such other person or persons as the Undersigned may specify) in the amount of the particular loan, executed by the duly authorized representatives of the Borrower;

(c) The Undersigned shall have received the documentation specified in Exhibit A annexed hereto, executed by the duly authorized representatives of the Borrower; and

(d) All legal matters incident to the Guaranty and the transactions contemplated by this Loan Agreement shall be satisfactory to the counsel of the Undersigned.

SECTION 5. COVENANTS

The Borrower covenants and agrees that from and after the date of this Loan Agreement and so long as any amounts remain unpaid on account of the Notes or otherwise under this Loan Agreement:

(a) All payments on account of the principal of, and interest on, the Notes, commitment fees and other fees and expenses shall be made free and clear of, and without deduction for, any and all taxes, levies, imposts, duties, fees, charges, deductions, withholdings, restrictions or conditions of any nature whatsoever now or hereafter imposed, levied, collected or assessed with respect thereto by the Borrower of any central or local authority thereof or therein;

(b) Any claim which it may now or hereafter have against any person, corporation, firm or association or other entity (including without limitation, the United States, DOD, any Bank, any assignee of any Bank, and any supplier of the Defense items) in connection with any transaction, for any reason whatsoever, shall not affect the obligation of the Borrower to make the payments required to be made to the Undersigned under this Loan Agreement, or under the Notes, and shall not be used or asserted as a defense to the payment of such obligation or as a setoff, counterclaim, or deduction against such payments;

(c) It will pay any and all stamp taxes and other taxes of similar character, if any, now or hereafter in effect, imposed with respect to this Loan Agreement or the Notes (including, without limitation, any United States Interest Equalization Tax or similar future tax), and will save the holder of any Note harmless from any and all losses or liabilities with respect to or resulting from any delay or omission to pay such taxes.

(d) Any legal action or proceeding against it by the Undersigned with respect to this Loan Agreement or the Notes may be brought in the Superior Court of the District of Columbia or in the United States District Court for the District of Columbia or in the Courts of the Borrower, as the Undersigned may elect, and by execution and delivery of this Loan Agreement, the Borrower submits to each such jurisdiction. In the case of the Superior Court of the District of Columbia or of the United States District Court for the District of Columbia, the Borrower consents to the service of process out of said Courts by mailing copies of such process by registered United States mail, postage paid, to it at its address set forth in section 7.3 hereof; and

(e) All loans made hereunder shall be utilized solely for the procurement of the Defense items pursuant to Purchase Arrangements authorized by DOD.

SECTION 6. DEFAULTS

Upon the occurrence of any of the following events or default:

(a) If the Borrower fails for a period of ten (10) days to make any payment of principal of, or interest on, any Note or of any commitment fee hereunder, when due; or

(b) If any representation or warranty made by the Borrower herein or in any certificate furnished by the Borrower pursuant hereto, proves to be at any time incorrect in any material respect; or

(c) If the Borrower defaults in the performance of any other term, covenant or agreement contained in this Loan Agreement, and such default shall continue unremedied for thirty (30) days after written notice thereof shall have been given to the Borrower by the Undersigned;

then, and in any such event, the holder of any Note may declare immediately due and payable the unpaid principal of, and accrued interest on, all Notes held by such holder and such amounts shall become immediately due and payable without protest, presentment, notice or other demand of any kind, all of which are hereby expressly waived





by the Borrower, and the Undersigned may terminate its Commitment hereunder.

SECTION 7. MISCELLANEOUS

7.1 Upon the execution of this Loan Agreement, the Borrower shall pay to the Undersigned the aggregate sum of $_____ in payment of the fee charged by DOD with respect to the Guaranty.

7.2 No failure to exercise and no delay in exercising on the part of the Undersigned, any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof, or the exercise of any other power or right. The rights and remedies herein provided are cumulative and not exclusive of any rights or remedies provided in this Loan Agreement.

7.3 Except as otherwise provided in this Loan Agreement, all notices, requests or demands hereunder shall be deemed to have been given or made upon the mailing of the same by air mail, postage prepaid, or in the case of telegraphic notice, on delivery to the telegraph company, addressed in the case of the Borrower to the Embassy of Brazil, Attention: Brazilian Air Attache, 3006 Massachusetts Avenue NW., Washington, D.C. 20016 and in the case of the Undersigned to or to such other addresses as any party may from time to time hereafter designate in writing to the other.

7.4 This Loan Agreement and the Notes shall be construed and interpreted in accordance with the laws of the District of Columbia, United States of America, unless prior to the execution of this Loan Agreement and the Notes the parties hereto have by written stipulation agreed that the laws of another jurisdiction of the United States shall be applied.

7.5 This Loan Agreement shall be binding upon and inure to the benefit of the Borrower and the Undersigned and their respective successors and assigns, except that the Borrower may not assign its rights hereunder without the prior written consent of the Undersigned. All agreements, covenants, representations and warranties made herein shall survive the delivery of the Notes and the making of the loans hereunder.

7.6 This Loan Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be an original, but all the counterparts shall together constitute a single instrument. Exhibits A and B attached hereto are, by this reference, made a part of this Loan Agreement.

7.7 In case any one or more of the provisions contained in this Loan Agreement or in any of the Notes should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein and therein shall not in any way be affected or impaired thereby.

*In witness whereof*, the parties hereto have caused this Loan Agreement to be executed and sealed by their duly authorized officers and representatives on the day and year first above written.

_____ [Seal]

_____ [Seal]

EXHIBIT A

DISBURSEMENT PROCEDURES

The following procedures and conditions shall be complied with prior to each disbursement to be made by the Undersigned to the Borrower:

1. The designated representative of the Government of Brazil shall execute and deliver each request for disbursement to the Undersigned at its address set forth in section 7.3 of the foregoing Loan Agreement.

2. Each request shall be accompanied by a copy of the written communication from DOD authorizing the Borrower to enter into the Purchase Arrangement(s) pursuant to which the disbursement is requested.

3. Each request also shall be accompanied by a certification of the Borrower as follows:

"The Government of Brazil confirms that the proceeds of this disbursement will be applied entirely to the payment of amounts that have become properly due pursuant to the Purchase Arrangement(s) authorized by the Department of Defense of the United States of America in the attached written communication. This disbursement is requested by the Government of Brazil pursuant to the terms of the Loan Agreement of _____ between the Government of Brazil and the Undersigned, and confirms that the said Purchase Arrangement(s) (was/were) authorized by the Department of Defense of the United States of America pursuant to the aforesaid Loan Agreement. The Government of Brazil further confirms that the Undersigned to which this certification is addressed is authorized to make this disbursement by crediting the amount thereof to Account Number _____, at such Bank, and that _____, whose signature appears below, is (and, until further written notice, shall continue to be) authorized to draw upon such account on behalf of the Government of Brazil.

"Signature of the representative of the Government of _____ who is authorized to draw upon its account:

"Government of_____

"By _____"
(Name and Title Typed)

EXHIBIT B

PROMISSORY NOTE

New York, N.Y. _____
(Date)

U.S. $_____

FOR VALUE RECEIVED, the undersigned, the Government of _____, hereby promises to pay to the order of _____, or its assigns, the principal sum of _____ United States dollars (U.S. $_____) as follows:

_____
(Amounts) (Dates)

together with interest on any and all amounts remaining unpaid hereunder from time to time from the date hereof until this Note shall be paid in full, payable semi-annually on _____ and _____ of each year from the date hereof, commencing _____, 197__, at the rate of ____ percent (____%), per annum. Such interest shall be calculated using a 365-day factor, both principal and interest to be payable in immediately available funds in lawful money of the United States of America at the office of the payee at _____, or at the principal place of business of the assignee. All payments made on account of the principal amount hereunder shall be endorsed by the payee, or its assigns, on the reverse side of this Note.

Whenever any payment to be made shall be due on a Saturday, Sunday, or a public holiday under the laws of the District of Columbia, such payment shall be made on the next succeeding business day, and such extension of time shall in such case be included in computing interest in connection with such payment, but excluded from the next interest period.

This note is one of the Notes referred to in the Loan Agreement dated _____, 197__, between the Government of _____ and _____. It is entitled to the benefits of and may be prepaid on the terms and conditions specified in said Loan Agreement. Prepayments shall be applied to the installments hereof in the inverse order of their maturity.

All payments of principal of, and interest on, this Note are payable free and clear of, and without deduction for, any taxes, levies, imposts, duties, fees, charges, deductions, withholdings, restrictions or conditions of any nature whatsoever now or hereafter imposed, levied, collected or assessed with respect thereto by the Government of _____ or any central or local authority thereof or therein.

Upon the occurrence of any event or default specified in said Loan Agreement, the entire unpaid principal hereof and interest hereon to the date of payment may be declared to be forthwith due and payable as provided in said Loan Agreement. The Government of _____ promises to pay all out-of-pocket costs and expenses (including the reasonable fees and out-of-pocket expenses of counsel) in connection with collection after default of this Note.

GOVERNMENT OF

By _____ [Seal]
(Name and Title Typed)

EXHIBIT C

PRINCIPAL REPAYMENT SCHEDULE

The First $2,000,000 of Disbursements are Repayable on 31 May 1975.

The Next $2,000,000 of Disbursements are Repayable on 31 May 1976.

The Next $2,000,000 of Disbursements are Repayable on 31 May 1977.

The Next $2,250,000 of Disbursements are Repayable on 31 May 1978.

The Next $2,250,000 of Disbursements are Repayable on 31 May 1979.

The Next $2,250,000 of Disbursements are Repayable on 31 May 1980.

The Next $2,250,000 of Disbursements are Repayable on 31 May 1981.

GUARANTY AGREEMENT

THIS GUARANTY AGREEMENT, made and entered into on the _____, (hereinafter called the "Guaranty"), between the _____, doing business under the laws of _____, (hereinafter called the "Lender(s)"), on the one part, and the Government of the United States of America (hereinafter called the "United States"), acting through the Department of Defense of the United States (hereinafter called "DOD"), on the other part;

WITNESSETH:

WHEREAS, the Government of _____ (hereinafter called the "Borrower") desires to purchase certain defense articles and defense services (hereinafter called "defense items") from United States sources; and

WHEREAS, the Lender(s) has entered into a Loan Agreement dated _____, (hereinafter called the "Loan Agreement"), with the Borrower to provide for the extension of credit to the Borrower of up to U.S. $_____; and

WHEREAS, the Lender(s) Obligation under the Loan Agreement to make the initial loan thereunder is to be conditioned upon the issuance of a guaranty from the United States against all political and credit risks of nonpayment by the Borrower of its obligations under the Loan Agreement to pay the principal of and interest on all extensions of credit by the Lender(s) under the Loan Agreement; and



V 38-176 SEP 12 73 XUM

WHEREAS, it is intended that each loan under the Loan Agreement will be repaid by the Borrower in seven (7) annual installments the first of which shall be due May 31, 1975, and the remaining six (6) installments shall be due and payable successively annually thereafter on May 31 of each year with interest payable semi-annually at the interest rate set forth in the Notes; and

WHEREAS, the aforesaid credit will be available only to finance the purchase of defense items from United States sources; and

WHEREAS, the Loan Agreement will provide for the issuance by the Borrower to the Lender(s) of promissory notes evidencing the loans made by the Lender(s) from time to time under the Loan Agreement (herein called the "Notes"); and

WHEREAS, the Loan Agreement by the Lender(s) will facilitate and will be in furtherance of the purposes of the Foreign Military Sales Act, Public Law 90–629, as amended (hereinafter called the "Act").

NOW THEREFORE, in consideration of the premises and of the mutual covenants hereinafter set forth, the parties hereto agree as follows:

ARTICLE I

The United States, acting through DOD, in consideration of the fee specified in Article IV of this Guaranty, and except as otherwise specified in this Guaranty Agreement, hereby unconditionally and irrevocably severally guarantees each Lender under the authority of Section 24 of the Act, the due and punctual payment in United States Dollars of all amounts payable by the Borrower as principal of all loans made by the Lender(s) under the Loan Agreement and as interest at the rate set forth in the Notes whether or not such obligations are evidenced by Notes. Any disbursement by the Lender(s) shall be considered for the purpose of this Guaranty, to be a loan made by such Lender(s) under the Loan Agreement if in fact the funds so disbursed are applied to the purchase of articles or services approved in writing by the Department of Defense for purchase by the Borrower under the Loan Agreement, or if such disbursement is made in accordance with the procedures to be specified in the Loan Agreement and the Lender(s) is in receipt of documents that on their face conform to such requirements and indicate that DOD has approved in writing the purchases by the Borrower for which the disbursement is requested.

This Guaranty is a guaranty of payment covering all political and credit risks of nonpayment, including any nonpayments arising out of any claim which the Borrower may now or hereafter have against any person, corporation, firm or association, or other entity (including, without limitation, the United States, the Lender(s) and any supplier of Defense Items) in connection with any transaction, for any reason whatsoever. This Guaranty shall inure to the benefit of and shall be enforceable severally by each of the Lender(s), its respective successors by operation of law, or its respective endorsees, assignees or transferees (the Lender(s) and any such successor by operation of law, endorsee, assignee or transferee being hereinafter individually sometimes called a "Beneficiary" and collectively the "Beneficiaries".) All provisions of this Guaranty shall be severally applicable to any Beneficiary acting in its own right in connection with the Notes, the Loan Agreement or this Guaranty.

The United States hereby waives diligence, demand, protest, presentment, and any requirement that any Beneficiary of this Guaranty exhaust any right or power to take any action against the Borrower and any notice of any kind whatsoever other than the demand for payment required to be given to DOD hereunder in the event of default on a payment due under the Notes.

The United States further agrees that any claim which it may now or hereafter have against any Beneficiary for any reason whatsoever shall not affect in any way the right of any other Beneficiary to receive full and prompt payment of any amount otherwise due under this Guaranty.

The full faith and credit of the United States is pledged to the performance of this Guaranty.

The United States represents and warrants that (a) it has full power, authority and legal right to execute, deliver and perform this Guaranty, (b) this Guaranty has been executed in acordance with and pursuant to the terms and provisions of the Act and DOD has not, in issuing this Guaranty, exceeded the maximum amount of guarantees authorized to be isued under the Act, (c) this Guaranty has been duly executed and delivered by a duly authorized-representative of DOD, and (d) this Guaranty constitutes the valid and legally binding obligation of the United States, enforceable in accordance with the terms thereof.

ARTICLE II

Notwithstanding the provisions of Article I above, the maximum liability of DOD under this guaranty shall not exceed $----------.

ARTICLE III

Payment by DOD in the event of a default in the payment of any Note, or any portion thereof, by the Borrower shall be made promptly to the Beneficiary in New York Federal Reserve Funds at the address specified by the Beneficiary (which in the case of the Lender(s) shall be its address set forth opposite its signature below) upon demand to DOD by the Beneficiary after such default has continued for more than 15 days. The amount payable under this Guaranty shall be the amount of any principal and interest then in default, together with interest at the rate then applicable to the defaulted note from the date of default to the date of payment by DOD. No interest shall be payable by DOD for any period following 30 days after default if the Beneficiary fails to make such demand within 30 days after default. DOD reserves the right to make payments due to a Beneficiary from the Borrower whether or not demand to DOD by the Beneficiary therefore has been made. Upon payment by DOD to a Beneficiary, such Beneficiary will assign to the United States, without recourse to or warranty by such Beneficiary, the corresponding amount of such Beneficiary's rights to such payment from the Borrower.

ARTICLE IV

The Lender(s) shall communicate to DOD the date and amount of each disbursement made by the Lender(s) and the date and amount of each payment of principal and interest made by the Borrower under the Loan Agreement within thirty (30) days after each such disbursement and each such payment. Each such communication shall be sent to the Comptroller, Defense Security Assistance Agency, The Pentagon, Washington, D. C. 20301.

ARTICLE V

DOD acknowledges receipt from the Lender(s) of payment of a guaranty fee of $ ———.

ARTICLE VI

So long as this Guaranty Agreement is in effect and the United States is not in default hereunder, in the event of a default under the Loan Agreement or in the payment of any Note, or any portion thereof, by the Borrower—

(a) The Lender(s) shall not accelerate of reschedule payment of the principal amount of or interest on any of the Notes except with the written approval of DoD; and

(b) The Lender(s) shall, if so directed by DOD, invoke the default provisions of the Loan Agreement, and shall suspend any further disbursements to, or on behalf of, the Borrower until the Lender(s) has been advised by DoD that it may resume payments under its Commitment.

ARTICLE VII

The Lender(a) will not agree to any material amendment of the Loan Agreement or consent to any material deviation from the provisions thereof without the prior written consent of DoD.

ARTICLE VIII

Any Beneficiary's rights under this Guaranty may be assigned to any individual, corporation, partnership, or other association doing business in the United States of America. In the event of such assignment DoD shall be promptly notified.

ARTICLE IX

Any notice, demand, request or the like on behalf of the United States hereunder will be effective for the purposes hereof if signed by the Director, or Deputy Director, Defense Security Assistance Agency, or their respective successors in office and delivered to the Lender(s) at its address set forth opposite its signature below. Any notice, demand, request or the like on behalf of any Beneficiary of this Guaranty will be effective for the purposes hereof if signed by an authorized official of any such Beneficiary and delivered to the Director, Defense Security Assistance Agency.

IN WITNESS WHEREOF, the parties hereto have caused this Guaranty to be duly executed and sealed on the date first mentioned above.

Address:

By ---------- [Seal]

Government of the United States of America Acting through the Department of Defense

By ---------- [Seal]

[FR Doc.73–19328 Filed 9–11–73;8:45 am]

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

[Docket No. 73–14]

### LEXINGTON ECONOMY DRUG CO.

#### Notice of Prehearing Conference

Notice is hereby given that on May 31, 1973, the Drug Enforcement Administration (formerly the Bureau of Narcotics and Dangerous Drugs), Department of Justice, issued to Lexington Economy Drug Company, an Order to Show Cause as to why the Bureau of Narcotics and Dangerous Drugs should not deny the application for registration under the Controlled Substances Act of 1970, of the Respondent, executed on February 7, 1973, pursuant to sec. 303 of the Controlled Substances Act (21 U.S.C. 823).

Thirty days having elapsed since said Order was received by Lexington Economy Drug Company, and written request for a prehearing conference having been filed with the Drug Enforcement Administration, in accordance with 21 CFR 316.54, Notice is hereby given that a prehearing conference in this matter will be held commencing at 10:00 a.m. on September 12, 1973, in room 1211 of the Drug Enforcement Administration, 1405 I Street NW., Washington, D.C. 20537.

Dated September 6, 1973.

JOHN R. BARTELS, JR.,
*Acting Administrator,*
*Drug Enforcement Administration.*

[FR Doc.73–19350 Filed 9–11–73;8:45 am]

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

### CALIFORNIA STATE ADVISORY BOARD

#### Notice of Meeting

Notice is hereby given that the California State Multiple-Use Advisory Board to the Bureau of Land Management will hold a meeting September 26–27, 1973.

The two-day meeting will be a field review of progress on development of the management plan for the King Range National Conservation as required by Public Law 91–476. Areas to be visited include Bureau of Land Management campgrounds in the King Range, Shelter Cove and Honeydew Creek, with overnight stops at Piercy, California. A business meeting will be held at 7:30 a.m. at the Bridgewood Lodge, Piercy, California on September 27.

Any interested person may file a written statement with the board for its consideration. The Advisory Board co-chairmen are Dr. Gerhard N. Rostvold, P.O. Box 312, Claremont, California 91711, and J. R. Penny, California State Director, Bureau of Land Management.

Written statements or requests for additional information should be submitted to the Board, c/o State Director (912), Bureau of Land Management, 2800 Cottage Way, Room E–2841, Sacramento, California 95825, telephone (916) 484–4724.

J. R. PENNY,
*State Director, California.*

[FR Doc.37–19349 Filed 9–11–73;8:45 am]

## DEPARTMENT OF AGRICULTURE

### Forest Service

### WINEMA NATIONAL FOREST GRAZING ADVISORY BOARD

#### Notice of Meeting

The Winema National Forest Grazing Advisory Board will meet at 2 p.m. September 21, 1973, in the Post Office Building, Klamath Falls, Oregon.

The purpose of this meeting is to determine the future of the Board.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor, Post Office Building, Klamath Falls, Oregon, Telephone No. 882–7761. Written statements may be filed with the Board before or after the meeting.

The Board has established the following rule for public participation: Public members may speak up at anytime.

THADDEUS YAROSH,
*Acting Forest Supervisor.*

SEPTEMBER 4, 1973.

[FR Doc.73–19308 Filed 9–11–73;8:45 am]

### Office of the Secretary

### SPOKANE AND COLVILLE INDIAN LANDS IN WASHINGTON STATE

#### Notice of Feed Grain Donations

Pursuant to the authority set forth in section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427), and Executive Order 11336, I have determined that:

1. The chronic economic distress of the needy members of the Spokane and Colville Indian Lands in Washington has been materially increased and become acute because of severe and prolonged drought creating a serious shortage of livestock feeds. These lands are reservation or other lands designated for Indian use and are utilized by members of the Indian tribe for grazing purposes.

2. The use of feed grain or products thereof made available by the Commodity Credit Corporation for livestock feed for such needy members of the tribes will not displace or interfere with normal marketing of agricultural commodities.

Based on the above determinations, I hereby declare the reservation and grazing lands of these tribes to be acute distress areas and authorize the donation of feed grain owned by the Commodity Credit Corporation to livestockmen who are determined by the Bureau of Indian Affairs, Department of the Interior, to be needy members of the tribe utilizing such lands. These donations by the Commodity Credit Corporation may commence upon signature of this notice and shall be made available through the duration of the existing emergency or to such other time as may be stated in a notice issued by the Department of Agriculture.

Signed at Washington, D.C. on September 7, 1973.

EARL L. BUTZ,
*Secretary.*

[FR Doc.73–19401 Filed 9–11–73;8:45 am]

## DEPARTMENT OF COMMERCE

### National Bureau of Standards

### COMMERCIAL STANDARD, PORCELAIN-ENAMELED STEEL UTENSILS

#### Action on Proposed Withdrawal

In accordance with § 10.12 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10, as revised; 35 FR 8349 dated May 28, 1970), notice is hereby given of the withdrawal of Commercial Standard CS 100–47, "Porcelain-Enameled Steel Utensils."

This action is taken in furtherance of the Department's announced intention, as set forth in the public notice appearing in the FEDERAL REGISTER of July 24, 1973 (38 FR 19850), to withdraw this standard.

The effective date for the withdrawal of this standard will be on November 12, 1973. This withdrawal action terminates the authority to refer to this standard as a voluntary standard developed under the Department of Commerce Procedures.

Dated September 6, 1973.

RICHARD W. ROBERTS,
*Director.*

[FR Doc.73–19366 Filed 9–11–73;8:45 am]

### FEDERAL INFORMATION PROCESSING STANDARDS COORDINATING AND ADVISORY COMMITTEE

#### Notice of Meeting

Pursuant to Public Law 92–463 and Executive Order 11686, notice is hereby given that the Federal Information Processing Standards Coordinating and Advisory Committee (FIPSCAC) will hold a meeting from 10 a.m. to 1 p.m. on Tuesday, September 18, 1973, in Room B–255, Building 225, of the National Bureau of Standards in Gaithersburg, Maryland.

The purpose of the meeting is to review the actions of the Federal Information Processing Standards (FIPS) Task Groups and to consider other matters relating to Federal information processing standards.

The public will be permitted to attend, to file written statements, and, to the extent that time permits, to present oral statements. Persons planning to attend should notify the Office of Information Processing Standards, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234 (Phone 301–921–3551).

Dated September 6, 1973.

RICHARD W. ROBERTS,
*Director.*

[FR Doc.73–19365 Filed 9–11–73;8:45 am]

### National Technical Information Service

### GOVERNMENT-OWNED INVENTIONS

#### Notice of Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for licensing in accordance with the GSA Patent Licensing Regulations.

Copies of Patent applications, either paper copy (PC) or microfiche (MF), can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22151, at the prices cited. Requests for copies of patent applications must include the PAT–APPL number and the title. Requests for licensing information should be directed to the address cited with each copy of the patent application.

Paper copies of patents cannot be purchased from NTIS but are available from the Commissioner of Patents, Washington, D.C. 20231, at $0.50 each. Requests







V 38-176 SEP 12 73 XUM

for licensing information should be directed to the address cited below for each agency.

DOUGLAS J. CAMPION,
*Patent Program Coordinator, National Technical Information Service.*

U.S. DEPARTMENT OF TRANSPORTATION, Patent Counsel, 400 7th Street SW., Washington, D.C. 20590.

Patent Application 300,250: Hydraulic Energy Absorber, filed October 24, 1972; PC $3.25/MF $0.95.
Patent Application 325,392: Resonance Tire Inspection Unit; filed January 22, 1973; PC $3.00/MF $0.95.

U.S. DEPARTMENT OF COMMERCE, Assistant General Counsel for Administration, Washington, D.C. 20230.

Patent 3,239,758: System for Measuring Peak Pulse Power Using Sampling and Comparison Techniques; filed September 10, 1962, Patented March 8, 1966; not available NTIS.
Patent 3,360,262: Apparatus for Moving and Aligning Limp Pieces of Material; filed June 16, 1966, Patented December 26, 1967; not available NTIS.
Patent 3,463,256: Double Piston Gage; filed April 2, 1962, Patented September 2, 1969; not available NTIS.
Patent 3,515,089: Rudder; filed September 30, 1968, Patented June 2, 1970; not available NTIS.

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE; National Institutes of Health; Chief, Patent Branch; Westwood Building, Bethesda, Maryland 20014.

Patent Application 289,369: Antibodies and Plasma Anti-Platelet Factor in Patients with Idiopathic Thrombocytopenic Purpura; filed August 31, 1972; PC $3.00/MF $0.95.
Patent Application 302,600: Micro Miniature Flow Check Valve Assembly; filed October 31, 1972; PC $3.00/MF $0.95.
Patent Application 314,508: Switch Failure Monitoring Device; filed December 13, 1972; PC $3.00/MF $0.95.
Patent Application 328,075: Regenerative Heat Engine; filed January 30, 1973; PC $3.00/MF $0.95.
Patent Application 344,416: Gas Mixing Device; filed March 23, 1973; PC $3.00/MF $0.95.
Patent Application 348,666: A Stable Hemagglutination Technique for Measuring Morphine and Morphine Derivatives; filed April 6, 1973; PC $3.00/MF $0.95.
Patent Application 354,098: Isolation and Purification of Active Principle of Fruit of Synsepalum Dulcificum and Method of Treatment of Obesity; filed April 24, 1973; PC $3.00/MF $0.95.
Patent Application 354,673: Respirator; filed April 26, 1973; PC $3.00/MF $0.95.
Patent 3,719,763: Binary Amino Ovicidal Composition; filed September 29, 1969, Patented March 6, 1973; not available NTIS.
Patent 3,733,132: Collimator for Finocular Instruments; filed October 26, 1971, Patented May 15, 1973; not available NTIS.

U.S. DEPARTMENT OF THE INTERIOR, Branch of Patents, 18th and C Streets NW., Washington, D.C. 20240.

Patent Application 335,397: Copper Ion Selective Sensor; filed February 23, 1973; PC $3.00/MF $0.95.
Patent Application 339,687: Continuous Process for Mechanically Separating Materials Contained in Urban Refuse; filed March 9, 1973; PC $3.00/MF $0.95.
Patent Application 342,920: Decomposition of Chalcopyrite; filed March 19, 1973; PC $3.00/MF $0.95.
Patent Application 343,919: Pretreatment of Saline Water Prior to Desalination; filed March 19, 1973; PC $3.00/MF $0.95.
Patent Application 344,697: Product Separator; filed March 26, 1973; PC $3.00/MF $0.95.
Patent Application 356,221: Combined Noise Exposure Meter and Readout Unit; filed May 1, 1973; PC $3.00/MF $0.95.
Patent 3,734,989: Fiber Bundle Assembly; filed August 13, 1971, Patented May 22, 1973; not available NTIS.
Patent 3,736,239: Neutralization of Metal Containing Wastes; filed March 18, 1971, Patented May 29, 1973; not available NTIS.
Patent 3,736,250: Catalytic Hydrogenation Using Zinc Chloride Molten Salt Mixture as a Catalyst; filed November 17, 1971, Patented May 29, 1973; not available NTIS.
Patent 3,736,908: System for Starting A Fluidized Bed Boiler; filed October 8, 1970, Patented June 12, 1973; not available NTIS.
Patent 3,738,746: Automatic Stereoscopic Profiling System; filed December 8, 1970, Patented June 12, 1973; not available NTIS.
Patent 3,737,384: Decomposition of Halogenated Organic Compounds Using Metallic Couples; filed December 23, 1970, Patented June 5, 1973; not available NTIS.
Patent 3,738,290: Dual Pulse Jet System for the Combustion of High Ash Fuel; filed October 14, 1971, Patented June 12, 1973; not available NTIS.
Patent 3,739,061: Manufacture of Synthetic Rutile; filed August 10, 1971, Patented June 12, 1973; not available NTIS.

[FR Doc.73-19369 Filed 9-11-73;8:45 am]

---

[Department Organization Order 30-2B; Amdt. 4]

## Office of the Secretary

## NATIONAL BUREAU OF STANDARDS

### Organization and Functions

This order effective August 1, 1973, amends the material appearing at 37 FR 14423 of July 20, 1972, 37 FR 24202 of November 15, 1972, 38 FR 3208 of February 2, 1973 and 38 FR 9450 of April 16, 1973. Department Organization Order 30-2B dated June 12, 1972, is hereby further amended as follows:

1. *SECTION 4. STAFF UNITS REPORTING TO THE DIRECTOR.* Paragraph .03 is deleted. Paragraph .04 is renumbered .03.

2. *SECTION 8. OFFICE OF THE ASSOCIATE DIRECTOR FOR INFORMATION PROGRAMS.* a. Paragraph .03 is amended to read:

".03 *The Office of Information Activities* shall serve as the point of Bureau communication with the public and trade press, coordinate liaison with the press, radio, and television, prepare releases directed to general, trade, and semi-technical audiences, provide graphic arts and scientific illustration services to the technical staff of the bureau, provide services for scientific photography (both still and motion), prepare feature articles and motion picture scripts, and manage tours, conferences, and exhibits."

b. A new paragraph .06 is added to read as follows:

".06 *The Office of Technical Publications* shall provide the executive secretariat for the Washington Editorial Review Board, process NBS technical papers for publication, maintain the NBS Manual for Scientific and Technical Communications, and manage computer assisted printing activities, cataloging and referencing of NBS reports, and the announcement and distribution of technical publications."

3. The organization chart attached to this amendment supersedes the organization chart dated March 30, 1973 which is attached to Amendment 3. Copy of the Organization Chart is attached to the original of this document on file in the Office of the Federal Register.

Effective date: August 1, 1973.

HENRY B. TURNER,
*Assistant Secretary for Administration.*

[FR Doc.73-19291 Filed 9-11-73;8:45 am]

---

[Department Organization Order 15-3]

## Department Organization Order

## OFFICE OF COMMUNICATIONS

### Organization and Functions

This order effective August 22, 1973, supersedes the material appearing at 37 FR 6720 of April 28, 1970.

SECTION 1. *Purpose.*—This order establishes the position of Special Assistant for Public Affairs, abolishes the Office of Public Affairs, establishes the Office of Communications and prescribes the general functions of the Office.

SEC. 2. *General.*—.01 The position of Special Assistant for Public Affairs is hereby established, to report and be responsible to the Secretary of Commerce. The Special Assistant for Public Affairs shall serve as the Secretary's principal officer in all matters relating to public affairs and shall exercise general Departmental public affairs policy guidance. He shall also serve as the primary liaison for the Department of Commerce to the White House Office of Communications and to the counterpart offices in the other Departments and Agencies.

.02 The Office of Public Affairs is hereby abolished. Its functions, and the duties heretofore assigned to the Director, Office of Public Affairs, are herewith reassigned to the Director, Office of Communications as provided in this order, and to the Special Assistant for Public Affairs.

.03 The Office of Communications is hereby established as a Departmental office, to be headed by a Director who shall report and be responsible to the Secretary of Commerce through the special Assistant for Public Affairs.

SEC. 3. *Functions.*—The Office of Communications shall:

a. Plan, develop and implement a coordinated public information program throughout the Department;

b. Exercise functional supervision of the public information activities of the operating units, whether performed by information staffs or otherwise, and review and advise on the effectiveness of the operating units in public affairs matters;

c. Perform the public affairs services required by the Under Secretary, other officials in the Office of the Secretary, and, as appropriate, other officials of the Department. Such services shall include handling of news conferences, arranging radio and television broadcasts, preparing speeches, and arranging personal appearances;

d. Review and approve for release all Commerce news items and other informational material, including speeches, news releases, and publications, and review and approve all graphics, films, exhibits, and advertising or promotional programs of the Department's public affairs offices; and

e. Assist the Office of the Secretary, and other offices as appropriate, by providing timely media information and analysis and by providing regular news or information services as appropriate.

Effective date.—August 22, 1973.

HENRY B. TURNER,
*Assistant Secretary for Administration.*

[FR Doc.73-19290 Filed 9-11-73;8:45 am]

---

[Department Organization Order 30-3B; Amdt. 1]

## PATENT OFFICE

### Organization and Functions

This order, effective August 1, 1973, amends the material appearing at 38 FR 1068 of January 8, 1973.

Department Organization Order 30-3B, dated December 15, 1972 is hereby amended as follows:

1. SEC. 7. *OFFICES REPORTING TO THE ASSISTANT COMMISSIONER FOR LEGAL AFFAIRS.* a. Paragraph .04 is amended to read:

.04 The *Office of Legislation and International Affairs* shall make studies and advise the Commissioner on policy and action concerning matters which may require legislation and on international patent and trademark matters; develop and direct the implementation of related programs; maintain liaison with the Office of the Secretary, the Department of State, and appropriate congressional committees; and conduct negotiations in technical patent and trademark matters in establishing or implementing international agreements.

b. Paragraph .05 is deleted.

2. The organization chart of December 15, 1972 is superseded by the organization chart attached to this amendment. Copy of the Organization Chart is attached to the original of this document on file in the Office of the Federal Register.

*Effective date.*—August 1, 1973.

HENRY B. TURNER,
*Assistant Secretary for Administration.*

[FR Doc.73-19292 Filed 9-11-73;8:45 am]





## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

### ETHYLENE OXIDE

### Safety and Efficacy Review; Request for Data and Information

Ethylene oxide has been used for a number of years in sterilization procedures involving human and veterinary drugs, including biologics and devices. Ethylene oxide has also been used to control microorganism contamination in cosmetics and as a fumigant in certain foods.

The Food and Drug Administration has recently received several reports of serious irritation of skin and mucous membrane after contact with products, primarily medical devices, that had been sterilized with ethylene oxide. Improper hospital sterilization procedures have usually been involved. Ethylene oxide and/or reaction products such as ethylene glycol and ethylene chlorohydrin have been implicated in these adverse reactions. Ethylene chlorohydrin (2-chloroethanol) is formed by the reaction of ethylene oxide with chloride ions in certain drugs and ethylene glycol is formed by the reaction of ethylene oxide with water present in certain drugs. In addition, ethylene oxide may also react with functional groups in drugs forming compounds of undetermined biological activity and toxicity.

FDA is also aware of reports of decreased antibiotic potency attributed to the effects of ethylene oxide sterilization under experimental conditions. Further, there are questions regarding the effectiveness of the sterilization process using ethylene oxide since a number of factors, for example, relative humidity, are known to affect the adequacy of the process. There is also evidence that contaminating microorganisms occluded or trapped within crystalline material are not sterilized by ethylene oxide.

Because questions have been raised regarding the effectiveness and safety of ethylene oxide, more data is needed regarding the use of ethylene oxide to treat drugs, devices, cosmetics and foods. After review of such data and other relevant information, the Commissioner of Food and Drugs will consider the need for proposing formal policy in this area.

So as to provide all interested persons with an opportunity to present relevant data and information regarding such uses of ethylene oxide, the Commissioner invites submission of published and unpublished data concerning the use, performance, toxicity of ethylene oxide or reaction products, and any other data having a bearing on the safety and effectiveness of ethylene oxide.

It is requested that the data and information be submitted in six copies and where appropriate (i.e., in the case of large submissions) that the submission be indexed and summarized. Where applicable, the following format is suggested:

A. Efficacy of Ethylene Oxide Sterilization of:

1. Drug crystals or other solid forms that contain known and varied kinds and numbers of occluded microorganisms. Include available data on every kind of drug product including biologics.

2. Drugs that are surface-contaminated with certain known and varied kinds and numbers of microorganisms. Include available data on every kind of drug product.

3. Liquid drug formulations treated with ethylene oxide.

4. Drugs under various conditions of time, temperature, ethylene oxide concentration, and relative humidity.

5. Drug containers sterilized with ethylene oxide prior to aseptic filling with a drug.

B. Residues of the following compounds in drugs including levels before and after aeration or other procedures intended to remove or reduce such residues; include description of the analytical methodology used in determining residues:

1. Ethylene oxide.
2. Ethylene chlorohydrin (2-choloroethanol).
3. Ethylene glycol.
4. Reaction products of (1), (2), or (3) with active ingredient(s) and/or excipients in each drug formulation separately and with the final formulation.

C. Toxicity Data on:

1. Ethylene oxide.
2. Ethylene chlorohydrin (2-chloroethanol).
3. Ethylene glycol.
4. Reaction products of (1), (2), and (3) with active ingredient(s) and/or excipients in each drug formulation separately and with the final formulation.

D. Manufacturing Controls and Stability Data Including:

1. The effects of ethylene oxide sterilization on the appearance, properties and potency of each drug product.

2. Stability of the product for prolonged time periods after ethylene oxide sterilization.

E. Specifications of all materials used in sterilization procedures in the above studies.

F. Data showing the rationale for the selection of ethylene oxide sterilization rather than other methods of sterilization.

G. Data and Information regarding ethylene oxide treatment and testing of cosmetics, devices and foods should be submitted in the above format where appropriate.

Submissions of all data and information should be forwarded on or before December 11, 1973 to:

Food and Drug Administration, Bureau of Drugs, Office of Scientific Evaluation (BD-100), 5600 Fishers Lane, Rockville, MD 20852.

Dated September 5, 1973.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[FR Doc.73-19351 Filed 9-11-73;8:45 am]



V 38-176 SEP 12 73 XUM

[GRASP 3G0026]

## NOVO ENZYME CORP.

### Filing of Petition for Affirmation of GRAS Status

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201 (s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1786; 21 U.S.C. 321(s), 348, 371(a)) and the regulations for affirmation of GRAS status (21 CFR 121.40), published in the FEDERAL REGISTER of December 2, 1972 (37 FR 25705), notice is given that a petition (GRASP 3G0026) has been filed by Novo Enzyme Corp., Post Office Box 189, Mamaroneck, N.Y. 10543, and placed on public display at the office of the Hearing Clerk, Food and Drug Administration, proposing affirmation that carbohydrase and protease enzyme preparations derived from nonpathogenic strains of *Bacillus licheniformis*, formerly referred to as the Ford strain of *Bacillus subtilis*, are generally recognized as safe (GRAS) for use in food.

Interested persons may, on or before November 12, 1973, within 60 days after publication hereof, review the petition and/or file comments (preferably in quintuplicate) with the Hearing Clerk, Food and Drug Administration, Rm. 6–86, 5600 Fishers Lane, Rockville, Md. 20852. Comments should include any available information that would be helpful in determining whether the substance is, or is not, generally recognized as safe. A copy of the petition and received comments may be seen in the office of the Hearing Clerk, address given above, during working hours, Monday through Friday.

Dated August 31, 1973.

VIRGIL O. WODICKA,
*Director, Bureau of Foods.*

[FR Doc.73-19352 Filed 9-11-73;8:45 am]

## Office of Education

## NATIONAL ADVISORY COUNCIL ON EXTENSION AND CONTINUING EDUCATION

### Notice of Meeting

Notice is hereby given, pursuant to Federal Advisory Committee Act, P.L. 92–463, that the next meeting of the National Advisory Council on Extension and Continuing Education will be held on October 25–26, 1973, at the Statler-Hilton Hotel in Boston, Massachusetts. The meetings on both days will begin at 9 a.m. local time.

The National Advisory Council on Extension and Continuing Education is authorized under Public Law 89–239. The Council is directed to advise the Commissioner of Education in the preparation of general regulations and with respect to policy matters arising in the administration of Title I, and to report annually to the President on the administration and effectiveness of all federally supported extension and continuing education programs, including community service programs.

The meeting of the Council shall be open to the public. Complete agenda and records shall be kept of all Council proceedings and they will be available for public inspection at the office of the Council's Executive Director, located in Room 710, 1325 G Street NW., Washington, D.C.

EDWARD A. KIELOCH,
*Executive Director.*

SEPTEMBER 4, 1973.

[FR Doc.73-19304 Filed 9-11-73;8:45 am]

## Social Security Administration

## ADVISORY COMMITTEE ON MEDICARE ADMINISTRATION, CONTRACTING, AND SUBCONTRACTING

### Notice of Public Meeting

Notice is hereby given, pursuant to Public Law 92–463, that the Advisory Committee on Medicare Administration, Contracting, and Subcontracting, established pursuant to section 1114(f) of the Social Security Act, as amended, which advises the Secretary of Health, Education, and Welfare on Medicare matters, will meet on Friday, September 28, 1973, at 9 a.m. in the conference room on the 31st floor at 299 Park Avenue, New York, New York. The meeting is open to the public. The Committee will consider matters relating to subcontracting.

Further information on the Committee may be obtained from Mr. Max Perlman, Executive Secretary of the Committee, Room 585 East Building, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone 301–594–9134. Members of the public planning to attend should send written notice of intent to the Executive Secretary.

(Catalog of Federal Domestic Assistance Program No. 13.800, Health Insurance for the Aged—Hospital Insurance, and 13.801, Health Insurance for the Aged—Supplementary Medical Insurance.)

Dated: September 7, 1973.

MAX PERLMAN,
*Executive Secretary, Advisory Committee on Medicare Administration, Contracting, and Subcontracting.*

[FR Doc.73-19397 Filed 9-11-73;8:45 am]

## CIVIL AERONAUTICS BOARD

[Docket No. 23287]

## AIR FREIGHT FORWARDERS' CHARTERS INVESTIGATION

### Notice of Supplemental Conference

Notice is hereby given that a supplemental conference in the above-entitled proceeding will be held on September 13, 1973, at 10 a.m. (local time), in Room 726, Universal Building, 1825 Connecticut Avenue NW., before the undersigned administrative law judge.

Dated at Washington, D.C., September 7, 1973.

[SEAL] RICHARD M. HARTSOCK,
*Administrative Law Judge.*

[FR Doc.73-19396 Filed 9-11-73;8:45 am]

[Docket No. 25577]

## EASTERN AIR LINES, INC., AND SEABOARD WORLD AIRLINES, INC.

### Notice of Prehearing Conference Regarding Equipment Interchange Agreement

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on September 25, 1973, at 10 a.m. (local time), in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge Ross I. Newmann.

In order to facilitate the conduct of the conference parties are instructed to submit one copy to each party and four copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) statement of positions of parties; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before September 11, 1973, and the other parties on or before September 18, 1973. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Operating Rights, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., September 6, 1973.

[SEAL] ROBERT L. PARK,
*Associate Chief Administrative Law Judge.*

[FR Doc.73-19395 Filed 9-11-73;8:45 am]

[Docket 24961 *et al.*]

## UNIVERSAL AIRLINES, INC. TRANSFER OF CERTIFICATES TO PHOENIX AIRLINES, INC.

### Notice of Postponement of Hearing Regarding Fitness Investigation

Notice is given pursuant to the Federal Aviation Act of 1958, as amended, that the public hearing in the above-entitled proceeding now scheduled to commence on September 18, 1973, (38 FR 22909) is hereby postponed until further notice.

Dated at Washington, D.C., September 6, 1973.

[SEAL] LOUIS W. SORNSON,
*Administrative Law Judge.*

[FR Doc.73-19394 Filed 9-11-73;8:45 am]

## CIVIL SERVICE COMMISSION

## DEPARTMENT OF COMMERCE

### Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of General Counsel, Office of General Counsel, National Oceanic and Atmospheric Administration.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73-19384 Filed 9-11-73;8:45 am]

## DEPARTMENT OF COMMERCE

### Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Special Assistant for Regional Economic Coordination, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73-19383 Filed 9-11-73;8:45 am]

## DEPARTMENT OF THE INTERIOR

### Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary—Land and Water Resources, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73-19380 Filed 9-11-73;8:45 am]

## DEPARTMENT OF THE INTERIOR

### Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Director, Office of Water Resources Research, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73-19381 Filed 9-11-73;8:45 am]

## DEPARTMENT OF THE NAVY

### Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Navy to fill by noncareer executive assignment in the excepted service the position of Principal Deputy General Counsel, Office of the General Counsel, Executive Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73-19382 Filed 9-11-73;8:45 am]

## LICENSED PRACTICAL NURSE, BOSTON, MASSACHUSETTS

### Notice of Adjustment of Minimum Rates and Rate Ranges; Correction

In the FEDERAL REGISTER of August 20, 1973 (FR Doc. 73–17199) appearing on page 24427 in the heading "Brockton" was put in by mistake. It should read "Boston" as in the heading above.

The following last paragraph was omitted from the document:

"Special salary rates authorized for Licensed Practical Nurse GS–621–3 and 4, Brockton, Massachusetts are terminated effective the beginning of the first pay period which commences on or after August 19, 1973."

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73-19379 Filed 9-11-73;8:45 am]

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

## CERTAIN WOOL AND MAN-MADE FIBER TEXTILE PRODUCTS PRODUCED OR MANLFACTURED IN THE REPUBLIC OF CHINA

### Entry or Withdrawal From Warehouse for Consumption

SEPTEMBER 10, 1973.

On October 4, 1972, there was published in the FEDERAL REGISTER (37 FR 20883) a letter of September 29, 1972 from the Chairman, Committee for the Implementation of Textile Agreements, to the Commissioner of Customs, implementing those provisions of the Bilateral Wool and Man-Made Fiber Textile Agreement of December 30, 1971, as amended, between the Governments of the United States and the Republic of China which establish specific export limitations, among other categories, on man-made fiber textile Category 219; and consultation levels, among other wool and man-made fiber textile categories, for wool textile categories 103, 121, 122, and 125 which do not have specific export limitations, for the agreement year which began on October 1, 1972. The agreement further provides that consultation levels, initially controlled by the Government of the Republic of China, may at a later date be controlled by the United States Government like those categories having specific export limitations. By directive of November 14, 1972 (37 FR 24212) the group ceilings applicable to wool apparel (Categories 111–125) and wool fabric, made-up and miscellaneous textiles (Categories 101–110 and 126–132) were so controlled. On December 19, 1972 (37 FR 28446), the bilateral agreement was amended to adjust the wool group ceilings. The purpose of this notice is to announce that pursuant to paragraph 12 of the Bilateral Wool and Man-Made Fiber Textile Agreement of December 30, 1971, as amended, it has been agreed in consultations between the Governments of the United States and the Republic of China to increase the charges made during the current year in wool textile categories 103, 121, 122, and 125 within the wool group ceilings and to reduce charges against the specific limit in man-made fiber textile Category 219 to reflect the increments of compensation due in the current agreement year for overshipments which occurred in these categories during the previous agreement year.

Accordingly, there is published below a letter of September 10, 1973, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs revising the charges in wool textile Categories 103, 121, 122, and 125, and man-made fiber textile Category 219. These levels have been adjusted to reflect entries made through August 31, 1973.

SETH M. BODNER,
*Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.*

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
*Department of the Treasury,*
*Washington, D.C.*

SEPTEMBER 10, 1973.

DEAR MR. COMMISSIONER: To facilitate implementation of the Wool and Man-Made Fiber Textile Agreement of December 30, 1971, between the Governments of the United States and the Republic of China it would be appreciated if you would increase the charges made against the following wool textile categories to the indicated levels within the established wool group ceilings:

| Category: | | *Revised charges* |
|---|---|---|
| 103 | pounds | 37,529 |
| 121 | numbers | 158,736 |
| 122 | do | 3,618 |
| 125 | pounds | 435,860 |

The charges against man-made fiber textile Category 219 should be reduced to reflect entries of 4,191,549 dozen. All of these levels have bbeen adjusted to reflect entries through August 31, 1973.

Thank you for your assistance. This letter will be published in the FEDERAL REGISTER.

Sincerely,

SETH M. BODNER,
*Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.*

[FR Doc.73-19474 Filed 9-11-73;8:45 am]





V 38-176 SEP 12 73 XUM

## TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED

SEPTEMBER 7, 1973.

Effective on October 1, 1973, the Part 6 Statistical Headnote 1 for Schedule 3 of the Tariff Schedules of the United States Annotated will be revised to read as follows:

Merchandise imported in sets, consisting of two or more separate articles and determined dutiable under a single 5-digit item number as an entirety, shall be reported statistically as separate articles under the most appropriate 7-digit reporting numbers within that same 5-digit grouping (including the provision for "other"), provided that this instruction shall not apply to statistical annotations specifically providing for the set, as in the case of suits.

During a period of transition lasting from October 1, 1973 through November 30, 1973, both the previous classification and the new classification regarding entireties will be acceptable.

Shipments of entireties from the Republic of China and the Republic of Korea which require a visa and correct classification will be permitted entry with either classification during the transition period.

Accordingly, there is published below a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs implementing this revision.

SETH M. BODNER,
*Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.*

COMMISSIONER OF CUSTOMS,
*Department of the Treasury,*
*Washington, D.C.*

SEPTEMBER 6, 1973.

DEAR MR. COMMISSIONER: The following Part 6 Headnote is scheduled to be printed on October 1, 1973, to become effective on that day:

Merchandise imported in sets, consisting of two or more separate articles and determined dutiable under a single 5-digit item number as an entirety, shall be reported statistically as separate articles under the most appropriate 7-digit reporting numbers within that same 5-digit grouping (including the provision for "other"), provided that this instruction shall not apply to statistical annotations specifically providing for the set, as in the case of suits.

Since many countries are presently classifying goods as entireties rather than separate articles, the Committee for the Implementation of Textile Agreements wishes to put into effect a period of transition to prevent any goods from being held up at ports because of classification difficulties. You are, therefore, directed, effective as soon as possible and until November 30, 1973, to accept either the previous classification or the new classification regarding entireties as envisioned by the Statistical Headnote.

Goods from Taiwan and Korea which require a visa and a correct classification to be permitted entry, may be entered with either classification until the transition period ends at midnight November 30, 1973.

This letter will be published in the FEDERAL REGISTER.

Sincerely,

SETH M. BODNER,
*Chairman, Committee for the Implementation of Textile Agreements and Deputy Assistant Secretary for Resources and Trade Assistance.*

[FR Doc.73-19475 Filed 9-11-73;8:45 am]

## CONSUMER PRODUCT SAFETY COMMISSION

### CERTAIN SPRAY ADHESIVES PRESENTING AN IMMINENT HAZARD

#### Amendment of Banning Order

In the FEDERAL REGISTER of AUGUST 29, 1973 (38 FR 23355), the Consumer Product Safety Commission published an order declaring that nine additional spray adhesive products presented an imminent hazard to the public health and were therefore deemed to be "banned hazardous substances" pursuant to section 2(q)(2) of the Federal Hazardous Substances Act (15 U.S.C. 1261(q)(2)). The order was based on the Commission's finding that these spray adhesive products have the same or similar chemical formulations as those products found by the Commission to present an imminent hazard to the public health in the order published August 22, 1973 (38 FR 22569).

The ninth product listed in the banning order of August 29, 1973, is "Tri Chem Spray Mist Adhesive" manufactured by the Minnesota Mining and Manufacturing Company, St. Paul, Minnesota (distributed by Tri Chem, Incorporated, Distributors, Belleville, New Jersey). On the basis of new information, the Commission now finds that only "Tri Chem Spray Mist Adhesive" distributed during the period commencing October 1, 1968, and ending December 31, 1969, in 11-ounce cans has the same or similar chemical formulations as those products found earlier to present an imminent hazard. All other cans of "Tri Chem Spray Mist Adhesive" therefore should not be declared banned hazardous substances.

Accordingly, the Consumer Product Safety Commission hereby amends the list of spray adhesive products found to present an imminent hazard to the public health in the FEDERAL REGISTER of August 29, 1973 (38 FR 23356), by revising the ninth item to read as follows:

(9) "Tri Chem Spray Mist Adhesive" manufactured by the Minnesota Mining and Manufacturing Company, St. Paul, Minnesota (distributed from October 1, 1968, through December 31, 1969, in 11-ounce cans by Tri Chem, Incorporated, Distributors, Belleville, New Jersey).

Dated September 7, 1973.

SAMUEL M. HART,
*Acting Secretary, Consumer Product Safety Commission.*

[FR Doc.73-19371 Filed 9-11-73;8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

### AMERICAN SPICE TRADE ASSOCIATION

#### Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 4H5042) has been filed by the American Spice Trade Association, 580 Sylvan Avenue, Englewood Cliffs, NJ 07632, proposing establishment of an interim food additive tolerance (21 CFR, Part 121) for residues of the insecticide BHC (benzene hexachloride) at 7 parts per million in imported paprika.

Dated August 31, 1973.

HENRY J. KORP,
*Deputy Assistant Administrator for Pesticide Programs.*

[FR Doc.73-19310 Filed 9-11-73;8:45 am]

### DIMETHYL TETRACHLOROTEREPHTHALATE

#### Filing of Petition Regarding Pesticide Chemical

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a(d)(1)), notice is given that a petition (PP 3F1417) has been filed by Diamond Shamrock Chemical Co., 1100 Superior Avenue, Cleveland, OH 44114, proposing establishment of tolerances (40 CFR, Part 180) for combined residues of the herbicide dimethyl tetrachloroterephthalate and its metabolites monomethyl tetrachloroterephthalate and tetrachloroterephthalic acid (calculated as dimethyl tetrachloroterephthalate) in or on the raw agricultural commodities alfalfa at 30 parts per million; horseradish at 2 parts per million; asparagus, lima beans, peas, and the vines or hay of field beans, lima beans, mung beans, snap beans, garden peas, Southern peas and soybeans at 1 part per million; and eggs, milk, and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 0.02 part per million (negligible residue).

The analytical method proposed in the petition for determining residues of the herbicide is a procedure in which the metabolites are separated from the parent compound by extraction and then esterified with 1-*n*-propyl-3-*p*-tolyltriazine. Dimethyl tetrachloroterephthalate and the propylated derivatives of the metabolites are determined by gas chromatography using electron capture detection.

Dated August 31, 1973.

HENRY J. KORP,
*Deputy Assistant Administrator for Pesticide Programs.*

[FR Doc.73-19309 Filed 9-11-73;8:45 am]





### EFFLUENT STANDARDS AND WATER QUALITY INFORMATION ADVISORY COMMITTEE

#### Notice of Meeting and Agenda

Notice is hereby given of a meeting of the Effluent Standards and Water Quality Information Advisory Committee (the Committee) established under sec. 515 of the Federal Water Pollution Control Act (the Act; 33 U.S.C. 1374; Public Law 92-500) to be held at 2 p.m. September 20, 1973, in Room 519, Building 2, Crystal City, Arlington, Virginia. This is a regularly scheduled meeting of the Committee.

The Committee will discuss quantitative analytic methods for determining effluent limitation guidelines and cost effectiveness curves for industrial point source dischargers.

The meeting will be under the direction of the Committee Chairman and open to the public. Any member of the public wishing to attend or participate should contact Dr. Martha Sager, Chairman, Effluent Standards and Water Quality Information Advisory Committee, Environmental Protection Agency, room 821, Crystal Mall, Building 2, Washington, D.C. 20460, telephone 703-557-7390.

Dated September 7, 1973.

MARTHA SAGER,
*Chairman, Effluent Standards and Water Quality Information Advisory Committee.*

[FR Doc.73-19484 Filed 9-11-73;8:45 am]

## FEDERAL MARITIME COMMISSION

### DELAWARE RIVER PORT AUTHORITY, ET AL.

#### Notice of Agreements Filed

Notice is hereby given that Delaware River Port Authority, the City of Philadelphia, Philadelphia Port Corporation, Philadelphia Marine Trade Association and Port of Philadelphia Marine Terminal Association, Philadelphia District Council, International Longshoremen's Association, have jointly and severally entered into identical agreements with each of the following companies: Atlantic Container Lines, Ltd., American President Lines, Ltd., Container Marine Lines, Dart Container Line, Inc., Fabre Line, "K" Line, Mediterranean Marine Lines. These agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain copies of the agreements at the Washington office of the Federal Maritime Commission, 1405 I Street, NW., Room 1015; or may inspect the agreements at the field offices located at New York, New York, New Orleans, Louisiana, and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, by October 2, 1973. Any person desiring a hearing on the proposed agreements shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the parties filing the agreements (as indicated hereinafter), and the statement should indicate that this has been done.

Notice of agreements filed by:

Martin A. Hecksher, Esquire, Counsel for Delaware River Port Authority, Duane, Morris & Hecksher, 100 South Broad Street, Philadelphia, Pennsylvania 19110.

Martin Weinberg, City Solicitor, Herbert Smalen, Assistant City Solicitor, Counsel for City of Philadelphia, 15th Floor, Municipal Services Building, Philadelphia, Pennsylvania 19107.

M. Carton Dittman, Esquire, Counsel for Philadelphia Port Corporation, Ballard, Spahr, Andrews & Ingersoll, 1035 Land Title Building, Philadelphia, Pennsylvania 19110.

Francis A. Scanlan, Esquire, Counsel for Philadelphia Marine Trade Association, and Port of Philadelphia Marine Terminal Association, Kelly, Deasey & Scanlan, 926 Four Penn Center Plaza, Philadelphia, Pennsylvania 19103.

Abraham E. Freedman, Esquire, Counsel for International Longshoremen's Association, Philadelphia District Council, Freedman, Borowsky & Lorry, 8th Floor, Lafayette Building, Philadelphia, Pennsylvania 19106.

George F. Galland, Counsel for Atlantic Container Lines, Ltd., Galland, Kharasch, Calkins & Brown, 1054 Thirty-First Street NW., Washington, D.C. 20007.

Robert T. Basseches, Counsel for American President Lines, Ltd., Shea & Gardner, 734 15th Street NW., Washington, D.C. 20005.

James N. Jacobi, Counsel for Container Marine Lines and Mediterranean Marine Lines, Kurrus and Jacobi, 2000 K Street NW., Washington, D.C. 20006.

Edwin J. Longcope, Counsel for Dart Container Line, Hill, Betts & Nash, One World Trade Center, Suite 5215, New York, New York 10048.

Alfred J. Kuffler, Counsel for Fabre Line, Rawle & Henderson, 1900 Packard Building, Fifteenth and Chestnut Streets, Philadelphia, Pennsylvania 19102.

Charles F. Warren, Counsel for "K" Line, 1100 Connecticut Avenue NW., Washington, D.C. 20036.

The agreements, numbered respectively, 10081 (Atlantic Container Lines, Ltd.), 10082 (American President Lines, Ltd.), 10083 (Container Marine Lines), 10084 (Dart Container Lines, Inc.), 10085 (Fabre Line), 10086 ("K" Line), 10087 (Mediterranean Marine Lines), are stipulations among the named parties, settling for the present their disputes found in Docket No. 71-70—*Delaware River Port Authority, et al. v. United States Lines, et al.*, whereby (the particular carrier agrees not to absorb, or by solicitation or advertising represent that it will absorb, overland transportation charges to or from the Port of Philadelphia on import or export cargoes discharged or loaded at other U.S. ports without giving prior written notice in the amount of 30 days. In return, the complainants Delaware River Port Authority, et al. agree jointly and severally to discontinue, without prejudice, Docket No. 71-70 and to refrain from instituting any proceeding against the particular carrier in which the principle issue is the diversion of cargo from the Port of Philadelphia by absorption of overland transportation charges except if a carrier engages in absorption practices or gives notice of intent to engage in such practices. The agreement is to last until July 1, 1974.

By Order of the Federal Maritime Commission.

Dated September 7, 1973.

JOSEPH C. POLKING,
*Assistant Secretary.*

[FR Doc.73-19338 Filed 9-11-73;8:45 am]

[Agreement No. 17-34]

### FAR EAST CONFERENCE

#### Notice of Intention To Approve Application

The member lines of the Far East Conference have entered into Agreement No. 17-34, which has been filed with the Commission for approval under section 15. This agreement contains an application by the member lines for permission to: (a) Extend the geographic scope of the Conference to include inland points in the United States and inland points in Japan, Okinawa, Korea, Taiwan (Formosa), Siberia, Manchuria, China, Hong Kong, the Philippines, Vietnam, Cambodia, and Laos; (b) establish point-to-point, port-to-point and point-to-port rates from or via U.S. Atlantic and Gulf ports, in addition to the presently established port-to-port rates; (c) enter into intermodal arrangements with carriers of other transportation modes; and (d) adopt a uniform bill of lading incidental thereto.

Notice of the filing of Agreement No. 17-34 was published in the FEDERAL REGISTER on February 14, 1973. Comments pursuant to such notice were received from Seatrain Lines, Inc. (Seatrain).

The Delaware River Port Authority (Delaware) had also filed comments based upon its concern that Agreement No. 17-34 might be used to divert to either Baltimore or New York, through the use of inland carriers, cargo which is naturally tributary to Philadelphia, Delaware, however, withdrew its objection to the agreement upon written assurance from the Conference's member lines that "[it] was never intended that Agreement No. 17-34 would authorize inland transportation from one Atlantic or Gulf port to another, and thence by conference vessel to the Far East with the ocean carrier absorbing the cost of overland haulage."



V 38-176 SEP 12 73 XUM

Seatrain objects to approval of the agreement on the grounds that it presents "important questions relating to interconference competition, conference control of as yet undeveloped intermodal services, and the novel question of the relationship of dual rate agreements to such intermodal services." It additionally contends that the Conference could not accomplish its objective of an intermodal service since "at present there is no conference ability to consummate agreements with carriers or rate bureaus of other transportation modes because of the lack of statutory antitrust immunity." Based upon the above assertions, Seatrain "suggests" that the Commission order an investigation and hearing with respect to the approvability of Agreement No. 17-34.

Seatrain's comments do not, on their face, appear sufficient to activate the hearing requirement with respect to the subject agreement. Seatrain does not allege that it is a competitor or even a potential competitor with respect to the cargo which would move under the agreement. Nor does it allege that its operations will in any way be affected by the agreement. The comments contain neither a statement of the "grounds of interests in the subject matter, [nor] the facts relied upon * * *" as required by Rule 5(d) of our rules of practice and procedure (46 CFR 502.69). In fact, the comments, although evincing Seatrain's "belief" that the Commission must investigate the agreement to determine "whether it is unjustly discriminatory, detrimental to commerce, contrary to the public interest or violative of the Shipping Act, 1916", fail to present, as required of those desiring a hearing by the FEDERAL REGISTER notice, "a clear and concise statement of the matters upon which they desire to adduce evidence * * *, a statement describing the discrimination * * * with particularity * * *, [or] the acts and circumstances said to constitute such violation [of the Act] or detriment to commerce."

Because, however, we do not wish to allow filing formalities to cause the Commission to overlook *bona fide* legal or factual problems where such do exist, we will allow Seatrain an additional opportunity to bring forward whatever it can with respect to Agreement No. 17-34 indicating why it should not be approved. In this regard, we wish to make clear precisely how and why we adopt such approach.

As Seatrain contends, there is a legal requirement that proponents of restrictive agreements bring forward information explaining and demonstrating the need for such agreements. *FMC* v. *Svenska Amerika Linien*, 390 U.S. 238, 243-6. The greater the restraint, of course, the greater the explanation and demonstration of need which would be required. Seatrain's suggestion, however, that such showing must be made in an evidentiary hearing is without foundation in law. There is no such requirement where, on the basis of materials furnished to the Commission, the "applicant for approval * * * [satisfies] the burden of demonstrating the need for anti-competitive restraints * * *." *Marine Space Enclosures* v. *FMC*, 420 F.2d 577, 583 (D.C. 1969).

We believe that the Far East Conference has presented a *prima facie* justification for the proposed agreement. In its letter transmitting Agreement No. 17-34 for section 15 consideration, and its reply to Seatrain's comments, the Conference indicates its belief that the agreement is necessary to provide a new, economical intermodal service to shippers in the central portion of the United States, and to prevent rate wars and rate instability.

Since the Far East Conference competes with the Pacific Westbound Conference for cargo originating at interior points within the United States to the extent that the latter offers OCP rates, and because of the geographic disadvantage of the Atlantic and Gulf ports in relation to the Pacific Coast with respect to cargo movements to the Far East, the denial of subject application would appear to deprive the Far East Conference with the necessary means to compete with the present all sea and minibridge services from the Pacific Coast to the Far East destinations within the scope of the competing conferences. This situation demonstrates a further need for the Intermodal authority applied for in order that the Far East Conference will be in a position to maintain and or improve its present services from the Atlantic and Gulf to the Far East.

The possibilities of the unlawful restrictive effects alluded to by Seatrain appear to be insubstantial. The proposed agreement would seem to have minimal effect upon either interconference competition or as yet undeveloped intermodal services. Agreement No. 17-34 contains no authority for any cooperative actions between the Far East Conference and the Pacific Westbound Conference, with which it competes for cargo originating in the interior of the United States, and any authority with respect to interconference arrangements relating to intermodal transportation would, of course, be required to be embodied in an agreement[a] filed with the Commission for approval, with opportunity for hearing prior to such approval. Furthermore, the restriction of Agreement No. 17-34 upon developing intermodal services appears to be removed by the provision therein authorizing the member lines individually to establish and publish through or combination rates to apply on cargo moving under transshipment or intermodal arrangements with carriers of other modes, until such time as through or joint rates are adopted and published by the Conference.

The impact of Agreement No. 17-34 on dual rate arrangements should also be nonexistent since, as the Conference admits, its agreement will not authorize the application of the Conference's dual rate system to intermodal rates and services. There appears to be no reason why, Agreement No. 17-34 having been approved, merchant signatories to the Conference's dual rate contracts could not use the services of Seatrain or any other carrier except with respect to the port-to-port transportation covered by the Conference's presently approved dual rate system.

Finally, insofar as antitrust immunity with respect to arrangements which might be entered into between conference members and carriers of other transportation modes is concerned, we have already determined that the possible absence of such antitrust immunity will not prevent approval of the authorization to enter into such arrangements. *Atlantic & Gulf/West Coast of South America Conference*, 13 F.M.C. 121, 131-132. Such action as may appear appropriate can be taken when such arrangements are, as required by the proposed agreement, submitted to us.

It would further appear to be in the public interest to limit the term of approval of the subject agreement to 18 months and to require information concerning the manner and extent of the implementation of the intermodal authority. Such, in fact, has been our practice with respect to intermodal authority generally.

Since, as noted above, there appears, *prima facie*, to be justification for the proposed agreement and explanation of its possibly restrictive effects, and since, before the Commission can disapprove an agreement pursuant to section 15 it must "adduce substantial evidence to support a finding under one of the four standards of section 15 * * *" (see *FMC* v. *Svenska Amerika Linien, Supra*, at 245), the Commission hereby gives notice of its intention to approve Agreement No. 17-34, unless any person is able to come forward with a clear and concise statement of material matters upon which he desires to adduce evidence and the facts which, if so adduced, could result in disapproval.

Therefore, take notice that, pursuant to section 15 of the Shipping Act, 1916, the Federal Maritime Commission intends to approve Agreement No. 17-34, conditioning such approval upon:

(1) Limitation of the agreement to a period of 18 months;

(2) The requirement that any conference uniform bill of lading shall be filed with the Commission for review 30 days prior to the effective date of implementation;

(3) The furnishing to the Commission of quarterly reports setting forth:

(a) A description of the intermodal services offered by the Conference as of the close of the reporting period;

(b) A description of actions taken during the reporting period to implement or further develop such intermodal services; and

(c) The volume of cargo carried in each of the following categories:

(i) Intermodal cargo moving under a through bill of lading;

(ii) Intermodal cargo not moving under a through bill of lading; and

(iii) All other cargo carried by the conference members;

(4) The requirement of notification to the Commission at least six months prior to such termination date, together with a full report setting forth the extent to which the intermodal authority granted under the agreement has been implemented and the positive transportation needs and public benefits which have resulted from operation under the agreement.

Any person submitting a statement as to why Agreement No. 17-34, as conditioned above, should not be approved should submit such matter on or before October 1, 1973. The member lines of the Far East Conference may reply to such matter on or before October 11, 1973. Absent receipt of such matter on or before October 1, 1973, Agreement No. 17-34, as conditioned herein, will be approved.

*It is ordered*, That a copy of this Notice of Intention to Approve be published in the FEDERAL REGISTER and that a copy thereof be mailed to Seatrain Lines, Inc. and the Far East Conference and its member lines as shown below.

By the Commission.

[SEAL] JOSEPH C. POLKING,
*Assistant Secretary.*

Elkan Turk, Jr., Counsel, Far East Conference, Burlingham Underwood & Lord, 25 Broadway, New York, New York 10004

Seatrain Lines, Inc., Neil M. Mayer, Counsel, Coles & Goertner, 1000 Connecticut Avenue NW., Washington, D.C. 20036.

Far East Conference, Gerald J. Flynn, Chairman, 11 Broadway, Room 760, New York, New York 10004.

(Member Lines), American Export Lines, Inc., 17 Battery Place, New York, New York 10004.

American President Lines, Ltd., One World Trade Center, Suite 1225, New York, New York 10048.

Barber Lines, A/S Barber Steamship Lines, Inc., Agent, 17 Battery Place, New York, New York 10004.

Blue Sea Line—Joint Service, Furness, Withy Agencies (U.S.A.), General Agents, 5 World Trade Center, New York, New York 10048.

Japan Line, Ltd., Japan Line (New York) Services, Ltd., Agents, One World Trade Center, Suite 2867, New York, New York 10048.

Kawasaki Kisen Kaisha, Ltd., "K" Line-Kerr Corporation, General Agents, 29 Broadway, New York, New York 10006.

Lykes Bros. Steamship Co., Inc., 17 Battery Place, New York, New York 10004.

Maritime Company of the Philippines, Inc., North American Maritime Agencies, General Agents, 17 Battery Place, New York, New York 10004.

Mitsui O.S.K. Lines, Ltd., One World Trade Center, Suite 2211, New York, New York 10048.

A. P. Moller-Maersk Line, Moller Steamship Company, Inc., General Agents, One World Trade Center, Suite 3527, New York, New York 10048.

Nippon Yusen Kaisha, One World Trade Center, Suite 5031, New York, New York 10048.

Sea-Land Service, Inc., P.O. Box 1050, Elizabeth, New Jersey 07207.

States Marine Lines, States Marine-Isthmian Agency, Inc., General Agents, 80 Broad Street, New York, New York 10004

That Mercantile Marine Limited States Marine-Isthmian Agency, Inc., General Agent, 80 Broad Street, New York, New York 10004.

United Philippine Lines, Inc., United States Navigation Co., Inc., General Agent, 17 Battery Place, New York, New York 10004.

United States Lines, Inc., One Broadway, New York, New York, 10004.

Waterman Steamship Corporation, 120 Wall Street, New York, New York 10005.

Yamashita-Shinnihon Steamship Co., Ltd., c/o Texas Transport & Terminal Co., Inc., 21 West Street, New York, New York 10006.

Zim Israel Navigation Co., Ltd., Zim-American Israeli Shipping Co., Inc., General Agent, One World Trade Center, Suite 2960, New York, New York 10048

[FR Doc.73-19359 Filed 9-11-73;8:45 am]

## FEDERAL POWER COMMISSION

[Docket No. CI71-703]

### AMOCO PRODUCTION CO.

### Notice of Petition To Amend

SEPTEMBER 4, 1973.

Take notice on August 27, 1973, Amoco Production Co. (Petitioner), filed in Docket No. CI71-703 a petition to amend the Commission's order issuing a certificate of public convenience and necessity in said docket by authorizing the continuation of the sale of gas from the Ute Dome Dakota Field, San Juan County, New Mexico, to Southern Union Gathering Co. (Southern Union), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By the Commission's order of June 2, 1971, in the subject docket, Petitioner was authorized to sell the subject gas to Southern Union for a three-year period commencing on the date of initial delivery when Southern Union resold such gas to El Paso Natural Gas Co. Petitioner states that this three-year period expired August 2, 1973, and now requests authorization to continue this sale. This sale has been made pursuant to Petitioner's FPC Gas Rate Schedule No. 566. The currently effective rate under said rate schedule is 15.0 cents per M c.f. at 14.73 cents per M c.f., the minimum rate under Commission Opinion No. 658 for sales from the Rocky Mountain Area.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 25, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19338 Filed 9-11-73;8:45 am]

[Docket No. CI74-124]

### CASTLE, INC.

### Notice of Application

SEPTEMBER 4, 1973.

Take notice that on August 17, 1973, Castle, Inc. (Applicant), 205 North Main, Butler, Pennsylvania, filed in Docket No. CI74-124 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon a sale of natural gas from the LaGloria Field, Jim Wells and Brooks Counties, Texas, to Transcontinental Gas Pipe Line Corp. (Transco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has been selling gas to Transco from the subject field at a rate of 13.03921 cents per M c.f. at 14.65 p.s.i.a. under a contract dated September 12, 1947, on file as H. H. Phillips, Jr., FPC Gas Rate Schedule No. 3, which expired April 1, 1971. Applicant requests authorization to abandon this sale to Transco so that it may sell the gas to Natural Gas Pipeline Company of America (Natural). Applicant also requests authorization under § 154.91(b) of the Commission's regulations to be governed by the filing of Mobil Oil Corp., operator of the LaGloria Field for the proposed sale to Natural, if the abandonment is approved.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 24, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestant parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave

[a] We construe Agreement No. 8200 between the Far East Conference and the Pacific Westbound Conference as relating only to port-to-port transportation of these Conferences.







V 38-176 SEP 12 73 XUM

to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19336 Filed 9-11-73;8:45 am]

---

[Docket Nos. E-8308; E-7206]

## THE DETROIT EDISON CO. AND CONSUMERS POWER CO.

### Notice of Extension of Time

AUGUST 31, 1973.

On August 24, 1973, the Michigan Municipal Electric Association filed a motion for an extension of time to file protests or petitions to intervene pursuant to the notice issued August 6, 1973, in the above-designated matter.

Upon consideration, notice is hereby given that the time is extended to and including October 1, 1973, within which protests or petitions to intervene may be filed in the above-designated matter.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19337 Filed 9-11-73;8:45 am]

---

[Docket Nos. CI74-137; CI74-138; CI74-139]

## DIAMOND SHAMROCK CORP.

### Notice of Applications

SEPTEMBER 4, 1973.

Take notice that on August 21, 1973, Diamond Shamrock Corp. (Applicant), P.O. Box 631, Amarillo, Texas 79105, filed in Docket Nos. CI74-137, CI74-138, and CI74-139 applications pursuant to section 7(c) of the Natural Gas Act and § 2.75 of the Commission's general policy and interpretations (18 CFR 2.75) for certificates of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Trunkline Gas Co. (Trunkline) from offshore Louisiana, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Applicant proposes under the optional gas pricing procedure to sell natural gas to Trunkline in Docket No. CI74-137 from Block 338, East Cameron Area, in Docket No. CI74-138 from Block 320, Vermilion Area, and in Docket No. CI74-139 from Block 639, West Cameron Area, at an initial rate of 45.0 cents per M c.f. at 15.025 p.s.i.a. subject to upward and downward Btu adjustment pursuant to the terms of a contract dated July 16, 1973. The gas sales contracts provide for fixed escalations of 1.0 cent per M c.f. each year after the date of initial delivery, for 87.5 percent reimbursement to the seller for any additional taxes which are greater than those being levied on the dates of the contracts and for a contract term of 20 years. Applicant estimates monthly deliveries of gas from its interest at 360,000 M c.f. in Docket No. CI74-137, 450,000 M c.f. in Docket No. CI74-138, and 435,000 M c.f. in Docket No. CI74-139.

Applicant states that the substantial volumes of natural gas being made available to Trunkline by virtue of the sales here involved are of critical importance in assisting Trunkline to meet the firm demands for gas on its system during the contract terms. Applicant states that the contract price is substantially lower than prices for base load sales of liquefied natural gas or synthetic gas for which applications are pending or have been approved by the Commission.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 24, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, hearings will be held without further notice before the Commission on these applications if no petitions to intervene are filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificates is required by the public convenience and necessity. If petitions for leave to intervene are timely filed, or if the Commission on its own motion believes that formal hearings are required, further notice of such hearings will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearings.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc 73-19338 Filed 9-11 73:8:45 am]

---

[Docket No. CP74-48]

## FLORIDA GAS TRANSMISSION CO.

### Notice of Application

SEPTEMBER 4, 1973.

Take notice that on August 22, 1973, Florida Gas Transmission Co. (Applicant), P.O. Box 44, Winter Park, Florida 32789, filed in Docket No. CP74-48 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities for a new delivery point to deliver natural gas to City Gas Co. of Florida (City Gas) for resale in Dade County, Florida, all as more fuly set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization to construct and operate approximately 1.4 miles of 4-inch lateral pipeline extending from its existing 8-inch Lehigh Portland Cement Company lateral pipeline to a terminus at a meter and regulator station to be constructed and operated by Applicant and to be known as its Tamiami Station. By means of the proposed facilities Applicant proposes to deliver up to 3 billion Btu per day of natural gas to City Gas. Applicant states that all gas sold and delivered through the proposed facilities will come from quantities already available under its existing service agreements for General Service to City Gas and that no volumes in addition to those now being sold and delivered to City Gas will be sold or delivered.

Applicant states that the natural gas made available from the proposed facilities will be used by City Gas to improve service to its customers in its Cutler Ridge-West Miami-South Miami distribution system.

Applicant states that the estimated total overall capital cost of the proposed installation is $97,700, which cost will be borne by City Gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 24, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be





unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19339 Filed 9-11-73;8:45 am]

---

[Docket No. CP74-50]

## FLORIDA GAS TRANSMISSION CO.

### Notice of Application

SEPTEMBER 5, 1973.

Take notice that on August 27, 1973, Florida Gas Transmission Co. (Applicant), P.O. Box 44, Winter Park, Florida 32789, filed in Docket No. CP74-50 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing retention in place and the operation of certain natural gas facilities in Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that pursuant to § 157.22 of the Commission's regulations under the Natural Gas Act (18 CFR 157.22), it constructed and placed into actual operation a natural gas metering and regulating station in the East Bayou Pigeon Field, Iberia Parish, Louisiana, and approximately three thousand feet of 3-inch lateral gas pipeline in order to receive an emergency sale of natural gas from Florida Gas Exploration Co., Southeastern Exploration Ltd. (1970), Southeastern Exploration Ltd. (1972-A) and Edwin L. Cox from the said field.

Applicant requests authorization herein to retain these facilities constructed because Florida Gas Exploration Co. (Operator), et al., in Docket No. CI73-676 and Edwin L. Cox in Docket No. CI73-746 have filed applications pursuant to § 2.75 of the Commission's general policy and interpretations (18 CFR 2.75) for certificates authorizing the sale of gas from the subject well, the Peterman No. A-1, to Applicant. Under the proposed arrangement, Applicant is to receive gas from the aforesaid producers, transport it through the facilities proposed to be retained, and deliver the gas into Texas Gas Transmission Corporation's (Texas Gas) existing East Bayou Pigeon-Gulf 8-inch lateral pipeline. Texas Gas then will redeliver this gas to Applicant at an existing point of interconnection between the two pipelines. Texas Gas has filed in Docket No. CP73-300 for authorization to transport this gas.

Applicant states that these facilities are necessary in order to help alleviate a gas supply shortage on its system by attaching a beneficial source of supply and to assure maintenance of adequate service to its existing customers.

Applicant estimates the total overall cost of the facilities proposed to be retained is $57,400, which was paid out of current funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 25, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc 73 19423 Filed 9-11-73;8:45 am]

---

[Docket No. CI74-142]

## KERR-McGEE CORP.

### Notice of Application

AUGUST 31, 1973.

Take notice that on August 23, 1973, Kerr-McGee Corp. (Applicant), Kerr-McGee Center, Oklahoma City, Oklahoma 73102, filed in Docket No. CI74-142 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to El Paso Natural Gas Co. from the Hobart Ranch Field, Hemphill County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell approximately 300,000 Mcf of gas per month until July 1, 1974, at 45.0 cents per M c.f. at 14.65 p.s.i.a., subject to upward and downward Btu adjustment, within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70).

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 17, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc 73-19333 Filed 9-11-73;8:45 am]

---

[Docket No. CI74-153]

## LONE STAR PRODUCING CO. (OPERATOR), ET AL.

### Notice of Application

SEPTEMBER 6, 1973.

Take notice that on August 30, 1973, Lone Star Producing Co. (Applicant), 301 South Harwood Street, Dallas, Texas 75201, filed in Docket No. CI74-153 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale of natural gas in interstate commerce to Texas Gas Transmission Corporation from the Oaks Field, Claiborne Parish, Louisiana, and delivery of said gas to Beacon Gasoline Co. for delivery to the purchaser in Webster Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it commenced the sale of natural gas on August 26, 1973, within the contemplation of § 157.29 of the regulations under the Natural Gas (18 CFR 157.29) and proposes to continue said sale for one year from the



V 38-176 SEP 12 73 XUM

end of the 60-day emergency period within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant proposes to sell approximately 60,000 Mcf of gas per month at 50.0 cents per M c.f. at 15.025 p.s.i.a., subject to upward and downward Btu adjustment.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 20, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc 73-19417 Filed 9-11-73;8:45 am]

[Docket No. CI74-119]

## McCRACKEN OIL TRUST, OPERATOR

### Notice of Application

AUGUST 31, 1973.

Take notice that on August 16, 1973, McCracken Oil Trust (Applicant), 625 First-Wichita National Bank Building, Wichita Falls, Texas 76301, filed in Docket No. CI74-119 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to United Gas Pipe Line Company from the Tuleta Field, Bee County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it commenced the sale of gas on May 17, 1973, within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and on July 16, 1973, was granted a sixty-day extension of this sale. Applicant proposes to sell, for one year from the end of the second sixty-day emergency period, an average of 6,000 M c.f. of gas per month at 45.0 cents per M c.f. at 14.65 p.s.i.a. within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant states that it is a small producer and is filing the instant application solely to receive pregranted abandonment authorization. Applicant does not intend to file its gas sales contract as a rate schedule.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter that 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 17, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by section 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc 73-19332 Filed 9-11-73;8:45 am]

[Docket No. CP73-7]

## NORTHERN NATURAL GAS CO.

### Notice of Petition To Amend

SEPTEMBER 4, 1973.

Take notice that on August 20, 1973, Northern Natural Gas Co. (Petitioner), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP73-7 a petition to amend the Commission's order issued November 20, 1972, in said docket pursuant to section 7(c) of the Natural Gas Act so as to authorize the deferment for one year, the presently authorized increase in the maximum daily volumes of gas to be transported for Minneapolis Gas Co. (Minnegasco), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner was authorized by the order issued November 20, 1972, to accept, transport and redeliver to Minnegasco a maximum daily volume of 50,000 M c.f. of gas commencing on October 27, 1972, and continuing through March 26, 1973, and for each winter season thereafter. Pursuant to a request by Minnegasco, Petitioner requests that the maximum daily volumes to be accepted, transported and redelivered remain at 50,000 M c.f. of gas for the 1973-74 winter season. It is stated that on August 6, 1973, Petitioner submitted First Revised Sheet Nos. 458 and 459 to its T-8 Rate Schedule which contains the revisions proposed in the instant petition.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 24, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc 73-19341 Filed 9-11-73;8:45 am]

[Docket No. RP74-1]

## NORTHWESTERN PUBLIC SERVICE CO. AND KANSAS-NEBRASKA NATURAL GAS CO., INC.

### Order Providing for Hearing and Establishing Procedures

AUGUST 31, 1973.

On July 6, 1973, Northwestern Public Service Co. (Northwestern) filed a complaint under section 5(a) of the Natural Gas Act in Docket No. RP74-1 alleging that the refusal by Kansas-Nebraska Natural Gas Co., Inc. (K-N), to provide it with additional contract demand service is an unjust, unreasonable, and unduly discriminatory practice. Northwestern alleges that K-N has not banned increases in natural gas service to its nonjurisdictional customers, while, at the same time, it refused Northwestern's request for additional contract demand service to meet load growth in its service area. Northwestern further asserts that K-N request for certification of its Winter Period Service in Docket No. CP73-224 is an admission "that it is practical for [K-N] to provide its jurisdictional customers with such volumes of natural gas as they require for Winter Period Service • • •."

On July 24, 1973, K-N filed a response to the complaint stating that (1) its reserve life index has been declining since 1968; (2) it has declined to serve new industrial customers in its service area or permit increases in demand for boiler fuel or electric generation; (3) it is not proposing to increase the contract demand of any customer under the CD Rate Schedule; (4) it is following the same policies in dealing with the increased needs of both its nonjurisdictional and jurisdictional customers; and (5) section 5(a) cannot be invoked to compel a natural gas company to sell increased quantities of gas to one of its customers.

The complaint filed by Northwestern and the answer filed by K-N raise issues that should be resolved in an evidentiary hearing. The pleadings bring into sharp conflict the comparative benefits of initiating a new peaking service (WPS) or increasing the contract demand of K-N's customers under its CD rate schedules. By order issued August 28, 1973, in Docket No. CP73-224, we permitted K-N to offer the new WPS to its customers. Under Ordering Paragraph (C) of that Order, we made it abundantly clear that no sale of increased volumes of gas can be initiated under the WPS rate schedule until such request was first made to and approved by the Commission. In so conditioning our approval of WPS, we did not prejudice Northwestern's position to show the superiority of increasing service under the CD rate schedule rather than initiating increased service under the WPS rate schedule.

The Commission finds:

Good cause exists to hold a public hearing on the issues involved in the complaint filed by Northwestern in Docket No. RP74-1 and for the procedures for that hearing, all as hereinafter ordered.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 5 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter I), a public hearing shall be held commencing October 10, 1973, at 10 a.m. (e.s.t.) in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, concerning the issues raised by Northwestern's complaint filed in Docket No. RP74-1.

(B) On or before September 14, 1973, Northwestern shall file its case-in-chief in support of its position on the issues raised by its complaint filed in Docket No. RP74-1 and shall serve that filing upon all parties to the complaint proceeding, including Commission staff.

(C) All other parties, including K-N, desiring to file evidence in support of its position and/or evidence in answer to Northwestern's proffered evidence, shall file with the Commission and serve upon all other parties, including Commission staff, its testimony and exhibits on or before September 28, 1973.

(D) An Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose [see Delegation of Authority, 18 CFR 3.5(d)] shall preside at the hearing ordered herein and shall prescribe relevant procedural matters not herein provided.

By the Commission.

[SEAL] KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19340 Filed 9-11-73;8:45 am]

[Docket No. E-8375]

## OTTER TAIL POWER CO.

### Notice of Application

SEPTEMBER 5, 1973.

Take notice that on August 24, 1973, Otter Tail Power Co. (Applicant), of Fergus Falls, Minnesota, filed an Application seeking an Order for approval of the issuance of short-term obligations in the form of promissory notes to banks or other institutional lenders, such notes to be issued on or before March 31st, 1975, with a final maturity date of not later than March 31, 1976, and in the form of commercial paper to commercial paper dealers, such commercial paper to be issued on or before March 31, 1975, and to have a maturity date of not to exceed nine months from the date of issue.

The net proceeds from the notes and from the sale of commercial paper will be used to provide general funds for the Company's construction program.

Any person desiring to be heard or to make any protest with reference to such Application should, on or before September 18, 1973, file with the Federal Power Commission, Washington, D.C., 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The Application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19418 Filed 9-11-73;8:45 am]

[Docket No. E-8345]

## PACIFIC POWER & LIGHT CO.

### Notice of Annual Revision of Wheeling Agreement

SEPTEMBER 5, 1973.

Take notice that on July 30, 1973, Pacific Power & Light Co. (Applicant) filed with the Federal Power Commission an annual revision of exhibits A and B to the basic Wheeling Agreement between Applicant and the Bureau of Reclamation in Wyoming. These revised Exhibits supercede Supplement No. 7 to Supplement No. 3 to Applicant's FPC Rate Schedule No. 45.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 24, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19426 Filed 9-11-73;8:45 am]

[Docket No. E-8357]

## PACIFIC POWER & LIGHT CO.

### Notice of Transfer Agreement

SEPTEMBER 5, 1973.

Take notice that on August 13, 1973, Pacific Power & Light Co. (Applicant) filed with the Federal Power Commission, pursuant to § 35.12 of the regulations under the Federal Power Act, a Transfer Agreement, between the Applicant and the Bonneville Power Administrator. The Transfer Agreement provides that the Applicant will transfer electric power and energy up to a demand of 1,500 kilowatts from the Administrator for delivery to Public Utility District No. 1 of Klickitat County, Washington, at the Glenwood point of delivery. The Administrator will make available such power and energy at one or more points on Applicant's Main System.

For the Applicant's services and the use of its facilities in transferring such power, the Administrator credits the







V 38 176 SEP 12 73 XUM

Applicant in the Exchange Account under the Exchange Agreement designated Applicant's FPC Rate Schedule No. 28, Supplement Nos. 30 and 34, with kilowatt-hours of secondary energy which the Applicant may schedule at times the Administrator determines that it can be made available.

Service under the aforementioned contract is scheduled to commence in June, 1973.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 24, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73 19419 Filed 9-11-73;8:45 am]

[Docket No. CP74-49]

## PIONEER NATURAL GAS CO.

### Notice of Application

SEPTEMBER 5, 1973.

Take notice that on August 22, 1973, Pioneer Natural Gas Co. (Applicant) filed in Docket No. CP74-49 an application pursuant to section 7(a) of the Natural Gas Act for an order of the Commission directing Northern Natural Gas Company (Respondent) to sell and deliver an additional 400 M c.f. of natural gas per day to Applicant, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests the Commission to order Respondent to increase its contract demand to 1,300 M c.f. per day of natural gas from its existing level of 900 M c.f. per day. Applicant states that this supply of gas is no longer sufficient to meet the demand of its customer, the unincorporated town of Ozona, Texas (Ozona), for residential and small commercial needs on abnormally cold and windy days. Applicant states that no new supply sources are available to it at any location from which the Ozona distribution system can be economically served. Applicant states that the additional gas is required for service to existing residential and small commercial customers. According to Applicant the annual demand requirement of 123,133 M c.f. of gas for Ozona will not change.

Any person desiring to be heard or to make any protest with reference to said application should on or before Sept. 28, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 156.9). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19420 Filed 9-11-73;8:45 am]

[Docket No. E-8370]

## PUBLIC SERVICE CO. OF NEW HAMPSHIRE

### Notice of Termination of Transmission Contract

SEPTEMBER 5, 1973.

Take notice that the Public Service Co. of New Hampshire (Company) on August 20, 1973, tendered for filing notice of termination the Company's contract with Central Maine Power Co. (Central Maine).

The Company states that the Transmission contract had an effective date of July 1, 1971, and was filed with the Federal Power Commission on January 25, 1972 (designated Rate Schedule FPC No. 54).

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 24, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19428 Filed 9-11-73;8:45 am]

[Docket No. CI74-148]

## RAGARS OIL & GAS CO.

### Notice of Application

SEPTEMBER 5, 1973.

Take notice that on August 23, 1973, Ragars Oil & Gas Co. (Applicant), P.O. Drawer 2030, Alice, Texas 78332, filed in Docket No. CI74-148 an application pursuant to section 7(b) of the Natural Gas Act for permission for and approval of the abandonment of the sale of natural gas to Coastal States Gas Producing Co. from the Brownlee Field, Jim Wells County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to abandon a sale of natural gas, made under a small producer certificate issued in Docket No. CS72-793, due to depletion to an uneconomic state of operation. The application indicates that the purchaser has not indicated its concurrence in the proposed abandonment.

Any person desiring to be heard or to make any protest with reference to said application should on or before Sept. 25, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission for and approval of the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19421 Filed 9-11-73;8:45 am]

[Docket No. RP73-47]

## SEA ROBIN PIPELINE CO.

### Notice Postponing Date for Prehearing Conference and Deferring Other Procedural Dates

AUGUST 31, 1973.

On August 30, 1973, Sea Robin Pipeline Co. filed a motion to cancel procedural dates fixed by notice issued August 15, 1973, in the above-designated matter, pending certification of settlement agreement.

Upon consideration, notice is hereby given that the date for the prehearing conference is postponed to October 4, 1973, at 10 a.m. (e.d.t.) in a hearing room of the Federal Power Commission, 825 North Capitol Street NE,, Washington, D.C. All other procedural dates are deferred pending further order of the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19342 Filed 9-11-73;8:45 am]

[Docket No. CI74-143]

## MARIGOLD TRANSMISSION CO.

### Notice of Application

AUGUST 31, 1973.

Take notice that on August 27, 1973, Arthur Silberman, Marcel J. Silberman, and Maria G. Silberman, d.b.a. Marigold Transmission Co. (Applicant), 4220½ North MacArthur Boulevard, Oklahoma City, Oklahoma 73122, filed in Docket No. CI74-143 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Cities Service Gas Company from the Lost Creek Field, Payne County, Oklahoma, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it intends to commence the sale of natural gas within the contemplation of § 157.29 of the regulations under the Natural Gas Act and proposes to continue said sale for two years from the end of the 60-day emergency period within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant proposes to sell up to 2,000 M c.f. of gas per day at 45.0 cents per M c.f. at 14.65 p.s.i.a. the first year and 46.0 cents per M c.f. at 14.65 p.s.i.a. the second year, both subject to upward and downward Btu adjustment.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 17, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19334 Filed 9-11-73;8:45 am]

[Docket No. CI74-132]

## TENNECO OIL CO.

### Notice of Application

SEPTEMBER 5, 1973.

Take notice that on August 20, 1973, Tenneco Oil Co. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CI74-132 an application pursuant to section 7(c) of the Natural Gas Act and § 2.75 of the Commission's general policy and interpretations (18 CFR 2.75) for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee), from the Eugene Island Block 338 Field, offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes under the optional gas pricing procedure to sell natural gas to Tennessee from the subject acreage at an initial rate of 47.0 cents per M c.f. at 15.025 p.s.i.a., subject to upward and downward Btu adjustment, pursuant to the terms of a 20-year contract dated August 6, 1973. Said contract provides for fixed escalations of 2.0 cents per M c.f. each year after the date of initial delivery. Applicant estimates the monthly deliveries of gas from the subject acreage will be 270,000 M c.f.

Applicant requests authorization for this sale, alleging that the price is substantially lower than those being charged for liquefied natural gas, synthetic gas from coal and petroleum, Alaskan gas and pipeline imports from Canada and Mexico, as based on the record in Belco Petroleum Corp., Agent et al., Docket Nos. CI73-292 et al. (Belco). Citing the Belco record further, Applicant states that the proposed price with fixed escalations is justified when compared to intrastate and interstate contract prices in the Southern Louisiana Area, is within the "commodity value" of gas in Tennessee's system, is within a zone of reasonableness as to cost findings, and is justified because of economic factors other than "unit costs". Applicant concludes its request for the initial rate of 47.0 cents per M c.f. by stating that it will have internally generated funds available for future use as captal in the development of domestic exploration and development and that by waiving the protective pricing clause in the instant contract it is taking a gamble that should the Commission allow higher prices by revising area rate regulations, the instant rate will be sufficient to equate or offset such higher rates in the future.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 24, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19425 Filed 9-11-73;8:45 am]

[Docket No. CI67-1658]

## TEXACO INC.

### Notice of Petition

SEPTEMBER 5, 1973.

Take notice that on August 17, 1973, Texaco, Inc. (Petitioner), P.O. Box 52332, Houston, Texas 77052, filed in Docket No. CI67-1658 a petition to amend the order heretofore issued in said docket on September 19, 1967, pursuant to section







V 38-176
SEP 12 73
XUM

7(c) of the Natural Gas Act so as to authorize the sale for resale and delivery of natural gas in interstate commerce to Colorado Interstate Gas Co., a division of Colorado Interstate Corp. (Colorado Interstate), from the Table Rock Unit, Sweetwater County, Wyoming, within the contemplation of § 2.75 of the Commission's general policy and interpretations (18 CFR 2.75), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner was authorized in the order of September 19, 1967, to sell gas to Colorado Interstate at a rate of 16.0 cents per M c.f. Petitioner now proposes under the optional pricing procedure to sell approximately 1,200,000 M c.f. of gas per month to Colorado Interstate from wells in the Table Rock Unit at initial rates of 37.0 cents per M c.f. for gas produced below the base of the Almond Formation to 10,000 feet, at 40.0 cents per M c.f. for gas produced between 10,000 and 15,000 feet, at 45.0 cents per M c.f. for gas produced between 15,000 and 19,000 feet, and at 50.0 cents per M c.f. for gas produced from 19,000 feet and below, subject to upward and downward Btu adjustment, pursuant to amending agreement dated July 1, 1973, to the contract dated April 6, 1967. Said amending agreement also provides for a 1.0-cent per M c.f. price escalation each year.

Petitioner states that the gas offered for certification pursuant to the contract with Colorado Interstate is from wells commenced after April 6, 1972, and that said gas has not been previously sold in the interstate market.

Petitioner asserts that the instant sales at the proposed prices with escalations will make additional gas supplies available to the interstate market where shortages currently exist and will assist Colorado Interstate to augment its current systemwide supply. Petitioner further asserts that the proposed rates are lower than rates for imported liquefied natural gas, synthetic gas from petroleum or coal, gas from Alaska and the prices of alternative fuels.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 24, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19422 Filed 9-11-73;8:45 am]

[Docket Nos. RP71-130, RP72-58]

## TEXAS EASTERN TRANSMISSION CORP.

### Order Accepting for Filing Tendered Tariff Sheets, Suspending Tariff Sheets, Granting Interventions, Providing for Hearing and Establishing Procedures

AUGUST 30, 1973.

On May 31, 1973, Texas Eastern Transmission Corp. (TETCO) tendered for filing revised tariff sheets to its FPC Gas Tariff, Third Revised Volume No. 1, setting forth its curtailment plan for use during periods of gas shortage.[1] TETCO proposes that the revised tariff sheets be made effective September 1, 1973.

In support of its filing, TETCO states that its curtailment plan will be in conformity with the Commission's curtailment policies as stated in Commission Order No. 467-B, issued March 2, 1973, in Docket No. R-469. TETCO was required by Commission Order Denying Rehearing and Stay issued January 24, 1973, in Docket Nos. RP71-130 and RP 72-58 to submit a plan in conformity with Order No. 467-B by June 1, 1973, to become effective September 1, 1973. The plan submitted varies from that in Order No. 467-B in that the former includes all firm industrial requirements up to 300 M c.f. per day in priority-of-service category No. 2. TETCO justifies this variance by citing Commission Opinion No. 647-A in United Gas Pipeline Co., Docket No. RP71-29, where the Commission allowed a similar modification after a finding that the logistical problems involved in curtailing small industries and collecting data on them made their inclusion in Category No. 2 reasonable.

First Revised Sheets Nos. 92-H through 92-M establish annual quantity entitlements for each customer. These entitlements are identical to those set by the Interim Settlement Agreement and are intended to represent the actual requirements of the customers. The end-use curtailment scheme of Order No. 467-B would begin from the quantity entitlements.

First Revised Sheet No. 92-N of the filing contains a provision entitled "Relief From Demand Charge Adjustment" which would relieve TETCO from the obligation to make demand charge adjustments when failure to deliver contract quantities is due to gas supply deficiencies.

Petitions to Intervene were received from the following parties:

| | |
|---|---|
| Consolidated Edison Co. of New York. | July 12, 1973 |
| City of Fulton, Mississippi | July 30, 1973 |
| Gas Utility District No. 2 of Pointe Coupee Parish, Louisiana. | July 30, 1973 |
| City of Loretto, Tennessee | July 30, 1973 |
| City of New York | [2] August 6, 1973 |
| Philadelphia Electric Co. | July 30, 1973 |
| Sommerset Gas Service | July 31, 1973 |
| Utica, Mississippi | July 30, 1973 |

[2] The City of New York's petition to intervene was filed out of time.

All of the above parties request a formal hearing except Philadelphia Electric Co.

*The Commission finds:*

(1) The tariff sheets designated in footnote 1 above, submitted by TETCO have not been shown to be lawful and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful under the Natural Gas Act.

(2) Good cause exists to accept for filing the tendered tariff sheets, that those sheets be suspended, and that a public hearing be initiated in accordance with the procedures set forth below, all as hereinafter ordered.

(3) The participation in these proceedings of those parties who have petitioned to intervene may be in the public interest.

(4) Although the petition to intervene of the City of New York was not timely filed, good cause exists to allow that party to intervene since permitting the intervention will not be the basis of delay in these proceedings.

*The Commission orders:*

(A) The tariff sheets tendered by TETCO on May 31, 1973, and June 11, 1973, designated in footnote 1 above, are hereby accepted for filing.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter I), a public hearing shall be held commencing November 13, 1973, at 10 a.m. (e.s.t.) in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, concerning the lawfulness of the proposed changes in the General Terms and Conditions of TETCO's FPC Gas Tariff, Third Revised Volume No. 1.

(C) Pending such hearing and decision, the revised tariff sheets tendered by TETCO on May 31, 1973, and June 11, 1973, are hereby suspended and the use thereof deferred until September 2, 1973, and until such further time as they are made effective in the manner prescribed by the Natural Gas Act.

(D) The above-named petitioners are hereby permitted to become intervenors in these proceedings subject to the rules and regulations of the Commission: Provided, however, that the participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in said petitions for leave to intervene; and Provided, further, that the admission of such intervenors shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any order or orders of the Commission entered in these proceedings.

[1] The revised tariff sheets are designated as Second Revised Sheet No. 92, and First Revised Sheet Nos. 92-A, 92-B, 92-H, 92-I, 92-J, 92-K, 92-L, 92-M, 92-N. First Revised Sheet No. 92-B supersedes Original Sheet Nos. 92-B through 92-G. On June 11, 1973, TETCO filed Substitute Second Revised Sheet No. 92 to supersede Second Revised Sheet No. 92.





(E) All parties who have previously intervened in Docket Nos. RP71-130 and RP72-58 are hereby permitted to participate in these proceedings as intervenors.

(F) On or before October 19, 1973, TETCO shall file its testimony and exhibits comprising its case-in-chief in support of its proposed waiver of demand charge adjustment provision and its proposed annual volumetric entitlement provision and shall serve that proposed evidence with the Commission and on all parties, including Commission Staff. Also, on or before October 19, 1973, all parties sponsoring variances or opposition to the curtailment plan proposed by TETCO shall file and serve their testimony and exhibits in support of their position on the Commission, its Staff, and all parties to this proceeding.

(G) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose [See Delegation of Authority, 18 CFR 3.5(d)] shall preside at the hearing in this proceeding; shall prescribe relevant procedural matters not herein provided; and shall control the proceeding in accordance with the policies expressed in § 2.59 of the Commission's rules of practice and procedure.

By the Commission.

[SEAL] KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19346 Filed 9-11-73;8:45 am]

[Docket No. RP73-3]

## TRANSCONTINENTAL GAS PIPE LINE CORP.

### Notice of Filing of Tariff Change

SEPTEMBER 4, 1973.

Take notice that Transcontinental Gas Pipe Line Corp. (Transcontinental), tendered for filing on August 15, 1973, Substitute Fifth Revised Sheet No. 5 and Substitute Third Revised Sheet No. 6 to the FPC Gas Tariff, First Revised Volume No. 1, of Transcontinental.

Transcontinental states that these sheets, with a proposed effective date of October 1, 1973, reflect an increase of 1.6 cents per M c.f. in the commodity or delivery charge of Transcontinental's CD, G, OG, E, PS, S-2, and ACQ rate schedules. Transcontinental also states that the total increase of 1.6 cents per M c.f. consists of an increase in the current gas cost of 0.9 cent per M c.f. and an increase in the Deferred Adjustment of 0.7 cent per M c.f.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 24, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19345 Filed 9-11-73;8:45 am]

[Docket No. CP73-108]

## TRANSWESTERN PIPELINE CO.

### Notice of Petition To Amend

SEPTEMBER 4, 1973.

Take notice that on August 23, 1973, Transwestern Pipeline Co. (Petitioner), P.O. Box 2521, Houston, Texas 77002, filed in Docket No. CP73-108 a petition to amend the Commission's order of February 20, 1973 (49 FPC ——) issued in the subject docket pursuant to section 7(c) of the Natural Gas Act, as implemented by § 157.7(b) of the Commission's regulations thereunder, by authorizing the additional construction during the calendar year 1973, and operation of gas-purchase facilities through waiver of the cost limitation prescribed by § 157.7(b)(1)(i) of the Commission's regulations, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By the Commission's order of February 20, 1973, Petitioner is authorized to construct, during the calendar year 1973, natural gas purchase facilities up to a total cost of $7,000,000 and to operate said facilities. Section 157.7(b)(1)(i) of the Commission's regulations limits to $7,000,000 cost of gas-purchase facilities which Petitioner can construct under that section. Petitioner now requests a waiver of this section so that it may construct up to $11,000,000 of gas-purchase facilities for the year 1973. In support of this request Petitioner asserts that:

(a) As of the date of this filing, it has scheduled gas purchase facility projects totaling approximately $7,000,000, and estimates that for the remainder of 1973, it will require an additional $4,000,000 of budget-type facilities;

(b) Because of the pressures of inflation and increasing construction costs over the last three and one-half years since the $7,000,000 limit was established, this limit has no longer any practical relationship to the annual cost of an active gas supply acquisition program; and

(c) The changing pattern of gas supply projects calls for increased cost authorizations, since there has been a shift from the large diameter lateral pipeline projects, to the scattered and unrelated small diameter gathering-type projects.

Petitioner states that it will not require any modification of the single project limitation in § 157.7(b).

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before September 25, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19344 Filed 9-11-73;8:45 am]

[Docket No. CP74-45]

## UNITED GAS PIPE LINE CO.

### Notice of Application

SEPTEMBER 5, 1973.

Take notice that on August 20, 1973, United Gas Pipe Line Co. (Applicant), 1500 Southwest Tower, Houston, Texas 77002, filed in Docket No. CP74-45 an application pursuant to section 7(b) of the Natural Gas Act and § 157.7(e) of the regulations thereunder (18 CFR 157.7(e)) for permission and approval to abandon gas service to unspecified direct sale customers and to abandon by removal the direct sales measuring, regulating and related minor facilities for such direct sales, during the twelve-month period commencing October 1, 1973, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The purpose of this budget-type abandonment application is to permit Applicant to discontinue service to direct sale customers who no longer require such service and remove the facilities necessary therefor.

The deliveries to any one direct sale customer through any one of the sales measuring facilities to be abandoned shall not have exceeded 100,000 M c.f. of gas annually during the last year of service, and Applicant shall receive either a written request or written permission from the direct sale customer to terminate service. In the event such request or permission cannot be obtained, Applicant will file a statement certifying that the customer has no further need for such service.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 24, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any



V 38-176 SEP 12 73 XUM

person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc 73-19424 Filed 9-11-73;8:45 am]

[Docket No. RP73-94]

## VALLEY GAS TRANSMISSION, INC.

### Notice Changing Date for Prehearing Conference and Deferring Other Procedural Dates

AUGUST 31, 1973.

On August 30, 1973, Valley Gas Transmission, Inc., filed a motion for an indefinite postponement of certain procedural dates fixed by notice issued August 9, 1973, in the above-designated matter, and for an advancement of the date of the prehearing conference. The motion states that the parties who participated in the conference have no objection to the motion.

Upon consideration, notice is hereby given that the date of the prehearing conference is changed to September 10, 1973, at 2 p.m. (e.d.t.) in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. All other procedural dates are deferred pending further order of the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc 73-19343 Filed 9-11-73;8:45 am]

[Docket No. E-8351]

## VIRGINIA ELECTRIC AND POWER CO.

### Notice of Contract Supplement and New Delivery Point

SEPTEMBER 5, 1973.

Take notice that on August 13, 1973, Virginia Electric and Power Co. (Applicant) filed an application with the Federal Power Commission, pursuant to section 35 of the Regulations under the Federal Power Act, requesting approval of a contract supplement, dated April 3 1972, with Shenandoah Valley Electric Cooperative (Shenandoah). At Shenandoah's request Applicant has established a new point of delivery, designated the North River Delivery Point, near the intersection of Route 681 and Route 682 in Rockingham County, Virginia.

The contract supplement provides for service at the North River Delivery Point, proposed as Applicants' FPC Rate Schedule No. 84-24. Applicant states that the unit cost of electricity to Shenandoah will remain unchanged as a result of the connection of the aforementioned facilities.

Applicant further requests that the Commission's notice requirements be waived so as to allow an effective date for the contract supplement of May 11, 1973, the date of the connection of the facilities at North River Delivery Point.

Any person wishing to be heard or to make any protest with reference to such Application should, on or before September 18, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The Application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19427 Filed 9-11-73;8:45 am]

## NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE ON FINANCE

### Notice of Meeting and Agenda

Agenda for a Meeting of the Technical Advisory Committee on Finance to be held at the Federal Power Commission Offices, 825 North Capitol Street NE., Washington, D.C., September 13, 1973, 9:30 a.m., e.d.t. (meeting location to be posted in room 5100).

1. Meeting called to order by FPC Coordinating Representative.
2. Objectives and purposes of meeting.
A. Approval of minutes of August 1, 1973, meeting.
B. Report of Task Force—Future Financial Requirements on revised model and narrative.
C. Discussion of drafts of work assignments made at August 1 meeting.
D. Coordination of draft materials for final Committee report.
E. Suggestions for presentation of Task Force model at October 3, Coordinating Committee and October 4, Executive Advisory Committee meetings.
F. Other business.
G. Date for next meeting.
3. Adjournment.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or, if oral, at the time and in the manner permitted by the committee.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19331 Filed 9-11-73;8:45 am]

## NATIONAL POWER SURVEY TECHNICAL ADVISORY COMMITTEE

### Notice of Meeting and Agenda

Agenda for a meeting of the Task Force—Administrative of the Technical Advisory Committee on Fuels to be held at the Federal Power Commission Offices, 825 North Capitol St. N.E., Washington, D.C. 20426, September 13 and 14, 1973, 9:30 a.m., e.d.s.t., Room 6200.

1. Meeting called to order.
2. Objectives and purposes of meeting.
A. Approval of minutes of meeting August 7, 1973.
B. Review comments of task force reports.
C. Continue the drafting of TAC on Fuels report.
D. Other business.
E. Date for next Task Force—Administrative meeting.
3. Adjournment.

NOTE.—This will be a meeting of the Task Force—Administrative for the purpose of preparing draft report of TAC on Fuels. It is anticipated the meeting will require two days. Committee members who desire to contribute to the preparation of the report are invited to attend.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or if oral, at the time and in the manner permitted by the committee.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19512 Filed 9-11-73;8:45 am]

[Docket No. RP73-78]

## ORANGE AND ROCKLAND UTILITIES, INC.

### Order Accepting Settlement and Terminating Proceeding

SEPTEMBER 5, 1973.

On January 31, 1973, Orange and Rockland Utilities, Incorporated (O. & R.) filed in this docket proposed changes in its FPC Gas Tariff, Original Volume No. 1. Also included for filing were executed service agreements between O. & R. and New York State Electric and Gas Corporation (N.Y.S.E. & G.) and O&R's wholly owned subsidiary, Pike County Light and Power (Pike). The proposed changes would have increased revenues from jurisdictional sales and service by $66,194 based on a volume of sales for the 12-month period ending September 30, 1972. The proposed effective date was March 2, 1973. The filing was noticed on February 12, 1973, with comments due by February 22, 1973.

By order of March 1, 1973, the Commission accepted for filing and suspended the proposed tariff sheets for the full five month statutory period, and deferred their use until August 1, 1973. A hearing pursuant to section 4 of the Natural Gas Act was ordered.

By order of March 19, 1973, a petition to intervene from N.Y.S.E. & G. and a notice of intervention from the Public Service Commission for the State of New York were granted.

On April 30, 1973, the Commission Staff served testimony in which it raised objections to O. & R.'s proposed change from a one part, straight line rate design to a two part, demand-commodity rate design, the proposed rate of return, and the treatment of depreciation rates in the proposed tariff sheets. A prehearing conference was held on May 11, 1973, and thereafter, to accommodate conferences between O. & R. and N.Y.S.E. & G., the procedural dates were altered on several occasions upon motion of O. & R. Another prehearing conference was called on July 19, 1973, wherein the parties indicated that agreement had been reached. On August 2, 1973, the testimony of all parties was placed in the record and there was offered for certification a Settlement Agreement (Agreement) with an accompanying motion to the Commission for acceptance of the Agreement. All parties consented to waiver of the decisions of the Presiding Administrative Law Judge (Judge) and there were no objections to the motion to certify. On August 3, 1973, the Judge certified to the Commission the proposed Agreement and motion, along with the complete record in the docket. The certification was noticed on August 8, 1973, with comments or protests due on or before August 20, 1973. Comments in support of the Agreement were filed by the Commission Staff on August 14, 1973.

So as to encompass all objections raised by Commission Staff in its prepared testimony, the Agreement effects the following changes in the originally filed tariff sheets:

(1) The settlement rates include a rate of return of 8.35 percent, rather than the 9 percent originally proposed by O. & R. This reduction in overall rate of return would yield a rate of return on O. & R.'s common equity of 12.08 percent and reduce the annual amount of the proposed rate increase from $66,194 to $65,076.[1]

(2) The Company has replaced the originally proposed two-part demand-commodity rate design with a single, commodity rate pursuant to Commission Staff objections based on the Commission's decision in Florida Gas Transmission Company, Opinion No. 611-A, issued January 30, 1973. The distribution expenses which the Company proposed to recover at a flat rate of 9 cents per M c.f. are now based on an allocated cost-of-service basis. Interruptible Rate Schedule I-1 has been terminated.

(3) Depreciation rates have been specifically set forth in the Company's tariff.

O. & R.'s motion for approval of the proposed Agreement does not contain a proposed effective date.

Our review of the proposed Settlement Agreement, the cost of service filed in support thereof (Appendix A, below), and O. & R.'s capitalization as of December 31, 1972, indicates that the rates therein are not excessive and that the other provisions of the Settlement Agreement are in the public interest. We shall therefore accept the proposed Settlement Agreement and permit the tariff sheets proposed therein to become effective as of August 1, 1973, the end of the suspension period originally ordered in this docket.[2]

*The Commission finds*

(1) Approval, as hereinafter ordered, of the settlement in these proceedings on the basis of the Agreement certified on August 3, 1973, is just and reasonable and in the public interest in carrying out the provisions of the Natural Gas Act and the tariff sheets included therein should be made effective.

(2) Good cause exists to waive the Commission's notice requirements to permit an effective date of August 1, 1973, for the tariff sheets proposed pursuant to the Settlement Agreement.

*The Commission orders*

(A) O. & R.'s motion for approval of the proposed Settlement Agreement is granted, the proposed Settlement Agreement incorporated by reference herein is accepted, and the tariff sheets included therein shall become effective as of August 1, 1973.

(B) O. & R. shall comply with the terms and conditions of the Settlement Agreement.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

(D) This order is without prejudice to any findings or orders which have been made or will hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its Staff, O. & R., or any party or person affected by this order, in any proceeding now pending or hereinafter instituted by or against CIG or any person or party.

(E) Nothing contained in this letter shall relieve the applicant of any responsibility imposed by the Economic Stabilizaton Act of 1970, (Public Law 91-379, 84 Stat. 799, as amended by Public Law 92-15, 85 Stat. 38), or by any Executive Order or rules and regulations promulgated pursuant to such Act.

By the Commission.

[SEAL] KENNETH F. PLUMB,
*Secretary.*

[1] See Appendixes A and B for the summary cost of service and capitalization reflected in the settlement tariff sheets.

[2] See Appendix C for tariff sheet designations.

APPENDIX A

[Docket No. RP73-78]

ORANGE AND ROCKLAND UTILITIES, INC.

JURISDICTIONAL REVENUE, CS-1 RATE, WESTERN DIVISION 12 MONTHS ENDED SEPTEMBER 30, 1972, AS ADJUSTED

| Cost component | Cost of service rates | | | | |
|---|---|---|---|---|---|
| | Base rate | Filing adjustment | Filed rate | Settlement adjustment | Settlement rate |
| Production expense | $360,219 | $58,335 | $367,554 | | $367,554 |
| Other O. & M. | 2,640 | 1,896 | 4,536 | | 4,536 |
| Depreciation, taxes and return | 10,988 | 5,988 | 25,871 | (1,118) | 24,753 |
| Total revenue | 331,767 | 66,194 | 397,961 | $(1,118) | 396,843 |
| Rate of return (percent) | 6 | | 9 | | 8.35 |

APPENDIX B

[Docket No. RP73-78]

ORANGE AND ROCKLAND UTILITIES, INC.

COST OF CAPITAL AND RATE OF RETURN DECEMBER 31, 1972 ADJUSTED

| | Capitalization | | Cost factor (percent) | Weighted totals (percent) |
|---|---|---|---|---|
| | Amount | Ratios (percent) | | |
| Long-term debt | $169,140 | 51.47 | 6.45 | 3.32 |
| Preferred stock | 47,986 | 14.60 | 6.36 | .93 |
| Common equity | 111,522 | 33.93 | 12.08 | 4.10 |
| Totals | 328,648 | 100.00 | | 8.35 |

APPENDIX C

[Docket No. RP73-78]

ORANGE AND ROCKLAND UTILITIES, INC.

DESIGNATIONS OF ACCEPTED SHEETS FOR ORANGE AND ROCKLAND'S FPC GAS TARIFF, ORIGINAL VOLUME NO. 1

Original Sheet No. 25-A.

First Revised Sheet Nos. 2, 3, 13, 17, 20, 23, 24, and 25.

Second Revised Sheet Nos. 4, 5, 6, 7, 8, 9, and 18.

First Revised Leaf Nos. 9-A, 9-B, 27 A, 27-B, and 27-C.







V 38-176 SEP 12 73 XUM

| Rpt number | Accession number | Date |
|---|---|---|
| . | 138-73-4 | Jan. 1-31, 1967. |
| . | 138-73-4 | Feb. 1-28, 1967. |
| . | 138-73-4 | Mar. 1-29, 1967. |
| . | 138-73-4 | Mar. 30-31, 1967, April 1-29, 1967. |
| . | 138-73-4 | April 21-30, 1967, May 1-17, 1967. |
| . | 138-73-4 | May 18-31, 1967, June 1-12, 1967. |
| . | 138-73-4 | June 13-28, 1967. |
| . | 138-73-4 | June 29-30, 1967, July 1-19, 1967. |
| . | 138-73-4 | July 20-31, 1967, Aug. 1-13, 1967. |
| . | 138-73-4 | Aug. 14-31, 1967. |
| . | 138-73-4 | Sept. 1-30, 1967. |
| . | 138-73-4 | Oct. 1-31, 1967. |
| . | 138-73-4 | Nov. 1-30, 1967. |
| . | 138-73-4 | Dec. 1-31, 1967. |
| . | 138-73-4 | Jan. 1-31, 1968. |
| . | 138-73-4 | Feb. 1-29, 1968. |
| . | 138-73-4 | Mar. 1-31, 1968. |
| . | 138-73-4 | April 1-30, 1968. |
| . | 138-73-4 | May 1-21, 1968. |
| . | 138-73-4 | May 22-31, June 1-18, 1968. |
| . | 138-73-4 | June 19-30, July 1-10, 1968. |
| . | 138-73-4 | July 11-31, Aug. 1-7, 1968. |
| . | 138-73-4 | Aug. 8-31, Sept. 1-11, 1968. |
| . | 138-73-4 | Sept. 12-30, 1968. |
| . | 138-73-4 | Oct. 1-25, 1968. |
| . | 138-73-4 | Oct. 26-31, Nov. 1-22, 1968. |
| . | 138-73-4 | Nov. 23-30, Dec. 1-19, 1968. |
| . | 138-73-4 | Dec. 20-31, 1968, Jan. 1-23, 1969. |
| . | 138-73-4 | Jan. 24-31, Feb. 1-25, 1969. |
| . | 138-73-4 | Feb. 26-28, Mar. 1-17, 1969. |
| . | 138-73-4 | Mar. 18-31, April 1-16, 1969. |
| . | 138-73-4 | April 17-30, May 1-15, 1969. |
| . | 138-73-4 | May 16-31, June 1-11, 1969. |
| . | 138-73-4 | June 12-30, July 1-10, 1969. |
| . | 138-73-4 | July 11-29, 1969. |

[FR Doc.73-19209 Filed 9-11-73;8:45 am]

## FEDERAL RESERVE SYSTEM

### FINANCIAL GENERAL BANKSHARES, INC.

#### Order Conditionally Approving Acquisition of Bank

Financial General Bankshares, Inc., Washington, D.C., a bank holding company within the meaning of the Bank Holding Company Act, and its two-wholly owned subsidiaries, The Morris Plan Corporation and Virginia Bankshares, Inc., both of Washington, D.C. (collectively referred to as "Applicants"), have applied for the Board's approval under Sec. 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)), to acquire 17,000 or more, but not to exceed 80 percent, of the voting shares of Clarendon Bank & Trust, Fairfax County, Virginia (Bank).

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with Sec. 3(b) of the Act. The time for filing comments and views has expired and the Board has considered the application and all comments received in light of the factors set forth in Sec. 3(c) of the Act (12 U.S.C. 1842(c)).

On January 10, 1973, the Federal Deposit Insurance Corporation approved the merger of Woodlawn National Bank, Alexandria, Virginia (deposits of $11.5 million), into Bank (deposits of $154 million). Prior to that merger, Applicants owned 141,800 (or 55.12 percent) of the outstanding shares of Bank. As a result of the merger, Applicants' ownership has dropped to 44.7 percent. Although it is acknowledged that effective control still exists, the purpose of the instant proposal is to increase Applicants' degree of control of Bank to at least its former level of more than 50 percent, and would have no effect on existing or future competition. The Board concludes that competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Applicants are generally satisfactory and consistent with approval of the application. Applicants propose to acquire up to 80 percent of the outstanding shares of Bank by means of a cash offer of $55 per share to all minority shareholders. A pro rata adjustment will be made, whereby Applicants will take a proportionate number of shares from each tendering stockholder, in the event that acceptance of the number of shares tendered would increase Applicant's percentage of ownership to more than 80 percent. The Board has previously determined such a purchase procedure to be equitable to minority shareholders and a reasonable means of protecting both the offeror and the offeree. (See 1967 Fed. Res. Bulletin 1567, 1570.) Considerations relating to the convenience and needs of the community to be served are also consistent with approval of the application. Control by International Bank, Washington, D.C. (which is engaged in nonbanking business), over Financial General is a matter of concern to the Board. To the extent that International Bank controls or exercises controlling influence over Financial General, an acquisition by Financial General would be regarded by the Board as an acquisition by International Bank under the provisions of the Bank Holding Company Act. Accordingly, approval of the application is hereby conditioned upon prior termination by International Bank of any such control or controlling influence over Financial General. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest and that the application should be approved provided that such control by International Bank is terminated.

On the basis of the record, the application is approved for the reasons summarized above and upon the condition that no shares of Bank may be acquired under this Order prior to the date on which the Board concludes that the International Bank does not control nor exercise a controlling influence over Applicant. The transaction shall not be consummated (a) before the thirtieth calendar day following the effective date of this Order or (b) later than 180 days after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Richmond pursuant to delegated authority.

By order of the Board of Governors,[1] effective August 31, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-19313 Filed 9-11-73;8:45 am]

[1] Voting for this action: Vice Chairman Mitchell and Governors Daane, Brimmer, Sheehan, Bucher, and Holland. Absent and not voting: Chairman Burns.

### FINANCIAL GENERAL BANKSHARES, INC.

#### Order Conditionally Approving Acquisition of Bank

Financial General Bankshares, Inc., Washington, D.C., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under sec. 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 50 percent plus one share or more of the voting shares of Second National Bank of Richmond, Richmond, Virginia.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with sec. 3(b) of the Act. The time for filing comments and views has expired, and those received have been considered in light of the factors set forth in sec. 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, holds interests in 25 banks in seven States, the District of Columbia, and the Virgin Islands. The operations of Applicant's banking subsidiaries were principally conducted in the State of Virginia on July 1, 1966, the date on which Applicant became a bank holding company. Therefore, the effect of sec. 3(d) of the Act is to prohibit the Board from approving an application by Applicant for the direct or indirect acquisition of voting shares of any additional bank not located in the State of Virginia. Applicant is the seventh largest banking organization in Virginia, controlling eight banks in Virginia with aggregate deposits of $573 million representing 5.3 percent of all deposits of commerical banks in the State.[1] Acquisition of Bank (deposits of $30.7 million) would constitute Applicant's initial entry into the Richmond banking market (approximated by the city of Richmond and the counties of Chesterfield, Hanover, and Henrico) and would not change Applicant's ranking among banking organizations in the State.

As of June 30, 1972, Bank was the eighth largest of 14 banks in the Richmond banking market, controlling 1.5 percent of total deposits in that market. Applicant's nearest subsidiary office to Bank is more than 100 miles distant. It appears that no meaningful competition exists between Bank and any of Applicant's subsidiary banking offices. Further, it seems unlikely that meaningful competition would develop in the future between Bank and Applicant in light of the facts presented, notably, the distances separating these banks and the Virgina statutes prohibiting Applicant's subsidiaries from *de novo* branching into the Richmond banking market. It appears that acquisition of Bank would not have a significantly adverse effect on the remaining banks in the relevant market. Furthermore, entry by Applicant may have a procompetitive effect by enabling Bank to compete more effectively with the four largest banks in the Richmond market which together controlled approximately 82 percent of market deposits on June 30, 1972. On the basis of the record before it, the Board concludes that consummation of the proposal herein would not have an adverse effect on competition in any relevant area.

The financial condition, managerial resources and future prospects of Applicant and its subsidiary banks appear satisfactory. Bank's financial and managerial resources and future prospects are regarded as satisfactory and the ability of Applicant to strengthen Bank's capital position lends weight toward approval of the application. Considerations relating to the convenience and needs of the community to be served are consistent with approval of the application. Control by International Bank, Washington, D.C. (which is engaged in nonbanking business), over Applicant is a matter of concern to the Board. To the extent that International Bank controls or exercises controlling influence over Applicant, an acquisition by Applicant would be regarded by the Board as an acquisition by International Bank under the provisions of the Bank Holding Company Act. Accordingly, approval of the application is hereby conditioned upon prior termination by International Bank of any such control or controlling influence over Applicant. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest and that the application should be approved provided that such control by International Bank is terminated.

On the basis of the record, the application is approved for the reasons summarized above and upon the condition that no shares of Bank may be acquired under this Order prior to the date on which the Board concludes that International Bank does not control nor exercise a controlling influence over Applicant. The transaction shall not be consummated (a) before the thirtieth calendar day following the effective date of this Order, or (b) later than 180 days after the effective date of this Order, unless such period is extended for good cause by the Board.

By order of the Board of Governors,[1] effective August 31, 1973.

[SEAL] THEODORE E. ALLISON.
*Assistant Secretary of the Board.*

[FR Doc.73-19314 Filed 9-11-73;8:45 am]

[1] Voting for this action: Vice-Chairman Mitchell and Governors Daane, Brimmer, Sheehan, Bucher, and Holland. Absent and not voting: Chairman Burns.

[1] All banking data are as of December 31, 1972.





### PIEDMONT CAROLINA FINANCIAL SERVICES, INC.

#### Order Approving Formation of Bank Holding Company and Acquisition of Consumer Finance Companies

Piedmont Carolina Financial Services, Inc., Davidson, North Carolina, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 100 per cent (less directors' qualifying shares) of the voting shares of the successor by merger to Piedmont Bank and Trust Company, Davidson, North Carolina ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

At the same time, Applicant has applied for the Board's approval under section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y to acquire (1) Carolina Finance Company of Charlotte, Inc., Charlotte, North Carolina ("Charlotte"), (2) B & M Finance Company, Winston-Salem, North Carolina ("Winston-Salem"), and (3) Credit Loan and Finance Company, Inc., Greensboro, North Carolina ("Greensboro"). These three companies are consumer finance companies making personal loans up to a maximum of $900 and also engage in the selling as agent of credit life and credit health and accident insurance directly related to extensions of credit by them. Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a)(1) and (9)).

Notice of receipt of the applications has been given in accordance with sections 3 and 4 of the Act and the time for filing comments and views has expired. The Board has considered the applications and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)) and considerations specified in section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)).

Applicant, a newly formed corporation with no operating history, was organized by the officers and directors of Bank. Bank (deposits of $29 million) is one of the smaller banks in its market area.[1] Since this formation involves the acquisition by Applicant of one bank, consummation of the transaction would have no adverse effect on competition in commercial banking.

Considerations relating to the financial and managerial resources and prospects of Applicant depend primarily on those of Bank, which appear to be generally satisfactory and consistent with approval of the application. Considerations relating to the convenience and needs of the communities to be served are also consistent with approval of the transaction. It is the Board's judgment that consummation of the transaction, insofar as regards the acquisition of Bank, would be in the public interest.

Both Winston-Salem and Greensboro compete in the same geographic market which is approximated by the Greensboro-Winston-Salem-High Point Standard Metropolitan Statistical Area ("SMSA"). However, the effect on competition in this market of consummation of this transaction is minimal in view of the large number of consumer finance companies in the area along with numerous commercial banks which make small personal loans and the fact that neither Winston-Salem nor Greensboro occupies a significant position in the market. They had total receivables of $366 thousand and $313 thousand respectively as of March 31, 1973. Moreover, both consumer finance companies are owned by the same shareholders so that substantial competition between the two probably could not be expected. Bank does not compete in this market for small personal loans and consummation of the proposal would not eliminate significant existing or potential competition between Greensboro and Winston-Salem on the one hand and Bank on the other.

Charlotte competes for small personal loans in the Charlotte SMSA where Bank also has offices. However, there are 20 other commercial banks and 41 other consumer finance companies in the area which either do or could make small personal loans. Moreover, neither Bank nor Charlotte has a significant market share in the relevant market with the latter having total receivables of $385 thousand as of March 31, 1973. Consummation of the transaction would not eliminate significant existing or potential competition in this market.

There is no evidence in the record indicating that consummation of the proposal would result in any undue concentration of resources, unfair competition, conflicts of interest, unsound banking practices, or other adverse effects on the public interest. It does appear that consummation of the transaction could result in the three consumer finance companies having greater access to capital, thereby enabling them to become stronger competitive forces in their respective market areas. Additionally, it appears that the three finance companies are managed by an individual in his mid-seventies. Affiliation of the three

[1] All banking data are as of December 31, 1972.

### FIRST PRATT BANKSHARES, INC.

#### Formation of Bank Holding Company

First Pratt Bankshares, Inc., Pratt, Kansas, has applied for the Board's approval under Sec. 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of First National Bank in Pratt, Pratt, Kansas. The factors that are considered in act-

[1] Voting for this action: Vice-Chairman Mitchell and Governors Daane, Brimmer, Sheehan, Bucher, and Holland. Absent and not voting: Chairman Burns.



V 38 N 176 SEP 12 73 XUM

companies with Applicant should provide continuity and depth of management for the finance companies.

The three finance companies act as agents for the sale of credit insurance related to the loans they originate. Due to the limited nature of this activity, Applicant's acquisition of the three companies would not appear to have a significantly adverse effect on competition in this product line. At the present time, the three finance companies sell level term credit life and credit health and accident insurance in connection with personal loans they make. However, the Applicant has committed itself to have the three companies cease selling level term credit life and credit accident and health insurance upon consummation of this transaction and sales of credit life and credit accident and health insurance will be on a declining term basis.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in section 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of the holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder or to prevent evasion thereof.

In its consideration of this matter, the Board noted that Bank engages through a wholly-owned subsidiary in general insurance agency activities at offpremise locations including one office in a community where Bank does not operate any branches. It appears that Bank itself could directly perform these activities at those locations. The agency would be considered an operations subsidiary of Bank if Bank were a State member bank (*Interpretations*, paragraph 4215, 12 CFR 250.141).[1] Accordingly, pursuant to section 4(c)(5) of the Bank Holding Company Act and § 225.4(e) of Regulation Y, such activities do not *require* the approval of the Board.

On the basis of the record, the applications to acquire Bank and the three insurance agencies are approved for the reasons summarized above. The acquisition of Bank shall not be consummated before the thirtieth calendar date following the effective date of this Order nor shall acquisition of Bank or the three consumer finance companies be made later than three months after the effective date of this Order unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Richmond.

By order of the Board of Governors,[2] effective September 4, 1973.

[SEAL] CHESTER B. FELDBERG, *Secretary of the Board.*

[FR Doc.73-19368 Filed 9-11-73;8:45 am]

[1] If, however, State law did not authorize Bank to perform the activities directly, but rather only authorized the investment in shares of the insurance agency, such agency would not be permissible on the basis of § 4(c)(5) and § 225.4(e).

[2] Voting for this action: Vice Chairman Mitchell and Governors Daane, Brimmer, Sheehan, Bucher, and Holland. Absent and not voting: Chairman Burns.

## SWISS-ISRAEL TRADE BANK, ET AL.

### Determination Regarding "Grandfather" Privileges Under Bank Holding Company Act

Section 4 of the Bank Holding Company Act (12 U.S.C. 1843) provides certain privileges (grandfather privileges) with respect to nonbanking activities of a company that, by virtue of the 1970 Amendments to the Bank Holding Company Act, became subject to the Bank Holding Company Act. Pursuant to section 4(a)(2) of the Act, a "company covered in 1970" may continue to engage, either directly or through a subsidiary, in nonbanking activities that such a company was lawfully engaged in on June 30, 1968 or on a date subsequent to June 30, 1968, in the case of activities carried on as a result of the acquisition by such company or subsidiary, pursuant to a binding written contract entered into on or before June 30, 1968, of another company engaged in such activities at the time of the acquisition), and has been continuously engaged in since June 30, 1968 (or such subsequent date).

Section 4(a)(2) of the Act provides, *inter alia*, that the Board of Governors of the Federal Reserve System may terminate such grandfather privileges if, having due regard to the purposes of the Act, the Board determines that such action is necessary to prevent undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices. With respect to a company that controls a bank with assets in excess of $60 million on or after December 31, 1970, the Board is required to make such a determination within a two-year period.

Notice of the Board's proposed review of the grandfather privileges of the Swiss-Israel Trade Bank, Geneva, Switzerland; Beaver Securities Co., Inc., New York, New York; and Exchange Place Corp., New York, New York, and an opportunity for interested persons to submit comments and views or request a hearing, has been given (37 FR 22414). The time for filing comments, views, and requests has expired, and all those received have been considered by the Board in light of the factors set forth in Sec. 4(a)(2) of the Act.

On the evidence before it, the Board makes the following findings. Swiss Israel Trade Bank, Geneva, Switzerland (Registrant), became a bank holding company, as a result of the 1970 Amendments to the Act, by virtue of Registrant's control of close to 75 percent of the voting shares of American Bank and Trust Company, New York, New York (Bank) (assets of $253 million, as of December 31, 1970). Swiss-Israel owns close to 75 percent of the voting shares of American B. & T. Corporation, New York, New York, which company owns 100 percent of the voting shares of Bank.[1] Bank, control of which was acquired by Registrant in October 1963, had total deposits of approximately $250 million as of June 30, 1972, representing 0.3 percent of the total deposits in commercial banks in the New York City area and is the 23d largest of the 79 banking organizations in the New York City area.

It appears that Bank has enjoyed satisfactory earnings and that Registrant's financial strength does not derive from, nor is dependent upon, the resources of Bank. On the other hand, the Board has noted that Bank's capital appears low in relation to its deposits and Bank's management and financial condition lack the strength the Board expects of subsidiary banks of a holding company. While the record shows that these aspects preceded Registrant's acquisition of control of Bank, the Board is concerned about these aspects since they are present today. In view of the Board's concern in this area, Registrant has adopted a program to reduce the Bank's footings and the amount of loans outstanding, to strengthen management, and to provide for stock dividends in lieu of cash payments by Bank. On the basis of the actions already taken and the commitments made by Registrant, the Board considers that the prospects of Bank should be improved and its financial condition strengthened.

Registrant,[2] a foreign bank, owns 100 percent of Exchange Place Corp., which

[1] On December 31, 1970, Swiss-Israel was an indirect parent of Bank with three Swiss-Israel subsidiaries (Exchange Place Corporation, Beaver Securities, and American B. & T. Corp.) being the intermediate companies. Each of these three intermediate companies became a bank holding company under the 1970 Amendments. Since then, the corporate structure has changed so that only Swiss-Israel and American B. & T. Corp. (which was formed on April 30, 1970) are parents of Bank. On March 30, 1972, the shares of American B. & T. Corp. were transferred from Beaver Securities Co. to direct ownership by Swiss-Israel to be held in custody by Pan Am & Co., New York, New York. Pan Am & Co. functions solely as the registered nominee for Swiss-Israel and has no discretionary power to vote any shares of American B. & T. Corp. Exchange Place Corporation and Beaver Securities are no longer bank holding companies, and the question of a review of grandfather privileges is moot as to each of these companies.

[2] Registrant's annual report to shareholders shows consolidated assets of Registrant and its interest in five other banking affiliates of 2.2 billion Swiss francs (approximately $525 million), as of December 31, 1971. The bank affiliates, other than Bank, are located in Paris, Brussels, Tel-Aviv, and





in turn owns 100 percent of Beaver Securities Co., Inc., and of Exchange Place Management Corp., New York, New York. The latter company owns 100 percent of the shares of Bevex Realty Corp. (Bevex), Merex Realty Corp. (Merex), Staunton Development Corporation (Staunton), Suissex Realty Corp. (Suissex), and Tradex Realty Corp. (Tradex), all of which are located in New York City. Registrant also owns 100 percent of Isramerica Corp., New York, New York, which company owns 100 percent of Sitra Corp., New York, New York (Sitra), and of Vantar Properties Inc., New York, New York (Vantar). All of these direct or indirect subsidiaries of Registrant have been engaged in their current activities since before June 30, 1968, and continuously thereafter.[3] Exchange Place Corp. (assets of $6.3 million as of April 30, 1971) and Isramerica Corporation (assets of about $5 million as of April 30, 1971), both acquired in 1960, engage directly in making loans to business enterprises and in investing in stocks and bonds for their own account but do not own over 5 percent of the shares of any company[4] except for two subsidiaries of Exchange Place Corp., namely, Beaver Securities Co., Inc. (acquired in 1960), and Exchange Place Management Corporation (acquired in 1962). The making of loans to business enterprises is entitled to grandfather privileges.[5] The only current activity of Beaver appears to be holding of $50,000 of stock and bond investments, none of which represents more than 5 percent of the voting shares of the issuing company. No grandfather benefits are involved for the present activities of Beaver[6] nor does there appear to be any reason to require a termination of its activities. Exchange Place Management Corp. engages in no direct activites but acts as a holding company for five wholly owned subsidiaries named earlier herein. Of the five subsidiaries, Merex and Tradex (both acquired in 1962) each hold a mortgage which is being liquidated by periodic payments but the companies are otherwise inactive. Registrant is entitled to grandfather benefits with respect to the mortgages now held and liquidation thereof.[6] Bevex, Staunton, and Suissex were acquired in 1961 and 1962. Each of these three companies holds an interest in a real estate joint venture whose sole investment is a parcel of land located in Staten Island in New York City. As of April 30, 1971, the combined assets of these three subsidiaries amounted to about $621,000. These joint ventures may be retained under the grandfather privilege proviso. Vantar (acquired in 1964) owns and services a mortgage acquired as a result of the sale of real property.[6] This activity may be retained under the grandfather privilege proviso. Sitra (acquired in 1964) holds a 3 percent interest in a shopping center. Sitra's total investment in this participation is $32,000. There appears to be no reason to require a modification of this activity.

On the basis of the foregoing and all the facts before the Board, it appears that the volume, scope, and nature of the activities of Registrant and its subsidiaries do not demonstrate an undue concentration of resources, decreased or unfair competition, conflicts of interest nor unsound banking practices.

There appears to be no reason to require Registrant to terminate its grandfathered interests. It is the Board's judgment that, at this time, termination of the grandfather privileges of Registrant is not necessary in order to prevent an undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices. However, this determination is not authority to enter into any activity that was not engaged in on June 30, 1968, and continuously thereafter, or any activity that is not the subject to this determination. Nor is this determination authority for Registrant to enter into any new real estate joint venture or to acquire additional shares of any company if the Registrant's holdings in said company will exceed 5 percent of the outstanding voting shares of such company.

A significant alteration in the nature or extension of Registrant's activities or a change in location thereof (significantly different from any described in this determination) will be cause for a re-evaluation by the Board of Registrant's activities under the provisions of sec. 4(a)(2) of the Act, that is, whenever the alteration or change is such that the Board finds that a termination of the grandfather privileges is necessary to prevent an undue concentration of resources or any of the other evils designated in the Act. No merger, consolidation, acquisition of assets other than in the ordinary course of business, nor acquisition of any interest in a going concern, to which the Registrant or any nonbank subsidiary thereof is a party, may be consummated without prior approval of the Board. Further, the provisions of any credit, property, or service by the Registrant or any subsidiary thereof shall not be subject to any condition which, if imposed by a bank, would constitute an unlawful tie-in arrangement under sec. 106 of the Bank Holding Company Act Amendments of 1970.

The determination herein does not preclude a later review by the Board of Registrant's nonbank activities and a future determination by the Board in favor of termination of grandfather benefits of Registrant. The determination herein is subject to the Board's authority to require modificaton or termination of the activities of Registrant or any of its nonbanking subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasions thereof.

By determination of the Board of Governors,[7] effective September 4, 1973.

[SEAL] CHESTER B. FELDBERG, *Secretary of the Board.*

[FR Doc.73-19315 Filed 9-11-73;8:45 am]

Montevideo. As to these foreign banks, the activities are permissible under the Board's Regulation Y and accordingly grandfather benefits need not be considered. Registrant also has two inactive subsidiaries, Solon Properties Inc., and South Beach Realty Corporation (both located in New York City), that have no grandfather benefits.

[3] In 1970, American B. & T. Corp., made loans for its own account and acquired shares in GIT Realty & Mortgage Investors (15 percent), a real estate investment trust and in GIT Management Services Inc. With respect to the activities of these two companies, Registrant has no grandfather benefits within the meaning of the proviso in section 4(a)(2) of the Act. Registrant's direct or indirect interest in these two companies will be required to be reduced to 5 percent or less by January 1, 1981, unless the Board were to grant Registrant approval under section 4(c)(8) to continue such activities. Shares of a REIT are not on the Board's list of activities closely related to banking. However, under section 224(a)(5) of Regulation Y advisory services to a REIT are regarded as permissible.

[4] Section 4(c)(6) of the Act provides an exemption to the general prohibitions of section 4 and permits a holding company to own not more than 5 percent of the outstanding shares of any company. Such holdings are permissible without recourse to the benefits of the grandfather proviso.

[5] The activity of making loans is a "closely related" activity under § 225.4(a)(1) of regulation Y. The activity of servicing loans is a closely related activity under § 225.4(a)(3) of regulation Y. However, the Board's approval is required to authorize a company to engage in such permissible activities under said sections of the regulation and sec. 4(c)(8) of the Act.

[6] The holdings of 5 percent or less of the shares of any company is permissible under section 4(c)(6) of the Act. Also section 4(c)(7) of the Act permits a holding company to own shares of an investing company that is not a bank holding company and is not engaged in any business other than investing in securities which do not include more than 5 percent of the outstanding voting shares of any company.

## WAVERLY INVESTMENT CO.

### Proposed Acquisition of Mallen and Waverly Insurance Agencies

Waverly Investment Company, Waverly, Missouri (which applied, pursuant to section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of up to 100 per cent of the voting shares of Bank of Waverly, Waverly, Missouri (38 Federal Register 22678), has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.4(b)(2) of the Board's Regulation Y, for permission to acquire the assets of Mallen and Waverly Insurance Agencies, Waverly, Missouri. Notice of the application was published on August 29, 1973, in The Waverly Times, a newspaper circulated in Waverly, Missouri.

[7] Voting for this action: Vice Chairman Mitchell and Governors Daane, Brimmer, Sheehan, Bucher, and Holland. Absent and not voting: Chairman Burns.



V 38-176 SEP 12 73 XUM

Applicant states that the proposed subsidiaries would engage in the following activities: sale of credit life and health insurance; casualty insurance including fire and extended coverage on dwelling and farm buildings, and automobile insurance; life insurance and liability insurance and such other forms of insurance as may be authorized under the laws of Missouri. Such activities will be conducted at offices in Waverly, Missouri, a town of less than 5,000 population. Such activities have been specified by the Board in section 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of section 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 2, 1973.

Board of Governors of the Federal Reserve System, September 5, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-19367 Filed 9-11-73;8:45 am]

## WELLS FARGO & CO.

### Order Approving Acquisition of Wells Fargo Mortgage Company

Wells Fargo & Company, San Francisco, California, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under sec. 4(c)(8) of the Act and § 225.4(b)(2) of the Board's regulation Y, to acquire all of the voting shares of Wells Fargo Mortgage Company, San Francisco, California (WFMC), a proposed new company to be engaged in the activities of making and servicing mortgage loans. Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a)(1) and (3)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (38 FR 18719). The time for filing comments and views has expired, and none has been timely received.

Applicant is a one-bank holding company controlling Wells Fargo Bank, N.A., San Francisco, California (Bank), the third largest commercial bank in the State. Bank's deposits of $6.2 billion represent 9.7 percent of the total deposits in commercial banks in California.[1] The proposal herein constitutes essentially a corporate reorganization whereby a portion of Bank's mortgage banking activities would be transferred to WFMC as a wholly owned subsidiary of Applicant. Formation of WFMC would establish Applicant's only mortgage banking and servicing subsidiary.

Applicant, however, through Bank, is a significant competitor in the mortgage banking and servicing field in the State. Applicant's existing nonbanking subsidiaries are engaged in numerous activities, including data processing, equipment leasing, and furnishing other financial services.

WFMC will engage in most of the mortgage lending and servicing activities now conducted by the Sonoma Mortgage Division of Bank (Sonoma). In April 1968, Bank expanded its mortgage servicing activities through merger with Sonoma Mortgage Company, Santa Rosa, California (SMC), then a going concern with six offices in northern California.[2] It is proposed that Bank's present mortgage loan servicing portfolio (totaling approximately $815 million) will, for the most part, be assumed by WFMC.

In the nine county San Francisco area in which SMC operated prior to merger with Bank, the mortgage lending activities of the more than 100 lending institutions in this area totaled approximately $6.5 billion in 1972. Of this total, Bank's Sonoma Division accounted for less than 1 percent. Bank's direct mortgage lending activities apart from Sonoma, in this area, represented approximately 8 percent of the area's real estate loans.

The transfer of Sonoma's operations from Bank to Applicant would appear to have no adverse effects on competition in any market in which Applicant currently operates. Moreover, the proposed subsidiary would provide a vehicle through which Applicant could expand its mortgage lending and servicing activities beyond the State. The Board concludes that consummation of the proposed formation of WFMC would have no adverse effects on mortgage lending and servicing activities in any relevant area.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under sec. 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof. The transaction shall be consummated not later than November 31, 1973, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of San Francisco pursuant to delegated authority.

By order of the Board of Governors,[3] effective August 31, 1973.

THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-19316 Filed 9-11-73;8:45 am]

[1] Data are as of December 31, 1972.

[2] Under Bank, Sonoma has since expanded to a total of 11 offices located throughout California.

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 73-70]

### NASA AD HOC SUBCOMMITTEE FOR THE REVIEW OF THE INVESTIGATIONS ON THE SECOND AND THIRD HIGH ENERGY ASTRONOMY OBSERVATORY MISSIONS

#### Notice of Meeting

The NASA Ad Hoc Subcommittee of the Space Science and Applications Steering Committee for the Review of the Investigations on the Second and Third High Energy Astronomy Observatory (HEAO) Missions will meet in Washington, D.C., September 13 and 14, 1973. The meeting, which will be closed to the public, will be held in Federal Office Building No. 6, 400 Maryland Ave. SW., Washington, D.C., Room 6004. The meeting will be concerned with the validation of investigations under consideration for the pointed x-ray telescope mission of the HEAO program. The Subcommittee will discuss and comment on the strengths and weaknesses of these investigations and thus, may tend to violate individuals' rights to privacy if discussions were conducted in an open forum. Also, discussions will involve proprietary data. The Chairman is Dr. Albert G. Opp, NASA Headquarters, Washington, D.C. 20546.

The Executive Secretary is Mr. Russell L. Chandler, also of NASA Headquarters. There are approximately seven other members of the Subcommittee. Questions may be directed to Dr. Opp, telephone, 202-755-8493.

HOMER E. NEWELL,
*Associate Administrator National Aeronautics and Space Administration.*

SEPTEMBER 10, 1973.

[FR Doc.73-19464 Filed 9-11-73;8:45 am]

[3] Voting for this action: Vice Chairman Mitchell and Governors Daane, Brimmer, Sheehan, Bucher, and Holland. Absent and not voting: Chairman Burns.





[Notice 73-69]

## NASA PHYSICAL SCIENCES COMMITTEE

### Notice of Meeting

The Physical Sciences Committee of the NASA Space Program Advisory Council will meet at the Headquarters of the National Aeronautics and Space Administration on September 24 and 25, 1973. The meeting will be held in Room 5026 of Federal Office Building 6, located at 400 Maryland Avenue SW., Washington, D.C. 20546. The meeting is open to members of the public, from 2 p.m. to 4:30 p.m. on September 24, 1973, and from 8:30 a.m. to 3:30 p.m. on September 25, 1973, on a first-come, first-served basis within the 60-seat capacity of the room. Visitors will be requested to sign a visitor's register.

The Physical Sciences Committee serves only in an advisory capacity to NASA. The committee is concerned with all aspects of the physical sciences which are relevant to the space program, including lunar and planetary exploration, astronomy, and space physics. The committee has 14 members including the chairman, Dr. Michael B. McElroy. For further information regarding the meeting, please contact Col. Donald Senich: Area Code (202) 755-6280. The agenda for the meeting is as follows:

SEPTEMBER 24, 1973

| Time | Topic |
|---|---|
| 9:30 a.m. | Executive Session (Action: Concern has been expressed with regard to Space Science research and development efforts at NASA Centers, University and industrial research groups. The Committee's advice is requested to clearly define the issues and suggest areas of discussion for future meetings. Proposed Office of Space Science new starts in FY 1975 have been identified for the preliminary budget submission. The Committee is requested to advise NASA on the priorities of FY 1975 new starts. In discussing these issues, the qualification, reputation, and ability of individuals and groups will be reviewed. The discussions will therefore include personnel matters which, if conducted in a public session, may well invade the privacy of the individuals concerned.) |
| 12:30 p.m. | Lunch |
| 2:00 p.m. | Exploration of Comets and Asteroids (Action: The Committee's recommendations for future programs to explore the comets and asteroids have been requested. Prior to formulating such recommendations, the members have requested additional information regarding current plans and the results by the Comets and Asteroids Working Group.) |
| 3:00 p.m. | Physical Sciences Committee Recommendations (Action: The Committee has submitted formal recommendations to NASA as a result of deliberations in open and closed sessions. The members have requested a review and discussion of their recommendations and the action taken by NASA in response.) |

SEPTEMBER 25, 1973

| Time | Topic |
|---|---|
| 8:30 a.m. | NASA Strategy for High Energy Astronomy (Action: The Committee's recommendations for, and the priority of payloads and scientific objectives for the restructured HEAO program have been requested. The members have requested a discussion on the existing strategy and a presentation on the possible options available prior to formulating such recommendations.) |
| 11:00 a.m. | Future Space Science Projects (Action: NASA has suggested possible future space science missions which are now incorporated in the NASA mission model. The members have requested a period of discussion to review recommendations and projected science benefits from selected programs.) |
| 12:00 noon | Lunch |
| 1:30 p.m. | Committee Working Papers (Action: The members of the Committee will use this period to prepare individual working papers and the draft committee report to the Associate Administrator.) |
| 3:30 p.m. | Adjourn. |

HOMER E. NEWELL,
*Associate Administrator, National Aeronautics and Space Administraton.*

SEPTEMBER 6, 1973.

[FR Doc.73-19356 Filed 9-11-73;8:45 am]

## NATIONAL ENDOWMENT FOR THE HUMANITIES

### PUBLIC PROGRAMS PANEL (FILM TV)

#### Notice of Meeting

SEPTEMBER 4, 1973.

Pursuant to Public Law 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Public Programs Panel (Film/TV) will take place in Washington, D.C. on October 1, 1973.

The purpose of the meeting is to review film/TV proposals and development grant proposals that have been submitted to the Endowment for possible grant funding.

Based on section b (4) and (6) of 5 U.S.C. 552, the meeting will not be open to public participation. It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-382-2031.

JOHN W. JORDAN,
*Advisory Committee Management Officer.*

[FR Doc.73-19361 Filed 9-11-73;8:45 am]

## SENIOR FELLOWSHIPS PANEL

### Notice of Meeting

SEPTEMBER 5, 1973.

Pursuant to Public Law, 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Senior Fellowships Panel will take place in Washington, D.C. on September 20 and 21, 1973.

The purpose of the meeting is to review Senior Fellowship applications submitted to the Endowment for individual fellowship grants.

Based on section b (4) and (6) of 5 U.S.C. 552, the meeting will not be open to public participation. It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street NW., Washington, D.C. 20506, or call Area Code 202-382-2031.

JOHN W. JORDAN,
*Advisory Committee Management Officer.*

[FR Doc.73-19362 Filed 9-11-73;8:45 am]

## SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

### CONTINENTAL VENDING MACHINE CORP.

#### Order Suspending Trading

SEPTEMBER 6, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10¢ par value, of Continental Vending Machine Corporation, and the 6 percent convertible subordinated debentures due September 1, 1976 being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to section 15 (c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period September 7, 1973 through September 16, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc 73-19319 Filed 9-11-73;8:45 am]



V 38-176 SEP 12 73 XUM

[No. 811-64]

## COUNSELORS INVESTMENT FUND, INC.

### Proposal To Terminate Registration

SEPTEMBER 6, 1973.

Notice is hereby given that the Commission proposes, pursuant to section 8 (f) of the Investment Company Act of 1940 (Act), to declare by order upon its own motion that Counselors Investment Fund, Inc. (Fund), (c/o Stuart M. de Haaff, Esquire Macdonald, Halsted & Laybourne, 1200 Wilshire Boulevard, Los Angeles, California, 90017), registered under the Act as an open-end, diversified management investment company, has ceased to be an investment company as defined in the Act.

Fund was organized as a Delaware corporation on July 13, 1939, and filed a Notification of Registration on Form N-8A with the Commission on October 29, 1940.

The Commission's records indicate that on July 3, 1973, pursuant to a Plan and Agreement of Reorganization approved by its shareholders, Fund transferred all of its assets (except approximately $15,000 to pay for liquidating expenses) to Pegasus Fund, Inc. (Pegasus), a Maryland corporation registered under the Act as an investment company, in exchange for shares of Pegasus, and distributed all such shares to Fund shareholders. Fund presently has no shareholders, has not made an offering of its shares since October 31, 1972, and has no intention of making any further offering.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, on its own motion or upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and, upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than October 2, 1973, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the Fund at the address set forth above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the matter may be issued by the Commission upon the basis of the information stated herein, unless an order for a hearing shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-19320 Filed 9-11-73;8:45 am]

[File No. 500-1]

## HOME-STAKE PRODUCTION CO.

### Order Suspending Trading

SEPTEMBER 6, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $2.50 par value, and all other securities of Home-Stake Production Company being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors.

*It is ordered*, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 7, 1973, through September 16, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-19318 Filed 9-11-73;8:45 am]

[File No. 500-1]

## KORACORP INDUSTRIES, INC.

### Order Suspending Trading

SEPTEMBER 6, 1973.

The common stock, $1 par value, of Koracorp Industries, Incorporated, being traded on the New York Stock Exchange and the Pacific Coast Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Koracorp Industries, Incorporated, being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to section 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 7, 1973, through September 16, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-19317 Filed 9-11-73;8:45 am]

## TARIFF COMMISSION

[337-L-66]

## CHAIN DOOR LOCKS

### Extension of Time for Filing Written Views

On July 31, 1973, the United States Tariff Commission published notice of the receipt of a complaint under section 337 of the Tariff Act of 1930, filed by Ideal Security Hardware Corp. of Saint Paul, Minnesota, alleging unfair methods of competition and unfair acts in the importation and sale of certain chain door locks (38 FR 20381). Interested parties were given until September 10, 1973, to file written views pertinent to the subject matter of a preliminary inquiry into the allegations of the complaint. The Commission has extended the time for filing written views until the close of business on October 10, 1973.

By order of the Commission.

Issued September 6, 1973.

[SEAL] KENNETH R. MASON,
*Secretary.*

[FR Doc.73-19324 Filed 9-11-73;8:45 am]

[337-34]

## CONVERTIBLE GAME TABLES AND COMPONENTS THEREOF

### Notice of Investigation and Hearing

A complaint was filed with the U.S. Tariff Commission on October 26, 1972, and a supplement thereto on January 22, 1973, on behalf of ATI Recreation, Inc. (now All-Tech Industries, Inc.), of Miami Lakes, Florida, alleging unfair methods of competition and unfair acts in the importation and sale of certain convertible game tables. Complainant alleges that the effect or tendency of the unfair methods or acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States in violation of the provisions of section 337 of the Tariff Act of 1930 (19 U.S.C. sec. 1337).

Armac Enterprises, Inc., and Sears Roebuck and Company, both of Chicago, Illinois, have been named by complainant as either importing or offering for sale the subject product.

Having conducted, in accordance with § 203.3 of the Commission's rules of practice and procedure (19 CFR 203.3), a preliminary inquiry with respect to the matters alleged in said complaint, as supplemented, the U.S. Tariff Commission, on August 30, 1973, ordered:

That, for the purposes of section 337 of the Tariff Act of 1930, an investigation be instituted with respect to the alleged violations in the importation and sale in the United States of convertible game tables made in accordance with the claims of U.S. Design Patent No. 223,539 and U.S. Patent No. 3,711,099 and components thereof; with respect to the allegation that complete sets of the imported product are the subjects of unfair pricing; and with respect to the allegation that complete sets of the imported product are the subjects of false representations as to sponsorship.

A public hearing was ordered by the Commission to begin on October 15, 1973, at 10 a.m., e.d.t. in the Hearing Room, U.S. Tariff Commission Building, Eighth and E Streets NW., Washington, D.C. All parties concerned will be afforded an opportunity to be present, to produce evidence, and to be heard concerning the subject matter of the investigation. Interested parties desiring to appear and give testimony at the hearing should notify the Secretary of the Commission in writing at least 5 days in advance of the opening of the hearing.

The Commission decided not to recommend at this time that the President issue a temporary exclusion order pursuant to section 337(f).

Public notice of the receipt of the complaint and initiation of the preliminary inquiry was published in the FEDERAL REGISTER on November 17, 1972 (33 FR 24473).

By order of the Commission.

Issued September 6, 1973.

[SEAL] KENNETH R. MASON,
*Secretary.*

[FR Doc.73-19321 Filed 9-11-73;8:45 am]

[TEA-W-210]

## NINA FOOTWEAR CO., INC.

### Workers' Petition for a Determination; Notice of Investigation

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the former workers of the Nina Footwear Co., Inc., Long Island City, New York, the United States Tariff Commission, on September 6, 1973, instituted an investigation under section 301(c)(2) of the Act to determine whether, as a result in major part of consessions granted under trade agreements, articles like or directly competitive with footwear for women (of the types provided for in items 700.20, 700.43, 700.45, and 700.55 of the Tariff Schedules of the United States) produced by said firm are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision thereof.

The optional public hearing afforded by law has not been requested by the petitioners. Any other party showing a proper interest in the subject matter of the investigation may request a hearing, provided such request is filed on or before September 24, 1973.

The petition filed in this case is available for inspection at the Office of the Secretary, United States Tariff Commission, 8th and E Streets NW., Washington, D.C., and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

By order of the Commission.

Issued September 6, 1973.

[SEAL] KENNETH R. MASON,
*Secretary.*

[FR Doc.73-19323 Filed 9-11-73;8:45 am]





[TEA-W-209]

## ZUCKERMAN AND FOX, INC.

### Workers' Petition for a Determination: Notice of Investigation

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the former workers of Zuckerman & Fox, Inc., New York, New York, the United States Tariff Commission, on September 6, 1973, instituted an investigation under section 301(c)(2) of the Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with footwear for women (of the types provided for in items 700.20 and 700.45 of the Tariff Schedules of the United States) produced by said firm are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision thereof.

The optional public hearing afforded by law has not been requested by the petitioners. Any other party showing a proper interest in the subject matter of the investigation may request a hearing, provided such request is filed on or before September 24, 1973.

The petition filed in this case is available for inspection at the Office of the Secretary, United States Tariff Commission, 8th and E Streets NW., Washington, D.C., and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

By order of the Commission.

Issued September 6, 1973.

[SEAL] KENNETH R. MASON,
*Secretary.*

[FR Doc.73-19322 Filed 9-11-73;8:45 am]

## INTERSTATE COMMERCE COMMISSION

[Notice No. 339]

### ASSIGNMENT OF HEARINGS

SEPTEMBER 7, 1973.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC-C-7901, North American Van Lines, Inc.—Investigation and Revocation of Certificates, Procedural Conference now assigned September 10, 1973, at Washington, D.C., is cancelled and the hearing is continued to October 1, 1973 (3 weeks), at Fort Wayne, Ind., in a hearing room to be later designated.

MC 129171 Sub 11, Arthur Shelley, Inc., now assigned September 11, 1973, at San Francisco, Calif., is cancelled and application dismissed.

MC-C-6689, Victor Grothaus, D.B.A. Grothaus Express—Investigation and Revocation of Certificates, now assigned September 27, 1973, at Omaha, Nebr., is postponed indefinitely.

Ex Parte No. 295, Increased Freight Rates and Charges, 1973, Nationwide, now being assigned hearing September 24, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

No. 35825, Board of Trade of the City of Chicago V. The Akron, Canton & Youngstown Railroad Company, Et Al., now assigned October 23, 1973, at Chicago, Illinois, is postponed to January 7, 1974, at Chicago, Illinois, in a hearing room to be later designated.

MC-61955, Centropolis Transfer Co., Inc., now assigned September 19, 1973, at Jefferson City, Mo., is postponed indefinitely.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-19413 Filed 9-11-73;8:45 am]

[Sec. 5a Application No. 2; Amendment No. 23]

## BURLINGTON NORTHERN, INC.

### Western Railroad Traffic Association Agreement

AUGUST 30, 1973.

The Commission is in receipt of an application in the above-entitled proceeding for approval of an amendment to the agreement therein approved.

Filed Aug. 6, 1973 by J. M. Souby, Jr., 222 South Riverside Plaza, Suite 1200, Chicago, Ill. 60606, Attorney-in-Fact, and J. D. Feeney, 222 South Riverside Plaza, Suite 1200, Chicago, Ill. 60606.

The amendments involve: Make the representative of the Burlington Northern, Inc., permanent chairman of the Northern Lines Committee and of the Freight Traffic Committee with that carrier bearing the expenses of the committee, in lieu of monthly rotation with the Soo Line Railroad Company (article VII section 9 (f)(3) and (h)); and add Helena, Ark., as a point within the jurisdiction of the Southwestern Freight Bureau in respect to traffic in defined official and southern territory by deletion of exception (2) of article VIII, section 3(b).

The complete amended application may be inspected at the Office of the Commission in Washington, D.C.

Any person desiring to protest and participate in this proceeding shall notify the Commission in writing on or before October 2, 1973. As provided by the General Rules of Practice of the Commission, persons other than applicants should fully disclose their interest, and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigation and determine the matters involved without public hearing.

By the Commission.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-19411 Filed 9-11-73;8:45 am]



V 38 - 176 SEP 12 73 XUM

## FOURTH SECTION APPLICATION FOR RELIEF

SEPTEMBER 7, 1973.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before September 27, 1973.

FSA No. 42744—*Soda Ash to Freeport, Texas.* Filed by Southwestern Freight Bureau, Agent (No. B-427), for interested rail carriers. Rates on soda ash, dense, in bulk, in covered hopper cars, as described in the application, from Alchem, Stauffer, and Westvaco, Wyoming, to Freeport, Texas.

Grounds for relief—Rate relationship.

Tariff—Supplement 165 to Southwestern Freight Bureau, Agent, tariff 270-F, I.C.C. No. 4832. Rates are published to become effective on October 13, 1973.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-19414 Filed 9-11-73;8:45 am]

---

[No. 35889]

## ILLINOIS CENTRAL GULF RAILROAD CO.

### Electric Commuter Train Fares

*Order.*—At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 6th day of September 1973.

By petition filed on August 20, 1973, the Illinois Central Gulf Railroad Company, a common carrier by railroad operating within the State of Illinois, avers that the Illinois Commerce Commission has refused to authorize or permit increases in its commuter passenger fares over certain routes to and from Chicago in in intrastate commerce in Illinois, on which commuter lines it has incurred operating deficits due to the level of the intrastate commuter fares and said intrastate fares thereby constituting a burden on interstate commerce. Specifically, it seeks to increase fares by a revision of its mileage scale of fares to conform to the mileage scale of the Chicago South Shore and South Bend Railroad Company, and to be applied over respondent's routes between Chicago and Richton, Ill. (28.9 one-way miles), South Chicago, Ill. (12.6 one-way miles), and Blue Island, Ill. (18.7 one-way miles).

Wherefore, and for good cause:

*It is ordered*, That pursuant to section 13 of the Interstate Commerce Act, an investigation be, and it is hereby instituted into the matters and things presented in the said petition to determine whether the present intrastate commuter fares charged by petitioner to and from Chicago, which are described more particularly in the petition, are in any manner unlawful under section 13(4) of the act and, if warranted, to enter an appropriate order thereunder.

*It is further ordered*, That the Illinois Central Gulf Railroad be, and it is hereby, made respondent in this proceeding.

*It is further ordered*, That, since consideration of record in the above-entitled proceeding indicates that this matter should be set for hearing, the said proceeding be, and it is hereby, referred to an Administrative Law Judge for hearing commencing on Tuesday, October 9, 1973, at 9:30 a.m., d.s.t. (or 9:30 a.m. United States Standard Time, if that time is observed) at Chicago, Illinois, in a hearing room to be later designated.

*It is further ordered*, That on or before Monday, September 24, 1973, the respondent shall make available for the record herein and for the inspection of all parties of record in this proceeding the data upon which it has relied to conclude that the proposed action will or will not significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

*It is further ordered*, That the respondent shall file with the Commission on or before Monday, September 24, 1973, three copies of its cost studies and any other studies it expects to submit into evidence at the hearing, and, at the same time, serve copies of said studies upon protestants requesting such studies and indicate where the underlying work papers will be available for inspection by any person desiring to do so during normal business hours; and respondent shall also make copies of such studies available at the hearing to any party, requesting such studies, as well as making copies of its underlying work papers to the studies available for inspection at the scheduled hearing.

*And it is further ordered*, That a copy of this order be served upon the respondent; that the State of Illinois be notified of this proceeding by sending a copy of this order by certified mail to the Governor of Illinois and a copy to the Illinois Commerce Commission, Springfield, Ill.; that notice of this proceeding be given to the general public by depositing a copy of this order in the office of the Commission's Secretary and by filing a copy with the Director, Office of the Federal Register for publication in the FEDERAL REGISTER; and that all individual protestants whose protests have been received on or prior to date of the instant order be served a copy thereof.

By the Commission, Division 2.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-19408 Filed 9-11-73;8:45 am]

---

[Notice No. 30]

## MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

SEPTEMBER 7, 1973.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969 (49 CFR 1042.4(c)(11)), and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(c)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of Publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules—Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC-29910 (Deviation No. 26), ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 S. 11th Street, Fort Smith, Arkansas 72901, filed August 17, 1973. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Indianapolis, Ind., over Interstate Highway 69 to Fort Wayne, Ind., thence over U.S. Highway 24 to Toledo, Ohio, and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) from Akron, Ohio, over unnumbered highway (formerly portion U.S. Highway 224) to junction U.S. Highway 224, thence over U.S. Highway 224 to Findlay, Ohio, thence over unnumbered highway (formerly portion U.S. Highway 25) to junction U.S. Highway 25, thence over U.S. Highway 25 to junction unnumbered highway (formerly portion U.S. Highway 25) near Lima, Ohio, thence over unnumbered highway to Wapakoneta, Ohio, thence over U.S. Highway 33 to junction Ohio Highway 29, thence over Ohio Highway 29 to the Ohio-Indiana State line, thence over Indiana Highway 67 to junction U.S. Highway 36, thence over U.S. Highway 36 to Indianapolis, Ind., and (2) from Toledo, Ohio, over U.S. Highway 25 to Bairdstown, Ohio, thence over unnumbered highway (formerly portion U.S. Highway 25) via Findlay, Ohio, to junction U.S. Highway 25 near Bluffton, Ohio, thence over U.S. Highway 25 to Lima, Ohio, and return over the same routes, restricted in (1) and (2) above to the transportation of traffic moving to or from points in Ohio.

No. MC-29910 (Deviation No. 27), ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 S. 11th Street, Fort Smith, Arkansas 72901, filed August 28, 1973. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Springfield, Mo., over U.S. Highway 60 to junction U.S. Highway 63, thence over U.S. Highway 63 to junction Interstate Highway 55, thence over Interstate Highway 55 to junction Interstate Highway 40, thence over Interstate Highway 40/U.S. Highway 70 to Asheville, N.C., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over pertinent service routes as follows: (1) from Akron, Ohio, over Ohio Highway 5 to Wooster, Ohio, thence over Ohio Highway 3 to Mount Vernon, Ohio, thence over Ohio Highway 13 to Newark, Ohio, thence over Ohio Highway 16 to Columbus, Ohio, thence over Ohio Highway 440 (formerly portion U.S. Highway 40) to junction U.S. Highway 40, thence over U.S. Highway 40 to St. Louis, Mo. (also from Brandt, Ohio, over Ohio Highway 201 to Dayton, Ohio, thence over Ohio Highway 49 to junction U.S. Highway 40, thence over U.S. Highway 40 to St. Louis), thence over U.S. Highway 66 via Carthage, Mo., to Afton, Okla. (also from Carthage over U.S. Highway 71 to junction Interstate Highway 44 (formerly U.S. Highway 166), thence over Interstate Highway 44 to Joplin, Mo., thence over Missouri Highway 43 to junction U.S. Highway 60, thence over U.S. Highway 60 to Afton), thence over U.S. Highway 66 to Tulsa, Okla., serving the intermediate points of Barberton, Newark, Columbus, Springfield, and Dayton, Ohio; Richmond, Indianapolis, and Terre Haute, Ind.; East St. Louis, Ill.; and St. Louis and Springfield, Mo., restricted to preclude the handling of traffic originating at or destined to St. Louis, Mo., and points in the St. Louis, Mo.-East St. Louis, Ill., commercial zone, and which moves to or from Cincinnati, Ohio, and points in the Cincinnati, Ohio commercial zone, (2) from Atlanta, Ga., over U.S. Highway 41 to Chattanooga, Tenn. (also from Atlanta over Interstate Highway 75 to Chattanooga), thence over U.S. Highway 41 to Nashville (also from Chattanooga over Interstate Highway 24 to Nashville), thence over U.S. Highway 31W to Louisville, Ky. (also over Interstate Highway 65 to Louisville), thence over Interstate Highway 65 to Indianapolis, Ind., serving (a) all intermediate and off-route points in that part of Georgia on and north of a line beginning at the Alabama-Georgia State line and extending along Georgia Highway 20 to junction U.S. Highway 41, thence along U.S. Highway 41 to Atlanta, Ga., thence along U.S. Highway 29 to Athens, Ga., and thence along U.S. Highway 78 to the Georgia-South Carolina State line, and (b) the intermediate point of Louisville, Ky., restricted to the transportation of traffic moving from, to, and through Georgia points as described in (a) of the service paragraph immediately above, or Wilmington, N.C.; Lowland, Tenn.; or points in that part of North Carolina on and west of U.S. Highway 1; or points in South Carolina, (3) from Louisville, Ky., over U.S. Highway 60 to junction Kentucky Highway 151, thence over Kentucky Highway 151 to junction U.S. Highway 127, thence over U.S. Highway 127 to Danville, Ky., thence over U.S. Highway 150 to Mt. Vernon, Ky., serving (a) those intermediate points in Buncombe County, N.C., restricted to the transportation of traffic moving from, to, or through Knoxville or Newport, Tenn.; Ashland, Lexington, Louisville, Newport or Fort Thomas, Ky.; Cincinnati or Hamilton, Ohio; Charleston, Columbia, Greenwood, Greenville, or Spartanburg, S.C.; or those in that part of Georgia on and north of a line beginning at the Alabama-Georgia State line and extending along Georgia Highway 20 to junction U.S. Highway 41, thence along U.S. Highway 41 to Atlanta, Ga., thence along U.S. Highway 29 to Athens, Ga., thence along U.S. Highway 78 to the Georgia-South Carolina State line, (b) the intermediate point of Newport, Ky., restricted in both instances to the transportation of traffic moving from, to or through Lowland, Tenn., or points in Buncombe, Haywood, Henderson, or Graham Counties, N.C., and (c) the junction of U.S. Highway 60 and Kentucky Highway 151, the junction of Kentucky Highway 151 and U.S. Highway 127, Danville, Stanford, and Mt. Vernon, Ky., and the junction of North Carolina Highway 208 and combined U.S. Highways 25 and 70 (near Walnut Gap, N.C.) for purposes of joinder only, and (4) from Akron, Ohio, over Ohio Highway 241 to Massillon, Ohio, thence over U.S. Highway 21 to Marietta, Ohio, thence over Ohio Highway 7 to the Ohio-West Virginia State line at or near Parkersburg, W. Va., thence over U.S. Highway 21 to Charleston, W. Va., thence over Interstate Highway 77 to junction U.S. Highway 460 (near Princeton, W. Va.), thence over U.S. Highway 460 to junction Virginia Highway 100, thence over Virginia Highway 100 to junction U.S. Highway 221, thence over U.S. Highway 221 to junction U.S. Highway 52, thence over U.S. Highway 52 to Winston-Salem, N.C., thence over U.S. Highway 421 to Greensboro, N.C., thence over U.S. Highway 70 to Raleigh, N.C., thence over U.S. Highway 401 to junction U.S. Highway 421, thence over U.S. Highway 421 to Wilmington, N.C. (also from Winston-Salem over U.S. Highway 52 to Lexington, N.C., thence over U.S. Highway 64 to Asheboro, N.C., thence over U.S. Highway 220 to junction U.S. Highway 74, thence over U.S. Highway 74 to Wilmington), also from Akron, Ohio, over Ohio Highway 5 to Wooster, Ohio, thence over Ohio Highway 3 to Columbus, Ohio, thence over U.S. Highway 40 to Springfield, Ohio, thence over Ohio Highway 4 to Dayton, Ohio, thence over U.S. Highway 25 to Cincinnati, Ohio, thence over U.S. Highway 25 to Corbin, Ky., thence over U.S. Highway 25-E to Morristown, Tenn., thence over U.S. Highway 11-E to Greenville, Tenn., thence over Tennessee Highway 70 to the Tennessee-North Carolina State line, thence over North Carolina Highway 208 to junction combined U.S. Highways 25 and 70, thence over combined U.S. Highways 25 and 70 to Asheville, N.C., thence over U.S. Highway 74 to junction U.S. Highways 74 and 220 near Rockingham, N.C., thence over U.S. Highway 74 to Wilmington, N.C., serving (a) the intermediate points of Columbus, Springfield, Dayton, and Cincinnati, Ohio; and the off-route points of Middletown, Hamilton, Norwood, Troy, West Carrollton, and Miamisburg, Ohio, all restricted to the transportation of traffic moving from, to or through Wilmington, N.C., or those points in North Carolina on and west of U.S. Highway 1, or points in South Carolina, or Augusta or Savannah, Ga., or Lowland, Tenn., (b) those intermediate and off-route points in North Carolina on and west of U.S. Highway 1 restricted to the transportation of traffic moving from, to or through Akron, Columbus, Springfield, Troy, Dayton, West Carrollton, Miamisburg, Middletown, Hamilton, Norwood, or Cincinnati, Ohio; or Augusta or Savannah, Ga.; or points in South Carolina; or Lowland, Tenn., and (c) the junction of U.S. Highways 62 and 21, Ripley and Charleston, W. Va., the junction of Interstate Highway 77 and U.S. Highway 460 (near Princeton, W. Va.); Lexington, Mt. Vernon, and Corbin, Ky.; Morristown, Tenn.; and the junction of North Carolina Highway 208 and combined U.S. Highways 25 and 70 (near Walnut Gap, N.C.) for purposes of joinder only, and return over the same routes.

No. MC-98327 (Sub-No. 3) (Deviation No. 1), SYSTEM 99, 8001 Capwell Drive, Oakland, California 94621, filed August 22, 1973. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From the junction of Interstate Highway 5 (formerly U.S. Highway 99) and California Highway 14 (near Sylmar, Calif.) over California Highway 14 to junction U.S. Highway 395 (near Invokern, Calif., thence over U.S. Highway 395 to junction Nevada Highway 3 (Topaz Junction, Nev.), and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service as follows: From the junction of Interstate Highway 5 (formerly







V 38-176
SEP 12 73
XUM

U.S. Highway 99) and California Highway 14 (near Sylmar, Calif.) over Interstate Highway 5 to junction California Highway 99 (formerly U.S. Highway 99) north of Wheeler Ridge, Calif., thence over California Highway 99 to junction U.S. Highway 50 (near Sacramento, Calif.), thence over U.S. Highway 50 to junction U.S. Highway 395 (near Carson City, Nev.), thence over U.S. Highway 395 to junction Nevada Highway 3 (Topaz Junction, Nev.), and return over the same route, serving all intermediate points.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc 73-19416 Filed 9-11-73;8:45 am]

[Notice No. 71]

## MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

SEPTEMBER 7, 1973.

The following publications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its applicaton), are governed by the new Special Rule 1100.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications *as filed* by applicant, and may include descriptons, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable by the Commission.

MOTOR CARRIERS OF PROPERTY

No. MC 135423 (Sub-No. 2) (REPUBLICATION) filed November 24, 1972, published in the FR issue of January 11, 1973, and republished this issue.

Applicant: FRANKLIN GORDON, Rural Route 1, Manilla, Ind. 46150. Applicant's representative: Robert W. Loser II, 1009 Chamber of Commerce Building, Indianapolis, Ind. 46204. An Order of the Commission, Review Board Number 4, dated August 16, 1973, and served August 31, 1973, finds that operation by applicant, in interstate or foreign commerce, as a *contract carrier*, by motor vehicle, over irregular routes, (1) of *animal and poultry feed and feed ingredients*, from Rushville, Ind., to points in Ohio and points in Anderson, Boone, Bourbon, Bracken, Bullitt, Campbell, Carroll, Fayette, Franklin, Gallatin, Grant, Hardin, Harrison, Henry, Jefferson, Jessamine, Kenton, Larue, Marion, Mason, Mercer, Nelson, Nicholas, Oldham, Owen, Pendleton, Robertson, Scott, Shelby, Spencer, Trimble, Washington, and Woodford Counties, Ky., (2) of *dry feed ingredients* from Dayton, Ohio to Rushville, Ind., and (3) of *liquid feed ingredients*, from Cincinnati, Ohio, to Rushville, Ind., under a continuing contract or contracts with Cargill, Inc., Nutrena Feed Division, of Minneapolis, Minn., will be consistent with the public interest and the national transportation policy, subject to the condition that to the extent the authority described herein duplicates the authority now held by applicant, it shall not be construed as conferring more than a single operating right; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 138190 (REPUBLICATION) filed November 2, 1972, published in the FR issue of December 14, 1972, and republished this issue.

Applicant: DARCI TRUCKING, INC., 3137 East North Avenue, Fresno, Calif. 93725. Applicant's representative: Donald Murchison, 9454 Wilshire Boulevard, Suite 400, Beverly Hills, Calif. 90212. An Order of the Commission, Operating Rights Board, dated August 15, 1973, and served September 5, 1973, finds that operation by applicant, in interstate or foreign commerce, as a *contract carrier* by motor vehicle, over irregular routes, (1) of *aquariums, accessories,* and *supplies* (a) from Compton, Calif., to points in Arizona, Colorado, Idaho, Montana, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington, and Wyoming, and (b) between Compton, Calif., and East Paterson, N.J., and (2) *returned shipments* of aquariums, accessories, and supplies from points in the destination States in (1)(a) above to Compton, Calif., under a continuing contract with the Metaframe Corporation, of Compton, Calif., will be consistent with the public interest and the national transportation policy; that applicant is fit, willing, and able properly to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a permit in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

No. MC 138540 (REPUBLICATION) filed March 5, 1973, published in the FR issue of April 19, 1973, and republished this issue.

Applicant: BUTLER REFRIGERATED DELIVERY, INC., 609 Perry Highway, Pittsburgh, Pa. 15229. Applicant's representative: Arthur J. Diskin, 806 Frick Building, Pittsburgh, Pa. 15219. An Order of the Commission, Operating Rights Board, dated August 14, 1973, and served September 5, 1973, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, of *meats, meat products, meat byproducts,* and *articles distributed by meat packinghouses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, in vehicles equipped with mechanical refrigeration, from points in Butler County, Pa., to points in Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Fayette, Green, Indiana, Lawrence, Somerset, Washington, and Westmoreland Counties, Pa.; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. Because it is possible that other parties who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice of the authority described above, issuance of a certificate in this proceeding will be withheld for a period of 30 days from the date of this publication of the authority actually granted, during which period any proper party in interest may file an appropriate petition for intervention or other relief in this proceeding setting forth in detail the precise manner in which it has been so prejudiced.

NOTICE FOR FILING OF PETITION

No. MC 7832 (Sub-No. 16) (NOTICE OF FILING OF PETITION TO ADD AN ADDITIONAL CONTRACTING SHIPPER), filed August 29, 1973. Petitioner: SAM LOWENSTEIN AND STANLEY LOWENSTEIN, doing business as SUPER M FOODS DELIVERY, 411A N. Wood Avenue, Linden, N.J. 07036. Petitioner's representative: Bert Collins, Suite 6193, 5 World Trade Center, New York, N.Y. 10006. Petitioner presently holds a motor *contract carrier* permit in No. MC 7832 (Sub-No. 16) issued July 27, 1973, authorizing transportation, over irregular routes, of *such merchandise* as is dealt in by wholesale, retail, chain grocery, department stores, and food business houses (except commodities in bulk), and in connection therewith, *equipment, materials, and supplies* used in the conduct of such business (except commodities in bulk), between points in New Jersey, Pennsylvania, Maryland, New York, Connecticut, Rhode Island, Massachusetts, New Hampshire, Delaware, Virginia, and Washington, D.C., under a continuing contract or contracts with Food Fair Stores, Inc., of Philadelphia, Pa. By the instant petition, petitioner seeks to add Lever Brothers Company as an additional contracting shipper to the authority described above. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.





No. MC 80430 (Sub-No. 126) (NOTICE OF FILING OF PETITION FOR ELIMINATION OF A RESTRICTION), filed August 10, 1973. Petitioner: GATEWAY TRANSPORTATION CO., INC., 455 Park Plaza Drive, P.O. Box 851, La Crosse, Wis. 54601. Petitioner's representative: Drew L. Carraway, 618 Perpetual Building, Washington, D.C. 20004. Petitioner presently holds a motor *common carrier* certificate in No. MC 80430 (Sub-No. 126) issued May 20, 1969, authorizing transportation, over irregular routes, of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between Nashville, Tenn., and Atlanta, Ga., serving the intermediate and off-route points located in Davidson County, Tenn.: (1) From Nashville over U.S. Highway 41 to Atlanta, and return over the same route; and (2) from Nashville over Interstate Highway 24 to junction Interstate Highway 75, thence over Interstate Highway 75 to Atlanta and return over the same route, restricted in (1) and (2) above against the transportation of traffic originating at points within the Chicago, Ill., Commercial Zone and destined to points within the Atlanta, Ga., Commercial Zone, and against the transportation of traffic originating at points within the Atlanta, Ga., Commercial Zone and destined to points within the Chicago, Ill., Commercial Zone. By the instant petition, petitioner seeks to eliminate the above stated restriction. Any interested person or persons desiring to participate may fil ean original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 84444 (Sub-Nos. 3 and 6) (NOTICE OF FILING OF PETITION TO ADD A CONTRACTING SHIPPER), filed August 24, 1973. Petitioner: McCORMACK'S EXPRESS, a Corporation, 3rd and Winslow, Camden, N.J. 08104. Petitioner's representative: William H. McCormick (same address as petitioner). Petitioner presently holds motor contract carrier permits in No. MC 84444 (Sub-Nos. 3 and 6) issued March 11, 1966, and August 7, 1970, respectively, authorizing as pertinent, transportation over irregular routes, of in Sub-No. 3, *paperboard, wallboard, fire extinguishing materials, waste paper, licorice root, licorice mass, powdered licorice, syrup, and wood pulp* (except liquids in tank vehicles), from Camden, N.J., to points in Delaware, those in Maryland in and east of Frederick County, and those in Pennsylvania in and east of Bradford, Sullivan, Columbia, Montour, Northumberland, Dauphin, and York Counties, Pa.; *and waste paper and such supplies and equipment* as are used by a licorice and paper board manufacture (except liquids in tank vehicles), from the destination points named above, to Camden, N.J., restricted to a transportation service to be performed under a continuing contract or contracts with MacAndrews & Forbes Co., of Camden, N.J.; and in Sub-No. 6, of *paperboard, wallboard, fire extinguishing materials, waste paper, licorice root, licorice mass, powdered licorice, syrup, wood pulp, micronutrients, and supplies and equipment* used in the manufacture of licorice (except commodities in bulk, in tank vehicles), between Camden, N.J., on the one hand, and, on the other, points in Suffolk, Nassau, Orange, Westchester and Putnam Counties, N.Y., and points in Fairfield County and Weston, Conn., restricted to a transportation service to be performed under a continuing contract or contracts with MacAndrews & Forbes, of Camden, N.J. By the instant petition, petitioner seeks to add Kaiser Gypsum Co., Inc., as an additional contracting shipper to the authority described in the two permits above. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

### APPLICATION FOR CERTIFICATE OR PERMIT WHICH IS TO BE PROCESSED CONCURRENTLY WITH APPLICATION UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 121555 (Sub-No. 5), filed July 3, 1973. Applicant: PARCEL DISPATCH, INC., 305 North Senate Avenue, Indianapolis, Ind. 46204. Applicant's representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Merchandise, equipment, and supplies*, sold, used, or distributed by a manufacturer of cosmetics (except (a) glass containers; (b) enclosures for glass containers; (c) fiberboard boxes; and (d) commodities in bulk) between Cincinnati, Ohio, on the one hand, and, on the other, points in Indiana.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. This instant application is a matter directly related to the purchase proceeding in MC-F-11927, published in the FEDERAL REGISTER issue of July 19, 1973. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Washington, D.C.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's Special Rules governing notice of filing of applications by motor carriers of property or passengers under Sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

No. MC-F-11920. (Correction) (YALE TRANSPORT CORP.—PURCHASE—JOSEPH LUCARELLI, TRUSTEE FOR TRIPLE "M" TRANSPORT CO.), published in the July 11, 1973, issue of the FEDERAL REGISTER on page 18509. Prior notice should have included the following states that vendee is authorized to operate in: Rhode Island, New York, New Jersey, Florida, Delaware, Pennsylvania, and the District of Columbia.

No. MC-F-11975. Authority sought for purchase by FOOD TRANSPORT, INC., P.O. Box 1041, York, PA 17405, of the operating rights of KENNETH E. ALLISON, Hungerford (York County), PA 17361, and for acquisition by STEWARD LLOYD, 2100 Pleasant View Drive, York, PA 17402, and PAUL HIVELY, 287 Dew Drop Road, York, PA 17402, of control of such rights through the purchase. Applicants' attorney: CHRISTIAN V. GRAF, 407 North Front Street, Harrisburg, PA 17101. Operating rights sought to be transferred: *Soybean meal, linseed meal, alfalfa meal, corn gluten feed, corn gluten meal, hominy feed, distillers byproducts, feed grade urea, wheat midds,* and *wheat bran,* as a *common carrier,* over irregular routes, from Frankfort and Indianapolis, Ind., Decatur, Ill., Fostoria and Bellevue, Ohio, and Lair, Ky., to points in New Castle County, Del., points in Cecil, Harford, Baltimore, and Carroll Counties, Md., and that part of Frederick County, Md., on and east of a line beginning at the Maryland-Virginia State line near Tuscarora, Md., and extending along an unnumbered highway to junction U.S. Highway 15, thence along U.S. Highway 15 to junction Maryland Highway 26, thence along Maryland Highway 26 to junction Maryland Highway 194, and thence along Maryland Highway 194 to the Maryland-Pennsylvania State Line near Littlestown, Pa., and points in that part of Pennsylvania on, east and south of a line beginning at the Maryland-Pennsylvania State line near Littlestown, Pa., and extending along Pennsylvania Highway 194 to junction U.S. Highway 15, thence along U.S. Highway 15 to junction Interstate Highway 80, and thence along Interstate Highway 80 to the Pennsylvania-New Jersey State line near Stroudsburg, Pa., *Fertilizer,* from Baltimore, Md., to points and places in York, Adams and Franklin Counties, Pa., *Feeds,* from Lewes, Del., to points in York, Adams and Franklin Counties, Pa., *Waste paper,* from New York, N.Y., to Bently Springs, and Freeland, Md., and points and places in



V 38-176 SEP 12 73 XUM

Maryland within one and one-half miles of Freeland, *Paper*, from Bently Springs, and Freeland, Md., and points and places in Maryland within one and one-half miles of Freeland to New York, N.Y., *Canned foods*, from Hungerford, Pa., to certain specified points in Connecticut, Mass., Mich., Indianapolis, and Gary, Indiana, and Chicago, Ill., *Raw onions*, from Zooland, Mich., and points within 50 miles of Zooland, to Hungerford, Pa., *Paper*, from Freeland, Md., and points within one and one-half miles of Freeland, to certain specified points in New Jersey, and Pennsylvania, *Waste paper*, from certain specified points in New Jersey, Pennsylvania, to Freeland, Md., and points within one and one-half miles of Freeland, *Empty containers and closures*, from Baltimore, Md., to Hungerford and New Freedom, Pa., Vendee is authorized to operate as a *common carrier* in Pennsylvania, Florida, Maryland, Alabama, Georgia, New Jersey, Louisiana, New York, Mississippi, Texas, West Virginia, Virginia, Delaware, District of Columbia, Arkansas, Kentucky, Tennessee, Rhode Island, Connecticut, Massachusetts, North Carolina, Ohio, and South Carolina. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11977. Authority sought for control by CHEMICAL EXPRESS COMPANY, 1200 Simons Bldg., Dallas, TX 75201, of ATLAS TRUCK LINE, INC., P.O. Box 9848, Houston, TX 77015, and for acquisition by A. POLLARD SIMONS, AND HERMAN J. RUPPEL, both of Dallas, TX 75201, AND CURTIS W. MEWBOURNE, 330 Citizens Bank Bldg., Tyler, TX 75701, of control of ATLAS TRUCK LINE, INC., through the acquisition by CHEMICAL EXPRESS COMPANY. Applicants' attorneys: Leroy Hallman, 4555 First Nat'l. Bank Bldg., Dallas, TX 75202, and J. Philip Wandel, 745 Memorial Professional Bldg., 1010 Louisiana, Houston, TX 77002. Operating rights sought to be controlled: *Machinery, equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas, and etc., as a *common carrier* over irregular routes, between points in Arkansas, Louisiana, Mississippi, Oklahoma, and Texas, between points in Kansas and Oklahoma, between Forth Worth, Tex., and points in Texas within 250 miles of Fort Worth, on the one hand, and, on the other, points in Lea and Eddy Counties, N. Mex., between Houston, Tex., on the one hand, and, on the other, points in Louisiana, from Houston, Tex., to points in Texas, between points in Oklahoma, on the one hand, and, on the other, certain specified points in North Dakota, and South Dakota, between points in Kansas, Oklahoma, and Texas, between points in Arkansas, Louisiana, Mississippi, and Texas, between points in Arkansas, Louisiana, Mississippi, Oklahoma and Texas, between points in Kansas and Oklahoma, between points in Texas, on the one hand, and, on the other, points in Colorado, Wyoming, Utah and Montana, between points in Oklahoma, on the one hand, and, on the other, certain specified points in North Dakota, between points in Kansas, Oklahoma and Texas, between points in Arkansas, Louisiana, Mississippi, and Texas, between points in Arkansas, Louisiana, Oklahoma, and Texas, between points in Kansas, Oklahoma, and Texas, between points in Texas, on the one hand, and, on the other, points in Colorado, Wyoming, Utah, and Montana, with restriction; *pipe*, other than pipe used in, or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and etc., from Lone Star and Bond, Tex., to points in Arkansas, Kansas, Louisiana, Mississippi, Oklahoma, and Texas, from Lone Star and Bond, Tex., to points in Alabama (except Mobile and points in the commercial zone thereof as defined by the Commission), Georgia, Florida, and Tennessee (except Memphis and points in the commercial zone thereof as defined by the Commission); *pipe* other than oilfield pipe as described in "Mercer Extension," 74 M.C.C. 459, from the plant sites and warehouse facilities of Jones & Laughlin Steel Corporation, at or near Gainesville, Tex., to points in Arkansas, Louisiana, Missouri, Oklahoma, and Texas, with restriction; *structural steel, metal castings, reinforcing rods, and machinery, materials, supplies,* and *equipment* incidental to, or used in, the construction, development, operation, and maintenance of facilities for the discovery, development, and production of natural gas and petroleum, between Fort Worth, Tex., and points in Texas within 250 miles of Ft. Worth, on the one hand, and, on the other, certain specified points in Oklahoma, Louisiana, and Arkansas; *structural steel, metal castings,* and *reinforcing rods*, between Ft. Worth, Tex., and points in Texas within 250 miles of Ft. Worth, Tex., on the one hand, and, on the other, those in Lea and Eddy Counties, N. Mex.; *oilfield equipment*, between Ft. Worth, Tex., on the one hand, and, on the other, oilwell; *electrical transformers and electrical transformer coils* and *cases*, between points in Texas, Arkansas, and Louisiana within 125 miles of Texarkana; *steel water tanks*, and *materials* and *supplies* used in the construction of steel water tanks, between points in Texas, Oklahoma, Louisiana, Arkansas and New Mexico; *liquefied gas tanks, gasoline tanks* and *machinery*, minimum weight 10,000 lbs. for each tank or machine, between points in Texas, on the one hand, and, on the other, points in Louisiana, Arkansas, and Mississippi; *earth drilling machinery* and *equipment*, and *machinery, equipment, materials, supplies* and *pipe* incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b) the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, between points in Arkansas, Louisiana, Mississippi, and Texas, between points in Kansas, Oklahoma, and Texas, between points in Arkansas, Louisiana, Mississippi, Oklahoma, and Texas, between points in Kansas and Oklahoma, between points in Texas, on the one hand, and, on the other, points in Colorado, Wyoming, Utah, and Montana, between points in Oklahoma, on the one hand, and, on the other, points in North Dakota, on the west of North Dakota Highway 30, and those points in South Dakota, west of the Missouri River, and on the North of U.S. Highway 14; *cement-asbestos pipe and fittings and couplings* therefor when transported in the same vehicle therewith, except when such pipe fittings and couplings are intended for use in pipelines for the transmission of gas, petroleum, and petroleum products, from Hillsboro, Tex., to points in Arkansas, Colorado, Kansas, Louisiana, Mississippi, New Mexico, and Oklahoma, with restriction; *cement asbestos pipe and plastic pipe*, from the plant site of Cement Asbestos Products Company, subsides of Woodward Company, at Van Buren, Ark., to points in Alabama, Colorado, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Montana, Nebraska, New Mexico, North Dakota, Missouri, Oklahoma, South Dakota, Tennessee, Texas, Utah, and Wyoming; *tubing, other than oilfield tubing*, from the plant site of Gulf States Tube Corporation at Rosenburg, Tex., to points in Arkansas, Louisiana, Mississippi, New Mexico, Oklahoma, and Texas. CHEMICAL EXPRESS COMPANY holds no authority from this Commission. However, it is affiliated with (1) CHEMICAL EXPRESS CARRIERS, INC., (2) QUALITY TRANSPORT, INC., AND (3) CEMENT TRANSPORTS, INC., all of 1200 Simons Bldg., Dallas, TX 75201, which are authorized to operate as *common carriers* in (1) Texas, New Mexico, Arkansas, Louisiana, Oklahoma, Colorado, Kansas, Alabama, Mississippi, Missouri, North Carolina, South Carolina, Wisconsin, Florida, Nebraska, Tennessee, Arizona, Utah, Georgia, Illinois, Indiana, Ohio, Kentucky Michigan, New Jersey, and Pennsylvania, (2) Louisiana, Florida, Alabama, and Mississippi, and (3) Texas, New Mexico, and Oklahoma. Application has not been filed for temporary authority under section 210a(b).

MC–F–11978. Authority sought for purchase by SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, Va. 24401, of a portion of the operating rights and property of FRED OLSON MOTOR SERVICE COMPANY, 6022 West State Street, Milwaukee, Wi. 53213, and for acquisition by R. R. SMITH, and R. P. HARRISON, P.O. Box 1000, Staunton, Va. 24401, of control of such rights through the purchase. Applicant's attorney: DAVID G. MACDONALD, Suite 502, Solar Building, 1000 16th Street NW., Washington, D.C. 20036. Operating rights sought to be transferred: *General commodities*, as a *common carrier* over regular routes with exceptions, between Chicago, Ill., and Milwaukee, Wis., serving all intermediate points, and off-route points in Cook and Lake Counties, Ill., and Milwaukee County, Wis., over one alternate route for operating convenience only. *General commodities* as a *common carrier* over irregular routes with exceptions between certain specified points in Illinois, Indiana, and Wisconsin, between Chicago, Ill., on the one hand, and, on the other, Indiana points indicated in the Chicago, Ill., Commercial Zone as defined by the Commission, between points in the Chicago, Ill., Commercial Zone and defined by the Commission, on the one hand, and, on the other, points in Cook, Lake, McHenry, DeKalb, Kane, DuPage, Kendall, Will, Grundy, and Kenkakee Counties, Ill., Vendee is authorized to operate as a *common carrier* in Virginia, West Virginia, Kentucky, South Carolina, North Carolina, New York, Pennsylvania, New Jersey, Maryland, Massachusetts, Connecticut, Rhode Island, Maine, New Hampshire, Vermont, Delaware, Indiana, Tennessee, Georgia, Illinois, Ohio, Missouri, Michigan, Kansas, Wisconsin, Minnesota, and the District of Columbia. Application has been filed for temporary authority under Section 210a(b).

MC–F–11979. Authority sought for purchase by MARTY'S EXPRESS, INC., 2335 Wheatsheaf Lane, Philadelphia, Pa. 19137, of a portion of the operating rights of THE MUSHROOM TRANSPORTATION COMPANY, INC., 845 E. Hunting Park Avenue, Philadelphia, Pa. 19124, and for acquisition by MARTIN MARANO, SR., 2335 Wheatsheaf Lane, Phila., Pa. 19137, of control of such rights through the purchase. Applicant's attorney: RONALD ERVAIS, 2520 PSFS Building, 12 S. 12th St., Phila., Pa. 19107. Operating rights sought to be transferred: *General commodities*, with exceptions as a *common carrier* over regular routes, between Lancaster, Pa., and Camden, N.J., serving all intermediate points, and the off-route point of Pomeroy, Pa.: from Lancaster over U.S. Highway 30 to junction Business Route U.S. Highway 30, thence over Business Route U.S. Highway 30 to junction U.S. Highway 30, thence over U.S. Highway 30 to Camden, and return over the same route. Vendee is authorized to operate as a *common carrier* in Pennsylvania, New Jersey, Delaware, and New York. Application has not been filed for temporary authority under section 210a(b).

No. MC–F–11980. Authority sought for purchase by COMMODORE CARTAGE COMPANY, 4930 Stecker Ave., Dearborn, Mich. 48126, of the operating rights of ALLIED INDUSTRIAL CONTRACTORS, INC., 300 E. Seven Miles Rd., Detroit, Mich. 48203, and for acquisition by SANTO MILITELLO, 20925 Austin Dr., Warren, Mich., and JOHN QUINN, JR., 25459 Elon Dr., Dearborn Heights, Mich., of control of such rights through the purchase. Applicants' attorneys: William B. Elmer, 21635 E. Nine Mile Rd., St. Clair Shores, Mich. 48080, and Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, Mich. 48226. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC–66585 (Sub-No. 6), covering the transportation of property, as a common carrier, in interstate commerce, within the State of Michigan. Vendee holds no authority from this Commission. However, it is affiliated with ALLIED DELIVERY SYSTEM, INC., 2201 Fenkell Ave., Detroit, Mich. 48238, which is authorized to operate as a common carrier in Michigan. Application has been filed for temporary authority under section 210a(b).

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-19406 Filed 9-11-73;8:45 am]





[Notice No. 350]

## MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR, Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on before October 20, 1973. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–74146. By order of September 6, 1973, the Motor Carrier Board approved the transfer to Balvanz Trucking Co., Hubbard, Iowa, of Permit No. MC 119784 issued to Bestway, Inc., Farmington, Minn., authorizing the transportation of: Linseed meal and screenings, in bags and in bulk, between specified points and areas in Minnesota, Iowa, and Nebraska. Robert R. Rydell, Attorney, 900 Savings and Loan, Des Moines, Iowa 50309.

No. MC–FC–74648. By order of September 6, 1973, the Motor Carrier Board approved the transfer to Moore Transportation Co., Inc., Fort Worth, Tex., of the Certificate in No. MC–106676 and the Certificate of Registration in No. MC–106676 (Sub-No. 2) both issued September 18, 1970, to Orval Hall Trucking Co., A Corporation, Fort Worth, Tex., and acquired by Don Moore, Doing Business As Moore Transportation Company, Fort Worth, Tex., pursuant to order in MC–FC–73577, and operated by transferee herein pursuant to lease approved in MC–FC–35446, the former authorizing the transportation of machinery, materials, supplies, and equipment, incidental to, or used in the gas and petroleum industry, between and over specified routes to Uvalde, Houston, and Freeport, Tex., including points on the indicated portions of the highways specified, and the latter evidencing a right of the holder to engage in transportation in interstate or foreign commerce as described in Certificate No. 5051, dated November 18, 1954, transferred and reissued April 9, 1970, by the Railroad Commission of Texas. James W. Hightower, 136 Wynnwood Bldg., Dallas, Tex. 75224, Attorney for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-19415 Filed 9-11-73;8:45 am]

[Ex Parte No. MC–43]

## O.N.C. FREIGHT SYSTEMS ET AL.

### Lease and Interchange of Vehicles by Motor Carriers

*Order.*—At a session of the Interstate Commerce Commission, Motor Carrier Leasing Board, held at its office in Washington, D.C., on the 22d day of August 1973.

It appearing, that a petition has been filed by O.N.C. Freight Systems (MC–71459) Cashinere Transfer Co., Inc. (MC–121534) and Northwest Motor Freight Co., Inc. (MC–105937), under temporary common control, for waiver of paragraphs (a) (3) and (c) of § 1057.4 of the Lease and Interchange of Vehicles Regulations (49 CFR 1057) concerning equipment leased between petitioners;

It further appearing, that the motor carrier safety records of petitioners Cashmere Transfer Co., Inc. and Northwest Motor Freight Co., are such that the U.S. Department of Transportation recommends denial of the petition until there is substantial data that both are in satisfactory compliance with the motor carrier safety regulations;

It further appearing, that the financial and operational problems that have beset petitioners, Cashmere and Northwest, are in the process of being removed by the controlling petitioner O.N.C. and that the latter petitioner has replaced the defective equipment of the former petitioners and has instituted a safety program which includes safety meetings held throughout the entire system;

And it further appearing, that because of the efforts by petitioner O.N.C. to correct the situation with some immediate apparent success and with the assurances of substantial continued compliance and improvement;

*It is ordered*, That the waiver of paragraphs (a) (3) and (c) of section 1057.4



V 38 N 176 SEP 12 73 XUM

as set forth in the first paragraph of this order, be, and it is hereby granted, provided that the equipment is inspected on the day it is to be leased and found to meet the requirements of the safety regulations of the U.S. Department of Transportation and that petitioners remain in satisfactory compliance with those regulations and under common control.

By the Commission, Motor Carrier Leasing Board.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-19407 Filed 9-11-73;8:45 am]

[Ex Parte No. 295]

## PUGET SOUND TRAFFIC ASSOCIATION

### Increased Freight Rates and Charges, 1973, Nationwide

*Order.*—At a session of the Interstate Commerce Commission, Division 2, held at its office in Washington, D.C., on the 6th day of September 1973.

Upon consideration of the record in the above-entitled proceeding, including a request of Puget Sound Traffic Association, filed August 27, 1973, for oral hearing for the purpose of cross-examination of certain railroad witnesses who submitted verified statements herein, and good cause appearing therefor:

*It is ordered*, That this proceeding be, and it is hereby, referred to Administrative Law Judge Janice M. Rosenak for hearing commencing on September 24, 1973, at 9:30 a.m., District of Columbia Daylight Savings Time, at the office of the Interstate Commerce Commission, Washington, D.C., for the purpose of cross-examination of witnesses submitting verified statements on behalf of the respondents.

*It is further ordered*, That, not later than September 18, 1973, parties desiring to participate shall specify which witnesses they intend to cross-examine by notice, sent via first-class mail, to the Commission and to respondents at the following address: James L. Tapley, Esq., American Railroads Building, 1920 L Street NW., Washington, D.C. 20036.

*And it is further ordered*, That notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of Federal Register.

By the Commission, Division 2.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-19410 Filed 9-11-73;8:45 am]

[No. MC-128273 (Sub-No. 127)]

## SCHNEIDER TRANSPORT, INC., AND EAST TEXAS MOTOR FREIGHT LINES, INC.

### Midwestern Express, Inc., Extension—Ripon, Calif.

*Order.*—At a session of the Interstate Commerce Commission, Division 1, Acting as an Appellate Division, held at its office in Washington, D.C., on the 27th day of August 1973.

Upon consideration of the record in the above-entitled proceeding, and of:

(1) Petition of Schneider Transport, Inc., protestant, filed May 18, 1973, for reconsideration;

(2) Petition of East Texas Motor Freight Lines, Inc., protestant, filed May 24, 1973, for reconsideration;

(3) Reply by applicant, filed June 13, 1973;

It appearing, that by report and order of March 13, 1973, in the above-entitled proceeding, the Commission, Review Board Number 2, (a) concluded that imposition of a tacking restriction in the proceeding was unwarranted, and (b) granted authority to applicant as requested in the application;

It further appearing, that the application as published in the FEDERAL REGISTER of April 3, 1972, stated that the requested authority could not be tacked with applicant's existing authority;

It further appearing, that the FEDERAL REGISTER notice of April 3, 1972, in this matter was incorrect in that the authority granted in this proceeding can in fact be tacked with applicant's existing authority, so as to permit a through service by applicant, from, to, or between points not included in the application;

It further appearing, that because it is possible that other persons, who have relied upon the notice of the application as published, may have an interest in and would be prejudiced by the lack of proper notice that the authority granted in this proceeding can be tacked with applicant's outstanding authority, a notice of the authority actually granted will be published in the FEDERAL REGISTER and issuance of a certificate will be withheld for a period of 30 days from the date of such publication, during which period any person with a proper interest may file an appropriate petition for leave to intervene in this proceeding setting forth in detail the precise manner in which he has been so prejudiced; and good cause appearing therefor:

*It is ordered*, That notice of the authority granted in this proceeding be published in the FEDERAL REGISTER.

*It is further ordered*, That the petitions be, and they are hereby, denied, for the reason that the findings of Review Board Number 2 are in accordance with the evidence and the applicable law, and that no sufficient or proper cause appears for reopening the proceeding for reconsideration or for granting any of the other relief sought.

*It is further ordered*, That unless compliance is made by applicant with the requirements of sections 215, 217, and 221 (c) of the Interstate Commerce Act, within 90 days after the date of service of this order, or within such additional time as may be authorized by the Commission, the grant of authority shall be considered as null and void, and the application shall stand denied in its entirety effective upon the expiration of the said compliance time.

By the Commission, Division 1, Acting as an Appellate Division.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-19409 Filed 9-11-73;8:45 am]





## CUMULATIVE LISTS OF PARTS AFFECTED—SEPTEMBER

**The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during September.**


1 CFR — Page
CFR checklist 23771

3 CFR
PROCLAMATIONS:
4239 24191
4240 24193
4241 24881
EXECUTIVE ORDERS:
11359 (superseded by 17737) 24883
11608 (superseded by E.O. 11738) 25161
11635 (superseded by 11737) 24883
11659 (amended by 11737) 24883
11737 24883
11738 25161

4 CFR
400 24195
405 24195
PROPOSED RULES:
331 23971
351 23971
400 23971
401 23971
402 23971
403 23971
404 23971

5 CFR
213 24344, 24885, 25165

6 CFR
150 24213
140 24214
150 23794, 23931, 24214, 24885
152 23794, 24214
155 24885
PROPOSED RULES:
Ch. I 24917
152 23806, 24219, 24667

7 CFR
2 24633
51 23931
52 24344, 25165
250 24633
354 23934
725 23935
908 24215
910 24345, 24890
928 24345
930 24890
932 24215
991 23771
1001 24216
1002 24216
1004 24216
1006 24216
1007 24216
1011 24216
1012 24216
1013 24215
1015 24216
1030 24216
1033 24216
1036 24216
1040 24216
1044 24216

7 CFR—Continued — Page
1046 24216
1049 24216
1050 24216
1060 24216
1061 24216
1062 24216
1063 24216
1064 24216
1065 24216
1068 24216
1069 24216
1070 24216
1071 24216
1073 24216
1075 24216
1076 24216
1078 24216
1079 24216
1090 24216
1094 24216
1096 24216
1097 24216
1098 24216
1099 24216
1101 24216
1102 24216
1106 24216
1108 24216
1120 24216
1121 24216
1124 24216
1125 24216
1126 24216
1127 24216
1128 24216
1129 24216
1130 24216
1131 24216
1132 24216
1133 24216
1134 24216
1136 24216
1137 24216
1138 24216
1139 24216
1421 23935, 24634
1430 23939
1866 24346
PROPOSED RULES:
26 23955, 25186
52 24654, 24904, 24907, 24910
722 24911
932 24910
981 24911
1007 25024
1030 23796
1050 25186
1071 25024
1073 24654, 25024
1090 25024
1094 25024
1096 25024, 29190
1097 25024
1098 25024
1102 25024
1104 25282
1106 25282
1108 25024

7 CFR—Continued — Page
PROPOSED RULES—Continued
1120 25282
1126 25282
1127 25282
1128 25282
1129 25282
1130 25282
1131 25282
1132 25282
1138 25282
1701 24660

8 CFR
214 24891
238 24891

9 CFR
73 24346
[illegible] 23940
[illegible] 24891
[illegible] 23940
319 24640
PROPOSED RULES:
94 24219
102 23957
104 23957
381 24374

10 CFR
110 23953

12 CFR
201 23772
526 23940
545 24200
546 24201
563 24202
PROPOSED RULES:
545 24223

13 CFR
PROPOSED RULES:
107 24028

14 CFR
39 23941, 24347, 24349, 24640, 24641, 25170
71 23941, 23942, 24204, 24350, 24641, 24892, 25171
75 24204, 25171
91 24893
95 24893
97 24350
208 24642
241 24351
302 24894
389 24895
288 23772
399 23777, 24642
PROPOSED RULES:
39 23962
61 23962
71 23804, 23969, 24222, 24914, 25195
75 23804
121 23962
Ch. II 24660
221 23804
241 24223, 24661




V 38-176 SEP 12 73 XUM

14 CFR—Continued
PROPOSED RULES—Continued
298 ... 23805, 24662
372a ... 24664
389 ... 24662

15 CFR
8 ... 23777
376 ... 23777
377 ... 25184

16 CFR
13 ... 24352, 24353, 24634
PROPOSED RULES:
1700 ... 25195

17 CFR
211 ... 24635
231 ... 24635
241 ... 24635
251 ... 24635
271 ... 24635
PROPOSED RULES:
230 ... 24668

19 CFR
Ch. I ... 25171
1 ... 24354, 25171
4 ... 24354
PROPOSED RULES:
1 ... 24374, 25185
24 ... 23954
141 ... 23954

20 CFR
PROPOSED RULES:
405 ... 23802

21 CFR
8 ... 24643
9 ... 24206
121 ... 24354, 24643
135 ... 23942
135b ... 24355, 24643, 24895
135c ... 24355, 24644
PROPOSED RULES:
10 ... 25195
121 ... 24374, 24375
130 ... 24220

23 CFR
PROPOSED RULES:
770 ... 23969

24 CFR
42 ... 25172
203 ... 24637
205 ... 24637, 24896
207 ... 24637
213 ... 24637
220 ... 24637
221 ... 24637
232 ... 24637
234 ... 24637
235 ... 24638
236 ... 24638
241 ... 24638
242 ... 24638
244 ... 24638, 24896
1700 ... 23866
1710 ... 23866
1715 ... 23873
1720 ... 23874
1914 ... 23943–23945, 24355–24357
1915 ... 24358, 24360

24 CFR—Continued
PROPOSED RULES:
20 ... 24222
201 ... 23803

25 CFR
141 ... 24638
256 ... 23945
PROPOSED RULES:
221 ... 23954, 23955

26 CFR
1 ... 24206

29 CFR
1907 ... 25150
1952 ... 24896, 25172
1953 ... 24361
PROPOSED RULES:
1910 ... 24300, 24375

30 CFR
57 ... 23781
PROPOSED RULES:
504 ... 24024

31 CFR
91 ... 94897
315 ... 24762
605 ... 24898

32 CFR
809 ... 23945
1285 ... 24206
1453 ... 24210

32A CFR
Ch. IV:
BP Notice 1 ... 25175
Ch. XIII:
EPO Reg. 3 ... 23977

33 CFR
127 ... 24898
207 ... 25176
401 ... 24210
PROPOSED RULES:
117 ... 24912–24914
127 ... 23804

36 CFR
50 ... 24218
221 ... 23948
PROPOSED RULES:
7 ... 23796, 24912, 25185

38 CFR
1 ... 24364
2 ... 24366
17 ... 24366
21 ... 23948

39 CFR
3000 ... 24898
3001 ... 24898

40 CFR
35 ... 24639
52 ... 24333
129 ... 24342
180 ... 23781
PROPOSED RULES:
52 ... 23805
180 ... 23806, 24667, 24918
411 ... 24462

40 CFR—Continued
PROPOSED RULES—Continued
412 ... 24466
422 ... 24470

41 CFR
1-1 ... 24210
1-9 ... 23782
1-18 ... 23791
3-16 ... 24644
114-50 ... 24649

43 CFR
4 ... 23948
3830 ... 24650
4710 ... 24650

45 CFR
909 ... 24900
PROPOSED RULES:
221 ... 24872
233 ... 23802
903 ... 23912

46 CFR
PROPOSED RULES:
146 ... 23959
542 ... 23979
538 ... 24228

47 CFR
0 ... 24900
2 ... 24901, 25180
23 ... 24901
75 ... 24367
81 ... 24211, 25180
83 ... 24368, 25180
89 ... 24901
91 ... 25182
93 ... 24901
97 ... 24211
PROPOSED RULES:
61 ... 24920
83 ... 25196

49 CFR
1 ... 24901, 24902
170 ... 23791
171 ... 23792
172 ... 23792
177 ... 23792
178 ... 23792
393 ... 25182
570 ... 23949
1033 ... 23792, 23793, 23952, 24212, 24902, 25183
1048 ... 24368
1115 ... 23953, 24903
1121 ... 24902
PROPOSED RULES:
172 ... 24915
173 ... 24915
393 ... 24223
542 ... 23979
571 ... 23804
1057 ... 24228
1131 ... 23979

50 CFR
20 ... 23793
32 ... 23793, 23794, 24212, 24369–24373, 24650–24652, 25183
PROPOSED RULES:
21 ... 23796





## FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

| Pages | Date |
|---|---|
| 23765–23922 | Sept. 4 |
| 23923–24184 | 5 |
| 24185–24326 | 6 |
| 24327–24625 | 7 |
| 24627–24874 | 10 |
| 24875–25154 | 11 |
| 25155–25420 | 12 |



V 38 - 176 SEP 12 73 XUM

federal register

WEDNESDAY, SEPTEMBER 12, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 176

PART II




# DEPARTMENT OF AGRICULTURE

## Agricultural Marketing Service

■

## MILK IN RED RIVER VALLEY AND CERTAIN OTHER MARKETING AREAS

No. 176—Pt. II——1

V 38-176 SEP 12 73 XUM

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

[ 7 CFR Parts 1104, 1106, 1120, 1126, 1127, 1128, 1129, 1130, 1131, 1132, 1138 ]

[Dockets Nos. AO–298–A19, etc.]

### MILK IN RED RIVER VALLEY AND CERTAIN OTHER MARKETING AREAS

### Notice of Revised Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders

| 7 CFR part | Marketing area | Docket No. |
|---|---|---|
| | GROUP II | |
| 1104 | Red River Valley | AO–298–A19. |
| 1106 | Oklahoma Metropolitan | AO–210–A31. |
| 1120 | Lubbock-Plainview, Tex. | AO–328–A13. |
| 1126 | North Texas | AO–231–A37. |
| 1127 | San Antonio, Tex. | AO–232–A23. |
| 1128 | Central West Tex. | AO–238–A26. |
| 1129 | Austin-Waco, Tex. | AO–256–A19. |
| 1130 | Corpus Christi, Tex. | AO–259–A23. |
| 1131 | Central Arizona | AO–271–A15. |
| 1132 | Texas Panhandle | AO–262–A22. |
| 1138 | Rio Grande Valley | AO–335–A18. |

Notice is hereby given of the filing with the Hearing Clerk of this revised recommended decision with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the aforesaid marketing areas.

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by October 15, 1973. Seventeen copies of the exceptions should be filed. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

#### PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreements and to the orders as amended were formulated was conducted at Atlanta, Ga., on October 18–20, 1971, at Dallas, Tex., on November 9 and 10, 1971, and at Bloomington, Minn., on November 16–18, 1971, pursuant to notice thereof which was issued October 4, 1971 (36 F.R. 19604).

This hearing was a single proceeding on proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in 33 marketing areas. In addition to those listed at the beginning of this document, such marketing areas include the following:

GROUP I

| | |
|---|---|
| Georgia | Memphis, Tenn. |
| Neosho Valley | Nashville, Tenn. |
| Wichita, Kans. | Fort Smith, Ark. |
| Chattanooga, Tenn. | Central Arkansas |
| New Orleans, La. | |
| Northern Louisiana | |

GROUP III

| | |
|---|---|
| Minnesota-North Dakota | Minneapolis-St. Paul, Minn. |
| Southeastern Minnesota-Northern Iowa | Duluth-Superior |
| Quad Cities-Dubuque | Cedar Rapids-Iowa City |
| Greater Kansas City | Eastern South Dakota |
| Nebraska-Western Iowa | North Central Iowa |
| | Des Moines, Iowa |

The hearing notice also included the Mississippi order (Part 1103), which was later included in the recommended decision with the "Group I" orders. The Mississippi order was terminated at midnight, April 30, 1973 (38 FR 8748), at which time it ceased to be a part of this proceeding.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on August 28, 1972, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

Because of its length, and to facilitate its distribution to interested parties, the recommended decision was published in the FEDERAL REGISTER in the form of three separate documents. Each document contained the proposed amendments for the group of 11 orders listed at the beginning of such document and, for the convenience of interested parties, an identical set of findings and conclusions. These documents were published on the following dates: Group I orders—September 16, 1972 (37 FR 18984); Group II orders—September 19, 1972 (37 FR 19210); and Group III orders—September 20, 1972 (37 FR 19482).

On the basis of exceptions to the recommended decision, a number of changes in the findings and conclusions of that decision concerning the classification and pricing of milk in certain uses are appropriate. Because such changes are substantive, a revised recommended decision is being issued with an opportunity to submit exceptions thereto.

The publication procedure used for the August 28, 1972, recommended decision is again being used in the case of this revised recommended decision. The three documents constitute, however, a single revised recommended decision under this proceeding.

The material issues, findings and conclusions, rulings, and general findings of the August 28, 1972, recommended decision are set forth in full herein, subject to the following modifications. The modifications noted do not include those where the reference to "33" orders or markets was changed to "32" orders or markets because of the termination of the Mississippi order.

1. Under the heading "*General setting of the hearing.*", paragraphs 1, 3, and 6 are changed.

2. Under the heading "1. *Application of a uniform milk classification plan in the 33 markets.*", paragraphs 1 and 9 are changed, and a new paragraph is added after the last paragraph.

3. Under the heading "2. *Revision of the present Class I classification.*", paragraphs 8, 9, 11, and 14 are changed, and the 28th paragraph is deleted and three new paragraphs are substituted therefor.

4. Under the heading "3. *Classification and pricing of milk not needed for Class I use.*", the entire discussion is changed.

5. Under the subheading "(a) *Other source milk definition.*", a new paragraph is added immediately after paragraph 7, and paragraph 8 is changed.

6. Under the subheading "(b) *Accounting for nonfat milk solids added to milk and milk products.*", the last paragraph is changed.

6a. Under the subheading "(c) *Classification of milk transferred or diverted to other plants.*", paragraph 12 is changed.

7. Under the subheading "(d) *Classification of end-of-month inventory.*", paragraphs 3 and 12 are changed.

8. Under the subheading "(e) *Classification of shrinkage, milk dumped and milk disposed of for animal feed.*", paragraphs 3–5, 8, 9, 15, and 19 are changed.

9. Under the subheading "(f) *Allocation of receipts to utilization.*", paragraph 7 is deleted, and paragraphs 9, 17, and 19 are changed.

10. Under the heading "5. *Changing the butterfat differentials.*", paragraphs 3–5, 8, 9, 12, 15, 16, and 18 are changed.

11. Under the heading "6. *Advance announcement of prices for surplus milk.*", paragraphs 3 and 4 are changed.

12. Under the heading "7. *Treatment of filled milk under the Minneapolis-St. Paul and Southeastern Minnesota-Northern Iowa orders.*", paragraph 11 is deleted.

The material issues on the record of the hearing relate to:

1. Application of a uniform milk classification plan in the 32 markets;

2. Revision of the present Class I classification;

3. Classification and pricing of milk not needed for Class I use;

4. Miscellaneous classification and accounting changes:

(a) Other source milk definition;

(b) Accounting for nonfat milk solids added to milk and milk products;

(c) Classification of milk transferred or diverted to other plants;

(d) Classification of end-of-month inventory;

(e) Classification of shrinkage, milk dumped and milk disposed of for animal feed;

(f) Allocation of receipts to utilization;

(g) Obligations relative to other source milk; and

(h) Reports;

5. Changing the butterfat differentials;





6. Advance announcement of prices for surplus milk;

7. Treatment of filled milk under the Minneapolis-St. Paul and Southeastern Minnesota-Northern Iowa orders; and

8. A uniform "equivalent price" provision.

*General setting of the hearing.* This hearing is the second of two regional hearings on the proposed use of a uniform plan for classifying milk for pricing purposes under Federal milk orders. The first hearing, which was held at Clayton, Mo., on July 14–22, 1970, was for seven midwestern markets. A recommended decision based on the seven-market hearing was issued on June 4, 1971, and exceptions have been filed. A revised recommended decision for the seven markets is being issued concurrently with this revised recommended decision.

Prior to the first hearing, the National Milk Producers Federation, an organization of cooperative associations of dairy farmers and federations of such cooperative associations, undertook the development of a uniform milk classification plan for use under milk orders. Guidelines were formulated for use by member organizations in the drafting of specific classification proposals for consideration at public hearings.

Using these guidelines as a basis for their proposals, several cooperative associations petitioned the Department for a hearing on proposals relating to the classification and pricing of milk in seven midwestern markets. After the hearing and issuance of a recommended decision, these cooperatives, along with other producer groups, requested a similar hearing for an additional 33 markets. The order for one of these markets (Mississippi) has since been terminated, and further reference to this group of markets will be in terms of the remaining 32 markets. The two hearings together involve a group of 39 markets located throughout the central part of the United States.

As in the case of the seven markets, the main thrust of the cooperatives' proposals for the 32 markets was the proposed use of an identical classification plan under each of the orders. As proposed, the new plan would have three classes of utilization rather than the two classes now provided in most of these orders. The present Class II classification would be redesignated as Class III and a new Class II classification, which would include various milk products now in Class I and Class II, would be established.

Corollary pricing proposals by the cooperatives would provide that the new Class II price under all but the Central Arizona order be the Minnesota-Wisconsin price plus an amount ranging from 10 to 20 cents, depending on the order involved. Prices would increase generally from north to south. For the Central Arizona order, which now has three classes, local producers proposed retention of the Class II price now in effect (a butter-nonfat dry milk formula price plus 25 cents).

Producers took diverse positions concerning the appropriate Class III price for the 32 markets. A number of cooperatives operating largely in the Upper Midwest proposed that the Class III price for markets in that area be based on a formula reflecting market prices for butter, nonfat dry milk and cheddar cheese. A regional cooperative operating in the southeastern United States proposed that the Class III price in four of its local markets be based on the Minnesota-Wisconsin price, with reductions of 5 to 15 cents to be applicable in three of the markets. Another regional cooperative proposed for 15 southwestern markets that the Class III price under each order for the principal surplus products be the lower of the present surplus price now in effect or the Minnesota-Wisconsin price. In the case of still three other markets, local producer groups asked that their present surplus prices (all based solely or in part on butter-nonfat dry milk formulas) be retained.

Cooperatives also proposed that a single butterfat differential apply to all prices under each order. This differential, which would be identical among the 32 orders, would be based on the Chicago butter price times a factor of 0.115.

A uniform classification plan for the 32 orders was advocated also by the Milk Industry Foundation and the International Association of Ice Cream Manufacturers, national trade associations of fluid milk and ice cream processors whose members operate in each of the 32 subject markets. Without taking a position on whether there should be two or three use classes, these groups offered alternative proposals on the classification of various milk products under either type of classification plan. Individual handlers also made proposals concerning specific aspects of the classification and pricing scheme.

A more detailed description of the proposals by producers and handlers is set forth in the discussion of the material issues.

#### FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Application of a uniform milk classification plan in the 32 markets.* Each of the 32 orders under consideration should provide for the same basic classification plan. As adopted herein, each order would provide for three classes of utilization, with the milk uses included in each class being the same for each order. Likewise, the same basic procedure would be used under each order for classifying milk transferred or diverted from pool plants to other plants, and for allocating a handler's receipts to his utilization to determine the classification of his producer milk. Each order would use the same Class II price formula. For Class III milk, two price formulas would be used, with one applying under 18 orders and the other under 14 orders. All differential butterfat received from producers would be priced at the same level regardless of use.

The statutory authority for Federal milk orders specifies that an order shall classify milk purchased by handlers from producers or associations of producers in accordance with the form in which or the purpose for which the milk is used. When each of the 32 subject orders was promulgated, the classification plan adopted reflected the marketing conditions and practices prevailing at the time in the local area concerned. Because local conditions and practices were seldom alike from market to market, the classification plans often varied from one order to another. As long as the markets remained relatively isolated from each other, marketing problems resulting from the differences in the various classification plans were minimal.

In recent years the "local" character of these markets has been disappearing. Intermarket movements of milk have become commonplace as handlers and producers alike seek to find additional outlets for milk. Such milk movements have been encouraged or facilitated by such developments as inspection reciprocity between health jurisdictions, improved highway networks and transportation equipment, conversion from can handling to farm bulk tanks, emergence of regional cooperatives, new processing and packaging techniques, and concentration of processing and packaging operations in large, specialized facilities.

Numerous cases were cited by handlers of products being distributed throughout multistate regions from centralized processing facilities. Products frequently mentioned include frozen desserts, yogurt, various cream products, and cottage cheese. Widespread distribution patterns prevail particularly for the processors of specialty products such as yogurt and sterilized cream items. Although the volume of these specialty products is relatively limited, it is probably the distribution of these products more than any others that has precipitated such general interest within the industry for uniform classification provisions among Federal orders.

Although the 32 orders have been revised from time to time to reflect the closer intermarket relationships, the classification plans of these orders continue to differ. The differences relate not only to the products included in each respective class, but also to the attendant class prices and butterfat differentials, the rules for classifying milk moved from one plant to another, the procedure for allocating a handler's receipts to his utilization, the method of classifying end-of-month inventories, and the manner of classifying shrinkage.

Such differences in the classification and pricing of milk are often disruptive to the competitive relationships of handlers and to the marketing of producer milk. Many of these differences, though, have little, if any, foundation under today's marketing conditions. It is thus concluded that a generally uniform classification and pricing plan should be incorporated in each of the 32 orders under consideration.



V 38-176 SEP 12 73 XUM

In conjunction with the development of uniform provisions pertaining to the classification and pricing of milk, it is desirable to also develop a single format of order provisions for use in each of these orders. All orders contain essentially the same categories of provisions, such as those relating to the definition of a pool plant or other source milk, those setting forth the class price formulas, or those describing how the uniform price shall be computed. At present, however, many of the orders are structured in such a way that provisions serving essentially the same purpose under all orders do not appear in each order in the same place or under the same section title.

Coordination of the orders in this respect will be helpful to those in the industry who must work with several orders, a situation that is becoming increasingly common as individual cooperatives and handlers continue to expand their marketing activities into more and more regulated markets. Moreover, the opportunity to effect changes in a relatively large number of orders at the same time makes the adoption of a uniform order format a particularly desirable step at this juncture of the order program.

Each of the orders included in this document is set forth in its entirety at the end of the document. Each order reflects the revised order format as well as the classification and pricing amendments adopted herein. In adapting each order to the new format, no substantive changes have been made in those provisions not under consideration at the hearing. Since the classification and pricing amendments may be less discernible to the reader with the reprinting of the complete order, the sections in each order that encompass the basic changes in classification and pricing are listed below:

Sections 12–16, 30, 40–44, 50, 52–54, 60, 62, 74–76, and 85.

Some of the amendments adopted herein would change certain procedures under the orders that are carried out after the end of the month to which they apply. These include the submission of reports, the classification of milk, and the computation and announcement of certain class prices, butterfat differentials, and producer prices. It is intended, however, that the amendments apply only to that milk handled after the effective date of the changes. Such amendments are not intended to affect the completion of previously existing procedures with respect to milk handled prior to the effectuation of the amendments.

2. *Revision of the present Class I classification.* With certain exceptions noted below, Class I milk under each of the 32 subject orders should include all skim milk and butterfat disposed of in the form of milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids. Skim milk and butterfat disposed of in any such product that is flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted likewise should be classified as Class I milk. Such classification should apply whether the products are disposed of in fluid or frozen form.

In addition, Class I milk should include all skim milk and butterfat disposed of in the form of any other fluid or frozen milk product (if not specifically designated as a Class II or Class III use) that contains by weight at least 80 percent water and 6.5 percent nonfat milk solids, and less than 9 percent butterfat and 20 percent total solids.

Skim milk disposed of in any product described above that is modified by the addition of nonfat milk solids should be Class I milk only to the extent of the weight of the skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

Class I milk should not include skim milk or butterfat disposed of in the form of evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, or whey.

As a convenience in drafting order provisions, each product designated herein as a Class I product would be defined in the 32 orders as a "fluid milk product."[1]

Class I milk should include also any skim milk and butterfat not specifically accounted for in Class II or Class III, other than shrinkage permitted a Class III classification.

Except for sterilized products, most of the products listed above for inclusion in Class I are now included in the Class I classification under each of the 32 orders. Only in the case of milkshake mixes might there be a higher classification under the adopted amendments than at present. Under some orders, such mixes are now included in the lowest class. This higher classification would be limited, however, to only those milkshake mixes containing less than 20 percent total solids.

The adopted Class I classification would not include eggnog, yogurt, cream or mixtures of cream and milk or skim milk containing 9 percent or more butterfat (such as half and half). A Class I classification now applies to eggnog in 9 of the 32 markets, and to yogurt in 18 of the markets. In all markets, sweet cream (except that in frozen, concentrated, aerated or sterilized form) and half and half are now Class I products. The classification of sour cream and sour cream mixtures, on the other hand, varies considerably among the orders.

[1] The reader should keep in mind that the orders do not classify products per se but rather the skim milk and butterfat disposed of in the form of a particular product or used to produce a particular product. To simplify the presentation of the findings and conclusions, however, reference is made in this decision to Class I products, Class II products and Class III products, or to certain products included in a particular class.

Six of the 32 orders now include ending inventories of packaged fluid milk products in Class I. As discussed later, such inventories would not be classified as Class I milk under the revised orders.

The proposals concerning the Class I classification of milk related primarily to the use under all orders of a uniform fluid milk product definition based on product composition, and to the appropriate classification of milkshake and ice milk mixes, sterilized fluid milk products, cream, eggnog, yogurt, fluid milk products to which nonfat milk solids have been added and ending inventory. The classification of cream, eggnog, and yogurt is discussed under Issue 3 which deals with the classification and pricing of milk not needed for Class I use. The method of accounting for nonfat milk solids added to fluid milk products is discussed under Issue 4(b). The classification of ending inventory is dealt with under Issue 4(d). The remaining Class I issues are dealt with at this point.

Milkshake and ice milk mixes containing less than 20 percent total solids should be included in Class I. Such mixes containing a greater percentage of solids should be Class II products.

Cooperatives proposed that milkshake mixes that "are not further processed in a commercial establishment" be in Class I. They proposed that all other milkshake mixes be in Class II. The national organizations of fluid milk and ice cream processors, on the other hand, asked that all milkshake mixes be included in the lowest classification.

Milkshake and ice milk mixes are being marketed generally through two channels. Limited quantities of such mixes are processed for home consumption, with such mixes being distributed to consumers through foodstores and on home delivery routes. The major outlet for milkshake and ice milk mixes, though, is the so-called "soft-serve" trade. Mixes processed by regulated handlers for this use are sold to commercial establishments where the product is run through a special freezer and dispensed to the public in a semisoft form.

Milkshake and ice milk mixes are basically similar in composition and purpose to what might be considered as traditional frozen desserts, such as ice cream. Although such shake mixes are intended to be consumed in a semisoft form, or even in a very thick fluid form, they are being marketed for essentially the same use as the traditional frozen desserts. This is the case whether such mixes are sold through the "soft-serve" trade or for home use. With minor exception, as noted below, milk used in milkshake and ice milk mixes thus should be classified in the same class as milk used in the traditional frozen desserts. As discussed later in this decision, the classification plan adopted herein includes frozen desserts in Class II.

It is possible that a product very similar in composition and form to chocolate milk could be marketed under the label of a milkshake mix for the purpose of having a lower classification apply to the product. Since such a product actually would have the same general form and purpose as other fluid milk products now classified as Class I under these orders, it should be included in the Class I classification. It is necessary, though, to provide some means of distinguishing between such a product and the general category of milkshake mixes that are being sold in competition with frozen desserts. For this purpose, the total solids content of the product should be used. A standard of 20 percent or more total solids should encompass those milkshake and ice milk mixes intended for use as a type of frozen dessert. Mixes with less solids are similar in composition to chocolate milk and other flavored fluid milk products and should be a Class I product.





As proposed by cooperatives and the national organizations of fluid milk and ice cream processors, no exception to the Class I classification of milk should be made for fluid milk products in sterilized form. The sterilization of fluid milk products does not change the form or purpose of such products. As in the case of the unsterilized fluid milk products which they resemble, such sterilized products are disposed of in fluid form for consumption as a beverage. They are generally intended for use in place of their unsterilized counterparts and are thus competing for the same consumers.

Returns to producers for milk disposed of in the form of fluid milk products should be the same whether such products are sterilized or unsterilized. Such products in either form are being marketed for the same beverage use. Classifying all such products in Class I will assure that the returns from producer milk used in sterilized fluid milk products will contribute on the same basis as returns from producer milk used in unsterilized fluid milk products toward inducing an adequate supply of milk for beverage use.

With the removal of any exception to the Class I classification of milk because of sterilization, specific reference must be made in the "fluid milk product" definition to the exclusion of certain products that otherwise could be construed to fall within such definition. Such products are evaporated or condensed milk or skim milk, formulas in hermetically sealed glass or all-metal containers that are especially prepared for infant feeding or dietary use, and products (such as flavored drinks in "pop" bottles) containing by weight less than 6.5 percent nonfat milk solids. These products, which are being sold in sterilized form, are now excluded from the Class I classification and, as proposed by cooperatives and handlers, such exclusion should be continued, notwithstanding the fact that they are sold to the public in fluid form. Evaporated milk and condensed milk sold for home use are intended primarily for cooking purposes. They are not consumed normally as a beverage. Infant and dietary formulas, which are being sold in hermetically sealed glass or all-metal containers, are specialized food products prepared for a limited use. Such formulas do not compete with other milk beverages consumed by the general public. Similarly, fluid products containing only a minimal amount of nonfat milk solids are not considered as being in the competitive sphere of the traditional milk beverages.

Fluid milk products should not be defined only on the basis of product composition, as was proposed by cooperatives. Contending that the present fluid milk product definition in each order does not clearly identify those products that are intended to be classified as Class I products, cooperatives proposed that a fluid milk product be defined solely in terms of moisture and milk solids content of the product. As proposed by producers, a "fluid milk product" would be any product containing at least 6.5 percent but less than 27 percent nonfat milk solids, less than 9 percent butterfat, and more than 20 percent moisture, all computed on the basis of weight.

In support of their proposal, proponents indicated that such a definition would result in a more uniform application among the 32 orders of the classification provisions. They contended that the listing of products under the current definitions does not accommodate the proper classification of new products or variations of the listed products when they are introduced on the market. Proponents pointed out that as market administrators have had to make order interpretations in response to this situation, variations in interpretation and classification have resulted among the markets. Adoption of the proposed definition, it was contended, would eliminate such problems. Any product meeting the specified composition limits for a fluid milk product would be a fluid milk product regardless of the name under which the product might be marketed.

Proponents recognized, however, that their proposed fluid milk product definition would include some products not intended by them to be in Class I, and, at the same time, would exclude certain products that they wanted in this classification. To overcome this problem, proponents stated that certain products should be listed by name, either as inclusions or exclusions, to assure that the fluid milk product definition would include those products, and only those products, warranting a Class I classification.

Handlers took the position that the fluid milk product definition should continue to list by name those products intended to be included in Class I. They believe that this procedure would result in less confusion within the industry concerning the application of this definition. Also, handlers were concerned that defining a fluid milk product on the basis of product composition would deter the development and marketing of new products. They contended that the proposed composition standards could embrace a new product that was intended by the processor to be marketed in direct competition with products that would be included in Class II or Class III rather than in competition with Class I products.

The primary concern with any fluid milk product definition is that it clearly define the products or types of products that are intended to be included in the definition. The fluid milk product definition adopted herein, which incorporates both the listing of specified products and the use of composition percentages, should meet this requirement. Incorporation of this definition in each of the 32 orders will provide a uniform basis for identifying those products that are to be defined as "fluid milk products."

For simplicity, the fluid milk product definition should continue to list the generic names of those products commonly sold for consumption as beverages. The products listed in the adopted definition encompass most of the forms in which milk for fluid uses is sold. Anyone referring to this fluid milk product definition may easily ascertain in the case of most milk products whether or not a particular product is included in the definition.

A listing of products alone in the fluid milk product definition may not clearly indicate the classification of new milk products developed for fluid consumption. With certain limited exceptions noted, the fluid milk product definition is intended to include all milk products that are distributed for use as beverages. Although a new milk beverage introduced on the market might not be encompassed within the list of named products, it should be treated as a fluid milk product, nevertheless, if its composition is similar to that of the listed products. This will be the result of the standards of product composition for fluid milk products herein adopted.

As indicated, the adopted composition standards would embrace any fluid or frozen milk product not specified as a Class II or Class III product that contains by weight at least 80 percent water and 6.5 percent nonfat milk solids, and less than 9 percent butterfat and 20 percent total solids. The 9 percent butterfat standard coincides with the butterfat percentage adopted herein to delineate the mixtures of cream and milk or skim milk to be included in Class II. The total solids and water percentages represent a reasonable measure of the fluidity of those products that normally are consumed as beverages. The 6.5 percent nonfat milk solids standard is used to exclude from the fluid milk product definition those products which contain some milk solids but which are not closely identified with the dairy industry, such as chocolate flavored drinks in "pop" bottles.

These composition standards are chosen so as to conform as closely as possible to the water, solids and butterfat content of those products specifically listed in the fluid milk product definition, i.e., the traditional milk beverages. It is intended that these standards apply only to milk products, and only to such products that are being marketed for consumption in fluid form. Such standards would not be applied to products such as soups, which are not customarily thought of as milk products, or to products that would be a type of frozen des-



V 38-176 SEP 12 73 XUM

sert marketed for consumption in frozen form.

In determining whether or not a milk product in fluid form falls within the composition standards of the fluid milk product definition, such standards should be applied to the composition of the product in its finished form, not to the composition of the product on a skim equivalent basis. A new product not intended for beverage use might contain in its finished form somewhat more than the maximum total solids specified for a fluid milk product under the adopted composition standards. On this basis, the product would not fall within the fluid milk product definition. Application of the composition standards to this product on a skim equivalent basis, however, could result in the product meeting such standards and thus being defined as a fluid milk product.

As pointed out by producers in their exceptions, applying the composition standards to products in the form in which marketed could exclude from the fluid milk product definition a new concentrated fluid product that is intended to be consumed as a beverage only after reconstitution. For the present time, however, the composition standards should be applied to a product in its finished form. A refinement of such standards may be appropriate once there has been an opportunity to evaluate their applicability under actual market conditions.

It should be noted that under the adopted classification provisions accounting for a new product on other than a skim equivalent basis would be limited solely to determining whether or not the product meets the composition standards of the fluid milk product definition. For all other purposes under the order, the product would be accounted for on a skim equivalent basis.

In applying the 6.5 percent nonfat milk solids standard, it is intended that this standard apply to such solids in any form except sodium caseinate. As set forth in the "filled milk" decision applicable to most of the 32 orders, sodium caseinate in any product is treated under the orders as a nonmilk ingredient.[1] There is no basis for changing this procedure.

The use of composition standards as a means of defining fluid milk products should not deter the development of new milk products, as handlers contended. Should the Class I classification of a new product appear to be incongruous with the intended use of the product, the hearing process remains as an avenue through which a different classification may be considered. The use of composition standards should result, however, in a more uniform classification among orders of new products developed for fluid consumption.

[1] Official notice is taken of the Assistant Secretary's decision issued on October 13, 1969 (34 F.R. 16881), with respect to the Memphis, Tenn., and certain other marketing areas.

3. *Classification and pricing of milk not needed for Class I use.*—Two use classes, Class II and Class III, should be provided in each of the 32 orders for skim milk and butterfat utilized for other than Class I purposes. The Class II price should be the basic formula price (Minnesota-Wisconsin manufacturing milk price) for the month plus 10 cents. The price under each of the orders for Class III milk should be the basic formula price for the month, but in certain markets not to exceed a butter-nonfat dry milk formula price.

Class II milk should include skim milk and butterfat disposed of in the form of eggnog, yogurt or a "fluid cream product", i.e., cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients. Any product containing 6 percent or more nonmilk fat (or oil) that resembles any of these products likewise should be in this class. Also, eggnog, yogurt and fluid cream products that are in inventory at the end of the month in packaged form should be in Class II.

Included also in this classification should be skim milk and butterfat used to produce cottage cheese, lowfat cottage cheese, dry curd cottage cheese, milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, frozen dessert mixes, any concentrated milk product in bulk fluid form, plastic cream, frozen cream, anhydrous milkfat, custards, puddings, pancake mixes, and formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

A Class II classification should apply also to bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages.

Class III milk should include skim milk and butterfat used to produce cheese (other than cottage cheese, low fat cottage cheese, and dry curd cottage cheese), butter, any milk product in dry form, evaporated or condensed milk (plain or sweetened) in a consumer-type package, evaporated or condensed skim milk (plain or sweetened) in a consumer-type package, and any product not otherwise specified as a Class I, Class II, or Class III product.

Other Class III uses should include bulk and packaged fluid milk products and bulk fluid cream products in inventory at the end of the month, and that portion of modified (by the addition of nonfat milk solids) fluid milk products not included in Class I. Class III should include any fluid milk product or Class II product accounted for on a "disposed of" basis that is used for animal feed, or is dumped if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition. Also, shrinkage within certain limits should be classified as Class III milk.

As described later, the classification and pricing adopted herein for milk not needed for Class I use differs in some respects from that set forth in the August 28, 1972, recommended decision.

The present classification of milk used in the adopted Class II and Class III classifications is quite varied among the 32 orders. Seven of the orders provide for three use classes while 25 have two classes of utilization. Under four of the three-class orders cottage cheese is classified separately from all other uses. One order classifies cottage cheese and sales of milk to commercial food establishments in an intermediate class. Two orders have a separate use class for milk used in cheddar cheese. Substantial variation exists among the 32 orders in the classification of skim milk and butterfat in eggnog, yogurt, sour cream, milkshake mixes, and milk disposed of to commercial food establishments. The treatment of milk dumped, and milk in inventory at the end of the month, also differs under the several orders.

There is now a variety of price formulas under the 32 orders for milk in other than Class I uses. Seventeen orders use the Minnesota-Wisconsin manufacturing milk price. Three orders use a combination of the Minnesota-Wisconsin price and a butter-nonfat dry milk formula price. Four orders use a combination of a butter-nonfat dry milk formula price and a cheddar cheese formula price. Six orders use a butter-nonfat dry milk formula price, with four of these employing a seasonal adjustment. Two orders use the U.S. manufacturing milk price with a seasonal adjustment for milk used to produce butter, nonfat dry milk and cheddar cheese. This variety of price formulas can result in as many as 11 different prices for milk put to similar uses. Also, four additional prices can result under the five orders that have an intermediate classification and price for milk used to produce cottage cheese.

Cooperatives proposed that each of the 32 orders provide for an intermediate classification (Class II) for skim milk and butterfat disposed of as cream, now a Class I use, and that used to produce several other products now in the lowest-priced class under most of the orders. The proposed Class II uses would include cottage cheese, frozen desserts, milkshake mixes for further processing in commercial establishments, eggnog, yogurt, evaporated or condensed milk or skim milk, dietary and infant formulas, custards, puddings, pancake mixes, any product with 6 percent or more nonmilk fat (or oil), and fluid milk products disposed of to commercial food processors. In addition, their new Class II also would include cream, mixtures of cream and milk or skim milk containing 9 percent or more butterfat, cream in plastic, frozen, aerated or sterilized form, sour





cream, sour mixtures and anhydrous milkfat.

Under the cooperatives' proposal, the Class II price in 31 markets would be the Minnesota-Wisconsin price plus 10 to 20 cents (increasing generally from north to south). Eleven markets in the States of Minnesota, Iowa, North Dakota, South Dakota and Tennessee would have a price differential of plus 10 cents. The remainder of the 31 markets would have plus 15 cents, except for a plus 20 cents in the Corpus Christi and Rio Grande Valley markets. A cooperative in the Central Arizona market proposed that the present Class II price, which is 25 cents over the Class III price, be retained in that market.

The Class III uses proposed by the cooperatives would include dried products, cheese (except cottage cheese), butter, condensed whey and buttermilk for animal feed, dumpage, ending inventory, shrinkage, and the non-Class I portion of modified fluid milk products.

The cooperatives' Class III pricing proposals varied by regions. A number of cooperatives operating primarily in the Upper Midwest proposed the adoption of a weighted butter-nonfat dry milk (55 percent) and cheese (45 percent) formula using "the product yield factors and make allowances used by the Department in its CCC Price Support Program." While suggesting that such a pricing formula would be appropriate for all 32 markets, they particularly urged its adoption for 11 upper midwestern markets. For four southern markets, the principal cooperative in such markets proposed the use of the Minnesota-Wisconsin price, but with minus adjustments of 5 cents for Chattanooga, 10 cents for New Orleans, and 15 cents for Georgia. For 15 markets in the Southwest, the principal cooperative there proposed that the Class III price be the higher of the Minnesota-Wisconsin price or the current price for the lowest utilization in the respective order. Under its proposal, milk used in butter, nonfat dry milk and cheddar cheese would be priced, however, at the lower of the Minnesota-Wisconsin price or the current price for the lowest utilization in the respective order. The principal cooperative in the Central Arizona market proposed retention of the Class III price now applicable in that market, which is based on a butter-nonfat dry milk formula.

In support of their proposed Class II and Class III use categories, the several cooperatives contended that there are significant differences in the competitive position of, and demand for, milk so used. They stated that handlers demand quality milk on a regular basis for the proposed Class II products, and that in the various markets alternative supplies of milk for such uses generally cannot be obtained for less than the Class II prices they propose for producer milk. Moreover, they claimed that products in such Class II uses should bear, along with fluid milk products, part of the cost necessary to attract an adequate market supply. With respect to the Class III classification, proponents stated that their proposed Class III products are the residual uses of milk associated with fluid markets. Consequently, the local production of such products is related to the amount of reserve or excess milk in the market. Such products, they claimed, can be stored for long periods and do not need to be made on a regular basis.

Proponent cooperatives pointed out that the present Class I classification of cream and cream mixtures has placed these products in a poor competitive position in the marketplace relative to nondairy substitutes. By shifting these products to a lower-priced class, proponents hope the industry will be better able to maintain its present small share of the cream and dessert topping market and perhaps recapture some of the market that it has lost.

In support of their various Class III pricing proposals, the cooperatives urged basically that such prices reflect the net value that can be obtained by cooperatives handling reserve supplies. They claimed that such value should take into consideration (1) product values of butter, nonfat dry milk and cheese; (2) the cost of moving milk to available outlets; and (3) the burden of "balancing" the fluid milk supply in each market.

With respect to certain southern markets, it was contended that the net value that can be obtained for reserve milk supplies tends to differ from market to market depending upon surplus disposal conditions that prevail in each market. The principal variable factor mentioned was the cost incurred in transporting reserve supplies to available processing plants. For example, there are no plants processing hard cheese, butter or nonfat dry milk in Georgia. Consequently, the principal cooperative in the area transports much of the reserve milk supply associated with the Georgia market to manufacturing plants located in Tennessee. The amounts so transported have ranged from one to 11 million pounds per month. The cooperative stated that for the 12 months ending with August 1971, it netted an average of 37.6 cents per hundredweight less than the Georgia order Class II price on such shipments because of the cost of hauling the milk.

Extra transportation costs are incurred also by the cooperative with respect to its disposition of reserve milk supplies in the New Orleans market. In the Nashville market, on the other hand, the same cooperative realized an average of 9.7 cents over the Nashville Class II price for the milk it moved to nonpool plants for manufacturing use during the 12 months ending with August 1971. For the Chattanooga market, the cooperative realized slightly less than the Class II price for milk moved to nonpool plants.

Another condition which the cooperative contended has influenced the returns it is able to realize on reserve milk supplies is that the quantity of such milk to be processed varies both seasonally and on certain days of the week. During the month of September, the reserve milk supply handled by the cooperative is at its lowest level. In September 1970, for example, the cooperative processed less than 500,000 pounds of milk at each of its major butter-nonfat dry milk processing plants (Lewisburg, Tenn., and Franklinton, La.). The following April, it processed 23.9 and 5.8 million pounds of milk, respectively, at such plants.

Reserve milk supplies increase on Sundays compared to other days because bottling plants in the markets served by the cooperative usually process milk only 5 or, at the most, 6 days a week. The needs of bottling plants are highest on Thursdays since sales of packaged milk tend to be higher on Thursday and Friday than on other days of the week.

Because of these circumstances, this cooperative proposed that the Class III prices adopted for the southeastern markets of Georgia, New Orleans and Chattanooga be fixed from 5 to 15 cents under the Minnesota-Wisconsin price. This was proposed to enable the cooperative to absorb the costs of transporting reserve milk supplies to manufacturing plants and of maintaining unused capacity in its manufacturing plants during the seasonally short production months and on peak bottling days.

The principal cooperative in the southwestern markets proposed that the current provisions for pricing market surplus be maintained in the several orders throughout that region since such provisions tend to recognize individual market problems of surplus disposal. The problems mentioned by the witnesses for the cooperative are (1) uneven surplus milk volumes to be disposed of, and (2) costs of transporting milk to plants for manufacturing use. They stated that each market differs as to the volume of day-to-day, weekend, holiday, and seasonal surplus to be processed, which tends to result in variations in supply balancing costs among markets. Also, the surplus in each market is situated at varying distances from available processing plants. In Texas, for example, most of the manufacturing use outlets are situated in the northern part of the State at Muenster, Sulphur Springs and Rusk. While the cooperative operates a small cheddar cheese plant at San Antonio, Tex., at times the San Antonio surplus cannot be processed there and is transported over 300 miles to Muenster or Sulphur Springs. During the Christmas holiday weekend in 1970, the cooperative moved 75 tank truck loads of surplus milk out of Texas to plants as far north as Iowa for manufacturing.

In support of their proposed butter-nonfat dry milk-cheese product price formula for markets in the Upper Midwest, proponent cooperatives pointed out that about half of the manufacturing grade milk in Minnesota and Wisconsin is now handled by as few as three cooperative associations. They contended that, because of this, cooperatives are in a position to influence the level of prices paid for such milk and, in turn, influence the level of the order prices based on the Minnesota-Wisconsin price. Any upward swing in prices, they indicated, could be detrimental to the processors of butter and nonfat dry milk.



V 38-176
SEP 12 73
XUM

Proponents also stated that there have been periods of time when the open market cheese prices have increased relative to prices of butter and nonfat dry milk. When this has resulted in higher pay prices at cheese plants, butter-powder plants also have tended to pay higher prices to hold their milk supplies in competition with cheese plants. Proponents argued that such higher pay prices at butter-powder plants should not be reflected in Federal order surplus prices when the market values of butter and powder are not increased also. They contended that the order price should reflect changes in the market value of manufactured products to provide handlers a fixed processing margin on the butter and nonfat dry milk they process.

The national trade associations of fluid milk and ice cream processors did not take a position at the hearing on whether there should be two or three classes of utilization. It is their position that under a three-class system the only products that should be included in Class II are yogurt, eggnog, cottage cheese, cream and any mixtures of cream and milk or skim milk containing 9 percent or more butterfat. While the associations did not endorse a three-class system, they proposed that under such a plan the difference between the Class II and Class III prices be not more than 10 cents.

Certain individual handlers, particularly those operating plants in more than one market, testified that because of intermarket competition each order should provide for the same classification and pricing scheme. One such handler testified further that the Class III price should be the lower of the Minnesota-Wisconsin price or a butter-powder formula price (Chicago butter price times 4.2, plus nonfat dry milk price times 8.2, less 48 cents). Another urged adoption of the dairy price support level as the Class III price. A third handler proposed the use of the announced price support, adjusted to a 3.5 percent butterfat basis by a differential factor of the Chicago butter price multiplied by 0.12, and further adjusted by plus 15 cents during the period September through March.

Proponents of using the dairy price support level as the Class III price urged that such price be adopted to provide a more stable price by avoiding the month to month changes that tend to occur in the Minnesota-Wisconsin price. Proponents pointed out that basing the Class III price on the price support level, which is announced for each marketing year (April-March), would result in handlers knowing the minimum price before the milk is received. The Minnesota-Wisconsin price is announced about 5 days after the end of each month.

*Class III.* As stated at the outset, two classes of utilization should be provided under each order for milk not needed for Class I use. Before discussing the basis for establishing an intermediate price class, consideration should be given to the Class III price issue since the level of such price bears on what the Class II price should be.

Basically, there are two questions to be resolved concerning the Class III price issue: (1) Should the Class III price be uniform among the 32 markets, and (2) what is the appropriate pricing mechanism for determining the Class III price in each market?

The purpose of the classification proposals considered at this hearing strongly suggests the same Class III price under each order. The essence of the proposals by producers and handlers alike was that a particular product should be classified in each market in the same class. Although the various witnesses were not in agreement on the classification scheme that should be adopted, the common purpose of their proposals was the resolution of the many differences among the 32 orders in the classification of milk. It was the general consensus that with the burgeoning intermarket sales of various milk products over increasingly wider areas, these differences in classification are causing undue competitive inequities among handlers in various markets seeking the same outlets for milk.

Any attempt to resolve these competitive inequities through the adoption of a uniform classification plan cannot be divorced from consideration of the prices that would be applicable to each class. The classification of milk does nothing more than determine what uses of milk will be subject to different levels of price. The equity benefits to handlers of using the same classification plan in all markets can be fully realized only if the price for each class is uniform (except for appropriate location adjustments) in all markets. The use of several different Class III price formulas in these markets, as would result under the proposals of the various cooperatives, would nullify much of the intended effectiveness of classifying a particular product in the same class in each market.

Certain cooperatives urged that the Class III price of a market reflect the supply "balancing" costs of individual cooperatives. This could lead only to a proliferation of different Class III prices rather than a reduction of price differences in these markets. In balancing milk supplies for the fluid market, a cooperative incurs various costs. The extent of these costs is dependent on many factors, including the cooperative's share of the market, the location and availability of surplus disposal outlets, whether it operates a manufacturing plant, and policies and practices of the organization and its management. If such costs were to be a main consideration in establishing the Class III price for an individual market, such price would need to vary greatly among markets since the supply balancing situation differs from market to market.

The costs of supply balancing services performed by a cooperative should be reflected as a service charge to the handlers who receive the benefit of the service. A cooperative's cost of supply balancing service varies among handlers according to each handler's procurement practices. A handler that regularly accepts the full production of a given number of producer-members of the cooperative incurs the costs of balancing his own supply. On the other hand, a handler that limits his purchases of milk from a cooperative to 5 days a week, for example, to match his daily bottling schedule shifts the burden of balancing his milk supply to the cooperative. Most supply balancing costs are attributable to the variation between the quantity of milk produced and the demand for milk for Class I use. Since the balancing costs are incurred in serving the Class I market, the incidence of the costs should fall on such use of milk. This connection between these services and the Class I demand is recognized in many of these markets through the assessment by cooperatives of a service charge on their milk delivered to handlers for Class I use.

On the basis of the above findings, it was concluded in the August 28, 1972, recommended decision that the same Class III price should prevail under each order to resolve to the fullest extent the many classification and pricing differences among these orders. Although this concept remains valid, we are persuaded by producer exceptions to the August 28 decision that complete uniformity in the pricing of Class III milk may not be attainable at this time if orderly marketing is to be preserved. For reasons described later, an alternate Class III price formula also should apply under 14 of the 32 orders rather than the one formula initially recommended. It must be emphasized, however, that the use of an alternate Class III price formula in these markets will negate in some degree the uniformity intended to be gained through classifying a particular product in the same class in each market. The adopted classification and pricing scheme will be helpful, nevertheless, in overcoming the marketing problems being experienced by handlers because of the differences in the classification and pricing plans now in use in these 32 markets.

In considering the appropriate mechanism for determining the Class III price in each market, it is consistent with the purposes of the statute authorizing milk orders that reserve milk supplies be priced at the highest practicable level compatible with orderly disposal of the milk. Excess market supplies normally must be channeled into manufactured products that compete on a national basis with similar products made from ungraded milk. It is important, therefore, that the price for surplus milk in the regulated markets be in close alignment with prices being paid by processors of manufacturing grade milk.

The Minnesota-Wisconsin price, which is now the surplus price under 17 of the 32 orders, is a representative pay price for about half of the manufacturing grade milk in the United States. This price reflects a farm price level determined by competitive conditions that are affected by the demand for all major manufactured dairy products. It also reflects the supply and demand of such products within a highly coordinated marketing system, which is national in scope. Use of the Minnesota-Wisconsin price as the Class III price, or principal Class III price determinant, will result in order prices for surplus milk that are in close alignment with the dominant price structure for raw milk within the manufacturing milk segment of the dairy industry.





Use of the Minnesota-Wisconsin price also tends to result in price parity between regulated and unregulated plants engaged in a similar enterprise since it provides the regulated manufacturer essentially the same margin for processing as is experienced in the unregulated market. The Minnesota-Wisconsin price is an average of prices being paid by processors who are meeting the competitive test of the unregulated market place. Competing processors of ungraded milk purchase their supplies from farmers at prices commensurate with the ability of the more efficient processors to pay for raw milk. As shifts in the relationship between finished product prices take place one group of processors may be able to pay dairymen higher prices than another. Other processors generally must meet these prices or risk the loss of their milk supplies. If a dairy concern in the unregulated manufactured products market fails to make the necessary adjustments to meet procurement competition, it will, in time, be forced out of business. This is a normal business risk in the unregulated competitive market.

If the Class III price were based solely on market prices of certain manufactured products (e.g., butter and nonfat dry milk) minus a specified processing allowance, as proposed by certain cooperatives, handlers under each order would be assured at all times, regardless of current values of milk competitively procured for the several manufactured product uses in Class III, of a predetermined operating margin. Such pool handlers are protected in procurement competition by being able, through the pool equalization fund, to pay the blended price to producers. This is an advantage not available to manufacturers purchasing unregulated milk. The unregulated processors must pay whatever price to dairy farmers is required to maintain milk supplies, which is determined from competition with other processors. Unless regulated handlers are to have a competitive advantage, or disadvantage, in the manufactured milk product market relative to unregulated plant operators, it is necessary to maintain under the milk orders a close alignment of the Class III prices with the farm prices paid by unregulated plants in the manufacturing milk industry.

In the August 28, 1972, recommended decision, the Minnesota-Wisconsin price was adopted as the Class III price under each order. This would have provided a continuation of the surplus price now applicable in 17 markets and a change in pricing for the remaining 15 markets where a number of different price formulas are now in use.

Upon further consideration of this issue in light of producer exceptions and the record evidence, it is concluded that in 14 of the 15 markets where the surplus price would have been changed the Class III price should be the Minnesota-Wisconsin price but not to exceed a butter-nonfat dry milk formula price. The markets where this pricing mechanism should apply are New Orleans, Northern Louisiana, Wichita, Central Arizona, Rio Grande Valley, Oklahoma Metropolitan, Red River Valley, North Texas, Central West Texas, Texas Panhandle, Lubbock-Plainview, Austin-Waco, San Antonio, and Corpus Christi. The Class III price for the other market, Duluth-Superior, should be the Minnesota-Wisconsin price as initially recommended.

The surplus class price in all but two of these 14 markets is now based either entirely or in part on prices derived from some type of butter-nonfat dry milk formula. In the Oklahoma Metropolitan and Red River Valley markets, the surplus price is the U.S. Manufacturing price, but with a 10-cent reduction during six months of the year for milk used in butter, nonfat dry milk or hard cheese. For most of these markets, cooperatives argued in their exceptions to the August 28 decision that the present price formulas should remain in effect in the respective markets. It was contended that these formulas represent an historical recognition of particular surplus disposal conditions in these markets and that such recognition should not be abandoned at this time.

If a uniform classification and pricing scheme is to be implemented to any substantial degree, it is not possible to continue the variety of pricing formulas now applicable in these several markets as cooperatives urge. We recognize, however, that surplus prices in most of these markets historically have been tied directly to the market values of butter and nonfat dry milk. Therefore, it is reasonable to provide that the Class III prices in these 14 markets be limited to a butter-nonfat dry milk formula price should the milk equivalent value of these products become unduly low relative to the average price being paid in Minnesota and Wisconsin for manufacturing grade milk.

The same butter nonfat dry milk price formula should be used in each of the 14 markets in conjunction with the Minnesota-Wisconsin price. This is consistent with the development of a uniform classification scheme for these markets. The formula adopted herein would be derived from converting the market prices of butter and nonfat dry milk to their milk equivalent values and subtracting a processing allowance. Specifically, such price would be computed by multiplying the average monthly price of 92-score bulk butter at Chicago by 4.2, then multiplying the average monthly price of spray process nonfat dry milk in the Chicago area by 8.2, and then subtracting 48 cents from the sum of the above results. This formula price, when used in conjunction with the Minnesota-Wisconsin price, is commonly referred to in the trade as the "butter-powder snubber."

The adopted formula is the same, or virtually the same, as all other butter nonfat dry milk formulas now in use under orders applicable outside the 32-market area. In all cases, such formulas are being used in conjunction with the Minnesota-Wisconsin price in the same manner as proposed herein.

As indicated, the Class III price under the Duluth-Superior order should be the Minnesota-Wisconsin price even though the surplus price in this market is now based on a butter-nonfat dry milk formula. The present surplus price historically has averaged somewhat under the Minnesota-Wisconsin price. Conditions in this market do not support a continuation of this lower price level for surplus milk being processed into products such as butter, nonfat dry milk, and hard cheese, residual products that would be included in Class III under the revised Duluth-Superior order.

The Duluth-Superior order regulates the handling of milk in certain areas of Minnesota and Wisconsin. Because of their location, regulated handlers in this market are operating within the competitive sphere of the largest concentration of processors of butter, nonfat dry milk and cheese in the United States. As noted earlier, about half of the manufacturing grade milk in the country is produced in this two-State area. It is the prices being paid in this area for such milk that are used in determining the "Minnesota-Wisconsin price." Use of this price for pricing Class III milk in the Duluth-Superior market will result in producer milk used in the residual products being priced at a level commensurate with unregulated milk that is being processed in the same general area into like products. A lower return to the graded producers on the Duluth-Superior market for surplus milk priced under the order is not warranted under the competitive conditions existing in this area.

It should be noted that in all other regulated markets in this two-State area producer milk processed into the residual products is priced at the Minnesota-Wisconsin price. Such markets include Minneapolis-St. Paul, Minnesota-North Dakota, and Chicago Regional, all of which are near the Duluth-Superior market. There is no indication that regulated handlers in the Duluth-Superior market are faced with conditions uniquely different from those faced by handlers in these other markets in disposing of surplus milk.

The surplus pricing adopted for the 32 markets will result in a significantly greater coordination of surplus prices under all Federal milk orders than is now the case. With the exception of one relatively small market (Appalachian), prices under all orders for milk used in the key residual products (butter, nonfat dry milk, and cheese) would be based on the Minnesota-Wisconsin price, either alone or in conjunction with the butter-powder snubber adopted herein. As noted earlier, such products are marketed within a highly coordinated marketing system that is national in scope.

*Class II.*—Certain uses of producer milk not needed for Class I purposes



V 38 176 SEP 12 73 XUM

should be priced at a somewhat higher level than that applicable to milk in the adopted Class III uses. These higher-valued uses, to be included in the Class II classification, were set forth at the beginning of this discussion on pricing surplus milk. The Class II price, which should be the same under each order, should be the Minnesota-Wisconsin price plus 10 cents.

Of the products adopted herein for inclusion in Class II, one of principal importance is cottage cheese. In 1970, about 840 million pounds of the skim milk and butterfat utilized by pool handlers under the 32 orders was used to produce cottage cheese. For this discussion the term "cottage cheese" encompasses cottage cheese (i.e., creamed cottage cheese), lowfat cottage cheese, and dry curd cottage cheese.

Five of the 32 orders under consideration now provide a higher price for milk used in cottage cheese than the price provided for milk used in butter, nonfat dry milk or cheddar cheese. There are several distinguishing characteristics of cottage cheese production that support a higher price for milk in this use than for milk channeled into the residual surplus uses. There is little, if any, relationship between the quantity of cottage cheese made and the amount of reserve milk in a market, as is the case with respect to butter and nonfat dry milk, for instance. Unlike such other manufactured products, cottage cheese has a more limited storage life and must be processed on a regular basis. Thus, as in the case of fluid milk products, handlers normally want adequate supplies of fresh, high-quality producer milk to be made available at their plants at all times for cottage cheese use.

Although some cottage cheese is made in specialized country plants, as the economics of location would suggest, cottage cheese production is commonly an integral part of the processing operations of fluid milk distributing plants. Such plants are usually located in or near the populated centers of the market. This entails a greater hauling expense for producers than when the reserve milk is processed in the production area, as is generally the case with respect to butter, nonfat dry milk, and hard cheese manufacture.

The adopted Class II price (the Minnesota-Wisconsin price plus 10 cents) is a reflection of some of the additional value which producer milk used in cottage cheese has to regulated handlers. Although local producers represent the regular source of milk for cottage cheese production, a handler may choose to use milk from some other source for this purpose. Such milk could not be obtained on a regular basis, however, at less than the cost of producer milk under the adopted pricing scheme.

Rather than produce his own cottage cheese, a handler might choose to purchase the finished product from some other Federal order market where a lower price applies to milk for cottage cheese. There is no indication, however, that under the adopted pricing such a handler could materially enhance his competitive position relative to handlers using producer milk. The cost of transporting cottage cheese, a somewhat bulky and perishable item, from distant areas to outlets in the 32 markets would generally negate any seeming price advantage attributable to differences in applicable order prices.

In the New Orleans market, certain handlers process a type of cheese described locally as "Creole cheese". This product which apparently is limited to this market, was described at the hearing as being similar to cottage cheese. Accordingly, Creole cheese should be included in the same class as cottage cheese under the New Orleans order.

Milk used in yogurt should be priced at the Class II price level. Yogurt is a soft, nonfluid, "spoonable" product. It is not a beverage as are other products defined herein as fluid milk products.

Yogurt has some of the marketing characteristics of cottage cheese, although, unlike cottage cheese, very limited quantities of yogurt are made from milk priced under the 32 orders. In 1970, about 13 million pounds of skim milk and butterfat were utilized in yogurt production in the 32 markets. To the extent of this limited production, however, processors generally use regular supplies of inspected milk. Although yogurt can be made from cream and nonfat dry milk, processors prefer milk. Since yogurt has a relatively limited shelf life, it is made on a continuing basis, thus requiring a regular supply of milk at all times. As in the case of cottage cheese, these conditions warrant that producer milk in yogurt be priced at a level above the price for milk disposed of through the traditional residual uses for surplus milk.

Class II also should include frozen desserts (including commercial milkshake and ice milk mixes), custards, puddings, pancake mixes, dietary, and infant formulas, and sales of bulk milk and cream to commercial food processors for use in food products. In the August 28 recommended decision, such uses of skim milk and butterfat were proposed to be included in Class III. Upon consideration of exceptions filed to that decision by cooperatives, it is concluded that market conditions support a higher price for producer milk in such uses than was initially recommended.

As producers pointed out in their exceptions, the rationale set forth in the August 28 decision for including cottage cheese in an intermediate class is in several respects applicable to these other products just listed. The demand for producer milk used in these products is related closely to the current consumer demand for such products. Thus, handlers normally want adequate supplies of producer milk made available at their plants in the quantities and at the times needed for these uses. This is in contrast to the more storable residual "hard" products. Also, the processing of such products often takes place at the market center, which entails a greater hauling expense for producers than when reserve milk is processed in the production area. Moreover, it is doubtful that handlers in general would be able to obtain alternative supplies of milk or product ingredients at less than the cost of producer milk under the adopted pricing provisions.

Cooperatives proposed that the Class II price in most of these markets range from 10 to 20 cents over the Minnesota-Wisconsin price. The lower 10-cent differential (to apply to both cottage cheese and frozen desserts) was proposed for those markets where local ungraded milk supplies represent a significant competitive factor for regulated processors of ice cream and other frozen desserts. The national associations of fluid milk and ice cream processors contended that any price differential over the Class III price for milk in an intermediate class should not be more than 10 cents per hundredweight. In supporting this position, individual handlers stressed that any greater price differential would seriously jeopardize the competitive position of regulated handlers using producer milk relative to unregulated processors relying largely on ungraded milk.

With respect to the several milk uses at issue in the cooperatives' exceptions, the preponderance of evidence at the hearing focused largely on the marketing of frozen desserts. The marketing conditions for frozen desserts are somewhat varied throughout the 32-market area. Some regulated handlers rely regularly on producer milk for use in frozen desserts. In some of the southern markets where milk supplies tend to be shorter than elsewhere, handlers use producer milk when it is available but often must supplement such milk with purchases of condensed skim milk and nonfat dry milk. Some handlers, wherever located, rely on these concentrated forms of milk entirely in processing frozen desserts. Also, the concentrated products used may be made from either graded or ungraded milk. In addition, much of the processing of frozen desserts is done at unregulated plants. Some unregulated processors rely on ungraded milk, while others use milk surplus to the needs of regulated fluid markets. Other unregulated processors use concentrated forms of milk from either graded or ungraded sources.

The marketing situation in the 32-market area for the several other milk uses in question (custards, puddings, pancake mixes, dietary and infant formulas, and sales to commercial food processors) is essentially the same as for frozen desserts.

Under these varying conditions, the Class II price should be set at 10 cents over the Minnesota-Wisconsin price. Pricing Class II milk at this level should permit regulated handlers using producer milk to remain competitive in the marketplace with the unregulated sector in the sale of Class II products. At the same time, such price will reflect the minimum additional value of such high quality producer milk supplied to regulated handlers over the widespread area covered by the 32 markets at the times and places, and





in the quantities, needed for the several Class II uses.

It is recognized that under the varied conditions just described an individual handler may find that producer milk does not represent the cheapest source of milk for his Class II uses. Presumably the alternative source would be concentrated forms of milk since health regulations would not permit the receipt of ungraded supplies of whole milk at a pool distributing plant, and graded supplies would not be available on a regular basis at less than the Class II price. Under the revised allocation provisions adopted herein, receipts of nonfluid other source milk such as condensed skim milk or nonfat dry milk that are used in a Class II product would be allocated directly to the handler's Class II uses, with no obligation applying under the order to such milk. Under this arrangement, the handler could choose to use the other source milk without the cost impact of down-allocation should the cost of such milk become less than the cost of producer milk. The handler thus could rely upon whichever source of milk best fits his competitive and operational circumstances.

Classifying the several types of cream items, some of which are now in Class I while others are in Class II or Class III, in Class II will accommodate proponents' desire for a lower price for milk used in cream products and at the same time price at the same level a variety of products that compete with each other. Half and half, whether sterilized or unsterilized, and light cream are used principally by consumers in coffee. Aerated cream and sterilized and unsterilized whipping cream are used as dessert toppings. Both graded and ungraded sour cream and sour mixtures are used by consumers for similar purposes. Like classification for these cream products will result in uniform pricing to handlers for milk used in products competing in the same trade channels for essentially similar uses.

Although the present Class I cream products sold in these markets must be made from inspected milk, which is delivered regularly by producers to distributing plants, there was general agreement by producers and handlers that milk sold in the form of such products should no longer be subject to the Class I price. Relative to the total Class I sales of producer milk in these markets, cream products represent only 1.5 percent of the present Class I market. Thus, this classification change will have relatively little effect in total on the returns to producers.

In connection with the reclassification of cream products, it is desirable to define a new term—"fluid cream product." "Fluid cream product" would mean cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

With the reclassification of cream, movements of cream to or from a plant no longer should be considered in determining whether a plant meets the pooling requirements of the order.

Class II milk should include eggnog. Although eggnog is prepared for use as a beverage and is now a Class I use in 9 of the 32 markets, proponent cooperatives contended it should not be a Class I product because of competition from imitation products. Eggnog has a relatively high butterfat content and the limited sales of the product are highly seasonal. In 1970, only about 12 million pounds of eggnog, with an average butterfat content of 7 percent, were disposed of by pool handlers under the 32 orders. An estimated 40 percent of the marketings of this type of product is in the form of imitation eggnog. Classification of eggnog in Class II rather than Class I will materially enhance the competitive position of the product in the marketplace.

Most of the orders now provide that any "filled" product containing 6 percent or more nonmilk fat (or oil) shall be in the surplus price class. With the establishment of an intermediate price class under each of the 32 orders, it is appropriate that any such filled products that resemble the proposed Class II products made with milk fat likewise be included in this class. The substitution of nonmilk fat for milk fat in a product merely changes the composition of the product and not its use. For competitive reasons, a comparable classification of products made with milk fat and their filled counterparts is necessary.

Condensed milk or skim milk in bulk, plastic cream, frozen cream, and anhydrous milk fat are "intermediate" products that also should be included in Class II. These products are not end uses in themselves but instead are used in making other products, including frozen desserts and food products such as candy and soup. Under the classification adopted herein, frozen desserts and food products are Class II uses for milk. Accordingly, producer milk used in the several intermediate products likewise should be priced at the Class II level.

A Class II classification should not apply to evaporated or condensed milk or skim milk in consumer-type containers as the cooperatives proposed. Such storable products should remain in the lowest price class. A Class III classification for producer milk in these products will permit such uses to remain as a competitive outlet for milk surplus to the needs of the Class I market. Such products made from milk regulated under these orders must compete over wide areas with the same products processed from ungraded milk or other graded milk that is often priced at no more than the Minnesota-Wisconsin price. Comparable pricing should prevail under these 32 orders.

Although cooperatives proposed Class II price differentials of 10, 15, 20, and 25 cents, the Class II differential for each market should be the same. The distribution of the adopted Class II products from a single plant often extends over a broad region encompassing several Federal order marketing areas. Numerous examples were cited on the record concerning the widespread sales of yogurt, cream items, frozen desserts, and cottage cheese in particular. Because of this intermarket competition, a uniform Class II price differential should be provided in these orders to complement the uniform classification provisions. A price differential of 10 cents reasonably reflects the added value which handlers are able to pay for producer milk in such uses as compared to procuring milk supplies or finished products from other sources.

In proposing a generally uniform classification plan for the 32 markets, cooperatives emphasized that any new plan adopted should not result in lower total returns to producers. Handlers, on the other hand, stressed that their total cost of milk should not be increased.

Providing for classification and pricing provisions that are generally uniform among the various markets cannot necessarily encompass at the same time the maintenance of precisely the same value of producer milk in each market. With the many classification and pricing differences that now exist among the 32 orders, resolution of these differences through a uniform classification and pricing plan would be expected to have some effect on the value of producer milk in individual markets. While the provisions adopted in this decision are not designed to change the value of producer milk in the aggregate, their effect on producer returns or handlers' costs in an individual market cannot be controlling in deciding on the matter of classification and pricing here under consideration.

4. *Miscellaneous classification and accounting changes.* The following findings and conclusions relate to certain miscellaneous classification proposals by handlers and producers and to some of the order changes that are necessary to implement the revised classification plan adopted herein for each of the 32 subject orders.

(a) *Other source milk definition.* A common other source milk definition should be adopted for each order.

Because of the revised classification plan, certain changes in the present other source milk definition of each order are necessary. This definition would continue to serve, however, the present function of implementing the identification of various categories of receipts at a regulated plant.

At present, fluid milk products from any source other than producers, cooperatives acting as a handler for farm bulk tank milk, pool plants, and plant inventory at the beginning of the month are considered as other source milk.

[2] The terms "pool plant" and "nonpool plant" will be used occasionally throughout this decision. Most of the 32 orders define such terms for the purpose of distinguishing between those plants that are fully regulated under the order and those plants that are not so regulated. In some orders, the terms "fluid milk plant" and "nonfluid milk plant", or "approved plant" and "unapproved plant", are used for the same purpose. When reference is made in this decision to a "pool plant" or a "nonpool plant", it is intended (unless noted otherwise) that the reference apply correspondingly to the other types of plants.



V 38 176 SEP 12 73 XUM

Under the revised classification plan, however, cream no longer would be defined as a fluid milk product. To facilitate the application of other provisions of each order, it is desirable, nevertheless, that fluid cream products, when in bulk form, continue to be treated in the same manner as fluid milk products for purposes of applying the other source milk definition.

Other source milk should include any receipts in packaged form of fluid cream products, eggnog or yogurt (or any filled product resembling such products). These are Class II products under the revised classification plan.

Producers and handlers proposed that Class II products received at a pool plant in packaged form and then disposed of from the plant without further processing be treated as "pass-through" products. Under this treatment such "pass-through" products would not be considered as other source milk and would not be subject to the allocation and pricing provisions of the order.

Although no handler obligation would apply under the provisions adopted herein to these receipts of packaged Class II products, it is desirable for accounting purposes that such receipts be defined as other source milk. This accounting procedure will preclude the recordkeeping difficulties that might otherwise be experienced in accounting separately for inventories and sales of Class II products processed in the handler's plant versus those received at the plant in packaged form from other plants. As provided herein, such receipts of other source milk would be allocated directly to the handler's Class II utilization, rather than being allocated to the extent possible to the handler's lowest utilization as is provided in some cases for other types of other source milk.

The orders now provide that manufactured products from any source that are reprocessed, converted into, or combined with another product in the plant shall be considered as other source milk. For accounting purposes under the order, such manufactured products should include dry curd cottage cheese received at a pool plant to which cream is added before distribution to consumers. When used to produce cottage cheese or lowfat cottage cheese, the receipts of dry curd would be allocated under the adopted provisions directly to the handler's Class II utilization. No handler obligation would apply under the order to such receipts.

The orders should provide that products manufactured in a pool plant during the month and then reprocessed, converted into, or combined with another product in the same plant during the same month not be defined as other source milk. A typical processing operation would be for a handler to make condensed skim milk from producer milk and then use the condensed product in making ice cream. It is intended under this situation that the producer milk be considered as having been used to produce ice cream. The condensing operation is merely one of the steps performed by the handler in processing ice cream from raw milk.

Other source milk should include any disappearance of manufactured milk products for which the handler fails to establish a disposition. Fourteen of the 32 orders now have a provision concerning the unaccounted for disappearance of such products. The other 18 orders do not specify such disappearance as other source milk.

It is reasonable that each handler be required to account fully for all milk and milk products received or processed at his plant. Otherwise, a handler with inadequate records may have an opportunity to gain a competitive advantage over his competitors who properly account for all milk. Specifying any unexplained disappearance of manufactured milk products as other source milk will contribute to a uniform application of the regulatory plan to all handlers.

(b) *Accounting for nonfat milk solids added to milk and milk products.* Except for two orders, no change should be made in the present method of classifying the skim milk equivalent of nonfat milk solids added to a fluid milk product.

Currently, all but two of the orders under consideration provide that a modified fluid milk product shall be classified as Class I in the amount of the weight of an equal volume of an unmodified product of the same nature and butterfat content. The remaining skim milk equivalent of the nonfat milk solids in such product is classified in the lowest class.

The Neosho Valley and Fort Smith orders presently do not set forth a specific procedure for accounting for nonfat milk solids added to milk and milk products. As proposed by producers, such orders should be made uniform in this respect with the other orders under consideration.

Cooperatives proposed that the amount of a modified fluid milk product that is classified as Class I milk be the actual weight of the modified product rather than the weight of a like unmodified product. Proponents stated that the use of the weight of the modified product would accommodate some of the technical problems of laboratory analysis when this procedure is used in verifying the amount of nonfat milk solids added to natural milk or skim milk. They indicated that since the results of laboratory tests are expressed as a percentage of the weight of the product being tested, using the actual product weight factor would simplify the accurate accountability of modified products.

There was no showing of the extent to which laboratory analysis of modified products is used in verification by market administrators in these markets. Also, there is no indication that modified products are not being accounted for in an accurate manner. Thus, it is not clear from this record that the proposed procedure is necessary for more accurate product accounting or that it would result in any net saving in administrative cost.

Proponents did not attempt to demonstrate any economic basis for making the slightly greater charge for nonfat milk solids used to modify fluid milk products that would result from their proposal. Their proposed procedure would increase slightly the quantity of a modified product priced in Class I. A gallon of modified skim milk containing 11 percent nonfat milk solids, for example, would be classified in Class I on an 8.7 pounds weight factor as compared to the present basis of an 8.63 pounds weight factor.

The present method of classifying modified fluid milk products increases total Class I sales only to the extent of the volume of the unmodified product that the added nonfat milk solids replaces. In the absence of evidence that the present procedure is inappropriate, it should be continued. The present procedure is used under Federal orders generally and, therefore, carries out the objective of uniformity in this respect.

Handlers may add nonfat milk solids to several of the proposed Class II products, such as half and half and light cream. Each order should provide in this case that the entire weight of the skim milk equivalent of the solids added be classified in Class II. This procedure would differ from that applicable to modified fluid milk products in that no part of the skim milk equivalent of the added solids would be classified in the lowest class. As described in detail later, nonfat dry milk or condensed milk that is added to a Class II product would be allocated directly to the handler's Class II use. Thus, classification of the entire skim milk equivalent in Class II would not affect adversely the handler's pool obligation under this allocation procedure.

(c) *Classification of milk transferred or diverted to other plants.* Certain changes should be made in the provisions of each order that prescribe the classification of fluid milk products that are transferred or diverted from a pool plant to another plant. Several of the changes become necessary with the adoption of three classes of utilization in place of the present two classes. Other changes are appropriate for purposes of uniformity among orders and clarity in the classification of milk.

Under the adopted classification plan, fluid cream products would be classified as Class II products. If such products are transferred to another plant in packaged form, the skim milk and butterfat contained therein should be classified as Class II milk since these items are moved in final form. The classification of fluid cream products when disposed of in bulk form, however, is determinable only by following the movement of the bulk product to its subsequent use. Thus, it is necessary that fluid cream products that are transferred in bulk form from a pool plant to another plant be classified in a manner similar to that now used in classifying transfers of bulk fluid milk products.





Each order now prescribes a procedure for classifying transfers of bulk fluid milk products from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant. To determine such classification, the nonpool plant's utilization must be assigned to its receipts of milk from each source. Some amplification of this procedure is appropriate to set forth clearly the priority for assigning the different types of plant use to the different sources of fluid milk products and bulk fluid cream products received at the nonpool plant.

Under the adopted assignment priorities, the first step is to assign the nonpool plant's Class I utilization to its receipts of packaged fluid milk products from all federally regulated plants. Such receipts should receive first priority on the nonpool plant's Class I use since all orders provide that such packaged transfers from a pool plant to an unregulated nonpool plant shall be classified as Class I milk. Thus, any Class I route disposition of the nonpool plant in the marketing area of a Federal order, and any transfers of packaged fluid milk products from the nonpool plant to plants fully regulated under such order, would be assigned, first, to the nonpool plant's receipts of packaged fluid milk products from plants fully regulated under such order and, second, to any such remaining packaged receipts from plants fully regulated under other Federal orders.

A similar assignment of any such remaining disposition (i.e., the aforesaid Class I route disposition and transfers of packaged fluid milk products) then would be made to the nonpool plant's receipts of bulk fluid milk products from pool plants and other order plants. Any other Class I disposition of packaged fluid milk products from the nonpool plant, such as route disposition in unregulated areas, would be assigned to any remaining unassigned receipts of packaged fluid milk products at the nonpool plant from plants fully regulated under any Federal order.

After these assignments, any Class I use at the nonpool plant that is attributable to the Class I allocation at a Federal order plant of fluid milk products transferred in bulk from the nonpool plant to the regulated plant would be assigned next. Such use would be assigned, first, to the nonpool plant's remaining unassigned receipts of fluid milk products from plants fully regulated under that order and, second, to any such remaining receipts from plants fully regulated under other orders.

Additional unassigned Class I utilization at the nonpool plant then would be assigned to the plant's receipts of Grade A milk from dairy farmers and unregulated nonpool plants that are determined to be regular sources of Grade A milk for the nonpool plant. Any remaining unassigned receipts of fluid milk products at the nonpool plant from plants fully regulated under any order would be assigned to any of the nonpool plant's remaining Class I utilization, then to its Class III utilization, and then to its Class II utilization.

Following these assignments, any receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants would be assigned to the nonpool plant's remaining unassigned utilization in each class. Such assignment would be made in sequence beginning with the lowest class.

In determining the classification of any transfers or diversions from a pool plant to a nonpool plant, the utilization of any transfers from the nonpool plant to another unregulated nonpool plant also must be established. In this case, the same assignment priorities just outlined should apply also at the second nonpool plant.

Certain changes should be made in each order concerning the classification of products transferred from a pool plant to a producer-handler. Under the revised classification plan, bulk fluid cream products transferred from a pool plant to a producer-handler should be assigned to the extent possible to the latter's Class III use, and then Class II use. If the producer-handler does not have enough utilization in these classes to cover such transfers, any remaining transfers should be classified as Class I milk.

As in the case of all other fluid milk products, such transfers of cream are now classified as Class I milk. Such classification tends to assure that producers do not carry for producer-handlers the burden of maintaining reserve supplies for the Class I sales of producer-handlers. With the removal of cream from the Class I classification, as adopted herein, a mandatory Class I classification of cream transfers to producer-handlers would not be necessary for this purpose.

Each order should provide that fluid milk products transferred from a pool plant to a producer-handler under an- With one exception, this classification now applies under these orders with respect to such transfers made on an intramarket basis. The San Antonio order has no provisions for classifying such transfers since it does not contain a producer-handler definition.

The producer-handlers, in their capacity as handlers, have been exempt from the pricing and pooling provisions of the various orders. In consideration of this exemption, each order, except as noted, requires a Class I classification of all fluid milk products that are transferred from a pool plant to a producer-handler as defined under that particular order. Inasmuch as the producer-handler exemption under each order is predicated on essentially the same basis, a Class I classification of milk transferred from a pool plant regulated under one order to a producer-handler as defined under another order would be in keeping with the general basis for producer-handler exemption.

In addition to the Class I classification of all fluid milk products transferred from a pool plant to a producer-handler, several orders provide for a similar classification of all fluid milk products transferred to a government-operated plant. Such plants are exempt from the pooling and pricing provisions of the order in much the same manner as producer-handlers. It is appropriate, therefore, that the adopted method for classifying bulk fluid cream products transferred to a producer-handler likewise apply to transfers of bulk fluid cream products to government-operated plants.

The orders should be uniform with respect to the conditions under which the classification provisions apply to bulk milk movements from one regulated market to another. Although each order now has the same rules for classifying such movements of milk, their application is limited under some orders to only those movements in the form of interplant transfers. This is because such orders do not permit milk to be moved between markets by diversion.

Since the advent of farm bulk tanks, the diversion of producer milk from pool plants to manufacturing plants has been a common method of handling milk not needed for the fluid market. Under some orders, such diversions are permitted to be made only to unregulated nonpool plants. For a number of markets where available manufacturing facilities are associated with another regulated market, the orders permit producer milk to be diverted to other order plants. Corollary provisions in the order regulating the manufacturing plant specify that such milk, although having been delivered directly from the farm, shall not be considered as producer milk in the market to which diverted if the milk comes into the market for manufacturing use.

In connection with developing uniform classification provisions for the 32 orders, provision should be made under each order for the diversion of milk to other order plants for Class II or Class III use. This will contribute to a more uniform application of the classification provisions to all regulated handlers. At the same time, such provisions will foster the efficient handling of surplus milk in these markets by permitting the disposal of such milk directly from farms to manufacturing plants in other markets, rather than having such intermarket movements limited to the more expensive method of transferring milk from one plant to another. With the safeguards adopted herein, returns to producers in the market to which the milk is diverted will not be affected by the processing of this surplus milk in their market since the diverted milk will continue to be pooled in the market from which diverted.

The classification of fluid milk products transferred or diverted from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant should not be contingent upon any distance limitation. Presently, 20 of the 32 orders under consideration provide for the Class I classification of milk moved beyond a specified distance, regardless of its ultimate use at the nonpool plant. In the case of milk transferred to less distant plants, recognition is given under the classification provisions of the 20 orders to the nonpool plant's actual utilization.



V 38-176 SEP 12 73 XUM

Cooperatives proposed the removal of all mileage limitations affecting the classification of transfers and diversions. They claimed that these provisions are not appropriate under today's marketing conditions and that their removal would facilitate the orderly disposition of reserve milk supplies.

The conditions prompting the initial adoption of these mileage limitations no longer prevail, thereby making their continued use inappropriate. The use of mileage limitations evolved in large part from the relatively high transportation cost of milk relative to its value for manufacturing and from the administrative cost of verifying the utilization of milk transferred to plants distant from the local market. Under today's conditions of distribution, milk regularly moves greater distances as a routine matter. Moreover, Federal orders now operate throughout much of the United States. Arrangements for verifying the utilization at distant plants can be made easily through the facilities of the various market administrators' offices.

Also, the mileage limitations often are no longer consistent with the existing supply patterns. Milk is often moved considerable distances from producers' farms to distributing plants. When such milk is not needed for fluid use, it is usually diverted to manufacturing plants located close to the production area. Classifying such milk in Class I because of applicable mileage limitations is not consistent with the obvious manufacturing use of the milk. Removal of such provisions will promote uniformity in classification among the 32 markets.

(d) *Classification of end-of-month inventory.* Each of the orders should be made uniform with respect to the classification of inventory on hand at the end of the month. Fluid milk products in either packaged or bulk form that are in a handler's end-of-month inventory should be classified as Class III milk. Such inventory should be subject in the following month to reclassification in a higher class. Ending inventory of fluid cream products, eggnog and yogurt, when held in bulk form, likewise should be classified in Class III and subject to reclassification. Such products held in packaged form at the end of the month should be classified as Class II milk.

Presently, 22 of the 32 orders classify all ending inventories of fluid milk products (which now include most cream products) in the lowest class. Under the remaining orders, such inventories in bulk form are classified in the lowest class, while a Class I classification applies to such inventories in packaged form. In the latter case, a handler's obligation for the Class I inventory is adjusted in the following month by whatever amount the Class I price in such month changes from the Class I price level initially applicable to the inventory. This assures that such inventory is priced on a current basis when disposed of on routes.

Cooperatives proposed that each order classify all ending inventories of fluid milk products in Class III. They claimed that this procedure would be less complicated for handlers and would facilitate the administration of the order since handlers only occasionally would have any adjustment in their pool obligation as a result of having Class III inventory reclassified in a higher class. Proponents stated that with packaged inventory in Class I, as under 10 of these orders now, each handler usually has some adjustment each month in his obligation for Class I inventory. The cooperatives' proposed classification of ending inventory was supported by handlers.

In the interest of establishing uniform classification provisions among the orders, the same procedure for classifying end-of-month inventory should be adopted for each of the orders. Either type of inventory classification procedure now being used in these markets results over the long run in essentially the same pool obligation for handlers and the same returns to producers. In this circumstance, the substantial support among the industry for classifying all ending inventories of fluid milk products in the lowest class suggests that this procedure be used under all orders. Under this procedure, such inventories would be subject in the following month to reclassification in a higher class, as determined through the allocation of a handler's receipts to his utilization. A charge to the handler at the difference between the Class III price for the preceding month and the Class I or Class II price, as applicable, for the current month would apply to any reclassified inventory. This is the same reclassification procedure that now applies under the orders to inventories of fluid milk products in bulk form.

Fluid cream products in bulk form that are on hand at the end of the month likewise should be classified in Class III. As in the case of bulk milk, the final use of cream being held in bulk form is not necessarily apparent from that form. The cream must be followed to its ultimate use, which may be in any class. Accordingly, it is reasonable to classify any closing inventory of bulk cream in Class III and then apply a reclassification charge should the cream, as beginning inventory the following month, be allocated to a higher class.

Fluid cream products, yogurt and eggnog that are on hand in packaged form at the end of the month should be classified in Class II, the class of expected ultimate use, rather than in Class III as would be the case for ending inventories of such products in bulk form. The higher classification will accommodate the treatment adopted herein whereby such products that are received at a pool plant in packaged form and disposed of in the same packages would be permitted to "pass through" the plant without any pool obligation or down-allocation. In this connection, the ending Class II inventory, as Class II inventory on hand at the beginning of the following month, would be allocated in the following month directly to the handler's Class II utilization.

Cooperatives proposed that for classification purposes ending inventory include only those products that are actually on the premises of a pool plant. Under their proposal, the premises of a plant would be limited to a location having equipment for receiving, cooling, processing, and storing milk. However, products being held in trucks parked at that location would not be a part of the handler's closing inventory. Also, a storage facility at a distributing point for packaged products in transit to wholesale and retail outlets would not be considered under their proposal as an extension of the premises of a plant. Cooperatives proposed also that ending inventory include any bulk milk that is in transit from a pool plant to another plant at the end of the month. Proponents claimed that defining ending inventory in this manner would facilitate the administration of the order.

The present orders do not specify at what point in a handler's distribution system fluid milk products shall be or shall not be considered for classification purposes as being in a handler's closing inventory. This is a matter that has been left to the accounting guidelines established by market administrators in their administration of the orders. It is recognized that at the close of the monthly accounting period fluid milk products that have been packaged but not yet delivered to the place of sale may be at any one of several places in a handler's distribution system. Depending on the handler's method of operation, such places could include the cold storage room within his processing plant, trucks parked on or near the plant's premises, distributing points, or trucks in transit to distributing points or places of sale. No significant problems concerning the determination of what constitutes closing inventory were brought to light at the hearing. Therefore, the cooperatives' proposal in this regard need not be adopted at this time.

For the first month that the revised classification plan is effective, certain transitional provisions relating to inventory should apply. Such provisions are necessary to assure that all handlers under an order will be subject to the same pricing for milk used in packaged fluid milk products and fluid cream products whether such products enter into the month's accounting as beginning inventory or are made from current receipts of producer milk.

As indicated, 22 of the orders under consideration presently classify ending inventories of fluid milk products, including cream items, in the lowest class. Thus, in the last month that the present classification plan is effective, handlers under these orders will have paid the corresponding class price for these products. In the first month under the new plan, such inventories that had been held over in the form of a fluid milk product or a bulk fluid cream product would be allocated to the extent possible to the handler's Class III utilization. Should such inventories be allocated to a higher class, the appropriate reclassification charge would apply.

Under the new plan, beginning inventories of fluid cream products in packaged form normally would be allocated directly to a handler's Class II utilization. Such allocation assumes that the products were priced at the Class II price in the preceding month. Since this would not be the case for the first month under the new amendments, such inventories should be allocated in the first month to the extent possible to Class III, as in the case of inventories of fluid milk products and bulk fluid cream products. A reclassification charge should apply if a higher classification results.

Under the remaining 10 orders, which now classify ending inventories of packaged fluid milk products in Class I, a pool credit should apply to such inventories in the first month that the revised classification plan is effective. Under the new plan, beginning inventories of fluid milk products and, for the first month, all fluid cream products would be allocated to the extent possible to Class III. Again, this allocation assumes that such inventories were priced at the lowest class price in the preceding month. Since such inventories in packaged form will have been priced at the preceding month's Class I price, handlers under these 11 orders should receive a credit on such packaged inventories equal to the difference between the preceding month's Class I price and lowest class price. If a higher classification results through the allocation procedure, the appropriate reclassification charge would apply.

(e) *Classification of shrinkage, milk dumped and milk disposed of for animal feed.* Each of the orders should provide for generally uniform provisions for classifying skim milk and butterfat dumped, disposed of for animal feed, or in shrinkage.

In the case of shrinkage, the cooperative associations requested that no change be made in the present order provisions, except to classify shrinkage in Class III insofar as it is now classified in the lowest class of each order.

The shrinkage provisions adopted herein are basically similar to the shrinkage provisions now effective under 27 of the 32 orders. The classification of shrinkage in the lowest use class (subject to certain limitations), as now provided in all the orders, would be continued under the adopted three-class system. Modifications of shrinkage provisions in the individual orders are in the nature of certain refinements now applicable under several of the orders.

The amount of shrinkage that may be classified in the lowest class under the 32 orders is presently limited with respect to receipts of producer milk and certain interplant transfers. In 31 of the orders, 2 percent is the maximum shrinkage allowed in the lowest class in the case of such receipts. One and one-half percent is the rate usually applicable to bulk receipts of interplant transfers, but generally no limit applies in the case of receipts of other source milk requested for lowest class use. These allowances are adopted for each order in the new uniform provisions.

Also adopted is the commonly used method of prorating total plant shrinkage to (1) those kinds of receipts on which the shrinkage limitations apply, and (2) other receipts of fluid milk products in bulk form, such as milk from other order plants or unregulated supply plants for which a Class II or Class III classification is requested. To the extent that the quantity of shrinkage prorated to the first category exceeds the established limit, the excess would be classified in Class I.

The adopted provisions recognize that shrinkage normally experienced varies with the type of handling involved. More loss is usually experienced in plant processing than in merely receiving milk for delivery to another handler. Thus, with respect to delivery of milk by a cooperative association handler from farms to plants in tank trucks, a Class III shrinkage allowance of 0.5 percent of such milk is provided. Any excess shrinkage over 0.5 percent is classified as Class I milk.

The Class III shrinkage allowance to the processing plant receiving the milk from the cooperative would be 1.5 percent. This maintains a total of 2 percent Class III shrinkage allowance for such milk from producers in the receiving and processing operations.

The provisions adopted herein are designed to carry out the appropriate division of shrinkage whether the plant operator purchases the milk at farm weights and tests or at plant weights and tests. The provisions allow the plant operator up to 2 percent shrinkage in Class III if he buys the milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples. In this case, there is no shrinkage allowance for the cooperative association delivering the milk.

As provided herein, when a plant operator disposes of bulk milk by transfer to another plant, his shrinkage allowance would be reduced at the rate of 1.5 percent of the quantity transferred. This percent of the quantity transferred. Such a reduction would not apply, however, in the case of cream or skim milk transferred from the pool plant. This recognizes the fact that a handler normally experiences more shrinkage when he runs milk through a separator than when the milk is merely received and then transferred in whole form.

In the case of milk diverted from a pool plant to another plant, a shrinkage allowance in Class III of 0.5 percent would be provided the diverting handler if the operator of the plant to which the milk is diverted purchases such milk on the basis of weights and tests determined at the plant. If the milk is purchased at farm weights and tests, no shrinkage allowance would apply for the diverting handler. This is the same procedure applicable to cooperative bulk tank deliveries to pool plants. Similar handling is involved.

This kind of division of the 2 percent shrinkage allowance, both in the case of transfers from cooperatives to plants and for transfers between plants, has been found practical and has been well accepted in the markets where it now applies. Such division of the shrinkage allowance, therefore, should be included also in the Cedar Rapids-Iowa City, North Central Iowa, Des Moines, Fort Smith, and Austin-Waco orders that now treat shrinkage in a somewhat different manner.

As has been indicated, the uniform shrinkage provisions adopted would allow for certain typical variations of individual handler operations. Thus, the provisions should be adaptable to methods of milk handling now in use in all 32 markets. Testimony on the record did not provide any basis for retaining the many minor differences in shrinkage provisions that exist among these orders. In view of these conditions, it is appropriate that the orders have basically uniform shrinkage provisions.

The single exception to the maximum 2 percent shrinkage allowance will be in the Neosho Valley order that now allows up to 5 percent shrinkage in the surplus class for skim milk during April, May, and June. Although the record does not indicate why a need exists for such a substantially different allowance in one market, no change should be made in the allowance until the matter can be explored further.

A proposal in the hearing notice by two trade associations of processors would amend the orders to allow shrinkage on milk solids used in fortifying fluid milk products. While such an allowance now applicable under the North Texas order would be continued in that market, a basis for adoption in the other orders was not developed on the record. It would be important to have, for the other markets, evidence of current plant practices with respect to use of nonfat solids used for fortification and the effect of accounting and recordkeeping procedures on quantities reported as loss. Such data were not presented and thus there is no substantial basis on which to broaden the use of such provision.

Milk or milk products dumped or disposed of for animal feed are minor categories of disposition. Both cases involve quantities of milk products that for one reason or another are not salable for human consumption. Such dispositions are likely to occur in normal plant operations. Route returns that may be nonsalable because of dating regulations often may not be reprocessed economically into other products. Additives such as flavoring or nondairy solids may make reprocessing impractical. Also, in the processing of certain products culturing processes may break down, thereby making the milk unusable for further processing.

The cooperatives proposed that there be no change in the present classification of dumpage and animal feed other than to include such uses in the lowest class in those orders specifically recognizing such dispositions. Several milk dealers and two trade associations of processors also proposed that dumpage and animal feed dispositions be classified in the lowest use class. They requested, however, that these provisions be included in the







V 38-176 SEP 12 73 XUM

several orders not now containing such provisions.

In the three-class system adopted in this decision, dumpage and animal feed dispositions are classified in the lowest use class. This conforms to the classification plans in those orders that provide specifically for such dispositions. Existing provisions recognize that such dispositions provide little or no return to the handler.

There are differences among the orders as to the type of products for which the lowest classification is permitted when disposed of for animal feed or dumped. While some of the orders apply such classification to all skim milk and butterfat so disposed of, others limit the application to skim milk in fluid milk products, and several orders provide such classification for cottage cheese and cottage cheese curd dumped or disposed of for animal feed.

The products covered by the dumpage and animal feed provisions should be limited to fluid milk products, fluid cream products, eggnog, yogurt, and similar filled products. Because of their relatively limited shelf life, it is these products that are commonly found in route returns and for which handlers realize little, if any, monetary value. Such provisions also would apply to skim milk being used in the manufacture of cottage cheese but which must be dumped because of a failure in the culturing process.

Dumping, unlike other dispositions, involves no sales records that could aid in verification of a handler's records. Thus, advance notice to the market administrator and opportunity for verification should be required. Also, in the case of animal feed disposition, a plant operator should maintain sufficient records to establish in every instance the quantities of skim milk and butterfat involved, and show a written receipt for every disposition.

The several changes herein adopted with respect to the classification of shrinkage, dumpage and animal feed disposition will have relatively minor effect on producer returns or on handlers' costs. The quantities of milk classified in these categories are normally a very small percentage of an indlvidual handler's total utilization. The uniform provisions adopted are similar to existing provisions found practical from experience in the majority of markets here involved. The standardization of terminology in the provisions described should result in provisions more easily understood.

Whether there may be some merit in a more general revision of the provisions for classifying shrinkage, dumpage and animal feed disposition than is set forth herein cannot be decided on this record. If more extensive changes are in any way desirable, such matters should be considered on the basis of a thorough exploration of the issue at another hearing.

A handler proposal for a single "loss" classification including shrinkage, animal feed and dumped products is not adopted. The proposal was not explored by interested parties on the record as to how it would affect handler and producer equities. There is no substantial basis on which to judge its merit and the proposal therefore is denied.

(f) *Allocation of receipts to utilization.* In adopting a revised classification plan under each of the 32 orders, conforming changes must be made in the provisions that prescribe how a handler's receipts from different sources shall be allocated to his utilization for the purpose of classifying producer milk. Of the 32 orders, all but seven provide for only two classes of utilization. Thus, changes in most of the orders are necessary to provide for the allocation of receipts to three classes of utilization rather than two classes. Also, all orders must be changed with respect to the allocation of beginning inventories, as previously described.

The adoption of three use classes requires a new consideration of how other source milk shall be allocated to a handler's utilization of milk. Under the present orders, other source milk is allocated in most cases to a handler's surplus uses to the extent possible, regardless of how it actually may have been used. The producers who are relied upon for a regular supply of milk for the local fluid market thus receive the highest possible classification of their milk. Depending on the supply conditions, milk from unregulated supply plants and other Federal order plants is permitted to share in varying degrees with local producer milk in the higher value of the handler's Class I sales.

In conjunction with the revised classification plan, however, handlers using certain types of other source milk (whether in the form received or in reconstituted form) in the processing of Class II products should be permitted to have such other source milk allocated directly to their Class II uses. Under the plan adopted herein, such other source milk to which direct allocation could apply would be limited to milk products (such as nonfat dry milk and condensed milk or skim milk) that are not fluid milk products or fluid cream products.

The national associations of fluid milk and ice cream processors proposed that if a three-class system is adopted handlers should have the option of having other source milk allocated to their Class II utilization rather than allocated to the extent possible to the lowest class. It was their position that the Class II price for producer milk should not be set at a level that is any higher than the cost to handlers of obtaining alternative supplies of milk or milk products for Class II use. These groups contended that with such pricing there is no justification for "down-allocating" to Class III any receipts of other source milk which actually may have been used in Class II.

Handlers indicated further that with optional allocation a handler could choose to use other source milk without the cost impact of down-allocation should the cost of such milk become less than the cost of producer milk for Class II use. Also, these groups stated that down-allocation of other source milk would imply an intent to provide undue protection of the Class II market for producers. They maintained that such protection is not justified, or apparently intended by producers in view of no producer proposal for a compensatory payment on other source milk used in Class II.

Cooperative associations, on the other hand, urged in connection with their proposal for three classes that producers have first claim on a handler's Class II use as well as on his Class I use.

In establishing a new intermediate price class, it is not intended that this outlet for producer milk necessarily be reserved for local producers. This new use class merely recognizes that some additional value attaches to producer milk used by regulated handlers in the Class II products. Pricing this milk at a level above the Class III price serves also to reduce the burden on the Class I price of attracting a supply of producer milk for the Class I market. It is not intended that producer returns be enhanced for the purpose of also attracting a full supply of producer milk for handlers' Class II uses. Accordingly, no obligation to the pool (commonly known as a compensatory payment) would be imposed under the revised classification plan on any other source milk which regulated handlers may use in Class II or on any Class II products that may be distributed in the market by nonpool plants, either directly on routes or through pool plants.

As long as the Class II price for producer milk remains in proper relationship with the cost of alternative supplies, it is not expected that this direct allocation of nonfluid other source milk to Class II will induce handlers to use other source milk in preference to producer milk to any greater extent than presently for processing Class II products. Under the adopted Class II price, producers would represent in most circumstances the most economical source of milk for Class II use.

No provision should be made for the direct allocation to a handler's Class II utilization of other source milk received in fluid form. Unlike the handling of nonfat dry milk, it would not be unusual for a handler to commingle in his plant any receipts of fluid other source milk with his receipts of producer milk. In this circumstance, it would not be possible to know just how much of the other source milk may have been used in the processing of a Class II product. The difficulty which a handler would have in demonstrating that he actually used fluid other source milk in a Class II product, and the administrative difficulty in verifying such claimed use, warrants the allocation of such milk in essentially the same manner as now provided by the orders.

In this connection, it should be noted that under the revised classification plan each order would provide for the specific allocation to a handler's Class II and Class III utilization of any receipts of bulk fluid milk products from an other order plant or an unregulated supply plant for which the handler requests a Class II or Class III classification. Such receipts would be allocated to the extent possible first to the handler's Class III utilization and then to his Class II utilization. This would be the case even if a





Class II classification were requested by the handler.

An additional proposal concerning the "down-allocation" of other source milk was offered at the hearing by a handler operating distributing plants in several of the markets under consideration. The company's spokesman indicated that in one market the milk supply being furnished to it by the local producer cooperative was withheld by the cooperative in a particular month when the company refused to enter into a "full-supply" contract. The spokesman claimed that because the cooperative controlled about 85 percent of the producer milk on the market, the company was forced to acquire a supply of milk for the remainder of the month from another market. The spokesman indicated that although having purchased the outside milk for Class I use some of the milk was down-allocated to the plant's lowest utilization. This was because of the order provisions that now result in local producers receiving in large part first priority on a handler's Class I utilization. The handler proposed that if local producers refuse to supply a pool plant with sufficient milk for its Class I needs during the month, any supplies acquired from outside the market for Class I use not be down-allocated relative to receipts of producer milk.

The proposal should not be adopted. Any order provision intended to accommodate a handler in this one particular circumstance would be difficult to administer in an equitable manner. Handlers are not required by an order to purchase milk from any particular source. Similarly, producers are not required to supply any particular handler. In negotiating for the purchase, or sale of milk, either party may find the proposed terms unsatisfactory and thus may decide not to consummate the transaction. It would be difficult, if not impossible, for a market administrator to determine, however, which party actually decided not to enter into a purchase-sales agreement. Should a handler be able to acquire outside milk at a lesser cost than would be applicable to local producer milk, such handler would have an incentive to claim that local producers refuse to supply him with milk when, in fact, this was not the case.

Such administrative difficulties could be overcome, of course, through the adoption of provisions that do not down-allocate receipts of outside milk from selected sources, or from any source, for Class I use. This would be a major departure, however, from the allocation procedure now used under the present orders. This procedure, which was based on comprehensive hearings for all Federal order markets, resulted from the "compensatory payment" decisions concerning the integration of other source milk into the regulatory plan of an order.[1] Such a change would be much broader in scope than was contemplated under the handler's proposal described above and should not be adopted.

In keeping with the goal of classifying milk uniformly under the 32 orders, certain changes should be made in the orders to effect a uniform application of the allocation provisions to multiple-plant handlers. Presently, the 32 orders differ as to how the allocation procedure shall be carried out for handlers who operate two or more pool plants regulated under the same order.

Each order should provide that for purposes of allocating a multiple-plant handler's receipts to his utilization, the operations at each of his pool plants shall be considered separately. As is the case now, however, those receipts of other source milk from unregulated supply plants and other Federal order plants eligible to share with producer milk in a handler's Class I utilization should be allocated on the basis of the handler's total plant system.

This application of the allocation provisions to a multiple-plant handler is now used under six of the 32 orders. Two other orders require that allocation be on an individual-plant basis unless there are receipts of other source milk at any one of the handler's pool plants to be allocated pro rata with producer milk to the plant's Class I utilization. In this case, all allocations of the handler's receipts to utilization are done on the basis of the handler's total system. The remaining orders provide that allocation be on a system basis in all cases.

Conditions in the individual markets do not require continuance of the several allocation methods now provided in the orders under consideration. Handlers are often subject at different times to the regulatory provisions of different orders. Applying the allocation provisions uniformly among all orders will reduce unnecessary regulatory differences being experienced by these handlers. There would be little, if any, change in a handler's total obligation under the order, or in producer returns, from applying the adopted allocation procedure in those orders not now providing for allocation on an individual-plant basis.

All the orders now provide that certain receipts of milk from unregulated supply plants and other Federal order plants shall share in varying degrees with local producer milk in the receiving handler's Class I utilization at all of his pool plants combined. This procedure, which resulted from the 1964 "compensatory payment" decisions referred to earlier, should be continued. To implement this procedure in those orders being changed from system allocation to individual-plant allocation, several additional allocation steps must be provided in such orders. These involve essentially the same computations now required under the orders for the North Texas, Central West Texas, Lubbock-Plainview, Rio Grande Valley, Northern Louisiana and Des Moines markets where individual-plant allocation is used. Such provisions are revised, however, to incorporate three classes of utilization rather than two classes.

The additional allocation steps establish a procedure whereby the milk from unregulated supply plants and other order plants will continue to be classified on the basis of the handler's total system, but will be assigned to classes at the pool plant of actual receipt. Under this procedure, the situation may arise where there is not enough utilization in a specific class at the plant of actual receipt to which such other source milk must be assigned (as determined from receipts and utilization of his entire system). In this case, an accounting technique is used for increasing the utilization in such class at the plant of actual receipt and making a corresponding reduction in the same class at one or more of his other pool plants in his system. This technique does not result, however, in changing the amount of milk to be accounted for at each plant, or the classification of milk within the handler's entire system.

(g) *Obligations relative to other source milk.* Each of the orders under consideration that provide for marketwide pooling should be revised to the extent necessary to remove the possibility of a handler being charged under the order at the Class I price for milk that already has been classified and priced as Class I milk under some Federal order. Certain of these orders already have been revised to remove any "double charge" on Class I milk. The order language previously adopted for this purpose should be made uniform, however, and should be included in the remaining orders not now containing such provisions.

No changes in this respect are necessary under the Memphis, Fort Smith, Austin-Waco and North Central Iowa orders. These orders employ individual-handler pooling and do not provide for any handler obligation on other source milk.

A "double charge" on Class I milk received at a pool plant from an unregulated nonpool plant could result in the following manner. Producer milk could be transferred in bulk from a pool plant under the Wichita order, for example, to an unregulated nonpool plant and be assigned to the nonpool plant's Class I utilization. In determining his pool obligation, the pool plant operator would be charged for this Class I utilization of milk at the Class I price. During the same month, bulk milk could be transferred from the nonpool plant to a pool plant under the Kansas City order and be allocated to such pool plant's Class I utilization. In this case, the operator of the pool plant would be charged under the Kansas City order the difference between the order's Class I price and weighted average price for this receipt of "other source" Class I milk. Thus, to the extent of the Class I milk that was moved to the nonpool plant from the Wichita market as Class I milk, the Class I other source milk received at the Kansas City pool plant from the nonpool plant is, in effect, priced twice as Class I milk under the Federal order system.

More and more, plants are tending to specialize in the processing of certain products, or in the packaging of products

[1] Official notice is taken of the Assistant Secretary's decisions issued on June 19, 1964 (29 F.R. 9002, 9110, and 9213), with respect to all milk orders then in effect.



V 38-176
SEP 12 73
XUM

in particular types of containers. It is not uncommon for milk to be transferred from a pool plant to an unregulated nonpool plant for special processing and the finished products to be moved back into the regulated market. When the milk is initially priced at the Class I price, the market price structure is in no way undermined if this milk, or its equivalent, is disposed of by the nonpool plant in the regulated market.

The orders therefore should provide that the operator of the Kansas City plant, in this example, will have no obligation to the pool on such other source Class I milk. This is achieved through a revision of the allocation provisions and the procedure for computing the pool obligation of a pool plant operator. Receipts of packaged fluid milk products at a pool plant from an unregulated supply plant would be allocated to the pool plant's Class I utilization to the extent that an equivalent amount of skim milk or butterfat disposed of to the unregulated plant by handlers fully regulated under any Federal order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order. This allocation would be made prior to any other allocation of receipts to the plant's Class I utilization, and no order obligation would apply to the milk so allocated to Class I. In the case of fluid milk products received from an unregulated supply plant in bulk form, the provisions setting forth a handler's pool obligation would specify that no payment would apply to any of such milk allocated to Class I if, as just described for packaged milk, an equivalent amount of milk received at the unregulated plant had been priced as Class I milk under some order.

In this same connection, the provisions prescribing the obligation of a partially regulated distributing plant should be changed in each marketwide pool order. When such plant's obligation is computed as though it were a pool plant, proper recognition must be given to any transfers from the plant to a regulated plant that are considered to already have been priced as Class I milk under some Federal order. Also, in computing such plant's pool obligation on route sales in a Federal order marketing area, recognition should be given to any receipt of milk at such plant from another unregulated plant if an equivalent amount of milk received at the latter plant already has been priced as Class I milk under an order.

Each order now imposes a handler assessment for administering the order on all other source Class I milk except that received in fluid form from an other order plant. This may include milk that already has been priced as Class I milk under some Federal order as described above. With the removal of a "double" Class I charge on such milk, each order should be changed to likewise remove any assessment on such milk for administrative expenses. It is presumed that such milk was subject to a similar charge under the order that initially priced the milk.

The marketwide pool orders should be changed also with respect to the application of location adjustments to other source Class I milk. As just described, each of the orders provides that a pool plant operator's obligation to the producer-settlement fund shall include a payment for fluid milk products received from an unregulated supply plant if they are allocated to Class I. The handler's payment is determined by charging him at the Class I price for the Class I other source milk and giving him a credit on the milk at the weighted average price (or uniform price in the case of those orders that do not provide for any type of seasonal production incentive plan). Both the Class I and weighted average prices are adjusted for the location of the unregulated supply plant. The adjustment of the weighted average price, though, is so limited as to be not less than the lowest class price. No such limitation is applied currently under most of the 32 orders to the Class I price adjustment.

Providing that any adjusted Class I price applicable to other source milk be not less than the Class III price is appropriate under each order. Otherwise, under certain conditions a handler could receive payment from the producer-settlement fund on Class I milk obtained from an unregulated supply plant. Such payment could result when the location differential for the distant plant is greater than the difference between the Class I and Class III prices. In this circumstance, producers under the order, in effect, would be providing the handler with a credit that reduces his cost for the distant milk below its value for manufacturing use at the point of purchase. From the standpoint of marketing efficiency, the handler should not be provided an incentive, which would be at the expense of local producers, to import such distant milk into the local market.

A similar situation now exists with respect to the obligation of the operator of a partially regulated distributing plant or an other order plant. In certain cases, the handler's obligation includes a payment to the producer-settlement fund at the difference between the Class I price applicable at his plant and either the weighted average price or the Class III price. For the same reasons, each order should provide, in computing the obligation of such a handler also, that the Class I price, as adjusted for location, shall not be less than the Class III price.

(h) *Reports.* The proposed changes in the classification of milk are not expected to require any major change in the amount of information to be submitted by handlers in their monthly reports of receipts and utilization. The reporting provisions of each order must be changed, however, to reflect the new categories of information that each market administrator will need in administering an order. These changes stem largely from the proposed reclassification of cream and the revised accounting methods necessary for implementing a three-class classification scheme.

In revising the reporting provisions of each order, such provisions should be made uniform to the extent possible. Essentially the same information is now required to be reported under each order, basically for the purposes of determining the classification of the milk and its classified value. There is considerable variation among these orders, however, in the manner in which the provisions on reports are expressed.

As proposed herein, the reporting provisions would be stated in some orders in slightly less detail than is now the case. The market administrator would have, nevertheless, no less authority than at present to obtain through handler reports, in the detail and on forms prescribed by the market administrator, any information the latter believes is necessary for administration of the order.

5. *Changing the butterfat differentials.* A single butterfat differential should apply under each order for adjusting prices to the actual butterfat content of the milk being priced. This differential should be the Chicago butter price multiplied by 0.115, rounded to the nearest 0.1 cent.

All 32 orders provide butterfat differentials for adjusting class prices and uniform prices for butterfat content. With two exceptions, each order bases the class butterfat differentials on the Chicago butter price, which would be continued under the revised orders. The Chicago butter price is the simple average of the wholesale selling prices (using the midpoint of any price range as one price) per pound of Grade A (92-score) bulk butter at Chicago as reported for the month by the U.S. Department of Agriculture. Under the Minneapolis-St. Paul and Southeastern Minnesota-Northern Iowa orders, the Class II butterfat differential is based on the price of Grade AA (93-score) butter at New York City.

The handler butterfat differentials for each class are now computed by multiplying the butter price by a specified factor. In the case of the Class I butterfat differential, the factor is 0.120 under 19 orders and 0.125 under 11 orders. One order uses a factor of 0.130 and another a factor of 0.135.

The factor most commonly used in computing the butterfat differentials applicable to the surplus prices is 0.115, as prescribed by 18 orders. Eight orders use 0.110, while the factors 0.120 and 0.108 are used under two other orders. Four orders use a factor of 0.110 during the heavy production months and 0.115 during the remainder of the year.

The butterfat differential used in adjusting the uniform price to producers under 22 of the orders is the average of the butterfat differentials for each class, weighted by the proportion of producer milk in each class. Under six other orders, the butterfat differential to producers is determined by multiplying the Chicago butter price by 0.120. Two other orders use a factor of 0.110 under a similar computation, while another provides that this differential be computed by adding 4 cents to the Chicago butter price and multiplying the sum by 0.1. Under the





Memphis order, the producer butterfat differential is determined from a fixed schedule of rates in the order which are related to the Chicago butter price, i.e., for each 5-cent change in the butter price, the butterfat differential changes 0.5 cent per point of butterfat.

Cooperative associations proposed that all class prices and uniform prices be subject to adjustment by a single butterfat differential based on the Chicago butter price times a factor of 0.115. One handler proposed that the Class II and Class III butterfat differentials be based on the Chicago butter price times 0.110. Handlers in general opposed any change in the present Class I butterfat differentials.

Lowering the Class I butterfat differential factor to 0.115 will accommodate producers' request for a readjustment of the values of skim milk and butterfat in Class I milk at a time of declining use of butterfat in fluid milk products. In 1960, the average butterfat test of fluid milk products (including cream items) in 63 Federal order markets was 3.76 percent. In 1970, the average butterfat test for such products in 58 markets was 3.26 percent. Comparable data for the 32 subject markets as they are presently constituted are not available. On the basis of information available for much of the area now regulated by these orders, however, there is every indication that the use of butterfat in Class I in these markets is following the national trend.[5]

The impact of this change on a handler's average cost of producer butterfat for Class I use is dependent, of course, upon the average butterfat test of his Class I products and the butterfat differential now applicable to him. Thus, handlers in the 32 markets will be affected differently from lowering the Class I butterfat differential. An analysis of 1970 data for 30 of the 32 markets will serve to illustrate the general change in handlers' costs under the revised classification plan. Data for the Fort Smith and Austin-Waco markets are not available.

It is estimated that in 18 of the 19 markets now using a Class I butterfat differential factor of 0.120 the average butterfat test of Class I products distributed by handlers (excluding cream and lowfat items) would have ranged in 1970 from 3.55 percent to 2.53 percent. Using the average test for these markets of 2.98 percent, the Class I price at test would have been increased 1.8 cents per hundredweight. For 10 of the 11 markets now using a Class I butterfat differential factor of 0.125, the average test of Class I milk would have ranged from 3.25 percent to 2.81 percent. Based on an average test 3.01 percent, using a factor of 0.115 in these markets would have increased the Class I price at test by 3.4 cents. The price increases would have been slightly greater in the Duluth-Superior and Central Arizona markets, where factors of 0.130 and 0.135, respectively, are used. Based on estimated Class I butterfat tests of 2.73 percent and 3.10 percent, the Class I price at test would have been increased 8.0 cents per hundredweight in the Duluth-Superior market and 5.6 cents in the Central Arizona market.

Handlers opposed any change in the Class I butterfat differentials on the basis that the relationship of skim milk and butterfat values had already been altered by a change on April 1, 1971, in the purchase prices for dairy products under the Department's price support program. They pointed out that this change, as reflected in order prices, increased handlers' cost of skim milk about 10 cents per hundredweight. Handlers argued that in view of this any further increase in the value of skim milk should be delayed until there has been an opportunity to observe the market response to the effects of the price support change.

There is no evidence to suggest that Class I sales of skim milk and lowfat products were affected adversely by the price support action. Data for 58 Federal order markets indicate that average daily sales of these products in 1971 increased 2.1 million pounds over such sales in 1970. Monthly data show no drop in sales following the support price change in the early part of 1971. Adopting a lower Class I butterfat differential at this time gives recognition to the lower market value now associated with butterfat in Class I products.

Using a single factor of 0.115 for computing Class II and Class III butterfat differentials will result in a uniform adjustment of class prices for butterfat content among the markets under consideration. Continuation of the several butterfat differential factors now in use would offset to some extent the benefits to be gained through the adoption of a uniform classification plan.

A handler proposed that the butterfat differential factor for adjusting surplus prices be 0.110 rather than 0.115 as proposed by cooperatives. Proponent indicated that in disposing of surplus cream handlers usually are not able to recover their cost of such cream under the order. A Class II–Class III butterfat differential factor of 0.110, it was argued, would provide handlers with some price relief in this circumstance.

The record does not indicate that the adoption of 0.115 as the butterfat differential factor for pricing surplus milk will hinder the removal of surplus butterfat from the fluid market. Of the 32 orders, 22 now use a factor of 0.115, and one uses a factor of 0.120, for pricing surplus milk. The handler proposing the 0.110 factor was the only opponent of the 0.115 factor proposed by cooperatives. The great majority of residual butterfat is disposed of by the cooperatives rather than handlers. It must be concluded that the adoption of the handler's proposal under present marketing conditions would return to producers in most cases less than the obtainable market value for butterfat not needed for Class I purposes.

As indicated, the butterfat differential to producers under 22 of the 32 orders reflects the weighted value of butterfat in the class uses. Inasmuch as producers favor this method of reflecting skim milk and butterfat values in their pay prices, this pricing arrangement should be extended to the other 10 orders. Since the same butterfat differential would be used in adjusting each of the class prices, there is no actual need, of course, for any provision in the order for weighting the values of butterfat in the three classes in determining the producer butterfat differential.

With the use of a single butterfat differential for adjusting all prices under the order, it is necessary that each order provide only for a producer butterfat differential. No handler butterfat differentials need be set forth as such in the order, nor is there any need for pooling butterfat values in each class. All producer differential butterfat would be priced to all handlers at the same level regardless of the class in which used. The proposed revised orders attached hereto have been drafted accordingly.

Under the new pricing arrangement, the single butterfat differential for the current month should be based upon butter prices for such month and should be announced by the fifth day of the following month. This represents a change only for the pricing of Class I milk. The Class I butterfat differentials are now based on butter prices prevailing during the preceding month and are announced by the fifth day of the current month. With the use of a single butterfat differential factor in adjusting all milk prices, as adopted herein, there appears to be no need for announcing more than one butterfat differential, or for doing so before the end of the month in which it applies. The average butter price changes very little from month to month, and changes that do occur result in relatively limited changes in the butterfat differential. Each change in the price of butter is readily seen by following the daily quotations for butter. In the absence of regulation, such information would be the best available for determining trends in butter prices and should be adequate for this purpose under regulation.

It is recognized that the basic formula price of these orders is determined by adjusting the average Minnesota-Wisconsin price at test to a 3.5 percent butterfat basis by using a factor of 0.120 times the average Chicago butter price. The appropriateness of such factor for this purpose was not considered at the hearing and no consideration is given in this decision to changing this factor for such purpose. Moreover, since this method of determining the basic formula price is now used under all Federal milk orders throughout the country, it would appear that any change in this butterfat differential factor should be considered simultaneously for all orders.

6. *Advance announcement of prices for surplus milk.* The proposal by handlers to announce order prices for surplus milk at the beginning of the month rather than at the end of the month during

[5] Official notice is taken of the annual summaries for 1960 through 1971 of Federal Milk Order Market Statistics which were issued by the Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C.



V 38-176 SEP 12 73 XUM

which the prices apply should not be adopted.

Under the present orders, the prices for surplus milk are announced by the fifth day of each month. Such prices apply to producer milk delivered to handlers during the preceding month.

The national association of fluid milk and ice cream processors proposed that the class prices to be applicable in a particular month to surplus milk be announced by the fifth day of such month. Handlers stated that under the present announcement procedure they are often disadvantaged by not knowing the costs of producer milk for manufacturing use until after the end of the month in which the milk is processed. They claimed that when there is a significant increase in the order price, the delayed notice of the increase prevents them from making corresponding adjustments in their resale prices on a timely basis. Proponents' interest in advance pricing related essentially to the prices that would be applicable to cottage cheese, cream products, yogurt and frozen desserts, the principal Class II products processed by such handlers.

For the regulated handler processing producer milk into butter, nonfat dry milk and cheddar cheese, however, advance announcement of the applicable class price could place him at a competitive disadvantage on his sales of these manufactured products. As indicated earlier, the surplus prices under the revised classification plan generally would be based on the prices paid for manufacturing grade milk in Minnesota and Wisconsin. These prices are closely related to the market values of cheddar cheese, nonfat dry milk and butter, the principal uses for such milk in the month of delivery of the raw milk. These product prices are established on a regular basis in a market that is national in scope. The manufacturers of ungraded milk are fully aware of the movements of these product prices, which are published weekly, and can adjust their pay prices for milk in response to changes in the prices for the finished products. Regulated handlers who are processing these particular products must compete in the same national market in which the processors of manufacturing grade milk are competing and the same product price information is available to them.

In most of the markets under consideration, substantial quantities of milk are disposed of by regulated handlers in the form of butter, nonfat dry milk or cheese. In 1970 over one billion pounds of milk, or 88 percent of the market's total Class II use, were so disposed of by handlers in the Minneapolis-St. Paul market. In the Minnesota-North Dakota, Southeastern Minnesota-Northern Iowa, Duluth-Superior, Cedar Rapids-Iowa City, Eastern South Dakota, Oklahoma Metropolitan and North Central Iowa markets, over 80 percent of each market's total Class II milk was used that year in manufacturing these products. Although lesser quantities of milk were used in such products in the other markets, only in four markets (Memphis, Fort Smith, Central West Texas and Rio Grande Valley) did such uses represent less than 20 percent of the total Class II use for each market. Thus, handlers in most of the 32 markets have a very definite interest in the relationship of the applicable class price with prices being paid currently for manufacturing grade milk. Accordingly, the prices paid by regulated handlers for Class III milk should correspond very closely with the pay prices during the month of delivery for manufacturing grade milk if these handlers are to be competitive in the sale of the principal surplus products.

The same considerations are involved in the case of an advance announcement of prices for milk used in the proposed Class II products. The influence of the manufacturing milk price level on the competitive relationship of producer milk for Class II uses is similar to that for producer milk used in the proposed Class III products. Therefore, the prices for Class II milk should be announced on the same basis as the price for Class III milk.

In connection with the announcement of surplus prices, a comment should be made concerning the transition from the present pricing provisions to the new ones adopted herein. It is intended that the present surplus prices apply to producer milk delivered to handlers during the last month under the present classification and pricing scheme. Clarification of this point is pertinent since such prices would be announced following the effective date of the new pricing provisions.

7. *Treatment of filled milk under the Minneapolis-St. Paul and Southeastern Minnesota-Northern Iowa orders.* The Minneapolis-St. Paul, and Southeastern Minnesota-Northern Iowa orders should be changed to provide that the skim milk ingredient of "filled milk" shall be classified and priced as Class I milk.

The provisions provided herein are substantially those which were proposed for consideration at the hearing by a cooperative association operating in these markets.

In 1968, proposals to classify and price the skim milk component of filled milk were considered for most orders at a hearing held in Memphis, Tenn. The decision resulting from the hearing classified the skim milk component of filled milk in the same way as the skim milk component of natural milk. It provided a means of equating the cost of skim milk in filled milk if it originates from sources other than producer milk with the cost if derived from producer milk.

At the time of the 1968 hearing, the Southeastern Minnesota-Northern Iowa order had not been issued, and the Minneapolis-St. Paul order could not be amended in this respect because of a marketing area expansion to which the filled milk hearing did not apply. As a result, these orders do not contain the uniform provisions dealing with filled milk provided in all other Federal milk orders.

Filled milk is a combination of skim milk and vegetable fat or oil in about the same proportions as the skim milk and milk fat in whole milk. Well over 90 percent of the product is skim milk. In most filled milk, the skim milk portion is fresh fluid skim milk separated from whole milk. Some filled milk contains reconstituted fluid skim milk prepared from a concentrated product such as nonfat dry milk. Whether made from vegetable fat and fresh or reconstituted skim milk or any combination of the two, filled milk resembles whole milk in appearance.

Regulated handlers disposing of filled milk make a substantial savings in cost by substituting vegetable fat or oil for butterfat. This is the main incentive for the marketing of filled milk. While the difference in cost between vegetable fat and butterfat is not an issue at this hearing, it is relevant to the extent that it explains the profit motivation for marketing the product relative to the marketing of natural milk.

At the present time, no filled milk is distributed in the Minneapolis-St. Paul and Southeastern Minnesota-Northern Iowa marketing areas. In those regulated markets where filled milk is distributed, it moves in the same channels as whole milk. It is distributed by the same handlers in the course of their regular business through the same outlets for natural milk and in the same types of containers.

Filled milk, if disposed of in either the Minneapolis-St. Paul or the Southeastern Minnesota-Northern Iowa marketing area, would directly burden, obstruct, or affect interstate commerce in milk and milk products. It previously has been determined (at the time of the promulgation of each of these orders) that all milk marketed in each marketing area is in the current of interstate commerce or directly burdens, obstructs, or affects interstate commerce in milk and milk products.

Filled milk is in content substantially a product of milk and competes for the same sales outlets as milk. It follows, therefore, that the marketing of the milk ingredients in filled milk in either of the two markets would burden, obstruct, or affect interstate commerce in milk and milk products. This would be equally true whether the marketing of filled milk were by a fully regulated plant or by a plant not fully regulated because both would compete for similar outlets in the market.

Also, manufactured milk products are sometimes used in the production of filled milk. Manufactured milk products move in interstate commerce and compete in the national market, regardless of where the milk is produced. Therefore, manufactured milk products, if used in the production of filled milk for disposition in either the Minneapolis-St. Paul or Southeastern Minnesota-Northern Iowa market, likewise would burden, obstruct, or affect interstate commerce in milk and its products.

The classification of the dairy ingredients of filled milk is a proper consideration derived from the Agricultural Marketing Agreement Act. As stated in the decision resulting from the filled milk hearing in Memphis, Tenn., the "specific





language of the Act with respect to classification is that each order shall contain terms "* * * classifying milk in accordance with the form in which or the purpose for which it is used * * *". In applying the language of the Act we here consider the form and purpose of use for both filled milk and the milk ingredient content of the filled milk.

"The form of filled milk and the purpose for which it is used are the same as the form and purpose of use of whole milk. Filled milk, just as whole milk, is disposed of in fluid form. It is marketed by handlers in the same types of packages and in the same trade channels as the whole milk they market, and is mainly intended as a beverage substitute for milk.

"Similarly, the fluid skim milk content of the filled milk is in the same form as skim milk in whole milk and serves the same purpose, providing in each case the main body of the product thereby making it a milk beverage. The addition of the nonmilk ingredients, principally vegetable fat or oil and stabilizers, does not alter the basis for Class I classification. The addition of nonmilk ingredients in fluid milk products is not a new development. The addition of vegetable fat does not involve an essentially different consideration from that for other Class I fluid milk products to which a flavoring ingredient, such as chocolate (which also contains nonmilk fat) has been added.

"For purpose of illustration, a product within the 'fluid milk product' category containing a nonmilk additive is chocolate milk. The additive is not considered as changing the form of this product so that it is no longer a fluid milk product. For the purposes of classification, the flavoring material has never been regarded as significant in determining the form of the product or as a basis for altering its classification.

"The same reasoning applies in the case of filled milk—that the additives do not change significantly the form or the purpose of use and therefore do not constitute a basis for classification other than in Class I.

"The product 'filled milk' therefore should be classified, for the purpose of pricing under the orders, in the same manner as whole milk. As in the case of other fluid milk products containing some nonmilk ingredients, the classification would apply only to the milk ingredients in the product."

No opposition to the filled milk proposal was expressed at the hearing or in briefs submitted by interested parties.

Based on the testimony of proponent, which related specifically to the Minneapolis-St. Paul and Southeastern Minnesota-Northern Iowa orders, it is found that the above findings from the Memphis decision are equally applicable to this proceeding. Accordingly, they serve as the basis for concluding that the milk ingredients of filled milk should be classified and priced under the two orders as Class I milk.

Proponent testified also that filled milk may be made by combining reconstituted skim milk with vegetable fat and other minor ingredients. Reconstituted skim milk commonly is made from nonfat dry milk to which water is added to return it essentially to a form and consistency similar to fresh skim milk. Its potential as a disruptive influence on the market for producer milk is substantial, however, since the disposition of any Class I product that has been priced at the surplus price level undermines the classified pricing system.

As was found in the filled milk decision referred to earlier, filled milk made from reconstituted skim milk is, from a marketing standpoint, essentially similar to filled milk made from fresh skim milk. It is a competitor of whole milk at the consumer level. Therefore, reconstituted skim milk in filled milk, as in other fluid milk products, should be classified and priced on the same basis as all other fluid milk products to achieve uniformity in the pricing of milk for similar uses.

Federal milk orders, including the Minneapolis-St. Paul and Southeastern Minnesota-Northern Iowa orders, have contained for some time specific provisions dealing with the disposition by a regulated handler of other fluid milk products reconstituted from nonfluid milk products. The issue of proper classification and charge for such use of nonfluid milk products to produce products for Class I disposition was dealt with for most orders in the compensatory payment decisions referred to earlier in this decision. The findings and conclusions that relate to the reconstitution of milk appeared at 29 F.R. 9010. The regulatory treatment of reconstituted products that is described in the compensatory payment decisions and reiterated in the later filled milk decision is appropriately applicable to any reconstituted skim milk used in filled milk that may be disposed of in the Minneapolis-St. Paul and Southeastern Minnesota-Northern Iowa marketing areas.

It should be noted that these two orders now provide that a producer-handler would lose his status as such and become a fully regulated handler if he disposes of fluid milk products made from reconstituted skim milk. Since the fluid milk product definition would include filled milk under the amendments adopted herein, loss of producer-handler status would result also from the sale of reconstituted filled milk.

A definition of filled milk should be provided in the two orders to meet the specific needs of order regulation, and for such purpose only. This definition, which would be identical to the filled milk definition in all other orders, should be as follows:

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

The term "filled milk" is not intended to include skim milk marketed in a form or for a purpose specifically excluded from the fluid milk product definition of either order. For example, evaporated milk is a use of skim milk and butterfat not treated as a fluid milk product in either order. If a product containing skim milk and any amount of vegetable fat were marketed in the same form and manner as evaporated milk, it would be excluded from the term "filled milk."

The regulatory treatment of filled milk adopted herein requires numerous conforming changes throughout the order. Accordingly, all the conforming changes found necessary on the basis of the Memphis hearing to implement the filled milk amendments are incorporated herein wherever applicable.

8. *A uniform "equivalent price" provision.* Each of the 32 orders included in this proceeding should be amended to the extent necessary to provide identical language for determining an equivalent price, or price constituent, when a price or price constituent is not available as prescribed by the order.

At present, all of the 32 orders except the Minnesota-North Dakota order provide for computing an equivalent price as needed. Such provisions are not identical, however, among the orders. A dairy division proposal for a uniform equivalent price provision under each order was supported by a witness for the National Milk Producers Federation.

An equivalent price provision is necessary in each of the orders to provide a price, or price constituent, in cases where published prices, indexes, quotations, or other pricing constituents as prescribed by the order are not available. It insures that basic formula prices, class prices, and butterfat differentials can be computed, as prescribed, in emergency situations without interruption.

All the orders now rely on butter price quotations for computing butterfat differentials. All rely on the Minnesota-Wisconsin price series for computing the basic formula price and Class I prices. As proposed herein, this price series would be used also in establishing Class II and Class III prices under each order.

Under unusual circumstances, these published prices and price constituents might not be available for use in computing order prices. If there were insufficient trading during the month in butter, for example, or if the specific butter price quotations were discontinued, the prescribed butterfat differentials could not be computed without an equivalent price provision. By providing for the determination of an equivalent price as needed, the Department is in a position to draw on comprehensive resource data to assure that the computation of the basic formula price, the class prices, or the butterfat differentials is not interrupted by the contingencies cited.

For these reasons, it is concluded that the Minnesota-North Dakota order should provide for the determination of an equivalent price in the same manner as the other orders included in this proceeding.

In providing for a determination of equivalent price, the same objective is



V 38 - 176
SEP 12 73
XUM

sought for each order. It is appropriate, therefore, to provide for identical provisions in each order. Then, if a determination had to be made for more than one order simultaneously, there would be no question as to the applicability of the determination to each order.

Accordingly, the equivalent price provision in each order should be stated as follows:

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

A corollary change should be made in the Class I price provisions of the Neosho Valley order. This order provides that the Class I price shall be based in part on the Class I price "under Part 1067 of this chapter regulating the handling of milk in the Ozarks marketing area." At the time the Ozarks order was merged with the St. Louis order, a determination of equivalent price was issued for the Neosho Valley order (33 F.R. 15107) which stated in part that:

For the purpose of computing the Neosho Valley Class I price, the Class I price announced for Zone 1 under the St. Louis-Ozarks milk order (Part 1062) will be equivalent to the price specified in § 1071.51(a)(2) of the Neosho Valley order and should be used in lieu thereof in computation of the Class I price of the Neosho Valley order until such time as the Neosho Valley order may be amended.

This determination of equivalent price, which was issued in October 1968, is still in effect. This proceeding affords an opportunity to amend the Neosho Valley order as prescribed in the determination. Thus, the order language quoted earlier should be revised to read "under Part 1062 of this chapter regulating the handling of milk in the St. Louis-Ozarks marketing area."

RULINGS ON PROPOSED FINDINGS AND CONCLUSIONS

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

GENERAL FINDINGS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

The following findings are hereby made with respect to each of the aforesaid tentative marketing agreements and orders:

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

RECOMMENDED MARKETING AGREEMENT AND ORDER AMENDING THE ORDER

The recommended marketing agreements are not included in this decision because the regulatory provisions thereof would be the same as those contained in the orders, as hereby proposed to be amended. The following order amending the orders, as amended, regulating the handling of milk in the aforesaid marketing areas is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. It is the same as the order amending the orders set forth in the aforementioned recommended decision issued by the Deputy Administrator, Regulatory Programs, on August 28, 1972, except for modifications in the following sections of each order. The modifications noted do not include those that have been made in each order to reflect the new Federal Register style for "references" within a section of the order.

## PART 1104—MILK IN RED RIVER VALLEY MARKETING AREA

The Index and §§ 1104.7, 1104.12(b)(2), 1104.14, 1104.15(a)(2), 1104.16, 1104.30(a)(3), 1104.40, 1104.41(b)(2) and (3), and (c), 1104.42(d)(2)(vi), 1104.44(a), 1104.61, 1104.70, 1104.71(a)(2)(ii), 1104.75(b), 1104.76(a)(4) and (b)(2)(i) and (ii), 1104.77, and new §§ 1104.78 and 1104.110 through 1104.122 are added.

## PART 1106—MILK IN OKLAHOMA METROPOLITAN MARKETING AREA

The Index and §§ 1106.7, 1106.12(b)(2), 1106.14, 1106.15(a)(2), 1106.16, 1106.30(a)(3), 1106.40, 1106.41(b)(2) and (3) and (c), 1106.42(d)(2)(vi), 1106.44(a), 1106.50(b) and (c), 1106.52, 1106.61, 1106.71(a)(2)(ii), 1106.75, 1106.76(a)(4) and (b)(2)(i) and (ii), and new §§ 1106.110 through 1106.122 are added.

## PART 1120—MILK IN LUBBOCK-PLAINVIEW, TEXAS, MARKETING AREA

The Index and §§ 1120.7, 1120.12(b)(2), 1120.14, 1120.15(a)(2), 1120.16, 1120.30(a)(3), 1120.40, 1120.41(b)(2) and (3) and (c), 1120.42(d)(2)(vi), 1120.44(a), 1120.50(b) and (c), 1120.61, 1120.71(a)(2)(ii), 1120.75(b), 1120.76(a)(4) and (b)(2)(i) and (ii), 1120.86(b), and new §§ 1120.110 through 1120.122 are added.

## PART 1126—MILK IN NORTH TEXAS MARKETING AREA

The Index and §§ 1126.7, 1126.12(b)(3), 1126.14, 1126.15(a)(2), 1126.16, 1126.30(a)(3), 1126.40, 1126.41(b)(2) and (3) and (c), 1126.42(d)(2)(vi), 1126.44(a), 1126.50(b) and (c), 1126.61, 1126.71(a)(2)(ii), 1126.75(b), 1126.76(a)(4) and (b)(2)(i) and (ii), and new §§ 1126.110 through 1126.122 are added.

## PART 1127—MILK IN SAN ANTONIO, TEXAS, MARKETING AREA

The Index and §§ 1127.7, 1127.12(b)(2), 1127.14, 1127.15(a)(2), 1127.16, 1127.30(a)(3), 1127.40, 1127.41(b)(2) and (c), 1127.42(d)(2)(vi), 1127.44(a), 1127.50(b) and (c), 1127.60(d), 1127.61, 1127.71(a)(2)(ii), 1127.75(b), 1127.76(a)(4) and (b)(2)(i) and (ii), and new §§ 1127.110 through 1127.122 are added.

## PART 1128—MILK IN CENTRAL WEST TEXAS MARKETING AREA

The Index and §§ 1128.7, 1128.12(a) and (b)(2), 1128.14, 1128.15(a)(2), 1128.16, 1128.30(a)(3), 1128.40, 1128.41(b)(2) and (3) and (c), 1128.42(d)(2)(vi), 1128.44(a), 1128.50(b) and (c), 1128.61, 1128.71(a)(2)(ii), 1128.75(b), 1128.76(a)(4) and (b)(2)(i) and (ii), and new §§ 1128.110 through 1127.122 are added.

## PART 1129—MILK IN AUSTIN-WACO, TEXAS, MARKETING AREA

The Index and §§ 1129.7, 1129.12(b)(2), 1129.14, 1129.15(a)(2), 1129.16, 1129.30(a)(3), 1129.40, 1129.41(b)(2) and (3) and (c), 1129.42(d)(2)(vi), 1129.44(a), 1129.50(b) and (c), 1129.61, and new §§ 1129.110 through 1129.122 are added.

## PART 1130—MILK IN CORPUS CHRISTI, TEXAS, MARKETING AREA

The Index and §§ 1130.7, 1130.12(b)(2), 1130.14, 1130.15(a)(2), 1130.16, 1130.30(a)(3), 1130.40, 1130.41(b)(2) and (3) and (c), 1130.42(d)(2)(vi), 1130.44(a), 1130.50(b) and (c), 1130.61, 1130.71(a)(2)(ii), 1130.75(b), 1130.76(a)(4) and (b)(2)(i) and (ii), and new §§ 1130.110 through 1130.122 are added.

## PART 1131—MILK IN CENTRAL ARIZONA MARKETING AREA

Sections 1131.7, 1131.12(b)(2), 1131.14, 1131.15(a)(2), 1131.16, 1131.30(a)(3), 1131.40, 1131.41(b)(2) and (3) and (c), 1131.42(d)(2)(vi), 1131.44(a), 1131.50(b) and (c), 1131.76(b)(2)(i) and (ii).

## PART 1132—MILK IN TEXAS PANHANDLE MARKETING AREA

The Index and §§ 1132.7, 1132.12(b)(2), 1132.14, 1132.15(a)(2), 1132.16, 1132.30(a)(3), 1132.40, 1132.41(b)(2) and (3) and (c), 1132.42(d)(2)(vi), 1132.44(a), 1132.50(b) and (c), 1132.61, 1132.71(a)(2)(ii), 1132.75(b), 1132.76(a)(4) and (b)(2)(i) and (ii), and new §§ 1132.110 through 1132.122 are added.

## PART 1138—MILK IN RIO GRANDE VALLEY MARKETING AREA

The Index and §§ 1138.7, 1138.12(b)(2), 1138.14, 1138.15(a)(2), 1138.16, 1138.30(a)(3), 1138.40, 1138.41(b)(2) and (3) and (c), 1138.42(d)(2)(vi), 1138.44(a), 1138.50(b) and (c), 1138.61, 1138.71(a)(2)(ii), 1138.75(b), 1138.76(a)(4) and (b)(2)(i) and (ii), and new §§ 1138.110 through 1138.122 are added.

## PART 1104—MILK IN RED RIVER VALLEY MARKETING AREA

### Subpart—Order Regulating Handling

GENERAL PROVISIONS

Sec.
1104.1 General provisions.

DEFINITIONS

1104.2 Red River Valley marketing area.
1104.3 Route disposition.
1104.4 [Reserved]
1104.5 Distributing plant.
1104.6 Supply plant.
1104.7 Pool plant.
1104.8 Nonpool plant.
1104.9 Handler.
1104.10 Producer-handler.
1104.11 [Reserved]
1104.12 Producer.
1104.13 Producer milk.
1104.14 Other source milk.
1104.15 Fluid milk product.
1104.16 Fluid cream product.
1104.17 Filled milk.
1104.18 Cooperative association.

HANDLER REPORTS

1104.30 Reports of receipts and utilization.
1104.31 Payroll reports.
1104.32 Other reports.

CLASSIFICATION OF MILK

1104.40 Classes of utilization.
1104.41 Shrinkage.
1104.42 Classification of transfers and diversions.
1104.43 General classification rules.
1104.44 Classification of producer milk.
1104.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1104.50 Class prices.
1104.51 [Reserved]
1104.52 Plant location adjustments for handlers.
1104.53 Announcement of class prices.
1104.54 Equivalent price.

UNIFORM PRICE

1104.60 Handler's value of milk for computing uniform price.
1104.61 Computation of uniform price.
1104.62 Announcement of uniform price and butterfat differential.

PAYMENTS FOR MILK

1104.70 Producer-settlement fund.
1104.71 Payments to the producer-settlement fund.
1104.72 Payments from the producer-settlement fund.
1104.73 Payments to producers and to cooperative associations.
1104.74 Butterfat differential.
1104.75 Plant location adjustments for producers and on nonpool milk.
1104.76 Payments by handler operating a partially regulated distributing plant.
1104.77 Adjustment of accounts.
1104.78 Charges on overdue accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1104.85 Assessment for order administration.
1104.86 Deduction for marketing services.

ADVERTISING AND PROMOTION PROGRAM

1104.110 Agency.
1104.111 Composition of Agency.
1104.112 Term of office.
1104.113 Selection of Agency members.
1104.114 Agency operating procedure.
1104.115 Powers of the Agency.
1104.116 Duties of the Agency.
1104.117 Advertising, Research, Education and Promotion Program.
1104.118 Limitation of expenditures by the Agency.
1104.119 Personal liability.
1104.120 Procedure for requesting refunds.
1104.121 Duties of the market administrator.
1104.122 Liquidation.

AUTHORITY: The provisions of this Part 1104 issued under Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

GENERAL PROVISIONS

### § 1104.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

### § 1104.2 Red River Valley marketing area.

"Red River Valley marketing area", hereinafter called "the marketing area", means all territory within the following counties, including all municipal corporations; Federal reservations, facilities, and installations; and State institutions located therein:

OKLAHOMA COUNTIES

| | |
|---|---|
| Bryan. | Johnston. |
| Caddo. | Kiowa. |
| Carter. | Love. |
| Choctaw. | Marshall. |
| Comanche. | Murray. |
| Cotton. | Pushmataha. |
| Grady. | Stephens. |
| Jackson. | Tillman. |
| Jefferson. | |

TEXAS COUNTIES

| | |
|---|---|
| Archer. | Montague. |
| Baylor. | Wichita. |
| Clay. | Wilbarger. |
| Hardeman. | |

### § 1104.3 Route disposition.

"Route disposition" means any delivery (including any delivery by a vendor or disposition at a plant store) of any fluid milk product classified as Class I milk, other than a delivery to a milk or filled milk plant.

### § 1104.4 [Reserved]

### § 1104.5 Distributing plant.

"Distributing plant" means all the buildings, premises, and facilities of a plant:

(a) Approved by a duly constituted health authority for the handling of milk approved for fluid consumption;

(b) In which fluid milk products are processed or packaged; and

(c) From which there is route disposition of fluid milk products.

### § 1104.6 Supply plant.

"Supply plant" means a plant from which fluid milk products are transferred to a distributing plant(s) during the month.

### § 1104.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A distributing plant from which during the month there is:

(1) Total route disposition of fluid milk products (except filled milk) in an amount not less than 50 percent of the total quantity of fluid milk products (except filled milk) received at the plant or diverted to a nonpool plant by the plant operator under the limitations of § 1104.13; and

(2) Route disposition of fluid milk products (except filled milk) in the marketing area in an amount not less than 15 percent of the total route disposition of the plant.

(b) A supply plant from which fluid milk products (except filled milk) are transferred during the month to a plant(s) described in paragraph (a) of this section in an amount not less than 50 percent of milk received at the supply plant from dairy farmers who would be eligible as producers under § 1104.12 if such plant qualifies pursuant to this paragraph and milk of such dairy farmers diverted from such plant by the plant operator. Any plant that qualifies under this paragraph during each of the months of September through December shall continue so qualified in each of the following months of January through August until any month of such period in which less than 20 percent of the plant receipts and diverted milk specified previously herein is transferred to plants described in paragraph (a) of this section. A plant not meeting such 20 percent requirement in any month of such January–August period shall be qualified under this paragraph in any remaining month of the year only if transfers of fluid milk products (except filled milk) from the plant during the month to plant(s) described in paragraph (a) of this section are at least 50 percent of the plant receipts and diverted milk specified previously herein.

(c) The term "pool plant" shall not apply to the following plants:







V 38 - 176 SEP 12 73 XUM

(1) A producer-handler plant;

(2) A distributing plant meeting the requirements of paragraph (a) of this section which also meets the pooling requirements of an other Federal order and from which, the Secretary determines, there is a greater quantity of route disposition, except filled milk, in such other Federal order marketing area than in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its route disposition, except filled milk, is made in such other marketing area unless, notwithstanding the provisions of this subparagraph, it is regulated under such other order. On the basis of a written application made by the plant operator at least 15 days prior to the date for which a determination of the Secretary is to be effective, the Secretary may determine that the route dispositions in the respective marketing areas to be used for purposes of this subparagraph shall exclude (for a specified period of time) route disposition made under limited term contracts to governmental bases and institution;

(3) A distributing plant meeting the requirements of paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which, the Secretary determines, there is a greater quantity of route disposition, except filled milk, during the month in this marketing area than in such other Federal order marketing area but which plant is, nevertheless, fully regulated under such other Federal order; or

(4) A supply plant meeting the requirements of paragraph (b) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made during the month to plants regulated under such other order than are made to plants regulated under this part.

### § 1104.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant, except an other order plant or a producer-handler plant, from which there is route disposition in the marketing area in consumer-type packages or dispenser units during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products are moved during the month to a pool plant qualified pursuant to § 1104.7 and which is not an other order plant or a producer-handler plant.

### § 1104.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) A cooperative association with respect to the milk of producers diverted for the account of such association pursuant to § 1104.13;

(c) A cooperative association with respect to milk of its member producers picked up at the farm for delivery to the pool plant of another handler in a tank truck owned or operated by such association, or under the control of such association, by contract or otherwise, to the extent that such association supervises and controls the determination of farm weights and tests of the milk of each of such member producers;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler; and

(f) Any person who operates an other order plant described in § 1104.7(c)

### § 1104.10 Producer-handler.

"Producer-handler" means any person who produces milk and who operates a plant from which the route disposition in the marketing area does not exceed such person's own production and fluid milk products received from a pool plant regulated under either this Part or Part 1106 regulating the handling of milk in the Oklahoma Metropolitan marketing area.

### § 1104.11 [Reserved]

### § 1104.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk approved for fluid consumption by a duly constituted health authority, which milk is:

(1) Received at a pool plant; or

(2) Diverted pursuant to § 1104.13 by a handler for his account.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1104.44(a)(8)(iii) and the corresponding step of § 1104.44(b); and

(3) Any person with respect to milk produced by him which is diverted from a pool plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk.

### § 1104.13 Producer milk.

"Producer milk" means skim milk and butterfat in milk from producers that is:

(a) Received by the operator of a pool plant at such pool plant from producers;

(b) Received by the operator of a pool plant at such pool plant from a handler described in § 1104.9(c);

(c) Diverted by the operator of a pool plant from such pool plant to a nonpool plant that is not a producer-handler plant, subject to the conditions of paragraph (f) of this section;

(d) Received from producers by a handler described in § 1104.9(c) in an amount in excess of the quantity delivered by such handler to pool plants pursuant to paragraph (b) of this section; or

(e) Diverted by a cooperative association for its account from the pool plant of another handler to a nonpool plant that is not a producer-handler plant, subject to the conditions of paragraph (f) of this section;

(f) Milk diverted from a pool plant to a nonpool plant shall be subject to the following conditions:

(1) A cooperative association may divert for its account, subject to the conditions of paragraph (f)(3) of this section, a total quantity of milk not in excess of total milk of its member-producers received at all pool plants during the month. Diversions in excess of such quantity shall not be eligible under this section and the diverting cooperative shall specify the dairy farmers whose diverted milk is not so eligible. If the cooperative association fails to designate such persons, status under this section shall be forfeited with respect to all milk diverted by such cooperative association;

(2) The operator of a pool plant other than a cooperative association may divert for his account, subject to the conditions of paragraph (f)(3) of this section, milk of producers not members of a cooperative association diverting milk pursuant to paragraph (f)(1) of this section, in a total quantity not in excess of the milk of producers not members of such cooperative association received at such pool plant(s) during the month. Milk diverted in excess of such quantity shall not be eligible under this section and the diverting handler shall specify the dairy farmers whose diverted milk is not so eligible. If a handler fails to designate such persons, status under this section shall be forfeited with respect to all milk diverted by such handler;

(3) Milk of a producer shall not be eligible for diversion from a pool plant under this section if during the month less than 15 percent of the total milk of such person as a producer is received at a pool plant; and

(4) Milk qualified as producer milk that is diverted by a handler to a nonpool plant pursuant to this section shall be accounted for as received by the diverting handler at the location of the nonpool plant.

### § 1104.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1104.40(b)(1) from any source other than producers, handlers described in § 1104.9(c), pool plants, or inventory at the beginning of the month;





(b) Receipts in packaged form from other plants of products specified in § 1104.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1104.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1104.40(b)(1)) for which the handler fails to establish a disposition.

### § 1104.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1104.40 (b) or (c)(1) (i) through (iv) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

### § 1104.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

### § 1101.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

### § 1104.18 Cooperative association.

"Cooperative association" means any cooperative association of producers which the Secretary determines:

(a) Is qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) Has and is exercising full authority in the sale of milk of its members.

## Handler Reports

### § 1104.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1104.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1104.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1104.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

### § 1104.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1104.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1104.76 (b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

### § 1104.32 Other reports.

(a) Each handler who causes milk to be diverted to a nonpool plant shall, prior to such diversion, report to the market administrator and to the cooperative association of which such producer is a member, his intention to divert such milk, the proposed date or dates of such diversion, and the plant to which it is to be diverted.

(b) In addition to the reports required pursuant to §§ 1104.30 and 1104.31 and paragraph (a) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

## Classification of Milk

### § 1104.40 Classes of utilization.

Except as provided in § 1104.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1104.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are



No. 176—Pt. II——4

V 38-176 SEP 12 73 XUM

packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(v) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1104.15; and

(6) In shrinkage assigned pursuant to § 1104.41(a) to the receipts specified in § 1104.41(a)(2) and in shrinkage specified in § 1104.41(b) and (c).

### § 1104.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1104.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1104.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1104.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent. If farm weights and tests are not used as the basis for any such milk commingled in a tank truck with milk of producers who are not members of the cooperative association, the milk received from the cooperative association shall be the proportion of the total receipts at the plant that such milk was of the total receipts determined at the respective farms;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1104.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

### § 1104.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1104.44(a)(12) and the corresponding step of § 1104.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1104.44(a)(7) or the corresponding step of § 1104.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1104.44(a)(11) or (12) or the corresponding steps of § 1104.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3), of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall





be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1104.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1104.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

### § 1104.43 General classification rules.

In determining the classification of producer milk pursuant to § 1104.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1104.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1104.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1104.40, 1104.41, and 1104.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1104.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

### § 1104.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1104.9(a) for each of his pool plants separately and of each handler described in § 1104.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1104.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1104.40(b)(1) that were received in packaged form



V 38-176 SEP 12 73 XUM

from other plants, but not in excess of the pounds of skim milk remaining in Class II:

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1104.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1104.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1104.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the handler's total Class III utilization at his other pool plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reserve direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler;

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1104.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received;

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii) and (iii) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1104.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler;

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received; and

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from any class that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(13) Subtract from the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1104.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

**§ 1104.45 Market administrator's reports and announcements concerning classification.**

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1104.44(a)(12) and the corresponding step of § 1104.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1104.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the vertification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests, the percentage of producer milk delivered by members of such association which was used in each class by each handler receiving such milk and the percentage relationship of such receipts to the total pounds of Class I milk available to assign to such receipts exclusive of the Class I milk disposed of by such handler to the pool plant(s) of other handlers and to nonpool plants. For the purpose of these reports the milk so received from members of such association shall be prorated to each class in accordance with the same percentage as the total receipts of producer milk bear to such utilization of milk by such handler.

CLASS PRICES

**§ 1104.50 Class prices.**

Subject to the provisions of § 1104.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the price for Class I milk established under Federal Order No. 106 regulating the handling of milk in the Oklahoma Metropolitan marketing area at Oklahoma City, plus 22 cents.

(b) *Class II price.* The Class II price shall be the price for Class II milk established under Federal Order No. 106 regulating the handling of milk in the Oklahoma Metropolitan marketing area.

(c) *Class III price.* The Class III price shall be the price for Class III milk established under Federal Order No. 106 regulating the handling of milk in the Oklahoma Metropolitan marketing area.

**§ 1104.51 [Reserved]**

**§ 1104.52 Plant location adjustments for handlers.**

(a) For milk received from producers at a plant located outside the State of Texas and more than 40 miles from Wichita Falls, Tex., and classified as Class I milk or assigned a Class I location adjustment credit pursuant to paragraph (b) of this section, the price computed pursuant to § 1104.50(a) shall be reduced at the rate set forth in the following schedule. The distance shall be based on the shortest highway distance, as determined by the market administrator, that the plant is from the City Hall in Wichita Falls, Tex.

| *Distance (miles)* | *Rate per hundredweight (cents)* |
|---|---|
| 40.1–70 | 12 |
| 70.1–100 | 15 |
| For each additional 10 miles or fraction thereof in excess of 100 miles an additional | 1.5 |

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to Class I disposition at the transferee-plant in an amount not in excess of that by which such Class I disposition exceeds 95 percent of the sum of receipts at such plant from producers and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

**§ 1104.53 Announcement of class prices.**

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

**§ 1104.54 Equivalent price.**

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICE

**§ 1104.60 Handler's value of milk for computing uniform price.**

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1104.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1104.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1104.44(a)(14) and the corresponding step of § 1104.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1104.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1104.44(a)(9) and the corresponding step of § 1104.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1104.44(a)(7) (i) through (iv) receipts of bulk fluid cream products from an other order plant;





V 38 I 176 SEP 12 73 XUM

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1104.44(a)(7) (v) and (vi) and the corresponding step of § 1104.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1104.44(a)(11) and the corresponding step of § 1104.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

**§ 1104.61 Computation of uniform price.**

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content received as follows:

(a) Combine into one total the values computed pursuant to §1104.60 for all handlers who filed the reports prescribed by §1104.30 for the month and who made the payments pursuant to §§1104.71 and 1104.73 for the preceding month;

(b) Add an amount equal to the total value of the location adjustments computed pursuant to §1104.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1104.60(f); and

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The results shall be the "uniform price" for milk received from producers.

**§ 1104.62 Announcement of uniform price and butterfat differential.**

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

**§ 1104.70 Producer-settlement fund.**

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," into which he shall deposit all payments made by handlers pursuant to §§ 1104.71, 1104.76, and 1104.77 subject to the provisions of § 1104.78, and from which he shall make all payments to handlers pursuant to §§ 1104.72 and 1104.77: *Provided*, That any payments due to any handler may be offset by any payments due from such handler.

**§ 1104.71 Payments to the producer-settlement fund.**

(a) On or before the 13th day after the end of the month, each person shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1104.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1104.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received plus 5 cents of other source milk for which a value is computed pursuant to § 1104.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

**§ 1104.72 Payments from the producer-settlement fund.**

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1104.71(a)(2) exceeds the amount computed pursuant to § 1104.71(a)(1). If the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly per hundredweight such payments and shall complete such payments as soon as the necessary funds are available.

**§ 1104.73 Payments to producers and to cooperative associations.**

(a) Except as provided in paragraph (b) of this section, each handler shall make payment to each producer from whom milk is received during the month as follows:

(1) On or before the last day of each month, to each producer who did not discontinue shipping milk to such handler during the month, an amount equal to not less than the Class III price for the preceding month multiplied by the hundredweight of milk received from such producer during the first 15 days of the month;

(2) On or before the 15th day of the following month, an amount equal to not less than the applicable uniform price, as adjusted pursuant to §§ 1104.74 and 1104.75, multiplied by the hundredweight of milk received from such producer during the month, subject to the following adjustments: (i) Less payments made to such producer pursuant to paragraph (a)(1) of this section, (ii) less deductions for marketing services made pursuant to § 1104.86, (iii) plus or minus adjustments for errors made in previous payments made to such producer, and (iv) less proper deductions authorized in writing by such producer: *Provided*, That if by such date such handler has not received full payment pursuant to § 1104.72, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator.

(b)(1) Upon receipt of a written request from a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler for the amount of any actual loss incurred by him because of any improper claim on the part of the cooperative association, each handler shall:

(i) Pay to the cooperative association on or before the 27th and 13th day of each month, in lieu of payments pursuant to paragraph (a) of this section, an amount equal to the gross sum due for all milk received from certified members, less amounts owed by each member-producer to the handler for supplies purchased from him on prior written order or as evidenced by a delivery ticket signed by the producer;

(ii) Submit to the cooperative association on or before the 10th day of each month written information which shows for each member-producer (*a*) the total pounds of milk received during the preceding month, (*b*) the total pounds of butterfat contained in such milk, (*c*) the number of days of production included in such receipts, and (*d*) the amounts withheld by the handler in payment for supplies sold; and

(iii) Submit to the cooperative association on or before the 25th day of each month written information which shows for each such member-producer





the total pounds of milk received during the first 15 days of the current month.

The foregoing payment and submission of information shall be made with respect to the milk, of each producer who the cooperative association certifies is a member, which is received on and after the first day of the calendar month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the association; and

(2) A copy of each such request, promise to reimburse, and certified list of members shall be filed simultaneously with the market administrator by the cooperative association and shall be subject to verification at his discretion through audits of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member or by a handler, shall be made by written notice to the market administrator and shall be subject to his determination.

(3) Each handler who receives milk from a handler described in § 1104.9(c), shall on or before the second day prior to the date payments are due individual producers, pay such cooperative association for such milk as follows:

(i) Partial payment for milk received during the first 15 days of the month at the rate specified in paragraph (a) of this section; and

(ii) In making final settlement, the value of such milk at the uniform price, as adjusted pursuant to §§ 1104.74 and 1104.75, less the amount of partial payment made for such milk.

**§ 1104.74 Butterfat differential.**

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

**§ 1104.75 Plant location adjustments for producers and on nonpool milk.**

(a) In making payments to producers pursuant to § 1104.73 for producer milk received at a pool plant, the uniform price computed pursuant to § 1104.61 shall be reduced according to the location of the pool plant at the rate set forth in § 1104.52(a);

(b) For the purpose of computations pursuant to §§1104.71 and 1104.72, the uniform price plus 5 cents shall be adjusted at the rate set forth in § 1104.52 (a) applicable at the location of the nonpool plant from which the milk was received (but not to be less than the Class III price); and

(c) In making payments to producers pursuant to § 1104.73 for producer milk diverted from a pool plant to a nonpool plant, the uniform price computed pursuant to § 1104.61 shall be reduced according to the location of the nonpool plant at which the milk is received at the rate set forth in § 1104.52(a).

**§ 1104.76 Payments by handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1104.30(b) and 1104.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price plus 5 cents, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the uniform price plus 5 cents shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class II price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1104.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1104.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1104.60 for such handler shall include, in lieu of the value of other source milk specified in § 1104.60(f) less the value of such other source milk specified in § 1104.71(a)(2)(ii), a value of milk determined pursuant to § 1104.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1104.7(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1104.30 (b) and 1104.31(b) similar reports for each nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(*c*) The value of milk determined pursuant to § 1104.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1104.74, for milk re-



V 38-176 SEP 12 73 XUM

ceived at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1104.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

**§ 1104.77 Adjustment of accounts.**

(a) Whenever audit by the market administrator or other verification discloses errors resulting in moneys due (a) the market administrator from a handler, (b) a handler from the market administrator, or (c) any producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such errors occurred.

**§ 1104.78 Charges on overdue accounts.**

Any unpaid obligation of a handler pursuant to §§ 1104.71, 1104.77, 1104.85, or 1104.86 shall be increased one-half of 1 percent on the first day of the month next following the due date of such obligation and compounded on the first day of each month thereafter until such obligation is paid.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

**§ 1104.85 Assessment for order administration.**

As his pro rata share of the expense of administering the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 5 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including that pursuant to § 1104.13(b) and such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1104.44(a) (7) and (11) and the corresponding steps of § 1104.44(b), except such other source milk that is excluded from the computations pursuant to § 1104.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1104.76(a)(2).

**§ 1104.86 Deduction for marketing services.**

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers for milk (other than milk of his own production) pursuant to § 1104.73 shall deduct 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight, as may be prescribed by the Secretary and shall pay such deductions to the market administrator on or before the 15th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association.

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall (in lieu of the deduction specified in paragraph (a) of this section) make such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 13th day after the end of each month, pay such deductions to the cooperative association of which such producers are members, furnishing a statement showing the amount of such deductions and the amount of milk for which such deduction was computed for each producer.

---

ADVERTISING AND PROMOTION PROGRAM

**§ 1104.110 Agency.**

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1104.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

**§ 1104.111 Composition of Agency.**

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1104.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1104.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1104.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

**§ 1104.112 Term of office.**

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

**§ 1104.113 Selection of Agency members.**

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1104.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.





**§ 1104.114 Agency operating procedure.**

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

**§ 1104.115 Powers of the Agency.**

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1104.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1104.110 and 1104.117.

**§ 1104.116 Duties of the Agency.**

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1104.110 and 1104.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secreetary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings, and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

**§ 1104.117 Advertising, Research, Education, and Promotion Program.**

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

**§ 1104.118 Limitation of expenditures by the Agency.**

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1104.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

**§ 1104.119 Personal liability.**

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

**§ 1104.120 Procedure for requesting refunds.**

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

**§ 1104.121 Duties of the market administrator.**

Except as specified in § 1104.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1104.113(c).

(b) Set aside the amounts subtracted under § 1104.61(d) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b) (2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1104.61(d).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1104.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1104.61(d) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1104.110 through 1104.122).



V 38-176 SEP 12 73 XUM

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

**§ 1104.122 Liquidation.**

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1104.70.

## PART 1106—MILK IN OKLAHOMA METROPOLITAN MARKETING AREA

### Subpart—Order Regulating Handling


GENERAL PROVISIONS

Sec.
1106.1 General provisions.

DEFINITIONS

1106.2 Oklahoma Metropolitan marketing area.
1106.3 Route disposition.
1106.4 [Reserved]
1106.5 Distributing plant.
1106.6 Supply plant.
1106.7 Pool plant.
1106.8 Nonpool plant.
1106.9 Handler.
1106.10 Producer-handler.
1106.11 [Reserved]
1106.12 Producer.
1106.13 Producer milk.
1106.14 Other source milk.
1106.15 Fluid milk product.
1106.16 Fluid cream product.
1106.17 Filled milk.
1106.18 Cooperative association.
1106.19 Accounting period.

HANDLER REPORTS

1106.30 Reports of receipts and utilization.
1106.31 Payroll reports.
1106.32 Other reports.

CLASSIFICATION OF MILK

1106.40 Classes of utilization.
1106.41 Shrinkage.
1106.42 Classification of transfers and diversions.
1106.43 General classification rules.
1106.44 Classification of producer milk.
1106.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1106.50 Class prices.
1106.51 Basic formula price.
1106.52 Plant location adjustments for handlers.
1106.53 Announcement of class prices.
1106.54 Equivalent price.

UNIFORM PRICE

1106.60 Handler's value of milk for computing uniform price.
1106.61 Computation of uniform price.
1106.62 Announcement of uniform price and butterfat differential.

PAYMENTS FOR MILK

1106.70 Producer-settlement fund.
1106.71 Payments to the producer-settlement fund.
1106.72 Payments from the producer-settlement fund.
1106.73 Payments to producers and to cooperative associations.
1106.74 Butterfat differential.
1106.75 Plant location adjustments for producers and on nonpool milk.
1106.76 Payments by handler operating a partially regulated distributing plant.
1106.77 Adjustment of accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1106.85 Assessment for order administration.
1106.86 Deduction for marketing services.

ADVERTISING AND PROMOTION PROGRAM

1106.110 Agency.
1106.111 Composition of Agency.
1106.112 Term of office.
1106.113 Selection of Agency members.
1106.114 Agency operating procedure.
1106.115 Powers of the Agency.
1106.116 Duties of the Agency.
1106.117 Advertising, Research, Education and Promotion Program.
1106.118 Limitation of expenditures by the Agency.
1106.119 Personal liability.
1106.120 Procedure for requesting refunds.
1106.121 Duties of the market administrator.
1106.122 Liquidation.


AUTHORITY: The provisions of this Part 1106 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

### GENERAL PROVISIONS

**§ 1106.1 General provisions.**

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

### DEFINITIONS

**§ 1106.2 Oklahoma Metropolitan marketing area.**

"Oklahoma Metropolitan marketing area", hereinafter called the "Marketing Area", means all the territory within Tulsa County, the city of Sapulpa, and the township of Sapulpa in Creek County; that part of Black Dog Township in 20 North, Ranges 10, 11, and 12 East in Osage County; the cities of Muskogee, McAlester, Ponca City, and Tahlequah; Oklahoma County, except Deer Creek, Deep Fork, and Luther Townships; Moore, Taylor, Case, Liberty, Norman, and Noble Townships in Cleveland County; Bales, Davis, Dent, Brinton, Rock Creek, Forest, and Earlsboro Townships in Pottawatomie County; the city and township of Guthrie in Logan County; the city and township of Stillwater and Union Township, including the city of Cushing in Payne County; and the city of Enid and Vance Air Force Base in Garfield County; all in the State of Oklahoma.

**§ 1106.3 Route disposition.**

"Route disposition" means any delivery (including any delivery by a vendor or disposition at a plant store) of any fluid milk product classified as Class I milk other than a delivery in bulk to a milk or filled milk plant.

**§ 1106.4 [Reserved]**

**§ 1106.5 Distributing plant.**

"Distributing plant" means all the buildings, premises, and facilities of a plant:

(a) Approved by a duly constituted health authority for the handling of milk approved for fluid consumption;

(b) In which fluid milk products are processed or packaged; and

(c) From which there is route disposition of fluid milk products.

**§ 1106.6 Supply plant.**

"Supply plant" means a plant from which fluid milk products are transferred to a distributing plant(s) during the month.

**§ 1106.7 Pool plant.**

Except as provided in paragraph (d) of this section, "pool plant" means a of this section, "pool plant" means:

(a) A distributing plant from which during the month there is:

(1) Total route disposition (except filled milk) in an amount not less than 50 percent of the total quantity of fluid milk products (except filled milk) received at the plant or diverted to a nonpool plant by the plant operator under the limitations of § 1106.13; and

(2) Route disposition (except filled milk) in the marketing area in an amount not less than 15 percent of the total route disposition of the plant.

(b) A supply plant from which fluid milk products (except filled milk) are transferred during the month to a plant(s) described in paragraph (a) of this section in an amount not less than 50 percent of milk received at the supply plant from dairy farmers who would be eligible as producers under § 1106.12 if such plant qualifies pursuant to this paragraph and milk of such dairy farmers diverted from such plant by the plant operator. Any plant that qualifies under this paragraph during each of the months of September through December shall continue so qualified in each of the following months of January through August until any month of such period in which less than 20 percent of the plant receipts and diverted milk specified previously herein is transferred to plants described in paragraph (a) of this section. A plant not meeting such 20 percent requirement in any month of such January–August period shall be qualified under this paragraph in any remaining month of the year only if transfers of fluid milk products (except filled milk) from the plant during the month to plant(s) described in paragraph (a) of this section are at least 50 percent of the plant receipts and diverted milk specified previously herein.

(c) A plant(s) operated by a cooperative association and located not more than 50 miles from the City Hall of Tulsa or Oklahoma City, Okla., at which milk is received from dairy farmers producing milk approved by a duly constituted health authority for fluid consumption if the total of fluid milk products described in paragraph (c) (1) and (2) of this section received at plants described pursuant to paragraph (a) of this section is not less than 50 percent of total milk of member producers during the month:





(1) Fluid milk products (except filed milk) transferred from such cooperative association plant(s); and

(2) Milk of member producers received from such producers.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant or governmental agency plant;

(2) A distributing plant qualified pursuant to paragraph (a) of this section which meets the pooling requirements of another Federal order and from which there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its route disposition, except filled milk, is made in such other marketing area unless, notwithstanding the provisions of this subparagraph, it is regulated under such other order. On the basis of a written application made by the plant operator at least 15 days prior to the date for which a determination of the Secretary is to be effective, the Secretary may determine that the route dispositions in the respective marketing areas to be used for purposes of this subparagraph shall exclude (for a specified period of time) route disposition made under limited term contracts to governmental bases and institutions;

(3) A distributing plant qualified pursuant to paragraph (a) of this section which meets the pooling requirements of another Federal order and from which there is a greater quantity of route disposition, except filled milk, during the month in this marketing area than in such other Federal order marketing area but which plant is, nevertheless, fully regulated under such other Federal order; or

(4) A supply plant qualified pursuant to paragraph (b) of this section which meets the pooling requirements of another Federal order and from which greater qualifying shipments are made during the month to plants regulated under such other order than are made to plants regulated under this part.

**§ 1106.8 Nonpool plant.**

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant, a governmental agency plant, nor a producer-handler plant, from which there is route disposition in the marketing area in consumer-type packages or dispenser units during the month.

(d) "Unregulated supply plant" means a nonpool plant, except an other order plant, a governmental agency plant, or a producer-handler plant, from which fluid milk products are moved during the month to a pool plant qualified pursuant to § 1106.7

(e) "Governmental agency plant" means a plant owned and operated by a governmental agency or establishment which processes or packages milk or filled milk that is distributed in the marketing area. Such plant shall be exempt from all provisions of this part.

**§ 1106.9 Handler.**

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants: *Provided*, That in the case of recognized divisions of a corporation which are operated as separate business units, each such division shall be deemed to be a handler;

(b) Any cooperative association with respect to the milk of producers which it causes to be diverted pursuant to § 1106.13 for the account of such cooperative association;

(c) A cooperative association with respect to the milk of its member producers delivered to the pool plant of another handler in a tank truck owned or operated by such cooperative association for the account of such cooperative association. Such milk shall be considered to have been received by such cooperative association at the location of the plant to which it is delivered;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler; and

(f) Any person who operates an other order plant described in § 1106.7(d).

**§ 1106.10 Producer-handler.**

"Producer-handler" means any person who produces milk and operates a plant which meets the standards in § 1106.5(a) from which there is route disposition in the marketing area, but who receives no milk from producers or other dairy farmers, and whose disposition of Class I milk does not exceed his own production and fluid milk products received from pool plants.

**§ 1106.11 [Reserved]**

**§ 1106.12 Producer.**

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk approved for fluid consumption by a duly constituted health authority, which is:

(1) Received at a pool plant; or

(2) Diverted pursuant to § 1106.13 by a handler for his account.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under this order and such milk is allocated to Class II or Class III utilization pursuant to § 1106.44(a)(8) (iii) and the corresponding step of § 1106.44(b); and

(3) Any person with respect to milk produced by him which is diverted from a pool plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk.

**§ 1106.13 Producer milk.**

"Producer milk" means skim milk and butterfat in milk from producers that is:

(a) Received by the operator of a pool plant at such pool plant from producers.

(b) Diverted by the operator of a pool plant from such pool plant to a nonpool plant that is not a producer-handler plant, subject to the conditions of paragraph (e) of this section.

(c) Received from producers by a handler described in § 1106.9(c).

(d) Diverted by a cooperative association for its account from the pool plant of another handler to a nonpool plant that is not a producer-handler plant, subject to the conditions of paragraph (e) of this section.

(e) Milk diverted from a pool plant to a nonpool plant shall be subject to the following conditions:

(1) A cooperative association may divert for its account, subject to the conditions of paragraph (e)(3) of this section, a total quantity of milk not in excess of total milk of its member-producers received at all pool plants during the month. Diversions in excess of such quantity shall not be eligible under this section and the diverting cooperative shall specify the dairy farmers whose diverted milk is not so eligible. If the cooperative association fails to designate such persons, status under this section shall be forfeited with respect to all milk diverted by such cooperative association;

(2) The operator of a pool plant other than a cooperative association may divert for his account, subject to the conditions of paragraph (e)(3) of this section, milk of producers not members of a cooperative association diverting milk pursuant to paragraph (e)(1) of this section, in a total quantity not in excess of the milk of producers not members of such cooperative association received at such pool plant(s) during the month. Milk diverted in excess of such quantity shall not be eligible under this section and the diverting handler shall specify the dairy farmers whose diverted milk is not so eligible. If a handler fails to designate such persons, status under this section shall be forfeited with respect to all milk diverted by such handler;

(3) Milk of a producer shall not be eligible for diversion from a pool plant under this section if during the month less than 15 percent of the total milk of such person as a producer is received at a pool plant; and

(4) Milk qualified as producer milk that is diverted by a handler to a nonpool plant pursuant to this section shall be accounted for as received by the diverting handler at the location of the nonpool plant.



V 38-176 SEP 12 73 XUM

§ 1106.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1106.40(b)(1) from any source other than producers, handlers described in § 1106.9(c), pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1106.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1106.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1106.40(b)(1)) for which the handler fails to establish a disposition.

§ 1106.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1106.40 (b) or (c)(1) (i) through (iv) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1106.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1106.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk products, and contains less than 6 percent nonmilk fat (or oil).

§ 1106.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members; and

(c) To be engaged in making collective sales or marketing milk or its products for its members.

§ 1106.19 Accounting period.

"Accounting period" shall mean a calendar month unless the handler during any calendar month makes a request in writing to the market administrator requesting two accounting periods during the month. No accounting period shall be of less than 5 days duration and the request for two accounting periods must be made at least 48 hours prior to the end of the first accounting period in the month.

HANDLER REPORTS

§ 1106.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for each accounting period in the month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1106.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the accounting period of fluid milk products and products specified in § 1106.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1106.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1106.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1106.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1106.76 (b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1106.32 Other reports.

(a) Each handler who causes milk to be diverted to a nonpool plant, shall, prior to such diversion, report to the market administrator and to the cooperative association of which such producer is a member, his intention to divert such milk, the proposed date or dates of such diversion, and the plant to which such milk is to be diverted.

(b) In addition to the reports required pursuant to §§ 1106.30 and 1106.31 and paragraph (a) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1106.40 Classes of utilization.

Except as provided in § 1106.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1106.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a





fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(v) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1106.15; and

(6) In shrinkage assigned pursuant to § 1106.41(a) to the receipts specified in § 1106.41(a)(2) and in shrinkage specified in § 1106.41 (b) and (c).

§ 1106.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1106.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1106.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b)(1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1106.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1106.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or buttterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1106.44(a)(12) and the corresponding step of § 1106.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1106.44(a)(7) or the corresponding step of § 1106.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the tranferor-handler received during the month other source milk to be allocated pursuant to § 1106.44(a) (11) or (12) or the corresponding steps of § 1106.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective



V 38-176
SEP 12 73
XUM

market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1106.40.

(c) *Transfers to producer-handlers and transfers and diversions to governmental agency plants.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order or transferred or diverted from a pool plant to a governmental agency plant shall be classified:

(1) As Class I milk, if so moved in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to its receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, a producer-handler plant, or a governmental agency plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1106.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

### § 1106.43 General classification rules.

In determining the classification of producer milk pursuant to § 1106.44, the following rules shall apply:

(a) Each accounting period the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1106.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1106.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1106.40, 1106.41, and 1106.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1106.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

### § 1106.44 Classification of producer milk.

For each accounting period the market administrator shall determine the classification of producer milk of each handler described in § 1106.9(a) for each of his pool plants separately and of each handler described in § 1106.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1106.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1106.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1106.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1106.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1106.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order and from a governmental agency plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the handler's total Class III utilization at his other pool plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this location step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler;

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1106.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1106.40(b)(1) in inventory at the beginning of the accounting period that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received;

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid-milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section;

(i) Subject to the provisions of paragraph (a)(12)(ii) and (iii) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1106.45(a); or







V 38-176 SEP 12 73 XUM

(b) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler;

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received; and

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from any class that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1106.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1106.44(a)(14) and the corresponding step of § 1106.44(b).

### § 1106.15 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1106.44(a)(12) and the corresponding step of § 1106.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current avavilable data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1106.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of milk caused to be delivered by such cooperative association either directly or from producers who are members of such cooperative association, to each handler to whom the cooperative association sells milk. For the purposes of this report, the milk caused to be so delivered by a cooperative association shall be prorated to each class in the proportion that the total receipts of producer milk by such handler were used in each class.

## Class Prices

### § 1106.50 Class prices.

Subject to the provisions of § 1106.52, the class prices for the month per hundred weight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.98.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month, but not to exceed an amount computed as follows:

(1) Multiply by 4.2 the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month;

(2) Multiply by 8.2 the weighted average of carlot prices per pound of spray process nonfat dry milk for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department; and

(3) From the sum of the amounts computed pursuant to paragraph (c)(1) and (2) of this section subtract 48 cents and round to the nearest cent.

### § 1106.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.32.

### § 1106.52 Plant location adjustments for handlers.

(a) At a plant in the State of Oklahoma, north of Beckham, Washita, Caddo, Canadian, Oklahoma, Pottawatomie, and Seminole Counties or east of Seminole, Pontotoc, Johnston, and Marshall Counties, and 50 miles or more from the city hall in Oklahoma City, the price specified in § 1106.50(a) for milk received from producers shall be reduced 10 cents plus 1.5 cents for each 10 miles or fraction thereof that such plant is more than 150 miles from Oklahoma City.

(b) At a plant outside the States of Oklahoma and Texas, the price specified in § 1106.50(a) for milk received from producers shall be the price applicable at Tulsa or Ponca City, Okla., pursuant to paragraph (a) of this section reduced by 1.5 cents for each 10 miles or fraction thereof that such plant is from the nearer of the city halls in Tulsa or Ponca City.

(c) The distances applied pursuant to paragraphs (a) and (b) of this section shall be the shortest hard-surfaced highway distances as determined by the market administrator.

(d) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraphs (a) and (b) of this section, except that the adjusted Class I price shall not be less than the Class III price.

(e) For purposes of calculating location adjustments, transfers between pool plants shall be assigned to Class I disposition at the transferee plant in an amount not in excess of that by which 105 percent of Class I disposition at the transferee plant exceeds the sum of receipts at such plant from producers and handlers described in § 1106.9(c), and the pounds assigned to Class I to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to transferor plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.





### § 1106.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

### § 1106.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

## Uniform Price

### § 1106.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1106.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1106.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1106.44(a)(14) and the corresponding step of § 1106.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1106.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1106.44(a)(9) and the corresponding step of § 1106.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1106.44(a)(7) (i) through (iv) and the corresponding step of § 1106.44(b) excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1106.44(a)(7) (v) and (vi) and the corresponding step of § 1106.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1106.44(a)(11) and the corresponding step of § 1106.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class II price, both for the preceding month by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1106.40(b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

### § 1106.61 Computation of uniform price.

For each month, the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1106.60 for all handlers who made the reports prescribed in § 1106.30 and who made the payments pursuant to §§ 1106.71 and 1106.73 for the preceding month.

(b) Add the aggregate of the values of all allowable location adjustments to producers pursuant to § 1106.75.

(c) Add not less than one-half of the cash balance on hand in the producer-settlement fund less the total amount of the contingent obligations to handlers pursuant to § 1106.72.

(d) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents.

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1106.60(f).

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

### § 1106.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

## Payments for Milk

### § 1106.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1106.71, 1106.76, and 1106.77 and from which he shall make all payments to handlers pursuant to §§ 1106.72 and 1106.77.

### § 1106.71 Payments to the producer-settlement fund.

(a) On or before the 13th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1106.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1106.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received plus 5 cents of other source milk for which a value is computed pursuant to § 1106.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

### § 1106.72 Payments from the producer-settlement fund.

On or before the 14th day after the end of each month the market administrator shall pay to each handler including a cooperative association which is a handler the amount, if any, by which the amount computed pursuant to § 1106.71(a)(2) exceeds the amount computed pursuant to § 1106.71(a)(1). If the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments



V 38 176 SEP 12 73 XUM

as soon as the necessary funds are available.

**§ 1106.73 Payments to producers and to cooperative associations.**

Each handler shall make payment as follows:

(a) On or before the 15th day after the end of the month during which the milk was received, to each producer to whom payment is not made pursuant to paragraph (c) of this section, at not less than the applicable uniform price(s) for such month computed pursuant to § 1106.61, as adjusted pursuant to §§ 1106.74 and 1106.75, and less the amount of the payment made pursuant to paragraph (b) of this section: *Provided*, That if by such date such handler has not received full payment pursuant to § 1106.72, he may reduce his total payments to all producers uniformly by not more than the amount of reduction in payment from the market administrator; he shall, however, complete such payments pursuant to this paragraph not later than the date for making such payments next following receipt of the balance from the market administrator;

(b) On or before the last day of each month, to each producer for whom payment is not made pursuant to paragraph (d) of this section for milk received from him during the first 15 days of the month at not less than the Class III price for the preceding month;

(c) To a cooperative association with respect to milk for which the cooperative association is a handler on or before the 10th day of each month for milk which is caused to be delivered to such handler during the preceding month at not less than the value of such milk at the class prices, as adjusted by the butterfat differential specified in § 1106.74, that are applicable at the location of the receiving handler's pool plant; and

(d)(1) Upon receipt of written request from a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler for the amount of any actual loss incurred by him because of any improper claim on the part of the cooperative association, each handler shall:

(i) Pay to the cooperative association on or before the 13th and 27th days of each month in lieu of payments pursuant to paragraphs (a) and (b), respectively of this section, an amount equal to the gross sum due for all milk received from certified members, less amounts owed by each member producer to the handler for supplies purchased from him on prior written order or as evidenced by a delivery ticket signed by the producer;

(ii) Submit to the cooperative association on or before the 10th day of each month written information which shows for each member producer:

(*a*) The total pounds of milk received during the preceding month;

(*b*) The total pounds of butterfat contained in such milk;

(*c*) The number of days on which milk was received; and

(*d*) The amounts withheld by the handler in payment for supplies sold; and

(iii) Submit to the cooperative association on or before the 25th day of each month, written information which shows for each member producer the total pounds of milk received during the first 15 days of the current month. The foregoing payment and submission of information shall be made with respect to milk of each producer, who the cooperative association certifies is a member, which is received on and after the first day of the calendar month next following the receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the association; and

(2) A copy of each such request, promise to reimburse, and certified list of members shall be filed simultaneously with the market administrator by the cooperative and shall be subject to verification at his discretion through audits of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member or by a handler shall be made by written notice to the market administrator and shall be subject to his determination.

**§ 1106.74 Butterfat differential.**

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

**§ 1106.75 Plant location adjustments for producers and on nonpool milk.**

(a) In making payments to producers pursuant to § 1106.73 for producer milk received at a pool plant, the uniform price computed pursuant to § 1106.61 shall be reduced according to the location of the pool plant at the rates set forth in § 1106.52;

(b) For the purpose of computations pursuant to §§ 1106.71 and 1106.72, the uniform price plus 5 cents shall be adjusted at the rates set forth in § 1106.52 applicable at the location of the nonpool plant from which the milk was received (but not to be less than the Class III price); and

(c) In making payments to producers pursuant to § 1106.73 for producer milk diverted from a pool plant to a nonpool plant, the uniform price computed pursuant to § 1106.61 shall be reduced according to the location of the nonpool plant at which the milk is received at the rates set forth in § 1106.52.

**§ 1106.76 Payments by handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1106.30(b) and 1106.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price plus 5 cents, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the uniform price plus 5 cents shall not be less than the Class III price); and

(5) And the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1106.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the





partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1106.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1106.60 for such handler shall include, in lieu of the value of other source milk specified in § 1106.60(f) less the value of such other source milk specified in § 1106.71(a)(2)(ii), a value of milk determined pursuant to § 1106.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1106.7(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1106.30(b) and 1106.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(*c*) The value of milk determined pursuant to § 1106.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1106.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1106.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

**§ 1106.77 Adjustments of accounts.**

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in money due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

**§ 1106.85 Assessment for order administration.**

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to the milk described in paragraphs (a), (b), and (c) of this section. For each handler using two accounting periods in a month, the rate of payment shall be twice the rate for monthly accounting periods, or such lesser rate as the Secretary may determine is demonstrated as appropriate in terms of the particular costs of administering the additional accounting period:

(a) Producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1106.44(a) (7) and (11) and the corresponding steps of § 1106.44(b), except such other source milk that is excluded from the computations pursuant to § 1106.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1106.76(a)(2).

**§ 1106.86 Deduction for marketing services.**

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than himself) pursuant to § 1106.73 shall deduct 5 cents per hundredweight or such amount not exceeding 5 cents per hundredweight as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of each month. Such money shall be used by the market administrator to sample, test, and check the weights of milk received from producers and to provide producers with market information.

(b) In the case of producers for whom a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers and on or before the 15th day after the end of the month pay such deduction to the cooperative association rendering such services, identified by a statement showing for each such producer the information required to be reported to the market administrator pursuant to § 1106.31(a). In lieu of such statement a handler may authorize the market administrator to furnish such cooperative association the information with respect to such producers reported pursuant to § 1106.31(a).

ADVERTISING AND PROMOTION PROGRAM

**§ 1106.110 Agency.**

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1106.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

**§ 1106.111 Composition of Agency.**

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1106.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1106.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless



V 38-176
SEP 12 73
XUM

be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as participating producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1106.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

**§ 1106.112 Term of office.**

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

**§ 1106.113 Selection of Agency members.**

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1106.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

**§ 1106.114 Agency operating procedure.**

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

**§ 1106.115 Powers of the Agency.**

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1106.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1106.110 and 1106.117.

**§ 1106.116 Duties of the Agency.**

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1106.110 and 1106.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

**§ 1106.117 Advertising, Research, Education, and Promotion Program.**

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

**§ 1106.118 Limitation of expenditures by the Agency.**

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1106.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

**§ 1106.119 Personal liability.**

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

**§ 1106.120 Procedure for requesting refunds.**

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.





**§ 1106.121 Duties of the market administrator.**

Except as specified in § 1106.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1106.113(c).

(b) Set aside the amounts subtracted under § 1106.61(d) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b) (2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1106.61(d).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1106.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1106.61(d) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1106.110 through 1106.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

**§ 1106.122 Liquidation.**

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1106.70.

## PART 1120—MILK IN LUBBOCK-PLAINVIEW, TEXAS, MARKETING AREA

### Subpart—Order Regulating Handling

GENERAL PROVISIONS

Sec.
1120.1 General provisions.

DEFINITIONS

1120.2 Lubbock-Plainview, Tex., marketing area.
1120.3 Route disposition.
1120.4 Plant.
1120.5 Distributing plant.
1120.6 Supply plant.
1120.7 Pool plant.
1120.8 Nonpool plant.
1120.9 Handler.
1120.10 Producer-handler.
1120.11 [Reserved]
1120.12 Producer.
1120.13 Producer milk.
1120.14 Other source milk.
1120.15 Fluid milk product.
1120.16 Fluid cream product.
1120.17 Filled milk.
1120.18 Cooperative association.
1120.19 Accounting period.

HANDLER REPORTS

1120.30 Reports of receipts and utilization.
1120.31 Payroll reports.
1120.32 Other reports.

CLASSIFICATION OF MILK

1120.40 Classes of utilization.
1120.41 Shrinkage.
1120.42 Classification of transfers and diversions.
1120.43 General classification rules.
1120.44 Classification of producer milk.
1120.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1120.50 Class prices.
1120.51 Basic formula price.
1120.52 Plant location adjustments for handlers.
1120.53 Announcement of class prices.
1120.54 Equivalent price.

UNIFORM PRICE

1120.60 Handler's value of milk for computing uniform price.
1120.61 Computation of uniform price.
1120.62 Announcement of uniform price and butterfat differential.

PAYMENTS FOR MILK

1120.70 Producer-settlement fund.
1120.71 Payments to the producer-settlement fund.
1120.72 Payments from the producer-settlement fund.
1120.73 Payments to producers and to cooperative associations.
1120.74 Butterfat differential.
1120.75 Plant location adjustments for producers and on nonpool milk.
1120.76 Payments by handler operating a partially regulated distributing plant.
1120.77 Adjustment of accounts.
1120.78 Charges on overdue accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1120.85 Assessment for order administration.
1120.86 Deduction for marketing services.

ADVERTISING AND PROMOTION PROGRAM

Sec.
1120.110 Agency.
1120.111 Composition of Agency.
1120.112 Term of office.
1120.113 Selection of Agency members.
1120.114 Agency operating procedure.
1120.115 Powers of the Agency.
1120.116 Duties of the Agency.
1120.117 Advertising, Research, Education and Promotion Program.
1120.118 Limitation of expenditures by the Agency.
1120.119 Personal liability.
1120.120 Procedure for requesting refunds.
1120.121 Duties of the market administrator.
1120.122 Liquidation.

AUTHORITY: The provisions of this Part 1120 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

GENERAL PROVISIONS

**§ 1120.1 General provisions.**

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

**§ 1120.2 Lubbock-Plainview, Tex., marketing area.**

"Lubbock-Plainview, Tex., marketing area", hereinafter called the "marketing area", means all the territory within the boundaries of the counties of:

Bailey.
Castro.
Cochran.
Cottle.
Crosby.
Dickens.
Floyd.
Gaines.
Garza.
Hale.
Hockley.
Lamb.
Lubbock.
Lynn.
Motley.
Terry.
Yoakum.

all within the State of Texas, including all territory within such boundaries occupied by Government (municipal, State or Federal) reservations, installations, institutions, or other similar establishments.

**§ 1120.3 Route disposition.**

"Route disposition" means any delivery of a fluid milk product classified as Class I milk from a plant to wholesale or retail outlets (including any disposition by a vendor, from a plant store, or through a vending machine) other than a delivery to a plant.

**§ 1120.4 Plant.**

"Plant" means the land, buildings together with their surroundings, facilities and equipment, whether owned or operated by one or more persons, constituting a single operating unit or establishment at which milk or milk products (including filled milk) are received from dairy farmers or processed or packaged: *Provided*, That a separate establishment used only for the purpose of transferring bulk milk from one tank truck to another tank truck, or only as a distribution depot for fluid milk products in transit on routes shall not be a plant under this definition.



V 38-176 SEP 12 73 XUM

§ 1120.5 Distributing plant.

"Distributing plant" means a plant from which there is route disposition of any Grade A fluid milk product during the month in the marketing area.

§ 1120.6 Supply plant.

"Supply plant" means a plant from which milk or skim milk acceptable for distribution under a Grade A label is moved during the month to a distributing plant.

§ 1120.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A distributing plant from which there is total route disposition, except filled milk, in an amount equal to not less than 50 percent of the Grade A milk received at such plant from dairy farmers and from a handler described in § 1120.9(c) during the month unless the volume so disposed of in the marketing area is less than 15 percent of such receipts or less than 1,500 pounds on a daily average: *Provided*, That if a portion of such plant, physically apart from the Grade A portion of such a plant, is operated separately and is not approved by any health authority for the receiving, transferring, processing, or packaging of any fluid milk product for Grade A disposition, it shall not be considered to be a part of such pool plant pursuant to this paragraph.

(b) A supply plant from which a volume of fluid milk products, except filled milk, equal to not less than 50 percent of the Grade A milk received at such plant from dairy farmers and from a handler described in § 1120.9(c) is transferred during the month to a distributing plant from which during the month there is total route disposition, except filled milk, in an amount equal to not less than 50 percent of its receipts of Grade A milk from dairy farmers, cooperative associations, and from other plants and the volume to disposed of in the marketing area is at least 15 percent of such receipts or a daily average of 1,500 pounds, whichever is less: *Provided*, That if a portion of such supply plant, physically apart from the Grade A portion of such a plant, is operated separately and is not approved by any health authority for the receiving, transferring, processing, or packaging of any fluid milk product for Grade A disposition, it shall not be considered to be part of such pool plant pursuant to this paragraph: *And provided further*, That any plant which was a pool plant pursuant to this paragraph in each of the months of September through November shall be a pool plant for the following months of March through June, unless written application is filed with the market administrator on or before the first day of any such months for designation as a nonpool plant for the remaining months through June.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant or a State institution plant;

(2) A plant meeting the requirements of paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which, the Secretary determines, there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area, except that if such plant was subject to all the provisions of this order in the immediately preceding month, it shall continue to be subject to all the provisions of this order until the third consecutive month in which a greater proportion of its route disposition, except filled milk, is made in such other marketing area, unless notwithstanding the provisions of this subparagraph it is regulated under such other order; or

(3) A plant meeting the requirements of paragraph (a) of this section which also meets the pooling requirements of another Federal order on the basis of route disposition in such other marketing area and from which, the Secretary determines, there is a greater quantity of route disposition, except filled milk, during the month in this marketing area than in such other marketing area but which plant is fully regulated under such other Federal order.

§ 1120.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means any nonpool plant from which fluid milk products are moved to a pool plant during the month, but which is neither an other order plant nor a producer-handler plant.

(e) "State institution plant" means a State owned and operated institution or establishment which processes or packages fluid milk products distributed solely on its premises or those of other State institutions or establishments. Such plant shall be exempt from all provisions of this part.

§ 1120.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) A cooperative association with respect to the milk of any producer which it causes to be diverted for its account pursuant to § 1120.12;

(c) A cooperative association with respect to the milk of any producer which it causes to be delivered directly from the farm to the pool plant of another handler in a tank truck owned and operated by, under contract to, or under the control of such association, unless the association notifies the market administrator and the operator of the pool plant in writing prior to the time of delivery that the transferee-handler is to be the responsible handler on such milk;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler;

(f) Any person who operates an other order plant described in § 1120.7(c); and

(g) Any person in his capacity as the operator of an unregulated supply plant.

§ 1120.10 Producer-handler.

"Producer-handler" means any person who operates a dairy farm and a distributing plant and whose only source of supply for Class I milk is his own farm production and transfers from pool plants: *Provided*, That such person furnishes satisfactory proof to the market administrator that the maintenance, care and management of all dairy animals and other resources necessary to produce the entire amount of fluid milk products handled (excluding transfers from pool plants) and the operation of the plant are each the personal enterprises of and at the personal risks of such person.

§ 1120.11 [Reserved]

§ 1120.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is:

(1) Received at a pool plant either directly or by a handler described in § 1120.9(c); or

(2) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant for the account of either the operator of the pool plant or a cooperative association:

(i) Any day during the months of March through June; and

(ii) Not more than 15 days production during any month of July through February: *Provided*, That milk so diverted shall be deemed to have been received at the location of the pool plant from which diverted.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1120.44(a)(8)(iii) and the corresponding step of § 1120.44(b); and

(3) Any person with respect to milk produced by him which is diverted from a pool plant to an other order plant if the other order designates such a person as a producer under that order with respect to such milk.





§ 1120.13 Producer milk.

"Producer milk" means only that skim milk and butterfat contained in:

(a) Milk received at a pool plant directly from producers;

(b) Milk from producers diverted in accordance with the conditions set forth in § 1120.12; or

(c) Milk received by a handler described in § 1120.9(c): *Provided*, That such milk shall be deemed to have been received by such cooperative association at a pool plant at the location of the pool plant to which it was delivered.

§ 1120.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1120.40(b)(1) from any source other than producers, handlers described in § 1120.9(c), pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1120.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1120.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1120.40(b)(1)) for which the handler fails to establish a disposition.

§ 1120.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1120.40 (b) or (c)(1) (i) through (iv) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for instant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1120.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1120.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1120.18 Cooperative association.

"Cooperative association" means any cooperative marketing association which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members.

§ 1120.19 Accounting periods.

A handler may account for receipts, utilization, and classification of skim milk and butterfat at any of his pool plants for two periods within a month, each period not to be less than 7 days, in the same manner as for a month if he provides to the market administrator in writing not later than 24 hours prior to the end of an accounting period notification of his intention to use two accounting periods.

HANDLER REPORTS

§ 1120.30 Reports of receipts and utilization.

On or before the eighth day after the end of each month, each handler shall report for each accounting period in the month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1120.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1120.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1120.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1120.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1120.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1120.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1120.32 Other reports.

(a) Each handler shall report to the market administrator in the detail and on forms prescribed by the market administrator as follows:

(1) On or before the first day other source milk is received in the form of any fluid milk product at any of his pool plants his intention to receive such product, and on or before the last day such product is received his intention to discontinue receipt of such product; and

(2) Prior to his diversion of producer milk to a nonpool plant, his intention to divert such milk, the proposed date or dates of such diversion and the plant to which such milk is to be diverted.

(b) In addition to the reports required pursuant to §§ 1120.30 and 1120.31 and paragraph (a) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.



V 38-176 SEP 12 73 XUM

CLASSIFICATION OF MILK

**§ 1120.40 Classes of utilization.**

Except as provided in § 1120.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1120.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(v) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1120.15; and

(6) In shrinkage assigned pursuant to § 1120.41(a) to the receipts specified in § 1120.41(a)(2) and in shrinkage specified in § 1120.41 (b) and (c).

**§ 1120.41 Shrinkage.**

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1120.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a) (1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1120.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1120.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

**§ 1120.42 Classification of transfers and diversions.**

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant or by a handler described in § 1120.9(c) to another handler's pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1120.44(a)(12) and the corresponding step of § 1120.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1120.44(a)(7) or the corresponding step of § 1120.44 (b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1120.44(a) (11) or (12) or the corresponding steps of § 1120.44(b), the skim milk or butterfat so transferred up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1120.40.

(c) *Transfers to producer-handlers and to State institution plants.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order or a State institution plant shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, a producer-handler plant, or a State institution plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1120.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

**§ 1120.43 General classification rules.**

In determining the classification of producer milk pursuant to § 1120.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1120.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1120.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1120.40, 1120.41, and 1120.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1120.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.







V 38-176 SEP 12 73 XUM

**§ 1120.44 Classification of producer milk.**

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1120.9(a) for each of his pool plants separately and of each handler described in § 1120.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1120.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1120.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds in skim milk in Class II the pounds of skim milk in products specified in § 1120.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1120.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1120.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order and from a State institution plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the handler's total Class III utilization at his other pool plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler;

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1120.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1120.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12) (ii) and (iii) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1120.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler;

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from any class that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant or a handler described in § 1120.9(c) according to the classification of such products pursuant to § 1120.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1120.44(a)(14) and the corresponding step of § 1120.44(b).

**§ 1120.45 Market administrator's reports and announcements concerning classification.**

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1120.44(a)(12) and the corresponding step of § 1120.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1120.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 10th day after the end of each month report to each cooperative association, upon request by such association, the percentage of producer milk caused to be delivered by such association which was used in each class by each handler receiving such milk. For the purpose of this report the milk so received shall be prorated to each class in the proportion that the total receipts of producer milk by such handler were used in each class.

CLASS PRICES

**§ 1120.50 Class prices.**

Subject to the provisions of § 1120.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.42.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month, but not to exceed an amount computed as follows:

(1) Multiply by 4.2 the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month;

(2) Multiply by 8.2 the weighted average of carlot prices per pound of spray process nonfat dry milk for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department; and

(3) From the sum of the amounts computed pursuant to paragraph (c)(1) and (2) of this section subtract 48 cents and round to the nearest cent.

**§ 1120.51 Basic formula price.**

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

**§ 1120.52 Plant location adjustments for handlers.**

(a) For producer milk which is received at a pool plant located either outside of the State of Texas, or within the State but north of the counties of Parmer, Castro, Swisher, Briscoe, Hall, and Childress and 100 miles or more from the city hall, Lubbock, Tex., by the shortest hard-surfaced highway distance as determined by the market administrator, and which is assigned to Class I pursuant to paragraph (b) of this section or otherwise classified as Class I milk, the price specified in § 1120.50(a) shall be reduced at the rate set forth in the following table according to the location of the plant where such milk is received:

| Miles from Lubbock City | *Rate per hundredweight (cents)* |
|---|---|
| Hall: | |
| 100 miles but less than 110 miles | 10 |
| For each additional 10 miles or fraction thereof an additional | 1.5 |

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee-plant, in excess of the sum of receipts at such plant from producers and handlers described in § 1120.9(c) and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.







V 38-176 SEP 12 73 XUM

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

**§ 1120.53 Announcement of class prices.**

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

**§ 1120.54 Equivalent price.**

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICE

**§ 1120.60 Handler's value of milk for computing uniform price.**

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1120.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1120.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1120.44(a)(14) and the corresponding step of § 1120.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1120.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1120.44 (a)(9) and the corresponding step of § 1120.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1120.44(a)(7) (i) through (iv) and the corresponding step of § 1120.44 (b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1120.44(a)(7) (v) and (vi) and the corresponding step of § 1120.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1120.44(a)(11) and the corresponding step of § 1120.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

**§ 1120.61 Computation of uniform price.**

For each month, the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1120.60 for all pool handlers who made the reports prescribed in § 1120.30 for the month and who have made the payments required pursuant to § 1120.71 for the preceding month;

(b) Add an amount equal to the sum of the deductions to be made for location adjustments pursuant to § 1120.75;

(c) Add an amount equal to not less than one-half the unobligated balance on hand in the producer-settlement fund;

(d) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

(e) Divide the resulting amount by the sum of the following for all handlers included in such computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1120.60(f); and

(f) Subtract not less than 4 cents nor more than 5 cents. The result shall be the "uniform price" for producer milk.

**§ 1120.62 Announcement of uniform price and butterfat differential.**

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 10th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

**§ 1120.70 Producer-settlement fund.**

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" in which he shall deposit all payments made by handlers pursuant to §§ 1120.71, 1120.76, and 1120.77, subject to the provision of § 1120.78, and from which he shall make all payments pursuant to §§ 1120.72 and 1120.77: *Provided*, That payments due to any handler shall be offset by any payment due from such handler.

**§ 1120.71 Payments to the producer-settlement fund.**

(a) On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1120.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1120.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received plus 5 cents of other source milk for which a value is computed pursuant to § 1120.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

**§ 1120.72 Payments from the producer-settlement fund.**

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1120.71(a)(2) exceeds the amount computed pursuant to § 1120.71(a)(1). If at such time the balance in the producer-settlement fund is insufficient to make all payments due pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

**§ 1120.73 Payments to producers and to cooperative associations.**

(a) Except as provided in paragraph (b) of this section, each handler shall make payment to each producer for milk received from such producer as follows:

(1) On or before the last day of each month, to each producer from whom milk is currently being received, for milk received during the first 15 days of the month, at not less than the Class III price for the preceding month;

(2) On or before the 15th day after the end of each month for milk received during such month, an amount computed at not less than the uniform price per hundredweight pursuant to § 1120.61 as adjusted pursuant to § 1120.74; and less

(i) Payments made pursuant to paragraph (a)(1) of this section;

(ii) Location adjustments pursuant to § 1120.75;

(iii) Deduction for marketing services pursuant to § 1120.86: and

(iv) Proper deductions authorized by such producer;

*Provided*, That if by the date specified, such handler has not received full payment for such month pursuant to § 1120.72, he may reduce uniformly per hundredweight for all producers his payments pursuant to this paragraph by an amount not in excess of the per hundredweight reduction in payment from the market administrator, and payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after receipt of the balance due from the market administrator;

(b) Each handler shall pay to a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk on or before the 26th day of the month and the 13th day of the month following, respectively, the amounts otherwise payable pursuant to paragraph (a) of this section, for milk received from producers whom such association certifies are its members: *Provided*, That such cooperative association submits to the handler and to the market administrator before the first day of the month for which it is to receive such payment, a written request for such payment for milk received from such certified members who are producers together with a written promise to reimburse the handler for the amount of any actual loss incurred by him because of any improper claim on the part of such association. Such request shall be honored with respect to milk received until the first day of the month in which it receives from such association, in writing, notice either of termination of membership, or of withdrawal of the original request. Exceptions, if any, to the accuracy of certification of membership by the cooperative association, by a producer who is claimed to be a member or by a handler shall be made in writing to the market administrator and shall be subject to his determination;

(c) Each handler shall make payment to a cooperative association for each hundredweight of milk received from such association as a handler pursuant to § 1120.9(c) as follows:

(1) On or before the 26th day of each month for milk received during the first 15 days of the month, at not less than the Class III price for the preceding month; and

(2) On or before the 13th day after the end of each month an amount equal to not less than the class prices, as adjusted by the butterfat differential specified in § 1120.74, that are applicable at the location of the receiving handler's pool plant, less the amounts paid pursuant to paragraph (c)(1) of this section; and

(d) In making payments to producers pursuant to paragraph (a)(2) of this section and to a cooperative association pursuant to paragraph (b) of this section each handler shall furnish each producer from whom he has received milk, or each such cooperative association with respect to each producer member, whichever is applicable, with a supporting statement in such form that it may be retained by the producer, which shall show:

(1) The applicable month;

(2) The identity of the handler, the Federal milk order under which the producer's milk was priced, and the producer;

(3) The daily and total pounds and the average butterfat content of milk received from such producer;

(4) The minimum rate or rates at which payment to the producer is required pursuant to this part;

(5) The rate which is used in making the payment;

(6) The amount or the rate per hundredweight, and the nature of each deduction made by the handler; and

(7) The net amount of payment to such producer or cooperative association.

**§ 1120.74 Butterfat differential.**

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

**§ 1120.75 Plant location adjustments for producers and on nonpool milk.**

(a) The uniform price determined pursuant to § 1120.61 to be paid for milk which is received from producers at pool plants located either outside the State of Texas or within the State but north of the counties of Parmer, Castro, Swisher, Briscoe, Hall, and Childress and 100 miles or more from the city hall of Lubbock, Tex., by the shortest hard-surfaced highway distance as determined by the market administrator shall be reduced at the rate set forth in the table contained in § 1120.52 according to the location of the pool plant at which such milk was received from producers; and

(b) For purposes of computations pursuant to §§ 1120.71 and 1120.72 the uniform price plus 5 cents shall be adjusted at the rates set forth in § 1120.52 applicable at the location of the nonpool plant from which the milk was received (but not to be less than the Class III price).

**§ 1120.76 Payments by handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1120.30(b) and 1120.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price plus 5 cents, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the uniform price plus 5 cents shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1120.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool







V 38-176 SEP 12 73 XUM

plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant:

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1120.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1120.60 for such handler shall include, in lieu of the value of other source milk specified in § 1120.60(f) less the value of such other source milk specified in § 1120.71(a)(2)(ii), a value of milk determined pursuant to § 1120.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1120.7(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1120.30(b) and 1120.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(*c*) The value of milk determined pursuant to § 1120.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1120.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1120.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

### § 1120.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or account discloses errors resulting in moneys due (a) the market administrator from such handler, (b) such handler from the market administrator or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provision under which such error occurred.

### § 1120.78 Charges on overdue accounts.

There shall be added to any balance due to the market administrator pursuant to §§ 1120.71, 1120.76, 1120.77, 1120.85, and 1120.86 an amount equal to one-half of 1 percent of such balance for each month or portion thereof that payment of such balance is overdue.

## Administrative Assessment and Marketing Service Deduction

### § 1120.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler, except a handler described in § 1120.9(c), shall pay to the market administrator on or before the 15th day after the end of the month 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to the milk specified in paragraphs (a), (b), and (c) of this section: *Provided*, That if a handler elects pursuant to § 1120.19 to use two accounting periods in any month the applicable rate of assessment for such handler shall be the rate set forth above multiplied by two or such lesser rate as the Secretary may determine is demonstrated as appropriate in terms of the particular cost of administering the additional accounting period:

(a) Producer milk (including such handler's own production) and milk received from a handler described in § 1120.9(c);

(b) Other source milk allocated to Class I pursuant to § 1120.44(a)(7) and (11) and the corresponding steps of § 1120.44(b), except such other source milk that is excluded from the computations pursuant to § 1120.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant during the month that exceeds the skim milk and butterfat subtracted pursuant to § 1120.76(a)(2).

### § 1120.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 1120.73(a)(2) shall deduct 6 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to all milk received by such handler from such producer (except such handler's own farm production) during the month, and shall pay such deductions to the market administrator no later than the 15th day after the end of the month. Such money shall be used by the market administrator to provide market information and to verify the weights, samples and tests of milk received by handlers from such producers during the month. Such services shall be performed by the market administrator or by an agent engaged by or responsible to him.

(b) In the case of a producer for whom the Secretary determines a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler shall make in lieu of the deductions specified in said paragraph (a) of this section, such deductions from payments to be made directly to such producers pursuant to § 1120.73(a)(2) as are authorized by such producers and on or before the 15th day after the end of each month pay such deductions to the cooperative association rendering such services.

## Advertising and Promotion Program

### § 1120.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1120.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

### § 1120.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1120.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1120.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1120.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

### § 1120.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

### § 1120.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative, who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1120.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

### § 1120.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

### § 1120.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of agency authority pursuant to § 1120.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1120.110 and 1120.117.

### § 1120.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1120.110 and 1120.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

### § 1120.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

### § 1120.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1120.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

### § 1120.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

### § 1120.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only by the producer. Only that information through application filed with the market administrator in the form prescribed by the market administrator and signed







V 38-176 SEP 12 73 XUM

by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

**§ 1120.121 Duties of the market administrator.**

Except as specified in § 1120.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1120.113(c).

(b) Set aside the amounts subtracted under § 1120.61(d) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b) (2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1120.61(d).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1120.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1120.61(d) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1120.110 through 1120.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

**§ 1120.122 Liquidation.**

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1120.70.

---

## PART 1126—MILK IN NORTH TEXAS MARKETING AREA

**Subpart—Order Regulating Handling**

GENERAL PROVISIONS

Sec.
1126.1 General provisions.

DEFINITIONS

1126.2 North Texas marketing area.
1126.3 Route disposition.
1126.4 Plant.
1126.5 Distributing plant.
1126.6 Supply plant.
1126.7 Pool plant.
1126.8 Nonpool plant.
1126.9 Handler.
1126.10 Producer-handler.
1126.11 [Reserved]
1126.12 Producer.
1126.13 Producer milk.
1126.14 Other source milk.
1126.15 Fluid milk product.
1126.16 Fluid cream product.
1126.17 Filled milk.
1126.18 Cooperative association.
1126.19 Reserve supply credit.

HANDLER REPORTS

1126.30 Reports of receipts and utilization.
1126.31 Payroll reports.
1126.32 Other reports.

CLASSIFICATION OF MILK

1126.40 Classes of utilization.
1126.41 Shrinkage.
1126.42 Classification of transfers and diversions.
1126.43 General classification rules.
1126.44 Classification of producer milk.
1126.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1126.50 Class prices.
1126.51 Basic formula price.
1126.52 Plant location adjustments for handlers.
1126.53 Announcement of class prices.
1126.54 Equivalent price.

UNIFORM PRICE

1126.60 Handler's value of milk for computing uniform price.
1126.61 Computation of uniform price.
1126.62 Announcement of uniform price and butterfat differential.

PAYMENTS FOR MILK

1126.70 Producer-settlement fund.
1126.71 Payments to the producer-settlement fund.
1128.72 Payments from the producer-settlement fund.
1126.73 Payments to producers and to cooperative associations.
1126.74 Butterfat differential.
1126.75 Plant location adjustments for producers and on nonpool milk.
1126.76 Payments by handler operating a partially regulated distributing plant.
1126.77 Adjustment of accounts.
1126.78 Charges on overdue accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1126.85 Assessment for order administration.
1126.86 Deduction for marketing services.

ADVERTISING AND PROMOTION PROGRAM

1126.110 Agency.
1126.111 Composition of Agency.
1126.112 Term of office.
1126.113 Selection of Agency members.
1126.114 Agency operating procedure.
1126.115 Powers of the Agency.
1126.116 Duties of the Agency.
1126.117 Advertising, Research, Education and Promotion Program.
1126.118 Limitation of expenditures by the Agency.
1126.119 Personal liability.
1126.120 Procedure for requesting refunds.
1126.121 Duties of the market administrator.
1126.122 Liquidation.

AUTHORITY: The provisions of this Part 1126 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

GENERAL PROVISIONS

**§ 1126.1 General provisions.**

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

**§ 1126.2 North Texas marketing area.**

"North Texas marketing area", hereinafter called the marketing area, means all territory, including all municipal corporations, Federal military reservations, facilities, and State institutions, within the following counties, all in the State of Texas:

Anderson.
Bosque.
Camp.
Cherokee.
Cooke.
Collin.
Dallas.
Delta.
Denton.
Ellis.
Erath.
Fannin.
Franklin.
Freestone.
Grayson.
Gregg.
Harrison.
Henderson.
Hill.
Hood.
Hopkins.
Hunt.
Johnson.
Kaufman.
Lamar.
Limestone.
Marion.
Morris.
Navarro.
Panola.
Parker.
Rains.
Red River.
Rockwall.
Rusk.
Sabine.
San Augustine.
Shelby.
Smith.
Somervell.
Tarrant.
Titus.
Upshur.
Van Zandt.
Wood.





**§ 1126.3 Route disposition.**

"Route disposition" means any delivery (including any delivery by a vendor or disposition at a plant store) of a fluid milk product classified as Class I milk other than a delivery in bulk form to a milk processing plant.

**§ 1126.4 Plant.**

"Plant" means the land, buildings, facilities, and equipment constituting a single operating unit or establishment at which milk or milk products (including filled milk) are received, processed and/or packaged. Separate facilities used only as a reload point for transferring bulk milk from one tank truck to another shall not be a plant under this definition if the milk transferred at such facilities can be identified as receipts from specific farmers until the milk is received at a plant. Facilities used only as a distribution point for storing fluid milk products in transit for route disposition shall not be a plant under this definition.

**§ 1126.5 Distributing plant.**

"Distributing plant" means a plant approved by any duly constituted State or municipal health authority, or acceptable to an agency of the State or Federal Government for the disposition of Grade A fluid milk products in the marketing area, at which milk products are received, processed and/or packaged, and from which there is route disposition of fluid milk products in the marketing area.

**§ 1126.6 Supply plant.**

"Supply plant" means any plant approved by the appropriate health authority to supply fluid milk for distribution as Grade A milk in the marketing area and from which milk is moved to a pool distributing plant as follows:

(a) During the month 50 percent or more of the receipts of Grade A milk at such plant is moved as milk or skim milk in bulk to a distributing plant and assigned to reserve supply credit pursuant to § 1126.19;

(b) During the last month of any four or less consecutive months during which period an average of 50 percent or more of the receipts of Grade A milk at such plant is moved as milk or skim milk in bulk to a distributing plant and assigned to reserve supply credit pursuant to § 1126.19 and 15 percent or more of such receipts are thus moved and assigned during the month; or

(c) During each of the months of January through August, if (1) such plant was a supply plant pursuant to paragraph (a) or (b) of this section during each of the immediately preceding months of September through December: *Provided*, That, to remain a supply plant during August, 15 percent or more of the receipts of Grade A milk at such plant is moved as milk or skim milk in bulk to a distributing plant and assigned to reserve supply credit pursuant to § 1126.19, and (2) the operator of such plant has filed a written request on or before January 31 with the market administrator requesting that such plant be designated as a supply plant through August of such year.

**§ 1126.7 Pool plant.**

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) A distributing plant from which during the month there is:

(1) Route disposition, except filled milk, in the marketing area equal to 10 percent or more of the receipts of Grade A milk at such plant; and

(2) Total route disposition, except filled milk equal to 50 percent or more of the receipts of Grade A milk at such plant, except that if two or more distributing plants operated by the same handler each meet the performance requirement of paragraph (a)(1) of this section and total route disposition, except filled milk, of such plants is 50 percent or more of receipts of Grade A milk at such plants, each such plant shall be deemed to have met the requirement of this subparagraph.

(b) Any supply plant.

(c) Any plant operated by a cooperative association which has been approved by any duly constituted state or municipal health authority and at which milk is received from dairy farmers holding permits or authorization from such health authority, and at least 50 percent or more of the producer milk of members of such cooperative association is physically received during the month at pool plants of other handlers described in paragraph (a) of this section or is transferred to such pool plants from the plant of the cooperative association.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which, the Secretary determines, there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its route disposition, except filled milk, is made in such other marketing area unless, notwithstanding the provisions of this subparagraph, it is regulated under such other order;

(3) A plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order on the basis of route disposition in such other marketing area and from which, the Secretary determines, there is a greater quantity of route disposition, except filled milk, in this marketing area than in such other marketing area but which plant is, nevertheless, fully regulated under such other Federal order; and

(4) A plant qualified pursuant to paragraph (b) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made during the month to plants regulated under such other order than are made to plants regulated under this part, except during the months of January through August if such plant retains automatic pooling status under this part.

**§ 1126.8 Nonpool plant.**

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Unregulated supply plant" means a nonpool plant from which fluid milk products are moved to a pool plant during the month but which is neither an other order plant nor a producer-handler plant.

(d) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units (other than to pool plants) in the marketing area during the month.

**§ 1126.9 Handler.**

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any cooperative association with respect to producer milk diverted pursuant to § 1126.13 for the account of such cooperative association;

(c) Any cooperative association with respect to:

(1) Producer milk which it causes to be delivered during any period of less than a full month from its members directly to the pool plant of another handler if (i) during the same month such cooperative association is a handler pursuant to paragraph (a) or (b) of this section with respect to any milk of such producer, and (ii) such association notifies the handler and the market administrator in writing of its intent to become a handler with respect to such milk prior to delivery. For the purpose of location adjustments such milk shall be considered to have been received by the cooperative association at the location of the pool plant to which it is delivered; and

(2) The milk of its member producers which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by, or under contract to, such cooperative association if the cooperative association notifies the market administrator and the handler to whom the milk is delivered in writing that it wishes to be the handler for such milk. The cooperative association shall be considered the handler for such milk, effective the first day of the month following receipt of such notice, and milk so delivered shall be



V 38-176 SEP 12 73 XUM

considered for purposes of location adjustments to have been received by such cooperative association at the location of the pool plant to which it is delivered; and

(d) Any person in his capacity as the operator of a partially regulated distributing plant.

**§ 1126.10 Producer-handler.**

"Producer-handler" means any person who:

(a) Produces milk and operates a distributing plant;

(b) Receives no milk from producers;

(c) Disposes of no other source milk as Class I milk; and

(d) Receives from pool plants an amount of milk equal to not more than 5 percent of his own production.

**§ 1126.11 [Reserved]**

**§ 1126.12 Producer.**

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk approved for consumption as Grade A milk by any duly constituted State or municipal health authority, which milk is:

(1) Received at a pool plant, including milk of a dairy farmer delivered to the pool plant by a handler described in § 1126.9(c); or

(2) Diverted by a handler for his account pursuant to § 1126.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person during periods of temporary degrading by any duly constituted State or municipal health authority if such health authority notifies the operator of the pool plant or the market administrator in writing of the effective date or dates of such action and subsequent reapproval;

(3) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1126.44(a)(8)(iii) and the corresponding step of § 1126.44(b); and

(4) Any person with respect to milk produced by him which is diverted from a pool plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk.

**§ 1126.13 Producer milk.**

"Producer milk" of a handler operating a pool plant means only that skim milk and butterfat contained in milk described in paragraphs (a) and (b) of this section, and producer milk of a handler described in § 1126.9 (b) and (c) means milk described in paragraphs (c) and (d) of this section:

(a) Milk received from producers at a pool plant except that received from a handler described in § 1126.9(c);

(b) Milk of a producer diverted by the operator of a pool plant for his account to a nonpool plant that is not a producer-handler plant, subject to the conditions of paragraph (e) of this section;

(c) Milk of a producer diverted by a cooperative association from the pool plant of another handler (or the pool plant of the cooperative) to a nonpool plant that is not a producer-handler plant for the account of such cooperative association, subject to the conditions of paragraph (e) of this section;

(d) Milk received from a producer by a handler described in § 1126.9(c);

(e) With respect to milk diverted to nonpool plants, milk diverted in excess of the limit specified herein shall not be producer milk and the diverting handler shall specify the dairy farmers whose diverted milk is ineligible as producer milk. If the diverting handler fails to designate such producers, producer milk status shall be forfeited with respect to all milk diverted by such handler:

(1) A cooperative association may divert for its account a total quantity of producer milk equal to not more than one-third of the total producer milk of its members physically received at all pool plants during the month;

(2) A handler, other than a cooperative association, operating a pool plant(s) may divert for his account milk of producers other than members of a cooperative association diverting milk pursuant to paragraph (e)(1) of this section, in a total quantity equal to not more than one-third of the milk physically received at such handler's pool plant(s) during the month from producers who are not members of such a cooperative association;

(3) Diverted milk shall be deemed to have been received by the diverting handler at the location of the plant to which it was diverted; and

(4) Milk shall be eligible for diversion as producer milk only if the person producing such milk has been delivering milk as producer milk to a pool plant on a regular basis prior to the diversion.

**§ 1126.14 Other source milk.**

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1126.40(b)(1) from any source other than producers, handlers described in § 1126.9(c), pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1126.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1126.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1126.40(b)(i)) for which the handler fails to establish a disposition.

**§ 1126.15 Fluid milk product.**

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1126.40 (b) or (c)(1) (i) through (iv) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

**§ 1126.16 Fluid cream product.**

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

**§ 1126.17 Filled milk.**

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

**§ 1126.18 Cooperative association.**

"Cooperative Association" means any cooperative marketing association of producers which the Secretary determines, after application by the Association:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales or marketing milk or its products for its members.

**§ 1126.19 Reserve supply credit.**

The hundredweight of reserve supply credit that may be assigned to milk moved from a supply plant to a distributing plant shall be calculated as follows: From the total hundredweight of milk classified as Class I





milk, except filled milk, at the distributing plant during the month, deduct Class I sales, except filled milk, to other pool plants(s) and from this result deduct an amount equal to 85 percent of the total hundredweight of milk received from producers during the month at such plant. Any plus figure resulting from this calculation shall be assigned pro rata to milk moved to such plant from supply plants unless the operator of the distributing plant notifies the market administrator in writing of a different assignment on or before the seventh day after the end of the month.

HANDLER REPORTS

**§ 1126.30 Monthly reports of receipts and utilization.**

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1126.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1126.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1126.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

**§ 1126.31 Payroll reports.**

(a) On or before the 20th day after the end of each month, each handler described in § 1126.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1126.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

(c) The market administrator shall furnish a cooperative association for its members the data furnished pursuant to paragraph (a) of this section.

**§ 1126.32 Other reports.**

(a) Each handler who causes milk to be diverted for his account directly from producers' farms to a nonpool plant shall, prior to such diversion, report to the market administrator and to the cooperative association of which such producer is a member his intention to divert such milk, the proposed date or dates of such diversion, and the plant to which such milk is to be diverted.

(b) Each handler, with respect to fluid milk products and products specified in § 1126.40(b) disposed of for animal feed, shall report to the market administrator such information and at such time as the market administrator may prescribe.

(c) In addition to the reports required pursuant to §§ 1126.30 and 1126.31 and paragraphs (a) and (b) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

**§ 1126.40 Classes of utilization.**

Except as provided in § 1126.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1126.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(v) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1126.15; and

(6) In shrinkage assigned pursuant to § 1126.41(a) to the receipts specified in § 1126.41(a)(2) and in shrinkage specified in § 1126.41(b) and (c).

**§ 1126.41 Shrinkage.**

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1126.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:



V 38-176 SEP 12 73 XUM

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1126.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1126.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

### § 1126.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant or by a handler described in § 1126.9(c) to another handler's pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1126.44(a)(12) and the corresponding step of § 1126.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1126.44(a)(7) or the corresponding step of § 1126.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1126.44(a)(11) or (12) or the coresponding steps of § 1126.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim mik or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1126.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1126.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;





(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other orde· plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

### § 1126.43 General classification rules.

In determining the classification of producer milk pursuant to § 1126.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1126.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1126.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1126.40, 1126.41, and 1126.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1126.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

### § 1126.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1126.9(a) for each of his pool plants separately and of each handler described in § 1126.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1126.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1126.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1126.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1126.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1126.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess



V 38-176 SEP 12 73 XUM

of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the handler's total Class III utilization at his other pool plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler;

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1126.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1126.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii) and (iii) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1126.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler;

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received; and

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from any class that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from an other pool plant or a handler described in § 1126.9(c) according to the classification of such products pursuant to § 1126.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1126.44(a)(14) and the corresponding step of § 1126.44(b).

### § 1126.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1126.44(a)(12) and the corresponding step of § 1126.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products





from an other order plant, the class to which such receipts are allocated pursuant to § 1126.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handler were used in each class.

## Class Prices

### § 1126.50 Class prices.

Subject to the provisions of § 1126.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.32.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month, but not to exceed an amount computed as follows:

(1) Multiply by 4.2 the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month;

(2) Multiply by 8.2 the weighted average of carlot prices per pound of spray process nonfat dry milk for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department; and

(3) From the sum of the amounts computed pursuant to paragraph (c)(1) and (2) of this section subtract 48 cents and round to the nearest cent.

### § 1126.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

### § 1126.52 Plant location adjustments for handlers.

(a) The following zones are defined for the purpose of determining location adjustments:

(1) "Zone I" means all territory within the following Texas counties in the marketing area:

| | |
|---|---|
| Bosque. | Hood. |
| Cooke. | Hopkins. |
| Collin. | Hunt. |
| Dallas. | Johnson. |
| Delta. | Kaufman. |
| Denton. | Lamar. |
| Ellis. | Limestone. |
| Erath. | Navarro. |
| Fannin. | Parker. |
| Freestone. | Rockwall. |
| Grayson. | Somervell. |
| Hill. | Tarrant. |

(2) "Zone II" means all territory in the marketing area outside Zone I and all territory in Bowie and Cass Counties, Tex., and the city of Texarkana, Ark.

(b) For producer milk received at a pool plant which is classified as Class I milk, subject to paragraph (c) of this section, the price specified in § 1126.50(a) shall be adjusted for the location of such plant as follows:

(1) At a plant located in Zone II, such price shall be increased by any amount by which the applicable Class I price at such location pursuant to Part 1121 regulating the handling of milk in the South Texas marketing area exceeds the price specified in § 1126.50(a); and

(2) At a plant located outside Zones I and II and 110 miles or more from the city hall in Dallas, Tex., such price shall be reduced at the rate of 1.5 cents for each 10 miles or fraction thereof that such plant is located from the Dallas city hall by shortest hard-surface highway distance as determined by the market administrator.

(c) For purposes of calculating such location adjustments transfers between pool plants shall be assigned Class I disposition at the transferee-plant, in excess of the sum of 95 percent of receipts at such plant from producers and handlers described in § 1126.9(c), plus the pounds assigned as Class I to receipts from other order plants and unregulated supply plants, such an assignment to be made first to transferor-plants having the same Class I price, next to transferor-plants having a higher Class I price and then in sequence to plants having a lower Class I price, beginning with the plant at which the highest Class I price would apply.

(d) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (b) of this section, except that the adjusted Class I price shall not be less than the Class III price.

### § 1126.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

### § 1126.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

## Uniform Price

### § 1126.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1126.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1126.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1126.44(a)(14) and the corresponding step of § 1126.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1126.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1126.44(a)(9) and the corresponding step of § 1126.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1126.44(a)(7)(i) through (iv) and the corresponding step of § 1126.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1126.44(a)(7)(v) and (vi) and the corresponding step of § 1126.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the



V 38-176 SEP 12 73 XUM

pounds of skim milk and butterfat subtracted from Class I pursuant to § 1126.44(a)(11) and the corresponding step of § 1126.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

**§ 1126.61 Computation of uniform price.**

For each month the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content at pool plants at which no location adjustment applies as follows:

(a) Combine into one total the values computed pursuant to § 1126.60 for all handlers who made the reports prescribed in § 1126.30 and who made the payments pursuant to § 1126.71 for the preceding month;

(b) Add not less than one-fourth of the cash balance on hand in the producer-settlement fund, less the total amount of the contingent obligations to handlers pursuant to § 1126.72;

(c) Add the aggregate of the values of minus location adjustments and subtract the aggregate of all plus location adjustments pursuant to § 1126.75;

(d) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1126.60(f); and

(f) Subtract not less than 4 cents nor more than 5 cents.

**§ 1126.62 Announcement of uniform price and butterfat differential.**

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

**§ 1126.70 Producer-settlement fund.**

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," into which he shall deposit all payments made by handlers pursuant to §§ 1126.71, 1126.76, and 1126.77 and from which he shall make all payments to handlers pursuant to §§ 1126.72 and 1126.77.

**§ 1126.71 Payments to the producer-settlement fund.**

(a) On or before the 13th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1126.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1126.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received plus 5 cents of other source milk for which a value is computed pursuant to § 1126.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by mutiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

**§ 1126.72 Payments from the producer-settlement fund.**

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1126.71(a)(2) exceeds the amount computed pursuant to § 1126.71(a)(1): *Provided*, That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available: *And provided further*, That any amount due a handler pursuant to this section may be reduced by the amount of any unpaid balances due the market administrator for such handler pursuant to §§ 1126.71, 1126.77, 1126.85, and 1126.86.

**§ 1126.73 Payments to producers and to cooperative associations.**

Each handler shall make payment as follows:

(a) On or before the 15th day after the end of the month during which the milk was received, to each producer for whom payment is not made pursuant to paragraph (c) of this section, at not less than the uniform price for such month computed pursuant to § 1126.61, as adjusted pursuant to §§ 1126.74 and 1126.75, and less the amount of the payment made pursuant to paragraph (b) of this section: *Provided*, That if by such date such handler has not received full payment for such month pursuant to § 1126.72 he may reduce his total payments to all producers uniformly by not more than the amount of reduction in payments from the market administrator; he shall, however, complete such payments pursuant to this paragraph not later than the date for making such payments next following receipt of the balance from the market administrator.

(b) On or before the 25th day of each month, to each producer (1) for whom payment is not made pursuant to paragraph (c) of this section and (2) who has not discontinued delivery of milk to such handler, a partial payment for milk received from such producer during the first 15 days of such month computed at not less than the Class III price for 3.5 percent milk of the preceding month, without deduction for hauling.

(c) On or before the 13th and 23d days of each month, in lieu of payments pursuant to paragraphs (a) and (b) of this section, respectively, to a cooperative association which so requests, with respect to producers for whose milk such cooperative association is authorized to collect payments, an amount equal to the sum of the individual payments otherwise payable to such producers. Such payment shall be accompanied by a statement showing for each producer the items required to be reported pursuant to § 1126.31.

(d) On or before the 13th day after the end of the month each handler shall pay to each cooperative association which is also a handler for milk received from it not less than the value of such milk as classified pursuant to § 1126.42 (a) at the respective class prices, as adjusted by the butterfat differential specified in § 1126.74, that are applicable at the location of the receiving handler's pool plant.

**§ 1126.74 Butterfat differential.**

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. § 1126.75 plant location adjustments for producers and on nonpool milk.

**§ 1126.75 Plant location adjustments for producers and on nonpool milk.**

(a) In making payments to producers pursuant to § 1126.73 (a) or (c) the uniform price computed pursuant to § 1126.61 to be paid for producer milk received at a pool plant shall be adjusted according to the location of the pool plant at the rate set forth in § 1126.52.

(b) For purposes of computation pursuant to §§ 1126.71 and 1126.72 the uniform price shall be adjusted at the rates set forth in § 1126.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted uniform price plus 5 cents shall not be less than the Class III price.

**§ 1126.76 Payments by handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1126.30(b) and 1126.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price plus 5 cents, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the uniform price plus 5 cents shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1126.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1126.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1126.60 for such handler shall include, in lieu of the value of other source milk specified in § 1126.60(f) less the value of such other source milk (specified in § 1126.71(a)(2)(ii)), a value of milk determined pursuant to § 1126.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1126.7(b) subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1126.30(b) and 1126.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1126.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1126.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1126.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

**§ 1126.77 Adjustment of accounts.**

Whenever verification by the market administrator of any handler's reports, books, records, accounts or payments discloses errors resulting in money due:

(a) The market administrator from such handler;

(b) Such handler from the market administrator; or

(c) Any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

**§ 1126.78 Charges on overdue accounts.**

Any unpaid obligation of a handler pursuant to §§ 1126.71, 1126.73, 1126.76, 1126.77, 1126.85, or 1126.86 shall be increased three-fourths of 1 percent per month beginning on the first day after the due date, and on each date of subsequent months following the day on which such type of obligation is normally due: *Provided*, That:

(a) The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid interest charges previously computed pursuant to this section; and

(b) For the purpose of this section any obligation that was determined at a date later than that prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

**§ 1126.85 Assessment for order administration.**

As his pro rata share of the expense of administration of the order, each han-







V 38-176 SEP 12 73 XUM

dler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Receipts from producers (including such handler's own production) except receipts by a handler described in § 1126.9(c);

(b) Receipts from a handler described in § 1126.9(c);

(c) Other source milk allocated to Class I pursuant to § 1126.44(a) (7) and (11) and the corresponding steps of § 1126.44(b), except such other source milk that is excluded from the computations pursuant to § 1126.60 (d) and (f); and

(d) Route disposition from a partially regulated distributing plant in the marketing area that exceeds the skim milk and butterfat subtracted pursuant to § 1126.76(a)(2).

**§ 1126.86 Deduction for marketing services.**

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than himself) pursuant to § 1126.73, shall deduct 5 cents per hundredweight or such amount not exceeding 5 cents per hundredweight as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of each month. Such moneys shall be used by the market administrator to sample, test, and check the weights of milk received and to provide producers with market information.

(b) In the case of producers for whom a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers and on or before the 15th day after the end of each month pay such deduction to the cooperative association rendering such services, accompanied by a statement showing the quantity of milk for which such deduction was computed for each such producer.

ADVERTISING AND PROMOTION PROGRAM

**§ 1126.110 Agency.**

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1126.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

**§ 1126.111 Composition of Agency.**

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1126.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1126.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1126.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

**§ 1126.112 Term of office.**

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

**§ 1126.113 Selection of Agency members.**

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1126.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

**§ 1126.114 Agency operating procedure.**

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

**§ 1126.115 Powers of the Agency.**

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1126.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1126.110 and 1126.117.

**§ 1126.116 Duties of the Agency.**

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1126.110 and 1126.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;





(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

**§ 1120.117 Advertising, Research, Education, and Promotion Program.**

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

**§ 1126.118 Limitation of expenditures by the Agency.**

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1126.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

**§ 1126.119 Personal liability.**

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

**§ 1126.120 Procedure for requesting refunds.**

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assesment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

**§ 1126.121 Duties of the market administrator.**

Except as specified in § 1126.116, the market administrator in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1126.113(c).

(b) Set aside the amounts subtracted under § 1126.61(d) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b) (2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1126.61(d).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1126.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1126.61(d) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1126.110 through 1126.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

**§ 1126.122 Liquidation.**

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1126.70.

---

## PART 1127—MILK IN SAN ANTONIO, TEXAS, MARKETING AREA

Subpart—Order Regulating Handling

GENERAL PROVISIONS

Sec.
1127.1 General provisions.

DEFINITIONS

1127.2 San Antonio, Tex., marketing area.
1127.3 Route disposition.
1127.4 [Reserved]
1127.5 Distributing plant.
1127.6 Supply plant.
1127.7 Pool plant.
1127.8 Nonpool plant.
1127.9 Handler.
1127.10 [Reserved]
1127.11 [Reserved]
1127.12 Producer.
1127.13 Producer milk.
1127.14 Other source milk
1127.15 Fluid milk product.
1127.16 Fluid cream product.
1127.17 Filled milk.
1127.18 Cooperative association.

HANDLER REPORTS

1127.30 Reports of receipts and utilization.
1127.31 Payroll reports.
1127.32 Other reports.

CLASSIFICATION OF MILK

1127.40 Classes of utilization.
1127.41 Shrinkage.
1127.42 Classification of transfers and diversions.
1127.43 General classification rules.
1127.44 Classification of producer milk.
1127.45 Market administrator's reports and announcements concerning classification.



V 38-176 SEP 12 73 XUM

CLASS PRICES

Sec.
1127.50 Class prices.
1127.51 Basic formula price.
1127.52 Plant location adjustments for handlers.
1127.53 Announcement of class prices.
1127.54 Equivalent price.

UNIFORM PRICE

1127.60 Handler's value of milk for computing uniform price.
1127.61 Computation of uniform price.
1127.62 Announcement of uniform price and butterfat differential.

PAYMENTS FOR MILK

1127.70 Producer-settlement fund.
1127.71 Payments to the producer-settlement fund.
1127.72 Payments from the producer-settlement fund.
1127.73 Payments to producers and to cooperative associations.
1127.74 Butterfat differential.
1127.75 Plant location adjustments for producers and on nonpool milk.
1127.76 Payments by handler operating a partially regulated distributing plant.
1127.77 Adjustment of accounts.

ADVERTISING AND PROMOTION PROGRAM

1127.110 Agency.
1127.111 Composition of Agency.
1127.112 Term of office.
1127.113 Selection of Agency members.
1127.114 Agency operating procedure.
1127.115 Powers of the Agency.
1127.116 Duties of the Agency.
1127.117 Advertising, Research, Education and Promotion Program.
1127.118 Limitation of expenditures by the Agency.
1127.119 Personal liability.
1127.120 Procedure for requesting refunds.
1127.121 Duties of the market administrator.
1127.122 Liquidation.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1127 85 Assessment for order administration.
1127 86 Deduction for marketing services.

AUTHORITY: The provisions of this Part 1127 issued under secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

GENERAL PROVISIONS

**§ 1127.1 General provisions.**

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

**§ 1127.2 San Antonio, Tex., marketing area.**

"San Antonio, Tex., marketing area", hereinafter called the "marketing area", means all the territory including all municipal corporations and all Federal military reservations, facilities and installations located within the boundaries of Bexar County, Tex.

**§ 1127.3 Route disposition.**

"Route disposition" means any delivery of any fluid milk product classified as Class I milk (including any delivery by a vendor or disposition at a plant store) to wholesale or retail outlets, except deliveries in bulk form to other pool plants.

**§ 1127.4 [Reserved]**

**§ 1127.5 Distributing plant.**

"Distributing plant" means all the buildings, premises, and facilities of a plant:

(a) Which is approved by an appropriate health authority having jurisdiction in the marketing area or by another health authority whose certification is accepted by such health authority for the processing of Grade A milk or which is acceptable to an agency of the Federal Government for distribution of milk to its installations in the marketing area;

(b) In which milk or skim milk is processed or packaged; and

(c) From which there is route disposition during the month in the marketing area or from which Class I milk is supplied to installations located in the marketing area of an agency of the Federal Government.

**§ 1127.6 Supply plant.**

"Supply plant" means all the buildings, premises, and facilities of a plant equipped to either receive or cool milk which is approved by the appropriate health authority to supply fluid milk for distribution as Grade A milk in the marketing area, and from which an amount equal to not less than 50 percent of its receipts from dairy farmers, who would be producers if the plant qualified as a pool plant, are shipped to a distributing plant during the month: *Provided*, That any plant which qualifies as a supply plant for each of the months of July through February shall be considered to be a supply plant for the following months of March through June of such year, except that if the operator of such plant files a written request with the market administrator, supply plant status shall be terminated as of the first of the following month.

**§ 1127.7 Pool plant.**

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) A distributing plant which has route disposition, except filled milk, in the marketing area equal to 15 percent or more of its receipts of milk during the month from pool plants and from dairy farmers conforming to the requirements set forth in § 1127.12.

(b) A supply plant.

(c) Any plant approved by an appropriate health authority having jurisdiction in the marketing area to supply milk for distribution as Grade A milk in the marketing area which is operated by a cooperative association, and 50 percent or more of the producer milk of members is received during the month in the pool plants of other handlers, or is transferred to such plants from the plant of the cooperative association.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A plant meeting the requirements for pooling pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which, the Secretary determines, there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area, except that if such plant was subject to all of the provisions of this part in the immediately preceding month, it shall continue to be subject to all of the provisions of this part until the third consecutive month in which a greater proportion of such route disposition is made in such other marketing area unless notwithstanding the provisions of this subparagraph it is fully regulated under such other order; and

(3) A plant meeting the requirements for pooling pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order on the basis of route disposition in such other marketing area and from which, the Secretary determines, there is a greater quantity of route disposition, except filled milk, during the month in this marketing area than in such other marketing area, but which plant is fully regulated under such other Federal order.

**§ 1127.8 Nonpool plant.**

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products are moved to a pool plant during the month, but which is neither an other order plant nor a producer-handler plant.

**§ 1127.9 Handler.**

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) A cooperative association with respect to the milk of a member producer diverted for its account pursuant to § 1127.12 for each day's milk production that such producer's milk is diverted during the month. Milk so diverted shall be deemed to have been received by the association at a pool plant at the location of the pool plant at which the milk was received prior to diversion;

(c) A cooperative association with respect to the producer milk of its members which is delivered directly from the farm to the pool plant of a handler in a tank truck owned and operated by or under contract to such cooperative association unless the cooperative association notifies the market administrator and the handler to whom the milk is delivered in writing, prior to the first day of the month, that it does not desire to be the handler for such milk. Milk for which the cooperative association is the handler pursuant to this paragraph shall be deemed to have been received by the association at a pool plant at the location of the pool plant to which it is delivered; and

(d) Any person in his capacity as the operator of a nonpool plant from which there is route disposition in the marketing area.





**§ 1127.10 [Reserved]**

**§ 1127.11 [Reserved]**

**§ 1127.12 Producer.**

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk (1) under a dairy farm permit or rating for the production of milk to be disposed of for consumption as Grade A milk, issued by an appropriate health authority having jurisdiction in the marketing area or by another health authority whose certification is accepted by such health authority, or (2) which is acceptable to an agency of the Federal Government for fluid consumption in its institutions or bases located in the marketing area; which is received directly from the farm at a pool plant or diverted from a pool plant to a nonpool plant that is not a producer-handler plant for the account of a cooperative association: *Provided*, That if the days of production of such person for which milk is diverted exceed one-third of the days of production that milk is delivered to a pool plant during the month, such milk shall cease to be producer milk for the entire period of such diversion.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1127.44 (a) (8) (iii) and the corresponding step of § 1127.44(b);

(3) Any person with respect to milk produced by him which is diverted from a pool plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk; and

(4) A dairy farmer during the months of March through June, if milk from the same dairy farmer (or farm) was received at a nonpool plant operated by the same handler, as other than producer milk, on more than half the days of delivery during the preceding months of July through February.

**§ 1127.13 Producer milk.**

"Producer milk" means any skim milk or butterfat contained in milk of a producer received at a pool plant or diverted by a cooperative association in accordance with § 1127.9(b).

**§ 1127.14 Other source milk.**

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1127.40 (b) (1) from any source other than producers, handlers described in § 1127.9(c), pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1127.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1127.40 (b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1127.40(b)(1)) for which the handler fails to establish a disposition.

**§ 1127.15 Fluid milk product.**

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1127.40 (b) or (c)(1) (i) through (iv) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

**§ 1127.16 Fluid cream product.**

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

**§ 1127.17 Filled milk.**

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

**§ 1127.18 Cooperative association.**

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines after application by the association (a) to have its entire activities under the control of its members, (b) to have full authority in the sale of milk of its members, and (c) to be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act."

HANDLER REPORTS

**§ 1127.30 Reports of receipts and utilization.**

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1127.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1127.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1127.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.



V 38-176 SEP 12 73 XUM

§ 1127.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1127.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1127.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1127.32 Other reports.

In addition to the reports required pursuant to §§ 1127.30 and 1127.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1127.40 Classes of utilization.

Except as provided in § 1127.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1127.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(v) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1127.15; and

(6) In shrinkage assigned pursuant to § 1127.41(a) to the receipts specified in § 1127.41(a)(2) and in shrinkage specified in § 1127.41 (b) and (c).

§ 1127.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1127.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk;

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1127.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) [Reserved]

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b)(1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1127.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1127.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant or by a handler described in § 1127.9(c) to another handler's pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1127.44(a)(12) and the corresponding step of § 1127.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1127.44(a)(7) or the corresponding step of § 1127.44(b), the skim milk or butterfat so transferred





shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1127.44(a)(11) or (12) or the corresponding steps of § 1127.44(b), the skim milk or butterfat so transferred up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1127.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1127.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1127.43 General classification rules.

In determining the classification of producer milk pursuant to § 1127.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1127.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1127.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1127.40, 1127.41, and 1127.42;

(b) If any of the water contained in the milk from which a product is made



V 38-176 SEP 12 73 XUM

is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1127.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

**§ 1127.44 Classification of producer milk.**

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1127.9(a) for each of his pool plants separately and of each handler described in § 1127.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1127.41 (b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a) (7) (vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1127.40(b) (1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1127.40(b) (1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1127.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a) (5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1127.40(b) (1) that was not subtracted pursuant to paragraph (a) (4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2) of this section;

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant; and

(vii) Receipts of fluid milk products from persons described in § 1127.12 (b) (4);

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2) and (7) (v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2), (7) (v), and (8) (i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a) (8) (ii) (a) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the handler's total Class III utilization at his other pool plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment:

(a) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler;

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1127.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a) (7) (vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a) (7) (vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1127.40(b) (1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a) (5) and (7) (i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a) (1) of this section;

(11) Subject to the provisions of paragraph (a) (11) (i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2), (7) (v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a) (7) (vi) and (8) (iii) of this section:

(i) Subject to the provisions of paragraph (a) (12) (ii) and (iii) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1127.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler;

(ii) Should the proration pursuant to paragraph (a) (12) (i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received; and

(iii) Except as provided in paragraph (a) (12) (ii) of this section, should the computations pursuant to paragraph (a) (12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from any class that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from an other pool plant or a handler described in § 1127.9(c) according to the classification of such products pursuant to § 1127.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1127.44(a) (14) and the corresponding step of § 1127.44(b).

**§ 1127.45 Market administrator's reports and announcements concerning classification.**

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1127.44(a) (12) and the corresponding step of § 1127.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1127.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report the milk so received shall be assigned to each class in the proportion that the total producer milk in each class is to the total receipts of producer milk by such handler.

CLASS PRICES

**§ 1127.50 Class prices.**

Subject to the provisions of § 1127.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.74.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month, but not to exceed an amount computed as follows:

(1) Multiply by 4.2 the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month;

(2) Multiply by 8.2 the weighted average of carlot prices per pound of spray process nonfat dry milk for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department; and

(3) From the sum of the amounts computed pursuant to paragraph (c) (1) and (2) of this section subtract 48 cents and round to the nearest cent.

**§ 1127.51 Basic formula price.**

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

**§ 1127.52 Plant location adjustments for handlers.**

(a) For milk which is received from producers at a pool plant located more than 50 miles from the city hall in San Antonio, Tex., by the shortest hard-surfaced highway distance as determined by the market administrator and which is classified as Class I milk, the price specified in § 1127.50(a) shall be reduced 1.5 cents per hundredweight for each 10 miles or fraction thereof that such plant is distant from the city hall in San Antonio, Tex.

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee-plant, in excess







V 38-176 SEP 12 73 XUM

of the sum of receipts at such plant from producers and handlers described in § 1127.9(c), and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

**§ 1127.53 Announcement of class prices.**

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

**§ 1127.54 Equivalent price.**

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICE

**§ 1127.60 Handler's value of milk for computing uniform price.**

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1127.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1127.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1127.44(a)(14) and the corresponding step of § 1127.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1127.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1127.44 (a)(9) and the corresponding step of § 1127.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1127.44(a)(7) (i) through (iv) and (vii) and the corresponding step of § 1127.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1127.44(a)(7) (v) and (vi) and the corresponding step of § 1127.44 (b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1127.44(a)(11) and the corresponding step of § 1127.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class II price, both for the preceding month, by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1127.40(b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

**§ 1127.61 Computation of uniform price.**

For each month the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content as follows:

(a) Combine into one total the values computed pursuant to § 1127.60 for all handlers who have made the reports prescribed by § 1127.30 for the month and who have made the payment required pursuant to § 1127.71 for the preceding month;

(b) Add an amount equal to the total value of the location adjustments computed pursuant to § 1127.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1127.60(f); and

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

**§ 1127.62 Announcement of uniform price and butterfat differential.**

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

**§ 1127.70 Producer-settlement fund.**

The market administrator shall establish a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1127.71, 1127.76, and 1127.77 and from which he shall make all payments pursuant to §§ 1127.72 and 1127.77.

**§ 1127.71 Payments to the producer-settlement fund.**

(a) On or before the 13th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1127.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1127.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received plus 5 cents of other source milk for which a value is computed pursuant to § 1127.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

**§ 1127.72 Payments from the producer-settlement fund.**

On or before the 14th day after the end of each month the market administrator shall pay to each handler, including a cooperative association which is a handler, the amount, if any, by which





the amount computed pursuant to § 1127.71(a)(2) exceeds the amount computed pursuant to § 1127.71(a)(1).

**§ 1127.73 Payments to producers and to cooperative associations.**

(a) Each handler shall pay to a cooperative association on or before the 13th day of the month, for milk received from it during the preceding month for which such association is a handler described in § 1127.9(c), the value of such milk at not less than the class prices as adjusted by the butterfat differential specified in § 1127.74, that are applicable at the location of the receiving handler's pool plant: *Provided, however,* That for each hundredweight of milk so received during the first 15 days of any month, such handler shall, upon written request of the cooperative association make a partial payment to such association by the 26th day of the month at not less than the Class III price of the preceding month, in which case the obligation of the handler otherwise payable on or before the 13th day of the following month shall be reduced by the amount of such partial payment.

(b) Except as provided in paragraph (b)(3) of this section each handler shall make payment to each producer for milk received from such producer as follows:

(1) On or before the last day of each month, for milk received during the first 15 days of such month at not less than the price per hundredweight for Class III milk for the preceding month.

(2) On or before the 15th day after the end of the month during which the milk was received at not less than the uniform price per hundredweight computed for such month pursuant to § 1127.61 subject to the following adjustments: (i) The butterfat differential pursuant to § 1127.74, (ii) the location adjustment pursuant to § 1127.75, (iii) the payment made pursuant to paragraph (b)(1) of this section, (iv) deductions for marketing services pursuant to § 1127.86, and (v) proper deductions authorized by such producer: *Provided,* That if by such date such handler has not received full payment pursuant to § 1127.72 he may reduce his total payment to all producers pro rata by not more than the amount of reduction in payments from the market administrator; he shall, however, complete such payments pursuant to this subparagraph not later than the date for making such payments next following receipt of the balance due from the market administrator.

(3) (i) Upon receipt of a written request from a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the cooperative association, each handler shall on or before the 20th day of each month furnish the cooperative association information showing the daily and total pounds of milk received from each of the association's member producers for the first 15 days of such month and, on or before the 10th day after the end of each month, such information for the 16th through the end of such month, and shall pay to such association on or before the 26th and 13th day of each month, in lieu of payments pursuant to paragraph (a) (1) and (2) respectively, of this section an amount equal to the sum of the individual payments otherwise payable to such producers. The foregoing payment shall be made with respect to milk of each producer whom the cooperative association certifies is a member effective on and after the first day next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association.

(ii) A copy of each such request, promise to reimburse and certified list of members shall be filed simultaneously with the market administrator by the cooperative association and shall be subject to verification at his discretion, through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member, or by a handler, shall be made by written notice to the market administrator and shall be subject to his determination.

(4) In making the payments to producers pursuant to paragraph (b) (2) and (3) of this section, each handler shall furnish each producer or cooperative association from whom he has received milk with a supporting statement which shall show:

(i) The month for which payment is made and the identity of the handler and of the producer;

(ii) The total pounds and average butterfat test of milk received from such producer;

(iii) The minimum rate or rates at which payment to such producer is required;

(iv) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(v) The amount or rate per hundredweight of each deduction claimed by the handler; together with a description of the respective deductions; and

(vi) The net amount of payment to such producer.

**§ 1127.74 Butterfat differential.**

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

**§ 1127.75 Plant location adjustments for producers and on nonpool milk.**

(a) In making payments to producers pursuant to § 1127.73 for that milk which is received from producers at a pool plant located more than 50 miles from the city hall in San Antonio, Tex., by the shortest hard-surfaced highway distance as determined by the market administrator, the handler may deduct an amount equal to not more than 1.5 cents per hundredweight for each 10 miles or fraction thereof that such plant is distant from the city hall in San Antonio, Tex.

(b) For the purposes of computations pursuant to §§ 1127.71 and 1127.72 the uniform price plus 5 cents shall be adjusted at the rates set forth in § 1127.52 applicable at the location of the nonpool plant from which the milk was received (but not to be less than the Class III price).

**§ 1127.76 Payments by handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section, if the handler submits pursuant to §§ 1127.30(b) and 1127.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price plus 5 cents, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the uniform price plus 5 cents shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted



V 38-176
SEP 12 73
XUM

skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1127.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1127.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1127.60 for such handler shall include, in lieu of the value of other source milk specified in § 1127.60(f) less the value of such other source milk specified in § 1127.71(a)(2)(ii), a value of milk determined pursuant to § 1127.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1127.7(b) subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1127.30(b) and 1127.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1127.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1127.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1127.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

### § 1127.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's books, reports, records, or accounts discloses errors resulting in money due:

(a) The market administrator from such handler;

(b) Such handler from the market administrator; or

(c) Any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payment set forth in the provisions under which such error occurred.

## Administrative Assessment and Marketing Service Deduction

### § 1127.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to:

(a) Skim milk and butterfat received from producers (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1127.44(a)(7) and (11) and the corresponding steps of § 1127.44(b), except other source milk that is excluded from the computations pursuant to § 1127.60(d) and (f); and

(c) Route disposition from a partially regulated distributing plant in the marketing area that exceeds the skim milk and butterfat subtracted pursuant to § 1127.76(a)(2).

### § 1127.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section each handler, in making payments to producers (other than himself) shall make a deduction of 6 cents per hundredweight of milk or such lesser deduction as the Secretary from time to time may prescribe. Such deductions shall be paid by the handler to the market administrator on or before the 15th day after the end of the month. Such moneys shall be expended by the market administrator for verification of weights and tests of milk received from such producers and in providing market information to such producers.

(b) In the case of each producer who is a member of, or who has given written authorization for the rendering of marketing services and the taking of a deduction therefor to a cooperative association, which the Secretary has determined is performing the services described in paragraph (a) of this section, such handler, in lieu of the deduction specified under paragraph (a) of this section, shall deduct from the payments to such producer the amount per hundredweight specified by such association which is not in excess of the rate authorized by such producer and shall pay such deduction to the cooperative association entitled to receive it on or before the 15th day after the end of the month during which such milk was received.

## Advertising and Promotion Program

### § 1127.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1127.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

### § 1127.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1127.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1127.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1127.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.





### § 1127.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

### § 1127.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1127.111 and paragraph (a) of this section.

(c) Selection of Agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

### § 1127.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

### § 1127.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1127.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1127.110 and 1127.117.

### § 1127.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1127.110 and 1127.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

### § 1127.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

### § 1127.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1127.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producers participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

### § 1127.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

### § 1127.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first



V 38-176 SEP 12 73 XUM

day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

**§ 1127.121 Duties of the market administrator.**

Except as specified in § 1127.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1127.113(c).

(b) Set aside the amounts subtracted under § 1127.61(d) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b) (2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1127.61(d).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1127.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1127.61(d) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1127.110 through 1127.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

**§ 1127.122 Liquidation.**

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1127.70.

## PART 1128—MILK IN CENTRAL WEST TEXAS MARKETING AREA

### Subpart—Order Regulating Handling

GENERAL PROVISIONS


Sec.
1128.1 General provisions.

DEFINITIONS

1128.2 Central West Texas marketing area.
1128.3 Route disposition.
1128.4 [Reserved]
1128.5 [Reserved]
1128.6 [Reserved]
1128.7 Pool plant.
1128.8 Nonpool plant.
1128.9 Handler.
1128.10 Producer-handler.
1128.11 [Reserved]
1128.12 Producer.
1128.13 Producer milk.
1128.14 Other source milk.
1128.15 Fluid milk product.
1128.16 Fluid cream product.
1128.17 Filled milk.
1128.18 Cooperative association.

HANDLER REPORTS

1128.30 Reports of receipts and utilization.
1128.31 Payroll reports.
1128.32 Other reports.

CLASSIFICATION OF MILK

1128.40 Classes of utilization.
1128.41 Shrinkage.
1128.42 Classification of transfers and diversions.
1128.43 General classification rules.
1128.44 Classification of producer milk
1128.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1128.50 Class prices.
1128.51 Basic formula price.
1128.52 Plant location adjustments for handlers.
1128.53 Announcement of class prices.
1128.54 Equivalent price.

UNIFORM PRICE

1128.60 Handler's value of milk for computing uniform price.
1128.61 Computation of uniform price.
1128.62 Announcement of uniform price and butterfat differential.

PAYMENTS FOR MILK

1128.70 Producer-settlement fund.
1128.71 Payments to the producer-settlement fund.
1128.72 Payments from the producer-settlement fund.
1128.73 Payments to producers and to cooperative associations.
1128.74 Butterfat differential.
1128.75 Plant location adjustments for producers and on nonpool milk.
1128.76 Payments by handler operating a partially regulated distributing plant.
1128.77 Adjustment of accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1128.85 Assessment for order administration.
1128.86 Deduction for marketing services.


AUTHORITY: The provisions of this Part 1128 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.


ADVERTISING AND PROMOTION PROGRAM

1128.110 Agency.
1128.111 Composition of Agency.
1128.112 Term of office.
1128.113 Selection of Agency members.
1128.114 Agency operating procedure.
1128.115 Powers of the Agency.
1128.116 Duties of the Agency.
1128.117 Advertising, Research, Education and Promotion Program.
1128.118 Limitation of expenditures by the Agency.
1128.119 Personal liability.
1128.120 Procedure for requesting refunds.
1128.121 Duties of the market administrator.
1128.122 Liquidation.


AUTHORITY: The provisions of this Part 1128 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

### GENERAL PROVISIONS

**§ 1128.1 General provisions.**

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

### DEFINITIONS

**§ 1128.2 Central West Texas marketing area.**

"Central West Texas marketing area," hereafter called the "marketing area," means all territory within the boundaries of the Abilene Air Force Base and within the corporate limits of the following cities and towns, all in the State of Texas:

| | |
|---|---|
| Abilene. | Lamesa. |
| Albany. | Merkel. |
| Anson. | Midland. |
| Aspermont. | Mineral Wells. |
| Ballinger. | Munday. |
| Big Spring. | Odessa. |
| Breckenridge. | Ranger. |
| Brownwood. | Rochester. |
| Cisco. | Rotan. |
| Coleman. | Rule. |
| Colorado City. | San Angelo. |
| Comanche. | Snyder. |
| Eastland. | Stamford. |
| Hamlin. | Sweetwater. |
| Haskell. | Tye. |
| Knox City. | Winters. |

**§ 1128.3 Route disposition.**

"Route disposition" means any delivery (including any delivery by a vendor or at a plant store) of a fluid milk product classified as Class I milk other than in bulk to a milk or filled milk processing plant.

**§ 1128.4 [Reserved]**

**§ 1128.5 [Reserved]**

**§ 1128.6 [Reserved]**

**§ 1128.7 Pool plant.**

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A milk plant approved by and under the routine inspection of the health authority of any municipality in the marketing area:

(1) From which there is route disposition of Grade A fluid milk products, other than filled milk, in consumer packages in the marketing area; or

(2) At which milk is received from producers as defined in § 1128.12(a)(1) and which serves as a receiving station at which producer milk is received, weighed, and commingled and from which milk or skim milk (i) is moved during the month to a pool plant(s) specified in paragraph (a)(1) or (b) of this section, or (ii) was moved to any such plant(s) in an amount equal to 60 percent or more of the total receipts of producer milk during the months of October through January immediately preceding any month of April, May, or June during which no milk was moved to such plant(s).

(b) A milk plant approved by and under the routine inspection of a health authority other than that of a municipality in the marketing area from which there is route disposition of Grade A fluid milk products, other than filled milk, in consumer packages in the marketing area in an amount equal to 10 percent or more of the total disposition of Class I milk, except filled milk, from such plant during the month.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A plant meeting the requirements of paragraph (a)(1) or (b) of this section which also meets the pooling requirements of another Federal order and from which, the Secretary determines, there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which there is a greater proportion of route disposition in such other marketing area unless notwithstanding the provisions of this subparagraph it is regulated under such other order;

(3) A plant meeting the requirements of paragraph (a)(1) or (b) of this section which also meets the pooling requirements of another Federal order on the basis of route disposition in such other marketing area and from which, the Secretary determines, there is a greater quantity of route disposition, except filled milk, during the month in this marketing area than in such other marketing area but which plant is fully regulated under such other Federal order; and

(4) A plant meeting the requirements of paragraph (a)(2) of this section which (i) meets the pooling requirements of another Federal order and from which greater qualifying shipments are made during the month to plants regulated under such other order than are made to plants regulated under this part or (ii) retains automatic pooling status for the month under another Federal order by virtue of its performance in previous months.





**§ 1128.8 Nonpool plant.**

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products are moved to a pool plant during the month but which is neither an other order plant nor a producer-handler plant.

**§ 1128.9 Handler.**

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any cooperative association with respect to the milk of any producer which it causes to be diverted pursuant to § 1128.12 for the account of such cooperative association;

(c) Any cooperative association with respect to the milk of producers which it causes to be delivered directly from the farm for its own account, in tank truck(s) owned or operated by such association, to the pool plant of another handler described in § 1128.7 (a)(1) or (b): *Provided*, That such milk shall be deemed to have been received by the cooperative association at a pool plant at the location of the plant to which it is delivered; or

(d) Any person in his capacity as the operator of a nonpool plant from which there is route disposition during the month in the marketing area.

**§ 1128.10 Producer-handler.**

"Producer-handler" means any person:

(a) Who operates a dairy farm and a milk plant approved by and under the routine inspection of the appropriate health authority from which there is route disposition of Grade A fluid milk products in consumer-type packages in the marketing area; and

(b) Whose disposition of fluid milk products does not exceed his own farm production and receipts of fluid milk products from pool plants.

**§ 1128.11 [Reserved]**

**§ 1128.12 Producer.**

(a) Except as provided in paragraph (b) of this section, "producer" means any person described in paragraph (a)(1) or (2) of this section and shall include any such person whose milk is received by a handler described in § 1128.9 (c) or whose milk is regularly received at a pool plant but is caused to be diverted by a handler to a nonpool plant that is not a producer-handler plant, and milk so diverted shall be deemed to have been received by the handler at the location of the pool plant at which it was received immediately prior to its being so diverted:

(1) Who produces milk under a dairy farm permit or rating for the production of milk to be disposed of for consumption as Grade A milk issued by the health authority of any municipality in the marketing area, which milk is received at a pool plant described in § 1128.7(a); or

(2) Who produces milk under a dairy farm permit or rating for the production of milk to be disposed of for consumption as Grade A milk issued by a health authority whose certification is accepted by the appropriate health authority of a municipality in the marketing area, which milk is received at a pool plant described in § 1128.7(b).

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1128.44(a)(8)(iii) and the corresponding step of § 1128.44(b); and

(3) Any person with respect to milk produced by him which is diverted from a pool plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk.

**§ 1128.13 Producer milk.**

"Producer milk" means only that skim milk or butterfat contained in:

(a) Milk received at a pool plant directly from producers;

(b) Milk of producers that is diverted pursuant to § 1128.12; or

(c) Milk received by a handler described in § 1128.9(c).

**§ 1128.14 Other source milk.**

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1128.40 (b)(1) from any source other than producers, handlers described in § 1128.9 (c), pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1128.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1128.40 (b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted



V 38 - 176 SEP 12 73 XUM

into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1128.40(b)(1)) for which the handler fails to establish a disposition.

**§ 1128.15 Fluid milk product.**

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1128.40 (b) or (c)(1) (i) through (iv) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

**§ 1128.16 Fluid cream product.**

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

**§ 1128.17 Filled milk.**

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

**§ 1128.18 Cooperative association.**

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales or marketing milk or its products for its members.

HANDLER REPORTS

**§ 1128.30 Reports of receipts and utilization.**

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1128.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1128.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1128.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

**§ 1128.31 Payroll reports.**

(a) On or before the 20th day after the end of each month, each handler described in § 1128.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1128.76 (b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

(c) The market administrator shall furnish to a cooperative association upon request the data with respect to milk of its members furnished pursuant to paragraph (a) of this section.

**§ 1128.32 Other reports.**

(a) Each handler who causes milk to be diverted to a nonpool plant shall, prior to such diversion, report to the market administrator and to the cooperative association of which such producer is a member, his intention to divert such milk, the proposed date or dates of such diversion, and the plant to which such milk is to be diverted.

(b) In addition to the reports required pursuant §§ 1128.30 and 1128.31 and paragraph (a) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

**§ 1128.40 Classes of utilization.**

Except as provided in § 1128.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1128.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form;





(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(v) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1128.15; and

(6) In shrinkage assigned pursuant to § 1128.41(a) to the receipts specified in § 1128.41(a)(2) and in shrinkage specified in § 1128.41(b) and (c).

**§ 1128.41 Shrinkage.**

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1128.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1128.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1128.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

**§ 1128.42 Classification of transfers and diversions.**

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant or by a handler described in § 1128.9(c) to another handler's pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1128.44(a)(12) and the corresponding step of § 1128.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1128.44(a)(7) or the corresponding step of § 1128.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1128.44(a)(11) or (12) or the corresponding steps of § 1128.44(b), the skim milk or butterfat so transferred up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an



V 38-176 SEP 12 73 XUM

other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1128.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1128.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

### § 1128.43 General classification rules.

In determining the classification of producer milk pursuant to § 1128.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1128.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1128.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1128.40, 1128.41, and 1128.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1128.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

### § 1128.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1128.9(a) for each of his pool plants separately and of each handler described in § 1128.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1128.41 (b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1128.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only





if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1128.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1128.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii)(*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the handler's total Class III utilization at his other pool plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler;

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1128.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1128.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii) and (iii) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1128.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler;

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received; and

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from any class that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made



V 38 1176 SEP 12 73 XUM

at the other plants in sequence beginning with the plant having the least minus location adjustment;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant or a handler described in § 1128.9(c) according to the classification of such products pursuant to § 1128.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

**§ 1128.45 Market administrator's reports and announcements concerning classification.**

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1128.44(a)(12) and the corresponding step of § 1128.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1128.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association, which so requests, the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report, the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handler were used in each class.

## Class Prices

**§ 1128.50 Class prices.**

Subject to the provisions of § 1128.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.57.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month, but not to exceed an amount computed as follows:

(1) Multiply by 4.2 the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month;

(2) Multiply by 8.2 the weighted average of carlot prices per pound of spray process nonfat dry milk for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department; and

(3) From the sum of the amounts computed pursuant to paragraph (c)(1) and (2) of this section subtract 48 cents and round to the nearest cent.

**§ 1128.51 Basic formula price.**

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

**§ 1128.52 Plant location adjustments for handlers.**

For producer milk classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price set forth in § 1128.50(a) shall be subject to the following adjustments:

(a) For milk received from producers at a pool plant located (1) east of the 103d principal meridian, (2) more than 180 highway miles from the U.S. Post Office in Midland, Tex., and also (3) at the following highway distances from the U.S. Post Office in Abilene, Tex., such price shall be reduced as follows:

| | Cents |
|---|---|
| More than 70 miles but less than 105 miles | 20 |
| 105 miles or more | 25 |

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee-plant, in excess of the sum of receipts at such plant from producers and handlers described in § 1128.9(c), and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

**§ 1128.53 Announcement of class prices.**

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

**§ 1128.54 Equivalent price.**

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

## Uniform Price

**§ 1128.60 Handler's value of milk for computing uniform price.**

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1128.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1128.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1128.44(a)(14) and the corresponding step of § 1128.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1128.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1128.44(a)(9) and the corresponding step of § 1128.44(b);





(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1128.44(a)(7) (i) through (iv) and the corresponding step of § 1128.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1128.44(a)(7) (v) and (vi) and the corresponding step of § 1128.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1128.44(a)(11) and the corresponding step of § 1128.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

**§ 1128.61 Computation of uniform price.**

For each month the market administrator shall compute the uniform price per hundredweight for all milk of 3.5 percent butterfat content received at a pool plant as follows:

(a) Combine into one total the values computed pursuant to § 1128.60 for all handlers who have made the reports prescribed in § 1128.30 and who have made the payments due pursuant to § 1128.71 for the preceding month;

(b) Add the aggregate of the values of all minus location adjustments pursuant to § 1128.75;

(c) Add not less than one-half of the unobligated cash balance on hand in the producer-settlement fund;

(d) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

(e) Divide the resulting amount by the sum of the following for all handlers included in such computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1128.60(f); and

(f) Subtract not less than 4 cents nor more than 5 cents.

**§ 1128.62 Announcement of uniform price and butterfat differential.**

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

## Payment for Milk

**§ 1128.70 Producer-settlement fund.**

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," into which he shall deposit all payments made by handlers pursuant to §§ 1128.71, 1128.76, and 1128.77, and from which he shall make all payments to handlers pursuant to §§ 1128.72 and 1128.77.

**§ 1128.71 Payments to the producer-settlement fund.**

(a) On or before the 13th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1128.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1128.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received plus 5 cents of other source milk for which a value is computed pursuant to § 1128.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

**§ 1128.72 Payments from the producer-settlement fund.**

On or before the 14th day after the end of each month the market administrator shall pay to each handler, including a cooperative association which is a handler, the amount, if any, by which the amount computed pursuant to § 1128.71(a)(2) exceeds the amount computed pursuant to § 1128.71(a)(1): *Provided*, That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

**§ 1128.73 Payments to producers and to cooperative associations.**

Each handler shall make payment as follows:

(a) On or before the 15th day after the end of the month during which the milk was received, to each producer for whom payment is not made pursuant to paragraph (c) of this section, at not less than the uniform price for such month computed pursuant to § 1128.61, as adjusted pursuant to §§ 1128.74 and 1128.75, and less the amount of the payment made pursuant to paragraph (b) of this section: *Provided*, That if by such date such handler has not received full payment pursuant to § 1128.72, he may reduce his total payments to all producers uniformly by not less than the amount of reduction in payments from the market administrator; he shall, however, complete such payments pursuant to this paragraph not later than the date for making such payments next following receipt of the balance from the market administrator.

(b) On or before the 25th day of each month, to each producer for whom payment is not made pursuant to paragraph (c) of this section for milk received during the first 15 days of such month at not less than the Class III price of the preceding month.

(c) On or before the 13th and 23d days of each month, in lieu of payments pursuant to paragraphs (a) and (b), respectively, of this section, to a cooperative association which so requests, with respect to producers for whose milk such cooperative association is authorized to collect payment, an amount equal to the sum of the individual payments otherwise payable to such producer. Such payment shall be accompanied by a statement showing for each producer the items required to be reported pursuant to § 1128.31.

**§ 1128.74 Butterfat differential.**

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

**§ 1128.75 Plant location adjustments for producers and on nonpool milk.**

(a) In making payments to producers pursuant to § 1128.73, the uniform price for all milk computed pursuant to § 1128.61 for milk received from producers at a pool plant shall be adjusted



V 38 1176 SEP 12 73 XUM

at the rates set forth in § 1128.52(a), applicable at the location of such plant.

(b) For purposes of computations pursuant to §§ 1128.71 and 1128.72 the uniform price for all milk shall be adjusted at the rates set forth in § 1128.52(a) applicable at the location of the nonpool plant from which the milk was received, except that the adjusted uniform price plus 5 cents shall not be less than the Class III price.

### § 1128.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1128.30(b) and 1128.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price plus 5 cents, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the uniform price plus 5 cents shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1128.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1128.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1128.60 for such handler shall include, in lieu of the value of other source milk specified in § 1128.60(f) less the value of such other source milk specified in § 1128.71(a)(2)(ii), a value of milk determined pursuant to § 1128.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1128.7(a)(2) subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1128.30(b) and 1128.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1128.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plan, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1128.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1128.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

### § 1128.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due;

(a) The market administrator from such handler;

(b) Such handler from the market administrator; or

(c) Any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amounts so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

### Administrative Assessment and Marketing Service Deduction

### § 1128.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler, except a handler described in § 1128.9(c), shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including such handler's own production) and milk received from a handler described in § 1128.9(c);

(b) Other source milk allocated to Class I pursuant to § 1128.44(a) (7) and (11) and the corresponding steps of § 1128.44(b), except such other source milk that is excluded from the computations pursuant to § 1128.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1128.76(a)(2).





### § 1128.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than himself) pursuant to § 1128.73(a), shall deduct 5 cents per hundredweight or such amount not exceeding 5 cents per hundredweight as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of each month. Such moneys shall be used by the market administrator to sample, test, and check the weights of milk received and to provide producers with market information.

(b) In the case of producers for whom a cooperative asociation is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers and on or before the 15th day after the end of each month pay such deduction to the cooperative association rendering such services, accompanied by a statement showing the quantity of milk for which such deduction was computed for each such producer.

### Advertising and Promotion Program

### § 1128.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1128.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

### § 1128.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1128.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1128.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1128.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

### § 1128.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

### § 1128.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1128.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

### § 1128.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

### § 1128.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuit to § 1128.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1128.110 and 1128.117.

### § 1128.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1128.110 and 1128.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.



V 38-176
SEP 12 73
XUM

**§ 1128.117 Advertising, Research, Education, and Promotion Program.**

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

**§ 1128.118 Limitation of expenditures by the Agency.**

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1128.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

**§ 1128.119 Personal liability.**

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct gross negligence, or those which are criminal in nature.

**§ 1128.120 Procedure for requesting refunds.**

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

**§ 1128.121 Duties of the market administrator.**

Except as specified in § 1128.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1128.113(c).

(b) Set aside the amounts subtracted under § 1128.61(d) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b) (2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1128.61(d).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1128.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1128.61(d) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1128.110 through 1128.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

**§ 1128.122 Liquidation.**

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1128.70.

## PART 1129—MILK IN AUSTIN-WACO, TEX., MARKETING AREA

**Subpart—Order Regulating Handling**

GENERAL PROVISIONS

Sec.
1129.1 General provisions.

DEFINITIONS

1129.2 Austin-Waco marketing area.
1129.3 Route disposition.
1129.4 [Reserved]
1129.5 Distributing plant.
1129.6 Supply plant.
1129.7 Fluid milk plant.
1129.7a Approved plant.
1129.8 Nonfluid milk plant.
1129.9 Handler.
1129.10 Producer-handler.
1129.11 [Reserved]
1129.12 Producer.
1129.13 Producer milk.
1129.14 Other source milk.
1129.15 Fluid milk product.
1129.16 Fluid cream product.
1129.17 Filled milk.
1129.18 Cooperative association.

HANDLER REPORTS

1129.30 Reports of receipts and utilization.
1129.31 Payroll reports.
1129.32 Other reports.

CLASSIFICATION OF MILK

1129.40 Classes of utilization.
1129.41 Shrinkage.
1129.42 Classification of transfers and diversions.
1129.43 General classification rules.
1129.44 Classification of producer milk.
1129.45 Market administrator's reports concerning classification.

CLASS PRICES

1129.50 Class prices.
1129.51 Basic formula price.
1129.52 Plant location adjustments for handlers.
1129.53 Announcement of class prices.
1129.54 Equivalent price.

UNIFORM PRICE

1129.60 Handler's value of milk for computing uniform price.
1129.61 Computation of uniform price for each handler.
1129.62 Announcement of uniform price for each handler and butterfat differential.

PAYMENTS FOR MILK

1129.73 Payments to producers and to cooperative associations.
1129.74 Butterfat differential.
1129.75 Plant location adjustments for producers.
1129.76 [Reserved]
1129.77 Adjustment of accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1129.85 Assessment for order administration.
1129.86 Deduction for marketing services.





ADVERTISING AND PROMOTION PROGRAM

Sec.
1129.110 Agency.
1129.111 Composition of Agency.
1129.112 Term of office.
1129.113 Selection of Agency members.
1129.114 Agency operating procedure.
1129.115 Powers of the Agency.
1129.116 Duties of the Agency.
1129.117 Advertising, Research, Education and Promotion Program.
1129.118 Limitation of expenditures by the Agency.
1129.119 Personal liability.
1129.120 Procedure for requesting refunds.
1129.121 Duties of the market administrator.
1129.122 Liquidation.
1129.123 Payment of advertising and promotion funds.

AUTHORITY: The provisions of this Part 1129 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

GENERAL PROVISIONS

**§ 1129.1 General provisions.**

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

**§ 1129.2 Austin-Waco marketing area.**

"Austin-Waco Marketing Area," hereinafter called the marketing area, means all territory, including all municipal corporations and all Federal military reservations, facilities and installations, located within or partially within the boundaries of Travis, Hays, Lampasas, Burnet, Caldwell, Bastrop, Williamson, Bell, Falls, McLennan, Coryell, Comal and Guadalupe Counties, all in the State of Texas.

**§ 1129.3 Route disposition.**

"Route disposition" means the delivery (including delivery by a vendor or sale at a plant store) of fluid milk products classified as Class I milk other than as follows:

(a) Delivery in bulk to a plant, or

(b) Delivery in consumer packages from a milk processing plant to a distributing plant in an amount not in excess of the amount of producer milk received by such processing plant during the month from the operator of such distributing plant and classified as Class I milk: *Provided*, That for the purposes of this paragraph milk so transferred to such processing plant shall be considered to be producer milk to the extent that total receipts during the month of producer milk by the operator of such distributing plant exceed his gross Class I sales less: (1) Receipts of Class I milk from other fluid milk plants; (2) milk transferred as Class I milk to such milk processing plant; and (3) milk received in consumer packages from such milk processing plant.

**§ 1129.4 [Reserved]**

**§ 1129.5 Distributing plant.**

"Distributing plant" means any milk processing or packaging plant from which there is route disposition, except filled milk, in the marketing area during the month equal to more than an average of 500 pounds per day or 5 percent, whichever is less, of the Grade "A" milk and skim milk received from dairy farmers or other plants.

**§ 1129.6 Supply plant.**

"Supply plant" means any plant from which fluid milk or fluid skim milk is received at a distributing plant:

(a) For any of the months of February through July, on 4 or more days during the month, or in an amount equal to a daily average of not less than 3,300 pounds for such month; and

(b) For any of the months of August through January:

(1) On 10 or more days during the month, or in an amount equal to a daily average of not less than 8,300 pounds for such month; or

(2) On 4 or more days during the month, or in an amount equal to a daily average of not less than 3,300 pounds for such month, and such plant was a supply plant pursuant to paragraph (a) of this section during any month of the immediately preceding period of February through July.

**§ 1129.7 Fluid milk plant.**

Except as provided in paragraph (c) of this section, "fluid milk plant" means:

(a) A distributing plant or a supply plant.

(b) Any plant approved by the appropriate health authority to supply milk for distribution as Grade A milk in the marketing area if such plant is operated by a cooperative association, and 75 percent or more of the milk of the members of such association, including receipts pursuant to § 1129.9 (b) and (c), is received at the fluid milk plants of other handlers.

(c) The term "fluid milk plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) An approved distributing plant which also meets the pooling requirements of another Federal order and from which the Secretary determines there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area than in the Austin-Waco marketing area;

(3) An approved distributing plant which also meets the pooling requirements of another Federal order and from which, the Secretary determines, there is a greater quantity of route disposition, except filled milk, during the month in the Austin-Waco marketing area than in such other Federal order marketing area, but which plant is, nevertheless, fully regulated under such other Federal order; and

(4) An approved supply plant which (i) meets the pooling requirements of another Federal order and from which greater qualifying shipments, except filled milk, are made during the month to plants regulated under such other order than are made to plants regulated under this part, or (ii) retains automatic pooling status under another Federal order.

**§ 1129.7a Approved plant.**

"Approved plant" means: (a) A fluid milk plant, or (b) any milk plant from which there is route disposition in the marketing area.

**§ 1129.8 Nonfluid milk plant.**

"Nonfluid milk plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a fluid milk plant. The following categories of nonfluid milk plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonfluid milk plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonfluid milk plant from which fluid milk products are moved to a fluid milk plant during the month, but which is neither an other order plant nor a producer-handler plant.

**§ 1129.9 Handler.**

"Handler" means:

(a) Any person in his capacity as the operator of one or more approved plants;

(b) Any cooperative association with respect to the milk of any producer which it diverts pursuant to § 1129.12; and

(c) Any cooperative association with respect to the milk of any producer which it causes to be delivered directly from the farm in bulk tank pickup truck(s) owned and/or controlled by such association, to the fluid milk plant of another handler. Such milk shall be deemed to have been received by the cooperative association at the location of the fluid milk plant to which it is delivered.

**§ 1129.10 Producer-handler.**

"Producer-handler" means a person who operates both a dairy farm(s) and a milk processing or bottling plant at which milk is received from the dairy farm(s) of such person but from no other dairy farm: *Provided*, That such person shall furnish to the market administrator for his verification, subject to review by the Secretary, evidence that the maintenance, care, and management of the dairy animals and other resources necessary for the production of milk in his name are and continue to be the personal enterprise of and at the personal risk of such producer and the processing, packaging and distribution of the milk are and continue to be the personal enterprise of and at the personal risk of such producer in his capacity as a handler.



V 38-176 SEP 12 73 XUM

§ 1129.11 [Reserved]

§ 1129.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is:

(1) Received at a fluid milk plant; or

(2) Diverted for his account by the operator of a fluid milk plant or cooperative association from such plant to a nonfluid milk plant that is not a producer-handler plant during the period January through July and on not more than one-third of the days of delivery during the month for the period August through December: *Provided*, That milk so diverted shall be deemed to have been received by the diverting handler at the plant from which it was diverted.

(b) "Producer" shall not include:

(1) A producer-handler as described in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a fluid milk plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III pursuant to § 1129.44(a)(8)(iii) and the corresponding step of § 1129.44(b); and

(3) Any person with respect to milk produced by him which is diverted from a fluid milk plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk.

§ 1129.13 Producer milk.

"Producer milk" means all skim milk and butterfat contained in milk produced by a producer and received at a fluid milk plant directly from producers or diverted pursuant to § 1129.12.

§ 1129.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1129.40(b)(1) from any source other than producers, handlers described in § 1129.9(c), fluid milk plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1129.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1129.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1129.40(b)(1)) for which the handler fails to establish a disposition.

§ 1129.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1129.40 (b) or (c)(1)(i) through (iv) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

§ 1129.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition or other ingredients.

§ 1129.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1129.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the act of Congress of February 10, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales or marketing milk or its products for its members.

HANDLER REPORTS

§ 1129.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his fluid milk plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the fluid milk plant to other plants;

(2) Receipts of milk from handlers described in § 1129.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other fluid milk plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1129.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler described in § 1129.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(c) Each handler not specified in paragraphs (a) and (b) of this section shall report with respect to his receipts and utilization of milk, filled milk and milk products in such manner as the market administrator may prescribe.

§ 1129.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1129.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) The market administrator, upon request, shall furnish to a cooperative association for its members the data reported pursuant to paragraph (a) (1), (2), and (3) of this section.

§ 1129.32 Other reports.

(a) Each handler, who causes milk to be diverted for his account directly from producers' farms to an unapproved plant, shall prior to such diversion, report to the market administrator and to the cooperative association, of which such producer is a member, his intention to divert such milk, the proposed date or dates of such diversion, and the plant to which such milk is to be diverted.

(b) In addition to the reports required pursuant to §§ 1129.30 and 1129.31 and paragraph (a) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.





CLASSIFICATION OF MILK

§ 1129.40 Classes of utilization.

Except as provided in § 1129.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1129.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(v) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1129.15; and

(6) In shrinkage assigned pursuant to § 1129.41(a) to the receipts specified in § 1129.41(a)(2) and in shrinkage specified in § 1129.41 (b) and (c).

§ 1129.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1129.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each fluid milk plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1129.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1129.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other fluid milk plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1129.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1129.42 Classification of transfers and diversions.

(a) *Transfers to fluid milk plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a fluid milk plant to another fluid milk plant or by a handler described in § 1129.9(c) to another handler's fluid milk plant shall be classified as Class I milk unless both handlers request the same classification in another class. The percentage of the total quantities of skim milk and butterfat, respectively, in products thus transferred and assigned to Class I milk shall not be greater than the percentage of skim milk and butterfat in producer milk classified as Class I milk in the plant of the transferee-handler. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computation pursuant to § 1129.44(a)(12) and the corresponding step of § 1129.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1129.44(a)(7) or the corresponding step of § 1129.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1129.44(a)(11) or (12) or the corresponding steps of § 1129.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case



V 38 176 SEP 12 73 XUM

if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a fluid milk plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the fluid milk plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b) (3) of this section):

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1129.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a fluid milk plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonfluid milk plants.* Skim milk or butterfat transferred or diverted in the following forms from a fluid milk plant to a nonfluid milk plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonfluid milk plant's utilization to its receipts as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1129.30 for the month within which such transaction occurred; and

(*b*) The nonfluid milk plant operator maintains books and records showing utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonfluid milk plant and transfers of packaged fluid milk products from such nonfluid milk plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonfluid milk plant from fluid milk plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonfluid milk plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonfluid milk plant from fluid milk plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonfluid milk plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonfluid milk plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonfluid milk plant from fluid milk plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonfluid milk plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonfluid milk plant from fluid milk plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonfluid milk plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonfluid milk plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonfluid milk plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonfluid milk plant; and

(*b*) To such nonfluid milk plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonfluid milk plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonfluid milk plant from fluid milk plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonfluid milk plant;

(vii) Receipts of bulk fluid cream products at the nonfluid milk plant from fluid milk plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonfluid milk plant; and

(viii) In determining the nonfluid milk plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonfluid milk plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

**§ 1129.43 General classification rules.**

In determining the classification of producer milk pursuant to § 1129.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1129.30 and shall compute separately for each fluid milk plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1129.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1129.40, 1129.41, and 1129.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1129.9 (b) or (c) shall be determined separately from the operations of any fluid milk plant operated by such cooperative association.

**§ 1129.44 Classification of producer milk.**

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1129.9(a) for each of his fluid milk plants separately and of each handler described in § 1129.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1129.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1129.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1129.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1129.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1129.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order; and

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii)(*a*) through (c) of this section. Should the pounds of skim milk to be substracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the handler's total Class III utilization at his other fluid milk plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other fluid milk plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all fluid milk plants of the handler;

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all fluid milk plants of the handler of producer milk, milk from a handler described in § 1129.9(c), fluid milk products from fluid milk plants of other handlers, and bulk fluid milk products from other order plants; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this fluid milk plant is of all such receipts remaining at this allocation step at all fluid milk plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1129.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all fluid milk plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other fluid milk plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(12) Subject to the provisions of paragraph (a)(12)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all fluid milk plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class







V 38 176 SEP 12 73 XUM

II, the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that were not subtracted pursuant to paragraph (a)(8)(iii) of this section and that are in excess of bulk fluid milk products transferred or diverted to such plant:

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other fluid milk plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another fluid milk plant or a handler described in § 1129.9(c) according to the classification of such products pursuant to § 1129.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1129.44(a)(14) and the corresponding step of § 1129.44(b).

**§ 1129.45 Market administrator's reports concerning classification.**

The market administrator shall make the following reports concerning classification:

(a) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1129.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(b) Furnish to each handler operating a fluid milk plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(c) On or before the 12th day after the end of each month, report to each cooperative association, which so requests, the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report, the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handler were used in each class.

## Class Prices

**§ 1129.50 Class prices.**

Subject to the provisions of § 1129.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.70.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month, but not to exceed an amount computed as follows:

(1) Multiply by 4.2 the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month;

(2) Multiply by 8.2 the weighted average of carlot prices per pound of spray process nonfat dry milk for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department; and

(3) From the sum of the amounts computed pursuant to paragraph (c) (1) and (2) of this section subtract 48 cents and round to the nearest cent.

**§ 1129.51 Basic formula price.**

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

**§ 1129.52 Plant location adjustments for handlers.**

For milk received from producers at a fluid milk plant located outside of Zone I (Zone I comprises all the territory south of the northern boundaries of Guadalupe, Comal, Kendall, Kerr, Edwards, and Val Verde Counties, all in the State of Texas, and all territory south of a boundary formed by U.S. Highway 90 east of the marketing area to the Colorado River and thence south along the Colorado River) which is classified as Class I milk, the price specified in § 1129.50(a) shall be reduced 1.5 cents for each 10 miles or fraction thereof by the straight line distance as determined by the market administrator that the county court house of the county in which such plant is located is from the county court house in New Braunfels, Tex.

**§ 1129.53 Announcement of class prices.**

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

**§ 1129.54 Equivalent price.**

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

## Uniform Price

**§ 1129.60 Handler's value of milk for computing uniform price.**

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1129.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1129.44(a)(14) and the corresponding step of § 1129.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1129.74, that are applicable at the location of the fluid milk plant;

(c) Add the following:

(1) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the fluid milk plant for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1129.44(a)(9) and the corresponding step of § 1129.44(b); and

(2) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class II price for the current month by the lesser of:

(i) The hundredweight of skim milk and butterfat subtracted from Class II pursuant to § 1129.44(a)(9) and the corresponding step of § 1129.44(b) for the current month; or

(ii) The hundredweight of skim milk and butterfat remaining in Class III (exclusive of shrinkage) after the computations pursuant to § 1129.44(a)(11) and the corresponding step of § 1129.44(b) for the preceding month, less the hundredweight of skim milk and butterfat specified in paragraph (c)(1) of this section; and

(d) Add or subtract, as the case may be, an amount necessary to correct errors discovered by the market administrator in the verification of reports of such handler of receipts and utilization of skim milk and butterfat for previous months.

**§ 1129.61 Computation of uniform price for each handler.**

For each month, the market administrator shall compute a uniform price per hundredweight of milk of 3.5 percent butterfat content which is received from producers by each handler as follows:

(a) Add to the amount computed pursuant to § 1129.60 the total of the location adjustments to be made pursuant to § 1129.75;

(b) Add the amount represented by any deductions made for eliminating fractions of a cent in computing the uniform price(s) for such handler for the preceding month;

(c) Subtract an amount computed by multiplying the total hundredweight of producer milk in each class by 5 cents; and

(d) Divide the resulting amount by the total hundredweight of producer milk received by such handler. The result, less any fraction of a cent, shall be known as the uniform price for such handler for milk of 3.5 percent butterfat content, at fluid milk plants in Zone I.

**§ 1129.62 Announcement of uniform price for each handler and butterfat differential.**

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for each handler for such month.

## Payments for Milk

**§ 1129.73 Payments to producers and to cooperative associations.**

Except as provided in paragraph (d) of this section, each handler shall make payment to each producer for milk received from such producer as follows:

(a) On or before the 28th day of each month, for milk received during the first 15 days of the month at not less than the Class III price for the preceding month.

(b) On or before the 15th day after the end of each month for milk received during such month, an amount computed at not less than the uniform price per hundredweight pursuant to § 1129.61 as adjusted pursuant to §§ 1129.74 and 1129.75; plus or minus adjustments for errors made in previous payments to such producers; and less (1) payment made pursuant to paragraph (a) of this section; (2) deductions for marketing services pursuant to § 1129.86 and (3) proper deductions authorized by such producer.

(c) On or before the 13th and 26th days of each month in lieu of the payments pursuant to paragraphs (a) and (b) of this section, respectively, each handler shall pay to a cooperative association for milk which it caused to be delivered to such handler from producers and for which such cooperative association is not a handler pursuant to § 1129.9 (c), if such cooperative association is authorized to collect such payments for its member-producers and has so requested the handler, an amount equal to the sum of the individual payments otherwise payable to such producers.

(d) On or before the 13th and 26th days of each month, each handler shall pay to a cooperative association for milk which was caused to be delivered to such handler by such cooperative association, and for which it is a handler pursuant to § 1129.9(c), an amount not less than the value of such milk computed by multiplying the pounds of such milk classified in each class pursuant to § 1129.44 by the class prices, as adjusted by the butterfat differential specified in § 1129.74, that are applicable at the location of the receiving handler's fluid milk plant.

(e) In making the payments to producers pursuant to paragraphs (b) and (c) or (d) of this section, each handler shall furnish each producer or cooperative association from whom he has received milk with a supporting statement which shall show for each month:

(1) The month and the identity of the handler and of the producer;

(2) The daily and total pounds and the average butterfat content of milk received from such producer;

(3) The minimum rate or rates at which payment to such producer is required pursuant to this part;

(4) The rate which is used in making the payment if such rate is other than the applicable rate;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer.

**§ 1129.74 Butterfat differential.**

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

**§ 1129.75 Plant location adjustments for producers.**

In making payment to producers pursuant to § 1129.73, the uniform price to be paid for producer milk received at a fluid milk plant located outside of Zone I shall be reduced 1.5 cents for each 10 miles or fraction thereof by the straight line distance as determined by the market administrator that the county courthouse of the county in which such plant is located is from the county courthouse in New Braunfels, Tex.

**§ 1129.76 [Reserved]**

**§ 1129.77 Adjustment of accounts.**

Whenever audit by the market administrator of any handler's reports, books, records, or accounts, or verification of weights and butterfat tests of milk or milk products discloses errors resulting in money due a producer or the market administrator from such handler or due such handler from the market administrator, the market administrator shall notify such handler of any amount so due, and payment thereof shall be made on or before the next date for making payments, as set forth in the provisions under which such error occurred.

## Administrative Assessment and Marketing Service Deduction

**§ 1129.85 Assessment for order administration.**

As his pro rata share of the expense of administration of the order, each handler, except a handler described in § 1129.9(c), shall pay to the market administrator on or before the 15th day after the end of the month 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including such handler's own production) and milk received from a handler described in § 1129.9(c);

(b) Other source milk allocated to Class I pursuant to § 1129.44(a) (7) and (11) and the corresponding steps of § 1129.44(b); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds Class I milk received during the month at such plant from fluid milk plants and other order plants.

**§ 1129.86 Deduction for marketing services.**

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers for milk (other than milk of his own production) pursuant to § 1129.73, shall deduct 6 cents per hundredweight, or such amount not exceeding 6 cents per hundredweight, as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of each month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association.

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the







V 38-176 SEP 12 73 XUM

payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers on or before the 13th day after the end of each month and pay such deductions to the cooperative association of which such producers are members, furnishing a statement showing the amount of any such deductions and the amount of milk for which such deduction was computed for each producer.

ADVERTISING AND PROMOTION PROGRAM

§ 1129.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1129.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

§ 1129.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1129.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1129.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1129.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

§ 1129.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1129.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative, who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1129.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1129.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1129.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1129.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1129.110 and 1129.117.

§ 1129.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business.

(b) Develop programs and projects pursuant to §§ 1129.110 and 1129.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1129.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.





§ 1129.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1129.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1129.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts willful misconduct, gross negligence, or those which are criminal in nature.

§ 1129.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

§ 1129.121 Duties of the market administrator.

Except as specified in § 1129.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1129.113(c).

(b) Set aside the amounts subtracted under § 1129.61(c) and received pursuant to § 1129.123 into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b)(2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1129.61(c).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1129.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1129.61(c) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1129.110 through 1129.123).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1129.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall be distributed in an equitable manner to producers by the market administrator.

§ 1129.123 Payment of advertising and promotion funds.

On or before the 15th day after the end of each month during which producer milk was received, each handler shall turn over to the market administrator the advertising and promotion funds deducted pursuant to § 1129.61(c).

## PART 1130—MILK IN CORPUS CHRISTI, TEX., MARKETING AREA

### Subpart—Order Regulating Handling

GENERAL PROVISIONS

Sec.
1130.1 General provisions.

DEFINITIONS

1130.2 Corpus Christi, Tex., marketing area.
1130.3 Route disposition.
1130.4 Plant.
1130.5 Distributing plant.
1130.6 Supply plant.
1130.7 Pool plant.
1130.8 Nonpool plant.
1130.9 Handler.
1130.10 Producer-handler.
1130.11 [Reserved]
1130.12 Producer.
1130.13 Producer milk.
1130.14 Other source milk.
1130.15 Fluid milk product.
1130.16 Fluid cream product.
1130.17 Filled milk.
1130.18 Cooperative association.

HANDLER REPORTS

1130.30 Reports of receipts and utilization.
1130.31 Payroll reports.
1130.32 Other reports.

CLASSIFICATION OF MILK

1130.40 Classes of utilization.
1130.41 Shrinkage.
1130.42 Classification of transfers and diversions.
1130.43 General classification rules.
1130.44 Classification of producer milk.
1130.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1130.50 Class prices.
1130.51 Basic formula price.
1130.52 Plant location adjustments for handlers.
1130.53 Announcement of class prices.
1130.54 Equivalent price.

UNIFORM PRICE

1130.60 Handler's value of milk for computing uniform price.
1130.61 Computation of uniform price.
1130.62 Announcement of uniform price and butterfat differential.

PAYMENTS FOR MILK

1130.70 Producer-settlement fund.
1130.71 Payments to the producer-settlement fund.
1130.72 Payments from the producer-settlement fund.
1130.73 Payments to producers and to cooperative associations.
1130.74 Butterfat differential.
1130.75 Plant location adjustments for producers and on nonpool milk.
1130.76 Payments by handler operating a partially regulated distributing plant.
1130.77 Adjustment of accounts.
1130.78 Charges on overdue accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1130.85 Assessment for order administration.
1130.86 Deduction for marketing services.

ADVERTISING AND PROMOTION PROGRAM

1130.110 Agency.
1130.111 Composition of Agency.
1130.112 Term of office.
1130.113 Selection of Agency members.
1130.114 Agency operating procedure.
1130.115 Powers of the Agency.
1130.116 Duties of the Agency.
1130.117 Advertising, Research, Education and Promotion Program.
1130.118 Limitation of expenditures by the Agency.
1130.119 Personal liability.
1130.120 Procedure for requesting refunds.



V 38-176 SEP 12 73 XUM

Sec.
1130.121 Duties of the market administrator.
1130.122 Liquidation.

AUTHORITY: The provisions of this Part 1130 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

GENERAL PROVISIONS

**§ 1130.1 General provisions.**

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

**§ 1130.2 Corpus Christi, Tex., marketing area.**

"Corpus Christi, Tex., marketing area", called the "marketing area" in this part, means all the territory within the following counties, all in the State of Texas:

Brooks.
Cameron.
Duval.
Hidalgo.
Jim Wells.
Kleberg.
Live Oak.
Nueces.
San Patricio.

**§ 1130.3 Route disposition.**

"Route disposition" means any delivery (including any delivery by a vendor or disposition at a plant store) of any fluid milk product classified as Class I milk other than a delivery to a milk or filled milk plant.

**§ 1130.4 Plant.**

"Plant" means the land, buildings, facilities, and equipment constituting a single operating unit or establishment at which milk or milk products (including filled milk) are received, processed, or packaged. Separate facilities without storage tanks which are used only as a reload point for transferring bulk milk from one tank truck to another shall not be a plant under this definition if the milk transferred at such facilities can be identified as receipts from specific farmers until the milk is received at a plant. Facilities used only as a distribution point for storing fluid milk products in transit for route disposition shall not be a plant under this definition.

**§ 1130.5 Distributing plant.**

"Distributing plant" means a plant from which there is route disposition of Grade A fluid milk products during the month in the marketing area.

**§ 1130.6 Supply plant.**

"Supply plant" means any plant approved by an appropriate health authority to supply fluid milk for distribution as Grade A milk in the marketing area and from which milk is moved to a distributing plant.

**§ 1130.7 Pool plant.**

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) Any distributing plant from which during the month:

(1) The route disposition of fluid milk products, except filled milk, within the marketing area is 10 percent or more of the receipts of Grade A milk at such plant; and

(2) The total route disposition of fluid milk products, except filled milk, is 50 percent or more of the receipts of Grade A milk at such plant.

(b) A supply plant:

(1) During any month in which 50 percent or more of the receipts of Grade A milk from dairy farmers and handlers described in § 1130.9(c) at such plant is moved as fluid milk products, except filled milk, to pool distributing plants; or

(2) During each of the months of January through August, if such plant was a pool plant pursuant to paragraph (b)(1) of this section during each of the immediately preceding months of September through December, unless the operator of such plant has filed with the market administrator before the first day of any month written request that such plant not be a pool plant for each month through August during which it does not otherwise qualify as a pool plant.

(c) Any plant located in the marketing area and operated by a cooperative association approved by any duly constituted State or municipal health authority, and at which milk is received from dairy farmers holding permits to authorizations for such health authority, if 50 percent or more of the producer milk of members of such cooperative association is physically received during the month at pool plants of other handlers described in paragraph (a) of this section or is transferred to such pool plants from a plant of the cooperative association.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A plant meeting the requirements of paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which, the Secretary determines, there is a greater quantity of route disposition, except filled milk, during the month in such other Federal order marketing area than in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its route disposition, except filled milk, is made in such other marketing area unless notwithstanding the provisions of this subparagraph, it is regulated under such other order;

(3) A plant meeting the requirements of paragraph (a) of this section which also meets the pooling requirements of another Federal order on the basis of distribution in such other marketing area and from which the Secretary determines there is a greater quantity of route disposition, except filled milk, during the month in this marketing area than in such other marketing area but which plant is nevertheless, fully regulated under such other Federal order; and

(4) A plant meeting the requirements of paragraph (b) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made during the month to plants regulated under such other order than are made to plants regulated under this part, except during the months January through August, if such plant retains automatic pooling status under this part.

**§ 1130.8 Nonpool plant.**

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another Federal order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Unregulated supply plant" means a noonpool plant from which fluid milk products are moved to a pool plant during the month but which is neither an other order plant nor a producer-handler plant.

(d) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

**§ 1130.9 Handler.**

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any cooperative association with respect to producer milk which it causes to be diverted pursuant to § 1130.13 for the account of such cooperative association;

(c) Any cooperative association with respect to milk of its producer members which is received from the farm for delivery to the pool plant of another handler in a tank truck owned and operated by, or under contract to, such cooperative association;

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) A producer-handler; or

(f) Any person in his capacity as the operator of an other order plant with route disposition in the marketing area.

**§ 1130.10 Producer-handler.**

"Producer-handler" means any person who:

(a) Produces milk and operates a distributing plant;

(b) Receives no milk from other dairy farmers;

(c) Disposes of no other source milk as Class I milk except that represented by nonfat solids used in the fortification of fluid milk products;

(d) Receives during the month from pool plants fluid milk products in a total quantity of not more than 10,000 pounds, or 5 percent of his Class I disposition, whichever is less; and

(e) Furnishes satisfactory proof to the market administrator that the maintenance, care, and management of all dairy animals and other resources necessary to produce the entire amount of





fluid milk handled (excluding transfers from pool plants) and the operation of the plant are each the personal enterprise of and at the personal risk of such person.

**§ 1130.11 [Reserved]**

**§ 1130.12 Producer.**

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk approved for consumption as Grade A milk by any duly constituted State or municipal health authority, which is:

(1) Received at a pool plant; or

(2) Diverted pursuant to § 1130.13 by a handler for his account.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1130.44(a)(8)(iii) and the corresponding step of § 1130.44(b); and

(3) Any person with respect to milk produced by him which is diverted from a pool plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk.

**§ 1130.13 Producer milk.**

"Producer milk" means skim milk and butterfat for each handler's account in milk from producers as follows:

(a) With respect to operations of a pool plant:

(1) Received directly from such producers;

(2) Received from a handler described in § 1130.9(c); or

(3) Diverted by the operator of such pool plant to a nonpool plant that is not a producer-handler plant for his account, subject to the conditions of paragraph (c) of this section.

(b) With respect to additional receipts by a cooperative association handler:

(1) Diverted by such cooperative association from the pool plant of another handler to a nonpool plant that is not a producer-handler plant for the account of such cooperative association, subject to the conditions of paragraph (c) of this section; or

(2) Received by such cooperative association from producers' farms as a handler described in § 1130.9(c) in excess of the quantity delivered to pool plants pursuant to paragraph (a)(2) of this section.

(c) With respect to diversions to nonpool plants:

(1) A cooperative association may divert for its account a total quantity of milk not in excess of one-third of the total producer milk of its members received at all pool plants during the month. Diversions in excess of such quantity shall not be producer milk and the diverting cooperative shall specify the dairy farmers whose diverted milk is ineligible as producer milk. If the cooperative association fails to designate such producers, producer milk status shall be forfeited with respect to all milk diverted by such cooperative association;

(2) A handler operating a pool plant may divert for his account milk of producers other than members of a cooperative association diverting milk pursuant to paragraph (c)(1) of this section, in a total quantity not in excess of one-third of the milk at such pool plant during the month from producers who are not members of such a cooperative association. Milk diverted in excess of such quantity shall not be producer milk and the diverting handler shall specify the dairy farmers whose diverted milk is ineligible as producer milk. If a handler fails to designate such producers, producer milk status shall be forfeited with respect to all milk diverted by such handler;

(3) For the purposes of location adjustments pursuant to §§ 1130.52 and 1130.75, diverted milk shall be priced at the location of the nonpool plant to which diverted; and

(4) For purposes of determining qualification of pool plants pursuant to § 1130.7 (a) and (b), milk diverted pursuant to paragraph (a)(3) of this section shall be considered receipts of Grade A milk at the plant from which diverted.

**§ 1130.14 Other source milk.**

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1130.40(b)(1) from any source other than producers, handlers described in § 1130.9(c), pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1130.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1130.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1130.40(b)(1)) for which the handler fails to establish a disposition.

**§ 1130.15 Fluid milk product.**

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less that 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1130.40(b) or (c)(1)(i) through (iv) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

**§ 1130.16 Fluid cream product.**

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

**§ 1130.17 Filled milk.**

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

**§ 1130.18 Cooperative association.**

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales or marketing milk or its products for its members.

HANDLER REPORTS

**§ 1130.30 Reports of receipts and utilization.**

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1130.9(c);



V 38-176 SEP 12 73 XUM

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1130.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1130.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1130.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1130.9 (a), (b), and (c), shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1130.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

§ 1130.32 Other reports.

(a) Each handler who causes milk to be delivered for his account directly from producers' farms to a nonpool plant shall, prior to such diversion, report to the market administrator his intention to divert such milk, the proposed date or dates of such diversion, and the plant to which such milk is to be diverted.

(b) In addition to the reports required in §§ 1130.30 and 1130.31 and paragraph (a) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

## Classification of Milk

§ 1130.40 Classes of utilization.

Except as provided in § 1130.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1130.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(v) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1130.15; and

(6) In shrinkage assigned pursuant to § 1130.41(a) to the receipts specified in § 1130.41(a)(2) and in shrinkage specified in § 1130.41 (b) and (c).

§ 1130.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1130.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1130.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1130.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;





(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b)(1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1130.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1130.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1130.44(a)(12) and the corresponding step of § 1130.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1130.44(a)(7) or the corresponding step of § 1130.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1130.44(a)(11) or (12) or the corresponding steps of § 1130.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1130.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraphs (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraphs (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1130.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:



V 38-176
SEP 12 73
XUM

(a) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(b) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

**§ 1130.43 General classification rules.**

In determining the classification of producer milk pursuant to § 1130.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1130.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1130.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1130.40, 1130.41, and 1130.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1130.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

**§ 1130.44 Classification of producer milk.**

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1130.9(a) for each of his pool plants separately and of each handler described in § 1130.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1130.41 (b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1130.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1130.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1130.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1130.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii)(a) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the handler's total Class III utilization at his other pool plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment:

(a) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler;

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1130.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii) and (iii) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(a) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1130.45(a); or

(b) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler;

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received; and

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from any class that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1130.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1130.44(a)(14) and the corresponding step of § 1130.44(b).

**§ 1130.45 Market administrator's reports and announcements concerning classification.**

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1130.44(a)(12) and the corresponding step of § 1130.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1130.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month report to each cooperative association, upon request by such association, the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report the milk so received shall be prorated to each class in the proportion that the total receipts of producer milk by such handler were used in each class.

CLASS PRICES

**§ 1130.50 Class prices.**

Subject to the provisions of § 1130.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $3.07.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month, but not to exceed an amount computed as follows:

(1) Multiply by 4.2 the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month;







V 38 - 176 SEP 12 73 XUM

(2) Multiply by 8.2 the weighted average of carlot prices per pound of spray process nonfat dry milk for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department; and

(3) From the sum of the amounts computed pursuant to paragraph (c)(1) and (2) of this section subtract 48 cents and round to the nearest cent.

**§ 1130.51 Basic formula price.**

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

**§ 1130.52 Plant location adjustments for handlers.**

(a) For milk which is received from producers or a cooperative association at a pool plant located more than 80 miles, but not more than 150 miles from the city hall in Mercedes, Tex., by the shortest hard-surfaced highway distance as determined by the market administrator, and which is classified as Class I milk, the price specified in § 1130.50(a) shall be reduced 9 cents per hundredweight and for milk which is received from producers or a cooperative association at a pool plant located more than 150 miles from the city hall in Mercedes, Tex., by the shortest hard-surfaced highway distance as determined by the market administrator, and which is classified as Class I milk, the price specified in § 1130.50(a) shall be reduced 1-cent per hundredweight for each 10 miles distance or fraction thereof that such plant is from the city hall in Mercedes, Tex.

(b) For purposes of calculating such location adjustment, transfers between pool plants shall be assigned Class I location credit as follows:

(1) If in packaged form without limit; and

(2) If in bulk form, to the extent that Class I disposition at the transferee-plant exceeds the sum of (i) 95 percent of receipts at such plant from producers and handlers described in § 1130.9(c), (ii) the pounds assigned as Class I to receipts from other order plants and unregulated supply plants, and (iii) assignments pursuant to paragraph (b)(1) of this section, such assignment to be made first to transferor plants having the same location adjustment, then in sequence to plants having a greater location adjustment, beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

**§ 1130.53 Announcement of class prices.**

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

**§ 1130.54 Equivalent price.**

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

## Uniform Price

**§ 1130.60 Handler's value of milk for computing uniform price.**

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1130.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1130.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1130.44(a)(14) and the corresponding step of § 1130.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1130.74, that are applicable at the location of the pool plant;

(c) Add the following:

(1) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1130.44(a)(9) and the corresponding step of § 1130.44(b); and

(2) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class II price for the current month by the lesser of:

(i) The hundredweight of skim milk and butterfat subtracted from Class II pursuant to § 1130.44(a)(9) and the corresponding step of § 1130.44(b) for the current month; or

(ii) The hundredweight of skim milk and butterfat remaining in Class III after the computations pursuant to § 1130.44(a)(12) and the corresponding step of § 1130.44(b) for the preceding month, less the hundredweight of skim milk and butterfat specified in paragraph (c)(1) of this section;

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1130.44(a)(7) (i) through (iv) and the corresponding step of § 1130.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1130.44(a)(7) (v) and (vi) and the corresponding step of § 1130.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1130.44(a)(11) and the corresponding step of § 1130.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class II price, both for the preceding month, by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1130.40 (b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

**§ 1130.61 Computation of uniform price.**

For each month the market administrator shall compute the uniform price per hundredweight applicable for milk of 3.5 percent butterfat content at pool plants at which no location differential applies as follows:

(a) Combine into one total the values computed pursuant to § 1130.60 for all handlers who have made the reports prescribed in § 1130.30 for the month and who have made the payments required pursuant to § 1130.71 for the preceding month;

(b) Add not less than one-fourth of the unobligated cash balance on hand in the producer-settlement fund;

(c) Add the aggregate of the values of the minus location adjustments pursuant to § 1130.75;

(d) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and





(2) The total hundredweight for which a value is computed pursuant to § 1130.60(f); and

(f) Subtract not less than 4 cents nor more than 5 cents.

**§ 1130.62 Announcement of uniform price and butterfat differential.**

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

## Payments for Milk

**§ 1130.70 Producer-settlement fund.**

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," into which he shall deposit all payments made by handlers pursuant to §§ 1130.71, 1130.76, and 1130.77, and from which he shall make all payments to handlers pursuant to §§ 1130.72 and 1130.77.

**§ 1130.71 Payments to the producer-settlement fund.**

(a) On or before the 13th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1130.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1130.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received plus 5 cents of other source milk for which a value is computed pursuant to § 1130.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

**§ 1130.72 Payments from the producer-settlement fund.**

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1130.71(a)(2) exceeds the amount computed pursuant to § 1130.71(a)(1). If the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. Any amount due a handler pursuant to this section may be reduced by the amount of any unpaid balances due the market administrator from such handler, pursuant to § 1130.71, 1130.77, 1130.85, or 1130.86.

**§ 1130.73 Payments to producers and to cooperative associations.**

(a) Except as provided in paragraph (b) of this section, each handler shall make payment to each producer for milk received from such producer as follows:

(1) On or before the 25th day of each month, to each producer who has not discontinued delivery of milk to such handler, a partial payment for milk received from such producer during the first 15 days of such month at not less than the Class III milk price for the preceding month;

(2) On or before the 15th day after the end of each month, for milk received during such month, an amount not less than the uniform price computed pursuant to § 1130.61, subject to adjustments pursuant to §§ 1130.74 and 1130.75, plus or minus adjustments for errors made in previous payments to such producers, and less:

(i) Payments made pursuant to paragraph (a)(1) of this section;

(ii) Deductions for marketing services pursuant to § 1130.86; and

(iii) Proper deductions authorized by such producer;

(3) If by the date for payment pursuant to paragraph (a)(2) of this section, a handler has not received full payment for such month pursuant to § 1130.72, he may reduce his total payments to all producers uniformly by not more than the amount of reduction in payments from the market administrator. He shall, however, complete such payments pursuant to this paragraph not later than the date for making such payments next following receipt of the balance from the market administrator.

(b)(1) Upon receipt of a written request from a cooperative association, which the market administrator determines is authorized by its members to collect payment for their milk, and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the cooperative association each handler shall pay to the cooperative association on or before the 23d and 14th days of each month in lieu of payments pursuant to paragraph (a) (1) and (2), respectively, of this section an amount equal to the sum of the individual payments otherwise payable to such producers. The foregoing payment shall be made with respect to milk of each producer whom the cooperative association certifies is a member effective on and after the first day of the calendar month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association; and

(2) A copy of each such request, promise to reimburse, and certified list of members shall be filed simultaneously with the market administrator by the cooperative association and shall be subject to verification at his discretion, through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member, or by a handler, shall be made by written notice to the market administrator and shall be subject to his determination.

(c) In making the payments pursuant to paragraphs (a)(2) and (b) of this section, each handler shall furnish each producer or cooperative association from whom he has received milk with a supporting statement which shall show for each month:

(1) The month and the identity of the handler and of the producer;

(2) The total pounds and the average butterfat content of milk received from such producer;

(3) The minimum rate or rates at which payment to such producer is required pursuant to this part;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum rate;

(5) The amount of the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producers.

(d) As follows, to each cooperative association for milk for which it is the handler pursuant to § 1130.9(c):

(1) On or before the 23d day of the month, a partial payment for milk received during the first 15 days of such month, at not less than the amount specified in paragraph (b) of this section; and

(2) On or before the 14th day of the following month, in final settlement, the value of such milk received during the month, at the uniform price, as adjusted pursuant to §§ 1130.74 and 1130.75, less the amount of payment made pursuant to paragraph (d)(1) of this section.

(e) On or before the 14th day after the end of the month, for milk received from the pool plant of a cooperative association, to such cooperative association not less than the value of such milk at the applicable price(s) for the class(es) at which transferred pursuant to § 1130.42(a), as adjusted by the butterfat



V 38-176 SEP 12 73 XUM

differential specified in § 1130.74, that are applicable at the location of the transferee-handler's pool plant.

**§ 1130.74 Butterfat differential.**

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each 0.1-percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest 0.1 cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

**§ 1130.75 Plant location adjustments for producers and on nonpool milk.**

(a) In making payments pursuant to § 1130.73, the uniform price computed pursuant to § 1130.61 to be paid for such milk received at a pool plant at which a location adjustment pursuant to § 1130.52 applies may be reduced by the amount of such location adjustments.

(b) The uniform price applicable to other source milk shall be subject to the same adjustments applicable to the uniform price under paragraph (a) of this section, except that the adjusted uniform price plus 5 cents shall not be less than the Class III price.

**§ 1130.76 Payments by handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1130.30(b) and 1130.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price plus 5 cents, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the uniform price plus 5 cents shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1130.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1130.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1130.60 for such handler shall include, in lieu of the value of other source milk specified in § 1130.60(f) less the value of such other source milk specified in § 1130.71(a)(2)(ii), a value of milk determined pursuant to § 1130.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1130.7(b) subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1130.30(b) and 1130.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1130.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1130.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1130.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

**§ 1130.77 Adjustment of accounts.**

Whenever verification by the market administrator of any handler's reports, books, records, accounts, or payments discloses errors resulting in money due:

(a) The market administrator from such handler;

(b) Such handler from the market administrator; or

(c) Any producer or cooperative association from such handler, the market administrator shall promptly notify such handler, of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

**§ 1130.78 Charges on overdue accounts.**

Any unpaid obligation of a handler pursuant to §§ 1130.71, 1130.77(a), 1130.85, or 1130.86 shall be increased one-half of 1 percent on the first day of the calendar month next following the due date of such obligation and, on the first day of each calendar month thereafter until such obligation is paid.





ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

**§ 1130.85 Assessment for order administration.**

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 13th day after the end of the month 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including that pursuant to § 1130.13(a)(2) and such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1130.44(a)(7) and (11) and the corresponding steps of § 1130.44(b), except such other source milk that is excluded from the computations pursuant to § 1130.60 (d) and (f); and

(c) Route disposition from a partially regulated distributing plant in the marketing area that exceeds the skim milk and butterfat subtracted pursuant to § 1130.76(a)(2).

**§ 1130.86 Deduction for marketing services.**

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers for milk (other than milk of his own production) pursuant to § 1130.73, shall deduct 6 cents per hundredweight, or such amount not exceeding 6 cents per hundredweight, as may be prescribed by the Secretary, and shall pay such deductions to the market administrator, on or before the 13th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of milk from producers who are not receiving such service from a cooperative association; and

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 13th day after the end of each month pay such deductions to the cooperative association of which such producers are members, furnishing a statement showing the amount of any such deductions and the amount of milk for which such deduction was computed for each producer.

ADVERTISING AND PROMOTION PROGRAM

**§ 1130.110 Agency.**

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1130.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

**§ 1130.111 Composition of Agency.**

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1130.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1130.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1130.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

**§ 1130.112 Term of office.**

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

**§ 1130.113 Selection of Agency members.**

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1130.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontniues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

**§ 1130.114 Agency operating procedure.**

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

**§ 1130.115 Powers of the Agency.**

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1130.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1130.110 and 1130.117.

**§ 1130.116 Duties of the Agency.**

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make



V 38 176
SEP 12 73
XUM

public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1130.110 and 1130.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

### § 1130.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval of all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

### § 1130.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1130.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

### § 1130.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

### § 1130.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

### § 1130.121 Duties of the market administrator.

Except as specified in § 1130.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1130.113(c).

(b) Set aside the amounts subtracted under § 1130.61(d) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b) (2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1130.61(d).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1130.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1130.61(d) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1130.110 through 1130.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

### § 1130.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1130.70.

---

## PART 1131—MILK IN CENTRAL ARIZONA MARKETING AREA

**Subpart—Order Regulating Handling**

GENERAL PROVISIONS

Sec.
1131.1 General provisions.

DEFINITIONS

1131.2 Central Arizona marketing area.
1131.3 Route disposition.
1131.4 [Reserved]
1131.5 [Reserved]
1131.6 [Reserved]
1131.7 Pool plant.
1131.8 Nonpool plant.
1131.9 Handler.
1131.10 Producer-handler.
1131.11 [Reserved]
1131.12 Producer.
1131.13 Producer milk.
1131.14 Other source milk.
1131.15 Fluid milk product.
1131.16 Fluid cream product.
1131.17 Filled milk.
1131.18 Cooperative association.

HANDLER REPORTS

1131.30 Reports of receipts and utilization.
1131.31 Payroll reports.
1131.32 Other reports.

CLASSIFICATION OF MILK

1131.40 Classes of utilization.
1131.41 Shrinkage.
1131.42 Classification of transfers and diversions.
1131.43 General classification rules.
1131.44 Classification of producer milk.
1131.45 Market administrator's reports and announcements concerning classification.





CLASS PRICES

Sec.
1131.50 Class prices.
1131.51 Basic formula price.
1131.52 Plant location adjustments for handlers.
1131.53 Announcement of class prices.
1131.54 Equivalent price.

UNIFORM PRICE

1131.60 Handler's value of milk for computing uniform price.
1131.61 Computation of uniform price.
1131.62 Announcement of uniform price and butterfat differential.

PAYMENTS FOR MILK

1131.70 Producer-settlement fund.
1131.71 Payments to the producer-settlement fund.
1131.72 Payments from the producer-settlement fund.
1131.73 Payments to producers and to cooperative associations.
1131.74 Butterfat differential.
1131.75 Plant location adjustments for producers and on nonpool milk.
1131.76 Payments by handler operating a partially regulated distributing plant.
1131.77 Adjustment of accounts.
1131.78 Charges on overdue accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1131.85 Assessment for order administration.
1131.86 Deduction for marketing services.

AUTHORITY: The provisions of this Part 1131 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

### GENERAL PROVISIONS

### § 1131.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

### DEFINITIONS

### § 1131.2 Central Arizona marketing area.

"Central Arizona marketing area", hereinafter called the "marketing area", means all territory within the counties of Cochise, Graham, Greenlee, Maricopa, Pima, and Pinal, and that part of Yuma County south of 33 degrees latitude (North from the Equator), all in the State of Arizona.

### § 1131.3 Route disposition.

"Route disposition" means any delivery to retail or wholesale outlets (including delivery by a vendor or a sale from a plant or a plant store) of a fluid milk product classified as Class I milk other than a delivery to a plant described in § 1131.7(a).

### § 1131.4 [Reserved]

### § 1131.5 [Reserved]

### § 1131.6 [Reserved]

### § 1131.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) Any plant approved by a duly constituted state or municipal health authority for the receipt or processing of Grade A milk or which supplies processed milk to an agency of the U.S. Government located within the marketing area, from which during the month:

(1) There is route disposition, except filled milk, equal to at least 50 percent of the total receipts at the plant (i) of milk qualified by inspection to become producer milk pursuant to § 1131.13(a), and (ii) from other milk plants and handlers described in § 1131.9(c) in the form of fluid milk products, except filled milk, qualified for fluid consumption; and

(2) There is route disposition, except filled milk, in the marketing area in a volume not less than 25 percent of such receipts and also greater than an average of 600 pounds per day.

(b) Any plant which ships fluid milk products, except filled milk, approved by any health authority having jurisdiction in the marketing area as eligible for distribution under a Grade A label in a volume not less than 50 percent of its receipts of milk (from dairy farmers who would be producers if this plant qualifies as a pool plant) in the current month during the period of July through October or 20 percent in the current month during the period of November through June to a plant specified in paragraph (a) of this section: *Provided*, That if a plant qualifies in each of the months of July through October in the manner prescribed in this section such plant shall upon written application to the market administrator on or before October 31 following such compliance be designated as a pool plant until the end of the following June.

(c) A milk plant located within the marketing area at which milk may be received from the farms of dairy farmers holding permits or authorization issued by health authorities having jurisdiction in the marketing area and which is operated by a cooperative association qualified under § 1131.18 which has 75 percent or more of its member producers' milk received at the pool plants of other handlers. Milk received by such cooperative, in a truck owned or under contract to the cooperative, from a pool plant and transferred in such truck to an other pool plant for the account of the cooperative shall be considered a receipt at the cooperative's plant and a transfer from such plant.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) Any plant qualified pursuant to paragraph (a) of this section which disposes of a lesser volume of Class I milk, except filled milk, in the Central Arizona marketing area than in a marketing area where the handling of milk is regulated pursuant to another order issued pursuant to the Act, and which is subject to the classification and pricing provisions of such other order; and

(3) Any plant qualified pursuant to paragraph (b) of this section for any portion of the period November through June, inclusive, that the milk of producers at such plant is subject to the classification and pricing provisions of an other order issued pursuant to the Act and the Secretary determines that such plant should be exempted from this part.

### § 1131.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products are moved during the month to a pool plant and which is not an other order plant nor a producer-handler plant.

### § 1131.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) A cooperative association with respect to milk of any producer which such cooperative association causes to be diverted pursuant to § 1131.13 for the account of such association;

(c) A cooperative association with respect to the milk of its member producers which is received from the farm for delivery to the pool plant of another handler in a tank truck owned and operated by, or under contract to, such cooperative association, if the cooperative association notifies the market administrator and the handler to whom the milk is delivered in writing prior to the first day of the month in which the milk is delivered, that it elects to be the handler for such milk;

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) A producer-handler; and

(f) Any person in his capacity as the operator of an other order plant described in § 1131.7(d).

### § 1131.10 Producer-handler.

"Producer-handler" means:

(a) Any person who is both a dairy farmer and the operator of a plant from which fluid milk products are disposed of as route disposition in the marketing area and who:

(1) Receives at his plant, or acquires for route disposition fluid milk products only from:

(i) His own farm production; and

(ii) Fluid milk products obtained by transfer from pool plants or other order plants in an amount not to exceed 5 percent of his total fluid milk product disposition for the month or 5,000 pounds, whichever is less;



V 38 I 176 SEP 12 73 XUM

(2) Does not reprocess or convert milk products into a fluid milk product except to increase the nonfat milk solids content above that of the fluid milk product received;

(3) Furnishes proof satisfactory to the market administrator that:

(i) The maintenance, care, and management of all the dairy animals and other resources necessary to produce the entire amount of milk handled (other than that received from regulated plants) is the personal enterprise of and at the personal risk of such person in his capacity as a producer; and

(ii) The operation of such plant is the personal enterprise of and at the personal risk of such person in his capacity as a handler.

(b) The governmental agency that operates a milk plant, except that a plant operated by such agency shall be a pool plant if bulk milk is delivered during the month by such governmental agency to another plant that is a pool plant and a written request is filed by the agency with the market administrator asking that its plant be considered a pool plant. If such a plant is made a pool plant at the request of the governmental agency for 1 month and thereafter resumes the status of a nonpool plant, it shall not be eligible for pool plant status again until it has been a nonpool plant for 12 consecutive months.

**§ 1131.11 [Reserved]**

**§ 1131.12 Producer.**

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk pursuant to the requirements specified in paragraph (a) (1) or (2) of this section, and whose milk is received directly from the farm at a pool plant or is diverted as producer milk pursuant to § 1131.13.

(1) Produces milk, on a dairy farm subject to the regular inspection by a duly constituted State or municipal health authority, under a dairy farm permit or rating issued by such authority for the production of milk to be disposed of for fluid consumption.

(2) Produces milk which is acceptable to an agency of the Federal Government for fluid consumption in its institutions or bases.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1131.44(a)(8)(iii) and the corresponding step of § 1131.44(b); and

(3) Any person with respect to milk produced by him which is diverted from a pool plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk.

**§ 1131.13 Producer milk.**

"Producer milk" of each handler means all skim milk and butterfat produced by producers:

(a) With respect to receipts at a pool plant:

(1) Received directly from such producers; and

(2) Diverted from such pool plant to a nonpool plant that is not a producer-handler plant for the account of the operator of the pool plant, subject to the limitations and conditions of paragraph (c) of this section;

(b) With respect to additional receipts of a cooperative association:

(1) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant, subject to the limitations and conditions of paragraph (c) of this section; and

(2) For which the cooperative association is the handler pursuant to § 1131.9(c); and

(c) With respect to diversions to nonpool plants pursuant to paragraphs (a)(2) and (b)(1) of this section:

(1) Such diversions may be without limit during the months of December through April, but shall not be for more than 8 days' production of any producer during any other month, otherwise only milk of such producer received at a pool plant shall be producer milk; and

(2) For purposes of location adjustments pursuant to §§ 1131.52 and 1131.75, milk so diverted shall be priced at the location of the plant to which diverted.

**§ 1131.14 Other source milk.**

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1131.40(b)(1) from any source other than producers, handlers described in § 1131.9(c), pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1131.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1131.40(b)(1), and products produced at the plant during the month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1131.40(b)(1)) for which the handler fails to establish a disposition.

**§ 1131.15 Fluid milk product.**

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1131.40(b) or (c)(1)(i) through (iv) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

**§ 1131.16 Fluid cream product.**

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

**§ 1131.17 Filled milk.**

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

**§ 1131.18 Cooperative association.**

"Cooperative association" means any cooperative association of producers which the Secretary determines:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have and to be exercising full authority in the sale of milk for its members.

## Handler Reports

**§ 1131.30 Reports of receipts and utilization.**

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;





(2) Receipts of milk from handlers described in § 1131.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1131.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1131.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

**§ 1131.31 Payroll reports.**

(a) On or before the 20th day after the end of each month, each handler described in § 1131.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1131.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

**§ 1131.32 Other reports.**

(a) Each handler, except a producer-handler or a handler making payment pursuant to § 1131.76(a), shall report to the market administrator in the detail and on forms prescribed by the market administrator:

(1) On or before the 20th day after the end of the month, the payments made to a cooperative association pursuant to § 1131.73(d);

(2) On or before the first day other source milk is received in the form of a fluid milk product at his pool plant(s), his intention to receive such product, and on or before the last day such product is received, his intention to discontinue receipt of such product; and

(3) On or before the day prior to diverting producer milk pursuant to § 1131.13 his intention to divert such milk, the date or dates of such diversion and the nonpool plant to which such milk is to be diverted.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1131.30 and 1131.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

## Classification of Milk

**§ 1131.40 Classes of utilization.**

Except as provided in § 1131.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1131.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(v) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1131.15; and

(6) In shrinkage assigned pursuant to § 1131.41(a) to the receipts specified in § 1131.41(a)(2) and in shrinkage specified in § 1131.41(b) and (c).

**§ 1131.41 Shrinkage.**

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1131.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1131.9(c), except that, if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer



V 38 1176 SEP 12 73 XUM

milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6), of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1131.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

### § 1131.12 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant or by a handler described in § 1131.9(c) to another handler's pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1131.44(a)(12) and the corresponding step of § 1131.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1131.44(a)(7) or the corresponding step of § 1131.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk;

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1131.44 (a) (11) or (12) or the corresponding steps of § 1131.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant; and

(4) Unless a different utilization is claimed by both handlers, skim milk and butterfat transferred to the pool plant of another handler by a cooperative association in its capacity as a handler pursuant to § 1131.9(c) or as the operator of a pool plant described in § 1131.7(c) shall be classified pro rata to the respective quantities of skim milk and butterfat remaining in each class for such month at the pool plant(s) of the receiving handler after the computations pursuant to § 1131.44(a)(13)(i) and the corresponding step of § 1131.44(b).

(b) *Transfers or diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3), of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1131.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1131.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and





(d) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

### § 1131.13 General classification rules.

In determining the classification of producer milk pursuant to § 1131.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1131.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1131.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1131.40, 1131.41, and 1131.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1131.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

### § 1131.41 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1131.9(a) for each of his pool plants separately and of each handler described in § 1131.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1131.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1131.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1131.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding months.

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1131.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1131.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the



V 38-176 SEP 12 73 XUM

handler's total Class III utilization at his other pool plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment:

(a) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler;

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1131.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1131.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received;

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii) and (iii) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1131.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler;

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received; and

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from any class that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(13) Subtract in the following order from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from:

(i) Another pool plant or a handler described in § 1131.9(c) according to the classification of such products pursuant to § 1131.42(a); and

(ii) A cooperative association in its capacity as a handler pursuant to § 1131.9 (c) or as the operator of a pool plant described in § 1131.7(c) according to the classification of such products pursuant to § 1131.42(a)(4); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1131.44(a)(14) and the corresponding step of § 1131.44(b).

### § 1131.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1131.44(a)(12) and the corresponding step of § 1131.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1131.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated





by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests the percentage of producer milk delivered by members of such association which was used in each class by each handler receiving such milk. For the purpose of this report the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

### Class Prices

### § 1131.50 Class prices.

Subject to the provisions of § 1131.52, the class prices for the month per hundredweight of milk containing 3.5-percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.52.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month, but not to exceed an amount computed as follows:

(1) Multiply by 4.2 the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month;

(2) Multiply by 8.2 the weighted average of carlot prices per pound of spray process nonfat dry milk for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department; and

(3) From the sum of the amounts computed pursuant to paragraph (c) (1) and (2) of this section subtract 48 cents and round to the nearest cent.

### § 1131.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5-percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest 0.1 cent) per 0.1-percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

### § 1131.52 Plant location adjustments for handlers.

(a) For milk received from producers at a pool plant located outside Pima County and more than 30 miles by shortest highway distance as measured by the market administrator, from the nearer of the Courthouses in Maricopa and Graham Counties, Ariz., and classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price computed pursuant to § 1131.50(a) shall be reduced by 10 cents if such plant is located not more than 130 miles from the nearer courthouse and by an additional cent for each 10 miles or fraction thereof that such distance exceeds 130 miles.

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to Class I disposition at the transferee-plant, in excess of the sum of receipts at such plant from producers and handlers described in § 1131.9(c), plus the pounds assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) For other source milk to which a location adjustment is applicable and for milk received from producers at a plant located in Pima County, Ariz., and which is classified as Class I milk, the price computed under § 1131.50(a) shall be increased 12 cents.

(d) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraphs (a) and (c) of this section, except that the adjusted Class I price shall not be less than the Class III price.

### § 1131.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

### § 1131.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

### Uniform Price

### § 1131.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1131.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1131.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1131.44(a)(14) and the corresponding step of § 1131.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1131.74, that are applicable at the location of the pool plant;

(c) Add the following:

(1) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1131.44(a)(9) and the corresponding step of § 1131.44(b); and

(2) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class II price for the current month by the lesser of:

(i) The hundredweight of skim milk and butterfat subtracted from Class II pursuant to § 1131.44(a)(9) and the corresponding step of § 1131.44(b) for the current month; or

(ii) The hundredweight of skim milk and butterfat remaining in Class III after the computations pursuant to § 1131.44(a)(12) and the corresponding step of § 1131.44(b) for the preceding month, less the hundredweight of skim milk and butterfat specified in paragraph (c)(1) of this section:

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1131.44(a)(7) (i) through (iv) and the corresponding step of § 1131.44 (b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1131.44(a)(7) (v) and (vi) and the corresponding step of § 1131.44 (b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1131.44(a)(11) and the corresponding step of § 1131.44 (b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

### § 1131.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content received from producers as follows:



V 38-176 SEP 12 73 XUM

(a) Combine into one total the values computed pursuant to § 1131.60 for all handlers who filed the reports prescribed by § 1131.30 for the month and who made the payments pursuant to §§ 1131.71 and 1131.73 for the preceding month;

(b) Add an amount equal to the total value of the minus location adjustments and subtract an amount equal to the plus location adjustments computed pursuant to § 1131.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1131.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

### § 1131.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 11th day after the end of each month the uniform price for such month.

## Payments for Milk

### § 1131.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1131.71 and 1131.76 and out of which he shall make all payments pursuant to § 1131.72: *Provided*, That payments due to any handler shall be offset by any payments due from such handler.

### § 1131.71 Payments to the producer-settlement fund.

(a) On or before the 13th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1131.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1131.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1131.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

### § 1131.72 Payments from the producer-settlement fund.

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1131.71(a)(2) exceeds the amount computed pursuant to § 1131.71(a)(1). If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

### § 1131.73 Payments to producers and to cooperative associations.

(a) Except as provided in paragraph (b) of this section, each handler shall make payment to each producer from whom milk is received during the month as follows:

(1) On or before the 27th day of each month to each producer who did not discontinue shipping milk to such handler before the 25th day of the month, an amount not less than 1.3 times the Class III price for the preceding month multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized by such producer to be made from payments due pursuant to this paragraph; and

(2) On or before the 15th day of the following month, an amount equal to not less than the appropriate uniform price as adjusted pursuant to §§ 1131.74 and 1131.75, multiplied by the hundredweight of milk received from such producer during the month, subject to the following adjustments: (i) Less payments made to such producer pursuant to paragraph (a)(1) of this section, (ii) less deductions made for marketing services pursuant to § 1131.86, (iii) plus or minus adjustments for errors made in previous payments made to such producer, and (iv) less proper deductions authorized in writing by such producer: *Provided*, That if by such date such handler has not received full payment from the market administrator pursuant to § 1131.72 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator;

(b) In the case of a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and which has so requested any handler in writing, such handler shall on or before the second day prior to the date on which payments are due individual producers, pay the cooperative association for milk received during the month from the producer-members of such association as determined by the market administrator an amount equal to not less than the total due such producer-members as determined pursuant to paragraph (a) of this section;

(c) Each handler who receives milk during the month from producers for which payment is to be made to a cooperative association pursuant to paragraph (b) of this section shall report to such cooperative association or to the market administrator for transmittal to such cooperative association for each such producer as follows:

(1) On or before the 25th day of the month, the total pounds of milk received during the first 15 days of such month; and

(2) On or before the seventh day of the following month (i) the pounds of milk received each day and the total for the month, together with the butterfat content of such milk, (ii) the amount or rate and nature of any authorized deductions to be made from payments, and (iii) the amount and nature of payments due pursuant to § 1131.77; and

(d) Each handler who receives milk from a cooperative association in its capacity as a handler pursuant to § 1131.9(c) or as the operator of a pool plant shall, on or before the second day prior to the date payments are due individual producers, pay such cooperative association for such milk as follows:

(1) A partial payment for milk received from such cooperative association during the first 15 days of the month at not less than 1.3 times the Class III price for the preceding month; and

(2) In final settlement, the value of such milk as classified pursuant to § 1131.44 at the class prices, as adjusted by the butterfat differential specified in § 1131.74, that are applicable at the location of the receiving handler's pool plant, less payment made pursuant to paragraph (d)(1) of this section.

### § 1131.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115





times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

### § 1131.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price for producer milk received at a pool plant shall be adjusted according to the location of the pool plant, at the rates set forth in § 1131.52; and

(b) The uniform price applicable to other source milk shall be subject to the same adjustments applicable to the uniform price under paragraph (a) of this section, except that the adjusted uniform price shall not be less than the Class III price.

### § 1131.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1131.30(b) and 1131.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1131.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1131.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1131.60 for such handler shall include, in lieu of the value of other source milk specified in § 1131.60(f) less the value of such other source milk specified in § 1131.71(a)(2)(ii), a value of milk determined pursuant to § 1131.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1131.7(b), subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1131.30(b) and 1131.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(*c*) The value of milk determined pursuant to § 1131.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1131.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1131.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

### § 1131.77 Adjustment of accounts.

Whenever audit by the market administrator of any reports, books, records, or accounts or other verification discloses errors resulting in monies due (a) the market administrator from a handler, (b) a handler from the market administrator, or (c) any producer or cooperative association from a handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments set forth in the provisions under which such error occurred.

### § 1131.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to § 1131.71 or § 1131.77 relative to payments to the producer-settlement fund shall be increased one-half of 1 percent on the second day following the due date of such obligation and on the 15th day of each month thereafter until such obligation is paid.

## Administrative Assessment and Marketing Service Deduction

### § 1131.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1131.44(a)(7) and (11) and the corresponding steps of § 1131.44(b), except such other source milk that is excluded from the computa-



V 38 I 176
SEP 12 73
XUM

tions pursuant to § 1131.60 (d) and (f); and

(c) Class I milk disposed of from a partially regulated distributing plant as route disposition in the marketing area that exceeds the skim milk and butterfat subtracted pursuant to § 1131.76(a)(2).

**§ 1131.86 Deduction for marketing services.**

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers for milk (other than milk of his own production) pursuant to § 1131.73, shall deduct 5 cents per hundredweight, or such amount not exceeding 5 cents per hundredweight as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 15th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of their milk for producers who are not receiving such service from a cooperative association; and

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall (in lieu of the deduction specified in paragraph (a) of this section), make such deductions from the payments to be made to such producers as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 13th day after the end of each month, pay such deductions to the cooperative association of which such producers are members, furnishing a statement showing the amount of such deductions and the amount of milk for which such deduction was computed for each producer.

---

## PART 1132—MILK IN TEXAS PANHANDLE MARKETING AREA

**Subpart—Order Regulating Handling**

GENERAL PROVISIONS

Sec
1132.1 General provisions.

DEFINITIONS

1132.2 Texas Panhandle marketing area.
1132.3 [Reserved]
1132.4 [Reserved]
1132.5 Distributing plant.
1132.6 Supply plant.
1132.7 Pool plant.
1132.8 Nonpool plant.
1132.9 Handler.
1132.10 Producer-handler.
1132.11 [Reserved]
1132.12 Producer.
1132.13 Producer milk.
1132.14 Other source milk.
1132.15 Fluid milk product.
1132.16 Fluid cream product.
1132.17 Filled milk.
1132.18 Cooperative association.

HANDLER REPORTS

1132.30 Reports of receipts and utilization.
1132.31 Payroll reports.
1132.32 Other reports.

CLASSIFICATION OF MILK

1132.40 Classes of utilization.
1132.41 Shrinkage.
1132.42 Classification of transfers and diversions.
1132.43 General classification rules.
1132.44 Classification of producer milk.
1132.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1132.50 Class prices.
1132.51 Basic formula price.
1132.52 Plant location adjustments for handlers.
1132.53 Announcement of class prices.
1132.54 Equivalent price.

UNIFORM PRICE

1132.60 Handler's value of milk for computing uniform price.
1132.61 Computation of uniform price.
1132.62 Announcement of uniform price and butterfat differential.

PAYMENTS FOR MILK

1132.70 Producer-settlement fund.
1132.71 Payments to the producer-settlement fund.
1132.72 Payments from the producer-settlement fund.
1132.73 Payments to producers and to cooperative associations.
1132.74 Butterfat differential.
1132.75 Plant location adjustments for producers and on nonpool milk.
1132.76 Payments by handler operating a partially regulated distributing plant.
1132.77 Adjustment of accounts.
1132.78 Charges on overdue accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1132.85 Assessment for order administration.
1132.86 Deduction for marketing services.

ADVERTISING AND PROMOTION PROGRAM

1132.110 Agency.
1132.111 Composition of Agency.
1132.112 Term of office.
1132.113 Selection of Agency members.
1132.114 Agency operating procedure.
1132.115 Powers of the Agency.
1132.116 Duties of the Agency.
1132.117 Advertising, Research, Education and Promotion Program.
1132.118 Limitation of expenditures by the Agency.
1132.119 Personal liability.
1132.120 Procedure for requesting refunds.
1132.121 Duties of the market administrator.
1132.122 Liquidation.

AUTHORITY: The provisions of this Part 1132 issued under secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

GENERAL PROVISIONS

**§ 1132.1 General provisions.**

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

**§ 1132.2 Texas Panhandle marketing area.**

"Texas Panhandle marketing area," hereinafter called the "marketing area," means all of the territory within the counties of Armstrong, Briscoe, Carson, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hall, Hansford, Hartley, Hemphill, Hutchinson, Moore, Oldham, Ochiltree, Potter, Randall, Roberts, Sherman, Swisher, and Wheeler, all in the State of Texas, and Beckham in the State of Oklahoma.

**§ 1132.3 [Reserved]**

**§ 1132.4 [Reserved]**

**§ 1132.5 Distributing plant.**

"Distributing plant" means a plant which is approved by an appropriate health authority for the processing or packaging of Grade A milk and from which any fluid milk product is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants) located in the marketing area.

**§ 1132.6 Supply plant.**

"Supply plant" means a plant from which milk or skim milk which is acceptable to the appropriate health authority for distribution in the marketing area under a Grade A label is shipped during the month to a pool plant qualified pursuant to § 1132.7(a).

**§ 1132.7 Pool plant.**

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A distributing plant from which a volume of Class I milk, except filled milk:

(1) Not less than 50 percent of the Grade A milk received at such plant from dairy farmers, from handlers described in § 1132.9(c), and from other plants, is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants); and

(2) Not less than 15 percent of such receipts, or an average of not less than 10,000 pounds per day, whichever is less, is so disposed of to such outlets in the marketing area.

(b) A supply plant from which the volume of fluid milk products, except filled milk, shipped during the month to pool plants qualified pursuant to paragraph (a) of this section is not less than 50 percent of the Grade A milk received at such plant from dairy farmers and from handlers described in § 1132.9(c) during such month: *Provided*, That if such shipments are not less than 75 percent of the receipts of Grade A milk at such plant during the immediately preceding period of September through November, such plant may, upon written application to the market administrator on or before March 1 of any year, be designated as a pool plant for the months of March through June of such year.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A distributing plant meeting the requirements of paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which, the Secretary determines, a greater quantity of Class I milk, except filled milk, is disposed of during the month on routes in such other Federal order marketing area than was disposed of to retail and wholesale outlets (excluding pool plants) in this marketing area, except that if such plant was subject to all the provisions of this order in the immediately preceding month, it shall continue to be subject to all the provisions of this order until the third consecutive month in which a greater proportion of such Class I disposition is made in such other marketing area unless notwithstanding the provisions of this subparagraph it is regulated under such other order. On the basis of a written application made by the plant operator at least 15 days prior to the date for which a determination of the Secretary is to be effective, the Secretary may determine that the Class I dispositions in the respective marketing areas to be used for purposes of this subparagraph shall exclude (for a specified period of time) such Class I disposition made under limited term contracts to governmental bases and institutions;

(3) A distributing plant meeting the requirements of paragraph (a) of this section which also meets the pooling requirements of another Federal order on the basis of distribution in such other marketing area and from which, the Secretary determines, a greater quantity of Class I milk, except filled milk, is disposed of during the month to retail and wholesale outlets (excluding pool plants) in this marketing area than is disposed of on routes in such other marketing area but which plant is nevertheless fully regulated under such other Federal order; and

(4) That portion of a plant that is physically apart from the Grade A portion of such plant, is operated separately and is not approved by any health authorities for the receiving, processing, or packaging of any fluid milk product for Grade A disposition.

**§ 1132.8 Nonpool plant.**

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products in consumer-type packages or dispenser units are distributed on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants) in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products eligible for distribution in the marketing area are moved to a pool plant during the month, but which is neither an other order plant nor a producer-handler plant.

**§ 1132.9 Handler.**

"Handler" means:

(a) Any person who operates a pool plant;

(b) Any cooperative association with respect to milk of producers which is diverted pursuant to § 1132.13 for the account of such association;

(c) Any cooperative association with respect to milk of its member producers picked up at the farm for delivery to the pool plant of another handler in a tank truck owned or operated by such association or under control of such association, by contract or otherwise, in such a way that the association supervises and controls the determination of farm weights and tests of the milk of each of such member producers;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler; or

(f) Any person who operates an other order plant described in § 1132.7(c).

**§ 1132.10 Producer-handler.**

"Producer-handler" means any person who operates a dairy farm and a distributing plant but who receives no milk from other dairy farmers and who disposes of no fluid milk products in excess of his own milk production and fluid milk products received from pool plants.

**§ 1132.11 [Reserved]**

**§ 1132.12 Producer.**

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority, which milk is (1) received at a pool plant, or (2) diverted pursuant to § 1132.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1132.44(a)(8)(iii) and the corresponding step of § 1132.44(b); and

(3) Any person with respect to milk produced by him which is diverted from a pool plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk.

**§ 1132.13 Producer milk.**

"Producer milk" means the skim milk and butterfat in milk from a producer that is handled by a pool plant operator or a handler described in § 1132.9 (b) and (c) as follows:

(a) Producer milk of a handler operating a pool plant is skim milk and butterfat in milk:

(1) Diverted by the operator of such pool plant for his account to a nonpool plant that is not a producer-handler plant, subject to the limits prescribed in paragraph (d) of this section; and

(2) Received at such pool plant directly from producers and from a handler described in § 1132.9(c). If the handler to which the milk is delivered purchases the milk on the basis of weights determined by farm bulk tank calibration and butterfat tests determined from farm bulk tank samples, the entire truckload shall be considered a receipt of producer milk at the first plant of delivery.

(b) Producer milk of a handler described in § 1132.9(b) is skim milk and butterfat in milk received by such handler from producers' farms and diverted by such handler for its account to a nonpool plant that is not a producer-handler plant, subject to the limits prescribed in paragraph (d) of this section.

(c) Producer milk of a handler described in § 1132.9(c) is skim milk and butterfat in milk received by such handler from producers' farms in excess of the quantity delivered to pool plants. Such milk shall be priced to such handler at the location of the pool plant to which most of the milk in the tank truck was delivered during the month.

(d) Diverted milk is producer milk in any month only to the extent it meets conditions set forth in this paragraph:

(1) It is claimed as producer milk by the diverting handler in his report filed pursuant to § 1132.30;

(2) It is milk received from a dairy farmer who had producer status immediately prior to such diversion;

(3) It is not in excess of 15 days' production of each producer during any of the months July through February; and

(4) Such diverted producer milk shall be priced at the location of the pool plant where the producer's milk was last physically received.

**§ 1132.14 Other source milk.**

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1132.40(b)(1) from any source other than producers, handlers described in § 1132.9(c), pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1132.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1132.40 (b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1132.40(b)(1)) for which the handler fails to establish a disposition.

**§ 1132.15 Fluid milk product.**

(a) Except as provided in paragraph (b) of this section, "fluid milk product"







V 38-176
SEP 12 73
XUM

means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1132.40 (b) or (c)(1) (i) through (iv) if it contains by weight at least 80-percent water and 6.5 percent nonfat milk solids and less than 9-percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

**§ 1132.16 Fluid cream product.**

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

**§ 1132.17 Filled milk.**

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified, by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

**§ 1132.18 Cooperative association.**

"Cooperative association" means any cooperative marketing association which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members.

HANDLER REPORTS

**§ 1132.30 Reports of receipts and utilization.**

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1132.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1132.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition of fluid milk products in the marketing area.

(c) Each handler described in § 1132.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

**§ 1132.31 Payroll reports.**

(a) On or before the 20th day after the end of each month, each handler described in § 1132.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1132.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

**§ 1132.32 Other reports.**

(a) Each handler, except a producer-handler, shall report to the market administrator in detail and on forms prescribed by the market administrator:

(1) On or before the first day other source milk is received in the form of any fluid milk product at his pool plant(s), his intention to receive such product, and on or before the last day such product is received, his intention to discontinue receipt of such product; and

(2) Prior to his diversion of producer milk to a nonpool plant, his intention to divert such milk, the proposed date or dates of such diversion and the plant to which such milk is to be diverted.

(b) In addition to the reports required pursuant to §§ 1132.30 and 1132.31 and paragraph (a) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

**§ 1132.40 Classes of utilization.**

Except as provided in § 1132.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1132.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and





(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(v) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1132.15; and

(6) In shrinkage assigned pursuant to § 1132.41(a) to the receipts specified in § 1132.41(a)(2) and in shrinkage specified in § 1132.41 (b) and (c).

**§ 1132.41 Shrinkage.**

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1132.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1132.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1132.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b)(1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1132.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

**§ 1132.42 Classification of transfers and diversions.**

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1132.44(a)(12) and the corresponding step of § 1132.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1132.44(a)(7) or the corresponding step of § 1132.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1132.44 (a) (11) or (12) or the corresponding steps of § 1132.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an



No. 176—Pt. II——16

V 38-176 SEP 12 73 XUM

other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1132.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i)(*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1132.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition of fluid milk products in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

### § 1132.43 General classification rules.

In determining the classification of producer milk pursuant to § 1132.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1132.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1132.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1132.40, 1132.41, and 1132.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1132.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

### § 1132.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1132.9(a) for each of his pool plants separately and of each handler described in § 1132.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1132.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1132.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1132.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1132.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1132.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined.

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii)(*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the handler's total Class III utilization at his other pool plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler;

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1132.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12) (ii) and (iii) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1132.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler;

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received; and

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from any class that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be ad-







V 38 1176
SEP 12 73
XUM

justed to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1132.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

**§ 1132.45 Market administrator's reports and announcements concerning classification.**

The market administrator shall make the following reports and announcements concerning classifications:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1132.44(a)(12) and the corresponding step of § 1132.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1132.44 on the basis of such report and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 10th day after the end of each month, report to each cooperative association, which so requests, the percentage of the milk caused to be delivered by the cooperative association or by its members to the pool plant(s) of each handler during the month, which was utilized in each class. For the purpose of this report, the milk so delivered shall be allocated to each class for each handler in the same ratio as all producer milk received by such handler during the month.

CLASS PRICES

**§ 1132.50 Class prices.**

Subject to the provisions of § 1132.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.25.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month, but not to exceed an amount computed as follows:

(1) Multiply by 4.2 the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month;

(2) Multiply by 8.2 the weighted average of carlot prices per pound of spray process nonfat dry milk for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department; and

(3) From the sum of the amounts computed pursuant to paragraph (c) (1) and (2) of this section subtract 48 cents and round to the nearest cent.

**§ 1132.51 Basic formula price.**

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

**§ 1132.52 Plant location adjustments for handlers.**

(a) For that milk which is received from producers at a pool plant located 100 miles or more from the city hall, Amarillo, Tex., by the shortest hard-surfaced highway distance, as determined by the market administrator, and which is transferred to a distributing plant which is a pool plant in the form of a fluid milk product and assigned to Class I pursuant to paragraph (b) of this section, or otherwise classified as Class I milk, the price specified in § 1132.50(a) shall be reduced at the rate set forth in the following schedule according to the location of the plant where such milk is received:

| | *Rate per hundredweight (cents)* |
|---|---|
| Distance from the Amarillo City Hall (miles): | |
| 100 but less than 110 | 15.0 |
| For each additional 10 miles or fraction thereof an additional | 1.5 |

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee-plant, in excess of the sum of receipts at such plant from producers and handlers described in § 1132.9(c), and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

**§ 1132.53 Announcement of class prices.**

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

**§ 1132.54 Equivalent price.**

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICE

**§ 1132.60 Handler's value of milk for computing uniform price.**

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1132.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1132.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1132.44(a)(14) and the corresponding step of § 1132.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1132.74, that are applicable at the location of the pool plant;





(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1132.44(a)(9) and the corresponding step of § 1132.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1132.44(a)(7) (i) through (iv) and the corresponding step of § 1132.44 (b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1132.44(a)(7) (v) and (vi) and the corresponding step of § 1132.44 (b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1132.44(a)(11) and the corresponding step of § 1132.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

**§ 1132.61 Computation of uniform price.**

For each month the market administrator shall compute the uniform price for all milk of 3.5 percent butterfat content f.o.b. pool plants located within 100 miles of the City Hall of Amarillo, Tex., as follows:

(a) Combine into one total the values computed pursuant to § 1132.60 for all handlers who made the reports prescribed in § 1132.30 for such month, except those in default of payments required pursuant to § 1132.71 for the preceding month;

(b) Add an amount equal to the sum of the location adjustments to be made pursuant to § 1132.75;

(c) Add an amount equal to one-half of the unobligated cash balance in the producer-settlement fund;

(d) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1132.60(f); and

(f) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (e) of this section. The result shall be the "uniform price" for producer milk.

**§ 1132.62 Announcement of uniform price and butterfat differential.**

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 10th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

**§ 1132.70 Producer-settlement fund.**

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1132.71, 1132.76, and 1132.77, and from which he shall make all payments pursuant to §§ 1132.72 and 1132.77: *Provided,* That payments due to any handler shall be offset by payments due from such handler.

**§ 1132.71 Payments to the producer-settlement fund.**

(a) On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1132.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1132.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received plus 5 cents of other source milk for which a value is computed pursuant to § 1132.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which is allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

**§ 1132.72 Payments from the producer-settlement fund.**

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1132.71(a)(2) exceeds the amount computed pursuant to § 1132.71(a)(1). If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly per hundredweight such payments and shall complete such payments as soon as the appropriate funds are available.

**§ 1132.73 Payments to producers and to cooperative associations.**

Except as provided in paragraph (c) of this section, each handler shall make payment to each producer for milk received from such producer as follows:

(a) On or before the last day of each month, for milk received during the first 15 days of the month, at not less than the Class III price for the preceding month.

(b) On or before the 15th day after the end of each month, for milk received during such month, an amount computed at not less than the uniform price for hundredweight pursuant to § 1132.61, subject to the butterfat differential computed pursuant to § 1132.74, and plus or minus adjustments for errors made in previous payments to such producer; and less (1) payment made pursuant to paragraph (a) of this section, (2) location adjustments pursuant to § 1132.75, (3) deductions for marketing services pursuant to § 1132.86, and (4) proper deductions authorized by such producer: *Provided,* That if such handler has not received full payment for such month pursuant to § 1132.72 he may reduce uniformly per hundredweight for all producers his payments pursuant to this paragraph by an amount not in excess of the per hundredweight reduction in payment from the market administrator. The handler shall make such balance of payment to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payment is received from the market administrator.

(c) (1) Upon receipt of a written request from a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the cooperative association each handler shall pay to the cooperative association on or before the 26th and 13th days of each



V 38-176 SEP 12 73 XUM

month, in lieu of payments pursuant to paragraphs (a) and (b), respectively, of this section an amount equal to the sum of the individual payments otherwise payable to such producers. The foregoing payment shall be made with respect to milk of each producer whom the cooperative association certifies is a member effective on and after the first day of the calendar month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association.

(2) A copy of each such request, promise to reimburse and certified list of members shall be filed simultaneously with the market administrator by the cooperative association and shall be subject to verification at his discretion through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member, or by a handler, shall be made by written notice to the market administrator and shall be subject to his determination.

(3) Each handler who receives milk from a cooperative association which collects payments for its members pursuant to paragraph (c)(1) of this section shall, on or before the 20th of each month, furnish such association information showing the daily and total pounds milk received from each of the association's member producers for the first 15 days of such month and, on or before the fifth day after the end of each month, such information for the 16th through the end of such month.

(4) For producer milk received from a handler described in § 1132.9(c), each handler shall make payments as follows:

(i) On or before the 26th day of the month, a partial payment for milk received during the first 15 days of such month at not less than the amount specified in paragraph (a) of this section; and

(ii) On or before the 13th day of the following month, in final settlement, the value of such milk received during the month, at the applicable uniform price as adjusted pursuant to §§ 1132.74 and 1132.75, less the amount of payment made pursuant to paragraph (c)(4)(i) of this section.

(d) In making the payments to producers pursuant to paragraphs (b) and (c) of this section, each handler shall furnish each producer or cooperative association from whom he has received milk with a supporting statement in such form that it may be retained by the producer, which shall show:

(1) The month and identity of the handler and of the producer;

(2) The daily and total pounds and the average butterfat content of milk received from such producer;

(3) The minimum rate or rates at which payment to the producer is required pursuant to the order;

(4) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer or cooperative association.

### § 1132.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

### § 1132.75 Plant location adjustments for producers and on nonpool milk.

(a) In making payment pursuant to § 1132.73 the uniform price pursuant to § 1132.61 to be paid for milk which is received from producers at a pool plant located 100 miles or more from the City Hall, Amarillo, Tex., by the shortest hard-surfaced highway distance as determined by the market administrator shall be reduced at the rate set forth in the following schedule according to the location of the pool plant where such milk is received from producers:

| | *Rate per hundredweight (cents)* |
|---|---|
| Distance from the Amarillo City Hall (miles): | |
| 100 but less than 110 | 15.0 |
| For each additional 10 miles or fraction thereof an additional | 1.5 |

(b) For purposes of computations pursuant to §§ 1132.71 and 1132.72, the uniform price plus 5 cents shall be adjusted at the rates set forth in § 1132.52 applicable at the location of the nonpool plant from which the milk was received (but the resulting price shall not be less than the Class III price).

### § 1132.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1132.30(b) and 1132.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition of fluid milk products in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition of fluid milk products in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price plus 5 cents, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the uniform price plus 5 cents shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1132.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class purusant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1132.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1132.60 for such handler shall include, in lieu of the value of other source milk specified in § 1132.60(f) less the value of such other source milk specified in § 1132.71(a)(2)(ii), a value of milk determined pursuant to § 1132.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1132.7(b) subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1132.30(b) and 1132.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1132.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1132.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1132.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

### § 1132.77 Adjustment of accounts.

Whenever verification by the market administrator of payments by any handler discloses errors made in payments to the producer-settlement fund pursuant to § 1132.71, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, pursuant to § 1132.72, the market administrator shall, within 15 days, make such payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer or cooperative association for milk received by such handler discloses payment of less than is required by § 1132.73, the handler shall pay such balance due such producer or cooperative association not later than the time of making payment to producers or cooperative associations next following such disclosure.

### § 1132.78 Charges on overdue accounts.

There shall be added to any balance due the market administrator pursuant to §§ 1132.71, 1132.76, 1132.77, 1132.85, and 1132.86 an amount equal to one-half of 1 percent of such balance for each month or any portion thereof that payment of the balance is overdue.

## Administrative Assessment and Marketing Service Deduction

### § 1132.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1132.44(a)(7) and (11) and the corresponding steps of § 1132.44(b), except such other source milk that is excluded from the computations pursuant to § 1132.60(d) and (f); and

(c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds the skim milk and butterfat subtracted pursuant to § 1032.76(a)(2).

### § 1132.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 1132.73(b) shall deduct 6 cents per hundredweight or such lesser amounts as the Secretary may prescribe, with respect to all milk received by such handler from such producer (except such handler's own farm production), during the month, and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples, and tests of milk received by handlers from such producers during the month and to provide such producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) Producers' cooperative associations: In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and, on or before the 15th day after the end of each month, pay over such deductions to the association rendering such services.

## Advertising and Promotion Program

### § 1132.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1132.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

### § 1132.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1132.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1132.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall, nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1132.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.







V 38 1176 SEP 12 73 XUM

§ 1132.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

§ 1132.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative, who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1132.111 and paragraph (a) of this section.

(c) Selection of Agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

§ 1132.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

§ 1132.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions of this program within the scope of Agency authority pursuant to § 1132.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1132.110 and 1132.117.

§ 1132.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1132.110 and 1132.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

§ 1132.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

§ 1132.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1132.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

§ 1132.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1132.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.





§ 1132.121 Duties of the market administrator.

Except as specified in § 1132.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1132.113(c).

(b) Set aside the amounts subtracted under § 1132.61(d) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b)(2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1132.61(d).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1132.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1132.61(d) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1132.110 through 1132.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

§ 1132.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1132.70.

---

## PART 1138—MILK IN RIO GRANDE VALLEY MARKETING AREA

### Subpart—Order Regulating Handling

GENERAL PROVISIONS

Sec.
1138.1 General provisions.

DEFINITIONS

Sec.
1138.2 Rio Grande Valley marketing area.
1138.3 Route disposition.
1138.4 [Reserved]
1138.5 [Reserved]
1138.6 [Reserved]
1138.7 Pool plant.
1138.8 Nonpool plant.
1138.9 Handler.
1138.10 Producer-handler.
1138.11 [Reserved]
1138.12 Producer.
1138.13 Producer milk.
1138.14 Other source milk.
1138.15 Fluid milk product.
1138.16 Fluid cream product.
1138.17 Filled milk.
1138.18 Cooperative association.
1138.19 Accounting periods.

HANDLER REPORTS

1138.30 Reports of receipts and utilization.
1138.31 Payroll reports.
1138.32 Other reports.

CLASSIFICATION OF MILK

1138.40 Classes of utilization.
1138.41 Shrinkage.
1138.42 Classification of transfers and diversions.
1138.43 General classification rules.
1138.44 Classification of producer milk.
1138.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1138.50 Class prices.
1138.51 Basic formula price.
1138.52 Plant location adjustments for handlers.
1138.53 Announcement of class prices.
1138.54 Equivalent price.

UNIFORM PRICE

1138.60 Handler's value of milk for computing uniform price.
1138.61 Computation of uniform price.
1138.62 Announcement of uniform price and butterfat differential.

PAYMENTS FOR MILK

1138.70 Producer-settlement fund.
1138.71 Payments to the producer-settlement fund.
1138.72 Payments from the producer-settlement fund.
1138.73 Payments to producers and to cooperative associations.
1138.74 Butterfat differential.
1138.75 Plant location adjustments for producers and on nonpool milk.
1138.76 Payments by handler operating a partially regulated distributing plant.
1138.77 Adjustment of accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1138.85 Assessment for order administration.
1138.86 Deduction for marketing services.

ADVERTISING AND PROMOTION PROGRAM

1138.110 Agency.
1138.111 Composition of Agency.
1138.112 Term of office.
1138.113 Selection of Agency members.
1138.114 Agency operating procedure.
1138.115 Powers of the Agency.
1138.116 Duties of the Agency.
1138.117 Advertising, Research, Education and Promotion Program.
1138.118 Limitation of expenditures by the Agency.
1138.119 Personal liability.
1138.120 Procedure for requesting refunds.
1138.121 Duties of the market administrator.
1138.122 Liquidation.

AUTHORITY: The provisions of this Part 1138 issued under secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

GENERAL PROVISIONS

§ 1138.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1138.2 Rio Grande Valley marketing area.

"Rio Grande Valley marketing area," hereinafter called the "marketing area," means all the territory within the boundaries of the counties of Bernalillo, Chaves, Curry, De Baca, Dona Ana, Eddy, Grant, Guadalupe, Harding, Lea, Lincoln, Los Alamos, Luna, McKinley, Mora, Otero, Quay, Rio Arriba, Roosevelt, Sandoval, San Juan, San Miguel, Santa Fe, Sierra, Socorro, Taos, Torrance, Valencia, all in the State of New Mexico; El Paso in the State of Texas; and Archuleta, Montezuma, and La Plata, in the State of Colorado.

§ 1138.3 Route disposition.

"Route disposition" means any delivery to retail or wholesale outlets (including delivery by a vendor or a sale from a plant or plant store) of any fluid milk products classified as Class I milk, other than a delivery to a pool plant or nonpool plant.

§ 1138.4 [Reserved]

§ 1138.5 [Reserved]

§ 1138.6 [Reserved]

§ 1138.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) Any plant hereinafter referred to as a "distributing pool plant" in which fluid milk products are pasteurized or packaged and from which there is route disposition in the marketing area equal to not less than 15 percent of the total Class I sales of such plant, except filled milk, or 10,000 pounds daily (average), whichever is less: *Provided*, That the total quantity of Class I milk, except filled milk, disposed from such plant during the month is not less than 50 percent of such plant's receipts of Grade A milk, which receipts shall include all milk diverted from such pool plant to a nonpool plant by the handler operating such pool plant.

(b) Any plant hereinafter referred to as a "supply pool plant" from which during the month not less than 50 percent of its dairy farm supply of Grade A milk is moved to plants from each of which there is route disposition, except filled milk, equal to not less than 50 percent of its receipts of Grade A



V 38-176
SEP 12 73
XUM

milk during the month and route disposition, except filled milk, in the marketing area equal to at least 15 percent of such receipts or a daily average of 10,000 pounds, whichever is less.

(c) Any plant, hereinafter referred to as a "cooperative standby pool plant," which is operated by a cooperative association, and is located within the marketing area, if 50 percent or more of the milk delivered during the month by producers who are members of such association is delivered directly or is transferred by the association to pool plants of other handlers.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) Any plant qualified pursuant to paragraph (a) of this section which disposes of a lesser volume of Class I milk, except filled milk, in the Rio Grande Valley marketing area than in a marketing area where the handling of milk is regulated pursuant to another order issued pursuant to the Act, and which is subject to the classification and pricing provisions of such other order; and

(3) Any plant qualified pursuant to paragraph (b) of this section for any portion of the period March through July, inclusive, that the milk of producers at such plant is subject to the classification and pricing provisions of another order issued pursuant to the Act and the Secretary determines that such plant should be exempted from this part.

**§ 1138.8 Nonpool plant.**

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products eligible for distribution in the marketing area are moved to a pool plant qualified pursuant to § 1138.7 and which is not an other order plant nor a producer-handler plant.

**§ 1138.9 Handler.**

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) A cooperative association with respect to the milk of any member producer which such cooperative association causes to be diverted pursuant to § 1138.12 for the account of such cooperative association;

(c) A cooperative association with respect to the milk of its member producers which is received from the farm for delivery to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association, if the cooperative association notified the market administrator and the operator of the pool plant to whom the milk is delivered, in writing prior to the first day of the month in which the milk is delivered, that it elects to be a handler for such milk. For purposes of location adjustments to producers such milk is considered to have been received from producers by the cooperative association at the location of the pool plant to which it is delivered;

(d) Any person in his capacity as the operator of a nonpool plant from which there is route disposition in the marketing area; and

(e) Any person in his capacity as the operator of a nonpool plant from which Grade A milk as shipped to a pool plant pursuant to § 1138.7(a).

**§ 1138.10 Producer-handler.**

(a) "Producer-handler" means any person who processes and packages milk from his own farm production, who has route disposition within the marketing area consisting of any portion of such milk, and who receives no fluid milk products from other dairy farmers or from any source other than a pool plant and receipts from pool plants shall not be in excess of 11,000 pounds per month or, any person who processes and packages certified milk from his own farm production and disposes of such milk to another plant and who receives no milk from any source except his certified herd: *Provided*, That any person who desires to qualify as a producer-handler shall furnish to the market administrator for his verification, subject to review by the Secretary, evidence that the care and management of all the dairy animals and other resources necessary to produce the entire amount of fluid milk products handled (excluding receipts from pool plants) is the personal enterprise of and at the personal risk of such person and the operation of the processing and distribution business is the personal enterprise of and at the personal risk of the same person.

(b) In the case of a producer-handler of certified milk, the certified dairy herd and the milk plant in which the certified milk is handled shall be considered one business unit and shall not include milk which is delivered to other handlers' plants from a noncertified herd maintained on the same farm.

(c) A governmental agency which operates a milk, or filled milk plant shall be considered a producer-handler: *Provided*, That the plant operated by such agency shall be a pool plant if bulk milk is delivered during the month by such governmental agency to another plant which is a pool plant and a written request is filed by the agency with the market administrator asking that its plant be considered a pool plant. If such a plant is made a pool plant at the request of the governmental agency for one month and thereafter resumes the status of a nonpool plant it shall not be eligible for pool plant status again until it has been a nonpool plant for 12 consecutive months.

**§ 1138.11 [Reserved]**

**§ 1138.12 Producer.**

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk eligible for distribution as Grade A milk in compliance with the fluid milk product requirements of a duly constituted health authority, whose milk is:

(1) Received at a pool plant; or

(2) Diverted for the account of the diverting handler from a pool plant to a nonpool plant that is not a producer-handler plant, subject to the following conditions:

(i) A cooperative association may divert for its account the milk of any member producer, whose milk is received at a distributing pool plant for at least 3 days during the month, without limit during the other days of such month. However, the total quantity of milk so diverted may not exceed 25 percent in the months of March, April, May, June, July, and December and 15 percent in other months of its member producer milk received at all pool plants during the month. Diversions in excess of such percentages shall not be considered producer milk, and the diverting cooperative shall specify the dairy farmers whose milk is ineligible as producer milk. Two or more cooperative associations may have their allowable diversions computed on the basis of the combined deliveries of milk by their member producers provided each association has filed such a request in writing with the market administrator;

(ii) A handler in his capacity as the operator of a distributing pool plant may divert for his account the milk of any producer, other than a member of a cooperative association which has diverted milk pursuant to paragraph (a)(2)(i) of this section, whose milk is received at his pool plant for at least 3 days during the month, without limit during the other days of such month. However, the total quantity of milk so diverted may not exceed 25 percent in the months of March, April, May, June, July, and December and 15 percent in other months of the milk received at such pool plant during the month from producers who are not members of a cooperative association which has diverted milk pursuant to paragraph (a)(2)(i) of this section. Diversions in excess of such percentages shall not be considered producer milk, and the diverting handler shall specify the dairy farmers whose milk is ineligible as producer milk;

(iii) For purposes of the requirements of § 1138.7, milk diverted for the account of the operator of a pool plant shall be included in the receipts of the pool plant from which diverted; and





(iv) For the purposes of location adjustments pursuant to §§ 1138.52 and 1138.75, milk diverted to a nonpool plant shall be considered to have been received at the location of the pool plant from which diverted when the farm on which the milk is produced is located within the marketing area and at the location of the nonpool plant where received when the farm on which the milk is produced is located outside the marketing area.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1138.44(a)(8)(iii) and the corresponding step of § 1138.44(b); and

(3) Any person with respect to milk produced by him which is diverted from a pool plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk.

**§ 1138.13 Producer milk.**

"Producer milk" means all skim milk and butterfat in milk produced by a producer and received at a pool plant directly from producers or diverted pursuant to § 1138.12. Milk received at a pool plant from a handler described in § 1138.9(c) but not delivered to a pool plant shall be considered under this part as producer milk of such handler.

**§ 1138.14 Other source milk.**

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1138.40(b)(1) from any source other than producers, handlers described in § 1138.9(c), pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1138.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1138.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1138.40(b)(1) for which the handler fails to establish a disposition.

**§ 1138.15 Fluid milk product.**

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1138.40 (b) or (c)(1) (i) through (iv) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

**§ 1138.16 Fluid cream product.**

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

**§ 1138.17 Filled milk.**

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

**§ 1138.18 Cooperative association.**

"Cooperative association" means any cooperative marketing association which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members; and

(c) Has its entire activities under the control of its members.

**§ 1138.19 Accounting periods.**

A handler may account for receipts, utilization and classification of skim milk and butterfat at his pool plant(s) for two periods within a month, each period not to be less than 7 days, in the same manner as for a month if he provides to the market administrator in writing not less than 24 hours prior to the end of an accounting period notification of his intention to use two accounting periods.

HANDLER REPORTS

**§ 1138.30 Reports of receipts and utilization.**

On or before the eighth day after the end of each month, each handler shall report for the month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1138.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1138.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1138.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

**§ 1138.31 Payroll reports.**

(a) On or before the 20th day after the end of each month, each handler described in § 1138.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to



V 38-176 SEP 12 73 XUM

make payment pursuant to § 1138.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

**§ 1138.32 Other reports.**

In addition to the reports required pursuant to §§ 1138.30 and 1138.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

**§ 1138.40 Classes of utilization.**

Except as provided in § 1138.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1138.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(v) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1138.15; and

(6) In shrinkage assigned pursuant to § 1138.41(a) to the receipts specified in § 1138.41(a)(2) and in shrinkage specified in § 1138.41 (b) and (c).

**§ 1138.41 Shrinkage.**

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1138.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1138.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1138.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b)(1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1138.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

**§ 1138.42 Classification of transfers and diversions.**

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1138.44(a)(12) and the corresponding step of § 1138.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1138.44(a)(7) or the corresponding step of § 1138.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be





allocated pursuant to § 1138.44(a)(11) or (12) or the corresponding steps of § 1138.44(b), the skim milk or butterfat so transferred up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1138.40.

(c) *Transfers to producer-handlers.* Skim milk or butter fat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified;

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1138.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

**§ 1138.43 General classification rules.**

In determining the classification of producer milk pursuant to § 1138.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1138.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1138.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1138.40, 1138.41, and 1138.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk



V 38-176 SEP 12 73 XUM

solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1138.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

**§ 1138.44 Classification of producer milk.**

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1138.9(a) for each of his pool plants separately and of each handler described in § 1138.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1138.41(b);

(2) Subtract in the following order from the total pounds of skim milk in Class I:

(i) The pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(ii) The pounds of skim milk in receipts of packaged certified fluid milk products from a producer-handler if disposed of in the same form as received;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1138.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1138.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1138.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1138.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order that were not subtracted pursuant to paragraph (a)(2)(ii) of this section;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the handler's total Class III utilization at his other pool plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler;

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1138.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) of this section subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received;

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount





equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii) and (iii) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1138.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler;

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received; and

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from any class that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1138.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to paragraph (a)(14) of this section and the corresponding step of paragraph (b) of this section.

**§ 1138.45 Market administrator's reports and announcements concerning classification.**

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1138.44(a)(12) and the corresponding step of § 1138.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1138.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 13th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of producer milk delivered by members of such cooperative association to each handler receiving such milk. For the purpose of this report the milk so received shall be prorated to each class in accordance with the total utilization of producer milk by such handler.

CLASS PRICES

**§ 1138.50 Class prices.**

Subject to the provisions of § 1138.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $2.35.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month, but not to exceed an amount computed as follows:

(1) Multiply by 4.2 the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month;

(2) Multiply by 8.2 the weighted average of carlot prices per pound of spray process nonfat dry milk for human consumption, f.o.b. manufacturing plants in the Chicago area, as published for the period from the 26th day of the preceding month through the 25th day of the current month by the Department; and

(3) From the sum of the amounts computed pursuant to paragraph (c) (1) and (2) of this section subtract 48 cents and round to the nearest cent.

**§ 1138.51 Basic formula price.**

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92 score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

**§ 1138.52 Plant location adjustments for handlers.**

(a) For milk received from producers at a pool plant in Zone 1 (comprising the counties of Bernalillo, Dona Ana, Grant, Guadalupe, Harding, Lincoln, Los Alamos, Luna, McKinley, Mora, Otero, Rio Arriba, Sandoval, San Miguel, Santa Fe, Sierra, Socorro, Taos, Torrance, and Valencia, all in the State of New Mexico, and El Paso, Tex.), which is classified as Class I milk, the Class I price shall be the price computed pursuant to § 1138.50(a).

(b) For milk received from producers at a pool plant in Zone II (comprising the counties of Archuleta, La Plata, and Montezuma, Colorado, and San Juan, N. Mex.), and in Zone III (comprising the counties of Eddy, Chaves, Curry, De Baca, Lea, Quay, and Roosevelt, N. Mex.), which is classified as Class I milk or assigned Class I location adjustment



V 38-176
SEP 12 73
XUM

credit pursuant to paragraph (d) of this section, the Class I price shall be the price computed pursuant to § 1138.50 (a) minus 15 cents.

(c) For milk received from producers at a pool plant located outside the marketing area and more than 100 miles by the shortest highway distance, as determined by the market administrator, from the nearest of the county courthouses in Bernalillo or Santa Fe Counties, N. Mex., or El Paso, Tex., and which is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (c) of this section, the price computed pursuant to § 1138.50(a) shall be reduced by 15 cents and by an additional cent for each 10 miles or fraction thereof, that such distance calculated from the Bernalillo, Santa Fe, or El Paso County Courthouse, whichever is nearer, exceeds 110 miles.

(d) For purposes of calculating such adjustment, bulk transfers of fluid milk products between pool plants shall be assigned Class I disposition at the transferee-plant, in excess of the sum of receipts at such plant from producers and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(e) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraphs (b) and (c) of this section, except that the adjusted Class I price shall not be less than the Class III price.

**§ 1138.53 Announcement of class prices.**

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

**§ 1138.54 Equivalent price.**

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICE

**§ 1138.60 Handler's value of milk for computing uniform price.**

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1138.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1138.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1138.44(a)(14) and the corresponding step of § 1138.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1138.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1138.44(a)(9) and the corresponding step of § 1138.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1138.44(a)(7)(i) through (iv) and the corresponding step of § 1138.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1138.44(a)(7)(v) and (vi) and the corresponding step of § 1138.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1138.44(a)(11) and the corresponding step of § 1138.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

**§ 1138.61 Computation of uniform price.**

For each month the market administrator shall compute the uniform price per hundredweight for milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1138.60 for all handlers who filed the reports prescribed by § 1138.30 for the month and who made the payments pursuant to §§ 1138.71 and 1138.73 for the preceding month;

(b) Add an amount equal to the sum of the deductions for location adjustments computed pursuant to § 1138.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1138.60(f); and

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

**§ 1138.62 Announcement of uniform price and butterfat differential.**

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

**§ 1138.70 Producer-settlement fund.**

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1138.71, 1138.76 and 1138.77 and from which he shall make all payments pursuant to §§ 1138.72 and 1138.77: *Provided*, That any payments due any handler shall be offset by any payments due from such handler.

**§ 1138.71 Payments to the producer-settlement fund.**

(a) On or before the 13th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1138.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1138.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received plus 5 cents of other source milk for which a value is computed pursuant to § 1138.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such





route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

**§ 1138.72 Payments from the producer-settlement fund.**

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1138.71(a)(2) exceeds the amount computed pursuant to § 1138.71(a)(1). If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the funds are available.

**§ 1138.73 Payments to producers and to cooperative associations.**

Except as provided in paragraphs (c) and (e) of this section, each handler, except a cooperative association, shall make payment to each producer from whom milk is received as specified in paragraphs (a) and (b) of this section:

(a) On or before the last day of the month, to each producer who had not discontinued shipping milk to such handler before the 28th day of the month, a partial payment equal to the uniform price for the preceding month multiplied by the hundredweight of milk delivered during the first 15 days of the current month less authorized deductions.

(b) On or before the 16th day after the end of each month, for milk received during such month, an amount computed at not less than the uniform price per hundredweight pursuant to § 1138.61, as adjusted pursuant to §§ 1138.74 and 1138.75, plus or minus adjustments for errors made in previous payments to such producers and less (1) payments made pursuant to paragraph (a) of this section, (2) deductions for marketing services pursuant to § 1138.86 and (3) proper deductions authorized in writing by such producer: *Provided*, That if by such date such handler has not received full payment for such delivery period pursuant to § 1138.72 he may reduce his total payment to all producers uniformly by not more than the amount of reduction in payment from the market administrator; the handler shall, however, complete such payments not later than the date for making such payments pursuant to this paragraph next following receipt of the balance from the market administrator.

(c)(1) Upon receipt of a written request from a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the cooperative association each handler shall pay to the cooperative association on or before the second day prior to the date of payment to producers in lieu of payments pursuant to paragraphs (a) and (b), respectively, of this section an amount equal to the sum of the individual payments otherwise payable to such producers. The foregoing payment shall be made with respect to milk of each producer whom the cooperative association certifies is a member effective on and after the first day of the calendar month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association.

(2) A copy of each such request, promise to reimburse and certified list of members shall be filed simultaneously with the market administrator by the cooperative association and shall be subject to verification at his discretion, through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member, or by a handler, shall be made by written notice to the market administrator and shall be subject to his determination.

(d) In making payments to producers pursuant to paragraphs (b) and (c) of this section, each handler shall furnish each producer or cooperative association from whom he has received milk with a supporting statement which shall show for each month:

(1) The month and the identity of the handler and of the producer;

(2) The total pounds and the average butterfat content of milk received from such producer;

(3) The minimum rate or rates at which payment to such producer is required pursuant to this order;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer.

(e) Each handler who receives milk from a handler described in § 1138.9(c), shall, on or before the second day prior to the date payments are due individual producer, pay such cooperative association for such milk as follows:

(1) A partial payment in the amount specified in paragraph (a) of this section; and

(2) In making final settlement, the value of such milk at the applicable uniform price as adjusted pursuant to §§ 1138.74 and 1138.75, less the amount of partial payment made on such milk.

(f) Each handler who receives milk from producers for which payment is to be made to a cooperative association pursuant to paragraph (c) of this section shall report on or before the eighth day after the end of the month to such cooperative association with respect to each such producer, on forms approved by the market administrator, as follows:

(a) The days of delivery, the total pounds of milk, and the average butterfat test of milk received from such producer during the month;

(b) The amount or rate and nature of any deductions; and

(c) The amount of any payments due such producer pursuant to § 1138.77.

**§ 1138.74 Butterfat differential.**

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92 score) bulk butter per pound at Chicago, as reported by the Department for the month.

**§ 1138.75 Plant location adjustments for producers and on nonpool milk.**

(a) For producer milk received at pool plants located in Zones II and III or at pool plants located outside the marketing area and more than 100 miles, as determined by the market administrator, from the nearest of the county courthouses in El Paso County, Tex., or Bernalillo, or Santa Fe Counties, N. Mex., there shall be deducted an adjustment for each such plant for all milk at the rates specified pursuant to § 1138.52.

(b) For purposes of computations pursuant to §§ 1138.71 and 1138.72, the uniform price shall be adjusted at the rates set forth in § 1138.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted uniform price plus 5 cents shall not be less than the Class III price.

**§ 1138.76 Payments by handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1138.30(b) and 1138.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that sub-



V 38-176 SEP 12 73 XUM

tracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price plus 5 cents, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the uniform price plus 5 cents shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1138.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1138.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1138.60 for such handler shall include, in lieu of the value of other source milk specified in § 1138.60(f) less the value of such other source milk specified in § 1138.71(a)(2)(ii), a value of milk determined pursuant to § 1138.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1138.7(b) subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1138.30(b) and 1138.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1138.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1138.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1138.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

### § 1138.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts or other verification discloses errors resulting in moneys due a producer or the market administrator from such handler or due such handler from the market administrator, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments as set forth in the provisions under which such error occurred. Whenever such audit discloses errors resulting in moneys due such handler from the market administrator, payment shall be made on or before the next date for making payments as set forth in the provisions under which such error occurred.

### Administrative Assessment and Marketing Service Deduction

### § 1138.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 16th day after the end of the month 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to the milk described in paragraphs (a), (b), and (c) of this section. If a handler elects pursuant to § 1138.19 to use two accounting periods in any month, the applicable rate of assessment for such handler shall be the rate set forth above multiplied by two or such lesser rate as the Secretary may determine is demonstrated as appropriate in terms of the particular cost of administering the additional accounting period:

(a) Producer milk including such handler's own production;

(b) Other source milk allocated to Class I pursuant to § 1138.44(a)(7) and (11) and the corresponding steps of § 1138.44(b), except such other source milk that is excluded from the computations pursuant to § 1138.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1138.76(a)(2).

### § 1138.86 Deduction for marketing.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to producers other than himself for milk pursuant to § 1138.73, shall deduct 6 cents per hundredweight, or such lesser amount as may be prescribed by the Secretary, and shall pay such deductions to the market administrator on or before the 16th day after the end of the month. Such money shall be used by the market administrator to provide market information and to check the accuracy of the testing and weighing of milk for producers who are not receiving such services from a cooperative association.

(b) In the case of producers who are members of a cooperative association which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, such deductions from the payments to be made to producers as may be authorized by the membership agreement or marketing contract between the cooperative association and its members, and on or before the 16th day after the end of each month, the handler shall pay the aggregate amount





of such deductions to the cooperative association, furnishing a statement showing the amount of the deduction and the quantity of milk on which the deduction was computed from each producer.

### Advertising and Promotion Program

### § 1138.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1138.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

### § 1138.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1138.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers which have elected not to combine pursuant to § 1138.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group, in total, one agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1138.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives.

### § 1138.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

### § 1138.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1138.111 and paragraph (a) of this section.

(c) Selection of agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required five (5) percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for agency membership and shall conduct a referendum among the individual producers eligible to vote. The election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

### § 1138.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting.

### § 1138.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1138.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1138.110 and 1138.117.

### § 1138.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1138.110 and 1138.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

### § 1138.117 Advertising, Research, Education, and Promotion Program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

### § 1138.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1138.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recom-



V 38-176
SEP 12 73
XUM

mending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

**§ 1138.119 Personal liability.**

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

**§ 1138.120 Procedure for requesting refunds.**

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

**§ 1138.121 Duties of the market administrator.**

Except as specified in § 1138.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1138.113(c).

(b) Set aside the amounts subtracted under § 1138.61(d) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b) (2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1138.61(d).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1138.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1138.61(d) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to subparagraph (b) (2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1138.110 through 1138.122).

(d) Make necessary audits to establish that all Agency funds are used only for authorized purposes.

**§ 1138.122 Liquidation.**

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1138.70.

Signed at Washington, D.C., on August 27, 1973.

E. L. PETERSON,
*Administrator,*
*Agricultural Marketing Service.*

[FR Doc.73-18665 Filed 9-11-73;8:45 am]



V 38-176 SEP 12 73 XUM

# Would you like to know WHAT CHANGES HAVE BEEN MADE IN CERTAIN TITLES OF THE CODE OF FEDERAL REGULATIONS without reading the Federal Register every day? If so, you may wish to subscribe to the "List of CFR Sections Affected."

?

## List of CFR Sections Affected — $5.00 per year

The "List of CFR Sections Affected" is designed to lead users of the Code of Federal Regulations to amendatory actions published in the Federal Register, and is issued monthly in cumulative form. Entries indicate the nature of the changes.

*Also available on a subscription basis . . .*

## The Federal Register Subject Index — $3.00 per year

Subject Indexes covering the contents of the daily Federal Register are issued monthly, quarterly, and annually. Entries are carried primarily under the names of the issuing agencies, with the most significant subjects additionally carried in appropriate alphabetical position.

A finding aid is included at the end of each publication which lists Federal Register page numbers with the date of publication in the Federal Register.

Order from: Superintendent of Documents
U.S. Government Printing Office
Washington, D.C. 20402

**Note to FR Subscribers: FR Subject Indexes and the "List of CFR Sections Affected" will continue to be mailed free of charge to regular FR subscribers.**


V 38-176
SEP 12 73
XUM

V 38-177
SEP 13 73
XUM

177

federal register

September 13, 1973—Pages 25421–25654

THURSDAY, SEPTEMBER 13, 1973

WASHINGTON, D.C.

Volume 38 ■ Number 177

Pages 25421–25654

PART I

## HIGHLIGHTS OF THIS ISSUE

This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.

**STEEL PRICE INCREASES**—CLC issues Special Rule No. 1 under Phase IV regulations .. .... 25427

**OIL STORAGE FACILITIES**—EPA issues liability limits and size classes .. .... 25439

**OIL IMPORTS**—Interior Department amends allocation regulations .... .... .... 25437

**COMMERCIAL VEHICLE SAFETY**—DOT proposal to allow automatic devices for air brake systems; comments by 11–1–73 .. .... 25452

**MEDICAL ASSISTANCE**—
HEW proposal on Medicaid reimbursements for reasonable cost of inpatient hospital care; comments by 10–15–73 .... ..... 25450
HEW proposal on certain limited payments to providers of Medicare; comments by 10–15–73 .. .... 25448

**FINANCIAL ASSISTANCE PROGRAMS**—HEW amends provisions for determining need and amount of payments; effective 11–12–73 .. .. 25441

**MICROWAVE OVENS**—FDA notice of petition to amend performance standard ..... .. 25462

**SAVINGS AND LOANS**—
FHLBB amendments relating to certain certificate accounts; effective 9–7–73 .. .. 25433
FDIC amends percentage limitation on certain time deposits; effective 9–10–73 .... 25432

**AGRICULTURAL COMMODITIES**—Commerce Department amends export control regulations; effective 9–11–73 .. 25446

**UNCONCENTRATED NATURAL FRUIT JUICES**—Treasury Department proposes certain average Brix values; comments by 10–15–73 .. .. ..... .. ..... 25448

**PART II:**

**MILK MARKETING ORDERS**—USDA proposed amendments regarding classification and pricing for certain areas; comments by 10–15–73 ..... 25521

**PART III:**

**STATE ADULT EDUCATION PROGRAMS**—HEW notice of guidelines for Federal assistance plans; effective 10–15–73..... ..... .. .. .. 25651

(Continued inside)

# REMINDERS

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

### Rules Going Into Effect Today

This list includes only rules that were published in the FEDERAL REGISTER after October 1, 1972.

page no. and date

FAA—Designation of Federal airways, area low routes, controlled airspace, and reporting points ..... 16774; 6–26–73; 18363; 7–10–73; 18442; 7–11–73; 18642; 7–13–73; 18870–18871; 7–16–73; 19113; 7–18–73; 19215; 7–19–73; 19360–19361; 7–20–73; 19673; 7–23–73; 21492; 8–9–73; 22889; 8–27–73

—Designation of area high routes. 19815; 7–24–73

Airworthiness directives..... 21719; 8–14–73

Revocation, alternation and designation of Federal airways 21917; 8–14–73

—IFR altitudes; miscellaneous amendments ... 22373; 8–20–73

federal register

Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by the Executive Branch of the Federal Government. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $2.50 per month or $25 per year, payable in advance. The charge for individual copies is 20 cents for each issue, or 20 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.



### HIGHLIGHTS—Continued

**ENVIRONMENTAL PROTECTION**—USDA announces availability of statements (9 documents) ..... 25458–25461

**SODIUM SULFATE**—FDA notice of petition for GRAS status as washing ingredient for fruits and vegetables; comments by 11–12–73 ..... 25462

**COPPER TRIETHANOLAMINE**—
FDA establishment of food additive tolerance; effective 9–13–73 ..... 25437
EPA exemption from pesticide tolerance requirements; effective 9–13–73 ..... 25439

**ANTIBIOTICS**—FDA revokes eligibility for release of certain nystatin and hydrocortisone preparations; comments by 10–15–73 ..... 25462

**PESTICIDES**—EPA proposed tolerance for use in or on raw agricultural commodities; comments by 10–15–73 25455

**ANTIDUMPING**—Treasury Department determination on sales of polypropylene strapping from Japan ..... 25457

**COTTON TEXTILES**—CITA renews limitations on certain products from Ghana; effective 9–13–73 ..... 25466

**UNFAIR TRADE PRACTICES**—FTC issues cease and desist orders (3 documents)..... 25434–25436

**MEETINGS**—
DOD: Secretary of the Navy Audit Advisory Committee, 9–24–73 ..... 25457
AEC: High Energy Physics Advisory Panel, 10–3 and 4–73 ..... 25463

**RESCHEDULED MEETING**—
OMB: Business Advisory Council on federal reports, 10–17–73 ..... 25475

# Contents

**AGRICULTURAL MARKETING SERVICE**

Rules and Regulations

Valencia oranges grown in Arizona and designated part of Calif.; limitation of handling ..... 25431

Proposed Rules

Milk in the Chicago regional marketing area; recommended decision and opportunity to file written exceptions; correction ..... 25448
Milk in the Minnesota-North Dakota and certain other marketing areas; recommended decision and opportunity to file written exceptions on amendments to tentative marketing agreements and orders ..... 25221

**AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE**

Rules and Regulations

Sugarcane; Louisiana; fair and reasonable wage rates ..... 25427

**AGRICULTURE DEPARTMENT**

*See* Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Farmers Home Administration; Forest Service.

**ARMY DEPARTMENT**

Notices

Laurel River Lake, Ky.; joint order interchanging administrative jurisdiction of Department of the Army lands and National Forest Lands; correction ..... 25457

**ATOMIC ENERGY COMMISSION**

Notices

Meetings; High Energy Physics Advisory Panel ..... 25463
Public Service Electric and Gas Co.; order convening hearing .. 25463

**CIVIL AERONAUTICS BOARD**

Proposed Rules

U.S./Europe charter service; general rate policy ..... 25453

Notices

*Hearings, etc.:*
American Airlines, Inc. (2 documents) ..... 25464, 25465
Eastern Air Lines, Inc ..... 25466
International Air Transport Association ..... 25466
Surinaamse Luchtvracht Onderneming ..... 25466

**COAST GUARD**

Rules and Regulations

Drawbridge operation regulations:
Columbia and Snake Rivers, Wash ..... 25438
Gulf Intracoastal Waterway, Fla ..... 25438

Proposed Rules

Genesee River, N.Y.; drawbridge operation regulations ..... 25455

**COMMERCE DEPARTMENT**

*See* Domestic and International Business Administration; National Oceanic and Atmospheric Administration.

**COMMISSION ON REVISION OF THE FEDERAL COURT APPELLATE SYSTEM**

Notices

Realignment of Federal judicial circuits; notice of hearings ..... 25467

**COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS**

Notices

Certain cotton textile products produced or manufactured in Ghana; entry or withdrawal from warehouse for consumption ..... 25466

**COST OF LIVING COUNCIL**

Rules and Regulations

Phase IV price regulations; steel prices ..... 25427
Public access to records; corrections ..... 25427

**CUSTOMS SERVICE**

Proposed Rules

Certain fruit juices; determination of average Brix values ..... 25448

**DEFENSE DEPARTMENT**

*See* Army Department; Navy Department.

**DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION**

Rules and Regulations

Special commodity policies and provisions; requirement of special report for sales of certain agricultural products where country of export shipment is optional ..... 25446

**EDUCATION OFFICE**

Notices

State adult education programs; guidelines ..... 25651

**ENVIRONMENTAL PROTECTION AGENCY**

Rules and Regulations

Tolerances and exemptions from tolerances for pesticide chemicals in or on raw agricultural commodities; copper triethanolamine ..... 25439
Water programs; liability limits; small onshore storage facilities .. 25439

Proposed Rules

Dimethyl tetrachloroterephthalate; establishment of tolerance .. 25455

**FARMERS HOME ADMINISTRATION**

Notices

Washington; designation of emergency areas ..... 25458

*(Continued on next page)*



V 38-177 SEP 13 73 XUM

**FEDERAL AVIATION ADMINISTRATION**
Rules and Regulations
Transition area alteration; correction ... 25433
Proposed Rules
Certain technical standard orders (TSO's); deletion ... 25450
Transition areas; alteration and designation (2 documents) ... 25451, 25452

**FEDERAL DEPOSIT INSURANCE CORPORATION**
Rules and Regulations
Interest on deposits; percentage limitation on time deposits of $1,000 or more with maturities of 4 years or more ... 25432

**FEDERAL HIGHWAY ADMINISTRATION**
Proposed Rules
Automatic devices for reducing front-wheel braking effort on commercial motor vehicles ... 25452

**FEDERAL HOME LOAN BANK BOARD**
Rules and Regulations
Limitation on rate of return; certificate accounts of $1,000 or more ... 25433

**FEDERAL MARITIME COMMISSION**
Notices
Certificates of financial responsibility (oil pollution) certificates issued and revoked (2 documents) ... 25467, 25468
Med-Gulf conference; agreement filed ... 25469

**FEDERAL POWER COMMISSION**
Notices
*Hearings, etc.:*
Central Louisiana Electric Co. ... 25469
Connecticut Light & Power Co. ... 25469
Delmarva Power & Light Co. ... 25470
Duke Power Co. Inc ... 25470
Eason Oil Co. (2 documents) ... 25470, 25471
Interior Department et al ... 25471
Midwest Oil Corp ... 25472
Mobley, O. B ... 25473
Northern Natural Gas Co ... 25472
Northern Natural Gas Co. and El Paso Natural Gas Co ... 25473
Pennsylvania Power & Light Co. ... 25473
Southern Services Inc ... 25473
Texas Eastern Transmission Corp. and Florida Gas Transmission Co ... 25474
Toledo Edison Co ... 25474

**FEDERAL TRADE COMMISSION**
Rules and Regulations
Prohibited trade practices:
Argus Inc ... 25434
Postage Stamp Service Bureau, Inc., and Lee Struble ... 25435
Uniroyal Merchandising Co., Inc ... 25436

**FISH AND WILDLIFE SERVICE**
Rules and Regulations
Hunting; special regulations for individual wildlife refuge areas (14 documents) ... 25441–25445
Sport fishing; special regulations for individual refuge areas; Valentine National Wildlife Refuge, Nebr ... 25445

**FOOD AND DRUG ADMINISTRATION**
Rules and Regulations
Antibiotic drugs; exemption from labeling and certification requirements; nithiazide; revocation; correction ... 25437
Food additives permitted in food for human consumption; copper triethanolamine ... 25437
Notices
Abbott Laboratories; filing of petition for food additive ... 25467
Certain preparations containing nystatin and hydrocortisone or nystatin, iodochlorhydroxyquin, and hydrocortisone for topical use; drug efficacy study implementation; follow-up notice ... 25462
Microwave ovens; petition to amend performance standard ... 25462
Pennwalt Corp.; withdrawal of petition for food additives ... 25463
Stepan Chemical Co.; filing of petition for affirmation of GRAS status ... 25462

**FOREST SERVICE**
Notices
Availability of draft environmental statements for certain projects (9 documents) ... 25458–25461

**HEALTH, EDUCATION, AND WELFARE DEPARTMENT**
*See* Education Office; Food and Drug Administration; Health Resources Administration; Social and Rehabilitation Service; Social Security Administration.

**HEALTH RESOURCES ADMINISTRATION**
Notices
National Advisory Committees; meetings; correction ... 25463

**INTERIOR DEPARTMENT**
*See* Fish and Wildlife Service; Land Management Bureau; Oil and Gas office.

**INTERNAL REVENUE SERVICE**
Notices
Casualty losses; certain elections; extension of time ... 25457

**INTERSTATE COMMERCE COMMISSION**
Notices
Assignment of hearings ... 25483
Motor carrier, broker, water carrier and freight forwarder applications ... 25476
Motor carriers:
Board transfer proceedings ... 25483
Temporary authority applications ... 25484
Reading Co.; rerouting or diversion of traffic ... 25488

**LABOR DEPARTMENT**
Notices
Advisory Committee on Women; Establishment ... 25476

**LAND MANAGEMENT BUREAU**
Notices
California; proposed withdrawal and reservation of lands ... 25457
Grand Junction District Grazing Advisory Board; meeting ... 25458
Salem District Advisory Board; field tour ... 25458

**MANAGEMENT AND BUDGET OFFICE**
Notices
Business Advisory Council on Federal reports; change of date and place of meeting ... 25475

**NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION**
Notices
Quinlan Marine Attractions; withdrawal of undue economic hardship application ... 25461

**NAVY DEPARTMENT**
Notices
Secretary of the Navy Audit Advisory Committee; meeting ... 25457

**OIL AND GAS OFFICE**
Rules and Regulations
Oil import regulations; miscellaneous amendments ... 25437

**PANAMA CANAL ZONE**
Rules and Regulations
Fort Gulick Army Reservation; revision of boundary ... 25438

**SECURITIES AND EXCHANGE COMMISSION**
Notices
Royal Properties, Inc.; order suspending trading ... 25475
Stratton Group, Ltd.; order suspending trading ... 25475
Wade Fund, Inc.; application ... 25475

**SMALL BUSINESS ADMINISTRATION**
Notices
American Inner Urban Investment Corp., application for small business investment company license ... 25476
New Hampshire; disaster relief ... 25476

**SOCIAL AND REHABILITATION SERVICE**
Rules and Regulations
Coverage and conditions of eligibility in financial assistance programs; need and amount ... 25441
Proposed Rules
Medical assistance program; reasonable charges ... 25450

**SOCIAL SECURITY ADMINISTRATION**
Proposed Rules
Federal health insurance for the aged and disabled; reimbursement ... 25448

**TRANSPORTATION DEPARTMENT**
*See* Coast Guard; Federal Aviation Administration; Federal Highway Administration.

**TREASURY DEPARTMENT**
*See also* Customs Service; Internal Revenue Service.
Notices
Polypropylene strapping from Japan; antidumping; determination of sales at not less than fair value ... 25457






# List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month. In the last issue of the month the cumulative list will appear at the end of the issue.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1973, and specifies how they are affected.

**6 CFR**
102 ... 25427
150 ... 25427

**7 CFR**
864 ... 25427
908 ... 25431
PROPOSED RULES:
1030 ... 25448
1060 ... 25222
1061 ... 25222
1063 ... 25222
1064 ... 25222
1065 ... 25222
1068 ... 25222
1069 ... 25222
1070 ... 25222
1076 ... 25222
1078 ... 25222
1079 ... 25222

**12 CFR**
329 ... 25432
526 ... 25433

**14 CFR**
71 ... 25433
PROPOSED RULES:
37 ... 25450
71 (2 documents) ... 25451, 25452
399 ... 25453

**15 CFR**
376 ... 25446

**16 CFR**
13 (3 documents) ... 25434–25436

**19 CFR**
PROPOSED RULES:
151 ... 25448

**20 CFR**
PROPOSED RULES:
405 ... 25448

**21 CFR**
121 ... 25437
144 ... 25437

**32A CFR**
Ch. X:
O.I. Reg. 1 ... 25437

**33 CFR**
117 (2 documents) ... 25433
PROPOSED RULES:
117 ... 25455

**35 CFR**
5 ... 25438

**40 CFR**
113 ... 25439
180 ... 25440
PROPOSED RULES:
180 ... 25455

**45 CFR**
233 ... 25441
PROPOSED RULES:
250 ... 25450

**49 CFR**
PROPOSED RULES:
393 ... 25452

**50 CFR**
32 (14 documents) ... 25441–25445
33 ... 25445



V 38 - 177 SEP 13 73 XUM

# Rules and Regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

## Title 6—Economic Stabilization

## CHAPTER I—COST OF LIVING COUNCIL

## PART 102—PUBLIC ACCESS TO RECORDS

### Miscellaneous Amendments; Corrections

The document reissuing Part 102 of Chapter I of Title 6 of the Code of Federal Regulations, published in the FEDERAL REGISTER on August 15, 1973, at 38 FR 21972, is corrected by changing the reference: (1) in § 102.21 from "§§ 102.-10 through 102.12" to "§§ 102.11 through 102.13"; (2) in § 102.21(b)(2) from "102.-40" to "102.41"; (3) in § 102.31(a) from "§ 102.21" to "§ 102.22"; and (4) in § 102.-71(a) from "as last amended by the Economic Stabilization Act Amendments of 1972" to "as last amended by the Economic Stabilization Act Amendments of 1973".

JAMES W. MCLANE,
*Deputy Director,*
*Cost of Living Council.*

[FR Doc.73-19562 Filed 9-11-73;12:34 pm]

## PART 150—COST OF LIVING COUNCIL PHASE IV PRICE REGULATIONS

### Special Rule No. 1

Special Rule No. 1 governing certain steel price increases is being issued pursuant to the authority of § 150.220 of the Phase IV price regulations.

The Cost of Living Council conducted public hearings on August 30 and 31, 1973, to take testimony with respect to the impact on the economy of proposed price increases by the steel industry. The Council, having reviewed the hearing record, considered other data presented to the Council and having analyzed the Notices of Proposed Price Increases submitted to the Council, has concluded that, notwithstanding the fact that the proposed price increases were generally cost justified, the implementation at this time, of full price increases for flat rolled steel products as well as proposed price increases on other blast furnace, steel work and steel rolling and finishing mill products would be of such magnitude and would have such an impact upon the economy as to be unreasonably inconsistent with the goals of the Economic Stabilization Program. Therefore, pursuant to the authority of § 150.154 of the Phase IV price regulations, the Council has concluded that orders must be issued deferring the price increases prenotified by firms in the steel industry. By virtue of this special rule, the Council is setting forth the general terms and conditions which it will apply to these proposed steel price increases. The Council will supplement this special rule by individual decisions and orders issued to the firms which have filed prenotifications. These decisions and orders will implement the general provisions of this special rule as to each such individual firm in a manner consistent with the special rule.

In consideration of the foregoing, Title 6, Code of Federal Regulations is amended as set forth below.

(Economic Stabilization Act of 1970, as amended, Pub. L. 92-210, 85 Stat. 743; Pub. L. 93-28, 87 Stat. 27; E.O. 11695, 38 FR 1473; E.O. 11730, 38 FR 19345; Cost of Living Council Order No. 14; 38 FR 1489.)

Issued in Washington, D.C., on September 10, 1973.

JOHN T. DUNLOP,
*Director,*
*Cost of Living Council.*

Subpart J is amended by adding an Appendix which reads as follows:

APPENDIX

SPECIAL RULE NUMBER 1

1. *Scope.*—This special rule applies to all firms which have prenotified proposed price increases for any steel product in Standard Industrial Code Number 331.

2. *Flat rolled steel products.*—Proposed price increases for flat rolled steel products may be implemented in accordance with the provisions of this paragraph.

a. No firm may place into effect a price increase on any flat rolled steel product prior to October 1, 1973.

b. Effective October 1, 1973, firms may increase prices above base prices for flat rolled steel products which do not exceed, on the average, a dollar-for-dollar pass through of one half of that portion of the allowed prenotified price increase above average prices charged during the most recent accounting period.

c. Effective January 1, 1974, firms may increase prices above base prices for flat rolled steel products which reflect the balance of the allowed prenotified price increases filed by those firms.

d. Any such increases put into effect must comply with the provisions of § 150.74 of the Phase IV price regulations.

3. *Other products.*—No firm shall place into effect a price increase for any steel product identified in Standard Industrial Code Number 331 other than flat rolled steel products. Price Category I firms may file notices of proposed price increases governing such other products on or before December 1, 1973. The 30-day prenotification period with respect to such filings will commence on December 1, 1973, or the date of the filing of the notice of proposed price increase with the Council, whichever is later.

4. *Price monitoring plans.*—Firms increasing prices for flat rolled steel products pursuant to this special rule and a decision and order of the Council shall file with the Council a price monitoring plan describing the percent and dollar amount of price increases and estimated weighted average price increase. This plan shall be filed by October 30, 1973.

5. *Decisions and orders.*—The Council will issue to each firm prior to October 1, 1973, a decision and order specifying implementation of allowed price increases for flat rolled steel products in accordance with the provisions of this special rule.

6. *Reservation.*—This rule may be modified, revoked or otherwise altered by the Council in accordance with the provisions of the Phase IV price regulations.

[FR Doc.73-19563 Filed 9-11-73;12:34 am]

## Title 7—Agriculture

## CHAPTER VIII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (SUGAR), DEPARTMENT OF AGRICULTURE

## SUBCHAPTER H—DETERMINATION OF WAGE RATES

[Docket No. SH-317]

## PART 864—SUGARCANE; LOUISIANA

### Fair and Reasonable Wage Rates

The Sugar Act requires Louisiana sugarcane producers, as one of the conditions with which they must comply to be eligible for government payments under the act, to pay all workers employed in the production, cultivation, and harvesting of sugarcane in full at not less than minimum wage rates determined by the Secretary of Agriculture to be fair and reasonable. Such determination may not be made until after investigation and opportunity for interested persons to testify on whether the wage rates established under the previous year's determination continue to be fair and reasonable or whether such determination should be amended. A public hearing was held at Houma, Louisiana, on June 5, 1973.

The determination, which becomes effective on September 17, 1973, increases the minimum wage rate for operators of mechanical equipment by 15 cents per hour, and the minimum for hand labor is increased by 10 cents per hour.

Pursuant to the provisions of section 301(c)(1) of the Sugar Act of 1948, as amended (herein referred to as "act"), after investigation and consideration of the evidence obtained at the public hearing held in Houma, La., on June 5, 1973, the following determination is hereby issued. The regulations previously appearing in these sections under "Determination of Wage Rates; Sugarcane; Louisiana" remain in full force and effect as to the crops to which they were applicable.



V 38-177 SEP 13 73 XUM

Sec.

864.23 Requirements.
864.24 Applicability of wage requirements.
864.25 Payment of wages.
864.26 Evidence of compliance.
864.27 Subterfuge.
864.28 Claim for unpaid wages.
864.29 Failure to pay all wages in full.
864.30 Checking compliance.


AUTHORITY: Secs. 301, 403, 61 Stat. 929, as amended, 932 (7 U.S.C. 1131, 1153).

### § 864.23 Requirements.

A producer of sugarcane in Louisiana shall be deemed to have complied with the wage provisions of the act if all persons employed on the farm in production, cultivation, or harvesting work, as provided in § 864.24, shall have been paid in accordance with the following:

(a) *Wage rates.*—All such persons shall have been paid in full for all such work and shall have been paid wages in cash therefor at rates required by existing legal obligations, regardless of whether those obligations resulted from an agreement (such as a labor union agreement) or were created by State or Federal legislative action, or at rates as agreed upon between the producer and the worker, whichever is higher, but not less than the following, which shall become effective on September 17, 1973, and shall remain in effect until amended, superseded, or terminated:

(1) *Work performed on a time basis.*

| Class of worker: | Rate per hour |
|---|---|
| Harvest work: | |
| Harvester, loader, and transfer loader operators | 2.10 |
| Tractor drivers, truck drivers, harvester bottom blade operators, and hoist operators | 2.05 |
| All other harvesting workers | 1.90 |
| Production and cultivation work: | |
| Tractor drivers | 2.00 |
| All other production and cultivation workers | 1.90 |

(2) *Workers 14 and 15 years of age and full-time students when employed on a time basis.*—For workers 14 and 15 years of age and full-time students 14 years of age or older employed on a part-time basis (not to exceed 20 hours in any work week during the time school is in session) or on a part-time or a full-time basis during school vacations, the rate shall be not less than 85 percent of the applicable hourly rate for the class of worker prescribed in paragraph (a) (1) of this section. (The act provides that the employment of workers under 14 years of age, or the employment of workers 14 and 15 years of age for more than 8 hours per day, will result in a deduction from Sugar Act payments to the producer.)

(3) *Handicapped workers when employed on a time basis.*—The wage rate for workers certified by the Regional Director, Wage and Hour Division, U.S. Department of Labor, 1931 Ninth Avenue South, Birmingham, Ala. 35205, to be handicapped because of age or physical or mental deficiency or injury, and whose productive capacity is thereby impaired, shall be not less than 75 percent of the applicable hourly rate for the class of worker prescribed in subparagraph (1) of this paragraph.

(4) *Work performed on a piecework basis.*—The piecework rate for any operation shall be as agreed upon between the producer and the worker. The hourly rate of earnings of each worker employed on piecework during each pay period (not to be in excess of two weeks) shall average for the time worked at piecework rates during such pay period not less than the applicable hourly rate for the class of worker prescribed in paragraph (a) (1), (2), and (3) of this section.

(b) *Compensable working time.*—For work performed under paragraph (a) of this section, compensable working time commences at the time the worker is required to start work and ends upon completion of work in the field, except time taken out for meals during the working day. If the producer requires the operator of mechanical equipment, driver of animals, or any other class of worker to report to a place other than the field, such as an assembly point or a tractor shed located on the farm, the time spent in transit from such place to the field and from the field to such place is compensable working time. Time spent in performing work directly related to the principal work performed by the worker, such as servicing equipment, is compensable working time. Time of the worker while being transported from a central recruiting point or labor camp to the farm is not compensable working time.

(c) *Equipment necessary to perform work assignment.*—The producer shall furnish without cost to the worker any equipment required in the performance of any work assignment. The worker may be charged for the cost of such equipment in the event of its loss or destruction through negligence of the worker. Equipment includes, but is not limited to, hand and mechanical tools and special wearing apparel, such as boots and raincoats, required to discharge the work assignment.

### § 864.24 Applicability of wage requirements.

The wage requirements of this part apply to all persons who are employed or who work on the farm in operations directly connected with the production, cultivation, or harvesting of sugarcane on any acreage from which sugarcane is marketed or processed for the production of sugar, harvested for seed or any acreage which qualifies as bona fide abandoned. Such persons include field overseers or supervisors while directing other workers, and those workers employed by an independent contractor who perform services on the farm. The wage requirements are not applicable to persons who voluntarily perform work without pay on the farm for a religious or charitable institution or organization; inmates of a prison who work on a farm operated by the prison; truck drivers employed by a contractor engaged only in hauling sugarcane; members of a cooperative arrangement among producers for the exchange of labor to be performed by themselves or members of their families; persons who have an agreement with the producer to perform all work on a specified acreage in return for a share of the crop or crop proceeds if such share, including the share of any Sugar Act payments, results in earnings at least as much as would otherwise be received in accordance with the requirements of this part for the work performed; custom operators or independent contractors and members of their immediate families; or workers performing services which are indirectly connected with the production, cultivation, or harvesting of sugarcane, including but not limited to mechanics, welders, and other maintenance workers and repairmen.

### § 864.25 Payment of wages.

Workers shall be paid by check or in currency for all work performed, except to the extent that the cash payment is reduced by the following deductions: Cash advances made to the worker by the producer; the market value or the amount agreed upon for supplies furnished by the producer at the request of the worker; meals, lodging, and transportation expense which the producer agreed to furnish for a stated amount; and mandatory deductions such as taxes and Social Security contributions. In addition, a producer may deduct the amounts he has paid to a third party on behalf of the worker in connection with his employment as a farm worker which are acknowledged in writing signed by the worker or his agent or substantiated by other evidence acceptable to the county ASC committee to be an indebtedness of the worker, and which cover the expense of services and benefits furnished the worker by the third party, and which the worker or his agent has agreed may be deducted from his wages, such as public utilities, medical services, group hospitalization or other insurance for the benefit of the worker. As evidence of payments to a third party for which a deduction is made from the earnings of a worker, the producer shall maintain for a period of 3 years, for the inspection of the worker and the local county ASCS office, receipted bills or other written satisfactory evidence that support such deductions. Payments made to a labor contractor, supervisor, or labor trainer, or the cost of meals, lodging, transportation, and insurance covering injury or illness resulting from employment, any or all of which the producer agreed to furnish the worker free of charge, shall not be deducted from cash wages due the worker. When any deductions are made, the producer shall furnish to the worker, at time of settlement, a statement showing the gross amount of wages due for work performed and the amount of each deduction properly identified.

### § 864.26 Evidence of compliance.

Each producer subject to the provisions of this part shall keep and preserve, for a period of 3 years following the date on which his application for a Sugar Act payment is filed, such wage records as will demonstrate that each worker has been paid in full in accordance with the requirements of this part. Wage records should set forth dates work was performed, the class of work performed, units of work (piecework or hours), agreed upon rates per unit of work, total earnings and any permissible deductions, and the amount paid each worker. The producer shall furnish upon request to the appropriate Agricultural Stabilization and Conservation County Committee such records or other evidence as may satisfy such committee that the requirements of this part have been met.





### § 864.27 Subterfuge.

The producer shall not reduce the wage rates to workers below those determined in accordance with the requirements of this part through any subterfuge or device whatsoever.

### § 864.28 Claim for unpaid wages.

Any person who believes he has not been paid in accordance with this part may file a wage claim with the local Agricultural Stabilization and Conservation County Committee against the producer on whose farm the work was performed. Such claim must be filed on Form SU–191, entitled "Claim Against Producer for Unpaid Wages" within 2 years from the date the work with respect to which the claim is made was performed. Detailed instructions and Forms SU–191 are available at the local county ASCS office. Upon receipt of a wage claim the county office shall thereupon notify the producer against whom the claim is made concerning the representation made by the worker. The county ASC committee shall arrange for such investigation as it deems necessary and the producer and worker shall be notified in writing of its recommendation for settlement of the claim. If either party is not satisfied with the recommended settlement, an appeal may be made to the Louisiana State Agricultural Stabilization and Conservation Committee, 3737 Government Street, Alexandria, La. 71303, which shall likewise consider the facts and notify the producer and worker in writing of its recommendation for settlement of the claim. If the recommendation of the State ASC committee is not acceptable either party may file an appeal with the Deputy Administrator, Programs, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250. All such appeals shall be filed within 15 days after the date the written notice of the recommended settlement is mailed by the respective committee, otherwise such recommended settlement will be applied in making payments under the act. If a claim is appealed to the Deputy Administrator, Programs, his decision shall be binding on all parties insofar as payments under the act are concerned. Appeals procedures are set forth and explained fully in Part 780 of this title.

### § 864.29 Failure to pay all wages in full.

(a) Notwithstanding the provisions of this part requiring that all persons employed on the farm in the production, cultivation, or harvesting of sugarcane be paid in full for all such work as one of the conditions to be met by a producer for payment under the act, if the producer has failed to meet this condition but has met all other conditions, a portion of such payment, representing the remainder after deducting from the payment the amount of accrued unpaid wages, may be disbursed to producer(s) upon a determination by the county committee (1) that the producer has made a full disclosure to the county committee or its representatives of any known failure to pay all workers on the farm wages in full as a condition for payment under the Sugar Act; and (2) that either (i) the failure to pay all workers their wages in full was caused by the financial inability of the producer, or (ii) the failure to pay all workers in full was caused by an inadvertent error or was not the fault of the producer or his agent, and the producer has used reasonable diligence to locate and to pay in full the wages due all such workers. If the county committee makes the determination as heretofore provided in this paragraph, such committee shall cause to be deducted from the payment for the farm the full amount of the unpaid wages which shall be paid promptly to each worker involved if he can be located, otherwise the amount due shall be held for his account, and the remainder of the payment for the farm, if any, shall be made to the producer. If the county committee determines that the producer did not pay all workers in full because of an inadvertent error that was not discovered until after he received his Sugar Act payment, the producer shall be placed on the claims control record for the total amount of the unpaid wages.

(b) Except as provided in paragraph (a) of this section, if upon investigation the county committee determines that the producer failed to pay all workers on the farm the required wages, the entire Sugar Act payment with respect to such farm shall be withheld from the producer until such time as evidence is presented to the county committee which will satisfy the county committee that all workers have been paid in full the wages earned by them; or if unpaid workers cannot be located and the county committee determines that the producer used reasonable diligence to locate such workers, the amounts of unpaid wages shall be deducted from the Sugar Act payment computed for the farm and the balance released to the producer after the expiration of 1 year from the date payment would otherwise be made. If payment had been made to the producer prior to the county committee's determination that all workers on the farm have not been paid in full, the producer shall be placed on the claims control record for the total payment until the county committee determines that all workers on the farm have been paid in full, the producer refunds the entire amount of the debt, or a setoff in the amount of the debt is made from a program payment otherwise due the producer, or the county committee after determining that the producer used reasonable diligence to locate such workers has recovered from such producer the amount of unpaid wages computed for the farm.

### § 864.30 Checking compliance.

The procedures to be followed by county ASCS offices in checking compliance with the wage requirements of this part are set forth under the heading "Wage Rate Determinations" in Handbook 3–SU, issued by the Deputy Administrator, Programs, Agricultural Stabilization and Conservation Service. Handbook 3–SU may be inspected at local county ASCS offices, and copies may be obtained from the Louisiana State ASCS Office, 3737 Government Street, Alexandria, La. 71303.

STATEMENTS OF BASES AND CONSIDERATIONS

*General.*—The foregoing determination provides fair and reasonable wage rates to be paid for work performed by persons employed on the farm in the production, cultivation, or harvesting of sugarcane in Louisiana as one of the conditions with which producers must comply to be eligible for payments under the act.

*Requirements of the act and standards employed.*—Section 301(c)(1) of the act requires that all persons employed on the farm in the production, cultivation, or harvesting of sugarcane with respect to which an application for payment is made, shall have been paid in full for all such work, and shall have been paid wages therefor at rates not less than those that may be determined by the Secretary to be fair and reasonable after investigation and due notice and opportunity for public hearing, and in making such determinations, the Secretary shall take into consideration the standards therefor formerly established by him under the Agricultural Adjustment Act, as amended (i.e., cost of living, prices of sugar and by-products, income from sugarcane, and cost of production), and the differences in conditions among various sugar-producing areas.

*Wage determination.*—This determination differs from the prior determination in that minimum hourly wage rates are increased by 15 cents per hour for all operators of mechanical equipment and by 10 cents per hour for unskilled workers. The new minimum hourly wage rates established for work during the harvest season are $2.10 for harvester, loader, and transfer loader operators; $2.05 for tractor and truck drivers, and harvester bottom blade and hoist operators; and $1.90 for all other workers. During the production and cultivation season, minimum wages are $2.00 for tractor drivers and $1.90 for all other workers. Other provisions of the prior determination continue unchanged.



V 38 N 177 SEP 13 73 XUM

A public hearing was held in Houma, La., on June 5, 1973, at which interested persons were afforded the opportunity to testify on whether the wage rates established for Louisiana sugarcane fieldworkers in the wage determination which became effective on October 23, 1972 (the effective date of which was changed to October 1, 1972—see 38 FR 18453), continue to be fair and reasonable under the circumstances, or whether such determination should be amended.

Witnesses appearing at the public hearing on behalf of sugarcane fieldworkers recommended a minimum wage rate of $3.53 per hour for all workers. Several witnesses recommended that one wage scale prevail for both harvesting and cultivating seasons. Others recommended that Louisiana sugarcane fieldworkers' wages be made equal to cane workers' wages in Florida; that workers be paid time and one-half for overtime along with some vacation pay; that workers be given a paid holiday in order to attend the wage hearings; and that the Department require that sugarcane workers who are paid on an hourly basis be paid every two weeks.

Several worker representatives indicated that the Secretary should appoint an independent commission to investigate living and working conditions of Louisiana sugarcane workers before the 1973 crop determination is made and that it be part of the hearing officers' responsibility to visit farms and homes of growers and workers.

Worker representatives further recommended that the Department enforce minimum Federal Standards for housing; that the perquisites provision for housing conditions that was removed from the wage determination in 1955 be reintroduced; that the Department enforce Federal Occupational Safety and Health legislation in harvesting of cane; and that the Department adopt a provision making health and life insurance mandatory for machine operators at minimal cost to the worker.

In support of their recommendations on wage rates, worker representatives testified that a Louisiana sugarcane worker works an average of 1,756 hours a year, has an average family consisting of 7 persons, and therefore, under current poverty guidelines established by the Department of Labor, should expect to earn at least $3.53 an hour in order to survive at the poverty level; and that it was not reasonable for the Federal Government to establish a poverty level and then establish wages below the poverty level in an industry it controls; that the workers' living conditions are substandard, they are deprived of adequate education, and consequently undergo social dehumanization. They further testified that the increase in the cost of living is currently about 9 percent, annually, and that the food component of the cost of living is increasing at an annual rate of 20 percent since October 1972.

With regard to other recommendations, worker representatives testified that many workers were injured and several died as a result of harvest-related accidents during the 1972 crop; that workers are at a disadvantage at the wage hearings because their ability to appear is curtailed by transportation cost and loss of income when taking off work to attend; and that surveys have shown poor housing conditions on farms in the cane area, about which more detailed information will be presented at next year's hearing.

Representatives of sugarcane producers recommended that there be no change in the number of worker classifications for production and cultivation and harvest work; and that equipment operators cutting and loading seed cane be included with tractor drivers under a general classification to be entitled "Production and Cultivation and Planting Work." They also recommended that the minimum rate for equipment operators be increased by 10 cents to rates ranging from $1.95 to $2.05, and that rates for unskilled workers be increased by 5 cents to $1.85 per hour; that field overseers and supervisors be excluded from the minimum wage determination; and that the determination provide a minimum rate for full-time students and workers 14 and 15 years of age of not less than 80 percent of the applicable hourly rate, as opposed to the current 85 percent minimum.

In support of the recommendation that harvester and loader operators engaged in the cutting of seed cane be classified as skilled production and cultivation workers rather than skilled harvest workers, the grower representatives stated that planting is a part of production and not a part of harvest; that workers engaged in planting operations are not working under the same continuous pressure as those cutting or loading cane during the harvest season; that planting work is performed under considerably better weather conditions than harvesting work; and that the higher wage during harvesting is desirable as an incentive to minimize absenteeism.

In support of their other recommendations, growers testified that field overseers or supervisors are relatively well-paid salaried employees whose wages are well above the minimums set by the Department, but who have no well-defined working hours which presents difficulty in keeping time records; that full-time students and workers 14 and 15 years of age are usually assigned work that is supplemental and normally would not be economically justified if performed by adult workers at the specified wage rates; that the 10 cents per hour wage increase for operators of mechanical equipment would approximate the increase in the cost of living; and that the recommended increase of 5 cents per hour for the categories of "all other workers" is actually not economically justifiable and could price workers out of the labor market because the value of the worker's service may not equal the wage.

One witness, testifying on behalf of the American Sugar Cane League, presented an analysis of economic conditions on Louisiana sugarcane farms. He stated that wage rates have been increased every year since 1961 even in years of adverse growing and harvesting conditions. He further stated that unless increases in costs of labor per unit are offset by increases in efficiency, total labor costs per unit as well as total costs of producing an acre or a ton of sugarcane can be expected to increase; and that unless income can be expected to continue to increase sufficiently to offset these increases in costs, which appears unlikely, net incomes of sugarcane farmers can be expected to decrease. The witness stated that his data base, consisting of 52 large-scale and 381 family-type sugarcane farms, is reasonably representative of about 94 percent of the State's sugarcane farms and nearly 100 percent of the sugarcane area.

Consideration has been given to the testimony and recommendations presented at the public hearing; to the returns, costs, and profits of producing sugarcane obtained by field survey for recent crops and recast in terms of price and production conditions likely to prevail for the 1973 crop; and to other standards generally considered in wage determinations, including the cost of living and the producers' ability to pay wages.

A principal purpose of the Sugar Act is to protect the welfare of those engaged in the domestic sugar-producing industry. The act, through a system of conditional payments to growers, assures that all parties engaged in the production and processing of sugar crops share equitably in the proceeds of the industry. Conditional payments act as an incentive to growers to adjust their production to quota and carryover needs. This payment system also has three other objectives: (1) to provide adequate income to growers; (2) to assure growers and fieldworkers a fair sharing of returns to the industry; and (3) to prevent the employment of child labor in fieldwork. The sharing of returns between growers and fieldworkers is accomplished by requiring growers to pay fieldworkers in full for work performed and at rates not less than those determined by the Secretary to be fair and reasonable.

Worker representatives generally recommended that wage rates for the various categories of workers be increased to a minimum of $3.53 per hour (hourly increases ranging from $1.58 to $1.73). Producer representatives recommended increases of 10 cents per hour for all classifications of skilled workers (operators of mechanical equipment) and 5 cents per hour for unskilled workers. This determination increases the minimum wage rates for equipment operators by 15 cents per hour and for "all other workers" by 10 cents per hour. The wage differential between unskilled and skilled workers has been widened to more equitably reflect the differences in worker responsibilities. It is also believed that a greater increase in wages at this time for unskilled workers would place their minimum wage rate at a level greater than the value of their services, which in turn would have the effect of curtailing their





job opportunities. The wage increases established in this determination for the various worker classifications range from 5.6 to 8.1 percent.

Based upon the "Consumer Price Index" as published by the Bureau of Labor Statistics of the U.S. Department of Labor, the cost of living rose 3.3 percent in 1972 as compared to 1971. Concurrently, the increase in minimum wage rates of Louisiana sugarcane workers averaged about 12 percent. Using data presently available, the Department anticipates that the cost of living will increase by about 6 percent in 1973. The increase in minimum wage rates established in this determination is expected to offset the continuing rise in living costs. The earnings of all workers on sugarcane farms in Louisiana are expected to average about $2.06 per hour in 1973, or 46 cents more than the projected average general farm wage in the State.

It is estimated that producers on average had a more profitable crop in 1972 than during the prior three crop years when producers were in a loss position for two of those crops after allowing for a 5 percent return on the net worth of their sugarcane operation. Based on the average yield of cane per acre (24 tons) forecast by the USDA Crop Reporting Board in the August 1973 issue of "Crop Production;" the 5-year averages of sucrose content and recovery of sugar; the prospective prices of raw sugar and molasses; and the anticipated prices to be paid by producers for wages and other production costs, producers' profit from the 1973 crop is expected to be more favorable than from the 1972 crop. If the minimum wage rate under this determination were to be established at $3.53 per hour, the projected profit to producers would be reduced by two-thirds. A thorough analysis of the costs and returns for producing sugarcane at the level of production likely to prevail for the 1973 crop indicates that the wage rates established in this determination are fair and reasonable to workers and within the ability of producers to pay. The recommendation by worker representatives that the same wage scale prevail for harvest workers and production and cultivation workers has not been adopted. It is believed that the continuation of rate differentials during the two seasons for tractor drivers is desirable at this time, especially in view of the producers' testimony that higher wages during the harvest season acts as an incentive to minimize absenteeism.

The recommendations made by worker representatives that the Department adopt provisions requiring producers to furnish workers with health and life insurance, unemployment compensation, and overtime and vacation pay have not been adopted. The wage rates established in wage determinations under the Sugar Act are minimum cash wages, and extra items such as insurance are matters for negotiation between the worker and producer.

Worker representatives also recommended that the Department enforce Federal minimum housing standards and the reinstatement of the "perquisites" occupational safety and health regulations. One representative recommended provision contained in the 1954 wage determination but deleted in subsequent determinations in accordance with the recommendation of worker representatives at the July 29, 1955, Louisiana wage hearing. That provision required producers to furnish workers such things as a habitable house, water, garden plots, livestock feed, and electricity so long as these items had customarily been furnished. As a result of a field investigation in July of 1955, the Department concluded that there were wide variations in the quality (and thus value) of the various items of perquisites furnished and that equitable administration of the provision was impossible. As noted above, the benefits of the U.S. sugar program are divided among growers and workers as well as others engaged in the industry. In insuring a fair division of the benefits of the sugar program, the Department takes the view that it is in the best interest of workers to receive all of their benefits in the form of cash wages. Moreover, it is not possible for the Department to assign realistic current values to the myriad of items which can be considered as perquisites, even those relating solely to housing, for the "average" worker. The result would be unfair treatment for producers or workers, or both. The Department deems it advisable to avoid the unnecessary duplication of efforts among government agencies wherever possible. For those producers who voluntarily furnish housing to their employees, such housing is subject to the housing and sanitary regulations issued under the Occupational Safety and Health Act of 1970, for which the Department of Labor is responsible. The dual enforcement of that Act by this Department with respect to sugar farms would be impractical as well as an unjustified duplication of efforts and resources.

The recommendations by worker representatives that the Secretary of Agriculture appoint an independent commission to investigate living and working conditions of Louisiana sugarcane workers, and that part of the hearing officers' responsibility be to visit the farms and homes have not been adopted. Again, under the terms of current legislation, wage determinations provide for a fair and equitable division of proceeds from the production of sugar crops among producers and workers. State and County ASC Committees and their staffs supply current, accurate information to the Department on payment of wages and any special problems which might arise. Moreover, the Department periodically sends a team of qualified cost accountants to the Louisiana cane area to gather data relating to earnings, man-hour requirements, production costs, and proceeds from the crop. The Department does not have the resources to institute further data gathering techniques in addition to those already at its disposal.

The recommendations by producer representatives concerning the wage rate for harvester and loader operators when harvesting sugarcane for seed; the exclusion of field overseers and supervisors from minimum wage requirements have these provisions continue to be equitable for the reason set forth in the statement of bases and considerations which accompanied the wage determination that became effective October 1, 1972.

The recommendation by producers that the permissible minimum wage rate for workers 14 and 15 years of age and full-time students be lowered to 80 percent of the applicable determination rate has not been adopted. That action would be inconsistent with the general standards for such employment under the Fair Labor Standards Act, as amended in 1966. Reference in § 864.23(a)(2) to the certificate from the Secretary of Labor needed for the employment of full-time students under the provisions of section 14 of the Fair Labor Standards Act has been removed. That section does not apply to students employed pursuant to this determination since the rates established herein, even if reduced to the 85 percent level, would still exceed the minimum rate provided for agricultural workers in section 6 of the Fair Labor Standards Act.

This determination is issued on a continuing basis and will remain in effect until amended, superseded, or terminated. However, the Department will keep the wage situation under review and will conduct investigations and hold hearings annually.

On the basis of an examination of all relevant factors, the provisions of this determination are deemed to be fair and reasonable. Accordingly, I hereby find and conclude that the foregoing wage determination will effectuate the wage provisions of the Sugar Act of 1948, as amended.

NOTE.—The recordkeeping and reporting requirements of these regulations have been approved by, and subsequent recordkeeping and reporting requirements will be subject to the approval of the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

*Effective date.*—This determination shall become effective on September 17, 1973.

Signed at Washington, D.C., on September 7, 1973.

KENNETH E. FRICK,
*Administrator, Agricultural Stabilization and Conservation Service.*

[FR Doc.73-19472 Filed 9-12-73;8:45 am]

## CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Regulation 449]

## PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

### Limitation of Handling

This regulation fixes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period Sept. 14-20,



V 38-177 SEP 13 73 XUM

not been adopted. It is believed that 1973. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 908. The quantity of Valencia oranges so fixed was arrived at after consideration of the total available supply of Valencia oranges, the quantity of Valencia oranges currently available for market, the fresh market demand for Valencia oranges, Valencia orange prices, and the relationship of season average returns to the parity price for Valencia oranges.

§ 908.719 Valencia Orange Regulation 149.

(a) *Findings.*—(1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR, Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the respective quantities of Valencia oranges that may be marketed from District 1, District 2, and District 3 during the ensuing week stems from the production and marketing situation confronting the Valencia orange industry.

(i) The committee has submitted its recommendation with respect to the quantities of Valencia oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Valencia oranges is strengthening. Prices f.o.b. averaged $3.35 per carton on a sales volume of 459 carlots during the week ended September 6, 1973, compared with $3.27 per carton on sales of 477 carlots a week earlier. Track and rolling supplies at 248 cars were down 46 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the respective quantities of Valencia oranges which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on September 11, 1973.

(b) *Order.*—(1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period September 14, 1973, through September 20, 1973, are hereby fixed as follows:

(i) District 1: Unlimited;

(ii) District 2: 525,000 cartons;

(iii) District 3: Unlimited.

(2) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: September 12, 1973.

CHARLES R. BRADER,
*Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.73-19674 Filed 9-12-73;11:34 am]

## Title 12—Banks and Banking

## CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

### SUBCHAPTER B—REGULATIONS AND STATEMENTS OF GENERAL POLICY

### PART 329—INTEREST ON DEPOSITS

### Percentage Limitation on Time Deposits of $1,000 or More With Maturities of 4 Years or More

1. Effective August 1, 1973, the Board of Directors of the Federal Deposit Insurance Corporation amended §§ 329.6 and 329.7 of the FDIC's rules and regulations (12 CFR 329.6 and 329.7) so as to limit the total amount of so-called "ceiling-free" time deposits in any one insured nonmember bank (including insured nonmember mutual savings banks) to 5 percent of the bank's total domestic time and savings deposits. A "ceiling-free" time deposit is one for which there is no prescribed maximum interest rate. It must be a deposit of at least $1,000 which has a maturity of 4 years or more.

The amendments establishing a 5 percent limitation on "ceiling-free" time deposits in insured nonmember banks were published in the FEDERAL REGISTER on August 1, 1973 (38 FR 20442). The amendments were subsequently modified to permit certain conversions of existing time deposits to "ceiling-free" deposits without regard to the 5 percent limitation. These modifications took effect on August 17, 1973, and were published in the FEDERAL REGISTER on August 22, 1973 (38 FR 22546).

The Board of Directors has determined that it is necessary to further modify the 5 percent limitation on "ceiling-free" time deposits in insured nonmember mutual savings banks. The Board has therefore amended section 329.7 of the FDIC's rules and regulations to permit an insured nonmember mutual savings bank to issue a "ceiling-free" time deposit within 10 days after the first maturity date of an existing time deposit, without regard to the 5 percent limitation, so long as the total amount of the bank's "ceiling-free" time deposits does not exceed 10 percent of its total time and savings deposits.

This authorization takes effect on September 10, 1973, and is limited to those time deposits which were in the same bank on the effective date. However, an insured nonmember mutual savings bank may transfer such matured time deposits to "ceiling-free" deposits only until the total amount of its "ceiling-free" time deposits reaches 10 percent of its total time and savings deposits.

The amendment is based, in part, on the need to maintain competitive parity between insured nonmember mutual savings banks and federally-insured savings and loan associations. For this reason it is not being extended to insured nonmember commercial banks at this time.

2. Section 329.7 is amended by adding thereto a new footnote 14b to read as follows:

§ 329.7 Maximum rate of interest or dividends payable on deposits by insured nonmember mutual savings banks.[14]

* * * * *

(b) *Maximum rates payable.*

* * * * *

(4) *Time deposits of $1,000 or more with maturities of 4 years or more.*—There is no maximum rate of interest presently prescribed on any time deposit of $1,000 or more with a maturity of 4 years or more: *Provided, however,* That the total amount of such deposits in an insured nonmember mutual savings bank at the time the deposit is made does not exceed 5 percent of its total time and savings deposits subject to this Part 329, or $500,000, whichever is greater. With respect to any such deposit that is received on or after August 1, 1973, during any period when the outstanding amount of all such deposits is at or above the 5 percent level, or $500,000, whichever is greater, the bank shall not pay interest thereon at a rate in excess of 6¾ percent per annum.[14a 14b]

* * * * *

(Sec. 9, 18(g); 64 Stat. 881–82, Pub. L. No. 93–100, § 1 (August 16, 1973); 12 U.S.C. 1819, 1828(g).)

3. The requirements of sections 553 (b) and (d) of Title 5, United States Code, and §§ 302.1, 302.2, and 302.5 of the rules and regulations of the Federal Deposit Insurance Corporation, with respect to notice, public participation, and deferred effective date were not followed in connection with this amendment because the Board of Directors found that notice and public procedure thereon would be unnecessary and contrary to the public interest and because the amendment relieves an existing restriction.

4. *Effective date.*—This amendment is effective September 10, 1973.

By order of the Board of Directors, September 7, 1973.

FEDERAL DEPOSIT
INSURANCE CORPORATION,
[SEAL] ALAN R. MILLER,
*Executive Secretary.*

[FR Doc.73-19485 Filed 9-12-73;8:45 am]

## CHAPTER V—FEDERAL HOME LOAN BANK BOARD

### SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

[No. 73-1301]

### PART 526—LIMITATIONS ON RATE OF RETURN

### Certificate Accounts of $1,000 or More

SEPTEMBER 7, 1973.

Paragraph (a)(5)(i) of § 526.5 of the Regulations for the Federal Home Loan Bank System (12 CFR 526.5) provides that no maximum rate of return is prescribed for any certificate account of $1,000 or more having a fixed or minimum term or qualifying period of not less than 4 years. Paragraph (a)(5)(ii) of said § 526.5 limits to 5 percent of total savings accounts the amount of such certificate accounts on which a member institution may pay a return at a rate in excess of 6.75 percent per annum.

The Federal Home Loan Bank Board considers it advisable to permit an additional 5 percent of savings to be used for 4 years, $1,000 certificate accounts which are created by transfers at maturity, or within 10 days thereafter, from certificate accounts in existence on September 7, 1973. This additional 5 percent is intended to provide limited relief for member institutions which have exhausted the existing 5 percent limitation. Without this additional 5 percent, those member institutions may suffer withdrawals due to being unable to offer 4 year, $1,000 certificate accounts paying more than 6.75 percent to customers whose certificate accounts are in existence on September 7, 1973, and are coming up for renewal.

In order to accomplish this, a new subdivision (iii) is added to § 526.5(a)(5). Under this new subdivision (iii), for example, if a customer with a $5,000, 2 year certificate account maturing on October 31, 1973, transfers that $5,000 to a 4 year, $1,000 certificate account paying more than 6.75 percent, the member institution may include the $5,000 in the existing 5 percent limitation of subdivision (ii) or include it within the 5 percent limitation of new subdivision (iii).

Accordingly, the Board hereby amends said § 526.5 by revising paragraph (a)(5) thereof to read as set forth below, effective September 7, 1973.

Since affording notice and public procedure on the above amendment would delay it from becoming effective for a period of time and since it is in the public interest that such amendment becomes effective as soon as possible, the Board hereby finds that notice and public procedure thereon are contrary to the public interest under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and the Board hereby finds that publication of such amendment for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date thereof is unnecessary since it relieves restrictions; and the Board hereby provides that such amendment shall become effective as hereinbefore set forth.

§ 526.5 Maximum rates of return payable on certificate accounts of less than $100,000.

(a) *Maximum rates.* * * *

(5) *No prescribed maximum rate.*—(i) Subject to the percentage limitations contained in paragraph (a)(5) (ii) and (iii) of this section and except as is otherwise provided in this section or § 526.5–1, no maximum rate of return is prescribed on any certificate account of $1,000 or more having a fixed or minimum term or qualifying period of not less than 4 years.

(ii) Except as provided in paragraph (a)(5)(iii) of this section, no member institution may pay a return at a rate in excess of 6.75 percent per annum on a certificate account of $1,000 or more (but less than $100,000) if, as a result of the issuance of such certificate account, the total amount of all such certificate accounts then outstanding, on which a return is being paid at a rate in excess of 6.75 percent per annum, would exceed 5 percent of the institution's total savings accounts outstanding at the end of its most recent distribution period for regular accounts.

(iii) Certificate accounts of $1,000 or more (but less than $100,000) (*a*) on which a member institution pays a return at a rate in excess of 6.75 percent per annum, and (*b*) which have been created by a transfer of funds from certificate accounts of the member institution in existence on September 7, 1973 (such transfer to take place at or within 10 days after the end of the first fiscal or minimum term or qualifying period of such certificate accounts occurring on or after such date), may be included in the 5 percent of total savings accounts limitation of paragraph (a)(5)(ii) of this section or, to the extent not so included in such limitation, may be issued in a total amount not in excess of 5 percent of the institution's total savings accounts outstanding at the end of its most recent distribution period for regular accounts in addition to the 5 percent of total savings accounts limitation of paragraph (a)(5)(ii) of this section.

* * * * *

(Sec. 5B, 47 Stat. 727, as added by sec. 4, 80 Stat. 824, as amended by Public Law 91–151, sec. 2(b), 83 Stat. 371; sec. 17, 47 Stat. 736, as amended; 12 U.S.C. 1425b, 1437. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
*Assistant Secretary.*

[FR Doc.73-19495 Filed 9-12-73;8:45 am]

## Title 14—Aeronautics and Space

## CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 73-NW-08]

### PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

### Alteration of Transition Area; Correction

On August 23, 1973, Federal Register Document 73-17835 was published in the FEDERAL REGISTER (38 FR 22622) adopting an amendment to Part 71 of the Federal Aviation Regulations that amended the description of the Medford, Oreg., Transition Area.

[14] * * *

[14a] Notwithstanding the 5 percent limitation established by this subparagraph, (b)(4), an insured nonmember mutual savings bank may accept any time deposit of $1,000 or more with a maturity of 4 years or more without regard to the interest rate paid thereon if the deposit consists of funds that were in a time deposit in the same bank on September 10, 1973, and if such funds are transferred to a time deposit with a maturity of 4 years or more within 10 days after the first maturity date on which the prior time deposit could be paid: *Provided, however,* That no transfer may be made pursuant to this footnote during any period when the total amount of the bank's time deposits with a maturity of 4 years or more which bear interest at a rate in excess of 6¾ percent per annum exceeds 10 percent of its total time and savings deposits subject to this Part 329, or $500,000, whichever is greater.







V 38-177 SEP 13 73 XUM

Subsequent to the issuance of the document, a review disclosed that the airway designation "V-27E" was used in defining a boundary of the airspace extending upward from 1,200' above the surface, southeast of Medford. The correct airway designation should be "V-23E." Therefore, action is taken herein to correct this error.

Since this change is editorial in nature and imposes no additional burden on any person, notice and public procedure hereon is unnecessary.

In consideration of the foregoing, effective on September 13, 1973, Federal Register Document 73-17835 (38 FR 22622) is corrected as hereinafter set forth.

In § 71.181, line 22 of the text, delete "* * * V-27E * * *" and substitute "* * * V-23E * * *" therefor.

Issued in Seattle, Washington, on September 4, 1973.

C. B. WALK, Jr.,
*Director, Northwest Region.*

[FR Doc.73-19431 Filed 9-12-73;8:45 am]

## Title 16—Commercial Practices

## CHAPTER I—FEDERAL TRADE COMMISSION

[Docket C-2433]

## PART 13—PROHIBITED TRADE PRACTICES

### Argus, Inc.

Subpart—Advertising falsely or misleading. § 13.140 *Old, reclaimed, or reused product being new;* Subpart—Failing to maintain records: § 13.1051 *Failing to maintain records;* 13.1051-10 Accurate; Subpart—Furnishing means and instrumentalities of misrepresentation or deception: § 13.1057 *Packaging deceptively;* Subpart—Misrepresenting oneself and goods—Goods: § 13.1695 *Old, secondhand, reclaimed, or reconstructed as new;* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1880 *Old, used, or reclaimed as unused or new.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.) [Cease and desist order, Argus, Incorporated, Ann Arbor, Michigan, Docket C-2433, August 17, 1973.]

*In the matter of Argus, Incorporated, a Corporation*

Consent order requiring an Ann Arbor, Michigan, manufacturer, seller, and distributor of photographic equipment, among other things to cease failing to disclose to consumers that certain equipment is used rather than new; failing to maintain accurate records; and furnishing new packaging materials for utilization with used equipment.

The order to cease and desist, including further order requiring report of compliance therewith, is as set forth below.

In this order, the following definitions shall be applicable:

(i) *Photographic equipment.*—Photographic equipment shall mean still and movie picture cameras and projectors including attachments thereto, which are designed for and customarily sold for general amateur photographic purposes.

(ii) *Used photographic equipment.*—Photographic equipment shall be considered used when the photographic equipment has been utilized for general demonstration purposes or when it has been sold and delivered to an ultimate consumer unless respondent can show that the product was not used for the purposes for which it was intended.

(iii) *New display boxes.*—New display boxes shall mean any container or wrapping in which photographic equipment other than used photographic equipment is packaged for use in the delivery or display of such equipment to retail purchasers or prospective retail purchasers but does not include the outer shipping container, packing materials and instruction booklets.

(iv) *New warranty cards.*—New warranty cards shall mean any document customarily accompanying the retail sale of photographic equipment other than used photographic equipment evidencing or expressing any or all of the terms and conditions of the manufacturer's or distributor's warranty or guarantee.

(v) *New packaging materials.*—New packaging materials shall mean new display boxes and new warranty cards.

*It is ordered,* That respondent Argus Incorporated, a corporation, and its officers, successors or assigns and respondent's agents and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, or distribution of photographic equipment in commerce, as commerce is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Failing, clearly and conspicuously to disclose, in connection with the sale of used photographic equipment, (a) in all advertising, sales, promotional literature and invoices concerning such used photographic equipment, (b) on the display box in which such used photographic equipment is packaged, (c) on the used photographic equipment with sufficient permanency as likely to remain thereon until sale to the ultimate consumer, the fact that such product has been previously used.

2. Representing, directly or by implication, that used photographic equipment is new or misrepresenting in any manner the nature, extent or degree of use of any photographic equipment offered for sale, sold or distributed by or on behalf of respondent.

3. Failing to segregate used photographic equipment inventory maintained by respondent from other photographic equipment inventory maintained by respondent.

4. Failing to maintain records which will show the manner in which respondent has complied with paragraph 3, above, consisting of: (a) any communications acquired by respondent in connection with returned photographic equipment, other than used photographic equipment, (b) all records prepared in connection with processing returned photographic equipment, and (c) such records as will reveal the disposition of returned photographic equipment; provided that, nothing contained in this order shall require respondent to identify its photographic equipment including used photographic equipment by individual serial numbers.

5. Supplying new packaging materials to independent warranty shops which customarily do repair or service work on photographic equipment distributed by respondent or to non-affiliated entities not engaged in the wholesale or retail distribution of photographic equipment.

6. Supplying new packaging materials to its customers who resell such equipment at wholesale or retail; provided that respondent may supply to such customers reasonable quantities of new packaging materials for display purposes or to replace destroyed, tarnished or damaged packaging materials upon receiving from such customers a signed statement indicating that such materials will not be utilized with used photographic equipment as that term is defined herein.

*It is further ordered,* That:

(a) As a condition precedent to repairing, refurbishing, repackaging or replacing photographic equipment other than used photographic equipment returned to respondent, respondent shall require any person, firm or corporation other than an ultimate consumer or retail purchaser who returns such product to provide a signed statement which will indicate that the returned photographic equipment is not used photographic equipment as that term is defined herein unless such product is sealed in such a manner as to preclude its use without breaking such seal and such seal is intact or unless the display box or carton in which such product is packaged is sealed and such seal is intact.

(b) Respondent shall maintain copies of statements received under the provisions of the immediately preceding subparagraph and Paragraph 6, above, for a period of at least three (3) years and respondent shall maintain records sufficient to show compliance with Paragraphs 3 and 4, above, for a period of three (3) years.

(c) Irrespective of the information received pursuant to sub-paragraph (a) above, if respondent has reason to believe from a physical inspection of the photographic equipment or other documentation accompanying the returned product that it has been used as that term is herein defined, it shall be treated as used photographic equipment pursuant to Paragraphs 1, 3, and 4.

*It is further ordered,* That respondent herein shall notify the Commission at least thirty days prior to any proposed change in the structure of the corporate respondent, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the respective corporation which may effect compliance obligations arising out of this Order.

*It is further ordered,* That respondent shall, within sixty (60) days after service upon it of this Order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this Order.

*It is further ordered,* That respondent shall deliver by first class mail, postage prepaid, a copy of this Order to each of its customers who resell photographic equipment at wholesale and/or retail.

*It is further ordered,* That the respondent shall forthwith distribute a copy of this Order to each of its operating divisions.

Issued August 17, 1973.

By the Commission.

[SEAL] CHARLES A. TOBIN,
*Secretary.*

[FR Doc.73-19436 Filed 9-12-73;8:45 am]





[Docket C-2430]

## PART 13—PROHIBITED TRADE PRACTICES

### Postage Stamp Service Bureau, Inc., and Carlton Lee Struble

Subpart—Advertising falsely or misleadingly: § 13.10 Advertising falsely or misleadingly; § 13.15 *Business status, advantages, or connections;* 13.15-80 Government connection; § 13.50 *Dealer or seller assistance;* § 13.55 *Demand, business, or other opportunities;* § 13.60 *Earnings and profits;* § 13.155 *Prices;* 13.155-5 *Additional charges unmentioned.* Subpart—Delaying or withholding corrections, adjustments or action owed: § 13.675 *Delaying or withholding corrections, adjustments, or action owed;* § 13.677 *Delaying or failing to deliver goods.* Subpart—Misrepresenting oneself and goods—Business status, advantages, or connections: § 13.1425 *Government connection;*—Goods: § 13.1608 *Dealer or seller assistance;* § 13.1610 *Demand for or business opportunities;* § 13.1615 *Earnings and profits;*—Prices: § 13.1778 *Additional costs unmentioned;* Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1855 *Identity;* § 13.1892 *Sales contract right-to-cancel provision;* §13.1895 *Scientific or other relevant facts.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.) [Cease and desist order, Postage Stamp Service Bureau, Inc., et al., Las Vegas, Nevada, Docket C-2430, August 14, 1973.]

*In the Matter of Postage Stamp Service Bureau, Inc., a Corporation, and Carlton Lee Struble, Individually and as an Officer of Said Corporation*

Consent order requiring a Las Vegas, Nevada, seller and distributor of postage stamp vending machines, among other things to cease misrepresenting the earnings and profits derived from a distributorship or franchise; misrepresenting the opportunities in the product or business; misrepresenting dealer assistance; and misrepresenting that the firm is affiliated with the U.S. Government or U.S. Postal Service. The order further requires respondents to initiate a 10-day, cooling-off period during which purchasers may cancel their contracts and receive full refund of all monies spent.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

*It is ordered,* That respondents, Postage Stamp Service Bureau, Inc., a corporation, its successors and assigns, and its officers, and Carlton Lee Struble, individually and as an officer of said corporation, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale or distribution of vending machines and vending machine supplies or any other products or of distributorships or franchises in commerce as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing, directly or by implication, that:

1. (a) Persons investing in respondents' products or distributorships will receive any stated amount of income or gross or net profits or other earnings.

(b) Any stated sums of money are past earnings of distributors or purchasers of respondents' products if such sums are not based upon the actual average figures for all distributors not owned or operated by the respondent or an affiliate thereof in operation during the entire preceding twelve month period, and disclosing clearly and conspicuously immediately adjacent to any such representation that "Representations are based on the average earnings or profits of all independent distributors in operation during the past year. These figures should not be considered as accurate representations of potential earnings or profits of any specific distributor."

(c) Any stated sums of money are past earnings without (1) identifying such earnings as "earnings before expenses" or "earnings after expenses" and (2) disclosing the expenses incurred by those distributors in producing such earnings, such expenses to include, but not be limited to, telephone, automobile and freight charges on supplies.

(d) Persons investing in respondents' distributorships or products will make any stated number of sales.

(e) Any stated number of sales is the past sales of distributors or purchasers of respondents' products if such number is not based upon the actual average figures for all distributors not owned or operated by the respondent or an affiliate thereof in operation during the entire preceding twelve month period, and disclosing clearly and conspicuously immediately adjacent to any such representation that "Representations are based on the average sales of all independent distributors in operation during the past year. These figures should not be considered as accurate representations of potential sales of any specific distributor."

2. Respondents, their agents, representatives, or employees will obtain satisfactory or profitable locations for the machines purchased from them: *Provided, however,* That nothing herein shall be construed to prohibit respondents from truthfully and non-deceptively representing that they have obtained locations or assisted in obtaining locations if respondents clearly and conspicuously disclose, in immediate conjunction therewith, the average net or gross earnings realized by all purchasers from machines in locations obtained by respondents or through their assistance.

3. Respondents will deliver their merchandise within a specific period of time, or on a specific date, unless in each instance such delivery is made as represented by respondents, or misrepresenting in any other manner the time within which respondents' merchandise will be delivered; or representing that respondents assist in the installation of vending equipment unless respondents in each instance furnish such assistance at the time of the delivery.

4. Respondents make a survey or an investigation of neighborhoods for suitable locations for vending machines for their customers unless the nature and extent of such survey or investigation is clearly and expressly revealed and the respondents can establish that such survey or investigation actually has been made.

B. Failing to furnish any prospective distributor with all of the following information, in a clear, permanent, and straight-forward form, at the time when contact is first established between such prospective distributor and the respondent or its representative:

1. The official name(s) and address(es) of the corporate respondent, the parent firm or holding company of the respondent, if any; all affiliated companies that will engage in business with the distributor.

2. The business experience of the respondents, including the length of time the respondents have conducted a business of the type to be operated by the distributor; have granted distributorships for such business; and have granted distributorships in other lines of business.

3. A list of the names and addresses of the ten persons who purchased a distributorship, for products or product lines similar to, or the same as, those being offered by respondents to any prospective distributor, and are situated in the same geographic area.

4. A statement of the conditions and terms under which the respondents allow the distributor to sell, lease, assign, or otherwise transfer his distributorships, or any interest therein.

5. A statement that respondents are not affiliated in any way with the United States Government or the United States Postal Service.

6. A statement of the number of persons who have signed distributor agreements for whom locations have not yet



V 38-177
SEP 13 73
XUM

been agreed upon by both the respondents and the distributor.

7. A statement of the average length of time between the signing of a distributor agreement and the location of the vending machines.

8. A statement of the average length of service of personnel who are responsible for assisting the distributor at his location, and the average number of hours such personnel spend during the first year with each distributor that was in business for less than one year.

All of the foregoing material is to be contained in a single package, is to be made available to the Commission or its staff upon demand, and is to carry a distinctive and conspicuous cover sheet with the following information (and no other), imprinted thereon in bold face type of not less than 10 point size:

INFORMATION FOR PROSPECTIVE DISTRIBUTORS REQUIRED BY FEDERAL TRADE COMMISSION

This package of information is provided for your own protection. It is in your best interest to study it carefully before making any commitment.

If you do sign a contract, you may cancel it, and obtain a full refund of any money paid, for any reason within ten business days after signing. Details appear on the contract itself.

The information contained herein has not been reviewed or approved by the Federal Trade Commission, but any misrepresentation constitutes a violation of Federal law. If you feel you have been misled, you should contact the Federal Trade Commission in Washington, or the Federal Trade Commission Regional Office nearest you.

C. Making any claim in any advertising or promotional material for which the respondents do not have in their possession valid substantiating data, which data shall be made available to prospective distributors or the Commission or its staff upon demand.

D. Failing to include immediately above and on the same page as the distributor's signature line of any contract establishing or confirming a distributorship agreement, the following statement in bold face print at least 50 percent larger than any other print in the body of such contract, or in bold face print of a contrasting color:

NOTICE: YOU ARE ENTITLED TO CERTAIN IMPORTANT INFORMATION CONCERNING THIS TRANSACTION, ENTITLED "INFORMATION FOR PROSPECTIVE DISTRIBUTORS REQUIRED BY FEDERAL TRADE COMMISSION." IT IS IN YOUR BEST INTEREST TO DEMAND AND STUDY SUCH INFORMATION. *YOU MAY CANCEL THIS CONTRACT FOR ANY REASON WITHIN TEN BUSINESS DAYS AFTER YOU SIGN IT.* If you do choose to cancel, you will be entitled to receive full refund of any money paid within ten business days after Postage Stamp Service Bureau, Inc. receives notice of your cancellation. You may use any reasonable method to notify Postage Stamp Service Bureau, Inc., of your cancellation within the grace period. For your own protection you may wish to use certified mail with return receipt requested, or a telegram, either of which should be sent to the address below. [Respondent will insert here the address and telephone number to which such notices should be sent.]

E. Failing to cancel any contract for which a notice of cancellation was sent by any reasonable means within ten business days after the contract's execution, or to fail to refund any money paid by distributor within ten business days after the date of receipt of such notice of cancellation.

As used in this Order, the following definitions shall apply:

1. "Prospective distributor" means any person who approaches, or is approached by, respondents or their agent or representative for the purpose of investigating a distributorship between such person and respondents;

2. "Time when contact is first established" means the earlier of the time when

(a) A direct personal meeting first occurs between respondents or their agent or representative and a prospective distributor, or

(b) Any document or promotional literature is distributed to a prospective distributor.

*It is further ordered,* That respondents

Inform orally all prospective customers and provide in writing in all contracts that the contract is not final and binding until respondents have completely performed their obligations thereunder by placing the vending machines in locations satisfactory to the customer and said customer has thereafter signed a statement indicating his satisfaction.

Refund immediately all monies to (1) customers who have requested contract cancellation in writing within ten days from the execution thereof, (2) customers who have refused to sign statements indicating satisfaction with respondents' placement of the machines, and (3) customers showing that respondents' contract, solicitations or performance were attended by or involved violations of any of the provisions of this order.

*It is further ordered,* That respondents maintain files containing all inquiries or complaints from any source relating to acts or practices prohibited by this Order, for a period of two years after their receipt, and that such files be made available for examination by a duly authorized agent of the Federal Trade Commission during the regular hours of the respondents' business for inspection and copying.

*It is further ordered,* That the corporate respondent notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of successor corporations, the creation or dissolution of subsidiaries or corporate affiliates or any other change in the corporation which may affect compliance obligations arising out of this Order.

*It is further ordered,* That respondents deliver a copy of this Order to Cease and Desist to all present and future employees, agents and representatives engaged in the offering for sale or sale of respondents' distributorships or products or in any aspect of preparation, creation or placing of advertising and that respondents secure a signed statement acknowledging receipt of said Order form each such person.

*It is further ordered,* That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

*It is further ordered,* That the corporate respondent distribute a copy of this Order to each of its operating divisions or departments.

*It is further ordered,* That the respondents herein shall, within sixty (60) days after service upon them of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this Order.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

AUGUST 14, 1973.

[FR Doc.73-19435 Filed 9-12-73;8:45 am]

[Docket C-2431]

## PART 13—PROHIBITED TRADE PRACTICES

### Uniroyal Merchandising Company, Inc.

Subpart—Advertising falsely or misleadingly: § 13.70 *Fictitious or misleading guarantees;* Subpart—Misrepresenting oneself and goods—Goods: § 13.1647 *Guarantees;* Subpart—Offering unfair, improper and deceptive inducements to purchase or deal: § 13.1980 *Guarantee, in general.*

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45.) [Cease and desist order, Uniroyal Merchandising Company, Inc., Houston, Texas, Docket C-2431, August 16, 1973.]

*In the matter of Uniroyal Merchandising Company, Inc., a Corporation*

Consent order requiring a Houston, Texas, wholly owned, subsidiary of Uniroyal, Inc., engaged in the sale and distribution of mufflers, automotive fan belts, and other products, among other things to cease misrepresenting the nature and extent of its guarantees.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

*It is ordered,* That respondent Uniroyal Merchandising Company, Inc., a corporation, and its officers, agents, representatives, employees, successors and assigns, directly or through any corporate or other device, in connection with the sale, offering for sale, or distribution of mufflers, automotive fan belts, or other products, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:





Representing by any means, directly or by implication with respect to those products manufactured by respondent, and in any advertising of products not manufactured by respondent, that such products are guaranteed unless the nature, extent and duration of the guarantee, the identity of the guarantor and the manner in which the guarantor will perform thereunder are clearly and conspicuously disclosed; and unless respondent promptly and fully performs all of its obligations and requirements, directly or impliedly represented, under the terms of each such guarantee.

*It is further ordered,* That respondent notify the Commission at least 30 days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the order.

*It is further ordered,* That the respondent corporation shall forthwith distribute a copy of this order to each of its operating divisions.

*It is further ordered,* That the respondent herein shall, within sixty (60) days after service upon it of this order, file with the Commission a report in writing setting forth in detail the manner and form in which it has complied with this order.

Issued August 16, 1973.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.73-19437 Filed 9-12-73;8:45 am]

## Title 21—Food and Drugs

## CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### SUBCHAPTER B—FOOD AND FOOD PRODUCTS

### PART 121—FOOD ADDITIVES

### Copper Triethanolamine

A petition (FAP 3H5027) was filed by Applied Biochemists, Inc., P.O. Box 25, Mequon, Wis. 53092, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348), proposing establishment of a food additive tolerance (21 CFR Part 121) for residues of copper in potable water at 1 part per million resulting from the use of copper triethanolamine complex to control aquatic plants in reservoirs, lakes, ponds, irrigation ditches, and other potential sources of potable water. (For a related document, see this issue of the FEDERAL REGISTER, page 25439.)

The Reorganization Plan No. 3 of 1970, published in the FEDERAL REGISTER of October 6, 1970 (35 FR 15623), transferred (effective December 2, 1970) to the Administrator of the Environmental Protection Agency the functions vested in the Secretary of Health, Education, and Welfare for establishing tolerances for pesticide chemicals under sections 406, 408, and 409 of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 346, 346a, and 348).

Having evaluated the data in the petition and other relevant material, it is concluded that the tolerance should be established.

Therefore, pursuant to provisions of the act (sec. 409(c)(1), (4), 72 Stat. 1787; 21 U.S.C. 348(c)(1), (4)), the authority transferred to the Administrator of the Environmental Protection Agency (35 F.R. 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 FR 9038), § 121.1241 is revised to read as follows:

**§ 121.1241 Copper.**

A tolerance of 1 part per million is established in potable water for residues of copper resulting from the use of the algicides or herbicides basic copper carbonate (malachite), copper sulfate, and copper triethanolamine to control aquatic plants in reservoirs, lakes, ponds, irrigation ditches, and other potential sources of potable water.

Any person who will be adversely affected by the foregoing order may at any time on or before October 15, 1973, file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th and M Streets SW., Waterside Mall, Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

*Effective date.*—This order shall become effective on September 13, 1973.

(Sec. 409(c)(1), (4), 72 Stat. 1786 (21 U.S.C. 348(c)(1), (4)).)

Dated September 7, 1973.

HENRY J. KORP,
*Deputy Assistant Administrator for Pesticide Programs.*

[FR Doc.73-19456 Filed 9-12-73;8:45 am]

## PART 144—ANTIBIOTIC DRUGS; EXEMPTION FROM LABELING AND CERTIFICATION REQUIREMENTS

### Nithiazide; Revocation

*Correction*

In FR Doc. 73-16341 appearing on page 21398 in the issue of Wednesday, August 8, 1973, the effective date in the last paragraph before the authority citation reading "August 8, 1973", should read "September 17, 1973".

## Title 32A—National Defense, Appendix

## CHAPTER X—OFFICE OF OIL AND GAS, DEPARTMENT OF THE INTERIOR

[Oil Import Reg. 1 (revision 5), Amdt. 60]

### REG. 1—OIL IMPORT REGULATION

### Miscellaneous Amendments

Presidential Proclamation 4210 provides that any allocation periods expiring prior to May 1, 1974, be extended to April 30, 1974. Thereafter, allocations will be for twelve month periods beginning May 1 of each year. Section 3 of Oil Import Regulation 1 (Revision 5), as amended is amended in its entirety to (1) extend to April 30, 1974, all existing allocation periods except those for sections 9A and 11A, (2) provide for supplemental allocations for the extended portion of the allocation periods, (3) advance the initial allocation period pursuant to section 9B to May 1, 1974, instead of July 1, 1974, and (4) provide that effective May 1, 1974, all allocations except those made pursuant to sections 9A and 11A will be for periods of twelve months beginning May 1 of each year.

Licenses for the supplemental allocations will be issued as soon as practicable after publication of this amendment 60 in the FEDERAL REGISTER. All licenses except those pursuant to sections 9A and 11A issued after publication of this amendment in the FEDERAL REGISTER but prior to April 30, 1974, will expire April 30, 1974. Licenses issued prior to publication of this amendment 60 in the FEDERAL REGISTER shall expire on the expiration date shown on the license.

Presidential Proclamation 4227 expanded the conditions under which refunds of license fees can be made by the Director. These changes were incorporated into section 32 as a part of Amendment 59. Inadvertently, refunds of license fees paid for finished products were omitted. Paragraph (g) of section 32 of Oil Import Regulation 1 (Revision 5), as amended, is amended to provide for refund of license fees paid for finished products.

Dated September 7, 1973.

STEPHEN A. WAKEFIELD,
*Assistant Secretary of the Interior.*

Section 3 of Oil Import Regulation 1 (Revision 5), as amended, is amended in its entirety to read as follows:

**Sec. 3—Allocation periods.**

(a) Except for allocations made pursuant to sections 9A and 11A all allocation periods beginning on or after January 1, 1973, shall be extended to expire April 30, 1974.

(b) Supplemental fee exempt allocations will be made by the Director for the extended portion of the allocation period for which an allocation period has not been made. Such supplemental allocations shall be computed so as to provide allocations for the extended portion of the allocation period at the same daily average as the base allocations.



V 38-177 SEP 13 73 XUM

(c) Effective May 1, 1974, the allocation periods for all allocations except allocations issued pursuant to sections 9A and 11A will be made for periods of twelve months beginning May 1 of each year.

(d) Allocation periods for allocations made pursuant to sections 9A and 11A will be as provided for in those sections.

(e) Notwithstanding the provisions of paragraph (1) of section 9B the initial allocation period pursuant to section 9B will be for a period of twelve months beginning May 1, 1974. Subsequent allocations will be made for periods of twelve months beginning May 1 of each year.

Sec. 32 [Amended]

The first sentence of paragraph (g) of section 32 of Oil Import Regulation 1 (Revision 5) is amended to read as follows:

(g) Refund of license fees paid for the importation of crude, unfinished oils or finished products shall be made by the Director, wholly or in part:

[FR Doc.73-19601 Filed 9-11-73;8:45 am]

## Title 33—Navigation and Navigable Waters

### CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 73-204R]

### PART 117—DRAWBRIDGE OPERATION REGULATIONS

#### Gulf Intracoastal Waterway, Florida

This amendment adds regulations for the Bailey bridge, mile 171.9, east of Harvey Canal Lock that has been temporarily installed to replace a bascule bridge span that was seriously disabled when struck by a tow and barges. A new span is presently being built and is expected to be installed by March 1, 1974. These regulations will become effective on August 15, 1973 and will be rescinded on March 1, 1974.

This rule is issued without notice of proposed rulemaking. The Coast Guard has found that good cause exists for taking this action on the basis that it would be contrary to the public interest to delay this work.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by adding a new § 117.467 immediately after 117.466 to read as follows:

**§ 117.467 Bailey bridge, GIWW, mile 171.9, east of Harvey Canal Lock, Fla.**

(a) *From August 15, 1973, through March 1, 1974.*—(1) The draw may be closed to navigation daily from 6 a.m. to 9 a.m., 11 a.m. to 1 p.m., 3 p.m. to 6 p.m., and 8 p.m. to 11 p.m.

(2) The draw shall be fully open to navigation from 9 a.m. to 11 a.m., 1 p.m. to 3 p.m., 6 p.m. to 8 p.m., and 11 p.m. to 6 a.m.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 46 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4).)

*Effective date.*—This revision shall be effective from August 15, 1973 through March 1, 1974.

Dated September 10, 1973.

W. M. BENKERT,
*Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.*

[FR Doc.73-19432 Filed 9-12-73;8:45 am]

[CGD 73-95R]

### PART 117—DRAWBRIDGE OPERATION REGULATIONS

#### Columbia and Snake Rivers, Washington

This amendment changes the regulations for the three railroad bridges across the Columbia and Snake Rivers in the vicinity of Pasco, Kennewick, and Burbank, Washington, to authorize the use of radiotelephones in lieu of sound or visual signals. This amendment was circulated as a public notice dated May 4, 1973, by the Commander, Thirteenth Coast Guard District, and was published in the FEDERAL REGISTER as a notice of proposed rulemaking (CGD 73-95P) on May 8, 1973 (38 FR 11472). Seven comments were received. Three had no objection and three supported this change. One had no objection but was investigating this proposal further and no further comment has been received from this source.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising paragraph (f) of § 117.760 to read as follows:

**§ 117.760 Columbia and Snake Rivers in vicinity of Pasco, Wash.; bridges.**

* * * * *

(f) A vessel, desiring to pass through any one of the above bridges, under which it cannot pass with the draw closed, except when advance notice is required by paragraph (c) of this section, shall sound the call signal for such bridge as prescribed and shall repeat such signal at intervals until it is answered by the draw tender. These bridges are equipped with FM radiotelephone stations. Sound and visual signals may be omitted when radiotelephone communications have been satisfactorily established between the bridge(s) and an approaching vessel. In case two vessels approaching from opposite directions would meet at or near the bridge, the vessel bound downstream shall be considered as having the right-of-way. When either vessel waits for the passage of the other, the vessel shall again give the call signal for the bridge and receive an acknowledging signal from the draw tender before proceeding It is incumbent upon navigators to make sure that their signals are understood before proceeding through a drawspan, and when approaching bridges, vessels should be kept under control, with a view to stopping, if necessary, before reaching the bridge.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46 (3)(5), 33 CFR 1.05-1(c)(4).)

*Effective date.*—This revision shall become effective on October 14, 1973.

Dated: September 6, 1973.

W. M. BENKERT,
*Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.*

[FR Doc.73-19434 Filed 9-12-73;8:45 am]

## Title 35—Panama Canal

### CHAPTER I—CANAL ZONE REGULATIONS

#### SUBCHAPTER A—ORGANIZATION AND ADMINISTRATION

### PART 5—PUBLIC LANDS; MILITARY RESERVATIONS

#### Revision of Boundary of Fort Gulick Army Reservation

The purpose of this amendment is to remove certain lands from the Fort Gulick Army Reservation which have been declared surplus to the needs of the Department of the Army.

Effective September 13, 1973, § 5.28(a) of Title 35, Code of Federal Regulations, is amended to read as follows:

**§ 5.28 Fort Gulick Army Reservation.**

(a) * * *

PARCEL NO. 3

The area comprising this parcel is situated east of Randolph Road, south of Galeta Road and west of Canal Zone—Republic of Panama boundary and the boundary is more particularly described as follows:

Beginning at monument No. 1, which is a brass plug located in the concrete pavement, on the easterly side of Randolph Road, and northerly from the junction of Galeta Road, the geodetic position of which, referred to the Canal Zone triangulation system is in latitude 9°22′ N. plus 4,566.3 feet and longitude 79°52′ W. plus 5,664.3 feet from Greenwich. Monument No. 1 is S. 32°39′00″ E., 133.1 feet from Precise Bench Mark "C".

Then from said initial point by metes and bounds:

N. 62°40′40″ E., 148.2 feet to monument No. 10, which is a 2-inch iron pipe, located on the northerly side of Galeta Road;

S. 14°02′10″ E., 50.0 feet, more or less, to an unmarked point called No. 10–A, located on a line parallel to and 30 feet southerly from the centerline of Galeta Road;

In a generally easterly and northerly direction, following a line parallel to and 30 feet southerly from the centerline of Galeta Road and Road R12–E (old 100′ Hill Road) to an unmarked point called 81–H, located on longitude 79°51′ W. plus 3,607.6 feet and latitude 9°23′ N. plus 882.99 feet;

Due east, 75.0 feet, more or less, to monument No. 34, which is a brass plug in concrete;

N. 89°58′00″ E., 3,926.6 feet, through monument No. 43, which is a brass plug in concrete monument, to an unmarked point called 43–A, located on the Canal Zone—Republic of Panama boundary line, the distances being 3,531.4 feet and 395.2 feet, successively, from beginning of the course;

S. 00°32′00″ W., 747.8 feet, along the Canal Zone-Republic of Panama boundary line, to monument No. 1, which is a 4-inch iron pipe with a cap;





S. 00°32′00″ W., 2,260.7 feet, through monument No. 1–1, which is a 1½-inch iron pipe, to monument No. 2, which is a 4-inch iron pipe with a cap, the distances being 818.0 feet and 1,444.7 feet, successively, from beginning of the course;

S. 00°33′00″ W., 2,920.3 feet, through monuments Nos. 2–1 and 2–2, which are 1½-inch iron pipes, and monument No. 3, which is a 4-inch iron pipe with a cap, to monument No. 3–1, which is a 2-inch iron pipe, the distances being 496.2 feet, 1,142.3 feet, 835.1 feet, and 446.7 feet, successively, from beginning of the course;

S. 89°52′32″ W., 335.8 feet to monument No. 53, which is a 2½-inch iron pipe;

S. 89°58′08″ W., 11,164.5 feet to monument No. 81–A, which is a 1¼-inch iron pipe. Monument 81–A is 77.3 feet easterly of the centerline of Randolph Road;

N. 03°34′00″ W., 1,847.5 feet, along a line parallel to and 77.3 feet easterly from the centerline of the 30.0-foot-wide pavement of Randolph Road, along the westerly side of a cyclone fence, to monument B–14, which is a 2¼-inch iron pipe.

Then following along a line parallel to and approximately 1.5 feet westerly from the above-mentioned cyclone fence, on the easterly side of Randolph Road, to monument B–16, as follows:

N. 07°45′00″ W., 254.4 feet, to monument B–15, which is a 2-inch iron pipe;

N. 12°13′30″ W., 849.6 feet, to monument B–16, which is a 2-inch iron pipe;

S. 86°46′30″ W., 200.4 feet, crossing Randolph Road, to monument B–17, which is a 2-inch iron pipe;

N. 87°51′45″ W., 562.0 feet, to monument B–18, which is a 2-inch iron pipe, located northeasterly from Quarters No. 334;

N. 14°14′00″ W., 763.2 feet, more or less, through monument B–19, which is a brass plug in a top of a concrete seawall, to an unmarked point called B–20, on the northerly face of the above-mentioned seawall at the intersection of the mean low waterline of Margarita Bay, the distances being 760.7 feet and 2.5 feet, more or less, successively, from beginning of the course.

Easterly, following the mean low waterline of Margarita Bay, along the northerly side of the above-mentioned concrete seawall to an unmarked point called No. 4, located N. 12°14′20″ W., 2 feet, more or less, from monument No. 3, which is a brass plug in the center of the above-mentioned seawall;

S. 12°14′20″ E., 2 feet, more or less, to the above-mentioned monument No. 3, the geodetic position of which is in latitude 9°22′N. plus 4,810.6 feet and longitude 79°52′ W., plus 5,797.7 feet;

S. 12°14′20″ E., 249.9 feet, along the easterly side of a cyclone fence and along the westerly side of a concrete drainage ditch to monument No. 2, which is a brass plug located in the lip of the above-mentioned drainage ditch;

East, 80.4 feet, crossing Randolph Road, to monument No. 1 the point of beginning.

The directions of the lines refer to the true meridian.

All geographic positions are referred to the Panama-Colon datum of the Canal Zone Triangulation System.

The reservation contains a total area of 3,302.3 acres, more or less (Parcel No. 1 at Gulick—mainland 1,755.8 acres and islands 85.3 acres, more or less; Parcel No. 2 at Coco Solo—area above mean low water 60.75 acres, more or less; Parcel No. 3 is 1,400.4 acres, more or less) and is as shown on Canal Zone Government Drawing No. M 6118–44, entitled "Map Showing Boundary of Fort Gulick Army Reservation" scale 1:10,000, dated January 20, 1958 (Revision No. 2 dated Feb. 20, 1959), and No. 6121–72 (Revision No. 1 dated January 5, 1973) entitled "Map Showing United States Army and Navy Reservations, Fort Gulick, Fort Randolph and Coco Solo, Canal Zone" dated September 15, 1969, scale 1:10,000. Both maps are on file in the Office of the Governor of the Canal Zone, Balboa Heights, C.Z.

(2 C.Z.C. 31, 76A Stat. 7, 35 CFR 3.3(c).)

DAVID S. PARKER,
*Governor of the Canal Zone.*

JULY 27, 1973.

Approved:

HOWARD H. CALLAWAY,
*Secretary of the Army.*

AUGUST 24, 1973.

[FR Doc.73-19447 Filed 9-12-73;8:45 am]

## Title 40—Protection of Environment

### CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

#### SUBCHAPTER D—WATER PROGRAMS

### PART 113—LIABILITY LIMITS FOR SMALL ONSHORE STORAGE FACILITIES

#### Financial Liability of Small Facilities

On May 10, 1973, notice was published in the FEDERAL REGISTER (38 FR 12239) proposing to establish limits on the financial liability of small facilities for the costs of removal of oil incurred by the U.S. Government.

Written comments on the proposed rulemaking were invited and two were received, one each from the States of Michigan and Rhode Island. The points raised in these comments were:

a. The possible detrimental effect imposed upon state oil pollution control programs by limiting financial liability for oil spill removal; and

b. The impropriety of expending public funds for removal of oil spills when costs exceed those specified by the proposed regulation.

With respect to item a. above, it is believed that § 113.6 *Effect on other laws*, adequately protects the rights of state and local governments to have more stringent requirements. The agency concurs with the concepts in item b and in determining whether or not small facilities should be subjected to liability lower than the $8 million specified in sec. 311(f)(2), 33 U.S.C. 1251, et seq. it was found that the costs of cleanup associated with discharges from small onshore storage facilities have not exceeded the limits specified in the regulation. Additionally, the regulation may be amended from time to time as additional cost data or other information become available.

Inasmuch as the comments received do not require modification to the proposed rule published on May 10, 1973, the liability limits and associated size classes are effective upon publication. The new part 113 to Title 40 of the Code of Federal Regulations establishes liability limits for onshore oil storage facilities having a total fixed capacity of 1,000 barrels or less. Section 311(f)(2) of the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq., authorizes the Administrator to establish reasonable and equitable classifications of those onshore facilities having a total fixed storage capacity of 1,000 barrels or less which he determines because of size, type, and location, do not present a substantial risk of the discharge of oil and hazardous substances in violation of subsection (b)(4) of section 311, and apply with respect to such classifications, differing limits of liability, which may be less than the amount specified in section 311(f)(2). (Section 311(f)(2) provides for a maximum liability of $8 million for onshore facilities.) Inasmuch as sec. 311(f)(2) authorizes the limiting of liability for small onshore oil or hazardous substances storage facilities and additional study will be required before proposed limits pertaining to those facilities storing hazardous substances can be developed, Part 113 will consist of two subparts. The following is designated as Subpart A—Oil Storage Facilities; Subpart B, which may be issued in the future, will pertain to those small onshore facilities that store hazardous substances.

This regulation has been prepared after consultation with the Secretary of Commerce and the Small Business Administration.

Limited data are presently available to evaluate the entire range of liabilities which may be expected. Historical data do show, however, that small facilities of the type described in the proposed regulation do not present as substantial a risk of extensive environmental damage as do larger sized fixed oil storage facilities. Because of the relatively small quantities of oil such facilities have stored at any given time, it would be expected that discharges from these facilities, although violating regulations promulgated pursuant to sec. 311(b)(4) of the Act, would not result in large scale environmental degradation. The classifications and financial liability limits specified are based upon average historical costs of removal and are designed to provide an acceptable level of environmental protection without imposing undue financial requirements on small business enterprises. As additional data on removal costs are accumulated, however, liability limits, size classes or differentials for aboveground as against belowground facilities may be adjusted.

The bases for size classifications, differentials for aboveground as against belowground siting, and dollar values associated thereto, are as follows:

1. The four size classifications contemplated in the proposed regulations are:

*Class I—up to 10 barrels capacity.*—This size class includes the majority of small commercial and industrial establishments employing standardized welded steel tankage.

*Class II—11 to 170 barrels capacity.*—This size class includes small apartment buildings, small vehicle fleet operations, and small commercial and industrial establishments.

*Class III—171 to 500 barrels capacity.*—This size class includes most service stations, marinas, medium sized apartment buildings and some industrial establishments.



V 38 177 SEP 13 73 XUM

*Class IV—501 to 1,000 barrels capacity.*—This size class includes primarily industrial plants, large hotels and apartment buildings, and large service stations.

2. The relatively higher liability limit proposed for belowground storage facilities is based upon data that indicate a time lapse between the occurrence of a spill and initiation of containment and countermeasure actions. As a consequence of the time lag, spills from belowground facilities tend to be of larger quantity than from comparably sized aboveground facilities and escaped material spreads over a greater area of the receiving water body, complicating removal and mitigation operations.

3. The dollar values for liability limits were derived from data on cost of removing oil spills of various sizes from the navigable waters of the United States. These data were furnished primarily by the regional offices of EPA, with assistance from the U.S. Coast Guard and various cleanup contracting companies.

Dated September 7, 1973.

JOHN QUARLES,
*Acting Administrator.*

### Subpart A—Oil Storage Facilities

Sec.
113.1 Purpose.
113.2 Applicability.
113.3 Definitions.
113.4 Size classes and liability limits.
113.5 Exclusions.
113.6 Effect on other laws.

AUTHORITY: Sec. 311(f)(2), 86 Stat. 867, 33 U.S.C. 1251 (1972).

### Subpart A—Oil Storage Facilities

**§ 113.1 Purpose.**

This subpart establishes size classifications and associated liability limits for small onshore oil storage facilities with fixed capacity of 1,000 barrels or less.

**§ 113.2 Applicability.**

This subpart applies to all onshore oil storage facilities with fixed capacity of 1,000 barrels or less. When a discharge to the waters of the United States occurs from such facilities and when removal of said discharge is performed by the United States Government pursuant to the provisions of subsection 311(c)(1) of the Act, the liability of the owner or operator and the facility will be limited to the amounts specified in paragraph 113.4.

**§ 113.3 Definitions.**

As used in this subpart, the following terms shall have the meanings indicated below:

(a) "Aboveground" storage facility means a tank or other container, the bottom of which is on a plane not more than 6 inches below the surrounding surface.

(b) "Act" means the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1151, et seq.

(c) "Barrel" means 42 United States gallons at 60 degrees Fahrenheit.

(d) "Belowground" storage facility means a tank or other container located other than as defined as "Aboveground".

(e) "Discharge" includes, but is not limited to any spilling, leaking, pumping, pouring, emitting, emptying or dumping.

(f) "Onshore Oil Storage Facility" means any facility (excluding motor vehicles and rolling stock) of any kind located in, on, or under, any land within the United States, other than submerged land.

(g) "On-Scene Coordinator" is the single Federal representative designated pursuant to the National Oil and Hazardous Substances Pollution Contingency Plan and identified in approved Regional Oil and Hazardous Substances Pollution Contingency Plans.

(h) "Oil" means oil of any kind or in any form, including but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil.

(i) "Remove" or "removal" means the removal of the oil from the water and shorelines or the taking of such other actions as the Federal On-Scene Coordinator may determine to be necessary to minimize or mitigate damage to the public health or welfare, including but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches.

Additionally, the terms not otherwise defined herein shall have the meanings assigned them by sec. 311(a) of the Act.

**§ 113.4 Size classes and associated liability limits for fixed onshore oil storage facilities, 1,000 barrels or less capacity.**

Unless the United States can show that oil was discharged as a result of willful negligence or willful misconduct within the privity and knowledge of the owner or operator, the following limits of liability are established for fixed onshore facilities in the classes specified:

(a) Aboveground storage.

| Size class | Capacity (barrels) | Limit (dollars) |
|---|---|---|
| I | Up to 10 | 4,000 |
| II | 11–170 | 60,000 |
| III | 171–500 | 150,000 |
| IV | 501–1,000 | 200,000 |

(b) Belowground storage.

| Size class | Capacity (barrels) | Limit (dollars) |
|---|---|---|
| I | Up to 10 | 5,200 |
| II | 11–170 | 78,000 |
| III | 171–500 | 195,000 |
| IV | 501–1,000 | 260,000 |

**§ 113.5 Exclusions.**

This subpart does not apply to:

(a) Those facilities whose average daily oil throughout is more than their fixed oil storage capacity.

(b) Vehicles and rolling stock.

**§ 113.6 Effect on other laws.**

Nothing herein shall be construed to limit the liability of any facility under State or local law or under any Federal law other than sec. 311 of the Act, nor shall the liability of any facility for any charges or damages under State or local law reduce its liability to the Federal Government under section 311 of the Act, as limited by this subpart.

[FR Doc.73-19488 Filed 9-12-73;8:45 am]

### SUBCHAPTER E—PESTICIDE PROGRAMS

## PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

### Exemptions From Tolerances; Copper Triethanolamine

A petition (PP 2F1227) was filed by Applied Biochemists, Inc., P.O. Box 25, Mequon, Wis. 53092, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of an exemption from the requirement of a tolerance for residues of triethanolamine when used as an inert ingredient in aquatic herbicides applied to water.

Subsequently, the petitioner amended the petition by proposing that the exemption be established for residues of copper resulting from the use of copper triethanolamine as an algicide or herbicide in fish hatcheries, lakes, ponds, and reservoirs. (For a related document, see this issue of the FEDERAL REGISTER, page 25437.)

Based on consideration given data submitted in the petition and other relevant material, it is concluded that:

1. Copper triethanolamine is useful for the purpose for which the exemption is being established.

2. The exemption established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 FR 9038), § 180.1021 is amended by adding new paragraph (c) as follows:

**§ 180.1021 Copper; exemption from the requirement of a tolerance.**

* * * * *

(c) Copper triethanolamine as an algicide or herbicide in fish hatcheries, lakes, ponds, and reservoirs.

Any person who will be adversely affected by the foregoing order may at any time on or before October 15, 1973, file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & M Streets SW., Waterside Mall, Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.





*Effective date.*—This order shall become effective on September 13, 1973.

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)).)

Dated September 7, 1973.

HENRY J. KORP,
*Deputy Assistant Administrator for Pesticide Programs.*

[FR Doc.73-19457 Filed 9-12-73;8:45 am]

## Title 45—Public Welfare

## CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## PART 233—COVERAGE AND CONDITIONS OF ELIGIBILITY IN FINANCIAL ASSISTANCE PROGRAMS

### Need and Amount of Assistance

Part 233 of Chapter II of Title 45 of the Code of Federal Regulations is amended to provide that any per capita judgment funds paid to members of the Blackfeet Tribe and the Gros Ventre Tribe (section 4 of Public Law 92-254, March 18, 1972); any benefits received under Title VII, Nurition Program for the Elderly, of the Older Americans Act of 1965 (section 709 as enacted by Public Law 92-258, March 22, 1972); and any compensation provided to individual volunteers under the Retired Senior Volunteer Program and the Foster Grandparent Program and Older Americans Community Service Programs established under Title VI of the Older Americans Act of 1965 (section 601(d) and 611(d), as enacted by Public Law 93-29, May 3, 1973) shall not be considered as income and resources in determining need and the amount of the assistance payments.

Notice of proposed rulemaking has been dispensed with because the amendments implement statutory requirements, and notice and public procedure thereon are unnecessary.

Accordingly, § 233.20(a)(4)(ii) is amended by adding new paragraphs (*e*), (*f*), and (*g*). As amended, § 233.20(a)(4)(ii) reads as follows:

**§ 233.20 Need and amount of assistance.**

(a) * * *

(4) *Disregard of income and resources common to OAA, AFDC, AB, APTD, or AABD.*

(i) * * *

(ii) Provide that, in determining need and the amount of the assistance payment, the following will be disregarded as income and resources:

(*a*) The value of the coupon allotment under the Food Stamp Act of 1964 in excess of the amount paid for the coupons;

(*b*) The value of the U.S. Department of Agriculture donated foods (surplus commodities);

(*c*) Any payment received under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

(*d*) Any grant or loan to any undergraduate student for educational purposes made or insured under any programs administered by the Commissioner of Education;

(*e*) Any per capita judgment funds paid under Public Law 92-254 to members of the Blackfeet Tribe of the Blackfeet Indian Reservation, Montana and the Gros Ventre Tribe of the Fort Belknap Reservation, Montana.

(*f*) Any benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965, as amended; and

(*g*) Any compensation provided to individual volunteers under the Retired Senior Volunteer Program and the Foster Grandparent Program and Older Americans Community Service Programs established under Title VI of the Older Americans Act of 1965, as amended.

* * * * *

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).)
(Catalog of Federal Domestic Assistance Program No. 13.761, Public Assistance Maintenance Assistance (State Aid).)

*Effective date.*—The regulation in this section shall be effective on November 12, 1973.

Dated August 13, 1973.

JAMES S. DWIGHT, JR.,
*Administrator, Social and Rehabilitation Service.*

Approved September 7, 1973.

FRANK CARLUCCI,
*Acting Secretary.*

[FR Doc.73-19486 Filed 9-12-73;8:45 am]

## Title 50—Wildlife and Fisheries

## CHAPTER I—BUREAU OF SPORT FISHERIES AND WILDLIFE, FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

## PART 32—HUNTING

### Certain National Wildlife Refuges in California

The following regulations are issued and are effective September 13, 1972. These regulations apply to public hunting on portions of certain national wildlife refuges in California.

*General conditions.*—Hunting shall be in accordance with applicable State regulations. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps. Special conditions applying to individual refuges are listed on the reverse side of maps available at the refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 1500 Northeast Irving Street, Portland, Oregon.

**§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.**

Ducks, geese, coots, and gallinules may be hunted on the following refuge areas:

Clear Lake National Wildlife Refuge (Headquarters: Tule Lake National Wildlife Refuge, Route 1, Box 74, Tulelake, California 96134).

*Special conditions.*—(1) Boats with or without motors are permitted. Sculling and air-thrust boats are prohibited.

(2) Leaving boats, decoys, or other hunting equipment in other than designated areas is prohibited. Boats, decoys, or other equipment so left 1 hour after close of shooting time will be subject to removal and impoundment. The expense of the removal shall be paid for by the person owning or claiming ownership of the property. Such property is subject to sale or other disposal after 3 months, in accordance with Section 203m of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C., Sec. 484m) and regulations issued thereunder.

Colusa National Wildlife Refuge, Route 1, Box 311, Willows, California 95988.

Delevan National Wildlife Refuge, Route 1, Box 311, Willows, California 95988.

Kern National Wildlife Refuge, P.O. Box 219, Delano, California 93215.

Kesterson National Wildlife Refuge, P.O. Box 2176, Los Banos, California 98635.

Lower Klamath National Wildlife Refuge (Headquarters: Tule Lake National Wildlife Refuge, Route 1, Box 74, Tulelake, California 96134).

*Special conditions.*—(1) First two weekends only, entry permits are required to enter the hunting area for every individual with the exception of persons under 16 years of age, guides holding refuge Special Use Permits, and agricultural lessees and their agents during the conduct of normal agricultural operations.

(2) A 200-yard wide retrieving zone is established immediately within the exterior refuge boundary and at certain locations between the open and closed areas as designated on the hunting map. A hunter may enter the retrieving zone to retrieve dead or crippled birds which he has shot, providing he does not carry weapons. Possession of firearms in the retrieving zone or closed portion of the refuge is prohibited, except that unloaded firearms may be carried only along established routes of travel through the zone or closed area when necessary to reach or leave the hunting area.

(3) Boats, with the exception of air-thrust boats, are permitted with or without motors. Sculling is prohibited.

(4) Leaving boats, decoys, or other hunting equipment in other than designated areas is prohibited. Boats, decoys, or other equipment left 1 hour after close of shooting time will be subject to removal and impoundment. The expense of the removal shall be paid for by the person owning or claiming ownership of the property. Such property is subject to sale or other disposal after 3 months, in accordance with Section 203m of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C., Sec. 484m) and regulations issued thereunder.

Merced National Wildlife Refuge, P.O. Box 854, Merced, California 95340.

Modoc National Wildlife Refuge, P.O. Box 1439, Alturas, California 96101.

Sacramento National Wildlife Refuge, Route 1, Box 311, Willows, California 95988.



V 38-177 SEP 13 73 XUM

Salton Sea National Wildlife Refuge, P.O. Box 247, Calipatria, California 92233.

San Luis National Wildlife Refuge, P.O. Box 2176, Los Banos, California 93635.

*Special Condition.*—(1) This hunting area will be open for the conduct of a special falconry event on December 27 and 28, 1973, in addition to those dates covered by State regulations.

Sutter National Wildlife Refuge, Route 1, Box 311, Willows, California 95988.

Tule Lake National Wildlife Refuge, Route 1, Box 74, Tulelake, California 96134.

*Special conditions.*—(1) First two weekends only, entry permits are required to enter the hunting area for every individual with the exception of persons under 16 years of age, guides holding refuge Special Use Permits, and agricultural lessees and their agents during the conduct of normal agricultural operations.

(2) A 200-yard retrieving zone is established immediately within the exterior refuge boundary and at certain locations between the open and closed areas as designated on the hunting map. A hunter may enter the retrieving zone to retrieve dead or crippled birds which he has shot, providing he does not carry weapons. Possession of firearms in the retrieving zone or closed portion of the refuge is prohibited, except that unloaded firearms may be carried only along established routes of travel through the zone or closed area when necessary to reach or leave the hunting area.

(3) Boats, with the exception of airthrust boats, are permitted with or without motors. Sculling is prohibited.

(4) Leaving boats, decoys, or other hunting equipment in other than designated areas is prohibited. Boats, decoys, or other equipment left 1 hour after close of shooting time will be subject to removal and impoundment. The expense of the removal shall be paid for by the person owning or claiming ownership of the property. Such property is subject to sale or other disposal after 3 months, in accordance with Section 203m of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C., Sec. 484m) and regulations issued thereunder.

**§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.**

Upland game may be hunted on the following refuge areas:

Colusa National Wildlife Refuge, Route 1, Box 311, Willows, California 95988.

Delevan National Wildlife Refuge, Route 1, Box 311, Willows, California 95988.

Kern National Wildlife Refuge, P.O. Box 219, Delano, California 93215.

Merced National Wildlife Refuge, P.O. Box 854, Merced, California 95340.

Sacramento National Wildlife Refuge, Route 1, Box 311, Willows, California 95988.

Sutter National Wildlife Refuge, Route 1, Box 311, Willows, California 95988.

Ring-necked pheasant may be hunted on the following refuge areas:

Lower Klamath National Wildlife Refuge (Headquarters: Tule Lake National Wildlife Refuge, Route 1, Box 74, Tulelake, California 96134).

*Special condition.*—(1) Additional refuge area designated by special posting will be open to a special 2-day pheasant hunt.

Tule Lake National Wildlife Refuge, Route 1, Box 74, Tulelake, California 96134.

*Special condition.*—(1) Additional refuge area designated by special posting will be open to a special 2-day pheasant hunt.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally and which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through June 30, 1974.

R. KAHLER MARTINSON,
*Regional Director, Bureau of Sport Fisheries and Wildlife.*

AUGUST 31, 1973.

[FR Doc.73-19452 Filed 9-12-73;8:45 am]

## PART 32—HUNTING

### Browns Park National Wildlife Refuge, Colo.

The following special regulation is issued and is effective on September 13, 1973.

**§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.**

COLORADO

BROWNS PARK NATIONAL WILDLIFE REFUGE

Public hunting of ducks, coots, and mergansers on the Browns Park National Wildlife Refuge, Colorado, is permitted from September 29 through October 12, 1973, inclusive, and from November 3, 1973, through January 20, 1974, inclusive; geese, from November 24 through December 16, 1973, inclusive; but only on the area designated by signs as open to hunting. This open area, comprising 1,775 acres, is delineated on maps available at refuge headquarters, Greystone, Colorado, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 10597 West 6th Avenue, Denver, Colorado 80215. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese, coots, and mergansers subject to the following special conditions:

(1) Vehicle travel within the refuge will be restricted to designated routes and parking areas where hunters must check in and out of the hunting area.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 20, 1974.

SEPTEMBER 5, 1973.

H. J. JOHNSON,
*Refuge Manager, Browns Park National Wildlife Refuge, Greystone, Colorado.*

[FR Doc.73-19455 Filed 9-12-73;8:45 am]

## PART 32—HUNTING

### Flint Hills National Wildlife Refuge, Kans.

The following special regulation is issued and is effective on September 13, 1973.

**§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.**

KANSAS

FLINT HILLS NATIONAL WILDLIFE REFUGE

Public hunting of ducks, geese, coots, and mergansers on the Flint Hills National Wildlife Refuge, Kansas, is permitted as follows: Ducks, coots, and mergansers from October 6 through October 21, 1973, inclusive, and from November 10 through December 23, 1973, inclusive; geese, from October 6 through October 21, 1973, inclusive, and from November 3 through December 16, 1973, inclusive for all species of geese, and from December 17 through December 28, 1973, inclusive only for the Snow and Blue Geese, but only on the area designated by signs as open to hunting. This open area, comprising 5,165 acres, is delineated on maps available at refuge headquarters, Burlington, Kansas, and from the Area Manager, Bureau of Sport Fisheries & Wildlife, 601 East 12th Street, Kansas City, Missouri 64106. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese, coots, and mergansers subject to the following special conditions:

(1) Vehicle access shall be restricted to designated parking areas and to existing roads.

(2) Blind construction by the public is permitted but limited to temporary above ground construction. Blind construction does not constitute a reservation of hunting space. Daily occupancy of blinds erected on refuge hunting units will be determined on a first-come-first-serve basis.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 28, 1973.

MICHAEL J. LONG,
*Acting Refuge Manager, Flint Hills National Wildlife Refuge, Burlington, Kans.*

SEPTEMBER 7, 1973.

[FR Doc.73-19443 Filed 9-12-73;8:45 am]





## PART 32—HUNTING

### Shiawassee National Wildlife Refuge, Michigan

The following special regulations is issued and is effective September 13, 1973.

**§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.**

MICHIGAN

SHIAWASSEE NATIONAL WILDLIFE REFUGE

Public hunting of geese on the Shiawassee National Wildlife Refuge, Michigan, is permitted from waterfowl opening hour to 12 noon each odd numbered day from October 1 through November 29, 1973, except no hunting on November 15. The hunting area comprising approximately 1,200 acres is delineated on maps located at the refuge headquarters, Saginaw, Michigan, and at the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of geese subject to the following special conditions:

(1) Hunting shall be by Federal permit and only from assigned blinds and pits.

(2) Certain designated blinds will be restricted to the use of 12 gauge shotguns and iron shot only.

(3) A fee of two dollars per hunter will be charged for the privilege of hunting.

(4) Two or three hunters will be permitted in each blind or pit.

(5) Applications for hunting must be postmarked not later than September 15, 1973.

(6) Assignment of blinds or pits will be at random by the refuge manager, and only successful applicants will be notified.

(7) After completion of the day's hunt, all hunters must proceed to refuge headquarters for check-out and the submission of geese for examination.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuges generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 29, 1973.

CHARLES A. HUGHLETT,
*Acting Regional Director.*

AUGUST 31, 1973.

[FR Doc.73-19449 Filed 9-12-73;8:45 am]

## PART 32—HUNTING

### Tamarac National Wildlife Refuge, Minnesota

The following special regulations is issued and is effective September 13, 1973.

**§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.**

MINNESOTA

TAMARAC NATIONAL WILDLIFE REFUGE

Public hunting of ducks, geese, and coots on the Tamarac National Wildlife Refuge, Minnesota, is permitted only on the area designated by "Public Hunting Area" signs. This open area, comprising 12,500 acres, is delineated on a map available at the refuge headquarters, Rochert, Minnesota 56578, and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Hunting shall be in accordance with all applicable State and Federal regulations.

Ducks and coots may be taken from October 1, 1973, through October 10, 1973, and October 20, 1973, through November 18, 1973. Hunting of Canada geese will be permitted from October 1, 1973, through October 21, 1973. All other geese may be hunted from October 1, 1973, through November 18, 1973.

Portions of Tamarac Refuge open to hunting will be posted "Public Hunting Area" except as described in refuge hunting maps. In addition, no persons shall, for the purpose of hunting, enter or leave the refuge except by access roads so designated; and all hunters shall comply with further regulations which the Refuge Manager may prescribe.

The provisions of this special regulation supplement the regulations which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 18, 1973.

CHARLES A. HUGHLETT,
*Acting Regional Director.*

AUGUST 31, 1973.

[FR Doc.73-19448 Filed 9-12-73;8:45 am]

## PART 32—HUNTING

### Montezuma National Wildlife Refuge, New York

The following special regulation is issued and effective during the period October 1, 1973, through December 31, 1973.

**§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.**

NEW YORK

MONTEZUMA NATIONAL WILDLIFE REFUGE

The public hunting of migratory waterfowl on the Montezuma National Wildlife Refuge, New York, is permitted on the areas designated by the signs as open to waterfowl hunting. The waterfowl hunting area known as the Storage Pool comprises 1,340 acres and is delineated on maps available at refuge headquarters, Seneca Falls, New York, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, John W. McCormack Post Office and Courthouse, Boston, Massachusetts 02109.

Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of migratory waterfowl subject to the following special conditions:

1. Hunting is permitted on Tuesdays, Thursdays, and Saturdays.

2. On designated days migratory waterfowl will be hunted with 12-gauge shotguns using iron shot provided by the refuge at a charge of $.16 per round.

3. Applications for blind reservations received no later than September 15 will be accepted. Reservations for blinds, for hunting through November 3, will be selected by public drawing. Successful applicants must appear in person at the refuge waterfowl check station prior to 1 hour before legal shooting time on the date reserved. Unreserved and forfeited blinds will be awarded by a drawing on the morning of the hunt to hunters without reservations.

4. The first two Saturdays (and Sundays if necessary) of the season will be reserved for the Young Waterfowler's Training Program hunt. A brochure describing this program is also available.

5. No more than three persons are permitted in each blind.

6. Loaded guns are not permitted outside the blind except when in pursuit of a crippled bird.

7. Hunters must provide a minimum of six duck decoys and will be limited to fifteen shells each, with shot size no larger than No. 2.

8. All hunting ends each hunting day at 12 noon local time, and all hunters must check out at the waterfowl check station no later than 1:00 p.m. local time.

9. A user fee of $2.00 per blind will be charged.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 31, 1973.

RICHARD E. GRIFFITH,
*Regional Director, Bureau of Sport Fisheries and Wildlife.*

SEPTEMBER 4, 1973.

[FR Doc.73-19453 Filed 9-12-73;8:45 am]

## PART 32—HUNTING

### Seedskadee National Wildlife Refuge, Wyo.

The following special regulation is issued and is effective on September 13, 1973.

**§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.**

WYOMING

SEEDSKADEE NATIONAL WILDLIFE REFUGE

Public hunting of geese, ducks, coots, and mergansers on the Seedskadee National Wildlife Refuge, Wyoming, is permitted as follows: Ducks, coots, and mergansers, from October 6 through December 30, 1973, inclusive; geese from October 6 through November 19, 1973, inclusive, and December 1 through December 30, 1973, inclusive. All of the refuge area, comprising 12,370 acres, and so designated by signs, is open to hunting. Maps of the area are available at the



V 38-177 SEP 13 73 XUM

refuge office, Room 118, Courthouse, Green River, Wyoming. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of geese, coots, ducks and mergansers.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 30, 1973.

MERLE O. BENNETT,
*Refuge Manager, Seedskadee National Wildlife Refuge, Green River, Wyoming.*

SEPTEMBER 6, 1973.

[FR Doc.73-19476 Filed 9-12-73;8:45 am]

## PART 32—HUNTING

### Browns Park National Wildlife Refuge, Colo.

The following special regulation is issued and is effective on September 13, 1973.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

COLORADO

BROWNS PARK NATIONAL WILDLIFE REFUGE

Public hunting for cottontail rabbits is permitted on the Browns Park National Wildlife Refuge, Colorado, from October 1, 1973, through February 28, 1974, inclusive, except in those areas designated by signs as closed to hunting. This open area, comprising 4,501 acres, is delineated on maps available at refuge headquarters, Greystone, Colorado, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 10597 West 6th Avenue, Denver, Colorado 20240.

Hunting will be in accordance with all applicable State regulations covering the hunting and possession of cottontail rabbits.

The provisions of this special regulation supplement the regulations which govern hunting of wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through February 28, 1974.

H. J. JOHNSON,
*Refuge Manager, Browns Park National Wildlife Refuge, Vernal, Utah.*

SEPTEMBER 5, 1973.

[FR Doc.73-19454 Filed 9-12-73;8:45 am]

## PART 32—HUNTING

### Valentine National Wildlife Refuge; Nebr.

The following special regulation is issued and is effective September 13, 1973.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

NEBRASKA

VALENTINE NATIONAL WILDLIFE REFUGE

The public hunting of prairie grouse and pheasants on the Valentine National Wildlife Refuge, Nebraska, shall be permitted only on areas designated by signs as open to hunting. The open areas are delineated on maps available at refuge, headquarters, Valentine, Nebraska, and from the office of the Regional Director, 10597 West Sixth Avenue, Denver, Colorado, 80215.

Hunting shall be in accordance with all applicable State regulations governing the hunting of prairie grouse and pheasants subject to the following special regulations:

(1) The open season for hunting prairie grouse on the refuge extends from September 22, 1973, through November 4, 1973. The open area shall include 40,765 acres or 57 percent of the refuge.

(2) The open season for hunting pheasants on the refuge extends from November 3, 1973, through January 13, 1974. The open areas shall include 70,085 acres or 98 percent of the refuge.

(3) Since the regular State prairie grouse hunting season overlaps the regular State pheasant hunting season by two days (November 3 and 4, 1973) all portions of the refuge east of U.S. Highway 83 will be closed to the hunting of pheasants on these two days. Pheasants hunting east of Highway 83 will be permitted on November 5, 1973, and continue through the end of the regular season.

(4) The refuge will be open to prairie grouse and pheasant hunting during the regular State duck hunting season.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through the close of the regular State 1973–1974 prairie grouse and pheasant hunting seasons.

ROBERT M. ELLIS,
*Refuge Manager, Valentine National Wildlife Refuge, Valentine, Nebraska.*

AUGUST 17, 1973.

[FR Doc.73-19491 Filed 9-12-73;8:45 am]

## PART 32—HUNTING

### Browns Park National Wildlife Refuge; Colorado

The following special regulation is issued and is effective September 13, 1973.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

COLORADO

BROWNS PARK NATIONAL WILDLIFE REFUGE

Public hunting of deer is permitted on the Browns Park National Wildlife Refuge, Colorado, for the 1973 rifle season except in those areas designated by signs as closed to hunting. Rifle deer season is October 13 through October 24, 1973, inclusive.

Hunting will be in accordance with all applicable State regulations covering the hunting of deer.

The provisions of this special regulation supplement the regulations which govern hunting of wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through October 24, 1973.

H. J. JOHNSON,
*Refuge Manager, Browns Park National Wildlife Refuge, Vernal Utah.*

SEPTEMBER 5, 1973.

[FR Doc.73-19441 Filed 9-12-73;8:45 am]

## PART 32—HUNTING

### Noxubee National Wildlife Refuge, Miss.

The following special regulations are issued and are effective on October 6, 1973.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

MISSISSIPPI

NOXUBEE NATIONAL WILDLIFE REFUGE

Hunting shall be in accordance with applicable State regulations. Portions of the refuge which are open to hunting are designated by signs and delineated on maps available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 17 Executive Park Drive NE., Atlanta, Georgia 30329. White-tailed deer may be hunted in accordance with the following special conditions:

(1) Hunting with guns is permitted November 26–December 1, 1973, and December 26–27, 1973, excluding Sundays.

(2) Guns are restricted to centerfire guns, 20 gauge or larger shotguns firing slugs or number four or larger buckshot, and muzzle loading rifles and shotguns.

(3) Hunting of deer with longbows only is permitted October 6–13, 1973, excluding Sundays.

(4) A primitive weapons hunt for deer will be conducted December 10–15, 1973.

(5) Horses and dogs are not permitted.

(6) Fires and cutting of trees are not permitted.

(7) Primitive camping is permitted in designated camping area only.

(8) All deer killed must be checked out at one of the designated refuge checking stations.

(9) The number of hunters is not limited. Permits are required for all deer hunts and will be issued from Refuge Headquarters.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, and are effective through December 30, 1973.

C. EDWARD CARLSON,
*Regional Director, Bureau of Sport Fisheries and Wildlife.*

SEPTEMBER 4, 1973.

[FR Doc.73-19482 Filed 9-12-73;8:45 am]

## PART 32—HUNTING

### Montezuma National Wildlife Refuge; New York

The following special regulation is issued and effective during the period November 19 through December 4, 1973.





§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

NEW YORK

MONTEZUMA NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Montezuma National Wildlife Refuge, New York, is permitted except on the areas designated by signs as closed. The open area, comprising 3,874 acres, is delineated on maps available at refuge headquarters, 5 miles east of Seneca Falls, New York, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, John W. McCormack Post Office and Courthouse, Boston, Massachusetts 02109. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer subject to the following special conditions:

1. The open season is Monday through Friday from November 19 to December 4, inclusive. Actual dates open are November 19, 20, 21, 22, 23, 26, 27, 28, 29, 30; December 3 and 4.

2. Only longbows may be used. No gun hunting will be allowed.

3. Successful hunters must register their kill at refuge headquarters.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 4, 1973.

RICHARD E. GRIFFITH,
*Regional Director, Bureau of Sport Fisheries and Wildlife.*

SEPTEMBER 4, 1973.

[FR Doc.73-19451 Filed 9-12-73;8:45 am]

## PART 32—HUNTING

### Presquile National Wildlife Refuge; Virginia

The following special regulations are issued and are effective during the period October 15, 1973 through November 9, 1973.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

VIRGINIA

PRESQUILE NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer on the Presquile National Wildlife Refuge is permitted on the entire refuge except within 200 yards of all buildings. Hunting shall be in accordance with all applicable State regulations governing the hunting of white-tailed deer, subject to the following special conditions:

(1) A Federal permit will be required at no charge to the applicant. Permits will be issued for a two consecutive day period except for November 7 and 9, which will be for one day only. Permits will be limited to 135 for each two-day period and 80 for each one-day hunt. They will be issued in advance of the season to hunters selected from a public drawing to be held September 17, 1973, in the refuge office, 202 Tartan Building, 320 E. Broadway, Hopewell, Virginia. Applications must be printed or typed and contain the following information: Name, address, specify gun hunt or archery hunt, up to three other names and addresses of members in party, three preference dates, and whether hunter will use boat or not. Permits are nontransferable and will be mailed to selected applicants after the drawing. Alternates will also be selected from standby hunters at the ferry landing to fill any vacant slots if permittees do not show up.

(2) Only white-tailed deer may be taken from one half-hour before sunrise to one half-hour after sunset with bow and arrow only on October 15, 16, 19, 20, 26, 27; and with shotguns on November 7 and 9, 1973.

(3) Bag limits: One deer per day, either sex.

(4) All hunters must enter the refuge on the ferry at 6 a.m. e.d.t. (5 a.m. e.s.t.) except that boats will be permitted only for those hunters desiring to hunt in the swamp. All boat occupants must wear life jackets. Only small boats will be permitted with outboard engines no larger than 10 h.p. There will be an official State checking station at the refuge headquarters. Hunters must be checked out by refuge officials before leaving the island and leave the refuge by 7 p.m. e.d.t. (6 p.m. e.s.t.).

(5) All travel on the refuge will be on foot or by refuge vehicles. Boats will be permitted in the swamp creeks. Horses and dogs are prohibited.

(6) Possession of firearms on the refuge during the bow and arrow only hunts is prohibited.

(7) All arrows in the possession of each hunter must be marked with the stand number issued to the hunter.

(8) One-hundred thirty-five stands corresponding to the allowable number of hunters on each day of the bow hunts and 80 stands corresponding to the allowable number of hunters on each day of the gun hunts are located throughout the refuge. Each hunter will be assigned the stand corresponding to his permit number. Fluorescent orange must be visible on each gun hunter. Bow hunters will remain at their assigned stands from one half-hour before sunrise to 10 a.m. From 10 a.m. to one half-hour after sunset, they may hunt anywhere within the open area. Shotgun hunters will remain on their stand throughout the day's hunt. Boats must be moored throughout the day. Boats leaving the creek during the day cannot return that day.

(9) All hunters under 18 years of age must be accompanied by an adult.

(10) Scouting will be permitted on September 27, 28, and 29, 1973. The refuge ferry will take passengers to the island at 8 a.m. e.d.t., and return to the mainland at 10 a.m. and 12 noon.

(11) These special regulations and maps are available at refugee headquarters, Hopewell, Virginia, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, John W. McCormack Post Office and Courthouse, Boston, Massachusetts 02109.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally, as set forth in Title 50, Code of Federal Regulations, Parts 28 and 32, and are effective through November 9, 1973.

WILLARD M. SPAULDING, JR.,
*Acting Regional Director, Bureau of Sport Fisheries and Wildlife.*

AUGUST 31, 1973.

[FR Doc.73-19450 Filed 9-12-73;8:45 am]

## PART 32—HUNTING

### Valentine National Wildlife Refuge; Nebr.

The following special regulation is issued and is effective September 13, 1973.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

NEBRASKA

VALENTINE NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Valentine National Wildlife Refuge, Nebraska, is permitted only on the area designated by signs as open to hunting. This open area, comprising 70,085 acres, is delineated on maps available at refuge headquarters, Valentine, Nebraska, and from the office of the Regional Director, 10597 West Sixth Avenue, Denver, Colorado 80215.

Hunting shall be in accordance with all applicable state regulations governing the hunting of deer subject to the following special regulations:

(1) The open season for hunting deer with firearms on the refuge will extend from November 10, 1973, through November 18, 1973.

(2) The hunting season for deer on the refuge with bow and arrow will extend from September 15, 1973, through December 31, 1973, except that bow and arrow season will be closed during the season open to hunting deer with firearms.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 31, 1973.

ROBERT M. ELLIS,
*Refuge Manager, Valentine National Wildlife Refuge, Valentine, Nebraska.*

AUGUST 17, 1973.

[FR Doc.73-19490 Filed 9-12-73;8:45 am]

## PART 33—SPORT FISHING

### Valentine National Wildlife Refuge, Nebr.

The following special regulation is issued and is effective on September 13, 1973.



V 38-177 SEP 13 73 XUM

§ 33.5 Special regulations: sport fishing; for individual refuge areas.

NEBRASKA

VALENTINE NATIONAL WILDLIFE REFUGE

Sport fishing on the Valentine National Wildlife Refuge, Nebraska, is permitted only on the areas designated by signs as open to fishing. These open areas comprising 2,880 acres of water on the refuge, are delineated on maps available at the refuge headquarters and from the Office of the Regional Director, 10597 West Sixth Avenue, Denver, Colorado 80215.

Sport fishing shall be in accordance with all applicable State regulations subject to the following special conditions:

(1) The open season for sport fishing on the refuge during daylight hours only will be from January 1, 1974, through December 31, 1974, in those waters posted as open.

(2) Hook and line, bow and arrow, and hand spearing fishing only are permitted.

(3) Boats with or without electric-type outboard motors are permitted on lakes opened to sport fishing in accordance with State boating regulations. Internal combustion type motors are prohibited.

(4) The use or possession of live minnows or fish for bait or the possession of any seine or net for capturing live minnows is prohibited. Dead minnows or parts thereof may be used as bait.

The provisions of this special regulation supplement the regulations which govern sport fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33, and are effective through December 31, 1974.

ROBERT M. ELLIS,
*Refuge Manager, Valentine National Wildlife Refuge, Valentine, Nebraska.*

AUGUST 17, 1973.

[FR Doc.73-19489 Filed 9-12-73;8:45 am]

---

**Title 15—Commerce and Foreign Trade**

**CHAPTER III—DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION, DEPARTMENT OF COMMERCE**

**SUBCHAPTER B—EXPORT REGULATIONS**

[13th Gen. Rev., Export Regs., Amdt.]

**PART 376—SPECIAL COMMODITY POLICIES AND PROVISIONS**

**Requirement of Special Report for Sales of Certain Agricultural Products Where Country of Export Shipment is Optional**

The FEDERAL REGISTER issuance of August 29, 1973, announced the revised reporting requirements with respect to anticipated and actual export activity for those agricultural commodities listed in Supplement No. 1 to Part 376 of the Export Control Regulations. The regulations were amended to require regular weekly reporting only on Form DIB–635P, and the filing instructions for both Form DIB–635P and Form DIB–634P were amplified. Further, the deadlines for filing agricultural reports were changed.

In order to provide more detailed reporting of anticipated exports of agricultural commodities, the Export Control Regulations are hereby revised to provide for separate accounting of sales in those cases where the country of export shipment for the commodity involved is left to the option of the seller and/or the buyer. Hereafter, only those portions of such sales which it has been determined will be shipped from the United States shall be reported on the weekly reporting Form DIB–635P. Details on contracts for which the country of export has not yet been determined, shall be reported on a new Form DIB–650P.

An optional origin sales contract should no longer be reported on Form DIB–650P after the exporter has reported that this contract has been cancelled, bought back, or that the option has been exercised with respect to the total quantity specified: (i) By a determination to export from the United States (in which case such transaction shall be reported on Form DIB–635P), and/or (2) by a determination to perform by shipment from a country or countries other than the United States.

Accordingly, the regulations are revised to require each U.S. exporter to file, no later than September 24, 1973, and each week thereafter, a report on Form DIB–650P, "Report of Optional Sales of Commodities Subject to Reporting of Anticipated Exports."[1] Such reports shall indicate in those cases where the country of export shipment is optional, the details of all orders for the listed agricultural commodities which were unfilled or partially filled as of September 21, 1973, and each succeeding week.

At such time as the option to ship from the United States has been determined, the order shall be reported weekly on Form DIB–635P pursuant to the rules with respect to such form contained in § 376.3(a)(2). The information required to be reported on Form DIB–650P is specified in § 376.3(a)(3), as revised.

Accordingly, 376.3(a) of the Export Control Regulations (15 CFR Part 376) is amended by revising subparagraph (2), by redesignating subparagraphs (3) and (4) as subparagraphs (4) and (5) of such section, respectively; by adding a new subparagraph (3); and by revising subparagraph (5), as redesignated. These amended and additional provisions read as follows:

§ 376.3 Agricultural commodities requiring reports.

(a) *Exports and anticipated exports of certain agricultural commodities.* • • •

(2) *Subsequent reports.*—On the date indicated in Column E of Supplement No. 1 to this Part 376, and on each Monday thereafter (or on the first business day following such a Monday, if it is a National holiday), each U.S. exporter shall file a report on the appropriate Form DIB–635P (promulgated in series (a) through (j) to correspond with the Form DIB–634P series) which shall state as of the close of business on the preceding Friday all anticipated exports of more than $250 for each separate commodity set forth in such Supplement No. 1. Such report shall include a reconciliation of all changes from the prior report (if any), which will show in aggregate form: (i) all new anticipated exports of more than $250; (ii) all cancellations of, or changes in, orders previously reported; (iii) a breakdown indicating whether such cancelled orders were accepted on or before the date shown in Column C of Supplement No. 1, or accepted after such date; (iv) all exports made since the closing date of the prior report, whether or not such exports were made against reported or accepted orders; (v) a breakdown of exports indicating whether they were against orders accepted on or before the date shown in Column C of Supplement No. 1, or against orders accepted after that date; (vi) any changes in the quantities to be exported to particular countries; (vii) any changes in the month of scheduled or anticipated export; (viii) in case of optional commodity sales, any change in the particular class or kind of commodity expected to be exported from the U.S.; and (ix) in the case of anticipated exports for any commodity, month, or country that were not previously reported, an entry of zero (0) in Item 1 and the addition of the new information, as appropriate. Once an additional Form DIB–634P has been submitted, the appropriate Form DIB–635P shall be submitted each week with an itemization of the specific changes for the week being reported. The notation, "No Change", shall be entered as a summarization when the entire report or any column thereof is unchanged from the previous week. Where there are changes, even though these do not result in differences in the aggregate because they are offsetting, such changes shall be entered on the appropriate Form DIB–635P. Weekly reporting for any commodity group may be discontinued only when anticipated shipments of that group have been reduced to zero, and shall be resumed whenever new anticipated exports occur (and at the time of such resumption, a Form DIB–634P shall be filed pursuant to the rules of subparagraph (1) of this paragraph, as if it were an initial report). If the date in Column C of Supplement No. 1 is different from that shown in the heading or any item of Form DIB–635P, the dates on the form shall be corrected accordingly. On any Form DIB–635P required to be filed on September 24, 1973, the quantity previously reported as expected to be exported from the United States but which, as of September 21, 1973, is subject to an optional origin sales order or arrangement under which the country of export shipment has not as of such date been determined, shall be subtracted in Item 9 of such form. Subsequently, the quantity expected to be exported from the United States because of a determination as to the country of export shipment shall be reported on the appropriate Form DIB–635P filed for the week during which such determination was made pursuant to the rules of this subparagraph.

(3) *Report of contract details for sales where country of export shipment is optional.*—On September 24, 1973, and on each Monday thereafter (or on the first business day following such a Monday if it is a National holiday), each U.S. exporter shall file a report on Form DIB–65P which shall state as of the close of business on the preceding Friday all accepted orders which are unfilled in whole or in part, and all other firm arrangements, for international trade of more than $250 for each separate commodity set forth in Supplement No. 1 to this Part 376. Such a report shall be required only in the case of sales where the country of export shipment is optional and, under the terms of the contract or other arrangement, export shipment in whole or in part from the United States is not excluded. Such report shall show by country of destination and Schedule B Number; and in the case of wheat and cotton, also by the separate classes set forth in Supplement No. 1: (i) The tonnage (in metric tons) or such other unit of quantity specified in Supplement No. 1, involved in optional origin sales reported in the previous report (if any); (ii) additional quantities involved in new optional origin sales of more than $250 and adjustments which increase previously reported sales; (iii) the quantities involved in optional origin sales which it has been determined during the week covered by the report will be shipped from the United States; (iv) the quantities which it has been determined during the week covered by the report will be shipped from one or more countries other than the United States; (v) cancellations, "buy-backs", and other adjustments which decrease previously reported optional origin sales; and (vi) the adjusted total quantity involved in optional origin sales (including adjustment for those quantities for which countries of export shipment have been determined). (However, the first such report (that required to be filed on September 24, 1973) should show only the data refered to in paragraph (a)(3)(vi) of this origin sales, the country of destination section. In cases where under optional is also optional, such sales shall be aggregated in one column of the report and "Undesignated shall be entered in the space provided for indicating the country of destination. The notation "No Change" shall be entered as a summarization when the entire report or any column thereof is unchanged from the previous week. A separate Form DIB–650P shall be filed under the rules of this subparagraph for each commodity group listed in Supplement No. 1. Weekly reporting for any commodity group may be discontinued only when anticipated shipments of that group have been reduced to zero, and shall be resumed whenever new optional origin sales occur with respect to such group.

• • • • •

(5) *Reporting requirements.*—(i) *Manner of Reporting.*—All reports required under this Part 376 must be filed in an original and one copy with the Office of Export Control. Except as provided in this subdivision, such reports shall be deemed filed only when actually received by the Office of Export Control. Reports sent by mail must be addressed to Post Office Box 7138, Ben Franklin Station, Washington, D.C. 20044, and will be deemed to have been timely filed irrespective of whether these are in fact received by the Office of Export Control within the Monday deadline, but only if the reports are postmarked by the U.S. Postal Service no later than midnight of the Friday preceding the Monday deadline and they are received by the Office of Export control in the regular and usual course of the mail. Additionally, reports on Forms DIB–635P and DIB–650P may be filed by Telex or TWX no later than the Monday following the week covering the report, in the manner set forth in Item No. 3 to Supplement No. 2 of this Part 376, but only if the actual forms, marked "Confirmation of Telex (or if apropriate, TWX) Report" across the top, are received by the Office of Export Control in Washington, D.C. no later than the first Wednesday following the week being reported.

• • • • •

*Effective date of action.*—September 11, 1973.

RAUER H. MEYER,
*Director,*
*Office of Export Control.*

[FR Doc.73-19616 Filed 9-12-73;8:45 am]

[1] Form DIB–650P will soon be available from all U.S. Department of Commerce District Offices and from the Office of Export Control (Attn: 547), U.S. Department of Commerce, Washington, D.C. 20230.







V 38-177 SEP 13 73 XUM

# Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

## DEPARTMENT OF THE TREASURY

### United States Customs Service

### [ 19 CFR Part 151 ]

### CERTAIN FRUIT JUICES

### Determination of Average Brix Values

Notice is hereby given that under the authority of R.S. 251, as amended, section 624, 46 Stat. 759, 77A Stat. 14; 19 U.S.C. 66, 1202 (Gen. Hdnte. 11 and sch. 1, pt. 12A, hdnte. 3(b)), and 1624, it is proposed to make a finding of average Brix value for certain unconcentrated natural fruit juice in the trade and commerce of the United States and to add this information to the list of the average Brix values for unconcentrated natural fruit juices, set forth in section 151.91 of the Customs Regulations.

The fruit juices for which average Brix values are proposed and the values proposed are as follows:

| | *Degrees* |
|---|---|
| Bilberry (Whortleberry, Vaccinium Myrtillum) | 13.4 |
| Soursop (Guanabana, Annono Muricata) | 16.0 |

Accordingly, it is proposed to amend the alphabetical listing of unconcentrated natural fruit juices whose Brix value has been determined, set forth at the end of § 151.91 of the Customs regulations, by inserting Bilberry (Whortleberry, Vaccinium Myrtillum) 13.4 after Apricot 14.3 and before Black currant 15.0, and by inserting Soursop (Guanabana, Annono Muricata) 16.0 after Red currant 10.5 and before Strawberry 8.0.

Data, views, or arguments with respect to the foregoing proposal may be addressed to the Commissioner of Customs, Attention: Regulations Division, Washington, D.C. 20229. To insure consideration of such communications, they must be received not later than October 15, 1973.

Written material or suggestions submitted will be available for public inspection in accordance with § 103.3(b) of the Customs Regulations (19 CFR 103.3(b)), at the Headquarters, United States Customs Service, Regulations Division, Washington, D.C., during regular business hours.

[SEAL] LEONARD LEHMAN,
*Acting Commissioner of Customs.*

Approved September 5, 1973.

EDWARD L. MORGAN,
*Assistant Secretary of the Treasury.*

[FR Doc.73-19479 Filed 9-12-73;8:45 am]

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### [ 7 CFR Part 1030 ]

[Docket No. AO361-A9]

### MILK IN THE CHICAGO REGIONAL MARKETING AREA

### Notice of Recommended Decision and Opportunity to File Written Exceptions

*Correction*

In FR Doc. 73-18669 appearing at page 23796 of the issue for Tuesday, September 4, 1973, make the following changes:

1. In the last line of § 1030.80(c)(1)(ii), the reference to "(b)(1)(i)", should read "(c)(1)(i)".

2. In the last two lines of § 1030.80(c)(2)(ii), the reference to "(b)(2)(i) of this paragraph" should read "(c)(2)(i) of this section".

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Social Security Administration

### [ 20 CFR, Part 405 ]

[Regs. No. 5]

### FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

### Principles of Reimbursement for Provider Costs and for Services by Hospital-Based Physicians

Notice is hereby given pursuant to the Administrative Procedure Act (5 U.S.C. 552 et seq.) that the regulations set forth in tentative form are proposed by the Acting Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. Pursuant to section 233 of the Social Security Amendments of 1972 (P.L. 92-603), the proposed amendments to Subpart D of Regulations No. 5 of the Social Security Administration (20 CFR Part 405) would provide that where the provider's customary charges for services are lower than its reasonable cost for such services, payment to such a provider shall not exceed its customary charges. Public providers, that is, providers operated by Federal, State, or local Government agencies or instrumentalities, will, however, be reimbursed on the basis of their reasonable costs if they render services free of charge or at a nominal charge.

Prior to the final adoption of the proposed regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, D.C. 20201, on or before October 15, 1973.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue SW., Washington, D.C. 20201.

The proposed amendments are issued under the authority contained in sections 1102, 1814(b), 1833(a), 1871, 49 Stat. 647, as amended, 79 Stat. 294, as amended, 79 Stat. 302, as amended, 79 Stat. 331; 42 U.S.C. 1302, 1395 et seq.

(Catalog of Federal Domestic Assistance Program Nos. 13.800, Health Insurance for the Aged—Hospital Insurance; and 13.801, Health Insurance for the Aged—Supplementary Medical Insurance.)

Dated: July 13, 1973.

ARTHUR E. HESS,
*Acting Commissioner of Social Security.*

Approved September 4, 1973.

FRANK CARLUCCI,
*Acting Secretary of Health, Education, and Welfare.*

Regulations No. 5 of the Social Security Administration, as amended (20 CFR Part 405), are further amended as follows:

1. Paragraph (a) of § 405.401 is revised to read as follows:

**§ 405.401 Introduction.**

(a) Under the health insurance program for the aged, the amount paid to any provider of services—i.e., hospital, skilled nursing facility, or home health agency—for the covered services furnished to beneficiaries is required by section 1814(b) and section 1833(a)(2) of the Social Security Act to be the reasonable cost of such services. However, with respect to cost reporting periods beginning after December 31, 1972, payments to providers of services are based on the lesser of the reasonable cost of services or the customary charges to the general public for such services.

• • • • •

2. Paragraph (a) of § 405.402 is revised to read as follows:

**§ 405.402 Cost reimbursement; general.**

(a) In formulating methods for making fair and equitable reimbursement for services rendered beneficiaries of the program, payment is to be made on the basis of current costs of the individual provider, rather than costs of a past period or a fixed negotiated rate. All necessary and proper expenses of an institution in the production of services, including normal standby costs, are recognized. Furthermore, the share of the total institutional cost that is borne by the program is related to the care furnished beneficiaries so that no part of their cost would need to be borne by other patients. Conversely, costs attributable to other patients of the institution are not to be borne by the program. Thus, the application of this approach, with appropriate accounting support, will result in meeting actual costs of services to beneficiaries as such costs vary from institution to institution. However, with respect to cost reporting periods beginning after December 31, 1972, payments to providers of services for services rendered health insurance program beneficiaries are based on the lesser of the reasonable cost of services or the customary charges to the general public for such services.

• • • • •

3. Paragraph (a) of § 405.451 is revised to read as follows:

**§ 405.451 Cost related to patient care.**

(a) *Principle.*—All payments to providers of services must be based on the reasonable cost of services covered under title XVIII of the Act and related to the care of beneficiaries. Reasonable cost includes all necessary and proper costs incurred in rendering the services, subject to principles relating to specific items of revenue and cost. However, for cost reporting periods beginning after December 31, 1972, payments to providers of services are based on the lesser of the reasonable cost of services covered under title XVIII of the Act and furnished to program beneficiaries or the customary charges to the general public for such services, as provided for in § 405.455.

• • • • •

4. The following new section is added to read as follows:

**§ 405.455 Amount of payments where customary charges for services furnished are less than reasonable cost.**

(a) *Principle.*—Providers of services will be paid the lesser of the reasonable cost of services furnished to beneficiaries or the customary charges made by the provider for the same services. Public providers of service rendering services free of charge or at a nominal charge will be paid fair compensation for services furnished to beneficiaries. This principle is applicable to services rendered by providers in cost reporting periods beginning after December 31, 1972.

(b) *Definitions.*—(1) *Customary charges.*—Customary charges for services rendered to beneficiaries are the charges as defined in § 405.452(d)(4). Such charges must be recorded on all bills submitted for program reimbursement. Where the provider does not actually impose such charges in the case of most patients liable for payment for its services on a charge basis or fails to make reasonable efforts to collect such charges from patients liable for payment for its services on a charge basis, customary charges for services rendered to beneficiaries shall be the charges as defined in § 405.452(d)(4) and recorded on the bills submitted for program reimbursement reduced in proportion to the ratio of the aggregate amount actually collected from patients liable for payment for services on a charge basis to the amounts that would be realized had charges consistent with the charges as defined in § 405.452(d)(4) and recorded on the bills submitted for program reimbursement been paid by or on behalf of all patients liable for payment on a charge basis.

(2) *Reasonable cost.*—For purposes of comparison with customary charges, the reasonable cost of services furnished to beneficiaries shall exclude (i) payments made to a provider as reimbursement for bad debts arising from noncollection of Medicare deductible and coinsurance amounts, (ii) amounts which represent the recovery of excess depreciation resulting from termination, or a decrease in Medicare utilization (§ 405.415(d)(3)) applicable to prior cost periods, (iii) amounts applicable to prior cost periods resulting from disposition of depreciable assets (§ 405.415(f)), and (iv) payments to funds for the donated services of teaching physicians.

(3) *Public provider.*—A public provider means any provider operated by a Federal, State, county, city, or other local Government agency or instrumentality.

(4) *Nominal charges.*—A public provider's charges are considered nominal where the aggregate charges are less than one-half of the reasonable cost of services or items represented by such charges.

(5) *New provider.*—A new provider is an institution that has operated as the type of facility for which it is certified in the program (or the equivalent thereof) at a particular location for less than 3 full years.

(c) *Aggregation of charges.*—It is appropriate that, on an aggregate basis, payments to a provider for covered services rendered beneficiaries under title XVIII should not exceed the customary charges made by the provider to the general public for the same services. In determining payments on an aggregate basis, charges for items and services and the reasonable cost of such items and services will be considered separately for Part A and Part B of title XVIII. The principle established is to be applied after the provider's charges and costs have been adjusted in accordance with the requirements set forth in paragraph (b)(2) of this section and in §§ 405.480–405.488, to exclude any amounts attributable to physicians' services not reimbursable to the provider on a reasonable cost basis and to exclude costs and charges with respect to noncovered provider services.

*Example.*—The reasonable cost of covered Part A services furnished to program beneficiaries by a provider for a cost reporting period is $125,000. The customary charges to these beneficiaries for these services totaled $110,000. The amount to be reimbursed this provider will be $110,000 less deductible and coinsurance amounts to be borne by program beneficiaries.

(d) *Accumulation of unreimbursed costs and carryover to subsequent periods.*—(1) *General.*—Any provider of services whose charges are lower than costs in any cost reporting period beginning after December 31, 1972, may carry forward costs attributable to program beneficiaries which are unreimbursed under the provisions of this section for the two succeeding reporting periods. Where beneficiary charges exceed reasonable cost in such subsequent periods, such previously unreimbursed amounts carried forward shall be reimbursed to the provider to the extent that such previously unreimbursed amounts carried forward, together with costs applicable to program beneficiaries in such subsequent periods, do not exceed customary charges with respect to services to program beneficiaries in such subsequent periods. If such two succeeding cost reporting periods combined include fewer than 24 full calendar months, the provider may carry forward costs unreimbursed under this section for one additional reporting period.

(2) *New provider.*—A new provider of services may carry forward for five succeeding cost reporting periods costs attributable to program beneficiaries which are unreimbursed under the provisions of this section with respect to any cost reporting period which begins after December 31, 1972, and ends on or before the last day of its third year of operation. Where beneficiary charges exceed reasonable cost in the five succeeding reporting periods, such previously unreimbursed amounts carried forward shall be reimbursed to the provider to the extent that such previously unreimbursed amounts carried forward, together with costs applicable to program beneficiaries in such subsequent periods, do not exceed customary charges with respect to services to program beneficiaries in such subsequent periods. If such five succeeding cost reporting periods combined include fewer than 60 full calendar months, the provider may carry forward costs unreimbursed under this section for one additional reporting period.

*Example.*—A provider begins its operations on March 5, 1971. However, it begins to participate in the Medicare program as of January 1, 1972, and reports on a calendar year basis. Since it would be subject to the application of the provision for its cost reporting period beginning with January 1, 1973, it would be permitted to accumulate any unreimbursed costs (excess of costs over its charges) incurred during this reporting period. Since this cost reporting period ends before the end of the third year of operation, its carryover period will be the succeeding five cost reporting periods ending with December 31, 1978. (Had this provider begun its operations on July 1, 1972, and become a participating provider as of the same







V 38-177
SEP 13 73
XUM

date (with a fiscal year ending June 30), it would have been able to accumulate any unreimbursed costs for the two cost reporting periods ending June 30, 1974, and June 30, 1975. Its carryover period would then be the five cost reporting periods ending no later than June 30, 1979, in the case of costs unreimbursed in the reporting year ending June 30, 1974, and June 30, 1980, in the case of costs unreimbursed in the reporting year ending June 30, 1975).

(3) *Segregation of Part A and Part B reimbursement.*—For the purpose of this section separate computations will be made for the respective costs met by the Part A and Part B trust funds. Thus, the carryover provision would permit recoupment of previously unreimbursed costs under one part to be recovered under that part only.

*Example.*—In the reporting period ending December 31, 1973, the provider's reimbursable costs attributable to covered Part A services furnished program beneficiaries were $100,000. The provider's customary charges for these services were $90,000. The provider will, therefore, be reimbursed $90,000 less any deductible and coinsurance amounts but will be permitted to carry the unreimbursed $10,000 forward for the next two succeeding reporting periods. If, in the reporting period ending December 31, 1974, the beneficiary charges for covered Part A services exceeded the reimbursable reasonable costs of such services by $10,000 or more, the provider could recover the entire $10,000 previously not reimbursed. If, however, beneficiary charges exceeded costs by $8,000, this amount sidered in computing the limit on reimbursecosts for this period. The balance of the unreimbursed amount or $2,000 would be carried over to the next reporting period. (Note that the relationship of charges and costs for Part B services is not a factor considered in computing the limit on reimbursement, carry forward, or subsequent reimbursement of Part A costs. Similarly, the relationship of charges and costs for Part A services is not a factor considered in computing the limit on reimbursement, carry forward, or subsequent reimbursement of Part B costs.)

(e) *Public providers.*—Fair compensation to public providers rendering services free of charge or at nominal charges, as defined in paragraph (b)(4) of this section, for the services they furnish will be the reasonable costs of covered services, as defined in this subpart.

[FR Doc.73-19388 Filed 9-12-73;8:45 am]

---

### Social and Rehabilitation Service
### [ 45 CFR, Part 250 ]
### MEDICAL ASSISTANCE PROGRAM
### Determination of Reasonable Charges

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Administrator, Social and Rehabilitation Service, with the approval of the Secretary of Health, Education, and Welfare. The proposed regulations implement sections 232 and 233 of P.L. 92-603 which provide for individual State determination of reasonable cost of inpatient hospital services, provided that the plan is approved by the Secretary in advance of implementation, and limit payment for inpatient hospital services to the lesser of reasonable cost or the customary charges to the general public respectively.

Prior to the adoption of the proposed regulations, consideration will be given to any comments, suggestions, or objections thereto which are submitted in writing to the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, D.C. 20201, on or before October 15, 1973. Comments received will be available for public inspection in room 5224 of the Department's offices at 330 C Street SW., Washington, D.C. on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (Area Code 202-962-4451).

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).)

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program.)

Dated August 6, 1973.

JAMES S. DWIGHT, JR.,
*Administrator, Social and Rehabilitation Service.*

Approved September 4, 1973.

FRANK CARLUCCI,
*Acting Secretary of Health, Education, and Welfare.*

Section 250.30 of Part 250, Chapter II, Title 45 of the Code of Federal Regulations is amended by redesignating subparagraphs (2) through (7) of paragraph (a) as subparagraphs (3) through (8), adding a new subparagraph (2) to paragraph (a), and revising the introduction to paragraph (b) and subparagraph (1) thereof, as set forth below:

**§ 250.30 Reasonable charges.**

(a) *State plan requirements.* • • •

(2) Provide for payment of the reasonable cost of inpatient hospital services as determined in accordance with methods and standards, consistent with the provisions of section 1122 of the Social Security Act for participating States, which shall be developed by the State and approved in advance by the Secretary. Under this requirement:

(i) Plans for payment of reasonable cost will be approved which adopt the title XVIII standards and principles described in 20 CFR 405.402-405.454 and 405.455 [Proposed] (excluding the inpatient routine nursing salary cost differential). However, with respect to cost reporting periods beginning after December 31, 1972, payments to hospitals for inpatient services are based on the lesser of the reasonable cost of services or the customary charges to the general public for such services in accordance with the provisions of the title XVIII regulations.

(ii) For other plans for payment of reasonable cost which States develop, criteria for approval will include:

(*a*) Incentives for efficiency and economy;

(*b*) Reimbursement on a reasonable cost basis;

(*c*) Reimbursement not to exceed that produced under available Title XVIII methods of apportionment;

(*d*) Assurance of adequate participation of hospitals and availability of hospitals services of high quality to title XIX recipients;

(*e*) Adequate documentation for evaluation of experience under the State's approved reimbursement plan.

In developing such plans, State title XIX agencies are encouraged to work closely with Title V grantees, the Social Security Administration, and other Governmental purchasers of hospital care in an attempt to achieve coordination in reimbursement methods within States.

(iii) Plans for payment of reasonable cost will not be approved under which payment for inpatient hospital services exceeds the amount which would be determined as reasonable cost using the title XVIII standards and principles described in 20 CFR 405.402-405.454 and 405.455 [Proposed] (excluding the inpatient routine nursing salary cost differential).

• • • • •

(b) *Upper limits.* The upper limits for payments for care and services under a medical assistance plan are as follows: The State agency may pay less than the upper limits. These upper limits do not apply to payments made under the State plan for deductibles and coinsurance imposed under title XVIII of the Social Security Act. Such payments may be made up to the reasonable charge under title XVIII. The upper limits with respect to any item of medical care and services provided under the State plan shall not exceed the amounts established as the ceilings for the prices of such item pursuant to nationally-imposed economic controls or limitations on the prices of goods and services, including those imposed pursuant to Executive Order 11615 of August 15, 1971, 36 F.R. 15727, or any subsequent issuance.

(1) *Inpatient hospital services.* The upper limits for payment shall not exceed the payment produced under the title XVIII standards and principles described in 20 CFR 405.402-405.454 and 405.455 [Proposed] (excluding the inpatient routine nursing salary cost differential). However, with respect to cost reporting periods beginning after December 31, 1972, payments to hospitals for inpatient services are based on the lesser of the reasonable cost of services or the customary charges to the general public for such services in accordance with the provisions of the title XVIII regulations.

• • • • •

[FR Doc.73-19389 Filed 9-12-73;8:45 am]

---

## DEPARTMENT OF TRANSPORTATION
### Federal Aviation Administration
### [ 14 CFR Part 37 ]
[Docket No. 13182; Notice No. 73-24]
### DELETION OF TSO'S C18c, C24, C33, AND C61a
### Notice of Proposed Rulemaking

The Federal Aviation Administration is considering amending Part 37 of the Federal Aviation Regulations to delete § 37.128 *Position light flashers (air-carrier aircraft)—TSO C18c*, § 37.134 *Technical Standard Order C24: "Landing Flares,"* § 37.166 *Portable aircraft emergency communications equipment (for air carrier aircraft)—TSO C61a*, and § 37.194 *Position light flashers, single-circuit (for non-air-carrier aircraft)—TSO-C33*.





Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591. All communications received on or before November 12, 1973, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket, for examination by interested persons.

Sections 37.128 and 37.194, TSO's C18c and C33, respectively, establish minimum performance standards for aircraft position light flashers.

Amendments 3-1 and 4b-4 to the Civil Air Regulations, Parts 3 and 4b, respectively, which became effective on April 1, 1959, deleted the requirements for the installation of position light flashers. These amendments were applicable to aircraft type certificated after April 1, 1959. Subsequently, older aircraft position light systems, which incorporated flashers, have been phased out of service. Therefore, TSO's C18c and C33 are obsolete and no longer required.

Section 37.134, TSO-C24, establishes minimum performance requirements for landing flares intended for use in civil aircraft.

Amendments 40-10 and 43-8 to the Civil Air Regulations, Parts 40 and 43, respectively, which became effective on February 13, 1958, deleted the requirement for land flares from the list of required equipment on all aircraft, except those air carrier aircraft engaged in extended overwater operations. Subsequently, Amendment 40-30, which became effective on September 21, 1961, deleted the requirement for the carriage of landing flares aboard even those aircraft which were engaged in extended overwater operations. Therefore, TSO-C24 is obsolete and no longer required.

Section 37.166, TSO-C61a, establishes minimum performance standards for portable aircraft emergency communications equipment which is required to be carried aboard air carrier aircraft.

Amendment 37-31 to FAR Part 37, which became effective on October 21, 1971, adopted § 37.200, TSO-C91, which prescribes minimum performance standards for emergency locator transmitters. This TSO is intended to supersede TSO-C61a as Amendments 25-29, 29-8, 91-95, 121-79, and 135-29 to their respective FAR Parts require that all emergency locator transmitters, except certain TSO-C61a transmitters used in U.S. registered civil aircraft after December 30, 1973, meet the performance standards of TSO-C91. Those TSO-C61a transmitters that may continue to be used after December 30, 1973, until December 30, 1975, must have been installed prior to October 21, 1971. After December 30, 1975, all emergency locator transmitters must meet the performance standards of TSO-C91. Therefore, TSO-C61a is obsolete and no longer required.

In general, the equipment covered by TSO's C18c, C24, and C33 is not in use any longer; and in the case of TSO-C61a, the equipment will shortly be phased out of service. Since the demand for this equipment is little or none at all, it is unreasonable to continue to expend funds for the FAA surveillance of the manufacturers of such products. Therefore, this proposal would delete TSO's C18c, C24, C33, and C61a. This action would result in the withdrawal of TSO authorizations issued for the manufacture of articles under those TSO's.

These amendments are proposed under the authority of sections 313(a) and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1354 and 1421), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend Part 37 of the Federal Aviation Regulations as set forth below:

**§§ 37.128, 37.134, 37.166, 37.194 [Deleted]**

Issued in Washington, D.C., on August 31, 1973.

C. R. MELUGIN, JR.,
*Acting Director, Flight Standards Service.*

[FR Doc.73-19330 Filed 9-12-73;8:45 am]

---

### [ 14 CFR Part 71 ]
[Airspace Docket No. 73-GL-42]
### TRANSITION AREAS
### Notice of Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition areas at Ashland, Wisconsin; Boulder Junction, Wisconsin; Eagle River, Wisconsin; Eau Claire, Wisconsin; Grantsburg, Wisconsin; Hayward and Cable, Wisconsin; Iron Mountain, Michigan; Merrill, Wisconsin; Minneapolis, Minnesota; Prairie Du Chien, Wisconsin; Rhinelander, Wisconsin; Rice Lake, Wisconsin; Woodruff, Wisconsin; and Wausau, Wisconsin.

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before October 15, 1973, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

Since designation of transition areas with a floor of 1,200 feet above ground within the State of Wisconsin south of the 45° parallel, additional airways and portions of transition areas at airports have been added to the controlled airspace in Wisconsin north of the 45° parallel.

These additions, along with those previously in the area, have increased the irregularity of the controlled airspace floors. To ease the charting, and to make it easier for both the pilot and air traffic controller to know the extent of controlled airspace, we propose to extend the controlled airspace extending upward from 1,200 feet above the surface to cover the entire state. This will reduce the numerous designated airspace citations for this area to one for the state.

We also propose to reduce the floor of airways in this area that are higher than 1,200 feet above terrain to the regular 1,200 feet AGL floor.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

1. In § 71.181 (38 FR 435), the following transition areas are amended by deleting references to that airspace extending upward from 1,200 feet above the surface:

Ashland, Wis.
Boulder Junction, Wis.
Eagle River, Wis.
Eau Claire, Wis.
Grantsburg, Wis.
Hayward and Cable, Wis.
Iron Mountain, Mich.
Merrill, Wis.
Minneapolis, Minn.
Prairie Du Chien, Wis.
Rhinelander, Wis.
Rice Lake, Wis.
Woodruff, Wis.
Wausau, Wis.

2. In § 71.181 (38 FR 435), the following transition areas are amended as indicated:

a. In Duluth, Minn., delete all after "Cloquet transition areas" and insert in place "and the State of Wisconsin";

b. In Green Bay, Wis., delete "that airspace extending upward from 5000 feet



V 38-177 SEP 13 73 XUM

MSL in the area bounded by V191E, V26, V217";

c. In Ironwood, Mich., add "excluding the portion which overlies the State of Wisconsin";

d. In Wisconsin, delete "south of the 45° parallel".

3. In § 71.123 (38 FR 307), the following airways are amended as follows:

a. In V129, delete "15 miles 73 miles 35 MSL";

b. In V217, delete "32 miles 39 miles 31 MSL" and "24 miles 80 miles 55 MSL".

These amendments are proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of Section 6(c) of the Department of Transportation Act, 49 U.S.C. 1655(c).

Issued in Des Plaines, Illinois, on August 21, 1973.

R. O. ZIEGLER,
*Acting Director,*
*Great Lakes Region.*

[FR Doc.73-19325 Filed 9-12-73;8:45 am]

---

**[ 14 CFR Part 71 ]**

[Airspace Docket No. 73-WE-12]

**TRANSITION AREA**

**Notice of Proposed Designation**

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a new transition area for Livermore Airport, Livermore, California.

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 15000 Aviation Blvd., P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. All communications received within 30 days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 15000 Aviation Blvd., Hawthorne, California 90260.

A new public use instrument approach procedure has been developed based on the Stockton VORTAC 255° T (238° M) radial to serve the Livermore Airport. The proposed 700 foot transition area is required to provide controlled airspace for aircraft executing the procedure while operating between 1,500 and 700 feet above the surface.

In consideration of the foregoing, the FAA proposes the following airspace action.

In § 71.181 (38 FR 435) the following transition area is added:

LIVERMORE, CALIF.

That airspace extending upward from 700 feet above the surface bounded by a line beginning at latitude 37°44'00" N., longitude 121°52'00" W., to latitude 37°48'15" N., longitude 121°40'00" W., to latitude 37°41'30" W., longitude 121°34'00" W., to latitude 37°38'00" N., longitude 121°52'00" W., thence to point of beginning.

This amendment is proposed under the authority of Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Los Angeles, California, on September 4, 1973.

ROBERT O. BLANCHARD,
*Acting Director, Western Region.*

[FR Doc.73-19430 Filed 9-12-73;8:45 am]

---

**Federal Highway Administration**

**[ 49 CFR Part 393 ]**

[Docket No. MC-53; Notice No. 73-24]

**AUTOMATIC DEVICES FOR REDUCING FRONT-WHEEL BRAKING EFFORT ON COMMERCIAL MOTOR VEHICLES**

**Notice of Proposed Rulemaking**

The Director of the Bureau of Motor Carrier Safety is considering an amendment to § 393.48 of the Motor Carrier Safety Regulations (49 CFR 393.48) which would make it lawful to operate in interstate or foreign commerce a motor vehicle having an air brake system equipped with an automatic device which reduces front wheel braking effort under certain circumstances even when the vehicle is not operating under adverse road conditions.

This proceeding stems from a petition for rulemaking filed by Mack Trucks, Inc., a manufacturer of commercial motor vehicles. In the petition, it is said that § 393.48 as presently written could be construed to prohibit the use of automatic front axle brake pressure proportioning devices which produce reduced brake pressure during normal braking applications and full brake pressure during panic stops. Installation of devices of this type in air brake systems is technically beneficial, the petition says, because it enables the vehicle to conform to the new higher performance standards of Motor Vehicle Safety Standard No. 121 (49 CFR 571.121). Standard No. 121 establishes performance requirements for braking systems on new motor vehicles equipped with air brake systems, including maximum stopping distance requirements. A braking system which enables a vehicle to conform to the Standard's stopping distance requirements in a "panic" application of the brakes would ordinarily overbrake the front axle of the vehicle during normal stopping conditions. Unless the vehicle is equipped with a device for reducing the front-wheel braking effort during normal stops, the petitioner says, the brake system will suffer from faster brake lining wear, excessive braking control, and increased maintenance of the front brake system.

Accordingly, the petitioner has asked the Director to amend § 393.48 to permit a commercial motor vehicle to be equipped with a pressure proportioning device which produces reduced front-wheel brake pressure during normal operation of an air brake system regardless of road conditions. Section 393.48, in its present form, requires all brakes with which a motor vehicle is equipped to be fully operative at all times. While it permits the installation of a means for reducing or removing braking effort of the front wheels on certain vehicles, the rule restricts the use of that means to occasions when the vehicle is operating under adverse conditions, such as wet, snowy, or icy roads. Mack has asked the Director to change the rule so that the restriction against use of devices for reducing or removing braking effort during normal operations, as it applies to vehicles equipped with air brakes, will apply only to driver-controlled devices.

The Director has concluded that the petition contains adequate justification for rule making, and that he should give all interested persons the opportunity to comment on a change in § 393.48 along the lines suggested by the petitioner. Accordingly, he proposes to revise § 393.48 of the Motor Carrier Safety Regulations (Subchapter B in Chapter III of title 49, CFR) to read as follows:

**§ 393.48 Brakes to be operational.**

(a) *General rule.*—Except as provided in paragraphs (b) and (c) of this section, all brakes with which a motor vehicle is equipped must at all times be capable of operating.

(b) *Devices for reducing front-axle braking effort of certain vehicles.*—(1) *Vehicles equipped with air-mechanical brakes and manufactured on or after September 1, 1974.*—The braking system of a bus, truck, or truck tractor equipped with an air-mechanical brake system and manufactured on or after September 1, 1974 may have an automatic device to reduce the braking force upon the vehicle's front wheels or front axle when the service brake or emergency brake is applied. The device must not—

(i) Be operable by the driver except upon application of the control that activates the braking system; or

(ii) Reduce the braking force when the air pressure that transmits brake control application forces exceeds 70 p.s.i.; or

(iii) Prevent the pressure in the front-axle brake chamber from reaching 60 p.s.i. within 0.25 second after the first movement of the service brake control.





(2) *All other vehicles.*—The braking system of a bus, truck, or truck tractor to which paragraph (b)(1) of this section is not applicable may have a device to reduce the braking effort upon its front wheels or, in the case of a three-axle truck or truck tractor, to remove the braking effort upon its front wheels. However, the device for reducing or removing the front-wheel braking effort may be used only when the vehicle is operating under adverse road conditions such as wet, snowy, or icy roads.

(c) *Towed vehicles.*—Paragraph (a) of this section, does not apply to—

(1) A disabled vehicle being towed; or

(2) A vehicle being towed in a driveaway-towaway operation which is exempt from the rule in the introductory clause of § 393.42 under paragraph (b).

Interested persons are invited to submit written data, views, or arguments pertaining to this proposal. All comments submitted should refer to the docket number and notice number appearing at the top of this document. They should be submitted in three copies to the Director, Bureau of Motor Carrier Safety, Washington, D.C. 20590. All comments received before the close of business on November 1, 1973, will be considered before further action is taken. Comments will be available for examination in the public docket room of the Bureau of Motor Carrier Safety, Room 4136, 400 Seventh Street SW., both before and after the closing date for comments.

This notice of proposed rulemaking is issued under the authority of section 204 of the Interstate Commerce Act, as amended, 49 U.S.C. 304, section 6 of the Department of Transportation Act, 49 U.S.C. 1655, and the delegations of authority by the Secretary of Transportation and the Federal Highway Administrator at 49 CFR 1.48 and 389.4, respectively.

Issued on September 6, 1973.

ROBERT A. KAYE,
*Director,*
*Bureau of Motor Carrier Safety.*

[FR Doc.73-19440 Filed 9-12-73;8:45 am]

---

**CIVIL AERONAUTICS BOARD**

**[ 14 CFR Part 399 ]**

[Docket No. 25875; PSDR-37]

**U.S./EUROPE CHARTER SERVICE**

**General Rate Policy**

SEPTEMBER 7, 1973.

Notice is hereby given that the Civil Aeronautics Board proposes to amend Part 399 of the regulations to add a new policy statement concerning rates for charter services between the United States and Europe. It will be the policy of the Board to regard as prima facie unjust and unreasonable charter tariff rates below the minimum levels stated herein and to suspend and investigate such charter rates. The principal features of the proposed amendment are discussed in the attached Explanatory Statement, and the text of the proposed amendment is also attached.

Interested persons may participate in the proposed rulemaking through submission of 12 copies of written data, views, or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material in communications received on or before October 12, 1973, will be considered by the Board before taking final action on the proposed rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 712, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., upon receipt thereof. Responsive comments may be filed on or before October 29, 1973.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

*Explanatory statement.*—By Order 73-6-79, dated June 19, 1973, the Civil Aeronautics Board authorized the scheduled and supplemental carriers performing charter services on North Atlantic routes to discuss charter rates with a view toward reaching agreement on a minimum level of such rates. Any such agreement would be subject to governmental approval. The carriers' petition, which preceded our action, arose out of a background of intense and often destructive competition among charter operators producing a downward spiral of charter rates unrelated to the costs of providing the service.

Also in the background was an ever-increasing degree of competition between charter and scheduled services for a significant segment of the North Atlantic travel markets. This has led to the establishment of a series of extremely low fares for scheduled services, aimed at participating in this low-fare market, with a consequent depressing effect on carrier earnings. The result is a highly complex scheduled fare structure in which the normal economy fare is unduly high, and some of the promotional fares are unduly low, in relation to costs of service. It is clear, we believe, that the interests of the traveling public in good air service, both scheduled and charter, are not well served by the perpetuation of these fare and rate structures.

The scheduled and charter carriers met in July to discuss charter rates but failed to reach agreement. The IATA traffic conference to develop scheduled fares for next season is scheduled to begin its deliberations early in September 1973. We believe it is essential to inject an element of stability into the charter rate situation for the same reasons that motivated us to authorize the charter rate discussions in the first instance and so that a constructive IATA traffic conference can be conducted. We continue to believe that a recurrence of the stalemate which developed last winter would be most unfortunate.

Therefore, it is the Board's intention to review each carrier's charter tariff filing justification from an economic standpoint and to suspend and investigate those tariff filings which appear uneconomic. The Board is issuing this statement of policy to set forth the criteria we will use in the review of such tariffs. The Board does not seek a rigid, inflexible rate floor on which all or most rates would come to rest, rather we intend to forestall the effectiveness, without the most compelling justification, of charter tariff rates which appear, prima facie, to be unreasonable.

The current North Atlantic charter rate structure is characterized by substantial seasonal and direction variations in the general mileage rates[1] and even greater fluctuations in the point-to-point rates.[2] By way of example, Pan American's mileage tariff for B-707 aircraft offers rates as low as 1.94 cents per seat-mile,[3] during certain parts of the winter and rates as high as 3.06 cents per seat-mile during peak summer periods. The former is equivalent to $3.49 per plane mile and is clearly inadequate to cover fully allocated costs of service. The latter amounts to $5.51 per plane mile and more than covers fully allocated costs.

We have also reviewed a great many of the point-to-point charter rates although their extreme diversity makes it difficult to draw any meaningful pattern. Suffice it to say, we found 1972 rates as low as 1.62 cents per seat-mile applicable both eastbound and westbound, while the highs ranged to 2.61 cents eastbound and 2.13 cents westbound. Rates applicable this year show both increases and decreases from 1972 rates. It is obvious that only the highest of the point-to-point rates would cover fully allocated operating costs and provide some profit element.

For purposes of this policy statement, we have reviewed available cost data filed by U.S. supplemental air carriers.[4] The data primarily reflect costs of operations with the "stretched" DC-8 aircraft although some B-707 costs are also included. Operating costs are shown to approximate $5.00 per aircraft mile for the stretched DC-8 aircraft and $4.30 per mile for the standard DC-8 and B-707 aircraft. In terms of cost per seat-mile,[5] operating costs amount to 2.0 cents for the stretched DC-8's and 2.4 cents for

[1] These rates are stated in terms of a price per plane mile for a given type of aircraft which usually applies within an area for a specified period.

[2] The rates are stated in terms of a dollar amount for charter of a stated aircraft type between two specific points. Such rates may remain in effect for as little as one day or for longer periods.

[3] Based on 180 seats in a B-707.

[4] We consider these data as more representative of the costs of performing charters than the costs of the U.S. certificated route carriers because the latter primarily reflect the costs of operating scheduled services. See Appendix A, which is filed as part of the original document.

[5] On the basis of 250 seats for stretched aircraft and 180 seats for standard aircraft.



V 38-177 SEP 13 73 XUM

the B–707 and standard DC–8's. Inclusion of a return element would produce seat mile costs of about 2.6 cents for the streched DC–8 aircraft and 2.9 cents for the standard aircraft.

On the basis of the foregoing, the Board finds that North Atlantic charter rates below 2.2 cents per seat-mile for midweek charters and 2.4 cents for weekend charters[*] may be unjust and unreasonable and should be investigated and suspended in the absence of the most convincing economic justification. This rate is moderately above the supplemental carriers' experienced unit operating costs, namely, 2.0 cents per seat-mile. While it falls slightly below the indicated cost of the B–707 aircraft above, we give the most weight to the unit costs of stretched DC–8 services since this appears to be both an efficient and widely-used type of aircraft in North Atlantic commercial charter services. It may be contended that it is inappropriate to charge off-season charter services with fully allocated average year-around unit operating costs and that some different cost standard is warranted. Persons responding to this notice will have the opportunity to present their views on this question in their written comments.

We have also tentatively decided, subject to receipt of comments, not to structure our minimum charter rate standards on a seasonal basis. This approach will keep to the necessary minimum regulatory interference in the charter travel marketplace. It will maximize the carriers' ability to respond to legitimate market forces, e.g., tailoring seasonal price fluctuations to demand considerations, while precluding charter rates which fail to meet at least a minimum standard of reasonableness.

We believe that the normal seasonal variation in charter rates will continue to produce charter rates well above our 2.2 cent minimum. This type of seasonal variation in rates is also common in the IATA scheduled fare structure. Our minimum rate will therefore have its principal effect on off-season charter rates and on the widely fluctuating point-to-point rates. Rates now produced by the excess of supply over demand prevalent in the winter season will tend to be stabilized closer to economic levels while rates in other periods will continue to reflect the normal play of the market place. We expect the comments in response to this notice to fully develop the parties' views on our evaluation of this area.

It is our judgment that these minimums, together with the higher rates which can be expected, will produce a year-around yield approximately 2.65 cents per seat-mile and that such rates are reasonably related to the costs of providing North Atlantic charter services. We will, of course, continue to review all filings and should it appear that uneconomic rates are becoming prevalent during the peak or shoulder seasons, we will take appropriate action.

There remains for consideration the question whether a minimum charter rate should be uniform among the several types of aircraft used in those services or among configurations of greater or lesser density within a given aircraft type. We are fully aware that different aircraft have different cost characteristics, some higher and some lower. Similarly, it is obvious that a high density configuration will produce lower per-seat-mile costs than low density seating. A uniform minimum rate per seat-mile would appear to withhold from the charterer the benefits which should flow from use of a low-cost aircraft or high-density seating. On the other hand, the establishment of a higher minimum for one aircraft type than another might very seriously limit the ability of a carrier to operate the higher rated aircraft in the highly competitive North Atlantic charter markets. While the carrier operating higher cost aircraft may be unable to realize the same profits as the operator of the lower cost aircraft, it is up to that carrier to decide the extent of its participation. By the same token, it would appear inequitable to afford the operator of the more efficient, lower-cost aircraft a built-in competitive advantage in terms of a lower rate its competitor could not match.

With respect to varying seating configurations, we are providing that the minimums established herein apply to the normal economy class configuration and that seating accommodations of lesser density will bear a surcharge. We believe that this policy should tend to minimize the use of relatively less dense configurations because of the required price penalty. Similarly, we would not expect widespread use of substantially more dense seating arrangements for competitive reasons.

Accordingly, we have tentatively decided to apply the minimum rates proposed herein on a uniform basis irrespective of aircraft type or variations in seating density above the economy class standard. We would expect the comments to address this difficult area in detail.

*Proposed policy statement.*—It is proposed to adopt a new statement of general policy (14 CFR Part 399), as follows:

**§ 399.45 Minimum charter rate levels.**

It is the policy of the Civil Aeronautics Board to regard as prima facie unreasonable, for charter services between the United States and Europe, charter tariff rates below the rates per seat-mile shown below. Such rates, absent a compelling justification, will be subject to investigation and suspension.

(a) For weekday charters:

Eastbound—originations Sunday through Thursday—2.2 cents per seat mile.

Westbound—originations Monday through Friday—2.2 cents per seat mile.

(b) For weekend charters:

Eastbound—originations Friday and Saturday—2.4 cents per seat mile.

Westbound—originations Saturday and Sunday—2.4 cents per seat mile.

(c) For round trip charters, the minimum rate shall be the sum of the applicable directional minimums determined in accordance with paragraphs (a) and (b) of this section.

(d) The minimum rates established herein shall apply to services equivalent to or more dense than IATA economy class service. For less dense configurations, e.g., first class type service, a surcharge of 20 percent shall be added to the minimum rates computed in accordance with the provisions of this section.

(e) Each charter tariff shall specify the maximum number of seats available for the use of the charterer in each configuration for the type of aircraft to which each rate applies.

(f) Each tariff transmittal shall show the rate per available seat-mile and the basis for calculation.

(g) The minimum rates set forth herein shall be applied to the great circle, nonstop, distance between the point of origin of the charter flight, via any intermediate points served at the request of the charterer, and the point of termination of the charter flight.

(h) *Conditions of service.*—(1) The minimum charter rates set forth herein shall include, without additional charge, the transportation of a maximum of 44 pounds of baggage per charter passenger.

(2) The minimum charter rates set forth herein shall not include in-flight entertainment or liquor service which shall, if provided, be subject to an additional reasonable charge to be specified in the carrier's tariff.

(i) *Effective date.*—(1) These rules shall be effective to charter services performed on and after January 1, 1974.

(2) Charter contracts entered into prior to the date of this notice shall not be affected.

*Statement of the Civil Aeronautics Board on North Atlantic Fares.*—The Civil Aeronautics Board has repeatedly urged carriers serving North Atlantic routes to devise a fare structure more closely geared to the costs of service which will offer a simpler, less complex and thus more easily enforced structure and one that will maximize revenues in this period of rising costs. The mix of passenger traffic on the North Atlantic has changed dramatically in the last two years and it is time carriers recognized that financial and operating problems have not been, and will not be, alleviated by relying on efforts to increase traffic at the lowest fare spectrum and at the same time increasing normal fares. The concept that improving load factors at the expense of an overall reduction in yield will improve carrier profits appears highly questionable in light of present market conditions.

The United States has encouraged development and growth of charter services in order to make air service available to a broader band of potential travelers at prices reflecting the economics of plane-load operations. The Board conceives charter operations as different in cost characteristics from scheduled operations and is convinced that those two services cannot be equally priced. Any such fallacy is compounded by the levels to which prices have fallen.

Recognizing these complementary pricing problems in air transportation, the Board has authorized organized carrier efforts to establish minimum charter rate levels in order to preserve the availability of this important service, by both charter and route carriers. The Board urges continuation of efforts in this regard in the interest not only of the charter service, but scheduled services as well. In this connection, the Board is concurrently issuing a proposed statement of policy that it will regard as prima facie unjust and unreasonable, charter rates below the minimum rates specified therein and that such rates will be subject to investigation and suspension absent a compelling economic justification.

The Board recognizes, if it does not accept, the scheduled carrier view that scheduled fares must be closely related to charter prices. A reasonable margin is required by cost differences between the two services.

We repeat our view that the lower ranges of scheduled promotional fares should be both increased and the applicable conditions of availability tightened. Increases in economy fares are not, in our opinion, justified by costs and such action coupled with continuation of broadly available, low level excursion and other promotional fares serve only to dilute yield without commensurate increases in net revenue.

The level of the 22–45 day excursion fare in particular should be raised if such fare is continued at all. Consolidation of existing excursion fares at an increased level will not provide an acceptable alternative as the broadened availability will negate most of the increase in level.

The Board remains convinced that charter service offers the greater price bargain for large group travel. Conversely, the scheduled services offer advantages in frequency and regularity of service which, coupled with the inevitable higher costs of such services, require higher fare levels than charters. Scheduled inclusive tour service can, of course, be economically justified. However, loosely defined groups moving on scheduled service at levels approaching charter prices merely dilute revenues and invite illegalities.

The Board strongly urges carrier efforts to abate yield erosion through limitations on allowed circuity and limitations and charges for stopovers.

Notwithstanding the cross currents of competitive pricing of scheduled service vis-a-vis charter service, the Board will be disposed to withhold approval of any IATA agreement which further raises normal economy fares; fails to materially increase the 22 to 45 excursion fare; and fails to eliminate unjustly discriminatory fares.

[FR Doc.73-19534 Filed 9-12-73;8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

**[ 40 CFR Part 180 ]**

**Dimethyl Tetrachloroterephthalate**

**Tolerances and Exemptions for Pesticide Chemicals in or on Raw Agricultural Commodities**

Dr. C. C. Compton, Coordinator, Interregional Research Project No. 4, State Agricultural Experiment Station, Rutgers University, New Brunswick, N.J. 08903, on behalf of the IR–4 Technical Committee and the Agricultural Experiment Stations of Massachusetts, New Hampshire, and Wisconsin submitted a petition (PP 3E1388) proposing establishment of a tolerance for combined residues of the herbicide dimethyl tetrachloroterephthalate and its metabolites monomethyl tetrachloroterephthalate and tetrachloroterephthalic acid (calculated as dimethyl tetrachloroterephthalate) in or on the raw agricultural commodity rutabagas at 2 parts per million.

Based on consideration given data submitted in the petition and other relevant material, it is concluded that:

1. The herbicide is useful for the purpose for which the tolerance is proposed.

2. There is no reasonable expectation of residues in eggs, meat, milk, or poultry, and § 180.6(a)(3) applies.

3. The proposed use will protect the public health.

4. Dimethyl tetrachloroterephthalate is a more appropriate chemical name for the subject herbicide than the established name of dimethyl 2,3,5,6-tetrachloroterephthalate.

Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 FR 9038), it is proposed that § 180.185 be amended by revising the heading, introductory paragraph, and the paragraph, "2 parts per million * * *" to read as follows:

**§ 180.185 Dimethyl tetrachloroterephthalate; tolerances for residues.**

Tolerances for combined residues of the herbicide dimethyl tetrachdoroterephthalate and its metabolites monomethyl tetrachloroterephthalate and tetrachloroterephthalic acid (calculated as dimethyl tetrachloroterephthalate) are established as follows:

* * * * * *

2 parts per million in or on collards, field beans (dry), kale, lettuce, mung beans (dry), peppers, pimentos, potatoes, rutabagas, snap beans (succulent), southern peas (black-eyed peas), soybeans, strawberries, sweetpotatoes, turnips, and yams.

* * * * * *

Any person who has registered or submitted an application for the registration of an economic poison under the Federal Insecticide, Fungicide, and Rodenticide Act containing any of the ingredients listed herein may request, on or before October 15, 1973, that this proposal be referred to an advisory committee in accordance with section 408(e) of the act.

Interested persons may, on or before October 15, 1973, file with the Hearing Clerk, Environmental Protection Agency, Room 3902–A, 4th and M Streets SW., Waterside Mall, Washington, D.C. 20460, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. All written submissions made pursuant to this proposal will be made available for public inspection at the Office of the Hearing Clerk.

Dated September 7, 1973.

HENRY J. KORP,
*Deputy Assistant Administrator for Pesticide Programs.*

[FR Doc.73-19458 Filed 9-12-73;8:45 am]

## DEPARTMENT OF TRANSPORTATION

**United States Coast Guard**

**[ 33 CFR Part 117 ]**

**[CGD 73–203P]**

**DRAWBRIDGE OPERATION REGULATIONS**

**Genesee River, N.Y.**

At the request of Monroe County, New York, the Coast Guard is considering amending the regulations for the Stutson Street drawbridge across the Genesee River to permit closed periods during morning and evening peak vehicular traffic periods. The draw is presently required to open on signal. This is being considered because of a substantial increase in vehicular traffic. It is also proposed to delete the regulations for the Penn Central railroad bridge contained in § 117.190(f)(15) and include these regulations in this section.

Interested persons may participate in this proposed rulemaking by submitting written data, views, or arguments to the Commander (oan), Ninth Coast Guard District, 1240 East 9th Street, Cleveland, Ohio 44199. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons at the office of the Commander, Ninth Coast Guard District.

The Commander, Ninth Coast Guard District, will forward any comments received before October 16, 1973, with his recommendations to the Chief, Office of Marine Environment and Systems, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by:

1. Adding a new § 117.709 immediately after § 117.708 to read as follows:

**§ 117.709 Genesee River, Rochester, N.Y., Stutson Street and Penn Central railroad bridges.**

(a) The owners of or agencies controlling these drawbridges shall provide the necessary tenders and the proper

[*] We intend these minimum rates to be the standards against which the carriers' tariff rates will be measured, exclusive of agents' commisions, service charges, and the like. Weekdays are defined as Sunday through Thursday eastbound, and Monday through Friday westbound.







V 38 177 SEP 13 73 XUM

mechanical appliances for the safe, efficient openings of the draws.

(b) Trains, vehicles, or pedestrians shall not stop on these drawbridges for the purpose of delaying its opening, nor shall vessels be operated so as to hinder or delay the operation of the draws. All passages over or through these drawbridges shall be prompt to prevent delay to either land or water traffic.

(c) The draw of the Penn Central railroad bridge shall open on signal from April 1 through December 15. From December 16 through March 31 the draws shall open on signal if at least 12 hours notice is given.

(1) The draw of the Stutson Street bridge need not open for the passage of vessels from April 1 through December 15 from 7 a.m. to 9 a.m. and 4 p.m. to 6 p.m., Monday through Friday, except Federal holidays. At all other times from April 1 through December 15, including Federal holidays, the draw shall open on signal. From December 16 through March 31 the draws shall open on signal if at least 12 hours notice is given.

(d) Signals: (1) *Opening signal.*—One long blast followed by one short blast of a whistle, horn, siren, or by shouting.

(2) *Acknowledging signals.*—(i) When the draw can be opened, same as opening signal.

(ii) When the draw cannot be opened or is open and must be closed—4 short blasts, repeated at regular intervals until acknowledged by the vessel sounding the same signal. As soon as the draw can be opened again, the draw tender shall sound the opening signal.

(e) Clearance gauges, of a type approved by the Commandant, shall be installed on the upstream and downstream sides of each drawbridge by and at the expense of the owner of or agency controlling the bridge and such gauges shall be kept in good repair and legible condition.

(f) The following provisions shall not relieve the owner of or agency controlling a drawbridge from opening the draw for the passage of vessels in accordance with paragraphs (a) through (e) of this section.

(1) The draw tender is not required to open the draw when such opening is needed only to provide additional clearance for vessels with appurtenances unessential to navigation of the vessel, or with appurtenances essential to navigation but which may be altered by hinging, telescoping, collapsing, or otherwise, so as to require no greater clearance than the highest fixed and essentially unalterable point of the vessel.

(2) Appurtenances unessential to navigation include but are not limited to fishing outriggers, radio antennae which are or can reasonably be made flexible or collapsible, television antennae, false stacks, and masts purely for ornamental purposes. Appurtenances unessential to navigation do not include radar antennae, flying bridges, sailboat masts, piledriver leads, spud frames on hydraulic dredges, drilling derricks, derrick substructures and/or buildings, cranes on drilling or construction vessels, or other items of permanent and fixed equipment clearly necessary to the intended use of the vessel.

(3) Owners of or agencies controlling drawbridges shall report to the District Commander in charge of the locality the names of any vessels causing bridge openings considered to be in violation of this paragraph. The District Commander may at any time cause an inspection to be made of any craft so reported and is empowered to decide in each case whether or not the appurtenances are unessential to navigation. If the District Commander decides a vessel has appurtenances unessential to navigation, he shall notify the vessel owner of his decision, specifying a reasonable time for making necessary alterations. If the vessel owner is aggrieved by the decision of the District Commander, he may within 30 days after receipt of the request to perform necessary alterations appeal the decision to the Commandant in writing. If the Commandant rules that an appurtenance is unessential to navigation, the District Commander shall again specify to the vessel owner a reasonable time for making necessary alterations to the appurtenance, and after the expiration of the time specified, any operation of the vessel in such a manner as to require drawbridge openings shall be deemed in violation of the regulations of this paragraph unless the necessary alterations shall have been made.

§ 117.190 [Amended]

2. Deleting § 117.190(f)(15).

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4).)

Dated September 10, 1973.

W. M. BENKERT,
*Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.*

[FR Doc.73-19433 Filed 9-12-73;8:45 am]





# Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

[Order 127; Rev. 1]

### CASUALTY LOSSES

### Certain Elections; Extension of Time

1. By virtue of the authority granted to the Commissioner of Internal Revenue under 26 CFR 1.9100, with respect to granting extensions of time for making certain elections, there is hereby delegated to each Regional Commissioner, District Director and Service Center Director, the authority to grant reasonable extensions of time (not to exceed a total of 240 days) for changing an election made under section 165(h) of the Internal Revenue Code of 1954 and 26 CFR 1.165-11(e) beyond the date that such election becomes or became irrevocable. This date is the later of (1) 90 days after the date on which the election was made, or (2) March 6, 1973, which is 90 days after the date the final regulations under section 165(h) were published.

2. When appropriate, each Regional Commissioner or District Director may exercise this authority by granting a single extension of time covering a group of taxpayers similarly situated.

3. This authority may not be redelegated.

4. This order supersedes Delegation Order No. 127, issued February 23, 1973.

Issue date September 4, 1973.

Effective date September 4, 1973.

[SEAL] DONALD C. ALEXANDER,
*Commissioner.*

[FR Doc.73-19480 Filed 9-12-73;8:45 am]

### Office of the Secretary

### POLYPROPYLENE STRAPPING FROM JAPAN

### Antidumping; Determination of Sales at Not Less Than Fair Value

SEPTEMBER 10, 1973.

On July 17, 1973, there was published in the FEDERAL REGISTER a "Notice of Tentative Negative Determination" (38 FR 19054), that polypropylene strapping from Japan is not being, nor is likely to be, sold at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)) (referred to in this notice as "the Act").

The statement of reasons for the tentative determination was published in the above-mentioned notice and interested parties were afforded an opportunity to make written submissions and to present oral views in connection with the tentative determination.

No written submissions or requests to present oral views having been received, I hereby determine that, for the reasons stated in the tentative determination, polypropylene strapping from Japan is not being, nor is likely to be, sold at less than fair value (sections 201(a) of the Act; 19 U.S.C. 160(a)).

This determination is published pursuant to section 201(c) of the Act (19 U.S.C. 160(c)) and section 153.33(b), Customs Regulations (19 CFR 153.33(b)).

[SEAL] EDWARD L. MORGAN,
*Assistant Secretary of the Treasury.*

[FR Doc. 73-19487 Filed 9-12-73;8:45 am]

## DEPARTMENT OF DEFENSE

### Department of the Army

### LAUREL RIVER LAKE, KENTUCKY

### Joint Order Interchanging Administrative Jurisdiction of Department of the Army Lands and National Forest Lands

*Correction*

In FR-Doc. 73-18181 appearing at page 22987 in the issue of Tuesday, August 28, 1973, make the following changes in Exhibit A:

1. In the first line of Segment 7, insert "705" immediately after "704".

2. Delete the first four numbers in the last line of Segment 9 and insert in lieu thereof the following: "923, 924, 925, and 926".

### Department of the Navy

### SECRETARY OF THE NAVY AUDIT ADVISORY COMMITTEE

### Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463 (1972)), notice is hereby given that, on Monday, September 24, 1973, a meeting of the Secretary of the Navy Audit Advisory Committee will be held at 7:30 a.m. at the Cavalier Oceanfront Hotel, 42d Street at the Oceanfront, Virginia Beach, Virginia.

The agenda will consist of discussion of information-system-development auditing, employee mobility, expansion of professional disciplines, audit utilization, audit followup, and approaches to automatic-data-processing auditing. The public is invited to attend the meeting.

Dated September 6, 1973.

H. B. ROBERTSON, Jr.,
*Rear Admiral, JAGC, U.S. Navy Acting Judge Advocate General.*

[FR Doc.19463 Filed 9-12-73;8:45 am]

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[CA 566]

### CALIFORNIA

### Proposed Withdrawal and Reservation of Lands

SEPTEMBER 5, 1973.

The Forest Service, U.S. Department of Agriculture, has filed an application Serial No. CA 566 for the withdrawal of national forest lands described below from appropriation under the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws, subject to valid existing rights.

The lands are located within the Six Rivers National Forest and application was made to withdraw the lands from mining in order to protect their value for present and future public purposes.

On or before October 15, 1973, all persons who wish to submit comments, suggestions, or objections with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, U.S. Department of the Interior, Room E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

The Department's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn as requested by the applicant agency. He will also undertake negotiations with the applicant agency with the view of adjusting the application to reduce the area to the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the



V 38-177 SEP 13 73 XUM

concurrent management of the lands and their resources.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

HUMBOLDT MERIDIAN

SIX RIVERS NATIONAL FOREST

T. 3 S., R. 7 E.,
Sec. 16, Lot 2.

The area described aggregates 40.16 acres in Trinity County, California.

WALTER F. HOLMES,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc.73-19461 Filed 9-12-73;8:45 am]

## SALEM DISTRICT ADVISORY BOARD

### Notice of Field Tour

Notice is hereby given that the Salem District Advisory Board will conduct a field tour on September 25, 1973. The tour group will leave from the Bureau of Land Management district office, 3550 Liberty Road, South, Salem, Oregon at 9 a.m. and return about 4:30 p.m.

The purpose of the tour is to view and discuss roadside cleanup along newly constructed roads in the Willamina-Agency Creek area.

The tour will be open to the public. Transportation and lunch will be available to accommodate 40 people. In addition to discussions of the agenda topic by board members, there will be time for brief statements by nonmembers. Persons wishing to make oral statements should so advise the chairman or co-chairman prior to the tour, to aid in scheduling the time available. Any interested person may file a written statement for consideration by the board by sending it to the chairman, in care of the cochairman: Salem District Manager, P.O. Box 3227, Salem, Oregon 97302.

PAUL M. SANGER,
*Acting Salem District Manager.*

SEPTEMBER 5, 1973.

[FR Doc.73-19462 Filed 9-12-73;8:45 am]

## GRAND JUNCTION DISTRICT GRAZING ADVISORY BOARD

### Notice of Meeting

Notice is hereby given that the Grand Junction District Grazing Advisory Board will hold a meeting September 12, 1973, beginning at 9:30 a.m. in Room 114, Federal Building, Grand Junction, Colorado.

The agenda for the meeting will be the consideration of proposals to re-precinct the Grazing District Advisory Board and recommending action thereon. Items to be brought before the Board for informational purposes will include access, wild and scenic river proposal and any other items appropriate.

The meeting will be open to the public. Those members of the public wishing to make an oral statement should advise the Advisory Board Chairman, Robert F. Burford, c/o Bureau of Land Management, P.O. Box 1509, Grand Junction, Colo. 81501, prior to the meeting. Oral statements will be heard at 1 p.m. Written statements may also be filed with Mr. Burford for consideration.

CHARLES W. LUSCHER,
*Acting State Director.*

[FR Doc.73-19442 Filed 9-12-73;8:45 am]

# DEPARTMENT OF AGRICULTURE

## Farmers Home Administration

[Notice of Designation A023]

### WASHINGTON

### Designation of Emergency Areas

The Secretary of Agriculture has found that a general need for agricultural credit exists in Okanogan County, Washington.

The Secretary has further found that such general need for agricultural credit existing in this area cannot be met temporarily by private, cooperative, or other responsible sources at reasonable rates and terms for loans for similar purposes and periods of time, and that the need for such credit in such area is the result of a natural disaster consisting of an abrupt change from mild fall temperatures to low winter temperatures without snow cover protection and the lack of winter snow which was followed by a dry spring and summer. The resulting freeze and drought damage occurred during the incidence period of November 1972 through August 1973.

Therefore, the Secretary has designated this area as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Public Law 93-24, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Daniel J. Evans that such designation be made.

Applications for Emergency loans must be received by this Department prior to October 29, 1973, for physical losses and prior to May 30, 1974, for production losses, except that qualified borrowers who received initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rule making and invite public participation.

Done at Washington, D.C., this 7th day of September 1973.

FRANK B. ELLIOTT,
*Administrator,*
*Farmers Home Administration.*

[FR Doc.73-19473 Filed 9-12-73;8:45 am]

## Forest Service

### MULTIPLE USE PLAN ON THE CEDAR/BASSETT PLANNING UNIT

### Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Multiple Use Plan on the Cedar/Bassett Planning Unit, Forest Service report number USDA-FS-DES (Adm) 74-27.

The environmental statement concerns a proposed implementation of a revised Multiple Use Plan for the Cedar/Bassett Planning Unit, Gardiner Ranger District, Gallatin National Forest in Park County, Montana. Approximately 31,100 acres, 5,700 acres of which are private lands, are affected. The inventory and analysis were done to the most intense level currently used by the Forest Service. This plan provides the District Ranger with a detailed management prescription for the Unit. The Planning Unit is subdivided into four subunits (management units) which contain similar resource problems, opportunities, and capabilities.

This draft environmental statement was filed with CEQ on August 29, 1973.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230; 12th St. & Independence Ave. SW., Washington, D.C. 20250.

USDA, Forest Service, Northern Region, Federal Bldg., Missoula, Montana 59801.

USDA Forest Service, Gallatin National Forest, Federal Building, P.O. Box 130, Bozeman, Montana 59715.

A limited number of single copies are available upon request to Forest Supervisor Lewis E. Hawkes, Gallatin National Forest, P.O. Box 130, Bozeman, Montana 59715.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please refer to the name and number of the environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, state, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from state and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor Lewis E. Hawkes, Gallatin National Forest, P.O. Box 130, Bozeman, Montana 59715. Comments must be received by October 13, 1973, in order to be considered in the preparation of the final environmental statement.

PHILIP L. THORNTON,
*Deputy Chief, Forest Service.*

SEPTEMBER 6, 1973.

[FR Doc.73-19497 Filed 9-12-73;8:45 am]





## BURNT FORK PLANNING UNIT; MULTIPLE USE PLAN

### Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Multiple Use Plan—Burnt Fork Planning Unit, Forest Service Report Number USDA-FS-FES (Adm.) 73-38.

The environmental statement concerns the proposed implementation of a revised Multiple Use Plan for the Burnt Fork Planning Unit, Stevensville Ranger District, Bitterroot National Forest, Ravalli County, Montana. About 50,000 acres of National Forest land are affected. The planning unit is divided into 13 subunits (management units) of similar resource potential and limitations to management. Significant values, management direction, and specific statements to guide land management have been developed for each subunit.

The final environmental statement was filed with CEQ on August 28, 1973.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
South Agriculture Bldg., Room 3230
12th St. & Independence Ave. SW.
Washington, D.C. 20250

USDA, Forest Service
Northern Region
Federal Building, Room 3077
Missoula, Montana 59801

USDA, Forest Service
Bitterroot National Forest
316 North Third Street
Hamilton, Montana 59840
USDA, Forest Service
Stevensville Ranger District
North Main Street
Stevensville, Montana 59870

A limited number of single copies is available upon request to:

Orville L. Daniels, Forest Supervisor
Bitterroot National Forest
316 North Third Street
Hamilton, Montana 59840

Frank Salomonsen, District Ranger
Stevensville Ranger District
North Main Street
Stevensville, Montana 59870

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please refer to the name and number of the environmental statement when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

PHILIP L. THORNTON,
*Deputy Chief, Forest Service.*

SEPTEMBER 6, 1973.

[FR Doc.73-19511 Filed 9-12-73;8:45 am]

## FOX UNIT-SIX RIVERS NATIONAL FOREST; LAND USE PLAN

### Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Land Use Plan, Fox Unit, Six Rivers National Forest, California. USDA-FS-DES (Adm.) 74-25.

The environmental statement concerns a proposed land use management plan for the 30,000 acres of National Forest lands known as the Fox Unit of the Gasquet Ranger District, Six Rivers National Forest, in Del Norte County, California. Fifteen thousand acres within this Unit have been inventoried as "roadless".

This draft environmental statement was filed with CEQ on August 29, 1973.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
South Agriculture Bldg., Room 3230
12th St. & Independence Ave., S.W.
Washington, D.C.

Forest Service
District Ranger
Gasquet, California

Forest Supervisor's Office
Six Rivers National Forest
710 "E" Street
Eureka, Calif.

Regional Forester's Office
630 Sansome St., Room 531
San Francisco, Calif.

A limited number of single copies are available upon request from Forest Supervisor George Roether, Six Rivers National Forest, 710 E Street, Eureka, California 95501.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please refer to the name and number of the environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, state, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from state and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental effect for which comments have not been specifically requested.

Comments concerning the proposed action, and requests for additional information should be addressed to Forest Supervisor George Roether, Six Rivers National Forest, 710 E Street, Eureka, California 95501. Comments must be received within 45 days after filing with CEQ in order to be considered in the preparation of the final environmental statement.

PHILIP L. THORNTON,
*Deputy Chief, Forest Service.*

SEPTEMBER 6, 1973.

[FR Doc.73-19505 Filed 9-12-73;8:45 am]

## LAKE TAHOE BASIN NATIONAL FOREST LANDS PROPOSED MANAGEMENT PLAN

### Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Proposed General Plan for Management of National Forest Lands in the Lake Tahoe Basin, USDA-FS-DES (Adm.) 74-23.

The proposed general management plan establishes objectives, implementing policy, and coordinating direction, and shows proposed land use decisions for managing National Forest lands in the Lake Tahoe Basin. The plan covers about 116,000 acres of land located in Alpine, El Dorado, and Placer Counties, California; and Carson City, Washoe, and Douglas Counties, Nevada. Additional overnight camping facilities to accommodate 20,000 to 30,000 persons at one time are proposed. Protection and enhancement of environmental quality is the first consideration for all activities. Land management decisions for the 5,400 acre Lincoln Creek inventoried roadless area on the Toiyabe National Forest are among those considered.

This draft environmental statement was filed with CEQ on August 29, 1973.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
South Agriculture Building, Room 3230
14th Street & Independence Ave. SW.
Washington, D.C. 20250
USDA, Forest Service
California Region
630 Sansome Street, Room 531
Eldorado National Forest
100 Forni Road
Placerville, California 94111
Tahoe National Forest
Highway 49
Nevada City, California 95959
Toiyabe National Forest
Charles Mapes Bldg.
111 North Virginia Street
Reno, Nevada 89503
Lake Tahoe Basin Management Unit
1052 Tata Lane
P.O. Box 8465
South Lake Tahoe, California 95705

A limited number of single copies are available upon request to Andrew R. Schmidt, Tahoe Basin Administrator, P.O. Box 8465, South Lake Tahoe, California 95705.

Copies are also available from the National Technical Information Service,



V 38-177 SEP 13 73 XUM

US Department of Commerce, Springfield, Va. 22151. Please refer to the name and number of the environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Andrew R. Schmidt, Tahoe Basin Administrator, P.O. Box 8465, South Lake Tahoe, California 95705. Comments must be received within 90 days after filing with CEQ in order to be considered in the preparation of the final environmental statement.

PHILIP L. THORNTON,
*Deputy Chief, Forest Service.*

SEPTEMBER 6, 1973.

[FR Doc.73-19507 Filed 9-12-73;8:45 am]

## MAZATZAL WILDERNESS; MINERAL EXPLORATION PROPOSAL

### Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for a Mineral Exploration Proposal in the Mazatzal Wilderness, USDA-FS-FES (Adm) 73-20.

The environmental statement considers probable environmental effects or impacts of a proposal for mineral exploration in the Mazatzal Wilderness.

This final environment statement was filed with CEQ on September 6, 1973.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
So. Agriculture Bldg., Room 3230
14th Street & Independence Ave. SW.
Washington, D.C. 20250

USDA, Forest Service
Southwestern Region
517 Gold Avenue SW
Albuquerque, New Mexico 87102
Tonto National Forest, 230 N. First Ave., Room 6428, Phoenix, Arizona 85025.

Copies are available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151; and Colorado Plateau Environmental Advisory Council, P.O. Box 1389, Flagstaff, Arizona 85001. Please refer to the name and number of the environmental statement above when ordering.

A limited number of single copies are available upon request to Wm. D. Hurst, Regional Forester, Southwestern Region, U.S. Forest Service, 517 Gold Avenue SW., Albuquerque, New Mexico 87102.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

PHILIP L. THORNTON,
*Deputy Chief, Forest Service.*

SEPTEMBER 6, 1973.

[FR Doc.73-19508 Filed 9-12-73;8:45 am]

## PINYON-JUNIPER CHAINING PROGRAM ON NATIONAL FOREST LANDS IN THE STATE OF UTAH

### Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for Chaining Pinyon-Juniper on National Forest lands in the State of Utah, report number USDA-FS-FES(Adm) 73-63.

The environmental statement applies to National Forest land administered by the Intermountain Region, Forest Service, USDA in Utah. It covers the practice of chaining over pinyon-juniper trees each year on approximately 6,000 acres of land covered by dense stands and/or spreading stands of pinyon-juniper trees.

This final environmental statement was filed with CEQ on September 6, 1973.

Copies are available for inspection during working hours at the following locations:

USDA, Forest Service
South Agriculture Bldg., Room 3230
12th St. and Independence Ave. SW.
Washington, D.C. 20250

USDA, Forest Service
437 East Main Street
Vernal, Utah 84078

USDA, Forest Service
500 South Main Street
Cedar City, Utah 84720

USDA, Forest Service
Federal Bldg., Room 5022
324 25th Street
Ogden, Utah 84401

USDA, Forest Service
350 East Main Street
Price, Utah 84501

USDA, Forest Service
P.O. Box 1428
Provo, Utah 84601

USDA, Forest Service, 1525 Addison Avenue East, Twin Falls, Idaho 83301.

USDA, Forest Service, 4438 Federal Building, 125 South State, Salt Lake City, Utah 84111.

USDA, Forest Service, 170 North Main, Richfield, Utah 84701.

A limited number of single copies are available upon request to Vern Hamre, Regional Forester, USDA, Forest Service, Federal Building, 324 25th Street, Ogden, Utah 84401.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please refer to name and number of the statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies outlined in the Council on Environmental Quality Guidelines.

PHILIP L. THORNTON,
*Deputy Chief, Forest Service.*

SEPTEMBER 6, 1973.

[FR Doc.73-19509 Filed 9-12-73;8:45 am]

## HERBICIDES IN THE STATE OF NEW MEXICO; PROPOSAL FOR VEGETATION CONTROL

### Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement on a proposal for vegetation control with Herbicides in the State of New Mexico, Apache, and Santa Fe National Forests. USDA-FS-FES (Adm) 73-59.

The purpose of the statement is for the control of invading sagebrush, rabbitbrush, snakeweed, and pingue. There should be no significant environmental impact, and careful site selection should minimize adverse environmental effects on water organisms and the air.

The final environmental statement was filed with CEQ on September 6, 1973.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
South Agriculture Bldg., Room 3231
12th and Independence Ave. SW.
Washington, D.C. 20250

USDA, Forest Service
Southwestern Region
517 Gold Avenue SW.
Albuquerque, New Mexico 87102

Apache National Forest, Federal Building, Springerville, Arizona 85938.

Santa Fe National Forest, Federal Building, Santa Fe, New Mexico 87501.

A limited number of single copies are available upon request to William D. Hurst, Regional Forester, Southwestern Region, USDA, Forest Service, 517 Gold Avenue SW., Albuquerque, New Mexico 87102.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151; and Colorado Plateau Environmental Advisory Council, P.O. Box 1389, Flagstaff, Arizona 86001. Please refer to the name and number of the environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

PHILIP L. THORNTON,
*Deputy Chief, Forest Service.*

SEPTEMBER 6, 1973.

[FR Doc.73-19510 Filed 9-12-73;8:45 am]





## SOUTH COTTONWOOD PLANNING UNIT; MULTIPLE USE PLAN

### Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Multiple Use Plan on the South Cottonwood Planning Unit, Forest Service Report No. USDA-FS-DES(Adm) 74-24.

The environmental statement concerns the proposed implementation of a revised Multiple Use Plan for the South Cottonwood Planning Unit, Bozeman Ranger District, Gallatin National Forest in Gallatin County, Montana. Sixteen thousand four hundred and forty acres are affected. This includes 7,900 acres of National Forest, 7,627 acres of Burlington Northern, and 915 acres of other private land. The inventory and analysis were done to most intense level currently used by the Forest Service. This plan will provide the District Ranger with a detailed management prescription for the Unit.

This draft environmental statement was filed with CEQ on August 29, 1973.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
South Agriculture Bldg., Room 3230
12th St. and Independence Ave. SW.
Washington, D.C. 20250

USDA, Forest Service
Northern Region
Federal Building
Missoula, Montana 59801

USDA, Forest Service
Gallatin National Forest
Federal Building
Bozeman, Montana 59715

A limited number of single copies are available upon request to Forest Supervisor Lewis E. Hawkes, Gallatin National Forest, P.O. Box 130, Bozeman, Montana 59715.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please refer to the name and number of the environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, state, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from state and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor Lewis E. Hawkes, Gallatin National Forest, P.O. Box 130, Bozeman, Montana 59715. Comments must be received by 10/13/73 in order to be considered in the preparation of the final environmental statement.

PHILIP L. THORNTON,
*Deputy Chief, Forest Service.*

SEPTEMBER 6, 1973.

[FR Doc.73-19506 Filed 9-12-73;8:45 am]

## SPANISH PEAKS MULTIPLE USE MANAGEMENT UNIT

### Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Spanish Peaks Multiple Use Management Unit, Forest Service Report Number USDA-FS-DES (Adm) 74-26.

The environmental statement concerns implementing a Multiple Use Management Plan for the Spanish Peaks Management Unit, Gallatin Range District, Gallatin National Forest, Gallatin and Madison Counties, Montana. The total area is approximately 82,000 acres and includes the 50,000 acre Spanish Peaks Primitive Area. The plan is designed to provide the District Ranger with detailed management guidance for the area. This draft environmental statement was filed with CEQ August 29, 1973.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service South Agriculture Bldg., Room 3230 12th St. and Independence Ave. SW., Washington, D.C. 20250

USDA, Forest Service, Northern Region, Federal Building, Missoula, Montana 59801

USDA, Forest Service, Gallatin National Forest, P.O. Box 130, Federal Bldg., Bozeman, Montana 59715

A limited number of single copies are available upon request to Paul D. Weingart, Forest Supervisor, Gallatin National Forest, Post Office Box 130, Federal Bldg., Bozeman, Montana 59715.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please refer to the name and number of the environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor Paul D. Weingart, Gallatin National Forest, P.O. Box 130, Federal Bldg., Bozeman, Montana 59715. Comments must be received by October 13, 1973, in order to be considered in the preparation of the final environmental statement.

PHILIP L. THORNTON,
*Deputy Chief, Forest Service.*

SEPTEMBER 6, 1973.

[FR Doc.73-19504 Filed 9-12-73;8:45 am]

# DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

## QUINLAN MARINE ATTRACTIONS

### Withdrawal of Undue Economic Hardship Application

Notice is hereby given that on September 5, 1973, Mr. Ralph Quinlan, doing business as Quinlan Marine Attractions, Lincolnton, North Carolina, was granted his request to withdraw without prejudice that portion still remaining of his application for an exemption from the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361, 86 Stat. 1027 1972)) on grounds of undue economic hardship. That portion of his application still remaining was a request for an exemption to take two Atlantic bottle-nose dolphins (*Tursiops truncatus*) for public display at the planned facility of Historic Figures, Inc., in Washington, D.C. His original request, for six dolphins, two to be displayed at the facility of Historic Figures and four at Carowinds Park, Charlotte, North Carolina, was amended on June 22, 1973, by the withdrawal without prejudice of that portion of his application relating to the taking of four dolphins for Carowinds Park. Notice of receipt of the original application was published in the FEDERAL REGISTER on May 16, 1973 (38 FR 12839), accompanied by a detailed summary and, after notice in the FEDERAL REGISTER on June 6, 1973 (38 FR 14868), a public hearing was held in Washington, D.C., on June 20, 1973. At this hearing, the Applicant made a formal motion to withdraw without prejudice that portion of his application relating to the dolphins for Carowinds Park. The Director, National Marine Fisheries Service accepted the withdrawal without prejudice on June 22, 1973, and notice of the acceptance of the request was published in the FEDERAL REGISTER on July 13, 1973 (38 FR 18701).

Copies of the original application, the letter of June 22, 1973, from the Director granting the amendment to the application, the letter of July 24, 1973, from the Applicant requesting the withdrawal of the remainder of the application, and the letter of September 5, 1973, from the Director granting permission to withdraw are available for inspection at the Office of the Director, National Marine Fisheries Service, Washington, D.C. 20235, and at the National Marine Fisheries Service Regional Offices. The Regional Offices are located at the following addresses: Southwest Region, 300 South Ferry Street, Terminal Island, California



V 38-177 SEP 13 73 XUM

90731, telephone 213–831–9281; Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930, telephone 617–281–0640; Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33702, telephone 813–893–3141; Northwest Region, Lake Union Biulding, 1700 Westlake Avenue North, Seattle, Washington 98109, telephone 206–442–7575; Alaska Region, P.O. Box 1668, Juneau, Alaska 99801, telephone 907–586–7221.

Dated September 10, 1973.

ROBERT W. SCHONING,
*Director,*
*National Marine Fisheries Service.*

[FR Doc.73-19470 Filed 9-12-73;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

### MICROWAVE OVENS

### Notice of Petition To Amend the Performance Standard for Microwave Ovens

The Secretary, Department of Health, Education, and Welfare, has received from the Consumers Union of United States, Inc. a petition under 5 U.S.C. 553(e) to exercise his authority under Section 358 of the Radiation Control for Health and Safety Act to amend the performance standard for microwave ovens, 21 CFR 278.212. The following changes are petitioned:

1. Amend § 278.212(c) (21 CFR 278.-212) to provide additional test conditions which simulate the normal and the most severe conditions, reasonably foreseeable, under which first purchasers will or could use microwave ovens, that is, (a) with the microwave oven operating at its maximum output and containing a load of 50±5 milliliters of tap water initially at 20±5° Centigrade placed within the cavity of the load-carrying surface provided by the manufacturer (i) at the right rear corner, (ii) at the left rear corner, (iii) at the right front corner, (iv) at the left front corner, and (v) at the center; and (b) with the microwave oven operating at its maximum output and containing no load.

2. Amend § 278.212(c) to require that measurements shall be made with the door shimmed open with two-inch wide strips of polyethylene sheet placed at as many points around the door seal and at such maximum thickness as will produce the largest gaps under which the oven will operate.

3. Amend § 278.212 to require manufacturers to affix permanently to the front exterior of all microwave ovens labels bearing the following warnings and instructions:

a. Do NOT operate oven when empty.

b. CAUTION—Microwave radiation may cause pacemaker interference. Persons with pacemaker implants should not be or remain in the same room where this microwave oven is operating.

c. After each use—(1) unplug oven, and (2) check to see that door seal and inside surfaces of door and oven cavity are clean.

d. Do NOT put face close to door window when oven is operating.

e. KEEP OUT OF THE REACH OF CHILDREN. Do NOT permit young children to operate this oven.

It is the intent of the Bureau of Radiological Health that the petition be presented to the Technical Electronic Product Radiation Safety Standards Committee at their next meeting scheduled for November 9, 1973. This Committee, a statutory advisory committee to the Secretary must be consulted prior to the establishment of standards under the Radiation Control for Health and Safety Act of 1968. Opportunity will be provided at this meeting for petitioners and others to present their views and supporting documentation. Within reasonable time constraints, there will be included ample opportunity for discussion and interchange between the Committee and other attendees.

The final decision whether or not to amend the standard will not be made by the Commissioner of Food and Drugs until recommendations of the Committee have been reviewed.

The petition and other documents submitted, including the grounds in support of the petition, are available for public review at the Office of the Hearing Clerk, Food and Drug Administration, Room 6–86, 5600 Fishers Lane, Rockville, MD 20852. A copy of the petition may be obtained by writing the Bureau of Radiological Health, RH 440, 5600 Fishers Lane, Rockville, MD 20852.

Dated September 6, 1973.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[FR Doc.73-19469 Filed 9-12-73;8:45 am]

[DESI 50234]

### CERTAIN PREPARATIONS CONTAINING NYSTATIN AND HYDROCORTISONE; OR NYSTATIN, IODOCHLORHYDROXYQUIN, AND HYDROCORTISONE FOR TOPICAL USE

### Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice

In the FEDERAL REGISTER of June 20, 1972 (37 FR 12171), the Commissioner of Food and Drugs announced (DESI 50234) the conclusions of the Food and Drug Administration following evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the following drugs for topical use marketed by Dome Laboratories, Division of Miles Laboratories, Inc., 400 Morgan Lane, West Haven, Conn. 06516.

NDA 50–244; Nysta-Cort Lotion (nystatin and hydrocortisone).

NDA 50–234; Nystaform-HC Ointment (nystatin, iodochlorhydroxyquin, and hydrocortisone).

NDA 50–236; Nystaform-HC Lotion (nystatin, iodochlorhydroxyquin, and hydrocortisone).

The notice stated that the drugs were regarded as possibly effective for their labeled indications relating to use in various dermotoses or as anti-infective agents. These indications have been reclassified as lacking substantial evidence of effectiveness in that no data have been submitted pursuant to the notice.

Accordingly, the Commissioner concludes that in the absence of substantial evidence of effectiveness, the above listed drugs will no longer be eligible for release. There is no antibiotic drug regulation which provides for certification of these preparations.

Any person who will be adversely affected by this action may, on or before October 15, 1973, petition for the issuance of a regulation providing for certification of the drugs for such indications. The petition must be supported by a full factual and well-documented medical analysis which shows reasonable grounds for the issuance of such regulation.

A petition for issuance of said regulation should be filed (preferably in quintuplicate) with the Hearing Clerk, Food and Drug Administration, Room 6–86, 5600 Fishers Lane, Rockville, Maryland 20852.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 507, 52 Stat. 1050–51, as amended, 59 Stat. 463, as amended (21 U.S.C. 352, 357)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated September 5, 1973.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[FR Doc.73-19465 Filed 9-12-73;8:45 am]

[GRASP 3G0031]

### STEPAN CHEMICAL CO.

### Notice of Filing of Petition for Affirmation of GRAS Status

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1786; 21 U.S.C. 321(s), 348, 371(a)) and the regulations for affirmation of GRAS status (21 CFR 121.40), published in the FEDERAL REGISTER of December 2, 1972 (37 FR 25705), notice is given that a petition (GRASP 3G0031) has been filed by Stepan Chemical Co., Edems and Winnetka, Northfield, Ill. 60093, and placed on public display at the office of the Hearing Clerk, Food and Drug Administration, proposing affirmation that sodium sulfate is generally recognized as safe (GRAS) for use as an ingredient of surfactant compounds for washing fruits and vegetables.

Interested persons may, on or before November 12, 1973, review the petition and/or file comments (preferebly in quintuplicate) with the Hearing Clerk, Food and Drug Administration, Rm. 6–86, 5600 Fishers Lane, Rockville, Md. 20852. Comments should include any available information that would be helpful in determining whether the substance is, or is not, generally recognized as safe. A copy of the petition and received comments may be seen in the





office of the Hearing Clerk, address given above, during working hours, Monday through Friday.

Dated August 31, 1973.

VIRGIL O. WODICKA,
*Director, Bureau of Foods.*

[FR Doc.73-19467 Filed 9-12-73;8:45 am]

[FAP 2B2799]

### PENNWALT CORP.

### Notice of Withdrawal of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b), 72 Stat. 1786; 21 U.S.C. 348(b)), the following notice is issued.

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the precedural food additive regulations (21 CFR 121.52), Pennwalt Corp., 900 First Avenue, King of Prussia, PA 19406, has withdrawn its petition (FAP 2B2799), notice of which was published in the FEDERAL REGISTER of June 20, 1972 (37 FR 12172), proposing that § 121.2593 *Polyvinylidene fluoride resins* (21 CFR 121.2593) be amended in order: (1) To provide for the safe use of polyvinylidene fluoride resins as articles or components of articles intended for single use as well as repeated use in contact with food, and (2) both to increase the maximum level of total extractives in each extracting solvent to 0.2 milligram per square inch of the finished food-contact article and to establish a maximum level of fluoride extractives at 0.03 milligram per square inch of the finished food-contact article.

Dated September 6, 1973.

VIRGIL O. WODICKA,
*Director, Bureau of Foods.*

[FR Doc.73-19466 Filed 9-12-73;8:45 am]

### Health Resources Administration

### NATIONAL ADVISORY COMMITTEES

### Notice of Public Meetings

*Correction*

The correction to FR Doc. 73–17929 (38 FR 28814, Friday, August 24, 1973) appearing on page 23430 in the issue of Thursday, August 30, 1973, correcting the date of the Health Services Research Study Section meeting, was inadvertently printed under Food and Drug Administration. The headings should read as set forth above.

## ATOMIC ENERGY COMMISSION

### HIGH ENERGY PHYSICS ADVISORY PANEL

### Notice of Meeting

SEPTEMBER 11, 1973.

On October 3–4, 1973, there will be a meeting of the Atomic Energy Commission's High Energy Physics Advisory Panel at the Atomic Energy Commission offices, 1717 H Street NW., Washington, D.C. Below is that portion of the panel's meeting agenda which will be open to the public; practical considerations may require alterations in the agenda or schedule.

(1) *Wednesday, October 3, 1973—9:00 a.m.*—Welcome to new HEPAP members—J. Teem, J. Weisskopf.

*9:15 a.m.*—European Physics—V. Weisskopf.

1. Future plans.

2. Collaboration with the U.S.

*11:00 a.m.*—Report of Subpanel on possible U.S.-USSR collaboration—S. Drell.

(2) *Thursday, October 4, 1973—9:00 a.m.*—Reports on Status of Plans for Possible Future Facilities.

1. Recirculating Linear Accelerator—J. Rees, Stanford Linear Accelerator Center.

2. 200 Gev-Proton Intersecting Storage Accelerator System—H. Hahn, Brookhaven National Laboratory.

3. Proton-Electron-Positron Colliding Beam Facility—T. Elioff, Lawrence Berkeley Laboratory.

4. National Accelerator Laboratory Summer Study—R. Wilson, National Accelerator Laboratory.

*10:30 a.m.*—Discussion of future direction of U.S. High Energy Physics Program.

In addition to the above agenda items, the panel will hold executive sessions on Wednesday and Thursday afternoons (October 3–4). I have determined, in accordance with subsection 10(d) of Public Law 92–463, that the executive sessions will consist of an exchange of opinions and formulation or recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b). It is essential to close these portions of the meeting to protect the free interchange of internal views and to avoid undue interference with agency or committee operation.

The chairman of the High Energy Physics Advisory Panel is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in agenda items listed above, the following requirements shall apply:

(a) Persons wishing to submit written statements on those agenda items may do so by mailing 25 copies thereof, postmarked, if possible, no later than September 21, 1973, to Raymond L. Fricken, Executive Secretary, Division of Physical Research, U.S. Atomic Energy Commission, Washington, D.C. 20545. Minutes of the meeting will be kept open for 30 days for the receipt of written statements for the record.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement, and shall set forth reasons justifying the need for such oral statement and its usefulness to the panel. To the extent that the time available for the meeting permits, the panel will receive statements during a period of not more than 30 minutes at an appropriate time, chosen by the Executive Secretary between the hours of 9:00 a.m. and 10:00 a.m. on October 4, 1973.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Executive Secretary of the panel, who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to the ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on September 28, 1973 to the Executive Secretary of the panel (phone: 301–973–3376) between 9:00 a.m. and 4:30 p.m. Eastern Time.

(e) Questions may be asked by members of the Panel and its consultants.

(f) Copies of minutes of public sessions will be made available for copying, in accordance with the Federal Advisory Committee Act, on or after November 12, 1973, at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C., upon payment of all charges required by law.

JOHN C. RYAN,
*Advisory Committee Management Officer.*

[FR Doc.73-19622 Filed 9-12-73;9:24 am]

[Dockets Nos. 50-354, 50-355]

### PUBLIC SERVICE ELECTRIC AND GAS CO.

### Order Convening Hearing

In the matter of PUBLIC SERVICE ELECTRIC AND GAS COMPANY (Newbold Island Nuclear Generating Station Units 1 and 2).

The Atomic Safety and Licensing Board has been advised by the Regulatory Staff that all parties have conferred as requested by the Board and have agreed upon dates convenient for the reconvening of the evidentiary hearings in this proceeding.

Wherefore, *it is ordered*, in accordance with the Atomic Energy Act, as amended, and the Rules of Practice of the Commission, that evidentiary hearings in this proceeding shall convene for two successive weeks as follows:

I. Evidentiary hearings shall convene on September 24, 1973, at 1 p.m. in the Mercer Room of the Holiday Inn, 240 West State Street, Trenton, New Jersey. After the initial session of those hearings, changes in hearing room locations are necessary due to the unavailability of the room after the first two days of hearing. On Wednesday, September 26, 1973, the evidentiary session of hearings shall convene, at 9 a.m. at space in Trenton to be later assigned and which will be announced on Monday, September 24, or earlier by Order if information is available. All parties and members of the public are directed to the transcript of the daily proceedings to be informed respecting changes made in the hearing room locations for the hearings.

II. Evidentiary hearings shall convene on Monday, October 1, 1973, at 1 p.m. in the Mercer Room of the Holiday Inn, 240 West State Street, Trenton, New Jersey.



V 38 177 SEP 13 73 XUM

Issued September 11, 1973, Germantown, Maryland.

ATOMIC SAFETY AND LICENSING BOARD,
SAMUEL W. JENSCH,
*Chairman.*

[FR Doc.73-19590 Filed 9-12-73;8:45 am]

## CIVIL AERONAUTICS BOARD

[Docket No. 25397 et al; Order 73-9-14]

### AMERICAN AIRLINES INC., ET AL.

#### Order Denying Petitions for Reconsideration

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 6th day of September, 1973.

Application of AMERICAN AIRLINES, INC. and FRONTIER AIRLINES, INC. for approval of route exchange agreement.

Applications and petitions of Braniff Airways, Inc., Continental Air Lines, Inc., Delta Air Lines, Inc., Hughes Air Corp. d/b/a Airwest, Texas International Airlines, Inc., Trans World Airlines, Inc., Western Air Lines, Inc.

By Order 73-6-106 (June 27, 1973) the Board set for hearing the application of American Airlines and Frontier Airlines for approval of a route exchange agreement in Docket 25397.[1] Among other things, that order denied motions by Braniff Airways, Continental Air Lines, Delta Air Lines, Hughes Air Corp., Texas International, Western Air Lines, and Trans World Airlines [2] to consolidate applications for new route authority in the Dallas/Fort Worth-Albuquerque-Las Vegas markets, and to include the revocation or suspension of Frontier's certificate in the Dallas/Fort Worth-Albuquerque-Las Vegas markets. Braniff, Continental, Texas International, and Western have filed petitions for reconsideration of that order. Delta has filed an answer in support of the petitions, and answers in opposition have been filed by American and Frontier, jointly, the Las Vegas parties, and Bureau Counsel.

The petitioners (and Delta) contend that consolidation of the applications for route authority in the Dallas/Fort Worth-Albuquerque-Las Vegas markets is required under the Ashbacker principle and as a matter of sound policy; that the proceeding should be expanded also to include the deletion of Frontier in those markets; and that inclusion of these matters would not enlarge the scope of the case substantially. They contend further, that the case involves issues that fall primarily under sections 401(g) and 401(h) rather than section 408; that the Board acted arbitrarily in granting priority to the route exchange agreement; and that elements of prejudgment are involved in that (1) by declining to consolidate the Board concluded that a grant of the pending applications would have a deleterious effect on the health of the industry, and (2) that the order gives rise to an inference that the issues of competitive disadvantage and diversion have been conclusively settled. In their answers American, Frontier, the Las Vegas parties, and Bureau Counsel take issue with each of these contentions.

Upon consideration of these pleadings, we have decided to deny the petitions for reconsideration. In Order 73-6-106 we concluded that the route exchange agreement is a proper matter for processing under section 408 [3] and should be afforded priority of treatment in accordance with our longstanding policy for applications filed under that section. Similarly, on the basis of numerous judicial and Board precedents, we concluded that an expansion of this proceeding is not required under the Ashbacker principle and that section 408 applications, such as the joint request here, may be processed without consolidating applications for route authority in the markets subject to the exchange agreement. The petitions for reconsideration raise nothing that we have not heretofore considered in these respects and fail to convince us that, as a matter of law or policy, this request for approval of a route exchange should be converted into a case involving both certificate revocations and a variety of service proposals in a large area of the southwest.[4]

Moreover, the carriers urging consolidation do not suggest that the number of carriers in the market at issue should be increased at this time.[5] Thus, unless the incumbent carrier (i.e., Frontier) is deleted, the market is economically preempted and it is in this posture that the route exchange agreement has been filed. In essence, the allegations of mutual exclusivity do not reflect the situation as it exists, and the Ashbacker principle cannot be construed to require that proceedings to consider the transfer of route authority must necessarily include the further issues of deletion or revocation, and alternative carrier selection.

In our order declining to consolidate the pending applications for authority in the markets in issue we reached no conclusion respecting their effect on the overall health of the industry. That order merely pointed out that the American-Frontier application contemplates the substitution of one carrier for another, without adding to the number of carriers in these markets, and is not in conflict with our present policy of caution in setting down route cases which could result in new competition which might be deleterious to the industry.[6]

Western has drawn an inference from certain language in the order [7] that the issues of competitive disadvantage and diversion have been conclusively settled and that the introduction of evidence to the contrary is a useless undertaking. It is difficult to perceive any basis for that inference in the order and suffice it to say that it is totally erroneous. Questions of competitive disadvantage and diversion have not been predetermined and evidence thereon will be considered in relation to the statutory tests to which the agreement is subject.

Continental has requested a pretrial restriction that Frontier will not be permitted to operate single plane service in the Denver-San Diego market as a result of any authority that may be transferred to it in this case. In the Additional Service to San Diego Case, Docket 18104, Continental has applied for nonstop Denver-San Diego authority. If the exchange agreement is approved in this case, Frontier would be able to provide one-stop service in that market, and Continental is concerned with the possibility that its application for non-stop authority then might be denied on the ground that the market does not need additional service. While such a restriction may be appropriate in any amended certificate that may be issued, we are not prepared to impose it as a pre-trial matter. The issues in the case include the question of what conditions, if any, should be imposed if the exchange is approved and Continental may address itself to this matter in the proceeding. Continental's request therefore is denied.

Accordingly, *it is ordered That*

The petitions of Braniff Airways, Inc., Continental Air Lines, Inc., Texas International Airlines, Inc., and Western Air Lines, Inc., for reconsideration of Order 73-6-106 be and hereby are denied.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.73-19531 Filed 9-12-73;8:45 am]

[1] Under that agreement, American's authority between San Diego, Phoenix, and Tucson would be exchanged for Frontiers' authority between Dallas Fort Worth, Albuquerque, and Las Vegas.

[2] Dockets 24224 and 25576, 25515, 25553, 24327, 24233, 25582, and 25621.

[3] Sections 401(g) and 401(h) are also involved since amendments and transfers of certificates are essential to effectuate any route exchange agreement which may be approved under section 408.

[4] Notwithstanding allegations to the contrary, it is obvious that a change of this nature would expand the scope of the case substantially and delay its final disposition.

[5] At best, Texas International notes (at p. 12 of its petition) that "* * * even with Frontier's continued presence in this market, it may be possible at some future date for TXIA to successfully prosecute its application for entry * * *." But see p. 10 of that petition.

[6] With respect to that policy we note that the provisions of section 401(c) requiring disposition of route applications "as speedily as possible" must be read in conjunction with the provisions of section 102 which sets forth the Board's regulatory responsibilities. We have the right to control our own calendar and at this point in time we believe that a policy of caution in setting down route cases best meets the statutory declaration of policy.

[7] "* * * the present application contemplates only the substitution of one carrier for another in each of the markets in question, and thus does not raise the issue of adding to the number of competing carriers in any of these markets." Order 73-6-106, p. 2.





[Docket No. 25865; Order 73-9-18]

### AMERICAN AIRLINES, INC.

#### Order of Investigation and Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 6th day of September, 1973.

Group tour organizing provisions proposed by American Airlines, Inc.

By tariff revisions [1] marked to become effective September 9, 1973, American Airlines, Inc. (American) proposes to revise its rules applicable to GIT fares between the U.S. on the one hand, Puerto Rico and the Virgin Islands on the other, by providing that an employee of the carrier may be designated to act as the Group Travel Organizer (the person responsible for the travel arrangements of the group).

In support of its proposal, American alleges that the proposal is designed to remove present tariff ambiguities and establish a clear-cut definition of a standard practice in many vacation markets; that it can be amply demonstrated that in the case of GITs there is normally no single source providing the group, but rather a series of bookings are made and ticketed by retail travel agencies; and that land portions of the package tours may be developed by tour operations or by the carriers directly. American asserts that under the proposal, it will implement carrier-initiated tours with one of its employees responsible for forming the group, coordinating the bookings, documentation, and other tariff requirements.

Delta Air Lines, Inc. (Delta) and Eastern Air Lines, Inc. (Eastern) have filed complaints against the proposal requesting that it be suspended and investigated. Delta alleges that permitting American to consolidate passengers for discount fares would result in unlawful charges which would be patently discriminatory in nature; that it is one thing for groups to form themselves and then come to the carrier to take advantage of a tariff held out as available to all such groups, but that under American's proposal it would be left largely to the discretion of the carrier when and which groups would be formed, resulting in the carrier's affording some members of the public lower group fares while not offering such fares to others.

Delta asserts that American's provision requiring that, "* * * the person responsible for the travel arrangements of the Group (hereinafter called the Group Travel Organizer) must submit to the carrier * * *" certain travel arrangements, including place of origin, stopovers, final destination and number of passengers amounts to the direct carrier submitting an application to itself, and itself being responsible for the travel arrangements, thereby casting American into conflicting dual roles.

Eastern alleges that American's proposal is not cost-justified in relation to the low GIT fares and therefore is unjust and unreasonable; that at the present time, the group organizer absorbs some of the work load associated with the planning, coordination and handling of the group, which helps to justify the very low level involved in the GIT costs that will be incurred by the carrier, and that American has not supplied an estimate of the additional costs that it will incur, nor forecasts of the traffic that would be carried under the proposal.

In answer to the complaints, American alleges that neither Delta nor Eastern challenges American's contention that the practice covered by the proposed rule is a standard one in many vacation markets, often used by many of American's competitors; that contrary to Delta's allegation, the proposed rule will not be discriminatory; that GIT groups do not form themselves but are formed through tour organizers or travel agents who then sell them to individual members of the public; that GIT fares are generally advertised to the public by both carriers and tour operators; that in many cases, GIT fares may be sold by many different operators and consolidated, either by a carrier, or by one tour operator, into one group; that American certainly does not intend to offer such fares to some members of the public, while failing to disclose them to others; and that the allegation casting American into conflicting dual roles is generally unsupported.

With respect to Eastern's complaint, American alleges that there is no requirement for extensive economic data, since the proposed tariff has no impact on American's rates or costs; that any additional marketing costs are de minimis, and are being incurred by American's competitors who currently operate as described in the proposed rule; and that Eastern neither claims that GIT fares are unprofitable nor alleges that the cost of an employee organizing the groups will have any substantial impact on carrier expenses.

Upon consideration of the tariff filing and other relevant matters the Board concludes that the proposal may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. We further conclude that the proposal should be suspended pending investigation.

We are not persuaded that the need for such a provision in the markets involved does indeed exist, or that the proposal need not be justified from an economic standpoint as American so contends.

American's allegation that the proposed rule is a standard one in many vacation markets and often used by American's competitors is somewhat oblique, and we are unaware of any similar tariff provisions in the markets involved.[2] If carriers are, in fact, organizing groups for GIT travel in these particular markets, they are clearly in violation of existing tariff provisions, and sufficient legal remedies are available to American to preclude such illegal activities by others by the initiation of enforcement proceedings.[3]

In addition, we have serious reservations regarding the economic aspects of the proposal. In view of the relatively large discounts, small group sizes, and the added possibility of further dilution from full-fare traffic involved, coupled with potential higher costs to the carrier, we would be most reluctant to approve the proposal without prior investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

*It is ordered*, That

1. An investigation be instituted to determine whether the provisions described in Appendix A hereto,[4] and rules, regulations and practices affecting such provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly prefrential, unduly prejudicial, or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful provisions, and rules, regulations, or practices affecting such provisions;

2. Pending hearing and decision by the Board, the provisions described in Appendix A hereto are suspended and their use deferred to and including December 7, 1973, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board.

3. Except to the extent granted herein, the complaints in Dockets 25813 and 25816 are hereby dismissed;

4. The investigation ordered herein be assigned before an Administrative Law Judge of the Board at a time and place hereafter to be designated; and

5. Copies of this order be filed with the aforesaid tariff and be served upon American Airlines, Inc., Delta Air Lines, Inc., and Eastern Air Lines, Inc., which are hereby made parties to this proceeding.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.73-19532 Filed 9-12-73;8:45 am]

[1] Revisions to American Airline's Tariff C.A.B. No. 244.

[2] In this connection, American does not allege that its proposal is a better way of selling GIT fares or is desirable from an economic standpoint.

[3] See Order 73-4-59 dated April 12, 1973 in which Pan American agreed to cease and desist from forming passengers into groups in U.S. mainland-Hawaii markets.

[4] Appendix A is filed as part of the original document.



V 38 177 SEP 13 73 XUM

[Docket No. 24488; Order 73-9-12]

## INTERNATIONAL AIR TRANSPORT ASSOCIATION

### Order Relating to Passenger Fare Matters

Issued under delegated authority September 5, 1973.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers and other carriers embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA). The agreement, which was adopted by mail vote for intended September 15, 1973 effectiveness, has been assigned the above-designated CAB agreement number.

The agreement would amend an existing resolution governing winter group inclusive tour fares between the United States and Africa by lowering the minimum stay period from nine to seven days.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the following resolution, incorporated in Agreement C.A.B. 23911, is adverse to the public interest or in violation of the Act: JT12 (Mail 818 084pp.

Accordingly, *it is ordered* That, Agreement C.A.B. 23911 be and hereby is approved.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 835.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.73-19533 Filed 9-12-73;8:45 am]

[Docket No. 23343]

## EASTERN AIR LINES, INC.

### Notice of Hearing

In the matter of Eastern Air Lines, Inc., deletion of Kennedy Space Center, Fla.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a public hearing in the above-entitled proceeding is assigned to be held on October 9, 1973, at 10 a.m. (local time) in Room 1031, North Universal Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned Administrative Law Judge. The hearing will reconvene on October 17, 1973, at 10 a.m. (local time) in Room 2201, Headquarters Building, John F. Kennedy Space Center, Kennedy Space Center, Fla.

For information concerning the issues involved and other details of this proceeding, interested persons are referred to the various documents which are in the docket of this case on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., September 7, 1973.

[SEAL] ARTHUR S. PRESENT,
*Administrative Law Judge.*

[FR Doc.73-19529 Filed 9-12-73;8:45 am]

[Docket No. 25630]

## SURINAAMSE LUCHTURACHT ONDERNEMING

### Postponement of Prehearing Conference and Hearing

In the matter of Surinaamse Luchtvracht Onderneming N.V. (Surinam Air Cargo Corporation) Foreign air carrier permit renewal, Surinam-Miami service.

Notice is hereby given that the prehearing conference and hearing now scheduled for October 2, 1973 (38 FR 22908, August 27, 1973), is hereby postponed to October 3, 1973, at 10 a.m. (local time), in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned.

Dated at Washington, D.C., September 10, 1973.

[SEAL] ALEXANDER N. ARGERAKIS,
*Administrative Law Judge.*

[FR Doc.73-19530 Filed 9-12-73;8:45 am]

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### CERTAIN COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN GHANA

### Entry or Withdrawal From Warehouse for Consumption

SEPTEMBER 11, 1973.

On August 31, 1973, the United States Government, in furtherance of the objectives of, and under the terms of, the Long-Term Arrangement Regarding International Trade in Cotton Textiles, done at Geneva on February 9, 1962, including Article 6(c) thereof relating to non-participants, informed the Government of Ghana that it was renewing for an additional twelve-month period beginning September 13, 1973, and extending through September 12, 1974, the restraint on imports into the United States of cotton textile products in Category 22, produced or manufactured in Ghana. Pursuant to Annex B, paragraph 2, of the Long-Term Arrangement, the level of restraint for this twelve-month period is 5 percent greater than the level of restraint applicable to this category for the preceding twelve-month period.

There is published below a letter of September 11, 1973 fro mthe Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, directing that the amount of cotton textile products in Category 22, produced or manufactured in Ghana, which may be entered or withdrawn from warehouse for consumption in the United States for the twelve-month period beginning September 13, 1973, be limited to 462,000 square yards.

SETH M. BODNER,
*Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.*

COMMISSIONER OF CUSTOMS,
*Department of the Treasury,*
*Washington, D.C. 20229*

SEPTEMBER 11, 1973.

DEAR MR. COMMISSIONER: Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, including Article 6(c) thereof relating to non-participants, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective September 13, 1973, and for the twelve-month period extending through September 12, 1974, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 22, produced or manufactured in Ghana, in excess of a level of restraint for the period of 462,000 square yards.

In carrying out this directive, entries of cotton textile products in Category 22, produced or manufactured in Ghana, which have been exported to the United States from Ghana prior to September 13, 1973, shall, to the extent of any unfilled balances, be charged against the level of restraint established for such goods during the period September 13, 1972 through September 12, 1973. In the event that the level of restraint established for that period has been exhausted by previous entries, such goods shall be subject to the level set forth in this letter.

A detailed description of Category 22 in terms of TSUSA numbers was published in the FEDERAL REGISTER on April 29, 1972 (37 FR 8802), as amended on February 14, 1973 (38 FR 4436).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Ghana and with respect to imports of cotton textiles and cotton textile products from Ghana have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

SETH M. BODNER,
*Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.*

[FR Doc.73-19639 Filed 9-12-73;10:22 am]





## COMMISSION ON REVISION OF THE FEDERAL COURT APPELLATE SYSTEM

### REALIGNMENT OF FEDERAL JUDICIAL CIRCUITS

### Notice of Hearings

SEPTEMBER 5, 1973.

The Commission on Revision of the Federal Court Appellate System will hold additional hearings in the Ceremonial Courtroom of the Customs Courthouse, Foley Square, New York City, New York, on Monday, October 1, 1973, commencing at 1 p.m.

The Commission is charged with making recommendations concerning redistricting the judicial circuits. In addition, the Commission is to study the internal procedures and structure of the Federal courts of appeal system, making such recommendations as are appropriate. Because the Commission's first report has a congressionally-mandated deadline of mid-December, priority will be given to testimony relevant to redistricting.

The hearings are open to the public and interested persons are invited to attend. Those wishing to present oral testimony should contact A. Leo Levin, Executive Director of the Commission, at 209 Court of Claims Building, 717 Madison Place NW., Washington, D.C. 20005. Phone: 202-382-2943. Written statements, in lieu of oral testimony, may also be filed with the Commission.

A. LEO LEVIN,
*Executive Director.*

[FR Doc.73-19483 Filed 9-12-73;8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

### ABBOTT LABORATORIES

### Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786; 21 U.S.C. 348(b)(5)), notice is given that a petition (FAP 4H5043) has been filed by Abbott Laboratories, North Chicago, IL 60064, proposing establishment of a food additive tolerance (21 CFR, Part 121) for residues of the pesticide *p*-(*N*,*N*-dichlorosulfamoyl) benzoic acid in potable water at 6 parts per million.

Dated September 7, 1973.

HENRY J. KORP,
*Deputy Assistant Administrator for Pesticide Programs.*

[FR Doc.73-19460 Filed 9-12-73;8:45 am]

## FEDERAL MARITIME COMMISSION

### CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

### Notice of Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by Section 311(p)(1) of the Federal Water Pollution Control Act, as amended, and accordingly, have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

| Certificate No. | Owner/Operator and Vessels |
|---|---|
| 01014--- | Robert Bornhofen Reederei: *Rhodos.* |
| 01120--- | Transoceanic Shipping Corporation: *George F. Getty II.* |
| 01125--- | N.V. Ubem S.A.: *Kyoto; Zeebrugge.* |
| 01421--- | Bibby Line Limited: *Arya Bod.* |
| 01428--- | Ocean Transport & Trading Limited: *Anchises.* |
| 01707--- | O. Didiev-Simonsen Jr.: *Vikara.* |
| 01861--- | BP Tanker Company, Limited: *British Norness.* |
| 01871--- | F. Scinicariello: *Laura.* |
| 01981--- | AB Svenska Orient Linien: *Sameland, Bardaland.* |
| 02146--- | Pittston Marine Corporation: *Allied Chemical 11.* |
| 02197--- | Matson Navigation Company: *Lurline, Matsonia.* |
| 02475--- | Houston Barge Line, Inc.: *GTC-10, GTC-11, HBL 3013, HBL 1602, Walter Williamson, Karen, GTC-1200, GTC-2501, CHEM-1201, GTC-2502, GTC-2002, CHEM-2003, GTC-1950, GTC-2900, GTC-2503, GTC-2504, GTC-2505, GTC-2506.* |
| 02477--- | American Dredging Company: *SE 103, SE 104.* |
| 02524--- | The Watergate Steam Shipping Company, Limited: *Naworth.* |
| 02583--- | Pacific Inland Navigation Company, Inc.: *548.* |
| 02715--- | Allied Towing Corporation: *Jeanne Marie, ATC-117.* |
| 02728--- | Societe Ivoirienne de Transport Maritime: *Tonkoui, Assouba, Azaguie.* |
| 02877--- | Nippon Yusen Kabushiki Kaisha: *Takasaki Maru, Takayama Maru.* |
| 02959--- | Kokuyo Kaiun Kaisha, K.K.: *Izumigawa Maru, Kinokawa Maru, Hourai Maru.* |
| 02975--- | Venture Shipping (Managers), Limited: *Zealand Venture, Vera Venture.* |
| 03054--- | H. Schuldt: *Mexican Trader.* |
| 03139--- | Offshore Marine, Limited: *Cook Shore.* |
| 03501--- | Osaka Shosen Mitsui Senpaku K.K.: *Chihirosan Maru.* |
| 03615--- | Indian Towing Co., Inc.: *Shawnee.* |
| 03640--- | Pan Ocean Bulk Carriers, Limited: *Bum-Ah.* |
| 03728--- | Ocean Drilling & Exploration Company: *Ocean King.* |
| 03836--- | Splosna Plovba: *Kraigher B.* |
| 03918--- | Mobil Shipping & Transportation Co.: *Mobil Engineer.* |
| 03923--- | Shinwa Kaiun Kaisha, Ltd.: *Hoen Maru, Shinrei Maru.* |
| 03988--- | Partenreederei M.S. "Else Reith": *Else Reith.* |
| 03994--- | Partenreederei M.S. "Ida Blumenthal": *Ida Blumenthal.* |
| 03995--- | Partenreederei M.S. "Johann Blumenthal": *Johann Blumenthal.* |
| 04034--- | Grimaldi Compagnia Navigazione Spa: *Tiber.* |
| 04055--- | Missouri Barge Line Company, Inc.: *Arthur E. Snider.* |
| 04069--- | Omnium Transportation Company: *Omnium Mariner.* |
| 04070--- | Frota Oceanica Brasileira S.A.: *Frotaoeste.* |
| 04275--- | Intercounty Construction Corporation: *Barge #2010, Barge #2011, Barge #2051, Car Float #2033.* |
| 04413--- | Leif Hoegh & Company A/S: *Hoegh Hood.* |
| 04502--- | Kotoshiro Gyogyo Kabushiki Kaisha: *Kotoshiromaru No. 18, Kotoshiromaru No. 15.* |
| 04601--- | American Tunaboat Association: *Cabrillo, Lucky Strike, Nautilus, Pan Pacific.* |
| 04703--- | Yokkaichi Enyo Gyogyo K.K.: *Nanseimaru No. 25, Nanseimaru No. 17, Daienmaru No. 11.* |
| 04803--- | Brent Towing Company, Inc.: *B 824, B 924.* |
| 05007--- | Northern Transportation Company, Limited: *Matt Berry, Jock McNiven, Johnny Hope, Henry Christoffersen, NT 1514, NT 1526.* |
| 05016--- | Hess Oil Virgin Islands Corporation: *Turquoise Bay.* |
| 05090--- | Esso Petroleum Company, Limited: *Esso Demitia, Esso Dalriada.* |
| 05155--- | Bultema Dock & Dredge Co.: *Minnesota.* |
| 05203--- | The Western Company of North America: *Western Pacesetter I.* |
| 05238--- | Tradax Internacional S.A.: *Captain W. D. Cargill, Carchester, Geneve,* Hamburg. |
| 05255--- | Aiple Marine Company: *ACO 501, ACO 502.* |
| 05274--- | Fluor Drilling Services, Inc.: *Western Offshore No. VIII.* |
| 05500--- | Petroleos Mexicanos: *Manuel Avila Camacho.* |
| 05577--- | Far Eastern Shipping Company: *Pskov, Kapitan Beloshapkin, Partizansk.* |
| 05579--- | Black Sea Shipping Company: *Bryanskiy Mashinostroitel.* |
| 05685--- | World Wide, Inc.: *Conquistador.* |
| 05732--- | Tank Masters, Inc.: *Mildred.* |
| 05754--- | A. E. Sorensen A/S: *Charlotte S, Annette S.* |
| 05917--- | Voyager Transportation Co.: *Wolverine.* |
| 06114--- | Masahei Yamamoto: *Seishumaru No. 35.* |
| 06133--- | General Dynamics Corporation: *Hughes 275.* |
| 06248--- | Commercial Corporation "Sovrybflot": *Trud, Alpinist, Gerakl, Nevelskiy.* |
| 06409--- | India Steamship Co. Ltd.: *Indian Valour, Indian Venture, Indian Endeavour.* |
| 06498--- | Federal Steam Navigation Co. Ltd.: *Wild Flamingo.* |
| 06549--- | Compagnie Marocaine de Navigation: *Tizin'tichka, Zalagh.* |
| 06570--- | Kristian Jebsen (U.K.) Ltd.: *Surnenes.* |
| 06571--- | Luz-Armement S.A.: *Biscaya, Alaba, Guipuzkoa, Navarra.* |
| 06818--- | Globus-Reederei Gmbh Hamburg: *S.A. Oranjeland.* |
| 07178--- | Water Tunnel Contractors: *S-101, S-102.* |
| 07306--- | Neptune Associated Lines (PTE) Ltd.: *Neptune Kiku.* |
| 07348--- | K/S A/S Sea-Team & Co.: *Suecia Team.* |
| 07362--- | Primorsk Shipping Company: *Stepan Vostretsov.* |
| 07561--- | Gulf Atlantic Transport Corporation: *Gatco 105.* |
| 07861--- | Express Marine, Inc.: *EMI #7250.* |
| 07919--- | Mantomen Compania Naviera S.A.: *Irene M.* |
| 07937--- | Congeladores Vigueses, S.A.: *Vigo.* |
| 07954--- | Compania Valenciana de Navegacion S.A.: *Ribera.* |
| 07959--- | Louisiana Dock Company, Inc.: *Steamer Gona, WF 12, Chem IV.* |



V 38-177 SEP 13 73 XUM

| Certificate No. | Owner/Operator and Vessels |
|---|---|
| 08020--- | Maeda Kisen Kabushiki Kaisha: *Arabia Maru.* |
| 08023--- | Arpa Compania Naviera S.A.: *Adam S.* |
| 08062--- | Astron Trading Ltd.: *Global Unity.* |
| 08080--- | Jacob Compania Naviera, S.A.: *Carbo Seahorse.* |
| 08111--- | Krimac Sa Panama: *Dafra Star.* |
| 08116--- | Skopi Shipping Co. Ltd.: *Cretan Life.* |
| 08148--- | Domara Shipping Co.: *Stamoleon.* |
| 08153--- | Sicula Partenopea Di Navigazione S.P.A.: *Ginevra.* |
| 08169--- | Shipping Company Zwijndrecht NV: *Zwijndrecht.* |
| 08187--- | Thorable Schiffahrtsgesellschaft de Vries & Co., M.B.H.K.G.: *Thoralbe.* |
| 08189--- | Everpioneer Line S.A.: *Ever Pioncer.* |
| 08192--- | Compania Velventos Navegacion S.A.: *Rodosto.* |
| 08193--- | Orepton Shipping Company, Limited: *Maritihi.* |
| 08195--- | Blanco Cargo Carriers Ltd.: *Hampton Bay.* |
| 08211--- | Oy Oceanfart AB: *Helios.* |
| 08212--- | Ravenna Shipping Inc.: *Nego Shang.* |
| 08219--- | Union Falcon Inc.: *Black Falcon.* |
| 08220--- | Union Eagle Inc.: *Black Eagle.* |
| 08231--- | Ecological Shipping Corp.: *Notre Dame Victory.* |
| 08234--- | Burmah Oil Tankers, Limited: *Burmah Beryl.* |
| 08239--- | Midiboy Shipping Corporation, Inc.: *Midiboy.* |
| 08240--- | Penn Shipping Inc.: *Lord de France.* |
| 08246--- | Oceanus Industries, Inc.: *King Oscar.* |
| 08250--- | Repulse Bay Co., Inc.: *Repulse Bay.* |
| 08252--- | Herlofson Schiffahrtsgesellschaft KG.: *Bulk Prospector.* |
| 08263--- | Selvick Marine Towing Corp.: *Samuel Mitchell.* |
| 08271--- | Santo Compania Naviera S.A.: *Philippias.* |
| 08276--- | Manamar Compania Naviera S.A. Panama: *Atenalia.* |
| 08277--- | Armosy Corporation: *Lattuga.* |
| 08278--- | MS Greyhound Reederei & Schiffahrts GMBH KG: *Asd Flying Scot.* |
| 08279--- | Viafiel Armadora S.A.: *Vassilis Katsikis.* |
| 08280--- | Tasman Voyager, Ltd.: *Tasman Voyager.* |
| 08281--- | Caribbean Voyager, Ltd.: *Caribbean Voyager.* |
| 08282--- | Mediterranean Voyager, Ltd.: *Mediterranean Voyager.* |
| 08283--- | Tropimare Company S.A. Panama: *Sealord I.* |
| 08284--- | Partenreederei MS "Magdalena Reith": *Magdalena Reith.* |
| 08285--- | Protostatis Compania Naviera S.A. Panama: *Agelos Raphael.* |
| 08286--- | Universal Tanker Transports, Inc.: *Oriental Phoenix.* |
| 08287--- | Chandris Tankers Limited: *Rania Chandris.* |
| 08290--- | San Constantino Compania Armadora & Financiera Company: *Theano.* |
| 08291--- | Caledonian Shipping Enterprises, Inc., Panama: *Borea.* |
| 08294--- | Metropolitan Navigation Corp.: *Monemvasia.* |
| 08299--- | Caribbean Real Estate S.A.: *Becena.* |
| 08301--- | Spearin, Preston & Burrows, Inc.: *YD–201 Cariboo, Chinook, No. 5, No. 7, No. 17, No. 42, Jemsen, Almirante, Challenger.* |
| 08305--- | Duchess Shipping Co.: *M. T. Galva.* |
| 08306--- | Trans Atlantic Marine Corporation, Ltd.: *Panamax Neptune.* |
| 08312--- | Greek Australian Line S.A.: *Patris.* |
| 08314--- | Anatolian Shipping Company, Ltd.: *Marlene.* |
| 08315--- | Burmast Shipping & Exploration Corporation: *Burmah Amber.* |
| 08316--- | Martimaris Primero Maritime Corporation: *Eleni Martinos.* |

By the Commission.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.73–19494 Filed 9–12–73;8:45 am]

## CERTIFICATES OF FINANCIAL RESPONSIBILITY (OIL POLLUTION)

### Notice of Certificates Revoked

Notice of voluntary revocation is hereby given with respect to Certificates of Financial Responsibility (Oil Pollution) which had been issued by the Federal Maritime Commission, covering the below-indicated vessels, pursuant to Part 542 of Title 46 CFR and Section 311(p)(1) of the Federal Water Pollution Control Act, as amended.

| Certificate No. | Owner/Operator and Vessels |
|---|---|
| 01039--- | Den Norske Amerikalinje A/S: *Sunndalsfjord.* |
| 01055--- | Farrell Lines, Incorporated: *African Moon.* |
| 01152--- | Neptune Maritime Co. of Monrovia: *Evi.* |
| 01170--- | Fratelli d'Amico-Armatori: *Mare Piceno, Mare Dorico, Mare Felice, Mare Sereno, Marc Adriacum, Mare Tranquillo, Marc Placido.* |
| 01172--- | H. Clarkson and Company, Limited: *Clarkeden.* |
| 01330--- | Shell Tankers (U.K.), Ltd.: *Humilaria.* |
| 01421--- | Bibby Line, Limited: *Warwickshire.* |
| 01422--- | Booth Steamship Company, Limited: *Veloz, Venimos, Viajero.* |
| 01475--- | Baron Shipping Co., Ltd.: *Atlantic Baron.* |
| 01477--- | Freedom Shipping Co., Ltd.: *Atlantic Freedom.* |
| 01861--- | BP Tanker Company, Ltd.: *British Patrol.* |
| 01904--- | Waterman Steamship Corporation: *Lafayette.* |
| 01981--- | AB Svenska Orient Linien: *Tundraland.* |
| 02013--- | Granges A.B.: *Stolt Vistasvagge.* |
| 02022--- | C. T. Gogstad & Co.: *Lara Viking, Concordia Lara.* |
| 02198--- | The Peninsular & Oriental Steam Navigation Company: *Chakrata.* |
| 02288--- | Cosarma: *Fiaccola.* |
| 02298--- | Naviera Galea, S.A.: *Galerno, Galea.* |
| 02477--- | American Dredging Company: *Gates No. 26, Gates No. 25.* |
| 02492--- | Interstate Oil Transport Co.: *Interstate No. 42.* |
| 02675--- | Reederei Kai Braundle-Schmidt KG: *Venus.* |
| 02716--- | Aktieselskabet Det Dansk-Franske Dampskibsselskab: *Belgien.* |
| 02749--- | Montserrado Transportation Co.: *Olympic Splendour.* |
| 02870--- | Isthmian Lines, Inc.: *Steel Artisan, Steel Seafarer, Steel Maker.* |
| 02872--- | States Marine International, Inc.: *Buckeye State.* |
| 02892--- | Meljoy Transportation Company, Inc.: *MOS 104.* |
| 02956--- | Ashland Oil Inc.: *NMS 43, NMS 40.* |
| 03351--- | Compass Shipping Company, Limited: *West Breeze.* |
| 03501--- | Osaka Shosen Mitsui Senpaku K.K.: *Takaosan Maru.* |
| 03506--- | Taiheiyo Kaiun K.K.: *Seiwa Maru.* |
| 03531--- | Yuyo Kaiun K.K.: *Kathryn Maru.* |
| 03728--- | Ocean Drilling & Exploration Co.: *Ocean Rover.* |
| 03877--- | Ingram Contractors, Inc.: *Crane Barge 3, Crane Barge 4, Derrick Barge 2, Derrick Barge 3, Derrick Barge 6, Dredge 3, Dredge 5, Dredge 6, Dredge 7, Dredge 8, Dredge 9, Lay Barge No. 4, Lay Barge No. 7, Lay Barge No. 8, Offshore 100, Offshore 105, Offshore, 106.* |
| 03949--- | Liberian Meridian Transports, Inc.: *World Centenary.* |
| 04017--- | Alaska Packers Association, Inc.: *Ptarmigan.* |
| 04055--- | Missouri Barge Line Company, Inc.: *Arthur E. Snider.* |
| 04099--- | Waterways Marine of Memphis Inc.: *Ellis 1252.* |
| 04275--- | Intercounty Construction Corp.: *Steel Hull Deck Scow, Steel Hull Deck Scow.* |
| 04358--- | Holland Bulk Transport N.V.: *Vlieland.* |
| 04386--- | Maritime Company of the Philippines: *Lingayan Gulf, Sarangani Bay.* |
| 04435--- | Gateway Barge Line, Inc.: *NDT–101.* |
| 04457--- | Paulino Escobedo San Juan: *Pedrosa.* |
| 04458--- | Naviera Artola, S.A.: *Artola.* |
| 04511--- | Showa Gyogyo Kabushiki Kaisha: *Showa Maru No. 8.* |
| 04571--- | CIA Naviera Vascongada S.A.: *Vizcaya, Arraiz.* |
| 04572--- | Compania Iberica de Navegacion y Pesca, S.A.: *Ana Maria Barreras.* |
| 04625--- | American Commercial Lines, Inc.: *Patrick Calhoun Jr.* |
| 04759--- | Marguardia Compania Naviera S.A.: *Atys.* |
| 04798--- | Vicksburg Towing Company, Inc.: *Yazoo City, Redwood.* |
| 04979--- | Kommanditgesellshaft Taspa Schiffahrtsgesellschaft Mbh & Co.: *Arya Man.* |
| 05301--- | European Commerce and Navigation Co.: *Tenacidad.* |
| 05754--- | A. E. Sorensen A/S: *Louis S.* |
| 05779--- | Glenco, Limited: *Irving Glen.* |
| 05854--- | Levin Metals Corporation: *Bennion, Grant.* |
| 06232--- | Aztec Trading Company S.A.: *Aztec.* |
| 06269--- | Paul & Helen Suchko S & P Towing Inc.: *Walker 23.* |
| 06273--- | Dowa & Company, Limited: *Silver Shelton, Silver Pagoda, Silver Constellation.* |
| 06475--- | Carrier Shipping Company S.A.: *Navigator.* |
| 06485--- | Minibulk Shipping (K. M. Kaalstad): *Mini Star.* |
| 06522--- | Alioth Navigation Corporation: *Navishipper.* |
| 06578--- | Van Nievelt, Goudriaan & Co., N.V.: *Argestis, Apeliotis, Aparctias.* |





| Certificate No. | Owner/Operator and Vessels |
|---|---|
| 06839--- | Armement Nicoriadot-Martin: *Djungo.* |
| 06878--- | Italnavi Societa di Navigazione Per Azioni: *Sant' Ambrogio.* |
| 06969--- | Waterfront Services Co.: *Hines 6.* |
| 07178--- | Water Tunnel Contractors: *Moran 104, Moran 106, ST–70.* |
| 07290--- | Hollywood Terminals, Inc.: *KE–38, C & H 106, KE–37, KE–36.* |
| 07295--- | Andina Compania Naviera S.A.: *Ithaki Reefer.* |
| 07368--- | Lake Charles Towing Co., Inc.: *L.C.T. #20, L.C.T. #21, L.C.T. #22, L.C.T. #23, L.C.T. #40.* |
| 07441--- | International Offshore Operators: *Eastern Provider.* |
| 07502--- | Vladoro Armadora S.A.: *Spartan.* |
| 07600--- | Angelina Transportation Corp.: *LSC–40.* |
| 07978--- | Marine Resources, Inc.: *Mariner.* |
| 08222--- | Rail & Water Terminal (Quebec), Inc.: *Aigle d'Ocean, Aigle Marin, Guard Mavoline.* |

By the Commission.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.73–19493 Filed 9–12–73;8:45 am]

## MED–GULF CONFERENCE

### Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before October 3, 1973. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Stanley O. Sher, Billig, Sher & Jones, P.C., Suite 300, 1126 Sixteenth Street NW., Washington, D.C. 20036.

Agreement No. 9522–19 among the member lines of the Med-Gulf Conference establishes limitations on the use of substituted service between loading ports in the Mediterranean Sea.

By order of the Federal Maritime Commission.

Dated September 10, 1973.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.73–19492 Filed 9–12–73;8:45 am]

## FEDERAL POWER COMMISSION

[Docket No. E–8315]

### CENTRAL LOUISIANA ELECTRIC CO.

### Notice of Application

SEPTEMBER 7, 1973.

Take notice that on July 12, 1973, Central Louisiana Electric Company (Applicant) tendered for filing a Supplement to the Agreement for Electric Service with Cajun Electric Power Cooperative dated May 25, 1970, Rate Schedule FPC No. 20. The Supplement (1) establishes new delivery points for DeRidder 69 kV, Merryville Junction, DeQuincy 69 kV and Charenton, (2) changes contract power for Olivier delivery point and delivery voltage for Baldwin delivery point, and (3) transfers two delivery points of Pointe Coupee Electric Membership Corporation and four delivery points of Washington-St. Tammany Electric Cooperative from Rate Schedule FPC No. 20 to Rate Schedule FPC No. 21, thereby superseding service furnished to these delivery points on an interim basis under Rate Schedule FPC No. 20. The Supplement is to take effect August 12, 1973.

Any person wishing to be heard or to make any protest with reference to such Application should, on or before September 28, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The Application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73–19513 Filed 9–12–73;8:45 am]

[Docket Nos. E–7801, E–8105, E–8111]

### CONNECTICUT LIGHT AND POWER CO.

### Amending Prior Orders and Denying in Part a Petition for Reconsideration

SEPTEMBER 6, 1973.

By orders of July 10, 1973, in Docket No. E–8105 and August 2, 1973, in Docket Nos. E–7801, E–8105 and E–8111, the Commission consolidated these dockets and instituted an investigation, under section 206 of the Federal Power Act, of several short term contracts which had been filed with the Commission by the Connecticut Light and Power Company (CL&P), most of which were filed on behalf of Northeast Utilities (NU) (consisting of CL&P, the Hartford Electric Light Company, and Western Massachusetts Electric Company). As to one contract between NU and New Bedford Gas and Edison Light Company (New Bedford), filed in Docket No. E–8105, the Commission denied waiver of its notice requirements (under § 35.11 of the Regulations). Such waiver would have permitted a requested effective date of March 1, 1973, the date specified in the contract for the commencement of the sale of capacity and energy from a particular group of gas turbine generating units.

On August 13, 1973, NU filed with the Commission a petition for reconsideration of the above-mentioned orders and appropriate relief. The petition requests, among other things, that the Commission reconsider its denial of waiver of the notice requirements with respects to the contract originally filed in Docket No. E–8105 mentioned above. NU states that the subject contract was negotiated at the request of the New England Gas and Electric Association (of which New Bedford is a member) to obtain capacity which would allow New Bedford to avoid the payment of deficiency charges for the current power year under the New England Power Pool Agreement. The request, according to NU, was not finalized until March 9, 1973, and this made it impossible to satisfy the Commission's normal time requirements with respect to filing. NU states that the effect of the Commission's order denying a retroactive effective date, without further action by NU, will be to confer a windfall on New Bedford by granting it four months of free service under the new contract, since such service began under the new contract on March 1, 1973, in reliance upon previous treatment by the Commission of similar contracts. Upon consideration of NU's petition, particularly in light of the Commission's past treatment of similar contracts, we believe that good cause exists to modify our order of July 10, 1973, to permit the requested waiver.

In its petition, NU further requests that the investigations ordered by the Commission be terminated. In support of this request, the Company states that, while the orders in these proceedings indicate that a question has been raised as to the rate of return specified in various filings, the specified rates of return are determined in accordance with a formula which has been used in a total of 19 separate prior filings which the Commission has permitted to become effective within the past two years without the initiation of any investigations. According to NU, this formula was developed, after the first of these filings, by representatives of NU in conferences with the Commission staff. It is this



V 38-177 SEP 13 73 XUM

Commission's responsibility to maintain a continuing regulatory surveillance pursuant to the directives of the Federal Power Act. We therefore see no basis to bind either the Commission or its staff to the dictates of past practice by terminating this proceeding.

In the event the Commission does not terminate the investigations, NU requests that the Commission supplement and modify its orders so as to: make clear that the issue to be considered is the allowability of the equity rate of return specified in the contracts; specify a date for the filing of testimony and exhibits by NU; and remove the date specified for the filing of testimony and exhibits by intervenors, since there are no intervenors in the proceeding. We see no reason to restrict the Section 206 investigation by unnecessarily narrowing the issues at this stage. The specific issues may be sufficiently defined at the prehearing conference ordered in this proceeding or at settlement conferences. The scope of the Commission staff's testimony and exhibits should be evident upon service thereof. As to the request to specify a date for the filing of testimony and exhibits by NU, that date is clearly set out in ordering paragraph (B) of our July 10, 1973, order in Docket No. E-8105. Finally, we see no compelling need to eliminate the date prescribed for the service of intervenor evidence. While there are, to date, no petitions for intervention in this docket, we would not want to preclude, at this time, late petitions to intervene. The retention of this date will have no appreciable effect upon the proceeding and there is nothing to preclude NU from filing its rebuttal testimony at an earlier date.

Finally, our order of August 2, 1973, in this proceeding omitted mention of the Agreements contained in Docket No. E-7801 between NU and Montaup Electric Company (MEC) filed November 1, 1972; City of Holyoke Gas and Electric Department (Holyoke) filed November 1, 1973; and New Bedford filed October 30, 1972; (collectively; Purchasers). These Agreements should have been identified and are identical to the Agreement between NU and Public Service Company of New Hampshire (PSNH). Accordingly, these contracts shall also be subject to the proceeding ordered in this docket.

The Commission finds:

(1) The order of July 10, 1973, issued in Docket No. E-8105 should be amended to permit the requested waiver of the Commission notice requirements so as to allow the rate schedule proposed in that docket to be effective as of March 1, 1973.

(2) The requests contained in NU's petition should be denied as hereinafter ordered.

The Commission orders

(A) NU's request that the order issued July 10, 1973, in Docket No. E-8105 be amended to permit the requested waiver of the Commission's notice requirements is granted and the July 10 order is hereby amended and the rate schedule proposed in that docket shall be effective as of March 1, 1973.

(B) All other requests contained in NU's petition are denied.

(C) The order of August 2, 1973, in Docket Nos. E-7801, E-8105, and E-8111 is hereby amended to include the NU contracts with MEC, Holyoke, and New Bedford in the proceeding ordered in these dockets.

(D) The Secretary of the Commission shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19514 Filed 9-12-73;8:45 am]

---

[Docket No. E-7769]

## DELMARVA POWER AND LIGHT CO.

### Notice of Postponement of Prehearing Conference and Hearing

SEPTEMBER 6, 1973.

On September 6, 1973, Commission Staff Counsel filed a motion requesting that the prehearing conference and the hearing in the above-designated matter be postponed. The motion states that the postponement is necessitated due to conflicts in the schedules of the Presiding Administrative Law Judge and other parties to the proceeding.

Upon consideration, notice is hereby given that the dates previously set for the prehearing conference and the hearing are extended as follows:

Prehearing Conference, September 25, 1973 (10:00 a.m., EDT)
Hearing, October 9, 1973 (10:00 a.m., EDT)

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19515 Filed 9-12-73;8:45 am]

---

[Project No. 2232]

## DUKE POWER CO., INC.

### Application for Approval of Non-Project Use of Project Lands and Waters

SEPTEMBER 6, 1973.

Public notice is hereby given that application for approval of nonproject use of project lands and waters was filed August 10, 1973, under the Federal Power Act (16 U.S.C. 791a-825r) by Duke Power Company, Inc. (Correspondence to: Mr. George W. Ferguson, Jr., Associate General Counsel, Duke Power Company, Legal Department, P.O. Box 2178, Charlotte, North Carolina 28201) for Project No. 2232, located on the Catawba River, in Alexander, Burke, Caldwell, Catawba, Gaston, Iredell, Lincoln, McDowell, and Mecklonburg Counties, North Carolina and the Catawba and Wateree Rivers, in Chester, Fairfield, Kershaw, Lancaster, and York Counties, South Carolina. The project lands and waters affected are located in York County, South Carolina on the Big Allison Creek, a tributary of the Catawba River.

The application seeks Commission approval of a proposed easement to the South Carolina Highway Department for a 475 foot by 50 foot strip of project land to be used for the construction of a bridge occasioned by the relocation of County Road 1132. The bridge would cross a cove of Big Allison Creek and provide a fishery deck for public use. Vertical clearance under the bridge would be 15 feet. Present County Road 1132 runs through the plant site for the proposed Catawba Nuclear Station (application filed with the Atomic Energy Commission on October 27, 1972).

Any person desiring to be heard or to make protest with reference to said application should on or before October 23, 1973, file with the Federal Power Commission, Washington, D.C., 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 C.F.R. 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19516 Filed 9-12-73;8:45 am]

---

[Docket No. CI74-140]

## EASON OIL CO.

### Notice of Application for Disclaimer of Jurisdiction Over Liquid Products Sale and Facilities

SEPTEMBER 6, 1973.

Take notice that on August 22, 1973, Eason Oil Company (Applicant) P.O. Box 18755, Oklahoma City, Oklahoma 73118, filed in Docket No. CI74-140 an application pursuant to section 7(c) of the Natural Gas Act and § 2.75 of the Commission's general policy and interpretations (18 CFR 2.75) for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Southern Natural Gas Company (Southern) from the Big Escambia Creek Field, Escambia County, Alabama, and for an order declaring that the transportation and sale of condensate and light liquids from the said field to Southern, together with the transportation facilities necessary therefor are not subject to the Commission's jurisdiction, all as more fully set forth in the application and petition which is on file with the Commission and open to public inspection.

Applicant proposes under the optional gas pricing procedure to sell natural gas to Southern from its fifty percent working interest in acreage in the Big Escambia Creek Field, which it acquired from Southwest Gas Producing Company, Inc., at an initial rate of 55.0 cents per million Btu at 14.65 p.s.i.a. under the provisions of a contract dated December 1, 1972. Said contract provides for 1-cent per million Btu price escalations each successive two years, for reimbursement to the seller for 7/8 of any new or increased taxes and for a contract term of 20 years. Applicant also requests pregranted abandonment authorization. Applicant estimates proven reserves attributable to its interest in this acreage are 377,500 M c.f. and that at the outset it will sell approximately 69 M c.f. of gas per day to Southern.

Applicant asserts that this gas will help Southern meet its requirements for gas on its system during the contract term, particularly in light of the fact that Southern is now faced with an increasing shortage of natural gas supplies. Applicant asserts that the instant contract was the result of arm's length bargaining and that the contract with adjustments is competitive with offers of potential purchasers in the intrastate market. Applicant contends that the contract price with adjustments, moreover, is substantially lower than prices for base load purchases and sales of LNG and SNG for which applications have been approved by or are now pending before the Commission.

Applicant requests that the Commission issue an order declaring that the sale of liquid products and facilities necessary therefor in the Big Escambia Creek Field are not within the Commission's jurisdiction. By an Option Agreement dated December 1, 1972, Applicant has granted Southern an option to purchase both the condensate and light liquid products from the subject gas stream. Applicant submits that the Commission should disclaim jurisdiction over these arrangements for the reasons set forth in the application and petition of Mallard Exploration, Inc. (Operator), et al., in Docket No. CI73-698.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 28, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19517 Filed 9-12-73;8:45 am]

---

[Docket No. CI73-644]

## EASON OIL CO., ET AL.

### Order Granting Motion

SEPTEMBER 6, 1973.

On July 19, 1973, Eason Oil Company (Eason), on its own behalf and on behalf of Devon Corporation (Devon), filed a motion requesting that it be substituted for Southwest Gas Producing Company, Inc. (Southwest) as the applicant in the above-captioned docket.

By conveyance dated as of June 21, 1973, and effective as of June 28, 1973, following recordation, Southwest assigned and conveyed to Eason and John W. Nichols, et ux.,[1] in equal shares, all of Southwest's interest in the producing properties in the Hospital Bazou Field, Lafourche Parish, Louisiana, which are the subject of this proceeding.

Eason is a corporation organized and existing under the laws of the State of Delaware having its principal place of business at 5225 North Shartel, Oklahoma City, Oklahoma 73118. Eason is the holder of a Small Producer Certificate of Public Convenience and Necessity issued April 11, 1972, in Docket No. CS71-631.

The Commission finds

Good cause exists to substitute for the applicant Eason Oil Company, et al., as successor to Southwest Gas Producing Company, Inc.

The Commission orders

Eason Oil Company, et al. is substituted as the applicant in the above-captioned docket.

By the Commission.

[SEAL] KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19528 Filed 9-12-73;8:45 am]

[1] The interest of John W. Nichols and his wife in the Southwest properties was subsequently assigned to Devon by separate conveyance.

---

[Docket No. E-7002]

## INTERIOR DEPARTMENT, ET AL.

### Request for Approval of Rates and Charges

SEPTEMBER 5, 1973.

Notice is hereby given that the Secretary of Interior (Secretary), acting on behalf of Southeastern Power Administration (SEPA) and pursuant to section 5 of the Flood Control Act of 1944 (58 Stat. 887, 890), filed a request with the Federal Power Commission on July 31, 1973 in Docket No. E-7002 for confirmation and approval of Wholesale Firm Power Rate Schedules KP-1-A and JHK-1-A and Wholesale Power Rate Schedule KP-2-A applicable to the sale of electric power and energy generated at the John H. Kerr and Philpott Projects (Projects) located on the Roanoke River and Smith River, respectively, in the State of Virginia. The proposed rate schedules are designed to supersede SEPA's current rate schedules for the sale of such power and energy which the Commission approved by order issued on January 15, 1971 in Docket No. E-7002 (45 FPC 162) for the period ending not later than June 30, 1975. The Secretary seeks approval of the proposed rates schedules for the period beginning with the date of issuance of the Commission's order granting such approval and ending June 30, 1975.

Proposed Wholesale Firm Power Rate Schedule KP-1-A is available to public bodies and cooperatives which operate within a 150 mile radius of the Kerr Project and which are served through the facilities of Virginia Electric and Power Company (VEPCO). It supersedes Wholesale Firm Power Rate Schedule KP-1 (Revised). Each of those rate schedules contains the same monthly unit rate, including a demand charge of $1.10 per Kw. of contract demand and an energy charge of 4.50 mills per Kwh. Rate Schedule KP-1-A is applicable to the sale of deficiency energy purchased by SEPA from VEPCO in addition to the sale of on-peak energy generated at the Projects.

Proposed Wholesale Firm Power Rate Schedule JHK-1-A is available to public bodies and cooperatives which operate within a 165 mile radius of the point of interconnection between the electric systems of VEPCO and Carolina Power & Light Company (CP&L) at the Virginia-North Carolina State line in the vicinity of the Kerr Project and which are served through the facilities of CP&L. It supersedes Wholesale Firm Power Rate Schedule JHK-1 (Revised). Each of those rate schedules contains the same monthly unit rate, including a demand charge of $1.10 per Kw. of contract demand and and energy charge of 4.50 mills per Kwh.

Proposed Wholesale Power Rate Schedule KP-2-A is available to CP&L and VEPCO. It supersedes Wholesale Dump Energy Rate Schedule KP-2 (Revised) and Wholesale Firm Power Rate Schedules KP-3 and JHK-2. It reflects marketing arrangements contractually made in 1973 by SEPA with CP&L and VEPCO, respectively, which provide for the sale of additional dependable capacity and eliminate the sale of non-dependable capacity. All on-peak energy generated at the Projects is made available for transmission to public bodies and cooperatives through energy bank arrangements among SEPA, CP&L and VEPCO. The rates for power and energy to CP&L and VEPCO are the same under the proposed rate schedule as under the current rate schedules, including $1.10 per Kw. per



V38-177 SEP 13 73 XUM

month for dependable capacity and an amount for dump energy equal to 80% of the calculated saving to CP&L and VEPCO in the cost of fuel.

In support of the proposed rate schedules, the Secretary submitted to the Commission the Repayment Study, dated July 1973, prepared by SEPA for the purpose of showing that such rate schedules will produce revenues which, together with the revenues collected to date, will repay all costs associated with the production and transmission of electric power and energy generated at the Projects, including the amortization of the Projects' capital investment allocated to power, within 50 years from the commencement of full commercial operation of the Projects.

Proposed Wholesale Firm Power Rate Schedules KP-1-A and JHK-1-A and Wholesale Power Rate Schedule KP-2-A, together with the Repayment Study in support thereof, are on file with the Commission and available for public inspection. Any person desiring to make comments or suggestions for the Commission's consideration with respect to said rate schedules should submit the same in writing on or before September 28, 1973 to the Federal Power Commission, Washington, D.C. 20426.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19525 Filed 9-12-73;8:45 am]

[Docket No. CI73-755]

## MIDWEST OIL CORP.

### Amendment to Application

SEPTEMBER 7, 1973.

Take notice that on August 22, 1973, Midwest Oil Corporation (Applicant), 1700 Broadway, Denver, Colorado 80202, filed in Docket No. CI73-755 an amendment to its application filed in the subject docket on May 7, 1973, pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity by authorizing under § 2.75 of the Commission's general policy and interpretations (18 CFR 2.75) the sale for resale of natural gas in interstate commerce to Sea Robin Pipeline Company (Sea Robin) from Block 225, Ship Shoal Area, offshore Louisiana, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant proposes to sell natural gas to Sea Robin at an initial price of 35.0 cents per M.c.f. at 15.025 p.s.i.a., subject to upward and downward Btu adjustment, pursuant to a gas purchase agreement dated July 17, 1972. The agreement provides for 2.50-cent per M c.f. price escalation every three years, for reimbursement to Applicant for any new or increased taxes, for Applicant to pay 0.02 cent per mile of transportation of plant shrinkage volumes and 20.0 cents per barrel for transportation of liquids, and for a contract term of 20 years. Applicant requests pre-granted abandonment authorization. Applicant states that it is amending the application in the instant docket to request authority only with regard to deliveries from those wells in Block 225 which were commenced on or after April 6, 1972, with deliveries from the pre-April 6 wells to be made pursuant to the authorization issued by the Commission in its order of in Docket No. CI72-181.

Applicant believes that approval of its proposal will assist Sea Robin in assuring that its customers will have adequate supplies of gas to meet the demands of consumers during the term of the certificate at a time when Sea Robin's customers, United Gas Pipe Line Company and Southern Natural Gas Company, are curtailing deliveries of gas to their purchasers. Applicant asserts that the instant long-term contract for the sale of natural gas produced domestically and delivered at the contract prices is extremely beneficial to consumers faced with the prospect of paying in excess of $1.00 (initial price) for gas imported from countries with uncertain political futures or transported over long distances from Alaska. Applicant contends that recently executed contracts for the sale of gas in the same area call for much higher prices, in the neighborhood of 45.0 to 50.0 cents per M c.f., and that recently executed contracts in the intrastate markets contain even higher rates. Applicant alleges that the Commission's staff report attached to the notice of proposed rule making in Docket No. R-389-B supports the instant contract prices as said report found that the cost of finding and producing non-associated gas is between 34.68 and 38.26 cents per M c.f. nationwide.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before October 1, 1973, file with the Federal Power Commission, Washington, D.C. 20426 a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
*Secretary,*

[FR Doc.73-19518 Filed 9-12-73;8:45 am]

[Docket No. CP74-51]

## NORTHERN NATURAL GAS CO.

### Notice of Application

SEPTEMBER 7, 1973.

Take notice that on August 27, 1973, Northern Natural Gas Company, 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP74-51 an application pursuant to sections 7 (b) and (c) of the Natural Gas Act for permission for and approval of the abandonment of its Sioux Falls Line by sale to the Nebraska Game and Parks Commission and for a certificate of public convenience and necessity authorizing the construction and operation of facilities to relocate a sales regulating station serving the Ponca State Park, all located in Dixon County, Nebraska; all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that in November 1949, pursuant to § 2.55(b) of the Commission's general policy and interpretations, it replaced an old Missouri River aerial crossing with undercrossing facilities, thereby separating the 1.43-mile segment of 14-inch pipe from upstream transmission facilities. According to Applicant, at this point cutting and capping procedures were used and 1-inch by-pass facilities were installed so as to maintain service to Ponca State Park. Applicant states that in view of the fact that the Game and Parks Commission desires ownership of the line which is presently serving only Ponca State Park and since Applicant has no other need for the line, Applicant proposes to abandon the line by sale to the Game and Parks Commission. Applicant proposes to relocate the sales measuring station serving the park at an up-stream location in the vicinity of the undercrossing take-off.

Applicant estimates the cost of the relocation of facilities to be $700.00, to be financed with cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 1, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal





hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19521 Filed 9-12-73;8:45 am]

[Docket Nos. CP73-215, CP73-221]

## NORTHERN NATURAL GAS CO. AND EL PASO NATURAL GAS CO.

### Notice Postponing Procedural Dates

SEPTEMBER 6, 1973.

On September 4, 1973, Northern Natural Gas Company filed a request for an extension of time within which to file testimony and exhibits, in accordance with the order issued August 31, 1973, in the above-designated matter, and for a postponement of the hearing from September 18, 1973, to October 11, 1973. A statement filed by Commission Staff Counsel on September 5, 1973, advised that the parties have agreed to September 20, 1973, for the filing of evidence, and October 3, 1973, for the hearing.

Upon consideration, notice is hereby given that the procedural dates are modified as follows:

Filing of testimony and exhibits by Northern Natural Gas Company and El Paso Natural Gas Company--------September 20, 1973.
Commencement of hearing--------October 3, 1973 (10:00 a.m., EDT).

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19520 Filed 9-12-73;8:45 am]

[Docket No. CI74-154]

## O. B. MOBLEY

### Notice of Application

SEPTEMBER 5, 1973.

Take notice that on August 30, 1973, O. B. Mobley (Applicant), 1011 Commercial National Bank Building, Shreveport, Louisiana 71101, filed in Docket No. CI74-154 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to United Gas Pipe Line Company from the Elm Grove Field, Bossier Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that he commenced the sale of natural gas on August 24, 1973, within the contemplation and § 157.29 of the Regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sale for one year from the end of the 60-day emergency period within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant proposes to sell approximately 45,000 M c.f. of gas per month at 50.0 cents per M c.f. at 15.025 p.s.i.a. plus 3.3 cents per M c.f. tax reimbursement and subject to upward and downward Btu adjustment with upward adjustment limited to 1,150 Btu per cubic foot.

It appears reasonable and consistent with the public interest in this case to provide a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 17, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19519 Filed 9-12-73;8:45 am]

[Project No. 1881]

## PENNSYLVANIA POWER & LIGHT CO.

### Notice of Application for Change in Land Rights

SEPTEMBER 6, 1973.

Public notice is hereby given that application was filed on June 11, 1973, under the Federal Power Act (16 U.S.C. 791a-825r) by the Pennsylvania Power & Light Company (correspondence to: Mr. Edward M. Nagel, Vice President, General Counsel and Secretary, Pennsylvania Power & Light Co., 901 Hamilton Street, Allentown, Pennsylvania 18101), Licensee for Hollywood Project No. 1881 for permission to grant an easement for the installation of a submarine cable across the bottom of project reservoir and for the construction of an underground junction manhole. The Holtwood Project is located on the Susquehanna River in Lancaster and York Counties, Pennsylvania.

The application seeks Commission approval of a proposed easement to be granted by Pennsylvania Power & Light Company, Licensee, to American Telephone & Telegraph Company of Pennsylvania. The proposed cable (C1), approximately 1,600 feet in length, would occupy a 30-foot right-of-way parallel and adjacent to existing cable (A1 and B1) routes.

Any person desiring to be heard or to make protest with reference to said application should on or before October 18, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein, may file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19527 Filed 9-12-73;8:45 am]

[Docket No. E-8358]

## SOUTHERN SERVICES, INC.

### Amendment to Interconnection Agreement and of Additional Delivery Point

SEPTEMBER 5, 1973.

Take notice that on August 13, 1973, Southern Services, Inc., on behalf of itself and Alabama Power Company, Georgia Power Company, Gulf Power Company, and Mississippi Power Company (Applicants) filed with the Federal Power Commission, pursuant to § 35.12 of the Regulations under the Federal Power Act, the following:

(1) An Amendatory Agreement between Applicants and the Tennessee Valley Authority (TVA) referring to the Interchange Agreement, dated July 1, 1965, and designated respectively in Southern Service's FPC Rate Schedule No. 33; Alabama Power Company's FPC Rate Schedule No. 88; Georgia Power Company's FPC Rate Schedule No. 687; Gulf Power Company's FPC Rate Schedule No. 38; and Mississippi Power Company's FPC Rate Schedule No. 86.

(2) An Interconnection Agreement, dated October 1, 1973, between Alabama Power Company and TVA establishing the West Jefferson 500 kV and West Point 500 kV Interconnection Points and delineating the responsibilities of TVA and Alabama Power Company for installation, operation and maintenance of



V 38-177 SEP 13 73 XUM

their respective facilities, for reimbursement for advanced expenditure by TVA, and for securing necessary approvals.

(3) Certificates of Concurrence executed on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, and Mississippi Power Company by Southern Services Inc.

The parties to the Interchange Agreement of July 1, 1965, provided for additional interconnections between TVA and Applicants. Pursuant to this proviso, the parties have agreed to establish such interconnections between TVA's Willow Creek 500 kV switchyard and Alabama Power Company's West Point 500 KV switchyard near West Point, Mississippi and its 500 KV switchyard at the proposed West Jefferson steam plant near Birmingham, Alabama. The desired effective dates for these interconnections would be June 1, 1976 for the West Point site and June 1, 1979 for the West Jefferson steam plant site.

The application further states that the Amendatory Agreement extends the term of the original interchange agreement from 1975 to 1983. Also the Amendatory Agreement gives notice that a rental charge embodied in the Letter Agreement dated June 30, 1972 between TVA and Applicants will be discontinued on the date the West Jefferson Steam Plant interconnection point is ready for operation. Further more, the Amendatory agreement provides for a review of the capacity of the Applicants to be made prior to May 15, 1976, and again prior to May 15, 1977, to determine if up to 300 MW. of capacity can be made available to TVA for 17 week periods commencing on November 19, 1978, and November 18, 1979, respectively. If such capacity is available, it shall be provided according to the then existing schedules to the Interchange Agreement.

The application states that the establishment of the above described interconnections will not affect any of the rates between the parties, other than reimbursement for advanced expenditures by TVA.

Applicant Southern Services, Inc. has executed this Amendatory Agreement and the Certificates of Concurrence on behalf of the other Applicants mentioned herein, by virtue of the authority granted to it by letter addressed to the Commission on November 19, 1963, and signed by all parties to the Agreement (with the exception of TVA).

Any person desiring to be heard or to make any protest with reference to said application should on or before September 25, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19522 Filed 9-12-73;8:45 am]

[Docket No. CP74-56]

## TEXAS EASTERN TRANSMISSION CORP. AND FLORIDA GAS TRANSMISSION CO.

### Notice of Application

SEPTEMBER 6, 1973.

Take notice that on August 30, 1973, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas 77001, and Florida Gas Transmission Company (Florida), P.O. Box 44, Winter Park, Florida 32789, filed in Docket No. CP74-56 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the retention in place, construction, and operation of facilities, and the transportation of natural gas for exchange, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that Florida's river crossing on the Atchafalaya River, St. Landry and Pointe Coupee Parishes, Louisiana, was temporarily put out of service and that Texas Eastern rendered emergency service on a best efforts basis, within the contemplation of § 157.22 of the Regulations under the Natural Gas Act, by permitting Florida to route its gas through Texas Eastern's adjacent river crossing. Texas Eastern installed two 12-inch taps and related equipment at a cost of $38,000 and Florida installed 746 feet of 12¾-inch O.D. pipe and 955 feet of 24-inch O.D. pipe at a cost of $112,000.

Applicants request authorization to leave the previously constructed facilities in service, for Florida to construct additional facilities for a total facility cost of $190,000, and to exchange natural gas. Applicants state that they have entered into an exchange agreement which supersedes and cancels an exchange agreement on file with the Commission as Texas Eastern's Rate Schedule X-53, FPC Gas Tariff, Original Volume No. 2, to add the Atchafalaya River interconnection as an additional point of exchange service under Rate Schedule X-53. The agreement provides that while neither Applicant is in a position to make regular deliveries of gas to the other at such points, each recognizes that under certain circumstances, it may be able to make substantial quantities of gas available to the other at such points as the demands on the system of the other may fluctuate and as the respective dispatchers may mutually agree. The agreement provides for redeliveries within 60 days unless Applicants otherwise mutually agree.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 1, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19523 Filed 9-12-73;8:45 am]

[Docket No. E-7929]

## TOLEDO EDISON CO.

### Further Extension of Time and Postponement of Prehearing Conference and Hearing

SEPTEMBER 6, 1973.

On August 23, 1973, the Cities of Bowling Green and Bryan, Ohio, filed a motion to, *inter alia*, suspend the above-designated proceedings pending action on the application for a *subpoena duces tecum*. On August 31, 1973, Commission Staff Counsel filed a motion to extend the procedural dates. The motion states that all parties have agreed to the dates set forth in the motion.

Upon consideration, notice is hereby given that the procedural dates set by the notice issued August 21, 1973, are further modified as follows:

| | |
|---|---|
| Intervener Service | September 21, 1973. |
| Company Rebuttal | October 2, 1973. |
| Prehearing Conference. | October 10, 1973 (10:00 a.m., e.d.t.). |
| Hearing | October 30, 1973 (10:00 a.m., e.d.t.). |

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19524 Filed 9-12-73;8:45 am]





## OFFICE OF MANAGEMENT AND BUDGET

### BUSINESS ADVISORY COUNCIL ON FEDERAL REPORTS

### Change of Date and Location of Public Meeting

Pursuant to Public Law 92-463, notice is hereby given of a change of date and location of a meeting of an ad hoc panel of the Business Advisory Council on Federal Reports originally scheduled for Wednesday, September 19, 1973. The meeting will be held on Wednesday, October 17, 1973, at 9:30 a.m. in the Department of Commerce Auditorium, first floor, Main Commerce Building, 14th and E Streets NW., Washington, D.C. (enter from 14th Street). Notice of the meeting was originally printed in the FEDERAL REGISTER on August 16, 1973.

The purpose of this meeting is to obtain advice on reporting problems involved in a proposed public use report of the Federal Trade Commission entitled "Annual Line of Business Report." The meeting will be open to public observation and participation.

Further information regarding the meeting may be obtained from the Statistical Policy Division, Office of Management and Budget, Room 10208, New Executive Office Building, Washington, D.C. 20503, Telephone 202-395-4730.

VELMA N. BALDWIN,
*Assistant to the Director for Administration.*

[FR Doc.73-19678 Filed 9-12-73;12:11 pm]

## SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

## ROYAL PROPERTIES INCORPORATED

### Order Suspending Trading

SEPTEMBER 7, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $5 par value and all other securities of Royal Properties Incorporated, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 10, 1973, through September 19, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-19445 Filed 9-12-73;8:45 am]

[File No. 500-1]

## STRATTON GROUP, LTD.

### Order Suspending Trading

SEPTEMBER 7, 1973.

The common stock, $.25 par value, of Stratton Group, Ltd., being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Stratton Group, Ltd., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to section 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 10 a.m., e.d.t., on September 7, 1973, and continuing through September 16, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-19444 Filed 9-12-73;8:45 am]

[Rel. No. 7979, 812-3491]

## WADE FUND, INC.

### Notice of Application Pursuant to Section 6(c) of the Act for Exemption From Section 15(a) of the Act

SEPTEMBER 7, 1973.

Notice is hereby given that Wade Fund, Inc., Suite 2224 Clark Tower, 5100 Poplar Avenue, Memphis, Tennessee 38137 (Fund), an open-end, nondiversified investment company registered under the Investment Company Act of 1940 (Act), has filed an application pursuant to section 6(c) of the Act for an order temporarily exempting Maury Wade Jr. (Adviser), an investment adviser registered pursuant to section 203 of the Investment Advisers Act of 1940, from the provisions of section 15(a) of the Act which prohibit any person from serving as an investment adviser to a registered investment company except pursuant to a written contract which has been approved by the vote of a majority of the outstanding voting securities of such registered company. Fund requests that the exemption be effective from July 26, 1973, until a special meeting of Fund's shareholders is held for the purpose of submitting to such shareholders a new investment advisory agreement, but in no case longer than 90 days after July 26, 1973. All interested persons are referred to the application on file with the Commission for a statement of Fund's representations which are summarized below.

Maury Wade, who engaged in business as a sole proprietor under the name of Maury Wade & Company, served Fund as investment adviser since the latter commenced operations in 1949. Such services were rendered by Maury Wade pursuant to an investment advisory agreement with Fund initially approved by Fund's stockholders on February 23, 1967, and renewed thereafter. On July 18, 1973, Maury Wade died and as a result, such investment advisory agreement terminated, leaving Fund without a investment adviser.

On July 26, 1973, the Fund entered into a written investment advisory agreement with Adviser, the former investment adviser's son. The application states that on such date this investment advisory agreement was authorized by Fund's board of directors and approved by a majority of the board of directors composed of persons who were neither parties to the agreement nor interested persons of any such party. The Fund represents that the terms and condition under which Adviser will serve pursuant to the agreement made July 26, 1973, are the same as those provided in the terminated agreement.

The Fund also represents that a special meeting of Fund's stockholders will be held as soon as practicable for the purpose of affording such stockholders the opportunity to approve or disapprove payment to Adviser of fees under the agreement made on July 26, 1973, for the period for which exemption is requested and for the purpose of submitting to Fund's stockholders a new investment advisory agreement.

Section 15(a) of the Act provides, in part, that it shall be unlawful for any person to serve or act as an investment adviser to a registered investment company except pursuant to a written contract that has been approved by the vote of a majority of the outstanding voting securities of such registered company.

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may exempt any person, security or transaction from any provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act.

The application indicates that the Fund has entered into the agreement with Adviser dated July 26, 1973, and has made the instant request for temporary relief from the provisions of section 15(a) of the Act so that the Fund may have the services of an investment adviser until a meeting of Fund's stockholders can be held to consider a new investment advisory agreement as provided in section 15(a) of the Act. With respect to management's selection of Maury Wade, Jr. to serve Fund as adviser during the interim period, the application states that Maury Wade, Jr. is intimately familiar with the operations of Fund having been employed by Maury Wade for nine years prior to the latter's death and having assisted Maury Wade with investment recommendations to the Fund during the last several years of such period.

Notice is further given that any interested person may, not later than October 4, 1973, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and



V 38 177 SEP 13 73 XUM

Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Wade Fund, Inc., at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73–19448 Filed 9–12–73;8:45 am]

## SMALL BUSINESS ADMINISTRATION

[Application 05/05–5093]

### AMERICAN INNER URBAN INVESTMENT CORP.

#### Application for a License as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 461 et seq.), has been filed by American Inner Urban Investment Corporation (applicant) with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1973).

The officers and directors of the applicant are as follows:

Robert George Harness, Chairman, Board of Directors, 6245 Sharon Woods Boulevard, Columbus, Ohio 43229.

Napoleon Arthur Bell, President, Director, 1975 Sunbury Road, Columbus, Ohio 43219.

Charles Francis Dugan II, Secretary, Director, 120 Halligan Avenue, Worthington, Ohio, 43085.

Lewis Russell Smoot, Sr., Treasurer, Director, 185 Buckeye Court, Westerville, Ohio 43081.

John Wragg Kellogg, Director, General Counsel, 2214 East 81st Street, Cleveland, Ohio 44103.

The applicant, an Ohio corporation with its principal place of business located at 1213 East Dublin-Granville Road, Columbus, Ohio 43229, will begin operations with $505,000 of paid-in capital and paid-in surplus, derived from the sale of 5,050 shares of common stock to American United Inns, Inc., a widely held public company in the business of building, owning and operating nursing homes and day care centers, and located at the same address as the applicant.

As a small business investment company under section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owner and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and SBA Rules and Regulations.

Any person may, not later than September 28, 1973, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Columbus, Ohio.

Dated: September 5, 1973.

JAMES THOMAS PHELAN,
*Deputy Associate Administrator for Investment.*

[FR Doc.73–19478 Filed 9–12–73;8:45 am]

[Notice of Disaster Loan Area 1004; Amdt. I]

### NEW HAMPSHIRE

#### Amendment to Notice of Disaster Relief Loan Availability

As a result of the President's declaration of the State of New Hampshire as a major disaster area following severe storms and flooding beginning on or about June 26, 1973, and amended for the severe storms and flooding occurring August 2 through 4, 1973, applications for disaster relief loans will be accepted by the Small Business Administration from flood victims in the following additional county: Hillsboro, and adjacent affected areas. (See 38 FR 19878.)

Applications may be filed at the:

Small Business Administration
District Office
55 Pleasant Street
Concord, New Hampshire 03301

and at such temporary offices as are established. Such addresses will be announced locally. Applications will be processed under the provisions of Public Law 93–24.

Applications for disaster loans under this announcement must be filed not later than October 29, 1973.

Dated August 30, 1973.

THOMAS S. KLEPPE,
*Administrator.*

[FR Doc.73–19477 Filed 9–12–73;8:45 am]

## DEPARTMENT OF LABOR

### Office of the Secretary

### ADVISORY COMMITTEE ON WOMEN TO THE SECRETARY

#### Establishment of Committee

Notice is hereby given of the establishment of the Advisory Committee on Women to the Secretary of Labor pursuant to a request by the Secretary of Labor with the approval of the Office of Management and Budget as required by section 9(a)(2) of the "Federal Advisory Committee Act."

The purpose of this Committee is to advise the Secretary of Labor on improving the status of working women in connection with the laws and programs administered by the Department of Labor, including those employed by the Department of Labor. The Committee will focus on those matters in which the Department of Labor is involved due to its official responsibilities. The Committee will report to the Chairman of the Committee, the Secretary of Labor.

Signed at Washington, D.C., this 11th day of September 1973.

PETER J. BRENNAN,
*Secretary of Labor.*

[FR Doc.73–19680 Filed 9–12–73;12:19 pm]

## INTERSTATE COMMERCE COMMISSION

[Notice No. 72]

### MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

SEPTEMBER 7, 1973.

The following applications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by Special Rule 1100.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include





issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and on or before November 12, 1973, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

No. MC 8948 (Sub-No. 104), filed June 18, 1973. Applicant: WESTERN GILLETTE, INC., 2550 East 28th Street, Los Angeles, Calif. 90058. Applicant's representative: Therodore W. Russell, 1545 Wilshire Blvd., Los Angeles, Calif. 90017. Authority sought to operate as a common carrier, by motor vehicle, over regular routes transporting: *General Commodities* (except Classes A and B explosives, livestock, articles of unusual value, household goods as defined by the Commission, commodities in bulk, in tank vehicles, and commodities requiring special equipment), (1) Between Dallas, Tex., and New Orleans, La.: From Dallas, Tex., over Interstate Highway 20 to junction U.S. Highway 71 at Shreveport, La., thence over U.S. Highway 71 to junction U.S. Highway 190 at Krotz Springs, La., thence over U.S. Highway 190 to junction U.S. Highway 61 at Baton Rouge, La., thence over U.S. Highway 61 to New Orleans and return over the same route, serving Shreveport, Baton Rouge, and all points on U.S. Highway 61 between Baton Rouge and New Orleans as intermediate points; and Bossier City as an off-route point, and serving Krotz Springs, La., for purposes of joinder only; (2) between Houston, Tex., and Baton Rouge, La.; from Houston, Texas, over Interstate Highway 10 to junction U.S. Highway 167 at Lafayette, La., thence over U.S. Highway 167 to junction U.S. Highway 190 near Opelousas, La., thence over U.S. Highway 190 to Baton Rouge, La., and return over the same route, serving no intermediate points except as otherwise authorized, but serving the intermediate point of Krotz Springs, La., for purposes of joinder only, restricted to traffic moving to, from or through either El Paso or Dallas, Tex.

NOTE.—If a hearing is deemed necessary applicant requests it be held at either Los Angeles, Calif.; New Orleans, La.; or Dallas, Tex.

No. MC 13087 (Sub-No. 37), filed August 3, 1973. Applicant: STOCKBERGER TRANSFER & STORAGE, INC., 524 Second Street, SW., Mason City, Iowa 50401. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beer*, (1) from St. Louis, Mo., to points in Mason City, Iowa, and (2) from Minneapolis, Minn., to Britt, Iowa, restricted to traffic originating at the named origins and destined to the named destinations.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 26396 (Sub-No. 83) (AMENDMENT), filed June 25, 1973, published in the FEDERAL REGISTER issue August 16, 1973, and republished as amended, this issue. Applicant: POPELKA TRUCKING CO., doing business as THE WAGGONERS, a Corporation, P.O. Box 990, Livingston, Mont. 59047. Applicant's representative: Jacob P. Billig, 1108 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lumber, wood products, lumber products, and forest products*, from Beaver and Yakima, Wash.; Priest River, Troy, Calder, Priest Lake, Mountain Home, Tammarock, Kooskia, and Emmet, Idaho; and points in Lane, Wasco, Jackson, Josephine, Linn, Tillamook, Multnomah, Douglas, Polk, Coos, Benton, Yamhill, and Marion Counties, Oreg., to Kalispell and Columbia Falls, Mont.; Fargo, Corrington, Grand Forks, Minot, Bismarck, and Jamestown, N. Dak.; Rapid City, Sioux Falls, Rosholt, Belle Fourche, Watertown, Aberdeen, and Lemmon, S. Dak.; Albany, Windom, New Ulm, Greenwold, Clarks Grove, and St. Paul, Minn.; Belleville and Milan, Ill.; Humboldt, Iowa City, and Eagle Grove, Iowa; Columbia, Mo.; Madison, Oshkosh, Mercer, Glover, Rhinelander, Siren, and Shawano, Wis.; Ft. Morgan, Aspen, Glenwood Springs, Lamar, Springfield, and Sterling, Colo.; points in Larimer, Boulder, Weld, Denver, El Paso, Pueblo, Routt, Jefferson, Arapahoe, and Mesa Counties, Colo.; Casper, Cheyenne, Laramie, Rock Springs, Rawlins, Riverton, and Jackson, Wyo.; Albuquerque and Sante Fe, N. Mex.; and Wichita, Kans.; (2) *charcoal briquettes, charcoal, fireplace logs, and related items* (i.e., lighter fluid, wood chips, barbeque grille base), from Husky Industries, Inc., plant at or near Dickinson, N. Dak., to points in Colorado, Idaho, Montana, Oregon, Washington, and Wyoming; and (3) *feed ingredients and additives* in bag, bulk, and containerized, from Trenton, Mich.; Lawrence, Kans.; Chicago, Chicago Heights, and Joliet, Ill.; Southgate, Calif.; and Rockwell Railsiding at Maintowoc, Wis., to points in Big Horn and Yellowstone Counties, Mont.

NOTE.—The purpose of this republication is to amend the commodity description of "wood" to read "wood products." Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Missoula, Mont.

No. MC 28067 (Sub-No. 19), filed August 6, 1973. Applicant: WILLIAMS MOTOR TRANSFER, INC., South Vine Street, Barre, Vt. 05641. Applicant's representative: John P. Monte, 61 Summer Street, Barre, Vt. 05641. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Abrasive mixtures*, from points in Vermont, to Pittsburgh, Pa., and (2) *masonry equipment, materials, and supplies*, from points in Connecticut, Massachusetts, Maryland, North Carolina, New York, Ohio, Pennsylvania, South Carolina, and Virginia, to points in Maine, New Hampshire, Vermont, and points in Clinton, Franklin, Essex, Warren, Saratoga, and Washington Counties, N.Y.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Montpelier, Vt., or Boston, Mass.

No. MC 35628 (Sub-No. 352), filed July 5, 1973. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, a Corporation, 134 Grandville SW., Grand Rapids, Mich. 49502. Applicant's representative: Leonard D. Verdier, Jr., 900 Old Kent Building, Grand Rapids, Mich. 49502. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), serving the plantsite of Anaconda Aluminum Company at or near Sebree, Ky., as an off-route point in connection with carrier's regular route operations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Chicago, Ill.

No. MC 87511 (Sub-No. 15), filed July 27, 1973. Applicant: SAIA MOTOR FREIGHT LINE, INC., P.O. Box 10157, Houma, La. 70360. Applicant's representative: Philip Robinson, P.O. Box 2207, Austin, Tex. 78767. Authority sought to

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.



V 38-177 SEP 13 73 XUM

operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities which because of size or weight require the use of special equipment), (1) Between Alexandria, La., and Monroe, La.: From Alexandria over U.S. Highway 165 to Monroe, and return over the same route, serving no intermediate points; (2) Between Shreveport, La., and Monroe, La.: From Shreveport over U.S. Highway 80 and Interstate Highway 20 to Monroe, and return over the same routes, serving all intermediate points; (3) Between Alexandria, La., and Ruston, La.: From Alexandria, La., over U.S. Highway 167 to Ruston, and return over the same route, serving no intermediate points except service as authorized to and from the plantsite and warehouse facilities of Continental Can Corporation located at or near Hodge, La.; (4) Between Shreveport, La., and the plantsite of International Paper Company located at or near Springhill, La.: From Shreveport over Louisiana Highway 3 to junction Louisiana Highway 157, thence over Louisiana Highway 157 to the plantsite of International Paper Company located at or near Springhill, and return over the same route, serving no intermediate points; (5) Between junction Interstate Highway 20 and Louisiana Highway 7 and the plantsite of International Paper Company located at or near Springhill, La.: From junction Interstate Highway 20 and Louisiana Highway 7 over Louisiana Highway 7 to the plantsite of International Paper Company located at or near Springhill, and return over the same route, serving no intermediate points; (6) Between Minden, La., and the plantsite of Ludlow Corporation located at or near Homer, La.: From Minden over U.S. Highway 79 to the plantsite of Ludlow Corporation located at or near Homer, and return over the same route, serving no intermediate points; (7) Between Monroe, La., and the plantsite of International Paper Company at or near Bastrop, La.: From Monroe over U.S. Highway 165 to the plantsite of International Paper Company at or near Barop, La., and return over the same route, serving no intermediate points except that service is authorized to the off-route point of the plantsite of Commercial Solvents Corporation and the plantsite of R. T. Vanderbilt Co., both located at or near Sterlington, La.; (8) Between Lake Charles, La., and Shreveport, La.; From Lake Charles over U.S. Highway 171 to Shreveport, and return over the same route, serving no intermediate points except that service is authorized to and from the intermediate or off-route points located within: (1) the plantsite of Boise Southern Paper Company at or near De Ridder, La.; and (2) the Fort Polk Army Reservation and Depot located at or near Leesville, La.; (9) Between Baton Rouge, La., and St. Francisville, La.: From Baton Rouge over U.S. Highway 61 to its intersection with Louisiana Highway 10, thence over Louisiana Highway 10 to St. Francisville, and return over the same route, serving all intermediate points and the plantsite of Crown Zellerbach Corp. at or near Zee, La., as an off-route point. RESTRICTION: The above operations authorized over the route next-above described between Baton Rouge and St. Francisville are subject to the restriction that carrier shall transport no traffic between points on said route, on the one hand, and, on the other, New Orleans, La.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Baton Rouge, or New Orleans, La.

No. MC 87566 (Sub-No. 7), filed July 30, 1973. Applicant: SCHMIDT TRUCK SERVICE, INC., U.S. Highway 66, Litchfield, Ill. 62056. Applicant's representative: Robert T. Lawley, 300 Reisch Building, Springfield, Ill. 62701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Truck, automobile, and trailer parts and accessories, engine parts and accessories, brake parts, systems and fluids, fork lift and industrial truck parts and accessories, lawnmower parts, and accessories*, from the plantsite and warehouse facilities of Automotive Controls Corporation at Litchfield, Ill., to points in Alabama, Arkansas, Connecticut, Georgia, Iowa, Indiana, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Mississippi, New York, Oklahoma, Ohio, Pennsylvania, Texas, Tennessee, and Wisconsin.

NOTE:—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or St. Louis, Mo.

No. MC 87720 (Sub-No. 147), filed July 16, 1973. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Flemington, N.J. 08822. Applicant's representative: Bert Collins, Suite 6193, 5 World Trade Ctr., New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers, closures, caps, covers, carton parts, and material* used in the manufacture, sale, and distribution of glass containers, between Lawrencesburg, Ind., on the one hand, and, on the other, points in Illinois, Wisconsin, Kentucky, Ohio, Missouri, Michigan, and Indiana, under contract with Dart Industries, Inc.

NOTE.—Applicant also holds common carrier authority in MC 135684 and subs thereunder, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 94350 (Sub-No. 339), filed July 23, 1973. Applicant: TRANSIT HOMES, INC., P.O. Box 1628, Haywood Rd., Greenville, S.C. 29602. Applicant's representative: Mitchell King, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* designed to be drawn by passenger automobiles in initial shipments, from points in Monroe County, Miss., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Miss.

No. MC 95084 (Sub-No. 95), filed August 2, 1973. Applicant: HOVE TRUCK LINE, a Corporation, Stanhope, Iowa 50246. Applicant's representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumway, Iowa 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural implements and machinery, platforms, feeders, trailers, wagon augurs, spreaders, buckets, hoists, accessories, attachments, and parts*, from Cokato, Minn., and Sioux Falls, S. Dak., to points in the United States (except Alaska and Hawaii); and (2) *materials, equipment, and supplies* used in the manufacture, processing, sale, and distribution of the commodities in (1) above, from points in the United States (except Alaska and Hawaii), to Cokato, Minn., and Sioux Falls, S. Dak.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority in (1) above at Fort Dodge, Iowa; Manhattan, Kans., and Kewanee, Ill., to provide a through service from Cokato, Minn., and Sioux Falls, S. Dak., to points in the United States, however no new service would be provided; and in (2) above at points in the United States to serve points in the United States. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Chicago, Ill.

No. MC 105501 (Sub-No. 7), filed July 16, 1973. Applicant: TERMINAL WAREHOUSE COMPANY, a Corporation, 498 First Street NW., New Brighton, Minn. 55112. Applicant's representative: Joseph J. Dudley, W. 1260 First National Bank Bldg., St. Paul, Minn. 55101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Cloquet, Minn., to St. Louis, Mo., and points in Illinois, Indiana, Iowa, Michigan, Ohio, and Wisconsin.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 105501 (Sub-No. 8), filed July 16, 1973. Applicant: TERMINAL WAREHOUSE COMPANY, a Corporation, 498 First Street NW., New Brighton, Minn. 55112. Applicant's representative: Joseph J. Dudley, W. 1260 First National Bank Bldg., St. Paul, Minn. 55101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from Brainerd and Cloquet, Minn., to Minneapolis and St. Paul, Minn., restricted to traffic having an immediate subsequent movement by rail to points in Connecticut, Illinois, Indiana, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, and the District of Columbia.





NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 105566 (Sub-No. 96), filed August 6, 1973. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1119, Cape Girardeau, Mo. 63701. Applicant's representative: Thomas F. Kilroy, P.O. Box 624, Springfield, Va. 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plasticizers, plastic materials, and plastic articles*, from Washington and Morgantown, W. Va., Gary, Ind., Ottawa, Ill., Calvert City, Ky., Akron and Xenia, Ohio, Memphis, Tenn., and Tuscola, Ill., to points in Washington, Oregon, Idaho, California, Nevada, Utah, Colorado, Arizona, New Mexico, and Texas.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Columbus, Ohio.

No. MC 107107 (Sub-No. 429), filed July 31, 1973. Applicant: ALTERMAN TRANSPORT LINES, INC., 12805 NW. 42d Ave. (LeJeune Rd.), Opa Locka, Fla. 33054. Applicant's representative: Ford W. Sewell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Candy and confectionery and related products* (except in bulk) and (2) *advertising matter, premium and display materials* when shipped in the same vehicle with commodities described in (1) above in vehicles equipped with mechanical refrigeration, from the plantsite and warehouse facilities of M. & M./Mars, Division of Mars, Inc., located at or near Albany, Atlanta, Decatur and Doraville, Ga., to points in Florida, New Jersey, and New York, restricted to the transportation of traffic originating at the plantsite and warehouse facilities of M. & M./Mars, Division of Mars, Inc.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Miami, Fla.

No. MC 107107 (Sub-No. 431), filed July 30, 1973. Applicant: ALTERMAN TRANSPORT LINES, INC., 12805 NW., 43nd Ave. (LeJeune Rd.), Opa Locka, Fla. 33054. Applicant's representative: Ford W. Sewell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foods and foodstuffs* in vehicles equipped with mechanical refrigeration, from South Edmeston and Walton, N.Y., Elizabeth and Freehold, N.J., and Hagerstown, Md., to points in North Carolina, South Carolina, Georgia, Florida, Alabama, Tennessee, and Texas.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, aplicant requests it be held at Miami, Fla.

No. MC 109540 (Sub-No. 30), filed July 9, 1973. Applicant: YEARY TRANSFER COMPANY, INC., 2171 Christian Road, Lexington, Ky. 40505. Applicant's representative: George M. Catlett, 703–706 McClure Bldg., Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tobacco hogsheads and tobacco hogshead parts*, from the plantsite of the Gay-Bell Corporation at Paris, Ky., to points in Florida, Georgia, Maryland, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, Wisconsin, Missouri, and Kentucky; and (2) *tobacco handling and testing equipment* between points in Florida, Georgia, Maryland, New Jersey, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, Wisconsin, Missouri, and Kentucky.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Lexington or Louisville, Ky.

No. MC 110098 (Sub-No. 135) (CORRECTION), filed April 11, 1973, published in the FEDERAL REGISTER issue May 24, 1973, and republished, in the FEDERAL REGISTER issue June 21, 1973, and in third publication as corrected this issue. Applicant: ZERO REFRIGERATED LINES, a Corporation, 1400 Ackerman Road, P.O. Box 20380, San Antonio, Tex. 78220. Applicant's representative: Donald L. Stern, 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat byproducts, and articles distributed by meat packinghouses* (except hides and commodities in bulk) as described in Sections A and C of Appendix I to the report in "Descriptions in Motor Carrier Certificates" 61 M.C.C. 209 and 766, (1) From Wagner, S. Dak., to points in Kansas, Missouri, Oklahoma, Arkansas, Texas, Louisiana, and New Mexico; and (2) from points in Colorado, Kansas, Missouri, Oklahoma, Arkansas, Texas, Louisiana, and New Mexico, to Wagner, S. Dak., restricted to transportation of traffic originating at the named origins and destined to the named destinations.

NOTE.—The purpose of this republication is to correctly indicate the commodity description reference sections of Appendix I to the report in "Descriptions in Motor Carrier Certificates" 61 M.C.C. 209 and 766 as A and C in lieu of A and B as previously published. Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or San Antonio, Tex.

No. MC 113024 (Sub-No. 127), filed July 24, 1973. Applicant: ARLINGTON J. WILLIAMS, INC., R.D. #2, 1963 South DuPont Highway, Smyrna, Del. 19720. Applicant's representative: Samuel W. Earnshaw, 855 Washington Bldg., Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Industrial and garden hose, and materials and supplies used in the manufacture thereof* (except commodities requiring special equipment), (1) between points in Box Butte and Red Willow Counties, Nebr., on the one hand, and, on the other, Wilmington, Del., Cockeysville, Md., and points in Cook and Lake Counties, Ill., Fayette and Huntington Counties, Ind., Jefferson County, Ky., Berrien and Wayne Counties, Mich., Essex County, N.J., Franklin, Licking, and Paulding Counties, Ohio, Anderson, Dallas, and Tarrant Counties, Tex.; and (2) from points in Cook and Lake Counties, Ill., to Wilmington, Del., under contract with Electric Hose & Rubber Company.

NOTE.—Applicant also holds common carrier authority in MC 135046 and Subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 113678 (Sub-No. 500), filed May 13, 1973. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City (Denver), Colo. 80022. Applicant's representative: Richard A. Peterson, P.O. Box 80806, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Gallup, N. Mex., to points in Arizona, California, Nevada, Utah, Colorado, Kansas, Missouri, Illinois, Wisconsin, Minnesota, Iowa, Nebraska, Idaho, Oregon, and Washington.

NOTE.—Applicant states that the requested authority can be tacked: (1) at Denver, Colo., with its existing authority held in Sub 12 (presently tacked to Sub 90) which authorizes the transportation of dairy products, chilled and frozen bakery products, frozen fruits, frozen vegetables, frozen pizza, and pizza pie ingredients to provide through service from New York, N.Y., and Philadelphia, Pa., to points in New Mexico; (2) at Los Angeles, San Diego, and San Francisco, Calif., in Sub 38 on meats to provide through service to points in New Mexico, and on fish and agricultural commodities to points in New Mexico; (3) at Bridgeville, Del., and Salisbury, Md., in Sub 49 on canned goods to provide a through service to points in New Mexico; (4) at Denver, Colo., in Sub 274 (presently tacked with Sub 90) on dairy products, chilled and frozen bakery products, frozen fruits, vegetables, berries, french fries, pizza and pizza pie ingredients to provide a through service from points in Idaho, Oregon, and Washington (except Kennewick) to points in New Mexico; (5) at Wahoo, Nebr., in Sub 108 on frozen foods to provide a through service to points in New Mexico; and (6) at Denver, Colo., in Sub 433 on soft drinks and fruit juices, in containers, to provide a through service from Denver, Colo., to points in New Mexico. Applicant states it has no present intention to tack. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.; Chicago, Ill.; or Milwaukee, Wis.

No. MC 113678 (Sub-No. 504) (AMENDMENT), filed June 25, 1973,



V 38 177 SEP 13 73 XUM

published in FEDERAL REGISTER issue of August 16, 1973, and republished as amended this issue. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Colo. 80222. Applicant's representative: Richard A. Peterson, P.O. Box 80806, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foods, food products, food preparations and foodstuffs, and advertising equipment, materials, and supplies when shipped therewith* (except commodities in bulk), from points in Ohio and points in Boone, Campbell, and Kenton Counties, Ky., to points in Kentucky, Illinois, Indiana, Iowa, Nebraska, Colorado, Kansas, Missouri, Michigan, Minnesota, Wisconsin, Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New York, New Jersey, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia.

NOTE.—The purposes of this republication are (1) to extend the commodity description to include food preparations and (2) correctly indicate the counties of Boone, Campbell, and Kenton in Kentucky rather than in Nebraska as previously published.

Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority in Subs 90, 92, 99, 114, 133, 149, 157, 190, 257, 262, 284, 330, 331, 350, 376, 387, and 428, however, tacking with these subs is unfeasible because of the circuity involved and also the duplicative nature of some of the authority makes such tacking unnecessary, therefore applicant has no intention to tack these subs with its existing authority. Tacking, however, is possible with applicant's Subs 38 and 162 at points in Colorado, to serve the additional destination states of Arizona, California, Nevada, New Mexico, Washington, Oregon, Idaho, and Montana. Applicant further states that it has no present intention to tack Subs 38 and 162. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 114045 (Sub-No. 388), filed July 2, 1973. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 5842, Dallas, Tex. 75222. Applicant's representative: J. B. Stuart (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Candy and confectionery and related products* (except in bulk) and (2) *advertising matter, premium and display materials* when shipped in the same vehicle with commodities described in (1) above, in vehicles equipped with mechanical refrigeration, from the plantsite and warehouse facilities of M&M/MARS, Division of Mars, Incorporated, located at or near Albany, Atlanta, Doraville and Decatur, Ga., to points in Arizona, Arkansas, California, Colorado, Illinois, Indiana, Kansas, Maine, Michigan, Minnesota, Nevada, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oklahoma, Oregon, Texas, Utah, Vermont, Washington, and Wisconsin, restricted to the transportation of traffic originating at the plantsite and warehouse facilities of M&M/MARS, Division of Mars, Incorporated.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 114273 (Sub-No. 145), filed August 6, 1973. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Robert E. Konchar, Suite 315, Commerce Exchange Building, P.O. Box 1943, Cedar Rapids, Iowa 52406. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the plantsite and storage facilities of Laclede Steel Company, at Alton and Madison, Ill., to points in Iowa, Kansas, Nebraska, and Colorado.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 115092 (Sub-No. 27), filed July 12, 1973. Applicant: WEISS TRUCKING, INC., P.O. Box O, Vernal, Utah 84078. Applicant's representative: Mark K. Boyle, 345 South State Street, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: *Cheese and cheese products*, between the plantsite of L. D. Schreiber Cheese Co., Inc., at Logan, Utah, and points in Arizona, California, Idaho, Montana, Nevada, Oregon, and Washington, restricted to the transportation of traffic originating at or destined to the named plantsite.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Green Bay, Wis., or Chicago, Ill.

No. MC 115157 (Sub-No. 2), filed August 6, 1973. Applicant: LONG'S HAULING COMPANY, INC., 128 Friendship Ave., Duquesne, Pa. 15110. Applicant's representative: Jerome Solomon, 3131 United States Steel Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal* in dump vehicles, from points in Monongalia, Brooke, Harrison, and Marshall Counties, W. Va., and from points in Guernsey and Belmont Counties, Ohio, to points in Allegheny, Washington, and Westmoreland Counties, Pa., under contract with Pittsburgh Coal Company, a Division of Consolidation Coal Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa.

No. MC 115379 (Sub-No. 44), filed July 8, 1973. Applicant: JOHN D. BOHR, INC., P.O. Box 217, Annville, Pa. 17003. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat scrap, poultry byproduct meal and feather meal*, in bulk, (1) from points in Pennsylvania, to points in Indiana, North Carolina, Michigan, Minnesota, Ohio, and Wisconsin; and (2) from points in Delaware, Maryland, and Virginia, to points in Indiana, Michigan, Minnesota, Ohio, Pennsylvania, and Wisconsin, restricted to transportation originating at the named origin states and destined to the named destination states.

NOTE.—Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa., or Washington, D.C.

No. MC 115491 (Sub-No. 127), filed August 6, 1973. Applicant: COMMERCIAL CARRIER CORPORATION, 502 East Bridgers Avenue, Post Office Drawer 67, Auburndale, Fla. 33823. Applicant's representative: Troy G. Russell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen citrus concentrates*, from points in Marion, Lake, Pasco, Polk, and Orange Counties, Fla., to Tampa, Miami, Port Everglades, Jacksonville, and Port Canaveral, Fla., and (2) *frozen citrus concentrates, canned juices, and flavoring*, from Tampa, Miami, Port Everglades, Jacksonville, and Port Canaveral, Fla., to points in Marion, Lake, Pasco, Polk, and Orange Counties, Fla., restricted to shipments having a subsequent movement by water in (1) above and shipments having a prior movement by water in (2) above.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Tampa, Fla.

No. MC 117765 (Sub-No. 163), filed July 23, 1973. Applicant: HAHN TRUCK LINE, INC., 5315 NW. 5th, P.O. Box 75267, Oklahoma City, Okla. 73107. Applicant's representative: R. E. Hagan (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nonfrozen foodstuffs*, in containers (except meats and meat products, meat byproducts, dairy products, and articles distributed by meat packing houses), from (1) the plantsite of Big Stone Canning Company at Bloomer, Wis., to points in Alabama, Arkansas, Kansas, Louisiana, Mississippi, Missouri, Oklahoma, Tennessee, and Texas, and (2) the plantsite of Friday Canning Company Corporation at New Richmond, Wis., to points in Arkansas, Kansas, and Missouri.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary,





applicant requests it be held at Oklahoma City, Okla.

No. MC 117815 (Sub-No. 212), filed July 17, 1973. Applicant: PULLEY FREIGHT LINES, INC., 405 SE. 20th Street, Des Moines, Iowa 50317. Applicant's representative: Larry D. Knox, 9th Floor, Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale grocery and good business houses (except commodities in bulk), from Des Moines, Iowa, to Davenport and Dubuque, Iowa, and Dixon, Geneseo, Moline, Mt. Morris, Rock Island, and Sterling, Ill.

NOTE.—Common control was approved in No. MC-F-11497.

Applicant states that the requested authority can be tacked with its existing authority in Sub-No. 2 at (A) Des Moines, Iowa, to provide a through service from Omaha, Nebr., to the destination states named above; (B) at Davenport, Iowa, to provide a through service from Des Moines, Iowa, to Chicago, Ill.; and (C) pursuant to a proceeding in MC-F-11497 (MC-128548), at Mt. Morris and Dixon, Ill., to serve points in northern Illinois. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 118288 (Sub-No. 43), filed July 2, 1973. Applicant: STEPHEN F. FROST, 14750 Boyle Ave., P.O. Box 28, Fontana, Calif. 92335. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Grain products* and (2) *grain*, when moving in the same vehicle with grain products, from points in Montana to points in Wyoming, Colorado, New Mexico, Arizona, Utah, Idaho, Nevada, California, Oregon, and Washington.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 119777 (Sub-No. 258), filed June 1, 1973. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer L, Madisonville, Ky. 42431. Applicant's representative: Carl U. Hurst, P.O. Box E, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, in cargo containers, and in boxes or crates made of wood, lumber, or plywood; and (2) *empty cargo containers*, between Newport, Ky., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. Applicant holds contract carrier authority under MC 126970 Subs 1 and 3, therefore dual operations may be involved.

Applicant states that the requested authority can be tacked at Newport, Ky., to provide a through service to and from points in Illinois, Indiana, and Kentucky, on the transportation of building and excavating contractors' and mining machinery and equipment, road building equipment and machinery, and commodities which because of size or weight require the use of special equipment. Applicant further indicates that it has no present intention to tack. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky.

No. MC 123329 (Sub-No. 23), filed June 18, 1973. Applicant: H. M. TRIMBLE & SONS, LTD., 4056 Ogden Road Southeast, Calgary, Alberta, Canada. Applicant's representative: Ray F. Koby, 314 Montana Building, Great Falls, Mont. 59401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* in bulk, between the ports of entry on the International Boundary line between the United States and Canada located in Washington, on the one hand, and, on the other, points in California, Oregon, and Washington.

NOTE.—Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at any location in the State of Washington.

No. MC 124328 (Sub-No. 55) (CORRECTION), filed June 26, 1973, published in the FEDERAL REGISTER issue of August 23, 1973, and republished, as corrected, this issue. Applicant: BRINK'S INCORPORATED, 234 East 24th Street, Chicago, Ill. 60616. Applicant's representative: John G. O'Keefe, O'Hara Plaza, Suite 650, 5725 East River Road, Chicago, Ill. 60631. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Silver bullion, precious metals, coin, and rare earths*, between points in the Chicago, Ill., Commercial Zone and Indiana, on the one hand, and, on the other, New York City, and West Point, N.Y., Newark, N.J., and points in Essex, Middlesex, and Union Counties, N.J., under contract with Modatta Metals Corporation, Lee B. Stern and Co., Elsen & Blum, Inc., and General Services Administration.

NOTE.—Common control may be involved. The purpose of this republication is to indicate that applicant is under contract with the above-named shippers, which was inadvertently omitted in the previous publication. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 124565 (Sub-No. 6), filed August 6, 1973. Applicant: JOHN LONG TRUCKING, INC., 1030 Denton Street, Sapulpa, Okla. 74066. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 NW. 58th Street, Oklahoma City, Okla. 73112. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Glass products*, from Sapulpa, Okla., to points in Colorado and those points in Texas on and west of U.S. Highway 281, under a continuing contract or contracts with Liberty Glass Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Oklahoma City or Tulsa, Okla.

No. MC 125518 (Sub-No. 4), filed June 27, 1973. Applicant: CLETUS RUHLMAN, doing business as C. RUHLMAN TRUCKING COMPANY, 265 South Riverside Drive, New Miami, Ohio 45012. Applicant's representative: Norbert B. Flick, Executive Building, Cincinnati, Ohio 45202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Slag*, in bulk, in dump vehicles, from Hamilton, Ohio, to Alexandria, Ind., under contract with American Materials Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Cincinnati, Hamilton, or Columbus, Ohio.

No. MC 128075 (Sub-No. 29), filed July 29, 1973. Applicant: LEON JOHNSRUD, 757 2nd Street West, P.O. Box 447, Cresco, Iowa 52136. Applicant's representative: Val M. Higgins, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel* for use in the manufacture of air cleaners and air cleaner elements, from Chicago, Ill., and Milwaukee, Wis., to Cresco and Oelwein, Iowa.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Des Moines, Iowa, or Minneapolis, Minn.

No. MC 128114 (Sub-No. 4), filed July 27, 1973. Applicant: PAUL E. SAVAGE, doing business as SAVAGE TRANSPORTATION CO., Building 141, Pasco Airport, Pasco, Wash. 99302. Applicant's representative: Donald A. Ericson, 708 Old National Bank Building, Spokane, Wash. 99201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed, poultry feed, and feed ingredients*, between points in Walla Walla County, Wash., on the one hand, and, on the other, points in Idaho, Montana, and Oregon.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Spokane or Seattle, Wash., or Portland, Oreg.

No. MC 128383 (Sub-No. 31), filed June 6, 1973. Applicant: PINTO TRUCKING SERVICE, INC., 1414 Calcon Hook Road, Sharon Hill, Pa. 19079. Applicant's representative: Gerald K. Gimmel, P.O. Box 824, Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, Classes A and B explosives, and motor vehicles requiring the use of special equipment), between Dulles International Airport, located in Fairfax and Loudon Counties, Va., the Greensbiro-High Point-Winston-Salem Airport, N.C., Douglas Municipal Airport at or near Charlotte, N.C., the Hartsfield International Airport at or near Atlanta, Ga., and the Miami International Airport at or near Miami, Fla.; restricted to the transportation of



V 38-177 SEP 13 73 XUM

traffic having a prior or subsequent movement by air or moving in a substitute for air service.

NOTE.—Applicant states that the requested authority can be tacked with its existing authority at Dulles International Airport and provide a through service between the points named in the instant application, and Friendship International Airport, Anne Arundel County, Md., Washington National Airport, Gravelly Point, Va., LaGuardia Airport and John F. Kennedy International Airport, N.Y., Newark Airport, Newark, N.J., and Philadelphia International Airport, Philadelphia, Pa. via a Dulles International Airport gateway, but indicates that it has no *present* intention to tack. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 129729 (Sub-No. 4) (AMENDMENT), filed May 29, 1973, published in the FEDERAL REGISTER issue of June 28, 1973, and republished, as amended this issue. Applicant: FRANCIS J. BEAROFF, INC. (Swedeland Road), P.O. Box 195, King of Prussia, Pa. 19406. Applicant's representative: Raymond A. Thistle, Jr., Suite 1012, Four Penn Center Plaza, Philadelphia, Pa. 19103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ferro alloys* (except in bulk, in dump vehicles), (1) from Camden, N.J., to Swedeland, Pa., and Claymont, Del.; and (2) from Swedeland, Pa., to Claymont, Del.

NOTE.—The purpose of this republication is to indicate applicant's additional request for authority as described in (2) above.

Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa. The order of August 22, 1973, by which this proceeding was directed for handling under modified procedure is vacated and set aside by order dated September 4, 1973.

No. MC 134477 (Sub-No. 37), filed July 23, 1973. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, Minn. 55118. Applicant's representative: Thomas Fischbach (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from the facilities of Missouri Beef Packers, Inc., at or near Boise, Idaho, to points in Connecticut, Illinois, Iowa, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Texas, and Wisconsin, restricted to traffic originating at the above named origins.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Boise, Idaho, or Denver, Colo.

No. MC 135152 (Sub-No. 10) (CORRECTION), filed July 16, 1973, published in the FEDERAL REGISTER issue of August 30, 1973, and annotated in republication this issue. Applicant: CASKET DISTRIBUTORS, INC., Rural Route #2, West Harrison, Ind. 45030. Applicant's representative: Jack B. Josselson, 700 Atlas Bank Building, Cincinnati, Ohio 45202.

NOTE.—The docket number assigned to this proceeding is No. MC–135152 (Sub-No. 10), in lieu of No. MC–135152 (Sub-No. 1) which was erroneously indicated in the FEDERAL REGISTER publication of August 30, 1973. The notice of the request for authority remains as previously published.

No. MC 135170 (Sub-No. 1), filed July 6, 1973. Applicant: TRI-STATE ASSOCIATES, INC., P.O. Box 188, Federalsburg, Md. 21632. Applicant's representative: James C. Hardman, 127 North Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Containers, container ends and accessories, and material, equipment, and supplies* used in connection with the manufacture, sale, and distribution of containers, from points in Virginia, New Jersey, Pennsylvania, and North Carolina, to points in Maryland, under a continuing contract, or contracts with Continental Can Company, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 135562 (Sub-No. 5), filed May 4, 1973. Applicant: O.C.C., INC., 2201 Sixth Avenue South, Seattle, Wash. 98134. Applicant's representative: Joseph O. Earp, 607 Third Avenue, Seattle, Wash. 98104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Parts of mobile homes and utility trailers, automotive springs, suspensions, and parts thereof, brake assemblies and parts thereof, wheels and wheel attaching parts, and parts for motor vehicle chassis and motor vehicle undercarriage*, from Detroit, Jackson, and Romulus, Mich., Elkhart, Ind., Rockford, Ill., Davenport, Iowa, and Milwaukee, Wis., to points in Arizona, California, Colorado, Utah, New Mexico, Idaho, Montana, Nevada, Oregon, Washington, and Wyoming; (2) *axles and axle suspension components*, from Chino, Calif., to Detroit, Jackson, and Romulus, Mich., Elkhart, Ind., Rockford, Ill., Davenport, Iowa, and Milwaukee, Wis.; and (3) *empty pallets*, on return in (1) and (2) above, under contract with Kelsey-Hayes Company.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 136318 (Sub-No. 10), filed July 16, 1973. Applicant: COYOTE TRUCK LINE, INC., 395½ West Fleming Drive, Morganton, N.C. 28655. Applicant's representative: Walter F. Jones, Jr., 601 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Household furniture*, from Marion, High Point, Morganton, and Spruce Pine, N.C., to points in Washington, Oregon, Montana, Nevada, Utah, Idaho, Wyoming, New Mexico, Kansas, Nebraska, North Dakota, and South Dakota, under contract with Henredon Furniture Industries, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Raleigh, N.C.

No. MC 138052 (Sub-No. 2), filed July 20, 1973. Applicant: GOLD COAST TRUCKING, INC., 140 North Hill St., Albany, Oreg. 97321. Applicant's representative: Robert G. Simpson, 1200 Standard Plaza, Portland, Oreg. 97204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Phoenix, Ariz., to points in Oregon.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg., or Phoenix, Ariz.

No. MC 138144 (Sub-No. 2) (AMENDMENT), filed June 21, 1973, published in the FEDERAL REGISTER issue of August 2, 1973, and republished, as amended this issue. Applicant: FRED OLSON CO., INC., 6022 West State Street, Milwaukee, Wis. 53213. Applicant's representative: Eugene L. Cohn, One North LaSalle Street, Room 2255, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, between Chicago, Chicago Heights, Joliet, and Waukegan, Ill., and Gary, Ind., on the one hand, and, on the other, points in Iowa, Missouri, Nebraska, and Kansas.

NOTE.—The purpose of this republication is to add Chicago Heights, Ill., to the base territory as described above. Common control may be involved. Applicant states that the requested authority can be tacked with its existing authority at Chicago, Ill., to serve presently authorized points in Indiana, Illinois, and Wisconsin. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 138512 (Sub-No. 1), filed July 26, 1973. Applicant: ROLAND'S TRANSPORTATION SERVICES, INCORPORATED, doing business as WISCONSIN PROVISIONS EXPRESS, 3383 East Layton Avenue, Cudahy, Wis. 53110. Applicant's representative: Richard C. Alexander, 710 North Plankinton Avenue, Milwaukee, Wis. 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products* (except in bulk in tank vehicles), *and equipment, materials, and supplies* used in the manufacture of dairy products, between points in Arkansas, California, Idaho, Illinois, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, Nevada, Oregon, South Dakota, Tennessee, Utah, Washington, and Wisconsin, under contract with L. D. Schreiber Cheese Co., Inc., located at Green Bay, Wis.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis.





No. MC 138869 (Sub-No. 2), filed July 5, 1973. Applicant: W. T. MYLES TRANSPORTATION COMPANY, a Corporation, 4481 Moreland Avenue, P.O. Box 321, Conley, Ga. 30027. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 West Peachtree St. NW., Atlanta, Ga. 30309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plumbers' goods, fixtures, and supplies*, such as lavatories, basins, legs, and pedestals, urinals, urinal gutters or stalls, water closet bowls and tanks, and bathroom or lavatory fixtures, china or earthenware, and related articles, from (a) Marysville and Perrysville, Ohio, Ford City, Pa., and Tupelo, Miss., to points in Clayton, Cobb, De Kalb, Fulton, and Gwinnett Counties, Ga., (b) Ford City, Pa., and Tupelo, Miss., to points in Florida on and north of Florida Highway 60, (c) Abingdon and Robinson, Ill., to points in South Carolina on and west of U.S. Highway 1, and (d) Monroe, Ga., to points in North Carolina and points in South Carolina on and west of U.S. Highway 1, (2) *fittings, and fixtures for commodities in (1) above*, brass, bronze, iron, or steel, from Marysville, Ohio, to points in Clayton, Cobb, De Kalb, Fulton, and Gwinnett Counties, Ga., (3) *bath tubs, lavatories, and sinks*, cast iron or steel, from Salem, Ohio, to points in Clayton, Cobb, De Kalb, Fulton, and Gwinnett Counties, Ga., and points in Florida on and north of Florida Highway 60, (4) *water heaters*, from Ashland City and Johnson City, Tenn., to points in Clayton, Fulton, and Gwinnett Counties, Ga., and Jacksonville, Fla., (5) *cast iron pipe and fittings*, (a) from Charlotte, N.C., and Chattanooga, Tenn., to points in Clayton, Cobb, De Kalb, Fulton and Gwinnett Counties, Ga., and (b) from Charlottee, N.C., to points in South Carolina on and west of U.S. Highway 1, (6) *copper tubing*, from East St. Louis, Ill., and Reading, Pa., to points in Fulton and Gwinnett Counties, Ga., Jacksonville, Fla., points in North Carolina, and those in South Carolina on and west of U.S. Highway 1, (7) *shower stalls*, plastic or fibreglass, from Union Point, Ga., to points in South Carolina on and west of U.S. Highway 1, and (8) commodities named in (1) through (7) above between shippers warehouses at Anderson, S.C., Charlotte, N.C., College Park and Lawrenceville, Ga., and Jacksonville, Fla., under contract with Parnell-Martin Supply Company and Subsidiaries.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 138882 (Sub-No. 1), filed July 9, 1973. Applicant: WILEY SANDERS, INC., 212 South Oak Street, Troy, Ala. 36081. Applicant's representative: John W. Cooper, 1301 City Federal Building, Birmingham, Ala. 35203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Scrap batteries*, from points in Florida, Georgia, South Carolina, and North Carolina, to the plantsite of Sanders Lead Co., Inc., at Troy, Ala., and (2) *pallets*, from the plantsite of Troy Box and Pallet, Inc., at Troy, Ala., to points in Florida, Georgia, South Carolina, and North Carolina.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Panama City, Fla., or Birmingham, Ala.

No. MC 138963 (Sub-No. 1), filed July 20, 1973. Applicant: JAY ROZELL, doing business as ROZELL TRUCK LINES, 1003 Cedar, Minco, Okla. 73059. Applicant's representative: Rufus H. Lawson, 2400 Northwest 23rd Street, P.O. Box 75124, Oklahoma City, Okla. 73107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Portable cattle feeders*, on wheels, and *component parts* for portable cattle feeders, from Canadian and Grady Counties, Okla., to points in Alabama, Arizona, Arkansas, Colorado, Florida, Georgia, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Nebraska, New Mexico, Nevada, North Dakota, South Dakota, Tennessee, Texas, Utah, and Wyoming.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Oklahoma City or Tulsa, Okla.

No. MC 138987, filed July 9, 1973. Applicant: MEIER TRUCKING COMPANY, a Corporation, Rural Route No. 4, Pontiac, Ill. 61764. Applicant's representative: William J. Boyd, 29 South LaSalle Street, Suite 330, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Limestone, fertilizer, nitrogen solution, and agricultural chemicals*, from points in Illinois, to points in Michigan, Indiana, Kentucky, Ohio, Missouri, Wisconsin, and Iowa.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 139025, filed July 12, 1973. Applicant: ARTHUR WHITE, Moores Mills, New Brunswick, Canada. Applicant's representative: George F. O'Connell, 40 Charlotte Street, St. John, New Brunswick, Canada. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Woodchips*, in bulk, from the ports of entry on the International Boundary line between the United States and Canada located at or near York and Charlotte Counties, New Brunswick, Canada, to the plantsite and facilities of Georgia Pacific Corp., located at or near Woodland, Maine, under contract with Georgia Pacific Corp.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Bangor, Augusta, or Portland, Maine.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-19404 Filed 9-12-73;8:45 am]

[Notice 340]

## ASSIGNMENT OF HEARINGS

SEPTEMBER 10, 1973.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after September 13, 1973.

MC-F-11890, Howard Sober, Inc.—Purchase (Portion)—Insured Transporters, Inc., now assigned October 17, 1973, at Washington, D.C., is postponed to October 23, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

No. 35828, Aluminum Company of Canada, Ltd., V. The Alma & Jonswiere Railway Co. Et Al., now being assigned hearing October 15, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

No. 35794, Northville Dock Pipe Line Corp. and Consolidated Petroleum Terminal, Inc.—Petition For Declaratory Order or Investigation, No. 35852, Northville Dock Pipe Line Corp., Northville Industries Corp., Consolidated Petroleum Terminal, Inc. and Total Resources, Inc.—Investigation of Operations, now being assigned November 5, 1973, at New York, New York, in a hearing room to be later designated.

MC-74 Sub 9, Valley Transit Company, Inc., now being assigned hearing October 8, 1973 (2 weeks), at the Sheraton Fairway Motor Hotel, 21-5 South 10th Street, McAllen, Texas.

MC-C-7980, Robert B. Wood, Northern Auto Supply, Inc., and St. Johnsbury Beverage Co., Investigation of Operations and Practices, now assigned September 11, 1973, at Boston, Mass., is cancelled.

MC-128383 Sub 30, Pinto Trucking Service, Inc., now being assigned October 23, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-138340, Westfied Enterprises, Inc., d.b.a. Maryland Container Transport, now being assigned November 5, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-128383 Sub 29, Pinto Trucking Service, Inc., now being assigned November 6, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-119632 Sub 56, Reed Lines, Inc., now assigned September 13, 1973, at Columbus, Ohio, is cancelled and transferred to modified procedure.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-19502 Filed 9-12-73;8:45 am]

[Notice No. 351]

## MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate



V 38 I 177
SEP 13 73
XUM

Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before October 3, 1973. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-74574. By order of September 7, 1973, the Motor Carrier Board approved the transfer to Thayer's Westboro & Boston Express, Inc., 15 Grove Street, Hopkinton, Mass., of the operating rights in Certificate No. MC-69590 issued April 21, 1961, to Edward E. Buxton, doing business as Buxton's Worcester & Westboro Express, 10 Walnut Street, Shrewsbury, Mass., authorizing the transportation of general commodities, with exceptions, between Worcester, Mass., and Westboro, Mass., serving the intermediate points of Northboro and Shrewsbury, Mass.

No. MC-FC-74575. By order of September 7, 1973, the Motor Carrier Board approved the transfer to Garfield Heights Coach Line, Inc., Bedford, Ohio 44146, of Certificate No. MC-3971 issued June 8, 1967, to Ohio Trailways, Inc., Zanesville, Ohio 45056, authorizing the transportation of passengers and their baggage, and express, newspapers, and mail in the same vehicle with passengers, between Zanesville, Ohio, and Coshocton, Ohio, serving all intermediate points, over specified highways; between Zanesville, Ohio, and Wooster, Ohio, serving all intermediate points, over specified highways; between Wooster, Ohio, and Cleveland, Ohio, serving all intermediate points, over specified highways; and passengers and their baggage, and express and newspapers in the same vehicle with passengers, between Zanesville, Ohio, and Corning, Ohio, serving all intermediate points, over specified highways; between Corning, Ohio, and Athens, Ohio, serving all intermediate points, over specified highways; and between Athens, Ohio, and Huntington, W. Va., serving all intermediate points, over specified highways. Langdon D. Bell, 218 East State Street, Columbus, Ohio 43215, attorney for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-19503 Filed 9-12-73;8:45 am]

[Notice No. 122]

## MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 7, 1973.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 20783 (Sub-No. 92 TA), filed August 23, 1973. Applicant: TOMPKINS MOTOR LINES, INC., P.O. Box 1830, Highway 77, Gadsden, Ala. 35902. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs*, from the distribution facility of Heinz U.S.A. at Greenville, S.C., to points in Alabama, Georgia, and Tennessee, restricted to traffic originating at and destined to the points and territories shown, for 180 days. SUPPORTING SHIPPER: Heinz U.S.A., Division of H. J. Heinz Company, P.O Box 57, Pittsburgh, Pa. 15230. SEND PROTESTS TO: Clifford W. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 814, 2121 Building, Birmingham, Ala. 35203.

No. MC 30844 (Sub-No. 476 TA), filed August 23, 1973. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, P.O. Box 5000 (Box zip 50704), Waterloo, Iowa 50702. Applicant's representative: Paul Rhodes (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plant site of Madison Foods, Inc., at Madison, Nebr., to points in Alabama, Connecticut, the District of Columbia, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, Texas, Vermont, Virginia, and West Virginia, restricted to shipments originating at Madison, Nebr., and destined to the above named states, for 180 days. SUPPORTING SHIPPER: Armour and Company, Greyhound Tower, Phoenix, Ariz. 85077. SEND PROTESTS TO: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Bldg., Des Moines, Iowa 50309.

No. MC 85465 (Sub-No. 57 TA), filed August 27, 1973. Applicant: WEST NEBRASKA EXPRESS, INC., P.O. Drawer 952, 5th Avenue and 5th Street, Scottsbluff, Nebr. 69361. Applicant's representative: C. J. Boddington, 2800 West Bayshore Road, Palo Alto, Calif. 94303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts* (except hides) *and articles distributed by meat packing houses* as defined in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766, from the plant site and storage facilities of Madison Foods, Inc., at Madison, Nebr., to points in Kentucky, Virginia, West Virginia, Pennsylvania, New York, Massachusetts, Connecticut, Rhode Island, Vermont, New Hampshire, Maine, Indiana, Ohio, Delaware, New Jersey, Maryland, and the District of Columbia, for 180 days. SUPPORTING SHIPPER: Donald A. Chute, Manager, Transportation and Distribution, Fresh Meats Division, Greyhound Tower, Phoenix, Ariz. 85077. SEND PROTESTS TO: Max H. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 320 Federal Building and Court House, Lincoln, Nebr. 68508.

No. MC 92068 (Sub-No. 9 TA), (CORRECTION), filed August 8, 1973, published in the FEDERAL REGISTER issue of August 22, 1973, and republished as corrected this issue. Applicant: MUTUAL TRANSPORTATION, INCORPORATED, President and Fleet Sts., Baltimore, Md. 21202. Applicant's representative: Walter T. Evans, 1111 E St. NW., Washington, D.C. 20004.

NOTE.—The purpose of this partial republication is to show that applicant now seeks to operate as a *common carrier*, in lieu of a contract carrier, which was published in error. The rest of the application remains the same.





No. MC 107403 (Sub-No. 856 TA), filed August 22, 1973. Applicant: MATLACK, INC., 10 West Baltimore Ave., Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic resin*, in bulk, in tank vehicles, from Holland, N.Y., to Corry, Erie, Franklin, and Warren, Pa., and Buffalo, Jamestown, Lockport, and Rochester, N.Y., for 180 days. SUPPORTING SHIPPER: Thomas N. Gotro. Purchasing Agent, Fisher Price Toys, Div. of Quaker Oats, Holland, N.Y. 14080. SEND PROTESTS TO: Ross A. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Arch Street, Room 3238, William J. Green, Jr., Federal Bldg., Philadelphia, Pa. 19106.

No. MC 108053 (Sub-No. 122 TA), filed August 27, 1973. Applicant: LITTLE AUDREY'S TRANSPORTATION COMPANY, INC., 1520 West 23rd Street, Mail: P.O. Box 129, Fremont, Nebr. 68025. Applicant's representative: R. W. Pritzke (Same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles and hides), from the plant site of Madison Foods, Inc., at or near Madison, Nebr., to points in Arizona, California, Colorado, Idaho, Montana, New Mexico, Nevada, Oregon, Utah, Washington, and Wyoming, for 180 days. SUPPORTING SHIPPER: Armour and Company, Donald A. Chute, Manager, Transportation & Distribution, Fresh Meats Division, Greyhound Tower, Phoenix, Ariz. 85077. SEND PROTESTS TO: District Supervisor Carroll Russell, Bureau of Operations, Interstate Commerce Commission, 711 Federal Office Bldg., Omaha, Nebr. 68102.

No. MC 113545 (Sub-No. 11 TA), filed August 27, 1973. Applicant: CORMETT FORWARDING CO., INC., 19th Street and Park Avenue, Weehawken Branch, Weehawken, N.J. 07087. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Radiopharmaceuticals and medical isotopes*, from Carlstadt, N.J., to New York, N.Y., and points in Nassau and Suffolk Counties, N.Y., for 180 days. SUPPORTING SHIPPER: Mallinckrodt Chemical Works, Box 10172, Lambert Field, St. Louis, Mo. 63145. SEND PROTESTS TO: District Supervisor Robert E. Johnston, Interstate Commerce Commission, Bureau of Operations, 9 Clinton St., Newark, N.J. 07102.

No. MC 113678 (Sub-No. 507 TA), filed August 24, 1973. Applicant: CURTIS, INC., Off.: 4810 Pontiac Street, Commerce City (Denver) Colo. 80022, and Mail: P.O. Box 16004, Stockyards Station, Denver, Colo. 80216. Applicant's representative: David L. Metzler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plant site of Madison Foods, Inc., at Madison, Nebr., to points in Arizona, California, Colorado, Idaho, New Mexico, Montana, Nevada, Oregon, Utah, Washington, Wyoming, Virginia, Maryland, Delaware, New Jersey, New York, Pennsylvania, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire, Maine, and the District of Columbia, for 180 days. SUPPORTING SHIPPER: Armour and Company, Fresh Meats Division, Greyhound Tower, Phoenix, Ariz. 85077. SEND PROTESTS TO: District Supervisor Herbert C. Ruoff, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 115322 (Sub-No. 94 TA), filed August 27, 1973. Applicant: REDWING REFRIGERATED, INC., P.O. Box 10177, Off.: Highway 527, Taft, Fla. 32809. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen baked squash*, when moving in mixed shipments with *potatoes and potato products*, from the plantsite and storage facilities of Penobscot Frozen Foods, Inc., Belfast, Maine, to Secaucus, Newark, and Jersey City, N.J.; Philadelphia, Pa.; and Landover and Baltimore, Md.; and points in Virginia, North Carolina, South Carolina, Tennessee, Georgia, Florida, Alabama, Mississippi, and Louisiana, for 180 days. SUPPORTING SHIPPER: Penobscot Frozen Foods, Inc., P.O. Box 229, Belfast, Maine 04915. SEND PROTESTS TO: District Supervisor G. H. Fauss, Jr., Interstate Commerce Commission, Bureau of Operations, Box 35008, 400 W. Bay Street, Jacksonville, Fla. 32202.

No. MC 115826 (Sub-No. 252 TA), filed August 27, 1973. Applicant: W. J. DIGBY, INC., 1960 31st Street, P.O. Box 5088, Terminal Annex, Denver, Colo. 80216. Applicant's representative: Ezekial Gomez (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses* as decribed in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MCC 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plant site of Madison Foods, Inc., at Madison, Nebr., to points in Alabama, Arizona, California, Colorado, Georgia, Idaho, Montana, New Mexico, Nevada, North Carolina, Oregon, South Carolina, Tennessee, Utah, Florida, Virginia, Washington, and Wyoming, for 180 days. SUPPORTING SHIPPER: Armour and Company, Fresh Meats Division, Greyhound Tower, Phoenix, Ariz. 85077. SEND PROTESTS TO: District Supervisor Herbert C. Ruoff, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 116077 (Sub-No. 348 TA), filed August 23, 1973. Applicant: ROBERTSON TANK LINES, INC., 2000 W. Loop South, Suite 1800, Houston, Tex. 77027. Applicant's representative: J. C. Browder (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chromic sulphuric solutions and etchants*, in bulk, in hypalon lined tank trailers between the plantsite of Southern California Chemical, Garland, Tex., on the one hand, and, on the other, Springfield, Mo.; Fort Lauderdale, Fla., and Pompano Beach, Fla., for 180 days. SUPPORTING SHIPPER: Southern California Chemical Co., Inc., 1000 Profit Drive, Garland, Tex. 75040. SEND PROTESTS TO: District Supervisor John Mensing, Interstate Commerce Commission, Bureau of Operations, Room 8610, Federal Bldg., 515 Rusk Ave., Houston, Tex. 77002.

No. MC 117815 (Sub-No. 213 TA), filed August 22, 1973. Applicant: PULLEY FREIGHT LINES, INC., 405 SE. 20th Street, Des Moines, Iowa 50317. Applicant's representative: Jack Blanshan, 29 South La Salle St., Suite 330, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in "Descriptions in Motor Carrier Certificates," 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from Madison, Nebr., to points in Iowa, Wisconsin, Missouri, Illinois, Indiana, Ohio, and Michigan, for 180 days. SUPPORTING SHIPPER: Armour and Company, Greyhound Tower, Phoenix, Ariz., 85077. SEND PROTESTS TO: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Bldg., Des Moines, Iowa 50309.

No. MC 118142 (Sub-No. 51 TA), filed August 27, 1973. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, Kans. 67219. Applicant's representative: Lester C. Arvin, 814 Century Plaza Bldg., Wichita, Kans. 67202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat and meat byproducts and articles distributed by packinghouses*, from the plant and storage facilities of Hyplains Dressed Beef, Inc., Dodge City, Kansas., to points in Ohio, Pennsylvania, New Jersey, and New York, for 180 days. SUPPORTING SHIPPER: Hyplains Dressed Beef, Inc., Dodge City, Kans. SEND PROTESTS



V 38-177 SEP 13 73 XUM

TO: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 501 Petroleum Building, Wichita, Kans. 67202.

No. MC 124692 (Sub-No. 116 TA), filed August 23, 1973. Applicant: SAMMONS TRUCKING, P.O. Box 1447, Missoula, Mont. 59801. Applicant's representative: Gene P. Johnson, 425 Gate City Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* from the Minneapolis-St. Paul Commercial Zone, North Branch, Cambridge, Hutchinson, and Rush City, Minn., and La Crosse, Wis., to points in North Dakota and South Dakota, for 180 days. SUPPORTING SHIPPERS: Bethlehem Steel Corporation, Prudential Bldg., Chicago, Ill. 60601; Maxon Corporation, 500 Como Ave., St. Paul, Minn. 55103; and Paper, Calmenson & Company, Highway 280 at Highway 36, St. Paul, Minn. 55165. SEND PROTESTS TO: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 222 U.S. Post Office Bldg., Billings, Mont. 59101.

No. MC 124692 (Sub-No. 117 TA), filed August 23, 1973. Applicant: SAMMONS TRUCKING, P.O. Box 1447, Missoula, Mont. 59801. Applicant's representative: Gene P. Johnson, 525 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ceiling tile, insulating materials, siding, materials, sounding board, and materials for the installation thereof*, from the plantsite and facilities of Boise-Cascade Corp., at International Falls, Minn., to points in North Dakota, South Dakota, and Nebraska, for 180 days. SUPPORTING SHIPPER: Boise Cascade Corporation, P.O. Box 7747, Boise, Idaho 83707. SEND PROTESTS TO: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 222 U.S. Post Office Building, Billings, Mont. 59101.

No. MC 124692 (Sub-No. 118 TA), filed August 23, 1973. Applicant: SAMMONS TRUCKING, P.O. Box 1447, Missoula, Mont. 59801. Applicant's representative: Gene P. Johnson, 425 Gate City Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from the plantsite and facilities of Homestake Forest Products Co., at Spearfish, S. Dak., to points in Minnesota and Wisconsin, for 180 days. SUPPORTING SHIPPER: Homestake Forest Products Co., P.O. Box 472, Spearfish, S. Dak. 57783. SEND PROTESTS TO: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 222, U.S. Post Office Bldg., Billings, Mont. 59101.

No. MC 125996 (Sub-No. 39 TA), filed August 23, 1973. Applicant: ROAD RUNNER TRUCKING, INC., P.O. Box 37491, Omaha, Nebr. 68137. Applicant's representative: Arnold L. Burke, 127 North Dearborn St., Suite 1133, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat byproducts and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in "Descriptions in Motor Carrier Certificates," 61 M.C.C. 209 and 766 (except hides and Commodities in bulk, in tank vehicles), from the plantsite and storage facilities utilized by Madison Foods, Inc., Madison, Nebr., to points in Arizona, Colorado, California, Idaho, Montana, New Mexico, Nevada, Oregon, Utah, Washington, Wyoming, Connecticut, Maryland, Massachusetts, Maine, New Hampshire, New Jersey, New York, Ohio, Rhode Island, Pennsylvania, Vermont, West Virginia, Virginia, and the District of Columbia, restricted to traffic originating at the above named plantsite and storage facilities, for 180 days. SUPPORTING SHIPPER: Armour and Company, Donald A. Chute, Manager, Transportation & Distribution, Fresh Meats Division, Greyhound Tower, Phoenix, Ariz. 85077. SEND PROTESTS TO: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 711 Federal Office Building, Omaha, Nebr. 68102.

No. MC 129516 (Sub-No. 23 TA), filed August 24, 1973. Applicant: PATTON'S, INC., 2300 Canyon Road, Ellensburg, Wash. 98926. Applicant's representative: James T. Johnson, 1610 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen pet food ingredients*, from ports of entry on the United States-Canada International Boundary line at Eastport, Idaho; Sweetgrass and Raymond, Mont.; Portal and Pembina, N. Dak., to points in California and Oregon, for 180 days. SUPPORTING SHIPPER: Standard Brands Food Company, 500 Sherbrooke St. West, Montreal, 111, P.Q., Canada. SEND PROTESTS TO: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 319 SW., Pine, Portland, Oreg. 97204.

No. MC 134477 (Sub-No. 38 TA), filed August 23, 1973. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, Minn. 55118. Applicant's representative: Thomas Fischbach (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* (except hides and commodities in bulk) as described in Sections A and C of Appendix I to the report in "Descriptions in Motor Carrier Certificates," 61 M.C.C. 209 and 766, from Wagner, S. Dak., to points in Arizona, California, Colorado, Connecticut, Delaware, Idaho, Maine, Maryland, Massachusetts, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, Oklahoma, Oregon, Pennsylvania, Rhode Island, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wyoming, and the District of Columbia and (2) *material, supplies, and equipment* used by meat packinghouses, including fresh meat (except commodities in bulk), from points in Arkansas, Colorado, Illinois, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, North Dakota, Oklahoma, Texas, and Wisconsin, to Wagner, S. Dak., for 180 days. RESTRICTIONS: Restricted in Part (1) to traffic originating at the plant site and storage facilities utilized by Yankton-Sioux Industries at Wagner, S. Dak. and in Part (2) to traffic originating at points in the named states and destined to the plant site and storage facilities utilized by Yankton-Sioux Industries at Wagner, S. Dak. SUPPORTING SHIPPER: Yankton Sioux Industries, 301 North Fifth Street, Minneapolis, Minn. 55403. SEND PROTESTS TO: District Supervisor A. N. Spath, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building & U.S. Court House, 110 S. 4th Street, Minneapolis, Minn. 55401.

No. MC 134477 (Sub-No. 39 TA), filed August 23, 1973. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, Minn. 55118. Applicant's representative: Thomas Fischbach (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in "Descriptions in Motor Carrier Certificates," 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plantsite of Madison Foods, Inc., at Madison, Nebr., to points in Connecticut, Delaware, the District of Columbia, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and Wisconsin, for 180 days. SUPPORTING SHIPPER: Armour and Company, Fresh Meats Division, Greyhound Tower, Phoenix, Ariz. 85077. SEND PROTESTS TO: District Supervisor A. N. Spath, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building & U.S. Court House, 110 S. 4th Street, Minneapolis, Minn. 55401.

No. MC 134783 (Sub-No. 9 TA), filed August 23, 1973. Applicant: DIRECT SERVICE, INC., P.O. Box 786, Dimmett Highway West, Plainview, Tex. 79072. Applicant's representative: Ronald V. Dreckman (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat byproducts and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in "Descriptions in Motor Carrier Certificates," 61 M.C.C. 209 and 766, from the plantsite of John Morrell & Company at or near Lubbock, Tex., to points in Alabama, Connecticut, Florida, Georgia, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and Washington, D.C., for 180 days. SUPPORTING SHIPPER: Robert E. Lee, John Morrell & Company, 208 S. La Salle Street, Chicago, Ill. 60604. SEND PROTESTS TO: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H-4395 Herring Plaza, Amarillo, Tex. 79101.





No. MC 135152 (Sub-No. 11 TA), filed August 24, 1973. Applicant: CASKET DISTRIBUTORS, INC., Off: R.R. #2, West Harrison, Ind. 45030, and Mlg: P.O. Box 327, Harrison, Ohio 45030. Applicant's representative: Jack B. Josselson, 700 Atlas Bank Building, Cincinnati, Ohio 45202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Uncrated caskets, casket displays, funeral supplies, and crated caskets*, in mixed loads with uncrated caskets, (1) from Memphis, Tenn., to Greeley, Colo.; Dallas, Tex.; Roanoke, Va.; Sioux Falls, S. Dak.; Providence, R.I.; Detroit, Mich.; Los Angeles, Calif.; Sioux City, Iowa; Chicago, Ill.; Miami, Fla.; New York, N.Y.; and New Orleans, La.; (2) from Ladysmith, Wis., to Oakland, Calif.; and (3) from Muskogee, Okla., to Winston Salem, N.C., for 180 days. SUPPORTING SHIPPERS: Major Casket Co., 1445 Warford, Memphis, Tenn. 28108; Royal Casket Co., Inc., Box 432, Ladysmith, Wis. 54848. SEND PROTESTS TO: District Supervisor James W. Habermehl, Interstate Commerce Commission, Bureau of Operations, 802 Century Bldg., 36 S. Penn. St., Indianapolis, Ind. 46204.

No. MC 135248 (Sub-No. 8 TA), filed August 27, 1973. Applicant: WILLIAM H. DEES, doing business as DEES TRANSPORTATION, P.O. Box 446, Worland, Wyo. 82401. Applicant's representative: Robert S. Stauffer, 3539 Boston Road, Cheyenne, Wyo. 82001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Waste products*, for recycling or reuse in the furtherance of recognized pollution control programs, and recycled or reuseable products, between points in the United States (except Alaska and Hawaii), located west of the eastern boundaries of Iowa, Minnesota, Illinois, Arkansas, and Louisiana, and (2) *nonalcoholic beverages*, from Denver, Colo., and Salt Lake City, Utah, to points in Arizona, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, Utah, Washington, and Wyoming, for 180 days. SUPPORTING SHIPPERS: World-Wide Trash Systems, Inc., P.O. Box 127, Shoshoni, Wyo. 82649; Mountain States Canners & Packers, 4401 Monaco, Denver, Colo. 80216; Admiral Beverage Corporation, Box 726, Worland, Wyo. 82401; and Wyo. Coca Cola Bottling Company, P.O. Box 875, Casper, Wyo. 82601. SEND PROTESTS TO: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Bureau of Operations, Rm. 1006 Federal Bldg. & Post Office, 100 East B Street, Casper, Wyo. 82601.

No. MC 135420 (Sub-No. 3 TA), filed August 24, 1973. Applicant: L & H REFRIGERATED EXPRESS, INC., P.O. Box 61, East Omaha Avenue, Norfolk, Nebr. 68701. Applicant's representative: R. D. Huseth, 2313 Fairview Drive, Norfolk, Nebr. 68701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat byproducts, and meat products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in "Description in Motor Carrier Certificates," 61 M.C.C. 209 and 766, from the plantsite of Madison Foods, Inc., in or near Madison, Nebr., to points in Connecticut, Delaware, Maine, Massachusets, Maryland, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia, for 180 days. SUPPORTING SHIPPER: Armour and Company, Donald A. Chute, Mgr., Transportation & Distribution, Fresh Meats Division, Greyhound Tower, Phoenix, Ariz. 85077. SEND PROTESTS TO: District Supervisor Carroll Russell, Interstate Commerce Commission, Bureau of Operations, 711 Federal Office Bldg., Omaha, Nebr. 68102.

No. MC 135636 (Sub-No. 3 TA), filed August 27, 1973. Applicant: HARRY E. CLARK, Rt. #4, McLeansboro, Ill. 62859. Applicant's representative: Harry E. Clark (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, pallets, and covers, wooden engine skids, blocking and bores*, between McLeansboro, Ill., on the one hand, and, on the other, points in Southern Indiana on and south of Indiana Highway 32, Louisville, Ky., and points in Kentucky on and west of U.S. Highway 31E, for 180 days. SUPPORTING SHIPPER: Florence E. Baldwin, Vice President, Joseph G. Baldwin Company, P.O. Box 276, McLeansboro, Ill. 62859. SEND PROTESTS TO: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Leland Office Building, 527 East Capitol Avenue, Room 414, Springfield, Ill. 62701.

No. MC 136632 (Sub-No. 3 TA), filed August 27, 1973. Applicant: COPELAND TRANSPORTATION CO., INC., 4159 North Broadway, Wichita, Kans. 67204. Applicant's representative: Clyde N. Christey, 641 Harrison, Topeka, Kans. 66603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* dealt in by truck equipment dealers, from Cedar Falls and Grundy Center, Iowa; Montgomery, Ala.; Fort Payne, Melrose Park and Chicago, Ill. Commercial Zone; Meridian, Miss.; Lake Crystal, Minn.; Houston and Cleburne, Tex.; Oklahoma City, Okla.; West Bend, Wis.; and Denver, Colo., to Great Bend, Hays, Beloit and Parsons, Kans. and Springfield, Colo. and also between Topeka, Kansas City, Wichita, Colby, Dodge City, Haven, Great Bend, Hays, Beloit and Parsons, Kans., on the one hand, and Springfield, Colo., on the other hand, for 150 days. SUPPORTING SHIPPERS: O. J. Watson Co., Inc., 4159 N. Broadway, Wichita, Kans. 67204; Scherer Truck Equipment, Inc., 540 South 12th St., Kansas City, Kans.; Capitol Body and Equipment Company, Inc., 2325 North Clay, Topeka, Kans. 66618; O. J. Watson Solid Waste Division, Inc., 4163 N. Broadway, Wichita, Kans. 67204; and Solid Waste Equipment Corporation, 1725 Meriam Lane, Kansas City, Kans. SEND PROTESTS TO: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 502 Petroleum Building, Wichita,, Kans. 67202.

No. MC 136786 (Sub-No. 27 TA), filed August 24, 1973. Applicant: ROBCO TRANSPORTATION, INC., 3033 Excelsior Boulevard, Room 205, Minneapolis, Minn. 55416. Applicant's representative: K. O. Petrick (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses* (except hides and commodities in bulk), from the plantsite and storage facilities utilized by Madison Foods at Madison, Nebr., to points in Indiana, Ohio, Kentucky, Tennessee, Mississippi, Alabama, Florida, Georgia, South Carolina, North Carolina, Virginia, West Virginia, Maryland, Delaware, New Jersey, Pennsylvania, New York, Connecticut, Rhode Island, New Hampshire, Massachusetts, Vermont, Maine, and the District of Columbia, for 180 days. SUPPORTING SHIPPER: Armour and Company, Fresh Meats Division, Greyhound Tower, Phoenix, Ariz. 85077. SEND PROTESTS TO: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Court House, 110 S. 4th Street, Minneapolis, Minn. 55401.

No. MC 138148 (Sub-No. 2 TA), filed August 24, 1973. Applicant: JOSEPH J. SCHMIDT, 7499 Montevideo Court, Jessup, Md. 20794. Applicant's representative: Gordon D. Fronk, 10 E. Baltimore St., Baltimore, Md. 21202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beer and malt beverages*, from Fort Wayne, Ind., to Aberdeen, Baltimore, Centreville, Edmondston, Salisbury, and Upper Marlboro, Md., and *empty containers* on return, for 180 days. SUPPORTING SHIPPERS: C. V. Fowler, Jr., Fowler Distributing Company, 314 W. Belair Road, Aberdeen, Md. 21001; Mr. George O. Yewell, Jr., G & G Supply, S. Commerce St., Centreville, Md. 21617;



V 38 I 177
SEP 13 73
XUM

and Mr. Abraham Genderson, A. Genderson & Sons, Inc., 4612 Ingeraham, Edmondston, Md. 20781. SEND PROTESTS TO: William L. Hughes, District Supervisor, Interstate Commerce Comission, Bureau of Operations, 814-B Federal Building, Baltimore, Md. 21201.

No. MC 138669 (Sub-No. 1 TA), filed August 23, 1973. Applicant: MIDWEST AIR CARGO, INC., 12154 Vivacite, Creve Coeur, Mo. 63141. Applicant's representative: Joseph E. Rebman, Suite 1230, Boatmen's Bank Bldg., St. Louis, Mo. 63102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading), restricted to those shipments having immediately prior or subsequent movement by air; further restricted to shipments no one individual component of which weighs more than 250 pounds, between St. Louis, Mo., International Airport (Lambert Field), on the one hand, and, on the other, Springfield, Monett, Aurora, Marionville, Verona, and Lebanon, Mo. and their respective commercial zones, for 180 days. Supporting shippers: Santa Fe Air Freight Co., P.O. Box 10068, Lambert Field, St. Louis, Mo.; Air Couriers, Inc., P.O. Box 10233, Lambert Field, St. Louis, Mo., and Bor Air Freight Co., Inc., 156 Weldon Parkway, Maryland Heights, Mo. SEND PROTESTS TO: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th Street, St. Louis, Mo. 63101.

No. MC 138970 (Sub-No. 1 TA), filed August 24, 1973. Applicant: HAYWARD TRANSPORTATION, INC., Main Street, Fairlee, Vt. 05045. Applicant's representative: Frederick T. O'Sullivan, 622 Lowell Street, Peabody, Mass. 01960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, from points in Windham, Windsor, and Orange Counties, Vt., to West Lebanon, N.H.; for 180 days. SUPPORTING SHIPPER: L M Pike & Son, Inc., Box 678, Laconia, N.H. 03246. SEND PROTESTS TO: District Supervisor Paul D. Collins, Interstate Commerce Commission, Bureau of Operations, 52 State Street, Montpelier, Vt. 05602.

No. MC 138988 (Sub-No. 1 TA), filed August 24, 1973. Applicant: WESTERN GENERAL TRUCKING, INC., 1202 First Avenue North, Billings, Mont. Applicant's representative: J. F. Meglen, P.O. Box 1581, Billings, Mont. 59103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat and packinghouses products*, fresh or frozen, from ports of entry on the International Boundary line between the United States and Canada at or near Peace Garden and Pembina, N. Dak., and Noyes, Minn., to points in Arizona, California, Nevada, Utah, Oregon, and Washington, for 180 days. SUPPORTING SHIPPERS: A. Christenson Co., Ltd., 40 Dundurn Place, Winnipeg, Manitoba, Canada and Canada Packers Limited, 660 Marion, St. Boniface, Manitoba, Canada and Burns Foods Limited, P.O. Box 70, Winnipeg, Manitoba, Canada. SEND PROTESTS TO: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 222 U.S. Post Office Building, Billings, Mont. 59101.

No. MC 138991 (Sub-No. 1 TA), filed August 28, 1973. Applicant: K. J. TRANSPORTATION, INC., P.O. Box 97164, Rochester, N.Y. 14623. Applicant's representative: S. Michael Richards, 44 North Avenue, Webster, N.Y. 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Columbus, Ohio, to Rochester, N.Y., and returned *empty containers and pallets* in reverse direction, for 180 days. SUPPORTING SHIPPER: Raymong C. Scheible, President, Lake Beverage Corp., 23 Linden Park, Rochester, N.Y. SEND PROTESTS TO: Morris H. Gross, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 104, 301 Erie Blvd., West, Syracuse, N.Y. 13202.

No. MC 139028 TA, filed August 24, 1973. Applicant: KOSCO TRUCKING, INC., 21 Diane Court, Woodcliffe Lake, N.J. 07675. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Aquariums, materials, equipment, and supplies* used or useful in the sale, purchase, and manufacture of acquariums, between the facilities of Metraframe Corp., at East Paterson and Maywood, N.J., on the one hand, and, on the other, Babylon, Belerose, East Meadow, Elmont, Farmingdale, Hicksville, Massapequa, New Hyde Park, New York City, Plainview, Syosset, and Westbury, N.Y., under contract with Metaframe Corp., Maywood, N.J., for 180 days. SUPPORTING SHIPPER: Metaframe Corporation, 41 Slater Drive, East Paterson, N.J. 07407. SEND PROTESTS TO: District Supervisor Joel Morrows, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Newark, N.J. 07102.

No. MC 139029 TA, filed August 24, 1973. Applicant: SNODGRASS, INC., 923 Second Corso, Nebraska City, Nebr. 68410. Applicant's representative: A. J. Swanson, 521 South 14th St., Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles*, from Nebraska City, Nebr., to Manhattan, Kans., for 180 days. SUPPORTING SHIPPER: Mr. Gregory White, Steel and Pipe Supply Company, 205 Osage Street, Manhattan, Kans. 66502. SEND PROTESTS TO: Max H. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 320 Federal Building & Court House, Lincoln, Nebr. 68508.

No. MC 139032 TA, filed August 27, 1973. Applicant: DWIGHT W. BRAGDON, JR., Exeter Road, East Corinth, Maine 04427. Applicant's representative: Peter L. Murray, 30 Exchange Street, Portland, Maine 04111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Precut log buildings and related construction materials therewith*, from Kenduskeag, Maine, to locations of customers of shipper in New Hampshire, Vermont, Massachusetts, Rhode Island, New York, Pennsylvania, Connecticut, and New Jersey, with no transportation for compensation on return, for 180 days. SUPPORTING SHIPPER: Northeastern Log Homes Inc., Kenduskeag, Maine 04450. SEND PROTESTS TO: Donald G. Weiler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Rm. 307, 76 Pearl Street, P.O. Box 167, PSS, Portland, Maine 04112.

By the Commission.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-19501 Filed 9-12-73;8:45 am]

---

[Rev. S.O. 944; I.C.C. Order 76, Amdt. 3]

## READING CO.

### Rerouting or Diversion of Traffic

Upon further consideration of I.C.C. Order No. 76 (Reading Company, Richardson Dilworth and Andrew L. Lewis, Jr., Trustees) and good cause appearing therefor:

*It is ordered*, That:

I.C.C. Order No. 76 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date*—This order shall expire at 11:59 p.m., November 15, 1973, unless otherwise modified, changed, or suspended.

*It is further ordered*, That this amendment shall become effective at 11:59 p.m., August 31, 1973, and that this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., August 23, 1973.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
*Agent.*

[FR Doc.73-19500 Filed 9-12-73;8:45 am]





## CUMULATIVE LISTS OF PARTS AFFECTED—SEPTEMBER

**The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during September.**


**1 CFR** — Page
CFR checklist — 23771

**3 CFR**
PROCLAMATIONS:
4239 — 24191
4240 — 24193
4241 — 24881
EXECUTIVE ORDERS:
11359 (superseded by 11737) — 24883
11602 (superseded by E.O. 11738) — 25161
11635 (superseded by 11737) — 24883
11659 (amended by 11737) — 24883
11737 — 24883
11738 — 25161

**4 CFR**
400 — 24195
405 — 24195
PROPOSED RULES:
331 — 23971
351 — 23971
400 — 23971
401 — 23971
402 — 23971
403 — 23971
404 — 23971

**5 CFR**
213 — 24344, 24885, 25165

**6 CFR**
102 — 25427
130 — 24213
140 — 24214
150 — 23794, 23931, 24214, 24885, 25427
152 — 23794, 24214
155 — 24885
PROPOSED RULES:
Ch. I — 24917
152 — 23806, 24219, 24667

**7 CFR**
2 — 24633
51 — 23931
52 — 24344, 25165
250 — 24633
354 — 23934
725 — 23935
864 — 25427
908 — 24215, 25431
910 — 24345, 24890
928 — 24345
930 — 24890
932 — 24215
991 — 23771
1001 — 24216
1002 — 24216
1004 — 24216
1006 — 24216
1007 — 24216
1011 — 24216
1012 — 24216
1013 — 24215
1015 — 24216
1030 — 24216
1033 — 24216
1036 — 24216
1040 — 24216
1044 — 24216

**7 CFR—Continued** — Page
1046 — 24216
1049 — 24216
1050 — 24216
1060 — 24216
1061 — 24216
1062 — 24216
1063 — 24216
1064 — 24216
1065 — 24216
1068 — 24216
1069 — 24216
1070 — 24216
1071 — 24216
1073 — 24216
1075 — 24216
1076 — 24216
1078 — 24216
1079 — 24216
1090 — 24216
1094 — 24216
1096 — 24216
1097 — 24216
1098 — 24216
1099 — 24216
1101 — 24216
1102 — 24216
1106 — 24216
1108 — 24216
1120 — 24216
1121 — 24216
1124 — 24216
1125 — 24216
1126 — 24216
1127 — 24216
1128 — 24216
1129 — 24216
1130 — 24216
1131 — 24216
1132 — 24216
1133 — 24216
1134 — 24216
1136 — 24216
1137 — 24216
1138 — 24216
1139 — 24216
1421 — 23935, 24634
1430 — 23939
1866 — 24346
PROPOSED RULES:
26 — 23955, 25186
52 — 24654, 24904, 24907, 24910
722 — 24911
932 — 24910
981 — 24911
1007 — 25024
1030 — 23796, 25448
1050 — 25186
1060 — 25222
1061 — 25222
1063 — 25222
1064 — 25222
1065 — 25222
1068 — 252222
1069 — 25222
1070 — 25222
1071 — 25024
1073 — 24654, 25024
1076 — 25222
1078 — 25222
1079 — 25222
1090 — 25024

**7 CFR—Continued** — Page
PROPOSED RULES—Continued
1094 — 25024
1096 — 25024, 29190
1097 — 25024
1098 — 25024
1102 — 25024
1104 — 25282
1106 — 25282
1108 — 25024
1120 — 25282
1126 — 25282
1127 — 25282
1128 — 25282
1129 — 25282
1130 — 25282
1131 — 25282
1132 — 25282
1136 — 25282
1701 — 24660

**8 CFR**
214 — 24891
238 — 24891

**9 CFR**
73 — 24346
82 — 23940
94 — 24891
97 — 23940
319 — 24640
PROPOSED RULES:
94 — 24219
102 — 23957
104 — 23957
381 — 24374

**10 CFR**
110 — 23953

**12 CFR**
201 — 23772
329 — 25432
526 — 23940, 25433
545 — 24200
546 — 24201
563 — 24202
PROPOSED RULES:
545 — 24228

**13 CFR**
PROPOSED RULES:
107 — 24028

**14 CFR**
39 — 23941, 24347, 24349, 24640, 24641, 25170
71 — 23941, 23942, 24204, 24350, 24641, 24892, 25171, 25433
75 — 24204, 25171
91 — 24893
95 — 24893
97 — 24350
208 — 24642
241 — 24351
302 — 24894
389 — 24895
288 — 23772
399 — 23777, 24642




V 38-177
SEP 13 73
XUM

**14 CFR—Continued** Page

PROPOSED RULES:
37 25450
39 23962
61 23962
71 23804, 23969, 24222, 24914, 25195, 25451, 25452
75 23804
121 23962
Ch. II 24660
221 23804
241 24223, 24661
298 23805, 24662
372a 24664
389 24662
399 25453

**15 CFR**
8 23777
376 23777, 25446
377 25184

**16 CFR**
13 24352, 24353, 24634, 25434–25436

PROPOSED RULES:
1700 25195

**17 CFR**
211 24635
231 24635
241 24635
251 24635
271 24635

PROPOSED RULES:
230 24668

**19 CFR**
Ch. I 25171
1 24354, 25171
4 24354

PROPOSED RULES:
1 24374, 25185
24 23954
141 23954
151 25448

**20 CFR**

PROPOSED RULES:
405 23802, 25448

**21 CFR**
8 24643
9 24206
121 24354, 24643, 25437
135 23942
135b 24355, 24643, 24895
135c 24355, 24644
144 25437

PROPOSED RULES:
10 25195
121 24374, 24375
130 24220

**23 CFR**

PROPOSED RULES:
770 23969

**24 CFR**
42 25172
203 24637
205 24637, 24896
207 24637
213 24637
220 24637
221 24637

**24 CFR—Continued** Page
232 24637
234 24637
235 24638
236 24638
241 24638
242 24638
244 24638, 24896
1700 23866
1710 23866
1715 23873
1720 23874
1914 23943–23945, 24355–24357
1915 24358, 24360

PROPOSED RULES:
20 24222
201 23803

**25 CFR**
141 24638
256 23945

PROPOSED RULES:
221 23954, 23955

**26 CFR**
1 24206

**29 CFR**
1907 25150
1952 24896, 25172
1953 24361

PROPOSED RULES:
1910 24300, 24375

**30 CFR**
57 23781

PROPOSED RULES:
504 24024

**31 CFR**
91 94897
315 24762
605 24898

**32 CFR**
809 23945
1285 24206
1453 24210

**32A CFR**
Ch. IV:
BP Notice 1 25175
Ch. X:
Reg. 1
Ch. XIII:
EPO Reg. 3 23977

**33 CFR**
117 25433
127 24898
207 25176
401 24210

PROPOSED RULES:
117 24912–24914, 25455
127 23804

**35 CFR**
5 25438

**36 CFR**
50 24218
221 23948

PROPOSED RULES:
7 23796, 24912, 25185

**38 CFR** Page
1 24364
2 24366
17 24366
21 23948

**39 CFR**
3000 24898
3001 24898

**40 CFR**
35 24639
52 24333
113 25439
129 24342
180 23781, 25440

PROPOSED RULES:
52 23805
180 23806, 24667, 24918, 25455
411 24462
412 24466
422 24470

**41 CFR**
1–1 24210
1–9 23782
1–18 23791
3–16 24644
114–50 24649

**43 CFR**
4 23948
3830 24650
4710 24650

**45 CFR**
909 24900

PROPOSED RULES:
221 24872
233 23802
250 25450
903 23912

**46 CFR**

PROPOSED RULES:
146 23959
542 23979
538 24228

**47 CFR**
0 24900
2 24901, 25180
23 24901
73 24367
81 24211, 25180
83 24368, 25180
89 24901
91 25182
93 24901
97 24211

PROPOSED RULES:
61 24920
83 25196

**49 CFR**
1 24901, 24902
170 23791
171 23792
172 23792
177 23792
178 23792
393 25182
570 23949
1033 23792, 23793, 23952, 24212, 24902, 25183
1048 24368







**49 CFR—Continued** Page
1115 23953, 24903
1121 24902

PROPOSED RULES:
172 24915
173 24915
393 24223, 25452
542 23979
571 23804
1057 24228
1131 23979

**50 CFR**
20 23793
32 23793, 23794, 24212, 24369–24373, 24650–24652, 25183, 25441–25445
33 25445

PROPOSED RULES:
21 23796


## FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

| *Pages* | *Date* |
|---|---|
| 23765–23922 | Sept. 4 |
| 23923–24184 | 5 |
| 24185–24326 | 6 |
| 24327–24625 | 7 |
| 24627–24874 | 10 |
| 24875–25154 | 11 |
| 25155–25420 | 12 |
| 25421–25654 | 13 |



V 38 - 177 SEP 13 73 XUM

federal register

THURSDAY, SEPTEMBER 13, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 177

PART II




# DEPARTMENT OF AGRICULTURE

## Agricultural Marketing Service

■

# MILK IN THE MINNESOTA–NORTH DAKOTA AND CERTAIN OTHER MARKETING AREAS

Revised Recommended Decision; Opportunity to File Exceptions

No. 177—Pt. II——1

V 38-177 SEP 13 73 XUM

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

[ 7 CFR Parts 1060, 1061, 1063, 1064, 1065, 1068, 1069, 1070, 1076, 1078, 1079 ]

[Docket No. AO-360-A6, etc.]

### MILK IN THE MINNESOTA-NORTH DAKOTA AND CERTAIN OTHER MARKETING AREAS

### Notice of Revised Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders

GROUP III

| 7 CFR part | Marketing area | Docket No. |
|---|---|---|
| 1060 | Minnesota-North Dakota | AO-360-A6. |
| 1061 | Southeastern Minnesota-Northern Iowa. | AO-367-A5. |
| 1063 | Quad Cities-Dubuque | AO-105-A35. |
| 1064 | Greater Kansas City | AO-23-A42. |
| 1065 | Nebraska-Western Iowa | AO-86-A5. |
| 1068 | Minneapolis-St. Paul, Minn | AO-178-A28. |
| 1069 | Duluth-Superior | AO-133-A19. |
| 1070 | Cedar Rapids-Iowa City | AO-220-A26. |
| 1076 | Eastern South Dakota | AO-360-A17. |
| 1078 | North Central Iowa | AO-272-A20. |
| 1079 | Des Moines-Iowa | AO-295-A21. |

Notice is hereby given of the filing with the Hearing Clerk of this revised recommended decision with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the aforesaid marketing areas.

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by October 15, 1973. Seventeen copies of the exceptions should be filed. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreements and to the orders as amended were formulated was conducted at Atlanta, Ga., on October 18–20, 1971, at Dallas, Tex., on November 9 and 10, 1971, and at Bloomington, Minn., on November 16–18, 1971, pursuant to notice thereof which was issued October 4, 1971 (36 F.R. 19604).

This hearing was a single proceeding on proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in 33 marketing areas. In addition to those listed at the beginning of this document, such marketing areas include the following:

GROUP I

| | |
|---|---|
| Georgia | Northern Louisiana |
| Neosho Valley | Memphis, Tenn. |
| Wichita, Kans. | Nashville, Tenn. |
| Chattanooga, Tenn. | Fort Smith, Ark. |
| New Orleans, La. | Central Arkansas |

GROUP II

| | |
|---|---|
| Red River Valley | Central West Texas |
| Oklahoma Metropolitan | Austin-Waco, Tex. |
| Lubbock-Plainview, Tex. | Corpus Christi, Tex. |
| North Texas | Central Arizona |
| San Antonio, Tex. | Texas Panhandle |
| | Rio Grande Valley |

The hearing notice also included the Mississippi order (Part 1103), which was later included in the recommended decision with the "Group I" orders. The Mississippi order was terminated at midnight, April 30, 1973 (38 FR 8748), at which time it ceased to be a part of this proceeding.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on August 28, 1972, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

Because of its length, and to facilitate its distribution to interested parties, the recommended decision was published in the FEDERAL REGISTER in the form of three separate documents. Each document contained the proposed amendments for the group of 11 orders listed at the beginning of such document and, for the convenience of interested parties, an identical set of findings and conclusions. These documents were published on the following dates: Group I orders—September 16, 1972 (37 FR 18984); Group II orders—September 19, 1972 (37 FR 19210); and Group III orders—September 20, 1972 (37 FR 19482).

On the basis of exceptions to the recommended decision, a number of changes in the findings and conclusions of that decision concerning the classification and pricing of milk in certain uses are appropriate. Because such changes are substantive, a revised recommended decision is being issued with an opportunity to submit exceptions thereto.

The publication procedure used for the August 28, 1972, recommended decision is again being used in the case of this revised recommended decision. The three documents constitute, however, a single revised recommended decision under this proceeding.

The material issues, findings and conclusions, rulings, and general findings of the August 28, 1972, recommended decision are set forth in full herein, subject to the following modifications. The modifications noted do not include those where the reference to "33" orders or markets was changed to "32" orders or markets because of the termination of the Mississippi order.

1. Under the heading "*General setting of the hearing.*", paragraphs 1, 3, and 6 are changed.

2. Under the heading "1. *Application of a uniform milk classification plan in the 33 markets.*", paragraphs 1 and 9 are changed, and a new paragraph is added after the last paragraph.

3. Under the heading "2. *Revision of the present Class I classification.*", paragraphs 8, 9, 11, and 14 are changed, and the 28th paragraph is deleted and three new paragraphs are substituted therefor.

4. Under the heading "3. *Classification and pricing of milk not needed for Class I use.*", the entire discussion is changed.

5. Under the subheading "(a) *Other source milk definition.*", a new paragraph is added immediately after paragraph 7, and paragraph 8 is changed.

6. Under the subheading "(b) *Accounting for nonfat milk solids added to milk and milk products.*", the last paragraph is changed.

6a. Under the subheading "(c) *Classification of milk transferred or diverted to other plants.*", paragraph 12 is changed.

7. Under the subheading "(d) *Classification of end-of-month inventory.*", paragraphs 3 and 12 are changed.

8. Under the subheading "(e) *Classification of shrinkage, milk dumped and milk disposed of for animal feed.*", paragraphs 3–5, 8, 9, 15 and 19 are changed.

9. Under the subheading "(f) *Allocation of receipts to utilization.*", paragraph 7 is deleted, and paragraphs 9, 17, and 19 are changed.

10. Under the heading "5. *Changing the butterfat differentials.*", paragraphs 3–5, 8, 9, 12, 15, 16 and 18 are changed.

11. Under the heading "6. *Advance announcement of prices for surplus milk.*", paragraphs 3 and 4 are changed.

12. Under the heading "7. *Treatment of filled milk under the Minneapolis-St. Paul and Southeastern Minnesota-Northern Iowa orders.*", paragraph 11 is deleted.

The material issues on the record of the hearing relate to:

1. Application of a uniform milk classification plan in the 32 markets;

2. Revision of the present Class I classification;

3. Classification and pricing of milk not needed for Class I use;

4. Miscellaneous classification and accounting changes:

(a) Other source milk definition;

(b) Accounting for nonfat milk solids added to milk and milk products;

(c) Classification of milk transferred or diverted to other plants;

(d) Classification of end-of-month inventory;

(e) Classification of shrinkage, milk dumped and milk disposed of for animal feed;

(f) Allocation of receipts to utilization;

(g) Obligations relative to other source milk; and

(h) Reports;

5. Changing the butterfat differentials;

6. Advance announcement of prices for surplus milk;

7. Treatment of filled milk under the Minneapolis-St. Paul and Southeastern Minnesota-Northern Iowa orders; and





8. A uniform "equivalent price" provision.

*General setting of the hearing.* This hearing is the second of two regional hearings on the proposed use of a uniform plan for classifying milk for pricing purposes under Federal milk orders. The first hearing, which was held at Clayton, Mo., on July 14–22, 1970, was for seven Midwestern markets. A recommended decision based on the seven-market hearing was issued on June 4, 1971, and exceptions have been filed. A revised recommended decision for the seven markets is being issued concurrently with this revised recommended decision.

Prior to the first hearing, the National Milk Producers Federation, an organization of cooperative associations of dairy farmers and federations of such cooperative associations, undertook the development of a uniform milk classification plan for use under milk orders. Guidelines were formulated for use by member organizations in the drafting of specific classification proposals for consideration at public hearings.

Using these guidelines as a basis for their proposals, several cooperative associations petitioned the Department for a hearing on proposals relating to the classification and pricing of milk in seven Midwestern markets. After the hearing and issuance of a recommended decision, these cooperatives, along with other producer groups, requested a similar hearing for an additional 33 markets. The order for one of these markets (Mississippi) has since been terminated, and further reference to this group of markets will be in terms of the remaining 32 markets. The two hearings together involve a group of 39 markets located throughout the central part of the United States.

As in the case of the seven markets, the main thrust of the cooperatives' proposals for the 32 markets was the proposed use of an identical classification plan under each of the orders. As proposed, the new plan would have three classes of utilization rather than the two classes now provided in most of these orders. The present Class II classification would be redesignated as Class III and a new Class II classification, which would include various milk products now in Class I and Class II, would be established.

Corollary pricing proposals by the cooperatives would provide that the new Class II price under all but the Central Arizona order be the Minnesota-Wisconsin price plus an amount ranging from 10 to 20 cents, depending on the order involved. Prices would increase generally from north to south. For the Central Arizona order, which now has three classes, local producers proposed retention of the Class II price now in effect (a butter-nonfat dry milk formula price plus 25 cents).

Producers took diverse positions concerning the appropriate Class III price for the 32 markets. A number of cooperatives operating largely in the Upper Midwest proposed that the Class III price for markets in that area be based on a formula reflecting market prices for butter, nonfat dry milk and cheddar cheese. A regional cooperative operating in the Southeastern United States proposed that the Class III price in four of its local markets be based on the Minnesota-Wisconsin price, with reductions of 5 to 15 cents to be applicable in three of the markets. Another regional cooperative proposed for 15 southwestern markets that the Class III price under each order for the principal surplus products be the lower of the present surplus price now in effect or the Minnesota-Wisconsin price. In the case of still three other markets, local producer groups asked that their present surplus prices (all based solely or in part on butter-nonfat dry milk formulas) be retained.

Cooperatives also proposed that a single butterfat differential apply to all prices under each order. This differential, which would be identical among the 32 orders, would be based on the Chicago butter price times a factor of 0.115.

A uniform classification plan for the 32 orders was advocated also by the Milk Industry Foundation and the International Association of Ice Cream Manufacturers, national trade associations of fluid milk and ice cream processors whose members operate in each of the 32 subject markets. Without taking a position on whether there should be two or three use classes, these groups offered alternative proposals on the classification of various milk products under either type of classification plan. Individual handlers also made proposals concerning specific aspects of the classification and pricing scheme.

A more detailed description of the proposals by producers and handlers is set forth in the discussion of the material issues.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Application of a uniform milk classification plan in the 32 markets.* Each of the 32 orders under consideration should provide for the same basic classification plan. As adopted herein, each order would provide for three classes of utilization, with the milk uses included in each class being the same for each order. Likewise, the same basic procedure would be used under each order for classifying milk transferred or diverted from pool plants to other plants, and for allocating a handler's receipts to his utilization to determine the classification of his producer milk. Each order would use the same Class II price formula. For Class III milk, two price formulas would be used, with one applying under 18 orders and the other under 14 orders. All differential butterfat received from producers would be priced at the same level regardless of use.

The statutory authority for Federal milk orders specifies that an order shall classify milk purchased by handlers from producers or associations of producers in accordance with the form in which or the purpose for which the milk is used. When each of the 32 subject orders was promulgated, the classification plan adopted reflected the marketing conditions and practices prevailing at the time in the local area concerned. Because local conditions and practices were seldom alike from market to market, the classification plans often varied from one order to another. As long as the markets remained relatively isolated from each other, marketing problems resulting from the differences in the various classification plans were minimal.

In recent years the "local" character of these markets has been disappearing. Intermarket movements of milk have become commonplace as handlers and producers alike seek to find additional outlets for milk. Such milk movements have been encouraged or facilitated by such developments as inspection reciprocity between health jurisdictions, improved highway networks and transportation equipment, conversion from can handling to farm bulk tanks, emergence of regional cooperatives, new processing and packaging techniques, and concentration of processing and packaging operations in large, specialized facilities.

Numerous cases were cited by handlers of products being distributed throughout multi-State regions from centralized processing facilities. Products frequently mentioned include frozen desserts, yogurt, various cream products and cottage cheese. Widespread distribution patterns prevail particularly for the processors of specialty products such as yogurt and sterilized cream items. Although the volume of these specialty products is relatively limited, it is probably the distribution of these products more than any others that has precipitated such general interest within the industry for uniform classification provisions among Federal orders.

Although the 32 orders have been revised from time to time to reflect the closer intermarket relationships, the classification plans of these orders continue to differ. The differences relate not only to the products included in each respective class, but also to the attendant class prices and butterfat differentials, the rules for classifying milk moved from one plant to another, the procedure for allocating a handler's receipts to his utilization, the method of classifying end-of-month inventories, and the manner of classifying shrinkage.

Such differences in the classification and pricing of milk are often disruptive to the competitive relationships of handlers and to the marketing of producer milk. Many of these differences, though, have little, if any, foundation under today's marketing conditions. It is thus concluded that a generally uniform classification and pricing plan should be incorporated in each of the 32 orders under consideration.

In conjunction with the development of uniform provisions pertaining to the classification and pricing of milk, it is desirable to also develop a single format of order provisions for use in each of these orders. All orders contain essentially the same categories of provisions, such as those relating to the definition of a pool plant or other source milk.



V 38 I 177 SEP 13 73 XUM

those setting forth the class price formulas, or those describing how the uniform price shall be computed. At present, however, many of the orders are structured in such a way that provisions serving essentially the same purpose under all orders do not appear in each order in the same place or under the same section title.

Coordination of the orders in this respect will be helpful to those in the industry who must work with several orders, a situation that is becoming increasingly common as individual cooperatives and handlers continue to expand their marketing activities into more and more regulated markets. Moreover, the opportunity to effect changes in a relatively large number of orders at the same time makes the adoption of a uniform order format a particularly desirable step at this juncture of the order program.

Each of the orders included in this document is set forth in its entirety at the end of the document. Each order reflects the revised order format as well as the classification and pricing amendments adopted herein. In adapting each order to the new format, no substantitive changes have been made in those provisions not under consideration at the hearing. Since the classification and pricing amendments may be less discernable to the reader with the reprinting of the complete order, the sections in each order that encompass the basic changes in classification and pricing are listed below:

Sections 12–16, 30, 40–44, 50, 52–54, 60, 62, 74–76, and 85.

Some of the amendments adopted herein would change certain procedures under the orders that are carried out after the end of the month to which they apply. These include the submission of reports, the classification of milk, and the computation and announcement of certain class prices, butterfat differentials, and producer prices. It is intended, however, that the amendments apply only to that milk handled after the effective date of the changes. Such amendments are not intended to affect the completion of previously existing procedures with respect to milk handled prior to the effectuation of the amendments.

2. *Revision of the present Class I classification.* With certain exceptions noted below, Class I milk under each of the 32 subject orders should include all skim milk and butterfat disposed of in the form of milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids. Skim milk and butterfat disposed of in any such product that is flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted likewise should be classified as Class I milk. Such classification should apply whether the products are disposed of in fluid or frozen form.

In addition, Class I milk should include all skim milk and butterfat disposed of in the form of any other fluid or frozen milk product (if not specifically designated as a Class II or Class III use) that contains by weight at least 80 percent water and 6.5 percent nonfat milk solids, and less than 9 percent butterfat and 20 percent total solids.

Skim milk disposed of in any product described above that is modified by the addition of nonfat milk solids should be Class I milk only to the extent of the weight of the skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

Class I milk should not include skim milk or butterfat disposed of in the form of evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, or whey.

As a convenience in drafting order provisions, each product designated herein as a Class I product would be defined in the 32 orders as a "fluid milk product."[1]

Class I milk should include also any skim milk and butterfat not specifically accounted for in Class II or Class III, other than shrinkage permitted a Class III classification.

Except for sterilized products, most of the products listed above for inclusion in Class I are now included in the Class I classification under each of the 32 orders. Only in the case of milkshake mixes might there be a higher classification under the adopted amendments than at present. Under some orders, such mixes are now included in the lowest class. This higher classification would be limited, however, to only those milkshake mixes containing less than 20 percent total solids.

The adopted Class I classification would not include eggnog, yogurt, cream, or mixtures of cream and milk, or skim milk containing 9 percent or more butterfat (such as half-and-half). A Class I classification now applies to eggnog in 9 of the 32 markets, and to yogurt in 18 of the markets. In all markets, sweet cream (except that in frozen, concentrated, aerated, or sterilized form) and half-and-half are now Class I products. The classification of sour cream and sour cream mixtures, on the other hand, varies considerably among the orders.

Six of the 32 orders now include ending inventories of packaged fluid milk products in Class I. As discussed later, such inventories would not be classified as Class I milk under the revised orders.

The proposals concerning the Class I classification of milk related primarily to the use under all orders of a uniform fluid milk product definition based on product composition, and to the appropriate classification of milkshake and ice milk mixes, sterilized fluid milk products, cream, eggnog, yogurt, fluid milk products, to which nonfat milk solids have been added and ending inventory. The classification of cream, eggnog, and yogurt, is discussed under Issue 3 which deals with the classification and pricing of milk not needed for Class I use. The method of accounting for nonfat milk solids added to fluid milk products is discussed under Issue 4(b). The classification of ending inventory is dealt with under Issue 4(d). The remaining Class I issues are dealt with at this point.

Milkshake and ice milk mixes containing less than 20 percent total solids should be included in Class I. Such mixes containing a greater percentage of solids should be Class II products.

Cooperatives proposed that milkshake mixes that "are not further processed in a commercial establishment" be in Class I. They proposed that all other milkshake mixes be in Class II. The national organizations of fluid milk and ice cream processors, on the other hand, asked that all milkshake mixes be included in the lowest classification.

Milkshake and ice milk mixes are being marketed generally through two channels. Limited quantities of such mixes are processed for home consumption, with such mixes being distributed to consumers through foodstores and on home delivery routes. The major outlet for milkshake and ice milk mixes, though, is the so-called "soft-serve" trade. Mixes processed by regulated handlers for this use are sold to commercial establishments where the product is run through a special freezer and dispensed to the public in a semisoft form.

Milkshake and ice milk mixes are basically similar in composition and purpose to what might be considered as traditional frozen desserts, such as ice cream. Although such shake mixes are intended to be consumed in a semisoft form, or even in a very thick fluid form, they are being marketed for essentially the same use as the traditional frozen desserts. This is the case whether such mixes are sold through the "soft-serve" trade or for home use. With minor exception, as noted below, milk used in milkshake and ice milk mixes thus should be classified in the same class as milk used in the traditional frozen desserts. As discussed later in this decision, the classification plan adopted herein includes frozen desserts in Class II.

It is possible that a product very similar in composition and form to chocolate milk could be marketed under the label of a milkshake mix for the purpose of having a lower classification apply to the product. Since such a product actually would have the same general form and purpose as other fluid milk products now classified as Class I under these orders, it should be included in the Class I classification. It is necessary, though, to provide some means of distinguishing between such a product and the general category of milkshake mixes that are

[1] The reader should keep in mind that the orders do not classify products per se but rather the skim milk and butterfat disposed of in the form of a particular product or used to produce a particular product. To simplify the presentation of the findings and conclusions, however, reference is made in this decision to Class I products, Class II products, and Class III products, or to certain products included in a particular class.





being sold in competition with frozen desserts. For this purpose, the total solids content of the product should be used. A standard of 20 percent or more total solids should encompass those milkshake and ice milk mixes intended for use as a type of frozen dessert. Mixes with less solids are similar in composition to chocolate milk and other flavored fluid milk products and should be a Class I product.

As proposed by cooperatives and the national organizations of fluid milk and ice cream processors, no exception to the Class I classification of milk should be made for fluid milk products in sterilized form. The sterilization of fluid milk products does not change the form or purpose of such products. As in the case of the unsterilized fluid milk products which they resemble, such sterilized products are disposed of in fluid form for consumption as a beverage. They are generally intended for use in place of their unsterilized counterparts and are thus competing for the same consumers.

Returns to producers for milk disposed of in the form of fluid milk products should be the same whether such products are sterilized or unsterilized. Such products in either form are being marketed for the same beverage use. Classifying all such products in Class I will assure that the returns from producer milk used in sterilized fluid milk products will contribute on the same basis as returns from producer milk used in unsterilized fluid milk products toward inducing an adequate supply of milk for beverage use.

With the removal of any exception to the Class I classification of milk because of sterilization, specific reference must be made in the "fluid milk product" definition to the exclusion of certain products that otherwise could be construed to fall within such definition. Such products are evaporated or condensed milk or skim milk, formulas in hermetically sealed glass or all-metal containers that are especially prepared for infant feeding or dietary use, and products (such as flavored drinks in "pop" bottles) containing by weight less than 6.5 percent nonfat milk solids. These products, which are being sold in sterilized form, are now excluded from the Class I classification and, as proposed by cooperatives and handlers, such exclusion should be continued, notwithstanding the fact that they are sold to the public in fluid form. Evaporated milk and condensed milk sold for home use are intended primarily for cooking purposes. They are not consumed normally as a beverage. Infant and dietary formulas, which are being sold in hermetically sealed glass or all-metal containers, are specialized food products prepared for a limited use. Such formulas do not compete with other milk beverages consumed by the general public. Similarly, fluid products containing only a minimal amount of nonfat milk solids are not considered as being in the competitive sphere of the traditional milk beverages.

Fluid milk products should not be defined only on the basis of product composition, as was proposed by cooperatives. Contending that the present fluid milk product definition in each order does not clearly identify those products that are intended to be classified as Class I products, cooperatives proposed that a fluid milk product be defined solely in terms of moisture and milk solids content of the product. As proposed by producers, a "fluid milk product" would be any product containing at least 6.5 percent but less than 27 percent nonfat milk solids, less than 9 percent butterfat, and more than 20 percent moisture, all computed on the basis of weight.

In support of their proposal, proponents indicated that such a definition would result in a more uniform application among the 32 orders of the classification provisions. They contended that the listing of products under the current definitions does not accommodate the proper classification of new products or variations of the listed products when they are introduced on the market. Proponents pointed out that as market administrators have had to make order interpretations in response to this situation variations in interpretation and classification have resulted among the markets. Adoption of the proposed definition, it was contended, would eliminate such problems. Any product meeting the specified composition limits for a fluid milk product would be a fluid milk product regardless of the name under which the product might be marketed.

Proponents recognized, however, that their proposed fluid milk product definition would include some products not intended by them to be in Class I, and, at the same time, would exclude certain products that they wanted in this classification. To overcome this problem, proponents stated that certain products should be listed by name, either as inclusions or exclusions, to assure that the fluid milk product definition would include those products, and only those products, warranting a Class I classification.

Handlers took the position that the fluid milk product definition should continue to list by name those products intended to be included in Class I. They believe that this procedure would result in less confusion within the industry concerning the application of this definition. Also, handlers were concerned that defining a fluid milk product on the basis of product composition would deter the development and marketing of new products. They contended that the proposed composition standards could embrace a new product that was intended by the processor to be marketed in direct competition with products that would be included in Class II or Class III rather than in competition with Class I products.

The primary concern with any fluid milk product definition is that it clearly define the products or types of products that are intended to be included in the definition. The fluid milk product definition adopted herein, which incorporates both the listing of specified products and the use of composition percentages, should meet this requirement. Incorporation of this definition in each of the 32 orders will provide a uniform basis for identifying those products that are to be defined as "fluid milk products."

For simplicity, the fluid milk product definition should continue to list the generic names of those products commonly sold for consumption as beverages. The products listed in the adopted definition encompass most of the forms in which milk for fluid uses is sold. Anyone referring to this fluid milk product definition may easily ascertain in the case of most milk products whether or not a particular product is included in the definition.

A listing of products alone in the fluid milk product definition may not clearly indicate the classification of new milk products developed for fluid consumption. With certain limited exceptions noted, the fluid milk product definition is intended to include all milk products that are distributed for use as beverages. Although a new milk beverage introduced on the market might not be encompassed within the list of named products, it should be treated as a fluid milk product, nevertheless, if its composition is similar to that of the listed products. This will be the result of the standards of product composition for fluid milk products herein adopted.

As indicated, the adopted composition standards would embrace any fluid or frozen milk product not specified as a Class II or Class III product that contains by weight at least 80 percent water and 6.5 percent nonfat milk solids, and less than 9 percent butterfat and 20 percent total solids. The 9 percent butterfat standard coincides with the butterfat percentage adopted herein to delineate the mixtures of cream and milk or skim milk to be included in Class II. The total solids and water percentages represent a reasonable measure of the fluidity of those products that normally are consumed as beverages. The 6.5 percent nonfat milk solids standard is used to exclude from the fluid milk product definition those products which contain some milk solids but which are not closely identified with the dairy industry, such as chocolate flavored drinks in "pop" bottles.

These composition standards are chosen so as to conform as closely as possible to the water, solids, and butterfat content of those products specifically listed in the fluid milk product definition, i.e., the traditional milk beverages. It is intended that these standards apply only to milk products, and only to such products that are being marketed for consumption in fluid form. Such standards would not be applied to products such as soups, which are not customarily thought of as milk products, or to products that would be a type of frozen dessert marketed for consumption in frozen form.

In determining whether or not a milk product in fluid form falls within the composition standards of the fluid milk product definition, such standards should be applied to the composition of the product in its finished form, not to the composition of the product on a skim equivalent basis. A new product not intended for beverage use might contain in its finished form somewhat more than the maximum total solids specified for a



V 38 177 SEP 13 73 XUM

fluid milk product under the adopted composition standards. On this basis, the product would not fall within the fluid milk product definition. Application of the composition standards to this product on a skim equivalent basis, however, could result in the product meeting such standards and thus being defined as a fluid milk product.

As pointed out by producers in their exceptions, applying the composition standards to products in the form in which marketed could exclude from the fluid milk product definition a new concentrated fluid product that is intended to be consumed as a beverage only after reconstitution. For the present time, however, the composition standards should be applied to a product in its finished form. A refinement of such standards may be appropriate once there has been an opportunity to evaluate their applicability under actual market conditions.

It should be noted that under the adopted classification provisions accounting for a new product on other than a skim equivalent basis would be limited solely to determining whether or not the product meets the composition standards of the fluid milk product definition. For all other purposes under the order, the product would be accounted for on a skim equivalent basis.

In applying the 6.5-percent nonfat milk solids standard, it is intended that this standard apply to such solids in any form except sodium caseinate. As set forth in the "filled milk" decision applicable to most of the 32 orders, sodium caseinate in any product is treated under the orders as a nonmilk ingredient.[2] There is no basis for changing this procedure.

The use of composition standards as a means of defining fluid milk products should not deter the development of new milk products, as handlers contended. Should the Class I classification of a new product appear to be incongruous with the intended use of the product, the hearing process remains as an avenue through which a different classification may be considered. The use of composition standards should result, however, in a more uniform classification among orders of new products developed for fluid consumption.

3. *Classification and pricing of milk not needed for Class I use.* Two use classes, Class II and Class III, should be provided in each of the 32 orders for skim milk and butterfat utilized for other than Class I purposes. The Class II price should be the basic formula price (Minnesota-Wisconsin manufacturing milk price) for the month plus 10 cents. The price under each of the orders for Class III milk should be the basic formula price for the month, but in certain markets not to exceed a butter-nonfat dry milk formula price.

Class II milk should include skim milk and butterfat disposed of in the form of eggnog, yogurt or a "fluid cream product", i.e., cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients. Any product containing 6 percent or more nonmilk fat (or oil) that resembles any of these products likewise should be in this class. Also, eggnog, yogurt and fluid cream products that are in inventory at the end of the month in packaged form should be in Class II.

Included also in this classification should be skim milk and butterfat used to produce cottage cheese, lowfat cottage cheese, dry curd cottage cheese, milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, frozen dessert mixes, any concentrated milk product in bulk fluid form, plastic cream, frozen cream, anhydrous milkfat, custards, puddings, pancake mixes, and formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

A Class II classification should apply also to bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages.

Class III milk should include skim milk and butterfat used to produce cheese (other than cottage cheese, low fat cottage cheese and dry curd cottage cheese), butter, any milk product in dry form, evaporated or condensed milk (plain or sweetened) in a consumer-type package, evaporated or condensed skim milk (plain or sweetened) in a consumer-type package, and any product not otherwise specified as a Class I, Class II or Class III product.

Other Class III uses should include bulk and packaged fluid milk products and bulk fluid cream products in inventory at the end of the month, and that portion of modified (by the addition of nonfat milk solids) fluid milk products not included in Class I. Class III should include any fluid milk product or Class II product accounted for on a "disposed of" basis that is used for animal feed, or is dumped if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition. Also, shrinkage within certain limits should be classified as Class III milk.

As described later, the classification and pricing adopted herein for milk not needed for Class I use differs in some respects from that set forth in the August 28, 1972, recommended decision.

The present classification of milk used in the adopted Class II and Class III classifications is quite varied among the 32 orders. Seven of the orders provide for three use classes while 25 have two classes of utilization. Under four of the three-class orders cottage cheese is classified separately from all other uses. One order classifies cottage cheese and sales of milk to commercial food establishments in an intermediate class. Two orders have a separate use class for milk used in cheddar cheese. Substantial variation exists among the 32 orders in the classification of skim milk and butterfat in eggnog, yogurt, sour cream, milkshake mixes, and milk disposed of to commercial food establishments. The treatment of milk dumped, and milk in inventory at the end of the month, also differs under the several orders.

There is now a variety of price formulas under the 32 orders for milk in other than Class I uses. Seventeen orders use the Minnesota-Wisconsin manufacturing milk price. Three orders use a combination of the Minnesota-Wisconsin price and a butter-nonfat dry milk formula price. Four orders use a combination of a butter-nonfat dry milk formula price and a cheddar cheese formula price. Six orders use a butter-nonfat dry milk formula price, with four of these employing a seasonal adjustment. Two orders use the U.S. manufacturing milk price with a seasonal adjustment for milk used to produce butter, nonfat dry milk and cheddar cheese. This variety of price formulas can result in as many as 11 different prices for milk put to similar uses. Also, four additional prices can result under the five orders that have an intermediate classification and price for milk used to produce cottage cheese.

Cooperatives proposed that each of the 32 orders provide for an intermediate classification (Class II) for skim milk and butterfat disposed of as cream, now a Class I use, and that used to produce several other products now in the lowest priced class under most of the orders. The proposed Class II uses would include cottage cheese, frozen desserts, milkshake mixes for further processing in commercial establishments, eggnog, yogurt, evaporated or condensed milk or skim milk, dietary and infant formulas, custards, puddings, pancake mixes, any product with 6 percent or more nonmilk fat (or oil), and fluid milk products disposed of to commercial food processors. In addition, their new Class II also would include cream, mixtures of cream and milk or skim milk containing 9 percent or more butterfat, cream in plastic, frozen, aerated or sterilized form, sour cream, sour mixtures and anhydrous milkfat.

Under the cooperatives' proposal, the Class I price in 31 markets would be the Minnesota-Wisconsin price plus 10 to 20 cents (increasing generally from north to south). Eleven markets in the States of Minnesota, Iowa, North Dakota, South Dakota, and Tennessee would have a price differential of plus 10 cents. The remainder of the 31 markets would have plus 15 cents, except for a plus 20 cents in the Corpus Christi and Rio Grande Valley markets. A cooperative in the Central Arizona market proposed that the present Class II price, which is 25 cents over the Class III price, be retained in that market.

[2] Official notice is taken of the Assistant Secretary's decision issued on Oct. 13, 1969 (34 F.R. 16881), with respect to the Memphis, Tenn., and certain other marketing areas.





The Class III uses proposed by the cooperatives would include dried products, cheese (except cottage cheese), butter, condensed whey and buttermilk for animal feed, dumpage, ending inventory, shrinkage, and the non-Class I portion of modified fluid milk products.

The cooperatives' Class III pricing proposals varied by regions. A number of cooperatives operating primarily in the Upper Midwest proposed the adoption of a weighted butter-nonfat dry milk (55 percent) and cheese (45 percent) formula using "the product yield factors and make allowances used by the Department in its CCC Price Support Program." While suggesting that such a pricing formula would be appropriate for all 32 markets, they particularly urged its adoption for 11 upper midwestern markets. For four southern markets, the principal cooperative in such markets proposed the use of the Minnesota-Wisconsin price, but with minus adjustments of 5 cents for Chattanooga, 10 cents for New Orleans, and 15 cents for Georgia. For 15 markets in the Southwest, the principal cooperative there proposed that the Class III price be the higher of the Minnesota-Wisconsin price or the current price for the lowest utilization in the respective order. Under its proposal, milk used in butter, nonfat dry milk, and cheddar cheese would be priced, however, at the lower of the Minnesota-Wisconsin price or the current price for the lowest utilization in the respective order. The principal cooperative in the Central Arizona market proposed retention of the Class III price now applicable in that market which is based on a butter-nonfat dry milk formula.

In support of their proposed Class II and Class III use categories, the several cooperatives contended that there are significant differences in the competitive position of, and demand for, milk so used. They stated that handlers demand quality milk on a regular basis for the proposed Class II products, and that in the various markets alternative supplies of milk for such uses generally cannot be obtained for less than the Class II prices they propose for producer milk. Moreover, they claimed that products in such Class II uses should bear, along with fluid milk products, part of the cost necessary to attract an adequate market supply. With respect to the Class III classification, proponents stated that their proposed Class III products are the residual uses of milk associated with fluid markets. Consequently, the local production of such products is related to the amount of reserve or excess milk in the market. Such products, they claimed, can be stored for long periods and do not need to be made on a regular basis.

Proponent cooperatives pointed out that the present Class I classification of cream and cream mixtures has placed these products in a poor competitive position in the marketplace relative to nondairy substitutes. By shifting these products to a lower-priced class, proponents hope the industry will be better able to maintain its present small share of the cream and dessert topping market and perhaps recapture some of the market that it has lost.

In support of their various Class III pricing proposals, the cooperatives urged basically that such prices reflect the net value that can be obtained by cooperatives handling reserve supplies. They claimed that such value should take into consideration (1) product values of butter, nonfat dry milk, and cheese; (2) the cost of moving milk to available outlets; and (3) the burden of "balancing" the fluid milk supply in each market.

With respect to certain southern markets, it was contended that the net value that can be obtained for reserve milk supplies tends to differ from market to market depending upon surplus disposal conditions that prevail in each market. The principal variable factor mentioned was the cost incurred in transporting reserve supplies to available processing plants. For example, there are no plants processing hard cheese, butter, or nonfat dry milk, in Georgia. Consequently, the principal cooperative in the area transports much of the reserve milk supply associated with the Georgia market to manufacturing plants located in Tennessee. The amounts so transported have ranged from 1 to 11 million pounds per month. The cooperative stated that for the 12 months ending with August 1971 it netted an average of 37.6 cents per hundredweight less than the Georgia order Class II price on such shipments because of the cost of hauling the milk.

Extra transportation costs are incurred also by the cooperative with respect to its disposition of reserve milk supplies in the New Orleans market. In the Nashville market, on the other hand, the same cooperative realized an average of 9.7 cents over the Nashville Class II price for the milk it moved to nonpool plants for manufacturing use during the 12 months ending with August 1971. For the Chattanooga market, the cooperative realized slightly less than the Class II price for milk moved to nonpool plants.

Another condition which the cooperative contended has influenced the returns it is able to realize on reserve milk supplies is that the quantity of such milk to be processed varies both seasonally and on certain days of the week. During the month of September, the reserve milk supply handled by the cooperative is at its lowest level. In September 1970, for example, the cooperative processed less than 500,000 pounds of milk at each of its major butter-nonfat dry milk processing plants (Lewisburg, Tenn., and Franklinton, La.). The following April, it processed 23.9 and 5.8 million pounds of milk, respectively, at such plants.

Reserve milk supplies increase on Sundays compared to other days because bottling plants in the markets served by the cooperative usually process milk only five or, at the most, 6 days a week. The needs of bottling plants are highest on Thursdays since sales of packaged milk tend to be higher on Thursday and Friday than on other days of the week.

Because of these circumstances, this cooperative proposed that the Class III prices adopted for the southeastern markets of Georgia, New Orleans, and Chattanooga, be fixed from 5 to 15 cents under the Minnesota-Wisconsin price. This was proposed to enable the cooperative to absorb the costs of transporting reserve milk supplies to manufacturing plants and of maintaining unused capacity in its manufacturing plants during the seasonally short production months and on peak bottling days.

The principal cooperative in the southwestern markets proposed that the current provisions for pricing market surplus be maintained in the several orders throughout that region since such provisions tend to recognize individual market problems of surplus disposal. The problems mentioned by the witnesses for the cooperative are (1) uneven surplus milk volumes to be disposed of, and (2) costs of transporting milk to plants for manufacturing use. They stated that each market differs as to the volume of day-to-day, weekend, holiday, and seasonal surplus to be processed, which tends to result in variations in supply balancing costs among markets. Also, the surplus in each market is situated at varying distances from available processing plants. In Texas, for example, most of the manufacturing use outlets are situated in the northern part of the State at Muenster, Sulphur Springs, and Rusk. While the cooperative operates a small cheddar cheese plant at San Antonio, Tex., at times the San Antonio surplus cannot be processed there and is transported over 300 miles to Muenster or Sulphur Springs. During the Christmas holiday weekend in 1970, the cooperative moved 75 tank truck loads of surplus milk out of Texas to plants as far north as Iowa for manufacturing.

In support of their proposed butter-nonfat dry milk-cheese product price formula for markets in the Upper Midwest, proponent cooperatives pointed out that about half of the manufacturing grade milk in Minnesota and Wisconsin is now handled by as few as three cooperative associations. They contended that, because of this, cooperatives are in a position to influence the level of prices paid for such milk and, in turn, influence the level of the order prices based on the Minnesota-Wisconsin price. Any upward swing in prices, they indicated, could be detrimental to the processors of butter and nonfat dry milk.

Proponents also stated that there have been periods of time when the open market cheese prices have increased relative to prices of butter and nonfat dry milk. When this has resulted in higher pay prices at cheese plants, butter-powder plants also have tended to pay higher prices to hold their milk supplies in competition with cheese plants. Proponents argued that such higher pay prices at butter-powder plants should not be reflected in Federal order surplus prices when the market values of butter and powder are not increased also. They contended that the order price should reflect changes in the market value of manufactured products to provide handlers a fixed processing margin on the butter and nonfat dry milk they process.



V 38 I 177 SEP 13 73 XUM

The national trade associations of fluid milk and ice cream processors did not take a position at the hearing on whether there should be two or three classes of utilization. It is their position that under a three-class system the only products that should be included in Class II are yogurt, eggnog, cottage cheese, cream and any mixtures of cream and milk or skim milk containing 9 percent or more butterfat. While the associations did not endorse a three-class system, they proposed that under such a plan the difference between the Class II and Class III prices be not more than 10 cents.

Certain individual handlers, particularly those operating plants in more than one market, testified that because of intermarket competition each order should provide for the same classification and pricing scheme. One such handler testified further that the Class III price should be the lower of the Minnesota-Wisconsin price or a butter-powder formula price (Chicago butter price times 4.2, plus nonfat dry milk price times 8.2, less 48 cents). Another urged adoption of the dairy price support level as the Class III price. A third handler proposed the use of the announced price support, adjusted to a 3.5 percent butterfat basis by a differential factor of the Chicago butter price multiplied by 0.12, and further adjusted by plus 15 cents during the period September through March.

Proponents of using the dairy price support level as the Class III price urged that such price be adopted to provide a more stable price by avoiding the month to month changes that tend to occur in the Minnesota-Wisconsin price. Proponents pointed out that basing the Class III price on the price support level, which is announced for each marketing year (April–March), would result in handlers knowing the minimum price before the milk is received. The Minnesota-Wisconsin price is announced about 5 days after the end of each month.

*Class III.* As stated at the outset, two classes of utilization should be provided under each order for milk not needed for Class I use. Before discussing the basis for establishing an intermediate price class, consideration should be given to the Class III price issue since the level of such price bears on what the Class II price should be.

Basically, there are two questions to be resolved concerning the Class III price issue: (1) Should the Class III price be uniform among the 32 markets, and (2) what is the appropriate pricing mechanism for determining the Class III price in each market?

The purpose of the classification proposals considered at this hearing strongly suggests the same Class III price under each order. The essence of the proposals by producers and handlers alike was that a particular product should be classified in each market in the same class. Although the various witnesses were not in agreement on the classification scheme that should be adopted, the common purpose of their proposals was the resolution of the many differences among the 32 orders in the classification of milk. It was the general consensus that with the burgeoning intermarket sales of various milk products over increasingly wider areas, these differences in classification are causing undue competitive inequities among handlers in various markets seeking the same outlets for milk.

Any attempt to resolve these competitive inequities through the adoption of a uniform classification plan cannot be divorced from consideration of the prices that would be applicable to each class. The classification of milk does nothing more than determine what uses of milk will be subject to different levels of price. The equity benefits to handlers of using the same classification plan in all markets can be fully realized only if the price for each class is uniform (except for appropriate location adjustments) in all markets. The use of several different Class III price formulas in these markets, as would result under the proposals of the various cooperatives, would nullify much of the intended effectiveness of classifying a particular product in the same class in each market.

Certain cooperatives urged that the Class III price of a market reflect the supply "balancing" costs of individual cooperatives. This could lead only to a proliferation of different Class III prices rather than a reduction of price differences in these markets. In balancing milk supplies for the fluid market, a cooperative incurs various costs. The extent of these costs is dependent on many factors, including the cooperative's share of the market, the location and availability of surplus disposal outlets, whether it operates a manufacturing plant, and policies and practices of the organization and its management. If such costs were to be a main consideration in establishing the Class III price for an individual market, such price would need to vary greatly among markets since the supply balancing situation differs from market to market.

The costs of supply balancing services performed by a cooperative should be reflected as a service charge to the handlers who receive the benefit of the service. A cooperative's cost of supply balancing service varies among handlers according to each handler's procurement practices. A handler that regularly accepts the full production of a given number of producer-members of the cooperative incurs the costs of balancing his own supply. On the other hand, a handler that limits his purchases of milk from a cooperative to 5 days a week, for example, to match his daily bottling schedule shifts the burden of balancing his milk supply to the cooperative. Most supply balancing costs are attributable to the variation between the quantity of milk produced and the demand for milk for Class I use. Since the balancing costs are incurred in serving the Class I market, the incidence of the costs should fall on such use of milk. This connection between these services and the Class I demand is recognized in many of these markets through the assessment by cooperatives of a service charge on their milk delivered to handlers for Class I use.

On the basis of the above findings, it was concluded in the August 28, 1972, recommended decision that the same Class III price should prevail under each order to resolve to the fullest extent the many classification and pricing differences among these orders. Although this concept remains valid, we are persuaded by producer exceptions to the August 28 decision that complete uniformity in the pricing of Class III milk may not be attainable at this time if orderly marketing is to be preserved. For reasons described later, an alternate Class III price formula also should apply under 14 of the 32 orders rather than the one formula initially recommended. It must be emphasized, however, that the use of an alternate Class III price formula in these markets will negate in some degree the uniformity intended to be gained through classifying a particular product in the same class in each market. The adopted classification and pricing scheme will be helpful, nevertheless, in overcoming the marketing problems being experienced by handlers because of the differences in the classification and pricing plans now in use in these 32 markets.

In considering the appropriate mechanism for determining the Class III price in each market, it is consistent with the purposes of the statute authorizing milk orders that reserve milk supplies be priced at the highest practicable level compatible with orderly disposal of the milk. Excess market supplies normally must be channeled into manufactured products that compete on a national basis with similar products made from ungraded milk. It is important, therefore, that the price for surplus milk in the regulated markets be in close alignment with prices being paid by processors of manufacturing grade milk.

The Minnesota-Wisconsin price, which is now the surplus price under 17 of the 32 orders, is a representative pay price for about half of the manufacturing grade milk in the United States. This price reflects a farm price level determined by competitive conditions that are affected by the demand for all major manufactured dairy products. It also reflects the supply and demand of such products within a highly coordinated marketing system, which is national in scope. Use of the Minnesota-Wisconsin price as the Class III price, or principal Class III price determinant, will result in order prices for surplus milk that are in close alignment with the dominant price structure for raw milk within the manufacturing milk segment of the dairy industry.

Use of the Minnesota-Wisconsin price also tends to result in price parity between regulated and unregulated plants engaged in a similar enterprise since it provides the regulated manufacturer essentially the same margin for processing as is experienced in the unregulated market. The Minnesota-Wisconsin price is an average of prices being paid by processors who are meeting the competitive test of the unregulated market place. Competing processors of ungraded milk purchase their supplies from farmers at prices commensurate with the ability of the





more efficient processors to pay for raw milk. As shifts in the relationship between finished product prices take place, one group of processors may be able to pay dairymen higher prices than another. Other processors generally must meet these prices or risk the loss of their milk supplies. If a dairy concern in the unregulated manufactured products market fails to make the necessary adjustments to meet procurement competition, it will, in time, be forced out of business. This is a normal business risk in the unregulated competitive market.

If the Class III price were based solely on market prices of certain manufactured products (e.g., butter and nonfat dry milk) minus a specified processing allowance, as proposed by certain cooperatives, handlers under each order would be assured at all times, regardless of current values of milk competitively procured for the several manufactured product uses in Class III, of a predetermined operating margin. Such pool handlers are protected in procurement competition by being able, through the pool equalization fund, to pay the blended price to producers. This is an advantage not available to manufacturers purchasing unregulated milk. The unregulated processors must pay whatever price to dairy farmers is required to maintain milk supplies, which is determined from competition with other processors. Unless regulated handlers are to have a competitive advantage, or disadvantage, in the manufactured milk product market relative to unregulated plant operators, it is necessary to maintain under the milk orders a close alignment of the Class III prices with the farm prices paid by unregulated plants in the manufacturing milk industry.

In the August 28, 1972, recommended decision, the Minnesota-Wisconsin price was adopted as the Class III price under each order. This would have provided a continuation of the surplus price now applicable in 17 markets and a change in pricing for the remaining 15 markets where a number of different price formulas are now in use.

Upon further consideration of this issue in light of producer exceptions and the record evidence, it is concluded that in 14 of the 15 markets where the surplus price would have been changed the Class III price should be the Minnesota-Wisconsin price but not to exceed a butter-nonfat dry milk formula price. The markets where this pricing mechanism should apply are New Orleans, Northern Louisiana, Wichita, Central Arizona, Rio Grande Valley, Oklahoma Metropolitan, Red River Valley, North Texas, Central West Texas, Texas Panhandle, Lubbock-Plainview, Austin-Waco, San Antonio and Corpus Christi. The Class III price for the other market, Duluth-Superior, should be the Minnesota-Wisconsin price as initially recommended.

The surplus class price in all but two of these 14 markets is now based either entirely or in part on prices derived from some type of butter-nonfat dry milk formula. In the Oklahoma Metropolitan and Red River Valley markets, the surplus price is the U.S. Manufacturing price, but with a 10-cent reduction during six months of the year for milk used in butter, nonfat dry milk or hard cheese. For most of these markets, cooperatives argued in their exceptions to the August 28 decision that the present price formulas should remain in effect in the respective markets. It was contended that these formulas represent an historical recognition of particular surplus disposal conditions in these markets and that such recognition should not be abandoned at this time.

If a uniform classification and pricing scheme is to be implemented to any substantial degree, it is not possible to continue the variety of pricing formulas now applicable in these several markets as cooperatives urge. We recognize, however, that surplus prices in most of these markets historically have been tied directly to the market values of butter and nonfat dry milk. Therefore, it is reasonable to provide that the Class III prices in these 14 markets be limited to a butter-nonfat dry milk formula price should the milk equivalent value of these products become unduly low relative to the average price being paid in Minnesota and Wisconsin for manufacturing grade milk.

The same butter-nonfat dry milk price formula should be used in each of the 14 markets in conjunction with the Minnesota-Wisconsin price. This is consistent with the development of a uniform classification scheme for these markets. The formula adopted herein would be derived from converting the market prices of butter and nonfat dry milk to their milk equivalent values and subtracting a processing allowance. Specifically, such price would be computed by multiplying the average monthly price of 92-score bulk butter at Chicago by 4.2, then multiplying the average monthly price of spray process nonfat dry milk in the Chicago area by 8.2, and then subtracting 48 cents from the sum of the above results. This formula price, when used in conjunction with the Minnesota-Wisconsin price, is commonly referred to in the trade as the "butter-powder snubber."

The adopted formula is the same, or virtually the same, as all other butter-nonfat dry milk formulas now in use under orders applicable outside the 32-market area. In all cases, such formulas are being used in conjunction with the Minnesota-Wisconsin price in the same manner as proposed herein.

As indicated, the Class III price under the Duluth-Superior order should be the Minnesota-Wisconsin price even though the surplus price in this market is now based on a butter-nonfat dry milk formula. The present surplus price historically has averaged somewhat under the Minnesota-Wisconsin price. Conditions in this market do not support a continuation of this lower price level for surplus milk being processed into products such as butter, nonfat dry milk and hard cheese, residual products that would be included in Class III under the revised Duluth-Superior order.

The Duluth-Superior order regulates the handling of milk in certain areas of Minnesota and Wisconsin. Because of their location, regulated handlers in this market are operating within the competitive sphere of the largest concentration of processors of butter, nonfat dry milk and cheese in the United States. As noted earlier, about half of the manufacturing grade milk in the country is produced in this two-State area. It is the prices being paid in this area for such milk that are used in determining the "Minnesota-Wisconsin price." Use of this price for pricing Class III milk in the Duluth-Superior market will result in producer milk used in the residual products being priced at a level commensurate with unregulated milk that is being processed in the same general area into like products. A lower return to the graded producers on the Duluth-Superior market for surplus milk priced under the order is not warranted under the competitive conditions existing in this area.

It should be noted that in all other regulated markets in this two-State area producer milk processed into the residual products is priced at the Minnesota-Wisconsin price. Such markets include Minneapolis-St. Paul, Minnesota-North Dakota, and Chicago Regional, all of which are near the Duluth-Superior market. There is no indication that regulated handlers in the Duluth-Superior market are faced with conditions uniquely different from those faced by handlers in these other markets in disposing of surplus milk.

The surplus pricing adopted for the 32 markets will result in a significantly greater coordination of surplus prices under all Federal milk orders than is now the case. With the exception of one relatively small market (Appalachian), prices under all orders for milk used in the key residual products (butter, nonfat dry milk and cheese) would be based on the Minnesota-Wisconsin price, either alone or in conjunction with the butter-powder snubber adopted herein. As noted earlier, such products are marketed within a highly coordinated marketing system that is national in scope.

*Class II.* Certain uses of producer milk not needed for Class I purposes should be priced at a somewhat higher level than that applicable to milk in the adopted Class III uses. These higher-valued uses, to be included in the Class II classification, were set forth at the beginning of this discussion on pricing surplus milk. The Class II price, which should be the same under each order, should be the Minnesota-Wisconsin price plus 10 cents.

Of the products adopted herein for inclusion in Class II, one of principal importance is cottage cheese. In 1970 about 840 million pounds of the skim milk and butterfat utilized by pool handlers under the 32 orders was used to produce cottage cheese. For this discussion the term "cottage cheese" encompasses cottage cheese (i.e., creamed cottage cheese), lowfat cottage cheese, and dry curd cottage cheese.

Five of the 32 orders under consideration now provide a higher price for milk used in cottage cheese than the price provided for milk used in butter, nonfat



V 38 I 177 SEP 13 73 XUM

dry milk or cheddar cheese. There are several distinguishing characteristics of cottage cheese production that support a higher price for milk in this use than for milk channeled into the residual surplus uses. There is little, if any, relationship between the quantity of cottage cheese made and the amount of reserve milk in a market, as is the case with respect to butter and nonfat dry milk, for instance. Unlike such other manufactured products, cottage cheese has a more limited storage life and must be processed on a regular basis. Thus, as in the case of fluid milk products, handlers normally want adequate supplies of fresh, high-quality producer milk to be made available at their plants at all times for cottage cheese use.

Although some cottage cheese is made in specialized country plants, as the economics of location would suggest, cottage cheese production is commonly an integral part of the processing operations of fluid milk distributing plants. Such plants are usually located in or near the populated centers of the market. This entails a greater hauling expense for producers than when the reserve milk is processed in the production area, as is generally the case with respect to butter, nonfat dry milk and hard cheese manufacture.

The adopted Class II price (the Minnesota-Wisconsin price plus 10 cents) is a reflection of some of the additional value which producer milk used in cottage cheese has to regulated handlers. Although local producers represent the regular source of milk for cottage cheese production, a handler may choose to use milk from some other source for this purpose. Such milk could not be obtained on a regular basis, however, at less than the cost of producer milk under the adopted pricing scheme.

Rather than produce his own cottage cheese, a handler might choose to purchase the finished product from some other Federal order market where a lower price applies to milk for cottage cheese. There is no indication, however, that under the adopted pricing such a handler could materially enhance his competitive position relative to handlers using producer milk. The cost of transporting cottage cheese, a somewhat bulky and perishable item, from distant areas to outlets in the 32 markets would generally negate any seeming price advantage attributable to differences in applicable order prices.

In the New Orleans market, certain handlers process a type of cheese described locally as "Creole cheese". This product, which apparently is limited to this market, was described at the hearing as being similar to cottage cheese. Accordingly, Creole cheese should be included in the same class as cottage cheese under the New Orleans order.

Milk used in yogurt should be priced at the Class II price level. Yogurt is a soft, nonfluid, "spoonable" product. It is not a beverage as are other products defined herein as fluid milk products.

Yogurt has some of the marketing characteristics of cottage cheese, although, unlike cottage cheese, very limited quantities of yogurt are made from milk priced under the 32 orders. In 1970, about 13 million pounds of skim milk and butterfat were utilized in yogurt production in the 32 markets. To the extent of this limited production, however, processors generally use regular supplies of inspected milk. Although yogurt can be made from cream and nonfat dry milk, processors prefer milk. Since yogurt has a relatively limited shelf life, it is made on a continuing basis, thus requiring a regular supply of milk at all times. As in the case of cottage cheese, these conditions warrant that producer milk in yogurt be priced at a level above the price for milk disposed of through the traditional residual uses for surplus milk.

Class II also should include frozen desserts (including commercial milkshake and ice milk mixes), custards, puddings, pancake mixes, dietary and infant formulas, and sales of bulk milk and cream to commercial food processors for use in food products. In the August 28 recommended decision, such uses of skim milk and butterfat were proposed to be included in Class III. Upon consideration of exceptions filed to that decision by cooperatives, it is concluded that market conditions support a higher price for producer milk in such uses than was initially recommended.

As producers pointed out in their exceptions, the rationale set forth in the August 28 decision for including cottage cheese in an intermediate class is in several respects applicable to these other products just listed. The demand for producer milk used in these products is related closely to the current consumer demand for such products. Thus, handlers normally want adequate supplies of producer milk made available at their plants in the quantities and at the times needed for these uses. This is in contrast to the more storable residual "hard" products. Also, the processing of such products often takes place at the market center, which entails a greater hauling expense for producers than when reserve milk is processed in the production area. Moreover, it is doubtful that handlers in general would be able to obtain alternative supplies of milk or product ingredients at less than the cost of producer milk under the adopted pricing provisions.

Cooperatives proposed that the Class II price in most of these markets range from 10 to 20 cents over the Minnesota-Wisconsin price. The lower 10-cent differential (to apply to both cottage cheese and frozen desserts) was proposed for those markets where local ungraded milk supplies represent a significant competitive factor for regulated processors of ice cream and other frozen desserts. The national associations of fluid milk and ice cream processors contended that any price differential over the Class III price for milk in an intermediate class should not be more than 10 cents per hundredweight. In supporting this position, individual handlers stressed that any greater price differential would seriously jeopardize the competitive position of regulated handlers using producer milk relative to unregulated processors relying largely on ungraded milk.

With respect to the several milk uses at issue in the cooperatives' exceptions, the preponderance of evidence at the hearing focused largely on the marketing of frozen desserts. The marketing conditions for frozen desserts are somewhat varied throughout the 32-market area. Some regulated handlers rely regularly on producer milk for use in frozen desserts. In some of the southern markets where milk supplies tend to be shorter than elsewhere, handlers use producer milk when it is available but often must supplement such milk with purchases of condensed skim milk and nonfat dry milk. Some handlers, wherever located, rely on these concentrated forms of milk entirely in processing frozen desserts. Also, the concentrated products used may be made from either graded or ungraded milk. In addition, much of the processing of frozen desserts is done at unregulated plants. Some unregulated processors rely on ungraded milk, while others use milk surplus to the needs of regulated fluid markets. Other unregulated processors use concentrated forms of milk from either graded or ungraded sources.

The marketing situation in the 32-market area for the several other milk uses in question (custards, puddings, pancake mixes, dietary and infant formulas, and sales to commercial food processors) is essentially the same as for frozen desserts.

Under these varying conditions, the Class II price should be set at 10 cents over the Minnesota-Wisconsin price. Pricing Class II milk at this level should permit regulated handlers using producer milk to remain competitive in the marketplace with the unregulated sector in the sale of Class II products. At the same time, such price will reflect the minimum additional value of such high quality producer milk supplied to regulated handlers over the widespread area covered by the 32 markets at the times and places, and in the quantities, needed for the several Class II uses.

It is recognized that under the varied conditions just described an individual handler may find that producer milk does not represent the cheapest source of milk for his Class II uses. Presumably, the alternative source would be concentrated forms of milk since health regulations would not permit the receipt of ungraded supplies of whole milk at a pool distributing plant, and graded supplies would not be available on a regular basis at less than the Class II price. Under the revised allocation provisions adopted herein, receipts of nonfluid other source milk such as condensed skim milk or nonfat dry milk that are used in a Class II product would be allocated directly to the handler's Class II uses, with no obligation applying under the order to such milk. Under this arrangement, the handler could choose to use the other source milk without the cost impact of down-allocation should the cost of such milk become less than the cost of producer milk. The handler thus could rely upon whichever source of milk best fits his competitive and operational circumstances.





Classifying the several types of cream items, some of which are now in Class I while others are in Class II or Class III, in Class II will accommodate proponents' desire for a lower price for milk used in cream products and at the same time price at the same level a variety of products that compete with each other. Half and half, whether sterilized or unsterilized, and light cream are used principally by consumers in coffee. Aerated cream and sterilized and unsterilized whipping cream are used as dessert toppings. Both graded and ungraded sour cream and sour mixtures are used by consumers for similiar purposes. Like classification for these cream products will result in uniform pricing to handlers for milk used in products competing in the same trade channels for essentially similar uses.

Although the present Class I cream products sold in these markets must be made from inspected milk, which is delivered regularly by producers to distributing plants, there was general agreement by producers and handlers that milk sold in the form of such products should no longer be subject to the Class I price. Relative to the total Class I sales of producer milk in these markets, cream products represent only 1.5 percent of the present Class I market. Thus, this classification change will have relatively little effect in total on the returns to producers.

In connection with the reclassification of cream products, it is desirable to define a new term—"fluid cream product." "Fluid cream product" would mean cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

With the reclassification of cream, movements of cream to or from a plant no longer should be considered in determining whether a plant meets the pooling requirements of the order.

Class II milk should include eggnog. Although eggnog is prepared for use as a beverage and is now a Class I use in 9 of the 32 markets, proponent cooperatives contended it should not be a Class I product because of competition from imitation products. Eggnog has a relatively high butterfat content and the limited sales of the product are highly seasonal. In 1970, only about 12 million pounds of eggnog, with an average butterfat content of 7 percent, were disposed of by pool handlers under the 32 orders. An estimated 40 percent of the marketings of this type of product is in the form of imitation eggnog. Classification of eggnog in Class II rather than Class I will materially enhance the competitive position of the product in the marketplace.

Most of the orders now provide that any "filled" product containing 6 percent or more nonmilk fat (or oil) shall be in the surplus price class. With the establishment of an intermediate price class under each of the 32 orders, it is appropriate that any such filled products that resemble the proposed Class II products made with milk fat likewise be included in this class. The substitution of nonmilk fat for milk fat in a product merely changes the composition of the product and not its use. For competitive reasons, a comparable classification of products made with milk fat and their filled counterparts is necessary.

Condensed milk or skim milk in bulk, plastic cream, frozen cream and anhydrous milk fat are "intermediate" products that also should be included in Class II. These products are not end uses in themselves but instead are used in making other products, including frozen desserts and food products such as candy and soup. Under the classification adopted herein, frozen desserts and food products are Class II uses for milk. Accordingly, producer milk used in the several intermediate products likewise should be priced at the Class II level.

A Class II classification should not apply to evaporated or condensed milk or skim milk in consumer-type containers as the cooperatives proposed. Such storable products should remain in the lowest price class. A Class III classification for producer milk in these products will permit such uses to remain as a competitive outlet for milk surplus to the needs of the Class I market. Such products made from milk regulated under these orders must compete over wide areas with the same products processed from ungraded milk or other graded milk that is often priced at no more than the Minnesota-Wisconsin price. Comparable pricing should prevail under these 32 orders.

Although cooperatives proposed Class II price differentials of 10, 15, 20, and 25 cents, the Class II differential for each market should be the same. The distribution of the adopted Class II products from a single plant often extends over a broad region encompassing several Federal order marketing areas. Numerous examples were cited on the record concerning the widespread sales of yogurt, cream items, frozen desserts and cottage cheese in particular. Because of this intermarket competition, a uniform Class II price differential should be provided in these orders to complement the uniform classification provisions. A price differential of 10 cents reasonably reflects the added value which handlers are able to pay for producer milk in such uses as compared to procuring milk supplies or finished products from other sources.

In proposing a generally uniform classification plan for the 32 markets, cooperatives emphasized that any new plan adopted should not result in lower total returns to producers. Handlers, on the other hand, stressed that their total cost of milk should not be increased.

Providing for classification and pricing provisions that are generally uniform among the various markets cannot necessarily encompass at the same time the maintenance of precisely the same value of producer milk in each market. With the many classification and pricing differences that now exist among the 32 orders, resolution of these differences through a uniform classification and pricing plan would be expected to have some effect on the value of producer milk in individual markets. While the provisions adopted in this decision are not designed to change the value of producer milk in the aggregate, their effect on producer returns or handlers' costs in an individual market cannot be controlling in deciding on the matter of classification and pricing here under consideration.

4. *Miscellaneous classification and accounting changes.* The following findings and conclusions relate to certain miscellaneous classification proposals by handlers and producers and to some of the order changes that are necessary to implement the revised classification plan adopted herein for each of the 32 subject orders.

(a) *Other source milk definition.* A common other source milk definition should be adopted for each order.

Because of the revised classification plan, certain changes in the present other source milk definition of each order are necessary. This definition would continue to serve, however, the present function of implementing the identification of various categories of receipts at a regulated plant.

At present, fluid milk products from any source other than producers, cooperatives acting as a handler for farm bulk tank milk, pool plants, and plant inventory at the beginning of the month are considered as other source milk.[3] Under the revised classification plan, however, cream no longer would be defined as a fluid milk product. To facilitate the application of other provisions of each order, it is desirable, nevertheless, that fluid cream products, when in bulk form, continue to be treated in the same manner as fluid milk products for purposes of applying the other source milk definition.

Other source milk should include any receipts in packaged form of fluid cream products, eggnog or yogurt (or any filled product resembling such products). These are Class II products under the revised classification plan.

Producers and handlers proposed that Class II products received at a pool plant in packaged form and then disposed of from the plant without further processing be treated as "pass-through" products. Under this treatment such "pass-through" products would not be considered as other source milk and would not be subject to the allocation and pricing provisions of the order.

[3] The terms "pool plant" and "nonpool plant" will be used occasionally throughout this decision. Most of the 32 orders define such terms for the purpose of distinguishing between those plants that are fully regulated under the order and those plants that are not so regulated. In some orders, the terms "fluid milk plant" and "nonfluid milk plant," or "approved plant" and "unapproved plant", are used for the same purpose. When reference is made in this decision to a "pool plant" or a "nonpool plant", it is intended (unless noted otherwise) that the reference apply correspondingly to the other types of plants.



V 38-177 SEP 13 73 XUM

Although no handler obligation would apply under the provisions adopted herein to these receipts of packaged Class II products, it is desirable for accounting purposes that such receipts be defined as other source milk. This accounting procedure will preclude the recordkeeping difficulties that might otherwise be experienced in accounting separately for inventories and sales of Class II products processed in the handler's plant versus those received at the plant in packaged form from other plants. As provided herein, such receipts of other source milk would be allocated directly to the handler's Class II utilization, rather than being allocated to the extent possible to the handler's lowest utilization as is provided in some cases for other types of other source milk.

The orders now provide that manufactured products from any source that are reprocessed, converted into, or combined with another product in the plant shall be considered as other source milk. For accounting purposes under the order, such manufactured products should include dry curd cottage cheese received at a pool plant to which cream is added before distribution to consumers. When used to produce cottage cheese or lowfat cottage cheese, the receipts of dry curd would be allocated under the adopted provisions directly to the handler's Class II utilization. No handler obligation would apply under the order to such receipts.

The orders should provide that products manufactured in a pool plant during the month and then reprocessed, converted into, or combined with another product in the same plant during the same month not be defined as other source milk. A typical processing operation would be for a handler to make condensed skim milk from producer milk and then use the condensed product in making ice cream. It is intended under this situation that the producer milk be considered as having been used to produce ice cream. The condensing operation is merely one of the steps performed by the handler in processing ice cream from raw milk.

Other source milk should include any disappearance of manufactured milk products for which the handler fails to establish a disposition. Fourteen of the 32 orders now have a provision concerning the unaccounted for disappearance of such products. The other 18 orders do not specify such disappearance as other source milk.

It is reasonable that each handler be required to account fully for all milk and milk products received or processed at his plant. Otherwise, a handler with inadequate records may have an opportunity to gain a competitive advantage over his competitors who properly account for all milk. Specifying any unexplained disappearance of manufactured milk products as other source milk will contribute to a uniform application of the regulatory plan to all handlers.

(b) *Accounting for nonfat milk solids added to milk and milk products.* Except for two orders, no change should be made in the present method of classifying the skim milk equivalent of nonfat milk solids added to a fluid milk product.

Currently, all but two of the orders under consideration provide that a modified fluid milk product shall be classified as Class I in the amount of the weight of an equal volume of an unmodified product of the same nature and butterfat content. The remaining skim milk equivalent of the nonfat milk solids in such product is classified in the lowest class.

The Neosho Valley and Fort Smith orders presently do not set forth a specific procedure for accounting for nonfat milk solids added to milk and milk products. As proposed by producers, such orders should be made uniform in this respect with the other orders under consideration.

Cooperatives proposed that the amount of a modified fluid milk product that is classified as Class I milk be the actual weight of the modified product rather than the weight of a like unmodified product. Proponents stated that the use of the weight of the modified product would accommodate some of the technical problems of laboratory analysis when this procedure is used in verifying the amount of nonfat milk solids added to natural milk or skim milk. They indicated that since the results of laboratory tests are expressed as a percentage of the weight of the product being tested, using the actual product weight factor would simplify the accurate accountability of modified products.

There was no showing of the extent to which laboratory analysis of modified products is used in verification by market administrators in these markets. Also, there is no indication that modified products are not being accounted for in an accurate manner. Thus, it is not clear from this record that the proposed procedure is necessary for more accurate product accounting or that it would result in any net saving in administrative cost.

Proponents did not attempt to demonstrate any economic basis for making the slightly greater charge for nonfat milk solids used to modify fluid milk products that would result from their proposal. Their proposed procedure would increase slightly the quantity of a modified product priced in Class I. A gallon of modified skim milk containing 11 percent nonfat milk solids, for example, would be classified in Class I on an 8.7 pounds weight factor as compared to the present basis of an 8.63 pounds weight factor.

The present method of classifying modified fluid milk products increases total Class I sales only to the extent of the volume of the unmodified product that the added nonfat milk solids replaces. In the absence of evidence that the present procedure is inappropriate it should be continued. The present procedure is used under Federal orders generally and, therefore, carries out the objective of uniformity in this respect.

Handlers may add nonfat milk solids to several of the proposed Class II products, such as half and half and light cream. Each order should provide in this case that the entire weight of the skim milk equivalent of the solids added by classified in Class II. This procedure would differ from that applicable to modified fluid milk products in that no part of the skim milk equivalent of the added solids would be classified in the lowest class. As described in detail later, nonfat dry milk or condensed milk that is added to a Class II product would be allocated directly to the handler's Class II use. Thus, classification of the entire skim milk equivalent in Class II would not affect adversely the handler's pool obligation under this allocation procedure.

(c) *Classification of milk transferred or diverted to other plants.* Certain changes should be made in the provisions of each order that prescribe the classification of fluid milk products that are transferred or diverted from a pool plant to another plant. Several of the changes become necessary with the adoption of three classes of utilization in place of the present two classes. Other changes are appropriate for purposes of uniformity among orders and clarity in the classification of milk.

Under the adopted classification plan, fluid cream products would be classified as Class II products. If such products are transferred to another plant in packaged form, the skim milk and butterfat contained therein should be classified as Class II milk since these items are moved in final form. The classification of fluid cream products when disposed of in bulk form, however, is determinable only by following the movement of the bulk product to its subsequent use. Thus, it is necessary that fluid cream products that are transferred in bulk form from a pool plant to another plant be classified in a manner similar to that now used in classifying transfers of bulk fluid milk products.

Each order now prescribes a procedure for classifying transfers of bulk fluid milk products from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant. To determine such classification, the nonpool plant's utilization must be assigned to its receipts of milk from each source. Some amplification of this procedure is appropriate to set forth clearly the priority for assigning the different types of plant use to the different sources of fluid milk products and bulk fluid cream products received at the nonpool plant.

Under the adopted assignment priorities, the first step is to assign the nonpool plant's Class I utilization to its receipts of packaged fluid milk products from all federally regulated plants. Such receipts should receive first priority on the nonpool plant's Class I use since all orders provide that such packaged transfers from a pool plant to an unregulated nonpool plant shall be classified as Class I milk. Thus, any Class I route disposition of the nonpool plant in the marketing area of a Federal order, and any transfers of packaged fluid milk products from the nonpool plant to plants fully regulated under such order, would be assigned, first, to the nonpool plant's receipts of packaged fluid milk products





from plants fully regulated under such order and, second, to any such remaining packaged receipts from plants fully regulated under other Federal orders.

A similar assignment of any such remaining disposition (i.e., the aforesaid Class I route disposition and transfers of packaged fluid milk products) then would be made to the nonpool plant's receipts of bulk fluid milk products from pool plants and other order plants. Any other Class I disposition of packaged fluid milk products from the nonpool plant, such as route disposition in unregulated areas, would be assigned to any remaining unassigned receipts of packaged fluid milk products at the nonpool plant from plants fully regulated under any Federal order.

After these assignments, any Class I use at the nonpool plant that is attributable to the Class I allocation at a Federal order plant of fluid milk products transferred in bulk from the nonpool plant to the regulated plant would be assigned next. Such use would be assigned, first, to the nonpool plant's remaining unassigned receipts of fluid milk products from plants fully regulated under that order and, second, to any such remaining receipts from plants fully regulated under other orders.

Additional unassigned Class I utilization at the nonpool plant then would be assigned to the plant's receipts of Grade A milk from dairy farmers and unregulated nonpool plants that are determined to be regular sources of Grade A milk for the nonpool plant. Any remaining unassigned receipts of fluid milk products at the nonpool plant from plants fully regulated under any order would be assigned to any of the nonpool plant's remaining Class I utilization, then to its Class III utilization, and then to its Class II utilization.

Following these assignments, any receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants would be assigned to the nonpool plant's remaining unassigned utilization in each class. Such assignment would be made in sequence beginning with the lowest class.

In determining the classification of any transfers or diversions from a pool plant to a nonpool plant, the utilization of any transfers from the nonpool plant to another unregulated nonpool plant also must be established. In this case, the same assignment priorities just outlined should apply also at the second nonpool plant.

Certain changes should be made in each order concerning the classification of products transferred from a pool plant to a producer-handler. Under the revised classification plan, bulk fluid cream products transferred from a pool plant to a producer-handler should be assigned to the extent possible to the latter's Class III use, and then Class II use. If the producer-handler does not have enough utilization in these classes to cover such transfers, any remaining transfers should be classified as Class I milk.

As in the case of all other fluid milk products, such transfers of cream are now classified as Class I milk. Such classification tends to assure that producers do not carry for producer-handlers the burden of maintaining reserve supplies for the Class I sales of producer-handlers. With the removal of cream from the Class I classification, as adopted herein, a mandatory Class I classification of cream transfers to producer-handlers would not be necessary for this purpose.

Each order should provide that fluid milk products transferred from a pool plant to a producer-handler under another order be classified as Class I milk. With one exception, this classification now applies under these orders with respect to such transfers made on an intramarket basis. The San Antonio order has no provisions for classifying such transfers since it does not contain a producer-handler definition.

The producer-handlers, in their capacity as handlers, have been exempt from the pricing and pooling provisions of the various orders. In consideration of this exemption, each order, except as noted, requires a Class I classification of all fluid milk products that are transferred from a pool plant to a producer-handler as defined under that particular order. Inasmuch as the producer-handler exemption under each order is predicated on essentially the same basis, a Class I classification of milk transferred from a pool plant regulated under one order to a producer-handler as defined under another order would be in keeping with the general basis for producer-handler exemption.

In addition to the Class I classification of all fluid milk products transferred from a pool plant to a producer-handler, several orders provide for a similar classification of all fluid milk products transferred to a Government-operated plant. Such plants are exempt from the pooling and pricing provisions of the order in much the same manner as producer-handlers. It is appropriate, therefore, that the adopted method for classifying bulk fluid cream products transferred to a producer-handler likewise apply to transfers of bulk fluid cream products to Government-operated plants.

The orders should be uniform with respect to the conditions under which the classification provisions apply to bulk milk movements from one regulated market to another. Although each order now has the same rules for classifying such movements of milk, their application is limited under some orders to only those movements in the form of interplant transfers. This is because such orders do not permit milk to be moved between markets by diversion.

Since the advent of farm bulk tanks, the diversion of producer milk from pool plants to manufacturing plants has been a common method of handling milk not needed for the fluid market. Under some orders, such diversions are permitted to be made only to unregulated nonpool plants. For a number of markets where available manufacturing facilities are associated with another regulated market, the orders permit producer milk to be diverted to other order plants. Corollary provisions in the order regulating the manufacturing plant specify that such milk, although having been delivered directly from the farm, shall not be considered as producer milk in the market to which diverted if the milk comes into the market for manufacturing use.

In connection with developing uniform classification provisions for the 32 orders, provision should be made under each order for the diversion of milk to other order plants for Class II or Class III use. This will contribute to a more uniform application of the classification provisions to all regulated handlers. At the same time, such provisions will foster the efficient handling of surplus milk in these markets by permitting the disposal of such milk directly from farms to manufacturing plants in other markets, rather than having such intermarket movements limited to the more expensive method of transferring milk from one plant to another. With the safeguards adopted herein, returns to producers in the market to which the milk is diverted will not be affected by the processing of this surplus milk in their market since the diverted milk will continue to be pooled in the market from which diverted.

The classification of fluid milk products transferred or diverted from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant should not be contingent upon any distance limitation. Presently, 20 of the 32 orders under consideration provide for the Class I classification of milk moved beyond a specified distance, regardless of its ultimate use at the nonpool plant. In the case of milk transferred to less distant plants, recognition is given under the classification provisions of the 20 orders to the nonpool plant's actual utilization.

Cooperatives proposed the removal of all mileage limitations affecting the classification of transfers and diversions. They claimed that these provisions are not appropriate under today's marketing conditions and that their removal would facilitate the orderly disposition of reserve milk supplies.

The conditions prompting the initial adoption of these mileage limitations no longer prevail, thereby making their continued use inappropriate. The use of mileage limitations evolved in large part from the relatively high transportation cost of milk relative to its value for manufacturing and from the administrative cost of verifying the utilization of milk transferred to plants distant from the local market. Under today's conditions of distribution, milk regularly moves greater distances as a routine matter. Moreover, Federal orders now operate throughout much of the United States. Arrangements for verifying the utilization at distant plants can be made easily through the facilities of the various market administrators' offices.

Also, the mileage limitations often are no longer consistent with the existing supply patterns. Milk is often moved considerable distances from producers' farms to distributing plants. When such milk is not needed for fluid use, it is usually diverted to manufacturing plants



V 38 177 SEP 13 73 XUM

located close to the production area. Classifying such milk in Class I because of applicable mileage limitations is not consistent with the obvious manufacturing use of the milk. Removal of such provisions will promote uniformity in classification among the 32 markets.

(d) *Classification of end-of-month inventory.* Each of the orders should be made uniform with respect to the classification of inventory on hand at the end of the month. Fluid milk products in either packaged or bulk form that are in a handler's end-of-month inventory should be classified as Class III milk. Such inventory should be subject in the following month to reclassification in a higher class. Ending inventory of fluid cream products, eggnog and yogurt, when held in bulk form, likewise should be classified in Class III and subject to reclassification. Such products held in packaged form at the end of the month should be classified as Class II milk.

Presently, 22 of the 32 orders classify all ending inventories of fluid milk products (which now include most cream products) in the lowest class. Under the remaining orders, such inventories in bulk form are classified in the lowest class, while a Class I classification applies to such inventories in packaged form. In the latter case, a handler's obligation for the Class I inventory is adjusted in the following month by whatever amount the Class I price in such month changes from the Class I price level initially applicable to the inventory. This assures that such inventory is priced on a current basis when disposed of on routes.

Cooperatives proposed that each order classify all ending inventories of fluid milk products in Class III. They claimed that this procedure would be less complicated for handlers and would facilitate the administration of the order since handlers only occasionally would have any adjustment in their pool obligation as a result of having Class III inventory reclassified in a higher class. Proponents stated that with packaged inventory in Class I, as under 10 of these orders now, each handler usually has some adjustment each month in his obligation for Class I inventory. The cooperatives' proposed classification of ending inventory was supported by handlers.

In the interest of establishing uniform classification provisions among the orders, the same procedure for classifying end-of-month inventory should be adopted for each of the orders. Either type of inventory classification procedure now being used in these markets results over the long run in essentially the same pool obligation for handlers and the same returns to producers. In this circumstance, the substantial support among the industry for classifying all ending inventories of fluid milk products in the lowest class suggests that this procedure be used under all orders. Under this procedure, such inventories would be subject in the following month to reclassification in a higher class, as determined through the alocation of a handler's receipts to his utilization. A charge to the handler at the difference between the Class III price for the preceding month and the Class I or Class II price, as applicable, for the current month would apply to any reclassified inventory. This is the same reclassification procedure that now applies under the orders to inventories of fluid milk products in bulk form.

Fluid cream products in bulk form that are on hand at the end of the month likewise should be classified in Class III. As in the case of bulk milk, the final use of cream being held in bulk form is not necessarily apparent from that form. The cream must be followed to its ultimate use, which may be in any class. Accordingly, it is reasonable to classify any closing inventory of bulk cream in Class III and then apply a reclassification charge should the cream, as beginning inventory the following month, be allocated to a higher class.

Fluid cream products, yogurt and eggnog that are on hand in packaged form at the end of the month should be classified in Class II, the class of expected ultimate use, rather than in Class III as would be the case for ending inventories of such products in bulk form. The higher classification will accommodate the treatment adopted herein whereby such products that are received at a pool plant in packaged form and disposed of in the same packages would be permitted to "pass through" the plant without any pool obligation or down-allocation. In this connection, the ending Class II inventory, as Class II inventory on hand at the beginning of the following month, would be allocated in the following month directly to the handler's Class II utilization.

Cooperatives proposed that for classification purposes ending inventory include only those products that are actually on the premises of a pool plant. Under their proposal, the premises of a plant would be limited to a location having equipment for receiving, cooling, processing and storing milk. However, products being held in trucks parked at that location would not be a part of the handler's closing inventory. Also a storage facility at a distributing point for packaged products in transit to wholesale and retail outlets would not be considered under their proposal as an extension of the premises of a plant. Cooperatives proposed also that ending inventory include any bulk milk that is in transit from a pool plant to another plant at the end of the month. Proponents claimed that defining ending inventory in this manner would facilitate the administration of the order.

The present orders do not specify at what point in a handler's distribution system fluid milk products shall be or shall not be considered for classification purposes as being in a handler's closing inventory. This is a matter that has been left to the accounting guidelines established by market administrators in their administration of the orders. It is recognized that at the close of the monthly accounting period fluid milk products that have been packaged but not yet delivered to the place of sale may be at any one of several places in a handler's distribution system. Depending on the handler's method of operation, such places could include the cold storage room within his processing plant, trucks parked on or near the plant's premises, distributing points, or trucks in transit to distributing points or places of sale. No significant problems concerning the determination of what constitutes closing inventory were brought to light at the hearing. Therefore, the cooperatives' proposal in this regard need not be adopted at this time.

For the first month that the revised classification plan is effective, certain transitional provisions relating to inventory should apply. Such provisions are necessary to assure that all handlers under an order will be subject to the same pricing for milk used in packaged fluid milk products and fluid cream products whether such products enter into the month's accounting as beginning inventory or are made from current receipts of producer milk.

As indicated, 22 of the orders under consideration presently classify ending inventories of fluid milk products, including cream items, in the lowest class. Thus, in the last month that the present classification plan is effective, handlers under these orders will have paid the corresponding class price for these products. In the first month under the new plan, such inventories that had been held over in the form of a fluid milk product or a bulk fluid cream product would be allocated to the extent possible to the handler's Class III utilization. Should such inventories be allocated to a higher class, the appropriate reclassification charge would apply.

Under the new plan, beginning inventories of fluid cream products in packaged form normally would be allocated directly to a handler's Class II utilization. Such allocation assumes that the products were priced at the Class II price in the preceding month. Since this would not be the case for the first month under the new amendments, such inventories should be allocated in the first month to the extent possible to Class III, as in the case of inventories of fluid milk products and bulk fluid cream products. A reclassification charge should apply if a higher classification results.

Under the remaining 10 orders, which now classify ending inventories of packaged fluid milk products in Class I, a pool credit should apply to such inventories in the first month that the revised classification plan is effective. Under the new plan, beginning inventories of fluid milk products and, for the first month, all fluid cream products would be allocated to the extent possible to Class III. Again, this allocation assumes that such inventories were priced at the lowest class price in the preceding month. Since such inventories in packaged form will have been priced at the preceding month's Class I price, handlers under these 11 orders should receive a credit on such packaged inventories equal to the difference between the preceding month's Class I price and lowest class price. If a higher classification results through the allocation procedure, the appropriate reclassification charge would apply.





(e) *Classification of shrinkage, milk dumped and milk disposed of for animal feed.* Each of the orders should provide for generally uniform provisions for classifying skim milk and butterfat dumped, disposed of for animal feed, or in shrinkage.

In the case of shrinkage, the cooperative associations requested that no change be made in the present order provisions, except to classify shrinkage in Class III insofar as it is now classified in the lowest class of each order.

The shrinkage provisions adopted herein are basically similar to the shrinkage provisions now effective under 27 of the 32 orders. The classification of shrinkage in the lowest use class (subject to certain limitations), as now provided in all the orders, would be continued under the adopted three-class system. Modifications of shrinkage provisions in the individual orders are in the nature of certain refinements now applicable under several of the orders.

The amount of shrinkage that may be classified in the lowest class under the 32 orders is presently limited with respect to receipts of producer milk and certain interplant transfers. In 31 of the orders, 2 percent is the maximum shrinkage allowed in the lowest class in the case of such receipts. One and one-half percent is the rate usually applicable to bulk receipts of interplant transfers, but generally no limit applies in the case of receipts of other source milk requested for lowest class use. These allowances are adopted for each order in the new uniform provisions.

Also adopted is the commonly used method of prorating total plant shrinkage to (1) those kinds of receipts on which the shrinkage limitations apply, and (2) other receipts of fluid milk products in bulk form, such as milk from other order plants or unregulated supply plants for which a Class II or Class III classification is requested. To the extent that the quantity of shrinkage prorated to the first category exceeds the established limit, the excess would be classified in Class I.

The adopted provisions recognize that shrinkage normally experienced varies with the type of handling involved. More loss is usually experienced in plant processing than in merely receiving milk for delivery to another handler. Thus, with respect to delivery of milk by a cooperative association handler from farms to plants in tank trucks, a Class III shrinkage allowance of 0.5 percent of such milk is provided. Any excess shrinkage over 0.5 percent is classified as Class I milk.

The Class III shrinkage allowance to the processing plant receiving the milk from the cooperative would be 1.5 percent. This maintains a total of 2 percent Class III shrinkage allowance for such milk from producers in the receiving and processing operations.

The provisions adopted herein are designed to carry out the appropriate division of shrinkage whether the plant operator purchases the milk at farm weights and tests or at plant weights and tests. The provisions allow the plant operator up to 2 percent shrinkage in Class III if he buys the milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples. In this case, there is no shrinkage allowance for the cooperative association delivering the milk.

As provided herein, when a plant operator disposes of bulk milk by transfer to another plant, his shrinkage allowance would be reduced at the rate of 1.5 percent of the quantity transferred. Such a reduction would not apply, however, in the case of cream or skim milk transferred from the pool plant. This recognizes the fact that a handler normally experiences more shrinkage when he runs milk through a separator than when the milk is merely received and then transferred in whole form.

In the case of milk diverted from a pool plant to another plant, a shrinkage allowance in Class III of 0.5 percent would be provided the diverting handler if the operator of the plant to which the milk is diverted purchases such milk on the basis of weights and tests determined at the plant. If the milk is purchased at farm weights and tests, no shrinkage allowance would apply for the diverting handler. This is the same procedure applicable to cooperative bulk tank deliveries to pool plants. Similar handling is involved.

This kind of division of the 2 percent shrinkage allowance, both in the case of transfers from cooperatives to plants and for transfers between plants, has been found practical and has been well accepted in the markets where it now applies. Such division of the shrinkage allowance, therefore, should be included also in the Cedar Rapids-Iowa City, North Central Iowa, Des Moines, Fort Smith, and Austin-Waco orders that now treat shrinkage in a somewhat different manner.

As has been indicated, the uniform shrinkage provisions adopted would allow for certain typical variations of individual handler operations. Thus, the provisions should be adaptable to methods of milk handling now in use in all 32 markets. Testimony on the record did not provide any basis for retaining the many minor differences in shrinkage provisions that exist among these orders. In view of these conditions, it is appropriate that the orders have basically uniform shrinkage provisions.

The single exception to the maximum 2 percent shrinkage allowance will be in the Neosho Valley order that now allows up to 5 percent shrinkage in the surplus class for skim milk during April, May, and June. Although the record does not indicate why a need exists for such a substantially different allowance in one market, no change should be made in the allowance until the matter can be explored further.

A proposal in the hearing notice by two trade associations of processors would amend the orders to allow shrinkage on milk solids used in fortifying fluid milk products. While such an allowance now applicable under the North Texas order would be continued in that market, a basis for adoption in the other orders was not developed on the record. It would be important to have, for the other markets, evidence of current plant practices with respect to use of nonfat solids used for fortification and the effect of accounting and recordkeeping procedures on quantities reported as loss. Such data were not presented and thus there is no substantial basis on which to broaden the use of such provision.

Milk or milk products dumped or disposed of for animal feed are minor categories of disposition. Both cases involve quantities of milk products that for one reason or another are not salable for human consumption. Such dispositions are likely to occur in normal plant operations. Route returns that may be nonsalable because of dating regulations often may not be reprocessed economically into other products. Additives such as flavoring or nondairy solids may make reprocessing impractical. Also, in the processing of certain products culturing processes may break down, thereby making the milk unusable for further processing.

The cooperatives proposed that there be no change in the present classification of dumpage and animal feed other than to include such uses in the lowest class in those orders specifically recognizing such dispositions. Several milk dealers and two trade associations of processors also proposed that dumpage and animal feed dispositions be classified in the lowest use class. They requested, however, that these provisions be included in the several orders not now containing such provisions.

In the three-class system adopted in this decision, dumpage and animal feed dispositions are classified in the lowest use class. This conforms to the classification plans in those orders that provide specifically for such dispositions. Existing provisions recognize that such dispositions provide little or no return to the handler.

There are differences among the orders as to the type of products for which the lowest classification is permitted when disposed of for animal feed or dumped. While some of the orders apply such classification to all skim milk and butterfat so disposed of, others limit the application to skim milk in fluid milk products, and several orders provide such classification for cottage cheese and cottage cheese curd dumped or disposed of for animal feed.

The products covered by the dumpage and animal feed provisions should be limited to fluid milk products, fluid cream products, eggnog, yogurt and similar filled products. Because of their relatively limited shelf life, it is these products that are commonly found in route returns and for which handlers realize little, if any, monetary value. Such provisions also would apply to skim milk being used in the manufacture of cottage cheese but which must be dumped because of a failure in the culturing process.

Dumping, unlike other dispositions, involves no sales records that could aid in verification of a handler's records. Thus, advance notice to the market ad-



V 38 - 177 SEP 13 73 XUM

ministrator and opportunity for verification should be required. Also, in the case of animal feed disposition, a plant operator should maintain sufficient records to establish in every instance the quantities of skim milk and butterfat involved, and show a written receipt for every disposition.

The several changes herein adopted with respect to the classification of shrinkage, dumpage, and animal feed disposition will have relatively minor effect on producer returns or on handlers' costs. The quantities of milk classified in these categories are normally a very small percentage of an individual handler's total utilization. The uniform provisions adopted are similar to existing provisions found practical from experience in the majority of markets here involved. The standardization of terminology in the provisions described should result in provisions more easily understood.

Whether there may be some merit in a more general revision of the provisions for classifying shrinkage, dumpage, and animal feed disposition than is set forth herein cannot be decided on this record. If more extensive changes are in any way desirable, such matters should be considered on the basis of a thorough exploration of the issue at another hearing.

A handler proposal for a single "loss" classification including shrinkage, animal feed, and dumped products is not adopted. The proposal was not explored by interested parties on the record as to how it would affect handler and producer equities. There is no substantial basis on which to judge its merit and the proposal therefore is denied.

(f) *Allocation of receipts to utilization.* In adopting a revised classification plan under each of the 32 orders, conforming changes must be made in the provisions that prescribe how a handler's receipts from different sources shall be allocated to his utilization for the purpose of classifying producer milk. Of the 32 orders, all but seven provide for only two classes of utilization. Thus, changes in most of the orders are necessary to provide for the allocation of receipts to three classes of utilization rather than two classes. Also, all orders must be changed with respect to the allocation of beginning inventories, as previously described.

The adoption of three use classes requires a new consideration of how other source milk shall be allocated to a handler's utilization of milk. Under the present orders, other source milk is allocated in most cases to a handler's surplus uses to the extent possible, regardless of how it actually may have been used. The producers who are relied upon for a regular supply of milk for the local fluid market thus receive the highest possible classification of their milk. Depending on the supply conditions, milk from unregulated supply plants and other Federal order plants is permitted to share in varying degrees with local producer milk in the higher value of the handler's Class I sales.

In conjunction with the revised classification plan, however, handlers using certain types of other source milk (whether in the form received or in reconstituted form) in the processing of Class II products should be permitted to have such other source milk allocated directly to their Class II uses. Under the plan adopted herein, such other source milk to which direct allocation could apply would be limited to milk products (such as nonfat dry milk and condensed milk or skim milk) that are not fluid milk products or fluid cream products.

The national associations of fluid milk and ice cream processors proposed that if a three-class system is adopted handlers should have the option of having other source milk allocated to their Class II utilization rather than allocated to the extent possible to the lowest class. It was their position that the Class II price for producer milk should not be set at a level that is any higher than the cost to handlers of obtaining alternative supplies of milk or milk products for Class II use. These groups contended that with such pricing there is no justification for "down-allocating" to Class III any receipts of other source milk which actually may have been used in Class II.

Handlers indicated further that with optional allocation a handler could choose to use other source milk without the cost impact of down-allocation should the cost of such milk become less than the cost of producer milk for Class II use. Also, these groups stated that down-allocation of other source milk would imply an intent to provide undue protection of the Class II market for producers. They maintained that such protection is not justified, or apparently intended by producers in view of no producer proposal for a compensatory payment on other source milk used in Class II.

Cooperative associations, on the other hand, urged in connection with their proposal for three classes that producers have first claim on a handler's Class II use as well as on his Class I use.

In establishing a new intermediate price class, it is not intended that this outlet for producer milk necessarily be reserved for local producers. This new use class merely recognizes that some additional value attaches to producer milk used by regulated handlers in the Class II products. Pricing this milk at a level above the Class III price serves also to reduce the burden on the Class I price of attracting a supply of producer milk for the Class I market. It is not intended that producer returns be enhanced for the purpose of also attracting a full supply of producer milk for handlers' Class II uses. Accordingly, no obligation to the pool (commonly known as a compensatory payment) would be imposed under the revised classification plan on any other source milk which regulated handlers may use in Class II or on any Class II products that may be distributed in the market by nonpool plants, either directly on routes or through pool plants.

As long as the Class II price for producer milk remains in proper relationship with the cost of alternative supplies, it is not expected that this direct allocation of nonfluid other source milk to Class II will induce handlers to use other source milk in preference to producer milk to any greater extent than presently for processing Class II products. Under the adopted Class II price, producers would represent in most circumstances the most economical source of milk for Class II use.

No provision should be made for the direct allocation to a handler's Class II utilization of other source milk received in fluid form. Unlike the handling of nonfat dry milk, it would not be unusual for a handler to commingle in his plant any receipts of fluid other source milk with his receipts of producer milk. In this circumstance, it would not be possible to know just how much of the other source milk may have been used in the processing of a Class II product. The difficulty which a handler would have in demonstrating that he actually used fluid other source milk in a Class II product, and the administrative difficulty in verifying such claimed use, warrants the allocation of such milk in essentially the same manner as now provided by the orders.

In this connection, it should be noted that under the revised classification plan each order would provide for the specific allocation to a handler's Class II and Class III utilization of any receipts of bulk fluid milk products from an other order plant or an unregulated supply plant for which the handler requests a Class II or Class III classification. Such receipts would be allocated to the extent possible first to the handler's Class III utilization and then to his Class II utilization. This would be the case even if a Class II classification were requested by the handler.

An additional proposal concerning the "down-allocation" of other source milk was offered at the hearing by a handler operating distributing plants in several of the markets under consideration. The company's spokesman indicated that in one market the milk supply being furnished to it by the local producer cooperative was withheld by the cooperative in a particular month when the company refused to enter into a "full-supply" contract. The spokesman claimed that because the cooperative controlled about 85 percent of the producer milk on the market, the company was forced to acquire a supply of milk for the remainder of the month from another market. The spokesman indicated that although having purchased the outside milk for Class I use some of the milk was down-allocated to the plant's lowest utilization. This was because of the order provisions that now result in local producers receiving in large part first priority on a handler's Class I utilization. The handler proposed that if local producers refuse to supply a pool plant with sufficient milk for its Class I needs during the month, any supplies acquired from outside the market for Class I use not be down-allocated relative to receipts of producer milk.

The proposal should not be adopted. Any order provision intended to accommodate a handler in this one particular circumstance would be difficult to administer in an equitable manner. Handlers are not required by an order to purchase milk from any particular source. Similarly, producers are not required to supply any particular handler. In negotiating for the purchase or sale of milk, either party may find the proposed terms unsatisfactory and thus may decide not to consummate the transaction. It would be difficult, if not impossible, for a market administrator to determine, however, which party actually decided not to enter into a purchase-sales agreement. Should a handler be able to acquire outside milk at a lesser cost than would be applicable to local producer milk, such handler would have an incentive to claim that local producers refused to supply him with milk when, in fact, this was not the case.

Such administrative difficulties could be overcome, of course, through the adoption of provisions that do not down-allocate receipts of outside milk from selected sources, or from any source, for Class I use. This would be a major departure, however, from the allocation procedure now used under the present orders. This procedure, which was based on comprehensive hearings for all Federal order markets, resulted from the "compensatory payment" decisions concerning the integration of other source milk into the regulatory plan of an order.[4] Such a change would be much broader in scope than was contemplated under the handler's proposal described above and should not be adopted.

In keeping with the goal of classifying milk uniformly under the 32 orders, certain changes should be made in the orders to effect a uniform application of the allocation provisions to multiple-plant handlers. Presently, the 32 orders differ as to how the allocation procedure shall be carried out for handlers who operate two or more pool plants regulated under the same order.

Each order should provide that for purposes of allocating a multiple-plant handler's receipts to his utilization, the operations at each of his pool plants shall be considered separately. As is the case now, however, those receipts of other source milk from unregulated supply plants and other Federal order plants eligible to share with producer milk in a handler's Class I utilization should be allocated on the basis of the handler's total plant system.

This application of the allocation provisions to a multiple-plant handler is now used under six of the 32 orders. Two other orders require that allocation be on an individual-plant basis unless there are receipts of other source milk at any one of the handler's pool plants to be allocated pro rata with producer milk to the plant's Class I utilization. In this case, all allocations of the handler's receipts to utilization are done on the basis of the handler's total system. The remaining orders provide that allocation be on a system basis in all cases.

[4] Official notice is taken of the Assistant Secretary's decisions issued on June 19, 1964 (29 F.R. 9002, 9110, and 9213) with respect to all milk orders then in effect.





Conditions in the individual markets do not require continuance of the several allocation methods now provided in the orders under consideration. Handlers are often subject at different times to the regulatory provisions of different orders. Applying the allocation provisions uniformly among all orders will reduce unnecessary regulatory differences being experienced by these handlers. There would be little, if any, change in a handler's total obligation under the order, or in producer returns, from applying the adopted allocation procedure in those orders not now providing for allocation on an individual-plant basis.

All the orders now provide that certain receipts of milk from unregulated supply plants and other Federal order plants shall share in varying degrees with local producer milk in the receiving handler's Class I utilization at all of his pool plants combined. This procedure, which resulted from the 1964 "compensatory payment" decisions referred to earlier, should be continued. To implement this procedure in those orders being changed from system allocation to individual-plant allocation, several additional allocation steps must be provided in such orders. These involve essentially the same computations now required under the orders for the North Texas, Central West Texas, Lubbock-Plainview, Rio Grande Valley, Northern Louisiana, and Des Moines markets where individual-plant allocation is used. Such provisions are revised, however, to incorporate three classes of utilization rather than two classes.

The additional allocation steps establish a procedure whereby the milk from unregulated supply plants and other order plants will continue to be classified on the basis of the handler's total system, but will be assigned to classes at the pool plant of actual receipt. Under this procedure, the situation may arise where there is not enough utilization in a specific class at the plant of actual receipt to which such other source milk must be assigned (as determined from receipts and utilization of his entire system). In this case, an accounting technique is used for increasing the utilization in such class at the plant of actual receipt and making a corresponding reduction in the same class at one or more of his other pool plants in his system. This technique does not result, however, in changing the amount of milk to be accounted for at each plant, or the classification of milk within the handler's entire system.

(g) *Obligations relative to other source milk.* Each of the orders under consideration that provide for market-wide pooling should be revised to the extent necessary to remove the possibility of a handler being charged under the order at the Class I price for milk that already has been classified and priced as Class I milk under some Federal order. Certain of these orders already have been revised to remove any "double charge" on Class I milk. The order language previously adopted for this purpose should be made uniform, however, and should be included in the remaining orders not now containing such provisions.

No changes in this respect are necessary under the Memphis, Fort Smith, Austin-Waco, and North Central Iowa orders. These orders employ individual-handler pooling and do not provide for any handler obligation on other source milk.

A "double charge" on Class I milk received at a pool plant from an unregulated nonpool plant could result in the following manner. Producer milk could be transferred in bulk from a pool plant under the Wichita order, for example, to an unregulated nonpool plant and be assigned to the nonpool plant's Class I utilization. In determining his pool obligation, the pool plant operator would be charged for this Class I utilization of milk at the Class I price. During the same month, bulk milk could be transferred from the nonpool plant to a pool plant under the Kansas City order and be allocated to such pool plant's Class I utilization. In this case, the operator of the pool plant would be charged under the Kansas City order the difference between the order's Class I price and weighted average price for this receipt of "other source" Class I milk. Thus, to the extent of the Class I milk that was moved to the nonpool plant from the Wichita market as Class I milk, the Class I other source milk received at the Kansas City pool plant from the nonpool plant is, in effect, priced twice as Class I milk under the Federal order system.

More and more, plants are tending to specialize in the processing of certain products, or in the packaging of products in particular types of containers. It is not uncommon for milk to be transferred from a pool plant to an unregulated nonpool plant for special processing and the finished products to be moved back into the regulated market. When the milk is initially priced at the Class I price, the market price structure is in no way undermined if this milk, or its equivalent, is disposed of by the nonpool plant in the regulated market.

The orders therefore should provide that the operator of the Kansas City plant, in this example, will have no obligation to the pool on such other source Class I milk. This is achieved through a revision of the allocation provisions and the procedure for computing the pool obligation of a pool plant operator. Receipts of packaged fluid milk products at a pool plant from an unregulated supply plant would be allocated to the pool plant's Class I utilization to the extent that an equivalent amount of skim milk or butterfat disposed of to the unregulated plant by handlers fully regulated under any Federal order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order. This allocation would be made prior to any other allocation of receipts to the plant's Class I utilization, and no order obligation would apply to the milk so allocated to Class I. In the case of fluid milk products received from an unregulated supply plant in bulk form, the provisions setting forth a han-



V 38-177 SEP 13 73 XUM

dler's pool obligation would specify that no payment would apply to any of such milk allocated to Class I if, as just described for packaged milk, an equivalent amount of milk received at the unregulated plant had been priced as Class I milk under some order.

In this same connection, the provisions prescribing the obligation of a partially regulated distributing plant should be changed in each marketwide pool order. When such plant's obligation is computed as though it were a pool plant, proper recognition must be given to any transfers from the plant to a regulated plant that are considered to already have been priced as Class I milk under some Federal order. Also, in computing such plant's pool obligation on route sales in a Federal order marketing area, recognition should be given to any receipt of milk at such plant from another unregulated plant if an equivalent amount of milk received at the latter plant already has been priced as Class I milk under an order.

Each order now imposes a handler assessment for administering the order on all other source Class I milk except that received in fluid form from an other order plant. This may include milk that already has been priced as Class I milk under some Federal order as described above. With the removal of a "double" Class I charge on such milk, each order should be changed to likewise remove any assessment on such milk for administrative expenses. It is presumed that such milk was subject to a similar charge under the order that initially priced the milk.

The marketwide pool orders should be changed also with respect to the application of location adjustments to other source Class I milk. As just described, each of the orders provides that a pool plant operator's obligation to the producer-settlement fund shall include a payment for fluid milk products received from an unregulated supply plant if they are allocated to Class I. The handler's payment is determined by charging him at the Class I price for the Class I other source milk and giving him a credit on the milk at the weighted average price (or uniform price in the case of those orders that do not provide for any type of seasonal production incentive plan). Both the Class I and weighted average prices are adjusted for the location of the unregulated supply plant. The adjustment of the weighted average price, though, is so limited as to be not less than the lowest class price. No such limitation is applied currently under most of the 32 orders to the Class I price adjustment.

Providing that any adjusted Class I price applicable to other source milk be not less than the Class III price is appropriate under each order. Otherwise, under certain conditions a handler could receive payment from the producer-settlement fund on Class I milk obtained from an unregulated supply plant. Such payment could result when the location differential for the distant plant is greater than the difference between the Class I and Class III prices. In this circumstance, producers under the order, in effect, would be providing the handler with a credit that reduces his cost for the distant milk below its value for manufacturing use at the point of purchase. From the standpoint of marketing efficiency, the handler should not be provided an incentive, which would be at the expense of local producers, to import such distant milk into the local market.

A similar situation now exists with respect to the obligation of the operator of a partially regulated distributing plant or an other order plant. In certain cases, the handler's obligation includes a payment to the producer-settlement fund at the difference between the Class I price applicable at his plant and either the weighted average price or the Class III price. For the same reasons, each order should provide, in computing the obligation of such a handler also, that the Class I price, as adjusted for location, shall not be less than the Class III price.

(h) *Reports.* The proposed changes in the classification of milk are not expected to require any major change in the amount of information to be submitted by handlers in their monthly reports of receipts and utilization. The reporting provisions of each order must be changed, however, to reflect the new categories of information that each market administrator will need in administering an order. These changes stem largely from the proposed reclassification of cream and the revised accounting methods necessary for implementing a three-class classification scheme.

In revising the reporting provisions of each order, such provisions should be made uniform to the extent possible. Essentially the same information is now required to be reported under each order, basically for the purposes of determining the classification of the milk and its classified value. There is considerable variation among these orders, however, in the manner in which the provisions on reports are expressed.

As proposed herein, the reporting provisions would be stated in some orders in slightly less detail than is now the case. The market administrator would have, nevertheless, no less authority than at present to obtain through handler reports, in the detail and on forms prescribed by the market administrator, any information the latter believes is necessary for administration of the order.

5. *Changing the butterfat differentials.* A single butterfat differential should apply under each order for adjusting prices to the actual butterfat content of the milk being priced. This differential should be the Chicago butter price multiplied by 0.115, rounded to the nearest one-tenth cent.

All 32 orders provide butterfat differentials for adjusting class prices and uniform prices for butterfat content. With two exceptions, each order bases the class butterfat differentials on the Chicago butter price, which would be continued under the revised orders. The Chicago butter price is the simple average of the wholesale selling prices (using the midpoint of any price range as one price) per pound of Grade A (92-score) bulk butter at Chicago as reported for the month by the U.S. Department of Agriculture. Under the Minneapolis-St. Paul and Southeastern Minnesota-Northern Iowa orders, the Class II butterfat differential is based on the price of Grade AA (93-score) butter at New York City.

The handler butterfat differentials for each class are now computed by multiplying the butter price by a specified factor. In the case of the Class I butterfat differential, the factor is 0.120 under 19 orders and 0.125 under 11 orders. One order uses a factor of 0.130 and another a factor of 0.135.

The factor most commonly used in computing the butterfat differentials applicable to the surplus prices is 0.115, as prescribed by 18 orders. Eight orders use 0.110, while the factors 0.120 and 0.108 are used under two other orders. Four orders use a factor of 0.110 during the heavy production months and 0.115 during the remainder of the year.

The butterfat differential used in adjusting the uniform price to producers under 22 of the orders is the average of the butterfat differentials for each class, weighted by the proportion of producer milk in each class. Under six other orders, the butterfat differential to producers is determined by multiplying the Chicago butter price by 0.120. Two other orders use a factor of 0.110 under a similar computation, while another provides that this differential be computed by adding 4 cents to the Chicago butter price and multiplying the sum by 0.1. Under the Memphis order, the producer butterfat differential is determined from a fixed schedule of rates in the order which are related to the Chicago butter price, i.e., for each 5-cent change in the butter price, the butterfat differential changes one-half cent per point of butterfat.

Cooperative associations proposed that all class prices and uniform prices be subject to adjustment by a single butterfat differential based on the Chicago butter price times a factor of 0.115. One handler proposed that the Class II and Class III butterfat differentials be based on the Chicago butter price times 0.110. Handlers in general opposed any change in the present Class I butterfat differentials.

Lowering the Class I butterfat differential factor to 0.115 will accommodate producers' request for a readjustment of the values of skim milk and butterfat in Class I milk at a time of declining use of butterfat in fluid milk products. In 1960, the average butterfat test of fluid milk products (including cream items) in 63 Federal order markets was 3.76 percent. In 1970, the average butterfat test for such products in 58 markets was 3.26 percent.

Comparable data for the 32 subject markets as they are presently constituted are not available. On the basis of information available for much of the area now regulated by these orders, however, there is every indication that the use of





butterfat in Class I in these markets is following the national trend.[5]

The impact of this change on a handler's average cost of producer butterfat for Class I use is dependent, of course, upon the average butterfat test of his Class I products and the butterfat differential now applicable to him. Thus, handlers in the 32 markets will be affected differently from lowering the Class I butterfat differential. An analysis of 1970 data for 30 of the 32 markets will serve to illustrate the general change in handlers' costs under the revised classification plan. Data for the Fort Smith and Austin-Waco markets are not available.

It is estimated that in 18 of the 19 markets now using a Class I butterfat differential factor of 0.120 the average butterfat test of Class I products distributed by handlers (excluding cream and lowfat items) would have ranged in 1970 from 3.55 percent to 2.53 percent. Using the average test for these markets of 2.98 percent, the Class I price at test would have been increased 1.8 cents per hundredweight. For 10 of the 11 markets now using a Class I butterfat differential factor of 0.125, the average test of Class I milk would have ranged from 3.25 percent to 2.81 percent. Based on an average test of 3.01 percent, using a factor of 0.115 in these markets would have increased the Class I price at test by 3.4 cents. The price increases would have been slightly greater in the Duluth-Superior and central Arizona markets, where factors of 0.130 and 0.135, respectively, are used. Based on estimated Class I butterfat tests of 2.73 percent and 3.10 percent, the Class I price at test would have been increased 8.0 cents per hundredweight in the Duluth-Superior market and 5.6 cents in the central Arizona market.

Handlers opposed any change in the Class I butterfat differentials on the basis that the relationship of skim milk and butterfat values had already been altered by a change on April 1, 1971, in the purchase prices for dairy products under the Department's price support program. They pointed out that this change, as reflected in order prices, increased handlers' cost of skim milk about 10 cents per hundredweight. Handlers argued that in view of this any further increase in the value of skim milk should be delayed until there has been an opportunity to observe the market response to the effects of the price support change.

There is no evidence to suggest that Class I sales of skim milk and lowfat products were affected adversely by the price support action. Data for 58 Federal order markets indicate that average daily sales of these products in 1971 increased 2.1 million pounds over such sales in 1970. Monthly data show no drop in sales following the support price change in the early part of 1971. Adopting a lower Class I butterfat differential at this time gives recognition to the lower market value now associated with butterfat in Class I products.

Using a single factor of 0.115 for computing Class II and Class III butterfat differentials will result in a uniform adjustment of class prices for butterfat content among the markets under consideration. Continuation of the several butterfat differential factors now in use would offset to some extent the benefits to be gained through the adoption of a uniform classification plan.

A handler proposed that the butterfat differential factor for adjusting surplus prices be 0.110 rather than 0.115 as proposed by cooperatives. Proponent indicated that in disposing of surplus cream handlers usually are not able to recover their cost of such cream under the order. A Class II-Class III butterfat differential factor of 0.110, it was argued, would provide handlers with some price relief in this circumstance.

The record does not indicate that the adoption of 0.115 as the butterfat differential factor for pricing surplus milk will hinder the removal of surplus butterfat from the fluid market. Of the 32 orders, 22 now use a factor of 0.115, and one uses a factor of 0.120, for pricing surplus milk. The handler proposing the 0.110 factor was the only opponent of the 0.115 factor proposed by cooperatives. The great majority of residual butterfat is disposed of by the cooperatives rather than handlers. It must be concluded that the adoption of the handler's proposal under present marketing conditions would return to producers in most cases less than the obtainable market value for butterfat not needed for Class I purposes.

As indicated, the butterfat differential to producers under 22 of the 32 orders reflects the weighted value of butterfat in the class uses. Inasmuch as producers favor this method of reflecting skim milk and butterfat values in their pay prices, this pricing arrangement should be extended to the other 10 orders. Since the same butterfat differential would be used in adjusting each of the class prices, there is no actual need, of course, for any provision in the order for weighting the values of butterfat in the three classes in determining the producer butterfat differential.

With the use of a single butterfat differential for adjusting all prices under the order, it is necessary that each order provide only for a producer butterfat differential. No handler butterfat differentials need be set forth as such in the order, nor is there any need for pooling butterfat values in each class. All producer differential butterfat would be priced to all handlers at the same level regardless of the class in which used. The proposed revised orders attached hereto have been drafted accordingly.

Under the new pricing arrangement, the single butterfat differential for the current month should be based upon butter prices for such month and should be announced by the fifth day of the following month. This represents a change only for the pricing of Class I milk. The Class I butterfat differentials are now based on butter prices prevailing during the preceding month and are announced by the fifth day of the current month. With the use of a single butterfat differential factor in adjusting all milk prices, as adopted herein, there appears to be no need for announcing more than one butterfat differential, or for doing so before the end of the month in which it applies. The average butter price changes very little from month to month, and changes that do occur result in relatively limited changes in the butterfat differential. Each change in the price of butter is readily seen by following the daily quotations for butter. In the absence of regulation, such information would be the best available for determining trends in butter prices and should be adequate for this purpose under regulation.

It is recognized that the basic formula price of these orders is determined by adjusting the average Minnesota-Wisconsin price at test to a 3.5-percent butterfat basis by using a factor of 0.120 times the average Chicago butter price. The appropriateness of such factor for this purpose was not considered at the hearing and no consideration is given in this decision to changing this factor for such purpose. Moreover, since this method of determining the basic formula price is now used under all Federal milk orders throughout the country, it would appear that any change in this butterfat differential factor should be considered simultaneously for all orders.

6. *Advance announcement of prices for surplus milk.* The proposal by handlers to announce order prices for surplus milk at the beginning of the month rather than at the end of the month during which the prices apply should not be adopted.

Under the present orders, the prices for surplus milk are announced by the fifth day of each month. Such prices apply to producer milk delivered to handlers during the preceding month.

The national associations of fluid milk and ice cream processors proposed that the class prices to be applicable in a particular month to surplus milk be announced by the fifth day of such month. Handlers stated that under the present announcement procedure they are often disadvantaged by not knowing the costs of producer milk for manufacturing use until after the end of the month in which the milk is processed. They claimed that when there is a significant increase in the order price, the delayed notice of the increase prevents them from making corresponding adjustments in their resale prices on a timely basis. Proponents' interest in advance pricing related essentially to the prices that would be applicable to cottage cheese, cream products, yogurt and frozen desserts, the principal Class II products processed by such handlers.

For the regulated handler processing producer milk into butter, nonfat dry milk and cheddar cheese, however, advance announcement of the applicable class price could place him at a competitive disadvantage on his sales of these manufactured products. As indicated

[5] Official notice is taken of the annual summaries for 1960 through 1971 of Federal Milk Order Market Statistics which were issued by the Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C.



V 38-177 SEP 13 73 XUM

earlier, the surplus prices under the revised classification plan generally would be based on the prices paid for manufacturing grade milk in Minnesota and Wisconsin. These prices are closely related to the market values of cheddar cheese, nonfat dry milk, and butter, the principal uses for such milk in the month of delivery of the raw milk. These product prices are established on a regular basis in a market that is national in scope. The manufacturers of ungraded milk are fully aware of the movements of these product prices, which are published weekly, and can adjust their pay prices for milk in response to changes in the prices for the finished products. Regulated handlers who are processing these particular products must compete in the same national market in which the processors of manufacturing grade milk are competing and the same product price information is available to them.

In most of the markets under consideration, substantial quantities of milk are disposed of by regulated handlers in the form of butter, nonfat dry milk, or cheese. In 1970 over 1 billion pounds of milk, or 88 percent of the market's total Class II use, were so disposed of by handlers in the Minneapolis-St. Paul market. In the Minnesota-North Dakota, Southeastern Minnesota-Northern Iowa, Duluth-Superior, Cedar Rapids-Iowa City, Eastern South Dakota, Oklahoma Metropolitan and North Central Iowa markets, over 80 percent of each market's total Class II milk was used that year in manufacturing these products. Although lesser quantities of milk were used in such products in the other markets, only in four markets (Memphis, Fort Smith, Central West Texas and Rio Grande Valley) did such uses represent less than 20 percent of the total Class II use for each market. Thus, handlers in most of the 32 markets have a very definite interest in the relationship of the applicable class price with prices being paid currently for manufacturing grade milk. Accordingly, the prices paid by regulated handlers for Class III milk should correspond very closely with the pay prices during the month of delivery for manufacturing grade milk if these handlers are to be competitive in the sale of the principal surplus products.

The same considerations are involved in the case of an advance announcement of prices for milk used in the proposed Class II products. The influence of the manufacturing milk price level on the competitive relationship of producer milk for Class II uses is similar to that for producer milk used in the proposed Class III products. Therefore, the prices for Class II milk should be announced on the same basis as the price for Class III milk.

In connection with the announcement of surplus prices, a comment should be made concerning the transition from the present pricing provisions to the new ones adopted herein. It is intended that the present surplus prices apply to producer milk delivered to handlers during the last month under the present classification and pricing scheme. Clarification of this point is pertinent since such prices would be announced following the effective date of the new pricing provisions.

*7. Treatment of filled milk under the Minneapolis-St. Paul and Southeastern Minnesota-Northern Iowa orders.* The Minneapolis-St. Paul and Southeastern Minnesota-Northern Iowa orders should be changed to provide that the skim milk ingredient of "filled milk" shall be classified and priced as Class I milk.

The provisions provided herein are substantially those which were proposed for consideration at the hearing by a cooperative association operating in these markets.

In 1968, proposals to classify and price the skim milk component of filled milk were considered for most orders at a hearing held in Memphis, Tenn. The decision resulting from the hearing classified the skim milk component of filled milk in the same way as the skim milk component of natural milk. It provided a means of equating the cost of skim milk in filled milk if it originates from sources other than producer milk with the cost if derived from producer milk.

At the time of the 1968 hearing, the Southeastern Minnesota-Northern Iowa order had not been issued, and the Minneapolis-St. Paul order could not be amended in this respect because of a marketing area expansion to which the filled milk hearing did not apply. As a result, these orders do not contain the uniform provisions dealing with filled milk provided in all other Federal milk orders.

Filled milk is a combination of skim milk and vegetable fat or oil in about the same proportions as the skim milk and milk fat in whole milk. Well over 90 percent of the product is skim milk. In most filled milk, the skim milk portion is fresh fluid skim milk separated from whole milk. Some filled milk contains reconstituted fluid skim milk prepared from a concentrated product such as nonfat dry milk. Whether made from vegetable fat and fresh or reconstituted skim milk or any combination of the two, filled milk resembles whole milk in appearance.

Regulated handlers disposing of filled milk make a substantial savings in cost by substituting vegetable fat or oil for butterfat. This is the main incentive for the marketing of filled milk. While the difference in cost between vegetable fat and butterfat is not an issue at this hearing, it is relevant to the extent that it explains the profit motivation for marketing the product relative to the marketing of natural milk.

At the present time, no filled milk is distributed in the Minneapolis-St. Paul and Southeastern Minnesota-Northern Iowa marketing areas. In those regulated markets where filled milk is distributed, it moves in the same channels as whole milk. It is distributed by the same handlers in the course of their regular business through the same outlets for natural milk and in the same types of containers.

Filled milk, if disposed of in either the Minneapolis-St. Paul or the Southeastern Minnesota-Northern Iowa marketing area, would directly burden, obstruct, or affect interstate commerce in milk and milk products. It previously has been determined (at the time of the promulgation of each of these orders) that all milk marketed in each marketing area is in the current of interstate commerce or directly burdens, obstructs, or affects interstate commerce in milk and milk products.

Filled milk is in content substantially a product of milk and competes for the same sales outlets as milk. It follows, therefore, that the marketing of the milk ingredients in filled milk in either of the two markets would burden, obstruct, or affect interstate commerce in milk and milk products. This would be equally true whether the marketing of filled milk were by a fully regulated plant or by a plant not fully regulated because both would compete for similar outlets in the market.

Also, manufactured milk products are sometimes used in the production of filled milk. Manufactured milk products move in interstate commerce and compete in the national market, regardless of where the milk is produced. Therefore, manufactured milk products, if used in the production of filled milk for disposition in either the Minneapolis-St. Paul or Southeastern Minnesota-Northern Iowa market, likewise would burden, obstruct, or affect interstate commerce in milk and its products.

The classification of the dairy ingredients of filled milk is a proper consideration derived from the Agricultural Marketing Agreement Act. As stated in the decision resulting from the filled milk hearing in Memphis, Tenn., the "specific language of the Act with respect to classification is that each order shall contain terms '* * * classifying milk in accordance with the form in which or the purpose for which it is used * * *'. In applying the language of the Act we here consider the form and purpose of use for both filled milk and the milk ingredient content of the filled milk.

"The form of filled milk and the purpose for which it is used are the same as the form and purpose of use of whole milk. Filled milk, just as whole milk, is disposed of in fluid form. It is marketed by handlers in the same types of packages and in the same trade channels as the whole milk they market, and is mainly intended as a beverage substitute for milk.

"Similarly, the fluid skim milk content of the filled milk is in the same form as skim milk in whole milk and serves the same purpose, providing in each case the main body of the product thereby making it a milk beverage. The addition of the nonmilk ingredients, principally vegetable fat or oil and stabilizers, does not alter the basis for Class I classification. The addition of nonmilk ingredients in fluid milk products is not a new development. The addition of vegetable fat does not involve an essentially different consideration from that for other Class I fluid milk products to which a flavoring ingredient, such as chocolate (which also contains nonmilk fat) has been added.





"For purpose of illustration, a product within the 'fluid milk product' category containing a nonmilk additive is chocolate milk. The additive is not considered as changing the form of this product so that it is no longer a fluid milk product. For the purposes of classification, the flavoring material has never been regarded as significant in determining the form of the product or as a basis for altering its classification.

"The same reasoning applies in the case of filled milk—that the additives do not change significantly the form or the purpose of use and therefore do not constitute a basis for classification other than in Class I.

"The product 'filled milk' therefore should be classified, for the purpose of pricing under the orders, in the same manner as whole milk. As in the case of other fluid milk products containing some nonmilk ingredients, the classification would apply only to the milk ingredients in the product."

No opposition to the filled milk proposal was expressed at the hearing or in briefs submitted by interested parties.

Based on the testimony of proponent, which related specifically to the Minneapolis-St. Paul and Southeastern Minnesota-Northern Iowa orders, it is found that the above findings from the Memphis decision are equally applicable to this proceeding. Accordingly, they serve as the basis for concluding that the milk ingredients of filled milk should be classified and priced under the two orders as Class I milk.

Proponent testified also that filled milk may be made by combining reconstituted skim milk with vegetable fat and other minor ingredients. Reconstituted skim milk commonly is made from nonfat dry milk to which water is added to return it essentially to a form and consistency similar to fresh skim milk. Its potential as a disruptive influence on the market for producer milk is substantial, however, since the disposition of any Class I product that has been priced at the surplus price level undermines the classified pricing system.

As was found in the filled milk decision referred to earlier, filled milk made from reconstituted skim milk is, from a marketing standpoint, essentially similar to filled milk made from fresh skim milk. It is a competitor of whole milk at the consumer level. Therefore, reconstituted skim milk in filled milk, as in other fluid milk products, should be classified and priced on the same basis as all other fluid milk products to achieve uniformity in the pricing of milk for similar uses.

Federal milk orders, including the Minneapolis-St. Paul and Southeastern Minnesota-Northern Iowa orders, have contained for some time specific provisions dealing with the disposition by a regulated handler of other fluid milk products reconstituted from nonfluid milk products. The issue of proper classification and charge for such use of nonfluid milk products to produce products for Class I disposition was dealt with for most orders in the compensatory payment decisions referred to earlier in this decision. The findings and conclusions that relate to the reconstitution of milk appeared at 29 F.R. 9010. The regulatory treatment of reconstituted products that is described in the compensatory payment decisions and reiterated in the later filled milk decision is appropriately applicable to any reconstituted skim milk used in filled milk that may be disposed of in the Minneapolis-St. Paul and Southeastern Minnesota-Northern Iowa marketing areas.

It should be noted that these two orders now provide that a producer-handler would lose his status as such and become a fully regulated handler if he disposes of fluid milk products made from reconstituted skim milk. Since the fluid milk product definition would include filled milk under the amendments adopted herein, loss of producer-handler status would result also from the sale of reconstituted filled milk.

A definition of filled milk should be provided in the two orders to meet the specific needs of order regulation, and for such purpose only. This definition, which would be identical to the filled milk definition in all other orders, should be as follows:

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

The term "filled milk" is not intended to include skim milk marketed in a form or for a purpose specifically excluded from the fluid milk product definition of either order. For example, evaporated milk is a use of skim milk and butterfat not treated as a fluid milk product in either order. If a product containing skim milk and any amount of vegetable fat were marketed in the same form and manner as evaporated milk, it would be excluded from the term "filled milk".

The regulatory treatment of filled milk adopted herein requires numerous conforming changes throughout the order. Accordingly, all the conforming changes found necessary on the basis of the Memphis hearing to implement the filled milk amendments are incorporated herein wherever applicable.

*8. A uniform "equivalent price" provision.* Each of the 32 orders included in this proceeding should be amended to the extent necessary to provide identical language for determining an equivalent price, or price constituent, when a price or price constituent is not available as prescribed by the order.

At present, all of the 32 orders except the Minnesota-North Dakota order provide for computing an equivalent price as needed. Such provisions are not identical, however, among the orders. A Dairy Division proposal for a uniform equivalent price provision under each order was supported by a witness for the National Milk Producers Federation.

An equivalent price provision is necessary in each of the orders to provide a price, or price constituent, in cases where published prices, indexes, quotations, or other pricing constituents as prescribed by the order are not available. It insures that basic formula prices, class prices and butterfat differentials can be computed, as prescribed, in emergency situations without interruption.

All the orders now rely on butter price quotations for computing butterfat differentials. All rely on the Minnesota-Wisconsin price series for computing the basic formula price and Class I prices. As proposed herein, this price series would be used also in establishing Class II and Class III prices under each order.

Under unusual circumstances, these published prices and price constituents might not be available for use in computing order prices. If there were insufficient trading during the month in butter, for example, or if the specific butter price quotations were discontinued, the prescribed butterfat differentials could not be computed without an equivalent price provision. By providing for the determination of an equivalent price as needed, the Department is in a position to draw on comprehensive resource data to assure that the computation of the basic formula price, the class prices, or the butterfat differentials is not interrupted by the contingencies cited.

For these reasons, it is concluded that the Minnesota-North Dakota order should provide for the determination of an equivalent price in the same manner as the other orders included in this proceeding.

In providing for a determination of equivalent price, the same objective is sought for each order. It is appropriate, therefore, to provide for identical provisions in each order. Then, if a determination had to be made for more than one order simultaneously, there would be no question as to the applicability of the determination to each order.

Accordingly, the equivalent price provision in each order should be stated as follows:

"If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required."

A corollary change should be made in the Class I price provisions of the Neosho Valley order. This order provides that the Class I price shall be based in part on the Class I price "under Part 1067 of this chapter regulating the handling of milk in the Ozarks marketing area." At the time the Ozarks order was merged with the St. Louis order, a determination of equivalent price was issued for the Neosho Valley order (33 F.R. 15107) which stated in part that:

For the purpose of computing the Neosho Valley Class I price, the Class I price announced for Zone 1 under the St. Louis-Ozarks milk order (Part 1062) will be equivalent to the price specified in § 1071.51(a)(2) of the Neosho Valley order and should be used in lieu thereof in computation of the Class I price of the Neosho Valley order until such time as the Neosho Valley order may be amended.



V 38-177
SEP 13 73
XUM

This determination of equivalent price, which was issued in October 1968, is still in effect. This proceeding affords an opportunity to amend the Neosho Valley order as prescribed in the determination. Thus, the order language quoted earlier should be revised to read "under Part 1062 of this chapter regulating the handling of milk in the St. Louis-Ozarks marketing area."

RULINGS ON PROPOSED FINDINGS AND CONCLUSIONS

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

GENERAL FINDINGS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

The following findings are hereby made with respect to each of the aforesaid tentative marketing agreements and orders:

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

RECOMMENDED MARKETING AGREEMENT AND ORDER AMENDING THE ORDER

The recommended marketing agreements are not included in this decision because the regulatory provisions thereof would be the same as those contained in the orders, as hereby proposed to be amended. The following order amending the orders, as amended, regulating the handling of milk in the aforesaid marketing areas is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out. It is the same as the order amending the orders set forth in the aforementioned recommended decision issued by the Deputy Administrator, Regulatory Programs, on August 28, 1972, except for modifications in the following sections of each order. The modifications noted do not include those that have been made in each order to reflect the new Federal Register style for "references" within a section of the order.

## PART 1060—MILK IN MINNESOTA-NORTH DAKOTA MARKETING AREA

§§ 1060.7, 1060.12(b)(2), 1060.14, 1060.15(a)(2), 1060.16, 1060.30(a)(3), 1060.40, 1060.41(b) (2), and (3), and (c), 1060.42(d)(2)(vi), 1060.44(a), 1060.50(b), 1060.76(b)(2) (i) and (ii).

## PART 1061—MILK IN SOUTHEASTERN MINNESOTA-NORTHERN IOWA MARKETING AREA

§§ 1061.7, 1061.12(b)(2), 1061.14, 1061.15(a)(2), 1061.16, 1061.30(a)(3), 1061.40, 1061.41(b) (2), and (3), and (c), 1061.42(d)(2)(vi), 1061.44(a), 1061.50(b), 1061.76(b)(2) (i) and (ii).

## PART 1063—MILK IN QUAD CITIES-DUBUQUE MARKETING AREA

§§ 1063.7, 1063.12(b)(2), 1063.14, 1063.15(a)(2), 1063.16, 1063.30(a)(3), 1063.40, 1063.41 (b)(3) and (c), 1063.42 (d)(2)(vi), 1063.44(a), 1063.50(b), 1063.76(b)(2) (i) and (ii).

## PART 1064—MILK IN GREATER KANSAS CITY MARKETING AREA

The Index and §§ 1064.7, 1064.12(b)(2), 1064.14, 1064.15(a)(2), 1064.16, 1064.30(a)(3), 1064.40, 1064.41(b) (2), and (3), and (c), 1064.42(d)(2)(vi), 1064.44(a), 1064.50(b), 1064.61, 1064.71(a)(2)(ii), 1064.73 (a) and (d)(1), 1064.75(b), 1064.76 (a)(4) and (b)(2)(i) and (ii), and new §§ 1064.110 through 1064.122 are added.

## PART 1065—MILK IN NEBRASKA-WESTERN IOWA MARKETING AREA

The Index and §§ 1065.5, 1065.6, 1065.7, 1065.10, 1065.12(b), 1065.14, 1065.15(a)(2), 1065.16, 1065.30(a)(3), 1065.40, 1065.41(b) (2), and (3), and (c), 1065.42(d)(2)(vi), 1065.44(a), 1065.50(b), 1065.60(d), 1065.61, 1065.62, 1065.71(a)(2), 1065.73 preamble and (e)(3), a new § 1065.73a is added, 1065.74, 1065.75, 1065.76 (a)(4) and (b)(2) (i) and (ii), 1065.85(a), 1065.98(a), and new §§ 1065.90 through 1065.98 and 1065.110 through 1065.122 are added.

## PART 1068—MILK IN MINNEAPOLIS-ST. PAUL, MINNESOTA, MARKETING AREA

§§ 1068.12(b)(2), 1068.14, 1068.15(a)(2), 1068.16, 1068.30(a)(3), 1068.40, 1068.41(b) (2), and (3), and (c), 1068.42(d)(2)(vi), 1068.44(a), 1068.50(b), 1068.76(b)(2) (i) and (ii).

## PART 1069—MILK IN DULUTH-SUPERIOR MARKETING AREA

§§ 1069.7, 1069.12(b)(2), 1069.14, 1069.15(a)(2), 1069.16, 1069.30(a)(3), 1069.40, 1069.41(b) (2), and (3), and (c), 1069.42(d)(2)(vi), 1069.44(a), 1069.50(b), 1069.76(b)(2) (i) and (ii).

## PART 1070—MILK IN CEDAR RAPIDS-IOWA CITY MARKETING AREA

§§ 1070.7, 1070.12(b)(2), 1070.14, 1070.15(a)(2), 1070.16, 1070.30(a)(3), 1070.40, 1070.41(b) (3) and (c), 1070.42(d)(2)(vi), 1070.44(a), 1070.50(b), 1070.76(b)(2) (i) and (ii).

## PART 1076—MILK IN EASTERN SOUTH DAKOTA MARKETING AREA

§§ 1076.7, 1076.12(b)(2), 1076.14, 1076.15(a)(2), 1076.16, 1076.30(a)(3), 1076.40, 1076.41(b) (2), and (3), and (c), 1076.42(d)(2)(vi), 1076.44(a), 1076.50(b), 1076.76(b)(2) (i) and (ii).

## PART 1078—MILK IN NORTH CENTRAL IOWA MARKETING AREA

§§ 1078.7, 1078.12(b)(2), 1078.14, 1078.15(a)(2), 1078.16, 1078.30(a)(3), 1078.40, 1078.41(b) (2), and (3), and (c), 1078.42(d)(2)(vi), 1078.44(a), 1078.50(b).

## PART 1079—MILK IN DES MOINES, IOWA, MARKETING AREA

§§ 1079.7, 1079.12(b)(2), 1079.14, 1079.15(a)(2), 1079.16, 1079.30(a)(3), 1079.40, 1079.41(b)(3) and (c), 1079.42(d)(2)(vi), 1079.44(a), 1079.50(b), 1079.76(b)(2), (i), and (ii).

## PART 1060—MILK IN MINNESOTA-NORTH DAKOTA MARKETING AREA

### Subpart—Order Regulating Handling

GENERAL PROVISIONS

Sec.
1060.1 General provisions.

DEFINITIONS

1060.2 Minnesota-North Dakota marketing area.
1060.3 Route disposition.
1060.4 Plant.
1060.5 Distributing plant.
1060.6 Supply plant.
1060.7 Pool plant.
1060.8 Nonpool plant.
1060.9 Handler.
1060.10 Producer-handler.
1060.11 [Reserved]
1060.12 Producer.
1060.13 Producer milk.
1060.14 Other source milk.
1060.15 Fluid milk product.
1060.16 Fluid cream product.
1060.17 Filled milk.
1060.18 Cooperative association.

HANDLER REPORTS

1060.30 Reports of receipts and utilization.
1060.31 Payroll reports.
1060.32 Other reports.

CLASSIFICATION OF MILK

1060.40 Classes of utilization.
1060.41 Shrinkage.
1060.42 Classification of transfers and diversions.
1060.43 General classification rules.
1060.44 Classification of producer milk.
1060.45 Market administrator's reports and announcements concerning classification.





CLASS PRICES

Sec.
1060.50 Class prices.
1060.51 Basic formula price.
1060.52 Plant location adjustments for handlers.
1060.53 Announcement of class prices.
1060.54 Equivalent price.

UNIFORM PRICE

1060.60 Handler's value of milk for computing uniform price.
1060.61 Computation of uniform price.
1060.62 Announcement of uniform price and butterfat differential.

PAYMENTS FOR MILK

1060.70 Producer-settlement fund.
1060.71 Payments to the producer-settlement fund.
1060.72 Payments from the producer-settlement fund.
1060.73 Payments to producers and to cooperative associations.
1060.74 Butterfat differential.
1060.75 Plant location adjustments for producers and on nonpool milk.
1060.76 Payments by handler operating a partially regulated distributing plant.
1060.77 Adjustment of accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1060.85 Assessment for order administration.
1060.86 Deduction for marketing services.

AUTHORITY: The provisions of this Part 1060 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

GENERAL PROVISIONS

### § 1060.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

### § 1060.2 Minnesota-North Dakota marketing area.

"Minnesota-North Dakota marketing area" (hereinafter referred to as the "marketing area") means all the territory within the boundaries of the counties listed below, including territory wholly or partly within such boundaries occupied by Government (municipal, State, or Federal) reservations, installations, institutions or other similar establishments:

MINNESOTA

Becker.
Beltrami.
Big Stone.
Clay.
Clearwater.
Douglas.
Grant.
Hubbard.
Kittson.
Lake of the Woods.
Mahnomen.
Marshall.
Norman.
Otter Tail.
Pennington.
Polk.
Red Lake.
Roseau.
Stevens.
Traverse.
Wadena.
Wilkin.

NORTH DAKOTA

Barnes.
Cass.
Cavalier.
Dickey.
Grand Forks.
Griggs.
La Moure.
Nelson.
Pembina.
Ramsey.
Ransom.
Richland.
Sargent.
Steele.
Traill.
Walsh.

SOUTH DAKOTA

Grant.
Roberts.

### § 1060.3 Route disposition.

"Route disposition" means a delivery to a wholesale or retail outlet either directly or through a distributing facility such as a distribution point, a plant store, or a vendor of any fluid milk product classified as Class I milk, other than a delivery to a pool plant or a nonpool plant.

### § 1060.4 Plant.

"Plant" means the land, buildings, facilities, and equipment constituting a single operating unit or establishment at which milk or milk products (including filled milk) are received, processed, and/or packaged. Separate facilities used only as a reload point for transferring bulk milk or filled milk from one tank truck to another shall not be a plant under this definition. Facilities used only as a distribution point for storing fluid milk products in transit on routes shall not be a plant under this definition.

### § 1060.5 Distributing plant.

"Distributing plant" means a plant that is approved by an appropriate health authority for the processing or packaging of Grade A milk and from which there is route disposition during the month.

### § 1060.6 Supply plant.

"Supply plant" means a plant from which a fluid milk product that is acceptable to the appropriate health authority for distribution in the marketing area as Grade A is moved during the month to a distributing plant.

### § 1060.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A distributing plant from which during the month there is disposed:

(1) As route disposition, except filled milk, in the marketing area not less than 15 percent of Grade A milk receipts at such plant; and

(2) As route disposition, except filled milk, or by transfer to another plant and classified as Class I pursuant to § 1060.42, not less than the applicable percentage of such plant's receipts of Grade A milk:

(i) March through June, 20 percent;

(ii) July through February, 25 percent: *Provided,* That all distributing plants operated by a handler may be considered as one plant for the purpose of meeting the applicable percentage requirement of this subparagraph if the handler submits a written request to the market administrator prior to the delivery period for which such consideration is requested.

(b) A supply plant from which not less than 25 percent of its producer receipts at such plant during the month is shipped as fluid milk products, except filled milk, to pool plants qualified pursuant to paragraph (a) of this section: *Provided,* That a supply plant which qualified pursuant to this paragraph in each of the immediately preceding months of August through November shall be a pool plant for the months of March through June unless the plant operator requests the market administrator in writing that such plant not be a pool plant, such nonpool status to be effective the first month following such notice and thereafter until the plant qualifies as a pool plant on the basis of shipments.

(c) The term "pool plant" shall not apply to the following plants:

(1) A distributing plant from which the Secretary determines a greater portion of the route disposition, except filled milk, is made in another marketing area regulated by another order issued pursuant to the Act and such plant is fully subject to regulation of such other order: *Provided,* That a distributing plant which was a pool plant under this order in the immediately preceding month shall continue to be subject to all of the provisions of this part until the third consecutive month in which a greater proportion of its route disposition, except filled milk, is made in such other marketing area unless, notwithstanding the provisions of this subparagraph, it is regulated by such other order;

(2) A distributing plant which meets the requirements set forth in paragraph (a) of this section which also meets the requirements of another marketing order on the basis of its route disposition in such other marketing area and from which the Secretary determines a greater quantity of route disposition, except filled milk, is made during the month in this marketing area than in such other marketing area but which plant is nevertheless fully regulated under such other marketing order;

(3) A supply plant from which the Secretary determines a greater proportion of its Grade A receipts, except filled milk, is shipped during the month to plants which are regulated by another order pursuant to the Act if such shipments qualify it as a pool plant under such other order;

(4) A producer-handler plant;

(5) A governmentally owned and operated institution which disposes of Class I milk solely for use on its own premises or to its own facilities. Such an institution shall be exempt from all the provisions of this part; or

(6) That portion of a plant that is physically separated from the Grade A portion of such plant, is operated separately and is not approved by any health authority for the receiving, processing or packaging of any fluid milk product for Grade A disposition.

### § 1060.8 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.



V 38 177
SEP 13 73
XUM

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is not an other order plant, a producer-handler plant, or a governmentally owned and operated institution described in § 1060.7 (c)(5), from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant from which fluid milk products are shipped during the month to a distributing plant, and is not an other order plant, a producer-handler plant, or a governmentally owned and operated institution described in § 1060.7 (c)(5).

**§ 1060.9 Handler.**

"Handler" means:

(a) Any person (including any cooperative association) in his capacity as the operator of one or more pool plants;

(b) Any cooperative association with respect to producer milk which it causes to be diverted for its account pursuant to § 1060.13;

(c) Any cooperative association with respect to the milk of its member producers which is delivered directly from the farm to the pool plant of another handler in a tank truck owned, operated by, under contract to, or under the control of such cooperative association. The milk for which a cooperative association is a handler pursuant to this paragraph shall be deemed to have been received at the location of the pool plant to which it was delivered;

(d) Any person who operates a partially regulated distributing plant. This definition shall not apply to a governmentally owned and operated institution as described in § 1060.7(c)(5);

(e) A producer-handler; and

(f) Any person who operates an other order plant as described in § 1060.7(c)(1), (2), or (3).

**§ 1060.10 Producer-handler.**

Producer-handler means any person who meets all of the following conditions:

(a) Operates a dairy farm and a distributing plant;

(b) Receives no milk during the month from other dairy farmers or fluid milk products from sources other than pool plants and not more than 3,000 pounds of milk and fluid milk products (including the milk equivalent of milk products other than fluid milk products which are reconstituted into fluid milk products) during the month from any source;

(c) Receives no milk products other than fluid milk products from any source for reconstitution into fluid milk products except that received within the limitations set forth in paragraph (b) of this section; and

(d) Such person must provide proof satisfactory to the market administrator that (1) the care and management of all the dairy animals and other resources necessary to produce the milk are the personal enterprise of and at the personal risk of such person, and (2) the operation of the processing and distributing business is the personal enterprise of and at the personal risk of such person.

**§ 1060.11 [Reserved]**

**§ 1060.12 Producer.**

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, which milk is (1) received at a pool plant, or (2) diverted as producer milk pursuant to § 1060.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1060.44(a)(8)(iii) and the corresponding step of § 1060.44(b); and

(3) Any person with respect to milk produced by him which is diverted from a pool plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk.

**§ 1060.13 Producer milk.**

"Producer milk" means all the skim milk and butterfat contained in Grade A milk of a producer that is:

(a) Received during the month at a pool plant directly from such producer or a handler described in § 1060.9(c);

(b) Received by a handler described in § 1060.9(c) from producers in excess of the quantity delivered to pool plants; or

(c) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant or the plant of a governmentally owned and operated institution by the operator of a pool plant or a handler described in § 1060.9(b), if such movement is specifically reported and the conditions of paragraphs (c)(1), (2), and (3) of this section have been met. Such milk shall be deemed to have been received by the diverting handler at the location of the nonpool plant to which diverted in applying §§ 1060.52 and 1060.75:

(1) During March through June a cooperative association handler pursuant to § 1060.9(b) may divert for its account without limit the milk of any member producer. During the months of July through February such handler may divert an aggregate quantity not exceeding 50 percent of the milk of all such producers whose milk has been received at a pool plant(s) for at least 3 days during the month.

(2) During March through June a handler in his capacity as the operator of a pool plant may divert for his account without limit the milk of any producer, other than a member of a cooperative association which has diverted milk pursuant to paragraph (c)(1) of this section. During the months of July through February such handler may divert an aggregate quantity not exceeding 50 percent of the milk of all such producers whose milk has been received at his pool plant(s) for at least 3 days during the month.

(3) In the event milk receipts from dairy farmers are diverted in excess of the applicable percentages pursuant to paragraphs (c)(1) and (2) of this section, the diverting handler shall specify the dairy farmers whose milk was overdiverted. Only the milk of such dairy farmer(s) which is received at a pool plant during the month shall be producer milk for such month.

**§ 1060.14 Other source milk.**

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products, specified in § 1060.40(b)(1) from any source other than producers, handlers described in § 1060.9(c), pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1060.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1060.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1060.40(b)(1)) for which the handler fails to establish a disposition.

**§ 1060.15 Fluid milk product.**

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1060.40 (b) or (c)(1) (i) through (iv) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.





**§ 1060.16 Fluid cream product.**

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

**§ 1060.17 Filled milk.**

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

**§ 1060.18 Cooperative association.**

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) Is qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act;"

(b) Has full authority in the sale of milk of its members and is engaged in making collective sales of or marketing milk or its products for its members; and

(c) Has its entire activities under the control of its members.

HANDLER REPORTS

**§ 1060.30 Reports of receipts and utilization.**

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1060.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1060.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1060.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

**§ 1060.31 Payroll reports.**

(a) On or before the 20th day after the end of each month, each handler described in § 1060.9 (a), (b), and (c), shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1060.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

**§ 1060.32 Other reports.**

In addition to the reports required pursuant to §§ 1060.30 and 1060.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

**§ 1060.40 Classes of utilization.**

Except as provided in § 1060.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1060.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, low fat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, low fat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(v) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1060.15; and

(6) In shrinkage assigned pursuant to § 1060.41(a) to the receipts specified in § 1060.41(a)(2) and in shrinkage specified in §1060.41 (b) and (c).

**§ 1060.41 Shrinkage.**

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1060.30, the market



V 38 I 177 SEP 13 73 XUM

administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a) (1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1060.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1060.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraphs (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1060.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

### § 1060.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1060.44(a)(12) and the corresponding step of § 1060.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to 1060.44(a)(7) or the corresponding step of § 1060.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1060.44(a)(11) or (12) or the corresponding steps of § 1060.44(b), the skim milk or butterfat so transferred up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1060.40.

(c) *Transfers to producer-handlers and to exempt government institutions.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order or an exempt government institution defined in § 1060.7(c)(5) shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to its receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, an exempt government institution defined in § 1060.7(c)(5), or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraphs (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1060.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

### § 1060.43 General classification rules.

In determining the classification of producer milk pursuant to § 1060.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1060.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1060.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1060.40, 1060.41, and 1060.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1060.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

### § 1060.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1060.9(a) for each of his pool plants separately and of each handler described in § 1060.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1060.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1060.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1060.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1060.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1060.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order and from an exempt government institution defined in § 1060.7(c)(5);

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor plant;





V 38-177
SEP 13 73
XUM

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraphs (a)(8)(ii) (*a*) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the handler's total Class III utilization at his other pool plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler;

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1060.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraphs (a)(7)(vi) and (8)(iii) of this section;

(i) Subject to the provisions of paragraphs (a)(12)(ii) and (iii) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1060.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler;

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received; and

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from any class that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1060.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1060.44(a)(14) and the corresponding step of § 1060.44(b).

### § 1060.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1060.44(a)(12) and the corresponding step of § 1060.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from another order plant, the class to which such receipts are allocated pursuant to § 1060.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day of each month, report to each cooperative association which so requests the amount and class utilization of milk received by each handler during the immediately preceding month from such cooperative association in its capacity as a handler pursuant to § 1060.9(c) and directly from members of such cooperative association. For the purpose of this report the milk so received shall be prorated to each class in proportion to the utilization by such handler in each class remaining after allocation pursuant to § 1060.44(a)(1) through (13) and the corresponding steps of § 1060.44(b).

## Class Prices

### § 1060.50 Class prices.

Subject to the provisions of § 1060.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.30.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

### § 1060.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

### § 1060.52 Plant location adjustments for handlers.

(a) For producer milk received at a pool plant or diverted to a nonpool plant located outside the base zone and classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price computed pursuant to § 1060.50(a) shall be adjusted 1.2 cents for each 10 road miles or fraction thereof that such plant is located beyond the perimeter of the base zone.

(b) For the purposes of calculating such adjustments:

(1) All distances shall be by shortest hard-surfaced highways and/or all-weather-roads, as determined by the market administrator;

(2) The adjustment pursuant to this section shall be added to the Class I price if the plant is located in North or South Dakota and shall be subtracted from such price if the plant is located in Minnesota; and

(3) Transfers of fluid milk products between pool plants shall be assigned Class I milk disposition at the receiving plant, in excess of the sum of receipts at such plant from producers (including receipts from a handler described in § 1060.9(c)) and the pounds assigned as Class I milk to receipts from other order plants and unregulated supply plants. Such assignment is to be made first to shipping plants priced at the same price, next to plants having a higher price, and then in sequence to plants having a lower price, beginning with the plant at which the highest price would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

(d) The "base zone" shall include that portion of the marketing area in the counties of Clay, Marshall, Norman, Pennington, Polk, and Red Lake, all in the State of Minnesota; and the counties of Cass, Grand Forks, and Traill, all in the State of North Dakota.

### § 1060.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

### § 1060.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

## Uniform Price

### § 1060.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1060.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1060.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1060.44(a)(14) and the corresponding step of § 1060.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1060.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1060.44(a)(9) and the corresponding step of § 1060.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1060.44(a)(7)(i) through (iv) and the corresponding step of § 1060.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1060.44(a)(7)(v) and (vi) and the corresponding step of § 1060.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1060.44(a)(11) and the corresponding step of § 1060.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price for the preceding month applicable at the location of the pool plant and the Class III price for the current month by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1060.40(b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.







V 38-177 SEP 13 73 XUM

§ 1060.61 Computation of uniform price.

For each month the market administrator shall compute a uniform price per hundredweight of milk of 3.5 percent butterfat content as follows:

(a) Combine into one total the values computed pursuant to § 1060.60 for all handlers who filed the report prescribed in § 1060.30 for the month and who made the payments pursuant to §§ 1060.71 and 1060.73 for the preceding month;

(b) Add an amount equal to the total value of the minus location adjustments computed pursuant to § 1060.75;

(c) Subtract an amount equal to the total value of the plus location adjustments computed pursuant to § 1060.75;

(d) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1060.60(f); and

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1060.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

§ 1060.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all funds received pursuant to paragraph (a) of this section and out of which he shall make all payments required pursuant to paragraph (b) of this section:

(a) Payments made by handlers pursuant to §§ 1060.71, 1060.76, and 1060.77.

(b) Payments due handlers pursuant to §§ 1060.72 and 1060.77: *Provided*, That payments due any handler shall be offset by payments due from such handler pursuant to §§ 1060.71, 1060.76, 1060.77, 1060.85, and 1060.86.

§ 1060.71 Payments to the producer-settlement fund.

(a) On or before the 13th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section: *Provided*, That payment made by a cooperative association as a handler shall not relieve the transferee-handler of any obligation on any such milk which is due the cooperative association, or otherwise due pursuant to §§ 1060.70 through 1060.75, and §§ 1060.77 through 1060.86:

(1) The sum of:

(i) The total value of milk of the handler for such month as determined pursuant to § 1060.60; and

(ii) In the case of a handler described in § 1060.9(c), the minimum amounts due from other handlers pursuant to § 1060.73 (c)(1) before adjustments for butterfat content.

(2) The sum of:

(i) The amount required to be paid producers (including payments to producers through cooperative associations) pursuant to § 1060.73 before adjustment for butterfat content, deductions authorized by the producer or cooperative association, or deductions for marketing services pursuant to § 1060.86; and

(ii) The value at the uniform price applicable at the location of the plant(s) from which received of other source milk for which a value is computed pursuant to § 1060.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (a)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1060.72 Payments from the producer-settlement fund.

On or before the 14th day after the end of each month the market administrator shall pay (subject to the proviso of § 1060.70(b)) to each handler the amount if any by which the amount computed pursuant to § 1060.71(a)(2) exceeds the amount computed pursuant to § 1060.71(a)(1). The market administrator shall offset any payment due any handler against payments due from such handler. If the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

§ 1060.73 Payments to producers and to cooperative associations.

Each handler shall make payment for milk received from producers or cooperative associations as follows:

(a) To each producer for whom payment is not made pursuant to paragraph (b) or (c) of this section:

(1) A final settlement on or before the 15th day after the end of each month during which producer milk was received, at not less than the uniform price for such milk, adjusted by the butterfat differential computed pursuant to § 1060.74 and subject to the location adjustment to producers pursuant to § 1060.75, and less the following amounts:

(i) The payments made pursuant to paragraph (a)(2) of this section;

(ii) Deductions for marketing services made pursuant to § 1060.86; and

(iii) Any deductions authorized by the producer: *Provided*, That if by such date such handler has not received full payment for such month pursuant to § 1060.72, he may reduce his total payment to all producers uniformly by not less than the amount of reduction in payment from the market administrator; the handler shall, however, complete such payments not later than the date for making such payments pursuant to this paragraph next following receipt of the balance from the market administrator; and

(2) A partial payment on or before the last day of each month with respect to producer milk received during the first 15 days of the month at not less than the Class III price for the preceding month (without deduction for hauling);

(b)(1) On or before the second day prior to the date payments are due individual producers as specified in this section, pay to a cooperative association which so requests and which the market administrator determines is authorized by its members to collect payments for their milk and which promises in writing to reimburse the handler the amount of any actual loss incurred by him because of any member's claim on the part of the cooperative association of the payments pursuant to paragraph (a) of this section an amount equal to the sum of the individual payments otherwise payable to such producers. The foregoing payment shall be made with respect to milk of each producer whom the cooperative association certifies is a member effective on and after the first day of the calendar month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association; and

(2) A copy of each such request, promise to reimburse, and certified list of members shall be filed simultaneously with the market administrator by the cooperative association and shall be subject to verification at his discretion through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member, or by a handler, shall be made by written notice to the market administrator and shall be subject to his determination;





(c) To a cooperative association which is a handler pursuant to § 1060.9(a) or (c) for milk which it caused to be delivered to such handler:

(1) A final settlement on or before the 13th day after the end of the month in which the skim milk or butterfat was received, an amount equal to not less than the applicable class prices, as adjusted by the butterfat differential specified in § 1060.74, at the location of the handler's pool plant for all skim milk and butterfat so delivered, less the amount of payment made pursuant to paragraph (c)(2) of this section; and

(2) A partial payment on or before the 26th day of each month at not less than the Class III price for the preceding month (without deduction for hauling) for all skim milk and butterfat so delivered during the first 15 days of the current month;

(d) In making payments to producers pursuant to paragraph (a) of this section, each handler shall furnish each producer with a supporting statement in such form that it may be retained by the producer, which shall show:

(1) The month and the identity of the handler and of the producer;

(2) The pounds per shipment, the total pounds, and the average butterfat test of milk delivered by the producer;

(3) The minimum rate or rates at which payment to the producer is required under the provisions of this section and §§ 1060.74 and 1060.75;

(4) The rate which is used in making payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deduction claimed under paragraph (c)(2) of this section and § 1060.86, together with a description of the respective deductions; and

(6) The net amount of payment to the producer; and

(e) Each handler who receives milk from producers, payment for which is to be made to a cooperative association pursuant to paragraph (b) of this section, shall report to such cooperative association with respect to each such producer, on forms approved by the market administrator, as follows:

(1) On or before the 20th day of the month, the total pounds of milk received during the first 15 days of the month;

(2) On or before the seventh day after the end of the month:

(i) The pounds per shipment, the total pounds of milk and the average butterfat test of milk received from such producer during the month;

(ii) The amount or rate and nature of any deductions; and

(iii) The amount of any payments to such producer pursuant to § 1060.77.

§ 1060.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1060.75 Plant location adjustments for producers and on nonpool milk.

(a) For producer milk received at a pool plant or diverted to a nonpool plant located outside the base zone, the uniform price shall be adjusted at the rate set forth in § 1060.52.

(b) For purposes of computation pursuant to §§ 1060.71(b)(2) and 1060.72 the uniform price shall be adjusted at the rates set forth in § 1060.52 applicable at the location of the nonpool plant(s) from which the milk was received, except that the adjusted uniform price shall not be than the Class III price.

§ 1060.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1060.30(b) and 1060.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and prices as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1060.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1060.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1060.60 for such handler shall include, in lieu of the value of other source milk specified in § 1060.60(f) less the value of such other source milk specified in § 1060.71(a)(2)(ii), a value of milk determined pursuant to § 1060.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1060.7(b), subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1060.30(b) and 1060.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(*c*) The value of milk determined pursuant to § 1060.60 for such nonpool sup-



V 38 177 SEP 13 73 XUM

ply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1060.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1060.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

**§ 1060.77 Adjustment of accounts.**

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due the market administrator or any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of the amount due and payment therefor shall be made within 5 days if such amount is due the market administrator, or on or before the next date for making payments to producers or a cooperative association, if such amount is due them. Whenever such audit discloses errors resulting in moneys due such handler from the market administrator, payment shall be made within 5 days.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

**§ 1060.85 Assessment for order administration.**

As his pro rata share of the expense of the administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of each month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to skim milk and butterfat contained in:

(a) Producer milk (including a handler's own farm production);

(b) Other source milk allocated to Class I pursuant to § 1060.44(a) (7) and (11) and the corresponding steps in § 1060.44(b), except such other source milk that is excluded from the computations pursuant to § 1060.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1060.76(a)(2).

**§ 1060.86 Deduction for marketing services.**

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to producers other than to himself pursuant to § 1050.73(a)(1) shall deduct 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to all milk received by such handler from producers during the month, and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples, and tests of milk received from, and to provide market information to, such producers. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers for whom a cooperative association is performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall, in lieu of the deductions specified in paragraph (a) of this section, make such deductions from the payments to be made directly to producers pursuant to § 1060.73(a)(1), as are authorized by such producers and, on or before the 15th day after the end of each month, pay over such deductions to the association (of which such producers are members) rendering such services.

(c) When requested by the cooperative association a statement shall be supplied the cooperative association showing for each producer for whom such deduction is made the amount of such deduction, the total delivery of milk, and unless otherwise previously provided, the butterfat test.

---

# PART 1061—MILK IN SOUTHEASTERN MINNESOTA-NORTHERN IOWA (DAIRYLAND) MARKETING AREA

## Subpart—Order Regulating Handling

GENERAL PROVISIONS


Sec.
1061.1 General provisions.


DEFINITIONS


1061.2 Southeastern Minnesota-Northern Iowa (Dairyland) marketing area.
1061.3 Route disposition.
1061.4 [Reserved]
1061.5 Distributing plant.
1061.6 Supply plant.
1061.7 Pool plant.
1061.8 Nonpool plant.
1061.9 Handler.
1061.10 Producer-handler.
1061.11 [Reserved]
1061.12 Producer.
1061.13 Producer milk.
1061.14 Other source milk.
1061.15 Fluid milk product.
1061.16 Fluid cream product.
1061.17 Filled milk.
1061.18 Cooperative association.


HANDLER REPORTS


1061.30 Reports of receipts and utilization.
1061.31 Payroll reports.
1061.32 Other reports.


CLASSIFICATION OF MILK


Sec.
1061.40 Classes of utilization.
1061.41 Shrinkage.
1061.42 Classification of transfers and diversions.
1061.43 General classification rules.
1061.44 Classification of producer milk.
1061.45 Market administrator's reports and announcements concerning classification.


CLASS PRICES


1061.50 Class prices.
1061.51 Basic formula price.
1061.52 [Reserved]
1061.53 Announcement of class prices.
1061.54 Equivalent price.


UNIFORM PRICE


1061.60 Handler's value of milk for computing uniform price.
1061.61 Computation of uniform price.
1061.62 Announcement of uniform price and butterfat differential.


PAYMENTS FOR MILK


1061.70 Producer-settlement fund.
1061.71 Payments to the producer-settlement fund.
1061.72 Payments from the producer-settlement fund.
1061.73 Payments to producers and to cooperative associations.
1061.74 Butterfat differential.
1061.75 [Reserved]
1061.76 Payments by handler operating a partially regulated distributing plant.
1061.77 Adjustment of accounts.
1061.78 Charges on overdue accounts.


ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION


1061.85 Assessment for order administration.
1061.86 Deduction for marketing services.


AUTHORITY: The provisions of this Part 1061 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

GENERAL PROVISIONS

**§ 1061.1 General provisions.**

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

**§ 1061.2 Southeastern Minnesota-Northern Iowa (Dairyland) marketing area.**

"Southeastern Minnesota - Northern Iowa (Dairyland) marketing area", hereinafter called the "marketing area", means all the territory within the boundaries of the counties listed below, including all territory within such boundaries occupied by Government (municipal, State, or Federal) reservations, installations, institutions or other similar establishments:

MINNESOTA COUNTIES

| | |
|---|---|
| Blue Earth. | Mower. |
| Brown. | Nicollet. |
| Cottonwood. | Olmsted. |
| Dodge. | Redwood. |
| Faribault. | Rice. |
| Fillmore. | Steele. |
| Freeborn. | Wabasha. |
| Goodhue. | Waseca. |
| Le Sueur. | Watonwan. |
| Martin. | Winona. |





IOWA COUNTIES

| | |
|---|---|
| Howard. | Winnebago. |
| Kossuth. | Winneshiek. |
| Mitchell (except city of Osage). | Worth. |

**§ 1061.3 Route disposition.**

"Route disposition" means a delivery from a plant (including delivery from a retail store at such plant and delivery through vendors or distribution points) of any fluid milk product classified as Class I to a retail or wholesale outlet other than a milk or filled milk plant. A delivery through a vendor or through a distribution point shall be considered a route disposition of the plant at the location of the wholesale or retail outlet to which delivery is made.

**§ 1061.4 [Reserved]**

**§ 1061.5 Distributing plant.**

"Distributing plant" means a plant from which there is route disposition (either directly or through another plant) in the marketing area during the month of a Grade A fluid milk product that is packaged in such plant.

**§ 1061.6 Supply plant.**

"Supply plant" means a plant from which a Grade A fluid milk product is shipped during the month to a distributing plant.

**§ 1061.7 Pool plant.**

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A distributing plant from which there is disposed of during the month not less than the percentages set forth in paragraph (a) (1) and (2) of this section of the total Grade A fluid milk products received during the month at such plant, including producer milk diverted under § 1061.13(d)(2), but excluding receipts of packaged fluid milk products from other pool distributing plants and receipts from unregulated supply plants and other order plants which are assigned pursuant to § 1061.44 (a)(8) (i) and (iii) and the corresponding step of § 1061.44(b):

(1) Not less than 10 percent of such receipts is disposed of from such plant as Class I milk in the marketing area as route disposition. Such disposition is to be exclusive of filled milk and receipts of packaged fluid milk products from other pool distributing plants; and

(2) Not less than 30 percent during the months of February–August and 40 percent during the months of September–January of such receipts is disposed of as Class I milk as route disposition. Such disposition is to be exclusive of filled milk and receipts of packaged fluid milk products from other pool distributing plants.

(b) A supply plant from which not less than 30 percent of its total Grade A milk receipts from dairy farmers during the month is delivered as fluid milk products, except filled milk, to pool plants pursuant to paragraph (a) of this section subject to paragraph (b) (1) and (2) of this section:

(1) Any plant which qualified pursuant to this paragraph in each of the immediately preceding months of September through November shall be a pool plant for the months of December through August unless written application is filed by the plant operator with the market administrator on or before the first day of any such month requesting the plant be designated a nonpool plant for such month and each subsequent month through August during which it would not otherwise qualify as a pool plant; and

(2) In determining the pool plant qualifications of a cooperative association's plant, member producer milk of such association which is delivered directly to plants described in paragraph (a) of this section shall be considered for purposes of this paragraph as having been first received at the cooperative's plant subject to the following conditions:

(i) Written request is made to the market administrator by the cooperative association prior to or during the month, designating the plant to be a pool plant pursuant to this subparagraph for the month, and for each month thereafter, until such request is withdrawn or terminated pursuant to paragraph (b)(2)(ii) of this section; and

(ii) Any such plant which in a succeeding month is pooled under the provisions of another order issued pursuant to the Act shall not be pooled under this subparagraph for the ensuing 12 months.

(c) The term "pool plant" shall not apply to the following plants or facilities:

(1) A producer-handler plant or an exempt governmental plant;

(2) A plant qualified as a pool plant pursuant to paragraph (a) or (b) of this section that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act unless a greater volume of fluid milk products is disposed of from such plant as route disposition, except route disposition of filled milk, in this marketing area and to pool plants qualified on the basis of route disposition in this marketing area than is so disposed of in the marketing area regulated pursuant to such other order;

(3) If a portion of a plant is operated separately from the Grade A portion of a plant meeting the conditions of paragraph (a) or (b) of this section and is not approved by any health authority for the receiving, processing, or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant pursuant to this section; and

(4) Facilities used only as a reload point for transferring bulk milk from one tank truck to another shall not be a pool plant or part of a pool plant pursuant to this section.

**§ 1061.8 Nonpool plant.**

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is not an other order plant, a producer-handler plant or an exempt governmental plant and from which fluid milk products eligible for sale as Grade A in consumer-type packages or dispenser units or filled milk are disposed of as route disposition in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is not an other order plant, a producer-handler plant or an exempt governmental plant and from which a Grade A fluid milk product or filled milk is shipped during the month to a pool plant.

(e) "Exempt governmental plant" means a distributing or supply plant operated by a governmental agency.

**§ 1061.9 Handler.**

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant(s);

(b) Any cooperative association with respect to producer milk which it causes to be diverted for its account from a pool plant of another handler pursuant to § 1061.13;

(c) Any cooperative association with respect to milk of its producers which is received from the farm for delivery to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association;

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) A producer-handler; and

(f) Any person in his capacity as the operator of an other order plant from which during the month fluid milk products are either disposed of as route disposition in the marketing area or shipped to a pool plant.

**§ 1061.10 Producer-handler.**

"Producer-handler" means any person who operates a dairy farm and a distributing plant from which Class I milk of his own production is disposed of as route disposition in the marketing area, and who receives no milk or fluid milk products from the farms of other dairy farmers nor from any other source, except receipts by plant transfer from pool plants and who receives no nonfluid milk products from any source for use in reconstituted fluid milk products: *Provided*, That such person provides proof satisfactory to the market administrator that the care and management of all dairy animals and other resources necessary to produce the entire volume of fluid milk and milk products handled (excluding receipts from pool plants) and the operation of the processing and packaging business are wholly the personal enterprise and risk of such person.

**§ 1061.11 [Reserved]**

**§ 1061.12 Producer.**

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in com-



V 38-177 SEP 13 73 XUM

pliance with the Grade A inspection requirements of a duly constituted health authority which milk is received as producer milk at a pool plant, or diverted pursuant to § 1061.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1061.44(a)(3)(iii) and the corresponding step of § 1061.44(b); and

(3) Any person with respect to milk produced by him which is diverted from a pool plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk.

**§ 1061.13 Producer milk.**

"Producer milk" means the skim milk and butterfat in Grade A milk:

(a) Received at a pool plant directly from a producer;

(b) Received at a pool plant from a handler described in § 1061.9(c);

(c) Received by a handler described in § 1061.9(c) from producers in excess of the quantity delivered to pool plants; or

(d) Moved as diverted milk, subject to the conditions in paragraphs (d)(1), (2), and (3) of this section, from a pool plant to a nonpool plant that is not a producer-handler plant. "Diverted milk" means, for any month, milk produced by a dairy farmer which a pool plant handler or a handler described in § 1061.9(b) caused to be moved from the farm to a nonpool plant that is not a producer-handler plant if such milk is claimed as producer milk and the following conditions have been met:

(1) During the months of February through August a cooperative association handler pursuant to § 1061.9(b), may divert for its account, without limit on the remaining days, the milk of any member who was a producer during the previous month or whose milk is delivered to a pool plant on at least 1 day during the current month. During the months of September through January such handler may divert as producer milk the milk of any member producer whose milk is delivered to a pool plant described in § 1061.7(a) on at least 1 day during the month except that the aggregate quantity of producer milk diverted by such handler shall not exceed the quantity of milk delivered during that month by all its member producers to pool plants described in § 1061.7(a);

(2) During February through August a handler in his capacity as the operator of a pool plant may divert for his account, without limit on the remaining days, the milk of any dairy farmer who was a producer during the previous month or whose milk is received at his pool plant on at least 1 day during the current month. During the months of September through January such handler may divert as producer milk the milk of any producer whose milk is received at his pool plant on at least 1 day during the month except that the aggregate quantity of producer milk diverted by such handler shall not exceed the quantity of milk received during the month at his pool plant from all producers except the member producers of a cooperative which diverted milk during the month pursuant to paragraph (d)(1) of this section; and

(3) If milk receipts from dairy farmers are diverted in excess of the quantities allowed pursuant to paragraphs (d)(1) and (2) of this section, the diverting handler shall specify the dairy farmers whose milk was overdiverted. If the diverting handler does not specify the dairy farmers whose milk was overdiverted, only the milk of dairy farmers which is received at a pool plant during the month shall be producer milk for such month.

**§ 1061.14 Other source milk.**

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1061.40(b)(1) from any source other than producers, handlers described in § 1061.9(c), pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1061.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1061.40(b)(1), and products produced at the plant during the same month) which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1061.40(b)(1)) for which the handler fails to establish a disposition.

**§ 1061.15 Fluid milk product.**

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1061.40 (b) or (c)(1) (i) through (iv) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

**§ 1061.16 Fluid cream product.**

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

**§ 1061.17 Filled milk.**

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

**§ 1061.18 Cooperative association.**

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) Is qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) Has full authority in the sale of milk of its members and is engaged in making collective sales of or marketing milk or its products for its members.

HANDLER REPORTS

**§ 1061.30 Reports of receipts and utilization.**

On or before the eighth day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1061.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1061.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1061.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.





**§ 1061.31 Payroll reports.**

(a) On or before the 25th day after the end of each month, each handler described in § 1061.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1061.76 (b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

**§ 1061.32 Other reports.**

In addition to the reports required pursuant to §§ 1061.30 and 1061.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

**§ 1061.40 Classes of utilization.**

Except as provided in § 1061.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1061.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (b)(1) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(v) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1061.15; and

(6) In shrinkage assigned pursuant to § 1061.41(a)(2) and in shrinkage specified in § 1061.41(b) and (c).

**§ 1061.41 Shrinkage.**

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1061.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1061.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1061.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b)



V 38-177 SEP 13 73 XUM

(1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1061.9 (b) or (c), cut not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

**§ 1061.42 Classification of transfers and diversions.**

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1061.44(a)(12) and the corresponding step of § 1061.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1061.44(a)(7) or the corresponding step of § 1061.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1061.44(a)(11) or (12) or the corresponding steps of § 1061.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1061.40.

(c) *Transfers to producer-handlers and transfers and diversions to exempt governmental plants.* Skim milk or butterfat in the following forms that is transferred from a pool plant to a producer-handler under this or any other Federal order or transferred or diverted from a pool plant to an exempt governmental plant shall be classified:

(1) As Class I milk if so moved in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, a producer-handler plant, or an exempt governmental plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i)(*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipt as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1061.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.





**§ 1061.43 General classification rules.**

In determining the classification of producer milk pursuant to § 1061.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1061.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1061.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1061.40, 1061.41, and 1061.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1061.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

**§ 1061.44 Classification of producer milk.**

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1061.9(a) for each of his pool plants separately and of each handler described in § 1061.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1061.41 (b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1061.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1061.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1061.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1061.40(b)(1) that was not subtracted pursuant to paragraph (a) (4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order and from an exempt governmental plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii)(*a*) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the handler's total Class III utilization at his other pool plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler;

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1061.40(b)(1) in



V 38-177 SEP 13 73 XUM

inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a) (2), (7)(v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a) (7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii) and (iii) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1061.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler;

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received; and

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from any class that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1061.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1061.44(a)(14) and the corresponding step of § 1061.44(b).

### § 1061.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1061.44(a)(12) and the corresponding step of § 1061.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1061.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 20th day of each month, report to each cooperative association which so requests the amount and class utilization of milk received by each handler during the immediately preceding month from such cooperative association in its capacity as a handler pursuant to § 1061.9(c) and directly from members of such cooperative association. For the purpose of this report, the milk so received shall be prorated to each class in proportion to the utilization by such handler in each class remaining after allocation pursuant to § 1061.44(a) (1) through (13), and the corresponding steps of § 1061.44(b).

### Class Prices

### § 1061.50 Class prices.

The class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.06.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

### § 1061.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92 score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

### § 1061.52 [Reserved]

### § 1061.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.





### § 1061.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

### Uniform Price

### § 1061.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1061.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1061.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1061.44(a)(14) and the corresponding step of § 1061.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1061.74;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1061.44(a)(9) and the corresponding step of § 1061.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1061.44(a)(7) and the corresponding step of § 1061.44(b), excluding receipts of bulk fluid cream products from another order plant;

(e) Add the amount obtained from multiplying the Class I price by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1061.44(a)(11) and the corresponding step of § 1061.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(f) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price for the preceding month and the Class III price for the current month by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1061.40 (b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

### § 1061.61 Computation of uniform price.

For each month the market administrator shall compute a uniform price per hundredweight of milk of 3.5 percent butterfat content as follows:

(a) Combine into one total the values computed pursuant to § 1061.60 for all handlers who filed reports pursuant to § 1061.30 for the month and who made payments pursuant to § 1061.71 for the preceding month;

(b) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(c) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1061.60(e); and

(d) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

### § 1061.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

### Payments For Milk

### § 1061.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1061.71, 1061.76, and 1061.77 and out of which he shall make all payments due handlers pursuant to §§ 1061.72 and 1061.77: *Provided*, That the market administrator shall offset any payments due any handler against payments due from such handler.

### § 1061.71 Payments to the producer-settlement fund.

(a) On or before the 14th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1061.60.

(2) The sum of:

(i) The value at the uniform price of such handler's receipts of producer milk; and

(ii) The value at the uniform price of other source milk for which a value is computed pursuant to § 1061.60(e).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part and the Class III price.

### § 1061.72 Payments from the producer-settlement fund.

On or before the 16th day after the end of each month, the market administrator shall pay, subject to the proviso of § 1061.70, to each handler the amount if any, by which the amount computed pursuant to § 1061.71(a)(2) exceeds the amount computed pursuant to § 1061.71 (a)(1).

### § 1061.73 Payments to producers and to cooperative associations.

Each handler shall make payment for milk received from producers or cooperative associations as follows:

(a) To each producer for whom payment is not made pursuant to paragraph (b) and (c) of this section:

(1) On or before the 20th day of the following month not less than the uniform price, adjusted by the butterfat differential computed pursuant to § 1061.74 and less the following amounts:

(i) The payments made pursuant to paragraph (a)(2) of this section;

(ii) Deductions for marketing services pursuant to § 1061.86; and

(iii) Any proper deductions authorized by the producer: *Provided*, That if by such date such handler has not received full payment from the market administrator pursuant to § 1061.72 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator; and

(2) A partial payment on or before the fifth day of the following month to each producer who had not discontinued shipping milk to such handler at not less than the Class III price for the preceding month for producer milk received during the first 15 days of the month (without deduction for hauling);

(b) Payments required in paragraph (a) of this section shall be made on or before the second day prior to the dates set forth in paragraph (a) of this section to a cooperative association (except



V 38-177 SEP 13 73 XUM

as specified in paragraph (c) of this section) qualified under § 1061.18, or its duly authorized agent, if the cooperative association so requests and the market administrator determines it is authorized by its members to collect payments for their milk. Payments to the cooperative association under this paragraph shall be made subject to the condition that the association has provided the handler with a promise to reimburse the handler the amount of any actual loss incurred by such handler because of any improper claim on the part of the cooperative association;

(c) On or before the 11th day after the end of the month, each handler shall pay a cooperative association which is a handler with respect to all skim milk and butterfat received by him from a pool plant operated by such cooperative association not less than the applicable class prices as adjusted by the butterfat differential specified in § 1061.74; and

(d) In making payment to individual producers as required by § 1061.73, each handler shall furnish each producer from whom he received milk a supporting statement, in such form that it may be retained by the producer, which shall show:

(1) The month involved, and the identity of the handler and of the producer;

(2) The total pounds and the average butterfat content of the milk received from the producer;

(3) The minimum rate at which payment to the producer is required pursuant to § 1061.73;

(4) The rate used in making the payment if such rate is other than the applicable minimum;

(5) The amount (or rate) per hundredweight of each deduction claimed by the handler, including any deduction claimed under § 1061.86, together with a description of the respective deductions; and

(6) The net amount of the payment to the producer.

**§ 1061.74 Butterfat differential.**

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

**§ 1061.75 [Reserved]**

**§ 1061.76 Payments by handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1061.30(b) and 1061.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price; and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1061.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1061.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1061.60 for such handler shall include, in lieu of the value of other source milk specified in § 1061.60(e) less the value of such other source milk specified in § 1061.71(a)(2)(ii), a value of milk determined pursuant to § 1061.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1061.7(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1061.30 (b) and 1061.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(*c*) The value of milk determined pursuant to § 1061.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1061.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1061.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

**§ 1061.77 Adjustment of accounts.**

When verification by the market administrator of reports or payment of any handler discloses errors resulting in money due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made not later than the date for making payment next following such disclosure.

**§ 1061.78 Charges on overdue accounts.**

The unpaid obligation of a handler pursuant to §§ 1061.71, 1061.76, and 1061.77 shall be increased three-fourths of 1 percent for each month or portion thereof that such obligation is overdue: *Provided*, That,

(a) The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid charges previously made pursuant to this section; and

(b) For the purpose of this section, any obligation that was determined at a date later than prescribed by the order because of a handler's failure to submit a report to the market administrator when due, shall be considered to have been payable by the date it would have been due if the report had been filed when due.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

**§ 1061.85 Assessment for order administration.**

As his pro rata share of the expense of administration, each handler shall pay to the market administrator on or before the 14th day after the end of the month, 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to milk handled during the month as follows:

(a) Each handler (excluding a cooperative association as the operator of a pool plant with respect to milk transferred in bulk to a pool plant of another handler) with respect to his receipts of producer milk (including such handler's own-farm production, and milk received in bulk from a pool plant owned and operated by a cooperative association);

(b) Other source milk allocated to Class I pursuant to § 1061.44(a) (7) and (11) and the corresponding steps of § 1061.44(b), except such other source milk that is excluded from the computations pursuant to § 1061.60 (d) and (e); and

(c) Each handler in his capacity as the operator of a partially regulated distributing plant with respect to his route disposition in the marketing area that exceeds the skim milk and butterfat subtracted pursuant to § 1061.76(a)(2).

**§ 1061.86 Deduction for marketing services.**

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 1061.73 shall deduct 6 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to producer milk received by such handler (except such handler's own farm production) during the month, and shall pay such deductions to the market administrator not later than the 18th day after the end of the month. Such moneys shall be used by the market administrator to verify or establish weights, samples, and tests of producer milk and to provide producers with market information. Such services shall be performed by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of member producers for whom a cooperative association is performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section such deductions as are authorized by such producers and, on or before the 18th day after the end of each month, pay over such deductions to the association rendering such services.

---

## PART 1063—MILK IN QUAD CITIES-DUBUQUE MARKETING AREA

### Subpart—Order Regulating Handling

GENERAL PROVISIONS

Sec.
1063.1 General provisions.

DEFINITIONS

1063.2 Quad Cities-Dubuque marketing area.
1063.3 [Reserved]
1063.4 [Reserved]
1063.5 Distributing plant.
1063.6 Supply plant.
1063.7 Pool plant.
1063.8 Nonpool plant.
1063.9 Handler.
1063.10 Producer-handler.
1063.11 [Reserved]
1063.12 Producer.
1063.13 Producer milk.
1063.14 Other source milk.
1063.15 Fluid milk product.
1063.16 Fluid cream product.
1063.17 Filled milk.
1063.18 Cooperative association.

HANDLER REPORTS

1063.30 Reports of receipts and utilization.
1063.31 Payroll reports.
1063.32 Other reports.

CLASSIFICATION OF MILK

1063.40 Classes of utilization.
1063.41 Shrinkage.
1063.42 Classification of transfers and diversions.
1063.43 General classification rules.
1063.44 Classification of producer milk.
1063.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1063.50 Class prices.
1063.51 Basic formula price.
1063.52 Plant location adjustments for handlers.
1063.53 Announcement of class prices.
1063.54 Equivalent price.

UNIFORM PRICE

1063.60 Handler's value of milk for computing uniform price.
1063.61 Computation of uniform price.
1063.62 Announcement of uniform price and butterfat differential.

PAYMENTS FOR MILK

1063.70 Producer-settlement fund.
1063.71 Payments to the producer-settlement fund.
1063.72 Payments from the producer-settlement fund.
1063.73 Payments to producers and to cooperative associations.
1063.74 Butterfat differential.
1063.75 Plant location adjustments for producers and on nonpool milk.
1063.76 Payments by handler operating a partially regulated distributing plant.
1063.77 Adjustment of accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1063.85 Assessment for order administration.
1063.86 Deduction for marketing services.

AUTHORITY: The provisions of this Part 1063 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

GENERAL PROVISIONS

**§ 1063.1 General provisions.**

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

**§ 1063.2 Quad Cities-Dubuque marketing area.**

"Quad Cities-Dubuque marketing area", hereinafter called the marketing area, means the territory within the boundaries of the counties of Clinton, Dubuque, Jackson, Muscatine, and Scott in the State of Iowa; the counties of Henry, Mercer, and Rock Island, and the city of East Dubuque, in the State of Illinois, including territory within such boundaries that is occupied by Government (municipal, State or Federal) reservations, installations, institutions, or other establishments.

**§ 1063.3 [Reserved]**

**§ 1063.4 [Reserved]**

**§ 1063.5 Distributing plant.**

"Distributing plant" means a plant which is approved by an appropriate health authority for the processing or packaging of Grade A milk from which any fluid milk product is processed or packaged and disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants) located in the marketing area.

**§ 1063.6 Supply plant.**

"Supply plant" means a plant from which milk or skim milk which is acceptable to the appropriate health authority for distribution in the marketing area under a Grade A label is shipped during the month to a pool plant qualified pursuant to § 1063.7.

**§ 1063.7 Pool plant.**

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) A distributing plant from which:

(1) The volume of Class I packaged fluid milk products, except filled milk, disposed of during the month either on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets or moved to other plants, less receipts of packaged fluid milk products other than filled milk from other pool distributing plants, is not less









V 38-177 SEP 13 73 XUM

than 45 percent of the total Grade A fluid milk products, except filled milk, received at such plant, exclusive of receipts of packaged fluid milk products from other pool distributing plants and receipts from other order plants which are assigned pursuant to § 1063.44(a)(8)(iii) and the corresponding step of § 1063.44(b); and

(2) Not less than 15 percent of such receipts during the month are so disposed of in the marketing area on routes.

(b) A supply plant from which the volume of fluid milk products, except filled milk, shipped during the month to plants qualified pursuant to paragraph (a) of this section is not less than 35 percent of the Grade A milk received at such plant from dairy farmers during such month: *Provided*, That if such shipments are not less than 50 percent of the receipts of Grade A milk directly from dairy farmers at such plant during the immediately preceding period of September through November, such plant shall be a pool plant for the months of December through August, unless written application is filed with the market administrator on or before the 1st day of any of the months of December through August to be designated a nonpool plant for such month and for each subsequent month through August.

(c) A plant operated by a cooperative association from whose members the total pounds of producer milk received at the pool plants of other handlers during the month, or during the 12-month period immediately preceeding such month, are more than the total pounds of Grade A milk received at its plant from dairy farmers during the corresponding period: *Provided*, That if written application is filed with the market administrator on or before the 5th day of any month such plant may be designated a nonpool plant for such month and for any subsequent months.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A plant otherwise qualified as a pool plant pursuant to paragraph (a), (b), or (c), of this section during any month in which such plant would be subject to the classification and pricing provisions of another order issued pursuant to the Act unless the disposition of fluid milk products, except filled milk, from such plant to pool plants qualified under paragraph (a), (b), or (c), of this section and to retail and wholesale outlets in the Quad Cities-Dubuque marketing area exceeds such disposition to retail and wholesale outlets in such other marketing area and to pool plants regulated by such other order except in the following circumstances:

(i) If a distributing plant were qualified pursuant to paragraph (a) of this section during each of the 3 immediately preceding months, it would continue to be subject to all the provisions of this part until after the 3d consecutive month in which it remains so qualified and has a greater proportion of its fluid milk product disposition, except filled milk, made in the above described manner in such other marketing area, unless, notwithstanding the provisions of this paragraph, it is regulated under such other order; or

(ii) A distributing plant qualified pursuant to paragraph (a) of this section that is fully regulated under another Federal order but which has greater fluid milk product (except filled milk) disposition during the month on routes in the Quad Cities-Dubuque marketing area and to pool plants qualified on the basis of route distribution in the Quad Cities-Dubuque marketing area than in such other Federal order marketing area; and

(3) That portion of a plant that is physically apart from the Grade A portion of such plant, is operated separately and is not approved by any health authorities for the receiving, processing, or packaging of any fluid milk product for Grade A disposition.

### § 1063.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant, other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant from which fluid milk products are shipped during the month to a pool plant.

### § 1063.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any cooperative association with respect to the milk from producers diverted pursuant to § 1063.13 by the cooperative association for the account of such association;

(c) [Reserved]

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler;

(f) Any person who operates an other order plant described in § 1063.7(d); and

(g) Any person in his capacity as the operator of an unregulated supply plant.

### § 1063.10 Producer-handler.

"Producer-handler" means any person who operates a dairy farm and a distributing plant but who receives no milk from producers or other source milk.

### § 1063.11 [Reserved]

### § 1063.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority and whose milk is received as producer milk at a pool plant or diverted pursuant to § 1063.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1063.44(a)(8)(iii) and the corresponding step of § 1063.44(b); and

(3) Any person with respect to milk produced by him which is diverted from a pool plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk.

### § 1063.13 Producer milk.

"Producer milk" means the skim milk and butterfat contained in Grade A milk received at a pool plant directly from a producer. Milk normally received from a producer at a pool plant which is diverted from such pool plant by the operator of the plant or a handler described in § 1063.9(b) to a nonpool plant that is not a producer-handler plant shall also be producer milk and shall be deemed to have been received by the diverting handler at the plant from which diverted: *Provided*, That in any of the months of July through January milk diverted from the farm of a producer on more than the number of days that milk was delivered to a pool plant from such farm during the month shall not be deemed to have been received by the diverting handler.

### § 1063.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1063.40(b)(1) from any source other than producers, pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1063.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1063.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1063.40(b)(1)) for which the handler fails to establish a disposition.

### § 1063.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1063.40 (b) or (c)(1)(i) through (iv) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

### § 1063.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

### § 1063.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

### § 1063.18 Cooperative association.

"Cooperative association" means any cooperative marketing association which the Secretary determines:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To be engaged in making collective sales, or marketing milk or its products for its members.

## Handler Reports

### § 1063.30 Reports of receipts and utilization.

On or before the 7th day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) [Reserved]

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1063.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition of fluid milk products in the marketing area.

(c) Each handler described in § 1063.9(b) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

### § 1063.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1063.9 (a) and (b) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1063.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

### § 1063.32 Other reports.

In addition to the reports required pursuant to §§ 1063.30 and 1063.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

## Classification of Milk

### § 1063.40 Classes of utilization.

Except as provided in § 1063.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1063.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(v) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is noti-







V 38-177 SEP 13 73 XUM

fied of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1063.15; and

(6) In shrinkage assigned pursuant to § 1063.41(a) to the receipts specified in § 1063.41(a)(2) and in shrinkage specified in § 1063.41 (b) and (c).

**§ 1063.41 Shrinkage.**

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1063.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant).

(2) [Reserved]

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraphs (b) (1), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1063.9(b), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples the applicable percentage under this paragraph for the cooperative association shall be zero.

**§ 1063.42 Classification of transfers and diversions.**

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1063.44(a)(12) and the corresponding step of § 1063.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1063.44(a)(7) of the corresponding step of § 1063.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1063.44 (a) (11) or (12) or the corresponding steps of § 1063.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market adminstrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order.

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1063.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1063.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition of fluid milk products in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

**§ 1063.43 General classification rules.**

In determining the classification of producer milk pursuant to § 1063.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1063.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1063.9(b) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1063.40, 1063.41, and 1063.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1063.9(b) shall be determined separately from the operations of any pool plant operated by such cooperative association.

**§ 1063.44 Classification of producer milk.**

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1063.9(a) for each of his pool plants separately and of each handler described in § 1063.9(b) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1063.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1063.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1063.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1063.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1063.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that re-





V 38-177 SEP 13 73 XUM

constituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (a) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the handler's total Class III utilization at his other pool plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment:

(a) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler;

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1063.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received;

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received; and

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from any class that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1063.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1063.44(a)(14) and the corresponding step of § 1063.44(b).

### § 1063.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1063.44(a)(12) and the corresponding step of § 1063.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1063.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 10th day after the end of each month, report to each cooperative association, which so requests, the percentage of milk caused to be delivered by the cooperative association or its members to the pool plant(s) of each handler during the month, which was utilized in each class. For the purpose of this report, the milk so delivered shall be allocated to each class for each handler in the same ratio as all producer milk received by such handler during the month.





## Class Prices

### § 1063.50 Class prices.

Subject to the provisions of § 1063.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.33.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

### § 1063.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92 score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

### § 1063.52 Plant location adjustments for handlers.

(a) For milk received from producers at a pool plant and disposed of as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price specified in § 1063.50(a) shall be adjusted as follows:

(1) At a plant in Dubuque and Jackson Counties, Iowa, and East Dubuque, Ill., subtract 10 cents;

(2) At a plant located outside the marketing area, north of U.S. Highway No. 80, and, except as provided in paragraph (a)(3) of this section, 70 miles or more, by the shortest hard-surfaced highway distance as determined by the market administrator, from the nearer of the City Hill, Rock Island, Ill., or the Post Office, West Liberty, Iowa, subtract 10 cents and subtract an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 80 miles; and

(3) At a plant located in that Iowa territory beyond 70 miles from the nearer of the City Hall, Rock Island, Ill., or the Post Office, West Liberty, Iowa, and south of U.S. Highway No. 80, or within the Des Moines, Iowa, marketing area as specified in Part 1079, add any amount by which the price specified in § 1063.50(a) is exceeded by the applicable Class I price at the same location pursuant to Part 1079 regulating the handling of milk in the Des Moines, Iowa, marketing area.

(b) For purposes of calculating such adjustments, transfers between pool plants shall be assigned Class I disposition at the tranferee-plant, in excess of the sum of receipts at such plant from producers, and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor-plants having the same Class I price, next to transferor-plants having a higher Class I price, and then in sequence to the plants having a lower Class I price beginning with the plant at which the highest Class I price would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

### § 1063.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

### § 1063.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

## Uniform Price

### § 1063.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1063.9(b) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1063.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1063.44(a)(14) and the corresponding step of § 1063.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1063.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1063.44(a)(9) and the corresponding step of § 1063.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1063.44(a)(7)(i) through (iv) and the corresponding step of § 1063.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1063.44(a)(7)(v) and (vi) and the corresponding step of § 1063.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1063.44(a)(11) and the corresponding step of § 1063.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.



V 38 177 SEP 13 73 XUM

**§ 1063.61 Computation of uniform price.**

For each month the market administrator shall compute a uniform price for milk of 3.5 percent butterfat content f.o.b. Rock Island, Ill., as follows:

(a) Combine into one total the values computed pursuant to § 1063.60 for all handlers who made the reports prescribed in § 1063.30 for such month, except those in default of payments required pursuant to § 1063.71 for the preceding month;

(b) Add the aggregate of the values of minus location adjustments and subtract the aggregate of all plus location adjustments pursuant to § 1063.75;

(c) Add an amount equal to one-half of the unobligated cash balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1063.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (d) of this section. The result shall be known as the uniform price for milk received from producers.

**§ 1063.62 Announcement of uniform price and butterfat differential.**

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 10th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

**§ 1063.70 Producer-settlement fund.**

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1063.71, 1063.76, and 1063.77 and out of which he shall make all payments to handlers pursuant to §§ 1063.72 and 1063.77.

**§ 1063.71 Payments to the producer-settlement fund.**

(a) On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1063.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1063.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1063.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

**§ 1063.72 Payments from the producer-settlement fund.**

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1063.71(a)(2) exceeds the amount computed pursuant to § 1063.71(a)(1): *Provided*, That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. A handler who has not received the balance of such payments from the market administrator shall not be considered in violation of § 1063.73 if he reduces his payments to producers by not more than the amount of the reduction in payment from the producer-settlement fund.

**§ 1063.73 Payments to producers and to cooperative associations.**

Each handler shall make payment as follows:

(a) On or before the 17th day after the end of each month during which milk was received, to each producer for milk received from him and for which payment is not made pursuant to paragraph (b) of this section, at not less than the uniform price as adjusted pursuant to §§ 1063.74 and 1063.75.

(b) On or before the 15th day after the end of each month during which the milk was received, to a cooperative association for milk which it caused to be delivered to such handler from producers, if such cooperative association is authorized to collect such payments for its member producers and exercises such authority, an amount equal to the sum of the individual payments otherwise payable to such producers.

(c) On or before the 10th day after the end of the month, each handler shall pay to each cooperative association which is also a handler, for milk received from it not less than the value of such milk as classified pursuant to this part at the respective class prices, as adjusted by the butterfat differential specified in § 1063.74, that are applicable at the location of the receiving handler's pool plant.

**§ 1063.74 Butterfat differential.**

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

**§ 1063.75 Plant location adjustments for producers and on nonpool milk.**

(a) The uniform price for producer milk pursuant to § 1063.61 received at a pool plant shall be adjusted according to the location of the pool plant, at the rates set forth in § 1063.52; and

(b) For purposes of computations pursuant to §§ 1063.71 and 1063.72 the uniform price shall be adjusted at the rates set forth in § 1063.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted uniform price shall not be less than the Class III price.

**§ 1063.76 Payments by handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1063.30(b) and 1063.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition of fluid milk products in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition of fluid milk products in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1063.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1063.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1063.60 for such handler shall include, in lieu of the value of other source milk specified in § 1063.60(f) less the value of such other source milk specified in § 1063.71(a)(2)(ii), a value of milk determined pursuant to § 1063.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1063.7(b) subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1063.30(b) and 1063.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1063.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1063.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1063.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

**§ 1063.77 Adjustment of accounts.**

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due; and payment thereof shall be made on or before the next date for making payment set forth in the provisions under which such error occurred.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

**§ 1063.85 Assessment for order administration.**

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 3 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to: (a) Producer milk, (b) other source milk allocated to Class I pursuant to § 1063.44(a)(7) and (11) and the corresponding steps of § 1063.44(b), except such other source milk that is excluded from the computations pursuant to § 1063.60(d) and (f); and (c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds the skim milk and butterfat subtracted pursuant to § 1063.76(a)(2).

**§ 1063.86 Deduction for marketing services.**

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 1063.73, shall deduct 6 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to all milk received by such handler from such producer (except such handler's own farm production), during the month, and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples, and tests of milk received by handlers from such producers during the month and to provide such producers with market information.

(b) In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and, on or before the 15th day after the end of each month, pay over such deductions to the association rendering such services.

## PART 1064—MILK IN THE GREATER KANSAS CITY MARKETING AREA

### Subpart—Order Regulating Handling

GENERAL PROVISIONS

Sec.
1064.1 General provisions.

DEFINITIONS

1064.2 Greater Kansas City marketing area.
1064.3 Route disposition.
1064.4 [Reserved]
1064.5 Distributing plant.
1064.6 Supply plant.
1064.7 Pool plant.
1064.8 Nonpool plant.
1064.9 Handler.
1064.10 Producer-handler.
1064.11 [Reserved]
1064.12 Producer.
1064.13 Producer milk.
1064.14 Other source milk.
1064.15 Fluid milk product.
1064.16 Fluid cream product.
1064.17 Filled milk.
1064.18 Cooperative association.

HANDLER REPORTS

1064.30 Reports of receipts and utilization.
1064.31 Payroll reports.
1064.32 Other reports.

CLASSIFICATION OF MILK

1064.40 Classes of utilization.
1064.41 Shrinkage.





FEDERAL REGISTER, VOL. 38, NO. 177—THURSDAY, SEPTEMBER 13, 1973



V 38-177
SEP 13 73
XUM

Sec.
1064.42 Classification of transfers and diversions.
1064.43 General classification rules.
1064.44 Classification of producer milk.
1064.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1064.50 Class prices.
1064.51 Basic formula price.
1064.52 Plant location adjustments for handlers.
1064.53 Announcement of class prices.
1064.54 Equivalent price.

UNIFORM PRICES

1064.60 Handler's value of milk for computing uniform price.
1064.61 Computation of uniform price (including weighted average price and base and excess prices).
1064.62 Announcement of uniform prices and butterfat differential.

PAYMENTS FOR MILK

1064.70 Producer-settlement fund.
1064.71 Payments to the producer-settlement fund.
1064.72 Payments from the producer-settlement fund.
1064.73 Payments to producers and to cooperative associations.
1064.74 Butterfat differential.
1064.75 Plant location adjustments for producers and on nonpool milk.
1064.76 Payments by handler operating a partially regulated distributing plant.
1064.77 Adjustment of accounts.
1064.78 Charges on overdue accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1064.85 Assessment for order administration.
1064.86 Deduction for marketing services.

BASE-EXCESS PLAN

1064.90 Base milk and excess milk.
1064.91 Computation of daily base for each producer.
1064.92 Daily base rules.
1064.93 Announcement of bases.

ADVERTISING AND PROMOTION PROGRAM

1064.110 Agency.
1064.111 Composition of Agency.
1064.112 Term of office.
1064.113 Selection of Agency members.
1064.114 Agency operating procedure.
1064.115 Powers of the Agency.
1064.116 Duties of the Agency.
1064.117 Advertising, Research, Education and Promotion Program.
1064.118 Limitation of expenditures by the Agency.
1064.119 Personal liability.
1064.120 Procedure for requesting refunds.
1064.121 Duties of the market administrator.
1064.122 Liquidation.

AUTHORITY: The provisions of this Part 1064 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

## GENERAL PROVISIONS

### § 1064.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

## DEFINITIONS

### § 1064.2 Greater Kansas City marketing area.

"Greater Kansas City marketing area," hereinafter called "marketing area," means all the territory within the boundaries of the counties listed below, including territory within such boundaries occupied by government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments:

MISSOURI COUNTIES

| | |
|---|---|
| Andrew. | Henry. |
| Atchison. | Holt. |
| Bates. | Jackson. |
| Buchanan. | Johnson. |
| Cass. | Lafayette. |
| Clay. | Nodaway. |
| Clinton. | Pettis. |
| Daviess. | Platte. |
| De Kalb. | St. Clair. |
| Gentry. | Worth. |

KANSAS COUNTIES

| | |
|---|---|
| Atchison. | Marshall. |
| Brown. | Miami. |
| Clay. | Morris. |
| Cloud. | Nemaha. |
| Dickinson. | Ottawa. |
| Donlphan. | Pottawatomie. |
| Douglas. | Republic. |
| Geary. | Riley. |
| Jackson. | Saline. |
| Jefferson. | Shawnee. |
| Johnson. | Wabaunsee. |
| Leavenworth. | Washington. |
| Lyon. | Wyandotte. |

### § 1064.3 Route disposition.

"Route disposition" means a delivery (either direct or through a distributing facility such as a distribution point, a plant store, a vendor, or vending machine), other than a delivery to a pool plant or a nonpool plant, of a fluid milk product classified as Class I milk.

### § 1064.4 [Reserved]

### § 1064.5 Distributing plant.

"Distributing plant" means a plant from which during the month there is route disposition in the marketing area of Grade A fluid milk products that are processed or packaged in such plant.

### § 1064.6 Supply plant.

"Supply plant" means a plant from which a Grade A fluid milk product is shipped during the month to a pool plant.

### § 1064.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) A distributing plant from which during the month or the immediately preceding month there is:

(1) Route disposition, except filled milk, in the marketing area that is not less than 15 percent of the total Grade A fluid milk products, except filled milk, received at such plant, including producer milk diverted to other plants pursuant to § 1064.13 by the handler operating such plant; and

(2) Route disposition, except filled milk, that is not less than the following percentage of the total Grade A fluid milk products, except filled milk, received at such plant, including producer milk diverted to other plants pursuant to § 1064.13 by the handler operating such plant: *Provided,* That the combined receipts and disposition of each handler who operates more than one distributing plant, each of which meets the performance requirements of paragraph (a)(1) of this section, shall be used in determining the percentages specified in this subparagraph:

(i) April through June, 35 percent;

(ii) September and October, 50 percent; and

(iii) All other months, 45 percent.

(b) A supply plant from which during the month 50 percent or more of the Grade A milk received at such plant from dairy farmers (including receipts from handler described in § 1064.9(c), except receipts of milk diverted pusuant to § 1064.13) is disposed of as fluid milk products (except filled milk) in one or both of the following ways: (1) Shipped to and received at pool distributing plants, or (2) as a route disposition sale in the marketing area. A supply plant which is a pool plant under this paragraph during each month of September through January shall be pooled for the following months of February through August, if the required percentage pursuant to this paragraph is not met, unless the plant operator files written request with the market administrator that such plant not be a pool plant, such nonpool status to be effective the first month following such request and thereafter until the plant qualifies as a pool plant on the basis of shipments.

(c) A supply plant operated by a cooperative association in any month in which the member producer milk of such cooperative association received at pool distributing plants during the current month, or immediately preceding 12-month period ending with the current month, either by transfer from such supply plant or directly from member producers' farms, is 50 percent or more of such cooperative's total member producer milk. Such direct deliveries from member producers' farms shall be considered as having been received first at the plant of such cooperative association for the purpose of determining the qualification of such plant as a pool plant pursuant to this paragraph. If two or more cooperative associations desire to qualify a supply plant operated by one of the associations as a pool plant on the basis of their combined deliveries to pool distributing plants and have filed a written request to this effect with the market administrator on or before the first day of the month the agreement is effective, such a supply plant shall be a pool plant during the month if the above specified percentage of the total member producer milk of such cooperative associations was received at pool distributing plants during the current month, or the immediately preceding 12-month period ending with the current month.

(d) The term "pool plant" shall not apply to the following plants:





(1) A producer-handler plant;

(2) A distributing plant or supply plant operated by a State educational institution;

(3) A plant from which there is route disposition in the marketing area of less than an average of 600 pounds per day;

(4) A distributing plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which during the month a greater volume of fluid milk products, except filled milk, was disposed of as route disposition in such other marketing area and to pool plants qualified on the basis of route disposition in such other marketing area than was so disposed of in this marketing area except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all the provisions of this part until the third consecutive month in which a greater proportion of its fluid product disposition, except filled milk, is made in the above described manner in such other marketing area, unless, notwithstanding the provisions of this subparagraph, it is regulated under such other order;

(5) A distributing plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which during the month a greater volume of fluid milk products, except filled milk, was disposed of as route disposition in this marketing area and to pool plants qualified on the basis of route disposition in this marketing area than was so disposed of in such other Federal order marketing area but which plant is, nevertheless, fully regulated under such other Federal order;

(6) A supply plant meeting the pooling requirements of paragraph (b) of this section which also meets the pooling requirements of another Federal order, and which has greater direct marketing area route disposition, except filled milk, and qualifying shipments to plants regulated under such other order than are made under this order, unless during any month of February through August automatic pool plant status for such plant is retained under this part for such month; and

(7) A supply plant which would be subject to the classification and pricing provisions of another order issued pursuant to the Act, unless such plant also qualified as a pool plant pursuant to paragraph (c) of this section.

### § 1064.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant (except the plant of a handler pursuant to § 1064.9(h), an other order plant, or a producer-handler plant) from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant which is not an other order plant, a producer-handler plant, or a plant of a handler pursuant to § 1064.9(h) from which a fluid milk product is shipped during the month to a pool plant.

### § 1064.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any cooperative association with respect to producer milk which it causes to be diverted pursuant to § 1064.13 for the account of such cooperative association;

(c) Any cooperative association with respect to the milk of its producers which is received by the cooperative from the farm for delivery to the pool plant of another handler in a tank truck owned or operated by or under contract to such cooperative association if the cooperative association, prior to delivery, notifies the market administrator in writing that it will be the handler for the milk. Such milk shall be considered to have been received at the location of the pool plant to which delivery is made;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler;

(f) Any person who operates an other order plant that is either a distributing plant or a supply plant;

(g) Any person who operates an unregulated supply plant; and

(h) A State educational institution which operates either a nonpool distributing plant or supply plant.

### § 1064.10 Producer-handler.

"Producer-handler" means a person who operates both a dairy farm and a distributing plant at which each of the following conditions is met during the month:

(a) Milk is received from the dairy farm of such person but from no other dairy farm;

(b) The butterfat or skim milk disposed of in the form of a fluid milk product does not exceed the butterfat or skim milk, respectively, received in the form of milk from the dairy farm of such person and in the form of a fluid milk product from pool plants of other handlers; and

(c) Such person shall furnish proof satisfactory to the market administrator that the care and management of the dairy animals and other resources necessary for the production of milk in his name and the operation of the processing and packaging business are the personal enterprise and risk of such person.

### § 1064.11 [Reserved]

### § 1064.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority, which milk is received at a pool plant or diverted pursuant to § 1064.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act or a handler pursuant to § 1064.9(h);

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allcoated to Class II or Class III utilization pursuant to § 1064.44(a)(8)(iii) and the corresponding step of § 1064.44(b); and

(3) Any person with respect to milk produced by him which is diverted from a pool plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk.

### § 1064.13 Producer milk.

"Producer milk" means the skim milk and butterfat contained in Grade A milk of a producer which is:

(a) Received at a pool plant directly from a producer or a handler described in § 1064.9(c);

(b) Received by a handler described in § 1064.9(c) from producers in excess of the quantity delivered to pool plants; or

(c) Diverted, subject to the following conditions, from a pool plant to a pool supply plant or to a nonpool plant that is not a producer-handler plant. "Diverted milk" is milk normally received at a pool distributing plant but which is moved directly from a dairy farm to a nonpool plant as specified in this paragraph or to a pool supply plant for the account of a handler operating a pool distributing plant or a handler described in § 1064.9(b). Such milk shall be deemed to have been received by the diverting handler at the location of the pool plant from which diverted except that milk diverted to a plant located more than 125 miles by the shortest highway distance as determined by the market administrator from the nearest of the City Halls of Kansas City, Mo., or Topeka, Kans., shall be deemed to have been received at the location of the plant to which diverted in applying §§ 1064.52 and 1064.75:

(1) A handler described in § 1064.9(b) may divert for its account the milk of any member producer whose milk is received at a pool distributing plant for at least 1 day's delivery during the month, without limit during the other days of the month. The total quantity of milk so diverted may not exceed the larger of the following amounts:

(i) The total quantity of its member producer milk received at all pool dis-



V 38 177 SEP 13 73 XUM

tributing plants during the current month, or

(ii) The average daily quantity of its member producer milk received at pool distributing plants during the previous month, multiplied by the number of days in the current month.

(2) A handler operating a pool distributing plant may divert for his account the milk of any producer, other than a member of a cooperative association which has diverted milk pursuant to paragraph (c)(1) of this section, whose milk is received at his pool distributing plant for at least 1 day's delivery during the month, without limit during the other days of the month. However, the total quantity of milk so diverted may not exceed the larger of the following amounts:

(i) The total quantity of milk received at such plant during the current month from producers who are not members of a cooperative association that has diverted milk pursuant to paragraph (c)(1) of this section; or

(ii) The average daily quantity of milk received at such plant during the previous month from producers who are not members of a cooperative association that has diverted milk in the current month pursuant to paragraph (c)(1) of this section, multiplied by the number of days in the current month.

(3) Diversions in excess of the applicable percentages pursuant to paragraph (c)(1) and (2) of this section shall first be assigned to diversions to nonpool plants and any excess quantity assigned to nonpool plants shall not be producer milk and shall not be deemed to have been received by the diverting handler. The diverting handler shall specify the dairy farmers whose milk shall not be included as producer milk pursuant to this subparagraph. Excess diversions to a pool supply plant shall be producer milk at the supply plant in applying §§ 1064.52, and 1064.75.

**§ 1061.14 Other source milk.**

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1064.40(b)(1) from any source other than producers, handlers described in § 1064.9(c), pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1064.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1064.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1064.40(b)(1)) for which the handler fails to establish a disposition.

**§ 1061.15 Fluid milk product.**

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1064.40 (b) or (c)(1) (i) through (iv) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

**§ 1064.16 Fluid cream product.**

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

**§ 1064.17 Filled milk.**

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

**§ 1061.13 Cooperative association.**

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and is engaged in making collective sales of or marketing milk or milk products for its members.

HANDLER REPORTS

**§ 1064.30 Reports of receipts and utilization.**

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1064.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1064.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1064.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

**§ 1061.31 Payroll reports.**

(a) On or before the 23d day after the end of each month, each handler described in § 1064.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1064.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.





**§ 1064.32 Other reports.**

In addition to the reports required pursuant to §§ 1064.30 and 1064.31, the following shall be reported to the market administrator:

(a) On or before the seventh day after the end of each month with respect to receipts at each plant of milk from each producer, each handler described in § 1064.9 (a) and (b) shall report the average butterfat test, the pounds of butterfat contained therein, the number of days on which milk was received from such producer and for each of the months of February through July, the pounds of base and excess milk received from each producer;

(b) On or before the seventh day after the end of each month of February through July, each handler described in § 1064.9(c) shall report the quantities of skim milk and butterfat in producer milk for which it is the handler that is base milk and excess milk; and

(c) Each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

**§ 1064.40 Classes of utilization.**

Except as provided in § 1064.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1064.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(*) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(v) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1064.15; and

(6) In shrinkage assigned pursuant to § 1064.41(a) to the receipts specified in § 1064.41(a)(2) and in shrinkage specified in § 1064.41 (b) and (c).

**§ 1064.41 Shrinkage.**

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1064.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in subparagraph the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1064.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1064.9(c) and in milk diverted to such plant from another pool plant, except that, in either case, if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b)(1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1064.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

**§ 1061.12 Classification of transfers and diversions.**

(a) *Transfers and diversions to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant (to a pool supply plant, in the case of diversion) shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of



V 38-177 SEP 13 73 XUM

such transfers or diversions shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant or divertee-plant after the computations pursuant to § 1064.44 (a)(12) and the corresponding step of § 1064.44(b);

(2) If the transferor-plant or divertor-plant received during the month other source milk to be allocated pursuant to § 1064.44(a)(7) or the corresponding step of § 1064.44(b), the skim milk or butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler or divertor-handler received during the month other source milk to be allocated pursuant to § 1064.44(a) (11) or (12) or the corresponding steps of § 1064.44(b), the skim milk or butterfat so transferred or diverted, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant or divertee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators; transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1064.40.

(c) *Transfers to producer-handlers and transfers and diversions to a State educational institution plant.* Skim milk or butterfat in the following forms that is transferred from a pool plant to a producer-handler under this or any other Federal order or transferred or diverted from a pool plant to a plant of a handler described in § 1064.9(h) shall be classified:

(1) As Class I milk, if so moved in the form of a fluid milk product, except that if a handler described in § 1064.9(h) certifies that the fluid milk product is acquired for use in Class II or Class III products for research or educational purposes, such fluid milk product shall be classified in the applicable lower class; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, a producer-handler plant, or a plant of a handler pursuant to § 1064.9(h) shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1064.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of package fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.





### § 1064.43 General classification rules.

In determining the classification of producer milk pursuant to § 1064.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1064.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1064.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1064.40, 1064.41, and 1064.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1064.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

### § 1064.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1064.9(a) for each of his pool plants separately and of each handler described in § 1064.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1064.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1064.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1064.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1064.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1064.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order and from a handler described in § 1064.9(h);

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the handler's total Class III utilization at his other pool plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler;

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1064.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to subskim milk subtracted pursuant to paragraph (a)(1) of this section;



V 38-177 SEP 13 73 XUM

(11) Subject to the provisions of paragraph (a)(11)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph a(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12) (ii) and (iii) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1064.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler;

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received; and

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from any class that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1064.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1064.44(a)(14) and the corresponding step of § 1064.44(b).

**§ 1064.45 Market administrator's reports and announcements concerning classification.**

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1064.44(a)(12) and the corresponding step of § 1064.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1064.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 14th day after the end of each month, report to each cooperative association which so requests the amount and class utilization of milk received by each handler from such cooperative association in its capacity as a handler described in § 1064.9(c) and directly from members of such cooperative association. For the purpose of this report, the milk so received shall be prorated to each class in proportion to the utilization by such handler in each class remaining after the allocation pursuant to § 1064.44(a) (1) through (13) and the corresponding steps of § 1064.44(b).

CLASS PRICES

**§ 1064.50 Class prices.**

Subject to the provisions of § 1064.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.74.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

**§ 1064.51 Basic formula price.**

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

**§ 1064.52 Plant location adjustments for handlers.**

(a) For milk received from producers at a pool plant located outside the marketing area and more than 50 miles but not more than 70 miles by shortest highway distance as measured by the market administrator, from the nearer of the City Halls in Kansas City, Mo., or Topeka, Kans., which is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price computed pursuant to § 1064.50(a) shall be reduced by 10 cents, and by an additional 1.5 cents for each 10 miles or fraction thereof that such plant is more than 70 miles from such City Hall.

(b) For purposes of calculating such adjustment, bulk transfers between pool plants shall be assigned to the Class I disposition at the transferee-plant prorated with the sum of receipts at such plant of producer milk and the pounds assigned as Class I to receipts from other order plants and unregulated supply plants.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

**§ 1064.53 Announcement of class prices.**

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

**§ 1064.54 Equivalent price.**

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICES

**§ 1064.60 Handler's value of milk for computing uniform price.**

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1064.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1064.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1064.44(a)(14) and the corresponding step of § 1064.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1064.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1064.44(a)(9) and the corresponding step of § 1064.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1064.44(a)(7) (i) through (iv) and the corresponding step of § 1064.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1064.44(a)(7) (v) and (vi) and the corresponding step of § 1064.44 (b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1064.44 (a)(11) and the corresponding step of § 1064.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

**§ 1064.61 Computation of uniform price (including weighted average price and base and excess prices).**

(a) For each month the market administrator shall compute the "uniform price" per hundredweight of milk of 3.5 percent butterfat content received from producers (or "weighted average price") as follows:

(1) Combine into one total the values computed pursuant to § 1064.60 for all handlers who filed the reports prescribed by § 1064.30 for the month and who made the payments pursuant to §§ 1064.71 and 1064.73 for the preceding month;

(2) Add an amount equal to the total value of the location adjustments computed pursuant to § 1064.75;

(3) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(4) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a)(1) of this section by 5 cents;

(5) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1064.60(f); and

(6) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price" and for the months of August through January shall be the "uniform price" for milk received from producers.

(b) For each month of February through July, the market administrator shall compute the uniform prices per hundredweight for base milk and for excess milk as follows:

(1) Subtract from the amount resulting from the computations made pursuant to paragraph (a) (1) through (4) of this section an amount computed by multiplying the weighted average price plus 5 cents times the hundredweight of milk specified in paragraph (a)(5)(ii) of this section;

(2) Determine the value of excess milk by multiplying the hundredweight of producer milk determined to be excess milk in series beginning with Class III by the respective class prices minus 5 cents and adding together the resulting amounts;

(3) Divide the total value of excess milk obtained in paragraph (b)(2) of this section by the total hundredweight of such milk and adjust to the nearest cent. The resulting figure shall be the uniform price for excess milk of 3.5 percent butterfat content received from producers;

(4) Subtract the value of excess milk obtained in paragraph (b)(2) of this section from the aggregate value of milk obtained in paragraph (b)(1) of this section and adjust by any amount involved in adjusting the uniform price of excess milk to the nearest cent;

(5) Divide the amount obtained in paragraph (b)(4) of this section by the total hundredweight of producer milk determined to be base milk; and

(6) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (b)(5) of this section. The resulting figure shall be the uniform price for base milk of 3.5 percent butterfat content received from producers.

**§ 1061.62 Announcement of uniform prices and butterfat differential.**

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform prices for such month.

PAYMENTS FOR MILK

**§ 1064.70 Producer-settlement fund.**

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all funds received pursuant to paragraph (a) of this section and out of which he shall make all payments required pursuant to paragraph (b) of this section.

(a) Payments made by handlers pursuant to §§ 1064.71, 1064.76, and 1064.77.

(b) Payments due handlers pursuant to §§ 1064.72 and 1064.77: *Provided*, That payments due any handler shall be offset by payments due from such handler pursuant to §§ 1064.71, 1064.76, 1064.77, 1064.85, and 1064.86.

**§ 1064.71 Payments to the producer-settlement fund.**

(a) On or before the 14th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount







V 38-177 SEP 13 73 XUM

specified in paragraph (a) (1) of this section exceeds the amount specified in paragraph (a) (2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1064.60.

(2) The sum of:

(i) The amount required to be paid producers (including payments to producers through cooperative associations) pursuant to § 1064.73 before adjustment for butterfat content and before deductions authorized by the producer or cooperative association or for marketing services pursuant to § 1064.86; and

(ii) The value at the weighted average price applicable at the location of the plant from which received plus 5 cents of other source milk for which a value is computed pursuant to § 1064.60(f).

(b) During each month of February through July each handler pursuant to § 1064.9(c), on or before the 14th day after the end of the month, shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (b) (1) of this section exceeds the amount specified in paragraph (b) (2) of this section:

(1) The total value of such association's member producer milk at the applicable weighted average price computed pursuant to § 1064.61; and

(2) The total value of such association's member producer base and excess milk at the applicable uniform base and excess prices computed pursuant to § 1064.61.

(c) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (c) (1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

### § 1061.72 Payments from the producer-settlement fund.

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1064.71 (a) (2) or (b) (2) exceeds the amount computed pursuant to § 1064.71 (a) (1) or (b) (1). If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payment and shall complete such payments as soon as the necessary funds are available.

### § 1064.73 Payments to producers and to cooperative associations.

Each handler shall make payment as follows:

(a) On or before the 15th day after the end of each month during which the milk was received, to each producer for whom payment is not made pursuant to paragraph (c) or (d) of this section, at not less than the applicable uniform price(s) pursuant to § 1064.61, adjusted by the butterfat differential computed pursuant to § 1064.74 and the location adjustment to producers pursuant to § 1064.75, and less the following amounts: (1) the payments made pursuant to paragraph (b) of this section, (2) deductions for marketing services made pursuant to § 1064.86, and (3) any deductions authorized by the producer: *Provided*, That if by such date such handler has not received full payment for such month pursuant to § 1064.72 he may reduce his total payment to all producers uniformly by not less than the amount of reduction in payment from the market administrator; the handler shall, however, complete such payments not later than the date for making such payments pursuant to this paragraph next following receipt of the balance from the market administrator.

(b) On or before the 25th day of each month to each producer (1) for whom payment is not received from the handler by a cooperative association pursuant to paragraphs (c) and (d) of this section; and (2) who had not discontinued shipping milk to such handler before the 18th day of the month, a partial payment with respect to milk received from such producer during the first 15 days of the month at the approximate value of such milk, not to be less than the Class III price for the preceding month, without deduction for hauling.

(c) To a cooperative association which has filed a written request for such payment with such handler and with respect to producers for whose milk the market administrator determines such cooperative association is authorized to collect payment as follows:

(1) On or before the 20th day of the month, an amount equal to not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (b) of this section less any deductions authorized in writing by such cooperative association; and

(2) On or before the 14th day after the end of each month an amount equal to not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (a) of this section, less proper deductions authorized in writing by such cooperative association.

(d) To a cooperative association with respect to milk for which such association is acting in the capacity of a handler pursuant to § 1064.9(c):

(1) On or before the 20th day of the month an amount equal to the rate specified in paragraph (b) of this section times the volume received during the first 15 days of the month; and

(2) On or before the 14th day after the end of each month an amount equal to not less than the value of such milk at the applicable weighted average or uniform price pursuant to § 1064.61(a) (5), as adjusted pursuant to §§ 1064.74 and 1064.75, less payment made pursuant to paragraph (d) (1) of this section.

(e) In making payments to producers pursuant to paragraph (a) of this section, each handler shall furnish each producer with a supporting statement in such form that it may be retained by the producer, which shall show:

(1) The month and the identity of the handler and of the producer;

(2) The pounds per shipment, the total pounds, and the average butterfat test of milk delivered by the producer;

(3) The minimum rate or rates at which payment to the producer is required under the provisions of §§ 1064.73, 1064.74, and 1064.75;

(4) The rate which is used in making payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deduction claimed under paragraph (b) of this section and § 1064.86 together with a description of the respective deductions; and

(6) The net amount of payment to the producer.

(f) Each handler who receives milk from producers, payment for which is to be made to a cooperative association pursuant to paragraph (c) of this section, shall report to such cooperative association with respect to each such producer, on forms approved by the market administrator, as follows:

(1) On or before the 23d day of the month, the total pounds of milk received during the first 15 days of the month; and

(2) On or before the seventh day after the end of the month:

(i) The pounds per shipment, the total pounds of milk and the average butterfat test of milk received from such producer during the month;

(ii) The amount or rate and nature of any deductions; and

(iii) The amount of any payments due such producer pursuant to § 1064.77.

### § 1064.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform prices shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.





### § 1064.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price pursuant to § 1064.61(a) and the uniform price for base milk pursuant to § 1064.61(b) for producer milk received at a pool plant or diverted from a pool plant shall be reduced according to the location of the pool plant at the rate set forth in § 1064.52, subject to § 1064.13(c).

(b) For purposes of computations pursuant to §§ 1064.71 and 1064.72 the weighted average price shall be adjusted at the rates set forth in § 1064.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price plus 5 cents shall not be less than the Class III price.

### § 1064.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant, except a plant described in § 1064.7(d) (3), shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1064.30(b) and 1064.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price plus 5 cents, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the weighted average price plus 5 cents shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a) (3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1064.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b) (1) (i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1064.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1064.60 for such handler shall include, in lieu of the value of other source milk specified in § 1064.60(f) less the value of such other source milk specified in § 1064.71(a) (2) (ii), a value of milk determined pursuant to § 1064.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1064.7(b), subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1064.30(b) and 1064.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1064.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b) (1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1064.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b) (1) (iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1964.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b) (1) (iii) of this section applies.

### § 1064.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due the market administrator or any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of the amount due and payment therefor shall be made within 5 days if such amount is due the market administrator, or on or before the next date for making payments to producers or a cooperative association, if such amount is due them. Whenever such audit discloses errors resulting in moneys due such handler from the market administrator, payment shall be made within 5 days.

### § 1064.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1064.71, 1064.73, 1064.77, 1064.85, and 1064.86 shall be increased one-half of 1 percent on the first day of the month next following the due date of such obligation and on the first day of each month thereafter until such obligation is paid.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

### § 1064.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 12th day after the end of the month 3 cents per hun-



V 38-177
SEP 13 73
XUM

dredweight, or such lesser amount as the Secretary may prescribe, of:

(a) Producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1064.44(a) (7) and (11) and the corresponding steps of § 1064.44(b), except such other source milk that is excluded from the computations pursuant to § 1064.60 (d) and (f); and

(c) Class I milk disposed of from a partially regulated distributing plant (except from a plant described in § 1064.7(d)(3)) as route disposition in the marketing area that exceeds the skim milk and butterfat subtracted pursuant to § 1064.76(a)(2).

### § 1061.86 Deduction for marketing services.

(a) *Deductions.* Except as set forth in paragraph (b) of this section, each handler in making payments to producers other than himself pursuant to § 1064.73(a), shall deduct 6 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to all milk received by such handler from producers during the month, and shall pay such deductions to the market administrator on or before the 12th day after the end of such month. Such moneys shall be used by the market administrator to verify weights, samples, and tests of milk received from and to provide market information to such producers.

(b) *Deductions with respect to members of a cooperative association.* In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall, in lieu of the deductions specified in paragraph (a) of this section, make such deductions from the payments to be made directly to producers pursuant to § 1064.73(a), as are authorized by such producers, and on or before the 12th day after the end of each month, pay over such deductions to the association of which such producers are members, accompanied by a statement showing the amount of the deduction and the quantity of milk for which it was computed for each such producer.

## BASE-EXCESS PLAN

### § 1061.90 Base milk and excess milk.

(a) "Base milk" means that producer milk received by a handler from a producer in each month of February through July that is not in excess of such producer's daily base computed pursuant to § 1064.91 multiplied by the number of days of production in the month that such milk was received by the handler.

(b) "Excess milk" means that producer milk received by a handler from a producer in each month of February through July that is in excess of base milk received from such producer in such month and shall include all milk received from a producer for whom no daily base can be computed pursuant to § 1064.91.

### § 1061.91 Computation of daily base for each producer.

The daily base for each producer applicable during each month of February through July, inclusive, shall be determined by the market administrator as follows: Divide the total pounds of milk received by a handler at a pool plant from such producer during the immediately preceding months of September through December by the number of days during such period on which milk was received from such producer or by 90 whichever is greater. In the case of producers delivering milk to a plant which first became a pool plant during or after the end of the base-forming period, the daily average base for each producer at such plant shall be that which would have been calculated for such producers for the entire base-forming period if the handler's plant had been a pool plant during such period.

### § 1061.92 Daily base rules.

(a) Except as provided in paragraph (b) of this section, a daily base shall apply only to milk produced by the producer in whose name such milk was delivered to the handler(s) during the base-forming period.

(b) A producer may transfer his daily base during the period of February through July by notifying the market administrator in writing before the last day of any delivery period that such base is to be transferred to the person named in such notice but under the following conditions only:

(1) In the event of the death or entry into military service of a producer, the entire daily base may be transferred to a member of such producer's immediate family who carries on the dairy operation on the same farm; and

(2) If a base is held jointly and such joint holding is terminated on the basis of written notice to the market administrator from the joint holders the entire daily base may be transferred to one of the joint holders, or divided in accordance with such notice between the former joint holders if they continue dairy operations.

### § 1061.93 Announcement of bases.

On or before February 1 of each year the market administrator shall notify in writing each producer who made deliveries of milk during the previous September through December and the handler receiving milk from such producer of the daily base established by such producer.

## ADVERTISING AND PROMOTION PROGRAM

### § 1061.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1064.121 (b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

### § 1061.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1064.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers that have elected not to combine pursuant to § 1064.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group of participating producers, in total, pursuant to § 1064.113 (c), one Agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent but not less than 1 percent of the total participating producers, it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1064.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives but not less than five.

### § 1061.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

### § 1061.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative association authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1064.111 and paragraph (a) of this section.

(c) Selection of Agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required 5 percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more producers as Agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for Agency membership and shall conduct a referendum among the individual participating producers eligible to vote. Election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.





### § 1061.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum. Any action of the Agency shall require a majority of concurring votes of those present and voting, unless the Agency determines that more than a simple majority shall be required.

### § 1061.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions of the program within the scope of Agency authority pursuant to § 1064.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91–670;

(c) Recommend amendments to the Secretary; and

(d) With the approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1064.110 and 1064.117.

### 1061.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1064.110 and 1064.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of power and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings, and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

### § 1061.117 Advertising, research, education, and promotion program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

### § 1061.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1064.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

### § 1061.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

### § 1061.120 Procedure for requesting refunds.

Any producer may apply for refund subject to the applicable conditions set forth in this section.

(a) Refund shall be accomplished only through application filed with, and in the manner prescribed by, the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the end of the ensuing calendar quarter may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such calendar quarter pursuant to § 1064.61(a)(4): *Provided*, That such eligibility for refund shall not apply to a dairy farmer who during the first 15 days of such December, March, June, or September, respectively, was a producer under an order where the same refund notification period applied and such dairy farmer did not appropriately submit refund application during such period. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

(d) A dairy farmer who, with respect to any calendar quarter, has appropriately filed request for refund of program assessments on his marketings of milk under another order that provides for an advertising and promotion program will be eligible (on the basis of his request filed under the other order) for refund with respect to his producer milk marketed under this order during such quarter for which deductions were made pursuant to § 1064.61(a)(4).

### § 1061.121 Duties of the market administrator.

Except as specified in § 1064.116, the market administrator, in addition to other duties specified by this part, shall



V 38-177 SEP 13 73 XUM

perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1064.113(c);

(b) Set aside the amounts subtracted under § 1064.61(a)(4) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b) (2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1064.61(a)(4).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1064.120. Such refund shall be computed at the rate of 5 cents per hunderdweight of such producer's milk pooled for which deductions were made pursuant to § 1064.61(a)(4) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1064.110 through 1064.122).

(d) Make necessary audit to establish that all Agency funds are used only for authorized purposes.

**§ 1064.122 Liquidation.**

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1064.70.

## PART 1065—MILK IN THE NEBRASKA-WESTERN IOWA MARKETING AREA

### Subpart—Order Regulating Handling

GENERAL PROVISIONS

Sec.
1065.1 General provisions.

DEFINITIONS

1065.2 Nebraska-Western Iowa marketing area.
1065.3 Route disposition.
1065.4 [Reserved]
1065.5 Distributing plant.
1065.6 Supply plant.
1065.7 Pool plant.
1065.8 Nonpool plant.
1065.9 Handler.
1065.10 Producer-handler.
1065.11 [Reserved]
1065.12 Producer.
1065.13 Producer milk.
1065.14 Other source milk.
1065.15 Fluid milk product.
1065.16 Fluid cream product.
1065.17 Filled milk.
1065.18 Cooperative association.

HANDLER REPORTS

1065.30 Reports of receipts and utilization.
1065.31 Payroll reports.
1065.32 Other reports.

CLASSIFICATION OF MILK

1065.40 Classes of utilization.
1065.41 Shrinkage.
1065.42 Classification of transfers and diversions.
1065.43 General classification rules.
1065.44 Classification of producer milk.
1065.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1065.50 Class prices.
1065.51 Basic formula price.
1065.52 Plant location adjustments for handlers.
1065.53 Announcement of class prices.
1065.54 Equivalent price.

UNIFORM PRICES

1065.60 Handler's value of milk for computing uniform prices.
1065.61 Computation of uniform prices.
1065.62 Announcement of uniform prices and butterfat differential.

PAYMENTS FOR MILK

1065.70 Producer-settlement fund.
1065.71 Payments to the producer-settlement fund.
1065.72 Payments from the producer-settlement fund.
1065.73 Payments to producers and to cooperative associations.
1065.73a Payments to producers and to cooperative associations under a Class I base plan.
1065.74 Butterfat differential.
1065.75 Plant location adjustments for producers and on nonpool milk.
1065.76 Payments by handler operating a partially regulated distributing plant.
1065.77 Adjustment of accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1065.85 Assessment for order administration.
1065.86 Deduction for marketing services.

CLASS I BASE PLAN

1065.90 Production history base and Class I base.
1065.91 Base milk and excess milk.
1065.92 Computation of production history base for each producer.
1065.93 New producers.
1065.94 Updating of production history base.
1065.95 Computation of Class I base for each producer.
1065.96 Transfer of bases.
1065.97 Miscellaneous base rules.
1065.98 Hardship provisions.

ADVERTISING AND PROMOTION PROGRAM

1065.110 Agency.
1065.111 Composition of Agency.
1065.112 Term of office.
1065.113 Selection of Agency members.
1065.114 Agency operating procedure.
1065.115 Powers of the Agency.
1065.116 Duties of the Agency.
1065.117 Advertising, Research, Education and Promotion Program.
1065.118 Limitation of expenditures by the Agency.
1065.119 Personal liability.
1065.120 Procedure for requesting refunds.
1065.121 Duties of the market administrator.
1065.122 Liquidation.

AUTHORITY: The provisions of this Part 1065 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

GENERAL PROVISIONS

**§ 1065.1 General provisions.**

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

**§ 1065.2 Nebraska-Western Iowa marketing area.**

The "Nebraska-Western Iowa marketing area" (hereinafter referred to as the "marketing area") means all the territory within the boundaries of the counties and townships listed below, including such territory as is now occupied and as may be occupied in the future by Government (municipal, State or Federal) reservations, installations, institutions, or other similar establishments. Where such establishment is partly within and partly without the designated boundaries, the marketing area shall include the entire area encompassed by such establishment.

(a) *Zone 1.*

IOWA COUNTIES

Fremont. Monona.
Harrison. Mills.
Pottawattamie (only the townships of Boomer, Crescent, Garner, Hardin, Hazel Dell, Kane, Keg Creek, Lake, Lewis, Minden, Neola, Norwalk, Rockford, Silver Creek, Washington, and York.)
Woodbury.

NEBRASKA COUNTIES

Antelope. Madison.
Boone. Merrick.
Burt. Nance.
Butler. Nemaha.
Cass. Nuckolls.
Cedar. Otoe.
Clay. Pierce.
Colfax. Platte.
Cuming. Polk.
Dakota. Saline.
Dixon. Sarpy.
Dodge. Saunders.
Douglas. Seward.
Fillmore. Stanton.
Gage. Thayer.
Hamilton. Thurston.
Jefferson. Washington.
Johnson. Wayne.
Knox. York.
Lancaster.

SOUTH DAKOTA

That portion of Union County comprising Jefferson Township, North Sioux City, and the unorganized territory adjacent thereto, as defined and mapped in the United States 1960 Census of Population.





(b) *Zone 2.*

IOWA COUNTIES

Cass. Sac.
Cherokee. Shelby.
Crawford. Sioux.
Ida. Pottawattamie (that portion not otherwise included in Zone 1).
Montgomery.
O'Brien.
Page.
Plymouth.

(c) *Zone 3.*

NEBRASKA COUNTIES

Adams. Harlan.
Banner. Howard.
Box Butte. Kearney.
Buffalo. Keith.
Cheyenne. Kimball.
Custer. Lincoln.
Dawes. Morrill.
Dawson. Phelps.
Deuel. Red Willow.
Franklin. Scotts Bluff.
Frontier. Sheridan.
Furnas. Sherman.
Garden. Sioux.
Gosper. Valley.
Greeley. Webster.
Hall.

**§ 1065.3 Route disposition.**

"Route disposition" means a delivery (including delivery by a vendor or through a distribution point, or sale from a plant store) of a fluid milk product classified as Class I to retail or wholesale outlets other than a delivery in bulk to a milk plant.

**§ 1065.4 [Reserved]**

**§ 1065.5 Distributing plant.**

"Distributing plant" means a plant which is approved by a duly constituted health authority for the processing or packaging of Grade A milk and from which there is route disposition of any fluid milk product during the month in the marketing area.

**§ 1065.6 Supply plant.**

"Supply plant" means a plant from which milk or skim milk acceptable to a duly constituted health authority for distribution in the marketing area under a Grade A label, is shipped during the month to a pool plant qualified pursuant to § 1065.7.

**§ 1065.7 Pool plant.**

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) A distributing plant from which during the month there is:

(1) Route disposition, except filled milk, in the marketing area equal to not less than 15 percent of the Grade A milk received at such plant from dairy farmers, supply plants (exclusive of plants qualifying as pool plants pursuant to this paragraph), and handlers described in § 1065.9(c); and

(2) Total route disposition, except filled milk, equal to not less than 35 percent of the Grade A milk received at the plant from the sources specified in paragraph (a)(1) of this section.

(b) A supply plant from which the volume of fluid milk products, except filled milk, shipped during the month to pool plants qualified pursuant to paragraph (a) of this section is not less than 50 percent of the Grade A milk received at such plant from dairy farmers and handlers described in § 1065.9(c) during such month. A supply plant that qualifies as a pool plant in each of the immediately preceding months of August through December shall be a pool plant for the succeeding months of January through July, unless the plant operator requests the market administrator, in writing, that such plant not be a pool plant, such nonpool plant status to be effective the first month following such notice and thereafter until the plant again qualifies as a pool plant on the basis of shipments.

(c) A supply plant operated by a cooperative association if, during the month, 51 percent or more of the producer milk of members of the association is received at a pool distributing plant(s) of another handler(s), or is transferred to such plant(s) from the association's supply plant.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A plant qualified pursuant to paragraph (a) of this section from which a lesser volume of fluid milk products (not including filled milk) is disposed of in the Nebraska-Western Iowa marketing area than in the marketing area of another marketing agreement or order issued pursuant to the Act and which is fully subject to the classification and pricing provisions of such other agreement or order;

(3) Any plant qualified pursuant to paragraph (b) of this section for any portion of the period of January through July, inclusive, that producer milk at such plant is subject to the classification and pricing provisions of another order issued pursuant to the Act; and

(4) That portion of a plant that is physically apart from the Grade A portion of such plant, is operated separately and is not approved by a duly constituted health authority for the receiving, processing, or packaging of any fluid milk product for Grade A disposition.

**§ 1065.8 Nonpool plant.**

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant from which fluid milk products are shipped during the month to a pool plant.

**§ 1065.9 Handler.**

"Handler" means:

(a) Any person who operates a pool plant. In case a corporation with recognized divisions which are operated as separate business units operates two or more pool plants, each such division shall be the handler with respect to the pool plant(s) it operates;

(b) Any cooperative association with respect to milk of its member producers which is diverted pursuant to § 1065.13 for the account of such association;

(c) A cooperative association with respect to milk of its member producers which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by, or under contract to, such cooperative association. The milk shall be deemed to have been received from producers by the cooperative association at the location of the plant to which it is delivered;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler; and

(f) Any person who operates an other order plant described in § 1065.7(d).

**§ 1065.10 Producer-handler.**

"Producer-handler" means any person who is both a dairy farmer and the operator of a distributing plant, and who meets all of the following conditions:

(a) Receipts of fluid milk products at his plant are solely milk of his own production and fluid milk products from pool plants of other handlers;

(b) Receives no milk products other than fluid milk products for reconstituting into fluid milk products;

(c) The maintenance, care, and management of the dairy animals and other resources necessary to produce the milk, and the processing, packaging, and distribution of the milk (including filled milk) are the personal enterprise and the personal risk of such person; and

(d) Has met the requirements pursuant to § 1065.97(c).

**§ 1065.11 [Reserved]**

**§ 1065.12 Producer.**

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority and whose milk is received at a pool plant or by a handler described in § 1065.9 (b) or (c) or is diverted as producer milk pursuant to § 1065.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1065.44 (a)(8)(iii) and the corresponding step of § 1065.44(b);



V 38-177 SEP 13 73 XUM

(3) Any person with respect to milk produced by him which is diverted from a pool plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk; and

(4) Any person in any month in which he holds a Class I base if any portion of his milk is delivered, other than as producer milk, to a nonpool plant at which there is Class I disposition.

**§ 1065.13 Producer milk.**

"Producer milk" of each handler means all skim milk and butterfat contained in milk from producers that is:

(a) Received from producers at a pool plant;

(b) Received from producers by a cooperative association handler described in § 1065.9(c);

(c) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant pursuant to paragraph (c) (1) or (2) of this section, subject to the conditions set forth in paragraph (c) (3) and (4) of this section;

(1) A cooperative association handler described in § 1065.9(b) may divert for its account the milk of any member-producer if at least 2 days' production of such producer is received at a pool plant(s) during the month. The total quantity of milk so diverted by the cooperative association handler shall not exceed, in each of the months of January, February, March, September, October, and November, 30 percent, and in any other month 40 percent, of the larger of:

(i) The total quantity of milk of member-producers received at all pool plants during the current month; or

(ii) The average daily quantity of milk of member-producers received at all pool plants during the immediately preceding month, multiplied by the number of days in the current month;

(2) A handler, other than a cooperative association, in his capacity as the operator of a pool plant, may divert for his account the milk of any producer other than a member of a cooperative association, if at least 2 days' production of such producer is received at the handler's pool plant(s) during the month. The total quantity of milk so diverted by the handler shall not exceed, in each of the months of January, February, March, September, October, and November, 30 percent, and in any other month 40 percent, of the larger of:

(i) The total quantity of milk of producers received at his pool plant(s) during the current month exclusive of milk received from producers who are members of a cooperative association; or

(ii) The average daily quantity of milk of producers received at his pool plant(s) during the immediately preceding month, exclusive of milk received from producers who are members of a cooperative association, multiplied by the number of days in the current month;

(3) In the event the quantity of milk diverted is in excess of the applicable quantity specified in paragraph (c) (1) and (2) of this section, the diverting handler shall designate the dairy farmers whose milk was overdiverted. If the handler fails to make such designation, no milk diverted by him shall be producer milk for such month; and

(4) For the purposes of location adjustments pursuant to §§ 1065.52 and 1065.75, milk so diverted shall be priced at the location of the plant to which diverted.

**§ 1065.14 Other source milk.**

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1065.40(b) (1) from any source other than producers, handlers described in § 1065.9(c), pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1065.40(b) (1);

(c) Products (other than fluid milk products, products specified in § 1065.40 (b) (1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1065.40(b) (1)) for which the handler fails to establish a disposition.

**§ 1065.15 Fluid milk product.**

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, low-fat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a) (1) of this section or in § 1065.40(b) or (c) (1) (i) through (iv) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

**§ 1065.16 Fluid cream product.**

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixtured) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

**§ 1065.17 Filled milk.**

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

**§ 1065.18 Cooperative association.**

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application of the association:

(a) Is qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) Has full authority in the sale of milk of its members and is engaged in making collective sales of, or marketing, milk or its products for its members; and

(c) Has its entire activities under the control of its members.

HANDLER REPORTS

**§ 1065.30 Reports of receipts and utilization.**

On or before the seventh day, excluding holidays, after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1065.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1065.40(b) (1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1065.9 (b) and (c) shall report:





(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

**§ 1065.31 Payroll reports.**

(a) On or before the 20th day after the end of each month, each handler described in § 1065.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1065.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

**§ 1065.32 Other reports.**

In addition to the reports required pursuant to §§ 1065.30 and 1065.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

**§ 1065.40 Classes of utilization.**

Except as provided in § 1065.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1065.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b) (1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, low fat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, low fat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(v) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b) (1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b) (1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b) (1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1065.15; and

(6) In shrinkage assigned pursuant to § 1065.41(a) to the receipts specified in § 1065.41(a) (2) and in shrinkage specified in § 1065.41(b) and (c).

**§ 1065.41 Shrinkage.**

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1065.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a) (1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1065.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1065.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.



V 38-177 SEP 13 73 XUM

§ 1065.12 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant or by a handler described in § 1065.9(c) to another handler's pool plant shall be classified as follows:

(1) Such transfers from a pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(i) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1065.44(a)(12) and the corresponding step of § 1065.44(b);

(ii) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1065.44(a)(7) or the corresponding step of § 1065.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(iii) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1065.44(a) (11) or (12) or the corresponding steps of § 1065.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant; and

(2) Such transfers by a handler described in § 1065.9(c) shall be classified pro rata to the respective quantities of skim milk and butterfat remaining in each class after the computations pursuant to § 1065.44(a)(13)(i) and the corresponding step of § 1065.44(b).

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1065.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1065.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1065.43 General classification rules.

In determining the classification of producer milk pursuant to § 1065.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1065.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1065.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1065.40, 1065.41, and 1065.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1065.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

§ 1065.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1065.9(a) for each of his pool plants separately and of each handler described in § 1065.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1065.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1065.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1065.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1065.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1065.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section;

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant; and

(vii) Receipts of fluid milk products from persons described in § 1065.12(b)(4);

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the handler's total Class III utilization at his other pool plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler;

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1065.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1065.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to







V 38 177 SEP 13 73 XUM

paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12) (ii) and (iii) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(a) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1065.45(a); or

(b) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler;

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received; and

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from any class that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(13) Subtract in the following order from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from:

(i) Another pool plant according to the classification of such products pursuant to § 1065.42(a)(1); and

(ii) A handler described in § 1065.9(c) according to the classification of such products pursuant to § 1065.42(a)(2); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1065.44(a)(14) and the corresponding step of § 1065.44(b).

### § 1065.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1065.44(a)(12) and the corresponding step of § 1065.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1065.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of the month, report to each cooperative association, which so requests, the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report, the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handler were used in each class.

### § 1065.50 Class prices.

Subject to the provisions of § 1065.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.60 for pool plants located in Zone 1, plus $1.50 in Zone 2, and plus $1.75 in Zone 3.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

### § 1065.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

### § 1065.52 Plant location adjustments for handlers.

(a) For producer milk received at a pool plant (or diverted to a nonpool plant) located outside the marketing area and disposed of as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section the Class I price shall be that effective pursuant to § 1065.50(a) at the nearest of the pricing zones as set forth in § 1065.2, subject to a reduction of 1.5 cents for each 10 road miles or fraction thereof that such plant is located more than 100 miles from the nearest of the city halls in Chadron, Grand Island, Lincoln, Norfolk, North Platte, Omaha, and Scottsbluff, all in the State of Nebraska, and Sioux City, Iowa.

(b) For the purpose of calculating such adjustments:

(1) All distances shall be by shortest hard-surfaced highways and/or all-weather roads, as determined by the market administrator; and

(2) Transfers between pool plants shall be assigned Class I disposition at the transferee-plant, in excess of the sum of receipts at such plant from producers and handlers described in § 1065.9 (c), and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

### § 1065.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

### § 1065.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

## Uniform Prices

### § 1065.60 Handler's value of milk for computing uniform prices.

For the purpose of computing the uniform prices, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1065.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1065.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1065.44(a)(14) and the corresponding step of § 1065.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1065.74, that are applicable at the location of the pool plant;

(c) Add the following:

(1) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1065.44(a)(9) and the corresponding step of § 1065.44(b); and

(2) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class II price for the current month by the lesser of:

(i) The hundredweight of skim milk and butterfat subtracted from Class II pursuant to § 1065.44(a)(9) and the corresponding step of § 1065.44(b) for the current month; or

(ii) The hundredweight of skim milk and butterfat remaining in Class III after the computations pursuant to § 1065.44(a)(12) and the corresponding step of § 1065.44(b) for the preceding month, less the hundredweight of skim milk and butterfat specified in paragraph (c)(1) of this section;

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1065.44(a)(7) (i) through (iv) and (vii) and the corresponding step of § 1065.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1065.44(a)(7) (v) and (vi) and the corresponding step of § 1065.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1065.44(a)(11) and the corresponding step of § 1065.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

### § 1065.61 Computation of uniform prices.

(a) For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content which is received from producers as follows:

(1) Combine into one total the values computed pursuant to § 1065.60 for all handlers who filed the reports prescribed by § 1065.30 for the month and who made the payments pursuant to §§ 1065.71 and 1065.73 for the preceding month;

(2) Subtract an amount equal to the total value of the plus location adjustments computed pursuant to § 1065.75;

(3) Add an amount equal to the total value of the minus location adjustments computed pursuant to § 1065.75;

(4) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(5) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a)(1) of this section by 5 cents;

(6) Divide the resulting amount by the sum of the following for all handlers included in these computations;

(i) The total hundredweight of producer milk; and

(ii) The total hundredweight for which a value is computed pursuant to § 1065.60 (f); and

(7) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price," and, except for any month in which a Class I base plan is effective, shall be the "uniform price" for milk received from producers.

(b) For each month in which a base plan is effective the market administrator shall compute the uniform prices per hundredweight for base milk and excess milk of 3.5-percent butterfat content received from producers as follows:

(1) From the net amount computed pursuant to paragraph (a)(1) through (6) of this section subtract the amounts specified in paragraph (b)(1) (i) through (v) of this section:

(i) The amount computed by multiplying the hundredweight of milk specified in paragraph (a)(6)(ii) of this section by the weighted average price plus 5 cents for all milk;

(ii) The amount obtained by multiplying by the Class III price, less 5 cents, the total hundredweight of milk delivered by all producers who have no Class I base;

(iii) The amount computed by multiplying the hundredweight of excess milk by the Class III price, less 5 cents, provided that the quantity of milk to which the Class III price, less 5 cents, is applied pursuant to this subdivision plus the quantity pursuant to paragraph (b)(1)(ii) of this section shall not exceed the quantity of producer milk in Class III;

(iv) An amount computed by multiplying any remaining hundredweight of excess milk by the Class II price, less 5 cents, to the extent that producer milk in Class II is available for such assignment; and

(v) An amount computed by multiplying any remaining hundredweight of excess milk by the Class I price, less 5 cents;

(2) Divide the net amount obtained in paragraph (b)(1) of this section by the total hundredweight of base milk and subtract not less than 4 cents but less than 5 cents. This result shall be known as the uniform base price per hundredweight of milk; and





V 38-177 SEP 13 73 XUM

(3) Divide the amount obtained in paragraph (b)(1)(iii), (iv) and (v) of this section by the hundredweight of excess milk, and subtract any fractional part of 1 cent. This result shall be known as the uniform excess price per hundredweight of milk.

**§ 1065.62 Announcement of uniform prices and butterfat differential.**

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the applicable uniform prices for such month.

PAYMENTS FOR MILK

**§ 1065.70 Producer-settlement fund.**

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1065.71, 1065.76, and 1065.77, and out of which he shall make all payments pursuant to §§ 1065.72 and 1065.77.

**§ 1065.71 Payments to the producer-settlement fund.**

(a) On or before the 13th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1065.60.

(2) The sum of:

(i) The value at the applicable uniform prices, as adjusted pursuant to § 1065.75, of such handler's receipts of producer milk; and

(ii) The value at the weighted average price applicable at the location of the plant from which received plus 5 cents of other source milk for which a value is computed pursuant to § 1065.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

**§ 1065.72 Payments from the producer-settlement fund.**

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1065.71(a)(2) exceeds the amount computed pursuant to § 1065.71(a)(1). The market administrator shall offset any payment due any handler against payments due from such handler.

**§ 1065.73 Payments to producers and to cooperative associations.**

Except in each month in which § 1065.73a applies, each handler shall make payment as follows:

(a) On or before the 15th day after the end of each month during which the milk was received, to each producer for whom payment is not made pursuant to paragraph (c) or (d) of this section, at not less than the applicable uniform price pursuant to § 1065.61, as adjusted pursuant to §§ 1065.74 and 1065.75, and less the following amounts:

(1) The payments made pursuant to paragraph (b) of this section;

(2) Deductions for marketing services pursuant to § 1065.86; and

(3) Any proper deductions authorized by the producer: *Provided*, That, if by such date such handler has not received full payment for such month pursuant to § 1065.72, he may reduce his total payment to all producers uniformly by not more than the amount of reduction in payment from the market administrator; the handler shall, however, complete such payments not later than the date for making such payments pursuant to this paragraph next following receipt of the balance from the market administrator:

(b) On or before the 27th day of each month to each producer:

(1) For whom payment is not received from the handler by a cooperative association pursuant to paragraph (c) or (d) of this section; and

(2) Who had not discontinued shipping milk to such handler, an advance payment with respect to milk received from such producer during the first 15 days of the month an amount per hundredweight not to be less than the uniform price for the preceding month;

(c) To a cooperative association which has filed a written request for such payment with such handler and with respect to producers for whose milk the market administrator determines such cooperative association is authorized to collect payment as follows:

(1) On or before the 26th day of the month, an amount not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (b) of this section, less any deductions authorized in writing by such cooperative association; and

(2) On or before the 14th day after the end of each month an amount not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (a) of this section, less proper deductions authorized in writing by such cooperative association;

(d) To a cooperative association with respect to receipts of milk for which such cooperative association is the handler pursuant to § 1065.9 (b) or (c) as follows:

(1) On or before the 26th day of the month, for milk received during the first 15 days of the month an amount per hundredweight equal to not less than the weighted average price for the preceding month; and

(2) On or before the 14th day after the end of each month not less than the value of such milk at the class prices, as adjusted by the butterfat differential specified in § 1065.74, that are applicable at the location of the receiving handler's pool plant, less payment made pursuant to paragraph (d)(1) of this section;

(e) In making payments to producers pursuant to paragraphs (a) and (c) of this section, each handler shall furnish each producer or cooperative association with a supporting statement, in such form that it may be retained by the producer, which shall show:

(1) The month and the identity of the handler and of the producer;

(2) The pounds per shipment, the total pounds, and the average butterfat test of milk delivered by the producer;

(3) The minimum rate or rates at which payment to the producer is required under the provisions of §§ 1065.61 (a), 1065.74, and 1065.75;

(4) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deduction claimed under paragraph (b) of this section and § 1065.86 together with a description of the respective deductions; and

(6) The net amount of payment to the producer; and

(f) Nothing in this section shall abrogate the right of a cooperative association to make payments to its member producers in accordance with the payment plan of such cooperative association.

**§ 1065.73a Payments to producers and to cooperative associations under a Class I base plan.**

For each month in which a Class I base plan is effective each handler shall make payment as follows:

(a) On or before the 15th day after the end of each month during which the milk was received, to each producer for whom payment is not made pursuant to paragraphs (c) and (d) of this section, at not less than the uniform base price for the quantity of base milk received, as adjusted pursuant to §§ 1065.74 and 1065.75, at not less than the uniform excess price for the quantity of excess milk received, as adjusted pursuant to § 1065.74 and at not less than the Class III price, less 5 cents, as adjusted pursuant to § 1065.74 for the quantity of milk received from producers for whom no base milk is computed, less the following amounts: (1) The payments made pursuant to paragraph (b) of this section; (2) Deductions for marketing services made pursuant to § 1065.86; and (3) Any proper deductions authorized by the producer: *Provided*, That if by such date such handler has not received full payment for such month pursuant to § 1065.72, he shall not be deemed to be in violation of this paragraph if he reduces uniformly for all producers his payments per hundredweight pursuant to this paragraph by a total amount not in excess of the reduction in payment from the market administrator; however, the handler shall make such balance of payment uniformly to those producers to whom it is due on or before the date for making payments pursuant to this paragraph next following that on which such balance of payments is received from the market administrator;

(b) On or before the 27th day of each month to each producer for whom payment is not received from the handler by a cooperative association pursuant to paragraph (c) or (d) of this section and who has not discontinued shipping milk to such handler, a partial payment with respect to milk received from such producer during the first 15 days of the month in an amount per hundredweight not to be less than the weighted average price for the preceding month:

(c) To a cooperative association which has filed a written request for such payment with such handler with respect to producers for whose milk the market administrator determines such cooperative association is authorized to collect payment as follows:

(1) On or before the 26th day of the month, an amount not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (b) of this section, less any deductions authorized in writing by such cooperative association:

(2) On or before the 14th day after the end of each month an amount not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (a) of this section, less proper deductions authorized in writing by such cooperative association;

(d) To a cooperative association with respect to receipts of milk for which such cooperative association is the handler pursuant to § 1065.9 (b) or (c) as follows:

(1) On or before the 26th day of the month, for milk received during the first 15 days of the month an amount per hundredweight equal to not less than the weighted average price for the preceding month; and

(2) On or before the 14th day after the end of each month not less than the value of such milk at the class prices, as adjusted by the butterfat differential specified in § 1065.74, that are applicable at the location of the receiving handler's pool plant less payment made pursuant to paragraph (d)(1) of this section;

(e) In making payments to producers pursuant to paragraphs (a) and (c) of this section, each handler shall furnish each producer or cooperative association with a supporting statement, in such form that it may be retained by the producer, which shall show:

(1) The month and the identity of the handler and of the producer;

(2) The pounds per shipment, the total pounds, and the average butterfat test of milk delivered by the producer;

(3) The minimum rate or rates at which payment to the producer is required under the provisions of §§ 1065.61 (b), 1065.74, and 1065.75;

(4) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deduction claimed under paragraph (b) of this section and § 1065.86 together with a description of the respective deductions; and

(6) The net amount of payment to the producer.

**§ 1065.74 Butterfat differential.**

For milk containing more or less than 3.5 percent butterfat, the applicable uniform prices shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

**§ 1065.75 Plant location adjustments for producers and on nonpool milk.**

(a) The applicable uniform prices computed pursuant to § 1065.61 shall be decreased 10 cents per hundredweight for producer milk received at a pool plant located in Zone 2, and shall be increased 15 cents per hundredweight at pool plants located in Zone 3.

(b) For producer milk received at a pool plant or diverted to a nonpool plant located outside the marketing area the applicable uniform prices shall be that effective at the nearest of the pricing zones as set forth in § 1065.2, subject to a reduction at the rates set forth in § 1065.52.

(c) For purposes of computations pursuant to §§ 1065.71 and 1065.72 the weighted average price shall be adjusted at the rates set forth in § 1065.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price plus 5 cents shall not be less than the Class III price.

(d) For any month in which a base plan is effective, if the milk of a producer is delivered as producer milk to plants at which different base prices apply, then for purposes of location adjustment the base milk of the producer shall be prorated to plants in proportion to deliveries of the producer's milk to such plants.

**§ 1065.76 Payments by handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1065.30(b) and 1065.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price plus 5 cents, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the weighted average price plus 5 cents shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1065.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the







V 38-177 SEP 13 73 XUM

partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1065.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1065.60 for such handler shall include, in lieu of the value of other source milk specified in § 1065.60(f) less the value of such other source milk specified in § 1065.71(a)(2)(ii), a value of milk determined pursuant to § 1065.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1065.7(b), subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1065.30(b) and 1065.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1065.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1065.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1065.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

### § 1065.77 Adjustment of accounts.

Adjustments of accounts shall be made as follows:

(a) Whenever verification by the market administrator of reports or payments of any handler discloses errors made in payments to or from the producer-settlement fund pursuant to §§ 1065.71 and 1065.72, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 5 days, make payment to the market administrator of the account so billed. Whenever verification discloses that payment is due from the market administrator to any handler, the market administrator shall, within 5 days, make such payment to such handler; and

(b) Whenever verification by the market administrator of the payments by a handler to any producer or cooperative association, discloses payments of less than is required by § 1065.73 or § 1065.73a, the handler shall make up such payment to the producer or cooperative association not later than the time of making payments next following such disclosure.

## Administrative Assessment and Marketing Service Deduction

### § 1065.85 Assessment for order administration.

As his pro rata share of the expense of administering the order, each handler shall pay to the market administrator on or before the 14th day after the end of the month 3 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including that classified pursuant to § 1065.42(a)(2)) and such handler's own production;

(b) Other source milk allocated to Class I pursuant to § 1065.44(a) (7) and (11) and the corresponding steps of § 1065.44(b), except such other source milk that is excluded from the computation pursuant to § 1065.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1065.76(a)(2).

### § 1065.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 1065.73 or § 1065.73a shall deduct 6 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to producer milk received by such handler (except such handler's own farm production) during the month and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples, and tests of producer milk and to provide producers with market information. Such service shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him; and

(b) In the case of producers for whom a cooperative association is performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and on or before the 15th day after the end of each month, pay over such deductions to the association rendering such services.

## Class I Base Plan

### § 1065.90 Production history base and Class I base.

For purposes of determination and assignment of Class I base of each producer:

(a) "Production history base" as assigned to each producer means a quantity of milk in pounds per day as computed pursuant to §§ 1065.92, 1065.93, or 1065.94.

(b) "Production history period" means the period to be used for the computation of production history base. Subject to the conditions of paragraph (b) (1), (2), and (3) of this section, a production history period for a producer shall be a 1-year, 2-year, or 3-year production history period depending on whether milk deliveries by the producer began on or before July 1 in the first, second, or third calendar year, respectively, preceding the February 1 on which the production history base is being determined or preceding the most recent February 1.

(1) The production history period of a producer who has forfeited his Class I base pursuant to § 1065.97(a) or has disposed of all of his Class I base shall begin on the later of the following dates:

(i) The first day of the 13th month after the month in which the producer ceased deliveries of producer milk or disposed of his Class I base, or

(ii) The first day of production delivered when the producer resumes deliveries of producer milk.

(2) Except as provided in paragraph (b)(1) of this section, if the milk deliveries of any dairy farmer are interrupted for 90 days or more during the period prior to the effective date of this provision or prior to the dairy farmer qualifying as a producer, only the period of milk deliveries following such interruption shall be included in the producer's production history period.

(3) In the case of a producer who has acquired the herd of a member of his immediate family (either before or after the effective date of this provision) and has continued production with such herd, the deliveries made by the previous producer during the production history period shall be assumed to have been delivered by the current producer for use in computing a production history base, unless the previous owner transferred the Class I base to a third person.

(c) "Class I base" means a quantity of milk in pounds per day as computed pursuant to § 1065.95 for which a producer may receive the uniform price for base milk;

(d) "Average daily milk deliveries" of a producer in any specified period used for computing production history bases means the total pounds of milk delivered during the period by the producer to pool plants and to nonpool plants excluding milk delivered other than as a producer pursuant to § 1065.12(b)(4) divided by the greater of the number of days pursuant to paragraph (d) (1) or (2) of this section.

(1) The number of days' production delivered; or

(2) The calendar days from the first day of delivery through the last day of the period less the number of days' production the producer is prevented from delivering because of storm conditions: *Provided*, That the subtraction for storm conditions shall not exceed 8 days in any calendar year or exceed 4 days if a period of 6 months or less is involved.

### § 1065.91 Base milk and excess milk.

(a) "Base milk" means milk received from a producer during a month which is not in excess of his Class I base multiplied by the number of days in the month, except that if milk is received from a producer for only part of a month, base milk shall be milk received from such producer which is not in excess of his Class I base multiplied by the number of days of production of producer milk delivered during the month; and

(b) "Excess milk" means producer milk other than that defined under paragraph (a) of this section from producers delivering base milk.

### § 1065.92 Computation of production history base for each producer.

A production history base shall be determined by the market administrator pursuant to this section and § 1065.93 for each producer eligible for such base on the effective date of this provision and on February 1 of each year thereafter, respectively. Subject to the conditions of paragraph (h) of this section, a production history base for each producer on the effective date of this provision shall be determined by the market administrator as follows:

(a) The production history base for each producer who began milk deliveries not later than July 1, 1971, shall be calculated by adding the average daily milk deliveries during 1971 to the average daily milk deliveries in 1972 and dividing by two.

(b) The production history base for each producer who began delivery after July 1, 1971, but not later than July 1, 1972, shall be the average daily milk deliveries during the period beginning with the first delivery and through the end of the year 1972.

(c) The production history base for each producer not specified in paragraphs (a) and (b) of this section who began milk deliveries before October 1, 1972, shall be the average daily milk deliveries during the period beginning with the first delivery and through the end of such year multiplied by 0.80.

(d) The production history base for each producer who began milk deliveries on or after October 1, 1972, shall be computed pursuant to § 1065.93(c).

(e) For each producer who became a producer for this market before the effective date of this provision because the plant to which he regularly delivered milk became a fully regulated plant pursuant to this order, a production history base shall be determined, if possible, pursuant to paragraph (a), (b), (c), or (d) of this section, based on his deliveries of milk as if the nonpool plant(s) to which he delivered had been a pool plant(s) during the representative period;

(f) A producer not described pursuant to paragraph (e) of this section who delivered milk to a nonpool plant(s) prior to becoming a producer shall be assigned a production history base if such base can be computed pursuant to paragraph (a), (b), (c), or (d) of this section from deliveries of milk from the same farm on which he is a producer at time of base assignment as if the plant(s) to which he delivered had been a pool plant(s) during the production history period.

(g) For a producer who held producer-handler status at any time subsequent to January 1, 1971, a production history base shall be calculated as described in paragraph (a), (b), (c), or (d) of this section as if the milk of his own production received at his producer-handler plant had been received at a pool plant;

(h) The determination of a production history base pursuant to this section shall be subject to the following conditions:

(1) If a producer operated more than one farm at the same time, a separate production history base shall be determined with respect to the average daily producer milk deliveries from each farm, except that only one production history base shall be determined with respect to milk production resources and facilities of a producer handler; and

(2) Only one production history base shall be allowed with respect to milk produced by one or more persons at a single location where the land, building, and equipment, are jointly used, owned, or operated.

### § 1065.93 New producers.

The market administrator shall determine a production history base for each producer for whom a production history base was not determined pursuant to § 1065.92 as follows:

(a) Any producer who delivered his milk to a nonpool plant that became a pool plant shall be assigned a production history base on the same basis as other producers under the order as though the deliveries to the nonpool plant had been deliveries to a pool plant, except that assignment of base in the case of any producer who previously forfeited base or disposed of base by transfer will be subject to the provisions of paragraph (d) of this section.

(b) A producer other than a producer pursuant to paragraph (a) of this section who delivered milk to a nonpool plant prior to becoming a producer as defined in this order and who has at least a 1-year production history period shall be assigned a production history base, effective on the first day of the second month following the month in which he began deliveries of producer milk to a pool plant, on the same basis as if he had been a producer under the order and his milk deliveries to the nonpool plant had been deliveries to a pool plant: *Provided*, That the production history base effective for such producer pursuant to this paragraph in any month before updating shall not exceed the average daily milk deliveries of such producer during the first 2 months of producer milk deliveries from the same production facilities from which milk deliveries were made during his production history period.

(c) A producer whose production history period is less than a 1-year production history period, except a producer assigned production history base pursuant to § 1065.92(c), shall be assigned a production history base on the effective date of this provision or on the first day of the second month following the month in which as a producer he began milk deliveries in an amount equal to 50 percent of his average daily milk deliveries during the immediately preceding 2-month period. Such production history base shall be effective for such producer unless a production history base is acquired by transfer, in which case the greater of the acquired or the base computed from his own production shall be the effective production history base.

(d) A producer who, after having forfeited or disposed of all his Class I base, either continues as a producer on the market or discontinues deliveries to the market and thereafter returns to the market as a producer, shall be assigned a production history base in the manner provided in paragraph (c) of this section, such assignment to be effective not earlier than the first day of the 15th month after the month in which the producer who forfeits his base ceases deliveries or a producer who disposes of all his Class I base makes such disposition. In the application of this provision, use of the same production facilities by another person (or the same person under a different name) to produce milk after the above described forfeiture or transfer of base shall be considered as a continuation of the operation by the previous operator if the new operator is a member of the immediate family of the previous operator. This provision shall be applied also to any production facility to which a Class I base has not been assigned that is operated by a person in which the producer who forfeited or transferred his base has a financial interest if such facility commences produc-





V 38-177 SEP 13 73 XUM

tion on or after the effective date of the transfer or forfeiture, or such producer acquired his financial interest in such person later than 3 months prior to the effective date of the base transfer or forfeiture: *Provided*, That in the case of a producer who forfeited his base because he continued to deliver his milk to a plant that had been a pool plant but lost its pool plant qualification, assignment of base pursuant to paragraph (a) of this section will not be subject to delay to the first day of the 15th month after forfeiture, and deliveries by such producer during the period of forfeiture shall not be excluded from production history by reason of such forfeiture.

**§ 1065.94 Updating of production history bases.**

The production history base for each producer who has neither disposed of his entire base by transfer nor forfeited his base pursuant to § 1065.97(a), or after having disposed of his entire base by transfer or forfeiture has met the delivery requirement prescribed in § 1065.93 (d) for determination of new production history base, shall be determined by the market administrator on February 1, 1974, and each February 1 thereafter as follows:

(a) In updating a production history base as described in this paragraph, adjustments to a producer's previously assigned production history base and or average daily milk deliveries in prior years shall be made as follows:

(1) The prior production history base assigned to such producer shall be changed in proportion to the change in Class I base due to adjustment for hardship or loss of Class I base because of underdelivery of base. In the case of transfer of base production history base shall be adjusted as specified in § 1065.96 (a).

(2) The average daily milk deliveries of a producer in any calendar year that is part of his production history period prior to any net disposal of Class I base by transfers since January 31 of the preceding year or any underdelivery causing reduction of Class I base, shall be reduced in proportion to the net change in Class I base. For the purpose of this subparagraph disposal of base in January shall be treated as if disposed of in the preceding December.

(3) If the average daily milk deliveries of the producer in the preceding year are less than 90 percent of the Class I base assigned to such producer in the preceding year as adjusted for hardship and less any net disposal of base by transfer, then the producer's Class I base shall be reduced by the amount of the difference between such average daily milk deliveries and such Class I base as adjusted for hardship and disposal of base by transfer, and the production history base of such producer shall be reduced in the same proportion as the reduction of Class I base: *Provided*, That this subparagraph shall not apply in any year in which total producer milk is 135 percent or more of the Class I disposition described in § 1065.95(a)(1).

(4) If the net effect of all adjustments for any period is a reduction greater than the production history base or average daily deliveries prior to adjustment, then the resulting amount shall be zero and such period shall not be a production history period.

(b) Effective February 1, 1974, the market administrator shall update the production history base of each producer who has a production history period of 1 year or more as follows: Add (1) the average daily milk deliveries of such producer during the year 1973 and (2) twice the production history base previously assigned to such producer as adjusted pursuant to paragraph (a) of this section, and divide the sum by 3. If such result is less than the production history base previously assigned to such producer as adjusted pursuant to paragraph (a) of this section, then such previous production history base as adjusted shall be the effective production history base.

(c) Effective February 1, 1975, and February 1 in each year thereafter the market administrator shall update the production history base for specified producers as follows:

(1) For each producer who has a 3-year production history period, add (i) the average daily milk deliveries during the preceding calendar year and (ii) the average daily milk deliveries during each of the second and third preceding calendar years (or portion of a year) reduced by any adjustment pursuant to paragraph (a) of this section, and divide such total by 3. If such result is less than the production history base assigned to such producer on or after February 1 of the preceding year as adjusted pursuant to paragraph (a) of this section then such previously assigned production history base, as adjusted, shall be the effective production history base.

(2) For each producer who has a 2-year production history period who did not acquire Class I base by transfer add (i) the average daily milk deliveries in the preceding year, (ii) the average daily milk deliveries in the second preceding year reduced by any adjustment pursuant to paragraph (a) of this section, and (iii) the initial production history base assigned to (or computed for) such producer pursuant to § 1065.92 (c) or (d) or § 1065.93(c) adjusted pursuant to paragraph (a) of this section, and divide the sum by 3. If such result is less than the production history base assigned to such producer on or after February 1 of the preceding year as adjusted pursuant to paragraph (a) of this section, then such previously assigned production history base, as adjusted, shall be the effective production history base.

(3) For each producer who has a 1-year production history period add (i) the average daily milk deliveries of such producer during such 1-year period and (ii) twice the initial production history base assigned to (or computed for) such producer pursuant to § 1065.93(c) adjusted pursuant to paragraph (a) of this section, and divide the sum by 3. If such result is less than the initial production history base assigned to (or computed for) such producer as adjusted pursuant to paragraph (a) of this section, then such initial production history base, as adjusted, shall be the effective production history base.

(4) For each producer who has a 2-year production history period and who has acquired Class I base by transfer, add (i) the average daily milk deliveries of such producer during the preceding year and (ii) twice the production history base assigned to such producer on or after February 1 of the preceding year adjusted pursuant to paragraph (a) of this section, and divide the sum by 3. If such result is less than the production history base previously assigned to such producer as adjusted pursuant to paragraph (a) of this section, then such previously assigned production history base, as adjusted, shall be the effective production history base.

(d) For a producer who is assigned an initial history of production pursuant to § 1065.92 (e), (f), (g) and § 1065.93 the market administrator shall update his history of production from year to year in the manner applicable to a producer delivering to a pool plant as provided in paragraphs (b) and (c) of this section.

**§ 1065.95 Computation of Class I base for each producer.**

On the effective date of this provision and on February 1, 1974, and February 1 of each subsequent year the market administrator shall assign a Class I base to each producer who has a production history base. Class I bases shall be assigned to producers described in § 1065.93 when they are issued production history bases. On February 1 of each year Class I bases shall be computed as follows:

(a) Compute a "Class I base percentage" as follows:

(1) Determine the sum of Class I dispositions during the preceding calendar year specified in paragraph (a)(1) (i), (ii), and (iii) of this section:

(i) Class I producer milk pursuant to § 1065.44;

(ii) The Class I disposition of plants during the period when they were nonpool plants, if such plants were pool plants in the preceding December; and

(iii) The Class I disposition of a person who was a producer-handler during a portion of the year and who held producer status in the preceding December.

(2) Multiply the quantity computed pursuant to paragraph (a)(1) of this section by 1.20 and divide such result by the number of days in such year.

(3) Divide the quantity computed pursuant to paragraph (a)(2) of this section by a quantity which is the total of production history bases computed pursuant to §§ 1065.92, 1065.93, and 1065.94, whichever is applicable. The result shall be converted to a percentage by multiplying by 100 and rounding to the third decimal place. Such percentage shall be known as the "Class I base percentage."

(b) The Class I base of each producer with a production history base shall be determined by multiplying his production history base by the "Class I base percentage" and rounding the result to the nearest pound: *Provided*, That with respect to a producer with a production history period of less than 3 years beginning after the effective date of this provision, 20 percent shall be subtracted from the result of the preceding calculation, and: *Provided further*, That such 20 percent reduction shall be effective continuously with respect to a producer for a period not exceeding 36 months from the beginning of such production history period. With respect to a producer who has acquired production history base by transfer, such 20 percent reduction shall apply only to base exclusive of that acquired by transfer.





**§ 1065.96 Transfer of bases.**

Production history base and Class I base may be transferred pursuant to the following rules and conditions:

(a) A transfer of base means the disposal of Class I base and production history base by a transferor and the associated acquisition of Class I base and production history base by transferee. Disposal of base means disposal of Class I base and disposal of a proportionate amount of the production history base held by the transferor. Acquisition of base means the acquisition of Class I base and an amount of production history base which is the quantity of Class I base acquired multiplied by the reciprocal of the Class I base percentage. A transfer may be made only to a person who is a dairy farmer. The amount of Class I base credited to the transferee shall be two-thirds of the Class I base disposed of by the transferor: *Provided*, That such one-third reduction shall not apply to:

(1) An intrafamily transfer (including transfer to an estate and from an estate to a member of the immediate family);

(2) The division of base except as provided pursuant to paragraph (h) of this section; and

(3) The combining of bases of two or more producers for purpose of joint enterprise operated by such producers.

(b) A person receiving base by transfer must notify the market administrator in writing of the name of the producer transferring the base, the effective date of the transfer and the amount of base to be transferred. Application for transfer must be made to the market administrator on forms approved by the market administrator and signed by the transferor, his heirs, executor, or trustee and by the person to whom such base is to be transferred;

(c) Subject to paragraphs (a) and (k) of this section, transfers of an entire base or transfers other than pursuant to paragraph (d) of this section may not be made except in the case of:

(1) Death of the baseholder;

(2) Intrafamily transfers;

(3) Termination of the dairy enterprise of base holder;

(4) The baseholder entering the armed services;

(5) Transfer to a partnership or corporation in which the transferor has a material management interest; and

(6) Transfers allowed as a hardship adjustment.

(d) Subject to paragraphs (a) and (k) of this section, a producer may transfer a portion of his Class I base, in multiples of 150 pounds, as follows:

(1) Not more than the larger of 150 pounds or 30 percent of the Class I base assigned to a producer on the most recent of the effective date, February 1 of any year, or the initial assignment of base to such producer, may be disposed of by transfer prior to the February 1 following.

(2) A jointly held base may be divided among individuals engaged in a joint enterprise.

(e) Subject to paragraph (k) of this section a transfer of an entire base may be made effective on any day of the month if application for such transfer is filed with the market administrator within 5 days thereafter. Otherwise such transfer shall be effective on the first day of the month following that in which application is made;

(f) A transfer of a portion of a base shall be effective the first day of the month following that in which application for which such transfer is made to the market administrator;

(g) A base which is jointly held or in a partnership may be transferred subject to limitations otherwise provided in this section only upon application signed by each joint holder or partner, his heirs, executors, or trustee and by the person to whom such base is to be transferred;

(h) A base which has been established by two or more persons operating a dairy farm jointly or as a partnership may be divided among the joint holders or partners if written notification of the agreed division of base signed by each joint holder or partner, his heirs, executor, or trustee, is filed with the market administrator prior to the first day of the month for which such division is to be effective: *Provided*, That, however, a one-third lapse of base shall apply to base to the extent it constitutes a transfer by a person leaving a joint enterprise of base held by such person as an individual not more than 12 months prior to leaving such enterprise.

(i) It must be established to the satisfaction of the market administrator that the conveyance of base is bona fide and not for the purpose of evading any provision of this order, and comes within the remaining provisions of this section;

(j) In the case of an intrafamily transfer (including transfers to an estate and from an estate to a member of the immediate family), or any transfer not subject to the one-third lapse, all restrictions on transferring base applicable to the transferor producer shall also apply to the transferee;

(k) A producer who receives a base pursuant to § 1065.92 (c), (d), (e), (f), or (g) or § 1065.93 (a), (b), or (c) may not transfer such base, for 1 year from the date of receipt, provided, however, that such limitation shall not apply to:

(1) Intrafamily transfers; or

(2) The quantity of base such producer acquires by transfer.

(l) If a base is held by a corporation, a change in ownership of the stock which transfers control to a new person or persons other than a member of the immediate family of the person transferring such stock will be considered to result in a transfer of base and in this case compliance with all base rules affecting transfers will be required: *Provided*, That if the transferor(s) is the sole holder of the stock and transfers such stock to a member or members of the immediate family, there will be no lapse of base.

(m) A dairy farmer who has ceased deliveries of producer milk because he is delivering milk to a plant formerly a pool plant that no longer has pool plant qualification shall not be permitted to dispose of Class I base.

**§ 1065.97 Miscellaneous base rules.**

The following base rules shall be observed in the determination of bases.

(a) A person who discontinues delivery of producer milk for a period of 90 consecutive days after a Class I base is issued to him or fails to begin delivery of producer milk within 90 days of receipt of a Class I base by transfer shall forfeit his production history, together with any Class I base and production history base held pursuant to the provisions of this order, except that a person entering the military service may retain such production history, Class I base and production history base until 1 year after being released from active military service;

(b) As soon as production history bases and Class I bases are computed by the market administrator, notice of the amount of each producer's production history base and Class I base shall be given by the market administrator to the producer, to the handler receiving such producer's milk if the producer is not a member of a qualified cooperative association, and to the cooperative association of which the producer is a member;

(c) As a condition for designation as a producer-handler pursuant to § 1065.10, any person (including any member of the immediate family of such a person, any affiliate of such a person or any business of which such a person is a part) who has held Class I base any time during the 12-month period prior to such designation shall forfeit the maximum amount of Class I and production history base held at any time during such 12-month period; and

(d) In assigning Class I base to a producer, the market administrator shall round such base to the nearest pound.

**§ 1065.98 Hardship provisions.**

Requests of producers for relief from hardship or inequity arising under the provisions of §§ 1065.92 through 1065.97 will be subject to the following:

(a) After bases are first issued under this plan and after bases are issued on each succeeding February 1, a producer may request review of the following circumstances because of alleged hardship or inequity:



V 38 177 SEP 13 73 XUM

(1) He was not issued a Class I base;
(2) His production history base is not appropriate because of unusual conditions during the base-earning period such as loss of building, herds, or other facilities by fire, flood or storms, official quarantine, disease, pesticide residue, condemnation of milk, military service of the producer or his son;
(3) Loss or potential loss of Class I base pursuant to § 1065.97(a);
(4) Loss or potential loss of Class I base because of underdeliveries pursuant to § 1065.94(a)(3).
(5) Inability to transfer base.

(b) The producer shall file with the market administrator a request in writing for review of hardship or inequity not later than 45 days after notice pursuant to § 1065.97(b) with respect to requests pursuant to paragraph (a) (1) or (2) of this section, or not later than 45 days after the occurrence with respect to request pursuant to paragraph (a) (3), (4), or (5) of this section, setting forth:
(1) Conditions that caused the alleged hardship or inequity;
(2) The extent of the relief or adjustment requested;
(3) The basis upon which the amount of adjustment requested was determined; and
(4) Reasons why the relief or adjustment should be granted.

(c) One or more producer base committees shall be established and function as follows:
(1) Each producer base committee shall consist of five producers appointed by the market administrator;
(2) Each committee shall review the requests for relief from hardship or inequity referred to it by the market administrator at a meeting in which the market administrator or his representative serves as recording secretary and at which the applicant may appear in person if he so requests.
(3) Recommendations with respect to each such request shall be endorsed at the meeting by at least three committee members and shall:
(i) With respect to requests pursuant to paragraph (a) (1), (3), (4), or (5) of this section, grant or adjust production history bases and average daily producer milk deliveries for prior years where it appears appropriate, delay forfeiture of Class I base, restore forfeited base or reduced average daily producer milk deliveries where appropriate, and permit transfer of base not otherwise possible under the order provisions.
(ii) With respect to requests pursuant to paragraph (a)(2) of this section, either reject the request or provide adjustment in the form of additional production history base and average daily producer milk deliveries for prior years where it appears appropriate and the effective date thereof of such adjustment. In considering such requests the loss of milk production due to the following shall not be considered a basis for hardship adjustment:
(a) Loss of milk due to mechanical failure of farm tank or other farm equipment; and
(b) Inability to obtain adequate labor to maintain milk production, except that hardship adjustment may be granted in the case of a producer or the son of a producer who entered into military service directly from employment in milk production;
(4) Recommendation of the producer base committee shall:
(i) If to deny the request, be final upon notification to the producer, subject only to appeal by the producer to the Director; Dairy Division, within 45 days after such notification; or
(ii) If to grant the request in whole or in part, be transmitted to the Director, Dairy Division, and shall become final unless vetoed by such Director within 15 days after transmitted.
(5) Committee members shall be reimbursed by the market administrator from the funds collected under § 1065.85 for their services at $30 per day or portion thereof, plus necessary travel and subsistence expense incurred in the performance of their duties as committee members.

(d) The market administrator shall maintain files of all requests for alleviation of hardship and the disposition of such requests. These files shall be open to the inspection of any interested person during the regular office hours of the market administrator.

ADVERTISING AND PROMOTION PROGRAM

**§ 1065.110 Agency.**

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1065.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

**§ 1065.111 Composition of Agency.**

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1065.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers that have elected not to combine pursuant to § 1065.113(b), and participating producers who are not members of cooperatives, are authorized to select from such group of participating producers, in total, pursuant to § 1065.113(c), one Agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent but not less than 1 percent of the total participating producers it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1065.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives, but not less than five.

**§ 1065.112 Term of office.**

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

**§ 1065.113 Selection of Agency members.**

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative association authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1065.111 and paragraph (a) of this section.

(c) Selection of Agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required 5 percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:
(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more producers as Agency representatives, as the case may be, and also shall specify the number of representatives to be selected.





(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for Agency membership and shall conduct a referendum among the individual participating producers eligible to vote. Election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

**§ 1065.114 Agency operating procedure.**

A majority of the Agency members shall constitute a quorum. Any action of the Agency shall require a majority of concurring votes of those present and voting, unless the Agency determines that more than a simple majority shall be required.

**§ 1065.115 Powers of the Agency.**

The Agency is empowered to:
(a) Administer the terms and provisions of the program within the scope of Agency authority pursuant to § 1065.110;
(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;
(c) Recommend amendments to the Secretary; and
(d) With the approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1065.110 and 1065.117.

**§ 1065.116 Duties of the Agency.**

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:
(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;
(b) Develop programs and projects pursuant to §§ 1065.110 and 1065.117;
(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;
(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;
(e) When desirable, establish an advisory committee(s) of persons other than Agency members;
(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;
(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings, and pay the expenses of administering the Agency; and
(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

**§ 1065.117 Advertising, research, education, and promotion program.**

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:
(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;
(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and
(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

**§ 1065.118 Limitation of expenditures by the Agency.**

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1065.121(b)(1) shall be utilized for administrative expense of the Agency.
(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.
(c) Agency funds may not be expended to solicit producer participation.
(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

**§ 1065.119 Personal liability.**

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

**§ 1065.120 Procedure for requesting refunds.**

Any producer may apply for refund subject to the applicable conditions set forth in this section.
(a) Refund shall be accomplished only through application filed with, and in the manner prescribed by, the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.
(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.
(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the end of the ensuing calendar quarter may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such calendar quarter pursuant to § 1065.61(a)(5): *Provided;* That, such eligibility for refund shall not apply to a dairy farmer who during the first 15 days of such December, March, June, or September, respectively, was a producer under an order where the same refund notification period applied and such dairy farmer did not appropriately submit refund application during such period. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.
(d) A dairy farmer who, with respect to any calendar quarter, has appropriately filed request for refund of program assessments on his marketings of milk under another order that provides for an advertising and promotion program will be eligible (on the basis of his request filed under the other order) for refunds with respect to his producer milk marketed under this order during such quarter for which deductions were made pursuant to § 1065.61(a)(5).

**§ 1065.121 Duties of the market administrator.**

Except as specified in § 1065.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:
(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1065.113(c);
(b) Set aside the amounts subtracted under § 1065.61(a)(5) into an advertising and promotion fund, separately accounted for, from which shall be disbursed;
(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b) (2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).
(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that ex-



V 38 177 SEP 13 73 XUM

ceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1065.61(a)(5).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1065.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1065.61(a)(5) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1065.110 through 1065.122).

(d) Make necessary audits to establish that all agency funds are used only for authorized purposes.

**§ 1065.122 Liquidation.**

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1065.70.

---

## PART 1068—MILK IN MINNEAPOLIS-ST. PAUL, MINN., MARKETING AREA

### Subpart—Order Regulating Handling

GENERAL PROVISIONS

Sec.
1068.1 General provisions.

DEFINITIONS

Sec
1068.2 Minneapolis-St. Paul, Minn., marketing area.
1068.3 Route disposition.
1068.4 Plant.
1068.5 [Reserved]
1068.6 [Reserved]
1068.7 Pool plant.
1068.8 Nonpool plant.
1068.9 Handler.
1068.10 Producer-handler.
1068.11 [Reserved]
1068.12 Producer.
1068.13 Producer milk.
1068.14 Other source milk.
1068.15 Fluid milk product.
1068.16 Fluid cream product.
1068.17 Filled milk.
1068.18 Cooperative association.

HANDLER REPORTS

1068.30 Reports of receipts and utilization.
1068.31 Payroll reports.
1068.32 Other reports.

CLASSIFICATION OF MILK

1068.40 Classes of utilization.
1068.41 Shrinkage.
1068.42 Classification of transfers and diversions.
1068.43 General classification rules.
1068.44 Classification of producer milk.
1068.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1068.50 Class prices.
1068.51 Basic formula price.
1068.52 Plant location adjustments for handlers.

Sec.
1068.53 Announcement of class prices.
1068.54 Equivalent price.

UNIFORM PRICE

1068.60 Handler's value of milk for computing uniform price.
1068.61 Computation of uniform price.
1068.62 Announcement of uniform price and butterfat differential.

PAYMENTS FOR MILK

1068.70 Producer-settlement fund.
1068.71 Payments to the producer-settlement fund.
1068.72 Payments from the producer-settlement fund.
1068.73 Payments to producers and to cooperative associations.
1068.74 Butterfat differential.
1068.75 Plant location adjustments for producers and on nonpool milk.
1068.76 Payments by handler operating a partially regulated distributing plant.
1068.77 Adjustment of accounts.
1068.78 Charges on overdue accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1068.85 Assessment for order administration.
1068.86 Deduction for marketing services.

AUTHORITY: The provisions of this Part 1068 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

GENERAL PROVISIONS

**§ 1068.1 General provisions.**

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

**§ 1068.2 Minneapolis-St. Paul, Minn., marketing area.**

"Minneapolis-St. Paul, Minn., marketing area" (referred to in this part as the "marketing area") means all the territory within the boundaries of the townships and counties listed below. The marketing area shall include all territory that is now, or in the future, occupied by Government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishment if any part of such territory is within the designated geographical limits of the marketing area.

MINNESOTA COUNTIES

| | |
|---|---|
| Anoka. | Mille Lacs. |
| Benton. | Pine. |
| Carver. | Ramsey. |
| Chisago. | Renville. |
| Dakota. | Scott. |
| Hennepin. | Sherburne. |
| Isanti. | Sibley. |
| Kanabec. | Stearns. |
| Kandiyohi. | Washington. |
| McLeod. | Wright. |
| Meeker. | |

WISCONSIN COUNTIES

In Pierce County, the townships of:
Clifton. River Falls.

In St. Croix County, the townships of:

| | |
|---|---|
| Hudson. | Stanton. |
| Kinnickinnic. | Star Prairie. |
| Richmond. | Troy. |
| St. Joseph. | Warren. |
| Somerset. | |

**§ 1068.3 Route disposition.**

"Route disposition" means any delivery either inside or outside the marketing area (including disposition by a vendor or from a plant store or from vending machines) of any fluid milk product classified as Class I milk to a wholesale or retail shop, including any governmentally operated institution, but excluding any disposition of skim milk or butterfat not eligible for sale in fluid form as Grade A milk in the marketing area from a nonpool plant to any other plant or to a commercial processor of foods.

**§ 1068.4 Plant.**

"Plant" means the entire land, buildings, surroundings, facilities and equipment, whether owned or operated by one or more persons, maintained and operated at the same location primarily for the receiving, processing or other handling of milk or milk products (including filled milk). Under this definition any separate portion of a premises or facilities qualified under § 1068.7(b) used to receive, process, or otherwise handle milk shall be deemed to be a separate plant. This definition shall not include any building, premises, facilities, or equipment used primarily (a) to hold or store bottled milk or milk products (including filled milk) in finished form in transit for wholesale or retail distribution on a route(s), or (b) to transfer milk from one conveyance to another in transit from farm to plant of first receipt.

**§ 1068.5 [Reserved]**

**§ 1068.6 [Reserved]**

**§ 1068.7 Pool plant.**

"Pool plant" means any plant meeting the conditions of paragraph (a) or (b) of this section, but not any plant withdrawn pursuant to paragraph (c) of this section, or any plant exempt pursuant to paragraph (d) of this section.

(a) A plant in which milk is processed or packaged and from which not less than 15 percent of its total disposition of Class I milk (except filled milk) during the month either by the operator of such plant or by another person is route disposition within the marketing area: *Provided,* That the total quantity of Class I milk (except filled milk) disposed of from such plant during the month either inside or outside the marketing area, is equal to 30 percent or more of such plant's total receipts of skim milk and butterfat eligible for sale in fluid form as Grade A milk within the marketing area in any of the months of January through June, or to 50 percent or more of such total receipts in any of the months of July through December.

(b) Any plant from which during any month 30 percent or more of such plant's total receipts for such month from farms of skim milk or butterfat eligible for sale in fluid form as Grade A milk within the marketing area is delivered (except as filled milk) to (1) a plant(s) which has qualified pursuant to paragraph (a) of this section, (2) any other plants located within the marketing area from





which route disposition is made within the marketing area, or (3) a governmentally owned and operated institution which disposes of Class I milk solely for use on its own premises or to its own facilities: *Provided,* That if during each of the months of September, October, and November, 30 percent or more of such plant's receipts of skim milk or butterfat for such month as described above is delivered as provided in this paragraph, it shall be a pool plant through the following August: *And provided further,* That any deliveries of milk by a cooperative association during the months of September, October, and November directly from a farm(s) of its producer member(s) to a plant(s) described in paragraph (a) of this section may be considered, for purposes of this paragraph, as having been received first at a plant of such cooperative association.

(c) Upon written request by the handler to the market administrator, received or postmarked on or before the last day of any month, any plant qualified as a pool plant pursuant to paragraph (b) of this section may be withdrawn from pool plant status beginning with the next month. Any such plant withdrawn from automatic pool plant status may not regain such status prior to the next September 1 and then only by meeting the requirements set forth in the first proviso of paragraph (b) of this section in the same manner as a plant qualifying for pool plant status for the first time.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A plant withdrawn pursuant to paragraph (c) of this section; or

(3) A plant qualified as a pool plant pursuant to paragraph (a) or (b) of this section if the conditions of paragraph (d)(3) (i) and (ii) of this section are met. Such plant shall be exempt from the provisions of this part except for reports that may be required pursuant to § 1068.30(d) and verification of such reports by the market administrator in accordance with § 1000.5 of this chapter:

(i) The Secretary determines that a greater quantity of milk in fluid form is disposed of from such plant to a regulated marketing area as defined in another order issued pursuant to the Act either as route disposition, excluding filled milk, or to pool plants qualified on the basis of route disposition than is disposed of from such plant in the Minneapolis-St. Paul marketing area either as route disposition, excluding filled milk, or to pool plants qualified on the basis of route disposition.

(ii) Such milk would be subject to the class price and producer payment provisions of the other marketing agreement or order upon being made exempt from this part.

**§ 1068.8 Nonpool plant.**

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant and from which fluid milk products eligible for sale as Grade A in consumer-type packages or dispenser units or filled milk are disposed of as route disposition in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant and from which a Grade A fluid milk product or filled milk is shipped during the month to a pool plant.

**§ 1068.9 Handler.**

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant(s);

(b) Any cooperative association with respect to milk of its members diverted for its account pursuant to § 1068.13;

(c) Any cooperative association qualifying as a handler pursuant to paragraph (a) of this section shall be, for the purposes of making payments pursuant to § 1068.71, the handler also with respect to producer milk caused to be delivered for the account of such association from the farms of producers to the pool plant(s) of an other handler(s);

(d) Any person in his capacity as the operator of a partially regulated distributing plant. This definition shall not apply to a governmentally owned and operated institution which disposes of Class I milk solely for use on its own premises or to its own facilities;

(e) A producer-handler,

(f) Any person in his capacity as the operator of an other order plant from which during the month there is route disposition in the marketing area or fluid milk products are shipped to a pool plant; or

(g) Any person in his capacity as the operator of an unregulated supply plant.

**§ 1068.10 Producer-handler.**

(a) "Producer-handler" means any person who meets all of the following conditions:

(1) Operates a dairy farm and a distribution plant at which Grade A milk of his own production is processed and packaged, and from which there is route disposition in the marketing area;

(2) Receives no milk or fluid milk products from the farms of other dairy farmers nor from any other source, except receipts of not more than 50,000 pounds of milk (3.5 percent milk equivalent of butterfat) during the month by transfer from pool plants of other handlers;

(3) Receives no nonfluid milk products from any source for use in reconstituting fluid milk products;

(4) Has route disposition consisting only of skim milk and butterfat obtained from his own farm production except that received pursuant to the exception set forth in paragraph (a)(2) of this section; and

(5) The maintenance, care and management of the dairy animals and other resources necessary to produce such milk and the processing, packaging, or distribution of such milk are the personal enterprise, and the personal risk, of such person.

(b) Any handler claiming producer-handler status shall furnish to the market administrator, for verification, evidence of his qualifications as a producer-handler pursuant to this section and shall furnish evidence of subsequent changes made in the manner of producing securing, or distributing milk that affect such qualifications as a producer-handler. Such verification by the market administrator shall be made within 15 days of receipt of the evidence and shall be effective as of the first day of the month during which verification is made.

**§ 1068.11 [Reserved]**

**§ 1068.12 Producer.**

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is received at a pool plant as producer milk directly from the farm or diverted pursuant to § 1068.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1068.44(a)(8)(iii) and the corresponding step of § 1068.44(b); and

(3) Any person with respect to milk produced by him which is diverted from a pool plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk.

**§ 1068.13 Producer milk.**

"Producer milk" means the skim milk and butterfat in Grade A milk of a producer which is:

(a) Received at a pool plant directly from a producer; or

(b) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant, subject to the following conditions:

(1) Such milk shall be priced at the location of the nonpool plant to which diverted;

(2) In any month that less than 6 days' production of a producer is delivered to pool plants the quantity of milk of the producer diverted during the month that exceeds that delivered to pool plants shall not be producer milk;

(3) During the months of September



V 38-177 SEP 13 73 XUM

through November, a cooperative association handler may divert for his account the milk of any member producer. The total quantity of producer milk diverted by such handler in excess of 10 percent of the milk received from member producers at pool plants during the month shall not be producer milk;

(4) During the months of December through August, a cooperative association handler may divert for his account the milk of any member producer. The total quantity of producer milk diverted by such handler in excess of 25 percent of the milk received from member producers at pool plants during the month shall not be producer milk;

(5) During the months of September through November, the operator of a pool plant, other than a cooperative association, may divert for his account the milk of any producer other than a member of a cooperative association. The total quantity of producer milk diverted by such handler in excess of 10 percent of the milk received at such pool plant during the month from producers who are not members of a cooperative association shall not be producer milk;

(6) During the months of December through August, the operator of a pool plant, other than a cooperative association may divert for his account the milk of any producer other than a member of a cooperative association. The total quantity of producer milk diverted by such handler in excess of 25 percent of the milk received at such pool plant during the month from producers who are not members of a cooperative association shall not be producer milk; and

(7) The diverting handler shall designate the dairy farmers whose milk is not producer milk pursuant to paragraph (b) (3), (4), (5), and (6) of this section. If the handler fails to make such designation, no milk diverted by him shall be producer milk.

**§ 1068.14 Other source milk.**

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1068.40 (b)(1) from any source other than producers, handlers described in § 1068.9 (c), pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1068.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1068.40 (b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1068.40(b)(1)) for which the handler fails to establish a disposition.

**§ 1068.15 Fluid milk product.**

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1068.40 (b) or (c)(1) (i) through (iv) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

**§ 1068.16 Fluid cream product.**

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

**§ 1068.17 Filled milk.**

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

**§ 1068.18 Cooperative association.**

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) Is qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act;"

(b) Has full authority in the sale of milk of its members and is engaged in making collective sales of or marketing milk or its products for its members; and

(c) Has its entire activities under the control of its members.

HANDLER REPORTS

**§ 1068.30 Reports of receipts and utilization.**

On or before the 10th day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1068.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1068.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1068.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

**§ 1068.31 Payroll reports.**

(a) On or before the last day of each month, each handler described in § 1068.9 (a), (b), and (c) shall report to the market administrator his producer payroll for the preceding month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1068.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.





**§ 1068.32 Other reports.**

In addition to the reports required pursuant to §§ 1068.30 and 1068.31, the following shall be reported to the market administrator:

(a) Each handler specified in § 1068.9 (g) who operates an unregulated supply plant shall report as required in § 1068.30, except that the receipts of skim milk and butterfat in Grade A milk shall be reported in lieu of those in producer milk.

(b) Each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

**§ 1068.40 Classes of utilization.**

Except as provided in § 1068.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1068.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(v) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1068.15; and

(6) In shrinkage assigned pursuant to § 1068.41(a) to the receipts specified in § 1068.41(a)(2) and in shrinkage specified in § 1068.41 (b) and (c).

**§ 1068.41 Shrinkage.**

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1068.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1068.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1068.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

**§ 1068.42 Classification of transfers and diversions.**

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1068.44(a)(12) and the corresponding step of § 1068.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1068.44(a)(7) or the corresponding step of § 1068.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1068.44(a)(11) or (12) or the corresponding steps of



V 38-177 SEP 13 73 XUM

§ 1068.44(b), the skim milk or butterfat so transferred up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1068.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1068.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1068.43 General classification rules.

In determining the classification of producer milk pursuant to § 1068.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1068.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1068.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1068.40, 1068.41, and 1068.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall





be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids;

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1068.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association; and

(d) For classification purposes, pursuant to §§ 1068.40 through 1068.45, butterfat in skim milk either disposed of to others or used in the manufacture of milk products shall be accounted for at a butterfat content of 0.065 percent, unless the handler has adequate records of the actual butterfat content of such skim milk.

§ 1068.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1068.9(a) for each of his pool plants separately and of each handler described in § 1068.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1068.41 (b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1068.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1068.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1068.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1068.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2)(7)(v) and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the handler's total Class III utilization at his other pool plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler;

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1068.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1068.40(b)(1) in inventory at the begining of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of



V 38 177 SEP 13 73 XUM

skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12) (ii) and (iii) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1068.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler;

(ii) Should the proration pursuant to paragraph (a)(12) (i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received; and

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from any class that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1068.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1068.44(a)(14) and the corresponding step of § 1068.44(b).

### § 1068.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1068.44(a)(12) and the corresponding step of § 1068.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1068.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

## Class Prices

### § 1068.50 Class prices.

Subject to the provisions of § 1068.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.06.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

### § 1068.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

### § 1068.52 Plant location adjustments for handlers.

(a) The Class I price for producer milk received at a plant located at least 35 miles (as determined by the market administrator) from the Minnesota Transfer Viaduct at University Avenue in St. Paul, Minn., shall be reduced by an amount indicated below:

| Plant location (miles) | Amount of deduction (cents) |
|---|---|
| Less than 35 | 0 |
| 35 but less than 45 | 6 |

For distances of 45 miles or more, an additional 1.5 cents for each 10 miles or fraction thereof beyond 45 miles.

(b) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

### § 1068.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

### § 1068.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.





## Uniform Price

### § 1068.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1068.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1068.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1068.44(a)(14) and the corresponding step of § 1068.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1068.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1068.44(a)(9) and the corresponding step of § 1068.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1068.44(a)(7) (i) through (iv) and the corresponding step of § 1068.44 (b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1068.44(a)(7) (v) and (vi) and the corresponding step of § 1068.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1068.44(a)(11) and the corresponding step of § 1068.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class II price, both for the preceding month, by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1068.40 (b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

### § 1068.61 Computation of uniform price.

For each month the market administrator shall compute a uniform price per hundredweight of milk of 3.5 percent butterfat content as follows:

(a) Combine into one total the values computed pursuant to § 1068.60 for all handlers who filed reports pursuant to § 1068.30 for the month and who made the payments pursuant to § 1068.71 for the preceding month;

(b) Add an amount equal to the total value of the location adjustments computed pursuant to § 1068.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1068.60(f); and

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

### § 1068.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 15th day after the end of each month the uniform price for such month.

## Payments for Milk

### § 1068.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1068.71, 1068.76, and 1068.77 and out of which he shall make all payments due handlers pursuant to §§ 1068.72 and 1068.77: *Provided*, That the market administrator shall offset any payments due any handler against payments due from such handler.

### § 1068.71 Payments to the producer-settlement fund.

(a) On or before the 18th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section: *Provided*, That payment made by a cooperative association as a handler pursuant to this paragraph with respect to milk transferred to another handler from the pool plant of such cooperative association or caused to be delivered to such handler from the farms of producers for the account of such cooperative association shall not relieve the transferee-handler of any obligation on any such milk which is due the cooperative association, or otherwise due pursuant to §§ 1068.70 through 1068.75, §§ 1068.77 and 1068.78, and §§ 1068.85 and 1068.86:

(1) The total value of milk of the handler for such month as determined pursuant to § 1068.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1068.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1068.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each other according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

### § 1068.72 Payments from the producer-settlement fund.

On or before the 19th day after the end of each month, the market administrator shall pay, subject to the proviso of § 1068.70, to each handler the amount, if any, by which the amount computed pursuant to § 1068.71(a)(2) exceeds the amount computed pursuant to § 1068.71(a)(1).

### § 1068.73 Payments to producers and to cooperative associations.

Each handler shall make payment for milk received from producers or cooperative associations as follows:

(a) On or before the 11th day after the end of the month in which the skim milk or butterfat was received, to a cooperative association which is a handler, for all skim milk and butterfat received from a pool plant(s) operated by such cooperative association or caused by it to be delivered to such handler from pro-



V 38 I 177 SEP 13 73 XUM

ducers' farms, at not less than the class prices, as adjusted by the butterfat differential specified in § 1068.74, that are applicable at the location of the receiving handler's pool plant, less the amount of payment made pursuant to paragraph (c) of this section.

(b) On or before the 21st day after the end of the month during which the milk was received, to each producer for milk not caused to be delivered to such handler by a cooperative association which is a handler, as follows: *Provided*, That such payment shall be made, upon request, to a cooperative association which is not a handler, or to its duly authorized agent, with respect to milk received from each producer who has given such association authorization by contract or by other written instrument to collect the proceeds from the sale of his milk, and any payment made pursuant to this proviso shall be made on or before the 20th day after the end of such month:

(1) At not less than the uniform price computed pursuant to § 1068.61, subject to the butterfat and location differentials set forth in §§ 1068.74 and 1068.75, and less the amount of payment made pursuant to paragraph (c) of this section.

(c) Handlers (other than cooperative associations) shall make partial payments to producers and cooperative associations pursuant to paragraph (c) (1) and (2) of this section: *Provided*, That in the event any producer discontinues shipping to such handler during the month, such partial payment shall not be made and full payment for all milk received from such producer during such month shall be made pursuant to paragraphs (a) and (b) of this section.

(1) On or before the 25th day of each month, each handler shall make payment, except as set forth in paragraph (c)(2) of this section, to each producer, at not less than the applicable uniform price computed pursuant to § 1068.61 for the preceding month, for the milk of such producer received by such handler during the first 15 days of the current month;

(2) On or before the 20th day of each month, each handler shall make payment to a cooperative association which is not a handler for milk of producers from whom such association has received written authorization to collect payment, at not less than such uniform price for the preceding month, for all such milk received by such handler during the first 15 days of the current month; and

(3) On or before the 20th day of each month, each handler shall make payment to a cooperative association which is a handler, at not less than the Class I price for the current month pursuant to § 1068.50 for all skim and butterfat received from a pool plant(s) operated by such cooperative association, or caused by such association to be delivered from the producer's farms to such handler, during the first 15 days of the current month.

(4) All payments made pursuant to this paragraph shall be subject to the butterfat differential specified in § 1068.74 and location adjustments specified in § 1068.75 applicable at the location of the plant of the handler making the payment.

(d) In making payment to individual producers as required by this section, each handler shall furnish each producer from whom he received milk a supporting statement, in such form that it may be retained by the producer, which shall show:

(1) The month involved, and the identity of the handler and of the producer;

(2) The total pounds and the average butterfat content of the milk received from the producer;

(3) The minimum rate at which payment to the producer is required pursuant to this section;

(4) The rate used in making the payment if such rate is other than the applicable minimum;

(5) The amount (or rate) per hundredweight of each deduction claimed by the handler, including any deduction claimed under § 1068.86, together with a description of the respective deductions; and

(6) The net amount of the payment to the producer.

### § 1068.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

### § 1068.75 Plant location adjustments for producers and on nonpool milk.

(a) In making payments pursuant to § 1068.73 (b) and (c) for milk received at a pool plant located 35 miles or more from the Minnesota Transfer Viaduct at University Avenue in St. Paul, Minn., each handler shall deduct from the applicable price payable to such producers an amount in accordance with the location of the plant based on the rates set forth in § 1068.52; and

(b) For the purpose of computations pursuant to §§ 1068.71 and 1068.72, the uniform price shall be adjusted at the rates set forth in § 1068.52 applicable at the location of the nonpool plant from which the milk was received, except that the uniform price shall not be less than the Class III price.

### § 1068.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1068.30(b) and 1068.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1068.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1068.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1068.60 for such handler shall include, in lieu of the value of other source milk specified in § 1068.60(f) less the value of such other source milk specified in § 1068.71(a)(2)(ii), a value of milk determined pursuant to § 1068.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1068.7(b), subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1068.30(b) and 1068.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(*c*) The value of milk determined pursuant to § 1068.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1068.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1068.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

### § 1068.77 Adjustment of accounts.

(a) Whenever verification by the market administrator of reports or payments by any handler discloses errors in payments to the producer-settlement fund pursuant to §1068.71, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 5 days of such billing, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, the market administrator shall, within 5 days, make payment to such handler.

(b) Whenever verification by the market administrator of the payments by a handler to any producer or cooperative association discloses payment of less than is required by §1068.73, the handler shall pay the balance due such producer or cooperative association not later than the time for making payments next following such disclosure.

### § 1068.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to §§1068.71, 1068.76, and 1068.77(a), for which remittance has not been made by the close of business on the next day following the date specified for such payment shall be increased three-fourths of 1 percent for each month and any remaining amount due shall be increased at a similar rate on the corresponding day of each month thereafter until paid. The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation, which shall include any unpaid charges previously made pursuant to this section; and for the purpose of this section any obligation that was determined at a date later than prescribed by the order because of a handler's failure to submit a report to the market administrator when due, shall be considered to have been payable by the date it would have been due if the report had been filed when due.

### Administrative Assessment and Marketing Service Deduction

### § 1068.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 3 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1068.44(a) (7) and (11) and the corresponding steps of § 1068.44(b), except such other source milk that is excluded from the computations pursuant to § 1068.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1068.76(a)(2).

### § 1068.86 Deduction for marketing services.

(a) *Deductions for marketing services.* Except as set forth in paragraph (b) of this section, each handler, in making payments to producers (other than himself) pursuant to § 1068.73, shall make a deduction of 6 cents per hundredweight, or such lesser deduction as the Secretary from time to time may prescribe, with respect to all milk received from producers' farms during the month, and shall pay such deductions to the market administrator on or before the 18th day after the end of such month. Such moneys shall be expended by the market administrator for market information to, and for the verification of weights, sampling, and testing of milk received from, said producers.

(b) *Producers' cooperative associations.* In the case of producers for whom a cooperative association which the Secretary determines to be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act," is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, no such deduction shall be made.

## PART 1069—MILK IN DULUTH-SUPERIOR MARKETING AREA

### Subpart—Order Regulating Handling

General Provisions

Sec.
1069.1 General provisions.

Definitions

1069.2 Duluth-Superior marketing area.
1069.3 Route disposition.
1069.4 [Reserved]
1069.5 Distributing plant.
1069.6 Supply plant.
1069.7 Pool plant.
1069.8 Nonpool plant.
1069.9 Handler.
1069.10 Producer-handler.
1069.11 [Reserved]
1069.12 Producer.
1069.13 Producer milk.
1069.14 Other source milk.
1069.15 Fluid milk product.
1069.16 Fluid cream product.
1069.17 Filled milk.
1069.18 Cooperative association.

Handler Reports

1069.30 Reports of receipts and utilization.
1069.31 Payroll reports.
1069.32 Other reports.

Classification of Milk

1069.40 Classes of utilization.
1069.41 Shrinkage.
1069.42 Classification of transfers and diversions.
1069.43 General classification rules.
1069.44 Classification of producer milk.
1069.45 Market administrator's reports and announcements concerning classification.

Class Prices

1069.50 Class prices.
1069.51 Basic formula price.







V 38 177 SEP 13 73 XUM

Sec.
1069.52 Plant location adjustments for handlers.
1069.53 Announcement of class prices.
1069.54 Equivalent price.

UNIFORM PRICE

1069.60 Handler's value of milk for computing uniform price.
1069.61 Computation of uniform price.
1069.62 Announcement of uniform price and butterfat differential.

PAYMENTS FOR MILK

1069.70 Producer-settlement fund.
1069.71 Payments to the producer-settlement fund.
1069.72 Payments from the producer-settlement fund.
1069.73 Payments to producers and to cooperative associations.
1069.74 Butterfat differential.
1069.75 Plant location adjustments for producers and on nonpool milk.
1069.76 Payments by handler operating a partially regulated distributing plant.
1069.77 Adjustment of accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1069.85 Assessment for order administration.
1069.86 Deduction for marketing services.

AUTHORITY: The provisions of this Part 1069 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

GENERAL PROVISIONS

**§ 1069.1 General provisions.**

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

**§ 1069.2 Duluth-Superior marketing area.**

"Duluth-Superior marketing area", hereinafter called the "marketing area", means all of the territory within Carlton County and the city of Duluth, in the State of Minnesota; and all of the territories within the counties of Ashland, Bayfield, and Douglas, in the State of Wisconsin.

**§ 1069.3 Route disposition.**

"Route disposition" means any delivery to retail or wholesale outlets (including delivery by a vendor or a sale from a plant or plant store) of any fluid milk product classified as Class I milk, other than a delivery in bulk form to a pool plant or nonpool plant.

**§ 1069.4 [Reserved]**

**§ 1069.5 Distributing plant.**

"Distributing plant" means a plant in which any Grade A fluid milk product is pasteurized or packaged and from which there is route disposition during the month in the marketing area.

**§ 1069.6 Supply plant.**

"Supply plant" means a plant from which Grade A milk is shipped during the month to a pool plant.

**§ 1069.7 Pool plant.**

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) Any plant, hereinafter referred to as a "distributing pool plant", in which fluid milk products are pasteurized or packaged and from which there is route disposition during the month, except filled milk, equal to 50 percent or more of total receipts of Grade A milk at such plant from dairy farmers, from other plants, and from cooperative associations in their capacity as handlers and from which there is route disposition, except filled milk, in the marketing area equal to 10 percent or more of such total receipts: *Provided*, That such route disposition (not including filled milk) in the marketing area averages at least 500 pounds per day.

(b) Any plant, hereinafter referred to as a "supply pool plant", from which during the month 50 percent or more of its supply of Grade A milk from dairy farmers is moved to a distributing pool plant(s): *Provided*, That any supply plant which has qualified as a pool plant in each of the months of September, October, and November, shall be a pool plant for each of the following months of December through August unless written request for nonpool status is furnished in advance to the market administrator.

(c) A plant(s) (1) which is approved by a duly constituted health authority for the handling of Grade A milk, (2) which is operated by a cooperative association, and (3) from which the quantity of milk transferred by the association to plants specified in paragraph (a) of this section or delivered directly from the farm to such plants is equal to at least the following percentages, in the months indicated, of the quantity of Grade A milk delivered by all producers who are members of such association:

| Month | Minimum percentage |
|---|---|
| September, October, November | 40 |
| April, May, June | 20 |
| All other months | 30 |

The association shall furnish written notice to the market administrator specifying the plant(s) to be qualified pursuant to this paragraph (c) and the period during which such consideration shall apply. Such notice, and notice of any change in designation, shall be furnished on or before the 7th day following the month to which such notice applies.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant; and

(2) A plant which would be subject to the classification and pricing provisions of another order issued pursuant to the Act unless:

(i) Such plant is qualified as a pool plant pursuant to paragraph (a), (b), or (c) of this section and a greater volume of Class I milk, except filled milk, is disposed of from such plant in the Duluth-Superior marketing area than in the marketing area regulated pursuant to such other order, or

(ii) The Secretary determines that the applicable order should more appropriately be determined on some other basis.

**§ 1069.8 Nonpool plant.**

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant and from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products are shipped during the month to a pool plant.

**§ 1069.9 Handler.**

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant.

(b) Any cooperative association with respect to the milk of producers which is diverted pursuant to § 1069.12 for the account of such cooperative association.

(c) Any cooperative association which chooses to report as a handler with respect to the milk of its member producers which is delivered to the pool plant of another handler in a tank truck owned or operated by or under contract to such cooperative association for the account of such cooperative association. Such milk shall be considered as having been received by such cooperative association at the plant to which it is delivered.

(d) Any person who operates a partially regulated distributing plant.

(e) A producer-handler.

(f) Any person in his capacity as the operator of an other order plant that is either a distributing plant or a supply plant.

**§ 1069.10 Producer-handler.**

"Producer-handler" means a person who operates both a dairy farm(s) and a milk processing or bottling plant at which each of the following conditions are met during the month:

(a) Milk is received from the dairy farm(s) of such person but from no other dairy farm;

(b) There is route disposition in the marketing area; and

(c) The butterfat or skim milk disposed of in the form of fluid milk products does not exceed the butterfat or skim milk, respectively, received in the form of milk from the dairy farm(s) of such person and in the form of fluid milk products in bulk or in packaged form from pool plants of other handlers: *Provided*, That such person shall furnish to the market administrator for his verification, subject to review by the Secretary, evidence that the maintenance, care and management of the dairy animals and other resources necessary for the production of milk in his name are and continue to be the personal enterprise of and at the personal risk of such producer and the processing, packaging and distribution of the milk are and continue to be the personal enterprise of and at the personal risk of such person in his capacity as a handler.





**§ 1069.11 [Reserved]**

**§ 1069.12 Producer.**

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of, or acceptable to, a duly constituted health authority, and whose milk is:

(1) Received at a pool plant; or

(2) Diverted from a pool plant to a nonpool plant by a handler or cooperative association for the account of such handler or cooperative association. Milk so diverted shall be deemed to have been received by the diverting handler at the plant from which it is diverted.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1069.44(a)(8)(iii) and the corresponding step of § 1069.44(b); and

(3) Any person with respect to milk produced by him which is diverted from a pool plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk.

**§ 1069.13 Producer milk.**

"Producer milk" means all skim milk and butterfat in milk produced by a producer and received at a pool plant directly from producers or diverted pursuant to § 1069.12.

**§ 1069.14 Other source milk.**

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1069.40(b)(1) from any source other than producers, handlers described in § 1069.9(c), pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1069.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1069.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in §1069.40(b)(1)) for which the handler fails to establish a disposition.

**§ 1069.15 Fluid milk product.**

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1069.40 (b) or (c)(1) (i) through (iv) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

**§ 1069.16 Fluid cream product.**

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

**§ 1069.17 Filled milk.**

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

**§ 1069.18 Cooperative association.**

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association, to be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act."

HANDLER REPORTS

**§ 1069.30 Reports of receipts and utilization.**

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1069.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1069.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1069.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

**§ 1069.31 Payroll reports.**

(a) On or before the 25th day after the end of each month, each handler described in § 1069.9(a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1069.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

**§ 1069.32 Other reports.**

In addition to the reports required pursuant to §§ 1069.30 and 1069.31, each handler shall report such other informa-



V 38-177 SEP 13 73 XUM

tion as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1069.40 Classes of utilization.

Except as provided in § 1069.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1069.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(v) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1069.15;

(6) In shrinkage assigned pursuant to § 1069.41(a)(2) and in shrinkage specified in § 1069.41 (b) and (c).

§ 1069.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1069.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1069.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraphs (b) (1), (2), (4), (5), and (6), of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1069.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

§ 1069.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1069.44(a)(12) and the corresponding step of § 1069.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1069.44(a)(7) or the corresponding step of § 1069.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1069.44(a) (11) or (12) or the corresponding steps of § 1069.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b) (3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1069.40.

(c) *Transfers and diversions to producer-handlers.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred or diverted in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraphs (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraphs (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1069.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

§ 1069.43 General classification rules.

In determining the classification of producer milk pursuant to § 1069.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1069.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1069.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1069.40, 1069.41, and 1069.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1069.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.







V 38 I 177 SEP 13 73 XUM

§ 1069.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1069.9(a) for each of his pool plants separately and of each handler described in § 1069.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1069.41 (b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1069.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1069.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1069.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1069.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (a) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the handler's total Class III utilization at his other pool plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment:

(a) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler;

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1069.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1069.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii) and (iii) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(a) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1069.45(a); or

(b) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler;

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received; and

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from any class that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1069.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1069.44(a)(14) and the corresponding step of § 1069.44(b).

§ 1069.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1069.44(a)(12) and the corresponding step of § 1069.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1069.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

CLASS PRICES

§ 1069.50 Class prices.

Subject to the provisions of § 1069.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.10.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1069.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest 0.1 cent) per 0.1 percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1069.52 Plant location adjustments for handlers.

(a) For producer milk which is received at a plant located more than 55 miles by the shortest highway distance, as determined by the market administrator, from the Courthouse at Duluth, Minn., or Ashland, Wis., whichever is closer, and which is classified as Class I milk, the price specified in § 1069.50(a) shall be reduced by 8 cents if such plant is located more than 55 miles but not more than 65 miles from such courthouse and by an additional 1.3 cents for each 10 miles or fraction thereof that such distance exceeds 65 miles.

(b) For the purpose of calculating location adjustments, receipts of fluid milk products from pool plants shall be assigned any remainder of Class I milk at the transferee-plant that is in excess of the sum of producer milk receipts at such plant and that assigned as Class I to receipts from other order plants and unregulated supply plants. Such assignment shall be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1069.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1069.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICE

§ 1069.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1069.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1069.44 by the applicable class prices and add the resulting amounts;







V 38-177 SEP 13 73 XUM

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1069.44(a)(14) and the corresponding step of § 1069.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1069.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1069.44(a)(9) and the corresponding step of § 1069.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1069.44(a)(7) (i) through (iv) and the corresponding step of § 1069.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1069.44(a)(7) (v) and (vi) and the corresponding step of § 1069.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1069.44(a)(11) and the corresponding step of § 1069.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

**§ 1069.61 Computation of uniform price.**

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1069.60 for all handlers who filed the reports prescribed by § 1069.30 for the month and who made the payments pursuant to §§ 1069.71 and 1069.73 for the preceding month;

(b) Add an amount equal to the total value of the location adjustments computed pursuant to § 1069.75;

(c) Add an amount equal to one-half the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1069.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price".

**§ 1069.62 Announcement of uniform price and butterfat differential.**

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

**§ 1069.70 Producer-settlement fund.**

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1069.71, 1069.76, and 1069.77, and out of which he shall make payments to handlers pursuant to §§ 1069.72 and 1069.77: *Provided*, That any payments due to any handler shall be offset by any payments due from such handler.

**§ 1069.71 Payments to the producer-settlement fund.**

(a) On or before the 15th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1069.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1069.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1069.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

**§ 1069.72 Payments from the producer-settlement fund.**

On or before the 17th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1069.71(a)(2) exceeds the amount computed pursuant to § 1069.71(a)(1). If at such time the balance in the producer-settlement fund is insufficient to make all payments required by this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

**§ 1069.73 Payments to producers and to cooperative associations.**

On or before the 20th day after the end of each month, each handler shall make payments as follows:

(a) To each producer from whom milk was received during the month at not less than the uniform price per hundredweight computed pursuant to § 1069.61 subject to the butterfat differential computed pursuant to § 1069.74 and the location adjustment computed pursuant to § 1069.75 and less (1) deductions for marketing services pursuant to § 1069.86, and (2) other proper deductions: *Provided*, That with respect to each deduction for hauling, or for any other purpose, made from such payment, the burden shall rest upon the handler making the deduction to prove that each deduction is authorized, and properly chargeable to the producer: *And provided further*, That if by such date such handler has not received full payment from the market administrator pursuant to § 1069.72, he may reduce pro rata his payment to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payment pursuant to this paragraph next following after receipt of the balance due from the market administrator;

(b) A handler who has not received on the 20th day after the end of each month the balance of the payments due him from the market administrator shall not be deemed to be in violation of paragraph (a) of this section if he reduced his payments to producers by not more than the amount of the reduction payment from the producer-settlement fund. The handler shall, however, complete such payments not later than the date for making such payments next following receipt of the balance from the market administrator; and

(c) On or before the 15th day after the end of each month, to each cooperative association with respect to receipts of milk for which such cooperative association is defined as the handler not less than the value of such milk at the class prices, as adjusted by the butterfat differential specified in § 1069.74, that are applicable at the location of the receiving handler's pool plant.





**§ 1069.74 Butterfat differential.**

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

**§ 1069.75 Plant location adjustments for producers and on nonpool milk.**

(a) For milk which is received at a pool plant located more than 55 miles but not more than 65 miles by shortest highway distance, as determined by the market administrator, from the courthouse at Duluth, Minn., or at Ashland, Wis., whichever is closer, there should be deducted 8 cents per hundredweight and an additional 1.3 cents should be deducted for each 10 miles or fraction thereof that such distance exceeds 65 miles; and

(b) For purposes of computations pursuant to §§ 1069.71 and 1069.72 the uniform price shall be adjusted at the rates set forth in § 1069.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted uniform price shall not be less than the Class III price.

**§ 1069.76 Payments by handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1069.30(b) and 1069.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1069.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1069.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1069.60 for such handler shall include, in lieu of the value of other source milk specified in § 1069.60(f) less the value of such other source milk specified in § 1069.71(a)(2)(ii), a value of milk determined pursuant to § 1069.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1069.7(b), subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1069.30(b) and 1069.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1069.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1069.74 for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1069.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

**§ 1069.77 Adjustment of accounts.**

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount due and payment thereof shall be made on or before the next date for making payments set forth in the provision under which such error occurred.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

**§ 1069.85 Assessment for order administration.**

As his pro rata share of the expense of administration of the order, each han-



V 38 1177 SEP 13 73 XUM

dler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1069.44(a) (7) and (11) and the corresponding steps of § 1069.44(b), except such other source milk that is excluded from the computations pursuant to § 1069.60 (d) and (f); and

(c) Class I milk disposed of in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1069.76(a)(2).

**§ 1069.86 Deduction for marketing services.**

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers pursuant to § 1069.73, with respect to all milk received from each producer at a plant not operated by a cooperative association qualified under paragraph (b) of this section of which such producer is a member, shall deduct an amount not exceeding 3 cents per hundredweight (the exact amount to be determined by the market administrator subject to review by the Secretary) from the payments made direct to such producers and such handler shall pay such deductions to the market administrator on or before the 15th day after the end of such month. Such moneys shall be used by the market administrator to provide market information and to verify the accuracy of weights, sampling and testing of milk received from such producers.

(b) In the case of milk of producers who are members of a cooperative association which is actually performing the services described in paragraph (a) of this section, which is received at a plant not operated by such cooperative association, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from the payments to be made direct to such producers pursuant to § 1069.73, as are authorized by such producers and, on or before the 15th day after the end of such month, pay such deductions to such cooperative association.

---

## PART 1070—MILK IN THE CEDAR RAPIDS-IOWA CITY MARKETING AREA

### Subpart—Order Regulating Handling

GENERAL PROVISIONS

Sec.
1070.1 General provisions.

DEFINITIONS

1070.2 Cedar Rapids-Iowa City marketing area.
1070.3 [Reserved]
1070.4 [Reserved]
1070.5 Distributing plant.
1070.6 Supply plant.
1070.7 Pool plant.
1070.8 Nonpool plant.
1070.9 Handler.
1070.10 Producer-handler.
1070.11 [Reserved]
1070.12 Producer.
1070.13 Producer milk.
1070.14 Other source milk.
1070.15 Fluid milk product.
1070.16 Fluid cream product.
1070.17 Filled milk.
1070.18 Cooperative association.

HANDLER REPORTS

1070.30 Reports of receipts and utilization.
1070.31 Payroll reports.
1070.32 Other reports.

CLASSIFICATION OF MILK

1070.40 Classes of utilization.
1070.41 Shrinkage.
1070.42 Classification of transfers and diversions.
1070.43 General classification rules.
1070.44 Classification of producer milk.
1070.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1070.50 Class prices.
1070.51 Basic formula price.
1070.52 Plant location adjustments for handlers.
1070.53 Announcement of class prices.
1070.54 Equivalent price.

UNIFORM PRICE

1070.60 Handler's value of milk for computing uniform price.
1070.61 Computation of uniform price.
1070.62 Announcement of uniform price and butterfat differential.

PAYMENTS FOR MILK

1070.70 Producer-settlement fund.
1070.71 Payments to the producer-settlement fund.
1070.72 Payments from the producer-settlement fund.
1070.73 Payments to producers and to cooperative associations.
1070.74 Butterfat differential.
1070.75 Plant location adjustments for producers.
1070.76 Payments by handler operating a partially regulated distributing plant.
1070.77 Adjustment of accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1070.85 Assessment for order administration.
1070.86 Deduction for marketing services.

AUTHORITY: The provisions of this Part 1070 issued under secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

GENERAL PROVISIONS

**§ 1070.1 General provisions.**

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

**§ 1070.2 Cedar Rapids-Iowa City marketing area.**

"Cedar Rapids-Iowa City marketing area", called the "marketing area" in this part, means all the territory within the corporate limits of the cities of Cedar Rapids and Iowa City, both in the State of Iowa.

**§ 1070.3 [Reserved]**

**§ 1070.4 [Reserved]**

**§ 1070.5 Distributing plant.**

"Distributing plant" means a plant in which any Grade A fluid milk product is processed or packaged and disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants) located in the marketing area.

**§ 1070.6 Supply plant.**

"Supply plant" means a plant from which Grade A milk or skim milk is shipped during the month to a pool plant qualified pursuant to § 1070.7.

**§ 1070.7 Pool plant.**

Except as provided in paragraph (e) of this section, "pool plant" means:

(a) A distributing plant from which a volume of Class I milk, except filled milk, equal to not less than 35 percent of the Grade A milk received at such plant from dairy farmers and from other plants is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants) and not less than 15 percent of such receipts are so disposed of to such outlets in the marketing area.

(b) A supply plant from which the volume of fluid milk products, except filled milk, shipped during the month to pool plants qualified pursuant to paragraph (a) of this section is not less than 35 percent of the Grade A milk received at such plant from dairy farmers during such month: *Provided*, That if such shipments are not less than 50 percent of the receipts of Grade A milk at such plant during the immediately preceding period of September through November, such plant may, upon written application to the market administrator on or before March 1 of any year, be designated as a pool plant for the months of March through June of such year.

(c) A plant (1) which is approved by a duly constituted health authority for the handling of Grade A milk; (2) which is operated by a cooperative association; and (3) from which the milk transferred by the association to plants of other handlers specified in paragraph (a) of this section plus that delivered by such association pursuant to paragraph (d) of this section and that delivered directly from the farms of members of such association to such plants is Grade A milk delivered by producers who are members of the association. If written application is filed with the market administrator on or before the 5th day of any month, such plant may be designated a nonpool plant for such month and for any subsequent months, except as provided in paragraph (e) of this section.

(d) A cooperative association with respect to Grade A milk received from dairy farmers at their farms in a tank truck owned or operated by such cooperative association and delivered in such tank truck to a pool plant: *Provided*, That such milk shall be deemed





to have been received by the cooperative association at the location of the pool plant to which it is delivered by the tank truck and such location shall be deemed to be the location of such cooperative association in its capacity as the operator of a pool plant.

(e) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant; and

(2) A plant specified in paragraph (a), (b), (c), or (d) of this section during any month in which such plant would be subject to the classification and pricing provisions of another order issued pursuant to the act unless the disposition of fluid milk products, except filled milk, from such plant to pool plants qualified under this section and to retail and wholesale outlets in the Cedar Rapids-Iowa City marketing area exceeds such disposition to retail and wholesale outlets in such other marketing area and to pool plants regulated by such other order.

**§ 1070.8 Nonpool plant.**

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant from which fluid milk products are shipped during the month to a pool plant.

**§ 1070.9 Handler.**

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) A cooperative association with respect to producer milk diverted by the association for its account pursuant to § 1070.13;

(c) [Reserved]

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler; and

(f) Any person who operates an other order plant described in § 1070.7(e).

**§ 1070.10 Producer-handler.**

"Producer-handler" means any person who operates a dairy farm and a distributing plant but who receives no milk from other dairy farmers or from a cooperative association in its capacity as the operator of a pool plant pursuant to § 1070.7(d) and whose disposition of fluid milk products does not exceed that (a) received from a pool plant, (b) processed from milk of his own production, or (c) processed from fluid milk products received from a pool plant.

**§ 1070.11 [Reserved]**

**§ 1070.12 Producer.**

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is received at a pool plant.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1070.44(a)(8)(iii) and the corresponding step of § 1070.44(b); and

(3) Any person with respect to milk produced by him which is diverted from a pool plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk.

**§ 1070.13 Producer milk.**

"Producer milk" means all skim milk and butterfat produced by producers which is:

(a) Received at a pool plant directly from producers; or

(b) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant for the account of the operator of a pool plant or a cooperative association, subject to the following:

(1) Such diversions may be without limit during the months of April through August, but not be for more than 25 days' production of any producer during any other month and milk diverted in excess of this limit shall not be producer milk;

(2) Milk so diverted for the account of the operator of a pool plant shall be deemed to have been received at the plant from which diverted; and

(3) Milk so diverted from the plant of another handler for the account of a cooperative association shall be priced at the location of the plant from which diverted.

**§ 1070.14 Other source milk.**

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1070.40(b)(1) from any source other than producers, pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1070.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1070.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1070.40(b)(1)) for which the handler fails to establish a disposition.

**§ 1070.15 Fluid milk product.**

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1070.40(b) or (c)(1)(i) through (iv) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

**§ 1070.16 Fluid cream product.**

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

**§ 1070.17 Filled milk.**

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

**§ 1070.18 Cooperative association.**

"Cooperative association" means any cooperative marketing association which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged



V 38 I 177 SEP 13 73 XUM

in making collective sales of or marketing milk or its products for its members.

HANDLER REPORTS

**§ 1070.30 Reports of receipts and utilization.**

On or before the 7th day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) [Reserved]

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1070.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition of fluid milk products in the marketing area.

(c) Each handler described in § 1070.9(b) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

**§ 1070.31 Payroll reports.**

(a) On or before the 20th day after the end of each month, each handler described in § 1070.9 (a) and (b) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1070.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

**§ 1070.32 Other reports.**

In addition to the reports required pursuant to §§ 1070.30 and 1070.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

**§ 1070.40 Classes of utilization.**

Except as provided in § 1070.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1070.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(v) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1070.15; and

(6) In shrinkage assigned pursuant to § 1070.41(a) to the receipts specified in § 1070.41(a)(2) and in shrinkage specified in § 1070.41 (b) and (c).

**§ 1070.41 Shrinkage.**

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1070.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) [Reserved]

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;





(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b)(1), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1070.9(b), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

**§ 1070.42 Classification of transfers and diversions.**

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1070.44(a)(12) and the corresponding step of § 1070.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1070.44(a)(7) or the corresponding step of § 1070.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1070.44(a)(11) or (12) or the corresponding steps of § 1070.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers or diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1070.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1070.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition of fluid milk products in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;



V 38 177 SEP 13 73 XUM

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possbile first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plants' utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

**§ 1070.43 General classification rules.**

In determining the classification of producer milk pursuant to § 1070.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1070.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1070.9(b) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1070.40, 1070.41, and 1070.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1070.9(b) shall be determined separately from the operations of any pool plant operated by such cooperative association.

**§ 1070.44 Classification of producer milk.**

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1070.9(a) for each of his pool plants separately and of each handler described in § 1070.9(b) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1070.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1070.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1070.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1070.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1070.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i), of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the handler's total Class III utilization at his other pool plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler;

(*b*) Subtract from the above result the sum of the pounds of skim milk in





receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1070.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provsiions of paragraph (a)(11)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received;

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii) and (iii) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1070.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler;

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received; and

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from any class that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1070.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1070.44(a)(14) and the corresponding step of § 1070.44(b).

**§ 1070.45 Market administrator's reports and announcements concerning classification.**

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1070.44(a)(12) and the corresponding step of § 1070.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1070.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 10th day after the end of each month, report to each cooperative association which so requests, the percentage of the milk caused to be delivered by the cooperative association or its members to the pool plant(s) of each handler during the month, which was utilized in each class. For the purpose of this report, the milk so delivered shall be allocated to each class for each handler in the same ratio as all producer milk received by such handler during the month.

CLASS PRICES

**§ 1070.50 Class prices.**

Subject to the provisions of § 1070.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.33.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.



V 38 I 177 SEP 13 73 XUM

§ 1070.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1070.52 Plant location adjustments for handlers.

(a) For milk received from producers at a pool plant located 50 miles or more by shortest hard-surfaced highway distance as measured by the market administrator, from the nearer of the City Halls in Cedar Rapids and Iowa City, Iowa, and disposed of as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price computed pursuant to § 1070.50(a) shall be reduced by 10 cents, plus 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 65 miles.

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to Class I utilization remaining at the transferee-plant after computations pursuant to § 1070.44 (a)(12) and the corresponding step of § 1070.44(b) which is in excess of 95 percent of receipts at such plant from producers, such assignment to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

§ 1070.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

§ 1070.54 Equivalent price.

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICE

§ 1070.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1070.9(b) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1070.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1070.44(a)(14) and the corresponding step of § 1070.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1070.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1070.44 (a)(9) and the corresponding step of § 1070.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1070.44(a)(7) (i) through (iv) and the corresponding step of § 1070.44 (b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1070.44(a)(7) (v) and (vi) and the corresponding step of § 1070.44 (b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1070.44(a)(11) and the corresponding step of § 1070.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

§ 1070.61 Computation of uniform price.

For each month the market administrator shall compute a uniform price for producer milk of 3.5 percent butterfat content f.o.b. pool plants located within 50 miles of the city hall of Cedar Rapids or Iowa City, Iowa, as follows:

(a) Combine into one total the values computed pursuant to § 1070.60 for all handlers who filed the reports prescribed by § 1070.30 for the month and who made the payments pursuant to § 1070.71 for the preceding month;

(b) Add an amount equal to the total value of the location adjustments computed pursuant to § 1070.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations;

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1070.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

§ 1070.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 10th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

§ 1070.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1070.71, 1070.76, and 1070.77, and out of which he shall make all payments to handlers pursuant to §§ 1070.72 and 1070.77.

§ 1070.71 Payments to the producer-settlement fund.

(a) On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1070.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1070.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1070.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such





route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1070.72 Payments from the producer-settlement fund.

On or before the 12th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1070.71(a)(2) exceeds the amount computed pursuant to § 1070.71(a)(1): *Provided*, That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. A handler who has not received the balance of such payments from the market administrator shall not be considered in violation of § 1070.73 if he reduces his payments to producers by not more than the amount of the reduction in payment from the producer-settlement fund.

§ 1070.73 Payments to producers and to cooperative associations.

Each handler shall make payment as follows:

(a) On or before the 15th day after the end of each month during which the milk was received, to each producer for milk received from him and for which payment is not made to a cooperative association pursuant to paragraph (b) of this section, at not less than the uniform price computed in accordance with § 1070.61, subject to the butterfat differential computed pursuant to § 1070.74 and less location adjustments pursuant to § 1070.75.

(b) On or before the 12th day after the end of each month during which the milk was received, to a cooperative association for milk which it caused to be delivered to such handler from producers, if such cooperative association is authorized to collect such payments for its member producers and exercises such authority, an amount equal to the sum of the individual payments otherwise payable to such producers.

(c) On or before the 11th day after the end of each month during which milk was received at a pool plant from a cooperative association in its capacity as the operator of a pool plant pursuant to § 1070.7(d), at not less than the class prices for such milk, as adjusted by the butterfat differential specified in § 1070.74, that are applicable at the location of the receiving handler's pool plant, plus an amount equal to that payable on the same quantity of producer milk pursuant to § 1070.85.

§ 1070.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1070.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price for producer milk received at a pool plant shall be reduced according to the location of the pool plant, at the rates set forth in § 1070.52; and

(b) For purposes of computations pursuant to §§ 1070.71 and 1070.72 the uniform price shall be adjusted at the rates set forth in § 1070.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted uniform price shall not be less than the Class III price.

§ 1070.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1070.30(b) and 1070.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition of fluid milk products in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition of fluid milk products in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1070.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated pant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1070.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant( but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1070.60 for such handler shall include, in lieu of the value of other source milk specified in § 1070.60(f) less the value of such other source milk specified in § 1070.71(a)(2)(ii), a value of milk determined pursuant to § 1070.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1070.7(b), subject to the following conditions:



V 38-177 SEP 13 73 XUM

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1070.30(b) and 1070.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1070.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1070.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1070.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(ii) of this section applies.

**§ 1070.77 Adjustment of accounts.**

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in money due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due; and payment thereof shall be made on or before the next date for making payment set forth in the provisions under which such error occurred.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

**§ 1070.85 Assessment for order administration.**

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 12th day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk;

(b) Other source milk allocated to Class I pursuant to § 1070.44(a) (7) and (11) and the corresponding steps of § 1070.44(b), except such other source milk that is excluded from the computations pursuant to § 1070.60 (d) and (f); and

(c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds the skim milk and butterfat subtracted pursuant to § 1070.76(a)(2).

**§ 1070.86 Deduction for marketing services.**

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 1070.73 shall deduct 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to all milk received by such handler from such producer (except such handler's own farm production) during the month, and shall pay such deductions to the market administrator not later than the 12th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples, and tests of milk received by handlers from such producers during the month and to provide such producers with market information.

(b) In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall, in lieu of the deductions specified in paragraph (a) of this section, make such deductions as are authorized by such producers and, on or before, the 12th day after the end of each month, pay over such deductions to the association rendering such services.

---

## PART 1076—MILK IN EASTERN SOUTH DAKOTA MARKETING AREA

### Subpart—Order Regulating Handling

GENERAL PROVISIONS


Sec.
1076.1 General provisions.

DEFINITIONS

1076.2 Eastern South Dakota marketing area.
1076.3 Route disposition.
1076.4 [Reserved]
1076.5 Distributing plant.
1076.6 Supply plant.
1076.7 Pool plant.
1076.8 Nonpool plant.
1076.9 Handler.
1076.10 Producer-handler.
1076.11 [Reserved]
1076.12 Producer.
1076.13 Producer milk.
1076.14 Other source milk.
1076.15 Fluid milk product.
1076.16 Fluid cream product.
1076.17 Filled milk.
1076.18 Cooperative association.

HANDLER REPORTS

1076.30 Reports of receipts and utilization.
1076.31 Payroll reports.
1076.32 Other reports.

CLASSIFICATION OF MILK

1076.40 Classes of utilization.
1076.41 Shrinkage.
1076.42 Classification of transfers and diversions.
1076.43 General classification rules.
1076.44 Classification of producer milk.
1076.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1076.50 Class prices.
1076.51 Basic formula price.
1076.52 Plant location adjustments for handlers.
1076.53 Announcement of class prices.
1076.54 Equivalent price.

UNIFORM PRICE

1076.60 Handler's value of milk for computing uniform price.
1076.61 Computation of uniform price.
1076.62 Announcement of uniform price and butterfat differential.

PAYMENTS FOR MILK

1076.70 Producer-settlement fund.
1076.71 Payments to the producer-settlement fund.
1076.72 Payments from the producer-settlement fund.
1076.73 Payments to producers and to cooperative associations.
1076.74 Butterfat differential.
1076.75 Plant location adjustments for producers and on nonpool milk.
1076.76 Payments by handler operating a partially regulated distributing plant.
1076.77 Adjustment of accounts.
1076.78 Charges on overdue accounts.

ADMINISTRATIVE ASSESSMENT

1076.85 Assessment for order administration.


AUTHORITY: The provisions of this Part 1076 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

GENERAL PROVISIONS

**§ 1076.1 General provisions.**

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

**§ 1076.2 Eastern South Dakota marketing area.**

"Eastern South Dakota marketing area," hereinafter called the "marketing area," means all of the territory within the counties listed below, including all territory within such counties which is occupied by government (municipal, State or Federal) reservations, installations, institutions, or other establishments:

IOWA COUNTY

Lyon.

MINNESOTA COUNTY

Rock.

SOUTH DAKOTA COUNTIES

Aurora.
Beadle.
Bon Homme.
Brown.
Clark.
Clay.
Codington.
Davison.
Day.
Douglas.
Edmunds.
Hamlin.
Hanson.
Hutchinson.
Jerauld.
Kingsbury.
Lake.
Lincoln.
McCook.
McPherson.
Miner.
Minnehaha.
Moody.
Sanborn.
Spink.
Turner.
Union (except Jefferson Township and the city of North Sioux City and the unorganized territory adjacent thereto).
Walworth.
Yankton.





**§ 1076.3 Route disposition.**

"Route disposition" means a delivery (including delivery by a vendor or a sale from a plant store, or distribution center) of any fluid milk product classified as Class I milk to retail or wholesale outlets, except a delivery in bulk form to a milk (including filled milk) processing plant. The route disposition of a handler shall be attributed to the processing and packaging plant from which the Class I milk is moved to retail or wholesale outlets without intermediate movement to another processing plant.

**§ 1076.4 [Reserved]**

**§ 1076.5 Distributing plant.**

"Distributing plant" means a plant which is approved by an appropriate health authority for the processing or packaging of Grade A milk and from which there is route disposition during the month in the marketing area.

**§ 1076.6 Supply plant.**

"Supply plant" means a plant from which milk or skim milk acceptable to an appropriate health authority for distribution in the marketing area under a Grade A label, is shipped during the month to a pool plant qualified pursuant to § 1076.7(a).

**§ 1076.7 Pool plant.**

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) A distributing plant from which route disposition, except filled milk, equals not less than 35 percent of the Grade A milk received at such plant from dairy farmers, handlers described in § 1076.9(c), and supply plants and not less than 15 percent of such receipts is disposed of as route disposition, except filled milk, in the marketing area.

(b) A supply plant from which the volume of fluid milk products, except filled milk, shipped during the month to pool plants qualified pursuant to paragraph (a) of this section is not less than 35 percent of the Grade A milk received at such plant from dairy farmers and handlers described in § 1076.9(c) during such month. If such shipments are not less than 50 percent of such receipts during each of the immediately preceding months of September through November, such plant shall be a pool plant for the months of March through June, unless the operator of such plant requests the market administrator in writing that such plant not be a pool plant, such nonpool status to be effective the first month following such notice and such plant shall thereafter be a nonpool plant until it again qualifies as a pool plant on the basis of the shipping requirements set forth in this paragraph.

(c) A plant, other than a distributing plant, operated by a cooperative association if more than 50 percent of the total milk supply of producer members of such cooperative association is shipped to pool distributing plants of other handlers during the month, either directly from the farm or by transfer from the plant of the cooperative association: *Provided*, That if a portion of such association's plant is physically apart from the Grade A portion of such plant, is operated separately and is not approved by any health authority for the receiving, processing, or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant pursuant to this section.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A plant qualified pursuant to paragraph (a) of this section from which a lesser volume of fluid milk products, except filled milk, is disposed of in the eastern South Dakota marketing area than in the marketing area of another marketing agreement or order issued pursuant to the Act and which is fully subject to the classification and pricing provisions of such other agreement or order;

(3) Any plant qualified pursuant to paragraph (b) of this section for any portion of the period of March through June, inclusive, that producer milk at such plant is subject to the classification and pricing provisions of another order issued pursuant to the Act; and

(4) That portion of a plant that is physically apart from the Grade A portion of such plant, is operated separately and is not approved by any health authority for the receiving, processing, or packaging of any fluid milk product for Grade A disposition.

**§ 1076.8 Nonpool plant.**

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, and from which fluid milk products are shipped during the month to a pool plant.

**§ 1076.9 Handler.**

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) Any cooperative association with respect to the milk of producers diverted by the association for the account of such association pursuant to § 1076.13;

(c) A cooperative association with respect to milk of its member producers which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by, or under contract to, such cooperative association if the cooperative association notifies the market administrator and the handler to whom the milk is delivered, in writing prior to the first day of the month in which the milk is delivered, that it wishes to be the handler for the milk. In this case, the milk is received from producers by the cooperative association at the location of the plant to which it is delivered;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler; and

(f) Any person who operates an other order plant described in § 1076.7(d).

**§ 1076.10 Producer-handler.**

"Producer-handler" means any person who is both a dairy farmer and the operator of a distributing plant, and who meets all of the following conditions:

(a) Receipts of fluid milk products at his plant are solely milk of his own production and from pool plants of other handlers;

(b) Receives no milk products other than fluid milk products from any source for use in reconstituting fluid milk products; and

(c) The maintenance, care and management of the dairy animals and other resources necessary to produce the milk and the processing, packaging, and distribution of the milk (including filled milk) are the personal enterprise and the personal risk of such person.

**§ 1076.11 [Reserved]**

**§ 1076.12 Producer.**

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is (1) received at a pool plant, or (2) diverted as producer milk pursuant to § 1076.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1076.44(a)(8)(iii) and the corresponding step of § 1076.44(b); and

(3) Any person with respect to milk produced by him which is diverted from a pool plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk.

**§ 1076.13 Producer milk.**

"Producer milk" of each handler means all skim milk and butterfat produced by producers:

(a) With respect to receipts at a pool plant:

(1) Received directly from such producers; and



V 38-177 SEP 13 73 XUM

(2) Diverted from such pool plant to a nonpool plant that is not a producer-handler plant for the account of the operator of the pool plant, subject to the limitations and conditions of paragraph (c) of this section;

(b) With respect to receipts of a cooperative association:

(1) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant, subject to the limitations and conditions of paragraph (c) of this section; and

(2) For which the cooperative association is the handler as described in § 1076.9(c); and

(c) With respect to diversions to nonpool plants pursuant to paragraphs (a)(2) and (b)(1) of this section:

(1) A cooperative handler may divert for its account the milk of any member producer, whose milk is delivered to a distributing pool plant on at least 3 days during the month without limit during the other days of such month. The total quantity of milk so diverted may be without limit during the months of March, April, May, and June, but shall not exceed 35 percent of its member producer milk received at all pool plants during any other month of the year. Diversions in excess of such percentage shall not be considered producer milk, and the diverting cooperative shall specify the dairy farmers whose milk is ineligible as producer milk. If the cooperative association fails to designate such dairy farmers whose milk is ineligible, producer milk status shall be forfeited with respect to all milk diverted to a nonpool plant by such cooperative association;

(2) A handler in his capacity as the operator of a distributing pool plant may divert for his account the milk of any producer, other than a member of a cooperative association which has diverted milk pursuant to paragraph (c)(1) of this section, whose milk is received at a pool plant on at least 3 days during the month, without limit during the other days of such month. The total quantity of milk so diverted may be without limit during the months of March, April, May, and June, but during any other month of the year shall not exceed 35 percent of the milk received from producers who are not members of a cooperative association which has diverted milk pursuant to paragraph (c)(1) of this section. Diversions in excess of such percentage shall not be considered producer milk, and the diverting handler shall specify the dairy farmers whose milk is ineligible as producer milk. If the handler fails to designate such dairy farmers whose milk is ineligible, producer milk status shall be forfeited with respect to all milk diverted to a nonpool plant by such handler; and

(3) For the purpose of location adjustments pursuant to §§ 1076.52 and 1076.75, milk so diverted shall be priced at the location of the plant from which diverted.

**§ 1076.14 Other source milk.**

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1076.40(b)(1) from any source other than producers, handlers described in § 1076.9(c), pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1076.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1076.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1076.40(b)(1)) for which the handler fails to establish a disposition.

**§ 1076.15 Fluid milk product.**

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1076.40(b) or (c)(1) (i) through (iv) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

**§ 1076.16 Fluid cream product.**

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

**§ 1076.17 Filled milk.**

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

**§ 1076.18 Cooperative association.**

"Cooperative association" means any cooperative marketing association which the Secretary determines, after application by the association:

(a) Is qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) Has full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members; and

(c) Has its entire activities under the control of its members.

HANDLER REPORTS

**§ 1076.30 Reports of receipts and utilization.**

On or before the 7th day (excluding holidays) after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1076.9(c);

(3) Receipts of fluid milk products and bulk fluid cream producs from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1076.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1076.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

**§ 1076.31 Payroll reports.**

(a) On or before the 20th day after the end of each month, each handler described in § 1076.9(a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1076.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

**§ 1076.32 Other reports.**

In addition to the reports required pursuant to §§ 1076.30 and 1076.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

**§ 1076.40 Classes of utilization.**

Except as provided in § 1076.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1076.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragrapl (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form;





(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(v) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1076.15; and

(6) In shrinkage assigned pursuant to § 1076.41(a) to the receipts specified in § 1076.41(a)(2) and in shrinkage specified in § 1076.41 (b) and (c).

**§ 1076.41 Shrinkage.**

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1076.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in the form of a bulk fluid milk product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1076.9(c), except that, if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests, determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from other order plants, excluding milk received by diversion and the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b)(1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1076.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

**§ 1076.42 Classification of transfers and diversions.**

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant or by a handler described in § 1076.9(c) to another handler's pool plant shall be classified as follows:

(1) Such transfers from a pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such



V 38 I 177 SEP 13 73 XUM

transfers shall be subject to the following conditions:

(i) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1076.44(a)(12) and the corresponding step of § 1076.44(b);

(ii) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1076.44(a)(7) or the corresponding step of § 1076.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(iii) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1076.44 (a)(11) or (12) or the corresponding steps of § 1076.44(b), the skim milk or butterfat so transferred up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee plant; and

(2) Such transfers by a handler described in § 1076.9(c) shall be classified pro rata to the respective quantities of skim milk and butterfat remaining in each class after the computations pursuant to § 1076.44(a)(13)(i) and the corresponding step of § 1076.44(b).

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1076.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1076.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at





the second plant that are set forth in this subparagraph.

**§ 1076.43 General classification rules.**

In determining the classification of producer milk pursuant to § 1076.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1076.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1076.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1076.40, 1076.41, and 1076.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1076.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

**§ 1076.44 Classification of producer milk.**

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1076.9(a) for each of his pool plants separately and of each handler described in § 1076.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1076.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1076.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1076.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1076.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1076.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i), of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the handler's total Class III utilization at his other pool plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler;

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1076.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1076.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step



V 38 177 SEP 13 73 XUM

at all pool plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8) (i) and (ii), of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received;

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii) and (iii) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1076.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler;

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received; and

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from any class that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(13) Subtract in the following order from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from:

(i) Another pool plant according to the classification of such products pursuant to § 1076.42(a)(1); and

(ii) A handler described in § 1076.9(c) according to the classification of such products pursuant to § 1076.42(a)(2); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1076.44(a)(14) and the corresponding step of § 1076.44(b).

**§ 1076.45 Market administrator's reports and announcements concerning classification.**

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1076.44(a)(12) and the corresponding step of § 1076.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1076.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association, which so requests, the percentage of the milk caused to be delivered by the cooperative association or its members to the pool plant(s) of each handler during the month, which was utilized in each class. For the purpose of this report, the milk so delivered shall be allocated to each class for each handler in the same ratio as all producer milk received by such handler during the month.

CLASS PRICES

**§ 1076.50 Class prices.**

Subject to the provisions of § 1076.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.50.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

**§ 1076.51 Basic formula price.**

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

**§ 1076.52 Plant location adjustments for handlers.**

(a) For milk received from producers at a pool plant located 100 miles or more by shortest hard-surfaced highway distance as measured by the market administrator, from the nearest of the Post Offices of Aberdeen, Huron, Mitchell, Sioux Falls, and Watertown, S. Dak., and disposed of as Class I milk, the price computed pursuant to § 1076.50(a) shall be reduced 15 cents, plus 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 110 miles.





(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to Class I disposition remaining at the transferee-plant after computations pursuant to § 1076.44(a)(12) and the corresponding step of § 1076.44(b) in excess of 95 percent of receipts at such plant of milk from producers and handlers described in § 1076.9(c), such assignment to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

**§ 1076.53 Announcement of class prices.**

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

**§ 1076.54 Equivalent price.**

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICE

**§ 1076.60 Handler's value of milk for computing uniform price.**

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1076.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1076.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1076.44(a)(14) and the corresponding step of § 1076.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1076.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1076.44(a)(9) and the corresponding step of § 1076.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1076.44(a)(7) (i) through (iv) and the corresponding step of § 1076.44 (b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1076.44(a)(7) (v) and (vi) and the corresponding step of § 1076.44 (b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1076.44(a)(11) and the corresponding step of § 1076.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

**§ 1076.61 Computation of uniform price.**

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content which is received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1076.60 for all handlers who filed the reports prescribed in § 1076.30 for such month, except those in default of payments required pursuant to § 1076.71 and 1076.73 for the preceding month;

(b) Add an amount equal to the total value of the location adjustments computed pursuant to § 1076.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the aggregate value computed pursuant to paragraphs (a), (b), and (c) of this section by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1076.60 (f); and

(e) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (d) of this section. The result shall be the uniform price for milk received from producers.

**§ 1076.62 Announcement of uniform price and butterfat differential.**

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

**§ 1076.70 Producer-settlement fund.**

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1076.71, 1076.76, and 1076.77 and out of which he shall make all payments to handlers pursuant to §§ 1076.72 and 1076.77: *Provided*, That the market administrator shall offset the payment due to a handler against payments due from each handler.

**§ 1076.71 Payments to the producer-settlement fund.**

(a) On or before the 13th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1076.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1076.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1076.60(f).

(b) On or before the 25th day after the end of the month each handler who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

**§ 1076.72 Payments from the producer-settlement fund.**

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1076.71(a)(2) exceeds the amount computed pursuant to § 1076.71(a)(1): *Provided*, That if the balance in the producer-settlement



V 38 177 SEP 13 73 XUM

fund is insufficient to make all payments pursuant to this section the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. A handler who has not received the balance of such payments from the market administrator shall not be considered in violation of § 1076.73 if he reduces his payments to producers by not more than the amount of the reduction in payment from the producer-settlement fund.

**§ 1076.73 Payments to producers and to cooperative associations.**

(a) Each handler shall pay each producer for producer milk for which payment is not made to a cooperative association pursuant to paragraph (b) or (c) of this section, as follows:

(1) On or before the last day of each month, for producer milk received during the first 15 days of the month, at not less than the Class III price for the preceding month; and

(2) On or before the 15th day after the end of each month, for milk received during such month, an amount computed at not less than the uniform price per hundredweight, as adjusted pursuant to §§ 1076.74 and 1076.75, plus or minus adjustments for errors made in previous payments to such producer; and less

(i) Payment made pursuant to paragraph (a)(1) of this section;

(ii) Location adjustment deductions pursuant to § 1076.75; and

(iii) Proper deductions authorized by such producer;

(b) Except as provided in paragraph (c) of this section each handler shall make payment to a cooperative association for producer milk which it caused to be delivered to such handler, if such cooperative association is authorized to collect such payments for its members and exercises such authority, an amount equal to the sum of the individual payments otherwise payable for such producer milk, as follows:

(1) On or before the 26th day of each month an amount equal to not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (a)(1) of this section; and

(2) On or before the 13th day after the end of each month, an amount equal to not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (a)(2) of this section;

(c) To a cooperative association with respect to receipts of milk for which such cooperative association is the handler as described in § 1076.9(c) as follows:

(1) On or before the 26th day of the month, for milk received during the first 15 days of the month an amount per hundredweight equal to not less than the uniform price for the preceding month; and

(2) On or before the 13th day after the end of each month not less than the value of such milk at the class prices, as adjusted by the butterfat differential specified in § 1076.74, that are applicable at the location of the receiving handler's pool plant, and less payment made pursuant to paragraph (c)(1) of this section; and

(d) In making the payments for producer milk pursuant to this section, each handler shall furnish each producer or cooperative association from whom he has received milk with a supporting statement in such form that it may be retained by the recipient, that shall show:

(1) The month and identity of the handler and of the producer;

(2) The pounds per shipment, the total pounds and the average butterfat content of milk received from the producer;

(3) The minimum rate or rates at which payment to the producer is required pursuant to the order;

(4) The rate that is used in making the payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer or cooperative association.

**§ 1076.74 Butterfat differential.**

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

**§ 1076.75 Plant location adjustments for producers and on nonpool milk.**

(a) The uniform price computed pursuant to § 1076.61 for producer milk received at a pool plant shall be reduced according to the location of the pool plant, at the rates set forth in § 1076.52; and

(b) For purposes of computations pursuant to §§ 1076.71 and 1076.72 the uniform price shall be adjusted at the rates set forth in § 1076.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted uniform price shall not be less than the Class III price.

**§ 1076.76 Payments by handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1076.30(b) and 1076.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations;

(1) Determine the value that would have been computed pursuant to § 1070.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1076.60 shall be priced at the uniform price (or at the weighted average price if such





is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(ii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1076.60 for such handler shall include, in lieu of the value of other source milk specified in § 1076.60(f) less the value of such other source milk specified in § 1076.71(a)(2)(ii), a value of milk determined pursuant to § 1076.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1076.7(b), subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1076.30(b) and 1076.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(*c*) The value of milk determined pursuant to § 1076.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1076.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1076.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

**§ 1076.77 Adjustment of accounts.**

(a) Whenever verification by the market administrator of reports of payments of any handler discloses errors made in payments to or from the producer-settlement fund, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days of such billing make payments to the market administrator of the amount so billed and whenever verification discloses that payment is due from the market administrator to any handler, the market administrator shall, within 15 days make such payment to such handler.

(b) Whenever verification by the market administrator of the payment by a handler to any producer or cooperative association discloses payment of less than is required by § 1076.73, the handler shall make up such payment to the producer or cooperative association not later than the time of making payment next following such disclosure.

**§ 1076.78 Charges on overdue accounts.**

Any unpaid obligation of a handler pursuant to § 1076.71(a) shall be increased by one-half of 1 percent for each month or portion thereof that such payment is overdue.

ADMINISTRATIVE ASSESSMENT

**§ 1076.85 Assessment for order administration.**

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk, including such handler's own production;

(b) Other source milk allocated to Class I pursuant to § 1076.44(a)(7) and (11) and the corresponding steps of § 1076.44(b), except such other source milk that is excluded from the computations pursuant to § 1076.60(d) and (f); and

(c) Route disposition from a partially regulated distributing plant in the marketing area that exceeds the skim milk and butterfat subtracted pursuant to § 1076.76(a)(2).

---

# PART 1078—MILK IN NORTH CENTRAL IOWA MARKETING AREA

## Subpart—Order Regulating Handling

GENERAL PROVISIONS

Sec.
1078.1 General provisions.

DEFINITIONS

1078.2 North Central Iowa marketing area.
1078.3 [Reserved]
1078.4 [Reserved]
1078.5 Distributing plant.
1078.6 Supply plant.
1078.7 Pool plant.
1078.8 Nonpool plant.
1078.9 Handler.
1078.10 Producer-handler.
1078.11 [Reserved]
1078.12 Producer.
1078.13 Producer milk.
1078.14 Other source milk.
1078.15 Fluid milk product.
1078.16 Fluid cream product.
1078.17 Filled milk.
1078.18 Cooperative association.

HANDLER REPORTS

1078.30 Reports of receipts and utilization.
1078.31 Payroll reports.
1078.32 Other reports.

CLASSIFICATION OF MILK

1078.40 Classes of utilization.
1078.41 Shrinkage.
1078.42 Classification of transfers and diversions.
1078.43 General classification rules.
1078.44 Classification of producer milk.
1078.45 Market administrator's reports concerning classification.

CLASS PRICES

1078.50 Class prices.
1078.51 Basic formula price.
1078.52 Plant location adjustments for handlers.
1078.53 Announcement of class prices.
1078.54 Equivalent price.

UNIFORM PRICE

1078.60 Handler's value of milk for computing uniform price.
1078.61 Computation of uniform price for each handler.
1078.62 Announcement of uniform price for each handler and butterfat differential.

PAYMENTS FOR MILK

1078.73 Payments to producers and to cooperative associations.
1078.74 Butterfat differential.
1078.75 Plant location adjustments for producers.
1078.76 [Reserved]
1078.77 Adjustment of accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1078.85 Assessment for order administration.
1078.86 Deduction for marketing services.

AUTHORITY: The provisions of this Part 1078 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

GENERAL PROVISIONS

**§ 1078.1 General provisions.**

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

**§ 1078.2 North Central Iowa marketing area.**

"North Central Iowa marketing area" (hereinafter called the "marketing area") means all the territory within the boundaries of the city of Osage and the counties of Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Fayette, Floyd, Franklin, Grundy, Hamilton, Hancock, Hardin, Humboldt, Marshall, Tama, Webster, and Wright, all in the State of Iowa, including territory within such boundaries which is occupied by government (Municipal, State, or Federal) reservations, installations, institutions or other establishments.



V 38-177
SEP 13 73
XUM

§ 1078.3 [Reserved]

§ 1078.4 [Reserved]

§ 1078.5 Distributing plant.

"Distributing plant" means a plant which is approved by an appropriate health authority for the processing or packaging of Grade A milk from which any fluid milk product is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except other plants) located in the marketing area.

§ 1078.6 Supply plant.

"Supply plant" means a plant from which milk or skim milk which is acceptable to the appropriate health authority for distribution in the marketing area under a Grade A label is shipped during the month to a pool plant qualified pursuant to § 1078.7.

§ 1078.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A distributing plant from which a volume of Class I milk, except filled milk, equal to more than an average of 1,000 pounds per day or not less than 15 percent of the Grade A milk received at such plant from dairy farmers and from other plants is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except other plants) in the marketing area.

(b) A supply plant for the month in which shipments of milk or skim milk are made to distributing plants which are pool plants on not less than 10 days in any of the months of September, October, and November and on not less than 5 days in other months: *Provided*, That a supply plant which was not a pool plant for each of the immediately preceding months of September, October, and November shall not be a pool plant for any month during which none of the milk or skim milk from such plant would be allocated to Class I milk pursuant to the procedure specified in § 1078.44(a)(13), and the corresponding step of § 1078.44(b) at a distributing plant which is a pool plant.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant; and

(2) A distributing plant or a supply plant during any month in which such plant would be subject to the classification and pricing provisions of another order issued pursuant to the Act unless such plant is qualified as a pool plant pursuant to paragraph (a) or (b) of this section and a greater volume of fluid milk products, except filled milk, is disposed of from such plant to retail or wholesale outlets and to pool plants in the North Central Iowa marketing area than in the marketing area regulated pursuant to such other order.

§ 1078.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant from which fluid milk products are shipped during the month to a pool plant.

§ 1078.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more distributing or supply plants.

(b) [Reserved]

(c) A cooperative association with respect to Grade A milk received from dairy farmers in a tank truck, the operation of which is under the control of such cooperative association, and delivered in such tank truck to a pool plant: *Provided*, That such milk shall be deemed to have been received directly from producers at the location of the pool plant by the operator of the pool plant to which it is delivered by the tank truck.

§ 1078.10 Producer-handler.

"Producer-handler" means any person who operates a dairy farm and a distributing plant but who receives no milk from other dairy farmers.

§ 1078.11 [Reserved]

§ 1078.12 Producer.

Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is (1) received at a pool plant, or (2) diverted from a pool plant to a nonpool plant that is not a producer-handler plant for the account of the operator of the pool plant (i) any day during the months of April through June, and (ii) on not more than one-half the days on which milk was delivered from a farm during any of the months of July through March.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1078.44(a)(8)(iii) and the corresponding step of § 1078.44(b); and

(3) Any person with respect to milk produced by him which is diverted from a pool plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk.

§ 1078.13 Producer milk.

"Producer milk" means only that skim milk or butterfat contained in milk of producers that is (a) received at a pool plant directly from producers, or (b) diverted from a pool plant to a nonpool plant in accordance with the conditions set forth in § 1078.12.

§ 1078.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1078.40(b)(1) from any source other than producers, handlers described in § 1078.9(c), pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1078.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1078.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1078.40(b)(1)) for which the handler fails to establish a disposition.

§ 1078.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1078.40 (b) or (c)(1)(i) through (iv) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.





§ 1078.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

§ 1078.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

§ 1078.18 Cooperative association.

"Cooperative association" means any cooperative marketing association which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members.

HANDLER REPORTS

§ 1078.30 Reports of receipts and utilization.

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1078.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1078.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler described in § 1078.9(c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(c) Each handler not specified in paragraphs (a) and (b) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

§ 1078.31 Payroll reports.

On or before the 20th day after the end of each month, each handler described in § 1078.9 (a) and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(a) His name and address;

(b) The total pounds of milk received from such producer;

(c) The average butterfat content of such milk; and

(d) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

§ 1078.32 Other reports.

(a) Each handler, except a producer-handler, shall report to the market administrator in the detail and on forms prescribed by the market administrator:

(1) On or before the first day other source milk is received in the form of any fluid milk product at his pool plant(s), his intention to receive such product and on or before the last day such product is received, his intention to discontinue receipt of such milk; and

(2) Prior to his diversion of producer milk to a nonpool plant, his intention to divert such milk, the proposed date or dates of such diversion and the plant to which such milk is to be diverted.

(b) In addition to the reports required pursuant to §§ 1078.30 and 1078.31 and paragraph (a) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

§ 1078.40 Classes of utilization.

Except as provided in § 1078.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1078.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, low fat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, low fat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(v) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1078.15; and

(6) In shrinkage assigned pursuant to § 1078.41(a) to the receipts specified in § 1078.41(a)(2) and in shrinkage specified in § 1078.41 (b) and (c).

§ 1078.41 Shrinkage.

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to §1078.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section



V 38 177 SEP 13 73 XUM

on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a) (1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1078.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1078.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1078.9(c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

**§ 1078.42 Classification of transfers and diversions.**

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1078.44(a)(12) and the corresponding step of § 1078.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1078.44(a)(7) or the corresponding step of § 1078.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1078.44(a)(11) or (12) or the corresponding steps of § 1078.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section;

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1078.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1078.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition of fluid milk products in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence;

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the folowing sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plaint's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

**§ 1078.43 General classification rules.**

In determining the classification of producer milk pursuant to § 1078.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1078.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1078.9(c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1078.40, 1078.41, and 1078.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1078.9(c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

**§ 1078.44 Classification of producer milk.**

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1078.9(a) for each of his pool plants separately and of each handler described in § 1078.9(c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1078.41 (b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid products received in packaged form from an other order plant as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1078.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1078.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Substract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1078.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1078.40(b)(1) that was not subtracted pursuant to paragraph (a) (4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order; and

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a) (2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not







V 38 177 SEP 13 73 XUM

subtracted pursuant to paragraphs (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraphs (a)(8)(ii) (a) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the handler's total Class III utilization at his other pool plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment:

(a) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler;

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1078.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and 8 (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk remaining in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(12) Subject to the provisions of paragraph (a)(12)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that were not subtracted pursuant to paragraph (a)(8)(iii) of this section and that are in excess of bulk fluid milk products transferred or diverted to such plant:

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pood plant according to the classification of such products pursuant to § 1078.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1078.44(a)(14) and the corresponding step of § 1078.44(b).

**§ 1078.45 Market administrator's reports concerning classification.**

The market administrator shall make the following reports concerning classification:

(a) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1078.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(b) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report:

CLASS PRICES

**§ 1078.50 Class prices.**

Subject to the provisions of § 1078.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.25.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

**§ 1078.51 Basic formula price.**

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.





**§ 1078.52 Plant location adjustments for handlers.**

(a) The following zones are defined for the purpose of determining location adjustments:

(1) "Zone 1" means all the territory in the Iowa counties of Humboldt, Wright, Franklin, Butler, Bremer, Webster, Hamilton, Hardin, Grundy, Black Hawk, and Buchanan.

(2) "Zone 2" means all the territory in the Iowa counties of Marshall, Tama, Linn, and Johnson.

(3) "Zone 3" means all the territory in the Iowa counties of Hancock, Cerro Gordo, Floyd, and Chickasaw and the city of Osage, Iowa.

(4) "Zone 4" means all the territory in Fayette County, Iowa, and the Minnesota counties of Freeborn and Mower.

(b) For milk received from producers at a pool plant located in Zone 2, 3, or 4 and classified as Class I milk, the price specified in § 1078.50(a) shall be adjusted by the following amount:

(1) Zone 2—plus 8 cents.
(2) Zone 3—minus 5 cents.
(3) Zone 4—minus 10 cents.

(c) For milk received from producers at a pool plant located outside Zones 1, 2, 3, and 4 and classified as Class I milk, the price specified in § 1078.50(a) shall be reduced 10 cents and, if the plant is located 65 miles or more by the shortest hard-surfaced highway distance as determined by the market administrator from the city halls of each of the cities of Fort Dodge, Marshalltown, Mason City, and Waterloo, Iowa, shall be reduced an additional 1.5 cents for each 10 miles or fraction thereof in excess of 65 miles that such plant is from the nearest of such city halls.

(d) For purposes of calculating the location adjustment applicable pursuant to this section, fluid milk products which are transferred between pool plants shall be assigned to the Class I milk remaining in the transferee-plant after calculations pursuant to § 1078.44(a)(12) and the corresponding step of § 1078.44(b) that is in excess of receipts at such plant from producers and handlers described in § 1078.9(c), such assignment to transferor-plants to be made first to plants at which a plus location adjustment is applicable, next at which no location adjustment is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

**§ 1078.53 Announcement of class prices.**

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

**§ 1078.54 Equivalent price.**

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICE

**§ 1078.60 Handler's value of milk for computing uniform price.**

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1078.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1078.44(a)(14) and the corresponding step of § 1078.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1078.74, that are applicable at the location of the pool plant;

(c) Add the following:

(1) The amount obtained from multiplying the difference between the Class III price for the preceding month and the the Class I price applicable at the location of the pool plant for the current month by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1078.44(a)(9) and the corresponding step of § 1078.44(b); and

(2) The amount obtained from multiplying the difference between the Class III price for the preceding month and the Class II price for the current month by the lesser of:

(i) The hundredweight of skim milk and butterfat subtracted from Class II pursuant to § 1078.44(a)(9) and the corresponding step of § 1078.44(b) for the current month; or

(ii) The hundredweight of skim milk and butterfat remaining in Class III (exclusive of shrinkage) after the computations pursuant to § 1078.44(a)(11) and the corresponding step of § 1078.44(b) for the preceding month, less the hundredweight of skim milk and butterfat specified in paragraph (c)(1) of this section; and

(d) Add or subtract, as the case may be, an amount necessary to correct errors discovered by the market administrator in the verification of reports of such handler of his receipts and utilization of skim milk and butterfat for previous months.

**§ 1078.61 Computation of uniform price for each handler.**

For each month the market administrator shall compute a uniform price for the producer milk received by each handler as follows:

(a) Add to and subtract from the amount computed pursuant to § 1078.60, the totals of the location adjustments to be made pursuant to § 1078.75;

(b) Add if a deduction was made, or subtract if an addition was made, in computing the uniform price for such handler to the nearest cent for the preceding month the amount of such adjustment; and

(c) Divide the resulting amount by the total hundredweight of producer milk received by such handler. The quotient, adjusted to the nearest cent, shall be the uniform price for such handler for producer milk of 3.5 percent butterfat content received at plants in Zone 1. Uniform prices at plants outside Zone 1 shall be adjusted pursuant to § 1078.75.

**§ 1078.62 Announcement of uniform price for each handler and butterfat differential.**

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 10th day after the end of each month the uniform price for each handler for such month.

PAYMENTS FOR MILK

**§ 1078.73 Payments to producers and to cooperative associations.**

Each handler shall make payment to each producer for milk received from such producer as follows:

(a) On or before the 14th day after the end of each month, for milk received during such month, an amount computed at not less than the uniform price per hundredweight pursuant to § 1078.61, as adjusted pursuant to § 1078.74, plus or minus adjustments for errors made in previous payments to such producer; and less (1) location adjustments pursuant to § 1078.75, (2) deductions for marketing services pursuant to § 1078.86, and (3) proper deductions authorized by such producer: *Provided*, That with respect to producers whose milk was caused to be delivered to such handler by a cooperative association which is authorized to collect payment for such milk the handler shall, if requested by the cooperative association, pay such cooperative association on or before the 12th day after the end of each month an amount equal to the sum of the individual payments otherwise payable to such producers in accordance with this paragraph;

(b) In making the payments to producers pursuant to paragraph (a) of this section, each handler shall furnish each producer or cooperative association from whom he has received milk with a supporting statement in such form that it may be retained by the producer, which shall show for each month:

(1) The month and identity of the handler and of the producer;

(2) The daily and total pounds and the average butterfat content of milk received from such producer;

(3) The minimum rate or rates at which payment to such producer is required pursuant to the order;

(4) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer or cooperative association.



V 38 I 177 SEP 13 73 XUM

§ 1078.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1078.75 Plant location adjustments for producers.

The uniform prices for milk received from producers at a pool plant shall be adjusted according to the location of the pool plant at the rates set forth in § 1078.52.

§ 1078.76 [Reserved]

§ 1078.77 Adjustment of accounts.

Whenever verification by the market administrator of payment by a handler discloses errors resulting in money due a producer, a cooperative association, or the market administrator from such handler, or due such handler from the market administrator, the market administrator shall notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments, as set forth in the provisions under which such error occurred.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1078.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to (a) producer milk, (b) other source milk allocated to Class I pursuant to § 1078.44 (a) (7) and (11) and the corresponding steps of § 1078.44(b), and (c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds the hundredweight of Class I milk received during the month at such plant from pool plants and other order plants.

§ 1078.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 1078.73, shall deduct 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to all milk received by such handler from such producer (except such handler's own farm production) during the month, and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples, and tests of milk received by handlers from such producers during the month and to provide such producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and, on or before the 15th day after the end of each month, pay over such deductions to the association rendering such services.

---

## PART 1079—MILK IN DES MOINES, IOWA, MARKETING AREA

### Subpart—Order Regulating Handling

GENERAL PROVISIONS


Sec.
1079.1 General provisions.

DEFINITIONS

1079.2 Des Moines, Iowa.
1079.3 [Reserved]
1079.4 [Reserved]
1079.5 Distributing plant.
1079.6 Supply plant.
1079.7 Pool plant.
1079.8 Nonpool plant.
1079.9 Handler.
1079.10 Producer-handler.
1079.11 [Reserved]
1079.12 Producer.
1079.13 Producer milk.
1079.14 Other source milk.
1079.15 Fluid milk product.
1079.16 Fluid cream product.
1079.17 Filled milk.
1079.18 Cooperative association.

HANDLER REPORTS

1079.30 Reports of receipts and utilization.
1079.31 Payroll reports.
1079.32 Other reports.

CLASSIFICATION OF MILK

1079.40 Classes of utilization.
1079.41 Shrinkage.
1079.42 Classification of transfers and diversions.
1079.43 General classification rules.
1079.44 Classification of producer milk.
1079.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1079.50 Class prices.
1079.51 Basic formula price.
1079.52 Plant location adjustments for handlers.
1079.53 Announcement of class prices.
1079.54 Equivalent price.

UNIFORM PRICE

1079.60 Handler's value of milk for computing uniform price.
1079.61 Computation of uniform price.
1079.62 Announcement of uniform price and butterfat differential.

PAYMENTS FOR MILK

1079.70 Producer-settlement fund.
1079.71 Payments to the producer-settlement fund.
1079.72 Payments from the producer-settlement fund.
1079.73 Payments to producers and to cooperative associations.
1079.74 Butterfat differential.
1079.75 Plant location adjustments for producers and on nonpool milk.
1079.76 Payments by handler operating a partially regulated distributing plant.
1079.77 Adjustment of accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1079.85 Assessment for order administration.
1079.86 Deduction for marketing services.


AUTHORITY: The provisions of this Part 1079 issued under secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

GENERAL PROVISIONS

§ 1079.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and make a part of this order.

§ 1079.2 Des Moines, Iowa, marketing area.

"Des Moines, Iowa, marketing area" (hereinafter called the "marketing area"), means all the territory within the boundaries of the city of Grinnell and the counties of Adair, Appanoose, Bonne, Clarke, Dallas, Decatur, Greene, Guthrie, Jasper, Lucas, Madison, Mahaska, Marion, Monroe, Polk, Story, Union, Warren, Wappello, and Wayne, all in the State of Iowa, including territory within such boundaries which is occupied by government (municipal, State or Federal) reservations, installations, institutions, or other establishments.

§ 1079.3 [Reserved]

§ 1079.4 [Reserved]

§ 1079.5 Distributing plant.

"Distributing plant" means a plant which is approved by an appropriate health authority for the processing or packaging of Grade A milk and from which any fluid milk product is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants) located in the marketing area.

§ 1079.6 Supply plant.

"Supply plant" means a plant from which milk or skim milk which is acceptable to the appropriate health authority for distribution in the marketing area under a Grade A label is shipped during the month to a pool plant qualified pursuant to § 1079.7.

§ 1079.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A distributing plant from which a volume of Class I milk, except filled milk, equal to not less than 35 percent of the Grade A milk received at such plant from dairy farmers and from other plants is disposed of during the month on routes (including routes operated by vendors) or through plant stores to retail or wholesale outlets (except pool plants) and not less than 15 percent of such receipts or an average of not less than 7,000 pounds per day, whichever is less, is so disposed of to such outlets in the marketing area.

(b) A supply plant from which the volume of fluid milk products, except filled milk, shipped during the month to pool plants qualified pursuant to paragraph (a) of this section is equal to not less than 35 percent of the Grade A milk received at such plant from dairy farmers during such month: *Provided*, That if such shipments are not less than 50 percent of the receipts of Grade A milk directly from dairy farmers at such plant during the immediately preceding period of September through November, such plant shall be a pool plant for the months of March through June, unless written application is filed with the market administrator on or before the 15th day of any of the months of March, April, May, or June to be designated a nonpool plant for such month and for each subsequent month through June of the same year.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A distributing plant or a supply plant during any month in which such plant would be subject to the classification and pricing provisions of another order issued pursuant to the Act unless the disposition of fluid milk products, except filled milk, from such plant to pool plants qualified pursuant to this section and to retail and wholesale outlets in the Des Moines, Iowa, marketing area exceeds such disposition to retail and wholesale outlets in such other marketing area and to pool plants regulated by such other order except in the following circumstances:

(i) If a distributing plant were qualified pursuant to paragraph (a) of this section during each of the 3 immediately preceding months, it would continue to be subject to all the provisions of this part until after the third consecutive month in which it remains so qualified and has a greater proportion of its fluid milk product disposition, except filled milk, made in the above-described manner in such other marketing area, unless, notwithstanding the provisions of this paragraph, it is regulated under such other order; or

(ii) A distributing plant qualified pursuant to paragraph (a) of this section that is fully regulated under another Federal order but which has greater fluid milk product (except filled milk) disposition during the month on routes in the Des Moines marketing area and to pool plants qualified on the basis of route distribution in the Des Moines marketing area than in such other Federal order marketing area; and

(3) That portion of a plant that is physically apart from the Grade A portion of such plant, is operated separately and is not approved by any health authority for the receiving, processing, or packaging of any fluid milk product for Grade A disposition.

§ 1079.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products in consumer-type packages or dispenser units are distributed on routes in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant from which fluid milk products are shipped during the month to a pool plant.

§ 1079.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) Any cooperative association with respect to the milk of producers diverted pursuant to § 1079.13 by the association for the account of such association;

(c) [Reserved]

(d) Any person as the operator of a partially regulated distributing plant.

§ 1079.10 Producer-handler.

"Producer-handler" means any person who operates a dairy farm and a distributing plant but who receives no milk from other dairy farmers or from sources other than pool plants and whose disposition of fluid milk products does not exceed that (a) received from a pool plant, (b) processed from milk of his own production, or (c) processed from fluid milk received from a pool plant.

§ 1079.11 [Reserved]

§ 1079.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority which milk is received by a handler as producer milk.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1079.44 (a) (8) (iii) and the corresponding step of § 1079.44(b); and

(3) Any person with respect to milk produced by him which is diverted from a pool plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk.

§ 1079.13 Producer milk.

"Producer milk" means the skim milk and butterfat contained in Grade A milk received at a pool plant directly from a producer: *Provided*, That milk diverted under the conditions set forth in paragraphs (a), (b), and (c) of this section from a pool distributing plant to a nonpool plant that is not a producer-handler plant for the account of either the operator of the pool distributing plant or a cooperative association shall also be producer milk and shall be deemed to have been received by the diverting handler at the plant to which diverted.

(a) A handler described in § 1079.9(b) may divert for its account without limit during the other days of the month the milk of any member producer whose milk is received at a pool distributing plant for at least one delivery during the month. The total quantity of milk so diverted may not exceed 50 percent in September through March and 100 percent in April through August of the larger of the following amounts: (1) The total quantity of its member milk received at all pool distributing plants during the current month, or (2) the average daily quantity of its member milk received at all pool distributing plants during the previous month multiplied by the number of days in the current month.

(b) A handler in his capacity as the operator of a pool distributing plant may divert for his account the milk of any producer other than a member of a cooperative association which has diverted milk pursuant to paragraph (a) of this section whose milk is received at his pool distributing plant for at least one delivery during the month without limit during the other days of such month. However, the total quantity of milk so diverted may not exceed 50 percent in September through March and 100 percent in April through August of the larger of the following amounts: (1) The total quantity of producer milk received at such plant during the current month from producers who are not members of a cooperative association which has diverted milk pursuant to paragraph (a) of this section, or (2) the average daily quantity of producer milk received at such plant during the previous month multiplied by the number of days in the current month from producers who are not members of a cooperative association which has diverted milk in the current month pursuant to paragraph (a) of this section.

(c) Any milk so diverted by the operator of a pool plant or by a handler described in § 1079.9(b) in excess of the limits prescribed pursuant to paragraphs (a) and (b) of this section shall not be producer milk and if the diverting handler fails to designate the dairy farmers whose milk is not producer milk,







V 38 I 177 SEP 13 73 XUM

then no milk diverted by such handler during the month shall be producer milk.

**§ 1079.14 Other source milk.**

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk specified in § 1079.40(b)(1) from any source other than producers, pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1079.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1079.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1079.40(b)(1)) for which the handler fails to establish a disposition.

**§ 1079.15 Fluid milk product.**

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1079.40 (b) or (c)(1)(i) through (iv) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

**§ 1079.16 Fluid cream product.**

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (in-and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

**§ 1079.17 Filled milk.**

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

**§ 1079.18 Cooperative association.**

"Cooperative association" means any cooperative marketing association which the Secretary determines after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act" and

(b) To have full authority in the sale of milk of its members and is engaged in making collective sales of or marketing milk or its products for its members.

HANDLER REPORTS

**§ 1079.30 Reports of receipts and utilization.**

On or before the seventh day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) [Reserved]

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1079.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition of fluid milk products in the marketing area.

(c) Each handler described in § 1079.9 (b) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

**§ 1079.31 Payroll reports.**

(a) On or before the 20th day after the end of each month, each handler described in § 1079.9 (a) and (b) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1079.76 (b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

**§ 1079.32 Other reports.**

(a) Each handler, except a producer-handler, shall report to the market administrator in detail and on forms prescribed by the market administrator:

(1) On or before the first day other source milk is received in the form of any fluid milk product at his pool plant his intention to receive such product, and on or before the last day such product is received, his intention to discontinue receipt of such product; and

(2) Prior to his diversion of producer milk to a nonpool plant, his intention to divert such milk, the proposed date or dates of such diversion and the plant to which such milk is to be diverted.

(b) In addition to the reports required pursuant to §§ 1079.30 and 1079.31 and paragraph (a) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

**§ 1079.40 Classes of utilization.**

Except as provided in § 1079.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1079.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, low fat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, low fat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(v) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1079.15; and

(6) In shrinkage assigned pursuant to § 1079.41(a) to the receipts specified in § 1079.41(a)(2) and in shrinkage specified in § 1079.41 (b) and (c).

**§ 1079.41 Shrinkage.**

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1079.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) [Reserved]

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b)(1), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1079.9(b), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

**§ 1079.42 Classification of transfers and diversions.**

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1079.44(a)(12) and the corresponding step of § 1079.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1079.44(a)(7) or the corresponding step of § 1079.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1079.44(a)(11) or (12) or the corresponding steps of § 1079.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (2) or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other







V 38 I 177 SEP 13 73 XUM

classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1079.40

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i)(*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1079.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition of fluid milk products in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

### § 1079.43 General classification rules.

In determining the classification of producer milk pursuant to to § 1079.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1079.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1079.9(b) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1079.40, 1079.41, and 1079.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1079.9(b) shall be determined separately from the operations of any pool plant operated by such cooperative association.

### § 1079.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk for each handler described in § 1079.9(a) for each of his pool plants separately and of each handler described in § 1079.9(b) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1079.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1079.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1079.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in





Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1079.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1079.40(b)(1) that was not subtracted pursuant to paragraph (a) (4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii)(*a*) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the handler's total Class III utilization at his other pool plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler;

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section. If Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1079.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section;

(i) Subject to the provisions of paragraph (a)(12)(ii) and (iii) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1079.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler;

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received; and

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from any class that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the



V 38 I 177
SEP 13 73
XUM

pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1079.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1079.44(a)(14) and the corresponding step of § 1079.44(b).

**§ 1079.45 Market administrator's reports and announcements concerning classification.**

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1079.44(a)(12) and the corresponding step of § 1079.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from another order plant, the class to which such receipts are allocated pursuant to § 1079.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 10th day after the end of each month, report to each cooperative association, which so requests, the percentage of the milk caused to be delivered by the cooperative association or by its members to the pool plant of each handler during the month that was utilized in each class. For the purpose of this report the milk so delivered shall be allocated to each class in the same ratio as all producer milk received at such plant during the month.

CLASS PRICES

**§ 1079.50 Class prices.**

Subject to the provisions of § 1079.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.40.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

**§ 1079.51 Basic formula price.**

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

**§ 1079.52 Location adjustments for handlers.**

(a) For producer milk received at a plant located outside the marketing area, and 60 miles or more by the shortest hard-surfaced highway distance, as measured by the market administrator from the main post offices of Des Moines and Ottumwa, Iowa, which is classified as Class I or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price specified in § 1079.50(a) shall be reduced 10 cents, and shall be reduced an additional 1.5 cents for each 10 miles or fraction thereof in excess of 75 miles from the designated post offices.

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to Class I disposition remaining at the transferee-plant after computations pursuant to § 1079.44(a)(12) and the corresponding step of § 1079.44(b) in excess of 95 percent of receipts of producer milk at such plant, such assignment to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

**§ 1079.53 Announcement of class prices.**

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

**§ 1079.54 Equivalent price.**

If for any reason a price or pricing constituent required by this part for computing class prices or for other purposes is not available as prescribed in this part, the market administrator shall use a price or pricing constituent determined by the Secretary to be equivalent to the price or pricing constituent that is required.

UNIFORM PRICE

**§ 1079.60 Handler's value of milk for computing uniform price.**

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1079.9(b) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1079.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1079.44(a)(14) and the corresponding step of § 1079.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1079.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1079.44(a)(9) and the corresponding step of § 1079.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1079.44(a)(7)(i) through (iv) and the corresponding step of § 1079.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1079.44(a)(7)(v) and (vi) and the corresponding step of § 1079.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1079.44(a)(11) and the corresponding step of § 1079.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

**§ 1079.61 Computation of uniform price.**

For each month the market administrator shall compute an aggregate value from which to determine the uniform price per hundredweight for producer milk of 3.5 percent butterfat content, f.o.b. plants located within the marketing area, as follows:

(a) Combine into one total the values computed pursuant to § 1079.60 for all pool plants for which the reports prescribed in § 1079.30 for such month were made, except those in default of payments required pursuant to § 1079.71 for the preceding month;

(b) Add an amount equal to the sum of the location adjustment deductions to be made pursuant to § 1079.75;

(c) Add an amount equal to one-half of the unobligated cash balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1079.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents from the price computed pursuant to paragraph (d) of this section. The result shall be known as the uniform price for milk received from producers.

**§ 1079.62 Announcement of uniform price and butterfat differential.**

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 10th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

**§ 1079.70 Producer-settlement fund.**

The market administrator shall maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made to such fund pursuant to §§ 1079.71, 1079.76, and 1079.77, and out of which he shall make all payments from such fund pursuant to §§ 1079.72 and 1079.77: *Provided*, That the market administrator shall offset the payment due to a handler against payments due from such handler.

**§ 1079.71 Payments to the producer-settlement fund.**

(a) On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1079.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1079.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1079.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. It there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price), and the Class III price.

**§ 1079.72 Payments from the producer-settlement fund.**

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1079.71(a)(2) exceeds the amount computed pursuant to § 1079.71(a)(1): *Provided*, That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available. A handler who has not received the balance of such payments from the market administrator shall not be considered in violation of § 1079.73 if he reduces his payments to producers by not more than the amount of the reduction in payment from the producer-settlement fund.

**§ 1079.73 Payments to producers and to cooperative associations.**

(a) Each handler shall pay each producer for producer milk for which payment is not made to a cooperative association pursuant to paragraph (b) of this section, as follows:

(1) On or before the last day of each month, for producer milk received during the first 15 days of the month, at not less than the Class III price for the preceding month; and

(2) On or before the 15th day after the end of each month, for producer milk received during such month, an amount computed at not less than the uniform price pursuant to § 1079.61 adjusted pursuant to §§ 1079.74, 1079.75, and 1079.86, and less the payment made pursuant to paragraph (a)(1) of this section.

(b) Each handler shall make payment to a cooperative association for producer milk which it caused to be delivered to such handler, if such cooperative association is authorized to collect such payments for its members and exercises such authority, an amount equal to the sum of the individual payments otherwise payable for such producer milk, as follows:

(1) On or before the 26th day of each month for producer milk received during the first 15 days of the month; and

(2) On or before the 13th day after the end of each month for milk received during such month.

(c) In making the payments for producer milk pursuant to this section, each handler shall furnish each producer or cooperative association from whom he has received milk with a supporting statement in such form that it may be retained by the recipient, which shall show:

(1) The month and identity of the handler and of the producer;

(2) The daily and total pounds and the average butterfat content of producer milk;

(3) The minimum rate or rates at which payment to the producer is required pursuant to the order;

(4) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer or cooperative association.

**§ 1079.74 Butterfat differential.**

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.







V 38 177 SEP 13 73 XUM

**§ 1079.75 Location adjustments for producers and on nonpool milk.**

(a) The uniform price for producer milk pursuant to § 1079.61 received at a pool plant or diverted from a pool plant shall be reduced according to the location of the plant of actual receipt at the rates set forth in § 1079.52.

(b) For purposes of computations pursuant to §§ 1079.71 and 1079.72 the uniform price shall be adjusted at the rates set forth in § 1079.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted uniform price shall not be less than the Class III price.

**§ 1079.76 Payments by handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1079.30(b) and 1079.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition of fluid milk products in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition of fluid milk products in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1079.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1079.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1079.60 for such handler shall include, in lieu of the value of other source milk specified in § 1079.60(f) less the value of such other source milk specified in § 1079.71(a)(2)(ii), a value of milk determined pursuant to § 1079.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1079.7(b) subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1079.30(b) and 1079.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1079.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1079.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1079.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

**§ 1079.77 Adjustment of accounts.**

Whenever verification by the market administrator of reports or payments of any handler discloses errors in payments to or from the producer-settlement fund pursuant to §§ 1079.71 and 1079.72, the market administrator shall promptly bill such handler for any unpaid amounts and such handler shall, within 15 days of such billing, make payments to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, the market administrator shall, within 15 days, make such payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer or to a cooperative association discloses payment of an amount less than is required by § 1079.73 the handler shall make up such payment to the producer or cooperative association not later than the time of making payment next following such disclosure.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

**§ 1079.85 Assessment for order administration.**

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight, or such less amount as the Secretary may prescribe, with respect to:

(a) Producer milk;

(b) Other source milk allocated to Class I pursuant to § 1079.44(a)(7) and (11) and the corresponding steps of § 1079.44(b), except such other source milk that is excluded from the computations pursuant to § 1079.60 (d) and (f); and

(c) Class I milk disposed of from a partially regulated distributing plant on routes in the marketing area that exceeds the skim milk and butterfat subtracted pursuant to § 1079.76(a)(2).

**§ 1079.86 Deduction for marketing services.**

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 1079.73 shall deduct 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to producer milk received by such handler (except such handler's own farm production) during the month, and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples, and tests of producer milk and to provide producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers for whom a cooperative association is performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and, on or before the 15th day after the end of each month, pay over such deductions to the association rendering such services.

Signed at Washington, D.C., on August 27, 1973.

E. L. PETERSON,
*Administrator,*
*Agricultural Marketing Service.*

[FR Doc.73-18668 Filed 9-12-73;8:45 am]







V 38-177 SEP 13 73 XUM

federal register

THURSDAY, SEPTEMBER 13, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 177

PART III

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Office of Education

■

# STATE ADULT EDUCATION PROGRAMS

## Guidelines

No. 177—Pt. III——1

V 38-177 SEP 13 73 XUM

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Office of Education

### GUIDELINES FOR STATE ADULT EDUCATION PROGRAMS

Pursuant to the authority contained in the Adult Education Act (84 Stat. 159–164, 20 U.S.C. 1201–1211), notice is hereby given that the U.S. Commissioner of Education is establishing guidelines which apply to State plans for Federal assistance under the Adult Education Act. The guidelines will read as set forth below.

The regulations governing such programs were published in the FEDERAL REGISTER, Vol. 38, No. 118, pp. 16133–16138.

*Effective date.*—These guidelines shall take effect on October 15, 1973.

(Catalog of Federal Domestic Assistance No. 13.400, Adult Education—Grants to States.)

Dated September 7, 1973.

JOHN OTTINA,
*U.S. Commissioner of Education.*

GUIDELINES

ADULT EDUCATION PROGRAMS

TITLE III, P.L. 91–230

STATE PLAN PROGRAMS

PART 1—INTRODUCTION

*Sec.*

1.1 Scope of guidelines.
1.2 Applicable statutes and regulations.
1.3 Purpose of the State plan.

PART 2—ADMINISTRATIVE RECOMMENDATIONS

2.1 Compliance with Civil Rights Act of 1964.
2.2 Submission procedures.
2.3 Administrative organizations.

PART 3—ANNUAL PROGRAM PLAN

3.1 Overview of the planning process.
3.2 Adult learning needs survey.
3.3 Resource inventory.
3.4 Determining program priorities.
3.5 Allocating resources.
3.6 Program evaluation.
3.7 Annual program plan format.

PART 4—APPLICATION AND PROJECT REPORT FORMS

4.1 Application form.

### PART 1—INTRODUCTION

SECTION 1.1 *Scope of guidelines.*—(a) The guidelines contained in this document are recommendations and suggestions for meeting the legal requirements which apply to State plans for Federal assistance under the Adult Education Act. The guidelines are not to be construed as requirements. However, where the guidelines set forth a permissible means of meeting a legal requirement, the guidelines may be relied upon.

(20 U.S.C. 1208; 113 Cong. Rec. 5936, 5939 (daily ed. May 23, 1967); United States v. Jefferson County Board of Education, 372 F. 2d 836, 857 (1966).)

(b) Where a guideline is issued in connection with or affecting a provision in the regulations, the pertinent regulation will be cited after the citation of legal authority for the guideline, in the parentheses following the guideline. For example, if the legal authority for the guideline is section 306(b) of the Act (20 U.S.C. 1205(b)), and the guideline affects Section 166.7 of the regulations (45 CFR 166.7), the following citation will be placed on the line immediately following the guideline (20 U.S.C. 1205(b); 45 CFR 166.7). If no particular section of the regulations is affected, no citation to the Code of Federal Regulations (CFR) will be made.

(20 U.S.C. 1232(a).)

SEC. 1.2 *Applicable statutes and regulations.*—State plans for adult education are to be proposed and conducted in accordance with applicable Federal statutes and regulations. Pertinent provisions include the Adult Education Act (20 U.S.C. 1201–1211), the General Education Provisions Act (20 U.S.C. 1221 et seq.), the Adult Education Regulations (45 CFR, Part 166), the General Provisions for Office of Education Programs (45 CFR, Part 100), and Office of Management and Budget Circular No. A–102. The State educational agency should carefully review the above references prior to preparing the State plan for adult education.

(20 U.S.C. 1201–1211; 20 U.S.C. 1221 et seq.; 45 CFR, Part 166; 45 CFR, Part 100b; and OMB Circulation No. A–102.)

SEC. 1.3 *Purpose of the State plan.*—(a) The State plan is a standard requirement used in connection with several cooperative Federal-State programs. The State plan under the Adult Education Act provides, among other things:

(1) The basis on which the State, through its State educational agency, will qualify to participate in and receive Federal funds for programs under the Adult Education Act;

(2) Assistance in planning, justifying, and organizing the proposed allocation of funds;

(3) A basis for common understanding and communication among the State educational agency, other participating agencies, the U.S. Office of Education, and the program reviewers and auditors; and

(4) A basis for both immediate and long-range planning and for continuous, systematic evaluation.

(b) If local adult education teachers and administrators are involved in developing the plan and it is widely shared with other State and local decisionmakers, it may also serve to facilitate communication and program support.

(20 U.S.C. 1205; 45 CFR 166.11.)

### PART 2—ADMINISTRATIVE RECOMMENDATIONS

SEC. 2.1 *Compliance with Civil Rights Act of 1964.*—(a) Federal financial assistance is subject to the regulations in part 80 of this title, issued by the Secretary of Health, Education, and Welfare and approved by the President, to effectuate the provisions of Title VI of the Civil Rights Act of 1964 (Pubic Law 88–352).

(42 U.S.C. 2000d.)

(b) Federal financial assistance is also subject to the provisions of Title IX of the Education Amendments of 1972 (prohibition of sex discrimination), and any regulations issued thereunder.

(Public Law 92–318, Title IX.)

SEC. 2.2 *Submission procedures.*—(a) *General.*—Subpart B of the regulations contained at 45 CFR, Part 166 describes certain requirements with regard to submitting the State plan for adult education. Appendix A of those regulations also contains the required cover sheet and State-Federal agreement.

(b) *Transmittal.*—(1) The State educational agency must submit the cover sheet and State-Federal agreement to the Regional Commissioner of Education for his review as required in Appendix A of the regulations. After the Regional Commissioner reviews and approves the documents, he will recommend approval to the U.S. Commissioner of Education. After the U.S. Commissioner has approved the State plan, two copies of the cover sheet and the State-Federal agreement will be returned to the appropriate Regional Office of Education. One approved copy will be returned to the State educational agency.

(2) Although the regulations provide the State agency with the option of attaching the annual program plan to the State-Federal agreement or incorporating by reference and making it available for inspection by the U.S. Commissioner at the State educational agency, attaching the annual program plan has been found to facilitate communication at all levels.

(c) *Preparation of annual program plan.*—In the preparation of the annual program plan for adult education, the following should be observed:

(1) Copy should be typed or duplicated on 8½ x 11" bond paper. It is recommended that tissue not be used for copies.

(2) Each major plan section should begin on a new page.

(3) Each page should carry in the upper right-hand corner the following information.

Plan Section Number _____
State _____

(4) Pages need not be numbered, but the numerical indexing of sections and subsections in the guide should be followed.

(20 U.S.C. 1205; 45 CFR 166.11–.16.)

SEC. 2.3 *Administrative organizations.*—(a) *State administrative agency.*—(1) *Map.*—It is often helpful for the annual program plan to include a map of the pertinent administrative agencies within the State (for example, local educational agencies) and the geographical areas for which each such administrative agency is responsible. Such a map could assist the State educational agency in assuring that substantial progress can be made with respect to all segments of the adult population and all areas of the State toward carrying out the purpose of the Act and applicable





regulations, particularly when used in conjunction with the adult needs survey referred to in section 3.2 of these guidelines.

(2) *Organizational chart.*—It is also often helpful to include a current organizational chart of the State educational agency in the annual program plan. The chart could reflect the number of people, by title, serving the State educational agency in the adult education program.

(b) *Local and State advisory councils.*—(1) *Possible activities.*—Local and State advisory or planning councils can often be a valuable asset, and a description of any involvement of such groups would be appropriate for inclusion in the annual program plan. Such councils may include members of the client group, such as teachers and students. Councils may, for example, be appointed by the State educational agency or local administrative agency. The program plan could describe how such a council might assist in activities such as the following:

(i) Local project design;
(ii) Project review and approval;
(iii) Evaluation and monitoring;
(iv) State plan devleopment;
(v) Dissemination and reporting;
(vi) Policy development; and
(vii) Needs assessment.

(2) *Allowable costs.*—Salaries, wages, and other costs incurred by members serving on such advisory councils for activities such as those listed above which are reasonably related to the State adult education program may be charged to State or local administration, in compliance with regulations contained in 45 CFR, Part 100b, Subpart G.

(20 U.S.C. 1205, 1231d; 45 CFR, Part 100b, Subpart G.)

(c) *Other organizations.*—It is often helpful to hold public hearings and meetings periodically to encourage the participation of any other concerned groups and of members from the general public.

### PART 3—ANNUAL PROGRAM PLAN

SEC. 3.1 *Overview of the planning process.*—(a) The following sequence illustrates some of the essential steps in the planning process: (1) Identify adult learning needs; (2) Inventory resources; (3) Establish program priorities; and (4) Allocate resources.

(b) Since the above steps are dependent upon each other, it is important that the developmental process be approached in a sequential manner. The desired end product is an adult education program plan that provides the State educational agency with the philosophy, operating plan, and rationale for funding decisions on an annual basis. The program plan should identify precisely the objectives for the ensuing fiscal year and describe how they will be met. Such a description would include the pertinent program and fiscal considerations required to conduct the program. The intent of such a description is to encourage the State educational agency to chart a plan in advance so that, for example, during the planning process relevant program requirements such as teacher training, curriculum, and instructional materials can be prepared prior to beginning instructional activities.

Since the resources and delivery systems of each State differ, it is realized that the plans will vary and that each State will want to develop a plan that is responsive to the unique requirements of its adult population and educational system.

(c) Subsequent sections of this part will offer guidelines for each of the above steps in the planning process.

(d) Copies of planning charts and forms referred to in these guidelines may be obtained from the Division of Adult Education, U.S. Office of Education, Washington, D.C. 20202.

(20 U.S.C. 1205.)

SEC. 3.2 *Adult learning needs survey.*—(a) It is suggested that a needs survey be taken initially without regard to fiscal constraints or anticipated revenues from State, Federal, or local sources, in order to determine the full extent of adult learning needs in the State. A survey chart, such as that included in adult program planning chart A, may be used by the administrative agency or by the local educational agency to achieve compatibility in identifying the needs and annual program accomplishments.

(b) Charts similar to adult program planning chart A may also be useful for surveying the needs in the two other priority levels established by regulation at section 166.12(b)(8) (grades 4 through 8 and 9 through 12).

(c) Since this survey will affect subsequent decisions, it is suggested that the county breakdown reflected in the 1970 Census also be examined carefully and compared with the survey data. The general social and economic characteristics column of the State Census provides the years of school completed for females and males over 25 years of age according to county. Educational attainment data regarding the age group between 16 and 25 are also available as State summary data.

(d) In addition to the State Census data, the State educational agency might find the following publications useful in preparing the annual program plan:

(1) Adult Education Annual Program Report (OE Form 3058);

(2) Publications of the National Center for Educational Statistics, U.S. Office of Education, concerning adult education data;

(3) Reports of the Systems Development Corporation concerning the longitudinal study of adult basic education students (the final report will be available in the fall of 1973);

(4) Teacher training studies produced by the University of Missouri at Kansas City;

(5) State evaluations;

(6) The Adult Basic Education Evaluation Model produced by Teachers College, Columbia University; and

(7) Regional staff development plan.

(20 U.S.C. 1205.)

SEC. 3.3 *Resource inventory.*—(a) *General.*—Compiling an inventory of those resources that can be applied toward meeting the identified learning needs is a next step. At this point in planning it is recommended that fiscal constraints again not be allowed to enter in the planning since this step is designed to encourage the State educational agency to identify resources in each administrative agency that are available or could be made available and the additional resources required to help meet the previously identified learning needs. It is suggested that the State educational agency conduct such planning with regard to such resources as personnel, facilities, instructional materials, and community resources. If this task has already been performed in conjunction with the regional staff development program, the data might be transferred to the annual plan or the staff development plan might be attached or incorporated by reference.

(b) *Personnel.*—In order to clarify the extent of personnel currently available for adult education, and those desired, a chart along the lines of adult program planning chart B might be included in the annual program plan.

(c) *Community resources.*—Experience indicates that the adult education program will succeed in relation to the degree that it utilizes total community resources with a view toward maximizing services required by the individual rather than operating in isolation as a single-purpose adult education program. Of course, if the local applicant can share in the cost of the program, it enables the State to render service to more people. Community resources such as the following should be surveyed to determine their availability for adult instructional programs: Local educational agencies, public libraries, museums, media, transportation, recreation, cultural, business, industry, public health, social security, food stamps, day care, nonprofit organizations, hospitals, correctional institutions, learning centers, colleges or community colleges, technical institutes, and other appropriate organizations. During the planning survey an effort might also be made to identify facilities that are convenient to adult learners and, if possible, adjacent to other services they may require, such as health and welfare services.

(20 U.S.C. 1205.)

SEC. 3.4 *Determining program priorities.*—(a) The State educational agency also faces the task of establishing program priorities and allocating resources. The annual program plan must include a statement of the priorities established, as required by the regulations at section 166.12(b). Such a statement should include a clear description of each of the precise priorities established and should give the rationale for establishing each such priority, relating it to prior steps



V 38 I 177 SEP 13 73 XUM

in the planning process, such as the needs survey and resource inventory. For example, a priority for classes for migrant adults functioning at the fourth grade level or below might have been identified by the adult needs survey.

(b) It is suggested that the State educational agency formulate and disseminate its policies, procedures, criteria, and priorities in order to guide agencies in applying for program support, consistent with sections 166.12(b) and 166.13 of the regulations.

(c) Every effort should be made to provide a coordinated statewide program which focuses upon the established priorities. However, the State educational agency should also consider the unique priorities of particular applicants. For example, if the learning needs survey indicates that a particular school district or location has a large population of adults that require English as a second language classes to gain employment or meet their adult responsibilities, then the State educational agency might wish to encourage the appropriate agency to submit an application for a special project (as described in section 306(a)(4) of the Act) focusing on this particular program area.

(20 U.S.C. 1205 45 CFR 166.11–.13.)

SEC. 3.5 *Allocating resources*—(a) *Expenditures for administration of State plan and project activities.*—Program planning chart C may be used to assist in allocating resources and prorating expenditures.

(b) *Fiscal resources in relation to the three instructional priorities.*—(1) The State educational agency must consider the instructional priorities provided in section 166.12(b) with regard to the allocation of funds. In many instances it appears that certain geographical areas have been providing substantial instructional services for lower priorities when adequate emphasis has not yet been accorded to higher priority levels within the geographical area. The distribution of resources described in the above regulation is required in accord with the intent of the Act.

(2) Relating these priorities to the major cost categories might also be useful. For example, if the learning needs survey indicates that a substantial proportion of the population in a particular location was functioning below the fourth grade level and the personnel resource inventory reflected a lack of teachers prepared to teach reading at grades 1–4, the State educational agency may want to consider assigning additional teacher training resources at this level. Of course, this procedure could also apply to instructional materials, special projects, and research or demonstration projects.

(20 U.S.C. 1205; 45 CFR 166.11–.13.)

SEC. 3.6 *Program evaluation.*—Program evaluations, as described in 45 CFR 166.13(b)(8), might address the following issues:

(1) To what degree does the plan provide for cooperation with special projects and teacher training grants that may be operating in the State and supported from section 309 resources;

(2) Do the local instructional programs that the State funded reflect the findings of the learning needs survey and agree with the priorities in section 3.5(b);

(3) Do local programs of instruction provide opportunities for State reviews on a recurring basis? This is very important since the State educational agency or Office of Education regional office may be able to provide technical assistance which could strengthen a component;

(4) Is the regional staff development capability employed effectively to assist local programs;

(5) Do evaluations performed by the State educational agency include management concerns such as maintaining adequate financial records and providing for audits and retention of records; and

(6) Has the State-Federal agreement been provided to all participating agencies to apprise them of the State assurances to implement the Act?

(20 U.S.C. 1205; 45 CFR 166.47.)

SEC. 3.7 *Annual program plan format.*—In order to reflect the above suggestions and the requirements contained in the Act and pertinent regulations, State educational agencies may wish to use an annual program plan format such as the following:

(a) *General program goal statements.*—This portion of the plan might contain a brief introductory overview or summary of the general program goals.

(b) *Needs survey and resource inventory.*—This portion of the plan might contain a description of the conclusions of a needs survey and a resource inventory, including information and planning charts such as those discussed in sections 3.2 and 3.3

(c) *Specific program priorities and objectives.*—This portion of the program plan might describe the specific program priorities established in accordance with section 3.4. Examples of such priorities include:

(1) To review project applications to assure their compliance with Federal and State guidelines.

(2) To provide ____ on-site visitations by State agency staff for technical assistance and evaluation.

(3) To provide ____ preservice and inservice training activities.

(4) To formulate a State advisory council which will meet ____ times a year.

(5) To increase adult enrollment in ____ program by ____ percent.

(6) To add ____ new programs during the program year.

(7) To complete required reports by the deadline date.

(d) *Activities and procedures.*—(1) This portion of the program plan might describe the activities and procedures proposed to address each priority or objective. It is suggested that each priority or objective be discussed individually, as follows:

(i) Objective 1: Procedures and activities A, B, and C.

(ii) Objective 2: Procedures and activities X, Y, and Z.

(2) This portion of the program plan might also, where appropriate, utilize the suggestions and planning charts referred to in Section 3.5.

(e) *Evaluation.*—This portion of the annual program plan might include a discussion of evaluation activities, including

(1) Evaluation activities proposed to be conducted in the year for which application is made (See Section 3.6.); and

(2) The extent to which past evaluation activities have indicated strengths and weaknesses in past programs, and how these strengths and weaknesses have affected the design of the proposed activities and procedures.

## PART 4—APPLICATIONS AND PROJECT REPORT FORMS

SEC. 4.1 *Application form.*—It would be very helpful for the purpose of aggregating compatible data if all applicants to the State educational agency used application and reporting forms which were comparable. To accomplish this purpose, States may wish to recommend the use of all or portions of a form entitled "Application and Project Report Form," which may be obtained from the Division of Adult Education, U.S. Office of Education, Washington, D.C. 20202.

[FR Doc.73-19499 Filed 9-12-73;8:45 am]



V 38-177 SEP 13 73 XUM

*Just Released*

CODE OF FEDERAL REGULATIONS

(Revised as of July 1, 1973)

Title 32—National Defense (Part 1600–End)---------- $1.65

Title 32A—National Defense, Appendix---------- 2.80

Title 35—Panama Canal---------- 3.40

*[A Cumulative checklist of CFR issuances for 1973 appears in the first issue of the Federal Register each month under Title 1]*

**Order from Superintendent of Documents,
United States Government Printing Office,
Washington, D.C. 20402**

V 38-177

SEP 13 73

XUM

178

# federal register

September 14, 1973—Pages 25655–25895

FRIDAY, SEPTEMBER 14, 1973

WASHINGTON, D.C.

Volume 38 ■ Number 178

Pages 25655–25895

PART I

## HIGHLIGHTS OF THIS ISSUE

**This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.**

**HEATING OIL**—CLC allows refiner-retailers to increase ceiling prices for retail sales on monthly basis; effective 8–19–73 ..... 25686

**GROSS DEMAND DEPOSITS**—FRS proposes to apply reserve criteria against certain accounts classified among "other liabilities"; comments by 10–12–73 ..... 25703

**TRAFFIC NOISE**—DOT invites comments on proposed guidelines; comments by 11–1–73 ..... 25696

**AIR QUALITY STANDARDS**—
EPA proposal regarding selective use of supplementary control systems; comments by 10–15–73.. ..... 25697
EPA revokes secondary sulfur dioxide criteria and revises criteria for sulfur oxides.. ..... 25678

**WATER QUALITY**—EPA provides management programs for control; effective 9–14–73.. ..... 25681

**STEEL WIRE ROPE FROM JAPAN**—Tariff Commission determination of injury ..... 25724

**FOOD AND DRUGS**—
FDA provides for safe use of certain animal drugs (4 documents); effective 9–147–3..... 25673, 25674
FDA provides for certification of certain antibiotic drugs and updating of test organisms used in potency assay of carbenicillin (3 documents); effective 9–24–73 ..... 25674
FDA revision and revocation of certain standards for margarine; effective 10–11–73 ..... 25671

**VETERANS LOANS**—VA clarifies prepayment of guaranteed mortgage loans; effective 9–10–73 ..... 25678

(Continued inside)

**PART II:**

**MILK ORDERS**—USDA proposed revision of milk classification and pricing; exceptions due 10–15–73 ..... 25755

**PART III:**

**MINIMUM WAGE**—Labor Department determinations and monthly index for federally assisted construction ..... 25845



V 38-178

SEP 14 73

XUM

# REMINDERS

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

### Rules Going Into Effect Today

This list includes only rules that were published in the FEDERAL REGISTER after October 1, 1972.

page no. and date

**September 14**

TELECOMMUNICATIONS—FM broadcast stations in Maryland 21927; 8–14–73

—FM broadcast stations in Washington 21929; 8–14–73

—Use of land mobile frequencies aboard aircraft 22013; 8–15–73

—Report and order 22012; 8–15–73

—Report and order and order to show cause 22010; 8–15–73


federal register

Phone 523-5240

Area Code 202

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by the Executive Branch of the Federal Government. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $2.50 per month or $25 per year, payable in advance. The charge for individual copies is 20 cents for each issue, or 20 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.







MEETINGS—

DOS: Advisory Committee to the United States Section, International North Pacific Fisheries Commission, 9–24–73 25705

Law of the Sea Advisory Committee, 9–21 and 9–22–73 25705

DOI: Hungry Horse Cloud Seeding Program, 10–15–73 25706

Roseburg District Advisory Board, 10–2–73 25706

DOD: USAF Scientific Advisory Board Science Technology Advisory Group, 9–24– and 9–25–73 25706

USAF Scientific Advisory Board Electronic Systems Division Advisory Group, 9–26–73 25706

USAF Scientific Advisory Board Ad Hoc Committee on Electro Optics Technology, 9–27– and 9–28–73 25706

HEW: National Advisory Veterinary Medicine Committee, 9–27 and 9–28–73 25709

NIH Brest Cancer Diagnosis Committee, 9–19–73 25709

Treasury Department: Regional Advisory Committee on Banking Policies and Practices of the Tenth National Bank Region, 9–28–73 25706

Commerce Department: Census Advisory Committee on Population Statistics, 9–21–73 25709

Labor Department: National Manpower Advisory Committee, 9–26–73 25725

NASA: Space Programs Advisory Council Applications Committee, 9–26–73 25722

Cost of Living Council: Health Industry Advisory Committee, 9–17–73 25712

Atomic Energy Commission: Advisory Committee on Reactor Safeguards Subcommittee on Brown's Ferry Nuclear Plant, 9–20–73 25711


# Contents


**AGRICULTURAL MARKETING SERVICE**

Rules and Regulations

Almond Control Board; expenses and rate of assessment for 1973–74 crop year 25668

Certified seed; certifying Agency standards and procedures to assure genetic purity and identity 25661

Irish potatoes grown in Colorado; handling regulations 25667

Oranges, grapefruit, tangerines, and tangelos grown in Florida; grade and size requirements 25665

Proposed Rules

Milk in Chicago regional and certain other marketing areas; recommended decision and inquiry 25755

**AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE**

Rules and Regulations

Processor wheat marketing certificate regulations; termination of program; correction 25665

**AGRICULTURE DEPARTMENT**

*See also* Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Animal and Plant Health Inspection Service; Commodity Credit Corporation; Farmers Home Administration.

Proposed Rules

Exporters of certain commodities; reporting requirements 25690

**AIR FORCE DEPARTMENT**

Rules and Regulations

Identification (ID) cards; issue and control; correction 25678

Notices

Scientific Advisory Board; meeting 25706

**ANIMAL AND PLANT HEALTH INSPECTION SERVICE**

Rules and Regulations

Cereal leaf beetle; termination of quarantine and regulations 25664

Swine, pork and pork products; prohibitions and restrictions on importation 25669

**ASSISTANT SECRETARY FOR HOUSING PRODUCTION AND MORTGAGE CREDIT OFFICE**

Rules and Regulations

Property improvement and mobile home loans; manufacturer's warranty 25676

**ATOMIC ENERGY COMMISSION**

Notices

Advisory Committee on Reactor Safeguards' Subcommittee on Brown's Ferry Nuclear Plant; postponement of meeting 25711

Duke Power Co.; further prehearing conference 25710

Mississippi Power and Light Co.; order for third prehearing conference 25710

Pennsylvania Power & Light Co.; assignment of members of Atomic Safety and Licensing Appeal Board 25711

Receipt of construction permits applications:

Delmarva Power & Light Co 25710

Potomac Electric Power Co 25711

**BONNEVILLE POWER ADMINISTRATION**

Notices

Hungry Horse Cloud Seeding Program; public meeting regarding draft environmental statement 25706

**CIVIL AERONAUTICS BOARD**

Notices

International Air Transport Association:

Cargo charters 25711

Currency matters 25712

**COMMERCE DEPARTMENT**

*See also* Maritime Administration; National Oceanic and Atmospheric Administration; Social and Economic Statistics Administration.

**COMMODITY CREDIT CORPORATION**

Rules and Regulations

1973 crop rye loan and purchase program 25668

**COMPTROLLER OF THE CURRENCY**

Notices

Regional Advisory Committee on Banking Policies and Practices of the Tenth National Bank Region; meeting 25706

**COST OF LIVING COUNCIL**

Rules and Regulations

Phase IV price regulations; petroleum and petroleum products 25686

Notices

Health Industry Advisory Committee; meeting 25712

**DEFENSE DEPARTMENT**

*See* Air Force Department.

**EMPLOYMENT STANDARDS ADMINISTRATION**

Notices

Minimum wages for Federal and federally assisted construction; modifications and supersedeas decisions to general wage determination decisions 25845

**ENVIRONMENTAL PROTECTION AGENCY**

Rules and Regulations

Areawide waste treatment management planning areas and responsible planning agencies 25681

Sulfur oxides; national secondary ambient air quality standards 25678


(Continued on next page)



V 38 - 178 SEP 14 73 XUM

## CONTENTS


**Proposed Rules**
State implementation plans; preparation, adoption, and submittal ---- 25697

**FARMERS HOME ADMINISTRATION**
**Notices**
San Patricio County, Texas; designation as emergency area---- 25707

**FEDERAL AVIATION ADMINISTRATION**
**Rules and Regulations**
Airworthiness directives:
Bell model helicopters (2 documents) ---- 25669, 25670
Grumman aircraft---- 25670
**Proposed Rules**
Transition area; alteration; supplemental ---- 25696

**FEDERAL COMMUNICATIONS COMMISSION**
**Rules and Regulations**
Transmitter power limitations imposed upon radiotelephone operators (2 documents)---- 25684
**Proposed Rules**
FM Broadcast stations in Rapid City, South Dakota; table of assignments; extension of time for filing comments---- 25703
**Notices**
GTE Satellite Corp.; authorization to lease satellite transponders ---- 25712
Telerent Leasing Corp., et al.; petition for declaratory ruling--- 25713

**FEDERAL HIGHWAY ADMINISTRATION**
**Proposed Rules**
Sleeper berths in commercial motor vehicles; dimensional requirements ---- 25696
Traffic noise on highway projects; guidelines for control; inquiry-- 25696

**FEDERAL INSURANCE ADMINISTRATION**
**Rules and Regulations**
National Flood Insurance Program; status of participating communities (2 documents)--- 25677, 25678

**FEDERAL MARITIME COMMISSION**
**Notices**
Non vessel operating common carriers in domestic offshore trades ---- 25715

**FEDERAL POWER COMMISSION**
**Notices**
*Hearings, etc.:*
Rate Schedules---- 25716
Cities Service Oil Co., et al---- 25717
Continental Oil Co., et al---- 25720
Vaughn, Jack H., et al---- 25720

**FEDERAL RESERVE SYSTEM**
**Proposed Rules**
Reserves of member banks; definition of gross demand deposits-- 25703
**Notices**
Acquisition of banks:
Barnett Banks of Florida, Inc-- 25721
Northeast Bankshare Association ---- 25722
First Tennessee National Corp.; order approving acquisition---- 25721

**FISH AND WILDLIFE SERVICE**
**Rules and Regulations**
Hunting:
Benton Lake National Refuge, Montana ---- 25686
Kirwin National Wildlife Refuge, Kansas---- 25686
**Proposed Rules**
Hunting and fishing:
Columbian White-Tailed Deer National Wildlife Refuge, Washington ---- 25693
Lewis and Clark National Wildlife Refuge, Oregon---- 25693

**FOOD AND DRUG ADMINISTRATION**
**Rules and Regulations**
Drugs:
Ampicillin trihydrate-probenecid for oral suspension---- 25674
Carbenicillin ---- 25674
Clopidol and roxarsone---- 25674
Diethylcarbamazine citrate syrup ---- 25673
Monensin and lincomycin applications; approval---- 25676
Nafcillin sodium monohydrate tablets ---- 25675
Margarine and liquid margarine; order amending standard and revoking standard---- 25671
Pyrantel tartrate; safe and effective use for colts and horses---- 25673
Sulfadimethoxine; safe and effective use for treatment of cattle- 25673
**Proposed Rules**
Copper in animal feed; restriction of level---- 25694
**Notices**
Advisory Committees:
Meeting ---- 25709
Renewal ---- 25709

**FOREIGN-TRADE ZONES BOARD**
**Notices**
Bayonne, New Jersey; voluntary relinquishment of grant---- 25722

**GENERAL SERVICES ADMINISTRATION**
**Notices**
Secretary of Defense; delegation of authority---- 25722

**HEALTH, EDUCATION, AND WELFARE ADMINISTRATION**
*See* Food and Drug Administration; National Institutes of Health; Public Health Service.

**HOUSING AND URBAN DEVELOPMENT DEPARTMENT**
*See* Assistant Secretary for Housing Production and Mortgage Credit Office; Federal Insurance Administration.

**INTERIOR DEPARTMENT**
*See* Bonneville Power Administration; Fish and Wildlife Service; Land Management Bureau.

**INTERSTATE COMMERCE COMMISSION**
**Rules and Regulations**
Car service; Kansas City Southern Railway Co., et al---- 25685
Securities:
Expanded definition; correction- 25686
Public offerings; offering circulars requirements---- 25686
**Notices**
Assignment of hearings---- 25725
Motor Carrier Board transfer proceedings ---- 25725

**LABOR DEPARTMENT**
*See also* Employment Standards Administration.
**Notices**
National Manpower Advisory Committee; meeting---- 25725

**LAND MANAGEMENT BUREAU**
**Rules and Regulations**
Oregon; partial revocation of reclamation project withdrawal; correction ---- 25684
**Notices**
Montana; order providing for opening of lands---- 25706
Roseburg District Advisory Board; meeting ---- 25706

**MARITIME ADMINISTRATION**
**Notices**
Application for operating-differential subsidy:
United States Line, Inc---- 25708
Vancor Steamship Corp, et al-- 25707
Waterman Steamship Corp---- 25708
Seatrain Shipbuilding Corp.; award of construction-differential subsidy contract---- 25707

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**
**Notices**
Space Programs Advisory Council Applications Committee; meeting ---- 25722

**NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION**
**Rules and Regulations**
Vehicle in use inspection standards; correction---- 25685

**NATIONAL INSTITUTES OF HEALTH**
**Notices**
Breast Cancer Diagnosis Committee; meeting---- 25709

**NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION**
**Notices**
Alabama, Louisiana, and Mississippi; determination of commercial fishery failure due to resource disaster---- 25708

**PUBLIC HEALTH SERVICE**
**Rules and Regulations**
Commissioned officers; involuntary retirement with 20 years of service ---- 25683

**SELECTIVE SERVICE SYSTEM**
**Proposed Rules**
Appeal boards; authority to sign official papers---- 25704







**SOCIAL AND ECONOMIC STATISTICS ADMINISTRATION**
**Notices**
Census Advisory Committee on Population Statistics; public meeting ---- 25709

**STATE DEPARTMENT**
**Notices**
Meetings:
Advisory Committee to United States Section, International North Pacific Fisheries Commission ---- 25705
Law of the Sea Advisory Committee ---- 25705
Travel restrictions on U.S. passports:
Cuba ---- 25705
North Korea---- 25705
North Vietnam---- 25705

**TARIFF COMMISSION**
**Notices**
Ampicillin; termination of investigation and cancellation of hearing ---- 25723
Antidumping:
Electronic color separating or sorting machines from United Kingdom ---- 25723
Steel wire rope from Japan---- 25724

**TRANSPORTATION DEPARTMENT**
*See* Federal Aviation Administration; Federal Highway Administration; National Highway Traffic Safety Administration.

**TREASURY DEPARTMENT**
*See also* Comptroller of the Currency.

**VETERANS ADMINISTRATION**
**Rules and Regulations**
Prepayment of mortgage loans; interest charges---- 25678


# List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month. In the last issue of the month the cumulative list will appear at the end of the issue.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1973, and specifies how they are affected.

**6 CFR**
150---- 25686

**7 CFR**
201---- 25661
301---- 25664
777---- 25665
905---- 25665
948---- 25667
981---- 25668
1421---- 25668
PROPOSED RULES:
20---- 25690
1030---- 25756
1032---- 25756
1046---- 25756
1049---- 25756
1050---- 25756
1062---- 25756
1099---- 25756

**9 CFR**
94---- 25669

**12 CFR**
PROPOSED RULES:
204---- 25703

**14 CFR**
39 (3 documents)---- 25669, 25670
PROPOSED RULES:
71---- 25696

**21 CFR**
45---- 25671
135b---- 25673
135c (2 documents)---- 25673
135e (2 documents)---- 25674, 25676
141---- 25674
146---- 25674
149b---- 25674
149d---- 25675
PROPOSED RULES:
121---- 25694
135---- 25694

**23 CFR**
PROPOSED RULES:
772---- 25696

**24 CFR**
201---- 25676
1914 (2 documents)---- 25677, 25678

**32 CFR**
809---- 25678
PROPOSED RULES:
1604---- 25704

**38 CFR**
36---- 25678

**40 CFR**
50---- 25678
126---- 25681
PROPOSED RULES:
51---- 25697

**42 CFR**
21---- 25683

**43 CFR**
PUBLIC LAND ORDERS:
5383---- 25684

**47 CFR**
13---- 25684
87---- 25684
PROPOSED RULES:
73---- 25703

**49 CFR**
570---- 25685
1033---- 25685
1115 (2 documents)---- 25686
PROPOSED RULES:
393---- 25696

**50 CFR**
32 (2 documents)---- 25686
PROPOSED RULES:
32---- 25693



V 38 I 178 SEP 14 73 XUM

# Rules and Regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

## Title 7—Agriculture

## CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTIONS, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

## PART 201—FEDERAL SEED ACT REGULATIONS

### Certifying Agency Standards and Procedures to Assure Genetic Purity and Identity of Certified Seed

On October 17, 1969, section 101(a)(25) of the Federal Seed Act was amended, in part, to provide that a "seed certifying agency" must have "standards and procedures approved by the Secretary (after due notice, hearings, and full consideration of the views of farmer users of certified seed and other interested parties) to assure the genetic purity and identity of the seed certified."

Following passage of this legislation the Association of Official Seed Certifying Agencies appointed an Advisory Board consisting of representatives of the seed trade, regulatory agencies, research agencies, State seed certifying agencies, and certified seed growers associations to recommend a minimum set of standards and procedures to assure genetic purity and identity of certified seed. The recommendations of the Advisory Board were adopted by the Association of Official Seed Certifying Agencies in August 1970.

The following amendments to the rules and regulations under the Federal Seed Act essentially consist of the minimum standards and procedures adopted by that Association.

Pursuant to section 402 of the Federal Seed Act, as amended (7 U.S.C. 1551 et seq.) and the administrative procedure provisions of 5 U.S.C. section 553, there was published in the FEDERAL REGISTER (37 FR 10572) on May 25, 1972, a notice of rulemaking and hearing with respect to proposed amendments to the regulations (7 CFR, Part 201, as amended) relating to standards and procedures to assure genetic purity and identity of certified seed under the Act.

Interested persons were given an opportunity to present views orally at a hearing and to submit written comments regarding the proposals. Over 3,000 copies of the proposals were distributed to trade and Government organizations. Oral comments were made by 10 persons and written comments were submitted by 6 persons, groups, or organizations.

On the basis of comments received, the hearing record and all other information available to the Department, it is concluded that, with the changes noted below, the amendments to the regulations as proposed on May 25, 1972, are in the public interest and should be implemented.

A. *Definition of "off-type".* Improved wording was suggested for describing an "off-type" plant or seed. The suggestion is adopted.

B. *Definition of "inbred line."* A written comment proposed a delay in decision pending further comment. Further comments were not received. The proposal is adopted as originally worded.

C. *Rights of State agencies to refuse to certify seed.* One party recommended that wording be included to require State agencies to certify seed upon application by a grower. The Act does not provide for such authority. Further, the recommendation involves a substantive change that was not included in the proposal. The recommendation is not adopted.

D. *Eligibility requirements.* The proposal provides that certain information on new varieties be furnished to the Secretary. The concensus of the comments is that the information should go to the agency (or agencies) being requested to certify the new variety. The wording is so amended.

The proposal also contains the wording "Evidence of the performance of the variety * * *." Suggestions were made to change this provision, to read "Evidence supporting the identity of the variety * * *" so that relative performance of the variety is not a requirement for approval of the variety for certification. The suggestion is adopted.

E. *Limitation of generations.* Suggestions were made to delete the wording regarding scientific data and legal requirement. This suggestion is adopted.

F. *Production.* One source suggested "field" be changed to "area." The word "field," as defined in a standard dictionary, appears to be adequate. The suggestion is not adopted.

G. *Addition of a kind to the table of standards.* During the oral hearing it was proposed that the kind "milkvetch" and standards therefor be added to the table of standards. Nineteen hundred and seventy-two was the first year that this kind was certified and standards had only recently been developed. There was no objection. There is no known reason why anyone would be adversely affected by the inclusion of these standards at this time. The proposal is therefore adopted.

H. *Footnote Number 38.* New wording was suggested to clarify the isolation requirement for the production of hybrid seed from male sterile parents. The suggestion is adopted.

I. *Length of stand requirement for alfalfa.* A provision whereby the originating plant breeder could specify the length of stand was not shown in the proposal. The provision is added.

J. *Editorial changes.* Editorial changes have been made for purposes of clarity.

In accordance with the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that further public rulemaking proceedings on the matter are unpractical and unnecessary.

Accordingly, the amendments are promulgated as follows:

(Sec. 402, 53 Stat. 1285 (7 U.S.C. 1592); 37 FR 28464, 28476.)

1. Section 201.2: The following definitions are added to § 201.2:

**§ 201.2 Terms defined.**

* * * * *

(bb) *Breeder seed.* Breeder seed is a class of certified seed directly controlled by the originating or sponsoring plant breeding institution, or person, or designee thereof, and is the source for the production of seed of the other classes of certified seed.

(cc) *Foundation seed.* Foundation seed is a class of certified seed which is the progeny of Breeder or Foundation seed and is produced and handled under procedures established by the certifying agency, in accordance with this part, for producing the Foundation class of seed, for the purpose of maintaining genetic purity and identity.

(dd) *Registered seed.* Registered seed is a class of certified seed which is the progeny of Breeder or Foundation seed and is produced and handled under procedures established by the certifying agency, in accordance with this part, for producing the Registered class of seed, for the purpose of maintaining genetic purity and identity.

(ee) *Certified seed.* Certified seed is a class of certified seed which is the progeny of Breeder, Foundation, or Registered seed, except as provided in § 201.70 and is produced and handled under procedures established by the certifying agency, in accordance with this part, for producing the Certified class of seed, for the purpose of maintaining genetic purity and identity.

(ff) *Off-type.* The term "off-type" means a plant or seed which deviates in one or more characteristics from that which has been described in accordance with § 201.68(c) as being usual for the strain or variety.

(gg) *Inbred line.* The term "inbred line" means a relatively true-breeding strain resulting from at least five successive generations of controlled self-fertilization or of backcrossing to a recurrent parent with selection, or its equivalent, for specific characteristics.



V 38 178 SEP 14 73 XUM

(hh) *Single cross.* The term "single cross" means the first generation hybrid between two inbred lines.

(ii) *Foundation single cross.* The term "foundation single cross" means a single cross used in the production of a double cross, a three-way, inbred lines.

(jj) *Double cross.* The term "double cross" means the first generation hybrid between two single crosses.

(kk) *Top cross.* The term "top cross" means the first generation hybrid of a cross between an inbred line and an open-pollinated variety or the first-generation hybrid between a single cross and an open-pollinated variety.

(ll) *Three-way cross.* The term "three-way cross" means a first generation hybrid between a single cross and an inbred line.

(mm) *Open-pollination.* The term "open-pollination" means pollination that occurs naturally as opposed to controlled pollination, such as by detasselling, cytoplasmic male sterility, self-incompatibility or similar processes.

2. The following §§ 201.67–201.78 are added to read as follows:

CERTIFIED SEED

**§ 201.67 Seed certifying agency standards and procedures.**

In order to qualify as a seed certifying agency for purposes of section 101(a)(25) of the Federal Seed Act (7 U.S.C. 1551(a)(25)) an agency must enforce standards and procedures, as conditions for its certification of seed, that meet or exceed the standards and procedures specified in §§ 201.68 through 201.78.

**§ 201.68 Eligibility requirements for certification of varieties.**

The certifying agency shall require the originator, developer, or owner of the variety, or agent thereof, to make the following available when eligibility for certification is requested:

(a) The name of the variety.

(b) A statement concerning the variety's origin and the breeding procedure used in its development.

(c) A detailed description of the morphological, physiological, and other characteristics of the plants and seed that distinguish it from other varieties.

(d) Evidence supporting the identity of the variety, such as comparative yield data, insect and disease resistance, or other factors supporting the identity of the variety.

(e) A statement delineating the geographic area or areas of adaptation of the variety.

(f) A statement on the plans and procedures for the maintenance of seed classes, including the number of generations through which the variety may be multiplied.

(g) A description of the manner in which the variety is constituted when a particular cycle of reproduction or multiplication is specified.

(h) Any additional restrictions on the variety, specified by the breeder, with respect to geographic area of seed production, age of stand or other factors affecting genetic purity.

(i) A sample of seed representative of the variety as marketed.

**§ 201.69 Classes of certified seed.**

(a) Classes of certified seed are as follows:

(1) Breeder.
(2) Foundation.
(3) Registered.
(4) Certified.

**§ 201.70 Limitations of generations for certified seed.**

The number of generations through which a variety may be multiplied shall be limited to that specified by the originating breeder or owner and shall not exceed two generations beyond the Foundation seed class with the following exceptions which may be made with the permission of the originating or sponsoring plant breeder, institution, or his designee:

(a) Recertification of the Certified class may be permitted when no Foundation seed is being maintained.

(b) The production of an additional generation of the Certified class may be permitted on a 1-year basis only, when an emergency is declared prior to the planting season by any official seed certifying agency stating that the Foundation and Registered seed supplies are not adequate to plant the needed Certified acreage of the variety. The additional generation of Certified seed to meet the emergency need is ineligible for recertification.

**§ 201.71 Establishing the source of all classes of certified seed.**

The certifying agency shall have evidence of the class and source of seed used to plant each crop being considered for certification.

**§ 201.72 Production of all classes of certified seed.**

(a) Each certifying agency shall determine that genetic purity and identity are maintained at all stages of certification including seeding, harvesting, processing, and labeling of the seed.

(b) The unit of certification shall be a clearly defined field or fields.

(c) One or more field inspections shall be made (1) previous to the time a seed crop of any class of certified seed is to be harvested, and (2) when genetic purity and identity can best be determined. The field shall be in suitable condition to permit an adequate inspection to determine genetic purity and identity.

(d) A certification sample shall be drawn in a manner approved by the certifying agency from each cleaned lot of seed eligible for certification. Evidence that any lot of seed has not been protected from contamination which might affect genetic purity, or is not properly identified, shall be cause for possible rejection of certification.

**§ 201.73 Processors and processing of all classes of certified seed.**

The following requirements must be met by processors of all classes of certified seed:

(a) Facilities shall be available to perform processing without introducing admixtures.

(b) Identity of the seed must be maintained at all times.

(c) Records of all operations relating to certification shall be complete and adequate to account for all incoming seed and final disposition of seed.

(d) Processors shall permit inspection by the certifying agency of all records pertaining to all classes of certified seed.

(e) Processors shall designate an individual who shall be responsible to the certifying agency for performing such duties as may be required by the certifying agency.

(f) Seed lots of the same variety and class may be blended and the class retained. If lots of different classes are blended, the lowest class shall be applied to the resultant blend. Such blending can only be done when authorized by the certifying agency.

**§ 201.74 Labeling of all classes of certified seed.**

(a) All classes of certified seed when offered for sale shall have an official certification label affixed to each container clearly identifying the certifying agency, the reference number, the variety name (if certified as to variety) and the kind and class of seed.

(b) In the case of seed sold in bulk, the invoice or accompanying document shall identify the certifying agency, the crop kind, variety (if certified as to variety), class of seed, and the identifying number.

(c) The official certification label may be printed directly on the container when an accounting of the containers is required by the certifying agency.

(d) Labels other than those printed on the containers shall be attached to containers in a manner that prevents removal and reattachment without tampering being obvious.

**§ 201.75 Interagency certification.**

Interagency certification may be accomplished by participation of more than one official certifying agency in performing the services required to certify a lot of seed.

(a) The certifying agency issuing labels for all classes certified seed shall require the seed on which the labels are used to meet standards at least equal to the minimum genetic standards for the seed in question as specified in table 5 of this part.

(b) Seed to be recognized for interagency certification must be received in containers carrying official certification labels, or if shipped for processing, evidence of its eligibility from another official certifying agency, together with the following information:





(1) Variety (if certified as to variety) and kind;

(2) Quantity of seed (pounds or bushels);

(3) Class of certified seed;

(4) Inspection or lot number traceable to the previous certifying agency's records.

(c) Each label used in interagency certification shall be serially numbered or carry the certification identity number and clearly identify the certifying agencies involved, and the variety (if certified as to variety), kind and class of certified seed.

**§ 201.76 Minimum Land, isolation, field and seed standards.**

In the following table the columns of figures mean for "Land" the number of years that must elapse between the destruction of a stand of a kind and establishment of a stand of a specified class of a variety of the same kind. "Isolation" means distance in feet from any contaminating source. "Field" means minimum number of plants or heads in which one plant or head of another variety is permitted. "Seed" means the maximum percentage of seed of other varieties or off-types permitted in the cleaned seed.

TABLE 5

| Crop kind | Foundation | | | | Registered | | | | Certified | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Land | Isolation | Field | Seed | Land | Isolation | Field | Seed | Land | Isolation | Field | Seed |
| Alfalfa | [1] [4] 1 | [4] [5] 600 | 1,000 | 0.1 | [1] 3 | [3] [4] 300 | 400 | 0.25 | [1] 1 | [3] [4] 165 | 100 | 1.0 |
| Barley | [7] 1 | [23] 0 | 3,000 | 0.05 | [7] 1 | [23] 0 | 2,000 | 0.1 | [7] 1 | [23] 0 | 1,000 | 0.2 |
| Hybrid | [20] 1 | [21] [22] 660 | 3,000 | 0.05 | [20] 1 | [21] [22] 660 | 2,000 | 0.1 | [20] 1 | [21] [22] 330 | 1,000 | 0.2 |
| Birdsfoot Trefoil | [1] 5 | [4] [5] 600 | 1,000 | 0.1 | [1] 3 | [4] [5] 300 | 400 | 0.25 | [1] 2 | [4] 165 | 100 | 1.0 |
| Clover (all kinds) | [1] [5] | [4] [5] [18] 600 | 1,000 | 0.1 | [1] 3 | [4] [5] [18] 300 | 400 | 0.25 | [1] [2] | [4] [17] 165 | 100 | 1.0 |
| Corn: | | | | | | | | | | | | |
| Inbred lines | 0 | [10] [11] 660 | [12] 1,000 | [13] 0.1 | | | | | | | | |
| Foundation, single cross | 0 | [10] [11] 660 | [12] 1,000 | [13] 0.1 | | | | | | | | |
| Hybrid | | | | | | | | | 0 | [11] [17] 660 | | 0.5 |
| Open-pollinated | | | | | | | | | 0 | [11] [17] 660 | 200 | 0.5 |
| Sweet | | | | | | | | | 0 | [11] [14] 660 | | 0.5 |
| Cotton | 0 | [9] 0 | 0 | 0 | 0 | [9] 0 | 35,000 | 0.1 | 0 | [9] 0 | 7,000 | 0.1 |
| Cowpea | [7] 1 | 10 | 1,000 | 0.1 | [7] 1 | 10 | 500 | 0.2 | [7] 1 | 10 | 200 | 0.5 |
| Crambe | [8] 1 | 660 | 2,000 | 0.05 | [8] 1 | 660 | 1,000 | 0.1 | [8] 1 | 660 | 500 | 0.25 |
| Crownvetch | [1] 5 | [4] [5] 600 | 1,000 | 0.1 | [1] 3 | [4] [5] 300 | 400 | 0.25 | [1] 2 | [4] [5] 165 | 100 | 1.0 |
| Field and garden beans | [8] 1 | [23] 0 | 2,000 | 0.05 | [8] 1 | [23] 0 | 1,000 | 0.10 | [8] 1 | [23] 0 | 500 | 0.20 |
| Field pea | [7] 1 | [23] 0 | 1,000 | 0.1 | [7] 1 | [23] 0 | 500 | 0.2 | [7] 1 | [23] 0 | 200 | 0.5 |
| Flax | 1 | [23] 0 | 5,000 | 0.05 | [7] 1 | [23] 0 | 2,000 | 0.1 | [7] 1 | [23] 0 | 1,000 | 0.2 |
| Grasses—Cross pollinated | 5 | [4] [18] [25] 900 | 1,000 | [26] 1 | [8] 1 | [4] [18] [26] 300 | 100 | 1.0 | [8] 1 | [4] [18] [26] 165 | 50 | 2.0 |
| Strains at least 80 percent apomictic and highly self-fertile species | 5 | [4] [18] [26] 60 | 1,000 | 0.1 | [8] 1 | [4] [18] [26] 30 | 100 | 1.0 | [8] 1 | [4] [18] [26] 15 | 50 | [27] 2.0 |
| Lespedeza | [1] 5 | [4] 10 | 1,000 | 0.1 | [1] 3 | [4] 10 | 400 | 0.25 | [1] 2 | [4] 10 | 100 | 1.0 |
| Millet | [8] 1 | 1,320 | [27] 20,000 | 0.005 | [8] 1 | 1,320 | [27] 10,000 | 0.01 | [8] 1 | 660 | [27] 5,000 | 0.02 |
| Ming bean | [7] 1 | [23] 0 | 1,000 | 0.1 | [7] 1 | [23] 0 | 500 | 0.2 | [7] 1 | [23] 0 | 200 | 0.5 |
| Mustard | 4 | 165 | 2,000 | 0.05 | [2] | [24] 165 | 1,000 | 0.1 | [2] | [24] 165 | 500 | 0.25 |
| Oat | [7] 1 | [23] 0 | 3,000 | 0.2 | [7] 1 | [23] 0 | 2,000 | 0.3 | [7] 1 | [23] 0 | 1,000 | 0.5 |
| Okra | [8] 1 | 1,320 | [27] 0 | 0.0 | [8] 1 | 1,320 | [27] 2,600 | 0.5 | [8] 1 | 825 | [27] 1,250 | 1.0 |
| Onion | [8] 1 | 5,280 | [27] 260 | 0.0 | [8] 1 | 2,640 | [27] 200 | [27] 0.5 | [8] 1 | 1,320 | [27] 300 | [27] 1.0 |
| Peanut | [7] 1 | [23] 0 | 1,000 | 0.1 | [7] 1 | [23] 0 | 500 | 0.2 | [7] 1 | [23] 0 | 200 | 0.5 |
| Pepper | [8] 1 | [28] 200 | 0 | 0.0 | [8] 1 | [27] 100 | 300 | 0.5 | [8] 1 | [27] 30 | 150 | 1.0 |
| Rapeseed | 4 | 165 | 2,000 | 0.05 | [2] | [24] 165 | 1,000 | 0.1 | [2] | [24] 165 | 500 | 0.25 |
| Rice | [8] 1 | [29] 10 | 10,000 | 0.05 | [8] 1 | [29] 10 | 5,000 | 0.1 | [8] 1 | [29] 10 | 1,000 | 0.2 |
| Rye | [7] 1 | [23] 660 | 3,000 | 0.05 | [7] 1 | [23] 660 | 2,000 | 0.1 | [7] 1 | [23] 660 | 1,000 | 0.2 |
| Sainfoin | [1] 5 | [4] [5] 600 | 1,000 | 0.1 | [1] 3 | [4] [5] 300 | 400 | 0.25 | [1] 2 | [4] [5] 165 | 100 | 1.0 |
| Sorghum | [8] 1 | 990 | [27] 50,000 | 0.005 | [8] 1 | 990 | [27] 35,000 | 0.01 | [8] 1 | [24] 660 | [27] 20,000 | 0.05 |
| Hybrid seedstock | [8] 1 | 990 | [27] 50,000 | 0.005 | | | | | | | | |
| Commercial hybrid | | | | | | | | | [8] 1 | [27] [28] [31] 660 | [27] 20,000 | 0.1 |
| Soybeans | [33] 1 | [23] 0 | 1,000 | 0.1 | [33] 1 | [23] 0 | 500 | 0.2 | [33] 1 | [23] 0 | 200 | 0.5 |
| Sunflower | 1 | 2,640 | 200 | 0.02 | 1 | 2,640 | 200 | 0.02 | 1 | 2,640 | 200 | [34] 0.1 |
| Hybrid | 1 | 2,640 | [32] 250 | 0.02 | | | | | 1 | 2,640 | [32] 250 | [34] 0.1 |
| Tomato | [8] 1 | [23] 200 | 0 | 0.0 | [8] 1 | [23] 100 | 300 | 0.5 | [8] 1 | [23] 30 | 150 | 1.0 |
| Tobacco | [36] 1 | [37] 150 | 0 | 0.01 | [36] 1 | [37] 150 | 0 | 0.01 | [36] 1 | [37] 150 | 0 | 0.01 |
| Hybrid | | | | | | | | | [36] 0 | [38] 150 | 0 | 0.01 |
| Triticale | [7] 1 | [23] 0 | 3,000 | 0.05 | [7] 1 | [23] 0 | 2,000 | 0.1 | [7] 1 | [23] 0 | 1,000 | 0.2 |
| Vetch | [1] [5] | [4] [17] 10 | 1,000 | 0.1 | [1] [3] | [4] [17] 10 | 400 | 0.25 | [1] [2] | [4] [17] 10 | 100 | 1.0 |
| Watermelon | [8] 1 | [25] 2,640 | [23] 0 | 0.0 | [8] 1 | [25] 2,640 | [23] 0 | 0.5 | [8] 1 | [25] 1,320 | [25] 500 | 1.0 |
| Wheat | [7] 1 | [23] 0 | 3,000 | 0.05 | [7] 1 | [23] 0 | 2,000 | 0.1 | [7] 1 | [23] 0 | 1,000 | 0.2 |
| Hybrid | [30] 1 | [21] [22] 660 | 3,000 | 0.05 | [30] 1 | [21] [22] 660 | [7] 2,000 | 0.1 | [30] 1 | [21] [22] 330 | 1,000 | 0.2 |

[1] The land must be free of volunteer plants of the crop kind during the year immediately prior to establishment and no manure or other contaminating material shall be applied the year previous to seeding or during the establishment and productive life of the stand.

[2] At least 2 years must elapse between destruction of indistinguishable varieties or varieties of dissimilar adaptation and establishment of the stand for the production of the Certified class of seed.

[3] Isolation distance for certified seed production shall be at least 500 feet from varieties of dissimilar adaptation.

[4] Isolation between classes of the same variety may be reduced to 25 percent of the distance otherwise required.

[5] This distance applies when fields are 5 acres or larger in area. For smaller fields, the distances are 900 feet and 450 feet for the Foundation and Registered classes, respectively.

[6] Fields of less than 5 acres require 330 feet.

[7] Requirement is waived if the previous crop was grown from certified seed of the same variety.

[8] Requirement is waived if the previous crop was of the same variety and of a certified class equal or superior to that of the crop seeded.

[9] Reseeding varieties of crimson clover may be allowed to volunteer back year after year on the same ground. If a new variety is being planted where another variety once grew, the field history requirements apply.

[10] No isolation is required for the production of hand-pollinated seed.

[11] When the contaminant is of the same color and texture, the isolation distance may be modified by (1) adequate natural barriers, or (2) differential maturity dates, provided there are no receptive silks in the seed parent at the time the contaminant is shedding pollen. In the case of inbred lines and foundation single crosses, these modifications may apply only for fertile seed production.

[12] Where the contaminating source is corn of the same color and texture as that of the field inspected, the isolation distance is 410 feet and may be modified by the planting of pollen parent border rows according to the following table:

MINIMUM NUMBERS OF BORDER ROWS REQUIRED

| Minimum distance from contaminant | Field size, up to 20 acres | Field size, 20 acres or more |
|---|---|---|
| 410 | 0 | 0 |
| 370 | 2 | 1 |
| 330 | 4 | 2 |
| 290 | 6 | 3 |
| 245 | 8 | 4 |
| 205 | 10 | 5 |
| 165 | 12 | 6 |
| 125 | 14 | 7 |
| 85 | 16 | 8 |
| 0 | (Not permitted) | 10 |

[13] Refers to off-type plants in the pollen parent that have shed pollen or to the off-type plants in the seed parent at the time of the last inspection.

[14] The required minimum isolation distance for sweet corn is 660 feet from the contaminating source, plus four border rows when the field to be inspected is 10 acres or less in size. This distance may be decreased by 15 feet for each increment of 4 acres in the size of the field to a maximum of 40 acres, and further decreased 40 feet for each additional border row to a maximum of 16 rows. These border rows are for pollen-shedding purposes only.

[15] Refers to off-type ears. Ears with off-colored kernels are limited to 0.2 percent.

[16] The Merion variety of Kentucky bluegrass is allowed 3 percent.

[17] All cross-pollinating varieties must be 400 feet from any contaminating source.



V 38-1178 SEP 14 73 XUM

[14] Isolation between diploids and tetraploids shall be at least 15 feet.

[15] Minimum isolation shall be at least 100 feet if the cotton plants in the contaminating source differ by easily observable morphological characteristics from the field to be inspected. Isolation distance between upland and Egyptian types shall be at least 1,320, 1,320, and 660 feet for Foundation, Registered, and Certified classes, respectively.

[16] These distances apply when there is no border removal. Removal of a 9-foot border (after flowering) decreases the required distance for Foundation, Registered, and Certified seed to 600, 225, and 100 feet, respectively, for cross-pollinated species, and to 30, 15, and 15 feet, respectively, for apomictic and self-pollinated species. Removal of a 15-foot border allows a further decrease to 150, 150, and 75 feet, respectively, for cross-pollinated species.

[17] Isolation distances between two fields of the same kind may be reduced to a distance adequate to prevent mechanical mixture, if the sum of percentages of plants in bloom in both fields does not exceed 5 percent at a time when more than 1 percent of the plants in either field are in bloom.

[18] Refers to bulbs.

[1] Distance adequate to prevent mechanical mixture is necessary.

[2] Required isolation between classes of the same variety is 10 feet.

[3] The minimum distance may be reduced by 50 percent if different classes of the same variety are involved.

[4] The minimum distance may be reduced by 50 percent if the field is adequately protected by natural or artificial barriers.

[5] These ratios are for definite other varieties. The ratios for doubtful other varieties are:

| | Foundation | Registered | Certified |
|---|---|---|---|
| Millet | 1:10,000 | 1:5,000 | 1:2,500 |
| Sorghum | 1:20,000 | 1:10,000 | 1:1,000 |
| Hybrid sorghum | 1:20,000 | (Not applicable) | 1:1,000 |
| Okra | None | 1:750 | 1:500 |

[6] White heart fruits may not exceed 1 per 100, 10, and 20 redfruits for Foundation, Registered, and Certified classes, respectively. Ufton or hard rind is not permitted in Foundation or Registered classes and may not exceed 1 per 1,000 fruits in the Certified class.

[7] This distance applies if the contaminating source does not (genetically differ in height from the pollinator parent or has a different chromosome number. If the contaminating source does (genetically) differ and has the same chromosome number, the distance shall be 900 feet. The minimum isolation from grass sorghum or broomcorn with the same chromosome number shall be 1,320 feet.

[8] Requirement is waived for the production of pollinator lines if the previous crop was grown from a certified class of seed of the same variety. Sterile lines and crossing blocks must be on land free of contaminating plants.

[9] If the contaminating source is similar to the hybrid in all important characteristics, the isolation may be reduced by 66 feet for each pair of border rows of the pollinator parent down to a minimum of 330 feet. These rows must be located directly opposite or diagonally to the contaminating source. The pollinator border rows must be shedding pollen during the entire time 5 percent or more of the seed parent flowers are receptive.

[10] An unplanted strip at least 2 feet in width shall separate male sterile plants and pollinator rows in inter-planted blocks.

[11] Unless the preceding soybean crop was planted with a class of certified seed of the same variety or unless the variety planted is of a contrasting pubescence or hilum color, in which case, no time need elapse.

[12] May include not more than 0.01 percent purple or white seeds.

[13] Standards apply equally to seed parents and pollen parents which may include up to 1:1,000 plants each of wild-type branching, purple or white-seeded plants.

[14] A new plant bed must be used each year unless the bed is properly treated with a soil sterilant prior to seeding.

[15] This distance is applied between varieties of the same type and may be waived if four border rows of each variety are allowed to bloom and set seed between the two varieties but are not harvested for seed. Isolation between varieties of different types shall be 1,320 feet except if protected by bagging or by topping all plants in the contaminating source before bloom.

[16] When male sterile and male fertile plants of the same type are planted adjacent in a field, this requirement may be waived; provided, four border rows of male sterile plants are allowed to bloom and set seeds. The seed from these border rows shall not be harvested as part of the certified lot of seed produced by the male sterile plants. When plants are of different types, the distance shall be 1,320 feet except if protected by bagging or by topping all plants in the contaminating source before bloom.

[17] Not used.

[18] Isolation between varieties shall be 100 feet.

[1] Isolation between millets of different genera shall be 6 feet.

ADDITIONAL REQUIREMENTS FOR THE CERTIFICATION OF PLANT MATERIALS OF CERTAIN CROPS

**§ 201.77 Length of stand requirements.**

(a) *Alfalfa.* Limitations on the age of stand and certified seed classes through which a given variety may be multiplied both inside and outside its region of adaptation shall be specified by the originator or his designee. Certified seed production outside the region of adaptation shall not exceed 6 years if not otherwise specified by the originator, or his designee.

(b) *Red clover.* Only two seed crops are permitted of all certified seed classes.

(c) *White and alsike clover.* Only two successive seed crops are permitted following the year of establishment for Foundation and Registered classes, but 2 additional years are permitted if the field is reclassified to the next lower class. Four successive seed crops following seeding are permitted if the first and succeeding crops are of the Certified class, provided the stand of perennial plants is maintained.

(d) *Sainfoin.* All certified seed classes are eligible to produce five successive seed crops following seeding.

**§ 201.78 Pollen control for hybrids.**

(a) *Wheat and barley.* Shedders in the seed parent, at any one inspection, are limited to 1:200 heads for Foundation A Line and 1:100 heads for Registered A Line, except that when the A Line is increased outside the area of the anticipated A x R production in order to utilize self-fertility produced by environmental effects, only isolation and genetic purity standards will be in effect. (An A Line is a cytoplasmic male sterile female line used to produce hybrid seed. An R Line is a pollinator line used to pollinate an A Line and to restore fertility in the resulting hybrid seed.)

(b) *Corn.* When 5 percent or more of the seed parent plants have receptive silks, shedding tassels in the seed parent plants shall be limited to 1 percent at any one inspection, or a total of 2 percent at any three inspections on different dates. Shedding tassels are those which have 2 inches or more of the central stem or branches, or any combination thereof, shedding pollen.

(c) *Sorghum.* Shedders in the seed parent, at any one inspection, are limited to 1:3,000 plants for Foundation class and 1:1,500 plants for Certified class.

(d) *Sunflowers.* Seed parents flowering and shedding pollen before the male parents are shedding pollen must be removed. At least 50 percent of the male plants must be producing pollen when the seed parent is in full bloom.

*Effective date.*—These amendments shall become effective November 1, 1973.

Done at Washington, D.C., on September 6, 1973.

JOHN C. BLUM,
*Deputy Administrator, Regulatory Programs.*

[FR Doc.73-19355 Filed 9-13-73;8:45 am]

## CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

## PART 301—DOMESTIC QUARANTINE NOTICES

### Subpart—Cereal Leaf Beetle

TERMINATION OF QUARANTINE AND REGULATIONS

On July 2, 1973, a notice of public hearing and proposed rulemaking to determine whether to terminate the Cereal Leaf Beetle Quarantine and regulations (7 CFR 301.84, 301.84-1 et seq.) was published in the FEDERAL REGISTER (38 FR 17501) under the administrative procedure provisions of 5 U.S.C. 553, and sections 8 and 9 of the Plant Quarantine Act of 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee). After public hearing and due consideration of all relevant matter presented, it has been determined in the best interest of the public to terminate the Cereal Leaf Beetle Quarantine and regulations thereunder.

Therefore, the Cereal Leaf Beetle Quarantine and regulations, 7 CFR 301.84, 301.84-1 through 301.84-10, are hereby terminated effective October 1, 1973. However, such provisions shall be deemed to continue in full force and effect for the purpose of sustaining any action or other proceeding with respect to any right that accrued, liability that was incurred, or violation that occurred prior to said date.

The Cereal Leaf Beetle Quarantine was established to prevent the artificial spread of the beetle to noninfested areas. Therefore, the movement of certain articles which presented a hazard of spread was regulated. The beetle has now reached the Mississippi River, and eventual natural spread to the major grain-growing areas of the Midwest seems inevitable. The extensive natural rate of spread has to a great degree negated the effectiveness of the Quarantine in preventing the artificial spread of the cereal leaf beetle. Also, it has now been determined that there is minimal threat of long-distance spread through movement of the regulated articles since the general trend of marketing practices is movement of these articles to the east and south. There is limited movement of the regulated articles to the grain-growing areas of the Midwest.

The lessening of the quarantine effort is not meant to imply that this is not an important insect capable of causing serious damage to small grains. Therefore, the Department of Agriculture will continue to cooperate with the States and farmers in a pest management program including control measures such as the use of insecticides by individual farmers, the use of parasites, development of resistant varieties of small grains, and development of certain cultural practices to reduce overwinter survival of adult beetles.

This action relieves restrictions and it does not appear that further public participation in rulemaking procedures concerning this action would make additional relevant information available to the Department. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that such public participation with respect to this action is impracticable and unnecessary, and this action may be made effective less than 30 days after publication hereof in the FEDERAL REGISTER.

(Secs. 8 and 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33 (7 U.S.C. 161, 162, 150ee), 37 FR 28464, 28477.)

*Effective date.*—The termination of the Cereal Leaf Beetle Quarantine and regulations thereunder shall become effective October 1, 1973.

Done at Washington, D.C., this 7th day of September 1973.

G. H. WISE,
*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc.73-19496 Filed 9-13-73;8:45 am]

## CHAPTER VII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (AGRICULTURAL ADJUSTMENT), DEPARTMENT OF AGRICULTURE

### SUBCHAPTER C—SPECIAL PROGRAMS

[Amdt. 2]

## PART 777—PROCESSOR WHEAT MARKETING CERTIFICATE REGULATIONS

### Termination of the Program; Correction

FR Doc. 73-17968, published at page 22766 in the issued dated Friday, August 24, 1973, is corrected by changing the reference (b)(2) to read (b)(1)(ii) where it appears in paragraphs (c)(1) and (c)(2) of § 777.21 and in Appendix III(5).

Signed at Washington, D.C., on September 6, 1973.

KENNETH E. FRICK,
*Administrator, Agricultural Stabilization and Conservation Service.*

[FR Doc.73-19558 Filed 9-13-73;8:45 am]

[Orange Reg. 72; Grapefruit Reg. 74; Tangerine Reg. 45; Tangelo Reg. 45; Export Reg. 23]

## PART 905—ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

### Grade and Size Regulations

These regulations specify minimum grade and size requirements for the period September 17, 1973, through October 14, 1973, applicable to the handling of oranges, grapefruit, tangerines, and tangelos grown in the production area in Florida. These regulatory requirements are designed to promote orderly marketing and provide consumers with an ample supply of acceptable quality fruit.

*Findings.*—(1) Pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR, Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of oranges, including Navel, Temple, and Murcott Honey oranges, grapefruit, tangerines, and tangelos, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The minimum grade and size requirements specified herein reflect the Department's appraisal of the need for regulation of shipments of the specified varieties of oranges, grapefruit, tangerines, and tangelos during the period September 17, through October 14, 1973, based on the available supply and current and prospective market demand conditions. Available data indicate that during the 1973–74 season fresh market outlets will take about 19,500 carlots of round oranges, 4,250 carlots of Temple oranges, 3,000 carlots of tangelos, 4,200 carlots of tangerines, 1,250 carlots of murcotts, 150 carlots of seeded grapefruit, and 32,500 carlots of seedless grapefruit. The minimum grade and size requirements specified for Early and Midseason type oranges are prescribed during the present stage of maturity and development of such oranges to guard against the shipment of lower quality and smaller size fruit which tends to demoralize the market for later shipments of such fruit. The U.S. No. 1 Golden grade requirement specified herein for Navel oranges is consistent with the fact that when the Navel orange attains maturity the fruit often does not possess the color required for the U.S. No. 1 grade.

The specified grade and size limitations for shipments of seeded and seedless grapefruit are necessary to provide consumers with grapefruit of desirable grades and sizes consistent with the overall quality and size composition of the crops.

The size and grade requirements specified herein for tangerines and tangelos are necessary during the early part of the season to prevent the handling of such fruits that are of a lower grade or smaller size in order to provide good quality fruit to consumers and promote orderly marketing.

The specified grade and size requirements for export shipments of the named varieties of oranges, grapefruit, tangerines, and tangelos are necessary to assure the exportation of good quality fruit and thereby aid the expansion of export markets.

These regulations are therefore designed to permit shipment of ample supplies of fruit of the more desirable grades and sizes in the interest of consumers and producers, guard against the shipment of undersiable grades and sizes of such fruit, and provide orderly marketing conditions, consistent with objectives of the act.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of these regulations until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which these regulations are based became available and the time when these regulations must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. Shipments of oranges, grapefruit, tangerines, and tangelos, grown in the production area, are presently subject to regulation by grades and sizes, pursuant to the amended marketing agreement and order; the recommendation and supporting information for regulation during the period specified herein was promptly submitted to the Department after an open meeting of the Growers Administrative Committee on September 6, 1973, such meeting was held to consider recommendations for regulation, after giving due notice of such meeting, and interested persons were afforded an opportunity to submit their views at this meeting; the provisions of these regulations, including the effective time hereof, are identical with the aforesaid recommendations of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such fruits; it is necessary to make these regulations effective on September 17, 1973, to preclude the shipment of lower quality oranges, grapefruit, tangerines, and tangelos, as hereinafter set forth, and to otherwise effectuate the declared policy of the act; and compliance with these regulations will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

**§ 905.550 Orange Regulation 72.**

*Order.*—(a) Orange Regulation 71 (37 FR 21799, 24432, 25036, 27619, 28606; 38 FR 3396, 4569, 7565, 8169, 9075, 10151, 18360) is hereby terminated on September 17, 1973.

(b) During the period September 17, 1973, through October 14, 1973, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(1) Any oranges, except Navel oranges, Temple oranges, Murcott Honey oranges and Valencia, Lue Gim Cong, and similar late maturing oranges of the Valencia type, grown in the production







V 38-178 SEP 14 73 XUM

area, which do not grade at least U.S. No. 1;

(2) Any oranges, except Navel oranges, Temple oranges, Murcott Honey oranges, and Valencia, Lue Gim Gong and similar late maturing oranges of the Valencia type, grown in the production area, which are of a size smaller than 2$^{2}/_{16}$ inches in diameter, except that a tolerance for undersize oranges shall be permitted as specified in § 51.1152 of the United States Standards for Florida Oranges and Tangelos: *Provided*, That in determining the percentage of oranges in any lot which are smaller than 2$^{2}/_{16}$ inches in diameter, such percentage shall be based only on those oranges in such lot which are of a size 2$^{11}/_{16}$ inches in diameter or smaller;

(3) Any Navel oranges, grown in the production area, which do not grade at least U.S. No. 1 Golden;

(4) Any Navel oranges, grown in the production area, which are of a size smaller than 2$^{2}/_{16}$ inches in diameter, except that a tolerance for undersize Navel oranges shall be permitted as specified in § 51.1152 of the United States Standards for Florida Oranges and Tangelos;

(5) Any Temple oranges, grown in the production area, which do not grade at least U.S. No. 1;

(6) Any Temple oranges, grown in the production area, which are of a size smaller than 2$^{2}/_{16}$ inches in diameter, except that a tolerance for undersize Temple oranges shall be permitted as specified in § 51.1152 of the United States Standards for Florida Oranges and Tangelos;

(7) Any Murcott Honey oranges, grown in the production area, which do not grade at least Florida No. 1 grade for murcotts;

(8) Any Murcott Honey oranges, grown in the production area, which are of a size smaller than 2$^{11}/_{16}$ inches in diameter, except that a tolerance for undersize Murcott Honey oranges shall be permitted as specified in § 51.1152 of the United States Standards for Florida Oranges and Tangelos;

(9) Any Valencia, Lue Gim Gong, and similar late maturing oranges of the Valencia type, grown in the production area, which do not grade at least U.S. No. 2; and

(10) Any Valencia, Lue Gim Gong, and similar late maturing oranges of the Valencia type, grown in the production area, which are of a size smaller than 2$^{2}/_{16}$ inches in diameter, except that a tolerance for undersize oranges shall be permitted as specified in § 51.1152 of the United States Standards for Florida Oranges and Tangelos: *Provided*, That in determining the percentage of oranges in any lot which are smaller than 2$^{2}/_{16}$ inches in diameter, such percentage shall be based only on those oranges in such lot which are of a size 2$^{11}/_{16}$ inches in diameter or smaller.

(c) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; Florida No. 1 grade for murcotts shall have the same meaning as provided in sec. (1)(b) of Regulation 105–1.02, as amended, effective January 19, 1972, of the Regulations of the Florida Citrus Commission, and all other terms relating to grade and diameter, as used herein, shall have the same meaning as is given to the respective term in the revised United States Standards for Florida Oranges and Tangelos (7 CFR 51.1140–51.1180).

### § 905.551 Grapefruit Regulation 74.

*Order.*—(a) Grapefruit Regulation 73 (37 FR 21799, 24432, 27619; 38 FR 10151, 12201, 13547, 18026) is hereby terminated on September 17, 1973.

(b) During the period September 17, 1973, through October 14, 1973, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(1) Any seeded grapefruit, grown in the production area, which do not grade at least U.S. No. 1;

(2) Any seeded grapefruit, grown in the production area, which are of a size smaller than 3$^{11}/_{16}$ inches in diameter, except that a tolerance for undersize grapefruit shall be permitted as specified in § 51.761 of the United States Standards for Florida Grapefruit;

(3) Any seedless grapefruit, grown in the production area, which do not grade at least Improved No. 2; or

(4) Any seedless grapefruit, grown in the production area, which are of a size smaller than 3$^{9}/_{16}$ inches in diameter, except that a tolerance for undersize grapefruit shall be permitted as specified in § 51.761 of the United States Standards for Florida Grapefruit.

(c) Terms used in the amended marketing agreement and order, including Improved No. 2 grade, shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade, except Improved No. 2 grade, and diameter, as used herein, shall have the same meaning as is given to the respective term in the revised United States Standards for Florida Grapefruit (7 CFR 51.750–51.784), except that the minimum diameter requirement specified in paragraph (b)(2) of this regulation shall correspond to size standards provided in sec. (1)(b)(3) of Regulation 105–1.03, as amended, effective September 1, 1973, of the Regulations of the Florida Citrus Commission.

### § 905.552 Tangerine Regulation 45.

*Order.*—(a) Tangerine Regulation 44 (37 FR 21799, 24432, 24189, 25914, 27619; 38 FR 8170) is hereby terminated on September 17, 1973.

(b) During the period September 17, 1973, through October 14, 1973, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(1) Any tangerines, grown in the production area, which do not grade at least U.S. No. 1; or

(2) Any tangerines, grown in the production area, which are of a size smaller than 2$^{1}/_{16}$ inches in diameter, except that a tolerance for undersize tangerines shall be permitted as specified in § 51.1818 of the United States Standards for Florida Tangerines.

(c) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade and diameter, as used herein, shall have the same meaning as is given to the respective term in the revised United States Standards for Florida Oranges and Tangelos (7 CFR 51.1140–51.1180).

### § 905.553 Tangelo Regulation 45.

*Order.*—(a) Tangelo Regulation 44 (37 FR 21799, 24432, 27619; 38 FR 10152) is hereby terminated on September 17, 1973.

(b) During the period September 17, 1973, through October 14, 1973, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

(1) Any tangelos, grown in the production area, which do not grade at least U.S. No. 1; or

(2) Any tangelos, grown in the production area, which are of a size smaller than 2$^{2}/_{16}$ inches in diameter, except that a tolerance for undersize tangelos shall be permitted as specified in § 51.1152 of the United States Standards for Florida Oranges and Tangelos.

(c) Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order; and terms relating to grade and diameter, as used herein, shall have the same meaning as is given to the respective term in the revised United States Standards for Florida Oranges and Tangelos (7 CFR 51.1140–51.1180).

### § 905.554 Export Regulation 23.

*Order.*—(a) Export Regulation 22 (37 FR 20036; 38 FR 1354, 18360) is hereby terminated on September 17, 1973.

(b) During the period September 17, 1973, through October 14, 1973, no handler shall ship to any destination outside the continental United States other than to Canada or Mexico:

(1) Any oranges, except Navel oranges, Temple oranges, Murcott Honey oranges, and Valencia, Lue Gim Gong and similar late maturing oranges of the Valencia type, grown in the production area, which do not grade at least U.S. No. 1;

(2) Any oranges, except Navel oranges, Temple oranges, Murcott Honey oranges, and Valencia, Lue Gim Gong and similar late maturing oranges of the Valencia type, grown in the production area, which are of a size smaller than 2$^{1}/_{16}$ inches in diameter, except that a tolerance for undersize oranges shall be permitted as specified in § 51.1152 of the United States Standards for Florida Oranges and Tangelos;

(3) Any Navel oranges, grown in the production area, which do not grade at least U.S. No. 1 Golden;

(4) Any Navel oranges, grown in the production area, which are of a size smaller than 2$^{2}/_{16}$ inches in diameter, except that a tolerance for undersize Navel oranges shall be permitted as specified in § 51.1152 of the United States Standards for Florida Oranges and Tangelos;

(5) Any Temple oranges, grown in the production area, which do not grade at least U.S. No. 1;

(6) Any Temple oranges, grown in the production area, which are of a size smaller than 2$^{2}/_{16}$ inches in diameter, except that a tolerance for undersize Temple oranges shall be permitted as specified in § 51.1152 of the United States Standards for Florida Oranges and Tangelos;

(7) Any Murcott Honey oranges, grown in the production area, which do not grade at least Florida No. 1 grade for murcotts;

(8) Any Murcott Honey oranges, grown in the production area, which are of a size smaller than 2$^{8}/_{16}$ inches in diameter, except that a tolerance for undersize Murcott Honey oranges shall be permitted as specified in § 51.1152 of the United States Standards for Florida Oranges and Tangelos;

(9) Any Valencia, Lue Gim Gong, and similar late maturing oranges of the Valencia type, grown in the production area, which do not grade at least U.S. No. 2;

(10) Any Valencia, Lue Gim Gong, and similar late maturing oranges of the Valencia type, grown in the production area, which are of a size smaller than 2$^{2}/_{16}$ inches in diameter, except that a tolerance for undersize oranges shall be permitted as specified in § 51.1152 of the United States Standards for Florida Oranges and Tangelos;

(11) Any seeded grapefruit, grown in the production area, which do not grade at least U.S. No. 1;

(12) Any seeded grapefruit, grown in the production area, which are of a size smaller than 3$^{9}/_{16}$ inches in diameter, except that a tolerance for undersize grapefruit shall be permitted as specified in § 51.761 of the United States Standards for Florida Grapefruit;

(13) Any seedless grapefruit, grown in the production area, which do not grade at least Improved No. 2;

(14) Any seedless grapefruit, grown in the production area, which are smaller than 3$^{5}/_{16}$ inches in diameter, except that a tolerance for undersize grapefruit shall be permitted as specified in § 51.761 of the United States Standards for Florida Grapefruit;

(15) Any tangerines, grown in the production area, which do not grade at least U.S. No. 1;

(16) Any tangerines, grown in the production area, which are of a size smaller than 2$^{2}/_{16}$ inches in diameter, except that a tolerance for undersize tangerines shall be permitted as specified in § 51.1818 of the United States Standards for Florida Tangerines;

(17) Any tangelos, grown in production area, which do not grade at least U.S. No. 1; or

(18) Any tangelos, grown in production area, which are of a size smaller than 2$^{4}/_{16}$ inches in diameter, except that a tolerance for undersize tangelos shall be permitted as specified in § 51.1152 of the United States Standards for Florida Oranges and Tangelos.

(c) Terms used in the amended marketing agreement and order, including Improved No. 2 grade, shall, when used herein, have the same meanings as are given to the respective terms in said amended marketing agreement and order; Florida No. 1 grade for murcotts shall have the same meaning as provided in sec. (1)(b) of Regulation 105–1.02, as amended, effective January 19, 1972, of the Regulations of the Florida Citrus Commission, and all other terms relating to grade, except Improved No. 2 grade, and diameter, as used herein shall have the same meanings as are given to the respective terms in the following United States Standards, as applicable: United States Standards for Florida Oranges and Tangelos (7 CFR 51.1140–51.1180), United States Standards for Florida Grapefruit (7 CFR 51.750–51.784), or the United States Standards for Florida Tangerines (7 CFR 51.1810–51.1835).

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).)

Dated September 12, 1973.

CHARLES R. BRADER,
*Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.73-19716 Filed 9-13-73;8:45 am]

## PART 948—IRISH POTATOES GROWN IN COLORADO

### Handling Regulation—Area No. 2

This regulation, designed to promote orderly marketing of Colorado Area No. 2 potatoes, imposes minimum quality standards and requires inspection of fresh shipments to keep undesirable low quality potatoes from being shipped to consumers.

Notice of rule making with respect to a proposed handling regulation to be made effective under Marketing Agreement No. 97 and Order No. 948, both as amended (7 CFR, Part 948), regulating the handling of Irish potatoes grown in Colorado, Area No. 2, was published in the FEDERAL REGISTER August 28, 1973 (38 FR 22964). This program is issued under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et. seq.). Interested persons were afforded an opportunity to file written data, views, or arguments through September 4, 1973. None was filed. However, as a result of an early freeze the Colorado Area No. 2 Committee held a second public meeting September 6 and recommended that the size requirement for long varieties be relaxed to 1$^{7}/_{8}$ inches minimum diameter.

After consideration of all relevant matters presented, and other available information, it is hereby found that the following handling regulation will tend to effectuate the declared policy of the act.

The recommendations of the committee reflect its appraisal of the composition of the 1973 crop of Colorado potatoes and of the marketing prospects for this season. These grade, size, and maturity requirements are necessary to prevent potatoes of lesser maturities, low quality, or undesirable sizes from being distributed in fresh market channels. They will also provide consumers with good quality potatoes consistent with the overall quality of the crop.

Exceptions are provided to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable.

Shipments may be made to certain special purpose outlets without regard to the grade, size, maturity, and inspection requirements, provided that safeguards are met to prevent such potatoes from reaching unauthorized outlets. Certified seed is so exempted because requirements for this outlet differ greatly from those for fresh market. Shipments for use as livestock feed are likewise exempt. Since no purpose would be served by regulating potatoes used for relief or charity purposes, such shipments are exempt. Exemption of potatoes for most processing uses is mandatory under the legislative authority for this part and therefore shipments to processing outlets are unregulated.

It is hereby further found that good cause exists for not postponing the effective date of this regulation until 30 days after its publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of potatoes grown in the production area will begin on or about the effective date specified herein, (2) to maximize benefits to producers, this regulation should apply to as many shipments as possible during the marketing season, (3) information regarding the provisions of this regulation, which are similar to those which were in effect during the previous marketing season, has been made available to producers and handlers in the production area, and (4) compliance with this regulation will not require any special preparation on the part of persons subject thereto which cannot be completed by such effective date.

### § 948.370 Handling regulation.

During the period September 17, 1973, through June 30, 1974, no person shall handle any lot of potatoes grown in Area No. 2 unless such potatoes meet the requirements of paragraphs (a), (b), and (c) of this section, or unless such potatoes are handled in a accordance with paragraphs (d), (e), or (f) of this







V 38-178 SEP 14 73 XUM

section. The maturity requirements specified in paragraph (b) shall terminate October 31, 1973, at 11:59 p.m. m.s.t.

(a) *Minimum grade and size requirements*—(1) *Round varieties.*—U.S. No. 2, or better grade, 2 inches minimum diameter.

(2) *Long varieties.*—U.S. No. 2, or better grade, 1⅞ inches minimum diameter.

(3) *All varieties.*—Size B, if U.S. No. 1, or better, grade.

(b) *Maturity (skinning) requirements*—(1) *Russet Burbank and Red McClure varieties.*—For U.S. No. 2 grade not more than "moderately skinned" and for other grades not more than "slightly skinned."

(2) *All other varieties.*—Not more than "moderately skinned."

(c) *Inspection.*—(1) No handler shall handle any potatoes for which inspection is required unless an appropriate inspection certificate has been issued with respect thereto and the certificate is valid at the time of shipment. For purposes of operation under this part it is hereby determined pursuant to paragraph (d) of § 948.40, that each inspection certificate shall be valid for a period not to exceed 5 days following the date of inspection as shown on the inspection certificate.

(2) No handler may transport or cause the transportation by motor vehicle of any shipment of potatoes for which an inspection certificate is required unless each shipment is accompanied by a copy of the inspection certificate applicable thereto and the copy is made available for examination at any time upon request.

(d) *Special purpose shipments.*—(1) The grade, size, maturity, and inspection requirements of paragraphs (a), (b), and (c) of this section and the assessment requirements of this part shall not be applicable to shipments of potatoes for:

(i) Livestock feed;

(ii) Relief or charity; or

(iii) Canning, freezing, and "other processing" as hereinafter defined.

(2) The grade, size, maturity and inspection requirements of paragraphs (a), (b) and (c) of this section shall not be applicable to shipments of seed pursuant to § 948.6 but such shipments shall be subject to assessements.

(e) *Safeguards.*—Each handler of potatoes which do not meet the grade, size, and maturity requirements of paragraphs (a) and (b) of this section and which are handled pursuant to paragraph (d) for any of the special purposes set forth therein shall,

(1) Prior to handling, apply for and obtain a Certificate of Privilege from the committee.

(2) Furnish the committee such reports and documents as requested, including certification by the buyer or receiver as to the use of such potatoes, and

(3) Bill each shipment directly to the applicable processor or receiver.

(f) *Minimum quantity.*—For purposes of regulation under this part, each person may handle up to but not to exceed 1,000 pounds of potatoes without regard to the requirements of paragraphs (a), (b), and (c) of this section, but this exception shall not apply to any shipment which exceeds 1,000 pounds of potatoes.

(g) *Definitions.*—The terms "U.S. No. 1," "U.S. No. 2," "slightly skinned," and "moderately skinned" shall have the same meaning as when used in the U.S. Standards for Potatoes (§§ 51.1540–1566 of this title, effective September 1, 1971, as amended), including the tolerances set forth therein. The term "other processing" has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, or dicing, or the application of material to prevent oxidation does not constitute "other processing." Other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 97, as amended, and this part.

(h) *Applicability to imports.*—Pursuant to section 8e of the act and § 980.1, *Import regulations* (7 CFR 980.1), Irish potatoes of the red skinned round type, except certified seed potatoes, imported into the United States during the period September 17, 1973, through June 30, 1974, shall meet the grade, size, and quality requirements specified in paragraph (a) of this section, and during the period September 17, 1973, through October 31, 1973, shall be not more than "moderately skinned."

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).)

Dated September 12, 1973, to become effective September 17, 1973.

CHARLES R. BRADER,
*Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.73-19715 Filed 9-13-73;8:45 am]

## CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

## • PART 981—ALMONDS GROWN IN CALIFORNIA

### Expenses of Almond Control Board and Rate of Assessment for 1973–74 Crop Year

Notice of proposed expenses of the Almond Control Board, and rate of assessment, for the 1973–74 crop year was published in the August 28, 1973, issue of the FEDERAL REGISTER (38 FR 22965). This action is pursuant to §§ 981.80 and 981.81 of the marketing agreement, as amended, and Order No. 981, as amended (7 CFR Part 981), regulating the handling of almonds grown in California. The amended marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded interested persons an opportunity to submit written data, views, or arguments with respect to the proposal. None were received.

The proposal was based on a unanimous recommendation of the Almond Control Board. Expenses of the Board for the 1973–74 crop year were proposed at $1,945,481. The assessment rate was proposed at 1.250 cent per pound of almonds (kernel weight basis).

After consideration of all relevant matter presented, including that in the notice, the information and recommendation submitted by the Control Board, and other available information, it is found that the expenses of the Control Board and rate of assessment for the crop year beginning July 1, 1973, shall be as follows:

### § 981.323 Expenses of the Control Board and rate of assessment for the 1973–74 crop year.

(a) *Expenses.*—Expenses in the amount of $1,945,481 are reasonable and likely to be incurred by the Control Board during the crop year beginning July 1, 1973, for its maintenance and functioning and for such purposes as the Secretary may, pursuant to the provisions of this part, determine to be appropriate.

(b) *Rate of assessment.*—The rate of assessment for said crop year, payable by each handler in accordance with § 981.81, less any amount credited pursuant to § 981.41 but not to exceed 1 cent per pound of almonds (kernel weight basis), is fixed at 1.250 cent per pound of almonds (kernel weight basis).

It is further found that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) The relevant provisions of said marketing agreement and this part require that the rate of assessment fixed for a particular crop year shall be applicable to all almonds received by handlers for their own accounts during such crop year; and (2) the current crop year began July 1, 1973, and the rate of assessment herein fixed will automatically apply to all such almonds beginning with that date.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).)

Dated September 10, 1973.

CHARLES R. BRADER,
*Acting Deputy Director, Fruit and Vegetable Division.*

[FR Doc.73-19610 Filed 9-13-73;8:45 am]

## CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

### SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regs., 1973 Crop Rye Supplement, Amdt. 1]

## PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

### 1973 Crop Rye Loan and Purchase Program

The regulations issued by Commodity Credit Corporation published in the FEDERAL REGISTER at 38 FR 19669 containing provisions for loans and purchases applicable to the 1973 crop of rye are amended as follows.





In § 1421.354 which relates to county loan and purchase rates for rye the following changes are made: (1) The rate for Polk County, Minnesota, should be 88 cents per bushel instead of 95 cents per bushel; (2) The rates for twenty-five South Dakota counties were incorrectly listed with the North Dakota counties. The corrections should read as follows:

### § 1421.354 Loan and purchase rates.

(a) *Basic loan and purchase rates.*

* * *

MINNESOTA

| County | Rate per bushel | County | Rate per bushel |
|---|---|---|---|
| • | • | • | • |
| NORTH DAKOTA | | | |
| Adams | 0.75 | McLean | 0.74 |
| Barnes | .84 | Mercer | .75 |
| Benson | .77 | Morton | .77 |
| Billings | .73 | Mountrail | .71 |
| Bottineau | .72 | Nelson | .82 |
| Bowman | .74 | Oliver | .75 |
| Burke | .71 | Pembina | .83 |
| Burleigh | .78 | Pierce | .75 |
| Cass | .87 | Ramsey | .79 |
| Cavalier | .78 | Ransom | .87 |
| Dickey | .85 | Renville | .71 |
| Divide | .69 | Richland | .90 |
| Dunn | .74 | Rolette | .74 |
| Eddy | .80 | Sargent | .88 |
| Emmons | .79 | Sheridan | .76 |
| Foster | .81 | Sioux | .77 |
| Golden Valley | .72 | Slope | .75 |
| Grand Forks | .85 | Stark | .75 |
| Grant | .76 | Steele | .84 |
| Griggs | .83 | Stutsman | .82 |
| Hettinger | .75 | Towner | .75 |
| Kidder | .79 | Traill | .85 |
| La Moure | .84 | Walsh | .83 |
| Logan | .81 | Ward | .72 |
| McHenry | .74 | Wells | .79 |
| McIntosh | .82 | Williams | .69 |
| McKenzie | .70 | | |
| • | • | • | • |
| SOUTH DAKOTA | | | |
| Aurora | 0.84 | Jackson | 0.80 |
| Beadle | .86 | Jerauld | .84 |
| Bennett | .80 | Jones | .83 |
| Bon Homme | .87 | Kingsbury | .88 |
| Brookings | .90 | Lake | .87 |
| Brown | .86 | Lawrence | .73 |
| Brule | .84 | Lincoln | .87 |
| Buffalo | .84 | Lyman | .84 |
| Butte | .73 | McCook | .85 |
| Campbell | .81 | McPherson | .83 |
| Charles Mix | .85 | Marshall | .88 |
| Clark | .88 | Meade | .74 |
| Clay | .88 | Mellette | .83 |
| Codington | .89 | Miner | .85 |
| Corson | .77 | Minnehaha | .87 |
| Custer | .75 | Moody | .89 |
| Davison | .84 | Pennington | .76 |
| Day | .88 | Perkins | .75 |
| Deuel | .91 | Potter | .84 |
| Dewey | .77 | Roberts | .90 |
| Douglas | .85 | Sanborn | .84 |
| Edmunds | .84 | Shannon | .78 |
| Fall River | .75 | Spink | .87 |
| Faulk | .85 | Stanley | .83 |
| Grant | .91 | Sully | .84 |
| Gregory | .85 | Todd | .83 |
| Haakon | .80 | Tripp | .84 |
| Hamlin | .89 | Turner | .86 |
| Hand | .85 | Union | .89 |
| Hanson | .84 | Walworth | .82 |
| Harding | .73 | Washbaugh | .80 |
| Hughes | .84 | Yankton | .87 |
| Hutchinson | .86 | Ziebach | .76 |
| Hyde | .84 | | |
| • | • | • | • |

Because these changes are merely corrections of previously approved loan rates, it is determined that compliance with the notice of proposed rulemaking procedure at this time is not necessary. Therefore, this amendment is being issued without following such proposed rulemaking procedure and shall be effective on September 14, 1973.

(Sec. 4, 62 Stat. 1070, as amended; (15 U.S.C. 714b). Interpret or apply sec. 5, 62 Stat. 1072, secs. 105, 401, 63 Stat. 1051, as amended; (15 U.S.C. 714c, 7 U.S.C. 1421, 1444l))

Effective date: September 14, 1973.

Signed at Washington, D.C., on September 6, 1973.

KENNETH E. FRICK,
*Executive Vice President, Commodity Credit Corporation.*

[FR Doc.73-19559 Filed 9-13-73;8:45 am]

## Title 9—Animals and Animal Products

## CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

### SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

## PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS), AFRICAN SWINE FEVER, AND HOG CHOLERA: PROHIBITED AND RESTRICTED IMPORTATIONS

### Prohibitions and Restrictions on Importation of Swine, Pork and Pork Products

*Statement of consideration.*—There was published in the FEDERAL REGISTER August 2, 1973 (38 FR 20610–20611) an amendment to the regulations in 9 CFR Part 94 which: (1) Designates countries of the world which are considered not to be infected with swine vesicular disease; (2) designates certain countries which are considered not to be infected with swine vesicular disease but which have a common land border with swine vesicular disease infected countries, or which carry out trade prices with swine vesicular disease infected countries which are less restrictive than are acceptable to the United States; (3) requires certification by officials of the country of origin of domestic swine that such country is free of swine vesicular disease, hog cholera and African swine fever; and (4) prohibits the importation of live domestic swine, and restricts the importation of fresh, chilled, frozen or processed pork and pork products and wild swine from countries not considered to be free of swine vesicular disease.

Among restrictions imposed on importation of pork or pork products from countries declared free of swine vesicular disease and specified in § 94.13 was an additional certificate relating to the origin, processing and handling of such products offered for importation into the United States from such countries.

Additional certifications required in § 94.13(b) should not be applicable to commercially canned sterile pork products or commercially canned perishable and cured and dried pork and pork products since the commercial processing of these types of products is adequate to prevent the introduction of animal diseases into the United States.

The additional certification required in § 94.13(b) for all pork and pork products is more restrictive than necessary for commercially canned sterile or commercially canned perishable and cured and dried pork and pork products when these products are in compliance with the provisions of § 94.12 of this part. Therefore, the regulation is hereby amended to delete the additional certification when these products are in compliance with the provisions of § 94.12 of this part.

Pursuant to the provisions of section 2 of the Act of February 2, 1903, as amended, and sections 2, 3, 4, and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 134a, 134b, 134c, and 134f), Part 94, Title 9, Code of Federal Regulations, is hereby amended as follows:

In § 94.13(b), the first sentence is amended by adding the phrase ", unless they are in compliance with applicable provisions of § 94.12(b)," after the term "United States."

(Sec. 2, 32 Stat. 792, as amended; secs. 2, 3, 4, and 11, 76 Stat. 129, 130, 132 (21 U.S.C. 111, 134a, 134b, 134c, 134f); 37 FR 28464, 28477.)

*Effective date.*—The foregoing amendment shall become effective September 14, 1973.

The amendment relieves certain restrictions presently imposed but no longer deemed necessary to prevent the introduction of disease, and must be made effective immediately to be of benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 11th day of September 1973.

F. J. MULHERN,
*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc.73-19561 Filed 9-13-73;8:45 am]

## Title 14—Aeronautics and Space

## CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airworthiness Docket No. 73-SW-60; Amdt. 39-1717]

## PART 39—AIRWORTHINESS DIRECTIVES

### Bell Model 47B, 47B–3, 47D, 47D–1, 47E, 47G, 47G–2 and 47H–1 Helicopters

There have been two reports of accidents in which fatigue failure of the Model 47G–2 tail rotor hub yoke, P/N 47–641–057–9, was noted. An inflight



V 38-178 SEP 14 73 XUM

failure of this yoke will result in loss of a tail rotor blade and could result in loss of directional control. This yoke is also eligible for installation on the Bell Models 47B, 47B-3, 47D, 47D-1, 47E, 47G and 47H-1 helicopters.

Since this condition is likely to occur on other helicopters of the Model 47 series type design equipped with certain serial numbered tail rotor hub yokes, an airworthiness directive is being issued to reduce the service life of certain serial numbered tail rotor yokes, P/N 47-641-057-9, from 2500 to 400 hours.

Since a situation exists that requires an immediate adoption of this regulation, it is found notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

BELL. Applies to Bell Models 47B, 47B-3, 47D, 47D-1, 47E, 47G, 47G-2 and 47H-1 helicopters certificated in all categories.

Compliance required as indicated.

To prevent possible fatigue failure of the tail rotor yoke, P/N 47-641-057-9, remove and replace tail rotor yokes having S/N N29-1246 through N29-1266, N29-1298 through N29-1452, N29-10453 through N29-10488, and N29-10501 through N29-10525, as specified below.

(a) Replace those yokes with 390 or more hours total time in service on the effective date of this AD, within 10 hours time in service.

(b) Replace those yokes with less than 390 hours total time in service on the effective date of this AD, prior to accumulating 400 hours total time in service.

The requirements of this AD do not affect other Model 47 series helicopter tail rotor yokes.

(Bell Helicopter Co. Service Bulletin No. 47-05-73-1 dated August 22, 1973 pertains to this subject.)

This amendment becomes effective to owners and operators on receipt of the mailed amendment and becomes effective to all other persons on September 14, 1973.

This amendment is made under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, Texas, on August 30, 1973.

HENRY L. NEWMAN,
*Director,*
*Southwest Region.*

[FR Doc.73-19578 Filed 9-13-73;8:45 am]

---

[Airworthiness Docket No. 73-SW-61; Amdt. 39-1718]

## PART 39—AIRWORTHINESS DIRECTIVES

### Bell Model 206A, 206B, and 206A-1 and 206B-1 Helicopters

There have been several cases of corrosion or cracks occurring in the upper and lower ends of the main rotor pitch link tubes, P/N 206-010-330, adjacent to the locks or nut of the pitch link assembly that could result in possible failure of the tube and loss of control of one main rotor blade on the Bell Model 206A and 206B helicopters. Since this condition is likely to exist or develop in other helicopters of the same type design and in other Model 206A-1 and 206B-1 helicopters an airworthiness directive is being issued to require a repetitive inspection for corrosion and cracks in the main roto blade pitch link tube ends and application of corrosion preventative compound, as necessary, to the top surface of the nuts and exposed clevis threads on Bell Model 206A, 206B, 206A-1, and 206B-1 helicopters. Since a situation exists that requires an immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

BELL. Applies to Model 206A, 206B, 206A-1 and 206B-1 helicopters equipped with main rotor blade pitch link assemblies, P/N 206-010-330 and 206-010-342, as applicable, certificated in all categories.

Compliance required within 25 hours time in service after the effective date of this A.D., unless previously accomplished and thereafter at intervals not to exceed 50 hours time in service from the last inspection.

To detect and prevent possible corrosion and cracks in the main rotor blade pitch link tubes, P/N 206-010-330, all dash numbers, accomplish the following:

(a) Inspect the ends and outside diameter surface of each tube for corrosion and cracking, using a 3 power or higher magnifying glass.

(b) Replace corroded or cracked tubes prior to next flight except a helicopter with corroded tubes may be flown in accordance with FAR 21.197 to a base where replacement may be accomplished.

(c) If tubes are replaced or adjusted, track the main rotor blades in accordance with the appropriate model maintenance and overhaul information manual.

(d) Apply corrosion preventive compound, MIL-C-16173, Grade 2, or equivalent, to the exposed threads of the upper and lower clevises, the ends of each tube, the mating faces of the locks and nuts and the top surfaces of the nuts after the nuts are properly torqued on each pitch link assembly.

(e) Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, FAA, Southwest Region, may adjust the repetitive inspection interval specified in this A.D. to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

(Bell Helicopter Company Service Bulletin No. 206-04-2-73-1 dated May 7, 1973 pertains to this subject.)

This amendment becomes effective September 17, 1973.

This amendment is made under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, Texas, on September 4, 1973.

HENRY L. NEWMAN,
*Director,*
*Southwest Region.*

[FR Doc.73-19579 Filed 9-13-73;8:45 am]

---

[Docket No. 73-EA-74; Amdt. 39-1719]

## PART 39—AIRWORTHINESS DIRECTIVE

### Grumman Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Grumman G-164 type airplanes.

There have been reports of corroded and loose bolts which attach the elevator control horn to the elevators. This condition, if permitted to continue, could result in failure of the control system. Since this deficiency can exist or develop in other aircraft of similar type design, an airworthiness directive is being issued which will require a periodic inspection and replacement, where necessary, of the subject bolts.

As the foregoing deficiency affects air safety, expeditious adoption of this amendment is required. Thus, notice and public procedure hereon are impractical, and good cause exists for making the amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 [31 FR 13697] § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

GRUMMAN AIRCRAFT: Applies to all G-164 type aircraft in all certificated categories.

Compliance required as indicated.

1. Within the next 25 hours in service or two weeks, whichever occurs first, inspect the AN4-12A bolts attaching the Elevator Control Horn, P/N A1841-3, to the left and right side elevator, P/N A1201-5A and A1201-4A respectively, for a standard torque rating of 50-70 in.-lb. and for corrosion and thereafter at intervals not to exceed 100 hours in service or 60 days, whichever occurs first.

2. If any looseness is detected, the bolts must be removed and inspected for wear.

3. Replace any worn or corroded bolts with bolts of the same part number or an equivalent as approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region, except that the aircraft may be flown in accordance with FAR 21.197.

4. The subject bolts AN4-12A (2), must be replaced at intervals not exceeding 1000 hours in service or one year, whichever ocurs first.

5. Upon submission of substantiating data by an owner or operator through an FAA Maintenance Inspector, the Chief, Engineering and Manufacturing Branch, FAA Eastern Region, may adjust the inspection intervals specified in this AD. (Grumman American Aviation Corporation AgCat Service Bulletin No. 51 pertains to this subject.)

This amendment is effective September 21, 1973.





This amendment is made under the authority of sections 313(a), 601 and 603 of the Federal Aviation Act of 1958 [49 U.S.C. 1354(a), 1421 and 1423], and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Jamaica, N.Y., on September 7, 1973.

ROBERT H. STANTON,
*Director,*
*Eastern Region.*

[FR Doc.73-19580 Filed 9-13-73;8:46 am]

---

## Title 21—Food and Drugs

## CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### SUBCHAPTER B—FOOD AND FOOD PRODUCTS

## PART 45—MARGARINE, OLEOMARGARINE

### Order Amending Margarine Standard and Revoking Standard for Liquid Margarine

In the FEDERAL REGISTER of May 3, 1973 (38 FR 10952) the Commissioner of Food and Drugs, in accordance with the procedure established in § 10.8 (FEDERAL REGISTER, May 11, 1973, 38 FR 12396), published a proposed revision of the margarine standard, taking into consideration the recommended international standard for margarine prepared by the Codex Alimentarius Commission. The proposed revision of the margarine standard included a proposal to revoke the existing standard for the liquid form of margarine § 45.2 (21 CFR 45.2), and to incorporate that portion of the standard into a broader definition and standard covering all margarine.

Eleven comments were received from trade associations, industry representatives, a consumer group, a Federal agency, and a State regulatory agency. Each of the suggested modifications and requests for clarification has been reviewed, and the Commissioner's conclusions concerning the proposal are as follows:

1. Two comments objected to the Commissioner's proposed exclusion of fats and oils of marine origin from margarine. However, no additional toxicological data have been submitted in support of the use of marine oils in the concentrated amounts which would be added to make margarine. Consequently, the Commissioner has determined that at this time the provisions for the optional fat ingredients in § 45.1(a)(1) (21 CFR 45.1) will remain as proposed, and, thus, marine oils will not be permitted. This determination will not prejudice the evaluation of subsequent data which may be submitted, as facts are compiled concerning the safety of marine oils. If at a later date, sufficient data are submitted, the Commissioner will reconsider this issue.

2. One comment thought the animal fats and oils permitted in § 45.1(a)(1) should be subject to appropriate tests for sanitation and safety before being allowed in margarine. The comment added that esters which could be used in the interesterification of the fat and oil ingredients should either be specified or be subject to toxicological evaluation. Because sections 402 and 409 of the Federal Food, Drug, and Cosmetic Act regulate the safety of ingredients used in standardized foods, no change is warranted.

3. One comment asked if the term "milk products" in § 45.1(a)(2)(i) included butter in unlimited amounts, as long as the 80 percent fat content minimum was observed. The Commissioner agrees that butter may be added without limit as a milk and/or milk product ingredient, providing that some other fat or oil ingredient under § 45.1(a)(1) is also used as part of the 80 percent fat minimum.

4. One comment requested clarification of the form of whey and whey-modified products permitted as optional aqueous phase ingredients. The Commissioner intended to provide for all forms of whey and/or whey-modified products in margarine and § 45.1(a)(2)(ii) has been revised to reflect this clarification.

5. One comment disagreed with the requirement in § 45.1(a)(2)(iv) for the mandatory pasteurization of the milk ingredients permitted. The respondent stated that unpasteurized ingredients should be permissible, providing they are of satisfactory bacteriological quality. The Commissioner is of the opinion that the pasteurization of milk ingredients is necessary as a public health measure and to insure bacteriological quality. These ingredients do not receive a heat treatment in the processing of margarine which is comparable to pasteurization times and temperatures. Therefore, no change is justified in this requirement.

6. One comment objected to the mandatory addition of vitamin A to margarine and suggested instead that it be provided as an optional ingredient. The comment stated that for years the industry has volunteered to add vitamin A to margarine, making the proposed mandatory use unnecessary. The comment further stated that in commercial use, the amount of margarine added to food products is not of sufficient significance to require mandatory vitamin A fortification. The Commissioner has concluded that since margarine is used as a substitute for butter in the home for table spread, cooking, and baking, and in commercial usage as a sauce and seasoning ingredient for processed foods, it should be substantially equivalent to butter in its nutrient value. The Commissioner therefore is making no change in the requirement for mandatory addition of vitamin A to margarine.

7. Two comments requested the addition of vitamin E as an optional ingredient. One comment urged its optional fortification at a level not to exceed the Recommended Daily Allowance (RDA) per quarter pound for those margarines which are made primarily with polyunsaturated oils. The other comment recommended the addition of 60 international units of the stable acetate form of vitamin E per pound of margarine. The Commissioner is of the opinion that the reasons presented in the respondents' requests are insufficient for him to conclude that vitamin E should be permitted as an optional ingredient in the margarine standard. No clear evidence exists that the proposed fortification will be of significant health benefit.

8. One comment opposed as unnecessary the addition of nutritive sweeteners to margarine. Some countries desire nutritive sweeteners in margarine, particularly where margarine is used as an ingredient in other foods. This fact was recognized in providing for nutritive sweeteners in the proposed Codex standard. In accordance with the desire to accept Codex standards as completely as possible, and in consideration of the requirement that all ingredients in margarine be listed on the label, the Commissioner is making no change.

9. One comment requested that § 45.1(b)(5) refer to BHT and BHA as the common or usual names for the optional antioxidant ingredients, butylated hydroxytoluene and butylated hydroxyanisole, with the chemical names placed in parentheses. The Food and Drug Administration agrees that after a number of years of using the chemical names butylated hydroxytoluene and butylated hydroxyanisole and placing their abbreviated forms in parentheses, the initials BHA and BHT may be considered the common or usual names. A review of the literature and chemical dictionaries indicates that BHA and BHT are now accepted as the common or usual names for these antioxidants. A similar situation exists for calcium disodium EDTA (ethylenediaminetetraacetate). The Commissioner has revised the proposed standard to reflect these changes.

10. One comment requested that the tolerance for the combination of the preservatives benzoic acid or its salts with sorbic acid or its salts be increased to a maximum of 0.2 percent in order to bring the proposed standard into conformity with the provision in the existing regulation. The Commissioner concurs with this request and has revised § 45.1(b)(5) accordingly.

11. One comment requested that the antioxidants permitted be limited to citric acid, that color be limited to beta-carotene, and that flavoring be limited to natural flavors, rather than permitting any such ingredients which are "safe and suitable" as was proposed.

In the FEDERAL REGISTER of April 26, 1973 (38 FR 10274), the Commissioner proposed to amend § 10.1 (21 CFR 10.1) to define "safe and suitable" as that phrase applies to ingredients of all standardized foods. The Commissioner concludes that there is no valid reason for not permitting the use of any preservative, color or flavor which has been shown to be safe and suitable as an ingredient of margarine.

12. One comment requested that the principal display panel of the label include a declaration of the nutritive sweeteners, salt, the percentage of polyunsaturated fats, and the milk source for milk other than cow's milk used. The



V 38-178 SEP 14 73 XUM

Commissioner has promulgated regulations for the optional declaration of the fat and cholesterol contents of foods in §§ 1.17 and 1.18 (21 CFR 1.17 and 1.18). Nutritive sweeteners, salt, and milk sources other than cow's milk are to be declared in the ingredient statement. The Commissioner does not believe that the declaration of these ingredients on the principal display panel is necessary, as long as they appear in the ingredient statement as provided in § 1.8d (21 CFR 1.8d).

13. One comment requested that every ingredient used be declared by its specific or common name on the label. The Commissioner is of the opinion that all optional ingredients used, except for spices, flavorings, and colorings, as provided by section 403(g) of the act, are to be declared by tehir specific or common name. Since there are no mandatory ingredients, all ingredients will be labeled.

14. One comment requested that the descriptive term "liquid" be omitted from the food name "liquid margarine" for the fluid form of margarine. The comment, in view of the Commissioner's proposed deletion of § 45.2 for liquid margarine, thought undue attention was given to the fluid form. The comment cited examples of other forms which do not include a descriptive prefix in the food name. The Commissioner is of the opinion that such a request is reasonable, and accordingly, has revised § 45.1(c).

15. Nonfat dry milk and skim milk are presently optional ingredients in the standard of identity and are widely used. The Commissioner has been advised that there is a significant shortage of nonfat dry milk and skim milk at this time and that the shortage and resulting high price have created problems in the domestic margarine industry. The Codex provision for suitable edible protein has been incorporated into the revised U.S. standard. This provision to permit use of additional ingredients similar in function (i.e., body) to nonfat dry milk and skim milk should reduce some of the problems resulting from the shortage. The Commissioner has been advised that the shortage may soon reach critical proportions and that any amendment of the United States food standard to provide for the use of these ingredients should go into effect as soon as practicable.

In consideration of the reports of a shortage and that it is reasonable to eliminate, to the extent practicable, factors that may contribute to inflation, the Commissioner has concluded that compliance with this order may begin on or before October 15, 1973, unless stayed by the filing of a proper objection and that the order will become fully effective regarding all labeling ordered after December 31, 1973 and all labeling used for products shipped in interstate commerce after December 31, 1974.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 401, 701(e), 52 Stat. 1046, 1055, as amended by 70 Stat. 919 (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner (21 CFR 2.120), Part 45 is amended by revising the part heading, by revising § 45.1, and by revoking § 45.2 as follows:

1. The heading of Part 45 is revised to read as set forth above.

2. Section 45.1 is revised to read as follows:

**§ 45.1 Margarine, oleomargarine; identity; label statement of optional ingredients.**

(a) Margarine (or oleomargarine) is the food in plastic form or liquid emulsion, containing not less than 80 percent fat determined by the method prescribed under section 16.163 of the "Indirect Method," in "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th edition 1970.[1] Margarine contains only safe and suitable ingredients. It is produced from one or more of the optional ingredients in subpargraph (1) of this paragraph, and one or more of the optional ingredients in subparagraph (2) of this paragraph, to which may be added one or more of the optional ingredients in paragraph (b) of this section. Margarine contains vitamin A as provided for in subparagraph (3) of this paragraph.

(1) Edible fats and/or oils, or mixtures of these, whose origin is vegetable or rendered animal carcass fats, any or all of which may have been subjected to an accepted process of physico-chemical modification. They may contain small amounts of other lipids such as phosphatides, or unsaponifiable constituents and of free fatty acids naturally present in the fat or oil.

(2) One or more of the following aqueous phase ingredients:

(i) Water and/or milk and/or milk products.

(ii) Suitable edible protein including, but not limited to the liquid, condensed, or dry form of whey, whey modified by the reduction of lactose and/or minerals, nonlactose containing whey components, albumin, casein, caseinate, vegtable proteins, or soy protein isolate, in amounts not greater than reasonably required to accomplish the desired effect.

(iii) Any mixture of two or more of the articles named under subdivisions (i) and (ii) of this subparagraph.

(iv) The ingredients in subdivisions (i), (ii), (iii) of this subparagraph shall be pasteurized and then may be subjected to the action of harmless bacterial starters. One or more of the articles designated in subdivisions (i), (ii), (iii) of this subparagraph is intimately mixed with the edible fat and/or oil ingredients to form a solidified or liquid emulsion.

(3) Vitamin A in such quantity that the finished margarine contains not less than 15,000 international units per pound.

(b) Optional ingredients: (1) Vitamin D in such quantity that the finished oleomargarine contains not less than 1,500 international units of vitamin D per pound.

(2) Salt (sodium chloride); potassium chloride for dietary margarine or oleomargarine.

(3) Nutritive sweeteners.

(4) Any safe and suitable emulsifiers including but not limited to the following.

(b) Optional ingredients: (1) Vitamin D in such quantity that the finished oleomargarine contains not less than 1,500 international units of vitamin D per pound.

(2) Salt (sodium chloride); potassium chloride for dietary margarine or oleomargarine.

(3) Nutritive carbohydrate sweeteners.

(4) Emulsifiers including but not limited to the following within these maximum amounts in percent by weight of the finished food: Mono- and diglycerides of fatty acids esterified with the following acids; acetic, acetyltartaric, citric, lactic, tartaric, and their sodium and calcium salts, 0.5 percent; such mono- and diglycerides in combination with the sodium sulfo-acetate derivatives thereof, 0.5 percent; polyglycerol esters of fatty acids, 0.5 percent; 1,2-propylene glycol esters of fatty acids; 2 percent; lecithin. 0.5 percent.

(5) Preservatives including, but not limited to the following within these maximum amounts in percent by weight of the finished food: Sorbic acid, benzoic acid and their sodium, potassium, and calcium salts, individually, 0.1 percent, or in combination, 0.2 percent, expressed as the acids; calcium disodium EDTA, 0.0075 percent; propyl, acetyl, and dodecyl gallates, BHT, BHA, ascorbyl palmitate, ascorbyl stearate, all individually or in combination, 0.02 percent: stearyl citrate, 0.15 percent; isopropyl citrate mixture, 0.02 percent.

(6) Color additives. For the purpose of this subparagraph, provitamin A (beta-carotene) shall be deemed to be a color additive.

(7) Flavoring substances. If the flavoring ingredients impart to the food a flavor other than in semblance of butter, the characterizing flavor shall be declared as part of the name of the food in accordance with § 1.12 of this chapter.

(8) Acidulants.

(9) Alkalizers.

(c) The name of the food for which a definition and standard of identity are prescribed in this section is "margarine" or "oleomargarine".

(d) Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 1 of this chapter.

For the purposes of this section the use of the term milk unqualified means milk from cows. If any milk other than cow's milk is used in whole or in part, the animal source shall be identified in conjunction with the word milk in the ingredient statement. Colored margarine shall be subject to the provisions of section 407 of the Federal Food, Drug and Cosmetic Act as amended.

[1] Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benajamin Franklin Station, Washington, D.C. 20044.





**§ 45.2 [Revoked]**

3. In Part 45, existing § 45.2 is hereby revoked.

Any person who will be adversely affected by the foregoing order may at any time on or before October 15, 1973, file with the Hearing Clerk, Food and Drug Administration, Rm. 6-86, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Objections may be accompanied by a memorandum or brief in support thereof. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

*Effective date.*—Unless stayed by the filing of proper objections, compliance with this order, which shall include any labeling changes required, may begin on or before October 15, 1973, and all labeling ordered after December 31, 1973, and all labeling used for products shipped in interstate commerce after December 31, 1974, shall comply with these regulations.

(Secs. 401, 701, 52 Stat. 1046, 1055, as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 341, 371).)

Dated September 7, 1973.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[FR Doc.73-19568 Filed 9-13-73;8:45 am]

SUBCHAPTER C—DRUGS

## PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

### Sulfadimethoxine

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (41-245V) filed by Hoffmann-La Roche, Inc., Nutley, NJ 07110, proposing safe and effective use of sulfadimethoxine injection for the treatment of cattle. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)) and under authority delegated to the Commissioner (21 CFR 2.120), § 135b.15 is amended by adding new paragraphs (a)(3)(iii) and (d) to read as follows:

**§ 135b.15 Sulfadimethoxine injection.**

(a) • • •

(3) • • •

(iii) It is used or intended for use in cattle as follows:

(*a*) For the treatment of shipping fever complex, bacterial pneumonia, calf diphtheria, and foot rot.

(*b*) It is administered by intravenous injection at an initial dose of 25 milligrams per pound of body weight followed by 12.5 milligrams per pound of body weight every 24 hours until the animal is asymptomatic for 48 hours.

(*c*) Milk taken from animals during treatment and for 60 hours (5 milkings) after the latest treatment must not be used for food. Do not administer within 5 days of slaughter.

(*d*) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

• • • • •

(d) *Related tolerances.*—See § 135g.57 of this chapter.

*Effective date.*—This order shall become effective September 14, 1973.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i).))

Dated September 7, 1973.

C. D. VAN HOUWELING,
*Director, Bureau of Veterinary Medicine.*

[FR Doc.73-19569 Filed 9-13-73;8:45 am]

## PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

### Pyrantel Tartrate

The Commissioner of Food and Drugs has evaluated a new animal drug application (92-150V) filed by Ralston-Purina Co., Checkerboard Square, St. Louis, MO 63199, proposing the safe and effective use of pyrantel tartrate pellets for oral dosage administration to colts and horses. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 2.120), § 135c.59 is amended by revising the section heading and paragraphs (a) and (b) and adding a new paragraph (d)(3) to read as follows:

**§ 135c.59 Pyrantel tartrate powder; pyrantel tartrate pellets.**

(a) *Specifications.*—(1) Pyrantel tartrate powder horse wormer contains 11.3 percent and swine wormer 10.6 percent pyrantel tartrate.

(2) Pyrantel tartrate pellets colt and horse wormer contains 1.25 percent pyrantel tartrate.

(b) *Sponsor.*—(1) See code No. 030 in § 135.501(c) of this chapter, for conditions of use provided for in paragraph (d)(1) and (2) of this section.

(2) See code No. 047 in § 135.501(c) of this chapter, for conditions of use provided for in paragraph (d)(3) of this section.

• • • • • •

(d) • • •

(3) Horses and colts:

(i) For the removal and control of infections from the following mature parasites: Large strongyles (*Strongylus vulgaris, Strongylus edentatus, Strongylus equinus*), small strongyles (*Trichonema spp., Triodontophorus*), pinworms (*Oxyuris*), and large roundworms (*Parascaris*).

(ii) It is administered as a single dose at 12.5 milligrams of pyrantel tartrate per 2.2 pounds of body weight mixed with the usual grain ration.

(iii) It is recommended that severely debilitated animals not be treated with this drug.

(iv) Warning: Do not use in horses or colts intended for food.

*Effective date.*—This order shall become effective September 14, 1973.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i).))

Dated September 7, 1973.

C. D. VAN HOUWELING,
*Director, Bureau of Veterinary Medicine.*

[FR Doc.73-19570 Filed 9-13-73;8:45 am]

## PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

### Diethylcarbamazine Citrate Syrup

A new animal drug regulation (21 CFR 135c.52) providing for use of diethylcarbamazine citrate syrup for treatment of dogs was published in the FEDERAL REGISTER of October 7, 1971 (36 FR 19497). Following publication of this regulation a supplemental new animal drug application (46-147V) was filed by Babineaux Veterinary Products, Inc., and a new animal drug application (91-628V) was filed by American Cyanamid Co. Amendments to the regulation were published in the FEDERAL REGISTER of April 24, 1973 (38 FR 10079), and June 27, 1973 (38 FR 16859). Because these two amendments were published out of sequence, paragraph redesignations and amendments to the original regulation were incorrectly reflected.

Accordingly, to reflect the changes in the original regulation intended by the above-cited amendments, 21 CFR 135c.52 is published in its entirety as set forth below.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 2.120), § 135c.52 is revised to read as follows:

**§ 135c.52 Diethylcarbamazine citrate syrup.**

(a)(1) *Specifications.*—Each milliliter of syrup contains 60 milligrams of diethylcarbamazine citrate.

(2) *Sponsor.*—See code No. 061 in § 135.501(c) of this chapter.

(3) *Conditions of use.*—(i) The drug is indicated for use in dogs for the prevention of infection with *Dirofilaria immitis* and *T. canis* and *T. leonina*. It is also indicated for treatment of ascarid infections of *T. canis* and *T. leonina* in dogs and *T. cati* in cats.

(ii) For prevention of heartworm and ascarid infections in dogs, the drug may be added to the daily diet at a dosage rate of 3.0 milligrams per pound of body weight per day or given directly by mouth at the same dosage rate. For



V 38-178 SEP 14 73 XUM

treatment of ascarid infections in dogs and cats, the drug is administered at a dosage level of 25 to 50 milligrams per pound of body weight preferably administered immediately after feeding.

(iii) Older dogs should be proven negative for the presence of *Dirofilaria immitis* infection before administration of the drug. Those with proven infection of *Dirofilaria immitis* should be rendered negative using adulticidal and microfilaricidal durgs before administration of this drug.

(iv) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(b) (1) *Specifications.*—Each milliliter of syrup contains 60 milligrams of diethylcarbamazine citrate.

(2) *Sponsor.*—See code No. 004 in § 135.501(c) of this chapter.

(3) *Conditions of use.*—(i) It is used for the prevention of infection with *Dirofilaria immitis* in dogs.

(ii) The drug may be added to the daily ration at a dosage rate of 3.0 milligrams per pound of body weight or given directly by mouth at the same dosage rate.

(iii) Older dogs should be proven negative for the presence of *Dirofilaria immitis* infection before administration of the drug. Those with proven infection of *Dirofilaria immitis* should be rendered negative using adulticidal and microfilaricidal drugs before administering this drug.

(iv) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

*Effective date.*—This order shall be effective September 14, 1973.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated September 7, 1973.

C. D. VAN HOUWELING,
*Director, Bureau of Veterinary Medicine.*

[FR Doc.73-19585 Filed 9-13-73;8:45 am]

## PART 135e—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

### Clopidol and Roxarsone

New animal drug application No. 91-815V filed by Central Soya Co., McMillan Feed Division, Fort Wayne, IN 46805, was approved and, subsequently, an order published in the FEDERAL REGISTER of April 4, 1973 (38 FR 8597), for a premix containing 0.0345 percent clopidol for use in formulating complete feed for chickens. Approval of new animal drug application No. 43-430V filed by Central Soya Co. was given, and an order published in the FEDERAL REGISTER of April 5, 1973 (38 FR 8653), provided for use of a premix containing 0.0345 percent clopidol and 0.0138 percent roxarsone in formulating complete feed for broiler chickens. These orders amending 21 CFR 135e.46 (b) were published out of sequence, and the Commissioner of Food and Drugs has concluded that paragraph (b) should be published in its entirety to reflect the intent of both orders.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360(i))) and under authority delegated to the Commissioner (21 CFR 2.120), § 135e.46(b), is revised to read as follows:

§ 135e.46 Clopidol.

* * * * *

(b) *Approvals.*—(1) Premix level 25 percent granted to firm No. 012 as identified in § 135.501(c) of this chapter.

(2) Premix level 0.0345 percent clopidol with or without 0.0138 percent roxarsone granted to firm No. 006 as identified in § 135.501(c) of this chapter.

* * * * *

*Effective date.*—This order shall be effective September 14, 1973.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360(i)).)

Dated September 7, 1973.

C. D. VAN HOUWELING,
*Director, Bureau of Veterinary Medicine.*

[FR Doc.73-19586 Filed 9-13-73;8:45 am]

## PART 141—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

### Subpart C—Microbiological Assay Methods

CARBENICILLIN; UPDATING THE TEST ORGANISM USED IN POTENCY ASSAY METHOD

The Commissioner of Food and Drugs concludes that the antibiotic drug regulations (21 CFR Part 141) should be amended as set forth below to update the test organism used in the potency assay of carbenicillin.

The organism listed in § 141.104 as "Test organism W—*Pseudomonas pyocyanea* (ATCC 23389)" is no longer available from the American Type Culture Collection. It was replaced by a different strain of the same organism, *Pseudomonas aeruginosa* (ATCC 25619),[1] which gives satisfactory results in the assay of carbenicillin.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 2.120), § 141.104 *Test organisms* is amended in the table in paragraph (a) by changing the item "Test organism W—*Pseudomonas pyocyanea* (ATCC 23389)" to read "Test organism W—*Pseudomonas acruginosa* (ATCC 25619)."

Since this order merely updates the regulations to reflect a change of test organism used in the potency assay of carbenicillin, I find that notice and public procedure and delayed effective date are not necessary prerequisites to its promulgation.

*Effective date.*—This order shall become effective September 24, 1973.

[1] Test organism available from: American Type Culture Collection, 12301 Parklawn Drive, Rockville, MD 20852.

(Sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357).)

Dated September 7, 1973.

MARY A. MCENIRY,
*Assistant to the Director for Regulatory Affairs, Bureau of Drugs.*

[FR Doc.73-19588 Filed 9-13-73;8:45 am]

## PART 146—ANTIBIOTIC DRUGS; PROCEDURAL AND INTERPRETATIVE REGULATIONS

## PART 149b—AMPICILLIN

### Ampicillin Trihydrate-Probenecid for Oral Suspension

The Commissioner of Food and Drugs has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act, with respect to approval of the antibiotic drug ampicillin trihydrate-probenecid for oral suspension.

The Commissioner has concluded that data supplied by the manufacturer concerning the subject antibiotic drug is adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended to provide for the certification of this drug.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 146 and 149b (21 CFR Parts 146 and 149b) are amended as follows:

1. Part 146 is amended in § 146.8(b)(1) by alphabetically inserting a new item in the fee schedule, as follows:

§ 146.8 Fees.

* * * * *

(b) * * *

(1) * * *

| | Chargeable fee per test |
|---|---|
| * * * * * | |
| Probenecid content | 34 |
| * * * * * | |

2. Part 149b is amended by adding the following new section:

§ 149b.25 Ampicillin trihydrate-probenecid for oral suspension.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.*—Ampicillin trihydrate and probenecid for oral suspension is a dry mixture of ampicillin trihydrate and probenecid with suitable flavorings, lubricants, colorings, and suspending agents packaged in a single dose container. When reconstituted as directed in the labeling, each single dose will contain ampicillin trihydrate equivalent to 3.5 grams of ampicillin and 1.0 gram of probenecid. Its ampicillin content is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of grams of ampicillin that it is represented to contain. Its probenecid content is satisfactory if it is not less than 90 percent and not more than 110 percent of the number of grams of probenecid that it is represented to contain. Its moisture content is not more than 5.0 percent. When reconstituted as directed in the labeling, its pH is not less than 5.0 and not more than 7.5. The ampicillin trihydrate used conforms to the standards prescribed by § 146a.6(a) of this chapter. The probenecid used conforms to the standards prescribed by the USP XVIII.

(2) *Labeling.*—In addition to the labeling requirements prescribed by § 148.3 of this chapter, this drug shall be labeled "ampicillin-probenecid for oral suspension".

(3) *Requests for certification; samples.*—In addition to complying with the requirements for § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The ampicillin trihydrate used in making the batch for potency, safety, loss on drying, pH, ampicillin content, and identity.

(*b*) The probenecid used in making the batch for all USP XVIII specifications.

(*c*) The batch for ampicillin content, probenecid content, moisture, and pH.

(ii) Samples required:

(*a*) The ampicillin trihydrate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of 10 immediate containers.

(b) *Tests and methods of assay—*(1) *Ampicillin content—*(i) *Sample preparation.*—Reconstitute as directed in the labeling and mix well. Drain the suspension from the bottle for 30 seconds into a high-speed glass blender jar containing sufficient sterile distilled water to obtain a total volume of 500 milliliters. Blend for 10 minutes.

(ii) *Assay procedures.*—Use any of the following methods; however, the results obtained from the microbiological agar diffusion assay shall be conclusive.

(*a*) *Microbiological agar diffusion assay.*—Proceed as directed in § 141.110 of this chapter, diluting an aliquot of the aqueous solution with 0.1*M* potassium phosphate buffer, pH 8.0 (solution 3), to the reference concentration of 0.1 microgram of ampicillin per milliliter (estimated).

(*b*) *Iodometric assay.*—Proceed as directed in § 141.506 of this chapter, diluting an aliquot of the aqueous solution to the prescribed concentration.

(2) *Probenecid content—*(i) *Preparation of standard solution.*—Transfer approximately 25 milligrams of U.S.P. probenecid reference standard, accurately weighed, to a 25-milliliter volumetric flask. Disolve and dilute to volume with 1 percent aqueous sodium carbonate solution.

(ii) *Preparation of sample solution.*—Reconstitute the sample as directed in the labeling and mix well. Drain the suspension from the bottle for 30 seconds into a 1,000-milliliter volumetric flask. Dilute to volume with 1 percent aqueous sodium carbonate solution, shake well, and filter through Whatman No. 6 filter paper. Discard the first 10-milliliter portion.

(iii) *Procedure.*—Transfer 2.0 milliliters of the clear filtrate to a 125-milliliter separatory funnel and add 8.0 milliliters of 1.0*N* hydrochloric acid. Extract the solution with four 20-milliliter portions of chloroform, filtering each extract through a glass wool pledget into a 100-milliliter volumetric flask. Wash the pledget with chloroform, dilute to volume with chloroform and mix. Treat 2.0 milliliters of the standard solution in the same manner. Using a suitable spectrophotometer equipped with a 1-centimeter cell and chloroform washed with 1 percent aqueous sodium carbonate solution as a blank, determine the absorbance of the sample and standard solutions at the peak near 257 nanometers.

(iv) *Calculations.*—Calculate the probenecid content as follows:

$$\text{Grams probenecid per container} = \frac{\text{Absorbance of sample} \times \text{weight of standard in milligrams} \times \text{percent purity of standard}}{\text{Absorbance of standard} \times 2.5 \times 100}$$

(3) *Moisture.*—Proceed as directed in § 141.502 of this chapter.

(4) *pH.*—Proceed as directed in § 141.503 of this chapter, using the drug reconstituted as directed in the labeling.

As the conditions prerequisite to providing for certification of subject antibiotic have been complied with, and as the matter is noncontroversial, notice and public procedure and delayed effective date are not prerequisites to this promulgation.

*Effective date.*—This order shall become effective September 14, 1973.

(Sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357).)

Dated: September 7, 1973.

MARY A. MCENIRY,
*Assistant to the Director for Regulatory Affairs, Bureau of Drugs.*

[FR Doc.73-19587 Filed 9-13-73;8:45 am]

## PART 149d—NAFCILLIN

### Nafcillin Sodium Monohydrate Tablets

The Commissioner of Food and Drugs has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act, as amended, with respect to approval of the antibiotic drug nafcillin sodium monohydrate tablets.

The Commissioner concludes that data supplied by the manufacturer concerning the subject antibiotic drug is adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended to provide for the certification of this drug.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 2.120), Part 149d is amended to provide for the certification of the antibiotic nafcillin sodium monohydrate tablets by adding the following new section:

§ 149d.11 Nafcillin sodium monohydrate tablets.

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality, and purity.*—Nafcillin sodium monohydrate tablets are composed of nafcillin sodium monohydrate with one or more suitable buffers, binders, disintegrants, diluents, and lubricants. Each tablet contains nafcillin sodium monohydrate equivalent to 500 milligrams of nafcillin. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the number of milligrams of nafcillin that it is represented to contain. Its moisture content is not more than 5 percent. It shall disintegrate within 20 minutes. The nafcillin sodium monohydrate used conforms to the standards prescribed by § 149d.1(a)(1).

(2) *Labeling.*—In addition to the labeling requirements prescribed by § 148.3 of this chapter, this drug shall be labeled "nafcillin sodium tablets".

(3) *Requests for certification; samples.*—In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The nafcillin sodium monohydrate used in making the batch for potency, safety, moisture, pH, crystallinity, nafcillin sodium monohydrate content, and identity.

(*b*) The batch for potency, moisture, and disintegration time.

(ii) Samples required:

(*a*) The nafcillin sodium monohydrate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of 36 tablets.

(b) *Tests and methods of assay—*(1) *Potency—*(i) *Sample preparation.*—Place a representative number of tablets into a high-speed glass blender jar containing sufficient 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to give a stock solution of convenient concentration. Blend for 3 to 5 minutes.

(ii) *Assay procedures.*—Assay for potency by any of the following methods; however, the results obtained from the microbiological agar diffusion assay shall be conclusive.

(*a*) *Microbiological agar diffusion assay.*—Proceed as directed in § 141.110 of this chapter, diluting an aliquot of the stock solution with solution 1 to the reference concentration of 2.0 micrograms of nafcillin per milliliter (estimated).

(*b*) *Iodometric assay.*—Proceed as directed in § 141.506 of this chapter, diluting an aliquot of the stock solution with solution 1 to the prescribed concentration.





V 38-178 SEP 14 73 XUM

(c) *Hydroxylamine colorimetric assay.*—Proceed as directed in § 141.507 of this chapter.

(2) *Moisture.*—Proceed as directed in § 141.502 of this chapter.

(3) *Disintegration time.*—Proceed as directed in § 141.540 of this chapter, using the method described in paragraph (e)(1) of that section, except use distilled water in lieu of simulated gastric fluid as the immersion fluid.

As the conditions prerequisite to providing for certification of subject antibiotic have been complied with and since the matter is noncontroversial in nature, notice and public procedure and delayed effective date are not prerequisites to this promulgation.

*Effective date.*—This order shall be effective September 14, 1973.

(Sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357).)

Dated: September 7, 1973.

MARY A. MCENIRY,
*Assistant to the Director for Regulatory Affairs, Bureau of Drugs.*

[FR Doc.73-19589 Filed 9-13-73;8:45 am]

## PART 135e—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

### Approval of Monensin and Lincomycin Applications

*Correction*

In FR Doc. 73-16656 appearing on page 21921 in the issue of Tuesday, August 14, 1973, in the second column of the table, "Gms. per Ton", the figure "100" should read "110".

---

**Title 24—Housing and Urban Development**

**CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING PRODUCTION AND MORTGAGE CREDIT—FEDERAL HOUSING COMMISSIONER [FEDERAL HOUSING ADMINISTRATION], DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**SUBCHAPTER B—MORTGAGE AND LOAN INSURANCE PROGRAMS UNDER NATIONAL HOUSING ACT**

[Docket No. R-73-195]

## PART 201—PROPERTY IMPROVEMENT AND MOBILE HOME LOANS

### Manufacturer's Warranty

On October 31, 1972, a notice of proposed rulemaking was published in the FEDERAL REGISTER (37 FR 23190) proposing amendment of the property improvement and mobile home loan regulations to require that a manufacturer's warranty be furnished to a buyer of a mobile home that is purchased with a loan made under this part.

One comment questioned the provision requiring that a copy of the warranty instrument be retained in the loan file by the insured lending institution. The warranty form is proposed to be in a carbon snap-out form and a carbon can easily be placed in the loan file without significant expense to insured lenders.

Other comments suggested that the warranty cover only substantial defects in given instances of nonconformity to construction standards. The addition of the words "substantial" and "proven" to the warranty would not make the warranty any clearer and could needlessly complicate resolution of legitimate complaints by consumers.

It was also suggested that the warranty should commence to run from the date of delivery of the mobile home to the purchaser rather than the date of purchase. This change has been made.

Objection was made to the requirement that notification to the manufacturer of a defect be in writing. While this requirement could cause difficulty for some unwary consumers, that disadvantage is outweighed by the evidentiary problems it will create by permitting oral notice.

It was also suggested that the warranty provide that the notice could be given to either the manufacturer or the dealer. Since it is the manufacturer's warranty the manufacturer should not be required to rely upon dealers to relay complaints to the manufacturer since in some instances this might not occur, and the manufacturer would not receive notice that a complaint has been registered but would be charged with that notice.

Suggestion was also made with regard to a provision requiring corrective action within a certain period of time. The difficulty in establishing required time periods is that in some instances the period would be too short, in others it might be too long. Therefore, no time period has been provided, but the warranty has been amended to require corrective action within a reasonable period of time.

Suggestion was also made that the warranty extend to furnishings included in the mobile home. There are no HUD standards for construction of furniture, and furniture was therefore not included in the scope of the express warranty covered in this regulation. Furniture sold would, of course, be covered under the implied warranties of the Uniform Commercial Code.

It was also suggested that the warranty provide for repairs to be made at the site of the mobile home or in the event the mobile home was required to be returned to the factory that the manufacturer would assume the financial cost of the transportation. Provision under the warranty requires the manufacturer to take appropriate corrective action. The warranty provides no authority for the manufacturer to assess charges against the mobile home purchaser for warranty repairs or transportation.

It was also suggested that incidental and consequential damages be paid by the manufacturer. Coverage for such damages would depend upon state law.

It was also suggested that the requirement that the warranty be delivered to the purchaser be amended to specify that the warranty be mailed to the purchaser. Delivery, of course, implies receipt and we see no useful purpose to be served in restricting the mode of delivery of the warranty to the purchaser to mailing which might give rise to a presumption of delivery which did not actually occur. We anticipate that in many instances the warranty would be delivered by the seller acting as the manufacturer's agent for this purpose to the consumer. Physical delivery would be the most effective method of insuring that the consumer actually receives the document, although of course the warranty could also be mailed. It should be noted, however, that the warranty form calls for the signature of the purchaser.

It was also suggested that some form of arbitration be provided for in the warranty in the event of a dispute between the manufacturer and the purchaser. Such a proposal is now under consideration. However, an initial difficulty in requiring compulsory arbitration would be the possible necessity for payment of the arbitrator's fee. See comments in this regard on a similar proposal made by the Federal Trade Commission in connection with door-to-door sales (37 FR 22956). If it is decided that an arbitration clause is appropriate, the regulation will be subsequently amended.

Objection was made to the statement that the warranty is offered as an inducement to the buyer or to the purchaser of a home. Deletion of this provision might remove the element of consideration necessary to make the warranty a binding legal contract. We believe it self-evident that such a warranty would be an inducement to a consumer who purchases a home covered by its provisions.

A professional testing organization recommended that the warranty indicate that a statement in the warranty by the manufacturer that construction of the mobile home conforms with the standards prescribed by the Secretary include a provision that the mobile home has been inspected by an independent third party testing organization. Such a requirement is being considered by the Department, but there would be no need to refer in the warranty to the mechanism utilized to determine whether the home had been constructed in accordance with HUD standards.

A trade organization suggested that the warranty should be executed jointly by the manufacturer and the selling dealer, pointing out that it is possible that some defects could arise by reason of default and negligence on the part of the dealer. This, of course, is a possibility but the determination of who is at fault as between the dealer and the manufacturer can best be resolved by agreement between the manufacturer and the dealer.

Accordingly, § 201.520(c) is redesignated as paragraph (d) and a new paragraph (c) is added to read:





§ 201.520 **Structural design and standards.**

* * * * *

(c) *Manufacturer's warranty.*—When a new mobile home purchased with financing insured under 12 U.S.C. 1703 is delivered to the purchaser, the manufacturer shall deliver to the purchaser a written warranty on a form prescribed by the Commissioner. Such warranty shall be in addition to, and not in derogation of, all other rights and privileges which the purchaser may have under any law or instrument and the warranty instrument shall so provide. A copy of the warranty instrument shall be retained in the loan file.

* * * * *

(Sec. 7(d), 79 Stat. 670 (42 U.S.C. 3535(d)) sec. 2, 48 Stat. 1246, (12 U.S.C. 1703).)

*Effective date.*—This amendment is effective November 15, 1973.

SHELDON B. LUBAR,
*Assistant Secretary for Housing Production and Mortgage Credit.*

FH-14

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

FEDERAL HOUSING ADMINISTRATION

MOBILE HOME WARRANTY

Mobile home description

---

Model

---

Number

---

Date of delivery to purchaser(s)

---

Name and address of dealer/seller

---

Purchaser(s)

For good and valuable consideration, and to induce purchase of the above identified mobile home by the above named Purchaser(s) and to further induce the Secretary of Housing and Urban Development to insure a loan to such Purchaser(s) under The National Housing Act, the undersigned manufacturer of the aforesaid mobile home does hereby warrant to the Purchaser(s) and to his (their) transferee(s), that:

The mobile home identified above complies with the mobile home standards prescribed by the Secretary of Housing and Urban Development that were in effect at the time the mobile home was manufactured and the mobile home is free from defects in material or workmanship. This warranty shall obligate the manufacturer to take appropriate corrective action within a reasonable period of time in instances of nonconformity to such standards and/or instances of defects in materials or workmanship which become evident within 1 year from the date of delivery of the mobile home and as to which the Purchaser(s) or his (their transferee(s)), give written notice to the manufacturer not later than 1 year and 10 days after the date of delivery set forth above. Such written notice shall be delivered to the manufacturer-warrantor at the address set forth herein. This warranty shall not obligate the manufacturer to correct defects or conditions in the mobile home that may occur as a result of abnormal usage or a lack of proper maintenance.

The term "mobile home" as used herein shall be deemed to include the mobile home structure including the plumbing, heating and electrical systems and all appliances and equipment installed or built-in by the manufacturer.

This warranty shall be in addition to, and not in derogation of, all other rights and privileges which such Purchaser(s) may have under any other law or instrument and the manufacturer agrees that the Purchaser(s) will not be required to execute a waiver of any warranty rights under the laws of the state of the purchaser's residence.

IN TESTIMONY WHEREOF, the manufacturer has signed and sealed this warranty this _____ day of _____, 19____.

---

---

---

*(Name and Address of Manufacturer/Warrantor)*

---

By: _____

*(Signature and Title of Authorized Official)*

WARNING

Section 1010 of Title 18, U.S.C., "Department of Housing and Urban Development, Federal Housing Administration transactions," provides: "Whoever, for the purpose of—influencing in any way the action of such Administration—makes, passes, utters, or publishes any statement, knowing the same to be false—shall be fined not more than $5,000 or imprisoned not more than two years, or both."

Notice to Purchaser: Any notice of nonconformity must be delivered to the warrantor no later than one year and ten days from the date of delivery to you.

Receipt of this warranty is acknowledged this _____ day of _____, 19____.

---

(Signature of Purchaser(s))

[Doc. 73-19459 Filed 9-13-73;8:45 am]

---

**CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM**

[Docket No. FI-205]

## PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

### Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 **Status of participating communities.**

* * * * * * *

| State | County | Location | Map No. | State map repository | Local map repository | Effective date of authorization of sale of flood insurance for area |
|---|---|---|---|---|---|---|
| * | * | * | * | * | * | * |
| Illinois | Woodford | Unincorporated areas. | | | | Sept. 7, 1973, Emergency. |
| Michigan | Emmet | Harbour Springs, city of. | | | | Do. |
| Missouri | St. Louis | Brentwood, city of. | | | | Do. |
| New York | Allegany | Alfred, village of | | | | Do. |
| Do. | Broome | Binghamton, city of. | | | | Do. |
| Ohio | Warren | Franklin, city of | | | | Do. |
| Pennsylvania | Lycoming | Mellbury, township of. | | | | Do. |
| Texas | Hale | Plainview, city of | | | | Do. |
| Wisconsin | Manitowoc | Cleveland, village of. | | | | Do. |
| Do. | Sauk | Unincorporated areas. | | | | Do. |

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Pub. L. 91-152, Dec. 24, 1969), (42 U.S.C. 4001-4127), and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969.)

Issued August 31, 1973.

GEORGE K. BERNSTEIN,
*Federal Insurance Administrator.*

[FR Doc.73-19360 Filed 9-13-73;8:45 am]



V38-178 SEP 14 73 XUM

## CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-206]

### PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

#### Status of Participating Communities

Sections 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 Status of participating communities.

| State | County | Location | Map No. | State map repository | Local map repository | Effective date of authorization of sale of flood insurance for area |
|---|---|---|---|---|---|---|
| Ohio | Cuyahoga | Hunting Valley, village of. | | | | Sept. 10, 1973. |
| Pennsylvania | Erie | Fairview, township of. | | | | Do. Emergency. |

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408–410, Pub. L. 91–152, Dec. 24, 1969) (42 U.S.C. 4001–4127) and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969.)

Issued: September 4, 1973.

GEORGE K. BERNSTEIN,
*Federal Insurance Administrator.*

[FR Doc.73-19481 Filed 9-13-73;8:45 am]

## Title 32—National Defense

### CHAPTER VII—DEPARTMENT OF THE AIR FORCE

#### SUBCHAPTER A—ADMINISTRATION

#### PART 809—ISSUE AND CONTROL OF IDENTIFICATION (ID) CARDS

#### Miscellaneous Amendments; Correction

In FR Doc.73-18576, appearing at page 23945, in the issue of Wednesday, September 5, 1973, item 17 of § 809.7 should be corrected to read:

17. Medal of Honor Recipients No No (3) Yes Yes.
a. Lawful wife No No (3) Yes Yes.

By order of the Secretary of the Air Force.

JOHN W. FAHRNEY,
*Colonel, USAF, Chief, Legislative Division, Office of The Judge Advocate General.*

[FR Doc.73-19550 Filed 9-13-73;8:45 am]

## Title 38—Pensions, Bonuses, and Veterans' Relief

### CHAPTER I—VETERANS ADMINISTRATION

#### PART 36—LOAN GUARANTY

#### Prepayment of Mortgage Loans Interest Charges

The Veterans Administration is amending § 36.4310, Title 38, Code of Federal Regulations to make clear that on full prepayment of guaranteed mortgage loans interest may be charged only to date of such payment. This amendment is issued pursuant to the authority of section 210, Title 38, United States Code.

Prepayment in full of mortgage loans must be accepted and credited to the loan account on the date received and no interest may be charged thereafter. This has been the policy and interpretation of this regulation for many years. This amendment is intended to clearly set forth this policy and regulation interpretation.

The last sentence of § 36.4310 is to be deleted as obsolete. The Administrator no longer has authority to make an initial 4 percent payment, and has not had such authority for many years.

Compliance with the provisions of § 1.12, Title 38, Code of Federal Regulations, as to notice of the proposed regulatory development, is not recommended. There is no change in the policy of this Administration nor in the interpretation of this regulation. The change in wording is merely to make clear this long established practice.

**§ 36.4310 Prepayment.**

The debtor shall have the right to prepay at any time, without premium or fee, the entire indebtedness or any part thereof not less than the amount of one installment, or $100, whichever is less. Any prepayment in full of the indebtedness shall be credited on the date received, and no interest may be charged thereafter. Any partial prepayment made on other than an installment due date need not be credited until the next following installment due date or 30 days after such prepayment, whichever is earlier. The holder and the debtor may agree at any time that any prepayment not previously applied in satisfaction of matured installments shall be reapplied for the purpose of curing or preventing any subsequent default.

*Effective date.*—This VA Regulation is effective September 10, 1973.

Approved September 10, 1973.

By direction of the Administrator.

[SEAL] RUFUS H. WILSON,
*Associate Deputy Administrator.*

[FR Doc.73-19571 Filed 9-13-73;8:45 am]

## Title 40—Protection of Environment

### CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

#### SUBCHAPTER C—AIR PROGRAMS

#### PART 50—NATIONAL PRIMARY AND SECONDARY AMBIENT AIR QUALITY STANDARDS

#### Sulfur Oxides

On April 30, 1971 (36 FR 8186), the Administrator of the Environmental Protection Agency promulgated as 40 CFR Part 410, national primary and secondary ambient air quality standards under section 109 of the Clean Air Act, as amended. These regulations were republished November 25, 1971, as 40 CFR Part 50. This notice revokes the annual secondary sulfur dioxide standard, announces a revision to *Air Quality Criteria for Sulfur Oxides*, and announces the conclusions from a reevaluation of the basis for the secondary three-hour average sulfur dioxide standard.

REVOCATION OF THE ANNUAL SECONDARY $SO_2$ STANDARD

On May 7, 1973 (38 FR 11355), a notice of proposed rulemaking to revoke the annual secondary standard was published. Public comments were invited. Comments have been received from 23 organizations or individuals, and have been reviewed and considered prior to this rulemaking. EPA's reasons for revoking the annual secondary standard were set forth in the notice of proposed rulemaking and are further discussed herein.

The amendments set forth herein will revise 40 CFR Part 50.5 by revoking the annual National Secondary Ambient Air Quality Standard for Sulfur Dioxide which is 60 microwaves per cubic meter (0.02 p.p.m.). In addition, the amendments will delete from § 50.5 the maximum 24-hour concentrations of 260 micrograms per cubic meter (0.1 p.p.m.) published as a guide to be used in assessing implementation plans to achieve the annual standard. The secondary 3-hour standard, a maximum concentration of 1,300 micrograms per cubic meter (0.5 p.p.m.) not to be exceeded more than once per year, remains in effect.

Section 109 of the Clean Air Act requires the Administrator to establish national primary ambient air quality standards "to protect the public health" and national secondary ambient air quality standards "to protect the public welfare from any known or anticipated adverse effects." Section 302(h) defines effects as including, but not limited to, "effects on soils, water, crops, vegetation, man-made materials, animals, wildlife, weather, visibility, and climate, damage to and deterioration of property, and hazards to transportation, as well as effects on economic values and on personal comfort and well-being." Such national standards must be based on air quality criteria which, under section 108, must "reflect the latest scientific knowledge useful in indicating the kind and extent of all identifiable effects on public health and welfare which may be expected from the presence [of air pollutants] in the ambient air, in varying quantities." Thus, secondary national standards are necessarily limited to demonstrable or predictable adverse effects which can be quantitatively related to pollutant concentrations in the ambient air. Currently, injury to vegetation is the only type of welfare effect of sulfur dioxide that can be quantitatively related to ambient concentrations of this pollutant.

EPA is aware that sulfur dioxide has or may have effects on other sectors of the public welfare, such as materials, visibility, soils, and water. To some extent, the primary standards for sulfur dioxide and the remaining secondary standard mitigate such effects. Sufficient data are not now available, however, to establish a quantitative relationship between specific sulfur dioxide concentrations and such effects. Furthermore, it is not clear that any such effects, to the extent that they may occur at concentrations below the current national standards, are adverse to the public welfare.

As stated in the notice of proposed rulemaking, the annual secondary standard was based on a study by Linzon, which is discussed in Air Quality Criteria for Sulfur Oxides. A reanalysis of the data on which the annual standard was based indicated that it could not properly be concluded that the injury reported in Linzon's study resulted from the average sulfur dioxide concentration over a full year or even the six-month growing season, as distinguished from short-term peak concentrations.

After a review of the public comments that were received as part of this rulemaking, the Administrator has concluded that there still is not adequate information on which to base any long-term secondary standard for sulfur dioxide. The comments that were received in opposition to this rulemaking did not identify a specific annual average level of sulfur dioxide that could be directly related to an adverse effect on the public welfare.

Twenty-three letters of public comment were received. Eleven indicated support of EPA's action; nine indicated opposition. The remaining three stated no preference.

Opposition to revoking the annual standard was based, in part, on the contention that it should be retained to protect against corrosion of materials, visibility reduction, and occurrence of acid rain. A response to these particular comments follows:

1. Although EPA is aware that high long-term average concentrations of sulfur dioxide, accompanied by high levels of particulate matter, will increase the corrosion rate of some materials, there are not adequate data relating such corrosion to long-term sulfur dioxide levels below those now prescribed by the primary standards.

2. The quantitative relationship between sulfur dioxide and reduction in visibility is not presently known. There is evidence that particulate sulfate and sulfuric acid mist may act with other particulate matter to reduce visibility. Insufficient knowledge of factors such as humidity, and of the indirect role that sulfur dioxide itself plays in reducing visibility, makes the formulation of a sulfur dioxide standard based on visibility impracticable.

3. The mechanism of the formation of acid rain; the long-term effect of acidic moisture on plants, materials, and soils; and the concentrations of sulfur dioxide that can result in the formation of rain of sufficient acidity to be a danger to the environment currently are being investigated throughout the world. The data needed for standard-setting are not now available. Furthermore, it is not clear that acid rain would be a problem following attainment of the national primary standards for sulfur dioxide.

EPA will be pleased to receive, at any time, data which relate specific ambient air concentrations of sulfur dioxide to quantified effects such as the formation of acid rain, corrosion of materials, reduction in visibility, damage to vegetation, or any adverse change to the ecosystem. The relationships between the specific ambient air concentrations of sulfur dioxide, either alone or in combination with other environmental factors, and the adverse effects caused by those concentrations must be demonstrable or predictable prior to establishing any national secondary ambient air quality standard.

Two organizations, the Native American Rights Fund and the Natural Resources Defense Council, Inc., submitted particularly detailed comments in opposition to the proposed revocation. Their comments cited a number of studies of sulfur dioxide effects on vegetation, all well known to EPA. Neither the studies cited nor the comments made by the Natural Resources Defense Council and the Native American Rights Fund identified, nor provided a basis for identifying, long-term concentrations of sulfur dioxide, the attainment of which is necessary to protect against adverse effects. In addition, neither the studies nor the comments indicated that vegetation damage during the course of a year was the result of an annual average level rather than high short-term peak exposures to sulfur dioxide.

A number of the comments in opposition to revoking the annual secondary standard suggested revision of the primary standards to more stringent levels than are now prescribed. EPA is aware of the results of the studies which were cited in support of these comments. At the present time, however, it is unclear to what extent sulfur dioxide acts as a precursor to health effects more adverse than those now noted in the Air Quality Criteria for Sulfur Oxides.

This revocation does not affect the acceptability and enforceability of currently approved implementation plans. These plans are considered adequate and necessary to attain and maintain the remaining sulfur dioxide standards.

REVISIONS TO SULFUR OXIDES CRITERIA DOCUMENT

Section 108(c) of the Clean Air Act as amended in 1970 provides that the Administrator will "from time to time review, and as appropriate, modify any criteria * * *." In keeping with this section of the Act, notice is given in this issue of the FEDERAL REGISTER of the publication of a revision to Chapter 5, "Effects of Sulfur Oxide in the Atmosphere on Vegetation," of Air Quality Criteria for Sulfur Oxides. This revision includes the results of a number of studies completed since initial publication of the Criteria Document in 1969, and also includes reanalysis of older data in the light of new information.

The revision has been reviewed by the National Air Quality Criteria Advisory Committee, composed of representatives from industry, universities, conservation groups, and all levels of government; by individuals specially selected for their competence, expertise, or special interest in the effects of air pollutants on vegetation; and by a Federal consultation committee, comprised of members from appropriate Federal departments and agencies.







V 38-178
SEP 14 73
XUM

At the present time, the Administrator judges that the revised vegetational portion of the Air Quality Criteria for Sulfur Oxides provides the only adequate basis for the secondary National Ambient Air Quality Standards for Sulfur Dioxide. More than 700 published scientific papers concerning vegetational response to exposure to sulfur dioxide were reviewed by the Environmental Protection Agency. From these papers, 141 were selected by EPA as presenting the most significant criteria information. These papers are referenced and cited in the revised criteria document.

The Administrator realizes there are limitations in the scientific knowledge of vegetational effects resulting from exposure to sulfur dioxide in combination with other ambient air pollutants. As an example, it is known that sulfur dioxide combined with other pollutants may cause visible injury on vegetation to occur at lower levels than if vegetation were exposed to sulfur dioxide alone. A few studies in the revised criteria document consider the combined effects, but most studies deal with single pollutant effects. Only interactions between sulfur dioxide and ozone, and sulfur dioxide and oxides of nitrogen, have been cited in the revised criteria document. The information on combined effects presented in the criteria document is not based on extensive studies. The results are from preliminary laboratory studies which point out some conflicting results requiring in-depth review. There are some cases where plants are apparently undamaged by pollutant mixtures although the sulfur dioxide level by itself would lead one to believe that damage would occur. The potential for damage at low concentrations of pollutant mixtures clearly exist; however, there is not at this time, in the judgment of the Administrator, adequate data on which to base a standard solely on the combined effects.

The revised vegetational criteria cite environmental factors which in some way influence the susceptibility of vegetation injury as the result of sulfur dioxide exposure. For example, vegetation is most easily injured when: (1) Adequate soil moisture for growth is present, (2) humidity is high, (3) temperatures are above 40° F., (4) the vegetation is actively growing, and (5) sunlight is present. Environmental factors such as these are interrelated and no study has been located to date which succeeds in adequately isolating the relative importance of each.

Those studies which exist in the revised criteria document concerning vegetational harm in the entire growing season do not adequately indicate whether the observed injury was caused by a long-term exposure to low levels of sulfur dioxide or by high exposures of sulfur dioxide which occurred during shorter time periods. In the absence of such information, the Administrator has determined that proposing a standard based on growing season exposures to sulfur dioxide is not warranted at this time.

Laboratory, field-chamber, and ambient air studies are cited in the revised criteria. Laboratory and field chamber studies tend to be artificial by design and never completely simulate ambient air conditions. The intent of most laboratory and field chamber studies is to discover the effects resulting from direct exposure to the pollutants without the interference of numerous environmental parameters including other pollutants. As a result, laboratory and field chamber studies tend to either overrestrict a number of environmental conditions which might make vegetation more sensitive, or condition the vegetation to be much more sensitive than would be found under natural conditions. For example, natural environmental conditions such as excess moisture and sunlight, which influence the sensitivity of plants, together with the random interactions with other pollutants, may cause injury to occur at lower ambient air concentrations of sulfur dioxide than those reported in laboratory or chamber studies where such conditions are absent. In ambient air studies, a single pollutant and its effects are difficult to isolate from similar effects caused by sensitive environmental conditions or other pollutants. However, if ambient air studies are complemented by laboratory and field chamber studies, effects can be better related to the pollutant.

The Environmental Protection Agency is well aware that sulfur dioxide has effects on non-vegetational sectors of the public welfare such as materials, visibility, odor, taste, and the acidification of rain. However, the current National Secondary Ambient Air Quality Standard is not intended to protect these sectors of the public welfare from long-term effects of $SO_2$ because either protection is afforded by the existing National Annual Primary Ambient Air Quality Standard (80 micrograms per cubic meter) or sufficient data are not presently available to develop criteria for standards based on these effects.

The Environmental Protection Agency is continuing to conduct research on the long-term effects of sulfur dioxide exposure. During the period of prolonged research, however, the Administrator invites any relevant comment on the existence of scientifically recognized sulfur dioxide effects information which provides a quantitative basis for a long-term National Secondary Ambient Air Quality Standard. Data are especially desired which can relate specific ambient air concentrations of sulfur dioxide to quantified effects in such areas as the formation of acid rain, corrosion of materials, reduction in visibility, or any adverse change to the ecosystem.

As an example of nonvegetation effects, it is known that high annual concentrations of sulfur dioxide accompanied by high particulate levels will increase the corrosion rate of some materials. The Environmental Protection Agency has inadequate data with which to relate the effects of corrosion to long-term ambient air sulfur dioxide levels which are below those now prescribed by the primary standards.

The direct quantitative relationship between sulfur dioxide and reduction in visibility is not presently known. There is evidence that particulate sulfate and sulfuric acid mist may act with other particulate matter to reduce visibility; however, insufficient knowledge of the effects of environmental factors such as humidity, and of the indirect role that sulfur dioxide itself plays in reducing visibility, make a standard based on visibility impossible to propose at this time.

In the case of acidification of rain, the mechanism of the acid rain formation; the long-term effects of acidic moisture on plants, materials, and soils; and the concentrations of sulfur dioxide which can result in the formation of rain of sufficient acidity to be an danger to the environment are not fully understood by the Environmental Protection Agency at this time. The Administrator solicits any additional information concerning these, or any other currently unquantified, effects of sulfur oxides in the ambient air.

### Reevaluation of the Three-Hour $SO_2$ Standard

In the May 7, 1973 proposal to revoke the annual secondary standard, it was stated that "there is some question as to whether * * * injury to vegetation may result from short-term exposure to $SO_2$ concentrations which do not exceed the three-hour standard * * *." The Environmental Protection Agency has evaluated the additional data as presented in the revised criteria document, and has determined that this data does not provide an adequate and appropriate basis for revision of the existing three-hour standard.

The revised criteria document presents the results of studies which indicate that visible injury to some types of vegetation (minor leaf spotting) can result from short-term concentrations of $SO_2$ which do not exceed the current standards. Evidence of this visible injury has occurred on generally sensitive vegetation grown under environmental conditions which tend to favor maximum sensitivity. However, the Clean Air Act requires that secondary standards be established to protect the public welfare from adverse effects. The Administrator has given careful consideration to the question of whether this degree of injury can be responsibly defined as an adverse effect within the meaning of the Clean Air Act. After consultation with other agencies and individuals, including the United States Department of Agriculture, the Administrator has determined that, in his judgment, standards developed solely to protect against minor visible injury are not necessarily requisite to protect the public welfare from adverse effects.

The data presented in the revised criteria document also provide additional information regarding the levels of $SO_2$ concentration which can cause growth retardation or yield reduction of vegetation. These data provide adequate evidence that the current secondary standard (1,300 ug/m³ maximum three-hour concentration) is adequate and necessary to protect the public welfare from these adverse effects.

The Administrator recognizes, and has considered, the opinion that national standards should be established to protect against all effects of air pollutants, rather than only adverse effects. However, this opinion is inconsistent with the language of the Clean Air Act which requires protection against adverse effects, and also fails to accommodate the fact that, for some pollutants, the concentration levels which result in perceptible effects may be dependent upon available measurement and observation techniques, i.e., as research techniques improve, the level at which "effects" become perceptible becomes progressively lower, even though the level at which these effects become adverse remains relatively constant.

Several States have been granted an extension of time pursuant to section 110 (b) for submittal of State plans for implementation of the secondary sulfur dioxide standards, and in some cases submittal of these plans has been delayed pending results of EPA's reevaluation of the standards. That reevaluation is now complete, with results as reported herein and in the revised criteria document. The Administrator therefore expects that all State plans for implementation of the sulfur dioxide standards will be submitted within four months from date of this notice.

This notice of rulemaking is issued under authority of sections 109 and 301 of the Clean Air Act (42 U.S.C. 1857c-4 and 1857g).

Dated September 6, 1973.

JOHN R. QUARLES, JR.,
*Acting Administrator,*
*Environmental Protection Agency.*

Part 50, Title 40, Code of Federal Regulations is amended by revising § 50.5 as follows:

**§ 50.5 National Secondary Ambient Air Quality Standards for Sulfur Oxides (Sulfur Dioxide).**

The National Secondary Ambient Air Quality Standard for sulfur oxide measured as sulfur dioxide by the reference method described in Appendix A to this part, or by any equivalent method is 1,300 micrograms per cubic meter (0.5 p.p.m.) maximum 3-hour concentration not to be exceeded more than once per year.

[FR Doc.73-19295 Filed 9-13-73;8:45 am]

## PART 126—AREAWIDE WASTE TREATMENT MANAGEMENT PLANNING AREAS AND RESPONSIBLE PLANNING AGENCIES

On May 30, 1973, notice was published in the FEDERAL REGISTER, 38 FR 14230, that the Environmental Protection Agency was proposing policies and procedures for the designation of areawide waste treatment management pursuant to section 208(a) of the Federal Water Pollution Control Act Amendments of 1972 (86 Stat. 816 (33 U.S.C. 1251, 1288 (a)(1))).

The regulations are designed to serve as guides for the Governors of the States and chief elected officials of general purpose local government in identifying areas which, as a result of urban-industrial concentrations or other factors, have substantial water quality control problems which require an areawide approach in planning for and implementing corrective action, and in designating agencies capable of developing waste treatment management plans for such areas.

In view of the intent of the legislation, the Environmental Protection Agency believes that an areawide water quality management program should be carried out to gain the following objectives:

Provide cost effective, point source treatment and control for areas of urban-industrial concentrations having substantial water quality control problems.

Provide for control of nonpoint sources in urban-industrial and other areas where such controls are required including prevention of water quality problems in the future.

Provide for coordinated waste treatment management in such areas.

Written comments on the proposed rulemaking were invited and received from interested parties. A number of verbal comments also were received. The Environmental Protection Agency has carefully considered all submitted comments. All written comments are on file with the Agency. Certain of these comments have been adopted or substantially satisfied by editorial change, deletions from, or additions to the regulations. These changes are discussed below.

(a) A substantial water quality control problem was further defined to indicate that the problem exists where water quality has been degraded to the extent that desired uses are impaired or precluded. The identification of water quality segments under 40 CFR Part 130 or groundwater pollution problems are measures of the extent of the problem.

(b) The definition of local units of government that may respond to indicate intent to join together in the planning process now includes both general purpose and other appropriate units of local government. (See § 126.10(c).)

(c) The criteria for designation of a planning agency now includes the consideration of an existing agency's capability for implementing the plan or having the plan implemented. (See § 126-11(b).).

(d) The requirements for the submission of information on 208 planning areas and agencies have been revised to require a statement relating the boundaries of the area to the SMSA but not to require conformance to SMSA boundaries. (See § 126.15.)

(e) The Governor's right to nondesignate in intrastate areas only is clarified. (See § 126.16.)

(f) Where 208 planning area and agency designations are made by local public officials, the Governor's views on these designations may be made to the Administrator.

(g) The Administrator's approval or disapproval actions of areas and agencies will be published in the FEDERAL REGISTER. (See § 126.17.)

(h) The requirements for public participation as set forth in 40 CFR, Part 105 shall be followed.

*Effective date.*—September 14, 1973.

Because of the importance of promptly making known to States, local units of government and other interests the contents of these regulations in order that area and agency designations may be made under section 208(a) of the Act, the Administrator finds good cause to declare the regulations effective on September 14, 1973.

Dated September 4, 1973.

JOHN QUARLES,
*Acting Administrator.*

**Subpart A—Scope and Purpose; Definitions**

Sec.
126.1 Scope and Purpose.
126.2 Definitions.

**Subpart B—Procedures for Designation of 208 Planning Areas and Agencies Responsible for Planning**

126.10 Criteria for determination of 208 planning areas.
126.11 Criteria for designation of agencies responsible for planning.
126.12 Procedure for designation of intrastate 208 planning areas and agencies responsible for planning.
126.13 Procedure for designation of interstate 208 planning areas and agencies responsible for planning.
126.14 Nondesignation of 208 planning areas and/or agencies by Governor(s).
126.15 Submissions of 208 planning areas and agencies responsible for planning.
126.16 Procedure for designation of 208 planning areas and agencies responsible for planning by the chief elected officials of general purpose local government.
126.17 Review of submissions.
126.18 Revisions.

**Subpart C—State Planning in Nondesignated Areas**

126.20 Determination of planning agencies in nondesignated areas.

**Subpart D—Public Participation**

126.30 Public participation requirements in designation of 208 planning areas and designation of agencies responsible for planning.

**Subpart E—Assistance to Designated Agencies**

126.40 Determination of eligibility.

AUTHORITY.—Sec. 208 and 501, 86 Stat., 816, (33 U.S.C. 1251, 1288(a)(1)).

### Subpart A—Scope and Purpose; Definitions

**§ 126.1 Scope and purpose.**

This part establishes regulations specifying procedural and other elements and criteria for the use of State Governors and chief elected officials of general purpose local government in the designation of the areas, including their







V 38-178
SEP 14 73
XUM

boundaries, requiring areawide planning for waste treatment management pursuant to section 208 of the Act and designation of agencies responsible for such planning. This part provides that each State should comply with the requirements of this Part not later than 180 days after the date of publication of this part.

**§ 126.2 Definitions.**

As used in this part, the following terms shall have the meanings set forth below:

(a) The term "Act" means the Federal Water Pollution Control Act Amendments of 1972 (86 Stat. 816 (33 U.S.C. 1251, 1288(a)(1)).

(b) The term "EPA" means the U.S. Environmental Protection Agency.

(c) The term "Administrator" means the Administrator of the U.S. Environmental Protection Agency.

(d) The term "208 planning areas" means the area designated under section 208(a) (2), (3), or (4) of the Act.

## Subpart B—Procedures for Designation of 208 Planning Areas and Agencies Responsible for Planning

**§ 126.10 Criteria for determination of 208 planning areas.**

The following criteria will be utilized in designation of 208 planning areas.

(a) A Preference will be given by the Administrator, in approving designation, to areas of urban-industrial concentrations, because of the Act's legislative history and in view of the institutional nature of urban-industrial concentrations. For this purpose an urban-industrial concentration is that portion of a standard metropolitan statistical area (SMSA—as defined by the Office of Management and Budget), or those portions of SMSA's, having substantial concentrations of population and manufacturing production or other factors which result in substantial water quality control problems. The entire SMSA(s) may be designated as the planning area. Such areas may be increased to include areas outside the SMSA(s) which have substantial water quality control problems resu' 'ng from concentrations of population and manufacturing activity or other factors and which are contiguous to the SMSA(s);

(b) The area must have a substantial water quality control problem. A substantial water quality control problem shall be considered to exist only where the complexity and nature of the water quality control problem requires an areawide waste treatment management plan, and where water quality has been degraded to the extent that desired uses are impaired or precluded. A measure of the extent of the problem includes those areas where:

(1) A substantial portion of the major receiving waters available for waste discharge from the area has been classified by the State as a water quality segment, after adequate analysis demonstrating this classification, under the requirements of Part 130 of this chapter, or;

(2) A substantial and extensive groundwater pollution problem exists; or where the dependence of an area on groundwater makes it essential that its ground water resource be given the necessary protection from pollution it requires.

(c) The affected general purpose or other appropriate units of local government within the boundaries of the 208 planning area must:

(1) Have in operation a coordinated waste treatment management system, or

(2) Show their intent, through formally adopted resolutions, to join together to develop and implement a plan which will result in a coordinated waste treatment management system for the area.

(d) Affected units of local government must have legal authority to enter into agreements for coordinated wastewater management in compliance with section 208 of the Act.

**§ 126.11 Criteria for designation of agencies responsible for planning.**

(a) The agency shall be a representative organization whose membership shall include but need not be limited to elected officials of local governments, or their designees, having jurisdiction in the designated planning area. The agency shall establish procedures for plan adoption and resolution of major issues. The agency shall have waste treatment planning jurisdiction in the entire designated area. Existing, capable regional agencies may be designated consistent with the policies in Title IV of the Intergovernmental Cooperation Act of 1968, as implemented by Part IV of OMB Circular A-95. A single qualified agency may be designated as being responsible for planning in more than one planning area.

(b) In the selection of the areawide planning agency, the Governor(s) must consider that such agency, pursuant to section 208(b)(1) of the Act, shall have the water quality management planning process fully underway no later than 1 year after its designation. Further, the agency must have the capability to complete, and shall complete, the initial water quality management plan no later than 2 years after the planning process is in operation or such earlier date as the State may require for incorporation into State plans required under section 303 (e) of the Act. The Governor or, in interstate cases, the Governors, shall in the designation process, consider:

(1) The general and specific legal authorities and prohibitions applicable to the agency with regard to water quality management planning, including but not limited to coordination with or participation in comprehensive planning, land use planning, water sewer planning, coastal zone planning, and other related planning and development activities and controls.

(2) The relationship of the agency (both formal and informal) with planning agencies of different levels of government including but not limited to Federal, State, interstate and Federal-State agencies as well as local government agencies.

(3) The relationship of the agency (both formal and informal) with management and regulatory agencies such as those that possess zoning and subdivision controls, and those that construct and operate wastewater facilities.

(4) Where an existing agency is designated:

(i) The agency's past record in water quality management planning with special regard to plan quality, technical, fiscal, political, and economic feasibility, and environmental soundness.

(ii) The agency's expertise, either in-house or readily available, with particular regard to water quality and comprehensive planning.

(iii) The agency's fiscal, manpower, data, and other resources in light of existing and proposed commitments in other areas.

(iv) The agency's capability for having the plan implemented, or of implementing all or portions of the plan itself.

**§ 126.12 Procedure for designation of intrastate 208 planning areas and agencies responsible for planning.**

The Governor of the State shall, after proper consultation with appropriate elected and other officials of local governments having jurisdiction in such area, and such State agencies as he may desire, and having complied with the requirements for public participation as set forth in § 126.30 of this regulation, designate the 208 planning area, including its boundaries, and a single representative agency to be responsible for the planning. In designating such planning areas and agencies, the Governor shall consider the criteria set forth in §§ 126.10 and 126.11.

**§ 126.13 Procedure for designation of interstate 208 planning areas and agencies responsible for planning.**

The Governors of the States shall, in interstate areas, after consultation with appropriate elected and other officials of all local governments having jurisdiction and with such State and interstate agencies as they may desire, or may be required by State legislation, and having complied with the requirements for public participation as set forth in § 126.30, mutually designate each 208 planning area including its boundaries, and for each area a single representative agency to be responsible for the planning. In designating such planning areas and agencies, the Governors shall consider the criteria set forth in §§ 126.10 and 126.11.

**§ 126.14 Nondesignation of 208 planning areas and/or agencies by Governor(s).**

In certain intrastate areas the Governor may determine not to designate a 208 planning area even though the criteria set forth in §§ 126.10 and 126.11 may be met. Specific nondesignation of a 208 planning area does not preclude later designation by the Governor.





NOTE.—Attention is called to the fact that the Governor has three specific choices of action. He may designate, remain silent, or may nondesignate specific areas. If the Governor remains silent, the chief elected officials of general purpose local government in the area may make such designations if they so choose. Upon approval by the Administrator, designation by local elected officials is binding upon the Governor.

**§ 126.15 Submissions of 208 planning areas and agencies responsible for planning.**

Within 180 days after issuance of this Part the Governor shall notify the Administrator of his actions regarding designation of 208 planning areas and agencies responsible for the planning. This notification shall be in writing and shall include:

(a) Identification of each area within the State determined to be eligible by the Governor under § 126.10.

(b) A list of all areas among those eligible which the Governor wishes to nondesignate at this time.

(c) A list of all areas among those eligible which the Governor wishes to designate at this time. For each area designated the following information shall be provided:

(1) An exact description of the boundaries of each area including a statement relating to boundaries of any area to the boundaries of the SMSA(s) contained within or contiguous to the area, or in those areas not within a SMSA a statement relating the boundaries of the area to the nearest SMSA, and a statement indicating:

(i) Population of the area,

(ii) Nature of the concentration and distribution of industrial activity in the area,

(iii) Degree to which it is anticipated that the area could improve its ability to control water quality problems were it designated as a planning 208 area, and

(iv) Factors responsible for designation.

(2) Identification and supporting analysis of each water quality segment included in each area, as developed in accordance with Part 130 of this chapter.

(3) For each area a copy of the charter of existing regional waste treatment management agencies or formally adopted resolutions which demonstrate that the general purpose units of local government involved will join together in the planning process to develop and implement a plan which will result in a coordinated waste treatment management system for the area. The resolutions shall also state that all proposals for grants for construction of a publicly owned treatment works will be consistent with the approved plan and will be made only by the designated management agency.

(4) For each area the name, address, and official contact for the agency designated to carry out the planning.

(5) A statement on the factors considered in agency designation as described in § 126.11.

(6) A summary of public participation in accordance with the requirements set forth in § 126.30.

**§ 126.16 Procedure for designation of 208 planning areas and agencies responsible for planning by the chief elected officials of general purpose local government.**

(a) In the case of any intrastate area, if the Governor of an affected area does not act to designate or nondesignate it as a 208 planning area, or in an interstate area if the Governors of an affected area do not act to designate it as a 208 planning area, the chief elected officials of general purpose local governments having jurisdiction in the area, after meeting the requirements for public participation as set forth in § 126.30, may designate such planning area, and a single representative agency responsible for the planning, which shall be based upon the criteria set forth in §§ 126.10 and 126.11.

(b) After making such designation, the chief local officials shall: (1) Notify the Governor(s) of the State(s) affected by their action, and (2) submit their designation to the Administrator in accordance with the requirements set forth in § 126.15. When the Governor receives notification he may submit his views regarding the designation to the Administrator.

**§ 126.17 Review of submissions.**

(a) The Administrator shall review each submission of designated 208 planning areas and agencies to determine compliance with the criteria set forth in this Part.

(b) Upon completion of his review, the Administrator shall publish notice in the FEDERAL REGISTER and shall notify in writing the appropriate Governor(s) or local officials making such designations of his approval or disapproval of each designation. In the event that the Administrator disapproves any of the designations, he shall specify his reasons with his notice of disapproval.

**§ 126.18 Revisions.**

(a) The appropriate Governor(s) or local officials (where the original designation was not made by the Governor(s)) may from time to time propose in writing a revision of the boundaries of any 208 planning area previously approved. The Administrator shall approve or disapprove such proposed revision pursuant to § 126.17. The effective date of designation is the date of the Administrator's approval.

(b) The Governor(s) may also designate from time to time previously nondesignated planning areas and agencies. In such cases the designation, submission, and approval shall follow the requirements set forth in this Part.

## Subpart C—State Planning in Nondesignated Areas

**§ 126.20 Determination of planning agencies in nondesignated areas.**

(a) The State shall act as the planning agency for all areas not designated under §§ 126.12, 126.13, or 126.16. Where the Governor determines, pursuant to section 208(b)(4) of the Act, that the requirements of section 208(b)(2) (F through K) should be applied on a statewide basis, the State may apply the planning process established pursuant to section 303 of the Act as the process for carrying out the requirements of the sections. Funds which may be available under section 106 of the Act may be utilized to conduct planning pursuant to this section.

(b) Assumption by the State of the planning responsibilities in these areas does not foreclose the establishment of other planning processes at the substate level.

## Subpart D—Public Participation

**§ 126.30 Public participation requirements in designation of 208 planning areas and designation of agencies responsible for planning.**

(a) The guidelines for public participation as set forth in Part 105 of this chapter implementing section 101(e) of the Act shall be followed.

(b) The Governor(s) shall consult with appropriate elected and other local officials prior to designating planning areas and agencies. The Governor(s), or in the case of designation by chief elected officials of general purpose local government, those officials shall, after adequate public notice, hold one or more public hearings or meetings within the proposed 208 planning area for the purpose of gaining public advice on the designation of the planning area and agency. All units of local government wishing to be heard and the general public shall be included.

(c) Record of such public meetings or hearings including notice of same shall be kept and made available to the Administrator upon request. A summary of comments and meeting notes shall be submitted to the Administrator with each designation.

## Subpart E—Assistance to Designated Agencies

**§ 126.40 Determination of eligibility.**

Assistance under section 208 (f)(1), (g), and (h) of the Act shall be provided only to those agencies designated under § 126.12, 126.13, or 126.16.

[FR Doc.73-19294 Filed 9-13-74;8:45 am]

---

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 21—COMMISSIONED OFFICERS

Involuntary Retirement of Officers

The present regulation permits the involuntary retirement of an officer only for cause. A reduction in strength of the Reserve Corps could become necessary during periods of program contraction. The amendment will permit the involuntary retirement of officers with 20 or more years of service during periods of



V 38 1178 SEP 14 73 XUM

program contraction and strength reduction. Public participation in this change was not solicited since the change involves only internal administration of the Commissioned Corps personnel system.

1. Section 21.165 of Part 21, Title 42, Code of Regulations is amended to read as follows:

**§ 21.165 Involuntary retirement of officers with 20 years of service.**

The Assistant Secretary for Health may recommend to the Secretary the retirement of any officer who has completed 20 or more years of active service as defined in section 211(d) of the Act if the Assistant Secretary for Health after consideration of the recommendation of a board pursuant to § 21.168, determines that the retirement of an officer would be in the best interests of the Service for one or more of the following reasons:

(a) An officer's performance of duty is at a level below that expected of an officer of his grade in his category;

(b) An officer is not suited for continued service for one or more of the following similar causes:

(1) Conduct contrary to laws, regulations, or administrative directives applicable to commissioned officers.

(2) Intentional omission or misrepresentation of facts in official statements, either oral or written.

(3) Act of intemperance and/or personal misconduct to the discredit of the Service.

(c) A reduction in the strength of the Reserve Corps is necessary by reasons of program contraction or numbers limitation. The services of a board of officers, as otherwise required by this subpart, may be dispensed with.

*Effective date.*—These amendments shall be effective September 14, 1973.

Approved: September 10, 1973.

CASPAR W. WEINBERGER,
*Secretary.*

[FR Doc 73-19600 Filed 9-13-73;8:45 am]

## Title 43—Public Lands: Interior

### CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

### APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5383]

[Oregon 8646]

### OREGON

### Partial Revocation of Reclamation Project Withdrawal

*Correction*

In FR Doc. 73-17788 appearing at page 22551 in the issue of Wednesday, August 22, 1973, in paragraph 2, the 10th line reading "requirements received on or before 10", should read "requirements of applicable law. All valid applications received on or before 10".

## Title 47—Telecommunication

### CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

### PART 13—COMMERCIAL RADIO OPERATORS

### Operating Authority

In the matter of amendment of Part 13 of the rules to conform the language of § 13.61 to that of §§ 83.159 and 81.152 (d), with respect to transmitter power limitations imposed upon radiotelephone operators.

1. Section 83.159 of the rules, which lists operator requirements for noncompulsory stations, indicates that the holder of a radiotelephone third-class operator permit is authorized to operate a public or limited ship telephone of not more than 250 watts carrier power or 1,000 watts peak envelope power. Section 13.61(g)(6), which sets forth one of several enumerated limitations on the scope of operating authority enjoyed by a radiotelephone third-class operator, also refers to the express transmitter power limitations under which the third-class operator must operate. However, rather than paralleling the language of § 83.159 with respect to power limitations, § 13.61 (g)(6) expresses such limitation merely in terms of antenna power of the unmodulated carrier wave, without any reference to alternative limitation on peak envelope power.

2. Although the actual power limitations referred to both in § 83.159 and in § 13.61(g)(6) are the same, there is a need, to avoid confusion, to make the language essentially identical in both sections and to simplify the phraseology of § 13.61(g)(6). The proposed rule changes in the attached Appendix will accomplish this by amending § 13.61(g)(6) so that it will not be inconsistent with the text of § 83.159, and so that its meaning will be clear.

3. Similarly, there is a need to amend § 13.61, subsections (g)(4), (g)(5), and (h)(7), in order to make the language of these sections correspond to the limitations on power imposed by and expressed in § 81.152(d), which sets forth operator requirements for shore stations. Although the actual power limitations referred to in § 81.151(d) on the one hand, and in §§ 13.61(g)(4), 13.61(g)(5), and 13.61(h)(7), on the other hand, are the same, the power limitations in § 81.152(d) are expressed in terms of carrier power and peak envelope power, whereas the power limitations in § 13.61 are expressed in terms of carrier power only. The proposed amendments to subsections (g)(4), (g)(5), and (h)(7) of § 13.61 would have the effect of making the language of these sections conform to the language utilized in § 81.152(d).

4. The amendments adopted herein are editorial in nature, and hence the prior notice, procedure, and effective date provisions of 5 U.S.C. 553 do not apply. Authority for the promulgation of the amendments is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and § 0.231(d) of the Commission's rules.

5. Accordingly, Part 13 of the Commission's rules is amended as shown below, effective September 21, 1973.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082 (47 U.S.C. 154, 303).)

Adopted September 5, 1973.

Released September 6, 1973.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] JOHN M. TORBET,
*Executive Director.*

Part 13 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 13.61(g)(4) (5) & (6) and paragraph (h)(7) are amended to read as follows:

**§ 13.61 Operating authority.**

* * * * * * *

(g) * * *

(4) Class I–B coast stations at which the power is authorized to exceed 250 watts carrier power or 1,000 watts peak envelope power, or

(5) Class II–B or Class III–B coast stations, other than those in Alaska, at which the power is authorized to exceed 250 watts carrier power or 1,000 watts peak envelope power, or

(6) Ship stations or aircraft stations at which the installation is not used solely for telephony, or at which the power is more than 250 watts carrier power or 1,000 watts peak envelope power:

* * * * * * *

(h) * * *

(7) Coast stations at which the power is authorized to exceed 250 watts carrier power or 1,000 watts peak envelope power;

* * * * * * *

[FR Doc.73 19594 Filed 9-13-73;8:45 am]

### PART 87—AVIATION SERVICES

### General Operator Requirements

In the matter of amendment of Part 87 of the rules to conform the language of § 87.133 to that of § 13.61(g)(6) with respect to transmitter power limitations imposed upon radiotelephone operators.

1. Section 13.61(g)(6) of the rules, which sets forth one of several enumerated limitations on the scope of operating authority enjoyed by a radiotelephone third-class operator, specifically prohibits a third-class radiotelephone permit holder from operating an aircraft station at which the installation is not used solely for telephony, or at which the power is more than 250 watts carrier power or 1,000 watts peak envelope power. Section 87.133 of the rules, which sets forth general operator requirements for stations in the Aviation Services, provides for certain limitations on the use of third-class radiotelephone permits with respect to the operation of such stations. However, the limitations set forth in § 87.133 do not explicitly include any limitations on transmitter power, comparable to the ones explicitly enumerated in § 13.61(g)(6).

2. Although it is clear that the scope of operating authority enjoyed by a third-class operator is limited by the transmitter restrictions found in §13.61 (g)(6), there is a need, for the convenience of the public, to explicitly include these restrictions as part of the language of § 87.133. The attached Appendix amends Part 87 by including in § 87.133 the restrictions found in § 13.61(g)(6), and fulfills this need.

3. The amendment adopted herein is editorial in nature, and hence the prior notice, procedure, and effective date provisions of 5 U.S.C. 553 do not apply. Authority for the promulgation of the amendment is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and § 0.231(d) of the Commission's rules.

4. Accordingly, Part 87 of the Commission's rules is amended as below, effective September 21, 1973.

Adopted September 5, 1973.

Released September 6, 1973.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] JOHN M. TORBET,
*Executive Director.*

Part 87 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 87.133 is amended to read as follows:

**§ 87.133 General operator requirements.**

(a) Except as provided for in §§ 87.135, 87.139 or as limited on the face of the operator license or permit, all stations in the Aviation Services shall be operated by persons holding any class of commercial radio operator license or permit issued by the Commission: *Provided,* That,

(1) Only a person holding a third-class or higher operator permit shall operate aircraft stations

(i) Utilizing frequencies below 30 MHz not exclusively allocated to the aeronautical mobile service, or

(ii) Utilizing frequencies above 30 MHz not allocated exclusively to aeronautical mobile serviecs and which are assigned for international use; and

(2) Only a person holding a second-class radiotelephone or higher operator permit shall operate an aircraft station at which the installation is not used solely for telephony, or at which the power is more than 250 watts carrier power or 1,000 watts peak envelope power.

(b) The licensed operator of a land or aeronautical public service station using telephony may permit other persons to transmit or to communicate under his direct supervision and responsibility over the facilities of the station in accordance with the terms of the station license.

[FR Doc.73-19592 Filed 9-13-73;8:45 am]

## Title 49—Transportation

### CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 73-9; Notice 2]

### PART 570—VEHICLE IN USE INSPECTION STANDARD

*Correction*

In FR Doc. 73-18720, appearing at page 23949 in the issue for Wednesday, September 5, 1973, the paragraph that immediately follows § 570.5(c) should read as set forth below:

*Inspection procedure.*—Measure the distance (A) from the free pedal position to the floorboard or other object that restricts brake pedal travel. Depress the brake pedal, and with the force applied measure the distance (B) from the depressed pedal position to the floorboard or other object that restricts pedal travel.

Determine the percentage as $\frac{A-B}{A} \times 100$.

The engine must be operating when power-assisted brakes are checked. The pedal reserve check is not required for vehicles equipped with full power (central hydraulic) brake systems, or to vehicles with brake systems designed to operate with greater than 80 percent pedal travel.

### CHAPTER X—INTERSTATE COMMERCE COMMISSION

### SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1150]

### PART 1033—CAR SERVICE

### Kansas City Southern Railway Co. et al.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 10th day of September 1973.

It appearing, that The Kansas City Southern Railway Company (KCS) is unable to operate over its Lake Charles, Louisiana, branch because of destruction by fire of its bridge over the Houston River; that shippers served by the KCS are thereby deprived of railroad service; that KCS service to Lake Charles can be acomplished by operation by the KCS over certain tracks of the Southern Pacific Transportation Company (SPT), the Sabine River & Northern Railroad Company (SRN), and the Missouri Pacific Railroad Company (MP); that the SPT, SRN, and MP have consented to use of said tracks by the KCS; that operation by the KCS over the aforementioned tracks of the SPT, SRN, and MP is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

*It is ordered,* That:

**§ 1033.1150 Service Order No. 1150.**

(a) *The Kansas City Southern Railway Company authorized to operate over certain tracks of Southern Pacific Transportation Company, over certain tracks of Sabine River & Northern Railroad Company, and over certain joint tracks of Sabine River & Northern Railroad Company and Missouri Pacific Railroad Company.* The Kansas City Southern Railway Company (KCS) be, and it is hereby, authorized to operate over tracks of the Southern Pacific Transportation Company (SPT) between Lake Charles, Louisiana, and Echo, Texas, thence over tracks of the Sabine River & Northern Railroad Company (SRN) between Echo, Texas, and SRN milepost 12.8; thence over joint tracks of the SRN and the Missouri Pacific Railroad Company (MP) between SRN milepost 12.8 and Mauriceville, Louisiana.

(b) *Application.*—The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.*—Inasmuch as this operation by the KCS over tracks of the SPT, over tracks of the SRN, and over joint tracks of the SRN and the MP is deemed to be due to carriers' disability, the rates applicable to traffic moved by the KCS over these tracks of the SPT, SRN, and MP shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.*—This order shall become effective at 11:59 p.m., September 10, 1973.

(e) *Expiration date.*—The provisions of this order shall expire at 11:59 p.m., September 30, 1973, unless otherwise modified, changed, or suspended by order of this Commission.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; (49 U.S.C. 1, 12, 15, and 17(2)). Interprets or applies secs. 1(10–17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; (49 U.S.C. 1(10–17), 15(4), and 17(2).)

*It is further ordered,* That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-19620 Filed 9-13-73;8:45 am]





V 38-178
SEP 14 73
XUM

SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte 279]

## PART 1115—ISSUANCE OF SECURITIES, ASSUMPTION OF OBLIGATIONS, AND FILING OF CERTIFICATES AND REPORTS

### Public Offerings (Form of Offering Circular Required for Public Sales of Securities

*Order.* At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 5th day of September 1973.

It appearing, that the Commission, on the date hereof, has made and set forth its report in this proceeding setting forth its conclusions and findings and its reasons therefor, which report is hereby referred to and made a part hereof;

It further appearing, that since the proposed amendments and additions to existing regulations relate to matters of practice and procedure resulting from the herein proceeding, further notice and public proceedings under 5 U.S.C. 533 are not necessary and good cause exists for making the amendments and additions effective on or before November 13, 1973.

*It is ordered,* That offering circulars, hereby required, issued in connection with public sales of securities under section 20a or 214 of the Interstate Commerce Act, shall hēnceforth be in the form prescribed by the Commission in this proceeding.

*It is further ordered,* That part 1115 of Subchapter B of Chapter X, Title 49 of the Code of Federal Regulations be, and it is hereby, amended by adding new material[1] to Form BF-6, referred to in § 1115.1;

*It is further ordered,* That this order shall become effective on or before November 13, 1973; and

*It is further ordered,* That notice of this order shall be given to the general public by depositing a copy of this notice in the Office of the Secretary of this Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-19621 Filed 9-13-73;8:45 am]

[Ex Parte No. 275]

## PART 1115—ISSUANCE OF SECURITIES, ASSUMPTIONS OF OBLIGATIONS, AND FILING OF CERTIFICATES AND REPORTS

### Expanded Definition of "Securities"

*Correction*

In FR Doc. 73-18749 appearing on page 23953 in the issue of Wednesday, September 5, 1973, make the following change: In the third paragraph from the end of the document, the effective date should read "November 5, 1973," instead of "October 23, 1973".

[1] Filed as part of the original document.

Title 50—Wildlife and Fisheries

## CHAPTER I—BUREAU OF SPORT FISHERIES AND WILDLIFE, FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

## PART 32—HUNTING

### Kirwin National Wildlife Refuge, Kansas

The following regulation is issued and is effective September 14, 1973.

**§ 32.1 Opening of wildlife refuge areas to hunting; addition to open area.**

KANSAS

KIRWIN NATIONAL WILDLIFE REFUGE

The public hunting area on the Kirwin National Wildlife Refuge has been increased from 3,300 acres to 3,700 acres.

Properly described this addition includes all lands within the refuge and above the lake elevation, south along the section line common to sections 33 and 34, T 4S, R 17W, and sections 2 and 3, T 5S, R 17W, to the refuge boundary; thence east one mile to the section line common to sections 1 and 2, T 5S, R 17W; thence north to the lake shore; thence northwest following the water line to the beginning point.

This addition will be open for the hunting of all species previously authorized under §§ 32.11, 32.21, and 32.31 of this chapter.

KEITH S. HANSEN,
*Refuge Manager, Kirwin National Wildlife Refuge, Kirwin, Kansas.*

AUGUST 22, 1973.

[FR Doc.73-19547 Filed 9-13-73;8:45 am]

## PART 32—HUNTING

### Benton Lake National Wildlife Refuge, Montana

The following regulations are issued and are effective on September 14, 1973. These regulations apply to public hunting on portions of the Benton Lake National Wildlife Refuge.

Public hunting of geese, ducks, coots, mergansers and Wilson's snipe on the Benton Lake National Wildlife Refuge, Montana, is permitted only on areas designated by signs as open to public hunting. This open area is delineated on maps available at refuge headquarters.

Hunting shall be in accordance with all applicable state and federal regulations governing the hunting of the aforementioned species subject to the following special conditions:

1. Vehicle travel is restricted to existing gravel surface roads.

2. During the period October 6 through November 18, 1973, all hunters will be required to register at the designated check station prior to entering the hunting area.

3. During the period October 6 through November 18, 1973, all hunters will be required to check out by completing information forms concerning their hunt and by presenting their bag to refuge personnel for species identification.

4. On all even numbered days during the period October 6 through November 18, hunters may not possess or use shells other than 12 guage, iron shot, heavy loads, 1½ ounces of shot, No. 4 shot, which will be available for sale at the official check station. Specific days for use of iron shot are October 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, November 2, 4, 6, 8, 10, 12, 14, 16, 18, 1973.

5. On all odd numbered days during the period October 6 through November 18, hunters may not possess or use iron shot shotgun shells. Specific days for non-use of iron shot shells are October 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, November 1, 3, 5, 7, 9, 11, 13, 15, 17, 1973.

In order to avoid disruption of the Bureau's pilot iron shot program and continue the collection of important data and for the further reason that the waterfowl hunting season in this area opens on October 6, it is determined that this regulation shall take effect in less than 30 days from date of publication and that notice of public procedures thereof is impractical, unnecessary and contrary to public interest, thus falling within the exceptions of (5 U.S.C. 553(b)(3)(B)), and that these regulations shall be effective on October 6, 1973.

The provisions of this special regulation supplement to regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 6, 1974.

LYLE A. STEMMERMAN,
*Refuge Manager, Benton Lake National Wildlife Refuge, Great Falls, Montana.*

SEPTEMBER 7, 1973.

[FR Doc.73-19548 Filed 9-13-73;8:45 am]

Title 6—Economic Stabilization

## CHAPTER I—COST OF LIVING COUNCIL

## PART 150—COST OF LIVING COUNCIL PHASE IV PRICE REGULATIONS

### Petroleum and Petroleum Products

Subpart L of Part 150 of Title 6 of the Code of Federal Regulations is amended in §§ 150.355(c), 150.356, 150.357, and 150.358(g).

Section 150.355(c) is amended to allow refiner-retailers to increase ceiling prices for retail sales of No. 2 heating oil on a monthly basis to reflect, on a dollar-for-dollar basis, increases in costs of imported No. 2 heating oil incurred in the preceding month. This provision corrects Subpart L as issued on August 17, 1973, which inadvertently omitted refiner-retailers in § 150.355. This amendment implements the Council's intention





to provide the same option for refiner-retailers as afforded retailers and reseller-retailers in § 150.355(d)(2) as originally published. As amended, therefore, Subpart L provides that refiner-retailers, reseller-retailers and retailers of No. 2 heating oil may adjust ceiling prices for No. 2 heating oil on the first day of each month to reflect increased costs of imports of No. 2 heating oil incurred during the preceding month, provided that a report, on forms prescribed by the Council, is made to the Internal Revenue Service by the 5th day of the month after any such price increase.

The new § 150.356 replaces existing §§ 150.356 and 150.357. It prescribes with greater specificity the requirements governing the inclusion of a refiner's increased costs of imports and domestic crude petroleum in the computation of its ceiling prices for retail sales of gasoline, No. 2–D diesel fuel and No. 2 heating oil and the base prices for covered products.

Section 150.356(b) adds a new subparagraph containing definitions used in the section. Attention is particularly directed to the definitions of "landed cost" in which the Council has set out more precise methods for determining both the costs of imported petroleum products and transportation costs for those products. In particular, this definition is intended to make clear the rules for calculating these costs in transactions between affiliated entities. Costs are established in certain cases of transactions among affiliated entities of the same firm by requiring use of accounting procedures generally accepted and consistently and historically applied by the firm rather than treating such transactions as "arms-length" transactions involving either posted prices or imputed world scale transportation rates. The Council intends to review the accounting procedures which firms subject to this section apply in making the necessary computations and reserves the right to require firms to modify their accounting procedures for purposes of this provision where the Council concludes that the accounting practices used by the firms are not a fair reflection of the actual costs incurred. Changes in business practices designed to frustrate the purposes of these rules may also be disallowed by the Council.

Another change from the regulations, as originally published on August 17, 1973, is substitution of a monthly cost period for each type of product to measure both base costs and current costs. The original provision established a single date (i.e., May 15, or July 31) on which to measure cost. This change eliminates the need for using imputed costs in many cases and will provide a more realistic and accurate basis for measurement of increased costs of imports and domestic crude petroleum.

Section 150.356 provides a more precise method for calculating the allocation of increased costs of imports and domestic crude petroleum to various products. The Council has furnished in this amendment, a mathematical formula which firms must use in calculating the dollar amount of the increased costs of imports and domestic crude petroleum. The formula is intended to further implement the Council's intention of allowing recovery of increased costs of imports and domestic crude on a dollar-for-dollar basis. The substance of the corresponding provisions in the regulations, as originally published on August 17, 1973, has been generally retained. Having been made aware of some uncertainty among firms as to precisely what form of computations should be employed, the Council developed this formula to provide explicit guidance and to avoid misunderstandings.

The Council believes that the clarifications embodied in these amendments provide assurance that increased costs of imports can be fully recovered on a dollar-for-dollar basis. This assurance should encourage the importation of the additional quantities of these products which will be required in the months immediately ahead.

Section 150.356 is further amended to make clear that increased costs of imports incurred in a particular month cannot be recouped in a period of time less than the next succeeding month, but that to the extent that recoupment does not occur in its entirety in the next succeeding month, the unrecouped portion may be recovered in a later month.

Because the purpose of these amendments is to provide immediate guidance and information with respect to the decisions of the Council, the Council finds that publication in accordance with normal rule making procedure is impracticable and that good cause exists for making these amendments effective in less than 30 days.

(Economic Stabilization Act of 1970, as amended, Pub. L. 92-210, 85 Stat. 743; Pub. L. 93-28, 87 Stat. 27; E.O. 11695, 38 F.R. 1473; E.O. 11730, 38 FR 19345; Cost of Living Council Order No. 14, 38 FR 1489.)

In consideration of the foregoing Chapter I of Title 6 of the Code of Federal Regulations is amended as follows, effective 11:59 p.m., e.s.t., August 19, 1973.

Issued in Washington, D.C., on September 12, 1973.

JOHN T. DUNLOP,
*Director,*
*Cost of Living Council.*

1. Section 150.355(c) is amended to read as follows:

**§ 150.355 Retail sales of gasoline, No. 2–D diesel fuel and No. 2 heating oil.**

* * * * *

(c) *Ceiling prices: refiner-retailers.*—(1) The ceiling price for retail sales of gasoline of a particular octane number, No. 2–D diesel oil and No. 2 heating oil by a refiner-retailer at each outlet where the refiner-retailer sells such item is (i) the weighted average price at which each such item was lawfully priced in transactions on May 15, 1973, at each such outlet plus (ii) increased costs of imports incurred between May 15, 1973, and August 1, 1973 and calculated pursuant to § 150.356(d)(1). If the refiner-retailer first offered gasoline, No. 2–D diesel fuel or No. 2 heating oil at a particular outlet after May 15, 1973, the price at which each such item was priced in transactions on May 15, 1973, at the nearest comparable outlet shall be used in computing the ceiling price In computing the ceiling price, a firm may not exclude any temporary special sale, deal or allowance in effect on May 15, 1973.

(2) Notwithstanding the provisions of paragraph (c)(1) of this section, monthly adjustments to the ceiling prices of No. 2 heating oil may be made on the first day of each month beginning with September 1973 when calculated pursuant to § 150.356(d)(2) to reflect increased costs of imported No. 2 heating oil. Any refiner-retailer which increases the ceiling price on No. 2 heating oil pursuant to this subparagraph must submit a report in accordance with the forms and instructions issued by the Cost of Living Council by the fifth day of the month in which the ceiling is increased.

2. Section 150.356 is amended to read as follows:

**§ 150.356 Allocation of refiner's increased costs of imports and domestic crude petroleum.**

(a) *Scope.*—This section prescribes the requirements governing (1) the inclusion of a refiner's increased costs of imports in the computation of its ceiling prices for retail sales of gasoline, No. 2–D diesel fuel, and No. 2 heating oil, and base prices for covered products; and (2) the inclusion of a refiner's increased costs of domestic crude petroleum and purchased domestic petroleum products commingled for accounting purposes in the computation of its base prices for covered products.

This section does not apply to increased costs of imports and increased costs of domestic crude petroleum for products a refiner resells as a refiner-reseller pursuant to § 150.359.

(b) *Definitions.*—For purposes of this section—

"Cost of domestic crude petroleum" means (1) for purposes of arms-length transactions the purchase price provided that it conforms with the requirements of § 150.354; (2) for purposes of a transaction between affiliated entities, the posted price for the new crude petroleum and the posted price or price determined pursuant to § 150.354(c)(3) for base production control level crude petroleum. If there is no posted price in a particular field, the related price for that grade of new domestic crude petroleum which is most similar in kind and quality at the nearest field for which the price is posted and the price determined pursuant to § 150.354(c)(3) for base production control level crude petroleum.

"Firm" means a parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls.



V 38-178 SEP 14 73 XUM

"Increased costs of domestic crude petroleum" means the difference between the total cost of domestic crude petroleum during the month of measurement and the total cost of domestic crude petroleum during the month of May, 1973. Increased costs of domestic crude petroleum also means the difference between the total cost of a purchased domestic petroleum product commingled for accounting purposes during the month of measurement and the total cost of that product commingled for accounting purposes during the month of May, 1973.

"Increased costs of imports" means, for an imported product, the difference between the total landed cost for that product landed during the period of measurement and the total landed cost of that product landed during the month of May 1973.

"Landed cost" means: (1) For purposes of complete arms-length transactions, the purchase price at the point of origin plus the actual transportation cost. (2) For purposes of products purchased in arms-length transactions and shipped pursuant to a transaction between affiliated entities, the purchase price at the point of origin plus the transportation cost computed by use of the accounting procedures generally accepted and consistently and historically applied by the firm concerned. (3) For purposes of products purchased in a transaction between affiliated entities and shipped pursuant to an arms-length transaction, the cost of the product computed by use of the customary accounting procedures generally accepted and consistently and historically applied by the firm concerned plus the actual transportation cost. (4) For purposes of products purchased and shipped pursuant to a transaction between affiliated entities, the costs of the product and the transportation, both computed by use of the customary accounting procedures generally accepted and consistently and historically applied by the firm concerned.

"Special products" means gasoline, No. 2–D diesel fuel and No. 2 heating oil.

"Transactions between affiliated entities" means all transactions between entities which are part of the same firm and transactions with entities in which the firm has a beneficial interest to the extent of entitlement of covered product by reason of the beneficial interest.

(c) *Allocation of increased costs.*—(1) *General rule.*—In computing its ceiling prices and base prices for covered products pursuant to §§ 150.355(c) and 150.358(g), a refiner may increase its May 15, 1973, selling prices to each class of purchaser on the first day of each month beginning with September 1973 by an amount to reflect the increased costs of imports and increased costs of domestic crude petroleum allowable under paragraphs (d), (e), and (f) of this section, provided that the amount of increased costs used in computing a ceiling price or base price is calculated by use of the general formula set forth in paragraph (c)(2) of this section. If, in any month beginning with September 1973, a firm establishes a base price for any covered product or a ceiling price for No. 2 heating oil which does not include the entire amount of increased costs calculated pursuant to this formula and allowable under paragraphs (d), (e), and (f) of this section for a particular item, the unused portion may be added to the May 15, 1973, selling price to compute the respective base price or ceiling price for a subsequent month.

For purposes of this subpart, transactions between affiliated entities may be used to calculate increased costs. Whenever a firm uses a landed cost which is computed by use of its customary accounting procedures, the Council may allocate such costs between the affiliated entities if it determines that such allocation is necessary to reflect the actual costs of those entitles or the Council may disallow any costs which it determines to be in excess of the proper measurement of costs. Costs incurred in transactions in which covered products are obtained which are resold without being refined by the firm or commingled for accounting purposes may not be included in the calculation of the general formula.

(2) *General formula.*

$$D_{ij}{}^{n}=\frac{\left[A\times\frac{S_i{}^{n}}{S^{n}}+B\right]S_{ij}{}^{n}}{Q_{ij}{}^{n}}.$$

Where:

D = The dollar increase that can be applied to each May 15, 1973 selling price of the covered product concerned to each class of purchaser to compute either the ceiling price or base price to each class of purchaser.

p = The unit price of a covered product other than crude petroleum. For imported products, the landed cost.

q = The quantity or volume of a covered product other than crude petroleum.

$C^{t}$ = The unit cost of crude petroleum.

Q = The quantity or volume of crude petroleum.

$S$ $\sum_{i=1}^{1}\sum_{j=1}^{3}[p_{ij}q_{ij}]$ which is the total sales of all covered products other than crude petroleum.

$S_i$ $\sum_{j=1}^{3}[p_{ij}q_{ij}]$ which is the total sales of a specific covered product or products other than crude petroleum.

$S_{ij}$ $p_{ij}q_{ij}$ which is the total sales of a specific covered product or products other than crude petroleum at a specific level of distribution. For ceiling prices, j=1. For base prices, j=2 or 3, as appropriate, for special products and j=1, 2 or 3 for other covered products.

$$A=\sum_{k}[(C_k{}^{t}Q_k{}^{t}-C_k{}^{o}Q_k{}^{o})-X^{n}(Q_k{}^{t}-Q_k{}^{o})]$$

Where

$$X^{n}=\frac{\sum_{k=1}^{2}[C_k{}^{o}Q_k{}^{o}]}{\sum_{k=1}^{2}[Q_k{}^{o}]}$$

which is the average unit cost of crude petroleum. For ceiling price determinations, K=2 except in computing $X^{o}$.

$$B=\sum_{k}[p_{ik}{}^{t}q_{ik}{}^{t}-p_{ik}{}^{o}q_{ik}{}^{o}-Y^{o}(q_{ik}{}^{t}-q_{ik}{}^{o})]$$

Where

$$Y^{o}=\frac{\sum_{j=1}^{3}[p_{ij}{}^{o}q_{ij}{}^{o}]}{\sum_{j=1}^{3}[q_{ij}{}^{o}]}-\frac{\sum_{j=1}^{2}[p_{ij}{}^{o}q_{ij}{}^{o}(p_{ij}{}^{n}-p_{ij}{}^{o})]}{\sum_{j=1}^{2}[p_{ij}{}^{o}q_{ij}{}^{n}]}$$

The type of covered product is referenced by the subscript i:

i=1 represents No. 2 heating oil.
i=2 represents gasoline.
i=3 represents No. 2–D diesel fuel.
i=4 represents all covered products other than special products.

The category of purchaser or level of distribution is referenced by the subject j:

j=1 represents sales to ultimate consumers.
j=2 represents sales to retailers.
j=3 represents sales to wholesalers.

The origin of a purchased covered product is referenced by the subscript k:

k=1 represents domestic origin.
k=2 represents foreign origin or import.

SUPERSCRIPTS

n = The fiscal quarter of the preceding year corresponding to the respective period of measurement.

o = The month of May 1973.

t = The period of measurement. For ceiling prices other than No. 2 heating oil, t=the month of July 1973. For ceiling prices of No. 2 heating oil, t=the month of July 1973 as to costs derived from imported crude petroleum and the month of measurement for imported No. 2 heating oil. For base prices, t=the month of measurement. (The month of measurement is the month preceding the current month).

u = The current month for base prices and the ceiling price of No. 2 heating oil and the month of July 1973 for the ceiling prices of gasoline and No. 2–D diesel fuel. Quantities calculated for the current month will be estimates which should be based on the best available data.

MATHEMATICAL TERM

$\sum$ Represents a calculation by summing with respect to the designated subscript all terms designated in the superscript.

(d) *Measurement of increased costs of imports for inclusion in computation of ceiling prices of special products—(1) Adjustment to May 15, 1973, selling price.*—In computing its ceiling prices for a special product, a refiner may increase its May 15, 1973, selling price to each class of purchaser by an amount to reflect the increased costs of imported crude petroleum and imported special product attributable to retail sales of that special product using the differential between the month of July 1973 and the month of May 1973.

(2) *Subsequent adjustments to the ceiling price of No. 2 heating oil.*—Notwithstanding the provisions of subparagraph (1), in computing the ceiling price for No. 2 heating oil, a refiner may, for any month subsequent to August 1973, increase its May 15 selling price to each class of purchaser by an amount to reflect the increased costs of imported crude petroleum using the differential between the month of July 1973 and the month of May 1973 and the increased costs of imported No. 2 heating oil using the differential between the preceding month and the month of May 1973, attributable to retail sales, provided that the refiner uses the amount derived from this computation in lieu of the amount calculated in paragraph (d)(1) of this section. In computations pursuant to this subparagraph, the term $S_i{}^{n}/S^{n}$ should be computed as in paragraph (d)(1) of this section to correspond with the month of July while the term $S_{ij}{}^{n}/S_i{}^{n}$ should be computed to correspond to the appropriate month of measurement used for determining the increased costs of imported No. 2 heating oil.

(e) *Measurement of increased costs of imports and domestic crude petroleum for inclusion in computation of base prices of covered products other than special products.*—In computing base prices for a covered product other than a special product, a refiner may, for any month subsequent to August 1973, increase its May 15 selling price to each class of purchaser to reflect the increased costs of imports and the increased costs of domestic crude petroleum attributable to sales of covered products using the differential between the month of measurement and the month of May 1973, provided that the amount of increased costs included in computing base prices of a particular covered product other than a special product must be equally applied to each class of purchaser. To the extent that a refiner does not allocate increased costs pursuant to this paragraph, it may include that part of its increased costs attributable to special products in computing its base prices for those products pursuant to paragraph (f) of this section except that if any base price of a special product is increased pursuant to paragraph (f) then the part of increased costs attributable to retail sales of special products after July 31, 1973, may not be included in the ceiling price of No. 2 heating oil or the base price of any covered product.

(f) *Measurement of increased costs of imports and domestic crude petroleum for inclusion in computation of base prices of special products.*—In computing base prices for a special product, a refiner may, for any month subsequent to August 1973, increase its May 15 selling price to each class of purchaser by an amount to reflect the increased costs of imports and increased costs of domestic crude petroleum attributable to sales of that special product at other then retail using the differential between the month of measurement and the month of May 1973 provided that such increased costs have not been otherwise allocated pursuant to paragraph (e) of this section.

§ 150.357 [Revoked]

3. Section 150.357 is revoked.

4. Section 150.358(g) is amended to read as follows:

§ 150.358 Price rule: Refiners.

* * * * *

(g) *Base price.*—The base price for a particular month for sales of an item by a refiner is the weighted average price at which the item was lawfully priced in transactions with the class of purchaser concerned on May 15, 1973, or if none occurred on that date, in the transaction next preceding May 15, 1973, plus increased costs of imports and domestic crude petroleum incurred between the month of measurement and May 15, 1973, and measured pursuant to the provisions of § 150.356. In computing the base price, a firm may not exclude any temporary special sale, deal, or allowance in effect on May 15, 1973.

[FR Doc.73-19728 Filed 9-12-73;4:38 pm]







V 38-178 SEP 14 73 XUM

# Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

### [ 7 CFR Part 20 ]

## EXPORTERS OF CERTAIN COMMODITIES

### Proposed Reporting Requirements

Notice is hereby given that, purusant to section 812 of the Agriculture and Consumer Protection Act of 1973 (Pub. L. 93-86), it is proposed to issue regulations requiring exporters of certain commodities to report information regarding export sales contracts entered into with respect to such commodities. Section 812 provides that exporters shall make reports covering export sales of wheat, wheat flour, feed grains, oilseeds, cotton and products thereof, and any other commodities the Secretary may designate. The commodities and products thereof for which reports will be required will be set forth in Appendix 1, together with the marketing year and unit of measure to be used in making reports with respect to each commodity. Initially reports will be required with respect to export sales contracts for rice as well as the commodities specified in section 812. Appendix 2 [1] contains the proposed forms on which reports are to be submitted.

Section 812 provides a method to effectively monitor export commitments so that commodities in short supply can be detected, to monitor the foreign demand for certain commodities, and to provide the public with this information.

An open meeting will be held in room 218-A (Administration Building), U.S. Department of Agriculture, 14th and Independence Avenue Northwest, Washington, D.C., on September 19, 1973, at 1:30 p.m., to discuss the proposed regulation with interested persons.

Interested persons may also submit data, views, and comments in connection with the proposal in duplicate to the Estimates Division, Statistical Reporting Service, U.S. Department of Agriculture, Washington, D.C. 20250. In order to be assured of consideration, submissions must be received on or before September 21, 1973. All written submissions made pursuant to this notice will be made available for public inspection in the Office of the Director at the above address during regular business hours (7 CFR 1.27(b)).

The proposed regulations are as follows:

Sec.
20.1 General.
20.2 Administration.
20.3 Delegation of authority.
20.4 Definitions.
20.5 Announcements of commodities subject to reports.
20.6 Submission of reports.
20.7 Confidentiality of reports.
20.8 Failure to report.
20.9 Records.
20.10 Place of submission of reports.
20.11 Additional reports.

AUTHORITY: Sec. 812 of the Agriculture and Consumer Protection Act of 1973, Pub. L. 93-86.

### § 20.1 General.

The regulations of this Part 20 are issued to implement the export sales reporting requirements of section 812 of the Agriculture and Consumer Protection Act of 1973. The Act provides as follows:

All exporters of wheat and wheat flour, feed grains, oilseeds, cotton and products thereof, and other commodities the Secretary may designate produced in the United States shall report to the Secretary of Agriculture, on a weekly basis, the following information regarding any contract for export sales entered into or subsequently modified in any manner during the reporting period: (a) Type, class, and quantity of the commodity sought to be exported, (b) the marketing year of shipment, (c) destination, if known. Individual reports shall remain confidential but shall be compiled by the Secretary and published in compilation form each week following the week of reporting. All exporters of agricultural commodities produced in the United States shall upon request of the Secretary of Agriculture immediately report to the Secretary any information with respect to export sales of agricultural commodities and at such times as he may request. Any person (or corporation) who knowingly fails to report export sales pursuant to the requirements of this section shall be fined not more than $25,000 or imprisoned not more than one year, or both. The Secretary may, with respect to any commodity or type or class thereof during any period in which he determines that there is a domestic supply of such commodity substantially in excess of the quantity needed to meet domestic requirements, and that total supplies of such commodity in the exporting countries are estimated to be in surplus, and that anticipated exports will not result in excessive drain on domestic supplies, and that to require the reports to be made will unduly hamper export sales, provide for such reports by exporters and publishing of such data to be on a monthly basis rather than on a weekly basis.

### § 20.2 Administration.

The regulations of this part will be administered by the Statistical Reporting Service (SRS) under the general supervision of the Administrator, SRS. Information pertaining to these regulations may be obtained from the office specified in § 20.10.

### § 20.3 Delegation of authority.

Authority is hereby delegated to the Administrator to promulgate amendments and revisions to the regulations in this part.

### § 20.4 Definitions.

As used in these regulations and in all instructions, forms, and documents pertaining hereto, the words and phrases defined in this section shall have the meaning assigned to them as follows:

(a) *Administrator.*—The Administrator, Statistical Reporting Service, U.S. Department of Agriculture.

(b) *Buy-back contract.*—A transaction under which a reporting exporter having sold a commodity for export to a foreign buyer liquidates the export sale contract by making an off-setting purchase of the same kind of commodity from the same foreign buyer.

(c) *Commodity.*—Wheat and wheat flour, feed grains, oil seeds, cotton, and products thereof and any other agricultural commodity the Secretary may designate, "Commodity" shall also mean a commodity having an identifying characteristic as described in any announcement issued pursuant to § 20.5 such as class(es) of wheat, or staple length(s) of cotton. "Commodity" shall refer only to a commodity produced in the United States or a product processed in the United States from a commodity produced in the United States.

(d) *Country of destination.*—(1) Any country outside the United States or, (2) any territory or possession of the United States. Country of destination shall be designated "unknown" if such information is not available at time of compiling a report.

(e) *Export.*—A shipment of a commodity from the United States destined to a country specified in paragraph (d) of this section. The commodity shall be deemed to have been exported on the date of the applicable export carrier on-board bill of lading or the date the commodity is received for shipment as specified on the bill of lading in the case of a commodity received for shipment in a lash barge or containerized van if a through on-board bill of lading is issued for shipment to a country specified in paragraph (d) of this section.

(f) *Export carrier.*—The vessel on which a commodity is exported from the United States to a country specified in paragraph (d) of this section, or if export is by railcar, truck, or airplane, "export carrier" means such railcar, truck, or airplane.

(g) *Exports for exporter's own account.*—Shipments made by the reporting exporter which are unsold at the time of export, shipments on consignment to selling agents of the reporting exporter for subsequent sale for the account of the reporting exporter, shipments by a reporting exporter to a country outside the United States for his own account, shipments by the reporting exporter that have not been allocated to any outstanding export sale, and shipments from the United States to Canada in bond for subsequent shipment to a third country.

(h) *Export sale.*—A transaction entered into between a reporting exporter and a foreign buyer whose place of business with respect to the transaction is outside the United States. The transaction must represent a written agreement under which (1) the exporter agrees to export the commodity, (2) the foreign buyer agrees to receive the commodity, (3) there is a firm dollar and cent price or an agreed formula for determining a price based on a premium or discount to a price in a designated future delivery month at a recognized contract market, and (4) payment will be made to the reporting exporter by the foreign buyer for delivery of the commodity. If the transaction is concluded with an agent (other than an employee) of the foreign buyer and the agent's place of business is in the United States, the resulting contract shall be construed to be between the reporting exporter and the foreign buyer. The quantity of "outstanding export sale" means the quantity not yet exported under an export sale. Export sale shall not include a transaction which is conditioned upon the imposition or non-imposition of export controls and such a transaction shall not be reported under these regulations.

(i) *Foreign buyer and foreign seller.*—A person whose place of doing business with respect to the transaction is outside the United States.

(j) *Marketing year.*—The reporting period specified for a commodity in Appendix 1.

(k) *Optional origin contracts.*—An export sale contract between a reporting exporter and a foreign buyer under which the reporting exporter has the option of exporting the commodity from the United States or from one or more other exporting countries or an export sale contract under which no origin is specified.

(l) *Person.*—An individual, partnership, corporation, association or other legal entity.

(m) Purchases from foreign sellers. The purchase of a commodity from a seller whose place of business with respect to the transaction is outside the United States when the terms of the contract provide that the commodity to be delivered under the contract will be exported from the United States or where the seller has the option of exporting the commodity from the United States or from one or more other exporting countries.

(n) *Quantity.*—The actual contract quantity (exclusive of any upward or downward tolerance) specified in the agreement between the reporting exporter and foreign buyer or seller.

(o) *Reporting exporter.*—A person who is engaged in the United States in the business of selling for export any commodity subject to these regulations, who maintains a bona fide business office for such purpose in the United States, who has an agent in the United States upon whom service of judicial process may be made, and who sells a commodity to a foreign buyer irrespective of whether or not such person may appear as the shipper on the export documentation or whether or not such person is required to file a Shipper's Export Declaration. A reporting exporter shall not include agents of either the reporting exporter or foreign buyer, brokers, or freight forwarders unless such agents, brokers or freight forwarders are acting in the capacity of a principal.

(p) *United States.*—All of the 50 States, the District of Columbia and Puerto Rico.

### § 20.5 Announcement of commodities subject to reports.

Commodities for which reports are required under these regulations are set forth in Appendix 1 below. Any change therein will be made by publication in the FEDERAL REGISTER of an amendment thereto, and, in addition, announcement of such change will be made through the press and ticker service. The unit of measure to be used in reporting the commodity, the beginning and ending dates of the marketing year for each commodity, and any other information deemed necessary to be included in the report will be specified in Appendix 1 below and amendments thereto and in the announcements through press and ticker service.

### § 20.6 Submission of reports.

(a) *Weekly reports.*—For each commodity for which reports are required under these regulations, the reporting exporter shall file weekly with the office specified in § 20.10 and not later than the time specified in paragraph (m) of this section, a report by marketing year on C.E. 06-0095 "Report of Export Sales and Exports," and on C.E. 06-0096, "Report of Optional Origin Sales," setting forth the information required by this section and by the instructions to the forms as set forth in Appendix 2 below. Each report shall contain the full business name, address and telephone number of the reporting exporter, the name and signature of the person submitting the report on behalf of the reporting exporter and, in addition to the following, any other information required by Appendix 1 and Appendix 2 below:

(1) *United States origin sales only.*—(i) *Initial report.*—Total quantity of outstanding export sales by country of destination and exports for the exporter's own account that have not been applied to an export sale.

(ii) *Second and subsequent reports.*—(a) Total quantity of outstanding export sales from the previous report by country of destination.

(b) Quantity of export sales made during the week expressed in the specified unit of measure (do not include any tolerance). Include the quantity of any optional origin export sale for which an option was exercised during the week to export the commodity from the United States.

(c) Quantity of any purchases of the same kind of commodity made from foreign sellers during the week.

(d) Quantity of export sales canceled and quantity of buy-back contracts made during the week.

(e) Changes in destination during the week for sales and exports previously reported.

(f) Changes in the marketing year during the week for sales previously reported.

(g) Exports made against sales during the week.

(h) Total outstanding balance of export sales at the close of business for the current report.

(i) Total outstanding exports made for the reporting exporter's own account. Include shipments from the United States to Canada where the commodity will be in bond until exported from Canada to a third country.

(2) *Optional original sales (United States and other countries).*—(i) *Initial report.*—Total quantity of outstanding export sales by country of destination.

(ii) *Second and subsequent reports.*

(a) Total quantity of outstanding export sales from the previous report by country of destination.

(b) Quantity of export sales made during the week expressed in the specified unit of measure (do not include any tolerance) by country of destination.

(c) Quantity of export sales for which an option was exercised during the week which would determine the origin of the commodity to be exported with the origin indicated on C.E. 06-0096 as the United States or other than the United States.

(d) Quantity of optional export sales canceled and the quantity of optional buy-back contracts made during the week.

(e) Changes in destination during the week for sales previously reported.

(f) Changes in the marketing year during the week for sales previously reported.

(g) Total outstanding balance of optional export sales for which an option has not been exercised at the time of compiling the report.

(b) *Exporters who are required to report.*—The reporting exporter has the sole responsibility of reporting any and all information required by these regulations. The following are examples of who shall be considered the reporting exporter for the purpose of these regulations. (Firm A in each example is a firm whose place of doing business with respect to the transaction is in the United States, and the commodity to be delivered under the purchase contract

[1] Filed as part of the original document.







V 38-178 SEP 14 73 XUM

is subject to these regulations. See § 20.4 (i) for definition of a foreign buyer and foreign seller).

(1) Firm A makes an export sale to Firm B whose place of doing business with respect to the transaction is also in the United States. Firm B has made or will make an export sale to a foreign buyer. In this case Firm A cannot report the sale to Firm B since Firm B's place of doing business with respect to the transaction is located in the United States. In this example, Firm B is required to report the sale to the foreign buyer.

(2) Firm A makes an export sale to a foreign buyer through the foreign buyer's agent (other than an employee of the foreign buyer) and the agent's place of doing business with respect to the transaction is in the United States. In this example Firm A is required to report the export sale since the resulting contract is between Firm A and the foreign buyer.

(3) Firm A consigns an export to his agent (other than an employee of Firm A). When the agent makes a sale to a foreign buyer, Firm A is required to report the sale. If the agent makes the sale to a firm whose place of doing business with respect to the transactions is in the United States, Firm A will not report the sale.

(4) Firm A makes a purchase from a foreign seller. In this example, Firm A is required to report the purchase.

(5) Firm A makes a purchase from an agent of a foreign seller and the agent's place of doing business with respect to the transaction is in the United States. In this example, Firm A is required to report the purchase. The agent cannot report the sale to Firm A since he is not a principal party in interest in the contract and the foreign seller is not required to make a report of the sale since he is not a reporting exporter.

(6) If a reporting exporter has a transaction not described in subparagraphs (1) through (5) of this paragraph and he is in doubt whether he should report the transaction, he should request a decision from the office specified in § 20.10.

(c) *Monthly reports.*—The information described in paragraph (a) of this section shall be reported monthly when specified by an announcement issued pursuant to § 20.5.

(d) *No change during reporting period.*—If the reporting exporter did not have any activity during a reporting period which would change his last report and his last report reflects his outstanding export sales and exports made for his own account, the reporting exporter is nevertheless required to file a new report showing the still outstanding export sales and exports made for his own account.

(e) *Contract terms.*—(1) The first report required by these regulations shall include a report showing certain contract terms of export sales and foreign purchases which are outstanding at the close of the reporting period. Subsequent reports of contract terms shall be filed when specified in an announcement issued pursuant to § 20.5. The report showing contract terms shall be filed on C.E. 06–0097, "Contract Terms Supporting Export Sales," and shall include the following:

(i) Reporting exporter's contract number.

(ii) Date of export sale.

(iii) Name of the foreign buyer and the country in which the buyer has his place of business with respect to the transaction.

(iv) Coast of export. For optional export origin sales also show the other countries covered by the export sales. If no other countries are specified in the export sale, so indicate.

(v) Delivery period specified in the export sale.

(vi) Delivery terms specified in the export sale (F.O.B., C.&F., etc.).

(vii) Actual quantity of the export sale.

(viii) Quantity not exported against the sale (do not include any tolerance).

(ix) On purchases from foreign sellers, show separately from export sales, the name of the foreign seller, the country in which the foreign seller has his place of business with respect to the transaction, and the terms of the purchase made from the foreign seller as described in subparagraph (1) (i), (ii) and (iv) through (viii) of this paragraph (e).

(f) *Unknown destinations at time of reporting.*—If a reporting exporter files a report showing unknown destinations, he shall be responsible for taking whatever action is necessary to determine the ultimate destination and to report the country of destination in his next report after the destination becomes known to him.

(g) *Export for exporter's own account.*—Exports for exporter's own account for which an export sale has not been made shall be reported separately from export sales. When an export sale is made for a commodity exported for the exporter's own account (excluding shipments to Canada in bond where an export sale has already been reported), the sale shall be reported as an export sale on the next report. A corresponding quantity shall be deducted from the quantity shown as exported for the exporter's own account on the previous report and a corresponding quantity shall be shown as an export against an export sale on the current report even though the export may not have been made during the current reporting period. For shipments to Canada in bond where the export sale has already been reported, deduct the quantity shipped from Canada from the quantity exported for the exporter's own account and include a corresponding quantity as an export against an export sale, even though the export may not have been made during the reporting period.

(h) *Optional class or kind of commodity.*—If the export sale provides for an option as to the class or kind of commodity to be delivered under the export sale, the reporting exporter should report the particular class or kind of commodity expected to be exported.

(i) *Range in contract quantity.*—If the export sale provides for a range in quantity (e.g. 10,000 metric tons to 12,000 metric tons with or without a loading tolerance) with the reporting exporter or buyer having the option to declare a firm quantity at a later date, the reporting exporter shall report the maximum export sale quantity (exclusive of any loading tolerance). If a lesser quantity is exercised at a later date, the reporting exporter shall report the reduction as an amendment to an export sale previously reported by him.

(j) *Transfer of unexported balances from one marketing year to the next marketing year.*—If exports against an export sale are not complete by the end of the marketing year in which the commodity is being reported for export, the reporting exporter shall transfer the quantity not exported against the export sale to the next market ing year on the first report submitted after the beginning of the new marketing year.

(k) *Errors on previous reports.*—Whenever an exporter discovers an error or is advised by SRS of an error on a sale to the next marketing year on the prior report, he shall furnish a corrected report for that reporting period together with a complete explanation of such reporting error.

(l) *When reports are not required.*—(1) A reporting exporter shall submit reports only for those commodities for which he has outstanding export sales, has made exports for his own account for which an offsetting export sale has not been made and reported, or has made a purchase from a foreign seller.

(2) A reporting exporter may discontinue reporting for a commodity only when his actual exports and other required reporting of changes have reduced to zero all of his export sales, exports made for his own account, and purchases from foreign sellers. The reporting exporter shall report his zero balance prior to discontinuing reporting for the commodity involved.

(3) If a reporting exporter discontinues making reports because he has reached a zero balance for a particular commodity, he shall be responsible to commerce reporting again once he has made a new export sale or has made a new export for his own account or has made a new purchase from a foreign seller for that commodity.

(m) *Manner and time of reporting*—(1) *Manner.*—All reports must be filed in an original with the office specified in § 20.10. The original must be signed in an original signature by a person authorized to submit reports on behalf of the reporting exporter.

(2) *Time of filing reports*—(i) *Reports that are delivered in person.*—If the reports described in paragraph (a) of this section are delivered in person they must be received in the office specified in § 20.10 no later than 12:00 noon Washington time on each Thursday and shall set forth the information described in paragraph (a) of this section as of the preceeding Sunday.

(ii) *Reports that are mailed.*—If the reports described in paragraph (a) of this section are mailed to the office specified in § 20.10, the envelope containing the reports must show that it was received by the U.S. Postal Service no later than 5:00 p.m. Monday (time zone at place of mailing) and shall set forth the information described in paragraph (a) of this section as of the preceeding Sunday. Do not use a meter to show the time or date mailed.

**§ 20.7 Confidentiality of reports.**

A reporting exporter's individual reports shall remain confidential and subject to examination only by designees of the Administrator of SRS. All reports filed by exporters will be compiled and published in compilation form each week following the week of reporting.

**§ 20.8 Failure to report.**

Any person who knowingly fails to report export sales pursuant to the requirements of these regulations shall be fined not more than $25,000 or imprisoned not more than one year, or both.

**§ 20.9 Records.**

Each reporting exporter shall establish and maintain accurate records as to all export sales of commodities subject to these regulations and to support the reports made under these regulations. Such records shall include, but shall not be limited to, export sales contracts or other agreements with the foreign buyer or foreign seller pursuant to which any export has or will be made; bills of lading or delivery documents evidencing all such exports and inspection and weight certificates relating thereto. Such records shall be available during regular business hours for inspection and audit by authorized employees of the United States Department of Agriculture and shall be preserved for three years after the date of export to which they relate.

**§ 20.10 Place of submission of reports.**

Reports required to be submitted under these regulations shall be addressed to or delivered to the following office:

Statistical Reporting Service, Export Sales Reports, U.S. Department of Agriculture, Room 0250, South Agriculture Building, 14th and Independence Avenue, Washington, D.C. 20250.

**§ 20.11 Additional reports.**

The reporting exporter shall file such additional reports as may be required from time to time with the office specified in § 20.10.

Signed at Washington, D.C., on September 11, 1973.

CARROLL G. BRUNTHAVER,
*Acting Secretary.*

APPENDIX 1—COMMODITIES SUBJECT TO REPORTS, UNITS OF MEASURE TO BE USED IN REPORTING, AND BEGINNING AND ENDING DATES OF MARKETING YEARS

| Commodity to be reported | Unit of measure to be used in reporting | Beginning of marketing year | End of Marketing year |
|---|---|---|---|
| Wheat—Hard red winter | Metric tons | July 1 | June 30. |
| Wheat—Soft red winter | do | do | Do. |
| Wheat—Hard red spring | do | do | Do. |
| Wheat—Winter | do | do | Do. |
| Wheat—Durum | do | do | Do. |
| Wheat—Mixed | do | do | Do. |
| Wheat flour—72 percent (type of extraction (including clears), bulgur, semolina, farina and malted wheat flour (All of these products of wheat to be reported as wheat flour). | do | do | Do. |
| Barley—Unmilled | do | do | Do. |
| Corn—Except seed, unmilled | do | Oct. 1 | Sept. 30. |
| Rye—Unmilled | do | July 1 | June 30. |
| Oats—Unmilled | do | do | Do. |
| Grain sorghums—Unmilled | do | Oct. 1 | Sept. 30. |
| Soybeans | do | Sept. 1 | Aug. 31. |
| Soybean oil cake and meal | do | Oct. 1 | Sept. 30. |
| Soybean Oil including: Crude (including degummed), once refined, soybean salad oil (including refined and further processed by bleaching, deodorizing or winterizing), hydrogenated. | do | do | Do. |
| Flaxseed | do | July 1 | June 30. |
| Linseed Oil—including raw, boiled, etc | do | do | Do. |
| Cottonseed | do | Aug. 1 | July 31. |
| Cottonseed oil cake and meal | do | Oct. 1 | Sept. 30. |
| Cottonseed oil, including: crude, once refined, cottonseed salad oil (refined and further processed by bleaching, deodorizing or winterizing), hydrogenated. | do | Oct. 1 | Do. |
| Cotton—Raw, extra long staple | Running bales | Aug. 1 | July 31. |
| Cotton—Raw, staple length 1⅛s inches and over | do | do | Do. |
| Cotton—Raw, staple length 1 inch up to 1⅛ inches | do | do | Do. |
| Cotton—Raw, staple length under 1 inch | do | do | Do. |
| Rice—Long grain, brown | Metric tons | do | Do. |
| Rice—Medium, short and mixed grain, brown | do | do | Do. |
| Rice—Long grain, milled | do | do | Do. |
| Rice—Medium, short and mixed grain, milled | do | do | Do. |

[FR Doc.73-19611 Filed 9-13-73;8:45 am]

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[ 50 CFR Part 32 ]

### LEWIS AND CLARK NATIONAL WILDLIFE REFUGE, OREG.

#### Notice of Proposed Rulemaking

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the Migratory Bird Conservation Act of February 18, 1929, as amended (45 Stat. 1222 (16 U.S.C. 715)), and the National Wildlife Refuge System Administration Act of 1966 (80 Stat. 927 as amended (16 U.S.C. 668dd)) as delegated to the Director, Bureau of Sport Fisheries and Wildlife by Chapter 2, Part 242 of the Departmental Manual, it is proposed to amend 50 CFR Part 32 by the addition of Lewis and Clark National Wildlife Refuge, Oregon to the list of areas open to hunting of migratory birds.

It has been determined that regulated hunting of migratory birds may be permitted as designated on the above refuge without detriment to the objectives for which the area was established.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions or objections, with respect to the proposed amendment, to the Director, Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240, by September 30, 1973.

Accordingly, § 32.11, list of open areas, migratory game birds, amended by the following addition:

OREGON

LEWIS AND CLARK NATIONAL WILDLIFE REFUGE

CHARLES M. LOVELESS,
*Acting Director, Bureau of Sport Fisheries and Wildlife.*

SEPTEMBER 11, 1973.

[FR Doc.73-19576 Filed 9-13-73;8:45 am]

[ 50 CFR, Part 32 ]

### COLUMBIAN WHITE-TAILED DEER NATIONAL WILDLIFE REFUGE

#### Notice of Proposed Rulemaking

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior by the Migratory Bird Conservation Act of February 18, 1929, as amended (45 Stat. 1222 (16 U.S.C. 715)), and the National Wildlife Refuge System Administration Act of 1966 (80 Stat. 927 as amended (16 U.S.C. 668dd)), as delegated to the Director, Bureau of Sport Fisheries and Wildlife by Chapter 2, Part 242 of the Departmental Manual, it is proposed to amend 50 CFR, Part 32 by the addition of Columbian White-Tailed Deer National Wildlife Refuge, Washington, to the list of areas open to hunting of migratory birds.

It has been determined that regulated hunting of migratory birds may be permitted as designated on the above refuge





V 38-178
SEP 14 73
XUM

without detriment to the objectives for which the area was established.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportuntiy to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions or objections, with respect to the proposed amendment, to the Director, Bureau of Sport Fisheries and Wildlife, Washington, D.C. 20240, by September 30, 1973.

Accordingly, § 32.11, list of open areas, migratory game birds, is amended by the following addition:

WASHINGTON

COLUMBIAN WHITE-TAILED DEER NATIONAL WILDLIFE REFUGE

CHARLES M. LOVELESS,
*Acting Director, Bureau of Sport Fisheries and Wildlife.*

SEPTEMBER 11, 1973.

[FR Doc.73-19577 Filed 9-13-73;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

### [ 21 CFR Parts 121, 135 ]

### RESTRICTION ON LEVEL OF COPPER IN ANIMAL FEED

### Proposed Amendment to the List of Substances That Are Generally Recognized as Safe

A new animal drug application was filed with the Food and Drug Administration requesting approval of the addition of copper from copper sulfate or copper oxide to swine feed at levels up to 250 parts per million (ppm) as a growth promotant. Review of the application showed that copper was effective for improving rate of gain and feed efficiency when fed to swine at high levels (125–250 ppm). Questions arose, however, concerning animal safety, human safety, and the environmental impact of such a practice. Each of these problems was studied in depth to determine whether high-level use of copper in swine feed for the purposes of improving growth rate and feed efficiency could be approved.

The animal safety review determined that animal health would not be compromised provided that total dietary copper did not exceed 250 ppm. Toxicology data presented in the application showed that such a level did not present a hazard to swine. Other published data support this conclusion (R. Braude, *Copper as a Growth Stimulant in Pigs (cuprum pro pecunia), Symposium on Copper's Role in Plant and Animal Life*, pp. 55–66, Vienna, Austria, 1965).

Human safety questions were raised based on data in the application and data published in scientific literature showing that copper accumulates in the livers of swine fed high levels of the element. This was documented by H. D. Wallace, Professor, Department of Animal Science, University of Florida, in a comprehensive review of the use of copper in swine diets (*High Level Copper in Swine Feeding, A Review of Research in the United States*, 1967, sponsored by International Copper Research Association, Inc., 1271 Avenue of the Americas, New York, NY 10020). The following table, taken from Wallace's review, summarizes research findings on liver copper residues in swine resulting from various dietary copper treatments. These data show that while there is considerable variation in the degree to which copper feeding increases liver copper content, a trend nevertheless exists. Wallace attributes the variability to differences in diets, protein sources, copper sources, analytical methods, and interactions of copper with other minerals.

SWINE LIVER COPPER CONCENTRATIONS AS INFLUENCED BY DIETARY COPPER LEVEL [1]

| Copper source | Dietary Copper level ppm | Total number of pigs involved | Number days on test | Liver copper, ppm (dry matter basis) | |
|---|---|---|---|---|---|
| | | | | Control pigs | Copper pigs |
| $CuSO_4 \cdot 5H_2O$ | 125 | 18 | 106 | 19 | 70 |
| CuO | 150 | 12 | 85 | 13 | 32 |
| CuO | 150 | 12 | 85 | 14 | 30 |
| CuO | 150 | 12 | 85 | 15 | 40 |
| CuO | 150 | 12 | 85 | 17 | 30 |
| CuO | 150 | 12 | 85 | 17 | 31 |
| $CuSO_4 \cdot 5H_2O$ | [2] 150-0 | 40 | 98 | 20 | 35 |
| $CuSO_4 \cdot 5H_2O$ | [2] 150-75 | 40 | 98 | 20 | 29 |
| $CuSO_4 \cdot 5H_2O$ | 150 | 40 | 98 | 20 | 62 |
| $CuSO_4$ | 250 | 48 | 64 | 32 | 169 |
| $CuSO_4$ | 250 | 48 | 78 | 33 | 200 |
| $CuSO_4$ | 250 | 16 | 56 | 28 | 247 |
| $CuSO_4$ | [2] 250-0 | 16 | 56 | 28 | 41 |
| $CuSO_4$ | 250 | 16 | 85 | 28 | 279 |
| $CuSO_4$ | [2] 250-0 | 16 | 56 | 28 | 51 |
| $CuSO_4$ | 250 | 16 | 76 | 23 | 118 |
| $CuSO_4$ | [2] 250-0 | 16 | 79 | 23 | 25 |
| $CuSO_4$ | 250 | 16 | 81 | 31 | 563 |
| $CuSO_4$ | [2] 250-0 | 16 | 82 | 31 | 33 |
| $CuSO_4$ | [2] 250-0 | 18 | 133 | 19 | 54 |
| $CuSO_4$ | [2] 250-0 | 18 | 127 | 19 | 51 |
| $CuSO_4$ | 250 | 18 | 135 | 26 | 278 |
| CuO | 250 | 18 | 127 | 26 | 93 |
| $CuSO_4 \cdot 5H_2O$ | 250 | 16 | 42 | 29 | 293 |
| $CuSO_4$ | 250 | 32 | 42 | 22 | 218 |
| $CuSO_4$ | 250 | 32 | 42 | 22 | 32 |
| CuO | 375 | 32 | 42 | 22 | 89 |
| CuO | 250 | 40 | 42 | 93 | 152 |
| $CuSO_4$ | 250 | 40 | 42 | 93 | 156 |
| Cu-Methionine | 250 | 32 | 42 | 38 | 89 |
| $CuCO_3$ | 250 | 32 | 42 | 38 | 89 |
| $CuCO_3$ | 500 | 32 | 42 | 38 | 996 |

[1] Horizontal lines throughout label separate experiments. (Data were taken from the following references:
Ritchie *et al.*, J. Nutr. 79:117, 1963.
Gipp *et al.*, Cornell Univ. Anim. Husb. Mimeo. 66-4, 1966.
Wallace *et al.*, Fla. Animal Sci. Mimeo. Series 63-17, 1963.
Wallace *et al.*, Fla. Animal Sci. Mimeo. Series AN-67-1, 1966.
Wallace *et al.*, Fla. Agr. Exp. Sta. Experiment 145-F, 1966.
Bunch *et al.*, J. Animal Sci. 22:56, 1963.
Hawbaker *et al.*, J. Animal Sci. 20:103, 1961.
Bunch *et al.*, J. Animal Sci. 21:995, 1965.)
[2] Copper was either removed from diet or reduced in amount during the feeding as indicated.

These data also demonstrate that when copper supplementation is removed from the diet when the pig reaches about 125 pounds body weight, liver copper content returns to normal or near normal by slaughter weight (225 pounds). The fact that feeding high level copper to swine would elevate liver copper raises the concern that these liver residues would contribute additional copper to the diet of humans. Scheinberg (*Federation Proceedings*, Vol. 20, No. 3, Supplement 10, pp. 179–185, Sept. 1961) and Scheinberg and Sternlieb (*Pharmacol. Rev.* 12:355, 1960) consider that the likelihood of excess copper in human diets is much greater than that of a deficiency.

The problem of copper residue in edible tissues was further complicated by the fact that copper is an essential nutrient normally present in varying amounts in natural foodstuffs consumed by man and animals, and also normally present in varying amounts in organs and tissues of man and animals. It was determined that, in order not to increase the load of copper in the human diet, no increase in tissue copper level above that normally found in swine not fed high level copper could be permitted without basic toxicology data.

The environmental impact of high level copper feeding was also fully considered. The available literature shows that copper is very poorly absorbed in the intestine, and approximately 75 percent of the ingested copper is excreted in the feces when normal levels are fed. (Comer and Bronner, eds. *Mineral Metabolism*, Vol. 2, Part B, Chapter 32, *Copper*, Academic Press, New York, NY, 1962). A greater percentage is excreted when dietary copper level is elevated. Since copper is an element, and thus not subject to further chemical breakdown, it was determined that a study should be made of the environmental implications of the practice of adding copper to swine feeds at high levels in view of the fact that significant amounts of copper would be expected to be deposited in or on soils fertilized by manures derived from commercial swine production.

Accordingly, the Commissioner of Food and Drugs requested that an Ad Hoc Advisory Committee of scientists, expert





in the various fields and disciplines pertinent to the subject, review the matter and submit their recommendations. A copy of that Committee's report entitled "Report to the Commissioner Food and Drug Administration from the Ad Hoc Committee on High Level Copper Swine Feeding Program" is available for public review at the Hearing Clerk's office, Rm. 6–86, 5600 Fishers Lane, Rockville, MD 20852, and may be purchased from the National Technical Information Service (NTIS), 5285 Port Royal Rd., Springfield, VA 22151.

The Ad Hoc Committee reported that the possible environmental effects resulting from the addition of high levels of copper to swine rations have not been adequately studied and recommended research on such possible effects and the associated waste disposal problems. The Ad Hoc Committee reported that copper levels which may be found in plants subjected to high level copper manure applied to soil will depend upon many factors, including the plant species, the stage of maturity, and the available copper in the soil. In addition, different parts of the plant will also vary greatly in copper content at any given copper level in the soil. Most plants will respond adversely in terms of yield when the plant copper content appreciably exceeds 20 ppm on a dry weight basis. The amount of manure which may be applied to a given acreage will depend on the soil type, soil pH, content of clay and organic matter, weather, drainage, and other treatments such as the application of lime. Long term continuous application of from 3 to 6 pounds of copper annually per acre, which would result from the use of high copper swine manure, may be expected to result in accumulation of copper in the soil. Whether or not this reaches hazardous levels will depend in large measure upon the soil type and other factors.

The Ad Hoc Committee further reported that (1) the toxicity of very low concentrations of copper to desirable phytoplankton and zooplankton is recognized, and on the basis of present information it is difficult to predict how serious the pollution of surface waters from high copper applications would be; and (2) available information does not permit a general statement regarding time required to build up copper to a hazardous level since soil composition will be critical. The Ad Hoc Committee therefore made the following recommendations:

1. That if high level (250 ppm) copper rations be permitted, then it should be stipulated:

a. That suitable precautions should be taken to include adequate levels of zinc and iron in the diets.

b. That precautions should be introduced to limit the distribution of manure from swine fed the high level copper diets to 20 tons per acre per year (3 to 6 lbs of copper).

c. That warnings shoud be issued regarding the possible hazard of grazing sheep on areas fertilized with manure from such a swine-feeding operation without adequate provision for molybdenum and sulfate in the sheep diet.

d. That depending upon the soil to which the manure is applied, suitable monitoring should be made of the build-up of available copper, preferably at not less than five-year intervals, on low exchange capacity soils.

e. That if lagooning of manure from such swine-feeding operations is practiced, procedures should be instituted to remove the copper prior to soil application of the solid residue.

f. That to prevent runoff into water supplies, care should be taken not to put manure on frozen land where runoff can be a problem.

2. Research should be instituted into the long-term effects of increases in copper intake in food and water in both animals and humans in order to estimate the maximum safe dose. Special attention should be given to possible teratological effects. These studies should address the life span effects and the relation to degenerative diseases.

3. The present monitoring-analysis techniques are in need of evaluation and additional research. Specificially, plant and soil copper values as indicators of copper buildup should be throughly evaluated. Present information does not permit a general statement regarding the time required to build up copper to a hazardous level since soil composition will be critical. It is for this reason that we recommend a monitoring program.

The relevant findings of the Ad Hoc Committee were reviewed by the U.S. Department of Agriculture and the Environmental Protection Agency. Both agencies agreed with the findings of the Ad Hoc Committee and that the potential for adverse environmental impact from the feeding of a high level of copper was significant.

Based upon the findings of the Ad Hoc Committee, comments from the U.S. Department of Agriculture and the Environmental Protection Agency, the fact that other growth-promoting drugs without adverse environmental impact were available for use in swine production, and other relevant information, the Commissioner of Food and Drugs concluded that the request for approval of the addition of high levels of copper to swine feed should be denied. The sponsor of the new animal drug application was so informed and withdrew the application.

The Ad Hoc Committee also reported that the use of high levels of copper in feed is currently being extensively practiced for both swine and poultry. The Commissioner has therefore concluded that there is a need to clarify the status of copper as a feed ingredient since various copper compounds are presently listed as generally recognized as safe (GRAS) as trace ingredients added to animal feeds under 21 CFR 121.101(f), which provides for the addition of copper to animal feed as a nutritional dietary supplement at levels consistent with good feeding practice.

Accordingly, the Commissioner has reviewed the current provisions of the regulations, literature on animal nutrition with respect to copper, and current manufacturing practice in the feed industry. While the quantitative requirements for copper are not known for all classes of swine and poultry, most nutritionists believe that 5–15 ppm copper in the diet is adequate. Nutrient Requirements of Domestic Animals (Pub. 1599, 1968, Swine; Pub. ISBM 0–309–01861–7, 1971, Poultry; National Academy of Sciences, 2101 Constitution Ave., Washington, DC 20418), list the copper requirement for baby pigs and turkey poults as 6 ppm and for chicks as 4 ppm. Nutritional need for copper may be somewhat increased by demands of gestation, lactation, or maximum growth, although no quantitative data are available.

It has become standard practice of mineral premix manufacturers routinely to include copper in the trace mineral supplements used for swine and poultry feeds. Almost all trace mineral premixes currently sold contain copper, more as insurance against deficiency rather than to alleviate a specific lack of copper in feed. The amount of copper added to a finished feed may vary for different brands of mineral supplements, but is usually about 5–15 ppm, which approximates the amount recommended by the National Academy of Sciences. The feed industry considers this level of copper supplementation to be good feeding practice since it is reasonably consistent with the amount regarded as required by animals.

The mean of the naturally occurring copper content of representative swine and poultry rations, including those containing ingredients naturally high in copper (e.g., soybean meal, milo, barley), is approximately 12 ppm with a standard deviation of about 4 ppm. Assuming a normal distribution of copper in feeds, 99.87 percent of all similar swine and poultry diets can statistically be expected to contain 24 ppm or less copper from naturally occurring copper sources (obtained by adding the mean and 3 times the standard deviation (12+(3 x 4)).

Therefore, the addition of copper from trace mineral premixes to animal feeds at levels up to 15 ppm in the finished feed, even where such feeds contained copper at the high extreme of the population, would not be expected to result in finished feeds containing more than 40 ppm copper. Thus, finished swine and poultry feed will not contain over 40 ppm total copper if 15 ppm is permitted to be added to the feed. On the basis of the Ad Hoc Committee report and other available information, the Commissioner concludes that this level, taking into consideration natural background copper and up to 15 ppm of copper added for nutritional purposes, will not pose a hazard to swine or poultry, humans consuming animal products, or the environment. Accordingly, it is proposed that copper may be added to swine or poultry feed in accordance with good feeding practice at levels not to exceed 15 ppm.



V 38-178
SEP 14 73
XUM

Further, the Commissioner has carefully considered the environmental effects of this proposal pursuant to 21 CFR 6.1 and concludes for the above reasons that an environmental impact statement is not needed.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788, as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner (21 CFR 2.120), it is proposed that Parts 121 and 135 be amended as follows:

1. In § 121.101(f) by revising the entry "Copper" to read as follows:

**§ 121.101 Substances that are generally recognized as safe.**

* * * * *

(f) * * *

| *Element* | *Source compounds* |
|---|---|
| * * * | * * * |
| Copper (may be added to swine or poultry feed in accordance with good feeding practice at a level not to exceed 15 parts per million) | Copper carbonate.<br>Copper chloride.<br>Copper gluconate.<br>Copper hydroxide.<br>Copper orthophosphate.<br>Copper oxide.<br>Copper pyrophosphate.<br>Copper sulfate. |
| * * * | * * * |

2. In Part 135 by adding to Subpart B the following new section:

**§ 135.____ Addition of copper to swine and poultry feed.**

Copper salts may be added to swine and poultry feed for nutritional purposes in accordance with good feeding practice at a level not to exceed 15 parts per million. Addition of more than 15 parts per million of copper to finished swine or poultry feed is unlawful and causes both the feed and the animals to be adulterated.

Interested persons may, on or before November 12, 1973, file with the Hearing Clerk, Food and Drug Administration, Rm. 6–86, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated September 4, 1973.

A. M. SCHMIDT,
*Commissioner of Food and Drugs.*

[FR Doc.73-19468 Filed 9-13-73;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[ 14 CFR Part 71 ]**

[Airspace Docket No. 73-SO-38]

### TRANSITION AREA

### Proposed Alteration

On June 27, 1973, FR Doc. No. 73-12850 was published in the FEDERAL REGISTER (38 FR 16914), stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Dillon and Bennettsville, S.C., transition area.

Subsequent to publication of the notice, it was determined that the type of aircraft utilizing Dillon County Airport requires a basic radius circle of 6.5 in lieu of 5 miles. Additionally, the Dillon extension was erroneously predicated on the 245° in lieu of the 239° bearing, and the Bennettsville extension was erroneously predicated on the 239° in lieu of the 245° bearing.

In consideration of the foregoing, effective immediately, the following proposed descriptions published in FR Doc. No. 73-12850 are amended to read:

DILLON, S.C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Dillon County Airport (Lat. 34°27'00" N, Long. 79°22'00" W); within 2.5 miles each side of Florence VORTAC 046° radial, extending from the 6.5-mile radius area to 16 miles northeast of the VORTAC; within 3 miles each side of the 239° bearing from Dillon RBN (Lat. 34°27'01" N, Long. 79°22'09" W), extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN.

BENNETTSVILLE, S.C.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Bennettsville Airport (Lat. 34°37'45" N, Long. 79°43'57" W.); within 3 miles each side of the 245° bearing from Bennettsville RBN (Lat. 34°37'39" N, Long. 79°43'53" W), extending from the 6.5-mile radius area to 8.5 miles southwest of the RBN; excluding the portion within Darlington, S.C., transition area.

(Sec. 307(a) Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c))

Issued in East Point, Ga., on September 6, 1973.

PHILLIP M. SWATEK,
*Director, Southern Region.*

[FR Doc.73-19581 Filed 9-13-73;8:45 am]

## Federal Highway Administration

**[ 23 CFR Part 772 ]**

### TRAFFIC NOISE

### Invitation for Comment on Proposed Guidelines

Section 114 of the Federal-Aid Highway Act of 1973 provides that:

The Secretary, after consultation with the Administrator of the Environmental Protection Agency and appropriate Federal, State and local officials, may promulgate standards for the control of highway noise levels for highways on any Federal-aid system for which project approval has been secured prior to July 1, 1972. The Secretary may approve any project on a Federal-aid system to which noise-level standards are made applicable under the preceding sentence for the purpose of carrying out such standards. Such project may include, but is not limited to, the acquisition of additional rights-of-way, the construction of physical barriers, and landscaping. Sums apportioned for the Federal-aid system on which such project will be located shall be available to finance the Federal share of such project. Such project shall be deemed a highway project for all purposes of this title.

Pursuant to the Federal-Aid Highway Act of 1970, the Federal Highway Administration (FHWA) developed noise standards for use in the planning and design of new highway projects. These standards were promulgated February 8, 1973, and published in the FEDERAL REGISTER June 19, 1973 (38 FR 15953), amending 23 CFR by the addition of Part 772.

The new legislation authorizes FHWA to develop and promulgate "standards" for the control of traffic noise on previously constructed highways. It further provides that noise abatement projects may be programed as highway projects, and that the Federal share on such projects shall be the same as that for the Federal-aid system on which the project is located.

The "standards" which FHWA plans to develop in response to this legislation will probably take the form of guidelines which will be an extension of the noise standards which were promulgated February 8, 1973. Because of its desire that these guidelines respond to public needs to the greatest possible extent, the FHWA wishes to offer an opportunity to interested persons to submit written comments, suggestions, or objections. All views submitted will receive consideration during the development of the standards. Such views or comments should be received in the Office of Environmental Policy, HEV-10, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590, on or before November 1, 1973.

Issued on September 10, 1973.

NORBERT T. TIEMANN,
*Federal Highway Administrator.*

[FR Doc.73-19540 Filed 9-13-73;8:45 am]

**[ 49 CFR Part 393 ]**

[Docket No. MC-52; Notice 73-23]

### SLEEPER BERTHS IN COMMERCIAL MOTOR VEHICLES

### Proposed Dimensional Requirements

The Director of the Bureau of Motor Carrier Safety is considering a revision of § 393.76 of the Motor Carrier Safety Regulations, 49 CFR 393.76, which contains the dimensional requirements for sleeper berths on commercial motor vehicles. The principal purpose of the revision under consideration is to increase the minimum interior dimensions of sleeper berths. In addition, the proposal would recast the language of § 393.76 in order to eliminate areas of ambiguity or lack of clarity.

This proceeding was initiated by a petition for rulemaking filed by Local 222 of the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers. The petition argued that the present minimum interior dimensions of sleeper berths (72 inches long, 18 inches wide, and 18 inches deep for berths on older vehicles, and 75 inches long, 21 inches wide, and 21 inches deep for berths on vehicles manufactured after December 31, 1952) are inadequate, in that they prevent drivers who must rest in sleeper berths from getting sufficient rest to enable them to be alert enough to handle large, complex trucks safely. The petition requested that the minimum dimensions of sleeper berths be increased to 84 inches in length, 36 inches wide, and 36 inches deep. In addition to the information contained in the petition, the Bureau has received driver complaints alleging that sleeper berth dimensions are inadequate.

A review of the available literature[1] indicates that, with respect to truck and bus drivers, the height of the 50th percentile male driver is 68.4 inches, and the height of the 95th percentile male driver is 72.5 inches. Chest breadth is 11.8 inches for the 50th percentile driver and 13.5 inches for the 95th percentile drivers. The shoulder breadth of the 50th percentile male truck and bus driver is 18.3 inches, and the shoulder breadth of the 95th percentile truck and bus driver is 19.9 inches. The available data also show that since 1953, when the dimensions of sleeper berths were last amended, the body dimensions of Americans have increased. We have not increased significantly in height; there has been growth in terms of breadth.

Accordingly, the Director is proposing to require a three-inch increase in the minimum width and height of sleeper berths and to retain the existing 75-inch length requirement. The Bureau will, however, give careful consideration to documented arguments that other dimensional criteria should be established.

In addition, the Director is proposing to remove air mattresses from the list of allowable sleeping equipment. The Bureau has tentatively concluded that air mattresses generally do not provide sufficient support for drivers to obtain adequate rest.

The new requirements would be effective on October 1, 1975.

In consideration of the foregoing, the Director proposes to amend § 393.76 in Subchapter B of Chapter III of Title 49, CFR to read as set forth below.

Interested persons are invited to submit written data, views, or arguments pertaining to the proposal. All comments submitted should refer to the docket number and notice number appearing at the top of this document and should be submitted in three copies to the Director, Bureau of Motor Carrier Safety, Washington, D.C. 20590. All comments received before the close of business on December 3, 1973, will be considered before further action is taken. Comments will be available for examination in the public docket of the Bureau of Motor Carrier Safety, located in Room 4136, 400 Seventh Street SW., Washington, D.C., both before and after the closing date for comments.

This notice of proposed rule making is issued under the authority of section 204 of the Interstate Commerce Act, as amended, (49 U.S.C. 304), section 6 of the Department of Transportation Act, (49 U.S.C. 1655), and the delegations of authority by the Secretary of Transportation and the Federal Highway Administrator in §§ 1.48 and 389.4 of Title 49, Code of Federal Regulations.

Issued on September 4, 1973.

ROBERT A. KAYE,
*Director, Bureau of Motor Carrier Safety.*

[1] McFarland et al., Anthrometry in the Design of the Driver's Workspace, 16 Amer. Journal of Physical Anthropology 1 (1958).



**§ 393.76 Sleeper berths.**

(a) *Dimensions.*—(1) *Size.*—A sleeper berth must be at least the following size:

| Date of installation on motor vehicle. | Length measured on centerline of longitudinal axis (inches) | Width measured on centerline of transverse axis (inches) | Height measured from highest point of top of mattress (inches) |
|---|---|---|---|
| Before January 1, 1953 | 72 | 18 | 18 |
| After December 31, 1952, and before October 1, 1975 | 75 | 21 | 21 |
| After September 30, 1975 | 75 | 24 | 24 |

(2) *Shape.*—A sleeper berth installed on a motor vehicle on or after January 1, 1953, must be of generally rectangular shape, except that the horizontal corners and the roof corners may be rounded to radii not exceeding 10½ inches.

(3) *Access.*—A sleeper berth must be constructed so that an occupant's ready entrance to, and exitf rom, the sleeper berth is not unduly hindered.

(b) *Location.*

(1) A sleeper berth must not be installed in or on a semitrailer or a full trailer other than a house trailer.

(2) A sleeper berth located within the cargo space of a motor vehicle must be securely compartmentalized from the remainder of the cargo space. A sleeper berth installed on or after January 1, 1953, must be located in the cab or immediately adjacent to the cab and must be securely fixed with relation to the cab.

(c) *Exit from the berth.*—(1) Except as provided in subparagraph (2) of this paragraph, there must be a direct and ready means of exit from a sleeper berth into the driver's seat or compartment. If the sleeper berth was installed on or after January 1, 1963, the exit must be a doorway or opening at least 18 inches high and 36 inches wide. If the sleeper berth was installed before January 1, 1963, the exit must have sufficient area to contain an ellipse having a major axis of 24 inches and a minor axis of 16 inches.

(2) A sleeper berth installed before January 1, 1953 must either—

(i) Conform to the requirements of subparagraph (1) of this paragraph; or

(ii) Have at least two exits, each of which is at least 18 inches high and 21 inches wide, located at opposite ends of the vehicle and useable by the occupant without the assistance of any other person.

(d) *Communication with the driver.*—A sleeper berth which is not located within the driver's compartment and has no direct entrance into the driver's compartment must be equipped with a means of communication between the occupant and the driver. The means of communication may consist of a telephone, speaker tube, buzzer, pull cord, or other mechanical or electrical device.

(e) *Equipment.*—A sleeper berth must be properly equipped for sleeping. Its equipment must include—

(1) Adequate bedclothing and blankets; and

(2) Either—

(i) Springs and a mattress; or

(ii) An innerspring mattress; or

(iii) A cellular rubber mattress at least four inches thick.

A sleeper berth must be designed and constructed so that its mattress and bedclothing can readily be removed for cleaning.

(f) *Ventilation.*—A sleeper berth must have louvers or other means of providing adequate ventilation. A sleeper berth must be reasonably tight against dust and rain.

(g) *Protection against exhaust and fuel leaks and exhaust heat.*—A sleeper berth must be located so that leaks in the vehicle's exhaust system or fuel system do not permit fuel, fuel system gases, or exhaust gases to enter the sleeper berth. A sleeper berth must be located so that it will not be overheated or damaged by reason of its proximity to the vehicle's exhaust system.

(h) *Occupant restraint.*—A motor vehicle manufactured on or after July 1, 1971, and equipped with a sleeper berth must be equipped with a means of preventing ejection of the occupant of the sleeper berth during deceleration of the vehicle. The restraint system must be designed, installed, and maintained to withstand a minimum total force of 6,000 pounds applied toward the front of the vehicle and parallel to the longitudinal axis of the vehicle.

[FR Doc.73-19572 Filed 9-13-73;8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

**[ 40 CFR, Part 51 ]**

### USE OF SUPPLEMENTARY CONTROL SYSTEMS AND IMPLEMENTATION OF SECONDARY STANDARDS

### Preparation, Adoption, and Submittal of Implementation Plans

On August 14, 1971 (36 FR 15486), the Administrator promulgated as 40 CFR, Part 420, regulations for the preparation.



V 38-178 SEP 14 73 XUM

adoption, and submittal of State Implementation Plans (State plan guidelines) under section 110 of the Clean Air Act, as amended. These regulations were republished November 25, 1971 (36 FR 22398), as 40 CFR, Part 51. The amendments proposed herein would revise 40 CFR, Part 51 by making certain modifications and additions.

The proposed amendments would allow selective use of supplementary control systems as a means of attaining and maintaining the national ambient air quality standards (referred to hereafter as "national standards") in cases where permanent production curtailment, shutdown, or delays in attainment of the national standards are the only other alternatives. The proposed amendments also clarify policies on the use of increased stack height to take advantage of the dispersive effects of the atmosphere; modify the definition of "reasonable time" for attainment of secondary national ambient air quality standards; and modify guidelines for preparation of future State Implementation Plan revisions related to attainment and maintenance of national standards for sulfur dioxide and particulate matter.

### Supplementary Control Systems

Supplementary control systems, as addressed herein, are systems whereby the rate of emissions from a source is curtailed when meteorological conditions conducive to high ground-level pollutant concentrations exist or are anticipated. Supplementary control systems continuously monitor emissions, meteorological conditions, and ambient air quality in the vicinity of the source, and, by combining these and other data in an appropriate prediction model, provide a procedure for estimating the ambient air quality which would exist in the future. Integral to supplementary control systems are comprehensive and enforceable emission limitation criteria and source control procedures to insure that emissions are curtailed at the times and to the extent necessary to attain and maintain the national standards regardless of meteorological conditions. Systems of this general type have been discussed in the past under various terminologies such as "intermittent control systems," "variable control systems," etc., and have not been previously considered acceptable for maintenance of the national standards.

The previous Environmental Protection Agency position on supplementary control systems was set forth in the Federal Register on July 27, 1972 (37 FR 15095), as follows:

> • • • At this time, it [supplementary control] is not considered an acceptable substitute for permanent control systems for attaining and maintaining national standards. Experience with systems employing intermittent process curtailment indicates that although air quality is improved, violations of ambient air quality standards still occur. Additional experience with these systems may, however, in specific cases improve this reliability.

Over the past year, EPA has continued to assemble and evaluate available data on the development and use of supplementary control systems. EPA has examined published reports and statements 1–3 containing information on experience with supplementary control systems at the Tennessee Valley Authority's Paradise Steam Plant and the American Smelting and Refining Company copper smelter at El Paso, Texas. In addition, EPA personnel have visited these facilities and have discussed the use of supplementary control systems with air pollution control officials, citizens' groups, and industry representatives.

The available data show a substantial and consistent improvement in the performance of supplementary control systems in the recent past. As one example, data provided by the Puget Sound Air Pollution Control Authority (PSAPCA) show substantial improvement in air quality around a copper smelter using a supplementary control system which meets some of the criteria set forth in these proposed regulations. In this instance, at the one PSAPCA monitoring station that has been operating since 1969, the frequency of one-hour sulfur dioxide concentrations exceeding 0.25 ppm dropped progressively from 102 times in 1969, before the supplementary control system was initiated, to 7 times in 1972, to only once in the first five months of this year. Similarly, one-hour concentrations exceeded 0.5 ppm 25 times in 1969, only once in 1972, and not at all during the first five months of this year. At seven other PSAPCA monitoring stations, data for the period beginning in August-October 1971 and running through May 1973, show that one-hour sulfur dioxide concentrations exceeded 0.25 ppm ten times and exceeded 0.5 ppm only twice.

Analysis of data such as these indicates that incorporation of the design and enforcement features required by these proposed regulations and the proposed Appendix P would insure that such systems would be reliable means of attaining and maintaining the national standards in carefully selected situations. Furthermore, given the limitations on availability of stack-gas cleaning systems and low-sulfur fuels over the next few years, the difficulty in retrofitting some facilities with stack-gas cleaning systems, and the distribution/allocation problems associated with low-sulfur fuels, it would be undesirable to rely solely upon these methods to attain and maintain the national standards in cases where supplementary control systems could be applied in an equally reliable and enforceable manner. Also, since the availability of stack-gas cleaning systems and low-sulfur fuels is, in part, a function of time (e.g., the time required to design, build, and install hardware without unduly disrupting production of electric power, and the time required to develop new fuel sources), their availability will improve with time. The use of supplementary control systems in selected situations could, therefore, result in attainment of the national standards in a shorter time than would otherwise be possible.

These proposed regulations impose stringent limitations on the types of sources and situations for which use of supplementary control systems may be considered acceptable. These limitations are based on two principal considerations: First, supplementary control systems will be allowed only in situations where their use is necessary to augment constant emission limitation techniques which are available to a specific source, and only until completely adequate constant emission limitation techniques become available; that is, in situations wherein the sole alternatives are either permanent production curtailment or delay of an attainment date for the national standards. Second, supplementary control systems will be allowed only in situations where they will exhibit a high degree of reliability and can be made legally enforceable; that is, where the emission sources can be readily and unequivocally identified.

These considerations preclude use of supplementary control systems to control carbon monoxide and particulate emissions; constant emission reduction techniques and equipment capable of adequately reducing such emissions are widely used and can be considered available for application to all sources. Although temporary shortages of low sulfur fuel oil may occur during the next several years, techniques for producing low sulfur oil are expected to become sufficiently available so that the use of supplementary control systems for oil-fired boilers will not be necessary.

The requirement for enforceability precludes the use of supplementary control systems to control hydrocarbon and nitrogen oxides emissions. Hydrocarbons and nitric oxides are precursors to photochemical oxidants and nitrogen dioxide—Formation of the latter two pollutants is a result of complex photochemical processes involving atmospheric conditions which may be highly variable and requires the interaction of pollutants from a variety of sources, including motor vehicles. The contribution of one precursor source to the resultant photochemical oxidant or nitrogen dioxide concentration cannot be defined with sufficient confidence to ensure enforceability, nor is it likely that any source owner or operator would be willing to accept sole responsibility for attaining and maintaining the national standards for photochemical oxidants or nitrogen dioxide throughout the area potentially influenced by that source's emissions.

Finally, if supplementary control systems are to be reliable, a strong predictive relationship must be established between the user's emissions and the ambient air quality in the affected area. This predictive relationship cannot be established with confidence if other sources have a significant impact on air quality in the area. Hence, the enforceability





requirement can only be satisfied for supplementary control systems applied to a source sufficiently isolated from others that the owner or operator is willing and able to accept full legal responsibility for maintaining the national standards throughout the area in which emissions from that source influence ambient air quality. It is essential that this area be carefully defined on a case-by-case basis. In a few instances, it may be possible for two or more sources to implement a supplementary control system jointly, and thus share responsibility for the ambient air quality. The regulations proposed herein are not intended to prevent this type of arrangement so long as the appropriate conditions, including enforceability, are met. It should be noted, however, that designing and operating a system involving more than one source increases the complexity of this technique. These criteria, therefore, generally restrict consideration of supplementary control systems for application to only a small number of isolated sources of sulfur dioxide.

The regulations proposed herein would also require demonstration by each candidate source on a case-by-case basis that adequate constant emission reduction techniques are not available to attain and maintain the national standards, and that those techniques which are available would be applied to permanently reduce emissions to the maximum extent practicable prior to application of supplementary control systems. Further, these regulations would require that each source or system of sources utilizing a supplementary control system support and participate in an appropriate research, development, engineering, and demonstration program to insure that the supplementary control system can be replaced by constant emission limitation techniques as soon as possible. In cases where the source is subject to a current compliance schedule, good faith efforts to achieve that schedule should be attempted prior to resorting to a supplementary control system. If a supplementary control system is found to be necessary, the revised compliance schedule should contain the major applicable milestones associated with the program to obtain constant emission limitation techniques. It is not intended that accomplishment of the milestones be legally binding, because in many cases the schedule for a particular phase may be dependent upon the results of a previous phase. However, the milestones should be sufficiently definitive so that the progress of the program can be included in the annual review of the supplementary control system performance as specified in these regulations.

Obviously, the necessity for the continued application of supplementary control systems must be reassessed from time-to-time in consideration of the increasing availability of constant emission limitation techniques. The proposed regulations require that this reassessment be accomplished at least once during each five-year period in addition to the annual review of the source's efforts to replace the supplementary control system.

Supplementary control systems will not be authorized for new or modified sources. It is intended that in all cases, new sources be properly designed, located, and constructed with constant emission limitation techniques adequate to maintain the national standards.

However, in the Administrator's judgment it does not appear to be in the public interest to require shutdown or permanent curtailment of production for existing sources which could temporarily use supplementary control systems to attain and maintain the national standards. For example, many existing nonferrous smelters would require emission reductions in excess of 90 percent in order to avoid violations of the national standards for sulfur dioxide during all adverse meteorological conditions. Constant emission limitation techniques capable of achieving this degree of emission reduction are not available for every smelter. The alternatives in most cases will be either to close these facilities (or drastically curtail production), or apply supplementary control systems. Weak gas stream scrubbing and process changes may become available for application to many nonferrous smelters in the future. However, at this time, available control technology for most nonferrous smelters consists of operation of byproduct sulfuric acid plants to control emissions from strong gas streams. The regulations proposed herein require that, where byproduct sulfuric acid plants are impractical on sources currently violating the NAAQS, procedures such as permanent production curtailment must be implemented to permanently reduce emissions to the level attainable with acid plants. This level must be achieved through permanent emission limitation procedures; if further reductions are still necessary to meet national standards, and cannot be achieved through other control techniques, then a supplementary control system would be required until constant emission limitation techniques become available. It is estimated that the majority of the major nonferrous smelters in the country will require and qualify for supplementary control systems to attain the national standards.

A similar, though less severe, situation exists for a few coal-fired electric generating plants which, if not allowed to use supplementary control systems, would have to either delay attainment of the standards or permanently curtail power production in order to accommodate adverse meteorological conditions occurring only a few percent of the time. Conventional sulfur oxides control techniques for coal-fired electric generating plants include stack-gas cleaning and use of low-sulfur coal. Stack-gas cleaning to control sulfur oxides emissions is considered "adequately demonstrated" for the purposes of section 111 of the Clean Air Act and therefore was the basis for the new source performance standards promulgated December 23, 1971 (36 FR 24876). Sulfur oxides scrubbing equipment currently is being installed at a number of new and existing electric generating plants, and its use at existing facilities will be increased gradually over the next few years. However, there are practical limitations to this technology including: Sulfur oxides scrubbing is relatively new technology which means, among other things, that each installation must be individually designed to a much greater extent than is necessary for most other air pollution control systems; there are limitations on control equipment manufacturers' capacity to design, build, and install sulfur oxides scrubbing equipment on a retrofit basis; and, perhaps most importantly, the retrofit of available equipment is not currently possible on all existing coal-fired electric generating plants. Nevertheless, EPA continues to believe that sulfur oxides scrubbing is completely appropriate and available for use in most situations where adequate amounts of low-sulfur fuel are not available. As for the use of low-sulfur coal, the limitations on its availability impose definite constraints on its use as a sulfur oxides control technique at this time. Low-sulfur fuels cannot be considered available for all coal-fired electric generating plants in all sections of the country.

Accordingly, demonstration that stack gas cleaning and low-sulfur (and desulfurized) coal are not available for use by a specific source will have to be evaluated on a case-by-case basis. It is estimated that less than 50 coal-fired electric generating plants would qualify for supplementary control systems under these criteria.

Concern has been expressed that the approval of supplementary control systems could tend to inhibit further development and application of improved constant emission limitation techniques. However, the vast majority of sulfur dioxide sources cannot meet the criteria required for use of supplementary control systems. Hence, there are many hundreds of sulfur dioxide sources which must attain and maintain the national standards by use of constant emission limitation techniques. These will provide sufficient stimulus for development and application of new and improved techniques. Also, a condition for the use of a supplementary control system will be support of a research and demonstration program by the firm operating the source to accelerate the development of constant emission reduction technology applicable to the source.

The Administrator recognizes that there are several unquantified factors which could cause the widespread use of supplementary control systems to be undesirable. The effect of total atmospheric loading of sulfur oxides is of particular concern: It includes the impact of suspended sulfate formation, acidification of soil and water, visibility reduction, and changes in background concentration. It is not currently possible to quantify these effects of atmospheric loading, nor is it



V 38-178 SEP 14 73 XUM

possible to accurately estimate the impact of supplementary control systems on total atmospheric loading. It is for this reason, in addition to the implied preference in the Clean Air Act, that attainment of the national standards through constant emission reduction is preferable to use of supplementary control systems.

It should be emphasized that these proposed regulations merely allow States to give appropriate sources the option of using such systems as a temporary measure to attain and maintain national standards. EPA cannot and would not require States to offer this option. Moreover, each request for approval to use such a system would have to be evaluated individually by the State agency, and State approval will be subject to review and approval by EPA. In addition, it must be recognized that the monitoring and enforcement efforts will be more extensive and, therefore, more costly than in cases where constant emission limitation systems are used. Accordingly, States are encouraged to require licensing of supplementary control systems and to impose fees to defray the additional monitoring and enforcement costs.

Section 110(a)(2) of the Clean Air Act requires that State Implementation Plans must include "emission limitations, schedules, and timetables for compliance with such limitations, and such other measures as may be necessary to insure attainment and maintenance of such primary or secondary standard, including, but not limited to, land-use and transportation controls." It is the Administrator's judgment that the use of supplementary control systems is in certain situations a "necessary" measure as authorized by the Act. Because such systems can be designed and operated in such a way as to be a reliable means of attaining and maintaining national standards in selected situations, it would serve no stated purpose of the Act to prohibit their use where no other reasonable alternatives exist.

While the Administrator is well aware that questions have been raised as to the legal basis for allowing the use of supplementary control systems, it is his judgment that their use, under the conditions set forth in these proposed regulations, is fully consistent with the purposes and provisions of the Clean Air Act and is in the best interests of the public.

### Acceptability of Increased Stack Height

Effective and reliable operation of a supplementary control system often can be enhanced by increasing the stack height beyond what would normally be considered good engineering practice. For purposes of this discussion a stack which conforms to good engineering practice is sufficiently tall that emissions from the stack are not significantly affected by the atmospheric downwash, eddies, or wakes created by the facility or nearby structures and terrain. Emissions from stacks which are shorter than required by good engineering practice often can cause excessively high ground level concentrations and nuisances within, and in the immediate vicinity of, the facility. For fairly level terrain, good engineering practice will normally result in stack height approximately two and one-half times the height of the facility and nearby obstructions. For more complex situations, this rule-of-thumb is too simplistic, and detailed engineering and meteorological investigations of the proposed site should be conducted to determine the appropriate stack height. The use of stack height up to the level of good engineering practice is encouraged by EPA in order to avoid local nuisances. But although the Environmental Protection Agency will accept existing stacks, it will not credit, as an acceptable portion of an air pollution control strategy, any extension of stack height beyond that of good engineering practice unless the extension is accomplished as part of an approved supplementary control system.

### Definition of Reasonable Time

The revisions proposed herein also modify the definition of "reasonable time" for attainment of secondary standards by specifying that "reasonable time" shall be the time required to design, fabricate, and install reasonably available control technology, as defined in Appendix B to the State plan guidelines (40 CFR Part 51). States may postpone application of such measures only in cases where the control strategy would have a severe adverse economic or social impact. The Administrator expects such postponements to be rare, but they may be required in special cases to prevent plant shutdown or to prevent massive replacement of recently installed equipment which would result in an inequitable economic impact. Any postponement beyond January 1, 1978, must be subject to periodic reevaluation at five-year intervals.

### Future Revisions To Control Strategies

The proposed regulations would establish more stringent requirements for future demonstrations of attainment and maintenance of standards for particulate matter and sulfur dioxide. Diffusion modeling would be required for use in estimating maximum concentrations, and the areas in which these concentrations occur, unless application of a diffusion model is shown to be inappropriate. The alternatives to diffusion models, such as the simple rollback techniques which have been used and accepted in the past, are particularly inappropriate for prediction of the short-term peak concentrations which are a major factor in detailed analyses of air quality around large point sources.

The use of "example regions" would also be eliminated in revisions to sulfur dioxide and particulate matter control strategies. This concept was necessary and acceptable during the initial development of State Implementation Plans, but it can result in inadequate analysis of the impact of large point sources. Elimination of the "example region" concept is intended to lead to better understanding and solution of air quality control problems in regions not initially selected as examples.

These changes would apply only to future revisions to particulate matter and sulfur dioxide control strategies. The currently approved State Implementation Plans have been reviewed and are considered necessary and adequate to attain and maintain the national ambient air quality standards. The proposed regulations would not require that revisions be submitted solely in order to redemonstrate adequacy of these control strategies under the revised guidelines.

### Public Participation

Interested persons are encouraged to participate in this rule-making by submitting written comments in triplicate to the Office of Air Quality Planning and Standards, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, Attention: Mr. Robert Neligan. All relevant comments received not later than thirty days after the date of publication of this notice will be considered. Receipt of comments will be acknowledge but substantive responses will not be provided. Comments received will be available for public inspection during normal business hours at the Office of Public Affairs, 401 M Street SW., Washington, D.C. 20460.

This notice of proposed rulemaking is issued under the authority of section 301(a) of the Clean Air Act, as amended (42 U.S.C. 1857g(a)).

Dated September 6, 1973.

JOHN R. QUARLES, JR.,
*Acting Administrator,*
*Environmental Protection Agency.*

### References


1. Montgomery, T. L., J. M. Leavitt, T. L. Crawford and F. E. Gartrell, "Control of Ambient $SO_2$ Concentrations by Noncontinuous Emission Limitation, Large Coal-Fired Power Plants." Presented at 102d Annual Meeting, the American Institute of Mining Metallurgical and Petroleum Engineers, Chicago, Ill., February 1973.
2. Peters, M., "Report of Investigation at ASARCO, El Paso, Texas." Texas AFCS, Austin, Texas, February 2–4, 1971 (MS).
3. Nelson, K. W. Statement Regarding Alternatives to an Emission Standard. Att. 18, letter from J. F. Boland, Attorney for ASARCO, to Casandra Jencks, Legal Counsel, Region IX, October 16, 1972.


It is proposed to amend Part 51 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

1. In § 51.1, the first sentence in paragraph (n) is revised and paragraph (q) is added. As amended § 51.1 reads as follows:

**§ 51.1 Definitions.**

* * * * * *

(n) "Control strategy" means a combination of emission reductions and such other measures as may be necessary for the attainment and maintenance of a national standard, including, but not limited to, measures such as:

* * * * * *





(q) "Supplementary control systems" are systems which limit the rate of pollutant emissions during periods when meteorological conditions in excess of ground-level concentrations in excess of national standards exist or are anticipated.

2. In § 51.12, paragraph (a) is revised to read as follows:

**§ 51.12 Control strategy: General.**

(a) In any region where existing (measured or estimated) ambient levels of a pollutant exceed the levels specified by an applicable national standard, the plan shall provide for the degree of emission reduction and other measures necessary for attainment and maintenance of such national standard, including those necessary to offset emission increases that can reasonably be expected to result from projected growth of population, industrial activity, motor vehicle traffic, or other factors that may cause or contribute to an increase in emissions.

* * * * * *

3. In § 51.13, paragraphs (a) and (b) are revised and subparagraphs (d)(4), (e)(4), and (e)(5) and paragraph (h) are added. As amended § 51.13 reads as follows:

**§ 51.13 Control strategy: Sulfur oxides and particulate matter.**

(a) In any region where emission reductions and other measures are necessary for attainment and maintenance of a primary standard for sulfur oxides or particulate matter, the plan shall set forth a control strategy which shall provide for the attainment of such primary standard within the time prescribed by the Act.

(b)(1) "Reasonable time" for attainment of a secondary standard pursuant to § 51.10(c) shall be the time required to design, fabricate and install necessary control systems or to apply other control measures, unless the State shows that good cause exists for postponing their application. Good cause for postponing the application of such systems or other measures may include the unavailability of necessary control systems or measures, or the likelihood that their installation or application would cause severe adverse social and economic impacts. (b)(2) Where the time for attainment of a secondary standard established by the State extends beyond January 1, 1978, the State shall submit, after notice and public hearing, a reanalysis of the plan at intervals of no more than five years from the date of plan approval by the Administrator. States shall consider application of reasonable interim emission reduction measures to minimize adverse welfare effects which occur at air quality levels in excess of the secondary standards.

* * * * * *

(d) * * *

(4) Control strategy demonstrations submitted as a revision to an approved plan after the effective date of this subparagraph shall provide an explicit control strategy demonstration for each region affected by such revision.

(e) * * *

(4) Control strategy demonstrations submitted as a revision to an approved plan after the effective date of this subparagraph shall utilize a diffusion model to estimate the maximum air quality concentrations which are expected after application of the control strategy. Other methods of relating emissions to air quality may be used only when the application of a diffusion model is shown to be inappropriate.

(5)(i) Before supplementary control systems can be authorized, the owner or operator of the source must show that (1) all constant emission reduction technology (or its equivalent) available to the source has been applied and is insufficient to attain national standards; (2) further constant emission reduction means are not available in its particular case; and (3) a program will be undertaken to research, develop, engineer, and demonstrate such constant emission reduction technology as is necessary to attain the national standards. An estimated schedule for their attainment by such means must be provided.

(ii) If supplementary control systems are authorized, each source using this technique must be treated separately. It must be shown through a combination of diffusion modeling and air quality sampling that operation of the system will enable national standards to be attained and maintained at all points significantly influenced by emissions from said source.

(iii) It must be shown that each source using a supplementary control system to achieve national air quality standards has accepted liability for violations of such ambient standards in all areas where air quality is significantly affected by the source's emissions. In some exceptional cases, two or more sources may be considered jointly under paragraph (e)(4)(i) of this section provided that it is established a priori how the liability for an air quality standard violation is to be shared by the sources involved.

(iv) A detailed description of and additional conditions for the acceptability of supplementary control systems for attainment of national standards are set forth in Appendix P.

* * * * * *

(h) The increase of stack height up to a height consistent with good engineering practice is acceptable without qualification. An increase in stack height beyond this level is not an acceptable air quality control measure unless accomplished as part of an approved supplementary control system (see Appendix P to this part).

A stack which conforms to good engineering practice is sufficiently tall that emissions from the stack are unaffected by the atmospheric downwash, eddies and wakes which may be created by the facility itself, nearby structures or terrain obstacles.

For fairly level terrain, good engineering practice is normally taken to be a stack height 2½ times the height of the facility or nearby structure. For complex terrain, the 2½ times rule-of-thumb is too simplistic. For such cases, and for more detailed information on good engineering practices, the references listed should be consulted.

### References


1. Briggs, G. A., "Plume Rise," pp. 7–8. AEC Critical Review Series, U.S. Atomic Energy Commission, Division of Technical Information, Oak Ridge, Tenn., 1969.
2. Ide, Yasou, "Theory and Application of Factory Smoke Emission Dispersion Pattern," Japan Society of Civil Engineering, Tokyo, Proc. Summer Lectures Hydrog. Tokyo, Japan, 1971.
3. Smith, Maynard (editor), "Recommended Guide for the Prediction of the Dispersion of Airborne Effluents," pp. 25–35, American Society of Mechanical Engineers, 345 East 47th Street, New York, N.Y. 10017, May 1968.
4. Turner, D. B., "Workbook of Atmospheric Dispersion Estimates," Publication No. AP–26, EPA, Office of Air Programs, Research Triangle Park, N.C., Revised 1970.
5. Slade, David H. (editor), "Meteorology and Atomic Energy," pp. 221–255, U.S. Atomic Energy Commission, Division of Technical Information, Oak Ridge, Tenn., July 1968.


4. In Part 51, Appendix P is added as follows:

### Appendix P—Description of a Supplementary Control System and Criteria for an Acceptable State Regulation

This appendix describes supplementary control systems for the attainment and maintenance of National Ambient Air Quality Standards by taking advantage of the dispersive capability of the atmosphere. It is now concluded that for a limited number of cases and under carefully controlled conditions, procedures which enhance the dispersion of emissions from large isolated sources are reliable means by which ground-level ambient air quality standards can be met.

The supplementary control system is a relatively new control procedure for most States. Its successful application depends on careful design and vigorous surveillance. This Appendix provides guidance to the States and sources for use in the development of supplementary control systems.

The statements presented herein are not intended to require or encourage State agencies to authorize such supplementary control techniques as a means to attain and maintain national standards without first considering (1) the frequency and severity of threats to the national standards in the vicinity of the source, (2) the availability to the source of constant emission reduction techniques, including low sulfur fuel, for the attainment of national standards around such source, (3) the reliability and enforceability of supplementary control techniques, (4) the potential environmental effects of emissions even though such emissions are sufficiently diluted at ground level to attain national standards, and (5) problems unique to the source or state regulatory system.

#### 1.0 Definitions

"Supplementary Control Systems" are systems which limit the rate of pollutant emissions during periods when meteorological conditions conducive to ground-level concentrations in excess of national standards exist or are anticipated. They are designed to meet air quality standards by varying the emission rate with meteorological conditions in order to take advantage of the changing



V 38-178 SEP 14 73 XUM

dispersive capacity of the atmosphere. Supplementary control systems may also make use of the increased dispersion of pollutants usually achieved by an increase in effective stack height.

"Effective stack height" means the sum of the physical height of the stack above grade and the height the effluent plume rises above the height of the stack top. (Under most circumstances, an increase in the effective stack height results in a decrease in the maximum ground-level concentration of the emitted pollutant and an increase in the distance from the source that the maximum concentration occurs. 1,2)

"Isolated source" means a source that will assume responsibility for all ground-level concentrations of the pollutant covered by the supplementary control system in all areas significantly influenced by its emissions.

## 2.0 Elements of A Supplementary Control System

2.1 Figure 2.1 presents a block diagram of the elements of an acceptable supplementary control system and the relationships among them.

2.2 The function of each element follows:

(a) *Meteorological inputs.*—Observations and predictions of the values of meteorological variables required by the operational model to determine the degree of control needed to avoid threats to the national standard (e.g., wind speed, wind direction, stability, mixing height).

(b) *Operating model.*—An intellectual construct which relates meteorological inputs, emission rates, source data and terrain and location factors to current and future ambient air quality in the vicinity of the source.

(c) *Scheduled emission rate.*—The emission rate which would result under the currently scheduled processes and levels of operation.

(d) *Control decision.*—Decisions, based on either the model prediction or real-time air quality (whichever dictates the lower emission rate), whether or not to continue with scheduled processes and their attendant emissions, and if not, how much to curtail the emission rate.

(e) *Controlled emissions.*—The emission rate resulting from the control decision.

(f) *Actual meteorological conditions.*—The measures of wind speed, wind direction, stability, mixing height, and other meteorological factors at the time of emission release.

(g) *Time delays.*—Time will be required to implement the control decision, and more time will pass before the reduced emission rate affects air quality at a distance from the source.

(h) *Air quality.*—Ground-level pollutant concentrations and their temporal and spatial distribution resulting from the source's emissions.

(i) *Air quality monitors.*—An array of sampling stations located at points where maximum ground-level concentrations are most probable to occur (inaccessible points excepted), and in sufficient numbers to allow calibration of the dispersion model so that it may accurately interpolate air quality between samplers. A portion of the monitors may be mobile or portable.

(j) *Threshold values.*—Measured concentration levels somewhat below air quality standards and/or rates of change of concentrations that serve as indicators of potential violations of the standard. They are selected so that a control decision for emission reduction can be made in sufficient time to prevent air quality standards from being violated.

(k) *Data storage.*—Synchronous records meteorological conditions, emission rate, model prediction, measured air quality, and control decisions available for control agency review and model upgrading.

(l) *Upgrade system.*—A periodic evaluation of all system parameters (including the operating model, the meteorological prediction methods, threshold values and other control criteria), based on stored data, with the objective to improve the system's reliability in maintaining the national standards.

2.3 The supplementary control system described in Figure 2.1 will be seen to consist of three basic operations: control based on air quality prediction, control based on air quality measurement, and periodic model upgrading. Each of these operations is considered necessary to a reliable system, for each performs a valuable function. The operating model is used to predict ground-level pollutant concentration sufficiently in advance of its potential occurrence, and to interpolate between monitors. The monitored data and threshold values are used to supplement and, if necessary, override decisions based on the model output, thus compensating for the less than perfect accuracy of the model. The model upgrade operation is used to convert the tentative initial model into an accurate prediction mechanism tailored to the specific plant and site.

## 3.0 Criteria for an Acceptable State Regulation Authorizing Use of Techniques To Attain National Ambient Air Quality Standards by Supplementary Control Systems

3.1 This section presents criteria for an acceptable State regulation concerning supplementary control systems. The purpose of such a regulation is to ensure that supplementary control systems will be authorized only in the limited situations prescribed by these regulations, and that the systems authorized will be reliable and enforceable with all necessary elements of the system clearly and legally identified.

3.2 An acceptable State regulation must:

(a) Authorize approval of each supplementary control system only after reasonable notice and public hearing.

(b) Authorize supplementary control systems on a source-by-source basis only after demonstration by each source that technology is not available in its case to meet national standards through application of constant emission reduction. The justification must include:

(1) A short description of the type and location of the facility.

(2) The number, location and emissions of other relevant sources in the vicinity of the facility.

(3) Data on the frequency and severity of recent air quality standard violations.

(4) Methods of constant emission reduction that will be applied and the degree of emission reduction expected due to their application.

(5) A statement by an appropriate senior official of the firm which operates the facility that the firm has investigated in good faith the availability and reliability of constant emission reduction methods necessary to reduce the emissions of the facility sufficiently to attain and maintain air quality standards. Documentation should accompany the statement that attests to the firm's efforts to obtain and apply appropriate flue gas control devices and, in the case of combustion sources, to obtain an adequate supply of low sulfur fuel. A description must be presented of the firm's research and demonstration programs, or its participation in such programs, which will accelerate the development of constant emission reduction technology applicable to the source. Such description must include schedules and resources to be committed, and an anticipated date when adequate emission reduction technology can be applied to the source.

(6) A plan for development, operation and demonstration of a supplementary control system.

(7) Any other factors pertinent to the justification for the use of a supplementary control system.

(c) Apply only to isolated sources.

(d) Define air quality violations as:

(1) A single ambient concentration that exceeds the standard at any point in the area significantly affected by the source emissions. Repeated or consecutive excesses at the same monitor or non-simultaneous excesses at different monitors are multiple violations.

(2) Non-compliance with stated and agreed upon emission curtailment conditions and procedures.

(e) Require that penalties be specified for violations of ambient air quality standards or for failure to control emissions in accordance with the approved criteria associated with the supplementary control systems.

(f) Apply only to those sources which can curtail their emissions at a rate compatible with the advance warning time (of adverse atmospheric dispersion conditions) afforded by the supplementary control system, and which will provide assurances that curtailment actions necessary to attain national standards will be appropriately implemented.

(g) If permission is granted to develop and operate a supplementary control system, require formal review and reexamination of the permit at intervals of 5 years or less. The reexamination should include a survey of control techniques which may have become available, the continued relative isolation of the facility and other factors which may bear on the conditions for use of a supplementary control system by the facility.

(h) Require the source to establish, maintain and continuously operate monitors for sensing the pollutant emission rate, air quality and meteorological variables. Emission rate estimates may be substituted for emission measurements provided such estimates provide data of equivalent accuracy, documentation, and legal acceptability as direct emission measurements.

(i) Grant the agency continuous access to all emission, air quality and meteorological data collected by the source and authority to inspect, test and calibrate all sensors, recorders and other equipment operated by the source to collect these data. "Continuous access" may, in practice, require telemetering of such data to the control agency.

(j) Require the source to notify the control agency when emission curtailment is initiated and when air quality standards are exceeded.

(k) Require the source to submit a plan and schedule for implementing a supplementary control system, which is subject to approval by an appropriate control agency. The plan shall have two parts:

(1) A comprehensive report of a thorough background study which demonstrates the capability of the supplementary control system to attain the national standards. The report shall describe a study during a period of at least 120 days when national standards are frequently or likely to be exceeded which:

(i) Describes the emission monitoring system and the air quality monitoring network.

(ii) Describes the meteorological sensing network and the meteorological prediction program.





(iii) Identifies the frequency, characteristics, times of occurrence and durations of meteorological conditions associated with high ground-level concentrations.

(iv) Describes the methodology (e.g., dispersion modeling and measured air quality data) by which the source determines the degree of control needed under each meteorological situation.

(v) Describes the method chosen to vary the emission rate, the basis for the choice, and the time required to effect a sufficient reduction in the emission rate to avoid violations of national standards.

(vi) Estimates the frequency that emission rate reduction is required to attain national standards.

(vii) Describes the basis for the above estimate.

(viii) Includes data and results of objective reliability tests. "Reliability," as the term is applied here, refers to the ability of the supplementary control system to protect against violations of national standards.

(2) An operational manual which:

(i) Specifies and substantiates the number, type, and location of ambient air quality monitors, in-stack monitors, and meteorological instruments to be used.

(ii) Identifies the meteorological situations and monitor readings before and/or during which the emission rate must be reduced to avoid exceeding short-term national standards.

(iii) Describes techniques, methods and criteria used to anticipate the onset of meteorological situations associated with gound-level concentrations in excess of national standards.

(iv) Describes the criteria by which the source determines the degree of control needed for each situation.

(v) Identifies specific actions that will be taken to curtail emissions when critical meteorological conditions exist or are predicted and/or when specified air quality levels occur.

(vi) Identifies the company personnel responsible for initiating and supervising such actions.

(vii) Demonstrates that the curtailment program will result in maintenance of short-term and long-term national standards.

(viii) Describes the manner in which monitoring data are transmitted to the control agency (in a manner acceptable to the agency).

(ix) Describes a program whereby the source systematically evaluates and improves the reliability of the supplementary control system.

(x) Identifies a responsible and knowledgeable person (and alternates) on site who are authorized to curtail and who can apprise the control agency on the status of the supplementary control system at any time.

(l) Require the source to submit monthly reports on the supplementary control system, including an analysis of how the system affected air quality and how response to adverse dispersion conditions will be improved.

(m) Require annual review of the supplementary control system by the control agency, and authorize the agency to deny continued use of the supplementary control system if:

(1) The source has not complied with all provisions designed to protect long-term national standards.

(2) The source has not developed a control program that is effective in enabling short-term national standards to be met (e.g., the source has not followed the control criteria set forth in the approved operational manual).

(3) The source has not demonstrated good faith in operating an effective control program by failing to:

(i) Utilize trained competent personnel.

(ii) Maintain, operate and calibrate the monitoring equipment properly.

(iii) Refine and continuously validate and upgrade the response of the supplementary control system to adverse dispersion conditions.

(iv) Reduce the emission rate in accordance with stipulated control criteria.

(4) The source has not demonstrated good faith efforts to follow its stated program for developing and applying constant emission limitation procedures.

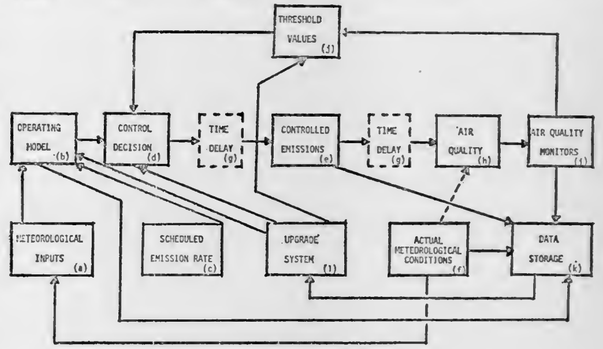



Figure 2.1 Elements of a Supplementary Control System

### References

1. Briggs, G. A., "Plume Rise," p. 67, AEC Critical Review Series, U.S. Atomic Energy Commission, Division of Technical Information, Oak Ridge, Tenn., 1969.

2. Turner, D. B., "Workbook of Atmospheric Dispersion Estimates," Publication No. AP-26; pp. 5, 10-17, 31-32; EPA, Office of Air Programs, Research Triangle Park, N.C., Revised 1970.

[FR Doc.73-19296 Filed 9-13-73;8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

**[ 47 CFR Part 73 ]**

(Docket No. 19795)

### FM BROADCAST STATIONS

### Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of § 73.202(b) Table of Assignments, FM Broadcast Stations. (Rapid City, South Dakota) RM-2014.

1. On July 26, 1973, the Commission adopted a notice of proposed rulemaking in the above-captioned proceeding. Publication was given in the Federal Register on August 2, 1973, 38 FR 20627. Comment and reply comment dates are presently designated as September 7 and September 17, 1973, respectively.

2. In a petition for extension of time dated September 6, 1973, Counsel for Robert W. Gunderson, Ray J. Aldrich, William A. Goodhope, and Bruce H. Lien requested that the time for filing comments and reply comments be extended to September 21 and October 1, 1973, respectively. Counsel states that the additional time is necessary in order to obtain certain additional information to include in the comments and for the further reason that he has been out of town for 3 weeks on a Commission field hearing.

3. It appears that the requested extension is warranted. Accordingly, *It is ordered*, That the dates for filing comments and reply comments are extended to and including September 21 and October 1, 1973, respectively.

4. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281(d)(8) of the Commission's rules.

Adopted September 7, 1973.

Released September 10, 1973.

[SEAL] Wallace E. Johnson,
*Chief,*
*Broadcast Bureau.*

[FR Doc.73-19593 Filed 9-13-73;8:45 am]

## FEDERAL RESERVE SYSTEM

**[ 12 CFR Part 204 ]**

### RESERVES OF MEMBER BANKS

### Definition of Gross Demand Deposits

The Board of Governors proposes to apply reserve requirements against certain accounts classified among "Other liabilities" against which reserves are presently not maintained. The certain "Other liability" accounts against which reserve requirements will now apply are those accounts which a member bank has created to balance its books after debiting demand deposit accounts (or any other accounts for the transfer of funds).

For example, member banks, at present, sometimes exchange checks in the late afternoon or evening, and may debit an account on the day the checks were received, while not making settlement



V 38-178 SEP 14 73 XUM

until the following business day. Some banks balance their books until the next business day by creating an "Other liability" account the night that the debit is posted. On the next business day, the "Other liability" account is debited and the check is paid. The Board of Governors proposes to regard that "Other liability" account as a "deposit" against which reserves must be maintained.

"Other liability" accounts that are used for other purposes would not be affected, e.g. bills payable for services and supplies received and for which payment is not yet due.

There are several reasons why the Board proposes the change. The use of an "Other liability" account for this purpose involves a one business day delay in crediting accounts after debits are posted and the practice may deprive customers of the use of funds in a way that is difficult to detect and is misleading. The Board is also concerned that the practice outlined above can result in understatement of the money supply. Also, a bank that became accustomed to the practice described may have problems in adapting to any electronic payments mechanism that will require simultaneous credits and debits. Finally, the practice allows the level of required reserves to be lower than the Board intended.

To aid in the consideration of this matter by the Board, interested persons are invited to submit relevant data, views, and arguments. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 12, 1973. Such material will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's rules regarding availability of information.

To implement its proposal, the Board proposes to amend § 204.1(g) of its Regulation D (12 CFR Part 204) by adding a new sentence at the end thereof to read as follows:

**§ 204.1 Definitions.**

* * * * * * *

(g) *Gross demand deposits.* * * * "Gross demand deposits" also includes any obligation to pay a check (or other instrument, device, or arrangement for the transfer of funds) drawn on the Bank, where the account of the bank's customer has already been debited.

* * * * * * *

By order of the Board of Governors, September 7, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-19542 Filed 9-13-73;8:45 am]

## SELECTIVE SERVICE SYSTEM

**[ 32 CFR Part 1604 ]**

**SIGNING OF OFFICIAL PAPERS**

**Notice of Proposed Rule Making**

Pursuant to the Military Selective Service Act, as amended (50 U.S. Code App., sections 451 et seq.) and § 1604.1 of Selective Service Regulations (32 CFR 1604.1), the Director of Selective Service hereby gives public notice that consideration is being given to the following proposed amendment to the Selective Service Regulations constituting a portion of Chapter XVI of the Code of Federal Regulations. These Regulations implement the Military Selective Service Act, as amended (50 U.S. Code App., sections 451 et seq.).

The proposed amendment provides authority for additional persons to sign official papers of appeal boards.

All persons who desire to submit views to the Director on the proposals should prepare them in writing and forward them to the Director, Selective Service System, Attn: LLD, 1724 F Street, Northwest, Washington, D.C., 20435. Comments received by October 16, 1973 will be considered.

The proposed amendment follows:

Section 1604.28 is amended to read as follows:

**§ 1604.28 Signing official papers.**

Official papers issued by an appeal board or panel may be signed by any member or compensated employee of the appeal board or panel or any compensated employee of the Selective Service System whose official duties require him to perform administrative duties at the appeal board or panel except when otherwise prescribed by the Director of Selective Service.

BYRON V. PEPITONE,
*Director.*

SEPTEMBER 7, 1973.

[FR Doc.73-19536 Filed 9-13-73;8:45 am]





# Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF STATE

[Public Notice CM-66]

**ADVISORY COMMITTEE TO UNITED STATES SECTION, INTERNATIONAL NORTH PACIFIC FISHERIES COMMISSION**

**Notice of Meeting**

Notice is hereby given, pursuant to the provisions of Pub. L. 92-463, that a meeting of the Advisory Committee to the United States Section, International North Pacific Fisheries Commission, will be convened on September 24, 1973, at Montlake Laboratory, Northwest Fisheries Center, National Marine Fisheries Service, 2725 Montlake Boulevard East, Seattle, Washington at 9:00 a.m. The agenda of the meeting will include discussion of surveillance of foreign fishing fleets, the progress of fisheries research, the Alaska salmon fisheries, the status of the stocks of halibut, other groundfish and king and tanner crab, the observer program, and world fishery developments as they affect the International North Pacific Fisheries Commission. The meeting on September 24 will be open to the public.

The Advisory Committee will also meet on September 25, 1973. This meeting will not be open to the public inasmuch as the discussion will be devoted to matters exempt from public disclosure under 5 U.S.C. 552(b)(1) and the public interest requires that such discussion be withheld from disclosure.

SUE M. MORELAND,
*Committee Management Officer.*

SEPTEMBER 11, 1973.

[FR Doc.73-19623 Filed 9-13-73;8:45 am]

[Public Notice CM-64]

**LAW OF THE SEA ADVISORY COMMITTEE**

**Notice of Closed Meeting**

In accordance with section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is given that the Law of the Sea Advisory Committee shall hold a meeting on Friday and Saturday, September 21 and 22. As it has been determined that the meeting will involve discussion of law of the sea matters exempt from public disclosure under (5 U.S.C. 552(b)(1)) and that the public interest requires that such discussions be withheld from disclosure, the meeting shall be a closed one not open to the general public. The reason for this determination is that documents classified in accordance with Executive Order 11652 would be circulated and discussed.

Dated September 7, 1973.

MYRON H. NORDQUIST,
*Executive Secretary.*

[FR Doc.73-19565 Filed 9-13-73;8:45 am]

[Public Notice 398]

**TRAVEL INTO OR THROUGH CUBA**

**Restriction on Use of U.S. Passports**

Pursuant to the authority of Executive Order 11295 and in accordance with 22 CFR 51.72(c), use of U.S. passports for travel into or through Cuba remains restricted. To permit unrestricted travel would be incompatible with the resolutions adopted at the Ninth Meeting of Consultation of Ministers of Foreign Affairs of the Organization of American States, of which the United States is a member. At this meting, held in Washington from July 21 to 26, 1964, it was resolved that the governments of the American States not maintain diplomatic, consular, trade or shipping relations with Cuba under its present government. This resolution was reaffirmed in the Twelfth Meeting of Ministers of Foreign Affairs of the OAS held in September 1967, which adopted resolutions calling upon Member States to apply strictly the recommendations pertaining to the movement of funds and arms from Cuba to other American nations. Among other things, this policy of isolating Cuba was intended to minimize the capability of the Castro government to carry out its openly proclaimed programs of subversive activities in the Hemisphere.

U.S. passports shall not be valid for travel into or through Cuba unless specifically validated for such travel under the authority of the Secretary of State.

This public notice shall expire on September 14, 1974 unless extended or sooner revoked by public notice.

*Effective date.*—This notice becomes effective on September 14, 1973.

Dated August 31, 1973.

[SEAL] KENNETH RUSH,
*Acting Secretary of State.*

[FR Doc.73-19537 Filed 9-13-73;8:45 am]

[Public Notice 399]

**TRAVEL INTO OR THROUGH NORTH KOREA**

**Restriction on Use of U.S. Passports**

Pursuant to the authority of Executive Order 11295 and in accordance with 22 CFR 51.72(c), use of U.S. passports for travel into or through North Korea remains restricted. In view of the continued hostility of the North Korean regime toward the United States, the unsettled situation along the Military Demarcation Line, and the special position of the Government of the Republic of Korea which is recognized by the U.S. as well as by U.N. resolution as the only lawful government in Korea, the Department of State believes that wholly unrestricted travel by American citizens to North Korea would seriously impair the conduct of U.S. foreign affairs.

U.S. passports shall not be valid for travel into or through North Korea unless specifically validated for such travel under the authority of the Secretary of State.

This public notice shall expire on September 13, 1974, unless extended or sooner revoked by public notice.

*Effective date.*—This notice becomes effective on September 14, 1973.

Dated August 31, 1973.

[SEAL] KENNETH RUSH,
*Acting Secretary of State.*

[FR Doc.73-19538 Filed 9-13-73;8:45 am]

[Public Notice 400]

**TRAVEL INTO OR THROUGH NORTH VIETNAM**

**Restriction on Use of U.S. Passports**

Pursuant to the authority of Executive Order 11295 and in accordance with 22 CFR 51.72(c), the use of U.S. passports for travel into or through North Vietnam remains restricted. In the aftermath of the signing on January 27, 1973, of the Agreement on Ending the War and Restoring Peace in Vietnam, tensions continue to be high and conditions unsettled in the Indo-China area. The Peace Agreement envisages that the implementation of the Agreement will create conditions for establishing a new, equal and mutually beneficial relationship between the United States and North Vietnam. However, the development of such a new relationship is still in its earliest stages. In these circumstances the Department of State believes that unrestricted travel by American citizens to North Vietnam would seriously impair the conduct of U.S. foreign affairs.

U.S. passports shall not be valid for travel into or through North Vietnam unless specifically validated for such travel under the authority of the Secretary of State.



V38-178 SEP 14 73 XUM

This public notice shall expire on September 14, 1974, unless extended or sooner revoked by public notice.

*Effective date.*—This notice becomes effective on September 13, 1973.

Dated August 31, 1973.

[SEAL] KENNETH RUSH,
*Acting Secretary of State.*

[FR Doc.73-19539 Filed 9-13-73;8:45 am]

## DEPARTMENT OF THE TREASURY

### Comptroller of the Currency

### REGIONAL ADVISORY COMMITTEE ON BANKING POLICIES AND PRACTICES; TENTH NATIONAL BANK REGION

#### Notice of Closed Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a closed meeting of the Comptroller of the Currency's Regional Advisory Committee on Banking Policies and Practices of the Tenth National Bank Region will be held at 9:00 a.m. on September 28, 1973, at the Board Room of the First National Bank & Trust Company of Lincoln, Lincoln, Nebraska.

The purpose of this meeting is to assist the Regional Administrator and Comptroller of the Currency in a continuing review of bank regulations and policies. The meeting will also apprise agency officials of current conditions and problems banks are experiencing in the Tenth National Bank Region.

It is hereby determined pursuant to section 19(d) of Pub. L. 92-463 that the meeting is concerned with matters listed in section 552(b) of Title 5 of the United States Code and particularly with exceptions (3), (4), and (8) thereof, and is therefore exempt from the provisions of section 10(a)(1) and (a)(3) of the Act (Pub. L. 92-463) relating to open meetings and public participation therein.

Dated September 11, 1973.

[SEAL] JAMES E. SMITH,
*Comptroller of the Currency.*

[FR Doc.73-19602 Filed 9-13-73;8:45 am]

## DEPARTMENT OF DEFENSE

### Department of the Air Force

### SCIENTIFIC ADVISORY BOARD

#### Notice of Meetings

SEPTEMBER 7, 1973.

The USAF Scientific Advisory Board Science and Technology Advisory Group will hold closed meetings on September 24 and 25, 1973, from 9 a.m. until 5 p.m., at Headquarters Air Force Systers Command, Andrews Air Force Base, Maryland 20331.

The Group will receive classified briefings on the Air Force Systems Command Laboratory Exploratory and Advanced Development Program Elements.

The USAF Scietnific Advisory Board Electronic Systems Division Advisory Group will hold a closed meeting on September 26, 1973 from 8 a.m. until 4 p.m., at L. G. Hanscom Field, Maine.

The Group will receive classified briefings on various Electronics Systems Divisions systems.

The USAF Scientific Advisory Board Ad Hoc Commitee on Electro Optics Technology will hold closed meetings on September 27 and 28, 1973, from 8:30 a.m. until 5 p.m., at the Pentagon, Washington, D.C.

The Committee will receive classified briefings on the Air Force Programs and Requirements for Electro Optics.

For further information contact the Scientific Advisory Board Secretariat at (202) 697-4648.

JOHN W. FAHRNEY,
*Colonel, USAF, Chief, Legislative Division, Office of The Judge Advocate General.*

[FR Doc.73-19551 Filed 9-13-73;8:45 am]

## DEPARTMENT OF THE INTERIOR

### Bonneville Power Administration

### HUNGRY HORSE CLOUD SEEDING PROGRAM

#### Notice of Public Meeting Regarding Draft Environmental Statement

Bonneville Power Administration will hold a public information meeting at 7:30 p.m., October 15, 1973, in the Large Lecture Room of the Flathead County High School, Kalispell, Montana to present its draft environmental statement covering its proposed Hungry Horse Cloud Seeding Program.

This program is designed to enhance the snowpack in the area drained by the South Fork of the Flathead River above Hungry Horse Dam. The purpose of the program is to help alleviate a projected shortage of firm energy in the Pacific Northwest by assuring normal streamflows and hydroelectric generation. The program is scheduled to begin November 15, 1973, and end no later than April 15, 1974.

All interested parties are urged to attend. The environmental impacts of the cloud seeding program will be described at the meeting and comments on these environmental impacts will be received from the public. All comments are welcomed in order to assist the Administration in fully evaluating the environmental factors of the proposed program.

Copies of the draft environmental statement can be obtained from, or reviewed at, the BPA Kalispell District Office, Box 758, Kalispell, Montana 59901. Copies will also be available at the following:

BPA Headquarters Building
1002 NE. Holladay
Portland, Oregon 97232

BPA Washington, D.C. Office
5600 Interior Building
Washington, D.C. 20240

State of Montana
Department of Planning and Economic Development
Helena, Montana

Flathead County Free Library
37 First Street West
Kalispell, Montana 59901

For further information, you are invited to contact the Kalispell District Office at 406-756-4365.

Dated September 10, 1973.

RAY FOLEEN,
*Deputy Administrator.*

[FR Doc.73-19627 Filed 9-13-73;8:45 am]

### Bureau of Land Management

### ROSEBURG DISTRICT ADVISORY BOARD

#### Notice of Meeting

Notice is hereby given that the Bureau of Land Management Roseburg District Advisory Board will meet at 8:30 a.m., October 2, 1973, at The Roseburg District Office, 1928 Airport Road, Roseburg, Oregon, for the purpose of making a field tour of the southern portion of the district.

The tour is for the purpose of observing forest management problems on adverse sites. There will be no business meeting. The tour will be open to the public, though non-board members must provide their own transportation.

GEORGE C. FRANCIS,
*District Manager.*

SEPTEMBER 6, 1973.

[FR Doc.73-19545 Filed 9-13-73;8:45 am]

[M 20307; Power Project No. 407]

### MONTANA

#### Order Providing for Opening of Lands

SEPTEMBER 7, 1973.

By virtue of the authority contained in section 24 of the Act of June 10, 1920 (41 Stat. 1075 (16 U.S.C. 818)), as amended, and in accordance with Bureau of Land Management Order No. 701 dated July 23, 1964 (29 FR 10526), as amended, and pursuant to the vacating order of the Federal Power Commission issued June 27, 1973, it is ordered as follows:

1. The following described lands, so far as they are withdrawn and reserved for power purposes, are hereby restored to disposition under applicable public land laws from the withdrawal for Federal Power Project No. 407 dated April 12, 1923, as amended February 1, 1926, subject to valid existing rights and the provisions of existing withdrawals:

PRINCIPAL MERIDIAN, MONTANA

T. 5 S., R. 15 E.,
Sec. 32, S½NE¼, SE¼, and unsurveyed E½SW¼; and
Sec. 33, SW¼NW¼, SW¼, and W½SE¼.
T. 6 S., R. 15 E., (unsurveyed)
Sec. 4, N½NW¼ and SW¼NW¼;
Sec. 5, N½, SW¼, N½SE¼, and SW¼SE¼;
Sec. 6, SE¼NE¼, NE¼SW¼, S½SW¼, and SE¼;
Sec. 7, N½N½; and
Sec. 8, NW¼NW¼.

The areas described aggregate approximately 1,840 acres in Stillwater County.





The lands are withdrawn as part of the Custer National Forest and are under the jurisdiction of the Department of Agriculture. In addition to the withdrawal for national forest purposes, the SW¼SE¼NE¼, NE¼SE¼, SE¼NW¼SE¼, NE¼SW¼SE¼, and N½SE¼SE¼, Sec. 32, T. 5 S., R. 15 E., are withdrawn for a national forest recreation area and the NW¼ Sec. 6, T. 6 S., R. 15 E., is withdrawn for Federal Power Project 1662.

2. At 10 a.m. on October 20, 1973, the lands shall be open to such forms of disposition as may by law be made of national forest lands. The above described land has been open to application and offers under the mineral leasing laws, and to location under the United States mining laws subject to the provisions of the Act of August 11, 1955 (69 Stat. 682; (30 U.S.C. 621)).

ROLAND F. LEE,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc.73-19546 Filed 9-13-73;8:45 am]

## DEPARTMENT OF AGRICULTURE

### Farmers Home Administration

[Designation No. A024]

### SAN PATRICIO COUNTY, TEXAS

#### Designation as Emergency Areas

The Secretary of Agriculture has found that a general need for agricultural credit exists in San Patricio County, Texas.

The Secretary has further found that such general need for agricultural credit existing in these areas cannot be met temporarily by private, cooperative, or other responsible sources at reasonable rates and terms for loans for similar purposes and periods of time, and that the need for such credit in such areas is the result of a natural disaster consisting of hail and high winds on June 5, 1973, and excessive rains June 5 through July 7, 1973, which occurred during the incidence period of June 5, 1973, through July 7, 1973.

Therefore, the Secretary has designated this area as eligible for Emergency loans, pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 93-24, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Dolph Briscoe that such designation be made.

Applications for Emergency loans must be received by this Department prior to October 29, 1973, for physical losses and prior to May 30, 1974, for production losses, except that qualified borrowers who received initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 7th day of September 1973.

FRANK B. ELLIOTT,
*Administrator, Farmers Home Administration.*

[FR Doc.73-19560 Filed 9-13-73;8:45 am]

## DEPARTMENT OF COMMERCE

### Maritime Administration

### CONSTRUCTION-DIFFERENTIAL SUBSIDY CONTRACT UNDER MARAD TANKER CONSTRUCTION PROGRAM

#### Notice of Award

Notice is hereby given that on June 29, 1973, the Maritime Subsidy Board awarded a construction-differential subsidy contract, Contract No. MA/MSB-283, to Seatrain Shipbuilding Corporation (Seatrain) and Contract No. MA/MSB-284 to Fillmore Tanker Corporation for one 225,000 deadweight ton tanker, MA Design T10-S-92a, to be constructed by Seatrain at its Brooklyn, New York, shipyard. The application of Fillmore Tanker Corporation for such contract was filed on June 12, 1972, and amended on May 29, 1973.

By Order of the Maritime Subsidy Board Maritime Administration.

Dated September 11, 1973.

JAMES S. DAWSON, JR.,
*Secretary.*

[FR Doc 73-19612 Filed 9-13-73;8:45 am]

[Docket No. S-388]

### OPERATING-DIFFERENTIAL SUBSIDY FOR CARRIAGE OF BULK CARGO PRINCIPALLY BETWEEN THE U.S. AND USSR

#### Notice of Application To Extend Existing Agreements

Notice is hereby given that applications have been filed under the Merchant Marine Act, 1936, as amended, for operating-differential subsidy with respect to bulk cargo carrying service in the U.S. foreign trade, principally between the United States and the Union of Soviet Socialist Republics, to expire, unless extended, on December 31, 1973 (except for subsidized voyages in progress on that date). Inasmuch as the operators listed below and/or related persons or firms, employ ships in the domestic, intercoastal or coastwise service, written permission of the Maritime Administration under section 805(a) of the Merchant Marine Act, 1936, as amended, will be required for each operator upon extension of its contract, notwithstanding that a voyage in the above-mentioned bulk carrier service would not be eligible for subsidy if the vessel carried domestic commerce of the United States on that voyage.

Name of Applicant: Vancor Steamship Corp. (Vancor).

Description of Domestic Service and Vessels: Vancor is the parent of National Transport Corp. (National), which owns and operates the National Defender, a U.S. flag tanker with coastwise privileges. Accordingly, Vancor requests written permission for National or a charterer to operate the *National Defender* in domestic intercoastal or coastwise service during the period of requested extension of Vancor's operating-differential subsidy contract.

Name of Applicant: National Transport Corp. (National).

Description of Domestic Service and Vessels: National owns and operates the *National Defender*, a U.S. flag tanker with coastwise privileges. Accordingly, National requests written permission for it or a charterer to operate the *National Defender* in domestic intercoastal or coastwise service during the period of requested extension of National's operating-differential subsidy contract.

Name of Applicant: American Eagle Tanker Corp. (American Eagle).

Description of Domestic Service and Vessels: Applicant's parent, American Foreign Steamship Corporation, is the owner of the *SS American Oriole, SS American Robin*, each a U.S. flag dry cargo vessel with full U.S. flag privileges. A corporation affiliated with the applicant, American Condor Steamship Corp. owns the *SS American Condor, SS Star, SS Moon*, which are U.S. flag dry cargo vessels with full U.S. flag privileges. The vessels now owned by applicant's parent or affiliates may be engaged by the owner or charterer in the domestic intercoastal or coastwise service. Accordingly, American Eagle requests written permission for related companies or charterers to employ one or more of the aforementioned vessels in intercoastal or coastwise service.

Interested parties may inspect this application in the Office of The Secretary, Maritime Administration, Department of Commerce Building, Fourteenth & E Streets NW., Washington, D.C. 20230.

Any person, firm or corporation having any interest (within the meaning of section 805(a)) in the application and desiring to be heard on issues pertinent to section 805(a) or desiring to submit comments or views concerning the applications must, by close of business September 20, 1973, file same with the Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing has been tentatively scheduled for September 21, 1973, in Room 4896 Department of Commerce Building, Fourteenth & E Street NW., Washington, D.C. 20230. The purpose of the hearing will be to receive evidence under section 805(a) relative to whether



V 38-178
SEP 14 73
XUM

the proposed operation (a) could result in unfair competition to any person, firm or corporation operating exclusively in the coastwise or intercoastal services, or (b) would be prejudicial to the objects and policy of the Act.

By order of the Maritime Administration.

Dated September 6, 1973.

JAMES S. DAWSON, Jr.,
*Secretary.*

[FR Doc.73-19615 Filed 9-13-73;8:45 am]

[Docket No. S-389]

## UNITED STATES LINES, INC.

### Notice of Application

Notice is hereby given that United States Lines, Inc. (U.S. Lines), for a prospective wholly-owned subsidiary, has filed an application under the Merchant Marine Act of 1936, as amended (the Act), for operating-differential subsidy with respect to operation of four (4) 80,000 deadweight ton tankers in worldwide tanker trades. U.S. Lines operates containerships in a service between the U.S. East and West Coast and Hawaii and the Far East, including carriage of domestic intercoastal cargo and domestic cargo to Hawaii. Accordingly, U.S. Lines or the prospective wholly-owned subsidiary will require written permission under section 805(a) of the Act if its application for operating-differential subsidy is approved, for U.S. Lines to continue such domestic operations.

The Applicant believes that it is entitled under section 805(a) of the Act to mandatory permission to continue the intercoastal portion of such domestic service if its application is granted because in 1935, and before that almost continuously since the opening of the Panama Canal in 1915, the Applicant (and predecessors in interest) was in bona fide operation as a common carrier by water in the intercoastal trade and has so operated since that time except for interruptions of service over which the Applicant (or its predecessors in interest) had no control.

Interested parties may inspect this application in the Office of The Secretary, Maritime Administration, Department of Commerce Building, Fourteenth & E Streets NW., Washington, D.C. 20230.

Any person, firm or corporation having any interest (within the meaning of section 805(a)) in the application and desiring to be heard on issues pertinent to section 805(a) or desiring to submit comments or views concerning the application must, by close of business September 24, 1973, file same with the Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing has been tentatively scheduled for September 26, 1973 in Room 4896 Department of Commerce Building, Fourteenth & E Streets NW., Washington, D.C. 20230. The purpose of the hearing will be to receive evidence under section 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm or corporation operating exclusively in the coastwise or intercoastal services, or (b) would be prejudicial to the objects and policy of the Act.

By Order of the Maritime Administration.

Dated September 6, 1973.

JAMES S. DAWSON, Jr.,
*Secretary.*

[FR Doc.73-19614 Filed 9-13-73;8:45 am]

[Docket No. S-390]

## WATERMAN STEAMSHIP CORPORATION

### Notice of Application

Notice is hereby given that Waterman Steamship Corporation, a New York corporation, has filed an application with the Maritime Subsidy Board pursuant to Title VI (46 U.S.C. 1171-1183) of the Merchant Marine Act, 1936, as amended, (the Act) for a long term operating-differential subsidy agreement for operations on Trade Route No. 12 (U.S. Atlantic/Far East). This company presently has the privilege of calling at U.S. Atlantic ports under its current Operating-Differential Subsidy Agreement, Contract No. MA/MSB-138, covering operations on Trade Route No. 22 (U.S. Gulf/Far East), which agreement is scheduled to expire not later than May 8, 1975. Application for a long-term agreement for operating-differential subsidy on Trade Route No. 22 has been filed previously and has been docketed as S-336. In its present application, Waterman Steamship Corporation is requesting operating-differential subsidy on up to a maximum of 30 sailings per annum on Trade Route No. 12. The applicant proposes to operate such service in conjunction with its service on Trade Route No. 22, utilizing the same vessels. The service would be operated initially with war-built vessels and/or Mariner type vessels, and the applicant has proposed a replacement program which involves the ultimate replacement of three Mariners by two LASH-type vessels in 1977 and the remaining three Mariners by two LASH-type vessels in 1985.

Interested parties may inspect this application in the Office of the Secretary, Maritime Subsidy Board, Room 3099-B, Department of Commerce Building, Fourteenth & E Streets NW., Washington, D.C. 20230.

Any person firm or corporation having any interest in such application and desiring a hearing on issues pertinent to section 605(c) of the Act (46 U.S.C. 1175), should by the close of business on September 27, 1973, notify the Secretary, Maritime Subsidy Board, in writing in triplicate of his interest therein, and file petition for leave to intervene in accordance with the Rules of Practice and Procedure of the Maritime Subsidy Board (46 CFR, Part 201). Each such statement of interest and petition to intervene should indicate with as much specificity as possible those portions of the application with which the intervenor is concerned and the facts which the intervenor would undertake to prove at a hearing.

In the event that a section 605(c) hearing is ordered to be held, the purpose of the hearing will be to receive evidence relevant to (1) whether the application is one with respect to a vessel or vessels to be operated in an essential service, served by citizens of the United States which would be in addition to the existing service, or services, and if so, whether the service already provided by vessels of U.S. registry is inadequate, (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon, (3) whether the application is one with respect to a vessels or vessels operated or to be operated on an essential service served by two or more citizens of the United States with vessels of United States registry, and if so, whether the effect of the requested contract would be to give undue advantage or be unduly prejudicial, as between citizens of the United States, in the operation of vessels in such essential service, and (4) whether it is necessary to enter into such contract in order to provide adequate service by vessels of United States resigtry.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Maritime Subsidy Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Board will take such action as may be deemed appropriate.

Dated September 11, 1973.

By Order of the Maritime Subsidy Board.

(Catalog of Federal Domestic Assistance Program No. 11.504, Operating-Differential Subsidies (ODS).)

JAMES S. DAWSON, Jr.,
*Secretary.*

[FR Doc.73-19613 Filed 9-13-73;8:45 am]

## National Oceanic and Atmospheric Administration

## ALABAMA, LOUISIANA, AND MISSISSIPPI

### Determination of Commercial Fishery Failure Due to Resource Disaster

Whereas, many individuals and firms in Alabama, Louisiana, and Mississippi are engaged in harvesting, processing, and marketing oysters to meet consumer demands; and





Whereas, the oyster resources in Alabama, Louisiana, and Mississippi make an important contribution to the economy of these States with a combined production value of more than $5 million; and

Whereas, mortalities of oyster stocks from excessive flood waters, a natural cause, ranged from 29 to 85 percent on individual oyster reefs in Alabama, over 40 percent on approximately 2,400 acres of oyster reefs in Louisiana, and 95 to 100 percent on 2,500 acres of oyster reefs in Mississippi; and

Whereas, natural rehabilitation has been hampered by deposition of silt and heavy fouling of cultch by marine organisms; and

Whereas, it is known that the damaged oyster resources can be effectively and economically restored through planting of cultch material;

Now, therefore, as the authorized representative of the Secretary of Commerce, I hereby determine that the foregoing circumstances constitute a commercial fishery failure due to a resource disaster arising from natural causes within the meaning of subsection 4(b) of the Commercial Fisheries Research and Development Act as amended. I hereby authorize the use of funds under this Act to restore and put back into production the damaged oyster resources in coastal areas of Alabama, Louisiana, and Mississippi.

HOWARD W. POLLOCK,
*Acting Administrator.*

SEPTEMBER 10, 1973.

[FR Doc.73-19552 Filed 9-13-73;8:45 am]

## Social and Economic Statistics Administration

## CENSUS ADVISORY COMMITTEE ON POPULATION STATISTICS

### Notice of Public Meeting

The Census Advisory Committee on Population Statistics will convene on September 21, 1973, at 9:30 a.m. The Committee will meet in Room 2113, Federal Building 3, at the Bureau of the Census in Suitland, Maryland.

The Census Advisory Committee on Population Statistics was established in 1965 to advise the Director, Bureau of the Census, on current programs, on plans for the 1970 Census of Population and on other matters dealing with the collection and issuance of population statistics.

The Committee is composed of 10 members appointed by the Secretary of Commerce.

The agenda for the meeting includes: (1) 1970 Census data delivery system—1970 Census experience, (2) Issues in statistical area concepts and definitions, (3) Net Census undercount—use in post-censal estimates and extension to sub-national levels, (4) Neighborhood characteristics, (5) New population projections, (6) Review of poverty and income statistics, and (7) Revision of Current Population Survey March package.

A limited number of seats—approximately 15—will be available to the public. A brief period will be set aside for public comment and questions. Extensive questions or statements must be submitted in writing to the Committee Guidance Control Officer at least three days prior to the meeting.

Persons planning to attend and wishing additional information concerning this meeting should contact the Committee Guidance and Control Officer, Mr. Daniel B. Levine, Associate Director for Demographic Operations, Bureau of the Census, Room 2061, Federal Building 3, Suitland, Maryland. (Mail address: Washington, D.C. 20233). Telephone 301-763-5167.

EDWARD D. FAILOR,
*Administrator, Social and Economic Statistics Administration.*

[FR Doc.73-19573 Filed 9-13-73;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Food and Drug Administration

## ADVISORY COMMITTEES

### Notice of Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the Food and Drug Administration announces the renewal by the Secretary, Department of Health, Education, and Welfare, of the National Advisory Food Committee for an additional period of two years beyond August 24, 1973, and the Anti-Infective Agents Advisory Committee and the Radioactive Pharmaceuticals Advisory Committee for an additional period of two years beyond August 30, 1973.

Authority for these committees will expire August 24, 1975, and August 30, 1975, unless the Secretary formally determines that continuance is in the public interest.

Dated September 10, 1973.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[FR Doc.73-19628 Filed 9-13-73;8:45 am]

## NATIONAL ADVISORY VETERINARY MEDICINE COMMITTEE

### Notice of Meeting

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the Food and Drug Administration announces the following public advisory committee meeting and other required information in accordance with provisions set forth in section 10(a)(1) and (2) of the act:

| Committee name | Date, time, and place | Type of meeting and contact person |
|---|---|---|
| National Advisory Veterinary Medicine Committee. | Sept. 27-28, 9 a.m., Conference Room A, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. | Open—Kenneth E. Taylor, D.V.M., Room 7-79, 5600 Fishers Lane, Rockville, Md. 20852, 301-443-1490. |

*Purpose.*—Advises the Commissioner of Food and Drugs on policy matters of national significance as they relate to assuring safety and efficacy of drugs, medical feeds and food additives used in veterinary medicine and animal production; truthful labeling and wholesomeness of animal foods; animal nutrition; and the safety of food from animals that have been treated with drugs or fed drugs or other additives.

*Agenda.*—Animal Drug and Feed Additive Residues: legal status, human health implications, safety criteria, animal husbandry practices, analytical methods. Veterinary Medical Practice and its Relationship to FDA: OTC and prescription drugs, certification of veterinary products, pet foods.

Agenda items are subject to change as priorities dictate.

During the open sessions shown above, interested persons may present relevant information or views orally to any committee for its consideration. Information or views submitted to any committee in writing before or during a meeting shall also be considered by the committee.

A list of committee members and summary minutes of meetings may be obtained from the contact person for the committee both for meetings open to the public and those meetings closed to the public in accordance with section 10(d) of the Federal Advisory Committee Act.

Most Food and Drug Administration advisory committees are created to advise the Commissioner of Food and Drugs on pending regulatory matters. Recommendations made by the committees on these matters are intended to result in action under the Federal Food, Drug, and Cosmetic Act, and these committees thus necessarily participate with the Commissioner in exercising his law enforcement responsibilities.

Dated September 10, 1973.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[FR Doc.73-19629 Filed 9-13-73;8:45 am]

## National Institutes of Health

## BREAST CANCER DIAGNOSIS COMMITTEE

### Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Breast Cancer Diagnosis Committee, National Cancer Institute, September 19, 1973, 9:00 a.m. to 5:00 p.m., National Institutes of Health, Building 31, Conference Room 6. This meeting will be open to the public from 9:00 a.m. to 12:00 noon to discuss plans for a specimen radiography exhibit and make revisions in a prospective guide for Surgeons for Biopsy of Breast Lesions which is intended for future publication, and closed from 1:15 p.m. to 5:00 p.m. for the review of approximately five contracts in the fields of Diagnosis of Breast Cancer, in accordance with the provisions set forth in section 552(b) 4 of Title 5, U.S.



V 38-178 SEP 14 73 XUM

Code, and section 10(d) of Pub. L. 92-463. Attendance by the public will be limited to space available.

Mr. Frank Karel, Associate Director for Public Affairs, NCI, Building 31, Room 10A31, National Institutes of Health, Bethesda, Maryland 20014, 301-496-1911 will furnish summaries of the open/closed meeting and roster of committee members and participants.

Dr. Bernice T. Radovich, Executive Secretary, Landow Building, Room B-406, National Institutes of Health, Bethesda, Maryland 20014, 301-496-6773 will provide substantive program information.

JOHN F. SHERMAN,
*Deputy Director, NIH.*

SEPTEMBER 10, 1973.

[FR Doc.73-19617 Filed 9-13-73;8:45 am]

## ATOMIC ENERGY COMMISSION

[Docket Nos. 50-413, 50-414]

### DUKE POWER CO.

### Notice of Further Prehearing Conference

In the matter of Duke Power Company, (Catawba Nuclear Station Units 1 and 2), Docket Nos. 50-413, 50-414.

Notice is hereby given that, pursuant to the Atomic Energy Commission's "Notice of Hearing on Application for Construction Permit" herein, published in the FEDERAL REGISTER on December 1, 1972 (37 FR 25560), and pursuant to the Memorandum and Order dated September 6, 1973, issued herein by the Atomic Safety and Licensing Board established by the Commission for this proceeding, a further Prehearing Conference will be held on Thursday, September 20, 1973, at 10:00 a.m., local time, in Courtroom No. 7, District Court, Mecklenburg County Courthouse, 700 East Trade Street, Charlotte, North Carolina 28201.

The further Prehearing Conference will deal with the following matters:

(1) Identification of the key issues;

(2) Any steps necessary for further identification of the issues;

(3) The need for discovery, and the time required therefor;

(4) Establishment of a schedule for further action; and

(5) Such other matters as may aid in the orderly and expeditious conduct of the hearing.

The parties are directed to confer prior to the Prehearing Conference in an effort to narrow, simplify and clarify the contentions and issues presented in this proceeding, so as to assist in the more orderly development of the record in this hearing.

The persons and organizations who were permitted by the aforesaid Memorandum and Order of September 6th to make limited appearances in this proceeding are not required to appear at this scheduled Prehearing Conference; such presentations will be received at the forthcoming Evidentiary Hearing.

Issued at Washington, D.C., this 10th day of September 1973.

It is so ordered.

THE ATOMIC SAFETY AND LICENSING BOARD,
MAX D. PAGLIN,
*Chairman.*

[FR Doc.73-19555 Filed 9-13-73;8:45 am]

[Docket Nos. 50-416, 50-417]

### MISSISSIPPI POWER AND LIGHT CO.

### Notice and Order for Third Prehearing Conference

In the matter of Mississippi Power and Light Company (Grand Gulf Nuclear Station, Units 1 and 2), Docket Nos. 50-416, 50-417.

Notice is hereby given, in accordance with § 2.752 of the Atomic Energy Commission's rules of practice, 10 CFR Part 2, that the Atomic Safety and Licensing Board (the Board) will hold a third prehearing conference in the above captioned case on Tuesday, October 23, 1973, at 10:00 a.m., local time, in the Main Courtroom, Circuit Court for Jackson County, 400 East Pascagoula Street, Jackson, Mississippi 39205.

The third prehearing conference shall consider the following matters:

1. All pending motions;
2. The status of discovery;
3. Further simplication, clarification, and specification of the issues;
4. The advisability of holding a separate hearing on environmental issues prior to a hearing on health and safety issues;
5. Scheduling of future hearings in this proceeding; and
6. Such other matters as may aid in the orderly disposition of the proceeding.

The attorneys for the respective parties are directed to confer in advance of this prehearing conference, in such matter as they deem appropriate, and report to the Board at said conference of any stipulations regarding issues or evidence, and on any other mutually agreeable procedures to expedite any evidentiary hearing that is to be scheduled.

Members of the public are invited to attend this third prehearing conference as well as all evidentiary hearings to be held at a later date to be fixed by the Board.

By order of the Atomic Safety and Licensing Board.

Dated this 10th day of September 1973, at Washington, D.C.

DANIEL M. HEAD,
*Chairman.*

[FR Doc.73-19554 Filed 9-13-73;8:45 am]

[Docket Nos. 50-450 and 50-451]

### DELMARVA POWER & LIGHT COMPANY AND PHILADELPHIA ELECTRIC COMPANY

### Notice of Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicants' Environmental Report; Time for Submission of Views on Antitrust Matter

Delmarva Power & Light Company, 800 King Street, Wilmington, Delaware 19899, and Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101 (the applicants), pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, have filed an application which was docketed on August 16, 1973, for authorization to construct and operate two generating units utilizing high temperature gas-cooled reactors. The application was tendered on April 30, 1973. Following a preliminary review for completeness, it was accepted on June 15, 1973.

The proposed nuclear facilities, designated by the applicants as the Summit Power Station, Units 1 and 2 will be located on a site in New Castle County, Delaware, approximately 1.2 miles south of the Chesapeake and Delaware Canal, 5 miles northeast of Middletown, Delaware, and 15 miles southwest of Wilmington, Delaware. Each reactor is designed for initial operation at approximately 2000 megawatts thermal, with a net electrical output of approximately 785 megawatts.

A Notice of Hearing with opportunity for public participation is being published separately.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Office of Antitrust and Indemnity, Directorate of Licensing, on or before October 30, 1973. The request should be filed in connection with Docket Nos. 50-450-A and 50-451-A.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545, and at the Newark Free Library, Elkton Road and Delaware Avenue, Newark, Delaware 19711.

The applicants also filed, pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in Appendix D to 10 CFR, Part 50, an environmental report dated April 1973. Following a preliminary review for completeness, it was rejected on June 15, 1973, for lack of sufficient information. The applicants submitted a supplement to the environmental report on July 30, 1973, and the report was accepted. The report has been made available for public inspection at the aforementioned locations. The report, which discusses environmental considerations related to the proposed construction of the Summit Power Station, Units 1 and 2 is also being made available at the Delaware State Planning Office, Tomas Collins Building, 530 South Dupont Highway, Dover, Delaware 19901, and at the Wilmington Metropolitan Area Planning and Coordinating Council, 4613 Robert Kirkwood Highway, Wilmington, Delaware 19808.

After the report has been analyzed by the Commission's Director of Regulation or his designee, a draft environmental statement will be prepared by the Commission. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement, requesting comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials thereon will be made available when received.

Dated at Bethesda, Maryland, this 20th day of August 1973.

For the Atomic Energy Commission.

DARRELL G. EISENHUT,
*Acting Chief, Gas Cooled Reactors Branch, Directorate of Licensing.*

[FR Doc.73-18380 Filed 8-30-73;8:45 am]





[Docket Nos. 50-448 and 50-449]

### POTOMAC ELECTRIC POWER COMPANY

### Notice of Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicant's Environmental Report; Time for Submission of Views on Antitrust Matter

Potomac Electric Power Company (the applicant), pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, has filed an application, which was docketed on August 9, 1973, for authorization to construct and operate two single cycle, forced circulation, boiling water nuclear reactors. The application was tendered on July 2, 1973. Following a preliminary review for completeness, it was found acceptable for docketing on August 6, 1973.

The proposed nuclear facilities, designated by the applicant as the Douglas Point Nuclear Generating Station, Units 1 & 2 are located on the east bank of the Potomac River, about 30 miles south-southwest of Washington, D.C., in Charles County, Maryland, and are designed for initial operation at approximately 3579 megawatts (thermal), with a net electrical output of approximately 1178 megawatts.

A Notice of Hearing with opportunity for public participation is being published separately.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Office of Antitrust and Indemnity, Directorate of Licensing, on or before October 30, 1973. The request should be filed in connection with Docket Nos. 50-448-A & 50-449-A.

The applicant has also filed, pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in Appendix D to 10 CFR, Part 50, an environmental report dated August 8, 1973. The report has been made available for public inspection at the aforementioned locations. The report, which discusses environmental considerations relative to the proposed construction of the Douglas Point Nuclear Generating Station, Units 1 & 2, is also being made available at the Department of State Planning, 301 West Preston Street, Baltimore, Maryland 21201 and at the Metropolitan Washington Council of Governments, 1225 Connecticut Avenue NW., Washington, D.C. 20036.

After the report has been analyzed by the Commission's Director of Regulation or his designee, a draft environmental statement will be prepared by the Commission. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement, requesting comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials thereon will be made available when received.

Dated at Bethesda, Maryland, this 14th day of August 1973.

For the Atomic Energy Commission.

WALTER R. BUTLER,
*Chief, Boiling Water Reactors, Branch 1 Directorate of Licensing.*

[FR Doc.73-18379 Filed 8-30-73;8:45 am]

[Docket Nos. 50-387 and 50-388]

### PENNSYLVANIA POWER & LIGHT COMPANY (SUSQUEHANNA STEAM ELECTRIC STATION, UNITS 1 AND 2)

### Assignment of Members of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787 (a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for these proceedings:

Alan S. Rosenthal, Chairman
Dr. John H. Buck, Member
William C. Parler, Member

Dated September 11, 1973.

MARGARET E. DU FLO,
*Secretary to the Appeal Board.*

[FR Doc.73-19591 Filed 9-13-73;8:45 am]

### ADVISORY COMMITTEE ON REACTOR SAFEGUARDS' SUBCOMMITTEE ON BROWN'S FERRY NUCLEAR PLANT

### Postponement of Meeting

SEPTEMBER 12, 1973.

The meeting of the Advisory Committee on Reactor Safeguards' Subcommittee on Brown's Ferry Nuclear Plant, Units 2 and 3, originally scheduled for September 20, 1973, a notice of which was previously published in the FEDERAL REGISTER on September 4, 1970 (Vol. 38, No. 170), at page 23814, has been postponed until further notice.

JOHN C. RYAN,
*Advisory Committee Management Officer.*

[FR Doc.73-19709 Filed 9-13-73;8:45 am]

## CIVIL AERONAUTICS BOARD

[Docket 25280, Agreement CAB 23773, R-3]

### INTERNATIONAL AIR TRANSPORT ASSOCIATION

### Order Regarding Cargo Charters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 10th day of September 1973.

There has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958, as amended, and Part 261 of the Board's Economic Regulations, an agreement among various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA) adopted at meetings recently held in Mexico City, and assigned the above designated CAB agreement number. The agreement relates to IATA resolutions 045a and 045c governing cargo charters for various areas.[1] The resolutions are proposed for effectiveness October 1, 1973. The effect of the resolutions would be to revalidate the IATA cargo charter resolution and an IATA resolution concerning involuntary change of routing of cargo from chartered aircraft to scheduled service for all areas of the world through September 30, 1975.

On August 20, 1973, Trans International Airlines, Inc. and World Airways, Inc., filed a joint request urging the Board to disapprove IATA resolution 045a at such time as the Board amends Part 297 of its Economic Regulations to delete the provisions of § 297.23. On August 24, 1973, the Air Freight Forwarders Association requested the Board to disapprove IATA resolution 045a.

For reasons hereinafter set forth, the Board has decided to approve the above resolutions through October 31, 1973, and to afford interested parties an opportunity to show cause by October 1, 1973, why the above agreements should not be

[1] The agreement is IATA standard revalidation resolution 002, and so our action herein is only insofar as it concerns IATA resolution 045a and 045c.



V 38-178
SEP 14 73
XUM

disapproved after October 31, 1973, insofar as they apply to air transportation to or from the United States.

The Board is mindful of the differences between these two resolutions and the Board's own charter rules. These differences raise a basic question as to whether the present agreements, or in fact any agreement on these subjects between IATA members, continue to serve a useful regulatory purpose. It is on this question that we especially seek the comments of interested parties. We note that the Board, in disapproving the IATA passenger charter resolution (045), found that that agreement served no useful regulatory purpose.[2]

The Board is not satisfied with the disparity between its cargo charter rules and the cargo charter rules agreed to by the members of IATA. The IATA cargo charter resolution is in some respects more restrictive than the Board's rules,[3] and in other respects more liberal.[4] To the extent the IATA resolutions are more restrictive than the Board's rules, they prevent the public from taking advantage of charter services to the same extent as the Board has found to be required in the public interest. To the extent the IATA carriers have agreed to rules that are more liberal than the Board's rules, the Board's rules would, in any event, preclude such operations in air transportation. There does not appear to be any valid basis for having two sets of differing charter regulations, one by the U.S. government and one by certain air carriers.

For the foregoing reasons, the Board tentatively finds that the above IATA resolutions are adverse to the public interest. However, the Board recognizes that the resolutions have been in effect, and have been approved by the Board and that it would be appropriate to afford interested parties an opportunity to show cause why we should not make our tentative finding final. In order that interested parties may have sufficient time to prepare their comments, and the Board may have time to consider the comments, we will approve the subject resolutions through October 31, 1973. The Board therefore finds that until October 31, 1973, these resolutions will not be adverse to the public interest nor in violation of the Act, and should be approved until that date.

Accordingly, *it is ordered:*

1. That Agreement CAB 23773, R-3 (insofar as it relates to resolutions 045a and 045c) be and it hereby is approved, provided that the Board's approval shall be limited to the period ending October 31, 1973, insofar as such resolutions relate to air transportation, as defined in the Act;

2. That interested parties are hereby directed to show cause why these IATA resolutions should not be disapproved to the extent that they relate to air transportation, as defined in the Act, after October 31, 1973;

3. That such comments shall be filed in this Docket on or before October 1, 1973;[5] and

4. That this order shall be served on all holders of foreign air carrier permits or certificates of public convenience and necessity, and upon the Departments of Justice, State, and Transportation.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.73-19598 Filed 9-13-73;8:45 am]

[Dockets 23333, 24488; Agreement C.A.B. 23845]

## INTERNATIONAL AIR TRANSPORT ASSOCIATION

### Order Regarding Currency Matters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 10th day of September 1973.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers and other carriers embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA). The agreement was adopted by mail vote, and has been assigned the above-designated C.A.B. agreement number.

The agreement would revise the IATA-agreed exchange rate for the Gambian dalasi from 1.91886 dalasi=1 U.S. dollar to 1.53508 dalasi=1 U.S. dollar.[1] This rate is used for conversion of specified dollar fares/rates into local currency selling fares and rates in Gambia, which would now be surcharged five percent. The subject changes were necessitated by currency fluctuations resulting in undervaluation of the dalasi in the existing IATA parities, and will effect a reduction of 16 percent in fares and rates stated in dalasi for transportation originating in Gambia.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, does not find that Resolutions 100(Mail 930)022x, 200(Mail 187)022x, and 300(Mail 411)022x, incorporated in Agreement C.A.B. 23845, are adverse to the public interest or in violation of the Act.

Accordingly, *it is ordered that:*

Agreement CAB 23845 be and hereby is approved.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.73-19599 Filed 9-13-73;8:45 am]

## COST OF LIVING COUNCIL

### HEALTH INDUSTRY ADVISORY COMMITTEE

### Notice of Change of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 88 Stat. 770), notice is hereby given that the meeting of the Health Industry Advisory Committee scheduled, as previously announced, on September 17, 1973, at the Cost of Living Council offices, 2000 M Street NW., will meet instead in the Chinese Room of the Mayflower Hotel in Washington, D.C. Also, the afternoon portion of the meeting will be held in the same room and will be open to the public. Therefore, both morning and afternoon sessions will be open to the public on a first-come, first-serve basis.

Issued in Washington, D.C., on September 12, 1973.

HENRY H. PERRITT, Jr.,
*Executive Secretary,*
*Cost of Living Council.*

[FR Doc.73-19707 Filed 9-12-73;3:31 pm]

## FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19812; FCC 73-926]

### GTE SATELLITE CORP.

### Memorandum Opinion and Order Re Oral Argument En Banc

In the matter of applications of GTE Satellite Corporation for authorization to lease satellite transponders and to construct five earth stations to provide domestic communications satellite services, Docket No. 19812, File Nos. 14-DSE-P-71, 15-DSE-P-71, 16-DSE-P-71, 17-DSE-P-71, 14-DSE-P-73.

1. One of the domestic satellite system proposals considered by the Commission in the domestic satellite proceeding (Docket 16495) was a proposal by GTE Service Corporation and various GTE operated companies to provide interstate message toll telephone service (MTT) and private line services by means of satellite facilities leased from Hughes Aircraft Company, now National Satellite Services, Inc. (NSS) and earth stations owned by GTE. Following the issuance of the Second Report and Order in Docket 16495, GTE Service Corporation formed a separate corporate subsidiary, GTE Satellite Corporation (GSAT), to engage in domestic satellite operations and transferred the pending applications to that entity. NSS proposes to use the remainder of the satellite capacity now used by GSAT to provide interconnection service to public broadcasting interests without charge and to engage in its own private venture for distributing programming to the cable television industry. The two proposals are interdependent in that NSS represents that it cannot proceed and will abandon its application if the GSAT proposal is not authorized.

2. In the Second Report and Order on domestic satellites in Docket No. 16495 (38 FCC 2d 844, 853-854, paragraphs 27-30), the Commission left open the question of whether GSAT should be authorized to provide interstate MTT service via domestic satellite and determined that GSAT would, in any event, be under the same restriction as A.T. & T. with respect to the provision of private line and other specialized services. Concerning MTT service, the Commission stated:

> 27. * * * in encouraging multiple entry and the development of competition in the supply of domestic communications, we have maintained a distinction between the so-called monopoly switched telephone services now being furnished by A.T. & T. and all other classes of existing and potential specialized services. We have made this distinction not for the purpose of protecting any established position that A.T. & T. occupies in the MTT field. Rather, it has been our purpose and concern to protect the public in the availability of efficient and economic switched MTT services—an interest that might well be adversely affected by unnecessarily fragmenting responsibility for the planning and provision of the facilities required for this integrated service. On the other hand, we should not reject any proposal that might prove feasible and beneficial to the public simply because it represents some departure from the established scheme. This is particularly true when the proposal comes from an entity, such as GTE, which already is a significant participant in the furnishing of MTT facilities and services, although essentially as a carrier which originates, terminates, and switches large volumes of MTT traffic rather than in the provision of long lines transmission facilities.
>
> 28. At least potentially, GTE's proposal offers several advantages. It would introduce more directly, although on a limited scale, the perspective and experience of another responsible entity into the planning and operation of the interstate MTT network, which heretofore has been the sole responsibility of A.T. & T. It could provide a basis for regulatory comparison of the relative efficiencies and cost advantages of somewhat different technologies represented by A.T. & T.'s proposal and GTE's proposal. It could also tend to lessen A.T. & T.'s dominance and economic influence in the domestic communications field.
>
> 29. Notwithstanding these potential public benefits, there are a number of uncertainties, not dispelled by the information contained in the record before us, that must be resolved before we can make the required statutory finding that GTE's proposal will serve the public interest. Accordingly, before determining whether this portion of the Hughes/GTE applications should be authorized, we will require a showing of the nature described by the staff (paragraphs 98-99) concerning: what potential benefits might be achieved by affording GTE access to the satellite technology for this purpose; whether its proposal is economically justified from the standpoint of the public in terms of costs and prospective fill; the effect on GTE's present contracts for settlement with A.T. & T.; GTE's plans for handling traffic in case of temporary outages or catastrophic failure of its satellite system facilities; how the costs of such facilities would be treated for rate-making and accounting purposes; and the kinds of data it will gather and report to the Commission to assist our evaluation of the efficiency and economy of any authorized operations compared to continued exclusive reliance on the interstate switched telephone facilities of A.T. & T.

3. Further, if GSAT's domestic satellite proposal is authorized, the Second Report did not foreclose the possibility that GSAT would be the designated entity to provide MTT service to Hawaii if it showed that the cost of using its facilities would be less than or approximately equivalent to the cost of utilizing A.T. & T. facilities (Second Report, 38 FCC 2d at 858, paragraph 39).

4. Neither GSAT nor NSS sought reconsideration of the Second Report. Instead GSAT filed amendments to the pending applications on October 16, 1972, which purported to make the showings required by the Commission. The staff afforded A.T. & T. an opportunity to comment on the GSAT amended proposal, and A.T. & T. filed its comments on November 27, 1972. Subsequently, GSAT filed a reply and A.T. & T. filed supplemental comments.

5. The Commission has given careful consideration to the showings made by GSAT in support of its application with respect to the remaining issues specified in paragraph 29 of the Second Report and Order quoted above, as well as to the comments filed by A.T. & T. and GSAT's replies thereto. It is the Commission's view that its resolution of these issues and the pleadings with respect thereto would be assisted by an oral argument at an early date as hereinafter designated with our final decision issued immediately thereafter.

6. Since no parties other than GSAT and A.T. & T. have filed data and pleadings concerning the GSAT applications, we are limiting the arguments herein to those two parties. We are not concerned with the NSS aspects of the applications in this matter.

7. *It is therefore ordered,* That an oral argument will be held before the Commission en banc at its offices in Washington, D.C., on September 11, 1973, at 9:30 a.m.

8. *It is further ordered,* That GSAT and A.T. & T. shall each limit themselves to the issues as quoted above from paragraph 29 of the Second Report and Order in Docket 16495 and to the context of data and pleadings heretofore filed by said parties.

9. *It is further ordered,* That each party shall have 60 minutes of argument and GSAT shall have the right to open and close said argument.

Adopted September 6, 1973.

Released September 7, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

[FR Doc.73-19595 Filed 9-13-73;8:45 am]

[Docket No. 19808; FCC 73-901]

### TELERENT LEASING CORP., ET AL.

### Federal Pre-emption of Interconnection of Subscriber Furnished Equipment

In the matter of Telerent Leasing Corporation, et al., petition for declaratory rulings on questions of Federal pre-emption on regulation of interconnection of subscriber-furnished equipment to the nationwide switched public telephone network.

1. The Commission has before it a petition for declaratory rulings filed on August 8, 1973 by North American Telephone Association (NATA) and a number of firms doing business in the States of North Carolina and Nebraska, hereinafter jointly referred to as Petitioners. NATA is a national trade organization of companies engaged in the manufacture, distribution, installation, and maintenance of interconnected communications terminal equipment and systems.[1] The primary question raised by the petition is whether and, if so, to what extent the actions which we have taken on interconnection of customer-provided communications equipment to the nationwide switched public telephone network have preempted state action in this area. A ruling is also sought as to whether customers, such as hotels and motels, providing their own communications systems (e.g., PABX) are communications common carriers and therefore subject to regulation as such.

2. On August 15, 1973, we invited persons interested in commenting on the subject petition to file comments on or before September 12, 1973, and reply comments on or before September 24, 1973.[2]

---

[5] Twelve (12) copies of such comments shall be filed.

[1] The dalasi/U.K. pound parity would also be revised, from 5.00 to 4.00=1 pound.

[2] See Order 72-6-91, dated June 21, 1972, at page 5.

[3] The IATA resolution is more restrictive than the Board's charter rules in that it does not allow member carriers to charter to airfreight forwarders.

[4] Examples of instances where the IATA resolutions are more liberal than the Board's charter rules are that they allow the carrier to allocate unused space for the carriage of mail, and for the use of the carrier's government, that they allow split cargo charters in limited circumstances, and that they allow charter traffic to be rerouted over scheduled services in certain instances.

[1] Commissioners Robert E. Lee, Johnson, and H. Rex Lee dissenting.

[1] In addition to NATA, Petitioners are comprised of Telerent Leasing Corporation, Crescent Industries, Inc., Long Engineering Co., Petty Communications, Inc., Tele-Sound Company, Inc., and Telephone Interconnect Company, all NATA members in the States of North Carolina or Nebraska.

[2] Public Notice dated August 15, 1973 (Mimeo No. 05725). In an earlier News Release dated August 10, 1973 (mimeo No. 05612) our Public Information Office called attention to Petitioners' filing as one of a number received of more than routine interest.







V38-178
SEP 14 73
XUM

3. In our Carterfone decision,[3] we held that the Carterfone[4] filled a need, that its use did not adversely affect the telephone system, that its use was nevertheless precluded by provisions in an American Telephone & Telegraph Company (A.T. & T.) tariff, and that the tariff was unlawful because it prohibited the use of the Carterfone and other interconnecting devices without regard to actual harm caused to the telephone system. We did not prescribe the terms of a new tariff, but left that to the initiative of the telephone companies, pointing out that they were in no wise precluded from adopting reasonable standards to prevent harmful interconnection. Basic to our holding was a rejection of A.T. & T.'s position that because A.T. & T. could not control the interconnected private system, interconnection was by definition a degradation of the message toll telephone system without regard to the quality of the interconnecting device or of the interconnected mobile radio system, i.e., without regard to actual harmful effects. We viewed that position, and the tariff rule embodying it, as unreasonable.

4. As a result of our Carterfone decision, A.T. & T. filed new and revised tariffs, presently in effect, which permit the interconnection and use of customer-provided terminal devices or communications systems to the telephone message toll and exchange network subject to certain conditions. One such condition is that any network control signalling unit (NCSU) must be furnished, installed and maintained by the telephone company (except for certain military installations and remote or hazardous locations). In permitting such tariffs to go into effect without formal investigation or hearing, we held that the tariff bar against any customer providing his own NCSU in connection with telephone company facilities was not in conflict with our Carterfone ruling.[5] Similarly, we have held that the present restrictions in the interstate MTS and WATS tariffs against customers providing connecting arrangements (CA's) for direct connection of customer-provided equipment (e.g., electrocardiograph, telephotograph, and recording devices) to the telephone system also did not violate our Carterfone decision.[6]

5. On June 14, 1972, we instituted a Federal-State Joint Board proceeding under section 410(c) of the Communications Act (Docket 19528) to determine whether there was a public need to go beyond what we ordered in Carterfone. We made clear at that time that we were not looking toward any modification of our holding in Carterfone and stated:

> We believe that the soundness of our Carterfone decision has been amply demonstrated. New markets have been opened to the innovative enterprise of many companies; the public has benefitted from having a wide range of choices available when the individual user selects the terminal device or private system which will best serve his particular communications need; and there has been no actual demonstrable harm to the telephone system or its users. Accordingly, this proceeding will not be concerned with any question relating to whether or not modifications should be made in that decision or in any of the provisions in the interstate MTS and WATS tariff provisions filed in compliance therewith. Our proceeding herein is concerned with the pending and unresolved basic issues now before us as to whether, and to what extent, there is public need for us to go beyond what we ordered in Carterfone and permit customers to provide, in whole or in part, the aforementioned NCSU's and CA's in interstate MTS and WATS and, if so, what terms and conditions should apply to protect the telephone system and services of others.[7]

6. On June 29, 1973, the North Carolina Utilities Commission gave notice of a proposed rule (R9–5)[8] which would generally prohibit interconnection of customer-owned or customer-provided equipment to the communications system of any telephone company doing business in North Carolina. It appears that, under the proposed rule, any such telephone company could provide such interconnection for interstate services only over facilities distinct and separate from those used for intrastate service.

7. By letter dated July 11, 1973 to the North Carolina Utilities Commission, the Chief of our Common Carrier Bureau noted that all interstate message toll service is offered over equipment used for both interstate and intrastate service. It was further noted that A.T. & T. Tariff No. 263 on file with this Commission governs the provision of interstate message toll telephone service throughout the nation, and that all subscribers have a right to interconnect their own equipment to such commonly used network facilities under that Tariff. Accordingly, the North Carolina Utilities Commission was advised that its proposed rule could not be implemented without a major restructuring of intrastate and interstate service offerings and the tariffs reflecting the terms and conditions of those offerings. It was noted that such a major revision in interstate service offerings would present numerous public interest questions under the Communications Act. It was further noted that the National Association of Regulatory Commissioners had taken the view, in which we have concurred, that because of the commonality of the joint use of telephone company facilities by all subscribers for intrastate and interstate message toll service, matters of interconnection with the message toll network should be treated on a cooperative, coordinate basis and that the pending Federal-State Joint Board proceeding in Docket 19528 was such an effort.

8. By letter dated July 18, 1972 to the Nebraska Public Service Commission, the Attorney General of Nebraska rendered an advisory opinion that our Carterfone decision did not prevent a telephone company from prohibiting interconnection of customer-provided equipment or wire interconnection for intrastate use. He also advised, in effect, that a hotel or motel could not interconnect privately-owned communications equipment with the telephone company without a hearing and finding by the Nebaska commission that the telephone company in the area had refused or failed to provide adequate service. (See attachment B.)

9. Petitioners contend that the above described actions of Nebraska and North Carolina, and the probability of similar State actions threatens the jurisdictional basis of Federal and State authority in our Joint Board proceeding in Docket 19528, compromises Federal-State Joint Board proceedings, imparts uncertainty to other Commission proceedings, and undermines our Carterfone, MCI[9] and Specialized Common Carrier[10] decisions. Petitioners further contend that these actions also threaten the ability of interconnect industry to furnish equipment and services to users of interstate and foreign communications, and could result in rolling back this service to a point where telephone companies again became the sole source of supply of user services and facilities.

10. On August 22, 1973, the North Carolina Utilities Commission filed pleadings[11] requesting that it be authorized to participate in this proceeding for the limited purpose of contesting our jurisdiction to grant the relief sought by Petitioners. The Utilities Commission stated that the specific relief sought raises serious and substantial constitutional questions with respect to state and federal relations and accordingly should be set for oral argument before this Commission. The Utilities Commission contends that, after hearing oral argument, we should dismiss the subject petition as premature and contrary to the provisions of section 2(b) and 221(b) of the Communications Act (47 U.S.C. 152 (b) and 47 U.S.C. 221(b)).

11. We are of the opinion that the above described advisory opinions of the Attorney General of the State of Nebraska and Rule R9–5 proposed by the North Carolina Utilities Commission have created uncertainty concerning whether and, if so, to what extent actions which we have taken, and policies which we have promulgated, in *Carterfone* and related cases with respect to interconnection of customer-provided communications equipment to the nationwide switched public telephone network have pre-empted state action in this area. We are of the further opinion that such uncertainty and the legal issues raised can and should be promptly resolved on the basis of briefs and oral argument before the Commission.

12. Accordingly, *It is hereby ordered*, Pursuant to sections 4(i), 4(j), and 403 of the Communications Act and §§ 1.1 and 1.2 of our rules, that this matter is designated for oral argument before the Commission, en banc, in Washington, D.C. on October 30, 1973, at 9:30 a.m.

13. *It is further ordered*, That each person or entity intending to participate in the oral argument shall file a brief on or before October 1, 1973 and a statement of intention to appear, specifying the amount of time requested for oral argument, by no later than October 15, 1973, and may file reply comments on or before October 15, 1973. The Commission reserves the right to limit the numbered of participants and the time of argument of each participant in the oral argument.

14. *It is further ordered*, That the petition of Telerent Leasing Corporation, et al., is hereby granted to the extent reflected above, and otherwise is denied.

15. *It is further ordered*, That the pleadings described in footnote 11 herein filed by the North Carolina Utilities Commission are hereby granted to the extent indicated herein and otherwise shall be held in abeyance pending oral argument and our decision thereafter.

Adopted September 6, 1973.

Released September 7, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[12]
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

[FR Doc.73-19596 Filed 9-13-73;8:45 am]

[3] *Carterfone*, 13 FCC 2d 420; reconsideration denied, 14 FCC 2d 571 (1968).

[4] The Carterfone is a device used to interconnect mobile radio systems to the interstate and foreign message toll telephone system.

[5] *A.T. & T.*, 15 FCC 2d 605, reconsideration denied, 18 FCC 2d 871, 872.

[6] See *Interstate and Foreign MTS and WATS*, 35 FCC 2d 539, 542.

[7] *Interstate and Foreign MTS and WATS*, 35 FCC 2d 539, 542.

[8] The text of the proposed rule is contained in Attachment A hereto.

[9] *Microwave Communications, Inc.*, 18 FCC 2d 953, reconsideration denied, 21, FCC 2d 190.

[10] *Specialized Common Carrier Services*, 29 FCC 2d 870 (1971).

[11] The pleadings were: (1) A special appearance for the limited purpose of contesting jurisdiction, (2) an opposition to the petition for declaratory rulings, and (3) a motion to dismiss petition and request for oral argument before the full Commission. Such pleadings, to the extent not acted upon herein, and all comments filed pursuant to our Public Notice of August 15, 1973 will be considered in reaching our decision in this proceeding.

[12] Commissioner Robert E. Lee Absent.



## FEDERAL MARITIME COMMISSION

[Docket No. 73-56]

### NON VESSEL OPERATING COMMON CARRIERS IN DOMESTIC OFFSHORE TRADES

### Order To Show Cause

On February 1, 1973, the Commission issued an order pursuant to section 21 of the Shipping Act, 1916 (46 U.S.C. 820), requiring all Non Vessel Operating Common Carriers by Water (NVOCC's) in the Domestic Offshore Trades, with tariffs on file at this Commission, to complete and return a questionnaire attached to that order.[1] Notice was given in the last paragraph of the order that failure to furnish the questionnaire would result in the issuance of an Order to Show Cause why that NVOCC's tariff(s) in the Domestic Offshore Trade(s) should not be canceled. Appendix A, attached below, lists the NVOCC's who have failed to furnish the subject questionnaire, and who continue to have FMC Tariffs on file. The Commission considers this failure to be prima facie evidence that those NVOCC's no longer operate pursuant to their tariffs.

*Now, therefore, it is ordered*, That pursuant to sections 18(a), 21, and 22 of the Shipping Act, 1916 (46 U.S.C. 817, 820 and 821), and section 2 of the Intercoastal Shipping Act, 1933 (46 U.S.C. 844), each of the NVOCC's listed in Appendix A hereto be named as respondent in this proceeding and that each be ordered to show cause why its individual tariff(s) in the Domestic Offshore Trade(s), on file with this Commission, should not be canceled for failure to reflect the service actually offered by that NVOCC.

*It is further ordered*, That this proceeding shall be limited to the submission of affidavits and memoranda of law, replies, and oral argument if deemed necessary by the Commission. Should any party feel that an evidentiary hearing is necessary, that party must accompany any request for such hearing with a statement setting forth in detail the facts to be proven, their relevance to the issues in this proceeding, and why such proof cannot be submitted through affidavit. Requests for hearing shall be filed on or before October 10, 1973. Affidavits of fact and memoranda of law shall be filed by respondents and served upon all parties no later than the close of business October 10, 1973. Reply affidavits and memoranda shall be filed by the Commission's Bureau of Hearing Counsel and intervenors, if any, no later than close of business October 25, 1973.

*It is further ordered*, That a notice of this order be published in the FEDERAL REGISTER and that a copy thereof be served upon respondents.

*It is further ordered*, That persons other than those already party to this proceeding who desire to become parties to this proceeding and to participate therein shall file a petition to intervene pursuant to Rule 5(1) of the Commission's rules of practice and procedure (46 CFR 502.72), no later than close of business October 3, 1973.

*It is further ordered*, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, in an original and 15 copies as well as being mailed directly to all parties of record.

By the Commission.

[SEAL] JOSEPH C. POLKING,
*Assistant Secretary.*

APPENDIX A

Alvarez Shipping Co., Inc., 3854 3rd Avenue, Bronx, New York 10457.

Cal-Hawaiian Freight, Inc., 695 N. Batavia, Orange, California 92667.

Columbus Express Shipping Co., Inc., 1158 Southern Blvd., Bronx, New York 10459.

Distribution International Service Co., 201 North Federal Highway, Deerfield Beach, Florida 33441.

El Faro Shipping Co., 110 Scholes Street, Brooklyn, New York 11206.

El Sol De Mayo Express Furniture, 937 East Tremont Avenue, Bronx, New York 10460.

Fast Mar Service, Inc., 4711 Dell Avenue, North Bergen, New Jersey 07047.

Hawaiian Express Service, Inc., 9 First Street, San Francisco, California 94105.

Hawaiian Freight Lines, Inc., P.O. Box 1601, Honolulu, Hawaii 96806.

D. L. Haynes, Inc., 4757 E. Slauson Avenue, Maywood, California 90270.

La Isla Shipping Co., 399 Hooper Street, Brooklyn, New York 11211.

La Rosa Del Monte Express, Inc., 559 East 180th Street, Bronx, New York 10457.

Maritime Trucking Co., Inc., P.O. Box 2770, San Juan, Puerto Rico 00903.

Modern Intermodal Traffic Corp., 1417 Clay Street, Oakland, California 94612.

Nunez Express Co., Inc., 1376 Bronx River Avenue, Bronx, New York 10472.

Ocean Truck Express Co., Inc., 989 S.E. 11th Place, Hialeah, Florida 33010.

Rodriguez Trucking, Inc., 661 Park Avenue, Brooklyn, New York 11206.

San Juan Freight Forwarders, Inc., P.O. Box 2099, Carolina, Puerto Rico 00630.

San Lorenzo Express Corp., 1548 W. North Avenue, Chicago, Illinois 60622.

Sea Freight Express, Inc., 720 Tonnele Avenue, Jersey City, New Jersey 07307.

Sea-Progress, Inc., 144-29 156 Street, Jamaica, New York 11434.

Set Forwarders, Inc., 330 Wythe Avenue, Brooklyn, New York 11211.

Shipcosmos Thrucontainers, P.O. Box 1205, Hato Rey, Puerto Rico 00919.

Siegmunds, Inc., P.O. Box 1205, Hato Rey, Puerto Rico 00919.

Timline, 724 N. E. 2nd Avenue, Miami, Florida 33122.

Windward Marine Inc., 575 Sakett Street, Brooklyn, New York 11217.

Beverly Hills Transfer & Storage Co., 221 S. Beverly Drive, Beverly Hills, California 90212.

Cargo in Containers, Inc., 2800 West 38th Street, Chicago, Illinois 60632.

Convan Corp., 271 Madison Avenue, New York, New York 10016.

Household Goods Carriers Bureau, Agent, 2425 Wilson Boulevard, Arlington, Virginia 22201.

Agent for:
Alaska Orient Van Service, Inc., Holman & Co., George B. Martin Van Lines, Inc., Salt Lake Transfer Company.

International Export Packers, Inc., 5360 Eisenhower Avenue, Alexandria, Virginia 22304.

Liberty Pac International Corp., 43 West 64th Street, New York, New York 10023.

Movers' & Warehousemen's Association of America, Inc., Suite 522, Munsey Building, 1329 E Street NW., Washington, D.C. 20004

Agents for:
Airline Vans, Inc.
Anchor Van Lines, Inc.
Bader Bros., Van Lines, Inc.
Bentley's Inc.
Cartwright Van Lines, Inc.
Dean Van Lines, Inc.
Delcher Brothers' Storage Company

[1] The date on which the questionnaires were originally ordered to be furnished was April 1, 1973. Several extensions of time were granted to various parties, however, and the last date on which any questionnaire was permitted to be filed was April 16, 1973.



V 38-178 SEP 14 73 XUM

Empire Household Shipping Company of New York, Inc.
Fogarty-Bros. Transfer, Inc.
Interstate Van Lines, Inc.
King Van Lines, Inc.
Pyramid Van Lines, Inc.
Republic Van and Storage Co., Inc.
Smyth Van & Storage Co., of California
Trans Country Van Lines, Inc.
Nevares Express Shipping, Inc., 560 Claremont Parkway, Bronx, New York 10457.
U. C. Household Shipping Co., 4601 Shattuck Avenue, Oakland, California 94609.

[FR Doc.73-19609 Filed 9-13-73;8:45 am]

## FEDERAL POWER COMMISSION

[Docket No. G-2712, et al.]

### RATE SCHEDULES

### Findings and Order After Statutory Hearing

AUGUST 31, 1973.

Each Applicant herein has filed an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce or a petition to amend an order issuing a certificate, all as more fully set forth in the applications and petitions to amend.

Applicants have filed FPC gas rate schedules or supplements to rate schedules on file with the Commission and propose to initiate, add or discontinue in part natural gas service in interstate commerce as indicated in the tabulation herein.

After due notice by publication in the FEDERAL REGISTER, no petitions to intervene, notices of intervention, or protests to the granting of the applications and petitions have been filed.

At a hearing held on August 24, 1973, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications and petitions and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record.

*The Commission finds*

(1) Each Applicant herein is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption, subject to the jurisdiction of the Commission, and will, therefore, be a "natural-gas company" within the meaning of the Natural Gas Act upon the commencement of service under the authorizations hereinafter granted.

(2) The sales of natural gas hereinbefore described, as more fully described in the applications in this proceeding, will be made in interstate commerce subject to the jurisdiction of the Commission; and such sales by Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicants are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(4) The sales of natural gas by Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity; and certificates therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the orders issuing certificates of public convenience and necessity in various dockets involved herein should be amended as hereinafter ordered.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Applicant in Docket No. CI73-339 should be made co-respondent in its predecessors' rate proceedings and that Applicant in Docket No. G-14460 should be substituted as respondent in its predecessor's rate proceeding.

(7) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the FPC gas rate schedules and supplements related to the authorizations hereinafter granted should be accepted for filing.

(8) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the orders issuing certificates, for sales authorized herein to be continued under new or amended certificates, should be amended by deleting therefrom authorization to sell gas.

(9) Section 154.93 of the regulations under the Natural Gas Act should be waived to the extent necessary to permit the acceptance for filing of the rate schedules for the sales authorized in Docket Nos. CI73-527 and CI73-529 with contractual provisions for the possible sales of the Federal Government's royalty shares of the gas at prices in excess of the otherwise applicable rates and with contractual provisions to increase rates to higher area rates found to be proper by hearing, rulemaking, or Commission approved settlement.

(10) The application filed in Docket No. CI72-700 by Car-Tex Producing Company, predecessor of Applicant in Docket No. CI73-437, for authorization to continue sales of natural gas authorized in Docket No. G-12500, is now moot.

(11) The rate at which the sale in Docket No. CI73-704 is authorized to be continued is below the just and reasonable area ceiling rate.

*The Commission orders*

(A) Certificates of public convenience and necessity are issued upon the terms and conditions of this order authorizing sales by Applicants of natural gas in interstate commerce for resale, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as hereinbefore described and as more fully described in the applications and in the tabulation herein.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as Applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission.

(C) The grant of the certificates issued in paragraph (A) above shall not be construed as a waiver of the requirements of section 7 of the Natural Gas Act or of part 154 or part 157 of the Commission's regulations thereunder and is without prejudice to any findings or orders which have been or which may hereafter be made by the Commission in any proceedings now pending or hereafter instituted by or against Applicants. Further, our action in this proceeding shall not foreclose or prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. The grant of the certificates aforesaid for service to the particular customers involved does not imply approval of all of the terms of the contracts, particularly as to the cessation of the service upon termination of said contracts as provided by section 7(b) of the Natural Gas Act. The grant of the certificates aforesaid shall not be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales of natural gas subject to said certificates.

(D) The orders issuing certificates of public convenience and necessity in various dockets are amended by adding thereto or deleting therefrom authorization to sell natural gas or by substituting successors in interest as certificate holders as more fully described in the applications and in the tabulation herein. In all other respects said orders shall remain in full force and effect.

(E) Within 90 days from the date of initial delivery, Applicants in Docket Nos. G-18117, CI73-6, CI73-181, CI73-339, CI73-363, CI73-394, CI73-395, CI73-435, CI73-437, CI73-528, and CI73-572 shall each file three copies of a rate schedule-quality statement in the form prescribed in Opinion Nos. 586, 598, and 607, as applicable.

(F) The certificates and certificate authorization granted in Docket Nos. G-18117, CI73-6, CI73-181, CI73-339, CI73-363, CI73-394, CI73-395, CI73-435, CI73-437, CI73-528, and CI73-572 are subject to the Commission's findings and orders accompanying Opinion Nos. 586, 586-A, 598, 598-A, 607, and 607-A, as applicable. If the quality of the gas deviates at any time from the quality standards set forth in the regulations under the Natural Gas Act so as to require a downward adjustment of the existing rates, notices of changes in rate shall be filed pursuant to section 4 of the Natural Gas Act; provided, however, that adjustments reflecting changes in Btu content of the gas shall be computed by the applicable formula and charged without the filing of notices of changes in rate.

(G) Applicants in the dockets indicated shall charge and collect the following rates, subject to Btu adjustment where applicable:

| Docket No. | Rate (cents per M c.f.) | Pressure base (p.s.i.a.) |
|---|---|---|
| CI73-181 | 15.0 | 14.65 |
| CI73-288 | 23.5 | 15.025 |
| CI73-339 | [1] 19.3278 | 14.65 |
| | [2] 18.243 | 11.65 |
| | [3] 20.8536 | 14.65 |
| CI73-395 | [4] 21.0 | 11.65 |
| | [5] 19.7925 | 11.65 |
| CI73-437 | 12.4374 | 14.65 |
| CI73-529 | 24.0 | 15.025 |

[1] Applies to FPC Gas Rate Schedules Nos. 1, 3, and 5.
[2] Applies to FPC Gas Rate Schedules No. 2.
[3] Applies to FPC Gas Rate Schedule No. 4.
[4] For gas-well gas.
[5] For casinghead gas.

(H) The certificates issued in Docket Nos. G-8845 and CI62-202 are terminated.

(I) Docket No. CI73-505 is cancelled.

(J) The rate schedules and rate schedule supplements related to the authorizations granted herein are accepted for filing or are redesignated, all as set forth in the tabulation herein. Where the effective date is the date of initial delivery, Applicant shall advise the Commission of said date within 10 days thereof.

(K) Polaris Production Corp., Applicant in Docket No. CI73-339, is made a co-respondent in the proceedings pending in Docket Nos. RI69-650, RI70-544, RI70-869, RI72-154 and RI72-265. Applicant shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(L) Orders issuing certificates in the following dockets are amended by deleting therefrom authorization to sell gas where said sales are authorized to be continued under new or amended certificates herein:

| New certificate authorization Docket No.: | *Amended certificate Docket No.* |
|---|---|
| G-18117 | G-13299 [1] and G-17260 [2]. |
| CI73-339 | G-2978,[3] G-5145,[4] and G-17012.[5] |
| CI73-572 | G-8906. |
| CI73-704 | G-2906 and 2907. |

[1] Certificate issued to Atlantic Richfield Company, predecessor to Cabot Corporation which assigned properties to Applicant in Docket No. G-18117.
[2] Certificate issued to Monsanto Company, predecessor to Cabot Corporation which assigned properties to Applicant in Docket No. G-18117.
[3] G-2978—Certificate issued to Sun Oil Company.
[4] G-5145—Certificate issued to Exxon Company.
[5] G-17012—Certificate issued to Sohio Petroleum Company.

(M) The acceptance for filing of the rate schedules for the sales authorized in Docket Nos. CI73-527 and CI73-529 should not be construed as meaning that any rate increase based upon the provisions for the sales of the Federal Government's royalty shares of the gas at prices in excess of the otherwise applicable rate would be accepted for filing without suspension.

(N) The petition to amend filed October 27, 1972, by Mobil Oil Corporation in Docket No. CI61-137 is unnecessary and is dismissed.

(O) The application in Docket No. CI72-700 is dismissed.

(P) The certificate issued in Docket No. CI73-181 authorizes the sale of gas only from acreage dedicated under the basic contract and not from acreage which may be dedicated by the option agreement. Within 30 days from the date of this order Applicant shall file a rate schedule supplement providing for a full percentage downward Btu adjustment from a base of 1,000 Btu per cubic foot measured on a wet basis and a billing reflecting the rate of 15.0 cents per M c.f. as required by § 154.92(b) of the regulations under the Natural Gas Act.

(Q) Odessa Natural Corporation, Applicant in Docket No. G-14460, is substituted in lieu of Odessa Natural Gasoline Corporation as respondent in the proceeding pending in Docket No. RI70-523 and said proceeding is redesignated accordingly. Odessa Natural Corporation shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(R) The certificate authorizations granted in Docket Nos. G-14460, CI62-990, CI73-288, CI73-395, and CI73-425 determine the rates at which Applicants may sell gas to the respective affiliated purchasers but are without prejudice to any action which the Commission may take in rate proceedings involving either the sellers or the buyers.

(S) The motion to be made co-respondent in the proceeding pending in Docket No. RI72-141, filed by Applicant in Docket No. CI73-704, is dismissed.

(T) Applicant in Docket No. CI73-427 shall not release any acreage dedicated to the contract on file as its FPC Gas Rate Schedule No. 111 without first having secured authorization from the Commission as required by section 7 of the Natural Gas Act.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

| Docket No. and date filed | Applicant | Purchaser and location | FPC gas rate schedule [9] Description and date of document | Number | Supp. |
|---|---|---|---|---|---|
| G-2712 D [6] | Cities Service Oil Co. (Operator), et al. | United Gas Pipe Line Co., acreage in Panola County, Tex. | Assignment 1-24-73 [1] (Effective date: 1-24-73) [2] | 352 | 26 |
| | | Arkansas Louisiana Gas Co., acreage in Panola County, Tex. | Assignment 1-24-73 [1] (Effective date: 1-24-73) [2] | 365 | 22 |
| | | | Assignment 1-24-73 [1] (Effective date: 1-25-73) [2] | 379 | 10 |
| G-2906 D [6] | Atlantic Richfield Co. (Operator), et al. | Kansas-Nebraska Natural Gas Company, Inc., Saad Draw Field, Fremont County, Wyo. | Assignment 12-18-61 [1] (Effective date: The date of this order) | 164 | 10 |
| G-5145 D 8-24-72 [3] | Exxon Corp. (Operator), et al. (formerly: Humble Oil & Refining Co. (Operator), et al.). | El Paso Natural Gas Co., Kenneth "A" Lease, Reagan County, Tex. | Notice of Partial Cancellation 8-18-72 [7] (Effective date: 7-1-72) [3] | 5 | 67 |
| G-8845 D 9-18-72 [8] | Phillips Petroleum Co. (Operator), et al. | do | Notice of Cancellation 9-14-72 [7] (Effective date: 7-1-72) [3] | 256 | 13 |
| G-8906 D 12-29-72 | The Superior Oil Co. | Cities Service Gas Co., North Rhodes Field, Barber County, Kans. | Assignment 10-25-72 [4] (Effective date: 10-25-72) [2] | 16 | 13 |
| G-12244 D 2-20-73 | Texaco Inc. (Operator), et al. | Cities Service Gas Co., Northeast Waynoka Field, Woods County, Okla. | Amendment 3-21-72 [4] (Effective date: The date of this order) | 161 | 18 |
| G-14460 E 3-19-73 | Odessa Natural Corp. | El Paso Natural Gas Co., Spraberry Trend Field, Midland and Reagan Counties, Tex. | Odessa Natural Gasoline Co., FPC Gas Rate Schedule No. 1 and Supplement Nos. 1-7 thereto. | 6 | 1-7 |
| | | | Notice of succession 3-13-73. | 6 | 8 |
| | | | Assignment 1-1-71 [10] (Effective date: 1-1-71) [3] | 6 | 9 |
| G-18117 F 1-26-73 [11] | Ashland Oil, Inc. | Michigan-Wisconsin Pipe Line Co., Laverne Field, Beaver County, Okla. | Amendment 11-2-72 [12] (Effective date: 11-1-70) [3] | 69 | 1 |
| CI61-137 E 2-16-73 [11] | Columbia Oil Corp. | CRA, Inc., Canyon Nos. 2 and 3, Brooks Field, Irion County, Tex. | Mobil Oil Corp., FPC Gas Rate Schedule No. 362 and Supplement Nos. 1-11. | 1 | 1-11 |
| | | | Notice of succession 2-12-73. | 1 | 12 |
| | | | Assignment 9-19-72 [13] (Effective date: 9-1-72) [3] | | |

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

See footnotes at end of table.







V 38 I 178 SEP 14 73 XUM

| Docket No. and date filed | Applicant | Purchaser and location | FPC gas rate schedule [20] Description and date of document | Number | Supp. |
|---|---|---|---|---|---|
| C162-292 [1] | Phillips Petroleum Co. | El Paso Natural Gas Co., Kermit "A" Lease, Reagan County, Tex. | Notice of cancellation 9-14-72 [2] (Effective dates: 7-1-72) | 378 | 3 |
| C162-960 E 3-27-73 | Odessa Natural Corp. | El Paso Natural Gas Co., Justis Gas Field, Lea County, N. Mex. | Assignment 6-5-72 [4] Quality statement 12-5-72. (Effective date: 7-1-72) Letter agreement 6-13-72 [4] Supplement No. 1 and Supplement Nos. 1 and 1-A [5] Notice of Succession 3-22-73. Assignment 1-1-71 [6] [7] Assignment 1-1-71 [6] [8] (Effective date: 1-1-71) [9] Agreement 1-1-71 [6] [10] (Effective date: 1-1-71) [11] | 7 1 and 1-1 7 7 7 7 | 2 2 3 4 |
| C167-248 C 2-15-73 | Bacon Gasoline Co. | Walker Creek Field, Lafayette, and Columbia Counties, Ark. | Gas Gathering Agreement 1-23-73 Gas Processing Contract 1-23-73 Supplement No. 1 to Gas Gathering Agreement 1-23-73. Residue Gas Transportation Agreement 1-23-73. | 38 38 38 | 1 2 |
| C173-6 A [21] | McCulloch Oil Corp. of Texas. | Arkansas Louisiana Gas Co. Mattox Area, Hemphill County, Tex. | Contract Modification 2-20-73. Letter Agreement 1-21-72. Assignment 10-26-72 [22] Letter Agreement 11-13-72. Contract 12-20-72 [23] | 5 6 5 5 | 1 2 3 4 |
| C173-151 F 9-6-72 | Lone Star Producing Co. | NT-Gas Supply, Inc., Ellis, Dewey, Beckham, and Washita Counties, Okla. | Contract 1-16-70 [24] Option agreement 1-16-70 [24] Assignment 4-1-70 [25] Assignment 5-27-70 [26] (Effective date: 5-27-70) [1] | 101 101 101 101 | 1 2 3 4 |
| C173-288 A 10-24-72 [27] [28] | Mountain Petroleum Ltd. (1072). | Kansas-Nebraska Natural Gas Co., Inc., Flemming Field, Logan County, Colo. | Contract 10-2-72 [29] | 1 | ------- |
| C173-389 F [31] | Polaris Production Corp. | El Paso Natural Gas Co., Kenneth "A" Lease, Reagan County, Tex. | Contract 5-26-52 [6-26-52] [32] Letter agreement 2-27-53. Letter agreement 3-21-53. Letter agreement 5-6-53. Amendatory agreement 10-1-53. Amendment 2-10-54. Amendatory agreement 4-1-60. Assignment 6-5-72 [33] Quality statement 12-5-72. (Effective date: 7-1-72) Contract 10-3-52 [5-12-55] [34] Letter agreement 5-12-55. Amendment 10-20-60. Amendatory agreement 7-21-69. Assignment 6-5-72 [35] Quality statement 12-5-72. (Effective date: 7-1-72) Contract 11-3-52 [5-12-55] [36] Letter agreement 5-12-55. Amendatory agreement 1-1-61. Supplemental agreement 4-5-63. Assignment 6-5-72 [34] Quality statement 12-5-72. (Effective date: 7-1-72) [1] | 1 1 1 1 1 2 2 2 2 3 3 3 3 | 1 2 3 4 5 6 7 8 9 1 2 3 4 5 1 2 3 4 5 |

See footnotes at end of table.





| Docket No. and date filed | Applicant | Purchaser and location | FPC gas rate schedule [20] Description and date of document | Number | Supp. |
|---|---|---|---|---|---|
| C173-528 A 2-5-73 | William Herbert Hunt Trust Estate. | Arkansas Louisiana Gas Co., Colquitt Field, Claiborne Parish, La. | Contract 12-20-72 [21] Agreement 4-22-71 [21] | 14 14 | 1 |
| C173-529 A 2-5-73 [34] | Amoco Production Co. | El Paso Natural Gas Co., Ignacio Blanco Dakota Field, La Plata County, Colo. | Contract 12-15-72 [35] [36] | 606 | ------- |
| C173-572 F 2-26-73 | Clarke Corp. | Cities Service Gas Co., North Rhodes Gas Field, Barber County, Kans. | Contract 4-1-55 [37] Letter agreement 1-25-71. Assignment 10-25-72 [37] (Effective date: 10-25-72) [3] | 3 3 3 | 1 2 |
| C173-704 F 4-17-73 | Paseo, Inc. | Kansas-Nebraska Natural Gas Co., Inc., Sand Draw Field, Fremont County, Wyo. | Contract 12-18-61 [38] Supplemental agreement 10-16-67. Assignment 12-28-72 [39] (Effective date: 1-1-73) [3] | 1 1 1 | 1 2 |

[1] Assignment of acreage to small producer. Applicant has stated the assignment is a transfer of leases and not a transfer of reserves in place.
[2] Assigns acreage to Jack D. Nelson and George R. Womack. Nelson has a small producer certificate in Docket No. CS72-1057 and Womack in Docket No. CS72-1056.
[3] Effective date of transfer of producing properties.
[4] Succession filings by Paseo, Inc., included in this tabulation.
[5] From Atlantic Richfield Co. to Paseo, Inc.
[6] No certificate filing required. 18 CFR 2.61. Succession filings by Polaris Production Corp. is included in this tabulation.
[7] Assignment from Applicant to Polaris Production Corp. also submitted and attached to supplement.
[8] From Applicant to Clarke Corp. Clarke's succession filing is included in this tabulation.
[9] Delete leases which have expired and been released.
[10] Assignment by Odessa Natural Gasoline Co. to Odessa Natural Corp.
[11] Amended contract summary filed 3-2-73.
[12] Dedicates acreage acquired from Cabot Corp. Cabot acquired acreage from Monsanto Co. and Atlantic Richfield Co., effective the same date as assignment to Applicant. Predecessor's contracts were similar or identical to Applicant's contract.
[13] Columbia Oil Corp. has a small producer certificate in Docket No. CS69-10 but may not include this acreage acquired from a large producer thereunder.
[14] By Mobil Oil Corp. to CRA, Inc.
[15] Assignment, originally submitted by Mobil on 10-27-72 as a filing for deletion of acreage from its FPC Gas Rate Schedule No. 362, is being used as a filing of Columbia Oil Corp., successor to Mobil. Mobil's related certificate application in Docket No. C161-137 will be dismissed.
[16] Acreage which includes Carlson Federal No. 1 Well.
[17] Acreage which includes Langlie Federal No. 1 Well.
[18] Acreage which includes Carlson Federal No. 1-A Well.
[19] Applicant transports Columbia Trust's gas to Beacon's Blackburn Gasoline Plant in Webster Parish, Louisiana; after processing, the residue gas will be delivered to United Gas Pipe Line Company; Columbia Trust has a small producer certificate in CS72-548.
[20] Where no effective date is shown, it is the date of initial delivery.
[21] Original application filed 7-5-72, by J. M. Huber, who assigned acreage to Applicant prior to certification. Applicant filed 11-9-72, to amend the application to be substituted for J. M. Huber. On 3-7-73, Applicant filed an amendment to release certain properties
[22] Between J. M. Huber Corp. and buyer.
[23] From J. M. Huber Corp. to Applicant.
[24] Contract between buyer and Glover Hefner Kennedy Oil Co.
[25] Provides that other than present contract acreage may be included under contract if developed and buyer agrees to take gas.
[26] From Glover Hefner Kennedy to Helena L. Glover.
[27] From Helena L. Glover to Applicant.
[28] By letter dated 2-20-73, Applicant agreed to accept permanent certificate conditioned to a rate of 23.5 cents per M c.f. subject to Btu adjustment.
[29] Midlands Gas Corp., a wholly owned subsidiary of the buyer, is a limited partner in Applicant.
[30] Previously accepted for filing by letter order granting temporary certificate.
[31] Previously accepted for filing.
[32] From Sun Oil Co. to Applicant.
[33] From Sohio Petroleum Co. to Applicant.
[34] From Humble Oil & Refining Co. to Applicant.
[35] From Phillips Petroleum Co. to Applicant.
[36] As amended on 12-4-72.
[37] Applicant's interest previously covered by operator (Bert Fields, Jr.) who is a small producer. Sales from Applicant's interests cannot be covered by the small producer certificate.
[38] Effective date of small producer certificate of operator.
[39] Modifies and adopts basic contract of 8-5-59 between J. P. Owen, *et al.*, and Columbia Gas Transmission Corp.
[40] Assigns interest from Monterey Pipeline Co. to Ada Oil Co. and subsequent reassignment to the Applicant, Ada Land Co.
[41] Applicant has agreed to accept a permanent certificate conditioned as in the temporary certificate.
[42] By letter filed 2-23-73, Applicant agreed to accept a permanent certificate conditioned as in the temporary certificate.
[43] Applicant is a wholly owned subsidiary of purchaser.
[44] Currently on file as Amerada Hess Corp. FPC Gas Rate Schedule No. 138.
[45] From Amerada Hess Corp. to Kaiser-Francis Special Account B (a partnership made up He Geo. Kaiser and a number of other parties).
[46] Currently on file as Barnwell-DeBardeleben Oil Co., *et al.* FPC Gas Rate Schedule No
[47] From Barnwell, Inc., and Barnwell Drilling Co., Inc., to Car-Tex Producing Co.
[48] From Car-Tex Producing Co. to E. H. Railsback, M. R. McCoy, Jr., Roland C. Smith, Arthur C. He and W. G. Stanley (partners in Shreve Operating Co.).
[49] Docket designation C173-505, erroneously assigned to this filing, is cancelled. Succession is authorized in Docket No. C169-458.
[50] Revises liquid settlement procedures.
[51] As amended on 2-6-73 and 2-22-73.
[52] Limited to casinghead gas produced from the Gallup Formation and does not apply to gas-well gas.
[53] Provides for: (1) increases to any higher area rate and (2) provides that buyer will reimburse seller for all "excess in royalty payments" which seller shall be required to pay the United States Government for royalty gas.
[54] As amended on 2-22-73.
[55] For gas produced from gas wells completed in the Dakota Formation.
[56] On file as The Superior Oil Co. FPC Gas Rate Schedule No. 46.
[57] From Superior to Applicant predecessor's filing reporting the assignment is included in this tabulation.
[58] Also on file as Atlantic Richfield Co. FPC Gas Rate Schedule No. 464, Atlantic's deletion filing is included in this tabulation.
[59] From Atlantic Richfield to Applicant.

[FR Doc.73-19347 Filed 9-13-73;8:45 am]

[Docket No. CI61-697 et al.]

## AUTHORIZATION TO SELL NATURAL GAS

### Notice of Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

AUGUST 31, 1973.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 27, 1973, file with the Federal Power Commission, Washington D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates of the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.



V 38 I 178 S
SEP 14 73
XUM

| Docket No. and date filed | Applicant | Purchaser and location | Price per Mcf. | Pressure base |
|---|---|---|---|---|
| CI61-607 ..... F 8-20-73 | Jack H. Vaughn and R. J. Patrick (successor to Exxon Corp.), 708 First National Bldg., Oklahoma City, Okla. 73102. | Panhandle Eastern Pipeline Co., L. N. Nollner Lease, Hansford County, Tex. | 18.5 | 14.65 |
| CI61-1177 ..... (CI61-1235) C 8-2-73 [4] F | Mobil Oil Corp. (successor to Cities Service Oil Co., Three Greenway Plaza East, Suite 800, Houston, Tex. 77046. | Texas Eastern Transmission Corp., Main Pass Block 6 Field, Federal Domain, offshore Louisiana. | 26.0 | 15.025 |
| CI71-87 ..... (CS71-304) F 8-6-73 | Sun Oil Co. (successor to Anchor Production Co.), P.O. Box 2880, Dallas, Tex. 75221. | Michigan Wisconsin Pipe Line Co., Laverne Field, Harper County, Okla. | [2] 20.823 | 11.65 |
| CI71-96 ..... (CI68-206) (CI68-1047) F 8-9-73 | McLain J. Forman (operator), et al. (successor to Southern Natural Gas Co. and North Central Oil Corp.), 510 Oiland Gas Bldg., New Orleans, La. 70112. | Texas Gas Transmission Corp., North Branch Field, Acadia Parish, La. | [2] 22.375 | 15.025 |
| CI71-107 ..... 8-13-73 [4] | Southern Union Production Co., Suite 1700, Campbell Centre, 8350 North Central Expressway, Dallas, Tex. 75206. | Southern Union Gathering Co., Barker Dome Area, San Juan County, N. Mex. | [2] 16.2617 | 15.025 |
| CI71-108 ..... (CI67-1643) F 8-8-73 | W. W. F. Oil Corp. (operator), et al. (successor to Amerada Hess Corp.), P.O. Box 1746, Shreveport, La. 71166. | Tennessee Gas Pipeline Co., a division of Tenneco Inc., Southwest Belle Isle Field, St. Mary, Terrebonne and/or Iberia Parishes, La. | [2] 22.375 | 15.025 |
| CI71-112 ..... (G-4810) (CS72-876) F 8-17-73 | Texaco Inc. (successor to D. Thomason Production Co., Inc.), P.O. Box 130, Bellaire, Tex. 77401. | United Gas Pipe Line Co., Bethany Field, Panola County, Tex. | [3] 20.6117 | 11.65 |
| CI71-113 ..... A 8-17-73 | Clinton Oil Co., 217 North Water St., Wichita, Kans. 67202. | South Texas Natural Gas Gathering Co., Gregg Wood, S. Gregg Wood, and W. Gregg Wood Fields, Starr County, Tex. | [3] 25.0671 | 14.65 |
| CI71-120 ..... (G-6265) F 8-20-73 | I. W. Lovelady (operator), et al. (successor to Gulf Oil Corp.), 400 N. Marienfeld, Midland, Tex. 79701. | El Paso Natural Gas Co., Spraberry Trend Field, Glasscock County, Tex. | 19.3278 | 11.65 |
| CI71-121 ..... (CS71-304) F 8-14-73 | Sun Oil Co. (successor to Anchor Production Co.), P.O. Box 2880, Dallas, Tex. 75221. | Cities Service Gas Co., Hadwiger-Johnson Unit, Grant County, Okla. | [3] 15.0 | 14.65 |
| CI71-130 ..... 8-13-73 [4] | Gas Gathering Corp., P.O. Box 519, Hammond, La. 70401. | Transcontinental Gas Pipe Line Corp., Bayou Henry Field, Iberville Parish, La. | 2.5 | 15.025 |
| CI71-135 ..... (CI67-977) (CI67-1580) F 8-20-73 | Jack H. Vaughn and R. J. Patrick (successor to Mobil Oil Corp. and Sohio Petroleum Co.), 708 First National Bldg., Oklahoma City, Okla 73102. | Panhandle Eastern Pipeline Co., Guymon-Hugoton Field, Beaver County, Okla. | [7] 18.0 | 14.65 |
| CI71-136 ..... (G-19336) F 8-20-73 | Jack H. Vaughn and R. J. Patrick (successor to James W. Wise and Bill Weems Oil Inc.). | Northern Natural Gas Co., Acreage in Seward County, Kans. | [3] 15.0 | 13.2 |

[1] Amendment to a pending application.
[2] Including Btu adjustment.
[3] Subject to downward Btu adjustment.
[4] Applicant proposes to continue a portion of the limited-term sale authorized in Docket No. CI70-918 to be made to Southern Union Gas Co. for resale to El Paso Natural Gas Co.
[5] Including upward Btu adjustment.
[6] Applicant proposes to transport gas for Southern Natural Gas Company.
[7] Subject to upward and downward Btu adjustment.

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

[FR Doc.73-19348 Filed 9-13-73;8:45 am]

[Docket Nos. RI74-33, RI74-34]

## CONTINENTAL OIL CO. ET AL.

### Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

SEPTEMBER 5, 1973.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A hereof.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

*The Commission finds*

It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

*The Commission orders*

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR, Chapter I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supplements shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Each Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the Regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

KENNETH F. PLUMB,
*Secretary.*

[1] Does not consolidate for hearing or dispose of the several matters herein.





APPENDIX A

| Docket No. | Respondent | Rate schedule No. | Supplement No. | Purchaser and producing area | Amount of annual increase | Date filing tendered | Effective date unless suspended | Date suspended until | Cents per Mcf [1] Rate in effect | Cents per Mcf [1] Proposed increased rate | Rate in effect subject to refund in dockets Nos. |
|---|---|---|---|---|---|---|---|---|---|---|---|
| RI74-33... | Continental Oil Co..... | 180 | 10 | Transwestern Pipeline Co. (Bell Lake Unit Area, Lea County, N. Mex., Permian Basin). | $12,315 | 8-6-73 | 9-6-73 [2] 2-6-74 | [2] Accepted | 21.4683 | 24.0243 | |
| RI74-34... | Union Oil Co. of California.. | 195 | 8 | Transwestern Pipeline Co..... | 1,750 | 8-8-73 | 9-8-73 [2] 2-8-74 | [2] Accepted | 21.0 | 23.5 | |

[1] Unless otherwise stated, the pressure base is 14.65 psia.
[2] Accepted as of the date set forth in the "Effective Date Unless Suspended" column insofar as proposed rate does not exceed the ceiling prescribed in Opinion No. 662.
[3] Proposed rate is suspended until date shown insofar as it exceeds ceiling in Opinion No. 662.

The proposed increases are accepted in part for that portion of the proposed rate that does not exceed the applicable area rate pursuant to Opinion No. 662. These proposed rates will become effective upon expiration of the thirty day statutory notice period or the contractual effective date, whichever is later, and the remaining portions of the proposed rates that exceed the applicable area rate pursuant to Opinion No. 662 of each respondent is suspended for five months.

Nothing contained in this order shall relieve the respondents of any responsibility imposed by the Economic Stabilization Act of 1970 (Pub. L. 91-379, 84 Stat. 799, as amended by Pub. L. 92-15, 85 Stat. 38), or by any Executive Order or rules and regulations promulgated pursuant to such Act.

[FR Doc.73-19526 Filed 9-13-73;8:45 am]

## FEDERAL RESERVE SYSTEM

### BARNETT BANKS OF FLORIDA, INC.

#### Acquisition of Bank

Barnett Banks of Florida, Inc., Jacksonville, Florida, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of First Bank of Plantation, Plantation, Florida; University Bank, Broward County, Florida; and Riverland Bank, Fort Lauderdale, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 3, 1973.

Board of Governors of the Federal Reserve System, September 6, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-19543 Filed 9-13-73;8:45 am]

### FIRST TENNESSEE NATIONAL CORP.

#### Order Approving Acquisition of Pence Mortgage Company

First Tennessee National Corporation, Memphis, Tennessee, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y, to acquire not less than 99 percent of the voting shares of Pence Mortgage Company, Louisville, Kentucky (Company), a company that engages in originating, selling and servicing real estate mortgages, construction lending, and the offering of credit accident and health insurance, in connection with such extensions of credit. Applicant has also applied for authority of Company to offer credit life insurance in connection with such extensions of credit. Such activities have been determined by the Board to be closely related to the business of banking (12 CFR 225.4(a)(1), (3), and (9)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (38 FR 138). The time for filing comments and views has expired, and none has been timely received.

Applicant, the largest banking organization in Tennessee, controls eight banks with aggregate deposits of approximately $1.2 billion, representing 11.5 percent of the total commercial deposits in the State.[1] Applicant's lead bank, The First National Bank of Memphis, Memphis, Tennessee (First National), with deposits of approximately $994 million is the largest bank in the Memphis SMSA.[2] All of Applicant's subsidiary banks originate and service mortgage loans for their own account. In addition, First National originates and services mortgages for the accounts of others. Applicant's nonbanking subsidiaries engage in mortgage banking, investment and management services, personal property and equipment leasing, trust services, and underwriting, as reinsurer, credit life and disability insurance. None of Applicant's bank or nonbanking subsidiaries originate or service mortgages in the market areas served by Company.

On the basis of its loan servicing volume ($194 million on June 30, 1972), Company is the largest mortgage banking firm headquartered in the Louisville, Kentucky, SMSA (which includes Jefferson County, Kentucky, and Clark and Floyd Counties, Indiana) and is ranked 129th in the United States.[3] It is engaged primarily in originating, selling, and servicing all types of real estate mortgages and construction lending.[4] Company also has offices in Clearwater, Florida, and Indianapolis, Indiana, which are newly established and have operated less than a full fiscal year. During fiscal year 1973, Company's total originations of permanent mortgages was approximately $48 million, its mortgage servicing volume was $202 million and total closings of construction and development loans were $19.5 million. It appears that Company's market share in any of its business activities in the Louisville SMSA is less than 20 percent. Company derives no business from the service areas of any of Applicant's subsidiaries.

Since Applicant and Company do not compete in the same mortgage loan or construction loan markets, the proposed acquisition would eliminate no direct competition. Although it appears that both Applicant and Company could enter each other's market de novo, consummation of the proposal herein would not add significantly to the existing level of market concentration or result in an undue concentration of financial resources in any market.

Company is engaged in the sale of credit accident and health insurance in connection with its extensions of credit. In addition to these insurance actvities, Applicant proposes to engage de novo in the sale of credit life insurance in connection with its extensions of credit through Company. Due to the limited nature of its insurance activities, it does not appear that Company's engagement in such activities would have any significant effect on either existing or potential competition.

Approval of the proposed acquisition will make available to Company the financial resources of Applicant, and thereby provide Company an additional source of working capital enabling it to increase its lines of credit for construction and development lending. These increased capabilities are positive factors

[1] Includes acquisitions approved through August 26, 1973. Applicant has an application pending before the Board to acquire Jackson State Bank, Jackson, Tennessee, with deposits of $15 million.
[2] All banking data are as of December 31, 1972.
[3] Company has an office in Louisville, Kentucky, and an office in Clarksville, Indiana; the service area of these two offices is the Louisville, Kentucky, SMSA.
[4] Company, through two subsidiaries, holds certain real property for development. Company and Applicant have stated their intention to dispose of these holdings within six months.



V38-1178 SEP 14 73 XUM

in terms of public needs and convenience.

Based upon the foregoing and other considerations in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable, and the application is hereby approved subject to the following condition: divestiture of real property held for development by Company's two wholly owned subsidiaries within six months after consummation of the proposed acquisition. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof. The transaction shall be consummated not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of St. Louis pursuant to delegated authority.

By order of the Board of Governors,[5] effective September 5, 1973.

[SEAL] CHESTER B. FELDBERG,
*Secretary of the Board.*

[FR Doc.73-19541 Filed 9-13-73;8:45 am]

## NORTHEAST BANKSHARE ASSOCIATION

### Acquisition of Bank

Northeast Bankshare Association, Lewiston, Maine, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Sanford Trust Company, Sanford, Maine. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 3, 1973.

Board of Governors of the Federal Reserve System, September 6, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-19544 Filed 9-13-73;8:45 am]

## FOREIGN-TRADE ZONES BOARD

[Order No. 95]

### BAYONNE, NEW JERSEY

### Voluntary Relinquishment of Grant for Foreign-Trade Zone No. 11

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board has adopted the following Order:

Whereas, on November 20, 1968, the Foreign-Trade Zones Board by Order No. 77 (33 FR 17377) issued a grant to New Jersey Foreign Trade Zone, a private corporation, authorizing the establishment, operation and maintenance of a foreign-trade zone at Bayonne, New Jersey, designated Foreign-Trade Zone No. 11; and,

Whereas, New Jersey Foreign Trade Zone advised the Board on June 6, 1972, that due to circumstances beyond its control, unforeseen at the time of the application, it has not been able to activate the proposed zone, and as a result voluntarily relinquishes the grant;

Now, therefore, the Foreign-Trade Zones Board, after full consideration and a finding that approval of the grantee's voluntary relinquishment of the grant is in the public interest, hereby revokes the grant for Zone No. 11 and rescinds Order No. 77 under which the grant was issued.

Signed at Washington, D.C., this 6th day of September 1973.

[SEAL] FREDERICK B. DENT,
*Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.*

Attest:
JOHN J. DA PONTE, JR.,
*Executive Secretary.*

[FR Doc.73-19556 Filed 9-13-73;8:45 am]

## GENERAL SERVICES ADMINISTRATION

[Federal Property Management Reg.; Temporary Reg. F-191]

### SECRETARY OF DEFENSE

### Delegation of Authority

1. *Purpose.*—This regulation delegates authority to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in a telecommunications proceeding.

2. *Effective date.*—This regulation is effective immediately.

3. *Delegation.*—a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Federal Communications Commission in a proceeding involving the application of the American Telephone and Telegraph Company for special permission to file a tariff establishing so-called Hi/Lo Density Rates for private line services.

[5] Voting for this action: Chairman Burns and Governors Mitchell, Brimmer, Sheehan, Bucher, and Holland. Absent and not voting: Governor Daane.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration and, further, shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

ARTHUR F. SAMPSON,
*Administrator of General Services.*

SEPTEMBER 6, 1973.

[FR Doc.73-19553 Filed 9-13-73;8:45 am]

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (73-71)]

### NASA SPACE PROGRAMS ADVISORY COUNCIL (SPAC) APPLICATIONS COMMITTEE

### Notice of Meeting

The NASA SPAC Applications Committee will meet on September 26, 1973, at the Headquarters of the National Aeronautics and Space Administration. The meeting will be held in room 226 of Federal Office Building 10B, 600 Independence Avenue, SW., Washington, D.C. 20546. Members of the public will be admitted to the meeting beginning at 9:15 a.m., on a first come first served basis up to the seating capacity of the room, which can accommodate about 35 persons. The approved agenda for the meeting is noted below.

The NASA SPAC Applications Committee serves in an advisory capacity only. It is concerned with the total range of applications of space-derived, space-related technology, including communications, meteorology, earth resources survey (includes agriculture/forestry, cartography, geography, geology/hydrology, oceanography), earth and ocean physics, solar energy conversion, space processing, and other technology applications. Currently, the Committee comprises 11 members, and a recording secretary, Louis B. C. Fong, who can be contacted for further information at (202) 755–2070.

The following is the approved agenda and schedule for the September 26, 1973, meeting of the Space Program Advisory Council Applications Committee:

NASA'S 5-YEAR PLAN FOR APPLICATIONS

| Time | Topic |
|---|---|
| 9:00 a.m.---- | (*Purpose.*—The 5-year plan for the Earth Observations Program, the Communications Program, and Special Programs (Space Processing and Solar Energy) will be presented to Committee members for comment.) |
| AGRICULTURE IN A LOW OR ZERO "G" ENVIRONMENT | |
| 1:00 p.m.---- | (*Purpose.*—The potential of agriculturel applications in a low or zero "G" environment will be discussed by Committee members.) |
| EXECUTIVE SESSION (CLOSED SESSION) | |
| 2:00 p.m.---- | (*Purpose.*—To discuss and evaluate the qualifications of candidates for Chairman of and membership on the Committee.) |
| 3:00 p.m.---- | *Adjourn* |

HOMER E. NEWELL,
*Associate Administrator, National Aeronautics and Space Administration.*

SEPTEMBER 11, 1973.

[FR Doc.73-19566 Filed 9-13-73;8:45 am]





## TARIFF COMMISSION

[337-24]

### AMPICILLIN

### Notice of Termination of Investigation and Cancellation of Hearing

On the basis of a request from the complainants Beecham Group Limited and Beecham, Inc., and for other reasons, the Tariff Commission on August 30, 1973, terminated without prejudice investigation 337–24, regarding alleged unfair methods of competition and unfair acts in the importation and sale of ampicillin made in accordance with claim 5 of U.S. Patent Number 2,985,648 owned by Beecham Group, Ltd., and canceled the public hearing scheduled in connection therewith for October 2, 1973 (July 24, 1973, 38 FR 19878). Notice of the institution of the investigation was published in the FEDERAL REGISTER of November 28, 1970 (35 FR 18222).

Issued September 11, 1973.

By order of the Commission.

[SEAL] KENNETH R. MASON,
*Secretary.*

[FR Doc.73-19584 Filed 9-13-73;8:45 am]

[AA1921-123]

## ELECTRONIC COLOR SEPARATING OR SORTING MACHINES FROM THE UNITED KINGDOM

### Determination of No Injury or Likelihood Thereof

SEPTEMBER 7, 1973.

On June 7, 1973, the Tariff Commission received advice from the Treasury Department that electronic color separating or sorting machines from the United Kingdom are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. In accordance with the requirements of section 201(a) of the Antidumping Act (19 U.S.C. 160(a)), the Tariff Commission instituted investigation No. AA1921–123 to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

A public hearing was held on July 31, 1973. Notice of the investigation and hearing was published in the FEDERAL REGISTER of June 20, 1973 (38 FR 16118).

In arriving at a determination in this case, the Commission gave due consideration to all written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of the investigation, the Commission[1] has unanimously determined that an industry in the United States is not being or is not likely to be injured, or is not prevented from being established, by reason of the importation of electronic color separating or sorting machines from the United Kingdom sold, or likely to be sold, at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

STATEMENT OF REASONS[2]

In the instant antidumping case, the Treasury Department advised the Tariff Commission that electronic color separating or sorting machines from the United Kingdom (hereinafter referred to as "color sorters") are being or are likely to be sold at less than fair value (LTFV). There were no imports of color sorters from any other foreign source. These color sorters are used chiefly to sort agricultural commodities of granular substance (such as beans, rice, coffee, nuts, etc.) by color. The purpose of the process is to separate out defective pieces and foreign substances, thereby upgrading the quality of the commodity sorted.

In making this determination, the Commission considered the United States industry to consist of those facilities in the United States engaged in the production of electronic color separating or sorting machines. There are presently three domestic producers of color sorters, two of which accounted for over 90 percent of the total sales value of all such machines during the period 1969–72.

A Commission survey of recent purchasers of the imported color sorters from the United Kingdom indicated that price was not the foremost consideration in their purchase determination. Factors more important than the initial price included the adaptability of a color sorter for specific uses and ease of maintenance. Sales of domestic producers lost to imports of U.K. color sorters by reason of LTFV sales were negligible. Moreover, evidence available to the Commission indicates that the U.K. color sorters sold at LTFV did not result, by reason of their being sold at LTFV, in depressing the prices of domestic producers. The prices of the imported color sorters sold at LTFV were higher than the prices of most domestically produced color sorters. To the extent that underselling occurred, it was closely related to the introduction of multichannel[3] gravity drop color sorters which provide color sorting capacity at a much lower price per channel than single-channel machines. The prices of both imported and domestic color sorters, on a per channel basis, have declined as the manufacturers turned increasingly to produce multichannel machines.

Imported color sorting machines from the United Kingdom were the first multichannel machines in the U.S. market—introduced in 1969. In terms of the number of channels supplied, imports from the United Kingdom achieved a 30 percent share of apparent U.S. consumption during that year. The imports declined considerably between 1969 and 1970 and a similar drop was experienced in the shipments of U.S. producers. These declines were attributable to generally depressed economic conditions in the U.S. market at that time. In 1971, the domestic shipments of color sorters, in terms of the number of channels, more than tripled with the introduction of multichanneled gravity drop machines manufactured by a domestic producer, and such shipments remained at a high level in 1972. Thus, while imports of color sorters from the United Kingdom increased in 1972, the share of the U.S. market supplied by the domestic producers was larger in 1972, when Treasury found sales at less than fair value, than in earlier years. Excluding domestic shipments of color sorters to rice producers to whom no imported color sorters were sold, data on apparent U.S. consumption[4] shows that the share of the U.S. market accounted for by imported color sorters declined from 32 percent in 1971 to 27 percent in 1972. There is no evidence that imports of color sorters disrupted the U.S. market by reason of their having been sold at LTFV.

Further evidence of the competitive strength of the domestic industry is demonstrated by its financial experience. In 1972, the year during which the Treasury Department found imports sold at LTFV, aggregate profits of two major domestic concerns producing color sorters were at a peak for the years 1969–1972.

Considering all the evidence developed during this investigation, any injury suffered by the domestic industry by reason of the imports of color sorters sold at LTFV is de minimis. With regard to likelihood of future injury to the U.S. industry, both the U.S. importer and the United Kingdom exporter of color sorters have offered assurances to the Treasury Department and to the Tariff Commission that LTFV sales ceased in May 1973 and will not reoccur.

On the basis of the foregoing, the Commission has determined that an industry in the United States is not being or is not likely to be injured by reason of the importation of electronic color

[1] Commissioners Leonard and Young did not participate in the decision.

[2] Vice Chairman Parker and Commissioner Ablondi concur in the result.

[3] One color sorter may incorporate any number of channels—the part of a color sorter which conveys the product to be sorted to the viewing chamber.

[4] Apparent consumption is calculated by adding imports to domestic shipments and subtracting U.S. exports from that total.



V 38-178 SEP 14 73 XUM

separating or sorting machines from the United Kingdom at less than fair value.[6]

By order of the Commission.

KENNETH R. MASON,
*Secretary.*

[FR Doc.73-19583 Filed 9-13-73;8:45 am]

[AA1921-124]

## STEEL WIRE ROPE FROM JAPAN

### Determination of Injury

SEPTEMBER 7, 1973.

On June 7, 1973, the Tariff Commission received advice from the Treasury Department that steel wire rope from Japan is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended. In accordance with the requirements of section 201(a) of the Antidumping Act (19 U.S.C. 160(a)), the Tariff Commission instituted investigation No. AA1921-124 to determine whether an industry in the United States is being, or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

A public hearing was held on August 2 and 3, 1973. Notice of the investigation and hearing was published in the FEDERAL REGISTER of June 20, 1973 (38 FR 16118).

In arriving at a determination in this case, the Commission gave due consideration to all written submissions from interested parties, evidence adduced at the hearing, and all factual information obtained by the Commission's staff from questionnaires, personal interviews, and other sources.

On the basis of the investigation, the Commission has determined by a vote of 2 to 1[1] that an industry in the United States is being injured by reason of the importation of steel wire rope from Japan that is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended.

STATEMENT OF REASONS FOR AFFIRMATIVE DETERMINATION BY CHAIRMAN BEDELL AND COMMISSIONER MOORE

The Antidumping Act, 1921, as amended, requires that the Tariff Commission find two conditions satisfied before an affirmative determination can be made.

First, there must be injury or likelihood of injury to an industry in the United States.[5] Second, such injury or likelihood of injury must be by reason of the importation into the United States of the class or kind of foreign merchandise which the Secretary of the Treasury has determined is being, or is likely to be, sold at less than fair value (LTFV).

In our judgment, both of the aforementioned conditions are satisfied. Accordingly, for the reasons set forth below, we have determined that an industry in the United States is being injured by reason of the importation of steel wire rope from Japan sold at LTFV.[2]

In making this determination under section 201(a) of the Antidumping Act, we have considered the injured industry to consist of the operations of the U.S. facilities producing steel wire rope.

The U.S. steel wire rope industry in the United States, presently consisting of 17 U.S. firms with 23 plants located in 13 states, has traditionally recognized six "zones" or "regions" as areas to be serviced either by a regional manufacturing plant or warehouse facility.

In addition to significant freight-cost differentials between these six regions, there also exist separate and distinct regional pricing and discounting levels that reflect specific regional market characteristics and competition.

Of these six regions, the Pacific Northwest and the Pacific Southwest and the South Central Regions were of the greatest concern to interested parties in this case. Data supplied to the Commission during its investigation indicated that during the period 1970-72 over half of U.S. shipments were sold in the Pacific Southwest, Pacific Northwest, and South Central Regional markets. It is apparent that these three regions are vitally important to the U.S. industry in its marketing of wire rope in the United States. We are of the opinion that there has been substantial injury to the U.S. industry in these three market areas. We believe that LTFV imports of steel wire rope from Japan into these three regions have been of sufficient magnitude to cause injury to the U.S. industry.

*Market penetration.*—Imports of steel wire rope from Japan, the principal foreign supplier, have nearly doubled over a 5-year period, from 9,912 net tons in 1968 to 18,996 net tons in 1972. During the 6-month period January-June 1973, such imports amounted to 11,413 net tons, or about one-fifth more than during the corresponding period in 1972. It is clear that the tide of imports determined by the Treasury Department to have been sold at less than fair value has entered the United States and the regional market areas identified above in substantial volume.

The penetration of LTFV imports has occurred in the regional markets identified above in sufficient volume as to be injurious to the entire U.S. industry. For example, in 1970 the bulk of Japanese imports of steel wire rope sold in the Pacific Southwest, Pacific Northwest, and the South Central Regions were equal to about 8 percent of U.S. producers' shipments for these areas. In 1972, such imports from Japan increased to about 11 percent of U.S. producers' shipments. Such regional market penetration by LTFV imports has caused plant closures, market withdrawals, and a general suppression of wire rope prices in these geographic areas to the point where such prices are lower than prices paid elsewhere for wire rope in the United States.

*Price suppression.*—Information developed during the investigation showed that prices received by Japanese importers were consistently well below those received by domestic producers. For example, between the first quarter of 1970 and the second quarter of 1973, the prices of five particular items of Japanese wire rope—which Treasury found to have been sold at LTFV—averaged 22 to 38 percent below the prices received by domestic producers for the same items. Such price differentials were even more pronounced in the Pacific Southwest, Pacific Northwest and South Central Regions. As a result, in order to remain competitive, U.S. producers have been prevented from increasing their prices to offset fully increased costs of domestic production.

*Loss of sales.*—Data supplied to the Commission documents specific examples of sales lost to LTFV imports. Although demonstration of every lost sale was not possible, it is clear from the evidence of price suppression that loss of sales has taken place, particularly in the Pacific Southwest, Pacific Northwest, and South Central Regions, where the price disparities between LTFV imports of wire rope and domestic wire rope are especially pronounced.

*Plant closures.*—Since January 1, 1968, six plants producing steel wire rope in the United States have closed, and an estimated 1,300 workers have lost their jobs. Among the plants closing were two operated by Colorado Fuel and Iron Corp., one of the largest U.S. steel wire rope producers, where over 900 workers were employed. We believe these plant closures and resultant unemployment have been due in part to LTFV imports of steel wire rope from Japan.

*Conclusion.*—On the basis of the foregoing we conclude that an industry in the United States is being injured by reason of the importation of steel wire rope from Japan that is being, or is likely to be, sold at less than fair value.

STATEMENT OF REASONS FOR THE NEGATIVE DETERMINATION OF COMMISSIONER ABLONDI

Although there have been LTFV imports of steel wire rope from Japan in recent years, and these imports may have caused some slight market disruption, I am unable to find injury, or likelihood of injury, to an industry within the meaning of the Antidumping Act, 1921, as amended.

There is an industry in the United States presently producing steel wire rope and it consists of 17 firms which are geographically located nationwide. The complainant, for example, with production facilities in Kenosha, Wis., sells and services the west coast area. Other firms in the industry located on the east coast do the same. Evidence, in part, indicates that most of the 17 firms are now producing at capacity (three shifts a day, 5½ days a week); that many of these plants are weeks behind in filling current orders with existing productional capacity; and that the industry is operating at a generally increasing profit level. I do not believe that the industry above described is being injured by reason of the LTFV imports.

The complainant in this proceeding contends that the west coast area and the south central region are the areas most affected by LTFV imports from Japan. Application of this regional concept of injury would not, in my opinion, lead to a finding of injury to an industry of steel wire rope producers located in the regions complained of.

The four plants currently operating in the west coast area and south central region have increased their shipments by about 19 percent during the period 1970-72—the period when the injury alleged by the domestic producers is claimed to have occurred. Secondly, available data on net operating profits of wire rope operations for the plants most likely affected, i.e., those in the west coast and south central areas, indicate that profits were larger in 1972 (the year when Treasury found LTFV sales), both in absolute terms and as a percent of net sales, than in any year since 1968. Imports of steel wire rope from another Asian country were at a unit price level lower than that of the Japanese and compete in the same region.

The regional industry that would most likely be injured by reason of the importation of LTFV imports from Japan does not appear to be injured in light of available data. It has been reported that one large firm currently manufacturing on the east coast intends to begin manufacture of steel wire rope on a limited basis at one of its west coast steelmaking facilities.

In conclusion, since there appears to be sufficient reason to believe that no injury has occurred to domestic producers of steel wire rope by reason of LTFV imports of steel wire rope from Japan, I find no injury, or likelihood of injury, to an industry in the instant investigation.

By order of the Commission.

[SEAL] KENNETH R. MASON,
*Secretary.*

[FR Doc.73-19582 Filed 9-13-73;8:45 am]

[6] The prevention of establishment of an industry is not at issue in this case.

[1] Chairman Bedell and Commissioner Moore determined in the affirmative; Commissioner Ablondi determined in the negative. Commissioner Young did not participate in the determination, and Vice Chairman Parker and Commissioner Leonard were absent.

[5] Prevention of establishment of an industry is not an issue in the instant case.

[2] At the hearing, certain importers of a Japanese product, described as copper-coated steel-wire cord of stranded construction of a type used to reinforce automobile and truck tires, raised a question as to the applicability of the Treasury Department's determination of LTFV sales to this product. The complainants agreed that the U.S. steel wire rope industry did not make a product of this description.





## DEPARTMENT OF LABOR

### Office of the Secretary

### NATIONAL MANPOWER ADVISORY COMMITTEE

### Notice of Meeting

The National Manpower Advisory Committee will meet at the Department of Labor on September 21. Appointed by the Secretary of Labor in 1962, the Committee makes recommendations to the Secretary relative to the carrying out of his duties under the Manpower Development and Training Act. Members of the Committee are chosen from representatives of labor, management, agriculture, education, training and the public at large. The chairman is Dr. Eli Ginzberg of Columbia University.

At its meeting on September 21 the National Manpower Advisory Committee will review the roles and outcomes of the Work Incentive Program (WIN) and the Job Corps; identify issues that might be considered for the President's Message in the 1974 Manpower Report of the President; and discuss possible courses of action for future meetings of its subcommittees.

The meeting will be held in Conference Room 107 in the Department of Labor starting at 9:30 a.m., and is expected to adjourn soon after 4:00 p.m. The meeting will be open to the public.

Signed at Washington, D.C., this 10th day of September 1973.

ROBERT R. BEHLOW,
*Executive Secretary.*

[FR Doc.73-19549 Filed 9-13-73;8:45 am]

## INTERSTATE COMMERCE COMMISSION

[Notice 341]

### ASSIGNMENT OF HEARINGS

SEPTEMBER 11, 1973.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 66121 Sub 28, Indian Bow Truck Lines, Ltd., now assigned October 29, 1973, will be held in Room 206, Tax Court, 26 Federal Plaza, New York, N.Y.

MC 62690 Sub 3, Carey F. Weathers Transfer & Storage Co., now assigned October 10, 1973, at Atlanta, Ga., will be held in Room 305, 1252 West Peachtree Street, NW.

MC 127418 Sub 7 Trop-Arctic Refrigerated Service Inc., now assigned October 15, 1973, at Atlanta, Ga., will be held in Room 305, 1252 West Peachtree Street, NW.

MC-F-11436, Milton Transportation, Inc., Purchase—Milton Trucking, Inc., MC 136343, Milton Transportation, Inc., Conversion and Extension, MC 134776 Sub 20, Milton Trucking, Inc., Extension-Paper, now being assigned hearing October 29, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

No. 35834, Increased Rates, Matson Navigation Company, No. 35834 Sub 1, Increased Rates, Seatrain Lines, California, No. 35834 Sub 2, Increased Rates, Trans-Continental Freight Bureau, and No. 35834 Sub 3, Increased Rates, United States Lines, now assigned September 17, 1973, at San Francisco, Calif., is postponed indefinitely.

MC 263 Sub 205, Garrett Freightlines, Inc., and MC 97699 Sub 39, Barber Transportation Co., now assigned October 1, 1973, at Denver, Colo., will be held in Room B-230, New Custom House, 19th and Stout Street.

MC 138237, Metro Heavy Hauling, Inc., now assigned October 1, 1973, at Olympia, Wash., will be held in Hearing Room 6th Floor, Highway Licenses Bldg., 12th and Washington Street.

MC-C-8041, Garrett Freight Lines, Inc., Et Al-V-Puget Sound Truck Lines, Inc., now assigned October 15, 1973, at Olympia, Washington, will be held in Hearing Room 6th Floor, Highway Licenses Bldg., 12th and Washington Street.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-19618 Filed 9-13-73;8:45 am]

[Notice 352]

### MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before October 4, 1973. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-74417. By order of September 10, 1973, the Motor Carrier Board approved the transfer to Charles Eberly and Roger Eberly, a partnership, doing business as Valley Bus Lines, Scotland, Pa., of Certificates Nos. MC-125754 and MC-125754 (sub-No. 1), issued April 21, 1964, and December 10, 1964, respectively, to Lee McBeth, doing business as McBeth Bus Company, Walnut Bottom, Pa., authorizing the transportation of passengers and their baggage, in round-trip charter operations beginning and ending at specified points in Pennsylvania and extending to points in New York, New Jersey, Delaware, Maryland, Virginia, West Virginia, Ohio, Connecticut, Massachusetts, Rhode Island, Maine, and the District of Columbia. S. Berne Smith and Harry H. Frank, 100 Pine Street (P.O. Box 1166), Harrisburg, Pa. 17108, attorneys for applicants.



V 38 - 178 SEP 14 73 XUM

No. MC-FC-74601. By order entered September 10, 1973, the Motor Carrier Board approved the transfer to Sage Bros. Trucking Co., Mount Holly, N.J., of the operating rights set forth in Certificates Nos. MC-59495 and MC-59495 (sub-No. 2), issued by the Commission February 7, 1941 and May 6, 1949, respectively, to Benjamin B. Powell and Joseph P. Powell, doing business as Powell Bros., Moorestown, N.J., authorizing the transportation of agricultural commodities, fertilizer, lime, plaster, feed, and grain, from and to points in New Jersey, New York, Pennsylvania, and Delaware. William H. Wells, 135 High Street, Mount Holly, N.J. 08060, attorney for applicants.

No. MC-FC-74609. By order of September 7, 1973, the Motor Carrier Board approved the entry of a supplemental order to transfer to Leon Ledbetter Trucking, Inc., Amarillo, Texas, the additional operating rights in Certificates No. MC-125000 (sub-No. 8), issued August 7, 1973, to Leon Ledbetter, Vega, Texas, in order to accomplish applicants desires that all of the operating rights issued to the individual, Leon Ledbetter, under docket series No. MC-125000 be transferred to the above-named transferee corporation. The rights transferred cover the transportation of: Asphalt paying materials, in dump vehicles, from points in specified counties in Texas to points in specified counties in Kansas, Oklahoma, and New Mexico. John S. Fessenden, attorney, 1111 E St. NW., Washington, D.C. 20004.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-19619 Filed 9-13-73;8:45 am]





## CUMULATIVE LISTS OF PARTS AFFECTED—SEPTEMBER

**The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during September.**


**1 CFR** — Page
CFR checklist — 23771

**3 CFR**
PROCLAMATIONS:
4239 — 24191
4240 — 24193
4241 — 24881
EXECUTIVE ORDERS:
11359 (superseded by 11737) — 24883
11602 (superseded by E.O. 11738) — 25161
11635 (superseded by 11737) — 24883
11659 (amended by 11737) — 24883
11737 — 24883
11738 — 25161

**4 CFR**
400 — 24195
405 — 24195
PROPOSED RULES:
331 — 23971
351 — 23971
400 — 23971
401 — 23971
402 — 23971
403 — 23971
404 — 23971

**5 CFR**
213 — 24344, 24885, 25165

**6 CFR**
102 — 25427
150 — 24213
140 — 24214
150 — 23794, 23931, 24214, 24885, 25427, 25686
152 — 23794, 24214
155 — 24885
PROPOSED RULES:
Ch. I — 24917
152 — 23806, 24219, 24667

**7 CFR**
2 — 24633
51 — 23931
52 — 24344, 25165
201 — 25661
250 — 24633
301 — 25664
354 — 23934
725 — 23935
777 — 25665
864 — 25427
905 — 25665
908 — 24215, 25431
910 — 24345, 24890
928 — 24345
930 — 24890
932 — 24215
948 — 25667
981 — 25668
991 — 23771
1001 — 24216
1002 — 24216
1004 — 24216
1006 — 24216
1007 — 24216
1011 — 24216
1012 — 24216

**7 CFR—Continued** — Page
1013 — 24213
1015 — 24216
1030 — 24216
1033 — 24216
1036 — 24216
1040 — 24216
1044 — 24216
1046 — 24216
1049 — 24216
1050 — 24216
1060 — 24216
1061 — 24216
1062 — 24216
1063 — 24216
1064 — 24216
1065 — 24216
1068 — 24216
1069 — 24216
1070 — 24216
1071 — 24216
1073 — 24216
1075 — 24216
1076 — 24216
1078 — 24216
1079 — 24216
1090 — 24216
1094 — 24216
1096 — 24216
1097 — 24216
1098 — 24216
1099 — 24216
1101 — 24216
1102 — 24216
1106 — 24216
1108 — 24216
1120 — 24216
1121 — 24216
1124 — 24216
1125 — 24216
1126 — 24216
1127 — 24216
1128 — 24216
1129 — 24216
1130 — 24216
1131 — 24216
1132 — 24216
1133 — 24216
1134 — 24216
1136 — 24216
1137 — 24216
1138 — 24216
1139 — 24216
1421 — 23935, 24634, 25668
1430 — 23939
1866 — 24346
PROPOSED RULES:
20 — 25690
26 — 23955, 25186
52 — 24654, 24904, 24907, 24910
722 — 24911
932 — 24910
981 — 24911
1007 — 25024
1030 — 23796, 25448, 25756
1032 — 25756
1046 — 25756
1049 — 25756
1050 — 25186, 25756
1060 — 25222
1061 — 25222

**7 CFR—Continued** — Page
PROPOSED RULES—Continued
1062 — 25756
1063 — 25222
1064 — 25222
1065 — 25222
1068 — 252222
1069 — 25222
1070 — 25222
1071 — 25024
1073 — 24654, 25024
1076 — 25222
1078 — 25222
1079 — 25222
1090 — 25024
1094 — 25024
1096 — 25024, 29190
1097 — 25024
1098 — 25024
1099 — 25756
1102 — 25024
1104 — 25282
1106 — 25282
1108 — 25024
1120 — 25282
1126 — 25282
1127 — 25282
1128 — 25282
1129 — 25282
1130 — 25282
1131 — 25282
1132 — 25282
1136 — 25282
1701 — 24660

**8 CFR**
214 — 24891
238 — 24891

**9 CFR**
73 — 24346
82 — 23940
94 — 24891, 25669
97 — 23940
319 — 24640
PROPOSED RULES:
94 — 24219
102 — 23957
104 — 23957
381 — 24374

**10 CFR**
110 — 23953

**12 CFR**
201 — 23772
329 — 25432
526 — 23940, 25433
545 — 24200
546 — 24201
563 — 24202
PROPOSED RULES:
204 — 25703
545 — 24228

**13 CFR**
PROPOSED RULES:
107 — 24028




V 38 - 178 SEP 14 73 XUM

14 CFR — Page

39 — 23941, 24347, 24349, 24640, 24641, 25170, 25669, 25670
71 — 23941, 23942, 24204, 24350, 24641, 24892, 25171, 25433
75 — 24204, 25171
91 — 24893
95 — 24893
97 — 24350
208 — 24642
241 — 24351
302 — 24894
389 — 24895
288 — 23772
399 — 23777, 24642

PROPOSED RULES:
37 — 25450
39 — 23962
61 — 23962
71 — 23804, 23969, 24222, 24914, 25195, 25451, 25452, 25696
75 — 23804
121 — 23962
Ch. II — 24660
221 — 23804
241 — 24223, 24661
298 — 23805, 24662
372a — 24664
389 — 24662
399 — 25453

15 CFR
8 — 23777
376 — 23777, 25446
377 — 25184

16 CFR
13 — 24352, 24353, 24634, 25434–25436

PROPOSED RULES:
1700 — 25195

17 CFR
211 — 24635
231 — 24635
241 — 24635
251 — 24635
271 — 24635

PROPOSED RULES:
230 — 24668

19 CFR
Ch. I — 25171
1 — 24354, 25171
4 — 24354

PROPOSED RULES:
1 — 24374, 25185
24 — 23954
141 — 23954
151 — 25448

20 CFR

PROPOSED RULES:
405 — 23802, 25448

21 CFR
8 — 24643
9 — 24206
45 — 25671
121 — 24354, 24643, 25437
135 — 23942
135b — 24355, 24643, 24895, 25673
135c — 24355, 24644, 25673
135e — 25674, 25676
141 — 25674

21 CFR—Continued — Page

144 — 25437
146 — 25674
149b — 25674
149d — 25675

PROPOSED RULES:
10 — 25195
121 — 24374, 14375, 25694
130 — 24220
135 — 25694

23 CFR

PROPOSED RULES:
770 — 23969
772 — 25696

24 CFR
42 — 25172
201 — 25676
203 — 24637
205 — 24637, 24896
207 — 24637
213 — 24637
220 — 24637
221 — 24637
232 — 24637
234 — 24637
235 — 24638
236 — 24638
241 — 24638
242 — 24638
244 — 24638, 24896
1700 — 23866
1710 — 23866
1715 — 23873
1720 — 23874
1914 — 23943–23945, 24355–24357, 25677, 25678
1915 — 24358, 24360

PROPOSED RULES:
20 — 24222
201 — 23803

25 CFR
141 — 24638
256 — 23945

PROPOSED RULES:
221 — 23954, 23955

26 CFR
1 — 24206

29 CFR
1907 — 25150
1952 — 24896, 25172
1953 — 24361

PROPOSED RULES:
1910 — 24300, 24375

30 CFR
57 — 23781

PROPOSED RULES:
504 — 24024

31 CFR
91 — 94897
315 — 24762
605 — 24898

32 CFR
809 — 23945
1285 — 24206
1453 — 24210

PROPOSED RULES:
1604 — 25704

32A CFR — Page

Ch. IV:
BP Notice 1 — 25175
Ch. X:
Reg. 1
Ch. XIII:
EPO Reg. 3 — 23977

33 CFR
117 — 25433
127 — 24898
207 — 25176
401 — 24210

PROPOSED RULES:
117 — 24912–24914, 25455
127 — 23804

35 CFR
5 — 25438

36 CFR
50 — 24218
221 — 23948

PROPOSED RULES:
7 — 23796, 24912, 25185

38 CFR
1 — 24364
2 — 24366
17 — 24366
21 — 23948
36 — 25678

39 CFR
3000 — 24898
3001 — 24898

40 CFR
35 — 24639
50 — 25678
52 — 24333
113 — 25439
126 — 25681
129 — 24342
180 — 23781, 25440

PROPOSED RULES:
51 — 25697
52 — 23805
180 — 23806, 24667, 24918, 25455
411 — 24462
412 — 24466
422 — 24470

41 CFR
1–1 — 24210
1–9 — 23782
1–18 — 23791
3–16 — 24644
114–50 — 24649

42 CFR
21 — 25683

43 CFR
4 — 23948
3830 — 24650
4710 — 24650

PUBLIC LAND ORDERS:
5383 — 25684

45 CFR
909 — 24900

PROPOSED RULES:
221 — 24872
233 — 23802
250 — 25450
903 — 23912





46 CFR — Page

PROPOSED RULES:
146 — 23959
542 — 23979
538 — 24228

47 CFR
0 — 24900
2 — 24901, 25180
13 — 25684
23 — 24901
73 — 24367
81 — 24211, 25180
83 — 24368, 25180
87 — 25684
89 — 24901
91 — 25182
93 — 24901
97 — 24211

PROPOSED RULES:
61 — 24920

47 CFR—Continued — Page

PROPOSED RULES—Continued
73 — 25703
83 — 25196

49 CFR
1 — 24901, 24902
170 — 23791
171 — 23792
172 — 23792
177 — 23792
178 — 23792
393 — 25182
570 — 23949, 25685
1033 — 23792, 23793, 23952, 24212, 24902, 25183, 25685
1048 — 24368
1115 — 23953, 24903, 25686
1121 — 24902

49 CFR—Continued — Page

PROPOSED RULES:
172 — 24915
173 — 24915
393 — 24223, 25452, 25696
542 — 23979
571 — 23804
1057 — 24228
1131 — 23979

50 CFR
20 — 23793
32 — 23793, 23794, 24212, 24369–24373, 24650–24652, 25183, 25441–25445, 25686
33 — 25445

PROPOSED RULES:
21 — 23790
32 — 25693

## FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

| Pages | Date |
|---|---|
| 23765–23922 | Sept. 4 |
| 23923–24184 | 5 |
| 24185–24326 | 6 |
| 24327–24625 | 7 |
| 24627–24874 | 10 |
| 24875–25154 | 11 |
| 25155–25420 | 12 |
| 25421–25654 | 13 |
| 25655–25895 | 14 |



V 38 I 178 SEP 14 73 XUM

federal register

FRIDAY, SEPTEMBER 14, 1973

WASHINGTON, D.C.

Volume 38 ■ Number 178

PART II

# DEPARTMENT OF AGRICULTURE

## Agricultural Marketing Service

■

## MILK IN CHICAGO REGIONAL AND CERTAIN OTHER MARKETING AREAS

Proposed Rules

No. 178—Pt. II——1

V 38 - 178 SEP 14 73 XUM

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

**[7 CFR Parts 1030, 1032, 1046, 1049, 1050, 1062, 1099]**

[Dockets No. AO-361-A3, etc.]

### MILK IN CHICAGO REGIONAL AND CERTAIN OTHER MARKETING AREAS

**Notice of Revised Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders**

| 7 CFR Part | Marketing area | Docket No. |
|---|---|---|
| 1030 | Chicago Regional | AO-361-A3. |
| 1032 | Southern Illinois | AO-313-A20. |
| 1046 | Louisville-Lexington-Evansville | AO-123-A37. |
| 1049 | Indiana | AO-319-A16. |
| 1050 | Central Illinois | AO-355-A6. |
| 1062 | St. Louis-Ozarks | AO-10-A12. |
| 1099 | Paducah, Ky. | AO-183-A21. |

Notice is hereby given of the filing with the Hearing Clerk of this revised recommended decision with respect to proposed amendments to the tentative marketing agreements and orders regulating the handling of milk in the aforesaid marketing areas.

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by October 15, 1973. Seven copies of the exceptions should be filed. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

#### PRELIMINARY STATEMENT

The hearing on the record of which the proposed amendments, as hereinafter set forth, to the tentative marketing agreements and to the orders as amended, were formulated, was conducted at Clayton, Mo., on July 14–22, 1970, pursuant to notice thereof which was issued June 26, 1970 (35 FR 10692).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Regulatory Programs, on June 4, 1971 (36 FR 11352), filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

On the basis of exceptions to the recommended decision, a number of changes in the findings and conclusions of that decision concerning the classification and pricing of milk in certain uses are appropriate. Because such changes are substantive, a revised recommended decision is being issued with an opportunity to submit exceptions thereto.

The material issues on the record of the hearing relate to:

1. Application of a uniform milk classification plan in the seven markets;
2. Revision of the present Class I classification;
3. Classification and pricing of milk not needed for Class I use;
4. Miscellaneous classification and accounting changes:
   (a) Other source milk definition;
   (b) Accounting for nonfat milk solids added to milk and milk products;
   (c) Classification of milk transferred or diverted to other plants;
   (d) Classification of end-of-month inventories;
   (e) Shrinkage allowances;
   (f) Allocation of receipts to utilization;
   (g) Obligations relative to other source milk; and
   (h) Reports;
5. Changing the butterfat differentials; and
6. Advance announcement of prices for surplus milk.

*General setting of the hearing.* Prior to the hearing, the National Milk Producers Federation, an organization of cooperative associations of dairy farmers and federations of such cooperative associations, undertook the development of a uniform milk classification plan for use under Federal milk orders. Guidelines were formulated for use by member organizations in the drafting of specific classification proposals for consideration at public hearings.

Using these guidelines as a basis for their proposals, Associated Milk Producers, Inc., Dairymen, Inc., Mid-America Dairymen, Inc., and Pure Milk Products Cooperative petitioned the Department for a hearing on various proposals relating to the classification and pricing of milk in the seven subject markets. These four cooperative associations, which will be referred to in this decision as the "principal" cooperatives, collectively represent a substantial number of the producers associated with each of these markets.

The main thrust of the cooperatives' proposals was the proposed use of an identical classification plan under each of the seven orders. As proposed, the new plan would have three classes of utilization rather than the two classes now provided in each order. The present Class II classification would be redesignated as Class III and a new Class II classification, which would include various milk products now in Class I and Class II, would be established.

Corollary proposals by the principal cooperatives would provide that the Class III price under each order be the Minnesota-Wisconsin manufacturing milk price for the month. They proposed that the new Class II price under each order be the Minnesota-Wisconsin price plus 10 cents. They proposed also that a single handler butterfat differential apply to all three classes. This differential, which would be identical among the seven orders, would be based on the Chicago butter price times a factor of 0.115.

These proposals in general were endorsed at the hearing by the Association of Operating Cooperatives on behalf of six Wisconsin-based producer groups. These cooperatives proposed, however, that the price to be applicable to milk used in butter and nonfat dry milk be the lower of the Minnesota-Wisconsin price or a butter-nonfat dry milk formula price. Another cooperative association, Land O'Lakes, Inc., proposed that the lower of the Minnesota-Wisconsin price or the product formula price apply to all Class III uses of milk. Its butter-nonfat dry milk formula price would be lower relative to the formula price proposed by the Association of Operating Cooperatives.

A uniform classification plan for the seven orders was advocated also by the Milk Industry Foundation and the International Association of Ice Cream Manufacturers, national trade associations of fluid milk and ice cream processors whose members operate in each of the seven subject markets. Instead of taking a position on whether there should be two or three use classes, these groups offered alternative proposals on the classification of various milk products under either type of classification plan. Individual handlers also made proposals concerning specific aspects of the classification scheme.

#### FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Application of a uniform milk classification plan in the seven markets.* Each of the seven orders under consideration should provide for the same basic classification plan. As adopted herein, each order would provide for three classes of utilization, with the milk uses included in each class being the same for each order. Likewise, the same basic procedure would be used under each order for classifying milk transferred or diverted from pool plants to other plants, and for allocating a handler's receipts to his utilization to determine the classification of his producer milk. Each order would use the same Class II and Class III price formulas. Also, all differential butterfat received from producers would be priced at the same level regardless of use.

The statutory authority for Federal milk orders specifies that an order shall classify milk purchased by handlers from producers or associations of producers in accordance with the form in which or the purpose for which the milk is used. When each of the seven subject orders was promulgated, the classification plan adopted reflected the marketing conditions and practices prevailing at the time in the local area concerned. Because local conditions were seldom alike from market to market, the classification plans often varied from one order to another. As long as the markets remained relatively isolated from each other, marketing problems resulting from the differences in the various classification plans were minimal.





In recent years the "local" character of these markets has been disappearing. Intermarket movements of milk have become commonplace as handlers and producers alike seek to find additional outlets for milk. Such milk movements have been encouraged or facilitated by such developments as inspection reciprocity between health jurisdictions, improved highway networks and transportation equipment, conversion from can handling to farm bulk tanks, emergence of regional cooperatives, new processing and packaging techniques, and concentration of processing and packaging operations in large, specialized facilities.

Widespread distribution patterns prevail particularly for the processors of specialty products such as yogurt and sterilized cream items. Although the volume of these products is relatively limited, it is probably the distribution of these products more than any others that has precipitated such general interest within the industry for uniform classification provisions among Federal orders.

Several cases cited on the record serve to illustrate the widespread movements of packaged specialty products. At the time of the hearing a handler regulated under the Paducah order was distributing half and half or whipping cream in 20 federally regulated marketing areas, including six of the markets involved in this hearing. Similarly, a handler under the Louisville-Lexington-Evansville order was selling half and half, yogurt or sour cream in 12 Federal order markets. A processor with plants in New York and Ohio was selling yogurt in nearly every State east of the Mississippi River, which includes most of the markets involved in this proceeding.

Although the seven orders have been revised from time to time to reflect the closer intermarket relationships, the classification plans of these orders continue to differ. The differences relate not only to the products included in each respective class, but also to the attendant class prices and butterfat differentials, the rules for classifying milk moved from one plant to another, the procedure for allocating a handler's receipts to his utilization, the method of classifying end-of-month inventories, and the manner of classifying shrinkage.

Such differences in the classification and pricing of milk are often disruptive to the competitive relationships of handlers and to the marketing of producer milk. Many of these differences, though, have little, if any, foundation under today's marketing conditions. It is thus concluded that a generally uniform classification and pricing plan should be incorporated in each of the seven orders under consideration.

In conjunction with the development of uniform provisions pertaining to the classification and pricing of milk, it is desirable to also develop a single format of order provisions for use in each of these orders. All Federal orders contain essentially the same categories of provisions, such as those relating to the definition of a pool plant or other source milk, those setting forth the class price formulas, or those describing how the uniform price shall be computed. At present, however, many of the orders are structured in such a way that provisions serving essentially the same purpose under all orders do not appear in each order in the same place or under the same section title.

A revised recommended decision on uniform classification and pricing provisions for 32 other Federal orders is being issued concurrently with this seven-market decision. The format of order provisions adopted herein is comparable to the format set forth in the 32-market decision. The opportunity to effect changes in a relatively large number of orders at the same time makes the adoption of a uniform order format a particularly desirable step at this juncture of the order program. Moreover, coordination of the orders in this respect will be helpful to those in the industry who must work with more than one order, a situation that is becoming increasingly common as cooperatives and handlers continue to expand their marketing activities into more and more regulated markets.

Each of the seven orders under consideration is set forth in its entirety at the end of this document. Each order reflects the revised order format as well as the classification and pricing amendments adopted herein. In adapting each order to the new format, no substantive changes have been made in those provisions not under consideration at the hearing. Since the classification and pricing amendments may be less discernable to the reader with the reprinting of the complete order, the sections in each order that encompass the basic changes in classification and pricing are listed below:

Sections 12–16, 30, 40–44, 50, 52–54, 60, 62, 74–76, and 85.

Some of the amendments adopted herein would change certain procedures under the orders that are carried out after the end of the month to which they apply. These include the submission of reports, the classification of milk, and the computation and announcement of certain class prices, butterfat differentials, and producer prices. It is intended, however, that the amendments apply only to that milk handled after the effective date of the changes. Such amendments are not intended to affect the completion of previously existing procedures with respect to milk handled prior to the effectuation of the amendments.

2. *Revision of the present Class I classification.* With certain exceptions noted below, Class I milk under each of the seven subject orders should include all skim milk and butterfat disposed of in the form of milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milk shakes and ice milk mixes containing less than 20 percent total solids. Skim milk and butterfat disposed of in any such product that is flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted, likewise should be classified as Class I milk. Such classification should apply whether the products are disposed of in fluid or frozen form.

In addition, Class I milk should include all skim milk and butterfat disposed of in the form of any other fluid or frozen milk product (if not specifically designated as a Class II or Class III use) that contains by weight at least 80 percent water and 6.5 percent nonfat milk solids, and less than 9 percent butterfat and 20 percent total solids.

Skim milk disposed of in any product described above that is modified by the addition of nonfat milk solids should be Class I milk only to the extent of the weight of the skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

Class I milk should not include skim milk or butterfat disposed of in the form of evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, and any product that contains by weight less than 6.5 percent nonfat milk solids, or whey.

As a convenience in drafting order provisions, each product designated herein as a Class I product would be defined in the seven orders as a "fluid milk product."[1]

Class I milk should include also any skim milk and butterfat not specifically accounted for in Class II or Class III, other than shrinkage permitted a Class III classification.

Except for sterilized products, most of the products herein included in Class I are presently included in the Class I classification under each of the seven orders. Only the Chicago Regional order, however, now includes any milk shake mixes in Class I. The Paducah order is the only one of the seven orders that includes sterilized fluid milk products (other than cream items) in Class I.

The adopted Class I classification would not include cream products or mixtures of cream and milk or skim milk (such as half and half) containing 9 percent or more butterfat. Sweet cream (except that in frozen, concentrated, aerated or sterilized form) and half and half are presently Class I products under the seven orders. Grade A sour cream is a Class I product under all but the Indiana order, while Grade A sour cream mixtures are Class I items under all but the Indiana and Paducah orders. Also, non-Grade A sour cream is presently a Class I product under the Paducah and Louisville-Lexington-Evansville orders.

[1] The reader should keep in mind that the orders do not classify products per se but rather the skim milk and butterfat disposed of in the form of a particular product or used to produce a particular product. To simplify the presentation of the findings and conclusions, however, reference is made in this decision to Class I products, Class II products and Class III products, or to certain products included in a particular class.



V 38 I 178 SEP 14 73 XUM

Under the adopted changes, yogurt would not be a Class I product. A Class I classification for yogurt, which is now in the surplus class under these orders, was proposed by the principal cooperatives.

Two of the seven orders now include ending inventories of packaged fluid milk products in Class I. As discussed later, such inventories would be classified as Class III milk under the revised orders.

The proposals concerning the Class I classification of milk related primarily to the use under all orders of a uniform fluid milk product definition based on product composition, and to the appropriate classification of milk shake and ice milk mixes, sterilized fluid milk products, cream, eggnog, yogurt, fluid milk products to which nonfat milk solids have been added and ending inventory. The classification of cream, eggnog, and yogurt is discussed under Issue 3 which deals with the classification and pricing of milk not needed for Class I use. The method of accounting for nonfat milk solids added to fluid milk products is discussed under Issue 4(b). The classification of ending inventory is dealt with under Issue 4(d). The remaining Class I issues are dealt with at this point.

Milk shake and ice milk mixes containing less than 20 percent total solids should be included in Class I. Such mixes containing a greater percentage of solids should be Class II products.

The principal cooperatives proposed that milk shake mixes that "are not further processed in a commercial establishment" be in Class I. They proposed that all other milk shake mixes be in Class II. The national organizations of fluid milk and ice cream processors, on the other hand, asked that all milk shake mixes be included in the lowest classification.

Milk shake and ice milk mixes are being marketed generally through two channels. Limited quantities of such mixes are processed for home consumption, with such mixes being distributed to consumers through food stores and on home delivery routes. The major outlet for milk shake and ice milk mixes, though, is the so-called "soft-serve" trade. Mixes processed by regulated handlers for this use are sold to commercial establishments where the product is run through a special freezer and dispensed to the public in a semisoft form.

Milk shake and ice milk mixes are basically similar in composition and purpose to what might be considered as traditional frozen desserts, such as ice cream. Although such shake mixes are intended to be consumed in a semisoft form, or even in a very thick fluid form, they are being marketed for essentially the same use as the traditional frozen desserts. This is the case whether such mixes are sold through the "soft-serve" trade or for home use. With minor exception, as noted below, milk used in milk shake and ice milk mixes thus should be classified in the same class as milk used in the traditional frozen desserts. As discussed later in this decision, the classification plan adopted herein includes frozen desserts in Class II.

It is possible that a product very similar in composition and form to chocolate milk could be marketed under the label of a milk shake mix for the purpose of having a lower classification apply to the product. Since such a product actually would have the same general form and purpose as other fluid milk products now classified as Class I under these orders, it should be included in the Class I classification. It is necessary, though, to provide some means of distinguishing between such a product and the general category of milk shake mixes that are being sold in competition with frozen desserts. For this purpose, the total solids content of the product should be used. A standard of 20 percent or more total solids should encompass those milk shake and ice milk mixes intended for use as a type of frozen dessert. Mixes with less solids are similar in composition to chocolate milk and other flavored fluid milk products and should be a Class I product.

No exception to the Class I classification of milk should be made for fluid milk products in sterilized form. This was proposed by the principal cooperatives and the national organizations of fluid milk and ice cream processors. A group of handlers in the Indiana and Louisville-Lexington-Evansville markets proposed, however, that all sterilized products in rigid metal or glass containers be excluded from Class I.

The sterilization of fluid milk products does not change the form or purpose of such products. As in the case of the unsterilized fluid milk products which they resemble, such sterilized products are disposed of in fluid form for consumption as a beverage. They are generally intended for use in place of their unsterilized counterparts and are thus competing for the same consumers.

Returns to producers for milk disposed of in the form of fluid milk products should be the same whether such products are sterilized or unsterilized. Such products in either form are being marketed for the same beverage use. Classifying all such products in Class I will assure that the returns from producer milk used in sterilized fluid milk products will contribute on the same basis as returns from producer milk used in unsterilized fluid milk products toward inducing an adequate supply of milk for beverage use.

With the removal of any exception to the Class I classification of milk because of sterilization, specific reference must be made in the "fluid milk product" definition to the exclusion of certain products that otherwise could be construed to fall within such definition. Such products are evaporated or condensed milk or skim milk, formulas in hermetically sealed glass or all-metal containers that are especially prepared for infant feeding or dietary use, and products (such as flavored drinks in "pop" bottles) containing by weight less than 6.5 percent nonfat milk solids. These products, which are being sold in sterilized form, are now excluded from the Class I classification and, as proposed by cooperatives and handlers, such exclusion should be continued, notwithstanding the fact that they are sold to the public in fluid form. Evaporated milk and condensed milk sold for home use are intended primarily for cooking purposes. They are not consumed normally as a beverage. Infant and dietary formulas, which are being sold in hermetically sealed glass or all-metal containers, are specialized food products prepared for a limited use. Such formulas do not compete with other milk beverages consumed by the general public. Similarly, fluid products containing only a minimal amount of nonfat milk solids are not considered as being in the competitive sphere of the traditional milk beverages.

Fluid milk products should not be defined only on the basis of product composition, as was proposed by the principal cooperatives. Contending that the present fluid milk product definition in each order does not clearly identify those products that are intended to be classified as Class I products, the cooperatives proposed that a fluid milk product be defined solely in terms of moisture and milk solids content of the product. As proposed by producers, a "fluid milk product" would be any product containing at least 6.5 percent but less than 27 percent nonfat milk solids, less than 9 percent butterfat, and more than 20 percent moisture, all computed on the basis of weight.

In support of their proposal, proponents indicated that such a definition would result in a more uniform application among the seven orders of the classification provisions. They contended that the listing of products under the current definitions does not accommodate the proper classification of new products or variations of the listed products when they are introduced on the market. Proponents pointed out that as market administrators have had to make order interpretations in response to this situation variations in interpretation and classification have resulted among the markets. Adoption of the proposed definition, it was contended, would eliminate such problems. Any product meeting the specified composition limits for a fluid milk product would be a fluid milk product regardless of the name under which the product might be marketed.

Proponents recognized, however, that their proposed fluid milk product definition would include some products not intended by them to be in Class I, and, at the same time, would exclude certain products that they wanted in this classification. To overcome this problem, proponents stated that certain products should be listed by name, either as inclusions or exclusions, to assure that the fluid milk product definition would include those products, and only those products, warranting a Class I classification.

Handlers generally took the position that the fluid milk product definition should continue to list by name those products intended to be included in Class I. They believed that this procedure would result in less confusion within the industry concerning the application of this definition. Also, handlers were concerned that defining a fluid milk product on the basis of product composition would deter the development and marketing of new products. They contended that the proposed composition standards could embrace a new product that was intended by the processor to be marketed in direct competition with products that would be included in Class II or Class III rather than in competition with Class I products.

The primary concern with any fluid milk product definition is that it clearly define the products or types of products that are intended to be included in the definition. The fluid milk product definition adopted herein, which incorporates both the listing of specified products and the use of composition percentages, should meet this requirement. Incorporation of this definition in each of the seven orders will provide a uniform basis for identifying those products that are to be defined as "fluid milk products."

For simplicity, the fluid milk product definition should continue to list the generic names of those products commonly sold for consumption as beverages. The products listed in the adopted definition encompass most of the forms in which milk for fluid uses is sold. Anyone referring to this fluid milk product definition may easily ascertain in the case of most milk products whether or not a particular product is included in the definition.

A listing of products alone in the fluid milk product definition may not clearly indicate the classification of new milk products developed for fluid consumption. With certain limited exceptions noted, the fluid milk product definition is intended to include all milk products that are distributed for use as beverages. Although a new milk beverage introduced on the market might not be encompassed within the list of named products, it should be treated as a fluid milk product, nevertheless, if its composition is similar to that of the listed products. This will be the result of the standards of product composition for fluid milk products herein adopted.

As indicated, the adopted composition standards would embrace any fluid or frozen milk product not specified as a Class II or Class III product that contains by weight at least 80 percent water and 6.5 percent nonfat milk solids, and less than 9 percent butterfat and 20 percent total solids. The 9 percent butterfat standard coincides with the butterfat percentage adopted herein to delineate the mixtures of cream and milk or skim milk to be included in Class II. The total solids and water percentages represent a reasonable measure of the fluidity of those products that normally are consumed as beverages. The 6.5 percent nonfat milk solids standard is used to exclude from the fluid milk product definition those products which contain some milk solids but which are not closely identified with the dairy industry, such as chocolate flavored drinks in "pop" bottles.

These composition standards are chosen so as to conform as closely as possible to the water, solids and butterfat content of those products specifically listed in the fluid milk product definition, i.e., the traditional milk beverages. It is intended that these standards apply only to milk products, and only to such products that are being marketed for consumption in fluid form. Such standards would not be applied to products such as soups, which are not customarily thought of as milk products, or to products that would be a type of frozen dessert marketed for consumption in frozen form.

In determining whether or not a milk product in fluid form falls within the composition standards of the fluid milk product definition, such standards should be applied to the composition of the product in its finished form, not to the composition of the product on a skim equivalent basis. A new product not intended for beverage use might contain in its finished form somewhat more than the maximum total solids specified for a fluid milk product under the adopted composition standards. On this basis, the product would not fall within the fluid milk product definition. Application of the composition standards to this product on a skim equivalent basis, however, could result in the product meeting such standards and thus being defined as a fluid milk product.

As pointed out by producers in their exceptions, applying the composition standards to products in the form in which marketed could exclude from the fluid milk product definition a new concentrated fluid product that is intended to be consumed as a beverage only after reconstitution. For the present time, however, the composition standards should be applied to a product in its finished form. A refinement of such standards may be appropriate once there has been an opportunity to evaluate their applicability under actual market conditions.

It should be noted that under the adopted classification provisions accounting for a new product on other than a skim equivalent basis would be limited solely to determining whether or not the product meets the composition standards of the fluid milk product definition. For all other purposes under the order, the product would be accounted for on a skim equivalent basis.

In applying the 6.5 percent nonfat milk solids standard, it is intended that this standard apply to such solids in any form except sodium caseinate. Under the "filled milk" provisions in these orders, sodium caseinate in any product is treated as a nonmilk ingredient. There is no basis for changing this procedure.

The use of composition standards as a means of defining fluid milk products should not deter the development of new milk products, as handlers contended. Should the Class I classification of a new product appear to be incongruous with the intended use of the product, the hearing process remains as an avenue through which a different classification may be considered. The use of composition standards should result, however, in a more uniform classification among orders of new products developed for fluid consumption.

3. *Classification and pricing of milk not needed for Class I use.* The present Class II classification of milk under each of the seven orders should be redesignated as Class III, and a new Class II classification that would include certain products now in Class I and Class II should be established. The new Class II price should be the basic formula price (Minnesota-Wisconsin manufacturing milk price) for the month plus 10 cents. The price under each of the orders for the redesignated Class III classification should be the basic formula price for the month.

Class II milk should include skim milk and butterfat disposed of in the form of eggnog, yogurt or a "fluid cream product", i.e., cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients. Any product containing 6 percent or more nonmilk fat (or oil) that resembles any of these products likewise should be in this class. Also, eggnog, yogurt and fluid cream products that are in inventory at the end of the month in packaged form should be in Class II.

Included also in this classification should be skim milk and butterfat used to produce cottage cheese, lowfat cottage cheese, dry curd cottage cheese, milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, frozen dessert mixes, any concentrated milk product in bulk fluid form, plastic cream, frozen cream, anhydrous milkfat, custards, puddings, pancake mixes, and formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

A Class II classification should apply also to bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages.

Class III milk should include skim milk and butterfat used to produce cheese (other than cottage cheese, low fat cottage cheese and dry curd cottage cheese), butter, any milk product in dry form, evaporated or condensed milk (plain or sweetened) in a consumer-type package, evaporated or condensed skim milk (plain or sweetened) in a consumer-type package, and any product not otherwise specified as a Class I, Class II or Class III product.

Other Class III uses should include bulk and packaged fluid milk products and bulk fluid cream products in inventory at the end of the month, and that







V 38 178 SEP 14 73 XUM

portion of modified (by the addition of nonfat milk solids) fluid milk products not included in Class I. Class III should include any fluid milk product or Class II product accounted for on a "disposed of" basis that is used for animal feed, or is dumped if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition. Also, shrinkage within certain limits should be classified as Class III milk.

As described later, the classification and pricing adopted herein for milk not needed for Class I use differs in some respects from that set forth in the June 4, 1971, recommended decision.

The Class II classifications under the present orders are essentially alike. Class II uses include skim milk and butterfat used to produce any product other than a fluid milk product, and skim milk and butterfat in fluid milk products that are disposed of to commercial food processing establishments, dumped, disposed of for animal feed, or in inventory at the end of the month. Under the Southern Illinois and Central Illinois orders, such classification of inventory is limited to fluid milk products in bulk form. The orders also include shrinkage (within certain limits) in this classification and that portion of the skim milk equivalent of nonfat milk solids added to fluid milk products that is not classified as Class I milk.

Under five of the seven orders, the present Class II price is the Minnesota-Wisconsin manufacturing milk price. The Indiana order establishes the Class II price at the lower of the Minnesota-Wisconsin price or a butter-nonfat dry milk formula price. Under the Louisville-Lexington-Evansville order, the Class II price for the months of September through March is the Minnesota-Wisconsin price. For the remaining months, it is the Minnesota-Wisconsin price less 10 cents.

The principal cooperatives proposed that the present Class II classification under each order be redesignated as Class III and that many of the uses now included in the surplus class be included in a new, higher-priced Class II classification. These uses would include all soft and hard cheeses except cheddar cheese, frozen desserts, milk shake mixes sold to commercial establishments for further processing, eggnog, cream in plastic, frozen, aerated or sterilized form, anhydrous milkfat, sour cream, sour mixtures (dips), evaporated or condensed milk or skim milk, dietary and infant formulas, custards, puddings, pancake mixes, any product with 6 percent or more nonmilk fat (or oil), and fluid milk products disposed of to commercial food processors. In addition, the cooperatives proposed that the new Class II also include all cream products now in Class I, i.e., cream, mixtures of cream and milk or skim milk containing 9 percent or more butterfat, sour cream and sour mixtures. Under their proposal, producer milk allocated to these uses would be priced under each order at the Minnesota-Wisconsin price plus 10 cents.

Of the present Class II uses, only cheddar cheese, butter, dried products, dumpage, animal feed, shrinkage, ending inventory, and the non-Class I portion of modified fluid milk products would remain in the lowest class under the cooperatives' proposal. These groups asked that milk in such uses be priced under each order at the Minnesota-Wisconsin price.

In support of their proposed classification plan, proponents contended that the present differences in the demand for certain groups of milk products support three different price levels, or classes of utilization, for milk. They stated that the demands for cheddar cheese, butter and nonfat dry milk are quite sensitive to changes in product prices, thus warranting the classification of milk used in such products in the lowest priced class. Proponents contended, on the other hand, that other products presently in Class II should be included in an intermediate-priced class since the demands for such products are less sensitive to price changes.

The principal cooperatives testified also that handlers generally demand a regular supply of producer milk for many of their proposed Class II uses and that alternative supplies of milk or milk products for such uses cannot be obtained for less than the Class II price they propose. Moreover, they claimed that a higher price for some of the surplus milk uses would result in products other than fluid milk products bearing some of the burden of attracting a total supply of milk for the market.

The principal cooperatives contended further that a lower price should apply to milk used in cream and cream mixtures now in Class I. They pointed out that the present classification has placed these products in a poor competitive position in the market relative to nondairy substitutes. Indicating that the industry already may have waited too long to shift cream products to a lower price category, proponents urged a lower price for milk used in such products with the hope that the declining demand for cream could be halted.

The classification plan proposed by the principal cooperatives was generally endorsed by other cooperative associations operating in or near the seven markets. One group of cooperatives urged, however, that all "American" cheeses, rather than just cheddar cheese, be included in Class III. "American" cheeses are commonly considered to include cheddar cheese, colby cheese, granular or stirred curd cheese, and washed curd cheese. Another cooperative proposed that cheddar cheese and colby cheese be in separate classes, but with little difference in the prices established for such classes. Three producer groups also proposed that yogurt be included in the proposed new Class II, rather than in Class I as proposed by the principal cooperatives.

As noted earlier, the national trade associations of fluid milk and ice cream processors did not take a position at the hearing on whether there should be two or three classes of utilization. The two handler groups stated that if a three-class system is adopted certain products proposed by the principal cooperatives to be in the new Class II should be included, instead, in Class III. They urged that the lowest classification apply to frozen desserts (including those with yogurt flavoring), puddings, sour cream, sour mixtures, and dispositions to commercial food processors.

Other handler groups and individual handlers likewise opposed a higher price on milk used in certain manufactured products. Particular attention was focused on milk and condensed products sold to food processors and on evaporated milk. Representatives of the "soft-serve" frozen dessert industry urged that milk shake mixes for commercial use be in the lowest class. Some handlers advocated that the only classification change be that of classifying cream products in a lower class. They proposed that any action to maintain producer returns at present levels because of a change in the classification of cream be limited to increasing the Class I price.

Producer milk not needed for Class I use must be priced at a level that insures the orderly disposition of the milk. Normally, excess milk supplies must be channeled into manufacturing uses. This requires that such milk be priced competitively with manufacturing grade milk if the market is to be cleared of its reserve supplies. At the same time, it is consistent with the purposes of the statute authorizing milk orders that reserve milk supplies be priced at the highest practicable level compatible with orderly disposal of the milk.

Several Wisconsin and Minnesota cooperative associations engaged in the manufacture of butter and nonfat dry milk proposed that all seven of the orders under consideration provide for the use of a butter-nonfat dry milk formula for pricing surplus milk. Under the proposal of the Wisconsin cooperatives, the lower of the Minnesota-Wisconsin price or a butter-nonfat dry milk formula price would apply to producer milk processed into butter and nonfat dry milk. Other proposed Class III uses would be priced at the Minnesota-Wisconsin price. A cooperative based in Minnesota proposed that the lower of the Minnesota-Wisconsin price or a butter-nonfat dry milk formula price apply to all Class III uses.

Different formula prices were proposed, however, by these producer groups. The Wisconsin cooperatives urged the adoption of essentially the same butter-nonfat dry milk formula contained in the Indiana order. The formula proposed by the Minnesota cooperative, on the other hand, would yield a price 12 cents per hundredweight lower than the Indiana formula because of the greater processing costs for butter and nonfat dry milk, or "make allowance," built into the formula. In 1969, the proposed pricing would have returned 17 to 29 cents (depending on the formula used) per hundredweight less than the use of the Minnesota-Wisconsin price alone.

The basic contention of these cooperatives was that plants processing butter and nonfat dry milk from a Class I market's surplus milk cannot afford to pay





the Minnesota-Wisconsin price for milk so used. They indicated that the difference between the market value for these products and the Minnesota-Wisconsin price is considerably less than the amount required to cover the operating costs of such plants. Such plants associated with a fluid market, proponents claimed, have particularly high costs of operation because of the underutilized plant capacity that results when there is a heavy demand for milk at bottling plants. The cooperatives maintained that the class price for milk used in butter and nonfat dry milk must assure processors of such products a minimum processing allowance.

As pointed out, producer milk not needed for Class I use should not be priced lower than is necessary for the orderly disposition of the milk. Presently, handlers and cooperative associations in the seven markets are generally disposing of milk not needed for Class I use at prices that are not less than the Minnesota-Wisconsin price adopted herein as the minimum price for surplus milk. The Minnesota-Wisconsin price is now the lowest price for surplus milk under the St. Louis-Ozarks, Paducah, Southern Illinois, Central Illinois, and Chicago Regional orders. There is no indication that handlers or cooperatives in these five markets are experiencing difficulty in disposing of excess milk supplies at this price level. This includes the Chicago Regional market where nearly one-half of the 7.115 billion pounds of producer milk in 1969 was disposed of in Class II uses.

In the Louisville-Lexington-Evansville market where the Minnesota-Wisconsin price also applies to surplus milk except in certain months, reserve supplies likewise are being disposed of at not less than the Minnesota-Wisconsin price. During the period of January 1969 through June 1970, 176 million pounds of the market's 424 million pounds of Class II producer milk were disposed of by a cooperative to nonpool plants for manufacturing at not less than this price level. This included sales in those months (April–August) when the Class II price under the Louisville-Lexington-Evansville order is the Minnesota-Wisconsin price less 10 cents.

Although the Indiana order now provides for the use of a butter-nonfat dry milk formula price in combination with the Minnesota-Wisconsin price, there is no indication that handlers or cooperatives in this market are disposing of their surplus milk under conditions uniquely different from those faced by handlers in the other nearby markets under consideration. Much of the producer milk associated with the Indiana market is, in fact, produced in the State of Wisconsin.[2] Such milk not needed for Class I use by Indiana handlers is either transferred from Indiana pool plants back to manufacturing plants in the Wisconsin production area or diverted directly to such plants from nearby farms. Processors in Wisconsin buying milk for manufacturing use are generally paying not less than the Minnesota-Wisconsin price for such milk. Moreover, handlers in the Indiana market are not limited to butter and nonfat dry milk uses in disposing of milk not needed for Class I purposes. Of the total quantity of milk processed in this market into manufactured products in 1969, only one-fifth was used in butter and nonfat dry milk.

Under these circumstances, it must be concluded that conditions in each of the seven markets support the use of the Minnesota-Wisconsin price as the minimum price for surplus milk.

Certain uses of producer milk not needed for Class I purposes should be priced at a level 10 cents per hundredweight higher than the Minnesota-Wisconsin price. These uses, which are included in a new Class II classification, were set forth at the beginning of this discussion on pricing surplus milk.

Of the products adopted herein for inclusion in the new Class II, one of principal importance is cottage cheese. For this discussion, the term "cottage cheese" encompasses cottage cheese (i.e., creamed cottage cheese), lowfat cottage cheese, and dry curd cottage cheese.

In these markets cottage cheese has been considered for pricing purposes merely as one of various uses for producer milk not needed for the Class I market. There are, however, several distinguishing characteristics of cottage cheese production that support a higher price for milk in this use than for milk channeled into the residual surplus uses. There is little, if any, relationship between the quantity of cottage cheese made and the amount of reserve milk in the market, as is the case with respect to butter and nonfat dry milk, for instance. Regulated handlers, in conjunction with their fluid milk sales, generally move cottage cheese through the same retail and wholesale outlets. In addition to supplying the Class I requirements of handlers, producers are expected to make available sufficient supplies of fresh, high quality milk for the production of cottage cheese.[3] This is not the case with respect to butter, nonfat dry milk, or hard cheese.

Although some cottage cheese is made in specialized country plants, as the economics of location would suggest, cottage cheese production is commonly an integral part of the processing operations at fluid milk distributing plants. Such plants are usually located in or near the populated centers of the market. This entails a greater hauling expense for producers than when the reserve milk is processed in the production area, as is generally the case with respect to butter, nonfat dry milk and hard cheese manufacture. Also, cottage cheese, unlike most other manufactured products, has a more limited storage life and must be processed on a regular basis. Thus, as in the case of fluid milk products, handlers require that adequate supplies of producer milk be made available at their distributing plants at all times for cottage cheese use.

The adopted Class II price (the Minnesota-Wisconsin price plus 10 cents) is a reflection of some of the additional value which producer milk used in cottage cheese has to regulated handlers. The local producer supplies are the only dependable supplies of quality fluid milk within the normal milksheds of the seven subject markets for cottage cheese production. In these markets, any nearby milk of the necessary quality is attached to other regulated fluid milk markets and would be available to handlers only sporadically. With the handling and transportation charges, the cost of this milk to handlers would be at least as high as the adopted Class II price.

Rather than produce his own cottage cheese, a handler might choose to purchase the finished product from some other Federal order market where a lower price applies to cottage cheese milk. There is no indication, however, that under the adopted pricing such a handler could materially enhance his competitive position relative to handlers using producer milk. The cost of transporting cottage cheese, a relatively bulky and perishable item, from distant areas to outlets in the seven markets would generally negate any apparent price advantage attributable to differences in order prices applicable to cottage cheese milk.

Milk used in yogurt should be priced at the Class II price level rather than at the Class I level as the principal cooperatives proposed. Yogurt is a soft, nonfluid, "spoonable" product. It is not a beverage as are other products defined herein as fluid milk products.

Yogurt has some of the marketing characteristics of cottage cheese, although, unlike cottage cheese, very limited quantities of yogurt are made in the seven markets under consideration. To the extent of this limited production, however, processors generally use regular supplies of inspected milk. Although yogurt can be made from cream and nonfat dry milk, processors indicated that milk is preferred. Since yogurt has a relatively limited shelf life, it is made on a continuing basis, thus requiring a regular supply of milk at all times. As in the case of cottage cheese production, these conditions warrant that producer milk used in yogurt be priced at a level above the price for milk disposed of through the traditional residual uses for surplus milk.

[2] Official notice is taken of the publication issued February 1971 by the Dairy Division, Consumer and Marketing Service, U.S. Department of Agriculture (C&MS–50 (1969)), titled "Sources of Milk for Federal Order Markets." This publication indicates that in December 1969 over 26 percent of the producer milk on the Indiana market was produced in Wisconsin.

[3] The reliance on producers for milk for cottage cheese production is not unique to the seven markets under consideration. As noted in the November 1970 issue of Federal Milk Order Market Statistics, 80 percent of the creamed cottage cheese made in the United States in 1969 was processed from milk regulated under Federal milk orders. Official notice is taken of this publication which was issued by the Dairy Division, Consumer and Marketing Service, U.S. Department of Agriculture, Washington, D.C.



V 38 I 178 SEP 14 73 XUM

Class II also should include frozen desserts (including commercial milkshake and ice milk mixes), custards, puddings, pancake mixes, dietary and infant formulas, and sales of bulk milk and cream to commercial food processors for use in food products. In the June 4 recommended decision, such uses of skim milk and butterfat were proposed to be included in Class III. Upon consideration of exceptions filed to that decision by cooperatives, it is concluded that market conditions support a higher price for producer milk in such uses than was initially recommended.

As producers pointed out in their exceptions, the rationale set forth in the June 4 decision for including cottage cheese in an intermediate class is in several respects applicable to these other products just listed. The demand for producer milk used in these products is related closely to the current consumer demand for such products. Thus, handlers normally want adequate supplies of producer milk made available at their plants in the quantities and at the times needed for these uses. This is in contrast to the more storable residual "hard" products. Also, the processing of such products often takes place at the market center, which entails a greater hauling expense for producers than when reserve milk is processed in the production area. Moreover, it is doubtful that handlers in general would be able to obtain alternative supplies of milk or product ingredients at less than the cost of producer milk under the adopted pricing provisions.

Cooperatives proposed that the Class II price in these markets be set at 10 cents over the Minnesota-Wisconsin price. The national trade associations of fluid milk and ice cream processors contended that any price differential over the Class III price for milk in an intermediate class should not be more than 10 cents per hundredweight. In supporting this position, individual handlers stressed that any greater price differential would seriously jeopardize the competitive position of regulated handlers using producer milk relative to unregulated processors relying largely on ungraded milk.

With respect to the several milk uses at issue in the cooperatives' exceptions, the preponderance of evidence at the hearing focused largely on the marketing of frozen desserts. The marketing conditions for frozen desserts are somewhat varied in the seven-market area. Some regulated handlers rely regularly on producer milk for use in frozen desserts. Other handlers rely on purchases of condensed skim milk or nonfat dry milk in processing frozen desserts. Also, the concentrated products used may be made from either graded or ungraded milk. In addition, much of the processing of frozen desserts is done at unregulated plants. Some unregulated processors rely on ungraded milk, while others use milk surplus to the needs of regulated fluid markets. Other unregulated processors use concentrated forms of milk from either graded or ungraded sources.

The marketing situation in the seven-market area for the several other milk uses in question (custards, puddings, pancake mixes, dietary and infant formulas, and sales to commercial food processors) is essentially the same as for frozen desserts.

Under these varying conditions, the Class II price should be set at 10 cents over the Minnesota-Wisconsin price. Pricing Class II milk at this level should permit regulated handlers using producer milk to remain competitive in the marketplace with the unregulated sector in the sale of Class II products. At the same time, such price will reflect the minimum additional value of such high quality producer milk supplied to regulated handlers over the widespread area covered by the seven markets at the times and places, and in the quantities, needed for the several Class II uses.

It is recognized that under the varied conditions just described an individual handler may find that producer milk does not represent the cheapest source of milk for his Class II uses. Presumably the alternative source would be concentrated forms of milk since health regulations would not permit the receipt of ungraded supplies of whole milk at a pool distributing plant, and graded supplies would not be available on a regular basis at less than the Class II price. Under the revised allocation provisions adopted herein, receipts of nonfluid other source milk such as condensed skim milk or nonfat dry milk that are used in a Class II product would be allocated directly to the handler's Class II uses, with no obligation applying under the order to such milk. Under this arrangement, the handler could choose to use the other source milk without the cost impact of down-allocation should the cost of such milk become less than the cost of producer milk. The handler thus could rely upon whichever source of milk best fits his competitive and operational circumstances.

Classifying the several types of cream items, some of which are now in Class I while others are in Class II, in the new Class II will accommodate proponents' desire for a lower price for milk used in cream products and at the same time price at the same level a variety of products that often compete with each other. Half and half, whether sterilized or unsterilized, and light cream are used principally by consumers in coffee. Aerated cream and sterilized and unsterilized whipping cream are used as dessert toppings. Both graded and ungraded sour cream and sour mixtures are used by consumers for the same purpose. The same classification for these cream products will result in uniform pricing to handlers for milk used in products competing in the same trade channels for the same users.

Although the present Class I cream products sold in these markets must be made from inspected milk, which is delivered regularly by producers to distributing plants, there was general agreement by producers that milk sold in the form of such products should no longer be subject to the Class I price. Relative to the total Class I sales of producer milk in these markets, cream products represent approximately 2 percent of the present Class I market. Thus, this classification change will have relatively little effect on the total returns to producers.

In connection with the reclassification of cream products, it is desirable to define a new term—"fluid cream product". "Fluid cream product" would mean cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

With the reclassification of cream, movements of cream to or from a plant no longer should be considered in determining if a plant meets the pooling requirements of the order. To accommodate this, certain changes are necessary in those pool plant definitions that make specific reference to the movement of cream.

Eggnog should be a Class II product, rather than a Class I product as was proposed in the June 4 recommended decision.

The principal cooperatives proposed that eggnog, which is presently a Class II product under each order, be included in the new intermediate price class. Although recognizing that eggnog is a beverage, the cooperatives contended that eggnog should not be a Class I product because of its relatively high butterfat content (6 percent or more) and its highly seasonal demand. This position was supported by handlers.

In their exceptions to the recommended inclusion of eggnog in Class I, handlers and producers pointed out that this classification would place eggnog at a competitive disadvantage with imitation eggnog containing nonmilk fat. It was noted that, as at present, only those "filled" products containing less than 6 percent nonmilk fat (or oil) would be included in Class I under the revised classification plan.

An estimated 40 percent of the marketings of eggnog-type products is in the form of imitation eggnog. Since imitation eggnog would not be a Class I product, it is concluded that eggnog similarly should be included in a lower class. This will enhance the competitive position of the product in the marketplace.

Certain handlers proposed that eggnog flavored fluid milk products be included in the same class as eggnog. This should not be adopted. The record in no way demonstrates that a Class I classification for fluid milk to which eggnog flavoring has been added is any less appropriate than for fluid milk to which chocolate or some other flavoring has been added. Returns to producers for milk disposed of in the form of a flavored fluid milk product should be the same regardless of the type of flavoring used.

With the establishment of a new intermediate price class, it is appropriate that any filled products that resemble the proposed Class II products made with milk fat likewise be included in this new class. The substitution of nonmilk fat for milk fat in a product merely changes the composition of the product and not its





use. For competitive reasons, a comparable classification of products made with milk fat and their filled counterparts is necessary.

Condensed milk or skim milk in bulk, plastic cream, frozen cream and anhydrous milk fat are "intermediate" products that also should be included in Class II. These products are not end uses in themselves but instead are used in making other products, including frozen desserts and food products such as candy and soup. Under the classification adopted herein, frozen desserts and food products are Class II uses for milk. Accordingly, producer milk used in the several intermediate products likewise should be priced at the Class II level.

A Class II classification should not apply to evaporated or condensed milk or skim milk in consumer-type containers as cooperatives proposed. Also, such classification should not apply to certain hard cheeses. Such storable products should be included in the redesignated Class III classification. A Class III classification for producer milk in these products will permit such uses to remain as a competitive outlet for milk surplus to the needs of the Class I market. Such products made from milk regulated under these orders must compete over wide areas with the same products processed from ungraded milk or other graded milk that is often priced at no more than the Minnesota-Wisconsin price. Comparable pricing should prevail under these seven orders.

In proposing a generally uniform classification plan for the seven markets, cooperatives emphasized that any new plan adopted should not result in lower total returns to producers. Handlers, on the other hand, stressed that their total cost of milk should not be increased.

Providing for classification and pricing provisions that are generally uniform among the various markets cannot necessarily encompass at the same time the maintenance of precisely the same value of producer milk in each market. With the many classification and pricing differences that now exist among these orders, resolution of these differences through a uniform classification and pricing plan would be expected to have some effect on the value of producer milk in individual markets. While the provisions adopted in this decision are not designed to change the value of producer milk in the aggregate, their effect on producer returns or handlers' costs in an individual market cannot be controlling in deciding on the matter of classification and pricing here under consideration.

4. *Miscellaneous classification and accounting changes.* The following findings and conclusions relate to certain miscellaneous classification proposals by handlers and producers and to some of the order changes that are necessary to implement the revised classification plan adopted herein for each of the seven subject orders.

(a) *Other source milk definition.* A common other source milk definition should be adopted for each order.

Because of the revised classification plan, certain changes in the present other source milk definition of each order are necessary. This definition would continue to serve, however, the present function of implementing the identification of various categories of receipts at a regulated plant.

Presently, fluid milk products (which include cream) from any source other than producers, cooperatives acting as a handler for farm bulk tank milk, pool plants, and plant inventory at the beginning of the month are considered as other source milk. Under the revised classification plan, cream no longer would be defined as a fluid milk product. To facilitate the application of other provisions of each order, however, it is desirable that fluid cream products, when in bulk form, continue to be treated in the same manner as fluid milk products for purposes of applying the other source milk definition.

Other source milk should include any receipts in packaged form of fluid cream products eggnog or yogurt (or any filled product resembling such products). These are Class II products under the revised classification plan.

This is a different accounting procedure than was proposed under the June 4 recommended decision. As proposed initially, fluid cream products received at a pool plant from any source in consumer-type packages and disposed of, or held in inventory, in the same container in which received would not have been considered as other source milk. Such products would have been treated as "pass-through" products and as such would not have been subject to the allocation and pricing provisions of the order. A somewhat similar treatment would have been accorded receipts of yogurt. Receipts of packaged eggnog (a Class I product under the initial recommendations) would have been accounted for under the other source milk provisions in the same manner as fluid milk products.

Although no handler obligation would apply under the provisions adopted herein to these receipts of packaged Class II products, it is desirable for accounting purposes that such receipts be defined as other source milk. This accounting procedure will preclude the recordkeeping difficulties that might otherwise be experienced in accounting separately for inventories and sales of Class II products processed in the handler's plant versus those received at the plant in packaged form from other plants. As provided herein, such receipts of other source milk would be allocated directly to the handler's Class II utilization, rather than being allocated to the extent possible to the handler's lowest utilization as is provided in some cases for other types of other source milk.

The orders now provide that manufactured products from any source that are reprocessed, converted into, or combined with another product in the plant shall be considered as other source milk. For accounting purposes under the order, such manufactured products should include dry curd cottage cheese received at a pool plant to which cream is added before distribution to consumers. When used to produce cottage cheese or low-fat cottage cheese, the receipts of dry curd would be allocated under the adopted provisions directly to the handler's Class II utilization. No handler obligation would apply under the order to such receipts.

The orders should provide that products manufactured in a pool plant during the month and then reprocessed, converted into, or combined with another product in the same plant during the same month not be defined as other source milk. A typical processing operation would be for a handler to make condensed skim milk from producer milk and then use the condensed product in making ice cream. It is intended under this situation that the producer milk be considered as having been used to produce ice cream. The condensing operation is merely one of the steps performed by the handler in processing ice cream from raw milk.

Other source milk should include any disappearance of manufactured milk products for which the handler fails to establish a disposition. Four of the seven orders now have a provision concerning the unaccounted for disappearance of such products. The other source milk definitions in the Chicago Regional, Paducah and Louisville-Lexington-Evansville orders do not specify such disappearance as other source milk.

It is reasonable that each handler be required to account fully for all milk and milk products received or processed at his plant. Otherwise, a handler with inadequate records may have an opportunity to gain a competitive advantage over his competitors who properly account for all milk. Specifying any unexplained disappearance of manufactured milk products as other source milk will contribute to a uniform application of the regulatory plan to all handlers.

(b) *Accounting for nonfat milk solids added to milk and milk products.*—No change should be made in the present method of classifying the skim milk equivalent of nonfat milk solids added to a fluid milk product.

Currently, each of the seven orders provides that a modified fluid milk product shall be classified as Class I in the amount of the weight of an equal volume of an unmodified product of the same nature and butterfat content. The remaining skim milk equivalent of the nonfat milk solids in such product is classified in Class II.

The principal cooperatives proposed that the amount of a modified fluid milk product that is classified as Class I be the actual weight of the modified product rather than the weight of a like unmodified product.

Proponents stated that when verification of the nonfat milk solids used to modify natural milk and skim milk involves laboratory tests of the modified product, the amount of modification is expressed as a percentage of the weight of the modified product. Where laboratory analysis is used to determine the



V 38-178 SEP 14 73 XUM

total milk solids disposed of in modified products, proponents contended that administrative procedures could be simplified by using the actual product weight factor.

There was no showing of the extent to which laboratory analysis of modified products is used in verification by market administrators in these seven markets. Also, there was no claim that any saving in administrative cost would be possible under the procedure proposed by the cooperatives in those instances where the market administrator determines the amount of solids added to modified products by using production records rather than by laboratory tests of packaged products. Accordingly, it is not clear from this record that the proposed procedure would result in any net saving in administrative cost.

Proponents did not attempt to demonstrate any economic basis for making the slightly greater charge for nonfat milk solids used to modify fluid milk products which would result from their proposal. Their proposed procedure would increase slightly the quantity of a modified product priced in Class I. A gallon of modified skim milk containing 11 percent nonfat milk solids would be classified in Class I on an 8.7 pounds weight factor as compared to the present basis of an 8.63 pounds weight factor. The larger weight factor would add about one-tenth cent (ranging from 0.09 cent under the Chicago Regional order to 0.11 cent under the St. Louis-Ozarks order) to a handler's obligation under the order per gallon of such product sold.

The present method of classifying modified fluid milk products increases total Class I sales only to the extent of the volume of the unmodified product that the added nonfat milk solids replaces. In the absence of evidence that the present procedure is inappropriate, it should be continued. The present procedure is used under Federal orders generally and, therefore, carries out the objective of uniformity in this respect.

Handlers may add nonfat milk solids to several of the proposed Class II products, such as half and half and light cream. Each order should provide in this case that the entire weight of the skim milk equivalent of the solids added be classified in Class II. This procedure would differ from that applicable to modified fluid milk products in that no part of the skim milk equivalent of the added solids would be classified in the lowest class. As described in detail later, nonfat dry milk or condensed milk that is added to a Class II product would be allocated directly to the handler's Class II use. Thus, classification of the entire skim milk equivalent in Class II would not affect adversely the handler's pool obligation under this allocation procedure.

(c) *Classification of milk transferred or diverted to other plants.* Certain changes should be made in the provisions of each order that prescribe the classification of fluid milk products that are transferred or diverted from a pool plant to another plant. Several of the changes become necessary with the adoption of three classes of utilization in place of the present two classes. Other changes are appropriate for purposes of uniformity among orders and clarity in the classification of milk.

Under the adopted classification plan, fluid cream products would be classified as Class II products. If such products are transferred to another plant in packaged form, the skim milk and butterfat contained therein should be classified as Class II milk since these items are moved in final form. The classification of fluid cream products when disposed of in bulk form, however, is determinable only by following the movement of the bulk product to its final use. Thus, it is necessary that fluid cream products that are transferred in bulk form from a pool plant to another plant be classified in a manner similar to that now used in classifying transfers of bulk fluid milk products.

Each order now prescribes a procedure for classifying transfers of bulk fluid milk products from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant. To determine such classification, the nonpool plant's utilization must be assigned to its receipts of milk from each source. Some amplification of this procedure is appropriate to set forth clearly the priority for assigning the different types of plant use to the different sources of fluid milk products and bulk fluid cream products received at the nonpool plant.

Under the proposed assignment priorities, the first step is to assign the nonpool plant's Class I utilization to its receipts of packaged fluid milk products from all federally regulated plants. Such receipts should receive first priority on the nonpool plant's Class I use since all orders provide that such packaged transfers from a pool plant to an unregulated nonpool plant shall be classified as Class I milk.

Thus, any Class I route disposition of the nonpool plant in the marketing area of a Federal order, and any transfers of packaged fluid milk products from the nonpool plant to plants fully regulated under such order, would be assigned, first, to the nonpool plant's receipts of packaged fluid milk products from plants fully regulated under such order and, second, to any such remaining packaged receipts from plants fully regulated under other Federal orders.

A similar assignment of any such remaining disposition (i.e., the aforesaid Class I route disposition and transfers of packaged fluid milk products) then would be made to the nonpool plant's receipts of bulk fluid milk products from pool plants and other order plants. Any other Class I disposition of packaged fluid milk products from the nonpool plant, such as route disposition in unregulated areas, would be assigned to any remaining unassigned receipts of packaged fluid milk products at the nonpool plant from plants fully regulated under any Federal order.

After these assignments, any Class I use at the nonpool plant that is attributable to the Class I allocation at a Federal order plant of fluid milk products transferred in bulk from the nonpool plant to the regulated plant would be assigned next. Such use would be assigned, first, to the nonpool plant's remaining unassigned receipts of fluid milk products from plants fully regulated under that order and, second, to any such remaining receipts from plants fully regulated under other orders.

Additional unassigned Class I utilization at the nonpool plant then would be assigned to the plant's receipts of Grade A milk from dairy farmers and unregulated nonpool plants that are determined to be regular sources of Grade A milk for the nonpool plant. Any remaining unassigned receipts of fluid milk products at the nonpool plant from plants fully regulated under any order would be assigned to any of the nonpool plant's remaining Class I utilization, then to its Class III utilization, and then to its Class II utilization.

Following these assignments, any receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants would be assigned to the nonpool plant's remaining unassigned utilization in each class. Such assignment would be made in sequence beginning with the lowest class.

In determining the classification of any transfers or diversions from a pool plant to a nonpool plant, the utilization of any transfers from the nonpool plant to another unregulated nonpool plant also must be established. In this case, the same assignment priorities just outlined should apply also at the second nonpool plant.

Each of the seven orders now provides that transfers of fluid milk products from a pool plant to a producer-handler shall be classified as Class I milk. The St. Louis-Ozarks order requires also that such transfers to a producer-handler under any other order likewise shall be Class I. This additional requirement should apply under each of the orders.

Under the Federal order program, producer-handlers, in their capacity as handlers, are exempt from the pricing and pooling provisions of the various orders. In consideration of this exemption, each order requires a Class I classification of all fluid milk products that are transferred from a pool plant to a producer-handler as defined under that particular order. Inasmuch as the producer-handler exemption under each order is predicated on essentially the same basis, a Class I classification of milk transferred from a pool plant regulated under one order to a producer-handler as defined under another order would be in keeping with the general basis for producer-handler exemption.

Bulk fluid cream products transferred from a pool plant to a producer-handler should be assigned to the extent possible to the latter's Class III use, and then Class II use. If the producer-handler does not have enough utilization in these classes to cover such transfers, any remaining transfers should be classified as Class I milk.

As in the case of all other fluid milk products, such transfers of cream are





now classified as Class I milk. Such classification tends to assure that producers do not carry for producer-handlers the burden of all reserve supplies for their Class I market. With the removal of cream from the Class I classification, as adopted herein, a mandatory Class I classification of cream transfers to producer-handlers would not be necessary for this purpose.

In addition to the Class I classification of all fluid milk products transferred to a producer-handler, the Chicago Regional order provides for a similar classification of all fluid milk products transferred to an "exempt distributing plant." Also, a similar classification applies under the St. Louis-Ozarks order to all fluid milk products transferred to a plant operated by a "governmental agency." Under each of these two orders, the adopted method for classifying bulk fluid cream products transferred to a producer-handler should apply likewise to transfers of bulk fluid cream products to these two other types of plants.

The classification of milk transferred or diverted from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant should not be contingent upon any distance limitation. Presently, such mileage (or area) limitations apply under the Chicago Regional, Louisville-Lexington-Evansville and St. Louis-Ozarks orders. Until recently, similar limitations applied also under the Southern Illinois and Central Illinois orders. These limitations under the latter two orders were removed by amendatory actions (35 F.R. 12267, 18107) subsequent to the classification hearing on which this decision is based.

The Chicago Regional order provides that fluid milk products transferred in bulk form from a pool plant to a nonpool plant located outside the States of Wisconsin, Minnesota, Iowa, Illinois, Indiana, Michigan, or Ohio shall be classified as Class I milk to the extent of the nonpool plant's Class I disposition, regardless of where such disposition is made. Transfers to nonpool plants located in these States, on the other hand, are classified on a basis that assigns the nonpool plant's Class I utilization to its various sources of receipts in accordance with where the plant disposes of its Class I milk.

Under the Louisville-Lexington-Evansville order, milk transferred or diverted to a nonpool plant located 250 miles or more from the nearer of Louisville, Kentucky, or Evansville, Indiana, is classified as Class I milk regardless of its use at the nonpool plant. Recognition is given under the classification provisions of such order to the nonpool plant's actual utilization in the case of milk transferred to less distant plants.

Classification provisions similar to those for the Louisville-Lexington-Evansville order are contained in the St. Louis-Ozarks order. In this case, the automatic Class I classification applies on transfers and diversions of milk to plants located more than 350 miles from St. Louis.

The conditions prompting the initial adoption of these mileage limitations no longer prevail, thereby making their continued use inappropriate. The use of mileage limitations evolved in large part from the relatively high transportation cost of milk relative to its value for manufacturing and from the administrative cost of verifying the utilization of milk transferred to plants distant from the local market. Under today's conditions of distribution, milk regularly moves greater distances as a routine matter. Moreover, Federal orders now operate throughout much of the United States. Arrangements for verifying the utilization at distant plants can be made easily through the facilities of the various market administrators' offices.

Also, the mileage limitations often are no longer consistent with the existing supply patterns. Milk is often moved considerable distances from producers' farms to distributing plants. When such milk is not needed for fluid use, it is usually diverted to manufacturing plants located close to the production area. Classifying such milk in Class I because of applicable mileage limitations is not consistent with the obvious manufacturing use of the milk. Removal of such provisions will promote uniformity in classification among the seven markets.

The orders should be uniform with respect to the conditions under which the classification provisions apply to bulk milk movements from one regulated market to another. Although each order now has the same rules for classifying such movements of milk, their application is limited under the Louisville-Lexington-Evansville and Paducah orders to only those movements in the form of interplant transfers. These two orders do not permit milk to be moved to other Federal order plants by diversion.

In connection with developing uniform classification provisions for the seven orders, provision should be made under each order for the diversion of milk to other order plants for Class II or Class III use. This will contribute to a more uniform application of the classification provisions to all regulated handlers. At the same time, such provision will foster the efficient handling of surplus milk in these markets. Since the advent of farm bulk tanks, the diversion of producer milk from pool plants to manufacturing plants has been a common method of handling milk not needed for the fluid market. The handling of surplus milk can be facilitated by permitting the disposal of such milk directly from farms to manufacturing plants in other markets, rather than having such intermarket movements limited to the more expensive method of transferring milk from one plant to another. With the safeguards adopted herein, returns to producers in the market to which the milk is diverted will not be affected by the processing of this surplus milk in their market since the diverted milk will continue to be pooled in the market from which diverted.

(d) *Classification of end-of-month inventory.* Each of the orders should be made uniform with respect to the classification of inventory on hand at the end of the month. Fluid milk products in either packaged or bulk form that are in a handler's end-of-month inventory should be classified as Class III milk. Such inventory should be subject in the following month to reclassification in a higher class. Ending inventory of fluid cream products, eggnog and yogurt, when held in bulk form, likewise should be classified in Class III and subject to reclassification. Such products held in packaged form at the end of the month should be classified as Class II milk.

Presently, five of the orders classify all ending inventories of fluid milk products (which now include most cream products) in the lowest class. Under the Southern Illinois and Central Illinois orders, on the other hand, such inventories in bulk form are classified in the lowest class, while a Class I classification applies to such inventories in packaged form. In the latter case, a handler's obligation for the Class I inventory is adjusted in the following month by whatever amount the Class I price in such month changes from the Class I price level initially applicable to the inventory. This assures that such inventory is priced on a current basis when disposed of on routes.

The principal cooperatives proposed that all seven orders classify all ending inventories of fluid milk products in Class III. They claimed that this procedure would be less complicated for handlers since handlers only occasionally would have any adjustment in their pool obligation as a result of having Class III inventories reclassified the following month in Class I. Proponents stated that with packaged inventories in Class I, as under the Central Illinois and Southern Illinois orders, each handler usually has some adjustment each month in his obligation for Class I inventories. The cooperatives' proposed classification of ending inventories was supported by handlers.

In the interest of establishing uniform classification provisions among the orders, the same procedure for classifying end-of-month inventory should be adopted for each of the orders. It was concluded in the June 4 recommended decision that the differences among these orders in classifying ending inventories of fluid milk products should be resolved in favor of the procedure now used under the Southern Illinois and Central Illinois orders (i.e., packaged inventory in Class I and bulk inventory in Class III). It is recognized, however, that either type of inventory procedure now being used in these markets results over the long run in essentially the same pool obligation for handlers and the same returns to producers. In this circumstance, the substantial support among the industry for classifying all ending inventories of fluid milk products in the lowest class, as expressed both at the hearing and in producers' and handlers' exceptions, suggests that this procedure be used under all orders.

Under this procedure, such inventories would be subject in the following month to reclassification in a higher class, as determined through the alloca-



V 38 I 178 SEP 14 73 XUM

tion of a handler's receipts to his utilization. A charge to the handler at the difference between the Class III price for the preceding month and the Class I or Class II price as applicable, for the current month would apply to any reclassified inventory. This is the same reclassification procedure that now applies under the orders to inventories of fluid milk products in bulk form.

Fluid cream products in bulk form that are on hand at the end of the month likewise should be classified in Class III. As in the case of bulk milk, the final use of cream being held in bulk form is not necessarily apparent from that form. The cream must be followed to its ultimate use, which may be in any class. Accordingly, it is reasonable to classify any closing inventory of bulk cream in Class III and then apply a reclassification charge should the cream, as beginning inventory the following month, be allocated to a higher class.

Fluid cream products, yogurt, and eggnog that are on hand in packaged form at the end of the month should be classified in Class II, the class of expected ultimate use, rather than in Class III as would be the case for ending inventories of such products in bulk form. The higher classification will accommodate the treatment adopted herein whereby such products that are received at a pool plant in packaged form and disposed of in the same packages would be permitted to "pass through" the plant without any pool obligation or down-allocation. In this connection, the ending Class II inventory, as Class II inventory on hand at the beginning of the following month, would be allocated in the following month directly to the handler's Class II utilization.

For the first month that the revised classification plan is effective, certain transitional provisions relating to inventory should apply. Such provisions are necessary to assure that all handlers under an order will be subject to the same pricing for milk used in packaged fluid milk products and fluid cream products whether such products enter into the month's accounting as beginning inventory or are made from current receipts of producer milk.

As indicated, five of the orders under consideration presently classify ending inventories of fluid milk products, including cream items, in the lowest class. Thus, in the last month that the present classification plan is effective, handlers under these orders will have paid the corresponding class price for these products. In the first month under the new plan, such inventories that had been held over in the form of a fluid milk product or a bulk fluid cream product would be allocated to the extent possible to the handler's Class III utilization. Should such inventories be allocated to a higher class, the appropriate reclassification charge would apply.

Under the new plan, beginning inventories of fluid cream products in packaged form normally would be allocated directly to a handler's Class II utilization. Such allocation assumes that the products were priced at the Class II price in the preceding month. Since this would not be the case for the first month under the new amendments, such inventories should be allocated in the first month to the extent possible to Class III, as in the case of inventories of fluid milk products and bulk fluid cream products. A reclassification charge should apply if a higher classification results.

Under the Southern Illinois and Central Illinois orders, which now classify ending inventories of packaged fluid milk products in Class I, a pool credit should apply to such inventories in the first month that the revised classification plan is effective. Under the new plan, beginning inventories of fluid milk products and, for the first month all fluid cream products would be allocated to the extent possible to Class III. Again, this allocation assumes that such inventories were priced at the lowest class price in the preceding month. Since such inventories in packaged form will have been priced at the preceding month's Class I price, handlers under these two orders should receive a credit on such packaged inventories equal to the difference between the preceding month's Class I price and lowest class price. If a higher classification results through the allocation procedure, the appropriate reclassification charge would apply.

(e) *Shrinkage allowances.* The classification of shrinkage under each order should be changed only to the extent necessary to achieve uniformity among the seven orders in the application of certain shrinkage provisions.

A cooperative association proposed that any plant losses experienced by a handler be classified as Class I milk. Currently, a handler is permitted to have a certain amount of shrinkage classified in Class II. In conjunction with the shrinkage proposal, this producer group also proposed that no exception to the Class I classification of fluid milk products disposed of on routes be made for route returns. Presently, the orders permit route returns that are disposed of for animal feed or dumped to be classified in Class II.

The cooperative proposed that in lieu of the Class II shrinkage and route return allowances a handler be given a credit on his pool obligation of 2 cents per hundredweight for all milk, skim milk, and cream handled in bulk form in his plant. To maintain the present relationship in the proration of shrinkage between the receiving and processing operations, the cooperative proposed that a handler be allowed 0.5 cent per hundredweight for receiving and 1.5 cents per hundredweight for processing, or a total of 2 cents if the handler performed both operations.

While urging that the classification provisions of the seven orders be made as uniform as possible, the principal cooperatives proposed that no change be made at this time in the shrinkage provisions of the orders.

Other than to make them uniform in several respects, no basic change should be made at this time in the shrinkage provisions of the seven orders, or in the arrangement for classifying route returns. Although there may be some merit in revising these provisions to a greater extent than is set forth herein, such changes should be based on a thorough exploration of the issue at a hearing after adequate public notice. These conditions were not met at this hearing.

Each of the orders now provides that with respect to a handler's shrinkage of milk that is received at his pool plant directly from producers, up to 2 percent of such receipts may be classified as Class II milk, the lowest utilization. Should the handler transfer some of the producer milk to another pool plant for processing, the Class II shrinkage which the handler may claim on such milk is limited to 0.5 percent of the milk.

This division of shrinkage between the receiving handler and the processing handler also applies under those orders which provide for a cooperative association to be the handler on bulk tank milk which it receives at the farm and delivers to a pool plant. If, in this case, the plant operator purchases such milk on the basis of scale weights, the maximum Class II shrinkage allowance for the plant operator is 1.5 percent of such milk. The cooperative, as the receiving handler, is the responsible handler for any difference between the farm weights and the weight at which the plant operator purchases the milk. Of this difference, up to 0.5 percent of the milk at farm weights is allowed the cooperative as Class II shrinkage. If the plant operator purchases the milk on the basis of farm weights, however, he is permitted the full 2 percent Class II shrinkage allowance.

With respect to producer milk diverted from a pool plant to a nonpool plant or, under certain of the orders, to another pool plant, either by a plant operator or by a cooperative association, the shrinkage allowances under the present orders are not consistent in all cases with the shrinkage classification outlined above. There is little, if any, reason for applying shrinkage allowances differently under the several orders under comparable handling arrangements. The shrinkage provisions of these orders should be modified to the extent necessary to make them generally uniform with respect to the same handling arrangements.

In this regard, each order should provide that in the case of milk diverted to a nonpool plant or, if permitted, to another pool plant, the diverting handler shall be allowed up to 0.5 percent Class III shrinkage on the milk if it is not purchased on the basis of farm weights by the operator of the plant where the milk is physically received. Where such diversions are to a pool plant, the operator of the plant to which the milk is diverted should be permitted in this case up to 1.5 percent Class III shrinkage. If the operator of the nonpool plant or pool plant purchases such milk on the basis of farm weights, no shrinkage allowance on the milk should be permitted the diverting handler. In the case of the operator of the pool plant where the milk is physically received,





such operator should receive the full 2 percent allowance.

(f) *Allocation of receipts to utilization.* In adopting a revised classification plan under each of the seven orders, conforming changes must be made in the provisions that prescribe how a handler's receipts from different sources shall be allocated to his utilization for the purpose of classifying producer milk. Such changes are necessary to provide for the allocation of receipts to three classes of utilization rather than two classes as at present.

In this connection, the adoption of three use classes requires a new consideration of how other source milk shall be allocated to a handler's utilization of milk. Under the present orders, other source milk is allocated in most cases to a handler's surplus uses to the extent possible, regardless of how it actually may have been used. The producers who are relied upon for a regular supply of milk for the local fluid market thus receive the highest possible classification of their milk. Depending on the supply conditions, milk from unregulated supply plants and other Federal order plants is permitted to share in varying degrees with local producer milk in the higher value of the handler's Class I sales.

In conjunction with the revised classification plan, however, handlers using certain types of other source milk (whether in the form received or in reconstituted form) in the processing of Class II products should be permitted to have such other source milk allocated directly to their Class II uses. Under the plan adopted herein, such other source milk to which direct allocation could apply would be limited to milk products that are not fluid milk products or fluid cream products (such as nonfat dry milk and condensed milk or skim milk).

The national associations of fluid milk and ice cream processors proposed that if a three-class system is adopted handlers should have the option of having other source milk allocated to their Class II utilization rather than allocated to the extent possible to the lowest class. It was their position that the Class II price for producer milk should not be set at a level that is any higher than the cost to handlers of obtaining alternative supplies of milk or milk products for Class II use. These groups contended that with such pricing there is no justification for "down-allocating" to Class III any receipts of other source milk which actually may have been used in Class II.

Handlers indicated further that with optional allocation a handler could choose to use other source milk without the cost impact of down-allocation should the cost of such milk become less than the cost of producer milk for Class II use. Also, these groups stated that down-allocation of other source milk would imply an intent to provide undue protection of the Class II market for producers. They maintained that such protection is not justified, or apparently intended by producers in view of no producer proposal for a compensatory payment on other source milk used in Class II.

The principal cooperative associations, on the other hand urged in connection with their proposal for three classes that producers have first claim on a handler's Class II use as well as on his Class I use. It was their contention that producer milk not used in Class I should receive the next highest possible classification since the milk was produced for the Class I market and represents the reserve supply for this segment of the dairy industry.

In establishing a new intermediate price class, it is not intended that this outlet for producer milk necessarily be reserved for local producers. This new use class merely recognizes that some additional value attaches to producer milk used by regulated handlers in the Class II products. Pricing this milk at a level above the Class III price serves also to reduce the burden on the Class I price of attracting a supply of producer milk for the Class I market. It is not intended that producer returns be enhanced for the purpose of also attracting a full supply of producer milk for handlers' Class II uses. Accordingly, no obligation to the pool (commonly known as a compensatory payment) would be imposed under the revised classification plan on any other source milk which regulated handlers may use in Class II or on any Class II products that may be distributed in the market by nonpool plants, either directly on routes or through pool plants.

As long as the Class II price for producer milk remains in proper relationship with the cost of alternative supplies, it is not expected that this direct allocation of nonfluid other source milk to Class II will induce handlers to use other source milk in preference to producer milk to any greater extent than presently for processing Class II products. Under the adopted Class II price, producers would represent in most circumstances the most economical source of milk for Class II use.

No provision should be made for the direct allocation to a handler's Class II utilization of other source milk received in fluid form. Unlike the handling of nonfat dry milk, it would not be unusual for a handler to commingle in his plant any receipts of fluid other source milk with his receipts of producer milk. In this circumstance, it would not be possible to know just how much of the other source milk may have been used in the processing of a Class II product. The difficulty which a handler would have in demonstrating that he actually used fluid other source milk in a Class II product, and the administrative difficulty in verifying such claimed use, warrants the allocation of such milk in essentially the same manner as now provided by the orders.

In this connection, it should be noted that under the revised classification plan each order would provide for the specific allocation to a handler's Class II and Class III utilization of any receipts of bulk fluid milk products from an other order plant or an unregulated supply plant for which the handler requests a Class II or Class III classification. Such receipts would be allocated to the extent possible first to the handler's Class III utilization and then to his Class II utilization. This would be the case even if a Class II classification were requested by the handler.

In keeping with the goal of classifying milk uniformly under the seven orders, certain changes should be made in the orders to effect a uniform application of the allocation provisions to multiple-plant handlers. Presently, the seven orders differ as to how the allocation procedure shall be carried out for handlers who operate two or more pool plants regulated under the same order.

Each order should provide that for purposes of allocating a multiple-plant handler's receipts to his utilization, the operations at each of his pool plants shall be considered separately. As is the case now, however, those receipts of other source milk from unregulated supply plants and other Federal order plants eligible to share with producer milk in a handler's Class I utilization should be allocated on the basis of the handler's total plant system.

This application of the allocation provisions to a multiple-plant handler is now used under the Indiana and Louisville-Lexington-Evansville orders. The St. Louis-Ozarks, Central Illinois, and Southern Illinois orders also provide that allocation shall be on an individual plant basis. The three orders provide, however, that if there are receipts of other source milk at any one of the plants that are to be prorated with producer milk to the plant's Class I utilization, all allocations of the handler's receipts to utilization shall be done on the basis of his total system. The Chicago Regional order provides for system allocation unless a handler requests that allocation be on an individual plant basis and he has no other source milk to be allocated pro rata with producer milk. The Paducah order requires that allocation be on a system basis in all cases.

Conditions in the individual markets do not require continuance of the several allocation methods now provided in the orders under consideration. Handlers are often subject at different times to the regulatory provisions of different orders. Applying the allocation provisions uniformly among all orders will reduce unnecessary regulatory differences being experienced by these handlers.

There would be little, if any, difference in a handler's total obligation under the order, or in producer returns, from allocating receipts on either an individual-plant basis or a system basis. The latter procedure was proposed in the June 4 recommended decision. Such procedure required, however, rather extensive modification of the location adjustment provisions of these orders. With system allocation, it was considered necessary that rules for determining the quantity of producer milk eligible for Class I location adjustment be explicitly stated in each order. Such extensive changes can be avoided, however, with the use of individual-plant allocation, as adopted herein.



V 38 178 SEP 14 73 XUM

All the orders now provide that certain receipts of milk from unregulated supply plants and other Federal order plants shall share in varying degrees with local producer milk in the receiving handler's Class I utilization at all of his pool plants combined. This procedure, which resulted from the 1964 "compensatory payment" decisions, should be continued. To implement this procedure in those orders being changed from system allocation to individual-plant allocation, several additional allocation steps must be provided in such orders. These involve essentially the same computations now required under the Indiana and Louisville-Lexington-Evansville orders that use individual-plant allocation. Such provisions are revised, however, to incorporate three classes of utilization rather than two classes.

The additional allocation steps establish a procedure whereby the milk from unregulated supply plants and other order plants will continue to be classified on the basis of the handler's total system, but will be assigned to classes at the pool plant of actual receipt. Under this procedure, the situation may arise where there is not enough utilization in a specific class at the plant of actual receipt to which such other source milk must be assigned (as determined from receipts and utilization of his entire system). In this case, an accounting technique is used for increasing the utilization in such class at the plant of actual receipt and making a corresponding reduction in the same class at one or more of his other pool plants in his system. This technique does not result, however, in changing the amount of milk to be accounted for at each plant, or the classification of milk within the handler's entire system.

(g) *Obligations relative to other source milk.* As indicated earlier in this decision, it is proposed herein that each of the orders be clarified with respect to the classification of milk that is transferred or diverted from a pool plant to a nonpool plant not regulated under any order, particularly when the nonpool plant also has receipts of milk from plants regulated under other Federal orders. In conjunction with these changes, other revisions should be made to assure that handlers are not assessed a "double charge" on Class I other source milk from such nonpool plants for which a Class I charge already has been assessed under some Federal order. Under the present orders, such a charge could result in the following manner.

Producer milk could be transferred in bulk from a pool plant under the Indiana order to an unregulated nonpool plant and be assigned to the nonpool plant's Class I utilization. In determining his pool obligation, the pool plant operator would be charged for this Class I utilization of milk at the Class I price.

During the same month, bulk milk could be transferred from the nonpool plant to a pool plant under the Southern Illinois order and be allocated to such pool plant's Class I utilization. In this case, the operator of the pool plant would be charged under the Southern Illinois order the difference between the order's Class I price and weighted average price for this receipt of "other source" Class I milk.

Thus, to the extent of the Class I milk that was moved to the nonpool plant from the Indiana market as Class I milk, the Class I other source milk received at the Southern Illinois pool plant from the nonpool plant is, in effect, priced twice as Class I milk under the Federal order system.

More and more, plants are tending to specialize in the processing of certain products, or in the packaging of products in particular types of containers. It is not uncommon for milk to be transferred from a pool plant to an unregulated nonpool plant for special processing and the finished products to be moved back into the regulated market. When the milk is initially priced at the Class I price, the market price structure is in no way undermined if this milk, or its equivalent, is disposed of by the nonpool plant in the regulated market.

The orders therefore should provide that the operator of the Southern Illinois plant, in this example, will have no obligation to the pool on such other source Class I milk. This is achieved through a revision of the allocation provisions and the procedure for computing the pool obligation of a pool plant operator. Receipts of packaged fluid milk products at a pool plant from an unregulated supply plant would be allocated to the pool plant's Class I utilization to the extent that an equivalent amount of skim milk or butterfat disposed of to the unregulated plant by handlers fully regulated under any Federal order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order. This allocation would be made prior to any other allocation of receipts to the plant's Class I utilization, and no order obligation would apply to the milk so allocated to Class I. In the case of fluid milk products received from an unregulated supply plant in bulk form, the provisions setting forth a handler's pool obligation would specify that no payment would apply to any of such milk allocated to Class I if, as just described for packaged milk, an equivalent amount of milk received at the unregulated plant had been priced as Class I milk under some order.

In this same connection, the provisions in each order prescribing the obligation of a partially regulated distributing plant should be changed. When such plant's obligation is computed as though it were a pool plant, proper recognition must be given to any transfers from the plant to a regulated plant that are considered to already have been priced as Class I milk under some Federal order. Also, in computing such plant's pool obligation on route sales in a Federal order marketing area, recognition should be given to any receipt of milk at such plant from another unregulated plant if an equivalent amount of milk received at the latter plant already has been priced as Class I milk under an order.

Each order now imposes a handler assessment for administering the order on all other source Class I milk except that received in fluid form from an other order plant. This may include milk that already has been priced as Class I milk under some Federal order as described above. With the removal of a "double" Class I charge on such milk, each order should be changed to likewise remove any assessment on such milk for administrative expenses. It is presumed that such milk was subject to a similar charge under the order that initially priced the milk.

The orders should be changed also with respect to the application of location adjustments to other source Class I milk. As just described, each of the orders provides that a pool plant operator's obligation to the producer-settlement fund shall include a payment for fluid milk products received from an unregulated supply plant if they are allocated to Class I. The handler's payment is determined by charging him at the Class I price for the Class I other source milk and giving him a credit on the milk at the weighted average price (uniform price in the case of the Chicago Regional order). Both the Class I and weighted average prices are adjusted for the location of the unregulated supply plant. The adjustment of the weighted average price, though, is so limited as to be not less than the lowest class price. No such limitation is applied currently to the Class I price adjustment.

In his testimony on how to implement certain classification proposals, a witness for a cooperative association indicated that such a limitation on the Class I price adjustment should be provided. Although the producers' proposals are not being implemented in the manner envisioned by this witness, the problem raised concerning the applicable location adjustment nevertheless should be dealt with.

Providing that any adjusted Class I price applicable to other source milk be not less than the Class III price is appropriate under each order. Otherwise, under certain conditions a handler could receive payment from the producer-settlement fund on Class I milk obtained from an unregulated supply plant. Such payment could result when the location differential for the distant plant is greater than the difference between the Class I and Class III prices. In this circumstance, producers under the order, in effect, would be providing the handler with a credit that reduces his cost for the distant milk below its value for manufacturing use at the point of purchase. From the standpoint of marketing efficiency, the handler should not be provided an incentive, which would be at the expense of local producers, to import such distant milk into the local market. It is unreasonable to expect that such a handler credit should apply on the other source milk.

A similar situation now exists with respect to the obligation of the operator of a partially regulated distributing





plant or an other order plant. In certain cases, the handler's obligation includes a payment to the producer-settlement fund at the difference between the Class I price applicable at his plant and either the weighted average price or the Class III price. For the same reasons, each order should provide, in computing the obligation of such a handler also, that the Class I price, as adjusted for location, shall not be less than the Class III price.

(h) *Reports.* The proposed changes in the classification of milk are not expected to require any major change in the amount of information to be submitted by handlers in their monthly reports of receipts and utilization. The reporting provisions of each order must be changed, however, to reflect the new categories of information that each market administrator will need in administering an order. These changes stem largely from the proposed reclassification of cream and the revised accounting methods necessary for implementing a three-class classification scheme.

In revising the reporting provisions of each order, such provisions should be made uniform to the extent possible. Essentially the same information is now required to be reported under each order, basically for the purposes of determining the classification of the milk and its classified value. There is considerable variation among these orders, however, in the manner in which the provisions on reports are expressed.

As proposed herein, the reporting provisions would be stated in some orders in slightly less detail than is now the case. The market administrator would have, nevertheless, no less authority than at present to obtain through handler reports, in the detail and on forms prescribed by the market administrator, any information the latter believes is necessary for administration of the order.

5. *Changing the butterfat differentials.* A single butterfat differential should apply under each of the seven orders for adjusting prices to the actual butterfat content of the milk being priced. This differential should be the Chicago butter price multiplied by 0.115, rounded to the nearest one-tenth cent.

Presently, the Class I butterfat differential under these orders is the Chicago butter price for the preceding month multiplied by 0.120. The Class II butterfat differential is the Chicago butter price for the current month times the factor listed for the respective market: Chicago Regional and Louisville-Lexington-Evansville, 0.120; Central Illinois, Southern Illinois, and St. Louis-Ozarks, 0.115; Indiana, 0.113; and Paducah, 0.115 during the months of August–March and 0.110 during the months of April–July.

The "butter price" used to compute the butterfat differentials for Class I and Class II milk is the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) per pound of Grade A (92-score) bulk creamery butter at Chicago as reported during the month by the U.S. Department of Agriculture. This butter price would continue to be used under the revised orders.

The butterfat differential applicable to the uniform price to producers under each of the seven orders except Paducah is derived from the weighted average of the values of Class I and Class II butterfat. It is computed each month by multiplying the total pounds of butterfat in the producer milk allocated to each class by the respective butterfat differential for each class, dividing the sum of such values by the total pounds of butterfat in producer milk, and rounding the result to the nearest one-tenth cent. The butterfat differential to producers under the Paducah order is determined from a fixed schedule of rates in the order which are related to the Chicago butter price, i.e., for each 5-cent change in the butter price, the butterfat differential changes one-half cent per point of butterfat.

The principal cooperative associations proposed that all class and uniform prices be subject to adjustment by a single butterfat differential based upon the Chicago butter price times a factor of 0.115. Handler opposition to the proposal was limited largely to the proposed decrease in the Class I butterfat differential that would result.

Lowering the Class I butterfat differential factor from 0.120 to 0.115 will accommodate producers' request for a readjustment of the values of skim milk and butterfat in Class I milk at a time of declining use of butterfat in fluid milk products. In 1960, the average butterfat test of fluid milk products (including cream items) in 63 Federal order markets was 3.76 percent. In 1969, the average butterfat test for such products in 60 markets was 3.32 percent. Comparable data for the seven subject markets as they are presently constituted are not available. On the basis of information compiled for such of the area now regulated by the seven orders, however, there is every indication that the use of butterfat in Class I in each of the seven market is following the national trend.[4]

It is estimated that under the adopted classification plan the average butterfat test of Class I products in the seven markets would have ranged from 2.7 percent to 3.2 percent in 1969. On this basis, the effect of changing the Class I butterfat differential factor from 0.120 to 0.115 would be to increase the average Class I price at test by less than 3 cents per hundredweight. The effect upon the average handler's cost for skim milk would be an increase of 10.5 cents per hundredweight.

Using a single factor of 0.115 for computing the Class II and Class III butterfat differentials will result in a uniform adjustment of class prices of butterfat content among the markets under consideration. Continuation of the several butterfat differential factors now in use would offset to some extent the benefits to be gained through the adoption of a uniform classification plan and identical Class II and Class III prices for the seven orders. For example, if skim milk used to produce cottage cheese is to be priced uniformly among these markets, the same butterfat differential must apply under each order to such skim milk.

As indicated, the butterfat differential to producers under six of the orders reflects the weighted value of butterfat in the class uses. Inasmuch as producers favor this method of reflecting skim milk and butterfat values in their pay prices, this pricing arrangement should be extended to the Paducah order. Since the same butterfat differential would be used in adjusting each of the class prices, there is no actual need, of course, for any provision in the order for weighting the values of butterfat in the three classes in determining the producer butterfat differential.

With the use of a single butterfat differential for adjusting all prices under the order, it is necessary that each order provide only for a producer butterfat differential. Although handler butterfat differentials were provided in the June 4 recommended decision, no such differentials need be set forth as such in the order, nor is there any need for pooling butterfat values in each class. All producer differential butterfat would be priced to all handlers at the same level regardless of the class in which used. The proposed revised orders attached hereto have been drafted accordingly.

Under the new pricing arrangement, the single butterfat differential for the current month should be based upon butter prices for such month and should be announced by the fifth day of the following month. This represents a change only for the pricing of Class I milk. The Class I butterfat differentials are now based on butter prices prevailing during the preceding month and are announced by the fifth day of the current month. With the use of a single butterfat differential factor in adjusting all milk prices, as adopted herein, there appears to be no need for announcing more than one butterfat differential, or for doing so before the end of the month in which it applies. The average butter price changes very little from month to month, and changes that do occur result in relatively limited changes in the butterfat differential. Each change in the price of butter is readily seen by following the daily quotations for butter. In the absence of regulation, such information would be the best available for determining trends in butter prices and should be adequate for this purpose under regulation.

It is recognized that the basic formula price of these seven orders is determined by adjusting the average Minnesota-Wisconsin price at test to a 3.5 percent butterfat basis by using a factor of 0.120 times the average Chicago butter price. The appropriateness of such factor for this purpose was not considered at the hearing and no consideration is given in this decision to changing this factor for such purpose. Moreover, since this method of determining the basic formula price

[4] Official notice is taken of the annual summaries for 1960 and 1969 of Federal Milk Order Market Statistics which were issued by the Dairy Division, Consumer and Marketing Service, U.S. Department of Agriculture, Washington, D.C.



V 38-178
SEP 14 73
XUM

is now used under all Federal milk orders throughout the country, it would appear that any change in this butterfat differential factor should be considered simultaneously in all orders.

6. *Advance announcement of prices for surplus milk.* The proposals by handlers to announce order prices for surplus milk at the beginning of the month rather than at the end of the month in which the prices apply, or to use bracketed pricing, should not be adopted.

Under the present two-class orders, the Class II price is announced by either the fifth or the sixth day of each month. This price applies to producer milk delivered to handlers during the preceding month. The present Class II prices are based on prices paid to farmers in Minnesota and Wisconsin for manufacturing grade milk. The average Minnesota-Wisconsin price for a particular month is announced by the Department shortly after the end of such month. The current procedure for announcing the Class II price after the end of the month thus permits such price to reflect the corresponding manufacturing milk pay prices for the same month.

The national associations of fluid milk and ice cream processors proposed that the class prices to be applicable in a particular month to surplus milk be announced at least by the fifth day of such month, and preferably before the beginning of the month. Such prices necessarily would reflect the prices paid for manufacturing grade milk in the preceding month.

Another group of handlers proposed that the Class II price for the current month be based on the Class III price for the preceding month. The group indicated, though, that if the Class II price is based instead on the current basic formula price the Class II price should increase or decrease only in 12-cent increments.

Handlers maintained that under the present announcement procedure they are often disadvantaged by not knowing the cost of producer milk for manufacturing use until after the end of the month in which the milk is processed. They claimed that when there is a significant increase in the order price the delayed notice of the increase prevents them from making corresponding adjustments in their resale prices on a timely basis.

The proposal as it concerned the announcement of the price for the proposed Class III classification was opposed by the principal cooperatives. They claimed that for handlers manufacturing the principal surplus products the Class III price should correspond as closely as possible with the prices being paid for manufacturing grade milk in the same month.

For the regulated handler processing producer milk into butter, nonfat dry milk and cheddar cheese, advance announcement of the applicable class price could place him at a competitive disadvantage on his sales of these manufactured products. The pay prices for manufacturing grade milk in Minnesota and Wisconsin are closely related to the market values of cheddar cheese, nonfat dry milk and butter, the principal uses for such milk. These product prices are established on a regular basis in a market that is national in scope. The manufacturers of ungraded milk are fully aware of the movements of these product prices and adjust their pay prices for milk in response to changes in the prices for the finished products. Regulated handlers who are processing these particular products must compete in the same national market in which the processors of manufacturing grade milk are competing.

Substantial quantities of milk are disposed of by regulated handlers in the seven markets in the form of butter, nonfat dry milk and cheese. In 1969, over 2 billion pounds of milk, or 57 percent of the total Class II use, were so disposed of by handlers in the Chicago Regional market. Southern Illinois handlers used 56 percent, or nearly 236 million pounds, of that market's total Class II milk that year in manufacturing these products. Although lesser quantities of milk were used in such products in the other five markets, such uses still represented 25 percent or more of the total Class II use for each market. Thus, handlers in the seven markets have a very definite interest in the relationship of the applicable class price with prices being paid currently for manufacturing grade milk.

Accordingly, the prices paid by regulated handlers for Class III milk should correspond very closely with the pay prices for manufacturing grade milk if these handlers are to be competitive in the sale of the principal surplus products. Basing the Class III price for a particular month on the prices paid for manufacturing grade milk in the preceding month would not result in the price coordination necessary for those regulated handlers heavily engaged in the production of cheddar cheese, nonfat dry milk or butter.

The same considerations are involved in the case of an advance announcement of prices for milk used in the proposed Class II products, or in the case of bracketed pricing for such milk. The influence of the manufacturing milk price level on the competitive relationship of producer milk for Class II uses is similar to that for producer milk used in the proposed Class III products. Therefore, the prices for Class II milk should be announced on the same basis as the prices for Class III milk.

### Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

A handler presented a motion at the hearing that proposals for establishing a new intermediate price class (Class II) be rejected and denied. The motion was presented for inclusion in the hearing record; a ruling by the presiding officer was not requested.

The motion, as restated in the handler's brief is as follows: "That the proposals for such intermediate classification should be rejected and denied, for the reasons that said proposals and the related Order provisions proposed would result in discriminatory regulation, capricious regulation, arbitrary regulation, special legislation and class legislation; would constitute the practice of classification among parties and the selection of regulated parties on an unnatural and unreasonable basis; and would, therefore, be unlawful if adopted."

The statutory authority for Federal milk orders specifies that an order shall classify milk purchased by regulated handlers from producers or associations of producers in accordance with the form in which or the purpose for which the milk is used. Such authority does not limit the number of use classes that may be established. The evidence of this record supports the adoption of three classes of utilization for producer milk under the seven subject orders.

As previously found, producers would represent in most circumstances the most economical source of milk for use in the intermediate-priced (Class II) milk uses. Nevertheless, handlers would not be precluded under the terms of each order from obtaining from alternative sources nonfluid other source milk for Class II use. As adopted herein, such alternative supplies could be allocated directly to such uses and no pool obligation would apply to such other source milk.

Under these circumstances, there is no basis for rejecting and denying the proposal by producers for three classes of utilization. The motion to do so is denied.

### General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of each of the aforesaid orders and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

The following findings are hereby made with respect to each of the aforesaid tentative marketing agreements and orders:

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum





prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

### Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreements are not included in this decision because the regulatory provisions thereof would be the same as those contained in the orders, as hereby proposed to be amended. The following order amending the orders, as amended, regulating the handling of milk in the aforesaid marketing areas is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out:

## PART 1030—MILK IN CHICAGO REGIONAL MARKETING AREA

### Subpart—Order Regulating Handling

General Provisions

Sec.
1030.1 General provisions.

Definitions

1030.2 Chicago Regional marketing area.
1030.3 Route disposition.
1030.4 Plant.
1030.5 Distributing plant.
1030.6 Supply plant.
1030.7 Pool plant.
1030.8 Nonpool plant.
1030.9 Handler.
1030.10 Producer-handler.
1030.11 [Reserved]
1030.12 Producer.
1030.13 Producer milk.
1030.14 Other source milk.
1030.15 Fluid milk product.
1030.16 Fluid cream product.
1030.17 Filled milk.
1030.18 Cooperative association.
1030.19 Exempt milk.

Handler Reports

1030.30 Reports of receipts and utilization.
1030.31 Payroll reports.
1030.32 Other reports.

Classification of Milk

1030.40 Classes of utilization.
1030.41 Shrinkage.
1030.42 Classification of transfers and diversions.
1030.43 General classification rules.
1030.44 Classification of producer milk.
1030.45 Market administrator's reports and announcements concerning classification.

Class Prices

1030.50 Class prices.
1030.51 Basic formula price.
1030.52 Plant location adjustments for handlers.
1030.53 Announcement of class prices.
1030.54 Equivalent price.

Uniform Price

1030.60 Handler's value of milk for computing uniform price.
1030.61 Computation of uniform price.
1030.62 Announcement of uniform price and butterfat differential.

Payments for Milk

1030.70 Producer-settlement fund.
1030.71 Payments to the producer-settlement fund.
1030.72 Payments from the producer-settlement fund.
1030.73 Payments to producers and to cooperative associations.
1030.74 Butterfat differential.
1030.75 Plant location adjustments for producers and on nonpool milk.
1030.76 Payments by handler operating a partially regulated distributing plant.
1030.77 Adjustment of accounts.

Administrative Assessment and Marketing Service Deduction

1030.85 Assessment for order administration.
1030.86 Deduction for marketing services.

Advertising and Promotion Program

1030.122 Liquidation.

Authority: The provisions of this Part 1030 issued under secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

### General Provisions

**§ 1030.1 General provisions.**

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

### Definitions

**§ 1030.2 Chicago Regional marketing area.**

"Chicago Regional marketing area," hereinafter called the "marketing area," means the territory within the boundaries of the following places, including piers, docks, and wharves and territory wholly or partly within such boundaries occupied by government (municipal, State, or Federal) reservations, installations, institutions or other similar establishments:

(a) In the State of Illinois:

(1) The counties of:

| | |
|---|---|
| Boone. | Kendall. |
| Carroll. | Lake. |
| Cook. | Lee. |
| De Kalb. | McHenry. |
| Du Page. | Ogle. |
| Jo Daviess (except the city of East Dubuque). | Stephenson. |
| Kane. | Will. |
| | Winnebago. |

(2) In Whiteside County:

(i) The townships of:

| | |
|---|---|
| Caloma. | Jordan. |
| Hahnaman. | Montmorency. |
| Hopkins. | Sterling. |
| Hume. | Tampico. |

(b) In the State of Wisconsin:

(1) The counties of:

| | |
|---|---|
| Adams. | Menominee. |
| Brown. | Milwaukee. |
| Calumet. | Monroe. |
| Columbia. | Oconto. |
| Crawford. | Oneida. |
| Dane. | Outagamie. |
| Dodge. | Ozaukee. |
| Fond du Lac. | Portage. |
| Forest. | Racine. |
| Grant. | Richland. |
| Green. | Rock. |
| Green Lake. | Sauk. |
| Iowa. | Shawano. |
| Jefferson. | Sheboygan. |
| Juneau. | Vernon. |
| Kenosha. | Vilas. |
| Kewaunee. | Walworth. |
| La Crosse. | Washington. |
| Lafayette. | Waukesha. |
| Langlade. | Waupaca. |
| Lincoln. | Waushara. |
| Manitowoc. | Winnebago. |
| Marquette. | |

(2) In Door County the city of Sturgeon Bay;

(3) In Marathon County:

(i) The towns of:

| | |
|---|---|
| Bergen. | Marathon. |
| Berlin. | Mosinee. |
| Bevent. | Norrie. |
| Easton. | Plover. |
| Elderon. | Reid. |
| Franzen. | Rib Mountain. |
| Guenther. | Ringle. |
| Harrison. | Stettin. |
| Hewitt. | Texas. |
| Knowlton. | Wausau. |
| Kronenwetter. | Weston. |
| Maine. | |

(ii) The vilages of:

| | |
|---|---|
| Brokaw. | Marathon. |
| Elderon. | Rothschild. |
| Hatley. | |

(iii) The cities of:

| | |
|---|---|
| Mosinee. | Wausau. |
| Schofield. | |

(4) In Wood County:

(i) The towns of:

| | |
|---|---|
| Cranmoor. | Rudolph. |
| Grand Rapids. | Saratoga. |
| Port Edwards. | Seneca. |

(ii) The villages of:

| | |
|---|---|
| Biron. | Port Edwards. |

(iii) The cities of:

| | |
|---|---|
| Nekoosa. | Wisconsin Rapids. |

**§ 1030.3 Route disposition.**

"Route disposition" means a delivery (including disposition from a retail plant store) of any fluid milk product classified as Class I milk to a retail or wholesale outlet other than a milk plant. Disposition of a plant through a vendor or through a distribution point shall be considered a route delivery at the location of the wholesale or retail outlet to which delivery is made.

**§ 1030.4 Plant.**

"Plant" means a building together with its facilities and equipment, whether owned or operated by one or more per-



V 38 I 178 SEP 14 73 XUM

sons constituting a single operating unit or establishment: (a) that has facilities adequate for cleansing tank trucks, is approved by an appropriate health authority, and at which milk moved from the farm is transferred and commingled in another tank truck with other milk and is transshipped in such other tank truck to another plant, (b) at which milk is received from dairy farmers, or (c) at which milk is processed and packaged or manufactured. If a portion of the building is not approved by any health authority for the receiving, processing, or packaging of any fluid milk product for Grade A disposition and is physically separated from the approved portion, such unapproved portion shall not be considered as meeting the terms of this definition.

**§ 1030.5 Distributing plant.**

"Distributing plant" means a plant from which there is route disposition in the marketing area, either directly or through another plant, of a Grade A fluid milk product that is processed or packaged in such plant during the month.

**§ 1030.6 Supply plant.**

"Supply plant" means a plant from which a Grade A fluid milk product is shipped or transshipped during the month to another plant. Such supply plant shall be equipped with storage capacity sufficient to hold the largest quantity of fluid milk product either received in the plant or shipped from the plant as a single load during the month, except that no storage capacity shall be maintained in a plant described in § 1030.4(a). Any plant located on the premises of a pool distributing plant pursuant to § 1030.7(a) shall not be considered a supply plant unless it is located in a building that is entirely separate from the distributing plant.

**§ 1030.7 Pool plant.**

Except as provided in paragraph (d) of this section, "pool plant" means a plant pursuant to § 1030.4 that is specified in paragraph (a), (b), or (c) of this section. In determining the pool plant qualifications of plants pursuant to this section on milk subject to the conditions specified in § 1030.9(h), the receipts and disposition of the plant operated by the transferor-handler shall exclude the milk described in § 1030.9(h)(3) but shall include the milk described in §1030.9(h)(4).

(a) A distributing plant from which there is disposed of during the month not less than the percentages set forth in paragraph (a) (2) and (3) of this section of the receipts specified in paragraph (a)(1) of this section. Two or more distributing plants of a handler shall be considered a unit for the purpose of paragraph (a)(3) of this section in any month if the handler operating such plants has filed a written request with the market administrator prior to such month requesting that they be considered a unit.

(1) The total Grade A fluid milk products, except filled milk, received during the month at such plant, including producer milk diverted under § 1030.13, and milk received from a handler pursuant to § 1030.9(h), but excluding receipts of fluid milk products in exempt milk, packaged fluid milk products and bulk fluid milk products by agreement for Class II and Class III uses from other pool distributing plants, and receipts from other order plants and unregulated supply plants which are assigned pursuant to § 1030.44 (a)(8)(1)(*a*) and (ii) and the corresponding step of § 1030.44(b).

(2) Not less than 10 percent of such receipts is disposed of from such plant in the marketing area in the form of packaged fluid milk products, except filled milk, either as route disposition or moved to other plants from which it is disposed of in the marketing area as route disposition. Such disposition is to be exclusive of receipts of packaged fluid milk products from other pool distributing plants.

(3) Not less than 45 percent in each of the months of September, October, November, and December and 35 percent in each of the months of January, February, March, and August, and 30 percent in all other months of such receipts is disposed of in the form of packaged fluid milk products, except filled milk, either as route disposition or moved to other plants. Such disposition is to be exclusive of receipts of packaged fluid milk products from other pool distributing plants.

(b) A supply plant from which the quantity of fluid milk products (except filled milk) and condensed skim milk shipped or transshipped during the month in accordance with paragraph (b) (1) and (2) of this section is not less than the percentages specified in paragraph (b)(4) of this section subject to paragraph (b) (5), (6), (7), and (8) of this section of the volume of Grade A milk received from dairy farmers and handlers described in § 1030.9(c), including producer milk diverted under § 1030.13. Such receipts shall be reduced by the disposition of packaged fluid milk products described in paragraph (b)(3) of this section.

(1) Shipped or transshipped as fluid milk products to and physically unloaded into:

(i) Pool plants pursuant to paragraph (a) of this section to the extent of the quantity determined pursuant to paragraph (b)(5) of this section;

(ii) Plants of producer-handlers; and

(iii) Partially regulated distributing plants and assigned to Class I milk disposed of in the marketing area from such plants pursuant to § 1030.42(d)(2)(ii) (*a*) and (c).

(2) Moved as condensed skim milk to pool plants pursuant to paragraph (a) of this section to the extent it is used in a fluid milk product that is disposed of as a fluid milk product (except filled milk). Such use of condensed skim milk shall be prorated over receipts of condensed skim milk from all supply plants.

(3) The receipts of Grade A milk required to be included pursuant to this paragraph shall be reduced by the amount of packaged fluid milk products (except filled milk) that are disposed of from such plant as route disposition or moved to a nonpool plant from which they are disposed of as route disposition outside the marketing area.

(4) Such percentage shall be not less than 40 for each of the months of September, October, and November, and 30 for all other months, except that a plant that was a pool plant pursuant to this paragraph during each of the months of August through December, the percentage shall be not less than 20 for each of the following months of January, February, and March. A plant meeting such requirements for August through March shall be a pool plant for each of the following months of April through July, unless:

(i) The milk received at the plant does not continue to meet the Grade A milk requirements for use in fluid milk products distributed in the marketing area; or

(ii) Written application is filed with the market administrator by the plant operator on or before the first day of any such month (April–July) requesting the plant be designated a nonpool plant for such month and any subsequent month through July, provided it does not otherwise qualify as a pool plant.

(5) For the purpose of determining the percentages specified in paragraph (b) (4) and (7) of this section, the quantity of fluid milk products moved from a supply plant pursuant to paragraph (b)(1)(i) of this section shall be a net quantity assignable at pool distributing plants computed by subtracting from the quantity of fluid milk products received from a supply plant(s), but not to exceed such quantity, the amounts described in paragraph (b)(5) (i) and (ii) of this section (if fluid milk products are received from more than one supply plant, such net quantity assignable shall be prorated among supply plants in accordance with the total receipts from such plants).

(i) The quantity of fluid milk products in the form of bulk milk and skim milk transferred from the pool distributing plant to pool supply plants plus any such bulk shipments to nonpool plants as Class II milk, other than:

(*a*) Transfers classified pursuant to § 1030.40(b)(3); and

(*b*) Transfers on any Saturday or on New Year's Day, Memorial Day, July 4, Labor Day, Thanksgiving, or Christmas, that no milk is received at the pool distributing plant from a supply plant, in an amount not in excess of 120 percent of the average daily receipts of producer milk pursuant to § 1030.13(a) at the plant during the prior month, less the quantity of producer milk diverted pursuant to § 1030.13(e) on such day. If no producer milk was received in the distributing plant during the prior month, the average daily receipts during the current month shall be used in lieu of the prior month for computing the transfers to be excepted by this subdivision; and

(ii) If milk is diverted from the pool distributing plant on the date of the receipt from the supply plant, the quantity so diverted, except any diversion of milk (not to exceed 3 days' production of any individual producer) made because of an emergency situation such as a breakdown of trucking equipment or hazardous road conditions shall not be subtracted if such emergency is reported to the market administrator.

(6) The percentages specified in paragraph (b)(4) and/or in paragraph (b)(7)(iii) of this section applicable during the months August-March shall be increased or decreased by up to 10 percentage points by the Director of the Dairy Division if he finds such revision is necessary to obtain needed shipments or to prevent uneconomic shipments except that the percentages specified in paragraph (b)(7)(iii) of this section shall not exceed 50 percent of those specified in paragraph (b)(4) of this section. Before making such a finding the Director shall investigate the need for revision either on his own initiative or at the request of interested persons and if his investigation shows that a revision might be appropriate he shall issue a notice stating that revision is being considered and inviting data, views, and arguments with respect to the proposed revision: *Provided*, That if a plant which would not otherwise qualify as a pool plant during the month pursuant to paragraph (b)(4) or (7)(iii) of this section would qualify as a pool plant as a result of this subparagraph, such plant shall be a nonpool plant for such month upon filing by the operator of such plant a written request for nonpool status with the market administrator.

(7) Two or more plants shall be considered a unit for the purpose of this paragraph if the following conditions are met:

(i) The plants included in a unit are owned or fully leased and operated by the handler establishing the unit and such plants shall have been pool plants the month prior to being included in a unit. In the case of plants operated by cooperative associations two or more cooperative associations may establish a unit of designated plants by filing with the market administrator a written contractual agreement obligating each plant of the unit to ship milk as directed by such cooperatives;

(ii) The handler or cooperatives establishing a unit notify the market administrator in writing of the plants to be included therein prior to August 1 of each year and no additional plants shall be added to the unit prior to August 1 of the following year;

(iii) Each plant in a unit ships or transships to plants specified in paragraph (b)(1) of this section the following percentages of its producer milk: 20 in each of the months of September, October, and November; 15 in each of the months of August and December; and 10 in each of the months of January, February, and March. If for any month a plant does not meet the individual plant shipping percentage, that plant shall be excluded from the unit; and

(iv) The notification pursuant to paragraph (b)(7)(ii) of this section shall list the plants in the order in which they shall be excluded from the unit if the minimum shipping requirements are not met, such exclusion to be in sequence beginning with the first plant on the list and continuing until the remaining plants as a unit have met the minimum requirements.

(8) If a handler notifies the market administrator in writing that a plant is unable to meet the requirements set forth herein because of a work stoppage due to a labor dispute between employer and employees, the market administrator, upon verification of the handler's claim, shall not include the receipts and utilization of skim milk and butterfat at such plant for those days from the date of notification through the last day of the work stoppage in determining the percentage of skim milk and butterfat shipped pursuant to this paragraph. When the work stoppage includes an entire month, the plant shall be considered to have met the minimum percentage shipping requirements in that month for pool plant status pursuant to this paragraph, but such relief shall not be granted for more than 2 consecutive months.

(c) A plant which is operated by a cooperative association and which is not a pool plant pursuant to paragraph (a) or (b) of this section shall be a pool plant if at least 50 percent of the Grade A milk of producers of such cooperative association is received at pool distributing plants of other handlers during the month and written application for pool plant status is filed with the market administrator on or before the first day of such month.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant or exempt distributing plant; or

(2) A plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, unless it is qualified as a pool plant pursuant to paragraph (a), (b), or (c) of this section and a greater volume of fluid milk products, except filled milk, is disposed of from such plant in this marketing area as route disposition and to pool plants qualified on the basis of route disposition in this marketing area than is so disposed of in the marketing area regulated pursuant to such other order.

**§ 1030.8 Nonpool plant.**

"Nonpool plant" means a plant (except a pool plant) which receives milk from dairy farmers or is a milk or filled milk manufacturing, processing or bottling plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is not an other order plant, a producer-handler plant, or an exempt distributing plant and from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is not an other order plant, a producer-handler plant, or an exempt distributing plant from which fluid milk products are shipped during the month to a pool plant.

(e) "Exempt distributing plant" means a distributing plant operated by a governmental agency.

**§ 1030.9 Handler.**

"Handler" means:

(a) Any person in his capacity as the operator of one or more pool plants;

(b) Any cooperative association with respect to producer milk which it causes to be diverted from a pool plant of another handler pursuant to § 1030.13 for the account of such cooperative association;

(c) Any cooperative association with respect to milk of its producers which is received from the farm for delivery to the pool plant of another handler in a tank truck owned and operated by or under contract to such cooperative association;

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) A producer-handler;

(f) Any person in his capacity as the operator of an other order plant that is either a distributing plant or a supply plant;

(g) Any person in his capacity as a broker negotiating a purchase or sale of fluid milk products from or to a person described in paragraph (a) or (d) of this section; or

(h) Any person who is a handler operating a pool distributing plant pursuant to paragraph (a) of this section may be the handler on producer milk delivered to pool distributing plants of other handlers, subject to the following conditions:

(1) Prior to the first month he becomes the handler pursuant to this paragraph such handler shall notify the market administrator in writing of his election to do so and he shall provide the name and address of each transferee-pool plant receiving the milk that is subject to the conditions of this paragraph.

(2) All of the producer milk on which he is the handler pursuant to this paragraph shall be considered a transfer from such handler's pool distributing plant to another pool distributing plant for the purposes of classification pursuant to §§ 1030.40 through 1030.45;

(3) If an entire tank truck load of milk is delivered to the pool plant of an other handler, it shall be considered a receipt by the transferor-handler pursuant to this paragraph for pricing purposes pursuant to §§ 1030.50 through 1030.53 and 1030.60 through 1030.77 at the location of the transferee-plant; and

(4) If less than an entire tank truck load of milk is delivered to the pool plant of another handler, a portion of the milk on the tank truck load must be physically received at the transferor-handler's pool







V 38 I 178 SEP 14 73 XUM

distributing plant. Such split load shall be considered a receipt of producer milk at the transferor-handler's plant for pricing purposes pursuant to §§ 1030.50 through 1030.53 and 1030.60 through 1030.77.

**§ 1030.10 Producer-handler.**

"Producer-handler" means any person who operates a dairy farm and a distributing plant and who has route disposition in the marketing area of only fluid milk products of such person's own production or fluid milk products received from pool plants: *Provided*, That such person provides proof satisfactory to the market administrator that the care and management of all dairy animals and other resources necessary to produce the entire volume of fluid milk products handled (excluding receipts from pool plants) and the operation of the processing and packaging business are the personal enterprise and risk of such person.

**§ 1030.11 [Reserved]**

**§ 1030.12 Producer.**

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority and whose milk is received at a pool plant or diverted pursuant to § 1030.13.

(b) "Producer" shall not include:

(1) A dairy farmer who is a government and has nonproducer status for the month pursuant to § 1030.19;

(2) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(3) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1030.44(a)(8)(ii) and the corresponding step of § 1030.44(b);

(4) Any person with respect to milk produced by him which is diverted from a pool plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk; and

(5) A dairy farmer with respect to milk produced by him that is received at a handler's pool plant during the months of January through July if any milk from the same farm was a receipt of producer milk in any "payback" month during the preceding year under an other order that provided for a seasonal incentive payment plan whereby funds previously withheld in the computation of the uniform price to producers were paid back to producers through the uniform price computation in subsequent months of the year.

**§ 1030.13 Producer milk.**

"Producer milk" means milk produced by producers which is:

(a) Received at a pool plant directly from producers, by being physically unloaded into processing facilities or a storage tank (including another tank truck in the case of a reload facility), and the shrinkage of skim milk and butterfat in milk received from producers' farms which was not unloaded in a pool plant. Such direct receipts from producers shall include the portion of a tank truck load of milk unloaded in a pool plant in the case where a portion of such load was first unloaded at another pool plant or diverted to a nonpool plant. The quantity of milk so received at each such plant shall be prorated over the total quantity of milk picked up at each producer's farm. In calculating the percentages specified in § 1030.7, milk so diverted shall be considered as received in the pool plant from which diverted. The location price adjustments pursuant to § 1030.75 shall be based on the zone location of the nonpool plant(s) where such milk is physically received, except that in the case of a distributing plant, diverted milk of a producer shall be priced at the location of such plant if during the month not more than 4 days' production of such producer is diverted, or if the diverted milk is part of a tank truck load of milk that exceeds the milk storage capacity of such distributing plant. Diverted milk shall be limited as follows:

(1) Milk of a producer diverted for the account of the operator of a pool plant or a handler described in § 1030.9(b) that during the months of April through December does not exceed the quantity of such producer's milk received in the pool plant from which diverted, and during the months of January, February and March does not exceed 70 percent of such producer's milk received in or diverted from such pool plant: *Provided*, That during the months of April through July such limits shall not apply for a producer who delivered to a pool plant any time during the prior August-December period and subsequently maintained producer status without interruption of more than 30 consecutive days;

(2) To the extent that milk diverted by a cooperative as a handler during any month would result in the plant failing to qualify as a pool plant under § 1030.7 such diverted milk shall not be producer milk; and

(3) Milk of a producer diverted by a handler who fails to report the information required pursuant to § 1030.32(a) (2) shall not be considered producer milk pursuant to this paragraph.

**§ 1030.14 Other source milk.**

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1030.40 (b)(1) from any source other than producers, handlers described in § 1030.9(c), pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1030.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1030.40 (b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1030.40(b)(1)) for which the handler fails to establish a disposition.

**§ 1030.15 Fluid milk product.**

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1030.40 (b) or (c)(1) (i) through (iv), if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.





**§ 1030.16 Fluid cream product.**

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

**§ 1030.17 Filled milk.**

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

**§ 1030.18 Cooperative association.**

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and is engaged in making collective sales of or marketing milk or milk products for its members.

**§ 1030.19 Exempt milk.**

"Exempt milk" means milk received at a pool plant in bulk from the dairy farmer who produced it, to the extent of the quantity of any packaged fluid milk products returned to the dairy farmer if:

(a) The dairy farmer is a government which is not engaged in the route disposition of any of the returned products; and

(b) The dairy farmer has, by written notice to the market administrator and the receiving handler, elected nonproducer status for a period of not less than 12 months beginning with the month in which the election was made and continuing for each subsequent month until canceled in writing, and the election is in effect for the current month.

## Handler Reports

**§ 1030.30 Reports of receipts and utilization.**

On or before the 10th day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants (except that if a handler so requests and the request is approved by the market administrator, a single report may be filed), shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1039.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from pool plants of other handlers (or other pool plants, as applicable), including a separate statement of the net receipts from each supply plant computed pursuant to § 1030.7(b)(5), except that during the months of April through July no such separate statement need be made if receipts from supply plants are from only plants that were pool plants during the prior months of August through March 9;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1030.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1030.9 (b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

**§ 1030.31 Payroll reports.**

(a) On or before the 25th day after the end of each month, each handler described in § 1030.9(a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1030.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

**§ 1030.32 Other reports.**

(a) Each handler pursuant to § 1030.9(a), (b), (g), and (h) shall report to the market administrator on or before the 10th day after the end of the month in detail and on forms prescribed by the market administrator as follows:

(1) Each handler pursuant to § 1030.9(g) shall report the quantities of skim milk and butterfat in fluid milk products moved for his account from each pool plant and received at each pool plant or partially regulated distributing plant during the month;

(2) Each handler pursuant to § 1030.9(a) and (b) shall report for each load of milk diverted for his account the quantity of each producer's milk included therein, the date(s) and times of pickup and delivery to the nonpool plant the name and location of that plant, and the plant from which diverted;

(3) Each handler pursuant to § 1030.9(h) shall report for each load of milk transferred for his account the quantity of each producer's milk included therein, the dates and times of pickup and delivery to the transferee-plant, the name and location of that plant and the plant from which transferred. Also, he shall report the quantities of skim milk and butterfat in his receipts of producer milk and delivery of such milk to each pool distributing plant during the month; and

(4) Each handler who, during the month, received milk from a dairy farmer from whom he had not received milk for at least 30 consecutive days, shall report the name and address of the dairy farmer and the plant to which each such person previously delivered milk. Each handler who discontinues receiving milk from a producer during the month shall report each such producer's name, address, and the plant to which such person transferred.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1030.30 and 1030.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

## Classification of Milk

**§ 1030.40 Classes of utilization.**

Except as provided in § 1030.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1030.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;



V 38 1178 SEP 14 73 XUM

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(v) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1030.15; and

(6) In shrinkage assigned pursuant to § 1030.41(a) to the receipts specified in § 1030.41(a)(2) and in shrinkage specified in § 1030.41 (b) and (c).

**§ 1030.11 Shrinkage.**

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1030.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant (or at all of the handler's pool plants combined if a single report is filed pursuant to § 1030.30) to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section, excluding that received in the form of a packaged fluid milk product;

(b) The shrinkage of skim mlik and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1030.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1030.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants (or pool plants of other handlers, if applicable);

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other pool plants (or pool plants of other handlers, if applicable) and to nonpool plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b)(1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectivly, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1030.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

**§ 1030.12 Classification of transfers and diversions.**

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant (or to the pool plant of another handler if a single report is filed pursuant to § 1030.30 by the transferor-handler) shall be classified as Class I milk unless the operators of both plants request the same classification in another class. The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1030.44(a)(12) and the corresponding step of § 1030.44(b).

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1030.40.

(c) *Transfers to producer-handlers and diversions to exempt distributing plants.* Skim milk or butterfat in the following forms that is transferred from a pool plant to a producer-handler under this or any other Federal order transferred or diverted from a pool plant to an exempt distributing plant shall be classified:

(1) As Class I milk, if so moved in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to its receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, a producer-handler plant, or an exempt distributing plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1030.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

**§ 1030.43 General classification rules.**

In determining the classification of producer milk pursuant to § 1030.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1030.30 and shall compute separately for each pool plant (or for all of a handler's pool plants combined if paragraph (d) of this section applies) and for each cooperative association with respect to milk for which it is the handler pursuant to § 1030.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1030.40, 1030.41, and 1030.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids;

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1030.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative; and

(d) If a handler operates two or more pool plants, the classification of producer milk shall be determined on the basis of all of his pool plants combined if he files a single report pursuant to § 1030.30 or has received skim milk or butterfat that would be allocated pursuant to § 1030.44 (a) (11) or (12) or the corresponding steps of § 1030.44(b).

**§ 1030.44 Classification of producer milk.**

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1030.9(a) for each of his pool plants separately (or for all of his pool plants combined if § 1030.43(d) applies) and of each handler described in § 1030.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1030.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in:

(i) Receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(ii) Receipts of exempt milk;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products re-







V 38 I 178 SEP 14 73 XUM

ceived in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1030.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1030.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1030.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1030.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order and from an exempt distributing plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2)(i) of this section;

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(vii) Receipts of fluid milk products (other than exempt milk) from a government which has elected nonproducer status for the month pursuant to § 1030.19; and

(viii) Receipts of fluid milk products from persons described in § 1030.12(b)(5);

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III, but not in excess of such quantities, the pounds of skim milk in each of the following:

(i) Receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2)(i) and (7)(v) of this section:

(*a*) For which the handler requests a classification other than Class I; or

(*b*) Which are in excess of the pounds of skim milk determined by multiplying the pounds of skim milk remaining in Class I by 1.25 and subtracting the sum of the pounds of skim milk in receipts of producer milk, fluid milk products from other pool plants (or from pool plants of other handlers if § 1030.43(d) applies), and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(ii) Receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1030.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subtract from the pounds of skim milk remaining in each class, pro rata to such quantities in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2)(i), (7)(v), and (8)(i) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received;

(12) Subtract in the order specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(ii) of this section:

(i) From each class, in series beginning with Class III, the pounds determined by multiplying the pounds of such net receipts by the larger of the percentage of estimated combined Class II and Class III utilization of skim milk announced for the month by the market administrator pursuant to § 1030.45(a) or the percentage that the combined Class II and Class III utilization remaining is of the total remaining utilization of skim milk of the handler; and

(ii) From Class I, the remainder of such receipts;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from other pool plants (or from pool plants of other handlers if § 1030.43(d) applies) according to the classification of such products pursuant to § 1030.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1030.44(a)(14) and the corresponding step of § 1030.44(b).

### § 1030.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1030.44(a)(12) and the corresponding step of § 1030.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1030.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 17th day after the end of each month, report to each cooperative association, upon request by such association, the percentage of the milk caused to be delivered by the cooperative association for its members which was utilized in each class at each pool plant receiving such milk. For the purpose of this report, the milk so received shall be allocated to each class at each pool plant in the same ratio as all producer milk received at such plant during the month.





CLASS PRICES

### § 1030.50 Class prices.

Subject to the provisions of § 1030.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.*—The Class I price shall be the basic formula price for the second preceding month plus $1.26.

(b) *Class II price.*—The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.*—The Class III price shall be the basic formula price for the month.

### § 1030.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

### § 1030.52 Plant location adjustments for handlers.

A location adjustment for each handler shall be computed by the market administrator as follows:

(a) The market administrator shall determine the location adjustment rate for each plant at which milk is to be priced under this part on the following basis:

(1) Zone 1—adjustment rate—none. Zone 1 shall consist of the territory within 40 miles of the city hall in Chicago.

(2) Zone 2—adjustment rate—minus 2 cents per hundredweight of milk. Zone 2 shall consist of the territory beyond Zone 1 but within 55 miles of the city hall in Chicago.

(3) Zone 3—adjustment rate—minus 4 cents per hundredweight of milk. Zone 3 shall consist of the territory beyond Zone 2 but within 70 miles of the city hall in Chicago.

(4) Zone 4—adjustment rate—minus 6 cents per hundredweight of milk. Zone 4 shall consist of the territory beyond Zone 3 but within 85 miles of the city hall in Chicago, plus Milwaukee County, Wis., and Winnebago County, Ill.

(5) For plants located beyond Zone 4 the adjustment rate shall be an additional 2 cents per hundredweight of milk for each 15 miles or fraction thereof over 85 miles. The territory beyond 85 miles, but not to exceed 100 miles, shall be Zone 5 and each successive 15-mile area shall be an additional zone.

(b)(1) The mileages applicable pursuant to this section and § 1030.75 shall be determined by the market administrator on the basis of the shortest highway distance between the handler's plant and the city hall in Chicago.

(2) The market administrator shall notify each handler of the zone or mileage determination.

(3) Mileage shall be subject to redetermination at all times. In the event, a handler requests a redetermination of the mileage pertaining to any plant, the market administrator shall notify the handler of his findings within 30 days after the receipt of such request. Any financial obligations resulting from a change in mileage shall not be retroactive for any period prior to the redetermination announced by the market administrator.

(c) A handler who operates a pool distributing plant (or plants) shall receive a location adjustment computed as follows:

(1) Determine the aggregate quantity of Class I milk at such plant (or all pool plants of such handler for which a single report is filed pursuant to § 1030.30 after eliminating duplication for transfer between such plants);

(2) Subtract the receipts of exempt milk and the quantity of packaged fluid milk products received at the handler's pool plant(s) from the pool plants of other handlers (or other pool plants, if applicable) and from nonpool plants if assigned to Class I milk;

(3) Subtract the quantity of bulk fluid milk products shipped from the handler's pool plant(s) to pool plants of other handlers (or other pool plants, if applicable) and to nonpool plants that are classified as Class I;

(4) Subtract the Class I milk packaged by pool supply plants and disposed of as route disposition or to other plants;

(5) Subtract the quantity of bulk fluid milk products received at the handler's pool plant(s) from other order plants and unregulated supply plants that are assigned to Class I pursuant to § 1030.44;

(6) Assign the remaining quantity pro rata to receipts during the month from each source as specified in paragraph (c)(6) (i) and (ii) of this section:

(i) Receipts at the handler's pool distributing plant(s) of producer milk, except that if the quantity prorated to any distributing plant exceeds the Class I disposition from such plant, such quantity shall be reduced to the amount of such Class I disposition and the quantity of milk represented in such reduction shall be prorated to receipts of producer milk at other distributing plants of the handler (limited in each instance to the amount of Class I disposition at each such plant) and receipts of bulk fluid milk products at such distributing plants from other pool plants; and

(ii) Receipts of bulk fluid milk products at such distributing plants from each other pool plant according to the quantity of such receipts from each such source;

(7) If receipts during the month at such distributing plants of producer milk and bulk fluid milk products from other pool plants are less than the quantity to be assigned pursuant to paragraph (c)(6) of this section, prorate the amount of such excess in the same manner over such receipts in the next prior month in which there were receipts in excess of those assigned in that month pursuant to this subparagraph;

(8) Multiply by the location adjustment rates applicable at the transferor plants, the quantity assigned to receipts of producer milk at such distributing plants pursuant to paragraph (c)(6)(i) and (7) of this section;

(9) Multiply by the location adjustment rates applicable at the transferor plants, the lesser of:

(i) 110 percent of the quantities assigned to receipts from each other pool plant pursuant to paragraph (c)(6)(ii) of this section; or

(ii) Receipts specified in paragraph (c)(6)(ii) of this section;

(10) Multiply by the location adjustment rates applicable at the transferor plants, the quantities assigned pursuant to paragraph (c)(7) of this section to receipts from other pool plants in prior months;

(11) Multiply the quantity of bulk fluid milk products shipped from the handler's pool plant(s) to nonpool plants and classified as Class I by the location adjustment rates applicable at the shipping plant;

(12) Multiply the quantity of Class I milk packaged by pool supply plants and disposed of as route disposition or to other plants by the location adjustment rates applicable at the pool supply plants from which disposition is made; and

(13) Add together the minus amounts obtained pursuant to paragraph (c)(8), (9), (10), (11), and (12) of this section.

(d) A handler (other than one described in paragraph (c) of this section) who operates a pool supply plant shall receive a location adjustment credit on producer milk at such plant classified as Class I that is not shipped as a bulk fluid milk product to a pool distributing plant.

(e) The Class I price applicable to other source milk shall be reduced at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

### § 1030.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.



V 38 I 178 SEP 14 73 XUM

§ 1030.54 Equivalent price.

If for any reason a price quotation or other pricing factor required by this order for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price quotation or price factor determined by the Secretary to be equivalent to that required.

UNIFORM PRICE

§ 1030.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler described in § 1030.9 (a), (b), (c), and (h) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1030.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1030.44(a)(14) and the corresponding step of § 1030.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1030.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1030.44 (a)(9) and the corresponding step of § 1030.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1030.44(a)(7)(i) through (iv), (vii), and (viii) and the corresponding step of § 1030.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1030.44(a)(7)(v) and (vi) and the corresponding step of § 1030.44 (b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1030.44(a)(11) and the corresponding step of § 1030.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) Subtract an amount equal to the minus location adjustment computed pursuant to § 1030.52(c)(13) or (d).

§ 1030.61 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight of producer milk, of 3.5 percent butterfat content at plants in Zone I, as follows:

(a) Combine into one total the values computed pursuant to § 1030.60 for all handlers, except those of handlers who failed to make payments required pursuant to § 1030.71 for the preceding month;

(b) Add an amount equal to the total value of the minus location adjustments computed pursuant to § 1030.75(a);

(c) Add an amount representing not less than one-half the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1030.60(f); and

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight.

§ 1030.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 14th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

§ 1030.70 Producer-settlement fund.

The market administrator shall maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments into such fund and from which he shall make all payments from such fund pursuant to §§ 1030.71, 1030.72, 1030.76, and 1030.77: *Provided*, That the market administrator shall offset the payment due to a handler against payments due from such handler.

§ 1030.71 Payments to the producer-settlement fund.

(a) On or before the 16th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1030.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1030.75, of such handler's receipts of producer milk; and

(ii) The value at the uniform price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1030.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

§ 1030.72 Payments from the producer-settlement fund.

On or before the 17th day after the end of each month, the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1030.71(a)(2) exceeds the amount computed pursuant to § 1030.71 (a)(1): *Provided*, That if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds become available.

§ 1030.73 Payments to producers and to cooperative associations.

(a) Except as provided in paragraphs (b) and (c) of this section, each handler shall make payment for producer milk received during the month as follows:

(1) On or before the 18th day of the following month to each producer, not less than the uniform price, as adjusted pursuant to §§ 1030.74 and 1030.75, multiplied by the hundredweight of milk received from such producer during the month, subject to the following adjustments:

(i) Less deductions for marketing services made pursuant to § 1030.86;

(ii) Plus or minus adjustments for errors in previous payments made to such producer; and

(iii) Less proper deductions authorized in writing by such producer; and

(2) If by such date for final payment, such handler has not received full payment from the market administrator pursuant to § 1030.72 for such month, he may reduce pro rata his payments to





producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator;

(b) Payments required in paragraph (a) of this section shall be made to a cooperative association, qualified under § 1030.18, or its duly authorized agent, with respect to milk of producers which the market administrator determines have authorized such cooperative association to collect payment for their milk and the cooperative association has presented the handler with a written request for such payments. Payments to the cooperative association under this paragraph shall be made subject to the condition that the association has provided the handler with a written promise to reimburse the handler the amount of any actual loss incurred by such handler because of any improper claim on the part of the cooperative association; and

(c) On or before the 18th day of the following month, each handler, in his capacity as operator of a pool plant, who receives milk for which a cooperative association is the handler during the month as described in § 1030.9(c) shall pay such cooperative association for such milk at the uniform price, as adjusted pursuant to §§ 1030.74 and 1030.75.

§ 1030.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the mid-point of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

§ 1030.75 Plant location adjustments for producers and on nonpool milk.

(a) The uniform price pursuant to § 1030.61 for producer milk received at a plant shall be adjusted according to the location of the plant at the rates set forth in § 1030.52(a).

(b) The uniform price applicable to other source milk shall be reduced at the rates set forth in § 1030.52(a), except that the adjusted uniform price shall not be less than the Class III price.

§ 1030.76 Payments by handler operating a partially regulated distributing plant.

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1030.30(b) and 1030.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the uniform price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1030.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1030.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1030.60 for such handler shall include, in lieu of the value of other source milk specified in § 1030.60(f) less the value of such other source milk specified in § 1030.71(a)(2)(ii), a value of milk determined pursuant to § 1030.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1030.7(b), subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1030.30 (b) and 1030.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1030.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1030.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1030.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.



V 38-178 SEP 14 73 XUM

§ 1030.77 Adjustment of accounts.

When verification by the market administrator of reports or payment of any handler discloses errors resulting in monies due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made not later than the date for making payment next following such disclosure.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

§ 1030.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 18th day after the end of each month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including such handler's own farm production and including for a handler described in § 1030.9(c) producer milk described in § 1030.13(d));

(b) Other source milk allocated to Class I pursuant to § 1030.44(a) (7) and (11) and the corresponding steps of § 1030.44(b), except such other source milk that is excluded from the computations pursuant to § 1030.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1030.76(a)(2).

§ 1030.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 1030.73 shall deduct 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to producer milk received by such handler (except such handler's own farm production) during the month, and shall pay such deductions to the market administrator not later than the 18th day after the end of the month. Such monies shall be used by the market administrator to verify or establish weights, samples, and tests of producer milk and to provide producers with market information. Such services shall be performed by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of member producers for whom a cooperative association is performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section such deductions as are authorized by such producers and, on or before the 18th day after the end of each month, pay over such deductions to the association rendering such services.

ADVERTISING AND PROMOTION PROGRAM

§ 1030.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1030.70.

NOTE.—An order terminating certain provisions in Order No. 30, 38 FR 11339, May 7, 1973, reads in part as follows:

"It is hereby found and determined that the following provisions no longer tend to effectuate the declared policy of the Act: • • • Sections 1030.100 through 1030.112. • • •

*It is therefore ordered*, That the aforesaid provisions of the order are hereby terminated • • • Effective dates • • • September 30, 1973, with respect to § 1030.112."

(Section 1030.112 has been renumbered as § 1030.122 under this proposed amended order.)

## PART 1032—MILK IN SOUTHERN ILLINOIS MARKETING AREA

**Subpart—Order Regulation Handling**

GENERAL PROVISIONS

Sec.
1032.1 General provisions.

DEFINITIONS

1032.2 Southern Illinois marketing area.
1032.3 Route disposition.
1032.4 [Reserved]
1032.5 Distributing plant.
1032.6 Supply plant.
1032.7 Pool plant.
1032.8 Nonpool plant.
1032.9 Handler.
1032.10 Produced-handler.
1032.11 [Reserved]
1032.12 Producer.
1032.13 Producer milk.
1032.14 Other source milk.
1032.15 Fluid milk product.
1032.16 Fluid cream product.
1032.17 Filled milk.
1032.18 Cooperative association.
1032.19 Reload point.

HANDLER REPORTS

1032.30 Reports of receipts and utilization.
1032.31 Payroll reports.
1032.32 Other reports.

CLASSIFICATION OF MILK

1032.40 Classes of utilization.
1032.41 Shrinkage.
1032.42 Classification of transfers and diversions.
1032.43 General classification rules.
1032.44 Classification of producer milk.
1032.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1032.50 Class prices.
1032.51 Basic formula price.
1032.52 Plant location adjustments for handlers.
1032.53 Announcement of class prices.
1032.54 Equivalent price.

UNIFORM PRICE

1032.60 Handler's value of milk for computing uniform price.
1032.61 Computation of uniform price (including weighted average price).
1032.62 Announcement of uniform price and butterfat differential.

PAYMENTS FOR MILK

1032.70 Producer-settlement fund.
1032.71 Payments to the producer-settlement fund.
1032.72 Payments from the producer-settlement fund.
1032.73 Payments to producers and to cooperative associations.
1032.74 Butterfat differential.
1032.75 Plant location adjustments for producers and on nonpool milk.
1032.76 Payments by handler operating a partially regulated distributing plant.
1032.77 Adjustment of accounts.
1032.78 Charges on overdue accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1032.85 Assessment for order administration.
1032.86 Deduction for marketing services.

ADVERTISING AND PROMOTION PROGRAM

1032.121 Duties of the market administrator.
1032.122 Liquidation.

AUTHORITY: The provisions of this Part 1032 issued under secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

GENERAL PROVISIONS

§ 1032.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

§ 1032.2 Southern Illinois marketing area.

"Southern Illinois marketing area", hereinafter called the "marketing area", means all the territory within the following counties, all of which are in the State of Illinois, together with all municipal corporations therein and all institutions owned or operated by the Federal, State, county, or municipal governments located wholly or partially within such counties:

BASE ZONE

Bond.
Calhoun.
Christian.
Clark.
Clay.
Clinton.
Coles.
Crawford.
Cumberland.
Edwards.
Effingham.
Fayette.
Greene.
Jasper.
Jefferson.
Jersey.
Lawrence.
Macoupin.
Madison.
Marion.
Monroe.
Montgomery.
Richland.
St. Clair (except Scott Military Reservation, East St. Louis, Centreville, Canteen, and Stites Townships and the city of Belleville).
Shelby.
Wabash.
Washington.
Wayne.

NORTHERN ZONE

Champaign.
De Witt.
Douglas.
Edgar.
Logan.
Macon.
McLean.
Menard.
Morgan.
Moultrie.
Platt.
Sangamon.
Vermilion.





SOUTHERN ZONE

Franklin.
Hamilton.
Jackson.
Perry.
Randolph.
Saline.
White.
Williamson.

§ 1032.3 Route disposition.

"Route disposition" means a delivery (including disposition from a plant store or from a distributing point and distribution by a vendor or vending machine) to a retail or wholesale outlet, other than a plant, of any fluid milk product classified as Class I milk.

§ 1032.4 [Reserved]

§ 1032.5 Distributing plant.

"Distributing plant" means any plant at which fluid milk products are processed and packaged and from which there is route disposition of Grade A fluid milk products in the marketing area during the month.

§ 1032.6 Supply plant.

"Supply plant" means any plant at which Grade A milk is received from dairy farmers and from which fluid milk products are moved to a distributing plant.

§ 1032.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means a plant specified in paragraph (a), (b), or (c) of this section. For purposes of determining pool plant status pursuant to this section, Grade A receipts from dairy farmers shall include all quantities of milk diverted pursuant to § 1032.13(b) (1), (2), and (3) by an operator of a pool plant.

(a) A distributing plant from which during the month there is:

(1) Route disposition, except filled milk, in the marketing area equal to 10 percent or more of its Grade A receipts from dairy farmers and handlers described in § 1032.9(c), or an average of not less than 7,000 pounds per day of route disposition, except filled milk, in the marketing area; and

(2) Total route disposition, except filled milk, equal to 50 percent or more of its Grade A receipts from diary farmers and handlers described in § 1032.9(c) during the months of August through February and 40 percent during all other months.

(b) A supply plant from which during the month an amount equal to 50 percent or more of its receipts of Grade A milk from dairy farmers and handlers described in § 1032.9(c) is moved to and received at a pool plant(s) described in paragraph (a) of this section which have at least 50 percent Class I use (not including filled milk) of the total of such supply plan milk and producer milk receipts in the months of August through February and 40 percent in other months.

(c) Any supply plant which qualified pursuant to paragraph (b) of this section in each of the immediately preceding months of September through January shall be a pool plant for the months of February through August unless the operator of such plant notifies the market administrator in writing before the first day of such month of his intention to withdraw such plant as a pool plant, in which case such plant shall thereafter be a nonpool plant until it again meets the shipping requirements set forth in paragraph (b) of this section.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A distributing plant qualified pursuant to paragraph (a) of this section which meets the requirements of a fully regulated plant pursuant to the provisions of another order issued pursuant to the Act and from which during the month there is a greater quantity of route disposition, except filled milk, in the marketing area regulated by the other order than in the Southern Illinois marketing area: *Provided*, That such a distributing plant which was a pool plant under this order in the immediately preceding month shall continue to be subject to all of the provisions of this part until the third consecutive month in which a greater proportion of such route disposition is made in such other marketing area, unless the other order requires regulation of the plant without regard to its qualifying as a pool plant under this order subject to the proviso of this subparagraph;

(3) A distributing plant qualified pursuant to paragraph (a) of this section which meets the requirements of a fully regulated plant pursuant to the provisions of another Federal order and from which during the month there is a greater quantity of route disposition, except filled milk, in the Southern Illinois marketing area than in the other marketing area, and such other order which fully regulates the plant does not contain provisions to exempt the plant from regulation even though such plant has greater such route disposition in the marketing area of the Southern Illinois order; and

(4) Any plant qualified pursuant to paragraph (c) of this section for any portion of the period of February through August, inclusive, that the milk at such plant is subject to the classification and pricing provisions of another order issued pursuant to the Act.

§ 1032.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products are shipped to a pool plant.

§ 1032.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any cooperative association with respect to milk of its members diverted for its account pursuant to § 1032.13;

(c) Any cooperative association with respect to the milk of its members which is received from the farm for delivery to the pool plant of another handler in a tank truck owned and operated by, or under contract to such cooperative association. The cooperative association, prior to the first day of the month of delivery, shall notify in writing the market administrator and the handler to whose plant the milk is delivered, that it will be the handler for the milk. For purposes of location adjustments to producers, milk so delivered shall be deemed to have been received by the cooperative association at a pool plant at the location of the pool plant to which it is delivered;

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) A producer-handler;

(f) Any person who operates an other order plant described in § 1032.7(d); and

(g) Any person in his capacity as the operator of an unregulated supply plant.

§ 1032.10 Producer-handler.

"Producer-handler" means a person who:

(a) Operates a distributing plant and processes milk from his own farm production and who disposes of all or a portion of such milk as route disposition in the marketing area but who receives no milk from other dairy farmers or fluid milk products from nonpool plants: *Provided*, That the skim milk and butterfat disposed of in the form of fluid milk products designated as Class I milk pursuant to § 1032.40(a) does not exceed the skim milk and butterfat, respectively, in the form of milk from his own farm production, and in the form of fluid milk products from pool plants of other handlers, allowing for inventory derived from such sources; and

(b) Assumes as his personal enterprise and risk the processing and distribution of fluid milk products and the maintenance, care, and management of dairy animals and other resources necessary to produce his own farm milk production.

§ 1032.11 [Reserved]

§ 1032.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is received at a pool plant or diverted as producer milk pursuant to § 1032.13.



V 38 I 178 SEP 14 73 XUM

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1032.44(a)(8)(iii) and the corresponding step of § 1032.44(b); and

(3) Any person with respect to milk produced by him which is diverted from a pool plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk.

**§ 1032.13 Producer milk.**

"Producer milk" means all skim milk and butterfat produced by producers which is:

(a) Received during the month:

(1) At a pool plant from producers or from a handler described in § 1032.9(c); and

(2) By a handler described in § 1032.9(c) but which is not delivered to a pool plant of another handler and constitutes shrinkage pursuant to § 1032.41(c) or Class I shrinkage; or

(b) Diverted by a handler who is the operator of a pool plant or by a cooperative association pursuant to the following conditions:

(1) Milk of a producer diverted from a pool plant for the account of the plant operator to another pool plant(s) for not more days of production of such producer's milk than is physically received at a pool plant(s) from which diverted;

(2) Milk of a producer diverted from a pool plant to a nonpool plant that is not a producer-handler plant or an other order plant, on any day during the months of May, June, and July, during the months of August and December for not more than 12 days of production of producer milk by such producer, and in any other month for not more than 8 days of production of producer milk by such producer;

(3) Milk of a producer diverted during the month from a pool plant to a nonpool plant that is an other order plant, for not more days of production of producer milk, by such producer than is received at a pool plant(s) pursuant to paragraph (a) of this section;

(4) For pricing purposes, milk diverted pursuant to paragraph (b) (2) and (3) of this section shall be deemed to be received by the diverting handler at the location of the plant to which diverted: *Provided*, That milk diverted pursuant to paragraph (b)(2) of this section to a plant located less than 50 miles (by the shortest highway distance as determined by the market administrator) from the pool plant from which diverted, shall be deemed to be received by the diverting handler at the location of the plant from which diverted; and

(5) For pricing purposes, milk diverted pursuant to paragraph (b)(1) of this section shall be deemed to be received by the diverting handler at the location of the plant to which diverted.

**§ 1032.14 Other source milk.**

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1032.40(b)(1) from any source other than producers, handlers described in § 1032.9(c), pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1032.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1032.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1032.40(b)(1)) for which the handler fails to establish a disposition.

**§ 1032.15 Fluid milk product.**

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1032.40(b) or (c)(1)(i) through (iv) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

**§ 1032.16 Fluid cream product.**

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

**§ 1032.17 Filled milk.**

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

**§ 1032.18 Cooperative association.**

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To be engaged in making collective sales, or marketing milk or its products for its members.

**§ 1032.19 Reload point.**

"Reload point" means a location at which facilities approved by a duly constituted health authority, only for the transfer of milk from one tank truck to another and for the washing of tank trucks and at which milk moved from the farm in a tank truck is commingled in a tank truck with milk from other tank trucks before entering a milk plant: *Provided*, That reloading facilities on the premises of a plant having equipment for the receiving, cooling, storing, and processing of milk, which equipment is in current use during the month, shall be considered a supply plant rather than a reload point.

HANDLER REPORTS

**§ 1032.30 Reports of receipts and utilization.**

On or before the 7th day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1032.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1032.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1032.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.





**§ 1032.31 Payroll reports.**

(a) On or before the 20th day after the end of each month, each handler described in § 1032.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1032.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

**§ 1032.32 Other reports.**

In addition to the reports required pursuant to §§ 1032.30 and 1032.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

**§ 1032.40 Classes of utilization.**

Except as provided in § 1032.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1032.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(v) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1032.15; and

(6) In shrinkage assigned pursuant to § 1032.41(a) to the receipts specified in § 1032.41(a)(2) and in shrinkage specified in § 1032.41(b) and (c).

**§ 1032.41 Shrinkage.**

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1032.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in bulk fluid form;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1032.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1032.9(c) and in milk diverted to such plant from another pool plant, except that, in either case, if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1032.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its



V 38 I 178 SEP 14 73 XUM

measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

**§ 1032.42 Classification of transfers and diversions.**

(a) *Transfers and diversions to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers or diversions shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant or divertee-plant after the computations pursuant to § 1032.44(a)(12) and the corresponding step of § 1032.44(b);

(2) If the transferor-plant or divertor-plant received during the month other source milk to be allocated pursuant to § 1032.44(a)(7) or the corresponding step of § 1032.44(b), the skim milk or butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler or divertor-handler received during the month other source milk to be allocated pursuant to § 1032.44(a) (11) or (12) or the corresponding steps of § 1032.44(b), the skim milk or butterfat so transferred or diverted, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant or divertee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1032.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1032.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plans shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then





to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

**§ 1032.43 General classification rules.**

In determining the classification of producer milk pursuant to § 1032.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1032.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1032.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1032.40, 1032.41, and 1032.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1032.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

**§ 1032.44 Classification of producer milk.**

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1032.9(a) for each of his pool plants separately and of each handler described in § 1032.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1032.41 (b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1032.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1032.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1032.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1032.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the handler's total Class III utilization at his other pool plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler;

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1032.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;



V 38 I 178 SEP 14 73 XUM

(11) Subject to the provisions of paragraph (a)(11)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12 (ii) and (iii) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1032.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler;

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plant at which such other source milk was received; and

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12) (i) or (ii) of this section result in a quantity of skim milk to be subtracted from any class that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1032.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage":

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1032.44(a)(14) and the corresponding step of § 1032.44(b).

### § 1032.15 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1032.44(a)(12) and the corresponding step of § 1032.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1032.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests, the class utilization of producer milk received by each handler from a cooperative association or from members of the association. For the purpose of this report, the milk caused to be so delivered by an association shall be prorated to each class in the proportion that the total receipts of milk received from producers by such handler were used in each class.

## Class Prices

### § 1032.50 Class prices.

Subject to the provisions of § 1032.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the Class I price pursuant to Part 1062 of this chapter (St. Louis-Ozarks) minus 7 cents.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

### § 1032.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

### § 1032.52 Plant location adjustments for handlers.

(a) For producer milk received at a pool plant which is classified as Class I milk, the price specified in § 1032.50(a) shall be adjusted for the location of such plant by the following amount:

(1) At a plant in the southern zone, plus 7 cents;

(2) At a plant in the northern zone, minus 7 cents;

(3) At a plant outside the marketing area, minus 15 cents if such plant is 100 or more miles from the city or village limits of Alton, Robinson, or Vandalia, Ill., whichever is nearest, and minus an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 110 miles: *Provided*, That the adjustment at a plant outside the marketing area and in the State of Illinois south of the northernmost boundaries of the Illinois counties of Adams and Schuyler and at a plant in the Indiana counties of Fountain, Parke, Vermillion, and Warren shall be the same as for a pool plant located in the northern zone; and

(4) In determining location adjustments, mileage shall be based on the shortest hard-surfaced highway distance as determined by the market administrator.

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee-plant only to the extent that 105 percent of Class I disposition at the transferee-plant exceeds the sum of receipts at such plant from producers and handlers described in § 1032.9(c), and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

### § 1032.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

### § 1032.54 Equivalent price.

If for any reason a price quotation required by this part for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

## Uniform Price

### § 1032.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1032.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1032.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1032.44(a)(14) and the corresponding step of § 1032.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1032.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1032.44 (a)(9) and the corresponding step of § 1032.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1032.44(a)(7) (i) through (iv) and the corresponding step of § 1032.44 (b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1032.44(a)(7) (v) and (vi) and the corresponding step of § 1032.44 (b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1032.44(a)(11) and the corresponding step of § 1032.44 (b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class II price, both for the preceding month, by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1032.40 (b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

### § 1032.61 Computation of uniform price (including weighted average price).

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content which is received from producers at plants located in the "base zone" as follows:

(a) Combined into one total the values computed pursuant to § 1032.60 for all handlers who filed the reports prescribed by § 1032.30 for the month and who made the payments pursuant to §§ 1032.71 and 1032.73 for the preceding month;

(b) Add an amount equal to the value of the net location and zone adjustments (reductions minus increases) applicable to the uniform price pursuant to § 1032.75;

(c) Add an amount equal to one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1032.60(f);

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price," and, except for the months specified below, shall be the "uniform price" for milk received from producers;

(f) For the months specified in paragraphs (g) and (h) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (c) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (d)(2) of this section by the weighted average price;

(g) Subtract in the case of milk delivered during each of the months of March and July an amount equal to 15 cents per hundredweight and during each of the months of April, May, and June an amount equal to 25 cents per hundredweight of producer milk specified in paragraph (d)(1) of this section;

(h) Add in the case of milk delivered during each of the months of September and December 20 percent and during each of the months of October and November 30 percent of the total amount subtracted pursuant to paragraph (g) of this section;

(i) Divide the resulting sum by the total hundredweight of producer milk included in these computations; and

(j) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

### § 1032.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

## Payments for Milk

### § 1032.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," which shall function as follows:

(a) All payments made by handlers pursuant to §§ 1032.71, 1032.76, and 1032.77 shall be deposited in such fund and out of which shall be made all payments pursuant to §§ 1032.72 and 1032.77: *Provided*, That any payments







V 38 I 178 SEP 14 73 XUM

due to any handler shall be offset by any payments due from such handler; and

(b) All amounts subtracted pursuant to § 1032.61(g) shall be deposited in this fund and set aside as an obligated balance until withdrawn to effectuate § 1032.73 in accordance with the requirements of § 1032.61(h).

**§ 1032.71 Payments to the producer-settlement fund.**

(a) On or before the 15th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1032.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1032.75, of such handler's receipts of producer milk; and

(ii) The value at the weighted average price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1032.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

**§ 1032.72 Payments from the producer-settlement fund.**

On or before the 17th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1032.71(a)(2) exceeds the amount computed pursuant to § 1032.71(a)(1). The market administrator shall offset any payment due any handler against any payments due from such handler.

**§ 1032.73 Payments to producers and to cooperative associations.**

(a) Except as provided in paragraphs (b), (c), and (d) of this section, each handler shall make payment for milk received during the month as follows:

(1) On or before the last day of each month to each producer who did not discontinue shipping milk to such handler before the 25th day of the month an amount equal to not less than the Class III price for the preceding month multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized by such producer to be made from payments due pursuant to this subparagraph;

(2) On or before the 20th day of the following month to each producer, an amount equal to not less than the uniform price, as adjusted pursuant to §§ 1032.74 and 1032.75, multiplied by the hundredweight of milk received from such producer during the month, subject to the following adjustments:

(i) Less payments made to such producer pursuant to paragraph (a)(1) of this section;

(ii) Less deductions for marketing services made pursuant to § 1032.86;

(iii) Plus or minus adjustments for errors made in previous payments made to such producer; and

(iv) Less proper deductions authorized in writing by such producer: *Provided*, That, if by such date, such handler has not received full payment from the market administrator pursuant to § 1032.72 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator;

(b) Payments required in paragraph (a) of this section shall be made to a cooperative association, qualified under § 1032.18 or its duly authorized agent, which the market administrator determines is authorized by its members to collect payment for their milk and which has so requested any handler in writing. Such handler shall, on or before the 18th day of the following month pay the cooperative association for milk received during the month from the producer-members of such association as determined by the market administrator an amount equal to not less than the amount due such producer-members as determined pursuant to paragraph (a) of this section, less any deductions authorized in writing by such association: *Provided*, That the association has provided the handler with a written promise to reimburse the handler the amount of any actual loss incurred by such handler because of any improper claim on the part of the cooperative association;

(c) On or before the 18th day after the end of each month, each handler shall pay to each cooperative association for milk the handler receives at his pool plant from a pool plant(s) operated by such association, not less than the minimum prices for milk in each class, as adjusted by the butterfat differential specified in § 1032.74, that are applicable at the location of the handler's pool plant;

(d) On or before the 18th day of the following month, each handler, in his capacity as the operator of a pool plant, who receives milk for which a cooperative association is the handler pursuant to § 1032.9(c) shall pay such cooperative association for such milk at the uniform price as adjusted pursuant to §§ 1032.74 and 1032.75;

(e) None of the provisions of this section shall be construed to restrict any cooperative association qualified under section 8c(5)(F) of the Act from making payment for milk to its producers in accordance with such provision of the Act, and

(f) Each handler who receives milk during the month from producers for which payment is to be made to a cooperative association pursuant to paragraph (b) of this section shall report to such cooperative association for each such producer on forms approved by the market administrator as follows:

(1) On or before the 25th day of the month, the total pounds of milk received during the first 15 days of such month; and

(2) On or before the 7th day after the end of the month, the total pounds of milk received from each producer, together with the butterfat content of such milk, and the amount or rate and nature of any deductions authorized by the cooperative association.

**§ 1032.74 Butterfat differential.**

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

**§ 1032.75 Plant location adjustments for producers and on nonpool milk.**

(a) The uniform price for producer milk received at a pool plant shall be adjusted according to the location of the pool plant at the rates set forth in § 1032.52(a); and

(b) The weighted average price applicable to other source milk shall be subject to the same adjustments applicable to the uniform price under paragraph (a) of this section, except that the adjusted weighted average price shall not be less than the Class III price.

**§ 1032.76 Payments by handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1032.30(b) and 1032.31(b) the information necessary for making the computations, such handler





may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1032.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1032.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1032.60 for such handler shall include, in lieu of the value of other source milk specified in § 1032.60(f) less the value of such other source milk specified in § 1032.71(a)(2)(ii), a value of milk determined pursuant to § 1032.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1032.7 (b) and (c), subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1032.30(b) and 1032.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(*c*) The value of milk determined pursuant to § 1032.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1032.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1032.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

**§ 1032.77 Adjustment of accounts.**

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due (a) the market administrator, from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments as set forth in the provisions under which such error occurred.

**§ 1032.78 Charges on overdue accounts.**

Any unpaid obligation of a handler pursuant to §§ 1032.71, 1032.85, or 1032.86 shall be increased one-half of 1 percent for each month or portion thereof that such payment is overdue.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

**§ 1032.85 Assessment for order administration.**

As his pro rata share of the expense of administering the order, each handler (excluding a handler described in § 1032.9(c) with respect to milk delivered to pool plants) shall pay to the market administrator on or before the 20th day after the end of the month 5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) His producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1032.44(a)(7) and (11) and the corresponding steps of § 1032.44(b), except such other source milk that is excluded from the computations pursuant to § 1032.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1032.76(a)(2).

**§ 1032.86 Deduction for marketing services.**

(a) *Deduction for marketing services.* Except as set forth in paragraph (b) of this section, each handler in making payments to producers pursuant to § 1032.73, shall deduct 6 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to all milk received by such handler from producers (excluding such handler's own production) during the month, and shall pay such deductions to the market administrator on or before the 20th day after the end of such month. Such moneys shall be used by the market administrator to verify weights, samples, and tests of milk received from such producers and to provide them with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) *Producers cooperative association.* In the case of producers for whom a cooperative association is actually performing as determined by the Secretary,



V 38-178 SEP 14 73 XUM

the services set forth in paragraph (a) of this section each handler, in lieu of the deduction specified in paragraph (a) of this section, shall make such marketing service deductions as are authorized by producer-members, and pay the money so deducted to the cooperative association on or before the 20th day after the end of the month.

ADVERTISING AND PROMOTION PROGRAM

**§ 1032.121 Duties of the market administrator.**

Except as specified in § 1032.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1032.113(c);

(b) Set aside the amounts subtracted under § 1032.71(c–1) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b) (2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1032.71(c–1).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1032.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1032.71(c–1) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1032.110 through 1032.122).

(d) Make necessary audits to establish that all agency funds are used only for authorized purposes.

**§ 1032.122 Liquidation.**

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1032.70.

(NOTE: An order terminating certain provisions in Order No. 32, 38 FR 15728, June 15, 1973, reads in part as follows:

"It is hereby determined that termination of the following provisions * * * is favored by * * * producers * * *. Sections 1032.110 through 1032.122 in their entirety. * * *

*It is therefore ordered*, That the aforesaid provisions of the order are hereby terminated. * * * *Effective dates* * * * Midnight, September 30, 1973, for §§ 1032.121, 1032.122.")

---

## PART 1046—MILK IN LOUISVILLE-LEXINGTON-EVANSVILLE MARKETING AREA

**Subpart—Order Regulating Handling**

GENERAL PROVISIONS


Secs.
1046.1 General provisions.

DEFINITIONS

1046.2 Louisville-Lexington-Evansville marketing area.
1046.3 Route disposition.
1046.4 [Reserved]
1046.5 City plant.
1046.6 Country plant.
1046.7 Pool plant.
1046.8 Nonpool plant.
1046.9 Handler.
1046.10 Producer-handler.
1046.11 [Reserved]
1046.12 Producer.
1046.13 Producer milk.
1046.14 Other source milk.
1046.15 Fluid milk product.
1046.16 Fluid cream product.
1046.17 Filled milk.
1046.18 Cooperative association.

HANDLER REPORTS

1046.30 Reports of receipts and utilization.
1046.31 Payroll reports.
1046.32 Other reports.

CLASSIFICATION OF MILK

1046.40 Classes of utilization.
1046.41 Shrinkage.
1046.42 Classification of transfers and diversions.
1046.43 General classification rules.
1046.44 Classification of producer milk.
1046.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1046.50 Class prices.
1046.51 Basic formula price.
1046.52 Plant location adjustments for handlers.
1046.53 Announcement of class prices.
1046.54 Equivalent price.

UNIFORM PRICE

1046.60 Handler's value of milk for computing uniform price.
1046.61 Computation of uniform price (including weighted average price).
1046.62 Announcement of uniform price and butterfat differential.

PAYMENTS FOR MILK

1046.70 Producer-settlement fund.
1046.71 Payments to the producer-settlement fund.
1046.72 Payments from the producer-settlement fund.
1046.73 Payments to producers and to cooperative associations.
1046.74 Butterfat differential.
1046.75 Plant location adjustments for producers and on nonpool milk.
1046.76 Payments by handler operating a partially regulated distributing plant.
1046.77 Adjustment of accounts.
1046.78 Charges on overdue accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1046.85 Assessment for order administration.
1046.86 Deduction for marketing services.


AUTHORITY: The provisions of this Part 1046 issued under secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674).

GENERAL PROVISIONS

**§ 1046.1 General provisions.**

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

**§ 1046.2 Louisville-Lexington-Evansville marketing area.**

The "Louisville-Lexington-Evansville marketing area", hereinafter called the "marketing area", means all the territory geographically within the counties listed below and all territory wholly or partly therein occupied by municipal corporations and institutions owned or operated by Federal, State or local governments:

INDIANA COUNTIES

| | |
|---|---|
| Clark. | Orange. |
| Crawford. | Perry. |
| Daviess. | Pike. |
| Dubois. | Posey. |
| Floyd. | Spencer. |
| Gibson. | Vanderburgh. |
| Harrison. | Warrick. |
| Knox. | Washington. |
| Martin. | |

KENTUCKY COUNTIES

| | |
|---|---|
| Adair. | Jessamine. |
| Anderson. | Larue. |
| Bourbon. | Lincoln. |
| Boyle. | Logan. |
| Breckinridge. | Madison. |
| Bullit. | Marion. |
| Butler. | McLean. |
| Casey. | Meade. |
| Clark. | Mercer. |
| Clinton. | Muhlenberg. |
| Cumberland. | Nelson. |
| Daviess. | Ohio. |
| Edmonson. | Oldham. |
| Fayette. | Pulaski. |
| Franklin. | Russell. |
| Garrard. | Scott. |
| Grayson. | Shelby. |
| Green. | Spencer. |
| Hancock. | Taylor. |
| Hardin. | Union. |
| Hart. | Washington. |
| Henderson. | Wayne. |
| Henry. | Webster. |
| Hopkins. | Woodford. |
| Jefferson. | |

**§ 1046.3 Route disposition.**

"Route disposition" means delivery (including disposition from a plant store or from a distribution point and distribution by a vendor) of a fluid milk product(s) classified as Class I milk to a wholesale or retail outlet(s) other than to a milk or filled milk plant(s). A delivery through a distribution point shall be attributed to the plant from which the Class I milk is moved through a distribution point to wholesale or retail outlets without intermediate movement to another milk or filled milk plant.





**§ 1046.4 [Reserved]**

**§ 1046.5 City plant.**

"City plant" means a plant where milk is processed or packaged and from which there is route disposition in the marketing area of fluid milk products permitted to be labeled as "Grade A" by a duly constituted health authority.

**§ 1046.6 Country plant.**

"Country plant" means a milk plant, other than a city plant, which is approved by a duly constituted health authority to supply milk or skim milk to a city plant(s) for disposition as "Grade A" milk and at which milk is received during the month from persons described in § 1046.12(a) or from a handler described in § 1046.9(c).

**§ 1046.7 Pool plant.**

Except as provided in paragraph (e) of this section, "pool plant" means:

(a) A city plant which meets the following requirements:

(1) For each of the Months of May through October not less than 30 percent and for each of the months of November through April not less than 50 percent of the fluid milk products, except filled milk, received during the 2 months immediately preceding from persons described in § 1046.12(a), from a handler described in § 1046.9(c), from country plants and from pool plants in containers not larger than a gallon is disposed of as Class I milk, except filled milk, from such plant during such 2-month period to all outlets except such disposition to pool plants in containers larger than a gallon: *Provided*, That, if such utilization percentage for the 2 preceding months cannot be ascertained by the market administrator, the respective percentages shall apply to receipts and sales during the current month; and

(2) There is an amount of route disposition in the marketing area, except filled milk, equal to not less than an average of 13,500 pounds per day or not less than 10 percent of the fluid milk products, except filled milk, received during the current month from persons described in § 1046.12(a), from a handler described in § 1046.9(c), and from country plants.

(b) A country plant during any of the months of October through March from which not less than 50 percent, and during other months not less than 40 percent, of the receipts of milk at such plant from persons described in § 1046.12(a) and from a handler described in § 1046.9 (c) is moved to and received at a city plant in the form of milk or skim milk.

(c) A country plant during the months of April through September from which not less than 50 percent of the combined receipts of milk from persons described in § 1046.12(a) and from a handler described in § 1046.9(c) during the preceding period of October through March was moved to and received at a city plant(s) in the form of milk or skim milk, unless the operator of such plant notifies the market administrator in writing on or before March 15 of withdrawal of the plant from the pool for the months of April through September next following.

(d) A country plant which is operated by a cooperative association if (1) two-thirds or more of the milk from persons described in § 1046.12(a) who are members of such association is delivered during the month from farms to the pool plant(s) of other handlers or transferred by such association from its plant to the pool plant(s) of other handlers or (2) such plant qualified as a pool plant pursuant to paragraph (d)(1) of this section during each of the immediately preceding consecutive months of October through February.

(e) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant; and

(2) Unless determined otherwise by the Secretary, a milk plant during any month in which the milk at such plant would be subject to the pricing and pooling provisions of another order issued pursuant to the Act unless such plant meets the requirements for a pool plant pursuant to paragraph (a), (b), (c) or (d) of this section and a greater volume of fluid milk products, except filled milk, is disposed of from such plant in the Louisville-Lexington-Evansville marketing area to other pool plants and to retail or wholesale outlets than in the marketing area regulated pursuant to such other order during the current month.

**§ 1046.8 Nonpool plant.**

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant other than a producer-handler plant or an other order plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant other than a producer-handler plant or an other order plant, from which fluid milk products are shipped to a pool plant.

**§ 1046.9 Handler.**

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any cooperative association with respect to milk diverted by it in accordance with the conditions set forth in § 1046.13;

(c) Any cooperative association with respect to the milk of its producer members which is delivered for the account of the cooperative association from the farm to the pool plant(s) of another handler in a tank truck owned by, operated by, or under contract to such cooperative association if the cooperative association has notified in writing prior to delivery both the market administrator and the handler to whom the milk is delivered that it wishes to be the handler for such milk. Such milk shall be considered as having been received by the cooperative association at the location of the plant to which it was delivered;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler; and

(f) Any person who operates an other order plant described in § 1046.7(e).

**§ 1046.10 Producer-handler.**

"Producer-handler" means any person who processes and packages milk from his own farm production, distributes any portion of such milk as route disposition in the marketing area and receives no fluid milk products from other dairy farmers or nonpool plants and no milk products other than fluid milk products for reconstitution into fluid milk products: *Provided*, That such persons provides proof satisfactory to the market administrator that (a) the care and management of all of the dairy animals and other resources necessary to produce the entire amount of fluid milk handled (excluding transfers from pool plants) is the personal enterprise of and at the personal risk of such person, and (b) the operation of the processing and distributing business is the personal enterprise of and at the personal risk of such person.

**§ 1046.11 [Reserved]**

**§ 1046.12 Producer.**

(a) Except as provided in paragraph (b) of this section, "producer" means any person:

(1) Who produces milk on a dairy farm which is approved by a duly constituted health authority for the production of milk for fluid disposition (this definition shall include approval of milk by the authority to administer the regulations governing the quality of milk acceptable to agencies of the United States Government for fluid consumption in its institutions or bases located in the marketing area during any month in which such milk is disposed of to such institutions or bases); and

(2) Whose milk so produced pursuant to paragraph (a)(1) of this section is received at a pool plant or by a handler



V 38 1178 SEP 14 73 XUM

described in § 1046.9(c) or diverted in accordance with the conditions set forth in § 1046.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act:

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1046.44(a)(8)(iii) and the corresponding step of § 1046.44(b); and

(3) Any person with respect to milk produced by him which is diverted from a pool plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk.

**§ 1046.13 Producer milk.**

"Producer milk" means that skim milk and butterfat contained in milk of a producer which is:

(a) Received from producers at a pool plant for the account of the person operating such plant. When milk is withdrawn at more than one pool plant from the same load delivered by a farm tank pickup truck, the entire load shall be deemed to have been received at the first pool plant at which any of such milk was withdrawn unless:

(1) There is an agreement among the operators of the pool plants receiving such milk providing for other receiving handler(s) to report and pay for all or a portion of such milk; or

(2) The milk involved is that which is delivered to pool plants for the account of a handler described in § 1046.9(c).

(b) Diverted by a handler from a pool plant to another pool plant for any number of days of the month. Milk so diverted shall be deemed to have been received by the diverting handler at the location of the pool plant from which it is diverted.

(c) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant, for the account of the operator of the pool plant or a cooperative association, subject to the following conditions:

(1) Milk so diverted shall be deemed to have been received at the pool plant from which it is diverted; and

(2) Producer milk pursuant to this paragraph shall not include the milk of any person during any of the months of October, November, January and February on days on which it is diverted by a handler to a nonpool plant in excess of 22 days (11 days in the case of every-other-day delivery) during the month.

(d) Received by a handler described in § 1046.9(c).

**§ 1046.14 Other source milk.**

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1046.40(b)(1) from any source other than producers, handlers described in § 1046.9(c), pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1046.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1046.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1046.40(b)(1)) for which the handler fails to establish a disposition.

**§ 1046.15 Fluid milk product.**

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1046.40 (b) or (c)(1) (i) through (iv) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

**§ 1046.16 Fluid cream product.**

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

**§ 1046.17 Filled milk.**

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, of nonmilk fat (or oil) with skim milk milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

**§ 1046.18 Cooperative association.**

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members.

HANDLER REPORTS

**§ 1046.30 Reports of receipts and utilization.**

On or before the 8th day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1046.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1046.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1046.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

**§ 1046.31 Payroll reports.**

(a) On or before the 20th day after the end of each month, each handler described § 1046.9(a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the





detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1046.76 (b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

**§ 1046.32 Other reports.**

(a) Each handler shall report to the market administrator, as soon as possible after first receiving milk from any producer, the name and address of such producer, the date upon which such milk was first received, and the plant at which such milk was received.

(b) On or before the 10th day after the request of the market administrator, each handler shall submit a schedule of rates which are charged and paid for the transportation of milk from the farm of each producer to such handler's plant. Changes in such schedule of rates and the effective dates thereof shall be reported to the market administrator within 10 days.

(c) In addition to the reports required pursuant to paragraphs (a) and (b) of this section and §§ 1046.30 and 1046.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

**§ 1046.40 Classes of utilization.**

Except as provided in § 1046.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1046.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(v) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1046.15; and

(6) In shrinkage assigned pursuant to § 1046.41(a) to the receipts specified in § 1046.41(a)(2) and in shrinkage specified in § 1046.41 (b) and (c).

**§ 1046.41 Shrinkage.**

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1046.30, the market administrator shall determine the following:

(a) The total shrinkage of skim milk and butterfat, respectively, at each pool plant, which shall be assigned pro rata to:

(1) The quantity of skim milk and butterfat, respectively, that is equal to 50 times the maximum amount that may be computed pursuant to paragraph (b) of this section; and

(2) The quantity of skim milk and butterfat, respectively, in other source milk received in bulk form as fluid milk products, excluding any such receipts used in the computations pursuant to paragraph (b) (5) and (6) of this section;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (b)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1046.9(c) and in milk diverted to such plant from another pool plant, except that, in either case, if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b)(1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1046.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under



No. 178—Pt. II——6

V 38-178 SEP 14 73 XUM

this paragraph for the cooperative association shall be zero.

**§ 1046.42 Classification of transfers and diversions.**

(a) *Transfers and diversions to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant or by a handler described in § 1046.9(c) to another handler's pool plant shall be classified as Class I milk unless both handlers request the same classification in another class. In either case, the classification of such transfers or diversions shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant or divertee-plant after the computations pursuant to § 1046.44(a)(12) and the corresponding step of § 1046.44(b);

(2) If the transferor-plant or divertor-plant received during the month other source milk to be allocated pursuant to § 1046.44(a)(7) or the corresponding step of § 1046.44(b), the skim milk or butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk;

(3) If the transferor-handler or divertor-handler received during the month other source milk to be allocated pursuant to § 1046.44(a) (11) or (12) or the corresponding steps of § 1046.44(b), the skim milk or butterfat, so transferred or diverted, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant or divertee-plant; and

(4) If a specified classification is not claimed by both handlers in the case of transfers or diversions by such a cooperative association, such skim milk and butterfat shall be classified pro rata to the respective amounts remaining in each class at the pool plant of the transferee- or divertee-handler after making the assignments pursuant to § 1046.44(a)(12) and the corresponding step of § 1046.44(b), and after the assignment of milk for which a specified classification has been claimed pursuant to this paragraph.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b)(1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1046.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1046.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

**§ 1046.43 General classification rules.**

In determining the classification of producer milk pursuant to § 1046.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1046.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1046.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1046.40, 1046.41, and 1046.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1046.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

**§ 1046.44 Classification of producer milk.**

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1046.9(a) for each of his pool plants separately and of each handler described in § 1046.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:





(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1046.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1046.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1046.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1046.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1046.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (*c*) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the handler's total Class III utilization at his other pool plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler;

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, milk from a handler described in § 1046.9(c), fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of



V 38 178 SEP 14 73 XUM

bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1046.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraphs (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraphs (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(12) Subtract in the manner specified below from the pounds of slim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(1)(ii) and (iii) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1046.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler;

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received; and

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computation pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from any class that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant or a handler described in § 1046.9(c) according to the classification of such products pursuant to § 1046.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1046.44(a)(14) and the corresponding step of § 1046.44(b).

### § 1046.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1046.44(a)(12) and the corresponding step of § 1046.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month, of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1046.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 15th day after the end of each month, report to each cooperative association, which so requests, with respect to milk delivered by such association or by its members to each handler during the month: (1) The percentage of such receipts classified in each class; and (2) the percentage relationship of such receipts to the total pounds of Class I milk available to assign to such receipts exclusive of the Class I milk disposed of by such handler to the pool plant(s) of other handlers and to nonpool plants. For the purpose of these reports, the milk received from such association shall be treated on a pro rata basis of the total producer milk received by such handler during the month.

## Class Prices

### § 1046.50 Class prices.

Subject to the provisions of § 1046.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.49.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

### § 1046.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

### § 1046.52 Plant location adjustments for handlers.

(a) For that milk received from producers or from a handler described in § 1046.9(c) at a pool plant located at any point which is 85 miles or more from the City Hall in Evansville, Indiana, or Louisville, Lexington, Danville, Elizabethtown, or Madisonville, Kentucky, whichever is nearer, by the shortest hard-surfaced highway distance as determined by the market administrator, and which is classified as Class I milk subject to the limitations pursuant to paragraph (b) of this section, the price specified in § 1046.50(a) shall be reduced at the rate set forth in the following schedule according to the location of the plant where such milk is received:

| | *Rate per hundredweight (cents)* |
|---|---|
| Distance from City Hall: | |
| 85 miles but less than 95 miles | 15.0 |
| For each additional 10 miles or fraction thereof an additional | 1.5 |

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned to that Class I disposition at the transferee-plant which is in excess of the sum of receipts at such plant from producers and handlers described in § 1046.9(c), and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

### § 1046.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

### § 1046.54 Equivalent price.

If for any reason a price quotation required by this part for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

## Uniform Price

### § 1046.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1046.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1046.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1046.44(a)(14) and the corresponding step of § 1046.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1046.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1046.44(a)(9) and the corresponding step of § 1046.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1046.44(a)(7)(i) through (iv) and the corresponding step of § 1046.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1046.44(a)(7)(v) and (vi) and the corresponding step of § 1046.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1046.44(a)(11) and the corresponding step of § 1046.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

### § 1046.61 Computation of uniform price (including weighted average price).

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content which is received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1046.60 for all handlers who filed the reports prescribed by § 1046.30 for the month and who are not in default of payments pursuant to § 1046.71 for the preceding month;

(b) Add an amount equal to the total value of the location adjustments computed pursuant to § 1046.75;

(c) Add an amount equal to one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1046.60(f);

(e) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "weighted average price", and, except for the months specified below, shall be the "uniform price" for milk received from producers;

(f) For the months specified in paragraphs (g) and (h) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (c) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (d)(2) of this section by the weighted average price;

(g) Subtract for each month of April through July the amount obtained by multiplying the hundredweight of producer milk included in these computations by a rate that is equal to 10 percent of the average basic formula price (computed to the nearest cent) for the preceding calendar year but that is not more than 40 cents;

(h) Add during each of the months of September, October, November and December one-fourth of the total amount subtracted pursuant to paragraph (g) of this section;

(i) Divide the resulting sum by the total hundredweight of producer milk included in these computations; and

(j) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "uniform price" per hundredweight for milk of 3.5 percent butterfat received from producers.

### § 1046.62 Announcement of uniform price and butterfat differential.

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

### § 1046.70 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1046.71, 1046.76, and 1046.77 and from which he shall make all payments pursuant to §§ 1046.72 and 1046.77: *Provided*, That payments due any handler shall be offset by payments due from such handler.







V 38 I 178 SEP 14 73 XUM

**§ 1046.71 Payments to the producer-settlement fund.**

(a) On or before the 15th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1046.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1046.75, of such handler's receipts of producer milk; and

(ii) The value at the weighted average price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1046.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

**§ 1046.72 Payments from the producer-settlement fund.**

On or before the 16th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1046.71(a)(2) exceeds the amount computed pursuant to § 1046.71(a)(1): *Provided*, That the market administrator shall offset any payment due any handler against payments due from such handler, and if the balance in the producer-settlement fund is insufficient to make all payments pursuant to this paragraph, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

**§ 1046.73 Payments to producers and to cooperative associations.**

Except as provided in paragraph (c) of this section, each handler shall make payment to each producer for milk received from such producer as follows:

(a) On or before the last day of each month for milk received during the first 15 days of the month from such producer who has not discontinued delivery of milk to such handler, an amount computed at not less than the Class III price for the preceding month without deduction for hauling.

(b) On or before the 17th day after the end of each month for milk received from such producer during such month, an amount computed at not less than the uniform price per hundredweight for the month, as adjusted pursuant to §§ 1046.74 and 1046.75, and plus or minus adjustments for errors made in previous payments to such producer and less (1) the payment made pursuant to paragraph (a) of this section, (2) deductions for marketing services pursuant to § 1046.86, and (3) proper deductions authorized by such producer which, in the case of a deduction for hauling, shall be in writing and signed by such producer or, in the case of members of a cooperative association which is marketing the producer's milk, by such association.

(c)(1) Upon receipt of a written request from a cooperative association which the market administrator determines is authorized by its members to collect payment for their milk and receipt of a written promise to reimburse the handler the amount of any actual loss incurred by him because of any improper claim on the part of the cooperative association in lieu of payments pursuant to paragraphs (a) and (b) of this section, each handler shall pay to the cooperative association on or before the second day prior to the dates specified in paragraphs (a) and (b), respectively, of this section, an amount equal to the sum of the individual payments otherwise payable to such producers without the deductions provided by paragraphs (b)(2) and (3) of this section: *Provided*, That deductions for supplies authorized by such producer may be made. The foregoing payment shall be made with respect to milk of each producer whom the cooperative association certifies is a member effective on and after the first day of the month next following receipt of such certification through the last day of the month next preceding receipt of notice from the cooperative association of a termination of membership or until the original request is rescinded in writing by the cooperative association.

(2) A copy of each such request, promise to reimburse and certified list of members shall be filed simultaneously with the market administrator by the cooperative association and shall be subject to verification at his discretion through audit of the records of the cooperative association pertaining thereto. Exceptions, if any, to the accuracy of such certification by a producer claimed to be a member, or by a handler, shall be made by written notice to the market administrator and shall be subject to his determination.

(d) In making the payments to producers pursuant to paragraph (b) of this section, each handler shall furnish each producer a supporting statement which shall show for each month the following:

(1) The identity of the handler and of the producer;

(2) The total pounds and the average butterfat content of milk received from such producer;

(3) The minimum rate or rates at which payment to such producer is required pursuant to this part;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer.

(e) In making payments to a cooperative association pursuant to paragraph (c) of this section, each handler shall report to such cooperative association for each such producer on forms approved by the market administrator as follows:

(1) On or before the 20th day of the month, the total pounds of milk received during the first 15 days of such month, and

(2) On or before the 7th day of the following month, the total pounds of milk received each month, together with the butterfat content of such milk and the amount of deductions claimed by such handler.

(f) Each handler shall pay to the cooperative association on or before the 10th day of the following month for milk received from it as a handler described in § 1046.9(c) an amount computed at not less than the value of such milk at the minimum prices for milk in each class, as adjusted by the butterfat differential specified in § 1046.74, that are applicable at the location of the receiving handler's pool plant.

**§ 1046.74 Butterfat differential.**

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

**§ 1046.75 Plant location adjustments for producers and on nonpool milk.**

(a) The uniform price for producer milk received at a pool plant shall be reduced according to the location of the pool plant at the rates set forth in § 1046.52; and

(b) For purposes of computations pursuant to §§ 1046.71 and 1046.72 the weighted average price shall be reduced at the rates set forth in § 1046.52 applicable at the location of the nonpool plant(s) from which the milk was received, except that the adjusted weighted average price shall not be less than the Class III price.

**§ 1046.76 Payments by handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1046.30(b) and 1046.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1046.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plants;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1046.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1046.60 for such handler shall include, in lieu of the value of other source milk specified in § 1046.60(f) less the value of such other source milk specified in § 1046.71(a)(2)(ii), a value of milk determined pursuant to § 1046.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1046.7 (b) and (c), subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1046.30 (b) and 1046.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(*c*) The value of milk determined pursuant to § 1046.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1046.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1046.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

**§ 1046.77 Adjustment of accounts.**

Whenever verification by the market administrator of payments by any handler discloses errors made in payments to the producer-settlement fund, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days, make payment to the market administrator of the amount so billed. Whenever such verification discloses that payment is due from the market administrator to any handler, pursuant to § 1046.72, the market administrator shall, within 15 days, make such payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer for milk received by such handler discloses payment of less than is required by § 1046.73, the handler shall pay any amount so due not later than the time of making payment to producers next following such disclosure.

**§ 1046.78 Charges on overdue accounts.**

Any unpaid obligation of a handler or of the market administrator pursuant to §§ 1046.71, 1046.72, 1046.73, 1046.76, 1046.77, 1046.85, or 1046.86 shall be increased one-half of one percent on the first of the month next following the due date of such obligation and on the first day of each month thereafter until such obligation is paid.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

**§ 1046.85 Assessment for order administration.**

As his pro rata share of the expense of administration of the order, each handler, excluding a handler described in § 1046.9(c), shall pay to the market administrator on or before the 15th day after the end of the month three cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including such handler's own production) and milk received from a handler described in § 1046.9(c);

(b) Other source milk allocated to Class I pursuant to § 1046.44(a) (7) and (11) and the corresponding steps of § 1046.44(b), except such other source milk that is excluded from the computations pursuant to § 1046.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1046.76(a)(2).

**§ 1046.86 Deduction for marketing services.**

(a) Except as set forth in paragraph (b) of this section, each handler, in making payments to producers pursuant to § 1046.73(b), shall deduct 5 cents per







V 38 1178 SEP 14 73 XUM

hundredweight, or such amount not in excess thereof as the Secretary may prescribe, with respect to all milk received by such handler from producers (other than such handler's own farm production) during the month and shall pay such deductions to the market administrator on or before the 15th day after the end of such month. Such moneys shall be used by the market administrator to verify weights, samples, and tests of milk received from such producers and to provide such producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) Each cooperative association which is actually performing the services described in paragraph (a) of this section, as determined by the market administrator, may file with a handler a claim for authorized deductions from the payments otherwise due to its producer members for milk delivered to such handler. Such claim shall contain a list of the producers for whom such deductions apply, an agreement to indemnify the handler in the making of the deductions, and a certification that the association has an unterminated membership contract with each producer. In making payments to producers for milk received during the month, each handler shall make, in lieu of the deduction specified in paragraph (a) of this section, deductions in accordance with the association's claim and shall pay the amount deducted to the association within 15 days after the end of the month.

## PART 1049—MILK IN INDIANA MARKETING AREA

### Subpart—Order Regulating Handling

GENERAL PROVISIONS

Sec.
1049.1 General provisions.

DEFINITIONS

1049.2 Indiana marketing area
1049.3 Route disposition.
1049.4 [Reserved]
1049.5 Distributing plant.
1049.6 Supply plant.
1049.7 Pool plant.
1049.8 Nonpool plant.
1049.9 Handler.
1049.10 Producer-handler.
1049.11 [Reserved]
1049.12 Producer.
1049.13 Producer milk.
1049.14 Other source milk.
1049.15 Fluid milk product.
1049.16 Fluid cream product.
1049.17 Filled milk.
1049.18 Cooperative association.

HANDLER REPORTS

1049.30 Reports of receipts and utilization.
1049.31 Payroll reports.
1049.32 Other reports.

CLASSIFICATION OF MILK

1049.40 Classes of utilization.
1049.41 Shrinkage.
1049.42 Classification of transfers and diversions.
1049.43 General classification rules.
1049.44 Classification of producer milk.
1049.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1049.50 Class prices.
1049.51 Basic formula price.
1049.52 Plant location adjustments for handlers.
1049.53 Announcement of class prices.
1049.54 Equivalent price.

UNIFORM PRICE

1049.60 Handler's value of milk for computing uniform price.
1049.61 Computation of uniform price (including weighted average price).
1049.62 Announcement of uniform price and butterfat differential.

PAYMENTS FOR MILK

1049.70 Producer-settlement fund.
1049.71 Payments to the producer-settlement fund.
1049.72 Payments from the producer-settlement fund.
1049.73 Payments to producers and to cooperative associations.
1049.74 Butterfat differential.
1049.75 Plant location adjustments for producers and on nonpool milk.
1049.76 Payments by handler operating a partially regulated distributing plant.
1049.77 Adjustment of accounts.
1049.78 Charges on overdue accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1049.85 Assessment for order administration.
1049.86 Deduction for marketing services.

ADVERTISING AND PROMOTION PROGRAM

1049.110 Agency.
1049.111 Composition of the Agency.
1049.112 Term of office.
1049.113 Selection of Agency members.
1049.114 Agency operating procedure.
1049.115 Powers of the Agency.
1049.116 Duties of the Agency.
1049.117 Advertising, research, education, and promotion program.
1049.118 Limitation of expenditures by the Agency.
1049.119 Personal liability.
1049.120 Procedure for requesting refunds.
1049.121 Duties of the market administrator.
1049.122 Liquidation.

AUTHORITY.—The provisions of this Part 1049 issued under secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674).

GENERAL PROVISIONS

### § 1049.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

### § 1049.2 Indiana marketing area.

"Indiana marketing area" (hereinafter referred to as the "marketing area") means all the territory within the boundaries of each of the Indiana counties listed below, including territory wholly or partly within such boundaries occupied by Government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments:

| | |
|---|---|
| Adams. | La Porte. |
| Allen. | Lawrence. |
| Bartholomew. | Madison. |
| Blackford. | Marion. |
| Boone. | Marshall. |
| Brown. | Miami. |
| Cass. | Monroe. |
| Clay. | Montgomery. |
| Clinton. | Morgan. |
| Decatur. | Noble. |
| De Kalb. | Owen. |
| Delaware. | Parke. |
| Elkhart. | Porter. |
| Fayette. | Putnam. |
| Fountain. | Randolph. |
| Franklin. | Rush. |
| Fulton. | Shelby. |
| Grant. | Steuben. |
| Hamilton. | St. Joseph. |
| Hancock. | Starke. |
| Hendricks. | Tippecanoe. |
| Henry. | Tipton. |
| Howard. | Union. |
| Huntington. | Vermillion. |
| Jackson. | Vigo. |
| Jay. | Wabash. |
| Johnson. | Warren. |
| Kosciusko. | Wayne. |
| Lagrange. | Wells. |
| Lake. | Whitley. |

### § 1049.3 Route disposition.

"Route disposition" means a delivery (including that custom-packaged for another person, disposition from a plant store or from a distribution point and distribution by a vendor or vending machine) of any fluid milk product classified as Class I milk other than a delivery in bulk form to any milk or filled milk processing plant.

### § 1049.4 [Reserved]

### § 1049.5 Distributing plant.

"Distributing plant" means a plant approved by any duly constituted health authority for the processing or packaging of milk for fluid consumption in the marketing area and from which there is route disposition during the month in the marketing area.

### § 1049.6 Supply plant.

"Supply plant" means a plant in which some milk approved by any duly constituted health authority for fluid consumption in the marketing area is assembled and shipped in bulk as milk or skim milk to a distributing plant during the month.

### § 1049.7 Pool plant.

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A distributing plant with:

(1) Total route disposition, exclusive of packaged fluid milk products received from other plants and filled milk, in an amount not less than 50 percent of Grade A milk received at such plant during the month from dairy farmers (excluding receipts of producer milk by diversion pursuant to § 1049.13) and supply plants, except that a plant meeting such percentage requirement for the preceding month may remain qualified under this subparagraph in the current month; and





(2) Route disposition within the marketing area during the month of at least 10 percent of such receipts, such route disposition to be exclusive of packaged fluid milk products received from other plants and filled milk: *Provided*, That any plant meeting the requirements of this paragraph in each of the months of September through May, inclusive, shall continue to have pool plant status in the months of June, July, and August, immediately following if there is route disposition, except filled milk, from the plant in the marketing area during such month.

(b) A supply plant from which not less than 50 percent of the Grade A milk received from dairy farmers at such plant during the month is shipped to plants qualifying for the month pursuant to paragraph (a) of this section. A plant qualified pursuant to this paragraph in each of the immediately preceding months of September through February shall remain so qualified for the months of April through August unless written application is filed with the market administrator on or before the first day of any such month to designate such plant as a nonpool plant for such month and for each subsequent month through August during which it would otherwise not qualify under this paragraph.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A distributing plant from which the Secretary determines there is a greater proportion of route disposition (except filled milk) in another marketing area regulated by another order issued pursuant to the Act and such plant is fully subject to regulation of such other order: *Provided*, That a distributing plant which was a pool plant under this order in the immediately preceding month shall continue to be subject to all of the provisions of this part until the third consecutive month in which it has a greater proportion of its route disposition (except filled milk) in such other marketing area, unless, notwithstanding the provisions of this subparagraph, it is regulated by such other order;

(3) A distributing plant which meets the requirements of paragraph (a) of this section which also meets the requirements of another order on the basis of its route disposition in such other marketing area and from which the Secretary determines there is a greater quantity of route disposition (except filled milk) during the month in this marketing area than in such other marketing area but which plant is nevertheless fully regulated under such other order;

(4) A supply plant which during the month is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, unless such plant is qualified as a pool plant pursuant to paragraph (b) of this section and a greater volume of fluid milk products (except filled milk) is moved to pool distributing plants qualified on the basis of route disposition in this marketing area; and

(5) That portion of a plant that is physically separated from the Grade A portion of such plant, is operated separately and is not approved by any health authority for the receiving, processing or packaging of any fluid milk product for Grade A disposition.

### § 1049.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool supply plant that is not an other order plant or a producer-handler plant, from which fluid milk products are shipped during the month to a pool plant.

### § 1049.9 Handler.

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any cooperative association with respect to producer milk diverted for the account of such association pursuant to § 1049.13;

(c) [Reserved]

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler; or

(f) Any person who operates an other order plant described in § 1049.7(c).

### § 1049.10 Producer-handler.

"Producer-handler" means a person who operates a dairy farm and a distributing plant and who receives no fluid milk products from other dairy farmers or from sources other than pool plants, and no milk products other than fluid milk products for reconstitution into fluid milk products: *Provided*, That such person provides proof satisfactory to the market administrator that the care and management of all dairy animals and other resources used in his own farm production and the operation of the processing and distributing business are at the personal enterprise and risk of such person.

### § 1049.11 [Reserved]

### § 1049.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who in compliance with Grade A inspection requirements of a duly constituted health authority, produces milk for distribution as fluid milk products within the marketing area or produces milk acceptable for fluid consumption at Federal, State, or municipal institutions, which milk is received at a pool plant or diverted pursuant to § 1049.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1049.44(a)(8)(iii) and the corresponding step of § 1049.44(b); and

(3) Any person with respect to milk produced by him which is diverted from a pool plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk.

### § 1049.13 Producer milk.

"Producer milk" means all skim milk and butterfat contained in milk of any producer which is:

(a) Received at one or more pool plants during the month (milk may be diverted during the month by a handler from a pool distributing plant to another pool plant(s) for not more days of production of producer milk than is physically received at the diverting pool plant).

(b) Received at a pool plant at least one day during the month and then diverted by the operator of a pool plant or by a cooperative association to a nonpool plant that is not a producer-handler plant during the month under any of the following conditions:

(1) During April through August the operator of a pool plant or a cooperative association may divert the milk production of a producer from a pool plant to a nonpool plant on any number of days during the month.

(2) During September through March the milk of a producer diverted by the operator of a pool plant or a cooperative association to a nonpool plant shall be limited to the amounts specified in paragraph (b)(2)(i) and (ii) of this section:

(i) The operator of a pool plant may divert the milk of producers (except producer members of a cooperative association which is diverting milk under the percentage limit of paragraph (b)(2)(ii) of this section) for not more days of production of producer milk than is physically received at the diverting pool plant or he may divert an aggregate quantity not exceeding 40 percent of the milk of all such producers.

(ii) A cooperative association may divert the milk of its individual member producers for not more days of production of producer milk than is physically received at a pool plant or it may divert an aggregate quantity of the milk of member producers not exceeding 40 percent of all such milk either caused to be delivered to pool plants or diverted to nonpool plants by the cooperative association.

(3) When milk is diverted in excess of the limit by a handler who elects to divert on the basis of days-of-production, only that milk of the individual producer which was received at a pool plant or



V 38 I 178 SEP 14 73 XUM

which was diverted to a nonpool plant for not more days of production than is physically received at a pool plant shall be considered producer milk.

(4) When milk is diverted in excess of the percentage limit by a handler who elects to divert on a percentage basis, eligibility as producer milk shall be forfeited on a quantity of milk equal to such excess. In such instances the diverting handler shall specify the dairy farmers whose milk is ineligible as producer milk. If the handler fails to designate such dairy farmers whose milk is ineligible, producer milk status shall be forfeited with respect to all milk diverted to nonpool plants by such handler.

(c) Diverted milk shall be deemed to be received by the handler at the pool plant or nonpool plant to which the milk is diverted, unless diverted to a plant located in any part of the marketing area or to a plant at which no location adjustment would apply pursuant to § 1049.52, in which case such diverted milk shall be deemed to be received at the pool plant from which diverted.

**§ 1049.14 Other source milk.**

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1049.40(b)(1) from any source other than producers, pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1049.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1049.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1049.40(b)(1)) for which the handler fails to establish a disposition.

**§ 1049.13 Fluid milk product.**

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1049.40 (b) or (c)(1) (i) through (iv) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

**§ 1049.16 Fluid cream product.**

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

**§ 1049.17 Filled milk.**

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

**§ 1049.18 Cooperative association.**

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act";

(b) To have full authority in the sale of milk of its members and is engaged in making collective sales of or marketing milk or milk products for its members; and

(c) To have all of its activities under the control of its members.

HANDLER REPORTS

**§ 1049.30 Reports of receipts and utilization.**

On or before the 8th day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) [Reserved]

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1049.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1049.9(b) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

**§ 1049.31 Payroll reports.**

(a) On or before the 20th day after the end of each month, each handler described in § 1049.9 (a) and (b) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1049.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

**§ 1049.32 Other reports.**

(a) On or before the day prior to diverting milk pursuant to § 1049.13, each handler shall notify the market administrator of his intention to divert such milk, the date or dates of such diversion, and the plant to which such milk is to be diverted.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1049.30 and 1049.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

**§ 1049.40 Classes of utilization.**

Except as provided in § 1049.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1049.30 shall be classified as follows:





(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(v) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1049.15; and

(6) In shrinkage assigned pursuant to § 1049.41(a) to the receipts specified in § 1049.41(a)(2) and in shrinkage specified in § 1049.41 (b) and (c).

**§ 1049.41 Shrinkage.**

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1049.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b)(1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b)(1) through (6) of this section which was received in bulk fluid form;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant);

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk diverted to such plant from another pool plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1049.9(b) but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

**§ 1049.42 Classification of transfers and diversions.**

(a) *Transfers and diversions to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers or diversions shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant or divertee-plant after the computations pursuant to § 1049.44(a)(12) and the corresponding step of § 1049.44(b);

(2) If the transferor-plant or divertor-plant received during the month other source milk to be allocated pursuant to § 1049.44(a)(7) or the corresponding step of § 1049.44(b), the skim milk or butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler or divertor-handler received during the month other source milk to be allocated pursuant to § 1049.44(a) (11) or (12) or the corresponding steps of § 1049.44 (b), the skim milk or butterfat so transferred or diverted, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant or divertee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the



V 38-178
SEP 14 73
XUM

pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utlization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1049.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product; unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2)(ii) through (viii) of this section:

(*a*) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1049.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator:

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

### § 1049.43 General classification rules.

In determining the classification of producer milk pursuant to § 1049.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1049.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1049.9(b) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1049.40, 1049.41, and 1049.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1049.9(b) shall be determined separately from the operations of any pool plant operated by such cooperative association.

### § 1049.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1049.9(a) for each of his pool plants separately and of each handler described in § 1049.9(b) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:





(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1049.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1049.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1049.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1049.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1049.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the handler's total Class III utilization at his other pool plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler;

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1049.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) of this section subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii) and (iii) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with



V 38 1178 SEP 14 73 XUM

the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1049.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler;

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received; and

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from any class that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1049.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1049.44(a)(14) and the corresponding step of § 1049.44(b).

**§ 1049.45 Market administrator's reports and announcements concerning classification.**

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1049.44(a)(12) and the corresponding step of § 1049.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1049.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 14th day after the end of each month, report to each cooperative association, upon request by such association, the percentage of the milk caused to be delivered by the cooperative association or its members which was utilized in each class at each pool plant receiving such milk. For the purpose of this report, the milk so received shall be allocated to each class at each pool plant in the same ratio as all producer milk received at such plant during the month.

CLASS PRICES

**§ 1049.50 Class prices.**

Subject to the provisions of § 1049.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.47.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The class III price shall be the basic formula price for the month.

**§ 1049.51 Basic formula price.**

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

**§ 1049.52 Plant location adjustments for handlers.**

(a) For producer milk which is received at a pool plant located outside the area for which zero location adjustment is specified in paragraph (a)(1)(i) of this section, which milk is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price computed pursuant to § 1049.50(a) shall be reduced on the basis of the applicable amount or rate for the location of such plant pursuant to paragraph (a)(1) or (2) of this section, respectively. For the purpose of this section and § 1049.75, the distances to be computed shall be on the basis of the shortest hard-surfaced highway distances as determined by the market administrator:

(1) At any plant located within:

| | *Rate of adjustment per hundredweight (Cents)* |
|---|---|
| (i) The State of Ohio or any Indiana county not specifically named in subdivisions (ii) through (iv) of this subparagraph | 0 |
| (ii) Any of the Indiana counties of: Adams, Allen, Blackford, Cass, Carroll, De Kalb, Huntington, Jay, La Grange, Miami, Noble, Steuben, Wabash, Wells, White, Whitley | 4 |
| (iii) Any of the Indiana counties of: Benton, Elkhart, Fulton, Jasper, Kosciusko, Marshall, Newton, Pulaski, St. Joseph, and Berrien and Cass Counties, Mich | 8 |
| (iv) Any of the Indiana counties of: Lake, La Porte, Porter, Starke | 12 |

(2) For any plant at a location outside the territory specified in the preceding paragraph (a)(1) of this section, the applicable adjustment rate per hundredweight shall be based on the shortest highway distance between the plant and the nearest of the Monument Circle, Indianapolis, Ind., or the main post offices of Fort Wayne, South Bend, or Valparaiso, Ind., and shall be 1.5 cents for each 10 miles or fraction thereof from such point plus the amount of the location adjustment pursuant to paragraph (a)(1) of this section applicable at the respective point.

(b) For the purpose of calculating adjustments pursuant to this section, transfers between pool plants shall be assigned Class I disposition at the transferee-plant, in excess of the receipts at such plant from producers and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor-plants at which no location adjustment is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted





Class I price shall not be less than the Class III price.

**§ 1049.53 Announcement of class prices.**

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

**§ 1049.54 Equivalent price.**

If for any reason a price quotation or factor required by this part for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price or factor determined by the Secretary to be equivalent to the price or factor which is required.

UNIFORM PRICE

**§ 1049.60 Handler's value of milk for computing uniform price.**

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in §1049.9(b) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1049.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1049.44(a)(14) and the corresponding step of § 1049.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1049.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1049.44(a)(9) and the corresponding step of § 1049.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1049.44(a)(7)(i) through (iv) and the corresponding step of § 1049.44(b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1049.44(a)(7)(v) and (vi) and the corresponding step of § 1049.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1049.44(a)(11) and the corresponding step of § 1049.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

**§ 1049.61 Computation of uniform price (including weighted average price).**

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1049.60 for all handlers who filed the reports prescribed by § 1049.30 for the month and who made the payments pursuant to § 1049.71 for the preceding month;

(b) Add an amount equal to the total value of the location adjustments computed pursuant to § 1049.75;

(c) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

(d) Add an amount equal to one-half of the unobligated balance in the producer-settlement fund;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1049.60(f);

(f) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price", and, except for the months specified below, shall be the "uniform price" for milk received from producers;

(g) For the months specified in paragraphs (h) and (i) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (d) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (e)(2) of this section by the weighted average price;

(h) Subtract for each month of April through July the amount obtained by multiplying the hundredweight of producer milk included in these computations by 20 cents. The amount so subtracted, and the interest subsequently earned thereon (less any money not available for crediting under this paragraph because of insufficient payment by a handler to the producer-settlement fund) shall be credited to the producer settlement fund and remain as an obligated amount until disbursed pursuant to paragraph (i) of this section;

(i) Add for the month of September one-fourth of the total money that has been credited to the producer-settlement fund pursuant to paragraph (h) of this section as of the eighth day of the following month. Similarly, for the months of October and November, add one-third and one-half, respectively, of the remainder that has been so credited. For the month of December, add the remainder of the money credited to the producer-settlement fund pursuant to paragraph (h) of this section;

(j) Divide the resulting sum by the total hundredweight of producer milk included in these computations; and

(k) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

**§ 1049.62 Announcement of uniform price and butterfat differential.**

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 14th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

**§ 1049.70 Producer-settlement fund.**

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" which shall function as follows:

(a) All payments made by handlers pursuant to §§ 1049.71, 1049.76, 1049.77, and 1049.78 shall be deposited in such fund and from which shall be made all payments pursuant to §§ 1049.72, 1049.77, and 1049.78, except that any payments due to any handler shall be offset by any payments due from such handler; and

(b) All amounts subtracted pursuant to § 1049.61(h) shall be deposited in this fund and set aside as an obligated balance until withdrawn to effectuate § 1049.73 in accordance with the requirements of § 1049.61(i).

**§ 1049.71 Payments to the producer-settlement fund.**

(a) On or before the 15th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1049.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1049.75, of such handler's receipts of producer milk; and

(ii) The value at the weighted average price applicable at the location of the plant from which received plus 5 cents of other source milk for which a value is computed pursuant to § 1049.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:



V 38-178 SEP 14 73 XUM

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (a)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

**§ 1049.72 Payments from the producer-settlement fund.**

On or before the 16th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1049.71(a)(2) exceeds the amount computed pursuant to § 1049.71(a)(1). If the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds become available.

**§ 1049.73 Payments to producers and to cooperative associations.**

(a) Each handler shall pay each producer for producer milk for which payment is not made to a cooperative association pursuant to paragraph (b) of this section, as follows:

(1) On or before the last day of each month, for producer milk received during the first 15 days of the month at not less than the Class III price for the preceding month; and

(2) On or before the 18th day after the end of each month, for each hundredweight of producer milk received during such month, an amount computed at not less than the uniform price as adjusted pursuant to §§ 1049.74, 1049.75 and 1049.86, less any payment made pursuant to paragraph (a)(1) of this section. If by such date the handler has not received full payment from the market administrator pursuant to § 1049.72 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payment to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following receipt of the balance due from the market administrator.

(b) Each handler shall make payment to the cooperative association for producer milk which it caused to be delivered to such handler, if such cooperative association is authorized to collect such payments for its members and exercises such authority, an amount equal to the sum of the individual payments otherwise payable for such producer milk, as follows:

(1) On or before the 26th day of each month for producer milk received during the first 15 days of the month; and

(2) On or before the 16th day after the end of each month for milk received during such month.

(c) Each handler shall pay to each cooperative association, on or before the 10th day of the following month, for milk the handler receives during the month from a pool plant operated by such association, not less than the minimum prices for milk in each class, as adjusted by the butterfat differential specified in § 1049.74, that are applicable at the location of the handler's pool plant.

(d) In making payments for producer milk pursuant to this section, each handler shall furnish each producer or cooperative association from whom he has received milk a supporting statement in such form that it may be retained by the recipient which shall show:

(1) The month and identity of the producer;

(2) The daily and total pounds and the average butterfat content of producer milk;

(3) The minimum rate or rates at which payment to the producer is required pursuant to this order;

(4) The rate which is used in making the payment if such rate is other than the applicable minimum rate;

(5) The amount, or the rate per hundredweight, and nature of each deduction claimed by the handler; and

(6) The net amount of payment to such producer or cooperative association.

**§ 1049.74 Butterfat differential.**

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

**§ 1049.75 Plant location adjustments for producers and on nonpool milk.**

(a) The uniform price for producer milk received or which is deemed to have been received at a pool plant shall be reduced according to the location of the pool plant at the rates set forth in § 1049.52(a); and

(b) For purposes of computations pursuant to §§ 1049.71 and 1049.72 the weighted average price shall be adjusted at the rates set forth in § 1049.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price plus 5 cents shall not be less than the Class III price.

**§ 1049.76 Payments by handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1049.30(b) and 1049.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price plus 5 cents, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the weighted average price plus 5 cents shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1049.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to subparagraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1049.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order) except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1049.60 for such handler shall include, in lieu of the value of other source milk specified in § 1049.60(f) less the value of such other source milk specified in § 1049.71(a)(2)(ii), a value of milk determined pursuant to § 1049.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1049.7(b), subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1049.30(b) and 1049.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1049.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1049.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1049.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

**§ 1049.77 Adjustment of accounts.**

Whenever verification by the market administrator of reports or payments of any handler discloses errors resulting in money due (a) the market administrator from such handler (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made not later than the date for making payment next following such disclosure.

**§ 1049.78 Charges on overdue accounts.**

Any unpaid obligation of a handler pursuant to § 1049.71, 1049.76, 1049.77(a), 1049.78, 1049.85, or 1049.86(a) shall be increased three-fourths of 1 percent on the sixth day following the date such obligation is due and on the same day of each succeeding month until such obligation is paid.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

**§ 1049.85 Assessment for order administration.**

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 4 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk, including such handler's own farm production;

(b) Other source milk allocated to Class I pursuant to § 1049.44(a)(7) and (11) and the corresponding steps of § 1049.44(b), except such other source milk that is excluded from the computations pursuant to § 1049.60(d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1049.76(a)(2).

**§ 1049.86 Deduction for marketing services.**

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 1049.73 shall deduct 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to producer milk received by such handler (except such handler's own farm production) during the month, and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples, and tests of producer milk and to provide producers with market information. Such services shall be performed by the market administrator or by an agent engaged by and responsible to him.

(b) In the case of producers for whom a cooperative association is performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and, on or before the 15th day after the end of each month, pay over such deductions to the association rendering such services.

ADVERTISING AND PROMOTION PROGRAM

**§ 1049.110 Agency.**

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1049.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

**§ 1049.111 Composition of the Agency.**

Each cooperative association or combination of cooperative associations as provided for under § 1049.113(b) with 3 percent or more of the total participating producers (producers who have not requested refunds for the most recent quarter) is authorized one Agency representative for each additional full 10 percent of the participating member producers it represents. Cooperative associations with less than 3 percent of the total participating producers that have elected not to combine pursuant to § 1049.113(b), and participating producers who are not members of cooperatives are authorized to select from such group, in total, one Agency representative for the first full 3 percent plus one additional Agency representative for each additional full 10 percent that such producers constitute of the total participating producers. For the purpose of the Agency's initial organization, all persons defined as producers shall be considered as participating producers.

**§ 1049.112 Term of office.**

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

**§ 1049.113 Selection of Agency members.**

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each per-







V 38-178 SEP 14 73 XUM

son selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative association authorized one or more respresentatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 3 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1049.111 and paragraph (a) of this section.

(c) Selection of Agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required 3 percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more Agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for Agency membership and shall conduct a referendum among the individual producers eligible to vote. Election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

### § 1049.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum and any action of the Agency shall require a majority of concurring votes of those present and voting, unless the Agency determines that more than a simple majority shall be required.

### § 1049.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions within the scope of Agency authority pursuant to § 1049.110.

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With the approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1049.110 and 1049.117.

### § 1049.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1049.110 and 1049.117;

(c) Keep minutes, books, and records, and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings, and pay the expenses of administering the Agency; and

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

### § 1049.117 Advertising, research, education, and promotion program.

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

### § 1049.118 Limitation of expenditures by the Agency.

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1049.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

### § 1049.119 Personal liability.

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

### § 1049.120 Procedure for requesting refunds.

Any producer may apply for refund under the procedure set forth under paragraphs (a) through (c) of this section.

(a) Refund shall be accomplished only through application filed with the market administrator in the form prescribed by the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the start of the next refund notification period as specified in paragraph (b) of this section, may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such period and including the remainder of the calendar quarter involved. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

### § 1049.121 Duties of the market administrator.

Except as specified in § 1049.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the





advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1049.113(c);

(b) Set aside the amounts subtracted under § 1049.61(c) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b) (2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1049.61(c).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1049.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1049.61(c) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1049.110 through 1049.122).

(d) Audit the Agency's records of receipts and disbursements.

### § 1049.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1049.70.

---

## PART 1050—MILK IN CENTRAL ILLINOIS MARKETING AREA

### Subpart—Order Regulating Handling

GENERAL PROVISIONS

Secs.
1050.1 General provisions.

DEFINITIONS

1050.2 Central Illinois marketing area.
1050.3 Route disposition.
1050.4 [Reserved.]
1050.5 Distributing plant.
1050.6 Supply plant.
1050.7 Pool plant.
1050.8 Nonpool plant.
1050.9 Handler.
1050.10 Producer-handler.
1050.11 [Reserved.]
1050.12 Producer.
1050.13 Producer milk.
1050.14 Other source milk.
1050.15 Fluid milk product.
1050.16 Fluid cream product.
1050.17 Filled milk.
1050.18 Cooperative association.
1050.19 Reload point.

HANDLER REPORTS

1050.30 Reports of receipts and utilization.
1050.31 Payroll reports.
1050.32 Other reports.

CLASSIFICATION OF MILK

1050.40 Classes of utilization.
1050.41 Shrinkage.
1050.42 Classification of transfers and diversions.
1050.43 General classification rules.
1050.44 Classification of producer milk.
1050.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1050.50 Class prices.
1050.51 Basic formula price.
1050.52 Plant location adjustments for handlers.
1050.53 Announcement of class prices.
1050.54 Equivalent price.

UNIFORM PRICE

1050.60 Handler's value of milk for computing uniform price.
1050.61 Computation of uniform price (including weighted average price).
1050.62 Announcement of uniform price and butterfat differential.

PAYMENTS FOR MILK

1050.70 Producer-settlement fund.
1050.71 Payments to the producer-settlement fund.
1050.72 Payments from the producer-settlement fund.
1050.73 Payments to producers and to cooperative associations.
1050.74 Butterfat differential.
1050.75 Plant location adjustments for producers and on nonpool milk.
1050.76 Payments by handler operating a partially regulated distributing plant.
1050.77 Adjustment of accounts.
1050.78 Charges on overdue accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1050.85 Assessment for order administration.
1050.86 Deduction for marketing services.

ADVERTISING AND PROMOTION PROGRAM

1050.121 Duties of the market administrator.
1050.122 Liquidation.

AUTHORITY: The provisions of this Part 1050 issued under secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

GENERAL PROVISIONS

### § 1050.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

### § 1050.2 Central Illinois marketing area.

The "Central Illinois marketing area", hereinafter called the "marketing area", means all the territory within the following counties, all of which are in the State of Illinois, together with all municipal corporations therein and all institutions owned or operated by the Federal, State, county, or municipal governments located wholly or partially within such counties:

ZONE I

Cass. McDonough.
Ford. Peoria.
Fulton. Stark.
Knox. Tazewell.
Livingston. Warren.
Marshall. Woodford.
Mason.

ZONE II

Bureau. Kankakee.
Grundy. La Salle.
Iroquois. Putnam.

### § 1050.3 Route disposition.

"Route disposition" means a delivery (including disposition from a plant store or from a distribution point and distribution by a vendor or vending machine) of any fluid milk product classified as Class I milk to a retail or wholesale outlet other than a pool plant or a nonpool plant.

### § 1050.4 [Reserved]

### § 1050.5 Distributing plant.

"Distributing plant" means any plant at which fluid milk products are processed and packaged and from which there is route disposition of Grade A fluid milk products in the marketing area during the month.

### § 1050.6 Supply plant.

"Supply plant" means any plant at which Grade A milk is received from dairy farmers and from which fluid milk products are moved to a distributing plant.

### § 1050.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means a plant specified in paragraph (a), (b), or (c) of this section. For purposes of determining pool plant status pursuant to this section, Grade A receipts from dairy farmers shall include all quantities of milk diverted pursuant to § 1050.13 (b) and (c) by an operator of a pool plant.

(a) A distributing plant from which during the month there is:

(1) Route disposition of fluid milk products, except filled milk, in the marketing area equal to 10 percent or more of its Grade A receipts from dairy farmers and handlers described in § 1050.9(c), or from which there is an average of not less than 7,000 pounds per day of route disposition, except filled milk, in the marketing area; and

(2) Total route disposition of fluid milk products, except filled milk, equal to 50 percent or more of its Grade A receipts from dairy farmers and handlers described in § 1050.9(c) during the months of August through February and 40 percent during all other months.

(b) A supply plant from which during the month an amount equal to 50 percent or more of its receipts of Grade A milk from diary farmers and handlers described in § 1050.9(c) is moved to and received at a pool plant(s) described in paragraph (a) of this section which have at least 5 percent Class I use (not in-



V 38-178 SEP 14 73 XUM

cluding filled milk) of the total of such supply plant milk and producer milk receipts in the months of August through February and 40 percent in other months.

(c) Any supply plant which qualified pursuant to paragraph (b) of this section in each of the immediately preceding months of September through January shall be a pool plant for the months of February through August unless the operator of such plant notifies the market administrator in writing before the first day of any such month of his intention to withdraw such plant as a pool plant, in which case such plant shall thereafter be a nonpool plant until it again meets the shipping requirements set forth in paragraph (b) of this section.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A distributing plant qualified pursuant to paragraph (a) of this section which meets the requirements of a fully regulated plant pursuant to the provisions of another order issued pursuant to the Act and from which during the month there is a greater quantity of route disposition, except filled milk, in the marketing area regulated by the other order than in the Central Illinois marketing area: *Provided*, That such a distributing plant which was a pool plant under this order in the immediately preceding month shall continue to be subject to all of the provisions of this part until the third consecutive month in which a greater proportion of such route disposition is made in such other marketing area, unless the other order requires regulation of the plant without regard to its qualifying as a pool plant under this order subject to the proviso of this subparagraph;

(3) A distributing plant qualified pursuant to paragraph (a) of this section which meets the requirements of a fully regulated plant pursuant to the provisions of another Federal order and from which during the month there is a greater quantity of route disposition, except filled milk, in the Central Illinois marketing area than in the other marketing area, and such other order which fully regulates the plant does not contain provisions to exempt the plant from regulation even though such plant has greater route disposition in the marketing area of the Central Illinois order; and

(4) Any plant qualified pursuant to paragraph (c) of this section for any portion of the period of Februry through August, inclusive, that the milk at such plant is subject to the classification and pricing provisions of another order issued pursuant to the Act.

**§ 1050.8 Nonpool plant.**

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which fluid milk products are shipped to a pool plant.

**§ 1050.9 Handler.**

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) Any cooperative association with respect to milk of its members diverted for its account pursuant to § 1050.13;

(c) Any cooperative association with respect to the milk of its members which is received from the farm for delivery to the pool plant of another handler in a tank truck owned and operated by, or under contract to such cooperative association. The cooperative association, prior to the 1st day of the month of delivery, shall notify in writing the market administrator and the handler to whose plant the milk is delivered, that it will be the handler for the milk. For purposes of location adjustments to producers, milk so delivered shall be deemed to have been received by the cooperative association at a pool plant at the location of the pool plant to which it is delivered;

(d) Any person in his capacity as the operator of a partially regulated distributing plant;

(e) A producer-handler;

(f) Any person who operates an other order plant described in § 1050.7(d); and

(g) Any person in his capacity as the operator of an unregulated supply plant.

**§ 1050.10 Producer-handler.**

"Producer-handler" means a person who:

(a) Operates a distributing plant and processes milk from his own farm production and who disposes of all or a portion of such milk as route disposition in the marketing area but who receives no milk from other dairy farmers or fluid milk products from nonpool plants: *Provided*, That the skim milk and butterfat disposed of in the form of fluid milk products designated as Class I milk pursuant to § 1050.40(a) does not exceed the skim milk and butterfat, respectively, in the form of milk from his own farm production, and in the form of fluid milk products from pool plants of other handlers, allowing for inventory derived from such sources; and

(b) Assumes as his personal enterprise and risk the processing and distributing of fluid milk products and the maintenance, care and management of dairy animals and other resources necessary to produce his own farm milk production.

**§ 1050.11 [Reserved]**

**§ 1050.12 Producer.**

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is (1) received at a pool plant, or (2) diverted pursuant to § 1050.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1050.44(a)(8)(iii) and the corresponding step of § 1050.44(b); and

(3) Any person with respect to milk produced by him which is diverted from a pool plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk.

**§ 1050.13 Producer milk.**

"Producer milk" means all skim milk and butterfat contained in milk of any producer which is:

(a) Received during the month:

(1) At a pool plant from producers or from a handler described in § 1050.9(c); and

(2) By a handler described in § 1050.9(c) but which is not delivered to a pool plant of another handler and constitutes shrinkage pursuant to § 1050.41(c) or Class I shrinkage;

(b) Diverted by a handler from a pool plant for the account of the plant operator to another pool plant(s) for not more days of production of such producer's milk than is physically received at a pool plant(s) from which diverted. For pricing purposes such diverted milk shall be deemed to be received by the diverting handler at the location of the plant to which diverted; or

(c) Diverted from a pool plant to a nonpool plant that is not a producer-handler plant, milk, subject to the conditions of this paragraph. For pricing purposes, milk so diverted shall be deemed to be received at the plant from which diverted, unless the plant to which the milk is diverted is located more than 110 miles from the city hall in Peoria, Ill. (by shortest highway distance as determined by the market administrator) in which case the milk shall be deemed to be received by the diverting handler at the location of the plant to which diverted:

(1) During May, June, and July the operator of a pool plant or a cooperative association may divert the milk production of a producer on any number of days;

(2) Subject to the conditions set forth in paragraph (c)(4) of this section, during the months of August through April the operator of a pool plant may divert the milk of a producer for not more days of production of such producer's milk than it is physically received at the pool plant from which diverted: *Provided*, That the total quantity of producer milk diverted does not exceed 35 percent of the physical receipts of producer milk at the handler's pool plant during the month, exclusive of milk of producers who are members of a cooperative association that is diverting milk;

(3) Subject to the conditions set forth in paragraph (c)(4) of this section, during the months of August through April a cooperative association may divert the milk of its individual member producers for not more days of production of each producer's milk than is physically received at a pool plant: *Provided*, That the total quantity of producer milk diverted does not exceed 35 percent of its member milk physically received at pool plants during such month;

(4) In the case where a cooperative association has notified the market administrator and the handler in writing prior to the first day of the month that milk of specified member producers will not be diverted by the cooperative and is not to be included in computing the cooperative association's diversion percentage for the month, milk of such producers shall be deducted from the cooperative's total receipts of member milk for the purposes specified in paragraph (c)(3) of this section and added to the total milk receipts included in computing the diversions of the pool plant handler who receives their milk for the purposes specified in paragraph (c)(2) of this section; and

(5) When milk is diverted in excess of the limits specified in paragraph (c)(2) and (3) of this section, eligibility as producer milk under this section shall be forfeited on the excess quantity. In such event the diverting handler shall specify the dairy farmers whose milk is ineligible as producer milk. If a handler fails to designate such dairy farmers whose milk is ineligible, producer milk status shall be forfeited with respect to all milk diverted to nonpool plants by such handler.

**§ 1050.14 Other source milk.**

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1050.40(b)(1) from any source other than producers, handlers described in § 1050.9(c), pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1050.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1050.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1050.40(b)(1)) for which the handler fails to establish a disposition.

**§ 1050.15 Fluid milk product.**

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1050.40 (b) or (c)(1) (i) through (iv) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

**§ 1050.16 Fluid cream product.**

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

**§ 1050.17 Filled milk.**

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

**§ 1050.18 Cooperative association.**

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To be engaged in making collective sales, or marketing milk or its products for its members.

**§ 1050.19 Reload point.**

"Reload point" means a location at which facilities approved by a duly constituted health authority, only for the transfer of milk from one tank truck to another and for the washing of tank trucks and at which milk moved from the farm in a tank truck is commingled in a tank truck with milk from other tank trucks before entering a milk plant: *Provided*, That reloading facilities on the premises of a plant having equipment for the receiving, cooling, storing and processing of milk, which equipment is in current use during the month, shall be considered a supply plant rather than a reload point.

HANDLER REPORTS

**§ 1050.30 Reports of receipts and utilization.**

On or before the 7th day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1050.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1050.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1050.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

**§ 1050.31 Payroll reports.**

(a) On or before the 20th day after the end of each month, each handler described in § 1050.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;







V 38-178
SEP 14 73
XUM

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1050.76 (b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

**§ 1050.32 Other reports.**

(a) Not later than the 7th day after the end of the month, each handler operating a pool plant shall report to the market administrator, for each of his pool plants separately, the name and address of each producer from whom milk was received during the month with statements showing dates on which such producer started shipping and the date on which milk shipments stopped.

(b) In addition to the reports required pursuant to §§ 1050.30 and 1050.31 and paragraph (a) of this section, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

**§ 1050.40 Classes of utilization.**

Except as provided in § 1050.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1050.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b) (1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(v) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b) (1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b) (1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b) (1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1050.15; and

(6) In shrinkage assigned pursuant to § 1050.41(a) to the receipts specified in § 1050.41(a)(2) and in shrinkage specified in § 1050.41 (b) and (c).

**§ 1050.41 Shrinkage.**

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1050.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in bulk fluid form;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a) (1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1050.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1050.9(c) and in milk diverted to such plant from another pool plant, except that, in either case, if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1050.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

**§ 1050.42 Classification of transfers and diversions.**

(a) *Transfers and diversions to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers or diversions shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant or divertee-plant after the computations pursuant to § 1050.44(a)(12) and the corresponding step of § 1050.44(b);

(2) If the transferor-plant or divertor-plant received during the month other source milk to be allocated pursuant to § 1050.44(a)(7) or the corresponding step of § 1050.44(b), the skim milk or butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler or divertor-handler received during the month other source milk to be allocated pursuant to § 1050.44(a) (11) or (12) or the corresponding steps of § 1050.44(b), the skim milk or butterfat so transferred or diverted, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant or divertee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1050.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1050.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization







V 38-178
SEP 14 73
XUM

using the same assignment priorities at the second plant that are set forth in this subparagraph.

**§ 1050.43 General classification rules.**

In determining the classification of producer milk pursuant to § 1050.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1050.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1050.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1050.40, 1050.41, and 1050.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1050.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

**§ 1050.44 Classification of producer milk.**

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1050.9(a) for each of his pool plants separately and of each handler described in § 1050.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1050.41 (b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a) (7) (vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1050.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1050.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1050.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1050.40(b)(1) that was not subtracted pursuant to paragraph (a) (4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8) (ii) (a) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the handler's total Class III utilization at his other pool plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment:

(a) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler;

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1050.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the





pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received;

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a) (7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12) (ii) and (iii) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(a) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1050.45(a); or

(b) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler;

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received; and

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from any class that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1050.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1050.44(a)(14) and the corresponding step of § 1050.44(b).

**§ 1050.45 Market administrator's reports and announcements concerning classification.**

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1050.44(a)(12) and the corresponding step of § 1050.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1050.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests, the class utilization of producer milk received by each handler from a cooperative association or from members of the association. For the purpose of this report, the milk caused to be so delivered by an association shall be prorated to each class in the proportion that the total receipts of milk received from producers by such handler were used in each class.

CLASS PRICES

**§ 1050.50 Class prices.**

Subject to the provisions of § 1050.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.39.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

**§ 1050.51 Basic formula price.**

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

**§ 1050.52 Plant location adjustments for handlers.**

(a) The Class I price for producer milk at a plant that is outside Zone I shall be adjusted as follows:

(1) At a plant in Zone II or in the Illinois counties of Henry and Mercer, the Class I price shall be decreased 5 cents; and

(2) At a plant located outside the State of Illinois, or in the State of Illinois but north of the northernmost boundaries of the counties of Mercer, Henry, Bureau, La Salle, Grundy, and Kankakee the Class I price shall be reduced 7.5 cents if such plant is 50 or more miles by the shortest highway distance, as determined by the market administrator from the City Hall in Peoria, Ill., plus an additional 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 60 miles.

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposi-



V 38 I 178 SEP 14 73 XUM

tion at the transferee-plant only to the extent that 105 percent of Class I disposition at the transferee-plant exceeds the sum of receipts at such plant from producers and handlers described in § 1050.9 (c), and the volume assigned as Class I to receipts from other order plants and unregulated supply plants, such assignment to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

**§ 1050.53 Announcement of class prices.**

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

**§ 1050.54 Equivalent price.**

If for any reason a price quotation required by this part for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

UNIFORM PRICE

**§ 1050.60 Handler's value of milk for computing uniform price.**

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1050.9 (b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1050.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1050.44(a)(14) and the corresponding step of § 1050.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1050.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1050.44(a)(9) and the corresponding step of § 1050.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1050.44(a)(7) (i) through (iv) and the corresponding step of § 1050.44 (b), excluding receipts of bulk fluid cream products from an other order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1050.44(a)(7) (v) and (vi) and the corresponding step of § 1050.44(b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1050.44(a)(11) and the corresponding step of § 1050.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) For the first month that this paragraph is effective, subtract the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class II price, both for the preceding month, by the hundredweight of skim milk and butterfat in any fluid milk product or product specified in § 1050.40 (b) that was in the plant's inventory at the end of the preceding month and classified as Class I milk.

**§ 1050.61 Computation of uniform price (including weighted average price).**

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content which is received from producers at plants at which no location adjustment pursuant to § 1050.52 is applicable as follows:

(a) Combine into one total the values computed pursuant to § 1050.60 for all handlers who filed the reports prescribed by § 1050.30 for the month and who made the payments pursuant to § 1050.71 for the preceding month;

(b) Add an amount equal to the sum of the location and zone adjustments computed pursuant to § 1050.75;

(c) Add an amount equal to one-half of the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1050.60(f);

(e) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price," and, except for the months specified below, shall be the "uniform price" for milk received from producers;

(f) For the months specified in paragraphs (g) and (h) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (c) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (d)(2) of this section by the weighted averaged price;

(g) Subtract in the case of milk delivered during each of the months of March and July an amount equal to 15 cents per hundredweight and during each of the months of April, May, and June an amount equal to 25 cents per hundredweight of producer milk specified in paragraph (d)(1) of this section;

(h) Add in the case of milk delivered during each of the months of September and December 20 percent and during each of the months of October and November 30 percent of the total amount subtracted pursuant to paragraph (g) of this section;

(i) Divide the resulting sum by the total hundredweight of producer milk included in these computations; and

(j) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

**§ 1050.62 Announcement of uniform price and butterfat differential.**

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 12th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

**§ 1050.70 Producer-settlement fund.**

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund," which shall function as follows:

(a) All payments made by handlers pursuant to §§ 1050.71, 1050.76, and 1050.77 shall be deposited in such fund and from which shall be made all payments pursuant to §§ 1050.72 and 1050.77: *Provided*, That any payments due to any handler shall be offset by any payments due from such handler; and

(b) All amounts subtracted pursuant to § 1050.61(g) shall be deposited in this fund and set aside as an obligated balance until withdrawn to effectuate § 1050.73 in accordance with the requirements of § 1050.61(h).

**§ 1050.71 Payments to the producer-settlement fund.**

(a) On or before the 15th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1050.60.

(2) The sum of:





(i) The value at the uniform price, as adjusted pursuant to § 1050.75, of such handler's receipts of producer milk; and

(ii) The value at the weighted average price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1050.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

**§ 1050.72 Payments from the producer-settlement fund.**

On or before the 17th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1050.71(a)(2) exceeds the amount computed pursuant to § 1050.71(a)(1). The market administrator shall offset any payment due any handler against payments due from such handler.

**§ 1050.73 Payments to producers and to cooperative associations.**

(a) On or before the 20th day of the following month, each handler shall make payment to each producer for milk received from such producer during such month:

(1) An amount equal to not less than the uniform price, as adjusted pursuant to §§ 1050.74 and 1050.75, multiplied by the hundredweight of milk received from such producer during the month, subject to the following adjustments:

(i) Less deductions for marketing services made pursuant to § 1050.86;

(ii) Plus or minus adjustments for errors made in previous payments made to such producer; and

(iii) Less proper deductions authorized in writing by such producer: *Provided*, That, if by such date, such handler has not received full payment from the market administrator pursuant to § 1050.72 for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator;

(b) Payments required in paragraph (a) of this section shall be made to a cooperative association, qualified under § 1050.18 or its duly authorized agent, which the market administrator determines is authorized by its members to collect payment for their milk and which has so requested any handler in writing. Such handler shall, on or before the 18th day of the following month, pay the cooperative association for milk received during the month from the producer-members of such association as determined by the market administrator an amount equal to not less than the amount due such producer-members as determined pursuant to paragraph (a) of this section, less any deductions authorized in writing by such association: *Provided*, That the association has provided the handler with a written promise to reimburse the handler the amount of any actual loss incurred by such handler because of any improper claim on the part of the cooperative association;

(c) On or before the 18th day after the end of each month, each handler shall pay to each cooperative association for milk the handler received at his pool plant from a pool plant(s) operated by such association, not less than the minimum prices for milk in each class, as adjusted by the butterfat differential specified in § 1050.74, that are applicable at the location of the handler's pool plant;

(d) On or before the 18th day of the following month, each handler, in his capacity as operator of a pool plant, who receives milk for which a cooperative association is the handler pursuant to § 1050.9(c) shall pay such cooperative association for such milk at the uniform price as adjusted pursuant to §§ 1050.74 and 1050.75; and

(e) Each handler who received milk during the month from producers for which payment is to be made to a cooperative association pursuant to paragraph (b) of this section shall report on or before the 7th day after the end of the month to such cooperative association for each such producer on forms approved by the market administrator:

(1) The total pounds of milk received from each producer together with the butterfat content of such milk; and

(2) The amount or rate and nature of any deductions authorized by a cooperative association.

**§ 1050.74 Butterfat differential.**

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

**§ 1050.75 Plant location adjustments for producers and on nonpool milk.**

(a) In making payments pursuant to § 1050.73, the uniform price per hundredweight for producer milk received at a plant outside Zone I shall be adjusted according to the location of the plant at the rates set forth in § 1050.52.

(b) For purposes of computation pursuant to §§ 1050.71 and 1050.72, the weighted average price shall be adjusted in the same manner as the uniform price is adjusted pursuant to paragraph (a) of this section for the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price shall not be less than the Class III price.

**§ 1050.76 Payments by handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1050.30(b) and 1050.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:



V 38 I 178 SEP 14 73 XUM

(1) Determine the value that would have been computed pursuant to § 1050.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1050.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1050.60 for such handler shall include, in lieu of the value of other source milk specified in § 1050.60(f) less the value of such other source milk specified in § 1050.71(a)(2)(ii), a value of milk determined pursuant to § 1050.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1050.7 (b) and (c), subject to the following conditions:

(a) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1050.30 (b) and 1050.31(b) similar reports for each such nonpool supply plant;

(b) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1050.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1050.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1050.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

### § 1050.77 Adjustment of accounts.

Whenever audit by the market administrator of any handler's reports, books, records, or accounts discloses errors resulting in moneys due (a) the market administrator from such handler, (b) such handler from the market administrator, or (c) any producer or cooperative association from such handler, the market administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments as set forth in the provisions under which such error occurred.

### § 1050.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1050.71, 1050.85, or 1050.86 shall be increased one-half of 1 percent for each month or portion thereof that such payment is overdue.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

### § 1050.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler (excluding a handler described in § 1050.9(c) with respect to milk delivered to pool plants) shall pay to the market administrator on or before the 20th day after the end of the month 5 cents per hundredweight or such lesser amount as the Secretary may prescribe with respect to:

(a) Producer milk (including such handler's own production);

(b) Other source milk allocated to Class I pursuant to § 1050.44(a)(7) and (11) and the corresponding steps of § 1050.44(b), except such other source milk that is excluded from the computations pursuant to § 1050.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1050.76(a)(2).

### § 1050.86 Deduction for marketing services.

(a) *Deduction for marketing services.* Except as set forth in paragraph (b) of this section, each handler in making payments to producers, pursuant to § 1050.73, shall deduct 6 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to all milk received by such handler from producers (excluding such handler's own production) during the month, and shall pay such deductions to the market administrator on or before the 20th day after the end of such month. Such monies shall be used by the market administrator to verify weights, samples, and tests of milk received from such producers and to provide them with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) *Producers cooperative association.* In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section each handler, in lieu of the deduction specified in paragraph (a) of this section, shall make such marketing service deductions as are authorized by producer-members, and pay the money so deducted to the cooperative association on or before the 20th day after the end of the month.

ADVERTISING AND PROMOTION PROGRAM

### § 1050.121 Duties of the market administrator.

Except as specified in § 1050.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1050.113(c);

(b) Set aside the amounts subtracted under § 1050.71(c–1) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b)(2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1050.71(c–1).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1050.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1050.71(c–1) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section:

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1050.110 through 1050.122).

(d) Make necessary audits to establish that all agency funds are used only for authorized purposes.

### § 1050.122 Liquidation.

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1050.70.

(NOTE: An order terminating certain provisions in Order No. 50, 38 FR 15726, June 15, 1973 reads in part as follows:

"It is hereby determined that termination of the following provisions • • • is favored by • • • producers • • • Sections 1050.110 through 1050.122 in their entirety. • • •

*It is therefore ordered,* That the aforesaid provisions of the order are hereby terminated. • • • *Effective dates* • • • Midnight, September 30, 1973, for §§ 1050.121 and 1050.122.")

---

## PART 1062—MILK IN ST. LOUIS-OZARKS MARKETING AREA

### Subpart—Order Regulating Handling

GENERAL PROVISIONS

Secs.
1062.1 General provisions.

DEFINITIONS

1062.2 St. Louis-Ozarks marketing area.
1062.3 Route disposition.
1062.4 [Reserved]
1062.5 Distributing plant.
1062.6 Supply plant.
1062.7 Pool plant.
1062.8 Nonpool plant.
1062.9 Handler.
1062.10 Producer-handler.
1062.11 [Reserved]
1062.12 Producer.
1062.13 Producer milk.
1062.14 Other source milk.
1062.15 Fluid milk product.
1062.16 Fluid cream product.
1062.17 Filled milk.
1062.18 Cooperative association.

HANDLER REPORTS

1062.30 Reports of receipts and utilization.
1062.31 Payroll reports.
1062.32 Other reports.

CLASSIFICATION OF MILK

1062.40 Classes of utilization.
1062.41 Shrinkage.
1062.42 Classification of transfers and diversions.
1062.43 General classification rules.
1062.44 Classification of producer milk.
1062.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1062.50 Class prices.
1062.51 Basic formula price.
1062.52 Plant location adjustments for handlers.
1062.53 Announcement of class prices.
1062.54 Equivalent price.

UNIFORM PRICE

1062.60 Handler's value of milk for computing uniform price.
1062.61 Computation of uniform price (including weighted average price).
1062.62 Announcement of uniform price and butterfat differential.

PAYMENTS FOR MILK

1062.70 Producer-settlement fund.
1062.71 Payments to the producer-settlement fund.
1062.72 Payments from the producer-settlement fund.
1062.73 Payments to producers and to cooperative associations.
1062.74 Butterfat differential.
1062.75 Plant location adjustments for producers and on nonpool milk.
1062.76 Payments by handler operating a partially regulated distributing plant.
1062.77 Adjustment of accounts.
1062.78 Charges on overdue accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1062.85 Assessment for order administration.
1062.86 Deduction for marketing services.

ADVERTISING AND PROMOTION PROGRAM

1062.110 Agency.
1062.111 Composition of Agency.
1062.112 Term of office.
1062.113 Selection of Agency members.
1062.114 Agency operating procedure.
1062.115 Powers of the Agency.
1062.116 Duties of the Agency.
1062.117 Advertising, Research, Education and Promotion Program.
1062.118 Limitation of expenditures by the Agency.
1062.119 Personal liability.
1062.120 Procedure for requesting refunds.
1062.121 Duties of the market administrator.
1062.122 Liquidation.

AUTHORITY.—The provisions of this Part 1062 issued under secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674).

GENERAL PROVISIONS

### § 1062.1 General provisions.

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

### § 1062.2 St. Louis-Ozarks marketing area.

"St. Louis-Ozarks marketing area", hereinafter called the marketing area, means all the territory within the designated military reservations, the corporate limits of the cities and the counties enumerated below:

ZONE I

(MISSOURI COUNTIES)

Barry. Ozark.
Christian. St. Charles.
Crawford. St. Louis.
Douglas. Stone.
Franklin. Taney.
Greene. Warren.
Howell. Webster.
Jefferson. Washington.
Laclede. Wright.
Lawrence.

and the city of St. Louis, Mo., Fort Leonard Wood Military Reservation in Missouri, and the territory within Scott Military Reservation. East St. Louis, Centerville, Canteen, and Stites Townships, and the city of Belleville, all in St. Clair County, Ill.

ZONE II

(MISSOURI COUNTIES)

Cape Girardeau. Perry.
Bollinger. Ste. Genevieve.
St. Francois.

ZONE III

(ARKANSAS COUNTIES)

Benton. Marion.
Boone. Washington.

### § 1062.3 Route disposition.

"Route disposition" means any delivery of a fluid milk product classified as Class I milk to a retail or wholesale outlet (including any delivery through a vendor, or a sale in packaged form from a plant or plant store) except a delivery to another plant.

### § 1062.4 [Reserved]

### § 1062.5 Distributing plant.

"Distributing plant" means a plant which is approved by a duly constituted health authority for the processing or packaging of Grade A milk and from which during the month route disposition is made in the marketing area.

### § 1062.6 Supply plant.

"Supply plant" means a plant which qualifies as a pool plant pursuant to § 1062.7(c) or from which fluid milk products, acceptable to a duly constituted health authority for distribution under a Grade A label, are shipped during the month to and physically received at a distributing plant.

### § 1062.7 Pool plant.

Except as provided in paragraph (d) of this section, "pool plant" means:

(a) Any distributing plant which:

(1) Has during the month route disposition and disposition of packaged fluid milk products to pool distributing plants, excluding in either case filled milk, which, after subtraction of the quantity of packaged fluid milk products, except filled milk, received from other pool plants, is equal to at least 50 percent of such plant's total receipts of Grade A fluid milk products from dairy farmers (including milk diverted by the plant operator), supply plants and handlers described in § 1062.9(c), exclusive of packaged fluid milk products, except filled milk, received from other pool







V 38-178 SEP 14 73 XUM

plants, and has route disposition in the marketing area in an amount equal to 10 percent or more of such receipts or an average of not less than 7,000 pounds per day, whichever is less; or

(2) Qualified as a pool plant in the immediately preceding month on the basis of the performance standards described in paragraph (a)(1) of this section.

(b) Any supply plant from which during the month 50 percent or more of the Grade A milk received from dairy farmers and handlers described in § 1062.9(c) is shipped to a plant(s) described in paragraph (a) of this section. Any supply plant which has shipped to a plant(s) described in paragraph (a) of this section the required percentages of its receipts during each of the months of September through February shall be designated a pool plant in each of the following months of March through August unless the plant operator requests the market administrator in writing that such plant not be a pool plant. Such nonpool plant status shall be effective the first month following such notice and thereafter until the plant again qualifies as a pool plant on the basis of shipments.

(c) Any plant which is operated by or under contract to a cooperative association, or a federation of cooperatives, if:

(1) the operator of such plant(s) requests pool status, and 50 percent or more of all the Grade A milk from farms of the member producers of such cooperative or federation including milk delivered by it as a handler described in § 1062.9(c) has been shipped to and physically received at pool distributing plants during the current month or the previous 12-month period ending with the current month, either directly from producer member farms or by transfer from such association plant(s);

(2) Such a plant does not qualify during the month as a "pool plant" under another market pool order issued pursuant to the Act by making shipments of milk to plants which qualify as "pool plants" under such other order; or

(3) Such plant meets the requirements of paragraph (c)(2) of this section and met the requirements of paragraph (c)(1) of this section in the preceding month.

(d) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant or governmental agency plant;

(2) A distributing plant which meets the pooling requirements of another Federal order and from which route disposition, except filled milk, during the month in such other Federal order marketing area is greater than in this marketing area, except that if such plant was subject to all the provisions of this part in the immediately preceding month, it shall continue to be subject to all of the provisions of this part until the third consecutive month in which a greater proportion of such route disposition is made in such other marketing area unless, notwithstanding the provisions of this subparagraph, it is regulated under such other order;

(3) A distributing plant which meets the pooling requirements of another Federal order and from which route disposition, except filled milk, during the month in this marketing area is greater than in such other Federal order marketing area but which plant is, nevertheless, fully regulated under such other Federal order; and

(4) A supply plant meeting the requirements of paragraph (b) of this section which also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made during the month to plants regulated under such other order than are made to plants regulated under this part, except during the months of March through August if such plant retains automatic pooling status under this part.

### § 1062.8 Nonpool plant.

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act;

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act;

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant, a producer-handler plant, nor a governmental agency plant, which has route disposition of fluid milk products in consumer-type packages or dispenser units in the marketing area during the month;

(d) "Unregulated supply plant" means a nonpool plant that is neither an other order plant, a producer-handler plant, nor a governmental agency plant, from which fluid milk products are shipped to a pool plant; and

(e) "Governmental agency plant" means a plant operated by a government agency.

### § 1062.9 Handler.

"Handler" means:

(a) Any person who operates a pool plant;

(b) Any cooperative association with respect to milk of its member producers which is diverted from a pool plant of another handler pursuant to § 1062.13 for the account of such association;

(c) Any cooperative association with respect to producer milk transferred from the producer's farm tank to a tank truck owned and operated by or under contract to such association for delivery to a pool plant if prior to delivery the operator of the pool plant gives notice in writing to both the market administrator and the association of his intention to purchase such milk on a basis of weights and butterfat tests other than as determined from farm tank measurements and farm tank samples;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler; and

(f) Any person who operates an other order plant described in § 1062.7(d).

### § 1062.10 Producer-handler.

"Producer-handler" means any person who is both a dairy farmer and the operator of a distributing plant, and who meets the qualifications specified in paragraphs (a) and (b) of this section:

(a) Receipts of fluid milk products at his plant are solely milk of his own production, fluid milk products from pool plants of other handlers, packaged fluid milk products from other order plants, and receipts of nonfluid milk products are used only to fortify fluid milk products; and

(b) The maintenance, care and management of the dairy animals and other resources necessary to produce the milk and the processing, packaging and distribution of the milk are the personal enterprise and the personal risk of such person.

### § 1062.11 [Reserved]

### § 1062.12 Producer.

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority and whose milk is:

(1) Received at a pool plant; or

(2) Diverted as producer milk pursuant to § 1062.13.

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1062.44(a)(8)(iii) and the corresponding step of § 1062.44(b); and

(3) Any person with respect to milk produced by him which is diverted from a pool plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk.

### § 1062.13 Producer milk.

"Producer milk" means milk produced by producers which is received and accounted for as follows:

(a) By the operator of a pool plant (including a cooperative association) with respect to milk:

(1) Received at the pool plant from producers or from a handler described in § 1062.9(c); and

(2) Diverted by the operator of the pool plant, subject to the conditions of paragraph (c) of this section;

(b) By a cooperative association with respect to milk:

(1) Which it received from producers as a handler described in § 1062.9(b), subject to the conditions of paragraph (c) of this section; and

(2) Which it received from producers as a handler described in § 1062.9(c) and which:





(i) Is delivered to a pool plant of another handler; or

(ii) Is not so delivered and constitutes shrinkage pursuant to § 1062.41(c) or Class I shrinkage; and

(c) Milk may be diverted by the operator of a pool plant or by a cooperative association pursuant to the following conditions with respect to each producer:

(1) By the operator of a pool plant to another pool plant(s) for not more days of production of producer milk than is physically received at the pool plant from which diverted.

(2) By the operator of a pool plant or by a handler described in § 1062.9(b) to a nonpool plant that is not a producer-handler plant on any day during each of the months of March through August and for not more days of production of producer milk than is physically received at pool plants during each of the months of September through February.

(3) For pricing purposes, milk diverted pursuant to paragraph (c)(2) of this section to a plant located more than 120 miles from the city hall in St. Louis or the city hall in Springfield, Mo., whichever is nearer (by the shortest highway distance as determined by the market administrator using the most current issue of the Household Carriers Guide) or milk diverted pursuant to paragraph (c)(1) of this section, shall be deemed to be received by the diverting handler at the location of the plant to which diverted.

(4) For pricing purposes, milk diverted pursuant to paragraph (c)(2) or (3) of this section to a plant located 120 miles or less from the city hall in St. Louis or the city hall in Springfield, Mo., whichever is nearer (by the shortest highway distance as determined by the market administrator using the most current issue of the Household Carriers Guide), shall be deemed to be received at the location of the plant from which diverted.

### § 1062.14 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1062.40(b)(1) from any source other than producers, handlers described in § 1062.9(c), pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1062.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1062.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1062.40(b)(1)) for which the handler fails to establish a disposition.

### § 1062.15 Fluid milk product.

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1062.40 (b) or (c)(1) (i) through (iv) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas, especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

### § 1062.16 Fluid cream product.

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

### § 1062.17 Filled milk.

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).

### § 1062.18 Cooperative association.

"Cooperative association" means any cooperative marketing association of producers which the Secretary determines:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To be engaged in making collective sales, or marketing milk or its products for its members.

## Handler Reports

### § 1062.30 Reports of receipts and utilization.

On or before the 7th day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1062.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1062.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1062.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

### § 1062.31 Payroll reports.

(a) On or before the 20th day after the end of each month, each handler described in § 1062.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1062.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

### § 1062.32 Other reports.

In addition to the reports required pursuant to §§ 1062.30 and 1062.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.



V 38 I 178 SEP 14 73 XUM

CLASSIFICATION OF MILK

**§ 1062.40 Classes of utilization.**

Except as provided in § 1062.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1062.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(v) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1062.15; and

(6) In shrinkage assigned pursuant to § 1062.41(a) to the receipts specified in § 1062.41(a)(2) and in shrinkage specified in § 1062.41 (b) and (c).

**§ 1062.41 Shrinkage.**

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1062.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a fluid milk product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1062.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1062.9(d) and in milk diverted to such plant from another pool plant, except that, in either case, if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1062.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

**§ 1062.42 Classification of transfers and diversions.**

(a) *Transfers and diversions to pool plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers or diversions shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant or divertee-plant after the computations pursuant to § 1062.44(a)(12) and the corresponding step of § 1062.44(b);

(2) If the transferor-plant or divertor-plant received during the month other source milk to be allocated pursuant to § 1062.44(a)(7) or the corresponding step of § 1062.44(b), the skim milk or butterfat so transferred or diverted shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler or divertor-handler received during the month other source milk to be allocated pursuant to § 1062.44(a) (11) or (12) or the corresponding steps of § 1062.44(b), the skim milk or butterfat so transferred or diverted, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant or divertee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat





transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which an fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1062.40.

(c) *Transfers to producer-handlers and transfers and diversions to governmental agency plants.* Skim milk or butterfat in the following forms that is transferred from a pool plant to a producer-handler under this or any other Federal order or transferred or diverted from a pool plant to a governmental agency plant shall be classified:

(1) As Class I milk, if so moved in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the transferee's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to its receipts of skim milk and buterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant, a producer-handler plant, or a governmental agency plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(*a*) The transferor-handler or divertor-handler claims such classification in his report of receipts and utilization filed pursuant to § 1062.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(*c*) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.

**§ 1062.43 General classification rules.**

In determining the classification of producer milk pursuant to § 1062.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1062.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1062.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1062.40, 1062.41, and 1062.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to 1062.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.



V 38-178 SEP 14 73 XUM

§ 1062.44 Classification of producer milk.

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1062.9(a) for each of his pool plants separately and of each handler described in § 1062.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1062.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from an other order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1062.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1062.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1062.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1062.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order and from a governmental agency plant;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (a) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the handler's total Class III utilization at his other pool plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment:

(a) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler;

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(c) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1062.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8) (i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and





that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii) and (iii) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(a) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1062.45(a); or

(b) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler;

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received;

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from any class that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment; and

(iv) The quantity of skim milk subtracted from each class pursuant to this subparagraph shall be assigned pro rata to the receipts from other order plants under market pool orders and under handler pool orders;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1062.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1062.44(a)(14) and the corresponding step of § 1062.44(b).

§ 1062.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1062.44(a)(12) and the corresponding step of § 1062.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1062.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report. In the case of milk received from an other order market pool plant the classification of such milk shall be the quantities assigned to Class I milk, Class II milk, and Class III milk pursuant to § 1062.44. In the case of milk received from an other order handler pool plant, the market administrator shall report the allocation of skim milk and butterfat in the same percentage as the market-wide estimate for all handlers pursuant to paragraph (a) of this section.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) On or before the 10th day of each month report to each cooperative association, which so requests, the percentage utilization of milk received from producers or from handlers described in § 1062.9(c) in each class by each handler who in the previous month received milk from members of such cooperative association.

CLASS PRICES

§ 1062.50 Class prices.

Subject to the provisions of § 1062.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.60.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

§ 1062.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

§ 1062.52 Plant location adjustments for handlers.

For milk received from producers or a handler described in § 1062.9(c) at a pool plant and which is classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (f) of this section, the price at such pool plant located:

(a) In Zone I of the marketing area, shall be the price computed pursuant to § 1062.50(a) except as provided in paragraph (d) of this section.

(b) In Zone II of the marketing area, shall be the Zone I price plus a location adjustment of 7 cents.

(c) In Zone III of the marketing area, shall be the Zone I price plus a location adjustment of 17 cents.

(d) In Zone A (the Missouri counties of Barry, Christian, Douglas, Green, Howell, Laclede, Lawrence, Ozark, Stone, Taney, Webster, Wright, and Texas), for any plant which does not dispose of fluid milk products in consumer-type packages and which is qualified as a pool plant pursuant to § 1062.7 (b) or (c) shall be the price pursuant to § 1062.50(a) less 27 cents.

(e) Outside the marketing area and Texas County, Mo., and more than 30 miles from the City Hall, St. Louis, Mo., or the city hall in Springfield, Mo., whichever is nearer, shall be the Class I price applicable in Zone I, less a location adjustment of 1.5 cents for each 10 miles or fraction thereof that such plant is located from the City Hall, St. Louis, Mo., or the city hall in Springfield, Mo., whichever is nearer (the distance to be by shortest hard-surfaced highway as determined by the market administrator).

(f) In the case of transfers between plants, location adjustment shall apply at the transferor-plant with respect to a quantity of the transfer calculated as follows: From total Class I milk utiliza-



V 38 1178 SEP 14 73 XUM

tion at the transferee-plant subtract Class I milk assigned to receipts from other order plants and unregulated supply plants, and 95 percent of the receipts from producers and handlers described in § 1062.9(c), and assign the remaining Class I milk to receipts from other pool plants with plus location adjustment, then to receipts from plants with no location adjustment, and then in sequence to receipts from plants at which the smallest minus adjustments apply.

(g) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraphs (a) through (e) of this section, except that the adjusted Class I price shall not be less than the Class III price.

**§ 1062.53 Announcement of class prices.**

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

**§ 1062.54 Equivalent price.**

If for any reason a price quotation required by this order for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

UNIFORM PRICE

**§ 1062.60 Handler's value of milk for computing uniform price.**

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1062.9(b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1062.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1062.44(a)(14) and the corresponding step of § 1062.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1062.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1062.44 (a)(9) and the corresponding step of § 1062.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1062.44(a)(7) (i) through (iv) and the corresponding step of § 1062.44(b), excluding receipts of bulk fluid cream products from an other order plant.

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1062.44(a)(7) (v) and (vi) and the corresponding step of § 1062.44 (b);

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1062.44(a)(11) and the corresponding step of § 1062.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order; and

(g) Add the amounts obtained from multiplying the pounds of skim milk and butterfat in each class that were prorated to receipts of fluid milk products from handler pool other order plants pursuant to § 1062.44(a)(12)(iv) and the corresponding step of § 1062.44(b) by the respective class prices specified in § 1062.50 that are applicable at the location of the plant from which received.

**§ 1062.61 Computation of uniform price (including weighted average price).**

For each month the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1062.60 for all handlers who filed the reports prescribed by § 1062.30 for the month and who made the payments pursuant to §§ 1062.71 and 1062.73 for the preceding month;

(b) Deduct the amount of the plus adjustments and add the amount of the minus adjustments, which are applicable pursuant to § 1062.75;

(c) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(d) Subtract an amount computed by multiplying the total hundredweight of producer milk included pursuant to paragraph (a) of this section by 5 cents;

(e) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1062.60 (f) and (g);

(f) Subtract not less than four cents nor more than 5 cents per hundredweight. The result shall be the "weighted average price", and, except for the months specified below, shall be the "uniform price" for milk received from producers;

(g) For the months specified in paragraphs (h) and (i) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (d) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (e)(2) of this section by the weighted average price;

(h) From the remainder subtract during each of the months of March and July an amount equal to 15 cents per hundredweight and during each of the months of April, May, and June an amount equal to 25 cents per hundredweight of the total amount of producer milk included in these computations. This amount shall be retained in the producer-settlement fund and disbursed according to the provisions of paragraph (i) of this section;

(i) Add during each of the months of September and December 20 percent and during each of the months of October and November 30 percent of the total amount subtracted pursuant to paragraph (h) of this section;

(j) Divide the resulting sum by the total hundredweight of producer milk included in these computations; and

(k) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

**§ 1062.62 Announcement of uniform price and butterfat differential.**

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 10th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

**§ 1062.70 Producer-settlement fund.**

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 1062.71, 1062.76, and 1062.77 and from which he shall make all payments to handlers pursuant to §§ 1062.72 and 1062.77. The market administrator shall offset the payment due to a handler against payments due from such handler.

**§ 1062.71 Payments to the producer-settlement fund.**

(a) On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1032.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1062.75, of such handler's receipts of producer milk, excluding in the case of a handler described in § 1062.9(c) milk it delivered to a pool plant; and

(ii) The value at the weighted average price applicable at the location of the plant from which received plus 5 cents of other source milk for which a value is computed pursuant to § 1062.60 (f) and (g) plus in the case of milk received from a handler pool market the amount of the location adjustment at the location of the plant from which received applied to the quantity of Class II and Class III milk reported pursuant to § 1062.45(b) which is in excess of the Class II and Class III milk pursuant to § 1062.60(g), except that for milk received from a handler pool market the value applicable pursuant to this subdivision shall not exceed the value for such quantity calculated pursuant to § 1062.60(g).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more market-wide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (b)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

**§ 1062.72 Payments from the producer-settlement fund.**

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any (for each pool plant, if applicable), by which the amount computed pursuant to § 1062.71(a)(2) exceeds the amount computed pursuant to § 1062.71(a)(1). The market administrator shall offset any payment due any handler against payments due from such handler pursuant to §§ 1062.71, 1062.77, 1062.85, and 1062.86. If the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the necessary funds are available.

**§ 1062.73 Payments to producers and to cooperative associations.**

Each handler shall make payment as follows:

(a) On or before the 17th day after the end of the month during which the milk was received, to each producer for whom payment is not made pursuant to paragraph (c) of this section, at not less than the uniform price computed pursuant to § 1062.61 for such producer's deliveries of milk, as adjusted pursuant to §§ 1062.74 and 1062.75, and less the amount of the payment made pursuant to paragraph (b) of this section. If by such date such handler has not received full payment pursuant to § 1062.72, he may reduce his total payments uniformly to all producers by not more than the amount of the reduction in payment by the market administrator. He shall, however, complete such payments pursuant to this paragraph not later than the date for making such payments next following receipt of the balance from the market administrator:

(b) On or before the last day of each month, to each producer to whom payment is not made pursuant to paragraph (c) of this section and who is still delivering Grade A milk to such handler, a partial payment with respect to milk received from him during the first 15 days of such month computed at not less than the Class III price for the preceding month, without deduction for hauling;

(c) On or before the 14th day after the end of each month and on or before the 25th day of each month, in lieu of payments pursuant to paragraphs (a) and (b), respectively, of this section, to a cooperative association which so requests, for milk which is received from members, and for which such association is determined by the market administrator to be authorized to collect payment, an amount equal to the sum of the individual payments otherwise payable to such producers;

(d) Each handler who receives milk for which a cooperative association is the handler described in § 1062.9(c), shall, on or before the second day prior to the date payments are due individual producers, pay such cooperative association for such milk as follows:

(1) A partial payment for milk received during the first 15 days of the month at not less than the amount prescribed in paragraph (b) of this section; and

(2) In making final settlement, the value of such milk at the uniform price as adjusted pursuant to §§ 1062.74 and 1062.75, less payment made pursuant to paragraph (d)(1) of this section;

(e) On or before the 14th day after the end of each month, each handler shall pay to each cooperative association for milk the handler receives from a pool plant(s) operated by such association, not less than the minimum prices for milk in each class, as adjusted by the butterfat differential specified in § 1062.74, that are applicable at the location of the handler's pool plant; and

(f) Each handler who receives milk from producers, payment for which is to be made to a cooperatitve association pursuant to paragraph (c) of this section, shall report to such cooperative association with respect to each such producer, on forms approved by the market administrator, as follows:

(1) On or before the 25th of the month, the total pounds of milk received during the first 15 days of the month;

(2) On or before the seventh day after the end of the month:

(i) The total pounds of milk and the average butterfat test of milk received from such producer during the month;

(ii) The amount or rate and nature of any deductions; and

(iii) The amount of any payments due such producer pursuant to § 1062.77(c) and (d).

**§ 1062.74 Butterfat differential.**

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

**§ 1062.75 Plant location adjustments for producers and on nonpool milk.**

(a) For producer milk received at pool plants located outside Zone I and more than 30 miles from the St. Louis city hall or the city hall in Springfield, Mo., whichever is nearer, there shall be added or deducted, as the case may be, an adjustment for each such plant for all milk at the rates specified in § 1062.52 (b), (c), and (e); and

(b) For purposes of computations pursuant to §§ 1062.71(a)(2)(ii) and 1062.72, the "weighted averaged price" shall be adjusted at the rates set forth in § 1062.52 (b), (c), and (e) applicable at the location of the nonpool plant(s) from which the milk was received, except that the adjusted weighted average price plus 5 cents shall not be less than the Class III price.

**§ 1062.76 Payments by handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1062.30(b) and 1062.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that sub-







V 38-178 SEP 14 73 XUM

tracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price plus 5 cents, both prices to be applicable at the location of the partially regulated distributing plant (except that the Class I price and the weighted average price plus 5 cents shall not be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1062.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1062.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1062.60 for such handler shall include, in lieu of the value of other source milk specified in § 1062.60(f) less the value of such other source milk specified in § 1062.71(a)(2)(ii), a value of milk determined pursuant to § 1062.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1062.7(b), subject to the following conditions:

(*a*) The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1062.30(b) and 1062.31(b) similar reports for each such nonpool supply plant;

(*b*) The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1062.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1062.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1062.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

### § 1062.77 Adjustment of accounts.

(a) Whenever verification by the market administrator of reports or payments of any handler discloses error in payments to the producer-settlement fund made pursuant to § 1062.71, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall within 30 days of the date of such billing, make payment to the market administrator of the amount so billed;

(b) Whenever verification discloses that payment is due from the market administrator to any handler pursuant to § 1062.72, the market administrator shall promptly make payment to such handler;

(c) Whenever verification by the market administrator of the payment by a handler to any producer discloses payment to such producer of an amount which is less than is required by this part, the handler shall make up such payment to the producer not later than the time of making payment to producers next following the disclosure; and

(d) Whenever verification by the market administrator of the payment by a handler to any producer discloses that solely through error in computation, payment to such producer was in an amount more than was required to be paid pursuant to § 1062.73, no handler shall be deemed to be in violation of § 1062.73 if he reduces his next payment to such producer following discovery of such error by not more than such overpayment.

### § 1062.78 Charges on overdue accounts.

Any unpaid obligation of a handler pursuant to §§ 1062.71, 1062.77(a), 1062.85, or 1062.86(a) shall be increased one-half of one percent on the first day of the month following after the date such obligation is due and on the first day of each succeeding month until such obligation is paid. Any remittance received by the market administrator postmarked prior to the first of the month shall be considered to have been received when postmarked.

## Administrative Assessment and Marketing Service Deduction

### § 1062.85 Assessment for order administration.

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month 2.5 cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including that received from a handler described in § 1062.9(c)) and the handler's own production;

(b) Other source milk allocated to Class I pursuant to § 1062.44(a)(7) and (11) and the corresponding steps of § 1062.44(b), except such other source milk that is excluded from the computations pursuant to § 1062.60(d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1062.76(a)(2).

### § 1062.86 Deduction for marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler shall deduct 6 cents per hundredweight, or such lesser amount as the Secretary may prescribe, from the payments made to each producer other than himself pursuant to § 1062.73(a) with respect to all milk of such producer received by such handler during the month and shall pay





such deductions to the market administrator on or before the 15th day after the end of such month. Such money shall be used by the market administrator to verify weights, samples and tests of milk received from, and to provide market information to such producers. The market administrator may contract with a cooperative association or cooperative associations for the furnishing of the whole or any part of such services; and

(b) In the case of producers for whom a cooperative association is actually performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make such deductions from the payments to be made directly to producers pursuant to § 1062.73(a) as are authorized by such producers, and on or before the 15th day after the end of each month, pay over such deductions to the association of which such producers are members. When requested by the cooperative association a statement shall be supplied the cooperative association showing for each producer for whom such deduction is made the amount of such deduction, the total delivery of milk, and, unless otherwise previously provided, the butterfat test.

## Advertising and Promotion Program

### § 1062.110 Agency.

"Agency" means an agency organized by producers and producers' cooperative associations, in such form and with methods of operation specified in this part, which is authorized to expend funds made available pursuant to § 1062.121(b)(1), on approval by the Secretary, for the purposes of establishing or providing for establishment of research and development projects, advertising (excluding brand advertising), sales promotion, educational, and other programs, designed to improve or promote the domestic marketing and consumption of milk and its products. Members of the Agency shall serve without compensation but shall be reimbursed for reasonable expenses incurred in the performance of duties as members of the Agency.

### § 1062.111 Composition of Agency.

Subject to the conditions of paragraph (a) of this section, each cooperative association or combination of cooperative associations, as provided for under § 1062.113(b), is authorized one agency representative for each full 5 percent of the participating member producers (producers who have not requested refunds for the most recent quarter) it represents. Cooperative associations with less than 5 percent of the total participating producers that have elected not to combine pursuant to § 1062.113(b), and participating producers who are not members of cooperatives are authorized to select from such group of participating producers, in total, pursuant to § 1062.113(c), one Agency representative for each full 5 percent that such producers constitute of the total participating producers. If such group of producers in total constitutes less than 5 percent but not less than 1 percent of the total participating producers it shall nevertheless be authorized to select from such group in total one agency representative. For the purpose of the agency's initial organization, all persons defined as producers shall be considered as participating producers.

(a) If any cooperative association or combination of cooperative associations, as provided for under § 1062.113(b), has a majority of the participating producers, representation from such cooperative or group of cooperatives, as the case may be, shall be limited to the minimum number of representatives necessary to constitute a majority of the agency representatives, but not less than five.

### § 1062.112 Term of office.

The term of office of each member of the Agency shall be 1 year, or until a replacement is designated by the cooperative association or is otherwise appropriately elected.

### § 1062.113 Selection of Agency members.

The selection of Agency members shall be made pursuant to paragraphs (a), (b), and (c) of this section. Each person selected shall qualify by filing with the market administrator a written acceptance promptly after being notified of such selection.

(a) Each cooperative association authorized one or more representatives to the Agency shall notify the market administrator of the name and address of each representative who shall serve at the pleasure of the cooperative.

(b) For purposes of this program, cooperative associations may elect to combine their participating memberships and, if the combined total of participating producers of such cooperatives is 5 percent or more of the total participating producers, such cooperatives shall be eligible to select a representative(s) to the Agency under the rules of § 1062.111 and paragraph (a) of this section.

(c) Selection of Agency members to represent participating nonmember producers and participating producer members of a cooperative association(s) having less than the required 5 percent of the producers participating in the advertising and promotion program and who have not elected to combine memberships as provided in paragraph (b) of this section, shall be supervised by the market administrator in the following manner:

(1) Promptly after the effective date of this amending order, and annually thereafter, the market administrator shall give notice to participating producer members of such cooperatives and participating nonmember producers of their opportunity to nominate one or more producers as Agency representatives, as the case may be, and also shall specify the number of representatives to be selected.

(2) Following the closing date for nominations, the market administrator shall announce the nominees who are eligible for Agency membership and shall conduct a referendum among the individual participating producers eligible to vote. Election to membership shall be determined on the basis of the nominee (or nominees) receiving the largest number of eligible votes. If an elected representative subsequently discontinues producer status or is otherwise unable to complete his term of office, the market administrator shall appoint as his replacement the participating producer who received the next highest number of eligible votes.

### § 1062.114 Agency operating procedure.

A majority of the Agency members shall constitute a quorum. Any action of the Agency shall require a majority of concurring votes of those present and voting, unless the Agency determines that more than a simple majority shall be required.

### § 1062.115 Powers of the Agency.

The Agency is empowered to:

(a) Administer the terms and provisions of the program within the scope of Agency authority pursuant to § 1062.110;

(b) Make rules and regulations to effectuate the purposes of Public Law 91-670;

(c) Recommend amendments to the Secretary; and

(d) With the approval of the Secretary, enter into contracts and agreements with persons or organizations as deemed necessary to carry out advertising and promotion programs and projects specified in §§ 1062.110 and 1062.117.

### § 1062.116 Duties of the Agency.

The Agency shall perform all duties necessary to carry out the terms and provisions of this program including, but not limited to, the following:

(a) Meet, organize, and select from among its members a chairman and such other officers and committees as may be necessary, and adopt and make public such rules as may be necessary for the conduct of its business;

(b) Develop programs and projects pursuant to §§ 1062.110 and 1062.117;

(c) Keep minutes, books, and records and submit books and records for examination by the Secretary and furnish any information and reports requested by the Secretary;

(d) Prepare and submit to the Secretary for approval prior to each quarterly period a budget showing the projected amounts to be collected during the quarter and how such funds are to be disbursed by the Agency;

(e) When desirable, establish an advisory committee(s) of persons other than Agency members;

(f) Employ and fix the compensation of any person deemed to be necessary to its exercise of powers and performance of duties;

(g) Establish the rate of reimbursement to the members of the Agency for expenses in attending meetings, and pay the expenses of administering the Agency; and



V 38 I 178 SEP 14 73 XUM

(h) Provide for the bonding of all persons handling Agency funds in an amount and with surety thereon satisfactory to the Secretary.

**§ 1062.117 Advertising, research, education, and promotion program.**

The Agency shall develop and submit to the Secretary for approval all programs or projects undertaken under the authority of this part. Such programs or projects may provide for:

(a) The establishment, issuance, effectuation, and administration of appropriate programs or projects for the advertising and promotion of milk and milk products on a nonbrand basis;

(b) The utilization of the services of other organizations to carry out Agency programs and projects if the Agency finds that such activities will benefit producers under this part; and

(c) The establishment, support, and conduct of research and development projects and studies that the Agency finds will benefit all producers under this part.

**§ 1062.118 Limitation of expenditures by the Agency.**

(a) Not more than 5 percent of the funds received by the Agency pursuant to § 1062.121(b)(1) shall be utilized for administrative expense of the Agency.

(b) Agency funds shall not, in any manner, be used for political activity or for the purpose of influencing governmental policy or action, except in recommending to the Secretary amendments to the advertising and promotion program provisions of this part.

(c) Agency funds may not be expended to solicit producer participation.

(d) Agency funds may be used only for programs and projects promoting the domestic marketing and consumption of milk and its products.

**§ 1062.119 Personal liability.**

No member of the Agency shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, of such member in performance of his duties, except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

**§ 1062.120 Procedure for requesting refunds.**

Any producer may apply for refund subject to the applicable conditions set forth in this section.

(a) Refund shall be accomplished only through application filed with, and in the manner prescribed by, the market administrator and signed by the producer. Only that information necessary to identify the producer and the records relevant to the refund may be required of such producer.

(b) Except as provided in paragraph (c) of this section, the request shall be submitted within the first 15 days of December, March, June, or September for milk to be marketed during the ensuing calendar quarter beginning on the first day of January, April, July, and October, respectively.

(c) A dairy farmer who first acquires producer status under this part after the 15th day of December, March, June, or September, as the case may be, and prior to the end of the ensuing calendar quarter may, upon application filed with the market administrator pursuant to paragraph (a) of this section, be eligible for refund on all marketings against which an assessment is withheld during such calendar quarter pursuant to § 1062.61(d): *Provided:* That, such eligibility for refund shall not apply to a dairy farmer who during the first 15 days of such December, March, June, or September, respectively, was a producer under an order where the same refund notification period applied and such dairy farmer did not appropriately submit refund application during such period. This paragraph also shall be applicable to all producers during the period following the effective date of this amending order to the beginning of the first full calendar quarter for which the opportunity exists for such producers to request refunds pursuant to paragraph (b) of this section.

(d) A dairy farmer who, with respect to any calendar quarter, has appropriately filed request for refund of program assessments on his marketings of milk under another order that provides for an advertising and promotion program will be eligible (on the basis of his request filed under the other order) for refund with respect to his producer milk marketed under this order during such quarter for which deductions were made pursuant to § 1062.61(d).

**§ 1062.121 Duties of the market administrator.**

Except as specified in § 1062.116, the market administrator, in addition to other duties specified by this part, shall perform all the duties necessary to administer the terms and provisions of the advertising and promotion program including, but not limited to, the following:

(a) Within 30 days after the effective date of this amending order, and annually thereafter, conduct a referendum to determine representation on the Agency pursuant to § 1062.113(c);

(b) Set aside the amounts subtracted under § 1062.61(d) into an advertising and promotion fund, separately accounted for, from which shall be disbursed:

(1) To the Agency each month, all such funds less any necessary amount held in reserve to cover refunds pursuant to paragraph (b)(2) and (3) of this section, and payments to cover expenses of the market administrator incurred in the administration of the advertising and promotion program (including audit).

(2) Refund to producers the amounts of mandatory checkoff for advertising and promotion programs required under authority of State law applicable to such producers, but not in amounts that exceed a rate of 5 cents per hundredweight on the volume of milk pooled by any such producer for which deductions were made pursuant to § 1062.61(d).

(3) After the end of each calendar quarter, make a refund to each producer who has made application for such refund pursuant to § 1062.120. Such refund shall be computed at the rate of 5 cents per hundredweight of such producer's milk pooled for which deductions were made pursuant to § 1062.61(d) for such calendar quarter, less the amount of any refund otherwise made to the producer pursuant to paragraph (b)(2) of this section.

(c) Promptly after the effective date of this amending order, and thereafter with respect to new producers, forward to each producer a copy of the provisions of the advertising and promotion program (§§ 1062.110 through 1062.122).

(d) Make necessary audits to establish that all agency funds are used only for authorized purposes.

**§ 1062.122 Liquidation.**

In the event that the provisions of this advertising and promotion program are terminated, any remaining uncommitted funds applicable thereto shall revert to the producer-settlement fund of § 1062.70.

---

## PART 1099—MILK IN PADUCAH, KENTUCKY, MARKETING AREA

**Subpart—Order Regulating Handling**

GENERAL PROVISIONS


Secs.
1099.1 General provisions.

DEFINITIONS

1099.2 Paducah, Kentucky, marketing area.
1099.3 Route disposition.
1099.4 [Reserved]
1099.5 Distributing plant.
1099.6 Supply plant.
1099.7 Pool plant.
1099.8 Nonpool plant.
1099.9 Handler.
1099.10 Producer-handler.
1099.11 [Reserved]
1099.12 Producer.
1099.13 Producer milk.
1099.14 Other source milk.
1099.15 Fluid milk product.
1099.16 Fluid cream product.
1099.17 Filled milk.
1099.18 Cooperative association.

HANDLER REPORTS

1099.30 Reports of receipts and utilization.
1099.31 Payroll reports.
1099.32 Other reports.

CLASSIFICATION OF MILK

1099.40 Classes of utilization.
1099.41 Shrinkage.
1099.42 Classification of transfers and diversions.
1099.43 General classification rules.
1099.44 Classification of producer milk.
1099.45 Market administrator's reports and announcements concerning classification.

CLASS PRICES

1099.50 Class prices.
1099.51 Basic formula price.
1099.52 Plant location adjustments for handlers.
1099.53 Announcement of class prices.







UNIFORM PRICE

Secs.
1099.60 Handler's value of milk for computing uniform price.
1099.61 Computation of uniform price (including weighted average price).
1099.62 Announcement of uniform price and butterfat differential.

PAYMENTS FOR MILK

1099.70 Producer-settlement fund.
1099.71 Payments to the producer-settlement fund.
1099.72 Payments from the producer-settlement fund.
1099.73 Payments to producers and to cooperative associations.
1099.74 Butterfat differential.
1099.75 Plant location adjustments for producers and on nonpool milk.
1099.76 Payments by handler operating a partially regulated distributing plant.
1099.77 Adjustment of accounts.

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

1099.85 Assessment for order administration.
1099.86 Deduction for marketing services.


AUTHORITY.—The provisions of this Part 1099 issued under secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).

GENERAL PROVISIONS

**§ 1099.1 General provisions.**

The terms, definitions, and provisions in Part 1000 of this chapter are hereby incorporated by reference and made a part of this order.

DEFINITIONS

**§ 1099.2 Paducah, Kentucky, marketing area.**

The "Paducah, Ky., marketing area," hereinafter called the "marketing area," means all the territory within the counties listed below (except that portion of any of these counties contained in the Fort Campbell military reservation):

KENTUCKY COUNTIES

| | |
|---|---|
| Ballard. | Hickman. |
| Caldwell. | Livingston. |
| Calloway. | Lyon. |
| Carlisle. | Marshall. |
| Christian. | McCracken. |
| Fulton. | Todd. |
| Graves. | Trigg. |

MISSOURI COUNTIES

| | |
|---|---|
| Mississippi. | Pemiscot. |
| New Madrid. | Scott. |

**§ 1099.3 Route disposition.**

"Route disposition" means a delivery (including disposition from a plant store or from a distribution point and distribution by a vendor or vending machine) of any fluid milk product classified as Class I milk to a retail or wholesale outlet other than a milk or filled milk plant. A delivery through a distribution point shall be attributed to the plant from which the Class I milk is moved through a distribution point to wholesale or retail outlets.

**§ 1099.4 [Reserved]**

**§ 1095.5 Distributing plant.**

"Distributing plant" means a plant in which milk is processed and packaged and from which there is route disposition during the month in the marketing area.

**§ 1099.6 Supply plant.**

"Supply plant" means a plant (except a distributing plant) which is qualified as a pool plant pursuant to the proviso in § 1099.7(b) or a plant from which milk or skim milk which may be distributed in the marketing area under a Grade A label is supplied during the month to a plant qualified pursuant to § 1099.7(a).

**§ 1099.7 Pool plant.**

Except as provided in paragraph (c) of this section, "pool plant" means:

(a) A distributing plant from which there is total route disposition, except filled milk, in an amount equal to 45 percent or more of its receipts of milk from dairy farmers producing milk under a Grade A dairy farm permit or rating issued by a duly constituted health authority (including milk of such dairy farmer diverted by the plant operator), from handlers described in § 1099.9(c), and fluid milk products, except filled milk, from other plants during the month and from which there is route disposition, except filled milk, in the marketing area in an amount equal to a daily average of 3,000 pounds or more per day, or 10 percent or more of such receipts, whichever is less: *Provided,* That a plant which qualifies as a pool plant by complying with the foregoing requirements during any month shall be a pool plant during the following month.

(b) A distributing plant or supply plant from which the volume of milk and skim milk shipped to pool plants qualified pursuant to paragraph (a) of this section, or disposed of as route disposition (excluding filled milk) is equal to not less than 50 percent of the receipts of milk from dairy farmers producing milk under a Grade A dairy farm permit or rating issued by a duly constituted health authority (including milk of such dairy farmers diverted by the plant operator), from handlers described in § 1099.9(c), and fluid milk products, except filled milk, received from other plants: *Provided,* That if a supply plant ships to pool plants qualified pursuant to paragraph (a) of this section milk and skim milk equal to at least 75 percent of its receipts of milk from such dairy farmers and handlers described in § 1099.9(c) in October and November and 35 percent of such milk in three additional months during the period from August through January, such plant shall, upon written application to the market administrator on or before the end of such period, be designated as a pool plant until the end of any month during the succeeding August through January period in which the milk of such plant is disposed of in such a way that it becomes impossible for the plant to reestablish its qualification under the term of this proviso, *And provided further,* That in the case of a supply plant operated by a cooperative association which supplies to other pool plants at least two-thirds of the producer milk of its producer members (including both the milk delivered directly from the farms of member producers and that delivered from the plant of the association) delivered to all plants during the current month or during the immediately preceding 12-month period, the milk which such association causes to be delivered to the pool plants of other handlers in its capacity as a handler described in § 1099.9(c), shall be considered as having been received first at the plant of such cooperative association for the purpose of qualifying such plant as a pool plant pursuant to this paragraph.

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) A distributing plant qualified pursuant to paragraph (a) or (b) of this section which meets the requirements of a fully regulated plant pursuant to the provisions of another order issued pursuant to the Act and from which a greater quantity of fluid milk products, except filled milk, is disposed of during the month from such plant as route disposition in the marketing area regulated by the other order than in the Paducah, Ky., marketing area: *Provided,* That such a distributing plant which was a pool plant under this order in the immediately preceding month shall continue to be subject to all of the provisions of this part until the third consecutive month in which a greater proportion of such route disposition is made in such other marketing area, unless the other order requires regulation of the plant without regard to its qualifying as a pool plant under this order subject to the proviso of this subparagraph: *And provided further,* on the basis of a written application made either by the plant operator or by the cooperative association supplying milk to such operator's plant, at least 15 days prior to the date for which a determination of the Secretary is to be effective, the Secretary may determine that the route dispositions in the respective marketing areas to be used for purposes of this subparagraph shall exclude (for a specified period of time) route disposition made under limited-term contracts to governmental bases and institutions;

(3) A distributing plant qualified pursuant to paragraph (a) or (b) of this section which meets the requirements of a fully regulated plant pursuant to the provisions of another Federal order and from which a greater quantity of Class I milk, except filled milk, is disposed of during the month as route disposition in the Paducah marketing area than in the other marketing area, and such other order which fully regulates the plant does not contain provisions to exempt the plant from regulation even though such plant has greater route disposition in the marketing area of the Paducah, Ky., order; and

(4) Any supply plant which would be subject to the classification and pricing provisions of another order issued pursuant to the Act unless such plant qualified as a pool plant pursuant to the proviso of paragraph (b) of this section during the preceding August through January period.



V 38-178 SEP 14 73 XUM

**§ 1099.8 Nonpool plant.**

"Nonpool plant" means any milk or filled milk receiving, manufacturing, or processing plant other than a pool plant. The following categories of nonpool plants are further defined as follows:

(a) "Other order plant" means a plant that is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act.

(b) "Producer-handler plant" means a plant operated by a producer-handler as defined in any order (including this part) issued pursuant to the Act.

(c) "Partially regulated distributing plant" means a nonpool plant that is neither an other order plant nor a producer-handler plant, from which there is route disposition in consumer-type packages or dispenser units in the marketing area during the month.

(d) "Unregulated supply plant" means a nonpool plant (other than a producer-handler plant or an other order plant) from which fluid milk products are shipped to a pool plant.

**§ 1099.9 Handler.**

"Handler" means:

(a) Any person in his capacity as the operator of a pool plant;

(b) A cooperative association qualified pursuant to § 1099.18 with respect to milk of producers diverted pursuant to § 1099.13 for the account of such association;

(c) A cooperative association which chooses to report as a handler with respect to milk which is delivered from the farm to a pool plant(s) of another handler in a tank truck owned or operated by, or under contract to, such cooperative association for the account of such cooperative association. The milk so delivered shall be considered to have been received by such cooperative association at a pool plant at the location of the pool plant to which it is delivered;

(d) Any person who operates a partially regulated distributing plant;

(e) A producer-handler; or

(f) Any person who operates an other order plant described in § 1099.7(c).

**§ 1099.10 Producer-handler.**

"Producer-handler" means any person who operates a dairy farm and a distributing plant, from which there is route disposition within the marketing area but which receives no other source milk or milk from other dairy farmers.

**§ 1099.11 [Reserved]**

**§ 1099.12 Producer.**

(a) Except as provided in paragraph (b) of this section, "producer" means any person who produces milk under a Grade A dairy farm permit or rating issued by a duly constituted health authority, which milk is received at a pool plant or by a handler described in § 1099.9(c).

(b) "Producer" shall not include:

(1) A producer-handler as defined in any order (including this part) issued pursuant to the Act;

(2) Any person with respect to milk produced by him which is diverted to a pool plant from an other order plant if the other order designates such person as a producer under that order and such milk is allocated to Class II or Class III utilization pursuant to § 1099.44(a)(8)(iii) and the corresponding step of § 1099.44(b); and

(3) Any person with respect to milk produced by him which is diverted from a pool plant to an other order plant if the other order designates such person as a producer under that order with respect to such milk.

**§ 1099.13 Producer milk.**

"Producer milk" means all skim milk and butterfat contained in milk produced by a producer which is:

(a) Received during the month at a pool plant from producers or from a handler described in § 1099.9(c);

(b) Received by a handler described in § 1099.9(c) but which is not delivered to a pool plant of another handler and constitutes shrinkage pursuant to § 1099.41(c) or Class I shrinkage; or

(c) Diverted by the operator of a pool plant or by a handler described in § 1099.9(b) to a nonpool plant that is not a producer-handler plant, subject to the following conditions:

(1) Not less than 5 days' production of any producer whose milk is diverted is physically received at a pool plant;

(2) If diverted by a cooperative association for its account as milk of its members to nonpool plants which does not exceed 25 percent of the milk physically received from member producers of such cooperative association at pool plants during the month in any of the months of April through August and 15 percent in other months, except that if milk of members is diverted by the cooperative association in excess of the specified percentages, no milk diverted by the cooperative association during the month shall be producer milk unless the cooperative association designates the dairy farmers whose milk is not producer milk;

(3) If diverted by a handler in his capacity as the operator of a pool plant, as milk of a producer who is not a member of a cooperative association diverting milk pursuant to paragraph (c)(2) of this section, which does not exceed 25 percent of the aggregate quantity of milk received at such plant from such nonmember producers during the month in any of the months of April through August and 15 percent in other months, except that if milk of nonmember producers is diverted by the handler in excess of the specified percentages, no milk diverted by the handler during the month shall be producer milk unless the handler designates the dairy farmers whose milk is not producer milk; and

(4) Milk diverted for the account of a handler in his capacity as an operator of a pool plant shall be deemed to have been received at the pool plant from which diverted and milk diverted for the account of a cooperative association shall be deemed to have been received by the cooperative association at a pool plant at a location identical with that of the pool plant from which diverted.

**§ 1099.14 Other source milk.**

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts of fluid milk products and bulk products specified in § 1099.40(b)(1) from any source other than producers, handlers described in § 1099.9(c), pool plants, or inventory at the beginning of the month;

(b) Receipts in packaged form from other plants of products specified in § 1099.40(b)(1);

(c) Products (other than fluid milk products, products specified in § 1099.40(b)(1), and products produced at the plant during the same month) from any source which are reprocessed, converted into, or combined with another product in the plant during the month; and

(d) Receipts of any milk product (other than a fluid milk product or a product specified in § 1099.40(b)(1) for which the handler fails to establish a disposition.

**§ 1099.15 Fluid milk product.**

(a) Except as provided in paragraph (b) of this section, "fluid milk product" means any of the following products in fluid or frozen form:

(1) Milk, skim milk, lowfat milk, milk drinks, buttermilk, filled milk, and milkshake and ice milk mixes containing less than 20 percent total solids, including any such products that are flavored, cultured, modified with added nonfat milk solids, concentrated (if in a consumer-type package), or reconstituted; and

(2) Any milk product not specified in paragraph (a)(1) of this section or in § 1099.40 (b) or (c)(1) (i) through (iv) if it contains by weight at least 80 percent water and 6.5 percent nonfat milk solids and less than 9 percent butterfat and 20 percent total solids.

(b) The term "fluid milk product" shall not include:

(1) Evaporated or condensed milk (plain or sweetened), evaporated or condensed skim milk (plain or sweetened), formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers, any product that contains by weight less than 6.5 percent nonfat milk solids, and whey; and

(2) The quantity of skim milk in any modified product specified in paragraph (a) of this section that is in excess of the quantity of skim milk in an equal volume of an unmodified product of the same nature and butterfat content.

**§ 1099.16 Fluid cream product.**

"Fluid cream product" means cream (other than plastic cream or frozen cream), sour cream, or a mixture (including a cultured mixture) of cream and milk or skim milk containing 9 percent or more butterfat, with or without the addition of other ingredients.

**§ 1099.17 Filled milk.**

"Filled milk" means any combination of nonmilk fat (or oil) with skim milk (whether fresh, cultured, reconstituted, or modified by the addition of nonfat milk solids), with or without milkfat, so that the product (including stabilizers, emulsifiers, or flavoring) resembles milk or any other fluid milk product, and contains less than 6 percent nonmilk fat (or oil).





**§ 1099.18 Cooperative association.**

"Cooperative association" means any cooperative marketing association which the Secretary determines, after application by the association:

(a) To be qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Capper-Volstead Act"; and

(b) To have full authority in the sale of milk of its members and to be engaged in making collective sales of or marketing milk or its products for its members.

HANDLER REPORTS

**§ 1099.30 Reports of receipts and utilization.**

On or before the 6th day after the end of each month, each handler shall report for such month to the market administrator, in the detail and on the forms prescribed by the market administrator, as follows:

(a) Each handler, with respect to each of his pool plants, shall report the quantities of skim milk and butterfat contained in or represented by:

(1) Receipts of producer milk, including producer milk diverted by the handler from the pool plant to other plants;

(2) Receipts of milk from handlers described in § 1099.9(c);

(3) Receipts of fluid milk products and bulk fluid cream products from other pool plants;

(4) Receipts of other source milk;

(5) Inventories at the beginning and end of the month of fluid milk products and products specified in § 1099.40(b)(1); and

(6) The utilization or disposition of all milk, filled milk, and milk products required to be reported pursuant to this paragraph.

(b) Each handler operating a partially regulated distributing plant shall report with respect to such plant in the same manner as prescribed for reports required by paragraph (a) of this section. Receipts of milk that would have been producer milk if the plant had been fully regulated shall be reported in lieu of producer milk. Such report shall show also the quantity of any reconstituted skim milk in route disposition in the marketing area.

(c) Each handler described in § 1099.9(b) and (c) shall report:

(1) The quantities of all skim milk and butterfat contained in receipts of milk from producers; and

(2) The utilization or disposition of all such receipts.

(d) Each handler not specified in paragraphs (a) through (c) of this section shall report with respect to his receipts and utilization of milk, filled milk, and milk products in such manner as the market administrator may prescribe.

**§ 1099.31 Payroll reports.**

(a) On or before the 20th day after the end of each month, each handler described in § 1099.9 (a), (b), and (c) shall report to the market administrator his producer payroll for such month, in the detail prescribed by the market administrator, showing for each producer:

(1) His name and address;

(2) The total pounds of milk received from such producer;

(3) The average butterfat content of such milk; and

(4) The price per hundredweight, the gross amount due, the amount and nature of any deductions, and the net amount paid.

(b) Each handler operating a partially regulated distributing plant who elects to make payment pursuant to § 1099.76(b) shall report for each dairy farmer who would have been a producer if the plant had been fully regulated in the same manner as prescribed for reports required by paragraph (a) of this section.

**§ 1099.32 Other reports.**

(a) On or before the 6th day after the end of each month, each handler shall report to the market administrator, in the detail and on forms prescribed by the market administrator, as follows:

(1) The name and address of each producer from whom milk was not received during the previous months and the date on which milk was first received from such producer; and

(2) The name and address of each producer who discontinues deliveries of milk and the date on which milk was last received from such producer.

(b) In addition to the reports required pursuant to paragraph (a) of this section and §§ 1099.30 and 1099.31, each handler shall report such other information as the market administrator deems necessary to verify or establish such handler's obligation under the order.

CLASSIFICATION OF MILK

**§ 1099.40 Classes of utilization.**

Except as provided in § 1099.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1099.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all-metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(v) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1099.15; and

(6) In shrinkage assigned pursuant to § 1099.41(a) to the receipts specified in § 1099.41(a)(2) and in shrinkage specified in § 1099.41 (b) and (c).

**§ 1099.41 Shrinkage.**

For purposes of classifying all skim milk and butterfat to be reported by a handler pursuant to § 1099.30, the market administrator shall determine the following:

(a) The pro rata assignment of shrinkage of skim milk and butterfat, respectively, at each pool plant to the respective quantities of skim milk and butterfat:

(1) In the receipts specified in paragraph (b) (1) through (6) of this section on which shrinkage is allowed pursuant to such paragraph; and



V 38 I 178 SEP 14 73 XUM

(2) In other source milk not specified in paragraph (b) (1) through (6) of this section which was received in the form of a bulk fluid milk product;

(b) The shrinkage of skim milk and butterfat, respectively, assigned pursuant to paragraph (a) of this section to the receipts specified in paragraph (a)(1) of this section that is not in excess of:

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1099.9(c));

(2) Plus 1.5 percent of the skim milk and butterfat, respectively, in milk received from a handler described in § 1099.9(c), except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be 2 percent;

(3) Plus 0.5 percent of the skim milk and butterfat, respectively, in producer milk diverted from such plant by the plant operator to another plant, except that if the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this subparagraph shall be zero;

(4) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other pool plants;

(5) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received by transfer from other order plants, excluding the quantity for which Class II or Class III classification is requested by the operators of both plants;

(6) Plus 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products received from unregulated supply plants, excluding the quantity for which Class II or Class III classification is requested by the handler; and

(7) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk milk transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (b) (1), (2), (4), (5), and (6) of this section; and

(c) The quantity of skim milk and butterfat, respectively, in shrinkage of milk from producers for which a cooperative association is the handler pursuant to § 1099.9 (b) or (c), but not in excess of 0.5 percent of the skim milk and butterfat, respectively, in such milk. If the operator of the plant to which the milk is delivered purchases such milk on the basis of weights determined from its measurement at the farm and butterfat tests determined from farm bulk tank samples, the applicable percentage under this paragraph for the cooperative association shall be zero.

**§ 1099.42 Classification of transfers and diversions.**

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as Class I milk unless the operators of both plants request the same classification in another class. In either case, the classification of such transfers shall be subject to the following conditions:

(1) The skim milk or butterfat classified in each class shall be limited to the amount of skim milk and butterfat, respectively, remaining in such class at the transferee-plant after the computations pursuant to § 1099.44(a)(12) and the corresponding step of § 1099.44(b);

(2) If the transferor-plant received during the month other source milk to be allocated pursuant to § 1099.44(a)(7) or the corresponding step of § 1099.44(b), the skim milk or butterfat so transferred shall be classified so as to allocate the least possible Class I utilization to such other source milk; and

(3) If the transferor-handler received during the month other source milk to be allocated pursuant to § 1099.44(a) (11) or (12) or the corresponding steps of § 1099.44(b), the skim milk or butterfat so transferred, up to the total of the skim milk and butterfat, respectively, in such receipts of other source milk, shall not be classified as Class I milk to a greater extent than would be the case if the other source milk had been received at the transferee-plant.

(b) *Transfers and diversions to other order plants.* Skim milk or butterfat transferred or diverted in the form of a fluid milk product or a bulk fluid cream product from a pool plant to an other order plant shall be classified in the following manner. Such classification shall apply only to the skim milk or butterfat that is in excess of any receipts at the pool plant from the other order plant of skim milk and butterfat, respectively, in fluid milk products and bulk fluid cream products, respectively, that are in the same category as described in paragraph (b) (1), (2), or (3) of this section:

(1) If transferred as packaged fluid milk products, classification shall be in the classes to which allocated as a fluid milk product under the other order;

(2) If transferred in bulk form, classification shall be in the classes to which allocated under the other order (including allocation under the conditions set forth in paragraph (b)(3) of this section);

(3) If the operators of both plants so request in their reports of receipts and utilization filed with their respective market administrators, transfers or diversions in bulk form shall be classified as Class II or Class III milk to the extent of such utilization available for such classification pursuant to the allocation provisions of the other order;

(4) If information concerning the classes to which such transfers or diversions were allocated under the other order is not available to the market administrator for the purpose of establishing classification under this paragraph, classification shall be as Class I, subject to adjustment when such information is available;

(5) For purposes of this paragraph, if the other order provides for a different number of classes of utilization than is provided for under this part, skim milk or butterfat allocated to a class consisting primarily of fluid milk products shall be classified as Class I milk, and skim milk or butterfat allocated to the other classes shall be classified as Class III milk; and

(6) If the form in which any fluid milk product that is transferred to an other order plant is not defined as a fluid milk product under such other order, classification under this paragraph shall be in accordance with the provisions of § 1099.40.

(c) *Transfers to producer-handlers.* Skim milk or butterfat transferred in the following forms from a pool plant to a producer-handler under this or any other Federal order shall be classified:

(1) As Class I milk, if transferred in the form of a fluid milk product; and

(2) In accordance with the utilization assigned to it by the market administrator, if transferred in the form of a bulk fluid cream product. For this purpose, the producer-handler's utilization of skim milk and butterfat in each class, in series beginning with Class III, shall be assigned to the extent possible to his receipts of skim milk and butterfat, respectively, in bulk fluid cream products, pro rata to each source.

(d) *Transfers and diversions to other nonpool plants.* Skim milk or butterfat transferred or diverted in the following forms from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant shall be classified:

(1) As Class I milk, if transferred in the form of a packaged fluid milk product; and

(2) As Class I milk, if transferred or diverted in the form of a bulk fluid milk product or a bulk fluid cream product, unless the following conditions apply:

(i) If the conditions described in paragraph (d)(2)(i) (*a*) and (*b*) of this section are met, transfers or diversions in bulk form shall be classified on the basis of the assignment of the nonpool plant's utilization to its receipts as set forth in paragraph (d)(2) (ii) through (viii) of this section:

(a) The transferor-handler or diverter-handler claims such classification in his report of receipts and utilization filed pursuant to § 1099.30 for the month within which such transaction occurred; and

(*b*) The nonpool plant operator maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available for verification purposes if requested by the market administrator;

(ii) Route disposition in the marketing area of each Federal milk order from the nonpool plant and transfers of packaged fluid milk products from such nonpool plant to plants fully regulated thereunder shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of packaged fluid milk products at such nonpool plant from pool plants;

(*b*) Pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from other order plants;

(c) Pro rata to receipts of bulk fluid milk products at such nonpool plant from pool plants; and

(*d*) Pro rata to any remaining unassigned receipts of bulk fluid milk products at such nonpool plant from other order plants;

(iii) Any remaining Class I disposition of packaged fluid milk products from the nonpool plant shall be assigned to the extent possible pro rata to any remaining unassigned receipts of packaged fluid milk products at such nonpool plant from pool plants and other order plants;

(iv) Transfers of bulk fluid milk products from the nonpool plant to a plant fully regulated under any Federal milk order, to the extent that such transfers to the regulated plant exceed receipts of fluid milk products from such plant and are allocated to Class I at the transferee-plant, shall be assigned to the extent possible in the following sequence:

(*a*) Pro rata to receipts of fluid milk products at such nonpool plant from pool plants; and

(*b*) Pro rata to any remaining unassigned receipts of fluid milk products at such nonpool plant from other order plants;

(v) Any remaining unassigned Class I disposition from the nonpool plant shall be assigned to the extent possible in the following sequence:

(*a*) To such nonpool plant's receipts from dairy farmers who the market administrator determines constitute regular sources of Grade A milk for such nonpool plant; and

(*b*) To such nonpool plant's receipts of Grade A milk from plants not fully regulated under any Federal milk order which the market administrator determines constitute regular sources of Grade A milk for such nonpool plant;

(vi) Any remaining unassigned receipts of bulk fluid milk products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class I utilization, then to Class III utilization, and then to Class II utilization at such nonpool plant;

(vii) Receipts of bulk fluid cream products at the nonpool plant from pool plants and other order plants shall be assigned, pro rata among such plants, to the extent possible first to any remaining Class III utilization, then to any remaining Class II utilization, and then to Class I utilization at such nonpool plant; and

(viii) In determining the nonpool plant's utilization for purposes of this subparagraph, any fluid milk products and bulk fluid cream products transferred from such nonpool plant to a plant not fully regulated under any Federal milk order shall be classified on the basis of the second plant's utilization using the same assignment priorities at the second plant that are set forth in this subparagraph.





**§ 1099.43 General classification rules.**

In determining the classification of producer milk pursuant to § 1099.44, the following rules shall apply:

(a) Each month the market administrator shall correct for mathematical and other obvious errors all reports filed pursuant to § 1099.30 and shall compute separately for each pool plant and for each cooperative association with respect to milk for which it is the handler pursuant to § 1099.9 (b) or (c) the pounds of skim milk and butterfat, respectively, in each class in accordance with §§ 1099.40, 1099.41, and 1099.42;

(b) If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk in such product that are to be considered under this part as used or disposed of by the handler shall be an amount equivalent to the nonfat milk solids contained in such product plus all of the water originally associated with such solids; and

(c) The classification of producer milk for which a cooperative association is the handler pursuant to § 1099.9 (b) or (c) shall be determined separately from the operations of any pool plant operated by such cooperative association.

**§ 1099.44 Classification of producer milk.**

For each month the market administrator shall determine the classification of producer milk of each handler described in § 1099.9(a) for each of his pool plants separately and of each handler described in § 1099.9 (b) and (c) by allocating the handler's receipts of skim milk and butterfat to his utilization as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class III the pounds of skim milk in shrinkage specified in § 1099.41(b);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in receipts of packaged fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in fluid milk products received in packaged form from another order plant, except that to be subtracted pursuant to paragraph (a)(7)(vi) of this section, as follows:

(i) From Class III milk, the lesser of the pounds remaining or 2 percent of such receipts; and

(ii) From Class I milk, the remainder of such receipts;

(4) Subtract from the pounds of skim milk in Class II the pounds of skim milk in products specified in § 1099.40(b)(1) that were received in packaged form from other plants, but not in excess of the pounds of skim milk remaining in Class II;

(5) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in products specified in § 1099.40(b)(1) that were in inventory at the beginning of the month in packaged form, but not in excess of the pounds of skim milk remaining in Class II. This subparagraph shall apply only if the pool plant was subject to the provisions of this subparagraph or comparable provisions of another Federal milk order in the immediately preceding month;

(6) Subtract from the remaining pounds of skim milk in Class II the pounds of skim milk in other source milk (except that received in the form of a fluid milk product or a fluid cream product) that is used to produce, or added to, any product specified in § 1099.40(b), but not in excess of the pounds of skim milk remaining in Class II;

(7) Subtract in the order specified below from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in each of the following:

(i) Other source milk (except that received in the form of a fluid milk product) and, if paragraph (a)(5) of this section applies, packaged inventory at the beginning of the month of products specified in § 1099.40(b)(1) that was not subtracted pursuant to paragraph (a)(4), (5), and (6) of this section;

(ii) Receipts of fluid milk products (except filled milk) for which Grade A certification is not established;

(iii) Receipts of fluid milk products from unidentified sources;

(iv) Receipts of fluid milk products from a producer-handler as defined under this or any other Federal milk order;

(v) Receipts of reconstituted skim milk in filled milk from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) of this section; and

(vi) Receipts of reconstituted skim milk in filled milk from an other order plant that is regulated under any Federal milk order providing for individual-handler pooling, to the extent that reconstituted skim milk is allocated to Class I at the transferor-plant;

(8) Subtract in the order specified below from the pounds of skim milk remaining in Class II and Class III, in sequence beginning with Class III:

(i) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2) and (7)(v) of this section for which the handler requests a classification other than Class I, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(ii) The pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2),



V 38 I 178 SEP 14 73 XUM

(7)(v), and (8)(i) of this section which are in excess of the pounds of skim milk determined pursuant to paragraph (a)(8)(ii) (*a*) through (c) of this section. Should the pounds of skim milk to be subtracted from Class II and Class III combined exceed the pounds of skim milk remaining in such classes, the pounds of skim milk in Class II and Class III shall be increased (increasing Class III first to the extent permitted by the handler's total Class III utilization at his other pool plants) by an amount equal to such quantity to be subtracted and the pounds of skim milk in Class I shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment:

(*a*) Multiply by 1.25 the sum of the pounds of skim milk remaining in Class I at this allocation step at all pool plants of the handler;

(*b*) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pursuant to paragraph (a)(7)(vi) of this section; and

(*c*) Multiply any plus quantity resulting above by the percentage that the receipts of skim milk in fluid milk products from unregulated supply plants that remain at this pool plant is of all such receipts remaining at this allocation step at all pool plants of the handler; and

(iii) The pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) of this section, if Class II or Class III classification is requested by the operator of the other order plant and the handler, but not in excess of the pounds of skim milk remaining in Class II and Class III combined;

(9) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class III, the pounds of skim milk in fluid milk products and products specified in § 1099.40(b)(1) in inventory at the beginning of the month that were not subtracted pursuant to paragraph (a)(5) and (7)(i) of this section;

(10) Add to the remaining pounds of skim milk in Class III the pounds of skim milk subtracted pursuant to paragraph (a)(1) of this section;

(11) Subject to the provisions of paragraph (a)(11)(i) of this section, subtract from the pounds of skim milk remaining in each class at the plant, pro rata to the total pounds of skim milk remaining in Class I and in Class II and Class III combined at this allocation step at all pool plants of the handler, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, the pounds of skim milk in receipts of fluid milk products from an unregulated supply plant that were not subtracted pursuant to paragraph (a)(2), (7)(v), and (8)(i) and (ii) of this section and that were not offset by transfers or diversions of fluid milk products to the same unregulated supply plant from which fluid milk products to be allocated at this step were received:

(i) Should the pounds of skim milk to be subtracted from any class pursuant to this subparagraph exceed the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(12) Subtract in the manner specified below from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of bulk fluid milk products from an other order plant that are in excess of bulk fluid milk products transferred or diverted to such plant and that were not subtracted pursuant to paragraph (a)(7)(vi) and (8)(iii) of this section:

(i) Subject to the provisions of paragraph (a)(12)(ii) and (iii) of this section, such subtraction shall be pro rata to the pounds of skim milk in Class I and in Class II and Class III combined, with the quantity prorated to Class II and Class III combined being subtracted first from Class III and then from Class II, with respect to whichever of the following quantities represents the lower proportion of Class I milk:

(*a*) The estimated utilization of skim milk of all handlers in each class as announced for the month pursuant to § 1099.45(a); or

(*b*) The total pounds of skim milk remaining in each class at this allocation step at all pool plants of the handler;

(ii) Should the proration pursuant to paragraph (a)(12)(i) of this section result in the total pounds of skim milk at all pool plants of the handler that are to be subtracted at this allocation step from Class II and Class III combined exceeding the pounds of skim milk remaining in Class II and Class III at all such plants, the pounds of such excess shall be subtracted from the pounds of skim milk remaining in Class I after such proration at the pool plants at which such other source milk was received; and

(iii) Except as provided in paragraph (a)(12)(ii) of this section, should the computations pursuant to paragraph (a)(12)(i) or (ii) of this section result in a quantity of skim milk to be subtracted from any class that exceeds the pounds of skim milk remaining in such class, the pounds of skim milk in such class shall be increased by an amount equal to such quantity to be subtracted and the pounds of skim milk in the other classes (beginning with the higher-priced class) shall be decreased by a like amount. In such case, the pounds of skim milk remaining in each class at this allocation step at other pool plants of the handler shall be adjusted to the extent possible in the reverse direction by a like amount. Such adjustment shall be made at the other plants in sequence beginning with the plant having the least minus location adjustment;

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 10.99.42(a); and

(14) If the total pounds of skim milk remaining in all classes exceed the pounds of skim milk in producer milk, subtract such excess from the pounds of skim milk remaining in each class in series beginning with Class III. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the procedure outlined for skim milk in paragraph (a) of this section; and

(c) The quantity of producer milk in each class shall be the combined pounds of skim milk and butterfat remaining in each class after the computations pursuant to § 1099.44(a)(14) and the corresponding step of § 1099.44(b).

### § 1099.45 Market administrator's reports and announcements concerning classification.

The market administrator shall make the following reports and announcements concerning classification:

(a) Whenever required for the purpose of allocating receipts from other order plants pursuant to § 1099.44(a)(12) and the corresponding step of § 1099.44(b), estimate and publicly announce the utilization (to the nearest whole percentage) in each class during the month of skim milk and butterfat, respectively, in producer milk of all handlers. Such estimate shall be based upon the most current available data and shall be final for such purpose.

(b) Report to the market administrator of the other order, as soon as possible after the report of receipts and utilization for the month is received from a handler who has received fluid milk products or bulk fluid cream products from an other order plant, the class to which such receipts are allocated pursuant to § 1099.44 on the basis of such report, and, thereafter, any change in such allocation required to correct errors disclosed in the verification of such report.

(c) Furnish to each handler operating a pool plant who has shipped fluid milk products or bulk fluid cream products to an other order plant the class to which such shipments were allocated by the market administrator of the other order





on the basis of the report by the receiving handler, and, as necessary, any changes in such allocation arising from the verification of such report.

(d) Upon request, report, on or before the 25th day after the end of each month, to each cooperative association described in § 1099.86(b) the percentage of milk which was caused to be delivered by such association or by its members and which was used in each class by each handler receiving any such milk. For the purpose of this report the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handler were used in each class.

CLASS PRICES

### § 1099.50 Class prices.

Subject to the provisions of § 1099.52, the class prices for the month per hundredweight of milk containing 3.5 percent butterfat shall be as follows:

(a) *Class I price.* The Class I price shall be the basic formula price for the second preceding month plus $1.70.

(b) *Class II price.* The Class II price shall be the basic formula price for the month plus 10 cents.

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

### § 1099.51 Basic formula price.

The "basic formula price" shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin, as reported by the Department for the month, adjusted to a 3.5 percent butterfat basis and rounded to the nearest cent. For such adjustment, the butterfat differential (rounded to the nearest one-tenth cent) per one-tenth percent butterfat shall be 0.12 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month. For the purpose of computing the Class I price, the resulting price shall be not less than $4.33.

### § 1099.52 Plant location adjustments for handlers.

(a) For milk received from producers at a pool plant located more than 40 miles by shortest highway distance as measured by the market administrator, from the nearest County Courthouse in any of the counties included in the marketing area and disposed of as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (b) of this section, the price computed pursuant to § 1099.50(a) shall be reduced by 7.5 cents, plus 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 50 miles.

(b) For purposes of calculating such adjustment, transfers between pool plants shall be assigned Class I disposition at the transferee-plant, in excess of the sum of 95 percent of the receipts at such plant from producers and handlers described in § 1099.9(c), and the volume assigned as Class I to receipts from other order plants (and unregulated supply plants) such assignment to be made first to transferor-plants at which no location adjustment credit is applicable and then in sequence beginning with the plant at which the least location adjustment would apply.

(c) The Class I price applicable to other source milk shall be adjusted at the rates set forth in paragraph (a) of this section, except that the adjusted Class I price shall not be less than the Class III price.

### § 1099.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month and the Class II and Class III prices for the preceding month.

UNIFORM PRICE

### § 1099.60 Handler's value of milk for computing uniform price.

For the purpose of computing the uniform price, the market administrator shall determine for each month the value of milk of each handler with respect to each of his pool plants and of each handler described in § 1099.9(b) and (c) as follows:

(a) Multiply the pounds of producer milk in each class as determined pursuant to § 1099.44 by the applicable class prices and add the resulting amounts;

(b) Add the amounts obtained from multiplying the pounds of overage subtracted from each class pursuant to § 1099.44(a)(14) and the corresponding step of § 1099.44(b) by the respective class prices, as adjusted by the butterfat differential specified in § 1099.74, that are applicable at the location of the pool plant;

(c) Add the amount obtained from multiplying the difference between the Class III price for the preceding month and the Class I price applicable at the location of the pool plant or the Class II price, as the case may be, for the current month by the hundredweight of skim milk and butterfat subtracted from Class I and Class II pursuant to § 1099.44(a)(9) and the corresponding step of § 1099.44(b);

(d) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the pool plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1099.44(a)(7)(i) through (iv) and the corresponding step of § 1099.44(b), excluding receipts of bulk fluid cream products from another order plant;

(e) Add the amount obtained from multiplying the difference between the Class I price applicable at the location of the transferor-plant and the Class III price by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 1099.44(a)(7)(v) and (vi) and the corresponding step of § 1099.44(b); and

(f) Add the amount obtained from multiplying the Class I price applicable at the location of the nearest unregulated supply plants from which an equivalent volume was received by the pounds of skim milk and butterfat subtracted from Class I pursuant to § 1099.44(a)(11) and the corresponding step of § 1099.44(b), excluding such skim milk and butterfat in receipts of bulk fluid milk products from an unregulated supply plant to the extent that an equivalent amount of skim milk or butterfat disposed of to such plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order.

### § 1099.61 Computation of uniform price (including weighted average price).

For each month, the market administrator shall compute the uniform price per hundredweight of milk of 3.5 percent butterfat content, f.o.b. market, received from producers as follows:

(a) Combine into one total the values computed pursuant to § 1099.60 for all handlers who filed the reports prescribed by § 1099.30 for the month and who made the payments pursuant to §§ 1099.71 and 1099.73 for the preceding month;

(b) Add an amount equivalent to the sum of the net deductions (reductions less increases) for location adjustments to be made from producer payments pursuant to § 1099.75;

(c) Add an amount equivalent to one-half the unobligated balance in the producer-settlement fund;

(d) Divide the resulting amount by the sum of the following for all handlers included in these computations:

(1) The total hundredweight of producer milk; and

(2) The total hundredweight for which a value is computed pursuant to § 1099.60(f);

(e) Subtract not less than 4 cents nor more than 5 cents from the amount computed pursuant to paragraph (d) of this section. The resulting figure shall be the "weighted average price," and, except for the months specified below, shall be the "uniform price" for milk received from producers;

(f) For the months specified in paragraphs (g) and (h) of this section, subtract from the amount resulting from the computations pursuant to paragraphs (a) through (c) of this section an amount computed by multiplying the hundredweight of milk specified in paragraph (d)(2) of this section by the weighted average price;

(g) For each of the months of April, May, June, and July, subtract an amount equal to 50 cents per hundredweight on the total amount of producer milk in these computations, which amount is to be retained in the producer-settlement fund and disbursed according to the provisions of paragraph (h) of this section;

(h) For each of the months of October, November, December, and January add one-fourth of the total amount subtracted pursuant to paragraph (g) of this section;

(i) Divide the resulting sum by the total hundredweight of producer milk included in these computations; and



V 38 I 178 SEP 14 73 XUM

(j) Subtract not less than 4 cents nor more than 5 cents per hundredweight. The result shall be the "uniform price" for milk received from producers.

**§ 1099.62 Announcement of uniform price and butterfat differential.**

The market administrator shall announce publicly on or before:

(a) The fifth day after the end of each month the butterfat differential for such month; and

(b) The 10th day after the end of each month the uniform price for such month.

PAYMENTS FOR MILK

**§ 1099.70 Producer-settlement fund.**

The market administrator shall establish and maintain a separate fund, known as the "producer-settlement fund", which shall function as follows:

(a) All payments made by handlers, pursuant to §§ 1099.71, 1099.76, and 1099.77 shall be deposited in this fund, and all payments made pursuant to §§ 1099.72 and 1099.77 shall be made from this fund: *Provided,* That payments due to any handler shall be offset by payments due from such handler; and

(b) All amounts subtracted pursuant to § 1099.61(g) shall be deposited in this fund and set aside as an obligated balance until withdrawn to effectuate § 1099.73 in accordance with the requirements of § 1099.61(h).

**§ 1099.71 Payments to the producer-settlement fund.**

(a) On or before the 12th day after the end of the month, each handler shall pay to the market administrator the amount, if any, by which the amount specified in paragraph (a)(1) of this section exceeds the amount specified in paragraph (a)(2) of this section:

(1) The total value of milk of the handler for such month as determined pursuant to § 1099.60.

(2) The sum of:

(i) The value at the uniform price, as adjusted pursuant to § 1099.75, of such handler's receipts of producer milk; and

(ii) The value at the weighted average price applicable at the location of the plant from which received of other source milk for which a value is computed pursuant to § 1099.60(f).

(b) On or before the 25th day after the end of the month each person who operated an other order plant that was regulated during such month under an order providing for individual-handler pooling shall pay to the market administrator an amount computed as follows:

(1) Determine the quantity of reconstituted skim milk in filled milk in route disposition from such plant in the marketing area which was allocated to Class I at such plant. If there is such route disposition from such plant in marketing areas regulated by two or more marketwide pool orders, the reconstituted skim milk allocated to Class I shall be prorated to each order according to such route disposition in each marketing area; and

(2) Compute the value of the reconstituted skim milk assigned in paragraph (a)(1) of this section to route disposition in this marketing area by multiplying the quantity of such skim milk by the difference between the Class I price under this part that is applicable at the location of the other order plant (but not to be less than the Class III price) and the Class III price.

**§ 1099.72 Payments from the producer-settlement fund.**

On or before the 13th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1099.71(a)(2) exceeds the amount computed pursuant to § 1099.71(a)(1). If at such time the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete such payments as soon as the appropriate funds are available.

**§ 1099.73 Payments to producers and to cooperative associations.**

(a) Except as provided in paragraph (b) of this section, each handler operating a pool plant shall make payment to each producer from whom milk is received during the month as follows:

(1) On or before the last day of each month to each such producer who did not discontinue shipping milk to such handler before the 25th day of the month, an amount equal to not less than the Class III price for the preceding month multiplied by the hundredweight of milk received from such producer during the first 15 days of the month, less proper deductions authorized by such producer to be made from payments due pursuant to this subparagraph;

(2) On or before the 17th day of the following month, an amount equal to not less than the uniform price, as adjusted pursuant to §§ 1099.74 and 1099.75, multiplied by the hundredweight of milk received from such producer during the month, subject to the following adjustments: (i) Less payments made to such producer pursuant to paragraph (a)(1) of this section, (ii) less deductions for marketing services made pursuant to § 1099.86, (iii) plus or minus adjustments for errors made in previous payments made to such producer, and (iv) less proper deductions authorized in writing by such producer: *Provided,* That if by such date such handler has not received full payment pursuant to § 1099.72 from the market administrator for such month, he may reduce pro rata his payments to producers by not more than the amount of such underpayment. Payments to producers shall be completed thereafter not later than the date for making payments pursuant to this paragraph next following after the receipt of the balance due from the market administrator;

(b) In the case of a cooperative association qualified pursuant to § 1099.18 which has so requested any handler in writing, such handler shall on or before the third day prior to the date on which payments are due individual producers pursuant to paragraph (a) of this section pay the cooperative association for milk received during the month from the producer members of such association an amount equal to not less than the amount due such producer members pursuant to paragraph (a) of this section: *Provided,* That the proper deductions referred to in paragraphs (a)(1) and (2)(iv) of this section shall be valid in the case of cooperative members only if authorized in writing by such cooperative;

(c) Each handler shall also make payment to a cooperative association delivering milk to such handler pursuant to § 1099.9(c) for milk so delivered as follows:

(1) On or before the 28th day of the month an amount equal to not less than the Class III price for the preceding month multiplied by the hundredweight of milk so received from such cooperative association during the first 15 days of the month, less proper deductions authorized in writing by the cooperative association;

(2) On or before the 14th day of the following month not less than the uniform price, as adjusted pursuant to §§ 1099.74 and 1099.75, multiplied by the hundredweight of milk so received from the cooperative association during the month, subject to the following adjustment: (i) less payments made to such cooperative association pursuant to paragraph (c)(1) of this section and (ii) less proper deductions authorized in writing by such cooperative association: *Provided,* That if by such date the handler has not received full payment pursuant to § 1099.72 from the market administrator for such month, he may reduce pro rata his payments on such milk as in the case of payments to producers pursuant to paragraph (a) of this section, and payments hereunder shall be completed not later than the date for making payments pursuant to this subparagraph next following the receipt of the balance due from the market administrator;

(d) On or before the 14th day of the following month each handler shall pay to a cooperative association, with respect to such milk as was received from the association in its capacity as a handler operating a pool plant during the month not less than the value of such milk at the class prices, as adjusted by the butterfat differential specified in § 1099.74, that are applicable at the location of the handler's pool plant; and

(e) Each handler who receives producer milk for which payment is to be made to a cooperative association pursuant to paragraph (b) of this section shall report to such cooperative association with respect to each such producer as follows:

(1) On or before the 25th day of the month, the total pounds of milk received during the first 15 days of such month; and

(2) On or before the 7th day of the following month (i) the pounds of milk received each day and the total for the month together with the butterfat content of such milk, (ii) the amount or rate and nature of any deductions, and (iii) the amount and nature of payments due pursuant to § 1099.77.





**§ 1099.74 Butterfat differential.**

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.115 times the simple average of the wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk butter per pound at Chicago, as reported by the Department for the month.

**§ 1099.75 Plant location adjustments for producers and on nonpool milk.**

(a) The uniform price for producer milk received at a pool plant shall be reduced according to the location of the pool plant, and the uniform price for producer milk diverted to a nonpool plant shall be reduced according to the location of the pool plant from which it is diverted at the rates set forth in § 1099.52.

(b) For purposes of computations pursuant to §§ 1099.71 and 1099.72 the weighted average price shall be adjusted at the rates set forth in § 1099.52 applicable at the location of the nonpool plant from which the milk was received, except that the adjusted weighted average price shall not be less than the Class III price.

**§ 1099.76 Payments by handler operating a partially regulated distributing plant.**

Each handler who operates a partially regulated distributing plant shall pay on or before the 25th day after the end of the month to the market administrator for the producer-settlement fund the amount computed pursuant to paragraph (a) of this section. If the handler submits pursuant to §§ 1099.30(b) and 1099.31(b) the information necessary for making the computations, such handler may elect to pay in lieu of such payment the amount computed pursuant to paragraph (b) of this section:

(a) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the pounds of route disposition in the marketing area from the partially regulated distributing plant;

(2) Subtract the pounds of fluid milk products received at the partially regulated distributing plant:

(i) As Class I milk from pool plants and other order plants, except that subtracted under a similar provision of another Federal milk order; and

(ii) From another nonpool plant that is not an other order plant to the extent that an equivalent amount of fluid milk products disposed of to such nonpool plant by handlers fully regulated under any Federal milk order is classified and priced as Class I milk and is not used as an offset for any other payment obligation under any order;

(3) Subtract the pounds of reconstituted skim milk in route disposition in the marketing area from the partially regulated distributing plant;

(4) Multiply the remaining pounds by the difference between the Class I price and the weighted average price, both prices to be applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price); and

(5) Add the amount obtained from multiplying the pounds of reconstituted skim milk specified in paragraph (a)(3) of this section by the difference between the Class I price applicable at the location of the partially regulated distributing plant (but not to be less than the Class III price) and the Class III price.

(b) The payment under this paragraph shall be the amount resulting from the following computations:

(1) Determine the value that would have been computed pursuant to § 1099.60 for the partially regulated distributing plant if the plant had been a pool plant, subject to the following modifications:

(i) Fluid milk products and bulk fluid cream products received at the partially regulated distributing plant from a pool plant or an other order plant shall be allocated at the partially regulated distributing plant to the same class in which such products were classified at the fully regulated plant;

(ii) Fluid milk products and bulk fluid cream products transferred from the partially regulated distributing plant to a pool plant or an other order plant shall be classified at the partially regulated distributing plant in the class to which allocated at the fully regulated plant. Such transfers shall be allocated to the extent possible to those receipts at the partially regulated distributing plant from pool plants and other order plants that are classified in the corresponding class pursuant to paragraph (b)(1)(i) of this section. Any such transfers remaining after the above allocation which are classified in Class I and for which a value is computed for the handler operating the partially regulated distributing plant pursuant to § 1099.60 shall be priced at the uniform price (or at the weighted average price if such is provided) of the respective order regulating the handling of milk at the transferee-plant, with such uniform price adjusted to the location of the nonpool plant (but not to be less than the lowest class price of the respective order), except that transfers of reconstituted skim milk in filled milk shall be priced at the lowest class price of the respective order; and

(iii) If the operator of the partially regulated distributing plant so requests, the value of milk determined pursuant to § 1099.60 for such handler shall include, in lieu of the value of other source milk specified in § 1099.60(f) less the value of such other source milk specified in § 1099.71(a)(2)(ii), a value of milk determined pursuant to § 1099.60 for each nonpool plant that is not an other order plant which serves as a supply plant for such partially regulated distributing plant by making shipments to the partially regulated distributing plant during the month equivalent to the requirements of § 1099.7(b), subject to the following conditions:

*a)* The operator of the partially regulated distributing plant submits with his reports filed pursuant to §§ 1099.30(b) and 1099.31(b) similar reports for each such nonpool supply plant;

*(b)* The operator of such nonpool supply plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for verification purposes; and

(c) The value of milk determined pursuant to § 1099.60 for such nonpool supply plant shall be determined in the same manner prescribed for computing the obligation of such partially regulated distributing plant; and

(2) From the partially regulated distributing plant's value of milk computed pursuant to paragraph (b)(1) of this section, subtract:

(i) The gross payments by the operator of such partially regulated distributing plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1099.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated;

(ii) If paragraph (b)(1)(iii) of this section applies, the gross payments by the operator of such nonpool supply plant, adjusted to a 3.5 percent butterfat basis by the butterfat differential specified in § 1099.74, for milk received at the plant during the month that would have been producer milk if the plant had been fully regulated; and

(iii) The payments by the operator of the partially regulated distributing plant to the producer-settlement fund of another order under which such plant is also a partially regulated distributing plant and like payments by the operator of the nonpool supply plant if paragraph (b)(1)(iii) of this section applies.

**§ 1099.77 Adjustment of accounts.**

Whenever verification by the market administrator of payments by any handler discloses errors made in payments to the producer-settlement fund, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within 15 days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, the market administrator shall, within 15 days, make such payment to such handler. Whenever verification by the market administrator of the payment by a handler to any producer or cooperative association for milk received by such handler discloses payment of less than is required by § 1099.73, the handler shall make up the difference of such payment not later than the next time for making payments as set forth in the provisions relating to payments which were in error.



V 38-178
SEP 14 73
XUM

ADMINISTRATIVE ASSESSMENT AND MARKETING SERVICE DEDUCTION

**§ 1099.85 Assessment for order administration.**

As his pro rata share of the expense of administration of the order, each handler shall pay to the market administrator on or before the 15th day after the end of the month five cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to:

(a) Producer milk (including such handler's own production) and milk received from a handler described in § 1099.9(c);

(b) Other source milk allocated to Class I pursuant to § 1099.44(a) (7) and (11) and the corresponding steps of § 1099.44(b), except such other source milk that is excluded from the computations pursuant to § 1099.60 (d) and (f); and

(c) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to § 1099.76(a)(2).

**§ 1099.86 Deduction for marketing services.**

(a) *Deductions for marketing services.* Except as set forth in paragraph (b) of this section, each handler in making payments to producers pursuant to § 1099.73 with respect to milk received from producers (excluding such handler's own farm production), shall deduct 6 cents per hundredweight, or such lesser amount as the Secretary may prescribe; and, on or before the 20th day after the end of the month, shall pay such deductions to the market administrator. Such moneys shall be expended by the market administrator to verify weights, samples, and tests of the milk of such producers and to provide such producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him.

(b) *Cooperative associations.* In the case of producers who are members of a cooperative association, which the Secretary has determined is actually performing the services set forth in paragraph (a) of this section and which is not receiving payment for its producer members, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions from the payments to be made to such producers pursuant to § 1099.73(b) as may be authorized by the membership agreement or marketing contract between such cooperative association and such producers, and on or before the 20th day after the end of each month, pay over such deductions to the association rendering such services.

Signed at Washington, D.C., on August 27, 1973.

E. L. PETERSON,
*Administrator, Agricultural Marketing Service.*

[FR Doc.73-18666 Filed 9-13-73;8:45 am]



V 38-178 SEP 14 73 XUM

federal register

FRIDAY, SEPTEMBER 14, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 178

PART III




# DEPARTMENT OF LABOR

## Employment Standards Administration

■

## Minimum Wages for Federal and Federally Assisted Construction

Modifications and Supersedeas Decisions to General Wage Determination Decisions

No. 178—Pt. III——1

V 38 178 SEP 14 73 XUM

## DEPARTMENT OF LABOR

### Employment Standards Administration

### MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

### Modifications and Supersedeas Decisions to General Wage Determination Decisions

*General wage determination decisions.*—General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended (40 U.S.C. 276a)), and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138), and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and Federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in (5 U.S.C. 553) and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determinations frequently and in large volume causes these procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

*Modifications and supersedeas decisions to general wage determination decisions.*—Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended (40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70 containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138), and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and Federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR, Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

*New general wage determination decisions.*—New General Wage Determination Decision No. AQ–1034 for the Pacific Island of Guam; and AQ–2019 for Puerto Rico; Decision No. AQ–1033 for the State of Montana; and AQ–1037 for the State of South Dakota respectively.

*Modifications to general wage determination decisions.*—Modifications to General Wage Determination Decisions for the following States (the numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State):

| | |
|---|---|
| Alabama: | |
| AP–1105; AP–1106 | June 22, 1973 |
| California: | |
| AQ–1007; AQ–1008 | Aug. 3, 1973 |
| Georgia: | |
| AQ–4000 | July 20, 1973 |
| Michigan: | |
| AP–82 | Dec. 29, 1972 |
| New Mexico: | |
| AP–740 | July 6, 1973 |
| North Dakota: | |
| AQ–1011 | Aug. 10, 1973 |
| Oklahoma: | |
| AQ–23 | Aug. 31, 1973 |

*Supersedeas decisions to general wage determination decisions.*—Supersedeas Decisions to General Wage Determination Decisions for the following States (the numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State; Supersedeas Decision numbers are in parenthesis following the number of the decision being superseded):

| | |
|---|---|
| Arizona: | |
| AP–297(AQ–1027) | Apr. 27, 1973 |
| AP–901(AQ–1026) | May 11, 1973 |
| Montana: | |
| AP–913(AQ–1032) | June 29, 1973 |
| AQ–1018(AQ–1035) | Aug. 31, 1973 |
| Nevada: | |
| AP–907(AQ–1036) | May 25, 1973 |

Signed at Washington, D.C., this 7th day of September 1973.

RAY J. DOLAN,
*Assistant Administrator,*
*Wage & Hour Division.*





NEW DECISION
STATE: Puerto Rico
DECISION NO.: AQ-2,019
DESCRIPTION OF WORK: Heavy and Highway Construction
COUNTY: Island Wide
DATE: Date of Publication

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. |
|---|---|---|---|---|---|
| Carpenters | $2.40 | | | | |
| Carpenters' helpers | 1.97 | | | | |
| Cement masons | 2.30 | | | | |
| Ironworkers | 2.05 | | | | |
| Laborers: | | | | | |
| Laborers # | 1.60 | | | | |
| Asphalt rakers | 2.20 | | | | |
| Truck drivers: | | | | | |
| 3/4 to 3 ton | 2.27 | | | | |
| 3 ton and over | 2.65 | | | | |
| Euclid | 3.65 | | | | |
| Welder | 2.75 | | | | |
| Bulldozer | 2.58 | | | | |
| Cranes, derricks, draglines | 3.28 | | | | |
| Digger op. | 3.25 | | | | |
| Drilling machine | 2.40 | | | | |
| Front end loader | 3.02 | | | | |
| Grader | 3.35 | | | | |
| Mechanic | 3.15 | | | | |
| Mechanics' helpers | 2.55 | | | | |
| Oiler greaser | 2.65 | | | | |
| Roller | 2.56 | | | | |
| Scraper | 3.55 | | | | |
| Shovels | 3.37 | | | | |
| Tractors | 3.65 | | | | |

NEW DECISION
STATE: Montana
DECISION NUMBER: AQ-1,033
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.
COUNTIES: Flathead and Sanders
DATE: Date of Publication

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. |
|---|---|---|---|---|---|
| ASBESTOS WORKERS | $7.96 | .44 | .72 | | |
| BOILERMAKERS | 8.25 | .30 | 1.00 | | .02 |
| BRICKLAYERS | 6.65 | .30 | .25 | | |
| CARPENTERS: | | | | | |
| Flathead and Sanders (Northern area Including the City of Thompson Falls) | 6.15 | .30 | .45 | | .02 |
| Carpenters | | | | | |
| Sawmen; Filers; Piledrivers; Carpenters working burned, charred, creosoted or similar treated material | 6.35 | .30 | .45 | | .02 |
| Millwrights and machine erectors | 6.50 | .30 | .45 | | .02 |
| Sanders (Remaining area) County | | | | | |
| Carpenters | 5.97 | .30 | .35 | | .01 |
| Millwrights; Piledriver; Power saw; Staff fier | 6.22 | .30 | .35 | | .01 |
| CEMENT MASONS: | | | | | |
| Flathead and Sanders (Northern area, excluding the City of Thompson Falls) | 6.15 | .20 | | | |
| Sanders (Remaining area) County | 6.40 | .35 | | | |
| ELECTRICIANS: | | | | | |
| Electricians | 7.00 | .20 | 1% | | 1/2% |
| Cable splicers | 7.40 | .20 | 1% | | 1/2% |
| ELEVATOR CONSTRUCTORS | 6.74 | .345 | .23 | 2%+a | |
| ELEVATOR CONSTRUCTORS' HELPERS (PROB.) | 70%JR | .345 | .23 | 2%+a | |
| ELEVATOR CONSTRUCTORS' HELPERS | 50%JR | | | | |
| IRONWORKERS: | | | | | |
| Reinforcing | 7.56 | .48 | .65 | | .05 |
| Ornamental; Structural | 7.56 | .48 | .65 | | .05 |
| LATHERS | 5.95 | | | | |
| MARBLE MASONS | 6.65 | .30 | .25 | | |
| PAINTERS: | | | | | |
| Sanders County (Southern area, excluding the City of Thompson Falls) | | | | | |
| Brush and Spray | 6.11 | .30 | .15 | | |
| PLASTERERS: | | | | | |
| Flathead and Sanders (North of the City of Hilins) area | 6.45 | .20 | | | |
| Sanders (Remaining Area) County | 6.65 | .35 | | | |



V 38-178
SEP 14 73
XUM

NEW DECISION

STATE: Guam
DECISION NUMBER: AQ-1,034 DATE: Date of Publication
DESCRIPTION OF WORK: Building, Residential, Heavy and Highway Construction.

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. |
| Refrigeration and Air Conditioning | $3.14 | | | | |
| Machinist | 3.11 | | | | |
| Heavy Equipment Repairman | 3.06 | | | | |
| Heavy Equipment Operator | 2.99 | | | | |
| Electrician | 2.96 | | | | |
| Plumber | 2.95 | | | | |
| Welders | 2.93 | | | | |
| Sheet Metal Worker | 2.90 | | | | |
| Mason | 2.83 | | | | |
| Lt. Equipment and General Truck Driver | 2.81 | | | | |
| Carpenter | 2.81 | | | | |
| Painter | 2.69 | | | | |
| Structural Ironworker | 2.68 | | | | |





AQ-1,033 P. 2

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. |
| PLUMBERS: | | | | | |
| Flathead and Sanders (Northern Area, including the City of Thompson Falls) | 5.90 | .30 | .30 | | .02 |
| Sanders (Remaining Area) Counties | 6.58 | .30 | .30 | | .05 |
| ROOFERS | 5.60 | | | | |
| SHEET METAL WORKERS | 6.88 | .22 | .10 | | .01 |
| SPRINKLER FITTERS | 7.20 | .30 | .50 | | .05 |
| TERRAZZO WORKERS | 6.65 | .30 | .25 | | |
| TILE SETTERS | 6.65 | .30 | .25 | | |

FOOTNOTE:
a. Employer contributes 4% basic hourly rate for over 5 years' service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit.
6 Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

AQ-1,033 P. 3

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. |
| Flathead and Sanders (Northern area) Counties | | | | | |
| Laborers | $5.405 | .37 | .27 | | |
| Nozzlemen (air and water); Sandblast tail hoseman; Powderman helper; Powerdriven wheelbarrow; Rodder and spreader; Form setters (paving); Bucketman | 5.555 | .37 | .27 | | |
| Small air tool operator incl. blow pipes, small power tools; Chuck tenders; Asphalt rakers; Dumpman; Rip rapping; Pipe wrapper; Pot tender | 5.585 | .37 | .27 | | |
| Jackhammer; Pavement breaker; Vibrator; Mechanical tamper and other air tools; Cement handlers (sack or bulk) | 5.64 | .37 | .27 | | |
| Remaining area of Sanders County | | | | | |
| Laborers | 5.455 | .37 | .27 | | .03 |
| All power tools, creosote workers; Jackhammer; Marble and tile setters' tenders; Pipelayers; Pipewrappers; Pot tenders; Small concrete mixers; Vibrators | 5.705 | .37 | .27 | | .03 |
| Cement masons and plasterer's tenders; Mason tenders; Pumpcrete, gunnite and plasterer pump | 5.855 | .37 | .27 | | .03 |







XUM 37 47 UMS 8781837

MONT-1-PEO-2-3-6 (1-4)

| POWER EQUIPMENT OPERATORS | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. |
|---|---|---|---|---|---|
| A-Frame Truck Crane, Winch Truck and similar | $6.86 | .45 | .45 | | .03 |
| Air Compressor, Single | 6.55 | .45 | .45 | | .03 |
| Air Compressor, two or more | 6.72 | .45 | .45 | | .03 |
| Air Doctor | 7.02 | .45 | .45 | | .03 |
| Asphalt Paving Machine | 7.02 | .45 | .45 | | .03 |
| Asphalt Paving Machine Screed | 7.02 | .45 | .45 | | .03 |
| Automatic Finegrader, Gurries and other similar types | 7.15 | .45 | .45 | | .03 |
| Belt Finish Machine | 6.72 | .45 | .45 | | .03 |
| Bit Grinder | 7.02 | .45 | .45 | | .03 |
| Bituminous Mixer Paving, Travel Plant | 7.02 | .45 | .45 | | .03 |
| Boring Machine (small), jeep, pickup or farm tractor mounted | 6.61 | .45 | .45 | | .03 |
| Boring Machine (large) | 7.02 | .45 | .45 | | .03 |
| Broom, self-propelled | 6.69 | .45 | .45 | | .03 |
| Cableway Highline | 7.53 | .45 | .45 | | .03 |
| Cement Silo | 6.81 | .45 | .45 | | .03 |
| Central Mixing Plants, Concrete dam & stationary | 7.27 | .45 | .45 | | .03 |
| Chain Bucket Loader | 6.74 | .45 | .45 | | .03 |
| Chip or Gravel Spreader, Self-propelled | 6.74 | .45 | .45 | | .03 |
| Concrete Batch Plant, one & two mixers | 7.02 | .45 | .45 | | .03 |
| Concrete Batch Plant, three and four mixers | 7.22 | .45 | .45 | | .02 |
| Concrete Batch Plant, five mixers & over | 7.42 | .45 | .45 | | .03 |
| Concrete Batch Plant Oiler, up to & incl. two mixers | 6.54 | .45 | .45 | | .03 |
| Concrete Batch Plant Oiler, three mixers and over | 6.85 | .45 | .45 | | .03 |
| Concrete Bucket Dispatcher | 7.02 | .45 | .45 | | .03 |
| Concrete Curing Machine | 7.02 | .45 | .45 | | .03 |
| Concrete Finish Machine Paving | 7.02 | .45 | .45 | | .03 |
| Concrete Float-Spreader | 7.02 | .45 | .45 | | .03 |
| Concrete Mixer, three bags & under | 6.61 | .45 | .45 | | .03 |
| Concrete Mixer, four bags and over | 6.78 | .45 | .45 | | .03 |
| Concrete Power Saw, self-propelled | 7.02 | .45 | .45 | | .03 |
| Concrete Trowel Batcher | 7.02 | .45 | .45 | | .03 |
| Conveyor Loader, up to & incl. 42" belt | 6.60 | .45 | .45 | | .03 |
| Conveyor Loader, over 42 inch belt | 6.72 | .45 | .45 | | .03 |
| Crane, to & incl. 80' boom with jib | 7.18 | .45 | .45 | | .03 |
| Crane, 81' to 130' boom | 7.33 | .45 | .45 | | .03 |



MONT-1-PEO-2-3-6 (2-4)

| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. |
|---|---|---|---|---|---|
| Crane, 131' to 150' boom | $7.38 | .45 | .45 | | .03 |
| Crane, 151' boom & over | 7.43 | .45 | .45 | | .03 |
| Crane Oiler | 6.59 | .45 | .45 | | .03 |
| Crusher | 7.02 | .45 | .45 | | .03 |
| Crusher Oiler & Helper | 6.51 | .45 | .45 | | .03 |
| Crusher Conveyor, when required | 6.48 | .45 | .45 | | .03 |
| Distributor | 7.02 | .45 | .45 | | .03 |
| DW 10, 15, or 20 Tractor pulling roller | 6.74 | .45 | .45 | | .03 |
| Electric Overhead Cranes | 7.20 | .45 | .45 | | .03 |
| Elevating Grader | 7.02 | .45 | .45 | | .03 |
| Farm Type Tractor, up to & incl. 50 HP Engine | 6.48 | .45 | .45 | | .03 |
| Farm Type Tractor, over 50HP Engine | 6.56 | .45 | .45 | | .03 |
| Field Equipment Serviceman | 6.94 | .45 | .45 | | .03 |
| Field Equipment Serviceman Helper | 6.51 | .45 | .45 | | .03 |
| Fireman | 6.61 | .45 | .45 | | .03 |
| Forklift, on construction job site. | 6.83 | .45 | .45 | | .03 |
| Form Grader | 6.79 | .45 | .45 | | .03 |
| Gradall | 7.02 | .45 | .45 | | .03 |
| Grade Setter | 6.48 | .45 | .45 | | .03 |
| Heavy Duty Drill, all types | 7.02 | .45 | .45 | | .03 |
| Heavy Duty Driller Helper | 6.61 | .45 | .45 | | .03 |
| Herman-Nelson Heaters & similar type | 6.56 | .45 | .45 | | .03 |
| Hoist, Single drum | 6.79 | .45 | .45 | | .03 |
| Hoist, two or more drums | 7.02 | .45 | .45 | | .03 |
| Helicopter Hoist | 7.52 | .45 | .45 | | .03 |
| Hot Plant | 7.02 | .45 | .45 | | .03 |
| Hot Plant Fireman, when in Operation | 7.02 | .45 | .45 | | .03 |
| Hot Plant Oiler, 100 ton per hour or over | 6.51 | .45 | .45 | | .03 |
| Hydra lift and similar types | 6.92 | .45 | .45 | | .03 |
| Industrial Locomotive all classes | 7.02 | .45 | .45 | | .03 |
| Mechanic and/or Welder on job | 7.12 | .45 | .45 | | .03 |
| Mechanic and/or Welder Helper on job | 6.51 | .45 | .45 | | .03 |
| Mixermobile | 7.10 | .45 | .45 | | .03 |
| Motor Patrol | 7.15 | .45 | .45 | | .03 |
| Mountain Logger or similar type | 7.02 | .45 | .45 | | .03 |
| Mucking Machine | 7.02 | .45 | .45 | | .03 |
| Oiler-Driver, Rubber Tired Cranes | 6.59 | .45 | .45 | | .03 |
| Oilers, other than Shovels & Cranes | 6.51 | .45 | .45 | | .03 |
| Oiler, hoist house, dams | 6.92 | .45 | .45 | | .03 |
| Pavement Breaker, Esco & similar | 7.02 | .45 | .45 | | .03 |
| Paving & Mixing Machine | 7.15 | .45 | .45 | | .03 |
| Power Auger, Large Truck or Tractor Mounted | 7.02 | .45 | .45 | | .03 |
| Power Mixer, single or double drum | 7.02 | .45 | .45 | | .03 |
| Power Saw, Multiple cut, self-propelled | 7.02 | .45 | .45 | | .03 |
| Pumpcrete or Grout Machine | 7.02 | .45 | .45 | | .03 |
| Pumpman | 6.55 | .45 | .45 | | .03 |









MONT-1-PEO-2-3-5 (3-4)

| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. |
|---|---|---|---|---|---|
| Push Tractor | $7.02 | .45 | .45 | | .03 |
| Quad Cat | 7.32 | .45 | .45 | | .03 |
| Refrigerator Plant | 7.02 | .45 | .45 | | .03 |
| Retort | 6.61 | .45 | .45 | | .03 |
| Roller, on blade or hot mix oil paving | 7.02 | .45 | .45 | | .03 |
| Roller, on other blade or hot mix paving | 6.72 | .45 | .45 | | .03 |
| Roller, 25 ton or over | 7.02 | .45 | .45 | | .03 |
| Ross & similar type carriers, on construction site | 7.02 | .45 | .45 | | .03 |
| Rubber-tired Dozer | 7.02 | .45 | .45 | | .03 |
| Rubber-tired Front End Loader, 1 yd. & under | 6.73 | .45 | .45 | | .03 |
| Rubber-tired Front End Loader, 1 yd. to and incl. 3 yds. | 7.02 | .45 | .45 | | .03 |
| Rubber-tired Front End Loader, over 3 yds. to and incl. 5 yds. | 7.14 | .45 | .45 | | .03 |
| Rubber-tired Front End Loader, over 5 yds. to and incl. 10 yds. | 7.24 | .45 | .45 | | .03 |
| Rubber-tired Front End Loader, over 10 yds. to and incl. 15 yds. | 7.34 | .45 | .45 | | .03 |
| Rubber-tired Front End Loader, over 15 yds. | 7.44 | .45 | .45 | | .03 |
| Scraper, DW 15, 20, 21 & similar type if power unit is not used | 7.02 | .45 | .45 | | .03 |
| Scraper, single or twin engine pulling belly dump trailer | 7.40 | .45 | .45 | | .03 |
| Scraper, single engine | 7.15 | .45 | .45 | | .03 |
| Scraper, twin engine | 7.25 | .45 | .45 | | .03 |
| Scraper, tandem engine | 7.51 | .45 | .45 | | .03 |
| Self-propelled Sheepfoot and similar type | 7.02 | .45 | .45 | | .03 |
| Shovels, incl. all attachments, under 1 cu. yd. | 7.02 | .45 | .45 | | .03 |
| Shovel, incl. all attachments, 1 cu. yd. to & incl. 3 cu. yds. | 7.20 | .45 | .45 | | .03 |
| Shovels, incl. all attachments, over 3 cu. yd. to & incl. 5 cu. yd. | 7.47 | .45 | .45 | | .03 |
| Shovels, incl. all attachments, over 5 cu. yd. | 7.60 | .45 | .45 | | .03 |
| Shovel Oiler, 3 yds. & under | 6.51 | .45 | .45 | | .03 |
| Shovel Oiler, over 3 cu. yds. | 6.92 | .45 | .45 | | .03 |
| Skip form paver | 7.15 | .45 | .45 | | .03 |
| Stiff leg derrick & guy derrick | 7.47 | .45 | .45 | | .03 |
| Track-type front end loaders; up to & incl. 5 cu. yds. | 7.02 | .45 | .45 | | .03 |
| Track-type front end loaders; over 5 cu. yd. to & incl. 10 cu. yd. | 7.25 | .45 | .45 | | .03 |
| Track-type front end loaders, over 10 cu. yd. to & incl. 15 cu. yd. | 7.33 | .45 | .45 | | .03 |



MONT-1-PEO-2-3-6 (4-4)

| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. |
|---|---|---|---|---|---|
| Track-type front end loaders, over 15 cu. yd. | $7.45 | .45 | .45 | | .03 |
| Track-type tractor with or without attachments | 7.02 | .45 | .45 | | .03 |
| Track-type tractor, on Euclid Loader | 7.20 | .45 | .45 | | .03 |
| Trenching Machine | 7.02 | .45 | .45 | | .03 |
| Turnhead Conveyor, or Head Tower on Batch Plant | 7.02 | .45 | .45 | | .03 |
| Wagner Roller & similar type | 7.02 | .45 | .45 | | .03 |
| Whirley Crane | 7.55 | .45 | .45 | | .03 |
| Whirley Crane Oiler | 6.92 | .45 | .45 | | .03 |
| Water Pull when used for compaction | 7.02 | .45 | .45 | | .03 |
| Washing and Screening Plant | 7.02 | .45 | .45 | | .03 |
| Washing and Screening Plant Oiler | 6.51 | .45 | .45 | | .03 |







XUM

NEW DECISION

STATE: South Dakota COUNTY: Yankton
DECISION NUMBER: AQ-1,037 DATE: Date of Publication
DESCRIPTION OF WORKS: Heavy and Highway Construction



| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| Concrete Finisher | $4.56 | | | | | |
| Form Setter | 4.56 | | | | | |
| Painter | 3.76 | | | | | |
| LABORERS: | | | | | | |
| Air tool operator | 3.36 | | | | | |
| Common laborer | 3.36 | | | | | |
| Landscape workers | 3.36 | | | | | |
| Form builder helpers (bridge and culvert) | 3.76 | | | | | |
| Manhole builder | 4.30 | | | | | |
| Piledriver (leadsman) | 4.20 | | | | | |
| Pipelayer (other than culvert) | 4.20 | | | | | |
| Powderman (blaster) | 5.00 | | | | | |
| POWER EQUIPMENT OPERATORS: | | | | | | |
| Asphalt distributor | 4.50 | | | | | |
| Asphalt distributor helper | 3.76 | | | | | |
| Asphalt paving machine | 4.60 | | | | | |
| Asphalt paving machine helper | 3.36 | | | | | |
| Asphalt plant helper | 3.36 | | | | | |
| Asphalt plant, stationary and traveling | 4.60 | | | | | |
| Auger operator (truck type) | 3.76 | | | | | |
| Automatic fine grader operator | 4.70 | | | | | |
| Beginner operator (1 year or less experience as Power Equipment Op.) | 3.90 | | | | | |
| Broom, self-propelled | 3.76 | | | | | |
| Bulldozer, 80 h.p. or less | 4.10 | | | | | |
| Bulldozer, over 80 h.p. | 4.60 | | | | | |
| Bullfloat machine | 4.40 | | | | | |
| Concrete batch plant | 4.60 | | | | | |
| Concrete mixer | 3.90 | | | | | |
| Concrete paver | 5.00 | | | | | |
| Concrete paving cure machine | 4.00 | | | | | |
| Concrete paving finishing machine | 4.70 | | | | | |
| Concrete paving form grader | 4.70 | | | | | |
| Concrete paving joint machine | 4.50 | | | | | |
| Concrete paving joint sealer | 4.00 | | | | | |
| Concrete paving saw | 4.40 | | | | | |
| Concrete paving spreader | 4.70 | | | | | |
| Concrete paving subgrader | 4.60 | | | | | |
| Conveyor | 3.36 | | | | | |
| Cranes, Derricks, Draglines, Pile-drivers, Backhoes and Shovels, 1½ cu. yds. or less | 4.60 | | | | | |
| Cranes, Derricks, Draglines, Pile-drivers, Backhoes and Shovels, over | | | | | | |

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| POWER EQUIPMENT OPERATORS (cont'd): | | | | | | |
| Crusher (incl. those with integral screening plant) | $4.60 | | | | | |
| Curb machine | 4.00 | | | | | |
| Fireman (boiler and retort) | 3.80 | | | | | |
| Front End Loader, 1½ cu. yds. or less | 3.90 | | | | | |
| Front End Loader, 1½ cu. yds. to 3½ cu. yds. | 4.40 | | | | | |
| Front End Loader, over 3½ cu. yds. | 4.60 | | | | | |
| Mechanic, heavy duty | 4.90 | | | | | |
| Mechanic, helper | 3.90 | | | | | |
| Mechanic, maintenance | 4.40 | | | | | |
| Motor grader, (finish) | 5.00 | | | | | |
| Motor grader, (rough) | 4.50 | | | | | |
| Oiler and greaser | 4.40 | | | | | |
| Roller, self-propelled (hot mix) | 4.10 | | | | | |
| Roller, self-propelled (other) | 3.76 | | | | | |
| Roller, sheepsfoot or 50 ton pneumatic | 4.10 | | | | | |
| Scrapers | 5.20 | | | | | |
| Spreader (materials) | 4.40 | | | | | |
| Stationary plant | 4.00 | | | | | |
| Tractor (crawler or pneumatic) | 4.00 | | | | | |
| Tractor, farm type w/attachments (including loader) | 3.36 | | | | | |
| Tractor - push | 4.80 | | | | | |
| Traveling plant (stabilization) | 4.60 | | | | | |
| Traveling plant, helper | 3.36 | | | | | |
| Trenching machine | 4.40 | | | | | |
| Wagon drill (including airtrac-tracdrill, etc.) | 4.40 | | | | | |
| TRUCK DRIVERS: | | | | | | |
| Euclid or dumptor | 3.72 | | | | | |
| Truck crane | 3.62 | | | | | |
| Truck driver, single axle | 3.36 | | | | | |
| Truck driver, tandem or semitrailer | 3.52 | | | | | |
| WELDER: | | | | | | |
| Welder, certified | 4.70 | | | | | |
| Welder, general | 4.40 | | | | | |



MODIFICATIONS P. 1

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | |
| DECISION #AP-1105 - Mod. #3<br>(38 FR 16597 - June 22, 1973)<br>Jefferson County, Alabama<br><br>Change:<br>Label on schedule issued in original decision for highway construction to read:<br>Highway Construction (excluding Airport Construction). | | | | | | |
| DECISION #AP-1106 - Mod. #2<br>(38 FR 16600 - June 22, 1973)<br>Mobile County, Alabama<br><br>Change:<br>Label on schedule issued in original decision for highway construction to read:<br>Highway Construction (excluding Airport Construction). | | | | | | |

MODIFICATIONS P. 2

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| DECISION #AQ-1,007 - Mod. #2<br>(38 FR 21,038 - August 3, 1973)<br>Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California<br><br>Change:<br>Brick Tenders:<br>Imperial, Inyo, Mono, Riverside and San Bernardino Counties | $6.05 | .65 | 1.35 | .35 | | |
| Kern, Los Angeles, Orange, Santa Barbara and Ventura Counties | 6.15 | .65 | 1.35 | .35 | | |
| San Luis Obispo County | 6.05 | .65 | 1.35 | .35 | | |
| Soft Floor Layers:<br>Imperial County | 7.90 | .45 | .63 | .60 | .05 | |
| DECISION #AQ-1,008 - Mod. #2<br>(38 FR 21,047 - August 3, 1973)<br>Imperial, Kern, Los Angeles, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California<br><br>Change:<br>Brick Tenders:<br>Imperial, Inyo, Mono, Riverside and San Bernardino Counties | 6.05 | .65 | 1.35 | .35 | | |
| Kern, Los Angeles, Orange, Santa Barbara and Ventura Counties | 6.15 | .65 | 1.35 | .35 | | |
| San Luis Obispo County | 6.05 | .65 | 1.35 | .35 | | |
| Soft Floor Layers:<br>Imperial County | 7.90 | .45 | .63 | .60 | .05 | |
| DECISION #AG-4,000 - Mod. #1<br>(38 FR 19857 - July 20, 1973)<br>Fulton, Cobb, and DeKalb Counties, Georgia<br><br>Change:<br>Building Construction:<br>Carpenters:<br>Carpenters & Soft floor layers | $7.65 | .35 | .40 | | .02 | |
| Millwrights | 8.30 | .35 | .40 | | .02 | |
| Piledrivermen | 7.80 | .35 | .40 | | .02 | |
| Glaziers | 7.00 | .40 | .20 | .25 | .015 | |







XUM

| | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| DECISION #AP-82 - Mod. 03 (37 FR 28650 - December 29, 1972) Baraga, Houghton, Keweenaw, & Ontonagon Counties, Michigan | | | | | | |
| Change: | | | | | | |
| Truck Drivers: | | | | | | |
| Regular | $5.19 | 9.50a | 8.00a | b | | |
| Heavy duty, double axle, semi-drivers | 5.29 | 9.50a | 8.00a | b | | |
| Euclids | 5.49 | 9.50a | 8.00a | b | | |
| Truck repair and maintenance | 5.36 | 9.50a | 8.00a | b | | |



| | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| [illegible] - 841-740 - Mod. 02 (38 [illegible] - August 16, 1973) Statewide, New Mexico | | | | | | |
| Change: | | | | | | |
| Plumbers - Pipefitters: | | | | | | |
| Basing Point Cities or Towns: Albuquerque, Alamogordo, Artesia, Belen, Carlsbad, Deming, Espanola, Farmington, Gallup, Grants, Hobbs, Las Cruces, Los Alamos, Lordsburg, Los Lunas, Portales, Raton, Roswell, Ruidoso, Santa Fe, Silver City, Santa Rosa, Taos, Tucumcari, Truth or Consequences | | | | | | |
| Zone (1) Shall extend a distance of five (5) road miles inclusive beyond the city or town limits of any of the basing point cities or towns as set forth above | $8.00 | .42 | .75 | | .09 | |
| Zone (2) Shall extend a distance of eight (8) road miles inclusive beyond the outer perimeter of zone (1) | 8.25 | .42 | .75 | | .09 | |
| Zone (3) Shall extend a distance of ten (10) road miles inclusive beyond the perimeter of zone (2) | 8.50 | .42 | .75 | | .09 | |
| Zone (4) Shall extend a distance of twelve (12) road miles inclusive beyond the outer perimeter of zone (3) | 8.75 | .42 | .75 | | .09 | |
| Zone (5) Shall extend a distance of ten (10) road miles inclusive beyond the outer perimeter of zone (4) | 9.25 | .42 | .75 | | .09 | |
| Zone (6) Shall apply to all areas not within zones 1, 2, 3, 4 or 5 | 9.50 | .42 | .75 | | .09 | |
| Plumbers-Pipefitters: Los Alamos, White Rock, South Mesa, McGee or Pajarito, White Sands Missile Range and/or Proving Grounds, Atlas Missile Complex sites in Chaves and Lincoln Counties, and the Ore Grande Camp in Dona Ana and Otero Counties | 8.63 | .42 | .75 | | .09 | |







| | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| DECISION #AQ-1011 - Mod. # 1 (38 FR 21716 - August 10, 1973) Burleigh, Cass, Grand Forks, Morton, Richland, Steele, Walsh and Ward Counties, North Dakota | | | | | | |
| Change: | | | | | | |
| Sheet Metal Workers Burleigh, Grand Forks, Morton, Steel and Ward Counties | 8.05 | | | | | |
| DECISION #AQ-23 - Mod. 1 (38 FR 23738 - August 31, 1973) Tulsa County, Oklahoma | | | | | | |
| Change: | | | | | | |
| Electricians | $6.85 | .36 | 15%+.15 | .30 | .07 | |
| Cable splicers | 7.10 | .36 | 15%+.15 | .30 | .07 | |







XUM 38 FR 25854 SEP 14 1973

SUPERSEDEAS DECISION

STATE: Arizona

COUNTIES: Cochise, Graham, Pima, Pinal and Santa Cruz

DECISION NUMBER: AQ-1,026

DATE: Date of Publication

Supersedes Decision #AP-901 dated May 11, 1973, in 38 FR 12526

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories.)

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| ASBESTOS WORKERS | $8.48 | .50 | .65 | | .01 | |
| BOILERMAKERS | 7.95 | .60 | 1.00 | .50 | .02 | |
| BRICKLAYERS; Stonemasons: | | | | | | |
| (Northern portions of Graham and Pinal Counties | | | | | | |
| Zone A (0-25 miles from City Hall in Phoenix) | 8.85 | .35 | .30 | | .03 | |
| Zone B (25-40 miles from City Hall in Phoenix) | 9.74 | .35 | .30 | | .03 | |
| Zone C (40-70 miles from City Hall in Phoenix) | 10.18 | .35 | .30 | | .03 | |
| Zone D (70-100 miles from City Hall in Phoenix) | 10.62 | .35 | .30 | | .03 | |
| Zone E (100-200 miles from City Hall in Phoenix) | 11.06 | .35 | .30 | | .03 | |
| Zone F (200 miles and over from City Hall in Phoenix) | 11.51 | .35 | .30 | | .03 | |
| BRICKLAYERS; Stonemasons: | | | | | | |
| (Southern portions of Graham and Pinal Counties and remaining Counties | | | | | | |
| Zone A (Tucson City limits through 10 miles) | 8.575 | .40 | .30 | | .02 | |
| Zone B (Tucson City limits 10-25 miles) | 8.95 | .40 | .30 | | .02 | |
| Zone C (Tucson City limits 25-40 miles) | 9.325 | .40 | .30 | | .02 | |
| Zone D (Tucson City limits over 40 miles) | 10.075 | .40 | .30 | | .02 | |
| CARPENTERS: | | | | | | |
| Carpenters | 8.25 | .40 | .60 | | .025 | |
| Piledrivermen | 8.50 | .40 | .60 | | .025 | |
| Millwrights | 8.625 | .40 | .60 | | .025 | |
| CEMENT MASONS | 7.585 | .35 | .65 | | .025 | |

AQ-1,026 P. 2

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| ELECTRICIANS: | | | | | | |
| (Western portion of Pinal County from East of Coolidge and East Grande and North to Maricopa County Line) | | | | | | |
| Zone A (Beginning at the northeast corner, a line extending southward on Bush Highway to McKellips Road; a line extending east on McKellips Road to a point one mile east of the intersection of State Highway 88 and U. S. 60 and 70 near Apache Junction; southward to Baseline Road; West on Baseline Road to the intersection of Baseline Road and Ellsworth Road; south on Ellsworth Road to Hunt Highway; west on Hunt Highway to Powers Road; a line extending south on Powers Road five miles, then extending straight west to a point five miles west of Interstate 10, then northwest on a line parallel with Interstate 10 to intersect with Pecos Road, west on Pecos Road to intersect with Cotton Lane. North on Cotton Lane to Beloat Road. West on Beloat Road to Airport Road. North on Airport Road in a straight line to intersect Waddell Road. East on Waddell Road to intersect with Cotton Lane. North on Cotton Lane to Deer Valley Drive and east on Deer Valley Drive to intersection with Bush Highway and including Luke and Williams Air Force Bases.) | | | | | | |
| Electricians | $9.45 | .40 | 1%+.60 | | 3/4% | |
| Cable splicers | 9.92 | .40 | 1%+.60 | | 3/4% | |



AQ-1,026 P. 3

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| ELECTRICIANS: (cont'd) | | | | | | |
| Zone B (Area outside of Zone A and bounded by a line formed by measuring sixteen (16) road miles from the outer boundaries of an area enclosed by the following boundaries: Powers Road on the east, from Hunt Highway on the south to one mile south of Pinnacle Peak Road on the north. One mile south of Pinnacle Peak Road to Cotton Lane on the west. Cotton Lane to Pecos Road on the south. Pecos Road to Price Road and from Price Road to Hunt Highway on the south. Hunt Highway to Powers Road on the east.) | | | | | | |
| Electricians | $11.10 | .40 | 1%+.60 | | 3/4% | |
| Cable splicers | 11.66 | .40 | 1%+.60 | | 3/4% | |
| Zone C (Outside edge of Zone B and extend to the outside limits of the Union's jurisdiction.) | | | | | | |
| Electricians | 11.93 | .40 | 1%+.60 | | 3/4% | |
| Cable splicers | 12.53 | .40 | 1%+.60 | | 3/4% | |
| ELECTRICIANS: | | | | | | |
| (Northeast portion of Pinal County) | | | | | | |
| Zone A (Within 16 road miles beginning where the Southern Pacific Railroad intersects Highway 60-70 at Kaiser Crossing) | | | | | | |
| Electricians | 9.775 | .45 | 1% | | 1/2% | |
| Cable splicers | 10.025 | .45 | 1% | | 1/2% | |
| Zone B (16-28 miles) | | | | | | |
| Electricians | 10.475 | .45 | 1% | | 1/2% | |
| Cable splicers | 10.725 | .45 | 1% | | 1/2% | |
| Zone C (28-46 miles) | | | | | | |
| Electricians | 11.075 | .45 | 1% | | 1/2% | |
| Cable splicers | 11.325 | .45 | 1% | | 1/2% | |
| Zone D (46 miles and over) | | | | | | |
| Electricians | 11.775 | .45 | 1% | | 1/2% | |
| Cable splicers | 12.025 | .45 | 1% | | 1/2% | |

AQ-1,026 P. 4

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| ELECTRICIANS: (cont'd) | | | | | | |
| (Southeast portion of Pinal County from South of Florence to Graham County line and Remaining Counties) | | | | | | |
| Zone A (Within 16 miles of City Hall in Douglas and Tucson) | | | | | | |
| Electricians | $9.175 | .45 | 1%+.60 | | 1/2% | |
| Cable splicers | 9.425 | .45 | 1%+.60 | | 1/2% | |
| Zone B (16-32 miles from City Hall in Douglas and Tucson) | | | | | | |
| Electricians | 9.875 | .45 | 1%+.60 | | 1/2% | |
| Cable splicers | 10.125 | .45 | 1%+.60 | | 1/2% | |
| Zone C (32-48 miles from City Hall in Douglas and Tucson) | | | | | | |
| Electricians | 10.475 | .45 | 1%+.60 | | 1/2% | |
| Cable splicers | 10.725 | .45 | 1%+.60 | | 1/2% | |
| Zone D (48 miles and over from City Hall in Douglas and Tucson) | | | | | | |
| Electricians | 11.1[illegible] | .45 | 1%+.60 | | 1/2% | |
| Cable splicers | 11.4[illegible] | .45 | 1%+.60 | | 1/2% | |
| ELEVATOR CONSTRUCTORS | 7.58 | .185 | .20 | 2%+a | | |
| ELEVATOR CONSTRUCTORS' HELPERS | 70%JR | .185 | .20 | 2%+a | | |
| ELEVATOR CONSTRUCTORS' HELPERS (PROB.) | 50%JR | | | | | |
| IRONWORKERS | 8.58 | .58 | .625 | | .04 | |
| LATHERS: | | | | | | |
| (Northern portions of Graham and Pinal Counties) | | | | | | |
| Zone I (0-35 miles from Phoenix) | 5.60 | .175 | | | .04 | |
| Zone II (15 miles beyond Zone I) | 5.93 | .175 | | | .04 | |
| Zone III (20 miles beyond Zone II) | 6.26 | .175 | | | .04 | |
| Zone IV (Outside of Zone III) | 6.60 | .175 | | | .04 | |
| LATHERS: | | | | | | |
| (Southern portions of Graham and Pinal Counties and Remaining Counties) | | | | | | |
| Zone A (0-30 miles from Tucson) | 8.66 | .20 | | | | |
| Zone B (30-40 miles from Tucson) | 9.16 | .20 | | | | |
| Zone C (40-50 miles from Tucson) | 9.41 | .20 | | | | |
| Zone D (Over 50 miles from Tucson) | 10.16 | .20 | | | | |
| PAINTERS: | | | | | | |
| (Northern portions of Graham and Pinal Counties) | | | | | | |
| Zone A (0-40 miles from Court House in Phoenix) | | | | | | |
| Brush; Soft floor layers | 7.54 | .40 | .35 | .50 | .05 | |
| Spray | 7.79 | .40 | .35 | .50 | .05 | |
| Steel and bridge, brush | 7.89 | .40 | .35 | .50 | .05 | |
| Steel and bridge, spray | 8.09 | .40 | .35 | .50 | .05 | |







38 FR 25856 Sep 14, 1973 8 CFR 103

AQ-1,026 P. 5

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| PAINTERS: (cont'd) | | | | | | |
| (Northern portions of Graham and Pinal Counties) (Cont'd) | | | | | | |
| Zone B (41-60 miles from Court House in Phoenix) | | | | | | |
| Brush; Soft floor layers | $8.54 | .40 | .35 | .50 | .05 | |
| Spray | 8.79 | .40 | .35 | .50 | .05 | |
| Steel and bridge, brush | 8.89 | .40 | .35 | .50 | .05 | |
| Steel and bridge, spray | 9.09 | .40 | .35 | .50 | .05 | |
| Zone C (60 miles and over from Court House in Phoenix) | | | | | | |
| Brush; Soft floor layers | 9.04 | .40 | .35 | .50 | .05 | |
| Spray | 9.29 | .40 | .35 | .50 | .05 | |
| Steel and bridge, brush | 9.39 | .40 | .35 | .50 | .05 | |
| Steel and bridge, spray | 9.59 | .40 | .35 | .50 | .05 | |
| PAINTERS; Brush: | | | | | | |
| (Southern portions of Graham and Pinal Counties and Remaining Counties) | | | | | | |
| Zone A (1-30 miles from Tucson P.O.) | 6.7[illegible] | .29 | .25 | | .02 | |
| Zone B (31-40 miles from Tucson P.O.) | 7.0[illegible] | .29 | .25 | | .02 | |
| Zone C (41-50 miles from Tucson P.O.) | 7.25 | .29 | .25 | | .02 | |
| Zone D (51 miles and over from Tucson P.O.) | 7.50 | .29 | .25 | | .02 | |
| PAINTERS; Structural steel, brush: | | | | | | |
| Zone A (1-30 miles from Tucson P.O.) | 7.20 | .29 | .25 | | .02 | |
| Zone B (31-40 miles from Tucson P.O.) | 7.95 | .29 | .25 | | .02 | |
| Zone C (41-50 miles from Tucson P.O.) | 8.20 | .29 | .25 | | .02 | |
| Zone D (51 miles and over from Tucson P.O.) | 8.45 | .29 | .25 | | .02 | |
| PLASTERERS: | | | | | | |
| (Northern portions of Graham and Pinal Counties) | | | | | | |
| Zone A (0-40 miles from Phoenix) | 7.25 | .30 | .50 | | .035 | |
| Zone B (40-60 miles from Phoenix) | 7.75 | .30 | .50 | | .035 | |
| Zone C (60-80 miles from Phoenix) | 8.00 | .30 | .50 | | .035 | |
| Zone D (80 miles and over from Phoenix) | 8.875 | .30 | .50 | | .035 | |
| PLASTERERS: | | | | | | |
| (Southern portions of Graham and Pinal Counties and Remaining Counties) | | | | | | |
| Zone A (0-30 miles from Tucson P.O.) | 8.12 | .35 | .60 | | | |
| Zone B (30-40 miles from Tucson P.O.) | 8.62 | .35 | .60 | | | |
| Zone C (40-50 miles from Tucson P.O.) | 8.87 | .35 | .60 | | | |
| Zone D (Over 50 miles from Tucson P.O.) | 9.62 | .35 | .60 | | | |

AQ-1,026 P. 6

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| PLUMBERS; Steamfitters: | | | | | | |
| FREE ZONE 0-15 miles | | | | | | |
| The "Free Zone" (Zone I shall be 15 road miles from the stated base points in Flagstaff, Yuma, Tucson and Douglas. The "Free Zone" from Phoenix shall be 15 miles radius from the stated base point. In addition, all areas within the City limits of Phoenix, Chandler, Scottsdale, Tempe, Glendale, Mesa, Kingman, Havasu City, Prescott, Winslow and Holbrook will be included as Free Zones. Any work contracted for outside of these zones will be determined from the Phoenix and Tucson basing points. | $8.10 | .50 | 1.07 | 1.00 | .10 | |
| Zone II (15-30 miles) | 8.40 | .50 | 1.07 | 1.00 | .10 | |
| Zone III (30-45 miles) | 8.75 | .50 | 1.07 | 1.00 | .10 | |
| Zone IV (Over 45 miles) | 9.85 | .50 | 1.07 | 1.00 | .10 | |
| ROOFERS: | | | | | | |
| (Pinal County except City of Manuel) | | | | | | |
| Roofers and Waterproofers | 7.35 | .40 | .20 | | .02 | |
| ROOFERS: | | | | | | |
| (City of Manuel in Pinal County and Remaining Counties) | | | | | | |
| Zone A (0-44 miles from Tucson) | | | | | | |
| Waterproofing, Asbestos, shingles and tile | 6.92 | .40 | .10 | | .02 | |
| Zone B (Over 44 miles from Tucson) | | | | | | |
| Waterproofing, Asbestos, shingles and tile | 8.17 | .40 | .10 | | .02 | |
| SHEET METAL WORKERS: | | | | | | |
| (Northern portions of Graham and Pinal Counties) | | | | | | |
| Zone I (0-25 miles from Phoenix) | 7.59 | .27 | .32 | | .02 | |
| Zone II (25-30 miles from Phoenix) | 8.22 | .27 | .32 | | .02 | |
| Zone III (30 miles and over from Phoenix) | 9.56 | .27 | .32 | | .02 | |
| SHEET METAL WORKERS: | | | | | | |
| (Southern portions of Graham and Pinal Counties and Remaining Counties) | | | | | | |
| Zone A (0-17 miles from Tucson) | 7.58 | .58 | 1.15 | | .01 | |
| Zone B (18-23 miles from Tucson) | 8.03 | .58 | 1.15 | | .01 | |
| Zone C (24-31 miles from Tucson) | 8.48 | .58 | 1.15 | | .01 | |
| Zone D (32-43 miles from Tucson) | 9.08 | .58 | 1.15 | | .01 | |
| Zone D (44 miles and over from Tucson) | 9.53 | .58 | 1.15 | | .01 | |



AQ-1,026 P. 7

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| SPRINKLER FITTERS | $8.70 | .30 | .50 | | .05 | |
| LINE CONSTRUCTION: | | | | | | |
| Zone I (Phoenix and Tucson 30 mile radius from center of town) | | | | | | |
| Groundman | 7.22 | .23 | 1%+.35 | | 1/2% | |
| Equipment operators; Powdermen; Mechanics | 8.33 | .23 | 1%+.35 | | 1/2% | |
| Linemen; Technicians; Crane operator; Linemen welder | 8.85 | .23 | 1%+.35 | | 1/2% | |
| Cable splicers | 9.17 | .23 | 1%+.35 | | 1/2% | |
| Zone IA (Douglas, 10 miles radius from center of town) | | | | | | |
| Groundman | 7.84 | .23 | 1%+.35 | | 1/2% | |
| Equipment operators; Powdermen; Mechanics | 8.91 | .23 | 1%+.35 | | 1/2% | |
| Linemen; Technicians; Crane operator; Linemen welder | 9.4[illegible] | .23 | 1%+.35 | | 1/2% | |
| Cable splicers | 9.7[illegible] | .23 | 1%+.35 | | 1/2% | |
| Zone II (Other areas) | | | | | | |
| Groundman | 8.43 | .23 | 1%+.35 | | 1/2% | |
| Equipment operators; Powdermen; Mechanics | 9.49 | .23 | 1%+.35 | | 1/2% | |
| Linemen; Technicians; Crane operator; Linemen welder | 10.00 | .23 | 1%+.35 | | 1/2% | |
| Cable splicers | 10.30 | .23 | 1%+.35 | | 1/2% | |

FOOTNOTE:
a. Employer credits 4% basic hourly rate of employee with over 5 years' service, 2% basic hourly rate from 6 months to 5 years' service to Vacation Fund.
6 Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

AQ-1,026 P. 8

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | G |
|---|---|---|---|---|---|---|
| LABORERS: | | | | | | |
| GROUP I | | | | | | |
| ALL HELPERS NOT HEREIN SEPARATELY CLASSIFIED; Cesspool diggers and installers; Chat box man; Checker, tool dispatcher; Concrete dump man-belt, pipe and/or boseman; Dumpman and/or spotter; Fence builder, guard rail builder hvy.; Form strippers; Labor, general or construction; Landscape gardener and nurseryman; Packing rod steel and pans; Rip rap stoneman | $5.53 | .35 | .60 | | .05 | |
| GROUP II | | | | | | |
| CEMENT FINISHER TENDER; Concrete curer (impervious menbrane); Cutting torch operator; Fine grader (highway, engineering and sewer work only); Kettleman - tarman; Power type concrete buggy | 5.64 | .35 | .60 | | .05 | |
| GROUP III | | | | | | |
| BANDER; CHUCKTENDER (except tunnel); Creosote tieman; Guinea chaser; Powderman helper; Rip-rap stone paver; Sandblaster (pot tender); Spikers and wrenchers | 5.75 | .35 | .60 | | .05 | |
| GROUP IV | | | | | | |
| CEMENT DUMPERS (skip-type mixer or handling bulk cement); Chain saw machines (on clearing and grubbing); Concrete vibrating machines; Cribber and shorer (except tunnel); Floor sanders - concrete; Hydraulic jacks, and similar mechanical tools not separately herein classified; Operators and tenders of pneumatic and electric tools; Pipe caulker and/or Backup man (pipeline); Pipe wrapper; Pneumatic gopher; Rigger/signalman (pipeline) | 5.83 | .35 | .60 | | .05 | |

AQ-1,026 P. 9

| LABORERS: (cont'd) | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | O |
| GROUP V<br>AIR AND WATER WASH-OUT NOZZLEMAN; Asphalt rakers and ironers; Driller; Grade setter (pipeline); Hand guided trencher and similar operated equipment; Jackhammer and/or pavement breakers; Pipe layer (including but not limited to non-metallic, transite and plastic pipe, water pipe, sewer pipe, drain pipe, underground tile and conduit); Rock slinger; Scaler (using bos'ns chair or safety belt); Tampers (mechanical - all types) | $5.97 | .35 | .60 | | .05 | |
| GROUP VI<br>CONCRETE CUTTING TORCH; CONCRETE SAW (hand guided); Driller (core, diamond, wagon or air track); Drill doctor and/or air tool repairman; Gunman and mixerman (gunite); Sandblaster (nozzleman) | 6.275 | .35 | .60 | | .05 | |
| GROUP VII<br>CONCRETE ROAD FORM SETTER; Gunite nozzleman or rodman; Drillers, Joy Mustang, PR 143, 220 Gardner-Denver, hydrosonic; Powder man; Scaler (drillers); Welders and/or pipe layers installing process piping | 6.785 | .35 | .60 | | .05 | |
| MASON TENDERS | 6.135 | .35 | .60 | | .05 | |
| PLASTERERS' TENDERS | 6.45 | .35 | .60 | | .05 | |
| Employees working underground shall receive twenty cents (20¢) per hour additional above the regular rate except where herein specifically covered. | | | | | | |

AQ-1,026 P. 10

| LABORERS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | O |
| Laborers employed where they may have afree fall over thirty (30) feet or on construction scaffolds above thirty (30) feet or bos'n chair above thirty (30) feet, or where gas masks are necessary, shall receive fifty cents (50¢) per hour in addition to their regular rate, except where inherent in classifications. | | | | | | |
| TUNNEL AND SHAFT WORKERS | | | | | | |
| GROUP I<br>BULL GANG, MUCKERS, TRACKMAN; DUMPMEN; Concrete crew (includes rodders and spreaders); Grout crew; Swamper (brakeman and switchmen on tunnel work) | $5.725 | .35 | .60 | | .05 | |
| GROUP II<br>NIPPER; CHUCKTENDER, CABLETENDER; Vibratorman, Jackhammer, Pneumatic tools (except driller) | 5.86 | .35 | .60 | | .05 | |
| GROUP III<br>GROUT GUNMAN | 5.96 | .35 | .60 | | .05 | |
| GROUP IV<br>TIMBERMAN, RETIMBERMAN - wood or steel blaster, driller powderman; Cherry pickerman; Powderman - primer house; Steel form raiser and setter; Kemper and other pneumatic concrete placer operator; Miner - finisher | 6.06 | .35 | .60 | | .05 | |
| GROUP IV - A<br>MINERS - Tunnel (hand or machine) | 6.26 | .35 | .60 | | .05 | |
| GROUP V<br>DIAMOND DRILL | 6.395 | .35 | .60 | | .05 | |
| GROUP V-A<br>SHAFT AND RAISE MINER WELDER | 6.595 | .35 | .60 | | .05 | |







AQ-1,026 P. 11

| POWER EQUIPMENT OPERATORS: | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Oi |
| GROUP I<br>Air compressor operator; Field equipment servicemen helper; Heavy duty repair helper; Heavy duty welder helper; Oiler; Pump operator | $6.42 | .45 | .50 | | .02 | |
| GROUP II<br>Conveyor operator; Generator operator-portable; Power grizzly operator; Self-propelled chip spreading machine-conveyor operator; Watch fireman; Welding machine operator - gasoline and diesel power | 6.73 | .45 | .50 | | .02 | |
| GROUP III<br>Concrete mixer operator - skip type; Dinky operator - (under 20 tons wt.); Driver-moto paver, Slurry seal machine, and similar type equipment; Motor crane driver; Power sweeper operator - self-propelled; Ross carrier or fork lift operator; Skip loader operator - all types with rated capacity 1-1/2 cu. yds. or less; Wheel type tractor operator (Ford, Ferguson, or similar type) with attachments such as fresno, push blade, post hole auger, mower, etc. excluding compacting equipment | 7.13 | .45 | .50 | | .02 | |
| GROUP IV<br>A-Frame boom truck or winch truck operator; Asphalt plant firemen; Elevator hoist opcrator (including Tuskey hoist or similar types); Grade checker (excluding civil engineer); Multiple power concrete saw operator; Pavement breaker, mechanical compactor operator, power propelled; Roller operator - all types except as otherwise classified; Screed operator; Self-propelled chip spreading machine operator (including Slurry seal machine operator) Stationary pipewrapping and cleaning machine operator; Tugger operator | 7.57 | .45 | .50 | | .02 | |

AQ-1,026 P. 12

| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | O |
| GROUP V<br>Aggregate plant operator (including crushing screening and sand plants, etc.); Asphalt laydown machine operator; Asphalt plant mixer operator; Beltcrete machine; Boring machine operator; Concrete mechanical tamping, spreading or finishing machine (incl. Clary, Johnson, or similar types); Concrete pump operator; Concrete batch plant operator, all types and sizes; Conductor, brakeman, or handler; Elevating grader operator - all types and sizes (except as otherwise classified); Field equipment servicemar; Highline cableway signalman; Kolman belt loader operator or similar type, w/belt width 48" or over; Locomotive engineer (including Dinky-20 tons wt. and over); Moto-paver and similar type equipment operator; Operating engineer rigger; Pneumatic-tired scraper operator (Turnapull, Euclid, Cat, D-W, Hancock and similar equipment) up to and incl. 12 cu. yds.; Power jumbo form setter operator; Pressure grout machine operator (as used in heavy engineering construction); Road oil mixing machine operator; Roller operator-on all types asphalt pavement; Self-propelled compactor, with blade; Skip loader operator-all types with rated capacity over 1-1/2 but less than 4 cu. yds.; Slip form operator (power driven lifting device for concrete forms); Soil cement road mixing machine operator-single pass type; Stationary Central generating plant operator-rated 300 k.w. or more; Surface heater and planer operator; Traveling pipewrapping machine operator | $8.01 | .45 | .50 | | .02 | |
| GROUP V-A<br>Heavy duty mechanic and/or welder; Pneumatic tired scraper, all sizes and types over 12 cu. yds. up to and incl. 45 cu. yds. MRC (Turnapull, Euclid, Cat, D-W, Hancock, and similar equipment); Tractor operator (Pusher, Bulldozer, Scraper) up to 400 net horsepower rating; Trenching machine operator | 8.27 | .45 | .50 | | .02 | |



XUM

| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| GROUP VI<br>Auto-Grade Machine (CMI and similar equipment); Boring machine operator (including Mole, Badger and similar type); Concrete mixer operator-paving type, and mobile mixer; Concrete pump operator with boom attachment (truck mounted); Crane operator-crawler and pneumatic type, under 100 ton capacity MRC; Crawler type tractor operator - with boom attachment; Derrick operator; Forklift operator for hoisting personnel; Grade-all operator; Helicopter hoist; Highline cableway operator (less than 20 tons rated capacity); Mass excavator operator (150 Bucyrus Erie and similar types); Mechanical hoist operator (two or more drums); Motor grade operator - any type power blade; Motor grader operator with elevating grader attachment; Mucking machine operator; Overhead crane operator; Piledriver engineer (portable, stationary or skid rig); Pneumatic-tired scraper operator-all sizes and types (Turnapull, Euclid, Cat D-W, Hancock and similar equipment over 45 cu. yds. MRC); Power driven ditch lining or ditch trimming machine operator; Skip loader operator - all types with rated capacity 4 cu. yds. but less than 8 cu. yds.; Slip form paving machine operator (including Gunnert, Zimmerman and similar types); Specialized power digger operator - attached to wheel-type tractor; Tower crane (or similar type) operator; Tractor operator (Pusher, Bulldozer, Scraper) 400 net horsepower and over; Tugger operator (two or more); Universal equipment operator - Shovel, Backhoe, Dragline, Clamshell, etc., up to 8 cu. yds. | $8.55 | .45 | .50 | | .02 | |



| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| GROUP VII<br>Crane Operator - pneumatic or crawler (100 ton hoisting capacity and over MRC rating); Helicopter pilot - FAA qualified when used in construction work; Highline cableway operator, over 20 ton rated capacity and using traveling head and tail tower; Remote control earth moving equipment operator; Skip loader operator - all types with rate capacity of 8 cu. yds. or more; Universal equipment - shovel, backhoe, dragline, clamshell, etc., 8 cu. yds. and over | $9.05 | .45 | .50 | | .02 | |
| MULTIPLE-UNIT EARTH MOVING EQUIPMENT: Tractor Operator - pneumatic-tired or track type, two units - fifty cents (50¢) per hour more than the base single-unit rate established in Group V, Group V-A, or Group VI, and one dollar ($1.00) per hour for each additional unit. | | | | | | |
| All Operators, oiler, and motor crane drivers on equipment with booms of 80 and over, incl. jib shall receive .0075 (3/4 of a cent) per foot per hour premium pay additional to the regular rate of pay. | | | | | | |
| Oiler shall be required on all track or crawler-type cranes, backhoes, shovels, clamshells, draglines, gradalls, etc. | | | | | | |
| Oiler drivers shall be required on all truck mounted or self-propelled excavating and/or hoisting equipment having the configuration for two men. | | | | | | |









| TRUCK DRIVERS | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| GROUP I<br>PICKUP; Station wagon; Teamsters | $5.67 | .35 | .60 | | .02 | |
| GROUP II<br>BUGGYMOBILE, 1 C.Y. OR LESS; Bulk cement spreader (2 or 3 axle); Bus driver; Dump (2 or 3 axle); Flatrack (2 or 3 axle); Water (under 2500 gal.) | 5.78 | .35 | .60 | | .02 | |
| GROUP III<br>BULK CEMENT SPREADER (4 AXLE); Dump (4 axle); Dumptor or dumpster, less than c.y.; Flatrack (4 axle); Water (2500 gal. but less than 4000 gal.) | 5.94 | .35 | .60 | | .02 | |
| GROUP IV<br>BULK CEMENT SPREADER (5 AXLE); Dump (5 axle); Dumptor or dumpster, 7 c.y. but less than 16 c.y.; Flaherty spreader or similar type equipment or leverman; Flatrack (5 axle); Slurry type equipment or leverman; Transit mix, 8 c.y., or less mixer capacity | 6.23 | .35 | .60 | | .02 | |
| GROUP V<br>BULK CEMENT SPREADER (6 AXLE); Dump (2 axle); Flatrack (6 axle); Rock truck (dart, euclid, and other similar type end dumps, single unit) less than 16 c.y. | 6.36 | .35 | .60 | | .02 | |
| GROUP V-A<br>OIL TANKER OR SPREADER TRUCK DRIVER and/or bootman, retortman or leverman | 6.50 | .35 | .60 | | .02 | |
| GROUP VI<br>BULK CEMENT SPREADER (7 AXLE); Concrete pump truck driver, (when integral part of transit mix truck); Dump (7 axle); Flatrack (7 axle); Hydro lift, Swedish crane, Iowa 300 and similar types; Ross carrier fork lift or lift truck; Transit mix, over 10.5 c.y. but less than 14 c.y. mixer capacity | 6.61 | .35 | .60 | | .02 | |



| TRUCK DRIVERS: (cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| GROUP VII<br>BULK CEMENT SPREADER (8 AXLE); Dump (8 axle); Flatrack (8 axle) | $6.95 | .35 | .60 | | .02 | |
| GROUP VIII<br>OFF-HIGHWAY EQUIPMENT DRIVER (2 or 4 wheel power unit, i.e. Cat DW series, Euclid, International, and similar type equipment, transporting material when top loaded or by external means, including pulling water tanks, fuel tanks, or other teamsters classifications; Bulk cement spreader (9 axle); Dump (9 axle); Dumptor or dumpster, 16 c.y. and over; Eject-alls; Flatrack (9 axle); Rock truck (Dart, Euclid, or other similar end dump types) 16 c.y. and over | 7.365 | .35 | .60 | | .02 | |
| HEAVY DUTY MECHANIC/WELDER | 8.24 | .35 | .60 | | .02 | |
| HEAVY DUTY MECHANIC/WELDER HELPER | 6.39 | .35 | .60 | | .02 | |
| FIELD EQUIPMENT SERVICEMAN or FUEL Truck driver | 7.98 | .35 | .60 | | .02 | |
| Combination Man - 30¢ over the highest rated work | | | | | | |
| Multiple-unit equipment driver - two units 50¢ per hour more than the base single unit rate established in Group 8 above; and $1.00 per hour for each additional unit | | | | | | |

SUPERSEDEAS DECISION

STATE: Arizona COUNTY: Coconino
DECISION NUMBER: AQ-1,027 DATE: Date of Publication
Supersedes Decision #AP-297 dated April 27, 1973, in 38 FR 10557.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).
*Establish a point 35 miles due north from the city hall of the City of Flagstaff and establish another point 35 miles due north from the city hall of the City of Kingman, then draw a straight line from the first point to the second point and extend that same line to the intersection of the Arizona-Nevada State Line. Establish a third point 35 miles due north of the city hall of the City of Holbrook and draw a straight line from the first point to the third point and from the third point extend a line due east to the intersection of the Airzona-New Mexico State Line.

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| ASBESTOS WORKERS | $8.48 | .50 | .65 | | .01 | |
| BOILERMAKERS | 7.95 | .60 | 1.00 | .50 | .02 | |
| BRICKLAYERS; Stonemasons: | | | | | | |
| Zone A (0-25 miles from the City Hall of Flagstaff, Phoenix and Yuma) | 8.85 | .35 | .30 | | .03 | |
| Zone B (25-40 miles from City Hall of Phoenix) | 9.74 | .35 | .30 | | .03 | |
| Zone C (40-70 miles from City Hall of Phoenix) | 10.18 | .35 | .30 | | .03 | |
| Zone D (70-100 miles from City Hall of Phoenix) | 10.62 | .35 | .30 | | .03 | |
| Zone E (100-200 miles from City Hall of Phoenix) | 11.06 | .35 | .30 | | .03 | |
| Zone F (200 miles and over from City Hall of Phoenix). | 11.51 | .35 | .30 | | .03 | |
| CARPENTERS (Northern Area): | | | | | | |
| Carpenters | 10.125 | .40 | .60 | | .025 | |
| Piledrivermen | 10.375 | .40 | .60 | | .025 | |
| Millwrights | 10.50 | .40 | .60 | | .025 | |
| CARPENTERS (Central and Southern Area): | | | | | | |
| Carpenters | 8.25 | .40 | .60 | | .025 | |
| Piledrivermen | 8.50 | .40 | .60 | | .025 | |
| Millwrights | 8.625 | .40 | .60 | | .025 | |
| CEMENT MASONS (Northern Area) | 9.51 | .35 | .65 | | .025 | |
| CEMENT MASONS (Central and Southern Area) | 7.585 | .35 | .65 | | .025 | |
| ELECTRICIANS (Flagstaff Area): | | | | | | |
| Zone A (In Flagstaff, which shall cover that area lying in a square extending 20 miles North-South, East and West of the Post Office) (Williams, and Sedona covering a square extending 5 miles North-South, East and West of the Post Office of each town): | | | | | | |
| Electricians | 9.35 | .40 | 1%+.60 | | 1/2% | |
| Cable splicers | 9.55 | .40 | 1%+.60 | | 1/2% | |
| Zone B (Remaining Area): | | | | | | |
| Electricians | 10.85 | .40 | 1%+.60 | | 1/2% | |
| Cable splicers | 11.05 | .40 | 1%+.60 | | 1/2% | |



| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| ELEVATOR CONSTRUCTORS | $7.58 | .185 | .20 | 2%+a | | |
| ELEVATOR CONSTRUCTORS' HELPERS | 70%JR | .185 | .20 | 2%+a | | |
| ELEVATOR CONSTRUCTORS' HELPERS (PROB.) | 50%JR | | | | | |
| IRONWORKERS (Northern Area) | 10.21 | .58 | .625 | | .04 | |
| IRONWORKERS (Central and Southern Area) | 8.58 | .58 | .625 | | .04 | |
| PAINTERS: | | | | | | |
| Zone A (From Flagstaff Court House to 20 miles): | | | | | | |
| Brush | 5.90 | | | | | |
| Brush (steel and bridge) | 6.15 | | | | | |
| Spray | 6.35 | | | | | |
| Zone B (20-35 miles from Flagstaff Court House): | | | | | | |
| Brush | 6.40 | | | | | |
| Brush (steel and bridge) | 6.55 | | | | | |
| Spray | 6.85 | | | | | |
| Zone C (35-100 miles from Flagstaff Court House): | | | | | | |
| Brush | 7.1- | | | | | |
| Brush (steel and bridge) | 7.30 | | | | | |
| Spray | 7.60 | | | | | |
| Zone D (Remaining Area): | | | | | | |
| Brush | 7.40 | | | | | |
| Brush (steel and bridge) | 7.55 | | | | | |
| Spray | 7.85 | | | | | |
| PLUMBERS; Steamfitters: | | | | | | |
| FREE ZONE 0-15 miles | | | | | | |
| The "Free Zone" (Zone I shall be 15 road miles from the stated base points in Flagstaff, Yuma, Tucson and Douglas. The "Free Zone" from Phoenix shall be 15 miles radius from the state base point. In addition, all areas within the City limits of Phoenix, Chandler, Scottsdale, Tempe, Glendale, Mesa, Kingman, Havasu City, Prescott, Winslow, and Holbrook will be included as Free Zones. Any work contracted for outside of these zones will be determined from the Phoenix and Tucson basing points. | 8.10 | .50 | 1.07 | 1.00 | .10 | |
| Zone II (15-30 miles) | 8.40 | .50 | 1.07 | 1.00 | .10 | |
| Zone III (30-45 miles) | 8.75 | .50 | 1.07 | 1.00 | .10 | |
| Zone IV (Over 45 miles) | 9.85 | .50 | 1.07 | 1.00 | .10 | |





| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| ROOFERS | $7.35 | .40 | .20 | | .02 | |
| SHEET METAL WORKERS: | | | | | | |
| (Base zone Flagstaff City Hall or Administration Building): | | | | | | |
| Zone I (0-25 miles) | 7.59 | .27 | .32 | | .02 | |
| Zone II (25-50 miles) | 8.22 | .27 | .32 | | .02 | |
| Zone III (50 miles and over) | 9.56 | .27 | .32 | | .02 | |
| LINE CONSTRUCTION: | | | | | | |
| Zone IA (Flagstaff, 10 mile radius from center of town): | | | | | | |
| Groundman | 7.84 | .23 | 1%+.35 | | 1/2% | |
| Equipment operators; Powdermen; Mechanics | 8.91 | .23 | 1%+.35 | | 1/2% | |
| Linemen; Technicians; Crane operator; Linemen welder | 9.43 | .23 | 1%+.35 | | 1/2% | |
| Cable splicers | 9.78 | .23 | 1%+.35 | | 1/2% | |
| Zone II (Other Areas): | | | | | | |
| Groundman | 8.43 | .23 | 1%+.35 | | 1/2% | |
| Equipment operators; Powdermen; Mechanics | 9.49 | .23 | 1%+.35 | | 1/2% | |
| Linemen; Technicians; Crane operators; Linemen welder | 10.00 | .23 | 1%+.35 | | 1/2% | |
| Cable splicers | 10.30 | .23 | 1%+.35 | | 1/2% | |

FOOTNOTE:
a. Employer contributes 4% of basic hourly rate for 5 years' service and 2% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. 6 Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.



Northern Area

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| LABORERS: | | | | | | |
| GROUP I | | | | | | |
| ALL HELPERS NOT HEREIN SEPARATELY CLASSIFIED; Cesspool diggers and installers; Chat box man; Checker, tool dispatcher; Concrete dump manbelt, pipe and/or hoseman; Dumpman and/or spotter; Fence builder, guard rail builder highway; Form strippers; Labor, general or construction; Landscape gardener and nurseryman; Packing rod steel and pans; Rip rap stone man | $7.155 | .35 | .60 | | .05 | |
| GROUP II | | | | | | |
| CEMENT FINISHER TENDER; Concrete curer (impervious membrane); Cutting torch operator; Fine grader (highway, engineering and sewer work only); Kettleman - tarman; Power type concrete buggy | 7.265 | .35 | .60 | | .05 | |
| GROUP III | | | | | | |
| BANDER; CHUCKTENDER (except Tunnel); Creosote tieman; Guinea chaser; Powderman helper; Rip-rap stone paver; Sandblaster (pot tender); Spikers and wrenchers | 7.375 | .35 | .60 | | .05 | |
| GROUP IV | | | | | | |
| CEMENT DUMPERS (Skip-type mixer or handling bulk cement); Chain saw machines (on clearing and grubbing); Concrete vibrating machine; Cribber and shorer (except Tunnel); Floor sanders - concrete; Hydraulic jacks, and similar mechanical tools not separately herein classified; Operators and tenders of pneumatic and electric tools; Pipe caulker and/or backup man (pipeline); Pipe wrapper; pneumatic gopher; Rigger/signalman (pipeline) | 7.455 | .35 | .60 | | .05 | |







XUM 38 FR 25865 SEP 14 1973

AQ-1,027 F. 5

| LABORERS: (cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| GROUP V<br>AIR AND WATER WASH-OUT NOZZLEMAN; Asphalt rakers and ironers; Driller; Grade setter (pipeline); Hand guided trencher and similar operated equipment; Jackhammer and/or pavement breakers; Pipe layer (including but not limited to non-meatllic, transite and plastic pipe, water pipe, sewer pipe, drain pipe, underground tile and conduit); Rock slinger; Scaler (using bos'ns chair or safety belt); Tampers (Mechanical - all types) | $7.595 | .35 | .60 | | .05 | |
| GROUP VI<br>CONCRETE CUTTING TORCH; CONCRETE SAW (hand guided); Driller (core, diamond, wagon or air track); Drill doctor and/or air tool repairman; Gunman and mixerman (gunnite); Sandblaster (nozzleman) | 7.90 | .35 | .60 | | .05 | |
| GROUP VII<br>CONCRETE ROAD FORM SETTER; Gunnite nozzleman or rodman; Drillers, joy mustang, PR 143, 2200 Gardner-Denver, hydrasonic; Powder man; Scaler (drillers); Welders and/or pipe layers installing process pipiog | 8.41 | .35 | .60 | | .05 | |
| MASON TENDERS | 7.21 | .35 | .60 | | .05 | |
| PLASTERERS' TENDERS | 7.525 | .35 | .60 | | .05 | |

Employees working underground shall receive twenty cents (20¢) per hour additional above the regular rate, except where herein specifically covered.

Laborers employed where they may have a free fall over thirty (30 feet or on construction scaffolds above thirty (30) feet or bos'n chair above thirty (30) feet, or where gas masks are necessary, shall receive fifty cents (50¢) per hour in addition to their regular rate, except where inherent in classifications.

AQ-1,027 F. 6

| LABORERS: (cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| TUNNEL AND SHAFT WORKERS | | | | | | |
| GROUP I<br>BULL GANG, MUCKERS, TRACKMAN; DUMPMEN; Concrete crew (includes rodders and spreaders); Grout crew; Swamper (brakeman and switchmen on tunnel work) | $7.35 | .35 | .60 | | .05 | |
| GROUP II<br>NIPPER; CHUCKTENDER, CABLETENDER; Vibratorman, jackhammer, pneumatic tools (except driller) | 7.485 | .35 | .60 | | .05 | |
| GROUP III<br>GROUT GUNMAN | 7.585 | .35 | .60 | | .05 | |
| GROUP IV<br>TIMBERMAN, RETIMBERMAN - wood or steel blaster, driller powderman; Cherry pickerman; Powderman - primer house; Steel form raiser and setter; Kemper and other pneumatic concrete placer operator; Miner - finisher | 7.685 | .35 | .60 | | .05 | |
| GROUP IV-A<br>MINERS - Tunnel (hand or machine) | 7.885 | .35 | .60 | | .05 | |
| GROUP V<br>DIAMOND DRILL | 8.02 | .35 | .60 | | .05 | |
| GROUP V-A<br>SHAFT AND RAISE MINER WELDER | 8.22 | .35 | .60 | | .05 | |







Northern Area

AQ-1,027 F. 7

| POWER EQUIPMENT OPERATORS: | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| GROUP 1<br>Air Compressor Operator; Field equipment servicemen helper; Heavy duty repair helper; Heavy duty welder helper; Oiler; Pump operator | $8.06 | .45 | .50 | | .02 | |
| GROUP II<br>Conveyor Operator; Generator operator-portable; Power grizzly operator; Self-propelled chip spreading machine-conveyor operator; Watch Fireman; Welding machine operator - gasoline and diesel power | 8.35 | .45 | .50 | | .02 | |
| GROUP III<br>Concrete Mixer Operator-Skip Type; Dinky operator - (under 20 tons wt.); Driver-moto paver, slurry seal machine, and similar type equipment; Motor crane driver; Power sweeper operator - self-propelled; Ross carrier or fork lift operator; Skip loader operator - all types with rated capacity 1-1/2 cu. yds. or less; Wheel type tractor operator (Ford, Ferguson, or similar type) with attachments such as fresno, push blade, post hole auger, mower, etc., excluding compacting equipment | 8.75 | .45 | .50 | | .02 | |
| GROUP IV<br>A-Frame Boom Truck or Winch Truck Operator; Asphalt plant firemen; Elevator hoist operator (including Tuskey hoist or similar types); Grade checker (excluding civil engineer); Multiple power concrete saw operator; Pavement breaker, mechanical compactor operator, power propelled; Roller operator - all types except as otherwise classified; Screed operator; Self-propelled chip spreading machine operator (including slurry seal machine operator) Stationary pipewrapping and cleaning machine operator; Tugger operator | 9.19 | .45 | .50 | | .02 | |

AQ-1,027 F. 8

| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| GROUP V<br>Aggregate Plant Operator (including crushing screening and sand plants, etc.); Asphalt laydown machine operator; Asphalt plant mixer operator; Beltcrete machine; Boring machine operator; Concrete mechanical tamping, spreading or finishing machine (incl. Clary, Johnson or similar types); Concrete pump operator; Concrete batch plant operator all types and sizes; Conductor, Brakeman, or handler; Elevating grader operator - all types and sizes (except as otherwise classified); Field equipment serviceman; Highline cableway signalman; Kolman belt loader operator or similar type, w/blet width 48" or over; Locomotive engineer (including Dinky-20 tons weight and over); Moto-paver and similar type equipment operator; Operating engineer rigger; Pneumatic-tired scraper operator (Turnapull, Euclid, Cat, D-W, Hancock and similar equipment) up to and incl. 12 cu. yds.; Power jumbo form setter operator; Pressure grout machine operator (as used in heavy engineering construction); Road oil mixing machine operator; Roller operator-on all types asphalt pavement; Self-propelled compactor, with blade; Skip loader operator-all types with rated capacity over 1½ but less than 4 cu. yds.; Slip form operator (power driven lifting device for concrete forms); Soil cement road mixing machine operator single pass type; Stationary central generating plant operator - rated 300 k.w. or more; Surface heater and planer operator; Traveling pipewrapping machine operator | $9.63 | .45 | .50 | | .02 | |
| GROUP V-A<br>Heavy Duty Mechanic and/or Welder; Pneumatic tired scraper, all sizes and types over 12 cu. yds. up to and incl. 45 cu. yds. MRC (Turnapull, Euclid, Cat, D-W, Hancock, and similar equipment); Tractor operator (Pusher, Bulldozer, Scraper) up to 400 net horsepower rating; Trenching machine operator | 9.89 | .45 | .50 | | .02 | |



NUM 38 FR 25866 SEP 14 1973

| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Oth |
|---|---|---|---|---|---|---|
| GROUP VI | | | | | | |
| Auto-Grade Machine (CMI and similar equipment); Boring machine operator (including mole, badger and similar type); Concrete mixer operator-paving type, and mobile mixer; Concrete pump operator with boom attachment (truck mounted); Crane operator-crawler and pneumatic type, under 100 ton capacity MRC; Crawler type tractor operator - with boom attachment; Derrick operator; Forklift operator for hoisting personnel; Grade-all operator; Helicopter Hoist; Highline cableway operator (less than 20 tons rated capacity); Mass excavator operator (150 Bucyrus Erie and similar types); Mechanical hoist operator (two or more drums); Motor grade operator - any type power blade; Motor grader operator with elevating grader attachment; Mucking machine operator; Operating Engineer electricians - including lineman, tower erector, cable splicers, etc.; Overhead crane operator; Piledriver engineer (portable, stationary or skid rig); Pneumatic-tired scraper operator - all sizes and types (Turnapull, Euclid, Cat, D-W, Hancock and similar equipment over 45 cu. yds. MRC); Power driven ditch lining or ditch trimming machine operator; Skip loader operator - all types with rated capacity 4 cu. yds. but less than 8 cu. yds.; Slip form paving machine operator (including Gunnert, Zimmerman and similar types); Specialized power digger operator - attached to wheel-type tractor; Tower crane (or similar type) operator; Tractor operator (pusher, bulldozer, scraper) 400 net horsepower and over; Tugger operator (two or more); Universal equipment operator - Shovel, Backhoe, Dragline, Clamshell, etc., up to 8 cu. yds. | $10.17 | .45 | .50 | | .02 | |



| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Oth |
|---|---|---|---|---|---|---|
| GROUP VII | | | | | | |
| Crane Operator - Pneumatic or Crawler (100 ton hoisting capacity and over MRC rating); Helicopter pilot - FAA qualified when used in construction work; Highline cableway operator, over 20 ton rated capacity and using traveling head and tail tower; Remote control earth moving equipment operator; Skip loader operator - all types with rated capacity of 8 cu. yds. or more; Universal equipment - Shovel, Backhoe, Dragline, Clamshell, etc., 8 cu. yds and over | $10.69 | .45 | .50 | | .02 | |
| MULTIPLE-UNIT EARTH MOVING EQUIPMENT: Tractor Operator-Pneumatic-tired or track type, two units - fifty cents (50¢) per hour more than the base single-unit rate established in Group V, Group V-A, or Group VI, and one dollar ($1.00) per hour for each additional unit. | | | | | | |
| All Operator, Oiler, and Motor Crane Drivers on equipment with booms of 80 and over, incl. jib shall receive .0075 (3.4 of a cent) per foot per hour premium pay additional to the regular rate of pay. | | | | | | |
| Oiler shall be required on all track or crawler-type cranes, backhoes, shovels, clamshells, draglines, gradalls, etc. | | | | | | |
| Oiler drivers shall be required on all truck mounted or self-propelled excavating and/or hoisting equipment have the configuration for two men. | | | | | | |







— Northern Area



| TRUCK DRIVERS | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Oth |
|---|---|---|---|---|---|---|
| GROUP I | | | | | | |
| PICKUP; STATION WAGON; TEAMSTERS | $7.295 | .35 | .60 | | .02 | |
| GROUP II | | | | | | |
| BUGGYMOBILE, 1 C. Y. OR LESS; Bulk cement spreader (2 or 3 axle); Bus driver; Dump (2 or 3 axle); Flatrack (2 or 3 axle); Water (under 2500 gal.) | 7.405 | .35 | .60 | | .02 | |
| GROUP III | | | | | | |
| BULK CEMENT SPREADER (4 AXLE); Dump (4 axle); dumptor or dumpster, less than 7 c.y.; Flatrack (4 axle); Water (2500 gal. but less than 4000 gal.) | 7.565 | .35 | .60 | | .02 | |
| GROUP IV | | | | | | |
| BULK CEMENT SPREADER (5 AXLE); Dump ( 5 axle); Dumptor or dumpster, 7 c.y. but less than 16 c.y.; Flaherty spreader or similar type equipment or leverman; Flatrack (5 axle); Slurry-type equipment or leverman; Transit mix, 8 c.y. or less | 7.855 | .35 | .60 | | .02 | |
| GROUP V | | | | | | |
| BULK CEMENT SPREADER (6 AXLE); Dump (6 axle); Flatrack (6 axle); Rock truck (Dart, Euclid and other similar type end dumps, single unit) less than 16 c.y. | 7.985 | .35 | .60 | | .02 | |
| GROUP V-A | | | | | | |
| OIL TANKER OR SPREADER TRUCK DRIVER and/or Bootman, retortman or leverman | 8.125 | .35 | .60 | | .02 | |
| GROUP VI | | | | | | |
| BULK CEMENT SPREADER (7 AXLE); Concrete pump truck driver, (when integral part or transit mix truck); Dump (7 axle); Flatrack (7 axle); Hydro lift, Swedish crane, Iowa 300 and similar types; Ross carrier fork lift or lift truck; Transit mix, over 10.5 c.y. but less than 14 c.y. mixer capacity | 8.235 | .35 | .60 | | .02 | |



| TRUCK DRIVERS (CONT'D): | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Oth |
|---|---|---|---|---|---|---|
| GROUP VII | | | | | | |
| BULK CEMENT SPREADER (8 axle); Dump (8 axle); Flatrack (8 axle) | $8.575 | .35 | .60 | | .02 | |
| GROUP VIII | | | | | | |
| OFF-HIGHWAY EQUIPMENT DRIVER(2 or 4 wheel power unit, i.e. Cat DW series, Euclid, International, and similar type equipment, transporting material when top loaded or by external means, including pulling water tanks, fuel tanks, or other Teamsters classifications; Bulk cement spreader (9 axle); Dump (9 axle); Dumptor or dumpster, 16 c.y. & over; Eject-alls; Flatrack (9 axle); Rock truck (Dart, Euclid or other similar end-dump types);16 c.y. & over | 8.99 | .35 | .60 | | .02 | |
| HEAVY DUTY MECHANIC/WELDER | 9.86 | .35 | .60 | | .02 | |
| HEAVY DUTY MECHANIC/WELDER HELPER | 8.03 | .35 | .60 | | .02 | |
| FIELD EQUIPMENT SERVICEMAN OR FUEL TRUCK DRIVER | 9.62 | .35 | .60 | | .02 | |

Central and Southern Areas

LABORERS:

AQ-1,027 P. 13

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | O |
|---|---|---|---|---|---|---|
| GROUP I<br>ALL HELPERS NOT HEREIN SEPARATELY CLASSIFIED; Cesspool diggers and installers; Chat box man; Checker, tool dispatcher; Concrete dump man-belt, pipe and/or hoseman; Dumpman and/or spotter; Fence builder, guard rail builder hev.; Form strippers; Labor, general or construction; Landscape gardener and nurseryman; Packing rod steel and pans; Rip rap stoneman | $5.53 | .35 | .60 | | .05 | |
| GROUP II<br>CEMENT FINISHER TENDER; Concrete curer (impervious membrane); Cutting torch operator; Fine grader (highway, engineering and sewer work only); Kettleman - tarman; Power type concrete buggy | 5.64 | .35 | .60 | | .05 | |
| GROUP III<br>FANDER; CHUCKTENDER (except tunnel); Creosote tieman; Guinea chaser; Powderman helper; Rip-rap stone paver; Sandblaster (pot tender); Spikers and wrenchers | 5.75 | .35 | .60 | | .05 | |
| GROUP IV<br>CEMENT DUMPERS (skip-type mixer or handling bulk cement); Chain saw machines (on clearing and grubbing); Concrete vibrating machines; Cribber and shorer (except tunnel); Floor sanders - concrete; Hydraulic jacks, and similar mechanical tools not separately herein classified; Operators and tenders of pneumatic and electric tools; Pipe caulker and/or Backup man (pipeline); Pipe wrapper; Pneumatic gopher; Rigger/signalman (pipeline) | 5.83 | .35 | .60 | | .05 | |

LABORERS: (cont'd)

AQ-1,027 P. 14

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Ot |
|---|---|---|---|---|---|---|
| GROUP V<br>AIR AND WATER WASH-OUT NOZZLEMAN; Asphalt rakers and ironers; Driller; Grade setter (pipeline); Hand guided trencher and similar operated equipment; Jackhammer and/or pavement breaker; Pipe layer (including but not limited to non-metallic, transite and plastic pipe, water pipe, sewer pipe, drain pipe, underground tile and conduit); Rock slinger; Scaler (using bos'ns chair or safety belt); Tampers (mechanical - all types) | $5.97 | .35 | .60 | | .05 | |
| GROUP VI<br>CONCRETE CUTTING TORCH; CONCRETE SAW (hand guided); Driller (core, diamond, wagon or air track); Drill doctor and/or air tool repairman; Gunman and nozzleman (gunite); Sandblaster (nozzleman) | 6.275 | .35 | .60 | | .05 | |
| GROUP VII<br>CONCRETE ROAD FORM SETTER; Gunite nozzleman or rodman; Drillers, Joy Mustang, PR 143, 220 Gardner-Denver, hydrosonic; Powder man; Scaler (drillers); Welders and/or pipe layers installing process piping | 6.785 | .35 | .60 | | .05 | |
| MASON TENDERS | 6.135 | .35 | .60 | | .05 | |
| PLASTERERS' TENDERS | 6.45 | .35 | .60 | | .05 | |

Employees working underground shall receive twenty cents (20¢) per hour additional above the regular rate except where herein specifically covered.







AQ-1,027 P. 15

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | O |
|---|---|---|---|---|---|---|
| LABORERS (cont'd)<br>Laborers employed where they may have a free fall over thirty (30) feet or on construction scaffolds above thirty (30) feet or bos'n chair above thirty (30) feet, or where gas masks are necessary, shall receive fifty cents (50¢) per hour in addition to their regular rate, except where inherent in classifications. | | | | | | |
| TUNNEL AND SHAFT WORKERS | | | | | | |
| GROUP I<br>BULL GANG, MUCKERS, TRACKMAN; DUMPMEN; Concrete crew (includes rodders and spreaders); Grout crew; Swamper (brakeman and switchmen on tunnel work) | $5.7[illegible] | .35 | .60 | | .05 | |
| GROUP II<br>NIPPER; CHUCKTENDER, CABLETENDER; Vibratorman, Jackhammer, Pneumatic tools (except driller) | 5.86 | .35 | .60 | | .05 | |
| GROUP III<br>GROUT GUNMAN | 5.96 | .35 | .60 | | .05 | |
| GROUP IV<br>TIMBERMAN, RETIMBERMAN - wood or steel blaster, driller powderman; Cherry pickerman; Powderman - primer house; Steel form raiser and setter; Kemper and other pneumatic concrete placer operator; Miner - finisher | 6.06 | .35 | .60 | | .05 | |
| GROUP IV - A<br>MINERS - Tunnel (hand or machine) | 6.26 | .35 | .60 | | .05 | |
| GROUP V<br>DIAMOND DRILL | 6.395 | .35 | .60 | | .05 | |
| GROUP V-A<br>SHAFT AND RAISE MINER WELDER | 6.595 | .35 | .60 | | .05 | |

Central and Southern Areas

POWER EQUIPMENT OPERATORS:

AQ-1,027 P. 16

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Ot |
|---|---|---|---|---|---|---|
| GROUP I<br>Air compressor operator; Field equipment serviceman helper; Heavy duty repair helper; Heavy duty welder helper; Oiler; Pump operator | $6.42 | .45 | .50 | | .02 | |
| GROUP II<br>Conveyor operator; Generator operator-portable; Power grizzly operator; Self-propelled chip spreading machine-conveyor operator; Watch fireman; Welding machine operator - gasoline and diesel power | 6.73 | .45 | .50 | | .02 | |
| GROUP III<br>Concrete mixer operator - skip type; Dinky operator - (under 20 tons wt.); Driver-mate paver, Slurry seal machine, and similar type equipment; Motor crane driver; Power sweeper operator - self-propelled; Ross carrier or fork lift operator; Skip loader operator - all types with rated capacity 1-1/2 cu. yds, or less; Wheel type tractor operator (Ford, Ferguson, or similar type) with attachments such as fresno, push blade, post hole auger, mower, etc. excluding compacting equipment | 7.13 | .45 | .50 | | .02 | |
| GROUP IV<br>A-Frame boom truck or winch truck operator; Asphalt plant fireman; Elevator hoist operator (including Tuskey hoist or similar types); Grade checker (excluding civil engineer); Multiple power concrete saw operator; Pavement breaker, mechanical compactor operator, power propelled; Roller operator - all types except as otherwise classified; Screed operator; Self-propelled chip spreading machine operator (including Slurry seal machine operator) Stationary pipewrapping and cleaning machine operator; Tugger operator | 7.57 | .45 | .50 | | .02 | |



MIX

AQ-1,027 P. 17

| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Oth |
|---|---|---|---|---|---|---|
| GROUP V<br>Aggregate plant operator (including crushing screening and sand plants, etc.); Asphalt laydown machine operator; Asphalt plant mixer operator; Belterete machine; Boring machine operator; Concrete mechanical tamping, spreading or finishing machine (incl. Clery, Johnson, or similar types); Concrete pump operator; Concrete batch plant operator, all types and sizes; Conductor, brakeman, or handler; Elevating grader operator - all types and sizes (except as otherwise classified); Field equipment serviceman; Highline cableway signalman; Holman belt loader operator or similar type, w/belt width 48" or over; Locomotive engineer (including Dinky-20 tons wt. and over); Mote-paver and similar type equipment operator; Operating engineer rigger; Pneumatic-tired scraper operator (Turnapull, Euclid, Cat, D-W, Hancock and similar equipment) up to and incl. 12 cu. yds.; Power jumbo form setter operator; Pressure grout machine operator (as used in heavy engineering construction); Road oil mixing machine operator; Roller operator-on all types asphalt pavement; Self-propelled compactor, with blade; Skip loader operator-all types with rated capacity over 1-1/2 but less than 4 cu. yds.; Slip form operator (power driven lifting device for concrete forms); Soil cement road mixing machine operator-single pass type; Stationary Central generating plant operator-rated 300 k.w. or more; Surface heater and planer operator; Traveling pipewrapping machine operator | $8.01 | .45 | .50 | | .02 | |
| GROUP V-A<br>Heavy duty mechanic and/or welder; Pneumatic tired scraper, all sizes and types over 12 cu. yds. up to and incl. 45 cu. yds. MRC (Turnapull, Euclid, Cat, D-W, Hancock, and similar equipment); Tractor operator (Pusher, Bulldozer, Scraper) up to 400 net horsepower rating; Trenching machine operator | 8.27 | .45 | .50 | | .02 | |

AQ-1,027 P. 18

| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Oth |
|---|---|---|---|---|---|---|
| GROUP VI<br>Auto-Grade Machine (CMI and similar equipment); Boring machine operator (including Mole, Badger, and similar type); Concrete mixer operator-paving type, and mobile mixer; Concrete pump operator with boom attachment (truck mounted); Crane operator-crawler and pneumatic type, under 100 ton capacity MRC; Crawler type tractor operator - with boom attachment; Derrick operator; Forklift operator for hoisting personnel; Grade-all operator; Helicopter hoist; Highline cableway operator (less than 20 tons rated capacity); Mass excavator operator (150 Bucyrus Erie and similar types); Mechanical hoist operator (two or more drums); Motor grade operator - any type power blade; Motor grader operator with elevating grader attachment; Mucking machine operator; Overhead crane operator; Piledriver engineer (portable, stationary or skid rig); Pneumatic-tired scraper operator-all sizes and types (Turnapull, Euclid, Cat, D-W, Hancock and similar equipment over 45 cu. yds. MRC); Power driven ditch lining or ditch trimming machine operator; Skip loader operator - all types with rated capacity 4 cu. yds. but less than 8 cu. yds.; Slip form paving machine operator (including Gunnert, Zimmerman and similar types); Specialized power digger operator - attached to wheel-type tractor; Tower crane (or similar type) operator; Tractor operator (Pusher, Bulldozer, Scraper) 400 net horsepower and over; Tugger operator (two or more); Universal equipment operator - Shovel, Backhoe, Dragline, Clamshell, etc., up to 8 cu. yds. | $8.55 | .45 | .50 | | .02 | |

FEDERAL REGISTER, VOL. 38, NO. 178—FRIDAY, SEPTEMBER 14, 1973





AQ-1,027 P. 19

| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Oth |
|---|---|---|---|---|---|---|
| GROUP VII<br>Crane Operator - pneumatic or crawler (100 ton hoisting capacity and over MRC rating); Helicopter pilot - FAA qualified when used in construction work; Highline cableway operator, over 20 ton rated capacity and using traveling head and tail tower; Remote control earth moving equipment operator; Skip loader operator - all types with rate capacity of 8 cu. yds. or more; Universal equipment - shovel, backhoe, dragline, clamshell, etc., 8 cu. yds. and over | $9.05 | .45 | .50 | | .02 | |
| MULTIPLE-UNIT EARTH MOVING EQUIPMENT:<br>Tractor Operator - pneumatic-tired or track type, two units - fifty cents (50¢) per hour more than the base single-unit rate established in Group V, Group V-A, or Group VI, and one dollar ($1.00) per hour for each additional unit. | | | | | | |
| All Operators, oiler, and motor crane drivers on equipment with booms of 80 and over, incl. jib shall receive .0075 (3/4 of a cent) per foot per hour premium pay additional to the regular rate of pay. | | | | | | |
| Oiler shall be required on all track or crawler-type cranes, backhoes, shovels, clamshells, draglines, gradalls, etc. | | | | | | |
| Oiler drivers shall be required on all truck mounted or self-propelled excavating and/or hoisting equipment having the configuration for two men. | | | | | | |

AQ-1,027 P. 20

Central and Southern Areas

| TRUCK DRIVERS | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Oth |
|---|---|---|---|---|---|---|
| GROUP I<br>PICKUP; Station wagon; Teamsters | $5.67 | .35 | .60 | | .02 | |
| GROUP II<br>BUGGYMOBILE, 1 C.Y. OR LESS; Bulk cement spreader (2 or 3 axle); Bus driver; Dump (2 or 3 axle); Flatrack (2 or 3 axle); Water (under 2500 gal.) | 5.78 | .35 | .60 | | .02 | |
| GROUP III<br>BULK CEMENT SPREADER (4 AXLE); Dump (4 axle); Dumptor or dumpster, less than c.y.; Flatrack (4 axle); Water (2500 gal. but less than 4000 gal.) | 5.94 | .35 | .60 | | .02 | |
| GROUP IV<br>BULK CEMENT SPREADER (5 AXLE); Dump (5 axle); Dumptor or dumpster, 7 c.y. but less than 16 c.y.; Flaherty spreader or similar type equipment or leverman; Flatrack (5 axle); Slurry type equipment or leverman; Transit mix, 8 c.y., or less mixer capacity | 6.23 | .35 | .60 | | .02 | |
| GROUP V<br>BULK CEMENT SPREADER (6 AXLE); Dump (2 axle); Flatrack (6 axle); Rock truck (dart, euclid, and other similar type end dumps, single unit) less than 16 c.y. | 6.36 | .35 | .60 | | .02 | |
| GROUP V-A<br>OIL TANKER OR SPREADER TRUCK DRIVER and/or bootman, retortman or leverman | 6.50 | .35 | .60 | | .02 | |
| GROUP VI<br>BULK CEMENT SPREADER (7 AXLE); Concrete pump truck driver, (when integral part of transit mix truck); Dump (7 axle); Flatrack (7 axle); Hydro lift, Swedish crane, Iowa 300 and similar types; Ross carrier fork lift or lift truck; Transit mix, over 10.5 c.y. but less than 14 c.y. mixer capacity | 6.61 | .35 | .60 | | .02 | |

FEDERAL REGISTER, VOL. 38, NO. 178—FRIDAY, SEPTEMBER 14, 1973

XUM

AQ-1,027 P. 21

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. |
| TRUCK DRIVERS: (cont'd) | | | | | |
| GROUP VII<br>BULK CEMENT SPREADER (8 AXLE); Dump (8 axle); Flatrack (8 axle) | $6.95 | .35 | .60 | | .02 |
| GROUP VIII<br>OFF-HIGHWAY EQUIPMENT DRIVER (2 or 4 wheel power unit, i.e. Cat DW series, Euclid, International, and similar type equipment, transporting material when top loaded or by external means, including pulling water tanks, fuel tanks, or other teamsters classifications; Bulk cement spreader (9 axle); Dump (9 axle); Dumptor or dumpster, 16 c.y. and over; Eject-alls; Flatrack (9 axle); Rock truck (Dart, Euclid, or other similar end dump types) 16 c.y. and over | 7.3[illegible] | .35 | .60 | | .02 |
| HEAVY DUTY MECHANIC/WELDER | 8.24 | .35 | .60 | | .02 |
| HEAVY DUTY MECHANIC/WELDER HELPER | 6.39 | .35 | .60 | | .02 |
| FIELD EQUIPMENT SERVICEMAN or FUEL Truck driver | 7.98 | .35 | .60 | | .02 |
| Combination Man - 30¢ over the highest rated work | | | | | |
| Multiple-unit equipment driver - two units 50¢ per hour more than the base single unit rate established in Group B above; and $1.00 per hour for each additional unit | | | | | |

FEDERAL REGISTER, VOL. 38, NO. 178—FRIDAY, SEPTEMBER 14, 1973

SUPERSEDEAS DECISION

STATE: Montana

COUNTIES: Flathead, Lake, Lincoln, Mineral, Missoula and Sanders

DECISION NUMBER: AQ-1,032

DATE: Date of Publication

Supersedes Decision #AP-913 dated June 29, 1973, in 38 FR 17392

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. |
| ASBESTOS WORKERS | $7.96 | .44 | .72 | | |
| BOILERMAKERS | 8.25 | .30 | 1.00 | | .02 |
| BRICKLAYERS; Stonemasons | 6.65 | .30 | .25 | | |
| CARPENTERS:<br>Flathead, Lincoln, Lake (northern area including town of Ravalli from a point where Hwy #10A and Hwy #93 intersect), Mineral (northern area including the town of Superior), Sanders (Except S.E. portion) | | | | | |
| Carpenters | 6.15 | .30 | .45 | | .02 |
| Sawmen; Filers; Piledrivers; Carpenters working burned, charred, creosoted or similar treated material | 6.35 | .30 | .45 | | .02 |
| Millwrights and machine erectors | 6.50 | .30 | .45 | | .02 |
| Lake (Southern area, south of Ravalli), Mineral (area southeast of southeast city limits of the town of Superior), Missoula and Sander (S. E. portion) | | | | | |
| Carpenters | 5.97 | .30 | .35 | | .01 |
| Millwrights; Piledriver; Power saw; Saw filer | 6.22 | .30 | .35 | | .01 |
| CEMENT MASONS:<br>Flathead, Lake, (North of the City of Ronan), Lincoln, and Sanders (North of the City of Plains) Counties | 6.15 | .20 | | | |
| Lake (Southern area, incl. the City of Ronan), Mineral, Missoula and Sanders (Southern area, incl. the City of Plains) Counties | 6.40 | .35 | | | |
| ELECTRICIANS: | | | | | |
| Electricians | 7.00 | .20 | 1% | | 1/2% |
| Cable splicers | 7.40 | .20 | 1% | | 1/2% |
| ELEVATOR CONSTRUCTORS | 6.74 | .345 | .23 | 2%+a | |
| ELEVATOR CONSTRUCTORS' HELPERS | 70%JR | .345 | .23 | 2%+a | |
| ELEVATOR CONSTRUCTORS' HELPERS (PROB.) | 50%JR | | | | |
| IRONWORKERS: | | | | | |
| Reinforcing | 7.56 | .48 | .65 | | .05 |
| Ornamental; Structural | 7.56 | .48 | .65 | | .05 |
| LATHERS | 5.95 | | | | |
| MARBLE MASONS | 6.65 | .30 | .25 | | |

AQ-1,032 P. 2

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. |
| PAINTERS:<br>Lake (Southern area incl. City of Ronan), Mineral, Missoula and Sanders (Area south of Thompson Falls) Cos.<br>Brush and Spray | $6.11 | .30 | .15 | | |
| PLASTERERS:<br>Lake (Southern Area incl. the City of Ronan), Mineral, Missoula and Sanders (Southern Area incl. the City of Plains) | 6.65 | .35 | | | |
| Flathead, Lake (Area north of the City of Ronan), Lincoln, and Sanders (North of the City of Plains) Counties | 6.45 | .20 | | | |
| PLUMBERS:<br>Flathead, Lake (Area north of the City of Ronan), Lincoln, and Sanders (Northern area incl. the City of Thompson Falls) Counties | 5.90 | .30 | .30 | | .02 |
| Lake (Southern area incl. the City of Ronan), Mineral, Missoula and Sanders (Area south of Thompson Falls) Counties | 6.58 | .30 | .30 | | .05 |
| ROOFERS | 5.60 | | | | |
| SHEET METAL WORKERS | 6.88 | .22 | .10 | | .01 |
| SPRINKLER FITTERS | 7.20 | .30 | .50 | | .05 |
| TERRAZZO WORKERS | 6.65 | .30 | .25 | | |
| TILE SETTERS | 6.65 | .30 | .25 | | |

FOOTNOTE:
a. Employer contributes 4% basic hourly rate for over 5 years' service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. 6 Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.





XUM

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Oth |
| **Flathead, Lake (Northern area), Lincoln, and Sanders (Northern area) Counties** | | | | | | |
| Laborers<br>Nozzlemen (air and water); Sandblast tail hoseman; Powderman helper; Powerdriven wheelbarrow; Rodder and spreader; Form setters (paving); Bucketman | $5.405 | .37 | .27 | | | |
| Small air tool operator incl. blow pipes, small power tools; Chuck tenders; Asphalt rakers; Dumpman; Rip rapping; Pipe wrapper; Pot tender | 5.555 | .37 | .27 | | | |
| Jackhammer; Pavement breaker; Vibrator; Mechanical tamper and other air tools; Cement handlers (sack or bulk) | 5.585 | .37 | .27 | | | |
| | 5.64 | .37 | .27 | | | |
| **Lake (Southern area), Mineral, Missoula, and Sanders (Southern area) Counties** | | | | | | |
| Laborers<br>All power tools, creosote workers; Jackhammer; Marble and tile setters' tenders; Pipelayers; Pipewrappers; Pot tenders; Small concrete mixers; Vibrators | 5.455 | .37 | .27 | | .03 | |
| Cement masons and plasterer's tenders; Mason tenders; Pumpcrete, gunnite and plasterer pump | 5.705 | .37 | .27 | | .03 | |
| | 5.855 | .37 | .27 | | .03 | |



MONT-1-PEO-2-3-b (1-4)

| POWER EQUIPMENT OPERATORS | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | C |
| A-Frame Truck Crane, Winch Truck and similar | $6.86 | .45 | .45 | | .03 | |
| Air Compressor, Single | 6.55 | .45 | .45 | | .03 | |
| Air Compressor, two or more | 6.72 | .45 | .45 | | .03 | |
| Air Doctor | 7.02 | .45 | .45 | | .03 | |
| Asphalt Paving Machine | 7.02 | .45 | .45 | | .03 | |
| Asphalt Paving Machine Screed | 7.02 | .45 | .45 | | .03 | |
| Automatic Fine grader, Curries and other similar types | 7.15 | .45 | .45 | | .03 | |
| Belt Finish Machine | 6.72 | .45 | .45 | | .03 | |
| Bit Grinder | 7.02 | .45 | .45 | | .03 | |
| Bituminous Mixer Paving, Travel Plant | 7.02 | .45 | .45 | | .03 | |
| Boring Machine (small), jeep, pickup or farm tractor mounted | 6.61 | .45 | .45 | | .03 | |
| Boring Machine (large) | 7.02 | .45 | .45 | | .03 | |
| Broom, self-propelled | 6.69 | .45 | .45 | | .03 | |
| Cableway Highline | 7.53 | .45 | .45 | | .03 | |
| Cement Silo | 6.81 | .45 | .45 | | .03 | |
| Central Mixing Plants, Concrete dam & stationary | 7.37 | .45 | .45 | | .03 | |
| Chain Bucket Loader | 6.74 | .45 | .45 | | .03 | |
| Chip or Gravel Spreader, self-propelled | 6.74 | .45 | .45 | | .03 | |
| Concrete Batch Plant, one & two mixers | 7.02 | .45 | .45 | | .03 | |
| Concrete Batch Plant, three and four mixers | 7.22 | .45 | .45 | | .03 | |
| Concrete Batch Plant, five mixers & over | 7.42 | .45 | .45 | | .03 | |
| Concrete Batch Plant Oiler, up to & incl. two mixers | 6.54 | .45 | .45 | | .03 | |
| Concrete Batch Plant Oiler, three mixers and over | 6.85 | .45 | .45 | | .03 | |
| Concrete Bucket Dispatcher | 7.02 | .45 | .45 | | .03 | |
| Concrete Curing Machine | 7.02 | .45 | .45 | | .03 | |
| Concrete Finish Machine Paving | 7.02 | .45 | .45 | | .03 | |
| Concrete Float-Spreader | 7.02 | .45 | .45 | | .03 | |
| Concrete Mixer, three bags & under | 6.61 | .45 | .45 | | .03 | |
| Concrete Mixer, four bags and over | 6.78 | .45 | .45 | | .03 | |
| Concrete Power Saw, self-propelled | 7.02 | .45 | .45 | | .03 | |
| Concrete Travel Batcher | 7.02 | .45 | .45 | | .03 | |
| Conveyor Loader, up to & incl. 42" belt | 6.60 | .45 | .45 | | .03 | |
| Conveyor Loader, over 42 inch belt | 6.72 | .45 | .45 | | .03 | |
| Crane, to & incl. 80' boom with jib | 7.18 | .45 | .45 | | .03 | |
| Crane, 81' to 130' boom | 7.33 | .45 | .45 | | .03 | |









MONT-1-PEO-2-3-b (2-4)

| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Oth |
| Crane, 131' to 150' boom | $7.38 | .45 | .45 | | .03 | |
| Crane, 151' Boom & over | 7.43 | .45 | .45 | | .03 | |
| Crane Oiler | 6.59 | .45 | .45 | | .03 | |
| Crusher | 7.02 | .45 | .45 | | .03 | |
| Crusher Oiler & Helper | 6.51 | .45 | .45 | | .03 | |
| Crusher Conveyor, when required | 6.48 | .45 | .45 | | .03 | |
| Distributor | 7.02 | .45 | .45 | | .03 | |
| DW 10, 15, or 20 Tractor pulling roller | 6.74 | .45 | .45 | | .03 | |
| Electric Overhead Cranes | 7.20 | .45 | .45 | | .03 | |
| Elevating Grader | 7.02 | .45 | .45 | | .03 | |
| Farm Type Tractor, up to & incl. 50 HP Engine | 6.48 | .45 | .45 | | .03 | |
| Farm Type Tractor, over 50HP Engine | 6.56 | .45 | .45 | | .03 | |
| Field Equipment Serviceman | 6.94 | .45 | .45 | | .03 | |
| Field Equipment Serviceman Helper | 6.51 | .45 | .45 | | .03 | |
| Fireman | 6.61 | .45 | .45 | | .03 | |
| Forklift, on construction job site | 6.83 | .45 | .45 | | .03 | |
| Form Grader | 6.79 | .45 | .45 | | .03 | |
| Gradall | 7.02 | .45 | .45 | | .03 | |
| Grade Setter | 6.48 | .45 | .45 | | .03 | |
| Heavy Duty Drill, all types | 7.02 | .45 | .45 | | .03 | |
| Heavy Duty Driller Helper | 6.61 | .45 | .45 | | .03 | |
| Herman-Nelson Heaters & similar type | 6.56 | .45 | .45 | | .03 | |
| Hoist, Single drum | 6.79 | .45 | .45 | | .03 | |
| Hoist, two or more drums | 7.02 | .45 | .45 | | .03 | |
| Helicopter Hoist | 7.52 | .45 | .45 | | .03 | |
| Hot Plant | 7.02 | .45 | .45 | | .03 | |
| Hot Plant Fireman, when in Operation | 7.02 | .45 | .45 | | .03 | |
| Hot Plant Oiler, 100 ton per hour or over | 6.51 | .45 | .45 | | .03 | |
| Hydra lift and similar types | 6.92 | .45 | .45 | | .03 | |
| Industrial Locomotive all classes | 7.02 | .45 | .45 | | .03 | |
| Mechanic and/or Welder on job | 7.12 | .45 | .45 | | .03 | |
| Mechanic and/or Welder Helper on job | 6.51 | .45 | .45 | | .03 | |
| Mixermobile | 7.10 | .45 | .45 | | .03 | |
| Motor Patrol | 7.15 | .45 | .45 | | .03 | |
| Mountain Logger or similar type | 7.02 | .45 | .45 | | .03 | |
| Mucking Machine | 7.02 | .45 | .45 | | .03 | |
| Oiler-Driver, Rubber Tired Cranes | 6.59 | .45 | .45 | | .03 | |
| Oilers, other than Shovels & Cranes | 6.51 | .45 | .45 | | .03 | |
| Oiler, hoist house, dams | 6.92 | .45 | .45 | | .03 | |
| Pavement Breaker, Essco & similar | 7.02 | .45 | .45 | | .03 | |
| Paving & Mixing Machine | 7.15 | .45 | .45 | | .03 | |
| Power Auger, Large Truck or Tractor Mounted | 7.02 | .45 | .45 | | .03 | |
| Power Mixer, single or double drum | 7.02 | .45 | .45 | | .03 | |
| Power Saw, Multiple cut, self-propelled | 7.02 | .45 | .45 | | .03 | |
| Pumpcrete or Grout Machine | 7.02 | .45 | .45 | | .03 | |
| Pumpman | 6.55 | .45 | .45 | | .03 | |



MONT-1-PEO-2-3-b (3-4)

| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | O |
| Push Tractor | 7.02 | .45 | .45 | | .03 | |
| Quad Cat | 7.32 | .45 | .45 | | .03 | |
| Refrigerator Plant | 7.02 | .45 | .45 | | .03 | |
| Retort | 6.61 | .45 | .45 | | .03 | |
| Roller, on blade or hot mix oil paving | 7.02 | .45 | .45 | | .03 | |
| Roller, on other blade or hot mix paving | 6.72 | .45 | .45 | | .03 | |
| Roller, 25 ton or over | 7.02 | .45 | .45 | | .03 | |
| Ross & similar type carriers, on construction site | 7.02 | .45 | .45 | | .03 | |
| Rubber-tired Dozer | 7.02 | .45 | .45 | | .03 | |
| Rubber-tired Front End Loader, 1 yd. & under | 6.73 | .45 | .45 | | .03 | |
| Rubber-tired Front End Loader, 1 yd. to and incl. 3 yds. | 7.02 | .45 | .45 | | .03 | |
| Rubber-tired Front End Loader, over 3 yds. to and incl. 5 yds. | 7.14 | .45 | .45 | | .03 | |
| Rubber-tired Front End Loader, over 5 yds. to and incl. 10 yds. | 7.24 | .45 | .45 | | .03 | |
| Rubber-tired Front End Loader, over 10 yds. to and incl. 15 yds. | 7.34 | .45 | .45 | | .03 | |
| Rubber-tired Front End Loader, over 15 yds. | 7.44 | .45 | .45 | | .03 | |
| Scraper, DW 15, 20, 21 & similar type if power unit is not used | 7.02 | .45 | .45 | | .03 | |
| Scraper, single or twin engine pulling belly dump trailer | 7.40 | .45 | .45 | | .03 | |
| Scraper, single engine | 7.15 | .45 | .45 | | .03 | |
| Scraper, twin engine | 7.25 | .45 | .45 | | .03 | |
| Scraper, tandem engine | 7.51 | .45 | .45 | | .03 | |
| Self-propelled Sheepfoot and similar type | 7.02 | .45 | .45 | | .03 | |
| Shovels, incl. all attachments, under 1 cu. yd. | 7.02 | .45 | .45 | | .03 | |
| Shovels, incl. all attachments, 1 cu. yd. to & incl. 3 cu. yd. | 7.20 | .45 | .45 | | .03 | |
| Shovels, incl. all attachments, over 3 cu. yd. to & incl. 5 cu. yd. | 7.47 | .45 | .45 | | .03 | |
| Shovels, incl. all attachments, over 5 cu. yd. | 7.60 | .45 | .45 | | .03 | |
| Shovel Oiler, 3 yds. & under | 6.51 | .45 | .45 | | .03 | |
| Shovel Oiler, over 3 cu. yds. | 6.92 | .45 | .45 | | .03 | |
| Slip form pavor | 7.15 | .45 | .45 | | .03 | |
| Stiff leg derrick & guy derrick | 7.47 | .45 | .45 | | .03 | |
| Track-type front end loaders; up to & incl. 5 cu. yds. | 7.02 | .45 | .45 | | .03 | |
| Track-type front end loaders; over 5 cu. yd. to & incl. 10 cu. yd. | 7.25 | .45 | .45 | | .03 | |
| Track-type front end loaders, over 10 cu. yd. to & incl. 15 cu. yd. | 7.35 | .45 | .45 | | .03 | |

AQ-1,032 P. 7

| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Oth |
|---|---|---|---|---|---|---|
| Track-type front end loader, over 1½ cu. yd. | $7.45 | .45 | .45 | | .03 | |
| Track-type tractor with or without attachments | 7.02 | .45 | .45 | | .03 | |
| Track-type tractor, on Euclid Loader | 7.20 | .45 | .45 | | .03 | |
| Trenching Machine | 7.02 | .45 | .45 | | .03 | |
| Tumbrel Conveyor, or Head Tower on Batch Plant | 7.02 | .45 | .45 | | .03 | |
| Wagner Roller & similar type | 7.02 | .45 | .45 | | .01 | |
| Whirley Crane | 7.55 | .45 | .45 | | .03 | |
| Whirley Crane Oiler | 6.92 | .45 | .45 | | .01 | |
| Water Pull when used for compaction | 7.02 | .45 | .45 | | .01 | |
| Washing and Screening, Plant | 7.02 | .45 | .45 | | .03 | |
| Washing and Screening, Plant Oiler | 6.51 | .45 | .45 | | .03 | |

AQ-1,032 P. 8

MONT-LINE CONSTRUCTION-2-3-c

| (Flathead-Lake-Lincoln Counties) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Oth |
|---|---|---|---|---|---|---|
| LINE CONSTRUCTION | | | | | | |
| All construction of "B" fixture and Steel Tower Transmission Lines with capacity of 69 K.V. voltages & over, switch yard and substation rated at 5000 K.V.A. & all work not covered by Schedule "B". | | | | | | |
| SCHEDULE "A" | | | | | | |
| GROUNDMAN "B" | 4.61 | .25 | 1% | | 1% | |
| GROUNDMAN "A" (experienced) | 5.31 | .25 | 1% | | 1% | |
| HEAD GROUNDMAN; Powderman; Jackhammer-Compressorman | 5.6 | .25 | 1% | | 1% | |
| LINE EQUIPMENT OPERATOR | 6.50 | .25 | 1% | | 1% | |
| LINEMAN | 7.58 | .25 | 1% | | 1% | |
| CABLE SPLICER | 8.43 | .25 | 1% | | 1% | |
| SCHEDULE "B" | | | | | | |
| All work for Power Utilities & R.E.A's except work covered under Schedule "A" all Highway Lighting, Street Lighting & Motor Traffic Controlling. | | | | | | |
| JACKHAMMER-COMPRESSORMAN; Powderman; Head Groundman | 5.13 | .25 | 1% | | 1% | |
| LINE EQUIPMENT OPERATOR | 5.88 | .25 | 1% | | 1% | |
| LINEMEN; Pole Sprayer | 6.67 | .25 | 1% | | 1% | |
| CABLE SPLICER | 7.48 | .25 | 1% | | 1% | |





AQ-1,032 P. 9

MONT-"W"-LINE CONSTRUCTION-2-3-f

| Mineral, Missoula and Sanders Counties | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. |
|---|---|---|---|---|---|
| LINE CONSTRUCTION: (Jobs 69,000 volts or less) | | | | | |
| Cable splicer | $7.18 | .25 | 1% | | ½% |
| Linemen | 6.49 | .25 | 1% | | ½% |
| Line equipment operators; Powdermen | 6.38 | .25 | 1% | | ½% |
| Experienced groundmen (2 yrs.); Truck drivers | 5.05 | .25 | 1% | | ½% |
| Groundmen | 4.49 | .25 | 1% | | ½% |
| (Jobs over 69,000 volts) and/or (projects of $400,000 or over) Cable splicers | 7.[illegible] | .25 | 1% | | ½% |
| Linemen; Pole sprayer | 6.99 | .25 | 1% | | ½% |
| Line equipment operators; Powdermen | 6.42 | .25 | 1% | | ½% |
| Groundmen | 5.31 | .25 | 1% | | ½% |







XUM 38 FR 25878 SEP 14 1973

SUPERSEDEAS DECISION

STATE: Montana

COUNTIES: Blaine, Broadwater, Cascade, Chouteau, Daniels, Fergus, Glacier, Hill, Judith-Basin, Lewis & Clark, Liberty, Meagher, Phillips, Pondera, Sheridan, Teton, Toole, Valley and Wheatland

DATE: Date of Publication

DECISION NUMBER: AQ-1,035

Supersedes Decision Number: AQ-1,018 dated August 31, 1973 in 38 FR 23713

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| ASBESTOS WORKERS | $7.96 | .44 | .72 | | .02 | |
| BOILERMAKERS | 8.25 | .30 | 1.00 | | | |
| BRICKLAYERS: | | | | | | |
| Broadwater, Lewis & Clark and Meagher Counties | 6.65 | | | | | |
| Cascade, Chouteau, Glacier, Pondera, and Teton Counties | 7.65 | .25 | | | | |
| Remaining Counties | 6.25 | | | | | |
| CARPENTERS: | | | | | | |
| Blaine and Hill Counties | | | | | | |
| Carpenters | 4.75 | .225 | .25 | | | |
| Sawfilers, Stationary power saw operator; Piledriver | 4.90 | .225 | .25 | | | |
| Millwrights | 5.00 | .225 | .25 | | | |
| Broadwater, Lewis & Clark Counties | | | | | | |
| Carpenters | 6.25 | .30 | .45 | | .02 | |
| Piledrivermen | 6.40 | .30 | .45 | | .02 | |
| Millwrights | 6.50 | .30 | .45 | | .02 | |
| Daniels, Phillips, Sheridan and Valley Counties | | | | | | |
| Carpenters | 6.00 | .30 | .45 | | .02 | |
| Piledrivermen | 6.25 | .30 | .45 | | .02 | |
| Millwrights | 6.50 | .30 | .45 | | .02 | |
| Wheatland County | | | | | | |
| Carpenters | 6.27 | .30 | .45 | | .02 | |
| Floor sanders; Sawmen | 6.395 | .30 | .45 | | .02 | |
| Piledrivermen | 6.42 | .30 | .45 | | .02 | |
| Millwrights | 6.57 | .30 | .45 | | | |
| Remaining Counties | | | | | | |
| Carpenters | 6.47 | .30 | .45 | | .02 | |
| Piledrivermen; Saw Filers; Sawmen | 6.72 | .30 | .45 | | .02 | |
| Millwrights | 6.97 | .30 | .45 | | .02 | |
| CEMENT MASONS: | | | | | | |
| Wheatland County | 6.00 | .35 | | | | |
| Broadwater, Lewis & Clark and Meagher Counties | 6.22 | | | | | |
| Glacier County | 6.15 | .20 | | | | |
| Remaining Counties | 6.55 | .35 | | | | |



| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| ELECTRICIANS: | | | | | | |
| Broadwater, Lewis and Clark and Meagher Counties | | | | | | |
| Electricians | $7.00 | | 1% | | 1/2% | |
| Blaine, Hill, Liberty and Phillips Cos. | | | | | | |
| Electricians | 6.80 | | 1% | | 1/2% | |
| Daniels, Sheridan and Valley Counties | | | | | | |
| Electricians | 6.40 | | 1% | | 1/2% | |
| Cascade, Chouteau, Glacier, Judith-Basin, Pondera, Teton and Toole Cos. | | | | | | |
| Electricians | 7.83 | .32 | 1% | | 1/2% | |
| Cable splicers | 8.08 | .32 | 1% | | 1/2% | |
| Fergus and Wheatland Counties | | | | | | |
| (Electrical Contracts less than $20,000) | 5.40 | | 1% | | 1/2% | |
| (Electrical Contracts $20,000 or more) | 6.10 | | 1% | | 1/2% | |
| ELEVATOR CONSTRUCTORS | 6.74 | .365 | .23 | 2%+a | | |
| ELEVATOR CONSTRUCTORS' HELPERS | 70%JR | .365 | .23 | 2%+a | | |
| ELEVATOR CONSTRUCTORS' HELPERS (PROB.) | 50%JR | | | | | |
| GLAZIERS: | | | | | | |
| Cascade, Chouteau, Glacier, Judith-Basin, Lewis & Clark, Pondera, Teton, and Toole Counties | 6.01 | .29 | .20 | 4% | | |
| IRONWORKERS: | | | | | | |
| Ornamental; Reinforcing, Structural | | | | | | |
| Lewis and Clark (South portion) | 7.10 | .40 | .65 | | .05 | |
| Lewis and Clark (Northern area) and Remaining Counties | 7.03 | .40 | .65 | | .05 | |
| MARBLE MASONS: | | | | | | |
| Broadwater, Lewis & Clark and Meagher Counties | 6.65 | | | | | |
| Cascade, Chouteau, Glacier, Pondera, and Teton Counties | 7.65 | .25 | | | | |
| Remaining Counties | 6.25 | | | | | |
| PAINTERS: | | | | | | |
| Broadwater, Lewis & Clark (Southern portion) and Meagher Counties | | | | | | |
| Brush | 6.11 | .25 | .20 | | | |
| Paperhanging | 6.36 | .25 | .20 | | | |
| Taping; Hand taping; Brush on Steel; Spray | 6.86 | .25 | .20 | | | |
| | 7.11 | .25 | .20 | | | |
| Cascade, Chouteau, Fergus, Glacier, Judith-Basin, Lewis & Clark (Northern portion), Pondera, Teton and Toole Cos. | | | | | | |
| Brush | 5.85 | .34 | .30 | | | |
| Paperhanger | 6.10 | .34 | .30 | | | |
| Brush on steel | 6.35 | .34 | .30 | | | |
| Spraying; Sandblasting | 8.10 | .34 | .30 | | | |
| Daniels, Phillips, Sheridan and Valley Counties | | | | | | |
| Brush or roller | 5.84 | .25 | .20 | | | |
| Structural steel | 6.09 | .25 | .20 | | | |
| Spray | 6.82 | .25 | .20 | | | |







| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| PLASTERERS: | | | | | | |
| Blaine, Cascade, Chouteau, Liberty, Pondera, Teton and Toole Counties | $6.04 | .20 | | | | |
| Hill, Phillips and Valley Counties | 6.25 | | | | | |
| Glacier County | 6.45 | .20 | | | | |
| Broadwater, Lewis & Clark and Meagher Counties | 6.30 | .25 | .15 | | .05 | |
| Wheatland County | 6.05 | .35 | | | | |
| PLUMBERS: | | | | | | |
| Wheatland County | 7.30 | .40 | .40 | | 1½% | |
| Broadwater, Lewis & Clark Counties | 7.50 | .25 | .35 | | .05 | |
| Remaining Counties | 7.35 | .35 | .50 | | 1% | |
| ROOFERS: | | | | | | |
| Broadwater, and Meagher Counties | 5.33 | .35 | .30 | .50 | | |
| Wheatland County | 6.155 | | | | | |
| Remaining Counties | 6.15 | | | | | |
| SHEET METAL WORKERS: | | | | | | |
| Lewis & Clark, Broadwater and Meagher Counties | 6.88 | .22 | .10 | | | |
| Daniels, Fergus, Phillips, Sheridan, Valley and Wheatland Counties | 7.05 | .32 | .20 | | .02 | |
| Remaining Counties | 6.81 | .32 | .10 | .50 | .02 | |
| SPRINKLER FITTERS | 7.65 | .30 | .50 | | .05 | |

FOOTNOTE:

a. Employer contributes 4% of basic hourly rate for over 5 years' service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. 6 Paid Holidays: A through F.

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.



| LABORERS | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| Cascade, Chouteau, Fergus, Glacier, Judith Basin, Pondera, Teton, and Toole Counties | | | | | | |
| Laborers: | | | | | | |
| General laborers; Concrete (wet or dry); Dumpman (spotter); Fence erectors and installer; Scalemen | $5.52 | .37 | .27 | | .03 | |
| Brick tenders; Dumpman (grade); Small concrete mixers | 5.92 | .37 | .27 | | .03 | |
| Air-Track; Asphalt raker and tampers; Barco tampers; Concrete nozzlemen; High scaler; Hod carriers; Plaster tenders | 6.02 | .37 | .27 | | .03 | |
| Car or truck mounted air operated drills and other air tools; Mechanical tampers; Jackhammers; Pavement breakers, wagon drillers; Pipelayers (non-metallic); Power driven wheelbarrow; Power saw (bucking and falling) | 5.77 | .37 | .27 | | .03 | |
| Blaine, Daniels, Hill, Liberty, Phillips, Sheridan and Valley Counties | | | | | | |
| Laborers: Car and truck loaders; Carpenter tender and form stripper; Concrete laborers; Dumpman (spotter); Small power tools, chippers; Clay spades, pogo stick; Fence erectors and installers | 5.17 | .37 | .27 | | .03 | |
| Dumpman (Grade) | 5.29 | .37 | .27 | | .03 | |
| Caisson workers (free air); Concrete saw; Small concrete mixer; Concrete nozzleman; Barco tamper; Jackhammer; Pavement breaker; Placo operator; Pipe layers (non-metallic); Power driven concrete buggies or wheelbarrows; Nozzleman; Sandblaster; Pot tender; Tar pot tender; Tailhoseman; Vibrator (over 2½"); Vibrator turtle; Bull gang; Chuck tender; Nuckers and nippers pot tender; Primerhouseman | 5.42 | .37 | .27 | | .03 | |
| Brick tenders (handling bricks and blocks only) | 5.57 | .37 | .27 | | .03 | |
| Concrete nozzleman; Miner | 5.67 | .37 | .27 | | .03 | |
| Lazer tools and equipment; Powderman | 5.92 | .37 | .27 | | .03 | |







XUM

| LABORERS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| **Broadwater(Northern area), Lewis A Clark and Meagher Counties** | | | | | | |
| General laborer; Car and truck loader; Concrete handler; Form stripper; Fence erector and installer | $ 5.20 | .37 | .27 | .10 | .03 | |
| Concrete buggy; Vibrator; Jackhammer; Wagon driller; Barco tamper; Pavement breaker; Powderman helper | 5.355 | .37 | .27 | .10 | .03 | |
| All power tools; Rodder and spreader; Non-metallic pipe layers; Pipe wrappers; Sandblasters; Pot tenders; Curb form setter; Concrete tenders | 5.455 | .37 | .27 | .10 | .03 | |
| Mortar mixer; Powderman | 5.55 | .37 | .27 | .10 | .03 | |
| **Wheatland and Broadwater(Southern area)** | | | | | | |
| Common laborers | 5.19 | .37 | .27 | | .03 | |
| Semi-skilled; Hod carriers; Jackhammer operator; Vibrator; Mixer operator; Concrete pump tender; Nozzleman; Concrete machiner; Curb form setter | 5.44 | .37 | .27 | | .03 | |



**Remaining Counties**

| POWER EQUIPMENT OPERATORS | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| SHOVELS, incl. all attachments, over 5 yds.; Stiff-leg derrick and guy derrick; Cableway highline; Helicopter hoist; Tower crane; Whirley crane | $7.64 | .45 | .45 | | .03 | |
| SCRAPER, tandem engine; Shovels, incl. all attachments, over 3 yds. to and incl. 5 yds. | 7.51 | .45 | .45 | | .03 | |
| RUBBER-TIRED FRONT-END LOADERS, over 15 yds.; Track-type front-end loaders, over 15 cu. yds. | 7.45 | .45 | .45 | | .03 | |
| RUBBER-TIRED FRONT-END LOADERS, 10 yds. to and incl. 15 yds.; Track-type front-end loaders, 10 cu. yds. to and incl. 15 cu. yds.; Concrete conveyor; Crane, to and incl. 80' boom with jib | 7.35 | .45 | .45 | | .03 | |
| QUAD CAT | 7.32 | .45 | .45 | | .03 | |
| CENTRAL MIXING PLANT, concrete and stationary | 7.27 | .45 | .45 | | .03 | |
| RUBBER-TIRED FRONT-END LOADERS, over 5 yds. to and incl. 10 yds.; Scraper, twin engine; Track-type front-end loaders, over 5 cu. yds. to and incl. 10 cu. yds.; Scraper single or twin engine, pulling belly dump trailer | 7.25 | .45 | .45 | | .03 | |
| CRANE, ELECTRIC OVERHEAD, ALL; Shovels, incl. all attachments, 1 yd. to and incl. 3 yds.; Track-type tractor on euclid loader | 7.21 | .45 | .45 | | .03 | |
| HOIST, TWO OR MORE DRUMS; Motor patrol; Ross and similar type carriers on construction site | 7.18 | .45 | .45 | | .03 | |
| AUTOMATIC FINEGRADER, Gurries and other types; Paver; Slip form; Paving and mixing machine; Roller, 25 tons or over; Rubber tired front-end loader, over 3 yds. to and incl. 5 yds.; Scraper, single | 7.15 | .45 | .45 | | .03 | |









| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| MIXERMOBILE | $7.11 | .45 | .45 | | .03 | |
| BORING MACHINE; Jeep, pickup or farm tractor mounted; Boring machine, large; Power auger large truck or tractor, mounted and punch | 7.05 | .45 | .45 | | .03 | |
| AIR DOCTOR; Asphalt paving machine; Asphalt paving machine screed operator; Bit grinder; Bituminous mixer paving travel plant; Concrete batch plant operator; Concrete curing machine; Concrete finish machine, paving; Concrete float and spreader; Concrete Power saw, self-propelled; Concrete travel batcher; Crusher; Distributor; Elevating grader; Forklift on construction job site; Gradall; Heavy duty drills, all types, Hot plant; Hot plant fireman, when in operation; Industrial locomotive; Mountain logger or similar type machine; Mucking machine; Pavement breaker, Emsco and similar; Power mixer, single or double drum; Pumpcrete or grout machine; Refrigerator plant; Roller, steel and self-propelled rubber on blade or hot mix oil paving; Roller, Wagner and similar types, rubber-tired dozer; Rubber-tired front-end loaders, 1 yd. to and incl. 3 yds.; Shovels, incl. all attachments, under 1 yd.; Track-type tractor, with or without attachments; Track-type tractor with or without attachments incl. track-type front-end loaders up to and incl. 5 cu. yds.; Trench machine; Belt finishing machine; Concrete batch plant, 1 and 2 mixers; DW 10, 15, 20 tractor pulling roller; Power saw self-propelled, multiple cut; Push tractor; Scraper, DW 15, 20, 21 and similar type if power unit is not used; Self-propelled sheepsfoot; Turnhead conveyor, or head tower, on batch plant; Wagner roller; Water pull operator | 7.02 | .45 | .45 | | .03 | |



| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| FIELD EQUIPMENT SERVICEMAN; Hydralift and similar type; Oiler, hoist-house, dams; Shovel oiler, over 3 yds.; Winch truck with boom | $6.92 | .45 | .45 | | .03 | |
| CONCRETE MIXER, 4 bags and over | 6.89 | .45 | .45 | | .03 | |
| HOIST, SINGLE DRUM | 6.81 | .45 | .45 | | .03 | |
| A-FRAME TRUCK CRANE, winch truck and similar | 6.80 | .45 | .45 | | .03 | |
| CEMENT SILO; Form grader | 6.79 | .45 | .45 | | .03 | |
| HYDRO-TAMPER | 6.77 | .45 | .45 | | .03 | |
| CHAIN BUCKET; Chip or gravel spreader, self-propelled; Conveyor loader, over 42" belt | 6.72 | .45 | .45 | | .03 | |
| AIR COMPRESSOR, two or more; Roller, steel and self-propelled rubber other than blade or hot mix oil paving; Rubber-tired front-end loaders, under 1 yd. | 6.71 | .45 | .45 | | .03 | |
| BROOM, self-propelled | 6.67 | .45 | .45 | | .03 | |
| CONCRETE MIXER, 3 bags and under; Fireman | 6.61 | .45 | .45 | | .03 | |
| CONVEYOR LOADER, up to and incl. 42" belt; Crusher conveyor | 6.60 | .45 | .45 | | .03 | |
| RETORT OPERATOR | 6.57 | .45 | .45 | | .03 | |
| MECHANIC AND/OR WELDER HELPER; Concrete batch plant oiler; Crane oiler; Farm type tractor, over 50HP engine; Hot plant oiler, 100 tons per hr. and over; Oiler driver, rubber-tired crane | 6.56 | .45 | .45 | | .03 | |
| PUMPMAN | 6.55 | .45 | .45 | | .03 | |
| AIR COMPRESSOR, SINGLE; Concrete batch plant oiler, up to and incl. 2 mixers | 6.52 | .45 | .45 | | .03 | |

| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| SHOVEL, OILER, 3 yds. and under | $6.51 | .45 | .45 | | .03 | |
| CRUSHER OILER AND HELPER; Farmtype tractor, up to and incl. 50 HP engine; Field equipment service helper; Grade setter; Heavy Duty drill helper; Heaters, Herman Nelson and similar type; Oilers, other than shovels and cranes; Washer and screening plant oiler | 6.48 | .45 | .45 | | .03 | |
| CONCRETE BATCH PLANT, 3 and 4 mixers | 7.22 | .45 | .45 | | .03 | |
| CONCRETE BATCH PLANT, 5 mixers and over | 7.42 | .45 | .45 | | .03 | |
| CONCRETE BATCH PLANT OILER, 3 mixers and over | 6.83 | .45 | .45 | | .03 | |
| CONCRETE PUMP | 7.80 | .45 | .45 | | .03 | |
| CRANE 81' to 130' BOOM | 7.50 | .45 | .45 | | .03 | |
| CRANE 131' to 150' BOOM | 7.55 | .45 | .45 | | .03 | |
| CRANE 151' BOOM AND OVER | 7.60 | .45 | .45 | | .03 | |
| MECHANIC AND/OR WELDER | 7.12 | .45 | .45 | | .03 | |
| WHIRLEY CRANE OILER | 6.85 | .45 | .45 | | .03 | |



| POWER EQUIPMENT OPERATORS | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | O |
|---|---|---|---|---|---|---|
| A-Frame Truck Crane, Winch Truck and similar | $6.86 | .45 | .45 | | .03 | |
| Air Compressor, Single | 6.55 | .45 | .45 | | .03 | |
| Air Compressor, two or more | 6.72 | .45 | .45 | | .03 | |
| Air Doctor | 7.02 | .45 | .45 | | .03 | |
| Asphalt Paving Machine | 7.02 | .45 | .45 | | .03 | |
| Asphalt Paving Machine Screed | 7.02 | .45 | .45 | | .03 | |
| Automatic Finegrader, Curries and other similar types | 7.15 | .45 | .45 | | .03 | |
| Belt Finish Machine | 6.72 | .45 | .45 | | .03 | |
| Bit Grinder | 7.02 | .45 | .45 | | .03 | |
| Bituminous Mixer Paving, Travel Plant | 7.02 | .45 | .45 | | .03 | |
| Boring Machine (small), jeep, pickup or farm tractor mounted | 6.61 | .45 | .45 | | .03 | |
| Boring Machine (large) | 7.02 | .45 | .45 | | .03 | |
| Broom, self-propelled | 6.69 | .45 | .45 | | .03 | |
| Cableway Highline | 7.53 | .45 | .45 | | .03 | |
| Cement Silo | 6.81 | .45 | .45 | | .03 | |
| Central Mixing Plants, Concrete dam & stationary | 7.27 | .45 | .45 | | .03 | |
| Chain Bucket Loader | 6.74 | .45 | .45 | | .03 | |
| Chip or Gravel Spreader, self-propelled | 6.74 | .45 | .45 | | .03 | |
| Concrete Batch Plant, one & two mixers | 7.02 | .45 | .45 | | .03 | |
| Concrete Batch Plant, three and four mixers | 7.22 | .45 | .45 | | .02 | |
| Concrete Batch Plant, five mixers & over | 7.42 | .45 | .45 | | .03 | |
| Concrete Batch Plant Oiler, up to & incl. two mixers | 6.54 | .45 | .45 | | .03 | |
| Concrete Batch Plant Oiler, three mixers and over | 6.83 | .45 | .45 | | .03 | |
| Concrete Bucket Dispatcher | 7.02 | .45 | .45 | | .03 | |
| Concrete Curing Machine | 7.02 | .45 | .45 | | .03 | |
| Concrete Finish Machine Paving | 7.02 | .45 | .45 | | .03 | |
| Concrete Float-Spreader | 7.02 | .45 | .45 | | .03 | |
| Concrete Mixer, three bags & under | 6.61 | .45 | .45 | | .03 | |
| Concrete Mixer, four bags and over | 6.78 | .45 | .45 | | .03 | |
| Concrete Power Saw, self-propelled | 7.02 | .45 | .45 | | .02 | |
| Concrete Travel Batcher | 7.02 | .45 | .45 | | .03 | |
| Conveyor Loader, up to & incl. 42" belt | 6.60 | .45 | .45 | | .03 | |
| Conveyor Loader, over 42 inch belt | 6.72 | .45 | .45 | | .03 | |
| Crane, to & incl. 80' boom with jib | 7.18 | .45 | .45 | | .03 | |
| Crane, 81' to 130' boom | 7.33 | .45 | .45 | | .03 | |







| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | O |
|---|---|---|---|---|---|---|
| Crane, 131' to 150' boom | $7.38 | .45 | .45 | | .03 | |
| Crane, 151' boom & over | 7.43 | .45 | .45 | | .03 | |
| Crane Oiler | 6.59 | .45 | .45 | | .03 | |
| Crusher | 7.02 | .45 | .45 | | .03 | |
| Crusher Oiler & Helper | 6.51 | .45 | .45 | | .03 | |
| Crusher Conveyor, when required | 6.48 | .45 | .45 | | .03 | |
| Distributor | 7.02 | .45 | .45 | | .03 | |
| DW 10, 15, or 20 Tractor pulling roller | 6.74 | .45 | .45 | | .03 | |
| Electric Overhead Cranes | 7.20 | .45 | .45 | | .03 | |
| Elevating Grader | 7.02 | .45 | .45 | | .03 | |
| Farm Type Tractor, up to & incl. 50 HP Engine | 6.48 | .45 | .45 | | .03 | |
| Farm Type Tractor, over 50HP Engine | 6.56 | .45 | .45 | | .03 | |
| Field Equipment Serviceman | 6.94 | .45 | .45 | | .03 | |
| Field Equipment Serviceman Helper | 6.51 | .45 | .45 | | .03 | |
| Fireman | 6.61 | .45 | .45 | | .03 | |
| Forklift, on construction job site | 6.83 | .45 | .45 | | .03 | |
| Form Grader | 6.79 | .45 | .45 | | .03 | |
| Gradall | 7.02 | .45 | .45 | | .03 | |
| Grade Setter | 6.48 | .45 | .45 | | .03 | |
| Heavy Duty Drill, all types | 7.02 | .45 | .45 | | .03 | |
| Heavy Duty Driller Helper | 6.61 | .45 | .45 | | .03 | |
| Herman-Nelson Heaters & similar type | 6.56 | .45 | .45 | | .03 | |
| Hoist, Single drum | 6.79 | .45 | .45 | | .03 | |
| Hoist, two or more drums | 7.02 | .45 | .45 | | .03 | |
| Helicopter Hoist | 7.52 | .45 | .45 | | .03 | |
| Hot Plant | 7.02 | .45 | .45 | | .03 | |
| Hot Plant Fireman, when in Operation | 7.02 | .45 | .45 | | .03 | |
| Hot Plant Oiler, 100 ton per hour or over | 6.51 | .45 | .45 | | .03 | |
| Hydra lift and similar types | 6.92 | .45 | .45 | | .03 | |
| Industrial Locomotive all classes | 7.02 | .45 | .45 | | .03 | |
| Mechanic and/or Welder on job | 7.12 | .45 | .45 | | .03 | |
| Mechanic and/or Welder Helper on job | 6.51 | .45 | .45 | | .03 | |
| Oiler-Driver, Tubber Tired Cranes | 6.59 | .45 | .45 | | .03 | |
| Oilers, other than Shovels & Cranes | 6.51 | .45 | .45 | | .03 | |
| Oiler, hoist house, dams | 6.92 | .45 | .45 | | .03 | |
| Pavement Breaker, Ensco & similar | 7.02 | .45 | .45 | | .03 | |
| Paving & Mixing Machine | 7.15 | .45 | .45 | | .03 | |
| Power Auger, Large Truck or Tractor Mounted | 7.02 | .45 | .45 | | .03 | |
| Power Mixer, single or double drum | 7.02 | .45 | .45 | | .03 | |
| Power Saw, Multiple cut, self-propelled | 7.02 | .45 | .45 | | .03 | |
| Pumpcrete or Grout Machine | 7.02 | .45 | .45 | | .03 | |
| Pumpman | 6.55 | .45 | .45 | | .03 | |



| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Oth |
|---|---|---|---|---|---|---|
| Push Tractor | $7.02 | .45 | .45 | | .02 | |
| Quad Cat | 7.32 | .45 | .45 | | .03 | |
| Refrigerator Plant | 7.02 | .45 | .45 | | .03 | |
| Retort | 6.61 | .45 | .45 | | .03 | |
| Roller, on blade or hot mix oil paving | 7.02 | .45 | .45 | | .03 | |
| Roller, on other blade or hot mix paving | 6.72 | .45 | .45 | | .03 | |
| Roller, 25 ton or over | 7.02 | .45 | .45 | | .03 | |
| Ross & similar type carriers, on construction site | 7.02 | .45 | .45 | | .03 | |
| Rubber-tired Dozer | 7.02 | .45 | .45 | | .03 | |
| Rubber-tired Front End Loader, 1 yd. & under | 6.73 | .45 | .45 | | .03 | |
| Rubber-tired Front End Loader, 1 yd. to and incl. 3 yds. | 7.02 | .45 | .45 | | .03 | |
| Rubber-tired Front End Loader, over 3 yds. to and incl. 5 yds. | 7.14 | .45 | .45 | | .03 | |
| Rubber-tired Front End Loader, over 5 yds. to and incl. 10 yds. | 7.24 | .45 | .45 | | .03 | |
| Rubber-tired Front End Loader, over 10 yds. to and incl. 15 yds. | 7.34 | .45 | .45 | | .03 | |
| Rubber-tired Front End Loader, over 15 yds. | 7.44 | .45 | .45 | | .03 | |
| Scraper, DW 15, 20, 21 & similar type if power unit is not used | 7.02 | .45 | .45 | | .03 | |
| Scraper, single or twin engine pulling belly dump trailer | 7.40 | .45 | .45 | | .03 | |
| Scraper, single engine | 7.15 | .45 | .45 | | .03 | |
| Scraper, twin engine | 7.25 | .45 | .45 | | .03 | |
| Scraper, tandem engine | 7.51 | .45 | .45 | | .03 | |
| Self-propelled Sheepfoot and similar type | 7.02 | .45 | .45 | | .03 | |
| Shovels, incl. all attachments, under 1 cu. yd. | 7.02 | .45 | .45 | | .03 | |
| Shovels, incl. all attachments, 1 cu. yd. to & incl. 3 cu. yd. | 7.20 | .45 | .45 | | .03 | |
| Shovels, incl. all attachments, over 3 cu. yd. to & incl. 5 cu. yd. | 7.47 | .45 | .45 | | .03 | |
| Shovels, incl. all attachments, over 5 cu. yd. | 7.60 | .45 | .45 | | .03 | |
| Shovel Oiler, 3 yds. & under | 6.51 | .45 | .45 | | .03 | |
| Shovel Oiler, over 3 cu. yds. | 6.92 | .45 | .45 | | .03 | |
| Slip form paver | 7.15 | .45 | .45 | | .03 | |
| Stiff leg derrick & guy derrick | 7.47 | .45 | .45 | | .03 | |
| Track-type front end loaders; up to & incl. 5 cu. yds. | 7.02 | .45 | .45 | | .03 | |
| Track-type front end loaders; over 5 cu. yd. to & incl. 10 cu. yd. | 7.25 | .45 | .45 | | .03 | |
| Track-type front end loaders, over 10 cu. yd. to & incl. 15 cu. yd. | 7.35 | .45 | .45 | | .03 | |

AQ-1,035 P. 13

MONT- PEQ-2-3-[illegible] (4-4)

| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| Track-type front end loaders, over 15 cu. yd. | $7.45 | .45 | .45 | | .03 | |
| Track-type tractor with or without attachments | 7.02 | .45 | .45 | | .03 | |
| Track-type tractor, on Euclid Loader | 7.20 | .45 | .45 | | .03 | |
| Trenching Machine | 7.02 | .45 | .45 | | .03 | |
| Turnhead Conveyor, or Head Tower on Batch Plant | 7.02 | .45 | .45 | | .03 | |
| Wagner Roller & similar type | 7.55 | .45 | .45 | | .03 | |
| Whirley Crane | 6.92 | .45 | .45 | | .03 | |
| Whirley Crane Oiler | 7.02 | .45 | .45 | | .03 | |
| Water Pull when used for compaction | 7.02 | .45 | .45 | | .03 | |
| Washing and Screening Plant | 6.51 | .45 | .45 | | .03 | |
| Washing and Screening Plant Oiler | | | | | | |

AQ-1,035 P. 14

MONT-1-T[illegible]-1-2-3-h (1-2)

| TRUCK DRIVERS | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| COMBINATION Truck; Concrete Mixer and Transit Mixer: | | | | | | |
| To and incl. 4 cu. yds. | $6.30 | .475 | .325 | | | |
| Over 4 cu. yds. to and incl. 6 cu. yds. | 6.38 | .475 | .325 | | | |
| Over 6 cu. yds. to and incl. 8 cu. yds. | 6.46 | .475 | .325 | | | |
| Over 8 cu. yds. to and incl. 10 cu. yds. | 6.54 | .475 | .325 | | | |
| Over 10 cu. yds. - additional $.08 per hour each additional 2 cu. yds. increment | | | | | | |
| DISTRIBUTOR DRIVER AND HELPER | 6.23 | .475 | .325 | | | |
| DRY BATCH TRUCKS: | | | | | | |
| 3 Batch or under | 6.05 | .475 | .325 | | | |
| Over 3 Batch to and incl. 5 Batch | 6.18 | .475 | .325 | | | |
| Over 5 Batch to and incl. 10 Batch | 6.34 | .475 | .325 | | | |
| Over 10 Batch to and incl. 15 Batch | 6.50 | .475 | .325 | | | |
| Over 15 Batch - additional $.15 per hour each additional 5 Batch increment | | | | | | |
| DUMPMAN, GRAVEL SPREADER BOX: Pickup Driver, Hauling Materials; Pilot Car Driver, Teamsters and Helpers; Warehousemen, Partsmen, Cardex men, Warehouse Expediter | 6.05 | .475 | .325 | | | |
| DUMP TRUCKS AND SIMILAR EQUIPMENT WATER LEVEL CAPACITY, INCLUDING SIDEBOARDS: | | | | | | |
| 7 cu. yds. or less | 6.05 | .475 | .325 | | | |
| Over 7 cu. yds. to and incl. 10 cu. yds. | 6.18 | .475 | .325 | | | |
| Over 10 cu. yds. to and incl. 15 cu. yds. | 6.34 | .475 | .325 | | | |
| Over 15 cu. yds. to and incl. 20 cu. yds. | 6.48 | .475 | .325 | | | |
| Over 20 cu. yds. to and incl. 25 cu. yds. | 6.54 | .475 | .325 | | | |
| Over 25 cu. yds. to and incl. 30 cu. yds. | 6.60 | .475 | .325 | | | |
| Over 30 cu. yds. to and incl. 35 cu. yds. | 6.66 | .475 | .325 | | | |
| Over 35 cu. yds. to and incl. 40 cu. yds. | 6.72 | .475 | .325 | | | |
| Over 40 cu. yds. to and incl. 45 cu. yds. | 6.78 | .475 | .325 | | | |
| Over 45 cu. yds. - additional $.06 per hour each additional 5 cu. yds. increment | | | | | | |
| DUMPSTERS | 6.18 | .475 | .325 | | | |







AQ-1,035 P. 15

MONT-1-T[illegible]-1-2-3-h (2-2)

| TRUCK DRIVERS | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| DW 20, DW 21, or EUCLID TRACTORS, PULLING P.R. 21 or SIMILAR DUMP WAGONS: | | | | | | |
| To and incl. 25 cu. yds. | $6.54 | .475 | .325 | | | |
| Over 25 cu. yds. to and incl. 30 cu. yds. | 6.60 | .475 | .325 | | | |
| Over 30 cu. yds. - additional $.06 per hour each additional 5 cu. yds. increment | | | | | | |
| SERVICEMEN | 6.79 | .475 | .325 | | | |
| POWDER TRUCK DRIVER (bulk unloader type) | 6.23 | .475 | .325 | | | |
| FLAT TRUCKS: | | | | | | |
| To and incl. 3 Tons | 6.05 | .475 | .325 | | | |
| Over 3 tons Factory rating | 6.40 | .475 | .325 | | | |
| FUEL TRUCK; SERVICE TIREMEN | 6.52 | .475 | .325 | | | |
| LOWBOYS, FOUR-WHEEL TRAILER, FLOAT SEMI-TRAILER | 6.40 | .475 | .325 | | | |
| LUMBER CARRIERS, LIFT TRUCKS; Power broom | 6.14 | .475 | .325 | | | |
| WATER TANK DRIVERS, PETROLEUM PRODUCTS DRIVERS: | | | | | | |
| 2,500 gals. and under | 6.05 | .475 | .325 | | | |
| Over 2,500 gals. to and incl. 4,500 gals. | 6.34 | .475 | .325 | | | |
| Over 4,500 gals. to and incl. 6,000 gals. | 6.54 | .475 | .325 | | | |
| Over 6,000 gals. to and incl. 8,000 gals. | 6.60 | .475 | .325 | | | |
| Over 8,000 gals. to and incl. 10,000 gals. | 6.66 | .475 | .325 | | | |
| Over 10,000 gals. - additional $.08 per hour each additional 2,000 gals. increment | | | | | | |
| WINCH, A-FRAME, SWEDISH CRANE, HYDRA-LIFT, GROUTCRETE, AND COMBINATION MULCHING, SEEDING AND FERTILIZING | 6.30 | .475 | .325 | | | |
| TRUCK MECHANIC | 6.79 | .475 | .325 | | | |

AQ-1,035 P. 16

MONT-SW- INE CONSTRUCTION-2-3-f

| | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Oth |
|---|---|---|---|---|---|---|
| LINE CONSTRUCTION: (Jobs 69,000 volts or less) | | | | | | |
| Cable splicer | $7.18 | .25 | 1% | | ½% | |
| Linemen | 6.49 | .25 | 1% | | ½% | |
| Line equipment operators; Powdermen | 6.38 | .25 | 1% | | ½% | |
| Experienced groundmen (2 yrs.); Truck drivers | 5.05 | .25 | 1% | | ½% | |
| Groundmen | 4.49 | .25 | 1% | | ½% | |
| (Jobs over 69,000 volts) and/or (projects of $400,000 or over) Cable splicers | 7.36 | .25 | 1% | | ½% | |
| Linemen; Pole sprayer | 6.99 | .25 | 1% | | ½% | |
| Line equipment operators; Powdermen | 6.42 | .25 | 1% | | ½% | |
| Groundmen | 5.31 | .25 | 1% | | ½% | |

SUPERSEDEAS DECISION

STATE: Nevada

COUNTIES: Churchill, Douglas, Elko, Humboldt, Lander, Lyon, Mineral, Ormsby, Pershing, Storey, and Washoe

DECISION NUMBER: AQ-1,036
Supersedes Decision #AP-907 dated May 25, 1973, in 38 FR [illegible].

DATE: Date of Publication

DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories)

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| ASBESTOS WORKERS (Elko County) | $7.46 | .50 | .72 | | | |
| ASBESTOS WORKERS (Remaining Counties) | 8.75 | .90 | .65 | 1.07 | .06 | |
| BOILERMAKERS | 7.95 | .60 | 1.00 | .50 | .02 | |
| BRICKLAYERS; Stonemasons: | | | | | | |
| ZONE A: Within 15 miles radius of Court House in Reno | 8.95 | .40 | | | .01 | |
| ZONE B: Within 15 to 35 miles radius of Court House in Reno | 9.30 | .40 | | | .01 | |
| ZONE C: Within 35 to 75 miles radius of Court House in Reno | 9.70 | .40 | | | .01 | |
| BRICK TENDERS: | | | | | | |
| ZONE A: 0-15 miles from court house in Reno | 6.50 | .40 | .30 | | | |
| ZONE B: 15-35 miles from court house in Reno | 6.85 | .40 | .30 | | | |
| ZONE C: 35-75 miles from court house in Reno | 7.25 | .40 | .30 | | | |
| CARPENTERS: | | | | | | |
| Carpenters | 6.90 | .50 | .70 | .90 | .03 | |
| Floorlayers; Shinglers; Power saw operator; Patent scaffold erector | 7.05 | .50 | .70 | .90 | .03 | |
| Piledrivermen | 7.10 | .50 | .70 | .90 | .03 | |
| Millwrights | 7.20 | .50 | .70 | .90 | .03 | |
| CEMENT MASONS: | | | | | | |
| Except Lake Tahoe Area | | | | | | |
| Cement Masons | 6.70 | .50 | .40 | 1.00 | .01 | |
| Mastic, Magnesite composition; Trowelling machine | 6.95 | .50 | .40 | 1.00 | .01 | |
| Lake Tahoe Area | | | | | | |
| Cement Masons | 7.90 | .50 | .40 | 1.00 | .01 | |
| Mastic, Magnesite composition; Trowelling machine | 8.15 | .50 | .40 | 1.00 | .01 | |
| ELECTRICIANS: | | | | | | |
| Except Lake Tahoe Area | | | | | | |
| Electricians | 9.09 | .53 | 17%+.25 | | .01 | |
| Cable splicers | 10.00 | .53 | 17%+.25 | | .01 | |
| Lake Tahoe Area | | | | | | |
| Electricians | 9.84 | .53 | 17%+.25 | | .01 | |
| Cable splicers | 10.82 | .53 | 17%+.25 | | .01 | |



| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| ELEVATOR CONSTRUCTORS | $9.21 | .345 | .23 | 2%+a | | |
| ELEVATOR CONSTRUCTORS' HELPERS | 70%JR | .345 | .23 | 2%+a | | |
| ELEVATOR CONSTRUCTORS' HELPERS (PROB.) | 50%JR | | | | | |
| GLAZIERS | 7.605 | .15 | .25 | 8% | | |
| IRONWORKERS (Elko County) | 7.53 | .50 | .65 | | .05 | |
| IRONWORKERS (Remaining Counties): | | | | | | |
| Fence erectors | 8.64 | .68 | .875 | .85 | .02 | |
| Reinforcing | 8.75 | .68 | .875 | .85 | .02 | |
| Ornamental; Structural | 8.78 | .68 | .875 | .85 | .02 | |
| LATHERS | 7.71 | .40 | .10 | 1.00 | .01 | |
| PAINTERS: | | | | | | |
| Except Lake Tahoe Area | | | | | | |
| Painters: | | | | | | |
| Brush | 7.70 | .30 | .20 | .40 | | |
| Spray; Structural | 7.95 | .30 | .20 | .40 | | |
| Lake Tahoe Area | | | | | | |
| Brush | 8.10 | .30 | .20 | | | |
| Spray; Structural steel | 8.35 | .30 | .20 | | | |
| PLASTERERS | 7.35 | .50 | .50 | | | |
| PLASTERERS' TENDERS | 7.15 | .50 | .40 | | | |
| PLUMBERS; Steamfitters | 8.10 | .30 | .60 | 1.55 | .07 | |
| ROOFERS | 8.10 | .25 | .05 | | .02 | |
| SHEET METAL WORKERS | 8.30 | .69 | 1.05 | 10% | .02 | |
| SOFT FLOOR LAYERS | 8.35 | .30 | .20 | | | |
| SPRINKLER FITTERS | 11.30 | .30 | .50 | | .05 | |
| TILE SETTERS: | | | | | | |
| Zone A: Within 15 miles radius of court house in Reno | 8.95 | .40 | | | .01 | |
| Zone B: Within 15 to 35 miles radius of court house in Reno | 9.30 | .40 | | | .01 | |
| Zone C: Within 35 to 75 miles radius of court house in Reno | 9.70 | .40 | | | .01 | |

FOOTNOTE:
a. Employer contributes 4% basic hourly rate for over 5 years' service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.









| LABORERS: | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| GROUP I | | | | | | |
| Asphalt workers (ironers, shoveler, cutting machine); Buggymobile; Chainsaw, faller, logloader and bucker; Compactor (all types); Concrete mixer under ½ yds.; Concrete pan work (breadpan type), (handling, cleaning, stripping); Concrete saw, chipping, grinding, sanding, vibrator; Cribbing, shoring, lagging, trench jacking, hand-guided lagging hammer; Curbing or divider machine; Curb setter (precast or cut); Ditching machine (hand-guided); Drillers helper, chuck tender; Form raiser, slip forms; Grouting of concrete walls; Windows and door jams; Headerboardman; Jackhammer, pavement breaker, air spade; Mastic workers (wet or dry); Pipe wrapper, kettleman, potman, and men applying asphalt, creosote and similar type materials; All power tools(air, gas or electric) not listed in Group V; Pipejacking; Posthole digger (air, gas, or electric) Post driver; Rirrap-stonepaver and rock slinger, incl. placing of sack concrete wet or dry; Tototiller; Rigging and signaling in connection with laborers work; Sandblaster, potman, gunman or nozzleman; Vibra-screed; Skilled wrecker (removing and salvaging of sash, windows, doors, plumbing and electrical fixtures) | $6.05 | .40 | .30 | | | |
| GROUP II | | | | | | |
| Choker setter or rigger (clearing work only) Pittsburg chipper and similar type brush shredders; concrete worker (wet or dry) all concrete work not listed in Group I; Crusher or Grizzly tender; Guinea chaser (stakeman); Panel forms (wood or metal) handling, cleaning, and stripping of; Loading and unloading, carrying and handling of all rods and material for use in reinforcing concrete; Railroad trackmen (maintenance, repair or builders); Sloper; Semi-skilled wreckers (salvaging of building materials other than those listed in Group I) | 5.90 | .40 | .30 | | | |





| LABORERS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| GROUP III | | | | | | |
| All cleanup work of debris, grounds, and building including windows and tile; Dumpman or spotter (other than asphalt); General laborer; Gardners and landscape laborers; Limber, brushloader and piler | $5.80 | .40 | .30 | | | |
| GROUP IV | | | | | | |
| Burning and welding in connection with laborers work | 6.15 | .40 | .30 | | | |
| GROUP V | | | | | | |
| Joy drill model TWM-2A, Gardner denver model DN143 and similar type drills; Core drillers, wagon drillers: Mechanical drillers on multiple units; Blaster and powderman, all work of loading, placing, and blasting of all powder and explosives of any type, regardless of method used for such loading and placing; High scalers; Concrete pump operator; Heavy duty vibrator with stinger 5" diameter or over; Pipelayer; Caulker and bander; Pipelayer-waterline, sewerline, gasline conduit; Asphalt rakers | 6.30 | .40 | .30 | | | |
| GROUP VI | | | | | | |
| Nozzleman, Rodman | 6.60 | .40 | .30 | | | |
| Gunman, Materialman | 6.30 | .40 | .30 | | | |
| Reboundman | 5.95 | .40 | .30 | | | |

AQ-1,036 P. 5

(1-2)

TRUCK DRIVERS

Douglas, Lyon, Storey Counties & those areas within 25 mi. radius of the City Hall in the following cities: Fallon in Churchill Co., Elko in Elko Co., Yerington in Lyon Co., Carson City in Ormsby Co., Lovelock in Pershing Co., and Reno in Washoe Co.

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| All Dump Trucks (single multiple or dump units incl. Semi's & Double & transfer units): | | | | | | |
| Under 4 yds. (water level) | 5.40 | .41 | .25 | .25 | | |
| 4 yds. & under 8 yds. (water level) | 5.60 | .41 | .25 | .25 | | |
| 8 yds. & under 18 yds. (water level) | 5.80 | .41 | .25 | .25 | | |
| 18 yds. & under 35 yds. (water level) | 5.95 | .41 | .25 | .25 | | |
| 35 yds. & under 60 yds. (water level) | 6.20 | .41 | .25 | .25 | | |
| 60 yds. & over | 6.35 | .41 | .25 | .25 | | |
| Transit Mix: | | | | | | |
| Under 8 yds. | 5.80 | .41 | .25 | .25 | | |
| 8 yds. & incl. 12 yds. | 5.90 | .41 | .25 | .25 | | |
| Over 12 yds. | 6.10 | .41 | .25 | .25 | | |
| Transit Mix with Boom shall receive 12 - 1/2¢ per hour above the appropriate yardage classification rate of pay when such boom is used. | | | | | | |
| Water Trucks: | | | | | | |
| Up to 2,500 gals. | 5.60 | .41 | .25 | .25 | | |
| 2,500 gals. & over | 5.70 | .41 | .25 | .25 | | |
| Semi Trailers | 5.80 | .41 | .25 | .25 | | |
| DW 20's and 21's and other similar Cat type, Terra Cobra, LeTourneau Pulls, Tournarocker, Euclid and similar type equipment when pulling Aqua/Pak, Water Tank Trailers and fuel &/or Grease Tank Trailers, or other misc. Trailers | 5.95 | .41 | .25 | .25 | | |
| Heavy Duty Transport (high bed), Heavy Duty Transport (gooseneck low bed), Tiltbed or Flatbed Pull Trailers | 5.70 | .41 | .25 | .25 | | |
| Bootman, Combination Bootman and Road Oiler | 5.85 | .41 | .25 | .25 | | |
| Road Oil Truck or Bootman | 5.55 | .41 | .25 | .25 | | |
| Flat Rack (single unit) (2 axle unit) | 5.45 | .41 | .25 | .25 | | |
| Flat Rack (single unit) (3 axle unit) | 5.55 | .41 | .25 | .25 | | |

AQ-1,036 P. 6

(2-2)

| TRUCK DRIVERS (Cont'd): | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| Truck Drivers (Cont'd) Bus and Manhaul Drivers: | | | | | | |
| Up to 18,000 lbs. (single unit) | 5.45 | .41 | .25 | .25 | | |
| 18,000 lbs & over (single unit) | 5.55 | .41 | .25 | .25 | | |
| Helicopter Pilot (when transporting men or materials) | 6.35 | .41 | .25 | .25 | | |
| Industrial Lift Truck - Use Appropriate Flat Rack Rate (mechanical tailgate) | | | | | | |
| Lift Jitneys and Fork Lift | 5.65 | .41 | .25 | .25 | | |
| Winch Truck & "A" Frame Drivers: | | | | | | |
| Under 18,000 lbs. | 5.55 | .41 | .25 | .25 | | |
| 18,000 lbs. & over | 5.65 | .41 | .25 | .25 | | |
| Warehousemen Spotters Teamsters | 5.35 | .41 | .25 | .25 | | |
| Tire Repairman | 5.65 | .41 | .25 | .25 | | |
| Truck Repairman | 6.10 | .41 | .25 | .25 | | |
| Pick-up Truck & Pilot Cars (job site) | 5.45 | .41 | .25 | .25 | | |
| Truck Oiler & Greaser, Fuel Truck Driver, Fuel Man & Fuel Island Man | 5.55 | .41 | .25 | .25 | | |

NOTICES





AQ-1,036 P. 7

(1-2)

REMAINING PORTIONS OF NEVADA

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| Truck Drivers: | | | | | | |
| All Dump Trucks (single or multiple dump units incl. semi's & double & transfer units): | | | | | | |
| Under 4 yds. (water level) | $ 6.15 | .41 | .25 | .25 | | |
| 4 yds. & under 8 yds. (water level) | 6.35 | .41 | .25 | .25 | | |
| 8 yds. & under 18 yds. (water level) | 6.55 | .41 | .25 | .25 | | |
| 18 yds. & under 35 yds. (water level) | 6.70 | .41 | .25 | .25 | | |
| 35 yds. & under 60 yds. (water level) | 6.95 | .41 | .25 | .25 | | |
| 60 yds. & over | 7.10 | .41 | .25 | .25 | | |
| Transit Mix: | | | | | | |
| Under 8 yds. | 6.55 | .41 | .25 | .25 | | |
| 8 yds. & incl. 12 yds. | 6.65 | .41 | .25 | .25 | | |
| Over 12 yds. | 6.85 | .41 | .25 | .25 | | |
| Transit Mix with Boom shall receive 12 - 1/2¢ per hour above the appropriate yardage classification rate of pay when such boom is used. | | | | | | |
| Water Trucks: | | | | | | |
| Up to 2,500 gals. | 6.35 | .41 | .25 | .25 | | |
| 2,500 gals. & over | 6.45 | .41 | .25 | .25 | | |
| Semi Trailers | 6.55 | .41 | .25 | .25 | | |
| DW 20's and 21's and other similar Cat type, Terra Cobra, LeTourneau Pulls, Tournarocker, Euclid and similar type equipment when pulling Aqua/Pak, Water Tank Trailers and Fuel &/or Grease Tank Trailers, or other misc. trailers | 6.70 | .41 | .25 | .25 | | |
| Heavy Duty Transport (high bed), Heavy Duty Transport (gooseneck low bed), Tiltbed or Flatbed Pull Trailers | 6.45 | .41 | .25 | .25 | | |
| Bootman, combination Bootman and Road Oiler | 6.60 | .41 | .25 | .25 | | |
| Road Oil Truck or Bootman | 6.30 | .41 | .25 | .25 | | |
| Flat Rack (single unit) (2 axle unit) | 6.20 | .41 | .25 | .25 | | |
| Flat Rack (single unit) (3 axle unit) | 6.30 | .41 | .25 | .25 | | |

AQ-1,036 P. 8

(2-2)

| TRUCK DRIVERS (Cont'd): | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| Truck Drivers: Bus and Manhaul Drivers: | | | | | | |
| Up to 18,000 lbs (single unit) | 6.20 | .41 | .25 | .25 | | |
| 18,000 lbs & over (single unit) | 6.30 | .41 | .25 | .25 | | |
| Helicopter Pilot (when transporting men or materials) | 7.10 | .41 | .25 | .25 | | |
| Industrial Lift Truck - Use Appropriate Flat Rack Rate (mechanical tailgate) | | | | | | |
| Lift Jitneys and Fork Lift | 6.40 | .41 | .25 | .25 | | |
| Winch Truck & "A" Frame Drivers: | | | | | | |
| Under 18,000 lbs. | 6.30 | .41 | .25 | .25 | | |
| 18,000 lbs. & over | 6.40 | .41 | .25 | .25 | | |
| Warehousemen Spotters Teamsters | 6.10 | .41 | .25 | .25 | | |
| Tire Repairman | 6.40 | .41 | .25 | .25 | | |
| Truck Repairman | 6.85 | .41 | .25 | .25 | | |
| Pick-up Truck & Pilot Cars (job site) | 6.20 | .41 | .25 | .25 | | |
| Truck Oiler & Greaser, Fuel Truck Driver, Fuel Man & Fuel Island Man | 6.30 | .41 | .25 | .25 | | |

NOTICES



NUM 38 FR 25890 8-14-73

AO-1,036 Pt. 10 (2-6)

| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | O |
|---|---|---|---|---|---|---|
| GROUP V<br>CONCRETE MIXER (over 1 cu. yd.); Concrete pumps or pumpcrete guns; Elevator and material hoist (1 drum); Gradesetter, grade checker; Screedman (Barber-greene and similar) (asphaltic or concrete paving); Shuttle car; Signalman<br>AREA I<br>AREA II | $7.70<br>8.70 | .73<br>.73 | 1.00<br>1.00 | .65<br>.65 | .31<br>.31 | |
| GROUP VI<br>BOOM TRUCK OR DUAL PURPOSE "A" FRAME TRUCK; B.L.H. Hole Road pactor or similar; Chip spreader (Flaherty type of dry); Concrete batch plant (mobile); Concrete saws (highways, streets, airports, canals); Highline cableway signalman; Locomotive (over 30 tons); Naginis International Full Slab Vibrator (airports, highways, canals, warehouses); Mechanical burn, curb and/or curb gutter machine (concrete or asphalt); Power jumbo (setting slip forms, etc., in tunnels); Roller; Self-propelled compactor (single engine); Slip form pump (power driven by hydraulic, electric, air gas, etc., lifting device for concrete forms); Stationary pipe wrapping, cleaning and bending machine; Pavement breaker or tamper (with or without compressor attached); Truck mounted compressor combination); Pavement breaker, mounted, with compressor combination;<br>AREA I<br>Small rubber-tired tractors<br>AREA II | 7.79<br>8.79 | .73<br>.73 | 1.00<br>1.00 | .65<br>.65 | .31<br>.31 | |

AO-1,036 Pt. 9 (1-6)

| POWER EQUIPMENT OPERATORS | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | O |
|---|---|---|---|---|---|---|
| GROUP I<br>ASSISTANT TO ENGINEER, including brakeman, deckhand, fireman, heavy duty repairman helper, oiler, partsman (heavy duty repair shops parts room when needed), switchman, tar pot fireman<br>AREA I<br>AREA II | $6.64<br>7.44 | .73<br>.73 | 1.00<br>1.00 | .65<br>.65 | .31<br>.31 | |
| GROUP II<br>COMPRESSOR (Electrically, diesel or gas powered, etc.) Material loader and/or conveyor (loading building materials); Oiler (Crane); Pump Tar pot fireman (power agitated)<br>AREA I<br>AREA II | 6.95<br>7.95 | .73<br>.73 | 1.00<br>1.00 | .65<br>.65 | .31<br>.31 | |
| GROUP III<br>BOX OPERATOR (Bunker); Concrete curing machines (streets, highways, airports, canals); Conveyor belt (tunnel); Engineer generating plant (300 K.W.); Fireman hot plant; Hydraulic monitor; Lubrication and service engineer (mobile and grease rack); Mixer box operator (concrete plant); Motorman Rodman or chainman; Rotomist; Screedman (except asphaltic or concrete paving)<br>AREA I<br>AREA II | 7.11<br>8.11 | .73<br>.73 | 1.00<br>1.00 | .65<br>.65 | .31<br>.31 | |
| GROUP IV<br>BALLAST JACK TAMPER; Ballast regulator; Ballast tamper multi-purpose; Boxman Ballast plant); Concrete mixer, skip (Asphalt plant); Dinky (assistant to engineer required); Fork lift (construction job site); Koss carrier; Skip loader (under 1 cu. yd.); Tie spacer<br>AREA I<br>AREA II | 7.53<br>8.53 | .73<br>.73 | 1.00<br>1.00 | .65<br>.65 | .31<br>.31 | |





AO-1,036 Pt. 12 (4-6)

| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | O |
|---|---|---|---|---|---|---|
| GROUP VIII<br>ASPHALT PLANT ENGINEER; CAR PASER; Cast-in-place pipe laying machine; Combination slusher and motor; Dozer; Concrete batch plant - (multiple units); Elevating grader; Heavy-duty repairman and/or welder; Ken-seal; Loader (up to and including 2½ cu. yds.); Mechanical trench shield, mixermobile; Push cats; Road oil mixing machine<br>Wood-mixer (and other similar pugmill equipment); Rubber-tired earthmoving equipment (up to and including 35 cu. yd. struck capacity, i.e., Euclids, T-Pulls, DW's 10, 20, 21 and similar); Self-propelled compactor with dozer); Sheepfoot; Small tractor (with boom); Soil stabilizer (P & H or equal); Timber skidder (rubber tire) or similar equipment; Tractor; Tractor drawn scraper; Tractor mounted compressor drill combination; Trenching machine (over 3 ft. depth); Tri-batch paver; Tunnel badger or tunnel boring machine; Tunnel mole boring machine<br>AREA I<br>AREA II | $8.24<br>9.24 | .73<br>.73 | 1.00<br>1.00 | .65<br>.65 | .31<br>.31 | |
| GROUP IX<br>CANAL FINGER DRAIN DIGGER; Chicago boom combination backhoe and loader (up to and including 3/8 yds.); Combination backhoe and crane; Crane, 3/4 Lull Hi-lift (20 ft. reach); Grout pump (Cleaning machine; Tractor (with boom) (D6 or larger); Track laying type earth moving machine (single engine with tandem scrapers; Sub-grader (Curries or other types)<br>AREA I<br>AREA II | 8.42<br>9.42 | .73<br>.73 | 1.00<br>1.00 | .65<br>.65 | .31<br>.31 | |

AO-1,036 Pt. 11 (3-6)

| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | O |
|---|---|---|---|---|---|---|
| GROUP VII<br>COMPRESSOR (2 to 6)(electric, diesel or gas); Concrete conveyor; Concrete conveyor or concrete pump, truck or skip-mounted; Concrete mixer, paving; Crusher plant engineer; Deck engineer; Drilling and boring machinery, vertical and horizontal (not to apply to waterliners, wagon drills or jackhammers); Instrument man; Kolman loader; Material hoist (2 or more drums); Mechanical finishers or spreader machine (asphalt, Barber-Greene and similar) (screedman required); Mine or shaft hoist; Pipe bending machines (pipelines only); Pipe cleaning machines (tractor propelled and supported); Pipe wrapping machines (tractor propelled and supported); Portable crushing and screening plants; Pumps (2 to 6); Refrigeration plant; Self-propelled boom type lifting device; Slusher; Soil tester<br>Tractor (with boom) and planer; Trenching machine (over 3 ft. depth) Truck type (capacity 3 yds.); Welder (gasoline or diesel) (2 to 6)<br>AREA I<br>AREA II | 7.94<br>8.94 | .73<br>.73 | 1.00<br>1.00 | .65<br>.65 | .31<br>.31 | |



V 38 178 SEP 14 73 XUM

| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | O |
|---|---|---|---|---|---|---|
| GROUP X<br>BOOM-TYPE BACKFILLING MACHINE; Back hoe hydraulic); Back hoe (up to and incl. 1 cu. yd.) (cable); Bridge crane; Cranes (not over 25 tons) (hammerhead and gantry); Cary-Lift or similar; Chemical grouting machine; Derricks (2 Group 10 operators required when swing engine remote from hoist); Derrick barges (except excavation work) Euclid loader similar types; Grade-alls (up to and including 1 cu. yd.); Heavy duty rotary drill rigs (including caisson foundation work and ribbons type drills); Lift-slab (Vagtborg and similar types); Loader (over 2½ yds. up to and including 4 yds.); Locomotive (over 100 tons) (single or multiple units); Motor patrol operator; Multiple engine earth moving machines (Euclids, Dozers, etc.) (no tandem scraper); Power shovels, Clamshell, Draglines, Cranes (up to and including 1 cu. yd.); Pre-stress wire wrapping machines; Self-propelled reservoir-debree equipment floating (200 h.p. and over); Shuttle car (reclaim station); Single engine scraper (over 35 cu. yd.); Vacuum cooling plant; Whirley crane (up to and including 25 tons); Rubber-tired scraper (self loading) | | | | | | |
| AREA I | $8.61 | .73 | 1.00 | .65 | .31 | |
| AREA II | 9.61 | .73 | 1.00 | .65 | .31 | |



| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Oth |
|---|---|---|---|---|---|---|
| GROUP XI<br>AUTOMATIC ASPHALT OR CONCRETE SLIP FORM PAVER; Automatic railroad car dumper; Canal finger drain backfiller; Canal trimmer; Cranes (over 25 tons); Highline cableway operator; Loader (over 4 yds. up to and including 12 cu. yds.); Multi-engine earth-moving equipment (up to and including 75 cu. yds. "struck" M.R.C.); Power shovels, Clamshells, Draglines, Backhoes, Grade-alls (over 1 yd. and up to and including 7 cu. yds. M.R.C.); Self-propelled compactor (with multiple propulsion power units); Single engine rubber tired earth-moving machine (with tandem scraper); Slip form paver (concrete or asphalt (1 operator and 2 screedmen); Tandem cats and scrapers; Tower crane mobile Universal Liebher and Tower cranes (and similar types); Wheel excavator (up to and including 750 cu. yds. per hour); Whirley cranes (over 25 tons) | | | | | | |
| AREA I | $8.84 | .73 | 1.00 | .65 | .31 | |
| AREA II | 9.84 | .73 | 1.00 | .65 | .31 | |
| GROUP XI-A<br>HAND WAGONS (in conjunction with wheel excavators); Loader (over 12 cu. yds.); Multi-engine earth moving equipment (over 75 cu. yds. "struck" m.r.c.); Operator of helicopter (when used in construction work); Power shovels and Draglines (over 7 cu. yds. M.R.C.); Remote controlled earth moving equipment; Wheel excavator (over 750 cu. yds. per hour) | | | | | | |
| AREA I | 9.71 | .73 | 1.00 | .65 | .31 | |
| AREA II | 10.71 | .73 | 1.00 | .65 | .31 | |





NEVADA AREA DEFINITIONS for Power Equipment Operators

** AREA 2: All areas not included within Area 1 as defined below.
* AREA 1: All of Northern Nevada within the following lines:

Commencing at the N.W. corner of township 22N, range 18E, Mount Diablo Baseline and Meridian at the California-Nevada border;
Thence Easterly to the N.E. corner of township 22N, range 22E;
Thence Southerly to the N.E. corner of township 20N, range 22E;
Thence Easterly to the N.W. corner of township 20N, range 26E;
Thence Northerly to the N.W. corner of township 22N, range 26E;
Thence Easterly to the N.W. corner of towhnsip 22N, range 29E;
Thence Northerly to the N.W. corner of township 30N, range 29E;
Thence Easterly to the N.E. corner of township 30N, range 33E;
Thence Southerly to the S.E. corner of township 24N, range 33E;
Thence Westerly to the S.E. corner of township 24N, range 31E;
Thence Southerly to the S.E. corner of township 16N, range 31E;
Thence Westerly to the S.E.corner of township 16N, range 30E;
Thence Southerly to the S.E. corner of township 15N, range 30E;
Thence Westerly to the S.E. corner of township 15N, range 27E;
Thence Southerly to the S.E. corner of township 14N, range 27E;
Thence Westerly to the S.E. corner of township 14N, range 23E;
Thence Southerly to the S.E. corner of township 13N, range 23E;
Thence Westerly to the S.E. corner of township 13N, range 22E;
Thence Southerly to the N.E. corner of township 10N, range 22E;
Thence Easterly to the N.E. corner of township 10N, range 23E;
Thence Southerly along the Easterly line of range 23E to the intersection of the California-Nevada border;
Thence North-Westerly, then Northerly following the California-Nevada border to the point of beginning.

Area 1 also includes that portion of Northern Nevada included within the following line:

Commencing at the S.W. corner of township 37N, range 52E;
Thence Easterly to the S.E. corner of township 37N, range 52E;
Thence Northerly to the N.E. corner of township 37N, range 52E;
Thence Easterly to the N.W. corner of township 37N, range 58E;
Thence Southerly to the S.W. corner of township 37N, range 58E;
Thence Easterly to the S.E. corner of township 37N, range 58E;
Thence Southerly to the N.E. corner of township 31N, range 58E;
Thence Westerly to the N.W. corner of township 31N, range 58E;
Thence Southerly to the S.W. corner of township 31N, range 58E;
Thence Westerly to the S.E. corner of township 31N, range 52E;
Thence Northerly to the N.E. corner of township 31N, range 52E;
Thence Westerly to the S.E. corner of township 32N, range 51E;
Thence Northerly to the point of beginning.

[FR Doc.73-19372 Filed 9-13-73;8:45 am]

## Public Papers of the Presidents of the United States

Annual volumes containing the public messages and statements, news conferences, and other selected papers released by the White House.

Volumes for the following years are now available:

### HARRY S. TRUMAN

| | | | |
|---|---|---|---|
| 1945 | $5.50 | 1949 | $6.75 |
| 1946 | $6.00 | 1950 | $7.75 |
| 1947 | $5.25 | 1951 | $6.25 |
| 1948 | $9.75 | 1952–53 | $9.00 |

### DWIGHT D. EISENHOWER

| | | | |
|---|---|---|---|
| 1953 | $6.75 | 1957 | $6.75 |
| 1954 | $7.25 | 1958 | $8.25 |
| 1955 | $6.75 | 1959 | $7.00 |
| 1956 | $7.25 | 1960–61 | $7.75 |

### JOHN F. KENNEDY

| | | | |
|---|---|---|---|
| 1961 | $9.00 | 1962 | $9.00 |
| 1963 | $9.00 | | |

### LYNDON B. JOHNSON

| | | | |
|---|---|---|---|
| 1963–64 (Book I) | $6.75 | 1966 (Book I) | $6.50 |
| 1963–64 (Book II) | $7.00 | 1966 (Book II) | $7.00 |
| 1965 (Book I) | $6.25 | 1967 (Book I) | $8.75 |
| 1965 (Book II) | $6.25 | 1967 (Book II) | $8.00 |
| 1968–69 (Book I) | $10.50 | | |
| 1968–69 (Book II) | $9.50 | | |

### RICHARD NIXON

| | | | |
|---|---|---|---|
| 1969 | $14.50 | 1970 | $15.75 |
| 1971 | $15.75 | | |

Published by Office of the Federal Register, National Archives and Records Service, General Services Administration

**Order from Superintendent of Documents, U.S. Government Printing Office Washington, D.C. 20402**


V38-178
SEP 14 73
XUM

179

September 17, 1973—Pages 25897–26091

# federal register

MONDAY, SEPTEMBER 17, 1973

WASHINGTON, D.C.

Volume 38 ■ Number 179

Pages 25897–26091

PART I

## HIGHLIGHTS OF THIS ISSUE

This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.

**GRANT TO THE REPUBLIC OF TURKEY OF DEFENSE ARTICLES AND SERVICES**—Presidential Memorandum to the Secretary of State .... 25903

**NUTRITIVE SWEETENERS**—FDA sets identity standards; effective 11–16–73 .... 25985

**HOUSING**—HUD rules on correction of structural defects; effective 10–4–73 .... 25993

**DELIVERY AND UNLOADING OF FOODSTUFFS**—ICC to consider lawfulness of allowances paid to warehousemen; comments by 10–15–73 .... 26031

**CUSTOMS BONDS**—Treasury Department proposes to revise regulations; comments by 11–16–73 .... 25995

**BACITRACIN–CONTAINING DRUGS** — FDA proposes change in moisture determination method; 11–16–73 26006

**ELECTRONIC PRODUCT RADIATION**—FDA proposal regarding product identification and initial reports; comments by 11–16–73 .... 25007

**TV AND FM TRANSLATOR STATIONS**—FCC amends rules on unattended operation; effective 10–23–73 25991

**MARITIME RADIO SERVICES**—FCC proposes to require frequency coordination for certain coast stations; comments by 10–23–73 .... 26008

**FOREIGN DIRECT INVESTMENTS**—Commerce Department issues 1973 General Bulletin; effective 9–17–73 25909

**MARGINAL RESERVES**—FRS raises requirements for selected classes of time deposits; effective 10–4–73 25985

**TUNG NUTS**—USDA proposals concerning 1973 crop support program; comments by 11–16–73 .... 26006

(Continued inside)

PART II:

**BLACK LUNG BENEFITS**—
Labor Department issues revisions; effective 9–17–73 .... 26042
Labor Department proposes reduction .... 26069

PART III:

**DISCLOSURE STATEMENTS**—Cost Accounting Standards Board proposes new forms for colleges and universities; comments by 11–16–73 .... 26071



V 38-179

SEP 17 73

XUM

# REMINDERS

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

### Rules Going Into Effect Today

This list includes only rules that were published in the FEDERAL REGISTER after October 1, 1972.

page no. and date

**SEPTEMBER 17**

FCC—MTS and WATS Services; new or revised classes .. 18256; 7–9–73

Atomic Energy—Miscellaneous Amendments to chapter ..... 22220; 8–17–73

Atomic Energy—Requalification Requirements for operating personnel of production and Utilization Facilities. 22221; 8–17–73

Part 50—Licensing of production and utilization facilities.

Part 55 Operators' Licenses.


federal register

Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by the Executive Branch of the Federal Government. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $2.50 per month or $25 per year, payable in advance. The charge for individual copies is 20 cents for each issue, or 20 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.




**HIGHLIGHTS—Continued**


ANTIDUMPING—
Tariff Commission to investigate expanded metal of base metal from Japan; hearing 10–24–73 ..... 26031
Tariff Commission notice of investigation of calcium pantotherate from Japan; hearing 11–6–73 26030

MEETINGS—
DOD: USAF Scientific Advisory Board Aeronautical Systems Division Advisory Group F–4 Structures Committee, 9–19 and 9–20–73 ..... 26011
State: National Committee for the International Radio Consultative Committee, Study Group 7, 9–27–73 .... 26011
HEW: NIH Breast Cancer Treatment Committee, 9–21–73 .. .... .... .... .... 26013
NIH Breast Cancer Treatment Committee's Subcommittee on Markers, 9–20–73 .... 26013
NIH Breast Cancer Diagnosis Committee, 9–20–73 26013
Advisory Committee on Accreditation and Institutional Eligibility, 9–24 and 9–25–73 .... 26013
Advisory Committee on Federal Pay, 9–17, 9–18, and 9–26–73 .. .. .... .... 26014


# Contents


## THE PRESIDENT

**Memorandum**

Memorandum of August 17, 1973, to the Secretary of State; determination regarding grant to Republic of Turkey ..... 25903

## EXECUTIVE AGENCIES

**ADVISORY COMMITTEE ON FEDERAL PAY**

Notices

Public meeting ..... 26014

**AGRICULTURAL MARKETING SERVICE**

Rules and Regulations

Limitation of handling:
Lemons grown in California and Arizona ..... 25908
Valencia oranges grown in Arizona and designated part of California ..... 25907

**AGRICULTURE DEPARTMENT**

*See* Agricultural Marketing Service; Commodity Credit Corporation; Federal Crop Insurance Corporation; Forest Service.

**AIR FORCE DEPARTMENT**

Notices

USAF Scientific Advisory Board; meeting ..... 26011

**ASSISTANT SECRETARY FOR HOUSING PRODUCTION AND MORTGAGE CREDIT OFFICE**

Rules and Regulations

Introduction; correction of structural or other defects in homes covered by mortgage insurance .. 25993

**ATOMIC ENERGY COMMISSION**

Notices

Commonwealth Edison Co.; availability of initial decision of Atomic Safety and Licensing Board and issuance of construction permits ..... 26014
Regulatory guides; issuance and availability ..... 26015

**BONNEVILLE POWER ADMINISTRATION**

Notices

Power Management Chief, Branch of Power Supply; redelegations of authority ..... 26011

**CIVIL AERONAUTICS BOARD**

Notices

*Hearings, etc.:*
International Air Transport Association (2 documents) ... 26015
Miami-Los Angeles Competitive Nonstop Case ..... 26017

**CIVIL SERVICE COMMISSION**

Rules and Regulations

Excepted service; Office of Emergency Preparedness ..... 25907

Notices

Noncareer executive assignments:
Department of Commerce; grant (2 documents) ..... 26017
Department of Defense; grant .. 26017
Department of Health, Education, and Welfare; grant ..... 26017
Department of Housing and Urban Development; grant and revocation (4 documents) .... 26017
Department of the Interior; revocation ..... 26017

**COMMERCE DEPARTMENT**

*See* Foreign Direct Investments Office; National Bureau of Standards; National Oceanic and Atmospheric Administration.

**COMMODITY CREDIT CORPORATION**

Proposed Rules

1973-crop tung nuts; support program ..... 26006

Notices

Sales of certain commodities; monthly sales list (fiscal year ending June 30, 1974) ..... 26011

**COST ACCOUNTING STANDARDS BOARD**

Proposed Rules

Disclosure statements for colleges and universities; basic requirements for form ..... 26071

**CUSTOMS SERVICE**

Proposed Rules

Customs bonds ..... 25995

**DEFENSE DEPARTMENT**

*See also* Air Force Department.

Rules and Regulations

Reporting procedures on defense related employment; list of DoD contracters receiving awards for FY 1973 ..... 25990

**EDUCATION OFFICE**

Notices

Advisory Committee on Accreditation and Institutional Eligibility; meeting ..... 26013

**EMPLOYMENT STANDARDS ADMINISTRATION**

Rules and Regulations

Claims for Black Lung benefits payable under Federal Coal Mine Health and Safety Act ... 26042

Proposed Rules

Black lung benefits program reduction; receipt of State or Federal benefit ..... 26069

**ENVIRONMENTAL QUALITY COUNCIL**

Notices

Environmental impact statements; public availability ..... 26017

**FEDERAL AVIATION ADMINISTRATION**

Rules and Regulations

Airspace docket; withdrawal .... 25907
Airworthiness directive; Fairchild aircraft ..... 25905
Control zone; alteration (2 documents) ..... 25905
Control zone and transition area; alteration and revocation (2 documents) ..... 25906, 25907
Transition area:
Alteration ..... 25906
Transition ..... 25907
VOR Federal airways; alteration and revocation; correction ..... 25907

Proposed Rules

Transition area; designation .... 26007

**FEDERAL COMMUNICATIONS COMMISSION**

Rules and Regulations

Coast stations in Alaska or fixed stations operating exclusively above 30 megahertz; assignment of call signs ..... 25991


(*Continued on next page*)



V 38-179 SEP 17 73 XUM

Experimental, auxiliary, and special broadcast, and other program distributional services; unattended operation of TV and FM translator stations ..... 25991
Radio broadcast services; table of assignments, FM broadcast stations in Columbus, Ind ..... 25991
Stations on shipboard in the maritime services; frequencies and conditions of use; correction ..... 25992

**Proposed Rules**

Stations on land in the Maritime Services; frequency coordination for use of marine limited coast stations ..... 26008
Television broadcast stations; table of assignments, Myrtle Beach, S. Carolina ..... 26008

**Notices**

Broadcasts of sports events; practices of licensees and networks; order further extending time for comments ..... 26020
Common carrier services information; domestic public radio services applications accepted for filing ..... 26020

**FEDERAL CROP INSURANCE CORPORATION**

**Rules and Regulations**

Federal crop insurance; 1969 and succeeding crop years; counties designated for barley crop insurance ..... 25907

**FEDERAL INSURANCE ADMINISTRATION**

**Rules and Regulations**

National flood insurance program; areas eligible for sale of insurance; status of participating communities ..... 25994

**FEDERAL POWER COMMISSION**

**Notices**

*Hearings, etc.:*
Arkansas Louisiana Gas Co ..... 26023
Cities Service Oil Co ..... 26023
Connecticut Light and Power Co ..... 26023
Delmarva Power and Light Co ..... 26024
El Paso Natural Gas Co ..... 26024
McCulloch Oil Corp ..... 26024
Sea Robin Pipeline Co ..... 26025
Southwest Gas Corp ..... 26026
Roy M. Teel ..... 26026
Terra Resources, Inc ..... 26026
Texas Eastern Transmission Corp ..... 26027
Texas Gas Transmission Co ..... 26027
Union Oil Company of California ..... 26027

**FEDERAL RESERVE SYSTEM**

**Rules and Regulations**

Reserves of member banks; reserve percentages ..... 25985

**Proposed Rules**

Credit by brokers and dealers; extension of time for comment ..... 26009

**Notices**

Fort Worth National Corp.; order approving acquisition of bank ..... 26027

**FISH AND WILDLIFE SERVICE**

**Rules and Regulations**

Hunting; certain national wildlife refuges in Oregon ..... 25992

**FOOD AND DRUG ADMINISTRATION**

**Rules and Regulations**

Nutritive sweeteners; dextrose monohydrate, dextrose anhydrous, glucose syrup, dried glucose syrup; definitions and standards of identity ..... 25985

**Proposed Rules**

Bacitracin and bacitracin-containing drugs; change of moisture determination ..... 26006
Control of electronic product radiation; products identification and initial reports ..... 26007

**FOREIGN DIRECT INVESTMENTS OFFICE**

**Rules and Regulations**

Foreign direct investment regulations; interpretative analyses and statements ..... 25909

**FOREST SERVICE**

**Notices**

Availability of environmental impact statements:
Communications sites on the Tongass and Chugach National Forests ..... 26012
Vegetation control by mechanical treatment in New Mexico ..... 26012

**HEALTH, EDUCATION, AND WELFARE DEPARTMENT**

*See* Education Office; Food and Drug Administration; National Institutes of Health.

**HOUSING AND URBAN DEVELOPMENT DEPARTMENT**

*See* Assistant Secretary for Housing Production and Mortgage Credit Office; Federal Insurance Administration.

**INDIAN AFFAIRS BUREAU**

**Rules and Regulations**

Licensed Indian traders; limits on trade with Government employees ..... 25987
Traders on Navajo, Zuni, and Hopi reservations; trade with Government employees ..... 25988

**INTERIOR DEPARTMENT**

*See* Bonneville Power Administration; Fish and Wildlife Service; Indian Affairs Bureau; National Park Service; Oil and Gas Office.

**INTERSTATE COMMERCE COMMISSION**

**Notices**

Argo-Collier Truck Lines, Inc., et al.; petition for declaratory order regarding loading/unloading contracts ..... 26031
Assignment of hearings ..... 26032
Fourth section applications for relief ..... 26032
Motor carrier temporary authority applications ..... 26033
Penn Central Transportation Co.; exemption from mandatory car service rules ..... 26037
St. Johnsbury & Lamoille County Railroad; rerouting or diversion of traffic ..... 26033

**LABOR DEPARTMENT**

*See also* Employment Standards Administration; Wage and Hour Division.

**Notices**

BGS Shoe Corp.; investigation regarding certification of eligibility of workers to apply for adjustment assistance ..... 26031

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**Notices**

Precision Control Products Corp.; intent to grant exclusive patent license ..... 26028

**NATIONAL BUREAU OF STANDARDS**

**Rules and Regulations**

Research associate program; availability of information ..... 25908

**NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION**

**Notices**

Intermeccanica Automobili; petition for temporary exemption from motor vehicle safety standards ..... 26014

**NATIONAL INSTITUTES OF HEALTH**

**Notices**

Meetings, National Cancer Institute:
Breast Cancer Diagnosis Committee ..... 26013
Breast Cancer Treatment Committee (2 documents) ..... 26013

**NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION**

**Notices**

G. L. Kooyman; issuance of letter of exemption under Marine Mammal Protection Act ..... 26012

**NATIONAL PARK SERVICE**

**Notices**

Delegations of authority:
Assistant Superintendent, et al., Olympic National Park ..... 26011
Superintendents, et al., Northeast Region ..... 26011

**OIL AND GAS OFFICE**

**Proposed Rules**

Refunds of license fees paid for imports of crude oil incorporated into asphalt; oil import bulletin ..... 26005







**SECURITIES AND EXCHANGE COMMISSION**

**Notices**

*Hearings, etc.:*
Banister Continental Ltd ..... 26028
Esmark, Inc. (2 documents) ..... 26029, 26030
ICN Pharmaceuticals, Inc ..... 26030
Merrill Lynch & Co., Inc. (2 documents) ..... 26029, 26030
Motorola, Inc ..... 26029
Teleprompter Corp ..... 26029

**STATE DEPARTMENT**

**Notices**

Study Group 7 of U.S. National Committee for International Radio Consultative Committee; meeting ..... 26011

**TARIFF COMMISSION**

**Notices**

Investigation and hearings:
Calcium pantothenate from Japan ..... 26030
Expanded metal, of base metal, from Japan ..... 26031
Collection of F.O.B. and C.I.F. data on imports; interim application of General Statistical Headnote 1 of TSUSA ..... 26030

**TRANSPORTATION DEPARTMENT**

*See* Federal Aviation Administration; National Highway Traffic Safety Administration.

**TREASURY DEPARTMENT**

*See* Customs Service.

**WAGE AND HOUR DIVISION**

**Rules and Regulations**

Wage orders; certain industries in Puerto Rico:
Children's dress and related products ..... 25988
Corsets, brassieres, and allied garments ..... 25989
Women's outerwear, needlework, and miscellaneous textile products ..... 25989


# List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month. In the last issue of the month the cumulative list will appear at the end of the issue.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1973, and specifies how they are affected.

**3 CFR**

PRESIDENTIAL DOCUMENTS OTHER THAN PROCLAMATIONS AND EXECUTIVE ORDERS:
Memorandum of August 17, 1973 ..... 25903

**4 CFR**

PROPOSED RULES:
351 ..... 26072

**5 CFR**

213 ..... 25907

**7 CFR**

401 ..... 25907
908 ..... 25907
910 ..... 25908
PROPOSED RULES:
1421 ..... 26006

**12 CFR**

204 ..... 25985
PROPOSED RULES:
220 ..... 26009

**14 CFR**

39 ..... 25905
71 (8 documents) ..... 25905–25907
PROPOSED RULES:
71 ..... 26007

**15 CFR**

256 ..... 25908
1000 ..... 29509

**19 CFR**

PROPOSED RULES:
10 ..... 25995
11 ..... 25995
12 ..... 25995
19 ..... 25995
24 ..... 25995
25 ..... 25995
113 ..... 25995
114 ..... 25995
141 ..... 25995
142 ..... 25995
172 ..... 25995

**20 CFR**

725 ..... 26042
PROPOSED RULES:
725 ..... 26069

**21 CFR**

26 ..... 25985
PROPOSED RULES:
141e ..... 26006
278 ..... 26007

**24 CFR**

200 ..... 25993
1914 ..... 25994

**25 CFR**

251 ..... 25987
252 ..... 25988

**29 CFR**

610 ..... 25988
612 ..... 25989
614 ..... 25989

**32 CFR**

166 ..... 25990

**32A CFR**

PROPOSED RULES:
Ch. X ..... 26005

**47 CFR**

2 ..... 25991
73 ..... 25991
74 (2 documents) ..... 25991, 25992
81 ..... 25991
83 ..... 25992
PROPOSED RULES:
73 (2 documents) ..... 26008

**50 CFR**

32 ..... 25992



V 38 I 179 SEP 17 73 XUM

Presidential Documents

## Title 3—The President

MEMORANDUM OF AUGUST 17, 1973

[Presidential Determination No. 74-1]

# Determination and Authorization of the Grant to the Republic of Turkey of up to $50 Million in Defense Articles and Services in FY 1974

Memorandum for the Secretary of State

THE WHITE HOUSE,
*Washington, August 17, 1973.*

In accordance with the recommendation in the Acting Secretary's memorandum of July 20, 1973, I hereby:

A. Determine, pursuant to Section 614(a) of the Foreign Assistance Act of 1961, as amended, (22 U.S.C. 2364), that the use of up to $50 million of funds available in FY 1974 for the grant of defense articles and services, including excess defense articles, to Turkey, without regard to the requirement of Section 514 of the act, is important to the security of the United States; and

B. Authorize, pursuant to Section 614(a) of the Act, such use of up to $50 million of funds for the grant of defense articles and services, including excess defense articles, to Turkey, without regard to the requirements of Section 514 of the Act.

This determination shall be published in the FEDERAL REGISTER.

Richard Nixon

[FR Doc.73-19803 Filed 9-13-73;3:11 pm]



V 38 - 179 SEP 17 73 XUM

# Rules and Regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 14—Aeronautics and Space

## CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 73-EA-61; Amdt. 39-1721]

## PART 39—AIRWORTHINESS DIRECTIVES

### Fairchild Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to Fairchild F-27 and FH-227 type aircraft.

There have been reports of cracked and corroded front and rear horizontal stabilizer spar fittings which, if left uncorrected, present a hazard to air safety. Since this deficiency can occur in aircraft of similar type design, an airworthiness directive is being issued which will require a periodic inspection and replacement, when necessary, of the spar fittings.

Since this deficiency poses a hazard to air safety, expeditious adoption of this amendment is required. Therefore, notice and public procedure hereon are impractical and good cause exists for making the amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 FR 13697) § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

FAIRCHILD: Applies to all Fairchild F-27 and FH-227 type aircraft certificated in all categories.

1. Within the next 150 hours in service, unless already accomplished within the last 2,350 hours in service, inspect the front and rear horizontal stabilizer spar fittings, P/Ns 27-213003-11, -12, and 27-213002-11, respectively, with 2,500 hours or more in service in accordance with Section 2 of Fairchild Service Bulletins F27-55-21 and FH-227-55-12 or approved equivalent inspection, and thereafter at intervals of one year or 2,500 hours in service, whichever occurs first.

2. Replace any corroded or cracked parts in accordance with Section 2 of Fairchild Service Bulletins F27-55-21 and FH-227-55-12 before further flight with parts of the same part number or approved equivalent new or reworked parts, except that the aircraft may be flown in accordance with FAR 21.197.

3. Upon submission of substantiating data by an owner or operator through an FAA Maintenance Inspector, the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region, may adjust the inspection interval specified in this AD. Equivalent inspections or parts must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(Fairchild Service Bulletins F27-55-21 and FH-227-55-12 pertain to this subject.)

This amendment is effective September 24, 1973.

(Sections 313(a), 601 and 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Jamaica, N.Y., on September 10, 1973.

ROBERT H. STANTON,
*Director, Eastern Region.*

[FR Doc.73-19635 Filed 9-14-73;8:45 am]

[Airspace Docket No. 73-EA-53]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

### Alteration of Control Zone

On page 19235 of the FEDERAL REGISTER for July 19, 1973, the Federal Aviation Administration published a proposed rule which would alter the Charleston, W. Va., Control Zone (38 FR 363).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted, effective 0901 G.m.t. November 8, 1973.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749 (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Jamaica, N.Y., on August 30, 1973.

ROBERT H. STANTON,
*Director, Eastern Region.*

1. Amend § 71.171 of Part 71 of the Federal Aviation regulations by deleting the description of the Charleston, W. Va., control zone and by substituting the following in lieu thereof:

Within a 5.5-mile radius of the center, 38°22'22" N., 81°35'35" W., of Kanawha Airport, Charleston, W. Va.; within a 6-mile radius of the center of the Kanawha Airport, extending clockwise from a 319° bearing to a 229° bearing from the airport; within 2 miles each side of the extended centerline of Runway 5, extending from the 5.5-mile radius to 6.5 miles northeast of the lift-off end of Runway 5; within 1.5 miles each side of the extended centerline of Runway 14, extending from the 5.5-mile radius to 6.5 miles southeast of the lift-off end of Runway 14; within 2 miles each side of the Charleston VORTAC 081° radial, extending from the 5.5-mile radius to 2 miles east of the VORTAC; within 2 miles each side of the extended centerline of Runway 23, extending west of the lift-off end of Runway 23 and within 2 miles each side of the extended centerline of Runway 32, extending from the 5.5-from the 5.5-mile radius to 6.5 miles southmile radius to 6.5 miles northwest of the lift-off end of Runway 32.

[FR Doc.73-19640 Filed 9-14-73;8:45 am]

[Airspace Docket No. 73-EA-45]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

### Alteration of Control Zone

On page 17249 of the FEDERAL REGISTER for June 29, 1973, the Federal Aviation Administration published a proposed rule which would alter the Teterboro, N.J., Control Zone (38 FR 426).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted, effective 0901 G.m.t. November 8, 1973, except as follows:

1. Amend Item 1 by deleting the phrase "within 3.5 miles each side of the Teterboro VOR 018° radial, extending from the 5-mile-radius zone to 8.5 miles northeast of VOR,"

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749 (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Jamaica, N.Y., on September 5, 1973.

ROBERT H. STANTON,
*Director, Eastern Region.*

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations by deleting the description of the Teterboro, N.J., control zone and by substituting the following in lieu thereof:

Within a 5-mile radius of the center, 40°50'57" N., 74°03'47" W. of Teterboro Airport, Teterboro, N.J.; within 3.5 miles each side of the Teterboro Airport ILS localizer southwest course, extending from the 5-mile-radius zone to 11 miles southwest of the OM; excluding the portion that coincides with the Newark, N.J., control zone.

[FR Doc.73-19637 Filed 9-14-73;8:45 am]



V 38 - 179 SEP 17 73 XUM

[Airspace Docket No. 73-EA-42]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

### Alteration of Control Zone and Revocation and Alteration of Transition Area

On page 17248 of the FEDERAL REGISTER for June 29, 1973, the Federal Aviation Administration published a proposed rule which would alter the Poughkeepsie, N.Y., Control Zone (38 FR 413) and Transition Area (38 FR 561) and revoke the Millbrook, N.Y., Transition Area (38 FR 534).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

A subsequent review has, however, indicated a need to make minor adjustments in the description, which are of a minor or less restrictive nature, thereby eliminating a need for notice and public procedure on such changes.

In view of the foregoing, the proposed regulations are hereby adopted, effective 0901 G.m.t. November 8, 1973, except as follows:

(1) Under Item 1 change "231°" to read "230°"

(2) Under Item 2 delete "within 3.5 miles each side of the Kingston, N.Y., VORTAC 323° radial, extending from the VORTAC to 11.5 miles northwest of the VORTAC,"

(3) Add the following item:

3. Amend section 71.181 of Part 71 of the Federal Aviation Regulations so as to revoke the Millbrook, N.Y., Transition Area.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749 (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Jamaica, N.Y., on September 5, 1973.

ROBERT H. STANTON,
*Director, Eastern Region.*

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations by deleting the description of the Poughkeepsie, N.Y., control zone and by substituting the following in lieu thereof:

Within a 5-mile radius of the center, 41°37'36" N., 73°52'59" W., of Dutchess County Airport, Poughkeepsie, N.Y., within 3.5 miles each side of the Kingston, N.Y., VORTAC 025° radial, extending from the VORTAC to 9.5 miles northeast of the VORTAC; within 2 miles each side of the Kingston, N.Y., VORTAC 230° radial, extending from the 5-mile-radius zone to 10.5 miles southwest of the VORTAC.

2. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by deleting in the description of the Poughkeepsie, N.Y., transition area, all before "That airspace extending upward from 1,200 feet above the surface" and by substituting the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the center, 41°37'36" N., 73°52'59" W., of Dutchess County Airport, Poughkeepsie, N.Y.; within a 15.5-mile radius of the center of Dutchess County Airport, extending clockwise from a 040° bearing to a 215° bearing from the airport; within 3.5 miles each side of the Kingston, N.Y., VORTAC 025° radial, extending from the 10-mile-radius area to 10.5 miles northeast of the VORTAC; within 6.5 miles northwest and 4.5 miles southeast of a 231° bearing from a point 41°34'06" N., 73°58'42" W., extending from said point to 11.5 miles southwest; within 5 miles each side of a direct line between a point 41°31'42" N., 74°06'48" W., and a point 41°34'06" N., 73°58'42" W.; within a 5-mile radius of the center, 41°42'30" N., 73°44'00" W., of Sky Acres Airport, Millbrook, N.Y.; within an 8.5-mile radius of the center of Sky Acres Airport extending clockwise from a 011° bearing to a 201° bearing from the airport; within a 6-mile radius of the center 41°34'30" N., 73°44'00" W., of Stormville Airport, Stormville, N.Y.; within a 10.5-mile radius of the center of Stormville Airport, extending clockwise from a 327° bearing to a 077° bearing from the airport; within a 7.5-mile radius of the center of Stormville Airport, extending clockwise from a 077° bearing to a 121° bearing from the airport; within a 10.5-mile radius of the center of Stormville Airport, extending clockwise from a 121° bearing to a 239° bearing from the airport; excluding the portion that coincides with the Newburgh, N.Y. transition area.

3. Amend section 71.181 of Part 71 of the Federal Aviation Regulations so as to revoke the Millbrook, N.Y., Transition Area.

[FR Doc.73-19636 Filed 9-14-73;8:45 am]

[Airspace Docket No. 73-EA-55]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

### Alteration of Control Zone and Transition Area

On page 19235 of the FEDERAL REGISTER for July 19, 1973, the Federal Aviation Administration published a proposed rule which would alter the Lakehurst, N.J., Control Zone (38 FR 392) and Wrightstown, N.J., Transition Area (38 FR 603).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted, effective 0901 G.m.t. November 8, 1973.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749 (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655 (c)).)

Issued in Jamaica, N.Y., on August 30, 1973.

ROBERT H. STANTON,
*Director, Eastern Region.*

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations by deleting the description of the Lakehurst, N.J., control zone and substituting the following in lieu thereof:

Within a 5-mile radius of the center 40°02'00" N., 74°21'00" W. of NAS Lakehurst, Lakehurst, N.J.; within 3 miles each side of the 050° bearing from the Navy Lakehurst UHF RBN, extending from the 5-mile-radius zone to 8.5 miles northeast of the RBN. This control zone is effective from 0700 to 2300 hours, local time, daily.

2. Amend § 71.181 of Part 71 of the Federal Aviation regulations so as to amend the description of the Wrightstown, N.J. transition area by deleting the following: "within a 12-mile radius of NAS Lakehurst (West Field) (Latitude 40°02'05" N. Longitude 74°21'05" W.)" and by substituting the following in lieu thereof:

* * * within a 9.5-mile radius of the center, 40°02'00" N., 74°21'00", W. of NAS Lakehurst, Lakehurst, N.J.; within a 13-mile radius of the Navy Lakehurst TACAN, extending clockwise from the Navy Lakehurst TACAN 310° radial to the 148° radial; within 5 miles each side of the Coyle VORTAC 03° radial, extending from the Coyle VORTAC to 13 miles northeast; within 5 miles each side of the Robbinsville VORTAC 148° radial, extending from the Robbinsville VORTAC to 18.5 miles southeast; within 3 miles southwest and five miles northeast of the Navy Lakehurst TACAN 148° radial, extending from the TACAN to 14 miles southeast; within 3.5 miles each side of the 050° bearing from the Navy Lakehurst UHF RBN, extending from the RBN to 11.5 miles northeast.

[FR Doc.73-19642 Filed 9-14-73;8:45 am]

[Airspace Docket No. 73-EA-54]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

### Alteration of Transition Area

On page 19235 of the FEDERAL REGISTER for July 19, 1973, the Federal Aviation Administration published a proposed rule which would alter the Coatesville, Pa., Transition Area (38 FR 464).

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are herby adopted, effective 0901 G.m.t. November 8, 1973.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749 (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Jamaica, N.Y., on August 30, 1973.

ROBERT H. STANTON,
*Director, Eastern Region.*

1. Amend § 71.181 of Part 71 of the Federal Aviation regulations by deleting the description of the Coatesville, Pa., transition area and by substituting the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the center 39°58'40" N., 75°51'44" W., of Chester County G. O. Carlson Airport, Coatesville, Pa., extending clockwise from a 024° bearing to a 231° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 231° bearing to a 024° bearing from the airport; within 3.5 miles each side of a 283° bearing from the Coatesville RBN (39°59'-32" N., 75°56'32" W.), extending from the 6-mile radius arc to 11.5 miles west of the RBN; within 4.5 miles south and 6.5 miles north of the Modena VORTAC 095° and 275° radials, extending from 11.5 miles east to 5.5 miles west of the VORTAC; within 5 miles each side of the Modena VORTAC 293° radial extending from the VORTAC to 11 miles northwest of the VORTAC, excluding the portion that coincides with the Toughkenamon, Pa., transition area.

[FR. Doc.73-19641 Filed 9-14-73;8:45 am]





[Airspace Docket No. 73-EA-62]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

### Designation of Transition Area

On page 20097 of the FEDERAL REGISTER for July 27, 1973, the Federal Aviation Administration published a proposed rule which would designate a Chesterfield, Va., Transition Area.

Interested parties were given 20 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulation is hereby adopted, effective 0901 G.m.t. November 8, 1973.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749 (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Jamaica, N.Y., on August 30, 1973.

ROBERT H. STANTON,
*Director, Eastern Region.*

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by designating a Chesterfield, Va., transition area as follows:

CHESTERFIELD, VA.

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of the center 37°24'25" N., 77°31'18" W. of Chesterfield County Airport, Chesterfield, Va., and within 2.5 miles each side of the Flat Rock, Va., VORTAC 117° radial, extending from the 5.5-mile-radius area to 12.5 miles southeast of the VORTAC.

[FR Doc.73-19643 Filed 9-14-73;8:45 am]

[Airspace Docket No. 73-EA-51]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

### Withdrawal of Airspace Docket

The Federal Aviation Administration is withdrawing Airspace Docket 73-EA-51, which was to become effective on September 13, 1973. Because of a change in planning, it is represented that the Weatherly RBN will not be deactivated.

In view of the foregoing, Air space Docket 73-EA-51 is hereby withdrawn, effective September 17, 1973.

(Sec. 307(a), Federal Aviation Act of 1958, 72 Stat. 749 (49 U.S.C. 1348), sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c).)

Issued in Jamaica, N.Y., on September 4, 1973.

ROBERT H. STANTON,
*Director, Eastern Region.*

[FR Doc.73-19638 Filed 9-14-73;8:45 am]

[Airspace Docket No. 73-SW-36]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

### Alteration and Revocation of VOR Federal Airways

*Correction*

In FR Doc. 73-18697, appearing on page 23941, in the issue for Wednesday, September 5, 1973, in the paragraph numbered "4" the reference to "V-164" should read "V-163".

## Title 5—Administrative Personnel

## CHAPTER I—CIVIL SERVICE COMMISSION

## PART 213—EXCEPTED SERVICE

### Office of Emergency Preparedness

Section 213.3326 is amended to show that one position of Director of Liaison is no longer excepted under Schedule C.

Effective on September 17, 1973, § 213.3326(f)(1) is revoked.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954-58 Comp. p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73-19659 Filed 9-14-73;8:45 am]

## Title 7—Agriculture

## CHAPTER IV—FEDERAL CROP INSURANCE CORPORATION, DEPARTMENT OF AGRICULTURE

## PART 401—FEDERAL CROP INSURANCE

### Subpart—Regulations for the 1969 and Succeeding Crop Years

COUNTIES DESIGNATED FOR BARLEY CROP INSURANCE

Pursuant to authority contained in § 401.101 of the above-identified regulations, as amended, the following counties are hereby added to the list of counties published January 18, 1973 (38 FR 1726), which were designated for barley crop insurance for the 1974 crop year.

MINNESOTA

BIG STONE

DOUGLAS

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516.)

[SEAL] M. R. PETERSON,
*Manager,*
*Federal Crop Insurance Corporation.*

[FR Doc.73-19677 Filed 9-14-73;8:45 am]

## CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Regulation 448, Amendment 1]

## PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

### Limitation of Handling

This regulation increases the quantity of California-Arizona Valencia oranges that may be shipped to fresh markets during the weekly regulation period September 7-13, 1973. The quantity that may be shipped is increased due to improved market conditions for California-Arizona Valencia oranges. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 908.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674) and upon the basis of the recommendation and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for an increase in the quantity of oranges available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Valencia Orange Regulation 448 (38 FR 24215). The marketing picture now indicates that there is a greater demand for Valencia oranges than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of Valencia oranges to fill the current demand thereby making a



V 38-179 SEP 17 73 XUM

greater quantity of Valencia oranges available to meet such increased demand, the regulation should be amended, as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of Valencia oranges grown in Arizona and designated part of California.

(b) *Order, as amended.* The provisions in paragraph (b)(1)(ii) of § 908.748 (Valencia Orange Regulation 448 (38 FR 24215)) are hereby amended to read as follows:

§ 908.718 Valencia Orange Regulation 448.

* * * * *

(b) *Order.* (1) * * *

"(ii) District 2: 525,000 cartons."

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated September 12, 1973.

CHARLES R. BRADER,
*Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.73-19720 Filed 9-14-73; 8:45 am]

[Lemon Regulation 604]

## PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

### Limitation of Handling

This regulation fixes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period September 16–22, 1973. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910. The quantity of lemons so fixed was arrived at after consideration of the total available supply of lemons, the quantity of lemons currently available for market, the fresh market demand for lemons, lemon prices, and the relationship of season average returns to the parity price for lemons.

§ 910.904 Lemon Regulation 604.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended 7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of lemons that may be marketed during the ensuing week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation with respect to the quantity of lemons it deems advisable to be handled during the ensuing week. Such recommendation resulted from consideration of the factors enumerated in the order. The committee further reports the demand for lemons is easier, generally, because of cooling temperatures. Sales this week are expected to increase 10 percent because of a 5 day week, compared with 4 days last week, and f.o.b. price is estimated to decrease about 25 cents per carton. Average f.o.b. price was $8.30 per carton the week ended September 8, 1973, compared to $7.83 per carton the previous week. Track and rolling supplies at 137 cars were up 18 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on September 11, 1973.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period September 16, 1973, through September 22, 1973, is hereby fixed at 225,000 cartons.

(2) As used in this section, "handled", and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: September 13, 1973.

CHARLES R. BRADER,
*Acting Deputy Director, Fruit and Vegetable Division Agricultural Marketing Service.*

[FR Doc.73-19707 Filed 9-13-73;2:47 pm]

## Title 15—Commerce and Foreign Trade

### Subtitle B—Regulations Relating to Commerce and Foreign Trade

### CHAPTER II—NATIONAL BUREAU OF STANDARDS, DEPARTMENT OF COMMERCE

### PART 256—RESEARCH ASSOCIATE PROGRAM

### Availability of Information

Because of a change in the name of the office administering the Research Associate Program, § 256.6 is revised to read as follows:

§ 256.6 Information concerning the Research Associate Program.

Information concerning the Research Associate Program may be obtained from the Office of Professional and Academic Liaison, National Bureau of Standards, Washington, D.C. 20234.

(27 Stat. 395, 31 Stat. 1039; 20 U.S.C. 91.)

*Effective date.*—This revision shall become effective on September 17, 1973.

Dated September 12, 1973.

RICHARD W. ROBERTS,
*Director.*

[FR Doc.73-19727 Filed 9-14-73;8:45 am]





## CHAPTER X—OFFICE OF FOREIGN DIRECT INVESTMENTS, DEPARTMENT OF COMMERCE

### PART 1000—FOREIGN DIRECT INVESTMENT REGULATIONS

### Interpretative Analyses and Statements

Notice is hereby given that the Office of Foreign Direct Investments (OFDI) has issued a 1973 General Bulletin (the 1973 Bulletin or the Bulletin), interpreting and analyzing the Foreign Direct Investment Program (the program) for calendar year 1973.

The purpose of the Bulletin is to interpret, explain, and amplify, by text and illustrative examples, principal provisions of the current regulations. Statements in the Bulletin may have the effect of qualifying or modifying provisions of the regulations, the instructions applicable to reporting forms, or other official OFDI publications. Unless subsequently modified or rescinded by public notice, statements contained in this Bulletin shall represent the official position of OFDI.

General Bulletin No. 1 and General Bulletin No. 2, dated October 10 and 25, 1968 (33 FR 15158 and 15834), were issued by OFDI as general interpretative guidelines for the regulations applicable to the program in effect during 1968. The 1969 General Bulletin (the 1969 Bulletin), issued November 5, 1969 (34 FR 17806), interpreted the regulations as in effect during 1969. The 1970 Bulletin, issued October 7, 1970 (35 FR 15671), interpreted the regulations as in effect during 1970, and, with Supplement No. 1, issued May 26, 1971 (36 FR 9502), was also applicable to the regulations as in effect during 1971. The 1972 General Bulletin (the 1972 Bulletin), issued September 9, 1972 (37 FR 18294), interpreted the regulations as in effect during 1972. General Bulletins Nos. 1 and 2, the 1969 Bulletin, the 1970 Bulletin and Supplement No. 1 thereto and the 1972 Bulletin are hereby superseded insofar as concerns compliance with the regulations in effect for 1973, and extreme care should be exercised in basing substantive decisions upon the material in the earlier Bulletins and Supplement. In case of doubt concerning relevance of any such material, OFDI should be consulted.

Since the 1973 Bulletin is principally interpretative, it is not published in proposed form for comment.

*Effective date.*—The 1973 Bulletin shall be effective on September 17, 1973 and unless otherwise indicated, shall be applicable to all transactions occurring on or after January 1, 1973.

(Sec. 5, Act of Oct. 6, 1917, 40 Stat. 415, as amended, 12 U.S.C. 95a; E.O. 11387, Jan. 1, 1968, 33 FR 47.)

ROBERT H. ENSLOW,
*Director, Office of Foreign Direct Investments.*

AUGUST 29, 1973.

EDITORIAL NOTE.—The Foreign Direct Investment Regulations are published in Title 15, Chapter X, Part 1000 of the Code of Federal Regulations (CFR). All sections of the regulations contained in CFR are preceded by the designation "1000" (e.g. § 1000.201). The "1000" designation has, for convenience, been eliminated from section references contained in this 1972 Bulletin. Sections of the Bulletin correspond to section numbers of the regulations, but are distinguished by use of the prefix "B" and a hyphenated numeral suffix indicating major topical divisions of the analytical discussion (e.g., § B201–1). The abbreviations "DI", "AFN" and "OFS" are used to refer to "direct investor", "affiliated foreign national" and "overseas finance subsidiary", respectively.

TABLE OF CONTENTS FOR 1973 GENERAL BULLETIN


INTRODUCTION

*General*

The 1973 program.
(i) Allowables.
(ii) Export credit exemption.
(iii) Two-month extension.
(iv) Allocation of proceeds expended during 1965, 1966, or 1967.
(v) Acquisition by a DI of an equity interest in, or debt obligation of, an AFN from a person within the United States.
(vi) Combination of DIs or of a DI and a person within the United States.

Summary of the Regulations.
(i) Applicability.
(ii) Requirements and restrictions.
(iii) Calculation of direct investment.
(iv) Authorized direct investment.
(v) Long-term foreign borrowing.
(vi) Foreign balance restrictions.
(vii) Reporting requirements.

Additional comments.

**B201—Prohibited Direct Investment**

§ B201–1 Introduction.
§ B201–2 General prohibition.
§ B201–3 Exclusions.
(i) Financial institutions.
(ii) Transfers of capital to foreign owners.
§ B201–4 Reduction of authorized direct investment or of period for measuring compliance.

**B203—Liquid Foreign Balances**

§ B203–1 Introduction.
§ B203–2 Summary.
§ B203–3 Definition of foreign balances.
§ B203–4 Definition of liquid foreign balances.
§ B203–5 Foreign balances deemed held by a DI.
§ B203–6 Valuation of foreign balances.
§ B203–7 Limitation on amount of liquid foreign balances.
§ B203–8 Available proceeds of long-term foreign borrowing: Effect on positive net transfer of capital. [Revoked]

**B304—Affiliated Foreign Nationals**

§ B304–1 Introduction.
§ B304–2 Summary.
§ B304–3 Requisite financial interest.
§ B304–4 Foreign nationals.
(i) Corporations.
(ii) Partnerships.
(iii) Business ventures.
§ B304–5 Specific exceptions.
§ B304–6 Application of § 304.

**B305—Direct Investor**

**B306—Direct Investment**

§ B306–1 Introduction.
§ B306–2 Summary.
§ B306–3 Relation of § 306 to other sections.
§ B306–4 Application of § 306.
§ B306–5 Basic definition and calculation of direct investment.
§ B306–6 Reinvested earnings of incorporated AFNs.
(i) Total earnings.
(ii) DI's share of total earnings.
(iii) Reinvested earnings.
§ B306–7 Deduction from positive direct investment: Allocated proceeds of long-term foreign borrowing.
(i) Recalculation of worldwide positive direct investment under § 503 and combined Schedule B/C positive direct investment under § 507.
(ii) Relation to § 313(d)(1) deductions.
(iii) Treatment of aggregate annual losses in recalculating 1969 direct investment under § 503 by scheduled area.
(iv) Apportionment by other methods.
§ B306–8 Calculation of direct investment during year of acquisition or disposition of interest in an AFN.

**B312—Transfers of Capital**

§ B312–1 Introduction.
§ B312–2 Summary.
§ B312–3 Valuation of transfers of capital.
§ B312–4 Acquisition of interest in an AFN.
(i) Equity financing.
(ii) Contingent consideration.
(iii) Unincorporated AFNs.
§ B312–5 Acquisition of an AFN's debt obligation.
§ B312–6 Contributions by a DI to capital of AFNs.
§ B312–7 Repayment of DI's indebtedness to an AFN.
§ B312–8 Reduction of an AFN's equity interest in a DI.
§ B312–9 Disposition of an equity or debt interest in a DI held by an AFN.
§ B312–10 DI's satisfaction of an AFN's debt obligation.
§ B312–11 Repayment of a DI's long-term foreign borrowing.
§ B312–12 Lease of property by a DI to an AFN.
§ B312–13 Inducements for loans to a DI or to an AFN.
§ B312–14 Indirect transfers by a DI to an AFN.
§ B312–15 Transfers of capital by an AFN to a DI.
(i) Acquisition by AFN of interest in DI.
(ii) Export-related credit.
(iii) Accounts receivable.
(iv) Disposition by DI of interest in AFN.
(v) Breach of warranty.
§ B312–16 Sale of an AFN to an unaffiliated foreign national with deferred payment.
§ B312–17 Triangular and parallel financing.
§ B312–18 Certain transactions not involving a transfer of capital: § 312(c).
§ B312–19 Unenumerated transactions not involving a transfer of capital.
§ B312–20 International construction projects.
§ B312–21 Expropriation.
§ B312–22 Export credit.

**B313—Net Transfer of Capital**

§ B313–1 Introduction.
§ B313–2 Net transfer of capital to incorporated AFNs.
§ B313–3 Net transfer of capital to unincorporated AFNs.
(i) General.
(ii) Rules applicable to § 313(b).




V 38-179 SEP 17 73 XUM

§ B313–4 DI's share of net change in assets under § 313(b).
(i) Direct ownership.
(ii) Indirect ownership.
§ B313–5 Special treatment of certain § 312 transfers in computing net transfer of capital to unincorporated AFNs.
(i) Repayment of long-term foreign borrowing.
(ii) Transfers under § 312(a)(9).
(iii) Offshore drilling rigs.
§ B313–6 Deduction for expended proceeds of long-term foreign borrowing.
§ B313–7 Step acquisitions.
§ B313–8 Repayment of debt by AFN to DI; prior-year treatment.

**B319—Schedule A, B and C Countries**

**B321—Calendar Year and Fiscal Year**

**B322—Person Within the United States**

§ B322–1 Introduction.
§ B322–2 Individuals.
(i) Residence.
(ii) Center of economic interest.
§ B322–3 Corporations or partnerships.
§ B322–4 Trusts.
§ B322–5 Estates.
§ B322–6 Domestic banks.
§ B322–7 Special cases.

**B323—International Finance Subsidiaries**

**B324—Long-Term Foreign Borrowing**

§ B324–1 Introduction.
§ B324–2 Related sections.
(i) Section 1002
(ii) Section 203(c).
(iii) Subpart N.
§ B324–3 Summary of § 324
§ B324–4 Definition of long-term foreign borrowing.
(i) Borrowings made prior to January 1, 1968.
(ii) Borrowings made on or after January 1, 1968, and prior to June 10, 1968.
(iii) Borrowings made on or after June 10, 1968: § 324(a)(1) and former § 324(e).
(iv) Borrowings made on or after May 1, 1970.
§ B324–5 Refinancing.
(i) Refinancing under § 324(b)(1).
(ii) Refinancing of long-term foreign borrowing made prior to May 1, 1970.
§ B324–6 Proceeds of long-term foreign borrowing.
§ B324–7 Available proceeds.
§ B324–8 Expenditure of available proceeds and deduction from net transfer of capital.
(i) Worldwide basis.
§ B324–9 Allocation of available proceeds.
§ B324–10 Allocation of expended proceeds and reallocation of previously allocated proceeds.
§ B324–11 Repayment of long-term foreign borrowing.
§ B324–12 Recordkeeping.
§ B324–13 Borrowings denominated in a foreign currency.

**B502—Election of Allowables**

**B503—Worldwide Minimum Allowable**

§ B503–1 Introduction.
§ B503–2 Summary.
§ B503–3 Calculation of direct investment under § 503.
(i) Worldwide basis.
(ii) Treatment of aggregate annual losses in 1969.
(iii) Canadian AFNs.
§ B503–4 Carryforwards.
§ B503–5 Related provisions.
(i) Associated groups and persons owning interests in DIs.
(ii) Apportionment of borrowing deduction.

**B504—Schedular Allowables**

§ B504–1 Introduction.
§ B504–2 Summary.
§ B504–3 Calculation of historical allowables under § 504(a).
§ B504–4 Calculation of § 504(b) earnings allowables and § 504(c) earnings adjustment to § 504(a) historical allowables.
(i) Section 504(b): 40 percent earnings allowables.
(ii) Section 504(c): "Upstream" use of allowables.
§B 504–5 Transfer or carryforward of schedular allowables.
(i) Schedule A carryforward.
(ii) Schedule B downstream or carryforward.
(iii) Schedule C downstream or carryforward.
§ B504–6 Total losses of incorporated AFNs in Schedule C.
§ B504–7 Related provisions.

**B505—Transfers of Capital Between Affiliated Foreign Nationals**

§ B505–1 Introduction.
§ B505–2 Summary.
§ B505–3 Transfers by or to unincorporated AFNs attributed to immediate parent.
§ B505–4 Treatment of transfers deemed made under § 505(a)(1).
§ B505–5 Transfers between incorporated AFNs.
§ B505–6 Purchase and sale of interests in other AFNs.
(i) Purchase of AFN.
(ii) Sale of AFN.
§ B505–7 Transactions between AFNs not involving transfers of capital.
(i) Stock for stock transactions and reorganizations.
(ii) Transfers of certain intangibles.
(iii) Vessel charters.
(iv) Short-term trade credits between AFNs.
§ B505–8 Transactions between AFNs and their branches in different scheduled areas.
§ B505–9 Miscellaneous transactions.

**B506—Incremental Earnings Allowable**

§ B506–1 Introduction.
§ B506–2 Summary.
§ B506–3 Calculation of incremental earnings allowable.
§ B506–4 Application of the § 506 allowable.
§ B506–5 Carryforward of the § 506 allowable.
§ B506–6 Miscellaneous.

**B507—Alternative Minimum and Schedule A Supplemental Allowable**

[Revoked.]

**B801—Applications for Specific Authorizations or Exemptions or for Interpretive Opinions**

§ B801–1 Introduction.
§ B801–2 Procedures.
§ B801–3 Particular authorizations or exemptions.

**B900—Subpart I (§§ 901–907)**

§ B900–1 Introduction.
§ B901–1 Definition of direct interest.
(i) Direct interest in a corporation.
(ii) Direct interest in unincorporated business activities.
§ B902–1 Definition of indirect interest.
§ B903–1 Definition of affiliate.
(i) Consequences of being an affiliate.
(ii) Definition of affiliated group.
(iii) Treatment of members of an affiliated group as a single person.
§ B904–1 Definition of family group.
§ B905–1 Definition of associated group.
(i) Acting in concert pursuant to an agreement or understanding.
(ii) Aggregate 10 percent interest.
(iii) Members of associated group as separate DIs.
(iv) Associated group investment under §§ 503 and 507.
(v) Related AFNs.
(vi) Effect of § 505.
(vii) Reporting.
§ B906–1 Ownership of DIs.
§ B906–2 Persons deemed acting for or on behalf of a DI.
§ B906–3 Election under § 906(b)(1).
(i) Conditions for making election.
(ii) Procedure for making election.
(iii) Effect of election.
(iv) Election by affiliated groups.
(v) Limitation on use of § 503(d) by consenting owners.
§ B907–1 Reporting.
(i) Consenting owners.
(ii) Nonconsenting owners and owners of indirect interests.
(iii) Associated groups.
(iv) Affiliated and family groups.

**B1000—Subpart J (§§ 1001–1003)**

§ B1000–1 Introduction.
§ B1001–1 Definition of borrowing by a DI and by an AFN.
§ B1001–2 Borrowing by a business venture AFN.
§ B1001–3 Definition of guarantee.
§ B1001–4 DI's guarantee of an AFN borrowing.
§ B1002–1 Authorization of positive direct investment attributable to repayment of certain borrowings.
(i) Preprogram guarantee of AFN borrowing.
(ii) Repayment of AFN bank borrowing made or committed prior to January 1, 1968.
(iii) Repayment of AFN borrowing pursuant to guarantee made in the period January 1, 1968, through June 9, 1968.
(iv) Repayment of a long-term foreign borrowing made prior to January 1, 1968.
(v) Repayment of a long-term foreign borrowing made in the period from January 1, 1968 through June 9, 1968.
(vi) Repayment through conversion of debt obligations into stock of DI.
(vii) Guarantee made on or after June 10, 1968.
(viii) Repayment of long-term foreign borrowing made on or after June 10, 1968.







§ B1002–2 Standard Certificate Form FDI–106.
(i) Item I.
(ii) Item II.
(iii) Item IV.
(iv) Item V.
(v) Item VI.
§ B1002–3 Certification with respect to convertible debt.
§ B1003–1 Effect of transfers of capital in repayment of borrowings.
(i) The repayment charge.
(ii) Reduction of allowables.
(iii) Use of negative direct investment made by § 503 DIs to reduce carried forward repayment charges.
(iv) Reduction of allowables under § 507.

**B1100—Subpart K (§§ 1101–1107)**

§ B1100–1 Introduction.
§ B1101–1 Canadian AFNs and non-Canadian Schedule B AFNs.
§ B1102–1 Authorized positive direct investment in Canadian AFNs.
(i) Calculation of positive direct investment in Canada (§§ 1103–1104).
§ B1105–1 Canadian foreign balances.
§ B1106–1 Long-term foreign borrowing from Canada.
(i) Public offerings prior to April 1, 1968.
(ii) Public offerings on or after April 1, 1968.

**B1300—Subpart M (§§ 1301–1303)**

§ B1300–1 Introduction.
§ B1301–1 Exclusion from transfers of capital.
§ B1302–1 Earnings allowable for foreign air transport operations.
(i) Aggregate annual foreign air transport earnings.
(ii) Relation of § 1302 to § 504.
(iii) Carryforwards.
(iv) Repayment charges under § 1003.
§ B1302–2 Reporting.
§ B1303–1 Coordination of §§ 504, 506 and 1302.

**B1400—Subpart N (§§ 1401–1405)**

§ B1400–1 Introduction.
§ B1401–1 Definitions.
§ B1402–1 Qualification.
§ B1403–1 Transfers of overseas proceeds; foreign balances.
§ B1404–1 Repayment of overseas borrowing and proceeds borrowing.
§ B1405–1 Authorized repayments.
§ B1406–1 Interchange of borrowing by DI and OFS.
§ B1407–1 Assumption by DI of borrowing by its OFS.


INTRODUCTION

*General.*—The 1973 Bulletin is designed to provide a reliable and authoritative source of information concerning interpretation and application of the regulations as in effect for 1973. In connection with questions arising under the regulations as in effect during prior years, DIs should refer to General Bulletins Nos. 1 and 2 (33 FR 15158 and 15834) (1968), the 1969 Bulletin (34 FR 17806), the 1970 Bulletin (35 FR 15671), Supplement No. 1 (36 FR 9502) (1971), and the 1972 Bulletin (37 FR 18294) (1972). Examples in the 1973 Bulletin illustrating transactions occurring during prior years are dispositive of the same transaction under the 1973 regulations, unless it is expressly indicated that an example involves the regulations only as in effect during a prior year or years.

*The 1973 program.*—The following are the major changes made in the program for 1973:

(i) *Allowables.*—The alternative minimum allowables of §§ 503 and 507 have been consolidated for 1973 by increasing the annual amount of positive direct investment that a DI may make in 1973 under the § 503 worldwide minimum allowable from $2 million to $6 million. There is, therefore, no need to retain the schedular complexity of the § 507 alternative minimum and Schedule A supplemental allowable, and that section has been revoked. The historical and earnings allowables under § 504 are the same for 1973 as they were for 1972. The manner in which the § 506 incremental earnings allowable is computed has been changed for 1973, because the increase in the § 503 allowable could have operated to decrease the amount of incremental earnings allowable for some DIs. As a result, § 506(a)(4) no longer refers to the § 503 minimum allowable but to a $2 million figure.

(ii) *Export credit exemption.*—An export credit exemption system is available to DIs for 1973 and subsequent years. Under this system, a DI using the exemption will not recognize a positive transfer of capital under § 312(a) upon acquiring a qualified export obligation of an AFN or making a qualified export lease to an AFN, until the arm's-length term applicable to the transaction has passed without payment being made by the AFN. No negative transfer of capital will be recognized under § 312(b) (or the provisions of § 312(c)(4) and (12)) upon satisfaction of a qualified export obligation (or upon the return of property that was the subject of a qualified export lease) unless the DI recognized a positive transfer of capital with respect to the qualified export obligation on or after January 1, 1973. Similar rules set forth in § 313(b) have been developed for unincorporated AFNs. (The export credit exemption system is discussed extensively in § B312–22.)

(iii) *Two-month extension.*—The two-month allocation provision that applied to the 1971 and 1972 compliance years has been retained in substantially the same form for the 1973 compliance year in § 306(e)(1). Under § 306(e)(1) a DI is permitted to deduct from positive direct investment made during 1973 an amount equal to any available proceeds of long-term foreign borrowing (or proceeds borrowing from its OFS) made on or before February 28, 1974. It should be noted, however, that the two-month extension with regard to negative transfers of capital that applied to the 1971 and 1972 compliance years has not been retained for 1973.

(iv) *Allocation of proceeds expended during 1965, 1966 or 1967.*—Section 203(d)(2) has been revised to permit a DI that expended proceeds of long-term foreign borrowing (made in 1965 or any subsequent year) in making transfers of capital to AFNs and deducted the amount of such proceeds in computing the net transfer of capital in 1965, 1966 or 1967, to allocate such proceeds to positive direct investment in another scheduled area during 1973 or subsequent years. A transfer of capital in the amount of such allocation must be recognized by the DI in the scheduled area from which the proceeds are being allocated.

(v) *Acquisition by a DI of an equity interest in, or debt obligation of, an AFN from a person within the United States.*—Under amended § 312(c)(1)(i), an acquisition by a DI of an equity interest in or debt obligation of an AFN from a person within the United States, whether or not such person is a DI, does not involve a transfer of capital.

(vi) *Combination of DIs or of a DI and a person within the United States.*—Section 312(c)(1)(ii) has been clarified in the following respects: (a) An acquistion by a DI (from a person within the United States) of another DI which thereby becomes an affiliate as defined in § 903(a), is a combination of DIs for purposes of this subparagraph. (b) The acquisition of a DI by a person within the United States which prior to such acquisition was not a DI, is also a combination for purposes of this subparagraph. (c) The surviving DI is in compliance with the liquid foreign balance limitations, for the months prior to the combination in the year of combination, if each combining DI was in compliance with those limitations during such months.

In addition, major changes in specific authorization policy relating to the extention of export credit by DIs to their AFNs and foreign equity financing were announced by OFDI on May 24, 1973. DIs are referred to the Revised Instructions for Submitting Applications for Specific Authorizations, Specific Exemptions, or Interpretations, dated May 24, 1973.

Summary of the regulations.

The regulations contain the operative rules of the program, the principal features of which are discussed in general terms below.

(i) *Applicability.*—The regulations apply to "direct investors." A DI is any person (whether an individual or a business entity) within the United States that owns or holds a 10 percent or greater interest in an incorporated or unincorporated foreign entity (§ 305). A foreign entity in which such interest is owned or held is referred to as an "affiliated foreign national" ("AFN") (§ 304). Interest in an AFN is measured by voting power in the case of a corporation and by the right to a share of profits in the case of an unincorporated enterprise (§ 304(b)(2)). Persons may be DIs either in their individual capacity or by virtue of their relationships with other U.S. persons (§§ 903–906). The regulations specifically do not apply to banks or other financial institutions subject to the Voluntary Foreign Credit Restraint Program administered by the Board of Governors of the Federal Reserve System (§ 201(b)(2)).



V 38 179 SEP 17 73 XUM

(ii) *Requirements and restrictions.*—Three fundamental requirements are imposed on all DIs:

The amount of annual direct investment in AFNs must not exceed the level authorized under the general allowables provided for in the regulations or the amount specifically authorized by OFDI;

The amount of certain foreign balances or other forms of foreign property must be restricted as specified in the regulations; and

Reports reflecting allowables and transactions pertinent to foreign direct investment activities must be filed with OFDI.

DIs may seek relief from a particular restraint imposed by the regulations through application to OFDI for specific authorizations or exemptions (§ 801).

A DI making foreign direct investment in excess of that authorized either generally under the regulations or specifically by OFDI, or otherwise violating the program restrictions, is subject to enforcement proceedings. Noncompliance with the requirements of the regulations may give rise to imposition of sanctions, either criminal or administrative (§§ 201(d) and 701). Rules and procedures concerning the enforcement function of OFDI (including investigations and administrative remedies) are contained in 15 CFR Parts 1020–1050.

(iii) *Calculation of direct investments.*—Direct investment by a DI is calculated on a calendar year basis by adding the DI's net transfer of capital to AFNs and the DI's share of earnings reinvested by incorporated AFNs (§ 306 (a)).

"Net transfer of capital" means (a) aggregate transfers of capital by a DI to incorporated AFNs during the year, less (b) aggregate transfers of capital by incorporated AFNs to the DI during the same period, plus (c) the DI's share of net increase or decrease in net assets of unincorporated AFNs (§ 313). A transfer of funds or other property that increases a DI's equity or debt investment in an AFN is generally a transfer of capital by the DI to the AFN (§ 312(a)). A transfer of funds or other property that decreases a DI's investment in an AFN is generally a transfer of capital by the AFN to the DI (§ 312(b)). In computing a DI's transfers of capital and net transfer of capital, special rules apply to transactions between a DI's AFNs that are located in different scheduled areas (§ 505).

"Reinvested earnings" means (a) total earnings (defined in § 306(c)) of incorporated AFNs, less (b) dividends paid by incorporated AFNs to the DI and certain other AFNs, plus (c) dividends and remittances received by incorporated AFNs from certain other AFNs (§ 306 (b)).

For purposes of the regulations, each of the countries of the world is assigned to one of three "scheduled areas" (A, B, and C (§ 319). Direct investment of a DI is generally calculated on the basis of these scheduled areas, reflecting aggregate transactions involving all AFNs located in each such area (§§ 306 and 313). Schedule A generally comprises the less-developed countries; Schedule B, certain specified developed countries; and Schedule C, the remaining countries. For certain purposes, however, direct investment allowables may be use on a worldwide rather than a schedular basis (§§ 503 and 506; see also Subpart M).

(iv) *Authorized direct investments.*—Positive direct investment in AFNs is prohibited except to the extent that it is authorized either generally under the regulations or individually by specific authorization (§§ 201(a) and 801). Subpart E (§§ 501–506) provides three direct investment allowables, one of which a DI must elect for each year (§ 502):

A worldwide minimum allowable of $6 million (§ 503);

An historical allowable for each scheduled area based on direct investment in each such area by the DI during 1965–66 (§ 504(a));

An earnings allowable for each scheduled area based on the DI's share of AFN earnings in each such area during the preceding year (§ 504(b)).

In general, the unused portion of an allowable (other than the § 503 allowable) may be carried forward to succeeding years (§§ 504 (d) and (f) and 506(d)).

Historical allowables in Schedule C or B are increased by a limited "upstream" redistribution (§ 504(c)).[1] The historical or the earnings allowables provided in § 504 may be used "downstream" (§ 504 (d)).

Commencing in 1970, DIs are eligible for a worldwide "incremental earnings" allowable (in addition to one of the foregoing allowables) based on the amount by which aggregate AFN earnings in a calendar year exceed the average of such earnings during 1966–67 (§ 506).

Because of considerations unique to the airlines industry, special rules for computing authorized direct investment for U.S.-flag air carriers are provided in Subpart M.

Although Canada is assigned to Schedule B, the regulations do not restrict direct investment made or liquid foreign balances held in that country (Subpart K).

(v) *Long-term foreign borrowing.*—Direct investment in AFNs that is offset by proceeds of long-term foreign borrowing (defined in § 324) will not involve use of the DI's allowables until the borrowing is repaid: "Available proceeds" of long-term foreign borrowing (defined in § 324(d)) may be used to offset positive direct investment if "allocated" in accordance with certain prescribed conditions (§ 306(e)). Prior to July 1, 1972, available proceeds were used as a deduction against a DI's net transfer of capital if expended in making transfers of capital (§ 313(d)(1), revoked July 1, 1972). Proceeds that have been expended in making transfers of capital prior to July 1, 1972 may subsequently be allocated, and allocated proceeds may later be reallocated, as an offset to positive direct investment in a different scheduled area (§ 203(d) (2) and (3)).

Repayment of long-term foreign borrowing is generally authorized by § 1002 if the DI satisfies the applicable certification, recordkeeping, and reporting requirements (Subpart J).

Subpart N (§§ 1401–1407) provides rules for the treatment of borrowings by an AFN that qualifies as an OFS. Funds received by an OFS from "overseas borrowing" may be transferred to other AFNs of the DI without recognition of any transfers of capital under § 505, or may be lent by the OFS to the DI and thereafter treated as available proceeds of long-term foreign borrowing. In addition, such borrowing by the DI from its OFS may be substituted for borrowing by the DI from unaffiliated foreign nationals, and vice versa. Special provision is made for the assumption by a DI of overseas borrowing by its OFS.

(vi) *Foreign balance restrictions.*—The regulations restrict the amount of assets that a DI may hold in liquid form in a foreign country other than Canada. Such balances may not exceed the sum of the amount of available proceeds of long-term foreign borrowing by the DI, plus the greater of $100,000 or the average of monthend liquid foreign balances held by the DI during 1965–66 (§ 203 (c)).

(vii) *Reporting requirements.*—DIs are required to keep records and to submit certain reports to OFDI (§§ 203(b), 601, 602 and 1402(b)). If the DI's interest in all AFNs is $100,000 or more, or if the DI's share in the annual earnings of its AFNs is $50,000 or more in any year, a Base Period Report (Form FDI–101) of direct investment by scheduled area during 1965–67 (and 1964 earnings for Schedule C) must be submitted. The DI may, in addition, be subject to annual and cumulative quarterly reporting requirements. To determine whether such reporting requirements are applicable, DIs should consult the instructions to Form FDI–102/102F.

Special rules apply to reporting by DIs that are members of an affiliated, family, or associated group or are owners of other DIs (§ 907).

**Additional comments.**

As used in this Bulletin, the terms "OFDI" and the "Office" refer generally to the Office of Foreign Direct Investments but may also be used, for the sake of convenience, to include the Secretary of Commerce and all other persons to whom any function, duty, or authority referred to in Executive Order 11387 or in the regulations has been delegated pursuant to Department Order 184–A (issued on Jan. 1, 1968), Department Order 184–B (as amended) or § 806 of the regulations.

Examples in this Bulletin involving transactions in years subsequent to 1973 are intended for illustrative purposes only, and no inference should be drawn concerning the actual amount of Subparts E and M allowables that will be available in such years. Accordingly, in submitting certificates described in § 1002(b), a DI must assume that the

[1] "Upstream" and "downstream" refer to the relationship of one schedule area to another. The upstream sequence is Schedule A, Schedule B, and Schedule C. The downstream sequence is Schedule C, Schedule B, and Schedule A.





regulations will be in effect for at least 7 years after the date the certificate is filed and that general allowables during each year of such 7-year period will not be more than the amounts applicable for the year in which the certificate is filed.

## B201—Prohibited Direct Investment

### § B201–1 Introduction.

Section 201 sets forth the basic prohibitions on direct investment and the regulatory authority of OFDI, as derived from Executive Order 11387 of January 1, 1968. The section covers: General prohibitiion of positive direct investment (§ 201(a)); exclusion of financial institutions subject to the Voluntary Foreign Credit Restraint Program administered by the Board of Governors of the Federal Reserve System (§ 201(b)(2)); exclusion of transactions arising from a foreign national's interest in a U.S. business § 201(c)); and discretionary conditions or sanctions (§ 201(d)).

### § B201–2 General prohibition.

Section 201(a) prohibits a DI from making positive direct investment in AFNs during any year, beginning with the effective date of the regulations (Jan. 1, 1968), subject to express authorization for certain kinds and amounts of positive direct investment set forth in Subpart E (general allowables), Subpart J (repayment of borrowings), Subpart K (direct investment in Canada), and Subpart M (U.S.-flag air carriers). In addition, OFDI may permit other transactions by means of specific authorizations or exemptions, as provided in § 801.

The prohibition of § 201(a) is addressed to "positive direct investment (a technical term defined in § 306(a)(3)) during any year." This does not mean that specific transactions between a DI and an AFN are prohibited; rather, the focus is on the net effect of all transactions during a year, measured at yearend.

The term "year" normally means a calendar year. However, in certain circumstances, a DI may be specifically authorized to measure compliance with § 201(a) on the basis of a fiscal year. (See § 321.)

*Example 1.* DI has a wholly owned incorporated AFN (C) in Germany. During 1969, DI loans $1,200,000 to C. The loan does not violate § 201(a) at the time it is made, although the transaction constitutes a transfer of capital under § 312(a) and will be taken into account in determining the amount of direct investment made by DI in all AFNs in Schedule C for the entire year.

*Example 2.* DI is authorized by § 504 (a) and (c), to make positive direct investment of $1,500,000 in Schedule A during 1969. Between January 1, and December 31, 1969, DI's positive direct investment in that scheduled area is $1,700,000. DI is out of compliance (i.e., has violated § 201(a)) in the amount of $200,000.

### § B201–3 Exclusions.

(i) *Financial institutions.*—Under the terms of Executive Order 11387, and as provided in § 201(b)(2), banks and nonbank financial institutions are exempt from the regulations if they are subject to the Voluntary Foreign Credit Restraint Program administered by the Board of Governors of the Federal Reserve System. Included in this category are commercial banks, bank holding companies, savings banks, trust companies and trust departments of banks, insurance companies, mutual funds, finance companies, investment bankers and brokers, pension funds, foundations and other nonprofit institutions, "Edge Act" and "Agreement" subsidiaries of commerical banks, and U.S. branches of foreign banks or nonbank financial institutions. The Federal Reserve Program calls upon such institutions to refrain from making loans or extending credit to borrowers that would "directly or indirectly" permit an outflow of funds inconsistent with the provisions and intent of the OFDI Program or making loans to U.S. subsidiaries or branches of foreign companies that otherwise would have been made to the foreign parent or that would substitute for credit that might otherwise have been obtained abroad.

U.S. investment companies owning or establishing offshore mutual funds are subject to the Federal Reserve Program, whereas U.S. individuals owning or establishing foreign banks or nonbank financial institutions are subject to OFDI. Also, independent leasing companies and leasing affiliates of manufacturing companies are generally not included as nonbank financial institutions subject to the Federal Reserve Program.

If a U.S. financial institution that is subject to the Federal Reserve Program acquires a nonfinancial enterprise which is a DI, OFDI will continue to regulate the direct investment activities of the acquired company and separate reporting requirements for parent and subsidiary will be maintained.

(ii) *Transfers of capital to foreign owners.*—The regulations do not restrict bona fide transfers of capital or distribution of earnings to a foreign national arising from the foreign national's ownership interest in a U.S. entity.

*Example 3.* A U.S. corporation (X) is 50 percent owned by an Italian corporation (Y). Y is publicly owned by foreign nationals. During 1969, X repays a borrowing from Y of $1 million and pays Y a dividend of $100,000. During 1970, X is liquidated and a liquidating dividend is paid to Y. The transactions are not subject to the regulations.

### § B201–4 Reduction of authorized direct investment or of period for measuring compliance.

Section 201(d) authorizes OFDI to impose conditions on, or to reduce the amount of, authorized direct investment by a DI. Although direct investment is generally measured on an annual basis, § 201(d) gives OFDI the right to impose a shorter period for compliance purposes with respect to any DI.

Section 201(d) provides authority for administrative action by OFDI where large outflows early in a year indicate that serious violations could occur unless remedial steps are taken. The section also contains authority for appropriate sanctions in flagrant instances of disregard for the objectives of the program, such as in the case of a company that temporarily makes a large reduction in foreign investments at the very end of a year (thereby producing literal compliance with the regulations for that year) and then offsets the reduction with a major reinvestment abroad in the beginning of the following year.

## B203—Liquid Foreign Balances

### § B203–1 Introduction.

Section 203 limits the amounts of funds or other liquid assets that a DI may hold abroad as of the end of each month. Commencing July 1, 1972, § 203 (c) requires a DI to repatriate to the United States "liquid foreign balances" (defined in § 203(a)(2)) in excess of the sum of available proceeds of long-term foreign borrowing by the DI plus specified historical levels of such holdings or $100,000, whichever is greater. An exception from the repatriation requirement is made for liquid foreign balances held in Canada (§ 1105(b)).

While § 203(c) refers to monthend holdings for purposes of the limitation on liquid foreign balances, it is intended that DIs should not exceed the permissible level throughout the month.

The provisions of § 203 also apply to foreign balances and available overseas proceeds held by an overseas finance subsidiary (OFS). See § 1403(b).

### § B203–2 Summary.

Section 203(a) defines the terms "foreign balances" and liquid foreign balances" and provides that under certain circumstances foreign balances held by another person will be deemed held by a DI.

Section 203(b) requires a DI to keep books and records identifying proceeds of long-term foreign borrowing and the uses to which the proceeds of each such borrowing have been put.

Section 203(c) limits the amount of liquid foreign balances (other than Canadian balances) a DI may hold at the end of any month, commencing July 1, 1972, to the sum of the amount of available proceeds of long-term foreign borrowing by the DI at the end of such month, plus the greater of the average end-of-month liquid foreign balances (other than Canadian balances and available proceeds in the form of such balances) held by the DI during 1965 and 1966 or $100,000.

Commencing January 1973, section 203 (d)(2) permits proceeds of long-term foreign borrowing (made during 1965 or any succeeding year) that have been expended prior to July 1, 1972, and deducted from net transfer of capital pursuant to § 313(d)(1) to be "allocated" to positive direct investment in another scheduled area. When expended proceeds are subsequently allocated, the DI must recognize a positive transfer of capital to the scheduled area in which the § 313(d)(1) deduction was previously taken; further allocation will likewise result in a transfer of capital to the scheduled area to



V 38-179 SEP 17 73 XUM

which the proceeds were last allocated. (For a more detailed analysis of § 203(d)(2), see § B324–10.)

Section 203(d)(3) permits a DI to reallocate proceeds of long-term foreign borrowing to offset positive direct investment in a scheduled area other than that in which such proceeds were originally allocated. In such event, a transfer of capital is charged to the scheduled area to which the immediately preceding allocation was made. (For a more detailed analysis of § 203(d)(3), see § B324–10.)

**§ B203–3 Definition of foreign balances.**

The term "foreign balances" is defined in § 203(a)(1) to mean money on deposit in a foreign bank (including demand, time and fixed interest deposits and certificates of deposit); negotiable instruments, nonnegotiable instruments acquired after June 30, 1968, and commercial paper issued by unaffiliated foreign nationals (other than such instruments or paper acquired as a result of a DI's export of goods and services from the United States); and securities issued or guaranteed by a foreign country.

The term "money on deposit in a foreign bank" includes all bank deposits, whether interest-bearing or not, maintained with a "foreign bank" as defined in § 317(b).

The terms "negotiable instruments," "nonnegotiable instruments," "commercial paper," and "securities" include notes, bonds, debentures, drafts, bills of exchange, or other evidences of indebtedness. The physical location of such evidences of indebtedness is immaterial.

The term "securities issued or guaranteed by a foreign country" includes debt securities issued or guaranteed by any governmental unit of a foreign country, i.e., the national government, states, cities, municipalities, counties, cantons, provinces, and the like. The physical location of such securities is immaterial.

Equity interests do not constitute foreign balances. Furthermore, items such as accounts receivable not evidenced by any note or security, precious metals, jewels, jewelry, commodities futures contracts and currency futures contracts do not constitute foreign balances.

**§ B203–4 Definition of liquid foreign balances.**

As defined in § 203(a)(2), "liquid foreign balances" do not include:

Negotiable instruments, nonnegotiable instruments, commercial paper and securities issued or guaranteed by a foreign country acquired on or before June 30, 1968 that are not redeemable at the option of the DI and are not transferable and readily marketable;

Bank deposits, negotiable instruments, nonnegotiable instruments, commercial paper and securities issued or guaranteed by a foreign government that have a period of more than 1 year remaining to maturity when acquired by the DI and are not redeemable in full at the option of the DI within a period of 1 year after such acquisition;

Foreign balances subject to restrictions on liquidation and transfer imposed by a foreign country (i.e., exchange controls or similar restrictions); and

Foreign balances pledged or hypothecated by the DI in connection with a borrowing by the DI or by an AFN or foreign balances transferred by a DI to the extent of any transfer of capital recognized under § 312(a)(9).

For purposes of § 203(a)(2)(iv), foreign balances are deemed pledged or hypothecated if, pursuant to an express or implied agreement, the DI may not withdraw such balances while the borrowing involved remains outstanding.

The exclusion under § 203(a)(2)(iv) does not apply to any amount pledged or hypothecated in excess of the amount of the related borrowing by the DI or by an AFN.

*Example 1.* DI obtains a 3-year loan of $200,000 from a foreign bank and immediately expends the proceeds in an AFN. As a condition of obtaining the loan, DI is required to keep $40,000 on deposit with the foreign bank during the 3-year term. Assuming the loan constitutes a long-term foreign borrowing (as defined in § 324), this arrangement involves a $40,000 transfer of capital to the AFN in addition to the $200,000 transfer of capital resulting from investment of the loan proceeds. (See § 312(a)(9) and § B312–13.) Consequently the $40,000 deposit is not a liquid foreign balance.

*Example 2.* DI enters into an arrangement with a foreign bank pursuant to which DI deposits $100,000 with the bank and the bank immediately lends $100,000 to an AFN. This arrangement involves a $100,000 transfer of capital to the AFN. (See § 312(a)(9) and § B312–13.) The $100,000 deposited by DI is not a liquid foreign balance.

*Example 3.* DI has a 25 percent interest in a Swiss bank. In July 1970, DI deposits $100,000 with the bank to provide it with additional working capital. The deposit will not be considered a liquid foreign balance under § 203(c), but will constitute a transfer of capital under § 312(a)(2).

**§ B203–5 Foreign balances deemed held by a DI.**

Section 203(c) comes into effect if liquid foreign balances are "held" by a DI. A DI holds foreign balances if it has title to the securities, instruments or rights that are included within the meaning of the term, as defined in § 203(a)(1).

In addition, § 203(a)(4) establishes circumstances in which a DI is deemed to hold foreign balances even though title is vested in another person. Subparagraph (i) imputes foreign balances to a DI if they are held by any person (including an AFN) "principally formed or availed of by the DI for the purpose of holding title to such balance"; i.e., a DI having the real beneficial interest in foreign balances will be deemed to hold such balances notwithstanding that another person has nominal legal title.

*Example 4.* DI forms an incorporated AFN and transfers liquid foreign balances to it. The AFN does not engage in any business other than holding liquid foreign balances. Such balances are deemed to be held by DI under § 203(a)(4)(i). (Note that the transfer also constitutes a transfer of capital from DI to the AFN, pursuant to § 312(a)(2).)

*Example 5.* DI enters into an arrangement with an unaffiliated foreign national whereby the latter will hold title to DI's liquid foreign balances but will not use the funds itself. The liquid foreign balances are deemed to be held by DI under § 203(a)(4)(i).

Subparagraph (ii) of § 203(a)(4) imputes foreign balances to a DI even though title is held by another person (including an AFN), if the balances (or cash equivalent) are returnable to the DI on demand without material conditions and they are not reasonably related to the business needs of the holder. Foreign balances are not deemed returnable to a DI upon demand without material conditions merely because, by virtue of stock ownership, the DI controls the person holding title.

*Example 6.* DI has an incorporated AFN (A) engaged in manufacturing operations. From 1960 through 1968, A earned $10 million and on June 30, 1969 has $8 million invested in 6-month certificates of deposit of foreign banks. No part of these funds is needed by A to meet business requirements. Nevertheless, the foreign balances are not deemed to be held by DI, since they are not considered to be returnable to DI upon demand without material conditions.

On the other hand, assume that on June 1, 1969, A declared a $500,000 dividend in favor of DI and such dividend became payable on demand on June 15, 1969. In this event, $500,000 of the $8 million are deemed liquid foreign balances held by DI as of June 30, 1969. Note also that, since the dividend was not paid when due, a debt obligation is deemed to have been created in favor of DI resulting in a $500,000 transfer of capital by DI to A under § 312(a)(1). Accordingly, payment of the past due dividend will constitute a transfer of capital from A to DI pursuant to § 312(b)(3).

*Example 7.* DI has a 50 percent interest in a German company (C). In June 1969, DI lends $100,000 to C, repayable on demand. The $100,000 is invested by C in a 6-month certificate of deposit of a foreign bank. C does not need any part of the $100,000 to meet business requirements. The certificate of deposit is deemed to be held by DI. (Note also that the loan would constitute a transfer of capital from DI to C pursuant to § 312(a)(1).)

Determining whether liquid foreign balances held by an AFN are "unrelated to the business needs" of the AFN requires analysis of all facts and circumstances of the particular case. The nature of the AFN's business and customary holdings of liquid funds are relevant factors. As a general rule, liquid foreign balances held by an AFN will not be considered unrelated to its business needs if required to pay current operating expenses (including tax, royalty, interest, and similar obligations), to pay for reasonably current or planned capital improvements or additions, or as standby contingency reserves.

*Example 8.* DI has a wholly owned subsidiary in Mexico (a) engaged in manufacturing operations. A holds $1 million in liquid foreign balances as of June 30, 1969, of which only $250,000 may reasonably be required for working capital purposes. However, A has entered into a contract for expansion of facilities and plans to expand the remaining $750,000 in 1969 and 1970 for this purpose. The liquid foreign balances held by A are, therefore, related to business needs and are not treated as liquid foreign balances of DI under § 203(a)(4) even if returnable to DI upon demand without material conditions.





*Example 9.* DI has a wholly owned subsidiary (C) in Germany engaged in manufacturing operations. As of June 30, 1969, C holds liquid foreign balances of $1 million. C requires only $250,000 of this amount for working capital purposes, and intends to lend the remaining $750,000 from time to time to other AFNs on a short-term basis. Accordingly, $750,000 of the liquid foreign balances held by C are unrelated to its business needs and will be treated as liquid foreign balances of DI under § 203(a)(4)(ii) if they are returnable to DI upon demand without material conditions.

Although a DI may have nominal title to foreign balances used by an unincorporated AFN for its ordinary business operations, the DI will be deemed to hold such balances only if the conditions of § 203(a)(4) are met.

*Example 10.* DI has a branch in the United Kingdom (B) engaged in manufacturing operations. For many years, B has maintained an acccount averaging $500,000 with a local bank. As of June 30, 1969, B's account with the local bank has a balance of $500,000, related to its business needs. Thus, although the $500,000 is deemed returnable to DI upon demand without material conditions because B is a branch, the liquid foreign balances are not attributable to DI under § 203(a)(4).

*Example 11.* DI has a branch in the United Kingdom (B) engaged in manufacturing operations. For many years, B has maintained an account averaging $500,000 with a local bank. However, as of June 30, 1969, B's balance in the account is $1 million. B has recently been expanding business at a rapid pace and estimates that, for the remainder of 1969 and thereafter, it will have to maintain cash balances of at least $1 million in order to meet increased operating commitments. The liquid foreign balances held by B are related to business needs and, therefore, are not treated as liquid foreign balances of DI under § 203(a)(4), even though returnable to DI upon demand without material conditions.

*Example 12.* An individual (X) who is a "person within the United States" owns a substantial apartment house complex in France. As a result, X is a DI and the apartment house complex is his AFN. X also owns a chalet in France purchased principally for his own personal use, although he and his family reside there only from June through August each year. During the remainder of the year, X and his family reside in the United States and the chalet is rented on a month-to-month basis to others. The chalet is not an AFN of X.

X maintains two demand accounts with French banks. The funds in one account (account No. 1), consisting principally of the income earned from the apartment house complex, are needed and utilized to pay the operating expenses of the apartment house complex and for repairs and improvements to this property. Operating expenses of the chalet and the cost of repairs and improvements to this property are paid out of the second account (account No. 2), but the principal use of this account is for X's personal expenses when he resides in France. The funds in account No. 1 are not liquid foreign balances of X, as they are related to the business needs of X's AFN (i.e., the apartment house complex); the funds in account No. 2 are liquid foreign balances of X, since their principal use is not for business needs.

Foreign balances held in liquid form by an OFS are to be included in the computation of liquid foreign balances held by a DI for purposes of § 203(c). See § 1403(b).

**§ B203–6 Valuation of foreign balances.**

Negotiable instruments, nonnegotiable instruments, commercial paper and securities constituting foreign balances shall be valued, for purposes of § 203, at fair market value, or, if fair market value is not readily determinable, at the cost of acquisition. In the case of items the prices of which are quoted on a daily basis, the final bid price (or the closing sale price, if available) on the relevant date will be considered the fair market value on such date.

Foreign balances in the form of bank deposits or other claims denominated in a foreign currency are valued at the current exchange rate in terms of U.S. dollars.

**§ B203–7 Limitation on amount of liquid foreign balances.**

Section 203(c) provides that a DI must limit the amount of non-Canadian liquid foreign balances held at the end of any month to an amount determined by adding together (1) the amount of the DI's available proceeds of long-term foreign borrowing, calculated at the end of such month under § 324, plus (2) a minimum amount of $100,000 or, if greater, the average end-of-month amount of non-Canadian liquid foreign balances (excluding available proceeds) that were held by the direct investor during 1965 and 1966.

As provided by §§ 203(c) and 1105(b), Canadian foreign balances are not subject to the limitations of §203(c) and can be held by a DI (or an AFN) without restriction on amount.

Section 1105(b) excludes Canadian balances from the calculation of total liquid foreign balances for purposes of § 203(c). The parenthetical reference to "direct investment liquid foreign balances" in § 1105(b) is intended merely to reflect the exclusion of available proceeds of long-term foreign borrowing (as defined in § 324(d)) from the restrictions of § 203(c). It is not the intention or § 1105(b) to authorize inclusion of available proceeds held in Canada during 1965 and 1966 for purposes of calculating average end-of-month liquid foreign balances under § 203(c).

Calculations under § 203(c) are to be made on a worldwide rather than on a schedule basis. Accordingly, a DI may transfer liquid foreign balances from one foreign country to another, but the aggregate amount held abroad at the end of any month may not exceed the amount permitted by § 203(c).

*Example 13.* DI held liquid foreign balances (other than Canadian foreign balances and available proceeds of long-term foreign borrowing) of $800,000 on March 31, 1965, $800,000 on April 30, 1965, $400,000 on May 31, 1965, $1.6 million on April 30, 1966, and $1.2 million on May 31, 1966. DI held no liquid foreign balances of any kind as of the end of any other month during 1965 or 1966. Therefore, DI may hold $200,000 of liquid foreign balances (other than Canadian liquid foreign balances) plus the amount of its available proceeds as of the end of any month commencing July 31, 1972 (i.e., the sum of monthend balances, $4,800,000, divided by 24).

*Example 14.* DI did not hold any liquid foreign balances during 1965 or 1966. Nevertheless, DI may hold up to $100,000 in liquid foreign balances (other than Canadian liquid foreign balances) plus the amount of its available proceeds as of the end of any month commencing July 31, 1972.

*Example 15.* DI held liquid foreign balances during 1965 and 1966, but all were Canadian foreign balances. DI may not hold more than $100,000 of liquid foreign balances (other than Canadian liquid foreign balances) plus the amount of its available proceeds as of the end of any month commencing July 31, 1972.

When available proceeds are allocated to offset positive direct investment pursuant to § 306(e), the amount of liquid foreign balances that may be held under § 203(c) is correspondingly reduced. Moreover, § 306(e) provides that available proceeds allocated to positive direct investment may not be held in the form of foreign balances or foreign property, liquid or otherwise, except that such proceeds may be expended in making transfers of capital of AFNs (without any reduction in net transfer of capital for the use of proceeds). It should be noted that while the expenditure of available proceeds in making transfers of capital prior to July 1, 1972 reduced the amount of such proceeds that might be held in the form of liquid foreign balances, such expenditure on or after that date does not reduce the amount of the net transfer of capital and correspondingly does not reduce the amount of available proceeds or the amount of liquid foreign balances that may be held under § 203(c).

Although compliance with § 203(c) is measured at the end of each month during any reporting period, all DIs should be aware that it is the intent of the limitation imposed by § 203(c) that the volume of liquid foreign balances held by any DI should not significantly exceed during the course of any month the amount that may be held under § 203(c) at monthend.

It should be noted that if a borrowing that was treated as long-term foreign borrowing is retroactively disqualified by reason of repayment within 12 months, the amount of liquid foreign balances that may be held under § 203(c) will retdoactively be reduced by the amount of borrowing that was disqualified. Such reduction should be reported on the amended or subsequent reports on Form FDI–102/102F required to be filed after the disqualification of the borrowing (see § B324–4).

*Example 16.* On May 1, 1972, DI negotiated a $1 million long-term foreign borrowing, the proceeds of which were placed in a demand deposit with a London bank. On June 1, 1972, DI withdraws $200,000 from the London bank and loans the funds to a French AFN (C) on a 60-day note. On July 1, 1972, DI withdraws $300,000 from the London bank and loans the funds to a German AFN (D) on a 60-day note. C repays the $200,000 loan in July and D repays the $300,000 loan in August 1972. On December 31, 1972, DI allocates $800,000 to offset positive direct investment pursuant to § 306(e). Under the regulations as in effect prior to July 1, 1972, DI held $1 million of available proceeds in the form of liquid foreign balances outside the limitations of § 203(c) on



V 38-179 SEP 17 73 XUM

May 31, 1972, and $800,000 of such proceeds outside the limitations of § 203(c) on June 30, 1972 ($1 million less $200,000 expended in making a transfer of capital and deducted under § 313(d)(1)). Thereafter, DI is permitted to hold liquid foreign balances in the amount of $800,000 (in addition to the historical or minimum amount) at the end of each month until December 1972, since neither the expenditure of available proceeds on or after July 1, 1972, nor the repayment of a loan made with available proceeds affects the amount of available proceeds or the exemption in such amount from the § 203(c) limitation. The allocation on December 31, 1972 reduces the amount of available proceeds to zero and, as a result, wipes out the DI's available proceeds authorization under § 203(c). In addition, the DI is required by § 306(e) to repatriate the available proceeds that were allocated.

*Example 17.* In July 1972, DI issues $30 million of debentures convertible into the stock of DI. The borrowing qualifies as long-term foreign borrowing under § 324 and DI receives $29 million, after payment of underwriting and legal expenses. Since DI has $30 million of available proceeds, DI may hold that amount of liquid foreign balances at month-end, until it allocates a portion or all of the borrowing, at which point the amount of liquid foreign balances that may be held is correspondingly reduced.

**§ B203–8 Available proceeds of long-term foreign borrowing: Effect on positive net transfer of capital. [Revoked]**

## B304—Affiliated Foreign Nationals

**§ B304–1 Introduction.**

Only persons within the United States who are or who become DIs by virtue of their interests in affiliated foreign nationals (AFNs) are subject to the program.

As a general rule, a transaction between a person within the United States and a foreign national (as defined in § 302) that does not affect the U.S. person's equity or debt investment in an AFN, or does not result in a foreign national becoming an AFN, is not subject to the direct investment prohibitions imposed by § 201(a) of the regulations.

**§ B304–2 Summary.**

Restrictions on foreign direct investment under the programs are applicable only to persons within the United States having or acquiring, directly or indirectly, a 10 percent or greater interest in an affiliated foreign national. A "foreign national" is defined in § 302(a) as—

> • • • any person which is not a person within the United States • • •, including a corporation or partnership organized under the laws of a foreign country • • •, a business venture conducted within a foreign country • • •, and a foreign bank • • •.

The interest in a foreign national required to make it an AFN for purposes of the regulations is, in general, determined by the U.S. investor's voting rights if the foreign national is a corporation, or by the share of profits to which the investor is entitled if an unincorporated foreign business activity is involved.

Nonprofit foreign nationals, such as charitable, educational, religious, scientific, literary, or similar organizations, are not treated as AFNs.

Business ventures in which an AFN has an interest may themselves be AFNs if located in a scheduled area other than that of the parent. Canadian business ventures of AFNs located in Schedule B and non-Canadian, Schedule B business ventures of Canadian AFNs are treated as separate AFNs, even though such relationships within the same scheduled area would ordinarily result in a single AFN.

**§ B304–3 Requisite financial interest.**

The interest that will give rise to a DI–AFN relationship is, generally, a 10 percent or greater voting interest in a foreign corporation or a 10 percent or greater interest in the profits of a foreign partnership or business venture (See §§ 304(b)(2), 901 and 902). However, § 304(b)(4) provides that a DI–AFN relationship may be deemed to exist notwithstanding this general rule. Under present OFDI policy, this caveat applies principally to cases where the U.S. investor actually participates in and exercises a controlling interest over the affairs of the foreign national, and has transferred funds or other property in excess of $200,000 to the enterprise during any year commencing with 1968.

A relationship which is solely that of debtor and creditor is not subject to the 10-percent interest test (whether or not the loan is secured), even though principal and/or interest payments by the foreign borrower may result in the U.S. creditor receiving all or a substantial portion of the foreign enterprise's revenues.

**§ B304–4 Foreign nationals.**

(i) *Corporations.*—A foreign corporation includes any organization incorporated under the laws of a foreign country, or having all or a substantial part of the legal characteristics commonly attributed to corporations under the laws of the United States (§ 307(b)). Thus, an organization that is not formally incorporated under foreign law but (a) has transferable interests, (b) is organized so that holders of interests are not liable for its obligations except to the extent of their contributions or subscriptions, and (c) has perpetual duration (or for a substantial fixed period), would be considered a foreign corporation.

Pursuant to § 304(b)(1), an incorporated AFN is generally assigned to the scheduled area where organized, regardless of the situs of operations. However, if the AFN conducts no operations in the scheduled area of incorporation but merely maintains a required statutory office there, it may be assigned to a different scheduled area for purposes of the regulations (§ 304(b)(4)).

(ii) *Partnerships.*—A foreign partnership includes formally structured noncorporate organizations created under a partnership law or similar statute of a foreign country. A foreign joint venture will ordinarily be treated as a "business venture" (see below), rather than as a partnership, if it is formed to engage in a specific transaction or series of related transactions and is to be liquidated when the transaction or transactions have been completed.

A foreign partnership is assigned to the scheduled area where it is organized (§ 304(b)(1)).

(iii) *Business ventures.*—A foreign business venture encompasses business activities in a foreign country (a) by a DI, (b) by employees or partners of a DI on behalf of the DI, or (c) by employees or partners of an AFN on behalf of such AFN (§ 304(a)(2) and (3), as limited by § 304 (c) and (d)). Some types of facilities abroad, such as storage areas and display offices owned or physically controlled by the DI, may be treated as business ventures for purposes of the regulations even though frequently not considered "permanent establishments" for other legal purposes.

The term "employee" as used in § 304 is not necessarily synonymous with its meaning for Federal tax purposes. For example, an agent working substantially full-time for a U.S. principal and having a stock of goods from which orders are filled, or having authority to accept orders or otherwise execute contracts on behalf of his principal, may be considered an employee for purposes of this section. Furthermore, the agent's lack of authority to conclude contracts may be immaterial if acceptance by the DI is, in actual practice, merely a ministerial act.

Ownership interests in real property abroad (excluding mortgages secured by real property) will constitute business ventures if held primarily for business purposes (including real property held for appreciation). Therefore, crop or grazing acreage, apartment houses, and land held for subdivision, are considered business ventures. On the other hand, real property such as a house in a foreign country purchased by a U.S. resident principally for personal use will not be considered held for business purposes even though rented to others for a portion of the year.

Contract construction, engineering, oil exploration, and similar operations involving a jobsite or project office in a foreign country are also business ventures. Drilling operations on the U.S. Continental Shelf or geological drilling in the deep ocean over which no nation asserts jurisdiction are deemed to be conducted within the United States for purposes of the regulations, while drilling operations conducted on the Continental Shelf adjacent to a foreign country are deemed to be conducted in that country.

A vessel owned directly by a DI is not a foreign national for the purposes of the regulations, whether or not such vessel is registered in the United States. The transfer of title to a vessel or of rights under a contract for the construction of a vessel by a DI to its incorporated AFN is a transfer of capital under § 312(a) in the amount of the market value of the vessel or of progress payments already made for the construction of the vessel, respectively. Earnings or losses from the operation of a vessel that is owned or chartered by an incorporated AFN are treated as earnings or losses of such AFN.





A vessel, support vessel, or drilling barge, that is owned directly by a DI but operated by a business venture AFN shall be assigned a value of zero (and related liabilities or depreciation charges shall be excluded) in computing aggregate net assets of such business venture.

Under § 304(a)(2), a DI's overseas branch is a business venture, whether or not the DI customarily maintains separate books and records reflecting the assets, liabilities, earnings, and expenses, etc. attributable or allocable to the branch. Similarly, a branch of an incorporated AFN is a foreign business venture, unless located in the same scheduled area as the parent AFN. In such case the parent and its business venture are grouped as a single AFN for purposes of the regulations, provided neither is Canadian (§ 304(a)(1), as qualified by § 304(a)(3)). If the parent AFN and its business venture are in different scheduled areas, or if in the same scheduled area and one is Canadian, two AFNs would be attributed to the DI (§ 304(a)(3)).

Under § 304(b)(1), certain nonpermanent or transient business ventures conducted in more than one scheduled area during any year are assigned to the scheduled area in which the business venture is conducted for the greatest period of time during such year. Thus, for example, a traveling circus performing for short periods of time during a given year in a number of countries in different scheduled areas, but primarily in Schedule C countries, will be treated as a Schedule C AFN for that year.

**§ B304–5 Specific exceptions.**

Section 304 (c) and (d) enumerate certain categories of foreign business activities that are not treated as AFNs regardless of the interest that a person within the United States may have or may acquire. Excepted are foreign enterprises solely of a charitable, educational, religious, scientific, literary, or similar nature not engaged in for profit. Also excepted from treatment as AFNs during a given year are business ventures that (a) do not have or involve, at any time during the year, gross assets of more than $50,000 valued at the greatest of cost, book, replacement, or market (§ 304(d)(i)); (b) are commenced during the year and are not reasonably expected to be conducted for more than 12 consecutive months (§ 304(d)(ii)); or (c) are terminated within the year and were not, in fact, conducted for more than 12 consecutive months (§ 304(d)(iii)).

The test under § 304(d)(i) relates to gross assets determined in accordance with accounting principles generally accepted in the United States. If, at any time during the year, the business venture has gross assets of more than $50,000, it is deemed an AFN for the entire year.

The determination whether a business venture in a foreign country is reasonably expected to be conducted, or is in fact conducted, for a period of 12 consecutive months, under § 304(d)(ii) and (iii), is governed by the primary activity of the enterprise during such period. Continuous physical presence is not required. If, for example, a traveling circus spent substantially all of the requisite 12-month period abroad, but returned to the United States occasionally for appearances, the business venture would nevertheless be considered to have been conducted within one or more foreign countries for more than 12 consecutive months.

With specific reference to contract construction, engineering, and similar operations conducted directly by U.S. companies involving opening of a job site and/or project office in a foreign country (or in waters under the jurisdiction of a foreign country), the following rules will generally be applied under § 304(d)(ii) and (iii):

The commencement date of the business venture is the date on which the first materials or equipment arrive at the job site, or the date the project office is opened, whichever is earlier, and

The termination date of the business venture is the date when all transfers of capital and earnings attributable to the relevant contract (except for guaranty retentions of a reasonable amount) are charged off the job's books and repatriated to the United States. (Payments under guaranty retentions should be charged off and the balance repatriated to the United States as soon as practicable.)

A determination under § 304(d)(ii) whether an overseas business venture is reasonably expected to be conducted for more than 12 consecutive months should be based on the facts and circumstances existing when the venture is commenced. Determinations need not anticipate delays or interruptions that are not foreseeable when the venture is commenced, such as delays or interruptions due to unanticipated labor strikes or slowdowns or unusual weather conditions.

The rule with respect to termination of a business enterprise during any year under § 304(d)(iii) is not intended to be applied inflexibly. If, due to unforeseeable delays or interruptions, a business venture cannot be terminated within the required 12-month period, but is in fact terminated with reasonable dispatch in view of the unanticipated difficulties, a specific exemption from application of the regulations may be granted (see § 801).

If an exemption under § 304(d) is applicable to a business venture owned directly by a DI (e.g., a branch of the DI), the venture is not considered to be an AFN of the DI. Therefore, transfers of capital between the DI and the venture have no effect under the regulations, nor do profits (or losses) of the venture. The result is different, however, if an exemption under § 304(d) applies to an AFN's business venture that is located in a different scheduled area from the AFN. Section 304(d) then merely serves to exclude the venture as an AFN of the DI, not to remove it from the reach of the regulations altogether. Ventures of this nature are deemed a part of the parent AFN (as are an AFN's business ventures in the same scheduled area). Accordingly, profits (or losses) of an incorporated AFN's ventures of this nature would be deemed earnings of the parent AFN, transfers of capital to the venture would be deemed transfers to the parent AFN, and any net change in the net assets of the venture would not be reflected in calculating the DI's net transfer of capital to unincorporated AFNs for purposes of § 313(b).

**§ B304–6 Application of § 304.**

The operation and effect of § 304 are illustrated by the following examples:

*Example 1. (General.)* A U.S. corporation (X) owns 10 percent of the outstanding voting stock of a corporation organized under the laws of France. The foreign company is an incorporated AFN in Schedule C (see § 304(a)(1) and (b)(1)). If the company were incorporated under the laws of Brazil, it would be an incorporated AFN located in Schedule A. If it were incorporated under the laws of the United Kingdom, it would be an incorporated AFN located in Schedule B.

If the French AFN has a branch in Italy, or if the AFN of the United Kingdom has a branch in Japan, the branch operations would be subsumed under the parent company for purposes of the regulations, since both parent and branch would be in the same scheduled area (§ 304(a)(1)). An exception to this rule applies where either the parent AFN or its branch is located in Canada, in which case both would be AFNs (§ 304(a)(3)).

By the same token, if the French corporation has a branch in Germany and a wholly owned corporate subsidiary in Australia, and the latter has a branch in Canada, DI would have only three AFNs: (a) The French corporate subsidiary, (b) the French corporation's Australian subsidiary, and (c) the latter's Canadian branch. The French AFN's branch in Germany would not be a separate AFN, since Germany and France are in the same scheduled area. The Canadian branch would be a separate AFN since, for purposes of § 304(a)(3), Canada is not deemed to be a Schedule B country.

*Example 2. (Voting interest test.)* A U.S. corporation owns 95 percent of the outstanding voting stock of a company in France, the remainder being owned by unaffiliated foreign nationals. The French company has a 10 percent direct interest in a corporation in Japan. Only the French company is an AFN, since X's indirect interest in the Japanese company is only 9.5 percent, i.e., 95 percent × 10 percent (see §§ 901, 902).

*Example 3. (Profit interest test.)* An individual (X) who is a person within the United States is a partner in a partnership (C) organized under the laws of Germany, although he is not actively engaged in C's business. Under the partnership agreement, X is entitled to receive 15 percent of the profits of C. C is an unincorporated AFN of X (see § 304(a)(1) and (b)(1)).

*Example 4. (Indirect profit interest through non-AFN parent.)* A French corporation (C) has 200,000 shares of stock outstanding, 100,000 of which are voting and 100,000 of which are nonvoting fixed-dividend preferred. C has numerous branches in Schedules A and B. For many years, substantially all of C's profits (including branch profits) have been distributed as dividends to holders of the preferred stock and no dividends have been paid on the common stock. A corporation in the United States (X) owns 8,000 shares of C's voting stock (8 percent) and 70,000 shares of the preferred stock (70 percent); however, this investment has not been accompanied by active participation in or control over C's business affairs. C is not an AFN of X. Moreover, although X has for



V 38 N 179 SEP 17 73 XUM

many years received more than 10 percent of the profits of C's Schedule A and B branches, in the form of preferred stock dividends from C. OFDI would not consider the branches to be AFNs. A foreign business venture owned directly by a foreign corporation or partnership is not treated as an AFN of a U.S. person unless the parent is also an AFN of the U.S. person.

*Example 5.* (*Exception to the 10 percent interest test.*) A U.S. corporation (X) owns 9 percent of the outstanding voting stock of a French corporation (C). X also owns a current option to acquire additional voting stock of C that, if exercised, would give X ownership of 35 percent of C's outstanding voting stock. Moreover, a majority of C's directors are designees of X and, for a number of years, X has actively participated in and exercised a controlling influence over the affairs of C. Under § 304(b)(4), OFDI could deem C to be an AFN notwithstanding X's present 9-percent interest. As a matter of policy, however, such discretion would not normally be exercised unless X transfers more than $200,000 in funds or other property to C during any year commencing with the year 1968.

*Example 6.* (*Second-tier AFNs.*) A U.S. corporation (X) owns 10 percent of the outstanding voting stock of a French corporation (C). C owns a factory in Argentina, a sales office in Brazil, a sales office in Japan, a sales office in the United Kingdom and numerous factories and sales offices in continental Europe. The Japanese sales office has gross assets of less than $50,000 and, therefore, cannot be an AFN because of the exemption in § 304(d)(1). Accordingly, C is an incorporated AFN located in Schedule C, embracing also the factories and sales offices in continental Europe and in Japan. Assuming the inapplicability of the exemptions set forth in § 304(d), the factory in Argentina, the sales office in Brazil, and the sales office in the United Kingdom are separate unincorporated AFNs of X (§ 304 (a)(3) and (b)(1)).

*Example 7.* (*Bank or brokerage account.*) An individual within the United States maintains a number of bank accounts with foreign banks and also maintains an account with a German stock brokerage firm. Neither the bank accounts nor the brokerage account are AFNs.

*Example 8.* (*Investment real estate.*) An individual within the United States purchased a parcel of 1,000 acres of undeveloped real estate in Brazil for $75,000 in 1967. The land is being held for investment. The real estate is an unincorporated AFN (see § 304 (a)(2) and (b)(1).

*Example 9.* (*Commission salesmen*). A U.S. corporation (X) enters into a contract with an individual citizens of Argentina (A) pursuant to which A will be X's exclusive representative in Latin America to solicit orders for X's products. A is not to handle the products of any other company but is to work full time in soliciting orders for X. A has no authority to accept orders, but must forward them to X for approval. A is to be compensated on a commission basis based on the gross sales of X's products attributable to A's efforts. All payments for such sales must be remitted directly to X by the purchaser. X is to pay the rental for A's office in Buenos Aires, but all of A's other expenses (including the salaries of clerical and other required personnel) are to be paid by A out of his commissions. The Buenos Aires telephone directory is to carry a listing in X's name showing the telephone number of A's office. X also rents space in a warehouse in Buenos Aires, from which orders from Latin American customers are filled. Under the foregoing facts A's operation, is not an AFN.

*Example 10.* (*Sales agents.*) A U.S. corporation (X) employs five salesmen who travel throughout Europe to solicit orders for X's products. The salesmen operate out of a rented office in France and are all permanent residents of France. All orders must be accepted by X in the United States, but payment is made to the office in France. The rental and all other expenses of the sales office, including the salaries of the salesmen and other office personnel, are paid by X. Assuming the inapplicability of § 304(d), the sales office operation is an unincorporated AFN of X because it is a business venture conducted on behalf of X by employees of X (see § 304(a)(2) and (b)(1)).

*Example 11.* (*Sales agents; leased warehouse facilities.*) A U.S. corporation (X) sells its products in continental Europe through independent sales agents in Europe, who also sell products of many other U.S. corporations. The agents are compensated strictly on a commission based on their gross sales of X's products. X also employs salaried salesmen in the United States who periodically travel to Europe to make sales to X's largest European customers. X does not maintain any permanent manufacturing or sales facility in Europe. Under the foregoing facts X does not have AFNs in Schedule C. In addition, if in order to expedite deliveries to its European customers, X rents space in a warehouse in the Netherlands where a substantial inventory is maintained and orders from X's European customers are filled from this inventory, periodically being replenished by X, such operation would not constitute an AFN. Note that the result would be different if X owned the warehouse (assuming the inapplicability of § 304(d)); in that case, the warehouse itself would be an AFN.

*Example 12.* (*U.S. based consulting services.*) A U.S. corporation (X) is engaged in rendering management consulting services. Many of its clients are unaffiliated foreign corporations. During the course of a year, X's salaried personnel, all of whom are permanent residents of the United States, travel to X's foreign customers to render consulting services. They typically work at the head offices of the foreign companies for 1 to 2 months at a time. X does not have any AFNs by virtue of the foregoing facts.

*Example 13.* (*Construction projects.*) A U.S. corporation (X) is engaged in the construction business. During the course of a year, X bids on numerous European construction projects and receives contracts on a small fraction thereof. X has a permanent office in France where a variety of personnel are employed, principally to gather information concerning contemplated construction projects and to supervise and coordinate all projects on which X is then working. In January 1968, X received two contracts for construction of factories in Germany and Belgium. Soon thereafter, X transferred men and equipment to the project sites. Assuming the inapplicability of § 304(d), each project site is an unincorporated AFN of X, as is X's office in France (see § 304 (a)(3) and (b)(1)). (Note that the office in France is an AFN without regard to the opening of the German and Belgian project sites.)

*Example 14.* (*Oil concessions and licenses for exploration.*) A U.S. corporation (X) obtains a concession from a Schedule B country to drill for oil within that country. X then enters into a joint venture agreement with two U.S. and two foreign companies for the purpose of exploiting the concession. Under the terms of the agreement, X is entitled to receive 25 percent of any ensuing production. The oil exploration venture is an unincorporated AFN of X located in Schedule B (see § 304 (a)(2) and (b)(1)). Note that the joint venture will also be an unincorporated AFN of the other U.S. corporations, and that X and the other U.S. corporations are members of an "associated group." (See § 905.)

*Example 15.* (*Retail franchises.*) A U.S. corporation (X) operates, under a single trade name, a chain of quick-service restaurants throughout the United States. X franchises an unaffiliated French corporation (C) to open a restaurant in France using X's trade name. C agrees to purchase some of its goods from X, maintain certain quality standards, and pay X a yearly royalty based on profits. X does not have an AFN in France by virtue of this franchise arrangement.

*Example 16.* (*Break-even or loss ventures.*) Four U.S. news-publishing corporations (V, W, X, and Y) establish a membership corporation under New York law (Z). V, W, X, and Y each contribute 25 percent of the capital required by Z and each has 25 percent of the voting power in Z. Z is to gather news for the respective publications of V, W, X, and Y. In this connection, Z will establish and staff various permanent newsgathering offices throughout the world. Z is designed to operate on a break-even basis. The offices established by Z are unincorporated AFNs of V, W, X, Y, and Z even though not themselves operated for profit, since they are directly related to business activities that are for profit.

## B305—Direct Investor

Section 305 defines the term "direct investor" ("DI") generally to mean any person within the United States (defined in § 322) owning or acquiring (directly or indirectly) a 10 percent or greater interest in a corporation or partnership organized under the laws of a foreign country or in a business venture conducted within a foreign country (an "affiliated foreign national," defined in § 304).

A DI may be a multiple entity or several individuals treated as a single person under § 323 (international finance subsidiaries of a direct investor), § 903 (affiliated groups), or § 904 (family groups). The term also includes a person owning less than a 10 percent interest in a particular foreign corporation, partnership or business venture, if (a) such person is a member of an associated group, as defined in § 905, that acts in concert pursuant to an agreement or understanding to own or to acquire a 10 percent interest in the foreign enterprise, or (b) such person owns a direct interest in another DI and an election, consented to by such person, is made with respect to such other DI under § 906 (b)(1).

A person within the United States first acquiring the requisite interest in a foreign corporation, partnership, or business venture will be treated as having been a DI in the foreign enterprise immediately preceeding the acquisition. Accordingly, initial acquisition of the requisite interest will involve a § 312(a)(1) transfer of capital (see also § 313(d)(2)). Thus, for example, if a U.S. corporation (X), owning no interest in a French corporation (C), acquires 10 percent or more of the outstanding voting stock of C from an unaffiliated foreign national for $1 million in cash, X will be treated as a DI in C immediately prior to the closing of such acquisition and will, therefore, be treated as having made a $1 million transfer of capital to C.

Although acquisition or ownership of a 10 percent voting interest in a foreign corporation, or a 10 percent profits interest in a foreign partnership or business venture, is ordinarily required to constitute the foreign enterprise an AFN of a person within the United States, the regulations provide that a foreign enterprise in which a lesser interest is held may nevertheless be deemed an AFN (§ 304(b)(4)). For example, such discretionary authority might be exercised if a U.S. person were to acquire a contingent 10 percent interest in the voting securities of a foreign corporation, or a 10 percent present interest in the capital or earnings of a foreign corporation without voting rights. As a general rule, however, such determination would not be made by OFDI unless the U.S. person actually participates in and exercises a controlling influence over the affairs of the foreign enterprise and transfers funds or other property to the foreign enterprise exceeding $200,000 during any year commencing with 1968.





COMPUTATION OF DIRECT INVESTMENT

NET TRANSFER OF CAPITAL (§313)

*Components*

+Transfers of capital: DI to AFNs (§312(a)).
−Transfers of capital: AFNs to DI (§312(b)).
−Expended proceeds of long-term foreign borrowing (§313(d)(1)) (prior to July 1, 1972).
±Transfers of capital: AFNs to AFNs (§505).
±Net transfer of capital: DI to unincorporated AFN, i.e., net increase or decrease in assets (§313(b)).

*Plus*

REINVESTED EARNINGS (§306(b))

*Components*

DI's share of:
+Total earnings (§306(c)).
−Dividends to DI (§306(b)(2)(x)).
−Dividends paid by AFNs to AFNs in other areas (§306(b)(2)(y)).
+Dividends received by AFNs from AFNs in other areas (§306(b)(1)(i)).
+Profit remitted to AFNs from unincorporated AFNs in other areas (§306(b)(1)(ii)).

*less*

ALLOCATED PROCEEDS OF LONG-TERM FOREIGN BORROWING (§§ 306(c), 313(d)(2) and (3).)

## B306—Direct Investment

### § B306–1 Introduction.

Section 306(a) defines the term "direct investment" for purposes of the regulations. Direct investment, which may be positive or negative, means the sum of a DI's net transfer of capital to incorporated and unincorporated AFNs (defined in § 313(c)) and the DI's share of reinvested earnings of incorporated AFNs (defined in § 306(b)) during any period, usually a calendar year (see § 321). A DI governed by the § 503 minimum allowable will calculate direct investment on a worldwide basis. A DI governed by the § 504(a) historical allowable or the § 504(b) earnings allowable will calculate direct investment on a schedular basis.

Section 306(e)(1) permits deduction of available proceeds of long-term foreign borrowing (defined in § 324(d)) that are "allocated" on the DI's books and records as an offset to positive direct investment. Prior to July 1, 1972, available proceeds that were actually expended by a DI in making transfers of capital to AFNs were deducted under § 313(d)(1) in calculating the net transfer of capital.

### § B306–2 Summary.

In addition to defining the term "direct investment," § 306 deals with calculation of "reinvested earnings" and sets forth a number of rules to be followed in calculating the DI's share of such earnings as a component of direct investment.

The major topics covered in § 306 are: Basic definition of direct investment (§ 306(a)); definition of reinvested earnings (§ 306(b)); calculation of AFN earnings or losses (§ 306(c)); branch AFN earnings deemed remitted (§ 306(d)(1)); definitions and rules for dividends (§ 306(d)(2)), and allocation of proceeds of long-term foreign borrowing (§ 306(e)).

### § B306–3 Relation of § 306 to other sections.

Direct investment as defined in § 306 consists of a number of components. The way in which these various components enter into the calculation of direct investment is illustrated by the following diagram:

### § B306–4 Application of § 306.

The § 306(a) definition of direct investment applies to calculations in all scheduled areas during 1965–66 as well as for subsequent years.

The rules for calculating direct investment are modified in § 504(e). A DI governed by one of the § 504 allowables is required to disregard total losses of Schedule C incorporated AFNs in calculating direct investment in that scheduled area. Note that in 1969, if the AFNs of a DI governed by the § 503 minimum allowable had an aggregate annual loss, the DI was required to disregard such aggregate annual loss in calculating direct investment. See former § 503(b), which has been revoked for 1970 and succeeding years.

### § B306–5 Basic definition and calculation of direct investment.

Section 306(a) defines direct investment during any period as the sum of (a) net transfer of capital (defined in § 313(c)) and (b) the DI's share in the reinvested earnings of all incorporated AFNs (defined in § 306(b)). If the sum of DI's net transfer of capital and DI's share of reinvested earnings is greater than zero, DI has made "positive direct investment"; if the sum is less than zero, DI has made "negative direct investment."

Direct investment is an aggregate concept. It does not refer to individual transactions, but to the net effect of all transactions during a reporting period.

Direct investment is also a schedular concept. It does not apply to individual AFNs or countries, but to all AFNs of a DI located in each scheduled area. Since § 503 provides a worldwide allowable, however, a DI governed by this section will report direct investment on a consolidated, worldwide basis.

Direct investment in Canada is excluded from the computation of direct investment under § 306(a). (See §§ 1103–1104.)

The following examples illustrate calculation of direct investment under § 306(a):

*Example 1.* DI has several wholly owned incorporated AFNs in Schedule A. (The number of individual AFNs is not important.) DI has no other AFNs. During 1969 the AFNs together earn $800,000 and pay dividends of $200,000 to DI. DI's share in reinvested earnings, therefore, is $600,000. DI also makes a § 313(a) net transfer of capital to the AFNs of $500,000. DI has made positive direct investment in Schedule A for 1969 of $1,100,000.

In 1970 the same AFNs earn $600,000 and pay no dividends. During that year, however, the AFNs jointly loaned DI $700,000, resulting in a negative net transfer of capital in that amount, by operation of §§ 312(b)(1) and 313(a). Accordingly, DI has made negative direct investment of $100,000.

*Example 2.* DI's only AFNs are two wholly owned incorporated AFNs in Schedule B: X and Y. During 1969 X earns $400,000, and Y has losses of $200,000. No dividends are paid, and DI makes no net transfer of capital.

DI's share of reinvested earnings is $200,000. Positive direct investment for 1969 is also $200,000, since the net transfer of capital was zero.

During 1970, X has earnings of $100,000, and Y has losses of $300,000. X pays DI a dividend of $50,000. Reinvested earnings are negative in the amount of $250,000 (total losses and dividends). DI's net transfer of capital to Schedule B under § 313(a) is $600,000. Positive direct investment for 1970 is, therefore, $350,000 ($600,000 positive net transfer of capital less the $250,000 negative reinvested earnings).

If X and Y had been located in Schedule C and DI had elected a § 504 allowable, § 504(e) would have required the total losses of $200,000 to be omitted from calculation of direct investment. Direct investment would then have been $550,000.

*Example 3.* DI has a group of wholly owned incorporated AFNs in Schedule C that have subsidiaries (also AFNs of the DI) in Schedules A and B. In 1969 the Schedule C AFNs have earnings of zero and pay no dividends. DI makes no transfers of capital. However, the Schedule C AFNs receive dividends of $300,000 from their subsidiaries in Schedules A and B. As a result, DI has made positive direct investment of $300,000 in Schedule C consisting entirely of reinvested earnings. (Reinvested earnings in a given scheduled area are increased by dividends received by AFNs from AFNs in other scheduled areas, and reinvested earnings are reduced in the scheduled area from which the dividends are paid (see § 306(b).)

### § B306–6 Reinvested earnings of incorporated AFNs.

To compute a DI's share in the reinvested earnings of all incorporated AFNs in a scheduled area during any year, it is first necessary to determine the DI's share of the total earnings (or total losses) of such AFNs during the year as defined in § 306(c). Total earnings or losses consist of the aggregate earnings or losses of each of the incorporated AFNs in a particular scheduled area. Reinvested earnings are then found by adjusting total earnings to take into account dividends to the DI and interschedular dividends and profit remittances.

(i) *Total earnings.*—Earnings or losses of each incorporated AFN should be computed in accordance with accounting principles generally accepted in the United States and consistently applied by the DI in financial reports for pres-



V 38-179 SEP 17 73 XUM

entation to stockholders. Any material change in accounting procedures followed by a DI should be disclosed on the reporting form filed with OFDI for the period in which the change was made, together with an indication of the effects of such change.

In calculating total earnings of incorporated AFNs, the following considerations merit particular attention:

*Adjustments and eliminations arising during the process of consolidation:* Journal entries made during consolidation for the purpose of correcting AFN accounting data in accordance with generally accepted U.S. accounting principles applied by the DI in reports for presentation to its stockholders or to adjust depreciation rates or other bases of amortization to those employed by the DI (adjusting entries) shall be used in computing AFN earnings. Journal entries made during consolidation for the purpose of combining the separate entries into one (elimination entries) or equivalent journal entries made to change the carrying value of investment accounts under the Equity Method of investment accounting, generally shall not be used in computing AFN earnings. The following are illustrations of accounting entries that shall be used in computing AFN earnings where consistently applied by the DI in reports to shareholders under generally accepted U.S accounting principles:

(1) Restatement of depreciation or amortization, substituting methods or rates applied by the DI for those used by the AFN;

(2) Capitalization and amortization of research and development expenses written off as a current year expense by the AFN; and

(3) Restatement of lease operations of AFNs as sales or purchases.

The following are illustrations of elimination entries that may not be used in computing AFN earnings:

(1) Elimination of profit arising from intercompany sales when the goods sold are in the inventory of the purchaser;

(2) Elimination of intercompany merchandise sales; and

(3) Elimination of profits and adjustments to depreciation on intercompany sales of depreciable assets. The elimination of profit arising from intercompany sales between AFNs, upon consolidation or under the Equity Method of investment accounting, in accordance with principles of accounting generally accepted in the United States and consistently applied by a DI in reports to shareholders, shall be used in computing AFN earnings, however, provided such sales are made in the ordinary course of business pursuant to arm's-length terms and the obligations arising upon any extension of credit in connection with such sales will in fact be paid within 12 months after extension of the credit. (See § 505(b).)

Thus, for example, if an AFN sells merchandise to the DI for resale, the earnings of the AFN arising from the intercompany sale should not be reduced by any amount of unrealized profit in inventory that is eliminated in the consolidation of net income of the AFN and DI. However, if the AFN sells merchandise to another AFN for resale on such terms that the extension of credit in connection with the intercompany sale does not involve a transfer of capital pursuant to § 505(b), the earnings of the first AFN arising from the sale of merchandise to another AFN should be reduced by any amount of unrealized profit in inventory that is eliminated in consolidating net income of the AFNs and DI for presentation in reports to shareholders.

*Exchange gain or loss arising from the translation of foreign currency financial statements into U.S. dollars:* Unrealized exchange gain or loss arising upon translation into U.S. dollars of assets, liabilities, and earnings of an AFN expressed in foreign currency should be included in computing AFN earnings if such gain or loss is recognized by the DI in preparing financial reports for presentation to stockholders. Unrealized exchange gain or loss should not be included in AFN earnings when recognition of such gain or loss is deferred by the DI through the creation of a reserve. If the DI defers translation losses under accounting principles generally accepted in the United States and consistently applied, such losses shall be recognized as a factor in computing AFN earnings as the deferred amounts are amortized in future periods.

*Dividends:* Dividends received by an incorporated AFN from another incorporated AFN, whether in the same or another scheduled area, should not be included in calculating earnings of the recipient AFN. (See § 306(c).)

*Profit interest in unincorporated AFN of the DI:* If an incorporated AFN has an interest in a partnership or business venture in another scheduled area that is a separate unincorporated AFN under § 304, the incorporate AFN's share in any profits of the unincorporated AFN should not be included in calculating earnings of the incorporated AFN, whether or not any such profits are actually remitted. (See § 306 (c) and (d) (1).)

*Interests in United States:* If an incorporated AFN has an interest in a U.S. corporation, partnership, or business venture that would be a separate AFN of the DI if such U.S. enterprise were a foreign national, neither dividends received from such corporation nor the share in profits of such partnership or business venture (whether or not any such profits are actually remitted) should be included in calculating earnings of the incorporated AFN.

*Foreign taxes:* Earnings of incorporated AFNs should be computed net of foreign taxes on income or net worth. Foreign withholding taxes on dividends paid or branch profits distributed should not, however, be deducted except for withholding taxes on dividends received by an incorporated AFN from AFNs in the same scheduled area. (See § 306(c).)

*Charge for intangibles:* No deduction for amortization of any like charge against earnings should be made with respect to an intangible owned by an AFN, if transfer of the intangible by the DI to the AFN was made on or after January 1, 1968, and was not considered a transfer of capital by virtue of § 312(c)(11).

*Blocked earnings:* Earnings that are "blocked" because of exchange controls or other like restrictions imposed by the government of a foreign country should nevertheless be included in earnings. Under certain conditions, OFDI may grant appropriate relief (pursuant to § 801) in these circumstances.

*Reserve requirements:* No deductions from earnings should be made because of reserves for reinvestment, asset revaluation, or legal reserve requirements, whether or not locally required, if they would not be proper charges to income under generally accepted U.S. accounting principles consistently applied.

*Extraordinary gains and losses:* Extraordinary gains and losses of an incorporated AFN (including gains or losses resulting from liquidation sales by the AFN or sales by the AFN of interests in other AFNs), casualty insurance proceeds to the extent that they exceed the value of the assets lost or damaged and proceeds of business interruption insurance should generally be included in earnings. However, gains or losses realized by a DI resulting from sale of an interest in an AFN are not included in reinvested earnings under § 306(b) in any scheduled area; rather, the transfer of funds or other property to the DI in exchange for the equity interest in an AFN constitutes a transfer of capital to the DI under. § 312(b)(5). (See §§ B312–15(iv) and B312–16.)

The following example illustrates calculation of total earnings of incorporated AFNs in a given scheduled area, pursuant to § 306(c):

*Example 4.* DI has three wholly-owned subsidiaries in Schedule C. One subsidiary (D) has a branch (W) in Schedule A and a branch (X) in Schedule C; W is a separate AFN of the DI, but X is not. (See § 304(a)). Another subsidiary (E) has a wholly-owned subsidiary (Y) in Schedule B and another wholly-owned subsidiary (Z) in Schedule C. The third subsidiary (F) has no branches or subsidiaries.

The following occurs during 1969: D earns $1,700,000, $200,000 of which is attributable to earnings of W and $500,000 to earnings of X. Y earns $500,000 and pays a dividend of $300,000 to E. Z earns $200,000 and pays a dividend of $100,000 to E. E earns $2,400,000, including the dividends from Y and Z. F incurs a loss of $400,000.

Under § 306(c), total earnings of DI's incorporated Schedule C AFNs (D, E, and F) are $3,300,000, computed as follows (000 omitted):

| | |
|---|---|
| Earnings of D under § 306(c) (W's earnings of $200 are excluded, since W is in another scheduled area. X's earnings of $500 are not excluded, because X is not a separate AFN) | $1,500 |
| Earnings of E under § 306(c) (Dividends of $300 from Y and $100 From Z are excluded) | 2,000 |
| Earnings of Z under § 306(c) (Dividend of $100 to E is not deducted) | 200 |
| Loss of F | (400) |
| Total earnings | 3,300 |

(ii) *DI's share of total earnings.* A DI's share in the total earnings (or losses) of incorporated AFNs in a given scheduled area is the sum of the DI's percentage interest in total earnings (or losses) of each such AFN in that scheduled area. Note that while a person's beneficial ownership of voting stock determines such person's ownership interest in a foreign corporation, it may not determine that person's share in earnings of the corporation. A DI's share in earnings attributable to fixed dividend nonvoting preferred stock (or other nonvoting stock) should be added to such person's share in earnings attributable to voting stock in determining the DI's share of total earnings.

*Example 5.* DI has three incorporated AFNs in Schedule C (companies D, E, and F). DI owns 50 percent of the stock of D, 60 percent of the stock of E and 80 percent of the stock of F. D has a branch (W) in Schedule A and a branch (X) in Schedule C; W is a separate AFN of DI, but X is not (See § 304(a) (1) (iii).) E has a wholly owned subsidiary (Y) in Schedule B and another wholly owned subsidiary (Z) in Schedule C.

The following occurs during 1969: D earns $1,700,000, $200,000 of which is attributable to earnings of W and $500,000 to earnings of X. Y earns $500,000 and pays a dividend of $300,000 to E. Z earns $200,000, a portion of which is attributable to sale of merchandise to D, and pays a dividend of $100,000 to E. E earns $2,400,000 including the dividends from Y and Z. F incurs a loss of $400,000.

DI's share in the total earnings of incorporated Schedule C AFNs is $1,750,000 computed as follows, pursuant to § 306(c) (see table in Example 4 for treatment of earnings of the AFNs' branches or subsidiaries):

| *AFN earnings* (000 omitted) | *DI's share* (000 omitted) |
|---|---|
| Earnings of D ($1,500×50%) | $750 |
| Earnings of E ($2,000×60%) | 1,200 |
| Earnings of Z ($200×60%) | 120 |
| Loss of F ($400×80%) | (320) |
| DI's share of total earnings | 1,750 |

It should be stressed that in Examples 4 and 5 above, only earnings of DI's Schedule C incorporated AFNs were the subject of consideration. Y's earnings would be included in the calculation of reinvested earnings for DI's Schedule B incorporated AFNs under § 306(b), and the profits of W would be included in DI's net transfer of capital to unincorporated AFNs in Schedule A under § 313 (b).

Total earnings should always be carefully distinguished from reinvested earnings and from earnings of unincorporated AFNs.

(iii) *Reinvested earnings.*—After computing total earnings of incorporated AFNs and DI's share thereof, the next step in calculating direct investment is to find the DI's share of reinvested earnings. The method of determining reinvested earnings of incorporated AFNs in any scheduled area during a year is set forth in § 306(b). The DI's share of reinvested earnings in a scheduled area will generally equal the DI's share of total earnings of such AFNs for the year, less all dividends paid during the year by the AFNs to the DI and to AFNs in other scheduled areas, plus dividends received from incorporated AFNs in other scheduled areas and profits remitted from unincorporated AFNs in other scheduled areas.

Under § 306(d)(1), profits of an unincorporated AFN during the year are deemed to have been remitted to the extent that profits exceed the net increase in the net assets of such AFN during the year; if there has been no change, or a decrease, in such net assets during the year, all profits for such year are deemed to have been remitted. Dividends paid by incorporated AFNs to the DI or other AFNs are reported before deduction of foreign dividend withholding taxes; dividends and other profit distributions received by AFNs from AFNs in other scheduled areas are reported after deduction of foreign dividend withholding taxes.

For purposes of the regulations, dividends include all cash dividends, whether paid out of current or accumulated earnings. Stock dividends or dividends in kind do not qualify as dividends under the regulations. (See § 306(d)(2).) Distributions in complete or partial liquidation will qualify as dividends, but only to the extent the corporation being liquidated has current or accumulated earnings properly allocable to the distributions. Payments to a DI of amounts previously taxed under the provisions of §§ 551 through 558 and 951 through 981 of the Internal Revenue Code (1954) will qualify as dividends.

Dividends paid by one AFN to another AFN in the same scheduled area do not enter into any of the calculations required by § 306. They are not included in determining earnings of the recipient AFN, they are not deducted in calculating total dividends paid by the recipient AFN, and they are not included as dividends in calculating total dividends paid by the paying AFN. However, any foreign withholding taxes imposed on the payment of such dividends should be deducted in calculating total earnings of incorporated AFNs in the scheduled area involved. For example, DI has a wholly owned subsidiary (X) in Schedule C, that in turn has a wholly owned subsidiary (Y) in Schedule C. X and Y each earn $100,000, Y pays a $50,000 dividend to X on which there is imposed a $15,000 foreign withholding tax, and X pays a $50,000 dividend to DI on which there is also imposed a foreign withholding tax of $10,000. Total earnings of DI's Schedule C incorporated AFNs are $185,000 (i.e., $200,000 minus the $15,000 tax on dividend from Y to X) and DI's share in reinvested earnings of all such AFNs is $135,000 (i.e., $185,000 minus the $50,000 dividend (excluding the $10,000 tax paid by X to DI).

A dividend will generally be considered as having been paid or received when it first becomes payable on demand. This will ordinarily coincide with the dividend payment date, but in some cases it may coincide with the declaration date. Note that a dividend declared but not paid by an AFN when due is treated as having been paid (thus reducing the DI's share in reinvested earnings of the AFN) and then loaned back to the AFN (resulting in a transfer of capital by the DI to the AFN); subsequent payment of the amount due by the AFN will then be treated as a transfer of capital by the AFN to the DI. The same attribution of transfers of capital is applicable to dividends declared by an AFN that are not paid when due to AFNs in another scheduled area.

It should be noted that a DI may elect, on its original Base Period Report (Form FDI–101), to treat dividends received from AFNs within 60 days after the end of any compliance year as having been paid during such year; such election, if made, must also be reflected in the calculation of direct investment during the base period years, and cannot be changed without permission of OFDI.

The following formula may be helpful in applying the § 306(b) definition of reinvested earnings:

RE=TE−[(DP+dp)−(dr+pr)]

RE=DI's share of reinvested earnings of all incorporated AFNs in a scheduled area.

TE=DI's share of total earnings of all incorporated AFNs in the scheduled area.

DP=Dividends declared by AFNs in the scheduled area that are paid or payable to DI.

dp=DI's share of dividends declared by AFNs in the scheduled area that are paid or payable to AFNs in other areas.

dr=DI's share of dividends that are paid or payable to AFNs in the scheduled area by AFNs in other areas.

pr=DI's share of profits remitted to AFNs in the scheduled area from unincorporated AFNs in other areas.

*Example 6.* DI has two wholly owned and two 60-percent-owned subsidiaries in Schedule C. One wholly owned subsidiary (D) has a branch (V) in Schedule A. The second wholly owned subsidiary (E) has a 50-percent-owned subsidiary (W) in Schedule A. One 60-percent-owned subsidiary (F) has a branch (X) in Schedule A. The branches V and X in Schedule A are separate AFNs. See § 304(a)(1)(iii). The other 60-percent-owned subsidiary (G) has a wholly owned subsidiary (Z) in Schedule A; DI also has a wholly owned subsidiary (H) in Schedule A

In 1969 D earns $800,000 and pays a dividend of $500,000 to DI. Of D's earnings, $200,000 is attributable to profits of V, which had an increase in net assets of $100,000. E earns $500,000 and pays no dividends to DI. Of E's earnings, $200,000 is attributable to a dividend received from W, which itself earns $600,000. F earns $1 million and pays a dividend of $200,000 to DI. Of F's earnings, $200,000 is attributable to profits of X, which had no change in its net assets. G earns $2 million and pays a dividend of $500,000 to DI. Of G's earnings, $400,000 is attributable to a dividend received from Z, which itself earns $900,000. H earns $1,500,000 and pays a dividend of $1 million to DI. Reinvested earnings of DI's incorporated AFNs are computed as follows:

Schedule C reinvested earnings [RE]:

DI's share in the total reinvested earnings of its incorporated Schedule C AFNs (D, E, F, and G) is $1,800,000 computed as follows (000 omitted):

| | |
|---|---|
| Total earnings [TE]: | |
| DI's share of earnings of D: $800 less profits of V ($300) | $500 |
| DI's share of earnings of E: $500 less dividend received from W ($200) | 300 |
| DI's share of earnings of F: $600 less profits of X ($200×60%) | 480 |
| DI's share of earnings of G: $1,200 less dividend received from Z ($400×60%) | 960 |
| DI's share of total earnings | 2,240 |
| Dividends paid to DI [DP]: | |
| By D | 500 |
| By E | 0 |
| By F | 200 |
| By G | 500 |
| Total | 1,200 |





FEDERAL REGISTER, VOL. 38, NO. 179—MONDAY, SEPTEMBER 17, 1973



V 38 I 179 SEP 17 73 XUM

| | |
|---|---|
| Dividends paid to AFNs in other areas [dp] | 0 |
| Dividends received and profits remitted [dr+pr]: | |
| DI's share of profits deemed remitted by V to D under § 306(d)(1): Earnings ($300) less net increase in assets ($100) | 200 |
| DI's share of dividends received by E from W | 200 |
| DI's share of profits deemed remitted by X to F under § 306(d)(1) ($200×60%) | 120 |
| DI's share of dividend received by G from Z ($400×60%) | 240 |
| DI's share of all dividends received and profits remitted | 760 |

Applying the formula RE=TE−[(DP+dp)−(dr+pr)]:

RE=$2,240−[$1,200−$760]=$1,800

Schedule A reinvested earnings [RE]:

DI's share in the total reinvested earnings of its incorporated Schedule A AFNs (H, W, and Z) is $900,000 computed as follows (000 omitted):

| | |
|---|---|
| Total earnings [TE]: | |
| DI's share of earnings of H | $1,500 |
| DI's share of earnings of W ($600×50 percent) | 300 |
| DI's share of earnings of Z ($900×60 percent) | 540 |
| DI's share of total earnings | 2,340 |
| Dividends paid to DI and DI's share of dividends paid to AFNs in other areas [DP+dp]: | |
| Dividends paid by H to DI | 1,000 |
| DI's share of dividend paid by W to E | 200 |
| DI's share of dividend paid by Z to G ($400×60 percent) | 240 |
| Total | 1,440 |
| Dividends received and profits remitted [dr+pr] | 0 |

Applying the formula RE=TE−[(DP+dp)−(dr+pr)]:

RE=$2,340−[$1,440−0]=$900

*Example 7.* Assume the same facts as in Example 6 above, except that H incurs a loss of $1 million and pays no dividend. DI's share in the total reinvested earnings of Schedule A AFNs is a negative $600,000, computed as follows (000 omitted):

| | |
|---|---|
| Total earnings [TE]: | |
| DI's share of loss of H | (1,000) |
| DI's share of earnings of W | 300 |
| DI's share of earnings of Z | 540 |
| DI's share of total earnings | (160) |
| DI's share of dividends paid [dp]: | |
| W to E | 200 |
| Z to G | 240 |
| Total | 440 |

RE=TE−[(DP+dp)−(dr+pr)]

RE=−$160−[(0+$440)−0]=−$600

### § B306–7 Deduction from positive direct investment: Allocated proceeds of long-term foreign borrowing.

Under § 306(e), the amount of positive direct investment charged to a DI may be reduced by allocating available proceeds of long-term foreign borrowing (see § 324(d). Positive direct investment may also be reduced by allocating proceeds of long-term foreign borrowing that were expended in making a transfer of capital to another scheduled area prior to July 1, 1972 (see § 203(d)(2)), and by reallocating proceeds previously allocated to a transfer of capital or positive direct investment in another scheduled area (see § 203(d)(3)). (See also § B324–10.)

An allocation to reduce 1973 positive direct investment must be made as of December 31, 1973 or, alternatively, February 28, 1974. The allocation will be subject to the following conditions:

The allocation must be reflected on the books and records required to be maintained by the DI under §§ 203(b) and 601.

The allocation and reduction of positive direct investment must be reported on the DI's Form FDI–102F covering the year in which the reduction is made (1973).

If the allocation is made as of December 31, 1973, proceeds that were so allocated may not at the close of December 31, 1972 and at all times thereafter be held, directly or indirectly, in the form of foreign balances (see § 203(a)(1)), securities of foreign nationals, or any other foreign property, except that such proceeds may at any time on or after July 1, 1972 be expended in making transfers of capital to AFNs.

If the allocation is made as of February 28, 1974, proceeds that were so allocated may not at the close of February 28, 1974 and at all times thereafter be held, directly or indirectly, in the form of foreign balances (see § 203(a)(1)), securities of foreign nationals, or any other foreign property, except that such proceeds may at any time on or after July 1, 1972 be expended in making transfers of capital to AFNs without any deduction from net transfer of capital.

Thus, a DI may reduce positive direct investment made during 1973 by allocating available proceeds of any long-term foreign borrowing that is outstanding on February 28, 1974. Such borrowing may be made during January or February 1974, or may have been made by the DI during 1973 or a prior year. The 12-month maturity test for long-term foreign borrowing will, of course, apply to any borrowing of which available proceeds are allocated, i.e., the borrowing, as refinanced, must be continuously outstanding for at least 12 months.

It should be noted by DIs that they may allocate to positive direct investment made during 1973 any proceeds that are available for allocation on December 31, 1973, notwithstanding the repayment of the underlying long-term foreign borrowing during January or February 1974. Such repayment will involve a transfer of capital during 1974.

Allocation is illustrated in the following example:

*Example 8.* In 1973 DI makes a net transfer of capital to its AFNs in Schedule A in the amount of $4 million, and its share of reinvested earnings of incorporated AFNs in Schedule A is $3 million. DI has made positive direct investment under § 306(a) of $7 million. If DI makes a $1 million long-term foreign borrowing in February 1974 and does not hold proceeds of such borrowing in any form of foreign property as of February 28, 1974 (except any amount that may have been expended in making a transfer of capital to an AFN), DI may allocate $1 million of such proceeds to its 1973 positive direct investment in Schedule A and reduce the amount of such investment to $6 million. The allocation and reduction must be reflected on DI's books and records and on Form FDI–102F for 1973.

In addition to § 306(e), two other provisions of the regulations relate to deductions for use of proceeds of long-term foreign borrowing, and a third provision, revoked on July 1, 1972, relates to such deductions in connection with expenditures of proceeds prior to that date. Section 203(d)(2) and (3) are analogous to § 306(e) insofar as they allow deductions from positive direct investment for allocation of proceeds. Section 203(d)(2) allows a DI to allocate proceeds that were expended in making transfers of capital to AFNs prior to July 1, 1972 (or were allocated to such transfers during 1968) to a new scheduled area, thus obtaining a deduction from positive direct investment in the new area (with a corresponding § 312(a) transfer of capital to the prior area). Section 203(d)(3) allows a DI to reallocate to a new scheduled area proceeds previously allocated under § 306(e) with a corresponding § 312(a) transfer of capital to the prior area). Section 313(d)(1) was revoked on July 1, 1972; prior to that date, it provided for mandatory deduction from net transfers of capital of the amount of proceeds actually expended in making transfers of capital to AFNs.

For a more detailed analysis of long-term foreign borrowing, see § B324.

Section 306(e)(3) provides for the schedular apportionment of deductions for allocations of borrowings to positive direct investment calculated on a worldwide basis under § 503 or calculated on a combined schedular basis under § 507 (as in effect during 1970, 1971 and 1972) as to Schedules B and C. Section 306(e)(3) is applicable only if the DI elects a schedular allowable and in the same year incurs a repayment charge or makes a reallocation with respect to a borrowing previously allocated to worldwide or combined schedular investment under § 503 or § 507. For example, if the DI takes a § 306(e) deduction from worldwide positive direct investment under § 503 and then repays the borrowing in a year in which § 504 is elected, the repayment charge to each scheduled area for purposes of § 312(a)(7) is established by § 306(e)(3). Similar treatment is provided for borrowings that were allocated to combined Schedules B/C under § 507 and are subsequently repaid in a year of electing § 504. Schedular apportionment of an aggregate deduction must also be made under § 306(e)(3) if the DI intends subsequently to reallocate between scheduled areas.

The rule of § 306(e)(3) does not apply to a deduction under § 313(d)(1), which is recognized in the scheduled area where the transfer of capital was made with available proceeds.

(i) *Recalculation of worldwide positive direct investment under § 503 and combined Schedules B/C positive direct investment under § 507.*—Section 306(e)(3) deems a § 306(e) deduction to have been made in proportion to the amount of positive direct investment in each scheduled area (negative direct investment being treated as zero for this purpose). DI should, therefore, recalculate direct investment for each schedule, taking into account all interschedular transfers (§ 505), dividends and profit remittances. Treatment of aggregate annual losses (former § 503(b)) in recalculating 1969 direct investment by scheduled area is discussed below in paragraph (iii) of this section.

*Example 9.* DI elected § 503 for 1969 and made positive direct investment worldwide of $2 million. To comply with the regulations, DI made a long-term foreign borrowing of $1 million and allocated the proceeds to positive direct investment, under § 306(e)(1).

Assume that DI recalculates 1969 direct investment by scheduled area as follows ($000 omitted):

| | Scheduled area | | |
|---|---|---|---|
| | A | B | C |
| Direct investment | 1,000 | (500) | 1,500 |
| Proportionate amount | 40% | 0% | 60% |

DI's deduction under § 306(e)(1) is deemed by § 306(e)(3) to have been made as follows: Schedule A—$400,000 ($1,000,000×40%); Schedule B—0; and Schedule C—$600,000 ($1,000,000×60%).

Complete or partial repayment of the borrowing will be charged under § 312(a)(7) to each scheduled area in the same proportions (Schedule A—40%; Schedule B—0%; and Schedule C—60%). The DI may also reallocate to other scheduled areas on the basis of the amounts apportioned to each area under § 306(e)(3).

*Example 10.* Same facts as in Example 9. For 1970 DI elects § 507 and makes positive direct investment of $1,200,000 in Schedules B/C, consisting of $480,000 (40%) in Schedule B and $720,000 (60%) in Schedule C. DI reallocates under § 203(d)(3) to Schedules B/C $200,000 of the $400,000 deemed allocated to Schedule A in 1969. The reallocation to combined positive direct investment in Schedules B/C under § 203(d)(3) is deemed by § 306(e)(3) to have been made as follows: Schedule B (40%)—$80,000; and Schedule C (60%)—$120,000.

In 1971 DI elects § 504 and repays the borrowing in full. For purposes of § 312(a)(7), deductions in each area are as follows: Schedule A—$200,000 ($400,000 deemed allocated in 1969 less $200,000 reallocated in 1970); Schedule B—$80,000 ($80,000 deemed allocated in 1970); and Schedule C—$720,000 ($600,000 deemed allocated in 1969 plus $120,000 deemed allocated in 1970). Transfers of capital under § 312(a)(7) on account of the repayment will be charged to each area in the same amounts.

(ii) *Relation to § 313(d)(1) deductions.*—If the DI expended proceeds of the borrowing in making a transfer of capital prior to July 1, 1972, the § 313(d)(1) deduction will be recognized in the scheduled area where the transfer of capital was made, in addition to deductions deemed made in such area by § 306(e)(3), as illustrated by the following example:

*Example 11.* DI elected § 503 in 1969. During 1969, DI borrowed $1,500,000 and expended $500,000 in making transfers of capital to Schedule A, taking a deduction therefor under § 313(d)(1). DI also transferred $500,000 each to Schedules A and B and $1 million to Schedule C. To comply with the regulations, DI allocated the $1 million of remaining available proceeds to worldwide positive direct investment, taking a deduction under § 306(e)(1), DI's total deductions for purposes of § 312(a)(7) are: Schedule A—$750,000; Schedule B—$250,000; and Schedule C—$500,000, computed as follows ($000 omitted):

| | Scheduled area | | |
|---|---|---|---|
| | A | B | C |
| (a) Net transfer of capital | 1,000 | 500 | 1,000 |
| (b) Less § 313(d)(1) deduction | 500 | 0 | 0 |
| (c) Positive direct investment under § 306(a) | 500 | 500 | 1,000 |
| (d) § 306(e)(1) deduction | | (1) | |
| (e) § 306(e)(1) deduction apportioned under § 306(e)(3) on basis of line (c) | 250 | 250 | 500 |
| (f) Total deductions (Lines (b) and (e)) | 750 | 250 | 500 |

[1] 1,000 worldwide.

Complete or partial repayment of the borrowing in a subsequent year will be charged as follows if § 504 is elected: Schedule A—50 percent; Schedule B—16⅔ percent; and Schedule C—33⅓ percent. If § 507 is elected, the apportionment of the transfer of capital would be: Schedule A—50 percent; Schedules B and C, 50 percent.

Note, however, that if the $500,000 deduction taken under § 313(d)(1) had been on account of a separate borrowing, repayments of that borrowing would be charged in full to Schedule A; and repayments of the borrowing allocated under § 306(e) would be charged only on the basis of the § 306(e) deductions as shown on line (e) of the above table (i.e., Schedule A—25 percent; Schedule B—25 percent; and Schedule C—50 percent). An allocation under § 203(d)(2) would be made on the basis of the amount shown on line (b) of the table and reallocations under § 203(d)(2) or (3) on the basis of line (e).

(iii) *Treatment of aggregate annual losses in recalculating 1969 direct investment under § 503 by scheduled area.*—Section 503(b) in effect for 1969 required DIs to disregard aggregate annual losses in calculating worldwide direct investment under the $1 million minimum allowable; i.e., the amount of such losses was to be added back to aggregate direct investment for all scheduled areas calculated in accordance with § 306. See § B503–3(ii). In recalculating 1969 positive direct investment for purposes of § 306(e)(3), the effect of the § 503(b) adjustment must be apportioned for each scheduled area. If a DI had aggregate annual losses for purposes of § 503(b) in 1969, direct investment should first be calculated for each scheduled area pursuant to § 306(a), taking all losses into account. Then the DI should add to direct investment in each scheduled area in which annual earnings ($ 504(b)(4)) were negative such scheduled area's share of aggregate annual losses, to be determined by multiplying aggregate annual losses by a fraction, the numerator of which is such area's negative annual earnings under § 504(b)(4) and the denominator of which is the sum of negative annual earnings for all areas where annual earnings were negative. See line (d) of the table in Example 13 below.

*Example 12.* DI elected § 503 for 1969. DI had only incorporated AFNs in Schedules A and B. DI transferred $500,000 to Schedule A, where its AFNs earned $500,000; and DI transferred $1 million to Schedule B, where its AFNs had losses of $1 million. No dividends were paid. DI had aggregate annual losses of $500,000 and positive direct investment worldwide under § 503 of $1,500,000, calculated as follows ($000 omitted):

| | Scheduled area | | |
|---|---|---|---|
| | A | B | Worldwide |
| Reinvested earnings | 500 | (1,000) | (500) |
| Net transfer of capital | 500 | 1,000 | 1,500 |
| Positive direct investment under § 306 | 1,000 | 0 | 1,000 |
| Add back aggregate annual losses | | | 500 |
| Positive direct investment under § 503 | | | 1,500 |

For purposes of the schedular recomputation, aggregate annual losses are added to direct investment in the area where annual earnings were negative (Schedule B) in proportion to such area's share of all negative annual earnings (Schedule B—100%). Therefore, DI's § 306(e)(1) deduction will be apportioned on the basis of $1 million positive direct investment in Schedule A and $500,000 positive direct investment in Schedule B.

*Example 13.* DI elected § 503 in 1969. DI had only incorporated AFNs in Schedules A and B and unincorporated AFNs in Schedule C. DI made transfers of capital of $1 million to its AFNs in Schedule A and $3 million to its AFNs in Schedule B. DI's AFNs in Schedule A earned $500,000; the Schedule B AFNs lost $600,000, and the Schedule C AFNs lost $400,000 but had an increase in net assets of $100,000. DI's aggregate annual losses under § 503(b), therefore, were $500,000. There were no dividends or profit remittances. DI's worldwide positive direct investment was $4,500,000.

The following table illustrates the recalculation by scheduled area of 1969 direct investment ($000 omitted):

| | Scheduled area | | |
|---|---|---|---|
| | A | B | C |
| (a) Reinvested earnings | 500 | (600) | (400) |
| (b) Net transfer of capital | 1,000 | 3,000 | 100 |
| (c) Direct investment under § 306(a) | 1,500 | 2,400 | 100 |
| (d) Adjustment for aggregate annual losses for purposes of § 306(e)(3) | 0 | [1] 300 | [2] 200 |
| (e) Direct investment for purposes of § 306(e)(3) | 1,500 | 2,700 | 300 |

[1] 500×600÷1,000=300.
[2] 500×400÷1,000=200.

A deduction made under § 306(e), then, is deemed apportioned to the scheduled areas as follows: one-third to Schedule A; three-fifths to Schedule B; and one-fifteenth to Schedule C.

(iv) *Apportionment by other methods.*—If a DI is unable to recompute direct investment by scheduled area, the Office may, upon application, permit deductions to be apportioned on some other reasonable basis.

### § B306–8 Calculation of direct investment during year of acquisition or disposition of interest in an AFN.

By operation of § 312(c)(1), acquisition by a DI of a debt or equity interest in an AFN from a person within the United States acting for its own account does not give rise to a transfer of capital.







V 38 179 SEP 17 73 XUM

If the acquisition is of an equity interest from a DI in the AFN and the divesting and acquiring DIs file Form FDI–107, the divesting DI's direct investment in the AFN during the year of acquisition and in 1965–66 will be imputed to the acquiring DI in proportion to the interest acquired, as will the divesting DI's share in earnings or losses of the AFN prior to acquisition. If the acquisition is of an equity interest in an AFN from a person within the United States that was not a DI in the AFN (or from a DI but Form FDI–107 was not filed by both DIs), the acquiring DI (and also the divesting DI) must reflect a pro rata share of reinvested earnings in computing direct investment during the year of such transfer, based on the DI's share of total earnings multiplied by the fraction of the year during which the interest was held.

If a DI disposes of an AFN (other than by a transaction covered by § 312(c)(1)), the sale does not affect any transfers of capital between the DI and the AFN preceding the date of disposition. Thus, for example, if DI makes a $1 million transfer of capital to an AFN in January and sells the AFN in October to a foreign national for $900,000, DI would be charged with a $100,000 net transfer of capital during the year with respect to such AFN.

If a DI acquires an interest in an incorporated AFN from a foreign national or sells such an interest to a foreign national during a year, the DI must reflect a pro rata share of reinvested earnings in computing direct investment, based on the DI's share of total earnings multiplied by the fraction of the year during which the interest was held.

*Example 14.* DI reports on a calendar year basis. On April 1, 1969, DI acquires from a foreign national a 100 percent interest in an incorporated AFN that earns $200,000 for the entire year and pays a $50,000 dividend on March 1 and a $75,000 dividend on September 1. DI's share of total earnings is $150,000 ($200,000×¾). DI's share of reinvested earnings is $75,000 ($150,000−$75,000). Note that the dividend paid prior to DI's acquisition is not reflected in the calculation of DI's reinvested earnings.

*Example 15.* During 1969, DI acquires from a foreign national the following interests in an AFN: 25 percent on January 1, an additional 30 percent on March 1 and an additional 20 percent on September 1. The AFN earns $1,200,000 during 1969 and pays no dividends. DI's share of reinvested earnings in the AFN for 1969 is $680,000:

| | |
|---|---|
| $1,200,000×(12/12)×25% equals | $300,000 |
| $1,200,000×(10/12)×30% equals | 300,000 |
| $1,200,000×(4/12)×20% equals | 80,000 |
| Total | 680,000 |

## B312—Transfers of Capital

### § B312–1 Introduction.

Direct investment is defined in § 306(a) as the sum of a DI's net transfer of capital and the DI's share of reinvested earnings of incorporated AFNs. Computation of a DI's net transfer of capital (defined in § 313) is based upon the computation under § 312 of all transfers of capital from the DI to AFNs and all transfers of capital from AFNs to the DI. Section 312 sets forth rules and definitions for determining whether a given transaction constitutes a transfer of capital.

In general, a transfer of funds or other property that increases a DI's equity or debt investment in an AFN (or decreases an AFN's equity or debt investment in a DI) is a "positive" transfer of capital, i.e., a transfer by the DI to the AFN. Conversely, a transfer of funds or other property that decreases a DI's equity or debt investment in an AFN (or increases an AFN's equity or debt investment in a DI) is generally a "negative" transfer of capital, i.e., a transfer by the AFN to the DI.

### § B312–2 Summary.

Under § 312, transfers of capital by a DI to an AFN are defined in subsection (a), transfers of capital by an AFN to a DI are defined in subsection (b), certain transactions that are not considered transfers of capital are described in subsection (c), and the definition of "debt obligation" or "debt interest" is set forth in subsection (d). Generally, transactions occurring during base period years and transactions occurring after the effective date of the regulations are treated similarly in determining whether a transfer of capital has been made.

Under § 312(a), any transfer of funds or other property (without regard to the situs of the property) by, on behalf of, or for the benefit of a DI, directly or indirectly to, on behalf of, or for the benefit of an AFN, is a transfer of capital by the DI to the AFN. Also, any transaction or occurrence as a result of or in connection with which a DI directly or indirectly acquires or increases a debt or equity interest in an AFN, or the AFN directly or indirectly disposes of or reduces a debt or equity interest in the DI, is generally a transfer of capital by the DI to the AFN.

Under § 312(b), certain enumerated transactions or occurrences as a result of or in connection with which an AFN directly or indirectly acquires or increases a debt or equity interest in a DI, or the DI directly or indirectly disposes of or reduces a debt or equity interest in the AFN, are defined as transfers of capital by the AFN to the DI.

The language of subsection (a) of § 312 is substantially broader than that of subsection (b). Also, the specific transactions enumerated in subsection (a) as transfers of capital by a DI to an AFN do not purport to be all-inclusive; the transactions listed in subsection (b), however, are the only transactions which are considered transfers of capital by an AFN to a DI.

A transaction between a DI and an AFN involving immediate cash payment for goods sold or services rendered is not a transfer of capital. However, if a DI sells goods on credit or renders services on account to an AFN, DI has made a transfer of capital to the AFN, since DI's debt investment in the AFN is increased. Subsequent payment on account by the AFN is a transfer of capital by the AFN to DI, since DI's debt investment in the AFN is thereby decreased. (But see § B312–22 for a discussion of the export credit exemption system.)

Aggregate transfers of capital by a DI to all AFNs in a scheduled area during a year, less aggregate transfers of capital by such AFNs to the DI during the year, is the "net transfer of capital" by DI to the scheduled area during such year. (See § 313.) A DI electing to be governed by schedular allowables under § 504 will report net transfers of capital on a schedular basis. A DI electing to be governed by the minimum allowable under § 503 will report net transfer of capital on a worldwide basis. A DI's net transfer of capital may be a positive or negative amount; it will be a positive amount if the aggregate of transfers of capital by DI to AFNs exceeds the aggregate of transfers of capital by AFNs to DI.

Particular transactions constituting transfers of capital during a year are not independently restricted under the regulations. A transfer of capital has significance only with respect to the computation, on an annual basis, of a DI's net transfer of capital and direct investment.

If proceeds of long-term foreign borrowing have been expended in making transfers of capital to AFNs prior to July 1, 1972, or allocated to positive direct investment, repayment of the borrowing will be a transfer of capital by the DI (see § 312(a)(7)). Positive direct investment attributable to such a transfer of capital may be authorized by § 1002, with the effect set forth in § 1003, provided the certification requirements of § 1002 have been met.

Since positive direct investment in Canada is generally authorized without limitation as to amount (see § 1102), transfers of capital by a DI to Canadian AFNs may be made in unlimited amounts without contravening the regulations. However, a transfer of funds or other property by a Canadian AFN to a non-Canadian AFN of the DI will, under certain circumstances, be treated as a transfer of capital by the Canadian AFN to the DI, and as a further transfer of capital by the DI to the non-Canadian AFN. (See § 505.) Furthermore, if an interest is acquired in a Canadian AFN from another AFN, the transfer of capital is deemed to have been made by a DI to the latter AFN; and if a DI acquires a Canadian AFN from any foreign national (other than another AFN), an appropriate portion of the transfer of capital by DI will be allocated among any non-Canadian second-tier AFNs owned by the Canadian AFN.

The net transfer of capital by a DI to unincorporated AFNs in any scheduled area during any period generally is computed in the manner set forth in § 313(b).

Transfers of funds or other property between AFNs of a DI are governed by § 505. In general, a transfer by one AFN to another AFN is treated as a transfer of capital by the transferor AFN to the DI, and a further transfer of capital in the same amount by the DI to the transferee AFN, provided that (a) at least one of the AFNs is an affiliate of the DI (i.e., the DI owns, alone or with other affiliates, a greater than 50 percent direct interest in the AFN) and (b) the transfer of funds or other property would be a transfer of capital under § 312(a) if actually made by the DI. (See § 505(a).) Extension of a trade credit for less than 1 year by one AFN to another AFN in the ordinary course of business normally will not involve a transfer of capital, provided neither AFN is Canadian. (See §§ 505(b) and 1103(c).)





### § B312–3 Valuation of transfers of capital.

The amount of transfer of capital is ordinarily determined in accordance with generally accepted U.S. accounting principles consistently applied by the DI in financial reports to stockholders. In no event, however, will the amount be less than the value of the transferred property at the time of the transfer as shown on the books and records of the transferor for financial reporting purposes. Thus, for example, if a transfer involves an export credit sale by a DI to an AFN, the amount of the transfer will ordinarily be the intercompany billing price. If transfers of property are valued by a DI at amounts that differ materially from the intercompany billing price or the export declaration value of the property (if applicable), the DI's annual report including the transfers should contain a note to such effect and an appropriate explanation of the basis therefor.

A transfer of capital arising from repayment of a foreign curency loan from a DI to an AFN or from an AFN to a DI must be reported in U.S. dollars at the rate of exchange prevailing at the time of repayment, regardless of intervening devaluation or revaluation of the foreign currency. Likewise, a transfer of capital arising from repayment by the DI of an AFN's foreign currency borrowing pursuant to the DI's guarantee thereof, or a transfer of funds by the DI to the AFN to enable the latter to repay a foreign currency borrowing, will be reported in U.S. dollars at the rate of exchange prevailing at the time of repayment. On the other hand, a transfer of capital arising from repayment by a DI of its own foreign curency long-term foreign borrowing will be charged at the dollar equivalent on the date of the borrowing regardless of intervening devaluation or revaluation of the foreign currency. The effect of currency revaluation or devaluation on proceeds of long-term foreign borrowing is discussed in § B324–13.

### § B312–4 Acquisition of interest in an AFN.

Acquisition of an equity or profit interest in a foreign corporation, partnership or business venture (defined in § 304) by a person within the United States (defined in § 322) will involve a transfer of capital by such person under § 312(a)(1), or will be included in the calculation of the net transfer of capital to unincorporated AFNs under § 313(b), if:

The person from whom the acquisition is made is a foreign national (defined in § 302), including the foreign corporation, partnership, or business venture in which the interest is acquired; and

The person making the acquisition is at the time of the acquisition, a DI in the foreign corporation, partnership, or business venture, under §§ 305, 905(b)(1) (members of an associated group treated as separate DIs) or 906(b)(3) (owners of a DI electing to be treated themselves as DIs), or becomes a DI as a result of or in connection with the acquisition.

If the acquisition is from a person within the United States acting for its own account, no transfer of capital is involved (§ 312(c)(1)). Also, a specific authorization may be granted, under certain conditions, for positive direct investment attributable to creation of a DI–AFN relationship by acquisition of a foreign corporation's assets in exchange for property (e.g., stock) of the new DI, where the foreign corporation is to be liquidated in a related transaction by distribution of the property received (e.g., stock of the DI purchasing the assets) to persons within the United States.

If acquisition of an equity interest involves a transfer of capital by the DI, the transfer of capital will generally be deemed to have been made to the AFN in which the interest is acquired. There are, however, two exceptions to this rule. First, if the interest is acquired from another AFN of the DI, the transfer of capital will be deemed to have been made to the selling AFN. Second, if (a) the interest is acquired from an unaffiliated foreign national after December 31, 1967, (b) the AFN in which the interest is acquired first becomes an AFN as a result of the acquisition, and (c) such AFN has interests in other foreign corporations, partnerships or business ventures that become separate AFNs of the DI as a result of the acquisition, the transfer of capital will be allocated among the separate AFNs in a manner reasonably reflecting the respective values of each direct and indirect interest acquired. As a general rule, an allocation based on the respective net asset values of the foreign corporations, partnerships, and business ventures involved will be acceptable. In calculating such respective net asset values, there should be excluded from liabilities all equity interests in and debt obligations of each AFN that are held by other AFNs of the DI, and there should be excluded from assets all equity interests in and debt obligations of other AFNs of the DI that are held by each AFN.

*Example 1.* On June 1, 1969, a U.S. citizen and resident (X), who owns no voting stock in a foreign corporation, purchases 10 percent of the outstanding voting stock of a French corporation (C) from a citizen and resident of the United Kingdom for $1 million cash. C has no subsidiaries or branches in Schedule A or B that would constitute separate AFNs under § 304.

(a) Under the facts as presented, X has made a $1 million transfer of capital to C under § 312(a)(1).

(b) If X had purchased only 9 percent of the voting stock of C, no transfer of capital would be involved unless or until (i) additional stock acquisitions give rise to a DI–AFN relationship or (ii) OFDI determines that such relationship does, in fact, exist. (See §§ 305, 313(d)(2); see also § 304(b)(4).)

(c) If X purchased only 9 percent of the voting stock of C, but X was a member of an affiliated, associated, or family group, and another member or members of the group owned or acquired an additional 1 percent or more of the voting stock of C, X's acquisition would have involved a transfer of capital. (See §§ 903–905.)

(d) If X had purchased only 9 percent of the voting stock of C, but X acquired an additional 1 percent or more of the voting stock of C between June 2, 1969, and May 31, 1970, X's net transfer of capital to Schedule C in 1969 or 1970 (depending on when the additional stock was acquired) would be increased by the $1 million expended in purchasing the 9-percent interest on June 1, 1969. (See § 313(d)(2).)

(e) If X had purchased 10 percent of C's outstanding preferred stock that has no voting rights (other than contingent voting rights not presently exercisable), instead of 10 percent of the voting stock, X would not have made a transfer of capital to C. (See § 304(b)(2)(i).)

(f) If X purchased 10 percent of the voting stock of C and subsequently purchased nonvoting preferred stock of C for $1 million, purchase of the preferred stock would involve a $1 million transfer of capital to C. (See § 312(a)(1).)

(g) If X purchased nonvoting preferred stock of C for $1 million and subsequently, within a 12-month period, purchased 10 percent of the voting stock of C, X's net transfer of capital to Schedule C during the year when the voting stock was acquired would be increased by the $1 million expended in purchasing the preferred stock. (See § 313(d)(2).)

(h) If X had purchased C's voting stock from its Panamanian AFN (P), instead of from the nonaffiliated United Kingdom resident, the purchase would involve a transfer of capital to P, since acquisition of an equity interest in an AFN from another AFN of the acquiring DI is treated as a transfer of capital to the selling AFN.

(i) If C had a wholly-owned subsidiary in the United Kingdom (B) with net assets of $600,000, and a branch in Brazil (A) with net assets of $400,000 (calculated in accordance with § 313(b)), and C itself had net assets of $1 million (exclusive of debt and equity interests in B and A), X's purchase of 10 percent of C's voting stock from the United Kingdom resident for $1 million would involve a transfer of capital required to be allocated among A, B, and C. The $1 million transfer of capital made by X might be allocated $500,000 to C (i.e., 50 percent of $1 million), $300,000 to B (i.e., 30 percent of $1 million), and $200,000 to A (i.e., 20 percent of $1 million), or might be allocated among C, B, and A in any other manner fairly reflecting the interests acquired in C, B, and A.

(j) If C had a wholly-owned subsidiary in the United Kingdom (B) with net assets of $600,000, and a branch in Brazil (A) with net assets of $400,000, and C itself had net assets of $1 million (exclusive of its interests in A and B), X's purchase of 10 percent of C's voting stock from a Panamanian AFN (P) for $1 million would involve a $1 million transfer of capital to P, since no allocation among AFNs is made when the acquisition is from another AFN of the acquiring DI.

(k) If X had inherited 10 percent of the outstanding voting stock of C or had received the stock as an inter vivos gift from a relative residing in the United Kingdom, X would not have made a transfer of capital, since he would not have transferred funds or other property in connection with the acquisition of the equity interest in C.



V 38-179 SEP 17 73 XUM

(i) If X, after acquiring 10 percent of the outstanding voting stock of C, transfers equipment and machinery valued at $20,000 to C in exchange for additional stock of C, X has made a $20,000 transfer of capital to C. (See §312(a)(1).)

(i) *Equity financing.*—A DI's acquisition of an AFN from an unaffiliated foreign national in exchange for stock of the DI involves a transfer of capital to the AFN in the amount of the value of DI's stock on the date of the acquisition. Deferral, in whole or in part, of a charge to DI's allowables for positive direct investment attributable to such transfer of capital may be specifically authorized by OFDI under certain circumstances and subject to certain conditions. (See § B801.)

(ii) *Contingent consideration.*—In connection with a DI's acquisition of an AFN (other than through equity financing as described in (i) above), to the extent a payment by the DI is subject to the occurrence of a bona fide future contingency, such payment will involve a transfer of capital at the time when it is actually made. If the payment consists of stock or other property of the DI, the amount of the transfer of capital will be the value of the stock or other property at the time of the transfer.

(iii) *Unincorporated AFNs.*—Acquisition of an interest in an unincorporated AFN will be reflected as an increase in DI's share of the AFN's aggregate net assets, and will have significance under the regulations only insofar as it contributes to yearend positive net transfer of capital or postive direct investment. Acquisition of an interest in an incorporated AFN will be reflected as a transfer of capital under §312(a)(1); similarly, it will have significance only insofar as a positive net transfer of capital or positive direct investment results. Although earnings and losses of incorporated AFNs are reflected as reinvested earnings and not in the determination of a DI's net transfer of capital, while earnings and losses of unincorporated AFNs are taken into account in determining a DI's net transfer of capital, the disparity arising from this difference in treatment of incorporated and unincorporated AFNs is minimized under the program, since direct investment is the sum of the net transfer of capital plus reinvested earnings.

The following instances of similar or identical treatment of unincorporated and incorporated AFNs in transactions involving transfers of capital should be noted:

The same rules regarding valuation of the interest acquired apply, whether the AFN is unincorporated or incorporated.

The same rule and exceptions thereto apply to determination of the AFN to which the transfer of capital will be deemed made, whether the acquisition is of an equity interest or of a profit interest. Normally, the transfer of capital will be to the acquired AFN. However, if the acquisition is made from another AFN, the transfer of capital will be to the selling AFN. Thus, DI's acquisition of an unincorporated AFN from an incorporated AFN will be reflected as a transfer of capital to the incorporated AFN, and not as an increase in the DI's share of the unincorporated AFN's aggregate net assets. Nevertheless, for future transactions the DI will be deemed to have the share in such AFN's net assets as was acquired on the date of acquisition. Also, if (i) the interest in the AFN is acquired after December 31, 1967, (ii) the interest is not acquired from another AFN, (iii) the AFN in which the interest is acquired is not, at the time of acquisition, an AFN of DI but becomes an AFN as a result of or in connection with the acquisition, and (iv) such AFN owns an interest or interests in other foreign entities that become separate AFNs of DI as a result of or in connection with the acquisition, the transfer of capital will be allocated among all of the separate AFNs in a manner reasonably reflecting the respective values of each direct and indirect interest acquired.

### § B312–5 Acquisition of an AFN's debt obligation.

Acquisition by a DI of an AFN's debt obligation, regardless of the nature of the transaction or occurrence giving rise to the obligation (e.g., a loan or advance by the DI to an AFN on open account or otherwise), involves a transfer of capital by the DI to the AFN in an amount equal to the amount of the obligation so acquired. If, however, a debt obligation of an AFN is acquired by a DI from another AFN, a transfer of capital will be deemed to have been made by the DI to the selling AFN in an amount equal to the cost of the obligation to the selling AFN; any gain or loss realized by the selling AFN will be included in calculating earnings of that AFN for the period involved. The exemptions provided in §312(c)(1) (relating to acquisitions from persons within the United States) and §312(c)(11) (relating to transfers of intangibles) are applicable to acquisitions of debt obligations as well as to acquisition of equity interests.

*Example 2.* The foregoing concepts are illustrated by the transactions considered below. In each instance, assume the DI has a 50-percent interest in a Mexican AFN (A).

(a) DI lends A $500,000 against A's 3-year note and advances an additional $500,000 to A on open account. DI has made two $500,000 transfers of capital to A under §312(a)(1). Repayments of each indebtedness by A will involve transfers of capital from A to DI under §312(b)(3), in the amounts repaid.

(b) DI licenses A to manufacture and sell certain products for a royalty of 5 percent of A's gross sales of such products. Any accrual of unpaid royalties will involve a transfer of capital under §312(a)(1).

(c) A foreign bank lends $100,000 to A against A's 3-year note bearing interest at the prevailing rate. DI's acquisition of the note from the bank for $95,000 will involve a $95,000 transfer of capital by DI to A under §312(a)(1). Repayment of the note by A will involve a $100,000 transfer of capital by A to DI under §312(b)(3).

(d) A declares a dividend to DI that is not actually remitted on the date payable. DI has acquired a debt obligation of A, and has made a transfer of capital to A under §312(a)(1). Actual payment of the dividend will be a transfer of capital by A to DI under §312(b)(3). Note that for purposes of calculating reinvested earnings, however, the dividend is deemed to have been paid on the date it becomes payable. (See §306(d)(2).)

(e) Renewal of a loan from DI to A in a previous year will not involve a transfer of capital, since renewal is not deemed repayment of the old obligation or creation of a new obligation. However, accrual of unpaid interest on the loan will involve a transfer of capital to A under §312(a)(1). Subsequent payment of such accrued interest will be a transfer of capital by A to DI under §312(b)(3).

(f) DI sends A certain equipment to be repaired by A and returned to DI. No transfer of capital is involved.

(g) Semiprocessed goods or raw materials are shipped by DI to A for processing or testing, and such goods or materials (title to which is retained by DI) will be returned to DI after processing or testing. No transfer of capital is involved. Payments by DI for the services rendered by A will not involve transfers of capital, but may be reflected in earnings of A.

Commencing January 1, 1973, acquisition by a DI of an AFN's qualified debt obligation does not involve a transfer of capital until such obligation has been outstanding for a period longer than the applicable arm's-length term. See § B312–22.

### § B312–6 Contributions by a DI to capital of AFNs.

Section 312(a)(2) is intended to cover a transfer of funds or other property by a DI to an AFN that is not reflected on the books and records of the DI or the AFN as either an acquisition of an equity interest by the DI or creation of a debt obligation from the AFN to the DI. Thus, for example, if no stock is issued and no debt obligation is created in return for machinery shipped by a DI for use of an AFN, the DI will be deemed to have made a contribution of capital to the AFN (a transfer of capital under §312(a)(2)) in the amount of the value of the machinery.

If marketable securities owned by an AFN increase in value, or fixed assets of an AFN are reappraised to increase their value, no transfer of capital to the AFN will result. Similarly, no transfer of capital will result if an incorporated AFN capitalizes retained earnings.

Expenses incurred by a DI in rendering services primarily for the benefit of an incorporated AFN will not result in transfers of capital, under §312(a)(2) or otherwise, provided such expenses are charged to the DI under generally accepted U.S. accounting principles consistently applied. If such expenses are charged to the AFN and the DI is not compensated therefor, transfers of capital under §312(a)(1) or (2) will result.

### § B312–7 Repayment of DI's indebtedness to an AFN.

Any repayment by a DI of indebtedness to an AFN will involve a transfer of capital by the DI to the AFN under §312(a)(3).

If indebtedness is created in a transaction involving a transfer of capital from an AFN to a DI under §312(b)(1), and is repaid by the DI during the same compliance period, no net transfer of capital will result.

### § B312–8 Reduction of an AFN's equity interest in a DI.

Under §312(a)(4), reduction of an AFN's equity interest in a DI as a result of a redemption of stock, liquidating dividend (whether or not any part is allocable to earnings of the DI), or like





transaction is a transfer of capital to the AFN. Thus, for example, if an AFN purchases stock of a DI from the DI for $1 million and the DI subsequently redeems the stock for $1 million, the AFN's purchase involves a $1 million transfer of capital to the DI under §312(b)(1) and the DI's redemption involves a $1 million transfer of capital to the AFN under §312(a)(4).

### § B312–9 Disposition of an equity or debt interest in a DI held by an AFN.

Whereas §312(a)(4) encompasses those cases where an equity interest in a DI held by an AFN is reduced or liquidated by virtue of a redemption, liquidating dividend or like transaction, §312(a)(5) covers those cases where such an equity or debt interest of a DI is sold or otherwise transferred by an AFN to another person. Such disposition will involve a transfer of capital by the DI to the AFN only if (a) the interest is sold back to the DI, or (b) the selling AFN is an affiliate of the DI (as defined in §903(a)), or (c) the interest is sold to another AFN that is an affiliate of the DI. (See §312(c)(2).) For example, an AFN that is an affiliate of a DI purchases stock of the DI from the DI for $1 million and subsequently sells the stock to an unaffiliated foreign national for $1.2 million. The AFN's purchase involves a $1 million transfer of capital from the AFN to the DI under §312(b)(1). Subsequent sale of the stock involves a $1 million transfer of capital to the AFN under §312(a)(5), and a $200,000 capital gain to be reflected in calculation of the AFN's earnings.

### § B312–10 DI's satisfaction of an AFN's debt obligation.

Under §312(a)(6), any payment by a DI to satisfy an obligation in respect of which an AFN is the primary obligor will involve a transfer of capital by the DI to the AFN. Thus, for example, payment by a DI of an AFN's rent, salary expenses, advertising expenses, legal fees, auditing fees, or other expenses will involve transfers of capital to the AFN. Similarly, if a DI guarantees an obligation owed by an AFN to another person, payment by the DI of any part of the principal amount of such obligation and payment of interest with respect thereto that has accrued prior to the AFN being relieved of or defaulting upon the obligation, will involve a transfer of capital by the DI to the AFN.

The making of a guarantee by a DI does not itself involve a transfer of capital. (See §312(c)(7).) However, a DI's assumption of an AFN's obligation in a transaction in which AFN is relieved of liability will involve a transfer of capital by the DI to the AFN, while subsequent payments of the obligation will not involve transfers of capital. Payment by a DI of interest on the obligation of an AFN after the DI has become primarily liable for the obligation does not involve a transfer of capital by the DI to the AFN. (See § 312(c)(8).)

In addition to involving a transfer of capital, a DI's assumption of an AFN's obligation in a transaction in which the AFN is relieved of liability is deemed a borrowing by the DI from the former creditor of the AFN. Such borrowing by the DI may, depending on the facts and circumstances, qualify as long-term foreign borrowing under §324(a). Special provisions of the regulations cover the assumption by a DI of an obligation incurred by its OFS in connection with overseas borrowing (see § 1407).

### § B312–11 Repayment of a DI's long-term foreign borrowing.

Repayment by a DI of a long-term foreign borrowing involves a transfer of capital by the DI under §312(a)(7), if proceeds of the borrowing were:

Expended by the DI in making a transfer of capital during the period January 1, 1965 through June 30, 1972; or

Allocated to a transfer of capital made by the DI during 1968; or

Allocated to positive direct investment made during any year commencing with 1969.

A transfer of capital under §312(a)(7) is deemed to have been made to the scheduled area in which proceeds of the DI's borrowing were expended (prior to the revocation of §313(d)(1) on July 1, 1972) or are allocated at the time of repayment. Positive direct investment attributable to a transfer of capital under §312(a)(7) is generally authorized by §1002(a), subject to compliance by the DI with the certification requirements of §1002(b). (See § B324–11.)

Repayment by an AFN of a DI's long-term foreign borrowing is a transfer of capital by the DI under §312(a)(7) to the same extent and in the same manner as if the repayment had been made by the DI. Such repayment by an AFN also involves a transfer of capital by the AFN under §312(b)(6). If a portion of the proceeds of long-term foreign borrowing has been expended prior to July 1, 1972, or allocated, while the remainder constitutes available proceeds, a partial repayment by an AFN of such long-term foreign borrowing shall be treated first as a reduction of available proceeds (until the available proceeds are reduced to zero) and then as a transfer of capital under §312(a)(7). See § B324–11. To the extent that any repayment by an AFN of a DI's long-term foreign borrowing reduces available proceeds, the transfer of capital by the AFN under §312(b)(6) will exceed the transfer of capital by the DI under §312(a)(7) involved in such repayment.

It should be noted that the transfer of capital under §312(b)(6) is from the scheduled area in which the AFN making the repayment is located, while the transfer of capital under §312(a)(7) is deemed to have been made to the scheduled area(s) in which proceeds of the DI's borrowing were expended or allocated at the time of the repayment. Thus, if a DI made a long-term foreign borrowing of $5 million and expended $3 million of the proceeds in a loan to a Schedule C AFN, a $4 million repayment of such borrowing by a Schedule A AFN would reduce available proceeds from $2 million to zero and would involve two transfers of capital: a transfer of capital in the amount of $4 million from Schedule A under §312(b)(6), and a transfer of capital in the amount of $2 million to Schedule C under §312(a)(7).

### § B312–12 Lease of property by a DI to an AFN.

Under §312(a)(8), a lease of property by a DI to an AFN is considered a transfer of capital to the AFN if the property has a useful life at the time of the lease of 1 year or more, and is not required or expected to be returned to the DI in less than 1 year. (A charter of a vessel is treated as a lease of property.) This rule recognizes that long-term leases are substantially similar in economic effect to outright transfers. Accordingly, such long-term leases of property by a DI to an AFN will be considered transfers of capital (in the amount of the market value of the property at the time of lease), without regard to the nature of expected use of the property, while a transfer of capital from the AFN to the DI will be recognized under §312(b) when the property is returned to the DI in the amount of the market value of the property at such time.

Payment of current rentals under such a long-term lease wil not be considered a transfer of capital by the AFN to the DI (§312(c)(9), since rental payments are deducted in calculating the AFN's earnings.

A sublease by a DI to an AFN of property that was leased by the DI from an unaffiliated foreign national involves a transfer of capital only to the extent that the annual rental paid by the AFN to the DI is less than that that paid by the DI to the lessor. See § B312–12, Example 4. On the other hand, a sublease to an AFN of property leased by the DI from a U.S. person is treated in the same manner as a lease by the DI to its AFN, i.e., the sublease is treated as a transfer of capital to the AFN (in the amount of the market value of the property at the time of the sublease) if the property has a useful life at the time of the sublease of 1 year or more and is not required or expected to be returned to the DI in less than 1 year.

*Example 3.* DI leases machinery and equipment to an incorporated AFN (X) for a 10-year term for a rental of $1,000 per year. The machinery and equipment have an aggregate value of $12,000 at the time the lease is made. At the end of 10 years, the machinery and equipment will be returned to DI, at which time it will have a value of $2,000. DI has made a $12,000 transfer of capital to X at the time of the lease and X will make a $2,000 transfer of capital to DI when the property is returned. The $1,000 annual rental payments will not constitute transfers of capital from X to DI.

*Example 4.* On January 1, 1970, DI leases an office building in Germany from an unaffiliated foreign national for a term of 5 years at an annual rental of $30,000. On the same date DI subleases the property to its German AFN (C) for the same term at an annual rental of $20,000. DI has made a transfer of capital to C of $10,000 for 1970. DI will be charged with a transfer of capital in the same amount for each remaining year of the sublease.



V 38-179 SEP 17 73 XUM

Commencing January 1, 1973, a transfer of property pursuant to a "qualified export lease", or the return of property so transferred, does not involve a transfer of capital. See § 312(c)(14). This provision is part of the general export credit exemption that is discussed comprehensively in § B312–22.

The treatment of leases or subleases between AFNs is illustrated in § B505–5.

### § B312–13 Inducements for loans to a DI or to an AFN.

Under § 312(a)(9), a DI's pledge, hypothecation, or transfer of foreign balances (defined in § 203(a)(1), or of equity securities of a foreign corporation (other than equity securities of an AFN), will involve a transfer of capital by the DI if the pledge, hypothecation or transfer is made to or with a foreign national in connection with a loan to an AFN or a loan to the DI that qualifies as long-term foreign borrowing and the proceeds of which are invested in an AFN. The amount of the transfer of capital for purposes of § 312(a)(9) is the lesser of (a) the value of the foreign balances or equity securities or (b) the amount borrowed by or invested in the AFN. The transfer of capital occurs as of the date the funds are borrowed by or invested in the AFN.

For purposes of § 312(a)(9), proceeds of long-term foreign borrowing are deemed invested in an AFN if such proceeds were expended in making a transfer of capital to such AFN prior to July 1, 1972, or are allocated to positive direct investment in any one or more scheduled areas.

A pledge or hypothecation constituting a transfer of capital under §312(a)(9) will, upon release, be considered a transfer of capital to the DI under § 312(b) in the amount of the DI's initial transfer of capital. If, on the other hand, the property pledged or hypothecated is not released but is applied to payment of the secured indebtedness, no additional transfer of capital by the DI will result therefrom.

*Example 5.* DI deposits $1 million (cash or securities) with a foreign bank as an inducement (or collateral) for an $800,000 loan by the bank to an AFN (X). The deposit is an $800,000 transfer of capital by DI to X. If cash was deposited, only the $200,000 excess over the amount of the loan would constitute a liquid foreign balance (see § B203–4). The result would be the same if the deposit were made as collateral for an $800,000 long-term borrowing by DI from the foreign bank and the proceeds of the borrowing were allocated by the DI under § 306(e). No transfer of capital under § 312(a)(9) would be involved if the pledge or deposit were made as collateral for a short-term borrowing by DI.

*Example 6.* In September 1970, DI pledges $1 million of equity securities of a foreign corporation with a foreign bank as collateral for a $1 million long-term foreign borrowing by DI from such bank. For the year 1970, DI allocates $400,000 of the proceeds of such borrowing to positive direct investment in Schedule C and $300,000 to Schedule B under § 306(e). DI repatriates the proceeds as of yearend in accordance with § 306(e). Under § 312(a)(9), DI has made a transfer of capital of $400,000 to Schedule C and $300,000 to Schedule B. When the pledge is withdrawn, DI will report a negative transfer of capital from Schedule C of $400,000 and from Schedule B of $300,000. When DI repays the borrowing, there will be transfers of capital of $400,000 to Schedule C and $300,000 to Schedule B.

*Example 7.* DI deposits $1 million with the home office of a domestic bank, as security for a $1 million loan by a foreign branch of the bank to an AFN (X). The deposit is not a transfer of capital, since it was not placed with a foreign national, but does constitute a guarantee by DI of X's borrowing. See § B1001–3. (In this connection, positive direct investment attributable to a subsequent transfer of capital pursuant to DI's guarantee (under § 312(a)(6)) will be authorized by § 1002(a)(5), provided DI has complied with the certification requirements of § 1002(b).)

*Example 8.* DI pledges equity securities of U.S. corporations, together with equity securities of an AFN, with a foreign bank as collateral for a loan by the bank to another AFN (X) or, alternatively, as collateral for a long-term borrowing by DI from the foreign bank. The pledge is not a transfer of capital in either instance, since the securities pledged are not those of an unaffiliated foreign national. (However, the pledge of securities as collateral for the loan to X would be considered a guarantee by DI of X's obligation.)

*Example 9.* DI deposits $1 million with a foreign bank pursuant to an arrangement whereby the bank lends $1 million to an AFN (X). The deposit constitutes a $1 million transfer of capital by DI to X, whether or not the bank has a legal right to resort to the deposit should there be default by X. However, if DI's deposit was a deposit in the ordinary course of business, there would be no transfer of capital, in the absence of an agreement that the funds would stay on deposit while the loan was outstanding, and the funds on deposit would constitute a liquid foreign balance.

An AFN's pledge, hypothecation or transfer of foreign balances or equity securities of a foreign corporation (other than securities of an AFN) in connection with a loan by a foreign national to another AFN of the same DI will involve a transfer of capital to the DI by the AFN making the pledge, hypothecation or transfer and a transfer of capital by the DI to the AFN receiving the loan, if either AFN is an affiliate of the DI. See § 505. The amount of both transfers of capital will be the lesser of (a) the value of the foreign balances or equity securities or (b) the amount borrowed by the second AFN. Thus, if DI's wholly-owned AFN in Scheduled Area C pledges $800,000 with a foreign bank to secure a borrowing in the amount of $1 million by an AFN of the DI located in Scheduled Area A, the pledge will involve a transfer of capital from Scheduled Area C to the DI in the amount of $800,000 and from the DI to Scheduled Area A in the same amount.

### § B312–14 Indirect transfers by a DI to an AFN.

It is important to recognize that § 312(a) focuses on the substance rather than the form of transactions. Transactions that do not come precisely within the language of any of the subparagraphs of § 312(a), but nevertheless are undertaken by a DI for the benefit of an AFN, may involve a transfer of capital by the DI to the AFN even though the transactions are effected through nominees, financial conduits or other intermediaries. While the outcome of each transaction will depend on the specific facts and circumstances involved, DIs should recognize the general rule that transactions effected indirectly with an AFN will be treated under the regulations as if effected directly by the DI.

### § B312–15 Transfers of capital by an AFN to a DI.

The provisions of § 312(b), relating to transfers of capital by an AFN to a DI, are roughly parallel to the provisions of § 312(a)(1)–(6), relating to transfers from a DI to an AFN. Thus, with certain exceptions, any transaction that would involve a transfer of capital by a DI to an AFN under subparagraphs (1) through (6) of § 312(a) will involve a transfer of capital by the AFN to the DI under § 312(b) if the position of the parties is reversed (e.g., the AFN, rather than the DI, is the lender). Paragraph (c) of § 312, however, describes several transactions which do not constitute transfers of capital under paragraph (a) or (b) notwithstanding the provisions of the latter paragraphs. Paragraph (c) (and § B312–18 of this bulletin dealing with paragraph (c)) should therefore be consulted in connection with each transaction described in paragraph (b). The following points deserve specific mention.

(i) *Acquisition by AFN of interest in DI.*—Under § 312(a)(1), acquisition of an equity or debt interest in an AFN will ordinarily involve a transfer of capital by the DI, regardless of the identity of the person from whom the interest is acquired; the only exception is an acquisition from a person within the United States acting for its own account. Under § 312(b), however, acquisition by an AFN of an equity or debt interest in a DI involves a transfer of capital by the AFN only if the person from whom the interest is acquired is the DI itself (§ 312(c)(3)). Thus, for example, if an AFN lends $100,000 to a DI, a $100,000 transfer of capital from the AFN to the DI is involved under § 312(b)(1). If the loan were made to the DI by a bank and the AFN subsequently acquired the debt obligation, no transfer of capital to the DI would be involved; however, satisfaction of the obligation by the DI would involve a $100,000 transfer of capital to the AFN under § 312(a)(3).

(ii) *Export-related credit.*—In accordance with the Federal Reserve Foreign Credit Restraint Program ("FRFCRP") guidelines, certain export-related transfers of funds by financial institutions subject to the FRFCRP ("U.S. financial institutions") are not charged against the FRFCRP ceilings of such institutions. Where such a nonchargeable transfer of funds or other property is made directly or indirectly to a DI or an AFN in connection with a transaction that would otherwise be a transfer of capital from the AFN to the DI, § 312(c)(4) or § 312(c)(12) generally will operate to defer recognition of the transfer of capital until the debt obligation acquired by the U.S. financial institution in connection with the transaction is repaid. (See § B312–18(iv) and § B312–18(xii).)

Commencing January 1, 1973, satisfaction of a qualified export obligation of an AFN, or the transfer of such an obligation by a DI to a U.S. financial institution, will not involve a transfer of capital, except to the extent that a transfer of capital by the DI was previously recognized with respect to such obligation in 1973 or thereafter. If a transfer of capital was previously so recognized, the satisfaction by an AFN of its obligation held by the DI will involve a transfer of capital, or, if the DI has transferred the obligation to a U.S. financial institution, recognition of a transfer of capital in connection with the AFN's debt obligation that has been so acquired by a U.S. financial institution will be deferred, as described above. See § B312–22.

(iii) *Accounts receivable.*—If an AFN transfers accounts receivable, notes or other debt obligations of an unaffiliated person in exchange for the debt obligation of the DI or in satisfaction of a debt obligation of the AFN held by the DI, a transfer of capital to the DI will not be recognized under § 312(b)(3) until the debt obligations are paid by the unaffiliated person to the DI or are sold by the DI to an unaffiliated foreign national (or sold to a domestic bank or nonbank financial institution subject to the FRFCRP but only to the extent of the charge made against the ceiling of such institution under the FRFCRP). (See also § 312(c)(12) and § B312–18(xii).)

Commencing January 1, 1973, if accounts receivable of an unaffiliated person are transferred by an AFN to the DI in satisfaction of a qualified export obligation, such transaction will not involve a transfer of capital, except to the extent that a transfer of capital by the DI was previously recognized with respect to such obligation in 1973 or thereafter. To the extent of such previously recognized transfer of capital, a transfer of capital will be recognized when the accounts receivable are paid by the unaffiliated person to the DI or sold by the DI to an unaffiliated foreign national, or, if the DI sells such accounts receivable to a U.S. financial institution, a transfer of capital will be recognized as described in paragraph (ii), above. See § B312–22.

(iv) *Disposition by DI of interest in AFN.*—Disposition by an AFN of an equity or debt interest in a DI involves a transfer of capital by the DI under § 312(a)(5) if the selling AFN is an "affiliate" (defined in § 903(a)), or if the transferee is the DI or another AFN that is an affiliate of the DI. Under § 312(b)(5), however, disposition by a DI of an equity or debt interest in an AFN involves a transfer of capital to the DI only if the transferee is either (a) a foreign national or (b) a financial institution (bank or nonbank financial institution) subject to the FRFCRP and the transfer is charged against the ceiling of such financial institution under the FRFCRP (§ 312(c)(4)). Where the transferee is a foreign national, however, no transfer of capital is recognized if a domestic bank or other financial institution, without charging its ceiling under the FRFCRP, transfers funds or other property to such foreign national in connection with its acquisition of the debt obligation of an AFN. (See §§ 312(c)(4)(b), 312(c)(12) and B312–18(xii).)

Commencing January 1, 1973, disposition by a DI of a qualified export obligation of an AFN will not involve a transfer of capital, except to the extent that a transfer of capital by the DI was previously recognized with respect to such obligation in 1973 or thereafter. See paragraph (ii), above, and § B312–22.

When a DI disposes of a debt or equity interest in an AFN to a foreign national (under circumstances constituting a transfer of capital to the DI under § 312(b)(5)), the transfer of capital to the DI is the full value of consideration received therefor, whether the transaction results in a gain or a loss to the DI. When the DI disposes of a debt or equity interest in an AFN to a financial institution subject to the FRFCRP, the transfer of capital is the amount charged against the FRFCRP ceiling of such institution.

Thus, if a DI lends $100,000 to an AFN (resulting in a $100,000 transfer of capital to the AFN) and discounts the AFN's note for $98,000 with a U.S. financial institution, a $98,000 transfer of capital by the AFN to the DI will result if the financial institution is subject to the FRFCRP and the amount transferred is charged against the financial institution's ceiling under the FRFCRP.

If the DI's disposition of the obligation of an AFN does not involve a transfer of capital under § 312(b)(5) because of the operation of § 312(c)(4), satisfaction of the obligation by the AFN (other than a qualified export obligation or qualified export lease) will involve a transfer of capital to the DI. To determine whether § 312(c)(4) is applicable to a transfer of an AFN debt obligation to a U.S. financial institution, the DI should inquire whether such institution incurs a charge under its FRFCRP ceiling with respect to such transfer, and the result of such inquiry should be retained in the books and records of the DI. (See § B312–18(iv) and see also § 312(c)(12) and § B312–18(xii).)

A transfer of capital under § 312(b)(5) will generally be deemed to have been made to the DI by the AFN that issued the debt or equity interest disposed of. There are, however, two exceptions to this rule. First, if the debt or equity interest in an AFN is sold by a DI to another AFN, the transfer of capital is deemed to have been made to the DI by the latter AFN. Second, if an equity interest in an AFN is both acquired from and sold to unaffiliated foreign nationals after December 31, 1967, and at the time of the disposition the AFN involved has subsidiaries or branches in other scheduled areas that are separate AFNs under § 304, the transfer of capital to the DI should be allocated among all such AFNs in a manner fairly reflecting the respective values of all direct and indirect interests in the AFNs disposed of. (See § B312–4.)

Sale of an AFN to an unaffiliated foreign national during a year does not affect any transfers of capital between the DI and the AFN preceding the date of disposition. Thus, if a DI makes a $1 million transfer of capital to an AFN in the beginning of the year and in December sells all equity interest in the AFN to an unaffiliated foreign national for $900,000 in cash, the DI has made a positive net transfer of capital of $100,000 to the scheduled area of the AFN (assuming no other relevant transactions during such year).

(v) *Breach of warranty.*—Payments to a DI resulting from breach of warranty or representations made by an unaffiliated foreign national seller in connection with the acquisition by the DI of an AFN are deemed to involve transfers of capital by the AFN to the DI.

### § B312–16 Sale of an AFN to an unaffiliated foreign national with deferred payment.

If a DI receives a debt obligation of an unaffiliated foreign national as consideration for an interest in the AFN disposed of, no transfer of capital to the DI will result from the disposition until the obligation is paid or is sold by the DI to another unaffiliated foreign national for cash or other property (other than a debt obligation), or to a domestic bank or nonbank financial institution subject to the FRFCRP and the transfer is charged against the ceiling of such bank or is treated as a covered asset of such institution under that program.

*Example 10.* DI sells 50 percent of the stock of a wholly owned French corporation (C) to an unaffiliated foreign national (F) for $1 million in cash. C has no subsidiaries or branches outside Schedule C, DI had originally acquired all of the stock of C for $100,000.

(a) Under the facts as presented, the sale involves a $1 million transfer of capital from C to DI, pursuant to § 312(b)(5).

(b) If F had given DI a note for $1 million instead of cash, the transfer of capital from C to DI would occur when the note is paid or is sold by DI to another unaffiliated foreign national for cash or other property (other than a debt obligation).

(c) If F had been an AFN of DI located in Schedule B, the sale of C for cash would involve a $1 million transfer of capital from F to DI.

(d) If F had been an AFN of DI located in Schedule B and paid DI with a note for $1 million, DI's exchange of stock in C for a debt obligation of F would not involve a transfer of capital. However, payment of the note by F would involve a transfer of capital from F to DI, pursuant to § 312(b)(3).

(e) If C had a subsidiary in Schedule A (X), a branch in Schedule B (Y) that was a separate AFN of DI, and a subsidiary in Schedule C (Z), the transfer of capital to DI involved in a cash sale of C to an unaffiliated foreign national would be allocated among C, X, Y, and Z in a manner reasonably reflecting the respective values of each direct and indirect interest disposed of by DI. If C were sold to another AFN for cash, no allocation of the transfer of capital to DI would be made among the second-tier AFNs; the









V 38 I 179 SEP 17 73 XUM

transfer of capital under § 312(b)(5) would be from the acquiring AFN to DI.

(f) The fact that DI had originally acquired C with proceeds of a long-term foreign borrowing would not alter any of the above results.

**§ B312–17 Triangular and parallel financing.**

Triangular loan arrangements are generally those in which a loan by a DI to an unaffiliated foreign national is the basis for, or is otherwise associated with, a loan by such foreign national to an AFN. Parallel loan arrangements are generally those in which a loan by a DI to a U.S. subsidiary of an unaffiliated foreign national is the basis for, or is otherwise associated with, a loan by such foreign national to an AFN.

As stated in the instructions for specific authorizations issued May 24, 1973, each such type of arrangement will generally give rise to a transfer of capital by the DI to the AFN at the time and in the principal amount of the foreign loan to the AFN. However, such instructions indicate that relief will be available, subject to certain conditions, in the form of a specific authorization to exclude the current charge against allowable resulting from such transfer of capital. See also Revenue Ruling 72–299, 1972 Int. Rev. Bull. No. 24, at p. 12, pertaining to exclusion from Interest Equalization Tax based upon the direct investment exception.

**§ B312–18 Certain transactions not involving a transfer of capital: § 312(c).**

Section 312(c) sets forth particular transactions not deemed to involve transfers of capital although technically encompassed by the language of § 312 (a) or (b).

(i) Under § 312(c)(1), acquisition by a DI from a person within the United States acting for its own account, of a debt or equity interest in an AFN (as described in § 312(a)(1)) will not be deemed to involve a transfer of capital.

The transfer of an interest in an AFN by a person within the United States to a DI may occur (i) in connection with the acquisition of such interest from a person within the United States that is not a DI in the AFN immediately prior to the sale, or (ii) in connection with the acquisition of such interest by one DI from another DI, or (iii) in connection with some form of combination of two or more DIs or a DI and a person within the United States. The acquisition of an interest in an AFN by one DI from a person within the United States is treated under § 312(c)(1)(i); the combination of two or more DIs or a DI and a person within the United States is treated under § 312(c)(1)(ii). Neither the acquisition nor the combination involves a transfer of capital, although the reporting requirement will vary depending upon the type of transaction.

When a DI acquires an equity interest in an AFN from a person within the United States that was not a DI in the AFN immediately prior to the sale, there is no transfer of capital and Form FDI–107 may not be filed by the acquiring DI. The acquiring DI is not responsible for any transfer of funds made by the seller prior to the transaction. In computing direct investment for the year of acquisition, however, the DI must reflect a pro rata share of earnings reinvested in the AFN based on the DI's share of total earnings multiplied by the fraction of the year during which the interest was held. Dividends paid to the person within the United States shall not be deemed to have been paid to the DI.

When a DI acquires an equity interest in an AFN from another DI, there is no transfer of capital by either of the DIs, and the filing of Forms FDI–107 (formerly revised Forms FDI–101 and FDI–102F for the preceding year) by the acquiring and divesting DIs is required only if the DIs determine to transfer base period direct investment and prior years' annual earnings corresponding to the interest in the AFN being transferred. A condition for the transfer of such historical investment experience from the divesting to the acquiring DI is that all direct investment in the year of acquisition that corresponds to the interest transferred is deemed to have been made by the acquiring DI.

Form FDI–107 is a short form and contains the entries that are necessary to transfer historical investment experience and related allowables that may be available to the DIs under §§ 504 and 506. It should be used in connection with § 312(c)(1)(i) acquisitions occuring on or after June 1, 1971.

If historical investment experience corresponding to the interest transferred is to be transferred from the divesting to the acquiring DI, Form FDI–107 must be filed by each DI on or before the end of the month following the close of the calendar quarter during which the transfer occurred. Whether or not Forms FDI–107 are filed, the acquiring and divesting DIs are required to report the change in ownership interest in an AFN on Supplement B to the next Form FDI–102 or FDI–102F filed by each DI.

As set forth in § 312(c)(1)(i), the result of filing Forms FDI–107 is that direct investment in the base period and the entire year of the acquisition which corresponds to the interest transferred is deemed to have been made by the acquiring DI, and annual earnings in the preceding year which correspond to the interest transferred are attributed to the acquiring DI. Deeming the direct investment in the base period to have been made by the acquiring DI effectively transfers, along with the interest in the AFN, the amount of historical allowable (§ 504(a)) that is based on such interest. Similarly, attributing annual earnings during the preceding year to the acquiring DI effectively transfers, along with the interest in the AFN, the amount of earnings allowable (§504(b)) and possible adjustment to historical allowable (§ 504(c)) that are based on such interest. In addition, the attribution to the acquiring DI of annual earnings in 1966 and 1967 corresponding to the interest transferred will affect the calculation of incremental earnings allowables (§ 506) that may be available to the acquiring and divesting DIs.

The filing of Form FDI–107 in the case of an acquisition of an interest in an AFN by one DI from another DI does not affect the following calculations: the amount of liquid foreign balances that may be held by either DI (§ 203(c)); carryforward and Schedule C reinvestment allowables (§ 504(d), (e) and (f)).

In determining the amount of direct investment that corresponds to an equity interest in an AFN that is acquired by a DI from another DI, no deduction (under § 203(d) (2) or (3), § 306(e)(1), or §313(d)(1)) for expenditure of proceeds of long-term foreign borrowing during the base period, or expenditure (prior to July 1, 1972) or allocation of such proceeds during the year of transfer, shall be made unless the acquiring DI assumes the obligation to repay the borrowing. If the acquiring DI does assume such obligation, the deduction in computing direct investment is limited to the amount assumed by the acquiring DI, and the subsequent repayment of the borrowing will involve a transfer of capital under § 312(a)(7) by the acquiring DI. It should be noted that the repayment of borrowing after the obligation is assumed by an acquiring DI will involve a transfer of capital by such DI under § 312(a)(7), whether or not Forms FDI 107 are filed, to the extent that deductions were made during any period by the divesting DI in respect of such borrowing.

If an acquiring DI assumes an obligation to repay long-term foreign borrowing in connection with its acquisition of an interest in an AFN from another DI, the borrowing is not deemed to have been repaid but the acquiring DI must file a certificate on Form FDI–106 in order for positive direct investment resulting from the subsequent payment of the obligation being assumed to be authorized under § 1002(a). Such certificate should be filed with OFDI on or before the end of the month following the close of the calendar quarter during which the acquisition took place (together with Form FDI–107 if such form is filed) and should identify the original certificate being replaced and indicate that it is being filed in connection with a § 312(c)(1) transaction. The information in Items II through V of Form FDI–106 filed by the acquiring DI, including the date of the borrowing, will presumably remain the same as on the original certificate. In Item VI, the acquiring DI should certify on the basis of its own position with respect to the regulations and allowables thereunder.

When Forms FDI–107 have been filed by the acquiring and divesting DIs in connection with the transfer between them of an equity interest in an AFN, dividends that correspond to the interest that was transferred are reported as follows: Such dividends that were paid to the divesting DI during the base period are reported by the acquiring DI on Form FDI–107 in accordance with the manner in which the divesting DI elected to report dividends. Such dividends that were paid during the first 60 days of the year of transfer to a divesting DI which made the 60-day dividend election are reported by the divesting DI on Form FDI–102F for the preceding year. Such dividends that were paid during the first 60 days of the year of transfer to a divesting DI which did not make the 60-day dividend election are reported by the acquiring DI as having been paid during the year of transfer, whether or not the acquiring DI made the 60-day dividend election. Such dividends that were paid to the divesting DI after the first 60 days of the year of transfer are reported for such year by the acquiring DI. Such dividends that were paid to the acquiring DI during the year of transfer are reported by the acquiring DI in accordance with the manner in which the acquiring DI elected to report dividends.





If Forms FDI–107 are not filed within the prescribed period by both DIs in connection with the acquisition of an equity interest in an AFN by one DI from another DI, such acquisition will still not involve a transfer of capital and there will be no transfer of historical investment experience corresponding to the interest transferred. Earnings of the AFN during the year of transfer that correspond to the interest transferred should be prorated between the DIs on the basis of the fraction of the year during which the interest was held by each DI. Dividends are reported by the DI to which they were paid by the AFN in accordance with the manner in which such DI has elected to report dividends. Each DI should report the net transfer of capital that was actually made by it to the AFN during the year of transfer.

Prior specific authorizations issued to acquiring and divesting DIs will continue to be applicable except in cases where a § 312(c)(1)(i) transaction affects the amount of a specific authorization as the result of a change in a DI's Subpart E allowables. In such instances, OFDI should be consulted as to the continuing applicability of the specific authorization.

When two or more DIs, or a person within the United States and a DI, combine by merger, consolidation, reorganization or otherwise, no transfer of capital is involved and the surviving DI is required to file Form FDI–107 on or before the end of the month following the close of the calendar quarter during which the combination occurs. The acquisition (from a person within the United States acting for its own account) by a DI, or by a person within the United States that was not a DI prior to the acquisition, of a DI which thereby becomes an affiliate as defined in § 903(a) is a combination within the meaning of § 312(c)(1)(ii). In the following discussion, all the members of the combination, whether or not they were DIs prior to combination, are referred to as "merging DIs", and a DI that results from a combination is referred to as the "surviving DI".

On Form FDI–107, the surviving DI shall report the aggregate amount of direct investment made by the merging DIs during the base period, the aggregate amount of annual earnings of AFNs attributed to the merging DIs during 1966, 1967, and the year preceding the year in which the combination occurs, and the amount of liquid foreign balances held by the merging DIs during 1965, 1966, and 1967. Historical earnings and incremental earnings allowables that are available to the surviving DI, and the amount of liquid foreign balances that may be held at the end of any month by the surviving DI, will be based on the aggregate figures reported on Form FDI–107. In addition, carryforward and Schedule C reinvestment allowables that would have been authorized under § 504 (d), (e) and (f) to the merging DIs during the year in which the combination occurs will be authorized to the surviving DI if it elects § 504 allowables.

A borrowing made by a merging DI and assumed by the surviving DI is not considered to have been repaid as a result of the combination. A new certificate on Form FDI–106 with respect to long-term foreign borrowing or overseas borrowing is not required to be filed by the surviving DI in order for positive direct investment resulting from repayment to be authorized under § 1002(a). The repayment by the surviving DI of a borrowing in connection with which deductions were made by the merging DIs (under § 203(d) (2) or (3), § 306(e)(1) or § 313(d)(1)) will involve transfers of capital under § 312 (a)(7) as though such deductions had been made by the surviving DI. Repayment charges incurred under § 1003 by the merging DIs are deemed to have been incurred by the surviving DI, and corresponding reductions in the allowables of the merging DIs that would have been made in the year in which the combination occurs shall instead be made in the allowables of the surviving DI. Transfers of capital that would have been recognized by the merging DIs in the year in which the combination occurs as the result of conversions in the preceding year shall be recognized and included in calculating direct investment by the surviving DI.

Dividends paid by AFNs to merging DIs during the base period are reported by the surviving DI on Form FDI–107 in accordance with the manner in which the respective DIs which received such dividends elected to report them. Dividends paid during the first 60 days of the year in which the combination occurs by an AFN to a merging DI that made the 60-day dividend election are reported by such merging DI on Form FDI–102F for the preceding year. Dividends paid during the first 60 days of the year in which the combination occurs by an AFN to a merging DI that did not make the 60-day dividend election, and all dividends paid by AFNs to merging DIs after the first 60 days of such year, are reported for such year by the surviving DI, whether or not the surviving DI is deemed to have made the 60-day dividend election.

Dividends paid by an AFN to the surviving DI during the first 60 days of the year in which the combination occurs are reported for the preceding year by the merging DI in respect to whose former interest such dividends were paid, provided such merging DI made the 60-day dividend election. All dividends paid to the surviving DI by AFNs during the first 60 days of the year in which the combination occurs in respect to former interests of a merging DI which did not make the 60-day dividend election, and all dividends paid by AFNs to the surviving DI after the first 60 days of such year, are reported for such year by the surviving DI, whether or not the surviving DI is deemed to have made the 60-day dividend election.

The surviving DI shall be deemed to have elected to report dividends in the manner that was elected, and (for the year preceding the year during which the combination occurred) to have made the election of allowables under § 502(a) that was made (for such preceding year), by the merging DI which has made the largest amount of aggregate positive direct investment since the effective date of the program (January 1, 1968). Such deemed election of allowables shall be binding on the surviving DI in the year in which the combination occurs and thereafter to the extent provided under § 502 (b), (c) and (d). For the purposes of this paragraph, aggregate positive direct investment shall be calculated by adding net transfers of capital plus reinvested earnings of incorporated AFNs, without deductions for the expenditure or allocation of proceeds of long-term foreign borrowing.

OFDI should be consulted as to the applicability of any outstanding specific authorizations (and conditions thereto) that were issued to merging DIs prior to the combination. Also, DIs are advised that violations of the regulations by merging DIs will ordinarily be treated by OFDI as having been committed by the surviving DI, and compliance remedies that have been imposed but not satisfied when a combination occurs will be invoked against the surviving DI.

If a DI acquires a debt obligation of an AFN from another DI in the same AFN, no transfer of capital is involved and no transfer of historical investment experience between the DIs may be made.

(ii) Pursuant to § 312(c)(2), disposition of an equity or debt interest in a DI by an AFN involves a transfer of capital by the DI to the AFN under § 312(a)(5) only if (a) the interest is sold back to the DI, or (b) the selling AFN is an affiliate of the DI, or (c) the interest is sold to another AFN that is an affiliate of the DI.

(iii) Pursuant to § 312(c)(3), acquisition by an AFN of an equity or debt interest in a DI is not a transfer of capital to the DI under § 312(b)(1) unless the acquisition is from the DI.

(iv) Pursuant to § 312(c)(4), transfer by a DI or an equity or debt interest in an AFN is not a transfer of capital by the AFN to the DI under § 312(b)(5) unless



V 38-179 SEP 17 73 XUM

the transfer (a) is made to a foreign national or is charged under the FRFCRP ceiling of a financial institution subject to such program, and (b) constitutes a transfer of capital after application of § 312(c)(12) (which became effective July 1, 1972). See § B312–18(xii). Commencing January 1, 1973, § 312(c)(4) does not apply to the transfer by a DI of a qualified export obligation, except to the extent that a transfer of capital by the DI was previously recognized with respect to such obligation in 1973 or thereafter. See § B312–22.

(v) Under § 312(c)(5), increase of equity interest in an incorporated AFN resulting from reinvestment of the AFN's earnings does not involve a transfer of capital. Reinvestment of the DI's share of an incorporated AFN's earnings does, however, constitute an element of direct investment, as defined in § 306(a).

(vi) Under § 312(c)(6), increase or decrease in the value of an AFN's assets resulting from reappraisal of such assets does not involve a transfer of capital.

(vii) Under § 312(c)(7), a DI's guarantee of borrowing by an AFN does not itself involve a transfer of capital. (For a definition of the term "guarantee", see § 1001(c).) However, payments pursuant to a guarantee may involve transfers of capital under § 312(a)(6) or (b)(6). Positive direct investment attributable to a DI's performance under a guarantee of an AFN's obligation will be authorized in excess of applicable allowables, provided that in the case of a guarantee made on or after January 1, 1968, the DI has complied with applicable certification requirements of § 1002(b).

(viii) Under § 312(c)(8), payment by the primary obligor of interest currently due, or fees or commissions in connection with borrowings, does not involve a transfer of capital. Prepayments of interest pursuant to customary lending practices or commercial transactions likewise do not involve transfers of capital. (The fees or commissions referred to above include commitment and termination fees, premiums, underwriters' commissions, original issue discounts, broker-dealer fees, legal and accounting fees, and other like items.) Thus, for example, an AFN's payment of interest on a loan from a DI, or vice versa, does not involve a transfer of capital if the interest is paid when due. If not paid when due, however, an additional debt obligation will be created, involving a transfer of capital from the obligee to the obligor under § 312(a)(1) or (b)(1) and a transfer of capital in the opposite direction under § 312(a)(3) or (b)(3) when the additional obligation is paid. It should be noted that the exemption under § 312(c)(8) applies only to the primary obligor. Thus, payments by a DI, pursuant to a guarantee of an AFN's borrowing, of interest, commissions and fees owed by the AFN, are transfers of capital to the AFN under § 312(a)(6). (See § B312–10.)

(ix) Under § 312(c)(9), payment of rental currently due under a lease, or prepayment of rental if customary under leases of the type involved, does not involve a transfer of capital. However, a lease of property by a DI to an AFN may involve a transfer of capital under § 312(a)(8).

(x) Under § 312(c)(10), payment of royalties currently due by a licensee does not involve a transfer of capital, absent circumstances indicating that such payments are essentially equivalent to transfers of capital and are merely disguised as royalty payments. Likewise, prepayment of royalties will not be treated as transfers of capital if such prepayments are customarily made by licensees under similar license agreements. As in the case of interest payments, the exemption under § 312(c)(10) applies only to payments by a primary obligor.

(xi) Section 312(c)(11) provides, as a general rule, that a transfer of any of the following items does not involve a transfer of capital by a DI to an AFN, or vice versa: Patents, copyrights, trademarks, trade names, trade secrets, technology, proprietary processes, proprietary information, and similar intangibles, and any rights, interests, contracts or applications relating to the foregoing items.

"Trade secrets, technology, proprietary processes, proprietary information and similar intangibles" as used in § 312(c)(11) means information or know-how in which the DI has a legally protected, proprietary right. The performance of services will not qualify under § 312(c)(11) unless such services are ancillary to a transfer of property which qualifies under § 312(c)(11). Generally, OFDI will consider a transfer of information or know-how to involve a transfer within the meaning of § 312(c)(11) if the information or know-how would qualify as property for purposes of tax-free exchange treatment under section 351 of the Internal Revenue Code (1954).

The exemptions of § 312(c)(11) are applicable regardless of the form of the transfer, or the consideration received in exchange therefor. However, DI's transfer of any of the foregoing intangibles to an AFN on or after January 1, 1968, is considered a transfer of capital by the DI if (a) the transfer represents a substantial departure from a previously established practice of the DI with respect to exploitation of intangibles of the type transferred, and (b) the intangible transferred was, prior to the transfer, a substantial source of royalty or other like fixed or determinable, annual or periodic, income.

A two-step transaction in which a DI sells intangibles to an AFN for cash and thereupon purchases an equity interest in the AFN with the cash generated by the sale of intangibles; or the DI purchases an equity interest in the AFN for cash and the AFN thereupon purchases intangibles from the DI with the cash generated by the sale of its stock to the DI, shall be considered a transfer of the intangibles in exchange for the equity interest. If the intangibles qualify under § 312(c)(11), the transfer will not involve a transfer of capital by the DI.

If a post-January 1, 1968, transfer of an intangible does not involve a transfer of capital because of the foregoing rule, no deduction for amortization or any like charge with respect to the intangible transferred may be made against earnings in calculating the transferee AFN's earnings. Also, even if a transfer of intangibles does not involve a transfer of capital, a person within the United States making such transfer may become a DI if a 10-percent interest (as defined in § 304) in the foreign enterprise is received in exchange for the transfer.

The determination whether transfer of an intaugible represents a substantial departure from previously established practice and whether the intangible transferred was a substantial source of royalty or like income will depend on the facts and circumstances in each case.

(xii) Commencing July 1, 1972, under § 312(c)(12), a transaction that would otherwise involve a negative transfer of capital under § 312(b) will not (with one exception) be a negative transfer of capital if the ultimate source of financing of the transaction is a U.S. financial institution (i.e., a bank or nonbank financial institution subject to the Federal Reserve Foreign Credit Restraint Program (FRFCRP)) which does not charge its FRFCRP ceiling. Commencing January 1, 1973, however, § 312(c)(12) does not apply to transactions involving qualified export obligations or leases. See § B312–22.

The central principle of § 312(c)(12) is that U.S.-source funds, derived from a U.S. financial institution but exempt from restraint under the FRFCRP, cannot be used to generate a negative transfer of capital under § 312(b). With the exception regarding qualified export obligations and leases, and the specific exception described below, § 312(c)(12) provides that no transaction described in § 312(b) will involve a transfer of capital if, in connection with such transaction, a U.S. financial institution, without charging its FRFCRP ceiling, acquires the debt obligation of a foreign national and transfers funds or other property to the DI or an AFN, or indirectly to a DI or an AFN through a foreign financial institution or through an unaffiliated foreign national. Section 312(c)(12) applies whether the transfer of funds or other property by the U.S. financial institution takes the form of a loan or other extension of credit, purchase of a debt obligation or a claim on a foreigner, or any other form, including indirect transfers through intermediaries.

Thus, where an AFN obtains funds or other property from a U.S. financial institution free of the FRFCRP ceiling, as by borrowing or discounting the debt obligations of unaffiliated foreign nationals under the FRFCRP export credit exemption, a transaction described in § 312(b) that is accomplished by the use of such or equivalent funds will not constitute a negative transfer of capital as a result of § 312(c)(12).

Section 312(c)(12) applies in all cases where funds or other property come from a U.S. financial institution under an FRFCRP exemption, including cases





where the funds are flowed through a foreign bank or other foreign intermediary. Thus, when a U.S. financial institution subject to the FRFCRP transfers funds or other property to a foreign bank (such as a foreign branch of a U.S. bank) in connection with the foreign bank's loan to an AFN or its purchase from an AFN of the debt obligations of other foreign nationals, § 312(c)(12) prevents the AFN's use of the proceeds of such transaction from generating a negative transfer of capital under § 312(b), such as by making payment to the DI in satisfaction of export-related debt (that is not a qualified export obligation as defined in § 312(c)(13)(ii)) if the U.S.-source financing is exempt from restraint under the FRFCRP. Similarly, through the interplay of §§ 312(c)(4) and 312(c)(12), where the U.S. financial institution makes such a transfer to the foreign bank in connection with the DI's transfer of a debt obligation of an AFN or other foreign national to the foreign bank, no negative transfer of capital will be recognized if the U.S.-source financing is not charged against the U.S. financial institution's FRFCRP ceiling. These results will obtain whether the U.S. financial institution, for example, lends the funds to the foreign bank or purchases the AFN's (or other foreign national's) debt obligations from the foreign bank; in each case the U.S. financial institution transfers funds and acquires the debt obligation of a foreign national.

However, § 312(c)(12) will not affect established practices for financing the purchase of U.S. exports by unaffiliated foreign nationals. Under the exception in subparagraph (iv), where an unaffiliated foreign national itself obtains funds from a domestic financial institution for the purchase of U.S. exports from an AFN of a DI, the AFN's use of such funds to pay down its own debt to the DI (or its use otherwise in a transaction described in § 312(b)) is not affected by the provisions of § 312(c)(12), to the extent that a FRFCRP-exempt export credit to the unaffiliated foreign national is involved and is arranged without the intervention of the DI or an AFN in a manner that departs from their previously established practices. It does not permit DIs and their AFNs to circumvent the purposes of § 312(c)(12) by inducing unaffiliated foreign nationals to shift from established financing sources to U.S. financing exempt from restraint under the FRFCRP export credit exemption. Accordingly, if a DI or AFN intervenes with a U.S. or foreign financial institution to arrange such U.S.-source financing for an unaffiliated foreign customer of the AFN, § 312(c)(12) will block recognition of a negative transfer of capital unless such intervention is in accordance with previously established practices of the DI or AFN. Intervention may be found notwithstanding the absence of an endorsement or guarantee by the DI or an AFN.

In cases in which a negative transfer of capital is blocked under § 312(c)(12), a negative transfer of capital is recognized at the later time of repayment of the debt obligation by a foreign national (including an AFN, a foreign bank, or an unaffiliated foreign national, as the case may be) to a person within the United States (ordinarily the financial institution which initially acquired the debt obligation of a foreign national under the FRFCRP export credit exemption). Commencing January 1, 1973, however, no transfer of capital will be recognized at any time in connection with the repayment by an AFN of its qualified export obligation, except to the extent that a transfer of capital by the DI was previously recognized with respect to such obligation in 1973 or thereafter. See § B312–22.

To assure compliance with § 312(c)(12) and § 312(c)(4), DIs transferring export-related debt obligations of AFNs or unaffiliated foreign nationals to foreign nationals (including foreign financial institutions), and AFNs (a) borrowing from U.S. financial institutions or from foreign nationals to pay for exports or (b) transferring export-related debt obligations of other AFNs or unaffiliated foreign nationals to U.S. financial institutions or to foreign nationals, should make the following inquiries: (1) Where such transaction is with a foreign national, whether a transfer of funds or other property is or will be made by a U.S. financial institution in connection with such transaction, and if so, whether the U.S. financial institution charges such transfer under its FRFCRP ceiling; (2) where such transaction is directly with a U.S. financial institution, whether the transfer of funds or other property by the financial institution is charged under its FRFCRP ceiling. The results of these inquiries should be retained in the books and records of the DI. (These inquiries need not be made in connection with qualified export obligations or qualified export leases.)

In all the examples below, it is assumed that the transactions do not involve qualified export obligations or qualified export leases (either because the DI has elected out of the export credit exemption system or because the goods exported are not United States goods as defined in § 312(c)(13)(iii)), that the U.S. financial institution's acquisition of a foreign national's debt obligation and transfer of funds, in connection with the transaction in question, fall within the FRFCRP export-credit exemption, and that there is therefore no charge against the financial institution's FRFCRP ceiling.

*Example 11.* DI exports goods on credit to an AFN, thereby acquiring a debt obligation of the AFN. AFN borrows funds from a U.S. bank to repay its debt obligation held by the DI. The U.S. bank has acquired the AFN's debt obligation and transferred funds to it. By operation of § 312(c)(12), no transfer of capital is recognized under § 312(b)(3) until the AFN's debt obligation acquired by the U.S. bank is repaid.

*Example 12.* DI exports goods on open account to an AFN, which in turn sells the goods on credit to an unaffiliated foreign national. AFN sells the debt obligation of such unaffiliated foreign national, with or without recourse, to a U.S. bank. The bank has acquired the unaffiliated foreign national's debt obligation, and has transferred funds to the AFN. The AFN's repayment of its export debt to the DI is not a transfer of capital under § 312(b)(3) until the debt obligation acquired by the U.S. bank is repaid by a foreign national.

*Example 13.* DI exports goods on open account to an AFN, which in turn sells such goods on credit to an unaffiliated foreign national. A U.S. bank lends funds to a foreign financial institution, and the latter lends funds to the AFN which repays its export debt to the DI. The U.S. bank has acquired the debt obligation of the foreign financial institution. The AFN's repayment of its debt to the DI is not a transfer of capital under § 312(b)(3) until the foreign financial institution's debt obligation to the U.S. bank is repaid. The result is the same if the foreign financial institution discounts the debt obligation of the AFN with the U.S. bank.

*Example 14.* DI exports goods on open account to an AFN, which in turn sells the goods on credit to an unaffiliated foreign national. A U.S. bank lends funds to a foreign financial institution, which purchases from the AFN the debt obligation of the unaffiliated foreign national. The AFN's repayment of its export debt to the DI is not a transfer of capital under § 312(b)(3) until the foreign financial institution's debt obligation to the U.S. bank is repaid. Similarly, the transfer of capital under § 312(b)(3) is deferred if the foreign financial institution rediscounts the debt obligation of the unaffiliated foreign national with the U.S. bank.

*Example 15.* DI exports goods on open account to an AFN, thereby acquiring a debt obligation of the AFN. The DI discounts the AFN's debt obligation with a U.S. bank. Since the transfer by the DI of a debt obligation of the AFN is neither to a foreign national nor to a domestic financial institution which charges its FRFCRP ceiling, by operation of § 312(c)(4)(a) no transfer of capital is recognized under § 312(b)(5) until the AFN repays its debt obligation held by the U.S. bank.

*Example 16.* DI exports goods on open account to an AFN. A U.S. bank lends funds to a foreign financial institution, which purchases the debt obligation of the AFN from the DI. As a result of §§ 312(c)(4) and 312(c)(12), no transfer of capital is recognized under § 312(b)(5) until the foreign financial institution's debt obligation to the U.S. bank is repaid. Although the DI has transferred the AFN debt obligation to a foreign national within § 312(c)(4)(a)(i), the transaction does not constitute a transfer of capital after application of § 312(c)(12), since the U.S. bank has acquired the debt obligation of the foreign financial institution and transferred funds to it without charging its FRFCRP ceiling; hence § 312(c)(4)(b) is not fulfilled. The result is the same if the foreign financial institution rediscounts the debt obligation of the AFN with a U.S. bank.

*Example 17.* DI exports goods on open account to an AFN, which in turn sells the goods to an unaffiliated foreign national. Without the intervention of the DI or the AFN, the unaffiliated foreign national borrows funds from a U.S. bank and pays the AFN. A negative transfer of capital is recognized under § 312(b)(3) when the AFN repays the DI.

*Example 18.* DI exports goods on open account to an AFN, which in turn sells the goods to an unaffiliated foreign national. Without the intervention of the DI or the AFN, a U.S. bank lends funds to a foreign financial institution, which in turn lends funds to the unaffiliated foreign national to pay the AFN for the exported goods. The AFN's repayment of its own export debt to the DI is a negative transfer of capital under § 312(b)(3). The result is the same if the



V 38-179 SEP 17 73 XUM

foreign financial institution rediscounts with the U.S. bank the debt obligation its has acquired from the unaffiliated foreign national.

*Example 19.* DI exports goods on open account to an AFN, which sells the goods on credit to an unaffiliated foreign wholesaler. The wholesaler in turn sells the goods on credit to an unaffiliated foreign retailer. Without the intervention of the DI or AFN, the foreign wholesaler sells the debt obligation of the foreign retailer to a U.S. bank, and repays the AFN which in turn repays the DI. The AFN's repayment of its export debt to the DI is a negative transfer under § 312(b)(3). The result is the same if the foreign wholesaler sells the foreign retailer's debt obligation to a foreign financial institution, which purchases the retailer's debt by borrowing from a U.S. bank or by rediscounting the retailer's debt obligation with a U.S. bank.

*Example 20.* DI exports goods on open account to an AFN, which in turn sells the goods on credit to an unaffiliated foreign national. Neither the AFN nor the DI has an established practice of arranging U.S.-source financing of the AFN's sales. With the assistance of the AFN or the DI, the unaffiliated foreign national borrows from a foreign bank which discounts the debt obligation of the unaffiliated foreign national with a U.S. bank. The unaffiliated foreign national repays the AFN, which in turn repays the DI. No transfer of capital under § 312(b)(3) may be recognized until the debt obligation held by the U.S. bank is repaid.

The following example illustrates the interplay between § 312(c)(12) and § 312(b)(3) as interpreted in § B312–15(iii):

*Example 21.* DI exports goods on open account to an AFN, which in turn sells the goods on credit to an unaffiliated foreign national. The AFN assigns the debt obligation of the unaffiliated foreign national to the DI. The assignment is treated on intercompany accounts as a satisfaction of the AFN's export debt obligation to the DI, but no transfer of capital under § 312(b)(3) result's from such an assignment until the unaffiliated foreign national's debt obligation is paid, or is sold by the DI to another unaffiliated foreign national or to a U.S. financial institution which charges the transfer under it's FRFCRP ceiling (see § B312–15(iii)). If the DI sells the debt obligation of the unaffiliated foreign national to a foreign financial institution which borrows equivalent funds from a U.S. bank or rediscounts the unaffiliated foreign national's debt obligation with a U.S. bank § 312(c)(12)(iii) blocks recognition of a transfer of capital under § 312(b)(3) until the debt obligation held by the U.S. bank is repaid by a foreign national.

### § B312–19 Unenumerated transactions not involving a transfer of capital.

Certain other transactions not enumerated in § 312(c) will be deemed not to involve transfers of capital between a DI and an AFN, even though a foreign enterprise may become or cease to be an AFN as a result of the transactions. However, if a foreign enterprise ceases to be an AFN as a result of any such transaction, this will not change the amount of direct investment chargeable to the DI during the base period in the appropriate scheduled area. The transactions referred to are as follows:

Acquisition by a DI, from an AFN or unaffiliated foreign national, of stock or assets of a foreign corporation, partnership, or business venture in exchange for stock of an AFN;

Contribution by a DI of stock or assets of an AFN to capital of another AFN;

Merger of one incorporated AFN into another incorporated AFN of the same DI, or consolidation of AFNs of the same DI, or merger or consolidation of an AFN into or with the DI;

Division of an AFN into two or more entities; and

Recapitalization of an AFN involving an exchange of stock for stock, debt for debt, stock for debt, or debt for stock.

A DI will not be exempt from recognizing a transfer of capital in a stock-for-stock/assets acquisition as described in the first category above of the exchange in effect results in an acquisition for cash.

*Example 22.* During 1970, DI organizes an incorporated AFN (A) in Schedule A and contributes $20 million cash to the capital of A. DI then enters into an agreement with X, a foreign national, whereby DI acquires from X all of the stock of a French corporation (C) in Schedule C in exchange for all of the stock of A. Thereafter, X causes A to be dissolved and the assets of A ($20 million cash) to be distributed to itself. This transaction is not a bona fide exchange of stock for stock, exempt from §§ 312 and 505, but is equivalent to an acquisition of C for cash, and constitutes a transfer of capital from A to DI under § 312(b) and a transfer of capital from DI to C under § 312(a) of $20 million.

A DI will not be deemed to have made a transfer of capital to its AFN if the DI deposits funds with a foreign government or a foreign bank pursuant to an import deposit law, regulation or requirement of the foreign government in connection with exports made by the DI to the AFN. The foregoing rule applies only if the deposit is not returned or returnable to the AFN or otherwise carried on the books and records of the AFN as an asset or a debt obligation to the DI.

### § B312–20 International construction projects.

Bid preparation expenditures in connection with international construction projects are to be excluded from computation of a DI's net transfer of capital, whether such expenditures have been incurred by the DI or it has advanced funds for such purpose to an AFN. However, such expenditures may not subsequently be deducted in computing earnings of incorporated AFNs or aggregate net assets of unincorporated AFNs. Specific authorizations with respect to transfers of capital to foreign construction projects may also be granted in appropriate circumstances under § 801.

### § B312–21 Expropriation.

A DI which has had AFN property expropriated by a foreign government should apply for an interpretive opinion concerning application of the regulations to the particular facts of the case. Such an application may also request a specific authorization. See Part IV(J) of the Revised Instructions for Submitting Applications for Specific Authorizations, dated May 24, 1973.

### § B312–22 Export credit.

(i) *Introduction.*—Sections 312(c)(13), 312(c)(14), and 313(b) are the key provisions constituting a general exemption in connection with qualifying export transactions. The general approach of the new export credit exemption system is to exempt, from positive transfer of capital charge, an extension of qualified export credit by a DI to its AFN, unless and until the AFN fails to repay the credit within a time period that would be permitted if the DI and AFN were dealing at arm's length. Under this approach, a DI will generally age its receivables for qualifying export credits that are outstanding at yearend, to determine which are "overdue" as measured by the applicable arm's-length terms and therefore give rise to transfer of capital consequences.

In keeping with the balance of payments objectives of the regulations, the exemption system rests on the assumption that DIs will continue to cause their AFNs to maintain repayments of export credits that were outstanding at yearend 1972 at a rate consistent with past practice. (Such repayments in 1973 may be attributed in part to credits extended in 1973, rather than to prior-year credits, as set forth in paragraph (iv) below.) Where a DI causes its AFNs to curtail their repayment of such prior-year credits, in an attempt to take undue advantage of the exemption system, such action may be treated as an evasion of the regulations under § 204. Increases in the level of outstanding export credit not related to increased levels of exports may similarly be viewed as evidence of such evasion. Such a DI also may be deemed to have elected out of the exemption under § 312(c)(13)(vi). Further, the indefinite extension or forgiveness of export credits may be deemed a contribution to the capital of the AFNs involved. DIs will continue to be required to report export and export credit information on quarterly and annual reports.

The exemption system will not affect the computation of positive direct investment during the base period, 1965–1966. Forms FDI–101, on which base period calculations are reported, should not be refiled to exempt export credits.

(ii) *General explanation.*—Under the regulations in effect through 1972, the acquisition by a DI of an obligation of an incorporated AFN attendant to an export sale of goods or services to the AFN by the DI was a positive transfer of capital under § 312(a)(1); repayment of the obligation by the AFN, or transfer of the obligation by the DI, was a negative transfer of capital under § 312(b)(3) or (5). The provisions applicable to unincorporated AFNs produced the same result. The newly adopted export credit exemption provisions of the regulations (§§ 312(c)(13), 312(c)(14), 313(b)), effective for transactions on or after January 1, 1973, in general block all positive and negative transfers of capital in connection with qualifying export transactions.

Section 312(c)(13) is the principal provision governing the treatment of obligations of incorporated AFNs acquired by DIs in connection with qualified export sale transactions. For such transactions § 312(c)(13) establishes exceptions to the general definitions of positive and negative transfers of capital set forth in §§ 312(a) and 312(b). Provisions in § 313(b), governed by the definitions set forth in § 312(c)(13), provide the same substantive treatment with respect to unincorporated AFNs. Section 312(c)(14) provides an exclusion with respect to the transfer or return of property pursuant to qualified export leases by DIs to incorporated AFNs.

Under § 312(c)(13), no transfer of capital is recognized in connection with an acquisition by a DI on or after January 1, 1973, of a debt obligation of an incorporated AFN attendant to a sale by the DI to the AFN of U.S. goods or U.S. services, until the obligation has been outstanding for a period longer than the arm's-length term applicable to the transaction. A positive transfer of capital in the amount of the debt obligation is charged when the credit becomes overdue as measured by the arm's-length term if the DI holds the obligation at that time. Commencing January 1, 1973 no negative transfer of capital will be recognized in connection with any repayment of a qualified export obligation by an AFN, or transfer by a DI of such an obligation, except to the extent that a positive transfer of capital has been previously recognized in 1973 or thereafter with respect to the obligation. (It should be noted that this rule applies to the repayment or transfer after 1972 of qualified export obligations that were acquired by the DI in 1972 or earlier.) Moreover commencing January 1, 1973, no negative transfer of capital is recognized for the repayment by or in behalf of an AFN of a qualified export obligation held by a financial institution subject to the Federal Reserve Foreign Credit Restraint Program ("FRFCRP") even though such repayment would have been deemed a transfer of capital by the AFN under the proviso to § 312(c)(4) or § 312(c)(12).

The substantive rules applicable to unincorporated AFNs produce the same net result. Ordinarily the liability of an unincorporated AFN to a DI is excluded in calculating the net assets of the AFN under § 313(b). Thus, a sale of goods by the DI to the AFN on credit resulted prior to 1973 in an increase in the AFN's net assets by increasing its assets without increasing its libilities. This had the effect of a positive transfer of capital. Commencing January 1, 1973, the liabilities of unincorporated AFNs to the DI which represent qualified export obligations are not excluded from the calculation of net assets, until such obligations have been outstanding for periods of time longer than the arm's-length terms applicable to them. When such obligations become overdue as measured by the arm's-length term, they must be excluded in the net asset calculation; this increases net assets and has the effect of a positive transfer of capital. Payment made to the DI from AFN assets, eliminating the excluded liability, reduces net assets and has the effect of a negative transfer of capital.

A qualified export obligation which is acquired and then satisfied or transferred within the same year has no net effect under the regulations, whether or not it is repaid or transferred within the arm's-length term applicable to the transaction. But where the debt obligation remains outstanding at yearend, and is at that time overdue as measured by the arm's-length term, the DI will incur a positive transfer of capital charge in that year. The DI can recognize a negative transfer of capital in the year in which such obligation is repaid or transferred.

Sections 312(c)(4) and 312(c)(12) as amended effective January 1, 1973 are not applicable to qualified export obligations. Thus, where a DI transfers a qualified export obligation to an institution subject to the FRFCRP, or an AFN obtains funds from such an institution to repay a qualified export obligation to the DI, §§ 312(c)(4) and 312(c)(12) have no effect on the treatment of such transactions, regardless of whether the institution charges its ceiling under the FRFCRP in connection with the transaction.

The provisions of §§ 312(c)(13) (pertaining to incorporated AFNs) and 313(b)(1), (2) (pertaining to unincorporated AFNs) apply to sales transactions. Separate provision is made in § 312(c)(14) to exempt the transfer of property to an incorporated AFN pursuant to a qualifying export lease and the return of property so transferred. The effect of these provisions is described in paragraph (ix), below.

The provisions constituting the export credit exemption system do not affect the treatment of acquisitions of export obligations of AFNs which are not qualified export obligations as defined in § 312(c)(13). Acquisitions of such nonqualified obligations continue to constitute positive transfers of capital under § 312(a)(1), or, in the case of unincorporated AFNs, increase in net assets under § 313(b) (by exclusion of the imputed debt obligation), at the times the obligations are acquired: repayment of the obligations by the AFN or transfers of them by the DI continue to constitute negative transfers of capital under § 312(b)(3) or (5) or a decrease in net assets under § 313(b) (unless recognition of the negative transfer of capital or reduction in assets is blocked by § 312(c)(4) or § 312(c)(12)). Also, § 312(c)(14), which provides an exemption for qualified lease transactions, does not affect the treatment of nonqualified leases. It should be carefully noted that these rules apply regardless of whether the nonqualified obligation or lease arose before 1973.

Because of the differing treatment that is provided for qualified and nonqualified export obligations and leases, DIs (except DIs which elect out of the exemption system in accordance with § 312(c)(13)(vi)) should segregate on their books and records those AFN obligations which are qualified export obligations and those lease transactions which constitute qualified export leases. DIs are also required to determine which of the AFN obligations held as of the end of the year 1972 were qualified export obligations and which leases outstanding were qualified export leases, since repayment of such qualified export obligations and returns of property under such leases are not negative transfers of capital.

Such segregation of AFN debt to the DI that was outstanding at yearend 1972 many be unduly difficult for many DIs which recorded a variety of miscellaneous transactions, in addition to qualified export obligations, through general intercompany accounts with their AFNs. Where such is the case, a DI may segregate yearend 1972 outstanding debt, with respect to any general intercompany account, by certifying in good faith, on its form FDI–102F filed for 1973, that at least a certain percentage of the outstanding balance due from the AFN at yearend 1972 was attributable to items which were not qualified export obligations. The percentage certified may not exceed 15 percent. Such segregation of the yearend 1972 balance of a general intercompany account into qualified export obligations and other items by certification shall be binding for all purposes of the regulations. The certification is, of course, subject to audit. No certification may be made with respect to post-1972 transactions.

*Example 23.*—In 1972 DI maintained a general intercompany account with its AFN. The large majority of the items accounted for in this account were acquisitions of qualified export obligations of the AFN and repayments of such obligations by the AFN. However, the account also recorded sales of non-U.S. goods to the AFN, certain royalty payments overdue from the AFN and other items. At yearend 1972 the account reflected a balance of $400,000 due from the AFN. DI has not computed exactly what portion of this 1972 amount was attributable to items other than qualified export obligations, but, based on its general knowledge of its dealings with the AFN and the use of the intercompany account, it believes in good faith that at least 7 percent of the account represents such items. DI may certify this percentage on its form FDI–102F filed for 1973. *Accordingly*, DI may recognize up to $28,000 (7 percent x $400,000) of 1973 repayments applied against this outstanding balance as negative transfers of capital. Of course, DI acquisitions in 1973 of AFN obligations other than qualified export obligations will give rise to positive transfers of capital. Therefore, the net increase or net decrease in the nonqualifying portion of the account over the year, beginning with the $28,000 yearend 1972 balance, will equal the net positive or net negative transfer of capital resulting from acquisitions and satisfactions of AFN obligations other than qualified export obligations. But, by virtue of the certification, any amount in excess of $28,000 repaid in 1973 applicable to the 1972 ending intercompany account balance will be considered repayment of qualified export obligations for which no negative transfer of capital is recognizable.

The amendments are described in greater detail as follows:

(iii) *Definitions.*—(a) *Qualified export obligation.* Under § 312(c)(13)(ii)(A), the term "qualified export obligation"







V 38-179 SEP 17 73 XUM

means a debt obligation of an AFN acquired by a DI in any year (including any year before 1973) attendant to a sale of U.S. goods or U.S. services. There are two exceptions:

(1) In no event is a qualified export obligation recognized in connection with a transaction that is in substance a contribution to capital. Where a transfer of goods or services is recorded on a DI's books and records as a credit sale, and timely payment is subsequently forgiven in whole or in part, the transaction may be deemed a contribution to capital in the year the goods or services were transferred. (However, where changed circumstances give rise to a legitimate business reason for forgiving the indebtedness attendant to a transaction previously treated in good faith as a credit sale, the amount of the debt forgiven will be treated as a transfer of capital in the year of forgiveness.) This rule applies to unincorporated AFNs as well as incorporated AFNs. Thus, where a DI ships goods to an unincorporated AFN or performs services for it with the arrangement that the AFN will make full payment for the goods or services, the DI may treat the transaction as a sale to the unincorporated AFN. If the other requirements are met, such a sale gives rise to a qualified export obligation. However, if the DI does not anticipate full payment for the goods or services, or foregoes payment, the transaction may be considered a contribution to capital, which does not give rise to a qualified export obligation.

(2) In no event does a qualified export obligation arise in connection with an installment sale unless the terms of the sale require installment payments at an arm's-length rate, taking into account the time and amount of each payment to be made. For example, if a DI sells equipment to an AFN for a total price of $60,000, and the sale agreement requires three semiannual payments of $10,000 and a final semiannual payment of $30,000, the sale does not require payments at an arm's-length rate, if an arm's-length rate of payment would require four semiannual payments of $15,000. If, on the other hand, the agreement requires an initial semiannual installment of $30,000 and three additional semiannual payments of $10,000, the sale would give rise to qualified export obligations since the rate of payment required is faster than the arm's-length rate. The arm's-length rate of payment for these purposes is the rate that would have been provided at the time the transaction was entered into, in independent transactions with or between unrelated parties under similar circumstances, considering all relevant factors except the credit standing of the AFN. The AFN is considered to be an average or typical credit risk, not an unusually good or a poor one. See paragraph (v) below.

Each payment due under an installment sale which gives rise to a qualified export obligation is deemed to be a separate qualified export obligation. Thus, in the last example in the preceding paragraph, the transaction would give rise to one qualified export obligation of $30,000 and three qualified export obligations of $10,000 each, due at successive semiannual intervals.

(b) *United States goods.*—The exemption of § 312(c)(13) is applicable to sales of "United States goods", which are defined in § 312(c)(13)(iii) to be tangible property meeting two requirements. It must be grown, produced or manufactured in the United States, and it must be exported from the United States by the DI.

Property is considered grown, produced or manufactured in the United States only if it may be classified as "domestic" for purposes of a Department of Commerce Shipper's Export Declaration on Commerce Department Form 7525–V. This is the form that must be completed and submitted by all exporters shipping domestic goods from the United States. With regard to classification of goods shipped as "foreign" or "domestic", article IV of the form provides as follows:

> Exports of domestic merchandise include commodities which are the growth, produce, or manufacture of the United States. Exports of foreign merchandise include commodities of foreign origin which entered the United States as imports, and which, at the time of exportation, are in the same condition as when imported. Commodities of foreign origin which have been changed in the United States from the form in which they were imported, or which have been enhanced in value by further manufacture in the United States, are considered as "domestic" commodities.

(c) *United States services.*—Sales of services will qualify for the § 312(c)(13) exemption only if they are "United States services", as defined in § 312(c)(13)(iv), which must be services performed for an AFN by the DI. Services performed by a DI through one of its AFNs for another AFN are not considered performed by the DI. Services subcontracted to another party for performance on behalf of the DI are not considered performed by the DI.

(d) *Arm's-length term.*—The regulations provide that the acquisition by a DI of a qualified export obligation is exempt from recognition only during an arm's-length term of obligation. This is explained in paragraphs (v) and (vi), below.

(iv) *Overdue qualified export credit.*—Under the regulations in effect through 1972, a positive transfer of capital was recognized upon the acquisition of an AFN obligation by a DI in connection with any credit sale to the AFN, and a negative transfer of capital was recognized upon repayment of the obligation by the AFN or transfer of it by the DI. Under § 312(c)(13)(i), no positive transfer of capital is recognized in connection with an acquisition on or after January 1, 1973 of a qualified export obligation of an incorporated AFN until the obligation, held by the DI, has been outstanding for a period longer than the arm's-length term applicable to it. Thus, if the obligation is not "overdue" as measured by the arm's-length term, no positive transfer of capital arises. The repayment or other satisfaction of a qualified export obligation by an incorporated AFN, or transfer by a DI of a qualified export obligation, does not constitute a negative transfer of capital if effected within the period of the arm's-length term. If, however, the obligation becomes overdue and is held by the DI so that a positive transfer of capital is recognized with respect to it (on or after January 1, 1973), such repayment or satisfaction or transfer does constitute a negative transfer of capital.

The rules provided in § 313(b) applying to unincorporated AFNs produce the same net result as the rules for incorporated AFNs. Where a qualified export obligation of an unincorporated AFN is acquired by a DI, the liability of the AFN is included in calculating the net assets of the AFN under § 313(b) until the obligation has been outstanding for a period longer than the arm's-length term applicable to it. This AFN liability either offsets the exported asset (resulting in no change in the net asset position) or, where payment for services is expensed, produces a reduction in net assets.

Where payment or satisfaction of the qualified export obligation is made before the obligation becomes overdue as measured by the arm's-length term, there is a reduction in assets and a corresponding reduction in liabilities, producing no change in net assets. The net result of the credit sale and subsequent payment within the arm's-length term is either (1) no change in net assets if an asset is recognized (as for the purchase of goods or capitalized services), or, (2) a reduction in net assets if the item purchased is expensed (as for the purchase of expensed services).

But when the obligation becomes overdue under the arm's-length term the liability must then be excluded in calculating net assets under § 313(b), resulting in an increase in net assets. The net change attendant to the sale on credit and subsequent failure to pay within the arm's-length term is an increase in net assets where an asset is recognized (as for the purchase of goods or of capitalized services), or no change in net assets where the item purchased is expensed (as for the purchase of expensed services). Repayment by an AFN of an "overdue" qualified export obligation results in a reduction in net assets as computed under § 313(b), since cash is expended to pay the obligation but the liability eliminated is an excluded liability.

Under § 313(b)(2) any reduction in net assets resulting from a repayment of a qualified export obligation acquired by the direct investor prior to 1973 is disregarded in computing the increase or decrease in net assets of the AFN.

For any year commencing with 1973, the DI will compute positive transfers of capital related to qualified export obligations (of either an incorporated or an unincorporated AFN) on the basis of the qualified export obligations of the AFN acquired on or after January 1, 1973 that are overdue at yearend as measured by the arm's-length term. When such overdue obligations are repaid by the AFN in a subsequent year, a negative transfer of capital will be recognized.

*Example 24.*—On March 15, 1973, DI sells $50,000 worth of U.S. goods to an incorporated AFN. On October 31, 1973, the DI sells $75,000 worth of U.S. goods to the AFN. The arm's length term applicable to both transactions is 9 months. As of December 31, 1973, neither qualified export obligation has been repaid. A positive transfer of capital of $50,000 is recognized in connection with the first acquisition on December 15, 1973, the date the obligation became overdue as measured by the 9-month arm's-length term applicable to it. Since the obligation has not been repaid by yearend 1973, there is no offsetting negative, and the positive transfer of capital must be charged for 1973 Program compliance. No transfer of capital is recognized, however, in connection with the second qualified export obligation, since at yearend 1973 the obligation has been outstanding for a period less than the 9-month arm's-length term applicable to it.

On January 31, 1974, the AFN repays both obligations ($125,000). A negative transfer of capital of only $50,000 is recognized in connection with the repayments, since a positive transfer of capital of only $50,000 was previously recognized as a result of acquisition of the obligations.

*Example 25.*—Same facts as in Example 2, except that the AFN involved is unincorporated. As of December 31, 1973, the net assets of the AFN have been increased by $50,000 as a result of the first purchase, since the exported goods are included as AFN assets, while the liability to the DI arising from the purchase, having become overdue as measured by the arm's-length term on December 15, 1973, is excluded in calculating the net assets of the AFN under section 313(b). The second purchase has no effect on net assets, since the liability is not overdue as of yearend and therefore is included in calculating the AFN's net assets, offsetting the acquired asset. When the obligations are repaid on January 31, 1974, the repayment of the $50,000 obligation results in a $50,000 reduction in net assets as computed under § 313(b). There is a $50,000 reduction in assets (cash), while there is no reduction in liabilities since the corresponding liability had been excluded for § 313(b) purposes. The repayment of the $75,000 obligation has no effect on net assets as computed under § 313(b) since the liability eliminated is an included liability; thus, the reduction in assets is offset by the reduction in liabilities.

A DI which in past years has extended greater than arm's-length terms to its AFNs may incur positive transfer of capital charges in 1973, even where its exports are not rising and AFN repayments are maintained at a level consistent with past practice, if the DI attributes all 1973 repayments of qualified export obligations to outstanding obligations under the first-in-first-out concept. Similarly, a DI which in past years has extended greater than arm's length terms to its AFNs may incur transfer of capital charges in 1973 where its volume of exports is rising, even though all new credits in 1973 are extended on arm's-length terms. In both situations, under the first-in-first-out concept a large part of 1973 repayments would be attributed to 1972 qualified export obligations, and a corresponding amount of qualified export obligations acquired in 1973 would remain outstanding and possibly "overdue" at yearend 1973. To alleviate this difficulty, a DI may treat a greater portion of 1973 repayments as attributable to qualified export obligations arising in 1973 than would ordinarily be the case if all repayments were matched on a first-in-first-out basis. Specifically, the DI may treat all 1973 repayments by an AFN of qualified export obligations as attributable to that AFN's repayments of such obligations arising in 1973, except for an amount equal to the lesser of (1) one-half the balance of qualified export obligations outstanding from the AFN at yearend 1972, or (2) one-half the total amount of qualified export obligations repaid in 1973. Insofar as 1973 AFN repayments are attributed to 1973 qualified export obligations, such obligations are deemed satisfied; they therefore are not outstanding at yearend 1973, and thus need not be aged to determine whether they give rise to positive transfer of capital charges in 1973.

*Example 26.* During 1971 and 1972 DI shipped AFN $50,000 of U.S. goods each month on 12-month terms, resulting in a yearend 1972 balance of outstanding qualified export obligations of $600,000. In 1973 DI continues shipping $50,000 of U.S. goods to AFN each month, acquiring qualified export obligations with each shipment, and AFN continues repaying $50,000 of qualified export obligations each month. The arm's length term applicable to each shipment is 6 months. Under the first-in-first-out concept, the entire $600,000 of 1973 repayments would be applied to reduce the 1972 yearend balance, for which no negative transfer of capital could be recognized. The entire $600,000 yearend 1973 balance would be considered 1973 qualified export obligations which, when aged, would show all of the obligations acquired in the first 6 months to be overdue, giving rise to a $300,000 positive transfer of capital charge in 1973. The DI may elect, however, to attribute $300,000 of the repayments to satisfaction of qualified export obligations arising in 1973 ($600,000 actually repaid in 1973 reduced by the lesser of (1) one-half the $600,000 yearend 1972 balance, or (2) one-half the $600,000 of 1973 repayments of qualified export obligations); the remaining $300,000 of repayments is attributed to obligations outstanding at yearend 1972. Thus, as of yearend 1973 the DI would hold $600,000 of qualified export obligations, $300,000 of which were acquired prior to 1973 and need not be aged, and $300,000 of which were acquired in the last 6 months of 1973 and are not "overdue" as measured by the applicable arm's-length term. No positive transfer of capital charge is incurred.

*Example 27.* During 1969 through 1972 DI shipped AFN $50,000 of U.S. goods each month on 2-year terms, resulting in a yearend 1972 balance of outstanding qualified export obligations of $1,200,000. In 1973 DI ships AFN $150,000 of U.S. goods each month. AFN continues repaying $50,000 each month for the first 6 months, but for the months July through December repays $200,000 each month, leaving a balance of $1,500,000 at yearend 1973. The arm's-length term applicable to all shipments is 6 months. Under the first-in-first-out concept, $1,200,000 of 1973 repayments would be applied to reduce the 1972 yearend balance, and $300,000 would be considered repayments of the obligations arising in January and February of 1973. The balance at yearend 1973, when aged, would show $600,000 of qualified export obligations arising in March through June of 1973 (for which a tax for of capital charge is recognized since they are "overdue" by the applicable arm's-length term), and $900,000 of such obligations arising in the last 6 months (which are not yet "overdue" and therefore not subject to charge). The DI may elect, however, to attribute $900,000 of 1973 repayments to qualified export obligations arising in 1973 ($1,500,000 of 1973 repayments reduced by the lesser of (1) one-half the yearend 1972 balance of $1,200,000, or (2) one-half the 1973 repayments of $1,500,000); the remaining $600,000 of repayments is attributed to obligations outstanding at yearend 1972. The yearend balance of $1,500,000 would be composed of $600,000 of pre-1973 qualified export obligations, which need not be aged, and $900,000 of obligations arising in the last 6 months of 1973, which are not "overdue" and therefore do not give rise to a transfer of capital charge.

As with nonqualifying obligations, where an incorporated or unincorporated AFN transfers an account receivable, note or other debt obligation of an unaffiliated foreign person in satisfaction of a qualified export obligation (or in immediate payment where nonpayment would give rise to a qualified export obligation) the qualified export obligation is deemed to remain outstanding and held by the DI. The qualified export obligation is deemed repaid by the AFN or transferred by the DI only when the debt obligation of the unaffiliated person is repaid to the DI or is transferred by the DI to an unaffiliated foreign national or to a U.S. financial institution subject to the FRFCRP which charges its ceiling under that program in connection with the acquisition. See § B312–15(iii) of the 1973 General Bulletin.

(v) *Arm's-length term.*—The arm's-length term, defined under § 312(c)(13)(v), is the length of time to make payment which would have been provided at the time the sale was entered into, in an independent transaction between unrelated parties under similar circumstances, considering all relevant factors except the credit standing of the AFN. The AFN is considered to be an average or typical credit risk, not an unusually good or a poor one. Relevant factors to be considered include the type of goods and services, the security, if any, the shipping time, and the terms prevailing at the situs for comparable transactions.

With respect to the sale of U.S. goods, any term of 180 days or less from the time of the shipment of the goods is deemed an arm's-length term. With respect to the sale of U.S. services, any term of 90 days or less, measured from the end of the month in which such services would be billed in a similar transaction between unrelated parties, is deemed an arm's-length term. Furthermore, where U.S. services are related and subsidiary to a sale of goods which entails a qualified export obligation, the arm's-length term is the same as that for the sale of the goods.

Where there is an insufficient number of similar independent transactions from which the DI can reasonably determine the duration of credit which would have been extended in such transactions, and where an AFN resells or leases the goods or services (without significant further









V 38-179 SEP 17 73 XUM

processing) to an unrelated foreign person, the term of credit extended by the AFN to the unrelated person may, in the absence of strong contrary considerations, be added to appropriate shipping time to determine the arm's-length term.

(vi) *Arm's-length term for installment sales.*—As explained in paragraph (ii), above, an installment sale gives rise to qualified export obligations only if payments under the terms of the sale are to be made at an arm's-length rate; for installment sales so qualifying, each payment is considered a separate export obligation. Thus, a term within arm's-length limits is established by agreement with respect to each individual installment. If all payments are made on schedule, no positive or negative transfer of capital is recognized in connection with the sale. But when a scheduled payment is not timely made, a positive transfer of capital arises. Subsequent payment of the obligation, for which a positive transfer of capital has been recognized on or after January 1, 1973, constitutes a negative transfer of capital.

*Example 28.*—On March 31, 1973, DI sells a computer to an AFN for $5 million, the fair market value. The terms of the sale provide for 20 semiannual installments of $250,000, with interest, commencing September 30, 1973. An arm's-length rate of payment would require 10 semiannual installments of $500,000, with interest. The sale does not give rise to qualified export obligations.

*Example 29.* Same facts as in Example 28, except that the sale agreement requires the arm's length rate of payment—10 semiannual installments of $500,000, with interest, commencing September 30, 1973. The AFN does not make the September 30 payment called for under the contract. A positive transfer of capital of $500,000 is therefore recognized under § 312(a)(1) as modified by § 312(c)(13)(i)(A). (Non-payment of the interest due on September 30 is also a positive transfer of capital under § 312(a)(1). See § B312–18(viii) of the 1973 General Bulletin.) On March 31, 1974 the AFN pays the DI $1 million (the installment currently due and the overdue installment) plus all accrued interest. A negative transfer of capital of $500,000 is recognized by reason of the payment of the overdue installment for which a positive transfer of capital was previously recognized. (A negative transfer of capital for payment of the overdue interest is also recognized.) There is no negative transfer of capital for payment of the March 31 installment, which was not overdue.

(vii) *Applicability to section 313(e).*—As announced January 2, 1973, the adoption of the export credit exemption did not affect the operation of section 313(e) for the year 1972. As provided in § 313(e)(4), the use of the § 313(e) option was governed by the regulations as in force on December 31, 1972. Thus, a DI could count a repayment in January or February 1973 by an AFN of a qualified export obligation outstanding on December 31, 1972 as a negative transfer of capital for purposes of computing 1972 transfers of capital under § 313(e), even though repayment of such obligation would not constitute a negative transfer of capital for 1973. If a DI chose to include repayments of qualified export obligations as negative transfers of capital in computing 1972 compliance under § 313(e), the DI must have included acquisition of qualified export obligations during the elected extension period as positive transfers of capital for purposes of computing the worldwide net transfer of capital during the period under § 313(e)(2), even though such acquisitions were not in themselves charged as positive transfers of capital for the year 1973.

(viii) *Nonrenewal of § 313(e) for 1973.*—Under the export credit exemption system, § 313(e) is not being renewed to apply to the compliance year 1973. The section 313(e) device aided DIs that experienced unusually high levels of export credit outstanding to their AFNs toward the end of a compliance year. The extension period permitted additional time for such DIs to reduce their levels of outstanding credit to a normal level and eliminate the positive transfer of capital charge arising from the higher level. Since positive transfers of capital will not ordinarily arise from increased levels of export credit under the proposed exemption system, § 313(e) will not be necessary for 1973.

(ix) *Qualified export leases.*—Under the regulations in force on December 31, 1972, a lease of property by a DI to an incorporated AFN was a positive transfer of capital (§ 312(a)(8)) in the amount of the fair market value of the property at the time of the transfer. Return of the property by the AFN was a negative transfer of capital in the amount of the fair market value at the time of the return. Payments of rental charges currently due were not transfers of capital, but failure of an AFN to make timely payment was a positive transfer of capital and subsequent payment of the overdue rent was a negative transfer of capital.

Under new § 312(c)(14), effective commencing in 1973, a transfer of property to an incorporated AFN pursuant to a qualified export lease is exempt from a transfer of capital charge. Return of property under a qualified lease is not a negative transfer of capital.

A lease by a DI to an incorporated AFN is a qualified export lease if it (1) transfers U.S. goods and (2) provides rental payments at an arm's-length rate, considering the time and amount of each payment to be made. The arm's-length rate of rental payment is determined in the same manner as for installment sales. See paragraphs (iii)(a)(2) and (vi) above.

However, where a DI finds that the "safe-haven" rule of Treasury Regulation, § 1.482–2(c) (ii), (iii) (as in effect January 1, 1973) is operative to determine the arm's-length rental payment for a lease of U.S. goods for purposes of section 482 of the Internal Revenue Code of 1954, as amended, the amount calculated under that provision will be considered an arm's-length annual rental amount for purposes of satisfying the arm's-length-rate-of-payment requirement for qualified export leases under § 312(c)(14) of the regulations. The lease must also require that the arm's-length annual rental amount be paid within the year in at least as many equal installments as would ordinarily be required with respect to the type of lease involved if entered into between unreleated parties.

In no event is a transfer recognized as pursuant to a qualified export lease if it is, in substance, a contribution to capital, regardless of the manner in which such transfer is entered on the DI's books and records. Accordingly, if rental payments are subsequently forgiven, in whole or in part, with respect to a transfer recorded by a DI as a lease, the transaction transferring the goods may be deemed a contribution to capital in the year the goods are transferred. (However, where changed business circumstances give rise to a legitimate business reason for contributing the leased property to the capital of the AFN, a transfer of capital attendant to such a contribution will be recognized in the year the contribution is made in the amount of the then fair market value of the property. See paragraph (iii)(a)(1), above.)

Where a lease meets the qualification requirements, the transfer of property to the AFN does not constitute a positive transfer of capital, notwithstanding § 312(a)(8); the return of the property by the AFN, whether or not the property was leased after 1972, does not constitute a negative transfer of capital under § 312(b) (as described in section B312–12 of the 1973 Bulletin). Rental payments under such a lease, however, are subject to the same provisions as apply to nonqualified leases under the general provisions of the regulations. If a rental payment of the AFN becomes overdue, an acquisition of a debt obligation of an AFN is recognized, which constitutes a positive transfer of capital under § 312(a)(1). When payment of the overdue rent is made, a negative transfer of capital is recognized under § 312(b)(3). If all rental payments are met on schedule as required under the terms of the lease, no transfer of capital is recognized at any time.

Where lease property is not returned at the termination of the lease (and the lease is not extended), a contribution to capital in the full fair market value of the property is recognized, constituting a positive transfer of capital under § 312(a)(2). Subsequent return of the property by the AFN constitutes a negative transfer of capital under § 312(b)(2).

A DI which elects not to be subject to the export credit exemption scheme, as discussed in paragraph (x), may not treat any lease as a qualified export lease under § 312(c)(14).

(x) *Election out of export credit exemption system.*—Section 312(c)(13)(vi) provides that any DI may elect that none of its transactions be deemed to involve qualified export obligations or qualified export leases. In effect, this permits the DI to disregard the export credit exemption system and treat all export obligations and leases as nonqualifying: the effect of the regulations governing the export credit transactions of such an electing DI is the same as under the regulations in effect on December 31, 1972. In this connection, it should be noted that the standard export credit specific authorization available for years prior to 1973 will no longer be obtainable.

The election out will be made by notification on the Form FDI–102F for 1973 filed by the DI. Any DI not affirmatively electing out at such time is subject to all provisions of the regulations concerning qualified export obligations and qualified export leases.

An election out once made by a DI will not be revocable without the prior permission of the Office.

The Office retains the power to deem that any DI has elected out of the export credit exemption system under § 312(c)(13)(vi). Such discretion will be exercised where a DI evades or abuses the exemption system by forgiving or indefinitely extending qualified export obligations that arose prior to 1973, or otherwise causing its AFNs to curtail repayments of such obligations in a manner inconsistent with past practice.

(xi) *Reporting.*—Quarterly reports on Form FDI–102 do not have to reflect transfers of capital to or from AFNs related to qualified export obligations or qualified export leases. The quarterly and annual reports continue to require reporting of the "memo" items concerning exports and export credit.

(xii) *Relation to § 312(c)(4) and (12).*—The amendments to § 312(c)(4) and (12) provide that, commencing January 1, 1973, these subparagraphs do not apply to transactions involving qualified export obligations or qualified export leases. (Where a DI has elected out of the export credit exemption system under § 312(c)(13)(vi), however, none of the DIs transactions will involve such obligations or leases; therefore § 312(c)(4) and (12) will be fully applicable to such a DI.) It should also be noted that, commencing January 1, 1973, under § 312(c)(13)(j)(C), any repayment relating to a qualified export obligation that would otherwise be deemed a transfer of capital under the provisio to § 312(c)(4) or the proviso to § 312(c)(12) is deemed not to be a transfer of capital.

Thus, if, prior to January 1, 1973, a DI transferred a qualified export obligation to an institution subject to the FRFCRP and the negative transfer of capital attendant to the transfer was blocked by section 312(c)(4), repayment of the obligation in 1973 is not deemed a negative transfer of capital. If such an obligation is transferred by a DI after December 31, 1972 to an institution subject to the FRFCRP, § 312(c)(4) has no effect on the treatment of the transaction under the regulations, regardless of whether the institution charges its FRFCRP ceiling in connection with the transfer.

(xiii) *Transfers between AFNs.*—The export credit exemption system does not apply to transactions between AFNs. Section 505(a)(7) provides that, in determining the effect of transfers between AFNs and the effect of changes in net assets of unincorporated AFNs under § 505, the fact that the underlying transactions may involve qualified export obligations or qualified export leases shall be disregarded.

(xiv) *Effect on specific authorization process.*—In view of the adoption of the export credit exemption system in the regulations, the standard export credit specific authorizations previously available will no longer be obtainable. (These specific authorizations are described in the June 16, 1972 memorandum for DIs and also on page 39 of the publication titled "1972 Foreign Direct Investment Program".)

Specific authorizations granted in the past with regard to export credit contained "recapture" provisions which deemed the DIs to have made positive transfers of capital in subsequent years under certain circumstances. Although there have been different recapture provisions employed, each is geared in some manner to reductions in the level of exports or export credit from that at the end of the year for which the specific authorization was obtained. In conjunction with adoption of the export credit exemption system, the Office has rescinded all export credit specific authorization recapture provisions still outstanding for those DIs that do not elect out of the exemption system under § 312(c)(13)(vi). (This rescission does not apply to recapture charges incurred in 1972 but deferred to 1973 at the option of DIs.) DIs that received export credit specific authorizations have received specific instructions on this subject.

## B313—Net Transfer of Capital

### § B313–1 Introduction.

Net transfer of capital as defined in § 313(c) is one of the components of direct investment (§ 306). Net transfer of capital under § 313(c) consists of:

The net transfer of capital to incorporated AFNs in a scheduled area (§ 313(a)); plus

The net transfer of capital to unincorporated AFNs in the scheduled area (§ 313(b)); less

Proceeds of long-term foreign borrowing expended in the scheduled area prior to July 1, 1972 (§ 313(d)(1)).

If the calculation produces a positive result, the DI has made a "positive net transfer of capital" to the scheduled area; if a negative figure results, the DI has made a "negative net transfer of capital" to the scheduled area.

Section 313(d)(1) was revoked effective July 1, 1972. Proceeds expended on or after July 1, 1972 remain available for allocation under § 306(c).

Section 313(d)(2) provides that transfers in connection with the acquisition of AFNs, including transfers during the 12-month period preceding any such acquisition, must be included in computing net transfer of capital.

Net transfer of capital to incorporated AFNs under § 313(a) consists of all § 312(a) transfers of capital from the DI to AFNs, less all § 312(b) transfers from AFNs to the DI. The net transfer of capital to unincorporated AFNs under § 313(b) equals the DI's share in any net increase or decrease in the aggregate net assets of its unincorporated AFNs.

While § 313 provides the basic definition of net transfer of capital, § 505 contains additional rules essential to the application of § 313, viz.:

Transfers involving certain unincorporated AFNs are treated as transfers of capital by the immediate parents or to the immediate parents of such AFNs (§ 505(a)(1), (2), and (3));

A DI is charged with the net change in assets of an unincorporated AFN under § 313(b) only if the immediate parent of such AFN is the DI or another AFN that is a § 903(a) affiliate of the DI (§ 505(a)(4));

A change in net assets of an unincorporated AFN that is not attributable to earnings or losses results in a corresponding § 312(a) or (b) transfer of capital between the DI and the immediate parent of such AFN, provided the immediate parent is an incorporated AFN and a § 903(a) affiliate (§ 505(a)(5) and (6));

Certain short-term trade credits between non-Canadian AFNs are, in effect, excluded from the calculations of net transfer of capital (§§ 505(b), 1103(c)); and

Transfers between two incorporated AFNs, if either is a § 903(a) affiliate, result in a § 312(b) transfer by the transferor AFN to the DI and a § 312(a) transfer by the DI to the transferee AFN (§ 505(a)(3)).

The rules set forth in § 313 apply to the base period as well as to subsequent years.

Section 313(b) was amended as of January 1, 1973, in connection with the export credit exemption. The effect of this amendment is discussed in § B312–22.

### § B313–2 Net transfer of capital to incorporated AFNs.

Under § 313(a), a DI's net transfer of capital to all incorporated AFNs in any scheduled area during any period consists of:

Aggregate transfers of capital during such period by the DI to such AFNs (as described in §§ 312(a) and 505); less

Aggregate transfers of capital during such period by such AFNs to the DI (as described in §§ 312(b) and 505).

The following examples illustrate this concept.

*Example 1.* During 1969, DI transfers $1 million to an incorporated subsidiary in Schedule A (AFN) as an advance on open account, $500,000 as a contribution to capital, and $400,000 resulting from an increase in accounts receivable due from AFN to DI. In the same year, AFN repays $1,100,000 of a $2 million loan received from DI in 1967. DI has no other incorporated AFNs in Schedule A. DI's net transfer of capital during 1969 to AFN is $800,000, calculated as follows (000 omitted):

| | |
|---|---|
| Transfers by DI under § 312(a): | |
| Advance on account to AFN | $1,000 |
| Contribution to capital of AFN | 500 |
| Increase in accounts receivable from AFN | 400 |
| Total | 1,900 |
| Transfers to DI under § 312(b): | |
| Repayment of loan by AFN | (1,100) |
| Net transfer (positive) | 800 |

*Example 2.* At the beginning of 1969, DI has two wholly-owned incorporated AFNs







V 38 - 179 SEP 17 73 XUM

in Schedule A (X and Y). In March 1969, DI purchases all the stock of a Brazilian corporation (Z) from an unaffiliated foreign national for $2 million in cash. The following transactions also occur during 1969: DI lends $1 million to X on open account and leases equipment valued at $500,000 to X for a term of 3 years; X redeems (at cost) an issue of preferred stock held by DI for $500,000; Y repays a 1966 loan from DI of $3 million; Y declares a $200,000 dividend to DI, payable on December 15 but not remitted during 1969, and DI repays a $1 million loan owed by Y to a U.S. bank, together with accrued interest and other charges aggregating $100,000. DI's net transfer of capital during 1969 to its incorporated Schedule A AFNs (X, Y, and Z) is $1,300,000, computed as follows (000 omitted):

| | |
|---|---|
| Transfer by DI under § 312(a): | |
| Purchase of Z | $2,000 |
| Open account loan to X | 1,000 |
| Lease of equipment to X | 500 |
| Dividend not paid by Y when due | 200 |
| Payment on Y's loan | 1,100 |
| Total | 4,800 |
| Transfers to DI under § 312(b): | |
| Redemption by X | (500) |
| Repayment of loan by Y | (3,000) |
| Total | (3,500) |
| Net transfer (positive) | 1,300 |

### § B313–3 Net transfer of capital to unincorporated AFNs.

(i) *General.*—Under § 313(b), a net transfer of capital by a DI to all unincorporated AFNs in any scheduled area during any period is defined as the DI's share of the aggregate net increase or decrease during such period in the aggregate net assets of such AFNs. Computation of net assets should take into account all assets (wherever located) and liabilities allocable to the AFN under generally accepted U.S. accounting principles consistently applied, whether such assets and liabilities are recorded in the AFN's legal books of account or in other books of account (including those of the parent AFN).

(ii) *Rules applicable to § 313(b).*—In calculating the net change in net assets of an unincorporated AFN the following rules apply:

There should be excluded from liabilities all equity interests in and debt obligations of the unincorporated AFN that are held by the DI and other AFNs of the DI; likewise, there should be excluded from assets all equity interests in and debt obligations of the DI and other AFNs that are held by the unincorporated AFN (§ 313(b) (1) and (2)). Notwithstanding the general exclusion of debt obligations of the unincorporated AFN that are held by the DI, qualified export credit obligations held by the DI should be included as liabilities, unless the DI has elected out of the export exemption system pursuant to § 312(c)(13)(vi). See § B312–22(ii).

The foregoing rule also does not apply with respect to short-term trade credits extended by one AFN to another AFN. That is, if another AFN extends a short-term trade credit to an unincorporated AFN of the same DI, the trade credit should be included as a liability of the unincorporated AFN for the purposes of § 313(b). The asset received and the liability incurred will net out, and there will be no change resulting therefrom in the AFN's net assets. Note that this is the result prescribed by § 505(b), i.e., short-term trade credits extended or received by an unincorporated AFN (to or from another AFN) should not be taken into account under § 313(b).

On the other hand, if either the AFN extending the credit or the AFN receiving the credit is Canadian, § 505(b) is inapplicable (§ 1103(c)). Thus, if an unincorporated AFN in Schedule C receives a short-term trade credit from a Canadian affiliate of the DI, the liability so incurred will be excluded and the AFN's net assets will include the amount of the credit for purposes of § 313(b).

Any increase or decrease in net assets of an unincorporated AFN resulting from changes in the valuation of such assets during the period involved (such as unrealized gains or losses), should be eliminated from the calculation under § 313(b). However, depreciation of tangible assets should be taken into account to the extent such depreciation is reflected in the calculation of the unincorporated AFN's earnings.

### § B313–4 DI's share of net change in assets under § 313(b).

(i) *Direct ownership.*—Where a DI directly owns an unincorporated AFN (e.g., a branch of the DI), the DI's share in the net change in net assets will equal the profits (or losses) of the AFN plus all transfers of capital made by the DI (or other AFNs of the DI) to the AFN, less all remittances made by the AFN to the DI. When the DI does not own all of the unincorporated AFN, transfers between the AFN and its other owners and such other owners' share of the AFN's profits or losses are not included in calculating the DI's share in the net change in the AFN's net assets.

*Example 3.* DI has two branches in Schedule A (X and Y). Net assets of X and Y at the beginning of 1969 are $200,000 and $300,000, respectively. During 1969, X incurs a loss of $100,000 and DI transfers $50,000 to X on open account; Y earns $90,000, remitting $30,000 to DI; and DI spends $500,000 for construction of a factory in Schedule A, which becomes an unincorporated AFN (branch) (Z) of DI. At the end of 1969, X and Y have net assets of $150,000 and $360,000, respectively. DI's net transfer of capital during 1969 to its unincorporated Schedule A AFNs is $510,000 ($50,000 net decrease in X's assets plus $60,000 net increase in Y's assets plus $500,000 net increase in Z's assets).

*Example 4.* In March 1969, DI's unincorporated AFN in Schedule A (Y) invests $50,000 of its own funds in a parcel of local real estate having a fair market value of $100,000 at the end of 1969. Assuming no other relevant transactions, Y's net assets would remain unchanged for purposes of the regulations, since unrealized gains are not taken into account under § 313(b).

*Example 5.* DI has an unincorporated AFN (B) in Schedule B with net assets of $1 million as of December 31, 1969. During 1970, DI sells B to an unaffiliated foreign national for $1,200,000 cash. DI has made a negative net transfer of capital to Schedule B of $1 million under § 313(b).

*Example 6.* During 1969, a U.S. corporation (X) enters into a joint venture agreement with an unaffiliated foreign corporation (Y) to operate a factory in Schedule C. Y contributes an existing plant in Schedule C and equipment, valued in the aggregate at $10 million. X contributes patents and technology valued at $5 million (under circumstances exempting the contribution from treatment as a transfer of capital under section 312(c)(11)) and $5 million in cash for working capital. X and Y each has a 50-percent-profit interest in the joint venture. During 1969, a wholly-owned subsidiary of X in Australia (B) lends $3 million to the joint venture, repayable at the end of 5 years. Also during 1969, the joint venture realizes $500,000 in gross revenues, spends $300,000 for operating expenses and depreciates its plant and equipment by $200,000. At the end of 1969, the joint venture has $8,200,000 in cash, patents valued at $5 million, plant and equipment valued on its books at $9,800,000, and no liabilities other than the $3 million liability to B. X's net transfer of capital during 1969 to its unincorporated AFN's in Schedule C is $8 million, calculated as follows (000 omitted):

| | |
|---|---|
| Net assets of joint venture as of Jan. 1, 1969 | 0 |
| Net assets of joint venture as of Dec. 31, 1969 (the $3,000 loan by B is not included as a liability of the joint venture under § 313(b)(1)): | |
| Plant and equipment | $9,800 |
| Patents and technology | 5,000 |
| Cash | 8,200 |
| Total | 23,000 |
| Increase in net assets during 1969 | 23,000 |
| X's share in net increase: | |
| Net increase | 23,000 |
| Less: | |
| Plant and equipment contributed by Y | 10,000 |
| Patents and technology | 5,000 |
| Net transfer of capital by X | 8,000 |

Note that the loan by B to the joint venture involves a transfer of capital by B to X under § 505(a)(1) and (2).

*Example 7.* DI is a partner in a partnership organized under German law and doing business only in Germany. DI has a 50-percent share in the partnership profits. The other partners (X and Y), each of whom has a 25-percent interest, are residents and citizens of Germany. At the beginning of 1969, the partnership has net assets of $1 million. During 1969 the partnership earns $100,000 and distributes $20,000 to DI and $10,000 to each of X and Y. Also during 1969, DI lends $200,000 to the partnership on open account. At the end of 1969 the partnership has net assets of $1,260,000 (excluding liabilities to DI). DI's net transfer of capital during 1969 to its unincorporated Schedule C AFN is $230,000 (i.e., DI's $50,000 share of profits plus the $200,000 loan, less the $20,000 remitted to DI).

Had the partnership incurred a loss of $50,000 and made no distribution to the partners, the net assets at the end of 1969 would be $1,150,000 (excluding liabilities to DI), and DI's net transfer of capital during 1969 to its unincorporated Schedule C AFN would be $175,000 (i.e., the $200,000 loan less DI's $25,000 share of the loss).

(ii) *Indirect ownership.*—A DI's net transfer of capital to all unincorporated AFN's in a scheduled area includes the DI's share of the net changes in the net assets of unincorporated AFN's in the scheduled area which are owned by other





AFNs of the DI located in other scheduled areas, so long as such other AFNs are "affiliates" of the DI, as described in § 903(a) of the regulations. (See § 505(a)(4).) The calculation of any such net change should be made as if the DI itself were the immediate parent of the unincorporated AFN; the DI's share of the net change is a percentage thereof equal to the DI's percentage interest in the immediate parent.

The following examples are illustrative:

*Example 8.* DI has a 60-percent-owned incorporated AFN (A) in Schedule A, which has a 50-percent profits interest in a joint venture (B) in Schedule B. The other 50-percent interest in B is owned by an unaffiliated foreign national (X). During 1970, A makes a $1 million loan to B, and as a result B's net assets increase by $1 million. A's share of the increase is $1 million (see Example 7 above); and DI's share is $600,000 (i.e. 60% of A's share). DI has made a § 313(b) net transfer of capital of $600,000 to Schedule B for 1970. By operation of § 505(a)(6), A is deemed to have made a $600,000 transfer of capital to DI.

In 1971, B has earnings of $1 million, makes no remittances and has an increase in its assets of $1 million. A's share of such increase is $500,000, and DI's share is $300,000 (60% of A's share). DI has made a § 313(b) net transfer of capital of $300,000 to Schedule B for 1971.

*Example 9.* DI has a wholly-owned subsidiary in Germany (C) that has a branch in Brazil (A). At the beginning of 1969, A's balance sheet is as follows (000 omitted):

| *Assets* | |
|---|---|
| Cash | $75 |
| Customer receivables | 140 |
| Inventory | 360 |
| Fixed assets (net) | 400 |
| Total | 975 |
| *Liabilities and net assets* | |
| Trade payables (liabilities) | $210 |
| Home office (net assets) | 765 |
| Total | 975 |

During 1969, A earns $25,000 and DI and C each make cash advances to A of $75,000. On August 1, 1969, a wholly-owned subsidiary of DI in Australia (B) sells $50,000 of inventory to A on 6-month credit terms. At the end of 1969, A's balance sheet is as follows (000 omitted):

| *Assets* | |
|---|---|
| Cash | $340 |
| Customer receivables | 175 |
| Inventory | 410 |
| Fixed assets (net) | 325 |
| Total | 1,250 |
| *Liabilities and net assets* | |
| Trade payables [1] | $310 |
| Home office account (net assets) [2] | 940 |
| Total | 1,250 |

[1] Including the payable of $50 [thousand] owed to B. If the credit terms extended by B had been for more than 12 months, the amount due would be included under the home office account rather than in "trade payables." DI's net transfer to A would, therefore, be increased by $50 [thousand] and result in a $50 [thousand] negative net transfer of capital to Schedule B (see § 505(b) and 505(a)(2)).

[2] Including payable of $75 [thousand] owed to DI.

DI's net transfer of capital during 1969 to Schedule A unincorporated AFNs is $175,000 (i.e., the increase in home office account (net assets) from $765,000 to $940,000 during 1969). However, DI will have a $75,000 negative net transfer of capital to Schedule C (i.e., the $75,000 deemed transferred by DI to C by operation of § 505(a)(1) and (a)(2), less the $150,000 deemed transferred by C to DI by operation of § 505(a)(6)).

If DI owned only 80 percent of C's voting stock, DI's net transfer of capital during 1969 to Schedule A unincorporated AFNs would be $140,000 (i.e., $175,000 × 80 percent). However, DI would have a $45,000 negative net transfer of capital to Schedule C (the $75,000 deemed transferred by DI to C by operation of § 505(a)(1) and (a)(2), less the $120,000 deemed transferred by C to DI by operation of § 505(a)(6)).

If DI were to own only 50 percent of C's voting stock, DI's net transfer of capital during 1969 to Schedule A unincorporated AFNs would be zero (see § 505(a)(4)). In this event, however, DI will have a $75,000 positive net transfer of capital to Schedule C, deemed transferred by DI to C by operation of § 505(a)(1) and (a)(2).

### § B313–5 Special treatment of certain § 312 transfers in computing net transfer of capital to unincorporated AFNs.

A transaction involving an unincorporated AFN that constitutes a transfer of capital under § 312 must be reflected in computing net transfer of capital to unincorporated AFNs under § 313(b) even though it would not necessarily enter into the calculation of net assets in accordance with ordinary accounting principles.

(i) *Repayment of long-term foreign borrowing.*—Section 312(a)(7) provides that when a DI satisfies, in whole or in part, a long-term foreign borrowing (whenever made) and the proceeds of such borrowing were either expended in making transfers of capital during the period January 1, 1965, through June 30, 1972, or were allocated to positive direct investment, such repayment constitutes a transfer of capital to the scheduled area or areas in which the proceeds were expended or are allocated at the time of repayment and with respect to which a deduction (against net transfer of capital or positive direct investment) was taken pursuant to § 203(d) (2) or (3), § 306(e) or § 313(d)(1). (See § B312–11.)

*Example 10.* In January 1968, DI makes a long-term foreign borrowing of $5 million from a London bank, the proceeds of which are used to construct a factory in Chile (Schedule A) resulting in a net increase in net assets of DI's Schedule A AFN in 1968 of $5 million (from $0 to $5 million). DI deducts this expenditure from 1968 net transfer of capital to Schedule A, pursuant to § 313(d)(1). In 1969, the AFN has earnings of $450,000, and transfers $200,000 to DI. The net increase in net assets is, therefore, $250,000. On December 1, 1969, DI repays $1 million to the London bank. Accordingly, DI's net transfer of capital to Schedule A in 1969 is $1,250,000 ($250,000 net increase in the Chilean factory's net assets, plus repayment of $1 million that had previously been expended in, and deducted from, net transfer of capital to Schedule A).

(ii) *Transfers under § 312(a)(9).*—If DI makes a pledge, hypothecation or other transfer of foreign balances or equity securities of a foreign corporation to a foreign national to induce a loan by such foreign national to an AFN or a long-term foreign borrowing which DI invests in an AFN, such transfer of foreign balances constitutes a transfer of capital to the AFN under § 312(a)(9).

*Example 11.* DI has a 50 percent profits interest in a joint venture (B) located in Schedule B. During 1970 DI deposits $1 million cash with a foreign bank as inducement for a loan of $800,000 by the bank to B. Although the loan would not result in an increase in B's net assets under § 313(b), DI must recognize a transfer of capital of $800,000 to B under § 312(a)(9) during 1970. Similarly, it will report a transfer of capital under § 312(b) from B in the same amount when the deposit is withdrawn even though B's net assets may not decrease.

(iii) *Offshore drilling rigs.*—When a vessel directly owned by a person within the United States is used as part of an offshore drilling operation (i.e., a branch of a DI), it is assigned a value of zero for purposes of computing any net change in net branch assets.

*Example 12.* In January 1969, DI began drilling operations off the coast of Australia. This venture constitutes an unincorporated Schedule B AFN. In February 1969, DI sends its U.S.-flag barge to the worksite, and the barge is used during 1969 in drilling operations. Although transfer of the barge constitutes a transfer of capital to the AFN under § 312(a), the barge is assigned a value of zero for purposes of computing the net assets of the AFN. The same rule would also apply to other U.S.-flag vessels used in support of the offshore drilling operations (such as supply or crew vessels). Note that since such vessels are deemed to have a value of zero, no deductions for depreciation of such vessels may be taken.

### § B313–6 Deduction for expended proceeds of long-term foreign borrowing.

In calculating a DI's net transfer of capital to a scheduled area during any reporting period (including the base period years, 1965 and 1966) prior to July 1, 1972, the DI should deduct an amount equal to the proceeds of long-term foreign borrowing expended during such period in making transfers of capital to AFNs in the scheduled area. Such deductions were required under § 313(d)(1), which was revoked effective July 1, 1972. On or after such date, there is no reduction in net transfer of capital for the expenditure of available proceeds. Instead, such proceeds may be allocated when required by the DI and, notwithstanding such allocation, may remain expended in AFNs.

Available proceeds that were expended prior to July 1, 1972 may not be allocated to positive direct investment under § 306(e)(1). Also, the repayment of long-term foreign borrowing at any time will continue to involve a transfer of capital under section 312(a)(7) or section 1404(a)(2) to the extent that a deduction for expenditure of available proceeds of such borrowing was made under section 313(d)(1). Section 203(d)(2) provides for allocation where a deduction for expenditure of available proceeds previously was made under section 313(d)(1). Section 324(d) reduces available proceeds where such proceeds were expended prior to July 1, 1972. Section



V 38 I 179 SEP 17 73 XUM

1404(a)(2) provides for the recognition of a transfer of capital upon repayment of an overseas borrowing where a deduction for expenditure of available proceeds previously was made under section 313(d)(1).

*Example 13.* In September 1970, DI acquired all the stock of a corporation in Argentina from an unaffiliated foreign national (Y). The purchase price was $1 million, $500,000 payable in cash at closing and the balance payable in equal annual installments of $100,000 thereafter. Each installment was represented by a promissory note of DI, with respect to which Y made the necessary written representations referred to in § 324(a)(1)(iv). DI made a $500,000 "foreign borrowing" within the meaning of § 324(a)(1). Assuming the borrowing qualified as long-term foreign borrowing under § 324(a)(2), the proceeds thereof were deducted from DI's net transfer of capital under § 313(d)(1). DI's net transfer of capital to Schedule A during 1970 was, therefore, $500,000 (i.e., the $1 million purchase price, minus $500,000 proceeds of long-term foreign borrowing). Each principal payment by DI on the outstanding notes is a transfer of capital to the AFN under § 312(a)(7), and must be so reflected in calculating DI's net transfer of capital to Schedule A in 1971 and in each subsequent year of payment.

### § B313–7 Step acquisitions.

In calculating a DI's net transfer of capital to all AFNs in a scheduled area during any period (including the base period years of 1965 and 1966), the DI should include (a) all transfers of funds or other property as a result of which the DI acquires an AFN and (b) all transfers of funds or other property to, on behalf of, or for the benefit of such AFN made by, on behalf of, or for the benefit of such DI within 12 months prior to the date of the transfer by which it became a DI in such AFN.

*Example 14.* On November 1, 1969, a U.S. corporation (X), having no AFNs, acquires 8 percent of the voting stock of a French corporation (C) from an unaffiliated foreign national for $1 million in cash. On December 1, 1969, X lends C $500,000. On March 1, 1970, X acquires an additional 2 percent of C's voting stock from a second unaffiliated foreign national for $250,000 in cash. X's net transfer of capital during 1969 to Schedule C is zero. X's net transfer of capital during 1970 to Schedule C is $1,750,000.

If the initial purchase of X's voting stock had been made on February 1, 1969, there would still be no net transfer of capital in 1969, and X's net transfer of capital during 1970 to Schedule C would be $750,000 (i.e., the $250,000 transfer of capital that gave rise to the DI–AFN relationship plus the $500,000 lent to C within 12 months prior thereto).

*Example 15.* On January 1, 1969, a U.S. corporation (X), having no AFNs, enters into a construction contract with an unaffiliated foreign national (Y) whereby X is to construct a factory for Y in a Schedule C country. On March 1, a project office is opened and preliminary survey work on the project is commenced. On April 1, 1969, X sends equipment, machinery and supplies valued at $1 million to the project site. At the time the project office was opened, X reasonably expected that the work would be completed by the end of February 1970. Thus, the project is not an AFN of X (see § 304(d)(ii)). At the end of 1969, net assets of the project are $1 million, but there has been no net transfer of capital to Schedule C during 1969 since the project is not an AFN. Significant difficulties of an unexpected nature are encountered, and during 1970, X sends additional equipment, machinery and supplies valued at $1 million to the project site. At the end of 1970, the net assets employed in the project amount to $2 million. Work on the project is not in fact completed until March 1, 1971. Accordingly, since work on the project was not in fact completed within 12 months from the date it commenced, the project is an AFN of X commencing January 1, 1970, and, because of the provisions of § 313(d)(2), X has made a positive net transfer of capital of $2 million to Schedule C during 1970.

### § B313–8 Repayment of debt by AFN to DI: Prior-year treatment.

Section 313(e) permitted a DI, in calculating its net transfer of capital made in 1972, to include certain transfers of capital made by AFNs during the first one or two months of 1973. The effect of § 313(e) on calculations under the export credit exemption system is discussed in § B312–22(vii).

## B319—Schedule A, B, and C Countries

Section 319 assigns each of the countries of the world to one of three scheduled areas, A, B, and C. Direct investment made by a DI is generally calculated on the basis of a scheduled area, reflecting aggregate transactions involving all AFNs in such schedule.

The countries in Schedule A include those designated as less-developed countries for purposes of the Interest Equalization Tax. The countries in Schedule B include certain designated countries such as Australia, Ireland, Japan, New Zealand, the United Kingdom, certain Middle East oil-producing countries and, commencing in 1970, Spain. The countries in Schedule C include those not included in Schedule A or B, such as South Africa and the countries of continental Europe other than Finland, Greece, Turkey, and Yugoslavia and, commencing in 1970, Spain.

Section 319(b) was amended in 1970 to reclassify Spain from Schedule C to Schedule B as of January 1, 1970. Consequently, for 1970 and succeeding years DIs should include all direct investment in Spanish AFNs in calculating direct investment in Schedule B and should exclude such direct investment from the Schedule C computation. No change will be made in the base period figures used to calculate § 504(a) historical allowables or in any direct investment reported for 1968 and 1969. Furthermore, a DI's 1970 § 504(b) earnings allowable in Schedules B and C (based on 1969 earnings reported on the 1969 Annual Report Form FDI–102F) will not be changed. It is not necessary or permitted for any DI to amend or refile its Form FDI–101 or Forms FDI–102 and FDI–102F for 1968 or 1969 as a result of the reclassification of Spain. However, commencing in 1970 earnings of Spanish AFN's will be included with other schedule B earnings for purposes of determining a DI's 1971 § 504(b) earnings allowable and 1971 § 504(c)(3) upstream adjustment for Schedule B. The computation of the § 506 incremental earnings allowable, being based on aggregate worldwide figures, will not be affected as a result of this change. Although the Schedule B historical and earnings allowables in effect for 1970 will not be increased as a result of this change in the scheduled area to which Spain is assigned, DIs may downstream unused Schedule C allowables to Schedule B to cover any increased investment in Schedule B in 1970 and succeeding years.

*Example 1.* DI has one AFN, which is located in Spain, and § 504(a) allowables of $1,200,000 in schedule C and zero in Schedules B and A. In 1970 DI elects § 504(a) and makes positive direct investment of $1 million in its Spanish AFN. DI should report positive direct investment in 1970 of $1 million in Schedule B and zero in Schedule C. The Schedule B investment is authorized by DI's Schedule C allowable, under the carrydown provisions of § 504(d)(3). DI will have $200,000 of carryforward under § 504(d)(3) which will authorize additional positive direct investment in Schedules C, B, or A in 1971 and succeeding years.

*Example 2.* DI has one AFN, which is located in Spain. The AFN's 1969 earnings are $4 million. DI's § 504(a) historical allowables are $800,000 in Schedule C and zero in Schedules B and A. In 1970, DI elects the § 504(b) earnings allowable and makes positive direct investment of $1,200,000 in its Spanish AFN, which is correctly reported in Schedule B. This positive direct investment is authorized by DI's Schedule C earnings allowable of $1,200,000 which is available in Schedule B under § 504(d)(3).

*Example 3.* DI has one AFN which is located in Spain. At the end of 1969, the AFN owed DI $1 million on open account. In March 1970, the AFN pays DI $1 million in satisfaction of the open account balance. In October 1970 AFN is billed $1,500,000 for a shipment of goods, so that the open account balance at the end of 1970 is $1,500,000. In 1970, DI has made a net transfer of capital to Schedule B of $500,000.

If a DI expended proceeds of long-term foreign borrowing in making transfers of capital to Spanish AFNs prior to 1970 and took a deduction from net transfer of capital to Schedule C under § 313(d)(1), repayment of such borrowing on or after January 1, 1970, will constitute a transfer of capital to Schedule C (not Schedule B) under § 312(a)(7).

## B321—Calendar Year and Fiscal Year

The term "year", as used in the regulations, is defined in § 321(a) to mean a calendar year except for DIs securing permission under § 321(b) to measure compliance on the basis of their normal fiscal year. Although, in appropriate cases, a fiscal year DI may be permitted to comply with the substantive provisions of the regulations on such basis (§ 321(b)), all DIs (including all fiscal year DIs) are required to submit cumulative quarterly reports (Form FDI–102) and the annual report (Form FDI–102F) on a calendar basis. DIs receiving permission to measure compliance on a fiscal year basis must file an additional annual compliance report covering operations for such fiscal year.

DIs may request permission to comply with the regulations on a fiscal year basis by applying for a specific exemption under § 801. The applicant must demonstrate that by reason of the nature of its business, accurate reflection of total annual operations for purposes of the regulations can only be on the basis of its fiscal year. DIs maintaining normal books and records on a calendar year basis are not eligible for relief under § 321(b) merely because one or more AFNs operate on a fiscal year basis. DIs should refer to the general instructions to Forms FDI–102 and 102F with respect to reporting earnings of AFNs that operate on the basis of a fiscal year different from the DI's.





## B322—Person Within the United States

### § B322–1 Introduction.

The regulations apply only to DIs, and a person is not a DI unless he (or it) is a "person within the United States," as defined a § 322. (The term "United States" is defined in § 318.)

### § B322–2 Individuals.

(i) *Residence.*—Section 322(a)(1) provides that a resident of the United States is a person within the United States. This rule applies without regard to citizenship.

The determination whether a person is a "resident" of the United States depends on the facts and circumstances of each particular case. In general, a permanent place of abode within the United States or physical presence in the United States for more than 183 days during the year will be conclusive. However, aliens will not be considered residents of the United States if they have no intention to remain in the United States permanently or for an indefinite period. Thus, for example, an alien present in the United States as a student, an entertainer on tour, an athlete competing in one or more athletic contests, a patient undergoing medical treatment, or a traveler will not be treated as a resident of the United States. Residence in the United States will be treated as continuous notwithstanding occasional trips out of the country during such residence.

(ii) *Center of economic interest.*—Section 322(a)(2) provides that a citizen of the United States residing abroad is nevertheless a person within the United States, if the center of his economic interests is located within the United States. Whether a U.S. citizen's center of economic interests is located within the United States depends on the particular facts and circumstances of each case. Among the factors that will be considered are the length of time residence has been outside the United States, the person's intention concerning future residence, the relative values of investments in the Untied States and in foreign countries, and the nature of the U.S. investments (i.e., whether passive portfolio investments or active participation in business is involved).

*Example 1.* A U.S. citizen (X) becomes a resident of a foreign country in February 1968. X owns all the stock of a U.S. corporation (Y). After X becomes a nonresident of the United States, he nevertheless continues actively to participate in Y's business and makes frequent trips to the United States for this purpose. X's only other investments are of a portfolio and short-term debt nature. X is a person within the United States.

*Example 2.* A U.S. citizen (X) owns a retail merchandising business in the United States. Upon reaching age 65, X sells his business to an unrelated person within the United States and purchases an annuity from a U.S. insurance company. In January 1968, X sells his home in the United States and he and his wife move to Iceland, X's ancestral homeland, where he establishes a permanent residence. X's grown children continue to live in the United States. X continues to maintain bank accounts in the United States, into which periodic payments from the proceeds of his annuity are made. X also continues to own a small parcel of undeveloped real estate in the United States, purchased many years ago for investment. X is not a person within the United States.

*Example 3.* A U.S. citizen (W), resident in a foreign country for many years, owns 75 percent of the stock of X and Y, both U.S. corporations. Y owns 75 percent of Z, a third U.S. corporation. X owns all the share capital of 6 foreign corporations and has 12 branch operations in foreign countries, and Y owns all the share capital of six different foreign corporations and has 10 branch operations in foreign countries. X, Y, and Z all have substantial manufacturing or selling operations in the United States. The products of X, Y, and Z are sold both in the United States and in foreign countries. Total sales of X, Y, and Z and their 12 foreign affiliated corporations and 22 foreign branches amount to several million dollars annually. All major policy decisions of X, Y, and Z and their affiliated foreign nationals are made by W, who maintains no fixed office abroad.

Decisions on particular matters within the policy guidelines laid down by W are made at the head offices of the three U.S. corporations and are relayed to all domestic and foreign operations from such head offices, subject only to the periodic review of W. W conducts no significant separate foreign business activities aside from those conducted through his direction of the affairs of X, Y, and Z corporations. W is a person within the United States.

*Example 4.* A U.S. citizen (X) owns all the stock of Y, a U.S. corporation with extensive, worldwide foreign operations. In 1965, X establishes his permanent residence in Belgium, and C, a foreign corporation, in Belgium. In September 1966, C purchases all the stock of Y from X, in exchange for additional shares in C. In a series of corporate reorganizations carried out in 1966 and 1967, the foreign operations formerly conducted by Y and the foreign corporations previously owned by Y become foreign operations and corporations conducted and owned, respectively, by C. Direction of all such operations is carried on in Belgium; the head offices and senior managerial staff are moved to Belgium; and by December 1967, Y has no foreign holdings of its own. X is not a person within the United States in 1968.

*Example 5.* A U.S. citizen (X), having permanently resided in Italy since 1961, owns several parcels of undeveloped and commercial real estate in the United States with an aggregate fair market value in excess of $10 million in January 1968. The commercial real estate is managed for X by an independent real estate organization, and profits are remitted to X periodically. X maintains certain bank accounts in the United States in connection with his real estate investments. His only other U.S. investments consist of marketable securities of large U.S. corporations. X makes one or two trips per year to the United States, primarily to visit relatives. X has no significant investments in foreign countries. X is not a person within the United States.

### § B322–3 Corporations or partnerships.

Section 322(a)(3) provides that a corporation or partnership organized under the laws of the United States (excluding a branch of such corporation or partnership, if the branch is a separate foreign national under § 302) is a person within the United States.

### § B322–4 Trusts.

Trusts (other than a trust deemed to be a corporation under § 307(b)) deemed to be persons within the United States, under § 322(a)(4), include inter vivos or testamentary trusts established by persons within the United States in which a person or persons within the United States have substantial beneficial interest.

An inter vivos trust governed by the laws of the United States to which any property is or has been contributed by a person who, at the time of making the contribution, is or was a person within the United States would be governed by § 322(a)(4), if: (a) Such contribution is or was made on or after January 1, 1968; or (b) the terms of the trust are such that the income therefrom is currently taxable to such persons for U.S. Federal Income Tax purposes; or (c) a majority of the trustees thereof are or were, at any time after January 1, 1968, persons within the United States and OFDI has not been furnished with satisfactory evidence that no person or persons within the United States have a substantial beneficial interest in the trust.

A testamentary trust governed by the laws of the United States and created by a person who, at the time of his death, was a person within the United States, would likewise be governed by § 322(a)(4), if a majority of the trustees thereof are or were, at any time after January 1, 1968, persons within the United States and OFDI has not been furnished satisfactory evidence that no person or persons within the United States have a substantial beneficial interest in the trust.

### § B322–5 Estates.

A decedent's estate is deemed to be a person within the United States under § 322(a)(5), if the deceased was a person within the United States at the time of his death, and: (a) A majority of the executors or administrators are persons within the United States, or substantial assets of the estate are being administered under the laws of the United States; and (b) OFDI has not been furnished satisfactory evidence that no persons or persons within the United States have a substantial beneficial interest in the estate.

### § B322–6 Domestic banks.

Section 322(a)(6) makes clear that a domestic bank (including a domestic branch or office of a foreign bank), as defined in § 317(a), will be considered a person within the United States.

### § B322–7 Special cases.

Under § 322(b), OFDI may determine, in particular cases based on the facts



V38-179 SEP 17 73 XUM

and circumstances involved, that a person not described in § 322(a), or an activity (such as a branch) of a person not described in § 322(a), is nevertheless a person within the United States for purposes of the regulations.

*Example 6.* Corporation Y, a foreign corporation, has no managerial office or operations in the country of incorporation. Ninety-five percent of Y's share capital is held by persons within the United States and shares are traded on a national securities exchange in the United States. The principal office of Y is in the United States and all officers and directors are citizens and residents of the United States. Y owns more than 10 percent of the share capital (in proportions ranging from 15 percent to 100 percent) of more than 20 foreign corporations. Under the foregoing facts, Y could be deemed a person within the United States for purposes of the regulations.

## B323—International Finance Subsidiaries

Section 323 defines the term "international finance subsidiary" ("IFS") to mean a corporation organized under the laws of the United States, all the stock of which (disregarding directors' qualifying shares) is owned directly or indirectly by a DI, and the principal business of which is to borrow funds from foreign nationals, other than AFNs of the DI, and to invest such funds in debt or equity securities of AFNs of the DI. The section further provides that a DI and its IFS are considered a single person for all purposes of the regulations.

Accordingly, direct investment transactions of, and foreign balances held by, an IFS are attributed to the DI, and transactions between the DI and the IFS are ignored for purposes of the regulations. Similarly, long-term foreign borrowings obtained by the IFS are considered borrowings by the DI, and only one certificate need be filed by the DI under § 1002 (a)(6) and (b) concerning each such borrowing. Therefore, if the DI guarantees due and punctual payment of the principal, premium( if any), and interest on debt obligations of the IFS, together with due and punctual mandatory sinking fund payments (if any), the DI should file the "Subpart J" certificate as a borrower, not a guarantor, and any payments made by DI under the guarantee (including delivery of capital stock of DI pursuant to exercise of conversion privileges) will be treated as repayments by a borrower and not by a guarantor.

In light of the foregoing, records maintained pursuant to §§ 203(c) and 601, and reports filed under § 602, by the DI should include all relevant items attributable to the IFS.

## B324—Long-Term Foreign Borrowing

### § B321–1 Introduction.

Section 324 sets forth the rules governing the qualification of borrowing by a DI as long-term foreign borrowing and the amount of proceeds of long-term foreign borrowing that may be used as an offset in calculating direct investment. In addition, § 324 deals with the effect of refinancing and repayment of borrowings. Related provisions of the regulations concerning the use of proceeds and the repayment of long-term foreign borrowing are also discussed in this section of the Bulletin.

A DI may offset positive direct investment by allocating available proceeds of long-term foreign borrowing under § 306 (e). Only proceeds of a borrowing that qualifies under § 324 as long-term foreign borrowing may be used as an offset to direct investment. Prior to July 1, 1972, a DI also offset direct investment through a deduction from net transfer of capital under § 313(d)(1) for expenditure of available proceeds.

Section B324–4 contains a detailed description as to how borrowing qualifies as long-term foreign borrowing. The requirements for qualification depend upon when the borrowing was made.

The gross amount of funds or other property received from long-term foreign borrowing constitutes "proceeds of long-term foreign borrowing" until the borrowing is repaid. Such proceeds are "available proceeds" until allocated to positive direct investment or, prior to July 1, 1972, expended in making transfers of capital to AFNs. Only available proceeds of long-term foreign borrowing are deducted under § 306(e) (or § 313(d)(1)). After deduction for allocation (or expenditure), the amount of the borrowing outstanding still constitutes proceeds of long-term foreign borrowing but ceases to be available proceeds. As provided in § 203(d) (2) and (3), a DI may change the scheduled area to which the offset applies. (See § B324–10.) For example, if a DI expended and deducted (under § 313(d)(1)) available proceeds of long-term foreign borrowing in Schedule A during 1970, those proceeds could be allocated to and deducted from positive direct investment in Schedule B in 1972 (under § 203(d)(2)). Upon such allocation to Schedule B, DI must recognize a transfer of capital to Schedule A, where the previous deduction was taken. Section 203(d)(2) also permits further allocations of the same proceeds while the borrowing is outstanding.

Repayment (in whole or in part) of a long-term foreign borrowing for which a direct investment offset was taken is recognized as a transfer of capital (§ 312(a)(7)) in the last scheduled area in which a deduction was taken, whether under § 306(e), § 313(d)(1), § 203(d)(2), or § 203(d)(3). If deductions were last taken in more than one scheduled area, the charge is made on a proportional basis among the scheduled areas.

The regulations require a DI to keep separate books and records with respect to long-term foreign borrowing and the uses to which the proceeds of such borrowings have been put. Such records must distinguish between deductions taken by reason of the borrowing and the actual flow of funds. (See § 203(b).)

### § B321–2 Related sections.

The following sections of the regulations relate to long-term foreign borrowing:

(i) *Section 1002.*—Even though a transfer of capital is recognized upon repayment of a long-term foreign borrowing the proceeds of which were expended or allocated, positive direct investment resulting from such repayment may be authorized by § 1002 (subject to the provisions of § 1003) if DI has satisfied applicable certification requirements. See § B1002–2.

(ii) *Section 203(c).*—A DI is permitted to hold liquid foreign balances in the amount of available proceeds of long-term foreign borrowing.

(iii) *Subpart N.* Proceeds of an overseas borrowing that are loaned by a qualified overseas finance subsidiary to the DI in proceeds borrowing are deemed available proceeds of long-term foreign borrowing as defined in § 324(d). (See § B1002–2.)

### § B321–3 Summary of § 324.

Section 324 has been amended with respect to borrowings made on or after May 1, 1970. These amendments were published in final form in the FEDERAL REGISTER on June 13, 1970 (35 F.R. 9248). The following summary compares the structure of § 324 before and after the 1970 amendments.

Prior to amendment the provisions of § 324 were as follows:

(a) Definition of long-term foreign borrowing applicable to (i) borrowings made prior to January 1, 1968, and (ii) borrowings made on or after January 1, 1968.
(b)(1) Effect of refinancing.
(b)(2) Effect of conversion of convertible debt instruments.
(c) Definition of proceeds.
(d) Definition of available proceeds.
(e) Requirements in addition to those of § 324(a) applicable to borrowings made on or after June 10, 1968.

The provisions of § 324 as amended are as follows:

(a)(1) Definition of foreign borrowing (incorporating the conditions of former § 324(c)).
(a)(2) Definition of long-term foreign borrowing applicable to borrowings made on or after May 1, 1970.
(a)(3) Definition of long-term foreign borrowing applicable to borrowings made prior to May 1, 1970 (or reference to former § 321).
(b)(1) Definition of refinancing (amended to conform to new § 324(a)).
(b)(2) [Unchanged]
(c) [Unchanged]
(d) Definition of available proceeds amended by July 1, 1972, to conform to revocation of § 313(d)(1)).
(e) [Revoked]

### § B321–4 Definition of long-term foreign borrowing.

To qualify as long-term foreign borrowing under § 324 a borrowing must be made by a DI from a foreign national, other than an AFN or a Canadian person as described in § 1106. See former § 324(a) and new § 324(a)(1).

The term "borrowing" as used in § 324 refers not only to the typical loan of funds to or sale of debt obligations by a DI, but also to other transactions resulting in acquisition of an equity interest in consideration for a fixed sum or sums (regardless of the medium of payment) for which payment is completely or partially deferred. For example, an installment purchase (including a long-term lease or charter that is treated, consistent with accounting principles generally accepted in the United States, as an installment purchase) would be a borrowing that might qualify as long-term foreign borrowing under § 324. See Examples 1, 2, and 3 below.

The term "borrowing" involves only issuance of debt obligations, not equity securities, by a DI. See Examples 2 and 6 below. An international finance subsidiary of a DI (see § 323) is considered the same entity as the DI. If such subsidiary issues debentures convertible into stock of the DI, the debentures will be considered debt obligations of the DI; however, if the debentures have detachable warrants entitling the holder to purchase DI's stock, the issue will be considered to be part debt and part equity. (For discussion of the computation of proceeds of long-term foreign borrowing when debentures are issued with warrants attached, see Examples 5 and 24 below.)

For purposes of determining whether a borrowing is from a foreign national, the lender will be considered to be the person extending the credit. With respect to issuance of debt obligations, the first public purchases are generally considered the lenders. Accordingly, sales of debt obligations to underwriters or dealers, United States or foreign, in a public offering are irrelevant in determining whether the debt obligations are sold to foreign nationals. Similarly, if a foreign national does not act for its own account, but for the account of another person, the nationality and residence of the person actually extending credit will determine whether the borrowing is from a foreign national. See Example 7 below.

*Example 1.* DI purchases all the voting stock of a French corporation from an unaffiliated foreign national. The purchase price is $1 million, $250,000 of which was paid in cash at the closing, the balance being payable (together with interest) in three equal annual installments commencing 1 year from the date of closing. DI has made a transfer of capital of $1 million and a borrowing from a foreign national of $750,000, which will qualify as long-term foreign borrowing if it meets the applicable requirements of § 324. See § B324–4 (i)–(iv).

*Example 2.* DI acquires all the voting equity of a French corporation from foreign shareholders, in exchange for 20,000 shares of DI's common stock at the closing, 10,000 shares of such stock 3 years after the closing, and an indeterminate number of shares (based on future earnings of the French corporation) 5 years after the closing. DI has not made a borrowing with respect to the obligation to deliver common stock 3 years and 5 years hence. (The value of the transfer of capital will depend on all the facts and circumstances of the acquisition.) If, however, DI had agreed to deliver $10 million worth of its capital stock 3 years after closing (the actual number of shares to be delivered will depend on their market value at the time), DI would be deemed to have made a borrowing of $10 million. The obligation would be for a fixed sum, and the medium of payment may be other than cash.

*Example 3.* DI enters into a 10-year equipment lease with an unaffiliated foreign national (X). The equipment lease with X is appropriately treated as an installment purchase by DI under accounting principles generally accepted in the United States. An appropriate portion of the aggregate rentals should be treated as borrowing from a foreign national by DI, the remainder being allocated to interest charges.

*Example 4.* An international finance subsidiary of DI sells abroad $20 million face amount of debentures at par. The debentures have a 12-year maturity and are convertible into common stock of DI after 6 months from date of issue. DI has made a borrowing from a foreign national of $20 million, which will qualify as long-term foreign borrowing if it meets the applicable requirements of § 324. See § B324–4(i)–(iv).

*Example 5.* An international finance subsidiary of DI sells abroad $20 million face amount of debentures at par. The debentures have a 12-year term and have no required sinking fund payments. Each $1,000 debenture is sold with a warrant attached for five shares of common stock of DI. The warrants are detachable after 6 months, and are exercisable after 12 months from the issue date. DI has made a borrowing from a foreign national of $20 million, less an amount reasonably allocable to the value of the warrants.

*Example 6.* DI sells abroad 500,000 shares of preferred stock for $50 per share. DI has not made a borrowing for purposes of § 324.

*Example 7.* DI desires to borrow $1 million from a Swiss bank. The bank states that it would not itself lend the funds, but that it can place the loan with a U.S. resident and national who has an account at the Swiss bank. The loan, if consummated, would not constitute a borrowing from a foreign national within the meaning of § 324(a).

The additional requirements for a borrowing by a DI from a foreign national to qualify as long-term foreign borrowing depend upon whether the borrowing was made (i) prior to January 1, 1968 (the effective date of the Program); (ii) from January 1 through June 9, 1968; (iii) from June 10, 1968 through April 30, 1970; or (iv) on or after May 1, 1970.

(i) *Borrowings made prior to January 1, 1963.*—A borrowing made prior to January 1, 1968, was a long-term foreign borrowing if such borrowing had an original maturity of at least 12 months from the original date of such borrowing, or if no principal payments were, in fact, made within 12 months from the date of the borrowing.

(ii) *Borrowings made on or after January 1, 1968, and prior to June 10, 1968.*—A borrowing made on or after January 1 and prior to June 10, 1968, was a long-term foreign borrowing if such borrowing had an original maturity of at least 12 months from the original date of such borrowing. The same requirements apply to borrowings made on or after June 10, 1968, and prior to May 1, 1970, except that an additional requirement was imposed by former § 324(e) during that period. See § B324–4(iii).

The "original maturity" of a borrowing referred to the date the first principal payment was required. Provisions for acceleration upon default or conversion privileges in convertible debt instruments were disregarded in determining whether a borrowing had an original maturity of 12 months. A borrowing made on or after January 1, 1968, but prior to May 1, 1970, was treated as having an original maturity of at least 12 months if there were express provisions for renewal, extension, or continuance of the debt for a total term of at least 12 months and the DI reasonably expected that no principal payment would be made within 12 months after the date of the borrowing.

The date of a borrowing refers to the date the proceeds are received by the DI. Opening of a line of credit, such as a revolving credit agreement or an overdraft facility, is not itself a borrowing; borrowing under a line of credit occurs on the date of takedown, in the amount of funds so received. On the other hand, a borrowing involving the public offering of debt obligations is deemed to have been made on the date the obligations are issued. See § 1002(e)(1).

*Example 8.* On July 1, 1969, DI entered into a 5-year agreement with a German bank under which the bank agreed to loan DI up to $10 million, with the loan or loans to be evidenced by 12-month notes. As of that date, DI had not made a long-term foreign borrowing. On September 1, 1969, DI made a takedown of $5 million, evidenced by ten 12-month notes for $500,000 each. Thus, on September 1, 1969, DI made a long-term foreign borrowing of $5 million.

(iii) *Borrowings made on or after June 10, 1968: § 324(a)(1) and former § 324(e).*—As a result of former § 324(e), borrowings made from June 10, 1968, through April 30, 1970, could not qualify as long-term foreign borrowing unless:

The borrowing was from a foreign bank; or
The borrowing was from or was guaranteed by a foreign country or any agency thereof; or
The borrowing had an original maturity of at least 3 years, and (as of the date of the borrowing) acquisition of the debt obligation would have been subject to the U.S. Interest Equalization Tax; or
The lender agreed in writing that, for a period of 3 years from the date of the borrowing or until final maturity, whichever would first occur, it would not sell or otherwise transfer the debt obligations resulting from the borrowing (a) to a resident or national of the United States (other than a foreign bank (as defined in § 317) or to a Canadian person (as defined in § 1101), or (b) to any person who the lender had reason to believe would sell or otherwise transfer the debt obligation to a U.S. resident or national or to a Canadian person.

Section 324(e) was revoked pursuant to the amendments to § 324, published June 13, 1970 (35 F.R. 9248). However, the conditions imposed by § 324(e) have been incorporated into the definition of "foreign borrowing" set forth in new § 324(a)(1) effective with respect to borrowings made on or after May 1, 1970, except that the 3-year original maturity requirement of the third alternative has been eliminated.

In connection with the first alternative (§ 324(a)(1)(i) and former § 324(e)(1)), note that a foreign branch of a U.S. bank is considered a foreign bank under § 317. However, in order for a borrowing to qualify under this category, it is not enough that the borrowing is made through an entity organized or operating as a "bank" under the laws of a foreign country. In addition to meeting that institutional test, the borrowing must meet a functional test. For example, the functional test would not be satisfied if (a) the bank is not itself the obligee on the DI's debt obligation, or (b) the bank acts as agent for a principal other









V 38-179 SEP 17 73 XUM

than a foreign bank (see Example 7 above), or (c) the bank acts as underwriter for the DI with respect to sale of the debt obligations, or (d) the DI has reason to believe that the bank does not intend to hold the debt obligations until maturity but to sell, market or otherwise transfer such obligations. In any of these cases the borrowing will not be from a foreign bank and must qualify under one of the other categories of § 324(a)(1).

*Example 9.* DI desires to place with Europeans $5 million principal amount of long-term notes convertible into common stock. DI contracts with a French subsidiary of a U.S. investment bank, the subsidiary being organized as a French bank, to underwrite the placement with European nationals. The $5 million borrowing is not from a foreign bank and, therefore, must qualify under another category of § 324(a)(1) if it is to constitute a foreign borrowing.

In connection with § 324(a)(1)(ii), an industrial or commercial enterprise of a foreign government operating essentially in the private business sector shall not be considered as part of the government of that country or as an agency thereof.

Section 324(a)(1)(iii) is intended to permit obligations of a DI or its international finance subsidiary that are subject to Interest Equalization Tax (IET), if purchased by a resident or national of the United States, to qualify as foreign borrowing. Such obligations include short-term commercial paper or other obligations with respect to which an election has been made under § 4912(c) of the Internal Revenue Code of 1954, as amended.

The requirement concerning applicability of the IET does not mean that the tax actually must be imposed on a particular U.S. resident or national. The requirement is satisfied if the nature of the debt obligation is such that under normal circumstances the tax would be imposed upon acquisition by any U.S. resident or national. Accordingly, debt obligations issued by a less-developed country corporation (exempt from the IET under Internal Revenue Code § 4916) will not satisfy the conditions of § 324(a)(1)(iii). On the other hand, a debt obligation the acquisition of which is exempt from tax under Internal Revenue Code § 4918, because previously held by a U.S. person, is not disqualified under § 324(a)(1)(iii).

To satisfy the provisions of former § 324(e)(3) (which applied to borrowings made from June 10, 1968, through April 30, 1970), the borrowing was also required to have an original maturity of at least 3 years. The term "original maturity of at least 3 years," as used in § 324(e)(3), was analogous to the term "original maturity of at least 12 months" in former § 324(a). Thus, a requirement that there be a principal repayment within 3 years disqualified the entire borrowing. Therefore, if mandatory redemption of any debenture fell within 3 years of the issue date, the entire borrowing failed to qualify as a long-term foreign borrowing. The 3-year original maturity requirement of former § 324(e)(3) was eliminated for borrowings made on or after May 1, 1970 (see § 324(a)(1)(iii)). Note also that failure to qualify the full principal amount of a foreign borrowing as long-term foreign borrowing now results only in a pro tanto reduction of proceeds.

An agreement such as described in § 324(a)(1)(iv) is not the typical agreement entered into between underwriters and a DI with respect to issuance of debentures to foreign nationals. Ordinarily, underwriters will agree not to offer or sell the debentures to persons who are nationals or residents of the United States or residents of Canada. Section 324(a)(1)(iv), by contrast, contemplates a more restrictive agreement in which the obligee agrees not to sell or otherwise transfer the debt obligation to any United States or Canadian person or to any person who the obligee has reason to believe will so sell or otherwise transfer the debt obligation.

(iv) *Borrowings made on or after May 1, 1970.*—Borrowings by a DI made on or after May 1, 1970 are subject to the provisions of amended § 324, as published in the FEDERAL REGISTER in final form on June 13, 1970 (35 F.R. 9248). To qualify as long-term foreign borrowing, a borrowing must be a "foreign borrowing" and must be continuously outstanding for not less than 12 months.

Section 324(a)(2) provides that a foreign borrowing (defined in § 324(a)(1)) by a DI will qualify as long-term foreign borrowing if the foreign borrowing (including refinancing thereof as described in § 324(b)(1)) is not repaid within 12 months after its original date. A repayment is made "within 12 months" if made at any time prior to the corresponding month and day in the immediately following calendar year. For example, if a borrowing is made at any time on May 14, 1970, and is repaid at any time before May 14, 1971, the repayment would have occurred within 12 months; however, repayment at any time on May 14, 1971 would not be "within 12 months". The date of a borrowing is defined in § 1002(e)(1).

The definition of foreign borrowing contained in § 324(a)(1) incorporates the requirements formerly set forth in § 324(e) (now revoked), which are discussed in § B324–4(iii). As mentioned above, borrowing that would be subject to the Interest Equalization Tax no longer need to satisfy the 3-year original maturity requirement imposed by former § 324(e)(3). See § 324(a)(1)(iii). As a result, DIs that borrow long-term through issuance of debentures will be able to provide for sinking fund payments to redeem debentures within 3 years after the date of issuance.

Note that borrowings made prior to May 1, 1970 will continue to be governed by the provisions of former § 324(a) and (e) as in effect of April 30, 1970, as to whether or not such borrowings qualified as long-term foreign borrowings. However, see § B324–5(ii).

A DI may qualify a foreign borrowing made on or after May 1, 1970 as long-term foreign borrowing by keeping the borrowing outstanding for at least 12 months or by making another foreign borrowing simultaneously with or prior to repayment of the immediately preceding borrowing, so long as the borrowing as refinanced remains continuously outstanding for at least 12 months. The individual foreign borrowings constituting long-term foreign borrowing may differ as to lender, amount and maturity. Accordingly, a short-term borrowing that is renewed, extended or continued for a total period of at least 12 months will qualify as long-term foreign borrowing despite the absence of express provisions for renewal, extension or continuance. However, a borrowing that is not in fact continuously outstanding for 12 months will not qualify as long-term foreign borrowing, notwithstanding a stated maturity of at least 12 months and notwithstanding provision for renewal, extension or continuance and the DI's expectation not to repay within 12 months.

DI may take a deduction under § 306(e) or § 313(d)(1) for allocation or expenditure (prior to July 1, 1972) of proceeds of long-term foreign borrowing before the required 12-month period has elapsed. A DI that does so, however, should be certain of its ability to keep the borrowing outstanding for the prescribed 12 months because deductions with respect to borrowings that subsequently fail to satisfy § 324(a)(2) are retroactively disqualified. Failure to qualify the full principal amount of a borrowing as long-term foreign borrowing will not result in disqualification of the entire borrowing. Proceeds of the borrowing will qualify as proceeds of long-term foreign borrowing in the principal amount of the borrowing that ultimately satisfies the requirements of § 324(a)(2).

If a DI treats proceeds of a foreign borrowing as proceeds of long-term foreign borrowing on its annual report Form FDI–102F for any year and the borrowing does not thereafter meet the requirements of § 324(a)(2) by reason of a repayment within 12 months, the DI must file an amended Form FDI–102F within 30 days after such repayment showing revised direct investment and liquid foreign balance entries as necessary to reflect the retroactive disqualification of the borrowing. If a borrowing that is retroactively disqualified has not been treated as long-term foreign borrowing on Form FDI–102F for any year but has been so reported on a quarterly report Form FDI–102, the next report on Form FDI–102/102F required to be filed after repayment of the borrowing should show direct investment and liquid foreign balance entries reflecting the disqualification.

*Example 10.* On May 1, 1970, DI borrows $1 million from a foreign bank (X) on a 3-month note with no provision for renewal or extension. The borrowing is a foreign borrowing under § 324(a)(1)(i). On August 1, 1970, DI repays the note and borrows $1 million from another foreign bank (Y) on a 6-month note. On February 1, 1971, DI repays the loan from Y and borrows $1 million from foreign bank (Z), which DI repays on May 1, 1971. As of May 1, 1970, DI has available proceeds of long-term foreign borrowing of $1 million, which DI could expend or allocate in accordance with § 313(d)(1) or § 306(e), if reported in accordance with § 324(c). Under amended § 324, the initial 3-month foreign borrowing qualifies as long-term foreign borrowing because such borrowing, as refinanced by successive foreign borrowings, was continuously outstanding for 12 months.

*Example 11.* On May 1, 1970, DI borrows $200,000 from a foreign bank (X) on a 6-month note. On November 1, 1970, DI repays X and purchases all of the stock of a French corporation from an unaffiliated foreign national (Y) for $300,000, consisting of $100,000 in cash at the closing and DI's 6-month promissory note for the balance as to which Y provides the agreement specified in § 324(a)(1)(iv). On May 1, 1971, DI makes payment on its promissory note. Under § 324, the $200,000 borrowed on May 1, 1970, constituted proceeds of long-term foreign borrowing. The initial borrowing from the bank was not deemed repaid within 12 months because such borrowing, refinanced by the borrowing from Y, was continuously outstanding for 12 months.

*Example 12.* On May 1, 1970, DI makes a public offering to non-Canadian foreign nationals through its international finance subsidiary of $10 million principal amount of debentures maturing in 1980. Acquisition of the debentures by U.S. residents or nationals will be subject to the Interest Equalization Tax. The financing documents provide for sinking fund payments of $1 million each on November 1, 1970 and November 1, 1971, to be used by a New York trustee to purchase an equivalent amount of the debentures for redemption. The borrowing constitutes a foreign borrowing under § 324(a)(1)(iii). To qualify the entire $10 million as long-term foreign borrowing under § 324(a)(2), DI must refinance the November 1, 1970 sinking fund payment for an additional 6 months in accordance with § 324(b)(1). If DI does not refinance, it will still have $9 million of available proceeds of long-term foreign borrowing. The sinking fund payment on November 1, 1971 will not affect qualification of the portion of the borrowing that was outstanding for 12 months as of such date.

Repayment through conversion of convertible debt instruments or accelerated repayment upon default occurring within the first 12 months of a borrowing will not prevent its qualification as long-term foreign borrowing. A conversion or accelerated repayment is deemed to occur as of the maturity specified in the debt instrument involved. See the proviso in § 324(a)(2). Transfers of capital, repayment charges under § 1003, and reductions of proceeds, on the other hand, are determined in accordance with the rules otherwise applicable to repayment of long-term foreign borrowing. (See § B324–11.)

*Example 13.* On July 1, 1970, DI issues $5 million principal amount of 5-year convertible debentures through its international finance subsidiary. The entire amount of the issue is converted between February 1 and July 1, 1971. Solely for purposes of determining qualification as long-term foreign borrowing under § 324(a)(2), the conversions are deemed not to have occurred until July 1, 1975, the stated maturity of the debentures. However, transfers of capital are recognized in accordance with the usual rules for repayment. Accordingly, DI could choose to absorb the transfer of capital, if any, under its Subpart E allowables in the year of conversion or the DI may take advantage of the authorization to repay the borrowing by conversion set forth in § 1002(a)(3) and recognize a transfer of capital, for purposes of the repayment charge under § 1003, in the year following conversion.

*Example 14.* On February 1, 1971, DI makes a public offering of $10 million principal amount of convertible debentures maturing in 1980. Sinking fund payments in the amount of $1 million are due January 15, 1972, and January 15, 1973. In March 1971, DI expends $6 million of the proceeds of the offering in making a transfer of capital, for which a deduction is taken under § 313(d)(1). In December 1971 the entire amount of the offering is converted. Under § 324, $9 million is qualified as long-term foreign borrowing. One million dollars of the borrowing is deemed repaid for purposes of § 324(a)(2) on the due date of the first sinking fund payment (January 15, 1972) and does not qualify under § 324 because such payment is within 12 months. Assuming no other relevant transactions, the conversion will result in a transfer of capital of $6 million, which the DI may choose to recognize in the year of conversion or as a repayment charge under § 1003 in 1972 and a reduction of available proceeds ($3 million) to zero in 1971.

### § B321–5 Refinancing.

Section 324(b)(1) provides that the "refinancing" of a borrowing is deemed not to be a repayment of such borrowing or the making of a new borrowing. Section 324(b)(1) was amended as part of the change in the definition of long-term foreign borrowing applicable to borrowings made on or after May 1, 1970.

Under former § 324(b)(1), refinancing of a long-term foreign borrowing was not deemed repayment of the borrowing or the making of a new borrowing. However, refinancing was possible only for borrowings that already constituted long-term foreign borrowing, and if the refinancing was by means of another borrowing, whether from the same or another lender, the second borrowing also had to be a qualified long-term foreign borrowing. Under amended § 324(b)(1), refinancing is not limited to long-term foreign borrowing. "Foreign borrowings" (defined in § 324(a)(1)), which may be nonrenewable, short-term borrowings, can be refinanced in order to keep them outstanding for the 12 months required to constitute long-term foreign borrowing. Such refinancing, moreover, may be accomplished by means of another "foreign borrowing" from the same or a different lender. As discussed in § B324–5(ii), a long-term foreign borrowing made prior to May 1, 1970 may be refinanced after May 1, 1970 in accordance with amended § 324(b)(1).

(i) *Refinancing under § 324(b)(1).*—Satisfaction of a foreign borrowing will not be deemed a repayment if such borrowing is refinanced in the manner provided in § 324(b)(1). The refinancing borrowing must be made either prior to or simultaneously with the repayment of the initial borrowing. A borrowing drawn down on any day shall be deemed made simultaneously with a repayment occurring on the same day. On the other hand, for example, if DI repaid a foreign borrowing on July 1, 1970, and made a new foreign borrowing in the same amount from the same lender on July 2, 1970, the second borrowing would not constitute a refinancing of the first borrowing regardless of any underlying arrangement relating to the two borrowings.

DI is required to identify borrowings being refinanced and the corresponding refinancing borrowings on its books and records kept under § 203(b). If DI repays more than one initial borrowing and makes more than one refinancing borrowing on the same day, DI must indicate (by appropriate entries on its books and records) the extent to which each new borrowing refinances each of the initial borrowings.

If a refinancing borrowing made within 12 months after the date of the initial borrowing is for a lesser amount than the initial borrowing, the amount of proceeds of long-term foreign borrowing as of the date of the initial borrowing may not exceed the amount so refinanced. The amount of proceeds of an initial borrowing failing to qualify as proceeds of long-term foreign borrowing is not exempt at any time from § 203(c), and any deductions taken for expenditure or allocation of such proceeds are disallowed. If a DI treats proceeds of a foreign borrowing as proceeds of long-term foreign borrowing on its Annual Report Form FDI–102F for any year, and the borrowing does not thereafter meet the requirements of § 324(a)(2) by reason of a repayment within 12 months, DI must file an amended Form FDI–102F within 30 days after such repayment showing revised direct investment and liquid foreign balance entries.

If the refinancing borrowing is for a greater amount than the initial borrowing, DI may treat the excess as an additional foreign borrowing commencing on the date of the refinancing which may qualify as separate long-term foreign borrowing.

DI may refinance a foreign borrowing by making another foreign borrowing prior to and in anticipation of refinancing the initial borrowing and at a time reasonably proximate to the date of repayment of the initial borrowing. The proceeds of the refinancing borrowing in such case may not be treated as available proceeds of long-term foreign borrowing until the refinancing occurs, but the proceeds of the refinancing borrowing are, nevertheless, exempt from the liquid foreign balance restrictions of § 203(c) if the initial borrowing as refinanced qualifies as long-term foreign borrowing under § 324(a)(2).

*Example 15.* On May 1, 1970, DI borrows $2 million from a foreign bank for 6 months. On November 1, 1970, DI repays the borrowing in full and borrows a total of $1,500,000 from three other foreign banks which DI keeps outstanding for 6 months. Under § 324, DI has made long-term foreign borrowing in the amount of $1,500,000 as of May 1, 1970. If the unrefinanced portion ($500,000) of the May 1 borrowing was held in the form of liquid foreign balances, DI will be required to report such amount as liquid foreign balances for purposes of § 203(c).

If DI had borrowed $2,500,000 on November 1, 1970, for 6 months, DI would have made long-term foreign borrowing of $2 million as of May 1, 1970. The additional $500,000 constitutes a new foreign borrowing which quali-







V 38-179 SEP 17 73 XUM

fies as long-term foreign borrowing if it is not repaid for 12 months, i.e., until November 1, 1971.

*Example 16.* On May 1, 1970, DI borrows $1 million from foreign bank (W) for 3 months and expends the proceeds in making transfers of capital to Schedule A, for which a deduction is taken under § 313(d)(1). On August 1, 1970, DI repays the borrowing from W and borrows $1 million from foreign bank (X) and $1 million from foreign bank (Y) for 9 months. DI records the borrowing from X as a refinancing of the borrowing from W and the borrowing from Y as a new borrowing the proceeds of which DI expends in Schedule C for which a deduction is taken under § 313(d)(1). On May 1, 1971, DI repays the borrowings from X and Y and borrows $1 million from foreign bank (Z) for 3 months. DI records the borrowing from Z as a refinancing of the borrowing from Y, which is necessary to qualify the borrowing from Y under § 324(a)(2). DI also records a transfer of capital to Schedule A under § 312(a)(7) resulting from the repayment of the borrowing from X which was a refinancing of the borrowing from W. On August 1, 1971, DI repays the borrowing from Z and correctly records a transfer of capital to Schedule C under § 312(a)(7).

*Example 17.* On May 1, 1970, DI borrows $1 million from a foreign national (X), who provides the agreement specified in § 324(a)(1)(iv). DI expends the proceeds in Schedule B, for which a deduction is taken under § 313(d)(1). On August 1, 1970, DI repays the borrowing from X and borrows $2 million from foreign national (Y), who provides the agreement specified in § 324(a)(1)(iv). DI records $1 million of the borrowing from Y as a refinancing of the borrowing from X and $1 million as a new borrowing which DI expends in Schedule C. On August 1, 1971, DI repays $1 million of the borrowing from Y. In the records that must be kept pursuant to § 203(b), DI should indicate whether such repayment is attributable to the part of the Y borrowing used to refinance the X borrowing (chargeable to Schedule B) or to the part constituting new borrowing (chargeable to Schedule C).

*Example 18.* On May 1, 1970, DI borrows $1 million from foreign bank (X) on a 3-month note. On July 1, 1970, DI borrows $1 million from foreign bank (Y) for 10 months in anticipation of using the proceeds to refinance the borrowing from X, which must be repaid on August 1, 1970. In this case, DI may not treat the proceeds of the borrowing from Y as available proceeds until used to repay the X borrowing; however, the proceeds of the borrowing from Y are not subject to the limitation of § 203(c). On August 1, 1970, DI repays the borrowing from X and indicates on its books and records that the borrowing from Y is to refinance the borrowing from X as of that date. On May 1, 1971, DI repays the borrowing from Y. Accordingly, the borrowing from X is qualified as long-term foreign borrowing.

*Example 19.* On September 1, 1970, DI borrows $1 million on a 13-month note from a foreign bank and allocates the proceeds under § 306(e) to Schedule C positive direct investment for 1970 and so reports on its Annual Report Form FDI–102F for such year. DI repatriates the proceeds as of December 31, 1970, and thereafter holds them in accordance with § 306(e)(2). On August 1, 1971, DI repays the borrowing and does not refinance. Since the borrowing was not outstanding for 12 months, DI's deduction under § 306(e) for 1970 is disqualified, and DI must file an amended Form FDI–102F for 1970. Such amended report will show a decrease of $1 million in outstanding long-term foreign borrowing and in deductions for expenditure and allocation of available proceeds. If the proceeds were held in the form of liquid foreign balances, the amended report must also show a corresponding increase in such balances. If the amended Form FDI–102F for 1970 shows positive direct investment or liquid foreign balances in excess of DI's allowables, DI will be in noncompliance for 1970.

(ii) *Refinancing of long-term foreign borrowing made prior to May 1, 1970.*—A long-term foreign borrowing made prior to May 1, 1970 that satisfied the requirements of § 324 as then in effect, refinanced on or after May 1, 1970, with a foreign borrowing as defined in § 324(a)(1), shall not be deemed to have been repaid. See § 324(b)(1). Similarly, a certificate filed with respect to a pre-May 1, 1970, long-term foreign borrowing, as to which category 2 or 3 of Item 8.A on Form FDI–106 (issued May 1969) was checked, will be deemed a certification that DI will refinance such borrowing as provided in amended § 324(b)(1).

*Example 20.* On July 1, 1969, DI made a $1 million borrowing for 2 years from foreign bank (X), which qualified as a long-term foreign borrowing under § 324 as then in effect. On July 1, 1970, DI prepays the borrowing in full and on the same day makes a $1 million borrowing for 3 months from foreign bank (Y), which constitutes a foreign borrowing under new § 324(a)(1). Under § 324(b)(1), the long-term foreign borrowing from X is deemed not to have been repaid for purposes of the regulations because it was refinanced by a foreign borrowing.

A borrowing made by a DI prior to May 1, 1970 evidenced by a debt instrument containing a stated maturity of at least 12 months will continue to be treated as a long-term foreign borrowing even though repaid on or after May 1, 1970, prior to such maturity, provided that the principal amount repaid is refinanced in accordance with § 324(b)(1) so that the borrowing (as refinanced) will have been continuously outstanding for at least 12 months. Similarly, a borrowing made by a DI prior to May 1, 1970 evidenced by a debt instrument with a stated maturity of less than 12 months but containing express provisions for renewal, extension or continuance for a total period of at least 12 months (which the DI reasonably expected to renew, extend or continue) need not, commencing May 1, 1970, be rolled over in accordance with its terms, provided that the DI refinances such borrowing (with the same or another lender) in accordance with new § 324(b)(1) so that the borrowing (as refinanced) will have been continuously outstanding for at least 12 months.

The amendments to § 324 eliminated the 3-year original maturity requirement contained in former § 324(e)(3) applicable to borrowings that would be subject to the Interest Equalization Tax. See § 324(a)(1)(iii). Although elimination of the 3-year requirement affects only borrowings made on or after May 1, 1970, OFDI will permit DIs to repay within the first 3 years any part of a long-term foreign borrowing that qualified on the basis of former § 324(e)(3), provided that the principal amount repaid is refinanced in accordance with § 324(b)(1) so that the borrowing (as refinanced) will have been continuously outstanding for at least 3 years. Consequently, a DI may now repay (through repurchase of debentures, sinking fund redemptions, etc., during the first 3 years of the borrowing) a long-term foreign borrowing made prior to May 1, 1970, that was subject to former § 324(e)(3), provided that the DI refinances such repayment (valued as the principal amount of the indebtedness surrendered) in accordance with § 324(b)(1).

In determining the amount of foreign borrowing that is outstanding for 12 months or for 3 years, a DI shall disregard the amount of any repayment occurring by person of acceleration upon default or by conversion of convertible debt instruments.

*Example 21.* On February 1, 1970, DI borrowed $1 million from foreign bank (X) on a 6-month note with express provisions for renewal for a total period of 12 months which DI expected to exercise. On August 1, 1970, DI repays the borrowing from X and borrows $1 million from foreign bank (Y) on terms more favorable than a renewal of the borrowing from X. DI, in this case may continue to treat the $1 million borrowed initially on February 1, 1970, as long-term foreign borrowing if DI keeps the entire amount of the borrowing from Y (which also may be refinanced by other borrowings in accordance with § 324(b)(1)) outstanding until February 1, 1971.

*Example 22.* On March 1, 1969, DI issued 12-year debentures through its international finance subsidiary in the principal amount of $10 million. The borrowing qualified as long-term foreign borrowing under § 324(a) and (e)(3) as then in effect. Although by the terms of the offering no sinking fund payments are required within 3 years, DI may redeem any or all of the debentures after May 1, 1970, if DI refinances such redemptions by making foreign borrowings as defined in § 324(a)(1) so that $10 million principal amount of indebtedness will have been continuously outstanding for at least 3 years after March 1, 1969.

### § B324–6 Proceeds of long-term foreign borrowing.

The term "proceeds of long-term foreign borrowing" is defined in § 324(c) to mean the gross amount or value received from a long-term foreign borrowing (before deducting discounts, commissions, or fees) less repayment of principal of such borrowing. A borrowing must be reported to OFDI on the DI's first required periodic report following the borrowing (whether quarterly or annual) in order for funds received from the borrowing to qualify as proceeds of long-term foreign borrowing. Therefore, if a DI contemplates using funds received from a borrowing as an offset to direct investment under § 306(e) at any time in the current or succeeding years, the borrowing should be reported on Form FDI–102 or FDI–102F, whichever is first required thereafter. If a borrowing is not reported, the DI will not have available proceeds from such borrowing.

*Example 23.* On July 1, 1972, DI's international finance subsidiary sells a public offering in Europe of 12-year, $20 million face amount convertible debentures in a form that qualifies as long-term foreign borrowing. The debentures are sold at an aggregate discount of $500,000 and DI pays $500,000 in underwriting fees. DI thus receives $19 million net as a result of the borrowing. However, for purposes of § 324(c), the proceeds of the borrowing are $20 million. DI reports this borrowing on Form FDI–102 for the third quarter of 1972. Accordingly, DI has $20 million in available proceeds, including the $1 million representing discount and fees. DI may allocate a full $20 million to positive direct investment under § 306(e) even though only the $19,000,000 received is repatriated before the end of the year. DI may hold liquid foreign balances of $20 million, in addition to the minimum or historical amount, until it reduces available proceeds of the borrowing by allocation.

*Example 24.* DI's international finance subsidiary issues debentures in aggregate principal amount of $10 million, in a form that qualifies as a long-term foreign borrowing. Attached to each debenture is a warrant entitling the holder to purchase N number of shares of DI's common stock at P price. DI obtains the opinion of its independent financial counsel that the value attributable to the warrants (based on coupon rate of the debentures and the interest-cost saving to the issuer over the life of the issue represented thereby in relation to prevailing market rates for nonconvertible debt issues, or on some other basis acceptable to OFDI) is $1 million. DI has made a long-term foreign borrowing, the proceeds of which are $9 million. The $1 million attributable to the warrants is not proceeds of long-term foreign borrowing.

### § B324–7 Available proceeds.

"Available proceeds" are defined in § 324(d) as proceeds of long-term foreign borrowing that have not been allocated to positive direct investment and deducted therefrom under § 306(e), or expended in transfers of capital prior to July 1, 1972, for which deductions were made under § 313(d)(1), and are, therefore, still available to be allocated by the DI.

Although available proceeds are reduced by expenditure (prior to July 1, 1972) or allocation, DI may subsequently change the scheduled area in which the deduction is taken by allocation or reallocation under § 203(d)(2) or (3). (See § B324–10.) (During 1968, § 324(c) contained a provision whereby the return of proceeds of long-term foreign borrowing to the DI by an AFN, by reason of repayment or other liquidation of debt or equity interests in such AFN acquired with such proceeds, was treated as an increase in available proceeds of long-term foreign borrowing, and not as a transfer of capital under § 312(b).)

*Example 25.* During 1966, DI made a long-term foreign borrowing of $15 million, and used the entire amount that same year to acquire a debt obligation of a Schedule B AFN (B). During 1967, B repaid $5 million principal amount of the $15 million debt obligation, and during 1968, B repaid another $5 million principal amount of such debt obligation. At the end of 1968, DI allocated $2 million of the $10 million returned (considered to be "available proceeds" under the 1968 regulations) to a positive net transfer of capital to Schedule C. At the end of 1968, DI had proceeds of long-term foreign borrowing of $15 million; $8 million were available proceeds, $5 million were expended in B, and $2 million were allocated to Schedule C.

In March 1969, B repaid the final $5 million principal amount of its debt obligation to DI. This repayment is recognized as a § 312(b) negative transfer of capital from B to DI and does not change the amount of available proceeds. After the March transaction, DI held $8 million of available proceeds, $5 million of returned proceeds and $2 million of allocated proceeds. In June 1970, DI expended the cash received from B in March 1969 to acquire stock of new Schedule A AFN. This constituted a transfer of capital under § 312(a). DI received no deduction with respect to this transfer of capital since the funds expended were not available proceeds. At the end of 1970, DI allocates $4 million of the available proceeds to positive direct investment in Schedule C. At the end of 1970, DI still has $15 million of proceeds of long-term foreign borrowing, $4 million of which are available proceeds, $5 million of which are considered to be expended in B, and $6 million are allocated to C.

### § B324–8 Expenditure of available proceeds and deduction from net transfer of capital.

Prior to July 1, 1972, if a DI expended available proceeds of long-term foreign borrowing in a transfer of capital to an AFN (other than a Canadian affiliate), the amount of such proceeds so expended was deducted from the net transfer of capital to the appropriate scheduled area under § 313(d)(1). The deduction was mandatory when available proceeds were so expended.

Section 313(d)(1) was revoked effective July 1, 1972, thereby removing from the regulations the mandatory deduction for expenditure of available proceeds. Instead, available proceeds that are expended by a DI in making a transfer of capital on or after July 1, 1972, remain available for allocation and may be allocated as required by the DI to achieve compliance with the regulations. Section 306(e) was correspondingly amended to permit proceeds that are so expended and subsequently allocated to remain expended in the AFN to which the transfer of capital was made by the DI. Except for proceeds that are expended in making a transfer of capital, however, the prohibition against holding allocated proceeds in any form of foreign property remains in effect.

DIs are cautioned that deductions under § 313(d)(1) must be made for all transfers of capital made with available proceeds prior to July 1, 1972. Available proceeds that were so expended prior to such date may not be allocated to positive direct investment under § 306(e)(1). Also, the repayment of long-term foreign borrowing at any time will continue to involve a transfer of capital under § 312(a)(7) or § 1404(a)(2) to the extent that a deduction for expenditure of available proceeds of such borrowing was made under § 313(d)(1). Section 203(d)(2) provides for allocation where a deduction for expenditure of available proceeds previously was made under § 313(d)(1). Section 324(d) reduces available proceeds where such proceeds were expended prior to July 1, 1972. Section 1404(a)(2) provides for the recognition of a transfer of capital upon repayment of an overseas borrowing where a deduction for expenditure of available proceeds previously was made under § 313(d)(1).

The following examples apply only to expenditures made prior to July 1, 1972.

*Example 26.* DI acquires all the stock of an Argentinian company from an unaffiliated foreign national (X). The purchase price is $4 million, $1 million of which is payable in cash at the closing. The balance is to be paid in three equal annual installments of $1 million (together with accrued interest) commencing 1 year from the date of closing. Assuming the borrowing qualifies as long-term foreign borrowing, DI's net transfer of capital to Schedule A is $1 million (i.e., a $4 million transfer of capital under § 312(a)(1) resulting from the stock acquisition, from which is deducted the $3 million available proceeds of long-term foreign borrowing expended in making that transfer of capital pursuant to § 313(d)(1)).

*Example 27.* DI purchases from unaffiliated foreign nationals all outstanding stock of a closely held German corporation. In exchange therefor, DI delivers to the sellers $5 million principal amount of 1-year debentures convertible into common stock of DI, that qualify as a long-term foreign borrowing. DI has made a $5 million transfer of capital to the German corporation and receives a deduction under § 313(d)(1) in an equal amount. Assuming no other transactions during the year, DI's net transfer of capital to Schedule C during the year will be zero.

*Example 28.* In December 1968, DI made a $5 million long-term foreign borrowing. In January 1969, DI loans the $5 million to a Schedule A AFN (A) on A's 6-month note. Accordingly, DI made a $5 million transfer of capital and received a deduction under § 313(d)(1), so that its net transfer of capital to Schedule A at the end of the first quarter was zero. In July 1969, A repaid the $5 million, as a result of which there was a § 312(b) transfer of capital from A to DI. In August 1969, DI loaned the $5 million to a Schedule B AFN (B), resulting in a § 312(a) transfer of capital to Schedule B. Assuming no other revelant transactions during the year, DI had made positive direct investment of $5 million to Schedule B. Under § 203(d)(2), DI may allocate the proceeds to such positive direct investment in Schedule B, if DI complies with the reporting and repatriation requirements of § 203(d)(2). If such allocation is made, DI must recognize a transfer of capital to Schedule A of $5 million (thereby effectively cancelling the July § 312(b) transfer from A to DI). Note that a § 313(d)(1) deduction cannot be taken with respect to the 1969 loan to B, but the § 203(d)(2) reallocation has the same effect as a § 313(d)(1) deduction.

*Example 29.* In November 1968, DI's international finance subsidiary publicly issued convertible debentures in principal amount of $25 million, which qualified as a long-term foreign borrowing. In February 1969, DI purchased machinery with $5 million of available proceeds derived from the public issue and installed the machinery in its Australian branch B. Assuming that the transfer of machinery to B results in a net increase of $5 million in B's assets and there are no other relevant transactions during 1969, DI's net transfer of capital to Schedule B during 1969 is zero, because the $5 million transfer of capital is offset by a deduction in an equal amount of available proceeds of long-term foreign borrowing expended in such transfer of capital, pursuant to § 313(d)(1).

*Example 30.* In December 1968, DI's international finance subsidiary publicly issued convertible debentures in principal amount of $20 million which qualified as a long-term foreign borrowing. In February 1969, DI expended $10 million of available proceeds of such borrowing to acquire the assets of a German corporation, which DI organized as a direct branch. Upon acquisition, net assets of the branch (disregarding DI's equity interest) were $10 million. During the remain-







V 38-179
SEP 17 73
XUM

der of 1969, DI made no further debt or equity investment in the branch. However, after acquisition by DI, the branch incurred a loss in 1969 of $500,000, so that its net assets at the end of 1969 were $9,500,000. DI has no other Schedule C AFNs. Although DI's net transfer of capital to the German branch during 1969 would normally be $1,500,000 (by operation of § 313(b)), the $10 million expended in acquisition of the branch is offset by a $10 million deduction under § 313(d)(1), because the acquisition was made with available proceeds. Therefore, after taking into account the loss of $500,000, DI has a negative net transfer of capital to Schedule C during 1969 of $500,000.

*Example 31.* In January 1969, DI borrowed $5 million from a foreign bank, which qualified as a long-term foreign borrowing. During the same month, DI loaned the $5 million to a Canadian AFN. The proceeds so expended are still available proceeds. (See § 324(d).) No deduction with respect to their expenditure was received under § 313(d)(1) because § 1103 excludes Canada from Schedule B for purposes of § 313(a) and (b).

### § B321–9 Allocation of available proceeds.

A DI may reduce positive direct investment during a year by "allocating" available proceeds of long-term foreign borrowing to such positive direct investment. Allocation is accomplished when (a) an entry is made on the books and records maintained by the DI pursuant to §§ 203(b) and 601; (b) the allocation and deduction are reported on Form FDI–102F for the year in which made; and (c) as of the end of the year for which the allocation is made or, alternatively, as of February 28, 1974, with respect to an allocation made for 1973, the allocated proceeds are not held in any form of foreign property. (See § B306–7.)

Thus, a DI may reduce positive direct investment made, during 1973 by allocating available proceeds of any long-term foreign borrowing that is outstanding on February 28, 1974. Such borrowing may be made during January or February 1974, or may have been made by the DI during 1973 or a prior year. The 12-month maturity test for long-term foreign borrowing will, of course, apply to any borrowing of which available proceeds are allocated, i.e., the borrowing, as refinanced, must be continuously outstanding for at least 12 months.

It should be noted by DIs that they may allocate to positive direct investment made during 1973 any proceeds that are available for allocation on December 31, 1973, notwithstanding the repayment of the underlying long-term foreign borrowing during January or February 1974. Such repayment will involve a transfer of capital during 1974.

*Example 32.* DI has five wholly-owned incorporated AFNs in Schedule B During 1969, DI is authorized to make positive direct investment of $1 million in Schedule B. In 1969, the Schedule B AFNs have earnings of $1,400,000 and pay no dividends; DI's net transfer of capital to Schedule B is zero; and positive direct investment is, therefore, $1,400,000. In November 1969 (DI makes a borrowing from a foreign bank of $900,000 which qualifies as a long-term foreign borrowing under § 324 and deposits the $900,000 in a demand deposit in a London bank. To reduce Schedule B positive direct investment to the authorized $1 million for 1969:

(a) DI repatriates $400,000 to the United States by December 31, 1969, as required by § 306(e), and invests the $400,000 in bonds of a U.S. corporation.

(b) Thereafter, DI enters an allocation on its books and records and deducts $400,000 from positive direct investment on its FDI–102F for 1969, as required by § 306(e).

Accordingly, DI has made positive direct investment of $1 million in Schedule B for 1969. As to 1970 and subsequent years, DI holds $500,000 in available proceeds ($900,000 less $400,000 allocated).

*Example 33.* DI has three Schedule C AFNs, X, Y, and Z, and a $200,000 Schedule C allowable. In November 1969, DI has secured a commitment for a line of credit from a foreign bank of up to $5 million for a period of 5 years. During 1969, the following transactions take place:

(a) X has $175,000 in earnings and pays no dividends. X repays $100,000 of a loan from DI and thereby satisfies a debt obligation of X held by DI.

(b) Y has $25,000 of earnings and pays no dividends. DI performs services on behalf of Y worth $400,000, for which DI is not paid at the end of 1969.

(c) Z has $50,000 of earnings and pays no dividends. DI leases machinery having a value of $500,000 to Z for a period of 10 years. DI thus has Schedule C reinvested earnings of $250,000 and a positive net transfer of capital of $800,000, resulting in positive direct investment of $1,050,000, only $200,000 of which is authorized. During December 1969, DI takes down $350,000 under its line of credit, repatriates the funds to the United States, and utilizes the funds to make a payment to a U.S. lender on a real estate loan. Thereafter, pursuant to § 306(e), DI records an allocation of $650,000 in its § 203(b) books and reports the allocation on its Form FDI–102F for 1969. DI's positive direct investment in Schedule C after the deduction is $200,000.

*Example 34.* DI has one Schedule C AFN, a direct branch of the DI, and zero Schedule C allowable. During 1969, DI transfers used machinery of a value of $250,000 to its Schedule C branch, and the branch has $100,000 of earnings, all of which is retained, thereby increasing branch net assets by $350,000. In December 1969, DI makes a long-term foreign borrowing from a foreign bank of $350,000, repatriates the proceeds thereof to the United States and deposits them in a New York bank. Thereafter, DI makes an entry in its § 203(b) books and reports an allocation in its Form FDI–102F for 1969. DI's positive direct investment in Schedule C is zero.

*Example 35.* In 1968, DI made a long-term foreign borrowing of $10 million and expended or allocated $8 million of the proceeds thereof to transfers of capital in Schedules A and C. In December 1968, DI also loaned $2 million of such proceeds on 6-month terms to a Canadian AFN. In June 1969, the 6-month notes were renewed for another 6 months. During 1969, DI has positive direct investment of $3 million in Schedule B and a $1 million allowable in Schedule B. In December 1969, DI causes its Canadian AFN to repay the loan to the DI, places the funds on deposit in a New York bank, makes an entry in its § 203(b) books and reports an allocation and deduction of $2 million in its Form FDI–102F for 1969. DI's positive direct investment in Schedule B is $1 million.

An allocation that is made under § 306(e) to positive direct investment calculated worldwide by a DI electing § 503 is deemed made in each scheduled area in proportion to the amount of positive direct investment made in each such area. See § B306–7.

### § B321–10 Allocation of expended proceeds and reallocation of previously allocated proceeds.

Section 203(d)(2) has permitted a DI that expended proceeds of long-term foreign borrowing and made a corresponding § 313(d)(1) deduction during the period January 1, 1968, through June 30, 1972, to make unlimited successive deductions, in the same or successive years, from positive direct investment in other scheduled areas. Commencing January 1, 1973, a DI that expended proceeds of long-term foreign borrowing made during 1965 or any succeeding year and made a corresponding § 313(d)(1) deduction during 1965, 1966 or 1967 may make successive deductions, during 1973 and succeeding years, from positive direct investment in other scheduled areas under § 203(d)(2), provided that the borrowing is outstanding at the time the successive deductions are made.

Under § 203(d)(3), a direct investor allocating proceeds of long-term foreign borrowing to positive net transfer of capital during 1968 or to positive direct investment in succeeding years may thereafter reallocate such proceeds to positive direct investment in other scheduled areas.

Whenever a deduction against positive direct investment is made under § 203(d)(2) or (3), a transfer of capital in an amount equal to the deduction must be recognized in the scheduled area in which the last prior deduction was made.

Allocation of expended proceeds under § 203(d)(2) is accomplished in a manner similar to allocation of available proceeds under § 306(e). Both sections require the DI to make appropriate entries in the books and records maintained pursuant to § 203(b), and the allocation must be reported on the DI's next annual report (Form FDI–102F). Allocations under § 203(d)(2) are subject to the repatriation requirements of that section.

Reallocation under § 203(d)(2) and (3) of proceeds previously deducted under § 313(d)(1), § 203(d), or § 306(e) requires appropriate bookkeeping entries. The DI must reflect the reallocation on books and records required to be kept by § 203(b) and the corresponding deduction together with the transfer of capital to the appropriate scheduled area on the next annual report (Form FDI–102F). Reallocations made pursuant to § 203(d)(3) are subject to the proscriptions of § 306(e) with respect to the form in which the underlying proceeds may be held.

No allocation or reallocation under § 203(d)(2) or (3) may take place with respect to any part of a long-term foreign borrowing that has been repaid since proceeds are extinguished by repayment.

*Example 36.* During 1968, DI made a long-term foreign borrowing of $5 million, and allocated the proceeds to positive net transfer of capital to Schedule A (under § 313(d)(1) of the 1968 regulations). At the end of 1970, DI has positive direct investment of $6 million in Schedule C, and has repaid $1 million of the borrowing. Section 203(d)(3) permits DI to reallocate $4 million (outstanding proceeds) previously allocated to Schedule A during 1968 to the Schedule C positive direct investment, thereby reducing it to $2 million, by recording the reallocation in the books and records required in § 203(b), by reporting the reallocation and deduction in the annual report (Form FDI–102F) for 1970, and by holding the $4 million of allocated proceeds, as of the end of 1970, in a form permitted by § 306(e). Upon such reallocation, DI must recognize a transfer of capital to Schedule A of $4 million.

*Example 37.* During 1968, DI made a long-term foreign borrowing of $2 million and used the proceeds to extend a 1-year loan to a Schedule B AFN (B). During 1969, B repays the loan, constituting a § 312(b) transfer of capital to DI, and DI invests the $2 million in bonds of a U.S. corporation. During 1969, DI allocates (pursuant to § 203(d)(2) the $2 million to positive direct investment in Schedule C by making an entry in the books and records required by § 203(b), and by reporting the allocation and deduction on the annual report (Form FDI–102F) for 1969. DI must, as of yearend, continue to hold the $2 million in the U.S. corporate bonds (or in some other form of U.S. property) unless the $2 million is expended in making a further transfer of capital to an AFN. As a result of the allocation, positive direct investment in Schedule C is reduced by $2 million, but DI must recognize a § 312(a) transfer of capital of $2 million to Schedule B.

*Example 38.* DI makes a long-term foreign borrowing of $3 million in March 1969 and loans the proceeds to a Schedule B AFN (B), recognizing a § 312(a) transfer of capital to B and making a deduction from net transfer of capital to that scheduled area under § 313(d)(1). In October 1969, B repays the loan and DI then loans the $3 million to a Schedule A AFN, resulting in a § 312(b) transfer of capital from B and a § 312(a) transfer of capital to A. On the annual report (Form FDI–102F), however, DI makes a § 203(d)(2) allocation of the $3 million to positive direct investment in Schedule C, resulting in a deduction of $3 million from positive direct investment in Schedule C and a § 312(a) transfer of capital in the same amount to Schedule B. DI is permitted to leave the $3 million proceeds actually invested in Schedule A, notwithstanding the allocation to Schedule C.

*Example 39.* During 1967, DI made a long-term foreign borrowing of $5 million and, in turn, lent the funds received to a Schedule A AFN for a 3-year term, repayment to be made in full at maturity. Commencing January 1, 1973, DI may allocate such proceeds to positive direct investment in Schedule B or C, pursuant to § 203(d)(2).

### § B321–11 Repayment of long-term foreign borrowing.

Repayment of long-term foreign borrowing occurs whenever the DI reduces its indebtedness created by the borrowing, whether by cash repayment, delivery of equity securities upon conversion, open market purchases of its obligations or by making sinking fund payments to a trustee (domestic or foreign) to be used by the trustee to redeem the DI's obligations. The amount of a repayment is the amount of indebtedness surrendered, regardless of the value of the funds or other property transferred by the DI in making the repayment (see Example 45 below).

Repayment of long-term foreign borrowing reduces the amount of proceeds held by the DI to the extent of the repayment. In addition, a transfer of capital must be recognized by the DI (under § 312(a)(7)) upon repayment of the long-term foreign borrowing to the extent that the proceeds were expended in making (or, during 1968, allocated to) transfers of capital to AFNs prior to July 1, 1972, or were allocated to positive direct investment. The transfer of capital is incurred in the scheduled area in which the deduction from net transfer of capital or positive direct investment was taken. If, as a result of allocation or reallocation, deductions were taken in successive scheduled areas, the transfer of capital is recognized in the last scheduled area in which a deduction was taken. However, if the total deductions with respect to the amount of the borrowing repaid were last taken in two or more scheduled areas, the transfer of capital resulting from repayment will be charged proportionally, based on the last deductions taken in each scheduled area.

The following examples apply to expenditures of available proceeds made prior to July 1, 1972. Since there is no deduction from the net transfer of capital for an expenditure of available proceeds made on or after July 1, 1972 (see § B313–6), the repayment of the underlying borrowing does not involve a transfer of capital unless the available proceeds were subsequently allocated under § 306(e).

*Example 40.* In 1968, DI made a long-term foreign borrowing of $1 million and loaned the proceeds to a Schedule C AFN, receiving a deduction with respect to such transfer of capital under § 313(d)(1). During 1969, DI repays the long-term foreign borrowing. DI must recognize a $1 million transfer of capital to Schedule C under § 312(a)(7).

*Example 41.* In 1968, DI made a long-term foreign borrowing of $1 million, and allocated the proceeds to a positive net transfer of capital in Schedule A, thereby receiving a deduction from Schedule A net transfer of capital under § 313(d)(1). In 1969, DI reallocated, under § 203(d)(3), the proceeds to positive direct investment in Schedule C, recognizing a transfer of capital to Schedule A and a deduction from positive direct investment in Schedule C, each in the amount of $1 million. If, in 1970, DI repays the long-term foreign borrowing, DI must recognize a transfer of capital under § 312(a)(7) to Schedule C, since the last deduction with respect to the proceeds was received in that scheduled area.

*Example 42.* In 1968, DI made a long-term foreign borrowing of $1 million. DI expended $600,000 of the proceeds in a transfer of capital to Schedule B, receiving a deduction under § 313(d)(1) from net transfer of capital in Schedule B, and allocated the remaining $400,000 to a positive net transfer of capital to Schedule C, receiving a similar deduction in Schedule C. During 1969, DI repays the long-term foreign borrowing and DI recognizes a $600,000 transfer of capital to Schedule B and a $400,000 transfer of capital to Schedule C, under § 312(a)(7).

*Example 43.* In 1968, DI made a long-term foreign borrowing of $1 million. DI expended $500,000 of the proceeds in a transfer of capital to Schedule A, allocated $200,000 to a positive net transfer of capital in Schedule B, and allocated the remaining $300,000 to a positive net transfer of capital in Schedule C. Appropriate deductions were also taken from net transfer of capital in each scheduled area, under § 313(d)(1). During 1969, DI allocated to Schedule C, under § 203(d)(2), $250,000 of the proceeds previously expended in Schedule A, thereby recognizing a transfer of capital to Schedule A and receiving a deduction from positive direct investment in Schedule C in the same amount. If, in 1970, DI repays the long-term foreign borrowing, DI must recognize transfers of capital, under § 312(a)(7), in the amount of $250,000 to Schedule A, $200,000 to Schedule B, and $550,000 to Schedule C.

*Example 44.* In February 1969, DI makes a long-term foreign borrowing of $1 million and loans the proceeds to a Schedule C AFN (C), receiving a deduction with respect to the transfer of capital under § 313(d)(1). In March 1970, C repays the loan, resulting in a $1 million transfer of capital under § 312(b). In June 1970, DI repays the long-term foreign borrowing. The repayment is recognized as a transfer of capital to Schedule C of $1 million under § 312(a)(7), since the last deduction with respect to the proceeds was received in that scheduled area. Note that the § 312(b) transfer of capital in March 1970 will offset the June 1970 § 312(a)(7) transfer of capital for purposes of calculating the net transfer of capital to Schedule C during 1970.

The transfer of capital to be recognized upon repayment of a long-term foreign borrowing is in the amount of the indebtedness surrendered, which may be different from the value of the actual repayment.

*Example 45.* In March 1968, DI made a $10 million offering of debentures which qualified as long-term foreign borrowing. DI expended the proceeds in Schedule C and took a deduction of $10 million from net transfer of capital in Schedule C. In 1970, DI purchases all of the debentures at a total cost of $8 million. DI will be charged with a § 312(a)(7) transfer of capital to Schedule C of $10 million for 1970.

Repayment of a long-term foreign borrowing does not result in a transfer of capital if the proceeds of such borrowing are available proceeds at the time of repayment. Generally, available proceeds are those proceeds that have not been expended prior to July 1, 1972, or allocated and with respect to which a deduction under § 313(d)(1) or § 306(e) has not been received. Proceeds expended or allocated during the years 1965 through 1968 will be considered available proceeds if returned to the DI prior to December 31, 1968, and not thereafter expended (prior to July 1, 1972) or allocated.

*Example 46.* DI makes a $1 million long-term foreign borrowing during 1969 and loans the proceeds to a domestic subsidiary for working capital purposes. Such proceeds are not allocated to positive direct investment at the end of 1969. If such proceeds are not expended in 1970, repayment of the long-term foreign borrowing in 1970 will not be a transfer of capital under § 312(a)(7).

*Example 47.* During 1968, DI made a $1 million long-term foreign borrowing and lent the proceeds, during May 1968, to a Schedule B AFN (B) on a 6-month note, receiving a deduction with respect to the transfer of capital under § 313(d)(1). In November 1968, B repaid the DI. Under the regulations in effect during 1968, the repayment did not constitute a § 312(b) transfer of capital from B to DI, but did constitute an increase in available proceeds of $1 million. In 1969, without having again expended the $1 million in a transfer of capital or allocated such proceeds, DI repays the long-term foreign borrowing. DI has not made a transfer of capital under § 312(a)(7). If B's note had been for 9 months and repayment occurred







V 38-179
SEP 17 73
XUM

February 1969, DI would recognize a $312(b) transfer of capital from B in 1969, the repayment would not have constituted an increase in available proceeds, and repayment of the long-term foreign borrowing in 1969 would be recognized as a $1 million transfer of capital to Schedule B under § 312(a)(7).

Delivery of a DI's equity securities to holders of debt instruments issued by the DI or its international finance subsidiary in connection with a long-term foreign borrowing, pursuant to the exercise of conversion or similar rights, is deemed a repayment of the borrowing in the principal amount of indebtedness surrendered. See § 324(b)(2). The conversion will result in repayment of the borrowing (and reduction of proceeds) in the year the delivery of stock occurs. Any positive direct investment resulting from such conversions may be charged against the DI's subpart E allowables during the year of conversion, or such direct investment may authorized under § 1002(a)(3). If the latter alternative is employed, transfers of capital resulting from such repayment by conversion are not recognized until the year following the conversion. Thus, for example, if a DI's international finance subsidiary issues $20 million face amount of debentures convertible into stock of the parent and invests the proceeds in Schedule C AFNs of the parent, conversion by the foreign debenture holders of $1 million face amount into stock in 1970 (the stock being delivered in 1970) results in a $1 million repayment of the borrowing (i.e., a $1 million transfer of capital to Schedule C) in 1970 (see § 324(b)(2)). However, assuming such repayment in 1970 is generally authorized by § 1002(a)(3), reduction in the DI's Subpart E allowables may be postponed until 1971 under § 1003.

Surrender of debentures upon exercise of attached warrants is treated similarly. However, since a portion of the funds received from sale of debentures with warrants attached is attributed to the warrants, the DI did not receive proceeds of long-term foreign borrowing to the full extent of the face amount of the issue. Therefore, where a debenture is surrendered, a ratable portion of the principal amount will not result in repayment of a long-term foreign borrowing. If the warrants are detachable and cash payment is made upon exercise of a warrant, the transfer of stock by the DI is not a repayment of the borrowing or a transfer of capital.

*Example 48.* During 1968, DI's international finance subsidiary issued $10 million principal amount of debentures with warrants attached, entitling holders to purchase 10 shares of DI's common stock at $100 and to present the debenture, having a principal amount of $1,000, in payment for the stock. DI's independent financial counsel valued the warrants in an aggregate amount of $1 million. Therefore, DI realized $9 million proceeds of long-term foreign borrowing from sale of the debentures with warrants attached. Also during 1968, DI's international finance subsidiary loaned the entire $9 million to DI's Schedule B AFNs, resulting in a § 313(d)(1) deduction. In 1969, upon the presentation of a warrant and debenture, and delivery of common stock to the holder, there is a repayment of the debenture, a reduction of proceeds of long-term foreign borrowing (to the extent such proceeds were received from sale of the debenture), and a transfer of capital under § 312(a)(7). (The transfer of capital occurs because such proceeds were invested in Schedule B and a deduction under § 313(d)(1) had been received during 1968.) However, although the amount of repayment is $1,000, the proceeds of long-term foreign borrowing received from sale of the debenture were $900. Accordingly, the transfer of capital to Schedule B and the corresponding reduction of proceeds will be $900. Recognition of the transfer of capital which is authorized by § 1002(a)(3), will be postponed until 1970, when the reduction to Subpart E allowables occurs (see §§ 1002(a)(3) and 1003).

Generally, whether a transfer of capital or a reduction of available proceeds results from repayment of a long-term foreign borrowing may be ascertained by a DI from the books and records kept pursuant to § 203(b). Accordingly, when a DI repays a long-term foreign borrowing, all proceeds of which have been expended prior to July 1, 1972, or allocated, the DI must report a transfer of capital under § 312(a)(7). If a DI has not so expended or allocated any part of a particular long-term foreign borrowing, repayment of the borrowing (in whole or in part) results in a reduction of available proceeds. However, if a portion of proceeds of a borrowing has been expended prior to July 1, 1972, or allocated, while the remainder has not been so expended or allocated and thus constitutes available proceeds, the effect of partial repayment cannot be ascertained from the DI's books and records. In such case, any repayment shall be treated first as a reduction of available proceeds (until the available proceeds are reduced to zero) and then as a transfer of capital under § 312(a)(7). On the other hand, if a long-term foreign borrowing is in the form of debentures convertible into stock of the DI and a portion of the proceeds has been expended or allocated and the remainder is held as available proceeds, OFDI will permit the DI to elect whether repayments resulting from conversions will be treated as reductions of available proceeds or as transfers of capital under § 312(a)(7).

*Example 49.* In March 1968, DI made a long-term foreign borrowing from a foreign bank. DI gave the bank 20 notes, each for $1 million. At the end of 1968, DI had expended or allocated $10 million of the proceeds. By June 1969, DI had expended an additional $5 million. Accordingly, there remained $5 million of available proceeds. On October 1, 1969, DI repaid $2 million. The repayment did not constitute a transfer of capital under § 312(a)(7); rather, available proceeds were reduced from $5 million to $3 million.

*Example 50.* During 1969, DI's international finance subsidiary made a public issue of debentures convertible into common stock of DI. The issue qualified as a long-term foreign borrowing. The proceeds of such borrowing were $20 million. As of the end of June 1970, DI had expended $15 million of these proceeds in transfers of capital to a Schedule B AFN and $5 million remained as available proceeds. During July 1970, $2 million principal amount of debentures was converted into common stock of the DI. DI may treat the conversions either as reductions of available proceeds or as transfers of capital to Schedule B.

### § B324–12 Recordkeeping.

Because funds or property that are proceeds of long-term foreign borrowing have special status under the regulations, it is necessary that special records be kept by DIs showing disposition of such proceeds at any given time. Therefore, § 203(b) requires DIs to identify separately each long-term foreign borrowing and to record each separate use of the proceeds. The term "use" refers not only to actual investments, but also to deductions taken under § 203(d), § 313(d)(1) (prior to July 1, 1972) or § 306(e). For example, proceeds loaned by a DI to an AFN in Schedule C in March 1972 occasioned a deduction from net transfer of capital to Schedule C under § 313(d)(1), and the proceeds were actually invested in the Schedule C AFN. However, if the Schedule C AFN repays the loan and the DI does not thereafter allocate the returned proceeds under § 203(d)(2), the Schedule C deduction will remain in effect until repayment of the underlying long-term foreign borrowing. Upon such repayment, a § 212(a)(7) transfer of capital to Schedule C would have to be reflected. Similarly, proceeds allocated to and deducted from positive direct investment in any scheduled area pursuant to § 306(e) may actually be invested in bonds of a U.S. corporation, or expended in making a transfer of capital to an AFN. Accordingly, the DI must identify actual investment of proceeds as well as record direct investment deductions taken with respect to such proceeds.

Since § 313(d)(1) was revoked effective July 1, 1972, only the actual investment of proceeds, and no direct investment deduction, is recorded in connection with an expenditure of available proceeds in making a transfer of capital on or after such date.

*Example 51.* During 1969, the international finance subsidiary of a U.S. corporation (DI) sells $25 million face amount of debentures convertible into DI's common stock in a form that qualifies the issue as a long-term foreign borrowing. (a) DI sells the debentures at a discount of $1,250,000 and pays the underwriters commissions of $1,250,000, receiving $22,500,000 net from the sale. (b) DI immediately expends $10 million of the proceeds received to acquire a French corporation (C), which then becomes a Schedule C AFN. (c) DI deposits the remaining proceeds of the borrowing ($12,500,000) in a demand account with a London bank. (d) At the end of 1969, DI allocates $3 million of these available proceeds to positive direct investment in Schedule B. (e) In 1970, DI loans $5 million of the funds deposited in the London bank C. (f) Subsequently, in 1970, $2 million face amount of debentures are converted. (g) At the end of 1970, DI allocates $2,500,000 of available proceeds to positive direct investment in Schedule B.

The above transactions should be recorded on the books and records required by § 203(b) in the following manner:

With respect to transaction (a), DI enters proceeds of a long-term foreign borrowing in the amount of $25 million.





With respect to transaction (b), DI enters an expenditure of $10 million in connection with the transfer of capital incident to acquisition of C (§ 312(a)), and a deduction from net transfer of capital with respect to Schedule C (§ 313(d)(1)). After these entries, DI's records will reflect $15,000,000 available proceeds and $10 million expended proceeds (the latter being held in the form of C's stock).

With respect to transaction (c), DI enters the demand deposit of $12,500,000 available proceeds in the London bank; these proceeds are now held in the form of liquid foreign balances. DI would reflect $2,500,000 (the amount of discount and commissions) of available proceeds as being held in the United States.

With respect to transaction (d), the $3 million allocation to Schedule B, DI may use the foregoing $2,500,000 available proceeds deemed held in the United States. Accordingly, only $500,000 need be allocated out of available proceeds held as liquid foreign balances. This $500,000 must be withdrawn from the London bank and repatriated to the United States (§ 306(e)); DI does so, investing the $500,000 in bonds of a U.S. corporation. The allocation, the source of available proceeds used, and the repatriation transaction would be reflected in DI's books and records pursuant to § 203(b).

Accordingly, at the end of 1969, DI has recorded a long-term foreign borrowing, the proceeds of which are $25 million. Of such proceeds, $10 million have been expended, with a deduction in Schedule C, and are held in the form of stock of C; $2,500,000 relate to the discount and commission, are treated as being held in the United States and are allocated, with the deduction in Schedule B; $500,000 are held in the form of bonds of a U.S. corporation and are allocated, with the deduction in Schedule B; and $12 million are held on deposit in the London bank and are available proceeds.

With respect to transaction (e), DI enters an expenditure of $5 million available proceeds to C. Available proceeds in the London bank are decreased by such amount, and DI now has another $5 million deduction in Schedule C under § 313(d)(1), the expended proceeds being held in the form of a debt obligation of C.

With respect to transaction (f), DI is permitted to treat the repayment by conversion of the debentures either as a reduction of available proceeds or as a transfer of capital. DI elects to recognize a transfer of capital. Since total expended and allocated proceeds at the time of conversion are $18 million, with $15 million expended in Schedule C and $3 million allocated to Schedule B, 5/6 of $2 million ($1,667,000) is a transfer of capital to Schedule C and 1/6 of $2 million ($333,000) is a transfer of capital to Schedule B. Simultaneously, proceeds expended in C and allocated to B are reduced in an equal amount. Accordingly, DI treats the proceeds held in the form of debt obligation of C as reduced by $1,667,000, and DI treats allocated proceeds held in the form of corporate bonds as having been reduced by $333,000.

With respect to transaction (g), the allocation of $2,500,000 to Schedule B is entered by DI. The deposit in the London bank is shown as reduced by $2,500,000. Since DI must repatriate these allocated proceeds, the funds are deposited in a New York bank. Accordingly, DI would enter such deposit on its records also.

At the end of 1970, DI has $23 million proceeds of long-term foreign borrowing ($25 million less $2 million repayment). Of such proceeds, $4,500,000 are still available and are held on deposit in the London bank; $2,500,000 (comprising the discount and commission) are allocated to Schedule B and are treated as held in the United States; $167,000 are allocated to Schedule B and are held in the form of U.S. corporate bonds; $2,500,000 are allocated to Schedule B and are held on deposit with a New York bank; and $10 million are expended in C and held in the form of equity securities of C; and $3,333,000 are expended in C and held in the form of debt obligations of C.

Note that if transactions (b) and (e) occurred on or after July 1, 1972, deductions under § 313(d)(1) would not be recorded and available proceeds would not be reduced. Instead, the funds spent to acquire C or loaned to C would remain available proceeds and could thereafter be allocated under § 306(e). Since available proceeds would not be reduced by the expenditures, DI could hold liquid foreign balances in the amount of such proceeds, notwithstanding the transfers of capital to C.

### § B321–13 Borrowings denominated in a foreign currency.

Proceeds of foreign borrowing or long-term foreign borrowing denominated in a foreign currency are valued at the U.S. dollar equivalent prevailing when the borrowing was made, regardless of subsequent exchange rate fluctuations, until the time of repayment or refinancing. A refinancing as described in § 324(b)(1) shall be treated at the U.S. dollar equivalent as of the time of such refinancing.

*Example 52.* On August 1, 1969, DI made long-term foreign borrowing in a foreign currency valued at $1 million on that date. DI allocated the proceeds under § 306(e) to positive direct investment in Schedule C. In early 1970, the currency involved was revalued by 10 percent. In October 1970, DI repays the borrowing. Although the dollar equivalent of the repayment is $1,100,000, DI is charged with a § 312(a)(7) transfer of capital to Schedule C of only $1 million, the dollar equivalent on the date of the borrowing. The transfer of capital upon repayment would have been in the same amount if, instead, the currency had been devalued.

*Example 53.* On June 1, 1970, DI makes a 6-month borrowing from a foreign bank (X) denominated in a foreign currency. The dollar equivalent is $2 million. In September 1970, the currency is devalued by 10 percent. On December 1, 1970, DI repays X in full and plans to refinance by borrowing from foreign bank (Y) in the same currency. In order to preserve $2 million of proceeds, DI must borrow additional units of the foreign currency so that the dollar equivalent thereof on December 1 will equal $2 million. If, however, the currency had been revalued, DI would have needed to borrow only $2 million worth of the currency at the rate prevailing on December 1.

## B502—Election of Allowables

Section 502 requires a DI to elect for each year one of the following allowables: (a) The § 503 minimum allowable of $6 million; (b) the § 504(a) historical allowable; or (c) the § 504(b) earnings allowable.

The election of allowables must be made on Form FDI–102F or Form FDI–102F/S (Annual Report) filed for the year with respect to which the election is made.

An incremental earnings allowable under § 506 is available in addition to the allowable elected pursuant to § 502.

In the event of a combination of two or more DIs during a year, the resulting entity will be regarded as having been a single DI for the entire year in question, as well as for base-period years. Combination during a year of two DIs will not result in combination for such year of § 503 allowables with respect to the surviving DI. (See § B312–18.)

Note that the special allowable provided in § 1302 of Subpart M for U.S.-flag air carriers is applicable only if a § 504 allowable is elected pursuant to § 502.

## B503—Worldwide Minimum Allowable

### § B503–1 Introduction.

Section 503 in effect for 1973 allows any DI electing (under § 502) to be governed by the provisions of § 503 to make positive direct investment not exceeding an aggregate of $6 million in all scheduled areas.

### § B503–2 Summary.

The § 503 minimum allowable of $6 million applies worldwide, as opposed to the schedular allowables provided in § 504.

Election of § 503 in any year operates to eliminate allowables otherwise available during such year under § 504 (including carryforwards from prior years) and to eliminate carryforwards into succeeding years, except for the § 506 incremental earnings allowable.

A DI having positive direct investment of $200,000 or less during 1968 under former § 503 and not electing § 503 thereafter may carry forward the amount of 1968 § 504 allowables, reduced by the amount of positive direct investment actually made in each scheduled area during 1968.

Since the beginning of the program in 1968, § 503 has been liberalized in several respects. In 1968, the § 503 allowable was $200,000 and applied on a schedular basis. In 1969 the allowable was increased to $1 million and the schedular limitations were eliminated. Also in 1968 and 1969, § 503(b) required DIs to exclude certain losses of its AFNs in calculating direct investment under § 503. In 1968, the exclusion applied to negative reinvested earnings of incorporated AFNs in Schedule C, and in 1969, to aggregate annual losses of both incorporated and unincorporated AFNs in all scheduled areas. Section 503(b) was revoked for 1970 and subsequent years. (See § B503–3(ii).) In 1971 the § 503 allowable was increased to $2 million, and in 1973 it was increased to $6 million.



V 38-179 SEP 17 73 XUM

**§ B503–3 Calculation of direct investment under § 503.**

(i) *Worldwide bases.*—Section 503(a) provides that positive direct investment is authorized on a worldwide basis up to $6 million, in contrast to the schedular limitations imposed by § 504.

*Example 1.* DI has a wholly-owned incorporated AFN (B) in the United Kingdom and a wholly-owned incorporated AFN (A) in Argentina. During 1973, B has a loss of $500,000, and A has earnings of $6,500,000 all of which are reinvested. There are no other earnings, resulting in worldwide positive direct investment made by DI during 1973 of $6 million, which is authorized by § 503(a).

*Example 2.* DI has three AFNs: A, a corporation in Brazil; B, a corporation in Australia; and C, a branch in Germany. During 1970, DI makes a positive transfer of capital of $700,000 to A and a negative transfer of capital of $400,000 to B. C earns $500,000, none of which is remitted, so that its net assets increase by $500,000. A has losses of $300,000, and B earns $500,000 and pays no dividends. Positive direct investment in all scheduled areas for 1970 is $1 million which is authorized by § 503(a) in effect for 1970, as shown by the following table ($000 omitted):

| | Amount by scheduled area | | | |
|---|---|---|---|---|
| | A | B | C | Total |
| Net transfer of capital | 700 | (100) | 500 | 800 |
| Reinvested earnings | (300) | 500 | 0 | 200 |
| Positive direct investment | 400 | 400 | 500 | 1,000 |

As illustrated by Examples 1 and 2 above, all of the positive and negative components of direct investment are taken into consideration without regard to the scheduled area of the particular transactions. In addition, dividends, remittances of branch profits and transfers of capital between AFNs in different scheduled areas (except between Canadian and non-Canadian AFNs) will "net out." Any number of such interschedular transactions may take place without affecting the amount of direct investment for purposes of the regulations.

*Example 3.* DI has two AFNs: B, a corporation in Schedule B, and C, a corporation in Schedule C. During 1972 DI transfers $2 million to C, and B transfers $2 million to C. Under § 505(a)(3) the transfer from B to C is treated as a transfer of capital from B to DI of $2 million and a transfer of capital from DI to C of $2 million. DI has made positive direct investment of $2 million in all scheduled areas under § 503 (000 omitted):

| | |
|---|---|
| *Net transfer of capital* | |
| To Schedule C | $4,000 |
| To Schedule B | (2,000) |
| *Positive direct investment* | |
| In Schedule C | $4,000 |
| In Schedule B | (2,000) |
| Total | 2,000 |

(ii) *Treatment of aggregate annual losses in 1969.*—Section 503(b) is in effect for 1969 provided that in calculating direct investment made under § 503 aggregate annual losses of incorporated and unincorporated AFNs were to be disregarded. This provision was an exception to the general rule, set forth in § 306, that direct investment is the sum of net transfer of capital and the DI's share of reinvested earnings. Section 503(b) has been revoked for 1970 and subsequent years. Accordingly, DIs that elect the § 503 allowable for 1973 will compute direct investment in the manner specified in § 306. However, the revocation of § 503(b) is not retroactive, and DIs should not recalculate their § 503 direct investment for 1969.

The term "aggregate annual losses" as used in former § 503(b) meant the sum, if negative, of the earnings and losses of all the DI's incorporated and unincorporated AFNs for the year in question. To "disregard" aggregate annual losses meant that in calculating worldwide direct investment under § 503 the DI was required to add to direct investment as computed under § 306 the amount of such aggregate annual losses. (For a more detailed analysis of former § 503(b) see 1969 General Bulletin § B503–3(ii).)

The following example illustrates how aggregate annual losses were treated in calculating 1969 direct investment under former § 503(b):

*Example 4.* DI has two wholly-owned incorporated AFN's (X and Z). X has a wholly-owned subsidiary (Y) in a different scheduled area, and Z has a branch (W) in a different scheduled area. The following takes place during 1969: X has earnings (excluding dividends received from Y) of $2 million and pays a dividend to DI of $1,500,000 (before withholding taxes); Y has losses of $3 million but pays a dividend to X of $250,000 (before withholding taxes); DI makes a positive transfer of capital of $2,500,000 to Z; and W earns $500,000, all of which is remitted to Z, and there is no change in W's net asset position. To compute direct investment under § 503, direct investment under § 306 is first computed (000 omitted):

| | |
|---|---|
| (a) Net transfer of capital to Z | $2,500 |
| (b) Net transfer of capital to W | 0 |
| (c) Reinvested earnings of X [$2,000−($1,500−$250)] | 750 |
| (d) Reinvested earnings of Y [−$3,000−($250)] | (3,250) |
| (e) Reinvested earnings of Z[0−(−$500)] | 500 |
| (f) Direct investment under § 306 | 500 |
| Next "aggregate annual losses" are computed (000 omitted): | |
| (g) Earnings of X | $2,000 |
| (h) Losses of Y | (3,000) |
| (i) Net earnings of W | 500 |
| (j) Aggregate annual losses | 500 |
| Direct investment for purposes of § 503 (line (f) plus line (j)) | 1,000 |

Thus, positive direct investment under § 503 is $1 million, the sum of direct investment under § 306 of $500 [thousand] and aggregate annual losses of $500 [thousand], as calculated above.

(iii) *Canadian AFNs.*—As a result of §§ 1103 and 1104 of Subpart K, direct investment in Canadian AFNs is not included in calculating direct investment for purposes of § 503. Accordingly, dividend distributions, profit remissions, and transfers of capital between Canadian and non-Canadian AFNs will not net out under § 503. For example, if a Canadian AFN transfers funds or other property to a non-Canadian AFN, the DI will be deemed to have made such transfer if the conditions of § 505 are met. Because of § 1103, the transfer deemed to have been made by the Canadian AFN to the DI (under § 505) will not offset the corresponding transfer deemed made by the DI to the non-Canadian AFN.

**§ B503–4 Carryforwards.**

Unused § 503 allowables may not be carried forward to succeeding years. In addition, § 503(c) provides that the election of § 503 eliminates all existing § 504 and § 1302 allowables as of the year of electing § 503, including historical and earnings allowables for such year, carryforwards from prior years and carryforwards into succeeding years.

*Example 5.* In 1969, DI has allowables under § 504 of $50,000 in Schedule C, $500,000 in Schedule B, and $200,000 in Schedule A. A portion of the allowables in Schedules A and B are carryforwards of § 504 allowables not used in 1968. In 1969, DI, in order to make positive direct investment in Schedule C in excess of its § 504 allowable of $50,000, elects § 503 and makes worldwide positive direct investment of $600,000. As a result of this election, the DI permanently loses the § 504 schedular allowables carried forward from 1968, and the unused portion of the 1969 § 503 allowable may not be carried forward into subsequent years.

Section 504 as in effect during 1968 permitted a DI to carry forward any unused portion of the schedular allowables authorized by that section. Present § 504 (f) preserves that carryforward for use in 1969 and succeeding years. However, to make clear that positive direct investment authorized by § 503 in 1968 must be taken into account in calculating the amount of such § 504 carryforward, § 503 (d) provides that if a DI elects to be governed by § 504 in 1969 and succeeding years, the § 504 allowables carried forward from 1968 must be reduced by the amount of positive direct investment actually made in 1968. The reduction is made first in the scheduled area where the positive direct investment was made under § 503 in 1968 and then in the remaining scheduled areas in the following order: C–B–A.

*Example 6.* In 1968, DI had allowables under § 504 of $50,000 in Schedule C, $50,000 in Schedule B, and $200,000 in Schedule A. During 1968, DI made positive direct investment of $100,000 in Schedule C and $50,000 in Schedule B under § 503 as then in effect. DI also made negative direct investment of $50,000 in Schedule A, which, under § 504(f), may be carried forward to succeeding years together with any other unused Schedule A allowable. While the investment in Schedule C was not authorized under § 504, DI's overall positive direct investment in 1968 was authorized under § 503, since positive direct investment in each scheduled area, when added together, was $200,000 or less (in this case, $150,000), and positive direct investment in any one scheduled area did not exceed $200,000. If DI does not elect the § 503 minimum allowable for 1969, DI will carry forward to 1969 § 504 allowables not used in 1968 of $200,000, after the reductions provided for in § 503(d), distributed in the scheduled areas as follows: Zero in Schedule C, zero in Schedule B, and $200,000 in Schedule A. The carryforward of $200,000 is in addition to any earnings allowables or historical allowables which DI may have for 1969 under § 504. The above calculations are set forth in tabular form as follows (000 omitted):

| | Amount by scheduled area | | |
|---|---|---|---|
| | C | B | A |
| 1968 § 504 allowables | $50 | $50 | $200 |
| Direct investment under § 503 in 1968 | 100 | 50 | (50) |
| Reductions to 1968 § 504 allowables under § 503(d) | 50 | 50 | 50 |
| § 504 carryforwards to 1969 | 0 | 0 | 200 |

If DI elects to make positive direct investment in 1969 under § 503, DI will lose the foregoing $200,000 carryforward in Schedule A for 1969 and succeeding years, by reason of § 503(c).

Assume that DI elected the § 504 allowables in 1969, but did not make any positive direct investment in Schedule A, and again elected the § 504 allowables in 1970. In such a case, DI would carryforward to 1970 all of its unused 1969 § 504 allowables, including the $200,000 in Schedule A that was originally carried forward to 1969 from 1968. However, if DI in 1970 elected either the § 503 or § 507 allowables, it would lose all carryforwards from previous years.

**§ B503–5 Related provisions.**

(i) *Associated groups and persons owning interests in DIs.*—Section 905(b)(2)(i) limits the use of § 503 by members of an associated group with respect to a group AFN, and § 906(b)(3)(ii) limits the use of § 503 by owners of a principal DI making an election under § 906(b)(1).

(ii) *Apportionment of borrowing deduction.*—DIs electing § 504 for 1973 should see § 306(e)(3) and § B306–7 if they contemplate repayment or reallocation of borrowings deducted from § 503 worldwide positive direct investment under § 306(e) in a previous year.

## B504—Schedular and Carryforward Allowables

**§ B504–1 Introduction.**

Section 504 provides alternative allowables applicable to direct investment in each of the three geographical schedules: An historical allowable (§ 504 (a) and (c)) and an earnings allowable (§ 504(b)). A DI may elect to be governed by either of these § 504 allowables as an alternative to the § 503 allowable.

Unlimited "downstream" utilization of § 504 (a) or (b) allowables is permitted (i.e., from Schedule C to Schedules B and A, and from Schedule B to Schedule A). Provision is also made for "upstream" adjustment of allowables under certain circumstances. Carryforward of unused allowables into succeeding years is also permitted so long as the DI continues electing to be governed by § 504.

**§ B504–2 Summary.**

A DI electing to be governed by § 504(a) for 1973 and succeeding years may make positive direct investment in Schedules A, B, and C based on a percentage of average annual direct investment in those areas during 1965–66, viz., 110 percent in Schedule A, 65 percent in Schedule B and 35 percent in Schedule C. (The method for computing the Schedule C historical allowable was amended for 1970 and subsequent years to eliminate the reinvestment ratio alternative. See § B504–3.)

Section 504(c) (1) and (2) provide that the § 504(a) historical allowable in Schedule C may be increased if such allowable is less than 40 percent of DI's annual earnings in that scheduled area during the preceding year. The amount of authorized increase will be equal to the full amount of the difference between such 40-percent earnings figure and the basic historical allowable for Schedule C determined under § 504(a)(3), if the sum of the § 504(a) historical allowables in Schedules A and B are sufficiently large. The historical allowable in Schedule A and, if necessary, in Schedule B must be charged with such authorized increase. An "upstream" adjustment for the Schedule B allowable is also authorized by § 504(c)(3) in the same circumstances, to the extent there remains (after increasing the Schedule C historical allowable) any of the Schedule A historical allowable against which such increase can be charged.

A DI electing the § 504(b) earnings allowable is permitted to make positive direct investment in each scheduled area not exceeding 40 percent of "annual earnings" (defined in § 504(b)(4)) for the immediately preceding year in the respective scheduled area.

All or any part of the allowables computed pursuant to § 504 (a) and (c) or § 504(b) may be used "downstream"; i.e., the Schedule C allowable may be used in Schedule B or A instead of Schedule C and the Schedule B allowable may be used in Schedule A instead of Schedule B. A DI may carry forward into succeeding years any portion of a schedular allowable not used during the year. Negative direct investment for a year in any scheduled area may be carried forward and may be used to authorize additional positive direct investment in other areas "downstream" in the same or subsequent years. However, in any year for which a DI elects to be governed by the § 503 allowable, all accrued carryforward of § 504 allowables will be permanently lost (see § 503(c)).

In calculating direct investment in Schedule C for purposes of measuring use of the § 504 allowable elected by a DI, losses of Schedule C incorporated AFNs must be excluded. Such losses may, however, be carried forward to subsequent years to authorize additional reinvestment of earnings of incorporated AFNs in Schedule C.

Carryforwards authorized in 1968 under § 504 as in effect for that year may be used in the same or downstream scheduled areas in 1969 and succeeding years, with the exception that losses of Schedule C AFNs during 1968 may be carried forward only to authorize additional reinvested earnings in Schedule C (§ 504(f)).

**§ B504–3 Calculation of historical allowables under § 501(a).**

Section 504(a) authorizes annual positive direct investment in Schedule A in an amount equal to 110 percent of a DI's average annual direct investment in that scheduled area during 1965 and 1966, in Schedule B in an amount equal to 65 percent of a DI's average annual direct investment in that scheduled area during 1965 and 1966, and in Schedule C in an amount equal to 35 percent of a DI's average annual direct investment in that scheduled area during 1965 and 1966. The following examples illustrate calculation of historical allowables for Schedule A under § 504(a)(1), Schedule B under § 504(a)(2) and Schedule C under § 504(a)(3):

*Example 1.* DI made positive direct investment in Schedule A in 1965 of $3 million and in 1966 of $1 million. Average annual direct investment in Schedule A for 1965–66 is $2 million ($3 million plus $1 million divided by 2). The amount of annual positive direct investment authorized under § 504(a)(1) is $2,200,000 (110 percent of $2 million). If Schedule B rather than Schedule A were involved, § 504(a)(2) would authorize $1,300,000 of annual positive direct investment (65 percent of $2 million). If Schedule C, instead, were involved, § 504(a)(3) would authorize $700,000 of annual positive direct investment (35 percent of $2 million).

*Example 2.* DI made positive direct investment in Schedule A during 1965 of $1 million and negative direct investment in 1966 of $500,000. Average annual direct investment in Schedule A was, therefore, $250,000. DI made positive direct investment of $1 million in Schedule B during 1965 and negative direct investment of $2 million in 1966. Thus, annual average investment in Schedule B was a negative amount (i.e., minus $500,000), treated as zero for purposes of calculating the historical allowable under § 504(a). DI made positive direct investment in Schedule C during 1965 of $800,000 and direct investment in 1966 of zero. Average annual direct investment in Schedule C was therefore $400,000. Accordingly, DI's historical allowable for Schedule A is $275,000; for Schedule B, it is zero; for Schedule C, it is $140,000. (These are DI's basic historical allowables, and the Schedules B and C allowables are subject to upward adjustment by "borrowing" from the Schedule A allowable if the conditions specified in § 504(c) are satisfied. See § B504–4(ii).)

Prior to its amendment in 1970, § 504(a)(3) provided that the historical allowable for Schedule C was to be calculated differently than for Schedules A and B. Under former § 504(a)(2), the Schedule C historical allowable was the lesser of (a) 35 percent of the DI's average annual direct investment in 1965–66 in Schedule C of (b) the DI's share of the current year's earnings of incorporated AFNs in Schedule C multiplied by the percentage of total earnings of such AFNs that were reinvested during 1964–66. (See 1969 General Bulletin § B504–3(ii).) Under former § 503(a)(3) many DIs had a zero Schedule C allowable despite having made substantial direct investment in Schedule C during 1965–66.







V 38-179 SEP 17 73 XUM

The calculation of historical allowables is not affected by the export credit exemption provided under § 312(c).

**§ B504–4 Calculation of § 504(b) earnings allowables and § 504(c) adjustment to § 504(a) historical allowables.**

The § 504(b) earnings allowable is intended to benefit DIs with small or no historical allowables under § 504(a), and the §504(c) "upstream adjustment" to § 504(a) historical allowables is intended principally to aid DIs with small or no historical allowables in Schedule C. Either the earnings allowable or the upstream adjustment may be advantageous when 40 percent of earnings for the year immediately preceding the year of electing either the § 504 historical or earnings allowable exceeds a DI's historical allowables.

Accordingly, a DI with no Schedule C historical allowable may, nevertheless, be authorized to make positive direct investment in that scheduled area based on Schedule C earnings during the preceding year. Election of the earnings allowable under § 504(b), however, requires its use in all scheduled areas. Where historical allowables in Schedules A and B are substantial, it may not be to a DI's advantage to elect § 504(b) because the historical allowables in Schedules A and B could not then be utilized. Under these circumstances, the DI may benefit from the "upstream adjustment" to historical allowables provided by § 504(c), whereby the historical allowables can be shifted "upstream" to Schedule C from Schedules A and B.

(i) *Section 504(b): 40 percent earnings allowables.*—A DI may elect, under § 504(a)(3), to be governed by the allowable provided in § 504(b), authorizing positive direct investment in each scheduled area equal to 40 percent of the DI's share of AFN earnings in such area during the immediately preceding year.

The earnings allowable is computed on the basis of a DI's annual earnings in a scheduled area, defined in § 504(b)(4) as the DI's share of "total earnings or total losses" of all incorporated AFNs in such scheduled area (determined as provided in § 306(c)) plus the DI's share of "net earnings or losses" of all unincorporated AFNs during the year in such scheduled area. Earnings or losses of Canadian affiliates are excluded from this computation.

*Example 3.* DI's 1971 share of AFN annual earnings is $10 million in Schedule C and $15 million in Schedule A. DI's Schedule B AFNs incurred losses during 1971 of $2 million. Schedule B "annual earnings" in 1971 are, therefore, a negative $2 million. If DI elects the 40-percent earnings allowable for 1972 under § 502(a)(3), allowables under § 504(b) will be $4 million in Schedule C (40 percent of $10 million), zero in Schedule B (since DI had losses in Schedule B in 1971), and $6 million in Schedule A (40 percent of $15 million).

(ii) *Section 504(c): "Upstream" use of allowables.*—A DI electing under § 502(a)(2) to be governed by the schedular § 504(a) historical allowables obtains the benefit of an "upstream" adjustment of such allowables as required by § 504(c). Section 504(c)(1) and (2) automatically increase the Schedule C allowable if 40 percent of DI's annual earnings in Schedule C in the preceding year exceeds the § 504(a) historical allowable in that scheduled area for the current year and if there are historical allowables in Schedules A and/or B. Section 504(c)(3) will operate in a corresponding manner to increase the Schedule B allowable, if any Schedule A historical allowable remains after the § 504(c)(1) adjustment.

The upstream adjustment is the lesser of (a) the excess of 40 percent of the preceding year's annual earnings in the upstream scheduled area over the historical allowable for that area, or (b) the aggregate amount of the historical allowables in the downstream schedules.

Although the "upstream" adjustment is automatic, § 504(d)(2) and (3) permits a DI to utilize allowables for positive direct investment in a "downstream" schedule.

Unused allowables carried forward from 1968 pursuant to § 504(f), or carried forward from 1969 or later years pursuant to § 504(d), are not available for adjustment upstream; only a current year's historical allowable calculated under § 504(a) may be used for this purpose. On the other hand, the additional allowables in Schedules B and C resulting from an upstream adjustment may themselves be carried forward into succeeding years.

*Example 4.* In 1972 DI has § 504(a) historical allowables in each of the scheduled areas as shown on line (1) of the table below. DI also has a carryforward of unused allowables from 1971 in Schedule A of $1 million (line (2) below). In 1971 DI's share of annual earnings of AFNs in each scheduled area was as shown on line (3) below. If DI elects, pursuant to § 502(a)(2), to be governed by § 504(a) for 1972, DI's historical allowables under § 504(a) are adjusted pursuant to § 504(c), thereby increasing the Schedule C allowable by $3 million. Of this amount, $2,500,000 is moved upstream from Schedule A and $500,000 is upstreamed from Schedule B, with corresponding reductions in the historical allowables for those schedules, as shown below (000 omitted):

| Item | Amount by scheduled area | | | |
|---|---|---|---|---|
| | C | B | A | Total |
| (1) § 504(a) historical allowables | $500 | $2,000 | $4,000 | $6,500 |
| (2) 1971 annual earnings | 10,000 | 8,000 | 10,000 | 28,000 |
| (3) 40 percent of line (2) | 4,000 | 3,200 | 4,000 | 11,200 |
| (4) 1972 § 504(a) historical allowables after § 504(c) "upstream" adjustments | 4,000 | 2,500 | 0 | 6,500 |

Presumably, DI will elect to be governed by the 40-percent earnings allowable provided in § 504(b), since total allowables available to DI under the 40-percent earnings allowable ($11,200,000) exceed total historical allowables ($6,500,000 under § 504(a) and (c)) and since the § 504(b) allowables in each scheduled area are as great or greater than in each schedule under § 504(b). The 40-percent earnings allowables are divided among the scheduled areas to reflect DI's share of 1971 annual earnings in each schedule. Whichever category of allowable is elected, DI may use such allowables "downstream" under § 504(d). For example, all allowables could be used in Schedule A.

**§ B504–5 Transfer or carryforward of schedular allowables.**

Section 504(d) provides that the unused portion, if any, of the historical or earnings allowables provided in § 504 may be utilized in the same scheduled area in succeeding years to authorize positive direct investment in addition to that otherwise permitted, or may be used in other scheduled areas "downstream" in the same or succeeding years.

Schedule C allowables, to the extent unused in that area during the year, may be used in Schedules A and B in the same year or in Schedules C, B, and A in succeeding years. An unused allowable in Schedule B may be used in Schedule A in the current year or in Schedules B and A in succeeding years. An unused allowable in Schedule A may be used only in Schedule A in succeeding years.

The effect of the downstream and carryforward provisions is that, in addition to the amounts authorized by the basic historical or earnings allowable elected, a DI may make positive direct investment in each scheduled area up to the amount of any allowables that were available but unused in such area in prior years and that were available but unused in upstream areas in the same and prior years.

Both the historical allowable of § 504(a) and (c) and the earnings allowable of § 504(b) can be used downstream or carried forward. The amount that may be carried forward is the excess of authorized positive direct investment over direct investment actually made during a given year, whether positive or negative. If no positive direct investment is authorized but negative direct investment is made, then the amount of such negative direct investment may be used downstream or carried forward.

(i) *Schedule A carryforward.*—The following examples illustrate § 504(d)(1), governing the carryforward of unused Schedule A allowables:

*Example 7.* DI elects the historical allowable for 1969. Under § 504(a)(1), the Schedule A allowable is $5 million, but DI makes positive direct investment of only $2 million. Under § 504(d)(1), DI may carry forward the $3 million difference as an additional Schedule A allowable for use in succeeding years. If the historical allowable is elected again in 1970, DI may make positive direct investment of $8 million, consisting of the $5 million authorized by § 504(a)(1) and the $3 million authorized by § 504(d)(1).

*Example 8.* DI elects the historical allowable for 1969. Under § 504(a)(1), DI has a zero allowable in Schedule A. In 1969, DI's sole incorporated AFN in Schedule A has earnings of $5 million, pays DI a dividend of $5 million, and transfers $5 million to DI. For 1969, DI has negative direct investment of $5 million in Schedule A. Under § 504(d)(1), this may be used to offset a corresponding amount of positive direct investment in Schedule A in succeeding years.

In 1970, DI elects the 30 percent earnings allowable under § 504(b). Authorized positive direct investment in Schedule A in 1970 will be $6,500,000: $1,500,000 (30 percent of 1969 total earnings) plus $5 million carryforward under § 504(d)(1).

If DI's historical allowable had been $1 million in Schedule A, the carryforward allowable would have been $6 million (the sum of the historical allowable of $1 million and negative direct investment of $5 million).

If a DI had unused allowables in Schedule A in 1968, former § 504(b)(1) in effect for 1968 authorized their carryforward into 1969 and succeeding years. Present § 504(f)(1) specifically preserves these carryforwards.

(ii) *Schedule B downstream or carryforward.*—Unused historical or earnings allowables in Schedule B may be carried forward in the same manner as those in Schedule A, as provided by § 504(d)(2). The unused Schedule B allowables may also be used downstream in Schedule A in the same or succeeding years. Under former § 504(b)(2), unused 1968 Schedule B allowables authorized additional positive direct investment in Schedules B and/or A in 1969 and succeeding years. Present § 504(f)(2) specifically preserves these carryforwards.

*Example 9.* DI's Schedule B historical allowable is $1 million. Positive direct investment of $500,000 is made during 1968 in that schedule.

In 1969, DI elects the historical allowable and may make positive direct investment in Schedule B of $1,500,000, consisting of the $1 million historical allowable under § 504(a)(2) plus the $500,000 carryforward from 1968 under § 504(f)(2). All or any part of this $1,500,000 not used in Schedule B during 1969 may be used in Schedule A in 1969 or in Schedule B and/or A in succeeding years, under § 504(d)(2).

(iii) *Schedule C downstream or carryforward.*—Unused allowables in Schedule C may be used downstream or carried forward, pursuant to § 504(d)(3).

Section 504(f)(3) preserves the Schedule C carryforwards authorized under former § 504 in effect for 1968 and increases the scope of their use. During 1968, § 504(c)(1) authorized carryforward of Schedule C allowables unused as a result of "excess dividends", and § 504(c)(2) in effect for 1968 authorized carryforward unused as a result of negative net transfer of capital. Under present § 504(f)(3)(i), these 1968 carryforward allowables can be used by the DI to make positive direct investment in Schedules C, B, and/or A in 1969 and succeeding years in addition to that otherwise authorized.

"Total losses" of incorporated AFNs in Schedule C during 1968 may be carried forward to 1969 and succeeding years only as an authorization for additional reinvested earnings in Schedule C. See § 504(f)(3)(ii).

A DI that made direct investment under § 503 in 1968 and had unused § 504 allowables may carry forward such unused allowables to succeeding years subject to the conditions set forth in § 503(d). See § B503–4.

**§ B504–6 Total losses of incorporated AFNs in Schedule C.**

Section 504(e) provides that total losses (as defined in § 306(c)) of incorporated AFNs in Schedule C must not be taken into account in calculating positive direct investment in that scheduled area under § 504. However, this requirement does not affect the computation of allowables under § 504(a)(3) or § 504(b); it is applicable only in calculating the amount of direct investment made during a year and the extent to which the given allowable for such year has been used up. The principal purpose of § 504(e) is to prevent total losses of incorporated AFNs in Schedule C from being utilized in the current year or succeeding years to authorize transfers of capital to AFNs that result in positive direct investment in any scheduled area. Such losses may, however, be carried forward for use to authorize additional reinvested earnings of incorporated AFNs in Schedule C in subsequent years.

By operation of this section, total losses of incorporated Schedule C AFNs are, in effect assigned a value of zero for purposes of computing direct investment in Schedule C under § 306. Accordingly, the formula suggested in § B306–6(iii) for determining reinvested earnings pursuant to § 306(b) would, if total earnings are zero or a negative amount be:

$$RE = O - [(DP + dp) - (dr + pr)].$$

*Example 10.* DI has both incorporated and unincorporated AFNs in Schedule C. In 1969 DI elects the earnings allowable under § 504(b). The § 504(b) earnings allowable for 1969 in Schedule C is $500,000.

The incorporated AFNs have losses of $200,000 and pay no dividends. The unincorporated AFNs have earnings of $600,000 and a net increase in assets of $600,000. At this point, DI has made positive direct investment of $600,000 because the $200,000 total losses are disregarded under § 504(e). In order to be in compliance for 1969, DI will have to reduce this positive direct investment by $100,000 through a negative transfer of capital or an offset using proceeds of long-term foreign borrowing. However, DI can carry the $200,000 loss forward into 1970 to authorize additional reinvested earnings of incorporated AFNs in Schedule C.

If the AFNs had been in Schedule A or B, positive direct investment would have been $400,000 ($600,000 net transfer of capital, plus total losses (negative reinvested earnings) of $200,000).

*Example 11.* DI has only incorporated AFNs in Schedule C, that earn $500,000 in 1969 and pay dividends of $700,000 to the DI. Thus, total earnings are $500,000, while reinvested earnings are negative in the amount of $200,000. If there are no other relevant transactions during the year, DI will have made negative direct investment of $200,000. This can be used to authorize positive direct investment (positive transfers of capital or reinvested earnings) of up to $200,000 in Schedule C in subsequent years, or in Schedules A and B in the same and subsequent years (see § 504(d)(3). (This example illustrates the difference between losses of incorporated AFNs in Schedule C and negative reinvested earnings of such AFNs in terms of permissible use as a carryforward into subsequent years.)

*Example 12.* DI has a wholly owned incorporated AFN (C) in Schedule C with a branch (A) in Schedule A. DI elects the § 504(b) earnings allowable for 1969, pursuant to which the Schedule C allowable is $700,000. A earns $1 million.

On December 30, 1969, it appears that C will have losses of $200,000. Nevertheless, A may remit no more than $700,000 to C. By operation of § 306(b), profits received by an incorporated AFN from a branch in another scheduled area are considered to be reinvested earnings of the parent. Therefore, if A remits $700,000 to C, net reinvested earnings (and DI's positive direct investment) would be only $500,000. However, in computing positive direct investment in Schedule C under § 306, C's losses must be excluded; in effect, they are treated as earnings of zero. Therefore, positive direct investment in Schedule C would be the full $700,000 permitted under the § 504(b) earnings allowable for 1969.

If the incorporated AFN had been in Schedule B, however, its branch could have remitted $900,000, since the restrictions imposed with regard to losses in calculating positive direct investment apply only to Schedule C.

**§ B504–7 Related provisions.**

Section 504 allowables will be reduced pursuant to § 1003 in the amount of repayment of borrowing authorized by § 1002. See the discussion in § B1003–1 concerning the order in which allowables are reduced by repayment charges incurred incident to repayment of long-term foreign borrowings.

The acquisition of an AFN by one DI from another DI and the merger of two DIs will affect the allowables of the acquiring or surviving DI as prescribed under § 312(c)(1). (See § B312–18.)







V 38-179 SEP 17 73 XUM

## B505—Transfers of Capital Between Affiliated Foreign Nationals

### § B505–1 Introduction.

Section 505 is primarily concerned with the treatment of transactions between AFNs of a DI in calculating the DI's annual net transfer of capital to a given scheduled area under § 313. It should be emphasized that § 505 affects only the calculation of transfers of capital and net transfers of capital under §§ 312 and 313; it has no bearing on the calculation of a DI's share in reinvested earnings of incorporated AFNs under § 306.

### § B505–2 Summary.

As a general rule, a transfer of capital from an AFN in one scheduled area to an AFN in another scheduled area will result under § 505 in (a) a decrease in the DI's net transfer of capital to the scheduled area of the AFN making the transfer and (b) an equivalent increase in the net transfer of capital to the scheduled area of the AFN to which the transfer was made.

Transfers between AFNs are so treated only if at least one of the AFNs is an "affiliate" of the DI. (As defined in § 903(a), an "affiliate" is an entity in which the aggregate of direct interests held by the DI and any of its other affiliates exceeds 50 percent.) Transfers between AFNs will effectively "net out" under § 505, if both AFNs are located in the same scheduled area, or if the net transfer of capital is computed worldwide (such as for purposes of the § 503 minimum allowable).

Section 505 provides special rules with respect to treatment of unincorporated AFNs. A transfer to or from an unincorporated AFN is attributed to the immediate parent of such AFN (§ 505(a)(1)); and a DI is deemed to have no share in the change in assets of an unincorporated AFN, for purposes of § 313(b), unless the immediate parent of such AFN is either the DI or an incorporated AFN that is an affiliate of the DI (§ 505(a)(4)).

Section 505 excludes from its operation charters of vessels (§ 505(a)(3)) and certain short-term trade credits between AFNs (§ 505(b)). In this connection, the term "time charter" as used in § 505(a)(3) is intended to apply to any vessel charter for a period of time however denominated, including "bareboat" and "voyage" charters.

### § B505–3 Transfers by or to unincorporated AFNs attributed to immediate parent.

Section 505(a)(1) provides that for purposes of § 505, a transfer of funds or other property by an unincorporated AFN to the DI or to another AFN is treated as a transfer by the immediate parent of such unincorporated AFN (provided that the transferee is not the immediate parent, and that the immediate parent is the DI or an incorporated AFN). Conversely, a transfer to an unincorporated AFN by the DI or by another AFN is treated as a transfer to the immediate parent of the unincorporated AFN (provided that the transferor is not the immediate parent, and that the immediate parent is the DI or an incorporated AFN). Section 505(c) defines the "immediate parent" of an unincorporated AFN owned directly by a DI as the DI itself, while the "immediate parent" of an unincorporated AFN owned indirectly by the DI is the intervening AFN that directly owns the unincorporated AFN. See also § B505–9.

*Example 1.* DI has a wholly owned incorporated AFN (A) in Scheduled A that has a branch (B) in Schedule B. DI also has an incorporated AFN (C) in Schedule C. In 1969 B lends $100,000 directly to C. The $100,000 is deemed transferred by A (i.e., the immediate parent of B) to C.

If C loaned $100,000 directly to B, the $100,000 would be deemed transferred by C to A (i.e., the immediate parent of B). Likewise, if the $100,000 loan to B were made by a branch of C located in Schedule A, the $100,000 would be deemed transferred by C (i.e., the immediate parent of the branch in Schedule A) to A (i.e., the immediate parent of B).

*Example 2.* DI has a wholly owned subsidiary (A) in Schedule A that has a branch (B) in Schedule B. In 1969 DI lends $100,000 to B. The $100,000 is deemed transferred by DI to A, the immediate parent of B.

Section 505(a)(1) does not apply if both the transferor and the transferee are unincorporated AFNs and if both have the same immediate parent. Thus, a transfer from a Schedule A branch of a DI to a Schedule B branch of the same DI is not governed by § 505(a)(1); any net changes in net assets of the branches resulting from this transfer will be taken into account under § 313(b).

### § B505–4 Treatment of transfers deemed made under § 505(a)(1).

Section 505(a)(2) provides that any transfer of funds or other property deemed by § 505(a)(1) to be a transfer between the DI and an incorporated AFN shall be treated as a transfer of capital under § 312 if the transaction would have constituted a transfer of capital under § 312 had the parties actually been the DI and the incorporated AFN and, if the transfer is between AFNs of the DI, either the actual transferor AFN or actual transferee AFN is an "affiliate" of the DI as defined in § 903(a). In determining whether a transaction would have constituted a transfer of capital under § 312 had the parties actually been the DI and the incorporated AFN, the export credit exemption system set forth in § 312(c)(13) and (14) should be disregarded. See § 505(a)(7).

Under § 903(a) an "affiliate" of a person within the United States is any other person (other than an individual) in which the aggregate of direct interests (defined in § 901) owned by such person and any of its affiliates exceeds 50 percent.

*Example 3.* DI has a branch (A) in Schedule A and a 60-percent owned subsidiary (C) in Schedule C. In 1969 C lends $500,000 to A. The loan from C to A is deemed made by C to DI, the immediate parent of A, under § 505(a)(1)(ii). If the loan had actually been made by C to DI, it would have constituted a transfer of capital from C to DI under § 312(b)(1). Therefore, under § 505(a)(2), C has made a transfer of capital of $500,000 to DI.

If no other transactions take place during 1969, DI will have made a $500,000 negative net transfer of capital to Schedule C, under § 313(a), and a $500,000 positive net transfer of capital to Schedule A, under § 313(b), the latter being the net increase in A's assets as a result of the loan from C. (If A and C had been located in the same scheduled area, DI's net transfer of capital under § 313(c) during 1969 to such scheduled area would have been zero.)

*Example 4.* DI has a branch (B) in Schedule B and a wholly owned subsidiary (A) in Schedule A. During 1969 B lends A $100,000. Under § 505(a)(1), DI is deemed to have made the loan to A (a transfer of capital under § 312(a)(1)). Therefore, § 505(a)(2) applies, and DI has made a positive net transfer of capital to Schedule A of $100,000 (under § 313(a)) and a negative net transfer of capital to Schedule B (under § 313(b)) of $100,000, the latter being the decrease in B's assets after making the loan to A. (If both AFNs had been in one scheduled area, DI's net transfer of capital under § 313(c) would have been zero.)

*Example 5.* DI has a wholly-owned subsidiary (A) in Schedule A that has a branch (B) in Schedule B. In 1969 DI lends $100,000 directly to B. The transfer results in a $100,000 transfer of capital from DI to A by virtue of §§ 505(a)(1) and (2). To the extent that the transfer results in a net increase in the net assets of the branch, DI will have made a positive net transfer of capital to Schedule B under § 313(b). However, to the extent that DI's share in the increase in B's assets is not attributable to earnings, A is deemed to have made a transfer of capital to DI, according to § 505(a)(6). Therefore, for 1969, DI will have made a net transfer of capital to Schedule A of zero ($100,000 deemed transferred from DI to A, under §§ 505(a)(1) and (2), less $100,000 deemed transferred from A to DI, under § 505(a)(6)) and a net transfer of capital to Schedule B of $100,000.

### § B505–5 Transfers between incorporated AFNs.

Under § 505(a)(3), a transfer of funds or other property from one incorporated AFN to another incorporated AFN (including a transfer deemed under § 505(a)(1) to have been made between incorporated AFNs) is treated as a transfer of capital by the transferor AFN to the DI (equal to the full amount or value of the funds or other property transferred) and as a further transfer of capital in an equivalent amount from the DI to the transferee AFN. The rule applies only if either the transferor or the transferee AFN is an "affiliate" of the DI, as defined in § 903(a), and if the transfer would have constituted a transfer of capital under § 312 if made by the DI. (In determining whether the transfer would have constituted a transfer under § 312 if made by a DI, the export credit exemption system should be disregarded.) If the transferor and transferee are in the same scheduled area, the transaction will "net out" (i.e., result in a net transfer of capital of zero) under § 313(a).

*Example 6.* During 1969, a wholly-owned Schedule C subsidiary of DI (C) makes a $200,000 3-year loan to A, a wholly owned Schedule A subsidiary of DI. Under § 505(a)(3), the transaction is treated as a $200,000 transfer of capital from C to DI and a $200,000 transfer of capital from DI to A. Accordingly, the transaction reduces by $200,000 the net transfer of capital made by DI to Schedule C during 1969 and increases by an equivalent amount the net transfer of capital made by DI to Schedule A during the same year. The result would be the same even if neither of the AFNs were wholly owned by DI so long as DI owned more than a 50-percent interest in one of them. Thus, for example, the same result would be reached if DI owned 51 percent of A and only 10 percent of C, or vice versa, the theory being that DI can prevent the transaction if it owns more than a 50-percent interest in either of the AFNs.

*Example 7.* During 1969 a wholly-owned Schedule A subsidiary (A) of DI leases machinery to B, a wholly-owned Schedule B subsidiary of DI. The machinery has a value of $1 million when leased and the lease expires in 1972. The transaction is treated under § 505(a)(3) as a $1 million transfer of capital from A to DI and a $1 million transfer of capital from DI to B (see § 312(a)(6)).

Current rental payments under the lease will not involve transfers of capital; rather, they will reduce the earnings of B and increase the earnings of A. When the machinery is returned to A at the end of the lease term, there will be a transfer of capital from B to DI (equal to the residual value of the machinery) and an equivalent transfer of capital from DI to A.

If A had originally leased the machinery from DI, the result would be the same. However, if A had leased the machinery from an unaffiliated person the lease from A to B would involve transfers of capital under § 505(a)(3), only to the extent that the rental paid by B to A in any year is less than the rental paid by A to the principal lessor (see § B312–12).

*Example 8.* During 1969 a wholly-owned Schedule C subsidiary (C) of DI borrows $1 million from a foreign bank. Repayment of the loan is guaranteed by B, a wholly-owned Schedule B subsidiary of DI. In 1971 B is called upon to pay $500,000 under its guarantee and makes such payment. The transfer is treated under § 505(a)(3) as a $500,000 transfer of capital from B to DI and a $500,000 transfer of capital from DI to C. Any resulting positive direct investment in Schedule C would be generally authorized under Subpart J of the regulations if DI had filed an appropriate certificate under § 1002(b) within 10 days after the guarantee was made.

*Example 9.* DI has a wholly owned subsidiary (A) in Schedule A, that has a branch (B) in Schedule B. DI also has a wholly owned subsidiary (C) in Schedule C, that has a branch (X) in Schedule A. During 1969 X lends $100,000 directly to B. Under § 505(a)(1) and (3), the transaction results in a $100,000 transfer of capital from C to DI and a $100,000 transfer of capital from DI to A. The transfer of funds from X is treated as a transfer from the immediate parent (i.e., C) under § 505(a)(1)(i). The transfer of funds to B is treated as a transfer to its immediate parent (i.e., A) under § 505(a)(1)(ii). Since the transfer is deemed to be from C to A, § 505(a)(3) provides that it is treated as a § 312(b) transfer of capital from C to DI, and then as a § 312(a) transfer of capital from DI to A.

Under § 313(b), DI has made a positive net transfer of capital to Schedule B of $100,000 (the amount of net increase in B's assets) and a negative net transfer of capital to Schedule A (the amount of net decrease in X's assets). Under § 505(a)(5), DI is deemed to have made a § 312(a) transfer of capital to C (the amount of net decrease in X's assets not attributable to losses); and under § 505(a)(6), A is deemed to have made a § 312(b) transfer of capital to DI of $100,000 (the amount of net increase in B's assets not attributable to earnings).

Assuming no other transactions during 1969, DI will report a negative net transfer of capital of $100,000 to Schedule A, a positive net transfer of capital of $100,000 to Schedule B and a zero net transfer of capital to Schedule C.

*Example 10.* During 1970, DI's AFN (A) in Schedule A deposits $2 million with a German bank as collateral for a $2 million loan by the bank to DI. DI treats the loan as long-term foreign borrowing and allocates the proceeds to positive direct investment in Schedule C in accordance with § 306(e). The deposit, if made by the DI, would have constituted a § 312(a)(9) transfer of capital to Schedule C. By operation of § 505(a)(3), DI should report for 1970 (i) a § 312(b) transfer of capital of $2 million from Schedule A and a § 312(a) transfer of capital of $2 million to Schedule C on account of the deposit by A and (ii) a § 306(e) deduction of $2 million from positive direct investment in Schedule C.

In 1972 DI repays the borrowing, and A withdraws its deposit. For 1972, DI should report (i) a § 312(b) transfer of capital of $2 million from Schedule C and a § 312(a) transfer of capital of $2 million to Schedule A on account of the withdrawal of the deposit and (ii) a § 312(a)(7) transfer of capital of $2 million to Schedule C for repayment of long-term foreign borrowing.

### § B505–6 Purchase and sale of interests in other AFNs.

Section 505(a)(3) also covers the purchase and sale by incorporated AFNs of interests in other AFNs.

The following general rules are applicable to such transactions:

(i) *Purchase of AFN.*—If an incorporated AFN acquires from an unaffiliated foreign national an interest in a foreign national that becomes an AFN of the parent DI as a result of the acquisition, the full purchase price is treated as a transfer of capital by the acquiring AFN to the DI and as a further transfer of capital by the DI to the acquired AFN. However, if the acquisition is made after December 31, 1967, and the acquired AFN has subsidiaries and/or branches in other scheduled areas that become separate AFNs of the DI as a result of the acquisition, the transfer of capital by the DI should be allocated among the different scheduled areas involved in a manner fairly reflecting the respective values of the direct and indirect interests acquired. As a general rule, an allocation based on the respective net asset values of the new AFNs will be acceptable. (See § B312–4.) The result is the same whether the acquiring AFN pays cash or gives a debt obligation in exchange for the interests acquired. If, however, the consideration for the acquisition is stock of the acquiring AFN, no transfer of capital to or from the DI will result.

(ii) *Sale of AFN.*—If an incorporated AFN sells an interest in another AFN to an unaffiliated foreign national, there will be a transfer of capital by such other AFN to the DI in an amount equal to the purchase price and a further transfer of capital by the DI to the selling AFN in an amount equal to the cost or other basis to the selling AFN of the interest sold. Any capital gain or loss realized by the selling AFN from the sale will be included in determining the earnings of the AFN for the period involved. An allocation of the transfer of capital to the DI among different scheduled areas will be required (generally, based on the relative net asset values of the components divested) if the interest sold was acquired after December 31, 1967, and the AFN in which the interest is sold has subsidiaries and/or branches in different scheduled areas that are separate AFNs of the DI. (See § B312–4.) The result is the same whether the selling AFN receives cash or a debt obligation of the purchaser in exchange for the sale. If, however, consideration for the sale is stock in a foreign national that becomes an AFN as a result of the transaction, no transfer of capital to or from the DI will result.

*Example 11.* During 1969 a wholly owned Schedule B subsidiary (B) of DI purchases from an unaffiliated foreign national, for $1 million in cash, all of the stock of a Schedule C corporation (C). Under § 505(a)(3), the transaction is treated as a $1 million transfer of capital from B to DI and a $1 million transfer of capital from DI to C. Accordingly, the transaction reduces by $1 million the net transfer of capital made by DI to Schedule B during 1969 and increases by an equivalent amount the net transfer of capital made by DI to Schedule C during the same year.

If B had paid only $500,000 in cash and gave a 5-year note to the seller for the $500,000 balance of the purchase price, the result would be the same. No transfers of capital will be involved when B subsequently makes payments on the note.

The result would also be the same even if DI owned only 51 percent of the Schedule B AFN. Note, however, that if DI owned an interest of 50 percent or less in the Schedule B AFN, the transaction would not involve any transfer of capital to or from DI, regardless of the amount of the interest in the Schedule C corporation acquired by the Schedule B subsidiary, since the DI is presumed in this situation to lack control over the transaction. Note also that if the acquiring and the acquired corporations were in the same scheduled area, the transaction would effectively "net out."

*Example 12.* DI has a wholly-owned Schedule B subsidiary (B) that has a wholly-owned Schedule C subsidiary (C). During 1969, B sells all stock of C, that had been purchased for $500,000, to an unaffiliated foreign national for $1 million in cash. Under § 505(a)(3), the transaction is treated as a $1 million transfer of capital from C to DI and a $500,000 transfer of capital from DI to B. The $500,000 profit (measured by historical cost) realized by B will be taken into account in calculating that subsidiary's 1969 earnings.

If B had received $500,000 in cash and a 5-year note of the purchaser for the $500,000 balance of the purchase price, the result would be the same. No transfers of capital will be involved when B subsequently receives payments on the note.

The result would be the same even if DI owned only 51 percent of the Schedule B AFN. Note, however, that if DI owned an interest of 50 percent or less in the Schedule B AFN, the transaction would not involve any transfer of capital to or from DI, since the DI is presumed in this situation to lack control over the transaction.

*Example 13.* In 1969, DI's wholly-owned incorporated AFN (C) in Schedule C acquired a 50-percent profits interest in a joint venture (B) in Schedule B from an unaffiliated foreign national for $1 million cash. During 1969 B earned $100,000 which it remitted to C and the other owners. In 1970, C's interest in B is purchased by the local government







V 38-179 SEP 17 73 XUM

for $1,200,000. Assuming no other transactions during 1970, DI should report a negative net transfer of capital with respect to B of $1,200,000, a positive net transfer of capital to C of $1 million and reinvested earnings for C of $200,000 (gain on the sale).

*Example 14.* DI has a wholly owned incorporated AFN (C) in Schedule C, which has a subsidiary (A) in Schedule A. During 1970, C sells its interest in A (acquired for $2 million) to B, a wholly-owned incorporated AFN of DI in Schedule B for $2 million in cash. By operation of § 505, DI should report a negative transfer of capital from Schedule B of $2 million and a positive transfer of capital to Schedule C of $2 million.

*Example 15.* In 1969, DI's wholly-owned incorporated AFN (A) in Schedule A acquired a 50-percent profits interest in a joint venture (B) in Schedule B for $1 million, the other 50 percent being held by an unaffiliated foreign national (X). For 1969, DI reported a net transfer of capital of $1 million to Schedule B and a negative net transfer of capital of $1 million to Schedule A.

During 1970, DI's wholly-owned subsidiary (C) in Schedule C acquires A's interest in B for $2 million. B earns $400,000 in 1970 and remits $100,000 each to C and X. B's net assets increase by $200,000. Assuming no other transactions during 1970, DI should report a negative transfer of capital from C of $2 million and reinvested earnings for C of $100,000; a net transfer of capital to Schedule B of $100,000; a positive transfer of capital to A of $1 million and reinvested earnings for A of $1 million (gain on the sale of B to C).

### § B305–7 Transactions between AFNs not involving transfers of capital.

Transfers between AFNs will not involve transfers of capital to or from the DI unless the transfer, if actually made by the DI, would be a transfer of capital under § 312. Consequently, the transactions described in § 312(c), except transactions involving the export credit exemption system described in § 312(c)(13) and (14), will not result in transfers of capital when carried out by AFNs. See § B312–18 and 19.

(i) *Stock for stock transactions and reorganizations.*—As a general rule, a transfer of capital to or from a DI will not be involved under § 505(a)(3) if (a) an AFN of a DI transfers an interest in a lower-tier AFN and receives in exchange stock of a foreign corporation that becomes an AFN of the DI as a result of the transaction or if (b) there is a recapitalization, reorganization, merger or consolidation involving one or more AFNs. Although a foreign enterprise may cease to be an AFN of a DI as a result of the transaction, the transaction does not affect the amount of direct investment made by the DI during the base period years in the scheduled area of such foreign enterprise.

*Example 16.* B, a wholly-owned Schedule B subsidiary of DI, transfers to an unaffiliated foreign national all of the stock of a wholly-owned Brazilian subsidiary in exchange for all of the stock of a French corporation. The transaction does not result in any transfer of capital to or from DI. However, as a result of the transaction DI becomes a DI in the French corporation and ceases to be a DI in the Brazilian corporation. (The result would be the same if the other party to the transaction were also an AFN of DI.)

*Example 17.* A wholly-owned German subsidiary of DI is reincorporated in the United Kingdom (or, alternatively, merged into a wholly-owned United Kingdom subsidiary of the DI). Neither transaction results in any transfer of capital to or from the DI. However, the business of the newly created United Kingdom subsidiary (or the United Kingdom subsidiary after the merger) that is conducted in Germany will be a branch of the United Kingdom subsidiary and may, therefore be a separate unincorporated Schedule C AFN of DI by operation of § 304.

(ii) *Transfers of certain intangibles.*—A transfer of property from one AFN to another AFN of the same DI before or after January 1, 1968, in exchange for a debt or equity interest in the transferee AFN does not involve a transfer of capital to or from the DI (regardless of the form of the transfer or the consideration exchanged therefor) if the property transferred consists of patents, copyrights, trademarks, trade names, trade secrets, technology, proprietary processes, proprietary information, or similar intangibles or any rights or interests therein or applications or contracts relating thereto (see § 312(c)(11)). No deduction for amortization or any like charge with respect to such an intangible transferred after Janaury 1, 1968, shall be made against earnings in calculating the earnings of the transferee AFN.

(iii) *Vessel charters.*—Any charter of a vessel for a period of time made or deemed made by an incorporated AFN to another incorporated AFN of the DI is excluded from treatment as a transfer of capital under § 505(a)(3). This exclusion applies to voyage and bareboat charters as well as to time charters.

*Example 18.* During 1969 a wholly-owned Panamanian subsidiary (A) of DI, charters one of its ships to C, a wholly-owned German subsidiary of the DI, for a period of 6 months. There is no transfer of capital to or from DI under § 505(a)(3).

(iv) *Short-term trade credits between AFNs.*—Section 505(b) provides, in effect, that the extension or satisfaction of a short-term trade credit between non-Canadian AFNs (see § 1103(c)) of a DI will not result in a transfer of capital to or from the DI, or in any net change in the net assets of an unincorporated AFN extending or receiving such credit for purposes of § 313(b). Section 505(b) applies to trade credits that are extended in the ordinary course of business pursuant to arm's-length terms and are in fact paid within 12 months after they are extended.

*Example 19.* On September 1, 1969, a wholly-owned French subsidiary (C) of DI, sells equipment to A, a Brazilian subsidiary of DI in the ordinary course of business pursuant to arm's-length terms. The $1 million purchase price is payable in full by March 1, 1970. There is no transfer of capital to or from DI. (The result would be the same if the sale of services, rather than the sale of goods, were involved.) If, however, no part of the purchase price is paid by September 1, 1970, there would be a $1 million transfer of capital from C to DI and from DI to A, deemed to have occurred on September 1, 1970, or on such sooner date as it became apparent that A would not be able to make payment prior to September 1, 1970. (The result would be the same if the sale of services, rather than the sale of goods, were involved.)

### § B305–8 Transactions between AFNs and their branches in different scheduled areas.

The net transfer of capital by a DI to unincorporated AFNs in any scheduled area during any period will generally equal the DI's share in the aggregate net increase or decrease, during the year, in such AFNs' aggregate net assets (see § 313(b)). This calculation is based on changes in the net assets of all unincorporated AFNs located in such scheduled area, including those in which DI has an indirect interest, e.g., a branch of an AFN that is headquartered in another scheduled area. However, § 505(a)(4) provides that a DI is chargeable with a net transfer of capital only to unincorporated AFNs the immediate parent of which is either the DI or another AFN that is an "affiliate" of the DI as defined in § 903(a).

While a DI's share of the change in net assets of a § 903(a) affiliate incorporated AFN's branch is automatically included in the DI's net transfer of capital to the scheduled area where the branch is located, certain changes in branch assets also result in a corresponding transfer of capital from or to the parent AFN. Section 505(a) (5) and (6) provides that a corresponding transfer of capital from or to the parent occurs when the net increase or decrease in branch assets cannot be attributed to earnings or losses of the branch.

The same principles apply to transactions involving an incorporated AFN that has a less than 100 percent profits interest in a joint venture or a partnership, rather than a branch (which is presumably 100 percent-owned). See § B313–4(ii), especially Example 8, and § B505–9 below.

*Example 20.* DI has a wholly-owned AFN in France (Schedule C), that has a branch in Brazil (Schedule A). DI has no other AFNs. During 1969 the branch has earnings of $50,000 but its net assets increase by $100,000 because of a transfer of $50,000 from the AFN to the branch. This results, under § 313(b), in a $100,000 positive net transfer of capital to Schedule A (DI's share of the net increase in branch assets) and, under § 505(a)(6), in a $50,000 negative net transfer of capital to Schedule C (the amount by which DI's share in the net increase in branch assets ($100,000) exceeded DI's share in the branch's earnings ($50,000)).

If DI owned only 60 percent of the French AFN, the result would be a $60,000 positive net transfer of capital to Schedule A (60 percent of $100,000) and a $30,000 negative net transfer of capital to Schedule C (60 percent of $50,000). If DI owned 50 percent or less of the French AFN, no net transfer of capital would be involved.

The following are variations of the facts given above:

(a) *Positive earnings-decrease in assets.* If the branch had 1969 earnings of $50,000 but its net assets decreased by $150,000 because of a remittance of $200,000 to the parent AFN, this would result, under § 313 (b), in a $150,000 negative net transfer of capital to Schedule A (DI's share of the $150,000 net decrease in branch assets) and, under § 505(a)(5), in a $150,000 positive net transfer of capital to Schedule C (DI's share of the $150,000 net decrease in branch assets not attributable to losses). Moreover, the full amount of branch earnings ($50,000) would be treated as having been distributed to the Schedule C parent and would be deducted from dividends paid by the parent to DI (see § B306–6(iii)). If DI owned only 70 percent of the French AFN, the result would be a $105,000 negative net transfer of capital to Schedule A (70 percent of $150,000) and a $105,000 positive net transfer of capital to Schedule C (70 percent of $150,000). Moreover, $35,000 of the earnings of the branch (DI's 70 percent share of the $50,000 branch earnings) would be treated as having been distributed to the Schedule C parent and should be deducted from dividends paid by the parent to DI. If DI owned 50 percent or less of the French AFN; no net transfer of capital would be involved; however, an appropriate percentage of the earnings of the branch would still be treated as having been distributed to the Schedule C parent and would be deducted from dividends paid by the parent to DI.

(b) *Zero earnings-decrease in assets.* If the branch had 1969 earnings of zero and net assets decreased by $100,000 because of a remittance of $100,000 to the parent AFN, this would result, under § 313(b), in a $100,000 negative net transfer of capital to Schedule A (DI's share of the $100,000 net decrease in branch assets) and, under § 505(a)(5), in a $100,000 positive net transfer of capital to Schedule C (DI's share of the $100,000 net decrease in branch assets net attributable to losses).

(c) *Loss-no change in assets.* If the branch incurred a loss of $100,000 during 1969, but there was no change in net assets because of a transfer of $100,000 from the parent AFN, this would result, under § 505(a)(6), in a $100,000 negative net transfer of capital to Schedule C (DI's share of the $100,000 loss).

(d) *Loss-increase in assets.* If the branch incurred a loss of $100,000 during 1969 but had a $50,000 increase in net assets because of a transfer of $150,000 from the parent AFN, this would result, under § 313(b), in a $50,000 positive net transfer of capital to Schedule A (DI's share of the $50,000 net increase in branch assets) and, under § 505(a)(6), in a $150,000 negative net transfer of capital to Schedule C (DI's share of the $150,000 net increase in net assets plus DI's share of the $100,000 loss).

(e) *Decrease in assets smaller than loss.* If the branch incurred a loss of $100,000 during 1969 while net assets decreased by only $25,000 because of a transfer of $75,000 from the parent AFN, this would result, under § 313(b), in a $25,000 negative net transfer of capital to Schedule A (DI's share of the $25,000 net decrease in branch assets) and, under § 505(a)(6), in a $75,000 negative net transfer of capital to Schedule C (the amount by which DI's share of the loss ($100,000) exceeds DI's share of the net decrease in branch assets ($25,000)).

(f) *Decrease in assets greater than loss.* If the branch incurred a loss of $100,000 during 1969 while net assets decreased by $250,000 because of a remittance of $150,000 to the parent AFN, this would result, under § 313(b), in a $250,000 negative net transfer of capital to Schedule A (DI's share of the $250,000 net decrease in branch assets) and, under § 505(a)(5), in a $150,000 positive net transfer of capital to Schedule C (DI's share of the $250,000 net decrease in branch assets not attributable to the $100,000 loss).

### § B305–9 Miscellaneous transactions.

An unincorporated AFN may have two or more immediate parents that are AFNs of the DI. The DI's interest in the unincorporated AFN held through any immediate parent that is not a § 903(a) affiliate of the DI should be excluded in calculating DI's net transfer of capital under § 313(b).

*Example 21.* DI has a wholly-owned subsidiary (A) in Schedule A and a 50 percent owned subsidiary (C) in Schedule C. A and C each have a 50 percent profits interest in a joint venture (B) in Schedule B. During 1970 B earns $1 million, and its net assets increase by $1 million. DI's net transfer of capital under § 313(b) with respect to B is $500,000. DI's share of the increase in the assets of B attributable to C is excluded because C is not a § 903(a) affiliate of DI. If C were 60 percent owned by the DI, DI's share of B's increase in assets for 1970 would be $800,000: A's share (50% × 1,000,000) × 100%, plus C's share (50% × 1,000,000) × 60%.

During 1971, C (60% owned) makes a $1 million loan to B. For purposes of § 313(b) B has a net increase in its assets of $1 million. C's share of such increase is $1 million, and A's share is zero. See Example 8 in § B313–4. DI's share of the increase in B's assets is $600,000 (60% of C's share). For 1971 DI should report a net transfer of capital under § 313(b) to Schedule B of $600,000 and a negative net transfer of capital to Schedule C under § 313(a) of $600,000.

*Example 22.* DI has a wholly-owned incorporated AFN (C) in Schedule C and a wholly-owned incorporated AFN (a) in Schedule A. A and C, respectively, have a 40 percent and a 60 percent profits interest in a joint venture (B) in Schedule B. During 1970 DI lends $100,000 to B. Under § 505(a) (1) and (2), DI is deemed to have made a $40,000 transfer of capital to A (40 percent of $100,000) and a $60,000 transfer of capital to C (60 percent of $100,000). B has a net increase in assets of $100,000, which is not attributable to earnings; therefore, under § 505(a)(6), A is deemed to have made a transfer of capital to DI of $40,000, and C is deemed to have made a transfer of capital to DI of $60,000. Consequently, DI's net transfer of capital to each scheduled area for 1970 is as follows: Schedule A, zero; Schedule B, $100,000; Schedule C, zero.

*Example 23.* Same facts as in Example 22, except that A is 75 percent owned by DI and C is 50 percent owned. In this case, the loan from DI to B would constitute a transfer of capital under § 505(a) (1) and (2) to A of $40,000 and to C of $60,000 as in Example 22. However, since C is not an affiliate of DI, DI's share of B's increase in assets is only $30,000 (A's 40 percent share × 75 percent). Under § 505(a)(6), A is deemed to have made a transfer of capital to DI of $30,000. C, not being an affiliate, is not deemed to have made a transfer of capital to DI under § 505(a)(6). Therefore, DI's net transfer of capital to each scheduled area is as follows: Schedule A, $10,000; Schedule B, $30,000; Schedule C, $60,000.

If A and C were each 50 percent owned by DI, DI's loan to B would still be deemed made to A and C under § 505(a) (1) and (2) in accordance with the percentage interests of A and C in B. But since neither A or C is an affiliate of DI, DI would have no share in B's increase in assets (see § 505(a)(4)) and no transfers would be deemed made under § 505(a)(6). Consequently, DI's net transfer of capital to each scheduled area would be as follows: Schedule A, $40,000; Schedule B, zero; Schedule C, $60,000.

## B506—Incremental Earnings Allowable

### § B506–1 Introduction.

In addition to the § 503 or § 504 allowable which is elected under § 502, an incremental earnings allowable is provided by § 506. The incremental earnings allowable is a separate allowable that authorizes the making of positive direct investment in excess of that permitted by § 503 or § 504, whichever is elected by the DI. The § 506 incremental earnings allowable has been available to DIs for use since 1970.

### § B506–2 Summary.

Prior to 1973, the incremental earnings allowable, if any, available to a DI was the amount by which 40 percent of incremental earnings (defined in § 506 (a)(3)) for the current year exceeds the greatest amount of positive direct investment authorized in all scheduled areas pursuant to § 503, § 504(a), or § 504(b). For purposes of this calculation, it was immaterial whether the DI elected to be governed by § 503, § 504, or § 507 (when in effect) for the year.

Commencing in 1973, the incremental earnings allowable is the amount by which 40 percent of incremental earnings exceeds the greatest of $2,000,000, the amount of positive direct investment authorized under § 504(a), or the amount of positive direct investment authorized under § 504(b), irrespective of whether the DI elects the § 503, § 504(a) or § 504 (b), allowable for 1973. The figure $2 million has been substituted, in § 506 (a)(4), for the reference to the § 503 allowable because of the increase of the § 503 allowable from $2 million to $6 million for 1973. This increase of $4 million would have substantially reduced the incremental allowable for many DIs. To avoid that result, the figure $2 million has been substituted for the reference to § 503 in § 506(a)(4).

The additional positive direct investment authorized by § 506 may be made in any or all scheduled areas.

Unused § 506 allowables may be carried forward to subsequent years.

### § B506–3 Calculation of incremental earnings allowable.

The following steps are required to calculate the incremental earnings allowable:

Compute current aggregate annual earnings (annual earnings, as defined in § 504(b)(4)) of all incorporated and unincorporated AFNs for all scheduled areas combined, excluding Canada;

Compute base period aggregate annual earnings; i.e., 50 percent of the sum of aggregate annual earnings for the years 1966 and 1967 (but not less than zero); and

Determine the current year's incremental earnings, if any, by subtracting base period aggregate annual earnings from aggregate annual earnings for the year involved.

For 1973 and subsequent years, the incremental earnings allowable is the amount by which 40 percent of the DI's incremental earnings exceeds the greatest amount of $2 million or the positive direct investment authorized to be made by the DI in all scheduled areas for the current year under § 504(a) or § 504(b) (excluding any carryforward of allowables from prior years, and without regard to any reduction under § 1003, specific authorization or compliance action, or to the § 502 election actually made).







V 38 I 179 SEP 17 73 XUM

The following examples illustrate calculation of the § 506 allowable:

*Example 1.* DI has an AFN (A) in Pakistan. In 1966 A had losses of $100,000 and in 1967 earnings of $500,000. DI's base period aggregate annual earnings under § 506(a)(2) is $200,000 ($500,000—$100,000, divided by 2).

Assume that DI's historical and earnings allowables under § 504 (a) and (b) are each less than $2 million. In 1973 A has earnings of $6,800,000.

DI's incremental earnings allowable under § 506 in 1973 is $640,000 calculated as follows (000 omitted):

| | |
|---|---|
| 1968 aggregate annual earnings | $6,800 |
| Deduct: Base period aggregate annual earnings | (200) |
| Incremental earnings | 6,600 |
| 40 percent of incremental earnings | 2,640 |
| Deduct: Largest of $2 million or § 504(a) or (b) available allowables | (2,000) |
| Incremental earnings allowable | 640 |

*Example 2.* DI has six AFNs. Two incorporated in Schedule A, two incorporated in Schedule B and two branches in Schedule C. In 1966 the AFNs had aggregate annual losses of $200,000 and in 1967 aggregate annual earnings of $100,000. DI's base period aggregate annual earnings are, therefore, zero.

Assume that DI's historical allowables in Schedules A and B are, respectively, $300,000 and $400,000. The Schedule C historical allowable is zero. Accordingly, DI's § 504(a) allowables for all scheduled areas are $700,000.

In 1972 the AFNs had annual earnings of $3 million in Schedule A, $2,400,000 in Schedule B, and $2 million in Schedule C. Therefore, DI's 40 percent earnings allowable for 1973 is $1,200,000 in Schedule A, $960,000 in Schedule B, and $800,000 in Schedule C; a total of $2,960,000 worldwide. In 1973, the AFNs have aggregate annual earnings of $8 million.

DI's incremental earnings allowable for 1973 is $240,000, computed as follows (000 omitted):

| | |
|---|---|
| 1973 aggregate annual earnings | $8,000 |
| Deduct: base period aggregate annual earnings | 0 |
| Incremental earnings | 8,000 |
| 40 percent of incremental earnings | 3,200 |
| Deduct: largest of $2 million or § 504 (a) or (b) available allowables (i.e., § 504(b)) | (2,960) |
| Incremental earnings allowable | 240 |

### § B506–4 Application of the § 506 allowable.

Unlike the allowables provided in § 504(a) and § 504(b), which are schedular, the incremental earnings allowable applies on a worldwide basis. In other words, the additional direct investment authorized by § 506 can be made entirely in one scheduled area, or can be divided among two or more scheduled areas. Any unused § 506 allowable may be carried forward to subsequent years for use in any one or more scheduled areas, without regard to the election made under § 502.

Section 506(b) applies to DIs that elect § 503. Positive direct investment is authorized in excess of $6 million to the extent of the incremental earnings allowable. Since § 506 may be used on a worldwide basis, DIs that elect § 503 may treat the incremental earnings allowable as an addition to the $6 million minimum allowable.

Section 506(c) applies to DIs electing the schedular allowables of § 504(a) and § 504(b). In such cases, the incremental earnings allowable may be used to authorize additional positive direct investment in a given scheduled area or distributed among two or all of the scheduled areas. In calculating positive direct investment made under § 506 in Schedule C, a DI electing § 504 must disregard total losses of all incorporated Schedule C AFNs in accordance with § 504(e).

*Example 3.* In 1973 DI elects to be governed by § 504(a), and has historical allowables of $5 million, $6 million, and $4 million in Schedules A, B, and C, respectively. DI also has an incremental earnings allowable of $1 million.

DI makes positive direct investment of $7,500,000 in Schedule A, $4 million in Schedule B and $4,500,000 in Schedule C, all of which is authorized. In Schedule A, $5 million is authorized by § 504(a), $2 million of the Schedule B historical allowable is carried "downstream" pursuant to § 504(d), and $500,000 of the § 506 allowable is used. In Schedule C, $4 million is authorized by § 504 and the remaining $500,000 is authorized by § 506.

*Example 4.* During 1973 DI elects § 504 with an allowable in Schedule C of zero. DI also has a § 506 incremental earnings allowable of $200,000. During 1973 DI's Schedule C AFNs have total losses of $100,000. If DI desires to use the incremental earnings allowable in Schedule C, DI may make a positive net transfer of capital not in excess of $200,000; i.e., the losses will not be an offset for purposes of computing positive direct investment made in Schedule C under § 506. (See § 506(c).)

### § B506–5 Carryforward of the § 506 allowable.

Unused § 506 allowables may be carried forward to subsequent years for use in any scheduled area, even though DI may have elected § 503 (or § 507 in a year prior to 1973), which does not authorize carryforwards and eliminates §§ 504 and 1302 carryforwards.

*Example 5.* DI elects to be governed by § 503 in 1972 and has an incremental earnings allowable of $200,000. During 1972, DI makes positive direct investment worldwide of $2,100,000. DI has a § 506 carryforward of $100,000.

*Example 6.* In 1972 DI has historical allowables of $7 million in Schedule A and $7 million in Schedule C. DI also has a carryforward allowable of $1 million in Schedule A pursuant to § 504(d)(1) and an incremental earnings allowable under § 506 of $1 million. During 1972, DI makes positive direct investment of $8 million in Schedule A and $7 million in Schedule C.

DI will be permitted to use the $1 million incremental earnings allowable in any scheduled area in subsequent years.

### § B506–6 Miscellaneous.

Repayment charges incurred under § 1003 in connection with repayment of certain borrowings will (starting in 1970) reduce the § 506 incremental earnings allowable to the extent that such repayments exceed the DI's § 503, or § 504 allowables. (See § 1003(c)(2).)

## B507—Alternative Minimum and Schedule A Supplemental Allowable [Revoked]

## B801—Applications for Specific Authorizations or Exemptions or for Interpretive Opinions

### § B801–1 Introduction.

Section 201 prohibits DIs from making positive direct investment in AFNs in excess of amounts generally authorized by the regulations, or as may be specifically authorized by OFDI. Section 801 provides that DIs may file applications for specific authorizations to effect positive direct investment otherwise prohibited and specific exemptions from complying with particular requirements of the regulations. In addition, DIs may file requests for interpretive opinions concerning particular factual situations, including those involving the possibility that a DI may have to apply for a specific authorization or exemption.

### § B801–2 Procedures.

Applications for specific authorizations or exemptions and requests for interpretative opinions must be submitted in writing and must comply with instructions contained in the Revised Instructions for Submitting Applications for Specific Authorizations, Specific Exemptions, or Interpretations, issued by OFDI on May 24, 1973, as they may be amended and supplemented from time to time.

If a DI is uncertain whether it may or may not require a specific authorization or exemption concerning a particular transaction, a combined request for an interpretative opinion or, in the alternative, a specific authorization or exemption may be submitted.

### § B801–3 Particular authorizations or exemptions.

Note that Part IV of the Instructions sets forth particular requirements concerning applications for specific authorizations or exemptions regarding (a) the borrowing hardship test (paragraph A), (b) reinvested earnings of AFNs (paragraph C), (c) foreign equity financing of direct investment (paragraph D), (d) triangular or parallel financing arrangements (paragraph E), (e) an increase in the amount of liquid foreign balances that a DI can hold (paragraph F), (f) upstreaming to Schedule C of § 504(b) earnings allowable (paragraph G), (g) capitalized exploration expenditures (paragraph H), (h) change in elections (paragraph I), and (i) expropriation of AFN property (paragraph J). In view of the export credit exemption system provided in the regulations for 1973 (§ 312(c)(13) and (14)), export credit specific authorization relief in the form available prior to 1973 is no longer necessary (paragraph B).

## B900—Subpart I (§§ 901–907)

### § B900–1 Introduction.

Subpart I of the regulations (§§ 901–907) deals with direct investment by persons within the United States who are related, affiliated or associated with





other persons within the United States. These relationships are described as affiliated groups (§ 903), family groups (§ 904), associated groups (§ 905), and ownership of direct investors (§ 906). Section 907 provides rules for reporting direct investment transactions involving such groups. Sections 901 and 902 define the terms "direct interests" and "indirect interests," which are significant in determining:

Existence of a DI–AFN relationship under §§ 304 and 305;

A DI's share in reinvested earnings of an incorporated AFN under § 306(b);

Whether an AFN is an "affiliate" of a DI, so that transfers made by or to the AFN should be attributed to the DI under § 505;

Existence of an affiliated or associated group under §§ 903 and 905; and

Availability and consequences of an election under § 906(b)(1).

Members of an affiliated group or a family group are treated as a single entity for reporting and compliance purposes under the regulations. An affiliated group consists of a U.S. person and all of such person's U.S. affiliates (see § 903). A family group consists of all family members residing in the same household (see § 904). An affiliated or family group files a consolidated Form FDI–101 (Base Period Report), FDI–102 (Cumulative Quarterly Report), and FDI–102F (Annual Report); members of the group do not file reports individually (see § 907(d)).

Two or more U.S. persons acting in concert to own or acquire an aggregate 10 percent or greater interest in a foreign national constitute an associated group. Each member of an associated group is treated as a separate DI in the AFN acquired (the "group AFN"), and is required to report individually unless certain requirements pertaining to consolidated reporting are met (see §§ 905(b)(3) and 907(c)(2)).

Direct investment transactions of a DI normally will not be attributed to any other person merely because such other person owns an interest in the DI. However, an option under § 906(b)(1) is available to direct owners of a DI, whereby each such owner may elect to be put in the position of the DI as to direct investment, allowables and foreign balances, in accordance with such owner's proportionate interest in the DI.

### § B901–1 Definition of direct interest.

A direct interest in a corporation, partnership, joint venture, trust or other entity is defined in § 901 as an interest that is not owned through an intervening person or chain of persons.

(i) *Direct interest in a corporation.*—The amount of a direct interest in a corporation is determined by the percentage held of total combined voting power (represented by all outstanding voting securities of the corporation). Voting power means the power to vote presently in an election of directors of the corporation or, if the corporation does not have directors, in the election or appointment of persons performing management control functions. Treasury shares and shares reserved for issuance upon the exercise of options, warrants, conversion or other similar rights, and shares owned by a wholly owned subsidiary, are not deemed outstanding for purposes of determining the magnitude of a direct interest.

*Example 1.* As of January 1, 1969, a corporation (X) has 100,000 outstanding shares of capital stock, 60,000 of which are class "A" common, 20,000 are class "B" common, and 20,000 are preferred. In the election of directors, each class A carries three votes and each class B share carries one vote. Holders of preferred stock are entitled to vote on major matters such as mergers, consolidations, etc., or amendments to the certificate of incorporation affecting the preferred stock; they are not entitled to vote in the election of directors unless four quarterly dividend payments are in arrears. Y, an individual, owns 8,000 shares of class A common stock, 6,000 shares of class B common stock and 500 shares of preferred stock. No dividends on the preferred stock are in arrears as of January 1, 1969. Y's direct interest in X as of January 1, 1969, is 15 percent, since Y owns 15 percent of the total combined voting power of X (30,000 of a total 200,000 votes).

Beneficial ownership of voting stock is ordinarily the test of interest in a corporation for determining whether one is a DI, but ownership of such stock is not necessarily determinative of a DI's share in earnings of an incorporated AFN for purposes of § 306 because a corporation may have two classes of stock outstanding that share equally in earnings but do not have equal voting rights. Examples in this Bulletin involving incorporated AFNs are based on the assumption that the DI's voting interest and interest in earnings of the AFN are coextensive.

(ii) *Direct interest in unincorporated business activities.*—The amount of a direct interest in an unincorporated enterprise, such as a partnership or joint venture, is usually determined by the percentage share of profits to which one is entitled. If one is entitled to a fixed amount rather than a percentage of profits, or the amount is for any reason variable, the direct interest normally should be calculated by reference to the portion of profits actually distributed or distributable at the close of the most recently ended annual accounting period of the organization, assuming there was no change in the interest since that time. If neither of the foregoing rules appropriately reflects the direct interest in an unincorporated entity, the amount of direct interest should be calculated by whatever method will produce a reasonable result.

*Example 2.* On January 1, 1969, P, a partnership, has three partners (A, B, and C). Under the partnership agreement, A is entitled to the first $100,000 of distributed profits, and if there are additional profits, he is entitled to receive 5 percent of all such additional profits. B is entitled to 50 percent of profits after the first $100,000 up to $500,000 of total profits and to 35 percent of all profits over $500,000. C is entitled to 45 percent of profits after the first $100,000 up to $500,000 and 60 percent of all profits over $500,000. Between January 1 and December 31, 1969, P distributed $1 million to the partners. A received $145,000, B received $375,000, and C received $480,000. As of January 1, 1970, A's interest in the partnership is 14.5 percent, B's interest is 37.5 percent, and C's interest is 48 percent.

The result would be the same if no distribution were made but the profits were retained and added to the capital accounts of the partners in the same proportion.

*Example 3.* P and Q, two U.S. corporations, enter into a joint venture agreement for the purpose of constructing and owning an apartment house in Rome. The land on which the building is to be constructed is owned by R, an Italian national, who leases it to P and Q for a rental equal to 20 percent of the annual net rental received by P and Q from the tenants of the building. P and Q are to share equally the remaining 80 percent of net rentals received. The apartment house is an AFN of P and Q, and each has a 50 percent direct interest in the AFN.

If R were a person within the United States, the result would be the same. In addition, the real estate would be an AFN of R in which R has a 100 percent direct interest. If, however, R were not only a person within the United States but a party to the joint venture agreement, P, Q, and R would be members of an associated group (see § 905). The land, and building would be an AFN of P, of Q, and of R, in which P and Q each have a 40 percent interest and in which R has a 20 percent interest.

If Z, an Italian corporation, becomes a member of the construction joint venture and will share equally with P and Q net rentals of the apartment house after R has received his share, the apartment house would be an AFN of P and Q, and P and Q each would have a 33⅓ percent direct interest in that AFN.

### § 902–1 Definition of indirect interest.

An indirect interest in a corporation, partnership, joint venture, trust or other entity is an interest owned through an intervening person or chain of persons. The amount of an indirect interest is calculated by multiplying together the direct interests of each person in the chain.

*Example 4.* DI owns 50 percent of outstanding voting stock of P, a U.S. corporation. P owns 70 percent of outstanding voting stock of C, a French corporation, while C owns 50 percent of outstanding voting stock of B, a United Kingdom corporation. DI has a 50 percent direct interest in P, a 35 percent indirect interest in C (50 percent × 70 percent), and a 17.5 percent indirect interest in B (35 percent of C's 50 percent interest).

*Example 5.* DI has a 17.5 percent interest in B, a United Kingdom corporation. B has a manufacturing branch in Brazil (A) and is entitled to 80 percent of the profits of C, a partnership organized under the laws of Germany. DI has a 17.5 percent indirect interest in A (17.5 percent × 100 percent) and a 14 percent indirect interest in C (17.5 percent × 80 percent).

### § B903–1 Definition of affiliate.

As defined in § 903(a), an "affiliate" of a person within the United States is any other person in which the aggregate of direct interests (defined in § 901) owned by the former person and its affiliates exceeds 50 percent. An "affiliate" may be a U.S. person or a foreign national.

*Example 6.* X is a U.S. corporation. X has a 51 percent direct interest in corporation Y. Y is an affiliate of X. X has a 30 percent direct interest in corporation Z, and Y has a 25 percent direct interest in Z. Z is an affiliate of X, since X and Y (affiliate of X) together have more than 50 percent direct interest in Z. The location of Y and Z is immaterial.



V 38 I 179 SEP 17 73 XUM

Y has a 50 percent direct interest in corporation A. A is not an affiliate of X.

*Example 7.* An individual resident and citizen of the United States (P) directly owns 51 percent of outstanding voting stock of corporation A, 10 percent of voting stock of corporation C, and all voting stock of corporation Y. Corporation A directly owns 30 percent of outstanding voting stock of corporation B, and corporation B directly owns 45 percent of outstanding voting stock of corporation C. Corporation Y directly owns 60 percent of outstanding voting stock of corporation Z, and corporation Z directly owns 40 percent of outstanding voting stock of corporation B. All corporations are affiliates of P.

(i) *Consequences of being an affiliate.*—A U.S. person and all U.S. affiliates constitute an "affiliated group" (see § 903(b)). When a U.S. person has an AFN that is an "affiliate" under § 903(a), transactions between the affiliate AFN and any other AFN of the U.S. person are subject to § 505.

(ii) *Definition of affiliated group.*—As defined in § 903(b), an "affiliated group" is a person within the United States and all such person's "affiliates" who are persons within the United States. (The acquisition of an affiliate that is a person within the United States is a combination within the meaning of § 312(c)(1)(ii). See B312–18(i).)

*Example 8.* P is an individual resident and citizen of the United States. P has a 60 percent direct interest in X, a U.S. corporation. X has a 60 percent interest in C, a French corporation. X and C are affiliates of P. P and X are an affiliated group. C is not a member of the affiliated group, because C is not a person within the United States.

(iii) *Treatment of members of an affiliated group as a single person.*—Except for purposes of an election under § 906(b)(1), all members of an affiliated group are treated as a single person (see § 903(c)). Consequently, the foreign balances, direct investment transactions and allowables of each member are attributed to the group. The group files a single report for each period for which a report is required, aggregating reportable items of all members of the group (see § 907(d)). In addition, the group, as a whole, makes one election of allowables under § 502.

*Example 9.* Since 1963 X, a U.S. corporation, has owned 51 percent of outstanding stock of another U.S. corporation, Y. X and Y are members of an affiliated group, under § 903(b). Since 1963 X has had a wholly-owned subsidiary (B) in Schedule B and Y has had a 10-percent-owned subsidiary (A) in Schedule A. B is X's sole AFN and A is Y's sole AFN. During 1965–66 X made positive direct investment of $1 million in Schedule B and lent $300,000 to A. Y made positive direct investment in Schedule A of $1,300,000. X and Y, as an affiliated group, filed a single Form FDI–101 showing the following § 504(a) historical allowables (000 omitted):

| | |
|---|---|
| Schedule A: | |
| Positive direct investment for 1965–66 ($1,300 plus $300) | $1,600 |
| § 504(a) allowable ($1,600×50%×110%) | 880 |
| Schedule B: | |
| Positive direct investment for, 1965–66 | 1,000 |
| § 504(a) allowable ($1,000×50%×65%) | 325 |

In 1969, X and Y elect the historical allowable of § 504 (a) and (c). X and Y make positive direct investment in Schedules A and B in an amount aggregating the amounts authorized pursuant to the foregoing calculations. Unused allowables will be available for carryforward or carryover under § 504 by the affiliated group.

Positive direct investment made during the year by X and Y will be reported on a single Form FDI–102 and Form FDI–102F.

*Example 10.* A, B, C, and D constitute an affiliated group. During 1965 and 1966, average end-of-month liquid foreign balances subject to § 203(c) held by each member of the group were as follows: A—$100,000; B—$50,000; C—$25,000; and D—none. The Form FDI–101 filed by the group should show an average end-of-month liquid foreign balance of $175,000 (the sum of the monthly 1965–66 averages of each member of the group).

An affiliated group may itself be a member of an "associated group", as defined in § 905, if any member of the affiliated group acts in concert with another U.S. person (not a member of the same affiliated group) in acquiring or owning an interest in a foreign national.

*Example 11.* X is a member of an affiliated group. X enters into an agreement with an unrelated U.S. corporation, Y, pursuant to which X and Y each acquire 5 percent of the outstanding voting stock of C, a Netherlands corporation, from an unrelated foreign national. C thereby becomes an AFN both of the affiliated group and of Y.

### § B905–1 Definition of family group.

A "family group" is defined in § 904 as an individual within the United States, his spouse (unless legally separated), and all relatives of such individual or his spouse residing with such individual. As with an affiliated group, all members of a family group are deemed a single person within the United States and file one report under § 602 aggregating all foreign balances, direct investment transactions and other reportable items attributable to each member of the group. Members of a family group cannot elect to report separately (see § B907–1(iv)).

*Example 12.* H, a U.S. citizen and resident, lives in New York City with his wife (W) and two teenage daughters (P and Q). H and W also have two sons (R and S). R is 20 years of age, unmarried, attends undergraduate college in California, and is supported by H and W; S is 28 years of age, married, with a child of his own, is self supporting, and maintains his own home. W's grandfather (G) resides with H and W. H, R, and S each own 5 percent of outstanding voting stock of a French corporation (C). W who is wealthy in her own right, is a joint owner with her grandfather, G, of a substantial parcel of commercial real property (K) in the United Kingdom. H, W, P, Q, R, and G are members of a family group and X and K are AFNs of the group. S is not a member of the family group. The family group should file a single report under § 602 for each reporting period, aggregating the direct investment transactions during the relevant period between each member of the group and X and K.

A family group may itself be a member of an affiliated group as defined in § 903, or of an associated group as defined in § 905.

*Example 13.* Same facts as in Example 12, except that H owns 100 percent of outstanding voting stock of a U.S. corporation (U), and H and W each own 30 percent of outstanding voting stock of another U.S. corporation (V). The family group (i.e., H, W, P, Q, R, and G), together with U and V, constitute an affiliated group and are subject to the rules governing reporting and other obligations of affiliated groups.

*Example 14.* Same facts as in Example 12. In 1969, H, a son (S), and T, an unrelated U.S. person, enter into an agreement pursuant to which each purchases 4 percent of outstanding voting stock of a Japanese corporation (J) from an unrelated foreign national for $100,000 in cash, or a total of $300,000. The family group together with S and T, are an associated group under § 905(a). J becomes an AFN of the family group as well as of S and of T, and each has made a $100,000 transfer of capital to J (Schedule B).

*Example 15.* A U.S. citizen and resident (X) owns all outstanding voting stock of a French corporation (C). In 1967, X establishes an inter vivos trust under New York law and contributes all stock of C to the trust. The trust beneficiaries are X's three minor children, all of whom reside with X. X and a domestic bank are cotrustees of the trust and X expressly retains the right to revoke or amend the trust without consent of the trust beneficiaries. No associated group is involved in this situation. However, X and his children are members of a family group, and the family group and the trust are members of an affiliated group. C is an AFN of the affiliated group.

### § B905–1 Definition of associated group.

An "associated group" is defined in § 905(a) as two or more persons within the United States, including individuals, legal entities, affiliated groups or family groups, if: (a) Such persons act in concert, pursuant to an express or implied agreement or understanding, to own or acquire interests in the same corporation or partnership organized under the laws of a foreign country or in the same business venture conducted within a foreign country; (b) the interests in the foreign enterprise owned or acquired are not owned or acquired through a corporation, partnership (other than a joint venture) or trust within the United States, whether or not such corporation, partnership, or trust is organized or created for the purpose of owning or acquiring the interests; and (c) the aggregate interests in the foreign enterprise owned or acquired would, if owned or acquired by one U.S. person, cause such person to be a DI.

A person owning a direct or indirect interest in a U.S. corporation or partnership is not a member of an associated group merely because the U.S. corporation or partnership directly owns an interest in a foreign enterprise.

*Example 16.* In 1968, three U.S. citizens and residents (A, B, and X) enter into an agreement pursuant to which they form and capitalize a Delaware corporation (D) and D purchases all outstanding voting stock of a French corporation (C) from an unrelated foreign national (N), for $300,000 in cash. A, B, and X each acquire 33⅓ percent of the voting stock of D. A, B, and X are not members of an associated group although, as a result of the purchase, C will become an AFN of each of A, B, X, and D. Unless an election under § 906(b)(1) is made with respect to D, the transfer of capital to C (Schedule C), resulting from purchase of C's stock, as well as all subsequent direct investment transactions between D and C, will be charged to and reported by D alone (see § B907–1(iii)).

*Example 17.* Same facts as in Exemple 16, except that A, B, and X do not organize D, but enter into an agreement pursuant to which each of them directly acquires 8 percent of outstanding voting stock of C from N for $100,000 in cash, or a total of $300,000. A, B, and X are members of an associated group and each will be charged with a $100,000 transfer of capital to C (Schedule C). Moreover, unless A, B, and X exercise the election provided in § 907(c)(2) to report as a group, A, B, and X will each file separate Forms FDI–102 and FDI–102F.

*Example 18.* In 1969, three U.S. corporations (A, B, and C) enter into a joint venture agreement for the purpose of developing and exploiting an oil concession in Iran. The agreement is made in New York and provides that it is to be governed by New York law. Under the pertinent concession agreement, the Iranian government is entitled to 50 percent of all oil produced, while A, B, and C are to share the remaining 50 percent. A, B, and C are members of an associated group; the joint venture in Iran is an AFN of each.

(i) *Acting in concert pursuant to an agreement or understanding.*—An associated group exists only if two or more persons within the United States act in concert pursuant to an agreement or understanding. The agreement may be oral or written, and an agreement may be implied from the surrounding facts and circumstances even when no express agreement is involved. The most common examples of an express agreement are a joint venture or stockholders' agreements with respect to the stock and management of the foreign enterprise involved. The mere signature, adherence to or acceptance of the articles of incorporation or bylaws of a foreign corporation will not, of themselves, be considered an express or implied agreement or understanding to act in concert within the meaning of § 905(a). The result may be different, however, if the articles or bylaws contain provisions ordinarily contained in a stockholders' agreement. Similarly, the purchase of stock of a foreign corporation by U.S. underwriters and dealers or U.S. investors in connection with a bona fide public offering, and the execution and performance of customary agreements in connection with such offering, will not, of themselves, be considered such an agreement or understanding.

*Example 19.* In 1969, two U.S. corporations (A and B) each acquire 30 percent of outstanding voting stock of a foreign corporation (F). Simultaneously, A and B enter into a written stockholders' agreement concerning the stock so acquired and the participation of A and B in the management of F. A and B are an associated group.

*Example 20.* F is a publicly owned foreign corporation. Seventy-five percent of F's outstanding voting stock is owned by foreign nationals, the remaining 25 percent being owned by U.S. citizens and residents no one of whom owns more than 2 percent. In this situation, in the absence of any facts indicating that the U.S. shareholders acted, or are acting, in concert with respect to the purchase of F's stock or the voting of such stock, or with respect to the management of F, the U.S. shareholders are not an associated group.

*Example 21.* In 1967, a U.S. citizen and resident (A) became interested in purchasing majority control of a foreign corporation (F). A contacted 20 other U.S. citizens and residents with a view toward inducing them to purchase stock of F as an investment. Such persons were unknown to each other, but were informed by A that, he was organizing a group of U.S. investors to purchase control of F. A informed such other persons that F was being mismanged and that with proper management F would be a very profitable venture. Thereafter, A purchased 20 percent of outstanding voting stock of F and 10 other U.S. citizens and residents contacted by A each purchased 2 percent of F's voting stock. No express written agreement was entered into among A and the other U.S. shareholders with respect to such purchase or with respect to any other matter concerning F, but each of the U.S. shareholders voted for A's nominees for directors. A and the other U.S. shareholders are an associated group.

(ii) *Aggregate 10 percent interest.*—An associated group exists only if the aggregate of direct and indirect interest in the foreign enterprise acquired or owned by the U.S. persons acting in concert amounts to at least 10 percent.

*Example 22.* In December 1967, three U.S. citizens and residents (A, B, and C) entered into an agreement pursuant to which each purchased 3 percent of the outstanding voting stock of a foreign corporation (F). A, B, and C are not an associated group, since the aggregate of their interests in F is only 9 percent. In June 1968, in furtherance of the 1967 agreement, A, B, and C each purchased an additional 2 percent of outstanding voting stock of F. Accordingly, A, B, and C became members of an associated group in June 1968. Whether an associated group would have resulted if only one of them had purchased an additional 2 percent of the outstanding voting stock of F, and, if so, as of what date they became members of such group, would depend on all the facts and circumstances surrounding the purchase.

(iii) *Members of associated group as separate DIs.*—Unlike members of an affiliated or family group, members of an associated group are not treated as a single person under the regulations. The principal effect of the associated group rule is to establish a DI–AFN relationship. Each member of an associated group is considered a separate DI in the foreign national (referred to as the "group AFN") owned by the group, with the following consequences:

Allowables must be individually elected under § 502 and calculated separately by each member of the group.

For compliance purposes (§ 201), each member of an associated group must compute direct investment during 1968 and subsequent years without reference to direct investment transactions of other members of the group. Long-term foreign borrowing by one member of an associated group may not be offset against the net transfer of capital or positive direct investment of other members of the group.

However, if two or more members of an associated group elect to be governed by § 503, the amount of positive direct investment that they may make in group AFNs is subject to the limitations of § 905(b)(2)(i). See § B905–1(iv).

Foreign balances held by a member of an associated group are calculated without reference to foreign balances held by other members. Under § 905(b)(1), a U.S. person who is a DI by virtue of the associated group rules, but does not own a 10-percent or greater interest in a foreign national, is not subject to the restrictions on liquid foreign balances of § 203(c) and is not required to report such balances (see § 907(c)(1)).

Separate reports are required from members of an associated group, unless they elect to report as a group under § 907(c)(2). However, even if the members elect to report as a group, compliance is still measured individually. Members of an associated group may be exempt from reporting on Forms FDI–101 (Base Period Report) and FDI–102 (Cumulative Quarterly Report), pursuant to the instructions to such forms, but only if the associated group as a whole would be exempt if an election under § 907(c)(2) had been made.

*Example 23.* In 1965, three U.S. corporations (A, B, and C) enter into an agreement pursuant to which each purchases 5 percent of the outstanding voting stock of a United Kingdom corporation (K) from an unaffiliated foreign national for $500,000 in cash, or a total of $1,500,000. The following also occurs during 1965 and 1966: A lends $200,000 to K, $50,000 of which is repaid in 1966; B sells $500,000 in merchandise to K on open account, the open account indebtedness of K to B being $300,000 at the end of 1966; C contributes $200,000 of equipment to the capital of K; during 1965 and 1966, K earns an aggregate of $3 million and pays dividends of $2 million, of which A, B, and C each receive $100,000. A, B, and C had no other AFNs during 1965 or 1966, individually or collectively. A, B, and C are an associated group and K is a group AFN of the associated group. Assuming an election to report as a group is not made under § 907(c)(2), A, B, and C will each submit a separate Form FDI–101 showing the following § 504(a)(2) historical allowables in Schedule B (000 omitted):

| | |
|---|---|
| Corporation A: | |
| Purchase of stock of K | $500 |
| Loan to K | 200 |
| Repayment by K | (50) |
| Share of reinvested earnings of K (5% of $3,000 earnings minus $100 dividends) | 50 |
| Total positive direct investment | 700 |
| Allowable (65% of 50% of $700) | $227.50 |
| Corporation B: | |
| Purchase of stock of K | 500 |
| Open account indebtedness | 300 |
| Share in reinvested earnings of K | 50 |
| Total positive direct investment | 850 |
| Allowable (65% of 50% of $850) | $276.25 |
| Corporation C: | |
| Purchase of stock of K | 500 |
| Contribution to capital | 200 |
| Share in reinvested earnings of K | 50 |
| Total positive direct investment | 750 |
| Allowable (65% of 50% of 750) | $243.75 |

If A, B, and C had not acted in concert in acquiring the stock of K, none of them would have a historical allowable in Schedule B since a DI–AFN relationship would not have existed. Also, if A, B, and C elected to report as a group under § 907(c)(2), they would file a single Form FDI–101 showing aggregate positive direct investment of $2,300,000 in Schedule B during 1965 and 1966 and an aggregate Schedule B allowable of $747,500. However, since compliance by each member of an associated group is measured separately, the FDI–102F would have to in-







V 38-179 SEP 17 73 XUM

dicate in a supplemental statement the portion of aggregate positive direct investment and the portion of the aggregate allowable allocable to each member of the group (see § B907–1(iii)).

(iv) *Associated group investment under § 503.*—Section 905(b)(2)(i) provides that positive direct investment made during any year by members of an associated group electing to be governed by § 503 is not authorized if the aggregate of direct investment by all such members of the group during the year in all group AFNs exceeds $6 million. Thus, each member of an associated group electing to be governed by § 503 must meet two separate tests: First, aggregate positive direct investment by such member in all AFNs (including, but not limited to, group AFNs of the associated group) may not exceed $6 million; and second, aggregate direct investment in group AFNs by such member and all other members of the associated group electing to be governed by § 503 may not exceed $6 million. Positive direct investment in group AFNs by members of the associated group electing to be governed by § 504 and positive direct investment pursuant to the incremental earnings allowable of § 506 are not included in computing direct investment for purposes of § 905(b)(2)(i).

*Example 25.* X, Y, and Z are members of an associated group having one group AFN. X, Y, Z have no other AFNs. All elect § 503 for 1972 and report as follows ($000 omitted):

| | *Direct investment in the Group AFN* |
|---|---|
| X | (200) |
| Y | 500 |
| Z | 1,700 |
| Aggregate | 2,000 |

X, Y, and Z are in compliance for 1972 under §§ 503 and 905(b)(2)(i).

*Example 26.* X, Y, and Z are members of an associated group, each owning a 33⅓-percent interest in a group AFN (B) in Schedule B. During 1973, X and Y elect to be governed by § 503. Z elects to be governed by § 504(a), pursuant to which he has an historical allowable of $400,000 in Schedule B. X transfers $2,600,000 to B; Y transfers $3,400,000, and Z transfers $500,000. B has losses of $300,000. All such direct investment is authorized. X and Y together have made $5,800,000 of positive direct investment in B, an amount authorized by §§ 503 and 905(b)(2)(i). Z has made positive direct investment of $400,000 ($500,000 less Z's share of B's losses ($100,000)), an amount authorized by § 504. (Z's investment is not included in applying § 905(b)(2)(i) to direct investment made by X and Y.)

*Example 27.* X and Y are members of an associated group with respect to a group AFN (G). X has a wholly-owned AFN (A) and Y has a wholly-owned AFN (B). X and Y each elect to be governed by § 503 for 1973. X makes positive direct investment of $3 million in G and $2,600,000 in A. Y makes positive direct investment of $1,700,000 in G and $4,300,000 in B.

All such positive direct investment is authorized. The investment made by X in A and G ($5,600,000) is authorized by § 503. The investment made by Y in B and G ($6 million) is authorized by § 503. The investment made by X and Y in G ($4,700,000) is within the limitation of § 905(b)(2)(i).

(v) *Related AFNs.*—Although U.S. persons acting in concert must ordinarily own or acquire an interest in the same foreign enterprise before an associated group can exist, there may be instances where ownership or acquisition of interests in different foreign enterprises by U.S. persons acting in concert will be sufficient to constitute such persons an associated group. This will be true where the businesses conducted by the different foreign enterprises involved are so related as to justify treating them as a single economic unit for purposes of the regulations.

*Example 28.* A Danish citizen and resident (D) owns all the stock of two Danish corporations (E and F). E is engaged in the manufacture of widgets, while F markets the widgets produced by E. The management of E and F is substantially identical. Two U.S. citizens and residents (A and B) enter into an agreement with D pursuant to which A purchases all the stock of E from D, while B purchases all the stock of F from D. A and B have an understanding that the businesses of E and F will be operated in the same integrated manner as they have in the past and that the net profits of E and F will ultimately be split equally between them. A and B are an associated group, and E and F are group AFNs of the associated group.

*Example 29.* Three U.S. citizens and residents (A, B, and C) enter into an agreement to establish a chain of six drive-in restaurants in continental Europe. Each restaurant is to be established as a separate foreign corporation, and A, B, and C will each own 100 percent of two such corporations. A, B, and C are an associated group, and all of the restaurant corporations are group AFNs of the associated group.

(vi) *Effect of § 505.*—Under § 505, certain transfers between AFNs are treated as transfers by the transferor AFN to the DI and as further transfers by the DI to the transferee AFN. This rule applies only if either of the AFNs involved is an "affiliate" of the DI (defined in § 903(a)). An AFN is not considered an "affiliate" of the DI unless the DI (itself or together with other affiliates) owns more than 50 percent of the AFN. If, however, in the case of a group AFN of an associated group (a) no one member of the group (either itself or together with other affiliates of such member) owns more than 50 percent of the AFN, but (b) the members of the group as a whole (either themselves or together with their affiliates) own more than 50 percent of the AFN, then (c) the group AFN will be treated as an affiliate of each member of the group for purposes of § 505.

*Example 30.* A, B, C, and D are members of an associated group and F, a French corporation, is a group AFN of the associated group. A, B, C, and D each own 25 percent of the outstanding stock of F. F owns all outstanding stock of J, a Japanese corporation. F lends $100,000 to J on a long-term basis. F and J are considered to be affiliates individually of A, B, C, and D for purposes of § 505. Accordingly, under § 505(a)(3), F is deemed to have made a transfer of capital to A, B, C, and D in the amount of $25,000 each and A, B, C, and D are each deemed to have made a transfer of capital to J in the amount of $25,000.

If A were to own 70 percent of F's stock and B, C, and D each held 10 percent, F and J would be considered affiliates of A, but not of B, C, or D, for purposes of § 505. Accordingly, the $100,000 loan from F to J would be treated under § 505(a)(3) as a $100,000 transfer of capital from F to A, and as a further $100,000 transfer of capital from A to J.

(vii) *Reporting.*—Unless an election to report as a group is made under § 907(c)(2), members of an associated group should file separate Forms FDI–101, FDI–102, and FDI–102F reflecting such member's individual direct investment transactions (see § 905(b)(3)). If members of a group file separately, the FDI–102F filed by each member of an associated group should indicate on a supplemental statement the names of all other members of the associated group and the names of group AFNs. Each member of the group electing to be governed by § 503 should submit a supplemental statement indicating the amount of his direct investment and the direct investment of the other members of the group in group AFNs.

### § B906–1 Ownership of DIs.

A U.S. person may be a DI by reason of either a direct or an indirect interest in an AFN (see § 305). For example, if A and B (U.S. corporations) each own 50 percent of C (a U.S. corporation), and C has a wholly-owned AFN (X), all three corporations are DIs with respect to X. C has a 100 percent direct interest, and A and B each have a 50 percent indirect interest in X (see §§ 901 and 902). Unless A and B elect under § 906(b)(1) to be treated separately under the regulations, direct investment made, and liquid foreign balances held, by C will not normally be deemed to be made or held by A or B (see § 906(a)). However, since A and B are DIs by virtue of their indirect ownership of C's AFN, A and B each will be responsible for the liquid foreign balances held by it. Liquid foreign balances held by A and B must be kept within amounts permitted under § 203(c).

*Example 31.* A, B, C, and D each own 25 percent of E. During 1965–66 E made positive direct investment in Schedule A of $2 million, and A made positive direct investment of $800,000 in Schedule A. In addition, E maintained average end-of-month liquid foreign balances of $100,000. A maintained $50,000, and D maintained $80,000.

Absent an election under § 906(b)(1), E must file a Form FDI 101 (Base Period Report) showing $2 million of positive direct investment, in Schedule A during 1965–66 and a Schedule A historical allowable of $1,100,000 ($2,000,000×50%×110%). E's Form FDI–101 should also reflect base-period average end-of-month liquid foreign balances of $100,000. A would file a Form FDI–101 showing positive direct investment of $800,000 in Schedule A during 1965–66, an historical allowable of $440,000 ($800,000×50%×110%) and average end-of-month liquid foreign balances of $50,000. D would file a Form FDI–101 showing only end-of-month liquid foreign balances of $80,000. B and C would not file a Form FDI–101. B, C, and D would have no Schedule A historical allowables under § 504.

If A were to own 70 percent of E and B, C, and D were each to own 10 percent, A and E would be an affiliated group. Absent an election under § 906(b)(1), A and E would file a consolidated Form FDI–101 showing $2,800,000 of positive direct investment in Schedule A, an historical allowable of $1,540,000 and liquid foreign balances of $150,000; D would file a Form FDI–101 showing only its balances; and B and C would not be required to file a Form FDI–101. B, C, and D would have no Schedule A historical allowables.





### § B906–2 Person deemed acting for or on behalf of a DI.

Under § 906(a)(2), a person within the United States owning an interest in a DI (whether or not such U.S. person is also a DI) may be deemed to be acting for or on behalf of the DI, if such person transfers funds or other property to an AFN of the DI. Application of the provisions of § 906(a)(2) to particular transactions will depend on analysis of all surrounding facts and circumstances.

### § B906–3 Election under § 906(b)(1).

Under § 906(b)(1), persons within the United States owning direct interests in a DI may, under certain circumstances, elect not to be governed by the rule set forth in § 906(a)(1). The principal effect of this provision is that, whereas direct investment transactions of and foreign balances held by a DI are not ordinarily attributable to or reportable by the stockholders or other owners of the DI, an election under § 906(b)(1) will reverse the ordinary rule and cause such direct investment transactions and foreign balances to be charged pro rata to the stockholders or other owners consenting to the election. An election once made may not be changed without the permission of OFDI.

(i) *Conditions for making election.*—An election under § 906(b)(1) can be made with respect to a DI only if electing U.S. persons own, in the aggregate, a majority interest in such DI and there are not more than 10 persons (including foreign nationals) owning direct interests in the DI. If more than 10 persons own direct interests in the DI, OFDI may nevertheless permit an election if it is demonstrated, upon written application, that the election will not cause substantial administrative difficulties.

(ii) *Procedure for making election.*—An election under § 906(b)(1) is made by filing a written notice thereof with the Program Reports Branch of OFDI. All persons within the United States owning direct interests in a DI must be afforded a reasonable opportunity to join in any election made with respect to such DI. Notice of such election (counterparts of which may be filed in lieu of a single instrument) must be executed by or on behalf of all persons consenting to the election and, if all U.S. persons owning direct interest in the DI do not join in the election, the notice must recite that such persons were in fact afforded a reasonable opportunity to do so.

(iii) *Effect of election.* A DI with respect to which an election is made under § 906(b)(1) is refered to as a "principal DI," while a person consenting to the election is referred to as a "consenting owner." An election under § 906(b)(1) with respect to any principal DI has the following consequences:

Each consenting owner is himself deemed a DI in every AFN of the principal DI, notwithstanding that he may not directly or indirectly own a 10 percent or greater interest in any such AFN (see § 906(b)(3)(i)). Thus, if a U.S. citizen (A) owns 5 percent of outstanding stock of a U.S. corporation (C), and C owns 100 percent of the stock of two foreign corporations (F and G), A will be a DI in both F and G if A consents to a § 906(b)(1) election, even though A's indirect interest in F and in G is merely 5 percent (and A would not otherwise be a DI under § 305). A would also be subject to the liquid foreign balance provisions of § 203(c) if he consented to an election with respect to C.

The entire amount of direct investment made and foreign balances held by the principal DI, the principal DI's share in earnings and losses of its AFNs for purposes of determining annual earnings, and total earnings and reinvested earnings under § 504(a)(3)(ii) and (b)(4) are attributed to each of the consenting owners according to their share of the direct interests in the principal DI held by all consenting owners (see § 906(b)(3)(i)). Thus, if A, B, C, and D each own 25 percent of the principal DI and all consent to an election, they will each be deemed to have made 25 percent of the principal DI's direct investment transactions. If only three consent to the election, their proportionate share would be 33⅓ percent (25 percent/75 percent) of the principal DI's direct investment transactions.

Section 504 and § 506 allowables of the principal DI are also attributed pro rata to the consenting owners. Compliance is then measured individually on the basis of the prorated allowable as well as other applicable allowables of each consenting owner. Each consenting owner may make an independent election under § 502 so that one consenting owner might elect § 504(a), another § 504(b), and another § 503. However, the amount of positive direct investment that consenting owners electing § 503 may make in AFNs of the principal DI is subject to the limitations of § 906(b)(3)(ii). See § B906–2(v).

Each consenting owner files reports under § 602 showing its prorata share of all reportable items of the principal DI, as well as its own direct investment activity. An exemption from filing reports is available to consenting owners only if the principal DI would have been exempt absent the election.

Operation and effect of the foregoing principles are demonstrated in the following examples:

*Example 32.* A, B, C, and D each own 25 percent of E. All are U.S. corporations. E made positive direct investment in Schedule B during 1965–66 of $2 million and held average end-of-month liquid foreign balances of $80,000. A, B, C, and D consent to an election under § 903(b)(1) with respect to E. A, B, C, and D will each file a Form FDI–101 showing positive direct investment of $500,000 ($2,000,000×25%) in Schedule B during 1965–66, an historical allowable in Schedule B of $162,500 ($2,000,000×50%×65%×25%) and average end-of-month liquid foreign balances of $20,000 ($80,000×25%). A, B, C, and D will also include direct investment made and balances held by them individually during 1965–66. E will not file a Form FDI–101.

If one owner (D) does not consent to the § 906(b)(1) election, A, B, and C will each report 33⅓ percent of E's direct investment and liquid foreign balances, i.e., the direct interest of each consenting owner divided by the aggregate of direct interests of all such consenting owners.

*Example 33.* During 1972, A, B, and C each own 33⅓ percent of D and consent to an election under § 906(b)(1). D has an historical allowable in Schedule A of $1,200,000 and in Schedule B of zero. During 1971 D's share of annual earnings of Schedule A AFNs was $2 million and of Schedule B AFNs, $1,500,000. As a result, D has a § 504(b) earnings allowable in Schedule A of $800,000 and in Schedule B of $600,000. Should a elect to be governed by § 504(a) for 1969, A would acquire, as a result of § 906(b)(3)(i), a $400,000 historical allowable in Schedule A and zero in Schedule B. If B and C chose to be governed by the § 504(b) allowable, each would acquire an earnings allowable of $266,667 in Schedule A and $200,000 in Schedule B.

*Example 34.* A, B, C, and D each own 25 percent of E. E has an historical allowable in Schedule A of $800,000. During 1969, E repays a 1967 long-term foreign borrowing (authorized repayment under § 1002) and incurs a repayment charge under § 1003 of $2 million in Schedule A. E has no AFNs in Schedules B or C. A, B, C, and D make a § 906(b)(1) election. For 1969, A elects to be governed by § 504(a) with an historical allowable in Schedule C of $500,000, in Schedule B of $600,000, and zero in Schedule A (other than what is available as A's pro rata share of E's historical allowable). A's pro rata share of the repayment charge ($500,000) reduces A's Schedule A allowable ($200,000, derived from E by virtue of the § 906(b)(1) election) to zero, and the excess ($300,000) reduces A's allowables in Schedule C from $500,000 to $200,000 (see § 1003). The Schedule B allowable is not affected.

Consenting owners may utilize allowables passed on to them by virtue of a § 906(b)(1) election either to make individual positive direct investments in AFNs of the principal DI or in their own AFNs. However, positive direct investment by the principal DI will be charged to consenting owners on the same prorata basis as allowable are "passed on". Thus, if the principal DI makes positive direct investment in any year that exceeds the applicable allowable "passed on" to the consenting owners, such owners might be in violation of § 201.

(iv) *Election by affiliated groups.*—Members of an affiliated group are deemed to be a single person under the regulations, except for purposes of making an election under § 906(b)(1) in which case they are treated as separate persons. However, the purpose of this rule is to make the § 906(b)(1) election available to members of an affiliated group, and not to break up the affiliated group.

*Example 35.* A, B, and C are U.S. corporations. A owns 51 percent of C and B owns 49 percent. A and C are an affiliated group. Nevertheless, A may elect under § 906(b)(1). If both A and B elect under § 906(b), A will assume 51 percent of C's direct investment position, and B will be accorded 49 percent. However, A and C are still an affiliated group and therefore will be treated as one person with respect to 51 percent of C's direct investment transactions.

*Example 36.* A, B, C, and D are all U.S. corporations. A owns 80 percent of D, and B and C each own 10 percent of D. B owns 100 percent of C. A and D are an affiliated group, and B and C are another affiliated group. If A, B, and C make a § 906(b)(1) election with respect to D, the A–D affiliated group will report as to 80 percent of D's direct investment and the B–C affiliated group will report as to 20 percent of D's direct investment.

(v) *Limitation on use of § 503 by consenting owners.* If direct owners electing under § 906(b)(1) also elect to be



V 38-179 SEP 17 73 XUM

governed by the § 503 minimum allowable, the $6 million allowable is not divided proportionally among the consenting owners, as are the §§ 504 and 506 allowables. Instead, § 906(b)(3)(i) provides that the aggregate of direct investment made, and deemed made, by all consenting and nonconsenting owners in AFNs of the principal DI may not exceed $6 million.

Thus, each consenting owner electing to be governed by § 503 must meet two separate tests: First, aggregate positive direct investment made by such member in all AFNs (including, but not limited to, AFNs of the principal DI) may not exceed $6 million; second, aggregate direct investment in AFNs of the principal DI by such owner and all other consenting and nonconsenting owners electing to be governed by § 503 may not exceed $6 million. (This parallels the requirements of § 905(b)(2)(i) applicable to individual members of associated groups.) In computing aggregate direct investment under § 906(b)(3)(ii), direct investment in AFNs of the principal DI by consenting owners electing to be governed by § 504 and positive direct investment made under the § 506 incremental earnings allowable are not included.

*Example 37.* A, B, C, and D, U.S. citizens and residents, each own a 25-percent interest in E, a U.S. corporation, and consent to an election with respect to E under § 906(b)(1). E owns all outstanding stock of foreign corporations F, G, and H. A, B, C, and D elect to be governed by § 503 for 1973. During 1972 E makes a $4,100,000 long-term loan to F, contributes $200,000 to capital of G, and loans $250,000 to H. F, G, and H earn an aggregate of $50,000 but pay no dividends to E. Also during 1972, A makes a long-term loan of $100,000 each to F and G, while C makes a long-term loan of $1,250,000 to H. E's total positive direct investment is, therefore, $4,600,000, of which $1,150,000 (25 percent) is allocable each to A, B, C, and D because of the election. In addition, A has made positive direct investment of $200,000 and C has made positive direct investment of $1,250,000. The total positive direct investment made and deemed made in all AFNs of E by A, B, C, and D is, therefore, $1,350,000 for A ($1,150,000 plus $200,000), $1,150,000 for B, $2,400,000 for C ($1,150,000 plus $1,250,000), and $1,150,000 for D. To the extent that the total ($6,050,000) exceeds $6 million, A, B, C, and D are all in noncompliance.

*Example 38.* A, B, and C each own 33⅓ percent of D. A and B elect under § 906(b)(1). C does not consent to the election. A, B, and C each elect to be governed by § 503 for 1973. During 1973 D makes positive direct investment of $4,900,000, and C lends $1,150,000 to D's AFNs. The direct investment deemed made by A and B violates the limitation of § 906(b)(3)(ii), because aggregate direct investment made and deemed made by them and the nonconsenting owner (C) in the principal DI's AFNs exceeds $6 million.

*Example 39.* A, B, C, and D, each owning 25 percent of E, consent to an election under § 906(b)(1) with respect to E. In addition, they all elect to be governed by § 503 for 1973. In 1973 E makes a $500,000 repayment under § 1002. By operation of § 1003, each consenting owner's § 503 allowable is reduced by $125,000 (25 percent of the total repayment charge) so that each may make only $5,875,000 of positive direct investment in all AFNs (including, but not limited to, AFNs of E). In addition, the aggregate direct investment made by A, B, C, and D in AFNs of E during 1973 may not exceed $4,500,000 (§ 906(b)(3)(ii)).

### § B907–1 Reporting.

Section 907 sets forth a number of rules concerning the responsibility of DIs to file base period, quarterly and annual reports under § 602.

The general rule is that all DIs must file reports unless exempt from reporting as provided by the instructions to the applicable reports or by § 907(b)(3) or § 907(c)(2). It is important to note that persons consenting to an election under § 906(b)(1), and members of an associated group, are not exempt from reporting on Forms FDI–101, FDI–102, and FDI–102F under the provisions of the instructions to such forms, unless the "principal DI" or the associated group as a whole would be exempt.

(i) *Consenting owners.* Section 907(b)(1) provides that if a U.S. person consents to an election under § 906(b)(1) with respect to any principal DI, reports filed by such person should include such person's pro rata share (calculated as provided in § 906(b)(3)(i)) of the amount of foreign balances, direct investment and other items that the principal DI would have included in its reports had the election not been made.

*Example 40.* A U.S. corporation (D) owns 25 percent of U.S. corporation (E) and 40 percent of U.S. corporation (F). Elections are made under § 906(b)(1) with respect to both E and F with D and all other U.S. stockholders of E and F consenting to such elections. During 1969 E makes positive direct investment of $1 million in Schedule A and $2 million in Schedule B, while F makes positive direct investment of $500,000 in Schedule A and $300,000 in Schedule B. D also has a number of directly owned foreign subsidiaries in Schedules A and B, and D itself makes positive direct investment of $1 million in Schedule A and $800,000 in Schedule B during 1969. The Form FDI–102F filed by D for 1969 should show positive direct investment of $1,450,000 in Schedule A ($1 million plus 25 percent of $1 million plus 40 percent of $500,000) and $1,420,000 in Schedule B ($800,000 plus 25 percent of $2 million plus 40 percent of $300,000).

(ii) *Nonconsenting owners and owners of indirect interests.*—Section 907(b)(2) provides that reports filed by a U.S. person should not include any direct investment or other items attributable to (a) DIs in which the U.S. person owns merely an indirect interest, or (b) DIs in which the U.S. person owns a direct interest but has not consented to an election under § 906(b)(1).

*Example 41.* A U.S. citizen and resident (D) owns 25 percent of a U.S. corporation (E), which in turn owns 50 percent of another U.S. corporation (F). D also owns 50 percent of U.S. corporation (G) and 40 percent of U.S. corporation (H). No elections are made under § 906(b)(1) with respect to corporation E, F, or G. An election is made under § 906(b)(1) with respect to corporation H, but D does not consent to the election after being given a reasonable opportunity to do so. During 1969, E, F, G, and H, with various AFNs throughout the world make positive direct investment of $1 million, $500,000, $800,000 and $600,000, respectively. Also during 1969, D himself makes positive direct investment of $200,000 by cash purchase of foreign commercial real estate from an unaffiliated foreign national. The Form FDI–102F filed by D for 1969 should include his own positive direct investment of $200,000, but should not include any of the positive direct investment made by E, F, G, or H.

If D had made no positive direct investment of his own during 1969, D would not be required to file reports on Forms FDI–102 and FDI–102F for 1969.

(iii) *Associated groups.* Section 907(c)(1) provides that reports filed by a member of one or more associated groups should include all direct investment made by such person in group AFNs of the relevant associated groups. Although the general rule is that each member of an associated group files a separate report under § 602 showing his own direct investment transactions, § 907(c)(2) permits a majority in interest of an associated group to elect, subject to the approval of OFDI, to have the group file a single report showing direct investment transactions of all members of the group in all group AFNs during the relevant period. The election is made by filing a notice of election with the Program Reports Branch of OFDI, the notice being executed by or on behalf of a majority in interest of the group. Notwithstanding an election under § 907(c)(2), each member of an electing associated group having independent direct investment transactions with respect to AFNs other than group AFNs must file separate reports reflecting such transactions.

*Example 42.* (a) A U.S. citizen and resident (A) is a member of two different associated groups (G1 and G2). The group AFN of G1 is a French corporation (F) and the group AFN of G2 is an Australian corporation (K). A owns 5 percent of outstanding voting stock of F and 8 percent of outstanding voting stock of K. A also owns all outstanding stock of a Panamanian corporation (P). The following occurs during 1969: A contributes $100,000 to capital of K; F earns $80,000 and pays a dividend of $40,000, of which $2,000 was paid to A; K earns $200,000 and pays a dividend of $100,000, of which $8,000 is paid to A; A lends $300,000 to P on a long-term basis; P earns $50,000 and pays no dividends to A. Neither G1 nor G2 elects to report as a group. A's Form FDI–102F for 1969 should show positive direct investment of $350,000 in Schedule A (the $300,000 loan to P plus $50,000 reinvested earnings of P), positive direct investment of $108,000 in Schedule B (the $100,000 loan to K plus $8,000 reinvested earnings of K) and positive direct investment of $2,000 in Schedule C ($2,000 reinvested earnings of F).

(b) Should G2 elect, with approval of OFDI, to report as a group under § 907(c)(2), the Form FDI–102F filed by A for 1969 will not include the $108,000 of positive direct investment made by A in K (Schedule B). The FDI–102F filed by G2 will include all positive direct investment made by the members of G2 (including A's positive direct investment of $108,000) in K (Schedule B).

(c) If A does not own any stock of P, and G1 and G2 both elect, with approval of OFDI, to report as a group under § 907(c)(2), G1 will file a Form FDI–102F for 1969 showing the positive direct investment made by all members of G1 (including A's positive direct investment of $2,000) in F (Schedule C) and G2 will file a Form FDI–102F for 1969 showing the positive direct investment made by all members of G2 (including A's positive direct investment of $108,000) in K (Schedule B). A himself will not file a Form FDI–102F for 1969.





It is essential to recognize that compliance by each member of an associated group is measured separately and without reference to direct investment transactions of the group's other members, whether or not the group elects to report as a group under § 907(c)(2). The only exception to this rule is contained in § 905(b)(2), with respect to cumulation of direct investment transactions with group AFNs by members of a group electing § 503. Accordingly, the Form FDI–102F filed by a member of the group under § 907(c)(2) should indicate, on a supplemental statement, the portion of the group's direct investment allocable to each member of the group.

(iv) *Affiliated and family groups.*—Section 907(d) provides that reports filed by an affiliated or family group for any period should aggregate all direct investment transactions and other reportable items attributable to each member during the relevant period.

*Example 45.* A U.S. corporation (A) owns 60 percent of outstanding voting stock of another U.S. corporation (B), and 80 percent of outstanding voting stock of a third U.S. corporation (C). B owns a 70 percent interest in a U.S. partnership (P). All outstanding stock of A is owned by a U.S. citizen and resident (D). During 1969, A makes positive direct investment of $100,000, B makes positive direct investment of $200,000, C makes positive direct investment of $300,000, D makes positive direct investment of $50,000, and P makes positive direct investment of $150,000. The Form FDI–102F filed by the affiliated group of A, B, C, D, and P for 1969 should show positive direct investment of $800,000, allocated among the appropriate scheduled areas. A, B, C, D, and P need not file a separate Form FDI–102F.

Had A and all other stockholders of B made an election under § 906(b)(1) with respect to B, the Form FDI–102F filed by the affiliated group for 1969 would include only 60 percent of B's positive direct investment, rather than the entire $200,000. Total positive direct investment to be reported by the group will, therefore, be $720,000.

## B1000—Subpart J (§§ 1001–1003)

### § B1000–1 Introduction.

Direct investment in AFNs may be offset by the allocation of available proceeds of long-term foreign borrowing (§ 306(e) or, prior to July 1, 1972, by the expenditure of such proceeds in making transfers of capital to AFNs (§ 313(d)(1). The subsequent repayment of long-term foreign borrowing will involve a transfer of capital under § 312(a)(7) to the extent that deductions were taken under § 306(e) or § 313(d)(1), and such transfer of capital will be deemed to have been made to the scheduled area or areas in which such deductions were taken. (See § B324–11.) Also, satisfaction by a DI of the debt obligation of its AFN is a transfer of capital under § 312(a)(6). Thus, repayment by a DI of its own long-term foreign borrowing or of an AFN borrowing may result in positive direct investment that exceeds the amount authorized under Subpart E. However, § 1002(a) generally authorizes positive direct investment (which may be in excess of Subpart E allowables) attributable to transfers of capital resulting from repayment of certain borrowings by DIs and their AFNs.

It should be noted that repayment of long-term foreign borrowing, proceeds of which were expended in transfers of capital on or after July 1, 1972, is not a transfer of capital unless such proceeds were allocated under § 306(e). (See § B313–6.)

The general authorization under § 1002(a) applies to: (a) repayment of long-term foreign borrowings made prior to January 1, 1968; (b) repayment by a DI, pursuant to a guarantee, of AFN borrowings made prior to January 1, 1968; (c) repayment of AFN borrowings not guaranteed by the DI if the borrowings were made from a bank prior to January 1, 1968; and (d) repayment of AFN borrowings made from a bank after January 1, 1968, pursuant to a fixed loan committment established by the AFN prior to that date. Section 1002(a) thus authorizes repayment of borrowings contracted prior to the effective date of the program.

Section 1002(a) also authorizes repayment by a DI of borrowings made by an AFN and guaranteed by the DI, on or after June 10, 1968, provided that the DI files, with respect to the borrowing, a certificate described in § 1002(b). In the certificate, the DI must state, in light of all facts and circumstances existing at the time of the guarantee that it has reason to believe either that the DI will not make any repayment of the borrowing within 7 years of the guarantee, or that any positive direct investment resulting from repayment within 7 years will not exceed the amount of positive direct investment authorized by Subpart E. The section similarly authorizes repayment of a DI's own long-term foreign borrowing made on or after June 10, 1968, provided that the DI files a similar certificate with respect to the long-term foreign borrowing.

Section 1002(a) further authorizes repayment of a DI's borrowing made during the period from January 1, 1968, through June 9, 1968. During that period the predecessor of Subpart J, General Authorization No. 1, was in effect. General Authorization No. 1 authorized repayment of a DI's long-term foreign borrowing and an AFN borrowing guaranteed by the DI, conditioned upon the filing of a certificate similar to the certificate required by present § 1002(a).

Finally, § 1002(a) authorizes repayment by the DI of a long-term foreign borrowing or a borrowing by an AFN, whether or not guaranteed by the DI, if repayment occurs by issuance of stock of the DI pursuant to conversion by holders of debt obligations issued by the DI (or its AFN) in connection with the borrowing.

Certification in accordance with § 1002 is not required to qualify borrowing by a DI as long-term foreign borrowing under § 324(a). Such certification is solely a requirement for repayment of such borrowing to be authorized under Subpart J, independently of Subpart E or M allowables, and is filed at the opton of the DI.

Although repayments pursuant to § 1002(a) are authorized independently of Subpart E or M allowables, any resulting positive direct investment has the effect of reducing such allowables. Under § 1003, the amount of such positive direct investment constitutes a "repayment charge" which reduces first the allowable in the scheduled area where the transfer of capital is recognized pursuant to § 312(a)(6) or (7), then the allowables in Schedules C, B, and A, in that order, and finally the allowables in future years in the same manner. Total reductions will equal the amount of positive direct investment resulting from repayment, but the charge does not reduce allowables in any scheduled area to less than zero in any year. Reduction of allowables occurs in the year in which repayment is made, except for repayment by means of conversion of debt obligations into stock of the DI, in which case the repayment charge is incurred in the following year (see § 1002(a)(3)).

Section 702 should be read in conjunction with Subpart J. Ths section is intended to make clear that a lender may enforce obligations entered into with DIs and AFNs, whether or not performance by the obligor is authorized by the regulations, absent the lender having actual knowledge at the time the borrowing is made that the use of the proceeds thereof, the repayment thereof, or any other transaction in connection therewith will constitute a violations by the DI of the regulations.

### § B1001–1 Definition of borrowing by a DI and by an AFN.

Section 1001(b) defines the term "borrowing by a DI" as a borrowing by a DI repayment of which would constitute a transfer of capital under § 312(a)(7), which applies to any long-term foreign borrowing (as defined in § 324), the proceeds of which have been expended in making (or, during 1968, allocated to) transfers of capital during the period January 1, 1965, through June 30, 1972, or allocated to positive direct investment. Repayment of borrowings by the DI that are not long-term foreign borrowings, and repayments of long-term foreign borrowings, the proceeds of which have not been expended prior to July 1, 1972, or allocated, do not result in transfers of capital.

Section 1001(a) defines the term "borrowing by an AFN". As is the case with a DI's long-term foreign borrowing, a "borrowing by an AFN" includes not only the typical loan of funds and sale of debt obligations, but may also include other transactions, the practical economic effect of which is that the AFN acquires an interest in property, with all or part of the payment deferred to some future date. Thus, for example, an installment purchase of property by an AFN may involve a "borrowing" for purposes of Subpart J. (See § B324–4.)

Section 1002(e)(1) provides that a borrowing by a DI or by an AFN is deemed to have been made on the date the proceeds are received by the borrower, or, if a purchase of property on credit is



V 38 I 179 SEP 17 73 XUM

involved, on the date the property is purchased. If, however, the borrowing involves a public offering of securities, the borrowing is deemed to have been made on the date the securities are issued, and if the borrowing involves the use of an overdraft facility, the borrowing is deemed to have been made when the overdraft is used. The date of a borrowing is significant in determining (1) whether the borrowing, if made by a DI, qualifies as long-term foreign borrowing under § 324, and (2) whether any repayments of the borrowing are expected to be made within 7 years from the date thereof.

As is the case with respect to a long-term foreign borrowing under § 324(b)(1), the refinancing of a borrowing by an AFN, by virtue of renewal, extension, or continuance thereof or a subsequent borrowing from the same or another lender, is not a repayment of the borrowing or the making of a new borrowing. (See 1002(e)(2).)

Delivery of equity securities of a DI to holders of debt obligations issued by an AFN, in exchange for the debt obligations of the AFN, constitutes repayment by the DI of the AFN's borrowing (a transfer of capital under § 312(a)(6) in the amount of the debt retired). Such treatment is analogous to the treatment of delivery of equity securities of a DI in exchange for the debt obligations issued in connection with a long-term foreign borrowing. (See § B324–11 regarding repayment by conversion with respect to long-term foreign borrowing.)

There are, however, some significant differences between a borrowing by an AFN (other than borrowings by an AFN covered by Subpart N) and as long-term foreign borrowing by a DI.

First, while a DI's long-term foreign borrowing must be made from a foreign person (other than a Canadian person), a borrowing by an AFN may be made from any person, including a United States or a Canadian person, so long as such person is neither an AFN of the DI nor the DI itself.

Second, expenditure prior to July 1, 1972, or allocation of proceeds of long-term foreign borrowing by the DI will give rise to deductions from net transfer of capital and positive direct investment, under §§ 313(d)(1) and 306(e). Although neither the "borrowing by an AFN" nor a guarantee thereof by the DI constitutes a transfer of capital by the DI, investment by the AFN of funds received from its borrowing in other AFNs of the DI may result in transfers of capital under §§ 505 and 312.

Third, while repayment of a DI's long-term foreign borrowing results in a transfer of capital under § 312(a)(7), if the proceeds thereof have been expended prior to July 1, 1972, or allocated, repayment of a "borrowing by an AFN" by the AFN will not result in a transfer of capital. Repayment of such borrowings by the DI, however, will result in a transfer of capital under § 312(a)(6) to the borrower AFN, since repayment indirectly increases the DI's debt or equity interest in the AFN.

Note that the treatment under Subpart N of an "overseas borrowing" by an AFN that qualifies as an OFS of the DI is substantially different from the normal AFN borrowing. (See §§ B1401–1405.)

**§ B1001–2 Borrowing by a business venture AFN.**

The identity of a borrower is normally ascertainable by reference to the instrument evidencing the debt obligation. However, when a borrowing transaction is purportedly entered into by a business venture AFN that is a direct branch of a DI (as described in § 304(a)(1)(ii)), identity of the actual primary obligor is difficult to ascertain. Similar difficulty is encountered when a borrowing is purportedly made by a business venture AFN that is a branch of an incorporated AFN (as described in § 304(a)(1)(iii). Since the regulations distinguish between borrowing by a DI and borrowing by an AFN for many purposes, DIs are advised to submit transactions involving questions of this nature to OFDI for an interpretation.

**§ B1001–3 Definition of guarantee.**

The term "guarantee" is defined in § 1001(c). The written acknowledgement of secondary responsibility referred to in § 1001(c)(1) is confined to acknowledgements given to a bank. Such acknowledgements refer to general assurances of repayment that, in the typical case, are now intended to be legally enforceable against the DI but represent a moral commitment of the DI that the loan will be repaid.

The written guarantee, endorsement, etc., specified in § 1001(c)(2), refers to the customary legally binding commitment whereby the DI guarantees payment of principal and interest by, or collection thereof from, an AFN. It does not include subordination agreements.

The reference to "through-put" agreements, "take or pay" contracts, "keep-well" agreements and similar written agreements in § 1001(c)(3) covers certain types of financial arrangements designed to assure that the AFN will have sufficient funds to repay the relevant borrowing. Generally, a "through-put" agreement is an agreement (typically made by companies in the extractive industries) whereby the DI agrees to put certain types of raw materials through a particular processing, refining or delivery facility of an AFN, while a "take or pay" contract is a supply agreement whereby the DI contracts to pay for production made available by the AFN, whether or not the DI in fact accepts delivery. A "keep-well" agreement refers generally to an agreement whereby the DI agrees to supply sufficient funds to the AFN for working capital to enable repayment of the borrowing in question.

Section 1001(c)(4) provides that mortgages, pledges, or hypothecations of property made by a DI as security for repayment of a borrowing by an AFN will constitute a "guarantee" if the transaction does not involve a transfer of capital by the DI under § 312(a)(9). The guarantees described in § 1001(c)(2)–(4) are not limited to transactions involving banks.

*Example 1.* DI pledges stock of a domestic "affiliate" to a domestic bank as security for a borrowing by an AFN from such bank. The pledge constitutes a guarantee under § 1001(c)(4).

*Example 2.* DI pledges equity securities of foreign corporations that are not AFNs to a domestic bank as security for a borrowing by an AFN from a foreign branch of such bank. The pledge constitutes a guarantee under §/1001(c)(4).

*Example 3.* DI pledges a Deutsche Mark deposit in a German bank as security for a borrowing by an AFN from such bank. The pledge constitutes a transfer of capital under § 312(a)(9) and does not constitute a guarantee under § 1001(c)(4).

*Example 4.* DI pledges a demand deposit in a domestic bank as security for a borrowing by an AFN from a foreign branch of such bank. The pledge constitutes a guarantee under § 1001(c)(4).

The term "guarantee" includes a guarantee given by one AFN in respect of a borrowing by another AFN of the same DI, if repayment pursuant to the guarantee would result in a transfer of capital by the DI under § 505. A § 312(a)(6) transfer of capital would be charged to the DI by operation of § 505(a)(3) if the guarantor AFN that makes repayment pursuant to the guarantee is an affiliate of the DI under § 903(a).

*Example 5.* DI has two AFNs: A wholly owned subsidiary in Panama (P) that in turn has a wholly owned subsidiary in Sweden (S). S borrows from a foreign bank. Repayment of the borrowing is guaranteed by P. If P is called upon to repay the borrowing of S, the payment (whether made directly to the lender or to S) is deemed a transfer from Schedule A to the DI and from the DI to Schedule C, pursuant to § 505(a)(3). Any positive net transfer of capital to Schedule C attributable to the transfer deemed made by the DI will generally be authorized under Subpart J if the DI files a certificate (Form FDI–106) within 10 days after the execution of the guarantee by P.

**§ B1001–4 DI's guarantee of an AFN borrowing.**

Except for certain AFN borrowings from banks made prior to January 1, 1968, and those repaid through conversion into stock of the DI, § 1002(a) authorizes repayment by a DI of an AFN's borrowing only if made pursuant to DI's guarantee of such borrowing. Thus, in most cases, in order for repayment to be authorized, there must be both a "guarantee" and a "borrowing by an AFN", as those terms are defined in § 1001.

*Example 6.* DI's AFN arranges to borrow $1 million from a New York bank. On June 1, 1970, AFN receives $1 million from the bank and gives the bank a note in that amount, payable in 2 years, and also gives the bank a guarantee of repayment of principal and interest executed by the DI. On June 1, 1970, the AFN has made a borrowing that is guaranteed by the DI.

*Example 7.* On June 1, 1970, DI's AFN receives machinery purchased from an English manufacturer with a value of $1 million. Under the terms of the purchase agreement, $250,000 is payable upon receipt of the machinery, the remainder being payable in three equal annual installments of $250,000 (plus interest), commencing 1 year from date of receipt of the machinery. Upon receipt of the machinery, the AFN delivers to the seller a guarantee of repayment of principal and interest executed by the DI. On June 1, 1970, AFN has made a borrowing guaranteed by the DI.

*Example 8.* On June 1, 1970, DI's Schedule C AFN, pursuant to a purchase agreement previously entered into, acquires all the stock of a corporation in Schedule A for $2 million. The AFN must pay $500,000 at the closing on June 1, the remainder being payable to the selling shareholders of the foreign corporation in five equal annual installments of $300,000 (plus interest), commencing 1 year from the closing date. At the closing, the AFN delivers to the selling shareholders a guarantee of payment of the principal and interest executed by the DI. On June 1, 1970, the AFN has made a borrowing guaranteed by the DI. (Acquisition of the Schedule A corporation will result in a transfer of capital, under §§ 505 and 312(a)(1), of $2 million from the Schedule C AFN to the DI and from the DI to the Schedule A AFN. Since the borrowing is not a long-term foreign borrowing as defined in § 324(a), no deduction with respect to net transfer of capital will be received by the DI. If the DI must repay the borrowing pursuant to the guarantee, a transfer of capital to the Schedule C AFN will result under § 312(a)(6).)

*Example 9.* DI's AFN arranges with a group of investment banking organizations for the sale of 12-year debentures in face amount of $10 million to be dated September 1, 1970. The debentures will be guaranteed by the DI as to payment of principal, interest and premium (if any). The debentures also will be convertible into common stock of the DI. On September 5, 1970, an underwriting agreement is signed pursuant to which the debentures are to be sold to the underwriters at a discount of 3 percent and sold to the public at par. At the closing on September 25, 1970, AFN issues the debentures and receives a check from the underwriters for $9,500,000, the 3 percent discount and other underwriting commissions, fees and expenses having been deducted. On September 25, 1970, the AFN has made a borrowing of $10 million guaranteed by the DI.

*Example 10.* DI's Schedule C AFN (C) arranges with a group of investment banking organizations for the sale of $10 million of 12-year debentures to be dated September 1, 1970. The debentures will be guaranteed by DI as to payment of principal, interest, and premium (if any). Attached to the debentures will be warrants which may be detached after a period of 6 months from the date of issuance and which entitle the holder to purchase a certain number of shares of the common stock of DI at a specified price. The warrants are valued by DI's independent financial counsel at $750,000 (a valuation acceptable to OFDI). On September 5, 1970, an underwriting agreement is signed pursuant to which the debentures are to be sold to the underwriters at a discount of 3 percent and sold to the public at par. At the closing on September 25, 1970, C issues the debentures and receives a check from the underwriters for $9,500,000, the 3 percent discount and other underwriting commissions, fees, and expenses having been deducted. C has made a borrowing of $10 million guaranteed by the DI on September 25, 1970. On the same date DI is considered to have made a transfer of capital under § 312(a) to C in the amount of the value of the warrants ($750,000) that are attached to the debentures.

*Example 11.* On September 15, 1968, DI's AFN entered into a revolving credit arrangement with a foreign bank, pursuant to which AFN could borrow up to $5 million during a period ending September 15, 1975. The agreement provided that each takedown under the arrangement would be evidenced by a 180-day note, each note bieng renewable by its terms within the overall period of the arrangement. DI executed and delivered to the foreign bank a guarantee of payment of principal and interest of any borrowings made by the AFN pursuant to the revolving credit arrangement. On October 1, 1968, AFN took down $3 million and on February 1, 1969, it took down $2 million. AFN made a borrowing guaranteed by the DI of $3 million on October 1, 1968, and another borrowing guaranteed by the DI of $2 million on February 1, 1969.

The authorization contained in § 1002(a) is limited to repayment of a guaranteed borrowing. Payments made by a DI pursuant to guarantees of performance by its AFN of contractual obligations other than the repayment of debt are not authorized by § 1002(a).

*Example 12.* DI has a Schedule C AFN (C) that is engaged in the business of road construction. C enters into a contract with a foreign government for construction of a highway that must meet certain specifications. DI guarantees performance by C of the contract according to specifications contained therein. If DI is called upon to pay money to the foreign government or to transfer funds to the AFN to enable performance according to the contract specifications, the payment or transfer is not authorized by § 1002(a).

*Example 13.* DI has a Schedule C AFN involved in the construction business. From time to time, AFN makes bids on certain construction projects, in connection with which the AFN must file a bond that is forfeited if AFN is let a contract that it cannot perform. AFN has an arrangement with its local bank, in the form of an overdraft whereby the bank will pay any such forfeited amounts. DI has issued a guarantee of payment of principal and interest of any amounts paid by the bank pursuant to its arrangement with the AFN. If the AFN utilizes the arrangement to pay a forfeit which results in an overdraft, the AFN, at that time, will have made a borrowing guaranteed by the DI, and repayment by the DI may be authorized under § 1002(a).

*Example 14.* On July 1, 1969, DI's AFN entered into a 20-year charter-hire agreement with an unaffiliated foreign national (X) for a ship. The terms of the charter-hire agreement with X are construed by AFN's public accounting firm as an installment purchase under accounting principles generally accepted in the United States, and AFN treats an appropriate portion of the charter-hire payments as return of principal to X and treats the remainder as interest charges. Under the charter-hire agreement, AFN also agrees, among other things, to keep the ship in good repair, to keep it clear of any liens, and to hold X harmless from any liabilities that may arise out of the operation of the ship. At the closing, DI executes and delivers to X a guarantee of payment and performance of all of the obligations of AFN under the charter-hire agreement. At the closing, AFN has made a borrowing guaranteed by the DI in the amount of the aggregate principal portion of charter-hire payments to be made during the term of the charter-hire agreement. The DI's guarantee of any other obligations of AFN under the charter-hire agreement is not a guarantee of a borrowing by the AFN, and any payments or transfers to the AFN to enable it to perform any such obligation cannot be authorized under § 1002(a).

Renewal of a prior guarantee, or execution of a guarantee upon refinancing of a previously guaranteed AFN borrowing, is not considered to be a new guarantee unless the principal amount guaranteed is increased. Moreover, renewal of a guarantee or execution of a new guarantee with respect to an AFN borrowing that is still outstanding is not considered to be the making of a new guarantee.

*Example 15.* On September 1, 196J DI's AFN entered into a revolving credit agreement with a foreign bank (X) that permitted AFN to borrow up to $2 million. The borrowing was guaranteed by DI. AFN immediately took down the entire $2 million. On September 1, 1969, AFN makes a $2 million borrowing from another foreign bank (Y), giving Y as 3-year note in the principal amount of $2 million. The $2 million is used to repay AFN's borrowing from X. Even though DI executes a new guarantee of repayment of the 3-year note in favor of Y, DI is not considered to have made a new guarantee.

*Example 16.* On September 1, 1968, DI's AFN entered into a revolving credit agreement with the foreign branch of a United States bank for a period of 5 years. Under the agreement, AFN could make borrowings of up to $5 million evidenced by 180-day notes renewable by their terms. The agreement also provided that the DI guarantees repayment of each 180-day note as to the payment of principal and interest. On September 1, 1968, AFN immediately took down the full $5 million. On March 1, 1969, AFN executed new 180-day notes for the full $5 million and delivered to the bank a new guarantee of DI with respect to the new notes. DI is not considered to have made a new guarantee.

**§ B1002–1 Authorization of positive direct investment attributable to repayment of certain borrowings.**

Positive direct investment attributable to a DI's repayment of an AFN's borrowing is authorized by § 1002(a) if:

The borrowing was guaranteed by the DI prior to January 1, 1968 (§ 1002(a)(1));

The borrowing was guaranteed by the DI on or after January 1, 1968, but prior to June 10, 1968, and the DI complied with the certification requirements of § 2(a)(1) of General Authorization No. 1 (§ 1002(a)(1));

The borrowing was guaranteed by the DI on or after June 10, 1968, and the DI complied with the § 1002(b) certification requirements (§ 1002(a)(5));

The borrowing was obtained from a bank prior to January 1, 1968 (§ 1002(a)(2));

The borrowing was obtained from a bank on or after January 1, 1968, pursuant to a fixed loan commitment or line of credit established prior to January 1, 1968, or any renewal or extension thereof (§ 1002(a)(2)); or

The borrowing involved issuance of debt obligations by the AFN convertible into stock of the DI (the date of the borrowing being irrelevant), and repayment by the DI consists of delivery of DI's stock upon exercise of conversion rights § 1002(a)(3)).

Positive direct investment attributable to repayment of a DI's long-term foreign borrowing is also authorized by § 1002(a) if:

The borrowing was made prior to January 1, 1968 (§ 1002(a)(4));

The borrowing was made from January 1, 1968, through June 9, 1968, and the DI complied with the certification requirements of § 2(b) of General Authorization No. 1 (§ 1002(a)(4));

The borrowing was made on or after June 10, 1968, and the DI complied with the § 1002(b) certification requirements (§ 1002(a)(6)); or







V 38-179
SEP 17 73
XUM

The borrowing involved the issuance of debt obligations of the DI convertible into stock of the DI, and repayment by the DI consists of delivery of the DI's stock upon exercise of conversion rights (§ 1002(a)(3)).

Section 1002(a) authorizes not only a DI's actual repayment of the enumerated AFN borrowings, but also transfers of capital by a DI to AFNs to enable direct repayment of such borrowings.

However, § 1002(d) provides that positive direct investment by a DI is not authorized under § 1002(a) if repayment of the borrowing is made at the option of the DI. Repayment pursuant to a call or like provision vesting control of the time of repayment in the DI or an AFN, or the existence of unexercised options to renew, extend or continue the borrowing at the time of repayment, will be deemed to result in repayment at the option of the DI.

(i) *Preprogram guarantee of AFN borrowing.* Repayment by a DI of an AFN borrowing, pursuant to a guarantee made prior to January 1, 1968, is authorized by § 1002(a)(1). A transfer of capital by the DI to an AFN to enable the AFN to repay a borrowing is similarly authorized, if the borrowing was guaranteed prior to the effective date. For the purposes of § 1002(a)(1), a guarantee will be considered to have been made prior to the effective date if it was executed prior to the effective date, even though the AFN might not have actually made its borrowing until after the effective date. Renewal of such guarantee or execution of a new guarantee in connection with the same borrowing of the AFN or the refinancing thereof for which the first guarantee was executed will not be considered a new guarantee.

*Example 17.* DI has an AFN (C) in Schedule C. On September 1, 1967, C borrowed $300,000 from a foreign bank for a term of 3 years, repayment of the borrowing being guaranteed by DI on the same date. For 1970 DI elects § 504(a) with a zero historical allowable in Schedule C. On August 31, 1970, when the loan becomes due, DI is called upon under the guarantee to repay the loan, plus $20,000 in accrued unpaid interest, C itself being unable to make repayment. DI makes repayment as demanded. Repayment of the borrowing plus accrued interest in the aggregate of $320,000 is authorized by § 1002(a)(1) regardless of the fact that no positive direct investment is authorized to DI under Subpart E during 1970 in Schedule C.

(ii) *Repayment of AFN bank borrowing made or committed prior to January 1, 1968.* A transfer of capital is authorized if made in repayment of, or to enable an AFN to repay, a borrowing by such AFN from a bank made prior to January 1, 1968, or a borrowing by such AFN from a bank made on or after January 1, 1968, pursuant to a fixed loan commitment or line of credit established prior to such date or pursuant to any renewal or extension thereof. Such repayment is authorized, however, only if the liquid assets of the AFN are not sufficient to repay the borrowing at maturity and if the AFN has made every reasonable effort to refinance the borrowing on terms generally available to companies of similar size and financial position. If, on or after January 1, 1968, the amount of such pre-January 1, 1968, fixed loan commitment or line of credit is increased by 10 percent or more, a new fixed loan commitment or line of credit is deemed to have been established at the time of the increase in an amount equal to the amount of the increase (see § 1002(a)(2)): repayments under the new fixed loan commitment or line of credit are not authorized by § 1002(a)(2) but may, if the applicable certification requirements are complied with, be authorized by § 1002(a)(1) or (a)(5).

If an AFN made a pre-January 1, 1968 borrowing from a bank and such borrowing was also guaranteed prior to January 1, 1968, the repayment will be generally authorized under § 1002(a)(1), rather than under § 1002(a)(2). If, however, the borrowing by the AFN was made prior to January 1, 1968, and the guarantee was made after January 1, 1968, § 1002(a)(2) will apply, unless DI, at the time of the guarantee, filed a certificate pursuant to General Authorization No. 1.

*Example 18.* DI has an AFN (C) in Schedule C. On September 1, 1967, C borrowed $300,000 from a foreign bank (F) for a term of 3 years. Repayment of the borrowing was not guaranteed by DI, but DI repaid the principal and accrued interest of $320,000 voluntarily on August 31, 1970, when the loan became due. At the time of such repayment, C had liquid assets which were just sufficient to meet its current operating expenses, and C had diligently, though unsuccessfully, attempted to refinance the borrowing with F and with other foreign lenders. The repayment by DI is authorized by § 1002(a)(2).

*Example 19.* DI has an AFN (C) in Schedule C. On December 1, 1967, C entered into a revolving credit agreement with a foreign bank (F) pursuant to which C could borrow up to $1 million over a period ending November 30, 1970. Borrowings under the agreement are to be made against notes with maturities of 90 days which can be renewed within the overall period of the agreement. On January 15, 1968, C took down the entire $1 million and the note was rolled-over until November 30, 1970, at which time the outstanding indebtedness, plus $50,000 in accrued interest, became due. At this time, C had liquid assets which were sufficient to repay only $300,000 of the amount due and C was unable, after diligent effort, to refinance the balance with F or with other foreign lenders. Accordingly, the remaining $750,000 due was paid by DI on November 30, 1970. The payment by DI to F of $750,000 is authorized by § 1002(a)(2).

*Example 20.* On September 1, 1967, an AFN of DI entered into a revolving credit agreement under which AFN could borrow up to $1 million, and AFN immediately took down the entire amount. On September 20, 1968, the amount available to AFN under the revolving credit agreement was increased to $1,500,000, and AFN borrowed the additional $500,000 in October 1968. As a result, a new $500,000 line of credit is deemed to have been established on September 20, 1968, and repayment by DI of any part of the additional $500,000 borrowing will not, therefore, be authorized by § 1002(a)(2) but would be authorized by § 1002(a)(5) if DI had guaranteed the additional $500,000 borrowing and had complied with the certification requirements of § 1002(b) of Subpart J.

(iii) *Repayment of AFN borrowing pursuant to guarantee made in the period January 1, 1968, through June 9, 1968.* Repayment by a DI of an AFN borrowing, pursuant to a guarantee made on or after the effective date through June 9, 1968, is authorized by § 1002(a)(1), if the DI filed a certificate described in § 2(a)(1) of General Authorization No. 1. A transfer of capital by the DI to an AFN to enable the AFN to repay such borrowing is similarly authorized.

Section 2(a)(1) of General Authorization No. 1 required the DI to state that the DI "has no reason to believe, under existing circumstances, that the affiliated foreign national will be unable to pay or otherwise satisfy such indebtedness without resort to performance under the guarantee * * *." Although, should the DI be called upon to repay the AFN's borrowing pursuant to the guarantee, positive direct investment would be authorized by § 1002(a)(1) even if in excess of the amount authorized to the DI in the year of repayment, the Office may inquire into the good faith of the statement made by the DI in its certificate.

*Example 21.* DI elects to be governed by § 503 during 1969. On March 15, 1968, DI executed its guarantee of payment of principal and interest under its AFN's 1-year note in the principal amount of $2 million, executed that same day. DI filed a General Authorization No. 1 certificate, based upon the belief that AFN could renew the borrowing at the time that it came due. During 1968, the AFN experienced financial difficulties, the market for AFN's products diminished, and DI, at the beginning of 1969, was forced to discontinue the AFN's operations. DI therefore repaid the $2 million, pursuant to its guarantee, on the maturity date of the note. The transfer of capital in repayment resulted in positive direct investment in excess of $1 million, but the entire amount of positive direct investment attributable to repayment of the borrowing is authorized by § 1002(a)(1). Upon inquiry by the Office into the basis for DI's statement in the certificate, DI may offer as an explanation the changed circumstances which were beyond its control.

(iv) *Repayment of a long-term foreign borrowing made prior to January 1, 1968.* Repayment of a long-term foreign borrowing (other than a repayment resulting from conversions of debt into equity as described in § 1002(a)(3)) made prior to the effective date is authorized by § 1002(a)(4).

*Example 22.* In 1967, DI purchased all of the stock of a United Kingdom corporation from an unaffiliated foreign national. The purchase price was $5 million, $1 million being paid in cash at the closing and the balance being payable (together with interest of $480,000) 3 years from the date of closing. The $4 million balance constitutes a long-term foreign borrowing and payment of such balance in 1970 is authorized by § 1002(a)(4). Payment of the $480,000 in interest does not constitute a transfer of capital and thus does not require authorization (see § 312(c)(8)).

(v) *Repayment of a long-term foreign borrowing made in the period from January 1, 1968 through June 9, 1968.* Repayment of a long-term foreign borrowing (other than a repayment resulting from conversion of debt into equity as described in § 1002(a)(3)) made from the effective date through June 9, 1968, is authorized by § 1002(a)(4), provided that the DI filed a certificate described in § 2(b) of General Authorization No. 1.

Section 2(b) of General Authorization No. 1 required the DI to state that it "has reason to believe that, under existing circumstances, the borrowing will ultimately be repaid or satisfied from sources outside the United States."

*Example 23.* On March 15, 1968, DI made a long-term foreign borrowing from a foreign bank, the proceeds of which were $2 million. DI gave the bank its note with an original maturity of 12 months and filed a General Authorization No. 1 certificate in the belief that it could either renew the note when it became due or repay the borrowing with proceeds of another long-term foreign borrowing. DI immediately loaned all of the proceeds to a Schedule C AFN. During 1968, the AFN experienced financial difficulties, the market for AFN's products diminished and DI, at the beginning of 1969, was forced to discontinue the AFN's operations. DI was unable to renew the note or refinance the long-term foreign borrowing from another foreign lender, and DI repaid the borrowing from its funds in the United States. The transfer of capital in repayment of the borrowing resulted, at the end of 1969, in positive direct investment in excess of DI's Schedule C allowable and was authorized by § 1002(a)(4). Upon inquiry by the Office into the basis for DI's statement in the certificate, DI may offer as an explanation the changed circumstances beyond its control.

(vi) *Repayment through conversion of debt obligations into stock of DI.* Repayment by reason of the delivery of equity securities of the DI to holders of debt obligations of the DI (including an international finance subsidiary of the DI) or of debt obligations issued by an AFN, pursuant to conversion or similar rights, is authorized by § 1002(a)(3). No certificate is required to be filed in order to authorize such repayment, regardless of when the borrowing was made. A certification must be filed, however, in order to provide authorization for cash payment of principal upon maturity of a convertible debenture offering, under § 1002(a)(5) and (6), since § 1002(a)(3) does not authorize such cash repayment.

For purposes of § 1003, a transfer of capital resulting from a repayment by conversion is deemed to have been made in the year immediately following the year in which the conversion or similar rights are exercised

*Example 24.* In February 1968, an international finance subsidiary of a DI sold $20 million of 12-year debentures in a public offering, the proceeds of which qualify as long-term foreign borrowing proceeds under § 324. The debentures are convertible into common stock of DI commencing 6 months from the date of issue. The proceeds of the debentures were invested in incorporated AFNs of DI in Schedule A, where DI, during 1968, was authorized under § 504 to make positive direct investment of $3 million. During 1968, DI delivered $5 million worth of its common stock (in aggregate market value at the time of delivery) to holders of the debentures as a result of the conversion of $3,500,000 in principal amount of the debentures. Such delivery resulted in a $3,500,000 repayment of the borrowing in 1968 (i.e., a transfer of capital to Schedule A during 1968 which is deemed to be made the following year for purposes of § 1003). During the same year, DI made additional positive direct investment of $3 million in Schedule A, which was authorized by § 504(a)(1). The positive direct investment resulting from delivery of the stock was authorized under § 1002(a)(3). Pursuant to § 1003, DI's Subpart E allowables are reduced by $3,500,000 in 1969.

*Example 25.* In November 1968, a Luxembourg AFN of DI (L) sold $20 million of 12-year debentures in a public offering. Attached to the debentures were warrants entitling the holder to purchase a certain number of shares of DI's common stock at a certain price. A holder of the warrants may also exchange a debenture, upon presentation of the warrant, for common stock of DI. DI's independent financial counsel valued the warrants at $2 million (which valuation was acceptable to OFDI), and DI recognized a transfer of capital to L in that amount in connection with issuance of the debt and warrant package. During 1969, an aggregate principal amount of $3 million of debentures was presented along with the warrants, and DI issued common stock in exchange therefor. The exchange constitutes the satisfaction of an AFN debt obligation, resulting in an additional transfer of capital under § 312(a)(6) in the principal amount of the debt surrendered ($3 million). Under § 1002(a)(3), the transfer of capital is deemed to be made in the year following exchange, so that DI's Schedule C allowable is not reduced under § 1003 until 1970.

(vii) *Guarantee made on or after June 10, 1968.* Repayment by a DI of an AFN borrowing, pursuant to a guarantee made on or after June 10, 1968, is authorized by § 1002(a)(5), provided that the DI filed a certificate described in § 1002(b). A transfer of capital by the DI to an AFN to enable the AFN to repay such borrowing is similarly authorized.

Section 1002(b) requires the DI to state that it has reason to believe either that it will make no transfers of capital in repayment of the AFN borrowing within 7 years of the date of the guarantee, or, if it does make transfers of capital in repayment of the borrowing within the 7-year period, positive direct investment resulting therefrom, if any, will be authorized by the DI's Subpart E (or M) allowable in the appropriate scheduled areas.

*Example 26.* During 1968, DI had § 504 historical allowables of $750,000 in Schedule B and $1,250,000 in Schedule A. DI had two AFNs in Schedule B: F and X. F had existed for a number of years and had maintained a substantial level of earnings for the past 3 years. X had been organized in 1967 and had lost money in that year, but DI expected X to break even in 1968 and perhaps have small earnings in 1969. On July 1, 1968, DI negotiated an overdraft facility for X from a foreign bank, pursuant to which X could make overdrafts of up to $1 million. The term of the facility was 1 year, and DI guaranteed repayment of any amount outstanding at the end of that year. DI filed a certificate under § 1002(b) stating that DI had reason to believe that no transfers of capital would be involved in repayment of the guaranteed borrowing, because renewal of the overdraft facility was anticipated until such time as X would have the financial resources to be able to repay the borrowing itself. DI had reason to believe that, should X not be able to repay at any time, F would be able to loan funds to X out of its substantial cash reserves.

Through the remainder of 1968, X and F encountered unprecedent business reverses, causing X to operate again at a loss, and resulting not only in a loss for F, but also necessitating substantial invasion of capital reserves. During 1968, X took down the full $1 million under the overdraft facility. During June 1969, the bank indicated that it would not renew the overdraft facility for $1 million, but only for $500,000. DI attempted and failed to secure financing from other sources to refinance the $500,000. Therefore, on June 30, 1969, DI repaid $500,000 to the bank pursuant to the guarantee. This repayment was authorized by § 1002(a)(5), and the positive direct investment resulting therefrom had the effect, pursuant to § 1003, of reducing DI's Schedule B historical allowable for 1969 to $250,000. If OFDI should inquire into the inability of DI to perform according to its reasonable expectations at the time of filing the certificate, DI may offer the unforeseen, changed circumstances as an explanation.

(viii) *Repayment of long-term foreign borrowing made on or after June 10, 1968.* Repayment of a long-term foreign borrowing (other than a repayment resulting from conversions of debt into equity as described in § 1002(a)(3)) made on or after June 10, 1968, is authorized by § 1002(a)(6) if the DI filed a certificate described in § 1002(b).

Section 1002(b) requires the DI to state that it has reason to believe either that (a) no transfers of capital will be involved in repayment of the long-term foreign borrowing within 7 years of the date of the borrowing, or (b) if transfers of capital are made in repayment of the borrowing within the 7-year period, positive direct investment resulting therefrom, if any, will be authorized by the DI's Subpart E (or M) allowable in the appropriate scheduled area.

*Example 27.* On September 1, 1968, DI made a long-term foreign borrowing of $5 million from a foreign bank, giving the bank its 12-month note. DI immediately loaned the funds to its Schedule C AFN (C). Although the terms of the note did not make it renewable, DI was assured by the lender that, if there would be no material change in the DI's business and financial condition and in the prevailing money market, it would give favorable consideration to requests by the DI to roll-over the loan until August 31, 1975. Based on existing circumstances, DI did not anticipate any material adverse change in its business or financial condition and intended to request renewal to August 31, 1975. In this situation, DI filed a certificate under § 1002(b)(1). During the remainder of 1968 and in 1969, however, both C and DI suffered unexpected business reversals, and in August 1969, the lender indicated that it would renew the note only to the extent of $2,500,000. DI attempted and failed to find financing from other sources, and therefore repaid the borrowing to the extent of $2,500,000 from U.S. sources on August 31, 1969. The positive direct investment resulting therefrom is authorized by § 1002(a)(6). If OFDI inquires into the inability of DI to perform according to its reasonable expectations at the time of filing the certificate, DI may offer the unforeseen and changed circumstances as an explanation.

### § B1002–2 Standard Certificate Form FDI–106.

All certificates filed on or after June 10, 1969 must be made on Standard Certificate Form FDI–106. (Prior to June 10, 1969, the format of submission was immaterial so long as the certifica-







V 38-179 SEP 17 73 XUM

tion contained all information and statements required by Subpart J.)

A revised Standard Certificate Form FDI–106 has been issued by OFDI on August 1, 1973, and is applicable to all borrowings made after August 31, 1973.

The certificate must be delivered to OFDI within 10 days after the date of a borrowing by the DI, or the date of DI's guarantee of an AFN borrowing, as the case may be. For purposes of computing the 10-day period, the date of a borrowing by the DI is fixed according to the rules of § 1002(e)(1). The date of a guarantee is not simply the date on which DI executes the guarantee or when the last act necessary to complete a deposit, pledge or hypothecation has taken place. Rather, the date of the guarantee of an AFN borrowing is the first date on which both the guarantee and the borrowing are in existence, under § 1002(e)(1). Thus, if on January 1 DI executes a written repayment guarantee with respect to AFN borrowings up to $1 million and the AFN borrows only $500,000 on that date, then borrows another $500,000 on June 1, DI may file two certificates, each covering a $500,000 guarantee of an AFN borrowing, the first by January 10, and the second by June 10. Alternatively, DI could have filed a single certificate as to the full $1 million on or before January 10.

As noted above, however, if a DI executed a guarantee of an AFN borrowing prior to January 1, 1968, but the AFN did not actually borrow until after that date, OFDI will not require a certificate to have been filed in order for repayment to be authorized. Also, if a DI executed a guarantee in the period January 1 through June 9, 1968, but the AFN borrowing took place on or after June 10, 1968, the DI is not required to replace its General Authorization No. 1 certificate with a Subpart J certificate.

The following sections explain the substantive requirements of Form FDI–106 (as revised August 1, 1973) except for those portions that are self-explanatory. For explanation of Form FDI–106 in effect for borrowings made on or before August 31, 1973, see 1972 General Bulletin § B1002–2.

The certificate should be filed only by the DI (or a duly authorized representative). If an international finance subsidiary of a DI (see § 323) makes a borrowing guaranteed by the DI, the borrowing is treated as if made by the DI itself and only one certificate need be filed. A guarantee by one AFN of a borrowing by another AFN would likewise require a certificate filing only by the DI.

A DI that becomes obligated to repay long-term foreign borrowing, previously certified by another DI, in connection with an acquisition described in § 312(c)(1) must file a new Standard Certificate Form FDI–106 in order to authorize repayment of such borrowing under Subpart J. (See § B312–18.)

When a shareholder guarantees a borrowing by a principal DI, a single certificate should be filed by the principal DI on the basis of its allowable, unless the principal DI is an affiliate of the shareholder or unless the shareholder has consented to an election under § 906(b)(2). Transfers of capital pursuant to such guarantee that result in positive direct investment will reduce the principal DI's allowables as provided in § 1003. If the principal DI is an affiliate of the shareholder guaranteeing the borrowing, the member of the affiliated group filing reports under § 602 should file the certificate. (See § 907(d).) If the shareholder has consented to an election under § 906(b)(2), the shareholder (and any other consenting shareholder guaranteeing the borrowing) should file a single certificate. Positive direct investment attributable to transfers of capital made by a consenting shareholder pursuant to such guarantee will reduce the allowables of such consenting shareholder in accordance with the provisions of § 1003.

When an indirect owner guarantees borrowing by an AFN of the principal DI, the principal DI should file a single certificate, whether or not the election under § 906(b)(1) has been made, unless the principal DI is an affiliate of the shareholder. In this case, the member of the affiliated group filing reports under § 602 should file the certificate. Positive direct investment attributable to transfers of capital made pursuant to such guarantee will reduce the allowables of the principal DI.

(i) *Item I.* DI should check the appropriate box as to whether the certificate relates to (a) "foreign borrowing", (b) a guarantee by DI (or an AFN) of a borrowing by an AFN, or (c) a guarantee by DI (or an AFN) of a borrowing by an overseas finance subsidiary governed by Subpart N.

(ii) *Item II.* If the certificate relates to a borrowing by an AFN (or an overseas finance subsidiary) that is guaranteed by the DI, the name of the borrower AFN and the country where the borrower AFN is located should be included.

(iii) *Item III.* In entry (a), the term "credit facility" refers to an arrangement with a lender (such as a line of credit or revolving credit arrangement) whereby funds may be taken down from time to time over a specified period up to a stated maximum aggregate amounts, as described in § 1002(e)(3). In such cases, a DI may file a single certificate with respect to such credit facility, instead of filing separate certificates for each borrowing by the DI or guarantee of an AFN's borrowing pursuant to the arrangement involved. (Although § 1002(e)(3) provides that a certificate with respect to a credit facility should be filed on or prior to the date of the first takedown, OFDI will treat such certificates as timely filed if they are delivered within 10 days after the first takedown.) A credit facility will be certified only when first made or at the time of its renewal. A DI must file a new certificate upon expiration of a credit facility and the execution of a new credit facility, but only to the extent that borrowings pursuant to the credit facility are not outstanding at the time of renewal. If borrowing are outstanding, the renewal of the credit facility is simply a renewal of the borrowing, and no new certificate need be filed. (The renewal or refinancing, as described in § 1002(e)(2), of a takedown under a credit facility or of an isolated borrowing need not be certified at that time, since the renewal or refinancing is not the making of a new borrowing or guarantee of an AFN borrowing (see § 324(b)(1).)

Entry (b) deals with a new borrowing or a single takedown pursuant to a credit facility if the DI did not file a certificate with respect to the entire credit facility, but is filing separately for each separate takedown pursuant to a credit facility. In a few isolated instances, however, such as where DI desires to change the statement made in a certificate or where changed or additional facts provide a more favorable basis for making a certificate, the DI may desire to file a second certificate for a single takedown under a credit facility for which a certificate has previously been filed. In that event, (b) should be checked.

*Example 28.* On September 1, 1970, DI enters into a revolving credit arrangement with a foreign bank pursuant to which DI may borrow up to $5 million through August 31, 1974. Borrowings under the arrangement are to be made against notes with maturities of 180 days, renewable within the overall period of the arrangement. Funds, borrowed under this arrangement are to be invested by DI in a Schedule A AFN, where the DI has a historical allowable of $7,500,000. DI believes, as of September 1, 1970, that positive direct investment in Schedule A in 1974, when all outstanding indebtedness will be paid in full, will not exceed $6,500,000. In this situation, DI may file a single Form FDI–106 on the basis that all repayments made within 7 years from the date of each borrowing under the revolving credit arrangement will be authorized by § 504. In completing Item III of Form FDI–106, DI should check (b), entering $5 million as the amount of the credit facility in Item IV and September 1, 1970 as the date of the borrowing.

On August 31, 1974, consider the following alternative possibilities:

(a) All borrowings made under the arrangement have been repaid in full, DI and the bank renew the revolving credit arrangement on the same terms for an additional 2-year period, ending August 31, 1976. Funds borrowed under the arrangement as renewed are also to be invested in Schedule A AFNs. In this situation, DI must file a new certificate stating the belief that all repayments made within 7 years from the date of each borrowing will be authorized by § 504. DI will check (b) of Item III and will also enter the amount of the credit facility ($5 million) and the date, August 31, 1974 in Item IV.

(b) The arrangement is renewed, with $5 million of borrowings under the prior arrangement still outstanding. The funds to be borrowed under the renewed arrangement are to be used to refinance the outstanding indebtedness. Since, by virtue of the provisions of § 1002(e)(2), funds borrowed under the renewed arrangement to refinance existing indebtedness will not constitute new borrowings, DI is not required to file any additional certificates because of the renewal of the arrangement.

(c) The arrangement is renewed, with $3 million of borrowings under the prior arrangement outstanding. Thus, $3 million of borrowing under the renewal will be used to refinance outstanding indebtedness, and does not constitute a new borrowing. The remaining $2 million will constitute a new borrowing, when DI takes down that amount. DI plans to invest the $2 million in the Schedule A AFN, so that DI may file a single certificate with respect to the $2 million borrowing it may make under the renewal agreement. If DI files a single certificate, entry (b) should be checked. The amount of the arrangement is $5 million and the date is August 31, 1974. However, DI will certify only to $2 million of borrowings ($5 million less $3 million).





Entry (c) is for a borrowing constituting a refinancing of a foreign borrowing or long-term foreign borrowing previously certified. Although a refinancing borrowing as described in § 324(b)(1) need not be certified, there may be instances when a foreign lender may insist on certification.

Entry (d) should be checked if Item I (b) or (c) was checked.

Item IV should show the principal amount and date of the transaction being certified. If an offering with warrants attached is made by a DI, a certain portion of the funds or other property received from the offering will be attributable to sale of the warrants and, therefore, will not constitute proceeds of long-term foreign borrowing. In such case, the DI should indicate the value of the warrants, based upon a valuation by one or more of the principal underwriters or by DI's independent financial counsel. (OFDI reserves the right to review the reasonableness and accuracy of any such valuation.) The value of the warrants should be deducted from aggregate principal amount of the bonds or debentures, and the difference is the amount of potential repayment that must be certified. (See § 324.) If such an offer is made by an AFN of DI, attachment of warrants will not have an effect on the amount of the borrowings. However, DI must reflect, on the appropriate Form FDI–102 or Form FDI–102F, a transfer of capital from DI to AFN in the amount of the value of the warrants. The DI must certify with respect to potential repayment of the full aggregate principal amount of the debt.

Item IV should also show the date of the transaction being certified (see § 1002(e)(1) and §§ B1001–1 and 1002–2 above), the currency in which the borrowing is denominated, and the U.S. dollar equivalent.

(iv) *Item V.* Unless a guarantee of a bororrowing by an AFN is being certified, DI must check the box preceding the category of § 324(a)(1) under which a borrowing qualifies as a foreign borrowing.

(v) *Item VI.* Item VI follows the structure of § 1002(b). Statement (a) restates § 1002(b)(1), and Statement (b) restates § 1002(b)(2). In order to obtain authorization to make positive direct investment as a result of repaying borrowing described in § 1002(a)(5) or (6), a DI must make one of the two statements by checking the appropriate box opposite (a) or (b). With respect to either statement, a DI must check at least one of the boxes. If none of the premises expressly stated under Statement (a) or (b) corresponds to the particular facts of the transaction, the DI must check the box marked "Other" and write the particular reason for making the statement. In completing Item VI, each DI must assume that the regulations will be in effect for at least 7 years after the date the certificate is filed and that the amount of positive direct investment authorized to be made by the DI under Subpart E or M of the regulations during each year of such 7-year period will not exceed the amount authorized to be made by the DI in the year during which the certificate is filed.

In order to make Statement (a), a DI must have reason to believe, based on all the facts and circumstances existing at the time the certificate is delivered to OFDI, that there will not be any repayment of the borrowing within 7 years of the date of the borrowing, or the date of the guarantee if the borrowing is by an AFN. For purposes of determining the 7-year period when a guaranteed borrowing by an AFN is involved, the date of the guarantee of the borrowing is considered to be the first date when both the guarantee and the borrowing by the AFN are in existence, e.g., when the guarantee has been executed and the borrowing has been taken down. As to borrowings made under a credit facility, the 7-year period is computed separately for each borrowing made under the facility.

When making Statement (a), a DI need consider only whether repayment of the borrowing can be postponed for a period of 7 years. Whether positive direct investment resulting from repayment at that time will be authorized by the DI's Subpart E allowables is irrelevant. For example, a DI that has only a § 503 allowable may make the statement with respect to a $10 million borrowing made in 1973, even though repayment in 1980 would exceed the present § 503 allowable. (When the borrowing is repaid in 1980, § 1003 requires that positive direct investment resulting from repayment will be a first charge against subpart E allowables.) Similarly, even though a DI would be able to offset any positive direct investment (e.g., by allocating proceeds of other long-term foreign borrowing) resulting from a repayment within 7 years, DI may not certify on the basis of Statement (a). In such case, DI should use Statement (b).

Statement (b) may be made if a DI cannot make Statement (a). In order to make Statement (b) a DI must have reason to believe, based on all the facts and circumstances existing at the time the certificate is delivered to OFDI, that any repayment within 7 years of the borrowing either will not result in positive direct investment in Schedules A, B, or C, or that if such repayment does result in positive direct investment, such positive direct investment will be authorized during the year when repayment is made by the DI's Subpart E (or M) allowables in the scheduled area in which the transfer of capital under § 312(a)(6) or (7) is incurred. Upon the expiration of the 7-year period, any repayment made by DI will be authorized by § 1002, even if resulting in positive direct investment in excess of Subpart E (or M) allowables so long as DI has satisfied the conditions of Statement (b) during the 7-year period. When making such statement, a DI must assume that the § 503 allowable will continue to be the amount in effect during the year when the certificate is filed. Thus, a DI filing during 1973 must assume that the § 503 allowable will continue, in future years, at $6 million. Similarly, a DI must assume that historical allowables will continue, in future years, at the amounts set by § 504 (a) and (c) in the year of filing, that for purposes of § 504(b) earnings allowables will continue to be based on 40 percent of earnings in the appropriate prior year or years, and that the § 506 incremental earnings allowable will continue to be computed in the same manner. On the other hand, where the transaction involved is a borrowing by an AFN with the DI's guarantee, DI must make a reasonable estimate of future AFN earnings, based on facts and circumstances existing at the time the certificate is filed.

When filing each certificate with respect to a borrowing, the DI must also take into consideration the projected use of allowables in the year when repayment falls due. For example, a DI electing to be governed by § 503 during 1973 and expecting to use the § 503 allowable through 1975 could not file certificates in 1973 containing Statement (b) with respect to two borrowings, each for $6 million and each requiring full principal repayment in 1975. Basing certification on the availability of a certain allowable in a future year, however, does not bind the DI to elect such allowable under § 502 for the year in question.

The following examples illustrate situations in which the assurances contained in Statement (a) would be appropriate:

*Example 29.* DI borrows $1 million from a foreign bank on September 1, 1973, giving the bank a note maturing on September 1, 1980. The DI may file a certificate under § 1002(b) by checking the box opposite Statement (a)(1) of Item VI on Form FDI–106, since no principal payments are required within 7 years.

*Example 30.* On September 1, 1973, DI's international finance subsidiary issues to non-Canadian foreign nationals debentures in the principal amount of $10 million, maturing on March 1, 1980. DI intends to refinance the borrowing on March 1, 1980, by making a 6-month borrowing from a foreign bank. DI may certify under § 1002(b)(1) by checking the box opposite Statement (a)(2) of Item VI on Form FDI–106, because DI believes that the borrowing can be refinanced for a total period of 7 years.

*Example 31.* DI's sole AFN in Schedule C borrows $1 million from a foreign bank on September 1, 1973, giving the bank its note maturing on August 31, 1975. The note is guaranteed by DI. DI has reason to believe, under existing circumstances, that the AFN will have sufficient financial resources in 1975 (generated by depreciation, earnings, and borrowings) to repay the loan and to pay all dividends required to satisfy limitations on positive direct investment imposed by the regulations. (See § 1002(c)(3).) DI may file a certificate under § 1002(b)(1) by checking the box opposite Statement (a)(3), because DI does not anticipate being called upon to make any principal repayments of the borrowing pursuant to the guarantee.



V 38-179 SEP 17 73 XUM

The following examples illustrate situation in which the assurance contained in Statement (b) would be appropriate:

*Example 32.* DI borrows $5,500,000 from a foreign bank on September 1, 1973 using the proceeds to purchase all voting stock of a company in Schedule A on September 1, 1973. The borrowing is repayable in 1975, and DI does not anticipate having any allowable under § 504 or § 506 during 1975. The DI believes, under existing circumstances, that the acquired company will earn $40,000 in 1975, all of which will be reinvested, but (apart from repayment of the loan and such reinvested earnings) does not intend to make any other positive direct investment in excess of $250,000. In this situation, DI may file a certificate under § 1002(b)(2), checking Statement (b). Repayment of the $5,500,000 borrowing in 1975 plus the $40,000 of reinvested earnings in 1975, plus $250,000 of other positive direct investment would result in positive direct investment of $5,790,000 during that year, all of which would be authorized by § 503.

*Example 33.* During 1972, DI has historical allowables of $400,000 in Schedule C, $5 million in Schedule B and $10 million in Schedule A. The § 504(a) historical allowable is elected and, under the upstream provision of § 504(c)(1), DI has a total allowable in Schedule C of $800,000 for 1972, based on 1971 annual earnings of DI's Schedule C AFNs of $2 million. During September 1972 DI makes long-term foreign borrowing of $1 million which will be repaid in 1974. DI intends to allocate the $1 million to positive direct investment in Schedule C during 1972. DI has reason to believe, based on existing circumstances, that the Schedule C AFNs will have annual earnings in 1973 of $4 million, giving DI a Schedule C allowable during 1974 of $1,600,000. DI further has reason to believe that the AFNs, in 1974, will reinvest no more than $200,000 of their earnings. Under these circumstances, DI may file a certificate under § 1002(b)(2), checking Statement (b) of Item VI on Form FDI-106, because there is reason to believe that repayment of the borrowing in 1974 will be authorized within the Schedule C allowable for that year. (Note that DI cannot base certification on the allowable available in Schedule B or A, even though such allowables would be reduced in 1974 (pursuant to § 1003) if the Schedule C allowable is not sufficient to absorb the charge when the debt is repaid.)

*Example 34.* For 1970, DI elects the historical § 504(a) allowable, with a Schedule B allowable of $1,200,000. During 1970, DI's Schedule B AFNs have earnings of $2 million, all of which DI desires to reinvest (resulting in positive direct investment of $2 million). DI makes long-term foreign borrowing in October 1970 of $800,000, which will be repaid in November 1971, and allocates the proceeds to positive direct investment in Schedule B at the end of 1970. DI has reason to believe that the AFNs in Schedule B will again have $2 million of earnings during 1971, but that they will be able to declare $800,000 of dividends. DI further plans, during 1971, to liquidate certain Schedule B holdings, which liquidation will result in a negative net transfer of capital during 1971 of $900,000. Under these circumstances, DI may file a certificate under § 1002(b)(2), checking Statement (b) of Item VI on Form FDI-106, because there is reason to believe that positive direct investment resulting from repayment of the borrowing in 1971 will be authorized under the Schedule B allowable.

### § B1002–3 Certification with respect to convertible debt.

Section 1002(c)(2) provides that, under certain circumstances, a DI may exclude potential transfers of capital resulting from conversion of debt instruments into equity securities of the DI in determining (for purposes of Subpart J) whether positive direct investment resulting from repayment will be authorized by Subpart E (or M) allowables. No certificate is required with respect to positive direct investment resulting from the conversion itself (§ 1002(a)(3)). Accordingly, § 1002(c)(2) is applicable to certification as to (i) repayment by a DI pursuant to guarantee of an AFN's convertible debt (under § 1002(a)(5)), (ii) cash repayment of a DI's convertible long-term foreign borrowing (under § 1002(a)(6)), or (iii) repayment (under § 1002(a) (1) or (4)) of a borrowing unrelated to the convertible debt at a time such debt is outstanding.

The effect of § 1002(c)(2) is that, in the stated circumstances, a DI may rely on future allowables and their availability for cash repayment of borrowings, without having to take into consideration the potential charge to such allowables resulting from a conversion. For example, if a DI which elects § 503 has made a public offering of 20-year convertible debentures in principal amount of $20 million, and subsequently makes $6 million of long-term foreign borrowing to be repaid in 5 years, a § 1002(b)(2) certificate may properly be executed as to the $6 million borrowing notwithstanding that potential conversions of the outstanding convertible debt could use up DI's § 503 allowable for the year the $6 million borrowing is repaid (assuming the conditions in the proviso to § 1002(c)(2) are satisfied).

On the other hand, if convertible debt fails to meet either of the two conditions in the proviso to § 1002(c)(2), potential conversions must be taken into account when filing certificates. If the convertible debt does not have an original maturity of 7 years, potential charges to positive direct investment resulting from conversions must be considered by the DI in determining whether sufficient allowable will exist during any year to authorize cash retirement of the convertible debt or of any other borrowing by the DI or an AFN. Similarly, potential charges against allowables must also be taken into account by the DI if a nonpublic debt issue is convertible within 3 years of the date of issuance. Potential charges against allowables resulting from conversion need not be taken into account, even if the debt is convertible within 3 years of the date of issuance, if the convertible debt is a public offering.

The term "public offering" for purposes of the second condition in the proviso to § 1002(c)(2) means generally that at least half of the issue must be distributed through normal investment banking channels abroad, or sold to foreign purchasers engaged in the business of dealing in securities, in a manner affording reasonable prospects of an effective secondary market for the securities.

If, in connection with a convertible debt issue, DI certifies under § 1002(b)(1) that no principal repayments will be made within 7 years, DI need not consider potential conversions even though the issue does not satisfy the proviso of § 1002(c)(2). However, whenever DI files a certificate under § 1002(b)(2), and convertible debt is outstanding that falls into either of the conditions of the proviso to § 1002(c)(2), potential conversions must be considered by the DI.

*Example 35.* DI has no § 504 allowables. In September 1968, DI purchased all stock of a Brazilian corporation from an unaffiliated foreign national (X) in exchange for a $5 million debenture issue maturing in 10 years and convertible (in whole or in part) into common stock of DI commencing 3 years from date of issuance. Interest on the debentures is payable semiannually, but in the event of default on payment of any interest installment, X has the right to declare the entire principal sum to be immediately due and payable. However, DI was in good financial condition and did not anticipate default in interest payments. DI filed a certificate under § 1002(b)(1), since no principal repayments are required to be made within 7 years from the date of issue. (Repayment by reason of conversion would be authorized by § 1002(a)(3), without regard to the Subpart J certification requirements.) In 1970, DI desires to make long-term foreign borrowing of $4 million, to be repaid in 1972, and to allocate the proceeds thereof to positive direct investment in Schedule A. Without regard to any charge against the § 507(a)(2) allowable resulting from conversion of the debenture, DI may file a certificate with respect to the long-term foreign borrowing under § 1002(b)(2) if there is reason to believe that the entire § 507(a)(2) allowable will be available to authorize repayment in 1972.

*Example 36.* In 1968, DI made a public offering of $2 million principal amount of convertible debentures, maturing in 1988 and convertible after 6 months from the date of issue. The proceeds were immediately invested in Schedule C. DI filed a certificate under § 1002(b)(1) with respect to the borrowing. In 1970, DI makes a $5 million long-term foreign borrowing from a foreign bank, repayable at the rate of $1 million annually for the next 5 years, and DI allocates the proceeds thereof to Schedule C positive direct investment. In 1970, DI has a § 504(b) Schedule C allowable of $2,500,000, and has reason to believe that (except for any positive direct investment resulting from conversion of the convertible debt) repayment of the bank loan can be accomplished within this allowable over the next 5 years. (DI expects to have annual earnings of $6 million in Schedule C, to cause Schedule C AFNs to declare dividends of $4,500,000 per year, and does not expect to make any positive net transfer of capital for the next 5 years.) DI does not have to make allowance for positive direct investment resulting from potential conversions of the debenture issue when analyzing its ability to file a certificate with respect to the bank borrowing under § 1002(b)(2).

*Example 37.* On September 1, 1970, DI publicly offers $20 million principal amount of debentures with maturity of 25 years, convertible into stock of DI at any time after 6 months from the date of issue. The offering qualifies as long-term foreign borrowing, and DI immediately invests the proceeds in Schedule C, where DI has a historical allowable of $2 million. Under the underwriting agreement, DI must make mandatory sinking fund payments to be used by a trustee to redeem debentures in the principal amount of $1 million in each of the years 1975 through 1993. Because original maturity of the debenture issue is only 5 years, and not 7 years, consideration must be given to whether the $1 million repayment of principal that will be charged to DI's Schedule C allowable during the years 1975–77, together with potential conversions, can be made within the allowable for that schedule. While DI cannot certify under § 1002(b)(2) in these circumstances, a certificate under § 1002(b)(1) could still be executed if DI has reason to believe that any cash principal repayments or conversions in excess of the Schedule C allowable could be refinanced so that the full amount of the borrowing would have been continuously outstanding for at least 7 years.





### § B1003–1 Effect of transfers of capital in repayment of borrowings.

Section 1002 provides that positive direct investment attributable to transfers of capital in connection with repayments of certain borrowings are generally authorized, subject to § 1003. Such repayments are authorized even though positive direct investment resulting therefrom exceeds a DI's available allowables during the year of repayment. However, to the extent DI has allowables, § 1003 requires that such allowables be reduced by the amount of the repayment. If the amount repaid exceeds the allowables available in the year of repayment, the excess will be carried over and charged against allowables in succeeding years until reductions equal the amount of repayment. Accordingly, repayment of a borrowing is permitted but a DI's allowables are correspondingly reduced in the year of repayment and, if necessary, in succeeding years.

Under § 1003, a repayment charge is incurred by the DI in the year of repayment (except for conversions) in the amount of positive direct investment authorized under § 1002. The allowables elected by DI under Subpart E (and Subpart M, if applicable) are reduced, but not to less than zero, until such reductions equal the repayment charge. Of the Subpart E allowables, the § 506 incremental earnings allowable is the last to be reduced. Subpart M allowables are reduced after Subpart E allowables, unless the repayment charge is incurred in connection with the DI's foreign air transportation operations (see §§ 1301–1302), in which case the Subpart M allowable is reduced first. Reductions of § 504 allowables in Schedule C are made first to § 504 (a) and (c) or (b), (d)(3), and (f)(3)(i), and then to § 504 (e) and (f)(3)(ii).

Section 1003(c)(1) provides that Subpart E allowables are reduced first in the scheduled area where positive direct investment was made under § 1002 and, to the extent the repayment charge exceeds allowables available for that scheduled area, then in Schedules C, B and A, in that order. If Subpart E allowables are insufficient to absorb the repayment charge, Subpart M allowables are then reduced.

Section 1003(c)(5) has been revoked for 1973 and subsequent years. It dealt with the reduction of the § 507 allowables by providing that the $4 million Schedule A supplemental allowable (§ 507(a)(2)) would be reduced only to the extent that the DI had repaid a long-term foreign borrowing the proceeds of which were expended in Schedule A or were allocated to positive direct investments in Schedule A, or to the extent that the DI has made payments on a guarantee of a Schedule A AFN borrowing or to enable a Schedule A AFN to repay its borrowing. (See § B1003–1(IV) for the effect of the revocation of § 1003(c)(5).)

To the extent that the repayment charge in any year exceeds all applicable Subpart E and M allowables, § 1003(d) provides that allowables in the following year or years are reduced in the same manner. However, prior to 1973 a DI could elect under § 1003(d) not to have its § 507(a)(2) Schedule A supplemental allowable reduced in any year by a carryforward (from 1969 or a subsequent year) of a repayment charge attributable to Schedule A.

(i) *The repayment charge.* A repayment charge is incurred in the amount of positive direct investment resulting from transfers of capital enumerated in § 1002(a)(1)–(6), namely, (a) those to repay or enable the AFN to repay certain borrowings of the AFN; (b) those consisting of the delivery of equity securities of the DI upon conversion of certain debt obligations of the DI or an AFN; or (c) those made in repayment of long-term foreign borrowings of the DI.

Although the repayment charge is generally incurred in the year that positive direct investment is made, transfers of capital resulting from conversion of debt obligations are deemed (solely for purposes of § 1003) to occur in the year immediately following the year of conversion. (See § 1002(a)(3).)

Repayment of a long-term foreign borrowing by a DI (including delivery of equity securities upon conversion) results in a transfer of capital to the scheduled area where the proceeds were expended or allocated at the time of repayment and with respect to which a deduction was taken under § 203(d), § 306(e), or § 313(d)(1). If proceeds of the borrowing were utilized to offset positive direct investment in more than one scheduled area at the time of repayment, the transfer of capital resulting from repayment will be charged proportionally, based on the deduction taken in each scheduled area. (See § 312(a)(7).) Note that when there is repayment of a long-term foreign borrowing that was not expended prior to July 1, 1972, or allocated, no transfer of capital will result.

Transfers of capital to repay or to enable an AFN to repay a borrowing made by the AFN are charged against the DI's allowables in the scheduled area of the AFN.

(ii) *Reduction of allowables.* Section 1003 (c) and (d) prescribes the manner in which allowables under Subparts E and M are reduced because of a repayment charge incurred pursuant to § 1002.

A special rule applies to reduction of Schedule C allowables under § 504. Section 1003(c)(3) provides that the allowables authorizing positive direct investment in Schedule C (§ 504 (a) and (c) or (b), (d)(3), and (f)(3)(i)) are reduced before those authorizing reinvested earnings (§ 504 (e) and (f)(3)(ii)). If DI has total losses in Schedule C during the year, the amount of such losses does not constitute an allowable under § 504(e) until the following year, at which time it would be subject to reduction under § 1003.

*Example 38.* In 1970 DI elects § 504(b) with an allowable in Schedule C of $2 million. DI also has a carryforward from 1969 in Schedule C under § 504(d)(3) of $300,000 and a reinvested earnings allowable of $200,000 under § 504(f)(3)(ii) as a result of losses in Schedule C during 1968. During 1970 DI incurs a repayment charge of $2,400,000 in Schedule C. After making reductions as provided by § 1003(c)(3), DI will have left only $100,000 of the reinvested earnings allowable under § 504(f)(3)(ii).

A special rule also applies to U.S.-air carriers engaged in international air transportation. Section 1003(c)(4) provides that where a transfer of capital resulting in a repayment charge is primarily related to operations in foreign air transportation (as defined in § 1302(a)), the Subpart M allowable shall be reduced first. If the repayment charge is not related to operations in foreign air transportation, the Subpart E allowables will be reduced first, in accordance with § 1003(c)(1).

*Example 39.* In 1969, DI, a U.S.-flag airline, has a foreign air transport allowable of $1 million and § 504(a) allowables of $500,000 in Schedule A, $600,000 in Schedule B and $400,000 in Schedule C.

In 1969 DI repays a $1,500,000 borrowing made in connection with its operations in foreign air transportation, resulting in a repayment charge of $1,500,000 under §§ 1002 and 1003.

First, DI's foreign air transport allowable is reduced to zero and the excess of $500,000 is charged against its § 504(a) allowables in Schedules C, B, and A, in that order. Therefore, DI's Schedule C allowable is reduced to zero and its B allowable is reduced to $500,000. The $500,000 allowable in Schedule A is not affected.

*Example 40.* During 1969, DI repays a $1 million long-term foreign borrowing, the proceeds of which had been expended in Schedule A. Under § 1002, DI has made positive direct investment in Schedule A of $1 million constituting the "repayment charge" for purposes of § 1003. DI's allowables under § 504(a), which is elected for 1969, are $600,000 in A, $300,000 in B and $300,000 in C.

Under § 1003(c)(1), the Schedule A allowable ($600,000) is first reduced to zero; then, to the extent the repayment charge exceeds the reduction in A, the excess reduces allowables first in C (by $300,000 to zero) and then in B (by $100,000 to $200,000). Therefore, in 1969 DI may make no positive direct investment in C, no additional positive direct investment in A, and positive direct investment in B is limited to $200,000.

*Example 41.* During 1968, DI, with allowables of $2 million in Schedule A and zero in Schedules B and C, repaid a $1 million 1967 borrowing used to acquire all outstanding shares of a German corporation. Since the "repayment charge" was incurred during 1968 (see § 1003(a)), no reduction of any allowables could be made under the applica-



V 38 I 179 SEP 17 73 XUM

ble 1968 regulations, which did not provide (as does § 1003(c)(1) of the 1969 and 1970 regulations) for reducing allowables in other scheduled areas.

Although the $1 million repayment charge may be applied in subsequent years (under § 1003(c)(3) as in effect for 1968), only Schedule C allowables or the worldwide § 503, § 507(a)(1), or § 506 allowables may be charged.

*Example 42.* In 1970 DI's § 504(b) earnings allowable is $600,000 in Schedule C, $1 million in Schedule B and zero in Schedule A. DI's § 1302 (Subpart M) foreign air transport allowable is $700,000. DI also has a $200,000 § 506 incremental earnings allowable. During 1970 DI repays a long-term foreign borrowing, the proceeds of which had been expended in making a transfer of capital in the amount of $2,100,000 to construct a resort hotel in Schedule B. Assuming the repayment is authorized by § 1002, DI has incurred a repayment charge of $2,100,000 under § 1003, which first reduces DI's § 504(b) allowable in Schedules B and C to zero. DI's § 506 allowable is then reduced to zero, and the Subpart M allowable is reduced to $400,000. (See § 1003(c)(1) and (2).)

The § 506 incremental earnings allowable is the last Subpart E allowable to be reduced under § 1003 (see § 1003(c)(2)).

*Example 43.* DI elects to be governed by § 503 in 1972 and has a § 506 allowable of $100,000. DI makes a $2,050,000 repayment under § 1002.

After the reductions under § 1003, DI has $50,000 of its § 506 allowable left. (See also Example 46 below.)

In general, all allowables (including accrued carryforwards) for the year are reduced under § 1003(c) to the extent of the repayment charge. If the repayment charge exceeds the reductions in allowables for any year, the difference is carried forward to the following year, and the same procedure for reducing allowables is repeated.

*Example 44.* DI elects § 503 in 1972 and repays a $2,500,000 borrowing, of which $900,000 had been expended in Schedule C and $1,600,000 in Schedule A.

In 1972, DI's § 503 allowable is reduced to zero. The remaining $500,000 repayment charge is carried to 1973.

In 1973, DI elects § 504(a) with allowables of $500,000 in Schedule A, $400,000 in Schedule B and $1,200,000 in Schedule C.

Since the underlying borrowing had been expended in more than one scheduled area, the repayment charge must be allocated between Schedules A and C. Accordingly, under §§ 1003 and 312(a)(7) a repayment charge of $320,000 is incurred in Schedule A (64 percent of $500,000) and a repayment charge of $180,00) is incurred in Schedule C (36 percent of $500,000).

(iii) *Use of negative direct investment made by § 503 DIs to reduce carried forward repayment charges.* Where the DI elected the § 503 allowable in a year in which the repayment charge carried forward from a prior year exceeded that allowable, § 1003 did not permit the DI to use worldwide negative direct investment during that year to satisfy any of the repayment charge. Such a DI therefore could not reduce the amount of the repayment charge to be carried forward into the following year, nor could it carry forward the benefit of its negative direct investment to offset the repayment charge in that year.

Commencing January 1, 1973, paragraph (c)(1) of § 1003 permits a DI electing the § 503 allowable and making negative direct investment during 1973 to use such negative direct investment to satisfy, in whole or in part, a repayment charge carried forward from a prior year. For example, if a DI electing § 503 in 1973 has carried forward $8 million of repayment charge from 1972, its 1973 § 503 allowable is reduced from $6 million to zero. Prior to 1973, the additional $2 million of repayment charge would be carried over into the following year. In 1973, however, if the DI makes negative direct investment of $2 million (resulting from aggregate AFN losses of $1 million and a negative net transfer of capital of $1 million), the $2 million of negative direct investment may be used to satisfy the repayment charge in 1973.

(iv) *Reduction of allowables under § 507.* Prior to 1973, the § 507(a) $4 million Schedule A supplemental allowable was reduced only if the repayment was related to direct investment in Schedule A. Also, if there was a carryforward of the repayment charge attributable to Schedule A, the DI could elect in the year (or years) of the carryforward not to have its § 507(a)(2) allowable reduced.

Also, prior to 1973, § 1003(c)(5) (i) and (ii) provided that the § 507(a)(2) allowable could be reduced only to the extent that the repayment was of a long-term foreign borrowing the proceeds of which were expended in or allocated to Schedule A at the time of repayment, or to the extent that the payment was pursuant to a guarantee of a Schedule A AFN borrowing or was to enable a Schedule A AFN to repay its borrowing. Unless the § 1002 transfer of capital fell within one of these categories, the Schedule A supplemental allowable was not reduced, and the repayment charge was absorbed entirely by the § 507(a)(1) $2 million allowable in Schedules B/C.

A repayment charge attributable to Schedule A reduced the $4 million Schedule A supplemental allowable of § 507(a)(2) before reducing the $2 million allowable of § 507(a)(1).

The following examples illustrate the special treatment of repayment charges for DIs that elected the § 507 allowable prior to 1973.

*Example 45.* DI elected § 504(a) during 1971 with allowables of $1 million in Schedule A and $1 million in Schedule B. In 1971 DI made $7 million of positive direct investment in Schedule A and $5 million in Schedule B, calculated as provided by § 306(a). To comply with the regulations, DI made a long-term foreign borrowing of $10 million and allocated $6 million of proceeds to Schedule A and the remaining $4 million to Schedule B under § 306(e). In 1972 DI elects § 507 and repays $5 million of the borrowing. DI thus incurs a repayment charge of $3 million in Schedule A and $2 million in Schedule B, apportioned as provided by § 312(a)(7). Under § 1003, DI's allowable under § 507(a)(2) in Schedule A is reduced to $1 million by the $3 million attributable to Schedule A. The $2 million attributable to Schedule B reduces the § 507(a)(1) allowable to zero.

*Example 46.* For 1972 DI elects § 507 and also has an incremental earnings allowable of $200,000 under § 506. DI has a repayment charge of $6,100,000 in Schedule A. Under § 1003, the $4 million allowable in Schedule A is reduced to zero; then the $2 million allowable in Schedules B and C is reduced to zero. The § 506 allowable is then reduced to $100,000.

*Example 47.* DI elects § 507 for 1972 and transfers $5 million to its Schedule C AFN to enable it to repay a borrowing. Under § 1003, the repayment charge will reduce DI's $2 million allowable under § 507(a)(1) to zero in 1972, but the § 507(a)(2) $4 million Schedule A allowable will not be reduced. The remaining $3 million of the repayment charge will be carried forward to future years. If DI continues to elect § 507, the $2 million § 507(a)(1) allowable for Schedules B/C will be reduced to zero in 1973 and to $1 million in 1974.

*Example 48.* DI in 1972 has § 504 (a) and (c) allowables of $3 million in Schedule A, $3 million in Schedule B and $2 million in Schedule C, and a § 506 incremental earnings allowable of $1 million. During the year, DI repays a long-term foreign borrowing of $8 million, the proceeds of which had been expended in Schedule C (prior to July 1, 1972). If DI elects the § 504 allowables, all of DI's § 504 allowables will be reduced to zero, pursuant to § 1003(c) (1) and (2), and the only remaining allowable will be the $1 million § 506 incremental earnings allowable. If DI elects the § 507 allowables, its § 507(a)(1) $2 million allowable for Schedules B/C will be reduced to zero, as will the § 506 $1 million incremental earnings allowable. The $5 million remaining of the repayment charge will be carried forward to future years, and the § 507(a)(2) $4 million allowable will not be reduced.

If a DI allocated proceeds of long-term foreign borrowing to positive direct investment under § 503 and elects in any year in which it incurs a repayment charge, the DI shall apportion the allocated amount to the appropriate schedules in the manner provided by § 306(e)(3). (See § B306–7.)

*Example 49.* DI elected § 503 for 1969 and reported on its annual report Form FDI–102F for the year as follows ($000 omitted):

| | |
|---|---|
| Line 11 (Reinvested earnings) | $2,000 |
| Line 12 (Transfers of capital) | 3,000 |
| Line 13 (Use of proceeds) | 4,000 |
| Line 15 (Program direct investment) | 1,000 |

In section VIII (Use of proceeds) of Form FDI–102F, DI reported as follows:

| | |
|---|---|
| Line 40 (Expenditure of proceeds) | 1,000 |
| Line 41 (Allocation of proceeds under § 306(e)) | 3,000 |

The proceeds expended as reported on Line 40 were from the same borrowing as that allocated under § 306(e). The expenditures were: Schedule A–$850,000, and Schedule C—$150,000.

In 1973, DI elects § 504 (a) or (b) and repays $2 million of the borrowing. DI must first apportion the 1969 § 306(e) deduction (line 41) to each scheduled area, in accordance with § 306(e)(3). Assume that DI recalculates positive direct investment under § 306(a) (which must include the effect of deductions under § 313(d)(1) for expended proceeds) and apportions the § 306(e) deductions as follows ($000 omitted):

| | Scheduled area | | |
|---|---|---|---|
| | A | B | C |
| (a) Direct investment under § 306(a) | 1,000 | 2,000 | 1,000 |
| (b) Proportionate share | 25% | 50% | 25% |
| (c) Share of § 306(e) deduction | 750 | 1,500 | 750 |





Therefore, DI's total deductions under §§ 306(e) and 313(d)(1) in 1969 for purposes of § 312(a)(7) are: Schedule A—$1,600,000; Schedule B—$1,500,000; and Schedule C—$900,000.

Consequently, DI's repayment of $2 million in 1973 will be charged as follows: Schedule A (40 percent)—$800,000; Schedule B (37½ percent)—$750,000; and Schedule C (22½ percent)—$450,000. Under § 1003, DI's § 504 allowables will be reduced by these amounts.

Prior to 1973, there was also a special rule regarding treatment of a carryforward repayment charge of DIs that elected § 507. As discussed above, § 1003(c)(5) provided that in the year in which a repayment charge was incurred, the § 507(a)(2) Schedule A allowable would be reduced only to the extent that repayment was of a borrowing attributable to positive direct investment in Schedule A. Under § 1003(d) prior to 1973, dealing with repayment charges carried forward to future years, the same rule applied, so that the § 507(a)(2) Schedule A allowable was reduced by a carryforward repayment charge only if the repayment charge resulted from a borrowing attributable to positive direct investment in Schedule A. However, § 1003(d) also stated that where the carryforward repayment charge is attributable to positive direct investment in Schedule A, a DI could elect not to have its § 507(a)(2) allowable reduced. Thus, in the year in which a DI incurred a repayment charge attributable to positive direct investment in Schedule A, DI's § 507(a)(2) allowable was reduced. But, if the repayment charge was carried forward to future years, DI could have elected in those years (unless the repayment charge was incurred in 1968) not to have its § 507(a)(2) allowable reduced. During 1973, however, the alternative minimum allowables of § 503 and § 507 were consolidated by increasing the minimum allowable of § 503 from $2 million to $6 million and revoking § 507. Section 1003(c) and (d) was also revised to conform to the revocation of § 507. Accordingly, the special treatment set forth in § 1003(c) and (d) to minimize the effect of a repayment charge on the Schedule A supplemental allowable is no longer applicable. However, any DI adversely affected by the revocation of § 507 and the conforming changes to § 1003 may request a specific authorization.

## B1100—Subpart K (§§ 1101–1107)

### § B1100–1 Introduction.

While retaining the Schedule B classification for Canada, Subpart K permits unlimited positive direct investment in Canada and excludes direct investment in Canada from the base period and post-January 1, 1968 direct investment calculations for Schedule B. Borrowings by a DI from a Canadian person, however, do not qualify as long-term foreign borrowings under § 324.

### § B1101–1 Canadian AFNs and non-Canadian Schedule B AFNs.

Paragraph (a) of § 1101 defines a "Canadian affiliate" as an AFN in Canada, and paragraph (b) defines a "non-Canadian Schedule B affiliate" as an AFN in a Schedule B country other than Canada. The term "Canadian affiliate" should not be confused with the definition of "affiliate" in § 903(a). Thus, a "Canadian affiliate" will include a corporation organized under the laws of Canada (or any province thereof) in which the DI has a 10 percent or greater voting interest, and a partnership organized under the laws of Canada and a business venture conducted in Canada in which the direct investor has a 10 percent or greater profit interest (see §§ 304, 305, 901, and 902). Such "Canadian affiliates" are referred to in this Bulletin as "Canadian AFNs."

*Example 1.* DI has a wholly-owned subsidiary (S) organized under the laws of Canada and a wholly-owned subsidiary (T) organized under the laws of the United Kingdom. DI also owns 100 percent of an apartment house complex (U) in Canada and is a 50-percent participant in a partnership (V) organized under Canadian law engaged in the real estate business. T has an 80-percent interest in a subsidiary (X) organized under the laws of Canada, and T also has a branch sales office (W) in Montreal. S has a 60-percent interest in a subsidiary (Z) organized under the laws of Australia. S and X are incorporated Canadian AFNs of DI. T and Z are incorporated non-Canadian Schedule B AFNs of DI. U, V, and W are unincorporated Canadian AFNs of DI.

### § B1102–1 Authorized positive direct investment in Canadian AFNs.

Section 1102 authorizes a DI to make positive direct investment in Canadian AFNs in an unlimited amount during any year.

*Example 2.* In 1969, DI acquires all the stock of a Canadian corporation (C) from its sole stockholder, an individual citizen and resident of Germany, for $1 million in cash. The transfer of capital is made to Canada and is generally authorized under § 1102.

*Example 3.* In 1969, DI acquires all the stock of a German corporation (C) from an individual citizen and resident of Canada for $1 million in cash. The transfer of capital is made to Germany (Schedule C) and thus does not fall within the scope of § 1102.

*Example 4.* During 1969, DI purchases, for $2 million, the stock of a Canadian corporation (C) that owns a subsidiary (A) located in Panama. This transaction results in a transfer of capital both to Canada (authorized under § 1102) and to Schedule A. The purchase price must be apportioned between C and A in a manner that will fairly reflect the relative values of the interests acquired in the two corporations. (See § B312–4.)

*Example 5.* In 1969, DI acquires, for $1 million in cash, all the stock of a German corporation (C) from a Canadian corporation in which DI has a 10-percent voting interest. The transfer of capital is made to Canada and is generally authorized under § 1102.

*Example 6.* In 1969, DI acquires, for $1 million in cash, all the stock of a German corporation (C) from a Lebanese corporation (A) in which DI has a 10-percent voting interest. C has a wholly-owned Canadian subsidiary. DI has made a $1 million transfer of capital to Schedule A, and no apportionment is made since the acquisition is from another AFN.

The authorization for unlimited positive direct investment in Canada does not constitute an exemption from the reporting requirements of § 602. Accordingly, even DIs with only Canadian AFNs are nevertheless required to file Forms FDI–101, FDI–102, and FDI–102F (or FDI–102F/S), absent an exemption from reporting.

(i) *Calculation of positive direct investment in Canada (§§ 1103–1104).*—Although Canada is technically a Schedule B country, the direct investment in Canadian AFNs is excluded from the calculation of direct investment in Schedule B during the base period years and during 1968 and succeeding years. Accordingly, § 1103 (a) and (b) provide that in computing a DI's net transfer of capital to all AFNs in Schedule B during any year under § 313(c), the only factors considered are transfers of capital between the DI and incorporated non-Canadian Schedule B AFNs and the DI's share of the aggregate net change in net assets of unincorporated non-Canadian Schedule B AFNs. Similarly, § 1104 provides that, in determining a DI's share in reinvested earnings of incorporated AFNs in Schedule B during any year, only the DI's share in reinvested earnings of incorporated non-Canadian Schedule B AFNs is taken into account.

In calculating positive direct investment, Canada is treated, in effect, as being in its own separate scheduled area. For example, a transfer of capital by an incorporated Canadian AFN to an incorporated United Kingdom AFN is treated under § 505(a)(3) as a transfer of capital to the DI from Canada in calculating positive direct investment in Canadian AFNs and as a transfer of capital from the DI to Schedule B in calculating positive direct investment in non-Canadian Schedule B AFNs; if the transferee AFN is in Schedule A or Schedule C, the transfer of capital from the DI would be charged to Schedule A or C, respectively.

Similarly, in calculating a DI's share of an incorporated Canadian AFN's reinvested earnings, Canada is also treated as a separate scheduled area. Consequently, the gross amount of a dividend paid by a Canadian AFN to a non-Canadian AFN effectively reduces the DI's share in reinvested earnings of all incorporated AFNs in Canada, while the net amount of the dividend (i.e., net of foreign withholding taxes) effectively increases the DI's share in reinvested earnings of all incorporated AFNs in the payee's scheduled area.

The provisions of §§ 1103 and 1104 are thus designed to permit computation of direct investment separately for Canada, Schedule A, Schedule B (excluding Canada) and Schedule C. Such provisions are also designed, in conjunction with § 505, to prevent Canadian AFNs from being used as a "pass-through" for direct investment in foreign countries other than Canada.

*Example 7.* DI owns an incorporated AFN (X) in Canada and another incorporated AFN (B) in the United Kingdom. In 1969, B makes a 3-year loan to X in the amount of $500,000. Under § 505(a)(3), B is treated as having made a $500,000 transfer of capital to DI, thereby reducing DI's net transfer of capital to incorporated AFNs in Schedule B



V 38 I 179 SEP 17 73 XUM

in 1969 by $500,000, and DI is treated as having made a transfer of capital in the same amount to X, thereby increasing DI's net transfer of capital to incorporated Canadian AFNs in 1969 by $500,000. All resulting positive direct investment in Canada is authorized by § 1102. If the loan had been from X to B, the DI would be deemed to have made a $500,000 transfer of capital to B.

*Example 8.* DI has branch sales operations in Canada (X) and Australia (B), and no other AFNs in Schedule B. In 1969, X's net assets increase by $150,000 and B's branch assets increase by $400,000. DI's net transfer of capital to B in 1969 is $400,000. DI's net transfer of capital to X during 1969 is $150,000.

*Example 9.* DI has a wholly-owned subsidiary in Canada (X) and a wholly-owned subsidiary in Japan (B). In 1969, X has earnings of $50,000 and B has earnings of $100,000. X pays a dividend of $25,000 to DI. B pays no dividend. DI's share in reinvested earnings of the incorporated non-Canadian Schedule B AFN is $100,000, the earnings and dividend paid by X not being taken into account. DI's share in reinvested earnings of the incorporated Canadian AFN is $25,000.

*Example 10.* DI has a wholly-owned subsidiary in Canada (X) that, in turn, has a wholly owned subsidiary in the United Kingdom (B). During 1969 X earns $500,000 and pays a dividend of $400,000 to DI; B earns $500,000 and pays a dividend of $300,000 to X. DI's share in reinvested earnings of B is $200,000 and in reinvested earnings of X is $400,000 (the $400,000 dividend paid by X is reduced by the $300,000 dividend received from B).

The exemption provided in § 505(b) for short-term trade credits extended by one AFN to another does not apply if either of the AFNs involved in the transaction is a Canadian AFN (see § 1103(c)). Therefore, if a wholly-owned Canadian AFN extends a 6-month trade credit of $100,000 to a French AFN on September 1, 1969, the transaction results in a $100,000 transfer of capital from the Canadian AFN to the DI, and a $100,000 transfer of capital from the DI to the French AFN. Similarly, if the French AFN extends a 6-month trade credit of $100,000 to the Canadian AFN, the transaction results in a $100,000 transfer of capital from the French AFN to the DI, and a $100,000 transfer of capital from the DI to the Canadian AFN.

### § B1105–1 Canadian foreign balances.

Section 1105 provides generally that, for purposes of § 203(c), "Canadian foreign balances" shall not be included in computing a DI's average end-of-month liquid foreign balances. Accordingly, the regulations do not restrict the amount of liquid foreign balances held by a DI in Canada, and the amount of Canadian foreign balances are excluded for purposes of calculating the amount of liquid foreign balances subject to limitation under § 203(c).

"Canadian foreign balances" are defined in § 1105(a) to include: (a) money on deposit in a Canadian bank (as defined in § 1101(c)), including fixed interest deposits, without regard to the currency deposited and without regard to the terms of such deposits; and (b) negotiable instruments, nonnegotiable instruments and commercial paper of Canadian persons.

The term "Canadian bank," as defined in § 1101(c), includes Canadian branches and offices within Canada of banks organized outside Canada and banks organized under the laws of Canada or of any province of Canada; the term does not include offices of Canadian banks located outside Canada.

### § B1106–1 Long-term foreign borrowing from Canada.

Section 1106 provides, in general, that a DI's borrowing from a Canadian person, whether before or after January 1, 1968, cannot be a "long-term foreign borrowing," as defined in § 324.

A "Canadian person" is defined in § 1101(d) as an individual resident of Canada, a Canadian bank, or a corporation or other entity (other than a bank) organized under the laws of Canada or any political subdivision thereof. The term "Canadian person" includes foreign branches of Canadian corporations (other than Canadian banks), and also includes pension, profit-sharing and other similar trusts organized under or governed by the laws of Canada or any political subdivision thereof. For example, the pension fund of a Canadian corporation and the London branch of a Canadian insurance company are each considered a "Canadian person."

(i) *Public offerings prior to April 1, 1968.*—A borrowing prior to April 1, 1968, involving the public offering of a DI's instruments of indebtedness is considered long-term foreign borrowing for purposes of § 324 if less than 25 percent of the aggregate principal amount of such instruments was sold to "Canadian persons" during the original offering. In the event 25 percent or more of the aggregate principal amount of such debt instruments was sold to Canadian persons during the original offering, the portion proved by the DI (to the satisfaction of OFDI) to have been sold to non-Canadian and non-U.S. persons will be considered a long-term foreign borrowing for purposes of § 324.

*Example 11.* On March 1, 1968, DI organized an international finance subsidiary (IFS) (see § 323) in the United States for the principal purpose of borrowing funds from nonaffiliated foreign nationals and investing such funds in debt or equity securities of AFNs. On March 15, 1968, IFS made a public offering outside the United States of $50 million in 20-year convertible debentures, $10 million of which were purchased by Canadian persons for investment. The entire $50 million constitutes proceeds of long-term foreign borrowing.

*Example 12.* If $15 million of the foregoing debentures had been purchased by a Canadian insurance company for investment during the original offering, only the remaining $35 million would constitute proceeds of a long-term foreign borrowing.

*Example 13.* If, in Example 12, in addition to the $15 million purchased by the Canadian insurance company, $5 million of the debentures had been acquired by a Canadian nominee of a person within the United States during the original offering, only $30 million of the proceeds would constitute proceeds of a long-term foreign borrowing.

(ii) *Public offerings on or after April 1, 1968.*—A borrowing on or after April 1, 1968, involving the public offering of a DI's instruments of indebtedness is considered a long-term foreign borrowing in its entirety if such instruments are sold through underwriters in accordance with agreements limiting such sales to persons other than Canadian or U.S. persons, and if the borrowing otherwise qualifies under § 324. It should be noted that sales to Canadian underwriters or securities dealers for resale to non-Canadian and non-U.S. persons will not disqualify the borrowing from being treated in its entirety as a long-term foreign borrowing. Similarly, sales to Canadian agents or fiduciaries acting on behalf of non-Canadian and non-U.S. persons will not affect the status of the borrowing under § 324.

Following is an example of a provision in the agreement between the DI and Canadian underwriters that would be considered acceptable by OFDI for purposes of preserving the long-term foreign borrowing status of an offering:

> Each Underwriter [agrees] [has agreed] that it will not directly or indirectly sell any Debentures to Canadian persons except for (i) sales to Underwriters or securities dealers who are Canadian persons but who agree that they are purchasing Debentures as principals for resale to persons who are not Canadian or United States persons, and (ii) sales to agents of fiduciaries who are Canadian persons but who are acting for the benefit of persons who are not Canadian or United States persons. For the purpose of this paragraph, a Canadian person includes an individual who is a resident of Canada, a corporation, pension, profit-sharing or other trust or other entity (other than a bank) organized under or governed by the laws of Canada or any political subdivision thereof (including the foreign branch of any Canadian corporation other than the foreign branch of a Canadian bank), and any branch or office within Canada of any of the following: Any bank or trust company organized under the banking laws of Canada or any province thereof, or any private bank or banker subject to supervision and examination under the banking laws of Canada or any province thereof.

## B1300—Subpart M (§§ 1301–1303)

### § B1300–1 Introduction.

Subpart M applies to direct investment activities of DIs that are U.S.-flag air carriers, including scheduled and supplemental air carriers and air taxi operators.

Under § 1301, such DIs may elect to exclude from transfers of capital the transfer to foreign inventory of certain categories of equipment related to the DIs' operations in foreign air transportation.

Sections 1302 and 1303 provide a 40-percent foreign air transport earnings allowable for U.S.-flag air carrier DIs electing to be governed by § 504, based upon financial reports required by the Civil Aeronautics Board with respect to





U.S.-flag carriers' international and territorial operations.

### § B1301–1 Exclusions from transfers of capital.

Under § 1301, a U.S.-flag air carrier may elect to exclude from net transfers of capital (as determined under § 313) any increases in certain equipment accounts of incorporated or unincorporated AFNs: *Provided,* That the equipment is necessary to the carrier's own operations in foreign air transportation, as distinguished from any separate operations in air transportation of an AFN or the operations of third perons to whom the DI or an AFN may be providing support or selling parts and services. If the election is made, related charges for depreciation or other expenses must also be excluded in determining earnings of the AFNs.

A DI electing under this section must do so with respect to all applicable AFNs in all scheduled areas. Once made, the election is thereafter binding on the DI and may not be changed for subsequent years without permission from OFDI.

### § B1302–1 Earnings allowable for foreign air transport operations.

Section 1302 authorizes U.S.-flag air carriers to make positive direct investment, in connection with their foreign air transport operations, of up to 40 percent of aggregate annual foreign air transport earnings for the immediately preceding year. The § 1302 allowable is not subject to schedular limitations, but it may be used only for positive direct investment that is primarily related to the DIs' own operations in foreign air transportation.

Section 1302 applies automatically to foreign air transport operations of any DI that elects to be governed by § 504 for the year involved. If, § 1302 is applicable, both transfers of capital related to the DI's foreign air transport operations and aggregate annual foreign air transport earnings will be excluded from the computation of DI's allowables under § 504 (a) or (b).

A U.S.-flag air carrier's choices are, therefore, as follows:

The § 503 allowable for all operations;

An adjusted § 504(a) historical allowable for all operations plus a § 1302 allowable for foreign air transport operations only; or

An adjusted § 504(b) earnings allowable for all operations plus a § 1302 allowable for foreign air transport operations only.

(i) *Aggregate annual foreign air transport earnings.*—The § 1302 allowable is based upon "aggregate annual foreign air transport earnings", defined in § 1302 (b) largely in terms of Civil Aeronautics Board income statement accounts. For this purpose, there is excluded from territorial and international operating profits reported to the Civil Aeronautics Board all related air transport interest and amortization charges, substantially all net operating revenues not directly attributable to air transport (such as profits or losses from hotels, income from foreign-flag air transport operations and other corporate investments) and relevant foreign taxes.

(ii) *Relation of § 1302 to § 504.*—Investments not related to a carrier's foreign air transportation operations are treated separately for all years (including the base period years). Accordingly, a carrier may make positive direct investment, as provided in § 504, in the same manner and subject to the same limitations as other DIs, except that the historical and earnings allowables under § 504 are adjusted by § 1302(d) to exclude consideration of the carrier's foreign air transport operations.

While § 1302 allowables may not be used to authorize positive direct investment in activities other than foreign air transport operations, § 504 allowables may, if the direct investor so chooses, be added to the § 1302 allowables for use in such operations (see § 1302(c)(1)).

(iii) *Carryforwards.*—Unused foreign air transport allowables may be carried forward to subsequent years (see § 1302 (c)(2)). However, if the DI elects § 503 in a later year, the § 1302 carryforward will be lost.

The following examples illustrate the effect of § 1302:

*Example 1.* During 1971, a U.S.-flag air carrier (DI) has foreign air transport earnings of $25 million and unrelated investment earnings in Schedule A of $5 million. DI has Schedule A historical allowables under § 504 (a) of $3 million as a result of equity investment in and loans to hotels, and ground transportation operations associated therewith, in the base period years of 1965 and 1966. Under § 1302, DI would have a worldwide air transport earnings allowable of $10 million (40 percent of $25 million). During 1972, the carrier may make worldwide positive direct investment related to air transport activities of $10 million and, assuming that the historical allowable under § 504 (a) is elected, unrelated positive direct investment in Schedule A of $3 million. Any unused nonair transport allowable may be used by DI worldwide for air transport activities, as well as on a schedular basis for operations not related to foreign air transport. Any unused air transport allowable may only be used in succeeding years for foreign air transportation operations. Any unused carryforward of allowables under § 504(f) may be used worldwide if devoted to foreign air transportation, or in the appropriate scheduled areas if used for other operations.

*Example 2.* A U.S.-flag air carrier has allowables under § 504, unrelated to air transport activities, of zero. For 1972, the carrier elects § 503 and during 1972 transfers $2 million to Schedule C as a contribution to the capital of a wholly-owned hotel corporation in that scheduled area. No other relevant transactions occur. Such investment is authorized by § 503. No further positive direct investment is authorized during 1972 either in air transport or nonair transport activities.

(iv) *Repayment charges under § 1003.*—Section 1302 allowables are, like the allowables of Subpart E, reduced by repayment charges incurred under § 1003 (see § 1003(c)(1) and, in particular, § 1003 (c)(4)).

### § B1302–2 Reporting.

Each DI that is a U.S.-flag air carrier engaged in foreign air transport operations and elects § 504 is required to file separate Forms FDI–102/102F for air transport investment and earnings and for other investment and earnings (see § 1302(e)).

If a U.S.-flag air carrier DI commences foreign air transport activity after June 30, 1969, a revised Form FDI–101 should be filed within 30 days after such status is established indicating air transport and nonair transport direct investment experience.

### § B1303–1 Coordination of §§ 504, 506 and 1302.

Section 1302(d) provides that foreign air transport earnings are to be excluded from "annual earnings" computed under § 504(b)(4). However, since "aggregate annual earnings" under § 506 are derived from the § 504(b)(4) computation, § 1303(a) provides that foreign air transport earnings excluded from § 504(b)(4) should be taken into account for purposes of computing aggregate annual earnings under § 506.

Section 1303(b) provides that all reference to § 504 in § 506 (a)(4) and (c) shall be deemed to include reference to § 1302(a).

The following example illustrates the operation of §§ 1302 and 1303:

*Example 3.* During 1971, DI, a U.S.-flag air carrier, has $2 million in earnings from hotel operations in Schedule B and $6 million of foreign air transport earnings. During 1972, DI has $4 million in earnings from its hotel operations and $8 million of foreign air transport earnings. DI has no § 504(a) historical allowable, and hotel and foreign air transport earnings during 1966–67 were zero.

In 1972, DI elects § 504(b). DI's § 504(b) annual earnings for 1971 were $2 million (since foreign air transport earnings were excluded under § 1302(d)). DI's § 504(b) allowable for 1972 is $800,000 ($2 million × 40 percent). DI's § 1302 foreign air transport allowable is $2,400,000 ($6 million × 40 percent). In 1972, DI also has a § 506 allowable of $1,600,000, computed as follows (000 omitted):

| | |
|---|---|
| § 506(a)(4) aggregate annual earnings for 1972 (Under §§ 1303(a) and 504(b)(4), earnings of $4 million are added to § 1302(b) foreign air transport earnings of $8 million.) | $12,000 |
| Less base period aggregate annual earnings | 0 |
| Incremental earnings | 12,000 |
| 40 percent of incremental earnings | 4,800 |
| Less the largest of the allowables available under § 503 ($2 million), §§ 504(a) and 1302 ($2,400), and §§ 504(b) and 1302 ($3,200), as required by § 1303(b) | 3,200 |
| § 506 allowable | $1,600 |

During 1972, DI makes positive direct investment of $2 million in connection with hotel operations, and positive direct investment of $2,500,000 in connection with foreign air transport operations. Such positive direct investment is authorized by §§ 504(b), 1302, and 506. DI then has a carryforward of $300,000 under § 506 because, under § 506(c), positive direct investment to the extent authorized by § 504 (and § 1302 as provided by § 1302(b)) is deemed made pursuant to those sections and not under § 506. Only the excess of $1,300,000 is charged against DI's § 506 allowable.



V 38 I 179 SEP 17 73 XUM

## B1400—Subpart N (§§ 1401–1405)

### § B1400–1 Introduction.

Subpart N of the regulations, which deals with "overseas finance subsidiaries" (OFSs), was published in the FEDERAL REGISTER in final form on May 7, 1970 (35 F.R. 7228), effective as of January 1, 1970.

In general, Subpart N accords special status to funds acquired in certain borrowings from sources outside the United States and Canada by an AFN which has been qualified as an OFS. When such funds are lent by the OFS to the DI, they become available proceeds of long-term foreign borrowing and may offset positive direct investment. Such funds may also be transferred between the OFS and other AFNS of the DI without involving a net transfer of capital. Repayment by the DI or the OFS of an OFS's qualified foreign borrowing has much the same effect as repayment of long-term foreign borrowing by a DI. All other subparts of the regulations apply to all OFS transactions except to the extent specifically modified by Subpart N.

Subpart N was amended on July 1, 1972, to permit the interchange of DI and OFS borrowing (§ 1406) and facilitate the assumption by a DI of obligations incurred by its OFS (§ 1407).

The Office has previously issued specific authorizations, under § 801, which, in effect, treat certain borrowing made through an OFS as if the borrowing were a long-term foreign borrowing by the DI. Adoption of Subpart N has made it unnecessary for a DI to obtain such a specific authorization. Any such specific authorizations issued in 1968, 1969, or 1970 are superseded by Subpart N beginning January 1, 1970, and, consequently, transactions involving OFSs occurring during 1970 and thereafter are governed by Subpart N.

### § B1401–1 Definitions.

The definition of an OFS is contained in § 1401(a). Section 1401(a) (1) and (2) require that an OFS be a wholly-owned, non-Canadian AFN of the DI.

Section 1401(a)(3) provides that an AFN may qualify as an OFS only if the AFN's principal business is to borrow funds from foreign nationals, other than AFNs or Canadian persons, on terms which would qualify such borrowing as long-term foreign borrowing if made by a DI (see § 1401(b)) and to lend such borrowed funds to the DI or to use such funds in loans to or acquisition of equity interests in other AFNs. The principal business requirement is satisfied if the OFS is at all times a financing company (i.e., does not engage in manufacturing, sale of goods or services, or other similar operations); does not deal or trade in securities; and substantially all of its borrowed funds are held, at all times, in the form of debt obligations of the DI, debt obligations of AFNs or equity interests in AFNs. However, pending commitment of borrowed funds, or in the interval between changes in the commitment of such funds, an OFS may temporarily hold such funds in the form of government securities; or in the form of debt obligations (including, without limitation, negotiable and nonnegotiable instruments, commercial paper, demand and time deposits and certificates of deposit) having a maturity of less than 12 months.

Section 1401(a)(4) provides that a DI may claim the benefits of the special rules contained in Subpart N only if its OFS is formally qualified in accordance with the procedures set forth in § 1402.

Note that contributions of funds or other property by the DI or AFNs to the equity capital of the OFS constitute transfers of capital to the OFS, and such transfers are not affected by Subpart N.

Section 1401(b) defines "overseas borrowing" as borrowing by an OFS which would be long-term foreign borrowing, under § 324, if made by a DI.

Section 1401(c) defines "overseas proceeds" as the funds or other property received by the OFS in overseas borrowing. Overseas proceeds invested by the OFS or the DI in debt obligations of or equity interests in other AFNs of the DI remain overseas proceeds until repayment of the overseas borrowing or proceeds borrowing. See § 1404.

Section 1401(d) defines "available overseas proceeds" as overseas proceeds held by the OFS. Notwithstanding § 505, overseas proceeds may be transferred by the OFS to AFNs of the DI without being included in the computation of net transfer of capital under § 313. See § 1403(a)(2).

In addition, overseas proceeds transferred to the DI in proceeds borrowing, as defined in § 1401(e), are thereafter treated as available proceeds of long-term foreign borrowing. See § 1403(a)(1). The proceeds borrowing must be continuously outstanding for at least 12 months after the original date of the loan, and any debt instrument evidencing such loan may not be sold or otherwise transferred by the OFS prior to repayment or cancellation. If the OFS ceases to hold any such debt instrument, the loan of overseas proceeds to the DI will fail to qualify as proceeds borrowing, and the Office may revoke the OFS's qualification, as provided in § 1402(c).

### § B1402–1 Qualification.

As provided in § 1402(a), OFS qualification is conditioned upon the filing of a certificate in letter form, addressed to the Director, Office of Foreign Direct Investments, Department of Commerce, Washington, D.C. 20230, identifying the AFN to be qualified as an OFS, setting forth sufficient information to demonstrate that the AFN has been organized, is owned and is operating, and that the DI intends that the AFN will continue to operate, in accordance with provisions of § 1401(a) (1), (2), and (3). If the person signing the certificate is not an officer of the DI, evidence of authority to file such certificate must be attached.

Any certificate filed with the Office is effective for the compliance year in which it is filed and thereafter, unless withdrawn by the DI with the permission of the Office or revoked by the Office, as provided in § 1402(c). The Office will not revoke any certificate unless it determines that the AFN was not organized, is not owned, or is not operating in accordance with the provisions of § 1401(a) (1), (2), and (3), or that the DI failed to comply with the record-keeping requirements of § 1402(b).

As provided in § 1402(d), all specific authorizations previously issued by the Office deeming certain financing AFNs to be persons within the United States or unaffiliated foreign lenders are of no further effect beginning January 1, 1970. Each such AFN is deemed to have qualified as an OFS under § 1402(a), and transactions involving such OFS are governed by Subpart N during 1970 and thereafter and not by the terms of such specific authorization.

### § B1403–1 Transfers of overseas proceeds; foreign balances.

Pursuant to § 1403(a)(1), the loan of overseas proceeds to the DI in proceeds borrowing is not a transfer of capital under § 312(b), but does result in such overseas proceeds being treated as available proceeds of long-term foreign borrowing, as defined in § 324(d). If in connection with an overseas borrowing the OFS issues debentures convertible into stock of the DI with detachable warrants entitling the holder to purchase stock of the DI, the DI will be deemed to have made a transfer of capital to the OFS in the amount of the value of the warrants; however, the amount of proceeds of overseas borrowing will not be reduced because of the warrants.

Pursuant to § 1403(a)(2), transfers of overseas proceeds by the OFS to AFNs of the DI in exchange for debt obligations or equity interests in such AFNs do not involve net transfers of capital notwithstanding §§ 505 and 313. Pursuant to § 1403(a)(3), overseas proceeds can also be returned by AFNs to the OFS without involving net transfer of capital, notwithstanding §§ 505 and 313, and such overseas proceeds in the hands of the OFS again become available overseas proceeds. The exemption from §§ 505 and 313 provided for in § 1403(a)(3) does not apply to the return of invested overseas proceeds by an AFN to the OFS to the extent there has been repayment of the overseas borrowing or the proceeds borrowing (see § 1404(a)). Note that overseas proceeds transferred by an OFS to an AFN in exchange for equity interests in such AFN are not affected by changes in the value of the securities.

*Example 1.* DI desires to make a transfer of capital to Schedule C in 1972 in the amount of $10 million. DI causes a wholly-owned incorporated Schedule C AFN to organize a Schedule A OFS in the Netherlands Antilles (for which a certificate under § 1402(a) is properly filed in due course) and to contribute $2 million to such OFS as original equity capital. OFS receives $10 milion from an overseas borrowing which has been fully guaranteed by the DI as to repayment of principal and payment of interest. OFS lends $10 million to DI in return for a promissory note continuously outstanding for at least 12 months. DI makes a $10 million transfer of capital to an AFN in Schedule C and allocates the $10 million available proceeds (of proceeds borrowing) to the resulting positive direct investment. The capitalization of the OFS results in a § 312(b) transfer of capital of $2 million from Schedule C and a § 312(a) transfer of capital of $2 million to Schedule A, pursuant to § 505. The loan of $10 million by the OFS to its DI is a proceeds borrowing and does not constitute a § 312(b) transfer of capital. However, the $10 million of overseas proceeds in the hands of the DI are treated as available proceeds of long-term foreign borrowing. The transfer of the $10 million to an AFN in Schedule C is a § 312(a) transfer of capital offset by allocation of available proceeds to the resulting positive direct investment.

*Example 2.* In 1970 an OFS in Schedule C receives $10 million of overseas proceeds and invests $9 million thereof in debt obligations of an AFN in Schedule B. In 1971 the DI directly repays $3 million of overseas borrowing, resulting in a transfer of capital to Schedule B of $3 million, under § 1404(a)(3). Later in the same year, the AFN repays to the OFS $3 million of the $9 million borrowed. Under § 1403(a)(3), the DI may treat the repayment by the AFN to the OFS either as being a return of $3 million of overseas proceeds (and hence not subject to §§ 505 and 313) or as a return of funds which have lost their status as overseas proceeds by virtue of the $3 million repayment of overseas borrowing (and hence subject to §§ 506 and 313).

*Example 3.* Schedule A OFS invests $6 million of overseas proceeds in equity securities in a Schedule B AFN. Prior to repayment of the overseas borrowing, the equity interest is sold by the OFS to an unaffiliated foreign national for $7 million, which constitutes a transfer of capital of $7 million to DI from Schedule B under § 312(b) and a transfer of capital of $7 million from DI to Schedule A under § 312(a). (See § B505–6(11).) Under § 1403(a)(3), this transaction is not recognized for purposes of §§ 505 and 313 to the extent of the overseas proceeds of $6 million. Therefore, DI will have a positive transfer of capital of $1 million to Schedule A and a negative transfer of capital of $1 million to Schedule B.

Pursuant to § 1403(b)(1), foreign balances of an OFS (other than available overseas proceeds and funds contributed as equity capital) held in liquid form are deemed to be liquid foreign balances of the DI and are subject to limitation under § 203(c).

*Example 4.* DI borrows $5 million in long-term foreign borrowing under § 324. The $5 million are contributed by DI to an AFN as original equity capital. The AFN places such funds in a demand deposit account in a foreign bank. The AFN is thereafter qualified as an OFS. The $5 million are not considered liquid foreign balances of the DI under § 203(c). (See § 1403(b).)

### § B1404–1 Repayment of overseas borrowing and proceeds borrowing.

Repayment by the DI or the OFS of overseas borrowing and repayment by the DI of proceeds borrowing result in transfers of capital (and corresponding reduction of overseas proceeds) and/or reduction of available proceeds of long-term foreign borrowing (and corresponding reduction of overseas proceeds). Repayment by the DI of overseas borrowing means both direct repayment by the DI or indirect repayment by the DI whereby the DI provides funds to the OFS to enable it to repay. When the DI repays proceeds borrowing for the purpose of enabling the OFS to repay the overseas borrowing, the repayment by the DI is deemed for purposes of § 1404(a) to be of overseas borrowing and not of proceeds borrowing. In other words, for purposes of § 1404(a), repayment of proceeds borrowing occurs only when the OFS does not use the funds or other property repaid to it by the DI to repay overseas borrowing.

Repayment by the DI of overseas borrowing or proceeds borrowing results in the following charges:

(1) Pursuant to § 1404(a)(1), there is a reduction of available proceeds of long-term foreign borrowing resulting from proceeds borrowing. There is also an equal reduction in the amount of overseas proceeds.

(2) Pursuant to § 1404(a)(2), if the amount of repayment exceeds the reduction of available proceeds under § 1404(a)(1), transfers of capital are charged proportionately to the scheduled areas where the DI has expended (prior to July 1, 1972) or allocated available proceeds of long-term foreign borrowing resulting from proceeds borrowing. There is also an equal reduction in the amount of overseas proceeds.

(3) Pursuant to § 1404(a)(3), if the amount of repayment exceeds the aggregate reductions of available proceeds and transfers of capital to AFNs under § 1404(a) (1) and (2), transfers of capital will be charged proportionately to the scheduled areas where the OFS has transferred overseas proceeds pursuant to § 1403(a)(2). There is also an equal reduction in the amount of overseas proceeds held by such AFNs.

(4) Pursuant to § 1404(a)(4), any repayment in excess of reductions of available proceeds and transfers of capital pursuant to § 1404(a) (1), (2), and (3) is a transfer of capital to the scheduled area in which the OFS is incorporated. There is also an equal reduction in the amount of overseas proceeds held by the OFS.

In the event of repayment of overseas borrowing by reason of debt holders' exercise of conversion or similar rights, transfers of capital, but not reduction of available proceeds, are deferred until the year following such conversion. (See § 1404(a)(5).)

The total amount of overseas proceeds received by an OFS may, due to discounts, commissions, or fees, be less than the amount of the OFS's indebtedness to its lenders. Under these circumstances, the aggregate amount of transfers of capital and reductions of proceeds pursuant to § 1404 cannot exceed the amount of overseas proceeds. (See § 1404(a)(6).) The amount repaid attributable to discounts, commissions or fees is deemed to be the last amount repaid. Note that repayment of proceeds borrowing after repayment of the underlying overseas borrowing is a transfer of capital to the scheduled area in which the OFS is incorporated. However, repayment by the OFS of overseas borrowing after repayment of proceeds borrowing does not result in a transfer of capital.

*Example 6.* In 1972 a Schedule A OFS issues $10 million of debentures which are sold at a discount, and the OFS receives $9,500,000 as available overseas proceeds. The OFS transfers $1 million to Schedule C AFNs and $2 million to Schedule B AFNs. Then $6 million is transferred in proceeds borrowing to the DI, which allocates $4 million to positive direct investment in Schedule C and $1,500,000 to positive direct investment in Schedule A. In 1974, $7 million of the debentures are redeemed and, in 1975 $3 million of the debentures are redeemed. In 1974 the transfers of capital and reductions would be: Under § 1404(a)(1), a $500,000 reduction in available proceeds; under § 1404(a)(2), transfers of capital of $4 million to Schedule C and $1,500,000 to Schedule A; and under § 1404(a)(3), transfers of capital of $333,000 to Schedule C and $667,000 to Schedule B. In 1975, the transfers of capital would be: Under § 1404(a)(3), transfers of capital of $667,000 to Schedule C and $1,333,000 to Schedule B; and then, under § 1404(a)(4), a transfer of capital of $500,000 to Schedule A. Although repayment of overseas borrowing equalled $10 million, the aggregate transfers of capital and reduction under § 1404(a)(6) equal only $9,500,000, the original amount of overseas proceeds before any repayments.

*Example 7.* Schedule A OFS receives $9,500,000 from the issue of $10 million of debentures. The OFS keeps $500,000 as available overseas proceeds and $9 million are loaned to the DI in proceeds borrowing. DI does not allocate the resulting available proceeds. DI repays the $10 million overseas borrowing. There is a reduction in available proceeds of $9 million, under § 1404(a)(1), and a transfer of capital to Schedule A of $500,000, under § 1404(a)(4).

*Example 8.* Schedule A OFS receives $10 million of overseas proceeds and transfers $6 million of overseas proceeds to an AFN in Schedule C and $4 million to an AFN in Schedule B. In 1971, the DI repays $1 million of overseas borrowing. Under § 1404(a)(2), there are transfers of capital to Schedule C of $600,000 and to Schedule B of $400,000. In 1972, the OFS disposes of its interest in the Schedule B AFN and receves $5 million in cash. Only $3,600,000 of such funds constitute overseas proceeds. The OFS lends $3,600,000 to the DI in proceeds borrowing, and the DI allocates the resulting available proceeds to positive direct investment in Schedule C. In 1973, the DI repays the balance of the overseas borrowing. There is a transfer of capital to Schedule C of $3,600,000, under § 1401(a)(2), and a transfer of capital to Schedule C of $5,400,000, under § 1404(a)(3).

Pursuant to § 1404(b), repayment by the OFS of overseas borrowing first reduces available overseas proceeds. If the amount of repayment exceeds such reduction, the excess is treated as repayment by the DI of overseas borrowing under § 1404(a).

*Example 9.* In 1970, OFS receives $10 million of available overseas proceeds from an overseas borrowing, and lends $9 million to the DI in proceeds borrowing. The OFS invests $500,000 in debt obligations of AFNs. The DI allocates $8 million of the resultant available proceeds to positive direct investment in Schedule C. In 1971, the OFS repays $2 million. Available overseas proceeds are reduced from $500,000 to zero, under § 1404(b)(1). Available proceeds are reduced from $1 million to zero, under §§ 1404(b)(2) and 1404(a)(1). There is a transfer of capital, under § 1404(a)(2), to Schedule C in the amount of $500,000.

*Example 10.* In 1970, an OFS receives $10 million in overseas borrowing and lends the $10 million to the DI in proceeds borrowing, and the resulting available proceeds are allocated to positive direct investment in Schedule C. DI repays proceeds borrowing,







V 38-179 SEP 17 73 XUM

in 1971, in the amount of $10 million. Under § 1404(a)(2), there is a transfer of capital to Schedule C of $10 million, and overseas proceeds are extinguished. In 1973, the OFS repays the overseas borrowing. Since there are no remaining overseas proceeds, no transfer of capital or further reduction results. (See § 1404(a)(6).)

**§ B1405–1 Authorized repayments.**

Under § 1405, transfers of capital resulting in positive direct investment, which arise from repayment by a DI of an overseas borrowing or a proceeds borrowing to enable the OFS to repay its overseas borrowing, will be generally authorized under Subpart J in a manner similar to repayment by a DI of other AFN borrowing. As in the case of DI guarantees of AFN borrowing, the general authorization of § 1002 is conditional upon the filing by the DI of a certificate (Form FDI–106) pursuant to § 1002(b). Note that, by virtue of § 1405(a), DI's guarantee of an OFS borrowing that does not qualify as an overseas borrowing is not covered either by § 1405(b) or § 1002(a).

**§ B1406–1 Interchange of borrowing by DI and OFS.**

Under § 1406, a DI may substitute foreign borrowing for borrowing by the DI from its OFS, or vice versa, and treat the later borrowing as a continuance of the borrowing for which it was substituted. The two types of borrowing that may be interchanged under § 1406 are: (i) foreign borrowing, as defined in § 324(a)(1), and (ii) proceeds borrowing as defined in § 1401(e), or borrowing by a DI from its OFS that would qualify as proceeds borrowing under § 1401(e) if such borrowing and the underlying borrowing by the OFS were continuously outstanding for at least 12 months. All or a portion of a borrowing of one type may be substituted for an equal amount of the other type of borrowing. A borrowing that is substituted for an earlier borrowing must be made on or before the date of repayment of the earlier borrowing. The DI must record a substitution on the books and records required under §§ 203(b), 601, and 1402(b).

The original and substitute borrowings are tacked together for the purpose of determining the period during which the original borrowing is treated as having been outstanding. Substitution may be used to qualify a foreign borrowing as long-term foreign borrowing under § 324(a)(2), or to qualify a borrowing by a DI from its OFS as proceeds borrowing under § 1401(e). The borrowing for which another borrowing has been substituted may be repaid to the extent of the substitution without any reduction of available proceeds or charge for a transfer of capital. A borrowing by an OFS underlying a borrowing by the DI from the OFS may likewise be repaid without any reduction of available proceeds or charge for a transfer of capital, to the extent that foreign borrowing is substituted for the borrowing by the DI from the OFS.

Although a substitute borrowing is treated as a continuance of the earlier borrowing, the repayment of the substitute borrowing will have the effect provided under the regulations for repayment of the substitute type of borrowing. Thus, foreign borrowing that is substituted for borrowing by the DI from its OFS may qualify the earlier borrowing as proceeds borrowing under § 1401(e), but the repayment of the foreign borrowing will reduce proceeds as provided under § 324(c) or involve a transfer of capital under § 312(a)(7). Similarly, a proceeds borrowing that is substituted for foreign borrowing may qualify the foreign borrowing as a long-term foreign borrowing under § 324(a)(2), but the repayment of the proceeds borrowing will have the effect provided under § 1404.

**§ B1407–1 Assumption by DI of borrowing by its OFS.**

Under § 1407, a DI making an election under IRC § 4912(c) may assume an obligation of its OFS to repay overseas borrowing or borrowing that would qualify as overseas borrowing if it were continuously outstanding for at least 12 months. The effect of an assumption of overseas borrowing will be determined by serial application of the following rules:

(i) To the extent of available overseas proceeds held by the OFS at the time of the assumption, the DI will be charged with a transfer of capital to the OFS. At the same time, however, the assumption will constitute a foreign borrowing by the DI in an amount equal to the DI's transfer of capital to the OFS. If such borrowing qualifies as long-term foreign borrowing under § 324(a)(2), available proceeds thereof may be deducted from positive direct investment by allocation under § 306(e).

(ii) In proportion to and to the extent of overseas proceeds that have been transferred by the OFS under § 1403(a)(2) to other AFNs of the DI and are held by such AFNs at the time of assumption, the DI will be charged with transfers of capital to such AFNs. The assumption will also constitute a foreign borrowing by the DI in an amount equal to the total transfers of capital to such AFNs. If such borrowing qualifies as long-term foreign borrowing under § 324(a)(2), available proceeds thereof may be deducted from positive direct investment by allocation under § 306(e).

(iii) To the extent of overseas proceeds which have been transferred to the DI in proceeds borrowing under § 1403(a)(1) that is outstanding at the time of assumption, the DI will not be charged with a transfer of capital. The assumption will constitute a foreign borrowing by the DI that has been substituted for proceeds borrowing under § 1406. The foreign borrowing involved in the assumption will be treated as a continuance of the borrowing by the DI from its OFS that is repaid (without effect under the regulations) in connection with the assumption.

(iv) Any additional amount of assumed obligation that is not covered under paragraphs (i) through (iii) will constitute foreign borrowing by the DI, but not a transfer of capital. Such amount should correspond to the difference between the aggregate principal amount of the obligation that was assumed and the amount of funds or other property received by the OFS after the initial offering expenses were deducted.

Finally, an assumption will reduce overseas proceeds of the overseas borrowing which the DI has obligated itself to repay by the amount of the assumed obligation or the amount of such overseas proceeds, whichever is less.

The above rules, appropriately adjusted, apply also to assumption of borrowing that would qualify as overseas borrowing if outstanding for at least 12 months.

Any assumption of an OFS's debt obligation under § 1407 must be recorded by the DI in the books and records required to be maintained under §§ 203(b) and 1402(b). The DI should identify the specific borrowing it has become obligated to repay and reflect its application of the rules of §§ 1406 and 1407 to the assumption.

There is no provision in the regulations relating to a DI's assumption of debt obligations of an international finance subsidiary (IFS), as defined in § 323(a). A DI and its IFS are considered a single person under § 323(b). Any assumption of an IFS's obligation, if made pursuant to an election under IRC § 4912(c), would not bring about any change in a DI's foreign borrowing under § 324.

[FR Doc.73–18715 Filed 9–14–73;8:45 am]

## Title 12—Banks and Banking

## CHAPTER II—FEDERAL RESERVE SYSTEM

### SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. D]

### PART 204—RESERVES OF MEMBER BANKS

#### Reserve Percentages

On May 16, the Board of Governors established an 8 percent marginal reserve requirement against certain selected classes of time deposits (38 FR 13726). The classes of time deposits that are subject to the marginal reserve requirement were changed in some respects on July 16 (38 FR 19908). These actions were taken pursuant to the Board's authority under section 19 of the Federal Reserve Act (12 U.S.C. section 461) to set reserve ratios for member banks.

The Board has decided to increase the marginal reserve requirement from 8 to 11 percent, subject to the proviso that in no event shall the reserves required of a member bank on its aggregate amount of time and savings deposits exceed 10 percent.

There was no notice and public participation with respect to this amendment since such procedure would result in delay that would be contrary to the public interest and serve no useful purpose. The effective date was not deferred for the 30-day period referred to in section 553(d) of Title 5, United States Code, because the Board found that the general credit situation and the public interest compelled it to make the action effective no later than the day adopted. See § 262.2(e) of the Board's Rules of Procedure, 12 CFR § 262.2(e).

Effective October 4, 1973, § 204.5(a)(1)(ii) and (2)(ii) of Regulation D is amended to read as follows:

**§ 204.5 Reserve Requirements.**

(a) *Reserve percentages.* Pursuant to the provisions of section 19 of the Federal Reserve Act and § 204.2(a) and subject to paragraph (c) of this section, the Board of Governors of the Federal Reserve System hereby prescribes the following reserve balances that each member bank of the Federal Reserve System is required to maintain on deposit with the Federal Reserve Bank of its district:

(1) If not in a reserve city— * * *

(ii) 3 percent of its other time deposits up to $5 million, plus 5 percent of such deposits in excess of $5 million: *Provided, however,* That a member bank shall maintain a reserve balance equal to 11 percent of the amount by which the daily average amount of time deposits of the types hereinafter specified exceeds either the daily average amount of such time deposits outstanding during the computation period ending May 16, 1973, or $10 million, whichever is greater, and such 11 percent reserve percentage shall apply with respect to time deposits of the following types:

(*a*) time deposits of $100,000 or more; and

(*b*) time deposits represented by promissory notes, acknowledgments of advance, due bills, or similar obligations issued by a member bank's affiliate, as provided in § 204.1(f); and

(c) time deposits represented by bank acceptances, as provided in § 204.1(f);

*Provided further,* That in no event shall the reserves required on its aggregate amount of time and savings deposits exceed 10 percent; and

(2) If in a reserve city (except as to any bank located in such a city that is permitted by the Board of Governors of the Federal Reserve System, pursuant to § 204.2(a)(2), to maintain the reserves specified in subparagraph (1) of this paragraph)— * * *

(ii) 3 percent of its other time deposits up to $5 million, plus 5 percent of such deposits in excess of $5 million: *Provided, however,* That a member bank shall maintain a reserve balance equal to 11 percent of the amount by which the daily average amount of time deposits of the types hereinafter specified exceeds either the daily average amount of such time deposits outstanding during the computation period ending May 16, 1973, or $10 million, whichever is greater, and such 11 percent reserve percentage shall apply with respect to time deposits of the following types:

(*a*) time deposits of $100,000 or more; and

(*b*) time deposits represented by promissory notes, acknowledgments of advance, due bills, or similar obligations issued by a member bank's affiliate, as provided in § 204.1(f); and

(c) time deposits represented by bank acceptances, as provided in § 204.1(f);

*Provided further,* That in no event shall the reserves required on its aggregate amount of time and savings deposits exceed 10 percent; and

* * * * * *

By order of the Board of Governors, September 7, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73–19646 Filed 9–14–73;8:45 am]

## Title 21—Food and Drugs

## CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### SUBCHAPTER B—FOOD AND FOOD PRODUCTS

### PART 26—NUTRITIVE SWEETENERS

In the matter of establishing definitions and standards of identity for the nutritive sweeteners dextrose monohydrate, dextrose anhydrous, glucose sirup, and dried glucose sirup:

A notice of proposed rule making was published in the FEDERAL REGISTER for October 5, 1972 (37 FR 21103), based upon the Recommended International Standards submitted by the Food and Agriculture Organization/World Health Organization Codex Alimentarius Commission, herein called the "Codex standards," and upon a petition filed by the Corn Refiners Association, Inc., 1001 Connecticut Ave., Washington, D.C. 20036, herein called the "CRA," for the four nutritive sweeteners mentioned.

In the opinion of the Commissioner of Food and Drugs, minor differences exist between the Codex standards and the CRA proposal. The requirement for reducing sugar content in dextrose monohydrate and dextrose anhydrous is stated as such in § 26.1(b)(1) and, by cross reference, in § 26.2(a) of the CRA proposal, but it is entitled "D-glucose content" in paragraph 2.1 of the corresponding Codex standards. The analytical method prescribed for determining the reducing sugar content is a quantitative measure of D-glucose (a reducing sugar) and also of other reducing sugars that may be present in a sample. The statement of the requirement in the CRA proposal is therefore considered to be appropriate and is being retained in the order set forth below. For analysis of the subject foods, the CRA proposal specifies "Official Methods of Analysis of the Association of Official Analytical Chemists" (AOAC), 11th Ed., 1970. As referee methods of analysis for the settlement of international disputes, the Codex standards sometimes specify FAO/WHO Codex Alimentarius Commission Methods of Analysis for Sugars; sometimes, methods of the International Commission for Uniform Methods of Sugar Analysis; and for other times, AOAC methods. The Commissioner proposed to recognize the AOAC methods as the official methods for the FDA standards of identity. The Commissioner concludes that the AOAC methods should be the only ones set forth in the FDA standards, but one may use any method he desires to determine compliance, except in cases of dispute at which time only the AOAC methods shall prevail.

The Codex standards provide for high sulfur dioxide containing glucose sirups and dried glucose sirups for confectionery purposes. Inasmuch as these sirups are not distributed in the United States, the Commissioner proposed not to provide for them in the standards of identity, and that proposal is affirmed in the order set forth below.

The Codex standards specify maximum limits for copper, arsenic, and lead contaminants. The matter of contaminants is not dealt with by the Federal Food, Drug, and Cosmetic Act in connection with the promulgation of standards of identity, but rather under other provisions of that statute.

Six letters were received in response to the proposal:

1. With reference to the proposed standards for dextrose monohydrate and dextrose anhydrous, §§ 26.1 and 26.2, one letter indicated that the specified minimum dextrose equivalent (D.E.), which represents the percentage of reducing sugars calculated on a dry basis and expressed as anhydrous dextrose (D-glucose), is not sufficient to assure the use of high quality dextrose in food and drug products. The respondent recommended the inclusion of a requirement for a specific rotation of not less than +52.5° and not more than +53.0° calculated on







V 38 179 SEP 17 73 XUM

an anhydrous basis, corresponding with the specification for dextrose in the U.S. Pharmacopoeia, 18th Rev., p. 180. The specification is not included in the Codex standards. The Commissioner believes that such a requirement, although appropriate for drugs, would be unnecessary in these food standards.

2. One letter opposed use of the terms "glucose sirup" and "dried glucose sirup" as being inappropriate for the names of the foods identified in §§ 26.3 and 26.4 The letter stated that their use as names of foods is confusing because "glucose" is the accepted name for the carbohydrate D-glucose and, further, that it is inappropriate to use the name of a minor constituent as the name of a food, as would be the case with a sirup having a D.E. of 20 and containing about 5.5 percent glucose. The terms "glucose sirup" and "dried glucose sirup" have been used in food standards, in the food industry, and in international commerce for many years as the names of products obtained by the incomplete hydrolysis of edible starch; and such usage is recognized by the Codex standards, standard dictionaries, and encyclopedias. The CRA indicates that it is only in the United States and Canada that an alternative name such as "corn sirup" is used. The Commissioner concludes that the terms "glucose sirup" and "dried glucose sirup" are appropriate as common or usual names of the subject foods as alternatives to names which identify the starch source.

3. One comment recommended that the minimum D.E. requirement in §§ 26.3 and 26.4 be lowered from 20 to 7 because glucose sirups with a D.E. as low as 7 are presently being used in foods, and new product development would be restricted if the higher figure were specified. The Codex Alimentarius Commission of experts from many nations, including the United States, proposed a D.E. of 20 as the minimum for glucose sirup and dried glucose sirup. Their recommendation was based on their knowledge of such characterizing properties of glucose sirups as solubility, clarity, viscosity, and functionality, as well as on their extensive experience in the manufacture and use of the products. The CRA and a similar European organization, Association Des Amidonneries De Mais De La C.E.E., recommended the same minimum. The Commissioner, therefore, is of the opinion that the value of 20 should be retained as the minimum required D.E., and that products with lower D.E. should be regarded as other products. Existing food standards in 21 CFR Parts 14, 27, 29, etc., provide for glucose sirup, dried glucose sirup, corn sirup, and dried corn sirup ingredients; and require that the solids of such sirups contain not less than 40 percent by weight of reducing sugars calculated as anhydrous dextrose, corresponding to a D.E. of 40. It is pointed out that the extension of the terms "glucose sirup" and "dried glucose sirup" in these standards (§§ 26.3 and 26.4) to products having a D.E. as low as 20 does not affect existing or future standards which may require the use of sirups having a higher D.E.

4. One letter suggested that the Codex standard and the CRA proposal for dried glucose sirup be amended. The respondent indicated that the 93.0 percent minimum requirement for total solids is acceptable for dried glucose sirups which have a D.E. of 20 to 50 but not for products with a D.E. of 88 to 98. According to the respondent, dried glucose sirups with a D.E. of 88 to 98 have approximately the same equilibrium moisture as dextrose monohydrate, do not exhibit the caking tendencies of the dried glucose sirups of lower D.E., and should, therefore, have the minimum requirement for total solids lowered from 93.0 to 90.0 percent to correspond with the total solids requirement for dextrose monohydrate in both the Codex standard and in the CRA proposal.

The Commissioner concurs in the respondent's suggestion that the CRA proposed standard be amended to provide for presently available commercial products with D.E. of 88 to 98. Accordingly, § 26.4(a) of the order now provides that the total solids content of dried glucose sirup be not less than 90.0 percent when the D.E. is not less than 88.0, and otherwise not less than 93.0 percent. No action can be taken at this time on the respondent's further suggestion that the corresponding paragraph 2.1 of Codex standard CAC/RS 10–2969 be similarly amended. Published proposals concerning amendment or establishment of FDA standards in order to adopt Codex standard CAC/RS 10–1969 be similarly vide for amendment of the Codex standards. Separate actions would be required by the member nations responsible for establishing or amending Codex standards.

5. The CRA submitted comments on the actions proposed by the Commissioner in the October 5, 1972, FEDERAL REGISTER notice. The Association endorsed the Commissioner's proposal to recognize the methods in "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed., 1970, (instead of the methods set forth in Codex) as the official methods for the FDA standards of identity. The CRA also approved of the Commissioner's proposal that the standards of identity not provide for high sulfur dioxide containing glucose sirup and dried glucose sirup for confectionery use because these products are not distributed in the United States.

6. The CRA also endorsed the methods of analysis referenced in the Codex standards but commented that the requirement for reducing sugar content and the description of the method for determining it are more accurately stated in the standards for glucose sirup and dried glucose sirup than in the standards for dextrose anhydrous and dextrose monohydrate. The Association recommended that the wording of the glucose and dried glucose sirup standards be used throughout. The CRA implemented its recommendation in its proposal and, as indicated previously, the Commissioner approves of and adopts the CRA position and the FDA standards. However, as stated at the end of paragraph 4 above, amendment of the Codex standards must be undertaken elsewhere.

Paragraph (d) of §§ 26.1 and 26.3 of the proposal made reference to the applicability of 21 CFR Part 128 pertaining to current good manufacturing practice in the manufacture, processing, packing, or holding of the foods. In the regulation, as revised, the reference has been deleted from these sections as being unnecessary because the pertinent provisions of Part 128 are applicable without such reference. Paragraph (e) of §§ 26.1 and 26.3 has been redesignated as paragraph (d). In order to be consistent with the usage in other food standards (as prescribed by the United States Government Printing Office Style Manual), the spelling "syrup" as used in the proposal is changed to "sirup" in §§ 26.3 and 26.4 of the order. Provision is also made for the alternative spelling "syrup". Other relatively minor editorial changes were made in §§ 26.1 through 26.4 in the interests of clarity and uniformity of presentation in the regulation.

On the basis of the information given in the proposal, the comments received, and other relevant information, the Commissioner concludes that it will promote honesty and fair dealing in the interest of consumers to adopt the standards proposed by CRA with certain modifications as indicated. At a later date, the United States representation to the Codex Alimentarius Commission will convey this country's decision on the Codex standards.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 401, 701, 52 Stat. 1046, 1055–1056, as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 341, 371) and under authority delegated to the Commissioner (21 CFR 2.120): *It is ordered*, That Chapter I of Title 21 of the Code of Federal Regulations be amended by adding a new Part 26 as follows:

PART 26—NUTRITIVE SWEETENERS

Sec.
26.1 Dextrose monohydrate; identity.
26.2 Dextrose anhydrous; identity.
26.3 Glucose sirup; identity.
26.4 Dried glucose sirup; identity.

AUTHORITY: Secs. 401, 701, 52 Stat. 1046, 1055–1056, as amended by 70 Stat. 919 and 72 Stat. 948; 21 U.S.C. 341, 371.

**§ 26.1 Dextrose monohydrate; identity.**

(a) Dextrose monohydrate is purified and crystallized D-glucose containing one molecule of water of crystallization with each molecule of D-glucose.

(b) The food shall meet the following specifications:

(1) The total solids content is not less than 90.0 percent mass/mass (m/m), and the reducing sugar content (dextrose equivalent), expressed as D-glucose, is not less than 99.5 percent m/m calculated on a dry basis.

(2) The sulfated ash content is not more than 0.25 percent m/m (calculated on a dry basis), and the sulfur dioxide content is not more than 20 mg/kg.

(c) The name of the food is "dextrose monohydrate" or "dextrose."

(d) For purposes of this section, the methods of analysis to be used to determine if the food meets the specifications of paragraph (b) (1) and (2) of this section are the following sections in "Official Methods of Analysis of the Association of Official Analytical Chemists," 11th Ed., 1970:[1]

(1) Total solids content, 31.005.
(2) Reducing sugar content, 31.212.
(3) Sulfated ash content, 31.208.
(4) Sulfur dioxide content, 20.090–20.095.

**§ 26.2 Dextrose anhydrous; identity.**

(a) Dextrose anhydrous is purified and crystallized D-glucose without water of crystallization and conforms to the specifications of 21 CFR 26.1, except that the total solids content is not less than 98.0 percent m/m.

(b) The name of the food is "dextrose anhydrous" or "anhydrous dextrose".

**§ 26.3 Glucose sirup; identity.**

(a) Glucose sirup is the purified, concentrated, aqueous solution of nutritive saccharides obtained by the incomplete hydrolysis of any edible starch.

(b) The food shall meet the following specifications:

(1) The total solids content is not less than 70.0 percent mass/mass (m/m), and the reducing sugar content (dextrose equivalent), expressed as D-glucose, is not less than 20.0 percent m/m calculated on a dry basis.

(2) The sulfated ash content is not more than 1.0 percent m/m (calculated on a dry basis), and the sulfur dioxide content is not more than 40 mg/kg.

(c) The name of the food is "glucose sirup", provided, that when derived from a specific type of starch, the product may be called "------ sirup", the blank to be filled in with the name of the starch; for example, "corn sirup", "wheat sirup", "tapioca sirup", Alternatively, the word "sirup" may be spelled "syrup".

(d) For purposes of this section, the methods of analysis to be used to determine if a food meets the specifications of paragraph (b) (1) and (2) of this section are the following sections in "Official Methods of Analysis of the Association of Official Analytical Chemists", 11th Ed., 1970: [1]

(1) Total solids content, 31.200–31.201.
(2) Reducing sugar content, 31.212.
(3) Sulfated ash content, 31.208.
(4) Sulfur dioxide content, 20.090–20.095.

[1] Copies may be obtained from:
Association of Official Analytical Chemists
P.O. Box 540, Benjamin Franklin Station
Washington, DC 20044





**§ 26.4 Dried glucose sirup; identity.**

(a) Dried glucose sirup is glucose sirup from which the water has been partially removed and conforms to the specifications of 21 CFR 26.3, except that:

(1) The total solids content is not less than 90.0 percent m/m when the reducing sugar content (dextrose equivalent), expressed as D-glucose, is not less than 88.0 percent m/m, calculated on a dry basis; or

(2) The total solids content is not less than 93.0 percent m/m when the reducing sugar content, (dextrose equivalent) expressed as D-glucose, is less than 88.0 percent m/m, calculated on a dry basis.

(b) The name of the food is "dried glucose sirup"; provided, that when derived from a specific type of starch, the product may be called "dried ------ sirup", the blank to be filled in with the name of the starch; for example, "dried corn sirup"; "dried wheat sirup", "dried tapioca sirup". Alternatively, the word "sirup" may be spelled "syrup".

Any person who will be adversely affected by the foregoing order may at any time on or before October 17, 1973, file with the Hearing Clerk, Food and Drug Administration, Rm. 6–86, 5600 Fishers Lane, Rockville, MD 20852, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the order deemed objectionable, and state the grounds or the objections. If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the factual information intended to be presented in support of the objections in the event that a hearing is held. Objections may be accompanied by a memorandum or brief in support thereof. Six copies of all documents shall be filed. Received objections may be seen in the above office during working hours, Monday through Friday.

*Effective date.*—Compliance with this order, which shall include any labeling changes required, may begin on November 16, 1973, and all labeling ordered after December 31, 1973, and all labeling used for products shipped in interstate commerce after December 31, 1974, shall comply with these regulations, except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be published in the FEDERAL REGISTER.

NOTE.—Incorporation by reference provisions approved by the Director of the Federal Register March 26, 1973.

Dated September 10, 1973.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[FR Doc.73-19632 Filed 9-14-73;8:45 am]

## Title 25—Indians

### CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

SUBCHAPTER W—MISCELLANEOUS ACTIVITIES

### PART 251—LICENSED INDIAN TRADERS

#### Limits on Trade With Government Employees

The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9).

Part 251, Subchapter W, Chapter I of Title 25 of the Code of Federal Regulations is amended by the revision of § 251.5 (a). Section 251.5(a) currently allows U.S. Government employees to purchase from any Indian or Indian organization any arts and crafts or any other product, service or commodity without obtaining prior approval of the Secretary of the Interior where the amount does not exceed $100, $250 in Alaska. This revision raises the limits from $100 to $500, from $250 to $750 in Alaska. The revision is proposed pursuant to the Act of June 19, 1939 (53 Stat. 840; 25 U.S.C. 68a. 87a, 441).

These limitations on purchases by Government employees were established in 1957 and are unrealistic compared to current price structures. The limitations act to restrict Indians and Indian organizations from selling goods and services to Government employees, when desired. Advance notice and public procedure would delay the change in the limitation on purchases to the detriment of Indians and Indian organizations and have been deemed contrary to the public interest. Therefore, advance notice and public procedure are dispensed with under the exception provided in subsection (b)(B) of 5 U.S.C. 553 (1970).

The revision of § 251.5(a) shall become effective October 17, 1973.

As revised, § 251.5(a) reads as follows:

**§ 251.5 Government employees not to trade with Indians except in certain cases.**

* * * * *

(a) Employees of the United States Government, including those in the Bureau of Indian Affairs may, with the approval of the Secretary of the Interior in each case where the amount involved exceeds $500, or with the approval of the superintendent or other officer in charge, where the amount involved does not exceed $500, be permitted to purchase from any Indian or Indian organization any arts and crafts or any other product, service or commodity produced, rendered, owned, controlled or furnished by any Indian or Indian organization: *Provided*, That no employee of the United States Government shall be permitted to make any such purchases for the purpose of engaging directly or indirectly in the commercial selling, reselling, trading, or bartering of said purchases by the said employee: *And provided further*, That employees in Alaska may in each case



V 38 179 SEP 17 73 XUM

make such purchases with the approval of the Secretary of the Interior where the amount involved exceeds $750, and with the approval of the superintendent or other officer in charge where the amount involved does not exceed $750.

* * * * *

WILLIAM L. ROGERS,
*Deputy Assistant Secretary of the Interior.*

SEPTEMBER 10, 1973.

[FR Doc.73-19658 Filed 9-14-73;8:45 am]

## PART 252—TRADERS ON NAVAJO, ZUNI, AND HOPI RESERVATIONS

### Trade With Government Employees

The authority to issue regulations is vested in the Secretary of the Interior by 5 U.S.C. 301 and sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9).

Beginning on page 7334 of the FEDERAL REGISTER of March 20, 1973 (38 FR 7334), there was published a notice of proposed rulemaking to revise § 252.4 of Part 252 to Title 25 of the Code of Federal Regulations relating to trade between Government employees and Indians on the Navajo, Zuni and Hopi Reservations. This revision was proposed pursuant to authority contained in the Act of June 30, 1834 (4 Stat. 738; 25 U.S.C. 68), as amended by the Act of June 19, 1939 (53 Stat. 840; 25 U.S.C. 68a).

Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the revised regulations.

During this period comments, suggestions, and objections were submitted by interested persons. Careful consideration was given to the comments received, and one revision was made as a result of them. In § 252.4(a), the limitation on purchases by employees of the U.S. Government was increased from $100 to $500.

The new § 252.4 shall become effective October 17, 1973.

WILLIAM L. ROGERS,
*Deputy Assistant Secretary of the Interior.*

SEPTEMBER 10, 1973.

Section 252.4 of Chapter I, Title 25, of the Code of Federal Regulations is revised to read as follows:

**§ 252.4 Government employees not to trade with Indians except in certain cases.**

Save as authorized by the Act of June 19, 1939 (53 Stat. 840; 25 U.S.C. 68a, 87a, 441), no person employed in Indian affairs shall have any interest or concern in any trade with the Indians except for and on account of the United States; and any person offending herein shall be liable to a penalty of $5,000 and shall be removed from his office. Employees of the U.S. Government, including those in the Bureau of Indian Affairs, may be permitted to trade with Indians or Indian organizations under the conditions specified below:

(a) Employees of the U.S. Government, including those in the Bureau of Indian Affairs, may, with the approval of the Secretary of the Interior, in each case where the amount involved exceeds $500, or with the approval of the superintendent or other officer in charge, where the amount involved does not exceed $500, be permitted to purchase from any Indian or Indian organization any arts and crafts or any other product, service, or commodity produced, rendered, owned, controlled, or furnished by any Indian or Indian organization: *Provided*, That no employee of the U.S. Government shall be permitted to make any such purchases for the purpose of engaging directly or indirectly in the commercial selling, reselling, trading, or bartering of said purchases by the said employee.

(b) *U.S. employees, Indian blood.* Indian employees of the U.S. Government, of whatever degree of Indian blood, may be members in the same manner as other Indian members of the tribe not so employed and receive benefits by reason of their membership in such tribes, corporations, or cooperative associations, organized by and operated for Indians. Such Indian Government employees may engage in all lawful transactions with Indians, Indian tribes, and such corporations or cooperative associations. None of the transactions authorized herein may be entered into by such employees for the purpose of engaging directly or indirectly in the selling, reselling, trading, bartering, or passing on in any other way for profit the objects, rights, services, or property thus acquired: Nothing in this section shall prevent in proper cases the disposition of any such property when such transaction cannot be considered as actually engaging in any of the businesses prohibited in this section. All transactions authorized herein to be valid must be approved by the Secretary of the Interior.

(c) *Leases or sales of restricted Indian land.* Leases or sales of trust or restricted Indian land to or from Indian employees of the U.S. Government must be made on sealed bids unless the Commissioner of Indian Affairs waives this requirement on the basis of a full report showing (1) the need for the transaction, (2) the benefits accruing to both parties, and (3) that the consideration for the proposed transaction shall be not less than the appraised value of the land or leasehold interest unless the Indian employee qualifies and is intending a transaction in accordance with § 121.18 (b) and (c) of this chapter or § 131.55(b) (1), (2), and (3) of this chapter. An affidavit as follows shall accompany each proposed land transaction:

I ----------,
(Name)
----------, swear (or affirm)
(Title)
that I have not exercised any undue influence nor used any special knowledge received by reason of my office in obtaining the (grantor's, purchaser's, vendor's) consent to the instant transaction.

(53 Stat. 840; 25 U.S.C. 68a, 87a, 441)

[FR Doc.73-19657 Filed 9-14-73;8:45 am]

## Title 29—Labor

## CHAPTER V—WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR

## PART 610—CHILDREN'S DRESS AND RELATED PRODUCTS INDUSTRY IN PUERTO RICO

### Wage Order

Pursuant to sections 5, 6 and 8 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, 1064, as amended; 29 U.S.C. 205, 206, 208) and Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and by means of Administrative Order No. 625 (38 FR 9031), the Secretary of Labor appointed and convened Industry Committee No. 113–B for the Children's Dress and Related Products Industry in Puerto Rico, referred to the Committee the question of the minimum rate or rates of wages to be paid under section 6(c) of the Act to employees in the industry, and gave notice of a hearing to be held by the Committee.

Subsequent to an investigation and a hearing conducted pursuant to the notice, the Committee has filed with the Administrator of the Wage and Hour Division of the Department of Labor a report containing its findings of fact and recommendations with respect to the matters referred to it.

Accordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938, Reorganization Plan No. 6 of 1950, and 29 CFR 511.18, the recommendations of Industry Committee No. 113–B are hereby published, amending paragraph (a) of § 610.2 of Title 29, Code of Federal Regulations, by combining two classifications into one and establishing a single rate for employment covered prior to the 1961 amendments.

As amended, § 610.2 reads as follows:

**§ 610.2 Wage rates.**

* * * * *

(a) *Pre-1961 coverage classification.* (1) The minimum wage for this classification is $1.60 an hour.

(2) This classification applies to all activities of employees in the industry to whom section 6 of the Act would have applied prior to the Fair Labor Standards Amendments of 1961.

* * * * *

(Secs. 5, 6, 8, 52 Stat. 1062, 1064, as amended; (29 U.S.C. 205, 206, 208).)

*Effective date.*—This amendment shall become effective October 3, 1973.

Signed at Washington, D.C., this 12th day of September 1973.

WARREN D. LANDIS,
*Acting Administrator, Wage and Hour Division, U.S. Department of Labor.*

[FR Doc.73-19705 Filed 9-14-73;8:45 am]





## PART 612—WOMEN'S OUTERWEAR, NEEDLEWORK, AND MISCELLANEOUS FABRICATED TEXTILE PRODUCTS INDUSTRY IN PUERTO RICO

### Wage Order

Pursuant to sections 5, 6 and 8 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, 1064, as amended; 29 U.S.C. 205, 206, 208) and Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and by means of Administrative Order No. 625 (38 FR 9031), the Secretary of Labor appointed and convened Industry Committee No. 113–C for the Women's Outerwear, Needlework, and Miscellaneous Fabricated Textile Products Industry in Puerto Rico, referred to the Committee the question of the minimum rate or rates of wages to be paid under section 6(c) of the Act to employees in the industry, and gave notice of a hearing to be held by the Committee.

Subsequent to an investigation and a hearing conducted pursuant to the notice, the Committee has filed with the Administrator of the Wage and Hour Division of the Department of Labor a report containing its findings of fact and recommendations with respect to the matters referred to it.

Accordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938, Reorganization Plan No. 6 of 1950, and 29 CFR 511.18, the recommendations of Industry Committee No. 113–C are hereby published, amending Part 612 of Title 29, Code of Federal Regulations, by changing the wage rates for the hand-crocheting and hand-embroidery of crocheted hats and general classifications in the pre-1961 coverage in § 612.2; by updating the industry definition in § 612.1; by making editorial changes in § 612.2 and by reflecting the deletion of the classification removed in the wage order dated August 5, 1971, and published in 36 FR 14736.

Sections 612.1 and 612.2 are amended to read as follows:

**§ 612.1 Definition.**

The women's outerwear, needlework, and miscellaneous fabricated textile products industry in Puerto Rico is defined as follows: The manufacture from any material of women's and girls' outerwear (except scarves, blouses, and girls' dresses) and all other apparel and apparel furnishings and accessories made by knitting, crocheting, cutting, sewing, embroidering, or other processes; and the manufacture of all textile products and the manufacture of like articles in which a synthetic material in sheet form is the basic component: *Provided, however*, That the industry shall not include any product or activity included in the corsets, brassieres, and allied garments industry in Puerto Rico (Part 614 of this chapter), the gloves and mittens industry in Puerto Rico (Part 603 of this chapter), the hosiery industry in Puerto Rico (Part 687 of this chapter), the men's and boys' clothing and related products industry in Puerto Rico (Part 615 of this chapter), the shoe and related products industry in Puerto Rico (Part 601 of this chapter), the jewelry, decorations, brushes, and novelties industry in Puerto Rico (Part 613 of this chapter), the textile and textile products industry in Puerto Rico (Part 699 of this chapter), the handkerchief, scarf, and art linen industry in Puerto Rico (Part 608 of this chapter), the women's and children's underwear and women's blouse industry in Puerto Rico (Part 609 of this chapter), the sweater and knit swimwear industry in Puerto Rico (Part 611 of this chapter), and the children's dress and related products industry in Puerto Rico (Part 610 of this chapter), as defined in the wage orders for these industries.

**§ 612.2 Wage rates.**

Wages at not less than those prescribed in this section shall be paid under section 6(c) of the Fair Labor Standards Act of 1938 by every employer to each of his employees in each of the classifications in the industry who in any workweek is engaged in commerce or in the production of goods for commerce or is employed in an enterprise engaged in commerce or in the production of goods for commerce as those terms are defined in section 3 of the Act.

(a) *Pre-1961 coverage classifications.* The classifications in this paragraph (a) apply to all activities in the women's outerwear, needlework and fabricated textile products industry in Puerto Rico to which section 6 of the Act would have applied prior to the Fair Labor Standards Amendments of 1961.

(1) *Hand-crocheting and hand-embroidery of crocheted hats classification.* (i) The minimum wage for this classification is $1.50 an hour.

(ii) This classification is defined as the operations of hand-crocheting, hand-knitting, and hand-embroidery of crocheted or knitted headwear for women, misses, girls, and infants 3 years of age and under.

(2) *General classification.* (i) The minimum wage for this classification is $1.60 an hour.

(ii) This classification is defined as all activities in the women's outerwear, needlework, and miscellaneous fabricated textile products industry in Puerto, Rico, other than those in the hand-crocheting and hand-embroidery of crocheted hats classification.

(b) *1961 coverage classification.* (1) The minimum wage for this classification is $1.60 an hour.

(2) This classification is defined as all activities of employees covered by section 6 of the Act, only by reason of the Fair Labor Standards Amendments of 1961 who are not included in any other classification of this industry or any other industry in Puerto Rico.

(c) *1966 coverage classification.* (1) The minimum wage for this classification is $1.60 an hour.

(2) This classification is defined as all activities in the women's outerwear, needlework and fabricated textile products industry in Puerto Rico to which section 6 of the Act applies solely by reason of the Fair Labor Standards Amendments of 1966.

(Secs. 5, 6, 8, 52 Stat. 1062, 1064 as amended; (29 U.S.C. 205, 206, 208).)

*Effective date.*—This amendment shall become effective October 3, 1973.

Signed at Washington, D.C., this 12th day of September 1973.

WARREN D. LANDIS,
*Acting Administrator, Wage and Hour Division, U.S. Department of Labor.*

[FR Doc.73-19704 Filed 9-14-73;8:45 am]

## PART 614—CORSETS, BRASSIERES, AND ALLIED GARMENTS INDUSTRY IN PUERTO RICO

### Wage Order

Pursuant to sections 5, 6 and 8 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, 1064, as amended; 29 U.S.C. 205, 206, 208) and Reorganization Plan No. 6 of 1950 (3 CFR 1949–53 Comp., p. 1004), and by means of Administrative Order No. 625 (38 FR 9031), the Secretary of Labor appointed and convened Industry Committee No. 113–A for the Corsets, Brassieres and Allied Garments Industry in Puerto Rico, referred to the Committee the question of the minimum rate or rates of wages to be paid under section 6(c) of the Act to employees in the industry, and gave notice of a hearing to be held by the Committee.

Subsequent to an investigation and a hearing conducted pursuant to the notice, the Committee has filed with the Administrator of the Wage and Hour Division of the Department of Labor a report containing its findings of fact and recommendations with respect to the matters referred to it.

Accordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938, Reorganization Plan No. 6 of 1950, and 29 CFR 511.18, the recommendations of Industry Committee No. 113–A are hereby published, amending paragraphs (a)(1) and (c)(1) of § 614.2 of Title 29, Code of Federal Regulations.

As amended, § 614.2 reads as follows:

**§ 614.2 Wage rates.**

* * * * *

(a) *Pre-1961 coverage classification.* (1) The minimum rate for this classification is $1.60 an hour.

* * * * *

(c) *1966 coverage classification.* (1) The minimum rate for this classification is $1.60 an hour.

* * * * *

(Secs. 5, 6, 8, 52 Stat. 1062, 1064 as amended; (29 U.S.C. 205, 206, 208).)

*Effective date.*—This amendment shall become effective October 3, 1973.

Signed at Washington, D.C., this 12th day of September 1973.

WARREN D. LANDIS,
*Acting Administrator, Wage and Hour Division, U.S. Department of Labor.*

[FR Doc.73-19706 Filed 9-14-73;8:45 am]



V 38 I 179
SEP 17 73
XUM

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

SUBCHAPTER E—DEFENSE CONTRACTING

## PART 166—REPORTING PROCEDURES ON DEFENSE RELATED EMPLOYMENT

### Negotiated Contract Awards

The purpose of this Amendment to Part 166(d) is to update the list of DoD Contractors Receiving Negotiated Contract Awards of $10 million or More for FY 1973.

Section 166.11 has been amended by the addition of a new paragraph (d) as follows:

**§ 166.11 Department of Defense Contractors Receiving Negotiated Contract Awards of $10 Million or More.**

* * * * *

(d) *Fiscal Year 1973.*

AAI Corp.
AMP Inc.
Aero Corp.
Aerojet General Corp.
Aerospace Corp.
Air America Inc.
Airlift International Inc.
Alabama Refining Co. Inc.
American Airlines Inc.
AMBAC Industries Inc.
American Export Isbrandsten Lines
American Manufacturing Co of Texas
American President Lines, Ltd.
American Telephone & Telegraph Co.
AMRON Corp.
Applied Devices Corp.
ARO Inc.
Asiatic Petroleum Corp.
Atlas Fabricators Inc.
Automation Industries Inc.
AVCO Corp.
Ayers, N W & Son Inc.
Bath Iron Works Corp.
Battelle Memorial Institute
Bendix Corp.
Boeing Co.
Brunswick Corp.
Bulova Watch Co Inc.
Bunker Ramo Corp.
Burroughs Corp.
CCI Corp.
California Physician Service
California, University of
Calspan Corp.
Caltex Oil Products Co.
Campbell Soup Co.
Carson Oil Co.
Central Gulf Steamship Corp.
Cessna Aircraft Co.
Chamberlain Manufacturing Corp.
Chesapeake Instrument Corp.
Chromalloy American Corp.
Chrysler Corp
Collins Radio Co.
Colorado Dental Service
Colt Industries Operating Corp.
Computer Sciences Corp.
Condec Corp.
Continental Air Lines, Inc.
Control Data Corp.
Curtis Wright Corp.
Cutler Hammer Inc.
Day & Zimmerman Inc.
Dayron Corp.
Dynalectron Corp.
E Systems Inc.
Eastman Kodak Co.
EDO Corp.
Electronic Communications, Inc.
Esso International Corp.
FMC Corp.
Fairchild Camera & Instrument Corp.
Fairchild Industries, Inc.
Federal Cartridge Corp.
Federal Electric Corp.
Flying Tiger Corp.
GTE Sylvania Inc.
Garrett Corp.
Gary Aircraft Corp.
General Dynamics Corp.
General Electric Co.
General Foods Corp.
General Motors Corp.
General Time Corp.
Global Associates
Gold Pak Meat Co., Inc.
Goodrich, B. F. Co.
Goodyear Aerospace Corp.
Goodyear Tire & Rubber Co.
Gould, Inc.
Grumman Aerospace Corp.
Grumman Corp.
Guam Oil & Refining Co., Inc.
Gulf & Western Industries, Inc.
Hallicrafters Co.
Harris Intertype Corp.
Hawaiian Independent Refinery Inc.
Hayes International Corp.
Hazeltine Corp.
Hercules, Inc.
Hewlett Packard Co.
Hoffman Electronics Corp.
Honeywell, Inc.
Honeywell Information Systems, Inc.
Hudson Waterways Corp.
Hughes Aircraft Co.
Humble Oil & Refining Co.
Hunt Building Corp.
ICI America, Inc.
IIT Research Institute
ITT Arctic Services
ITT Gilfillan, Inc.
ITT World Communications, Inc.
Institute for Defense Analysis
Intercontinental Manufacturing Co.
International Business Machine Co.
International Harvester Co.
International Telephone & Telegraph Corp.
Interstate Electronics Corp.
Iowa Beef Processors, Inc.
Itek Corp.
Jacksonville Shipyards, Inc.
Johns Hopkins University
Kaman Aerospace Corp.
Kaman Corp.
Kentron Hawaii, Ltd.
Kisco Co., Inc.
Kollmorgen Corp.
Kollsman Instrument Corp.
Kraftco Corp.
Kurz, Charles & Co.
LTV Aerospace Corp.
Lear Siegler, Inc.
Litton Systems, Inc.
Lockheed Aircraft Corp.
Logicon, Inc.
Lundy Electrics & Systems, Inc.
Lykes Bros. Steamship Co., Inc.
MBAssociates
Magnavox Co.
Marathon Le Tourneau Co.
Martin Marietta Aluminum Sales, Inc.
Martin Marietta Corp.
Mason & Hanger Silas Mason Co.
Massachusetts Institute of Technology
Mayer, Oscar & Co., Inc.
McDonnell Douglas Corp.
McGraw Edison Co.
Mine Safety Appliances Co.
Minnesota Mining and Manufacturing Co.
Mitre Corp.
Mobil Oil Corp.
Morrison Knudsen & Ecoscience, Inc. (JV)
Motorola, Inc.
Mutual of Omaha Insurance Co.
NHA, Inc.
National Presto Industries, Inc.
National Steel & Shipbuilding Co.
National Union Electric Corp.
Newport News Shipbuilding & Drydock Co.
Norris Industries, Inc.
Northrop Corp.
Northrop Worldwide Aircraft Services, Inc.
Northwest Airlines, Inc.
Olin Corp.
Overseas National Airways, Inc.
PRD Electronics, Inc.
Pacific Architects & Engineers, Inc.
Pacific Far East Line, Inc.
Pan American World Airways, Inc.
Philco Ford Corp.
Philip Morris, Inc.
Planning Research Corp.
Powerine Oil Co.
Proctor & Gamble Distributing Co.
Prudential Grace Lines, Inc.
REDM Corp.
RCA Corp.
RCA Global Communications, Inc.
Rand Corp.
Raytheon Co.
Remington Arms Co.
Reynolds, R J Industries, Inc.
Rockwell International Corp.
Royal Industries, Inc.
Sanders Associates, Inc.
Saturn Airways, Inc.
Science Applications, Inc.
Sea Land Service, Inc.
Seaboard World Airlines, Inc.
Seatrain Lines, Inc.
Simplex Wire & Cable Co.
Singer Co.
Sparton Corp.
Sperry Rand Corp.
Standard Oil Co. of California
Stanford Research Institute
States Steamship Co.
Summa Corp.
Sundstrand Corp.
Sundt, M M Construction Co.
Supreme Beef Co., Inc.
Susquehanna Corp.
Swift & Co.
System Development Corp.
TRW Colorado Electronics, Inc.
TRW, Inc.
Teledyne C A E
Teledyne, Inc.
Teledyne Industries, Inc.
Temtex Industries, Inc.
Tenco Construction Co.
Texas Instruments, Inc.
Textron, Inc.
Thiokol Chemical Corp.
Tracor, Inc.
Trans International Airlines, Inc.
Trans World Airlines, Inc.
Tumpane Co.
Uniroyal, Inc.
United Aircraft Corp.
United States Lines Co.
United States Radium Corp.
United States Steel Corp.
Varian Associates
Varo, Inc.
Vitro Corp. of America
Ward La France Truck Corp.
Waterman Steamship Corp.
Watkins Johnson Co.
Western Electric Co., Inc.
Western Union International, Inc.
Western Union Telegraph Co.
Westinghouse Electric Corp.
Whittaker Corp.
World Airways, Inc.
Xerox Corp.

MAURICE W. ROCHE,
*Director Correspondence and Directives OASD (Comptroller).*

SEPTEMBER 7, 1973.

[FR Doc.73-19702 Filed 9-14-73;8:45 am]





Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 73-896]

## ASSIGNMENT OF CALL SIGNS

In the matter of amendment of Parts 2, 74, and 81 of the Commission's rules concerning the assignment of call signs to stations which operate exclusively on frequencies above 30 megahertz and which are classed as coast telephone stations in Alaska or fixed stations.

1. At the present time call signs formed from the two blocks KAA20 through KZZ99 and WAA20 through WZZ99 are being assigned to coast telephone stations in Alaska and to fixed stations. With the increase in the number of these stations licensed by the Commission to operate on frequencies above thirty megahertz, the number of three-letter, two-digit call signs available for assignment to Commission licensees as well as to stations operated by the United States Government has progressively diminished.

2. To provide sufficient available call signs for assignment to the above mentioned stations in the future, the call signs for each new coast telephone station in Alaska or fixed station authorized to operate exclusively on frequencies above thirty megahertz will be formed from the block WAA200 through WZZ999. Call signs consisting of three-letters, two-digits which were assigned to such stations prior to the effective date of this order will normally be retained upon license renewal. Consequent amendments of §§ 2.302, 74.982, and 81.72 of the Commission's rules are attached.

3. Due to factors including the limited availability of three-letter, two-digit call signs taken together with the fact that call signs from the WAA200 through WZZ999 block are in abundance, notice and public procedure within the meaning of the Administrative Procedure Act 5 U.S.C. 553(b)(3)(B) are found to be unnecessary. The amendments set forth in the Appendix are therefore effective forthwith.

4. Authority for the amendment is contained in section 4(i) and 303 of the Communications Act of 1934, as amended. In view of the foregoing, *It is ordered* That, effective October 23, 1973, §§ 2.302, 74.982, and 81.72 of the Commission's rules are amended as set forth in the Appendix attached hereto.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Adopted September 6, 1973.

Released September 13, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

[1] Commissioner Robert E. Lee absent.

## PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

APPENDIX

1. The table in § 2.302 of the Commission's rules is revised to read as follows:

**§ 2.302 Call signs.**

* * * * *

| Class of station | Composition of call sign | Call sign block |
|---|---|---|
| * | * | * |
| Coast telephone in Alaska. | 2 letters, 2 digits | KAA20 through KZZ99<br>WAA20 through WZZ99 |
| | 3 letters, 3 digits (for stations assigned frequencies above 30 MHz). | WAA200 through WZZ999 |
| Fixed | 3 letters, 2 digits | KAA20 through KZZ99<br>WAA20 through WZZ99 |
| | 3 letters, 3 digits (for stations assigned frequencies above 30 MHz). | WAA200 through WZZ999 |
| * | * | * |

* * * * *

## PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

2. Section 74.982 of the Commission's rules is revised to read as follows:

**§ 74.982 Station identification.**

(a) Call signs for instructional television fixed stations will consist of three letters and three digits pursuant to the provisions of § 2.302 of this chapter relating to fixed stations.

* * * * *

## PART 81—STATIONS ON LAND IN THE MARITIME SERVICES AND ALASKA—PUBLIC FIXED STATIONS

3. Section 81.72 (f) and (g) of the Commission's rules is revised to read as follows:

**§ 81.72 Assignment of call signs.**

* * * * *

(f) Marine fixed stations and marine relay stations shall be assigned individual call signs each consisting of three letters followed by two digits taken from either the block KAA through KZZ or the block WAA through WZZ or, in the case of stations operating exclusively on frequencies above 30 megahertz, three letters followed by three digits taken from the block WAA through WZZ.

(g) Marine control stations and marine repeater stations shall be assigned individual call signs each consisting of three letters followed by two digits taken from either the block KAA through KZZ or the block WAA through WZZ, or in the case of stations operating exclusively above 30 megahertz, three letters followed by three digits taken from the block WAA through WZZ.

* * * * *

[FR Doc.73-19687 Filed 9-14-73;8:45 am]

[Docket No. 19764 RM-1994; FCC 73-909]

## PART 73—RADIO BROADCAST SERVICES

### FM Broadcast Stations; Table of Assignments (Columbus, Indiana)

1. The Commission has before it a notice of proposed rulemaking adopted June 6, 1973 (FCC 73-608, 38 FR 15856), inviting comments on a proposal to assign Channel 285A to Columbus, Indiana. The proceeding was instituted on the basis of a petition filed by Rush County Broadcasting Company (petitioner). Supporting comments were filed by petitioner. There were no oppositions to the proposal.

2. Columbus (population 27,141)[1] is the seat of Bartholomew County (population 57,022) and is located 42 miles southeast of Indianapolis. Channel 268 is presently assigned to Columbus and is licensed to Station WCSI-FM. There is also a daytime-only AM station (WCSI) at Columbus. Channel 285A can be assigned to Columbus without requiring any other changes in the FM Table of Assignments, and in conformance with the Commission's minimum mileage separation rule.

3. The preclusion study indicates that the proposed assignment to Columbus would foreclose future assignment only on Channel 285A; the adjacent channels are not affected. The precluded area would occur in and near Columbus. There are seven other communities within the precluded area, with populations less than that of Columbus, where Channel 285A could be assigned: two (13,352 and 4,582 populations) each have an FM Class B station; two (4,906 and 4,902 populations) are each served by an FM station located in a neighboring community; and the remaining three have a population less than 2,500 persons and also receive service from FM stations in neighboring communities.

4. In supporting comments petitioner asserts the proposed assignment would provide a second FM service and a competitive facility to the commonly-owned Stations WCSI and WCSI-FM in Columbus. It reaffirms its intentions to apply for the channel if assigned, and if authorized, to build the station promptly.

5. We note that such an assignment would intermix a Class A with a Class B channel at Columbus. However, it appears that petitioner was unable to find a Class B channel available for the community and is willing to operate on a Class A channel in competition with WCSI-FM which operates on Class B Channel 268. Although in some circumstances we are hesitant to intermix channels, in others we have done so. Under our assignment criteria Columbus has a population the size of which would warrant its being assigned a second

[1] Population figures cited are from the 1970 U.S. Census.



V38-179 SEP 17 73 XUM

FM channel. After consideration of the pertinent facts in this proceeding, we are of the view that the subject proposal has merit and that its adoption would serve the public interest.

6. Authority for the action taken herein is contained in Sections 4(i), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended.

7. Accordingly, *It is ordered*, That effective October 23, 1973, the Table of FM Assignments (§ 73.202(b)) is amended with respect to the city listed below as follows:

| *City* | *Channel No.* |
|---|---|
| Columbus, Indiana | 268, 285A |

8. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended; 1066, 1082; 47 U.S.C. 154, 303.)

Adopted September 6, 1973.

Released September 11, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

[FR Doc.73-19688 Filed 9-14-73;8:45 am]

[FCC 73-916]

## PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

### Unattended Operation of TV and FM Translator Stations

1. On August 29, 1972, the Commission adopted an Order (FCC 72-777, released September 1, 1972), construing the word "prompt" in §§ 74.734 and 74.1234 of the Commission's rules [2] to mean 30 minutes, for the purpose of providing guidance to applicants and licensees as to the meaning of the word within the context of the rule. We issued the order without instituting a rulemaking proceeding because the change was interpretative, it having long been policy, on a staff level, to interpret the term in that manner. On October 2, 1972, petitions for reconsideration were filed by seven licensees of translator stations,[3] challenging our assertion that the change was interpretative and contending that a rulemaking proceeding was mandatory. We need not decide that issue, however, because our decision on this proceeding moots the question.

2. Petitioners argue that the fact that translators are generally located in remote areas means that there is little likelihood of interference which could be caused by defective operation. We cannot accept that argument, for there exists a great danger of interference to aircraft radio operations, land-mobile radio operations, public safety radio systems and other radio operations, irrespective of the remoteness of a transmitter. We are firmly convinced of the need for the rule and we are here concerned only with how that rule will be worded and administered.

3. What constitutes "prompt" is a matter of judgment susceptible to widely varying interpretations by licensees. Similarly, the amount of time reasonably required by the person designated to suspend operation of a translator in an emergency may vary greatly, depending upon terrain, accessibility from roads, weather conditions, and similar factors. We now accept the fact that it may not be feasible to attempt to apply a specific time limit to all situations with the expectation that it can be met under all circumstances, but we continue to believe that a word such as "prompt" is too vague to fairly apprise licensees as to what is expected of them and it offers them no guidance. Some middle ground is obviously necessary. We have, therefore, decided to restore the term "prompt" to the rules with the clear understanding that it will be construed to mean no more than three hours unless unforeseeable extraordinary circumstances beyond the licensee's control make it impossible to effect suspension within that time. The burden of showing the existence of such circumstances will be on the licensee who is unable to comply within three hours. Fortunately, the occasions when it has been necessary to invoke the rule have been few, but because we are concerned with emergency situations, we think that is necessary for the Commission to retain the means to accomplish suspension of a translator as quickly as prevailing conditions will permit.

4. For the reasons stated, *It Is Ordered*, That pursuant to the authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended, the petitions for reconsideration filed herein Are Granted, the Commission's Order adopted August 29, 1972 (FCC 72-777) Is Set Aside, and §§ 74.734 and 74.1234 Are Amended to read as set out in the Appendix attached hereto effective October 23, 1973.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Adopted September 6, 1973.

Released September 13, 1973.

FEDERAL COMMUNICATIONS COMMISSION [3]
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

APPENDIX

Part 74 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. In § 74.734, paragraph (a)(4) is revised to read as follows:

**§ 74.734 Unattended operation.**

(a) • • •

(4) The Commission shall be supplied with the name, address, and telephone number of a person or persons who may be contacted to secure suspension of operation of the translator promptly should such action be deemed necessary by the Commission. Such information shall be kept current by the licensee.

• • • • • •

2. In § 74.1234, paragraph (a)(4) is revised to read as follows:

**§ 74.1234 Unattended operation.**

(a) • • •

(4) The Commission shall be supplied with the name, address, and telephone number of a person or persons who may be contacted to secure suspension of operation of the translator promptly should such action be deemed necessary by the Commission. Such information shall be kept current by the licensee.

• • • • • •

[FR Doc.73-19685 Filed 9-14-73;8:45 am]

## PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

### Frequencies and Conditions of Use

*Correction*

In FR Doc. 73-18769 appearing on page 24368 in the issue of Friday, September 7, 1973, make the following change:

In the carrier frequency table of § 83.351(a) insert the following column headings above the entry for "156.275."

| Carrier frequency (MHz) | See section | Conditions of use |
|---|---|---|

## Title 50—Wildlife and Fisheries

## CHAPTER I—BUREAU OF SPORT FISHERIES AND WILDLIFE, FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

## PART 32—HUNTING

### Certain National Wildlife Refuges in Oregon

The following regulations are issued and are effective September 17, 1973. These regulations apply to public hunting on portions of certain National Wildlife Refuges in Oregon.

*General Conditions:* Hunting shall be in accordance with applicable State regulations. Portions of refuges which are open to hunting are designated by signs and/or delineated on maps. No vehicle travel is permitted except on maintained roads and trails. Special conditions applying to individual refuges are listed on the reverse side of maps available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, P.O. Box 3737, Portland, Oregon 97208.

[1] Commissioner Robert E. Lee absent.

[2] Sections 74.734 and 74.1234 provide that the Commission shall be supplied with the name, address, and telephone number of a person or persons who may be contacted to secure prompt suspension of a translator should this be deemed necessary by the Commission.

[3] The petitioners are filed as part of the original document.

[3] Commissioner Robert E. Lee absent.





**§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.**

Migratory birds may be hunted on the following refuge areas:

*Deer Flat National Wildlife Refuge,* Snake River Sector (Headquarters: Deer Flat National Wildlife Refuge, Route 1, Box 1457, Nampa, Idaho 83651).

*Hart Mountain National Antelope Refuge,* P.O. Box 111, Lakeview, Oregon 97630.

Ducks, geese, and coots may be hunted on the following refuge areas:

*Baskett Slough National Wildlife Refuge,* Route 1, Box 709, Dallas, Oregon 97338.

Special Conditions: 1. Hunting is permitted on Wednesdays, Saturdays, and Sundays from opening shooting time each day until 12 noon during the last six weeks of the goose season as it applies to Polk County.

2. A Federal permit is required and will be issued on an advance reservation basis. Application for reservation will be accepted between September 15 and October 15, 1973, by mail only.

3. The use of 12-guage soft iron shot shells sold at refuge check stands is required.

*Cold Springs National Wildlife Refuge,* Hermiston, Oregon. (Headquarters: Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oregon 97882).

*McKay Creek National Wildlife Refuge,* Pendleton, Oregon. (Headquarters: Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oregon 97882).

Special Condition: Hunting will be permitted on Wednesdays, Saturdays, Sundays, and Federal holidays.

*Umatilla National Wildlife Refuge,* P.O. Box 239, Umatilla, Oregon 97882.

Special Condition: Hunting will be permitted on Wednesdays, Saturdays, Sundays, and Federal holidays.

*Upper Klamath National Wildlife Refuge,* (Headquarters: Tule Lake National Wildlife Refuge, Route 1, Box 74, Tulelake, California 96134).

Special Condition: 1. Sculling and airthrust boats are prohibited.

*William L. Finley National Wildlife Refuge,* Route 2, Box 208, Corvallis, Oregon 97330.

Special Conditions: 1. Hunting is permitted on Wednesdays, Saturdays, and Sundays from opening shooting time each day until 12 noon, during the last six weeks of the goose hunting season as it applies to Benton County.

2. A Federal permit is required and will be issued on an advance reservation basis. Application for reservation will be accepted between September 15 and October 15, 1973, by mail only.

3. In the designated goose hunting area "A" hunters may shoot from assigned blind sites only and are limited to the use of ten (10) shells per day.

4. The use of 12-gauge soft iron shot shells sold at refuge check stands is required.

Ducks, geese, coots and common snipe may be hunted on the following refuges:

*Klamath Forest National Wildlife Refuge* (Headquarters: Tule Lake National Wildlife Refuge, Route 1, Box 74, Tulelake, California 96134).

Special Condition: 1. Sculling and airthrust boats are prohibited.

*Malheur National Wildlife Refuge,* P.O. Box 113, Burns, Oregon 97720.

Special Conditions: 1. Use of motors on boats is prohibited.

2. Closed to hunting of canvasback.

Mourning doves and band-tailed pigeons may be hunted on the following refuge areas:

*Ankeny National Wildlife Refuge,* Box 198, Jefferson, Oregon 97352.

Special Condition: All hunters must check in and out of the refuge daily by use of self-service permits.

*Baskett Slough National Wildlife Refuge,* Route 1, Box 709, Dallas, Oregon 97338.

Special Condition: All hunters must check in and out of the refuge daily by use of self-service permits.

*Malheur National Wildlife Refuge,* P.O. Box 113, Burns, Oregon 97720.

Special Condition: That portion of the refuge in Blitzen Valley west of Highway 205 south of Diamond Lane will be open to hunting.

*William L. Finley National Wildlife Refuge,* Route 2, Box 208, Corvallis, Oregon 97330.

Special Condition: All hunters must check in and out of the refuge daily by use of self-service permits.

**§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.**

Upland game birds may be hunted on the following refuge areas:

*Deer Flat National Wildlife Refuge,* Snake River Sector (Headquarters: Deer Flat National Wildlife Refuge, Route 1, Box 1457, Nampa, Idaho 83651).

*Hart Mountain National Antelope Range,* P.O. Box 111, Lakeview, Oregon 97630.

Pheasant, quail, and partridge may be hunted on the following refuge areas:

*Cold Springs National Wildlife Refuge,* Hermiston, Oregon. (Headquarters: Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oregon 97882).

*Malheur National Wildlife Refuge,* P.O. Box 113, Burns, Oregon 97720.

Special Condition: Hunting will be permitted during the last 9 days of the State season on the upland game hunting area and during State seasons running concurrently with the waterfowl season on the waterfowl hunting area, and that portion of the refuge in the Blitzen Valley west of Highway 205.

*McKay Creek National Wildlife Refuge,* Pendleton, Oregon. (Headquarters: Umatilla National Wildlife Refuge, P.O. Box 239, Umatilla, Oregon 97882).

Special Condition: Hunting is permitted on Wednesdays, Saturdays, and Sundays each week.

*Umatilla National Wildlife Refuge,* P.O. Box 239, Umatilla, Oregon 97882.

Special Condition: Hunting will be permitted on Wednesdays, Saturdays, Sundays, and Federal holidays.

Pheasant and quail may be hunted on the following refuge areas:

*Ankeny National Wildlife Refuge,* Route 1, Box 198, Jefferson, Oregon 97352.

Special Conditions: 1. All hunters must check in and out of the refuge daily by use of self-service permits.

2. Hunters on the area served by each registration station will be limited to 100 at any one time.

*Baskett Slough National Wildlife Refuge,* Route 1, Box 709, Dallas, Oregon 97338.

Special Conditions: 1. No hunting permitted after November 11, 1973.

2. All hunters must check in and out of the refuge daily by use of self-service permits.

3. Hunters on the area served by each registration station will be limited to 100 at any one time.

*William L. Finley National Wildlife Refuge,* Route 2, Box 208, Corvallis, Oregon 97330.

Special Conditions: 1. No hunting permitted after November 11, 1973.

2. All hunters must check in and out of the refuge daily by use of self-service permits.

3. Hunters on the area served by each registration station will be limited to 100 at any one time.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally and which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through June 30, 1974.

R. KAHLER MARTINSON,
*Regional Director, Bureau of Sport Fisheries and Wildlife.*

AUGUST 31, 1973.

[FR Doc.73-19701 Filed 9-14-73;8:45 am]

## Title 24—Housing and Urban Development

## CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING PRODUCTION AND MORTGAGE CREDIT—FEDERAL HOUSING COMMISSIONER [FEDERAL HOUSING ADMINISTRATION]

### SUBCHAPTER A—GENERAL

[Docket No. R-73-239]

## PART 200—INTRODUCTION

### Correction of Structural or Other Defects in Homes Covered by Mortgage Insurance

The Department is amending its regulations concerning correction of structural defects in homes with mortgages insured under section 235 of the National Housing Act. The headings of §§ 200.522 and 200.527 are being clarified and the text of § 200.527 revised in order to prevent any misconstruction that the section sets a more restrictive standard for granting an assistance claim under section 518(b) of the Act.

Since the amendment clarifies existing regulations without substantive change, it is unnecessary to provide for comment and public procedure and good cause exists for making this amendment effective upon publication.



V 38-179 SEP 17 73 XUM

Accordingly, Part 200 is amended as follows:

1. In Subpart L, in the Table of Contents, the pertinent section headings are amended to read:

Sec.
200.522 Eligibility for assistance.
200.527 Terms and conditions of assistance.

§ 200.522 [Amended]

2. In § 200.522 the heading is amended to read: § 200.522 Eligibility for assistance.

3. In § 200.527 the heading and second sentence of the introductory text are amended to read as follows:

**§ 200.527 Terms and conditions of assistance.**

Upon a finding by the Secretary that a mortgagor is eligible to be considered for assistance under this subpart, the Secretary will, in his sole discretion, determine whether to afford assistance hereunder by direct expenditures to correct defects as defined in § 200.522(b), compensation of a mortgagor who has made such expenditures himself, or a combination of both direct expenditures and compensation of the mortgagor. The Secretary, in determining the form of assistance and when it will be afforded, will consider:

* * * * *

(Sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d).)

*Effective date.*—This amendment shall become effective on September 17, 1973.

SHELDON B. LUBAR,
*Assistant Secretary-Commissioner.*

[FR Doc.73-19708 Filed 9-14-73;8:45 am]

## CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-207]

### PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

#### Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

**§ 1914.4 Status of participating communities.**

* * * * * * *

| State | County | Location | Map No. | State map repository | Local map repository | Effective date of authorization of sale of flood insurance for area |
|---|---|---|---|---|---|---|
| * | * | * | * | * | * | * |
| Nebraska | Dodge | Fremont, city of | | | | September 11, 1973, Emerg. |
| Virginia | | Roanoke city of | | | | Do. |

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969) (42 U.S.C. 4001–4127) and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969.)

Issued September 5, 1973.

GEORGE K. BERNSTEIN,
*Federal Insurance Administrator.*

[FR Doc.73-19564 Filed 9-14-73;8:45 am]





# Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

## DEPARTMENT OF THE TREASURY

### United States Customs Service

**[ 19 CFR Parts 10, 11, 12, 19, 24, 25, 113, 114, 141, 142, 172 ]**

### CUSTOMS BONDS

#### Proposed Revision of Customs Regulations

Notice is hereby given that under the authority of Revised Statute 251, as amended (19 U.S.C. 66), and sections 623, 624, 46 Stat. 759, as amended (19 U.S.C. 1623, 1624), it is proposed to revise the Customs Regulations pertaining to Customs bonds.

The proposed revision is part of the general revision of the Customs Regulations which includes a rearrangement of the sequence of parts in Chapter I of Title 19 of the Code of Federal Regulations. The proposed Part 113 and § 114.34 replace the present Part 25. This revision does not include provisions relating to the filing of a Bond Transcript in connection with some of the Customs term bonds. These provisions were published in the FEDERAL REGISTER on July 20, 1973 (T.D. 73–197; 38 FR 19361).

Changes or additions in language are proposed to clarify some provisions and eliminate inconsistencies, and to incorporate existing administrative interpretations and practices into the Customs Regulations. The principal changes in the requirements and procedures in the proposed parts from those set forth in the present part are as follows:

1. Sections 113.1 and 113.2 are new and are based on (19 U.S.C. 1623). These two sections set forth the general authority and powers of the Commissioner of Customs in regard to Customs bonds. Proposed § 113.3 is new and sets forth in the Customs Regulations a general principle of law in regard to the liability of a surety on a terminated bond.

2. In proposed § 113.13 which replaces § 25.3(a) of the present regulations, current item 2 which refers to cartage contract bonds is omitted because a special type of bond is no longer needed. T.D. 68–155 (33 FR 8731), changed the manner of procuring contracts for Government cartage.

3. In § 113.14, paragraphs (x) and (y) add to the list of bonds approved by the district director, the single entry and term bonds for the accelerated payment of drawback, set forth in T.D. 73–3 (37 FR 28283), and the Drawback Export Bond, set forth in T.D. 73–5 (37 FR 28416). Paragraphs (dd) to (hh) of this same section add the Containerized Cargo bond, the Trade Fair bond, the Copyright bond, the Public Gauger bond, and the special bond for the importation of flammable fabrics to this list. These bonds are not listed in present § 25.4(a), are currently in use, and should be listed. Paragraph (ii) adds to this list of bonds the bond of a licensed Customs cartman or lighterman for the issuance of temporary identification card, set forth in T.D. 73–140 (38 FR 13550).

4. Proposed § 113.15 is new, and sets forth the two criteria of which the district director must be satisfied, before he can approve a bond.

5. Proposed § 113.23 broadens the scope of the present § 25.5(d) of the Customs Regulations, and is concerned with all types of changes on a bond. The terms "modification," "interlineation," "erasure," and "alteration" have special meanings, and are therefore defined in paragraph (a). The phrase "but prior to the approval of the bond by Customs" has been added to paragraph (c) so as to specifically point out and thereby eliminate any possible confusion as to the period of time when the interlineation and alterations can be made after the bond is signed by the parties. Paragraph (d) is new and refers to changes on the bond after it has been approved by Customs.

6. Proposed § 113.26 sets forth the procedure concerning the distribution of copies of the blanket term bonds. Paragraph (a) is new and sets forth the procedure for the blanket term bonds approved by the district director. Paragraph (b) is taken from present § 25.3(b) of the Customs Regulations, and expressly points out that this procedure applies only to blanket smelting and refining term bonds which are the only blanket term bonds approved by the Commissioner.

7. Proposed § 113.34(c) in dealing with bonds executed by an authorized officer of a corporation consolidates the requirements that must be met by such officer in order for him to act on behalf of the corporation.

8. Proposed § 113.35(b) (2) and (3) has eliminated the restriction in § 25.9 (e) and (f), prohibiting a married woman from acting as a surety. The revised section would make her ability to act as surety depend upon the law of the state where she wishes to act as surety. At present, only the states of Georgia and Idaho prevent a married woman from acting as surety.

9. In proposed § 113.37, paragraph (b) sets forth the requirements relating to placing the name of the corporation on the bond. Paragraph (d) sets forth the seal requirements that apply to the corporate surety and the corporate principal. These requirements are set forth in the present regulations only in relation to corporate principals (§ 25.8). Paragraph (c) of § 113.37 is new and requires that the name of the agent or attorney of a corporate surety be either stamped, printed, or typed, below his signature.

10. Present § 25.12(b) states that when two or more companies are accepted as sureties, each should limit its liability on Customs Form 3903. However, this Customs form has been abolished. Proposed § 113.37(e) sets forth a form similar to the abolished Customs Form 3903 which may be used to limit each surety company's liability when two or more companies are involved.

11. Proposed § 113.37(f) incorporates T.D. 71–21 (36 FR 1056), which invalidated all corporate surety powers of attorney under the old procedure, adopted a revised corporate surety power of attorney, and set forth the manner in which corporate surety powers of attorney are to be filed and processed under the new procedure. This section would replace paragraphs (c) and (d) of § 25.12 of the current regulations. Subparagraph (4) of § 113.37(f) provides that the copy of the authorization of the power of attorney retained by the grantee will expire when the Customs list verifying his power of attorney is received by the appropriate ports, rather than in 60 days if that occurs sooner.

12. Proposed § 113.39(a) would change the first sentence of predecessor § 25.14 by adding the phrase "(except for savings bonds)" after the words "United States bonds". United States savings bonds cannot be used as security or collateral for Customs bonds.

13. Present § 25.14 refers to a duly executed power of attorney and agreement in a form similar to that prescribed in Treasury Department Circular 154, dated February 6, 1935, superseded by Treasury Department Circular 154, Revised, dated October 31, 1969. The current reference is shown in proposed § 113.39(b). Since the latter Treasury Department Circular is not readily available to the public, the power of attorney and agreement for corporations found therein is given in § 113.39(b). Section 113.39(b) indicates that this power of attorney and agreement should be modified as appropriate when the obligor is either an individual or partnership.

14. Proposed § 113.51 is new and is based on 19 U.S.C. 1623(c) which sets forth the authority for canceling the bond or charges against it.



V 38 I 179
SEP 17 73
XUM

15. Present § 25.15(e), although it is in the section on cancellation of export bonds, applies to bonds in general and is, therefore, placed in a separate section (§ 113.52(a)) from the section on cancellation of export bonds (§ 113.55).

The time period before reporting the failure to satisfy a Customs bond to the United States attorney for prosecution is extended from 60 days to 90 days in order to reflect current accounting practices and procedures.

16. Section 10.112 is changed to include reduced duty documents as well as free entry documents and provides for the late filing of such documents prior to final liquidation unless the late filing is due to willful negligence or fraudulent intent. This is in conformity with present practice.

17. Proposed § 113.43(b) would change the first sentence of present § 25.18(c) by limiting the time period for late application for extension of time on the bond or stipulation for the production of a missing document to not more than 2 months from the date of expiration of the period of the bond or stipulation, and limiting the extension permitted to 2 months. This change is in accord with T.D. 69-4 (33 FR 18931) which limited the extension of time on the bond or stipulation to one period of 2 months.

18. Proposed § 113.43(c) would modify the language of the second sentence of § 25.18(c) by specifying that the failure to file the free-entry or reduced-duty document was not due to willful negligence or fraudulent intent.

19. Section 25.17(d) which concerns assessment of damages for the failure to redeliver merchandise is not placed in the proposed Part 113, but is placed in sections of the regulations dealing with failure to redeliver. First sentence of § 25.17(d) is added to § 141.113 as paragraph (g). Second sentence of § 25.17(d) dealing with demand for return of merchandise released under temporary importation bond is added to § 10.39(d) as subparagraph (3). Third sentence of § 25.17(d) is covered by § 12.16(c).

20. Detailed information concerning the application for the consolidated aircraft bond and general term bond is located in proposed §§ 113.61 and 113.62, respectively, rather than proposed §113.14 because that section is only concerned with the approval of the bonds by the district director. The third and fourth sentences of § 25.4(a)(35) which concern the qualification of the carrier for the transportation of bonded merchandise are omitted from Part 113 because they are contained in revised Part 112, which is concerned with the qualification of the carrier.

21. Sections 25.19 (a) and (d) in regard to the cancellation of erroneous charges against the bond when it is determined that liquidated damages assessed or paid under a bond did not in fact accrue are for the most part contained in § 172.31. Therefore, merely a cross-reference is given in proposed § 113.54(a) to § 172.31. Information concerning the refunding of liquidated damages paid and the handling of questionable cases since they involve liquidated damages in general are relocated in § 172.31. A correction is made in the forms shown.

22. Proposed § 114.34 places the requirements concerning the cancellation of erroneous charges involving carnets, presently located in § 25.19 (b) and (c), in Part 114—Carnets.

Accordingly, it is proposed to amend the Customs Regulations as set forth below:

## PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

In § 10.39, paragraph (a) is amended by substituting in the first sentence "§ 113.55" for "§ 25.15", and paragraph (d) is amended by adding a new subparagraph (3) to read as follows:

**§ 10.39 Cancellation of bonds.**

* * * * * * *

(d) * * *

(3) *Demand for return to Customs custody.*—When the demand for return to Customs custody is made in the case of merchandise entered under schedule 8, part 5C, Tariff Schedules of the United States (19 U.S.C. 1202), upon finding that the merchandise is not entitled to admission into the commerce of the United States, liquidated damages in an amount equal to double the estimated duties on the merchandise not returned shall be demanded, except that in the case of samples solely for use in taking orders, motion-picture advertising films, professional equipment, tools of trade, and repair components for professional equipment and tools of trade, the liquidated damages demanded shall be in an amount equal to 110 percent of the estimated duties.

* * * * * * *

**§ 10.41a [Amended]**

In § 10.41a, the fifth sentence of paragraph (c) is amended by substituting "§ 113.14(p)" for "§ 25.4(a)(34)".

**§§ 10.43 and 10.71 [Amended]**

Sections 10.43(a) and 10.71(c) are amended by substituting "§ 113.42" for "§ 25.16(c)".

Section 10.112 and the centerhead before that section are amended to read as follows:

LATE FILING OF FREE ENTRY AND REDUCED DUTY DOCUMENTS

**§ 10.112 Filing free entry documents or reduced duty documents after entry.**

Whenever a free entry or a reduced duty document, form, or statement required to be filed in connection with the entry is not filed at the time of the entry or within the period for which a bond was filed for its production, but failure to file it was not due to willful negligence or fraudulent intent, such document, form, or statement may be filed at any time prior to liquidation of the entry or, if the entry was liquidated, before the liquidation becomes final. See § 113.43 (c) of this chapter for satisfaction of the bond and cancellation of the bond charge.

(R.S. 251, as amended, sec. 624, 46 Stat. 759; (19 U.S.C. 66, 1624).)

## PART 11—PACKING AND STAMPING; MARKING

**§§ 11.12 and 11.12a [Amended]**

Sections 11.12(c) and 11.12a(c) are amended by substituting "§ 113.14" for "§§ 25.3 and 25.4".

**§ 11.12b [Amended]**

In § 11.12b, paragraph (c) is amended by substituting "§ 113.14" for "§ 25.4".

(R.S. 251, as amended, sec. 624, 46 Stat. 759; (19 U.S.C. 66, 1624).)

## PART 12—SPECIAL CLASSES OF MERCHANDISE

**§§ 12.73 and 12.91 [Amended]**

Sections 12.73(c), and 12.91(d) are amended by substituting "§ 113.14" for "§ 25.4(a)".

**§ 12.80 [Amended]**

Section 12.80(c) is amended by substituting "§ 113.14" for "§ 25.4(a)".

(R.S. 251, as amended, sec. 624, 46 Stat. 759; (19 U.S.C. 66, 1624).)

## PART 19—CUSTOMS WAREHOUSES, CONTAINER STATIONS, AND CONTROL OF MERCHANDISE THEREIN

**§ 19.17 [Amended]**

In § 19.17, paragraph (e) is amended by substituting in the second sentence "T.D. 72-244" for "T.D. 50267, as amended by T.D. 52403".

(R.S. 251, as amended, sec. 624, 46 Stat. 759; (19 U.S.C. 66, 1624).)

## PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

**§ 24.11 [Amended]**

In § 24.11, paragraph (a)(2) is amended by substituting "§ 13.14(u)" in place of "§ 25.4(a)(32)".

(R.S. 251, as amended, sec. 624, 46 Stat. 759; (19 U.S.C. 66, 1624).)

## PART 25—CUSTOMS BONDS

**§§ 25.1 through 25.19 [Deleted]**

Chapter I of Title 19, Code of Federal Regulations, is amended by deleting Part 25.

(R.S. 251, as amended, secs. 623, 624, 46 Stat. 759, as amended; (19 U.S.C. 66, 1623, 1624).)

## PART 113—CUSTOMS BONDS

Chapter I of Title 19, Code of Federal Regulations, is amended by adding new Part 113 as follows:

Sec.
113.0 Scope.

Subpart A—General Provisions

113.1 Authority to require execution of bond or security.





Sec.
113.2 Powers of Commissioner of Customs relating to bonds.
113.3 Liability of surety on a terminated bond.

Subpart B—Classes and Approval of Bonds

113.11 Name and classes of bonds.
113.12 Carnets.
113.13 Bonds approved by the Commissioner of Customs.
113.14 Bonds approved by the district director.
113.15 Approval of bond.
113.16 Amount of bond approved by district director.
113.17 Approved form of bond inadequate.
113.18 Retention of approved bonds.

Subpart C—General and Special Bond Requirements

113.21 Information required on the bond.
113.22 Witnesses required.
113.23 Changes made on the bond.
113.24 Seals.
113.25 Termination date for term bonds.
113.26 Blanket term bonds.

Subpart D—Principals and Sureties

113.31 Information pertaining to principals and sureties on the bond.
113.32 Same party as principal and surety; attorney in fact.
113.33 Partnerships as principals.
113.34 Corporations as principals.
113.35 Individual sureties.
113.36 Partners acting as surety in behalf of a partner or in behalf of a partnership.
113.37 Corporate sureties.
113.38 Delinquent sureties.
113.39 Acceptance of cash deposits or obligations of the United States in lieu of sureties on bonds.

Subpart E—Production of Documents

113.41 Entry made prior to production of documents.
113.42 Time period for production of documents.
113.43 Extension of time period.
113.44 Assent of sureties to an extension of a bond.
113.45 Charge for production of a missing document made against a term bond.
113.46 Cancellation of bond charges resulting from failure to produce documents.

Subpart F—Assessment of Damages and Cancellation of Bond

113.51 Cancellation of bond or charge against the bond.
113.52 Failure to satisfy the bond.
113.53 Waiver of Customs requirement supported by a bond.
113.54 Cancellation of erroneous charges.
113.55 Cancellation of export bonds.

Subpart G—Special Provisions Concerning Consolidated Aircraft Bonds and General Term Bonds for the Entry of Merchandise

113.61 Consolidated Aircraft Bond.
113.62 General Term Bond for Entry of Merchandise.

AUTHORITY: R.S. 251, as amended, secs. 623, 624, 46 Stat. 759, as amended; 19 U.S.C. 66, 1623, 1624. Subpart E also issued under sec. 484, 46 Stat. 722, as amended; (19 U.S.C. 1484). Additional authority and statutes interpreted or applied are cited in the text or following the sections affected.

**§ 113.0 Scope.**

This part sets forth the general requirements applicable to bonds. It contains the general authority and powers of the Commissioner of Customs in requiring bonds, the classes of bonds and their approval and execution, general and special bond requirements, the requirements which must be met to be either a principal or a surety, the requirements concerning the production of documents, and the authority and manner of assessing damages and of cancelling the bond or charges against a bond.

### Subpart A—General Provisions

**§ 113.1 Authority to require execution of bond or security.**

Where a bond or other security is not specifically required by law, the Commissioner of Customs, pursuant to Treasury Department Order No. 165 Revised, as amended (T.D. 53654, 19 FR 7241), may by regulation or specific instruction require, or authorize the district director to require, such bonds or other security considered necessary for the protection of the revenue or to assure compliance with any pertinent law, regulation, or instruction.

**§ 113.2 Powers of Commissioner of Customs relating to bonds.**

Whenever a bond is required or authorized by law, regulations, or instructions, the Commissioner of Customs may:

(a) Prescribe the conditions and form of such bond, and fix the amount of penalty, whether for the payment of liquidated damages, or of a penal sum, unless otherwise specially provided for by law.

(b) Provide for the approval of the sureties on the bond, without regard to any general provision of law.

(c) Authorize the execution of a term bond the conditions of which shall extend to and cover similar cases of importations over a period of time, not to exceed one year.

(d) Authorize the taking of a consolidated bond (single entry or term) in lieu of separate bonds to assure compliance with two or more provisions of law, regulations, or instructions. Such a consolidated bond shall have the same force and effect as the separate bonds in lieu of which it was taken. The Commissioner of Customs may fix the penalty of a consolidated bond without regard to any other provision of law, regulation, or instruction.

**§ 113.3 Liability of surety on a terminated bond.**

A surety remains liable on a terminated bond for obligations incurred prior to termination.

### Subpart B—Classes and Approval of Bonds

**§ 113.11 Name and classes of bonds.**

(a) *Name.*—All bonds required to be given under the Customs statutes or regulations shall be known as Customs bonds.

(b) *Classes.*—Customs bonds shall consist of two classes:

(1) Those approved by the Commissioner of Customs (see § 113.13).

(2) Those approved by the district director (see § 113.14).

**§ 113.12 Carnets.**

A carnet is an international customs document which serves simultaneously as a customs entry document and as a customs bond. Therefore, carnets, provided for in Part 114 of this chapter, are ordinarily acceptable without posting further security under the Customs statutes or regulations requiring bonds.

**§ 113.13 Bonds approved by the Commissioner of Customs.**

The following bonds, after execution by the principals and sureties, shall be forwarded by the district director to the Commissioner of Customs for approval:

(a) *Proprietor's Manufacturing Warehouse Bond, Class 6, Customs Form 3583.*—Proprietor's Manufacturing Warehouse Bond, Class 6, Customs Form 3583, in an amount to be recommended by the district director, but not less than $5,000 on each building or area and not more than $50,000 on all buildings or areas, unless the Commissioner of Customs directs that additional security is necessary. Buildings connected by loading platforms or sheds shall be considered as separate buildings. This Customs bond shall be prepared in duplicate. The district director shall forward to the Commissioner, along with this bond, his recommendation, together with all reports, documents, and drawings filed in connection with the bond.

(b) *Blanket smelting and refining bond.*—Blanket smelting and refining bond in the form prescribed by T.D. 72-244, in an amount to be recommended by the district director and fixed by the Commissioner. The number of copies required for this bond are set forth in § 113.26(b).

**§ 113.14 Bonds approved by the district director.**

The following bonds are subject, after execution, to approval by the district director:

(a) *Proprietor's Warehouse Bond, Customs Form 3581.*—Proprietor's Warehouse Bond, Customs Form 3581, in the amount of $5,000 on each building or area covered, but not to exceed $50,000 on all buildings or areas unless the district director believes additional security is necessary. Buildings connected by loading platforms or sheds shall be considered as separate buildings. All reports, documents, and drawings submitted in connection with the bonding of the warehouse shall be filed with the bond.

(b) *Bonds for the carriage of merchandise.*—(1) *Carrier's Bond, Customs Form 3587.*—Carrier's Bond, Customs Form 3587, for common carriers, contract carriers, and freight forwarders, in an amount to be determined by the district director, but in an amount not less than $25,000 in the case of motor and air carriers and in an amount not less than $50,000 in the case of other carriers.



V 38 I 179 SEP 17 73 XUM

(2) *Private Carrier's Bond, Customs Form 3588.*—Private Carrier's Bond, Customs Form 3588, in an amount to be determined by the district director.

(c) *Bond of Customs Cartman or Lighterman, Customs Form 3855.*—Bond of Customs Cartman or Lighterman, Customs Form 3855, in such amount as the district director deems necessary, but not less than $5,000, and not more than $50,000, unless the district director deems the latter amount insufficient. If the latter amount is considered by the district director insufficient, he shall report this fact to the Commissioner of Customs for the Commissioner's determination as to the amount of the bond.

(d) *Bond of Claimant of Seized Goods for Costs of Court, Customs Form 4615.*—Bond of Claimant of Seized for Costs of Court, Customs Form 4615, in the amount of $250.

(e) *Bond to Produce Manifest and Shipper's Export Declarations for Goods Exported to Canada.*—(1) *Single entry bond, Customs Form 7303.*—Single entry bond to Produce Manifest and Shipper's Export Declarations for Goods Exported to Canada, Customs Form 7303, in the amount of $1,000.

(2) *Term bond.*—Term bond to produce manifest and shipper's export declarations for goods exported to Canada, in the form prescribed in T.D. 46594, as amended by T.D. 52626, in such amount as the district director may deem necessary.

(f) *Special carpet wool and camel's hair bond.*—(1) *Single entry bond, Customs Form 7547.*—Special single entry carpet wool and camel's hair bond, Customs Form 7547, in an amount equal to the value of the wool or hair involved plus double the estimated duty, as determined at the time of entry.

(2) *Term bond, Customs Form 7549.*—Special term carpet wool and camel's hair bond, Customs Form 7549, in the amount of $10,000, or such larger amount as the district director may deem necessary.

(g) *Immediate Delivery and Consumption Entry Bond.*—(1) *Single entry bond, Customs Form 7551.*—Immediate Delivery and Consumption Entry Bond (Single Entry), Customs Form 7551, in the amount equal to the value of the articles, as set forth in the entry, plus the estimated duty (including any taxes required by law to be treated as duties) and the estimated amount of any other taxes imposed upon or by reason of importation, as determined at the time of entry except that:

(i) *Merchandise entered at reduced rate of duty.*—When the bond is to cover merchandise granted a conditional right of entry at a reduced rate of duty, the amount of the bond shall be fixed on the basis of the maximum rate of duty prescribed by the law.

(ii) *Merchandise remaining in Customs custody.*—When the merchandise involved will remain in Customs custody until (*a*) the examination of the merchandise has been completed, (*b*) it is found to be truly and correctly invoiced, and (*c*) it is determined that its release is not precluded by law or regulation and it is entitled to admission into the commerce of the United States, the bond shall be in an amount equal to the aggregate sum of double the estimated amount of ordinary Customs duty on the merchandise (including any taxes required by law to be treated as duties) plus the estimated amount of any other tax or taxes on the merchandise collectible by the district director.

(iii) *Merchandise unconditionally free of duty.*—When the merchandise appears to the satisfaction of the district director to be unconditionally free of duty and not prohibited from admission into the commerce of the United States, the amount of the bond may be in such lesser amount as, in the opinion of the district director, will be sufficient to accomplish the purpose for which the bond is given, but in no case less than $100.

(iv) *Immediate delivery.*—When the bond relates to an application for immediate delivery, the amount of the bond shall be fixed in the amount equal to the value of the articles, based on the information furnished in the application, plus the estimated duty (including any taxes required by law to be treated as duties) and the estimated amount of any taxes imposed upon or by reason of importation, as determined at the time of the application.

(2) *Term bond, Customs Form 7553.*—Immediate Delivery and Consumption Entry Bond (Term), Customs Form 7553, in the amount of $10,000, or such larger amount as the district director may deem necessary. This bond shall be taken to cover only entries to be made at a single port and shall not be modified to cover more than one port. The rules prescribed in paragraph (a)(1) of this section for determining the amount of the single entry immediate delivery and consumption entry bond shall be applied in making charges against immediate delivery and consumption entry term bonds.

(h) *Warehouse Entry Bond, Customs Form 7555.*—Warehouse Entry Bond, Customs Form 7555, in an amount equal to the aggregate sum of double the estimated amount of ordinary Customs duty on the merchandise (including any taxes required by law to be treated as duties) plus the estimated amount of any other tax or taxes on the merchandise collectible by the district director. When the bond is to cover merchandise granted a conditional right of entry at a reduced rate of duty, the amount of the bond shall be fixed on the basis of the maximum rate of duty prescribed by the law.

(i) *Bond for Exportation or Transportation or for Transportation and Exportation.*—(1) *Single entry bond, Customs Form 7557.*—Single entry Bond for Exportation or Transportation or for Transportation and Exportation, Customs Form 7557, in an amount equal to double the estimated duties.

(2) *Term bond, Customs Form 7559.*—Term Bond for Exportation or Transportation or for Transportation and Exportation, Customs Form 7559, in the amount of $10,000, or such larger amount as the district director may deem necessary to afford ample security to the revenue.

(j) *Bond for Articles Entered or Withdrawn from Warehouse Conditionally Free of Duty, Customs Form 7561.*—Bond for Articles Entered or Withdrawn from Warehouse Conditionally Free of Duty, Customs Form 7561, in an amount equal to the aggregate sum ordinary Customs duty on the merchandise (including any taxes required by law to be treated as duties) plus the estimated amount of any other tax or taxes on the merchandise collectible by the district director. When the bond is to cover merchandise granted a conditional right of entry at a reduced rate of duty, the amount of the bond shall be fixed on the basis of the maximum rate of duty prescribed by the law.

(k) *Bond for Temporary Importations.*—(1) *Single entry, Customs Form 7563.*—Bond for Temporary Importations, Customs Form 7563, in an amount equal to double the duties which it is estimated would accrue (or such larger amount as the district director shall state in writing to the entrant, as is necessary to protect the revenue) had all the articles covered by the entry been entered under an ordinary consumption entry, except that in the case of samples solely for use in taking orders, motion-picture advertising films, professional equipment, tools of trade, and repair components for professional equipment and tools of trade, the bond shall be in an amount equal to 110 percent of the estimated duties.

(2) *Term bond, Customs Form 7563–A.*—Term Bond for Temporary Importations, Customs Form 7563–A, in such amount as the district director may deem necessary, but in no case less than $1,000, unless the bond covers entries at 2 or more ports in which case the amount shall not be less than $10,000.

(l) *Bond for articles for exhibition, Customs Form 7565.*—Bond for articles for exhibition, Customs Form 7565, in an amount equal to the estimated duties, as determined at the time of entry.

(m) *Vessel, Vehicle, or Aircraft Bond.*—(1) *Single entry bond, Customs Form 7567.*—Vessel, Vehicle, or Aircraft Bond (Single Entry), Customs Form 7567, in such amount as the district director may deem necessary, but in no case less than $1,000.

(2) *Term bond, Customs Form 7569.*—Vessel, Vehicle, or Aircraft Bond (Term), Customs Form 7569, in the amount of $10,000, or such larger amount as may be fixed by the district director at the port where the bond is filed.

(n) *Single entry bond on entry for or withdrawal from manufacturing warehouse, Customs Form 7571.*—Bond on entry for or withdrawal from manufacturing warehouse (single entry), Customs Form 7571, in an amount equal to the aggregate sum of double the estimated amount of ordinary Customs duty on the merchandise, as determined at the time of entry (including any taxes required by law to be treated as duties) plus the estimated amount of any other tax or taxes on the merchandise collectable by the district director.

(o) *Single entry bond to produce bill of lading, Customs Form 7581.*—Bond to Produce Bill of Lading (Single Entry), Customs Form 7581, in an amount equal to one and one-half times the invoice value.

(p) *Bond for control of instruments of international traffic, Customs Form 7587.*—Bond for the Control of Certain Instruments of International Traffic, Customs Form 7587, required by § 10.41a of this chapter in the amount of $10,000 or such larger amount as the district director may deem necessary to afford ample security to the revenue. Upon each approval or discontinuance of such bond there shall be promptly transmitted to the Commissioner of Customs the following information which shall be published in the weekly Customs Bulletin:

(1) Name and address of principal,
(2) Name and address of surety,
(3) Date of bond,
(4) Date of approval,
(5) Date of discontinuance (when applicable), and
(6) Amount of the bond.

(q) *Antidumping Bond, Customs Form 7591.*—Antidumping Bond, Customs Form 7591, in an amount equal to the estimated value of the merchandise.

(r) *Landing bond for alcoholic beverages, Customs Form 7593.*—Landing Bond, Customs Form 7593, to land spirits, wines, or other alcoholic liquors in foreign ports, in an amount equal to double the estimated duty.

(s) *General term bond for the entry of merchandise, Customs Form 7595.*—General Term Bond for Entry of Merchandise, Customs Form 7595, in the amount of $100,000, or such larger amount as may be fixed by the district director at the port where the bond is filed.

(t) *Bond to secure the payment of overtime services.*—(1) *Single entry bond, Customs Form 7597.*—Single entry bond, Customs Form 7597, in an amount deemed by the district director to be sufficient to secure the payment of overtime services requested by or on behalf of parties in interest.

(2) *Term bond, Customs Form 7599.*—Term bond, Customs Form 7599, in an amount deemed by the district director to be sufficient to secure the payment of overtime services requested by or on behalf of parties in interest.

(u) *Superseding bond, Customs Form 7601.*—Superseding bond of the actual owner whose declaration has been filed pursuant to section 485(d), Tariff Act of 1930, as amended (19 U.S.C. 1485(d)), to pay increased and additional duties imposed upon or by reason of importation, to redeliver merchandise for marking and other purposes, and to perform all required acts with respect to merchandise not entitled to admission into the commerce of the United States, Customs Form 7601, in an amount equal to the amount of the single-entry bond or the bond charge which it supersedes.

(v) *Bond for conditionally-free withdrawal for supplies of fishing vessels, Customs Form 7603.*—Bond for Conditionally-Free Withdrawal of Distilled Spirits (Including Alcohol, Wines, or Beer, for Supplies of Fishing Vessels, Customs Form 7603, in an amount equal to the duties and taxes that would have been assessed had the supplies been regularly entered, or withdrawn, for consumption. When the form is used as a term bond, the bond shall be fixed in such larger amount as the district director may deem necessary.

(w) *Consolidated Aircraft Bond, Customs Form 7605.*—Consolidated Aircraft Bond, Customs Form 7605, filed with any district director at the option of the carrier, in the amount of $100,000, or such larger amount as may be fixed by the district director.

(x) *Bond for Accelerated Payment of Drawback.*—(1) *Single entry bond, Customs Form 7609.*—Bond for Accelerated Payment of Drawback (Single Entry), Customs Form 7609, in an amount equal to the amount of accelerated payment to be received on the entry covered.

(2) *Term bond, Customs Form 7611.*—Bond for Accelerated Payment of Drawback (Term), Customs Form 7611, in an amount sufficient to cover the maximum amount of accelerated payment to be outstanding at any time during the period of the bond.

(y) *Drawback Export Bond, Customs Form 7613.*—Drawback Export Bond, Customs Form 7613, filed at the option of the drawback claimant using the exporter's summary procedure mentioned in § 22.7 of this chapter, in an amount equal to twenty five percent of the drawback claimed on entries filed by the principal (exporter-claimant) during the term of the bond.

(z) *Special bond for the entry of merchandise believed to involve unfair practices or unfair methods of competition.*—Special bond for the entry of merchandise believed to involve unfair practices or methods of competition, taken under the provisions of section 337(f), Tariff Act of 1930, as amended (19 U.S.C. 1337(f)), in the form prescribed in T.D. 45474. This bond shall be in an amount equal to the domestic value of the merchandise, as defined in § 12.39 (b) of this chapter.

(aa) *Special bond for the clearance of vessel penalized for carrying narcotics.*—Special bond for clearance of vessel penalized for carrying smoking opium or other narcotics under the provisions of section 584, Tariff Act of 1930, as amended (19 U.S.C. 1584), in the form prescribed in T.D. 45474. This bond shall be in an amount satisfactory to the district director to guarantee the payment of any fine imposed against the owner or master of the vessel.

(bb) *Special bond for the exportation of convict-made goods.*—Special bond for the exportation of convict-made goods, in the form prescribed in T.D. 45474, in an amount equal to the domestic value of the merchandise.

(cc) *Special bond for the observance of neutrality.*—Special bond for observance of neutrality in the form prescribed in T.D. 45474, in an amount equal to double the value of the vessel and cargo on board, including her armament.

(dd) *Containerized Cargo Bond.*—Containerized Cargo Bond (Term), in the form prescribed in section 19.40 of this chapter, in the sum of $25,000, or such larger amount as the district director shall determine.

(ee) *Trade Fair Bond.*—Trade Fair Bond, in the form prescribed in § 147.3 of this chapter, in an amount to be determined by the district director.

(ff) *Copyright bond.*—Copyright bond, the form for which may be obtained from the district director, in an amount equal to the value of the articles, as set forth in the entry, plus the estimated duty. (See § 133.43 of this chapter.)

(gg) *Public Gauger bond.*—Public Gauger bond, the form for which may be obtained from the district director, in an amount of $10,000. (See § 151.43 of this chapter.)

(hh) *Special bond for the importation of flammable fabrics.*—Special bond for the importation of flammable fabrics, the form for which may be obtained from the district director, in an amount equal to double the value of the merchandise.

(ii) *Bond of Customs Cartman for Issuance of Temporary Identification Card.*—Bond of Customs Cartman for Issuance of Temporary Identification Card, in the form prescribed in § 112.49(d) of this chapter, in an amount determined by the district director.

**§ 113.15 Approval of bond.**

The district director at the port where the bond is filed may approve any bonds described in § 113.14, if he is satisfied that:

(a) The amount of the bond is sufficient, and

(b) The bond is in proper form.

**§ 113.16 Amount of bond approved by the district director.**

The amount of any Customs bond approved by the district director shall not be less than $100, except when the law or regulation expressly provides that a lesser amount be taken. Fractional parts of a dollar shall be disregarded in computing the amount of the bond, which shall be stated always as the next highest dollar.

**§ 113.17 Approved form of bond inadequate.**

If a situation develops where the approved form of a bond, described in







V 38 I 179
SEP 17 73
XUM

§ 113.14, is deemed to be inapplicable, the district director may draft a form which he believes will be sufficient, but before the execution of the bond, the proposed form shall be submitted to the Commissioner of Customs for his consideration and approval.

**§ 113.18 Retention of approved bonds.**

All the bonds approved by the district director, described in § 113.14, except the Bond of Claimant of Seized Goods for Costs of Court, Customs Form 4615, shall remain on file in his office. The bond on Customs Form 4615, described in § 113.14(d), shall be transmitted to the United States attorney, as required by section 608, Tariff Act of 1930, as amended (19 U.S.C. 1608).

## Subpart C—General and Special Bond Requirements

**§ 113.21 Information required on the bond.**

(a) *Identification of principal and sureties.*—The names of the principal and sureties and their respective places of residence shall appear in full in the body of the bond. In the case of a corporate principal or surety, its legal designation and the address of its principal place of business shall appear.

(b) *Date of execution.*—Each bond shall bear the date it was actually executed.

(c) *Statement of the amount.*—The amount of the bond shall be stated in both words and figures.

(d) *Use of abbreviations.*—Abbreviations shall not be used, except in dates, descriptions of merchandise, and the marks and numbers on packages.

(e) *Blank spaces on the bond.*—Lines shall be drawn through all spaces on the bond which are not filled in.

**§ 113.22 Witnesses required.**

(a) *Generally.*—The signature of each party to a bond executed by a noncorporate principal or surety shall be witnessed by two persons, who shall sign their names as witnesses, followed by their addresses.

(b) *Witness for both principal and surety.*—When two persons signing as witnesses act for both principal and surety, they shall so indicate by stating on the bond "as to both" or a similar term.

(c) *Corporate principal or surety.*—No witnesses are required where bonds are executed by properly authorized officers or agents of a corporate principal or corporate surety. For requirements concerning the execution of a bond by an authorized officer or agent of a corporate principal or surety, see §§ 113.34 and 113.37.

**§ 113.23 Changes made on the bond.**

(a) *Definition of the types of changes*—(1) *Modification or interlineation.*—For the purpose of this section, modifications or interlineations are changes which go to the substance of the bond, or are basic revisions of the bond.

(2) *Alterations or erasures.*—Alterations or erasures consist of minor changes, such as correction of typographical errors, or change of address, which do not go to the substance, or result in basic revision of the bond.

(b) *Prior to signing.*—When erasures, alterations, modifications, or interlineations are made on the bond prior to its signing by the parties to the bond, a statement by an agent of the surety company or by the personal sureties to that effect shall be placed upon the bond.

(c) *After signing.*—If erasures or alterations are made after the bond is signed, but prior to the approval of the bond by Customs, the consent of all the parties shall be written in the bond. Except in cases where a change in the bond is expressly authorized by regulation, or by the Commissioner no modification or interlineation shall be made on the bond after execution. When modification or interlineation is desired, a new bond will be executed.

(d) *After approval of the bond by Customs.*—Except in cases where change in the bond is expressly authorized by regulations, or instructions from the Commissioner, the district director shall not permit a change as defined in paragraph (a) of this section after the bond has been approved by Customs. When changes are desired, a new bond is required, which, when approved, shall supersede the existing bond.

(e) *Stipulations.*—All stipulations expressly authorized by the Commissioner pursuant to this section shall be securely attached to the related bond to prevent their loss or misplacement.

**§ 113.24 Seals.**

(a) *Bonds approved by the Commissioner of Customs.*—Bonds which are approved by the Commissioner of Customs must be under seal. The seal on such bonds shall be affixed adjoining the signatures of principal and sureties, if individuals, and the corporate seal shall be affixed adjoining the signatures of persons signing on behalf of a corporation.

(b) *Bonds approved by the district director.*—Bonds approved by the district director shall be under seal in accordance with the law of the State in which executed. However, when the charter or governing statute of a corporation requires its acts to be evidenced by its corporate seal, such seal is required.

**§ 113.25 Termination date for term bonds.**

The termination date of every term bond shall be the last day of the period and not the first day of a succeeding period; for example, January 1, 19—, to and including December 31 of that same year, and not January 1, 19—, to January 1 of the next year.

**§ 113.26 Blanket term bonds.**

(a) *Bonds approved by the district director.*—When a blanket term bond on Customs Form 7563–A, 7569, 7595, or 7599 is submitted, it shall be accompanied by a sufficient number of copies for transmittal to each port at which the principal seeks to conduct business. If this bond is to cover operations in one Customs district, the district director shall forward a copy, after approval, to each port named in the bond. If the bond is to cover operations in ports in other Customs districts, the district director shall forward the copies for other ports to the headquarters port for each other district, for distribution to the ports named in the bond.

(b) *Blanket smelting and refining term bonds.*—Blanket smelting and refining term bonds, described in § 113.13(b), requiring the approval of the Commissioner of Customs, shall be accompanied by a sufficient number of copies for transmittal by the Commissioner to each port at which the principal seeks to conduct business.

## Subpart D—Principals and Sureties

**§ 113.31 Information pertaining to principals and sureties on the bond.**

The general information pertaining to the principal and sureties which must be given in the body of the bond is set forth in § 113.21(a).

**§ 113.32 Same party as principal and surety; attorney in fact.**

(a) *Same party as principal and surety.*—The same person, partnership, or corporation cannot be both principal and surety on a bond.

(b) *Attorney in fact for principal or surety.*—In executing a bond, a person may act as:

(1) Attorney in fact for both principal and surety;

(2) Surety and attorney in fact for the principal; or

(3) Principal attorney in fact for the surety.

**§ 113.33 Partnerships as principals.**

(a) *Name of partners on the bond.*—Unless written notice of the full names of all partners in the firm has been previously filed with the district director, the names of all persons composing the partnership shall appear in the body of the bond; for example, "A, B, and C, composing the firm of A, B, and Co."

(b) *Execution.*—Partnership bonds shall be executed in the firm name, with the name of the member or attorney of the firm executing it appearing immediately below the firm signature.

(c) *Action of one principal binding on all principals of the partnership.*—Pursuant to section 495 of the Tariff Act of 1930, as amended (19 U.S.C. 1495), when a Custom bond is executed by any member of the partnership, the bond shall be binding on the other partners in like manner and to the same extent as if such other partners had personally joined in the execution.

**§ 113.34 Corporations as principals.**

(a) *Name of corporation on the bonds.*—The name of a corporation executing a Customs bond as a principal, may be printed or placed thereon by means of a rubber stamp or otherwise, followed by the written signature of the authorized officer or attorney.

(b) *Signature and seal of the corporation on the bond.*—The bond of a corporate principal shall be signed by an authorized officer or attorney of the corporation and the corporate seal shall be affixed immediately adjoining the signature of the person executing the bond, as provided for in § 113.24.

(c) *Bond executed by an authorized officer of corporation.*—When the bond is executed by an authorized officer of a corporation and no power of attorney has been filed with the district director, the following evidence of his authority to act shall be furnished:

(1) *Execution of Certificate as to Corporate Principal.*—The official character, authority, and signature of the person or persons executing the bond for the corporate principal may be certified by the secretary, assistant secretary, or other officer of the corporation. Such certification shall be made by executing, under corporate seal, the provision appearing in the bond entitled "Certificate as to Corporate Principal."

(2) *Evidence in lieu of the certificate.*—In lieu of the above certificate, there may be attached to the bond so much of the records of the corporation as will show the official character, authority, and signature of the officer signing. The following documents should be attached:

(i) A certificate from the proper public officer showing the legal existence of the corporation. The district director, on bonds which he approves (§ 113.14), may waive the production of evidence of incorporation when such fact is a matter of common knowledge and he certifies this fact.

(ii) A copy of the bylaws, or so much thereof as authorizes the execution of such bonds, certified by the secretary of the corporation and authenticated by its corporate seal.

(iii) A copy of the document authorizing such officer to sign such bond, certified by the secretary of the corporation under the corporate seal, or a power of attorney executed in accordance with Subpart C of Part 141 of this chapter containing such authority.

(iv) A document verifying the signature of the officer properly attested under the corporate seal.

(d) *Bond executed by an attorney in fact.*—When an attorney in fact executes a bond on behalf of a corporate principal and a power of attorney has not been filed with the district director, there shall be attached a power of attorney executed under the corporate seal by an officer of the corporation whose authority to execute such power shall be shown as prescribed in paragraph (c) of this section.

**§ 113.35 Individual sureties.**

(a) *Number required.*—If individuals sign as sureties, there shall be two sureties on the bond. In the case of bonds approved by the district director, however, one surety may be accepted if the district director is satisfied that such surety is sufficient for the protection of the Government.

(b) *Qualifications to act as surety.*—(1) *Residency and citizenship.*—Every surety on a Customs bond must be both a resident and citizen of the United States.

(2) *Married women.*—A married woman may be accepted as a surety, unless the state in which she wishes to act as surety prohibits her from acting in that capacity.

(3) *Granting of power of attorney.*—Any individual other than a married woman in a State where she is prohibited from acting as a surety may grant a power of attorney to sign as surety on Customs bonds. If the power of attorney is limited to bonds of one or several importers, the importers shall be named in the power.

(4) *Property requirements.*—Each individual surety must have unencumbered property liable to execution within the limits of the Customs district in which the contract of suretyship is to be performed. The current market value of such property must be equal to the penalty of any bond executed by him. If a single surety is accepted, he shall qualify in an amount equal to twice the penalty of the bond.

(c) *Oath and evidence of solvency.*—Before being accepted as a surety the individual shall:

(1) Take an oath on Customs Form 3579, setting forth:

(i) The amount of his assets over and above all his debts and liabilities and such exemptions as may be allowed by law; and

(ii) The general description and the location of one or more pieces of real estate owned by him within the limits of the Cutsoms district and the value thereof over and above all encumbrances.

(2) Produce such evidence of solvency and financial responsibility as the district director may require.

(d) *Determination of financial responsibility.*—An individual surety shall not be accepted on a bond until he has satisfied the district director as to his financial responsibility. The district director may refer the matter to the special agent in charge for immediate investigation to verify the financial responsibility of the surety.

(e) *Continuance of financial responsibility.*—In order to follow the continued solvency and financial responsibility of individual sureties, the district director shall require a new oath and determine the financial responsibility of each such surety as prescribed in paragraphs (c) and (d) of this section at least once every 6 months, and more often if he deems it advisable.

**§ 113.36 Partners acting as surety in behalf of a partner or in behalf of a partnership.**

A person may act as surety for a business partner when such person is acting with respect to his separate property and in his individual capacity and as such must qualify as an individual surety, in accordance with § 113.35. A member of a partnership shall not be accepted as surety on a bond executed by the firm as principal.

**§ 113.37 Corporate sureties.**

(a) *Lists of corporations and limits of their bonds.*—A list of corporations authorized to act as sureties on bonds, with the amount in which each may be accepted, shall be furnished annually to all district directors by the Secretary of the Treasury. No corporation shall be accepted as surety on a bond unless named in the current list and no bond shall be for a greater amount than the respective limit stated in such list, unless the excess is protected as prescribed in § 223.11 of the Bureau of Accounts Regulations (31 CFR 223.11).

(b) *Name of corporation on the bond.*—The name of a corporation executing a Customs bond, as a surety, may be printed or placed thereon by means of a rubber stamp or otherwise, followed by the written signature of the authorized officer or attorney.

(c) *Name of agent or attorney on the bond.*—The agent or attorney acting for a corporate surety shall have stamped, printed, or typed on each bond executed by him, below his signature, his full name as it appears on the bond.

(d) *Signature and seal of the corporation on the bond.*—A bond executed by a corporate surety shall be signed by an authorized officer or attorney of the corporation and the corporate seal shall be affixed immediately adjoining the signature of the person executing the bond, as provided for in § 113.24.

(e) *Two or more corporations as sureties on the same obligation.*—Two or more corporations may be accepted as sureties on any obligation the amount of which does not exceed the limitations of their aggregate qualifying power as fixed and determined by the Secretary of the Treasury. The amount for which each corporation may act as surety in all cases must be within the limitation prescribed by the Secretary, unless such excess is protected as prescribed in § 223.11 of the Bureau of Accounts Regulations (31 CFR 223.11). Each corporation shall limit its liability to a definite specified amount, in terms, upon the face of the bond by attaching the following:

KNOW ALL MEN BY THESE PRESENTS:

That we, _____, of _____ as principal, and _____, a corporation existing under the laws of the State of _____, and _____, a corporation existing under the laws of the State of _____, as sureties, are held and firmly bound unto the United States of America, in the sum of _____ thousand dollars ($_____), jointly and severally with each surety as hereinafter specified, and the said _____ jointly and severally with said principal in the sum of _____ thousand dollars ($_____) of said penal sum and no more; and the said _____ jointly and severally with said principal in the sum of _____ thousand dollars ($_____) of said penal sum and no more; for the payment of which respective sums we bind ourselves, our







V 38-179 SEP 17 73 XUM

heirs, executors, and administrators, successors and assigns, in the manner and in the respective sums hereinbefore set forth, firmly by these presents. The obligors herein expressly agree that for the purpose of allowing a joint action against any or all of them, and for that purpose only, this bond shall be treated as the joint and several as well as the several obligation of each of the obligors.

Sealed with our seals, and dated this ------ day of ------, in the year one thousand nine hundred and ------.

(f) *Power of attorney for the agent or attorney of the surety.*—Corporations may execute powers of attorney to act in their behalf in the following manner:

(1) *Execution and contents.*—The corporate surety power of attorney shall be executed on Customs Form 5297, and shall contain the following information:

(i) Corporate surety name and number,

(ii) Name and address of agent or attorney, and his social security number,

(iii) Districts in which the agent or attorney is authorized to act,

(iv) Date of the power of attorney,

(v) Seal of the corporate surety, and

(vi) Attestation of any two principal officers.

(2) *Extent of authorization.*—Authorization must be by Customs districts and may not be limited to a single port. A separate Customs Form 5297 shall be submitted for each district, except when the authorization for the agent or attorney to act is for all districts. If the power of attorney covers all districts, the word "All" shall be entered in the appropriate space on the power of attorney.

(3) *Filing.*—Corporate surety powers of attorney executed on Customs Form 5297 shall be filed in duplicate (original and copy) at any Customs port of entry. The separate powers of attorney providing authority for an agent or attorney in any number of districts may be filed at one time at the same port. The original of the power of attorney shall be sent by the port to the Customs Data Center. The Customs Data Center shall periodically issue computer printouts reflecting all corporate powers of attorney, which shall be sent to all applicable ports of entry. The copy of the power of attorney shall be retained at the port where the power was filed for use in connection with bonds executed at the port for the surety company by the person covered by the power of attorney, until the first computer print-out reflecting the power of attorney has been received.

(4) *Use at port where power not filed before receipt of computer printout.*—If the grantee desires to use his power of attorney at a port covered by the power, but other than the one where his power was filed, before the first computer printout reflecting this power of attorney is received, he shall file Customs Form 5297 in triplicate (original and two copies), rather than duplicate. The second copy shall be validated by Customs and returned to the grantee. The grantee, at the time of filing a bond at a port other than the port where the power of attorney was filed, shall exhibit this validated copy of the power of attorney as proof of his grant of authority. The validity of this copy of the power shall expire when the first computer print-out reflecting this power of attorney is received.

(5) *Term and revocation.*—Corporate surety powers of attorney shall continue in force and effect until revoked. Any surety desiring that a designated agent or attorney be divested of his power of attorney must execute a revocation on Customs Form 5297.

(6) *Change on the power of attorney.*—No change, including a change due to typographical error, or change of address, shall be made on the Customs Form 5297 after it has been approved by Customs. To correct the power of attorney two separate Customs Forms 5297 shall be submitted, one revoking the previous power of attorney, and one containing a new grant of authority.

### § 113.38 Delinquent sureties.

(a) *Acceptance as surety when in default as principal on another Customs bond.*—No person shall be accepted as surety on any Customs bond while he is in default as principal on any other Customs bond.

(b) *Acceptance as surety when in default as surety on another Customs bond.*—A surety on a Customs bond which is in default may be accepted as surety on other Customs bonds only to the extent that his assets are unencumbered by such default.

### § 113.39 Acceptance of cash deposits or obligations of the United States in lieu of sureties on bonds.

(a) *General provision.*—In lieu of sureties on any bond required or authorized by any law, regulation, or instruction which the Secretary of the Treasury or the Commissioner of Customs is authorized to enforce, the district director is authorized to accept United States money, United States bonds (except for savings bonds), United States certificates of indebtedness, Treasury notes, or Treasury bills in an amount equal to the amount of the bond.

(b) *Authority to sell United States obligations on default.*—At the time of deposit of any obligation of the United States, other than United States money, with the district director, the obligor shall deliver a duly executed power of attorney and agreement in a form similar to that prescribed in Treasury Department Circular 154, dated October 31, 1969, amended, authorizing the district director, in case of any default in the performance of any of the conditions or stipulations of the bond, to sell such obligation so deposited and to apply the proceeds of such sale, in whole or in part, to the satisfaction of any damages, demands, or deficiency arising by reason of such default. The format of the power of attorney and agreement, when the obligor is a corporation, is set forth below, and shall be modified as appropriate when the obligor is either an individual or a partnership:

POWER OF ATTORNEY AND AGREEMENT
(For corporation)

Know all men by these presents, that ----------, a corporation duly incorporated under the laws of the State of ----------, and having its principal office in the city of ----------, State of ----------, in pursuance of a resolution of the board of directors of said corporation, passed on the ---- day of ----------, 19--, a duly certified copy of which resolution is hereto attached, does hereby constitute and appoint (Name and official title of bond-approving officer), and his successors in office, as attorney for said corporation, for and in the name of said corporation to collect or to sell, assign, and transfer certain securities described as follows:

---

---

---

such securities having been deposited by it, pursuant to authority conferred by 6 U.S.C. 15, and subject to the provisions thereof and of Treasury Circular No. 154, dated October 31, 1969, as security for the faithful performance of any and all of the conditions or stipulations of a certain obligation entered into by it with the United States, under date of ------, which is hereby made a part hereof, and the undersigned agrees that, in case of any default in the performance of any of the conditions and stipulations of such undertaking, its said attorney shall have full power to collect said securities or any part thereof, or to sell, assign, and transfer said securities or any part thereof without notice, at public or private sale, free from any equity of redemption and without appraisement or valuation, notice and right to redeem being waived, and to apply the proceeds of such sale or collection in whole or in part, to the satisfaction of any damages, demands, or deficiency arising by reason of such default, as its said attorney may deem best; and the undersigned further agrees that the authority herein granted is irrevocable.

And said corporation hereby for itself, its successors and assigns, ratifies and confirms whatever its said attorney shall do by virtue of these presents.

In witness whereof, the ----------, the corporation hereinabove named, by (Name and title of officer), duly authorized to act in the premises, has executed this instrument and caused the seal of the corporation to be hereto affixed this ------ day of ------, 19--.

[Corporate seal.]

----------

By ----------

Before me, the undersigned, a notary public within and for the county of ----------, in the State of ---------- (or the District of Columbia), personall appeared (Name and title of officer) and for an in behalf of said ----------, corporation, acknowledged the execution of the foregoing power of attorney.

Witness my hand and notarial seal this ------ day of ----------, 19--.

[Notarial seal.] ----------

Notary Public

NOTE.—Securities must be described by title, date of maturity, rate of interest, denomination, serial number, and whether coupon or registered. Failure to give complete description will warrant rejection of this power of attorney.

(c) *Application of United States money on default.*—If cash is deposited in lieu of sureties on the bond, the district director is authorized to apply such cash, in whole or in part, to the satisfaction of any damages, demands, or deficiency arising by reason of a default under the bond.





## Subpart E—Production of Documents

### § 113.41 Entry made prior to production of documents.

When entry is made prior to the production of a required document, a card memorandum on Customs Form 5101 shall be prepared by the importer and presented with the entry, whether the importer gives bond on Customs Form 7551 or 7553, or other appropriate form, or stipulates to produce such document.

### § 113.42 Time period for production of documents.

Except when another period is fixed by law or regulations, any document for the production of which a bond or stipulation is given shall be delivered to the district director within 6 months from the date of the transaction in connection with which the bond or stipulation was given, or within any extension of such time which may be granted pursuant to § 113.43(a). If the period ends on a Saturday, Sunday, or holiday, delivery on the next business day shall be accepted as timely.

### § 113.43 Extension of time period.

(a) *Application received within time period.*—If a document (other than an invoice) referred to in § 113.42 is not produced within 6 months from the date of the transaction in connection with which the bond or stipulation was given, the district director, in his discretion, upon written application of the importer, may extend the period for one further period of 2 months.

(b) *Late application.*—No application for the extension of the period of any bond or stipulation given to assure the production of a missing document shall be allowed by the district director if such application is received later than 2 months after the expiration of the period of the bond or stipulation, and any such extension shall not be allowed by the district director for a period of more than 2 months from the date of expiration of the period.

(c) *Acceptance of a free-entry or reduced-duty document prior to liquidation.*—When a bond or stipulation is given for the production of any free-entry or reduced-duty document and a satisfactory document is produced prior to liquidation of the entry or within the period during which a valid reliquidation may be completed, provided the failure to file was not due to willful negligence or fraudulent intent, it shall be accepted as satisfying the requirement that it be filed in connection with the entry, and the bond charge for its production shall be canceled.

### § 113.44 Assent of sureties to an extension of a bond.

(a) *Extension prescribed by law or regulations.*—The assent of the sureties to any extension of the period prescribed in a bond is not necessary when the extension is authorized by law or regulations.

(b) *Other extension.*—The assent of the sureties shall be obtained before any extension of the period prescribed in a bond, other than an extension authorized by law or regulation, is allowed.

### § 113.45 Charge for production of a missing document made against a term bond.

When a charge for the production of a missing document is made against a term bond, the charge shall be in the amount of the single entry bond that would have been taken had the transaction been covered by a single entry bond.

### § 113.46 Cancellation of bond charges resulting from failure to produce documents.

Section 172.22 of this chapter sets forth provisions relating to the cancellation of bond charges resulting from failure to produce documents.

## Subpart F—Assessment of Damages and Cancellation of Bond

### § 113.51 Cancellation of bond or charge against the bond.

The Commissioner of Customs may authorize the cancellation of any bond provided for in this part or any charge that may have been made against such bond, in the event of a breach of any condition of the bond, upon payment of such lessor amount or penalty or upon such other terms and conditions as he may deem sufficient.

### § 113.52 Failure to satisfy the bond.

If any Customs bond, except one given only for the production of free-entry or reduced-duty documents (see §§ 113.43 (c) and 172.22(c) of this chapter), is unsatisfied upon the expiration of 90 days after liability has accrued thereunder, the matter shall be reported to the United States attorney for prosecution unless measures have been taken to file an application for relief in accordance with the provisions of Part 172 of this chapter or to effect a satisfactory settlement.

### § 113.53 Waiver of Customs requirement supported by a bond.

(a) *Waiver by the Commissioner of Customs.*—When a Customs requirement supported by a bond is waived by the Commissioner of Customs, the waiver may be:

(1) Unconditional, in which case the importer is relieved from the payment of liquidated damages;

(2) Conditioned upon prior settlement of the bond obligation by payment of liquidated damages; or

(3) Conditioned upon such other terms and conditions as the Commissioner may deem sufficient.

(b) *Waiver by the district director.*—When a Customs requirement supported by a bond is waived by the district director pursuant to the authority conferred upon him in these regulations, the waiver shall be unconditional.

### § 113.54 Cancellation of erroneous charges.

(a) *Bonds.*—Section 172.31 of this chapter sets forth the cancellation of erroneous charges against the bond when it is determined that liquidated damages assessed or paid under a bond did not in fact accrue.

(b) *Carnets.*—Section 114.34 of this chapter sets forth the cancellation of erroneous charges involving carnets.

### § 113.55 Cancellation of export bonds.

(a) *Definition of exportation.*—An exportation is a severance of goods from the mass of things belonging to this country with the intention of uniting them to the mass of things belonging to some foreign country. The shipment of merchandise abroad with the intention of returning it to the United States with a design to circumvent provisions of restriction or limitation in the tariff laws or to secure a benefit accruing to imported merchandise is not an exportation. Merchandise of foreign origin returned from abroad under these circumstances is dutiable according to its nature, weight, and value at the time of its original arrival in this country.

(b) *Manner of cancellation.*—A bond to assure the exportation of merchandise may be cancelled:

(1) *Upon exportation.*—Upon the specification of such merchandise on the outward manifest or outward bill of lading, the inspector's certificate of lading, the record of clearance of the vessel or of the departure of the vehicle, and the production of a foreign landing certificate if such certificate is required by the district director.

(2) *Upon payment of liquidated damages.*—Upon the payment of liquidated damages in accordance with the provisions of § 10.39 of this chapter, if exportation or destruction is not timely in the case of articles entered under schedule 8, part 5C, Tariff Schedules of the United States (19 U.S.C. 1202).

(c) *Cancellation of vessel, vehicle, or aircraft bond.*—The requirement of the vessel, vehicle, or aircraft bond, Customs Form 7567 or 7569, may be considered as having been complied with upon the production of the applicable documents mentioned in paragraph (b) of this section.

(d) *Foreign landing certificate.*—A foreign landing certificate, when required, shall be produced within six months from the date of exportation and shall be signed by a revenue officer of the foreign country to which the merchandise is exported, unless it is shown that the country has no Customs administration, in which case the certificate may be signed by the consignee or by the vessel's agent at the place of lading. Landing certificates are required in the following cases:

(1) *Mandatory.*—A landing certificate shall be required in every case to establish the exportation of narcotic drugs or any equipment, stores (except such articles as are placed on board vessels or aircraft under the provisions of section



V 38-179 SEP 17 73 XUM

309 or 317, Tariff Act of 1930, as amended (19 U.S.C. 1309 and 1317)), or machinery for vessels.

(2) *Optional with the district director.*—A landing certificate may be required by the district director for merchandise exported from the United States, or residue cargo, when he deems such a certificate necessary for the protection of the revenue.

(3) *Waiver.*—Except as provided for in § 4.88 of this chapter, in cases where landing certificates are required and they cannot be produced, an application for waiver thereof may be made to the Commissioner of Customs through the district director, accompanied by such proofs of exportation and landing abroad as may be available.

(e) *Articles less than $10.*—In the case of articles for which the ordinary Customs duty estimated at the time of entry did not exceed $10 and which are exported within the period of the bond (including any lawful extension) but without Customs supervision, the bond may be cancelled upon production of evidence of a bona fide exportation satisfactory to the district director.

**Subpart G—Special Provisions Concerning Consolidated Aircraft Bonds and General Term Bonds for the Entry of Merchandise**

**§ 113.61 Consolidated Aircraft Bond.**

(a) *Bond not authorization for carriage of bonded merchandise.*—Approval of a Consolidated Aircraft Bond, Customs Form 7605, will not authorize an airline to act as a carrier for the transportation of bonded merchandise unless and until the airline filing the bond is qualified as a carrier for such transportation, in accordance with § 112.12 of this chapter.

(b) *Discontinuance of ordinary carrier's bond.*—When an airline has filed a bond on Customs Form 7605, and obtained Customs approval of the bond, it may obtain discontinuance of its bond on Customs Form 3587 by request to the district director a the port where the latter bond was approved.

**§ 113.62 General Term Bond for Entry of Merchandise.**

(a) *Application required.*—A principal desiring to execute the General Term Bond For Entry of Merchandise, Customs Form 7595, shall file with the district director an application for permission to file the bond.

(b) *Form of the application.*—The application for the General Term Bond For Entry of Merchandise, Customs Form 7595, shall show:

(1) The general character of the merchandise to be entered;

(2) The total amount of ordinary Customs duties (including any taxes required by law to be treated as duties) accruing on all merchandise imported by the principal during the calendar year preceding the date of the application, plus the estimated amount of any other tax or taxes on the merchandise collectible by the district director. Such total amount of duties and taxes shall be that which would have been required to be deposited had the merchandise been entered for consumption, even though some of or all the merchandise may have been entered under bond. If no imports were made during the calendar year prior to the application, a statement of the duties and taxes it is estimated will accrue on all importations during the current year shall be submitted; and

(3) The ports at which it is intended to file entries.

## PART 114—CARNETS

Part 114 is amended by adding at the end thereof a new § 114.34, reading as follows:

**§ 114.34 Cancellation of erroneous charges.**

(a) *TIR carnet.*—When it is determined that liquidated damages assessed or paid for any shortage, irregular delivery, or nondelivery of merchandise covered by a TIR carnet did not in fact accrue, the liquidated damages shall be cancelled by the district director and, if paid, refunded, as provided by § 18.8 of this chapter.

(b) *A.T.A. or E.C.S. carnet.*—When it is determined that liquidated damages assessed or paid for failure to properly reexport or destroy merchandise temporarily imported under cover of an A.T.A. or E.C.S. carnet did not in fact accrue, the liquidated damages shall be cancelled by the district director and, if paid, refunded as provided by § 10.39 of this chapter.

(c) *Determination dependent upon a construction of law.*—When the determination of whether or not the charge was erroneously made depends upon a construction of law, the charge shall not be cancelled without the approval of the Commissioner of Customs, unless there is in force a ruling by the Commissioner of Customs decisive of the issue. Approval of the Commissioner shall be requested in all doubtful cases. (See § 172.31 of this chapter.)

(R.S. 251, as amended, 77A Stat. 14, secs. 623, 624, 46 Stat. 759, as amended; 19 U.S.C. 66, 1202 (Gen. Hdnte. 11), 1623, 1624.)

## PART 141—ENTRY OF MERCHANDISE

**§ 141.41 [Amended]**

Section 141.41 is amended by substituting "Part 113" for "Part 25".

**§ 141.102 [Amended]**

In § 141.102, paragraph (d) is amended by substituting "Part 113" for "Part 25".

Section 141.113 is amended by adding a new paragraph (g) to read as follows:

**§ 141.113 Recall of merchandise released from Customs custody.**

* * * * *

(g) *Demand not complied with.*—When the demand of the district director for return of merchandise to Customs custody is not complied with, liquidated damages shall be assessed, except in the case of merchandise entered under schedule 8, part 5C, Tariff Schedules of the United States (19 U.S.C. 1202), in an amount equal to the value of the merchandise not returned, as determined at the time of entry, plus the estimated duties and taxes if any. Liquidated damages assessed on merchandise entered under schedule 8, part 5C, Tariff Schedules of the United States, are set forth in § 10.39(d)(3) of this chapter.

(R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624.)

## PART 142—SPECIAL PERMITS FOR IMMEDIATE DELIVERY PRIOR TO ENTRY

**§ 142.4 [Amended]**

In § 142.4, paragraph (a) is amended by substituting "§ 113.14(g)(1)" for "§ 25.4(a)(9)", and paragraph (b) is amended by substituting "§ 113.14(g)(2)" for "§ 25.4(a)(9)".

(R.S. 251, as amended, sec. 624, 46 Stat. 759; 19 U.S.C. 66, 1624.)

## PART 172—LIQUIDATED DAMAGES

Section 172.31 is amended to read as follows:

**§ 172.31 Act or omission did not occur.**

(a) *Definite.*—If it is definitely determined that the act or omission forming the basis for a claim for liquidated damages did not in fact occur, the claim shall be cancelled by the district director. If the liquidated damages have already been paid, they shall be refunded by the regional commissioner of Customs, and an appropriate notation shall be made on Customs Form 5955–A, if the transaction has already been recorded thereon.

(b) *Dependent upon a construction of law.*—When the determination of whether or not the claim was erroneously made depends upon a construction of law, the claim shall not be cancelled without the approval of the Commissioner of Customs, unless there is in force a ruling decisive of the issue.

(c) *Doubtful cases.*—Approval of the Commissioner of Customs shall be requested in all doubtful cases.

(R.S. 251, as amended, secs. 623, 624, 46 Stat. 759, as amended; 19 U.S.C. 66, 1623, 1624.)

For ready comparison there is annexed to this notice a parallel reference table showing the relation of sections in the proposed Part 113 to 19 CFR Part 25.

Prior to the adoption of the revision, consideration will be given to any relevant data, views, or arguments which are submitted in writing to the Commissioner of Customs, Attention: Regulations Division, Washington, D.C. 20229, and received on or before November 13, 1973.

Written material or suggestions submitted will be available for public inspection in accordance with § 103.3(b) of the Customs Regulations (19 CFR 103.3(b)), at the Regulations Division, Bureau of Customs, Washington, D.C., during regular business hours.

[SEAL] VERNON D. ACREE,
*Commissioner of Customs.*

Approved September 5, 1973.

EDWARD L. MORGAN,
*Assistant Secretary of the Treasury.*





ANNEX TO NOTICE OF PROPOSED RULE MAKING

PARALLEL REFERENCE TABLE

(This table shows the relation of sections in proposed Part 113 to 19 CFR Part 25)

| *Proposed Part 113 section* | *19 CFR section* |
|---|---|
| 113.0 | None. |
| 113.1 | None. |
| 113.2 and 113.3 | None. |
| 113.11 | 25.1. |
| 113.12 | 25.1. |
| 113.13(a) | 25.3(a)(1). |
| 113.13(b) | 25.3(a)(3). |
| 113.14(a) | 25.4(a)(2). |
| 113.14(b)(1) | 25.4(a)(1)(i) and 18.1(a) C.M. |
| 113.14(b)(2) | 25.4(a)(1)(ii). |
| 113.14(c) | 25.4(a)(3). |
| 113.14(d) | 25.4(a)(4). |
| 113.14(e)(1) | 25.4(a)(5). |
| 113.14(e)(2) | 25.4(a)(6). |
| 113.14(f)(1) | 25.4(a)(7). |
| 113.14(f)(2) | 25.4(a)(8). |
| 113.14(g)(1) | 25.4(a)(9). |
| 113.14(g)(2) | 25.4(a)(10). |
| 113.14(h) | 25.4(a)(11). |
| 113.14(i)(1) | 25.4(a)(12). |
| 113.14(i)(2) | 25.4(a)(13). |
| 113.14(j) | 25.4(a)(14). |
| 113.14(k)(1) | 25.4(a)(15) and 10.31(f). |
| 113.14(k)(2) | 25.4(a)(16). |
| 113.14(l) | 25.4(a)(17). |
| 113.14(m)(1) | 25.4(a)(18). |
| 113.14(m)(2) | 25.4(a)(19) |
| 113.14(n) | 25.4(a)(21). |
| 113.14(o) | 25.4(a)(22). |
| 113.14(p) | 25.4(a)(34). |
| 113.14(q) | 25.4(a)(23). |
| 113.14(r) | 25.4(a)(24). |
| 113.14(s) | 25.4(a)(25). |
| 113.14(t)(1) | 25.4(a)(26). |
| 113.14(t)(2) | 25.4(a)(27). |
| 113.14(u) | 25.4(a)(33). |
| 113.14(v) | 25.4(a)(28). |
| 113.14(w) | 25.4(a)(35). |
| 113.14(x) (1)–(2) | New. |
| 113.14(y) | New. |
| 113.14(z) | 25.4(a)(29). |
| 113.14(aa) | 25.4(a)(30). |
| 113.14(bb) | 25.4(a)(31). |
| 113.14(cc) | 25.4(a)(32). |
| 113.14(dd)–(ii) | New. |
| 113.15 | None. |
| 113.16 | 25.4(b). |
| 113.17 | 25.4(c). |
| 113.18 | 25.4(a). |
| 113.21(a) | 25.5(a) and 25.8(a). |
| 113.21(b) | 25.5(c). |
| 113.21(c) | 25.4(b). |
| 113.21(d) | 25.4(b). |
| 113.21(e) | 25.4(b). |
| 113.22(a) | 25.5(a). |
| 113.22(b) | 25.5(b). |
| 113.22(c) | 25.5(a). |
| 113.23(a) | None. |
| 113.23(b) | 25.5(d). |
| 113.23(c) | 25.5(d). |
| 113.23 (d) and (e) | 25.5, C.M. |
| 113.24(a) | 25.6(a). |
| 113.24(b) | 25.6(b). |
| 113.25 | 25.5(c). |
| 113.26(a) | None. |
| 113.26(b) | None. |
| 113.26(c) | None. |
| 113.27 | 25.3(b). |
| 113.31 | None. |
| 113.32(a) | 25.13. |
| 113.32(b) | 25.13. |
| 113.33(a) | 25.7(b). |
| 113.33(b) | 25.7(a). |
| 113.33(c) | None. |
| 113.34(a) | 25.8(d). |
| 113.34(b) | 25.8(a). |
| 113.34(c) | 25.8(a), 25.5(a) and 25.8(b). |
| 113.34(d) | 25.8(c). |
| 113.35(a) | 25.9(a). |
| 113.35(b) | 25.9(a), 25.9(e), 25.9(f), and 25.9(b). |
| 113.35(c) | 25.9(a). |
| 113.35(d) | 25.9(c). |
| 113.35(e) | 25.9(d). |
| 113.36 | 25.11. |
| 113.37(a) | 25.12(a). |
| 113.37(b) | 25.8(d). |
| 113.37(c) | None. |
| 113.37(d) | 25.8(a). |
| 113.37(e) | 25.12(b). |
| 113.37(f) | 25.12(c) and 25.12(d). |
| 113.38(a) | 25.10(a). |
| 113.38(b) | 25.10(b). |
| 113.39(a) | 25.14. |
| 113.39(b) | 25.14. |
| 113.39(c) | 25.14. |
| 113.41 | 25.16(a). |
| 113.42 | 25.16(c). |
| 113.43(a) | 25.18(a). |
| 113.43 (b) and (c) | 25.18(c). |
| 113.44(a) | 25.18(d). |
| 113.44(b) | 25.18(d). |
| 113.45 | 25.16(b). |
| 113.46 | None. |
| 113.51 | None. |
| 113.52 | 25.15(e). |
| 113.53(a) | 25.17(f). |
| 113.53(b) | 25.17(f). |
| 113.54(a) | None. |
| 113.54(b) | None. |
| 113.55(a) | Footnote 5. |
| 113.55 (b) and (c) | 25.15(a). |
| 113.55(d) | 25.15(b), 25.15(a), and 25.15(c). |
| 113.55(e) | 25.15(d). |
| 113.61(a) | 25.4(a)(35). |
| 113.61(b) | 25.4(a)(35). |
| 113.62(a) | 25.4(a)(25). |
| 113.62(b) | 25.4(a)(25). |

[FR Doc.73-19557 Filed 9-14-73;8:45 am]

## DEPARTMENT OF THE INTERIOR

**Office of Oil and Gas**

**[ 32A CFR Ch. X ]**

**REFUNDS OF LICENSE FEES PAID FOR IMPORTS OF CRUDE OIL INCORPORATED INTO ASPHALT**

**Proposed Oil Import Bulletin**

Recent amendment of Proclamation 3279, as amended, authorized the Secretary of the Interior to refund fees whether in whole or in part where crude oil imported by virtue of a license for which a fee has been paid has been manufactured into asphalt. The authority so directed has been implemented in section 32 of Oil Import Regulation 1 (Revision 5), as amended, and requires that applications for refunds must be filed with the Director in such form as the Director may prescribe and shall be accompanied by all information necessary in the judgement of the Director to enable him to determine the sum, if any, which should be refunded.

The proposed bulletin describes the format which will be utilized in calculating the eligible rebate volume and includes an Asphalt Production Schedule on which data needed by the Director is to be reported to enable him to determine the rebate volume and sum to be refunded.

The proposed bulletin also describes the maintenance by the allocation holder of asphalt production records available for inspection by representatives of the Office of Oil and Gas in connection with the responsibility of such office for assuring compliance with the Proclamation and Regulation.

Interested persons are invited to submit written comments on the proposed bulletin by October 17, 1973, to the Director, Office of Oil and Gas, Department of the Interior, Washington, D.C. 20240. Each person who submits comments is asked to provide fifteen (15) copies.

ROY GOODEARLE,
*Acting Director.*

PROPOSED BULLETIN—OIL IMPORTS

Subject: Refunds of License Fees Paid for Imports of Crude Oil Incorporated into Asphalt.

Paragraph (a)(3)(iv) of section 3 of Proclamation 3279, as amended by Proclamation 4227 (38 FR 16195) states in part:

> The Secretary is authorized to refund fees, whether in whole or part, where—(iv) crude oil imported by virtue of a license for which a fee was paid has been manufactured into asphalt;

This section of the proclamation is implemented by paragraph (g)(3) of sec. 32 of Oil Import Regulation 1 (Revision 5), as amended, which states in part:

(g) Refund of license fees paid for the importation of crude, unfinished oils or finished products shall be made by the Director, wholly or in part: (3) to the extent that such crude oil or unfinished oils have been incorporated into petrochemicals as defined in section 9A of this Regulation which are subsequently exported, or finished products subsequently exported or that asphalt as defined in this Regulation was produced from the imported feedstocks. Applications for refunds must be filed in such form as the Director may prescribe not later than ninety (90) days after exportation of the petrochemical or finished product or manufacture of the asphalt to which such application pertains; and shall be accompanied by all information necessary in the judgment of the Director to enable him to determine the sum, if any, which should be refunded.

Applications for rebates shall be made on such forms as the Director may provide.

Asphalt is specifically defined in paragraph (g)(6) of section 15 of Proclamation 3279, as amended:

> "Asphalt" means a solid or semi-solid cementitious crude oil or derivative of crude oil, 50 percent or more of the constituents of which are bitumins, which is not to be used as fuel and which is to be used without further processing except airblowing or blending by mechanical means.



V 38 179 SEP 17 73 XUM

An applicant applying for a rebate of fees paid on imported crude oil for asphalt production shall provide such information as required by the Director. The following format will be utilized in calculating the eligible rebate volume.

$$\frac{A}{B}\left(\begin{matrix}\text{Total Hydrocarbon (1) Volume}\\ \text{of the Asphalt Production}\\ \text{Derived From the Inputs}\end{matrix}\right)=\begin{matrix}\text{Rebate}\\ \text{Volume}\end{matrix}$$

A=Asphalt content of fee paid inputs calculated as the sum of:

$$\left(\begin{matrix}\text{Volume of Fee Paid}\\ \text{Input A}\end{matrix}\right)\left(\begin{matrix}\text{Volume percent Asphalt Content of}\\ \text{Fee Paid Input A}\end{matrix}\right)+\left(\begin{matrix}\text{Volume of Fee Paid}\\ \text{Input B}\end{matrix}\right)\left(\begin{matrix}\text{Volume percent Asphalt Content of}\\ \text{Fee Paid Input B}\end{matrix}\right)+\text{etc.}$$

(1) Includes cutback solvent in the asphalt but not nonhydrocarbon materials such as water.

B=Asphalt content of all inputs, fee paid and other, calculated as the sum of:

$$\left(\begin{matrix}\text{Volume of Fee Paid}\\ \text{Input A}\end{matrix}\right)\left(\begin{matrix}\text{Volume percent Asphalt Content of}\\ \text{Fee Paid Input A}\end{matrix}\right)+\left(\begin{matrix}\text{Volume of Fee Paid}\\ \text{Input B}\end{matrix}\right)\left(\begin{matrix}\text{Volume percent Asphalt Content of}\\ \text{Fee Paid Input B}\end{matrix}\right)+\left(\begin{matrix}\text{Volume of}\\ \text{Input C}\end{matrix}\right)\left(\begin{matrix}\text{Volume percent Asphalt Content of}\\ \text{Input C}\end{matrix}\right)+\text{etc.}$$

All persons receiving allocations are reminded of the requirements of sec. 6 of Oil Import Regulation 1 (Revision 5), as amended, as it relates to the maintenance by the allocation holder of records available for inspection by representatives of the Office of Oil and Gas in connection with the responsibility of such office for assuring compliance with the Regulation and Proclamation 3279, as amended. Such asphalt production records should include but not necessarily be limited to (a) identity of the crude input streams used to produce the asphalt (b) the volume of such streams (c) whether the crude oil stream is fee-paid or not and the amount of the fee (d) the asphalt content by volume of the crudes used to produce the asphalt (e) the volume of the asphalt produced, including the amount of cutback hydrocarbon solvent and the volume of nonhydrocarbon materials included.

The asphalt claimed as a basis of a rebate must have been produced in the facilities into which the fee-paid crude oil, on the basis of which a rebate was claimed, was charged as feedstock to produce the asphalt.

ASPHALT PRODUCTION SCHEDULE—REBATE OF FEES FOR ASPHALT PRODUCED

| Date produced | Date fee paid | Fee-paid inputs: Asphalt content: Barrels | Fee-paid inputs: Asphalt content: By volume percent | Fee-paid inputs: Barrels of asphalt (1) | Fee-exempt inputs: Asphalt content: Barrels | Fee-exempt inputs: Asphalt content: By volume percent | Fee-exempt inputs: Barrels of asphalt (2) | Total barrels asphalt (1)+(2) | Total barrels asphalt produced [1] |
|---|---|---|---|---|---|---|---|---|---|

[1] Includes cutback solvent but not non-hydrocarbon materials such as water.

[FR Doc.73-19739 Filed 9-13-73;9:48 am]

## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

### [ 7 CFR Part 1421 ]

### 1973-CROP TUNG NUTS

### Proposed Support Program

Pursuant to sections 201 and 401 of the Agricultural Act of 1949, as amended (63 Stat. 1051, as amended; 7 U.S.C. 1446 and 1421), the Secretary is preparing to determine and announce the support program for 1973-crop tung nuts.

Section 201 provides that the price of tung nuts shall be supported through loans, purchases, or other operations at a level not in excess of 90 percentum nor less than 60 percentum of the parity price therefor: *Provided*, That in any crop year in which the Secretary determines that the domestic production of tung oil will be less than the anticipated domestic demand for such oil, the price of tung nuts shall be supported at not less than 65 percentum of the parity price therefor.

The program will include:

1. The level of support
2. The method of support
3. Conditions of eligibility
4. Area and period of program
5. Other program operating provisions

Section 401 of the Act requires that, in determining the level of support in excess of the minimum level prescribed by law, consideration be given to the supply of the commodity in relation to the demand therefor, the price levels at which other commodities are being supported, the availability of funds, the perishability of the commodity, the importance of the commodity to agriculture and the national economy, the ability to dispose of stocks acquired through a price-support operation, the need for offsetting temporary losses of export markets, and the ability and willingness of producers to keep supplies in line with demand.

Consideration will be given to data, views, and recommendations pertaining to the proposed determinations covered by this notice which are submitted in writing to the Director, Cotton, Rice and Oilseeds Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20250.

All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (8:15 a.m.-4:45 p.m.) (7 CFR 1.27 (b)). All submissions must, in order to be sure of consideration, be received by the Director not later than October 17, 1973.

Signed at Washington, D.C. on September 10, 1973.

GLENN A. WEIR,
*Acting Executive Vice President,*
*Commodity Credit Corporation.*

[FR Doc.73-19676 Filed 9-14-73;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

### [ 21 CFR Part 141e ]

### BACITRACIN AND BACITRACIN-CONTAINING DRUGS

### Proposed Change of Moisture Determination for Zinc Bacitracin-Neomycin-Polymyxin Powder Topical

The Commissioner of Food and Drugs proposes that the antibiotic drug regulations be amended, as set forth below, to change the method for moisture determination for bacitracin- or zinc bacitracin-neomycin-polymyxin powder topical from loss on drying to the method described in § 141.502.





For several months, all samples submitted for certification have been tested for moisture by this method and all results were within the established limits. The results obtained with the method in § 141.502 are more valuable as a quality control because it is a measure of all moisture present in the drug.

Therefore, under provisions of the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended; 21 U.S.C. 357) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120), it is proposed that Part 141e be amended in § 141e.430 by revising paragraph (b) to read as follows:

**§ 141e.430 Bacitracin-neomycin-polymyxin powder topical; zinc bacitracin-neomycin-polymyxin powder topical.**

• • • • • •

(b) *Moisture.* Proceed as directed in § 141.502 of this chapter.

• • • • • •

Interested persons may on or before November 16, 1973, file with the Hearing Clerk, Food and Drug Administration, Rm. 6-86, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours, Monday through Friday.

Dated September 7, 1973.

MARY A. MCENIRY,
*Assistant to the Director for Regulatory Affairs, Bureau of Drugs.*

[FR Doc.73-19631 Filed 9-14-73;8:45 am]

### [ 21 CFR Part 278 ]

### CONTROL OF ELECTRONIC PRODUCT RADIATION

### Product Identification and Initial Reports

The Commissioner of Food and Drugs is proposing to amend Subpart C and Subpart H of the regulations, specifically § 278.202 (21 CFR 278.202) and § 278.710 (21 CFR 278.710), respectively, to discontinue the requirement that a manufacturer submit to the Secretary of Health, Education, and Welfare, the key to the code for determining the date of manufacture of an electronic product and instead require that this information be placed on the product identification tag or label affixed to the product.

Section 278.202 (21 CFR 278.202) requires manufacturers of electronic products, for which there are applicable performance standards in effect, to provide certain information in the form of a tag or label permanently affixed or inscribed on such product. This includes information necessary to identify the manufacturer, and the month, year, and place of manufacture. The manufacturer is permitted under this regulation to code the month, year, and place of manufacture on the labels of such products provided he previously supplies the Secretary of Health, Education, and Welfare with the key to such code.

Following the receipt by the Food and Drug Administration of requests from members of the public for the key to coded information on product labels, it was determined that the key to this coded information on labels of electronic products subject to performance standards does not constitute information exempt from disclosure under 5 U.S.C. 552 (b)(4).

On March 27, 1972 one hundred and forty-two (142) manufacturers of electronic products and industry associations, both domestic and foreign, were advised by letter of the intent to release to the public, upon request, coded information concerning the date of manufacture. All were given an opportunity to justify why such information should not be released. Twenty-six (26) manufacturers responded and 13 did not object to the disclosures. The 13 that objected stated that products are often manufactured far in advance of sale causing people to refrain from buying such merchandise if they are able to determine the data of manufacture.

It is the opinion of the Food and Drug Administration that manufacturers have not adequately substantiated their claims that providing the date of manufacture on a product will have an adverse impact on sales. This is based upon the fact that use is the critical factor in deterioration and warranties are given by the manufacturer from the date of sale, regardless of whether a unit was manufactured some months before.

To permit manufacturers to code the date of manufacture on labels, while at the same time allowing disclosure of this information to the public, is an unnecessary burden upon the Food and Drug Administration and the manufacturer. In addition, there is a definite need for the Food and Drug Administration representative, who is field-testing an electronic product subject to a standard, to know the date of manufacture in order to ascertain the applicable provisions of a performance standard for that unit. The applicable provisions will change as amendments to the standards are promulgated.

Therefore, it is proposed to amend § 278.202(a)(2) (21 CFR 278.202) to discontinue the requirement that a manufacturer supply the Secretary with the key to the code for determining the date of manufacture and instead require that the month and year of manufacture be clearly placed on the identification tag or label affixed to the product.

To achieve continuity throughout 21 CFR Part 278 on product identification, § 278.710(b) (21 CFR 278.710) would also be amended to clarify that the initial report of the manufacturer of an electronic product listed under § 278.750 (21 CFR 278.750) must only provide information concerning the manufacturer's code or other system of labeling sufficient to enable the Secretary to determine the place of manufacture.

It is proposed to make these amendments applicable to products manufactured after August 1, 1974, to allow manufacturers time to prepare for the amended requirements.

Therefore, pursuant to the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (secs. 358 and 360A, 82 Stat. 1177-1179 and 1182-1183; 42 U.S.C. 263(f), (i)) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes to amend Part 278 as follows:

1. In § 278.202 by revising paragraph (a)(2) to read as follows:

**§ 278.202 Identification.**

(a) • • •

(2) The month, year, and place of manufacture: The place of manufacture may be expressed in code provided the manufacturer has previously supplied the Secretary with the key to such code.

• • • • • •

2. In 278.710 by revising paragraph (b) to read as follows:

**§ 278.710 Initial reports.**

• • • • • •

(b) Identify each model of the listed product together with sufficient information concerning the manufacturer's code or other system of labeling sufficient to enable the Secretary to determine the place of manufacture.

• • • • • •

Interested persons may on or before November 16, 1973 file with the Hearing Clerk, Food and Drug Administration, Rm. 6-86, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Except for material clearly designated by the contributor as proprietary trade secret information, all comments in response to the proposed regulations may be seen in the above office during regular business hours, Monday through Friday.

Dated September 10, 1973.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[FR Doc.73-19630 Filed 9-14-73;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### [ 14 CFR Part 71 ]

[Airspace Docket No. 73-SW-57]

### TRANSITION AREA

### Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to designate a 700-foot transition area at Jonestown, Tex.

Interested persons may submit such written data, views, or arguments as



V 38-179 SEP 17 73 XUM

they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received by October 17, 1973, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Texas. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (38 FR 435), the following transition area is added.

JONESTOWN, TEX.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Bar K Airpark (latitude 30°29'52" N., longitude 97°58'07" W.) and within 3 miles each side of the Austin, Tex., VORTAC 311°T (302°M) radial extending from the 5-mile radius to 28 miles northwest of the VORTAC.

The proposed transition area will provide controlled airspace for aircraft executing the proposed VORTAC–A instrument approach.

This amendment is proposed under the authority of Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Forth Worth, Tex., on September 7, 1973.

HENRY L. NEWMAN,
*Director, Southwest Region.*

[FR Doc.73-19644 Filed 9-14-73;8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

**[ 47 CFR Part 73 ]**

[Docket No. 19810; FCC 73-911]

### TELEVISION BROADCAST STATIONS

**Proposed Table of Assignments**

1. Notice of proposed rulemaking is hereby given concerning proposed amendment of the Television Table of Assignments (§ 73.606(b) of the Commission's rules and regulations) with respect to the petition of Greater Myrtle Beach Television Corporation (Myrtle Beach) proposing the assignment of Channel 43 to Myrtle Beach, South Carolina (RM–2153). The petition was tendered March 8, 1973, and accepted March 19, 1973.

2. Myrtle Beach, population 8,536,[1] is located in Horry County, population 69,992. There are presently no local television broadcast services in Myrtle Beach. Myrtle Beach is within the Grade B contours of Stations WECT and WWAY–TV, Wilmington, North Carolina, and there is a local cable television service. Petitioner asserts and we so find that Channel 43 may be assigned to Myrtle Beach without any other change in the Television Table of Assignments.

3. Myrtle Beach's principal contention is that the assignment of Channel 43 would bring much needed service to an extremely rapidly growing area. In this respect, various statistics are given as to the growth of Myrtle Beach and other communities in the area (including Myrtle Beach Base and Surfside Beach Town) and various population divisions (the Myrtle Beach Division, Lois West Division, Lois South Division, and Lois East Division), and there is an abundance of information as to growth and business activities. Petitioner contends that the Census figures are not true indicia of the population because of the popularity of Myrtle Beach area as a tourist attraction: it is asserted that "three quarters of a million people call Myrtle Beach their 'home away from home' during the long tourist season"; Myrtle Beach has an average weekly population of 250,000; tourists triple the population of the service area; and it is estimated that the number of visitors in 1970 totalled 12 million as compared to 8 million in 1965. In short, the tourist boom has had a tremendous effect on the economy, property values, and tax revenues of Horry County; for example, there were under construction six golf courses in the area at the time of the petition with others anticipated for later in 1973.

4. A sufficient showing has been made to warrant the Commission's adopting a notice of proposed rulemaking proposing the assignment of Channel 43 to Myrtle Beach, South Carolina. It indicates that Myrtle Beach probably merits a television channel of its own and that the proposed channel assignment is feasible. However, since channel assignments are made to a community, it would be helpful if the petitioner more carefully set forth the information relied on as concerns the city of Myrtle Beach, which is a community within the meaning of section 307(b) of the Act and our regulations, as contrasted to the Myrtle Beach Division and other portions of the surrounding area. While undoubtedly the data adduced is directed toward showing the importance of the city of Myrtle Beach to the area generally, a consideration which the Commission will carefully consider in making a decision here, it would be helpful if the data and information relied on by petitioner specified the relationship of the various communities and population areas to the city of Myrtle Beach, the length of the tourist season, and a breakdown of the statistics as concerns the city of Myrtle Beach as contrasted to what petitioner generally refers to as Myrtle Beach which apparently consists of the general area.[2]

5. In view of the foregoing, and pursuant to authority found in Sections 4 (i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, It Is Proposed to Amend § 73.606(b) of the Commission's rules and regulations, the Television Table of Assignments, as concerns Myrtle Beach, South Carolina, as follows:

| City | Channel No. | |
|---|---|---|
| | Present | Proposed |
| Myrtle Beach, S.C. | | 43 |

6. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations, interested parties may file comments on or before October 23, 1973, and reply comments on or before November 1, 1973. All submissions by parties to this proceeding, or persons acting on behalf of such parties, must be made in written comments, reply comments, or other appropriate pleadings.

7. In accordance with the provisions of § 1.419 of the rules and regulations, an original and 14 copies of all comments, reply comments, briefs, and other documents shall be furnished the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its Headquarters, 1919 M Street NW., Washington, D.C.

Adopted September 6, 1973.

Released September 11, 1973.

FEDERAL COMMUNICATIONS COMMISSION [2]
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

[FR Doc.73-19689 Filed 9-14-73;8:45 am]

[1] All population data is from the 1970 Census.

[2] A map or maps showing the location of various communities and population areas might be helpful.

[2] Commissioner Robert E. Lee absent.

**[ 47 CFR Part 81 ]**

[Docket No. 19805; FCC 73-898]

### STATIONS ON LAND IN THE MARITIME SERVICE

**Frequency Coordination**

In the matter of amendment of Part 81 of the Commission's rules, governing stations on land in the Maritime Services, to require frequency coordination for the use of marine limited coast very high frequency and single sideband stations (RM 1966, 2180).

1. Notice of proposed rulemaking in the above-entitled matter is hereby given.

2. The Southern California Marine Radio Council (SCMRC) and the Hawaiian Marine Radio Council (HMRC) have petitioned the Commission to amend Part 81 of its rules to require frequency coordination in connection with all applications for new or modified VHF and single sideband (SSB) limited coast marine stations. SCMRC proposes to coordinate for the Eleventh Coast Guard District, which comprises the southern portions of California as well as Arizona, portions of Utah and Nevada and ocean areas contiguous thereto. HMRC proposes to coordinate for Hawaii. Both request that they be recognized as the coordinator for the use of limited coast frequencies in their respective areas.

3. Public Notice of the filing of these petitions was given. Statements in opposition to the SCRMC petition were filed by A. W. Brothers and by the National Marine Electronics Association, Inc. (NMEA). NMEA advised delay pending study but proposed no study. A statement in support of the petition was filed by the Los Angeles-Long Beach Port Safety Council. The statements of A. W. Brothers and of the Los Angeles-Long Beach Port Safety Council were not accompanied by proof of service upon the petitioner as required by § 1.405(a) of the Commission's rules. Accordingly, they were not considered. No pleadings were filed relating to the HMRC petition.

4. We agree with the petitioners that the allocation and assignment of marine limited coast stations has become complex in some areas. Frequency coordination should aid the Commission in performing these functions. Frequency coordination should assist particularly in minimizing interference and congestion. While SCMRC limits its recommendation to its own area of concern, we will not adopt its suggestion that this notice of proposed rulemaking be limited to Southern California. Rather we hereby propose a general set of rules which will permit establishment of frequency coordination procelures in any area where a local situation warrants them. Recognition of a given organization, such as SCMRC or HMRC, to be the frequency coordinator of a given area and the determination of the boundaries of a given area should await case by case determination under the general rules here proposed.

5. Neither petitioner submitted detailed proposals for amending the rules. Accordingly, the rules hereby proposed are based upon study and analysis by the Commission. Because these rules will require frequency coordination for this class of stations for the first time, we believe relatively simple procedures should be used. If experience indicates more sophisticated procedures are required, they will be proposed. A relatively simple frequency coordination procedure exists for Flight Test Stations in § 87.334 of Subpart G of Part 87 of our rules. The rules hereby proposed are patterned closely after that procedure.

6. Accordingly, and for the reasons set forth above, the proposed amendments, as set forth in the attached Appendix, are issued pursuant to the authority contained in section 303 of the Communications Act of 1934, as amended.

7. Pursuant to the applicable procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before October 23, 1973, and reply comments on or before November 1, 1973. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

8. In accordance with § 1.419 of the Commission's rules, an original and 14 copies of all statements, briefs, or comments shall be furnished the Commission. Responses will be available for public inspection during the regular business hours in the Docket Reference Room at its headquarters in Washington, D.C.

Adopted September 6, 1973.

Released September 13, 1973.

FEDERAL COMMUNICATIONS COMMISSION.[1]
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

APPENDIX

Subpart J of Part 81 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended by adding a new § 81.359 as follows:

**§ 81.359 Frequency coordination.**

(a) Except as provided in paragraphs (b) and (c) of this section each application for a new limited coast station license or renewal or modification of an existing license to be located in an area having a recognized frequency advisory committee shall be accompanied by:

(1) A report based on a field study, indicating the degree of probable interference to existing stations operating on the same area. The applicant shall consider all stations operating on the working frequency or frequencies requested or assigned within 50 miles of the proposed station location, and,

(2) A written statement that all existing licensees within the frequency and mileage limits contained in paragraph (a)(1) of this section and the frequency advisory committee as defined in paragraph (c)(2) of this section have been notified of the applicant's intention to file an application shall be included with the report. The notice of intention to file shall provide the licensees concerned and the advisory committee with the following information: the frequency and emission; transmitter location and power; and, antenna height proposed by the applicant.

(b) Applications for modification need not be accompanied by evidence of frequency coordination, where the modification does not involve any change in frequency(ies), power, emission, antenna height, antenna location or area of operation.

(c)(1) In lieu of the requirements specified in paragraph (a) of this section, a statement from a frequency advisory committee may be submitted with the application. The committee shall comment on the frequency or frequencies requested or the proposed changes in the authorized station and give the opinion of the committee regarding the probable interference of the proposal to existing stations. The committee shall consider, as a minimum, all stations operating on the frequency or frequencies requested or assigned within 50 miles of the proposed station location. The frequency advisory committee statement shall also recommend a frequency or frequencies, which in the opinion of the committee, will result in the least amount of interference to proposed and existing stations. In addition, committee recommendations may appropriately include comments on other technical factors and may contain recommended conditions or restrictions which it believes should appear on authorization to lessen the possibility of interference.

(2) A frequency advisory committee must be so organized that it is representative of all persons who are eligible for VHF and single sideband limited coast stations. A statement of organization, service area and composition of the committee must be submitted to the Commission for approval. The functions of any advisory committee shall be purely advisory in character to the applicant and the Commission, and its recommendations cannot be considered as binding upon either the applicant or the Commission.

[1] Commissioner Robert E. Lee absent; Commissioner Johnson concurring in the result.

[FR Doc.73-19686 Filed 9-14-73;8:45 am]

## FEDERAL RESERVE SYSTEM

**[ 12 CFR Part 220 ]**

[Reg. T]

### CREDIT BY BROKERS AND DEALERS

**Notice of Extension of Time for Comment on Proposed Amendment**

On July 13, 1973, notice of proposed rulemaking regarding an amendment to 12 CFR Part 220 by the Board of Governors of the Federal Reserve System pursuant to authority contained in the Securities Exchange Act of 1934 (15 U.S.C. 78g) was published in the FEDERAL REGISTER (38 FR 18690). The purpose of the proposed amendment was to negate previous Board interpretations which stated that broker/dealers would not be deemed to be arranging credit which they could not extend, as prohibited by § 220.7(a), when they sold investment contracts which included credit extended solely on the real estate or chattel part of the contract. In addition, the proposed amendment would provide uniform







V 38-179 SEP 17 73 XUM

treatment, for credit purposes, of every security as an indivisible whole in a manner consistent with that followed by the Securities and Exchange Commission in its area of regulation. Comments were to have been received not later than August 10, 1973. Requests for extension of the comment period have been made by some persons who would be affected by this proposal, particularly because of the fact that the matter is presently under consideration by the Securities and Exchange Commission. The Board has determind that it is appropriate and in the public interest to provide additional time within which interested persons are invited to submit, in writing, relevant data, views or arguments regarding the proposal and will therefore accept additional comments until September 25, 1973.

This notice is published pursuant to section 553(b) of Title 5, United States Code, and § 262.2(a) of the Rules of Procedure of the Board of Governors of the Federal Reserve System (12 CFR 262.2 (a)).

By order of the Board of Governors, August 31, 1973.

[SEAL] CHESTER B. FELDBERG, *Secretary of the Board.*

[FR Doc.73-19645 Filed 9-14-73;8:45 am]





# Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF STATE

[Public Notice CM-65]

### STUDY GROUP 7 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE (CCIR)

#### Notice of Meeting

The Department of State announces that Study Group 7 of the U.S. National Committee for the International Radio Consultative Committee (CCIR) will meet on September 27, 1973, at the U.S. Naval Observatory, 34th Street and Massachusetts Avenue NW., Washington, D.C. The meeting will begin at 9:30 a.m. in Room 300 of Building 52.

Study Group 7 deals with time-signal services. The purpose of the meeting will be final review of documents proposed as U.S. contributions to the international meeting of Study Group 7 in 1974.

Members of the general public will be admitted up to the limits of the capacity of the meeting room. Members of the general public who plan to attend the meeting are requested to so inform Mr. Hugh Fosque, Chairman of U.S. Study Group 7, prior to September 27, 1973; Mr. Fosque can be contacted at NASA Headquarters, telephone number 202-755-2434.

Dated September 11, 1973.

GORDON L. HUFFCUTT, *Chairman, U.S. CCIR National Committee.*

[FR Doc.73-19624 Filed 9-14-73;8:45 am]

## DEPARTMENT OF DEFENSE

### Department of the Air Force

### USAF SCIENTIFIC ADVISORY BOARD

#### Notice of Meeting

SEPTEMBER 13, 1973.

The USAF Scientific Advisory Board Aeronautical Systems Division Advisory Group F-4 Structures Committee will hold closed meetings on September 19 and 20, 1973, from 8 a.m. until 5 p.m., at the McDonnell-Douglas Corporation, St. Louis, Missouri.

The Committee will receive classified briefings on structural aspects of the F-4E aircraft.

For further information contact the Scientific Advisory Board Secretariat at 202-697-4648.

STANLEY L. ROBERTS, *Colonel, USAF, Acting Chief, Legislative Division, Office of The Judge Advocate General.*

[FR Doc.73-19821 Filed 9-14-73;8:45 am]

## DEPARTMENT OF THE INTERIOR

### Bonneville Power Administration

### POWER MANAGEMENT CHIEF, BRANCH OF POWER SUPPLY

#### Redelegations of Authority

Redelegations of Authority published in the FEDERAL REGISTER on July 6, 1968 (33 FR 9784), and amended on September 13, 1968 (33 FR 12974), February 21, 1969 (34 FR 2508), August 9, 1969 (34 FR 12955), September 18, 1969 (34 FR 14534), May 1, 1971 (36 FR 8266), June 8, 1971 (36 FR 11047), July 24, 1971 (36 FR 13799), November 26, 1971 (36 FR 22689), May 6, 1972 (37 FR 9245), July 13, 1972 (37 FR 13721), November 3, 1972 (37 FR 23463), June 27, 1973 (38 FR 16922), and August 29, 1973 (38 FR 23343), are further amended by revising section 10.13 of the BPA Manual to read as follows:

10.13 *Power Management.* c. The Chief, Branch of Power Supply may:

(1) * * *

(2) * * *

(3) Negotiate and arrange (under existing contracts or new arrangements) for the short term sale, purchase, exchange, or wheeling of power necessary to meet contractual commitments or load requirements, including negotiation of applicable charges, and to obligate funds for this purpose in the amounts made available to him in the form of trust funds, continuing fund, or appropriated funds. Where there is no existing contract, such arrangements are to be subsequently formalized by contracts executed by the Administrator.

Dated September 7, 1973.

DONALD PAUL HODEL, *Administrator.*

[FR Doc.73 19656 Filed 9-14-73;8:45 am]

### National Park Service

[Order No 1, Amdt. 1]

### ASSISTANT SUPERINTENDENT, ET AL., OLYMPIC NATIONAL PARK

#### Delegation of Authority

Olympic National Park Order No. 1, approved September 29, 1972, and published in the FEDERAL REGISTER of November 3, 1972 (37 FR 23464), is amended as follows:

Section 4 is hereby amended to read as follows:

SEC. 4. *Procurement agent.*—The Procurement Agent may issue purchase orders not in excess of $2,000 for supplies, equipment, and services in conformity with applicable regulations and statutory authority and subject to availability of appropriated funds.

(National Park Service Order No. 77 (38 FR 7478), as amended; Pacific Northwest Region Order No. 3 (37 FR 6325), as amended.)

Dated July 20, 1973.

ROGER W. ALLIN, *Superintendent, Olympic National Park.*

[FR Doc.73-19633 Filed 9-14-73;8:45 am]

[Order No. 7, Amdt. 2]

### SUPERINTENDENTS, ET AL., NORTHEAST REGION

#### Delegation of Authority

Order No. 7, approved February 25, 1972, and published in the FEDERAL REGISTER at 37 FR 6325 on March 28, 1972, and Amendment No. 1, published at 37 FR 16414 on August 12, 1972, is hereby amended by adding the following subsections:

SEC. 1. *Superintendents* * * *

(n) Authority to conduct archeological investigations and salvage activities.

SEC. 2. *Delegation* * * *

(h) *Regional purchasing agent.*—The Regional Purchasing Agent may execute and approve purchase orders not in excess of $1,000 for equipment, supplies, and services. This authority may be exercised by the Regional Purchasing Agent in behalf of any office or area for which the Northeast Regional Office serves as the field finance office (National Park Service Order No. 77, 38 FR 7478, as amended).

Dated August 14, 1973.

CHESTER L. BROOKS, *Regional Director, Northeast Region.*

[FR Doc.73-19634 Filed 9-14-73;8:45 am]

## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

[Amdt. 2]

### SALES OF CERTAIN COMMODITIES

#### Monthly Sales List (Fiscal Year Ending June 30, 1974)

The CCC Monthly Sales List for the fiscal year ending June 30, 1974, published in 38 FR 19259 is amended as follows:

1. The provisions of section 25 entitled "Rice, rough—unrestricted use sales—FOB warehouse" are deleted.

2. The provisions of section 38 entitled "Cotton—extra long staple—unrestricted use sales" are deleted.



V 38-179
SEP 17 73
XUM

3. The last sentence of section 1(b) entitled "General" published in 38 FR 19259 as amended in 38 FR 22808 is revised to read as follows: "Interest at 10½ percent will be charged for delinquent payments on consignment and track sales of grain from the date of sale to the date payment is received."

4. The fifth sentence of section 1(c) entitled "General" is revised to read as follows: "Storage charges will be in accordance with the 1973 Uniform Grain Storage Agreement Schedule of Rates."

5. The sixth sentence of section 1(c) entitled "General" published in 38 FR 19259 as amended in 38 FR 22808 is revised to read as follows: "Interest to date of payment will be at 10½ percent."

6. Section 6 entitled "Barter eligibility list" is revised to read as follows: "Stocks of tobacco under CCC loan are available for existing barter contracts."

7. Section 11 entitled "Wheat—unrestricted use sales—bulk storable—basis Grade 1 in-store" is revised to read as follows: "The minimum price is the market price but not less than the formula price."

At designated terminals the formula price for the predominant class of wheat is the 1973 county loan rate where stored plus the monthly markup shown in this section plus the transit value of 4 cents per bushel which ever is higher. Adjustments for other classes will be established when necessary by CCC.

Outside of designated terminal markets, the formula price is the 1973 county loan rate where stored plus the monthly markup shown in this section plus transit value, if any. Loan differentials will be applied in determining the formula price of other qualities at all locations.

Monthly Markups in Cents Per Bushel

| | | | |
|---|---|---|---|
| July 1973 | 25 | Jan. 1974 | 31 |
| August | 25 | February | 33 |
| September | 25 | March | 35 |
| October | 25 | April | 37 |
| November | 27 | May | 37 |
| December | 29 | June | 37 |

8. The title of section 13 is revised to read as follows: "Corn—Unrestricted Use Sales—bulk-storable-basis Grade 2 yellow corn 15.1–15.5 percent moisture-in-store."

9. The provisions of section 14 entitled "Corn—Unrestricted Use Sales—port positions—bulk-storable-basis Grade 2 yellow corn—15.1–15.5 percent moisture-in-store" are deleted.

10. References in the second and fifth sentences of section 30 entitled "Tung Oil—unrestricted use sales" to the New Orleans ASCS Commodity Office are changed to the Prairie Village ASCS Commodity Office.

*Effective date.*—2:30 p.m. (EDT) August 31, 1973.

Signed at Washington, D.C., on September 11, 1973.

GLENN A. WEIR,
*Acting Executive Vice President, Commodity Credit Corporation.*

[FR Doc.73-19717 Filed 9-14-73;8:45 am]

## Forest Service

### COMMUNICATION SITES ON THE TONGASS AND CHUGACH NATIONAL FORESTS

#### Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for Communication Sites on the Tongass and Chugach National Forests, Forest Service Report Number USDA–FS–DES (Adm) 73–74.

The environmental statement concerns a proposed action to construct communication facilities at twenty-two (22) locations on the Tongass and Chugach National Forests in Alaska. The facilities will serve seven communication modes with the majority of sites serving two or more systems.

This final environmental statement was filed with CEQ on September 6, 1973.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
South Agriculture Bldg., Room 3230
12th St. & Independence Ave. SW
Washington, D.C. 20250

USDA, Forest Service
P.O. Box 1628
Juneau, Alaska 99801

and also at Forest Service offices in Alaska at the following locations: Juneau, Sitka, Petersburg, Ketchikan, Yakutat, Anchorage, Cordova, and Seward.

A limited number of single copies are available upon request to Regional Forester, U.S. Forest Service, Box 1628, Juneau, Alaska 99801.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please refer to the name and number of the environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State and local agencies as outlined in the Council on Environmental Quality Guidelines.

PHILIP L. THORNTON,
*Deputy Chief, Forest Service.*

SEPTEMBER 11, 1973.

[FR Doc.73-19719 Filed 9-14-73;8:45 am]

### VEGETATION CONTROL BY MECHANICAL TREATMENT IN NEW MEXICO

#### Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement on a proposal for vegetation control by mechanical treatment in the State of New Mexico, Apache, Gila, and Santa Fe National Forests. USDA–FS–FES (Adm) 73–72.

The environmental statement considers probable environmental effects of the proposed program.

This final environmental statement was filed with CEQ on September 10, 1973.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
South Agriculture Bldg., Room 3231
12th & Independence Ave., SW.
Washington, D.C. 20250

USDA, Forest Service
Southwestern Region
517 Gold Avenue, SW.
Albuquerque, New Mexico 87102

Apache National Forest
Federal Building
Springerville, Arizona 85938

Gila National Forest
301 West College Avenue
Silver City, New Mexico 88061

Santa Fe National Forest
Federal Building
Santa Fe, New Mexico 87501

A limited number of single copies are available upon request to William D. Hurst, Regional Forester, Southwestern Region, USDA, Forest Service, 517 Gold Avenue, S.W., Albuquerque, New Mexico 87102.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please refer to the name and number of the environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

PHILIP L. THORNTON,
*Deputy Chief, Forest Service.*

SEPTEMBER 11, 1973.

[FR Doc.73-19718 Filed 9-14-73;8:45 am]

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### G. L. KOOYMAN

#### Issuance of Letter of Exemption Under Marine Mammal Protection Act

Notice is hereby given that, on August 15, 1973, as authorized by section 101(c) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq., 86 Stat. 1027 (1972)), and § 216.13 of the Regulations Governing the Taking and Importing of Marine Mammals (37 FR 28177, 28182, December 21, 1972), a Letter of Exemption from the provisions of the Act on grounds of undue economic hardship was issued to the following named person authorizing him to engage in the following described activities, subject to the conditions specified in the Letter:

G. L. Kooyman, Ph.D., Assistant Research Physiologist, Scripps Institution of Oceanography, University of California, San Diego, P.O. Box 109, La Jolla, California 92037, to take as many as five





ice-breeding harbor seals for scientific research. Notice of receipt of the application was published in the FEDERAL REGISTER on August 1, 1973 (38 FR 20488), accompanied by a detailed summary of the application. A requirement of the Letter of Exemption was that the Holder maintain the animals in custody for the Government of the United States of America, that he claim no title in such mammals, and that, at the end of the research for which the taking of the mammals sought is contemplated he immediately notify the Director, National Marine Fisheries Service, that the animals remaining are available for disposition by him at his discretion.

Copies of the application for the exemption, of the Letter of Exemption and of all supporting documents except documents containing information exempt from public disclosure pursuant to the Freedom of Information Act (5 U.S.C. 522(b)), are available for inspection at the Office of the Director, National Marine Fisheries Service, Washington, D.C. 20235, and at the National Marine Fisheries Service Regional Offices. The Regional Offices are located at the following addresses: Southwest Region, 300 South Ferry Street, Terminal Island, California 90731, telephone 213–831–9281; Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930, telephone 617–281–0640; Southeast Region, William C. Cramer, Federal Office Building, 144 First Avenue South, St. Petersburg, Florida 33701, telephone 813–893–3141; Northwest Region, Lake Union Building, 1700 Westlake Avenue North, Seattle, Washington, 98109, telephone 206–442–7575; Alaska Region, P.O. Box 1668, Juneau, Alaska 99801, telephone 907–586–7221.

Dated September 11, 1973.

JOSEPH W. SLAVIN,
*Acting Director.*

[FR Doc.73-19679 Filed 9-14-73;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### National Institutes of Health

### BREAST CANCER DIAGNOSIS COMMITTEE

#### Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Breast Cancer Diagnosis Committee, National Cancer Institute, which is sponsoring a Workshop on September 20, 1973, 9:00 a.m. to 5:00 p.m. at the National Institutes of Health, Building 31, Conference Room 2. This meeting will be open to the public at all times to formulate requests for proposals for a contract for the creation of standards for diagnosis of in situ breast cancer and the establishment of diagnostic criteria to define these lesions and separate them from benign proliferative lesions of the breast. Attendance by the public will be limited to space available.

Mr. Frank Karel, Associate Director for Public Affairs, NCI, Building 31, Room 10A31, National Institutes of Health, Bethesda, Maryland 20014, 301–496–1911, will furnish summaries of the meeting and roster of committee members and participants.

Dr. Bernice T. Radovich, Executive Secretary, Landow Building, Room B–406, National Institutes of Health, Bethesda, Maryland 20014, 301–496–6773, will provide substantive program information.

Dated September 12, 1973.

JOHN F. SHERMAN,
*Deputy Director, NIH.*

[FR Doc.73-19777 Filed 9-14-73;8:45 am]

### BREAST CANCER TREATMENT COMMITTEE

#### Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Breast Cancer Treatment Committee, National Cancer Institute, September 21, 1973, 8:30 a.m., National Institutes of Health, Landow Building, Room C–414. This meeting will be open to the public from 8:30 a.m. to 10:30 a.m. to discuss general program, cancer "markers", and specifications for Requests for Proposals for contracts on "Hormonal Manipulation plus Chemotherapy" and "Therapy in State II and III Carcinoma". Attendance by the public will be limited to space available. The meeting will be closed to the public from 10:30 a.m. to 4:30 p.m., for the discussion and review of four contract proposals in the field of Treatment of Breast Cancer, in accordance with the provisions set forth in section 552(b) 4 of Title 5, U.S. Code, and section 10(d) of P.L. 92–463.

Mr. Frank Karel, Associate Director for Public Affairs, NCI, Building 31, Room 10A31, National Institutes of Health, Bethesda, Maryland 20014, 301–496–1911, will furnish summaries of the open/closed meeting and roster of committee members.

Mary E. Sears, M.D., Executive Secretary, Landow Building, Room A–416, National Institutes of Health, Bethesda, Maryland 20014, 301–496–6773, will provide substantive program information.

Date September 12, 1973.

JOHN F. SHERMAN,
*Deputy Director, NIH.*

[FR Doc.73-19775 Filed 9-14-73;8:45 am]

### BREAST CANCER TREATMENT COMMITTEE'S SUBCOMMITTEE ON MARKERS

#### Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Breast Cancer Treatment Committee's Subcommittee on Markers, National Cancer Institute, September 20, 1973, 1:00 p.m., National Institutes of Health, Building 10, Conference Room 6B15A. This meeting will be open to the public from 1:00 p.m. until adjournment, to discuss various approaches to the problem of finding satisfactory "markers" of cancer as means of monitoring treatment. Attendance by the public will be limited to space available.

Mr. Frank Karel, Associate Director for Public Affairs, NCI, Building 31, Room 10A31, National Institutes of Health, Bethesda, Maryland 20014, 301–496–1911, will furnish summaries of the open meeting and roster of committee members.

Mary E. Sears, M.D., Executive Secretary, Landow Building, Room A–416, National Institutes of Health, Bethesda, Maryland 20014, 301–496–6773, will provide substantive program information.

Dated September 12, 1973.

JOHN F. SHERMAN,
*Deputy Director, NIH.*

[FR Doc.73-19776 Filed 9-14-73;8:45 am]

## Office of Education

### ADVISORY COMMITTEE ON ACCREDITATION AND INSTITUTIONAL ELIGIBILITY

#### Notice of Public Meeting

Notice is hereby given, pursuant to Public Law 92–463, that the next meeting of the Advisory Committee on Accreditation and Institutional Eligibility will be held on September 24–26, 1973, at 9 a.m. local time, in Room 5169 (September 24) and the auditorium (September 25–26) of the HEW-North Building, 330 Independence Avenue SW., Washington, D.C.

The Advisory Committee on Accreditation and Institutional Eligibility is established pursuant to section 253 of the Veterans' Readjustment Assistance Act (Chapter 33, Title 38, U.S. Code). The Committee is established to advise the Commissioner of Education in fulfilling his statutory obligations to publish a list of nationally recognized accrediting agencies and associations which he determines to be reliable authority as to the quality of training offered by educational institutions and programs.

The meeting of the Committee shall be open to the public on Monday, September 24 and until 3 p.m. on September 25. The proposed agenda includes an orientation session for new Committee members, presentations by representatives of accrediting agencies and associations which have petitions for recognition pending before the Committee, and a review of various policy items. Under the authority of section 10(d) of the Federal Advisory Committee Act (P.L. 92–463) and section 552(b) of Title 5 of the United States Code, the meeting will be closed to the public from 3 p.m. on September 25 through September 26. Records shall be kept of all Committee proceedings.

Signed at Washington, D.C., on September 13, 1973.

JOHN R. PROFFITT,
*Director, Accreditation and Institutional Eligibility Staff, Office of Education.*

[FR Doc.73-19804 Filed 9-14-73;8:45 am]



V 38-179 SEP 17 73 XUM

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. EX 73-5; Notice 2]

### INTERMECCANICA AUTOMOBILI

### Petition for Temporary Exemption From Motor Vehicle Safety Standards

The National Highway Traffic Safety Administration has decided to deny Intermeccanica Automobili an exemption of its Indra model from four Federal motor vehicle safety standards.

Notice of petition for the exemption was published in the FEDERAL REGISTER on June 19, 1973 (38 FR 15989), and an opportunity afforded for comment. Intermeccanica applied for exemptions pursuant to 15 U.S.C. 1410(a)(1)(A) under which it must demonstrate that requiring compliance with the standards for which exemption is requested would cause it substantial economic hardship. The standards for which exemption was requested were Nos. 201, *Occupant Protection in Interior Impact*, 212, *Windshield Mounting*, 215, *Exterior Protection*, and 301, *Fuel Tanks, Fuel Tank Filler Pipes, and Fuel Tank Connections*. The period of exemption requested was 3 years.

In support of its petition, Intermeccanica stated its belief that it already complied with Standards Nos. 201, 212, and 301 "based on our extensive usage of materials and methods of construction and installation equal to other manufacturers who have done the required testing and have met all requirements * * * We are doing everything known to us, short of actual crash test, in attempting to meet these requirements through contemporary design, construction, and materials." However, "testing required to prove compliance with these standards is prohibitively expensive, i.e., a 30 m.p.h. crash test and the cost of obtaining the required data from said crash." As for the bumper standard, "We have purchased over one year's supply of bumpers and chassis and to scrap these would be prohibitive." It estimated the cost to comply with Standard No. 215 on a crash basis as $119,210 resulting in an estimated price increase per vehicle of $1,600. The company's assets at the end of 1972 totalled $275,561. It states that at the time of the original vehicle design it was "unaware of the potential of the bumper standard." Although the Indra has been principally sold in Germany, the company seeks to enter the American market which it terms "essential for survival."

No comments were properly filed concerning the petition. One anonymous comment was received. NHTSA procedural rules, 49 CFR 551.35, require the comments to disclose the name of the commenter, and therefore the comment was not considered.

Section 555.6(a)(1) of Title 49 requires a petitioner to provide "Engineering and financial information demonstrating in detail how compliance * * * would cause substantial economic hardship." Petitioner submitted no analysis of what it would cost to test to verify compliance with Standards Nos. 201, 212, and 301. Further, petitioner provided no detailed information which would support its belief in its compliance with these standards.

The regulations also require a petitioner to describe its efforts to comply with the standards, including "a chronological analysis of such efforts showing its relationship to the rulemaking history of the standard from which exemption is sought." (49 CFR 555.6(a)(2)(i)). Standard No. 215 was proposed in November 1970, and issued in April 1971, but petitioner has not commented on the relationship of these dates to the design history of the Indra. Therefore, no decision can be made that the manufacturer has, in good faith, attempted to comply with Standard No. 215 prior to its request.

In light of the above, it is found that Intermeccanica has not provided sufficient information to justify the granting of the requested exemption, and its petition is accordingly denied.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159, 15 U.S.C. 1410; delegation of authority at 49 CFR 1.51)

Issued on September 10, 1973.

JAMES B. GREGORY,
*Administrator.*

[FR Doc.73-19673 Filed 9-14-73;8:45 am]

## ADVISORY COMMITTEE ON FEDERAL PAY

### NOTICE OF PUBLIC MEETING

The Advisory Committee on Federal Pay will meet in executive session on September 17, 18, and 26, to prepare its report on the Fiscal 1974 adjustment in Federal pay. The meetings of September 17 and 18 will be held in the office of Frederick R. Livingston, 525 Park Avenue, New York, New York. The meeting of September 26 will be held in the office of Jerome M. Rosow, 1251 Avenue of the Americas, New York City. All meetings will start at 9:30 a.m.

In these meetings the Committee will take various positions which will be subjective and recommendatory in nature. In formulating its recommendations and preparing its report the Committee needs to be free to exchange such subjective views without inhibition. Disclosure in this instance would severely limit the effectiveness of such discussions.

Therefore, by authority of Section 10(d) of Public Law 92-463, The Federal Advisory Committee Act, meetings of the Advisory Committee on Federal Pay to develop its recommendations for the annual adjustment in Federal pay will concern matters within Section 552(b)(5) of Title 5, United States Code, and therefore shall not be open to the public.

JEROME M. ROSOW,
*Chairman,*
*Advisory Committee on Federal Pay.*

[FR Doc.73-19823 Filed 9-14-73;8:45 am]

## ATOMIC ENERGY COMMISSION

[Docket Nos. 50-373 and 50-374]

### COMMONWEALTH EDISON CO.

### Availability of Initial Decision of the Atomic Safety and Licensing Board

Pursuant to the National Environmental Policy Act of 1969 and the United States Atomic Energy Commission's regulation in Appendix D, Section A.9 and A.11, to 10 CFR, Part 50, notice is hereby given that an Initial Decision dated September 5, 1973, by the Atomic Safety and Licensing Board in the above captioned proceeding authorizing issuance of construction permits to the Commonwealth Edison Company for construction of the La Salle County Nuclear Power Station, Units 1 and 2, located in Brookfield Township, La Salle County, Illinois, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C., and in the Reddicks Public Library, 100 West Lafayette Street, Ottawa, Illinois 61350.

The Initial Decision is also being made available at the Office of Planning and Analysis, Executive Office of the Governor, Room 614, State Office Building, Springfield, Illinois 62706, and at the Northeastern Illinois Planning Commission, 400 West Madison Street, Chicago, Illinois 60607.

Based upon the record developed in the public hearing in the above captioned matter, the Initial Decision modified in certain respects the contents of the Final Environmental Statement relating to the construction of the La Salle County Nuclear Power Station, prepared by the Commission's Directorate of Licensing. Pursuant to the provisions of 10 CFR, Part 50, Appendix D, Section A.11, the Final Environmental Statement is deemed modified to the extent that the findings and conclusions relating to environmental matters contained in the Initial Decision are different from those contained in the Final Environmental Statement dated February 1973. As required by Section A.11 of Appendix D, a copy of the Initial Decision, which modifies the Final Environmental Statement, has been transmitted to the Council on Environmental Quality and made available to the public as noted herein.

Pursuant to the above mentioned Initial Decision, the Atomic Energy Commission (the Commission) has issued Construction Permits Nos. CPPR-99 and CPPR-100 to the Commonwealth Edison Company for construction of two boiling water nuclear reactors, known as the La Salle County Nuclear Power Station, Units 1 and 2, each designed for a rated power of approximately 3293 megawatts thermal with a net electrical output of approximately 1078 megawatts.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR, Chapter I, which are set forth in the construction permits.





The application for the construction permits complies with the standards and requirements of the Act and the Commission's rules and regulations.

The construction permits are effective as of their date of issuance. The earliest date for the completion of Unit 1 is December 1, 1977, and the latest date for completion is June 1, 1978. The earliest date for the completion of Unit 2 is December 1, 1978, and the latest date for completion is June 1, 1979. Each permit shall expire on the latest date for completion of the facility.

In addition to the Initial Decision, copies of (1) Construction Permits Nos. CPPR-99 and CPPR-100; (2) the report of the Advisory Committee on Reactor Safeguards dated December 17, 1971; (3) the Directorate of Licensing's Safety Evaluation dated August 15, 1972; (4) the Preliminary Safety Analysis Report and amendments thereto; (5) the applicant's Environmental Report dated November 4, 1971 and supplements thereto; (6) the Draft Environmental Statement dated July 1972; and (7) the Final Environmental Statement dated February 1973, are also available for public inspection at the above-designated locations in Washington, D.C., and Ottawa, Illinois. Single copies of the Initial Decision by the Atomic Safety and Licensing Board, the construction permits, the Final Environmental Statement, and the Safety Evaluation may be obtained upon request addressed to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing, Regulation.

Dated at Bethesda, Maryland, this 10th day of September 1973.

For the Atomic Energy Commission.

ROBERT A. CLARK,
*Chief, Gas Cooled Reactors Branch Directorate of Licensing.*

[FR Doc.73-19626 Filed 9-14-73;8:45 am]

## REGULATORY GUIDES

### Notice of Issuance and Availability

The Atomic Energy Commission has issued a new guide, Regulatory Guide 8.9, "Acceptable Concepts, Models, Equations, and Assumptions for a Bioassay Program," in its Regulatory Guide series. This series has been developed to describe and to make available to the public methods acceptable to the AEC Regulatory staff for implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain information needed by the staff in its review of applications for permits and licenses.

The new guide indicates acceptability of basic internal dosimetry concepts published by the International Commission on Radiological Protection, and of models, equations, and assumptions derived from these concepts, in implementing certain parts of the Commission's regulations.

Regulatory Guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Comments and suggestions in connection with improvements in the guides are encouraged and should be sent to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff. Requests for single copies of the issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides should be made in writing to the Director of Regulatory Standards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Telephone requests cannot be accommodated.

Other Division 8 Regulatory Guides currently being developed include the following:

Bioassay for Uranium.
Respiratory Protection.
Dosimetry for Criticality Accidents.
Criticality Accident Alarm System.
Surface Contamination.

(5 U.S.C. 552(a).)

Dated at Bethesda, Maryland, this 10th day of September 1973.

For the Atomic Energy Commission.

LESTER ROGERS,
*Director of Regulatory Standards.*

[FR Doc.73-19625 Filed 9-14-73;8:45 am]

## CIVIL AERONAUTICS BOARD

[Docket No. 23333; Order 73-8-70]

### INTERNATIONAL AIR TRANSPORT ASSOCIATION

### Order Regarding Specific Commodity Rates

Issued under delegated authority August 14, 1973.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA) and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement names three additional specific commodity rates as set forth in the attachment hereto,[1] reflecting reductions from general cargo rates; and was adopted pursuant to unprotested notices to the carriers and promulgated in an IATA letter dated August 24, 1973.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act, provided that approval is subject to the conditions hereinafter ordered.

*Accordingly, it is ordered*, That:

1. Agreement CAB 23910, R-1 through R-3 be and hereby is approved, provided that approval shall not constitute approval of the specific commodity descriptions contained herein for purposes of tariff publication, provided further that tariff filings shall be marked to become effective October 17, 1973.

2. The findings and approval herein shall not be deemed to modify the findings and Order of the Board in its decision in *Agreements Adopted by IATA Relating to North Atlantic Cargo Rates*, Order 73-2-24 of February 6, 1973, as amended and finalized by Order 73-7-9 of July 5, 1973, and are subject to all provisions of such order.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.73-19712 Filed 9-14-73;8:45 am]

[1] Filed as part of the original document.

[Docket 25280; Order 73-9-30]

### INTERNATIONAL AIR TRANSPORT ASSOCIATION

### Order Regarding Cargo Rate Matters

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 10th day of September 1973.

Agreements have been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Traffic Conference of the International Air Transport Association (IATA). The agreements were adopted at the Composite Cargo Traffic Conferences held May/June 1973 in Mexico City. Together they comprise those portions on the worldwide cargo rate structure which affect air transportation as defined by the Act.[1]

The purpose of this order is to establish procedural dates for the receipt of justification, comments and replies relating to those parts of the agreements cited which involve air transportation, as well as certain composite resolutions adopted for worldwide application.[2]

[1] No agreement on North Atlantic cargo rates has been received.

[2] The North Atlantic will be the subject of a later Board order.



V 38-179 SEP 17 73 XUM

Agreement C.A.B. 23771 would revalidate the present South Pacific rate structure with minor changes. Minimum charges and general cargo rates will remain at *status quo*, except for general cargo rates to/from Honolulu which would be increased by 10 cents per kg. Most specific commodity rates will remain unchanged with the exception of rates to/from New York City which are generally proposed to be increased five cents per kilogram. No changes are proposed in the bulk unitization program save the elimination of rates for the Type 10 container (half-pallet for B–747 belly). The agreement would also extend the five percent surcharge on all U.S.-originating shipments to compensate for the effects of the dollar devaluation of February 12, 1973.

Agreement CAB 23772 encompasses the North Central Pacific cargo rate structure. Except for a few minor changes in specific commodity rates, this agreement is virtually identical to Agreement CAB 23620 which the Board considered in Order 73–8–124 (August 24, 1973).[2]

Agreement CAB 23774 proposes increases of approximately two percent in general cargo rates within IATA Traffic Conference 3 (Asia, Australia and Australasia). Most specific commodity rates would remain at status quo. The agreement applies directly in air transportation only insofar as the U.S. points Guam and American Samoa are involved, and here we note that the five percent surcharge on all shipments from these points is proposed to be continued.

Mid-Atlantic rates directly affect air transportation only insofar as transportation to/from San Juan and the Virgin Islands is involved. Agreement CAB 23819 proposes to increase minimum charges from $24 to $26, while general cargo rates would be increased two percent. Specific commodity rates are to be increased from five to eight percent. The six percent surcharge on shipments originating at U.S. points would be continued.

Significant changes are proposed in the Western Hemisphere cargo rate structure (Agreement CAB 23796). Substantial increases are proposed in minimum charges. (See Attachment A[3]). General cargo rates between the United States, on the one hand, and the Caribbean, Mexico and Venezuela, on the other hand, would be increased by amounts ranging from four to nine percent.[4] Southbound rates from the United States to South America would remain at *status quo*, while the corresponding northbound rates would be subject to increases in the three-four percent range for Argentina/Chile/Uruguay/Paraguay/Brazil, and a range of ten-eleven percent for Bolivia/Peru/Ecuador/Colombia. The net effect of these changes would be to reduce to some extent the directionality of the general rate structure between the United States and South America.

Most Western Hemisphere specific commodity rates would be increased from about 1.5 to 13 percent, with the bulk of the increases averaging about six percent. Pivot weights and minimum charges for containers would be reduced to encourage unitization, with the added effect that rates for containerized shipments now moving at the present pivot weights would generally be reduced from one to 16 percent, although rates on a few sectors would be increased.[5]

Certain of the composite resolutions, incorporated in Agreement C.A.B. 23773, also deserve comment.

The Board has long held that excess value charges should be assessed only on that amount by which a shipment's value exceeds the carrier's limit of liability under terms of the Warsaw Convention, and that any valuation charges should be cost-justified. Resolution 503 (Charges in Relation to Value) would now establish a valuation charge of 0.40 percent of that portion of the shipper's declared value for carriage which exceeds the basic Warsaw liability limit of $18.00 per kilogram, with the minimum charge per consignment set at $1.00. We note that the application of the valuation charge has been brought into conformance with the Board's policy, insofar as it would apply only to declared value not already covered by the carrier's basic liability, but we still expect adequate cost justification for the 0.40 percent (40¢ per $100) charge, as well as the $1.00 minimum charge per consignment.

Resolution 511 (Rates for Live Animals) would be revalidated in essentially its present form; generally speaking, live animals are carried at the general under—45 kg. cargo rate regardless of the weight of the consignment. Thus this traffic is charged a premium which varies depending on the spread of quantity discounts in the general cargo rate structure for a particular city pair.[6] On June 26, 1973, the Board concluded the *Investigation of Premium Rates for Live Animals and Birds* (Docket 21474) in U.S. domestic carriage, and in Order 73–6–103 found that the maximum lawful rates for cold-blooded animals are the general cargo rates and the maximum lawful rates for warm-blooded animals are 110 percent of the general cargo rates.[7] We see no reason why the pertinent issues would be any different in international air transportation, and in this light it appears clear that the IATA-agreed rates for live animals, encompassing premiums ranging over 200 percent in many cases, are excessive on their face. A related IATA resolution, 508, establishes a charge for stalls used in carrying large animals which is calculated on the basis of the rate for a certain weight of the animal transported rather than the weight of the stall or pen. This assessment seems to bear no relationship to the appropriate costs of service. In short, Board approval of Resolutions 508 and 511 is contingent on submission of full, adequate cost justification from the U.S. carrier members of IATA.

We also note that substantial increases are proposed for charges assessed under Resolution 509 (Charges for Disbursements) and Resolution 512a (C.O.D. Procedures). Resolution 509 presently specifies a charge to the consignee of three percent of any amount collected by the air carrier on behalf of a third party (such as a customs broker), or collected on behalf of the air carrier in connection with services performed prior to air carriage (such as cartage to the point of departure). This disbursement charge would now be increased to five percent, and the present $5.50 minimum would be raised to $10.00. Charges for C.O.D. services are proposed to be increased from two to four percent of the C.O.D. amount, while the minimum C.O.D. charge would now be $10.00 in place of the present $5.50 minimum. Such increases call for the submission of full and adequate cost justification from the carrier parties to the agreement.

Justification for the above mentioned agreements, together with any comments and/or objections from interested persons, shall be submitted within fifteen days after the date of this order. Replies shall be filed within thirty days after the days of this order.[8]

*Accordingly, it is ordered*, That:

1. All United States air carrier members of the International Air Transport Association shall file within fifteen calendar days after the date of this order, full documentation and economic justification for rates, charges and related conditions embodied in the subject agreements;
2. Comments and objections from interested persons and parties shall be submitted within fifteen calendar days after the date of this order;
3. Replies to justifications received in response to ordering paragraph 1 above and replies to comments received pursuant to ordering paragraph 2 above shall be submitted within thirty calendar days after the date of this order; and
4. Insofar as air transportation as defined by the Act is concerned, tariffs implementing the subject agreements shall not be filed in advance of Board approval of the subject agreements.

[2] The Board approved increases in bulk unitization charges and in most specific commodity rates. Certain directional commodity rates, a five percent currency surcharge on U.S.-originating shipments, and increases in general cargo rates were disapproved.

[3] Filed as part of the original document.

[4] Some U.S./Venezuela northbound rates would be reduced drastically in order to eliminate the present directional differentials. See Attachment B, filed as part of the original document.

[5] Examples of present and proposed specific commodity rates and bulk unitization charges are set forth in Attachments C and D, respectively, filed as part of the original document.

[6] See examples in Attachment E, filed as part of the original document.

[7] The Board denied petitions for reconsideration of its decision, by Order 73–8–68 (August 13, 1973).

[8] An original and 19 copies should be filed with the Board's Docket Section.





This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND, *Secretary.*

[FR Doc.73–19713 Filed 9–14–73;8:45 am]

[Docket No. 24694]

### MIAMI-LOS ANGELES COMPETITIVE NONSTOP CASE

#### Notice of Postponement of Oral Argument

At the direction of the Board the oral argument in this proceeding, previously set for September 26, 1973 (38 FR 21201, August 6, 1973), is postponed until further notice.

Dated at Washington, D.C., September 12, 1973.

[SEAL] ROBERT L. PARK, *Associate Chief Administrative Law Judge.*

[FR Doc.73–19711 Filed 9–14–73;8:45 am]

## CIVIL SERVICE COMMISSION

### DEPARTMENT OF COMMERCE

#### Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Commerce to fill by noncareer executive assignment in the expected service the position of Special Assistant to the Secretary for Policy Development, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY, *Executive Assistant to the Commissioners.*

[FR Doc.73–19660 Filed 9–14–73;8:45 am]

### DEPARTMENT OF COMMERCE

#### Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Commerce to fill by noncareer executive assignment in the expected service the position of Deputy Director, Office of Minority Business Enterprise.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY, *Executive Assistant to the Commissioners.*

[FR Doc.73–19661 Filed 9–14–73;8:45 am]

### DEPARTMENT OF DEFENSE

#### Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Defense to fill by noncareer executive assignment in the excepted service the position of Principal Deputy Assistant Secretary (Installations and Logistics), Office of the Assistant Secretary of Defense (Installations and Logistics), Office of the Secretary of Defense.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY, *Executive Assistant to the Commissioners.*

[FR Doc.73–19362 Filed 9–14–73;8:45 am]

### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

#### Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Health, Eduaction, and Welfare to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary for Health, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY, *Executive Assistant to the Commissioners.*

[FR Doc.73–19633 Filed 9–14–73;8:45 am]

### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

#### Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Housing and Urban Development to fill by noncareer executive assignment in the excepted service the position of Executive Assistant, Immediate Office of the Assistant Secretary, Office of the Assistant Secretary for Housing Management.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY, *Executive Assistant to the Commissioners.*

[FR Doc.73–19664 Filed 9–14–73;8:45 am]

### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

#### Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Housing and Urban Development to fill by noncareer executive assignment in the excepted service the position of Director, House Liaison, office of Legislative Affairs.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY, *Executive Assistant to the Commissioners.*

[FR Doc.73–19665 Filed 9–14–73;8:45 am]

### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

#### Notice of Grant of Authority To Make Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Housing and Urban Development to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary for Program Analysis and Evaluation, Office of Program Analysis and Evaluation, Assistant Secretary for Policy Development and Research.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY, *Executive Assistant to the Commissioners.*

[FR Doc.73–19666 Filed 9–14–73;8:45 am]

### DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

#### Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Housing and Urban Development to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary for Research and Technology, Immediate Office, Assistant Secretary for Research and Technology.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY, *Executive Assistant to the Commissioners.*

[FR Doc.73–19667 Filed 9–14–73;8:45 am]

### DEPARTMENT OF THE INTERIOR

#### Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary—Mineral Resources (Minerals and Energy Policy, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY, *Executive Assistant to the Commissioners.*

[FR Doc.73–19668 Filed 9–14–73;8:45 am]

## COUNCIL ON ENVIRONMENTAL QUALITY

### ENVIRONMENTAL IMPACT STATEMENT

#### Notice Public Availability

Environmental Impact Statements Received By The Council On Environmental Quality From September 3 Through September 7, 1973.



V 38 179 SEP 17 73 XUM

NOTE.—At the head of the listing of statements received from each agency is the name of an individual who can answer questions regarding those statements.

DEPARTMENT OF AGRICULTURE

Contact: Dr. Fred H. Tschirley, Acting Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 331-E, Administration Building, Washington, D.C. 20250, 202-447-3965.

FOREST SERVICE

*Draft*

Lake Tahoe Basin Management Plan, Alpine, El Dorado, and Placer Counties, Calif., August 31: The statement refers to a proposed general management plan for National Forest lands in the Lake Tahoe Basin. The plan covers approximately 116,000 acres of land. Proposed is the addition of overnight camping facilities which will accommodate from 20,000 to 30,000 persons at a time. Land management decisions for the 5,400 acre Lincoln Creek inventoried roadless area on the Toiyabe National Forest are among those considered (approximately 200 pages). (ELR Order No. 31443.) (NTIS Order No. EIS 73 1443-D.)

Fox Planning Unit, Six River National Forest, Del Norte County, Calif., August 31: The statement refers to a proposed land use management plan for the Fox Planning Unit, Six River National Forest. The plan applies to 30,000 acres of National Forest lands, of which 15,000 acres have been inventoried as roadless. The Unit has been divided into 7 zones. Four zones, comprising 17,350 acres, will be managed for timber harvest; the remaining 42 percent of the Unit would maintain its natural condition. Low density recreation would be available throughout the Unit; one zone would be managed for medium recreation development and use. Mineral resources could be utilized (67 pages). (ELR Order No. 31447.) (NTIS Order No. EIS 73 1447-D.)

Spanish Peaks, Gallatin National Forest, Gallatin and Madison Counties, Mont., August 31: Proposed is the implementation of a multiple use plan for the Spanish Peaks Management unit of the Gallatin National Forest. The 82,000 acre Unit includes the 50,000 acre Spanish Peaks Primitive Area. The existing Primitive Area and an additional 15,000 acres will be managed as wilderness; another 13,000 acres will be managed as a roadless dispersed recreation area until Congress establishes a new wilderness boundary. Timber harvest and roads will be prohibited in most of the unit, and severely restricted in the area adjacent to the Gallatin River. Restrictions will be placed on visitors to the Spanish Peaks (54 pages). (ELR Order No. 31444.) (NTIS Order No. EIS 73 1444-D.)

*Final*

Communication Sites, Chugach and Tongass National Forest's, Alaska, September 7: Proposed is the construction of radio communication sites for 22 mountain top locations on National Forest lands in the Southeast, Prince William Sound, and Kenai peninsula areas of Alaska. There will be adverse visual impacts, and noise from servicing helicopters, which may frighten wildlife (approximately 160 pages). Comments made by: EPA, DOI, FAA, State, and local agencies, and concerned citizens. (ELR Order No. 31475.) (NTIS Order No. EIS 73 1475-F.)

Mazatzal Wilderness, Maricopa County, Ariz., September 6: The statement refers to the proposed drilling (to 1,000') of 3 sites by private parties who have located 22 mining claims in the Wilderness, which is part of the Tonto National Forest. The purpose of the action is that of determining the economic mineral potential of the claims. The operation would necessitate construction of an access road, the development of a water source (which could affect downstream riparian habitat) and the leveling of sites and the deposition of sludge with resultant lasting scars upon the landscape. This is in conflict with the basic philosophy of wilderness. If mining results, a portion of the wilderness could be lost. Comments made by: USDA, DOI, EPA, State agencies, and concerned citizens. (ELR Order No. 31465.) (NTIS Order No. EIS 73 1465-F.)

Cedar/Bassett Planning Unit, Gallatin, National Forest, Park County, Mont., August 31: Proposed is the implementation of a revised multiple use plan for the Cedar/Bassett Planning Unit of the Gallatin National Forest. Under the plan 80% of the Unit would remain in a roadless and undeveloped state; 20% would be committed to timber harvest and road construction. Opportunities for solitude and primitive type recreation experience will be temporarily reduced on portions of the Unit. Impacts to the natural landscape, vegetation, soil, water, and wildlife will occur (140 pages). (ELR Order No. 31445.) (NTIS Order No. EIS 73 1445-D.)

South Cottonwood Planning District, Gallatin National Forest, Gallatin County, Mont., August 31: Proposed is the implementation of the revised multiple use plan for the 16,400 acre South Cottonwood Planning Unit, Gallatin National Forest. Approximately 50% of the Unit will be maintained in a roadless state; 20% is presently roaded. The remaining 30% of the Unit will be developed for timber harvest activities, with road construction. Three minimum developed end-of-road facilities will be constructed. Opportunities for solitude and primitive type recreation will be reduced on portions of the area previously unroaded. Impact will occur due to alteration of the landscape and disturbance to vegetation, soil, water, and wildlife (52 pages). (ELR Order No. 31446.) (NTIS Order No. EIS 73 1446-D.)

Vegetation Manipulation with Herbicides, Rio Arriba and Catron Counties, N. Mex., September 6: The proposal is for the use of the herbicide 2, 4-D on several areas of the Apache and Santa Fe National Forests, in order to control invading sagebrush, rabbitbrush, snakeweed, and pinque (105 pages). Comments made by: DOI, EPA, State and private agencies. (ELR Order No. 31463.) (NTIS Order No. EIS 73 1463-F.)

Pinyon-Juniper Chaining, several counties in Utah, September 6: Proposed is a program for control of the growth of pinyon-juniper on 6,000 to 8,000 acres of National Forest lands in Utah annually. The proposed method is that of chaining. There will be disturbance of surface soils (121 pages). Comments made by: USDA, DOI, EPA, HEW, State, local, and private agencies. (ELR Order No. 31464.) (NTIS Order No. EIS 73 1464-F.)

SOIL CONSERVATION SERVICE

*Final*

Hurricane Creek Watershed, Humphreys and Dickson Counties, Tenn., September 6: The statement refers to a project which would include the use of land treatment measures and the construction of 7 floodwater retarding structures and 1 multipurpose (floodwater and industrial water supply) structure, in order to reduce floodwater damage and erosion on 4,820 acres of floodplain. Approximately 163 acres of upland wildlife habitat will be lost; 353 acres will be altered by construction; 239 acres will be periodically disturbed (47 pages). Comments made by: COE, HEW, TVA, DOI, EPA, State agencies, and one concerned citizen. (ELR Order No. 31466.) (NTIS Order No. EIS 73 1466-F.)

DEPARTMENT OF DEFENSE, ARMY CORPS

Contact: Mr. Francis X. Kelly, Director, Office of Public Affairs, Attn: DAEN-PAP, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-7168.

*Draft*

Talofofo Bay, Guam, September 5: Proposed is a shore protection plan which would provide 900 feet of revetment between the right bank of the Talofofo River mouth and the existing revetment at Gayloup Point. There will be temporary water turbidity from construction; access to the shoreline would be impaired by the structure (Honolulu District) (14 pages). (ELR Order No. 31459.) (NTIS Order No. EIS 73 1459-D.)

Indian Bend Wash, Maricopa County, Ariz., September 5: Proposed is the construction of flood control and recreational facilities in the cities of Scottsdale and Tempe. There will be an interceptor channel, a siphon, and a dike, a greenbelt floodway, and an outlet channel. Included also will be a wildlife sanctuary and a nature area, a park, and a fishing lake. Approximately 41 acres of land will be committed to the project; 790 acres of open space will be preserved (80 pages). (ELR Order No. 31458.) (NTIS Order No. EIS 73 1458-D.)

Cape Cod Canal Plant, Unit 2, Massachusetts, September 4: Proposed is the addition of a 560 MW oil fueled unit to the plant, removal of a 300-foot stack, and modification to Unit 1 to enable common use of a single 500-foot stack and a cooling water discharge system. The two utilities seeking the regulatory permits are the Canal Electric Company and the Montaup Electric Company. A total of 800 c.f.s. (an addition of 426 c.f.s.) of Cape Cod Canal seawater will be used for cooling, with discharge of 28° F above ambient. There will be entrainment and entrapment of marine biota (Waltham District) (2 volumes). (ELR Order No. 31450.) (NTIS Order No. EIS 73 1450-D.)

*Final*

Anna Marie Key, Manatee County, Fla., September 6: Proposed is the restoration of 3.2 miles of eroded beach along the Gulf shore of Anna Marie Key. Approximately 940,000 cu. yds. of material will be dredged from offshore and placed on the beach. Adverse impact will be to marine biota (Jacksonville District) (40 pages). Comments made by: USDA, USCG, DOT, EPA, DOC, DOI, OEO, state agencies, and concerned citizens. (ELR Order No. 31462.) (NTIS Order No. EIS 73 1465-F.)

Great Lakes Connecting Channels, Chippewa County, Mich., September 5: The document is a supplement to a final statement (ELR Order 1557, NTIS Order No. PB-199 855-F) which was filed with the Council on January 3, 1972. The additional action is the widening of a seventh channel bend of the St. Mary's River, in order to provide safer navigation for larger vessels using the waterway. Dredging and disposal operations will damage aquatic biota; recreational boating and fishing will be adversely affected; greater wave wash of larger vessels could contribute to shore erosion problems (Detroit District). Comments made by: EPA, DOC, USCG, DOI, USDA, FPC, and one Canadian agency. (ELR Order No. 31458.) (NTIS Order No. EIS 73 1458-F.)

Bay Ridge and Red Hook Channels, N.Y., September 7: The proposed project is the maintenance dredging of the existing navigation channel; with spoil being dumped in the New York Bight. Temporary turbidity will adversely affect marine life (New York District). Comments made by: DOI, USDA, DOC, DOD, HEW, DOT, FPC, state, local, and regional agencies. (ELR Order No. 31470.) (NTIS Order No. EIS 73 1470-F.)

Buffalo Harbor, Tonawanda River, Erie County, N.Y., September 7: The proposed project consists of the construction and operation of a diked disposal area for containment of polluted maintenance dredge spoil from Buffalo River, Buffalo Harbor, Black Rock Channel, and Tonawanda Harbor. The disposal site is located immediately south of the south entrance of the Buffalo Outer Harbor and adjacent to the Bethlehem Steel Corporation's Lackawanna Plant. Adverse impacts of the project include turbidity of the water during construction, unsightliness during construction and filling, and possible noxious odors (approximately 100 pages). Comments made by: DOI, EPA, and state agencies. (ELR Order No. 31473) (NTIS Order No. EIS 73 1473-F.)

Thimble Shoal Channel, Va., September 7: The statement refers to the proposed maintenance dredging of the Thimble Shoal Channel which is located in the lower portion of the Chesapeake Bay Mouth between Hampton Roads and the Atlantic Ocean. The existing project provides for a channel 60,000' long, 1,000' wide, and 45' deep at mean low water, with auxiliary channels 450' feet wide and 32' deep at mean low water adjoining each side of the 1,000-foot channel. Spoil will be deposited in the Dam Neck disposal area. Adverse effects include the loss of benthic organisms and temporary turbidity and siltation (Norfolk District) (32 pages). Comments made by: EPA, DOC, DOI, and one state agency. (ELR Order No. 31471) (NTIS Order No. EIS 73 1471-F.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Sheldon Meyers, Director, Office of Federal Activities, Room 3630, Waterside Mall, Washington, D.C. 20460 (202) 755-0940.

*Final*

Sewage System, Hollywood and Pembroke Pines, Broward County, Fla., September 6: The statement refers to Federal grants assistance for the construction of a larger collection system and a more advanced wastewater treatment plant for Hollywood, and a transmission system which will route wastewater from Pembroke Pines to the treatment plant at Hollywood. Treatment at Hollywood will be upgraded from primary to secondary, with plant capacity remaining constant at 36 MGD. Effluent discharge will continue to be to the Atlantic Ocean. Six acres will be committed to the new facilities. (The statement "Ocean Outfalls and Other Methods of Treated Wastewater Disposal in Southeast Florida," NTIS Order No. EIS 73 0491F, 3/22/73, should be considered with this.) Comments made by: USDA, COE, DOI, DOT, HEW, HUD, USN, state, local, and private agencies. (ELR Order No. 31460) (NTIS Order No. EIS 73 1460-F.)

FEDERAL POWER COMMISSION

Contact: Dr. Richard F. Hill, Acting Advisor on Environmental Quality, 441 G Street NW., Washington, D.C. 20426 (202) 386-6084.

*Draft*

LNG Importation, Eascogas and Distrigas, New York and Rhode Island, September 6: The statement refers to applications by Eascogas LNG, Inc., and Distrigas, Inc., for the importation of liquified natural gas from Algeria to terminals at Staten Island, New York, and Providence, Rhode Island. Facilities will be constructed to unload, store, revaporize, and distribute the gas. There will be construction on an unloading dock, two 900,000 barrel LNG storage tanks, vaporizer units, and appurtenant facilities. Distrigas has also filed an application to construct and operate 6,000 feet of 24 inch transmission line with a 2,675 foot, 30 inch underwater pipe loop. Environmental impact would occur with respect to man, vegetation, soils, wildlife, water and air quality, noise levels. (ELR Order No. 31461) (NTIS Order No. EIS 73 1461-D.)

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Andrew F. Kauders, Executive Director of Environmental Affairs, General Services Administration, 18th and F Streets, NW., Washington, D.C. 20405, (202) 343-4161.

*Draft*

Sand Point Naval Air Station, Seattle, Wash., August 31: The statement refers to the proposed disposal of the 313 acre Station, with its 4,800' aircraft runway, 150 acres of paved taxiways and aprons, three large hangars, four storage buildings, and 52 other miscellaneous structures. Seventy acres (including an additional 25 acres to be acquired from the Navy) will be transferred to the National Oceanic and Atmospheric Administration; 108 acres will be conveyed to the State of Washington for airport use; 160 acres will be assigned to the Bureau of Outdoor Recreation for conveyance to the City of Seattle for park and recreation use (91 pages). (ELR Order No. 31449) (NTIS Order No. EIS 73 1449-D.)

*Final*

Federal Office Building, Oklahoma City, Okla., August 31: The proposal is for the construction of a new Federal Office building in Oklahoma City. The 441,000 gross sq. ft. building will house several Federal agencies, and will provide parking for 600 vehicles. The site is in an urban renewal area of the City. There will be adverse impact from construction disruption (108 pages). Comments made by: AEC, AHB, DOI, DOT, EPA and state agencies. (ELR Order No. 31448) (NTIS Order No. EIS 73 1448-F.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Acting Director, Office of Community and Environmental Standards, Room 7206, 451 7th Street SW., Washington, D.C. 20410 (202) 755-5980.

*Final*

St. Joseph Urban Renewal Project, Missouri, September 6: The statement refers to a conventional urban renewal project, which includes conservation, rehabilitation, clearance, and redevelopment activities for a forty block downtown area of St. Joseph. There will be adverse impact to historical areas, including some listed on the National Register of Historic Places (145 pages). Comments made by: AHP, EPA, DOC, DOI, COE, HEW, DOT, state, and local agencies. (ELR Order No. 31454) (NTIS Order No. EIS 73 1454-F.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 7260, Department of the Interior, Washington, D.C. 20240 (202) 343-3891.

BUREAU OF RECLAMATION

*Draft*

San Luis Water District, Merced and Fresno Counties, Calif., September 4: Proposed is the construction of an irrigation water distribution system, which will consist of a pressure pipeline system and five miles of open canal. Water will be supplied for 19,800 acres now irrigated; 15,800 acres presently not irrigated will be irrigated. The blunt-nosed leopard lizard and the San Joaquin kit fox, both endangered species, will lose a small part of habitat (50 pages). (ELR Order No. 31452) (NTIS Order No. EIS 73 1452-D.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Quality, 400 7th Street SW., Washington, D.C. 20590 (202) 426-4357.

FEDERAL AVIATION ADMINISTRATION

*Final*

Pratt Municipal Airport, Pratt County, Kans., September 5: The project consists of the preparation of a Master Plan for the Pratt Municipal Airport. Improvement recommended in the plan will take place over a 20-year planning period. Increased aircraft operations will result in an increase in noise and air pollution (56 pages). Comments made by: GSA, EPA, DOI, USDA and COF. (ELR Order No. 31457) (NTIS Order No. EIS 73 1457-F.)

FEDERAL HIGHWAY ADMINISTRATION

*Final*

SR 20, Florida, Lauderdale County, Ala., August 31: The proposed project is the relocation of 9.3 miles of Alabama Route 20. The facility will traverse the Burcham Creek causing increased erosion. Displacements will include 15 families and 2 businesses. Increases in noise and air pollution will occur (35 pages). Comments made by: COE, DOI, EPA, HUD and state and regional agencies. (ELR Order No. 31440) (NTIS Order No. EIS 73 1440-F.)

U.S. 280, Tallapoosa County, Ala., August 31: The statement refers to the proposed improvement of U.S. Highway 280 to provide an adequate four lane facility from the Tallapoosa River Bridge to Dadeville. Length of the project is 8.06 miles. Approximately 25 families and 3 businesses will be displaced. Adverse effects are erosion, water, air, and noise pollution, and destruction of some wildlife habitat (38 pages). Comments made by: DOC, USDA, HEW, EPA, DOI, HUD, DOD, DOT, and state agencies. (ELR Order No. 31442) (NTIS Order No. EIS 73 1442-F.)

*Final*

Shady Grove Road, Montgomery County, Md., August 31: The statement considers the construction of 2.5 miles of 4 lane roadway, between Maryland Routes 355 and 115. Approximately 37 acres of land would be acquired for right-of-way (51 pages). Comments made by: USDA, EPA, HEW, HUD, DOI, DOT, and state agencies. (ELR Order No. 31436) (NTIS Order No. EIS 73 1436-F.)

Rt. 183, Randolph Road, Montgomery County, Md., September 4: The proposed project is the relocation and redesign of Rt. 183 (Randolph Road) to a six land divided highway from Georgia Avenue to New Hampshire Avenue. Length is 2.9 miles. A 4(f) statement has been submitted to obtain 3.8 acres of land from the Northwest Branch Park (Wheaton Regional Park). An unspecified amount of land will be acquired. The project will increase noise and air pollution levels (296 pages). Comments made by: DOI, EPA, state and local agencies, and concerned citizens. (ELR Order No. 31453) (NTIS Order No. EIS 73 1453-F.)

Nebraska Highway No. 14, Nebr., August 31: The proposed project is the reconstruction of 3.5 miles of Nebraska Highway 14 between U.S. 136 and the Nelson City Limits. An unspecified amount of land will be acquired for right of way. A 4(f) review is required to







V 38 179 SEP 17 73 XUM

obtain land from a park, club and camp area. The project will increase noise and air pollution levels. Loss of wildlife will occur (61 pages). Comments made by: USDA, COE, DOI, DOT, EPA, and state agencies. (ELR Order No. 31441) (NTIS Order No. EIS 73 1441–F.)

State Highway 33, Delaware County, Okla., August 31: The proposed project consists of developing a 4-lane divided highway, primarily on new alignment for that segment of SH 33 from SH 10, easterly 12.7 miles to the Arkansas State line. Adverse impacts of the action include displacement of 27 single families dwellings and 7 businesses and the reduction of pasture lands (43 pages). Comments made by: DOI, EPA, and state agencies. (ELR Order No. 31439) (NTIS Order No. EIS 73 1439–F.)

Airport Road, El Paso County, Tex., August 31: The statement refers to the proposed improvement of Airport Road (FAM 5022)—Fred Wilson Road (FAM 5023) from Haan Road to U.S. 54, a distance of 2.35 miles. The action consists of eliminating the at-grade railroad crossing near Railroad Drive, minor realignment, widening of traffic lanes, overlaying of deficient pavement, and improvement of traffic signals, etc. (54 pages). Comments made by: COE, HEW, USDA, EPA, DOIS, and State and local agencies. (ELR Order No. 31437) (NTIS Order No. EIS 73 1437–F.)

State Highway 72, Karnes County, Tex., August 31: The proposed project consists of constructing a new pavement with paved shoulders. The project length is 2 miles with approximately one half on new location. Adverse effects on the environment include erosion, water pollution, destruction of plant vegetation, and urban congestion (13 pages). Comments made by: USDA, HEW, COE, DOI, EPA, and DOT. (ELR Order No. 31438) (NTIS Order No. EIS 73-1438–F.)

West Seattle Freeway, Washington, August 31: Proposed is the construction of a 3-mile limited access facility between Interstate 5 and 36th Avenue Southwest within the existing Spokane Street corridor. Major components of the project include twin high-level fixed span bridges over the West Waterway; interchanges at major arterials; a bascule bridge to provide for local circulation between Harbor Island and West Seattle; exclusive transit lanes; and landscaping. Approximately 20 families and 50 busineses will be displaced to acquire additional right-of-way (3 volumes). Comments made by: COE, EPA, HUD, DOT, USCG, and State and local agencies. (EIR Order No. 31435) (NTIS Order No. EIS 73 1435–F.)

U.S. WATER RESOURCES COUNCIL

Contact: Mr. Don Maughan, Director, 2120 L Street NW., 8th Floor, Washington, D.C. 20037 (202) 254-6303.

*Final*

Principles and Standards for Planning, September 4: The Principles and Standards for Planning Water and Related Land Resources are established to achieve cooperatively determined objectives through the coordinated actions of the Federal, State and Local governments; private enterprise and organizations and individuals. Objectives are to enhance national economic development and enhance the quality of the environment by management, conservation, preservation, creation, restoration or improvement (13 pages). (ELR Order No. 31451) (NTIS Order No. EIS 73 1451–F.)

The following statement was inadvertently deleted from its appropriate FEDERAL REGISTER listing. It was received by the Council on July 13, 1973.

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Deputy Assistant Secretary for Environmental Affairs, Department of Commerce, Washington, D.C. 20230 (202) 967-4335.

*Final*

Foreign Trade Sub-Zone 9A, Oahu County, Hawaii, July 13: Proposed is the modification of a grant for Foreign-Trade Sub-Zone 9A, issued to the State of Hawaii. The modification would permit the construction and operations of a synthetic natural gas plant at Ewa. Operation would be by Gasco, Inc. The gas will be piped 22 miles to Honolulu. Adverse impact will include the emission of 1,311 lbs/day of air pollution; and the emission of 20 gpm of process water into a disposal well (125 pages). Comments made by: EPA and one state agency and concerned citizens. (ELR Order No. 31169) (NTIS Order No. EIS 73 1169–F.)

TIMOTHY ATKESON,
*General Counsel.*

[FR Doc.73-19710 Filed 9-14-73;8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19773; FCC 73-933]

### BROADCASTS OF SPORTS EVENTS

#### Order Further Extending Time for Filing Comments in Notice of Inquiry

In the matter of practices of licensees and networks in connection with broadcasts of sports events.

1. On June 13, 1973, the Commission adopted a Notice of Inquiry in the above-captioned proceeding. Publication was given in the FEDERAL REGISTER on June 29, 1973, 38 FR 17270. The comment date designated was July 30, 1973.

2. Subsequently, Columbia Broadcasting System, Inc., the National Hockey League, and the Commissioner of Baseball, by counsel, separately filed requests for an extension to and including Saturday, September 15, 1973, for filing of comments, and based upon the reasons set forth for their requests, the Commission on July 19, 1973, (38 FR 19915), ordered that the date for filing comments be extended to an including September 17, 1973.

3. On August 31, 1973, the American Broadcasting Companies, Inc. (ABC), by counsel, requested that the Commission further extend the time for filing comments in the above-captioned proceeding to and including October 15, 1973. ABC states that since it operates a television network which offers extensive sports programming, it desires to participate fully in this proceeding; that in order to respond fully and properly to the various factual questions, it has undertaken a comprehensive review of the many and varied contracts and other material which bear upon the matter, and that, furthermore, the legal issues attendant to the inquiry require careful examination and analysis. ABC states that while progress has been made in formulating responsive comments and many contracts already have been analyzed, it finds that additional time will be necessary to provide information of maximum assistance to the Commission, and that its task has been further complicated by conflicting commitments of ABC personnel and counsel. It states, finally, that other Commission proceedings of perhaps less significance and demanding less time to prepare comments, have allowed a longer period for commenting than here is requested.

4. Accordingly, because of the benefit of having meaningful data and comments from parties able to shed light on the subject of the inquiry, and based on ABC's representations, *It is ordered,* That the date for filing comments is extended to and including (Monday) October 15, 1973. However, as was stated in the prior Order extending the comment deadline, it is undersirable to delay this proceeding unduly. Therefore, it is not anticipated that further extensions of time will be granted.

5. This action is taken pursuant to authority found in Sections 4(i) and 303 (r) of the Communications Act of 1934, as amended.

Adopted September 6, 1973.

Released September 11, 1973.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

[FR Doc.73-19690 Filed 9-14-73;8:30 am]

[Report 665],

### COMMON CARRIER SERVICES INFORMATION [1]

#### Domestic Public Radio Services Applications Accepted for Filing [2]

SEPTEMBER 10, 1973.

Pursuant to §§ 1.227(b)(3) and 21.30 (b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the list below, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed below if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attenton of any party in interest desiring to file pleadings pursuant to sec. 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

Applications Accepted For Filing:

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

20218-C2-AL-74—Marie E. Tadlock d/b/as Tadlock's Radio Dispatch. Consent to Assignment of License from Marie E. Tadlock d/b/as Tadlock's Radio Dispatch, ASSIGNOR, to Terry Dorothy Garcia, Conservator of the person and estate of Marie E. Tadlock, d/b/as Tadlock's Radio Dispatch, ASSIGNEE. Station: KMA259, Guinda, California.

20219-C2-P-74—Telephone Communications, Inc. (New). C.P. for a new 2-way station to operate on 454.125 MHz at 4 South Genessee Street, Waukegan, Illinois.

20220-C2-P-74—Tel-Car Corporation (New). C.P. to change antenna system and location to 9200 South Dadeland Boulevard, South Miami, Florida, operating on 152.24 MHz (1-way) Loc. #3.

20221-C2-P-74—The Bell Telephone Company of Pennsylvania (KGC412). C.P. to change antenna system and location, replace transmitter and to change power, operating on 152.57 MHz at Tiadaghton, 1.9 miles south of Montoursville, Pennsylvania.

20222-C2-P-74—Ashtabula Telephone Company (New). C.P. for a new 1-way station to operate on 158.10 MHz, at 4616 Park Avenue, Ashtabula, Ohio.

20249-C2-P-74—Teton Radiocom, Inc. (New). C.P. for a new 1-way signaling station to operate on 158.70 MHz at 81 Willow Street, Jackson, Wyoming.

20250-C2-P-74—Teton Radiocom, Inc. (New). C.P. for a new 2-way station to operate on 152.03 MHz at 81 Willow Street, Jackson, Wyoming.

20251-C2-R-74—The Bell Telephone Company of Pennsylvania (KC7944). Renewal of License expiring 8-7-73. TERM: 8-7-73 to 8-7-74 (Developmental).

20252-C2-P-(2)-74—Wisconsin Telephone Company (KSA804). C.P. to change antenna system, antenna location, control point location, replace transmitter, and to change power operating on 152.63 and 152.57 MHz, at 5.0 miles South of Green Bay, Town of Glenmore, Brown County, Green Bay, Wisconsin.

*Major Amendments*

2953-C2-P-(3)-72—Empire Communications Company (New), Eugene, Oregon. Amend to change the location of control station #2 to 392 East 3rd Street, Eugene, Oregon. Also, change the frequency of the control station transmitter at Loc. #1 to 75.98 MHz. All other particulars are to remain as reported on PN # 571 dated November 22, 1972, and amended by PN #593, dated April 24, 1972.

2344-C2-P-73—Charles H. Beard d/b/as Grandbury Communications Company (New), Granbury, Texas. Amend to change base frequency to 152.03 MHz. All other particulars are to remain the same as reported on PN #618, dated 10-16-72.

*Informative*

It appears that the following applications may be mutually exclusive and subject to the Commission's Rules regarding ex parte presentations, by reasons of potential electrical interference.

*Wisconsin*

Racine Private Police, Inc. (New), 1172-C2-P-(2)-73.

*Illinois*

Northern Illinois Radio Phone (KTS200), 1942-C2-P-73.

*Corrections*

20192-C2-P-(2)-74—Aircall, Inc. (KIY779). Correct to read adding control facilities on 454.100 MHz and to change antenna system, antenna location, power, and to replace transmitter at base station location operating on 152.24 MHz.

8939-C2-P-(5)-73—South Central Bell Telephone Company (KIB389). Correct to read: relocating 454.375 and 454.525 MHz to a new site to be identified as Loc. #4 (Base), also freq.: 454.450 and 454.475 MHz, at Approx. 7.9 miles NE. of Signal Mountain, Tennessee. And to add test facilities 157.77, 157.89, 158.07, 459.450, and 459.475 MHz at 919 Lindsay St., Chattanooga, Tennessee.

POINT TO POINT MICROWAVE RADIO SERVICE

688-C1-P-74—American Television and Communications Corporation. (New) Charlotte, North Carolina. Lat. 35°10'52" N., Long. 80°46'33" W. C.P. for new station on frequency: 11,015H MHz toward Concord, North Carolina, on azimuth 31°21'.

689-C1-P-74—Same. (New) 0.5 mile North of Concord, North Carolina. Lat. 35°23'42.5" N., Long. 80°37'0.5" W. C.P. for a new station on frequency: 11,305V MHz toward Salisbury, North Carolina, on azimuth 22°00'.

690-C1-P-74—Same. (New) One mile North of Salisbury, North Carolina. Lat. 35°42'02" N., Long. 80°27'55" W. C.P. for a new station on frequency: 11,015V MHz toward Lexington, North Carolina, on azimuth 50°53'.

691-C1-P-74—Same. (New) One mile NE. of Lexington, North Carolina. Lat. 35°50'45.5" N., Long. 80°14'59" W. C.P. for a new station on frequency: 11,305H MHz toward High Point, North Carolina on azimuth 60°08'.

692-C1-P-74—Same. (New) One mile West of High Point, North Carolina. Lat. 35°58'59.5" N., Long. 80°03'41" W. C.P. for a new station on frequency: 6034.2V MHz toward Greensboro, North Carolina, on azimuth 55°34'. (NOTE.—A waiver of Section 2.1701(i) is requested by American Television & Communications Corp.)

693-C1-P-74—Same. (New) Greensboro, North Carolina. Lat. 36°03'46" N., Long. 79°48'54" W. C.P. for a new station on frequency: 6345.5H MHz toward Burlington, North Carolina, on azimuth 71°48'.

694-C1-P-74—Same. (New) Two miles NW. of Burlington, North Carolina. Lat. 36°08'25" N., Long. 79°31'23" W. C.P. for a new station on frequencies: 6286.2H MHz and 6345.5H MHz toward Chapel Hill, North Carolina, on azimuth 132°00'.

695-C1-P-74—Same. (New) Four miles SW. of Chapel Hill, North Carolina. Lat. 35°52'20" N., Long. 79°09'28.5" W. C.P. for a new station on frequencies: 6034.2H MHz and 6093.5H MHz toward Durham, North Carolina, on azimuth 80 41'.

696-C1-P-74—South Central Bell Telephone Company. (KJA21). 1316 Adams Street, Montgomery, Alabama. Lat. 32°22'26" N., Long. 86°17'24" W. C.P. to add a transmitter and frequency: 4010V toward Ramer, Alabama, on azimuth 174°08'.

697-C1-P-74—Same. (KJA22) Approx. 2.3 miles SSW. of Ramer, Alabama. Lat. 32°01'16" N., Long. 86°14'51" W. C.P. to add transmitter and frequencies: 3970H toward Troy, Alabama, on azimuth 129°21'; 3970V toward Houston Hills, Ala., on azimuth 354°10'.

698-C1-P-74—Same. (KJA25) 1 mile NE. of Troy, Alabama. Lat. 31°49'06" N., Long. 85°57'30" W. C.P. to add transmitter and frequencies: 3710H toward Rutledge, Ala., on azimuth 258°39'; 4010H toward Ramer, Ala., on azimuth 309°30'.

699-C1-P-74—Same. (KJN20) Approx. 1.8 miles N. of Rutledge, Ala. Lat. 31°45'26" N., Long. 86°18'42" W. C.P. to add transmitter and frequencies: 3750H toward Boykin, Ala., on azimuth 224°35'; 3750H toward Troy, Ala., on azimuth 78°28'.

700-C1-P-74—South Central Bell Telephone Company. (KJN22). Approx. 1 mile NE. of Evergreen, Alabama. Lat 31°26'48" N., Long. 86°56'24" W. C.P. to add transmitter and frequencies: 3750H toward Brewton, Ala., on azimuth 212°31'; 3750H toward Boykin, Ala., on azimuth 77°05'.

701-C1-P-74—Same. (KJG73) Approx. 1.2 miles West of Flomaton, Alabama. Lat. 30°59'53" N., Long. 87°17'23" W. C.P. to add transmitter and frequencies: 3970V toward Atmore, Ala., on azimuth 274°07'; 3970V toward Brewton, Ala., on azimuth 36°09'.

702-C1-P-74—Same. (KJN21) Boykin. Approx. 7.5 miles ESE. of McKenzie, Alabama. Lat. 31°30'54" N., Long. 86°35'24" W. C.P. to add transmitter and frequencies: 3710H toward Evergreen, Ala., on azimuth 257°15'; 3710H toward Rutledge, Ala., on azimuth 44°26'.

703-C1-P-74—Same. (KJN24) 6.5 miles NW. of Brewton, Ala. Lat. 31°09'26" N., Long. 87°09'16" W. C.P. to add transmitter and frequencies: 4010V toward Flomaton, Ala., on azimuth 216°13'; 3710H toward Evergreen, Alabama, on azimuth 32°25'.

704-C1-P-74—Same. (KJG71) West 14th Street, Bay Minette, Alabama. Lat. 30°53'33" N., Long. 87°47'36" W. C.P. to add transmitter and frequencies: 3970V toward Mobile, Ala., on azimuth 227°36'; 3970V toward Atmore, Alabama, on azimuth 64°10'.

705-C1-P-74—Same. (KJG72) 1.1 miles SW. of Atmore, Alabama. Lat. 31°00'41" N., Long. 87°30'27" W. C.P. to add transmitter and frequencies: 4010V toward Bay Minette, Ala., on azimuth 244°19'; 4010V toward Flomaton, Ala., on azimuth 94°01'.

[1] All applications listed below are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

[2] The above alternative cutoff rules apply to those applications listed below as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio, and Local Television Transmission Services (part 21 of the rules).







V 38 1179 SEP 17 73 XUM

706-C1-P 74—Same. (KJA85). 100 North Franklin Street, Mobile, Alabama. Lat. 30°41'31'' N., Long. 88°02'50'' W. C.P. to add transmitter and frequency 4010V toward Bay Minette, Alabama, on azimuth 47°29'.

707-C1-P 74—Southern Bell Telephone and Telegraph Company. (KJG26). Glassy Mountain; approx. 3 miles ENE. of Pickens, South Carolina. Lat. 34°54'00'' N., Long. 82°39'36'' W. C.P. to add a transmitter and frequencies: 6197.2H toward Anderson, South Carolina, on azimuth 179°03'; 6197.2V toward Clemson, South Carolina, on azimuth 214°00'.

708-C1-P-74—Same. (KIY63) 218 College Street, Greenville, South Carolina. Lat. 34°51'19'' N., Long. 82°24'00''. C.P. to add a transmitter and frequency: 5945.2V toward Glassy Mtn., South Carolina, on azimuth 281°52'.

709-C1-P-74—Same. (KJH51) 461 East Main Street, Spartanburg, South Carolina. Lat. 34°57'07'' N., Long. 81°55'12'' W. C.P. to replace transmitter operating on frequency 3910V, add transmitter and add frequencies: 5974.8H toward West Springs, South Carolina, on azimuth 146°09'; 6152.8H, 5974.8H toward Gaffney, S.C. on azimuth 67°22'.

710-C1-P-74—Southern Bell Telephone and Telegraph Company. (KJH52). 0.7 mile SE. of West Springs, South Carolina. Lat. 34°45'40'' N., Long. 81°46'35'' W. C.P. to add a transmitter and frequency: 10,875H toward Union, South Carolina, on azimuth 108°48'.

711-C1-P-74—Same. (KJX36.) 2 miles South of Gaffney, South Carolina. Lat. 35°02'55'' N., Long. 81°38'14'' W. C.P. to delete frequency 6204.6V MHz and add 6226.9H MHz, 6404.8H toward Filbert, South Carolina, on azimuth 90°15', and add frequency 6226.9V toward Spartanburg, S.C., on azimuth 247°31'.

712-C1-P-74—Same. (KIY61) 208 Broad Street, Clinton, South Carolina. Lat. 34°28'13'' N., Long. 81°52'55'' W. C.P. to change antenna system, add a transmitter, and frequency 6004.5H toward Greenwood, S.C., on azimuth 215°58'.

713-C1-P-74—Same. (KIN55) 5.5 miles North of Kershaw, South Carolina. Lat. 34°37'37'' N., Long. 80°33'04'' W. C.P. to add a transmitter and frequency: 11445V toward Pageland, S.C., on azimuth 41°42'.

714-C1-P-74—Same. (KJH41) 7 miles West of Hartsville, South Carolina. Lat. 34°21'25'' N., Long 80°12'03'' W. C.P. to add a transmitter and frequencies: 6345.5H toward Society Hill, S.C., on azimuth 66°12'; 6345.5V toward Kershaw, S.C., on azimuth 313°03'.

715-C1-P-74—Same. (KJH42) 2.2 miles SW. of Society Hill, South Carolina. Lat. 34°28'51'' N., Long. 79°51'37'' W. C.P. to add a transmitter and frequency; 6093.5H toward Bennettsville, S.C., on azimuth 47°16'.

716-C1-P-74—Same. (KJA97) 213 South Colt Street, Florence, South Carolina. Lat. 34°11'39'' N. C.P. to add a transmitter and frequency: 6152.8V toward Marion, S.C., on azimuth 92°34'.

717-C1-P-74—Same. (KJA98) Pine at Harlee Street, Marion, South Carolina. Lat. 34°10'47'' N., Long. 79°23'53'' W. C.P. to add a transmitter and frequencies: 6404.8V toward Dillon, S.C., on azimuth 5°52'; 6375.2V toward Gurley, S.C., on azimuth 121°40'.

718-C1-P-74—Same. (KJA99) Harrison at 4th Avenue, Dillon, South Carolina. Lat. 34°25'02'' N., Long. 79°22'07'' W. C.P. to change antenna system, Freqs. 5937.8H, and 6056.4H.

719-C1-P-74—Same. (KJB48) 2 miles SE. of intersection of S.C. County Road No. 7 and No. 37, South Carolina. Lat. 34°07'26'' N., Long. 80°24'41'' W. C.P. to add transmitter and frequencies: 6226.9H toward Sumter, S.C., on azimuth 163°49'; 6226.9V, 6286.2V toward Bishopville, S.C., on azimuth 54°31'.

720-C1-P-74—Same. (KJA71) 1209 Broad Street, Camden, S.C. Lat. 34°14'57'' N., Long. 80°36'26'' W. C.P. to add a transmitter and add frequencies: 5974.8H via power split toward Pleasant Hill, S.C., on azimuth 349°59' and toward Spring Hill, S.C., on azimuth 127°32'; 6004.5V toward Pleasant Hill, S.C., on azimuth 349°59'.

721-C1-P-74—Southern Bell Telephone and Telegraph Company. (KJB49) 15 South Harvin Street, Sumter, South Carolina. Lat. 33°55'08'' N., Long. 80°20'24'' W. C.P. to add transmitter and frequencies: 5974.8V toward Spring Hill, S.C., on azimuth 343°51'; 6063.8V toward Manning, S.C., on azimuth 155°03'.

722-C1-P-74—Same. (KJW87) 2 miles NW. of Lake City, South Carolina. Lat. 33°53'-38'' N., Long. 79°46'02'' W. C.P. to add transmitter and frequencies: 375OH, 383OH toward Lane, South Carolina, on azimuth 195°36'.

723-C1-P-74—Same. (KJM86) 1 mile NW. of Lane, South Carolina. Lat. 33°32'08'' N., Long. 79°53'12'' W. C.P. to change antenna system, add transmitter and frequencies: 371OH, 379OH toward Moncks Corner, S.C., on azimuth 198°24'; 6004.5V toward Andrews, South Carolina, on azimuth 107°13'.

724-C1-P-74—Same. (KIY59) 1645 Hampton Street, Columbia, South Carolina. Lat. 34°00'29'' N., Long. 81°01'42'' W. C.P. to add a transmitter and frequency: 5974.8V toward Swansea, S.C., on azimuth 188°11'.

725-C1-P-74—Same. (KJC87) 1.7 miles East of Swansea, South Carolina. Lat. 33°44'42'' N., Long. 81°04'25'' W. C.P. to add transmitter and frequencies: 6226.9V via power split toward Orangeburg, S.C., on azimuth 144°29' and toward Blackville, S.C., on azimuth 208°09'; 6315.9H toward Orangeburg, S.C., on azimuth 144°29'.

726-C1-P-74—Same. (KJC88) Approx. 4 miles NNW. of Blackville, South Carolina. Lat. 33°24'55'' N., Long. 81°17'02'' W. C.P. to add a transmitter and add frequency: 6152.8V and H via power split toward Allendale, S.C., on azimuth 188°02' and toward Montmorenci, S.C., on azimuth 289°04'.

727-C1-P-74—Same. (KJC89) 3 miles NW. of Allendale, S.C. Lat. 33°01'56'' N., Long. 81°20'53'' W. C.P. to add a transmitter and frequency: 3970V toward Walterboro, S.C., on azimuth 107°30'.

728-C1-P-74—Same. (KJC90) 8.5 miles West of Walterboro, South Carolina. Lat. 32°53'16'' N., Long. 80°48'34'' W. C.P. to add transmitter and frequencies: 4010V toward Summerville, S.C., on azimuth 91°49'; 6152.8H toward Lobeco, S.C., on azimuth 171°22'.

729-C1-P-74—Same. (KJC91) 10 miles SW. of Summerville, South Carolina. Lat. 32°52'20'' N., Long. 80°16'22'' W. C.P. to add a transmitter and frequency: 3970V toward Charleston, S.C., on azimuth 160°59'.

730-C1-P-74—Same. (KJH35) 1.5 miles West of Montmorenci, South Carolina. Lat. 33°31'26'' N., Long. 81°39'40'' W. C.P. to add a transmitter and frequency: 10,875H toward Aiken, S.C., on azimuth 302°47'.

731-C1-P-74—Same. (KJH36) 231 Laurens St., Aiken, S.C. Lat. 33°33'30'' N., Long. 81°43'30'' W. C.P. to delete frequency 5967.4 and add frequencies: 6034.2H 6152.8H toward Johnston, S.C., on azimuth 347°09', change antenna system and replace transmitter.

732-C1-P-74—Southern Bell Telephone and Telegraph Company (KJJ71) 401 Addison Street, Johnston, South Carolina. Lat. 33°49'50'' N., Long. 81°47'58'' W. C.P. to change antenna system.

406-C1-P-74—The Mountain States Telephone (KLO88) 13.5 miles ESE. of Artesia, New Mexico. Lat. 32°48'14'' N., Long. 104°10'40'' W. C.P. to replace transmitter, change pts. of communication and add frequency 6004.5V toward Maroon Cliffs, N.M., on azimuth 138°19'.

759-C1-P-74—Florida Telephone Corporation. (KIL61) 54 East Second Street, Apopka, Florida. Lat. 28°40'29'' N., Long. 81°30'35'' W. C.P. to change antenna system, replace transmitter, and for additional facilities. Frequencies: 6226.9V, 6345.5V toward Leesburg, Fla., on azimuth 292°57'; 6286.2V, 6404.8V toward Winter Garden, Fla., on azimuth 212°45'.

760-C1-P-74—Same. (KIO44). Winter, Florida. Lat. 28°34'02'' N., Long. 81°35'09'' W. C.P. to change antenna system, replace transmitter, and for additional facilities. Frequencies: 6152.8H, 6034.2H toward Apopka, Fla., on azimuth 32°45'.

761-C1-P-74—Same. (KIO66) 425 North Third Street, Leesburg, Florida. Lat. 28°48'54'' N., Long. 81°52'38'' W. C.P. to change antenna system, replace transmitter, and for additional facilities. Frequencies: 5974.8V, 6093.5V toward Apopka, Fla., on azimuth 112°57'.

*Informative*

File nos. 762-C1-P-74 through 764-C1-P-74 (The Mountain States Telephone and Telegraph Company requests authorization to provide additional circuit capacity and one channel for video service by broadbanding and also proposes to change antenna system (KKK57, KKK68, KLU90).

*Major Amendments*

9949-C1-MP-73—Data Transmission Company. (WQP25) 5.0 miles SE. of Tuttle, Oklahoma. Mod. of C.P. (3001-C1-P-70). Change polarization of frequency 6152.8 MHz toward El Reno to vertical.

9953-C1-MP-73—Same. (WQP29) 4.0 miles NE. of Perkins, Oklahoma. Mod. of C.P. (3005-C1-P-70). Change frequency on azimuth 30°05' toward Camp Creek to 6404.8 MHz (H).

9954-C1-MP-73—Same. (WQP30) Camp Creek, 9.0 miles E. of Glencoe, Oklahoma. Mod. of C.P. (3006-C1-P-70). Change frequency on azimuth 216°12' toward Perkins to 6152.8 MHz (H). Change frequency on azimuth 78°23' toward Waresha Creek to 5945.2 MHz (H).

9955-C1-MP-73—Same. (WQP31) Waresha Creek, 5.0 miles E. of Osage, Oklahoma. Mod. of C.P. (3007-C1-P-70). Change frequency on azimuth 258°38' toward Camp Creek to 6197.2 MHz (V).

*Informative*

The above cited applications were initially filed June 20, 1973, as informal application for minor changes, and therefore did not appear on any previous public notice.

7009-C1-MP-73—Data Transmission Company. (WKR42) 6.0 miles W. of Spring, Texas. Change polarization and azimuth of frequency 6404.8 MHz toward Houston to horizontal and 160°10'. (All other particulars same as reported on Public Notice dated 4-2-73 and 9-4-73.)

3341-C1-P-73—American Television and Communications Corporation. (New) Station located 1 mile North of Reidsville, N.C. Lat. 36°23'46'' N., Long. 79°39'43'' W. Amendment to add points of communication. Frequency 6049.0V MHz (via power split) toward Burlington, North Carolina, on azimuth of 156°14'. (NOTE.—A waiver of Section 21.701(i) is requested by American.)





Applications filed pursuant to sec. 214 of the Communications Act of 1934, as amended:

TELEPHONE WIRE FACILITIES

P-C-8725—The Bell Telephone Company of Pennsylvania & The Ohio Bell Telephone Company INFORMAL (SECTION 63.03). For authority to supplement existing facilities between Sharon, Pennsylvania, and Youngstown, Ohio.

P-C-8726—American Telephone and Telegraph Company FORMAL (SECTION 63.01). For authority to supplement existing facilities between Dranesville, Virginia, and Faulkner, Maryland, and Arlington, Virginia, and Dranesville, Virginia.

P-C-8727—ITT World Communications, Inc., FORMAL (SECTION 63.01). For authority to lease and operate one voice-grade circuit between Washington, D.C., and Tuckerton, New Jersey.

P-C-8728—ITT Communications, Inc., Virgin Islands FORMAL (SECTION 63.01). For authority to lease one voice-grade circuit in the Magens Bay terminal of the Magens Bay/Tortola Microwave System to Compania Anonima Nacional Telefonos de Venezuela.

P-C-8729—Southern Pacific Communications Company INFORMAL (SECTION 63.03). For authority to supplement existing facilities between San Francisco, California, and Mount Vaca, California.

P-C-8612-1—New England Telephone and Telegraph Company INFORMAL (SECTION 63.03). For authority to supplement existing facilities between Hyannis, Massachusetts, central office and an existing radio repeater site in Barnstable, Massachusetts.

[FR Doc.73-19597 Filed 9-14-73;8:45 am]

## FEDERAL POWER COMMISSION

[Docket No. RP74-10]

### ARKANSAS LOUISIANA GAS CO.

### Notice of Proposed Changes in Rates Charged

SEPTEMBER 7, 1973.

Take notice that on August 17, 1973, the Arkansas Louisiana Gas Co. of Shreveport, Louisiana (Arkla) tendered for filing its First Revised Sheet No. 152 and Supplement No. 1 of Rate Schedule XFS-24 to Arkla's FPC Gas Tariff Original Volume No. 3. Arkla proposes to charge $0.20075 per M c.f. (Including $.00075 per M c.f. Tax Reimbursement) under the above rate schedule, and requests that the change in rates become effective October 1, 1973. Arkla states that its rate schedule concerns a gas purchase contract dated November 1, 1962, between Arkla and the Natural Gas Pipeline Company of America covering Arkla's interests in wells in Bryans Mill Field, Cass County, Texas.

Arkla states that the proposed increase amounts to approximately $330 per year and results from the normal operation of a periodic price escalation clause in Article Nine of the contract between the parties, and the tax reimbursement provided for in Article Ten of the contract. Arkla further states that notice of the proposed rate charge has been served upon all parties involved.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 21, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19692 Filed 9-14-73;8:45 am]

[Docket No. CI74-163]

### CITIES SERVICE OIL CO.

### Notice of Application

SEPTEMBER 10, 1973.

Take notice that on September 4, 1973, Cities Service Oil Company (Applicant), P.O. Box 300, Tulsa, Oklahoma 74102, filed in Docket No. CI74-163 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Transwestern Pipeline Company from acreage in Eddy County, New Mexico, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it commenced the sale of natural gas on August 13, 1973, within the contemplation of § 157.29 of the Regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sale for 22 months from October 12, 1973, within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). Applicant proposes to sell approximately 275,000 M c.f. of gas per month at 52.0 cents per M c.f. until August 13, 1974, and 54.0 cents per M c.f. thereafter. The rates are subject to upward and downward Btu adjustment.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 24, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19969 Filed 9-14-73;8:45 am]

[Docket Nos. E-8198 and E-8105, et al.]

### CONNECTICUT LIGHT AND POWER CO.

### Order Accepting Initial Rate Schedule, Initiating Investigation and Consolidating Proceedings

SEPTEMBER 10, 1973.

On May 14, 1973, Connecticut Light and Power Co. (C.L. & P.) filed with the Commission a Rate Schedule consisting of a Transmission Agreement (Agreement) dated April 1, 1973, between C.L. & P., The Hartford Electric Light Co. (HELCO) and Western Massachusetts Electric Co. (Western Massachusetts) (collectively, Northwest Utilities or NU) and Vermont Electric Power Co., Incorporated (VELCO). The Agreement provides for a transmission service to VELCO for the period from May 1, 1973, through October 31, 1973. C.L. & P. states that the execution of the Agreement was delayed pending the formalization and execution of underlying purchase agreements between VELCO and Consolidated Edison Co. of New York, Incorporated. C.L. & P. requests that the Commission waive its thirty-day notice requirement and permit the rate schedule to become effective as of May 1, 1973.

The filing was noticed on June 11, 1973, with protests and petitions to intervene due on or before July 6, 1973. No such petitions or protests were received.

We shall treat this filing as an initial filing and grant waiver of the notice requirements so as to allow for an effective date of May 1, 1973. The proposed rates, according to C.L. & P., would include overall rates of return for NU of 8.22 percent and a return on equity of 12.2 percent. Our review of the filing indicates that the proposed rates may not be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential or otherwise unlawful. Accordingly, we will institute an



V 38-179
SEP 17 73
XUM

investigation under Section 206 of the Federal Power Act to determine the justness and reasonablenes of the filed rates.

We note that the issues in this proceeding are substantially the same as those in Docket No. E–8105, et al., wherein we ordered. on July 10, 1973, a section 206 investigation into the justness and reasonableness of the rates as proposed in that docket. We shall therefore consolidate the investigation ordered herein with that instituted in that docket. Since the parties are presently preparing their evidence in Docket No. E–8105, adherence to the procedural dates set forth in that docket, which we order hereinafter, will not unduly prejudice the parties to this docket.

*The Commission finds*

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission enter upon an investigation to determine if the rates and charges contained in C.L. & P.'s proposed rate schedule are in the public interest.

(2) Good cause exists to consolidate Docket Nos. E–8198 with E–8105, et al.

(3) The disposition of this proceeding should be expedited in accordance with the procedure set forth in Docket No. E–8105 et al., by our order issued July 10, 1973.

(4) Waiver of our notice requirements should be granted to permit an effective date of May 1, 1973, for the filing in Docket No. E–8198.

*The Commission orders*

(A) Pursuant to the authority of the Federal Power Act, particularly section 206 thereof, the Commission's rules of practice and procedure, and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be htld to determin if the rates, charges, classifications and services contained in C.L. & P.'s proposed rate schedule are in the public interest.

(B) Docket Nos. E–8198 and E–8105, et al., are hereby consolidated since the be held to determine if the rates, charges, issues of fact and law are substantially the same, and the disposition of Docket No. E–8198 shall be expedited in accordance with the procedures set forth in Docket No. E–8105, et al.

(C) Waiver of our notice regulations as to the filing in Docket No. E–8198 is granted and the rates are permitted to become effective May 1, 1973.

(D) The Secretary of the Commission shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73–19697 Filed 9–14–73;8:45 am]

---

[Docket No. E–7723]

## DELMARVA POWER AND LIGHT CO.

### Notice of Motion for Approval of Settlement Agreement

SEPTEMBER 7, 1973.

Take notice that on August 30, 1973, Delmarva Power and Light Company (Delmarva) filed with the Commission a motion for approval of an attached Stipulation and Agreement which is intended to resolve all issues in the above-captioned proceedings. Delmarva also requests that all further proceedings be suspended pending resolution of its motion. Delmarva proposes an effective date of March 1, 1973, for the settlement agreement, the date the rates became effective subject to refund.

Under the proposed settlement, the increased charges presently in effect subject to refund are reduced in the aggregate amount of $170,000 based on 1972 revenues.

Copies of this filing are on file with the Commission and are available for public inspection. Any person desiring to comment upon the settlement offer should file such comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before September 14, 1973.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73–19693 Filed 9–14–73;8:45 am]

---

[Docket No. RP74–7]

## EL PASO NATURAL GAS CO.

### Notice of Tariff Filing

SEPTEMBER 7, 1973.

Take notice that on August 1, 1973, El Paso Natural Gas Co. (El Paso) filed pursuant to Part 154 of the Commission's Regulations Under the Natural Gas Act, Second Revised Sheet No. 56 to its FPC Gas Tariff, First Revised Volume No. 3, applicable to its Northwest Division System. El Paso states that the purpose of the changes proposed by the tendered tariff sheet is to modify the Purchased Gas Cost Adjustment Provision (PGAC), as contained in said tariff, to permit El Paso to include in PGAC rate adjustments any changes in the current level of unit amounts per Mcf payable to owners of overriding royalty interests,[1] attributable to leases acquired by El Paso prior to October 7, 1969, which may hereafter be awarded by arbitration boards.

El Paso states that it concluded arbitration proceedings before a board of arbitrators on July 12, 1973, with Sun Oil Co. (Sun), pursuant to the terms of a Lease Sale Agreement dated September 26, 1952; for the determination of the unit amount per Mcf of the overriding royalty. El Paso states that it may be faced with paying increased royalty to Sun effective as of January 5, 1973, or a later date as may be established by the board of arbitrators and therefore requests waiver of notice requirements of § 154.22 of the Commission's Regulations and that the Commission accept the tendered tariff sheet for filing and permit it to become effective on that date or such later date as may be established by said board for any increase in the unit amount per Mcf awarded Sun. The decision of the board of arbitrators in this matter may be expected at sometime prior to September 1, 1973.

The filing includes as Appendix A a listing of all of El Paso's lease sale agreements containing arbitration provisions which have now reached a point in their respective terms where, failing agreement of El Paso and the overriding royalty interest owner on a redetermined price for a five-year period, arbitration can be expected to follow. The filing indicates in the attached Appendix B that El Paso's exposure for each 1¢ increase in the unit amount per Mcf of the subject overriding royalty under such lease agreements could approximate an increase of $107,868 annually in El Paso's Northwest Division System cost of gas which would result in an increase in El Paso's Northwest Division System rates now under suspension at Docket No. RP 73–109 by an average of 0.023¢ per Mcf.

El Paso further requests that waiver of the Commission's rules and regulations, including § 154.38(d)(4), be granted as may be necessary to implement the instant filing.

Any person desiring to be heard or to make any protest with reference to said tariff tender should, on or before September 28, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations Under the Natural Gas Act (18 CFR 15.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc 73–19700 Filed 9–14–73;8:45 am]

---

[Docket No. CI73–521]

## McCULLOCH OIL CORP.

### Order Granting Intervention and Fixing Date for Hearing

SEPTEMBER 7, 1973.

The above-named Applicant has filed an application pursuant to section 7(c) of the Natural Gas Act,[1] and pursuant to § 2.75 [2] of the Commission's general policy statements, the optional procedure for certificating new producer sales of natural gas set forth in Order No. 455,[3] (hereinafter § 2.75) for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas in interstate commerce.

On February 5, 1973, McCulloch Oil Corp. (McCulloch) filed in Docket No. CI73–521 an application pursuant to § 2.75 of the Commission's rules of practice and procedure (18 C.F.R. § 2.75) for authorization to sell natural gas to Northern Natural Gas Co. (Northern) from the Olsen Prospect, Ellis County, Oklahoma (Hugoton-Anadarko Area). The sales contract, dated December 27, 1972, extends for a term of twenty (20) years, and provides for an initial price of 45.5 cents per Mcf with a 1.0 cent per Mcf escalation every year of the contract term. The contract further provides for upward and downward Btu adjustments from 1,000 Btu per cubic foot and reimbursement to McCulloch for 100 percent of any new or additional taxes.

Upon McCulloch's acceptance of a certificate, Northern is obligated to pay over $350,000 with recoupment to be accomplished by Northern withholding one-sixtieth (1/60) of the prepayment per month for the first five years of the contract term.

Initial deliveries were commenced pursuant to § 2.75n (18 CFR 2.75n) on June 5, 1973, at a rate of approximately 120,000 M c.f. per month.

Notice of McCulloch's application was issued on February 15, 1973, and published in the FEDERAL REGISTER on February 22, 1973 (38 FR 4811). Timely protests or petitions to intervene were due on or before March 12, 1973. Timely petitions to intervene were filed by the following parties:

American Public Gas Association
Associated Gas Distributors
Northern Natural Gas Company

A formal hearing has been requested, and we find a hearing is desirable to determine, on the record, whether the present and future public convenience and necessity will be served by certificating these sales, and whether the proposed rate is just and reasonable, taking into consideration all factors bearing on maintenance of an adequate and reliable supply of gas, delivered at the lowest reasonable cost.[4]

This hearing is not the proper forum for the relitigation of the propriety of the § 2.75 procedures; that matter is now before the Court of Appeals. See n. 3, supra. This hearing will be addressed solely to the issues of public convenience and necessity, and the justness and reasonableness, of the particular sale, and rate herein proposed.

Those parties and intervenors desiring to submit cost and non-cost data should structure their evidence to reflect the tests under § 2.75 for determining the justness and reasonableness of the rate sought.

No intervenor has questioned Northern's need for the additional natural gas supplies that will be available to it as a result of these purchases. Accordingly, we shall require Northern to present evidence as to whether or not a comparable supply of natural gas is available to it at any rate lower than the rates proposed in these applications.

*The Commission finds*

(1) It is necessary and in the public interest that the above-docketed proceeding be set for a formal hearing.

(2) It is desirable and in the public interest to allow the above-named petitioner to intervene in this proceeding.

*The Commission orders*

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 7, 14, 15, and 16 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter I) a public hearing on the issues presented by the applications herein shall be held commencing October 16, 1973, at 10 a.m., e.d.t., in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

(B) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding pursuant to the Commission's rules of practice and procedure.

(C) Applicant and all intervenors supporting the applications shall file their direct testimony and evidence on or before September 17, 1973. All testimony and evidence shall be served upon the Presiding Administrative Law Judge, the Commission Staff, and all parties to these proceedings.

(D) The Commission Staff and all intervenors opposing the applications shall file their direct testimony and evidence on or before September 24, 1973. All testimony and evidence shall be served upon the Presiding Administrative Law Judge, and all other parties to these proceedings.

(E) All rebuttal testimony and evidence shall be served on or before October 1, 1973. All parties submitting rebuttal testimony and evidence shall serve such testimony and evidence upon the Presiding Administrative Law Judge, the Commission Staff, and all other parties to these proceedings.

(F) The above-named petitioners are permitted to intervene in these proceedings subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in said petitions for leave to intervene; and *Provided, further,* That the admission of such interests shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any order or orders of the Commission entered in these proceedings.

(G) The Administrative Law Judge's decision shall be rendered on or before November 23, 1973. All briefs on exceptions shall be due on or before November 30, 1973, and replies thereto shall be due on or before December 7, 1973.

By the Commission.

[SEAL] KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73–19698 Filed 9–14–73;8:45 am]

---

[Docket No. CP74–53]

## SEA ROBIN PIPELINE CO.

### Notice of Application

SEPTEMBER 7, 1973.

Take notice that on August 27, 1973, Sea Robin Pipeline Co. (Applicant), P.O. Box 1407, Shreveport, Louisiana, filed in Docket No. CP74–53 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction, during the twelve-month period commencing September 1, 1973, and operation of natural gas purchase facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The purpose of this "budget-type" application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system supplies of natural gas in various producing areas generally coextensive with said system.

Applicant requests a waiver of paragraphs (1)(i) and (1)(ii) of § 157.7(b) of the Commission's Regulations under the Natural Gas Act, which limit Applicant under the requested authorization to a total of $7,000,000 worth of gas purchase facilities with no single project in excess of twenty-five percent of $7,000,000, so that it may construct under the requested authorization up to $10,000,000 worth of gas purchase facilities with no single project in excess of $2,500,000. Applicant asserts that this waiver is necessary because the facilities proposed herein will be constructed in deep water, at great distances from shore, with periods for safely conducted construction activities severely limited by capricious weather, all of which substantially increase construction costs.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 2, 1973, filed with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the

---

[1] The term overriding royalty refers to overrides and production payments, expressed in cents-per-M c.f., contained in certain of El Paso's lease salt agreements under which certain oil and gas leases were acquired by El Paso in the San Juan Basin area of northwestern New Mexico and southwestern Colorado. Such agreements provide for escalation of the unit amount per M c.f. of such overriding royalty up to a ceiling amount (usually at the end of fifteen years) and for redetermination thereafter; failing agreement of the parties to redetermine the unit amount per M c.f. for each subsequent five-year period, provision is made for arbitration.

[1] 15 U.S.C. section 717, *et seq.* (1970).
[2] 18 CFR 2.75.

[3] Statement Of Policy Relating To Optional Procedure For Certificating New Producer Sales of Natural Gas, Docket No. R–441, — F.P.C. — (issued August 3, 1972, appeal pending *sub nom. John E. Moss, et al.* v. *F.P.C.*, No. 72–1837 (D.C. Cir.)

[4] *Opinion And Order Issuing Certificate Of Public Convenience and Necessity And Determining Just And Reasonable Rates,* Opinion No. 659, *Belco Petroleum Corporation, Agent, et al.,* Docket Nos. CI73–293, *et al.*, — F.P.C. —, — (issued May 30, 1973, slip op. at para. 21, p. 5).





V 38-179
SEP 17 73
XUM

Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19699 Filed 9-14-73;8:45 am]

[Docket No. RP73-99]

## SOUTHWEST GAS CORP.

### Notice of Postponement of Procedural Dates

SEPTEMBER 10, 1973.

On September 4, 1973, Commission Staff Counsel filed a motion for a postponement of the procedural dates set by the order issued on May 25, 1973, in the above-designated matter. Counsel states that no parties object to the motion.

Upon consideration, notice is hereby given that the procedural dates in this matter are postponed as follows:

Staff Service Date, September 25, 1973.
Prehearing Conference, October 2, 1973, 10 a.m., e.d.t.
Intervenor Service Date, October 9, 1973.
Southwest Gas Corporation, Rebuttal Service Date, October 23, 1973.
Hearing, November 6, 1973, 10 a.m., e.s.t.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc. 73-19696 Filed 9-14-73;8:45 am]

[Docket No. CI74-151]

## ROY M. TEEL

### Notice of Application

SEPTEMBER 10, 1973.

Take notice that on August 29, 1973, Roy M. Teel (Applicant), 3311 East 30th Street, Tulsa, Oklahoma 74114, filed in Docket No. CI74-151 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to United Gas Pipe Line Company from acreage in Ouachita Parish, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that he commenced the sale of natural gas on August 8, 1973, within the contemplation of § 157.29 of the Regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sale for one year from the end of the 60-day emergency period within the contemplation of § 2.70 of the Commission's Policy and Interpretations (18 CFR 2.70). Applicant proposes to sell approximately 15,000 M c.f. of gas per month at 45.0 cents per M c.f. at 15.025 p.s.i.a., subject to downward Btu adjustment.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 17, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19670 Filed 9-14-73;8:45 am]

[Docket No. CI74-164]

## TERRA RESOURCES, INC.

### Notice of Application

SEPTEMBER 10, 1973.

Take notice that on September 4, 1973, Terra Resources, Inc. (Applicant), 5416 South Yale Avenue, Tulsa, Oklahoma 74135, filed in Docket No. CI74-164 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale of natural gas to El Paso Natural Gas Company from production in the Hat Top Area, Nolan, County, Texas, and delivery of said gas at Union Texas Petroleum's Perkins Natural Gasoline Plant in Coke County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell approximately 22,500 M c.f. of gas per month for two years at 45.0 cents per M c.f. at 14.65 p.s.i.a. within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70).

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 24, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19671 Filed 9-14-73;8:45 am]





[Docket Nos. RP71-130, RP72-58]

## TEXAS EASTERN TRANSMISSION CORP.

### Notice of Prehearing Conference

SEPTEMBER 7, 1973.

On May 31, 1973, Texas Eastern Transmission Co. (TETCO) filed with the Commission Revised Sheets to its FPC Gas Tariff which reflect a curtailment program consistent with the priorities set forth in the Commission Order 467-B (Docket No. R-469). On June 11, 1973, TETCO filed Substitute Second Revised Sheet No. 92 modifying the curtailment priorities by including in priority-of-service category 2 all firm industrial requirements of up to 300 M c.f. per day.

The Commission, by its order of August 30, 1973, accepted for filing the tendered sheets, suspended them for one day, and provided for a hearing to determine the justness and reasonableness of the provisions contained therein. TETCO filed a motion on September 4, 1973, placing the proposed tariff sheets into effect on September 5, 1973.

Many of the intervenors have requested that a conference be held prior to the hearing, which is scheduled to commence on November 13, 1973, in order to discuss, among other things, issues relating to the implementation of the new curtailment plan.

Accordingly, an informal conference, to be presided over by the Commission's Staff, will be held on Tuesday, September 18, 1973, at 10:00 a.m., in hearing room "A" of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19694 Filed 9-14-73;8:45 am]

[Docket No. RP72-64]

## TEXAS GAS TRANSMISSION CO.

### Notice of Petition for Extraordinary Relief

SEPTEMBER 7, 1973.

Take notice that on August 27, 1973, Jackson Utility Division, an agent of the City of Jackson, Tennessee (Jackson), filed a petition for extraordinary relief, requesting the Commission to grant it under expedited procedure the right to overrun its Quantity Entitlement for the 1973 Summer Season as contained in Texas Gas Transmission Corporation's (Texas Gas) FPC Gas Tariff, Third Revised Volume No. 1, by the amount of approximately 100,000 M c.f. and to reduce its 1973-74 Winter Season Entitlement contained in Texas Gas' FPC Gas Tariff by the actual amount of said overrun; and also to relieve it of the seasonal overrun penalty of $5.00 per M c.f. as provided in § 10.4 of the general terms and conditions of Texas Gas' FPC Gas Tariff.

Jackson states that the relief here sought will not modify its total entitlements on an annual basis and that its supplier, Texas Gas, is believed to have no objection to granting of the extraordinary relief requested.

Jackson alleges that during the months of April and May 1973, weather conditions and temperatures in its service area were approximately 41 percent colder than normal, resulting in additional gas requirements for its residential and commercial customers. It estimates that its requirements for the 1973 summer season will exceed its Quantity Entitlement by about 100,000 M c.f., thereby resulting in a penalty of about $500,000. It asserts that a grant of the relief requested will not adversely affect its ability to serve its firm residential and commercial customers.

Petitioner owns and operates a propane-air peak-shaving facility, but because of the very low turn-down ratio of the plant, it cannot inject sufficient propane-air into its system during low flow summer season periods to prevent the anticipated overrun. It has curtailed industrial interruptible usage during July-August 1973, but believes that maximum curtailment of gas for the remainder of the summer season cannot prevent the estimated seasonal overrun.

Texas Gas has advised Jackson and its other customers that Texas Gas does not contemplate curtailing present Quantity Entitlements prior to the end of the 1973-74 winter season.

It appears reasonable and consistent with the public interest in this proceeding to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to protest said application, should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10) on or before September 14, 1973. The notices and petitions for intervention previously filed in this proceeding will not operate to make those parties interveners or protestants with respect to the instant filing. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Commission's rules. This filing which was made with the Commission is available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19695 Filed 9-14-73;8:45 am]

[Docket No. CI74-155]

## UNION OIL COMPANY OF CALIFORNIA

### Notice of Application

SEPTEMBER 10, 1973.

Take notice that on August 30, 1973, Union Oil Co. of California (Applicant), P.O. Box 7600, Los Angeles, California 90051, filed in Docket No. CI74-155 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to El Paso Natural Gas Company from the South Corbin Morrow Field, Lea County, New Mexico, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell approximately 15,000 M c.f. of gas per month for three years at 45.0 cents per M c.f. at 14.65 p.s.i.a. subject to upward and downward Btu adjustment within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70).

It appears reasonable and consistent with the public interest in this case to provide a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 24, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19672 Filed 9-14-73;8:45 am]

## FEDERAL RESERVE SYSTEM

### FORT WORTH NATIONAL CORP.

### Order Approving Acquisition of Bank

The Fort Worth National Corporation, Fort Worth, Texas, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3 (a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares (less directors' qualifying shares) of Levelland State Bank, Levelland, Texas.



V38-179 SEP 17 73 XUM

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none has been timely received. The Board has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls six banks [1] with aggregate deposits of approximately $878 million, representing 2.5 percent of the total deposits of commercial banks in the State. Applicant ranks as the fifth largest multibank holding company in Texas and the largest in the Fort Worth banking market, where it controls approximately 31 percent of the total commercial bank deposits in that market. (All banking data are as of December 31, 1972, and reflect bank holding company formations and acquisitions approved by the Board through July 15, 1973.)[2] In addition, Applicant controls between 24.4 percent and 24.9 percent of the voting shares of two other banks located in the Fort Worth market, holding aggregate deposits of $74.1 million. Applicant also owns in excess of 5 percent of the shares of the First National Bank, Paducah, Texas. Upon consummation of the acquisition of Bank ($27.4 million in deposits), Applicant's share of commercial bank deposits in the State would increase by 0.07 percent and its rank would remain unchanged.

Bank is the largest of 4 banks in the Hockley County banking market and controls 56.6 percent of the commercial bank deposits therein. The second largest bank in the market holds 31.1 percent of total deposits and is affiliated within a holding company system. Consummation of the proposal would constitute Applicant's initial entry into the relevant market.

Applicant's subsidiary bank closest to Bank is located in Amarillo, 130 miles north of Levelland, and it appears that there is no meaningful competition between any of Applicant's subsidiary banks and Bank. Furthermore, in view of the distances involved and the restrictive branching laws in Texas, it appears unlikely that any significant amount of competition would develop in the future between any of these institutions. Although Applicant could enter Bank's market de novo, this method of expansion is not likely because of the market's declining population and relatively low population to banking office ratio compared with the State average. On the basis of the record before it, the Board concludes that consummation of the proposed transaction would not have an adverse effect on competition in any relevant area.

The financial and managerial resources of Applicant and its subsidiaries appear satisfactory and future prospects for all are favorable. Bank's managerial resources are satisfactory and its future prospects are considered to be good; the financial condition of Bank is satisfactory in light of Applicant's commitment to inject additional equity capital upon consummation of this proposal. There is no evidence in the record to indicate that the banking needs of the residents of Bank's market are not being adequately served. Upon consummation, however, Applicant intends to improve the trust services of Bank, increase the capital available for industrial and agricultural development, provide more long-term mortgage financing, and introduce computer facilities to Bank. Introduction of these new facilities and increased service capabilities should enable Bank to continue to adequately serve the community. Therefore, considerations relating to the convenience and needs of the community to be served are consistent with approval of the application. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Dallas pursuant to delegated authority. Further, the transaction shall not be consummated until there has been compliance with § 3(e) of the Act (12 U.S.C. 1842(e)) which requires that every bank that is a holding company and every bank that is a subsidiary of such a company shall become and remain an insured bank as such term is defined in § 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h)).

By order of the Board of Governors,[3] effective September 6, 1973.

[SEAL] CHESTER B. FELDBERG,
*Secretary of the Board.*

[FR Doc.73-19647 Filed 9-14-73;8:45 am]

[1] Bank of Fort Worth, Riverside State Bank, and Tarrant State Bank, all located in Fort Worth, are deemed subsidiaries for purposes of the Bank Holding Company Act by virtue of Applicant's fiduciary holdings in said banks and section 2(a)(5)(A) of the Act.

[2] The above banking data do not reflect Board action on separate applications by Applicant to acquire The First State Bank of Stratford, Stratford, Texas (deposits of $21.6 million) approved by Order dated August 16, 1973 and Commercial Bank & Trust Co., Midland, Texas (deposits of $30.3 million) approved by Order of August 23, 1973.

[3] Voting for this action: Vice Chairman Mitchell and Governors Brimmer, Sheehan, Bucher, and Holland. Absent and not voting: Chairman Burns and Governor Daane.

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 73-72]

### PRECISION CONTROL PRODUCTS CORP.

### Notice of Intent To Grant Exclusive Patent License

Notice is hereby given of intent to grant to Precision Control Products Corporation, Waltham, Massachusetts, a limited, exclusive, revocable license to practice the invention described in U.S. Patent No. 3,750,067 for "Ferrofluidic Solenoid", issued on July 31, 1973 to the Administrator of the National Aeronautics and Space Administration on behalf of the United States of America. The proposed exclusive license will be for a limited number of years, will provide for payment of royalties to the U.S. Government and will contain other appropriate terms and conditions to be negotiated in accordance with the NASA Patent Licensing Regulations, 14 CFR § 1245.2, as revised April 1, 1972. NASA will grant the exclusive license unless, on or before October 17, 1973, the Chairman, Inventions and Contributions Board, NASA, Washington, DC, 20546, receives in writing any of the following, together with supporting documentation: (i) a statement from any person setting forth reasons why it would not be in the best interest of the United States to grant the proposed exclusive license; or (ii) an application for a nonexclusive license under such invention, in accordance with § 1245.206(b) in which applicant states that he has already brought or is likely to bring the invention to practical application within a reasonable period. The Board will review all written responses to the Notice and then recommend to the Administrator whether to grant the exclusive license.

SEPTEMBER 11, 1973.

R. TENNEY JOHNSON,
*General Counsel.*

[FR Doc.73-19691 Filed 9-14-73;8:45 am]

## SECURITIES AND EXCHANGE COMMISSION

[File No. 7-4442]

### BANISTER CONTINENTAL LTD.

### Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

SEPTEMBER 10, 1973.

In the matter of application of the PBW Stock Exchange, Inc., for unlisted trading privileges in a certain Security.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B), of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Banister Continental Ltd. File No. 7-4442 (Alberta)

Upon receipt of a request, on or before September 26, 1973, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-19648 Filed 9-14-73;8:45 am]

[File No. 7-4449]

### ESMARK, INC.

### Notice of Applications for Unlisted Trading Privileges and of Opportunity for Hearing

SEPTEMBER 10, 1973.

In the matter of applications of the Pacific Stock Exchange, Inc., for unlisted trading privileges in certain securities.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

Esmark, Inc. File No. 7-4449

Upon receipt of a request, on or before September 26, 1973, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-19655 Filed 9-14-73;8:45 am]





[File No. 7-4441]

### TELEPROMPTER CORP.

### Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

SEPTEMBER 10, 1973.

In the matter of application of the PBW Stock Exchange, Inc., for unlisted trading privileges in a certain security.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Teleprompter Corporation. File No. 7-4441

Upon receipt of a request, on or before September 26, 1973, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-19651 Filed 9-14-73;8:45 am]

[File No. 7-4447]

### MOTOROLA, INC.

### Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

SEPTEMBER 10, 1973.

In the matter of application of the PBW Stock Exchange, Inc., for unlisted trading privileges in a certain security.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Motorola, Inc. (Delaware) File No. 7-4447

Upon receipt of a request, on or before September 26, 1973, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-19650 Filed 9-14-73;8:45 am]

[File No. 7-4448]

### MERRILL LYNCH & CO., INC.

### Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

SEPTEMBER 10, 1973.

In the matter of application of the PBW Stock Exchange, Inc., for unlisted trading privileges in a certain security.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Merrill Lynch & Co., Inc. File No. 7-4448

Upon receipt of a request, on or before September 26, 1973, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Marketing Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-19654 Filed 9-14-73;8:45 am]



V 38 179 SEP 17 73 XUM

[File No. 74446]

## MERRILL LYNCH & CO., INC.

### Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

SEPTEMBER 10, 1973.

In the matter of application of the Boston stock exchange, for unlisted trading privileges in a certain security.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Merrill Lynch & Co., Inc---- File No. 7-4446

Upon receipt of a request, on or before September 26, 1973, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-19653 Filed 9-14-73;8:45 am]

[File No. 7-4444]

## ICN PHARMACEUTICALS, INC.

### Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

SEPTEMBER 10, 1973.

In the matter of application of the Boston stock exchange, for unlisted trading privileges in a certain security.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

ICN Pharmaceuticals, Inc--- File No. 7-4444

Upon receipt of a request, on or before September 26, 1973, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-19652 Filed 9-14-73;8:45 am]

[File No. 7-4440]

## ESMARK, INC.

### Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

SEPTEMBER 10, 1973.

In the matter of application of the PBW Stock Exchange, Inc., for unlisted trading privileges in a certain security.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Esmark, Inc---------- File No. 7-4440

Upon receipt of a request, on or before September 26, 1973, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-19649 Filed 9-14-73;8:45 am]

# TARIFF COMMISSION

[AA1921-131]

## CALCIUM PANTOTHENATE FROM JAPAN

### Notice of Investigation and Hearing

Having received advice from the Treasury Department on September 6, 1973, that calcium pantothenate from Japan is being, or is likely to be, sold at less than fair value the United States Tariff Commission on September 12, 1973, instituted investigation No. AA1921-131 under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

*Hearing.* A public hearing in connection with the investigation will be held in the Tariff Commission's Hearing Room, Tariff Commission Building, 8th and E Streets, NW., Washington, D.C. 20436, beginning at 10:00 a.m., est, on Tuesday, November 6, 1973. All parties will be given an opportunity to be present, to produce evidence, and to be heard at such hearing. Requests to appear at the public hearing should be received by the Secretary of the Tariff Commission, in writing, at its office in Washington, D.C., not later than noon, Thursday, November 1, 1973.

Issued September 13, 1973.

By order of the Commission.

[SEAL] KENNETH R. MASON,
*Secretary.*

[FR Doc.73-19799 Filed 9-14-73;8:45 am]

## Committee for Statistical Annotation of Tariff Schedules

## COLLECTION OF F.O.B. AND C.I.F. DATA ON IMPORTS

### Notice Regarding Interim Application of General Statistical Headnote 1 of the Tariff Schedules of the United States Annotated (TSUSA)

For purposes of facilitating compliance with the amended general statistical headnote 1 of the TSUSA published in the FEDERAL REGISTER of August 7, 1973 (38 FR 21323), requiring additional statistical data with respect to imports entered, or withdrawn from warehouse, for consumption on or after October 1, 1973, the Committee hereby gives notice that with respect to imports entered or withdrawn on or before November 30, 1973, Customs officers may accept as compliance therewith reasonable estimates with respect to any of the additional data specified in the amended headnote that is not readily available to the persons making entry or withdrawal of articles imported into the United States.

Issued September 13, 1973.

For the Committee.

[SEAL] A. F. PARKS,
*Chairman.*

[FR Doc.73-19798 Filed 9-14-73;8:45 am]





[AA1921-130]

## EXPANDED METAL, OF BASE METAL, FROM JAPAN

### Notice of Investigation and Hearing

Having received advice from the Treasury Department on August 31, 1973, that expanded metal, of base metal, from Japan is being, or is likely to be, sold at less than fair value, the United States Tariff Commission on September 11, 1973, instituted investigation No. AA1921-130 under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

*HEARING.* A public hearing in connection with the investigation will be held in the Tariff Commission's Hearing Room, Tariff Commission Building, 8th and E Streets NW., Washington, D.C. 20436, beginning at 10 a.m., e.d.t., on Wednesday, October 24, 1973. All parties will be given an opportunity to be present, to produce evidence, and to be heard at such hearing. Requests to appear at the public hearing should be received by the Secretary of the Tariff Commission, in writing, at its office in Washington, D.C., not later than noon, Thursday, October 18, 1973.

Issued: September 12, 1973.

By order of the Commission:

KENNETH R. MASON,
*Secretary.*

[FR Doc.73-19714 Filed 9-14-73;8:45 am]

# DEPARTMENT OF LABOR

## Office of the Secretary

## BGS SHOE CORP.

### Investigation Regarding Certification of Eligibility of Workers To Apply for Adjustment Assistance

After reviewing the Tariff Commission's report on its investigation of the petition for adjustment assistance filed on behalf of workers formerly employed by the BGS Shoe Corp., Manchester, N.H. (Report No. TEA-W-193) under section 301(c)(2) of the Trade Expansion Act of 1962, and in which report the Commission being equally divided, made no finding with respect to women's dress and casual shoes and components thereof, the President decided, under the authority of section 330(d)(1) of the Tariff Act of 1930 as amended, to consider the findings of those Commissioners who found in the affirmative as the finding of the Commission. Accordingly, he has advised the Secretary of Labor that he may certify the group of workers involved as eligible to apply for adjustment assistance.

In view of the Tariff Commission's report, the President's authorization, and the responsibilities delegated to the Secretary of Labor under section 8 of Executive Order 11075 (28 FR 473), the Director, Office of Foreign Economic Policy, Bureau of International Labor Affairs, has instituted an investigation, as provided in 29 CFR 90.5 and this notice. The investigation relates to the determination of whether any of the group of workers covered by the Tariff Commission report should be certified as eligible to apply for adjustment assistance, provided for under Title III, Chapter 3, of the Trade Expansion Act of 1962, including the determination of related subsidiary subjects and matters, such as the date unemployment or underemployment began or threatened to begin and the subdivision of the firm involved to be specified in any certification to be made, as more specifically provided in Subpart B of CFR Part 90.

Interested persons should submit written data, views, or arguments relating to the subjects of the investigation to the Director, Office of Foreign Economic Policy, U.S. Department of Labor, Washington, D.C. 20210 on or before September 29, 1973.

Signed at Washington, D.C., this 10th day of September 1973.

GLORIA G. VERNON,
*Director, Office of Foreign Economic Policy.*

[FR Doc.73-19703 Filed 9-14-73;8:45 am]

# INTERSTATE COMMERCE COMMISSION

[No. 35874]

## ARGO-COLLIER TRUCK LINES, INC., ET AL.

### Petition for Declaratory Order—Loading/Unloading Contracts

SEPTEMBER 6, 1973.

Notice is hereby given that on July 16, 1973, Argo-Collier Truck Lines, Inc., Central & Southern Truck Lines, Inc., Clay Hyder Trucking Lines, Inc., Colonial Refrigerated Transportation, Inc., Indiana Refrigerator Lines, Inc., Refrigerated Transport Co., Inc., Watkins Motor Lines, Inc., and Wilson Brothers Truck Lines, motor common carriers of foodstuffs, filed a joint petition seeking to broaden the issues pending in No. 35809, Central & Southern Motor Freight Tariff Association, Inc.—Petition for Declaratory Order Loading/Unloading Contracts, to include other issues relating specifically to the delivery and unloading of foodstuffs, particularly at warehouse locations, and to have the Commission's Bureau of Enforcement participate in the proceeding for the purpose of developing such evidence as may be appropriate, or in the alternative, for the institution of a separate proceeding concerning those issues. By order of the Commission, Division 2, entered on July 27, 1973, the said petition was denied insofar as it sought to broaden the issues in No. 35809, but it was further ordered that the pleading be considered as requesting the institution of a separate proceeding for the purposes of determining the additional matters therein presented, after appropriate public notice had been provided.

The petition stems from what are described as unique problems and circumstances relating to the delivery and unloading of loose carcass meat and other perishable articles, including frozen foods. Petitioners maintain various tariff provisions which eliminate carrier responsibility for unloading, and others which provide for an allowance to be paid to a consignee for providing unloading service. Petitioners state that often they are not permitted by consignees, or their agents to unload articles of perishable food at particular locations, for example, stores, chain store warehouses, meat packinghouse branch houses, and military installations. They may offer as reasons the existence of local health regulations, or display signs with rules governing unloading, or refer to requirements that particular persons known to the consignee or employed by the consignee do the unloading. Shipments have been rejected, or unloading unduly delayed, because of carrier refusal or inability to enter into contracts for consignee unloading. Petitioners further state that consignees coerce carrier personnel into accepting the assistance of consignees' employees or unknown parties who appear at the premises of the consignees for the purpose of unloading.

Despite the existence of tariff provisions governing the payment to consignees of loading and unloading allowances, petitioners allege that consignees or their agents have attempted by various means to exact sums in excess of published tariff allowances.

Petitioners further allege that the above-described practices are in widespread use and raise questions whether any or all of such practices violate sections 216, 225 and other sections of the Interstate Commerce Act. Since carriers of perishable commodities transport articles of limited shelf life, petitioners assert that they are vulnerable to the most intense kind of coercion regarding consignee unloading contracts.

Petitioners also raise additional questions for declaratory determination relating to loading and unloading practices, specifically as follows:

(1) Is it lawful for a receiver to require the use by a carrier of others, directly or indirectly, for the purpose of unloading? If not, what remedy does a carrier of perishable have on the spot, and what liability, if any, does he have to the shipper for his failure to deliver the merchandise?

(2) Where an allowance is published, is it lawful for a receiver to require the use of so-called outsiders under any conditions? If it is, may the outsider extract unloading charges in excess of the published tariff allowance? What remedies are there in connection with these questions against the consignee?

(3) Is the shipper of the merchandise liable to the carrier for any additional unloading charges encountered by the carrier beyond the carrier's tariff responsibilities, and if so, under what circumstances, and to what extent?



V 38 179 SEP 17 73 XUM

(4) To the extent that a carrier, under its appropriate tariffs, is responsible for unloading, does that responsibility end when the load is tendered and the consignee refuses to permit the driver to unload?

(5) Should the existence of local health regulations in particular localities which would prohibit the driver from unloading serve as an elimination of carrier responsibility for unloading, placing that responsibility on the consignee rather than exist as an excuse for compelled use of others?

(6) Does the payment or demand for payment of unloading charges in the absence of tariff allowance or in excess of tariff allowance, or both, constitute violations of the Elkins Act? Will consignees and warehouses be prosecuted if these are violations?

(7) Where the use of outsiders for unloading is compelled or demanded by consignees, do these outsiders become agents or employees of the consignee, at least for the purposes of enforcement of the Elkins Act?

(8) What is the effect of the existence of secret union contracts established between national food chain store warehouses and so-called independent unloading crews? Is the consignee obligated to disclose the existence of such contracts, requiring the use of particular persons for unloading, to the carrier and to the Commission? Does the existence of such union contracts requiring the use of such crews for unloading eliminate carrier responsibility for unloading? Does the existence of such contracts establish for purposes of the Elkins Act that the unloading crews are agents and/or employees of the consignee? Must a carrier or carrier employee file unfair labor practice charges with the National Labor Relations Board in respect to such contracts, or are there remedies existing with respect to such contracts under the Interstate Commerce Act or the Elkins Act?

(9) To what extent may military installations require the use of off-duty military personnel or others to perform unloading service? Do receiving officers making such demands or requirements act as agents of the United States or individually for purposes of the Elkins Act? Are they subject to criminal prosecution?

(10) To the extent that military installations establish requirements for unloading in terms of qualifications which are unreasonable, or may not be reasonably met by carrier personnel, does this discharge the carrier from responsibility for unloading? If not, what is a carrier to do?

(11) May a carrier through tariff publication eliminate the responsibility to unload? To what extent and under what circumstances is a carrier obligated to load or unload freight? To what extent and under what circumstances do actions of the shipper or consignee eliminate the obligation to unload? To what extent and in what way may carriers establish tariff regulations limiting or eliminating the duty to unload on all traffic or particular classes of traffic?

Any person interested in the matter which is the subject of the petition and who wishes to participate actively in any further proceedings herein shall notify this Commission, by filing with the Office of Proceedings, Room 5342, 12th Street and Constitution Avenue NW., Washington, D.C. 20423, on or before October 15, 1973, an original and one copy of a statement of his intention to participate. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interest should endeavor to consolidate their presentations to the greatest extent possible. There after, the nature of further proceedings herein, if any, will be designated. The petition and statements of intent to participate, if any, will be available for public inspection at the offices of the Interstate Commerce Commission during the regular business hours.

A copy of this notice will be served upon the petitioners, and notice of the filing of the petition will be given to the general public by depositing a copy of this notice in the Office of the Secretary of the Commission at Washington, D.C., and by delivering a copy hereof to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-19721 Filed 9-14-73;8:45 am]

[Notice No. 342]

## ASSIGNMENT OF HEARINGS

SEPTEMBER 12, 1973.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 5227, Sub 6, Economy Movers, Inc., now being assigned hearing September 28, 1973 (1 day), at Omaha, Nebr., in the Sapphire Room, New Paxton Hotel, 14th and Farnam St.

MC 99284 Sub 6, Sullivan's Motor Delivery, Inc., now assigned October 15, 1973, at Chicago, Ill., will be held in Room 204A, Everett McKinley Dirksen Bldg., 219 S. Dearborn St.; now assigned October 18, 1973, at Milwaukee, Wis., will be held in Room 301C, City Hall, 200 East Wells St.

MC 106497 Sub 51, Parkhill Truck Company, application dismissed.

MC 138227, Rodney H. Blackwell, DBA Miss-Lou Truck Line, now assigned September 24, 1973, at Jackson, Miss., is cancelled and reassigned at Picayune, Miss., City Hall.

MC-F-11673, Reliance Truck Company—Purchase—Daigh & Stewart Truck Company & MC-54567 Sub 12, Reliance Truck Co., now assigned September 17, 1973, at Phoenix, Ariz., is cancelled.

MC 106497 Sub 81, Parkhill Truck Company, now being assigned October 2, 1973 (1 day), in U.S. Customs, Court Room 1057, 909 First Avenue, Seattle, Washington.

No. 35265, Anglo-Canadian Pulp and Paper Mills, Limited, et al., v. Aberdeen and Rockfish Railroad Company, et al., now being assigned hearing October 29, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 11424 Sub 4, Shippers Truck Service, Inc., now assigned October 1, 1973, at New York, N.Y., will be held in Room B-2231, 26 Federal Plaza.

W-406 Sub 11, Ohio Barge Line, Inc., now assigned October 15, 1973, at Pittsburgh, Pa., is postponed to November 14, 1973, at Pittsburgh, Pa., in a hearing room to be later designated, now assigned December 10, 1973, at Washington, D.C., is postponed to January 15, 1974, at the Offices of the Interstate Commerce Commission, Washington, D.C.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-19723 Filed 9-14-73;8:45 am]

## FOURTH SECTION APPLICATIONS FOR RELIEF

SEPTEMBER 12, 1973.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the General Rules of Practice (49 CFR 1100.40) and filed by October 2, 1973.

FSA No. 42745—*Lumber and Lumber Articles from Roundup, Montana.* Filed by Trans-Continental Freight Bureau, Agent (No. 486), for interested rail carriers. Rates on lumber and lumber articles, in carloads, as described in the application, from Roundup, Montana, to points in western trunk-line and Illinois territories. Grounds for relief—Market and carrier competition.

Tariffs—Supplements 28 and 158 to Trans-Continental Freight Bureau, Agent, tariffs 18-R and 28-Q, I.C.C. Nos. 1847 and 1750, respectively. Rates are published to become effective on October 12, 1973.

FSA No. 42746—*Iron and Steel Articles from Geneva, Utah.* Filed by Western Trunk Line Committee, Agent (No. A-2690), for interested rail carriers. Rates on iron and steel articles, in carloads as described in the application, from Geneva, Utah, to points in Illinois and western trunk-line territories; also Kentucky.





Grounds for relief—Market competition.

Tariff—Supplement 180 to Western Trunk Line Committee, Agent, tariff 130-M, I.C.C. No. A-4663. Rates are published to become effective on October 15, 1973.

By the Commission

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-19726 Filed 9-14-73;8:45 am]

[Rev. I.C.C. Order No. 79; Amdt. 5]

## ST. JOHNSBURY & LAMOILLE COUNTY RAILROAD

### Rerouting or Diversion of Traffic

SEPTEMBER 12, 1973.

Upon further consideration of Revised I.C.C. Order No. 79 (St. Johnsbury & Lamoille County Railroad) and good cause appearing therefor:

*It is ordered,* That:

Revised I.C.C. Order No. 79 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., September 30, 1973, unless otherwise modified, changed, or suspended.

*It is further ordered,* That this amendment shall become effective at 11:59 p.m., September 10, 1973, and that this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 7, 1973.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
*Agent.*

[FR Doc.73-19724 Filed 9-14-73;8:45 am]

Office of Proceedings

[Notice No. 123]

## MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 11, 1973.

The following are notices of filing of application (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, on or before October 12, 1973. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 4405 (Sub-No. 505 TA), filed August 30, 1973. Applicant: DEALERS TRANSIT, INC., 2200 E. 170th Street, Lansing, Ill. 60438. Applicant's representative: L. L. Bennett (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers and trailer chassis*, other than those designed to be drawn by passenger automobiles in initial truckaway and driveaway service and (2) tractors, in secondary driveaway service only when drawing trailers moving in initial driveaway service, (1) from Lubbock, Tex., to all points in the United States (except Alaska and Hawaii) and (2) from Lubbock, Tex., to points in Arizona, Nevada, Oregon, and Vermont, for 180 days. SUPPORTING SHIPPER: W. D. Reed, Traffic Manager, Lubbock Manufacturing Co., LMC, P.O. Drawer 1589, Lubbock, Tex. 79408. SEND PROTESTS TO: District Supervisor Robert G. Anderson, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Bldg., 219 S. Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 22301 (Sub-No. 15 TA), filed August 29, 1973. Applicant: SIOUX TRANSPORTATION COMPANY, INC., 1230 Steuben Street, P.O. Box 3088 (Box zip 51102), Sioux City, Iowa 51105. Applicant's representative: Paul Beck (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats and meat products*, from the plant sites of Iowa Beef Processors, Inc., at Dennison, Fort Dodge, and LeMars, Iowa, and West Point, Nebr., to points in Illinois on and east of U.S. Highway 51 and on and north of U.S. Highway 24; and in addition the cities of Bloomington, Pekin, and Peoria, Ill., for 180 days. SUPPORTING SHIPPER: Iowa Beef Processors, Inc., H. L. Dennison, Supervisor, Transportation & Research, P.O. Box 515, Dakota City, Nebr. 68731. SEND PROTESTS TO: District Supervisor Carroll Russell, Interstate Commerce Commission, Bureau of Operations, 711 Federal Office Building, Omaha, Nebr. 68102.

No. MC 25798 (Sub-No. 243 TA), filed August 27, 1973. Applicant: CLAY HYDER TRUCKING LINES, INC., 502 E. Bridgers Avenue, Post Office Box 1186, Auburndale, Fla. 33823. Applicant's representative: Tony G. Russell (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, from Madison, Nebr., to points in Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia, for 180 days. SUPPORTING SHIPPER: Armour and Company, Fresh Meats Division, Greyhound Tower, Phoenix, Ariz. 85077. SEND PROTESTS TO: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, 5720 SW. 17th St., Room 105, Miami, Fla. 33155.

No. MC 26396 (Sub-No. 91 TA), filed August 27, 1973. Applicant: POPELKA TRUCKING CO., doing business as THE WAGGONERS, 201 W. Park, Mlg.: P.O. Box 990, Livingston, Mont. 59047. Applicant's representative: David R. Kemp (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Crushed automobile bodies* in straight or mixed shipments, with scrap automobile engine blocks and transmissions, from points in Montana, to points in Oregon and Washington, for 180 days. SUPPORTING SHIPPER: Carl Weissman & Sons, Inc., 300 Third Avenue South, Great Falls, Mont. 59405. SEND PROTESTS TO: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 222, U.S. Post Office Bldg., Billings, Mont. 59101.

No. MC 35628 (Sub-No. 353 TA), filed August 28, 1973. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, 134 Grandville Ave. SW., Grand Rapids, Mich. 49502. Applicant's representative: Leonard D. Verdier, Jr., 900 Old Kent Building, Grand Rapids, Mich. 49502. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plant site of Madison Foods, Inc., at Madison, Nebr., to points in Arkansas, Connecticut, Delaware, the District of Columbia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and Wisconsin, for 180 days. SUPPORTING SHIPPER: Armour and Company, Fresh Meats Division, Greyhound Tower, Phoenix, Ariz. 85077. SEND PROTESTS TO: C. R. Flemming, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 225 Federal Building, Lansing, Mich. 48933.

No. MC 88380 (Sub-No. 10 TA), filed August 31, 1973. Applicant: CHEROKEE



V 38 I 179 SEP 17 73 XUM

FREIGHTWAYS, INC., 2400 Cold Springs Road, Fort Worth, Tex. 76106. Applicant's representative Dennis Fuchshuber (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bituminized or indurated fibre conduit or pipe*, from the plant site of McGraw-Edison Company, Fibre Products Division, in Grayson County, Tex., to points in Plymouth, Norfolk, Essex, Middlesex, Suffolk Counties, Mass., for 180 days. SUPPORTING SHIPPER: W. Kyle Avery, McGraw-Edison Company, Fibre Products Division, Marketing Supervisor, Rt. 2, Box 142, Sherman, Tex. 75090. SEND PROTESTS TO: H. C. Morrison, Sr., District Supervisor, Interstate Commerce Commission, Room 9A27, Federal Building, Forth Worth, Tex. 76102.

No. MC 105007 (Sub-No. 28 TA), filed August 28, 1973. Applicant: MATSON TRUCK LINES, INC., 1407 St. John Avenue, Albert Lea, Minn. 56007. Applicant's representative: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Reinforced concrete slabs, sections, slats, and beams*, from Hollandale, Minn., to points in Iowa, Nebraska, Illinois, South Dakota, Wisconsin, and Missouri, for 180 days. SUPPORTING SHIPPER: Karsjens Bros. Concrete Products, Inc., Hollandale, Minn. 56045. SEND PROTESTS TO: District Supervisor A. N. Spath, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building & U.S. Court House, 110 S. 4th Street, Minneapolis, Minn. 55401.

No. MC 106398 (Sub-No. 682 TA), filed August 31, 1973. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, P.O. Box 51096, Tulsa, Okla. 74151. Applicant's representative: Irvin Tull (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings* in sections, mounted on wheeled undercarriages, from the plantsite of Westville Homes Corporation in Westville, N.H., to points in Maine, Vermont, Massachusetts, Rhode Island, New York, and Connecticut, for 180 days. SUPPORTING SHIPPER: Westville Homes Corporation, Peter S. Kurzina, P.O. Box 1, Westville, N.H. SEND PROTESTS TO: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Rm. 240, Old P.O. Bldg., 215 NW. Third, Oklahoma City, Okla. 73102.

No. MC 107403 (Sub-No. 849 TA), filed August 24, 1973. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lead oxide*, in bulk, in tank vehicles, from Indianapolis, Ind., to Louisville, Ky., for 180 days. SUPPORTING SHIPPER: James H. Thrash, Vice President-Purchasing, RSR Corporation, 2727 North Westmoreland Street, P.O. Box 6195, Dallas, Tex. 75222. SEND PROTESTS TO: Ross A. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, William J. Green, Jr., Federal Bldg., 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 107403 (Sub-No. 857 TA), filed August 31, 1973. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: John Nelson (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors*, NOI, in bulk, in tank vehicles, from Tullahoma, Tenn., to Schenley, Pa., for 180 days. SUPPORTING SHIPPER: R. H. Haberle, General Traffic Manager, Schenley Distillers, Inc., 36 E. Fourth Street, Cincinnati, Ohio 45202. SEND PROTESTS TO: Ross A. Davis, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 107496 (Sub-No. 905 TA), filed August 28, 1973. Applicant: RUAN TRANSPORT CORPORATION, Third and Keosauqua Way, P.O. Box 855 (Box zip 50304), Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid sugar*, in bulk, in tank vehicles, from Grimes, Iowa, and Muncie, Kans., to points in Kansas, Nebraska, and Missouri, for 150 days. SUPPORTING SHIPPER: The Amalgamated Sugar Company, P.O. Box 1520, Ogden, Utah 84402. SEND PROTESTS TO: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 107496 (Sub-No. 906 TA), filed August 29, 1973. Applicant: RUAN TRANSPORT CORPORATION, Third and Keosauqua Way, P.O. Box 855 (Box zip 50304), Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid feed and liquid feed supplements*, in bulk, in tank vehicles, from Oskaloosa, Iowa, to points in Illinois, for 150 days. SUPPORTING SHIPPER: International Multifoods Corporation, 1200 Investors Building, Minneapolis, Minn. 55402. SEND PROTESTS TO: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Bldg., Des Moines, Iowa 50309.

No. MC 108207 (Sub-No. 372 TA), filed August 28, 1973. Applicant: FROZEN FOOD EXPRESS, INC., 318 Cadiz Street, P.O. Box 5888 (Box zip 75222), Dallas, Tex. 75207. Applicant's representative: J. B. Ham (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, 273, and 766 (except hides and commodities in bulk, in tank vehicles), from the plantsite and storage facilities of Madison Foods, Inc., Madison, Nebr., to points in California, Arizona, New Mexico, Tennessee, Oklahoma, Arkansas, Mississippi, Louisiana, and Texas, for 180 days. SUPPORTING SHIPPER: Armour and Company, Fresh Meats Division, Greyhound Tower, Phoenix, Ariz. 85077. SEND PROTESTS TO: Transportation Specialist Gerald T. Holland, Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75202.

No. MC 112148 (Sub-No. 57 TA), filed August 23, 1973. Applicant: WORSTER-IOWA, INC., Gay Road, Rd. #1, North East, Pa. 16428. Applicant's representative: William L. Fairbank, 900 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and warehouse facilities of Madison Foods, Inc., at or near Madison, Nebr., to points in Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and Vermont, for 180 days. SUPPORTING SHIPPER: Armour and Company, Fresh Meats Division, Greyhound Tower, Phoenix, Ariz. 85077. SEND PROTESTS TO: District Supervisor John J. England, Interstate Commerce Commission, Bureau of Operations, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 113267 (Sub-No. 307 TA), filed August 24, 1973. Applicant: CENTRAL & SOUTHERN TRUCK LINES, INC., 3385 Airways Blvd., Memphis, Tenn. 38116. Applicant's representative: Lawrence A. Fischer (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat byproducts and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plantsite and storage facilities utilized by Madison Foods, Inc., at or near Madison, Nebr., to points in Kentucky, Arkansas, Louisiana, Mississippi, Tennessee, Alabama, Georgia, Florida, North Carolina, and South Carolina, for 180 days. SUPPORTING SHIPPER:





Armour and Company, Fresh Meats Division, Greyhound Tower, Phoenix, Ariz. 85077. SEND PROTESTS TO: District Supervisor Floyd A. Johnson, Interstate Commerce Commission, Bureau of Operations, 435 Federal Office Building, 167 North Main Street, Memphis, Tenn. 38103.

No. MC 113843 (Sub-No. 196 TA), filed August 29, 1973. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, Mass. 02210. Applicant's representative: William J. Boyd, 29 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk, in tank vehicles), from the plant site of Madison Foods, Inc., at Madison, Nebr., to points in Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia, for 180 days. SUPPORTING SHIPPER: Armour and Company, Fresh Meats Division, Greyhound Tower, Phoenix, Ariz. 85077. SEND PROTESTS TO: John B. Thomas, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 150 Causeway Street, Boston, Mass. 02114.

No. MC 114273 (Sub-No. 146 TA), filed August 30, 1973. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., 3930 16th Avenue SW., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Robert E. Konchar, P.O. Box 1943, Cedar Rapids, Iowa 52406. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite of Madison Foods, Inc., at Madison, Nebr., to points in Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, Michigan, Indiana, Ohio, Pennsylvania, New Jersey, Maryland, Delaware, West Virginia, Virginia, Kentucky, Tennessee, North Carolina, South Carolina, Mississippi, Alabama, Georgia, and Florida and the District of Columbia, for 180 days. SUPPORTING SHIPPER: Armour and Company, Fresh Meats Division, Greyhound Tower, Phoenix, Ariz. 85077. SEND PROTESTS TO: Clifford W. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 814, 2121 Building, Birmingham, Ala. 35203.

No. MC 117119 (Sub-No. 483 TA), filed August 29, 1973. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72738. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the plantsite and warehouse facilities of Kraft Foods at or near Springfield, Mo., to points in California, Colorado, and New Mexico, restricted to points in named origins and destined to points in named destinations, for 180 days. SUPPORTING SHIPPER: Kraft Foods Div. of Kraftco Corporation, 2340 Forest Lane, Garland, Tex. 75040.

No. MC 114632 (Sub-No. 61 TA), filed August 28, 1973. Applicant: APPLE LINES, INC., 225 S. Van Epps Ave., P.O. Box 507, Madison, S. Dak. 57042. Applicant's representative: Robert A. Appelwick (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and articles distributed by meat packinghouses* as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite of Madison Foods, Inc., at or near Madison, Nebr., to points in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, North Dakota, South Dakota, and Wisconsin, for 180 days. SUPPORTING SHIPPER: Donald A. Chute, Manager, Transportation & Distribution, Fresh Meats Division, Armour and Company, Greyhound Tower, Phoenix, Ariz. 85077. SEND PROTESTS TO: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 115841 (Sub-No. 456 TA), filed August 29, 1973. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., Off.: 1215 Bankhead Highway West, P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: Roger M. Shaner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses* (except hides and commodities in bulk), from the plantsite of Madison Foods, Inc., at Madison, Nebr., to points in Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, Michigan, Indiana, Ohio, Pennsylvania, New Jersey, Maryland, Delaware, West Virginia, Virginia, Kentucky, Tennessee, North Carolina, South Carolina, Mississippi, Alabama, Georgia, and Florida and the District of Columbia, for 180 days. SUPPORTING SHIPPER: Armour and Company, Fresh Meats Division, Greyhound Tower, Phoenix, Ariz. 85077. SEND PROTESTS TO: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 118202 (Sub-No. 15 TA), filed August 23, 1973. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 East Bridge Street, Winona, Minn. 55987. Applicant's representative: Eugene A. Schultz (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts* as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk and hides), from the plant site and warehouse facilities utilized by Yankton Sioux Industries at Wagner, S. Dak., to points in Arkansas, Connecticut, Delaware, the District of Columbia, Iowa, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and Maine; and *meats, meat products, and meat byproducts* as described in Section A of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk and hides) and *materials, supplies, and equipment* used by meat packers in the conduct of their business, from points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Oklahoma, Texas, and Wisconsin to the plantsite and warehouse facilities utilized by Yankton Sioux Industries at Wagner, S. Dak., for 180 days. SUPPORTING SHIPPER: Yankton Sioux Industries, 301 North Fifth Street, Minneapolis, Minn. 55403. SEND PROTESTS TO: District Supervisor A. N. Spath, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building & U.S. Court House, 110 S. 4th Street, Minneapolis, Minn. 55401.

No. MC 119789 (Sub-No. 177 TA), filed August 29, 1973. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, 1612 E. Irving Blvd., Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr., P.O. Box 6188, Dallas, Tex. 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic fiber*, from Covington, Va., to Miami, Okla., for 180 days. SUPPORTING SHIPPER: Ozark Industries, Inc., P.O. Box 1245, Miami, Okla. 74354. SEND PROTESTS TO: Transportation Specialist Gerald T. Holland, Interstate Commerce Commission, Bureau of Operations, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75202.

No. MC 123556 (Sub-No. 6 TA), filed August 28, 1973. Applicant: RAHIER TRUCKING, INC., 1822 South First



V 38-179 SEP 17 73 XUM

Street, Yakima, Wash. 98903. Applicant's representative: Warren L. Dewar, Jr., 303 East D Street, Yakima, Wash. 98901. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and roofing materials and supplies*, from Pittsburgh and Santa Clara, Calif., to points in Yakima, Benton, Franklin, Walla Wala, Columbia, Garfield, Asotin, Whitman, Adams, Grant, Kittitas, Klickitat, Chelan, Douglas, and Okanogan Counties, Wash., for 180 days. SUPPORTING SHIPPER: Zellerbach Paper Company, 1225 West Popular, Walla Walla, Wash. 99362; Valley Roofing, 105 East Beech St., Yakima, Wash. 98901; Sid Thiel doing business as Thiel Roofing Company, 205 N. Fruitland, Kennewick, Wash. 99336; and Wagner Roofing Company, 1507 South 18th Avenue, Yakima, Wash. 98902. SEND PROTESTS TO: District Supervisor W. J. Huetig, Interstate Commerce Commission, Bureau of Operations, 450 Multnomah Building, 319 SW. Pine, Portland, Oreg. 97204.

No. MC 124078 (Sub-No. 559 TA), filed August 31, 1973. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, Wis. 53215. Applicant's representative: Richard H. Prevette (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement dust*, in bulk, from Nazareth, Pa., to Neptune, Elizabeth, and Port Reading, N.J., for 180 days. SUPPORTING SHIPPER: Lipari Pumice Aggregate Co., Box 691, Westport, Conn. 06880 (Richard C. Bonser, President). SEND PROTESTS TO: John E. Ryden, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 124078 (Sub-No. 560 TA), filed August 31, 1973. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, Wis. 53215. Applicant's representative: Richard H. Prevette (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement dust*, in bulk, from Nazareth, Pa., to Bayonne and Metuchen, N.J., and Staten Island and Flushing, N.Y., for 180 days. SUPPORTING SHIPPER: Lipari Pumic Aggregate Co., Box 691, Westport, Conn. 06880 (Richard C. Bonser, President). SEND PROTESTS TO: John E. Ryden, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 124236 (Sub-No. 58 TA), filed August 23, 1973. Applicant: CHEMICAL EXPRESS CARRIERS, INC., 1200 Simons Bldg., Dallas, Tex. 75201. Applicant's representative: Leroy Hallman, 4555 First National Bank Bldg., Dallas, Tex. 75202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry silicate of soda*, in bulk, from Dallas, Tex., to Wrens, Ga., for 180 days. SUPPORTING SHIPPER: Diamond Shamrock Chemical Co., 1100 Superior Avenue, Cleveland, Ohio 44114. SEND PROTESTS TO: Gerald T. Holland, Transportation Specialist, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75202.

No. MC 126489 (Sub-No. 19 TA), filed August 31, 1973. Applicant: GASTON FEED TRANSPORTS, INC., 1203 West 4th Street, P.O. Box 1066, Hutchinson, Kans. 67501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat scrap, blood meal, bone meal and tankage*, (1) from Dodge City, Garden City, Emporia, Liberal, Wichita, Mankato, Ellis, Coffeyville, and Kansas City, Kans., to points in Missouri, Nebraska, Iowa, Oklahoma, Arkansas, Colorado, and Texas; (2) from Kansas City, St. Louis, and St. Joe, Mo., to points in Arkansas, Colorado, Iowa, Kansas, Louisiana, Mississippi, Nebraska, New Mexico, Oklahoma, Tennessee, and Texas; (3) from Empire, La., to points in Arkansas, Iowa, Kansas, Mississippi, Missouri, Nebraska, Oklahoma, and Tennessee; (4) from Gulf Port, Miss., to points in Arkansas, Iowa, Kansas, Louisiana, Missouri, Nebraska, Oklahoma, and Tennessee; (5) from Clovis, Albuquerque, and Roswell, N. Mex., to points in Arkansas, Colorado, Iowa, Kansas, Louisiana, Missouri, Nebraska, Oklahoma, and Texas; (6) from Ada, Collinsville, Henryetta, Lawton, Oklahoma City, Tulsa, Okla., to points in Arkansas, Colorado, Iowa, Kansas, Louisiana, Nebraska, Tennessee, Texas, Missouri, and Mississippi; and (7) from Amarillo, Bastroys, Cameron, Crowley, Dallas, El Paso, Ft. Worth, Galveston, Hereford, Houston, Palestine, Pampa, Perryton Port Allen, San Angelo, and Triona, Tex., to points in Arkansas, Colorado, Iowa, Kansas, Louisiana, Mississippi, Missouri, New Mexico, Nebraska, Oklahoma, and Tennessee, for 180 days. SUPPORTING SHIPPER: Wellens and Company, 6700 Frances Avenue South, Minneapolis, Minn. 55435. SEND PROTESTS TO: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 501 Petroleum Building, Wichita, Kans. 67202.

No. MC 128633 (Sub-No. 10 TA), filed August 27, 1973. Applicant: LAUREL HILL TRUCKING COMPANY, 614 New County Road, Secaucus, N.J. 07094. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by department stores, and *supplies and equipment* used in the conduct of such business, for the account of Atlantic Department Stores, Inc., New York, N.Y., between points in the New York, N.Y., Commercial Zone as defined by the Commission, on the one hand, and, on the other, Dearborn, Detroit, Lincoln Park, Pontiac, Roseville, Mich.; and Akron, Belford, Cleveland, Cuyahoga Falls, Middleburg Heights, Rocky River, Tallmadge, and Wickliffe, Ohio, for 180 days. SUPPORTING SHIPPER: Atlantic Department Stores, Inc., Director of Traffic & Distribution L. J. Lewison, 111 Eighth Avenue, New York, N.Y. 10011. SEND PROTESTS TO: District Supervisor Robert E. Johnston, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Newark, N.J. 07102.

No. MC 129876 (Sub-No. 6 TA), filed August 31, 1973. Applicant: DUBOIS TRUCKING, INC., Box 502, Montpelier, Vt. 05602. Applicant's representative: John P. Monte, 61 Summer Street, Barre, Vt. 05641. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Kerosene*, from South Portland, Maine and Rensselaer, N.Y., to Berlin, Vt., for 180 days. SUPPORTING SHIPPER: Green Mountain Power Corp., 1 Main Street, Burlington, Vt. 05401. SEND PROTESTS TO: District Supervisor Paul D. Collins, Interstate Commerce Commission, Bureau of Operations, 52 State Street, Montpelier, Vt. 05602.

No. MC 133119 (Sub-No. 25 TA), filed August 31, 1973. Applicant: HEYL TRUCK LINES, INC., 235 Mill Street, P.O. Box 206, Akron, Iowa 51001. Applicant's representative: Roger Heyl (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products*, from ports of entry on the International Boundary line between the United States and Canada located in Minnesota and North Dakota, to Minneapolis, Minn., for 180 days. SUPPORTING SHIPPER: Burns, Ltd., Art Lennington, General Traffic Mgr., P.O. Box 1300, Calgary, Alberta, Canada. SEND PROTESTS TO: District Supervisor Carroll Russell, Bureau of Operations, Interstate Commerce Commission, 711 Federal Office Bldg., Omaha, Nebr. 68102.

No. MC 133977 (Sub-No. 18 TA), filed August 22, 1973. Applicant: GENE'S, INC., 10115 Brookville Salem Road, Clayton, Ohio 45315. Applicant's representative: Paul F. Beery, 88 East Broad Street, Suite 1660, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic polystyrene, foam shapes and forms* (except commodities in bulk), from the plantsite of the Huntsman Container Corporation at Troy, Ohio, to points in Arkansas, North Carolina, South Carolina, Florida, North Dakota, South Dakota, Colorado, New Mexico, Wyoming (restricted to those portions in North Dakota, South Dakota, Colorado, New Mexico and Wyoming on and east of U.S. Highway 85), Louisiana, Virginia, Mississippi, Georgia, Tennessee, Oklahoma, Massachusetts, Connecticut, New Hampshire, Maryland, New Jersey, Maine, Nebraska, Kansas, Alabama, Delaware, Vermont, Rhode Island, and the District of Columbia and





(2) *returned, rejected, or damaged shipments of the commodities described in* (1) above, from the destination states described above to the plantsite of Huntsman Container Corporation at Troy, Ohio, for 180 days. SUPPORTING SHIPPER: Huntsman Container Corporation, 1261 Brukner Drive, P.O. Box 639, Troy Ohio. SEND PROTESTS TO: Paul J. Lowry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5514–B Federal Bldg., 550 Main St., Cincinnati, Ohio 45202.

No. MC 136176 (Sub-No. 4 TA), filed August 23, 1973. Applicant: INDEPENDENT TRANSPORTATION, INC., Kanopolis, Kans. 67454. Applicant's representative: Patrick E. Quinn, 605 South 14th Street, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, between points in Nebraska, Kansas, Iowa, Minnesota, Missouri, and Colorado, restricted to traffic having a prior movement by barge or rail and further restricted to a transportation service to be performed under a continuing contract or contracts with Independent Salt Company of Kanopolis, Kans., for 180 days. SUPPORTING SHIPPER: Independent Salt Company, P.O. Box 36, Kanopolis, Kans. 67454. SEND PROTESTS TO: Thomas P. O'Hara, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 234 Federal Building, Topeka, Kans. 66603.

No. MC 136956 (Sub-No. 6 TA), filed August 29, 1973. Applicant: ROYAL TRANSPORTS, INC., P.O. Box 1451, Kansas City, Kans. 66117. Applicant's representative: Patrick E. Quinn, 605 South 14th Street, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* (except anhydrous ammonia, and fertilizer), in bulk, in tank vehicles, between points in Kansas and Missouri, under contract with Reese Oil Company, Kansas City, Mo., for 180 days. SUPPORTING SHIPPER: Reese Oil Company, P.O. Box 11598, Kansas City, Mo. 64138. SEND PROTESTS TO: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 139034 (Sub-No. 1 TA), filed August 31, 1973. Applicant: CHARLES MACE, doing business as MACE TRUCKING CO., 5808 17th Street, Apt. C-4, Great Bend, Kans. 67530. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from LaCrosse, Kans., to Denver, Colo.; Des Moines, Iowa; Detroit, Mich.; Kansas City, Mo.; Lansing, Mich.; Pittsburgh, Pa.; Salt Lake City, Utah; San Francisco, Calif; and Springfield, Mo., for 180 days. SUPPORTING SHIPPER: LaCrosse Furniture Co., P.O. Box 99, LaCrosse, Kans. 67548. SEND PROTESTS TO: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 501 Petroleum Bldg., Wichita, Kans. 67202.

No. MC 139042 TA, filed August 27, 1973. Applicant: DON KING, doing business as KING GRAIN CO., 206 NE. 18th, Guymon, Okla. 73942. Applicant's representative: John C. Sims, 1607 Broadway, Lubbock, Tex. 79401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Livestock feedstuff and livestock feedstuff ingredients*, from points in Oklahoma, New Mexico, Texas, Kansas, and Colorado, to points in Cimarron, Texas, Beaver, and Harper Counties, Okla., and Seward County, Kans., for 180 days. SUPPORTING SHIPPERS: Ralston Purina Company, 710 E. 13th, Wichita, Kans. 67214; Hitch Ranch, Inc., Box 1308, Guymon, Okla. 73942; Texas County Feed Yards, Inc., Box 1029, Guymon, Okla. 73942; Panhandle Feedyard, Turpin, Okla. 73950; and Tyler Feed Store, Box 1091, Guymon, Okla. 73942. SEND PROTESTS TO: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box HO4395 Herring Plaza, Amarillo, Tex. 79101.

No. MC 139043 TA, filed August 29, 1973. Applicant: JOSEPH F. SACCOMANNO, doing business as JFS TRANSPORTATION, East 428 14th, Spokane, Wash. 99208. Applicant's representative: Donald A. Ericson, 708 Old National Bank Bldg., Spokane, Wash. 99201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages, wine, and related advertising material moving therewith*, from points in Napa, San Francisco, Alameda, Santa Clara, San Joaquin, Kern, and San Mateo Counties, Calif., to points in Spokane County, Wash., for 180 days. SUPPORTING SHIPPER: B & B Distributors, Inc., North 1004 Ruby, Spokane, Wash. 99202. SEND PROTESTS TO: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 6049 Federal Office Building, Seattle, Wash. 98104.

No. MC 139044 TA, filed August 30, 1973. Applicant: DALLAS TOWING SERVICE, INC., 2308 South Kentucky, Evansville, Ind. 47714. Applicant's representative: Warren C. Moberly, 777 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked and disabled vehicles and replacement vehicles*, in wrecker service, between points in Indiana within a 50 mile radius of Vanderburgh County, Ind., including Vanderburgh County, on the one hand, and, on the other, points in Illinois and Kentucky within a 50 mile radius of Vanderburgh County, Ind., for 180 days. SUPPORTING SHIPPERS: There are approximately 10 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: District Supervisor James W. Habermehl, Bureau of Operations, Interstate Commerce Commission, 802 Century Bldg., 36 S. Penn St., Indianapolis, Ind. 46204.

By The Commission.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-19722 Filed 9-14-73;8:45 am]

---

[Ex Parte No. 241; Rule 19, Exemption 49]

## PENN CENTRAL TRANSPORTATION CO.

### Exemption Under Mandatory Car Service Rules

SEPTEMBER 12, 1973.

TO: Penn Central Transportation Company, George P. Baker, Richard C. Bond, and Jervis Langdon, Jr., Trustees

It appearing, that because of abnormal operating conditions, the Penn Central Transportation Company, George P. Baker, Richard C. Bond, and Jervis Langdon, Jr., Trustees, is unable to perform regular switching at the plant of the B. F. Goodrich Manufacturing Company, New Brunswick, New Jersey; that there are numerous freight cars available in that plant for reloading; and there is urgent need to utilize these cars for certain shipments from that plant.

*It is ordered*, That, pursuant to the authority vested in me by Car Service Rule 19, the Penn Central Transportation Company, George P. Baker, Richard C. Bond, and Jervis Langdon, Jr., Trustees, be, and it is hereby, authorized to accept from B. F. Goodrich Company, New Brunswick, New Jersey, shipping instructions for the movement of the following cars without regard to the requirements of Car Service Rule 2.

| | |
|---|---|
| B&O 470612. | Rdg 111233. |
| B&O 479028. | SL-SF 7286. |
| C&O 19154. | Soo 177386. |
| CBQ 47340. | Sou 29083. |
| DH 18647. | Sou 45872. |
| GN 23434. | Sou 46027. |
| GN 36156. | Sou 49298. |
| NP 2619. | TP 120787. |

*Effective.*—September 7, 1973.
*Expires.*—September 14, 1973.

Issued at Washington, D.C., September 7, 1973.

INTERSTATE COMMERCE COMMISSION,
[SEAL] R. D. PFAHLER,
*Agent.*

[FR Doc.73-19725 Filed 9-14-73;8:45 am]



V 38-179 SEP 17 73 XUM

## CUMULATIVE LISTS OF PARTS AFFECTED—SEPTEMBER

**The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during September.**

**1 CFR** — Page
CFR checklist — 23771

**3 CFR**
PROCLAMATIONS:
4239 — 24191
4240 — 24193
4241 — 24881
EXECUTIVE ORDERS:
11359 (superseded by 11737) — 24883
11602 (superseded by E.O. 11738) — 25161
11635 (superseded by 11737) — 24883
11659 (amended by 11737) — 24883
11737 — 24883
11738 — 25161
Presidential Documents other than Proclamations and Executive Orders:
Memorandum of August 17, 1973 — 25903

**4 CFR**
400 — 24195
405 — 24195
PROPOSED RULES:
331 — 23971
351 — 23971, 26072
400 — 23971
401 — 23971
402 — 23971
403 — 23971
404 — 23971

**5 CFR**
213 — 24344, 24885, 25165, 25907

**6 CFR**
102 — 25427
150 — 24213
140 — 24214
150 — 23794, 23931, 24214, 24885, 25427, 25686
152 — 23794, 24214
155 — 24885
PROPOSED RULES:
Ch. I — 24917
152 — 23806, 24219, 24667

**7 CFR**
2 — 24633
51 — 23931
52 — 24344, 25165
201 — 25661
250 — 24633
301 — 25664
354 — 23934
401 — 25907
725 — 23935
777 — 25665
864 — 25427
905 — 25665
908 — 24215, 25431, 25907
910 — 24345, 24890, 25908
928 — 24345
930 — 24890
932 — 24215
948 — 25667
981 — 25668
991 — 23771

**7 CFR—Continued** — Page
1001 — 24216
1002 — 24216
1004 — 24216
1006 — 24216
1007 — 24216
1011 — 24216
1012 — 24216
1013 — 24213
1015 — 24216
1030 — 24216
1033 — 24216
1036 — 24216
1040 — 24216
1044 — 24216
1046 — 24216
1049 — 24216
1050 — 24216
1060 — 24216
1061 — 24216
1062 — 24216
1063 — 24216
1064 — 24216
1065 — 24216
1068 — 24216
1069 — 24216
1070 — 24216
1071 — 24216
1073 — 24216
1075 — 24216
1076 — 24216
1078 — 24216
1079 — 24216
1090 — 24216
1094 — 24216
1096 — 24216
1097 — 24216
1098 — 24216
1099 — 24216
1101 — 24216
1102 — 24216
1106 — 24216
1108 — 24216
1120 — 24216
1121 — 24216
1124 — 24216
1125 — 24216
1126 — 24216
1127 — 24216
1128 — 24216
1129 — 24216
1130 — 24216
1131 — 24216
1132 — 24216
1133 — 24216
1134 — 24216
1136 — 24216
1137 — 24216
1138 — 24216
1139 — 24216
1421 — 23935, 24634, 25668, 26006
1430 — 23939
1866 — 24346
PROPOSED RULES:
20 — 25690
26 — 23955, 25186
52 — 24654, 24904, 24907, 24910
722 — 24911
932 — 24910
981 — 24911
1007 — 25024

**7 CFR—Continued** — Page
PROPOSED RULES—Continued
1030 — 23796, 25448, 25756
1032 — 25756
1046 — 25756
1049 — 25756
1050 — 25186, 25756
1060 — 25222
1061 — 25222
1062 — 25756
1063 — 25222
1064 — 25222
1065 — 25222
1068 — 252222
1069 — 25222
1070 — 25222
1071 — 25024
1073 — 24654, 25024
1076 — 25222
1078 — 25222
1079 — 25222
1090 — 25024
1094 — 25024
1096 — 25024, 29190
1097 — 25024
1098 — 25024
1099 — 25756
1102 — 25024
1104 — 25282
1106 — 25282
1108 — 25024
1120 — 25282
1126 — 25282
1127 — 25282
1128 — 25282
1129 — 25282
1130 — 25282
1131 — 25282
1132 — 25282
1136 — 25282
1701 — 24660

**8 CFR**
214 — 24891
238 — 24891

**9 CFR**
73 — 24346
82 — 23940
94 — 24891, 25669
97 — 23940
319 — 24640
PROPOSED RULES:
94 — 24219
102 — 23957
104 — 23957
381 — 24374

**10 CFR**
110 — 23953

**12 CFR**
201 — 23772
204 — 25985
329 — 25432
526 — 23940, 25433
545 — 24200
546 — 24201
563 — 24202





**12 CFR—Continued** — Page
PROPOSED RULES:
204 — 25703
220 — 26009
545 — 24228

**13 CFR**
PROPOSED RULES:
107 — 24028

**14 CFR**
39 — 23941, 24347, 24349, 24640, 24641, 25170, 25669, 25670, 25905
71 — 23941, 23942, 24204, 24350, 24641, 24892, 25171, 25433, 25905–25907
75 — 24204, 25171
91 — 24893
95 — 24893
97 — 24350
208 — 24642
241 — 24351
302 — 24894
389 — 24895
288 — 23772
399 — 23777, 24642
PROPOSED RULES:
37 — 25450
39 — 23962
61 — 23962
71 — 23804, 23969, 24222, 24914, 25195, 25451, 25452, 25696, 26007
75 — 23804
121 — 23962
Ch. II — 24660
221 — 23804
241 — 24223, 24661
298 — 23805, 24662
372a — 24664
389 — 24662
399 — 25453

**15 CFR**
8 — 23777
256 — 25908
376 — 23777, 25446
377 — 25184
1000 — 25909

**16 CFR**
13 — 24352, 24353, 24634, 25434–25436
PROPOSED RULES:
1700 — 25195

**17 CFR**
211 — 24635
231 — 24635
241 — 24635
251 — 24635
271 — 24635
PROPOSED RULES:
230 — 24668

**19 CFR**
Ch. I — 25171
1 — 24354, 25171
4 — 24354
PROPOSED RULES:
1 — 24374, 25185
10 — 25995
11 — 25995
12 — 25995
19 — 25995

**19 CFR—Continued** — Page
PROPOSED RULES—Continued
24 — 23954
25 — 25995
113 — 25995
114 — 25995
141 — 23954
142 — 25995
151 — 25448
172 — 25995

**20 CFR**
725 — 26042
PROPOSED RULES:
405 — 23802, 25448
725 — 26069

**21 CFR**
8 — 24643
9 — 24205
26 — 25985
45 — 25671
121 — 24354, 24643, 25437
135 — 23942
135b — 24355, 24643, 24895, 25673
135c — 24355, 24644, 25673
135e — 25674, 25676
141 — 25674
144 — 25437
146 — 25674
149b — 25674
149d — 25675
PROPOSED RULES:
10 — 25195
121 — 24374, 14375, 25694
130 — 24220
135 — 25694
141e — 26006
278 — 26007

**23 CFR**
PROPOSED RULES:
770 — 23969
772 — 25696

**24 CFR**
42 — 25172
200 — 25993
201 — 25676
203 — 24637
205 — 24637, 24896
207 — 24637
213 — 24637
220 — 24637
221 — 24637
232 — 24637
234 — 24637
235 — 24638
236 — 24638
241 — 24638
242 — 24638
244 — 24638, 24896
1700 — 23866
1710 — 23866
1715 — 23873
1720 — 23874
1914 — 23943–23945, 24355–24357, 25677, 25678, 25994
1915 — 24358, 24360
PROPOSED RULES:
20 — 24222
201 — 23803

**25 CFR** — Page
141 — 24638
251 — 25987
252 — 25988
256 — 23945
PROPOSED RULES:
221 — 23954, 23955

**26 CFR**
1 — 24206

**29 CFR**
610 — 25983
612 — 25989
614 — 25980
1907 — 25150
1952 — 24896, 25172
1953 — 24361
PROPOSED RULES:
1910 — 24300, 24375

**30 CFR**
57 — 23781
PROPOSED RULES:
504 — 24024

**31 CFR**
91 — 94897
315 — 24762
605 — 24898

**32 CFR**
166 — 25990
809 — 23945
1285 — 24206
1453 — 24210
PROPOSED RULES:
1604 — 25704

**32A CFR**
Ch. IV:
BP Notice 1 — 25175
Ch. X:
Reg. 1
Ch. XIII:
EPO Reg. 3 — 23977
PROPOSED RULES:
Ch. X — 26005

**33 CFR**
117 — 25433
127 — 24898
207 — 25176
401 — 24210
PROPOSED RULES:
117 — 24912–24914, 25455
127 — 23804

**35 CFR**
5 — 25438

**36 CFR**
50 — 24218
221 — 23948
PROPOSED RULES:
7 — 23796, 24912, 25185

**38 CFR**
1 — 24364
2 — 24366
17 — 24366
21 — 23948
36 — 25678



V 38 I 179 SEP 17 73 XUM

| 39 CFR | Page |
|---|---|
| 3000 | 24898 |
| 3001 | 24898 |
| **40 CFR** | |
| 35 | 24639 |
| 50 | 25678 |
| 52 | 24333 |
| 113 | 25439 |
| 126 | 25681 |
| 129 | 24342 |
| 180 | 23781, 25440 |
| PROPOSED RULES: | |
| 51 | 25697 |
| 52 | 23805 |
| 180 | 23806, 24667, 24918, 25455 |
| 411 | 24462 |
| 412 | 24466 |
| 422 | 24470 |
| **41 CFR** | |
| 1-1 | 24210 |
| 1-9 | 23782 |
| 1-18 | 23791 |
| 3-16 | 24644 |
| 114-50 | 24649 |
| **42 CFR** | |
| 21 | 25683 |
| **43 CFR** | |
| 4 | 23948 |
| 3830 | 24650 |
| 4710 | 24650 |
| PUBLIC LAND ORDERS: | |
| 5383 | 25684 |

| 45 CFR | Page |
|---|---|
| 909 | 24900 |
| PROPOSED RULES: | |
| 221 | 24872 |
| 233 | 23802 |
| 250 | 25450 |
| 903 | 23912 |
| **46 CFR** | |
| PROPOSED RULES: | |
| 146 | 23959 |
| 542 | 23979 |
| 538 | 24228 |
| **47 CFR** | |
| 0 | 24900 |
| 2 | 24901, 25180, 25991 |
| 13 | 25684 |
| 23 | 24901 |
| 73 | 24367, 25991 |
| 74 | 25991, 25992 |
| 81 | 24211, 25180, 25991 |
| 83 | 24368, 25180, 25992 |
| 87 | 25684 |
| 89 | 24901 |
| 91 | 25182 |
| 93 | 24901 |
| 97 | 24211 |
| PROPOSED RULES: | |
| 61 | 24920 |
| 73 | 25703, 26008 |
| 83 | 25196 |

| 49 CFR | Page |
|---|---|
| 1 | 24901, 24902 |
| 170 | 23791 |
| 171 | 23792 |
| 172 | 23792 |
| 177 | 23792 |
| 178 | 23792 |
| 393 | 25182 |
| 570 | 23949, 25685 |
| 1033 | 23792, 23793, 23952, 24212, 24902, 25183, 25685 |
| 1048 | 24368 |
| 1115 | 23953, 24903, 25686 |
| 1121 | 24902 |
| PROPOSED RULES: | |
| 172 | 24915 |
| 173 | 24915 |
| 393 | 24223, 25452, 25696 |
| 542 | 23979 |
| 571 | 23804 |
| 1057 | 24228 |
| 1131 | 23979 |
| **50 CFR** | |
| 20 | 23793 |
| 32 | 23793, 23794, 24212, 24369-24373, 24650-24652, 25183, 25441-25445, 25686, 25992 |
| 33 | 25445 |
| PROPOSED RULES: | |
| 21 | 23796 |
| 32 | 25693 |


## FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

| Pages | Date |
|---|---|
| 23765-23922 | Sept. 4 |
| 23923-24184 | 5 |
| 24185-24326 | 6 |
| 24327-24625 | 7 |
| 24627-24874 | 10 |
| 24875-25154 | 11 |
| 25155-25420 | 12 |
| 25421-25654 | 13 |
| 25655-25895 | 14 |
| 25897-26091 | 17 |



federal register

MONDAY, SEPTEMBER 17, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 179

PART II

# DEPARTMENT OF LABOR

## Employment Standards Administration

■

## BLACK LUNG BENEFITS

### Claims Under Federal and State Law



V 38-179 SEP 17 73 XUM

Title 20—Employees' Benefits

CHAPTER VI—EMPLOYMENT STANDARDS ADMINISTRATION, DEPARTMENT OF LABOR

SUBCHAPTER B—FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969, AS AMENDED

# PART 725—CLAIMS FOR BLACK LUNG BENEFITS PAYABLE UNDER PART C OF TITLE IV OF THE FEDERAL COAL MINE HEALTH AND SAFETY ACT, AS AMENDED

On November 30, 1972, 20 CFR, Chapter VI, was amended by adding thereto a new Part 725 (37 FR 25440–25466). Due to the requirement contained in the Federal Coal Mine Health and Safety Act, as amended, that certain sections of the Longshoremen's and Harbor Workers' Compensation Act which did not become effective until November 26, 1972, be incorporated in this Part 725, it was not possible to provide for notice, public procedure, and delayed effective date in accordance with 5 U.S.C. 553 and comply with the requirement contained in the Federal Coal Mine Health and Safety Act, as amended, that Part 725 be published in final form by November 30, 1972. The time for comments was, however, extended until February 1, 1973, to permit public participation to as full a degree as possible.

Some comments, recommendations, and objections were received after the November 30, 1972, promulgation date concerning this Part 725. Each of these has been carefully considered and changes and clarifications in Part 725 were made where appropriate.

The vast majority of changes which appear in this revised Part 725 serve to clarify and amplify the various procedural steps which were first described in the November 30, 1972, publication of Part 725. There are few major substantive variations between this document and the November 30, 1972, document. Those changes which should be especially noted are as follows:

(1) A number of changes have been made in Subpart B to reflect the decision that the Social Security Administration will continue claims taking responsibilities for an indefinite period after December 31, 1973;

(2) Section 725.102 has been revised to reflect the decision made to permit certain Social Security Administration black lung claimants to file for benefits under this Part 725;

(3) Subpart D, especially §§ 725.311–725.325, has been substantially revised to clarify the procedures to be used by the Department of Labor for purposes of identifying the coal mine operator who shall be responsible for the payment of benefits under this part;

(4) Sections 725.400–725.487 have been revised to more clearly describe the procedures to be followed upon the conclusion of any formal hearing proceedings conducted;

(5) Section 725.541–725.544 have been revised to more clearly describe the nature of medical benefits which shall become available to certain claimants after December 31, 1973; and

(6) New §§ 725.551 and 725.552 have been added to clarify the availability of vocational rehabilitation services.

Considering the need to have a comprehensive and complete set of guidelines available to the public and to the officials of the Department of Labor who are charged with the responsibility for administering the Black Lung Benefits Program, I find it appropriate and in the best interest of all concerned parties to republish Part 725 in its entirety, incorporating those amendments made.

This amended Part 725 shall become effective on September 17, 1973. Any additional comments, recommendations, or objections received at any time after such date shall be considered and acted upon where appropriate.

Special note should be made that § 725.516(d), which concerns the procedure for reducing benefits awarded under this part by State workmen's compensation benefits received has been reserved. Two alternative proposals concerning this paragraph appear in this edition of the FEDERAL REGISTER. Upon evaluation of the public comments on the alternative proposals, the Department shall amend § 725.516 to add a paragraph (d) which will reflect the decision subsequently made concerning this issue.

Part 725 is revised as follows:


Subpart A—General

INTRODUCTION

Sec.
725.1 Statutory provisions.
725.2 Purpose and scope of this part.

APPLICABILITY OF OTHER PARTS IN THIS SUBCHAPTER B

725.5 Applicability of Part 715 of this chapter.
725.6 Inapplicability of 20 CFR Part 717.
725.7 Applicability of Part 718 of this chapter.
725.8 Inapplicability of Part 720 of this chapter.
725.9 Applicability of Part 726 of this chapter.

Subpart B—Filing and Preliminary Processing of Claims

GENERAL

725.101 Scope and applicability of this subpart.
725.102 Treatment of claims previously filed with the Social Security Administration.

WHO MAY FILE CLAIMS

725.111 Who may execute a claim.
725.112 Evidence of authority to execute a claim on behalf of another.
725.113 Claimant must be alive when claim is filed.

FILING OF CLAIMS

725.121 Place of filing claim.
725.122 Claims forms.
725.123 Inquiry and assistance.
725.124 Time limits for filing claim.
725.125 When a claim is considered to have been filed; time of filing claim.
725.126 When a written statement is considered a claim.
725.127 Withdrawal of a claim.
725.128 Cancellation of a request for withdrawal.
725.129 Requests and notices to be in writing.

PREPARATION AND FILING OF CLAIM FOR ADJUDICATION

725.130 Action to be taken by Social Security Administration.
725.131 Action to be taken by the Office—general.
725.132 Development of evidence—general.
725.133 Initial medical examination—miner.
725.134 Additional medical evidence.
725.135 Fees for medical services.
725.136 Reimbursement for reasonable expenses in obtaining medical evidence.
725.137 Action to be taken by the Office—miner's claim.
725.138 Action to be taken by the OWCP—widows' or dependent survivor's claim.
725.139 Referral to State agency.
725.140 Filing of claim with deputy commissioner.

COAL MINE OPERATOR PARTICIPATION

725.151 Notice of claim and issue of liability.
725.152 Operator's response to notification.
725.153 Operator's medical evidence.

FURTHER ACTION ON CLAIM

725.161 Proceedings for determination of claim.

Subpart C—Relationship and Dependency

725.200 Relationship and dependency—general.
725.210 Determination of relationship—wife.
725.215 Determination of relationship—divorced wife.
725.220 Determination of relationship—widow.
725.225 Determination of relationship—surviving divorced wife.
725.230 Determination of relationship—child.
725.235 Determination of relationship—parent, brother, or sister.
725.240 Determination of dependency—wife.
725.245 Determination of dependency—divorced wife.
725.250 Determination of dependency—widow.
725.255 Determination of dependency—surviving divorced wife.
725.260 Determination of dependency—child.
725.265 Determination of dependency—parent, brother, or sister.
725.270 Time of determinations.
725.276 Legal impediment.
725.280 Domicile.
725.285 Member of the same household—"living with," "living in the same household," and "living in the miner's household".
725.290 Contributions and support.

Subpart D—Responsible Coal Mine Operators

GENERAL PROVISIONS

725.301 Scope and policy.
725.302 Operator defined.
725.303 Responsible operator defined.
725.304 Prior operator, successor operator.

DETERMINING RESPONSIBLE OPERATOR

725.311 Criteria for identifying a responsible operator.
725.312 Procedure for determination of operator's liability.
725.313 Determination of operator's liability in formal hearing.
725.314 Deferred identification of responsible operator; liability determination.







OPERATOR'S FINANCIAL RESPONSIBILITY

Sec.
725.321 Financial responsibility defined.
725.322 Insurance coverage.
725.323 Benefits a lien against assets.
725.324 Security for payments of benefits.
725.325 Liability of operator for Federal payments made.

OPERATOR'S PAYMENTS

725.331 Scope of payment obligations.
725.332 Prompt payment.
725.333 Defaulted payments.
725.334 Payment of interest.
725.335 Suspension of payments.
725.336 Receipt for payment.
725.337 Reporting requirements.

Subpart E—Adjudicatory Process

GENERAL

725.401 Scope and applicability of this subpart.
725.402 Adjudication officers.
725.403 Powers of adjudication officers.
725.404 Disqualification of adjudication officer.
725.405 Changes in procedures.

PARTIES TO PROCEEDINGS; REPRESENTATIVES

725.411 Parties in interest.
725.412 Party *amicus curiae*.
725.413 Representation of parties.
725.414 Qualification of representative.
725.415 Authority of representative.
725.416 Legal assistance.
725.417 Legal services.
725.418 Fixing of amount of legal fees.
725.419 Payment of claimant's attorney's fee by responsible operator or carrier.

PROCEDURES, GENERALLY

725.421 Procedures by and before deputy commissioner.
725.422 Determination of disability.
725.423 General procedures for determination of contested issues.
725.424 Presumptions.
725.425 Abandonment of a claim.
725.426 Final adjudication; no responsible operator.

CONFERENCES

725.431 Nature of conferences.
725.432 Purpose of conferences.
725.433 Notification of parties.
725.434 Time and place of conference.
725.435 Preparation for conferences.
725.436 Cancellation of conferences.
725.437 Attendance at conferences.
725.438 Participation by the deputy commissioner.
725.439 File record.
725.440 Memorandum of conference.
725.441 Reply to memorandum of conference.
725.442 Adjudication without a hearing.
725.443 Accelerated hearing.
725.444 The record of further proceedings.
725.445 Obtaining documents from the administrative file for reintroduction at formal hearings.

HEARINGS

725.451 Right to a hearing.
725.452 Request for hearing.
725.453 Type of hearing; parties.
725.454 Notice of hearing.
725.455 Hearing on new issues.
725.456 Time and place of hearing.
725.457 Change of time and place for hearing; transfer of cases.

CONDUCT OF HEARINGS

725.460 Hearing procedures—generally.
725.461 Evidence.
725.462 Witnesses.
725.463 Depositions; interrogatories.
725.464 Witness fees.
725.465 Oral argument and written allegations.
725.466 Waiver of right to appear and present evidence.
725.467 Consolidated issues.
725.468 Joint hearings.
725.469 Record of hearing.

DISMISSALS

725.471 Dismissal of the case or claim by application of party.
725.472 Dismissal by abandonment of party.
725.473 Dismissal for cause.
725.474 Notice of dismissal and right to request review thereon.
725.475 Effect of dismissal.

COMPLETION OF FORMAL HEARING

725.480 Termination of formal hearings.
725.481 Issuance of final decision and order.
725.482 Form of final decision and order.
725.483 Contents of decision and order.
725.484 Formal hearings; filing and mailing of orders; disposition of transcripts.
725.485 Interlocutory matters to be disposed of without formal orders.
725.486 Finality of decisions and orders.
725.487 Withdrawal of controversion of issues set for formal hearing—effect.
725.488 Modification of awards.

APPEALS FROM DECISIONS AND ORDERS

725.490 Right to appeal; Benefit Review Board.
725.491 Procedure before the Board.
725.492 Judicial review.
725.493 Certification of record for judicial review.
725.494 Costs in proceedings brought without reasonable grounds.

Subpart F—Payment of Benefits

GENERAL

725.501 Applicability of this subpart.
725.502 Manner of payment; payment periods.
725.503 Date from which benefits shall be payable.
725.504 Payees.
725.505 Payment on behalf of another; "legal guardian" defined.
725.506 Guardian for minor or incompetent.
725.507 Assignment and exemption from claims of creditors.

BENEFIT RATES

725.510 Computation of benefits.
725.511 Certification to dependent of augmentation portion of benefit.
725.512 Commutation of payments—lump sum awards.
725.513 Reimbursement payments to the Department of Labor.

INCREASES AND REDUCTIONS OF BENEFITS

725.515 Modification of benefit amounts—general.
725.516 Reduction; receipt of State or Federal benefit.
725.517 Reductions; retroactive effect of an additional claim for benefits.

OVERPAYMENTS, UNDERPAYMENTS

725.521 Overpayment.
725.522 Notice of right to waive consideration.
725.523 When waiver of adjustment or recovery may be applied.
725.524 Standards for waiver of adjustment or recovery.
725.525 Collection and compromise of claims for overpayment.
725.526 Underpayments.
725.527 Relation to provisions for reductions or increases.
725.528 Applicability of overpayment and underpayment provisions to operator or carrier.
725.529 Applicability of Part B representative payee provisions.

MEDICAL BENEFITS

725.541 Availability of medical benefits.
725.542 Approved physicians.
725.543 Supervision of medical treatment.
725.544 Fees for medical benefits.

VOCATIONAL REHABILITATION

725.551 Objective of vocational rehabilitation.
725.552 Requests for and referral to vocational rehabilitation assistance.


*Authority.*—Title IV, Federal Coal Mine Health and Safety Act of 1969, 83 Stat. 742 (30 U.S.C. 901 et seq.), as amended by Public Law 92-303, 86 Stat. 156, and pursuant to such Act under 44 Stat. 1424 (33 U.S.C. 901 et seq.), as amended by Public Law 92-576, 86 Stat. 1251; (5 U.S.C. 301) Secretary of Labor's Order 13-71; 36 FR 8755.

## Subpart A—General

### INTRODUCTION

### § 725.1 Statutory provisions.

(a) Title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended by the Black Lung Benefits Act of 1972, provides for the payment of prescribed benefits to coal miners who are totally disabled due to pneumoconiosis and to surviving widows, children, parents, brothers, and sisters as provided in the Act in case of death of a coal miner who is receiving disability benefits under the Act or is totally disabled by pneumoconiosis at the time of his death or whose death is due to pneumoconiosis.

(b) Part B of Title IV of the Act provides for the determination and the payment by the Federal Government of such benefits on disability claims filed before January 1, 1974, and on death claims filed before such date or within 6 months of the death of a miner who dies before such date, whichever is the later date. In the case of claims filed before such terminal date, Federal payment of benefits to which entitlement is established under Part B of Title IV of the Act continues beyond such terminal filing date so long as the claimant remains eligible therefor, except in those cases which are subject to special provisions terminating liability for Federal payment of benefits under Part B at the end of the Part B filing period with respect to claims therefor which were not filed before July 1, 1974.

(c) In the case of claims for benefits under Part B of Title IV of the Act filed after June 30, 1973, and subject to the special provisions mentioned in paragraph (b) of this section, section 415 of Part B provides for the filing of such claims at the places and in the manner provided for by joint regulations of the Secretary of Labor and the Secretary of Health, Education, and Welfare and for the transfer of such claims to the Secretary of Labor who is to determine such claims in accordance with the procedures provided in section 415 and regulations promulgated thereunder by the Secre-



V 38 I 179 SEP 17 73 XUM

tary after consultation with the Secretary of Health, Education, and Welfare. Under section 415, benefits to which the claimant is determined to be entitled under Part B of Title IV are to be paid by the Secretary of Labor for the period from the filing date to the date of termination of Federal Part B payments as provided in the special provisions mentioned in paragraph (b) of this section. For periods thereafter, liability for continued payment of benefits is placed in the responsible coal mine operators as determined in accordance with Part C of Title IV of the Act and section 422 thereof or, if a workmen's compensation law of a State is found by the Secretary to provide adequate coverage for pneumoconiosis, under such workmen's compensation law as provided in section 421 of Part C. For any periods after December 31, 1973 when the payment by a responsible operator of benefits to which the claimant is found entitled pursuant to section 415 of the Act is not assured, or the payment of equivalent or greater benefits under an applicable State workmen's compensation law is not assured, the Secretary of Labor is to make benefit payments from Federal funds pursuant to the provisions of section 415 of Part B and section 424 of Part C as appropriate. These provisions are intended to assure the uninterrupted receipt of benefits by claimants filing therefor on or after July 1, 1973 during the period of transition from full Federal liability for benefits under Part B of Title IV to mine operators' liability under Part C or under adequate State workmen's compensation laws identified as provided in Part C of Title IV of the Act.

(d) Part C of Title IV of the Act makes provision for payment of pneumoconiosis disability and death claims filed on or after January 1, 1974. Under the provisions of Part C, in States having a workmen's compensation law meeting the criteria set forth in Part 722 of this subchapter, such claims are to be filed pursuant to such State law. In periods when no such law is applicable, the Secretary of Labor is charged with administering a program following the provisions of the Longshoremen's and Harbor Workers' Compensation Act under which responsibility for payment of pneumoconiosis benefits is placed upon operators of coal mines in which the miners who contracted pneumoconiosis were employed. Benefit payments by the Secretary of Labor are made in cases where payments to which a claimant is entitled are not available from the sources specified.

**§ 725.2 Purpose and scope of this part.**

(a) This Part 725 sets forth the rules applicable to the filing of claims for black lung benefits with the Secretary of Labor after December 31, 1973, and the rules for processing, determining and adjudicating, and paying benefits pursuant to Part C of Title IV of the Act as amended, with respect to black lung claims filed by any eligible miner, widow, child, parent, brother or sister.

(b) This Subpart A describes generally the statutory framework governing the manner in which claims filed between January 1, 1974 and December 30, 1981 are to be processed and paid, as well as the applicability of other related parts contained in this subchapter to such claims.

(c) Subpart B of this part prescribes the procedure by which an individual claimant shall file his claim for black lung benefits with the Secretary of Labor after December 31, 1973, and sets forth the rules for the preliminary processing of claims for such benefits.

(d) Subpart C of this part sets forth the relationship and dependency requirements for widows, children, parents, brothers, and sisters and relationship and dependency requirements which affect the amount of benefits to which any miner and/or widow is entitled.

(e) Subpart D of this part prescribes the criteria and procedures which shall be followed by the Secretary of Labor in determining the identity and establishing the liability of any coal operators responsible under Title IV of the Act for the payment of black lung benefits after December 31, 1973.

(f) Subpart E of this part sets forth the rules which shall be applied by the Secretary of Labor in the determination and adjudication of claims for black lung benefits pursuant to Part C of Title IV of the Act.

(g) Subpart F of this part sets forth the rules under which the Secretary of Labor shall provide for payment of benefits to eligible claimants determined to be entitled thereto pursuant to the procedures enumerated in Subpart E of this part.

APPLICABILITY OF OTHER PARTS IN THIS SUBCHAPTER B

**§ 725.5 Applicability of Part 715 of this chapter.**

All of the matter contained in Part 715 of this chapter is fully applicable to this Part 725 unless otherwise indicated.

**§ 725.6 Inapplicability of 20 CFR Part 717.**

Part 717 of this chapter is a joint regulation promulgated by the Secretary of Health, Education, and Welfare and the Secretary of Labor which sets out the procedure for filing claims for black lung benefits in the transition period during which the primary Federal responsibility for the administration of new claims under the Act is transferred from the Secretary of Health, Education, and Welfare to the Secretary of Labor. The procedures for filing claims contained in Part 717 of this chapter are applicable only to that transition period and are not applicable to claims filed with the Secretary of Labor after December 31, 1973, under Part C of Title IV of the Act.

**§ 725.7 Applicability of Part 718 of this chapter.**

(a) Part 718 of this chapter incorporates in this Subchapter B the applicable medical standards and presumptions promulgated by the Secretary of Health, Education, and Welfare for determining whether a coal miner's total disability or death was due to pneumoconiosis or whether a coal miner was totally disabled by pneumoconiosis at the time of his death. Section 422(h) of Part C of Title IV of the Act makes these standards applicable to claims filed with the Secretary of Labor for benefits under Part C.

(b) The medical standards and presumptions incorporated by Part 718 of this chapter are, therefore, applicable to all claims filed for black lung benefits which must be determined pursuant to this Part 725, except that for the purpose of determining the applicability of the presumption established by section 411 (c)(4) of the Act to claims filed under Part C of Title IV of the Act, section 430 of the Act provides no period of employment after June 30, 1971, shall be considered in determining whether a miner was employed for at least 15 years in one or more underground mines.

**§ 725.8 Inapplicability of Part 720 of this chapter.**

Part 720 of this chapter sets out the procedures for processing, determining and adjudicating claims and paying benefits in respect to the Secretary of Labor's responsibility for administering the provisions of section 415 of Part B of Title IV of the Act. No section of that Part 720 is incorporated by reference in this Part 725. Part 720 of this chapter relates exclusively to the transition period claims to be determined by the Secretary as provided in section 415 of the Act and is inapplicable to any new claims filed after December 31, 1973, which are to be processed, adjudicated, and paid pursuant to Subparts A–F of this Part 725.

**§ 725.9 Applicability of Part 726 of this chapter.**

Part 726 of this chapter relates to the criteria to be used by the Secretary of Labor in determining whether a coal mine operator in appropriate circumstances has taken the necessary steps to comply with insurance requirements which section 423 of Title IV of the Act prescribes for securing the payment of black lung benefits by qualifying as a self-insurer or contracting with an authorized insurance carrier. Part 726 of this chapter is applicable to this Part 725 insofar as it affects the responsibility of coal operators to fulfill their obligations under Title IV of the Act.

## Subpart B—Filing and Preliminary Processing of Claims

GENERAL

**§ 725.101 Scope and applicability of this subpart.**

All claims for black lung benefits filed on or after January 1, 1974, under Part C of Title IV of the Act (except claims within the purview of a workmen's compensation law of a State listed in § 722.152 of this subchapter) shall be filed and preliminarily processed pursuant to the provisions of this subpart. This subpart does not apply to the filing of claims for black lung benefits under Part B of Title IV, or to any claims filed before January 1, 1974. Claims filed prior to July 1, 1973, under Part B of Title IV shall be filed with the Social Security Administration pursuant to the provisions of Part 410 of this title. Claims filed on or after July 1, 1973, under section 415 of Part B of Title IV shall be filed pursuant to Part 717 of this Subpart B.





**§ 725.102 Treatment of claims previously filed with the Social Security Administration.**

(a) *Approved claims.*—Claims filed prior to July 1, 1973, with the Social Security Administration pursuant to the applicable provisions of Part B of Title IV of the Act shall be processed, adjudicated, and paid by the Administration if the miner's total disability or death on which the claim is predicated is determined to have occurred prior to July 1, 1973. Such claimant may file a new claim with the Department pursuant to section 422 of Part C, of Title IV of the Act and the regulations contained in this part in order to obtain such additional benefits, including medical benefits, as may become available beginning January 1, 1974, as provided by Part C of Title IV of the Act.

(b) *Denied claims.*—Any claimant who has filed a claim for benefits under Part B of Title IV of the Act prior to July 1, 1973 and whose claim has been finally denied by the Social Security Administration for any reason, may file a new claim for benefits with the Department and may be awarded benefits, where appropriate, under Part C of Title IV of the Act and the applicable regulations contained in this part.

(c) *Claims in process.*—Any claimant who has filed a claim for benefits under Part B of Title IV of the Act prior to July 1, 1973 and whose claim has not been finally adjudicated by the Social Security Administration, may not be awarded benefits pursuant to this Part 725 until such time as the Administration has completed its adjudication of such claim. A claim filed prior to July 1, 1973 shall be considered finally adjudicated at any time after a decision has been rendered in respect of the claimant's entitlement to benefits by a Social Security Administration adjudication officer and no review, reconsideration, reopening or appeal is being pursued by such claimant. If such review, reconsideration, reopening, or appeal is later pursued by such claimant the Department shall suspend the evidentiary development of the case and hold the final adjudication of the case in abeyance pending the outcome of such review, reconsideration, reopening, or appeal.

(d) *Protective filing.*—Any claimant who has filed a "protective writing" with the Social Security Administration prior to July 1, 1973, and who timely perfects such protective writing (see § 410.229 of this title) with the Social Security Administration on some date subsequent to June 30, 1973, shall, as of the date of such perfection of the protective writing, be considered to have filed a new protective writing with the Department of Labor (see § 725.126).

WHO MAY FILE CLAIMS

**§ 725.111 Who may execute a claim.**

The Office of Workmen's Compensation Programs (OWCP) determines who is the proper party to execute a claim in accordance with the following rules:

(a) If the claimant has attained the age of 18, is mentally competent, and is physically able to execute the claim, the claim shall be executed by him. Where, however, paragraph (d) of this section applies, the claim may also be executed by the claimant's legal guardian, committee, or other representative.

(b) If the claimant is between the ages of 16 and 18, is mentally competent, has no legally appointed guardian, committee, or other representative, and is not in the care of any person, such claimant may execute the claim upon filing a statement indicating capacity to act on his own behalf.

(c) If the claimant is mentally competent but has not attained age 18 and is in the care of a person, the claim may be executed by such person.

(d) If the claimant (regardless of his age) has a legally appointed guardian, committee, or other representative, the claim may be executed by such guardian, committee, or representative.

(e) If the claimant (regardless of his age) is mentally incompetent or is physically unable to execute the claim, it may be executed by the person who has the claimant in his care or by a legally appointed guardian, committee, or other representative.

(f) Where the claimant is in the care of an institution and is not mentally competent or physically able to execute a claim, the manager or principal officer of such institution may execute the claim.

(g) For good cause shown, the Office may accept a claim executed by a person other than one described in paragraph (a), (b), (c), (e), or (f) of this section.

**§ 725.112 Evidence of authority to execute a claim on behalf of another.**

Where the claim is executed by a person other than the claimant, such person shall, at the time of filing the claim or within a reasonable time thereafter, submit evidence of his authority to execute the claim on behalf of such claimant in accordance with the following rules:

(a) If the person executing the claim is the legally appointed guardian, committee, or other legal representative of such claimant, the evidence shall be a certificate executed by the proper official of the court of appointment.

(b) If the person executing the claim is not such a legal representative, the evidence shall be a statement describing his relationship to the claimant, the extent to which he has the care of such claimant, or his position as an officer of the institution of which the claimant is an inmate. The Office may, at any time, require additional evidence to establish the authority of any such person.

**§ 725.113 Claimant must be alive when claim is filed.**

For a claim to be effective, the claimant must be alive at the time the claim is filed.

FILING OF CLAIMS

**§ 725.121 Place of filing claim.**

Claims for benefits under Part C of Title IV of the Act and this Part 725 may be delivered, mailed, or otherwise presented for filing at any of the various district offices of the Social Security Administration throughout the United States, or in the case of a foreign claim, such claim may be submitted to any office maintained by the Foreign Service of the United States.

**§ 725.122 Claims forms.**

Claims shall be filed on approved forms as are prescribed by the Office of Workmen's Compensation Programs (OWCP).

**§ 725.123 Inquiry and assistance.**

(a) *Information requests.*—Inquiries or requests concerning claims and claims forms may be made by any individual by mail or in person to the Division of Coal Mine Workers' Compensation, Office of Workmen's Compensation Programs, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210, or any of the district offices of the Social Security Administration which are located in various places throughout the United States and in Washington, D.C. When appropriate, in response to inquiries or requests the Office or Administration shall tender to prospective claimants explanations of eligibility under the Act, of statutory requirements concerning disability and death claims, and of procedures for filing and processing of claims.

(b) *Assistance in the preparation of claims forms.*—The Social Security Administration will assist claimants, if necessary, in completing their claims forms, including the listing of information required to establish previous periods of a miner's coal mine employment and to determine which of these periods of employment were spent in the service of any particular coal mine operator. The Administration will also assist claimants in securing other evidence necessary to support their claims.

(c) *Development of employment history.*—The Social Security Administration will assist any claimant in establishing a chronological history of all employment. Such development entails the acquisition of such facts as are necessary to identify the dates of employment with each coal mine operator with whom a disabled or deceased miner was employed. It may be necessary to secure documentary evidence to support a claimant's allegations in respect to these periods of employment. If, however, a claimant desires to utilize the medical presumption prescribed in section 411(c)(4) of Part B of Title IV of the Act and section 422(f)(2) of Part C of Title IV of the Act, documentary evidence of coal mine



V 38 N 179 SEP 17 73 XUM

employment during the 15-year period must be obtained. No period of employment after June 30, 1971, may be considered as part of such 15-year period. The Office and the Social Security Administration will assist any claimant in obtaining the necessary evidence required to establish a right to utilize this presumption (see also Part 718 of this Subchapter B).

**§ 725.124 Time limits for filing claim.**

(a) Every claim for benefits filed under this part must be filed within 3 years of the discovery of total disability due to pneumoconiosis or, in the case of death due to or while totally disabled by pneumoconiosis, within 3 years of the date of such death.

(b) Any claim for benefits in the case of a disabled miner filed under Part C of Title IV of the Act and this Part 725 on the basis of eligibility under section 411(c)(4) of Part B of Title IV of the Act, must be filed within 3 years from the date of last exposed employment in a coal mine or, in the case of death from a respiratory or pulmonary impairment for which benefits would be payable under section 411(c)(4), incurred as a result of employment in a coal mine, such claim must be filed within 15 years from the date of last exposed employment in a coal mine.

(c) The time limitations described in paragraphs (a) and (b) of this section are mandatory and may not be waived or otherwise avoided for any reason.

**§ 725.125 When a claim is considered to have been filed; time of filing claim.**

(a) *Date of receipt.*—(1) Except as otherwise provided in this section, for the purposes of determining when a claim has been filed within the meaning of Part C of Title IV of the Act, a claim is considered to have been filed only as of the date it is received at an office of the Social Security Administration or by an employee of the Administration who is authorized to receive such claims.

(2) Claims submitted to any other agency or subdivision of the United States Government shall be forwarded promptly to an office of the Administration. Such a claim shall be deemed filed with the Administration as of the date it was received by the other governmental unit.

(3) Claims by or on behalf of a claimant residing outside the United States, submitted to an office maintained by the Foreign Service of the United States, shall be considered to have been filed with the Administration as of the date it is received at such office of the Foreign Service.

(b) *Date of mailing.*—If the claim is deposited in and transmitted by the United States mail and the fixing of the date of delivery as the date of filing would result in a loss or impairment of benefit rights, it will be considered to have been filed as of the date of mailing. The date appearing on the postmark (when available and legible) shall be prima facie evidence of the date of mailing. If there is no postmark or it is not legible, other evidence may be used to establish the mailing date.

(c) *Prospective filing of a claim.*—A claim which is filed before the first month in which the claimant meets the requirements for entitlement to benefits is a valid claim only if the claimant meets such requirements before a final decision on his claim is made.

(d) *Abandoned claims.*—A claim considered as abandoned claim pursuant to § 725.4 shall, if once again pursued by the same claimant within 1 year from the date on which the claim was deemed abandoned, be considered filed for purposes of § 725.124 as of the date the claim which was abandoned was filed.

**§ 725.126 When a written statement is considered a claim.**

(a) *Written statement filed by claimant on his own behalf.*—Where an individual files a written statement which indicates an intention to claim benefits and such statement bears his signature or his mark properly witnessed, the filing of such written statement shall be considered to be the filing of a claim for benefits: *Provided*, That,

(1) the claimant or a proper person on his behalf (see § 725.111) executes a prescribed claims form (see § 725.122) that is filed with the Administration during the claimant's lifetime and within the period prescribed in paragraph (c)(1) of this section; or

(2) In the case of a claimant who dies prior to the filing of such prescribed claims forms within the period prescribed in paragraph (c)(1) of this section, a prescribed claims form is filed with the Administration within the period prescribed in paragraph (c)(2) of this section by a person acting on behalf of the deceased claimant's estate.

(b) *Written statement filed by an individual on behalf of another.*—A written statement filed by an individual which indicates an intention to claim benefits on behalf of another person shall, unless otherwise indicated thereon, be considered to be the filing of a claim for such purposes: *Provided*, That;

(1) The written statement bears the signature (or mark properly witnessed) of the individual filing the statement; and

(2) A prescribed claims form (see § 725.122) is executed and filed in accordance with the provisions of paragraph (c)(1) of this section.

(c) *Period within which prescribed claims forms must be filed.*—After the Administration has received from an individual a written statement as described in paragraph (a) or (b) of this section—

(1) Notice in writing shall be sent to the claimant or to the individual who filed the written statement on his behalf, stating that an initial determination will be made with respect to such written statement if a prescribed claim form executed by the claimant or by a proper party on his behalf is filed with the Administration within 6 months from the date of such notice; or

(2) If notice is received that the death of such claimant occurred before the mailing of the notice described in paragraph (c)(1) of this section, or within the 6-month period following the mailing of such notice but before the filing of a prescribed claims form by or on behalf of such individual, notification in writing shall be sent a person acting on behalf of his estate, or to the deceased's last known address. Such notification will include information that an initial determination with respect to such written statement will be made only if a prescribed claims form is filed within 6 months from the date of such notification.

(3) If, after the notice as described in this paragraph (c) has been sent, a prescribed claims form is not filed (in accordance with the provisions of paragraph (a) or (b) of this section) within the applicable period prescribed in paragraphs (c)(1) or (2) of this section, it will be deemed that the filing of the written statement to which such notice refers is not to be considered the filing of a claim for the purposes set forth in paragraphs (a) and (b) of this section.

**§ 725.127 Withdrawal of a claim.**

(a) *Before adjudication of claim.*—A claimant (or an individual who is authorized to execute a claim on his behalf under § 725.111), may withdraw his previously filed claim provided that:

(1) He files a written request for withdrawal with the OWCP;

(2) The claimant is alive at the time his request for withdrawal is filed;

(3) An appropriate adjudication officer approves the request for withdrawal; and

(4) The request for withdrawal is filed on or before the date such adjudication officer makes a determination on the claim.

(b) *After adjudication of claim.*—A claim for benefits may be withdrawn by a written request filed after the date the appropriate adjudication officer of the Department makes a determination on the claim, provided that:

(1) The conditions enumerated in paragraphs (a) (1) through (3) of this section are met; and

(2) There is repayment of the amount of benefits previously paid because of the claim that is being withdrawn or it can be established to the satisfaction of the Office that repayment of any such amount is assured.

(c) *Effect of withdrawal of claim.*—Where a request for withdrawal of a claim is filed and such request for withdrawal is approved by the appropriate Department official, such claim will be deemed not to have been filed. After the withdrawal (where made before or after the date of a determination) further action will be taken only upon the filing of a new claim, except as provided in § 725.128.

(d) *Cessation of evidentiary development.*—In the event a request that a claim be withdrawn prior to adjudication is approved, the Office shall immediately notify the Social Security Administration office in which the claim was filed. Upon such notification all evidentiary development which is being undertaken by such Social Security office shall be discontinued.





**§ 725.128 Cancellation of a request for withdrawal.**

Before or after a written request for withdrawal has been approved, the claimant (or a person who is authorized under § 725.111 to execute a claim on his behalf) may request that the request for withdrawal be canceled and that the withdrawn claim be reinstated. Such request for cancellation must be in writing and must be filed, in a case where the requested withdrawal was approved, no later than 60 days after such approval. The claimant must be alive at the time the request for cancellation of the request for withdrawal is filed with the Office.

**§ 725.129 Requests and notices to be in writing.**

Any request for a determination or a decision relating to an individual's right to benefits, the withdrawal of a claim, the cancellation of a request for such withdrawal, or any notice provided for, by, or pursuant to this part, shall be in writing and shall be signed by the person authorized to execute a claim under § 725.111.

PREPARATION AND FILING OF CLAIM FOR ADJUDICATION

**§ 725.130 Action to be taken by Social Security Administration.**

(a) Immediately upon the filing of a claim pursuant to § 725.123, the Social Security Administration office in which the claim is filed shall notify the Office of Workmen's Compensation Programs that such claim has been filed. The OWCP shall establish a case file for the claim and assign a claim number to each case.

(b) The Social Security Administration office in which the claim is filed shall assist the claimant in obtaining whatever medical and other evidence which may be necessary for such claimant to establish his entitlement to benefits. The accumulation of any evidence and the steps necessary or pertinent thereto shall be accomplished pursuant to the provisions of this Subpart B and under the supervision of the OWCP. Upon the receipt of supporting evidence by the Social Security Administration office in which the claim was filed, such evidence together with the completed claim form shall be noted as received and immediately forwarded to the OWCP.

(c) No Social Security Administration office shall make any determination of the ultimate validity of any evidence with respect to any claim. All evidence or information submitted in support of a claim shall be forwarded to the OWCP. The sole functions of the Social Security Administration in respect of claims filed pursuant to this part shall be to receive claims forms, receive and transmit evidence, to assist claimants in obtaining such evidence, and to disseminate information to claimants to assist them in establishing the validity of their claims.

**§ 725.131 Action to be taken by the Office—general.**

When a claim filed pursuant to the provisions of this subpart has been received by the Office from the filing office it shall be examined together with the supporting evidence transmitted with respect thereto. The Office shall promptly take such further action as may be necessary to assure that sufficient information, medical evidence, and a properly executed claims form have been submitted and that the claim is complete and ready for adjudication. The claim and supporting documents shall then be filed with the deputy commissioner. In the following sections the action to be taken in circumstances described therein is set forth in more detail.

**§ 725.132 Development of evidence—general.**

(a) *Employment history.*—The claimant shall furnish a complete and detailed history of the miner's coal mine employment which is pertinent to the claimant's eligibility for benefits and to the liability of any coal mine operator for payment of the benefits.

(b) *Matters of record.*—In appropriate cases it shall be necessary to develop evidence pertaining to or obtain proof of age, marriage, or termination of marriage, death, relationship of parent and child, other relationship or dependence, or any other fact which may be proven as a matter of public record. (For substantive requirements as to relationship and dependency see Subpart C of this part.) Evidence pertaining to these matters shall be obtained by the claimant and submitted to an office of the Social Security Administration or sent directly to the OWCP. For purposes of claims under this part, the Office and the deputy commissioner may require this evidence to be submitted in such manner as would be acceptable for Social Security Act benefit applications under the regulations of the Social Security Administration (see § 410.240(g) of this title).

(c) *Documentary evidence.*—In developing documentary evidence as to any matter, the "best evidence rule" shall be applicable. This rule requires that the original document or a certified copy thereof must be produced if available. Secondary evidence in this regard may be used only in those cases where the original document is unaccounted for and an adequate explanation is given as to why it cannot be produced.

(d) *Certification of evidentiary documents.*—In cases where a copy of record document, or other evidence, or an excerpt of information therefrom, is acceptable as evidence in lieu of the original, such copy or excerpt shall, except as may otherwise clearly be indicated thereon, be certified as a true and exact copy or excerpt by the official custodian of any such record or by an employee of the Office authorized to make certification of any such evidence.

(e) *Evidence of miner's death due to or while disabled by pneumoconiosis.*—Any reliable and probative evidence shall be admissible as part of the case record if such evidence supports a claimant's allegation that the death of the miner on whose death a claim is predicated was due to pneumoconiosis or that such miner was totally disabled by pneumoconiosis at the time of his death.

(f) *Insufficient evidence of eligibility.*—Whenever a claimant for benefits has submitted no evidence or insufficient evidence of eligibility, the Office will inform the claimant what evidence is necessary for a determination of eligibility and will request him to submit such evidence within a specified reasonable time which may be extended for a further reasonable time upon the claimant's request. The claimant's failure to submit such evidence as requested shall be a basis for determining that the conditions of eligibility concerning which such evidence was requested have not been met.

**§ 725.133 Initial medical examination—miner.**

(a) Upon completion of the appropriate claims form the Social Security Administration office in which the claim is filed shall tender to each miner-claimant a list of physicians or authorized medical testing facilities in the vicinity of the miner's residence designated and approved by the Secretary to conduct examinations in connection with the black lung benefits program.

(b) If an initial medical examination is required, the miner may select a physician or authorized facility from such list. Such miner may select a physician not on the list if he so chooses.

(c) The Social Security Administration office shall promptly arrange for a medical examination to be conducted, at a time and place convenient to both the miner and the approved physician or facility, and as soon as is practicable.

(d) The designated physician or facility will complete an examination of the miner to determine the nature and extent of the miner's impairment enter his findings on the appropriate form pursuant to the instruction contained in such form, and transmit the form together with a bill for medical services rendered within 20 days from the date of the examination to the OWCP (see § 725.130(a)).

(e) The deputy commissioner responsible for initially adjudicating the claim shall have the power, in his discretion, to charge the cost of medical examinations conducted under this section to a notified operator, if he is a self-insurer, or to an operator's insurance carrier, or if there is no responsible operator, to the OWCP.

(f) Proceedings and all evidentiary development shall be suspended and no benefits shall be payable for any period during which a claimant-miner may refuse to submit to medical examination under this section.

(g) Paragraphs (b), (c), and (d) of § 725.134 shall apply with respect to examinations conducted pursuant to the provisions of this section as is appropriate in light of the fact that initial medical examinations may be arranged by officials of the Social Security Administration.



V 38 179 SEP 17 73 XUM

§ 725.134 Additional medical evidence.

(a) *Report of examination by physician.*—In the event that medical questions are raised at any time in any case of a miner's claim for benefits an adjudication officer may cause the claimant to be examined by a physician employed or selected by the Office and may obtain from such physician a report containing his estimate of the miner's disability and such information as may be appropriate. Any party in interest (see § 725.411) who is dissatisfied with such report may request a review or reexamination of the miner by one or more different physicians. The appropriate adjudication officer shall order such review or reexamination unless he finds that it is clearly unwarranted. Such review or reexamination shall be completed within 2 weeks from the date ordered unless the deputy commissioner finds that because of extraordinary circumstances a longer period is required.

(b) *Conduct of examination.*—No other physician selected by the operator, his insurance carrier, or the miner shall be present at or participate in any manner in such examinations, nor shall conclusions of such physicians as to the nature or extent of impairment or the cause of impairment be available to the examining physician unless otherwise ordered, for good cause, by the appropriate adjudication officer. Such operator or carrier shall, upon request, be entitled to have the miner examined immediately thereafter and upon the same premises by a qualified physician in the presence of such physician as the miner may select, if any.

(c) *Submittal to examination at place designated.*—The miner shall submit to a physical examination under paragraph (a) of this section at such place as the appropriate adjudication officer may require. The place, or places, shall be designated by the appropriate adjudication officer and shall be reasonably convenient for the miner. Proceedings shall be suspended and no benefits shall be payable for any period during which the miner may refuse to submit to examination.

(d) *Examination by disinterested physician.*—The Office or appropriate adjudication officer may employ or select any impartial physician for the purpose of making examinations or reviews under paragraph (a) of this section.

(e) *Payment for examination.*—The deputy commissioner shall have the power in his discretion to charge the cost of examination or review under this section to the notified operator, if he is a self-insurer, or to the operator's insurance carrier, or if there is no responsible operator to the Office.

§ 725.135 Fees for medical services.

(a) All fees and other charges for medical examinations, treatment, or service shall be limited to such charges as prevail in the community in which the physician, medical facility, or supplier is located.

(b) Any complaint concerning a physician's fee shall be directed to the Office of Workmen's Compensation Programs in Washington, D.C.

(c) The Office shall investigate the complaint or may on its own initiative investigate a fee and where appropriate inform a physician that his fee is in excess of the permissible amount for the services performed. The physician may then adjust his fee to within the permissible limits or contest the determination of the Office. In the event that the fee is contested, a physician may request a hearing pursuant to Subpart E of this part.

(d) Any physician who refuses to comply with a final decision and order concerning his fee or refuses to adjust his fee pursuant to paragraph (c) of this section within 30 days from the date he is notified that his fee is in excess of a permissible amount, shall forthwith be removed from the Secretary's list of approved physicians and shall not otherwise be authorized to conduct black lung examinations or treatments. No subsequent treatments or examinations conducted by a physician barred under this section shall be reimbursable medical expenses pursuant to § 725.136 and no debarred physician shall be reinstated on the Secretary's list until such time as the physician affirmatively demonstrates that he shall adjust his fees to within permissible levels.

§ 725.136 Reimbursement for reasonable expenses in obtaining medical evidence.

(a) Claimants for benefits under this part shall be reimbursed by the Office of Workmen's Compensation Programs or the responsible operator or his insurance carrier for reasonable medical expenses incurred by them for services from medical sources of their choice in establishing their claims, including the reasonable and necessary cost of travel incident thereto. A medical expense generally is not "reasonable" when the medical evidence for which the expense was incurred is of no value in the adjudication of a claim. Medical evidence will be considered to be of "no value" when, for instance, it is wholly duplicative or when it is wholly extraneous to the medical issue of whether the claimant is disabled or, in the case of death claims, whether the miner's death occurred due to pneumoconiosis or while totally disabled therefrom. In order to minimize inconvenience and expense to the claimant, he should not generally incur any medical expense for which he intends to claim reimbursement without first contacting the Office to determine what types of evidence not already available may be useful in adjudicating his claim, what types of medical evidence may be reimbursable, and what would constitute a "reasonable medical expense" in a given case. However, a claimant's failure to contact the Office before the expense is incurred will not preclude the Office from later approving reimbursement for any reasonable medical expense. Where a reasonable expense for medical evidence is ascertained, the Office in appropriate cases may authorize direct payment to the provider of such evidence.

(b) Medical services required for the processing of claims and those to which a miner-beneficiary is entitled under the Act shall be considered "benefits" provided by the Act.

§ 725.137 Action to be taken by the Office—miner's claim.

(a) Upon receipt by the Office of Workmen's Compensation Programs of a completed medical report, the Office shall tentatively determine whether the medical evidence of record indicates an impairment for which benefits may be paid as determined with reference to standards promulgated by the Secretary of Health, Education and Welfare as Subpart D of Part 410 of this title (see Part 718 of this subchapter, which incorporates these standards).

(b) If it appears that the claimant may be considered disabled in accordance with the standards published in Subpart D of Part 410 of this title, then the claim shall be prepared for filing and filed with the deputy commissioner as provided in § 725.140 pending the receipt of any additional evidence developed and obtained pursuant to § 725.134 of this subchapter and the notification and reply of any possibly responsible operator as provided in §§ 725.151 and 725.152.

(c) In cases where the evidence received by the Office in respect to any claim does not support a claim for benefits, the claimant will be advised of the deficiency in his claim and directed by the Office to obtain such additional evidence as is appropriate and ordered by the Office. Medical evidence obtained at the direction of the Office shall be paid for by the Office or notified operator, as appropriate (see § 717.125 of this subchapter).

(d) In the event that the evidence received by the Office pursuant to paragraph (c) of this section does not provide credible support for the miner's claim for benefits, any further evidentiary investigations shall be discontinued until further notice. Any additional evidence submitted by the claimant shall be obtained at the claimant's expense, and shall not be reimbursable pursuant to § 725.136.

(e) If a miner whose claim is not considered to be supported by the evidence desires a further adjudication of the issue of his entitlement, the claim will be made ready for filing with the deputy commissioner and filed with him as provided in § 725.140. Thereafter a hearing or informal conference may be arranged pursuant to Subpart E of this part.

§ 725.138 Action to be taken by the OWCP—widows' or dependent survivor's claim.

(a) Upon receipt of a completed claims form, the Office shall tentatively determine whether the evidence of record indicates that the deceased miner's death was due to pneumoconiosis or that the miner was totally disabled by pneumoconiosis at the time of his death. Such determination shall be made with reference to the standards promulgated by the Secretary of Health, Education and Welfare contained in Subpart D of Part 410 of this title (see Part 718 of this subchapter which incorporates these standards).





(b) The Office shall also determine whether the evidence of record supports the claimant's allegation that he meets the relationship and dependency requirements for eligibility contained in Subpart C of this Part 725.

(c) If it appears that the conditions existing when the miner's death occurred satisfy the medical standards and the relationship and dependency conditions referred to in paragraph (a) and (b) of this section, then the claim shall be prepared for such further action by the deputy commissioner, as provided in § 725.140, as may be appropriate, including consideration of the receipt of any additional evidence developed and obtained pursuant to § 725.132 and the notification and reply of any possible responsible operator as provided in §§ 725.151 and 725.152.

(d) In cases where the medical evidence received by the Office in respect to any claim does not indicate that the circumstances of a miner's death are sufficient under such Department of Health, Education, and Welfare medical criteria (see Part 718 of this subchapter) to support a claim for benefits, the claimant will be advised of the deficiency in his claim and invited to submit any additional medical evidence. Any additional reasonably necessary medical evidence or other documentary evidence shall be secured at the Department's, or the operator's, or carrier's expense at the case may be (see § 725.136).

(e) In the event that the evidence received by the Office pursuant to this subpart does not provide credible support for the survivor's claim for benefits, any further evidentiary investigations shall be discontinued until further notice.

(f) If a survivor whose claim is not considered to be supported by the evidence desires a further adjudication of the issue of his entitlement, the claim will be made ready for filing with the deputy commissioner and filed with him as provided in § 725.140. Thereafter a hearing or informal conference may be arranged pursuant to Subpart E of this part.

§ 725.139 Referral to State agency.

If a deputy commissioner determines that the claim is one subject to adjudication by a State agency of a State having a workmen's compensation law which provides black lung benefits and has been listed in 20 CFR Part 722 as a law meeting the criteria of the Secretary of Labor prescribed pursuant to section 421 of Part C of Title IV of the Act, the deputy commissioner shall advise the claimant of such determination and of the Act's requirement that under such circumstances his claim for benefits must be filed under the applicable State workmen's compensation law. In such a case, evidence submitted to the OWCP in support of the claim, including claims forms, will be forwarded to the appropriate State compensation agency. The claimant's case will then be held in abeyance pending the outcome of a State claim filed, if any. Such claimant whose State pneumoconiosis claim is denied may, within 60 days from such denial, begin the prosecution of his Federal claim. In such a case the claim will be deemed to have been filed as of the date of the original Federal claim.

§ 725.140 Filing of claim with deputy commissioner.

(a) After the Office of Workmen's Compensation Programs has received a completed claim form and completed medical evaluation reports pursuant to § 725.130, the Office will make a tentative determination on the basis of information contained in the claim and any other available information, as to the identity or probable identity of any coal mine operator who may be liable for the payment of black lung benefits to the claimant for any month after December 31, 1973 (see § 725.311). The claim will then be filed with a deputy commissioner who shall, to the extent appropriate, follow the procedures provided in section 19 of the Longshoremen's and Harbor Workers' Compensation Act (44 Stat. 1424, 33 U.S.C. 919). The date upon which a claim is filed with the deputy commissioner pursuant to this section shall be noted on a form provided for this purpose and such form shall be kept in the office of the deputy commissioner with whom the claim is filed.

(b) The deputy commissioner shall, after the filing of a claim with him as provided in this section, review the case file and, if he is satisfied that the claim is one within the jurisdiction of the Secretary of Labor under section 422 of the Act, shall proceed with the tentative determination of the identity of any responsible coal mine operator made pursuant to the criteria set forth in Subpart D of this Part 725, insure that any such operator is notified as provided in § 725.151, and take any other action he deems necessary to prepare the claim for adjudication or other final disposition. The deputy commissioner may require such further development of evidence and may cause to be made such investigations as he considers necessary in respect to the claim, and take other action as authorized under Subpart E of this part.

COAL MINE OPERATOR PARTICIPATION

§ 725.151 Notice of claim and issue of liability.

(a) Before a claim for benefits under Title IV of the Act is filed with a deputy commissioner for determination, the Office will have ascertained, to the extent possible, the identity of any coal mine operators whose liability as responsible operators for payment of benefits to the claimant for any month or months after December 31, 1973, may be established by the evidence submitted or obtained in connection with the claim. From the information in the case file the deputy commissioner will then make his tentative determination as to whether there are any such operators and, if there are, which operator should be alleged to have such liability (see §§ 725.131, 725.135). Each such operator and his insurance carrier, if any, will promptly thereafter be notified of the pending claim filed with the deputy commissioner and of the fact that such operator's liability for payment of benefits will be one of the issues to be resolved in the determination of the claim. Notification to the operator or carrier will include copies of the claimant's completed claim form and of the pertinent medical evaluation reports, with a cover letter informing such operator or carrier of the nature of the evidence relied on by the Office to support, *prima facie*, a determination that the operator is liable for payment of benefits to the claimant. The notification shall advise the operator and carrier that a response to the notice as provided in § 725.152 shall be made as soon as possible and that in the event of a failure to respond within 20 days from the date of mailing of the notice the Office will proceed to the final determination of the claim.

(b) This notification will be made by certified mail, with proof of delivery requested.

§ 725.152 Operator's response to notification.

(a) Within the 20-day period described in § 725.151 a notified coal mine operator shall respond to the notice.

(b) If the operator or his insurance carrier, if any, does not desire to present any evidence relevant to determination of the claim or desires the opportunity to do so, he shall so state either:

(1) By letter mailed to the Division of Coal Mine Workers Compensation, Office of Workmen's Compensation Programs, U.S. Department of Labor, Washington, D.C. 20210; or

(2) By completing and mailing the form provided for this purpose.

(c) If a notified operator or his carrier questions such operator's liability for payment of benefits to the claimant for any period, he shall so state by transmitting to the Office a completed form setting forth generally his reasons for questioning such liability along with a detailed description of any evidence relied upon to negate his liability.

§ 725.153 Operator's medical evidence.

(a) Any operator or carrier who is dissatisfied with the medical record compiled by the Office in respect to a particular case may make a timely request for a review or reexamination of a miner by one or more different physicians. Such review or reexamination shall be ordered and conducted subject to the provisions of § 725.134, unless it is found to be clearly unwarranted.

(b) In the event that any claimant refuses to submit to a medical examination ordered under this section, the deputy commissioner shall be promptly notified. The deputy commissioner shall forthwith notify the claimant that no further action on his claim may be had until such claimant is in compliance with the order for the examination.



V 38 I 179 S
SEP 17 73
XUM

FURTHER ACTION ON CLAIM

**§ 725.161 Proceedings for determination of claim.**

(a) *No responsible operator.*—If after the deputy commisioner has received all the evidence developed with respect to a claim as provided in this subpart and there is no identifiable responsible operator, he shall proceed to a final determination of the claim purusant to Subpart E of Part 725.

(b) *Claim for which operator may have liability.*—If after the deputy commissioner has received all the evidence developed with respect to a claim as provided in this subpart and has identified and notified an operator who may be liable for payment of benefits to the claimant, a response has been received pursuant to § 725.152 or the time for such response has expired, he shall proceed to a final determination of the claim as provided in Subpart D and E of this Part 725.

## Subpart C—Relationship and Dependency

**§ 725.200 Relationship and dependency—general.**

(a) In order to establish entitlement to benefits, a widow, child, parent, brother, or sister, must meet relationship and dependency requirements with respect to the miner or widow, as applicable, prescribed by or pursuant to the Act.

(b) In order for an entitled miner or widow to qualify for augmented benefits because of one or more dependents, such dependents must meet relationship and dependency requirements with respect to such beneficiary prescribed by or pursuant to the Act.

(c) References in §§ 725.210(c), 725.220(c), 725.230(d), and 725.235, to the "same right to share in the interstate personal property" of a deceased miner (or widow), refer to the right of an individual to share in such distribution in his own right and not by right of representation.

**§ 725.210 Determination of relationship—wife.**

An individual will be considered to be the wife of a miner if:

(a) The courts of the State in which such miner is domiciled would find that such individual and the miner were validly married; or

(b) The courts of the State in which such miner is domiciled would find, under the law they would apply in determining the devolution of the miner's intestate personal property, that the individual is the miner's wife; or

(c) Under State law, such individual has the same right she would have if she were the wife to share in the miner's intestate personal property; or

(d) (1) Such individual went through a marriage ceremony with the miner resulting in a purported marriage between them, and which, but for a legal impediment would have been a valid marriage. However, such purported marriage shall not be considered a valid marriage if such individual entered into the purported marriage with knowledge that it was not a valid marriage, or if such individual and the miner were not living in the same household in the month in which there is filed a request that the miner's benefits be augmented because such individual qualifies as his wife. The provisions of this paragraph shall not apply, however, if the miner's benefits are or have been augmented under § 725.507 because another person qualifies or has qualified as his wife and such other person is, or is considered to be, the wife of such miner under paragraph (a), (b), or (c) of this section at the time such request is filed.

(2) The qualification for augmentation purposes of an individual who would not be considered to be the wife of such miner but for this paragraph (d), shall end with the month before the month in which (i) the Office determines that the benefits of the miner should be augmented on account of another person, if such other person is (or is considered to be) the wife of such miner under paragraph (a), (b), or (c) of this section, or (ii) if the individual who previously qualified as a wife for purposes of § 725.625(c), entered into a marriage valid without regard to this paragraph, with a person other than such miner.

**§ 725.215 Determination of relationship—divorced wife.**

An individual will be considered to be the divorced wife of a miner if her marriage to such miner has been terminated by a final divorce on or after the 20th anniversary of the marriage: *Provided*, That if she was married to and divorced from him more than once, she was married to him in each calendar year of the period beginning 20 years immediately before the date on which any divorce became final and ending with the year in which that divorce became final.

**§ 725.220 Determination of relationship—widow.**

An individual will be considered to be the widow of a miner if:

(a) The courts of the State in which such miner was domiciled (see § 725.280) at the time of his death would find that the individual and the miner were validly married; or

(b) The courts of the State in which such a miner was domiciled (see § 725.280) at the time of his death would find, under the law they would apply in determining the devolution of the miner's intestate personal property, that the individual was the miner's widow; or

(c) Under State law, such individual has the same right she would have as if she were the miner's widow to share in the miner's intestate personal property; or

(d) Such individual went through a marriage ceremony with the miner resulting in a purported marriage between them and which, but for a legal impediment (see § 725.275) would have been valid marriage. However, such purported marriage shall not be considered a valid marriage if such individual entered into the purported marriage with knowledge that it was not a valid marriage, or if such individual and the miner were not living in the same household at the time of the miner's death. The provisions of this paragraph shall not apply if another person is or has been entitled to benefits as the widow of the miner and such other person is, or is considered to be, the widow of such miner under paragraph (a), (b), or (c) of this section at the time such individual files her claim for benefits.

**§ 725.225 Determination of relationship—surviving divorced wife.**

An individual will be considered to be the surviving divorced wife of a deceased miner if her marriage to such miner had been terminated by a final divorce on or after the 20th anniversary of the marriage: *Provided*, That, if she was married to and divorced from him more than once, she was married to him in each calendar year of the period beginning 20 years immediately before the date on which any divorce became final and ending with the year in which the divorce became final.

**§ 725.230 Determination of relationship—child.**

As used in this section, the term "beneficiary" means only a widow entitled to benefits at the time of her death (see § 715.207), or a miner, except where there is a specific reference to the "father" only, in which case it means only a miner. An individual will be considered to be the child of a beneficiary if:

(a) The courts of the State in which such beneficiary is domiciled (see § 725.280) would find, under the law they would apply in determining the devolution of the beneficiary's intestate personal property, that the individual is the beneficiary's child; or

(b) Such individual is the legally adopted child of such beneficiary; or

(c) Such individual is the stepchild of such beneficiary by reason of a valid marriage of his parent or adopting parent to such beneficiary; or

(d) Such individual does not bear the relationship of child to such beneficiary under paragraph (a), (b), or (c) of this section, but would, under State law, have the same right as a child to share in the beneficiary's intestate personal property; or

(e) Such individual is the natural son or daughter of a beneficiary but does not bear the relationship of child to such beneficiary under paragraph (a), (b), or (c) of this section, and is not considered to be the child of the beneficiary under paragraph (d) or (e) of this section, such individual shall nevertheless be considered to be the child of such beneficiary if:

(1) Such beneficiary, prior to his entitlement to benefits has acknowledged in writing that the individual is his son or daughter, or has been decreed by a court to be the father of the individual, or he has been ordered by a court to contribute to the support of the individual (see § 725.290(c)) because the individual is his son or daughter; or

(2) Such beneficiary is shown by satisfactory evidence to be the father of the individual and was living with or contributing to the support of the individual at the time such beneficiary became entitled to benefits.

**§ 725.235 Determination of relationship—parent, brother, or sister.**

An individual will be considered to be the parent, brother, or sister of a miner if the courts of the State in which such miner was domiciled (see § 725.280) at the time of his death would find, under the law they would apply in determining the devolution of the miner's intestate personal property, that the individual is the miner's parent, brother, or sister.

Where, under such law, the individual does not bear the relationship to the miner of parent, brother, or sister, but would, under State law, have the same status (*i.e.*, right to share in the miner's intestate personal property) as a parent, brother, or sister, the individual will be deemed to be such.

**§ 725.240 Determination of dependency—wife.**

An individual who is the miner's wife (see § 725.210) will be determined to be dependent upon the miner if:

(a) She is a member of the same household as the miner (see § 725.285); or

(b) She is receiving regular contributions from the miner for her support (see § 725.290(c)); or

(c) The miner has been ordered by a court to contribute to her support (see § 725.290(e)); or

(d) She is the natural mother of the son or daughter of the miner; or

(e) She was married to the miner (see § 725.210) for a period of not less than 1 year.

**§ 725.245 Determination of dependency—divorced wife.**

An individual who is the miner's divorced wife (see § 725.215) will be determined to be dependent upon the miner if:

(a) She is receiving at least one-half of her support from the miner (see § 725.290(g)); or

(b) She is receiving substantial contributions from the miner pursuant to a written agreement (see § 725.290 (c), (f)); or

(c) There is in effect a court order for substantial contributions to her support to be furnished by such miner (see § 725.290(c)).

**§ 725.250 Determination of dependency—widow.**

An individual who is the miner's widow (see § 725.220) will be determined to have been dependent on the miner if, at the time of the miner's death:

(a) She was living with the miner (see § 725.285); or

(b) She was dependent upon the miner for support or the miner has been ordered by a court to contribute to her support (see § 725.290); or

(c) She was living apart from the miner because of his desertion or other reasonable cause; or

(d) She is the natural mother of his son or daughter; or

(e) She had legally adopted his son or daughter while she was married to him and while such son or daughter was under the age of 18; or

(f) He had legally adopted her son or daughter while she was married to him and while such son or daughter was under the age of 18; or

(g) She was married to him at the time both of them legally adopted a child under the age of 18; or

(h) She was married to him for a period of not less than 9 months immediately prior to the day on which he died (but see paragraph (i) of this section).

(i) Waiver of 9-month requirement.

(1) *General.*—Except as provided in paragraph (g) of this section, the requirement in paragraph (h) of this section that the surviving spouse of a miner must have been married to him for a period of not less than 9 months immediately prior to the day on which he died in order to qualify as such miner's widow, shall be deemed to be satisfied where such miner dies within the applicable 9-month period, if his death:

(i) Is accidental (as defined in paragraph (i)(2) of this section), or

(ii) Occurs in line of duty while he is a member of a uniformed service serving on active duty (as defined in § 404.1013 (f) (2) and (3) of this chapter), and such surviving spouse was married to such miner for a period of not less than 3 month immediately prior to the day on which he died.

(2) *Accidental death.*—For purposes of paragraph (i)(1)(i) of this section, the death of a miner is accidental if such individual receives bodily injuries solely through violent, external, and accidental means, and as a direct result of the bodily injuries and independently of all other causes, loses his life not later than 3 months after the day on which he receives such bodily injuries. The term "accident" means an event that was unpremeditated and unforeseen from the standpoint of the deceased individual. To determine whether the death of an individual did, in fact, result from an accident the Office will consider all the circumstances surrounding the casualty. An intentional and voluntary suicide will not be considered to be death by accident; however, sulcide by an individual who is so insane as to be incapable of acting intentionally and voluntarily will be considered to be death by accident. In no event will the death of an individual resulting from violent and external causes be considered a suicide unless there is direct proof that the fatal injury was self-inflicted.

(3) *Applicability.*—The provisions of this section shall not apply if the Office determines that at the time of the marriage involved, the miner would not reasonably have been expected to live for 9 months.

**§ 725.255 Determination of dependency—surviving divorced wife.**

An individual who is the miner's surviving divorced wife (see § 725.225) will be determined to have been dependent on the miner if, for the month preceding the month in which the miner died:

(a) She was receiving at least one-half of her support from the miner (see § 725.290(g)); or

(b) She was receiving substantial contributions from the miner pursuant to a written agreement (see § 725.290 (c), (f)); or

(c) There was in effect a court order for substantial contributions to her support to be furnished by such miner (see § 725.290 (c), (f)).

**§ 725.260 Determination of dependency—child.**

(a) For purposes of augmenting the benefits of a miner or widow (see § 725.625(c)), the term "beneficiary" as used in this section means only a miner or widow entitled to benefits (see §§ 725.205, 715.207); or, for purposes of an individual's entitlement to benefits as a surviving child (see § 715.211), the term "beneficiary" as used in this section means only a deceased miner or a deceased widow who was entitled to benefits for the month prior to the month of her death. An individual who is the beneficiary's child (see § 725.230) will, as applicable, be determined to be, or to have been dependent on the beneficiary, if the child:

(b) Is unmarried; and

(c) (1) Is under 18 years of age; or

(2) Is 18 years of age or older and is under a disability as defined in section 223(d) of the Social Security Act, 42 U.S.C. 423(d). For purposes of entitlement to benefits as a surviving child (see § 715.211), such disability must have begun before the child attained age 18, or, in the case of a student, before he ceased to be a student (see paragraph (c) of this section).

(3) Is 18 years of age or older and is a student.

(d) (1) The term "student" means a "full-time student" as defined in section 202(d)(7) of the Social Security Act, 42 U.S.C. 402(d)(7), (see § 404.320(c) of this chapter) or an individual under 23 years of age who has not completed 4 years of education beyond the high school level and who is regularly pursuing a full-time course of study or training at an institution which is:

(i) A school, college, or university operated or directly supported by the United States, or by a State or local government or political subdivision thereof; or







V 38 179 SEP 17 73 XUM

(ii) A school, college, or university which has been accredited by a State or by a State-recognized or nationally-recognized accrediting agency or body; or

(iii) A school, college, or university not so accredited but whose credits are accepted, on transfer, by at least three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited; or

(iv) A technical, trade, vocational, business, or professional school accredited or licensed by the Federal or a State government or any political subdivision thereof, providing courses of not less than 3 months' duration that prepare the student for a livelihood in a trade, industry, vocation, or profession.

(2) A student will be considered to be "pursuing a full-time course of study or training at an institution" if he is enrolled in a noncorrespondence course and carrying a subject load which is considered full-time for day students under the institution's standards and practices. However, a student will not be considered to be "pursuing a full-time course of study or training" if he is enrolled in a course of study or training of less than 13 school weeks' duration. A student beginning or ending a full-time course of study or training in part of any month will be considered to be pursuing such course for the entire month.

(3) A child is deemed not to have ceased to be a student:

(i) During any interim between school years, if the interim does not exceed 4 months and he shows to the satisfaction of the Office that he has a bona fide intention of continuing to pursue a full-time course of study or training during the semester or other enrollment period immediately after the interim; or

(ii) During periods of reasonable duration during which, in the judgment of the Office, he is prevented by factors beyond his control from pursuing his education.

(4) A student whose 23d birthday occurs during a semester or other enrollment period in which he is pursuing a full-time course of study or training shall continue to be considered a student for as long as he otherwise qualifies under this section until the end of such period.

**§ 725.265 Determination of dependency—parent, brother, or sister.**

An individual who is the miner's parent, brother, or sister will be determined to have been dependent on the miner if, during the 1-year period immediately prior to such miner's death:

(a) Such individual and the miner were living in the same household (see § 725.285); and

(b) Such individual was totally dependent on the miner for support (see § 725.290(h)).

**§ 725.270 Time of determinations.**

(a) *Relationship and dependency of wife or child.*—With respect to the wife or child of a miner entitled to benefits, and with respect to the child of a widow entitled to benefits, the determination as to whether an individual purporting to be a wife or child is related to or dependent upon such miner or widow shall be based on the facts and circumstances with respect to the period of time as to which such issue of relationship or dependency is material.

(b) *Relationship and dependency of widow.*—The determination as to whether an individual purporting to be the widow of a miner was related to or dependent upon such miner is made after such individual effectively files a claim for benefits as a widow. Such determination is based on the facts and circumstances with respect to the time of the miner's death. A prior determination that such individual was, or was not, the wife of such miner, pursuant to §§ 725.210 and 725.240, for purposes of augmenting the miner's benefits for a certain period, is not determinative of the issue of whether the individual is the widow of such miner or of whether she was dependent on such miner.

(c) *Relationship and dependency of surviving divorced wife.*—The determination as to whether an individual purporting to be a surviving divorced wife of a miner was related to or dependent upon such miner is made when such individual effectively files a claim for benefits as a surviving divorced wife. Such determination is made with respect to the time of the miner's death. A prior determination that such individual was, or was not, the divorced wife of such miner, pursuant to §§ 725.215 and 725.245, for purposes of augmenting the miner's benefits for a certain period, is not determinative of the issue of whether the individual is the surviving divorced wife of such miner or of whether she was dependent on such miner.

**§ 725.275 Legal impediment.**

For purposes of this Subpart C, "legal impediment" means an impediment resulting from the lack of dissolution of a previous marriage or otherwise arising out of such previous marriage or its dissolution, or resulting from a defect in the procedure followed in connection with the purported marriage ceremony—for example, the solemnization of a marriage only through a religious ceremony in a country which requires a civil ceremony for a valid marriage.

**§ 725.280 Domicile.**

(a) For purposes of this Subpart C, the term "domicile" means the place of an individual's true, fixed, and permanent home to which, whenever he is absent, he has the intention of returning.

(b) The domicile of a deceased miner or widow is determined as of the time of his death or her death.

(c) The domicile or a change in domicile of a beneficiary or other individual is determined with respect to the period or periods of time as to which the issue of domicile is material.

(d) If an individual was not domiciled in any State at the pertinent time, the law of the District of Columbia is applied as if such individual were then domiciled there.

**§ 725.285 Member of the same household—"living with," "living in the same household," and "living in the miner's household".**

(a) *Defined.*—(1) The term "member of the same household" as used in section 402(a)(2) of the Act (with respect to a wife); the term "living with" as used in section 402(e) of the Act (with respect to a widow); and the term "living in the same household" as used in §§ 725.210(d) and 725.250(d) of this subpart, means that a husband and wife were customarily living together as husband and wife in the same place of abode.

(2) The term "living in the miner's household" as used in section 412(a)(5) of the Act (with respect to a parent, brother, or sister) means that the miner and such parent, brother, or sister were sharing the same residence.

(b) *Temporary absence.*—The temporary absence from the same residence of either the miner, or his wife, parent, brother, or sister (as the case may be), does not preclude a finding that one was "living with" the other, or that they were "members of the same household," etc. the absence of one such individual from the residence in which both had customarily lived shall, in the absence of evidence to the contrary, be considered temporary:

(1) If such absence was due to service in the Armed Forces of the United States; or

(2) If the period of absence from his or her residence did not exceed 6 months, and neither individual was outside the United States, and the absence was due to business or employment reasons, or because of confinement in a penal institution or in a hospital, nursing home, or other curative institution; or

(3) In any other case, if the evidence establishes that despite such absence they nevertheless reasonably expected to resume physically living together at some time in the reasonably near future.

(c) *Death during absence.*—Where the death of one of the parties occurred while away from the residence for treatment or care of an illness or an injury (*e.g.*, in a hospital), the fact that the death was foreseen as possible or probable does not, in and of itself, preclude a finding that the parties were "living with" one another or were "member[s] of the same household," etc., at the time of death.

(d) *Absences other than temporary.*—In situations other than those described in paragraphs (b) and (c) of this section, the absence shall not be considered temporary, and the parties may not be found to be "living with" one another or to be "member[s] of the same household, etc." A finding of temporary absence would not be justified where one of the parties was committed to a penal institution for life or for a period exceeding the reasonable life expectancy of either, or was under a sentence of death; or where the parties had ceased to live in the same place of abode because of marital or family difficulties and had not resumed living together before death.





(e) *Relevant period of time.*—(1) The determination as to whether a widow had been "living with" her husband shall be based upon the facts and circumstances as of the time of death of the miner.

(2) The determination as to whether a wife is a "member of the same household" as her husband shall be based upon the facts and circumstances with respect to the period or periods of time as to which the issue of membership in the same household is material.

(3) The determination as to whether a parent, brother, or sister was "living in the miner's household" shall take account only of the 1-year period immediately prior to the miner's death.

**§ 725.290 Contributions and support.**

(a) *"Support" defined.*—The term "support" includes food, shelter, clothing, ordinary medical expenses, and other ordinary and customary items for the maintenance of the person supported.

(c) *"Contributions" defined.*—The term "contributions" refers to contributions actually provided by the contributor from his own property, or the use thereof, or by the use of his own credit.

(c) *"Regular contributions" and "substantial contributions" defined.*—The terms "regular contributions" and "substantial contributions" mean contributions that are customary and sufficient to constitute a material factor in the cost of the individual's support.

(d) *Contributions and community property.*—When a wife receives and uses for her support, income from her services or property and such income, under applicable State law, is the community property of herself and the miner, no part of such income is a "contribution" by the miner to his wife's support regardless of any legal interest the miner may have therein. However, when a wife receives and uses for her support, income from the services and the property of the miner and, under applicable State law, such income is community property, all of such income is considered to be a contribution by the miner to his wife's support.

(e) *"Court order for support" defined.*—References to support orders in §§ 725.230(f)(1), 725.240(c), and 725.250(b) mean any court order, judgment, or decree of a court of competent jurisdiction which requires regular contributions that are a material factor in the cost of the individual's support and which is in effect at the applicable time. If such contributions are required by a court order, this condition is met whether or not the contributions were actually made.

(f) *"Written agreement" defined.*—The term "written agreement" in the phrase "substantial contributions * * * pursuant to a written agreement" (see §§ 725.245(b), 725.255(b)) means an agreement signed by the miner providing for substantial contributions by him for the individual's support. It must be in effect at the applicable time but it need not be legally enforceable.

(g) *"One-half support" defined.*—The term "one-half support" means that the miner made regular contributions, in cash or in kind, to the support of a divorced wife (see § 725.245(a)), or of a surviving divorced wife (see § 725.255(a)), at the specified time or for the specified period, and that the amount of such contributions equalled or exceeded one-half the total cost of such individual's support at such time or during such period.

(h) *"Totally dependent for support" defined.*—The term "totally dependent on the minor for support" as used in § 725.265(b), means that such miner made regular contributions to the support of his parent, brother, or sister, as the case may be, and that the amount of such contributions at least equaled the total cost of such individual's support.

## Subpart D—Responsible Coal Mine Operators

### General Provisions

**§ 725.301 Scope and policy.**

(a) In enacting the Coal Mine Health and Safety Act of 1969, as amended by the Black Lung Benefits Act of 1972 ("the Act" as used in this part means such Act as amended), Congress sought to transfer the responsibility for the payment of black lung benefits, to the greatest extent possible, from the Federal Government to the coal mine operators as of January 1, 1974. It is the policy of the Department of Labor to implement and execute in this part this congressional intent as fully and fairly as is practicable.

(b) The provisions of this Subpart D apply to coal mine operators in States whose workmen's compensation laws have not been listed by the Secretary in Part 722 of this chapter, pursuant to section 421 of Title IV of the Act and such Part 722, as providing adequate coverage for pneumoconiosis. Reference should also be made to Part 726 of this chapter, which sets forth insurance requirements for securing the payment of black lung benefits under the Act which are applicable to every coal mine operator in any State not listed in Part 722 of this chapter.

(c) The rules in this Subpart D prescribe the manner in which the identity of a responsible operator will be determined, the extent of any responsible operator's liability for the payment of pneumoconiosis benefits in any particular case, and the nature and extent of such coal operators' duties and responsibilities as prescribed in Part C of Title IV of the Act. Included in the latter are those duties and responsibilities incorporated by reference in section 422 of Part C of the Act to certain specific provisions of the Longshoremen's and Harbor Workers' Compensation Act as amended (44 Stat. 1424, 33 U.S.C. 901 as amended by Public Law 92-576, effective November 26, 1972).

**§ 725.302 Operator defined.**

Section 3(d) of the Act defines "operator" for purposes of the Act to mean "any owner, lessee, or other person who operates, controls, or supervises a coal mine." In keeping with the Congressional mandate that operators assume liability for pneumoconiosis benefits to the fullest extent possible the above cited definition of operator shall be liberally construed by the Department and its adjudication officers. In each case an effort shall be made to attribute liability to that individual or business entity most directly responsible for the operation and control of any particular coal mine. However, in appropriate cases where, for instance, the individual or business entity most directly connected with the mine site, has not obtained insurance or been authorized to self-insure and is insolvent or does not have sufficient assets to guarantee the payment of future benefits and such individual or business entity is a subsidiary corporation or a part of a joint venture or partnership, or is substantially controlled or owned by another business entity, such other corporation, partnership, joint venture or other business entity, regardless of the primary or diverse nature of its business activity, may be considered an "operator" for purposes of sections 415, 422 and 423 of Title IV of the Act. In addition, any other business entity, including general and independent contractors, whose employees may be considered miners as defined in section 402(d) of Title IV of the Act by virtue of the fact that such employees are employed in a coal mine as defined in section 3(h) of the Act, may be considered operators for purposes of sections 415, 422 and 423 of Title IV of the Act with respect to such employees. Standard workmen's compensation tests may be applied to determine the real identity of the employer of any particular employee.

**§ 725.303 Responsible operator defined.**

A "responsible operator", within the meaning of this subchapter, is a coal mine operator (see § 725.302) who, (a) under the provisions of section 422 or section 415 of Title IV of the Federal Coal Mine Health and Safety Act, as amended, and of this subchapter is liable for the payment of benefits for any month or months after December 1973, to any individual entitled thereto under the Act on account of death or disability of a coal miner, due to pneumoconiosis arising at least in part out of his employment in a mine during a period when it was operated by such operator, or (b) is liable for payment of such benefits as provided in § 725.203.

**§ 725.304 Prior operator, successor operator.**

(a) In accordance with section 422(i) of the Act, any coal mine operator who, on or after December 30, 1969, acquired his mine or substantially all the assets of his mine from a prior operator who was an operator of that mine on or after December 30, 1969, shall be liable for and shall, in accordance with section 423 of the Act and Part 726 of this subchapter, secure the payment of all benefits which would have been payable by the prior operator with respect to miners previously employed in that mine if the acquisition had not occurred and the



V 38 179 SEP 17 73 XUM

prior operator had continued to operate the mine.

(b) Paragraph (a) of this section notwithstanding, any prior operator may, under appropriate circumstances and in accordance with the requirements of due process of law and considerations of fairness and equity, be held liable for the payment of all benefits awarded pursuant to the Act.

DETERMINING RESPONSIBLE OPERATOR

**§ 725.311 Criteria for identifying a responsible operator.**

The following criteria shall apply in determining the identity of the responsible operator:

(a) *Periods of employment.*—From the evidence presented of the miner's employment history, the identity of the coal mine operator or operators with whom the miner had the most recent periods of cumulative employment of not less than 1 year and the beginning and ending dates of such periods shall be ascertained. However, no period of employment occurring more than 15 years prior to the miner's last date of coal mine employment shall be accumulated for the purposes of establishing the one year period described in this paragraph. No periods of layoff or other interruptions (not including sick leave or vacation periods) in the successive employment of the miner with the same operator in excess of 30 consecutive days shall be counted as part of the 1-year period described in this paragraph.

(b) *Financial responsibility of operators.*—The financial responsibility of the operators identified pursuant to paragraph (a) shall be determined, if an question, as provided in § 725.321.

(c) *Determination of responsible operator.*—From the foregoing information the responsible operator shall be determined as follows:

(1) The operator with whom the miner had the most recent periods of cumulative employment of not less than 1 year (see paragraph (a) of this section) shall, if financially responsible, be deemed to be the responsible operator.

(2) If the operator described in paragraph (c)(1) of this section is a prior operator as described in § 725.304 of this subpart who, on or after December 30, 1969, transferred his mine or substantially all the assets thereof to a successor operator or if such mine was subsequently transferred to a successor to such successor operator as described in § 725.304, such successor operator who has most recently acquired the mine in question or substantially all of the assets thereof shall if financially responsible be deemed the responsible operator. If such successor operator is not financially responsible any prior operator or any operator in the chain of succession, beginning with the most recent operator, who acquired the mine in question or substantially all of the assets thereof on or after December 30, 1969, and who is financially responsible may be determined to be the responsible operator. Any successor operator may be determined to be the responsible operator whether or not the miner on whose total disability or death the claim is predicated was employed by such successor operator for any period of time. However, no operator shall be deemed the responsible operator on account of his succession if the chain of succession was commenced by a transfer of the mine in question or substantially all of the assets thereof prior to December 30, 1969.

(3) If no operator or successor or operator described in paragraph (c) (1) or (2) of this section is financially responsible, then the responsible operator shall be deemed to be the financially responsible operator with whom the miner had the latest period of cumulative employment of not less than 1 year. Each determination made pursuant to this subparagraph shall be subject to the provisions of subparagraph (2) of this paragraph.

(4) No determination of responsibility made pursuant to paragraph (c) (1), (2), or (3) of this section shall be construed to limit the authority of the Secretary to determine that any individual or business entity is a coal mine operator within the meaning of section 3 of the Act and § 715.101(a)(6) of this chapter.

(5) In the event that a coal mine operator is determined to be a "responsible operator" pursuant to the provisions of paragraph (c) (1), (2), or (3) of this section, there shall be a presumption that the miner's work-related pneumoconiosis arose in whole or in part sufficiently to occasion liability, out of his employment with such operator during the period or periods when he was employed in a mine or mines operated by such operator. The responsible operator as so determined shall accordingly be liable for payment and securing of benefits awarded to the claimant on account of the disability or death of the miner who was so employed.

**§ 725.312 Procedure for determination of operator's liability.**

(a) At any time after a mine operator notified pursuant to § 725.151 has responded to the allegations of his liability pursuant to § 725.152, the deputy commissioner with whom the case has been filed may proceed with the determination of the claimant's entitlement to benefits and the operator's liability for payment. The deputy commissioner may schedule a conference, to be held at a time and place convenient to all parties, or he may refer the case to the Chief Administrative Law Judge for a formal hearing before an administrative law judge when it appears that resolution of all issues necessary to a determination of entitlement to benefits or liability of an operator cannot be accomplished without such a hearing. The particulars describing the organization and conduct of both the conference and the formal hearing are described fully in Subpart E of this part.

(b) In the event that the operator does not contest his liability he shall be deemed the responsible operator and the deputy commissioner if he determines the claimant is entitled to benefits, shall without further proceedings order the payment by the operator of such benefits to commence as of a specified date, and shall so notify the operator.

(c) If a notified operator does not respond within the 20-day period described in § 725.151 the deputy commissioner shall proceed to the determination of the claim. In such a case a conference may be scheduled pursuant to Subpart E of this part. The alleged responsible operator will be given at least 10 days' notice by certified mail of the conference, and advised by such notice that if he or his representative does not appear at the conference and at that time contest his liability, an order may be issued requiring such operator to pay any benefits to which the claimant may be found to be entitled upon determination of the claim. If no appearance is made at the conference by such operator, the deputy commissioner may order payment as provided in paragraph (b) of this section.

(d) If at any time after the running of the 20-day period described in § 725.151 but prior to the issuance of a decision and order, an allegedly responsible operator seeks to be heard, that operator may be required to complete and transmit a notice of controversion to the appropriate adjudication officer.

(e) No operator may be bound by any determination as to his liability to pay benefits to any claimant unless he has been properly notified of the proceedings therefor and offered an opportunity to participate. An operator may be permitted to participate in the proceedings at any time prior to final adjudication of his alleged liability to pay benefits, but a final determination of a claimant's entitlement to benefits will not be reopened at the instance of any operator who did not avail himself of any opportunity to controvert such entitlement provided by a timely notice of a prior determination proceeding.

**§ 725.313 Determination of operator's liability in formal hearing.**

(a) If, as provided in § 725.312, a formal hearing is ordered to be conducted pursuant to Subpart E of this part, the operator will be given 10 days' notice by certified mail of the time and place of the hearing and he or his authorized representative may appear at and fully participate in the formal hearing, and the liability of the operator to pay benefits shall be adjudicated therein. If an allegedly responsible operator does not appear at the formal hearing and has not filed an answer to the allegations of his liability, then it shall be presumed that such operator does not contest his liability and the administrative law judge shall proceed to the conduct of the formal hearing and shall issue findings of fact, conclusions of law, and an order for benefits pursuant to Subpart E of this part. At such time when the decision and order of the administrative law judge becomes final the notified operator shall be bound by this determination and may not thereafter contest his liability for the payment of benefits to the claimant. Nothing in this part shall be construed





to require any operator to pay any benefits for any month prior to January 1, 1974.

(b) In the event that a notified coal mine operator or his representative does not appear at the formal hearing and has not responded to the claim filed against him, the hearing shall nevertheless be conducted and stenographically reported pursuant to Subpart E of this Part 725. In respect to the issue of such notified coal mine operator's liability, the administrative law judge shall admit into the record the medical evidence contained in the physician's reports, evidence of the employment history of the miner, and any other information deemed pertinent to the question of the notified mine operator's liability. Upon this record, the administrative law judge shall base his findings of fact, conclusions of law, and decision and order, and shall determine and in his written opinion state whether or not and the extent, if any, to which such notified coal mine operator is the operator responsible for the payment of benefits to the claimant for any months after December 31, 1973.

**§ 725.314 Deferred identification of responsible operator; liability determination.**

If at the time a claim under the Act is ready for determination there appears to be no known or identifiable responsible operator, the claimant's entitlement to benefits shall be determined and payment of benefits, if any, authorized from Federal funds as provided in this part. However, if at any time during or after the adjudicatory proceedings the claimant or the Secretary of Labor becomes aware of the existence of a possibly responsible operator, that operator shall be given notice of the claim, informed that he may be held liable for payment of benefits, supplied with copies of the record of all proceedings already conducted, and given 20 days within which to submit the answer specified in § 725.152.

OPERATOR'S FINANCIAL RESPONSIBILITY

**§ 725.321 Financial responsibility defined.**

Within the meaning of this part a coal mine operator shall be deemed "financially responsible" and capable of assuming his liability for the payment of benefits under the provisions of Part C of Title IV of the Act and this subchapter if he has:

(a) Obtained a policy or contract of insurance pursuant to section 423 of Title IV of the Act and Part 726 of this chapter; or;

(b) Qualified as a self-insurer pursuant to section 423 of the Act and Part 726 of this chapter, or;

(c) If such operator is an individual, partnership, joint venture, corporation, or other business entity, determined under this Subpart D to be the "responsible operator" (see § 725.311), and possessed of any assets that may be made available for the payment of benefits as provided in this Part 725 or through an action brought as provided in section 424 of the Act.

**§ 725.322 Insurance coverage.**

(a) Pursuant to the provisions of section 423 of the Act (see 20 CFR Part 726), coal mine operators shall be subject to the following requirements: During any period after December 31, 1973, in which a State workmen's compensation law is not included on the list published by the Secretary under section 421(b) of Title IV of the Act and 20 CFR Part 722, each operator of a coal mine in such State shall secure the payment of benefits for which he may be found liable under section 422 of the Act or section 415 of the Act for claims filed after June 30, 1973, but before January 1, 1974, which are payable by a responsible operator beginning on or after January 1, 1974, and this Part 725 by—

(1) Qualifying as a self-insurer as provided in Part 726 of this Chapter VI, or

(2) Insuring and keeping insured the payment of such benefits with an authorized insurance carrier in accordance with the provisions of Part 726 of this chapter.

(b) Under section 422 of the Act and section 15 of the Longshoremen's Act:

(1) No agreement by a miner to pay any portion of a premium paid to a carrier by the operator of a coal mine in which such miner is employed, or to contribute to a benefit fund or department maintained by such operator for the purpose of providing benefits or medical services and supplies as required by this part, shall be valid; and any operator who makes a deduction for such purpose from the pay of any miner entitled to the benefits of the Act under this part shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than $1,000;

(2) No agreement by a miner to waive his right to benefits under the Act and the provisions of this part shall be valid.

**§ 725.323 Benefits a lien against assets.**

Pursuant to the provisions of section 422 of the Act and section 17 of the Longshoremen's Act as incorporated therein, any person entitled to benefits under the provisions of the Act shall have a lien against the assets of the carrier or operator for such benefits without limit of amount, and shall, upon insolvency, bankruptcy, or reorganization in bankruptcy proceedings of the carrier or operator, or both, be entitled to preference and priority in the distribution of the assets of such carrier or operator, or both.

**§ 725.324 Security for payments of benefits.**

Whenever the deputy commissioner deems it advisable he is authorized, pursuant to section 422 of the Act and section 14(i) of the Longshoremen's Act, to require any operator to make a deposit with the Treasurer of the United States to secure the prompt and convenient payment of benefits, and payments therefrom upon any awards shall be made upon order of the deputy commissioner.

**§ 725.325 Liability of operator for Federal payments made.**

In any case where the Secretary has paid benefits to a miner or his widow, child, parent, brother, or sister because the responsible coal miner operator has not obtained a policy or contract of insurance or has not qualified as a self-insurer as provided in Part 726 of this subchapter or has not paid such benefits within a reasonable time, such operator shall be liable to the United States in a civil action in an amount equal to the amount paid to such beneficiary under Title IV of the Act (Act, sec. 424).

OPERATOR'S PAYMENTS

**§ 725.331 Scope of payment obligations.**

Benefits shall be paid to claimants entitled thereto under the Act by a responsible coal mine operator as provided in this Subpart D and Subpart F of this Part 725, and in accordance with the obligations imposed on coal mine operators by section 422 of the Act, including those obligations of employers under the Longshoremen's Act with respect to payment of disability or death benefits thereunder to employees which are incorporated by reference in such section 422 and implemented by the rules in this Part 725.

**§ 725.332 Prompt payment.**

Where entitlement of an individual to benefits under the Act has been determined or is not controverted, and liability as a responsible operator for payment of such benefits has been determined, such operator shall pay benefits periodically as provided in this part, promptly, and directly to the person entitled thereto. The first installment shall be due as provided in § 725.502.

**§ 725.333 Defaulted payments.**

(a) In case of default by an operator in the payment of benefits due from him under any award for a period of 30 days after the benefits are due and payable, the person to whom such benefits are payable may, within 1 year after such default, make application to the deputy commissioner for a supplementary order declaring the amount of the default. After investigation, notice, and hearing, as provided in Subpart E of this part, the deputy commissioner shall make a supplementary order, declaring the amount of the default, which shall be filed in the same manner as the final decision and order. In case the payment in default is an installment of the award, the deputy commissioner may, in his discretion, declare the whole of the award as the amount in default. The applicant may file a certified copy of such supplementary order with the clerk of the Federal district court for the judicial district in which the operator has his principal place of business or maintains an office. In case such principal place of business or office is in the District of Columbia, a copy of such supplementary order may be filed with the clerk of the United States District Court for the District of Columbia. Such supplementary order of the deputy commissioner shall be final,



V 38 179 SEP 17 73 XUM

and the court shall upon the filing of the copy enter judgment for the amount declared in default by the supplementary order if such supplementary order is in accordance with law. Review of the judgment so entered may be had as in civil suits for damages at common law. Final proceedings to execute the judgment may be had by writ of execution in the form used by the court in suits at common law in actions of assumpsit. No fee shall be required for filing the supplementary order nor for entry of judgment thereon, and the applicant shall not be liable for costs in a proceeding for review of the judgment unless the court shall otherwise direct. The court shall modify such judgment to conform to any later benefits order upon presentation of a certified copy thereof to the court.

(b) In cases where judgment cannot be satisfied by reason of an insolvency or other circumstances precluding payment, the Secretary shall make payment pursuant to section 424 of Part C of Title IV of the Act upon any award made under this Act, and in addition, provide any necessary medical, surgical, and other treatment required by section 7 of the Longshoremen's Act in any case of disability where there has been a default in furnishing medical treatment by reason by the insolvency of the operator. Such an operator shall be liable to the United States for payment of the amounts paid by the Secretary of Labor under this subsection; and for the purpose of enforcing this liability, the Secretary of Labor shall be subrogated to all the rights of the person receiving such payments or benefits, including the right of lien and priority provided for by section 17 of the Longshoremen's Act, as against the operator and may by a proceeding in the name of the Secretary of Labor under section 18 or under subsection (c) of section 21 of the Longshoremen's and Harbor Workers' Compensation Act, or both, seek to recover the amount of the default or so much thereof as in the judgment of the Secretary is possible, or the Secretary may settle and compromise any such claim.

**§ 725.334 Payment of interest.**

In the event that an operator or carrier defaults on the payment of benefits as described in § 725.333 and it is later determined that the claimant was entitled to benefits for any time subsequent to the default, such operator or carrier shall be liable for the past benefits owed and, in addition, an amount equal to 6 percent simple annual interest, computed on the basis of all past due benefits.

**§ 725.335 Suspension of payments.**

(a) There may be no suspension in the payment of benefits except upon notice to the deputy commissioner pursuant to § 725.341 and to the party or parties to whom benefits are being paid. Any suspension of benefit payments which is not preceded by such notice shall be considered late and defaulted payments pursuant to § 725.333.

(b) If at any time during which benefits are being paid to an eligible individual an operator determines to suspend his payments on any grounds, the deputy commissioner shall make such investigations, cause such medical examinations to be made, or refer for such hearings, and take such further action as he considers will properly protect the rights of all parties.

(c) In the event that the deputy commissioner, or the administrative law judge to whom the matter was assigned for hearing, determines that the suspension of payments was invalid, such deputy commissioner or judge shall order the reinstatement of benefits and shall order the operator or carrier to pay to the entitled individual all unpaid amounts due for the periods during which the payment of benefits was suspended, with interest as provided in § 725.334.

**§ 725.336 Receipt for payment.**

A disabled miner or in case of death, his dependents or personal representative, shall give receipts for payment of benefits to the operator paying the same and such operator shall produce the same for inspection by the deputy commissioner, whenever required.

**§ 725.337 Reporting requirements.**

(a) *First payment, suspension of payments.*—Upon making the first payment, and upon suspension, reduction, or increase of payment for any cause, the operator shall immediately notify the deputy commissioner, in accordance with a form prescribed by the Office, that payment of benefits has begun or has been increased, reduced, or suspended, as the case may be.

(b) *Final payment of benefits.*—Within 16 days after final payment of benefits has been made, the operator shall send to the deputy commissioner a notice, in accordance with a form prescribed by the Office, stating that such final payment has been made, the total amount of benefits paid, the name of the miner and of any other person to whom benefits have been paid, the date of the disability or death, and the date to which benefits have been paid. If the operator fails to so notify the deputy commissioner within such time the Secretary shall assess against such operator a civil penalty in the amount of $100.

## Subpart E—Adjudicatory Process

### General

**§ 725.401 Scope and applicability of this subpart.**

Every dispute arising in respect to any claim for benefits or any action taken by an adjudication officer pursuant to this Part 725, and any other issue of fact or law arising out of the Department of Labor's administration of any of the provisions of Part C of Title IV of the Act as amended shall be determined or adjudicated pursuant to the procedures enumerated in this supart, except as otherwise specifically provided in this Part 725 or as elsewhere provided by statute or treaty. Disputes arising out of or in respect to claims for benefits under section 415 of Part B of Title IV of the Act filed before January 1, 1974, shall be determined or adjudicated pursuant to procedures contained in Part 720 of this subchapter.

**§ 725.402 Adjudication officers.**

(a) *Who are adjudication officers.*—The deputy commissioner, the administrative law judge, or the Benefits Review Board before whom a benefit claim proceeding under the Act is pending are the Department's adjudication officers with respect to such claim.

(b) *Deputy commissioner.*—The deputy commissioner is that official of the Office of Workmen's Compensation Programs or his designee authorized to make initial determinations with respect to any case and to insure that any case is developed and processed according to these regulations. He may also under appropriate circumstances conduct conferences, prepare or issue motions and orders as provided in this part, prepare documents for the signatures of the parties in interest in any case, and sign benefits orders in cases for which no formal hearing procedure is required. The deputy commissioner shall not hold formal hearings.

(c) *Administrative law judge.*—The administrative law judge is that official of the Department of Labor empowered by the Secretary to conduct formal hearings whenever necessary, in respect to any claim for black lung benefits. Each such administrative law judge shall be qualified under 5 U.S.C. 3105 to conduct hearings in accordance with the provisions of 5 U.S.C. 554 *et seq.*

(d) *Benefits Review Board.*—The Benefits Review Board is that body appointed by the Secretary pursuant to section 21(b) of the Longshoremen's and Harbor Workers' Compensation Act as amended in 1972, which is empowered to hear and determine finally for the Department of Labor appeals raising a substantial question of law or fact taken by any party in interest from decisions and order of any duly authorized Department of Labor official or administrative law judge with respect to any claim for black lung benefits (see section 422 of Part C of Title IV of the Act).

**§ 725.403 Powers of adjudication officers.**

(a) *Conduct of proceedings.*—The adjudication officer in any case shall have power to preserve and enforce order during any proceedings for determination or adjudication of entitlement to benefits or liability for benefits payments; to issue subpenas for, to administer oaths to and to compel the attendance and testimony of witnesses, or the production of books, papers, documents and other evidence, or the taking or depositions before any designated individual competent to administer oaths; to examine witnesses; and to do all things conformable to law which may be necessary to enable him to discharge effectively the duties of his office (Act, section 422 and Longshoremen's Act, sections 19(d) and 27(a)).

(b) *Contumacy.*—Pursuant to section 27(b) of the Longshoremen's Act as incorporated by section 422 of the Act, if any person in proceedings before an adjudication officer disobeys or resists any lawful order or process, or misbehaves during a hearing or so near the place thereof as to obstruct the same, or neglects to produce, after having been ordered to do so, any pertinent book, paper or document, or refuses to appear after having been subpenaed or upon appearing refuses to take the oath as a witness, or after having taken the oath refuses to be examined according to law, the adjudication officer shall certify the facts to the Federal district court having jurisdiction in the place in which he is sitting (or to the U.S. District Court for the District of Columbia if he is sitting in the District) which shall thereupon in a summary manner hear the evidence as to the acts complained of, and, if the evidence so warrants, punish such person in the same manner and to the same extent as for a contempt committed before the court, or commit such person upon the same condition as if the doing of the forbidden act had occurred with reference to the process or in the presence of the court.





**§ 725.404 Disqualification of adjudication officer.**

(a) No adjudication officer shall conduct any proceeding in a case in which he is prejudiced or partial with respect to any party, or where he has any interest in the matter pending for decision before him. Notice of any objection which a party may have to any adjudication officer who will conduct the proceeding, shall be made by such party as his earliest opportunity. The adjudication officer shall consider such objection and shall, in his discretion, either proceed with the case or withdraw. In the absence of an objection by a party, any adjudication officer who is aware that he is or may be considered prejudiced or partial with respect to the case before him shall, in his discretion, either proceed with the case or withdraw. If the adjudication officer withdraws, another such officer shall be designated by the Director of the Office of Workmen's Compensation Programs or the Chief Administrative Law Judge as the case may be. If the interested officer is a member of the Benefits Review, the procedure in case of disqualification of any Board member who has an irreconcilable interest shall be in accordance with the applicable regulations and rules promulgated by the Secretary and the Board.

(b) Neither a deputy commissioner, nor administrative law judge, nor any business associate of a deputy commissioner, or administrative law judge, shall appear as attorney in any proceeding under the Act, and no deputy commissioner, or administrative law judge, shall act in any such case in which he is interested, or when he is or was employed by any party in interest or is related to any party in interest by consanguinity or affinity within the third degree as determined by the common law (Act, section 422 and Longshoremen's Act, sections 19(d), 40(f)).

**§ 725.405 Changes in procedures.**

In the event that certain changes are required by virtue of administrative interpretation or court decision to be made concerning the procedures described in this subpart, such changes shall be put into effect by the Secretary as expeditiously as possible. Amendments to this subpart shall be issued where appropriate. No such change shall have any substantive impact on any other unaffected provision contained in this subchapter.

### Parties to Proceedings; Representatives

**§ 725.411 Parties in interest.**

(a) Except as provided in § 725.412, persons other than the Secretary of Labor and authorized personnel of the Department of Labor may not participate at any stage of the adjudicatory process unless they are determined to qualify under the provisions of this section as parties in interest. The following persons may qualify as parties in interest:

(1) The claimant;

(2) A person other than a claimant authorized to execute a claim on such claimant's behalf pursuant to § 725.111;

(3) A dependent who may be entitled to receive augmented benefits or for whom augmented benefits are payable pursuant to Subpart F of this Part 725;

(4) Any coal mine operator who has been notified pursuant to § 725.151 of his possible liability to the claimant for benefits payable for any month after December 31, 1973; and

(5) Any insurance carrier of such operator.

(b) The Secretary of Labor is a party in interest in any proceeding in which his obligation to pay benefits under section 424 of the Act or to take other action under provisions of the Act may depend on the resolution of an issue or issues to be determined or adjudicated in that proceeding.

(c) A widow, surviving child, parent, brother, or sister or representative of a decedent's estate, who makes a showing in writing that an individual's rights with respect to benefits may be prejudiced by a decision that may be rendered, may be made a party in interest.

(d) Any coal mine operator or prior operator or insurance carrier who has not been notified pursuant to § 725.151 and who makes a showing in writing that its rights may be prejudiced by any final decision of an adjudication officer may in the discretion of the deputy commissioner or administrative law judge be made a party in interest.

(e) Any other individual may be made a party in interest if that individual's rights with respect to benefits may be prejudiced by the decision, upon notice given to him by the deputy commissioner or administrative law judge to appear at the hearing or otherwise present evidence as to fact or law as he may desire in support of his interest.

**§ 725.412 Party amicus curiae.**

At the discretion of the Chief Administrative Law Judge or the administrative law Judge assigned to the case, a party not named in § 725.411 may be allowed to participate, fully or partially, in a formal hearing only as to an issue of law. If a party wishes to participate *amicus curiae* in a formal hearing he shall request such status in writing with supporting arguments at least 10 days prior to the hearing. If the request is granted, the Chief Administrative Law Judge or the administrative law judge hearing the case will inform the party of the extent to which he may participate. The request may, however, be denied summarily and without explanation.

**§ 725.413 Representation of parties.**

Except for the Secretary of Labor, whose interests shall be represented by the Solicitor of Labor or an authorized attorney on his staff, each of the parties in interest may appoint an individual to represent his interest in any proceeding for determination of a claim under this part. Such appointment shall be made in writing or on the record at the hearing. A written notice appointing a representative shall be signed by the party in interest or his legal guardian and shall be sent to the Office or, for representation at a formal hearing, to the Chief Administrative Law Judge. In any case such representative must be qualified under § 725.414.

**§ 725.414 Qualification of representative.**

(a) *Attorney.*—Any attorney in good standing who is admitted to practice before a court of a State, territory, district, or insular possession or before the Supreme Court of the United States or other Federal court and is not, pursuant to any provision of law, prohibited from acting as a respresentative may be appointed as a representative.

(b) *Other person.*—Any other person with the approval of the adjudication officer may be appointed as a respresentative so long as that person is not, pursuant to any provision of law, prohibited from acting as a representative.

**§ 725.415 Authority of representative.**

A representative, appointed and qualified as provided in §§ 725.413 and 725.414 may make or give, on behalf of the party he represents, any request or notice relative to any proceeding before an adjudication officer under Part C of Title IV of the Act, including formal hearing and review, except that such representative may not execute a claim for benefits, unless he is a person designated in § 725.111 as authorized to execute a claim. A representative shall be entitled to present or elicit evidence and make allegations as to facts and law in any proceeding affecting the party he represents and to obtain information with respect to the claim of such party to the same extent as such party. Notice to any party of any administrative action, determination, or decision, or request to any party for the production of evidence may be sent to the representative of such party, and such notice or request shall have the same force and effect as if it has been sent to the party represented.



V 38 I 179 SEP 17 73 XUM

§ 725.416 Legal assistance.

The Secretary may, upon request, provide a claimant with legal assistance in processing a claim for benefits payable under Part C of Title IV of the Act. Such assistance may be made available to a claimant at any time prior to or during which the claim is being processed and shall be furnished without charge to the claimant. Legal information shall be available to all claimants in the processing of the claim. However, legal representation of the claimant in adjudicatory proceedings in which the Secretary may be an adverse party in respect of the claimant is not authorized under this section.

§ 725.417 Legal services.

(a) *Approval of fees; lien against benefits.*—No fee charged for representation services in respect of any claim under this part shall be valid unless approved pursuant to this section. If a claimant is represented by an attorney at law, the Act requires approval of such attorney's fees as provided in section 28 of the Longshoremen's Act. In cases where the obligation to pay the attorney's fee is upon the claimant, it may be made a lien upon the benefits due under an award as provided in section 28(c) of the Longshoremen's Act and, as therein provided, the adjudication officer shall fix in the award approving the fee, such lien and manner of payment. Such lien shall remain in effect for not more than 30 days subsequent to the date upon which the order granting the award became final. Any representative who is not an attorney may be awarded a fee for services pursuant to this section except that no lien may be imposed in respect of such representative's fee.

(b) *Contingent and stipulated fees.*—No contract for a stipulated fee or for a fee on a contingent basis will be recognized, and no fee shall be approved, except upon an application to the appropriate adjudication officer.

(c) *Procedure for approval of fees.*—In each case for which approval of a fee is sought application for such approval shall be made to the Department of Labor adjudication officer who finally determined the case. Such application shall be made on a form provided for this purpose by the Office and shall be supported by a complete itemized statement describing the services rendered. Such itemization shall contain the following information:

(1) The dates the services began and ended;

(2) A description of services rendered in any proceeding under the Act, with the amount of time spent on each type of service;

(3) The amount of fee the representative desires to charge for services performed;

(4) The amount of fee requested, charged, or received for services rendered to the claimant before any State or Federal court or agency in a similar matter;

(5) The amount and nature of expenses incurred for which reimbursement has been made or is expected; and

(6) A statement showing that a copy of the itemized fee application has been sent to the person represented. Upon receipt of a request for approval of a fee such request shall be reviewed and evaluated (see § 725.418) by the appropriate adjudication officer and a fee award issued. Any party in interest including a claimant or an attorney or representative aggrieved or adversely affected by such award may request reconsideration thereof by the adjudication officer making such award. A revised or modified award may then be issued, if appropriate. Thereafter, if a revised or modified fee award is considered unsatisfactory by such party or representative, the hearings and appeals procedures described in this subpart available in respect of claims for benefits, may be utilized by such party or attorney or representative. Each request for reconsideration or review of a fee award shall be in writing and shall contain supporting statements or information pertinent to any increase or decrease requested.

§ 725.418 Fixing of amount of legal fees.

(a) *Evaluation of fee application.*—In evaluating a request for approval of a fee the following factors will be considered:

(1) The services performed (including types of services);

(2) The complexity of the case;

(3) The level of skill and competence required in rendition of the services;

(4) The amount of time spent on the case to the nearest quarter hour;

(5) The level of administrative proceedings to which the claim was carried and the level at which the attorney entered the proceedings;

(6) The amount of any fees or reimbursement for expenses previously authorized, paid, or requested; and

(7) Any other information or data which may be relevant to the amount of fee requested.

(b) *Reimbursement for expenses.*—In awarding a fee the appropriate adjudication officer shall consider and shall add thereto the amount of reasonable and unreimbursed expenses incurred in establishing the claimant's case. The amount of reimbursement for travel expenses incurred by an attorney shall be determined in accordance with the provisions of § 725.464 of this part. No amount of reimbursement shall be permitted for expenses incurred in obtaining medical or documentary evidence in support of the claim which has previously been obtained by the Department, and no reimbursement shall be allowed for expenses incurred by him in establishing or pursuing his application for approval of his fee.

§ 725.419 Payment of claimant's attorney's fee by responsible operator or carrier.

If an operator or carrier declines to pay any benefits on or before the 30th day after receiving written notice of such operator's or carrier's potential liability on a claim pursuant to § 725.151 on the ground that there is no liability for benefits within the provisions of this Act, and the person seeking benefits shall thereafter have utilized the services of an attorney at law in the successful prosecution of his claim, there shall be awarded, in addition to the award of benefits, in an order, a reasonable attorney's fee against the operator or carrier in an amount approved by the person, administrative body or court before whom the service was performed, which shall be paid directly by the operator or carrier to the attorney for the claimant in a lump sum after the order becomes final (Longshoremen's Act; section 28(a)).

PROCEDURES, GENERALLY

§ 725.421 Procedures by and before deputy commissioner.

(a) Each claim for benefits under this part received by the Office of Workmen's Compensation Programs will be filed with a deputy commissioner after preliminary processing as provided in § 725.140. The deputy commissioner will be responsible thereafter for compiling the case record, notifying any operator who may be liable to pay benefits to the claimant after December 31, 1973, of the pendency of the claim, notifying a claimant of any deficiency in the medical and/or nonmedical record, scheduling and conducting conferences pursuant to this Subpart F, effecting the settlement or compromise of disputes whenever possible, drafting documents for the signature of the parties in interest, drafting conclusions of law and orders for cases in which no further proceedings are necessary beyond the conference, and making recommendations in respect to any case for which a formal hearing is to be conducted.

(b) At any time after a claim has been received in the Office of Workmen's Compensation Programs, the deputy commissioner having jurisdiction over the claim may, with the approval of the Office, transfer such case to any other office or agency for the purpose of making investigation, taking testimony, making physical examinations, or the taking of such other necessary action therein as may be directed. Such transfer is to be made in accordance with procedures established by the Office.

§ 725.422 Determination of disability.

(a) Determination as to whether a miner is under a total disability due to pneumoconiosis, as to the date total disability began, and as to the date total disability ceases, shall be finally made by the appropriate Department of Labor adjudication officer or court pursuant to Title IV of the Act and the regulations issued thereunder.

(b) Final determinations made by the Social Security Administration denying a miner's claim which was filed under Part B of Title IV of the Act prior to July 1, 1973, shall not be conclusive in proceedings filed under Part C of Title IV of the Act.

(c) Any final determination made by the Social Security Administration in respect to a miner's claim filed prior to July 1, 1973, in which it is established





that such claimant is eligible for benefits under Part B of Title IV of the Act shall be subject to review by the appropriate Department of Labor adjudication officer.

§ 725.423 General procedures for determination of contested issues.

(a) In the event that there are contested issues of fact in any case, those issues generally will be resolved by the following procedures:

(1) If in the opinion of the deputy commissioner the evidence does not support the claim for benefits, the claimant will be given an opportunity to submit additional medical and/or nonmedical evidence.

(2) The deputy commissioner will make every effort to resolve any dispute at a conference conducted pursuant to this Subpart C. If no resolution can be achieved at such conference, the case will be forwarded to the Chief Administrative Law Judge for assignment to an administrative law judge who will schedule and conduct a formal hearing pursuant to this Subpart E and issue a formal order granting or denying the claim, and, where appropriate, establishing the identity of any operator who will either be liable or not liable for payment of benefits to the claimant for any periods after December 31, 1973.

(b) In the event that there are no contested issues of fact or law the deputy commissioner will prepare statements identifying any operator who will be liable for payment of such benefits for any periods after December 31, 1973. These statements will be signed by the parties in interest and the deputy commissioner who will either approve and sign an award and order or take any other action he deems appropriate. If the proposed order is signed by a deputy commissioner, it will become a final order pursuant to this Subpart E.

(c) Except as provided in § 725.426(f), if there has been no final resolution of a case after 90 days from the date upon which any claim has been filed with the deputy commissioner pursuant to § 725.140 and there has been no prior request for a formal hearing or additional conferences, the deputy commissioner assigned the case shall either:

(1) Declare the case abandoned pursuant to § 725.425; or

(2) Transfer the case to the Chief Administrative Law Judge pursuant to paragraph (a) of this section for the purpose of making the formal hearing procedures described in this subpart available to any or all of the parties in interest.

§ 725.424 Presumptions.

In any proceeding for the enforcement of liability on a claim for benefits under the Act it shall be presumed, in the absence of substantial evidence to the contrary, that the claim comes within the provisions of the Act, and that sufficient notice of such claim has been given.

§ 725.425 Abandonment of a claim.

(a) If a claimant at any time during the proceedings to adjudicate his claim, chooses to terminate those proceedings he may do so in his discretion by notifying the appropriate adjudication officer or the Office of his intention in this regard.

(b) In addition, a claim may be deemed abandoned by the adjudication officer who is processing such claim under the following circumstances:

(1) In cases where the claimant fails to comply with a lawful order of any adjudication officer in respect to his claim, provided that such failure to comply is not later excused for good cause; or

(2) In cases where the claimant fails in a significant way to pursue his claim with reasonable diligence. A finding that a claimant has failed to pursue his claim with reasonable diligence may be made by the adjudication officer who is processing the claim at any time during formal or informal proceedings, where, for instance, the claimant fails to undergo a required medical examination or submit medical evidence, fails or refuses to submit evidence of relationship or dependency, or fails or refuses to participate in the adjudicatory process. Any claim in which proceedings are suspended or terminated pursuant to paragraphs (a) and (b) of this section, or paragraph (b) (1) and (2) of this section, shall be deemed an "abandoned claim."

(c) Notwithstanding any other provision of this part, before any claim may be considered an "abandoned claim" the appropriate adjudication officer shall notify the claimant of the pending termination of proceedings and afford such claimant 10 days within which to take affirmative action to cure the deficiency in his claim. If no response is received within the 10-day period, all proceedings and evidentiary development in respect to the claim shall cease. If the claimant expresses his intent to continue his pursuit of the claim, the adjudication officer shall suspend or continue whatever proceedings are in progress in such a manner as he deems appropriate.

(d) In the event that a claim is abandoned the claimant's original filing date (see § 725.125) shall remain the date on which the claim was filed should such claimant later decide to once again pursue his claim. However, upon the expiration of 1 year from the date on which a claim is deemed abandoned pursuant to this section, such claim may not once again be pursued.

§ 725.426 Final adjudication; no responsible operator.

(a) If after the Office has received all the evidence developed with respect to a claim and there is no identifiable responsible operator, the deputy commissioner shall proceed to a final adjudication of a claim pursuant to this Subpart E.

(b) If at this point there is no dispute over the claimant's eligibility and entitlement to benefits, the claim shall be filed with the deputy commissioner pursuant to § 725.140 and the deputy commissioner shall summarily issue his findings of fact, conclusions of law and order approving the claim, and commencing the payment of benefits pursuant to this subpart.

(c) If agreement cannot be reached in cases for which no responsible operator can be found, the case will be filed with the deputy commissioner pursuant to § 725.140. Simultaneously with such filing a recommended decision and order shall be sent to the claimant. Within 20 days from the receipt of such recommended decision and order the claimant shall either agree with the recommended decision and order and so notify the deputy commissioner or notify the deputy commissioner that he is unwilling to agree to one or more of the items contained in such decision and order. Failure to respond within the 20-day period described in this paragraph shall be construed as a refusal to accept the ruling of the deputy commissioner.

(d) If the recommended decision and order is agreed to the deputy commissioner shall proceed to a final adjudication of the case pursuant to § 725.442.

(e) If the claimant is unwilling to agree with the allegations and proposed disposition contained in the recommended decision and order, or if the claimant does not respond within the specified time period the deputy commissioner may schedule and conduct a conference pursuant to §§ 725.431–725.443 or take any other action consistent with the provisions of this part which he deems necessary to achieve a resolution of the case.

(f) Within 60 days from the date upon which a claim for which no potentially responsible operator has been determined has been filed with the deputy commissioner pursuant to § 725.140 in cases for which there has been no prior request for a formal hearing the deputy commissioner assigned the case shall either:

(1) Issue a decision and order in respect of the case pursuant to § 725.442; or

(2) Declare the case abandoned pursuant to § 725.425; or

(3) Transfer the case to the Chief Administrative Law Judge for the purpose of making the formal hearing procedures described in this part available to the parties in interest.

CONFERENCES

§ 725.431 Nature of conferences.

(a) In cases which cannot be disposed of summarily and on the record, conferences are to be scheduled to expedite the handling of contested issues and to avoid, whenever possible, the need for formal hearings. However, if it appears that a conference would serve none of the purposes enumerated in § 725.432, the deputy commissioner may forward the case to the Chief Administrative Law Judge without conducting a conference, for further action as provided in this subpart.

(b) The proceedings are to be informal and are presided over by a deputy commissioner. Testimony is not steno-



V 38 I 179 SEP 17 73 XUM

graphically reported. The parties in interest are not required to be represented by counsel, but may be so represented if they desire. The conference is not a formal hearing and witnesses may not be produced.

**§ 725.432 Purpose of conferences.**

Among the purposes of a conference are:

(a) To amicably dispose of controversies whenever possible;

(b) To narrow issues; and

(c) To simplify the subsequent methods of proof.

**§ 725.433 Notification of parties.**

When, after reviewing the record, the deputy commissioner assigned the case determines that a conference may fulfill one or more of the purposes listed in § 725.432 he shall notify all parties in interest that a conference has been called. Conferences may be called upon at least 10 days' notice to the parties in interest or a shorter period if agreed upon by the parties. In any event, every effort shall be made to give all parties sufficient notice to insure that the conference will be productive.

**§ 725.434 Time and place of conference.**

The deputy commissioner shall assign a definite time and place for the conference and shall include this information in his notice to the parties.

**§ 725.435 Preparation for conferences.**

Prior to scheduling a conference the deputy commissioner shall review his file to be certain that it contains all the necessary material to insure that the conference will be productive. The file should contain copies of all medical reports from all parties in interest and there should be evidence in the file that the parties have exchanged all medical reports and any other material pertinent to the case. If this information does not appear in the file the deputy commissioner may advise the parties of these requirements and postpone the setting of the conference.

**§ 725.436 Cancellation of conferences.**

Any party may request cancellation and rescheduling of a conference upon 5 days' written notice prior to the conference date sent to the Office or the deputy commissioner assigned the case. Such request shall state the reasons warranting cancellation. The deputy commissioner may, if reasonable cause is shown, grant the request.

**§ 725.437 Attendance at conferences.**

(a) The claimant and/or his representative and any operator whose liability for payment of benefits after December 31, 1973, may be determined by a final order in the case and/or the operator's insurance carrier and/or their representatives shall attend all conferences. Any party may, in writing stating the reasons therefor, request that such attendance requirement be waived. The deputy commissioner may, in his discretion, grant or deny such waiver. The failure of any party to appear at a conference or obtain a waiver of the attendance requirement pursuant to this paragraph or the failure of any party to observe the requirement contained in paragraph (b) of this section shall not constitute grounds for cancellation of the conference. Information adduced at such conference may be utilized at any point during the adjudication of the case.

(b) Any representative of an operator or of an operator's insurance carrier must have sufficient authority to effect settlement.

**§ 725.438 Participation by the deputy commissioner.**

A characteristic of a conference under the Act is the active participation in the proceedings by the deputy commissioner. It is his responsibility to see that the conference is productive. He shall assist the parties whenever possible by answering questions pertaining to the law and offer compromises for the parties to consider. He shall direct the discussion of the parties. He has the authority to conduct direct examinations of the claimants, operators whose liabilities may be determined, and their insurance carriers' representatives and he may conduct such examination whenever necessary.

**§ 725.439 File record.**

(a) During the course of the conference the deputy commissioner shall take notes upon which to base his written memorandum of conference. Among the information which must appear in the memorandum of conference is:

(1) Date, time, and place of conference;

(2) Names, addresses, telephone numbers, and status (*i.e.*, claimant, attorney, operator, carrier's representatives, etc.) of all persons attending the conference;

(3) Reason why conference was held;

(4) Issues discussed at conference;

(5) Additional material presented (*i.e.*, medical reports, employment reports, marriage certificates, birth certificates, etc.);

(6) Issues resolved at conference; and

(7) Deputy commissioner's recommendation.

**§ 725.440 Memorandum of conference.**

At the conclusion of the conference the deputy commissioner shall issue a comprehensive but brief memorandum summarizing the conference for the record. Copies of the memorandum shall be sent to each party in interest by certified mail no more than 20 days after the date on which the conference is terminated.

**§ 725.441 Reply to memorandum of conference.**

Each party shall, in writing, either accept or reject in part or in whole the deputy commissioner's recommendations, stating in appropriate cases the reasons for rejecting any recommendation. If no reply is received within 10 days from the date on which the recommendations were sent to the parties, the recommendations shall be deemed accepted. If the recommendations are not wholly agreed upon, the deputy commissioner or any party in interest may request a formal hearing. If it appears that final settlement might be reached without formal hearing, the deputy commissioner may schedule one or more additional conferences.

**§ 725.442 Adjudication without a hearing.**

(a) If the parties in interest indicate that they are willing to dispose of the issues in the case based on the recommendations made, the deputy commissioner shall obtain statements to this effect signed by the parties. The statements shall contain all the information required for inclusion in a formal order and shall show that the parties agree that a final order may be issued by the deputy commissioner without a formal hearing. The deputy commissioner shall then proceed to prepare and sign a decision and order based on the statements.

(b) If the parties are unable or unwilling to reach an agreement at the conference and if no request for a formal hearing is received by the deputy commissioner within 30 days from the close of the conference, the deputy commissioner in appropriate cases shall proceed to forward the case to the Chief Administrative Law Judge for final adjudication as described in this subpart.

**§ 725.443 Accelerated hearing.**

Notwithstanding any other provision of this Part 725 after 30 days from the date upon which a claim is filed with the deputy commissioner pursuant to § 725.140, a claimant, a notified operator, or the Secretary may request and shall have a right to a formal hearing to be conducted by an administrative law judge pursuant to this Subpart E. In the event that a formal hearing is requested pursuant to this paragraph, all responsibility and authority pertaining to the evidentiary development and settlement of the case vested in the deputy commissioner shall be vested in the Chief Administrative Law Judge or the administrative law judge assigned the case.

**§ 725.444 The record of further proceedings.**

For the purpose of any further proceedings under the Act, the formal record of proceedings shall consist of the hearing record made before the administrative law judge. When transferring the case for hearing, the deputy commissioner shall not transfer the administrative file under any circumstances.

**§ 725.445 Obtaining documents from the administrative file for reintroduction at formal hearings.**

When any party considers any document in the administrative file essential to any further proceedings under the Act, it is the responsibility of such party to obtain such document from the deputy commissioner and reintroduce it for the record before the administrative law judge. The type of document that may be obtained shall be limited to documents previously submitted to the deputy commissioner, including documents or forms with respect to notices, claims, controversions, contests, progress reports, medical services or supplies, etc. The work products of the deputy commissioner or his staff shall not be subject to retrieval. The procedure for obtaining documents shall be for the requesting party to inform the deputy commissioner in writing of the documents he wishes to obtain, specifying them with particularity. Upon receipt, the deputy commissioner shall cause copies of the requested documents to be made and then: (1) Place the copies in the file together with the letter of request, and (2) promptly forward the originals to the requesting party. The handling of multiple requests for the same document shall be within the discretion of the deputy commissioner and with the cooperation of the requesting parties.





HEARINGS

**§ 725.451 Right to a hearing.**

A person affected by proceedings under this part has a right to a formal hearing concerning any issue of fact or law unresolved in a conference if:

(1) He is a party in interest as defined in § 725.411; and

(2) No final disposition of the case has been achieved in prior proceedings within the period specified in § 725.443.

**§ 725.452 Request for hearing.**

Any party in interest may in writing or on the record at a conference request a formal hearing as to any contested issue of fact or law. In addition, a deputy commissioner may on his own initiative refer a case for hearing, when he determines a hearing necessary to protect the rights of any party in interest. If the deputy commissioner determines that a hearing is required or is necessary to the resolution of any issue, he shall refer the case to the Chief Administrative Law Judge who will assign it for a hearing. The deputy commissioner may not deny a request for a hearing if the requirements of § 725.451 are met.

**§ 725.453 Type of hearing; parties.**

In contested cases for which a formal hearing is deemed necessary, the hearing shall be conducted by an administrative law judge designated by the Chief Administrative Law Judge. The necessary parties to this hearing are the administrative law judge and all parties in interest or their designated representative, except that any party may waive his right to be heard as to any or all issues. All hearings shall be conducted in accordance with the provisions of 5 U.S.C. 554 *et seq.* If any party in interest chooses to plead his own case at a formal hearing he may do so only upon the approval of the administrative law judge. If the administrative law judge determines that such party may not be sufficiently able to protect his rights under the Act, he may forbid such party to plead his own case and instead require that such party obtain the services of a qualified representative.

**§ 725.454 Notice of hearing.**

In each case in which a hearing is ordered the deputy commissioner shall prepare a notice of hearing for the signature of the Chief Administrative Law Judge and by service thereof shall give all parties in interest at least 10 days' notice of the time and place at which the hearing, or any prehearing conference is to be conducted and the issues to be resolved. The notice of hearing shall be sent to each party in interest by certified mail. No issue may be raised or discussed at a hearing if the party who must contest the issue has not had at least 10 days notice that the issue was to be raised at the hearing, unless he waives such notice in writing or on the record in the proceeding.

**§ 725.455 Hearing on new issues.**

(a) At any time after a hearing has been ordered and before a final decision has been mailed, the administrative law judge may in his discretion, either on the application of a party or on his own motion, give notice that he will consider any specified new issue. In such a case the administrative law judge shall give the parties at least 10 days' notice of the hearing on the new issue, unless they stipulate that the issue may be heard at an earlier time, and shall proceed to hearing on the new issue in the same manner as he would on an issue initially considered.

(b) A hearing on any new issue shall be limited to a discussion of that new issue.

(c) In the event that a new issue is raised at the time any formal hearing is conducted, the party confronted with that new issue may, upon request to the administrative law judge, be granted a continuance of not less than 10 days with respect to that new issue.

**§ 725.456 Time and place of hearing.**

(a) The Chief Administrative Law Judge shall assign a definite time and place for the formal hearing and shall include this information in his notice to the parties.

(b) If the claimant's residence is not in any State, the Chief Administrative Law Judge may, in his discretion, determine an appropriate location for the hearing.

**§ 725.457 Change of time and place for hearing; transfer of cases.**

(a) The Chief Administrative Law Judge or the administrative law judge may change the time and place for the hearing, either on his own motion or for good cause shown by a party. The Chief Administrative Law Judge or administrative law judge may adjourn or postpone the hearing, or he may reopen the hearing for the receipt of additional evidence at any time prior to the mailing to the parties of the decision in the case. Unless otherwise agreed, at least 10 days' notice shall be given to the parties of any change in the time or place of hearing.

(b) At any time after a notice of hearing has been issued the Chief Administrative Law Judge may for good cause transfer such case from one administrative law judge to another.

CONDUCT OF HEARINGS

**§ 725.460 Hearing procedures—generally.**

All hearings shall be attended by the parties or their representatives and such other persons as the administrative law Judge deems necessary and proper. The administrative law judge shall inquire fully into the matters at issue and shall receive in evidence the testimony of witnesses and any documents which are relevant and material to such matters. If the administrative law judge believes that there is relevant and material evidence available which has not been presented at the hearing, he may adjourn the hearing or, at any time, prior to the mailing of notice of the decision, reopen the hearing for the receipt of such evidence. The order in which evidence and allegations shall be presented and the procedures at the hearing generally, except as these regulations otherwise expressly provide, shall be in the discretion of the administrative law judge and of such nature as to afford the parties a reasonable opportunity for a fair hearing. The unexecused failure of any party or such party's duly authorized representative to attend a formal hearing shall constitute a waiver of such party's rights to present evidence in respect of the issues to be determined at the hearing.

**§ 725.461 Evidence.**

In making an investigation or inquiry or conducting a hearing the administrative law judge shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure, except as provided by 5 U.S.C. 554 and this subpart. He may conduct such investigation or inquiry as to best ascertain the rights of the parties. Declarations of a deceased miner concerning his disability or cause of death in respect of which the investigation or inquiry is being made or the hearing conducted shall be received in evidence and shall, if corroborated by other evidence, be sufficient to establish the disability or cause of death.

**§ 725.462 Witnesses.**

(a) Witnesses at the hearing shall testify under oath or affirmation. The administrative law judge may examine the witnesses and shall allow the parties or their representatives to question the witness with respect to any matters relevant and material to any issue pending before him.

(b) No person shall be required to attend as a witness in any proceeding before an administrative law judge at a place more than 100 miles from his place of residence, unless his lawful mileage and fee for 1 day's attendance shall be paid to him in advance of the hearing date.

**§ 725.463 Depositions; interrogatories.**

The testimony of any witness may be taken by deposition or interrogatory according to the rules of practice of the Federal district court for the judicial



V 38-179 SEP 17 73 XUM

district in which the case is pending (or of the U.S. District Court for the District of Columbia if the case is pending in the District).

**§ 725.464 Witness fees.**

(a) Witnesses summoned in a formal hearing before an administrative law judge or whose depositions are taken shall receive the same fees and mileage as witnesses in courts of the United States (Act, sections 415 and 422 and Longshoremen's Act, section 25). Except as provided in paragraph (d) of this section, such fees shall be paid by the party summoning the witness.

(b) Expert witness fees in excess of the amounts to which an individual would be entitled under paragraph (a) of this section shall be paid by the party summoning such expert witness unless the Chief Administrative Law Judge or the administrative law judge determines that such expert witness is necessary and that a claimant is financially unable to secure such witness. If in the opinion of the Chief Administrative Law Judge, the requirements of this paragraph are met appropriate action will be taken to pay such expert witness fee on behalf of the claimant. Requests for reimbursement or direct payment of an expert witness fee shall be directed to the Chief Administrative Law Judge or the administrative law judge assigned the case no less than 5 days prior to the hearing date.

(c) No claimant shall be required to bear the financial responsibility for producing an expert witness for cross examination if such expert witness, regardless of his availability to attend the hearing, has previously submitted depositions, interrogatories, or attested medical reports. Such expert witness, if he is required to attend the hearing shall be summoned and shall have his expert witness fee paid by the party in interest other than the claimant, who desires to cross examine such expert witness.

(d) Pursuant to section 422 of the Act and section 28(d) of the Longshoremen's Act, in cases where an attorney's fee is awarded against such operator or carrier (see § 725.419) there may be further assessed against such operator or carrier as costs, fees and mileage for necessary witnesses attending the hearing at the instance of the claimant. Both the necessity for the witness and the reasonableness of the fees of expert witnesses must be approved by the appropriate adjudication officer or court as the case may be. The amounts awarded against an operator or carrier as attorney's fees, costs, fees and mileage for witnesses shall not in any respect affect or diminish benefits payable under the Act.

**§ 725.465 Oral argument and written allegations.**

The parties, upon their request, shall be allowed a reasonable time for the presentation of oral argument and for the filing of briefs or other written statements of allegations as to facts or law. Copies of any brief or other written statement shall be filed with the administrative law judge and served on all parties in interest by the party submitting the brief or statement.

**§ 725.466 Waiver of right to appear and present evidence.**

If all parties waive their right to appear before the administrative law judge or to present evidence or argument personally or by representative, it shall not be necessary for the administrative law judge to give notice of or conduct an oral hearing. A waiver of the right to appear and present evidence and allegations as to facts and law shall be made in writing and filed with the Chief Administrative Law Judge or the administrative law judge. Such waiver may be withdrawn by a party at any time prior to the mailing of notice of the decision in the case. Even though all of the parties have filed a waiver of the right to appear and present evidence and contentions at a formal hearing, the administrative law judge may, nevertheless, give notice of a time and place and conduct a hearing, if he believes that the personal appearance and testimony of the party or parties would assist him to ascertain the facts in issue in the case. Where such a waiver has been filed by all parties, and they do not appear before the administrative law judge personally or by representative, the administrative law judge shall make a record of the relevant written evidence, including applications, written statements, certificates, affidavits, reports, and whatever other relevant and material evidence the party or parties may present in writing for consideration by the administrative law judge. Such documents shall be considered as all of the evidence in the case and the decision shall be based on them.

**§ 725.467 Consolidated issues.**

When one or more additional issues are raised before the administrative law judge pursuant to § 725.455, such issues may, in the discretion of the Chief Administrative Law Judge, be consolidated for hearing and decision with other issues pending before the administrative law judge upon the same request for a hearing, whether or not the same or substantially similar evidence is relevant and material to the matters in issue. A single decision may be made upon all such issues.

**§ 725.468 Joint hearings.**

When two or more hearings are to be held, and the same or substantially similar evidence is relevant and material to the matters in issue at each such hearing the Chief Administrative Law Judge may upon motion by any party in interest, or on his own motion or on the motion of an adjudication officer, order the administrative law judge assigned the case to fix the same time and place for each such hearing and conduct all such hearings jointly. Where joint hearings are held, a single record of the proceedings shall be made and the evidence introduced in one case may be considered as introduced in the others and a separate or joint decision shall be made, as appropriate.

**§ 725.469 Record of hearing.**

All formal hearings shall be open to the public and shall be stenographically reported. All evidence upon which the administrative law judge relies for his final decision shall be contained in the transcript of testimony either directly or by appropriate reference. All medical reports, exhibits, and any other pertinent document or record either in whole or in material part shall be incorporated into the record either by reference or as an appendix.

DISMISSALS

**§ 725.471 Dismissal of the case or claim by application of party.**

With the approval of the Chief Administrative Law Judge or administrative law judge at any time prior to the mailing of notice of the decision, a case or claim may be dismissed upon the application of any party. A party may request a dismissal by filing a written notice of such request with the Chief Administrative Law Judge or administrative law judge or orally stating such request at the hearing.

**§ 725.472 Dismissal by abandonment of party.**

Notwithstanding the provisions of § 725.425, with the approval of the Chief Administrative Law Judge or administrative law judge, a case or claim may also be dismissed upon its abandonment by the claimant. A party shall be deemed to have abandoned his case or claim if neither the party nor his representative appears at the time and place fixed for the hearing and either (a) prior to the time for hearing such party does not show good cause as to why neither he nor his representative can appear or (b) within 10 days after the mailing of a notice of hearing to him to show cause, such party does not show good cause for such failure to appear and failure to notify the Chief Administrative Law Judge or administrative law judge prior to the time fixed for hearing that he cannot appear.

**§ 725.473 Dismissal for cause.**

The Chief Administrative Law Judge or administrative law judge may, on his own motion or at the request of any party, dismiss a case or claim, either entirely or as to any stated issue, under any of the following circumstances:

(1) *Res judicata.*—A case or claim shall be dismissed for cause where there has been a previous final determination or decision with respect to the rights or obligations of the same party on the same facts pertinent to the same issue or issues.

(2) *No right to a hearing.*—A case, claim, or party shall be dismissed for cause where the party requesting a hearing is not a proper party under § 725.411 or does not have a right to a hearing under the provisions of this part. A case or claim may be dismissed as to any party who is not a proper party to the case or claim pursuant to § 725.411.





**§ 725.474 Notice of dismissal and right to request review thereon.**

Notice of the Chief Administrative Law Judge's or administrative law judge's dismissal action shall be given to the parties or mailed to them at their last known addresses within 20 days from the date on which the hearing was scheduled. Such notice shall advise the parties of their right to request review by the Benefits Review Board pursuant to § 725.490.

**§ 725.475 Effect of dismissal.**

The dismissal of a case or claim shall be final and binding unless suspended or set aside (see § 725.486).

COMPLETION OF FORMAL HEARING

**§ 725.480 Termination of formal hearings.**

Formal hearings are officially terminated when all the evidence has been received, witnesses heard, pleadings and briefs submitted to the administrative law judge, and the transcript of the proceedings has been printed and delivered to the administrative law judge.

**§ 725.481 Issuance of final decision and order.**

Within 20 days after the official termination of the hearing as defined by § 725.480, the administrative law judge shall issue a decision and order with respect to the claim making an award to the claimant or rejecting the claim.

**§ 725.482 Form of final decision and order.**

(a) Orders adjudicating claims for benefits or suspending payments of benefits shall be designated by the term "decision and order" followed by a descriptive phrase designating the particular type of such order, such as "award of benefits," "rejection of claim," "suspension of benefits," "modification of award. All decisions and orders shall contain the names of the parties in interest, a statement of the basis therefore, findings of fact, an award, rejection, or other appropriate paragraph containing the action of the administrative law judge. Final decisions and orders shall be signed by the administrative law judge at two places following the action paragraph.

(b) Copies of decisions and orders shall be served personally or by certified mail upon the parties in interest.

**§ 725.483 Contents of decision and order.**

(a) *Findings of Fact.*—(1) All original decisions and orders shall contain, in the paragraph headed, "*Findings of Fact,*" findings with respect to the names and addresses of the parties in interest, and dates and places of employment pertinent to the claim, the circumstances surrounding the coal miner's exposure to respirable coal dust, the nature and extent of the disability, notice of total disability or death, and such other facts as may be necessary to determine all of the issues raised before the administrative law judge upon the hearing of the case or otherwise, but in case of rejection of the claim the administrative law judge may in his discretion omit any findings unnecessary to support such action. In cases in which the claim is rejected, the grounds for such rejection shall be stated in a paragraph following the findings of fact.

(2) In orders other than the original order, the statement of the basis for the order shall contain reference to all prior orders with the dates thereof. In such orders the findings of fact shall relate only to the immediate issues before the administrative law judge without restatement of facts found in any prior order relating to the same disability or death, unless necessary for the completeness of the order.

(b) *Conclusions of Law.*—All decisions and orders shall contain after the findings of fact a paragraph entitled "Conclusions of Law." This paragraph shall, when appropriate, contain statements of all ultimate facts necessary to support the action of the administrative law judge. This paragraph shall contain among other things a statement as to the claimant's eligibility for benefits and, when appropriate, a statement asserting or denying the liability of an operator or his insurance carrier for the payment of benefits to the claimant for any periods after December 31, 1973.

(c) *Order.*—All decisions and orders shall contain after the conclusions of law the orders of the administrative law judge directing the parties to take any action consistent with the findings of fact and conclusions of law as required by the Act.

**§ 725.484 Formal hearings; filing and mailing of orders; disposition of transcripts.**

The administrative law judge shall, within 20 days after the official termination of the hearing, deliver by mail, or otherwise, to the office of the deputy commisioner having original jurisdiction, the transcript of the hearing, and other documents or pleadings filed with him with respect to the claim, together with his signed order. Upon receipt thereof, the deputy commissioner, being the official custodian of all records with respect to such claims within his jurisdiction, shall formally date and file the transcript, pleadings, and benefits order (original) in his office. Such filing shall be accomplished as expeditiously as possible, and the deputy commissioner shall, on the same day as the filing was accomplished, send by certified mail a copy of the order to the parties and to representatives of the parties, if any. Appended to each such copy shall be a paragraph entitled "proof of service," containing the certification of the deputy commissioner that the copies were mailed on the date stated, to each of the parties and their representatives, as shown in said paragraph.

**§ 725.485 Interlocutory matters to be disposed of without formal orders.**

Decisions and orders or other formal orders shall not be made or filed with respect to interlocutory matters of a procedural nature arising during the pendency of a case where benefits have been claimed.

**§ 725.486 Finality of decisions and orders.**

Decisions and orders issued pursuant to § 725.442 or § 725.481 shall become effective when filed in the office of the deputy commissioner, and unless proceedings for suspension or setting aside of such orders are instituted within 30 days of such filing, shall become final at the expiration of the 30th day after such filing, as provided in section 21 of the Longshoremen's Act.

**§ 725.487 Withdrawal of controversion of issues set for formal hearing—effect.**

Whenever a party withdraws his controversion of the issues set for a formal hearing, the administrative law judge shall halt the proceedings upon receipt from said party of a signed statement to that effect and forthwith notify the deputy commissioner who shall then proceed to dispose of the case as provided for in § 725.442.

**§ 725.488 Modification of awards.**

Upon his own initiative, or upon the application of any party in interest, on the ground of a change in conditions or because of a mistake in a determination of fact by the administrative law judge, the administrative law judge may, at any time prior to 1 year after the date of the last payment of benefits, or at any time prior to 1 year after the rejection of a claim, review a case in accordance with the procedure prescribed in respect of claims in this subpart and in accordance therewith issue a new final decision and order which may terminate, continue, or reinstate, increase, or decrease such benefits, or award benefits. Such new order shall not affect any benefits previously paid, except that an award increasing the benefits rate may be made effective from the date of the entitlement and if any part of the benefit due or to become due is unpaid, an award decreasing the benefit rate may be made effective from the date of entitlement, and any payment made prior thereto in excess of such decreased rate shall be deducted from any unpaid benefit pursuant to Subpart C of this part.

APPEALS FROM DECISIONS AND ORDERS

**§ 725.490 Right to appeal; Benefits Review Board.**

Any party in interest, adversely affected or aggrieved by a decision or order of an adjudication officer issued pursuant to § 725.481 may within 30 days from the filing of such decision or order appeal such decision or order to the Benefits Review Board.

**§ 725.491 Procedure before the Board.**

All appeals filed with the Board shall be processed and determined pursuant to rules and regulations duly promulgated by the Board as authorized by the Secretary in 20 CFR Part 802.



V 38 179 SEP 17 73 XUM

**§ 725.492 Judicial review.**

Pursuant to section 21(c) of the Longshoremen's and Harbor Workers' Compensation Act as incorporated by section 422 of Part C of Title IV of the Act, any person adversely affected or aggrieved by a final order of the Board may obtain a review of that order in the U.S. Court of Appeals for the circuit in which the disability occurred by filing in such court within 60 days following the issuance of such Board order a written petition praying that the order be modified or set aside. The LHWCA provides that payment of the amounts required by an award shall not be stayed pending final decision in any such proceeding unless ordered by the court. No stay shall be issued unless the court finds that irreparable injury would otherwise ensue to an operator or carrier.

**§ 725.493 Certification of record for judicial review.**

Whenever the record of a hearing shall be required for review or otherwise by any court of competent jurisdiction, the Secretary or his designated representative shall transmit the record with a certification thereof over an appropriate signature as the official record of the case in his custody. The certification shall list each transcript of testimony and other paper included in the record.

**§ 725.494 Costs in proceedings brought without reasonable grounds.**

If the court having jurisdiction of proceedings in respect of any claim or final decision and order determines that the proceedings in respect of such claim or order have been instituted or continued without reasonable ground, the costs of such proceedings shall be assessed against the party who has so instituted or continued such proceedings (Act, section 422 and Longshoremen's Act, section 26).

## Subpart F—Payment of Benefits

### General

**§ 725.501 Applicability of this subpart.**

For purposes of the Department of Labor's administration of Part C of Title IV of the Act, benefits shall be determined and paid pursuant to the provisions of this subpart. This subpart applies to all new claims of eligible individuals filed after December 31, 1973, as well as new claims filed with the Department of Labor pursuant to section 415 of Part B of Title IV of the Act by claimants entitled thereby to benefit payments under Part C of Title IV after December 31, 1973. However, in respect to new claims filed under section 415 of the Act, no payment of benefits under this Subpart F of this Part 725 shall commence before January 1, 1974. Benefits due any eligible individual from the Department of Labor which are payable under Part B of Title IV of the Act, shall be determined and paid pursuant to Subpart C of Part 720 of this subchapter.

**§ 725.502 Manner of payment; payment periods.**

(a) Benefits under this Act shall be paid periodically, promptly, and directly to the person entitled thereto. Coal mine operators shall be liable for such payments as provided in Subpart D of this Part 725.

(b) Benefits are payable for monthly periods. If the claimant meets all the requirements for entitlement to benefits in the same month in which his claim is filed, the filing will be effective for the whole month. If a claimant dies in the first month for which he meets all the requirements for entitlement to benefits, he will be considered to be entitled to benefits for that month.

(c) On the 14th day after the date when there has been a determination by a deputy commissioner or decision by an administrative law judge to the effect that the claimant is entitled to receive benefits, or the date when payment of benefits has been ordered pursuant to § 725.312(b), the first installment of benefits for which an operator or his carrier is determined liable shall become due and all benefits then due shall be paid. Thereafter compensation shall be paid in monthly installments, except where the adjudicating officer determines that payment in installments should be made in some other fashion.

**§ 725.503 Date from which benefits shall be payable.**

(a) Section 6(a) of the Longshoremen's Act as incorporated by section 422 of Part C of Title IV of the Act requires that in the case of total disability benefits shall be payable to eligible beneficiaries from the date of the onset of such total disability and in the case of death, benefits shall be payable to eligible beneficiaries from the date of such death. In no event shall benefit payments be required under this part for any period prior to January 1, 1974.

(b) Each decision and order issued by an adjudication officer with respect to a claim shall, pursuant to the requirements of paragraph (a) of this section, state the date from which benefits are payable to eligible beneficiaries.

(c) Benefits payable for any period prior to the date of the decision and order awarding such benefits shall be computed on the basis of the benefit rate applicable to such period.

(d) In light of the fact that it may not be possible in certain instances to determine the date upon which a miner became totally disabled due to pneumoconiosis, the adjudication officer charged with the responsibility for determining such miner's claim may, in the absence of evidence to the contrary and under appropriate circumstances, determine that such miner's total disability due to pneumoconiosis began on the date such miner's claim was filed.

(e) No provision of this section shall be construed to in any way expand or alter the requirements of § 725.124 of this Part 725 which sets forth the time limits within which a claim under section 422 of Part C of Title IV of the Act must be filed.

**§ 725.504 Payees.**

Benefits may be paid, as appropriate, to a beneficiary, to a qualified dependent, or to a representative authorized under this subpart to receive payments on behalf of such beneficiary or dependent.

**§ 725.505 Payment on behalf of another; "legal guardian" defined.**

Benefits are paid only to the beneficiary or his legal guardian or representative payee. As used in this section, "legal guardian" means an individual who has been appointed by a court of competent jurisdiction or otherwise appointed pursuant to law, to assume control of and responsibility for the care of the beneficiary, the management of his estate, or both.

**§ 725.506 Guardian for minor or incompetent.**

An adjudication officer may require that a guardian or representative be appointed to receive benefits payable to any person who is mentally incompetent or a minor and to exercise the powers granted to, or to perform the duties required of, such person under the Act.

**§ 725.507 Assignment and exemption from claims of creditors.**

No assignment, release, or commutation of benefits due or payable under this part, except as provided by the Act as implemented by this Part 725, shall be valid, and such benefits shall be exempt from all claims of creditors and from levy, execution, and attachment or other remedy for recovery or collection of a debt, which exemption may not be waived (Act, section 422, and Longshoremen's Act, section 16).

### Benefit Rates

**§ 725.510 Computation of benefits.**

(a) *Basic rate.*—The benefit amount of each beneficiary entitled to a benefit for a month is determined, in the first instance, by computing the "basic rate." The basic rate is equal to 50 percent of the minimum monthly payment to which a totally disabled Federal employee in Grade GS–2 would be entitled for such month under the Federal Employees' Compensation Act, Chapter 81, Title 5, United States Code. That rate for a month is determined by:

(1) Ascertaining the lowest annual rate of pay (step 1) for Grade GS–2 of the General Schedule applicable to such month (see 5 U.S.C. 5332);

(2) Ascertaining the monthly rate thereof by dividing the amount determined in paragraph (a)(1) of this section by 12;

(3) Ascertaining the minimum monthly payment under the Federal Employees' Compensation Act by multiplying the amount determined in paragraph (a)(2) of this section by 0.75 (that is, by 75 percent) (see 5 U.S.C. 8112); and

(4) Ascertaining the basic rate under the Act by multiplying the amount determined in paragraph (a)(3) of this section by 0.50 (that is, by 50 percent).

(b) *Basic benefit.*—When a miner or widow is entitled to benefits for a month for which he or she has no dependents who qualify under Part 715 of this Chapter VI and when a surviving child of a miner or widow, or a parent, brother, or sister of a miner, is entitled to benefits for a month for which he or she is the only beneficiary entitled to benefits, the amount of benefits to which such beneficiary is entitled is equal to the basic rate as computed in accordance with this section (raised, if not a multiple of 10 cents, to the next high multiple of 10 cents). This amount is referred to as the "basic benefit."

(c) *Augmented benefit.*—(1) When a miner or widow is entitled to benefits for a month for which he or she has one or more dependents who qualify under Part 715 of this Chapter VI, the amount of benefits to which such miner or widow is entitled is increased. This increase is referred to as an "augmentation."

(2) The benefits of a miner or widow are augmented to take account of a particular dependent beginning with the first month in which such dependent satisfies the conditions set forth in Part 715 of this Chapter VI, and continues to be augmented through the month before the month in which such dependent ceases to satisfy the conditions set forth in Part 715 of this Chapter VI, except in the case of a child who qualifies as a dependent because he is a student. In the latter case such benefits continue to be augmented through the month before the first month during no part of which he qualifies as a student.

(3) The basic rate is augmented by 50 percent for one such dependent, 75 percent for two such dependents, and 100 percent for three or more such dependents.

(d) *Survivor benefit.*—(1) As used in this section, "survivor" means a surviving child of a miner or widow, or, a surviving parent, brother, or sister of a miner, who establishes entitlement to benefits under the provisions of Part 715 of this Chapter VI.

(e) *Computation and rounding.*—(1) Any computation prescribed by this section is made to the third decimal place.

(2) Monthly benefits are payable in multiples of 10 cents. Therefore, a monthly payment of amounts derived under paragraph (c)(4) of this section which is not a multiple of 10 cents is increased to the next higher multiple of 10 cents.

(3) Since a fraction of a cent is not a multiple of 10 cents, such an amount which contains a fraction in the third decimal place is raised to the next higher multiple of 10 cents.

**§ 725.511 Certification to dependent of augmentation portion of benefit.**

(a) If the benefit of a miner or of a widow is augmented because of one or more dependents (§ 725.510(b)) and it appears to the Office that the best interest of such dependent would be served thereby, the Office may certify payment of the amount of such augmentation (to the extent attributable to such dependent) to such dependent directly.

(b) Any request to the Office to certify separate payment of the amount of an augmentation in accordance with paragraph (a) of this section, shall be in writing on such form and in accordance with such instructions as are prescribed by the Office.

(c) In determining whether it is in the best interest of such dependent to certify separate payment of the amount of the augmentation in benefits attributable to him, the Office shall apply the standards pertaining to representative payment in §§ 720.435–720.444, and the instructions issued pursuant thereto.

(d) When the Office determines that the amount of a miner's benefit attributable to the miner's wife or child should be certified for separate payment to a person other than such miner, or that the amount of a widow's benefit attributable to such widow's child should be certified for separate payment to a person other than the widow, and the miner or widow disagrees with such determination and alleges that separate certification is not in the best interest of such dependent, the Office shall reconsider that determination.

(e) Any payment made under this section, if otherwise valid under the Act, is a complete settlement and satisfaction of all claims, rights, and interests in and to such payment.

**§ 725.512 Commutation of payments—lump sum awards.**

(a) Whenever the deputy commissioner determines that it is in the interest of justice, the liability for benefits or any part thereof as determined by a final adjudication, may, with the approval of the Director of the OWCP, be discharged by the payment of a lump sum equal to the present value of future benefit payments commuted, computed at 4 percent true discount compounded annually.

(b) Applications for commutation of future payments of benefits shall be made to the Office in the manner prescribed by the Office. If the deputy commissioner determines that an award of a lump sum payment of such benefit would be in the interest of justice, he shall refer such application, together with the reasons in support of such determination, to the Director of the Office for consideration.

(c) The Director of the OWCP shall, in his discretion, grant or deny the application for commutation of payments. In the case of a denial an appeal may be taken pursuant to the adjudicatory procedures prescribed in Subpart E of this Part 725 as though such appeal were an appeal from a denial of benefits.

(d) The computation of all commutations of such benefits will be made by the Office of Workmen's Compensation Programs and for such purpose the deputy commissioner shall refer the file to the appropriate officer. For this purpose the file shall contain the date of birth of the person on whose behalf commutation is sought, as well as the date upon which such commutation shall be effective.

(e) For purposes of determining the amount of any lump sum award, the probability of the death of the disabled miner and/or other persons entitled to benefits before the expiration of the period during which he is entitled to benefits, shall be determined in accordance with the American Experience Table of Mortality, and the probability of the remarriage of the surviving wife shall be determined in accordance with the remarriage tables of the Dutch Royal Insurance Institution. The probability of the happening of any other contingency affecting the amount or duration of the compensation shall be disregarded.

(f) In the event that an operator or carrier is adjudicated liable for the payment of benefits, such operator or carrier shall be notified of and given an opportunity to participate in the proceedings to determine whether a lump sum award shall be made. Such operator or carrier shall, in the event a lump sum award is made, tender full and prompt payment of such award to the claimant as though such award were a final payment of monthly benefits. Except as provided in paragraph (g) of this section, such lump sum award shall forever discharge such operator or carrier from his responsibility to make monthly benefit payments under the Act to the person who has requested such lump-sum settlement.

(g) In the event a lump sum award is approved pursuant to this section, such award shall not operate to bar an eligible miner's entitlement to medical benefits pursuant to sections 422 and 424 of Part C of Title IV of the Act.

**§ 725.513 Reimbursement payments to the Department of Labor.**

(a) In all cases in which the Department of Labor has made benefit payments or paid for medical services or treatment rendered under section 424 of Part C of Title IV of the Act, for which a coal mine operator is ultimately adjudicated liable, such operator or his insurance carrier shall, simultaneously with the first payment of benefits made to the eligible beneficiaries, reimburse the Department of Labor for the full amount of all benefit payments made by the Department in respect of the claim. Such reimbursement payments shall be made payable to the United States Department of Labor.

(b) The procedures described in sections 18 and 21(d) of the Longshoremen's Act and section 422 of the Act shall be applicable in respect of reimbursement payments due the Department.

### Increases and Reductions of Benefits

**§ 725.515 Modification of benefit amounts—general.**

Under certain conditions, the amount of monthly benefits as computed in







V 38-179
SEP 17 73
XUM

§ 725.510 may be modified to determine the amount actually to be paid to a beneficiary. A modification of the amount of a monthly benefit may be required in the following instances:

(a) *Reduction.*—A reduction from a beneficiary's monthly benefit may be required because of:

(1) Any compensation or benefits received under or pursuant to any State workmen's compensation law because of death or partial or total disability due to pneumoconiosis; or

(2) Any compensation or benefits received under or pursuant to any Federal law including Part B of Title IV of the Act because of death or partial or total disability due to pneumoconiosis; or

(3) The fact that a claim for benefits from an additional beneficiary is filed, or that such a claim is effective for a payment during the month of filing, or a dependent qualifies under Part 715 of this chapter for an augmentation portion of a benefit of a miner or widow for a period in which another dependent has previously qualified for an augmentation.

(b) *Adjustment.*—An adjustment in a beneficiary's monthly benefit may be required because an overpayment or underpayment has been made to such beneficiary.

(c) *"Rounding" of benefit amounts.*—(See § 725.510(e).)

(d) *Failure to disclose pertinent evidence.*—Any individual entitled to a benefit who is aware of any circumstance which, under the provisions of this part could affect his entitlement to benefits, his eligibility for payment, or the amount of his benefits, or result in the termination, suspension, or reduction of his benefits, shall promptly report such circumstance to the Office of Workmen's Compensation Programs. The Office may at any time require an individual receiving, or claiming that he is entitled to receive a benefit, either on behalf of himself or on behalf of another, to submit a written statement giving pertinent information bearing upon the issue of whether or not an event has occurred, which would cause such benefit to be terminated, or which would subject such benefit to reductions or suspension under the provisions of the Act. If such individual fails to submit any such report or statement, properly executed, to the Office as herein required, the Office may subject such benefit to reductions, suspension or termination as the case may be.

(e) *Reimbursement of trust fund.*—Pursuant to the provisions of section 422 of the Act and section 17(b) of the Longshoremen's Act as incorporated therein, where a trust fund which complies with section 302(c) of the Labor-Management Relations Act of 1947 (29 U.S.C. 186 (c)) established pursuant to a collective bargaining agreement in effect between an employer and an employee entitled to benefits under this Act has paid disability benefits to an employee which the employee is legally obligated to repay by reason of his entitlement to benefits under this Act, the Secretary may authorize a lien on such benefits in honor of the trust fund for the amount of such payments.

### § 725.516 Reduction; receipt of State or Federal benefit.

(a) As used in this section the term "State or Federal benefit" means a payment to an individual made on account of total or partial disability or death due to pneumoconiosis only under State or Federal laws relating to workmen's compensation.

(b) Benefit payments to a beneficiary for any month are reduced (but not below zero) by an amount equal to any payments of State or Federal benefits received by such beneficiary for such month.

(c) Where a State or Federal benefit is paid periodically but not monthly, or in a lump sum as a commutation of or a substitute for periodic benefits, the reduction under this section is made at such time or times and in such amounts as the Office determines will approximate as nearly as practicable the reduction required under paragraph (b) of this section. In making such a determination, a weekly State or Federal benefit is multiplied by 4⅓ and a biweekly benefit is multiplied by 2⅙ to ascertain the monthly equivalent for reduction purposes.

(d) [Reserved.]

### § 725.517 Reductions; retroactive effect of an additional claim for benefits.

Beginning with the month in which a person other than a miner files a claim and becomes entitled to benefits, the benefits of other persons entitled to benefits with respect to the same miner, are adjusted downward, if necessary, so that no more than the permissible amount of benefits (the maximum amount for the number of beneficiaries involved) will be paid.

## Overpayments, Underpayments

### § 725.521 Overpayment.

(a) *General.*—As used in this subpart, the term "overpayment" includes:

(1) Payment where no amount is payable under Part C of Title IV of the Act;

(2) Payment in excess of the amount due under Part C of Title IV of the Act;

(3) Payment resulting from the failure to reduce benefits under section 422 (g) of the Act;

(4) Payment resulting from the failure to terminate benefits of an individual no longer entitled thereto.

(b) *Adjustments for overpayment.*—If the beneficiary to whom an overpayment was made is at the time of a determination of such overpayment, entitled to benefits, or at any time thereafter becomes so entitled, no benefit for any month is payable to such individual, except as provided in paragraph (c) of this section, until an amount equal to the amount of the overpayment has been withheld or refunded.

(c) *Adjustment by withholding part of a monthly benefits.*—Adjustment under paragraph (b) of this section may be effected by withholding a part of the monthly benefit payable to a beneficiary where it is determined that:

(1) Withholding the full amount of each month would deprive the beneficiary of income required for ordinary and necessary living expenses;

(2) The overpayment was not caused by the beneficiary's intentionally false statement or representation, or willful concealment of, or deliberate failure to furnish material information; and

(3) Recoupment can be effected in an amount of not less than $10 a month and at a rate which would not extend the period of adjustment beyond 3 years after the initiation of the adjustment action.

(d) *Overpaid beneficiary dies before adjustment.*—If an overpaid beneficiary dies before adjustment is completed under the provisions of paragraph (b) of this section, recovery of the overpayment shall be effected through repayment by the estate of the deceased overpaid beneficiary, or by withholding of amounts due the estate of such deceased beneficiary, or both.

### § 725.522 Notice of right to waive consideration.

Whenever an initial determination is made that more than the correct amount of payment has been made, notice of the provisions of section 204(b) of the Social Security Act regarding waiver of adjustment or recovery shall be sent to the overpaid individual and to any other individual against whom adjustment or recovery of the overpayment is to be effected.

### § 725.523 When waiver of adjustment or recovery may be applied.

There shall be no adjustment or recovery in any case where an incorrect payment under Part C of Title IV of the Act has been made with respect to an individual—

(a) Who is without fault, and

(b) Adjustment or recovery would either:

(1) Defeat the purpose of Title IV of the Act, or

(2) Be against equity and good conscience.

### § 725.524 Standards for waiver of adjustment or recovery.

The standards for determining the applicability of the criteria listed in § 725.523 shall be the same as those applied by the Social Security Administration pursuant to §§ 410.561–410.561(h) of this title.

### § 725.525 Collection and compromise of claims for overpayment.

(a) *General effect of the Federal Claims Collection Act of 1966.*—Claims by the Office of Workmen's Compensation Programs against an individual for recovery of overpayment under Part C of Title IV of the Act, not exceeding the sum of $2,000, exclusive of interest, may be compromised, or collection suspended or terminated where such individual or his estate does not have the present or prospective ability to pay the full amount





of the claim within a reasonable time (see paragraph (c) of this section), or the cost of collection is likely to exceed the amount of recovery (see paragraph (d) of this section), except as provided under paragraph (b) of this section.

(b) *When there will be no compromise, suspension, or termination of collection of a claim for overpayment.*—(1) *Overpaid individual alive.*—In any case where the overpaid individual is alive, a claim for overpayment will not be compromised, nor will there be suspension or termination of collection of the claim by the Office if there is an indication of fraud, the filing of a false claim, or misrepresentation on the part of such individual or on the part of any other party having an interest in the claim.

(2) *Overpaid individual deceased.*—In any case where the overpaid individual is deceased:

(i) A claim for overpayment in excess of $2,000 will not be compromised, nor will there be suspension or termination of collection of the claim by the Office if there is an indication of fraud, the filing of a false claim, or misrepresentation on the part of such deceased individual, and

(ii) A claim for overpayment regardless of the amount will not be compromised, nor will there be suspension or termination of collection of the claim by the Office if there is an indication that any person other than the deceased overpaid individual had a part in the fraudulent action which resulted in the overpayment.

(c) *Inability to pay claim for recovery of overpayment.*—In determining whether the overpaid individual is unable to pay a claim for recovery of an overpayment under Part C of Title IV of the Act, the Office will consider such individual's age, health, present and potential income (including inheritance prospects), assets (*e.g.*, real property, savings account), possible concealment or improper transfer of assets, and assets or income of such individual which may be available in enforced collection proceedings. The Office will also consider exemptions available to such individual under the pertinent State or Federal law in such proceedings. In the event the overpaid individual is deceased, the Office will consider the available assets of the estate, taking into account any liens or superior claims against the estate.

(d) *Cost of collection or litigative probabilities.*—Where the probable costs of recovering an overpayment under Part C of Title IV of the Act would not justify enforced collection proceedings for the full amount of the claim or there is doubt concerning the Office's ability to establish its claim as well as the time which it will take to effect such collection, a compromise or settlement for less than the full amount will be considered.

(e) *Amount of compromise.*—The amount to be accepted in compromise of a claim for overpayment under Part C of Title IV of the Act shall bear a reasonable relationship to the amount which can be recovered by enforced collection proceedings giving due consideration to the exemptions available to the overpaid individual under State or Federal law and the time which collection will take.

(f) *Payment.*—Payment of the amount which the Office has agreed to accept as a compromise in full settlement of a claim for recovery of an overpayment under Part C of Title IV of the Act must be made within the time and in the manner set by the Office. A claim for such recovery of the overpayment shall not be considered compromised or settled until the full payment of the compromised amount has been made within the time and manner set by the Office. Failure of the overpaid individual or his estate to make such payment as provided shall result in reinstatement of the full amount of the overpayment less any amounts paid prior to such default.

### § 725.526 Underpayments.

(a) *General.*—As used in this subpart, the term "underpayment" includes a payment in an amount less than the amount of the benefit due for such month, and nonpayment where some amount of such benefits is payable.

(b) *Underpaid individual is living.*—If an individual to whom an underpayment is due is living, the amount of such underpayment will be paid to such individual either in a single payment (if he is not entitled to a monthly benefit) or by increasing one or more monthly benefit payments to which such individual is or becomes entitled.

(c) *Underpaid individual dies before adjustment of underpayment.*—If an individual to whom an underpayment is due dies before receiving payment or negotiating the check or checks representing such payment, such underpayment will be distributed to the living person (or persons) in the highest order of priority as follows:

(1) The deceased individual's surviving spouse who was either:

(i) Living in the same household with the deceased individual at the time of such individual's death, or

(ii) In the case of a deceased miner, entitled for the month of death to widow's black lung benefits.

(2) In the case of a deceased miner, or widow, his or her child entitled to benefits as the surviving child of such miner or widow for the month in which such miner or widow died (if more than one such child, in equal shares to each such child).

(3) In the case of a deceased miner, his parent entitled to benefits as the surviving parent of such miner for the month in which such miner died (if more than one such parent, in equal shares to each such parent).

(4) The surviving spouse of the deceased individual who does not qualify under paragraph (c)(1) of this section.

(5) The child or children of the deceased individual who do not qualify under paragraph (c)(2) of this section (if more than one such child, in equal shares to each such child).

(6) The parent or parents of the deceased individual who do not qualify under paragraph (c)(3) of this section (if more than one such parent, in equal shares to each such parent).

(7) The legal representative of the estate of the deceased individual as defined in paragraph (e) of this section.

(d) In the event that a person who is otherwise qualified to receive an underpayment under the provisions of paragraph (c) of this section, dies before receiving payment or before negotiating the check or checks representing such payment, his share of the underpayment will be divided among the remaining living person(s) in the same order or priority. In the event that there is (are) no other such person(s), the underpayment will be paid to the living person(s) in the next lower order of priority under paragraph (c) of this section.

(e) *Definition of legal representative.*—The term "legal representative," for the purpose of qualifying to receive an underpayment, generally means the executor or the administrator of the estate of the deceased beneficiary. However, it may also include an individual, institution, or organization acting on behalf of an unadministered estate, provided the person can give the Office good acquittance (as defined in paragraph (f) of this section). The following persons may qualify as legal representative for purposes of this section, provided they can give the Office good acquittance:

(1) A person who qualifies under a State's "small estate" statute; or

(2) A person resident in a foreign country who under the laws and customs of that country, has the right to receive assets of the estate; or

(3) A public administrator; or

(4) A person who has the authority, under applicable law, to collect the assets of the estate of the deceased beneficiary.

(f) *Definition of "good acquittance".*—A person is considered to give the Office "good acquittance" when payment to that person will release the Office from further liability for such payment.

### § 725.527 Relation to provisions for reductions or increases.

The amount of an overpayment or underpayment is the difference between the amount actually paid to the beneficiary and the amount of the payment to which the beneficiary was actually entitled. Such overpayment or underpayment, for example, would be equal to the difference between the amount of a benefit in fact paid to the beneficiary and the amount of such benefit as reduced under section 422(g) of the Act, as increased pursuant to section 412(a)(1), or as augmented under section 412(a)(3), of the Act. In effecting an adjustment with respect to an overpayment, no amount can be considered as having been withheld from a particular benefit which is in excess of the amount of such benefit as so reduced. Overpayment and underpayment simultaneously outstanding on account of the same beneficiary are first adjusted against one another before adjustment pursuant to the other provisions of this subpart.



V 38 179 SEP 17 73 XUM

**§ 725.528 Applicability of overpayment and underpayment provisions to operator or carrier.**

(a) The provisions contained in this subpart relating to overpayments and underpayments are applicable in those cases where the overpayment or underpayment was made by a responsible operator or carrier, except that in appropriate cases the Office shall have the authority to take such action as may be necessary in any particular case to protect the rights of all parties including the utilization of the adjudicatory procedures described in Subpart E of this part.

(b) No operator or carrier may proceed to make an adjustment in respect of an overpayment except upon application to and approval by the Office. In all such cases the Office shall exercise full supervisory authority over the adjustment of an overpayment.

**§ 725.529 Applicability of Part B representative payee provisions.**

Except as otherwise provided in this part, the representative payee provisions contained in Subpart C of 20 CFR Part 720 shall be applicable in respect of benefit payments made under Part C of Title IV of the Act.

MEDICAL BENEFITS

**§ 725.541 Availability of medical benefits.**

A responsible operator, his insurance carrier, or the Secretary, as the case may be, shall furnish such medical, surgical, and other treatment, nurse and hospital service, medicine, and apparatus, for such period as the nature of a miner's pneumoconiosis and related disability, or the process of recovery may require.

**§ 725.542 Approved physicians.**

The term physician shall mean all duly qualified physicians, to include surgeons and osteopaths within the scope of their practice as defined by State law. Chiropractors, naturopaths, podiatrists (chiropodists), psychologists, optometrists, faith healers, and other practitioners of the healing arts are not recognized as physicians as that term is used in this part.

**§ 725.543 Supervision of medical treatment.**

The Office shall actively supervise the medical care rendered to disabled miners, shall require periodic reports as to the medical care being rendered to disabled miners, and shall have authority to determine the necessity, character, and sufficiency of any medical aid furnished or to be furnished. The Director of the Office may, on his own initiative or at the request of the miner or responsible operator, order a change of physicians or hospitals when in his judgment such change is desirable or necessary in the interest of the miner.

**§ 725.544 Fees for medical benefits.**

(a) Fees for medical services contemplated in this subpart shall be paid by a responsible operator if he is a self-insurer or by his insurance carrier. In the event there is no financially responsible operator, fees shall be paid by the Office.

(b) Fees charged in respect of medical benefits obtained by a miner pursuant to this subpart shall be subject to the provisions of § 725.135.

VOCATIONAL REHABILITATION

**§ 725.551 Objective of vocational rehabilitation.**

The objective of vocational rehabilitation is the return of miners who are totally disabled for work in or around a coal mine and who are unable to utilize those skills which were employed in the miner's coal mine employment to gainful employment commensurate with such miner's physical impairment. This objective may be achieved through a program of re-evaluation and redirection of the miner's abilities, or retraining in another occupation, and selective job placement assistance.

**§ 725.552 Requests for and referral to vocational rehabilitation assistance.**

Each miner who has been determined entitled to receive benefits for his total disability under Part C of Title IV of the Act shall be informed by the OWCP of the availability and advisability of vocational rehabilitation services. If such miner chooses to avail himself of vocational rehabilitation, his request shall be processed and referred by OWCP vocational rehabilitation advisors pursuant to the provisions of §§ 702.501–702.508 of this Chapter VI as is appropriate.

Signed at Washington, D.C., this 10th day of September 1973.

BERNARD E. DELURY,
*Assistant Secretary for Employment Standards.*

[FR Doc.73-19575 Filed 9-14-73;8:45 am]





## DEPARTMENT OF LABOR

### Employment Standards Administration

### [ 20 CFR, Part 725 ]

### BLACK LUNG BENEFITS PROGRAM REDUCTION

### Receipt of State or Federal Benefit

On November 30, 1972, 20 CFR Chapter VI was amended by adding thereto a new Part 725 (37 FR 25440–25466), section 725.516(d) (37 FR 25462) in that document contained a procedure for reducing the amount of benefits to which an eligible claimant under Part 725 would be entitled by the amount of any State pneumoconiosis benefits received less certain State claim connected expenses incurred by such claimant.

In the FEDERAL REGISTER of this date Part 725 was revised. However, paragraph (d) of § 725.516 was not reissued but was reserved in order that further consideration might be given to the contents of the paragraph. It is proposed that paragraph (d) will contain either the provisions of Alternative I or of Alternative II.

Alternative I, describes a procedure by which a dual Federal and State claimant shall have his Federal black lung benefits reduced under section 422(g) of the Act by the amount of State black lung benefits awarded less the amount of such claimant's State claim connected expenses (e.g., legal, medical, etc.). Alternative II describes a procedure by which such claimant shall have his Federal black lung benefits reduced under section 422(g) of the Act by the full amount of any State black lung benefits awarded. Alternative I is predicated upon the incorporation by section 430 of Part C of Title IV of the Act, of the 1972 amendments to section 413(b) of Part B of Title IV of the Act and attempts to reduce the burden of double legal and medical fees which must normally be born by any claimant who, for any reason, finds it advantageous to file pneumoconiosis claims under Part C of Title IV of the Act and under a State workmen's compensation law. Alternative II is supported by the traditional workmen's compensation practice that a claimant's legal and medical costs incurred in the pursuit of his workmen's compensation claim are personal expenses which are exclusively the responsibility of such claimant.

Public comment is requested concerning these two alternatives. The time for comments concerning these two alternatives shall remain open until October 10, 1973, at which time the Secretary shall determine which of the two alternatives best serves the purpose of the Department's Part C Black Lung Benefits Program. The Department will publish in final form one alternative, with any revisions which are warranted, prior to January 1, 1974.

It is proposed to amend paragraph (d) of § 725.516 as follows:

**§ 725.516 Reduction: receipt of State or Federal benefit.**

* * * * *

ALTERNATIVE I

(d) Amounts paid or incurred or to be incurred by the individual for medical, legal, or related expenses in connection with his claim for State or Federal benefits (defined in paragraph (a) of this section) are excluded in computing the reduction under paragraph (b) of this section, to the extent that they are consonant with State or Federal law. Such medical, legal, or related expenses may be evidenced by the State or Federal benefit awards, compromise agreement, or court order in the State or Federal benefit proceedings, or by such other evidence as the Office may require. Such other evidence may consist of:

(1) A detailed statement by the individual's attorney, physician, or the employer's insurance carrier; or

(2) Bills, receipts, or canceled checks; or

(3) Other clear and convincing evidence indicating the amount of such expenses; or

(4) Any combination of the foregoing evidence from which the amount of such expenses may be determinable.

Such expenses will not be excluded unless established by evidence as required by the Office.

ALTERNATIVE II

(d) Amounts paid or incurred or to be incurred by the individual for medical, legal, or related expenses in connection with his claim for State benefits (defined in paragraph (a) of this section) are included in computing the reduction in paragraph (b) of this section to the extent they are consonant with State law.

Signed at Washington, D.C. this 10th day of September 1973.

BERNARD E. DELURY,
*Assistant Secretary for Employment Standards.*

[FR Doc.73-19574 Filed 9-14-73;8:45 am]



V 38 I 179 SEP 17 73 XUM

federal register

MONDAY, SEPTEMBER 17, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 179

PART III

# COST ACCOUNTING STANDARDS BOARD

■

## DISCLOSURE STATEMENT FOR COLLEGES AND UNIVERSITIES

### Basic Requirements

No. 179—Pt. III——1

V 38-179 SEP 17 73 XUM

## COST ACCOUNTING STANDARDS BOARD

**[ 4 CFR Part 351 ]**

### DISCLOSURE STATEMENT FOR COLLEGES AND UNIVERSITIES

**Basic Requirements**

Public Law 91–379, which applies to most negotiated defense prime contracts and subcontracts in excess of $100,000, requires that contractors shall disclose in writing, their cost accounting practices. The Disclosure Statement Form (CASB–DS–1) has been designed to facilitate the meeting of this requirement by contractors. The purpose of this publication by the Cost Accounting Standards Board is to propose a modification to Part 351.14, Disclosure Statement, of its rules and regulations.

Representatives of colleges and universities have expressed to the Board a strong desire to have a separate Disclosure Statement to cover their practices. Such organizations, most of which operate under Budget Circular A–21, have unique terminology relative to their cost accounting practices and in completing the original Disclosure Statement Form they are required to use innumerable continuation sheets to adequately describe their cost accounting practices. The proposed Form CASB–DS–2 incorporates terminology more commonly used by colleges and universities.

Colleges and universities are now subject to Standards only in contracts awarded by defense agencies. A very small number of such organizations are now required to submit Disclosure Statements. The Board has worked with representatives of Government agencies and universities in designing a separate Disclosure Statement for colleges and universities, and that proposed Disclosure Statement is being published today.

The Cost Accounting Standards Board solicits comments on the proposed Disclosure Statement for colleges and universities, Form CASB–DS–2. Interested persons should submit their comments to the Cost Accounting Standards Board, 441 G Street NW., Washington, D.C. 20548. To be given consideration by the Board in its deliberations relative to this proposal, written submissions must arrive no later than November 16, 1973. All written submissions made pursuant to this notice will be made available to the public for inspection at the Board's offices during regular business hours.

The following modifications to Part 351 of the Board's regulations are proposed in view of the foregoing:

**§ 351.145 Disclosure Statement—colleges and universities.**

The data which are required to be disclosed by colleges and universities are set forth in detail in the Disclosure Statement Form, CASB–DS–2, which will be devised by the Cost Accounting Standards Board and will be arranged substantially as set forth below.

1. This Disclosure Statement has been designed to meet the requirements of Public Law 91–379, and persons completing it are to describe their contract cost accounting practices. For timing of requirement to file a Disclosure Statement, see 4 CFR 351.40. For complete regulations and instructions concerning submission of the Disclosure Statement, refer to the FEDERAL REGISTER, Title 4, Parts 331 and 351. A Statement must be submitted by all defense contractors who enter into negotiated national defense contracts with the United States in excess of $100,000 other than contracts where the price negotiated is based on (1) established catalog or market prices of commercial items sold in substantial quantities to the general public, or (2) prices set by law or regulation. A separate Disclosure Statement must be submitted by each organizationally independent and self-sufficient educational institution or a segment of an educational system that substantially has such characteristics of independence and self-sufficiency, whose costs included in the total price of any contract exceed $100,000, except where such costs are based on (1) established catalog or market prices of commercial items sold in substantial quantities to the general public; or (2) prices set by law or regulation. If the cost accounting practices under contracts are identical for more than one organizational unit, then only one Statement need be submitted for those units, but each such organizational unit must be identified. A Disclosure Statement will also be required for each system (home) office or group office when costs are allocated to one or more system segments performing contracts covered by Public Law 91–379, but only Part VIII of the Statement need be completed.

2. The Statement must be signed by an authorized signatory of the reporting unit.

3. The Disclosure Statement should be answered by checking the appropriate box or inserting the applicable letter code which most nearly describes the reporting unit's cost accounting practices. Pen and ink may be used to enter the check or letter code. Part I of the Statement asks for general information concerning the reporting unit. Part VIII covers System (Home) and Group (Intermediate) Offices whose costs are allocated to one or more segments performing contracts covered by Public Law 91–379. Part VIII should be completed by each such office, and care should be taken to insure proper identification of such offices on the cover of the Disclosure Statement. In short, while a System (Home) or Group Office may have more than one reporting unit submitting Disclosure Statements, only one Statement need be submitted to cover the System (Home) or Group Office operations.

4. A number of questions in this Statement may need narrative answers requiring more space than is provided. In such instances, the reporting unit should use the continuation sheets provided. The number of the question involved should be indicated and the same coding required to answer the questions in the Statement should be used in presenting the answer in the continuation sheet. The reporting unit should indicate on the last continuation sheet used, the number of such sheets that were used.

5. Amendments shall be submitted to the same offices, including the Cost Accounting Standards Board, to which submission would have to be made were an original Disclosure Statement being filed. If on a year to year basis the responses to Items 1.1.0 through 1.4.0, 8.1.0, and 8.2.0 would remain the same, the contractor need not resubmit data concerning these particular items. Otherwise, revised data must be submitted annually at the beginning of the contractor's fiscal year. If fewer than five of the other items in the Disclosure Statement on file are changed, a letter notice precisely identifying the Disclosure Statement, the specific items being amended, and the nature of the changes will suffice. If five or more items are changed, the entire Disclosure Statement shall be resubmitted. Resubmitted Disclosure Statements must be accompanied by a notation specifying the items which have been changed and the nature of the change.

ARTHUR SCHOENHAUT,
*Executive Secretary.*





COST ACCOUNTING STANDARDS BOARD
DISCLOSURE STATEMENT
REQUIRED BY PUBLIC LAW 91 379
COLLEGES AND UNIVERSITIES

INDEX


PART I – General Information . . . . . 1
PART II – Direct Costs . . . . . 3
PART III – Direct vs. Indirect . . . . . 7
PART IV – Indirect Costs . . . . . 10
PART V – Depreciation and Capitalization Practices . . . . . 16
PART VI – Other Costs and Credits . . . . . 19
PART VII – Deferred Compensation and Insurance Costs . . . . . 22
PART VIII – System or Group Expenses . . . . . 30
Continuation Sheets


FORM CASB- DS-2

COST ACCOUNTING STANDARDS BOARD
DISCLOSURE STATEMENT
REQUIRED BY PUBLIC LAW 91 379
COLLEGES AND UNIVERSITIES

COVER SHEET AND CERTIFICATION

NAME OF REPORTING UNIT

| Item No. | Item Description |
|---|---|
| 0.1 | College or University:<br>(a) Name<br>(b) Street Address<br>(c) City, State and ZIP Code<br>(d) Division or Campus of (if applicable) |
| 0.2 | Reporting Unit is: (Check one.)<br>A. [ ] Independently Administered Public Institution<br>B. [ ] Independently Administered Private Institution<br>C. [ ] Administered as part of a Public System<br>D. [ ] Administered as part of a Private System<br>E. [ ] Other _____ |
| 0.3 | Official to Contact Concerning this Statement:<br>(a) Name and title<br>(b) Phone number (including area code and extension) |
| 0.4 | Date of:<br>(a) This statement<br>(b) Most recent prior statement |
| 0.5 | Cognizant Federal Agency, in accordance with OMB Circular No. 88 for:<br>(a) Auditing of Federal grants and contracts _____<br>(b) Negotiation of indirect cost rates and other special rates _____ |

CERTIFICATION

I certify that to the best of my knowledge and belief this Statement is the complete and accurate disclosure as of the above date by the above-named organization of its cost accounting practices, as required by the Disclosure Regulation of the Cost Accounting Standards Board under 50 U.S.C. App. 2168, Public Law 91-379 (4 CFR 351).

(Name)

(Title)

THE PENALTY FOR MAKING A FALSE STATEMENT IN THIS DISCLOSURE IS PRESCRIBED IN 18 U.S.C. 1001

FORM CASB- DS-2



V 38 I 179 SEP 17 73 XUM

| COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91 379 COLLEGES AND UNIVERSITIES | PART I - GENERAL INFORMATION |
|---|---|
| | NAME OF REPORTING UNIT |

| Item No. | Item Description |
|---|---|
| | **Instructions for Part I**<br>Data for this part should cover the most recently completed fiscal year of the reporting unit. Estimates are permitted for Items 1.1.0 through 1.4.0; if the reporting unit has operated for less than a full fiscal year the figures should be estimated for the first full fiscal year. |
| 1.1.0 | Annual Total Current Fund Revenues. (Check one.)<br>A. [ ] Less than $1 million  B. [ ] $1-$10 million  C. [ ] $11-$25 million<br>D. [ ] $26-$50 million  E. [ ] $51-$100 million  F. [ ] $101-$200 million<br>G. [ ] $201-$500 million  H. [ ] Over $500 million |
| 1.2.0 | Annual Total Federal Revenues. (Check one.)<br>A. [ ] Less than $1 million  B. [ ] $1-$10 million  C. [ ] $11-$25 million<br>D. [ ] $26-$50 million  E. [ ] $51-$100 million  F. [ ] $101-$200 million<br>G. [ ] $201-$500 million  H. [ ] Over $500 million |
| 1.3.0 | Annual Total Federal Revenues, Item 1.2.0, as Percentage of Total Revenues, Item 1.1.0 . (Check one.)<br>A. [ ] Less than 10%  B. [ ] 10%-50%  C. [ ] 51%-80%<br>D. [ ] 81%-95%  E. [ ] Over 95% |
| 1.4.0 | Percentage Distribution of Annual Total Federal Revenues by Function. (Indicate approximate whole percentage. The total of entries for (a) through (e) below must equal 100.)<br>(a) _____% Contracts and grants for research and development  (b) _____% Contracts and grants for educational services<br>(c) _____% Contracts and grants for public service  (d) _____% Grants for student aid<br>(e) _____% Other (Describe on continuation sheet.) |

FORM CASB- DS-2

| COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91 379 COLLEGES AND UNIVERSITIES | PART I - GENERAL INFORMATION |
|---|---|
| | NAME OF REPORTING UNIT |

| Item No. | Item Description |
|---|---|
| 1.5.0 | Description of Your Accounting System for Recording Direct Expenses Charged to Government Contracts and Grants. (Check the appropriate block(s) and if more than one is checked, explain on a continuation sheet.)<br>A. [ ] Accrual or modified accrual basis<br>B. [ ] Cash basis<br>Y. [ ] Other (Describe on a continuation sheet.) |
| 1.6.0 | Integration of Cost Accounting with Financial Accounting. The cost accounting system is: (Check one. If B or C is checked, describe on a continuation sheet the costs which are accumulated on memorandum records.)<br>A. [ ] Integrated with financial accounting records (Subsidiary cost accounts are all reconcilable to general ledger control accounts.)<br>B. [ ] Not integrated with financial accounting (Cost data are accumulated on memorandum records.)<br>C. [ ] Combination of A and B |
| 1.7.0 | Cost Principles. How are your costs under Federal contracts and grants determined?<br>A. [ ] In accordance with OMB Circular No. A-21  B. [ ] A-21 and some other cost principles (Describe on a continuation sheet the principles used.)<br>C. [ ] Other cost principles (Describe on a continuation sheet the principles used.) |
| 1.8.0 | Year, Month, Day on Which Your Most Recent Fiscal Year Ended. (Enter in blocks below. Use numeric terms, e.g., 730630 for June 30, 1973; 721231 for December 31, 1972.)<br>☐☐☐☐☐☐ |

FORM CASB- DS-2 - 2 -



| COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91 379 COLLEGES AND UNIVERSITIES | PART II - DIRECT COSTS |
|---|---|
| | NAME OF REPORTING UNIT |

| Item No. | Item Description |
|---|---|
| | **Instructions for Part II**<br>This part covers three elements of direct costs, i.e., Direct Materials and Supplies, Direct Salaries and Wages, and Other Direct Costs. It is not the intent here to spell out or define the three elements of direct costs.<br>Rather, institutions should disclose practices based on their own definitions of what costs are, or will be, charged directly to Government contracts and grants or similar cost objectives as Direct Materials and Supplies, Direct Salaries and Wages, or Other Direct Costs. For example, some institutions may charge or classify purchased services of a direct nature, as "Direct Materials" for purposes of pricing proposals, requests for progress payments, claims for cost reimbursement, etc.; some other institutions may classify the same cost as "Direct Salaries and Wages" and still others as "Other Direct Costs." In these circumstances, it is expected that institutions will disclose practices consistent with their own classifications of Direct Materials and Supplies, Direct Salaries and Wages, and Other Direct Costs. |
| 2.1.0 | Description of Direct Materials. All materials and supplies directly identified with contracts, grants or other final cost objectives. (Describe on a continuation sheet the principal classes of materials and service costs which are charged as direct materials and supplies.) |
| 2.2.0 | Method of Charging Direct Materials and Supplies. |
| 2.2.1 | Direct Charge Not Through an Inventory Account at: (Check the appropriate block(s) and if more than one is checked, explain on a continuation sheet.)<br>A. [ ] Standard costs (Describe the type of standards used, e.g., current standards, basic standards, etc., on a continuation sheet.)<br>B. [ ] Actual costs<br>Y. [ ] Other(s) (Describe on a continuation sheet.)<br>Z. [ ] Not applicable |
| 2.2.2 | Charged from Central or Common, Institution-owned Inventory Account at: (Check the appropriate block(s) and if more than one is checked, explain on a continuation sheet.)<br>A. [ ] Standard costs (Describe the types of standards used on a continuation sheet.)  B. [ ] Average Costs<br>C. [ ] First in, first out  D. [ ] Last in, first out<br>Y. [ ] Other(s) (Describe on a continuation sheet.)  Z. [ ] Not applicable |

FORM CASB- DS-2 - 3 -

| COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91 379 COLLEGES AND UNIVERSITIES | PART II - DIRECT COSTS |
|---|---|
| | NAME OF REPORTING UNIT |

| Item No. | Item Description | | |
|---|---|---|---|
| 2.3.0 | Timing of Charging Direct Materials. (Check the appropriate block(s) in each column to indicate the point in time at which materials are charged to Government contracts and grants or similar cost objectives, and if more than one block is checked in a column, explain on a continuation sheet.) | Direct Charge Items (1) | Common Inventory Items (2) |
| | A. When orders are placed | [ ] | [ ] |
| | B. When material is received, or when fabricated, if fabricated in house | [ ] | [ ] |
| | C. When material is issued or released to Government contracts and grants or similar cost objectives | [ ] | [ ] |
| | D. When material is consumed or incorporated in end product | [ ] | [ ] |
| | E. When invoices are vouchered or paid | [ ] | [ ] |
| | Y. Other(s) (Describe on a continuation sheet.) | [ ] | [ ] |
| | Z. Not applicable | [ ] | [ ] |
| 2.4.0 | Variances from Standard Costs for Direct Materials. (Do not complete this item unless you use a standard cost method, i.e., you have checked Block A of Item 2.2.2. If standard costs are used, describe variance accounts and method of disposing of balances on a continuation sheet.) | | |

FORM CASB- DS-2 - 4 -

COST ACCOUNTING STANDARDS BOARD
DISCLOSURE STATEMENT
REQUIRED BY PUBLIC LAW 91 379
COLLEGES AND UNIVERSITIES

PART II - DIRECT COSTS

NAME OF REPORTING UNIT

| Item No. | Item Description |
|---|---|
| 2.5.0 | Method of Charging Direct Personal Services. (Check the appropriate block(s) for each Direct Personal Services Category to show how it is charged to Government contracts and grants or similar cost objectives, and if more than one block is checked in a column, explain on a continuation sheet.) |

| Direct Personal Services Category | Professional (Including Faculty) (1) | Services (Shops, etc.) (2) | Other Non-Professional (3) |
|---|---|---|---|
| A. Payroll Distribution Method (Individual/rctual rates) | [ ] | [ ] | [ ] |
| B. Average costs/rates (Describe the type of rates and extent of use on a continuation sheet.) | [ ] | [ ] | [ ] |
| C. Standard costs/rates (Describe the type of standards used on a continuation sheet.) | [ ] | [ ] | [ ] |
| D. Stipulated Salary Support | [ ] | [ ] | [ ] |
| Y. Other(s) (Describe on a continuation sheet.) | [ ] | [ ] | [ ] |
| Z. Personal Services category is not applicable | [ ] | [ ] | [ ] |

| | |
|---|---|
| 2.6.0 | Variances from Standard Costs for Direct Salaries and Wages. (Do not complete this item unless you use a standard cost/rate method, i.e., you have checked Block C of Item 2.5.0 for any direct salaries and wages category. If Standard costs are used, describe variance accounts and method of disposing of balances on a continuation sheet.) |
| 2.7.0 | Credits to Contract or Grant Costs. When Government contracts, grants, or similar cost objectives are credited for the following circumstances, are the rates of direct salaries and wages, direct materials, other direct costs and applicable indirect costs always the same as those for the original charges? (Check one block for each circumstance, and for each "No" answer, explain on a continuation sheet how the credit differs from original charge.) |

FORM CASB- DS-2

- 5 -

COST ACCOUNTING STANDARDS BOARD
DISCLOSURE STATEMENT
REQUIRED BY PUBLIC LAW 91 379
COLLEGES AND UNIVERSITIES

PART II - DIRECT COSTS

NAME OF REPORTING UNIT

| Item No. | Item Description |
|---|---|
| 2.7.0 | (Continued) |

| Circumstance | A. Yes | B. No | Z. Not Applicable |
|---|---|---|---|
| (a) Transfers to other projects, grants or contracts | [ ] | [ ] | [ ] |
| (b) Unused or excess materials remaining upon completion of grant or contract | [ ] | [ ] | [ ] |

| | |
|---|---|
| 2.8.0 | Interorganizational Transfers.<br><br>This item is directed only to those materials, supplies, and services which are, or will be, transferred to you from organizational units under common control with you.<br><br>(Check the appropriate block(s) in each column to indicate the basis used by you as transferee to charge the cost or price of interorganizational transfers or materials, supplies, and services to Government contracts, grants or similar cost objectives. If more than one block is checked in a column, explain on a continuation sheet.) |

| Basis | Materials (1) | Supplies (2) | Services (3) |
|---|---|---|---|
| A. At full cost excluding transferor's general administrative and general expenses | [ ] | [ ] | [ ] |
| B. At full cost including transferor's general administrative and general expenses | [ ] | [ ] | [ ] |
| C. At full cost (A or B above) plus a markup percentage | [ ] | [ ] | [ ] |
| D. At established catalog or market price or prices based on adequate competition | [ ] | [ ] | [ ] |
| Y. Other(s) (Describe on a continuation sheet.) | [ ] | [ ] | [ ] |
| Z. Interorganizational transfers are not applicable | [ ] | [ ] | [ ] |

FORM CASB- DS-2

- 6 -



COST ACCOUNTING STANDARDS BOARD
DISCLOSURE STATEMENT
REQUIRED BY PUBLIC LAW 91 379
COLLEGES AND UNIVERSITIES

PART III - DIRECT VS. INDIRECT

NAME OF REPORTING UNIT

| Item No. | Item Description |
|---|---|
| 3.1.0 | Criteria for Determining How Costs are Charged to Covernment Contracts and Grants and Similar Cost Objectives such as Other Sponsored Research, Departmental Research, Instruction or Professional and Public Service Activities. (Describe on a continuation sheet your criteria for determining whether costs are charged directly or indirectly.) |
| 3.2.0 | Treatment of Costs of Specified Functions, Elements of Cost, or Transactions. (For each of the functions, elements of cost or transactions liated in Items 3.2.1, 3.2.2, and 3.2.3, enter one of the Codes A through F, or Y, to indicate how the item is treated. Enter Code Z in those blocks that are not applicable to you. Also, specify the name(s) of the indirect pool(s) for each function, element of cost, or transaction coded E or F. If Code E, Sometimes direct/ Sometimes indirect, is used and if there is a deviation from the criteria described in response to Item 3.1.0, explain on a continuation sheet the circumstances involved which cause the deviation.) |

Treatment Code

A. Direct material
B. Direct Salaries and Wages
C. Direct material and salaries and wages
D. Other direct costs
E. Sometimes direct/Sometimes indirect
F. Indirect only
Y. Other(s) (Describe on a continuation sheet.)
Z. Not applicable

| 3.2.1 Functions, Elements of Cost, or Transactions Relative to Direct Materials. | Treatment Code | Name of Pool(s) |
|---|---|---|
| (a) Cash discounts on purchases | [ ] | |
| (b) Freight in | [ ] | |
| (c) Income from sale of scrap | [ ] | |
| (d) Income from sale of salvage | [ ] | |
| (e) Incoming material inspection | [ ] | |
| (f) Inventory adjustments | [ ] | |
| (g) Purchasing | [ ] | |
| (h) Trade discounts, refunds, rebates, and allowances on purchases | [ ] | |

FORM CASB- DS-2

- 7 -

COST ACCOUNTING STANDARDS BOARD
DISCLOSURE STATEMENT
REQUIRED BY PUBLIC LAW 91 379
COLLEGES AND UNIVERSITIES

PART III - DIRECT VS. INDIRECT

NAME OF REPORTING UNIT

| 3.2.2 Functions, Elements of Cost, or Transactions Relative to Direct Salaries and Wages | Treatment Code | Name of Pool(s) |
|---|---|---|
| (a) Health insurance | [ ] | |
| (b) Holiday differential (premium pay) | [ ] | |
| (c) Overtime premium pay | [ ] | |
| (d) Pension costs | [ ] | |
| (e) Shift premium pay | [ ] | |
| (f) Training | [ ] | |
| (g) Travel and subsistence | [ ] | |
| (h) Vacation pay | [ ] | |
| (i) Sabbatical Leave | [ ] | |
| (j) Tuition and fees paid | [ ] | |
| (k) Tuition remission | [ ] | |
| 3.2.3 Functions, Elements of Cost, or Transactions -- Miscellaneous | | |
| (a) Computer operations | [ ] | |
| (b) Grant and Contract administration | [ ] | |
| (c) Professional services (consultant fees) | [ ] | |
| (d) Rearrangement costs | [ ] | |
| (e) Royalties | [ ] | |
| (f) Service activities (shops, duplicating, etc.) | [ ] | |
| (g) Special test equipment (as defined in ASPR 13-101.6 or other pertinent procurement regulations) | [ ] | |

FORM CASB- DS-2

- 8 -







XUM 38 17 179 SEP 17 1973 38FR26076

| COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91 379 COLLEGES AND UNIVERSITIES | PART III - DIRECT VS. INDIRECT |
|---|---|
| | NAME OF REPORTING UNIT |

| Item No. | Item Description |
|---|---|
| 3.2.3 | Functions, Elements of Cost, or Transactions -- Miscellaneous (Continued)<br>(h) Specialized service facilities operated by the institution (wind tunnels, reactors, etc.) [ ] _____<br>(i) Subcontract costs [ ] _____<br>(j) Secretarial services [ ] _____<br>(k) Clerical services [ ] _____ |
| 3.3.0 | Other Costs Charged Direct to Contracts and Grants. (Describe on a continuation sheet all other significant functions, elements of cost or transactions charged to Government contracts or grants or similar cost objectives as direct material, direct salaries and wages or other direct costs. Do not include functions or costs covered in Items 2.1.0, 2.5.0, and 3.2.0 which are always charged direct. Describe also whether there are any deviations from the criteria set out in Item 3.1.0 with respect to any continuation sheet items.) |

FORM CASB- DS-2 - 9 -





| COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91 379 COLLEGES AND UNIVERSITIES | PART IV - INDIRECT COSTS |
|---|---|
| | NAME OF REPORTING UNIT |

| Item No. | Item Description |
|---|---|
| | Instructions for Part IV<br>The following apportionment and Allocation Base Codes are provided for use in connection with Items 4.1.0, 4.2.0 and 4.3.0.<br>A. Salaries and wages<br>B. Salaries and wages and fringe benefits<br>C. Total expenditures<br>D. Modified total expenditures (explain how modified)<br>E. Square feet/cubic feet<br>F. Usage<br>G. Unit of product<br>H. Total population<br>I. Number of students (head count)<br>J. Number of students (full-time equivalent)<br>K. Student hours--classroom and work performed<br>Y. Other(s) or more than one basis (Describe on a continuation sheet.)<br>Z. Pool not applicable |
| 4.1.0 | Indirect Cost Pools and Apportionment and Allocation Bases. (Enter for each type of indirect cost pool one of the Allocation Base Codes A through J or Y, to indicate the basis for allocating such pool of expense between research, instruction and other insitutional activities. If a different base is used for apportionment between research and instruction and other activities than is used for allocation between research and instruction, use Code Y and explain on a continuation sheet. Enter Code Z in those blocks for types of pools that are not applicable to the reporting unit.)<br>Type of Pool — Allocation Base Code<br>(a) Building use charge or depreciation [ ]<br>(b) Equipment use charge or depreciation [ ]<br>(c) Utilities [ ]<br>(d) Plant operation and maintenance [ ]<br>(e) General administrative and general expense [ ]<br>(f) Departmental administration [ ]<br>(g) Research administrstion [ ]<br>(h) Library expense [ ]<br>(i) Student services [ ]<br>(j) Fringe benefits [ ]<br>(k) Other pools (Enter Code Y on this line if other pools are used and identify on a continuation sheet each such pool and its Allocation Base Code. If no other pools are used, enter Code Z.) [ ] |
| 4.2.0 | Indirect Cost Distribution<br>Rates used for distributing indirect costs to contracts and grants. |

FORM CASB- DS-2 - 10 -

| COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91 379 COLLEGES AND UNIVERSITIES | PART IV - INDIRECT COSTS |
|---|---|
| | NAME OF REPORTING UNIT |

| Item No. | Item Description |
|---|---|
| 4.2.0 | Continued<br>Rate Type Code<br>OMB Circular A-21 provides for the following types of rates to be used in distributing indirect costs to contracts and grants:<br>A. Predetermined Fixed Rates<br>B. Negotiated Fixed Rates with carry forward provisions<br>C. Provisional rate with post determination<br>D. Negotiated Lump Sum (describe how computed on continuation sheet)<br>E. Abbreviated Procedure<br>Y. Other (describe on continuation sheet)<br>Z. Rate not applicable |
| 4.2.1 | Indirect Cost Rates<br>List the indirect cost rate or rates used by your institution to distribute indirect costs to contracts and grants. Describe for each rate whether it applies to research, instructional, public service or other activity. Enter for each indirect cost rate the allocation base code A through J or Y listed on page 10 and the rate type code A through E or Y above which are applicable to that rate. |

| | Description of indirect Cost Rates | Allocation Base Code | Rate Type Code |
|---|---|---|---|
| 4.2.2 | Research rates | (1) | (2) |
| | (a) | [ ] | [ ] |
| | (b) | [ ] | [ ] |
| | (c) | [ ] | [ ] |
| 4.2.3 | Instructional rates | | |
| | (a) | [ ] | [ ] |
| | (b) | [ ] | [ ] |
| 4.2.4 | Public Service rates | | |
| | (a) | [ ] | [ ] |
| | (b) | [ ] | [ ] |
| 4.2.5 | Other rates (Enter Code Y on this line if other rates are used and identify on a continuation sheet each such rate as well as its Allocation Base Code and its Rate Type Code.) | [ ] | [ ] |

FORM CASB- DS-2 - 11 -







XUM 37 17 SEP 73 38183

| COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91 379 COLLEGES AND UNIVERSITIES | PART IV - INDIRECT COSTS |
|---|---|
| | NAME OF REPORTING UNIT |

| Item No. | Item Description |
|---|---|
| 4.3.0 | Service Centers and Allocation Bases. Service centers are departments or other functional units which perform specific technical and/or administrative services for the benefit of other units within a reporting unit.<br><br>Category Code<br><br>Generally, costs incurred by such centers are, or can be, charged or allocated (i) partially to specific contracts and grants as direct costs and partially to indirect cost pools (such as Departmental Administration) for subsequent reallocation referred to herein as Category "A" or (ii) only to several other indirect cost pools (such as operations and maintenance, research administration, student services, etc.) for subsequent reallocation, referred to herein as Category "B".<br><br>Rate Code<br><br>Some service centers may use predetermined billing or costing rates to charge or allocate the costs (Rate Code A) while others may charge or allocate on an actual basis (Rate Code B).<br><br>(Enter in Column (1) for each service center, Code A or B to indicate the category of pool. Enter in Column (2) one of the Allocation Base Codes A through J, or Y, listed on Page 10, to indicate the basis of charging or allocating service center costs. Enter in Column (3) Rate Code A or B to describe the costing method used. Enter Code Z in Column (1) only, if any service center is not applicable to the reporting unit.) |

| Service Center | Category Code (1) | Allocation Base Code (2) | Rate Code (3) |
|---|---|---|---|
| (a) Scientific computer operations | [ ] | [ ] | [ ] |
| (b) Business data processing | [ ] | [ ] | [ ] |
| (c) Photography services | [ ] | [ ] | [ ] |
| (d) Reproduction services | [ ] | [ ] | [ ] |
| (e) Art services | [ ] | [ ] | [ ] |
| (f) Technical typing services | [ ] | [ ] | [ ] |
| (g) Communication services | [ ] | [ ] | [ ] |
| (h) Glass blowing | [ ] | [ ] | [ ] |
| (i) Auto pool services | [ ] | [ ] | [ ] |
| (j) Institution aircraft services | [ ] | [ ] | [ ] |
| (k) Wind tunnels | [ ] | [ ] | [ ] |
| (l) Personnel | [ ] | [ ] | [ ] |

FORM CASB- DS-2 - 12 -

| COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91 379 COLLEGES AND UNIVERSITIES | PART IV -- INDIRECT COSTS |
|---|---|
| | NAME OF REPORTING UNIT |

| Item No. | Item Description |
|---|---|
| 4.3.0 | Continued |

| Service Center | Category Code (1) | Allocation Base Code (2) | Rate Code (3) |
|---|---|---|---|
| (m) Material handling/procurement | [ ] | [ ] | [ ] |
| (n) Accounting services/payroll | [ ] | [ ] | [ ] |
| (o) Security | [ ] | [ ] | [ ] |
| (p) Fringe benefits | [ ] | [ ] | [ ] |
| (q) Quality control | [ ] | [ ] | [ ] |
| (r) Other service centers (Enter Code Y on this line if other service centers are used and identify on a continuation sheet each such service center, its Category Code, Allocation Base Code, and Rate Code. If no other service centers are used, enter Code Z in Column 1.) | [ ] | [ ] | [ ] |

| | |
|---|---|
| 4.4.0 | Treatment of Variances from Actual Cost (Underabsorption or Overabsorption). Where predetermined billing or costing rates are used to charge costs of service centers to Government contracts and grants, other final cost objectives, or indirect cost pools (Rate Code A in Column (3) of Item 4.3.0), variances from actual costs are: (Check the appropriate block(s) and if more than one is checked, explain on a continuation sheet.)<br><br>A. [ ] Prorated to users on the basis of charges made, at least once annually<br>B. [ ] All charged or credited to indirect cost pool(s) at least once annually<br>C. [ ] Variances carried forward to a subsequent period with rates adjusted to correct under-or over-absorption of costs<br>Y. [ ] Other(s) (Describe on a continuation sheet.)<br>Z. [ ] Service center with variance is not applicable to reporting unit |
| 4.5.0 | Major Types of Indirect Costs. (For each pool coded other than Z in Items 4.1.0, and 4.3.0, list on a continuation sheet the major functions, activities, and elements of cost included.) |
| 4.6.0 | Allocation Base. (For each allocation base code used in Item 4.1.0, 4.2.0, and 4.3.0, describe on a continuation sheet the makeup of the base; for example, if direct salaries and wages are used, are overtime premium, fringe benefits, etc., included.). |

FORM CASB- DS-2 - 13 -



| COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91 379 COLLEGES AND UNIVERSITIES | PART IV - INDIRECT COSTS |
|---|---|
| | NAME OF REPORTING UNIT |

| Item No. | Item Description |
|---|---|
| 4.7.0 | Application of Indirect Cost Rates to Specified Transactions or Costs. This item is directed to ascertaining your practice in special situations where, in lieu of establishing a separate indirect cost pool, allocation is made from an established pool at less than the normal full rate for that pool. The term "less than full rate" below applies to this type of indirect cost allocation practice. The term does not apply to situations where, as in some cases of off-site activities, etc., a separate indirect cost pool and base are used and the rate of such activities is lower than the "in-house" rate.<br><br>(For each of the transactions or costs listed below, enter one of the following codes to indicate your indirect cost allocation practice with respect to that transaction or cost. If Code A, Less than full rate, is entered, describe on a continuation sheet the major types of expense in Item 4.1.0 that are covered by such a rate. If Code B, Full rate, is entered, identify on a continuation sheet the rate(s) reported under Item 4.2.0 which are applicable. If Code C, Combination of A and B, is entered, describe on a continuation sheet the applicable expense and pool data.)<br><br>Rate Code<br><br>A. Less than full rate<br>B. Full rate<br>C. Combination of A and B<br>D. No indirect cost is applied<br>Z. Transaction or cost is not applicable to reporting unit |

| Transaction or Cost to Which Indirect Costs May be Allocated | Rate Code |
|---|---|
| (a) Subcontract costs | [ ] |
| (b) Purchased labor | [ ] |
| (c) Government-furnished materials | [ ] |
| (d) Interorganizational transfers in | [ ] |
| (e) Interorganizational transfers out | [ ] |
| (f) Self-constructed depreciable assets | [ ] |
| (g) Labor on installation of assets | [ ] |
| (h) Off-site work | [ ] |
| (i) Other transactions or costs (Enter Code A on this line if there are other transactions or costs to which less than full rate is applied. List such transactions or costs on a continuation sheet, and for each describe the major types of expenses covered by such a rate. If there are no other such transactions or costs, enter Code Z.) | [ ] |

FORM CASB- DS-2 - 14 -

| COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91 379 COLLEGES AND UNIVERSITIES | PART IV - INDIRECT COSTS |
|---|---|
| | NAME OF REPORTING UNIT |

| Item No. | Item Description |
|---|---|
| 4.8.0 | Proposal Costs. Proposal costs as defined in Section J. 28 of OMB Circular No. A-21 or other pertinent procurement regulations, as revised are: (Check one.)<br><br>A. [ ] "Burdened" with appropriate full indirect cost rate(s)<br>B. [ ] Not so "burdened" (Explain on a continuation sheet)<br>Z. [ ] Not applicable |
| 4.8.1 | Proposal costs as defined in 4.8.0 are treated as follows: (Check the appropriate block(s) and if more than one block is checked, explain on a continuation sheet.)<br><br>A. [ ] Charged to the general administrative and general expense cost pool<br>B. [ ] Charged to research administration cost pool<br>C. [ ] Charged to departmental administration cost pool<br>D. [ ] Charged directly to contracts and grants<br>E. [ ] Charged directly to instruction<br>Y. [ ] Other(s) (Describe on a continuation sheet.)<br>Z. [ ] Not applicable |

FORM CASB- DS-2 - 15 -

COST ACCOUNTING STANDARDS BOARD
DISCLOSURE STATEMENT
REQUIRED BY PUBLIC LAW 91 379
COLLEGES AND UNIVERSITIES

PART V--DEPRECIATION AND CAPITALIZATION PRACTICES

NAME OF REPORTING UNIT

| Item No. | Item Description |
|---|---|
| 5.1.0 | Depreciating Tangible Assets for Government Contract and Grant Costing. (For each of the asset categories listed on Page 17, enter a code from A through G in Column (1) describing the method of depreciation (Code F for assets that are ex. nsed); a code from A through E in Column (2) describing the basis for determining useful life; a code from A through C in Column (3) describing how depreciation methods or use charges are applied to property units; and a Code A, B or C in Column (4) indicating whether or not residual value is deducted from the total cost of depreciable assets. Enter Code Y in each column of an asset category where another or more than one method applies. Enter Code Z in Column (1) only, if an asset category is not applicable.) |

Column (1)--Depreciation Method Code

A. Straight line
B. Declining balance
C. Sum-of-the-years digits
D. Machine hours
E. Unit of production
F. Expensed at acquisition
G. Use charge
Y. Other or more than one method (Describe on a continuation sheet.)
Z. Asset category is not applicable

Column (2)--Useful Life Code

A. U.S. Treasury Department guidelines
B. Replacement experience
C. Term of lease
D. Engineering estimate
E. As prescribed for use charge by the Office of Management and Budget Circular No. A-21
Y. Other or more than one method (Describe on a continuation sheet.)

Column (3)--Property Units Code

A. Individual units are accounted for separately
B. Applied to groups of assets with similar service lives
C. Applied to groups of assets with varying service lives
Y. Other or more than one method (Describe on a continuation sheet.)

Column (4)--Residual Value Code

A. Residual value is deducted
B. Residual value is covered by the depreciation method (e.g., declining balance
C. Residual value is not deducted
Y. Other or more than one method (Describe on a continuation sheet.)

FORM CASB- DS-2 - 16 -

COST ACCOUNTING STANDARDS BOARD
DISCLOSURE STATEMENT
REQUIRED BY PUBLIC LAW 91 379
COLLEGES AND UNIVERSITIES

PART V--DEPRECIATION AND CAPITALIZATION PRACTICES

NAME OF REPORTING UNIT

Item No. 5.1.0 Continued.

| Asset Category | Depreciation Method Code (1) | Useful Life Code (2) | Property Units Code (3) | Residual Value Code (4) |
|---|---|---|---|---|
| (a) Land improvements | [ ] | [ ] | [ ] | [ ] |
| (b) Buildings | [ ] | [ ] | [ ] | [ ] |
| (c) Building improvements | [ ] | [ ] | [ ] | [ ] |
| (d) Leasehold improvements | [ ] | [ ] | [ ] | [ ] |
| (e) Machinery and equipment | [ ] | [ ] | [ ] | [ ] |
| (f) Furniture and fixtures | [ ] | [ ] | [ ] | [ ] |
| (g) Automobiles and trucks | [ ] | [ ] | [ ] | [ ] |
| (h) Data processing equipment | [ ] | [ ] | [ ] | [ ] |
| (i) Programming/reprogramming costs | [ ] | [ ] | [ ] | [ ] |
| (j) Patterns and dies | [ ] | [ ] | [ ] | [ ] |
| (k) Tools | [ ] | [ ] | [ ] | [ ] |
| (l) Aircraft | [ ] | [ ] | [ ] | [ ] |
| (m) Laboratory and test equipment | [ ] | [ ] | [ ] | [ ] |
| (n) (Enter Code Y on this line if other asset categories are used and enumerate on a continuation sheet each such asset category and the applicable codes. Otherwise enter Code Z.) | [ ] | [ ] | [ ] | [ ] |

5.2.0 Fully Depreciated Assets. Where depreciation accounting methods are used to charge Government contracts and grants for the use of tangible fixed assets, are charges made after such assets have been fully depreciated? (Check one. If Yes, describe the basis for the charge on a continuation sheet. Check Code Z if depreciation accounting methods are not used.)

A. [ ] Yes B. [ ] No Z. [ ] Not applicable

5.3.0 Capitalization or Expensing of Specified Costs. (Check one block on each line to indicate your practices regarding capitalization or expensing of specified costs incurred in connection with capital assets. If the same specified cost is sometimes expensed and sometimes capitalized, check Blocks A and B and describe on a continuation sheet the circumstances when each method is used.)

| Cost | A. Expensed | B. Capitalized | Z. Not Applicable |
|---|---|---|---|
| (a) Freight-in | [ ] | [ ] | [ ] |
| (b) Installation costs | [ ] | [ ] | [ ] |
| (c) Sales taxes | [ ] | [ ] | [ ] |
| (d) Excise taxes | [ ] | [ ] | [ ] |
| (e) Architect-engineer fees | [ ] | [ ] | [ ] |
| (f) Overhauls (extraordinary repairs) | [ ] | [ ] | [ ] |
| (g) Major modifications or betterments | [ ] | [ ] | [ ] |

FORM CASB- DS-2 - 17 -





COST ACCOUNTING STANDARDS BOARD
DISCLOSURE STATEMENT
REQUIRED BY PUBLIC LAW 91 379
COLLEGES AND UNIVERSITIES

PART V--DEPRECIATION AND CAPITALIZATION PRACTICES

NAME OF REPORTING UNIT

| Item No. | Item Description |
|---|---|
| 5.4.0 | Criteria for Capitalization. (Enter (a) the minimum dollar amount of expenditures which are capitalized for acquisition, addition, alteration and improvement of capital assets, and (b) the minimum number of expected life years of assets which are capitalized. Use leading zeros for dollar amount, e.g., 0150 for $150. If more than one dollar amount or number applies, show the information for the majority of your capitalized assets, and enumerate on a continuation sheet the dollar amounts and/or number of years for each category or subcategory of assets involved which differs from those for the majority of assets.) |

(a) Minimum dollar amount [ ][ ][ ][ ] (b) Minimum life years [ ]

5.5.0 Group or Mass Purchase. Are group or mass purchases (initial complement) of similar items, which individually are less than the capitalization amount indicated above, capitalized? (Check one.)

A. [ ] Yes B. [ ] No

FORM CASB- DS-2 - 18 -







XUM 38 FR 26083 SEP 17 1973

COST ACCOUNTING STANDARDS BOARD
DISCLOSURE STATEMENT
REQUIRED BY PUBLIC LAW 91 379
COLLEGES AND UNIVERSITIES

PART VI - OTHER COSTS AND CREDITS

NAME OF REPORTING UNIT

| Item No. | Item Description | Professorial (1) | Other Professional (2) | Nonprofessional (3) |
|---|---|---|---|---|
| 6.1.0 | Method of Charging and Crediting Vacation, Holiday, Sick Pay and Sabbatical Leave. (Check the appropriate block(s) in each column of Items 6.1.1 through 6.1.5 to indicate the method used to charge, or credit, any unused or unpaid vacation, holiday, sick pay, or Sabbatical leave. If more than one method is checked in a column, explain on a continuation sheet.) | | | |
| 6.1.1 | Charges for Vacation Pay | | | |
| | A. When accrued (earned) | [ ] | [ ] | [ ] |
| | B. When taken | [ ] | [ ] | [ ] |
| | Y. Other(s) (Describe on a continuation sheet.) | [ ] | [ ] | [ ] |
| 6.1.2 | Charges for Holiday Pay | | | |
| | A. When accrued (earned) | [ ] | [ ] | [ ] |
| | B. When taken | [ ] | [ ] | [ ] |
| | Y. Other(s) (Describe on a continuation sheet.) | [ ] | [ ] | [ ] |
| 6.1.3 | Charges for Sick Pay | | | |
| | A. When accrued (earned) | [ ] | [ ] | [ ] |
| | B. When taken | [ ] | [ ] | [ ] |
| | Y. Other(s) (Describe on a continuation sheet.) | [ ] | [ ] | [ ] |
| 6.1.4 | Charges for Sabbatical Leave | | | |
| | A. When accrued (earned) | [ ] | [ ] | [ ] |
| | B. When taken | [ ] | [ ] | [ ] |
| | Y. Other(s) (Describe on a continuation sheet.) | [ ] | [ ] | [ ] |
| | Z. Not applicable | [ ] | [ ] | [ ] |

FORM CASB- DS-2

- 19 -

COST ACCOUNTING STANDARDS BOARD
DISCLOSURE STATEMENT
REQUIRED BY PUBLIC LAW 91 379
COLLEGES AND UNIVERSITIES

PART VI - OTHER COSTS AND CREDITS

NAME OF REPORTING UNIT

| Item No. | Item Description | Professorial (1) | Other Professional (2) | Nonprofessional (3) |
|---|---|---|---|---|
| 6.1.5 | Credits for Unused or Unpaid Vacation, Holiday, or Sick Leave | | | |
| | A. Credited to Government grants and contracts at least once annually | [ ] | [ ] | [ ] |
| | B. Credited to indirect cost pools at least once annually | [ ] | [ ] | [ ] |
| | C. Credited to Other (Miscellaneous) Income | [ ] | [ ] | [ ] |
| | D. Not credited | [ ] | [ ] | [ ] |
| | Y. Other(s) (Describe on a continuation sheet.) | [ ] | [ ] | [ ] |
| | Z. Not applicable | [ ] | [ ] | [ ] |

6.2.0 Supplemental Unemployment (Extended Layoff) Benefit Plans. Costs of such plans are charged to Government contracts and grants: (Check the appropriate block(s) and if more than one is checked, explain on a continuation sheet.)

A. [ ] When actual payments are made directly to employees
B. [ ] When accrued (book accrual or funds set aside but no trust fund involved)
C. [ ] When contributions are made to a nonforfeitable trust fund
D. [ ] Not charged
Z. [ ] Not applicable
Y. [ ] Other(s) (Describe on a continuation sheet.)

6.3.0 Severance Pay. Costs of normal turnover severance pay, as defined in Section J.36 of OMB Circular No. A-21, or other pertinent procurement regulations, which are charged directly or indirectly to Government contracts and grants, are based on: (Check the appropriate block(s) and if more than one is checked, explain on a continuation sheet.)

A. [ ] Actual payments made
B. [ ] Accrued amounts on the basis of past experience
C. [ ] Not charged
Y. [ ] Other(s) (Describe on a continuation sheet.)
Z. [ ] Not applicable

FORM CASB- DS-2

- 20 -

NOTICES



COST ACCOUNTING STANDARDS BOARD
DISCLOSURE STATEMENT
REQUIRED BY PUBLIC LAW 91 379
COLLEGES AND UNIVERSITIES

PART VI - OTHER COSTS AND CREDITS

NAME OF REPORTING UNIT

| Item No. | Item Description |
|---|---|
| 6.4.0 | Incidental Receipts. (Check the appropriate block(s) to indicate the method used to account for receipts from fees, fines, rents and personal services when related costs have been charged to Government contracts and grants. If more than one is checked, explain on a continuation sheet.) |
| | A. [ ] The entire amount of the receipt is credited to the same indirect cost pools to which related costs have been charged |
| | B. [ ] The entire amount of the receipt is credited directly to Other (Miscellaneous) Income |
| | Y. [ ] Other(s) (Describe on a continuation sheet.) |
| | Z. [ ] Not applicable |
| 6.5.0 | Proceeds from Employee Welfare Activities. Employee welfare activities include all of those activities set forth in Section J.11 of OMB Circular No. A-21 or other pertinent procurement regulations. (Check the appropriate block(s) to indicate the practice followed in accounting for the proceeds from such activities. If more than one is checked, explain on a continuation sheet.) |
| | A. [ ] Proceeds are turned over to an employee-welfare organization or fund; such proceeds are reduced by all applicable costs such as depreciation, heat, light and power |
| | B. [ ] Same as A., except the proceeds are not reduced by all applicable costs |
| | C. [ ] Proceeds are credited at least annually to the appropriate indirect cost pools to which costs have been charged |
| | D. [ ] Proceeds are credited to Other (Miscellaneous) Income |
| | Y. [ ] Other(s) (Describe on a continuation sheet.) |
| | Z. [ ] Not applicable |

FORM CASB- DS-2

- 21 -

NOTICES

COST ACCOUNTING STANDARDS BOARD
DISCLOSURE STATEMENT
REQUIRED BY PUBLIC LAW 91 379
COLLEGES AND UNIVERSITIES

PART VII--DEFERRED COMPENSATION AND INSURANCE COSTS

NAME OF REPORTING UNIT

| Item No. | Item Description |
|---|---|

Instructions for Part VII

This part covers pension costs and certain types of deferred incentive compensation and insurance costs. Some organizations may record all of these costs at the main campus level or for public institutions at the governmental unit level, while others may record them at subordinate organization levels. Still others may record a portion of these costs at the main campus level and the balance at subordinate organization levels. Reporting units, therefore, should obtain the necessary information from the organizational level at which such costs are recorded.

7.1.0 Pension Costs. The actuarial terms used in this item are defined in Opinion Number 8 of the Accounting Principles Board, American Institute of Certified Public Accountants.

7.1.1 Pension Plans Charged to Government Contracts and Grants. Does your organization have one or more pension plans whose costs are charged to Government contracts and grants? (Check one.)

A. [ ] Yes (If Yes, list each such plan on a continuation sheet [e.g., TIAA-CREF, University-Operated Plan, State Retirement Plan] and indicate the approximate number and type of employees covered by each plan.)

B. [ ] No (If No, skip to Item 7.2.0.)

7.1.2 Is the pertinent information requested in Items 7.1.3 through 7.1.10 available to the reporting unit?

A. [ ] Yes (Complete Items 7.1.3 through 7.1.10 for the three plans covering the greatest number of employees whose pension costs are charged to Government contracts and grants.)

B. [ ] No (If no, skip to Item 7.2.0.)

7.1.3 Extent of Funding. (Check one block for each plan. In the event the amount funded for each plan is different from the amount charged on the books of account, describe the difference on a continuation sheet. If the actuarial cost method in use does not separately develop prior service costs, block A should be checked. If normal pension costs are not fully funded, check block "Y" and explain funding practices on a continuation sheet.)

| | Plan I | Plan II | Plan III |
|---|---|---|---|
| A. Normal costs only | [ ] | [ ] | [ ] |
| B. Normal costs plus interest on past or prior service costs | [ ] | [ ] | [ ] |

FORM CASB- DS-2



COST ACCOUNTING STANDARDS BOARD
DISCLOSURE STATEMENT
REQUIRED BY PUBLIC LAW 91 379
COLLEGES AND UNIVERSITIES

PART VII--DEFERRED COMPENSATION AND INSURANCE COSTS

NAME OF REPORTING UNIT

| Item No. | Item Description | Plan I | Plan II | Plan III |
|---|---|---|---|---|
| | C. Normal costs plus an amortized portion of past or prior service costs | [ ] | [ ] | [ ] |
| | Y. Other (Describe on a continuation sheet.) | [ ] | [ ] | [ ] |
| | Z. Not applicable | [ ] | [ ] | [ ] |

7.1.4 Actuarial Cost Method. (Check one block for each plan to show the method used to compute normal and past or prior service costs.)

| | Plan I | Plan II | Plan III |
|---|---|---|---|
| A. Accrued benefit cost | [ ] | [ ] | [ ] |
| B. Aggregate | [ ] | [ ] | [ ] |
| C. Attained age--initial liability frozen | [ ] | [ ] | [ ] |
| D. Attained age--initial liability not frozen | [ ] | [ ] | [ ] |
| E. Entry age--initial liability frozen | [ ] | [ ] | [ ] |
| F. Entry age--initial liability not frozen | [ ] | [ ] | [ ] |
| G. Individual level premium | [ ] | [ ] | [ ] |
| Y. Other (Describe on a continuation sheet.) | [ ] | [ ] | [ ] |
| Z. Not applicable | [ ] | [ ] | [ ] |

FORM CASB- DS-2







COST ACCOUNTING STANDARDS BOARD
DISCLOSURE STATEMENT
*REQUIRED BY PUBLIC LAW 91-379*
COLLEGES AND UNIVERSITIES

PART VII—DEFERRED COMPENSATION AND INSURANCE COSTS

Name of Reporting Unit

| Item No. | Item Description | Plan I | Plan II | Plan III |
|---|---|---|---|---|
| 7.1.5 | **Frequency of Actuarial Recvaluations,** (*Check one block for each plan.*) | | | |
| | A. Annually | ☐ | ☐ | ☐ |
| | B. 2–3 years | ☐ | ☐ | ☐ |
| | C. 4–5 years | ☐ | ☐ | ☐ |
| | Y. Other (*Describe on a continuation sheet.*) | ☐ | ☐ | ☐ |
| | Z. Not applicable | ☐ | ☐ | ☐ |
| 7.1.6 | **Criteria for Changing Actuarial Computations and Assumptions.** (*Describe on a continuation sheet your criteria for determining when actuarial assumptions and computations for your funded plan(s) are changed.*) | | | |
| 7.1.7 | **Amortization of Past or Prior Service Costs.** (*Check one block for each plan to show the period over which past or prior service costs are amortized.*) | | | |
| | A. 10 years or less | ☐ | ☐ | ☐ |
| | B. 11–20 years | ☐ | ☐ | ☐ |
| | C. 21–40 years | ☐ | ☐ | ☐ |
| | Y. More than one amortization schedule (*Describe on a continuation sheet.*) | ☐ | ☐ | ☐ |
| | Z. Not applicable | ☐ | ☐ | ☐ |
| 7.1.8 | **Adjustment for Actuarial Gains and Losses.** (*Check one block for each plan to show the period for which costs are adjusted for actuarial gains and losses. If actuarial losses for a plan are treated differently from actuarial gains, describe the difference on a continuation sheet.*) | | | |
| | A. Adjustment of past years' costs | ☐ | ☐ | ☐ |
| | B. Adjustment of current year's costs | ☐ | ☐ | ☐ |
| | C. Adjustment of future years' costs | ☐ | ☐ | ☐ |
| | Y. Other (*Describe on a continuation sheet.*) | ☐ | ☐ | ☐ |
| | Z. Not applicable | ☐ | ☐ | ☐ |
| 7.1.9 | **Unrealized Gains and Losses.** Do the actuarial gains and losses reported in Item 7.1.7 above include unrealized gains and losses? (*Check one block for each plan. If Yes is checked, describe the method of recognition of such gains and losses on a continuation sheet.*) | | | |
| | A. Yes | ☐ | ☐ | ☐ |
| | B. No | ☐ | ☐ | ☐ |
| | Z. Not applicable | ☐ | ☐ | ☐ |

FORM CASB-DS-2



COST ACCOUNTING STANDARDS BOARD
DISCLOSURE STATEMENT
REQUIRED BY PUBLIC LAW 91 379
COLLEGES AND UNIVERSITIES

PART VII--DEFERRED COMPENSATION AND INSURANCE COSTS

NAME OF REPORTING UNIT

| Item No. | Item Description | Plan I | Plan II | Plan III |
|---|---|---|---|---|
| 7.1.8 | Amortization of actuarial Gains and Losses. (Check one block for each plan to show the period over which actuarial gains and losses are amortized. If the amortization of actuarial losses for a plan is treated differently from the amortization of actuarial gains, describe the difference on a continuation sheet.) | | | |
| | A. 10 years or less | [ ] | [ ] | [ ] |
| | B. 11-20 years | [ ] | [ ] | [ ] |
| | C. More than 20 years | [ ] | [ ] | [ ] |
| | Y. Other (Describe on a continuation sheet.) | [ ] | [ ] | [ ] |
| | Z. Not applicable | [ ] | [ ] | [ ] |

7.2.0 Deferred Incentive Compensation Charged to Government Contracts and Grants.

7.2.1 Deferred Incentive Compensation. Does your organization award deferred incentive compensation which is charged to Government contracts and grants? (Check one.)

A. [ ] Yes (If Yes is checked, list each plan by name or title on a continuation sheet and show the approximate number and type of employees covered. Complete Items 7.2.2 and 7.2.3 for the three plans covering the greatest number of employees whose deferred incentive compensation cost is charged to Government contracts and grants.)

B. [ ] No (If No is checked, skip to Item 7.3.0.)

7.2.2 Qualification of Plan. (Check one block for each plan.)

| | Plan I | Plan II | Plan III |
|---|---|---|---|
| A. Qualifies under section 401(a) of the Internal Revenue Code of 1954, as amended | [ ] | [ ] | [ ] |
| B. Does not qualify under section 401(a) of the Internal Revenue Code of 1954, as amended | [ ] | [ ] | [ ] |

FORM CASB- DS-2









MAX

| COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91 379 COLLEGES AND UNIVERSITIES | PART VII--DEFERRED COMPENSATION AND INSURANCE COSTS<br>NAME OF REPORTING UNIT |
|---|---|

| Item No. | Item Description |
|---|---|
| 7.2.3 | Method of Charging Costs to Government Contracts and Grants (Check one block for each plan.) |

| | Plan I | Plan II | Plan III |
|---|---|---|---|
| A. When accrued | [ ] | [ ] | [ ] |
| B. When contributions are made to a trust fund | [ ] | [ ] | [ ] |
| C. When paid directly to employees | [ ] | [ ] | [ ] |
| D. When other "nonqualified" payments are made | [ ] | [ ] | [ ] |
| Y. Other or more than one method (Describe on a continuation sheet.) | [ ] | [ ] | [ ] |

| | |
|---|---|
| 7.3.0 | Employee Group Insurance Charged to Government Contracts and Grants. (Includes coverage for life, hospital, surgical, medical, long-term disability, accident, etc.) |
| 7.3.1 | Method of Providing Insurance. (Check one.) |

A. [ ] All by purchase
B. [ ] All self-insured (If checked, skip to Item 7.4.0.)
C. [ ] Combination of A and B above (Describe on a continuation sheet.)
Z. [ ] Not applicable (If checked, skip to Item 7.5.0.)

| | |
|---|---|
| 7.3.2 | Type of Purchased Insurance Plans. (Check one.) |

A. [ ] Retrospective rating (also called experience rating plan or retention plan)
B. [ ] Manually rated
Y. [ ] Other or more than one type (Describe on a continuation sheet.)



| COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91 379 COLLEGES AND UNIVERSITIES | PART VII--DEFERRED COMPENSATION AND INSURANCE COSTS<br>NAME OF REPORTING UNIT |
|---|---|

| Item No. | Item Description |
|---|---|
| 7.3.3 | Treatment of Earned Refunds and Dividends from Purchased Insurance Plans. Refunds are also called experience rating credits or retroactive rating credits. All earned refunds and dividends allocable to Government contracts and grants: (Check one.) |

A. [ ] Are credited directly or indirectly to contracts and grants in the policy year earned, in the same manner as the premiums are charged
B. [ ] Are credited directly or indirectly to contracts and grants in the year received in the same manner as the premiums are charged, not necessarily in the year earned
C. [ ] Which are estimated to be received in the future are accrued each year, as applicable, to currently reflect the net annual cost of the insurance
D. [ ] Or portions thereof are not credited or refunded to the contractor each year and are retained by the carriers as reserves. (If D is checked, describe on a continuation sheet (i) the purposes of the reserves, other than "claims reserves" retained by carriers and (ii) whether such reserves are refundable on call or upon termination of the policies, clauses, or auxiliary agreements which provide for reserve retentions.)
Y. [ ] Other or more than one method (Describe on a continuation sheet.)

| | |
|---|---|
| 7.3.4 | Employee Contributions (Contributory Purchased Insurance Plans). (Check one.) |

A. [ ] Plans provide that employees contribute fixed amount, employer is responsible for balance
B. [ ] Plans provide for fixed percentage participation by both employer and employee
Y. [ ] Other or more than one method (Describe on a continuation sheet.)
Z. [ ] Not applicable

| | |
|---|---|
| 7.3.5 | Employee Sharing in Refunds and Dividends (Contributory Purchased Insurance Plans). (Check one.) |

A. [ ] Employees do not participate in refunds and dividends unless employer's contribution is less than the refunds and dividends
B. [ ] Employees share in refunds and dividends in the same fixed amount or percentage ratio as their contributions to premium costs





| COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91 379 COLLEGES AND UNIVERSITIES | PART VII--DEFERRED COMPENSATION AND INSURANCE COSTS<br>NAME OF REPORTING UNIT |
|---|---|

| Item No. | Item Description |
|---|---|
| 7.3.5 | Continued |

C. [ ] Employees do not share in refunds and dividends
Y. [ ] Other or more than one method (Describe on a continuation sheet.)
Z. [ ] Not applicable

| | |
|---|---|
| 7.4.0 | Self-Insurance Programs (Employee Group Insurance). Costs of the self-insurance programs are charged to Government contracts and grants: (Check one.) |

A. [ ] When accrued (book accrual only)
B. [ ] When contributions are made to a non-forfeitable fund
C. [ ] When contributions are made to a forfeitable fund
D. [ ] When the benefits are paid to employees
E. [ ] When amounts are paid to an employee welfare plan or union
Y. [ ] Other or more than one method (Describe on a continuation sheet.)
Z. [ ] Not applicable

| | |
|---|---|
| 7.5.0 | Workmen's Compensation, Liability and Casualty Insurance (Purchased Insurance Only). All allocable earned refunds and dividends under retrospectively rated workmen's compensation and liability insurance policies, and dividends and deposit refunds under casualty insurance policies, are: (Check one.) |

A. [ ] Credited directly or indirectly to Government contracts and grants in the year earned
B. [ ] Credited directly or indirectly to Government contracts and grants in the year received, not necessarily in the year earned
C. [ ] Accrued each year, as applicable, to currently reflect the net annual cost of the insurance
D. [ ] Not credited or refunded to the contractor but are retained by the carriers as reserves
Y. [ ] Other or more than one method (Describe on a continuation sheet.)
Z. [ ] Not applicable

| | |
|---|---|
| 7.6.0 | Self-Insurance Programs (Workmen's Compensation, Liability and Casualty Insurance.) |



| COST ACCOUNTING STANDARDS BOARD DISCLOSURE STATEMENT REQUIRED BY PUBLIC LAW 91 379 COLLEGES AND UNIVERSITIES | PART VII--DEFERRED COMPENSATION AND INSURANCE COSTS<br>NAME OF REPORTING UNIT |
|---|---|

| Item No. | Item Description |
|---|---|
| 7.6.1 | Workmen's Compensation and Liability. Costs of such self-insurance programs are charged to Government contracts and grants: (Check one.) |

A. [ ] When claims are paid or losses are incurred (no provision for reserves)
B. [ ] When provisions for reserves are recorded based on the present value of the liability
C. [ ] When provisions for reserves are recorded based on the full or undiscounted value, as contrasted with present value, of the liability
D. [ ] When funds are set aside or contributions are made to a fund
Y. [ ] Other or more than one method (Describe on a continuation sheet.)
Z. [ ] Not applicable

| | |
|---|---|
| 7.6.2 | Casualty Insurance. Costs of such self-insurance programs are charged to Government contracts and grants: (Check one.) |

A. [ ] When losses are incurred (no provision for reserves)
B. [ ] When provisions for reserves are recorded based on replacement costs
C. [ ] When provisions for reserves are recorded based on reproduction costs new less observed depreciation (market value) excluding the value of land and other indestructibles
D. [ ] Losses are charged to fund balance with no charge to contracts and grants (no provision for reserves)
Y. [ ] Other or more than one method (Describe on a continuation sheet.)
Z. [ ] Not applicable









XUM

COST ACCOUNTING STANDARDS BOARD
DISCLOSURE STATEMENT
REQUIRED BY PUBLIC LAW 91 379
COLLEGES AND UNIVERSITIES

PART VIII - SYSTEM OR GROUP EXPENSES
NAME OF REPORTING UNIT

| Item No. | Item Description |
|---|---|
| | FOR SYSTEM (HOME) OFFICE, OR GROUP (INTERMEDIATE ADMINISTRATION) OFFICE, AS APPLICABLE.<br><br>This part should be completed only by the central (home) office of an educational system where such an office is responsible for administering two or more reporting units (units filing Parts I through VII of the Disclosure Statement), and where it allocates its costs to such units.<br><br>Data for this part should cover the most recently completed fiscal year. For a system (home) office, such data should cover the entire institution. For a group office, they should cover the subordinate organizations administered by that group office. |
| 8.1.0 | Annual Total Current Revenues. (Check one.)<br><br>A. [ ] Less than $50 million<br>B. [ ] $50-$100 million<br>C. [ ] $101-$200 million<br>D. [ ] $201-$500 million<br>E. [ ] $501 million-$1 billion<br>F. [ ] Over $1 billion |
| 8.2.0 | Approximate Percentage of Government Revenues to Annual Total Current Revenues. (Check one.)<br><br>A. [ ] Less than 5%<br>B. [ ] 5%-10<br>C. [ ] 11%-25%<br>D. [ ] 26%-50%<br>E. [ ] 51%-80%<br>F. [ ] Over 80% |
| 8.3.0 | Expenses or Pools of Expenses and Methods of Allocation.<br><br>For classification purposes, three methods of allocation are defined: (i) Directly Chargeable--those expenses that are charged to specific segments for centrally performed or purchased services; (ii) Separately Allocated--those individual or groups of expenses which are allocated only to a limited group of institutional segments; and (iii) Overall Allocation--the remaining expenses which are allocated to all or most institutional segments on an overall basis. Institutional segments, as used here, refer to universities, colleges or campuses which are self-contained units having most of their own academic and business administration necessary for independent operation and receiving only minor services, support and direction from a system or group office. The term includes Government-owned, contractor operated (GOCO) facilities. |

FORM CASB- DS-2 - 30 -

COST ACCOUNTING STANDARDS BOARD
DISCLOSURE STATEMENT
REQUIRED BY PUBLIC LAW 91 379
COLLEGES AND UNIVERSITIES

PART VIII - SYSTEM OR GROUP EXPENSES
NAME OF REPORTING UNIT

| Item No. | Item Description |
|---|---|
| | Allocation Base Codes<br><br>A. Total expenditures<br>B. Total salaries and wages<br>C. Usage<br>D. Unit of Product<br>E. Population<br>Y. Other or more than one base code (Describe on continuance sheet)<br>Z. Not applicable<br><br>(Enter the type of expenses or the name of the expense pool(s) and one of the Allocation Base Codes A through E, or Y, to indicate the basis of allocation. Use a continuation sheet if additional space is required.)<br><br>Type of Expenses or Name of Pool of Expenses — Allocation Base Code |
| 8.3.1 | Directly Chargeable<br>(a) [ ]<br>(b) [ ]<br>(c) [ ]<br>(d) [ ]<br>(e) [ ] |
| 8.3.2 | Separately Allocated<br>(a) [ ]<br>(b) [ ]<br>(c) [ ]<br>(d) [ ]<br>(e) [ ] |

FORM CASB- DS-2 - 31 -



COST ACCOUNTING STANDARDS BOARD
DISCLOSURE STATEMENT
REQUIRED BY PUBLIC LAW 91 379
COLLEGES AND UNIVERSITIES

PART VIII - SYSTEM OR GROUP EXPENSES
NAME OF REPORTING UNIT

| Item No. | Item Description |
|---|---|
| 8.3.3 | Overall Allocation<br>(a) [ ]<br>(b) [ ]<br>(c) [ ]<br>(d) [ ]<br>(e) [ ] |
| 8.4.0 | Major Types of Expense. (For each pool reported in Items 8.3.1, 8.3.2 and 8.3.3- list on a continuation sheet the major functions, activities, and elements of cost included.) |
| 8.5.0 | Allocation Base. (For each Allocation Base used in Items 8.3.2 and 8.3.3, describe on a continuation sheet the makeup of the base; for example, if direct labor dollars is used, are overtime premium, fringe benefits, etc., included?) |
| 8.6.0 | Overall Allocation. Are expenses in this category, Item 8.3.3, allocated to all segments? (Check one. If No is checked, list on a continuation sheet the names of excluded segments and thereasons for their exclusion from the allocation.)<br><br>A. Yes B. No Z. Not applicable |
| 8.7.0 | Transfer of Expenses. Are there normally transfers of expenses from segments to system or group office? (Check one. If Yes is checked, identify on a continuation sheet the classifications of expense, the names of the segments incurring the expense, and the system or group office pools in which the expenses are included.<br><br>A. [ ] Yes B. [ ] No |
| 8.8.0 | Fixed Management Charges. Are fixed amounts of expenses charged to any segments in lieu of a prorata or allocation basis? (Check one. If Yes is checked, list on a continuation sheet the names of such segments and the basis for making fixed management charges.)<br><br>A. [ ] Yes B. [ ] No |
| 8.9.0 | Government Owned/Contractor Operated (GOCO) Facilities. Are system or group office expenses allocated to GOCO facilities? (Check one. If Yes is checked, describe on a continuation sheet the types of expenses involved and the method of allocation.)<br><br>A. [ ] Yes B. [ ] No Z. [ ] Not applicable |

FORM CASB- DS-2 - 32 -

COST ACCOUNTING STANDARDS BOARD
DISCLOSURE STATEMENT
REQUIRED BY PUBLIC LAW 91 379
COLLEGES AND UNIVERSITIES

CONTINUATION SHEET
Page of Pages
Name of Reporting Unit

| Item No. | Item Description |
|---|---|
| | |

FORM CASB- DS-2

[FR Doc.73-19535 Filed 9-14-73;8:45 am]

V 38-179

SEP 17 73

XUM

MICROFILM EDITION

# FEDERAL REGISTER

35mm MICROFILM

## Complete Set 1936–71, 202 Rolls $1,439

| Vol. | Year | Price | Vol. | Year | Price | Vol. | Year | Price |
|---|---|---|---|---|---|---|---|---|
| 1 | 1936 | $7 | 13 | 1948 | $28 | 25 | 1960 | $49 |
| 2 | 1937 | 12 | 14 | 1949 | 22 | 26 | 1961 | 44 |
| 3 | 1938 | 8 | 15 | 1950 | 28 | 27 | 1962 | 46 |
| 4 | 1939 | 14 | 16 | 1951 | 44 | 28 | 1963 | 50 |
| 5 | 1940 | 14 | 17 | 1952 | 41 | 29 | 1964 | 54 |
| 6 | 1941 | 21 | 18 | 1953 | 30 | 30 | 1965 | 58 |
| 7 | 1942 | 37 | 19 | 1954 | 37 | 31 | 1966 | 60 |
| 8 | 1943 | 53 | 20 | 1955 | 41 | 32 | 1967 | 69 |
| 9 | 1944 | 42 | 21 | 1956 | 42 | 33 | 1968 | 55 |
| 10 | 1945 | 47 | 22 | 1957 | 41 | 34 | 1969 | 62 |
| 11 | 1946 | 47 | 23 | 1958 | 41 | 35 | 1970 | 59 |
| 12 | 1947 | 24 | 24 | 1959 | 42 | 36 | 1971 | 97 |

Order Microfilm Edition from Publications Sales Branch
National Archives and Records Service
Washington, D.C. 20408

V 38-180

180

# federal register

September 18, 1973—Pages 26093–26171

TUESDAY, SEPTEMBER 18, 1973

WASHINGTON, D.C.

Volume 38 ■ Number 180

Pages 26093–26171




## HIGHLIGHTS OF THIS ISSUE

**This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.**

**NATIONAL HUNTING AND FISHING DAY**—Presidential Proclamation ..... 26099

**FIRE PREVENTION WEEK, 1973**—Presidential Proclamation ..... 26101

**CIGARETTE TESTS**—FTC lists tar and nicotine content of 130 varieties of domestic cigarettes ..... 26161

**ENVIRONMENTAL IMPACT STATEMENTS AND COMMENTS**—EPA list for August ..... 26148

**MEDICARE ENROLLMENT**—HEW proposal on supplementary insurance program; comments by 10–18–73 ..... 26132

**COMMERCIAL FISHERY RESOURCES**—Commerce Department amendments on financial assistance to State agencies for research and development; effective 9–18–73 ..... 26116

**NEW DRUGS**—
FDA effectiveness classification for azuresin diagnostic test ..... 26137
FDA evaluation of tridihexethyl chloride and phenobarbital tablets ..... 26138

**BIOLOGICAL PRODUCTS**—
FDA proposes additional standards for Limulus Amebocyte Lysate; comments by 11–19–73 ..... 26130
USDA proposes standard requirements for certain viruses, serums, toxins and analogous products; comments by 11–16–73 ..... 26118

**FOOD ADDITIVES**—FDA notice of withdrawal of petition providing for the use of alpha phenyl indole as a heat stabilizer ..... 26139

**MORTGAGE AND LOAN INSURANCE PROGRAMS**—HUD proposes waiver of eligibility requirements; comments by 10–19–73 ..... 26132

**SAVINGS AND LOAN ASSCOCIATIONS**—FHLBB imposes certain limitations and requirements on service corporations; effective 10–19–73 ..... 26109

**OIL IMPORT APPEALS BOARD**—Revised regulations, effective 9–18–73 ..... 26103

(Continued inside)

SEP 18 73
XUM

# REMINDERS

NOTE: There were no items published after October 1, 1972, that are eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

federal register

Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by the Executive Branch of the Federal Government. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $2.50 per month or $25 per year, payable in advance. The charge for individual copies is 20 cents for each issue, or 20 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.





MEETINGS—
NIH: Lung Cancer Segment Advisory Group, 9–20–73.... 26139
Working Group of Biochemistry of the Multiple Sclerosis ad hoc Scientific Advisory Committee, 9–26 and 9–27–73.... 26139
Working Group on Clinical Studies of the Multiple Sclerosis ad hoc Scientific Advisory Committee, 9–24 and 9–25–73.... 26139
Working Group on Immunology of the Multiple Sclerosis ad hoc Scientific Advisory Committee, 9–28 and 9–29–73.... 26139
Working Group on Pharmacology of the Multiple Sclerosis ad hoc Scientific Advisory Committee, 9–21 and 9–22–73.... 26139
HEW: National Professional Standards Review Council Subcommittee on data and norms, 9–26 and 9–27–73 . 26140
Implementation of the National Blood Policy, 9–24–73.... 26140
National Professional Standards Review Council Subcommittee on Policy Development, 10–6–73.... 26140
DOT: Boating Safety Advisory Council 10–30 and 10–31–73.... 26140
Science Advisory Committee, 10–10 and 10–11–73 . 26146
EPA: Training Priorities Subcommittee, 9–27–73.... 26151
National Air Pollution Manpower Development Advisory Committee, 9–27–73.... 26151
NASA: Infrared Telescope Site Evaluation Advisory Committee, 9–17 and 9–18–73.... 26163
National Advisory Committee on Oceans and Atmosphere; 9–27, 9–28, 9–29–73.... 26163

# Contents

THE PRESIDENT

Proclamations
Fire Prevention Week, 1973.... 26101
National Hunting and Fishing Day.... 26099

EXECUTIVE AGENCIES

AGRICULTURAL MARKETING SERVICE
Rules and Regulations
Grapefruit; minimum grade and size regulations.... 26108

AGRICULTURE DEPARTMENT
*See* Agricultural Marketing Service; Animal and Plant Health Inspection Service.

ALCOHOL, TOBACCO, AND FIREARMS BUREAU
Notices
Granting of relief.... 26137

ANIMAL AND PLANT HEALTH INSPECTION SERVICE
Proposed Rules
Viruses, serums, toxins, and analogous products; evaluation methods and procedures.... 26118

ASSISTANT SECRETARY FOR HOUSING PRODUCTION AND MORTGAGE CREDIT
Proposed Rules
Mortgage and loan insurance programs; waiver of eligibility requirements.... 26132

ATOMIC ENERGY COMMISSION
Notices
Maine Yankee Atomic Power Co.; oral argument.... 26147

CIVIL AERONAUTICS BOARD
Rules and Regulations
Fees and charges for special services; correction.... 26113
Notices
*Hearings, etc.:*
Business Jets, Pty., Ltd.... 26147
International Air Transport Association (2 documents).... 26147
Priority and nonpriority domestic service mail rates.... 26148

COAST GUARD
Rules and Regulations
Drawbridge operation regulations; Miner Slough, Calif.... 26115
Notices
Boating Safety Advisory Council; meeting.... 26140
Equipment, construction, and materials; approval and termination (5 documents).... 26140–26145
Science Advisory Committee; meeting.... 26146

COMMERCE DEPARTMENT
*See* National Oceanic and Atmospheric Administration.

COST OF LIVING COUNCIL
Notices
Administrator, Office of Price Stabilization; delegation of authority.... 26164

CUSTOMS SERVICE
Notices
Foreign currencies; certification of rates.... 26137

DISEASE CONTROL CENTER
Notices
Tuberculosis and venereal disease; renewal of control advisory committees.... 26137

ENVIRONMENTAL PROTECTION AGENCY
Notices
Environmental impact statements; availability of EPA comments.... 26148
Metropolitan Baltimore Intrastate Regional Plan; opportunity for public comment.... 26151
National Air Pollution Manpower Development Advisory Committee; meeting.... 26151

FEDERAL AVIATION ADMINISTRATION
Rules and Regulations
Transition area; designation.... 26112

FEDERAL HOME LOAN BANK BOARD
Rules and Regulations
Insured institutions; service corporation subsidiaries.... 26109
Proposed Rules
Service corporation joint ventures; withdrawal.... 26133

FEDERAL INSURANCE ADMINISTRATION
Rules and Regulations
Areas eligible for the sale of insurance; status of participating communities (3 documents).... 26113, 26114

FEDERAL MARITIME COMMISSION
Notices
Orders of Revocation:
AAAA Luther Moving & Storage, Inc.... 26151
Global Forwarding Co.... 26152

FEDERAL RESERVE SYSTEM
Rules and Regulations
Interest on deposits; protection of depositors.... 26109
Notices
*Hearings, etc.:*
Atlantic Bancorporation.... 26152
Central Bancompany.... 26152
Continental Illinois Corp.... 26152
Fidelity Corporation of Oklahoma.... 26153
Financial Data Systems, Inc.... 26153
First National Boston Corp. (2 documents).... 26154, 26160
First Steuben Bancorp Inc.... 26153
Lloyds Bank Ltd.... 26153
Marine Midland Banks Inc.... 26153
Perpetual Corp. and Pierce National Life Insurance Co.... 26153
Philadelphia National Corp.... 26156
Republic National Bank of Dallas.... 26157
Southeast Banking Corp.... 26159
Southwest Florida Banks Inc.... 26159
Standard and Chartered Banking Group Ltd.... 26159
Wyoming Bancorporation.... 26160

*(Continued on next page)*



V 38 1 80 SEP 18 73 XUM

**FEDERAL TRADE COMMISSION**
Notices
Cigarette testing; tar and nicotine content ---- 26161
Quarterly financial statistics program; procedures for use of confidential individual company data ---- 26162

**FISH AND WILDLIFE SERVICE**
Rules and Regulations
Hunting; special regulations for individual wildlife refuge areas (4 documents) ---- 26115, 26116

**FOOD AND DRUG ADMINISTRATION**
Proposed Rules
Limulus amebocyte; proposed additional standards ---- 26130
Notices
Azuresin with caffeine and sodium benzoate; follow-up notice of effectiveness ---- 26137
Certain drugs containing tridihexethyl chloride with phenobarbital; drug efficacy study implementation ---- 26138
Combination steroid-sympathomimetic nasal spray; correction ---- 26139
Fine Organics, Inc.; withdrawal of of petition for food additives ---- 26139
Upjohn Co.; methobyphenamine hydrochloride; correction ---- 26139

**GENERAL SERVICES ADMINISTRATION**
*See* Public Buildings Service.

**HEALTH, EDUCATION, AND WELFARE DEPARTMENT**
*See also* Disease Control Center; Food and Drug Administration; National Institutes of Health; Social Security Administration.
Notices
Implementation of National Blood Policy; meeting ---- 26140
National Professional Standards Review Council Subcommittee on Data and Norms; meeting ---- 26140
National Professional Standards Review Council Subcommittee on Policy Development; meeting ---- 26140

**HOUSING AND URBAN DEVELOPMENT DEPARTMENT**
*See also* Assistant Secretary for Housing Production and Mortgage Credit; Federal Insurance Administration.
Rules and Regulations
Adequacy of replacement housing; grievance procedures; claims review ---- 26113

**INDIAN AFFAIRS BUREAU**
Proposed Rules
Distribution of assets; Jackson Rancheria, Amador County, Calif.; correction ---- 26118

**INTERIOR DEPARTMENT**
*See* Fish and Wildlife Service; Indian Affairs Bureau.

**INTERSTATE COMMERCE COMMISSION**
Notices
Freight rates and charges for 1973; retirement tax increases; Long Island Rail Road Co ---- 26164
Motor carrier board transfer proceedings ---- 26165
Motor carrier temporary authority applications ---- 26165
Practices of motor common carriers of household goods; extension of time ---- 26164

**NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE**
Notices
Partially closed meeting ---- 26163

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**
Notices
NASA Infrared Telescope Site Evaluation Advisory Committee; notice of meeting ---- 26163

**NATIONAL INSTITUTES OF HEALTH**
Notices
Meetings:
Lung Cancer Advisory Group ---- 26139
Working Group on Biochemistry ---- 26139
Working Group on Clinical Studies ---- 26139
Working Group on Immunology ---- 26139
Working Group on Pharmacology ---- 26139

**NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION**
Rules and Regulations
Commercial fisheries; research and development ---- 26116

**OIL IMPORT APPEALS BOARD**
Rules and Regulations
Oil import regulations ---- 26103

**PUBLIC BUILDINGS SERVICE**
Notices
National Guard Training Area; Ft. Crowder, Mo.; transfer of property ---- 26162

**SECURITIES AND EXCHANGE COMMISSION**
Proposed Rules
Registered investment companies; fidelity bonds of officers and employees ---- 26133
Notices
Notice of application:
First International Bancshares, Inc ---- 26163
Motorola, Inc ---- 26163

**SOCIAL SECURITY ADMINISTRATION**
Proposed Rules
Federal health insurance for the aged; supplementary medical insurance enrollment ---- 26132

**TRANSPORTATION DEPARTMENT**
*See also* Coast Guard; Federal Aviation Administration.
Notices
Commandant of the Coast Guard; delegation of authority ---- 26146

**TREASURY DEPARTMENT**
*See* Alcohol, Tobacco, and Firearms Bureau; Customs Service.






# List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month. In the last issue of the month the cumulative list will appear at the end of the issue.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1973, and specifies how they are affected.

**3 CFR**
PROCLAMATIONS:
4242 ---- 26099
4243 ---- 26101

**7 CFR**
944 ---- 26108

**9 CFR**
PROPOSED RULES:
113 ---- 26118

**12 CFR**
217 ---- 26109
561 ---- 26110
563 ---- 26110
566 ---- 26112
570 ---- 26112
PROPOSED RULES:
545 ---- 26133

**14 CFR**
71 ---- 26112
389 ---- 26113

**17 CFR**
PROPOSED RULES:
270 ---- 26133

**20 CFR**
PROPOSED RULES:
405 ---- 26132

**21 CFR**
PROPOSED RULES:
273 ---- 26130

**24 CFR**
42 ---- 26113
1914 (3 documents) ---- 26113, 26114
PROPOSED RULES:
205 ---- 26132
242 ---- 26132
244 ---- 26132

**25 CFR**
PROPOSED RULES:
243 ---- 26118

**32A CFR**
OIAB Rules and Procedures ---- 26103

**33 CFR**
117 ---- 26115

**50 CFR**
32 (4 documents) ---- 26115, 26116
253 ---- 26116



V 38-180 SEP 18 73 XUM

Presidential Documents

## Title 3—The President

PROCLAMATION 4242

# National Hunting and Fishing Day

*By the President of the United States of America*

## A Proclamation

Hunting and fishing appeal to many Americans.

They provide an opportunity for our people to be outdoors, to travel, and to enjoy the blessings of nature. The result is that both the cause of conservation and the spirit of man are benefitted. Through the purchase of licenses and permits, the payment of excise taxes on hunting and fishing equipment, and voluntary contributions, the hunter or fisherman plays a vital role in the betterment of the Nation's wildlife resources and in support of hunting and boating safety programs.

The American people have been coming to realize in recent years that the environment of man is one with the environment of fish and wildlife—that which harms one harms the other. This is a truth which has always been understood by the Nation's sportsmen. They have long been active in the effort to protect and renew our environment and we will continue to look to them for leadership in this vital area.

In recognition of the many worthwhile contributions of the American hunter and angler, the Congress, by House Joint Resolution 210, has requested the President to declare the fourth Saturday of September, 1973 as National Hunting and Fishing Day.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate Saturday, September 22, 1973, as National Hunting and Fishing Day.

I urge all our citizens to join with outdoor sportsmen in the wise use of our natural resources and in insuring their proper management for the benefit of future generations.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of September, in the year of our Lord nineteen hundred seventy-three, and of the Independence of the United States of America the one hundred ninety-eighth.

Richard Nixon

[FR Doc.73-19910 Filed 9-14-73;3:42 pm]



V 38 I 180 SEP 18 73 XUM

# Fire Prevention Week, 1973

## PROCLAMATION 4243

*By the President of the United States of America*

## A Proclamation

Scarcely a day passes that we do not read of a tragic fire which has destroyed life or property somewhere in our land. Each year more than 12,000 lives are lost from fires in America and an additional 300,000 people suffer serious injury. Fires also cause a staggering loss in terms of property damage. Each year the cost in property destroyed by fires in this country is more than $3 billion while another $8 billion is spent on additional fire costs.

While this needless waste cannot be halted completely, we know that active fire prevention can do much to reduce these terrible misfortunes. Two years ago, I appointed a National Commission on Fire Prevention and Control which has since reported its findings concerning our Nation's fire problem. The Commission's strong emphasis on fire prevention is persuasive and sensible. It encourages us to place a greater priority on the work of preventing fires before they start rather than simply working to put them out after they begin.

Accidents are often acts beyond our control, but careless accidents can be prevented. Every American must recognize his or her responsibility to make fire prevention an effective national commitment.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby designate the week beginning October 7, 1973, as Fire Prevention Week.

I urge all our citizens to involve themselves personally in fire prevention activities in their own communities, working with local fire departments and local governments as well as with the National Fire Protection Association. I also request all Federal agencies, in cooperation with the Federal Fire Council, to conduct effective year-round fire prevention programs in order to help reduce the terrible loss of life and property from fires.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of September, in the year of our Lord nineteen hundred seventy-three, and of the Independence of the United States of America the one hundred ninety-eighth.

Richard Nixon

[FR Doc.73-19910 Filed 9-14-73;3:42 pm]



V 38 I 180 SEP 18 73 XUM

# Rules and Regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

## Title 32A—National Defense, Appendix

## CHAPTER XI—OIL IMPORT APPEALS BOARD

## OIAB—RULES AND PROCEDURES

The Oil Import Appeals Board seeks petitioners' cooperation and assistance in providing the Board with sufficient information in order that the Board may continue to process all petitions fairly, efficiently, and promptly. The Oil Import Appeals Board considers it advisable to publish a revision of its procedural regulations as set forth below. Authority of the Board to effect such revision is as stated in the revised regulations.

One purpose of the revision is to incorporate into the Board's regulations the recent changes in Oil Import Regulation 1, 32A CFR Chapter X, as amended, which implement the Mandatory Oil Import Program established by Presidential Proclamation 3279, 24 FR 1781 (March 10, 1959), as amended; 38 FR 9654–9656 (April 19, 1973); 38 FR 16195–16201 (June 21, 1973). Another purpose of the revision is to incorporate existing practices adopted by the Board to conform to the above listed changes in Regulation 1 and to established guidelines referred to below.

Major revisions have been made in sections 3 and 6 of the Board's regulations, and a new section 7 has been added. The revised section 3 sets out the Board's enlarged jurisdiction, including its new power to grant rebate of license fees paid. Section 6, as revised, continues the requirement that all petitions filed with the Board be accompanied by completed questionnaires and sets out the established Board practice of requiring responses to the Guidelines published by the Chairman of the Oil Policy Committee, 38 FR 10811–10812 (May 2, 1973). These revisions enable the Board to better evaluate petitions before it under the Guidelines and enable petitioners more easily to obtain relief where justified.

In order to expedite the processing of petitions, if possible without hearings, the Board has published two questionnaires, 38 FR 9840–9841 (April 20, 1973), 38 FR 10649 (April 30, 1973), relating to crude and unfinished oils or to finished product petitions. The new section 7 recites the questionnaires as revised to update them in accordance with the above mentioned Guidelines and the changes to Regulation 1. The previous section 7 and succeeding sections in the former rules have been renumbered and edited, and they are included herein for completeness.

Other revisions appear in sections 4, 17 and 22. Section 4 is revised to clearly state the Board's requirement that petitioner's representative file his name, address, and telephone number and that it is petitioner's duty to inform the Board of any change in its representative. In the revised section 17 the Board's existing requirement that a petitioner must demonstrate a reasonable justification for in camera treatment of information contained in the filing is more clearly set out. Section 22 has been revised to more clearly state the requirement that petitioners promptly notify the Board of any change in circumstances subsequent to the filing of the petition which would affect petitioner's merit to receive or retain a Board allocation.

This revision of the Board's regulations incorporates changes in the Mandatory Oil Import Program already effective and existing practices adopted simultaneously to implement those changes. Because of this and to conform with existing guidelines, to publish the revisions as proposed rulemaking would serve no useful purpose and would not be in the public interest. Accordingly, the revised regulations as set forth below shall be effective on September 18, 1973.

Dated August 31, 1973.

SETH M. BODNER,
*Member.*

GEORGE H. SCHUELLER,
*Member.*

DANIEL HARRIS,
*Chairman.*

The revised text of Chapter XI reads as follows:

Sec.
1 Purpose.
2 Establishment of Board.
3 Authority of the Board.
4 Representation before the Board.
5 Types of petitions; time and place to file.
6 Content of petition.
7 Data required by the Board to accompany petitions.
8 Hearings on petitions.
9 Notice of hearing.
10 Unexcused absence of a petitioner.
11 Conduct of hearing.
12 Consolidation.
13 Briefs, memoranda of law, documentary evidence, and other information.
14 Statements by interested persons other than petitioner.
15 Private communications prohibited.
16 Participation by the Office of Oil and Gas.
17 In camera orders.
18 Decisions of the Board.
19 Reconsideration of decisions.
20 Reopening of proceedings.
21 Clerical mistakes.
22 Duty to inform the Board.
23 Record open to the public.

AUTHORITY: Proclamation No. 3279 of March 10, 1959, as amended, 24 FR 1781, 10133, as amended, 38 FR 16195; sec. 232 of The Trade Expansion Act of 1962, 76 Stat. 877; and Oil Import Regulation 1, Revision 5, as amended (Amendment 59), 38 FR 19820.

**Sec. 1 Purpose.**

These rules govern the procedures on petitions to the Oil Import Appeals Board, hereinafter referred to as the "Board." They shall be construed to secure the just, speedy, and inexpensive determination of every proceeding.

**Sec. 2 Establishment of Board.**

Pursuant to section 4 of Presidential Proclamation 3279, dated March 10, 1959 (24 FR 1781), as amended, hereinafter referred to as the "Proclamation," the Board was established by section 21 of Oil Import Regulation 1 (24 FR 1907), as revised and amended. Oil Import Regulation 1 is hereinafter referred to as the "Regulation." The Board is comprised of a representative each from the Departments of the Interior, Justice, and Commerce, designated respectively by the heads of such Departments. The Department of the Interior member serves as chairman.

**Sec. 3 Authority of the Board.**

(a) The Board, subject to the general direction of the Chairman of the Oil Policy Committee, shall consider petitions by persons affected by the Regulation that fall within the limits of the jurisdiction specified in this paragraph and without regard to the limits of the maximum levels of imports established in section 2 of Proclamation 3279, as amended, may:

(1) Reverse or modify on grounds of error actions taken by the Director, Office of Oil and Gas, Department of the Interior, on applications for allocations of imports under the Regulation;

(2) Modify, on the grounds of exceptional hardship, any allocation made to any person under the Regulation;

(3) Grant allocations of imports of crude oil and unfinished oils in special circumstances to persons with importing histories who do not qualify for allocations under the Regulation;

(4) Grant allocations of imports of finished products on grounds of exceptional hardship;

(5) Grant allocations of imports of crude oil, unfinished oils and finished products to independent refiners or established independent marketers who are experiencing exceptional hardship, or in emergencies in order to assure, insofar as practicable, that adequate supplies are available;

(6) Review the revocation or suspension of any allocation or license;



V 38-180 SEP 18 73 XUM

(7) Review the denial by the Director, Office of Oil and Gas, Department of the Interior, of refunds of license fees, whether in whole or in part, theretofore paid by a person; and

(8) Grant refunds, in whole or in part, of license fees paid by persons to whom licenses were issued for imports which they subsequently became entitled to make under allocations made by the Board.

(b) Only petitions relating to matters covered by paragraph (a) of this section may be considered by the Board. Petitions requesting a change or disregard of the proclamation or the Regulation may not be considered.

(c) Except with respect to its function to review applications for allocations of imports to which license fees are applicable, licenses issued pursuant to Board allocations shall be fee exempt.

(d) The Board may adopt, promulgate, and publish such rules and procedures as it deems appropriate for the conduct of its business.

(e) The Board may take such actions on petitions as it deems appropriate and its decisions shall constitute final action.

**Sec. 4 Representation before the Board.**

Subject to the provisions contained in Part 1 of Title 43, Code of Federal Regulations, a petitioner may appear in person, by counsel or other qualified representative, and participate fully in any proceeding before the Board held pursuant to these rules.

Petitioner's representative must file his full name, address, and telephone number with the Board. Should petitioner change his representative, it is petitioner's duty to so inform the Board.

**Sec. 5 Types of petitions; time and place to file.**

(a) Several types of petitions may be filed with the Board requesting it to take action within its jurisdiction as set out in section 3 or other related provision of these regulations or in Oil Import Regulation 1.

(b) Petitions and related documents shall be addressed to the Oil Import Appeals Board and filed with the Board (address: Oil Import Appeals Board, Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203 (telephone number 703 557-9220)).

(c) A petition requesting review of any action taken by the Director, Office of Oil and Gas, Department of the Interior, must be filed with the Board not later than 30 calendar days after the action has taken place. The Board, at its discretion, may extend the time limit in which to file upon a showing of good cause.

**Sec. 6 Content of petition.**

(a) A petition must be in writing, signed by the petitioner or his duly authorized representative or attorney, clearly marked as "petition," and filed in six copies. Each petition shall be organized under six headings, as follows:

(1) The relief sought by the petitioner, expressed in barrels per day (b/d) and in total barrels (bbls.) during the applicable allocation period;

(2) The pertinent provisions of the Regulation under which the Board has authority to grant such relief;

(3) The decision of the Director, Office of Oil and Gas, Department of the Interior, involved in the petition, if any;

(4) The relevant facts in support of the petition;

(5) The arguments in support of the petition;

(6) Responses to the guidelines published by the Chairman of the Oil Policy Committee in Title 32A CFR Chapter XII for the Board's use in evaluating petitions. The responses must be under the heading of each of the published guidelines and provide sufficient information to enable the Board to evaluate the petition under each.

(b) Each petition shall be accompanied by the pertinent data—finished product or crude and unfinished oils—with the information sought set out under the headings of the pertinent format as set forth in either section 7(a) or 7(b).

**Sec. 7 Data required by the Board to accompany petitions.**

(a) In order to process petitions for finished product import allocations the Board requires the data and information as set forth below. Submit six completed copies of this material, identifying each item by the number and precise heading appearing herein. Make attachments, if necessary. Quantity figures should be stated in terms of gallons and in terms of barrels, unless questions herein are specified otherwise.

(1) Full name of petitioner, address of principal office and name and telephone number of company official responsible for the petition.

(2) Company ownership. If petitioner is not a sole proprietorship, list all companies, individuals or stockholders possessing 10 percent or more of company ownership or stock.

(3) The relief requested (expressed in barrels per day and total barrels), the particular commodity requested, and the specific period for which relief is requested.

(4) All domestic subsidiaries and affiliates, if any, in which petitioner holds an interest of 15 percent or more.

(5) Market area, specifying Districts, in which petitioner, its subsidiaries or affiliates operate.

(6) All brand names which petitioner, its subsidiaries or affiliates use in marketing products.

(7) State whether petitioner, its subsidiaries or affiliates sell products to (a) motorists, (b) home owners, (c) industrial and other commercial accounts, (d) governmental agencies, (e) farmers, and (f) to independent marketers for resale without brand names or under brand names different from the brand name(s) used by petitioner, its subsidiaries or affiliates.

(8) State for each of the last 3 years petitioner's gross sales separately by product for the particular product(s) which are the subject of the petition, and, where such sales are made, specify figures for: (a) gasoline, (b) No. 2 fuel oil, (c) residual fuel oil, (d) other products or services (Estimate where appropriate). Also state your gross sales to date and estimates for the balance of the current allocation period.

| Calendar year | Quantity | | | Dollars |
|---|---|---|---|---|
| | Gallons | Barrels | Barrels per day (average) | |

With respect to (a) gasoline and (b) No. 2 fuel oil, state the approximate percentages of those gross sales which were made to the various types of customers described in item 7 above.

(9) List your actual and/or prospective suppliers for the current allocation period of the product(s) for which you seek an import allocation. Indicate the quantities already obtained as well as offered or expected during the allocation period and the delivered price:

| Supplier | Quantity | | | Delivered price per gallon |
|---|---|---|---|---|
| | Gallons | Barrels | Barrels per day (average) | |

State which of the above supplies are subject to (a) long-term contracts (6 months or longer), (b) short-term or ever-green contracts, and (c) spot purchases.

(10) List your past suppliers of the product(s) for which you seek import allocations in each of the last 3 years, the quantity supplied, and delivered price:

| Calendar year | Supplier | Quantity supplied | | | Delivered price per gallon |
|---|---|---|---|---|---|
| | | Gallons | Barrels | Barrels per day | |

State which of the above supplies were subject to (a) long-term contracts (6 months or longer), (b) short-term or ever-green contracts, and (c) spot purchases. If past suppliers terminated any supply contracts or allocated deliveries for the current year, state the name(s) of such supplier(s), the circumstances of contract termination, and the actual amount by which deliveries were or will be reduced.

(11) State, showing docket number, all previous filings by the petitioner with the Board in the present and 3 preceding years, all Board awards received as a result of these filings, and the amounts imported, exchanged, or otherwise obtained by the authority of such awards. Unused awards should be explained.





(12) List all suppliers contacted for the product(s) for which you seek import allocations for the current allocation period who did not offer any product or offered it at noncompetitive prices:

| Supplier | Quantity offered | | Delivered price per gallon |
|---|---|---|---|
| | Gallons | Barrels | |

Provide the Board with any adequate responses from your suppliers which are or may be in violation of any government sponsored allocation program.

(13) State your average selling price for the product(s) for which you seek import allocations, in each of the last 3 years and in the current year:

| Calendar year | Product(s) | Average price per gallon |
|---|---|---|

(14) State your operating costs (per gallon) for the product(s) for which you seek import allocations, in each of the last 3 years, and an estimate of such costs for the current year. Give a detailed breakdown of such costs:

| Calendar year | Product(s) | Operating costs |
|---|---|---|

(15) State your inventory of the product(s) for which you seek import allocations, on the last day of December of each of the last 3 years:

| Calendar year | Product(s) | Inventory | |
|---|---|---|---|
| | | Gallons | Barrels |

(16) List and describe storage facilities, transportation equipment, and any other equipment or installations relevant to the petroleum industry owned or controlled by your company, its subsidiaries or affiliates. State whether products are supplied to you by tanker, barge, pipeline, railroad, or motorized equipment.

(17) If your company, its subsidiaries or affiliates supply retail outlets or service stations which they own or lease, or which sell products under a trade name owned or controlled by your company, its subsidiaries or affiliates, state the average number of such retail outlets and service stations supplied during each of the last 3 years and in the current year.

(18) State, in dollars, for each of the last 3 years, the after-tax profit or loss record of your company, its subsidiaries and affiliates, and an estimate of such profit or loss for the current year. Indicate whether these figures cover calendar of business years. Separate, if possible, profits or losses on product(s) for which you seek import allocations and profits or losses on other products and services. (Estimate, if necessary). With respect to total profits or losses, state what percentages of total sales and service revenues they represent:

| Year | Profit or loss on product(s) for which you seek import allocations | Profit or loss on other products and services | Total profit or loss | Percent of total revenues from sales and services |
|---|---|---|---|---|

(19) State for each of the last 3 years on the basis of the respective balance sheets or profit-and-loss statements of your company, its subsidiaries and affiliates:

(i) Net worth or stockholders equity;

(ii) The amount of retained earnings;

(iii) Ratio of current assets to current liabilities;

(iv) Long-term debts;

(v) State the cost of petitioner's investment, if any, during the current and last allocation periods, in new or substantially improved petroleum related facilities, together with a brief description of such facilities;

(vi) If petitioner is a corporation, the amounts paid out in dividends.

(20) Name the principal competitors of your company, its subsidiaries and affiliates, in the business of marketing petroleum products. (Depending on size of petitioner's operations, not more than five to ten competitors should be named.)

(21) The undersigned certifies that the above data and information are true and complete to the best of his knowledge and belief _____ (signature).

(b) In order to process petitions for *crude and unfinished oils* import allocations the Board requires the data and information as set forth below. Submit six completed copies of this material, identifying each item by number and precise heading appearing herein. Make attachments if necessary. Quantity figures should be stated in terms of barrels per day and in terms of total barrels per year, unless questions herein are specified otherwise.

(1) Full name of petitioner, address of principal office and name and telephone number of company official responsible for petition.

(2) Company ownership. If petitioner is not a sole proprietorship, list all companies, individuals or stockholders possessing 10 percent or more of company ownership or stock.

(3) The relief requested (expressed in barrels per day and total barrels), and whether the request is for offshore or Canadian crude oil, or for unfinished oils, or both, and the specific period for which relief is requested.

(4) All domestic subsidiaries and affiliates, if any, in which petitioner holds an interest of 15 percent or more.

(5) Location and rated capacity of each domestic refinery owned or controlled by petitioner.

(6) Average daily inputs of each refinery listed in item 5 above: (a) of crude oil and (b) of other raw materials, in each month of the last 3 calendar years, and in each elapsed month of the current allocation period.

(7) From data given in response to item 6 above, calculate and set out the combined daily average inputs of all refineries listed (a) of crude oil and (b) of other raw materials, during each of the last 3 calendar years.

(8) The volumes of (a) crude oil import allocations and (b) finished products import allocations received by the petitioner in the current year and in each of the 3 preceding years from the Office of Oil and Gas or Oil Import Administration, and the amounts imported exchanged or otherwise obtained by the authority of such awards. Unused awards should be explained.

(9) State, showing docket number, all previous filings by petitioner with the Board in the present and 3 preceding years, all Board awards received as a result of these filings, and the amounts imported, exchanged or otherwise obtained by the authority of such awards. Unused awards should be explained.

(10) The approximate product yields (as percentage of total production) at each refinery listed in item 5 above during the current allocation period and the two preceding years.

(11) The number of retail outlets which distributed products under a trade name owned or controlled by your company and the total quantity of gasoline you supplied to them during each elapsed quarter of (a) the current allocation period and (b) last year.

(12) The percentages of your total production of (a) gasoline, (b) No. 2 fuel oil, and (c) residual fuel oil which you sold to independent marketers during each quarter of the last calendar year. With respect to each of said product categories indicate what portions of such sales involved exchanges for finished product import licenses that had been issued to independent marketers.

(13) The quantities of (a) gasoline, (b) No. 2 fuel oil, (c) residual fuel oil, and (d) other products which you sold to, or exchanged for crude oil with, any other petroleum refining company during the last calendar year.

(14) Specify the domestic and foreign sources (indicating company names) of crude oil supplies and other refinery feedstocks obtained by the petitioner and the quantities received from each, in each of the last 3 years, separated into quantities received pursuant to: (a) Long-term contracts (6 months or longer; (b) Short-term or evergreen contracts; or (c) Spot purchases. Indicate which of these quantities involved the utilization of import licenses issued to the petitioner.



V 38 1 80 SEP 18 73 XUM

| Year | Source of supply | Quantity: Barrels | Quantity: Barrels per calendar day | Type of contract |
|---|---|---|---|---|
| | | | | |

(15) For each quarter of the last calendar year, list the average effective cost per barrel of petitioner's crude oil or other raw material supplies delivered to the refinery.

(16) List your actual and/or prospective suppliers for the current allocation period of crude oil and other refinery feedstocks. Indicate the quantities already obtained as well as offered or expected during the current allocation period:

| Supplier | Quantity: Barrels | Quantity: Barrels per calendar day | Delivered price per barrel |
|---|---|---|---|
| | | | |

State which of the above supplies are subject to (a) Long-term contracts (6 months or longer), (b) Short-term or ever-green contracts, (c) Spot purchases.

To the extent that purchases already have been consummated or contract prices have been fixed, indicate the average effective cost per barrel of such crude oil supplies delivered to the refinery. Indicate also which of the supplies listed in response to this question involve the utilization of import licenses issued to petitioner.

(17) State whether petitioner is a participant in the government royalty oil program and what quantities have been or are expected to be received during the current allocation period.

(18) List all suppliers contacted for the product(s) for which you seek import allocations for the current allocation period who did not offer any product or offered it at noncompetitive prices.

| Supplier | Quantity: Barrels | Quantity: Barrels per calendar day | Offered delivered price per barrel |
|---|---|---|---|
| | | | |

Provide the Board with any inadequate responses from your suppliers which are or may be in violation of any government sponsored allocation program.

(19) A brief description of ownership participation of petitioner in crude pipelines (including gathering systems) in finished product pipelines, and in inland water transportation equipment.

(20) Type and capacity of crude oil storage facilities at each refinery listed in item 5 above at the time of filing of the petition, and a brief description of mode of crude oil delivery to such facilities (pipeline, tanker, barge, railroad, etc.).

(21) Crude oil inventory at each refinery listed in item 5 above at the time of filing of the petition.

(22) Submit the following financial information. State whether the data cover calendar or business years, and whether figures are calculated before or after Federal Income Tax. Publicly held corporations should submit copies of the latest annual stockholders' report.

(i) What proportion, in terms of dollars, of petitioner's total income is derived from its petroleum business, specifying the amount of income from:

(a) Refining crude oil.

(b) Production of crude oil.

(c) Domestic distribution of finished prdouct, i.e., gasoline, fuel oil, etc.

(ii) State petitioner's total net profits or losses as well as its net profits or losses from its petroleum business for each of the last 3 years.

(iii) State the percentage which such total profits represent:

(a) Measured on net worth.

(b) Measured on sales.

(iv) State the amount of petitioner's retained earnings.

(v) State petitioner's ratio of current assets to current liabilities.

(vi) State the cost of petitioner's investment, if any, during the current and last allocation periods, in new or substantially improved petroleum related facilities, together with a brief description of such facilities.

(23) The undersigned certifies that the above data and information are true and complete to the best of his knowledge and belief _____ (signature).

**Sec. 8 Hearings on petitions.**

A petitioner may request a hearing before the Board on his petition by submitting an unqualified request therefor, in writing, with the filing of his petition. The Board in its discretion may grant a hearing. Where a hearing has not been requested by the petitioner, the Board may, in its discretion, schedule a hearing on the petition. Hearings will be scheduled in the discretion of the Board with due consideration to the regular order of filing of petitions and other pertinent factors. On request and for good cause shown, the Board may in its discretion advance or postpone a hearing. A party failing to request a hearing as provided in this section may be deemed to have submitted his case upon the Board record.

**Sec. 9 Notice of hearing.**

The petitioner shall be given at least 14 calendar days' notice of the time and place set for hearings, unless otherwise agreed. Such notice will apprise the petitioner of the requirements of section 13 of this regulation for submission of briefs, memoranda of law, documentary evidence or other necessary information. In scheduling hearings the Board will give due regard to the desires of the petitioners and to the requirement for just and prompt disposition of petitions. Public notice of the scheduling of a hearing will also be posted in the office of the Board.

**Sec. 10 Unexcused absence of a petitioner.**

The unexcused absence of a petitioner at the time and place set for hearing will not be occasion for delay. In the event of such absence the hearing will proceed and the case will be regarded as submitted by the absent petitioner on the record before the Board. The Board shall advise the absent petitioner of the content of the proceedings and that he has 5 days from the receipt of such notice within which to show cause why the petition should not be decided on the record made.

**Sec. 11 Conduct of hearing.**

(a) Any member of the Board may conduct a hearing.

(b) Hearings shall be as informal as may be reasonable and appropriate in the circumstances and shall be public. Petitioner may offer at a hearing such relevant evidence as he deems appropriate, subject to the sound discretion of the presiding member in supervising the extent and manner of presentation of such evidence and subject to the requirements of section 13(b) of this regulation. In general, admissibility will hinge on relevancy and materiality. Arguments bearing on the policy embodied in the proclamation or in the regulation shall not be received. Letters or copies thereof, affidavits, or other evidence not ordinarily admissible under the generally accepted rules of evidence, may be admitted in the discretion of the presiding member. The weight to be attached to evidence presented in any particular form will be within the discretion of the Board, taking into consideration all the circumstances of the particular case. Stipulations of fact agreed upon by a petitioner and the Director of the Office of Oil and Gas, or his representative, may be regarded and used as evidence at the hearing. The petitioner and the Office of Oil and Gas may stipulate the testimony that would be given by a witness if the witness were present. The Board may in any case require evidence in addition to that offered by a petitioner.

(c) Witnesses before the Board will be examined orally under oath or affirmation, unless the facts are stipulated, or the Board shall otherwise order. If the testimony of a witness is not given under oath, the Board shall call to the attention of the witness the provisions of Title 18, United States Code, sections 287 and 1001, prescribing penalties for knowingly making false representations in connection with claims against the United States or in any matter within the jurisdiction of any department or agency thereof. The Board may, in its discretion, permit Government officials participating in the hearing to examine any witness.

(d) Hearings will be recorded verbatim and transcripts thereof shall be made, costs of transcripts to be borne by the requesting parties.





**Sec. 12 Consolidation.**

Upon good cause shown, or upon its own initiative, the Board may at the same time hear or decide two or more petitions, if it determines that such action is appropriate.

**Sec. 13 Briefs, memoranda of law, documentary evidence, and other information.**

(a) The Board may on its own initiative require the filing, either before or after hearing, of briefs, memoranda of law, documentary evidence, or any other information it considers necessary for the disposition of a petition.

(b) Any briefs, memoranda, documents, statistics, and other data and statements, but not including witnesses' testimony, to be presented or used at a hearing, shall be filed in six copies with the Board not later than 6 days, exclusive of Saturdays, Sundays, Federal legal holidays and other nonbusiness days, prior to the date of hearing.

**Sec. 14 Statements by interested persons other than petitioner.**

(a) Persons interested in opposing or supporting a petition, other than petitioner, may file in six copies with the Board written statements on issues raised by the petition at any time prior to 7 calendar days before the scheduled date of the hearing on the petition. At the same time such statement is filed with the Board, a copy shall be sent to the petitioner or his representative by the interested person. The petitioner may file in six copies with the Board a written reply within 7 calendar days after receiving such statements.

(b) Persons interested in opposing or supporting a petition other than petitioner, may file in six copies with the Board written statements on issues raised by the hearing within 7 calendar days following said hearing, unless extension is granted by the Board for good cause. At the same time such a statement is filed with the Board, a copy shall be sent to the petitioner or his representative by the interested person. The petitioner may file in six copies with the Board a written reply within 7 calendar days after receiving such statements, unless extension is granted by the Board for good cause.

(c) The Board will not consider statements made pursuant to paragraph (a) or (b) of this section or section 16 of this regulation unless copies have been furnished to petitioners or their representatives in a timely fashion by the interested persons.

**Sec. 15 Private communications prohibited.**

Oral or written communications by petitioners, interested private parties, or their agents, concerning the facts or law of a petition, or policy of the Board, will not be considered by individual members of the Board, unless such communications are made part of the record before the Board.

**Sec. 16 Participation by the Office of Oil and Gas.**

A copy of each petition filed with the Board and a copy of each written statement on issues raised by a petition filed pursuant to section 14 of this regulation will be forwarded promptly to the Director, Office of Oil and Gas, for purposes of information and for any comment which the Director may deem appropriate and wish to submit to the Board. Any comment submitted to the Board by the Director must be filed with the Board and sent to the petitioner or his representative. The Board, when possible, will advise the Director, at least 1 week in advance, of the time and place of any hearing which may be scheduled upon a petition and will request that the Director or his representative appear at the hearing and present information and arguments on behalf of the Office of Oil and Gas.

**Sec. 17 In camera orders.**

(a) Upon request by the petitioner the Board may order that oral testimony or written evidence which discloses trade secrets or privileged commercial or financial information be placed in camera. However, in camera treatment will be granted on a limited basis for specific portions of petitioner's presentation. Granting of in camera treatment requires a clear showing by petitioner that publication of the material in question would have an adverse competitive or other detrimental effect upon petitioner's business. The order shall include: (1) A description of the specific data assembled from the petition and questionnaire or other specific document or testimony for in camera treatment, and (2) a concise statement of the reasons for granting in camera treatment.

(b) Documents and transcripts of testimony subject to in camera orders shall be segregated from the public record and filed separately under the in camera order. Subject to the provisions of paragraph (c) of this section, documents and transcripts subject to an in camera order will be made accessible only to the petitioner, his counsel, authorized Board personnel, members of the Board, and court personnel concerned with judicial review. The right of the Board and of reviewing courts to disclose in camera data to the extent necessary for the proper disposition of the proceeding is specifically reserved.

(c) Documents and transcripts of testimony subject to an in camera order shall be released to third parties only if required by law.

**Sec. 18 Decisions of the Board.**

(a) In its evaluation of a petitioner's request the Board will consider the guidelines published by the Chairman of the Oil Policy Committee in Title 32A CFR Chapter XII and the responses to those guidelines filed with the Board by said petitioner.

(b) Concurrence of any two Board members shall be sufficient to constitute a decision of the Board. Decisions of the Board shall be in writing and are final and not subject to administrative review.

(c) Each decision upon a petition to the Board will contain a concise statement of the reasons for the Board's action.

(d) A copy of the decision shall be furnished promptly to the petitioner or his representative. All decisions of the Board shall be available for inspection by the public.

**Sec. 19 Reconsideration of decisions.**

Not later than 30 calendar days after issuance of a decision of the Board, a petitioner may file with the Board a petition for reconsideration of such decision, setting forth the relief desired and the grounds which justify reconsideration. Such petitions must be clearly labeled as "petition for reconsideration." The Board, within its discretion, may decide the matter on the petition, or it may schedule a public hearing thereon in accordance with section 8 of this regulation. The Board may specify any issues on which it desires to hear arguments. The Board, within its discretion and upon showing of good cause, may extend the time limit in which to file a petition for reconsideration.

**Sec. 20 Reopening of proceedings.**

(a) *Reopening prior to decision.* At any time prior to its decision, on its own motion or at the request of an interested party, the Board may reopen the proceeding for the reception of further evidence.

(b) *Reopening after decision.* Whenever, during the applicable allocation period, a petitioner subject to a decision of the Board is of the opinion that material changes of fact or of law, which occurred after issuance of the decision, warrant that such decision be altered, modified, or set aside, such petitioner may file with the Board a petition requesting a reopening of the proceeding for that purpose. Such petition shall state the relief desired, the specific changes of fact or of law warranting a reopening of the proceeding, and shall include such evidence and arguments as will provide the basis for a Board decision on the petition. The Board, in its discretion, may decide the matter on the petition, or it may serve upon the petitioner a notice for a public hearing thereon. Said notice shall indicate the time and place of hearing, and it may specify any issues on which the Board desires to receive further evidence or hear arguments.

**Sec. 21 Clerical mistakes.**

The Board may at any time, without advance notice to the petitioner and without hearing, make such changes in a Board decision as are required to correct clerical or other errors arising from oversight or omission which have no adverse effect on petitioner.



V 38 1 80 SEP 18 73 XUM

**Sec. 22 Duty to inform the Board.**

The petitioner shall promptly notify the Board of any change in circumstances subsequent to the filing of the petition which would affect petitioner's merit to receive or retain a Board allocation.

**Sec. 23 Record open to the public.**

The petition, transcript of hearing, exhibits, written statements filed by interested parties, all papers filed with the Board, and matters of official notice or record, shall constitute the record for decision and shall be open to the public, subject to the provisions of section 17.

[FR Doc.73-19822 Filed 9-17-73;8:45 am]

## Title 7—Agriculture

## CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Grapefruit Reg. 14; Grapefruit Reg. 13 Terminated]

## PART 944—FRUITS; IMPORT REGULATIONS

### Minimum Grade and Size Requirements for Imports of Grapefruit

This regulation prescribes minimum grade and size requirements for imports of grapefruit, effective during the period September 21 through October 14, 1973, to coincide with such requirements being made effective on Florida grapefruit during the period September 17 through October 14, 1973. Such action is required by section 8e of the Agricultural Marketing Agreement Act of 1937, as amended.

Section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674) provides, in part, that whenever a marketing order issued by the Secretary of Agriculture pursuant to section 8c of the aforesaid act contains any terms or conditions regulating the grade, size, quality, or maturity of grapefruit produced in the United States, the importation of grapefruit into the United States during the period of time such order is in effect shall be prohibited unless the fruit complies with the grade, size, quality, and maturity provisions of such order, or comparable restrictions, promulgated under said section 8e. This import regulation prescribes a grade and size regulation which is the same as the domestic grade and size regulation for grapefruit, pursuant to the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905) regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida.

It is hereby found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective time of this regulation beyond that herein specified (5 U.S.C. 553) in that (a) the requirements of this import regulation are imposed pursuant to section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), which makes such regulation mandatory; (b) the grade and size requirements of this import regulation are the same as those being made applicable to domestic shipments of grapefruit under Grapefruit Regulation 74 (§ 905.551); (c) compliance with this import regulation will not require any special preparation which cannot be completed by the effective time; (d) notice hereof in excess of three days, the minimum that is prescribed by said section 8e, is given with respect to this import regulation; and (e) such notice is hereby determined, under the circumstances, to be reasonable.

### § 944.110 Grapefruit Regulation 14.

(a) During the period September 21, 1973, through October 14, 1973, the importation into the United States of any grapefruit is prohibited unless such grapefruit is inspected and meets the following requirements:

(1) Seeded grapefruit shall grade at least U.S. No. 1 and be of a size not smaller than $3\frac{1}{16}$ inches in diameter, except that a tolerance for seeded grapefruit smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in § 51.761 of the United States Standards for Florida Grapefruit; and

(2) Seedless grapefruit shall grade at least Improved No. 2 and be of a size not smaller than $3\frac{1}{16}$ inches in diameter, except that a tolerance for seedless grapefruit smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in § 51.761 of the United States Standards for Florida Grapefruit. "Improved No. 2" shall mean grapefruit grading at least U.S. No. 2 and also meeting the requirements of the U.S. No. 1 grade as to shape (form) and color.

(b) The Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, is hereby designated as the governmental inspection service for the purpose of certifying the grade, size, quality, and maturity of grapefruit that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with appropriate evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of grapefruit, is required on all imports of grapefruit. Such inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51) but, since inspectors are not located in the immediate vicinity of some of the small ports of entry, such as those in southern California, importers of grapefruit should make arrangements for inspection, through the applicable one of the following offices, at least the specified number of days prior to the time when the grapefruit will be imported:

| Ports | Office | Advance notice |
|---|---|---|
| All Texas points.. | L. M. Denbo, 506 South Nebraska Street, San Juan, Tex. 78589, phone 512-787-4091, or | 1 day. |
| | Charles E. Parragon, room 516, U.S. Court House, El Paso, Tex. 79901, phone 915-543-7723. | Do. |
| All New York points. | Frank J. McNeal, room 26A, Hunts Point Market, Bronx, N.Y. 10474, phone 212-991-7668 and 7669, or | Do. |
| | Charles D. Renick, 176 Niagara Frontier Food, Terminal, room 8, Buffalo, N.Y. 14206, phone 716-824-1585. | Do. |
| All Arizona points. | B. O. Morgan, 225 Terrace Ave., Nogales, Ariz. 85621, phone 602-287-2902. | Do. |
| All Florida points. | Lloyd W. Boney, 1350 Northwest 12th Ave., room 538, Miami, Fla. 33136, phone 305-371-2517, or | Do. |
| | Hubert S. Flynt, 775 Warner Lane, Orlando, Fla. 32814, phone 305-894-9511, or | Do. |
| | Johnnie E. Corbitt, Unit 46, 3335 North Edgewood Ave., Jacksonville, Fla. 32205, phone 904-354-5983. | Do. |
| All California points. | Daniel P. Thompson, 784 South Central Ave., 206 Wholesale Terminal Bldg., Los Angeles, Calif. 90021, phone 213-622-8756. | 3 days. |
| All Louisiana points. | Pascal J. Lamarca, 5027 Federal Office Bldg., 701 Loyola Ave., New Orleans, La. 70113, phone 504-527-6741 and 6742. | 1 day. |
| All other points.. | D. S. Matheson, Fruit and Vegetable Division, AMS—U.S. Department of Agriculture, Washington, D.C. 20250, phone 202-447-5870. | 3 days. |

(c) Inspection certificates shall cover only the quantity of grapefruit that is being imported at a particular port of entry by a particular importer.

(d) The inspection performed, and certificates issues, by the Federal or Federal-State Inspection Service shall be in accordance with the rules and regulations of the Department governing the inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51). The cost of any inspection and certification shall be borne by the applicant therefor.

(e) Each inspection certificate issued with respect to any grapefruit to be imported into the United States shall set forth, among other things:

(1) The date and place of inspection;

(2) The name of the shipper, or applicant;

(3) The commodity inspected;

(4) The quantity of the commodity covered by the certificate;

(5) The principal identifying marks on the container;

(6) The railroad car initials and number, the truck and the trailer license number, the name of the vessel, or other identification of the shipment; and

(7) The following statement if the facts warrant: Meets U.S. import requirements under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended.





(f) Notwithstanding any other provision of this regulation, any importation of grapefruit which, in the aggregate does not exceed five standard nailed boxes, or equivalent quantity, may be imported without regard to the restrictions specified herein.

(g) It is hereby determined that imports of grapefruit, during the effective time of this regulation, are in most direct competition with grapefruit grown in the State of Florida. The requirement set forth in this section are the same as those being made effective for grapefruit grown in Florida.

(h) No provisions of this section shall supersede the restrictions or prohibitions on grapefruit under the Plant Quarantine Act of 1912.

(i) Nothing contained in this regulation shall be deemed to preclude any importer from reconditioning prior to importation any shipment of grapefruit for the purpose of making it eligible for importation.

(j) The terms used herein relating to grade, diameter, and standard box shall have the same meaning as when used in the United States Standards for Florida Grapefruit (7 CFR 51.750–51.784), except that the 3-14/16 inch minimum diameter requirement specified in paragraph (a)(1) of this regulation shall correspond to 40 size and count grapefruit set forth in Sec. (1)(b)(3) of Regulation 105–1.03, as amended, effective September 1, 1973, of the Regulations of the Florida Citrus Commission. Importation means release from custody of the United States Bureau of Customs.

(k) Grapefruit Regulation 13 (§ 944.109; 37 FR 21802; 38 FR 10152, 13650, 18028) is hereby terminated at the effective time hereof.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated September 13, 1973.

CHARLES R. BRADER,
*Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.73-19878 Filed 9-14-73;11:58 am]

## Title 12—Banks and Banking

## CHAPTER II—FEDERAL RESERVE SYSTEM

## SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Q]

## PART 217—INTEREST ON DEPOSITS

### Protection of Depositors

On July 26, 1973, the Board of Governors invited public comments to be submitted by August 27, 1973, on a proposed amendment to its Regulation Q to provide that (1) any advertisement, announcement, or solicitation relating to interest paid on time deposits by member banks include clear and conspicuous notice that Federal law and regulation prohibit the bank from paying a time deposit before maturity unless certain interest is forfeited, and (2) the bank customer shall be given, at the time that a time deposit is made, a disclosure statement which makes it clear that the customer has contracted to leave his funds on deposit for the stated maturity and which describes how the early withdrawal penalty applies to time deposits in the bank, in the event the bank, notwithstanding the contract provisions, permits payment before maturity. (38 FR 20470). This amendment to Regulation Q was proposed to be made pursuant to the Board's authority under section 19 of the Federal Reserve Act to prescribe rules governing the payment and advertisement of interest on deposits in member banks.

After consideration of all comments received, the Board has decided to adopt the proposal in substantially the same form as proposed on July 26, 1973.

Effective September 18, 1973, Regulation Q (12 CFR Parts 217) is amended in the following respects:

1. § 217.4 is amended by redesignating paragraph (e) as paragraph (f) and by adding a new paragraph (e) to read as follows:

### § 217.4 Payment of time deposits before maturity.

* * * * * *

(e) *Disclosure of early withdrawal penalty.* At the time a depositor enters into a time deposit contract with a member bank, the bank shall provide a written statement of the effect of the penalty prescribed in paragraph (d) of this section, which shall (1) state clearly that the customer has contracted to keep his funds on deposit for the stated maturity, and (2) describe fully and clearly how such penalty provisions apply to time deposits in such bank, in the event the bank, notwithstanding the contract provisions, permits payment before maturity. Such statements shall be expressly called to the attention of the customer.

* * * * * *

2. § 217.6 is amended by redesignating paragraphs (e), (f), and (g) as (f), (g), and (h) and by adding a new paragraph (e) to read as follows:

### § 217.6 Advertising of interest on deposits.

* * * * * *

(e) *Penalty for early withdrawals.* Any advertisement, announcement, or solicitation relating to interest paid by a member bank on time deposits shall include clear and conspicuous notice that Federal law and regulation prohibit the bank from allowing payment of a time deposit before maturity unless substantial interest is forfeited. Such notice may state that:

Federal law and regulation prohibit the payment of a time deposit prior to maturity unless three months of the interest thereon is forfeited and interest on the amount withdrawn is reduced to the passbook rate.

With respect to any advertisement, announcement, or solicitation made by television or radio, the required notice of penalty may be stated in a form such as "Substantial interest penalty is required for early withdrawal."

* * * * *

The effective date was deferred for less than the 30-day period referred to in Title 5, United States Code, section 553 (d), because the Board found that the public interest compelled it to make the action effective no later than the date adopted. See § 262.2(e) of the Board's rules of procedure (12 CFR 262.2(e)).

By order of the Board of Governors, September 12, 1973.

[SEAL] CHESTER B. FELDBERG,
*Secretary of the Board.*

[FR Doc.73-19758 Filed 9-17-73;8:45 am]

## CHAPTER V—FEDERAL HOME LOAN BANK BOARD

## SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

## INSURED INSTITUTIONS

### Service Corporation Subsidiaries

The Federal Home Loan Bank Board, in Resolution No. 72–1376, dated November 22, 1972, proposed to amend Parts 561, 563, and 570 of the Rules and Regulations for Insurance of Accounts (12 CFR Parts 561, 563, and 570) to impose certain limitations and requirements on service corporation subsidiaries of insured institutions. Notice of such proposed rule making was duly published in the FEDERAL REGISTER of December 16, 1972 (37 FR 26837), with an invitation for interested persons to submit written comments by January 19, 1973. On the basis of its consideration of all relevant material presented by interested persons and otherwise available, the Board hereby adopts amendments to said Parts 561, 563 and 570 and to Part 566 (12 CFR 566) to read as set forth below, effective October 19, 1973.

The regulations are adopted as proposed subject to the following revisions:

A new § 561.27 defining "controlling person" as used in §§ 563.18–1 and 563.34 has been added.

Section 563.17–1 is amended (1) to permit filing of consolidated audit reports in lieu of separate reports and (2) to provide that a copy of an appraisal report made by the Corporation shall be furnished to the insured institution, affiliate, or service corporation, as appropriate, rather than to the insured institution in all cases.

Section 563.18(b) is amended to require report of a loss whether or not it is repaid or recovered. This merely clarifies the meaning of the regulation as proposed.

Section 563.18–1 is amended to clarify the scope of the reporting and penalty provisions based on section 407(1)(5) of the National Housing Act.

Section 563.23–3 relating to accounting principles and procedures has been reworded to clarify its present meaning. This amendment results in no substantive change from the amendment as proposed.

Section 563.34(a) is amended by deleting the definition of "controlling person" in the last sentence thereof.



V 38 1 80 SEP 18 73 XUM

A new § 566.8 regarding the relationship of the Board's enforcement authority to these regulations has been added.

## PART 561—DEFINITIONS

1. Part 561 is amended by adding new §§ 561.24, 561.25, 561.26 and 561.27 thereto to read as follows:

**§ 561.24 Affiliate.**

An "affiliate" of an insured institution, unless otherwise defined, includes any corporation, business trust, association or other similar organization—

(a) of which an insured institution, directly or indirectly, owns or controls either a majority of the voting shares or more than 50 per centum of the number of shares voted for the election of its directors, trustees, or other persons exercising similar functions at the preceding election, or controls in any manner the election of a majority of its directors, trustees, or other persons exercising similar functions; or

(b) of which control is held, directly or indirectly through stock ownership or in any other manner, by the shareholders of an insured institution who own or control either a majority of the shares of such insured institution or more than 50 per centum of the number of shares voted for the election of directors of such insured institution at the preceding election, or by trustees for the benefit of the shareholders of any such insured institution; or

(c) of which a majority of its directors, trustees, or other persons exercising similar functions are directors of any one insured institution.

**§ 561.25 Service corporation.**

A "service corporation" is any corporation, the majority of the capital stock of which is owned by one or more insured institutions and which engages, directly or indirectly, in any activities similar to activities which may be engaged in by a service corporation in which a Federal savings and loan association may invest under § 545.9–1 of this chapter.

**§ 561.26 Service corporation affiliate.**

A "service corporation affiliate" of an insured institution is any service corporation which is an affiliate of an insured institution.

**§ 561.27 Controlling person.**

A "controlling person" of an insured institution is any person or entity owning or holding ten percent or more of the stock or voting rights of the insured institution or otherwise having the power, directly or indirectly, to direct or cause the direction of the management or policies of the insured institution.

## PART 563—OPERATIONS

2. Part 563 is amended by revising paragraphs (b) and (c) of § 563.9–3, § 563.17, paragraphs (a), (b), and (c)(6) of § 563.17–1, paragraphs (b), (c), and (d) of § 563.17–2, § 563.18, paragraphs (f) and (h) of § 563.18–1, § 563.23–3, paragraph (a) of § 563.34, and by adding new paragraph (d) to § 563.19 and new §§ 563.37 and 563.38 to read as follows:

**§ 563.9–3 Loans to one borrower.**

* * * * *

(b) *Limitations.* No insured institution shall have outstanding any loan on the security of real estate to one borrower, as defined in paragraph (a) of this section, if the sum of (1) the amount of such loan and (2) the total balances of all outstanding loans on the security of real estate owed to such institution and its service corporation affiliates by such borrower exceeds an amount equal to 10 percent of such institution's withdrawable accounts or an amount equal to such institution's net worth, whichever amount is less: *Provided*, That, notwithstanding any other limitation of this sentence, any such loan may be made if the sum of subparagraphs (1) and (2) of this paragraph does not exceed $100,000 or if such loan is secured by a first lien on low-rent housing.

(c) *Determination by institution; maintenance of records.* If an insured institution or service corporation affiliate thereof makes a loan to any one borrower, as defined in paragraph (a) of this section, in an amount which, when added to the total balances of all outstanding loans on the security of real estate owed to such institution and its service corporation affiliates by such borrower, exceeds $100,000, the records of such institution or its service corporation affiliate with respect to such loan shall include documentation showing that such loan was made within the limitations of paragraph (b) of this section; for the purpose of such doucmentation such institution or service corporation affiliate may require, and may accept in good faith, a certification by the borrower identifying the persons, entities, and interests described in the definition of one borrower in paragraph (a) of this section.

**§ 563.17 Management and financial policies.**

(a) For the protection of its insured members and other insured institutions, each insured institution and service corporation thereof shall maintain safe and sound management and shall pursue financial policies that are safe and consistent with economical home financing and the purposes of insurance of accounts and are appropriate to their respective types of operations; in implementing this regulation the Corporation will take into consideration that service corporations may be authorized to engage in activities which involve a higher degree of risk than do activities permitted to insured institutions.

(b) Compensation to officers, directors, and employees of each insured institution and its service corporations shall not be in excess of that which is reasonable and commensurate with their duties and responsibilities.

**§ 563.17–1 Examinations and audits; appraisals; establishment and maintenance of records.**

(a) *Examinations and audits.* (1) Each insured institution and affiliate thereof shall be examined periodically, and may be examined at any time, by the Corporation, with appraisals when deemed advisable, in accordance with general policies from time to time established by the Board. The cost, as computed by the Corporation, of any examination made by it, including office analysis thereof, overhead, per diem, travel expense, and other supervision by the Board, shall be paid by the institution examined, except that in the case of a service corporation of a Federal savings and loan association such cost shall be paid by such service corporation.

(2) Each insured institution and service corporation thereof shall be audited at least once in each calendar year by auditors and in a manner satisfactory to the Corporation in accordance with general policies from time to time established by the Board. The Corporation may at any time make, or cause to be made, an audit of an insured institution or service corporation thereof, with appraisals when deemed advisable. An insured institution and each of its service corporations shall promptly file with the Corporation, through the Board's Chief Examiner of the Federal Home Loan Bank District in which the home office of the institution is located, a copy of the consolidated or separate report of each audit, other than audits made by the Corporation, made pursuant to this paragraph (a)(2). If a consolidated report is filed, such report shall include, either by footnote or in a schedule or schedules, the balance sheet and statement of income for the association and each of its service corporations included in said consolidated report. If separate reports of audit are issued, a copy of each such report shall be filed as provided herein. The cost of any audit made pursuant to this paragraph (a)(2) shall be paid by the insured institution or service corporation audited.

(b) *Appraisals.* (1) Unless otherwise ordered by the Board, appraisal of real estate by the Corporation in connection with any examination or audit of an insured institution, affiliate, or service corporation shall be made by an appraiser, or by appraisers, selected by the Board's Chief Examiner of the Federal Home Loan Bank District in which such institution is located. The cost of such appraisal shall promptly be paid by such insured institution, affiliate, or service corporation direct to such appraiser or appraisers upon receipt by the institution, affiliate, or service corporation of a statement of such cost as approved by such Chief Examiner. A copy of the report of each appraisal made by the Corporation pursuant to any of the foregoing provisions of this section shall be furnished to the institution, affiliate, or service corporation, as appropriate within a reasonable time, not to exceed





90 days, following the completion of such appraisals and the filing of a report thereof by the appraiser, or appraisers, with such Chief Examiner.

(2) The Corporation may obtain at any time, at its expense, such appraisals of any of the assets, including the security therefor, of an insured institution, affiliate, or service corporation as the Corporation deems appropriate.

(c) *Establishment and maintenance of records.* To enable the Corporation to examine insured institutions and affiliates, and audit insured institutions, affiliates, and service corporations, pursuant to the provisions of paragraph (a) of this section, each insured institution, affiliate and service corporation thereof shall establish and maintain such accounting and other records as will provide an accurate and complete record of all business transacted by it, and the documents, files and other material or property comprising said records shall at all times be available for such examination and audit, wherever any of said records, documents, files, material or property may be. Without any limitation on the generality of the foregoing sentence and without modification of any other requirement with respect to the establishment and maintenance of records to which such institution is subject, each insured institution shall establish and maintain the following records:

(6) *Other records.* Each insured institution and service corporation thereof shall establish and maintain such other records as are required by statute or by any other regulation to which such institution or service corporation is subject.

* * * * *

**§ 563.17–2 Re-evaluation of assets; adjustment of book value; adjustment charges.**

* * * * *

(b) *By examiners.* In connection with each examination of an insured institution or service corporation, the Board's examiner shall make such re-evaluation of such institution's or service corporation's assets (exclusive of insured or guaranteed loans) as he deems advisable or necessary. Any such re-evaluation of real estate shall be based on an appraisal as provided by § 563.17–1, except that re-evaluation of parcels of real estate that are similar in all essential respects may be based on an appraisal of one or more of such parcels.

(c) *Adjustment of book value.* If the re-evaluation of assets, pursuant to paragraph (b) of this section, or otherwise as ordered by the Corporation, discloses that any asset of an insured institution or service corporation is over-valued on its books (exclusive of over-valuation due to fluctuations in value which are caused by changes in market interest rates), such institution or service corporation shall, at the direction of the Supervisory Agent, make an adjustment of the book value of such asset; unless otherwise directed by the Supervisory Agent, such institution shall make such adjustment by establishing and maintaining a specific reserve in an amount equal to the over-valuation.

(d) *Adjustment charges.* Adjustment of the book value of an asset by an insured institution or service corporation pursuant to any provision of this section may be made by charge against such institution's or service corporation's earnings for the period in which such charge is made, or against surplus, undivided profits, or reserves established for the sole purpose of absorbing losses. Any recovery of any portion of any amount previously charged against reserves established for the sole purpose of absorbing losses shall be credited to such reserves; such credit shall be in addition to all other required credits to such reserves. Any recovery of any portion of any amount previously charged against earnings shall be credited to earnings for the period in which such recovery is effected. For the purposes of this paragraph (d), any charge against a specific reserve established pursuant to any provision of this section shall be deemed to be a recovery on an asset the book value of which was previously adjusted unless such charge is made for the purpose of concurrently writing down the book value of such asset.

**§ 563.18 Reports to the Corporation.**

(a) *Periodic reports.* Each insured institution and service corporation thereof shall make such periodic or other reports of its affairs in such manner and on such forms as the Corporation may prescribe. The Corporation may provide that reports filed by the insured institutions or service corporations to meet the requirements of other regulations also satisfy requirements imposed under this section.

(b) *Reports of loss.* Whenever an insured institution or service corporation thereof suffers a loss due to dishonesty of a director, officer, attorney, agent, or employee, whether or not repaid or recovered, or whenever a deductible amount specified in a bond is increased above the permissible deductible amount specified in the table in paragraph (b) of § 563.19, such insured institution or service corporation shall report promptly the facts concerning such loss or increase in writing to the Board's Chief Examiner for the Federal Home Loan Bank district in which the home office of such institution is located.

**§ 563.18–1 Reports of change in control; other reports; form and filing of such reports.**

* * * * *

(f) *Other reports.* The Corporation may also require insured institutions and individuals or other persons who have or have had any connection with the management of any insured institution, including any present or former director, officer, controlling person, or agent of an insured institution, to provide, or cause to be provided, such periodic or other reports or disclosures as the Corporation may determine to be necessary or appropriate for the protection of investors or the Corporation.

* * * * *

(h) *Penalty for failure to report.* For the willful failure of any institution, individual, or other person who has or has had any connection with the management of any insured institution to submit, within the time prescribed by the Corporation, any report or disclosure required by the Corporation, such insured institution, individual, or other person shall be subject to a civil penalty of not more than $500 (which penalty shall be cumulative to any other remedies) for each day that such failure continues, which penalty the Corporation may recover by suit or otherwise for its own use. The Corporation in its discretion may, at any time before collection of such penalty (whether before or after the bringing of any action or other legal proceedings, the obtaining of any judgment or other recovery, or the issuance or levy of any execution or other legal process therefor), compromise or remit in whole or in part any such penalty.

* * * * *

**§ 563.19 Bonds for directors, officers, employees, and agents; form of and amount of bonds.**

* * * * *

(d) A service corporation of an insured institution shall maintain such bond coverages as may be appropriate considering the nature of its activities and the practice of other corporations engaged in similar activities.

**§ 563.23–3 Accounting principles and procedures.**

For purposes of examination by and reports to the Corporation and of compliance with this subchapter, each insured institution and service corporation shall:

(a) Employ such specific principles or procedures on particular accounting or reporting matters as the Corporation may require by regulation or otherwise; and

(b) Prepare and maintain such books and records as will support its financial statements and reports to the Corporation and readily permit reconcilation of such statements and reports with its books and records; and

(c) Prepare its other financial statements and reports to the Corporation on the basis of generally accepted accounting principles.

**§ 563.34 Selection of depositary.**

(a) Except with the prior written approval of the Corporation, as provided in paragraph (b) of this section, and except as is otherwise provided in this subparagraph, no insured institution may (1) establish a depositary relationship on or after July 1, 1972, with a depositary with which it has an interlock; or (2) maintain an existing depository relationship if an interlock with such depositary occurs on or after July 1, 1972. Any depositary arrangement involving an interlock existing prior to July 1, 1972, may be continued on and after such date unless such arrangement has been specifically disapproved by the Corporation. The provisions of this section shall not apply to a depositary relationship between an



V 38 180 SEP 18 73 XUM

insured institution and a Federal Home Loan Bank. For the purposes of this section and "interlock" will be deemed to exist between an insured institution and a depositary whenever any officer, director, or controlling person of the insured institution, or attorney regularly serving the institution in the capacity of attorney at law, or the spouse of any of the foregoing, is an officer, partner, director, or trustee of the depositary or the owner of ten percent or more of the depositary's stock:

. . . . . .

**§ 563.37 Operation of service corporations; limited liability of insured institution for debt of service corporation.**

(a) *General.* Each insured institution and service corporation thereof shall be operated in a manner which demonstrates to the public the separate corporate existence of the service corporation and the insured institution. Regulations of the Corporation which apply both to insured institutions and service corporations shall not be construed as requiring operation of an insured institution and its service corporations as a single entity.

(b) *Service corporation debt.* Every instrument evidencing borrowing by a service corporation shall indicate that its parent insured institution is not liable, or in the case of a service corporation owned by more than one insured institution, that none of its parent insured institutions is liable, except that no such statement is required if the loan is guaranteed by a parent insured institution and the total amount of such guaranteed loan, together with all other guaranteed loans, direct loans, and direct investment by the insured institution in its service corporations, does not exceed the maximum investment permitted by law or regulation.

**§ 563.38 Salvage power of insured institution to assist service corporation.**

(a) *Salvage power and investment authority.* No insured institution, in the exercise of its salvage power or otherwisewise, shall, without the prior approval of the Corporation, make any contribution, loan, or guarantee of a loan made by any other person to its service corporation, or invest in its service corporation or assume any of its liabilities, if such contribution, loan, investment, guarantee, or assumption of liability, together with all such guaranteed loans, direct loans, contributions and direct investments by the insured institution in its service corporations, would exceed the maximum investment permitted by law or regulation.

(b) *Applications for approval.* Each application by an insured institution to the Corporation for its approval to make any such contribution, loan, investment, guarantee, or assumption of liability shall establish, to the satisfaction of the Corporation, in a written statement, that the action it proposes is for the protection of the insured institution's investment and is consistent with safe, sound, and economical home financing. The application shall describe and discuss alternative solutions to the service corporation's financial problem including solutions which do not involve increased investment by the insured institution, and contain such other information as the Corporation may require. In the case of a State-chartered insured institution, such application shall be accompanied by an opinion of counsel that the proposed action is within the authority of the insured institution. Every contribution, loan, investment, guarantee, or assumption of liability made pursuant to approval by the Corporation under this section shall comply with the terms and conditions of such approval.

## PART 566—CEASE-AND-DESIST AND SUSPENSION AND REMOVAL ORDERS

3. Part 566 is amended by adding a new § 566.8 thereto to read as follows:

**§ 566.8 Application of the supervisory act with respect to service corporations.**

(a) Each insured institution, or director, officer, employee, or agent thereof, shall take whatever action may be necessary and within its or his power to assure that any service corporation of such insured institution does not—

(1) violate any law, rule, or regulation applicable to such service corporation;

(2) violate any charter provision or bylaw of such service corporation;

(3) violate any condition applicable to such service corporation and imposed in writing by the Board or Corporation or State supervisory authority in connection with the granting of any application or other request by such institution or service corporation;

(4) violate any written agreement applicable in whole or in part to such service corporation and entered into by such insured institution or service corporation with the Board or the Corporation or State supervisory authority;

(5) violate any cease-and-desist order which has become final and is applicable in whole or in part to such service corporation; or

(6) engage in any practice which is unsafe or unsound with respect to such service corporation or the insured institution.

(b) A violation of paragraph (a) of this section is a violation of a regulation within the meaning of section 5(d) of the Home Owners' Loan Act of 1933, as amended, and section 407 of the National Housing Act, as amended, and may constitute an unsafe or unsound practice, a breach of fiduciary duty, or conduct or practice with respect to another savings and loan association or other business institutions within the meaning of said sections of said Acts.

## PART 570—BOARD RULINGS

4. Part 570 is amended by adding a new § 570.10 thereto to read as follows:

**§ 570.10 Separate corporate existence of a service corporation.**

(a) *General.* If an insured institution and its service corporation fail to maintain their separate corporate existence, a court, for equitable reasons in an extreme situation, might hold the institution liable for the obligations of its service corporation. To insure judicial recognition of the separate corporation existence of service corporations, the institution and its service corporations should operate so that (1) their respective business transactions, accounts, and records are not intermingled, (2) each observes the formalities of their separate corporate procedures, (3) each is adequately financed as a separate unit in the light of normal obligations reasonably foreseeable in a business of its size and character, (4) each is held out to the public as a separate enterprise, and (5) the insured institution does not dominate the service corporation to the extent that the latter is treated as a mere department of the former. In recommending such operating practices, the Board is not suggesting that a failure to follow one or more or all of such practices by an insured institution and its service corporation should cause a court to ignore the separate corporate existence of the service corporation.

(b) *Operation of service corporations.* Section 563.36(a) of this subchapter requires that an insured institution and its service corporations be operated in a manner which demonstrates their separate corporate existence. Failure to assure corporate separateness could result in serious risk to the insured institution and to the Corporation. In monitoring compliance with § 563.36(a) of this subchapter, the Corporation will look for attributes of corporate separateness such as those contained in paragraph (a) of this section.

(Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
*Assistant Secretary.*

[FR Doc.73-19802 Filed 9-17-73;8:45 am]

## Title 14—Aeronautics and Space

## CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Airspace Docket No. 73 GL 27]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

### Designation of Transition Area

On Page 18383 of the FEDERAL REGISTER dated July 10, 1973, the Federal Aviation Administration published a notice of proposed rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Hartford, Wisconsin.





Interested persons were given 30 days to submit written comments, suggestions or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective November 8, 1973.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Des Plaines, Illinois, on August 27, 1973.

R. O. ZIEGLER,
*Acting Director,*
*Great Lakes Region.*

In § 71.181 (38 FR 435), the following transition area is added:

HARTFORD, WISC.

That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of the Hartford Airport (latitude 43°20'55"N., longitude 88°23'30"W.).

[FR Doc.73-19741 Filed 9-17-73;8:45 am]

## CHAPTER II—CIVIL AERONAUTICS BOARD

[Reg. OR-78, Amdt. 15]

## PART 389—FEES AND CHARGES FOR SPECIAL SERVICES

### Refund of Fee Following Dismissal of Application After Denial of Motion for Expedited Hearing or for Order To Show Cause; Correction

In FR Doc. 73-19258 appearing on page 24895 in the issue of Tuesday, September 11, 1973, amendment No. "38" was improperly assigned to this regulation. The correct identification is amendment No. "15".

*Effective* September 5, 1973.

Adopted September 5, 1973.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

SEPTEMBER 11, 1973.

[FR Doc.73-19811 Filed 9-17-73;8:45 am]

## Title 24—Housing and Urban Development

## SUBTITLE A—OFFICE OF THE SECRETARY, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-73-227]

## PART 42—RELOCATION PAYMENTS AND ASSISTANCE AND REAL PROPERTY ACQUISITION UNDER THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

### Grievance Procedures Relating to Adequacy of Replacement Housing; Claims Review

The purpose of the following amendment is to make a minor, clarifying correction to § 42.330(c).

Since the change is minor in nature and no substantive change in the regulation is effected, notice and public procedure thereon are unnecessary.

In consideration of the foregoing, Part 42 is amended, effective upon publication in the FEDERAL REGISTER, as hereinafter set forth:

Section 42.330(c) is revised to read as follows:

**§ 42.330 HUD review.**

. . . . . .

(c) *Determination on review by HUD.* The written determination by HUD shall be delivered to the State agency and to the complainant and shall include, but need not be limited to:

(1) The Area Director's decision on reconsideration of the complaint;

(2) The factual and legal findings upon which the decision is based, including any pertinent explanation or rationale for the decision;

(3) The relief, if any, to which the complainant is entitled, and directions to the State agency on how this shall be achieved;

(4) Notification to the complainant of his right to seek further HUD assistance if the relief specified in paragraph (c)(3) of this section is not provided;

(5) Notification to the complainant of his right to seek judicial review in the event the determination is adverse.

. . . . . .

(Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); sec. 213, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4633).)

*Effective date.*—These regulations are effective on September 18, 1973.

JAMES T. LYNN,
*Secretary of Housing*
*and Urban Development.*

[FR Doc.73-19795 Filed 9-17-73;8:45 am]

## CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-208]

## PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

### Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

**§ 1914.4 Status of participating communities.**

. . . . . .

| State | County | Location | Map No. | State map repository | Local map repository | Effective date of authorization of sale of flood insurance for area |
|---|---|---|---|---|---|---|
| . . . . . | | | | | | |
| California | Alameda | Piedmont, city of | | | | September 13, 1973, Emergency. |
| Idaho | Latah | Unincorporated areas. | | | | Do. |
| Michigan | Gogebic | Ironwood, city of | | | | Do. |
| Missouri | St. Louis | Times Beach, city of. | | | | Do. |
| New Mexico | Quay | Tucumcari, city of. | | | | Do. |
| North Carolina | Pamlico | Incorporated towns of Oriental and Vandermere. | | | | Do. |
| North Dakota | Morton | Unincorporated areas. | | | | Do. |

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969.)

Issued September 7, 1973.

GEORGE K. BERNSTEIN,
*Federal Insurance Administrator.*

[FR Doc.73-19682 Filed 9-17-73;8:45 am]



V 38 I 180 SEP 18 73 XUM

[Docket No. FI-209]

## PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

### Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 Status of participating communities.

| State | County | Location | Map No. | State map repository | Local map repository | Effective date of identification of sale of flood insurance for area |
|---|---|---|---|---|---|---|
| Connecticut | New London | Groton, city of | | | | September 18, 1973, Emergency. |
| Illinois | Cook | Hickory Hills, city of. | | | | Do. |
| Ohio | Ashland | Ashland, city of. | | | | Do. |
| Do. | Summit | Twinsburg, city of. | | | | Do. |
| Virginia | | Lynchburg, city of. | | | | Do. |
| West Virginia | Harrison | Clarksburg, city of. | | | | Do. |

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969.)

Issued September 10, 1973.

GEORGE K. BERNSTEIN,
*Federal Insurance Administrator.*

[FR Doc.73-19683 Filed 9-17-73;8:45 am]

[Docket No. FI-210]

## PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

### Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 Status of participating communities.

| State | County | Location | Map No. | State map repository | Local map repository | Effective date of authorization of sale of flood insurance for area |
|---|---|---|---|---|---|---|
| Kentucky | Lee | Beattyville, city of. | | | | September 17, 1973, Emergency. |
| Michigan | Van Buren | Covert, township of. | | | | Do. |
| Do. | Leelanau | Suttons Bay, village of. | | | | Do. |
| Missouri | Madison | Fredericktown, city of. | | | | Do. |
| New Jersey | Somerset | Watchung, borough of. | | | | Do. |
| New York | Nassau | Sea Cliff, village of. | | | | Do. |
| Pennsylvania | Allegheny | Hampton, township of. | | | | Do. |
| Texas | Brazoria | Angleton, city of. | | | | Do. |
| Wisconsin | Oconto | Oconto, city of. | | | | Do. |

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408–410, Public Law 91–152, Dec. 24, 1969), 42 U.S.C. 4001–4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969.)

Issued September 10, 1973.

GEORGE K. BERNSTEIN,
*Federal Insurance Administrator.*

[FR Doc.73-19684 Filed 9-17-73;8:45 am]





## Title 33—Navigation and Navigable Waters

### CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 73-210 R]

### PART 117—DRAWBRIDGE OPERATION REGULATIONS

### Miner Slough, Calif.

This amendment revokes the regulations for the pontoon bridge across Miner Slough between Ryer Island and Prospect Island because this bridge has been removed. Also revoked is the requirement that when Prospect Slough is impassable continuous attendance of the draw is required. This change is due to the completion of the Sacramento Ship channel which eliminates Prospect Slough as a main channel.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations is amended by revising paragraph (c) of § 117.716 to read as follows:

**§ 117.716 Sacramento River and its tributaries, Cal.**

(c) *Miner Slough—(1) State of California highway bridge between northernly end of Ryer Island and Holland Tract.* At least 12 hours notice is required.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; 33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5), 33 CFR 1.05-1(c)(4).)

*Effective date.*—This revision shall become effective September 18, 1973.

Dated September 10, 1973.

W. M. BENKERT,
*Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.*

[FR Doc.73-19755 Filed 9-17-73;8:45 am]

## Title 50—Wildlife and Fisheries

### CHAPTER I—BUREAU OF SPORT FISHERIES AND WILDLIFE, FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

### PART 32—HUNTING

### Iroquois National Wildlife Refuge, N.Y.

The following special regulation is issued and is effective during the period October 1, 1973 through November 3, 1973.

**§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.**

NEW YORK

IROQUOIS NATIONAL WILDLIFE REFUGE

The public hunting of migratory waterfowl on the Iroquois National Wildlife Refuge, New York, is permitted. Information on this program is available at the refuge headquarters, Basom, New York, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, John W. McCormack Post Office and Courthouse, Boston, Massachusetts 02109. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of migratory waterfowl subject to the following special conditions:

(1) Waterfowl hunting is by permit only.

(2) Hunting is permitted on Monday, Tuesday, Thursday, and Saturday.

(3) Prior registration required for opening day, holidays, and the three succeeding Saturdays. Other days permits issued on first-come-first-served basis. All hunters will draw for hunting sites on date of hunt.

(4) Waterfowl hunting permitted from legal opening until noon, local time.

(5) Hunters must check out and present harvested game at the permit station on Casey Road, not later than 1:00 p.m. local time.

(6) Hunters assigned a stand must hunt within a 50-foot radius of the station marker with no more than two hunters to each stand.

(7) The maximum daily bag limit of waterfowl or marsh birds (ducks, geese, coots, and gallinules), or any combination thereof is 3.

(8) No shotguns larger than 12 gauge are allowed.

(9) On Tuesdays and Thursdays migratory waterfowl will be hunted with 12 gauge shotguns using iron shot provided by the refuge at a cost of $.16 per round.

(10) Only 15 rounds are permitted per hunter.

(11) Shot size is restricted to size 2 fine shot or smaller.

(12) Disorderly conduct, intoxication, high shooting or otherwise unsportsmanlike conduct will not be tolerated and the permittee will be ejected from the area.

(13) Hunters must be equipped with hip boots *or* waders.

(14) Guns will be loaded (chambers and magazines) only when a permittee is hunting waterfowl at an assigned stand or within an assigned shooting area. A permittee must unload his gun and not re-load his gun after taking his daily bag.

(15) No person shall use or hunt from a boat.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 3, 1973.

RICHARD E. GRIFFITH,
*Regional Director, Bureau of Sport Fisheries and Wildlife.*

SEPTEMBER 7, 1973.

[FR Doc.73-19745 Filed 9-17-73;8:45 am]

### PART 32—HUNTING

### DeSoto National Wildlife Refuge, Iowa

The following special regulation is issued and is effective September 18, 1973.

**§ 32.32 Special regulations; big game; for individual wildlife refuge areas.**

IOWA

DE SOTO NATIONAL WILDLIFE REFUGE

Public hunting of deer on the DeSoto National Wildlife Refuge, Iowa, is permitted only on the area designated by signs as open to hunting. This open area comprising 660 acres is delineated on a map available at the refuge headquarters and from the Area Manager, Bureau of Sport Fisheries and Wildlife, 601 E. 12th Street, Kansas City, Missouri 64106. Hunting shall be in accordance with all State regulations governing the hunting of deer with bow and arrow and shall be permitted only during the regular Iowa archery deer season, October 13, 1973, to November 25, 1973, and December 8, 1973 through December 16, 1973.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 16, 1973.

JAMES E. FRATES,
*Refuge Manager, DeSoto National Wildlife Refuge, Missouri Valley, Iowa.*

SEPTEMBER 7, 1973.

[FR Doc.73-19743 Filed 9-17-73;8:45 am]

### PART 32—HUNTING

### Eastern Neck National Wildlife Refuge, Md.

The following special regulation is issued and is effective during the period October 12, 1973 through December 31, 1973.

**§ 32.32 Special regulations; big game; for individual wildlife refuge areas.**

MARYLAND

EASTERN NECK NATIONAL WILDLIFE REFUGE

Public hunting of white-tailed deer on the Eastern Neck National Wildlife Refuge, Maryland, is permitted on all areas except County roads, parking areas, and areas designated by signs as closed to hunting. This open area, comprising 2,169 acres, is delineated on maps available from Eastern Neck National Wildlife Refuge, Route 2, Box 225, Rock Hall, Maryland 21661, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, John W. McCormack Post Office and Courthouse, Boston, Massachusetts 02109. Hunting shall be in accordance with all applicable State regulations governing the hunting of white-tailed deer, subject to the following special conditions:

(1) White-tailed deer may be taken from sunrise to sunset during the following open seasons:

Archery hunt only: October 12 and 13, 1973.

Muzzle loading longarm hunt only: October 19 and 20, 1973.

Shotgun hunt only: October 26 and 27, 1973.

(2) Bag limits: One deer, either sex.

(3) All participants in the deer hunt must check in and out at the refuge check station before entering or leaving the refuge. All deer killed must be presented for examination at the refuge check station on the day killed.

(4) Hunters may not enter the refuge before one hour before sunrise and must



V 38 I 180 SEP 18 73 XUM

check out no later than one hour after sunset.

(5) Possession of loaded weapons, including arrows notched in bow, on County blacktop roads, in designated parking areas, in or on vehicles and before shooting hours is prohibited.

(6) All hunters must enter and leave by way of State Road 445 only. Entry by boat is prohibited.

(7) During the gun hunts all hunters must furnish and wear, so as to be readily noticeable, daylight fluorescent orange caps or hats and vests, shirts, or coats of the same color while on the hunting areas.

(8) Hunters under 18 years of age must be accompanied by either a hunting, permit holding adult or a non-hunting adult with a refuge issued identification pass.

(9) Contained fire cooking devices will be allowed within fifty (50) feet of legally parked vehicles and in the Ingleside Recreation Area.

(10) Pre-season deer hunt scouting will be allowed from sunrise to sunset September 29, 1973 through October 4, 1973. Only those persons that have received a hunting permit may scout. The hunting permit will be carried by the scouter and will serve as his permit to scout.

(11) All hunters must exhibit their hunting weapons, game, Federal permit, deer-turkey stamp and State hunting license to Federal or State officers on request.

(12) A completed proficiency certificate will be required of muzzleloading hunters in addition to the Federal hunting permit. This must be presented at the check station prior to entering for the hunt. The certificate will contain identification of shooter, identification of certifying individual, and will verify that the shooter placed three consecutive shots in a 12 inch bullseye at 50 yards distance using an off-hand firing position and State minimums of powder grains and ball diameter. The weapon ignition system used to hunt must be the same as that used to qualify.

(13) A Federal hunt permit will be required of all participants in the deer hunts. Permits will be issued in advance of the season to hunters selected by a public drawing of completed, legible applications received. Applications must be received no later than September 13, 1973 at the refuge office for the public drawing starting at 12:30 PM, September 18, 1973 at the Eastern Neck National Wildlife Refuge Office. Permits will be limited to 300 per day for archery hunting and 150 per day for gun hunting.

(14) This permit must be returned to the refuge at check-out or in the case of persons unable to hunt on day selected, the permit must be returned prior to December 31, 1973. Non-compliance will be grounds for non-selection in future hunts.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 31, 1973.

RICHARD E. GRIFFITH,
*Regional Director, Bureau of Sport Fisheries and Wildlife.*

SEPTEMBER 7, 1973.

[FR Doc.73-19746 Filed 9-17-73;8:45 am]

## PART 32—HUNTING

### Rice Lake National Wildlife Refuge, Minn.

The following special regulation is issued and is effective on September 13, 1973.

**§ 32.32 Special regulations; upland game; for individual wildlife refuge areas.**

MINNESOTA

RICE LAKE NATIONAL WILDLIFE REFUGE

Public hunting of ruffed grouse on the Sandstone Unit of the Rice Lake National Wildlife Refuge and the Rice Lake National Wildlife Refuge proper, is permitted from sunrise to sunset September 15 through October 29, 1973 and from November 1 through November 30, 1973, only on the areas designated by signs as open to hunting. The open area of Rice Lake National Wildlife Refuge, comprising 2,000 acres, is delineated on a map available at refuge headquarters, McGregor, Minnesota and from the Regional Director, Bureau of Sport Fisheries and Wildlife Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Hunting shall be in accordance with all applicable State regulations governing the hunting of upland game.

LELAND A. THORNBLOOM,
*Acting Refuge Manager, Rice Lake National Wildlife Refuge, McGregor, Minnesota 55760.*

SEPTEMBER 10, 1973.

[FR Doc.73-19744 Filed 9-17-73;8:45 am]

## CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

### SUBCHAPTER F—AID TO FISHERIES

## PART 253—COMMERCIAL FISHERIES RESEARCH AND DEVELOPMENT

SEPTEMBER 10, 1973.

On page 17016 of the FEDERAL REGISTER of June 28, 1973, there was published a notice of proposed rulemaking setting forth amended procedures to be used by the Secretary in providing financial assistance to State agencies for research and development of the commercial fisheries resources of the Nation under the authority of the Commercial Fisheries Research and Development Act of May 20, 1964 (78 Stat. 197, 16 U.S.C. 779a–779f), as amended by the Act of October 4, 1968 (82 Stat. 957, 16 U.S.C. 779b), and as further amended by the Act of October 27, 1972 (86 Stat. 1303).

Interested persons were given 32 days in which to submit written comments, suggestions, or objections with respect to the proposed amended regulations to the Director, National Marine Fisheries Service, Washington, D.C. In addition, every State commercial fishery agency was independently notified, as were members of the Advisory Commission on Intergovernmental Relations in accordance with OMB Circular A–85.

A change was suggested which would add the words "or inadequately harvested" to the proposed meaning of "developing a new commercial fishery" in § 253.2(d). The change was not made on the grounds of inconsistency with the intent of the Act to develop a new commercial fishery. Another change suggested was to allow funds apportioned to a State under subsection 4(a) to remain available "until expended by said State." The suggestion was not adopted on the grounds of inconsistency with the Act which limits availability of funds under subsection 4(a) to 2 fiscal years.

Therefore, all comments having been fully considered and no changes being made, the part as so proposed is hereby adopted. These regulations are effective on September 18, 1973.

Issued at Washington, D.C., pursuant to authority delegated to me by the Secretary of Commerce.

(Catalog of Federal Domestic Assistance Program No. 15.003, Promotion of State Commercial Fishery Research and Development.)

HOWARD W. POLLOCK,
*Acting Administrator.*

SEPTEMBER 10, 1973.

Sec.
253.1 Definitions.
253.2 Interpretation of the authorization.
253.3 General provisions.
253.4 Use of funds.
253.5 Environment.
253.6 Assurances.

AUTHORITY: Sec. 8, Commercial Fisheries Research and Development Act of 1964, 78 Stat. 197 (16 U.S.C. 779a–779f), as modified by Reorganization Plan No. 4 of 1970, effective October 3, 1970 (35 FR 15627).

**§ 253.1 Definitions.**

As used in this part, terms shall have the meaning ascribed in this section.

(a) *Secretary.* The Secretary of Commerce or his authorized representatives.

(b) *Act.* The Commercial Fisheries Research and Development Act of 1964, Public Law 88–309, 78 Stat. 197, as amended by Public Law 90–551, 82 Stat. 957, and Public Law 92–590, 86 Stat. 1303 (16 U.S.C. 779 et seq.).

(c) *Grantee.* A State agency participating in a grant-in-aid award with the Secretary.

(d) *Application.* A description of work to be accomplished, including objectives, results expected, procedures, cost, location, and time required for completion, and such other information as may be required by the Secretary.

(e) *Grant-in-aid award.* A written agreement for research and development activities to be carried on as provided by the Act and these regulations. Such award shall set forth the terms and conditions binding upon the grantee and the Secretary, including the objectives, procedures, costs, the award period, and such other provisions as may be appropriate.

(f) *Aquatic plants and animals.* All animals and plants growing or living in or upon water, including finfish, shellfish, and other marine invertebrates, fur seals, whales and other marine mammals, frogs, turtles, and algae.

(g) *Commercial fisheries resources.* Any aquatic plant or animal available or potentially available for harvesting with the primary intent of commercial use as either raw or manufactured products.

**§ 253.2 Interpretation of the authorization.**

The terms used in the Act to describe the authorization to the Secretary for program and apportionment purposes are construed to be limited to the meanings ascribed in this section.

(a) *Research and development.* The words "research and development" mean program of work, including construction and acquisition, designed to acquire knowledge of commercial fisheries resources and their environment, and to develop and apply methods and techniques to enhance such commercial fisheries resources including their harvest, conservation and utilization.

(b) *Raw fish harvested by domestic commercial fishermen and received within a State.* The words "raw fish harvested by domestic commercial fishermen and received within a State" mean living aquatic plants and animals harvested by individuals, associations, partnerships or corporations resident in and authorized to do business in any State and engaged in harvesting of commercial fisheries resources or the processing and manufacturing of products therefrom. Aquatic plants and animals are received within a State when transferred from a catcher vessel within the jurisdiction of a State or permanently removed from a fish production facility.

(c) *Manufactured and processed fishery merchandise.* The words "manufactured and processed fishery merchandise" mean commercial fisheries resources or parts thereof after undergoing a change(s) contributing to or achieving a condition of readiness for sale.

(d) *Developing a new commercial fishery.* The words "developing a new commercial fishery" mean activities designed to assist the commercial fishing industry by developing and evaluating methods for the harvest, utilization, and conservation of commercial fisheries resources not commonly utilized.

(e) *Commercial fishery failure due to a resource disaster arising from natural or undetermined causes.* The words "commercial fishery failure due to a resource disaster arising from natural or undetermined causes" mean a serious disruption of a commercial fisheries resource affecting present or future productivity. It does not include inability to sell raw fish or manufactured and processed fishery merchandise or compensation for economic loss suffered by any segment of the fishing industry as the result of a resource disaster.

(f) *State.* The word "State" means the several States of the United States, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, and Guam.

**§ 253.3 General provisions.**

(a) *Designation of State agency.* The Governor of each State shall notify the Secretary which agency of the State government is authorized under its laws to regulate commercial fisheries and is designated to submit applications and to enter into grant-in-aid awards. An official of such agency shall certify as to the official(s) authorized in accordance with State law to commit the State to participation under the Act, to sign project documents, and to receive payments. The Secretary shall be advised promptly of any changes made in such authorizations.

(b) *Application.* (1) An application for Federal assistance shall be submitted for each proposed project for approval by the Secretary. An approved application shall not be binding upon the parties until incorporated in a grant-in-aid award.

(2) Applications utilizing an allocation of State funds additional to amounts previously allocated by the State for commercial fishery research and development activities shall be preferred over applications utilizing an allocation of State funds which does not involve an increase of State funds dedicated to commercial fishery research and development programs. No application which involves a reduction of State funds previously dedicated to commercial fishery research and development will be approved.

(c) *Grant-in-aid award.* (1) After the Secretary has approved an application, activities to be undertaken by the grantee and the obligation of Federal funds shall be evidenced by a grant-in-aid award executed by the grantee and the Secretary. Such awards may be amended by mutual consent of the parties.

(2) The grant-in-aid award shall contain applicable provisions as required by Federal law and regulations. These provisions are identified in the Grant-in-Aid Handbook, NOAA Handbook No. 22, the most recent version of which may be obtained from the Director, National Marine Fisheries Service.

(d) *Prosecution of work.* (1) The prosecution of work by the grantee shall be performed in a manner acceptable to the Secretary. Unsatisfactory performance shall be cause for the Secretary to withhold payments. Grant-in-aid awards may be terminated or suspended upon determination by the Secretary that satisfactory progress has not been maintained.

(2) All work shall be performed in accordance with applicable State laws except when such laws are in conflict with Federal laws or regulations, in which case such Federal law or regulations shall prevail.

(e) *Economy and efficiency of operation.* No grant-in-aid award shall be executed until the grantee has shown to the satisfaction of the Secretary that appropriate and adequate means shall be employed to achieve economy and efficiency, including the avoidance of undesirable duplication, in the completion of a project.

**§ 253.4 Use of funds.**

(a) *Apportionment of subsection 4(a) funds.* On July 1 of each year, or as soon thereafter as practicable, the Secretary shall notify respective States of the amount of funds authorized under subsection 4(a) of the Act and apportioned to each State under subsection 5(a) of the Act. Funds apportioned to a State in any fiscal year shall remain available to it for obligation until the end of the succeeding fiscal year and, if unobligated at that time, such funds shall be returned to the Treasury of the United States.

(b) *Use of authorized funds for commercial fisheries resource disaster.* (1) The Secretary shall cause to be published in the FEDERAL REGISTER a notice that a commercial fisheries resource disaster exists at the time such a finding is made.

(2) After such publication, Federal funds may be used for 100 percent of the cost of restoration of commercial fisheries resources if all the funds are obtained from appropriations authorized under subsection 4(b) of the Act.

(c) *Use of funds for developing a new commercial fishery.* (1) Applications related to the development of new commercial fishery may be approved only after the Secretary determines that such applications will reasonably accomplish the purpose of developing a new commercial fishery.

(2) The Secretary may finance up to 100 percent of the cost of developing a new commercial fishery.

**§ 253.5 Environment.**

Projects shall be performed in such manner as to be consistent with the policies set forth in the National Environmental Policy Act of 1969 (83 Stat. 852).

**§ 253.6 Assurances.**

The State must assure and certify that it will comply with all applicable Federal laws, regulations, and requirements as they relate to the application, acceptance, and use of Federal funds for projects under the Act in accordance with OMB Circular A–102.

[FR Doc.73-19784 Filed 9-17-73;8:45 am]







V 38-180 SEP 18 73 XUM

# Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

[ 25 CFR Part 243 ]

### JACKSON RANCHERIA, AMADOR COUNTY, CALIFORNIA

### Distribution of Assets

*Correction*

In FR Doc. 73-16864 appearing on page 22034 in the issue of Wednesday, August 15, 1973, paragraph (a)(5) of § 243.3 should read as follows:

"(5) The dependent members of the immediate families of those Indians in paragraphs (a) (1), (2), (3) and (4) of this section."

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

[ 9 CFR Part 113 ]

### VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS

### Testing and Evaluation

Notice is hereby given in accordance with the provisions contained in section 553(b) of Title 5, United States Code (1966), that it is proposed to amend certain of the regulations relating to viruses, serums, toxins, and analogous products in Part 113 of Title 9, Code of Federal Regulations, issued pursuant to the provisions of the Virus-Serum-Toxin Act of March 4, 1913 (21 U.S.C. 151-158).

These proposed amendments would codify in Part 113 the test methods, procedures and criteria established by Veterinary Services for evaluating twenty-six biological products to be pure, safe, potent and efficacious and not to be worthless, contaminated, dangerous or harmful. Each of these products must meet the applicable requirements before they can be released for market.

These requirements have been developed over a period of years in cooperation with interested members of the scientific society and, for the most part, have been utilized by industry either as accepted requirements or as proposals under development.

The publication of these requirements is done to make more readily available to the general public these requirements which now appear in administrative memorandum.

One safety test utilizing mice as test animals and another utilizing guinea pigs as test animals are codified in two new sections. One or both of these tests will be conducted on samples of each serial produced when such tests are prescribed in a Standard Requirement or approved Outline of Production for a product. If the results are unsatisfactory, the serial will not be released for market.

Standard Requirements for three diagnostic agents—Tuberculin, Pullorum Antigen, and Avian Mycoplasma Antigen—used in disease detection programs throughout the United States are included in three new sections. It is essential to these programs that the agents used are uniformly prepared and tested. These requirements will make this possible.

Reference is made in this document to a notice of proposed rulemaking published in the FEDERAL REGISTER, Volume 38, No. 112, June 12, 1973, in which §§ 113.50-113.64 were issued.

Part 113, Standard Requirements, of Title 9 of the Code of Federal Regulations, is amended by adding the following new material:

### § 113.38 Guinea pig safety test.

The guinea pig safety test provided in this section shall be conducted when prescribed in a Standard Requirement or approved Outline of Production for a biological product. When desiccated products are tested, final container samples of completed product prepared for administration in the manner recommended on the label shall be used. When liquid products are tested, either bulk or final container samples of completed product shall be used.

(a) Unless otherwise specified in the Standard Requirement or approved Outline of Production for a product, a 0.5 ml dose shall be injected intraperitoneally into eight mice and the animals observed for 7 days.

(b) If unfavorable reactions attributable to the product occur in any of the mice during the observation period, the serial or subserial is unsatisfactory. If unfavorable reactions which are not attributable to the product occur, the test shall be declared inconclusive and may be repeated; *Provided*, That, if the test is not repeated, the serial or subserial shall be declared unsatisfactory.

### § 113.39 Mouse safety test.

The mouse safety test provided in this section shall be conducted when prescribed in a Standard Requirement or approved Outline of Production for a biological product. When desiccated products are tested, final container samples of completed product prepared for administration in the manner recommended on the label shall be used. When liquid products are tested, either bulk or final container samples of completed product shall be used.

(a) Unless otherwise specified in the Standard Requirement or approved Outline of Production for the product, a 0.5 ml dose shall be injected intraperitoneally into eight mice and the animals observed for 7 days.

(b) If unfavorable reactions attributable to the product occur in either of the guinea pigs during the observation period, the serial or subserial is unsatisfactory. If unfavorable reactions which are not attributable to the product occur, the test shall be declared inconclusive and may be repeated; *Provided*, That, if the test is not repeated, the serial or subserial shall be declared unsatisfactory.

NOTE.—Sections 113.50-113.64 appeared in notice of proposed rulemaking in the FEDERAL REGISTER, Volume 38, No. 112, June 12, 1973, pages 15450-15456.

DIAGNOSTICS AND REAGENTS

### § 113.65 Tuberculin, Intradermic.

Tuberculin, Intradermic, is a filtrate produced from cultures of Pn, C, and Dt strains of *Mycobacterium tuberculosis* which have been rendered sterile and nonpathogenic. Each serial shall be tested for purity, safety, potency, and special chemical tests in accordance with the conditions prescribed for each test. A serial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Each serial shall be tested for purity as provided in this paragraph.

(1) Final container samples of completed product shall be tested for viable bacteria and fungi as prescribed in § 113.26.

(2) A 20 ml sample shall be centrifuged and the sediment examined microscopically for the presence of acidfast (Ziehl-Nielsen stain) or other microorganisms (Gram stain). A serial which contains microorganisms is unsatisfactory for release.

(b) *Safety test.* Final container samples of completed product from each serial shall be tested for safety. Two mature guinea pigs shall be injected subcutaneously with 1 ml and observed for 10 days. If unfavorable reactions attributable to the product occur during the observation period, the serial is unsatisfactory. If unfavorable reactions occur which are not attributable to the product, the test shall be declared inconclusive and repeated; *Provided*, That if the test is not repeated, the serial shall be declared unsatisfactory.

(c) *Potency test.* Final container samples of completed product from each serial shall be subjected to a comparison test using a Reference Tuberculin supplied by Veterinary Services. Test animals shall be 10 sensitized white female guinea pigs from one source which weigh 500-700 grams at the beginning of the test and which have not been used in a previous test. The comparison test shall be conducted in accordance with the procedures prescribed in paragraph (c) (1), (2), (3), (4), (5), (6), (7), and (8) of this section.

(1) The guinea pigs shall be sensitized with a sterile heat-killed suspension of equal amounts of strains Pn, C, and Dt of *Mycobacterium tuberculosis*. The heat-killed sensitizing agent shall be injected intramuscularly into the medial side of both thighs in dosages of 0.25 ml per injection site for a total of 0.5 ml per guinea pig. The guinea pigs shall be sufficiently sensitized for testing not less than 30 days nor more than 120 days post-injection.,

(2) The guinea pigs shall be prepared for sensitivity testing at least 4 hours prior to the injection of tuberculin. The entire abdominal and flank areas shall be clipped, a depilatory agent applied for 5-10 minutes, the area rinsed with warm water, and dried.

(3) Dilutions of 1:100, 1:200, and 1:400 shall be prepared with the Reference Tuberculin and the unknown tuberculin. Three test sites on each side of and equidistant from the abdominal midline shall be chosen on each guinea pig. Using a tuberculin syringe and needle, 0.05 ml of each dilution shall be injected intradermally at one of the test sites which has been randomly selected for the dilution.

(4) The sensitivity of the tuberculins shall be determined 24 hours after injection by measuring the area of swelling and erythema. Measurements in millimeters shall be made anterior of the greatest diameter and perpendicular to the first measurement. The square millimeter shall be calculated by multiplying the two measurements.

(5) The total area of response for each tuberculin tested shall be determined by adding the areas of each dilution of each of the test animals in a group. The sums for all three dilutions of each tuberculin shall be added to give the total area of tuberculin response.

(6) The total tuberculin response area of the serial being tested shall be expressed as a percentage of the total tuberculin response area of the Reference Tuberculin. (The total response area of the serial divided by the total response area of the Reference Tuberculin times 100.)

(7) If the total tuberculin response area of the serial being tested does not fall between 75 percent and 125 percent of the total tuberculin response area of the Reference Tuberculin, the serial is unsatisfactory.

(8) "No Test"—Two unsensitized guinea pigs are given intradermal injections of 0.05 ml dilutions of 1:4 and 1:10 of both the serial being tested and the Reference Tuberculin as a control for false positive reactions. If false positive reactions are observed, the test shall be considered a "No Test" and the serial shall be retested.

(d) *Special chemical tests and requirements.* Final container samples of completed product from each serial shall be tested as follows:

(1) *Hydrogen ion concentration.* The hydrogen ion concentration shall be determined with a pH meter which has been standardized with a pH 7.0 buffer just prior to use. The pH of the product shall be 7.0±0.3.

(2) *Total nitrogen determination.* The nitrogen content shall be determined by the Kjeldahl method on duplicate 15 ml samples consisting of 5 ml from each of three vials. The total nitrogen content of the product shall be 0.18 percent±0.06 percent.

(3) *Trichloroacetic acid precipitable nitrogen.* The determination of precipitable nitrogen by a final concentration of 4 percent trichloroacetic acid shall be made by the Kjeldahl method on duplicate 15 ml samples, consisting of 5 ml from each of three vials. The trichloroacetic acid precipitable nitrogen content shall be 0.047 percent±0.01 percent.

(4) *Phenol determination.* The phenol content shall be determined by direct titration with a standardized bromide-bromate solution. (A correction factor of 0.04 should be subtracted from the final value in the determination of phenol in tuberculin.) The phenol content shall be 0.54 percent±0.04 percent.

(5) *Clarity.* The product shall be optically clear and free from any extraneous particles.

### § 113.66 Pullorum antigen.

Pullorum Antigen shall be produced from a culture of representative strains of *S. pullorum* which are of known antigenic composition, high agglutinability, but are not sensitive to negative and nonspecific serum. Each serial shall be tested for purity, density, preservative content, sensitivity, homogeneity, and hydrogen ion concentration. A serial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product shall be tested for viable bacteria and fungi as prescribed in § 113.26. In addition, each serial shall be free from extraneous organisms as determined by Gram staining and microscopic examination.

(b) *Nephelometric determination of bacterial density.* The bacterial density shall be 80±15 times McFarland No. 1 standard for stained antigen K's and 50±10 times McFarland No. 1 standard for tube antigen.

(c) *Preservative requirements.* (1) The formalin content of Pullorum Stained Antigen K shall be 1.0±0.2 percent as determined by a colorimetric method.

(2) The phenol content for Pullorum Tube Antigen shall be 0.55±0.05 percent as determined by direct titration with a standardized bromide-bromate solution.

(d) *Sensitivity requirements.* (1) Each serial of antigen shall be compared with a reference antigen of known sensitivity using positive and negative chicken serum. The manufacturers' recommendations for use on the accompanying label or package insert shall be followed. The recommended time limit specified for each antigen shall be carefully observed in the test.

(2) A total of at least 12 serums shall be used. This shall include at least three definitely positive, at least three weakly positive, and at least six negative serums. At least three positive chicken serums diluted with negative chicken serum shall be used to further assay comparative sensitivity between test and reference plate antigens. All test antigens shall agree closely with the reference antigen. Tests in which variation of readings between the reference and test antigen would result in a different National Poultry Improvement Plan classification shall be regarded as unsatisfactory. No unsatisfactory tests among the six or more negative serums and not more than one unsatisfactory test among the six or more positive serums shall be permitted. All tests performed shall be included for evaluation of the sensitivity assay. In the event of an unsatisfactory test using positive serums, at least three additional definitely positive and three additional weakly positive serums shall be tested. If not more than one unsatisfactory test is obtained with the additional serums, the antigen shall be acceptable.

(e) *Homogeneity requirement.* Antigens shall show no evidence of autoagglutination or unusual appearance such as the presence of flakes, specks, or a preponderance of filament forms. Microscopic examination may aid in this determination.

(f) *Hydrogen ion concentration requirements.* Each serial of all Pullorum Antigens shall be tested for hydrogen ion concentration. Use of a standard pH meter, calibrated with Standard pH 4.0 buffer solution, is recommended. Such test shall indicate a hydrogen ion concentration of pH 4.6 ± 0.4 for the Pullorum Stained Antigen K's. No pH level is specified for Pullorum Tube Antigen, but after dilution as recommended for use, it shall have a pH of 8.2-8.5.

### § 113.67 Avian mycoplasma antigen.

Mycoplasma antigens shall be prepared from organisms grown in broth cultures that are inactivated and standardized. Plate antigens shall be stained with an acceptable dye, but tube antigens shall be unstained. Final container samples of completed product from each serial shall be tested for density, preservative content, homogeneity, hydrogen ion concentration, purity, sensitivity, and specificity in accordance with the conditions prescribed for each test. A serial found unsatisfactory by any prescribed test shall not be released.

(a) *Density requirements.* A 2.5 ml sample of completed antigen shall be diluted with 2.5 ml of Sorenson's buffer solution (use buffer solution at pH 6.0 for Mycoplasma Gallisepticum Plate Antigen and at pH 7.0 for Mycoplasma Gallisepticum Tube Antigen and Mycoplasma Synoviae Plate Antigen) in a







V 38-180
SEP 18 73
XUM

modified Hopkins tube and sedimented at 1,000 × g in a refrigerated centrifuge at 20° C for 90 minutes. If the packed cell volume of the completed antigen is not 1.0 percent (± 0.2 percent), the serial is unsatisfactory.

(b) *Preservative requirements.* Only preservatives written in an approved Outline of Production shall be used. If phenol is used, a direct titration with a standardized bromide-bromate solution shall be made; *Provided,* That if the final concentration of phenol is not 0.25 percent (± 0.05 percent), the serial is unsatisfactory.

(c) *Homogeneity requirements.* (1) Plate antigen shall be checked on a plate for homogeneity. If plate antigen is not homogeneous and free of visible particles and clumps, the serial is unsatisfactory.

(2) Tube antigen shall be checked for homogeneity and autoagglutination. If tube antigen is not homogeneous and free of large visible particles and clumps, or if it autoagglutinates, the serial is unsatisfactory.

(3) Stereo-microscopic examination shall be used when necessary to evaluate a granular appearing antigen.

(d) *Hydrogen ion concentration requirements.* If the antigen does not have a pH of 6.0 ± 0.2 unit for Mycoplasma Gallisepticum Plate Antigen, or 7.0 ± 0.2 unit for Mycoplasma Gallisepticum Tube Antigen and Mycoplasma Synoviae Plate Antigen, the serial is unsatisfactory.

(e) *Purity requirements.* The antigen shall be tested for viable bacteria and fungi as prescribed in § 113.26.

(f) *Sensitivity requirements.* (1) Mycoplasma Gallisepticum Antigen—Plate or Tube Test reactions of the serial shall be compared with a reference antigen using both known negative chicken and turkey serums (the positive serums shall have varying degrees of reactivity from weakly positive to strongly positive). Five positive serums shall be tested against plate antigen in the 1:4 dilution or tube antigen in the 1:20 dilution; five negative serums shall be tested against plate antigen undiluted or tube antigen in the 1:20 dilution. If negative serums do not have negative reactions in this test or the test antigen and the reference antigen do not have the same reactions with the positive serums or both, the serial is unsatisfactory; *Provided,* That a variation is permitted with one of the five serums in each set used.

(2) Mycoplasma Synoviae Antigen, Plate—Test reactions of the serial shall be compared with a reference antigen using both known negative chicken serum and positive chicken serums. The five negative serums shall be tested against the antigen undiluted and the positive serums shall be tested against the antigen in the 1:4 dilution. If negative serums do not have negative reactions in this test or the test antigen and the reference antigen do not have the same reactions with the positive serums or both, the serial is unsatisfactory; *Provided,* That a variation is permitted with one of the five serums in each set used.

(g) *Specificity requirements.* Mycoplasma Synoviae Antigen shall be examined for cross-agglutination with Mycoplasma gallisepticum antiserum. If cross-agglutination occurs, the serial is unsatisfactory.

**§ 113.68–§ 113.74 [Reserved]**

**§ 113.75 General requirements for biological products of animal blood origin.**

Each serial of biological product prepared from the blood of animals shall comply with the general requirements prescribed in this section unless otherwise provided for in a Standard Requirement or approved Outline of Production for such product. Any serial found unsatisfactory by a prescribed test shall not be released.

(a) *Purity requirements.* Biological products of animal blood origin shall contain only serum constituents, preservatives, and safe amounts of chemicals used in the manufacturing procedures. Final container samples of completed product shall be tested for viable microorganisms as provided in § 113.26.

(b) *Safety requirements.* Bulk or final container samples of completed product from each serial shall be tested for safety as provided in § 113.39.

(c) If no label claim for specific antibody content can be substantiated by the licensee, the product shall be considered a normal serum; *Provided,* That, if the serum does contain demonstrable antibodies which have been produced in response to specific antigens injected into the blood producing animals, the product shall be considered an antiserum, except that:

(1) An antiserum concentrated at least twofold by the removal of water may be considered an antibody concentrate; and

(2) An antiserum fractionated by suitable means to remove most of the nonglobulin material and concentrated to increase the amount of globulin at least twofold over the amount in the original antiserum may be considered a globulin concentrate.

(d) Normal serum, antiserum, and antiserum derivatives shall contain at least one preservative in the following table. The amount shall be within the range of concentration set forth and the type used shall be indicated on the label.

(1) Phenol 0.25 to 0.55 percent, or

(2) Cresol 0.10 to 0.30 percent, and/or

(3) Thimerosal 0.01 to 0.03 percent, or

(4) Other preservative(s) specified in the approved Outline of Production for the product.

(e) If a potency test has been issued in a Standard Requirement or is written in an approved Outline of Production for an antiserum, an antiserum concentrate, or a globulin concentrate, the potency shall be sufficient for the product to satisfactorily meet the requirements of such test. Unless otherwise specified in the test procedure, the test sample of antiserum concentrate or globulin concentrate shall be diluted with 1 percent peptone solution to a volume equal to the contents of the sample times the concentration factor specified in such approved Outline of Production prior to conducting the test.

(f) If a potency test has not been issued in a Standard Requirement or is not written into an approved Outline of Production for an antiserum, an antiserum concentrate, or a globulin concentrate, such product shall meet the requirements in this paragraph.

(1) The globulin content of antiserum, normal serum, and globulin concentrate shall be determined by electrophoretic mobility or other equally acceptable tests.

(i) The globulin content of antiserum and normal serum shall equal or exceed the amounts per ml listed according to the species of origin as follows:

| Species: | *Globulin (mg/ml)* |
|---|---|
| Bovine | 45 |
| Equine | 50 |
| Porcine | 35 |
| Canine | 25 |
| Feline | 25 |

(ii) The globulin content of globulin concentrate shall exceed the value given for the antiserum from a particular species by the multiple of the concentration factor prescribed in the approved Outline of Production.

(iii) Globulin concentrates shall be fractionated in such a manner that the protein content shall contain greater than 90 percent globulin as determined by electrophoretic mobility or other acceptable tests.

(2) The level of protein content for antiserum and normal serum shall equal or exceed the amounts per ml listed according to the species of origin as follows:

| Species: | *Protein (mg/ml)* |
|---|---|
| Bovine | 60 |
| Equine | 60 |
| Porcine | 55 |
| Canine | 45 |
| Feline | 45 |

(3) The protein content of an antiserum concentrate shall exceed the value given in the table for the antiserum from a particular species in paragraph (f)(2) of this section by the multiple of the concentration factor prescribed in the approved Outline of Production.

**§ 113.76 Tetanus Antitoxin.**

Tetanus Antitoxin is a specific antibody obtained from the blood of healthy horses hyperimmunized with an antigen prepared with a good toxin-producing strain of *Clostridium tetani.* Each serial shall meet the general requirements provided in paragraph (a) of this section and shall be tested for purity, safety, and potency as provided in paragraphs (b), (c), and (d) of this section. Any serial found unsatisfactory by a prescribed test shall not be released.

(a) *General requirements.* The amount of antitoxin in a final container shall be the amount which is delivered from such container when opened and inverted until the flow stops. A graduated volumetric





cylinder which conforms to the National Bureau of Standards requirements shall be used. The reading shall be made at the bottom of the meniscus and recorded to the nearest 0.1 ml.

(1) All final containers of Tetanus Antitoxin shall yield not less than the labeled unitage of antitoxin throughout the dating period. The minimum package size permitted for marketing in the United States shall be a 1,500 unit vial.

(2) The expiration date of Tetanus Antitoxin shall be not more than 3 years after the date of a potency test demonstrating that the recoverable volume of the final container provides a 20 percent excess over the labeled unitage.

(b) *Purity test.* Final container samples of completed product from each serial shall be tested for viable bacteria and fungi as prescribed in § 113.26.

(c) *Safety test.* Final container samples of completed product from each serial shall be tested for safety as provided in § 113.39.

(d) *Potency test.* Final container samples of completed product from each serial shall be assayed to determine the units of tetanus antitoxin in each final container. A comparative toxin-antitoxin neutralization test shall be conducted using a standard antitoxin and a standard toxin. All dilutions shall be made with a M 15 phosphate buffered (pH 7.4) physiological saline with 0.2 percent gelatin.

(1) One ml of the standard antitoxin shall be diluted before use so the final volume contains 0.1 unit per ml.

(2) The standard toxin test dose is that amount which when mixed with 0.1 unit of standard antitoxin, incubated at room temperature for 1 hour, and injected subcutaneously into a 350 gram guinea pig, results in death of that guinea pig within approximately 96 hours with clinical signs of tetanus. The toxin shall be diluted so the test dose shall be in 2.0 ml.

(3) A mixture of diluted standard toxin and diluted standard antitoxin shall be made so 0.1 unit of antitoxin is combined with a test dose of toxin. This standard toxin-antitoxin mixture shall be held at room temperature for 1 hour before injections are made.

(4) Each serial of antitoxin shall be prepared as was the standard toxin-antitoxin mixture, except the amount of antitoxin shall be based on an estimation of the expected potency. The final titration shall include a test at the expected unit value, one dilution above and one below.

(5) Normal guinea pigs weighing within a range of 340–380 grams shall be used. Pregnant guinea pigs must not be used.

(i) Each of two guinea pigs (controls) shall be injected subcutaneously with a 3.0 ml dose of the standard toxin-antitoxin mixture. These shall be observed parallel with the titration of one or more unknown antitoxins.

(ii) Two guinea pigs shall be used as test animals for each of three dilutions of the unknown antitoxin. A 3.0 ml dose shall be injected subcutaneously into each animal.

(6) Controls shall be observed until all are dead, or for 6 days, the time of death being recorded in hours. To be a satisfactory test, the controls must die with clinical signs of tetanus in 60–120 hours, the mean time of death being approximately 96 hours. The clinical signs to be observed are increased muscle tonus, curvature of the spine, asymmetry of the body outline when the resting animal is viewed from above, generalized spastic paralysis, particularly of the extensor muscles, inability to rise from a smooth flat surface when the animal is placed on its side, or any combination of these signs.

(7) Potency of a new antitoxin is determined by finding the mixture which will protect the test animal the same as the standard toxin-antitoxin mixture. Test animals dying sooner than the controls indicate the unit value selected in that dilution was not present, whereas those living longer indicate a greater unit value.

**§ 113.77 Swine erysipelas antiserum.**

Swine Erysipelas Antiserum shall be prepared from the blood of horses hyperimmunized with antigenic strains of *Erysipelothrix insidiosa.* Each serial shall be tested for purity, safety, and potency as provided in this section. Any serial found unsatisfactory by a prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product from each serial and subserial shall be tested for viable bacteria and fungi as prescribed in § 113.26.

(b) *Safety test.* Bulk or final container samples of completed product from each serial shall be tested for safety as provided in § 113.39.

(c) *Potency test.* Bulk or final container samples of completed product from each serial shall be tested using the following two-stage test:

(1) In the first stage, each of 40 Swiss albino mice, each weighing 16–20 grams, shall be injected subcutaneously with 0.1 ml of antiserum. Twenty-four hours postinjection, the injected mice and 10 additional mice designated as controls shall be challenged subcutaneously with the same culture of *Erysipelothrix insidiosa.*

(2) If the controls do not die from erysipelas within 7 days post-challenge, the test is invalid. All dead mice shall be examined to determine if the cause of death was the erysipelas organism.

(3) The antiserum injected mice shall be observed for 14 days post-challenge and all deaths recorded. The second stage shall be required when 7–10 of the antiserum injected mice die in the first stage. The second stage shall be conducted in a manner identical to the first stage.

(4) The results of the test shall be evaluated according to the following table:

| Stage | Number of vaccinates | Cumulative number of vaccinates | Cumulative total number of deaths for a satisfactory test | Cumulative total number of deaths giving an unsatisfactory test |
|---|---|---|---|---|
| 1 | 40 | 40 | 6 or less | 11 or more. |
| 2 | 40 | 80 | 12 or less | 13 or more. |

**§ 113.78 Canine Distemper-Hepatitis-Leptospira Antiserum.**

The antiserum shall be prepared from blood of dogs hyperimmunized with canine distemper virus, canine hepatitis virus, and one or more leptospira species until the final product shall provide passive immunity against the disease agents named on the label. Each serial and subserial shall be tested for purity, safety, and potency as provided in this section. A serial or subserial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product from each serial and subserial shall be tested for viable bacteria and fungi as prescribed in § 113.26.

(b) *Safety test.* Bulk or final container samples of completed product from each serial shall be tested for safety as provided in § 113.39. Also, each of two healthy dogs shall be injected subcutaneously with the maximum dose recommended on the label for 1 pound body weight of a dog and each shall be injected intravenously with the maximum dose recommended on the label for 1 pound body weight of a dog. The injected dogs shall be observed for 14 days for unfavorable reactions. If unfavorable reactions attributable to the product occur in one or both of the dogs, the serial or subserial is unsatisfactory. If unfavorable reactions which are not attributable to the product occur, the test shall be declared inconclusive and may be repeated; *Provided,* That, if the test is not repeated, the serial shall be declared unsatisfactory.

(c) *Potency tests.* Bulk or final container samples of completed product from each serial shall be tested for potency as provided in this paragraph. Concentrated products shall be diluted with 1 percent peptone solution to the equivalence of regular serum before testing. Standard antiserums and standard viruses, available upon request to Veterinary Services, shall be used.

(1) *Distemper fraction.* A virus neutralization test using chick embryo inoculation technique shall be conducted.

(i) Serial threefold dilutions shall be made of the serum under test and the standard antiserum. A volume of each serial dilution of serum shall be mixed with an equal volume of standard virus. For use in the test, the standard virus shall be diluted to contain 100–1,000 $EID_{50}$ per 0.1 ml.

(ii) A 1:2 dilution of the standard virus, as prepared for use in the test, shall be titrated in tenfold dilutions to determine the actual amount of virus used in the neutralization test. These dilutions shall be incubated along with serum/virus mixtures.

(iii) After 1 hour incubation at room temperature, 0.2 ml of each serum/virus mixture shall be inoculated onto the chorioallantoic membrane of at least five chicken embryos 6–8 days old. The inoculated embryos shall be incubated at 35–37° C for 6–7 days and the chorioallantoic membranes examined. Calculate the 50 percent end point of neutralization ($ND_{50}$) by the Reed and Muench or other acceptable statistical method.



V 38-180
SEP 18 73
XUM

(iv) The $ND_{50}$ dilution of the test serum divided by the $ND_{50}$ dilution of the standard serum is the test serum to standard ratio. A serial is unsatisfactory unless the average ratio of two tests is 0.67 or more.

(2) *Hepatitis fraction.* A virus neutralization test using canine kidney cell culture as the indicator system shall be conducted.

(i) Serial threefold dilutions shall be made of the antiserum under test and the standard antiserum. A volume of each serial dilution of serum shall be mixed with an equal volume of standard virus. The standard virus shall contain 100–1,000 $TCID_{50}$ per 0.1 ml.

(ii) A 1:2 dilution of the standard virus, as prepared for use in the test, shall be titrated in tenfold dilutions to determine the actual amount of virus used in the neutralization test. These dilutions shall be incubated along with serum/virus mixtures before inoculation of culture tubes.

(iii) After 1 hour incubation at room temperature, 0.2 ml of each serum/virus mixture shall be inoculated into five culture tubes containing dog kidney cell monolayers. The inoculated tubes shall be incubated at 35–37° C.

(iv) The tubes shall be observed daily for specific cytophathogenic changes from the 4th to 10th day postinoculation. The test shall be terminated before the 10th day if additional cytopathogenic changes do not occur in virus titration tubes over a 48 hour period.

(v) Results shall be recorded and the 50 percent end point of neutralization ($ND_{50}$) calculated by the Reed and Muench or other acceptable statistical method.

(vi) The $ND_{50}$ dilution of the test serum divided by the $ND_{50}$ dilution of the standard serum is the test serum to standard ratio. A serial is unsatisfactory unless the average ratio of two tests is 0.67 or more.

(3) *Leptospira fraction.* Young adult hamsters, each weighing 40–50 grams, shall be used as test animals. For each species of leptospira antibody included in the product, each of at least five hamsters shall be injected with 60 percent of the minimum dose recommended on the label for 1 pound body weight of a dog and at least five additional hamsters shall be used as controls.

(i) Within 24 hours following injection, the five injected hamsters and the five control hamsters for each species of leptospira shall be challenged intraperitoneally with a suspension of virulent leptospira organisms representative of the species. A dose of 10–1,000 hamster $LD_{50}$ shall be used. Both groups shall be observed for 14 days post-challenge and the results noted.

(ii) The test shall be conclusive if at least 80 percent of the controls in each group die from leptospirosis as demonstrated by acceptable cultural methods.

(iii) If the test is considered conclusive as provided in paragraph (c) (3) (ii) of this section, and less than 80 percent of the injected hamsters in a group remain normal during the observation period, the serial is unsatisfactory.

**§ 113.79 Clostridium Perfringens Type C Antitoxin.**

Clostridium Perfringens Type C Antitoxin shall be prepared from the blood of horses hyperimmunized with Clostridium Perfringens Type C toxin. Each serial shall be tested for purity, safety, and potency as provided in this section. A serial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product from each serial and each subserial shall be tested for viable bacteria and fungi as provided in § 113.26.

(b) *Safety test.* Bulk or final container samples of completed product from each serial shall be tested for safety as provided in § 113.39.

(c) *Potency test.* Bulk or final container samples of completed product from each serial shall be tested using the toxin-neutralization test for Beta Antitoxin provided in this paragraph.

(1) When used in this test, the following words and terms shall mean:

(i) *International antitoxin unit.* (I.U.) That quantity of Beta Antitoxin which reacts with $L_0$ and $L_+$ doses of Standard Toxin according to their definitions.

(ii) *$L_+$ dose.* The largest quantity of toxin which can be mixed with one unit of Standard Antitoxin and not cause sickness or death in injected mice.

(iii) *$L_+$ dose.* The smallest quantity of toxin which can be mixed with one unit of Standard Antitoxin and cause death in at least 80 percent of injected mice.

(iv) *Standard antitoxin.* The Beta Antitoxin preparation which has been standardized as to antitoxin unitage on the basis of the International *Clostridium perfringens* Beta Antitoxin Standard and which is either supplied by or acceptable to Veterinary Services. The antitoxin unit value shall be stated on the label.

(v) *Standard toxin.* The Beta toxin preparation which is supplied by or is acceptable to Veterinary Services.

(vi) *Diluent.* The solution used to make proper dilutions prescribed in this test. Such solution shall be made by dissolving 1 gram of peptone and 0.25 gram of sodium chloride in each 100 ml of distilled water; adjusting the pH to 7.2; autoclaving at 250° F for 25 minutes; and storing at 4° C until used.

(2) The antitoxin content of the test sample shall be determined as follows:

(i) Make a dilution of Standard Antitoxin to contain 10 International Units of antitoxin per ml.

(ii) Make one dilution of Standard Toxin to contain 10 $L_0$ doses per ml and make a second dilution of Standard Toxin to contain 10 $L_+$ doses per ml.

(iii) Dilute 1 ml of the test sample with 49 ml of diluent and combine with 1 ml of the Standard Toxin diluted to contain 10 $L_+$ doses.

(iv) Combine 10 International Units of Standard Antitoxin with 10 $L_0$ doses of diluted Standard Toxin and combine 10 International Units of Standard Antitoxin with 10 $L_+$ doses of diluted Standard Toxin.

(v) Neutralize all toxin-antitoxin mixtures at room temperature for 1 hour and hold in ice water until injections of mice can be made.

(vi) Five Swiss white mice, each weighing 16–20 grams, shall be used for each toxin-antitoxin mixture. A dose of 0.2 ml shall be injected intravenously into each mouse. Conclude the test 24 hours post-injection and record all deaths.

(3) Test Interpretation. (i) If any mice inoculated with the mixture of 10 International Units of Standard Antitoxin and 10 $L_0$ doses of Standard Toxin die, the results of the test are inconclusive and shall be repeated; *Provided*, That, if the test is not repeated, the serial shall be declared unsatisfactory.

(ii) If less than 80 percent of the mice inoculated with the mixture of 10 International Units of Standard Antitoxin and 100 $L_+$ doses of Standard Toxin die, the results of the test are inconclusive and shall be repeated; *Provided*, That, if the test is not repeated, the serial shall be declared unsatisfactory.

(iii) If any mice inoculated with the mixture of Clostridium Perfringens Type C Antitoxin diluted 1:50 and 10 $L_0$ doses of Standard Toxin die, the antitoxin is considered to contain less than 500 International Unit per ml and the serial is unsatisfactory.

**§ 113.80 Clostridium Perfringens Type D Antitoxin.**

Clostridium Perfringens Type D Antitoxin shall be prepared from the blood of horses hyperimmunized with Clostridium Perfringens Type D toxin. Each serial shall be tested for purity, safety, and potency as provided in this section. A serial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product from each serial and each subserial shall be tested for viable bacteria and fungi as provided in § 113.26.

(b) *Safety test.* Bulk or final container samples of completed product from each serial shall be tested for safety as provided in § 113.39.

(c) *Potency test.* Bulk or final container samples of completed product from each serial shall be tested using the toxin-neutralization test for Epsilon Antitoxin provided in this paragraph.

(1) When used in this test, the following words and terms shall mean:

(i) *International antitoxin unit.* (I.U.) That quantity of Epsilon Antitoxin which reacts with $L_0$ and $L_+$ doses of Standard Toxin according to their definitions.

(ii) *$L_0$ dose.* The largest quantity of toxin which can be mixed with one-tenth unit of Standard Antitoxin and not cause sickness or death in injected mice.

(iii) *$L_+$ dose.* The smallest quantity of toxin which can be mixed with one-tenth unit of Standard Antitoxin and cause death in at least 80 percent of injected mice.

(iv) *Standard antitoxin.* The Epsilon Antitoxin preparation which has been standardized as to antitoxin unitage on the basis of the International *Clostridium perfringens* Epsilon Antitoxin Standard and which is either supplied by or





acceptable to Veterinary Services. The antitoxin unit value shall be stated on the label.

(v) *Standard toxin.* The Epsilon toxin preparation which is supplied by or is acceptable to Veterinary Services.

(vi) *Diluent.* The solution used to make proper dilutions prescribed in this test. Such solution shall be made by dissolving 1 gram of peptone and 0.25 gram of sodium chloride in each 100 ml of distilled water; adjusting the pH to 7.2; autoclaving at 250° F for 25 minutes; and storing at 4° C until used.

(2) The antitoxin content of the test sample shall be determined as follows:

(i) Make a dilution of Standard Antitoxin to contain 1 International Unit of antitoxin per ml.

(ii) Make one dilution of Standard Toxin to contain 10 $L_0$ doses per ml and make a second dilution of Standard Toxin to contain 10 $L_+$ doses per ml.

(iii) Dilute 1 ml of the test sample with 33 ml of diluent and combine with 1 ml of the Standard Toxin diluted to contain 10 $L_0$ doses.

(iv) Combine 1 International Unit of Standard Antitoxin with 10 $L_0$ doses of Standard Toxin and combine 1 International Unit of Standard Antitoxin with 10 $L_+$ doses of Standard Toxin.

(v) Neutralize all toxin-antitoxin mixtures at room temperature for 1 hour, and hold in ice water until injections of mice can be made.

(vi) Five Swiss white mice, each weighing 16–20 grams, shall be used for each toxin-antitoxin mixture. A dose of 0.2 ml shall be injected intravenously into each mouse. Conclude the test 24 hours post-injection and record all deaths.

(3) Test Interpretation. (i) If any mice inoculated with the mixture of 1 International Unit of Standard Antitoxin and 10 $L_0$ doses of Standard Toxin die, the results of the test are inconclusive and shall be repeated; *Provided*, That, if the test is not repeated, the serial shall be declared unsatisfactory.

(ii) If less than 80 percent of the mice inoculated with mixture of 1 International Unit of Standard Antitoxin and 10 $L_+$ doses of Standard Toxin die, the results of the test are inconclusive and shall be repeated; *Provided, That*, if the test is not repeated, the serial shall be declared unsatisfactory.

(iii) If any mice inoculated with the mixture of Clostridium Perfringens Type D Antitixin diluted 1:34 and 10 $L_0$ doses of Standard Toxin die, the antitoxin is considered to contain less than 34 International Unit per ml and the serial is unsatisfactory.

**§ 113.81–§ 113.84 [Reserved]**

INACTIVATED BACTERIAL PRODUCTS

**§ 113.85 Bacterins, toxoids, and bacterin-toxoids.**

Basic requirements for bacterins, toxoids, and bacterin-toxoids are provided in this section.

(a) *A bacterin* shall be a suspension of organisms, or their particulate components with or without their unevaluated growth products, which have been inactivated by chemical or physical means; and the basic immunizing antigens are believed to be primarily cellular. When a bacterin is combined with one or more inactivated bacterial products, the combination shall also be considered as a bacterin.

(b) *A toxoid* shall be a sterile, aqueous filtrate resulting from growth of bacterial organisms in a suitable culture medium and which has subsequently been rendered nontoxic without appreciable loss of antigenic value as measured by suitable animal tests. Toxoid shall not be applied to a product which has not had the bacterial cells removed during process. When a toxoid is combined with one or more toxoids, the combination shall be considered as a toxoid.

(c) *A bacterin-toxoid* shall be the toxic growth products of bacterial organisms propogated in suitable medium, containing all or part of the cells or their particulate components from the original culture or in a combination of such fractions which have been rendered nontoxic and inactivated without appreciable loss of antigenic value as measured by suitable animal tests. Bacterin-toxoid shall contain cellular antigens and shall stimulate development of antitoxin. When a bacterin-toxoid is combined with one or more bacterin-toxoids or toxoids, the combination shall be considered as a bacterin-toxoid.

(d) Bacterins used as diluents. Bacterins authorized for use as diluents in combination packages include Leptospira Pomona Bacterin, Leptospira Canicola Bacterin, Leptospira Icterohaemorrhagiae Bacterin, and Pasteurella Bacterin. All serials and subserials of these bacterins shall be subject to the special requirements in this paragraph.

(1) Only serials tested for viricidal activity in accordance with the test provided in § 113.35 as set out in the notice of proposed rulemaking published in the FEDERAL REGISTER, Volume 38, No. 112, on June 12, 1973, page 15453, and found satisfactory by such test shall be packaged as diluent for desiccated fractions in combination packages.

(2) The carton labels and enclosures used with serials not found satisfactory by the viricidal activity test shall contain the statement: "CAUTION: DO NOT USE AS DILUENT FOR LIVE VIRUS VACCINES."

(e) If formaldehyde is used as the inactivating agent and the serial has not been found satisfactory by the viricidal activity test, bulk or final container samples of completed product from each serial shall be tested for residual free formaldehyde content using the Basic Fuchsin Test.

(1) The residual free formaldehyde content of biological products containing Clostridial antigens shall not exceed the equivalent of 0.5 percent formaldehyde solution (1,850 parts per million).

(2) The residual free formaldehyde content of bacterins, bacterin-toxoids, and toxoids other than those containing Clostridial antigens, shall not exceed the equivalent of 0.2 percent formaldehyde solution (740 parts per million).

**§ 113.86 Leptospira pomona bacterin.**

Leptospira Pomona Bacterin shall be produced from a culture of *Leptospira pomona* which has been rendered sterile and nontoxic. Each serial of biological product containing *Leptospira pomona* fraction shall be tested for purity, safety, potency, viricidal activity and/or residual formaldehyde. A serial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product from each serial and each subserial shall be tested for viable bacteria and fungi as provided in § 113.26.

(b) *Safety test.* Bulk or final container samples of completed product from each serial shall be tested for safety as provided in § 113.38.

(c) *Potency test.* Bulk or final container samples of completed product shall be diluted with physiological saline so that each 0.25 ml contains not more than 1/800th of the dose recommended on the label for cattle and shall be tested for potency, using the two-stage test provided in this paragraph.

(1) *Vaccinates.* Inject each of 10 young adult hamsters, each weighing 50–90 grams, with 0.25 ml of the diluted bacterin either subcutaneously or intramuscularly in accordance with the label recommendations for use in cattle.

(2) *Controls.* Retain 10 additional hamsters from the same group as unvaccinated controls.

(3) *Challenge.* From 14–18 days postvaccination, challenge each vaccinate and each control intraperitoneally with a suspension of virulent *Leptospira pomona* organisms, using a dose of 10–1,000 hamster $LD_{50}$.

(4) *Post-challenge period.* Observe the vaccinates and controls for 14 days postchallenge and record all deaths. If eight or more controls die, the test is valid and the results shall be evaluated according to the following table:

| Stage | Number of vaccinates | Cumulative number of vaccinates | Cumulative total dead hamsters for satisfactory serial | Cumulative total dead hamsters for unsatisfactory serial |
|---|---|---|---|---|
| 1 | 10 | 10 | 2 or less | 5 or more. |
| 2 | 10 | 20 | 5 or less | 6 or more. |

(5) If three or four vaccinates die in the first stage, the second stage shall be conducted in a manner identical to the first stage.

(6) If the second stage is used, each serial shall be evaluated according to the second part of the table. On the basis of cumulative results, each serial shall either pass or fail.

**§ 113.87 Leptospira Icterohaemorrhagiae Bacterin.**

Leptospira Icterohaemorrhagiae Bacterin shall be produced from a culture of *Leptospira icterohaemorrhagiae* which



V 38-180 SEP 18 73 XUM

has been rendered sterile and nontoxic. Each serial of biological product containing *Leptospira icterohaemorrhagiae* fraction shall be tested for purity, safety, potency, viricidal activity and/or residual formaldehyde. A serial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product from each serial and each subserial shall be tested for viable bacteria and fungi as provided in § 113.26.

(b) *Safety test.* Bulk or final container samples of completed product from each serial shall be tested for safety as provided in § 113.38.

(c) *Potency test.* Bulk or final container samples of completed product shall be diluted with physiological saline so that each 0.25 ml contains not more than 1/80th of the dose recommended on the label for dogs and shall be tested for potency, using the two-stage test provided in this paragraph.

(1) *Vaccinates.* Inject each of 10 young adult hamsters, each weighing 50–90 grams, with 0.25 ml of the diluted bacterin either subcutaneously or intramuscularly in accordance with the label recommendations for use in dogs.

(2) *Controls.* Retain 10 additional hamsters from the same group as unvaccinated controls.

(3) *Challenge.* From 14-18 days postvaccination, challenge each vaccinate and each control intraperitoneally with a suspension of virulent *Leptospira icterohaemorrhagiae* organisms using a dose of 10–1,000 hamster $LD_{50}$.

(4) *Post-challenge period.* Observe the vaccinates and controls for 14 days postchallenge and record all deaths. If eight or more controls die, the test is valid and the results shall be evaluated according to the following table:

| Stage | Number of vaccinates | Cumulative number of vaccinates | Cumulative total dead hamsters for satisfactory serial | Cumulative total dead hamsters for unsatisfactory serial |
|---|---|---|---|---|
| 1..... | 10 | 10 | 2 or less..... | 5 or more. |
| 2..... | 10 | 20 | 5 or less..... | 6 or more. |

(5) If three or four vaccinates die in the first stage, the second stage shall be used. The second stage shall be conducted in a manner identical to the first stage.

(6) If the second stage is used, each serial shall be evaluated according to the second part of the table. On the basis of cumulative results, each serial shall either pass or fail.

**§ 113.88 Leptospira Canicola Bacterin.**

Leptospira Canicola Bacterin shall be produced from a culture of *Leptospira canicola* which has been rendered sterile and nontoxic. Each serial of biological product containing *Leptospira canicola* fraction shall be tested for purity, safety, potency, viricidal activity, and/or residual formaldehyde. Serials found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product from each serial and each subserial shall be tested for viable bacteria and fungi as provided in § 113.26.

(b) *Safety test.* Bulk or final container samples of completed product from each serial shall be tested for safety as provided in § 113.38.

(c) *Potency test.* Bulk or final container samples of completed product shall be diluted with physiological saline so that each 0.25 ml contains not more than 1/80th of the dose recommended on the label for dogs and shall be tested for potency, using the two-stage test provided in this paragraph.

(1) Vaccinates. Inject each of 10 young adult hamsters, each weighing 50–90 grams, with 0.25 ml of the diluted bacterin either subcutaneously or intramuscularly in accordance with the label recommendations for use in dogs.

(2) Controls. Retain 10 additional hamsters from the same group as unvaccinated controls.

(3) Challenge. From 14–18 days postvaccination, challenge each vaccinate and each control intraperitoneally with a suspension of virulent *Leptospira canicola* organisms using a dose of 10–1,000 hamster $LD_{50}$.

(4) Post-challenge period. Observe the vaccinates and controls for 14 days postchallenge and record all deaths. If eight or more controls die, the test is valid and the results shall be evaluated according to the following table:

| Stage | Number of vaccinates | Cumulative number of vaccinates | Cumulative total dead | Cumulative total dead |
|---|---|---|---|---|
| 1..... | 10 | 10 | 2 or less..... | 5 or more. |
| 2..... | 10 | 20 | 5 or less..... | 6 or more. |

(5) If three or four vaccinates die in the first stage, the second stage shall be used. The second stage shall be conducted in a manner identical to the first stage.

(6) If the second stage is used, each serial shall be evaluated according to the second part of the table. On the basis of cumulative results, each serial shall either pass or fail.

**§ 113.89–§ 113.90 [Reserved]**

**§ 113.91 Clostridium Chauvoei Bacterin.**

Clostridium Chauvoei Bacterin shall be produced from a culture of *Clostridium chauvoei* which has been rendered sterile and nontoxic. Each serial of biological product containing *Clostridium chauvoei* fraction shall be tested for purity, safety, potency, and formaldehyde content. Serials found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product from each serial and each subserial shall be tested for viable bacteria and fungi as provided in § 113.26.

(b) *Safety test.* Bulk or final container samples of completed product from each serial shall be tested for safety as provided in § 113.38.

(c) *Potency test.* Bulk or final container samples of completed product from each serial shall be tested for potency using the two-stage test provided in this paragraph.

(1) In the first stage, each of not less than eight guinea pigs, each weighing 300–500 grams, shall be injected with not more than two guinea pig doses subcutaneously at 7–10 day intervals. Each guinea pig dose shall be one-fifth of the dose recommended on the label for a calf.

(2) *Clostridium chauvoei* challenge material, available upon request from Veterinary Services, shall be used for challenge 7–14 days following the last injection of the product. Each of the eight vaccinates and each of five additional nonvaccinated guinea pigs for controls shall be injected with approximately 100 $LD_{50}$ of challenge material. The vaccinates and controls shall be observed for 3 days post-challenge and all deaths recorded.

(3) For a valid test, at least 80 percent of the controls shall die within the 3 day post-challenge observation period. If this requirement is met, the results of the potency test shall be evaluated according to the following table:

| Stage | Number of vaccinates | Cumulative number of vaccinates | Cumulative total number of deaths for a satisfactory test | Cumulative total number of deaths giving an unsatisfactory test |
|---|---|---|---|---|
| 1..... | 8 | 8 | 1 or less..... | 3 or more. |
| 2..... | 8 | 16 | 4 or less..... | 5 or more. |

The second stage shall be required only when exactly two animals die in the first stage. The second stage shall be conducted in a manner identical to the first stage.

**§ 113.92 Clostridium Hemolyticum Bacterin.**

Clostridium Hemolyticum Bacterin shall be produced from a culture of *Clostridium hemolyticum* which has been rendered sterile and nontoxic. Each serial of biological product containing *Clostridium hemolyticum* fraction shall be tested for purity, safety, potency, and formaldehyde content. A serial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product from each serial and each subserial shall be tested for viable bacteria and fungi as provided in § 113.26.

(b) *Safety test.* Bulk or final container samples of completed product from each serial shall be tested for safety as provided in § 113.38.

(c) *Potency test.* Bulk or final container samples of completed product from each serial shall be tested for potency using the two-stage test provided in this paragraph.

(1) In the first stage, each of not less than eight guinea pigs, each weighing 300–500 grams, shall be injected with not more than two guinea pig doses subcutaneously at 7–10 day intervals. Each guinea pig dose shall be one-fifth of the dose recommended on the label for a calf.

(2) *Clostridium hemolyticum* challenge material, available upon request from Veterinary Services, shall be used for challenge 7–4 days following the last injection of the product. Each of the eight vaccinates and each of five additional nonvaccinated guinea pigs for controls shall be injected with approximately 100 $LD_{50}$ of challenge material. This dose shall be determined by statistical analysis of results of titrations of the challenge material. The vaccinates and controls shall be observed for 3 days post-challenge and all deaths recorded.

(3) For a valid test, at least 80 percent of the controls shall die within the 3 day post-challenge observation period. If this requirement is met, the results of the potency test shall be evaluated according to the following table:

| Stage | Number of vaccinates | Cumulative number of vaccinates | Cumulative total number of deaths for a satisfactory test | Cumulative total number of deaths giving an unsatisfactory test |
|---|---|---|---|---|
| 1..... | 8 | 8 | 1 or less..... | 3 or more. |
| 2..... | 8 | 16 | 4 or less..... | 5 or more. |

The second stage shall be required only when exactly two animals die in the first stage. The second stage shall be conducted in a manner identical to the first stage.

**§ 113.93 Clostridium Novyi Bacterin-Toxoid.**

Clostridium Novyi Bacterin-Toxoid shall be produced from a culture of *Clostridium novyi* which has been rendered sterile and nontoxic. Each serial of biological product containing *Clostridium novyi* fraction shall be tested for purity, safety, potency, and formaldehyde content. A serial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product from each serial and each subserial shall be tested for viable bacteria and fungi as provided in § 113.26.

(b) *Safety test.* Bulk or final container samples of completed product from each serial shall be tested for safety as provided in § 113.38.

(c) *Potency test.* Bulk or final container samples of completed product from each serial shall be tested for potency using the two-stage test provided in this paragraph.

(1) In the first stage, each of not less than eight guinea pigs, each weighing 300–500 grams, shall be injected with not more than two guinea pig doses subcutaneously at 7–10 day intervals. Each guinea pig dose shall be one-fifth of the dose recommended on the label for a calf.

(2) *Clostridium novyi* challenge material, available upon request from Veterinary Services, shall be used for challenge 7–14 days following the last injection of the product. Each of the eight vaccinates and each of five additional nonvaccinated guinea pigs for controls shall be injected with approximately 100 $LD_{50}$ of challenge material. This dose shall be determined by statistical analysis of results of titrations of the challenge material. The vaccinates and controls shall be observed for 3 days post-challenge and all deaths recorded.

(3) For a valid test, at least 80 percent of the controls shall die within the 3 day post-challenge observation period. If this requirement is met, the results of the potency test shall be evaluated according to the following table:

| Stage | Number of vaccinates | Cumulative number of vaccinates | Cumulative total number of deaths for a satisfactory test | Cumulative total number of deaths giving an unsatisfactory test |
|---|---|---|---|---|
| 1..... | 8 | 8 | 1 or less..... | 3 or more. |
| 2..... | 8 | 16 | 4 or less..... | 5 or more. |

The second stage shall be required only when exactly two animals die in the first stage. The second stage shall be conducted in a manner identical to the first stage.

**§ 113.94 Clostridium Sordellii Bacterin-Toxoid.**

Clostridium Sordellii Bacterin-Toxoid shall be produced from a culture of *Clostridium sordellii* which has been rendered sterile and nontoxic. Each serial of biological product containing *Clostridium sordellii* fraction shall be tested for purity, safety, potency, and formaldehyde content. A serial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product from each serial and each subserial shall be tested for viable bacteria and fungi as provided in § 113.26.

(b) *Safety test.* Bulk or final container samples of completed product from each serial shall be tested for safety as provided in § 113.38.

(c) *Potency test.* Bulk or final container samples of completed product from each serial shall be tested for potency using the following two-stage test provided in this paragraph.

(1) In the first stage, each of not less than eight guinea pigs, each weighing 300–500 grams, shall be injected with not more than two guinea pig doses subcutaneously at 7–10 day intervals. Each guinea pig dose shall be one-fifth of the dose recommended on the label for cattle.

(2) *Clostridium sordellii* challenge material, available upon request from Veterinary Services, shall be used for challenge 20–21 days after the first injection of the product. Each of the eight vaccinates and each of five additional nonvaccinated guinea pigs for controls shall be injected with approximately 100 $LD_{50}$ of challenge material. This dose shall be determined by statistical analysis of results of titrations of the challenge material. The vaccinates and controls shall be observed for 3 days post-challenge and all deaths recorded.

(3) For a valid test, at least 80 percent of the controls shall die within the 3 day post-challenge observation period. If this requirement is met, the results of the potency test shall be evaluated according to the following table:

| Stage | Number of vaccinates | Cumulative number of vaccinates | Cumulative total number of deaths for a satisfactory test | Cumulative total number of deaths giving an unsatisfactory test |
|---|---|---|---|---|
| 1..... | 8 | 8 | 1 or less..... | 3 or more. |
| 2..... | 8 | 16 | 4 or less..... | 5 or more. |

The second stage shall be required only when exactly two animals die in the first stage. The second stage shall be conducted in a manner identical to the first stage.

**§ 113.95 Clostridium Botulinum Type C Bacterin-Toxoid.**

Clostridium Botulinum Type C Bacterin-Toxoid shall be produced from a culture of *Clostridium botulinum Type C* which has been rendered sterile and nontoxic. Each serial of biological product containing *Clostridium botulinum Type C* fraction shall be tested for purity, safety, potency, and formaldehyde content. A serial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product from each serial and each subserial shall be tested for viable bacteria and fungi as provided in § 113.26.

(b) *Safety test.* Bulk or final container samples of completed product from each serial shall be tested for safety as provided in § 113.39.

(c) *Potency test.* Bulk or final container samples of completed product from each serial shall be tested for potency, using susceptible mink as test animals. At least five vaccinates and three unvaccinated controls of approximately the same age and source shall be used.

(1) Each of the vaccinates shall be injected subcutaneously with the dose recommended on the label for mink. Twenty-one to twenty-eight days postinjection, the vaccinates and the controls shall be challenged orally with botulinum Type C toxin which has been titrated in mice to provide for a $10^{4.5}$ mouse $MLD_{50}$ dose. The titration technique shall include inoculation of the mice intraperitoneally.

(2) The vaccinates and controls shall be observed for 7 days post-challenge and signs of botulism and deaths noted. For a valid test, the controls shall die of botulism. If the test is valid and 80 percent of the vaccinates do not remain free of botulism, the serial is unsatisfactory.

**§ 113.96 Clostridium Perfringens Type C Toxoid and Bacterin-Toxoid.**

Clostridium Perfringens Type C Toxoid and Clostridium Perfringens Type C Bacterin-Toxoid shall be produced from a culture of *Clostridium Perfringens Type C* which have been rendered sterile







V 38-180 SEP 18 73 XUM

and nontoxic. Clostridium Perfringens Type C Toxoid shall be rendered free of bacteria. Each serial shall be tested for purity, safety, potency, and formaldehyde content. Any serial found unsatisfactory by a prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product from each serial and each subserial shall be tested for viable bacteria and fungi as provided in § 113.26.

(b) *Safety test.* Bulk or final container samples of completed product from each serial shall be tested for safety as provided in § 113.39.

(c) *Potency test.* Bulk or final container samples of completed product from each serial shall be tested for potency using the Beta toxin-neutralization test provided in this paragraph.

(1) When used in this test, the following words and terms shall mean:

(i) *International antitoxin unit.* (I.U.) That quantity of Beta Antitoxin which reacts with $L_0$ and $L_+$ doses of Standard Toxin according to their definitions.

(ii) *$L_+$ dose.* The largest quantity of toxin which can be mixed with one unit of Standard Antitoxin and not cause sickness or death in injected mice.

(iii) *$L_+$ dose.* The smallest quantity of toxin which can be mixed with one unit of Standard Antitoxin and cause death in at least 80 percent of injected mice.

(iv) *Standard antitoxin.* The Beta Antitoxin preparation which has been standardized as to antitoxin unitage on the basis of the International *Clostridium perfringens* Beta Antitoxin Standard and which is either supplied by or acceptable to Veterinary Services. The antitoxin unit value shall be stated on the label.

(v) *Standard toxin.* The Beta toxin preparation which is supplied by or is acceptable to Veterinary Services.

(vi) *Diluent.* The solution used to make proper dilutions prescribed in this test. Such solutions shall be made by dissolving 1 gram of peptone and 0.25 grams of sodium chloride in each 100 ml of distilled water; adjusting the pH to 7.2; autoclaving at 250° F for 25 minutes; and storing at 4° C until used.

(2) Each of at least eight rabbits, each weighing 4–8 pounds, shall be injected subcutaneously with not more than half of the recommended cattle dose. The dose for a combination product having both Type C and Type D fractions shall be half of the recommended cattle dose; *Provided,* That if the product is recommended only for sheep, half of the recommended sheep dose shall be used. A second dose shall be given not less than 20 days nor more than 23 days after the first dose.

(3) Fourteen to seventeen days after the second dose, all surviving rabbits shall be bled and the serum tested for antitoxin content.

(i) When eight or more rabbits are bled, equal quantities of serum from each shall be combined and tested as a single pooled serum.

(ii) When only five to seven rabbits are bled, the serum shall be individually tested.

(iii) If less than five rabbits are bled, the test is invalid and shall be repeated; *Provided,* That, if the test is not repeated, the serial shall be declared unsatisfactory.

(4) The antitoxin content of the rabbit serums shall be determined as follows:

(i) Make a dilution of Standard Antitoxin to contain 10 International Units of antitoxin per ml.

(ii) Make one dilution of Standard Toxin to contain 10 $L_+$ doses per ml and make a second dilution of Standard Toxin to contain 10 $L_+$ doses per ml.

(iii) Combine 10 International Units of Standard Antitoxin with 10 $L_+$ doses of diluted Standard Toxin and combine 10 International Units of Standard Antitoxin with 10 $L_+$ doses of diluted Standard Toxin.

(iv) Combine 1 ml of undiluted serum with 10 $L_+$ doses of diluted Standard Toxin.

(v) Neutralize all toxin-antitoxin mixtures at room temperature for 1 hour and hold in ice water until injections of mice can be made.

(vi) Five Swiss white mice, each weighing 16–20 grams, shall be used for each toxin-antitoxin mixture. A dose of 0.2 ml shall be injected intravenously into each mouse. Conclude the test 24 hours post-injection and record all deaths.

(5) Test Interpretation shall be as follows:

(i) If any mice inoculated with the mixture of 10 International Units of Standard Antitoxin and 10 $L_+$ doses of Standard Toxin die, the results of the test are inconclusive and shall be repeated; *Provided,* That, if the test is not repeated, the serial shall be declared unsatisfactory.

(ii) If less than 80 percent of the mice inoculated with mixture of 10 International Units of Standard Antitoxin and 10 $L_+$ doses of Standard Toxin die, the results of the test are inconclusive and shall be repeated; *Provided,* That, if the test is not repeated, the serial shall be declared unsatisfactory.

(iii) If any mice inoculated with the mixture of serum with 10 $L_+$ doses of Standard Toxin die, the serum is considered to contain less than 10 International Units per ml.

(iv) If less than 80 percent of individual serums from at least five to seven rabbits or if the single pooled serum from eight or more rabbits contain(s) less than 10 International Units per ml, the serial is unsatisfactory.

### § 113.97 Clostridium Perfringens Type D Toxoid and Bacterin-Toxoid.

Clostridium Perfringens Type D Toxoid and Clostridium Perfringens Type D Bacterin-Toxoid shall be produced from a culture of *Clostridium Perfringens Type D* which have been rendered sterile and nontoxic. Clostridium Perfringens Type D Toxoid shall be rendered free of bacteria. Each serial shall be tested for purity, safety, potency, and formaldehyde content. Any serial found unsatisfactory by a prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product from each serial and each subserial shall be tested for viable bacteria and fungi as provided in § 113.26.

(b) *Safety test.* Bulk or final container samples of completed product from each serial shall be tested for safety as provided in § 113.39.

(c) *Potency test.* Bulk or final container samples of completed product from each serial shall be tested for potency using the Epsilon toxin-neutralization test provided in this paragraph.

(1) When used in this test, the following words and terms shall mean:

(i) *International antitoxin unit.* (I.U.) That quantity of Epsilon Antitoxin which reacts with $L_0$ and $L_+$ doses of Standard Toxin according to their definitions.

(ii) *$L_0$ dose.* The largest quantity of toxin which can be mixed with one-tenth unit of Standard Antitoxin and not cause sickness or death in injected mice.

(iii) *$L_+$ dose.* The smallest quantity of toxin which can be mixed with one-tenth unit of Standard Antitoxin and cause death in at least 80 percent of injected mice.

(iv) *Standard antitoxin.* The Epsilon Antitoxin preparation which has been standardized as to antitoxin unitage on the basis of the International *Clostridium perfringens* Epsilon Antitoxin Standard and which is either supplied by or acceptable to Veterinary Services. The antitoxin unit value shall be stated on the label.

(v) *Standard toxin.* The Epsilon toxin preparation which is supplied by or is acceptable to Veterinary Services.

(vi) *Diluent.* The solution used to make proper dilutions prescribed in this test. Such solutions shall be made by dissolving 1 gram of peptone at 0.25 grams of sodium chloride in each 100 ml of distilled water; adjusting the pH to 7.2; autoclaving at 250° F for 25 minutes; and storing at 4° C until used.

(2) Each of at least eight rabbits, each weighing 4–8 pounds, shall be injected subcutaneously with not more than half of the recommended sheep dose. The dose for a combination product having both Type C and Type D fractions shall be half of the recommended cattle dose; *Provided,* That, if the product is recommended only for sheep, half of the recommended sheep dose shall be used. A second dose shall be given not less than 20 days nor more than 23 days after the first dose

(3) Fourteen to seventeen days after the second dose, all surviving rabbits shall be bled, and the serum tested for antitoxin content.

(i) When eight or more rabbits are bled, equal quantities of serum from each shall be combined and tested as a single pooled serum.





(ii) When only five to seven rabbits are bled, the serums shall be individually tested.

(iii) If less than five rabbits are bled, the test is invalid and shall be repeated; *Provided,* That, if the test is not repeated, the serial shall be declared unsatisfactory.

(4) The antitoxin content of the rabbit serums shall be determined as follows:

(i) Make a dilution of Standard Antitoxin to contain 1 International Unit of antitoxin per ml.

(ii) Make one dilution of Standard Toxin to contain 10 $L_0$ doses per ml and make a second dilution of Standard Toxin to contain 10 $L_+$ doses per ml.

(iii) Combine 1 International Unit of Standard Antitoxin with 10 $L_0$ doses of diluted Standard Toxin and Combine 1 International Unit of Standard Antitoxin with 10 $L_+$ doses of diluted Standard Toxin.

(iv) Dilute 1 ml of serum with 1 ml of dilute (1:2) and combine with 10 $L_0$ doses of diluted Standard Toxin.

(v) Neutralize all toxin-antitoxin mixtures at room temperature for 1 hour and hold in ice water until injections of mice can be made.

(vi) Five Swiss white mice, each weighing 16–20 grams, shall be used for each toxin-antitoxin mixture. A dose of 0.2 ml shall be injected intravenously into each mouse. Conclude the test 24 hours post-injection and record all deaths.

(5) Test Interpretation shall be as follows:

(i) If any mice inoculated with the mixture of 1 International Unit of Standard Antitoxin and 10 $L_0$ doses of Standard Toxin die, the results of the test are inconclusive and shall be repeated; *Provided,* That, if the test is not repeated, the serial shall be declared unsatisfactory.

(ii) If less than 80 percent of the mice inoculated with mixture of 1 International Unit of Standard Antitoxin and 10 $L_+$ doses of Standard Toxin die, the results of the test are inconclusive and shall be repeated; *Provided,* That, if the test is not repeated, the serial shall be declared unsatisfactory.

(iii) If any mice inoculated with the mixture of serum with 10 $L_0$ does of Standard Toxin die, the serum is considered to contain less than 2 International Units per ml.

(iv) If less than 80 percent of individual serums from at least five to seven rabbits or if the single pooled serum from eight or more rabbits contain(s) less than 2 International Units per ml. the serial is unsatisfactory.

### § 113.98 [Reserved]

### § 113.99 Tetanus Toxoid.

Tetanus Toxoid shall be produced from a culture of *Clostridium tetani* which has been rendered free of bacteria and subsequently detoxified. The toxoid may be either adsorbed, precipitated, or purified and concentrated. Each serial and subserial of biological product containing *tetanus toxoid* fraction shall be tested for purity, safety, potency, and formaldehyde content. A serial or subserial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product from each serial and subserial shall be tested for viable bacteria and fungi as provided in § 113.26.

(b) *Safety test.* Bulk or final container samples of completed product from each serial shall be tested for safety as provided in § 113.38. Intraperitoneal injection shall be made.

(c) *Potency test.* Bulk or final container samples of completed product from each serial shall be tested for potency. Each of at least 10 guinea pigs, each weighing 500 grams±10 percent, shall be injected subcutaneously with 0.4 of the dose recommended on the label for a horse.

(1) Six weeks after injection, all surviving guinea pigs shall be bled, and equal portions of serum from each shall be pooled. Serum from not less than eight animals shall be used.

(2) The pooled serum shall contain at least two antitoxin units per ml as determined by titrating it in the manner prescribed for tetanus antitoxin in § 113.76. A 1:20 dilution of the pooled serum shall be made so that the final dilution contains 0.1 antitoxin unit per ml. The test dose of standard toxin shall be mixed in proper proportion with the diluted pooled serum, incubated at room temperature for 1 hour and inoculated subcutaneously into two guinea pigs.

(3) The test dose of the standard toxin shall be verified against 0.1 of a unit of standard antitoxin in two guinea pigs which serve as the control animals.

(4) If the control animals do not die of tetanus within 60–120 hours, the test is not valid and must be repeated. In a valid test, if the vaccinated animals do not survive as long as the control animals, the serial is unsatisfactory.

### § 113.100 Staphylococcus Aureus Toxoid.

Staphylococcus Aureus Toxoid shall be prepared from toxoided broth cultures of selected toxogenic strains of *Staphylococcus aureus.* Each serial of biological product containing *Staphylococcus aureus* fraction shall be tested for purity, safety, potency, and formaldehyde content. A serial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product from each serial shall be tested for viable bacteria and fungi as provided in § 113.26.

(b) *Safety test.* Bulk or final container samples of completed product shall be tested for safety as provided in § 113.39. Also, the rabbits used in the potency test provided in paragraph (c) of this section shall constitute an additional safety test. If unfavorable reactions attributable to the product occur in any of the rabbits during the observation period, the serial is unsatisfactory.

(c) *Potency test.* Rabbits, each weighing 2000–3000 grams, shall be used as test animals. Either a five rabbit individual serum test or an eight rabbit pooled serum test shall be conducted. At the start of the test, individual serums from the five rabbits or pooled serums from the eight rabbits shall contain less than 0.2 alpha antitoxin units per ml.

(1) Each rabbit shall be given a series of not more than three intramuscular injections at 7 day intervals (1.0 ml, 2.0 ml, 3.0 ml) and observed from 7–14 days following the third injection. At the end of the observation period, a blood sample shall be taken from each rabbit.

(2) The sample of serum from each rabbit, if the five rabbit individual test is conducted or the pooled sample of serum from all the rabbits if the eight rabbit pooled serum test is conducted, shall be tested to determine the staphylococcus alpha antitoxin units per ml as provided in paragraph (c) (3), (4), (5), (6), (7), and (8) of this section.

(3) Inactivate rabbit serum 56° C for 30 minutes.

(4) Make serial twofold dilutions of the serum samples and conduct the test, usng 1 ml of the serial dilutions. Appropriate controls should be included for accurate interpretations.

(5) Add 1 ml of the standardized toxin containing the established "Lh" dose. The "Lh" dose is the amount of toxin which when mixed with one unit of standard antitoxin produces a 50 percent hemolysis of rabbit red blood cells.

(6) Incubate toxin-antitoxin mixture at room temperature for 30 minutes and add 1 ml of a 1.5 percent suspension of washed freshly drawn rabbit red blood cells suspended in normal saline to each tube. Mix and incubate the combined product in a 37° C water bath for 1 hour. Refrigerate at 5° C overnight.

(7) Read the hemolysis produced and establish the 50 percent end point. The 50 percent end point of hemolysis should be established by determining the size of the button produced by the unlysed red blood cells.

(8) Determine the units of antitoxin per 1 ml of serum.

(9) If the individual samples from four of the five rabbits in the individual serum test or the pooled samples from the eight rabbits in the pooled serum test do not contain three alpha antitoxin units per ml, the serial is unsatisfactory.

### § 113.101 General Requirements for Pasteurella Avicida Bacterin.

Pasteurella Avicida Bacterin shall be prepared from cultures of *Pasteurella multocida,* Avian Strains, Type 1 and Type 3 or both (Little and Lyons Classification) which have been rendered sterile and nontoxic; *Provided,* That, avian strains of types other than Types 1 and 3 may be added if written into the approved Outline of Production for the product.

(a) Each serial containing Type 1 strains shall be tested as provided in § 113.102 and each serial containing Type



V 381 80 SEP 18 73 XUM

3 strains shall be tested as provided in § 113.103. Serials containing Types 1 and 3 shall be tested as provided in § 113.102 and § 113.103.

(b) If avian strains of types other than Types 1 and 3 have been added, each serial shall also be tested for such strains as provided in the approved Outline of Production.

**§ 113.102 Pasteurella Avicida Bacterin, Type 1.**

Each serial of Pasteurella Avicida Bacterin containing Type 1 strains shall be tested as prescribed in this section. A serial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product shall be tested for viable bacteria and fungi as provided in § 113.26.

(b) *Safety test.* Observation of the vaccinated chickens in the potency test provided in paragraph (c) of this section shall constitute a safety test. If unfavorable reactions attributable to the product occur in the chickens during the prechallenge period, the serial is unsatisfactory. If unfavorable reactions occur which are not attributable to the product, the test shall be declared inconclusive and repeated; *Provided*, That if the test is not repeated, the serial shall be declared unsatisfactory.

(c) *Potency test.* Bulk or final container samples of completed product shall be tested for potency of the Type 1 strain, using the two-stage test provided in this paragraph. Chickens, at least 12 weeks of age, obtained from the same source and hatch, shall be properly identified and used as provided in this paragraph.

(1) *Vaccinates.* Each of not more than 21 chickens shall be injected with the dose and by the route recommended on the label. A second dose shall be injected after 3 weeks and the chickens observed for an additional 2 week prechallenge period.

(2) *Positive controls.* Each of not more than 21 chickens shall be injected with two doses of a reference bacterin available from Veterinary Services upon request. The dose, route of administration, and time of injection shall be the same as the vaccinates.

(3) *Unvaccinated controls.* Each of not more than 21 chickens shall be held as controls.

(4) *Challenge.* Fourteen days after the second injection, each of 20 vaccinates, each of 20 positive controls, and each of 20 unvaccinated controls shall be challenged intramuscularly with a minimum of 250 colony-forming units of virulent *Pasteurella multocida*, Strain X–73, Type 1 (Little and Lyons Classification) and observed daily for a 14 day post-challenge period. Only dead birds shall be considered in evaluating the product.

(5) If nine or more positive controls die, the test may be declared inconclusive and repeated.

(6) If 16 or more unvaccinated controls die, the test is valid and stage one potency test results shall be evaluated according to stage one of the following table:

| Stage | Number of vaccinates | Cumulative number of vaccinates | Cumulative total number of dead vaccinates for satisfactory serial | Cumulative total number of dead vaccinates for unsatisfactory serial |
|---|---|---|---|---|
| 1 | 20 | 20 | 6 or less | 9 or more. |
| 2 | 20 | 40 | 15 or less | 16 or more. |

(7) The serial shall pass or fail based on the stage one results of the potency test; *Provided*, That, if seven or eight vaccinates die in the first stage, the second stage shall be required.

(8) The second stage shall be conducted in a manner identical to the first stage. The serial shall be evaluated according to stage two of the table. On the basis of accumulated results, a serial shall either pass or fail the second stage.

**§ 113.103 Pasteurella Avicida Bacterin, Type 3.**

Each serial of Pasteurella Avicida Bacterin containing Type 3 strains shall be tested as prescribed in this section. A serial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product shall be tested for viable bacteria and fungi as provided in § 113.26.

(b) *Safety test.* Observation of the vaccinated turkeys in the potency test provided in paragraph (c) of this section shall constitute a safety test. If unfavorable reactions attributable to the product occur in the turkeys during the prechallenge period, the serial is unsatisfactory. If unfavorable reactions occur which are not attributable to the product, the test shall be declared inconclusive and repeated; *Provided*, That if the test is not repeated, the serial shall be declared unsatisfactory.

(c) *Potency test.* Bulk or final container samples of completed product shall be tested for potency of the Type 3 strain, using the two-stage test provided in this paragraph. Turkeys, at least 12 weeks of age, obtained from the same source and hatch, shall be properly identified and used as provided in this paragraph.

(1) *Vaccinates.* Each of not more than 21 turkeys shall be injected with the dose and by the route recommended on the label. A second dose shall be injected after 3 weeks and the turkeys observed for an additional 2 week prechallenge period.

(2) *Positive controls.* Each of not more than 21 turkeys shall be injected with two doses of a reference bacterin available from Veterinary Services upon request. The dose, route of administration, and time of injection shall be the same as the vaccinates.

(3) *Unvaccinated controls.* Each of not more than 21 turkeys shall be held as controls.

(4) *Challenge.* Fourteen days after the second injection, each of 20 vaccinates, each of 20 postitive controls, and each of 20 unvaccinated controls shall be challenged intramuscularly with a minimum of 150 colony-forming units of virulent *Pasteurella multocida*, Strain P–1059, Type 3 (Little and Lyons Classification) and observed daily for a 14 day post-challenge period. Only dead birds shall be considered in evaluating the product.

(5) If nine or more positive controls die, the test may be declared inconclusive and repeated.

(6) If 16 or more unvaccinated controls die, the test is valid and stage one potency test results shall be evaluated according to stage one of the following table:

| Stage | Number of vaccinates | Cumulative number of vaccinates | Cumulative total number of dead vaccinates for satisfactory serial | Cumulative total number of dead vaccinates for unsatisfactory serial |
|---|---|---|---|---|
| 1 | 20 | 20 | 6 or less | 9 or more. |
| 2 | 20 | 40 | 15 or less | 16 or more. |

(7) The serial shall pass or fail based on the stage one results of the potency test; *Provided*, That, if seven or eight vaccinates die in the first stage, the second stage shall be required.

(8) The second stage shall be conducted in a manner identical to the first stage. The serial shall be evaluated according to stage two of the table. On the basis of accumulated results, a serial shall either pass or fail the second stage.

**§ 113.104 Erysipelas Bacterin.**

Erysipelas Bacterin shall be produced from a culture of *Erysipelothrix insidiosa* which has been rendered sterile and nontoxic. Each serial of biological product containing erysipelas bacterin shall be tested for purity, safety, potency, and residual formaldehyde. A serial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product from each serial and each subserial shall be tested for viable bacteria and fungi as provided in § 113.26.

(b) *Safety test.* Bulk or final container samples of completed product from each serial shall be tested for safety as provided in § 113.38, except the injections shall be made subcutaneously.

(c) *Potency tests.* Bulk or final container samples of completed product shall be tested by either the swine protection test provided in § 113.112 or the mouse protection test provided in this section. When the mouse protection test is conducted, the ability of the bacterin to be tested (Unknown) to protect mice shall be compared with a standard bacterin (Standard) which is either supplied by or is acceptable to Veterinary Services.

(1) Bacterins with a 2 ml recommended dose for swine shall be diluted 1:2.5 with physiological saline solution and tested the same as bacterin with a 5 ml recommended dose. At least three threefold dilutions shall be made with the Standard and comparable threefold





dilutions for the Unknown. The dilution series 1:30, 1:90, and 1:270 is suggested.

(2) For each dilution of the Standard and each dilution of the Unknown, a group of at least 16 mice, each weighing 16–20 grams, shall be used. Each mouse in a group shall be injected subcutaneously with 0.5 ml from the appropriate dilution.

(3) Each injected mouse shall be challenged subcutaneously 14–21 days after being injected with the diluted bacterin. A 0.5 ml dose containing 100 mouse $LD_{50}$ of a suitable culture of *Erysipelothrix insidiosa* shall be used. All survivors in each group of mice shall be recorded 10 days post-challenge.

(4) *Test for valid assay.* The same consecutive dilutions of the Standard and Unknown need not to be used in the test for valid assay, but the following requirements shall be met:

(i) At least two dilutions of the Standard and two dilutions of the Unknown shall protect more than 0 percent and less than 100 percent of the mice inoculated. The smallest dilution of the Standard shall protect more than 50 percent and the largest dilution less than 50 percent.

(ii) Subtract the numbers of surviving mice injected with the lower dilution, middle dilution, and higher dilution of the Unknown from the numbers of surviving mice injected with the corresponding dilutions of the Standard. Designate the differences as No. 1, No. 2, and No. 3.

(iii) Adjust difference No. 2 to zero by adding the proper figure using a plus or minus sign as needed. Add the same figure to Difference No. 1 and to Difference No. 3.

(iv) Consult this table to see if the results obtained are included.

| *Difference 1* | *Range of Difference 3* |
|---|---|
| −9 | −7 to −2 inclusive |
| −8 | −8 to 0 |
| −7 | −9 to +2 |
| −6 | −9 to +3 |
| −5 | −9 to +4 |
| −4 | −9 to +5 |
| −3 | −9 to +6 |
| −2 | −9 to +7 |
| −1 | −8 to +7 |
| 0 | −8 to +8 |
| 1 | −7 to +8 |
| 2 | −7 to +9 |
| 3 | −6 to +9 |
| 4 | −5 to +9 |
| 5 | −4 to +9 |
| 6 | −3 to +9 |
| 7 | −2 to +9 |
| 8 | 0 to +8 |
| 9 | 2 to +7 |

(v) If the results do not appear, the test is invalid. If the results do appear, the test is valid and the potency of the Unknown can be compared with the Standard.

(5) Using the same dilutions used to determine validity, obtain the total survivors of the Unknown and the total survivors of the Standard. If the total number of survivors for the Standard exceeds the total number of survivors for the Unknown by a number greater than six, the Unknown is unsatisfactory.

**§ 113.105–§ 113.109 [Reserved]**

LIVE BACTERIAL VACCINES

**§ 113.110 Brucella Abortus Vaccine.**

Brucella Abortus Vaccine shall be prepared as a desiccated live culture bacterial vaccine from smooth colonial forms of the *Brucella abortus* organism, identified as Strain 19. Each serial and subserial shall be tested for purity, potency, and moisture content. A serial or subserial found unsatisfactory by a prescribed test shall not be released.

(a) *Purity tests.* Each serial and subserial shall be tested for purity as provided in this paragraph.

(1) Macroscopic or microscopic examination shall be made on bulk samples from production containers. If organisms not typical of *Brucella abortus* organisms are evident, the serial or subserial is unsatisfactory.

(2) To meet the requirements prescribed in § 113.27(b), at least four single-dose or two multiple-dose final container samples of completed product shall be tested by inoculating one potato agar slant, one tube of Dextrose Andrades broth with gas tube (or equivalent) and one tube of thioglycollate broth from each sample.

(3) Bacterial dissociation test. Final container samples of completed product from each serial and subserial shall be tested for bacterial dissociation. Smooth colonies are the desired form. Rough colonies are undesirable terminal dissociation forms. Intermediate and intermediate-to-rough are also undesirable.

(i) The sample shall be rehydrated and streaked on one potato agar plate for each container in such a manner as to produce confluent colonies. Artificial reflected light shall be used so that the rays pass through the plate at a 45° angle.

(ii) If the vaccine contains more than 5 percent rough colonies or more than 15 percent total undesirable colonies, the serial or subserial is unsatisfactory. If organisms or growth not characteristic of *Brucella abortus* are found, the serial or subserial is unsatisfactory. The test may be repeated one time using double the number of samples; *Provided*, That, if the test is not repeated, the serial or subserial is unsatisfactory.

(b) *Potency test.* Each serial and each subserial shall be tested for potency.

(1) At least four single-dose or two multiple-dose final container samples of completed product shall be tested for the number of viable organisms per cubic centimeter of rehydrated vaccine. A bacterial count shall be made on tryptose agar plates using suitable dilutions and peptone water diluent.

(2) The desirable concentration shall be within the range of 10–20 billion viable *Brucella abortus* organisms per cubic centimeters of rehydrated vaccine to assure sufficient antigen throughout the dating period.

(i) If freshly prepared *Brucella abortus* vaccine contains less than 10 billion viable *Brucella abortus* organisms per cubic centimeter of rehydrated vaccine, the serial or subserial is unsatisfactory.

(ii) If tested at any time within the expiration period, each cubic centimeter of rehydrated vaccine does not contain 5 billion viable *Brucella abortus* organisms, the serial or subserial is unsatisfactory.

**§ 113.111 Anthrax Spore Vaccine—Nonencapsulated.**

Anthrax Spore Vaccine—Nonencapsulated shall be a live spore suspension prepared for nonencapsulated variants of *Bacillus anthracis* which has been proven to be immunogenic and relatively nonpathogenic. Each serial and subserial shall be tested for purity, safety, and potency. A serial or subserial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Each serial or first subserial shall be tested for purity as provided in this paragraph to meet the requirements prescribed in § 113.27(b).

(1) Bulk samples of spore suspension or completed product shall be tested for microorganisms other than *Bacillus anthracis*. One ml shall be inoculated onto each of five plates of nutrient agar, incubated at 35–37° C and examined macroscopically and microscopically daily for 7 days. If growth not characteristic of *Bacillus anthracis* is detected, the serial or subserial is unsatisfactory.

(2) Each of five final container samples of completed product shall be tested as follows:

(i) One ml shall be inoculated into one tube of either thioglycollate or nutrient broth, incubated at 37° C for 7 days and examined for microorganisms other than *Bacillus anthracis*. If microorganisms other than *Bacillus anthracis* are detected, the serial or subserial is unsatisfactory.

(ii) One ml shall be inoculated into one vessel of Soybean Casein Digest Medium, incubated at 20–25° C for 14 days, and examined for fungi. If fungi are detected, the serial is unsatisfactory.

(3) Bacterial dissociation test. Vaccine from each bulk container shall be streaked onto the surface of two serum agar plates (50 percent bovine serum with nutrient agar) in such a manner so to produce isolated colonies over a major portion of the plates. The plates shall be incubated under an atmosphere of 30 percent $CO_2$ at 37° C and examined under a dissection-type microscope using obliquely transmitted light daily for at least 3 days. If the colonies are not of the rough opaque type, the serial is unsatisfactory. Questionable colonies shall be subcultured and the organisms inoculated into guinea pigs to check for undesirable reactions. If undesirable reactions occur, the serial is unsatisfactory.

(b) *Safety test.* The prechallenge period of the potency test provided in paragraph (c)(1) of this section constitutes a safety test. If 80 percent of the vaccinates survive the prechallenge period, the serial is satisfactory for safety; *Provided*, That

(1) If less than 80 percent of the vaccinates survive the prechallenge period, each of five young sheep or goats shall be inoculated subcutaneously with a total



V 38 1 80 SEP 18 73 XUM

of two cattle doses which may be fractionally administered in two sites and the animals observed for 14 days; and

(2) If any sheep or goat shows evidence of persistent or progressive edema (does not subside in 4 or 5 days) or does not survive the observation period, the serial or subserial is unsatisfactory.

(c) *Potency tests.* The spore count test and the vaccination challenge test provided in this paragraph shall be conducted on each serial and subserial.

(1) Sport count. Final container samples of completed product shall be diluted in tenfold steps. Each dilution that may be significant shall be plated in triplicate on nutrient or tryptose agar, inverted, and incubated at 35–37° C for 24–48 hours. The plates showing proper dispersion of colonies shall be counted and averaged. If the spore count average is less than 2,000,000 spores per bovine dose, the serial or subserial is unsatisfactory.

(2) Bulk or final container samples of completed product shall be tested for potency in healthy guinea pigs weighting 400–500 grams each.

(i) Each of at least 10 guinea pigs shall be vaccinated subcutaneously on the abdominal area with one-half the dose recommended for cattle and observed for 14 days. The vaccinated guinea pigs and six unvaccinated control guinea pigs shall be challenged with a suspension of anthrax spores virulent to guinea pigs and observed an additional 10 days.

(ii) If five of the six unvaccinated controls do not die during the 10 day post-challenge observation period, the test is inconclusive and may be repeated.

(iii) If at least five of the six unvaccinated controls die and less than 80 percent of the vaccinates remain well during the post-challenge observation period, the serial or subserial is unsatisfactory.

**§ 113.112 Erysipelas Vaccine.**

Erysipelas Vaccine shall be prepared as a desiccated live culture of an avirulent or modified strain of *Erysipelothrix insidiosa* which has been proven to be nonpathogenic and nontoxic. Each serial and subserial shall be tested for purity, safety, potency, and moisture content. A serial or subserial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Bulk or final container samples of completed product from each serial shall be tested by colonial observation and gram stain of organisms plated on a suitable solid media to meet the requirements prescribed in § 113.27(b).

(b) *Safety test.* Final container samples of completed product from each serial and subserial shall be tested as provided in § 113.39. Injections shall be made subcutaneously.

(c) *Potency tests.* Final container samples of completed product from each serial and subserial shall be tested for potency as provided in this paragraph.

(1) A plate count shall be made to determine the number of viable *Erysipelothrix insidiosa* in each dose. Those serials or subserials which do not meet the requirements written into the licensee's approved Outline of Production are unsatisfactory.

(2) A swine protection test using susceptible pigs as test animals shall be conducted. Each of four pigs (vaccinates) shall be injected with one pig dose as recommended on the label. Four additional pigs shall be held as unvaccinated controls. Fourteen to twenty-one days post-vaccination, the vaccinates and the controls shall be challenged with a virulent *Erysipelothrix insidiosa* culture by the percutaneous, or intradermal, or intramuscular route and observed for 7 days. The test shall be interpreted in accordance with the criteria provided in paragraph (c) (2) (i), (ii), and (iii) of this section.

(i) A satisfactory challenge shall be evidenced in the controls by a bacteremia, a high body temperature, and clinical signs of sickness, including but not limited to acute illness with hyperemia of the abdomen and ears possibly terminating in suddent death; moribund and anorexia, with or without metastatic skin lesions; slowness with variable anorexia, stiffness, and/or joint involvement; and any combination of these symptoms and lesions.

(ii) If at least 75 percent of the controls do not show characteristic symptoms of swine erysipelas during the observation period, including but not limited to a body temperature of 105.6° F or higher on at least 2 days or 107° F or higher for at least 16 hours, the test shall be considered inconclusive; *Provided*, That control pigs which meet the criteria requirements for susceptibility except for high body temperature shall be considered susceptible if sacrificed and organisms identified as *Erysipelothrix insidiosa* can be isolated from the blood, spleen, or other organs.

(iii) To demonstrate immunity after challenge, the vaccinates shall remain free of lesions or symptoms or erysipelas and the body temperature shall not exceed 104.6° F for longer than 1 day. If at least 75 percent of the vaccinates do not demonstrate immunity to erysipelas throughout the observation period, the serial or subserial is unsatisfactory.

Interested parties are invited to submit written data, views, or arguments regarding the proposed regulations to Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250. All comments received on or before November 16, 1973, will be considered.

All written submissions made pursuant to this notice will be made available for public inspection at Biologics Staff, Veterinary Services, Animal and Plant Health Inspection Service, Room 828–A, Federal Center Building #1, Hyattsville, Maryland, at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Done at Washington, D.C., this 11th day of September 1973.

F. J. MULHERN,
*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc.73-19675 Filed 9-17-73;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

### [ 21 CFR Part 273 ]

### LIMULUS AMEBOCYTE LYSATE

### Additional Standards

On January 12, 1973, the Commissioner of Food and Drugs published a notice in the FEDERAL REGISTER (38 FR 1404) informing all interested persons of the applicability of section 351 of the Public Health Service Act to the preparation Limulus Amebocyte Lysate. The Limulus preparation, prepared from the circulating blood cells (amebocytes) of the horseshoe crab (*Limulus polyphemus*), has been shown to be a sensitive indicator of the presence of bacterial endotoxins. Such a product can be employed as an *in vitro* test in detecting clinical endotoxemia and for the detection of bacterial endotoxins (pyrogens) in biological products and other drugs or fluids for parenteral administration to man. It is well known that the administration of fluids containing bacterial endotoxins can produce shock, fever and death. The Commissioner also announced in this notice that licenses for Limulus Amebocyte Lysate would not be issued until specific standards for safety, purity and potency were established.

Subsequently, the Commissioner published in the FEDERAL REGISTER of March 15, 1973 (38 FR 7096), a final order establishing a new part 167 containing labeling requirements and procedures for the development of standards for all *in vitro* diagnostic products for human use. Section 167.6 (21 CFR 167.6) of these regulations exempts an *in vitro* biological product from the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (which prohibits interstate shipment of a new drug without Food and Drug Administration approval) and section 351 of the Public Health Service Act (which prohibits the sale, barter, or exchange in interstate or foreign commerce or within the District of Columbia, of any such product without a license) if it meets all the requirements of Part 167, unless the Commissioner finds that additional requirements should be imposed pursuant to section 505 or 351 in order to protect the public health.

Endotoxemia is pathogenic to man. *In vitro* detection of clinical endotoxemia and detection of endotoxins in fluid to be administered parenterally to man are critical determinations. Since a Limulus preparation will be used in making these determinations, the degree of sensitivity





of the product is crucial. In addition, this Limulus test is very valuable in detecting pyrogens in radio-pharmaceuticals prepared by hospital pharmacies on a prescription basis. In view of these critical uses, the Commissioner has concluded that rigid production controls are necessary to give maximum assurance that this potent diagnostic product will prevent unexpected and harmful pyrogenic reactions in man. Therefore, the Commissioner finds that the public health requires that the product be marketed only under the strict regulatory controls of section 351 of the Public Health Service Act and section 505 of the Federal Food, Drug, and Cosmetic Act. Pursuant to § 130.3(g) (21 CFR 130.3), current investigation of these products requires a "Notice of Claimed Investigational Exemption for a New Drug" to be submitted to the Bureau of Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20852. Such products may not be lawfully marketed until they are licensed pursuant to section 351 of the Public Health Service Act. Such licenses will not be issued until such time as sufficient information is submitted, as required by section 505 of the Federal Food, Drug, and Cosmetic Act, to ensure that the products do in fact perform effectively as an *in vitro* indicator of the presence of endotoxins.

In conjunction with the license requirement for this product, the Commissioner is publishing proposed additional standards for Limulus Amebocyte Lysate, to assure the safety, purity and potency of the licensed product.

Therefore, pursuant to provisions of the Public Health Service Act (sec. 351, 58 Stat. 702 as amended; 42 U.S.C. 262) and the Administrative Procedure Act (sec. 4, 10, 60 Stat. 238 and 243, as amended; 5 U.S.C. 553, 702, 703, 704) and under authority delegated to him (21 CFR 2.120), the Commissioner proposes to amend Part 273 as follows:

1. In Subpart A, by alphabetically adding to the list of dating periods in § 273.870 the following product:

**§ 273.870 Dating periods for specific products.**

• • • • •

Limulus Amebocyte Lysate—Eighteen months.

• • • • •

2. In Subpart F by adding a new center heading and the following new sections:

LIMULUS AMEBOCYTE LYSATE

Sec.
273.5020 The product.
273.5021 Reference Endotoxin.
273.5022 Potency test.
273.5023 General requirements.
273.5024 Samples; protocols; official release.

LIMULUS AMEBOCYTE LYSATE

**§ 273.5020 The product.**

The proper name of this product shall be Limulus Amebocyte Lysate whch shall consist of a sterile, freeze-dried preparation derived from the blood of *Limulus polyphemus* and which is capable of detecting bacterial endotoxins.

**§ 273.5021 Reference Endotoxin.**

A Reference Endotoxin shall be obtained from the Bureau of Biologics Food and Drug Administration, 5600 Fishers Lane, BI–300, Rockville, MD 20852, and shall be used for determining the potency of Limulus Amebocyte Lysate.

**§ 273.5022 Potency test.**

Limulus Amebocyte Lysate shall not be issued unless filling is tested against the Reference Endotoxin and the potency shall be such as to produce a positive reaction with 0.1 nanogram of Reference Endotoxin and a negative reaction with 0.0125 nanogram of Reference Endotoxin. The assay shall be performed with consecutive two-fold dilutions from 0.2 nanograms to 0.00625 nanogram. The test shall be incubated at 37° C. for one hour in a tube with an inside diameter not greater than 10 millimeters. A positive test shall be one in which a solid gel, capable of holding when the tube is inverted, is formed within the one hour incubation period. The procedures for rehydrating and mixing the lysate for the potency test shall be those detailed in the manufacturer's package enclosure.

**§ 273.5023 General requirements.**

(a) *Processing.* The processing methods shall be those which have been shown to consistently yield a potent and detection-specific final product free of properties which would adversely affect the accuracy of the diagnostic test results when the Limulus Amebocyte Lysate is used by the methods recommended by the manufacturer in the package enclosure.

(b) *Ancillary reagents and materials.* All ancillary reagents and materials accompanying the product that are used in the performance of the test as described by the manufacturer's recommended test procedures, shall not affect the performance of the Limulus Amebocyte Lystate within the prescribed dating period. Each package of the Limulus Amebocyte Lysate shall include positive and negative control preparations that shall be used to establish the specificity and sensitivity of each test performed with the product.

(c) *Labeling.* In addition to the applicable information required by §§ 273.600, 273.601, and 273.602:

(1) Instructions on the package label and on the final container label, if of a size requiring a full label, shall include:

(i) A reference to the package enclosure for test method(s) to be employed when using Limulus Amebocyte Lysate;

(ii) A statement that the diluent used to rehydrate the lysate must be tested, without addition of the test material, in parallel with the test material;

(iii) A warning statement that the tubes of material on test should not be removed from incubation or disturbed prior to the time specified for reading the test.

(2) If the final container holds multiple tests, (i) the final container label shall include the statement "Reconstitution date: ------"; and, (ii) the final container label, the package label, and the package enclosure, shall include a statement indicating the period within which the product may be used after reconstitution, and the statement, "Store below 5° C".

(3) If the final container holds a single test, the package label and the package enclosure shall include a statement that the product shall not be rehydrated until immediately prior to use.

(d) *Final container.* Final containers shall be sterile, colorless, and transparent.

(e) *Test for residual moisture.* If the weight of the contents of each final container is less than 15 milligrams, the product is exempt from the general test for residual moisture required by § 273.740(a). However, throughout the dating period, the manufacturer of such exempt product shall perform the potency test described in § 273.5022 at four month intervals on representative samples from each filling. Upon the completion of each test, the results shall be submitted to the Director, Bureau of Biologics, Food and Drug Administration, 5600 Fishers Lane, BI–1, Rockville, MD 20852.

**§ 273.5024 Samples; protocols; official release.**

For each filling of the product:

(a) A sample, consisting of at least three complete market packages and not less than the equivalent of 0.5 milliliter of lysate packaged for distribution, including all ancillary reagents and materials, shall be submitted to the Director, Bureau of Biologics, Food and Drug Administration, Building 29A, 9000 Rockville Pike, Bethesda, MD 20014.

(b) A protocol, consisting of a complete summary of the history of manufacture of each filling, including all results of each test for which test results are required, shall be submitted to the Director, Bureau of Biologics, Food and Drug Administration, 5600 Fishers Lane, BI–1, Rockville, MD 20852. If the protocol is included in the shipment of the sample as specified in paragraph (a) of this section, it need not be mailed again as required by this section.

No filling of the finished Limulus Amebocyte Lysate shall be issued by the manufacturer until notification of official release of the filling is received from the Director, Bureau of Biologics, Food and Drug Administration.

Interested persons, may, on or before November 19, 1973, file with the Hearing Clerk, Food and Drug Administration, Rm. 6–86, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may



V 38 I 180 SEP 18 73 XUM

be seen in the above office during regular business hours, Monday through Friday.

Dated September 11, 1973.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[FR Doc.73-19789 Filed 9-17-73;8:45 am]

## Social Security Administration

### [ 20 CFR Part 405 ]

[Reg. 5]

### FEDERAL HEALTH INSURANCE FOR THE AGED

#### Supplementary Medical Insurance Enrollment

Notice is hereby given pursuant to the Administrative Procedure Act, as amended (5 U.S.C. 553) that the amendments to the regulations (20 CFR 405.214 and 405.226) set forth below in tentative form are proposed by the Acting Commissioner of Social Security with the approval of the Secretary of Health, Education, and Welfare. The proposed amendments implement section 260 of the Social Security Amendments of 1972 (P.L. 92-603) which eliminates the restrictions preventing enrollment in the supplementary medical insurance program more than 3 years after an individual's initial enrollment period, and preventing reenrollment more than 3 years after termination of a prior period of coverage; and section 259, which authorizes the Secretary to provide equitable relief where an individual's enrollment or nonenrollment was unintentional, inadvertent, or erroneous and was caused by administrative misrepresentation, inaction, or error.

Prior to the final adoption of the proposed regulations, consideration will be given to any comments, views, or objections relating thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, D.C. 20201, on or before October 18, 1973.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue SW., Washington, D.C. 20201.

The proposed amendments are to be issued under the authority contained in sections 1102, 1837, 1871, 49 Stat. 647, as amended, 79 Stat. 331, as amended; 42 U.S.C. 1302, 1395 et seq.

(Catalog of Federal Domestic Assistance Program No. 13.801, Health Insurance for the Aged—Supplementary Medical Insurance.)

Dated July 31, 1973.

ARTHUR E. HESS,
*Acting Commissioner of Social Security.*

Approved September 12, 1973.

CASPAR W. WEINBERGER,
*Secretary of Health, Education, and Welfare.*

Subpart B of Regulations No. 5 of the Social Security Administration (20 CFR 405) is amended as follows:

1. Paragraphs (a) and (b) of § 405.214 are revised to read as follows:

**§ 405.214 Individual enrollment; limitation on enrollment and reenrollment.**

(a) *Delayed enrollment, or reenrollment, prior to October 30, 1972.* An individual who failed to enroll in the supplementary medical insurance plan during his initial enrollment period (see § 405.212) could enroll thereafter prior to October 30, 1972, only during a general enrollment period (see § 405.213) which began no later than 3 years after the close of his initial enrollment period. An individual whose enrollment had terminated (see § 405.223) could, subject to the provisions of paragraph (c) of this section, reenroll prior to October 30, 1972, only during a general enrollment period which began no later than 3 years after the last day of his prior period of coverage. An individual who did not enroll or reenroll during this 3-year period was precluded from enrollment.

*Example 1.* An individual first meets the eligibility requirements for entitlement in October 1968 but fails to enroll during his initial enrollment period—July 1968 through January 1969. Under the law applicable before October 30, 1972, he could later enroll only during the remaining 2 months of the general enrollment period then in progress, i.e., February and March 1969, or during one of the three general enrollment periods which began no later than 3 years after the close of his initial enrollment period, i.e., January through March of the calender years 1970, 1971, or 1972. He could not enroll after March 31, 1972, the close of the last general enrollment period which began no later than 3 years after the close of his initial enrollment period.

*Example 2.* An individual notified the Administration in writing during May 1969 that he no longer wished to participate in the supplementary medical insurance plan and, accordingly, his enrollment terminated on September 30, 1969. He could reenroll under the law applicable before October 30, 1972, only within the periods January through March of the calendar years 1970, 1971, or 1972, the three general enrollment periods which began no later than 3 years after the termination date of his prior enrollment.

(b) *Delayed enrollment or reenrollment after October 29, 1972.* Effective October 30, 1972, an individual who did not enroll during his initial enrollment period or whose enrollment has terminated may enroll or reenroll, thereafter, subject to the provisions of paragraph (c) of this section only during a general enrollment period (whether or not such general enrollment period begins within 3 years after the last day of his initial enrollment perior or of his prior period of coverage).

* * * * *

2. The following new section is added:

**§ 405.226 Equitable relief for individual whose enrollment rights have been prejudiced by government misrepresentation, inaction or error.**

Notwithstanding any other provision of this subpart or Subpart I of this Part, in any case where it is established that an individual's enrollment or nonenrollment in the supplementary medical insurance plan or in the hospital insurance plan pursuant to section 1818 of the Social Security Act, is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation or inaction of an officer, employee, or agent of the Federal Government or its instrumentalities, the Social Security Administration may provide equitable relief to correct or eliminate the effects of such prejudicial misrepresentation, inaction, or error. Such equitable relief may include, but is not limited to, designation of a special initial or subsequent enrollment period or coverage period, or adjustment in premiums, or any combination of these measures.

[FR Doc.73-19808 Filed 9-17-73;8:45 am]

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of Assistant Secretary for Housing Production and Mortgage Credit

### [ 24 CFR Parts 205, 242, 244 ]

[Docket No. R-73-240]

### NATIONAL HOUSING MORTGAGE AND LOAN INSURANCE PROGRAMS

#### Waiver of Eligibility Requirements for Mortgage Insurance

The Department proposes to amend Parts 205, 242, and 244 to eliminate certain normally applicable eligibility requirements, particularly fees, relating to processing for mortgage insurance when the Secretary needs the added flexibility to dispose of property interests he holds. Such property interests are most commonly acquired by the Secretary as a result of defaults on project obligations related to various departmental programs of mortgage insurance.

Accordingly, pursuant to sections 211, 242, 1002, 1011, 1101, and 1104 of the National Housing Act, as amended (12 U.S.C. 1715b, 1715z-7, 1749bb, 1749jj, 1749aaa, 1749aaa-3), sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)), and the Secretary's delegation of authority (36 FR 5006, March 16, 1971) notice is hereby given that it is proposed to amend Parts 205 (Land Development, Title X), 242 (Hospitals), and 244 (Group Practice Facilities, Title XI) of the FHA regulations governing payment of fees and mortgage eligibility in respect to mortgage insurance for land development, hospitals, and group practice facilities.

All interested persons are invited to submit written comments or suggestions in triplicate with respect to this proposal by October 19, 1973. Such comments shall be addressed to the Rules Docket Clerk, Office of the General Counsel, Room 10256, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, D.C. 20410. All relevant material will be considered before adoption of a final rule. A copy of each communication will be available for public inspection during regular business hours at the above address.

Parts 205, 242 and 244 are each proposed to be amended by adding the following language to be inserted in the appropriate sequence of each Part by new sections numbered respectively § 205.138, § 242.88 and § 244.168.

### PART 205—MORTGAGE INSURANCE FOR LAND DEVELOPMENT (TITLE X)

In Part 205 a new § 205.138 is added as follows:

**§ 205.138 Waiver of Eligibility Requirements for Mortgage Insurance.**

The Secretary may insure under this part, without regard to any limitation upon eligibility contained in this subpart, any mortgage assigned to him in connection with payment under a contract of mortgage insurance, or executed in connection with a sale by him of any property acquired under any section or title of the Act.

### PART 242—MORTGAGE INSURANCE FOR HOSPITAL

In Part 242 a new § 242.88 is added as follows:

**§ 242.88 Waiver of Eligibility Requirements for Mortgage Insurance.**

The Secretary may insure under this part, without regard to any limitation upon eligibility contained in this subpart, any mortgage assigned to him in connection with payment under a contract of mortgage insurance, or executed in connection with a sale by him of any property acquired under any section or title of the Act.

### PART 244—MORTGAGE INSURANCE FOR GROUP PRACTICE FACILITIES (TITLE XI)

In Part 244 a new § 244.168 is added as follows:

**§ 244.168 Waiver of Eligibility Requirements for Mortgage Insurance.**

The Secretary may insure under this part, without regard to any limitation upon eligibility contained in this subpart, any mortgage assigned to him in connection with payment under a contract of mortgage insurance, or executed in connection with a sale by him of any property acquired under any section or title of the Act.

Issued at Washington, D.C., Sept. 12, 1973.

SHELDON B. LUBAR,
*Assistant Secretary for Housing Production and Mortgage Credit.*

[FR Doc.73-19796 Filed 9-17-73;8:45 am]

## FEDERAL HOME LOAN BANK BOARD

[No. 73-1155]

### [ 12 CFR Part 545 ]

### FEDERAL SAVINGS AND LOAN SYSTEM

#### Service Corporation Joint Ventures; Withdrawal of Proposal

AUGUST 15, 1973.

Whereas, the Federal Home Loan Bank Board by Resolution No. 72-1375, dated November 22, 1972, and duly published in the FEDERAL REGISTER on December 16, 1972 (37 FR 26837) proposed to amend Part 545 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR Part 545), as set out in said publication, for the purpose of limiting service corporation joint ventures to single undertakings or series of related undertakings of limited duration; and

Whereas, careful consideration has been given to such proposed amendment:

It is hereby resolved, That the Board determines not to adopt the amendment proposed by said Resolution No. 72-1375.

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
*Assistant Secretary.*

[FR Doc.73-19801 Filed 9-17-73;8:45 am]

## SECURITIES AND EXCHANGE COMMISSION

### [ 17 CFR, Part 270 ]

[Release IC-7980, File No. S7-435]

### FIDELITY BONDS OF OFFICERS AND EMPLOYEES OF REGISTERED INVESTMENT COMPANIES

#### Supplemental Notice of Proposed Rulemaking

On April 5, 1972, the Securities and Exchange Commission published notice (Investment Company Act Release No. 7107) and in the FEDERAL REGISTER issue of April 22, 1972, 37 FR 7993 that it had under consideration the adoption of amendments to Rule 17g-1 [17 CFR 270.17g-1] under the Investment Company Act of 1940 ("Act") [15 U.S.C. 80a-1 et seq.] and invited all interested persons to submit their views and comments on the proposal. The Commission has considered all the comments and suggestions received and has substantially revised the proposed Rule. In view of the important nature of certain of these revisions, the Commission deems it appropriate to hereby give notice of the revision of the proposal to amend Rule 17g-1.

Section 17(g) of the Act [15 U.S.C. 80a-17(g)] authorizes the Commission to require by rules and regulations, for the protection of investors, that any officer and any employee of a registered management investment company be bonded by a reputable fidelity insurance company against larceny and embezzlement if such officer or employee has access, singly or jointly with others, to securities or funds of any registered investment company, either directly or through authority to draw upon such funds, or to direct generally the disposition of such securities.

Rule 17g-1, now in effect, in general, requires that there shall be fidelity bonds in such reasonable amount as a majority of the board of directors who are not covered persons may determine, subject to modification by the Commission as to the amount, type, form and coverage of such bonds. It also requires, among other things, that a copy of the bond be filed with the Commission, and that the investment company notify the Commission immediately upon cancellation or termination of such bond.

The amendment to the rule, as originally proposed, would, primarily, set forth minimum required amounts of coverage and permit a registered management investment company to be named as an insured in a single or joint insured bond. A single insured bond names the registered management investment company as the only insured. A joint insured bond, pursuant to the Rule, as originally proposed, could name as insured the investment company and one or more other parties, provided that such parties shall be limited to (i) persons engaged in the management or distribution of the shares of the registered management investment company, (ii) other registered management investment companies which are managed and/or whose shares are distributed by the same persons (or affiliates of such persons), or (iii) persons who are engaged in the management and/or distribution of shares of companies included in (ii) above. Reference is made to Investment Company Act Release No. 7107 for a more detailed discussion of the amendments to Rule 17g-1 proposed therein.

As a result of comments and suggestions received from interested persons, and after further consideration of the provisions of the proposed amendment to Rule 17g-1, the Commission has found it appropriate to revised the proposed amended Rule. Many of the revisions are intended to clarify certain provisions of the Rule and require no further discussion in this release. Certain other revisions, however, are more substantive in nature.

Paragraph (a) of the proposed rule has been revised to except from the definition of "covered persons" any officer or employee of the investment company who has access to its securities or funds solely through his position as an officer or employee of a bank. This exception appears in Section 17(g) of the









V 38-180 SEP 18 73 XUM

Act and, for clarification, has been added to the proposed Rule.

Paragraph (b) has been expanded to permit persons engaged in the administration of registered investment companies to be covered by a joint insured bond. Such persons may include any persons who perform services for the investment company or are involved in the distribution of its shares, including in-house service agents, depositors, sponsors and others. The Commission has also added a fourth category of perons who may be named in a joint insured bond together with an investment company. This category includes any trust, pension, profit-sharing or other benefit plan for employees of persons named in the bond. It should be emphasized that this provision is permissive and not mandatory. In this regard, the Commission has also added paragraph (j) to the proposed rule in order to remove any question as to the status of joint insured bonds and the participants therein under section 17(d) of the Act [15 U.S.C. 80a–17(d)] and Rule 17d–1 [17 CFR 270.17d–1] thereunder. Section 17(d) and Rule 17d–1(a), in pertinent part, prohibit any affiliated person of a registered investment company, or any affiliated person of such person, from participating in any joint transaction, enterprise or other arrangement in which such registered investment company is also a participant unless an application regarding such joint transaction, enterprise or other arrangement has been filed with, and approved by, the Commission. In view of the possibility that joint insured bonds may constitute joint arrangements as contemplated by section 17(d) and rule 17d–1(a), paragraph (j) has been added to the proposed Rule to exempt from the provisions of section 17(d) and the rules thereunder any joint insured bonding arrangement which complies with the provisions of the proposed Rule 17g–1.

The principal revisions in the proposed Rule 17g–1 appear in paragraph (c). Existing Rule 17g–1 provides, as here relevant, that the bond "shall provide that it shall not be cancelled, terminated or modified except after written notice shall have been given by the acting party to the affected party and to the Commission not less than 30 days prior to the effective date of cancellation, termination or modification." The existing rule, however, contemplates that an investment company would only be named as the sole insured in a single insured bond and, therefore, that such investment company would either send or receive all notices of cancellation or termination. The present rule does not specifically provide for the possibility that an investment company would maintain coverage as a party to a joint insured bond. Proposed new Rule 17g–1 essentially incorporated the existing provision into paragraph (c) and extended the notice to sixty days. However, under the present and proposed Rules, an investment company named in a joint insured bond would not receive notice of cancellation, termination or modification if it were not the acting party or the first named insured. Further, the provision in proposed paragraph (d) requiring, in effect, that each of the other named insureds under a joint insured bond shall notify the investment company of the filing and settlement of any claim under the bond by such other named insured, did not adequately protect jointly insured investment companies in the event that another named insured would fail to comply with this requirement. Therefore, in order to provide the protections for jointly insured investment companies which presently exist for solely insured investment companies, the Commission has revised proposed paragraph (c) to provide, generally, that a joint insured bond shall provide that the fidelity insurance company shall furnish to each named investment company under the bond: notice of cancellation, termination or modification of the bond; a copy of the bond and any amendment thereto; a copy of each formal filing of a claim under the bond by another named insured; and notification of the terms of the settlement of each such claim prior to the execution of such settlement.

Paragraph (d) and new paragraph (e) have been revised to emphasize that the factors to be considered by the directors of investment companies who are not "interested persons" thereof in deciding whether to approve a particular bond, or the premium to be paid therefor, are not limited to the factors specified in these paragraphs. The directors should consider all factors relevant to these matters in the course of their deliberations. With respect to the factors to be considered in approving the portion of the premium for a joint insured bond to be paid by an investment company, the board of directors of such company should make certain that the company shares in the economies resulting from the fact that more than one insured will be covered by the bond.

Paragraph (k) formerly designated as paragraph (h), has been revised to require compliance with the provisions of the amended Rule within six months of the effective date of the Rule, rather than three months as originally proposed.

*Commission action.* Accordingly, the Securities and Exchange Commission, pursuant to the authority granted to it in sections 6(c), 17(d), 17(g) and 38(a) of the Investment Company Act of 1940, hereby proposes to amend section 270.17g–1 of Chapter II of Title 17 of the Code of Federal Regulations by revising a previous proposal [37 FR 7993] as indicated below. As so revised § 270.17g–1 would read as follows:

**§ 270.17g–1 Bonding of officers and employees of registered management investment companies.**

(a) Each registered management investment company shall provide and maintain a bond which shall be issued by a reputable fidelity insurance company, authorized to do business in the place where the bond is issued, against larceny and embezzlement, covering each officer and employee of the investment company, who may singly, or jointly with others, have access to securities or funds of the investment company, either direct or through authority to draw upon such funds or to direct generally the disposition of such securities, unless the officer or employee has such access solely through his position as an officer or employee of a bank (hereinafter referred to as "covered persons").

(b) The bond may be in the form of (1) an individual bond for each covered person or a schedule or blanket bond covering such persons, (2) a blanket bond which names the registered management investment company as the only insured (hereinafter referred to as "single insured bond") or (3) a blanket bond which names the registered management investment company and one or more other parties as insureds (hereinafter referred to as a "joint insured bond"), such other insured parties being limited to (i) persons engaged in the management or distribution of the shares of the registered management investment company, (ii) other registered investment companies which are managed and/or whose shares are distributed by the same persons (or affiliates of such persons), (iii) persons who are engaged in the management and/or distribution of shares of companies included in paragraph (b)(3)(ii) of this section, (iv) affiliated persons of any registered management investment company named in the bond or of any person included in paragraph (b)(3)(i) or (b)(3)(iii) of this section who are engaged in the administration of any registered management investment company named as insured in the bond and (v) any trust, pension, profit-sharing or other benefit plan for employees of persons named in the bond.

(c) A bond of the type described in paragraph (b)(1) or (b)(2) of this section shall provide that it shall not be cancelled, terminated or modified except after written notice shall have been given by the acting party to the affected party and to the Commission not less than sixty days prior to the effective date of cancellation, termination or modification. A joint insured bond described in paragraph (b)(3) of this section shall provide that (1) it shall not be cancelled, terminated or modified except after written notice shall have been given by the acting party to the affected party, and by the fidelity insurance company to all registered investment companies named as insureds and to the Commission, not less sixty days prior to the effective date of cancellation, termination or modification and (2) the fidelity insurance company shall furnish each registered management investment company named as an insured with (i) a copy of the bond and any amendment thereto promptly after the execution thereof, (ii) a copy of each formal filing of a claim under the bond by any other named insured promptly after the receipt thereof, and (iii) notification of the terms of the settlement of each such claim not less than five days prior to the execution of the settlement.

(d) The bond shall be in such reasonable form and amount as a majority of the board of directors of the registered management investment company who are not "interested persons" of such investment company as defined by section 2(a)(19) of the Act [15 U.S.C. 80a–2(a)(19)] shall approve as often as their fiduciary duties require, but not less than once every twelve months, with due consideration to all relevant factors including, but not limited to, the value of the aggregate assets of the registered management investment company to which any covered person may have access, the type and terms of the arrangements made for the custody and safekeeping of such assets, and the nature of the securities in the company's portfolio; provided, however, that (1) the amount of a single insured bond shall be at least equal to an amount computed in accordance with the following schedule:

| Amount of registered management investment company gross assets—at the end of the most recent fiscal quarter prior to date of determination (in dollars): | *Minimum amount of bond (in dollars)* |
|---|---|
| Up to 500,000 | 50,000 |
| 500,000 to 1,000,000 | 75,000 |
| 1,000,000 to 2,500,000 | 100,000 |
| 2,500,000 to 5,000,000 | 125,000 |
| 5,000,000 to 7,500,000 | 150,000 |
| 7,500,000 to 10,000,000 | 175,000 |
| 10,000,000 to 15,000,000 | 200,000 |
| 15,000,000 to 20,000,000 | 225,000 |
| 20,000,000 to 25,000,000 | 250,000 |
| 25,000,000 to 35,000,000 | 300,000 |
| 35,000,000 to 50,000,000 | 350,000 |
| 50,000,000 to 75,000,000 | 400,000 |
| 75,000,000 to 100,000,000 | 450,000 |
| 100,000,000 to 150,000,000 | 525,000 |
| 150,000,000 to 250,000,000 | 600,000 |
| 250,000,000 to 500,000,000 | 750,000 |
| 500,000,000 to 750,000,000 | 900,000 |
| 750,000,000 to 1,000,000,000 | 1,000,000 |
| 1,000,000,000 to 1,500,000,000 | 1,250,000 |
| 1,500,000,000 to 2,000,000,000 | 1,500,000 |
| Over 2,000,000,000 | 1,500,000 plus 200,000 for each 500,000,000 of gross assets up to a maximum bond of 2,500,000 |

(2) A joint insured bond shall be in an amount at least equal to the sum of (i) the total amount of coverage which each registered management investment company named as an insured would have been required to provide and maintain individually pursuant to the schedule hereinabove had each such registered management investment company not been named under a joint insured bond, plus (ii) the amount of each bond which each named insured other than a registered management investment company would have been required to provide and maintain pursuant to federal statutes or regulations had it not been named as an insured under a joint insured bond.

(e) No premium may be paid for any joint insured bond or any amendment thereto unless a majority of the board of directors of each registered management investment company named as an insured therein who are not "interested persons" of such company shall approve the portion of the premium to be paid by such company, taking all relevant factors into consideration including, but not limited to, the number of the other parties named as insureds, the nature of the business activities of such other parties, the amount of the joint insured bond, and the amount of the premium for such bond, the ratable allocation of the premium among all parties named as insureds, and the extent to which the share of the premium allocated to the investment company is less than the premium such company would have had to pay if it had provided and maintained a single insured bond.

(f) Each registered management investment company named as an insured in a joint insured bond shall enter into an agreement with all of the other named insureds providing that in the event recovery is received under the bond as a result of a loss sustained by the registered management investment company and one or more other named insureds, the registered management investment company shall receive an equitable and proportionate share of the recovery, but at least equal to the amount which it would have received had it provided and maintained a single insured bond with the minimum coverage required by paragraph (d)(1) of this section.

(g) Each registered management investment company shall:

(1) File with the Commission (i) within 10 days after the execution of a bond of the type described in paragraphs (b)(1) or (b)(2) of this section, or any amendment thereof, (A) a copy of the bond, (B) a copy of the resolution of a majority of the board of directors who are not "interested persons" of the registered management investment company approving the form and amount of the bond, and (C) a statement as to the period for which premiums have been paid; (ii) within 10 days after the execution of a joint insured bond, or any amendment thereof, (A) a copy of the bond, (B) a copy of the resolution of a majority of the board of directors who are not "interested persons" of the registered management investment company approving the amount, type, form and coverage of the bond and the portion of the premium to be paid by such company, (C) a statement showing the amount of the single insured bond which the investment company would have provided and maintained had it not been named as an insured under a joint insured bond, (D) a statement as to the period for which premiums have been paid, and (E) a copy of each agreement between the investment company and all of the other named insureds entered into pursuant to paragraph (f) of this section; and (iii) a copy of any amendment to the agreement entered into pursuant to paragraph (f) of this section within 10 days after the execution of such amendment.

(2) File with the Commission, in writing, within five days after the making of any claim under the bond by the investment company, a statement of the nature and amount of the claim.

(3) File with the Commission, within five days of the receipt thereof, a copy of the terms of the settlement of any claim made under the bond by the investment company, and

(4) Notify by registered mail each member of the board of directors of the investment company at his last known residence address of (i) any cancellation, termination or modification of the bond, not less than forty-five days prior to the effective date of the cancellation or termination or modification, (ii) the filing and of the settlement of any claim under the bond by the investment company, at the time the filings required by paragraphs (g)(2) and (3) of this section are made with the Commission, and (iii) the filing and of the proposed terms of settlement of any claim under the bond by any other named insured, within five days of the receipt of a notice from the fidelity insurance company.

(h) Each registered management investment company shall designate an officer thereof who shall make the filings and give the notices required by paragraph (g) of this section.

(i) Where the registered management investment company is an unincorporated company managed by a depositor, trustee or investment adviser, the terms "officer" and "employee" shall include, for the purposes of this rule, the officers and employees of the depositor, trustee, or investment adviser.

(j) Any joint insured bond provided and maintained by a registered management investment company and one or more other parties shall be a transaction exempt from the provisions of section 17(d) of this Act and the rules thereunder, provided that the terms and provisions of such bond comply with the provisions of this rule, and further provided that the terms and provisions of any agreement required by paragraph (f) of this section comply with the provisions of that paragraph.







V 38-180 SEP 18 73 XUM

(k) Not later than six months from the effective date of this rule, arrangements between registered management investment companies and fidelity insurance companies and arrangements between registered management investment companies and other parties named as insureds under joint insured bonds which would not permit compliance with the provisions of this rule shall be modified by the parties so as to effect such compliance.

The amendments to Rule 17g–1 are proposed under the authority granted to the Commission by sections 6(c), 17(d), 17(g) and 38(a) of the Act.

All interested persons are invited to submit their written views and comments on the proposed amendment, as revised, to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549, on or before October 17, 1973. All communications in this regard should refer to File No. S7–435, and will be available for public inspection.

(Secs. 6(c), 17(d), 17(g), 38(a); 54 Stat. 800, 815, 841 (15 U.S.C. 80a–6c, 80a–17(d), 80a–17(g), 80a–37(a)).)

By the Commission, September 7, 1973.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73–19754 Filed 9–17–73;8:45 am]





# Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF THE TREASURY

### Bureau of Alcohol, Tobacco and Firearms

### GRANTING OF RELIEF

Notice is hereby given that pursuant to 18 U.S.C., section 925(c), the following named persons have been granted relief from disabilities imposed by Federal laws with respect to the acquisition, transfer, receipt, shipment, or possession of firearms incurred by reason of their convictions of crimes punishable by imprisonment for a term exceeding one year.

It has been established to my satisfaction that the circumstances regarding the convictions and each applicant's record and reputation are such that the applicants will not be likely to act in a manner dangerous to public safety, and that the granting of the relief will not be contrary to the public interest.

Boddington, David, 140–18 158th Street, Rochdale Queens, New York, convicted on October 4, 1937, in the Supreme Court, Kings County, New York.

Cottone, Vincent C., 545–B Greenleaf Road, Rochester, New York, convicted on February 9, 1954, in Monroe County Court, Rochester, New York.

Dundas, Nelson D., 2617 W. Earll Drive, Phoenix, Arizona, convicted on August 12, 1946, in the Park County District Court, Wyoming.

Fair, Edgar LeRoy, 213 W. Walnut Street, Butler, Pennsylvania, convicted on April 29, 1950, and on July 20, 1951, in the Court of Quarter Sessions of Butler County, Pennsylvania.

Pike, John Earl, Box 161, Pine Island, Minnesota, convicted on May 26, 1961, in the First District Court, Goodhue County, Red Wing, Minnesota.

Reed, Robert J., P.O. Box 177, Hollywood, Alabama, convicted on May 6, 1970, in the United States District Court for the Northern District of Alabama.

Reese, John Levi, 728 Waverly Drive, Arlington, Texas, convicted on March 11, 1952, in the 35th Criminal District Court of Brown County, Texas.

Turner, Roy, 898 Webb, Detroit, Michigan, convicted on November 16, 1956, in the Detroit Recorder's Court, Michigan.

Signed at Washington, D.C., this 7th day of September, 1973.

[SEAL] REX D. DAVIS, *Director, Bureau of Alcohol, Tobacco and Firearms.*

[FR Doc.73–19792 Filed 9–17–73;8:45 am]

### United States Customs Service

[T.D. 73–259]

### FOREIGN CURRENCIES

### Certification of Rates

Rates of exchange certified to the Secretary of the Treasury by the Federal Reserve Bank of New York.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified the following rates of exchange which varied by 5 per centum or more from the quarterly rate published in Treasury Decision 73–190 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following daily rates:

| | |
|---|---|
| France franc: | |
| August 27, 1973 | $0.2309 |
| August 28, 1973 | .2304 |
| Norway krone: | |
| August 27, 1973 | .1785 |
| August 28, 1973 | .1783 |
| August 29, 1973 | .1788 |
| August 30, 1973 | .1783 |
| August 31, 1973 | .1788 |
| Switzerland franc: | |
| August 27, 1973 | .3286 |
| August 28, 1973 | .3281 |

[SEAL] R. N. MARRA, *Director, Appraisement and Collections Division.*

[FR Doc.73–19793 Filed 9–17–73;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Center for Disease Control

### TUBERCULOSIS CONTROL ADVISORY COMMITTEE AND VENEREAL DISEASE CONTROL ADVISORY COMMITTEE

### Notice of Renewals

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Public Law 92–463, 86 Stat. 770–776), the Center for Disease Control announces the approval of renewals by the Secretary, DHEW, on June 30, 1973, with concurrence by the Office of Management and Budget Committee Management Secretariat, of the following public advisory committees.

*Designation.* Tuberculosis Control Advisory Committee.

*Purpose.* The Committee consults with and advises the Chief, Tuberculosis Branch, Bureau of State Services, Center for disease Control, on policies and programs in tuberculosis control.

*Designation.* Venereal Disease Control Advisory Committee.

*Purpose.* The Committee advises the Chief, Venereal Disease Branch, Bureau of State Services, Center for Disease Control, on means and methods of implementing its program in assisting states to carry on activities in the field of venereal disease control, and reviews program operations and suggests new areas of emphasis.

Authority for these committees will expire July 1, 1975, unless the Secretary, DHEW, with the concurrence by the Office of Management and Budget Committee Management Secretariat, formally determines that continuance is in the public interest.

Dated August 29, 1973.

DAVID J. SENCER, *Director, Center for Disease Control.*

[FR Doc.73–19778 Filed 9–17–73;8:45 am]

### Food and Drug Administration

[DESI 607]

### AZURESIN WITH CAFFEINE AND SODIUM BENZOATE

### Follow-up Notice

In a notice (DESI 607) published in the FEDERAL REGISTER of October 14, 1971 (36 FR 19987), the Commissioner of Food and Drugs announced his conclusions pursuant to evaluation of a report received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group on Diagnex Blue containing azuresin granules with caffeine and sodium benzoate tablets; E. R. Squibb and Sons, Inc., Box 4000, Princeton, N.J. 08540 (NDA 10–764).

All identical, related, or similar products, not the subject of an approved new drug application, are covered by the new drug application reviewed and are subject to this notice. See 21 CFR 130.40 (37 FR 23185, October 31, 1972). Any person who wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (BD–300), 5600 Fishers Lane, Rockville, Maryland 20852.

The notice stated that the drug was regarded as possibly effective for the tubeless determination of the presence or absence of free hydrochloric acid in the stomach.

Based upon review of new data which demonstrate the safety and effectiveness of the drug for such use, the Commissioner concludes that the drug is effective for the previously possibly effective indication, as set forth in the Labeling conditions below.

Accordingly, the previous notice is amended to read as follows, insofar as it pertains to azuresin granules with caffeine and sodium benzoate tablets.

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's report as well as other available evidence, and concludes that azuresin granules with caffeine and sodium benzoate tablets are effective for the tubeless determination of the presence or absence of free hydrochloric acid in the stomach.



V 38 I 180 S
SEP 18 73
XUM

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* Azuresin diagnostic test consists of azuresin granules and caffeine and sodium benzoate tablets, suitable for oral administration.

2. *Labeling conditions.* (a). The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

(b) The drug is labeled to comply with all requirements of the Act and regulations and the labeling bears adequate information for safe and effective use of the drug. The indication, contraindications and warnings sections of the labeling are as follows:

INDICATION

Azuresin diagnostic test is designed for the tubeless determination of the presence or absence of free hydrochloric acid in the stomach.

CONTRAINDICATIONS

The test results may not be valid in the presence of pyloric obstruction, severe hepatic or renal disease, abnormalities that impair intestinal absorption, severe diarrhea, vomiting, marked dehydration, urinary bladder retention, partial or total gastrectomy, gastroenterostomy or pyloroplasty.

WARNINGS

The test cannot be used to demonstrate quantitative variations in the amount of free gastric hydrochloric acid known to occur clinically.

3. *Marketing status.* Marketing of such drugs may be continued under the conditions described in the notice entitled *"Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study,"* published in the FEDERAL REGISTER July 14, 1970 (35 FR 11273), as follows:

a. For holders of "deemed approved" new drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling and an abbreviated supplement for updating information as described in paragraphs (a) (1) (i) and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new drug application, the submission of an abbreviated new drug application as described in paragraph (a) (3) (i) of that notice.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

Communications forwarded in response to this notice should be identified with the reference number DESI 607, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

Supplements (Identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Generic Drug Staff (BD-69), Office of Scientific Evaluation, Bureau of Drugs.

Requests for the Academy's report: Drug Efficacy Study Information Control (BD-66), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation, Project Manager (BD-101), Bureau of Drugs.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–53, as amended; 21 U.S.C. 352, 355), and the Administrative Procedure Act (5 U.S.C. 554), and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated September 11, 1973.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[FR Doc.73-19787 Filed 9-17-73;8:45 am]

[DESI 9489]

## CERTAIN DRUG CONTAINING TRIDIHEXETHYL CHLORIDE WITH PHENOBARBITAL

### Drugs for Human Use; Drug Efficacy Study Implementation

In the FEDERAL REGISTER of July 27, 1972 (37 FR 15026) (DESI 597), the Food and Drug Administration published conclusions regarding the effectiveness classification for certain drugs containing an anticholinergic with a barbiturate. The drug described below intended by the NDA holder for review by the Academy was not reviewed, and, thus, not included in that notice. The available evidence having been reviewed by the Food and Drug Administration, the Commissioner of Food and Drugs finds it appropriate to publish the findings concerning the drug.

Pathilon with Phenobarbital Tablets containing tridihexethyl chloride and phenobarbital; Lederle Laboratories Division, American Cyanamid Co., Pearl River, N.Y. 10965 (NDA 9-489).

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). The effectiveness classification and marketing status are described below.

A. *Effectiveness Classification.* The Food and Drug Administration has considered the evidence available and concludes that:

1. The drug lacks substantial evidence of effectiveness for gastritis.

2. It is less than effective (possibly effective) for its other labeled indications.

B. *Marketing status.* 1. Within 60 days of the date of publication of this announcement in the FEDERAL REGISTER, the holder of any approved new drug application for a drug classified in paragraph A. above as lacking substantial evidence of effectiveness shall submit a supplement to his application, as needed, to provide for revised labeling which deletes those indications for which substantial evidence of effectiveness is lacking as described in paragraph A.1. Such a supplement should be submitted under the provisions of § 130.9(d) and (e) of the new drug regulations (21 CFR 130.9(d) and (e)) which permit certain changes to be put into effect at the earliest possible time, and the revised labeling should be put into use within the 60-day period. Failure to do so will cause the product to be subject to a proposal to withdraw approval of the new drug application.

2. If any identical, similar, or related product is on the market without an approved new drug application, its labeling shall be revised to delete those claims for which substantial evidence of effectiveness is lacking as described in paragraph A.1. above. Failure to delete such indications and to put the revised labeling into use within 60 days after the date of publication hereof in the FEDERAL REGISTER will cause the product to be subject to regulatory proceedings.

C. *Submission of data.* Any data submitted in response to this notice to support indications for which the drug is classified as other than effective must be previously unsubmitted and include data from adequate and well-controlled clinical investigations (identified for ready review) as described in § 130.12 (a)(5) of the regulations published in the FEDERAL REGISTER of May 8, 1970 (35 FR 7250). Carefully conducted and documented clinical studies obtained under uncontrolled or partially controlled situations are not acceptable as a sole basis for approval of claims of effectiveness, but such studies may be considered on their merits for corroborative support of efficacy and evidence of safety.

Communications forwarded in response to this announcement should be identified with the reference number DESI 9489, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Maryland 20852:

Supplements (identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Office (BD-60), Bureau of Drugs.

All identical, related, or similar products, not the subject of an approved new drug application, are covered by the new drug application(s) reviewed and are subject to this notice. See 21 CFR 130.40 (37 FR 23185, October 31, 1972). Any person who wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (BD-300), 5600 Fishers Lane, Rockville, Maryland 20852.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–53, as amended; (21 U.S.C. 352, 355)) and the Administrative Procedure Act (5 U.S.C. 554), and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated September 11, 1973.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[FR Doc.73-19788 Filed 9-17-73;8:45 am]





[DESI 9363; Docket No. FDC-653; NDA No. 9-363]

## COMBINATION STEROID-SYMPATHOMIMETIC NASAL SPRAY

### Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Application

*Correction*

In FR Doc. 73-17332, appearing at page 22500 in the issue of Tuesday, August 21, 1973, in the first column on page 22501, wherever the date "September 30, 1973" appears, it should read "September 20, 1973".

[FAP 1B2619]

## FINE ORGANICS, INC.

### Withdrawal of Petition for Food Additives

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b), 72 Stat. 1786; (21 U.S.C. 348(b)), the following notice is issued:

In accordance with § 121.52 *Withdrawal of petitions without prejudice* of the procedural food additive regulations (21 CFR 121.52), Fine Organics, Inc., 205 Main St., Lodi, NJ 07644, has withdrawn its petition (FAP 1B2619), notice of which was published in the FEDERAL REGISTER of February 27, 1971 (36 FR 3832), proposing the issuance of a food additive regulation (21 CFR 121) to provide for the safe use of alpha phenyl indole as a heat stabilizer for rigid polyvinyl chloride articles intended for food contact use.

Dated September 7, 1973.

VIRGIL O. WODICKA,
*Director, Bureau of Foods.*

[FR Doc.73-19790 Filed 9-17-73;8:45 am]

[DESI 6550; Docket No. FDC-D-650; NDA No. 6-550]

## UPJOHN CO.

### Methoxyphenamine Hydrochloride; Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Application

*Correction*

In FR Doc. 73-17333, appearing at page 22501 in the issue of Tuesday, August 21, 1973, wherever the date "September 30, 1973" appears in the document, it should read "September 20, 1973".

## National Institutes of Health

## LUNG CANCER SEGMENT ADVISORY GROUP

### Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Lung Cancer Segment Advisory Group, National Cancer Institute, September 20, 1973, 8:30 a.m. to 4 p.m., National Institutes of Health, Building 37, Conference Room 1B04. This meeting will be open to the public from 2:00 to 4:00 p.m. to discuss possible new activities of the Lung Cancer Segment and closed to the public from 8:30 to 2:00 p.m. to discuss and review four contracts and one unsolicited proposal in the field of lung cancer in accordance with the provisions set forth in section 552(b)4 of Title 5, U.S. Code and section 10(d) of P.L. 92-463. Attendance by the public will be limited to space available.

Mr. Frank Karel, Associate Director for Public Affairs, NCI, Building 31, Room 10A31, National Institutes of Health, Bethesda, Maryland 20014 (301/496-1911) will furnish summaries of the open/closed meeting and roster of committee members.

Dr. Carl E. Smith, Executive Secretary, Landow Building, Room A-306 National Institutes of Health, Bethesda, Maryland 20014 (301/496-5471) will provide substantive program information.

JOHN F. SHERMAN,
*Deputy Director, NIH.*

SEPTEMBER 10, 1973.

[FR Doc.73-19783 Filed 9-17-73;8:45 am]

## WORKING GROUP ON BIOCHEMISTRY

### Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Working Group on Biochemistry of the Multiple Sclerosis ad hoc Scientific Advisory Committee, September 26 and 27, 1973, at 9 a.m., in Room 8A03, Building 31A, National Institutes of Health, Bethesda, Maryland. This meeing will be closed to the public to review, discuss and evaluate and/or rank research proposals on Multiple Sclerosis in accordance with the provisions set forth in section 552(b)4 of Title V, U.S. Code and section 10(d) of P.L. 92-463.

1. The Institute Information Officer who will furnish summaries of the meeting and rosters of committee members is: Mrs. Ruth Dudley, Building 31, Room 8A03, phone: 496-5751.

2. The Executive Director from who substantive program information may be obtained is: Dr. Harry M. Weaver, Room 8A11, Building 31A, NIH, phone: 496-3523.

Dated September 10, 1973.

JOHN F. SHERMAN,
*Deputy Director, NIH.*

[FR Doc.73-19782 Filed 9-17-73;8:45 am]

## WORKING GROUP ON CLINICAL STUDIES

### Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Working Group on Clinical Studies of the Multiple Sclerosis ad hoc Scientific Advisory Committee, September 24 and 25, 1973, at 9:00 a.m., in Room 8A03, Building 31A, National Institutes of Health, Bethesda, Maryland. This meeting will be closed to the public to review, discuss and evaluate and/or rank research proposals on Multiple Sclerosis in accordance with the provisions set forth in section 552(b)4 of Title V, US Code and section 10(d) of P.L. 92-463.

1. The Institute Information Officer who will furnish summaries of the meeting and rosters of committee members is: Mrs. Ruth Dudley, Building 31, Room 8A03, phone: 496-5751.

2. The Executive Director from whom substantive program information may be obtained is: Dr. Harry M. Weaver, Room 8A11, Building 31A, NIH, phone: 496-3523.

Dated September 10, 1973.

JOHN F. SHERMAN,
*Deputy Director, NIH.*

[FR Doc.73-19779 Filed 9-17-73;8:45 am]

## WORKING GROUP ON IMMUNOLOGY

### Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Working Group on Immunology of the Multiple Sclerosis ad hoc Scientific Advisory Committee, September 28 and 29, 1973, at 9 a.m., in Room 8A03, Building 31A, National Institutes of Health, Bethesda, Maryland. This meeting will be closed to the public to review, discuss and evaluate and/or rank research proposals on Multiple Sclerosis in accordance with the provisions set forth in Section 552(b)4 of Title V, US Code and section 10(d) of P.L. 92-463.

1. The Institute Information Officer who will furnish summaries of the meeting and rosters of committee members is: Mrs. Ruth Dudley, Building 31, Room 8A03, phone: 496-5751.

2. The Executive Director from whom substantive program information may be obtained is: Dr. Harry M. Weaver, Room 8A11, Building 31A, NIH, phone: 496-3523.

Dated September 10, 1973.

JOHN F. SHERMAN,
*Deputy Director, NIH.*

[FR Doc.73-19780 Filed 9-17-73;8:45 am]

## WORKING GROUP ON PHARMACOLOGY

### Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Working Group on Pharmacology of the Multiple Sclerosis ad hoc Scientific Advisory Committee, September 21 and 22, 1973, at 9:00 A.M., in Room 8A03, Building 31A, National Institutes of Health, Bethesda, Maryland. This meeting will be closed to the public to review, discuss and evaluate and/or rank research proposals on Multiple Sclerosis in accordance with the provisions set forth in section 552(b)4 of Title V, US Code and section 10(d) of P.L. 92-463.



V 38 1 80 SEP 18 73 XUM

1. The Institute Information Officer who will furnish summaries of the meeting and rosters of committee members is: Mrs. Ruth Dudley, Building 31, Room 8A03, phone: 496–5751.

2. The Executive Director from who substantive program information may be obtained is: Dr. Harry M. Weaver, Room 8A11, Building 31A, NIH, phone: 496–3523.

Dated September 10, 1973.

JOHN F. SHERMAN,
*Deputy Director, NIH.*

[FR Doc.73–19781 Filed 9–17–73;8:45 am]

## Office of the Secretary

### IMPLEMENTATION OF THE NATIONAL BLOOD POLICY

#### Notice of Public Meeting

Notice is hereby given that the public is invited to attend the Secretary's Conference on the Implementation of the National Blood Policy, Monday, September 24, 1973. The meeting is to be held on the sixth floor of "C" Wing, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014. Vehicular parking will be available but attendees of the Conference should check with the NIH parking authorities for directions to the reserved parking area.

Attendees should plan to arrive at 9:00 a.m. for registration prior to commencement of the meeting at 9:30 a.m. Registration is intended to facilitate provision of additional information to interested parties.

The agenda for the Conference will be provided in advance of the meeting upon receipt of request by either mail or telephone. To facilitate the planning of the Conference it will be appreciated if those who believe they will attend the Conference will provide notice of same, by mail or by telephone, as soon as possible, to Dr. Ian Mitchell, Office of the Assistant Secretary for Health, Department of Health, Education, and Welfare, Room 4619, 330 Independence Avenue SW., Washington, D.C. 20201, telephone 202–962–6976. However, we seek the fullest possible participation by the public, whether or not attendees can provide prior notification.

IAN A. MITCHELL,
*Acting Director, Office of Special Health Projects, Office of the Assistant Secretary for Health.*

SEPTEMBER 12, 1973.

[FR Doc.73–19885 Filed 9–17–73;8:45 am]

### NATIONAL PROFESSIONAL STANDARDS REVIEW COUNCIL SUBCOMMITTEE ON DATA AND NORMS

#### Notice of Meeting

The National Professional Standards Review Council Subcommittee on Data and Norms will meet on September 26–27, 1973. This Subcommittee was formed to review issues of importance in the implementation of Title XI, Part B, Social Security Act with respect to PSRO data and norms of care. The meeting will be held at the Rodeway Inn, Salt Lake City, Utah from 9 a.m. to 5 p.m. on September 26 and 9 a.m. to 3 p.m. on September 27. Professional standards review is the procedure to assure that the services for which payment may be made under the Social Security Act are medically necessary and conform to appropriate professional standards for the provision of quality care. The Subcommittee's agenda will consist of issues relating to uniform data and the coding of medical information. The meeting is open to the public.

Dated September 11, 1973.

WILLIAM I. BAUER,
*Executive Secretary, National Professional Standards Review Council.*

[FR Doc.73–19809 Filed 9–17–73;8:45 am]

### NATIONAL PROFESSIONAL STANDARDS REVIEW COUNCIL SUBCOMMITTEE ON POLICY DEVELOPMENT

#### Notice of Meeting

The National Professional Standards Review Council Subcommittee on Policy Development will meet on Saturday, October 6, 1973. This Subcommittee was formed to review policy issues of importance in the implementation of Title XI, Part B, Social Security Act. The meeting will be held at the Chicago Marriott Motor Hotel, 8535 W. Higgins Road, Chicago, Illinois, 9 a.m. to 3 p.m. Professional standards review is the procedure to assure that the services for which payment may be made under the Social Security Act are medically necessary and conform to appropriate professional standards for the provision of quality care. The Subcommittee's agenda will include timely policy issues. The meeting is open to the public.

Dated September 11, 1973.

WILLIAM I. BAUER,
*Executive Secretary, National Professional Standards Review Council.*

[FR Doc.73–19810 Filed 9–17–73;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

[CGD 73–211N]

### BOATING SAFETY ADVISORY COUNCIL

#### Notice of Open Meeting

This is to give notice pursuant to the Federal Advisory Committee Act, section 10(a)(2) dated October 6, 1972, that the Boating Safety Advisory Council, U.S. Coast Guard will conduct an open meeting on Tuesday and Wednesday, October 30 and 31, 1973, in Room 3201, Buzzards Point Building, 2100 2nd Street SW., Washington, D.C. beginning at 9 a.m.

The Boating Safety Advisory Council is a 21-member Council authorized by Section 33 of the Federal Boat Safety Act of 1971. The Council must be consulted by the Coast Guard in establishing a need for formulating and prescribing regulations which establish minimum safety standards for boats and associated equipment. In addition, the Coast Guard is required to consult with the Council on any other major boat safety matters related to the Act.

The agenda for the October 30 and 31 meeting consists of the following:

Beginning at 9 a.m. on Tuesday, October 30, there will be a report on the status of proposed regulations followed by an update on the Standards Compliance and Defect Notification Programs; a briefing on the proposed Fuel and Electrical Standard; a boating education and promotion activities presentation; and a report on the Visual Distress Signals Study. Items of interest suggested by the membership will also be discussed.

Any member of the public who wishes to do so may file a written statement with the committee, before or after the meeting, or may present an oral statement with the advance approval of the Chairman.

Interested persons may request additional information concerning the October 30 and 31 meeting and other matters relating to the Boating Safety Advisory Council (pursuant to the Federal Advisory Committee Act, Section 10(b) dated October 6, 1972) from the Executive Director, Boating Safety Advisory Council, U.S. Coast Guard Headquarters (GBR/62) Washington, D.C. 20590 or by calling 202/426–4176.

Dated September 7, 1973.

JOHN F. THOMPSON,
*Chief, Office of Boating Safety.*

[FR Doc.73–19749 FHed 9–17–73;8:45 am]

[CGD 73–205N]

### EQUIPMENT, CONSTRUCTION, AND MATERIALS

#### Approval Notice

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from April 25, 1973 to June 4, 1973 (List No. 14–73). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75–1 to 2.75–50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard are set forth in 46 CFR Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner cancelled or suspended by proper authority.

LADDERS, EMBARKATION-DEBARKATION (FLEXIBLE), FOR MERCHANT VESSELS

Approval No. 160.017/46/0, Type I, embarkation-debarkation ladder, rope suspension, wooden ears and rungs, Sea Jay Type I Pilot Ladder, identified by dwg. Nos. CJH/PL/T1 and CJH/PL/F, dated April 18, 1972, this ladder has an optional fender section using molded rubber steps, in accordance with dwg. No. CJH/PL/F, manufactured by C. J. Hendry Company, 139 Townsend Street, San Francisco, California 94107, effective May 25, 1973.

LIFEBOATS

Approval No. 160.035/428/1, 24.0′ x 8.0′ x 3.58′ fibrous glass reinforced plastic (FRP) motor-propelled Class 1, lifeboat, 37-person capacity identified by construction and arrangement dwg. No. WBA–9029 Rev. "B" dated February 13, 1973, 46 CFR 160.035–13(c) Marking. Weights: Condition "A"=3,690 pounds; Condition "B"=10,637 pounds, manufactured by Welin Davit and Boat Division, Lake Shore, Inc., 3614 Kennedy Road, South Plainfield, New Jersey 07080, effective June 4, 1973. (It reinstates and supersedes Approval No. 160.035/428/0 terminated February 16, 1967.)

PRESSURE VACUUM RELIEF VALVES AND SPILL VALVES FOR TANK VESSELS

Approval No. 162.017/47/1, figure No. 37 duplex pressure vacuum relief valve, enclosed pattern, without unloader, weight-loaded poppets, all bronze construction, dwg. No. C–495–D, revision D dated April 16, 1953, approved for 4" tank connection and 6" victaulic vent header connection (4" x 6"), manufactured by Varec, Inc., 2820 North Alameda Street, P.O. Box 4429, Compton, California 90223, effective May 21, 1973. (It is an extension of Approval No. 162.017/47/1 dated June 6, 1968.)

Approval No. 162.017/48/1, figure No. 37A duplex pressure vacuum relief valve, enclosed pattern fitted with vacuum valve unloader, weight-loaded poppets, all bronze construction, dwg. No. C–495–D, revision D dated April 16, 1953, approved for 4" tank connection and 6" victaulic vent header connection (4" x 6"), manufactured by Varec, Inc., 2820 North Alameda Street, P.O. Box 4429, Compton, California 90223, effective May 21, 1973. (It is an extension of Approval No. 162.017/48/1 dated June 6, 1968.)



Approval No. 162.017/49/1, figure No. 37B duplex pressure vacuum relief valve, enclosed pattern, fitted with pressure valve unloader, weight-loaded poppets, all bronze construction, dwg. No. C–495–D, revision D dated April 16, 1953, approved for 4" tank connection and 6" victaulic vent header connection (4" x 6"), manufactured by Varec, Inc., 2820 North Alameda Street, Compton, California 90223, effective May 21, 1973. (It is an extension of Approval No. 162.017/49/1 dated June 6, 1968.)

Approval No. 162.017/50/1, figure No. 73 pressure only relief and spill valve, atmospheric pattern, flanged connection, weight-loaded poppet, all bronze construction, dwg. No. C–503–C, revision C dated October 2, 1952, approved for 3" and 6" pipe sizes, manufactured by Varec, Inc., 2820 North Alameda Street, P.O. Box 4429, Compton, California 90223, effective May 21, 1973. (It is an extension of Approval No. 162.017/50/1 dated June 6, 1968.)

Approval No. 162.017/51/1, figure No. 73A, pressure only relief and spill valve, atmospheric pattern, screwed connection, weight-loaded poppet, all bronze construction, dwg. No. C–503–C, revision C dated October 2, 1952, approved for 3" and 6" pipe sizes, manufactured by Varec, Inc., 2820 North Alameda Street, P.O. Box 4429, Compton, California 90223, effective May 21, 1973. (It is an extension of Approval No. 162.017/51/1 dated June 6, 1968.)

Approval No. 162.017/71/0, figure No. 732 pressure vacuum relief valve, atmospheric pattern, screwed connection, weight-loaded poppets, all bronze construction, dwg. No. C–1809 dated April 2, 1952, approved for 2½", 3", and 4" pipe sizes, manufactured by Varec, Inc., 2820 North Alameda Street, P.O. Box 4429, Compton, California 90223, effective May 21, 1973. (It is an extension of Approval No. 162.017/71/0 dated June 6, 1968.)

Approval No. 162.017/72/0, figure No. 734 pressure vacuum relief valve, enclosed pattern, without unloader, weight-loaded poppets, all bronze construction, dwg. No. C–1801–A, revision A dated May 13, 1952, approved for 4" pipe size, manufactured by Varec, Inc., 2820 North Alameda Street, P.O. Box 4429, Compton, California 90223, effective May 21, 1973. (It is an extension of Approval No. 162.017/72/0 dated June 11, 1968.)

Approval No. 162.017/73/0, figure No. 734A pressure vacuum relief valve, enclosed pattern, fitted with vacuum valve unloader, weight-loaded poppets, all bronze construction, dwg. No. C–1807–A, revision A dated May 13, 1952, approved for 4" pipe, manufactured by Varec, Inc., 2820 North Alameda Street, P.O. Box 4429, Compton, California 90223, effective May 21, 1973. (It is an extension of Approval No. 162.017/73/0 dated June 11, 1968.)

Approval No. 162.017/74/0, figure No. 734B pressure vacuum relief valve, enclosed pattern, fitted with pressure valve unloader, weight-loaded poppets, all bronze construction, dwg. No. C–1808–A, revision A dated May 13, 1952, approved for 4" pipe size, manufactured by Varec, Inc., 2820 North Alameda Street, P.O. Box 4429, Compton, California 90223, effective May 21, 1973. (It is an extension of Approval No. 162.017/74/0 dated June 11, 1968.)

Approval No. 162.017/75/1, figure No. 735 pressure vacuum relief valve, atmospheric pattern, flanged inlet, weight-loaded poppets, all bronze construction, dwg. No. C–1810, dated April 3, 1952, approved for 2½", 3" and 4" pipe sizes, manufactured by Varec, Inc., 2820 North Alameda Street, P.O. Box 4429, Compton, California 90223, effective May 21, 1973. (It is an extension of Approval No. 162.017/75/1 dated June 11, 1968.)

Approval No. 162.017/76/2, figure No. 735A pressure vacuum relief valve, atmospheric pattern, screwed connection, weight-loaded poppets, all bronze construction, dwg. No. C–1810 dated April 3, 1952, approved for 2½", 3" and 4" pipe sizes, manufactured by Varec, Inc., 2820 North Alameda Street, P.O. Box 4429, Compton, California 90223, effective May 21, 1973. (It supersedes Approval No. 162.017/76/1 dated June 11, 1968 to show approval of 3" size.)

Approval No. 162.017/102/0, figure 360G Vacuum Relief Valve, weight-loaded poppet, ASTM A–351 Grade CF–8 Stainless Steel, is approved for use as a Vacuum Relief Valve only (4" size), manufactured by Varec, Inc., 301 East Alondra Boulevard, Gardena, California 90247, effective May 22, 1973. (It supersedes Approval No. 162.017/102/0 dated May 23, 1968.)

Approval No. 162.017/114/0, 4" pressure only relief valve, Model No. X94030–04–01/SPR 9403–3 body material, ASTM B–62 bronze, stainless steel trim, lead weight loaded pallet, maximum pressure 2 5 p.s.i.g., capacities as shown on dwg. No. 9403–00450, Rev. B, also approved for use in inerted spaces aboard Todd Houston, Hull 587 (Massachusetts), (see GMMT–2 letter of 4–4–73), manufactured by GPE Controls, Inc., 6511 Oakton Street, Morton Grove, Illinois 60053, effective April 25, 1973.

INCOMBUSTIBLE MATERIALS FOR MERCHANT VESSELS

Approval No. 164.009/169/0, U.S. Gypsum's "Thermafiber Number 10 Granulated Wool" identical to that described in U.S. Gypsum's letter dated May 10, 1973, manufactured by United States Gypsum Company, 1000 East Northwest Highway, Des Plaines, Illinois 60016, plant locations: Wabash, Indiana; Torrance, California; Corsicana, Texas; South Plainfield, New Jersey, effective June 1, 1973.

Dated September 11, 1973.

D. H. CLIFTON,
*Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.*

[FR Doc.73–19757 Filed 9–17–73;8:45 am]







V 38 I 180 SEP 18 73 XUM

[CGD 73-206N]

## EQUIPMENT, CONSTRUCTION, AND MATERIALS

### Termination of Approval Notice

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been terminated as herein described during the period from May 25, 1973 to June 18, 1973 (List No. 15–73). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75–1 to 2.75–50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. Notwithstanding the termination of approval listed in this document, the equipment affected may be used as long as it remains in good and serviceable condition.

LADDERS, EMBARKATION — DEBARKATION (FLEXIBILE), FOR MERCHANT VESSELS

The Maryatt, Lane & Company, Inc. And it's Division, Great Bend Manufacturing Corporation, 234 Godwin Avenue, Paterson, New Jersey 07501, Approval No. 160.017/11/2 expired and was terminated effective June 18, 1973.

LIFEBOATS

The Whittaker Corporation, 5159 Baltimore Drive, La Mesa, California 92042, no longer manufactures certain lifeboats and Approval No. 160.035/454/0 was therefore terminated effective June 15, 1973.

The Lane Lifeboat & Davit Corporation, 150 Sullivan Street, Brooklyn, New York 11231, Approval No. 160.035/456/0 expired and was terminated effective June 18, 1973.

BUOYANT CUSHIONS, KAPOK, OR FIBEROUS GLASS

The Outdoor Supply Company, Inc., Oxford, North Carolina 27565, no longer manufactures certain kapok bouyant cushions for J. C. Penney Company, Inc., 1301 Avenue of the Americas, New York, New York 10019 and Approval No. 160.048 255/0 was therefore terminated effective May 25, 1973.

BUOYS, LIFE, RING, UNICELLULAR PLASTIC

The Outdoor Supply Company, Inc., 8 Industry Drive, Oxford, North Carolina 27565, no longer manufactures certain unicellular plastic ring life buoys and Approval Nos. 160.050/65/0, 160.050/66/0 and 160.050/67/0 were therefore terminated effective June 18, 1973.

The Outdoor Supply Company, Inc., 8 Industry Drive, Oxford, North Carolina 27565, no longer manufactures certain unicellular plastic ring life buoys for Campco Ventures, Inc., P.O. Box 49, 1891 Woolner Avenue, Fairfield, California 94533 and Approval Nos. 160.050/68/0, 160.050/69/0 and 160.050/70/0 were therefore terminated effective June 18, 1973.

Dated September 11, 1973.

D. H. CLIFTON,
*Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.*

[FR Doc.73-19753 Filed 9-17-73;8:45 am]

[CGD 73-207N]

## EQUIPMENT, CONSTRUCTION, AND MATERIALS

### Approval Notice

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from June 12, 1973 to June 26, 1973 (List No. 16–73). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75–1 to 2.75–50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner cancelled or suspended by proper authority.

SIGNALS, DISTRESS, HAND RED FLARE, FOR MERCHANT VESSELS

Approval No. 160.021/15/0, Bristol Marine hand red flare distress signal, 500 candlepower, 2 minutes burning time, dwg. No. 506, revised May 14, 1958, manufactured by Bristol Flare Corporation, P.O. Box 540, State Road, Bristol, Pennsylvania 19007, for Dolphin Paint & Chemical Company, 922 Locust Street, Toledo, Ohio 43403, effective June 26 1973.

LIFEBOATS

Approval No. 160.035/439/5, 12.0', x 4.42' x 1.75' oar-propelled F.R.P. lifeboat, 4-person capacity, identified by construction and arrangement drawing 12–5, Rev. C dated March 23, 1970, alternate arrangement identified by general arrangement drawing No. 12–5–SL, Rev. B dated May 25, 1973, 46 CFR 160.035–13(c) Marking, Weights: Condition "A"=319 pounds; Condition "B"=1,071 pounds, approved for use on vessels in bays, sounds, and lakes; and river service, if mechanical disengaging apparatus is fitted, it shall be of an approved type and installed in accordance with drawings approved by the Commandant, approved for 6-person capacity as replacement lifeboat, manfactured by Marine Safety Equipment Corporation, Foot of Wycoff Road, Farmingdale, New Jersey 07727, effective June 21, 1973. (It supersedes Approval No. 160.035/439/4 dated March 31, 1970 to show alternate construction.)

SIGNALS, DISTRESS, HAND, ORANGE SMOKE FOR MERCHANT VESSELS

Approval No. 160.037/10/0, Bristol Marine hand held orange smoke signal, Bristol dwg. No. 600, revised June 2, 1958, manufactured by Bristol Flare Corporation, P.O. Box 540, State Road, Bristol, Pennsylvania 19007, for Dolphin Paint & Chemical Company, 922 Locust Street, Toledo, Ohio 43603, effective June 26, 1973.

SPECIAL PURPOSE WATER SAFETY BUOYANT DEVICES

Approval No. 160.064/25/1, Model No. 8404, vinyl dipped unicellular plastic foam "Man Overboard Buoy", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL report file No. MQ 7, manufactured by Atlantic-Pacific Manufacturing Corporation, 124 Atlantic Avenue, Brooklyn, New York 11201, effective June 19, 1973. (It supersedes Approval No. 160.064/25/0 dated June 22, 1972.)

Approval No. 160.064/394/0, adult S/M, Model No. 100D, cloth covered unicellular plastic foam "Sailor's Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type III PFD, manufactured by Cut 'N' Jump Ski Corporation, 11525 Sorrento Valley Road, San Diego, California 92121, effective June 19, 1973. (It supersedes Approval No. 160.064/394/0 dated December 7, 1972 to show modification of intended use.)

Approval No. 160.064/396/0, adult L/XL, Model No. 100F, cloth covered unicellular plastic foam "Sailor's Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 47, Type III PFD, manufactured by Cut 'N' Jump Ski Corporation, 11525 Sorrento Valley Road, San Diego, California 92121, effective June 19, 1973. (It supersedes Approval No. 160.064/396/0 dated December 7, 1972 to show modification of intended use.)

Approval No. 160.064/424/0, adult S/M, Model No. 100DM, vinyl dipped unicellular plastic foam "Sailor's Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 32, Type III PFD, manufactured by Cut 'N' Jump Ski Corporation, 11525 Sorrento Valley Road, San Diego, California 92121, for Mermatec, Inc., 11525 Sorrento Valley Road, San Diego, California 92121 effective June 19, 1973. (It supersedes Approval No. 160.064/424/0 dated December 22, 1972 to show modification of intended use.)

Approval No. 160.064/425/0, adult L/XL, Model 100FM, vinyl dipped unicellular plastic foam "Sailor's Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 32, Type III PFD, manufactured by Cut 'N' Jump Ski Corporation, 11525 Sorrento Valley Road, San Diego, California 92121, for Mermatec, Inc., 11525 Sorrento Valley Road, San Diego, California 92121 effective June 19, 1973. (It supersedes Approval No. 160.064/425/0 dated December, 22, 1972 to show modification of intended use.)

Approval No. 160.064/477/0, adult medium, Model No. YVS/M, cloth covered unicellular plastic foam "Sailor's Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 31, Type III PFD, manufactured by Cut 'N' Jump Ski Corporation , 11525 Sorrento Valley Road, San Diego, California 92121, for Taperflex of America, 558 Library Street, San Fernando, California 91341, effective June 19, 1973.

Approval No. 160.064/478/0, adult X-large, Model No. YVL/XL, cloth covered unicellular plastic foam "Sailor's Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 31, Type III PFD, manufactured by Cut 'N' Jump Ski Corporation, 11525 Sorrento Valley Road, San Diego, California 92121, for Taperflex of America, 558 Library Street, San Fernando, California 91341, effective June 19, 1973.

Approval No. 160.064/479/0, adult medium, Model No. SVS/M, cloth covered unicellular plastic foam "Sportsman Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 31, Type III PFD, manufactured by Cut 'N' Jump Ski Corporation, 11525 Sorrento Valley Road, San Diego, California 92121, for Taperflex of America, 558 Library Street, San Fernando, California 91341, effective June 19, 1973.

Approval No. 160.064/480/0, adult X-large, Model No. SVL/XL, cloth covered unicellular plastic foam "Sportsman Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 31, Type III PFD, manufactured by Cut 'N' Jump Ski Corporation, 11525 Sorrento Valley Road, San Diego, California 92121, for Taperflex of America, 558 Library Street, San Fernando, California 91341, effective June 19, 1973.

RELIEF VALVES (HOT WATER HEATING BOILERS)

Approval No. 162.013/35/0, Type No. 174A relief valve for hot water heating boilers, approved for sizes and relieving capacities shown below:

| Inlet size (male or female) inches | Relieving capacity (Btu per hour at 30 p.s.i.) | Inlet size (male or female) inches | Relieving capacity (Btu per hour at 30 p.s.i.) |
|---|---|---|---|
| ¾ | 650,000 | 1½ | 2,020,000 |
| 1 | 1,005,000 | 2 | 3,815,000 |
| 1¼ | 1,865,000 | | |

manufactured by Watts Regulator Company, Lawrence, Massachusetts 01842, effective June 12, 1973. (It supersedes Approval No. 162.013/35/0 dated July 23, 1968.)

Approval No. 162.013/37/0, type No. 740 relief valve for hot water heating boilers, approved for sizes and relieving capacities shown below:

| Inlet size (male or female) inches | Relieving capacity (Btu per hour at 30 p.s.i.) | Inlet size (male or female) inches | Relieving capacity (Btu per hour at 30 p.s.i.) |
|---|---|---|---|
| ¾ | 895,000 | 1½ | 2,900,000 |
| 1 | 1,300,000 | 2 | 5,250,000 |
| 1¼ | 2,105,000 | | |

manufactured by Watts Regulator Company, Lawrence, Massachusetts 01842, effective June 14, 1973.

GAUGING DEVICES, LIQUID LEVEL, LIQUEFIED COMPRESSED GAS

Approval No. 162.019/35/0, magnetic gaging device, stainless steel components, Dwg. No. B–630 dated June 16, 1968 and accompanying Bill of Materials B–630, low temperature applications (below 0°F) shall be constructed of suitable materials in accordance with 46 CFR Part 56, impact test results when required shall be available to the cognizant Officer in Charge, Marine Inspection, manufactured by Midland Manufacturing Corporation, 7733 Gross Point Road, Skokie, Illinois 60076, effective June 20, 1973. (It is an extension of Approval No. 162.019/35/0 dated July 9, 1968.)

BACKFIRE FLAME CONTROL, GASOLINE ENGINES; FLAME ARRESTERS; FOR MERCHANT VESSELS AND MOTORBOATS

Approval No. 162.041/170/0, Kawasaki Model Y73 backfire flame arrester, cast aluminum housing, stainless steel arrester cover, brass flame arresting grid, manufactured by Kawasaki Motors Corporation, 1062 McGaw Avenue, P.O. Box 11447, Santa Ana, California 92711, effective June 12, 1973.

BACKFIRE FLAME CONTROL, GASOLINE ENGINES; ENGINE AIR AND FUEL INDUCTION SYSTEMS; FOR MERCHANT VESSELS AND MOTORBOATS

Approval No. 162.042 5/0, OMC 9½ H.P. powerhead, OMC Model MV–10S, fuel induction arrangement provides backfire flame protection equivalent to that of an effective backfire flame arrester, uses Reed Valve Air Induction, manufactured by Outboard Marine Corporation, 300 Sea-Horse Drive, Waukegan, Illinois 60085, effective June 12, 1973. (It is an extension of Approval No. 162.042/5/0 dated July 24, 1968 and change of address of manufacturer.)

Dated September 11, 1973.

D. H. CLIFTON,
*Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.*

[FR Doc.73-19752 Filed 9-17-73;8:45 am]

[CGD 73-208N]

## EQUIPMENT, CONSTRUCTION, AND MATERIALS

### Approval Notice

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from June 28, 1973 to July 11, 1973 (List No. 17–73). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75–1 to 2.75–50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner cancelled or suspended by proper authority.

SIGNALS, DISTRESS, HAND RED FLARE, FOR MERCHANT VESSELS

Approval No. 160.021/4/2, Bristol Marine hand red flare distress signal, 500 candlepower, 2 minutes burning time,







V 38-180 SEP 18 73 XUM

dwg. No. 506 revised May 14, 1958, manufactured by Bristol Flare Corporation, State Road, Bristol, Pennsylvania 19007, effective July 3, 1973. (It is an extension of Approval No. 160.021/4/2 dated September 3, 1968.)

LIFE PRESERVERS, UNICELLULAR PLASTIC FOAM ADULT AND CHILD FOR MERCHANT VESSELS

Approval No. 160.055/85/0, Type IA, Model 62, adult vinyl dip coated unicellular plastic foam life preserver, U.S.C.G. Specification Subpart 160.055 and dwg. No. 160.055-IA (sheets 1 and 2), Type I PFD, manufactured by Goodenow Manufacturing, 1301 West 18th Street, Erie, Pennsylvania 16501, effective July 3, 1973. (It is an extension of Approval No. 160.055/85/0 dated September 18, 1968.)

Approval No. 160.055/86/0, Type IA, Model 66, child vinyl dip coated unicellular plastic foam life preserver, U.S.C.G. Specification Subpart 160.055 and dwg. No. 160.055-IA (sheets 1 and 2, Type I PFD, manufactured by Goodenow Manufacturing, 1301 West 18th Street, Erie, Pennsylvania 16501, effective July 3, 1973. (It is an extension of Approval No. 160.055/86/0 dated September 18, 1968.)

SPECIAL PURPOSE WATER SAFETY BUOYANT DEVICES

Approval No. 160.064/485/0, adult X-large, Model No. 12.06.70.6, cloth covered unicellular plastic foam "Buoyant Sports Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 172, Type III Personal Flotation Device, manufactured by Plastimo S.A., 15, Rue Ingenieur Verrieae 56100, Lorient, France, effective July 11, 1973.

Approval No. 160.064/486/0, adult large, Model 12.06.60.9, cloth covered unicellular plastic foam "Buoyant Sports Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 172, Type III Personal Flotation Device, manufactured by Plastimo S.A., 15, Rue Ingenieur Verrieae 56100, Lorient, France, effective July 11, 1973.

Approval No. 160.064/487/0, adult medium, Model No. 12.06.50.9, cloth covered unicellular plastic foam "Buoyant Sports Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 172, Type III Personal Flotation Device, manufactured by Plastimo S.A., 15, Rue Ingenieur Verrieae 56100, Lorient, France, effective July 11, 1973.

Approval No. 160.064/488/0, child medium, Model No. 12.06.40.5, cloth covered unicellular plastic foam "Buoyant Sports Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 172, Type III Personal Flotation Device, manufactured by Plastimo S.A., 15, Rue Ingenieur Verrieae 56100, Lorient, France, effective July 11, 1973.

Approval No. 160.064/489/0, child medium, Model No. 12.06.30.8, cloth covered unicellular plastic foam "Buoyant Sports Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 172, Type III Personal Flotation Device, manufactured by Plastimo S.A., 15, Rue Ingenieur Verrieae 56100, Lorient, France, effective July 11, 1973.

Approval No. 160.064/490/0, adult X-large, Model No. F-70, cloth covered unicellular plastic foam "Buoyant Sport Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 172, Type III Personal Flotation Device, manufactured by Plastimo S. A., 15, Rue Ingenieur Verrieae 56100, Lorient, France for Omega Marketing, Inc., 203 Pleasant Street, Marblehead, Massachusetts 01945, effective July 11, 1973.

Approval No. 160.064/491/0, adult large, Model No. F-60, cloth covered unicellular plastic foam "Buoyant Sport Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 172, Type III Personal Flotation Device, manufactured by Plastimo S. A., 15, Rue Ingenieur Verrieae 56100, Lorient, France for Omega Marketing, Inc., 203 Pleasant Street, Marblehead, Massachusetts 01945, effective July 11, 1973.

Approval No. 160.064/492/0, adult medium, Model No. F-50, cloth covered unicellular plastic foam "Buoyant Sport Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 172, Type III Personal Flotation Device, manufactured by Plastimo S. A., 15, Rue Ingenieur Verrieae 56100, Lorient, France for Omega Marketing, Inc., 203 Pleasant Street, Marblehead, Massachusetts 01945, effective July 11, 1973.

Approval No. 160.064/493/0, child medium, Model No. F-4, cloth covered unicellular plastic foam "Buoyant Sport Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 172, Type III Personal Flotation Device, manufactured by Plastimo S. A., 15, Rue Ingenieur Verrieae 56100, Lorient, France for Omega Marketing, Inc., 203 Pleasant Street, Marblehead, Massachusetts 01945, effective July 11, 1973.

Approval No. 160.064/494/0, child medium, Model No. F-30, cloth covered unicellular plastic foam "Buoyant Sport Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 172, Type III Personal Flotation Device, manufactured by Plastimo S. A., 15, Rue Ingenieur Verrieae 56100, Lorient, France for Omega Marketing, Inc., 203 Pleasant Street, Marblehead, Massachusetts 01945, effective July 11, 1973.

Approval No. 160.064/511/0, child medium, Model No. CGVA-S, cloth covered unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 185, Type III PFD, manufactured by Cut 'N' Jump Ski Corporation, 11525 Sorrento Valley Road, San Diego, California 92121 for Compo-Tek, Eden Prairie, Minnesota 55343, effective July 11, 1973.

Approval No. 160.064/512/0, adult, Model No. CGVA-M, cloth covered unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 185, Type III PFD, manufactured by Cut 'N' Jump Ski Corporation, 11525 Sorrento Valley Road, San Diego, California 92121 for Compo-Tek, Eden Prairie, Minnesota 55343, effective July 11, 1973.

Approval No. 160.064/513/0, adult, Model No. CGVA-L, cloth covered unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 185, Type III PFD, manufactured by Cut 'N' Jump Ski Corporation, 11525 Sorrento Valley Road, San Diego, California 92121 for Compo-Tek, Eden Prairie, Minnesota 55343, effective July 11, 1973.

Approval No. 160.064/514/0, adult, Model No. CGVA-XL, cloth covered unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 185, Type III PFD, manufactured by Cut 'N' Jump Ski Corporation, 11525 Sorrento Valley Road, San Diego, California 92121 for Compo-Tek, Eden Prairie, Minnesota 55343, effective July 11, 1973.

Approval No. 160.064/515/0, adult, Model No. CGVB-M, cloth covered unicellular plastic foam "Water Ski Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 185, Type III PFD, manufactured by Cut 'N' Jump Ski Corporation, 11525 Sorrento Valley Road, San Diego, California 92121 for Compo-Tel, Eden Prairie, Minnesota 55343, effective July 11, 1973.

PRESSURE VACUUM RELIEF VALVES AND SPILL VALVES FOR TANK VESSELS

Approval No. 162.017/64/4, figure, No. 100 pressure-vaccum relief valve, atmospheric pattern, weight-loaded poppets, bronze, nickel cast iron or stainless steel body, dwg. No. 100-A, revised September 10, 1970, approved sizes 2½", 3", 4", 5", 6", 8", 10", and 12", an optional manual lifting gear may be provided, manufactured by Mechanical Marine Company, Inc., 45-15 37th Street, Long Island City, New York 11101, effective July 10, 1973. (It supersedes Approval No. 162.017/64/4 dated November 3, 1969.)

SAFETY RELIEF VALVES, LIQUEFIED COMPRESSED GAS

Approval No. 162.018/35/3, 4" Style JQ safety relief valve for liquefied chlorine service (corrosive), approved for a maximum set pressure of 300 p.s.i., discharge capacity 15,350 cubic feet per minute of air measured at 60° F and 14.7 p.s.i.a., manufactured by Crosby Valve & Gage Company, Wrentham, Massachusetts 02093, effective June 28, 1973. (It is an extension of Approval No. 162.018/35/3 dated August 28, 1968.)





BACKFIRE FLAME CONTROL, GASOLINE ENGINES; FLAME ARRESTERS; FOR MERCHANT VESSELS AND MOTORBOATS

Approval No. 162.041/9/2, Barbron backfire flame arrester, part No. 5724B, brass element, cover, and base, also part No. 5724A, having brass element, anodized aluminum base and cover, opening in base is 2.68" diameter, flame arrester may have a fuel/fume feedback tube, formerly series 400-11, part No. A5381, manufactured by Barbron Corporation, 14580 Lesure Avenue, Detroit, Michigan 48227, effective June 29, 1973. (It supersedes Approval No. 162.041/9/1 dated August 28, 1970 to show modification in base of flame arrester.)

INCOMBUSTIBLE MATERIALS FOR MERCHANT VESSELS

Approval No. 164.009/163/0, "Thermo-12" pipe and block insulation, identical to that described in Johns-Manville's letter of March 28, 1973 and in National Bureau of Standards Test Report FR 3844 dated May 24, 1973, manufactured by Johns-Mansville Sales Corporation, Denver, Colorado 80217, Plant: Manville, New Jersey, effective July 2, 1973.

Dated September 11, 1973.

D. H. CLIFTON,
*Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.*

[FR Doc.73-19751 Filed 9-17-73;8:45 am]

---

[CGD 73-209N]

## EQUIPMENT, CONSTRUCTION, AND MATERIALS

### Approval Notice

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreation vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from July 18, 1973 to July 26, 1973 (List No. 18-73). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46 (b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner cancelled or suspended by proper authority.

SEA ANCHORS, LIFEBOAT

Approval No. 160.019/16/0, Model RSC-3 Sea Anchor, U.S.C.G. Drawing No. MMI-562 and Specification dated November 1, 1943, revised August 24, 1944 and Revere dwg. No. B-733-3 dated July 12, 1973, made with cloth and strip laminated vinyl-nylon high strength, flexible, conforming to MIL-C-43006D, Type I, Class 1, yellow, webbing is 2" nylon, conforming to MIL-C-20696, manufactured by Revere Supply Company, Inc., 603-607 West 29 Street, New York, New York 10001, effective July 26, 1973.

LINE-THROWING APPLIANCE, IMPULSE-PROJECTED ROCKET TYPE (AND EQUIPMENT), FOR MERCHANT VESSELS

Approval No. 160.040/4/0, Kilgore's assembly and arrangement dwg. Nos. BP-4159-1-1 dated March 9, 1973; CP-4099-1-1 revised June 14, 1973; CP-4095-1-1 revised June 14, 1973; CP-4140-1-1 dated December 21, 1971, and CP-4053-1-1 dated December 21, 1971, rockets made to dwg. Nos. BP-4137-1-1; BP-4136-1-1; CP-4153-1-1 and CP-4140-1-1 with Approval No. 160.040/4/0 may be used with Kilgore's Launcher Model GR-52-A1, manufactured by Kilgore Corporation, Toone, Tennessee 38381, effective July 25, 1973.

SPECIAL PURPOSE WATER SAFETY BUOYANT DEVICES

Approval No. 160.064/527/0, adult small, Model No. SSV-160, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 29, Type III PFD, manufactured by Stearns Manufacturing Company, 30th and Division Streets, St. Cloud, Minnesota 56301, effective July 20, 1973.

Approval No. 160.064/528/0, adult medium, Model No. SSV-160, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 29, Type III PFD, manufactured by Stearns Manufacturing Company, 30th and Division Streets, St. Cloud, Minnesota 56301, effective July 20, 1973.

Approval No. 160.064/529/0, adult large, Model No. SSV-160, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 29, Type III PFD, manufactured by Stearns Manufacturing Company, 30th and Division Streets, St. Cloud, Minnesota 56301, effective July 20, 1973.

Approval No. 160.064/530/0, adult X-large, Model No. SSV-160, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 29, Type III PFD, manufactured by Stearns Manufacturing Company, 30th and Division Streets, St. Cloud, Minnesota 56301, effective July 20, 1973.

Approval No. 160.064/531/0, adult small, Model No. SSV-165, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 29, Type III PFD, manufactured by Stearns Manufacturing Company, 30th and Division Streets, St. Cloud, Minnesota 56301, effective July 20, 1973.

Approval No. 160.064/532/0, adult medium, Model No. SSV-165, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 29, Type III PFD, manufactured by Stearns Manufacturing Company, 30th and Division Streets, St. Cloud, Minnesota 56301, effective July 20, 1973.

Approval No. 160.064/533/0, adult large, Model No. SSV-165, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 29, Type III PFD, manufactured by Stearns Manufacturing Company, 30th and Division Streets, St. Cloud, Minnesota 56301, effective July 20, 1973.

Approval No. 160.064/534/0, adult X-large, Model No. SSV-165, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 29, Type III PFD, manufactured by Stearns Manufacturing Company, 30th and Division Streets, St. Cloud, Minnesota 56301, effective July 20, 1973.

Approval No. 160.064/535/0, child medium, Model No. SSV-162-Youth, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 29, Type III PFD, manufactured by Stearns Manufacturing Company, 30th and Division Streets, St. Cloud, Minnesota 56301, effective July 20, 1973.

Approval No. 160.064/536/0, child small, Model No. SSV-163-Child, cloth covered unicellular plastic foam "Buoyant Vest", manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 29, Type III PFD, manufactured by Stearns Manufacturing Company, 30th and Division Streets, St. Cloud, Minnesota 56301, effective July 20, 1973.

BACKFIRE FLAME CONTROL, GASOLINE ENGINES; FLAME ARRESTERS; FOR MERCHANT VESSELS AND MOTORBOATS

Approval No. 162.041/171/0, Barbron backfire flame arrester, part No. 5714-B, brass element, base, and cover, alternate material for base and cover is anodized aluminum (5714A), opening in base is 2.68" in diameter, manufactured by Barbron Corporation, 14580 Lesure Avenue, Detroit, Michigan 48227, effective July 25, 1973.



V 38-180 SEP 18 73 XUM

Approval No. 162.041/172/0, Barbron backfire flame arrester, part No. 57154–B, brass element, base, and cover, alternate material for base and cover is anodized aluminum (57154A), opening in base is 2.68" in diameter, manufactured by Barbron Corporation, 14580 Lesure Avenue, Detroit, Michigan 48227, effective July 25, 1973.

Approval No. 162.041/173/0, Barbron backfire flame arrester, part No. 38115–B, brass element, base, and cover, alternate material for base and cover is anodized aluminum (38115A), opening in base is 2.68" in diameter, manufactured by Barbron Corporation, 14580 Lesure Avenue, Detroit, Michigan 48227, effective July 25, 1973.

Approval No. 162.041/174/0, Barbron backfire flame arrester, part No. 381515–B, brass element, base, and cover, alternate material for base and cover is anodized aluminum (381515A), opening in base is 2.68" in diameter, manufactured by Barbron Corporation, 14580 Lesure Avenue, Detroit, Michigan 48227, effective July 25, 1973.

Approval No. 162.041/175/0, Barbron backfire flame arrester, part No. 38215–B, brass element, base, and cover, alternate material for base and cover is anodized aluminum (38215A), opening in base is 2.68" in diameter, manufactured by Barbron Corporation, 14580 Lesure Avenue, Detroit, Michigan 48227, effective July 25, 1973.

INCOMBUSTIBLE MATERIALS FOR MERCHANT VESSELS

Approval No. 164.009/47/0, "Superfine HTB Fiber Glass", glass wool insulation type incombustible material identical to that described in National Bureau of Standards Test Report No. TG10210–2022:FP3449 dated May 7, 1958, approved in a $1/2$ to $1\ 1/2$ pounds per cubic foot density, manufactured by Certain-teed Products Corporation, CSG Group, Old Route 202, Eagle School Road, Valley Forge, Pennsylvania 19481, plant located Shelbyville, Indiana, formerly PPG Industries, Inc., effective July 18, 1973. (It supersedes Approval No. 164.009/47/0 dated February 2, 1973 to show change of name and address of manufacturer.)

Approval No. 164.009/75/0, "PPG Textrafine" fibrous glass insulation type incombustible material identical to that described in National Bureau of Standards Test Report No. TG10210–2096: FR3620 dated December 10, 1962, approved in a density of $1/2$-pound per cubic foot, manufactured by Certain-teed Products Corporation, CSG Group, Old Route 202, Eagle School Road, Valley Forge, Pennsylvania 19481, plant located Shelbyville, Indiana, formerly PPG Industries, Inc., effective July 18, 1973. (It supersedes Approval No. 164.009/75/0 dated February 2, 1973 to show change of name and address of manufacturer.)

Approval No. 164.009/130/0, "Textrafine Blanket Insulation", fibrous glass type incombustible material identical to that described in National Bureau of Standards Test Report No. TG10210–2186:FR3723 and PPG Industries, Inc. letters dated June 24, 1969 and July 16, 1969, approved in a density of 0.75 pounds per cubic foot, manufactured by Certain-teed Products Corporation, CSG Group, Old Route 202, Eagle School Road, Valley Forge, Pennsylvania 19481, plant located Shelbyville, Indiana, formerly PPG Industries, Inc., effective July 18, 1973. (It supersedes Approval No. 164.009/130/0 dated December 29, 1969 to show change of name and address of manufacturer.)

Approval No. 164.009/147/0, "Navy Hull Board Type C", fibrous glass insulation board identical to that described in National Bureau of Standards Test Report No. FR3758 dated May 25, 1971 and PPG Industries, Inc. letter dated March 10, 1971, approved in a density of 2.75 pounds per cubic foot, manufactured by Certain-teed Products Corporation, CSG Group, Old Route 202, Eagle School Road, Valley Forge, Pennsylvania 19481, plant located Shelbyville, Indiana, formerly PPG Industries, Inc., effective July 18, 1973. (It supersedes Approval No. 164.009/147/0 dated June 21, 1971 to show change of name and address of manufacturer.)

Dated September 11, 1973.

D. H. CLIFTON,
*Captain, U.S. Coast Guard, Acting Chief, Officer of Merchant Marine Safety.*

[FR Doc.73-19750 Filed 9-17-73;8:45 am]

[CGD 73-212N]

## SCIENCE ADVISORY COMMITTEE

### Notice of Open Meeting

Pursuant to the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that the Seventh Meeting of the Science Advisory Committee will be held on October 10–11, 1973 in Building 28B at the U.S. Coast Guard Yard, Curtis Bay (near Baltimore), Maryland. Members of the public will be admitted to the meeting beginning at 0830 a.m. each day on the agenda listed below according to a first-come-first-served basis up to the seating capacity of the room, which is about 100 persons.

The agenda consists of the following topics:

Current highlights of the ongoing USCG program in research, development, test and evaluation; current status and concepts in designing and staffing the permanent USCG R&D Center; review of research into non-electronic means of marine survival and of target enhancement for survivors in the water; review of the proposed 5-year RDT&E program plan related to marine safety and environmental protection; discussion of the Commandant's response to recommendations made by the Committee at its sixth meeting; "brainstorming" ideas as to where the biggest pay-offs may lie in the Coast Guard RDT&E effort, particularly in use of in-house capabilities; and optimal interfacing of Coast Guard research and development with Coast Guard engineering efforts.

The Coast Guard Science Advisory Committee serves in an advisory capacity only. It was first established on May 11, 1969, to provide a broad external and neutral view for review of the Coast Guard's effort in the area of research, development, test and evaluation. The Acting Secretary of Transportation on November 8, 1972, formally extended the Committee for an additional 2-year period ending December 31, 1974 and charged the committee with rendering advisory services relative to an ongoing broad external review of the Coast Guard's RDT&E effort; making recommendations concerning development of new technologies for accomplishing Coast Guard missions, and interfacing Coast Guard scientific and technological programs with those of other agencies, particularly the Departments of Navy and Transportation. The Committee is now chaired by Dr. Ralph D. Bennett, Consultant, of Belvedere, California.

For further information concerning this meeting, contact Captain W. R. Bleakley, Jr., USCG, executive secretary of the Committee, at the Office of Research and Development, U.S. Coast Guard Headquarters, Seventh and D Streets SW., Washington, D.C. 20590. Telephone contact may be made at 202–426–1031. Summary minutes of this meeting may also be obtained by contacting the same office.

Dated September 4, 1973.

A. H. SIEMENS, Jr.,
*Rear Admiral, U.S. Coast Guard, Chief, Office of Research and Development.*

[FR Doc.73-19756 Filed 9-17-73;8:45 am]

### Office of the Secretary

## COMMANDANT OF THE COAST GUARD

### Delegation of Authority

By Federal Property Management Temporary Regulation F–187, effective June 12, 1973, the Administrator of General Services delegated to the Secretary of Transportation authority to represent the consumer interests of the Executive agencies of the Federal Government before the Public Utilities Commission of the State of Connecticut in a proceeding involving the application of the Hartford Electric Light Company for abolition of Rate 31, for all-electric buildings. That regulation further authorized the Secretary of Transportation to redelegate this authority to any officer, official, or employee of the Department of Transportation.

Pursuant thereto, effective June 13, 1973, I hereby delegate all authority vested in me by Federal Property Management Temporary Regulation F–187 to the Commandant of the Coast Guard, with authority to redelegate.

This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and, further, shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Issued in Washington, D.C., on August 29, 1973.

CLAUDE S. BRINEGAR,
*Secretary of Transportation.*

[FR Doc.73-19742 Filed 9-17-73;8:45 am]





## ATOMIC ENERGY COMMISSION

[Docket No. 50-309]

## MAINE YANKEE ATOMIC POWER CO.

### Notice of Oral Argument

In the matter of Maine Yankee Atomic Power Station.

Notice is hereby given that oral argument in this proceeding, calendared for Thursday, October 11, 1973, at 9:15 a.m., in accordance with the Atomic Safety and Licensing Appeal Board's Orders of August 30, 1973 and September 7, 1973, will be held in the Appeal Panel Hearing Room located on the 5th floor of the East-West Tower Building, 4350 East-West Highway, Bethesda, Maryland.

For the Atomic Safety & Licensing Appeal Board.

Dated September 12, 1973.

MARGARET E. DU FLO,
*Secretary to the Appeal Board.*

[FR Doc.73-19747 Filed 9-17-73;8:45 am]

## CIVIL AERONAUTICS BOARD

[Docket No. 23045; Order 73-9-48]

## BUSINESS JETS, PTY., LTD.

### Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 12th day of September, 1973.

By Order 73-8-32, dated August 7, 1973, the Board directed all interested persons to show cause why the Board should not issue a notice that the foreign air carrier permit now held by Business Jets, Pty., Ltd. has terminated. The order required that all interested persons having objections to the issuance of an order making final the tentative findings and conclusions set forth therein file such objections within 20 days after service.

No objection to Order 73-8-32 has been filed.

Accordingly, we conclude that the tentative findings and conclusions contained in Order, 73-8-32 should be made final.

Accordingly, *it is ordered* That:

1. The tentative findings and conclusions set forth in Order 73-8-32 be and they hereby are made final; and

2. Notice is hereby given that the foreign air carrier permit held by Business Jets, Pty., Ltd. has terminated.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.73-19814 Filed 9-17-73;8:45 am]

## INTERNATIONAL AIR TRANSPORT ASSOCIATION

[Docket No. 23333; Order 73-9-45]

### Order Relating to Reduced Fares for Cargo Sales Agents

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 11th day of September, 1973.

Recently, the Board, by Order 73-7-28 of July 10, 1973, approved, subject to conditions, an agreement of the International Air Transport Association (IATA) dealing with the revision of the basis upon which reduced-fare concessions for United States-based IATA cargo agents are allocated.[1] The general effect of the revision was to establish an incentive program geared to agent productivity in place of the present system of allocation of a fixed number of tickets for each agency location.

On August 7, 1973, the members of the Air Freight Forwarders Association (AFFA) filed a petition with the Board for reconsideration of Order 73-7-28. In general, AFFA maintains the Board made its decision without full examination of the facts and issues pertinent to the case, and specifically erred in concluding that forwarder consolidation revenues should be excluded from the productivity base upon which the number of reduced-fare tickets to be allocated is determined.

Pan American World Airways, Inc. (Pan American) in an August 13, 1973, answer to AFFA's petition states that under the resolution in question it had always assumed that such non-commissionable forwarder revenue would be included in computing total sales productivity for the purpose of allocating such reduced-fare transportation.

Trans World Airlines, Inc. (TWA) has advised IATA[2] that because of the Board's disallowance of forwarder consolidations in the productivity base and its conditioning of the resolution with respect to the discount level offered, the resolution will not become effective since it is a type "A" resolution.[3] Further, TWA believes it necessary to extend the validity of the previous resolution governing reduced-fare privileges for U.S.-based cargo agents by cable mail vote until a solution to the problems raised can be found.

Accordingly, IATA has submited for Board approval a mail vote agreement, which has been designated Agreement C.A.B. 23891, extending the validity of the previous resolution to December 31, 1973.

We believe that such extension is warranted in order to allow time for the IATA member carriers to reach an equitable and reasonable solution to the problem—one that is acceptable to all parties and in conformance with Board policy. Additionally, we shall dismiss the petition of AFFA as moot.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, makes the following findings:

1. It is not found that the following resolution, incorporated in Agreement C.A.B. 23891, is adverse to the public interest or in violation of the Act provided that approval is subject to conditions previously imposed by the Board; and

100(Mail 931)203a
200(Mail 188)203a
300(Mail 413)203a
JT12(Mail 817)203a
JT23(Mail 320)203a
JT31(Mail 244)203a
JT123(Mail 712)203a

2. It is found that the petition of the members of the Air Freight Forwarders Association for reconsideration of Board Order 73-7-28 is moot and should be dismissed.

*Accordingly, it is ordered* that:

1. Agreement C.A.B. 23891 be and hereby is approved subject to conditions previously imposed by the Board;

2. The petition of the Air Freight Forwarders Association for reconsideration of Order 73-7-28 be dismissed; and

3. Copies of this order be served upon the Air Freight Forwarders Association, Pan American World Airways, Inc. and Trans World Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.73-19813 Filed 9-17-73;8:45 am]

[Docket No. 24488; Order 73-9-39]

## INTERNATIONAL AIR TRANSPORT ASSOCIATION

### Order Relating to Passenger Fare Matters

Issued under delegated authority September 10, 1973.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers and other carriers embodied in the resolutions of Traffic Conference 1 of the International Air Transport Association (IATA).

The agreement would implement a filing with IATA by Aeronaves de Mexico, S.A. (Aeromexico) under the provisions of Resolution 072, governing creative fares within the Western Hemisphere, to continue to apply 5/21 day excursion fares between Phoenix and Tucson, on the one hand, and Ciudad Obregon and Culiacan, on the other

[1] In the same Order the Board also approved an IATA resolution governing allocation of reduced-fare concessions for foreign-based IATA cargo agents.

[2] By cable dated August 3, 1973.

[3] Under IATA conference machinery rules, resolutions are given a "type" letter indicating the possible effect of government actions in terms of conditions or amendments. In a type "A" resolution, should a government disapprove or condition on a part of the resolution, then the whole resolution may be considered void, if this action is requested by a Member airline. In this case TWA, an IATA member, has so requested; therefore, the new resolution 203a governing reduced-fare concessions for U.S.-based IATA cargo agents will not become effective.



V 38 I 180 SEP 18 73 XUM

hand. We will herein approve the agreement, but will require that implementing tariffs carry an expiry date of March 31, 1974, consistent with a similar requirement imposed in connection with our approvals of the general Western Hemisphere fare structures.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act, provided that approval is subject to the condition hereinafter ordered.

*Accordingly, it is ordered* That:

1. Agreement C.A.B. 23923 be and hereby is approved; and

2. Tariffs implementing the agreement shall be marked to expire on March 31, 1974.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

By James L. Deegan, Chief, Passenger and Cargo Rates Division, Bureau of Economics.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.73-19812 Filed 9-17-73;8:45 am]

[Docket No. 23080-1]

## PRIORITY AND NONPRIORITY DOMESTIC SERVICE MAIL RATES INVESTIGATION

### Postponement of Hearing

Notice is hereby given that the hearing currently scheduled for September 18, 1973 (38 FR 20116, July 26, 1973) in the above-entitled proceeding, dealing with rates from December 12, 1970, through March 27, 1973, is hereby postponed pending further developments with regard to Board Order to Show Cause 73-8-144, August 30, 1973, dealing with final rates for the certificated air carriers for the period covered by this proceeding.

Dated at Washington, D.C., September 14, 1973.

[SEAL] HARRY H. SCHNEIDER,
*Administrative Law Judge.*

[FR Doc.73-19931 Filed 9-17-73;8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

### ENVIRONMENTAL IMPACT STATEMENTS AND OTHER ACTIONS AFFECTING THE ENVIRONMENT

### Availability of EPA Comments

Pursuant to the requirements of section 102(2) (C) of the National Environmental Policy Act of 1969 and section 309 of the Clean Air Act, as amended, the Environmental Protection Agency (EPA) has reviewed and commented in writing on Federal agency actions impacting the environment contained in the following appendices during the period of August 1, 1973 to August 31, 1973.

Appendix I contains a listing of draft environmental impact statements reviewed and commented upon in writing during this review period. The list includes the Federal agency responsible for the statement, the number and title of the statement, the classification of the nature of EPA's comments as defined in Appendix II, and the EPA source for copies of the comments as set forth in Appendix V.

Appendix II contains the definitions of the classifications of EPA's comments on the draft environmental impact statements as set forth in Appendix I.

Appendix III contains a listing of final environmental impact statements reviewed and commented upon in writing during this reviewing period. The listing will include the Federal agency responsible for the statement, the number and title of the statement, a summary of the nature of EPA's comments, and the EPA source for copies of the comments as set forth in Appendix V.

Appendix IV contains a listing of proposed Federal agency regulations, legislation proposed by Federal agencies, and any other proposed actions reviewed and commented upon in writing pursuant to section 309(a) of the Clean Air Act, as amended, during the referenced reviewing period. The listing includes the Federal agency responsible for the proposed action, the title of the action, a summary of the nature of EPA's comments, and the EPA source for copies of the comments as set forth in Appendix V.

Appendix V contains a listing of the names and addresses of the sources for copies of EPA comments listed in Appendices I, III, and IV.

Copies of the EPA Manual, setting forth the policies and procedures for EPA's review of agency actions, may be obtained by writing the Public Inquiries Branch, Office of Public Affairs, Environmental Protection Agency, Washington, D.C. 20460. Copies of the draft and final environmental impact statements referenced herein are available from the originating Federal department or agency or from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151.

Dated September 10, 1973.

REBECCA W. HAMMER,
*Acting Director,*
*Office of Federal Activities.*

APPENDIX I

DRAFT ENVIRONMENTAL IMPACT STATEMENTS FOR WHICH COMMENTS WERE ISSUED BETWEEN AUG. 1, 1973, AND AUG. 31, 1973

| Identifying number | Title | General nature of comments | Source for copies of comments |
|---|---|---|---|
| *Atomic Energy Commission* | | | |
| D-AEC-00099-NY | R. E. Ginna Nuclear Power Plant Unit No. 1, New York. | ER-2 | A |
| D-AEC-00100-SC | H. B. Robinson Nuclear Steam-Electric Plant, Unit 2, South Carolina. | ER-2 | A |
| D-AEC-00102-SC | Catawba Nuclear Station Units 1 and 2, South Carolina. | EU-2 | A |
| *Department of Agriculture* | | | |
| D-AFS-33401-00 | Use of Herbicides in Vegetation Management, Washington, Idaho, Montana, North Dakota, and South Dakota. | LO-1 | A |
| D-AFS-21030-MT | Northern Region's Slash Disposal Program, Montana | ER-2 | I |
| D-AFS-65015-CO | Marble Winter Sports Site, Colorado | ER-2 | I |
| D-AFS-65018-ID | Centennial Mountain Planning Unit, Idaho | LO-1 | K |
| D-AFS-65030-NM | Timber Management Plan for Carson National Forest, N. Mex. | LO-2 | G |
| D-AFS-65032-ID | Nezperce Forest Combined Timber Management Plan, Idaho. | LO-1 | K |
| D-AFS-65033-ID | South Boise Wood River Planning Unit, Sawtooth Forest, Idaho. | LO-1 | K |
| D-AFS-65037-MT | Windy Pass Timber Sale on Gallatin National Forest, Mont. | LO-2 | I |
| D-AFS-65031-NM | Vegetation Control by Mechanical Means and Fire, New Mexico. | LO-1 | G |
| D-AFS-65032-MT | Skalkaho-Gird and Sleeping Child Planning Units, Montana. | LO-2 | I |
| D-ASC-36001-00 | Rural Environmental Assistance Program | LO-2 | A |
| D-REA-07077-WI | 65 MW Generating Station, Colby, Wis. | LO-1 | F |
| D-REA-08005-CO | 230-kV Transmission Tapline to Steamboat Spring, Colo. | LO-1 | I |
| RD-AFS-61113-ID | Regulations Covering Land Acquisition and Standards for Use Subdivision and Development of Private Lands Within the Sawtooth National Recreation Area, Idaho. | LO-1 | A |
| D-SCS-36286-KY | North Fork Nolin River Watershed, Ky. | LO-2 | E |
| D-SCS-36274-FL | Pemberton Creek Watershed, Hillsborough County, Fla. | ER-2 | E |
| D-SCS-36287-AL | Mush Creek Watershed, Ala. | LO-2 | E |
| *Department of Commerce* | | | |
| D-EDA-50122-OR | Yamhill Bounty Bridge Over Willamette River, Oreg. | LO-1 | K |
| D-EDA-30291-TX | Bayou Loco Dam and Reservoir, Nacadoches, Tex. | LO-2 | G |
| *Corps of Engineers* | | | |
| D-COE-33078-NY | Maintenance Dredging of East Rockaway Inlet, N.Y. | LO-2 | C |
| D-COE-30045-PA | Beach Erosion Control Project at Presque Isle, Pa. | ER-1 | D |
| D-COE-32147-TX | Gulf Intracoastal Waterway (Tributary Channel), Tex. | LO-2 | G |





APPENDIX I—Continued

DRAFT ENVIRONMENTAL IMPACT STATEMENTS FOR WHICH COMMENTS WERE ISSUED BETWEEN AUG. 1, 1973, AND AUG. 31, 1973

| Identifying number | Title | General nature of comments | Source for copies of comments |
|---|---|---|---|
| D-FAA-31203-KY | Pikeville-Pike County Airport, Pikeville, Ky. | ER-2 | E |
| D-FHW-41944-WI | SH 29 and 32, West County Line, Green Bay, Wis. | LO-1 | E |
| D-FHW-41545-MN | Interstate 90, Faribault, Minn. | ER-2 | E |
| D-FHW-41885-IA | Traverse Road Interchange, Scott and Buchanan Counties, Iowa | LO-2 | H |
| D-FHW-41886-IL | FAU 8399, Sterling Ave., Peoria County, Ill. | ER-2 | F |
| D-FHW-41865-TX | SH 225 from U.S. Hwy. 59 to Lawndale Ave., Tex. | 3 | G |
| D-FHW-41894-WI | FAS Route 3-26, Viola-Bilsingham Rd., Richmond Wis. | LO-1 | F |
| D-FHW-41889-OH | STA 237-5 Whipple Ave., Stark County, Ohio | LO-2 | H |
| D-FHW-41883-WI | SH 80, Darlington Rd., Grant and Lafayette Counties, Wis. | LO-1 | F |
| D-FHW-41878-WI | I-94 to Mitchell Field, Milwaukee County, Wis. | LO-1 | E |
| D-FHW-41870-WV | Appalachian Corridor G, U.S.-119, Pike and Mingo Counties, W. Va. and Ky. | LO-2 | D |
| D-FHW-41874-MO | Routes 752 and I-229, Buchanan County, St. Joseph, Mo. | LO-2 | H |
| D-FHW-41897-IA | Route 2, Page County, Clarinda | ER-2 | H |
| D-FHW-41901-MD | Maryland Route 100, Outer Baltimore Beltway, Anne Arundel County, Md. | ER-2 | D |
| D-FHW-41878-MO | Route 141, Jefferson St., Louis County Mo. | ER-2 | H |
| D-FHW-41878-NB | U.S. Hwy. 77, South Expressway, Otoe and Lancaster Counties, Nebr. | LO-2 | H |
| D-FHW-41879-NY | Improvement, Routes 13 and 96 from Newfield Hill, N.Y. | ER-2 | C |
| D-FHW-41880-NY | Elmira north-south arterial, Chemung County, N.Y. | LO-2 | C |
| D-FHW-41908-KS | 5th and Washington, Wyandotte County, Kans. | LO-2 | H |
| D-FHW-41887-AL | SH 90—Isaquah to West Snoqualmie, Wash. | LO-2 | A |
| D-FHW-41888-AL | Route 4, West Rutland-Rutland, Vt. | LO-1 | B |
| D-FHW-41890-VT | Thrall Creek Local Protection Project, Yukon, Okla. | LO-2 | G |
| D-FHW-41895-VT | Rushtay Bayou Area, La. | ER-2 | K |
| D-FHW-41896-VT | Cougar Lake project and construction, McKenzie Bridge, Oreg. | LO-1 | B |
| D-FHW-41898-KS | I-95, I-83, and Associated Improvements, N.C. | LO-2 | E |
| D-FHW-41906-OK | Little Mill Creek, Flood Control, Delaware County, Tenn. | ER-2 | D |
| D-FHW-41898-KS | Improvement Clinton Parkway, Lawrence Douglas Co., Kans. | ER-2 | H |
| D-FHW-41906-OK | Improvement of U.S. Hwy. 62 at Fort Gibson, Okla. | LO-2 | G |
| D-FHW-41899-NY | Poughkeepsie East-West Arterial, Dutchess County, N.Y. | ER-2 | C |
| D-FHW-41910-OR | South Tigard Interchange—Boones Ferry Road Section, Oregon. | LO-1 | K |
| D-FHW-41920-MT | I-15-1 (32) 37, Armstead North and South, 115-1 (31) 46, Jefferson County, Mont. | LO-1 | I |
| D-FHW-41922-ND | Project No. S-4-033 (01) 055, State Highway 37, N. Dak. | LO-1 | I |

### APPENDIX II

**study of suggested alternatives or modifications is required and has asked the originating Federal agency to reassess these aspects.**

DEFINITION OF CODES FOR THE GENERAL NATURE OF EPA COMMENTS

EU—ENVIRONMENTALLY UNSATISFACTORY

ENVIRONMENTAL IMPACT OF THE ACTION

EPA believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the Agency believes that the potential safeguards which might be utilized may not adequately protect the environment from hazards arising from this action. The Agency recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

LO—LACK OF OBJECTION

EPA has no objections to the proposed action as described in the draft impact statement; or suggests only minor changes in the proposed action.

ER—ENVIRONMENTAL RESERVATIONS

EPA has reservations concerning the environmental effects of certain aspects of the proposed action. EPA believes that further

| Identifying number | Title | General nature of comments | Source for copies of comments |
|---|---|---|---|
| D-COE-32428-MS | Pascagoula Harbor, Maintenance Dredging, Mississippi. | ER-2 | E |
| D-COE-32430-FL | Fort St. Joe Harbor, Maintenance Dredging, Florida. | ER-2 | E |
| D-COE-32431-NC | Dredging of Channel From Back Sound, Cape Lookout, N.C. | ER-2 | E |
| D-COE-86021-MN | Pig's Eye Coal Terminal, Ramsey County, St. Paul, Minn. | EU-2 | F |
| D-COE-30054-IA | Sweetwater Lake, Flood Control, Iowa | ER-2 | H |
| D-COE-30343-FL | Apalachicola Bay, Maintenance Dredging, Florida | LO-1 | E |
| D-COE-33435-FL | East Pass Channel, Okaloosa County, Fla. | LO-2 | E |
| D-COE-34079-KY | Eagle Creek Lake, Kentucky River Basin, Ky. | ER-2 | E |
| D-COE-34084-KY | Elkhorn Lake, Kentucky River Basin, Ky. | ER-2 | G |
| D-COE-34085-IN | Evansville Local Protection Project, Indiana | LO-2 | F |
| D-COE-36288-OH | Local Protection Project, Chillicothe, Ohio | ER-2 | A |
| D-COE-30034-00 | River Crossing, Permits for Buckeye Pipeline, New Orleans to Pennsylvania | ER-2 | A |
| D-COE-30035-NY | Orange and Rockland Utilities, Inc., Bowline Point, N.Y. | 3 | C |
| D-COE-35079-CA | Mare Island and Turning Basin, Maintenance Dredging, Calif. | ER-2 | J |
| D-COE-30035-IN | Log Jam Removal, Muscatatuck River, Ind. | LO-2 | F |
| D-COE-30039-WA | Barge Channel, Anacortes, Wash. | LO-2 | A |
| D-COE-41960-00 | Markland Locks—Dam, Highway, Bridge, and Approaches, Indiana-Kentucky | LO-2 | A |
| D-COE-30045-OK | Thrall Creek Local Protection Project, Yukon, Okla. | LO-2 | G |
| D-COE-66060-LA | Rushtay Bayou Area, La. | ER-2 | K |
| D-COE-64014-OR | Cougar Lake project and construction, McKenzie Bridge, Oreg. | LO-1 | B |
| D-COE-36290-DE | Little Mill Creek, Flood Control, Delaware County, Tenn. | ER-2 | D |
| *Department of Defense* | | | |
| D-USN-11040-NC | U.S. Navy Atlantic Fleet Air Combat Maneuvering Range, N.C. | LO-2 | E |
| *General Services Administration* | | | |
| D-GSA-81138-DC | Federal Building, 12th and K Sts. NW., Washington, D.C. | LO-1 | D |
| D-GSA-81139-FL | Federal Youth Center, Correctional Purposes, Dade County, Fla. | LO-1 | E |
| D-GSA-81136-GA | Courthouse and Federal Building, Atlanta, Ga. | LO-1 | E |
| *Department of Housing and Urban Development* | | | |
| D-HUD-80129-PA | Penn-Susquehanna Urban Renewal Project, Pennsylvania | LO-2 | D |
| D-HUD-80130-PA | Kingston Urban Renewal Project, Pennsylvania | LO-2 | D |
| D-HUD-80132-PA | Urban Renewal Disaster Project, Milton and Turbot | LO-2 | D |
| D-HUD-80133-PA | Medbi Cities One Urban Renewal Project, Reading, Pa. | LO-2 | D |
| D-HUD-80133-PA | Downtown Urban Renewal Project, Wilkes-Barres, Pa. | LO-2 | D |
| D-HUD-80134-PA | Lock Haven Urban Renewal Project, Lock Haven, Pa. | LO-2 | D |
| *Interstate Commerce Commission* | | | |
| I.D-ICC-83022-00 | Ex Parte No. 293, Northeastern R.R. Investigation | ER-2 | A |
| *Department of the Interior* | | | |
| D-BIA-81033-WA | Columbia Basin Project, Wash. | LO-1 | A |
| D-IBR-30033-NV | Marble Bluff Dam and Pyramid Lake Fishway, Nev. | LO-1 | J |
| D-BOR-60075-IN | Mann Road Property Acquisition and Development, Ind. | ER-2 | F |
| *Department of Labor* | | | |
| RD-LAB-30030-00 | Emergency Temporary Standard for Certain Carcinogens. | LO-2 | A |
| *Maritime Administration* | | | |
| D-MAR-81043-VA | Shore Facility for Treatment of Ship Oily Waste, Va. | LO-1 | D |
| *Department of Transportation* | | | |
| D-FAA-31263-AZ | Phoenix Sky Harbor Airport, Ariz. | ER-2 | J |
| D-FAA-31287-ND | Bottineau Municipal Airport, Bottineau, N. Dak. | ER-2 | I |
| D-FAA-31291-MA | Runway 15R-33L at Logan International Airport, Boston, Mass. | ER-2 | B |



V 38 I 180 SEP 18 73 XUM

APPENDIX IV

REGULATIONS, LEGISLATION AND OTHER FEDERAL AGENCY ACTIONS FOR WHICH COMMENTS WERE ISSUED BETWEEN AUG. 1, 1973, AND AUG. 31, 1973

| Agency | Title | General nature of comments | Source for copies of comments |
|---|---|---|---|
| *Atomic Energy Commission* R-AEC-3003-00. | 10 CFR Part 20, Standards for Protection Against Radiation, Personnel Monitoring Reports. | EPA generally considers this amendment to the standard to be desirable considering it will provide a data base from which occupational exposure trends can be evaluated and estimates of integrated dose (MAN-REM) can be made. | A |
| *Department of Agriculture* R-AFH-5037-00 | 7 CFR Part 1823, Community Facility Loans. | EPA's comments suggested that this regulation be modified to incorporate EPA's regulations implementing Executive Order 11602 entitled "Administration of the Clean Air Act With Respect to Federal Contracts, Grants, or Loans." | A |
| R-AFH-5038-00. | 7 CFR Part 1823, Grants for Facilitating Development of Private Business Enterprises. | EPA recommended that this regulation be modified to incorporate EPA's proposed regulations implementing section 306 of the Clean Air Act and that the regulation require applicants for federal grant agencies to amend their regulations to insure that grants are not made to facilities whose facilities are in violation of the Clean Air Act. | A |
| R-IOA-5039-00 | 7 CFR Part 23, Guidelines for Programs, Title V, Rural Development Act of 1972. | EPA's comments on these guidelines suggested that they be modified to emphasize consistency with environmental protection standards, planning, and programs. | A |
| R-IOA-9941-00 | 9 CFR Parts 318, 381, Procedure for Handling Product Misbranded by Privileged Water. | EPA comments reflect that the proposed rule-making will not have a significant impact on the environment. | A |
| *Department of Commerce* R-IOC-0006-00 | 15 CFR Part 9, Voluntary Labelling Program for Major Household Appliances to Effect Energy Conservation. | EPA generally agrees with the proposed rule-making aid offered several specific comments. | A |
| R-NOA-5011-00. | 15 CFR Part 920, Coastal Zone Management Program Development grants. | EPA generally has no objection to the proposed regulations but suggests certain changes to strengthen the relationship of the coastal zone management program to Federal-State environmental programs and to add environmental amends adding to the list of critical areas, areas needed to protect, maintain, or replenish coastal lands or resources, such as coastal flood plains, aquifer recharge areas, beaches, dunes, coral and other reefs, beaches, offshore sand deposits, and mangrove stands. | A |
| *Department of Health, Education, and Welfare* R-HEW-9040-00 | 21 CFR Part 176, Penuliuie Deodorant Sprays. | EPA generally agrees with the proposed regulation. | A |
| *Department of the Interior* R-NPS-0135-00. | 36 CFR Part 13, St. Croix National Scenic Riverway, Minnesota-Wisconsin. | EPA generally believes this regulation will protect the resources of the area from development that are incompatible with the "Scenic Riverway" status. | A |



ADEQUACY OF THE IMPACT STATEMENT

CATEGORY 1—ADEQUATE

The draft impact statement adequately sets forth the environmental impact of the proposed project or action as well as alternatives reasonable available to the project or action.

CATEGORY 2—INSUFFICIENT INFORMATION

EPA believes that the draft impact statement does not contain sufficient information to assess fully the environmental impact of the proposed project or action. However, from the information submitted, the Agency is able to make a preliminary determination of the impact on the environment. EPA has requested that the originator provide the information that was not included in the draft statement.

CATEGORY 3—INADEQUATE

EPA believes that the draft impact statement does not adequately assess the environmental impact of the proposed project or action, or that the statement inadequately analyzes reasonable available alternatives. The Agency has requested more information and analysis concerning the potential environmental hazards and has asked that substantial revision be made to the impact statement.

APPENDIX III

FINAL ENVIRONMENTAL IMPACT STATEMENTS FOR WHICH COMMENTS WERE ISSUED BETWEEN AUG. 1, 1973, AND AUG. 31, 1973

| Identifying number | Title | General nature of comments | Source for copies of comments |
|---|---|---|---|
| *Department of Defense* F-NAV-11035-DC. | Bolling-Anacostia Development Concept, Washington, D.C. | EPA believes the Bolling-Anacostia Development Concept poses difficult environmental problems, but feels that each of the specific problems can be resolved provided the plan's implementation is carried out with environmental sensitivity: (1) Waste-water treatment, (2) transportation and air quality and (3) flood plains and wetlands. Also, EPA recommended that the Navy continue to consult with the Agency during the development period. | A |
| F-USN-11036-MS. | Multi-Purpose Target, Range Naval Air Station, Miss. | EPA generally agreed with the proposed project. EPA brought to the attention of the Navy that an increase in the turbidity and silting of adjacent streams should be expected. | E |
| *National Capital Planning Commission* F-NCP-11034-DC. | Proposed Modifications to the Comprehensive Plan for the National Capital to conform to the master plans for parts of the Bolling-Anacostia tract. | EPA finds that the environmental problems which will result from implementation of the base development concept can be significantly reduced if the Navy continues to coordinate the timing of Bolling-Anacostia's development program and maintains close coordination with the various concerned agencies within the Washington metropolitan area. | A |
| *Department of Transportation* F-FAA-51160-AL. | Birmingham Municipal Airport, Birmingham, Ala. | EPA generally agrees with the proposed project. However, we recommended that further consideration be given to noise abatement programs and air sampling to determine existing conditions. | E |
| F-FHW-41037-NJ. | Route I-295 from Route I-95 in Bucks County, Pa., to I-295 in New Jersey. | The comments made by EPA on the draft statement were generally satisfied in the final statement. EPA believes the final statement represents a thorough and objective analysis of the environmental effects of the proposed project. | C |



APPENDIX IV—continued

REGULATIONS, LEGISLATION AND OTHER FEDERAL AGENCY ACTIONS FOR WHICH COMMENTS WERE ISSUED BETWEEN AUG. 1, 1973, AND AUG. 31, 1973

| Agency | Title | General nature of comments | Source for copies of comments |
|---|---|---|---|
| *Interstate Commerce Commission* R-ICC-52064-00. | Ex Parte No. 55 (Sub-No. 8) Motor Common Carriers of Property, Routes, and Services Petition for the Elimination of Gateways by Rulemaking. | The Environmental Protection Agency has recommended to the Interstate Commerce Commission that motor common carriers be allowed to operate directly between any two points they are authorized to serve. EPA's comments, submitted in response to an ICC notice of rulemaking proceeding, emphasized that direct-line service would result in reduction of air pollution and energy consumption. | A |
| *Department of Transportation* R-FHW-99036-00. | 23 CFR Part 1, Policy and Procedure Memorandum (PPM) 90-1, Environmental Impact Statements for Federal-Aid Highway Projects. | EPA in review of two alternative amendments to ppm 90-1 proposed by FHWA, recommended that the FHWA adopt procedures under which an EIS would be prepared on any major Federal-aid highway projects significantly affecting the environment if a request for approval of advertisement for bids on that project is submitted on or after Jan. 1, 1974. | A |

APPENDIX V

SOURCES FOR COPIES OF EPA COMMENTS

A. Director, Office of Public Affairs
Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

B. Director of Public Affairs
Region I
Environmental Protection Agency
Room 2303
John F. Kennedy Federal Building
Boston, Massachusetts 02203

C. Director of Public Affairs
Region II
Environmental Protection Agency
Room 847
26 Federal Plaza
New York, New York 10007

D. Director of Public Affairs
Region III
Environmental Protection Agency
Curtis Bldg., 6th and Walnut Streets
Philadelphia, Pennsylvania 19106

E. Director of Public Affairs
Region IV
Environmental Protection Agency
Suite 300
1421 Peachtree Street, N.E.
Atlanta, Georgia 30309

F. Director of Public Affairs
Region V
Environmental Protection Agency
1 N. Wacker Drive
Chicago, Illinois 60606

G. Director of Public Affairs
Region VI
Environmental Protection Agency
1600 Patterson Street
Dallas, Texas 75201

H. Director of Public Affairs
Region VII
Environmental Protection Agency
1735 Baltimore Street
Kansas City, Missouri 64108

I. Director of Public Affairs
Region VIII
Environmental Protection Agency
Lincoln Tower, Room 916
1860 Lincoln Street
Denver, Colorado 80203

J. Director of Public Affairs
Region IX
Environmental Protection Agency
100 California Street
San Francisco, California 94102

K. Director of Public Affairs
Region X
Environmental Protection Agency
1200 6th Avenue
Seattle, Washington 98101

[FR Doc.73-19567 Filed 9-17-73;8:45 am]

## METROPOLITAN BALTIMORE STATE INTRASTATE REGION PLANS

### Opportunity for Public Comment on Plans To Achieve Secondary Standards

On May 31, 1972 (37 FR 10842), pursuant to section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator granted an 18-month extension for submission of a plan to attain and maintain the secondary standard for sulfur oxides in the Metropolitan Baltimore Intrastate Region. On July 31, 1973, the Governor of Maryland submitted the plan as required.

This notice is issued to advise the public that comments may be submitted on whether the control strategy should be approved or disapproved as required by section 110 of the Clean Air Act. Only comments received on or before October 18, 1973, will be considered. The Administrator's decision to approve or disapprove the plan is based on whether it meets the requirements of section 110 (a)(2)(A)–(H) and EPA regulations in 40 CFR, Part 51.

The proposed plan does not alter or supplement the present Maryland regulations for sulfur dioxide. Rather, the plan is submitted to demonstrate that implementation and enforcement of existing Maryland Regulations in the Metropolitan Baltimore Intrastate Region will be sufficient to achieve the secondary standards for sulfur dioxide by 1975.

Copies of the Maryland plan are available for public inspection during normal business hours at the Offices of EPA, Region II, Curtis Building, 2nd Floor, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106, and in the Office of the Maryland State Department of Health and Mental Hygiene, 601 N. Howard Street, Baltimore, Maryland 21201, and at the Freedom of Information Center, EPA, 401 M Street SW., Washington, D.C. 20460. All comments should be addressed to the Regional Administrator, Environmental Protection Agency, Region III, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.

ROBERT L. SANSOM,
*Assistant Administrator for Air and Water Programs.*

SEPTEMBER 13, 1973.

[FR Doc.73-19820 Filed 9-17-73;8:45 am]

## NATIONAL AIR POLLUTION MANPOWER DEVELOPMENT ADVISORY COMMITTEE

### Notice of Meeting

Pursuant to P.L. 92-463, notice is hereby given that the Training Priorities Subcommittee Meeting will be held at 9 a.m., September 27, 1973, to prepare a paper on "Goals and Training Priorities" to be reviewed at the regular National Air Pollution Manpower Development Advisory Committee Meeting.

The National Air Pollution Manpower Development Advisory Committee Meeting will be held at 8 p.m., September 27, 1973 and at 9 a.m., September 28–29, 1973. Both meetings will be held in Conference Room 219, Law Building, University of Illinois, Urbana, Illinois.

This is the regular quarterly meeting of the Advisory Committee. Primarily the meeting will be devoted to Committee review of fellowship applications, the Training Priorities Subcommittee Report and presentations from the University of Illinois.

The meeting will be open to the public. Any member of the public wishing to attend or participate should contact Mr. Ronnie E. Townsend, Executive Secretary, National Air Pollution Manpower Development Advisory Committee, Research Triangle Park, North Carolina, (919) 549-8411, extension 2492.

ROBERT L. SANSOM,
*Assistant Administrator for Air and Water Programs.*

SEPTEMBER 13, 1973.

[FR Doc.73-19819 Filed 9-17-73;8:45 am]

## FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License 1204]

### AAAA LUTHER MOVING & STORAGE, INC.

### Order of Revocation

AAAA Luther Moving & Storage, Inc., 1500 Broadway, Suite 910, Lubbock, Texas 79401 voluntarily surrendered its Independent Ocean Freight Forwarder License No. 1204 for revocation.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) section 7.04(f) (dated 5/1/72);

*It is ordered*, That Independent Ocean Freight Forwarder License No. 1204 of AAAA Luther Moving & Storage, Inc. be and is hereby revoked effective September 1, 1973, without prejudice to reapply for a license at a later date.

*It is further ordered*, That a copy of this Order be published in the FEDERAL



V 38180 SEP 18 73 XUM

REGISTER and served upon AAAA Luther Moving & Storage, Inc.

AARON W. REESE,
*Managing Director.*

[FR Doc.73-19806 Filed 9-17-73;8:45 am]

[Independent Ocean Freight Forwarder License 1479]

### GLOBAL FORWARDING CO.

#### Order of Revocation

On August 23, 1973, the Federal Maritime Commission received notification that Clyde L. McGuire, d/b/a Global Forwarding Company, 1119 Petroleum Building, Houston, Texas 77002 wishes to voluntarily surrender its Independent Ocean Freight Forwarder License No. 1479 for revocation, effective September 1, 1973.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) section 7.04(f) dated 5/1/72);

*It is ordered,* That Independent Ocean Freight Forwarder License No. 1479 be returned to the Commission for cancellation.

*It is further ordered,* That the Independent Ocean Freight Forwarder License of Clyde L. McGuire, d/b/a Global Forwarding Company be and is hereby revoked effective September 1, 1973, without prejudice to reapply for a license at a later date.

*It is further ordered,* That a copy of this Order be published in the FEDERAL REGISTER and served upon Clyde L. McGuire, d/b/a Global Forwarding Company.

AARON W. REESE,
*Managing Director.*

[FR Doc.73-19805 Filed 9-17-73;8:45 am]

## FEDERAL RESERVE SYSTEM

### ATLANTIC BANCORPORATION

#### Order Approving Acquisition of Bank

Atlantic Bancorporation, Jacksonville, Florida, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a) of the Act (12 U.S.C. 1842(a)(3)) of the acquisition of 90 percent or more of the voting shares of the Peninsula State Bank, Tampa, Florida ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, the Florida Commissioner of Banking has expressed his approval, and no other comments have been received. The application has been considered in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is the seventh largest banking organization in Florida and controls 23 banks with aggregate deposits of $855.9 million, or 4.33 percent of the commercial bank deposits in the state. (Banking data are as of December 31, 1972, and reflect holding company formations and acquisitions approved by the Board through July 11, 1973.) Acquisition of Bank with deposits of $40.4 million would increase Applicant's share of state deposits by two-tenths of one percent and would make Applicant the sixth largest banking organization. The effect on statewide concentration would not be significant.

Applicant is seeking initial entry into the Hillsborough County (Tampa) banking market. Bank is the seventh largest of 34 banks in the market and has 2.79 percent of total market deposits. The three largest banking organizations in the market control 69 percent of deposits in the area; thus, Applicant will not obtain by this acquisition a dominant position in the market. Applicant's nearest subsidiary bank is the Lake Wales Bank and Trust Company, Lake Wales, Florida, 55 miles east of Tampa. Since Bank does not compete with Applicant's subsidiaries, no existing competition would be eliminated by the proposed acquisition. In view of the distances involved and Florida's restrictive branching laws, consummation of this proposal would not appear to have an adverse effect on future competition between Bank and any of Applicant's subsidiaries. Consummation of the proposal would have no adverse competitive effects in any relevant area.

Considerations relating to the financial and managerial resources and future prospects of Applicant, its subsidiary banks, and Bank are generally satisfactory and consistent with approval of the application, particularly in view of Applicant's commitment to supply additional capital to certain of its subsidiary banks. Applicant does not indicate that it will change Bank's present services; considerations of the convenience and needs of the community to be served are consistent with approval of the application. It is this Federal Reserve Bank's judgement that the proposed transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by this Federal Reserve Bank pursuant to delegated authority.

By order of the Federal Reserve Bank of Atlanta, acting for the Board of Governors of the Federal Reserve System under delegated authority, effective September 5, 1973.

[SEAL] MONROE KIMBREL,
*President.*

[FR Doc.73-19770 Filed 9-17-73;8:45 am]

### CENTRAL BANCOMPANY

#### Proposed Acquisition of Voting Shares

Central Bancompany, Jefferson City, Missouri, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of The Guaranty Trust Company of Missouri, Clayton, Missouri, and to acquire the assets of Harrison L. Winter and Associates, Clayton, Missouri. Notice of the application was published on August 10, 1973, in The St. Louis Countian, a newspaper circulated in St. Louis, Missouri.

Applicant states that the proposed subsidiary would engage in the activities of a trust company, including activities of a fiduciary, agency or custodian nature, in the manner authorized by State law but not to accept demand deposits and make commercial loans. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 8, 1973.

Board of Governors of the Federal Reserve System, September 11, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-19781 Filed 9-17-73;8:45 am]

### CONTINENTAL ILLINOIS CORP.

#### Proposed Retention of Republic Realty Mortgage Corp.

Continental Illinois Corporation, Chicago, Illinois, has applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to retain voting shares of Republic Realty Mortgage Corporation, Chicago, Illinois. Such shares were





acquired by Continental Illinois Corporation on June 16, 1970, and, under the provisions of section 4(a)(2) of the Bank Holding Company Act (12 U.S.C. 1843(a)(2)), may not be retained beyond December 31, 1980, without Board approval. Notice of the application was published in newspapers of general circulation in communities where Republic Realty Mortgage Corporation has an office as follows:

| Date | Newspaper | City and State |
|---|---|---|
| July 13, 1973 | Chicago Tribune | Chicago, Ill. |
| July 12, 1973 | St. Louis Post-Dispatch. | St. Louis, Mo. |
| July 13, 1973 | The Atlanta Constitution. | Atlanta, Ga. |
| July 14, 1973 | Milwaukee Journal | Milwaukee, Wis. |

Applicant states that Republic Realty Mortgage Corporation would continue to engage in the following mortgage banking activities: (1) the origination and acquisition of real estate loans (including construction lending) both FHA-insured and conventional as principal or agent; (2) sale of real estate loans to investors; (3) servicing of real estate loans; (4) acting as agent or broker in connection with the placement of credit life and credit disability insurance incidental to real estate loans originated or serviced; and (5) other incidental activities related to the mortgage banking business. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 8, 1973.

Board of Governors of the Federal Reserve System, September 11, 1973.

[SEAL] CHESTER B. FELDBERG,
*Secretary of the Board.*

[FR Doc.73-19766 Filed 9-17-73;8:45 am]

### FIDELITY CORPORATION OF OKLAHOMA

#### Formation of Bank Holding Company

Fidelity Corporation of Oklahoma, Oklahoma City, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to Fidelity Bank, N.A., Oklahoma City, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank, to be received not later than October 8, 1973.

Board of Governors of the Federal Reserve System, September 11, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-19772 Filed 9-17-73;8:45 am]

### FINANCIAL DATA SYSTEMS, INC.

#### Order Approving Formation of Bank Holding Company

Financial Data Systems, Inc., Detroit, Michigan, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through acquisition of 38 percent of the common shares and 54 percent of the cumulative preferred shares, of Bank of the Commonwealth, Detroit, Michigan ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered those received and the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, recently organized for the purpose of becoming a bank holding company and engaging in the provision of financial data processing services, has engaged in no business activities and has no subsidiaries. Bank (deposits of $886.7 million) is the fifth largest of 47 banking organizations in the Detroit area, accounting for six percent of the aggregate deposits held by those organizations. (All data are as of December 31, 1972, unless otherwise indicated). The transaction is merely a reorganization whereby James T. Barnes who controls Bank directly at the present time will control Bank indirectly through Applicant. Accordingly, the Board concludes that consummation of the proposal will not eliminate any existing or potential competition in banking, increase concentration of banking resources, or have an undue adverse effect on the other banks in the relevant area. Mr. Barnes has controlling interests in several local or locally-based mortgage banking, and other financial concerns, but consummation of the proposed transaction per se would not affect the competitive relationships between Bank and those concerns since Bank will be affiliated with those concerns irrespective of Board action on this application. The Board in considering this application has considered the competitive effects of Mr. Barnes' common interests in Bank and other Detroit-based institutions and found them to be not significantly adverse.

As has been widely reported in the press and otherwise, Bank suffered serious financial reversals under its previous management. These financial difficulties necessitated an assistance program from the Federal Deposit Insurance Corporation ("the FDIC"), whereby the FDIC in an agreement dated January 18, 1972 with Bank, agreed to provide capital to Bank up to a maximum amount of $60 million. As of July 31, 1973, $35.5 million of capital notes had been issued pursuant to that agreement.

The purpose of the capital assistance program was to enable Bank to realize certain losses, principally market losses from the sale of long-term investment securities. Bank has disposed of the major portion of these securities and, as a result, is in a much improved liquidity position.

As a result of foreclosure on loans then outstanding, The Chase Manhattan Bank, N.A., New York, New York, ("Chase") acquired control of Bank in February, 1971, but, in accordance with the provisions of section 3 of the Bank Holding Company Act, was required to divest itself of its interests in Bank within two years. In 1972, Chase's interests in Bank were sold to Mr. Barnes. Under the Chase and Barnes ownership, new policies designed to improve Bank's condition, were instituted.

In summary, Bank is in the process of attempting to regain its posture as a viable and competitive institution. The Board believes that it is in the public interest to maintain control of Bank in the hands of local interests of good repute and that approval of this application would aid present management in this regard.

The management, financial condition, and prospects of Applicant are all consistent with approval of the application. Applicant would incur substantial debt in order to make the proposed acquisition. However, as the Board has previously noted, acquisition debt must be considered in light of an applicant's ability to service that debt without adversely affecting the capital structure of its subsidiary bank.



V 38 I 180
SEP 18 73
XUM

Since Bank is presently prohibited from declaring dividends without approval of supervisory agencies and, under agreement with the FDIC referred to above, is prohibited from entering into transactions with its directors, officers, or principal stockholders, there is no likelihood that Applicant will utilize Bank's resources to service its acquisition debt. Instead, Applicant expects to retire that debt by utilizing its own earnings from the provision of data processing services and from advances from its shareholders.

In the Board's view, consummation of the proposed transaction would serve to reinforce efforts to restore Bank to a sound and firm financial and competitive condition. To the extent such efforts succeed, the convenience and needs of the community to be served would be promoted by the renewed presence of Bank as both a ready source of banking services and a competitive force in the Detroit area. The Board finds that any anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served. It is the Board's judgment that the proposed transaction would be in the public interest, and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the thirtieth calendar day following the effective date of this Order, or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Board of Governors,[1] effective September 11, 1973.

[SEAL] CHESTER B. FELDBERG,
*Secretary of the Board.*

[FR Doc.73-19767 Filed 9-17-73;8:45 am]

## FIRST NATIONAL BOSTON CORP.

### Order Approving Acquisition of Banks

First National Boston Corporation, Boston, Massachusetts, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares of the following banks located in Massachusetts: (1) First Bank and Trust Company of Wellesley, Wellesley ("Wellesley Bank"); and (2) Burlington Bank and Trust Company, Burlington ("Burlington Bank").

Notice of the applications, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none has been timely received. The Board has considered the applications in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the largest banking organization and bank holding company in Massachusetts, controls one bank with aggregate deposits of $2.7 billion, representing about 23 percent of total deposits in commercial banks in the State.[1] Consummation of the two proposals would increase Applicant's share of commercial bank deposits by .2 percentage points,[2] and this would not result in a significant increase in the concentration of banking resources in the State.

Wellesley Bank (deposits of $8.6 million) and Burlington Bank (deposits of $12.8 million) are the 58th and 46th largest of 69 commercial banks in the Boston banking market, which is approximated by the Boston SMSA, and control, respectively, 0.1 and 0.2 percent of market deposits. Applicant's present subsidiary bank, the First National Bank of Boston ("First National"), is located in the Boston banking market, where it controls 32.7 percent of deposits in commercial banks. First National is located 10 miles from Wellesley Bank and 13 miles from Burlington Bank. Although Wellesley Bank and Burlington Bank are located in the same market as First National, it does not appear that a significant amount of existing competition would be eliminated upon consummation of these proposals. This conclusion is based, in part, upon the fact that First National's banking business is largely wholesale in nature while the business of Wellesley Bank and Burlington Bank, both single-office banks, is a retail business. First National derives 74 percent of its total deposits and 64 percent of its IPC demand deposits from accounts in excess of $100,000. First National derives less than 3.0 percent, or approximately $48 million, of its total demand and savings deposits from Wellesley Bank's primary service area. Similarly, First National derives 1.3 percent, or about $24 million, of its total demand and savings deposits from Burlington Bank's primary service area. Neither Wellesley Bank nor Burlington Bank derives a significant amount of their loans or deposits from First National's primary service area.

Although First National is located in the same market as Wellesley Bank and Burlington Bank, First National is restricted by State law from branching into the County in which each Bank is located. Several other independent banks are located in both Wellesley Bank's and Burlington Bank's service area and County, and it does not appear that Applicant's acquisition of either Bank would result in barriers to entry into those areas by other banking organizations. Further, it does not appear that Applicant's entry into either Bank's market by an alternative acquisition of a small independent bank would present significantly different competitive considerations. Although Applicant has the financial and managerial resources to enter either Wellesley Bank's or Burlington Bank's service area de novo, the Board views the proposed acquisitions as "foothold" entries that are tantamount to de novo entry in view of the small size of each Bank, both absolutely and relatively. In addition, since Wellesley Bank is the smallest bank in a service area where three banks that are holding company subsidiaries control in excess of 56 percent of deposits, Applicant's acquisition of Wellesley Bank would likely increase that Bank's competitive effectiveness. Similarly, Burlington Bank controls less than 7 percent of deposits in an area where two banks that are holding company subsidiaries control more than 60 percent of area deposits. Accordingly, Applicant's acquisition of Burlington Bank would likely increase that Bank's ability to compete with the larger banks located in its area, particularly in view of considerations relating to its financial and managerial resources, discussed hereinafter. On the balance, therefore, the Board finds that no significant potential competition would be eliminated upon consummation of these proposals.

The financial and managerial resources and future prospects of Applicant and First National are satisfactory and consistent with approval of the application. Wellseley Bank has experienced a significant growth in deposits in the past four years, yet its capital has declined. Accordingly, Applicant's assurance to provide Wellesley Bank with additional capital will enhance that Bank's financial resources and future prospects, and this consideration lends some weight toward approval. The financial and managerial resources and future prospects of Burlington Bank are considered to be poor. Bank has experienced substantial loan losses since 1970, its capital-to-assets ratio has declined and it is presently in need of capital. Further, in view of Bank's difficulties, management is in need of strengthening. Applicant proposes to increase Burlington Bank's capital by a minimum of $300,000 within six months of consummation and to provide managerial strength to Burlington Bank. The future prospects of Burlington Bank with Applicant's assistance appear to be favorable, and these considerations provide strong weight toward approval of the application.

There is no evidence that any major banking needs of the areas served by Wellesley Bank or Burlington Bank are currently going unserved. However, Applicant proposes to offer, through Wellesley Bank, investment management

[1] Voting for this action: Vice Chairman Mitchell and Governors Daane, Brimmer, Sheehan, Bucher, and Holland. Absent and not voting: Chairman Burns.

[1] Banking data are as of June 30, 1972, adjusted to reflect holding company formations and acquisitions approved through July 13, 1973.

[2] By Order of this date, the Board approved Applicant's acquisition of the successor by merger to the Holyoke National Bank, Holyoke, Massachusetts, which controls 0.2 percentage points of Statewide deposits.





services for the small investor and revolving 48-month car loans which are new services not currently provided in the area. Convenience and needs factors with respect to Wellesley Bank are consistent with and lend some weight toward approval. Applicant proposes to increase and improve the services currently offered by Burlington Bank in providing overdraft checking, revolving 48-month car loans, credit card and trust services. Updating Burlington Bank's services should make it more competitive and more responsive to the needs of its customers. These considerations provide weight toward approval of the acquisition of Burlington Bank. It is the Board's judgment that the proposed transactions are in the public interest and should be approved.

On the basis of the record,[3a] the applications are approved for the reasons summarized above. The transactions shall not be consummated (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Boston pursuant to delegated authority.

By order of the Board of Governors,[3] effective September 4, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-19791 Filed 9-17-73;8:45 am]

## FIRST STEUBEN BANCORP, INC.

### Acquisition of Bank

First Steuben Bancorp, Inc., Steubenville, Ohio, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to The Farmers National Bank of Salem, Salem, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 8, 1973.

Board of Governors of the Federal Reserve System, September 10, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-19771 Filed 9-17-73;8:45 am]

[3a] Dissenting Statement of Governor Brimmer filed as part of the original document. Copies available on request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Boston.

[3] Voting for this action: Chairman Burns and Governors Sheehan, Bucher, and Holland. Voting against this action: Governor Brimmer. Absent and not voting: Governors Mitchell and Daane.

## LLOYDS BANK LTD.

### Formation of Bank Holding Company

Lloyds Bank Limited, London, England, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of up to 100 percent of the voting shares of First Western Bank and Trust Company, Los Angeles, California, either directly or indirectly through the formation of a wholly-owned subsidiary corporation to be formed under the laws of one of the United States. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 8, 1973.

Board of Governors of the Federal Reserve System, September 11, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-19763 Filed 9-17-73;8:45 am]

## MARINE MIDLAND BANKS, INC.

### Proposed Acquisition of American Dimensions, Inc.

Marine Midland Banks, Inc., Buffalo, New York has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of American Dimensions, Inc., Irvine, California, which wholly owns The Meairs Co., Riverside, which in turn, wholly owns The Meairs Insurance Agency, Riverside, and Ideal Escrow Service, Riverside, all located in California. (The proposed transaction contemplates that American Dimensions, Inc. will divest itself of The Meairs Insurance Agency on or before January 1, 1974.) Notices of the application were published between July 19 and 25, 1973, inclusive, in newspapers of general circulation in the following locations: Irvine, Cerritos, Covina, Riverside, San Bernardino, Pomona and Reseda, California; Phoenix, Arizona; Las Vegas, Nevada; and Buffalo, New York.

Applicant states that upon consummation of the proposed transaction and after divestiture of The Meairs Insurance Agency, the proposed subsidiary through the above two companies would engage in the following activities: (1) make or acquire real estate loans for its own account or for the account of others; (2) service real estate loans for its own account or for the account of others; and (3) provide escrow service in connection with real estate loans made, acquired, or serviced for its own account or the account of others. One or a combination of these activities will be conducted at the aforementioned locations in California, Arizona, and Nevada.

Applicant states that such activities have been specified by the Board in § 255.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 8, 1973.

Board of Governors of the Federal Reserve System, September 11, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-19794 Filed 9-17-73;8:45 am]

## PERPETUAL CORP. AND PIERCE NATIONAL LIFE INSURANCE CO.

### Order Granting Determination Under Bank Holding Company Act

In the matter of the request by Perpetual Corporation ("Perpetual") and its wholly-owned subsidiary, Pierce National Life Insurance Company ("Pierce"), both of Los Angeles, California, for a determination pursuant to section 2(g)(3) of the Bank Holding Company Act of 1956, as amended.

Perpetual and Pierce are considered to be bank holding companies within the meaning of section 2(a) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(a)), by virtue of Perpetual's ownership of 63.3 percent of the voting stock of Houston Citizens Bank & Truck Company ("Houston-Citizens"), Houston, Texas, of which amount 18.8 percent was directly held and 44.5 percent was owned by Pierce. Perpetual and Pierce seek to terminate said status as bank holding companies as a result of having transferred all of their shares of Houston-Citizen to First International Bancshares, Inc. ("First International"), Dallas, Texas.[1]

[1] First International became a multi-bank holding company on December 31, 1972, through its acquisition of 100 percent of both First National Bank in Dallas and Houston-Citizens.



V 38-180
SEP 18 73
XUM

Perpetual and Pierce seek a determination pursuant to section 2(g)(3) of the Bank Holding Company Act of 1956, as amended, that notwithstanding an interlocking director relationship among Perpetual, Pierce, and First International, Perpetual and Pierce will not be capable of controlling the transferee of the shares of the aforementioned Houston-Citizens. Mr. Joe L. Allbritton is a director of Perpetual and of Pierce, and also serves as a director of First International.

Under the provision of section 2(g)(3) of the Act (12 U.S.C. 1841(g)(3)), shares transferred after January 1, 1966, by any bank holding company to a transferee that has one or more officers, directors, trustees, or beneficiaries in common with or subject to control by the transferor, are deemed to be indirectly owned or controlled by the transferor unless the Board of Governors of the Federal Reserve System, after opportunity for hearing, determines that the transferor is not in fact capable of controlling the transferee.

Perpetual and Pierce have submitted to the Board documentary evidence to support their contention that they do not in fact control First International.

Notice of an opportunity for hearing with respect to the request of Perpetual and Pierce for a determination under section 2(g)(3) was published in the FEDERAL REGISTER on February 8, 1973 (38 FR 3628). The time provided for requesting a hearing expired on March 12, 1973. No such request has been received by the Board, nor has any evidence been received to show that Perpetual or Pierce, either jointly or severally, is in fact capable of controlling First International.

It is hereby determined that neither Perpetual nor Pierce, acting jointly or severally, is in fact capable of controlling First International. This determination is based upon the evidence of record in this matter, including (1) certified copies of resolutions passed by the Boards of Directors of Perpetual, Pierce, First International, and Houston-Citizens, all of which are to the effect that there is no understanding or agreement whereby First International or any of its subsidiaries is under the control of Perpetual or Pierce or any stockholders or officers or representatives thereof; and that there is no arrangement whereby any interlocking directors are given any greater power or authority on the Board of Directors of First International or any subsidiary thereof, than such interlocking directors would otherwise have; (2) an affidavit by Mr. Joe L. Allbritton stating, in essence, that he is not acting pursuant to any contracts, written or oral, or other agreement or understanding, express or implied, with Perpetual, Pierce, or any other person or corporation, to attempt to control First International or any subsidiary thereof; and (3) letters of January 17, 1973 and August 24, 1973, from Counsel for Perpetual and Pierce containing analyses of the legal and factual implications of potential corporate control arising from the subject interlocking directorate.

*Accordingly, it is ordered*, That the request of Perpetual and Pierce for a determination pursuant to section 2(g)(3) be and hereby is granted.

By order of the Board of Governors, acting through its General Counsel pursuant to delegated authority (12 CFR 265.2), September 11, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-19764 Filed 9-14-73;8:45 am]

## PHILADELPHIA NATIONAL CORP.

### Order Approving Retention of Congress Factors Corp.

Philadelphia National Corporation (formerly PNB Corporation), Philadelphia, Pennsylvania, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y, to retain 80 percent of the common stock of Congress Factors Corporation, Philadelphia, Pennsylvania ("Factors"), a company that engages directly in the activities of purchasing of accounts receivable, principally on a non-recourse basis ("factoring"), and of making loans to commercial customers, secured by accounts receivable, inventory, equipment, and/or real estate ("commercial lending"). Congress Financial Corporation ("Financial") and Congress Credit Corporation ("Credit"), both of Philadelphia, Pennsylvania, are wholly-owned subsidiaries of Factors and engage solely in commercial lending. Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a)(1)). The shares of Factors are presently held by the Philadelphia National Bank, Philadelphia, Pennsylvania ("Bank"), a wholly-owned (except for directors' qualifying shares) subsidiary of Applicant. Applicant, besides seeking approval of its retention of these shares, seeks approval to transfer those shares from Bank to itself.

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (38 FR 18495). The time for filing comments and views has expired, and none has been received.

Applicant, the fourth largest banking organization in Pennsylvania, controls one bank with total domestic deposits of $2.0 billion, representing 5.6 percent of the total domestic deposits in commercial banks in Pennsylvania.[1] Applicant's direct nonbanking subsidiaries include a commercial finance company, a consumer finance holding company, a residential mortgage origination company, and an internal financing company.

Factors is engaged in both maturity and discount factoring,[2] as well as commercial lending. Factors, Financial, and Credit conduct business from their principal operating office in New York, New York, although headquartered in Philadelphia. Financial also operates a sales referral office in Miami, Florida, and Credit principally operates from an office in Hato Rey, Puerto Rico. Factors engages in factoring primarily in the New York area. During 1972, it had annual factoring volume of $210 million, representing 1.5 percent of total commercial factored accounts held by the 25 largest factoring firms. It is estimated that Factors is thereby the 22nd largest of such firms.

Neither Applicant nor any of its subsidiaries (other than Factors) are presently, nor have ever been, engaged in factoring other than to a limited degree. Accordingly, no significant existing competition in that line of commerce would be eliminated upon consummation of the proposed transaction nor was any significant existing competition eliminated by Bank's acquisition of shares of Factors in 1967. There is a considerable number of potential entrants into that line of commerce, and Applicant is not considered one of the most likely such entrants. Accordingly, no future competition would be foreclosed in that line of commerce upon approval of this application.

Applicant's commercial finance subsidiary, PNB Commercial Finance Corporation ("CFC") held loans of approximately $2 million outstanding at year-end 1972 and primarily serves the Philadelphia metropolitan area. Factors, Financial, and Credit, holding aggregate commercial loans amounting to $28.5 million outstanding at year-end 1972, engage in the same line of commerce as does CFC. However, they primarily serve borrowers in New York, New Jersey, Florida, and Puerto Rico, and do not significantly compete in the Philadelphia area. As of December 31, 1972, Financial had outstanding commercial loans of $0.8 million derived from the Philadelphia area. Credit and Factors had none. Bank itself neither engages in a factoring business nor in making the type of high-risk commercial loans made by Financial and Credit. Further, Applicant's retention and intra-corporate transfer of the Congress companies are not expected to adversely affect the availability of credit to competitors of those companies. In fact, Bank has increased its lines of credit to those competitors since the acquisition of Factors in 1967. The Board concludes that the retention and intra-corporate transfer of Congress and its subsidiaries would have no significant adverse effect on existing or future competition.

[1] Banking data are as of December 31, 1972.

[2] In maturity factoring, payment to the seller of the accounts receivable is not made until the receivables are expected to have been collected by Factors. In discount factoring, funds are advanced to the seller prior to the collection of the receivables.





There is no evidence in the record to indicate that the proposed retention would lead to an undue concentration of resources, conflicts of interests, or unsound banking practices. Applicant's retention and intra-corporate transfer of Factors should result in benefits to the public by indirectly increasing the amount of financial resources available to Factors and its subsidiaries. Since its acquisition by Bank in 1967, Factors has experienced significant growth and has enhanced its competitive strength, partially as a result of its ability, as a subsidiary of a bank holding company, to secure funds through the commercial paper market at a lower cost than through bank financing, and thereby to maintain aggressive competitive pricing.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved. The intra-corporate transfer shall not be consummated later than three months after the effective date of this Order, unless such period is extended for good cause by the Federal Reserve Bank of Philadelphia pursuant to authority delegated hereby. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,[3] effective September 11, 1973.

[SEAL] CHESTER B. FELDBERG,
*Secretary of the Board.*

[FR Doc.73-19769 Filed 9-17-73;8:45 am]

## REPUBLIC NATIONAL BANK OF DALLAS

### Determination Regarding "Grandfather" Privileges Under Bank Holding Company Act

Section 4 of the Bank Holding Company Act (12 U.S.C. 1843) provides certain privileges ("grandfather" privileges) with respect to nonbanking activities of a company that, by virtue of the 1970 Amendments to the Bank Holding Company Act, became subject to the Bank Holding Company Act. Pursuant to section 4(a)(2) of the Act, a "company covered in 1970" may continue to engage, either directly or through a subsidiary, in nonbanking activities that such a company was lawfully engaged in on June 30, 1968 (or on a date subsequent to June 30, 1968, in the case of activities carried on as a result of the acquisition by such company or subsidiary, pursuant to a binding written contract entered into on or before June 30, 1968, of another company engaged in such activities at the time of the acquisition), and has been continuously engaged in since June 30, 1968 (or such subsequent date).

Section 4(a)(2) of the Act provides, inter alia, that the Board of Governors of the Federal Reserve System may terminate such grandfather privileges if, having due regard to the purposes of the Act, the Board determines that such action is necessary to prevent an undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices. With respect to a company that controls a bank with assets in excess of $60 million on or after December 31, 1970, the Board is required to make such a determination within a two year period.

Notice of the Board's proposed review of grandfather privileges of The Republic National Bank of Dallas, Dallas, Texas, and an opportunity for interested persons to submit comments and views or request a hearing, has been given (37 FR 22414, 25204). The time for filing comments, views, and requests has expired, and all those received have been considered by the Board in light of the factors set forth in section 4(a)(2) of the Act.

The Republic National Bank of Dallas ("Registrant"), Dallas, Texas, became a bank holding company on December 31, 1970, as a result of the 1970 Amendments to the Act by virtue of Registrant's indirect control of approximately 30 percent of the voting shares of Oak Cliff Bank and Trust Company, Dallas, Texas (assets of about $96 million, as of December 31, 1970). On July 13, 1973, the Board announced its finding that Registrant, a national bank, had authority to continue the activities of its six direct subsidiaries. The Board noted in its announcement that it was considering the question of Registrant's entitlement to grandfather privileges with respect to activities conduced by the Howard Corporation, et al., a group of corporations all the shares of which are held for the benefit of the shareholders of Registrant and, by virtue of section 2(g)(2) of the Act, are deemed to be controlled by Registrant.

On the evidence before it, the Board makes the following findings. Since 1928 the shareholders of Registrant have been the beneficiaries of an affiliated group of corporations under a trusteeship. These organizations, now known as "The Howard Corporation", a Texas trust which will terminate in 1978, was established in 1928. The trusteeship was the outgrowth of a consolidation in which assets ineligible for retention by a national bank were set aside in a separate trust for the benefit of the shareholders of Registrant. The trusteed corporations also have stock interests in 21 other Texas banks.[1] The net income for the Howard Corporation in 1971 amounted to over $3 million, which includes $1.4 million received as the result of equity interests in the earnings of Registrant and other companies. The consolidated assets for all the companies in the group amounted to $153 million as of December 31, 1971.

Registrant claims grandfather privileges for various activities. Republic Commerce Company,[2] Dallas (assets of $24 million as of December 31, 1971), holds 100 percent of the voting shares of Republic Money Orders, Inc., Dallas, the shares of which were received from the Savings and Profit Sharing Retirement Fund for the employees of Registrant, which fund had held the stock from 1959 to 1971. Republic Money Orders owns 100 percent of the stock of Republic Money Orders of California, Inc., Dallas, and each of these firms is engaged in the business of selling and servicing money orders and travelers check. The combined assets of the two companies as of December 31, 1971 amounted to about $33 million. It appears that Registrant may continue its interests in these companies on the basis of grandfather privileges.

Republic National Bank Building Corporation[3] (assets of $706,000 as of December 31, 1971), which was acquired in 1951, operates and manages two buildings occupied by Registrant. Registrant need not rely on grandfather privileges for the continuation of its interest in this company inasmuch as it appears that the activities of the company are permissible on the basis of section 4(c)(1)(A).[4]

[3] Voting for this action: Vice Chairman Mitchell and Governors Sheehan, Bucher and Holland. Absent and not voting: Chairman Burns and Governors Daane and Brimmer.

[1] The Board's action herein is based on Registrant's claim that it controlled only one bank on June 30, 1968, and therefore became a bank holding company covered by the Bank Holding Company Act as a result of the enactment of the 1970 Amendments to the Act. The record shows that Registrant has interests in each of 21 other banks ("minority" banks), interests ranging from 6 to 24.98 percent. The action herein does not constitute a determination by the Board that any of the minority banks is or is not, or may become a subsidiary of Registrant. Nor does the action herein indicate that the Board would in the future permit Registrant to acquire, directly or indirectly, any additional shares of any of said minority banks. Moreover the action herein does not preclude the Board from determining that Applicant exercises control of, or a controlling influence over the management or policies of, any of said banks within the meaning of section 2(a) of the Act.

[2] All the shares of Republic Commerce Company are held for the benefit of the shareholders of Registrant.

[3] All the shares of Republic National Bank Building Corporation are held for the benefit of the shareholders of Registrant.

[4] Section 4(c)(1)(A) of the Act permits a bank holding company (without the approval of the Board) to hold shares of any company engaged in "• • • holding or operating properties used wholly or substantially by any banking subsidiary of such bank holding company in the operations of such banking subsidiary or acquired for such future use;".



V 38 1 80 SEP 18 73 XUM

Exchange Security & Investment Co.[5] (assets of $160,000 as of December 31, 1971) was formed in June, 1970 for the purpose of acquiring Exchange National Life Insurance Company (admitted assets of $638,000 as of December 31, 1971), which was acquired subsequently in November 1970, and reinsures credit life and disability insurance policies. Since these interests were acquired after June 30, 1968, Registrant is not entitled to indefinite grandfather privileges and must reduce its interest to 5 per cent or less of the voting shares by December 31, 1980, unless Registrant obtains Board approval under section 4(c)(8) to retain the interest.

Except for the activities engaged in by the above corporations, the principal activities of the Howard Corporation[6] and its subsidiaries are in the areas of oil, gas, minerals; real estate; lending and/or guaranteeing money and acting as a financial advisor; and owning and holding stocks and bonds in various companies.

The Howard Corporation itself engages directly in managing all the affiliated corporations and, in connection with the management of the affiliated corporations, engages in borrowing and lending money, acting as investment counselor, and furnishing management and financial advisory services. It appears that these activities are eligible for, and may be continually on the basis of, grandfather privileges. The Howard Corporation also holds investments in (1) securities, (2) oil, gas, mineral properties, and (3) real estate activities.

The securities investments of the Howard Corporation appear to be generally permissible for a bank holding company so long as the share holdings in each company do not exceed 5 percent of the outstanding voting shares of the company.[7] Shareholdings of more than 5 percent of the shares of any company (but less than 25 percent of the outstanding shares) which have been held continuously since June 30, 1968, are eligible for grandfather benefits as an investment. However, this determination is not authority to increase that investment interest; nor to make investments in other companies, unless the investment interest in each additional company amounts to not more than 5 percent of the outstanding voting shares of such company.

With respect to oil, gas, and mineral interests, the Howard Corporation and its subsidiaries have investments in approximately 600 interests principally in Texas and Louisiana. Neither the Howard Corporation nor its subsidiaries engage in the developing, mining, drilling, etc., of oil, gas, or other minerals, nor in acting as an operator, servicer, or producer in connection with oil, gas, or mineral activities. On a grandfather basis, Registrant may continue, through the Howard Corporation, the investments in the oil, gas, and mineral properties held on June 30, 1968, and, to the extent necessary to preserve and develop those interests, may continue activities related to the wells, refineries, pipe lines, joint ventures, and land exploration with respect to which the Howard Corporation had investments on June 30, 1968.

United Petroleum Corporation, Dallas (assets of $173,000 as of December 31, 1971), and Walker Properties, Dallas, each of which is 50 percent owned by the Howard Corporation, hold title to and participate as investors in oil, gas, and mineral interests, and participate as investors in drilling and operating oil and gas wells. Pine Island Oil Company (assets of $44,000 as of December 31, 1971), Lake Charles, Louisiana, which is 50 percent owned by the Howard Corporation, owns certain oil, gas, and mineral interests. Walker Louisiana Properties, Louisiana, a joint venture 50 percent owned by the Howard Corporation, owns certain oil, gas and mineral interests, as well as farm and timber land, and participates as an investor in drilling and operating oil and gas wells. Prairie Canal Company (assets of $718,000 as of December 31, 1971), Lake Charles, Louisiana, 32.9 percent of which is owned by the Howard Corporation, owns and holds title to oil, gas and mineral interests. In varying degrees as described below, each of the five entities named above, owns real estate properties as an adjunct to the oil, gas, and mineral interests. To the extent that the oil, gas, and mineral interests described above were held on June 30, 1968, Registrant is entitled to grandfather benefits to retain such investments.

In addition to the above activities of the Howard Corporation and its subsidiaries, Registrant is deemed to control, by virtue of section 2(g)(2) of the Act, MacMor Oil Company, Boyce Oil Company, and MacBean Oil Company, all located in Dallas and owned 100 percent by the Savings and Profit Sharing Retirement Fund for the employees of Registrant. These companies were formed, all prior to June 30, 1968, for the sole purpose of holding title to oil and gas production payments. When all the production payments are paid out, the three organizations will be nothing more than corporate shells. At the present time, only MacMor Oil and MacBean Oil are active, and Registrant may continue its interests in these companies on the basis of grandfather privileges.

In connection with oil, gas, and mineral interests, Registrant, through the Howard Corporation, has made acquisitions of additional mineral interests after June 30, 1968. To the extent that those additional acquisitions were related to and necessary to protect oil, gas, and mineral investments held on June 30, 1968, they may be retained on the basis of grandfather privileges. Investments made during the period from June 30, 1968, to December 31, 1970, that were not so related may be retained until December 31, 1980. Any other investments made after December 31, 1970, and in excess of a 5 percent interest are required by the Act to be reduced to 5 percent or less and this should be effected at the earliest practicable date.

The Howard Corporation acts as a financing partner or investor in real estate. As noted above, Pine Island Oil, Walker Louisiana Properties, Prairie Canal, United Petroleum Company and Walker Properties are each engaged in holding real estate principally as an adjunct to oil, gas, and mineral interests but used also for commercial, residential, and agricultural purposes. The property is not a contiguous tract but scattered acreage throughout southern Louisiana, Texas, and other states.

Three wholly-owned subsidiaries of The Howard Corporation were organized to acquire, hold, manage, operate, and sell real and personal property acquired by Registrant through loan foreclosures. The three subsidiaries, namely, Rheims Corporation (assets of $408,000 as of December 31, 1971), which was acquired in 1958; Fairfax Investment Corporation (assets of $3,300 as of December 31, 1971), which was acquired in 1959; and Westside Investment Corporation (assets of about $100 as of December 31, 1971), which was acquired in 1959); appear to be eligible for retention without reference to grandfather benefits by virtue of section 4(c)(1)(D) of the Act.[8]

The Howard Corporation owns six shopping centers, two in California, three in Texas, and one in Louisiana, all of which were acquired prior to June 30, 1968. Registrant is entitled to retain these properties on the basis of grandfather privileges.

Three other subsidiaries of the Howard Corporation are engaged in real estate ventures. The Oxford Corporation (assets of $1 million as of December 31, 1971), which was acquired in 1969, acts as an investing partner in acquisition, development, operation and sale of realty. The Oxford Corporation has a 50 percent interest in each of two other companies, namely, Westgate Company and Polk Wheatland Company, which engage in activities similar to Oxford's. Inasmuch as Registrant's interest in these corporations was made after June 30, 1968, but before December 31, 1970, the companies do not appear to be entitled to grandfather privileges, and Registrant must reduce its interest to 5 percent or less of the voting shares by December 31, 1980, unless it obtains Board approval to retain its interests.

[5] All the shares of Exchange Security & Investment Co. are held for the benefit of the shareholders of Registrant.

[6] All the shares of the Howard Corporation are held for the benefit of the shareholders of Registrant.

[7] Section 4(c)(6) of the Act permits a bank holding company (without the approval of the Board) to hold "shares of any company which do not include more than 5 per centum of the outstanding voting shares of such company;".

[8] Section 4(c)(1)(D) of the Act permits a bank holding company (withou the approval of the Board) to hold shares of any company engaged in "• • • liquidating assets acquired from such bank holding or its banking subsidiaries • • •."





The Westminister Corporation (assets of $21,000 as of December 31, 1971), a wholly-owned subsidiary of the Howard Corporation, was acquired in 1969 and has as its only assets an option on an oil refinery. Registrant may continue to hold this interest until December 31, 1980.

Since June 30, 1968, Registrant, through the Howard Corporation and its subsidiaries, has purchased real estate or has become a partner and invested in several joint ventures engaged in buying real estate for further development and/or appreciation in value. In many instances, the acquisition was made after December 31, 1970, the date of the 1970 Amendments to the Act, and, on the basis of the prohibitions in section 4 of the Act, impermissible unless Registrant had grandfather privileges for such investments. Registrant should reduce its interest in each joint venture or real estate (acquired after December 31, 1970) to 5 percent or less at the earliest practicable date. With respect to investments in joint ventures or real estate made between June 30, 1970, Registrant had grandfather privileges for such investments. Registrant should reduce its interest in each joint venture or real estate (acquired after December 31, 1970) to 5 percent or less at the earliest practicable date. With respect to investments in joint ventures or real estate made between June 30, 1968, and December 31, 1970, Registrant has until December 31, 1980, to reduce its interest to 5 percent or less. Any interest in a joint venture for real estate or real estate acquired prior to June 30, 1968, may be retained indefinitely together with investments related to or necessary to protect real estate investments held on June 30, 1968.

On the basis of the foregoing and all the facts before the Board, it appears that the volume, scope, and nature of the activities of Registrant described herein and of the Howard Corporation, do not demonstrate an undue concentration of resources, decreased or unfair competition, conflicts of interest, nor unsound banking practices.

There appears to be no reason to require Registrant to terminate its grandfathered interests. It is the Board's judgment that, at this time, termination of the grandfather privileges of Registrant described herein is not necessary in order to prevent an undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices. Except as indicated herein, this determination is not authority to enter into any new activity, or product extension that was not engaged in on June 30, 1968 and continuously thereafter, or any activity that is not the subject of this determination.

A significant alteration in the nature or extension of Registrant's activities or a change in location thereof (significantly different from any described in this determination) will be cause for a reevaluation by the Board of Registrant's activities under the provisions of section 4(a)(2) of the Act, that is, whenever the alteration or change is such that the Board finds that a termination of the grandfather privileges is necessary to prevent an undue concentration of resources or any of the other evils at which the Act is directed. No merger, consolidation, acquisition of assets other than in the ordinary course of business, nor acquisition of any interest in a going concern, to which the Registrant or any nonbank subsidiary thereof is a party, may be consummated without prior approval of the Board. Further, the provision of any credit, property, or service by the Registrant or any subsidiary thereof shall not be subject to any condition which, if imposed by a bank, would constitute an unlawful tie-in arrangement under section 106 of the Bank Holding Company Act Amendments of 1970.

The determination herein does not preclude a later review, by the Board, of Registrant's nonbank activities and a future determination by the Board in favor of termination of grandfather benefits of Registrant. The determination herein is subject to the Board's authority to require modification or termination of the activities of Registrant or any of its nonbanking subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By determination of the Board of Governors,[9] effective September 10, 1973.

[SEAL] CHESTER B. FELDBERG,
*Secretary of the Board.*

[FR Doc.73-19774 Filed 9-17-73;8:45 am]

## SOUTHEAST BANKING CORP.

### Order Denying Request for Reconsideration

Southeast Banking Corporation, Miami, Florida, has requested reconsideration of the Order of the Board of Governors dated May 29, 1973 whereby the Board denied the application of Southeast Banking Corporation to acquire 80 percent or more of the voting shares of Deland State Bank, Deland, Florida, pursuant to section 3(a)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1842(a)(3)).

Pursuant to § 262.3(g)(5) of the Board's Rules, Applicant requests reconsideration of its original proposal. The Board finds that the request for reconsideration does not present substantially new facts or issues which would appear appropriate in the public interest for the Board to consider. Accordingly, the Board concludes that the request for reconsideration is hereby denied.

[9] Voting for this action: Vice Chairman Mitchell and Governors Daane, Brimmer, Sheehan, Bucher, and Holland. Absent and not voting: Chairman Burns.

By order of the Board of Governors,[1] effective September 10, 1973.

[SEAL] CHESTER B. FELDBERG,
*Secretary of the Board.*

[FR Doc.73-19768 Filed 9-17-73;8:45 am]

## SOUTHWEST FLORIDA BANKS, INC.

### Acquisition of Banks

Southwest Florida Banks, Inc., Fort Myers, Florida, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of South First Bank, Fort Myers, Florida, and North First Bank, North Fort Myers, Florida, both proposed new banks. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The applications may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the applications should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 8, 1973.

Board of Governors of the Federal Reserve System, September 11, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-19762 Filed 9-17-73;8:45 am]

## STANDARD AND CHARTERED BANKING GROUP LTD.

### Proposed Acquisition of Mocatta Metals Corp.

Standard and Chartered Banking Group Limited, London, England, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of Mocatta Metals Corporation, New York, New York, a corporation to be formed under the laws of Delaware, which would be a successor corporation to Mocatta Metals Corporation of New York and thereby to indirectly acquire voting shares of the following corporations, which are wholly-owned subsidiaries of Mocatta Metals Corporation of New York: Iron Mountain Depository Corporation, New York, New York; Mocatta Commodities Corporation, New York, New York; Brody, White & Company, Inc., New York, New York; Mocatta Clearing Corporation, New York, New York; and I.M.D. Chicago, Inc., Chicago, Illinois. Notice of the application was published on August 8, 1973 in the New York Post, a newspaper circulated in New York, New York.

[1] Voting for this action: Chairman Burns and Governors Mitchell, Brimmer, Sheehan, Bucher and Holland. Absent and not voting: Governor Daane.



V 38 180 SEP 18 73 XUM

Mocatta metals corporation would directly, and indirectly through its subsidiaries, engage in the activities of trading and arbitraging gold and silver bullion on various exchanges and in the open market, and also in activities related thereto.

Interested persons may express their views on whether such activities are so closely related to banking or managing or controlling banks as to be a proper incident thereto. Interested persons may also express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any requests for a hearing on this question, or on the issue of whether trading and arbitraging gold and silver bullion is closely related to banking or managing or controlling banks as to be a proper incident thereto, should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 24, 1973.

Board of Governors of the Federal Reserve System, September 10, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-19773 Filed 9-17-73;8:45 am]

## WYOMING BANCORPORATION

### Order Approving Acquisition of Bank

Wyoming Bancorporation, Cheyenne Wyoming, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire indirectly at least 75 percent of the voting shares of Security Bank and Trust Company, Casper, Wyoming ("Bank"), through the direct acquisition of at least 80 percent of the voting shares of Security Bankshares, Inc., Casper, Wyoming ("Corporation"). Corporation owns 95 percent of the voting shares of Bank and no other assets except the land on which Bank's building is located. The proposed acquisition of Corporation is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls 12 banks with aggregate deposits of $160 million, representing 14.4 percent of the total commercial bank deposits held by Wyoming banks and is the largest banking organization in the State. (All banking data are as of December 31, 1972, and reflect acquisitions and formations approved through August 31, 1973.) The acquisition of Bank ($17 million deposits) would increase Applicant's share of State deposits by 1.6 percentage points.

Applicant is the largest and only Wyoming based bank holding company. However, the second and third largest bank holding companies operating in Wyoming are based in California and Utah, with total deposits of $12 billion and $1.3 billion, respectively. The five largest banking organizations in Wyoming control 18 banks and 45 percent of total State deposits. The concentration of deposits within the State is viewed as moderately high considering the small number of banks (71) presently in operation. Only three Wyoming banks hold deposits in excess of $40 million, two of which are subsidiaries of multi-bank holding companies.

Bank, the third largest of five banks located in the City of Casper, controls approximately 7 percent of commercial deposits in the Natrona County market. The two largest banks in the market hold deposits of $110 million and $97 million, respectively, and together control approximately 87 percent of market deposits. Consummation of this proposal would represent Applicant's initial entry into the Natrona County market.

Applicant's nearest subsidiaries to Bank are located 106 miles and 97 miles from Casper. There is no significant present competition between any of Applicant's subsidiaries and Bank. Although Applicant could enter the area de novo (and indeed, has already applied for such a charter) or through the acquisition of a smaller bank, the proposed acquisition would appear to have no net anticompetitive effect on area banking in view of the presence of the two significantly larger banking organizations in the Natrona County market. Consummation of the proposal will undoubtedly enhance Bank's ability to compete in the market area, as well as assist toward some deconcentration of banking resources in this highly concentrated market. The Board concludes that the competitive effects of the proposal are consistent with approval of the application.

The financial condition of Applicant and its subsidiary banks are considered to be satisfactory, and their managements are deemed capable. These same factors are also satisfactory with regard to Bank especially in view of Applicant's commitment to increase Bank's capital accounts. Banking factors are therefor deemed consistent with approval of the application. The record indicates that the major banking needs of the area are being served at the present time. However, the proposed affiliation would enable Bank to compete for larger loans, become more active in the agricultural loan market, and expand its trust services. Accordingly, considerations relating to the convenience and needs of the area are consistent with approval of the application. It is the Board's judgment that consummation of the proposed transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[1] effective September 11, 1973.

[SEAL] CHESTER B. FELDBERG,
*Secretary of the Board.*

[FR Doc.73-19765 Filed 9-17-73;8:45 am]

## FIRST NATIONAL BOSTON CORP.

### Order Approving Acquisition of Bank

First National Boston Corporation, Boston, Massachusetts, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares (exclusive of directors' qualifying shares) of the successor by merger to the Holyoke National Bank, Holyoke, Massachusetts ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the largest banking organization and bank holding company in Massachusetts, controls one bank with aggregate deposits of $2.7 billion representing about 23 percent of total deposits in commercial banks in the State.[1] Applicant's acquisition of Bank (deposits of $26.9 million) would increase its share of Statewide deposits by .2 percentage points and would not result in any significant increase in the concentration of banking resources in Massachusetts.[2]

Bank is the fourth largest of fifteen commercial banking organizations competing in the Springfield-Chicopee-Holyoke banking market (which is approximated by the Springfield SMSA), controlling 4 percent of market deposits. Applicant's closest existing subsidiary banking office is located more than 90 miles from Bank, and it appears that there is no significant existing competition between Bank and any of Applicant's subsidiary banking offices. Due to the distance separating bank and Applicant's existing subsidiary banking offices and Massachusetts' restrictive branching laws, it appears unlikely that any significant competition would develop between the institutions in the future. Additionally, the three largest banks in the market control more than 76 percent of such deposits and consummation of the proposal would have a procompetitive effect by enhancing Bank's ability to compete with the larger institutions.

The financial and managerial resources and future prospects of Applicant and its subsidiary bank are satisfactory and consistent with approval. Bank faces a management succession problem. It is expected that Applicant will take steps to resolve Bank's management succession problem and this factor lends some weight toward approval of the application. Other considerations with respect to the financial and managerial resources and future prospects of Bank are consistent with approval.

Applicant proposes to offer through Bank new and improved services, including increased interest rates on savings deposits, additional types of consumer installment loans, and automated payroll services. Since some of the proposed new services are not currently available in Holyoke, consummation of this proposal will increase the convenience of Holyoke residents. Accordingly, considerations relating to the convenience and needs of the communities to be served are consistent with and lend some weight toward approval of the application. It is the Board's judgment that the transaction is in the public interest and should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Boston pursuant to delegated authority.

By order of the Board of Governors,[3] effective September 4, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-19760 Filed 9-17-73;8:45 am]

[1] Voting for this action: Chairman Burns and Governors Mitchell, Sheehan, Bucher and Daane. Absent and not voting: Governor Brimmer.

[1] Banking data are as of June 30, 1972, adjusted to reflect holding company formations and acquisitions approved through July 31, 1973.

[2] By Order of this date, the Board approved Applicant's acquisition of both First Bank and Trust Company of Wellesley and Burlington Bank and Trust Company, which together control 0.2 percentage points of Statewide deposits.

[3] Voting for this action: Chairman Burns and Governors Brimmer, Sheehan, Bucher and Holland. Absent and not voting: Governors Mitchell and Daane.





## FEDERAL TRADE COMMISSION

### CIGARETTE TESTING

### Tar and Nicotine Content

The Federal Trade Commission's laboratory has determined the "tar" (dry particulate matter) and total alkaloid (reported as nicotine) content of 130 varieties of domestic cigarettes. The laboratory utilized the Cambridge filter method with the specifications set forth in the Commission's announcement dated July 31, 1967 (32 FR 11178). The varieties are arranged in alphabetical order with tar values rounded to the nearest whole milligram and nicotine values rounded to the nearest tenth of a milligram.

TAR[1] AND NICOTINE[2] CONTENT OF ONE-HUNDRED THIRTY (130) VARIETIES OF DOMESTIC CIGARETTES

FEDERAL TRADE COMMISSION, AUGUST 1973

| Brand | Type | TPM dry tar[1] (mg/cig) | Nicotine[2] (mg/cig) |
|---|---|---|---|
| Adam (brown)[3] | King size, filter | 19 | 1.4 |
| Do | 100 mm, filter | 19 | 1.5 |
| Alpine | King size, filter, menthol | 15 | 1.0 |
| Do | do | 15 | 1.2 |
| Belair | 100 mm, filter, menthol | 18 | 1.4 |
| Do | Regular size, filter (hard wide pack) | 10 | 0.7 |
| Benson & Hedges | King size, filter (hard wide pack) | 16 | 1.2 |
| Do | 100 mm, filter | 18 | 1.3 |
| Benson & Hedges 100's | 100 mm, filter, menthol | 18 | 1.3 |
| Do | King size, filter | 29 | 2.0 |
| Bull Durham | Regular size, nonfilter | 25 | 1.6 |
| Camel | King size, filter | 19 | 1.3 |
| Do | Regular size, filter | 2 | 0.2 |
| Carlton 70's[4] | King size, filter | 4 | 0.4 |
| Carlton | King size, filter menthol | 3 | 0.3 |
| Do | Regular size, nonfilter | 26 | 1.6 |
| Chesterfield | King size, nonfilter | 28 | 1.8 |
| Do | King size, filter | 19 | 1.4 |
| Do | King size, filter, menthol | 19 | 1.3 |
| Do | 101 mm, filter | 19 | 1.5 |
| Domino | King size, nonfilter | 29 | 1.6 |
| Do | King size, filter | 21 | 1.3 |
| Doral | do | 16 | 1.1 |
| Do | King size, filter, menthol | 14 | 1.1 |
| DuMaurier | King size, filter (hard wide pack) | 16 | 1.2 |
| Edgeworth Export | King size, filter (hard pack) | 19 | 1.4 |
| Do | 100 mm, filter | 19 | 1.4 |
| English Ovals | Regular size, nonfilter (hard wide pack) | 23 | 1.7 |
| Do | King size, nonfilter (hard wide pack) | 28 | 2.1 |
| Eve | 100 mm, filter | 18 | 1.4 |
| Do | 100 mm, filter, menthol | 18 | 1.3 |
| Fatima | King size, nonfilter | 31 | 1.9 |
| Frappe | King size, filter, menthol | 9 | 0.3 |
| Galaxy | King size, filter | 18 | 1.3 |
| Half & Half | do | 24 | 1.8 |
| Herbert Tareyton | King size, nonfilter | 31 | 1.8 |
| Home Run | Regular size, nonfilter | 21 | 0.6 |
| Iceberg 10 | King size, filter, menthol | 9 | 1.6 |
| Kent | King size, filter (hard pack) | 16 | 1.0 |
| Do | King size, filter | 16 | 1.0 |
| Do | 100 mm, filter | 19 | 1.2 |
| Do | 100 mm, filter, menthol | 18 | 1.3 |
| King Sano | King size, filter | 6 | 0.3 |
| Do | King size, filter, menthol | 7 | 0.3 |
| Kool | Regular size, nonfilter, menthol | 21 | 1.4 |
| Do | King size, filter, menthol | 16 | 1.3 |
| Kool Milds | do | 13 | 1.0 |
| Kool | 100 mm, filter, menthol | 17 | 1.3 |
| L & M | King size, filter (hard pack) | 17 | 1.3 |
| Do | King size, filter | 19 | 1.4 |
| Do | 100 mm, filter | 19 | 1.5 |
| Do | 100 mm, filter, menthol | 19 | 1.4 |
| Lark | King size, filter | 17 | 1.2 |
| Do | 100 mm, filter | 18 | 1.3 |
| Life | Regular size, nonfilter | 10 | 0.6 |
| Lucky Strike | King size, filter | 29 | 1.8 |
| Lucky Filters | 100 mm, filter | 22 | 1.6 |
| Lucky Ten | Regular size, nonfilter | 9 | 0.6 |
| Mapleton | King size, filter | 28 | 1.2 |
| Do | King size, filter (hard pack) | 24 | 1.3 |
| Marlboro | King size, filter | 18 | 1.2 |
| Do | King size, filter menthol | 18 | 1.2 |
| Do | 100 mm, filter (hard pack) | 14 | 1.0 |
| Do | 100 mm, filter | 18 | 1.3 |
| Marlboro Lights | King size, filter | 18 | 1.3 |
| Marvels | Regular size, filter | 14 | 1.0 |
| Do | King size, nonfilter | 3 | 0.2 |
| Do | King size, filter | 25 | 1.0 |
| Do | King size, filter, menthol | 5 | 0.3 |
| Mermaid | 100 mm, filter, menthol | 5 | 0.2 |
| Montclair | King size, filter, menthol | 19 | 1.4 |
| | | 18 | 1.3 |

Footnotes at end of table.



V 38 I 180 SEP 18 73 XUM

TAR[illegible] AND NICOTINE CONTENT OF ONE-HUNDRED THIRTY (130) VARIETIES OF DOMESTIC CIGARETTES—Continued

FEDERAL TRADE COMMISSION, AUGUST 1973—Continued

| Brand | Type | TPM dry tar[1] (mg/cig) | Nicotine[2] (mg/cig) |
|---|---|---|---|
| [illegible] | King size, filter (plastic box) | 14 | 1.0 |
| Do | King size, filter, menthol (plastic box) | 12 | 0.9 |
| Newport | King size, filter, menthol (hard pack) | 19 | 1.3 |
| Do | King size, filter, menthol | 18 | 1.3 |
| Do | 100 mm, filter, menthol | 22 | 1.6 |
| [illegible] | King size, filter, menthol | 19 | 1.3 |
| Old Gold straights | Regular size, nonfilter | 21 | 1.3 |
| Do | King size, nonfilter | 26 | 1.6 |
| Old Gold filters | King size, filter | 19 | 1.2 |
| Old Gold filters | 100 mm, filter | 22 | 1.5 |
| Parliament | King size, nonfilter | 24 | 1.9 |
| Do | King size, filter (hard pack) | 9 | 0.6 |
| Do | King size filter | 10 | 0.7 |
| Pall Mall | 100 mm, filter | 20 | 1.4 |
| Do | 100 mm, filter, menthol | 17 | 1.3 |
| [illegible] | King size, filter (hard pack) | 15 | 1.0 |
| Do | King size, filter | 14 | 1.0 |
| Do | 100 mm, filter | 17 | 1.2 |
| Parliament | King size, charcoal filter (hard pack) | 16 | 1.0 |
| Do | King size, charcoal filter | 15 | 1.0 |
| Peter Dawson | King size, filter | 20 | 1.4 |
| Do | 100 mm, filter | 14 | 1.4 |
| Philip Morris | Regular size, nonfilter | 23 | 1.4 |
| Philip Morris Commander | King size, nonfilter | 29 | 1.8 |
| Players | Regular size, nonfilter | 20 | 1.6 |
| Do | do | 25 | 1.6 |
| Raleigh | Regular size, nonfilter (hard wide pack) | 32 | 2.2 |
| Do | King size, nonfilter | 25 | 1.6 |
| Do | King size, filter | 16 | 1.2 |
| Do | 100 mm, filter | 18 | 1.3 |
| Salem | do | 20 | 1.4 |
| Do | 100 mm, filter, menthol | 20 | 1.3 |
| Do | King size, filter, menthol | 19 | 1.3 |
| Do | 100 mm, filter, menthol | 19 | 1.4 |
| Sano | Regular size, nonfilter | 16 | 0.6 |
| Do | Regular size, filter | 5 | 0.2 |
| Sarah Thomas | 100 mm, filter | 16 | 1.2 |
| Do | 100 mm, filter, menthol | 16 | 1.2 |
| Sportsman | do | 20 | 1.2 |
| Start (red) | King size, nonfilter | 33 | 1.4 |
| Do | King size, filter | 20 | 0.9 |
| Tareyton | do | 21 | 1.4 |
| Do | 100 mm, filter | 21 | 1.5 |
| Tempo | King size, filter | 13 | 0.9 |
| Trig | do | 12 | 0.7 |
| Do | King size, filter, menthol | 11 | 0.7 |
| Vantage | King size, filter | 10 | 0.8 |
| Do | King size, filter, menthol | 11 | 0.9 |
| Viceroy | King size, filter | 15 | 1.1 |
| Do | 100 mm, filter | 17 | 1.2 |
| Virginia Slims | do | 17 | 1.2 |
| Do | 100 mm, filter, menthol | 17 | 1.2 |
| Vogue (black) | King size, filter (hard, wide pack) | 30 | 1.2 |
| Vogue (color) | do | 22 | 0.9 |
| Winston | King size, filter (hard pack) | 20 | 1.1 |
| Do | King size, filter | 20 | 1.3 |
| Do | 100 mm, filter | 20 | 1.3 |
| Do | 100 mm, filter, menthol | 20 | 1.4 |

[1] TPM (tar)—nailfirms total particulate matter less nicotine and water.
[2] Milligrams total alkaloids reported as nicotine.
[3] Indicates color of cigarette paper.
[4] Limited availability based on reduced sampling from Washington, D.C., only.

By direction of the Commission, dated September 12, 1973.

[SEAL] CHARLES A. TOBIN,
*Secretary.*

[FR Doc.73-19681 Filed 9-17-73;8:45 am]

## QUARTERLY FINANCIAL STATISTICS PROGRAM

### Confidential Individual Company Data

Notice is hereby given that the Federal Trade Commission has amended Paragraphs 3, 7 and 8 of the rules and procedures as heretofore published (July 13, 1973, 38 FR 18720) to read as follows:

1. The third paragraph, Authorized access and use, is amended as follows:

*Authorized access and use.* Access to and use of individual company data within the FTC is restricted to members of the Division of Financial Statistics and the Statistical Reports Unit of the Economic Research and Services Section, both of which are part of the Bureau of Economics and both of which have no involvement in any investigative or regulatory functions of the Federal Trade Commission. Access by members of the Division of Management is authorized only during and for the purpose of electronic processing of such data. Access to these data by other government agencies may be granted by specific approval of the Commission with the understanding that the same confidentiality structures apply with respect to the individual company data. Any angency which is granted access will be responsible for disclosure analysis consistent with these guidelines.

2. The seventh paragraph is amended as follows:

Under no conditions may the individual company data reported on the QFR schedule be used for, or in the course of, any enforcement action or enforcement investigation. Therefore, all persons not on the staffs of the Statistical Report Unit or Division of Financial Statistics, unless from another government agency under conditions described above, will not be granted access to individual company information in the QFR files or data records; nor will personnel from either of these two units engage in any activity of the Commission which involves regulation or investigation, nor prepared any reports utilizing QFR data for such purposes while assigned to those units. Any employee who transfers into or out of either of the units will be formally notified in writing that he is subject to Section 10 of the Federal Trade Commission Act, the above-cited Commission Resolution, and these Rules, which prohibit disclosure, discussion, or release of these data to any unauthorized person.

3. The eighth paragraph is amended as follows:

Security of individual company QFR data. All individual company QFR schedules and data records at the Federal Trade Commission must at all times be under the security and superivsion of the staff of either the Statistical Reports Unit or the Division of Financial Statistics, except during electronic data processing when the Chief, Division of Management, shall be responsible for their security, and except when the Commission has approved their use by another government agency under conditions described above.

By direction of the Commission dated September 12, 1973.

[SEAL] CHARLES A. TOBIN,
*Secretary.*

[FR Doc.73-19759 Filed 9-17-73;8:45 am]

## GENERAL SERVICES ADMINISTRATION

### Public Buildings Service

[Wildlife Order 110]

### NATIONAL GUARD TRAINING AREA, FORT CROWDER, NEWTON COUNTY, MO.

### Transfer of Property

Pursuant to section 2 of Public Law 537, Eightieth Congress, approved May 19, 1948 (16 U.S.C. 667c), notice is hereby given that:

1. By a deed from the United States of America dated July 17, 1973, the property known as a portion of the National Guard, Training Area, Fort Crowder Missouri, consisting of approximately 150 acres of unimproved land, and more particularly described in said deed, has been conveyed to the State of Missouri.

2. The above described property was transferred for wildlife purposes in accordance with the provisions of section 1 of said Public Law 537 (16 U.S.C. 667b).

Dated September 10, 1973.

L. F. ROUSH,
*Commissioner,*
*Public Buildings Service.*

[FR Doc.73-19800 Filed 9-17-73;8:45 am]





## NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

### NOTICE OF PARTIALLY CLOSED MEETING

SEPTEMBER 13, 1973.

The National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a 3-day meeting on September 27–29. The first session, Thursday the 27th, will be closed to the public under authorization of the Assistant Secretary of Commerce for Administration, in a determination dated September 7, 1973, and cosigned by the General Counsel, which finds that the session is concerned with matters listed in section 552(b) of title 5, United States Code. The other two sessions will be open to the public. All sessions will be held in room 6802 of the U.S. Department of Commerce Building, 15th and Constitution NW., Washington, D.C. The Thursday session will commence at 10 a.m., the others will begin at 9 a.m.

The Committee, consisting of 25 non-Federal members appointed by the President from State and local governments, industry, science, and other appropriate areas, was established by Congress by Public Law 92–125, on August 16, 1971. Its duties are to: (1) Undertake a continuing review of the progress of the marine and atmospheric science and service programs of the United States, (2) submit a comprehensive annual report to the President and to the Congress setting forth an overall assessment of the status of the Nation's marine and atmospheric activities on or before June 30 of each year, and (3) advise the Secretary of Commerce with respect to the carrying out of the purposes of the National Oceanic and Atmospheric Administration.

A general agenda consists of the following topics:

Thursday the 27th—discussion of pending legislation affecting the organization of oceanic and atmospheric affairs and congressional testimony by various NACOA members.

Friday the 28th—development of a committee work plan for the coming year and presentation of agency briefings on marine pollution.

Saturday the 29th—further agency briefings on marine pollution.

At open sessions, the public will be admitted to the extent of the very limited seating available on a first come, first served basis. Questions from the public will be permitted during specific periods announced by the Chairman. Persons wishing to make formal statements must notify the Chairman in advance of the meeting. The Chairman retains the prerogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Dr. Douglas L. Brooks, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, Department of Commerce Building, Room 5225, Washington, D.C. 20230. The telephone number is 967–3343.

DOUGLAS L. BROOKS,
*Executive Director.*

[FR Doc.73-19943 Filed 9-17-73;8:45 am]

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 73-73]

### NASA INFRARED TELESCOPE SITE EVALUATION ADVISORY COMMITTEE

### Notice of Meeting

The NASA Infrared Telescope Site Evaluation Advisory Committee will meet at the Headquarters of the National Aeronautics and Space Administration on September 17 and 18, 1973. The meeting will be held in Room 6004 of Federal Office Building 6, located at 400 Maryland Avenue, SW., Washington, DC 20546. The meeting will be closed to members of the public on both days.

The NASA Infrared Telescope Site Evaluation Advisory Committee serves in a consultative capacity to the National Aeronautics and Space Administration to advise NASA on the evaluation of alternative sites for a large aperture ground-based infrared telescope in anticipation of approval of the project. For further information regarding the meeting, please contact Dr. Arthur L. Lane at 202–755–3760.

The Committee will hear presentations on, discuss, compare and evaluate proposed sites and concepts for the large aperture ground-based infrared telescope. The meeting will be closed as the information to be reviewed is proprietary in nature, containing data on proposed operations and confidential statistical data of universities and industrial concerns. The Committee will discuss the strengths and weaknesses of the individual sites and associated sponsoring organizations.

HOMER E. NEWELL,
*Associate Administrator, National Aeronautics and Space Administration.*

SEPTEMBER 13, 1973.

[FR Doc.73-19807 Filed 9-17-73;8:45 am]

## SECURITIES AND EXCHANGE COMMISSION

### FIRST INTERNATIONAL BANCSHARES, INC., ET AL.

### Applications for Unlisted Trading Privileges and of Opportunity for Hearing

SEPTEMBER 10, 1973.

The PBW Stock Exchange, Inc., has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the common stocks of the following companies, which securities are listed and registered on one or more other national securities exchanges:

| | File No. |
|---|---|
| First International Bankshares, Inc. | 7–4450 |
| Houston Oil & Minerals Corporation | 7–4451 |
| International Systems & Controls Corporation | 7–4452 |
| King Radio Corporation | 7–4453 |
| MGIC Investment Corporation | 7–4454 |
| Reserve Oil & Gas Company | 7–4455 |

Upon receipt of a request, on or before September 26, 1973, from any interested person, the Commission will determine whether the application with respect to any of the companies named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on any of the said applications by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to any particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-19786 Filed 9-17-73;8:45 am]

### MOTOROLA, INC.

### Application for Unlisted Trading Privileges and of Opportunity for Hearing

SEPTEMBER 10, 1973.

The Boston Stock Exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the common stock of the following company, which security is listed and registered on one or more other national securities exchange:

Motorola, Inc. ----------File No. 7–4445

Upon receipt of a request, on or before September 26, 1973 from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the



V38-180 SEP 18 73 XUM

basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-19785 Filed 9-17-73;8:45 am]

## COST OF LIVING COUNCIL

[Order 41]

### ADMINISTRATOR, OFFICE OF PRICE STABILIZATION

#### Delegation of Authority

Pursuant to the authority vested in me as Director of the Cost of Living Council by Cost of Living Council Order Nos. 14 and 29, it is hereby ordered as follows:

1. There is delegated to the Administrator, Office of Price Stabilization, subject to the general policy guidance of and in coordination with the Director of the Cost of Living Council, or his delegate, authority to:

(a) Make decisions and issue orders with respect to prenotified price increases and all other filings requiring decisions except in those cases for which specific authority to do so is delegated to the Commissioner of Internal Revenue, the Administrator, Office of Health, or the Administrator, Office of Food.

(b) Make decisions and issue orders with respect to individual requests for exceptions from firms or for class exceptions, except in those cases for which specific authority to do so is delegated to the Commissioner of Internal Revenue, the Administrator, Office of Health, or the Administrator, Office of Food.

(c) Make decisions and issue order with respect to all requests for reconsideration of adverse actions taken by the Cost of Living Council or the Internal Revenue Service except with respect to those cases for which specific authority to do so is delegated to the Commissioner of Internal Revenue, the Administrator, Office of Health, or the Administrator, Office of Food.

(d) Request information and conduct hearings with respect to functions delegated in this paragraph.

2. Paragraphs 1 and 2 of Cost of Living Council Order No. 25 are hereby revoked.

3. The Administrator, Office of Price Stabilization may redelegate to personnel within the Office of Price Stabilization any authority delegated to him by this order.

4. In exercising the authority delegated by this order or redelegated pursuant thereto officials of the Cost of Living Council shall be governed by the regulations and rulings of the Cost of Living Council and by the policies, procedures, and controls prescribed by the Director of the Cost of Living Council, or his delegate.

5. Actions taken by the Administrator, Office of Price Stabilization, under paragraph 1(c) of this order, are administratively final. Review of these actions may be sought in the appropriate Federal district court pursuant to section 211 of the Economic Stabilization Act of 1970, as amended (Public Law 92-210, 85 Stat. 744).

6. This order is effective August 13, 1973.

JOHN T. DUNLOP,
*Director,*
*Cost of Living Council.*

[FR Doc.73-19977 Filed 9-17-73;8:45 am]

## INTERSTATE COMMERCE COMMISSION

[Ex Parte 299 (Sub-No. 1)]

### FREIGHT RATES AND CHARGES—1973

#### Increase to Offset Retirement Tax; Long Island Rail Road Co.

*It is ordered,* That the petition in Ex Parte No. 299 be, and it is hereby, granted to the extent indicated in the report[1] and it is denied in all other respects; that the petitioners therein be, and they are hereby, permitted to establish an interim increase in their rates and charges of 1.9 percent to become effective on October 1, 1973, and an interim increase of 2.6 percent to become effective, in lieu of the 1.9-percent increase, on January 1, 1974, upon not less than 15 days' notice to the general public and to this Commission, subject to the refund rule in the proposed tariff.

*It is further ordered,* That in the hearing to be hereafter held herein in Ex Parte No. 299, in accordance with section 15a(4)(c) of the Interstate Commerce Act, the carrier petitioners shall submit for the record any productivity gains experienced in the third quarter of 1973, and the effect on 1974 projections, including evidence to substantiate those projections, as required by the statute and Ex Parte No. 298.

*It is further ordered,* That at the subsequent hearing in Ex Parte No. 299, the railroads shall submit for the record an explanation of why the excepted rates and charges shall not be increased without awaiting renewal of individual arrangements, and of the amount of the additional revenue which would be obtained therefrom.

*It is further ordered,* That in the hearing to be hereafter held herein in Ex Parte No. 299, the carriers shall submit for the record a plan to correct the variations among individual railroads in the amount of increased retirement taxes offset by the additional revenues, as exemplified in the report.

*It is further ordered,* That any person interested in this proceeding, in Ex Parte No. 299, shall notify this Commission, by filing with the interstate Commerce Commission, Office of Proceedings, Room 5354, Washington, D.C. 20423, on or before October 10, 1973, the original and one copy of a statement of his interest. Inasmuch as the Commission desires wherever possible (a) to conserve time, (b) to avoid unnecessary expense to the public, and (c) the service of pleadings by parties in proceedings of the type only upon those who intend to take an active part in the proceeding, the statement of intention to participate shall include a specification of the extent of such person's interest, including (1) whether such interest extends merely to receiving Commission releases in this proceeding, (2) whether he genuinely wishes to participate in the formal proceeding, (3) if he so desires to participate as described in (2), whether he will consolidate or is capable of consolidating his interests with those of other interest parties by filing joint statements in order to limit the number of copies of pleadings that need be served, such consolidation of interest being strongly urged by the Commission, and (4) any other pertinent information which will aid in limiting the service list to be used in this proceeding; and that this Commission shall then prepare and make available to all such persons a list containing the names and addresses of all parties desiring to participate in this proceeding, and shall designate the nature of further proceedings.

*It is further ordered,* That the petition in Ex Parte No. 299 (Sub-No. 1) be, and it is hereby, denied, without prejudice to refiling in conformity with the statute and with the requirements of Ex Parte No. 298.

*It is further ordered,* That notice of the entry of this report and order shall be given to the general public by depositing a copy in the office of the Secretary of the Commission, and by filing a copy with the Director, Office of the Federal Register, for publication therein.

By the Commission.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-19818 Filed 9-17-73;8:45 am]

[1] Report and statements of Commissioners Harden and O'Neal are filed as part of the original document.

[Ex Parte No. MC-19 (Sub-No. 19)]

### MOTOR COMMON CARRIERS OF HOUSEHOLD GOODS

#### Extension of Time

SEPTEMBER 11, 1973.

At the request of Mrs. Grace Polk Stern and other parties, the time for filing representations in this proceeding has been further extended to October 1, 1973 (37 FR 15466, 24799 and 38 FR 19946).

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-19815 Filed 9-17-73;8:45 am]





[Notice 353]

### MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before October 8, 1973. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-74554. By order of September 11, 1973, the Motor Carrier Board approved the transfer to R-C Transfer, Inc., Coos Bay, Oreg., of Certificate No. MC-112740 issued December 21, 1960, to Gene Dagostini, doing business as Gene Dagostini Wholesale Produce, Coos Bay, Oreg., authorizing the transportation of lumber from Glendale, Oreg., to points in a described part of California—Mr. Earle V. White, Attorney at Law, White & Southwell, 2400 SW. Fourth Avenue, Portland, Oreg. 97201.

No. MC-FC-74617. By order entered September 11, 1973, the Motor Carrier Board approved the transfer to E. I. Brandt Trucking Co., Inc., Yuba City, Calif., of the operating rights set forth in Certificate No. MC-52323, issued April 11, 1942, to E. I. Brandt, Yuba City, Calif., authorizing the transportation of beans, dried fruits, nails, corrugated iron, honey, and grain, from, to, and between specified points in California—Robert M. Cole, 219 E Street, P.O. Box 250, Davis, Calif. 95616, attorney for applicants.

No. MC-FC-74623. By order entered September 12, 1973, the Motor Carrier Board approving the transfer to Ackerman Motor Lines, Inc., Hackettstown, N.J., of that portion of the operating rights set forth in Certificate No. MC-134221, issued July 23, 1970, to C. B. L. Trucking & Leasing, Inc., authorizing the transportation of general commodities, with the usual exceptions, between New York, N.Y., points in Essex, Union, Hudson, Berger, Passaic, Morris, and Middlesex Counties, N.J., on the one hand, and, on the other, points in a defined area in Pennsylvania—Herbert Burstein, One World Trade Center, New York, N.Y. 10048, attorney for applicants.

No. MC-FC-74625. By order entered September 12, 1973, the Motor Carrier Board approved the transfer to C. B. L. Trucking & Leasing, Inc., Delanco, N.J., that portion of the operating rights set forth in Certificate No. MC-135648, issued November 18, 1971, to Ackerman Motor Lines, Inc., Hackettstown, N.J., authorizing the transportation of general commodities, with specified exceptions, between New York, N.Y., on the one hand, and, on the other, points in Hunterdon and Warren Counties, N.J.—Herbert Burstein, One World Trade Center, New York, N.Y. 10048, attorney for applicants.

No. MC-FC-74647. By order entered September 13, 1973, the Motor Carrier Board approved the transfer to Nooney Bus Lines, Inc., Roanoke Rapids, N.C., of the operating rights set forth in Certificate No. MC-103734 (Sub-No. 2), issued by the Commission May 9, 1947, to J. H. Hammack, Gasburg, Va., authorizing the transportation of passengers and their baggage, and express, newspapers and mail, in the same vehicle with passengers, over specified routes, between Lawrenceville, Va., and Roanoke Rapids, N.C.; and between South Hill, Va., and junction Virginia Highways 46 and 626, serving specified intermediate points—J. Ruffin Bailey, P.O. Box 2246, Raleigh, N.C. 27602, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-19817 Filed 9-17-73;8:45 am]

[Notice No. 124]

### MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 12, 1973.

The following are notices of filing of application (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 27500 (Sub-No. 8 TA), filed August 28, 1973. Applicant: MISHAK TRUCK LINE, INC., 320 7th Avenue North, Clear Lake, Iowa 50428. Applicant's representative: Larry D. Knox, 9th Floor, Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the plantsite of Keystone Steel & Wire at or near Peoria, Ill., to points in Iowa, Minnesota, South Dakota, and North Dakota, for 180 days. SUPPORTING SHIPPER: Keystone Steel & Wire, Highway 24 South, Peoria, Ill. 61607. SEND PROTESTS TO: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 44913 (Sub-No. 11 TA), filed August 31, 1973. Applicant: E. ROSCOE WILLEY, INC., Post Office Box 116, Secretary, Md. 21664. Applicant's representative: Daniel B. Johnson, 716 Perpetual Building, 1111 E Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal Cans and closures*, from Cambridge, Md., to Suffolk, Va., for 180 days. SUPPORTING SHIPPER: National Can Corporation, 727 South Wolf Street, Baltimore, Md. 21231. SEND PROTESTS TO: Robert D. Caldwell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 12th Street and Constitution Avenue NW., Washington, D.C. 20423.

No. MC 50069 (Sub-No. 463 TA), filed September 4, 1973. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Avenue, Oregon, Ohio 43616. Applicant's representative: Jack A. Gollan (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphur acid*, in bulk, from Oregon, Ohio, to Elkhart, Ind., for 180 days. SUPPORTING SHIPPER: Coulton Chemical Corporation, 1400 Otter Creek Road, Oregon, Ohio. SEND PROTESTS TO: Keith D. Warner, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 313 Federal Office Bldg., 234 Summit Street, Toledo, Ohio 43604.

No. MC 51146 (Sub-No. 333 TA), filed September 4, 1973. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, P.O. Box 2298 (Box zip 54306), Green Bay, Wis. 54304. Applicant's representative: Neil DuJardin (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printing paper*, other than newsprint, from Plymouth, N.C., to Austin, Dallas, Fort Worth, Houston, and San Antonio, Tex.; Oklahoma City and Tulsa, Okla., and Little Rock, Ark., for 180 days. SUPPORTING SHIPPER: Weyerhaeuser Company, P.O. Box 787, Plymouth, N.C. 27962 (Steve Everett, Fleet Supervisor).



V 38 I 180 SEP 18 73 XUM

SEND PROTESTS TO: John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 103051 (Sub-No. 285 TA), filed September 4, 1973. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Avenue North, P.O. Box 90408, Nashville, Tenn. 37209. Applicant's representative: Russell E. Stone (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gasoline and diesel fuel*, in bulk, in tank vehicles, from Montgomery, Ala., to points in Escambia, Okaloosa, Santa Rosa, and Washington Counties, Fla., for 180 days. SUPPORTING SHIPPER: Exxon Company, U.S.A., 1211 Union Avenue, Memphis, Tenn. SEND PROTESTS TO: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 803 1808 West End Building, Nashville, Tenn. 37203.

No. MC 105006 (Sub-No. 3 TA), filed August 30, 1973. Applicant: L. L. SMITH TRUCKING, P.O. Box 566, Powell, Wyo. 82435. Applicant's representative: Robert S. Stauffer, 3539 Boston Road, Cheyenne, Wyo. 82001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lost circulation materials*, including drilling mud, additives, and chemicals, between points in Wyoming and Utah, for 180 days. SUPPORTING SHIPPERS: Milchem Incorporated, P.O. Box 693, Casper, Wyo. 82601; IMCO Services, a Division of Halliburton, P.O. Box 22605, Houston, Tex. 77027; and Rockymountain Refractories, 2436 West Andrew Avenue, Salt Lake City, Utah 84104. SEND PROTESTS TO: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Bureau of Operations, Rm. 1006, Federal Bldg. and Post Office, 100 East B Street, Casper, Wyo. 82601.

No. MC 110420 (Sub-No. 688 TA), filed September 4, 1973. Applicant: QUALITY CARRIERS, INC., Mail: P.O. Box 186, Pleasant Prairie, Wis. 53158, and Off.: I–94 County Highway C, Bristol, Kenosha Co., Wis. 53104. Applicant's representative: Richard L. Salamon (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Vinegar and vinegar stock, fermented, quick process and distilled vinegar, vinegar malt naphtha (ethyl acetate), salt* (calcium acetate), *vinegar acid* (acetic acid), and *vinegar wine*, etc., in bulk, in tank and hopper type vehicles, between the following points and the commercial zone thereof, except that no transportation service shall be provided wholly within the same or one state in Rogers, Ark.: Delta and Denver, Colo.; Chicago, Ill.: Hutchinson and Wichita, Kans.; Bailey, Belding, and Freemont, Mich.; St. Paul, Minn.; Kansas City, Marionville, and Nixa, Mo.; Lyndonville and North Rose, N.Y.; Charlotte, N.C.; Oklahoma City, Okla.; Memphis, Tenn.; Dallas, Houston, and Paris, Tex.; Wenatchee and Yakima, Wash., for 180 days. SUPPORTING SHIPPER: Speas Company, 2400 Nicholson Avenue, Kansas City, Mo. (Paul L. Egerstrom, Executive Vice President). SEND PROTESTS TO: John E. Ryden, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 110420 (Sub-No. 689 TA), filed September 4, 1973. Applicant: QUALITY CARRIERS, INC., Mail: P.O. Box 186, Pleasant Prairie, Wis. 53158, and Off.: I–94 County Highway C, Bristol, Kenosha Co., Wis. 53104. Applicant's representative: Fred H. Figge (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sugar and syrups, and blends thereof*, liquid, in bulk, in tank vehicles, from the Kansas City, Kans.-Kansas City, Mo., Commercial Zone, to points in Arkansas, Louisiana, New Mexico, and Texas, for 180 days. SUPPORTING SHIPPER: CPC International, Inc., Englewood Cliffs, N.J. 07632 (Roger V. Haugen, Assistant Transportation Manager). SEND PROTESTS TO: John E. Ryden, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 110525 (Sub-No. 1064 TA), filed August 30, 1973. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 E. Lancaster Avenue, P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement dust*, in bulk, in tank vehicles, from Berks, Northampton, and Lehigh Counties, Pa., to points in Delaware, Maryland, New York, and New Jersey, for 180 days. SUPPORTING SHIPPER: King of Prussia Technical Co., Inc., 551 W. Lancaster Pike, Bryn Mawr, Pa. 19010. SEND PROTESTS TO: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Federal Bldg., Room 3238, 600 Arch St., Philadelphia, Pa. 19106.

No. MC 110525 (Sub-No. 1065 TA), filed August 31, 1973. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 E. Lancaster Avenue, P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aqueous sulfuric acid*, in bulk, in tank vehicles, from Rockville, Conn., to Adams, Mass., for 180 days. SUPPORTING SHIPPER: Ano-Coil Corporation, 60 East Main Street, P.O. Box 359, Rockville, Conn. 06066. SEND PROTESTS TO: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Federal Bldg., Room 3238, 600 Arch St., Philadelphia, Pa. 19106.

No. MC 110525 (Sub-No. 1066 TA), filed August 31, 1973. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 E. Lancaster Avenue, P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *#6 Fuel oil*, in bulk, in tank vehicles, from Lynn, Mass., to Niskayuna, N.Y., for 180 days. SUPPORTING SHIPPER: General Electric Co., Bldg. 56, Room 302, Schenectady, N.Y. 12345. SEND PROTESTS TO: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Federal Bldg., Room 3238, 600 Arch St., Philadelphia, Pa. 19106.

No. MC 111729 (Sub-No. 397 TA), filed September 4, 1973. Applicant: PUROLATOR COURIER CORP., 2 Nevada Drive, Lake Success (NHP–PO) N.Y. 11040. Applicant's representative: John M. Delany (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Exposed and processed film and prints, complimentary replacement film, incidental dealer handling supplies and advertising material moving therewith* (excluding motion picture film used primarily for commercial theatre and television exhibition), between points in Oklahoma, on traffic having a prior or subsequent movement by air or motor vehicle, for 90 days. SUPPORTING SHIPPERS: (1) Mellers Photo Labs, Inc., Drawer B, Glenstone Station, 1929 E. Bennett, Springfield, Mo. 65804 and (2) GAF Photo Service, 2010 North 18th Street, Kansas City, Kans. SEND PROTESTS TO: Anthony D. Giaimo, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 112750 (Sub-No. 302 TA), filed September 4, 1973. Applicant: PUROLATOR COURIER CORP., 2 Nevada Drive, Lake Success (NPH–PO) N.Y. 11040. Applicant's representative: John M. Delany (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, written instruments and business records* (except currency and negotiable securities) as are used in the business of banks and banking institutions, from points in Missouri, to National Stock Yards, Ill., for 90 days. SUPPORTING SHIPPER: The National Stock Yards National Bank of National City, National Stock Yards, Ill. SEND PROTESTS TO: Anthony D. Giaimo, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 113678 (Sub-No. 509 TA), files September 4, 1973. Applicant: CURTIS, INC., Off. 4810 Pontiac Street, Commerce City, Colo. 80022, and Mail: P.O. Box 16004, Stockyards Station. Applicant's representative: David L. Metzler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the plantsite and warehouse facilities of Kraft Foods at or near Springfield, Mo., to points in California, Colorado, and New Mexico, restricted to points in named origins and destined to points in named destinations, for 180 days. SUPPORTING SHIPPER: Kraft Foods Div. of Kraftco Corporation, 2340 Forest Lane, Garland, Tex. 75040. SEND PROTESTS TO: District Supervisor Herbert C. Ruoff, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 118202 (Sub-No. 16 TA), filed August 31, 1973. Applicant: SCHULTZ TRANSIT, INC., Post Office Box 406, 323 Bridge Street, Winona, Minn. 55987. Applicant's representative: Eugene A. Schultz (same address as above). Authority sought to operate as a *common carrier*, by motor evhicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk and hides), from the plant site and storage facilities in Illini Beef Packers at or near Joslin, Ill., to points in Arizona, California, and Nevada, for 180 days. SUPPORTING SHIPPER: Illini Beef Packers, Incorporated, Joslin, Ill. SEND PROTESTS TO: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Bldg. and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 118959 (Sub-No. 106 TA) (CORRECTION), filed August 20, 1973, published in the FEDERAL REGISTER issue of September 6, 1973, and republished as corrected this issue. Applicant: JERRY LIPPS, INC., 130 S. Frederick Street, Cape Girardeau, Mo. 63701. Applicant's representative: John L. Bruemmer, 121 W. Doty Street, Madison, Wis. 53703.

NOTE.—The purpose of this partial republication is to eliminate restriction No. (2) which states: Tacking of this authority with carrier's certificate No. MC 118959 (Sub-No. 85) at the plant site of Tech-Panel Corporation, Springfield, Ky., shall be for the purpose of joinder only, and no service shall be provided thereby to the states of Alabama, Georgia, Louisiana, Mississippi, North Carolina, and South Carolina. Applicant does intend to tack with No. MC 118959 (Sub-No. 85). The rest of the application remains as previously published in the FEDERAL REGISTER.

No. MC 129350 (Sub-No. 27 TA) (CORRECTION), filed July 20, 1973, published in the FEDERAL REGISTER issue of August 15, 1973, and republished as corrected this issue. Applicant: CHARLES E. WOLFE, doing business as EVERGREEN EXPRESS, 410 N. 10th Street, P.O. Box 212 (Box zip 59103), Billings, Mont. 59101. Applicant's representative: Clayton Brown (same address as above).

NOTE.—The purpose of this partial republication is to add a commodity which was omitted in previous publication. The added commodity is: *Chemical and cleaning compounds*, from Helena, Mont., to Champaign and Clinton, Ill.; Sioux Falls and Rapid City, S. Dak. The rest of the application remains as previously published in the FEDERAL REGISTER.

No. MC 129613 (Sub-No. 12 TA), filed August 31, 1973. Applicant: ARTHUR H. FULTON, Stephens City, Va. 22655. Applicant's representative: Charles E. Creager, Suite 523, 816 Easley Street, Silver Spring, Md. 20910. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Veneer*, (1) between Martinsburg, W. Va., on the one hand, and, on the other, points in Indiana, Kentucky, North Carolina, South Carolina, Virginia, Maryland, and Pennsylvania and (2) from points in North Carolina and Martinsburg, W. Va., to points in Vermont, for 180 days. SUPPORTING SHIPPER: Erath Veneer Corporation, Berkeley Face Veneer Corporation, P.O. Box 1493, Martinsburg, W. Va. 25401. SEND PROTESTS TO: Robert D. Caldwell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 12th Street and Constitution Avenue NW., Washington, D.C. 20423.

No. MC 134349 (Sub-No. 7 TA), filed September 4, 1973. Applicant: B. L. T. CORPORATION, 405 3rd Avenue, Brooklyn, N.Y. 11215. Applicant's representative: William D. Traub, 10 East 40th Street, New York, N.Y. 11215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used in the operations or retail department stores, between New York, N.Y., and North Bergen, N.J., on the one hand, and, on the other, (points in Indiana, Iowa, Kentucky, Minnesota, Ohio, and Tennessee, for 180 days. SUPPORTING SHIPPER: Allied Stores Corporation, General Traffic Department, 1114 Avenue of the Americas, New York, N.Y. 10036. SEND PROTESTS TO: Marvin Kampel, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 134958 (Sub-No. 5 TA), filed August 30, 1973. Applicant: HAMS EXPRESS, INC., 3499 S. Third Street, Philadelphia, Pa. 19148. Applicant's representative: Joseph F. Murray (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *meat, meat products, and meat byproducts; articles distributed by meat packinghouses and commodities used by packinghouses;* and *such commodities* as are used by meatpackers in the conduct of their business when destined to and for use by meatpackers as defined in Sections A, C, and D of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk and hides and skins), all service limited to transportation service to be performed under continuing contract with Blue Bird Food Products Company of Philadelphia, Pa., from the plant site, warehouses, and storage facilities used by Blue Bird Food Products Co., at or near Philadelphia, Pa., to points in Utah, for 180 days. SUPPORTING SHIPPER: Bluebird Food Products Co., 3501 S. Third St., Philadelphia, Pa. 19148. SEND PROTESTS TO: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Federal Bldg., Room 3238, 600 Arch Street, Philadelphia, Pa. 19106.

No. MC 135833 (Sub-No. 12 TA), filed August 31, 1973. Applicant: B & C SPECIALIZED CARRIERS, INC., 6524 Brookville Road, Indianapolis, Ind. 46219. Applicant's representative: Alki E. Scopelitis, 815 Merchants Bank Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Precast and prestressed concrete*, from Kalamazoo, Mich., to Chicago, Ill., and Indianapolis, Ind., for 180 days. SUPPORTING SHIPPER: Precast/Schokbeton, Inc., 3102 East Cork Street, Kalamazoo, Mich. 49003. SEND PROTESTS TO: District Supervisor James W. Habermehl, Interstate Commerce Commission, Bureau of Operations, 802 Century Bldg., 36 S. Penn. St., Indianapolis, Ind. 46204.

No. MC 136008 (Sub-No. 12 TA), filed August 30, 1973. Applicant: JOE BROWN COMPANY, INC., 20 Third Street NE., P.O. Box 1669, Ardmore, Okla. 73401. Applicant's representative: Rufus H. Lawton, 2400 NW. 23rd Street, P.O. Box 75124, Oklahoma City, Okla. 73107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from Inola and Porum, Okla., to the plantsites of General Portland, Inc., Fredonia, Kans., and Ft. Worth and Dallas, Tex., for 180 days. SUPPORTING SHIPPER: General Portland, Inc., W. W. Marten, Traffic Manager, Post Office Box 324, Dallas, Tex. 75221. SEND PROTESTS TO: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Rm. 240, Old Post Office Building, 215 NW. Third, Oklahoma City, Okla. 73102.

No. MC 136987 (Sub-No. 6 TA) (CORRECTION), filed July 13, 1973, published in the FEDERAL REGISTER issue of August 8, 1973, and August 27, 1973, and republished as corrected this issue. Applicant: REMINGTON FREIGHT LINES INC., 604 N. Main Street, Remington, Ind. 47977. Applicant's representative: Warren C. Moberly, 777 Chamber of Commerce Bldg., Indianapolis, Ind. 46204.

NOTE.—The purpose of this partial republication is to correct the origin point to London, Ohio, in lieu of Lond, Ohio, which was published in error. The rest of the application remains the same.







V 38 1 80 SEP 18 73 XUM

No. MC 138916 (Sub-No. 1 TA), filed August 30, 1973. Applicant: PHILIP A. THOMAS, doing business as PHILIP THOMAS TRUCKING CO., Box 742, Wynnewood, Okla. 73098. Applicant's representative: T. M. Brown, 600 Leininger Bldg., Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt*, in bulk, in tank vehicles, from the plantsite of Kerr-McGee Corporation, Wynnewood, Okla., to points in Anderson, Archer, Bell, Baylor, Bosque, Brown, Callahan, Camp, Cherokee, Clay, Coleman, Collin, Comanche, Cooke, Coryell, Dallas, Delta, Denton, Eastland, Ellis, Erath, Falls, Fannin, Franklin, Freestone, Grayson, Hamilton, Henderson, Hill, Hood, Hopkins, Hunt, Jack, Johnson, Kaufman, Lamar, Lampasas, Limestone, McClennan, Mills, Montague, Morris, Navarro, Palo Pinto, Parker, Rains, Red River, Rockwall, Shackleford, Smith, Stephens, Tarrant, Titus, Throckmorton, Upshur, VanZandt, Wichita, Wilbarger, Wise, Wood, Young, and Somervell Counties, Tex., for 180 days. SUPPORTING SHIPPER: William E. Graff, Transportation Manager, Southern Asphalt and Pet. Co., P.O. Box 7637, Fort Worth, Tex. 76111. SEND PROTESTS TO: C. L. Phillips, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Rm. 240, Old P.O. Bldg., 215 NW. Third, Oklahoma City, Okla. 73102.

No. MC 139019 (Sub-No. 1 TA), filed August 31, 1973. Applicant: MIDKIFF AND STOWERS TRUCKING COMPANY, INC., Hamlin, W. Va. 25523. Applicant's representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, W. Va. 25526. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and byproducts, as described in *Mercer* 74, M.C.C. 459 (except commodities in bulk) and (2) *drilling mud*, in containers and in bulk, between points in the Charleston and Huntington, W. Va., Commercial Zones, on the one hand, and, on the other, points in Kentucky on and east of U.S. Highway 27; in Ohio on and east of U.S. Highway 23 from Portsmouth, Ohio, to Columbus, Ohio, and on and east of Interstate Highway 71 from Columbus, Ohio, to Cleveland, Ohio, and Marion, Ohio; points in Virginia on and west of U.S. Highway 21 and points in Bertie, Chowan, Currituck, Date, Pasquotank, Perquimans, Tyrell, and Washington Counties, N.C., restricted to traffic originating at or destined to well site locations, for 180 days. SUPPORTING SHIPPERS: Baroid Division of The National Lead Company, 110 Stratford Place, Charleston, W. Va. 25303, Att.: Jerry L. Leach, District Engineer; Columbia Gas Transmission Corporation, 1700 MacCorkle Ave. SE., Charleston, W. Va. 25304, Att.: James L. Weekley, Sr., Drilling Engineer; McJunkin Corporation, P.O. Box 513, 1400 Hansford St., Charleston, W. Va. 25322, Att.: H. P. McJunkin, Vice-President; and Branchland Pipe & Supply Company, 1010 7th Ave., Huntington, W. Va. 25701, Att.: David Fox, Jr., President. SEND PROTESTS TO: H. R. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 3108 Federal Office Bldg., 500 Quarrier St., Charleston, W. Va. 25301.

No. MC 139045 TA, filed August 28, 1973. Applicant: CALIFORNIA PACIFIC SHIPPING CO., 1470 East 4th Street, Los Angeles, Calif. 90033. Applicant's representative: David P. Christianson, 825 City National Bank Bldg., 606 South Olive Street, Los Angeles, Calif. 90033. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and frozen meat, and natural and processed cheese*, from points in Ohio, Kentucky, Illinois, Wisconsin, Missouri, Kansas, Indiana, Nebraska, New Mexico, Colorado, Oklahoma, Texas, South Dakota, Minnesota, Iowa, Arkansas, and Michigan, to points in Los Angeles, Riverside, Orange, San Diego, San Francisco, Kern, Santa Barbara, Ventura, San Bernardino, and Alameda Counties, Calif., for 150 days. SUPPORTING SHIPPER: R. W. Zant Co., 1470 E. Fourth St., Los Angeles, Calif. 90033. SEND PROTESTS TO: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708, Federal Bldg., 300 North Los Angeles St., Los Angeles, Calif. 90012.

No. MC 139046 TA, filed August 30, 1973. Applicant: D. & S. TRUCKING, INC., 100 West Tenth Street, Wilmington, Del. 19898. Applicant's representative: Francis P. Desmond, 115 East 5th Street, Chester, Pa. 19013. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Class A and B exposives, household goods, commodities in bulk and those requiring special equipment), from the facility of D. & S. Warehousing, Inc., at or near Yorklyn, Del., to points in Delaware, Virginia, Pennsylvania, New Jersey, New York, Massachusetts, Connecticut, Indiana, and Nashville Tenn., for the account of D. & S. Warehousing, Inc., for 180 days. SUPPORTING SHIPPER: D. & S. Warehousing, Inc., P.O. Box 173, Yorklyn, Del. 19736. SEND PROTESTS TO: Peter R. Guman, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Federal Bldg., Room 3238, 600 Arch St., Philadelphia, Pa. 19106.

No. MC 139047 TA filed August 31, 1973. Applicant: JOHN HAAS, doing business as GENERAL PRODUCE TRANSPORT, INC., P.O. Box 564 (161 Kearney Street), Watsonville, Calif. 95076. Applicant's representative: Jerrold M. Ladar, 507 Polk Street, Suite 310, San Francisco, Calif. 94102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen vegetables, fruits, and berries*, from Salinas, Watsonville, Santa Cruz, San Martin, San Jose, and Santa Clara, Calif., to San Francisco, Alameda, and Oakland, Calif., restricted to shipments having a subsequent out-of-state movement by water carrier, for 180 days. SUPPORTING SHIPPER: Spiegl Foods, Inc., 1219 Abbott St., P.O. Box 1491, Salinas, Calif., 93901; Valley Packing Service, P.O. Box 108, Watsonville, Calif. 95076; Dennis Sales, Ltd., P.O. Box 824, Salinas, Calif. 93901; Valley Frost Company, P.O. Box 401, Watsonville, Calif. 95076; and California Farm Products, Inc., P.O. Box 408, Watsonville, Calif. 95076. SEND PROTESTS TO: Claud W. Reeves, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Ave., Box 36004, San Francisco, Calif. 94102.

No. MC 139049 TA, filed September 5, 1973. Applicant: SUNBOW EXPRESS, INC., 2213 Toomey Avenue, P.O. Box 3665, Charlotte, N.C. 28203. Applicant's representative: George W. Clapp, P.O. Box 6970, Greenville, S.C. 29606. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic fiber and synthetic fiber yarn*, from Earl and Fiberton, N.C., and East Darlington and South Greenville, S.C., to Los Angeles, Calif., and points in the Los Angeles, Calif., Commerical Zone as defined by the Commission, for 180 days. SUPPORTING SHIPPER: Fiber Industries, Inc., P.O. Box 10038, Charlotte, N.C. 28201. SEND PROTESTS TO: District Supervisor Terrell Price, Bureau of Operations, Interstate Commerce Commission, 800 Briar Creek Rd., Rm. CC516, Mart Office Building, Charlotte, N.C. 28205.

MOTOR CARRIERS OF PASSENGERS

No. MC 1515 (Sub-No. 186 TA), filed September 4, 1973. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, Ariz. 85077. Applicant's representative: Bart Cook, 371 Market St., San Francisco, Calif. 94106. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage* in the same vehicle with passengers, in special operations only, from junction U.S. Highway 90 and Louisiana Highway 109, over Louisiana Highway 109 to junction of Louisiana Highway 109 and State Highway 3063, thence over State Highway 3063, to Vinton, La., to operate in special operations only, for 180 days.

NOTE.—Applicant intends to tack with MC 1515 Sub 71.

SUPPORTING SHIPPER: Passenger Public, to and from points sought, Delta Downs, Inc., Vinton, La. SEND PROTESTS TO: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 3427 Federal Bldg., 230 N. First Ave., Phoenix, Ariz. 85025.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-19816 Filed 9-17-73;8:45 am]





## CUMULATIVE LISTS OF PARTS AFFECTED—SEPTEMBER

**The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during September.**

**1 CFR** — Page
CFR checklist — 23771

**3 CFR**
PROCLAMATIONS:
4239 — 24191
4240 — 24193
4241 — 24881
4242 — 26099
4243 — 26101
EXECUTIVE ORDERS:
11359 (superseded by 11737) — 24883
11602 (superseded by E.O. 11738) — 25161
11635 (superseded by 11737) — 24883
11659 (amended by 11737) — 24883
11737 — 24883
11738 — 25161
Presidential Documents other than Proclamations and Executive Orders:
Memorandum of August 17, 1973 — 25903

**4 CFR**
400 — 24195
405 — 24195
PROPOSED RULES:
331 — 23971
351 — 23971, 26072
400 — 23971
401 — 23971
402 — 23971
403 — 23971
404 — 23971

**5 CFR**
213 — 24344, 24885, 25165, 25907

**6 CFR**
102 — 25427
130 — 24213
140 — 24214
150 — 23794, 23931, 24214, 24885, 25427, 25686
152 — 23794, 24214
155 — 24885
PROPOSED RULES:
Ch. I — 24917
152 — 23806, 24219, 24667

**7 CFR**
2 — 24633
51 — 23931
52 — 24344, 25165
201 — 25661
250 — 24633
301 — 25664
354 — 23934
401 — 25907
725 — 23935
777 — 25665
864 — 25427
905 — 25665
908 — 24215, 25431, 25907
910 — 24345, 24890, 25908
928 — 24345
930 — 24890
932 — 24215
944 — 26108
948 — 25667
981 — 25668
991 — 23771
1001 — 24216
1002 — 24216
1004 — 24216
1006 — 24216
1007 — 24216
1011 — 24216
1012 — 24213
1013 — 24216
1015 — 24216
1030 — 24216
1033 — 24216
1036 — 24216
1040 — 24216
1044 — 24216
1046 — 24216
1049 — 24216
1050 — 24216
1060 — 24216
1061 — 24216
1062 — 24216
1063 — 24216
1064 — 24216
1065 — 24216
1068 — 24216
1069 — 24216
1070 — 24216
1071 — 24216
1073 — 24216
1075 — 24216
1076 — 24216
1078 — 24216
1079 — 24216
1090 — 24216
1094 — 24216
1096 — 24216
1097 — 24216
1098 — 24216
1099 — 24216
1101 — 24216
1102 — 24216
1106 — 24216
1108 — 24216
1120 — 24216
1121 — 24216
1124 — 24216
1125 — 24216
1126 — 24216
1127 — 24216
1128 — 24216
1129 — 24216
1130 — 24216
1131 — 24216
1132 — 24216
1133 — 24216
1134 — 24216
1136 — 24216
1137 — 24216
1138 — 24216
1139 — 24216
1421 — 23935, 24634, 25668, 26006
1430 — 23939
1866 — 24346

**7 CFR—Continued** — Page
PROPOSED RULES:
20 — 25690
26 — 23955, 25186
52 — 24654, 24904, 24907, 24910
722 — 24911
932 — 24910
981 — 24911
1007 — 25024
1030 — 23796, 25448, 25756
1032 — 25756
1046 — 25756
1049 — 25756
1050 — 25186, 25756
1060 — 25222
1061 — 25222
1062 — 25756
1063 — 25222
1064 — 25222
1065 — 25222
1068 — 252222
1069 — 25222
1070 — 25222
1071 — 25024
1073 — 24654, 25024
1076 — 25222
1078 — 25222
1079 — 25222
1090 — 25024
1094 — 25024
1096 — 25024, 29190
1097 — 25024
1098 — 25024
1099 — 25756
1102 — 25024
1104 — 25282
1106 — 25282
1108 — 25024
1120 — 25282
1126 — 25282
1127 — 25282
1128 — 25282
1129 — 25282
1130 — 25282
1131 — 25282
1132 — 25282
1136 — 25282
1701 — 24660

**8 CFR**
214 — 24891
238 — 24891
73 — 24346
82 — 23940
94 — 24891, 25669
97 — 23940
319 — 24640
PROPOSED RULES:
94 — 24219
102 — 23957
104 — 23957
113 — 26118
381 — 24374

**10 CFR**
110 — 23953



V 38 I 180
SEP 18 73
XUM

12 CFR — Page
201 — 23772
204 — 25985
217 — 26109
329 — 25432
526 — 23940, 25433
545 — 24200
546 — 24201
561 — 26110
563 — 24202, 26110
566 — 26112
570 — 26112
PROPOSED RULES:
204 — 25703
220 — 26009
545 — 24228, 26133

13 CFR
PROPOSED RULES:
107 — 24028

14 CFR
39 — 23941, 24347, 24349, 24640, 24641, 25170, 25669, 25670, 25905
71 — 23941, 23942, 24204, 24350, 24641, 24892, 25171, 25433, 25905–25907, 26112
73 — 24204, 25171
91 — 24893
95 — 24893
97 — 24350
208 — 24642
241 — 24351
288 — 23772
302 — 24894
389 — 24895, 26113
399 — 23777, 24642
PROPOSED RULES:
37 — 25450
39 — 23962
61 — 23962
71 — 23804, 23969, 24222, 24914, 25195, 25451, 25452, 25696, 26007
75 — 23804
121 — 23962
Ch. II — 24660
221 — 23804
241 — 24223, 24661
298 — 23805, 24662
372a — 24664
389 — 24662
399 — 25453

15 CFR
8 — 23777
256 — 25908
376 — 23777, 25446
377 — 25184
1000 — 25909

16 CFR
13 — 24352, 24353, 24634, 25434–25436
PROPOSED RULES:
1700 — 25195

17 CFR
211 — 24635
231 — 24635
241 — 24635
251 — 24635
271 — 24635
PROPOSED RULES:
230 — 24668
270 — 26133

19 CFR — Page
Ch. I — 25171
1 — 24354, 25171
4 — 24354
PROPOSED RULES:
1 — 24374, 25185
10 — 25995
11 — 25995
12 — 25995
19 — 25995
24 — 23954
25 — 25995
113 — 25995
114 — 25995
141 — 23954
142 — 25995
151 — 25448
172 — 25995

20 CFR
725 — 26042
PROPOSED RULES:
405 — 23802, 25448, 26132
725 — 26069

21 CFR
8 — 24643
9 — 24206
26 — 25985
45 — 25671
121 — 24354, 24643, 25437
135 — 23942
135b — 24355, 24643, 24895, 25673
135c — 24355, 24644, 25673
135e — 25674, 25676
141 — 25674
144 — 25437
146 — 25674
149b — 25674
149d — 25675
PROPOSED RULES:
10 — 25195
121 — 24374, 14375, 25694
130 — 24220
135 — 25694
141e — 26006
273 — 26130
278 — 26007

23 CFR
PROPOSED RULES:
770 — 23969
772 — 25696

24 CFR
42 — 25172, 26113
200 — 25993
201 — 25676
203 — 24637
205 — 24637, 24896
207 — 24637
213 — 24637
220 — 24637
221 — 24637
232 — 24637
234 — 24637
235 — 24638
236 — 24638
241 — 24638
242 — 24638
244 — 24638, 24896
1700 — 23866
1710 — 23866
1715 — 23873
1720 — 23874

24 CFR—Continued — Page
1914 — 23943–23945, 24355–24357, 25677, 25678, 25994, 26113, 26114
1915 — 24358, 24360
PROPOSED RULES:
20 — 24222
201 — 23803
205 — 26132
242 — 26132
244 — 26132

25 CFR — Page
141 — 24638
251 — 25987
252 — 25938
256 — 23945
PROPOSED RULES:
221 — 23954, 23955
243 — 26118

26 CFR
1 — 24206

29 CFR
610 — 25988
612 — 25989
614 — 25989
1907 — 25150
1952 — 24896, 25172
1953 — 24361
PROPOSED RULES:
1910 — 24300, 24375

30 CFR
57 — 23781
PROPOSED RULES:
504 — 24024

31 CFR
91 — 94897
315 — 24762
605 — 24898

32 CFR
166 — 25990
809 — 23945
1285 — 24206
1453 — 24210
PROPOSED RULES:
1604 — 25704

32A CFR
Ch. IV:
BP Notice 1 — 25175
Ch. X:
Reg. 1
Ch. XI
OIAB Rules and Procedures — 26103
Ch. XIII:
EPO Reg. 3 — 23977
PROPOSED RULES:
Ch. X — 26005

33 CFR — Page
117 — 25433, 26115
127 — 24898
207 — 25176
401 — 24210
PROPOSED RULES:
117 — 24912–24914, 25455
127 — 23804





35 CFR — Page
5 — 25438

36 CFR
50 — 24218
221 — 23948
PROPOSED RULES:
7 — 23796, 24912, 25185

38 CFR
1 — 24364
2 — 24366
17 — 24366
21 — 23948
36 — 25678

39 CFR
3000 — 24898
3001 — 24898

40 CFR
35 — 24639
50 — 25678
52 — 24333
113 — 25439
126 — 25681
129 — 24342
180 — 23781, 25440
PROPOSED RULES:
51 — 25697
52 — 23805
180 — 23806, 24667, 24918, 25455
411 — 24462
412 — 24466
422 — 24470

41 CFR
1–1 — 24210
1–9 — 23782
1–18 — 23791
3–16 — 24644
114–50 — 24649

42 CFR — Page
21 — 25683

43 CFR
4 — 23948
3830 — 24650
4710 — 24650
PUBLIC LAND ORDERS:
5383 — 25684

45 CFR
909 — 24900
PROPOSED RULES:
221 — 24872
233 — 23802
250 — 25450
903 — 23912

46 CFR
PROPOSED RULES:
146 — 23959
542 — 23979
538 — 24228

47 CFR
0 — 24900
2 — 24901, 25180, 25991
13 — 25684
23 — 24901
73 — 24367, 25991
74 — 25991, 25992
81 — 24211, 25180, 25991
83 — 24368, 25180, 25992
87 — 25684
89 — 24901
91 — 25182
93 — 24901
97 — 24211

47 CFR—Continued — Page
PROPOSED RULES:
61 — 24920
73 — 25703, 26008
83 — 25196

49 CFR — Page
1 — 24901, 24902
170 — 23791
171 — 23792
172 — 23792
177 — 23792
178 — 23792
393 — 25182
570 — 23949, 25685
1033 — 23792, 23793, 23952, 24212, 24902, 25183, 25685
1048 — 24368
1115 — 23953, 24903, 25686
1121 — 24902
PROPOSED RULES:
172 — 24915
173 — 24915
393 — 24223, 25452, 25696
542 — 23979
571 — 23804
1057 — 24228
1131 — 23979

50 CFR
20 — 23793
32 — 23793, 23794, 24212, 24369–24373, 24650–24652, 25183, 25441–25445, 25686, 25992, 26115, 26116
33 — 25445
253 — 26116
PROPOSED RULES:
21 — 23796
32 — 25693

## FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

| Pages | Date |
|---|---|
| 23765–23922 | Sept. 4 |
| 23923–24184 | 5 |
| 24185–24326 | 6 |
| 24327–24625 | 7 |
| 24627–24874 | 10 |
| 24875–25154 | 11 |
| 25155–25420 | 12 |
| 25421–25654 | 13 |
| 25655–25895 | 14 |
| 25897–26091 | 17 |
| 26093–26171 | 18 |



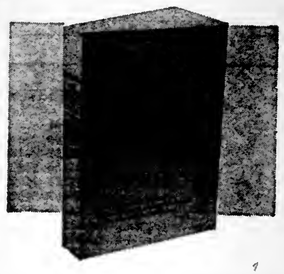
V 38 I 180 SEP 18 73 XUM

**now available**
**15-year Cumulation**

LAWS AFFECTED TABLES FOR 1956–1970

VOLUMES 70–84
UNITED STATES STATUTES AT LARGE

Lists all prior laws and other Federal instruments which were amended, repealed, or otherwise affected by the provisions of public laws enacted during the years 1956–1970. Includes index of popular name acts affected in Volumes 70–84.



**Price: $8.15 domestic postpaid;**
**$7.50 GPO Bookstore**

Compiled by Office of the Federal Register,
National Archives and Records Service,
General Services Administration

**Order from Superintendent of Documents,**
**U.S. Government Printing Office**
**Washington, D.C. 20402**

V 38-180 SEP 18 73 XUM

181

federal register

September 19, 1973—Pages 26173–26334

WEDNESDAY, SEPTEMBER 19, 1973

WASHINGTON, D.C.

Volume 38 ■ Number 181

Pages 26173–26344

## HIGHLIGHTS OF THIS ISSUE

This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.

**CHILD HEALTH DAY, 1973**—Presidential proclamation . 26179

**ECONOMIC STABILIZATION**—CLC amends certain exemption rules relating to sale of petroleum products.... 26181

**HEALTH EDUCATION INSTITUTIONS**—VA provides for grants and assists in establishment; effective 9–19–73.... 26190

**NEW ANIMAL DRUGS**—FDA approves ampicillan trihydrate boluses for treatment of calves; doxylamine succinate tablets for treatment of dogs, cats and horses (2 documents); effective 9–19–73..... 26183

**ALASKAN LAND BENEFITS**—Interior Department publishes list of 170 eligible native villages ..... 26217

**HEALTH AND WELFARE GRANTS**—HEW amendments implementing OMB administrative requirements (3 documents)..... 26200, 26201, 26320

**COKE OVEN EMISSIONS**—Labor Department advance notice of proposed occupational exposure standard; comments by 11–19–73..... 26207

**INCOME TAX**—IRS requires "full absorption" inventory costing for manufacturers and certain others..... 26184

**PART II:**
**ADMINISTRATION OF GRANTS**—HEW establishes rules for implementing OMB health and welfare grant requirements..... 26273

**PART III:**
**PUBLIC SERVICE AND ASSISTANCE GRANTS**—HEW amendments; effective 9–19–73..... 26319

**PART IV:**
**AIR QUALITY**—EPA compliance schedules correction ..... 26323

(Continued inside)



V38-181

SEP 19 73

XUM

MEETINGS—
Justice Department: Alarm Committee of the Private Security Advisory Council to the Law Enforcement Assistance Administration; 9–21–73 ... 26217
Defense Department: DDR&E High Energy Laser Review Group, 10–2 and 10–3–73 ... 26217
Junior Science and Humanities Symposia Advisory Committee, 10–12–73 ... 26217
Interior Department: California Advisory Committee to the Forest Service, 10–12–73 ... 26219
EPA: Antimicrobial Program Advisory Committee, 9–25–73 ... 26227
Commerce Department: Travel Advisory Board, 9–25–73 ... 26222
Telecommunications Equipment Technical Advisory Committee, 9–26–73 ... 26220
Semiconductor Technical Advisory Committee, 9–28–73 ... 26219
USDA: Advisory Committee on Hog Cholera Eradication; 10–15–73 ... 26219
SEC: Advisory Committee on a Model Compliance Program for Broker-Dealers, 10–3 and 10–4–73 ... 26241
FCC: Radio Technical Commission for Marine Services (4 meetings), 9–13 and 9–18 through 9–20–73 ... 26229
Cable TV Technical Advisory Committee, Panel 5, 9–28–73 ... 26229
AEC: Advisory Committee on Reactor Safeguards, Subcommittee on Indian Point Nuclear Station Unit 3, 9–19–73 ... 26224
Navy Department: Naval Ordnance Hydroballistics Advisory Committee, 9–24 and 9–27, 1973 ... 26217

federal register
Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by the Executive Branch of the Federal Government. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $2.50 per month or $25 per year, payable in advance. The charge for individual copies is 20 cents for each issue, or 20 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.



# Contents

THE PRESIDENT

PROCLAMATION
Child Health Day, 1973 ... 26179

EXECUTIVE AGENCIES

ADMINISTRATION ON AGING
Rules and Regulations
Grant programs ... 26201

AGRICULTURAL MARKETING SERVICE
Rules and Regulations
Almonds grown in California; salable and reserve percentages for the 1973–74 crop year ... 26181
Milk in Central Illinois marketing area; order suspending certain provision ... 26182
Proposed Rules
Perishable agricultural commodities marketing; change of license fees ... 26207

AGRICULTURE DEPARTMENT
See also Agricultural Marketing Service; Commodity Credit Corporation; Forest Service.
Notices
Advisory Committee on Hog Cholera Eradication; meeting ... 26219
MidAmerican Commodity Exchange; designation as contract market ... 26219
North Shore of Huntington Lake Timber Sales; availability of environmental statement ... 26219

AIR FORCE DEPARTMENT
Rules and Regulations
Performance of notarial acts and disclosure of records ... 26190

ARMY DEPARTMENT
Notices
Junior Science and Humanities Symposia Advisory Committee; meeting ... 26217

ATOMIC ENERGY COMMISSION
Notices
Advisory Committee on Reactor Safeguards, Subcommittee on Indian Point Nuclear Station Unit 3 meeting ... 26224

CIVIL AERONAUTICS BOARD
Notices
Extension of temporary relief granted to certain unauthorized indirect air carriers to transport household goods for the Department of Defense ... 26225

CIVIL SERVICE COMMISSION
Rules and Regulations
Housing and Urban Development Department; excepted service ... 26181
Notices
Noncareer executive assignment; revocation of authority:
Agriculture Department ... 26225
Defense Department ... 26225
Health, Education, and Welfare Department ... 26225
Housing and Urban Development Department ... 26226
Transportation Department (3 documents) ... 26226
Special Action Office for Drug Abuse Prevention ... 26226
Small Business Administration ... 26226
Title change in noncareer executive assignment:
Labor Department ... 26226
Export-Import Bank ... 26226

COMMERCE DEPARTMENT
See also Domestic and International Business Administration; National Technical Information Service.
Notices
Marine Mammal Protection Act; exemption on grounds of economic hardship ... 26221

COMMODITY CREDIT CORPORATION
Rules and Regulations
Corn; 1973 crop loan and purchase program; correction ... 26182

COST OF LIVING COUNCIL
Rules and Regulations
Phase IV price regulations; certain exemptions regarding sale of petroleum products ... 26181
Notices
Delegation of authority:
Administrator, Office of Food ... 26226
Executive Director, National Commission for Industrial Peace ... 26226

DEFENSE DEPARTMENT
See also Air Force Department; Army Department; Navy Department.
Notices
DDR&E High Energy Laser Review Group; meeting ... 26217

DISEASE CONTROL CENTER
Notices
Certain gas detector tube units; applications ... 26223

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION
Rules and Regulations
Ferrous scrap; short supply controls ... 26206
Notices
Meetings:
Semiconductor Technical Advisory Committee ... 26219
Telecommunications Equipment Technical Advisory Committee ... 26220

ENVIRONMENTAL PROTECTION AGENCY
Rules and Regulations
Air programs; approval and promulgation of compliance schedules; correction ... 26324
Proposed Rules
Navigable waters of State of West Virginia; water quality standards ... 26209
Notices
Antimicrobial program advisory committee; meeting ... 26227
Pesticide Control Act Implementation: hearing ... 26227

FEDERAL COMMUNICATIONS COMMISSION
Rules and Regulations
Cut-off dates for filing of certain mutually exclusive applications ... 26202
FM Broadcast stations in certain states; table of assignments (3 documents) ... 26203, 26204
Proposed Rules
Educational broadcast ... 26212
FM broadcast stations in Melbourne, Florida; table of assignments ... 26211
Notices
Applications for construction permits ... 26227
Canadian Standard Broadcast Stations; notification list ... 26231
Meetings:
Panel 5 of the Cable TV Technical Advisory Committee ... 26229
Radio Technical Commission for Marine Services ... 26229
Salem Broadcasting Co., Inc. et al; memorandum opinion and order modifying issues ... 26232
Sports events by CBS and NBC; memorandum opinion and order regarding prime time waiver ... 26230

FEDERAL DISASTER ASSISTANCE ADMINISTRATION
Notices
Texas; amendment to major disaster ... 26223

FEDERAL POWER COMMISSION
Notices
Certificate of public convenience and necessity; correction ... 26234
National Power Survey Executive Advisory Committee; order designating additional member; correction ... 26236

(Continued on next page)



V 38 I 181
SEP 19 73
XUM

CONTENTS


*Hearings, etc.:*
Algonquin Gas Transmission Corp.; correction ... 26232
Arkansas Louisiana Gas Co ... 26233
Arkansas Power and Light Co ... 26233
Cities Service Gas Co ... 26234
Dagger Draw Transmission Corp ... 26234
Eascogas LNG, Inc., et al.; correction ... 26235
El Paso Natural Gas Co. (2 documents) ... 26235
Gas Marketing, Inc ... 26235
Green Mountain Power Corp ... 26235
Indiana and Michigan Electric Co ... 26236
Lowell Gas Co.; correction ... 26236
Natural Gas Pipeline of America (2 documents) ... 26236
Ohio Power Co ... 26236
Pacific Gas and Electric Co ... 26237
Southern Natural Gas Co ... 26237
Southwestern Electric Power Co ... 26237
Tennessee Gas Pipeline Co. (2 documents) ... 26237, 26238
Texas Eastern Transmission Corp ... 26238
Virginia Electric and Power Co. and Dan River, Inc ... 26238

**FISCAL SERVICE**
**Rules and Regulations**
Extended maturity period; definition; correction ... 26189

**FISH AND WILDLIFE SERVICE**
**Rules and Regulations**
Sand Lake National Wildlife Refuge, South Dakota; hunting ... 26205

**FOOD AND DRUG ADMINISTRATION**
**Rules and Regulations**
New animal drugs:
Antimicrobial program advisory veterinary ... 26183
Doxylamine succinate tablets ... 26183
Sodium thiopental and sodium pentobarbital; correction ... 26183

**FOREST SERVICE**
**Notices**
California Advisory Committee to U.S. Forest Service; meeting ... 26219

**HEALTH, EDUCATION, AND WELFARE DEPARTMENT**
*See also* Disease Control Center; Food and Drug Administration; Public Health Service; Social and Rehabilitation Service.
**Rules and Regulations**
Administration of grants ... 26274
**Notices**
Statement of organization, functions, and delegation of authority ... 26223

**HOUSING AND URBAN DEVELOPMENT DEPARTMENT**
*See* Federal Disaster Assistance Administration.

**INDIAN AFFAIRS BUREAU**
**Notices**
Alaska; final eligibility of native villages ... 26217

**INTERIOR DEPARTMENT**
*See* Fish and Wildlife Service; Indian Affairs Bureau.

**INTERNAL REVENUE SERVICE**
**Rules and Regulations**
Income tax; use of the full absorption method of inventory costing ... 26184

**INTERSTATE COMMERCE COMMISSION**
**Rules and Regulations**
Temporary operation of motor carriers; new form for application ... 26205
Water carrier authority applications ... 26205
**Notices**
Assignment of hearings ... 26244
Fourth section application for relief ... 26245
Filing of motor carrier intrastate applications ... 26245
Motor carriers:
Alternate route deviation notices ... 26245
Applications and certain other proceedings ... 26247
Temporary authority applications (2 documents) ... 26251, 26253

**JUSTICE DEPARTMENT**
*See* Law Enforcement Assistance Administration.

**LABOR DEPARTMENT**
**Proposed Rules**
Coke oven emission; standards for exposure ... 26207
**Notices**
Buffalo, N.Y. plant of General Electric Co.; certification of eligibility for workers to apply for adjustment assistance ... 26244

**LAW ENFORCEMENT ASSISTANCE ADMINISTRATION**
**Notices**
Alarm Committee of Private Security Advisory Council; meeting ... 26217

**MARITIME ADMINISTRATION**
**Notices**
Atlantic Richfield Co.; amended application ... 26220
Prudential-Grace Lines, Inc.; application ... 26221

**NATIONAL CREDIT UNION ADMINISTRATION**
**Proposed Rules**
Reserves; mandatory charge-offs ... 26216

**NATIONAL TECHNICAL INFORMATION SERVICE**
**Notices**
Government-owned inventions; availability for licensing ... 26221

**NAVY DEPARTMENT**
**Notices**
Naval Ordnance Hydroballistics Advisory Committee; meeting ... 26217

**POSTAL SERVICE**
**Rules and Regulations**
Defense Department liaison ... 26193
Notices
Postal Contracting Manual; amendment ... 26238

**PUBLIC HEALTH SERVICE**
**Rules and Regulations**
Grant programs ... 26194

**SECURITIES AND EXCHANGE COMMISSION**
**Rules and Regulations**
Compensating balances; disclosure; extension of effective date ... 26182
**Notices**
Broker-Dealer Model Compliance Program Advisory Committee; public meeting ... 26241
*Hearings, etc.:*
Aztec Products, Inc ... 26238
BBI, Inc ... 26239
Beneficial Laborotories, Inc ... 26239
CIC Industries, Inc ... 26242
Coastal States Gas Corp ... 26242
Coastal States Gas Producing Co ... 26243
Colorado Interstate Corp ... 26241
Colorado Interstate Gas Co ... 26241
Equity Funding Corp. of America ... 26241
FAIM Information Services, Inc ... 26242
First Leisure Corp ... 26242
Giant Stores Corp ... 26242
Industries International, Inc ... 26242
Jersey Central Power and Light Co ... 26239
Metropolitan Edison Co ... 26243
North American Building Technology, Inc ... 26242
Ohio Edison Co ... 26240
PBW Stock Exchange, Inc ... 26243
TelePrompter Corp ... 26244
Triex International Corp ... 26240
Trionics Engineering Corp ... 26241
U.S. Financial Inc ... 26240

**SOCIAL AND REHABILITATION SERVICE**
**Rules and Regulations**
Grant programs (3 documents) ... 26200, 26201, 26320

**TARIFF COMMISSION**
**Notices**
Certain disposable catheters and cuffs therefore; postponement of hearing ... 26244

**TRANSPORTATION DEPARTMENT**
**Notices**
Petition for exemption from Motor Vehicle Safety Standards ... 26223

**TREASURY DEPARTMENT**
*See also* Fiscal Service; Internal Revenue Service.
**Notices**
Creation of Office of Natural Resources and Energy ... 26217

**UNITED STATES TRAVEL SERVICE**
**Notices**
Travel Advisory Board; meeting ... 26222

**VETERANS ADMINISTRATION**
**Rules and Regulations**
Grants and assistance for medical and allied health education ... 26190






# List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month. In the last issue of the month the cumulative list will appear at the end of the issue.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1973, and specifies how they are affected.

**3 CFR**
PROCLAMATIONS
4244 ... 26179

**5 CFR**
213 ... 26181

**6 CFR**
150 ... 26181

**7 CFR**
981 ... 26181
1050 ... 26182
1421 ... 26182
PROPOSED RULES:
46 ... 26207

**12 CFR**
PROPOSED RULES:
702 ... 26216

**15 CFR**
377 ... 26206

**17 CFR**
210 ... 26182

**21 CFR**
135b ... 26183
135c (2 documents) ... 26183

**26 CFR**
1 ... 26184

**29 CFR**
PROPOSED RULES:
1910 ... 26207

**31 CFR**
315 ... 26189

**32 CFR**
802 ... 26190
806 ... 26190

**38 CFR**
17 ... 26190

**39 CFR**
235 ... 26193

**40 CFR**
52 ... 26324
PROPOSED RULES:
120 ... 26209

**42 CFR**
51 ... 26194
51a ... 26195
51b ... 26196
52 ... 26196
53 ... 26196
54 ... 26197
55 ... 26197
56 ... 26197
57 ... 26198
59 ... 26198
59a ... 26199
87 ... 26199
91 ... 26200
205 ... 26201
206 ... 26201
208 ... 26201

**45 CFR**
74 ... 26274
201 ... 26320
220 ... 26320
401 ... 26320
403 ... 26320
404 ... 26320
405 ... 26320
406 ... 26320
408 ... 26320
416 ... 26320
901 ... 26201
903 ... 26201
904 ... 26201
905 ... 26201
909 ... 26201

**47 CFR**
1 ... 26202
73 (3 documents) ... 26203, 26204
PROPOSED RULES:
73 (2 documents) ... 26211, 26212

**49 CFR**
1003 (2 documents) ... 26205
1134 ... 26205
1140 ... 26205

**50 CFR**
32 ... 26205



V 38 I 181 SEP 19 73 XUM

# REMINDERS

### Rules Going Into Effect Today

NOTE: There were no items published after October 1, 1972, that are eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

page no. and date

**SEPTEMBER 19**

FAA—Certification and operations: domestic, flag, and supplemental air carriers and commercial operators of large aircraft; inspection of emergency equipment ..... 22377; 8–20–73

FCC—International Fixed Public Radio—Communication Services..... 22477; 8–21–73

### Next Week's Hearings

**SEPTEMBER 25**

COAST GUARD—Transportation of corrosive materials..... 23959; 9–5–73

EPA—Consideration of pesticide use of calcium cyanide, strychnine, sodium cyanide and sodium monofluoroacetate..... 23010, 8–28–73

—Farm worker protection; occupational safety requirements for pesticides, to be held in Kansas City, Mo..... 20362; 7–31–73

—Occupational safety requirements for pesticides ... 23557, 8–31–73

IRS—Depreciation allowance for property of certain public utilities to be held in Washington, D.C..... 22795; 8–24–73

**SEPTEMBER 26**

CEQ—Atlantic Outer Continental Shelf and Gulf of Alaska oil and gas development; held at Anchorage, Alaska..... 24398; 9–7–73

**SEPTEMBER 27**

CEQ—Atlantic Outer Continental Shelf and Gulf of Alaska oil and gas development; held at Anchorage, Alaska ..... 24398; 9–7–73

EPA—Consideration of pesticide use of calcium cyanide, strychnine, sodium monofluoroacetate, and sodium cyanide ..... 23010; 8–28–73

FAA—Air transportation of handicapped persons..... 23352, 8–29–73

FISH AND WILDLIFE SERVICE—Wilderness proposal regarding Rice Lake National Wildlife Refuge ... 19977; 7–26–73

—Wilderness proposal regarding Savannah National Wildlife Refuge, to be held in Savannah, Ga ..... 21512; 8–9–73

**SEPTEMBER 28**

EPA—Occupational safety requirements ments for pesticides ..... 23557, 8–31–73

### Next Week's Deadlines for Comments on Proposed Rules

**SEPTEMBER 23**

OPS—Gas in transmission lines; odorization requirements..... 22045; 8–15–73

**SEPTEMBER 24**

AEC—Simplification of the procedural process for AEC authorization of changes in production and utilization facilities and technical specifications relating to such facilities. 22796; 8–24–73

EPA—Environment financing; loan assistance from the Environmental Financing Authority..... 22635; 8–23–73

FCC—Communications Satellite Co.; financial rules ..... 20275; 7–27–73

Interior Dept.—procedures for appointment of mineral surveyors.... 22897; 8–27–73

—Alcatraz Island; Golden Gate National Recreation Area boat landings ..... 22633, 8–23–73; 22968, 8–28–73

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION—Retreated pneumatic tires; physical dimension and labeling requirements..... 22493; 8–21–73

NPS—Establishment of special regulations for visitor use in the Lava Beds National Monument, California, which has been set aside for administration as a part of the national wilderness preservation system. 22634; 8–23–73

REA—Rural Electrification Program; estimates of borrowers power requirements ..... 22803; 8–24–73

SBA—Definition of small business for services including services requiring use of helicopters of fixed wing aircraft ..... 22803; 8–24–73

VA—Discontinuance of awards for failure to return income questionnaire. 22650; 8–23–73

**SEPTEMBER 25**

CG—Green River, Kentucky; drawbridge operation regulations ..... 22491; 8–21–73

FAA—Carriage of deadly or dangerous weapons and persons in the custody of law enforcement personnel aboard aircraft ..... 20098; 7–27–73

INTERIOR DEPT.—Alaska; place for filing and execution of forms. 22967; 8–28–73

**SEPTEMBER 26**

EPA—Sodium chlorate; exemption from tolerance requirements on cotton and chili peppers..... 22897; 8–27–73

FAA—Designation of Federal airways, area low routes, controlled airspace, and reporting points..... 22900; 8–27–73; 22901, 8–27–73

HEW—Grants for drug abuse prevention, treatment, and rehabilitation. 22969; 8–28–73

VA—National cemetery system; eligibility for interment; memorial services ..... 22905; 8–27–73

**SEPTEMBER 27**

TREASURY DEPT.—Depositary contract provisions; amendment regarding prohibition of sex discrimination in employment ..... 22963; 8–28–73

VA—Foster Grandparent Program; older Americans community service programs; evaluation procedures for income evaluation.. 22986; 8–28–73

**SEPTEMBER 28**

ANIMAL AND PLANT HEALTH INSPECTION SERVICE—Poultry eviscerating facilities..... 20096; 7–27–73

COAST GUARD—Establishment of security zones at New Lond Harbor, Conn ..... 22980; 8–28–73

—Lifeboat winches for merchant vessels..... 22492; 8–21–73

—Termination of Blake Island Explosives Anchorage in Puget Sound, Wash.... 22795; 8–24–73

—Specifications for lifesaving equipment ..... 22980; 8–28–73

FAA—Designation of Federal airways, area low routes, controlled airspace, and reporting points ..... 22981; 8–28–73, 23337; 8–29–73; 233385; 8–29–73

—High density traffic airports; proposed extension of reservation requirements..... 23338; 8–29–73

FRA—Passenger train visibility; extension of time for filing comments; new date for public hearing. 22417; 8–20–73

HEW—Medical assistance programs; limitation on institutional care. 23337; 8–29–73

**SEPTEMBER 30**

COMMODITY EXCHANGE AUTHORITY—Schedule of registration fees; increases. 20626; 8–2–73

FAA—Designation of Federal airways, area low routes, controlled airspace, and reporting points ..... 13635; 5–24–73

FRS—Application to acquire company engaged in the operation of a Savings and Loan Association ..... 22802; 8–24–73

### Weekly List of Public Laws

This is a listing of public bills enacted by Congress and approved by the President, together with the law number, the date of approval, and the U.S. Statutes citation. Subsequent lists will appear every Wednesday in the FEDERAL REGISTER, and copies of the laws may be obtained from the U.S. Government Printing Office.

S. 1841 ..... Public Law 93–177
To amend Communications Act of 1934 regarding broadcasting of certain professional sports. (Sept. 14, 1973; 87 Stat. 350)





# Presidential Documents

## Title 3—The President

PROCLAMATION 4244

## Child Health Day, 1973

*By the President of the United States of America*

### A Proclamation

There are few things in life more delightful than the sight of healthy children—enjoying their youth and looking forward to a long and fulfilling life. One of our most important national responsibilities is the assurance of full and healthy development for the children of America.

Parents, of course, have the primary responsibility for the health of their children and the home is the greatest single influence on child development. But the responsibility for child health is also shared by a wide range of the institutions which help meet children's needs. In a sense, almost everything we do as a people to foster better social, economic and environmental conditions can have an impact for good on the health of the American child.

Each year since 1928, we have set aside one day as Child Health Day to recognize the enormity of our individual and national responsibility and to reaffirm our commitment to child health.

By joint resolution of May 18, 1928, as amended (36 U.S.C. 143), the Congress requested the President to issue annually a proclamation declaring the first Monday in October as Child Health Day.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby proclaim Monday, October 1, 1973, as Child Health Day. I invite all citizens, agencies and organizations concerned with child health to join in such activities as will help alert all Americans to the vital importance of improving child health.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of September, in the year of our Lord nineteen hundred seventy-three, and of the Independence of the United States of America the one hundred ninety-eighth.

Richard Nixon

[FR Doc.73-20067 Filed 9-17-73;5:10 pm]



V 38 I 181 SEP 19 73 XUM

# Rules and Regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

## Title 5—Administrative Personnel

### CHAPTER I—CIVIL SERVICE COMMISSION

### PART 213—EXCEPTED SERVICE

#### Department of Housing and Urban Development

Section 213.3384 is amended to show that one position of Director, Urban Program Coordination, is no longer excepted under Schedule C, and that one position of Assistant to the Secretary (Public Affairs) is excepted under Schedule C.

Effective on September 19, 1973, § 213.3384(a)(43) is revoked and § 213.3384(a)(53) is added as set out below.

**§ 213.3384 Department of Housing and Urban Development.**

(a) *Office of the Secretary.* • • •

(43) [Revoked]

• • • • • •

(53) Assistant to the Secretary (Public Affairs).

• • • • • •

((5 U.S.C. secs. 3301, 3302), E.O. 10577, 3 CFR 1954–58 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73–19954 Filed 9–18–73;8:45 am]

## Title 6—Economic Stabilization

### CHAPTER I—COST OF LIVING COUNCIL

### PART 150—COST OF LIVING COUNCIL PHASE IV PRICE REGULATIONS

#### Certain Exemption Relating to the Sale of Petroleum Products

The purpose of these amendments is to clarify which exemptions the Cost of Living Council intends to apply to a seller of "covered products" of petroleum as defined in Subpart L of Part 150.

Under the prior regulations, the small business exemption was not applicable to a firm which was engaged in the business of selling covered products. Thus, any seller of covered products who would otherwise qualify for the small business exemption was disqualified entirely due to the sale of the petroleum products. The amendment makes it clear that it is the intent of the Council to regulate only the sale of the covered products. Sales of products other than covered products are exempt if the seller otherwise meets the requirements of the exemption.

The small retailer exemption is also amended to conform with the same policy expressed in the amended small business exemption provisions. The small retailing or restaurant exemption had inadvertently not been restricted in the same manner as the small business exemption in regard to sales of covered products. This amendment now provides that price adjustments to petroleum products are not covered by the small retailing exemption although all other activities of the small retailer remain exempt.

Because the purpose of these amendments is to provide immediate guidance as to Cost of Living Council decisions, I find that publication in accordance with normal rulemaking procedures is impracticable and that good cause exists for making this amendment effective in less than 30 days. Interested persons may submit comments regarding these amendments. Communications should be addressed to the Office of General Counsel, Cost of Living Council, Washington, D.C. 20508.

(Economic Stabilization Act of 1970, as amended, Pub. L. 92-210, 85 Stat. 743; Pub. L. 93-28, 87 Stat. 27; E.O. 11695, 38 FR 1473; E.O. 11730, 38 FR 19345; Cost of Living Council Order No. 14, 38 FR 1489.)

In consideration of the foregoing, Chapter I of Title 6 of the Code of Federal Regulations is amended as follows, effective immediately.

Issued in Washington, D.C., on September 17, 1973.

JOHN T. DUNLOP,
*Director,*
*Cost of Living Council.*

1. Section 150.54(1) is amended to read as follows:

**§ 150.54 Certain Price Adjustments.**

• • • • • •

(1) *Small retailing or restaurant activities.* Price adjustments, except price adjustments to "covered products" as defined in Subpart L, of firms with annual sales or revenues of less than $100,000 which are primarily engaged in retailing or restaurant activities are exempt.

2. Section 150.60(a)(2)(v) is amended to read as follows:

**§ 150.60 Small Business: Exemption of firms with 60 or fewer employees.**

(a) *Applicability to firms existing on or before March 31, 1973.*

• • • • • •

(2) *Exemption not applicable.* The exemption provided for in paragraph (a)(1) of this section shall not be applicable to:

• • • • • •

(v) The sale of any "covered products" as defined in Subpart L.

3. Section 150.60(b)(2)(vi) is amended to read as follows:

**§ 150.60 Small business: Exemption of firms with 60 or fewer employees.**

• • • • • •

(b) *Applicability to firms coming into existence on or after April 1, 1973.*

• • • • • •

(2) *Exemption not applicable.* The exemption provided for in paragraph (b)(1) of this section shall not be applicable to:

• • • • • •

(vi) The sale of any "covered products" as defined in Subpart L.

[FR Doc.73–20020 Filed 9–17–73;3:30 pm]

## Title 7—Agriculture

### CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

### PART 981—HANDLING OF ALMONDS GROWN IN CALIFORNIA

#### Salable and Reserve Percentages for the 1973–74 Crop Year

Notice of proposed salable and reserve percentages of 100 and 0 percent, respectively, for California almonds for the 1973–74 crop year was published in the August 28, 1973, issue of the FEDERAL REGISTER (38 FR 22966). The 1973–74 crop year began July 1, 1973.

The proposal was unanimously recommended by the Almond Control Board pursuant to the provisions of the marketing agreement, as amended, and Order No. 981, as amended (7 CFR Part 981), regulating the handling of almonds grown in California. The marketing agreement and order program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). No export percentage for reserve almonds was recommended by the Board because of its recommendation for a reserve percentage of 0 percent.

The notice afforded interested persons opportunity to submit written data, views, or arguments with respect to the proposal. No comments were received within the prescribed time. One comment was received after the prescribed time concurring with the proposal.



V 38-181 SEP 1973 XUM

The proposal was partly based on the following estimates (kernel weight basis) made by the Board for the crop year beginning July 1, 1973:

(1) Production of 155 million pounds;

(2) Trade demand for domestic almonds of 75 million pounds;

(3) Handler carryover of 16 million pounds on July 1, 1973;

(4) Desirable handler carryover of 21 million pounds on June 30, 1974;

(5) Trade demand and desirable handler carryover requirements for 1973 crop almonds of 80 million pounds (item 2 plus 4 minus 3); and

(6) Export requirements of 75.0 million pounds.

The Board also considered the strong world demand for almonds and the estimated shortage in available world supplies. The resulting demand for California almonds is very strong in all markets, and buyers are actively bidding for California almonds. The Board concluded that handlers may find difficulty meeting the needs of all their customers. The percentages for the 1973–74 crop year of 100 percent salable and 0 percent reserve should provide handlers maximum flexibility in the disposition of their almonds.

The estimated season average price to producers for 1973 crop almonds is likely to exceed parity. Trade information indicates that much of the 1973 crop has been sold in advance at f.o.b. California prices which would return to growers prices well in excess of the parity level.

After consideration of the Board's recommendation and supporting information and other available information, it is found that to establish salable and reserve percentages as hereinafter set forth will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective time until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because: (1) This action is applicable to operations under the order during the 1973–74 crop year, which began July 1, 1973; (2) this action will require no advance preparation by handlers; (3) this action places no restrictions on handlers; and (4) no useful purpose would be served by delaying this action.

Therefore, the salable and reserve percentages for almonds received by handlers for their own accounts during the 1973–74 crop year are established as follows:

**§ 981.223 Salable and reserve percentages for almonds during the crop year beginning July 1, 1973.**

The salable and reserve percentages during the crop year beginning July 1, 1973, shall be 100 and 0 percent, respectively.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).)

Dated September 14, 1973.

CHARLES R. BRADER,
*Acting Deputy Director,*
*Fruit and Vegetable Division.*

[FR Doc.73-19927 Filed 9-18-73;8:45 am]

## CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Milk Order No. 50]

### PART 1050—MILK IN THE CENTRAL ILLINOIS MARKETING AREA

#### Order Suspending a Certain Provision

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Central Illinois marketing area.

It is hereby found and determined that for the months of September and October 1973 the following provision of the order does not tend to effectuate the declared policy of the Act:

In § 1050.12, paragraph (a)(2).

*Statement of consideration.* This suspension will continue for the months of September and October 1973 the effect of a current suspension order which removed the total route sales percentage requirement for distributing plants. The action thereby will enable a distributing plant that meets only the in-area route sales requirement specified in the order to qualify as a pool plant during those months.

The suspension action was requested by Prairie Farms Dairy, Inc., a cooperative association that operates a pool distributing plant under the order. The association bases its request on the record of a hearing held in Bridgeton, Missouri, on May 23, 1973, and on a recommended decision in this matter issued on July 23, 1973, which would modify the pool distributing plant performance standards. Cooperatives representing a majority of the producers on the market supported the suspension at the hearing.

Without this suspension, proponent's plant will not be able to qualify as a pool plant during the months of September and October. As a result, a substantial number of dairy farmers supplying the market will lose their producer status.

It is hereby found and determined that notice of proposed rulemaking, public procedure thereon, and thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area;

(b) This suspension order does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) This suspension continues the effect of a previous suspension of the same provision. The modification of the pooling provisions was considered at a hearing at Bridgeton, Missouri, on May 23, 1973. The recommended decision issued on July 23, 1973, recommended a modification of the present pooling provisions. There is no indication of any opposition to this suspension.

Therefore, good cause exists for making this order effective with respect to producer milk deliveries during September and October 1973.

*It is therefore ordered,* That the aforesaid provision of the order is hereby suspended for the months September and October 1973.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674.)

Effective date.—September 19, 1973.

Signed at Washington, D.C., on September 14, 1973.

CLAYTON YEUTTER,
*Assistant Secretary.*

[FR Doc.73-19879 Filed 9-18-73;8:45 am]

## CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

[CCC Grain Price Support Regulations, 1973 Crop Corn Supplement]

### PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

#### Subpart—1973 Crop Loan and Purchase Program

*Correction*

In FR Doc. 73-18516 appearing at page 23935 for the issue of Wednesday, September 5, 1973, make the following changes:

1. In the introductory paragraph of § 1421.116, in the fifteenth line, add "(1)" after the word "based"; and in the seventeenth line, add "(2)" between the words "and" and "on."

2. a. In paragraph (a) of § 1421.116, under the *"Rate per bushel"* headings make the following changes: (1) For "Mills" county in Iowa change "1.03" to read "1.05", (2) for "Ellis" county in Kansas change "1.14" to read "1.107", and (3) for "Kent" county in Michigan change "1.09" to read "1.10."

b. Under the entry for "Oregon", add the following:

| | |
|---|---|
| All counties | $1.23 |

## Title 17—Commodity and Securities Exchanges

## CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5418, 34-10370, 35-18079, 40-7973]

### PART 210—FORM AND CONTENT OF FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, AND INVESTMENT COMPANY ACT OF 1940

#### Disclosure of Compensating Balances; Extension of Effective Date

This release amends Rule 5-02-1 (paragraph 1 of § 210.5-02 of 17 CFR Part 210) as it relates to the disclosure of compensating balances to defer for sixty days the date after which disclosure will be required on interim balance sheets while the Commission continues to consider comments received on proposed changes in rules and guidelines for compensating balances. Paragraph 1 of § 210.5-02 is hereby amended by changing August 31, 1973 in the last line to October 31, 1973, as given below:

**§ 210.5-02 Balance sheets.**

* * * * *

1. Cash and cash items.—State separately (a) cash on hand and demand deposits; (b) funds subject to repayment on call or immediately after the date of the balance sheet required to be filed; (c) time deposits; and (d) other funds, the amounts of which are known to be subject to withdrawal or usage restrictions, e.g. as compensating balances or special purpose funds. The general terms and nature of such repayment provisions and withdrawal or usage restrictions shall be described in a note referred to herein. Funds subject to withdrawal or usage restrictions shall not be included under this caption unless they are reasonably expected to become available for current operations within one year. The requirement of this paragraph relating to disclosure of compensating balances is effective for financial statements covering periods beginning on or after December 30, 1972, but in no event shall such disclosure be required for financial statements filed prior to October 31, 1973.

* * * * *

The amendment to Rule 5-02-1 of Regulation S-X is adopted pursuant to the authority conferred on the Commission by the Securities Act of 1933, particularly sections 6, 7, 8, 10, and 19(a) thereof; the Securities Exchange Act of 1934, particularly section 12, 13, 15(d), and 23(a) thereof; the Public Utility Holding Company Act of 1935, particularly sections 5(b), 14, and 20(a) thereof; and the Investment Company Act of 1949, particularly sections 8, 30, 31(c) and 38(a) thereof.

(Secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85, secs. 205, 209, 48 Stat. 906, 908, sec. 8, 68 Stat. 685, (15 U.S.C. 77f, 77g, 77h, 77j, 77s); secs. 12, 13, 15(d), 23(a), 48 Stat. 892, 894, 895, 901, secs. 3, 8, 49 Stat. 1377, 1379, secs. 3, 4, 6, 10, 78 Stat. 565, 569, 570, 580, secs. 1, 2, 84 Stat. 1497, (15 U.S.C. 78l, 78m, 78o(d), 78w); secs. 5(b), 14, 20(a), 49 Stat. 812, 827, 833, (15 U.S.C. 79e, 79n, 79t); secs. 8, 30, 31(c), 38(a), 54 Stat. 803, 836, 838, 841, sec. 3(c), 84 Stat. 1415 (15 U.S.C. 80a-8, 80a-29, 80a-30(c), 80a-37(a).)

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

AUGUST 30, 1973.

[FR Doc.73-19868 Filed 9-18-73;8:45 am]

## Title 21—Food and Drugs

## CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### SUBCHAPTER C—DRUGS

### PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

#### Sodium Thiopental, Sodium Pentobarbital; Correction

In FR Doc. 73-17927 appearing at page 22791 of the FEDERAL REGISTER of Friday, August 24, 1973, the reference in the preamble to Amdal Co., Div. of Abbott Laboratories should be changed to Agricultural and Veterinary Products Div., Abbott Laboratories, and in § 135b.54(b) reference to code No. 003 should be changed to code no. 068.

Dated September 12, 1973.

C. D. VAN HOUWELING,
*Director, Bureau of Veterinary Medicine.*

[FR Doc.73-19873 Filed 9-18-73;8:45 am]

### PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

#### Doxylamine Succinate Tablets

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (6-602V) filed by Jensen-Salsbery Laboratories, Division of Richardson-Merrell, Inc., Kansas City, MO 64141, proposing revised labeling for the safe and effective use of doxylamine succinate tablets for treatment of dogs, cats, and horses. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 2.120), part 135c is amended by adding a new section as follows:

**§ 135c.115 Doxylamine succinate tablets.**

(a) *Specifications.* The drug is in tablet form and contains doxylamine succinate as the active drug ingredient.

(b) *Sponsor.* See code No. 062 in § 135.501(c) of this chapter.

(c) *Conditions of use.* (1) The drug is used in conditions in which antihistaminic therapy may be expected to alleviate some signs of disease in horses, dogs, and cats.

(2) It is administered orally to horses at a dosage level of 1 to 2 milligrams per pound of body weight per day divided into 3 or 4 equal doses. It is administered orally to dogs and cats at a dosage level of 2 to 3 milligrams per pound of body weight per day divided into 3 or 4 equal doses.

(3) Not for use in horses intended for food.

(4) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

*Effective date.*—This order shall be effective on September 19, 1973.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated September 12, 1973.

C. D. VAN HOUWELING,
*Director, Bureau of Veterinary Medicine.*

[FR Doc.73-19874 Filed 9-18-73;8:45 am]

### PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

### PART 149b—AMPICILLIN

#### Ampicillin Trihydrate Boluses, Veterinary

The Commissioner of Food and Drugs has evaluated a new animal drug application (55-056V) filed by E. R. Squibb & Sons, Georges Road, New Brunswick, NJ 08902, proposing the safe and effective use of ampicillin trihydrate boluses for the treatment of calves. The application is approved.

Because the drug is subject to batch certification under provisions of section 512(n) of the Federal Food, Drug, and Cosmetic Act, this order provides for appropriate amendments to the antibiotic drug certification regulations.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512 (i) and (n), 82 Stat. 347, 350–351 (21 U.S.C. 360b (i) and (n))); and under authority delegated to the Commissioner (21 CFR 2.120), Parts 135c and 149b are amended as follows:

1. Part 135c is amended by adding the following new section:

**§ 135c.107 Ampicillin trihydrate boluses, veterinary.**

(a) *Specifications.*—The drug is in bolus form and conforms to the certification requirements of § 149b.23 of this chapter.

(b) *Sponsor.*—See code No. 035 in § 135.501(c) of this chapter.

(c) *Related tolerances.*—See § 135g.83 of this part.

(d) *Conditions of use.*—(1) It is administered orally to non-ruminating calves for the treatment of colibacillosis caused by *E. coli*, bacterial enteritis caused by *Salmonella spp.* and bacterial pneumonia caused by *Pasteurella spp.*

(2) It is administered at a dosage level of 5 milligrams per pound of body weight twice daily.

(3) For use in non-ruminating calves only. Not for use in other animals which are raised for food production.

(4) Treated calves must not be slaughtered for food during treatment and for 15 days after the last treatment.

(5) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

2. Part 149b is amended by adding the following new section:

**§ 149b.23 Ampicillin trihydrate boluses, veterinary.**

(a) *Requirements for certification—*(1) *Standards of identity, strength, quality and purity.*—Ampicillin trihydrate boluses are composed of ampicillin trihydrate with or without one or more suitable and harmless diluent buffers, preservatives, stabilizing agents and lubricants. Each bolus contains the equivalent of 400 milligrams of ampicillin. Its potency is satisfactory if it is not less than 90 and not more than 120 percent of the number of milligrams of ampicillin that it is represented to contain. Its moisture







V 38 I 181 SEP 19 73 XUM

content is not more than 5 percent. The ampicillin trihydrate used conforms to the standards prescribed in § 146a.6(a).

(2) *Labeling.*—It shall be labeled in accordance with the requirements of § 148.3 of this chapter, except that in lieu of the requirements of § 148.3(a)(1), it shall be labeled in accordance with the requirements prescribed by § 1.106(c) of this chapter.

(3) *Requests for certification; samples.*—In addition to complying with the requirements of § 146.2 of this chapter, each such request shall contain:

(i) Results of tests and assays on:

(*a*) The ampicillin trihydrate, used in making the batch, for potency, safety, loss on drying, pH, ampicillin content, crystallinity, and identity.

(*b*) The batch for potency and loss on drying.

(ii) Samples required:

(*a*) The ampicillin trihydrate used in making the batch: 10 packages, each containing approximately 300 milligrams.

(*b*) The batch: A minimum of 36 boluses.

(b) *Test and methods of assay*—(1) *Potency.*—Use *either* of the following methods, however, the results obtained from the microbiological agar diffusion assay shall be conclusive:

(i) *Microbiological agar diffusion assay.*—Proceed as directed in § 141.110 of this chapter, preparing the sample for assay as follows: Place a representative number of boluses into a high-speed glass blending jar with sufficient 0.1*M* potassium phosphate buffer pH 8.0 (solution 3) to give a stock solution of convenient concentration. Blend for 3 to 5 minutes. Remove an aliquot and further dilute with solution 3 to the reference concentration of 0.1 microgram ampicillin per milliliter (estimated).

(ii) *Iodometric assay.*—Proceed as directed in § 141.506 of this chapter, preparing the sample as follows: Place a representative number of boluses in a high-speed glass blender jar and add sufficient distilled water to give a convenient concentration. Blend for 3 to 5 minutes. Further dilute an aliquot with distilled water to the prescribed concentration.

(2) *Loss on drying.*—Proceed as directed in § 141.501(a) of this chapter.

*Effective date.*—This order shall be effective September 19, 1973.

(Secs. 512 (i) and (n), 82 Stat. 347, 350–351 (21 U.S.C. 360b (i) and (n)).)

Dated September 12, 1973.

C. D. VAN HOUWELING,
*Director, Bureau of Veterinary Medicine.*

[FR Doc 73-19875 Filed 9-18-73;8:45 am]

## Title 26—Internal Revenue

## CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

### SUBCHAPTER A—INCOME TAX

[T.D. 7285]

### PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

### Use of the Full Absorption Method of Inventory Costing

By a notice of proposed rulemaking appearing in the FEDERAL REGISTER for Tuesday, February 13, 1973 (38 FR 4337), amendments to the Income Tax Regulations (26 CFR Part 1) were proposed in order to revise the rules relating to inventory costing. After consideration of all such relevant matter as was presented by interested persons, by way of written comments and a public hearing, regarding the rules proposed, certain changes were made, and the proposed amendments of the regulations, subject to the changes indicated below, are adopted by this document.

The regulations require the use of a "full absorption" method of inventory costing for all taxpayers engaged in manufacturing or production operations. Such rule should simplify the tax reporting for many businesses and eliminate the uncertainty and controversy of past practices.

To provide guidance to taxpayers as to which costs are includable or excludable in the computation of inventoriable costs, the regulations establish three cost categories. Under this approach certain costs are always required to be included in the computation of inventoriable costs and certain other costs are not required to be included in the computation of inventoriable costs. The final regulations contain some modifications and clarifications of costs contained in these categories.

The proposed regulations and final regulations also contain a third category of costs which are includable in or excludable from the computation of inventoriable costs in accordance with the taxpayer's financial reporting treatment for such costs, but only if such treatment is not inconsistent with generally accepted accounting principles.

If a taxpayer's financial accounting method is not comparable to his tax accounting method, the regulations provide only two categories of costs, costs which must be included and costs which may be excluded.

The liberal transition rules provide in the proposed regulations are continued in the final regulations to encourage taxpayers to adopt the full absorption method.

*Adoption of Amendments to the Regulations.* In view of the foregoing and after consideration of all such relevant matter as was presented by interested persons regarding the notice of proposed rule making dated February 13, 1973, the Income Tax Regulations (26 CFR Part 1) are amended as follows.

PARAGRAPH 1. Paragraph (a) of § 1.61–3 is revised to read as follows:

**§ 1.61–3 Gross income derived from business.**

(a) *In general.* In a manufacturing, merchandising, or mining business, "gross income" means the total sales, less the cost of goods sold, plus any income from investments and from incidental or outside operations or sources. Gross income is determined without subtraction of depletion allowances based on a percentage of income to the extent that it exceeds cost depletion which may be required to be included in the amount of inventoriable costs as provided in § 1.471–11 and without subtraction of selling expenses, losses or other items not ordinarily used in computing costs of goods sold or amounts which are of a type for which a deduction would be disallowed under section 162 (c), (f), or (g) in the case of a business expense. The cost of goods sold should be determined in accordance with the method of accounting consistently used by the taxpayer.

* * * * * *

PAR. 2. Section 1.446–1(c)(1)(ii) is amended to read as follows:

**§ 1.446–1 General rule for methods of accounting.**

* * * * * *

(c) *Permissible methods.* * * *

(1) *In general.* * * *

(ii) *Accrual method.* Generally, under an accrual method, income is to be included for the taxable year when all the events have occurred which fix the right to receive such income and the amount thereof can be determined with reasonable accuracy. Under such a method, deductions are allowable for the taxable year in which all the events have occurred which establish the fact of the liability giving rise to such deduction and the amount thereof can be determined with reasonable accuracy. The method used by the taxpayer in determining when income is to be accounted for will be acceptable if it accords with generally accepted accounting principles, is consistently used by the taxpayer from year to year, and is consistent with the Income Tax Regulations. For example, a taxpayer engaged in a manufacturing business may account for sales of his product when the goods are shipped, when the product is delivered or accepted, or when title to the goods passes to the customer, whether or not billed, depending upon the method regularly employed in keeping his books.

* * * * * *





PAR. 3. Section 1.471–2 is amended by revising the cross references in paragraph (b), deleting the last sentence in paragraph (b), and by adding subparagraphs (6) and (7) to paragraph (f), to read as follows:

**§ 1.471–2 Valuation of inventories.**

* * * * * *

(b) It follows, therefore, that inventory rules cannot be uniform but must give effect to trade customs which come within the scope of the best accounting practice in the particular trade or business. In order to clearly reflect income, the inventory practice of a taxpayer should be consistent from year to year, and greater weight is to be given to consistency than to any particular method of inventorying or basis of valuation so long as the method or basis used is in accord with §§ 1.471–1 through 1.471–11.

* * * * * *

(f) * * *

(6) Segregating indirect production costs into fixed and variable production cost classifications (as defined in § 1.471–11(b)(3)(ii)) and allocating only the variable costs to the cost of goods produced while treating fixed costs as period costs which are currently deductible. This method is commonly referred to as the "direct cost" method.

(7) Treating all or substantially all indirect production costs (whether classified as fixed or variable) as period costs which are currently deductible. This method is generally referred to as the "prime cost" method.

PAR. 4. Paragraph (c) of § 1.471–3 is amended by adding a cross reference at the end to read as follows:

**§ 1.471–3 Inventories at cost.**

* * * * * *

(c) In the case of merchandise produced by the taxpayer since the beginning of the taxable year, (1) the cost of raw materials and supplies entering into or consumed in connection with the product, (2) expenditures for direct labor, and (3) indirect production costs incident to and necessary for the production of the particular article, including in such indirect production costs an appropriate portion of management expenses, but not including any cost of selling or return on capital, whether by way of interest or profit. See § 1.471–11 for more specific rules regarding the treatment of indirect production costs.

* * * * * *

PAR. 5. Section 1.471–11 is added immediately following § 1.471–9 to read as follows:

**§ 1.471–11 Inventories of manufacturers.**

(a) *Use of full absorption method of inventory costing.*—In order to conform as nearly as may be possible to the best accounting practices and to clearly reflect income (as required by section 471 of the Code), both direct and indirect production costs must be taken into account in the computation of inventoriable costs in accordance with the "full absorption" method of inventory costing. Under the full absorption method of inventory costing production costs must be allocated to goods produced during the taxable year, whether sold during the taxable year or in inventory at the close of the taxable year determined in accordance with the taxpayer's method of identifying goods in inventory. Thus, the taxpayer must include as inventoriable costs all direct production costs and, to the extent provided by paragraphs (c) and (d) of this section, all indirect production costs. For purposes of this section, the term "financial reports" means financial reports (including consolidated financial statements) to shareholders, partners, beneficiaries or other proprietors and for credit purposes.

(b) *Production costs*—(1) *In General.* Costs are considered to be production costs to the extent that they are incident to and necessary for production or manufacturing operations or processes. Production costs include direct production costs and fixed and variable indirect production costs.

(2) *Direct production costs.* (i) Costs classified as "direct production costs" are generally those costs which are incident to and necessary for production or manufacturing operations or processes and are components of the cost of either direct material or direct labor. Direct material costs include the cost of those materials which become an integral part of the specific product and those materials which are consumed in the ordinary course of manufacturing and can be identified or associated with particular units or groups of units of that product. See § 1.471–3 for the elements of direct material costs. Direct labor costs include the cost of labor which can be identified or associated with particular units or groups of units of a specific product. The elements of direct labor costs include such items as basic compensation, overtime pay, vacation and holiday pay, sick leave pay (other than payments pursuant to a wage continuation plan under section 105 (d)), shift differential, payroll taxes and payments to a supplemental unemployment benefit plan paid or incurred on behalf of employees engaged in direct labor. For the treatment of rework labor, scrap, spoilage costs, and any other costs not specifically described as direct production costs see § 1.471–11(c)(2).

(ii) Under the full absorption method, a taxpayer must take into account all items of direct production cost in his inventoriable costs. Nevertheless, a taxpayer will not be treated as using an incorrect method of inventory costing if he treats any direct production costs as indirect production costs, provided such costs are allocated to the taxpayer's ending inventory to the extent provided by paragraph (d) of this section. Thus, for example, a taxpayer may treat direct labor costs as part of indirect production costs (for example, by use of the conversion cost method), provided all such costs are allocated to ending inventory to the extent provided by paragraph (d) of this section.

(3) *Indirect production costs*—(i) *In general.* The term "indirect production costs" includes all costs which are incident to and necessary for production or manufacturing operations or processes other than direct production costs (as defined in subparagraph (2) of this paragraph). Indirect production costs may be classified as to kind or type in accordance with acceptable accounting principles so as to enable convenient identification with various production or manufacturing activities or functions and to facilitate reasonable groupings of such costs for purposes of determining unit product costs.

(ii) *Fixed and variable classifications.* For purposes of this section, fixed indirect production costs are generally those costs which do not vary significantly with changes in the amount of goods produced at any given level of production capacity. These fixed costs may include, among other costs, rent and property taxes on buildings and machinery incident to and necessary for manufacturing operations or processes. On the other hand, variable indirect production costs are generally those costs which do vary significantly with changes in the amount of goods produced at any given level of production capacity. These variable costs may include, among other costs, indirect materials, factory janitorial supplies, and utilities. Where a particular cost contains both fixed and variable elements, these elements should be segregated into fixed and variable classifications to the extent necessary under the taxpayer's method of allocation, such as for the application of the practical capacity concept (as described in paragraph (d)(4) of this section).

(c) *Certain indirect production costs*—(1) *General rule.* Except as provided in subparagraph (3) of this paragraph, in order to determine whether indirect production costs referred to in paragraph (b) of this section must be included in a taxpayer's computation of the amount of inventoriable costs, three categories of costs have been provided in subparagraph (2) of this paragraph. Costs described in subparagraph (2)(i) of this paragraph must be included in the taxpayer's computation of the amount of inventoriable costs, regardless of their treatment by the taxpayer in his financial reports. Costs described in subparagraph (2)(ii) of this paragraph need not enter into the taxpayer's computation of the amount of inventoriable costs, regardless of their treatment by the taxpayer in his financial reports. Costs described in subparagraph (2)(iii) of this paragraph must be included in or excluded from the taxpayer's computation of the amount of inventoriable costs in accordance with the treatment of such costs by the taxpayer in his financial reports and generally accepted accounting principles. For the treatment



V 38 I 181 SEP 19 73 XUM

of indirect production costs described in subparagraph (2) of this paragraph in the case of a taxpayer who is not using comparable methods of accounting for such costs for tax and financial reporting, see subparagraph (3) of this paragraph. After a taxpayer has determined which costs must be treated as indirect production costs includible in the computation of the amount of inventoriable costs, such costs must be allocated to a taxpayer's ending inventory in a manner prescribed by paragraph (d) of this section.

(2) *Includibility of certain indirect production costs*—(i) *Indirect production costs included in inventoriable costs.* Indirect production costs which must enter into the computation of the amount of inventoriable costs (regardless of their treatment by a taxpayer in his financial reports) include:

(*a*) Repair expenses,
(*b*) Maintenance,
(*c*) Utilities, such as heat, power and light,
(*d*) Rent,
(*e*) Indirect labor and production supervisory wages, including basic compensation, overtime pay, vacation and holiday pay, sick leave pay (other than payments pursuant to a wage continuation plan under section 105(d), shift differential, payroll taxes and contributions to a supplemental unemployment benefit plan.
(*f*) Indirect materials and supplies,
(*g*) Tools and equipment not capitalized, and
(*h*) Costs of quality control and inspection,

to the extent, and only to the extent, such costs are incident to and necessary for production or manufacturing operations or processes.

(ii) *Costs not included in inventoriable costs.* Costs which are not required to be included for tax purposes in the computation of the amount of inventoriable costs (regardless of their treatment by a taxpayer in his financial reports) include:

(*a*) Marketing expenses,
(*b*) Advertising expenses,
(*c*) Selling expenses,
(*d*) Other distribution expenses.
(*e*) Interest,
(*f*) *Research and experimental expenses* including engineering and product development expenses,
(*g*) Losses under section 165 and the regulations thereunder,
(*h*) Percentage depletion in excess of cost depletion,
(*i*) Depreciation and amortization reported for Federal income tax purposes in excess of depreciation reported by the taxpayer in his financial reports,
(*j*) Income taxes attributable to income received on the sale of inventory,
(*k*) Pension contributions to the extent that they represent past services cost,
(*l*) General and administrative expenses incident to and nesessary for the taxpayer's activities as a whole rather than to production or manufacturing operations or processes, and
(*m*) Salaries paid to officers attributable to the performance of services which are incident to and necessary for the taxpayer's activities taken as a whole rather than to production or manufacturing operations or processes.

Notwithstanding the preceding sentence, if a taxpayer consistently includes in his computation of the amount of inventoriable costs any of the costs described in the preceding sentence, a change in such method of inclusion shall be considered a change in method of accounting within the meaning of sections 446, 481, and paragraph (e)(4) of this section.

(iii) *Indirect production costs includible in inventoriable costs depending upon treatment in taxpayer's financial reports.* In the case of costs listed in this subdivision, the inclusion or exclusion of such costs from the amount of inventoriable costs for purposes of a taxpayer's financial reports shall determine whether such costs must be included in or excluded from the computation of inventoriable costs for tax purposes, but only if such treatment is not inconsistent with generally accepted accounting principles. In the case of costs which are not included in subdivision (i) or (ii) of this subparagraph, nor listed in this subdivision, whether such costs must be included in or excluded from the computation of inventoriable costs for tax purposes depends upon the extent to which such costs are similar to costs included in subdivision (i) or (ii), and if such costs are dissimilar to costs included in subdivision (i) or (ii), such costs shall be treated as included in or excludable from the amount of inventoriable costs in accordance with this subdivision.

The costs listed in this subdivision are:

(*a*) *Taxes.* Taxes otherwise allowable as a deduction under section 164 (other than State and local and foreign income taxes) attributable to assets incident to and necessary for production or manufacturing operations or processes. Thus, for example, the cost of State and local property taxes imposed on a factory or other production facility and any State and local taxes imposed on inventory must be included in or excluded from the computation of the amount of inventoriable costs for tax purposes depending upon their treatment by a taxpayer in his financial reports.

(*b*) *Depreciation and depletion.* Depreciation reported in financial reports and cost depletion on assets incident to and necessary for production or manufacturing operations or processes. In computing cost depletion under this section, the adjusted basis of such assets shall be reduced by cost depletion and not by percentage depletion taken thereon.

(*c*) *Employee benefits.* Pension and profit-sharing contributions representing current service costs otherwise allowable as a deduction under section 404, and other employee benefits incurred on behalf of labor incident to and necessary for production or manufacturing operations or processes. These other benefits include workmen's compensation expenses, payments under a wage continuation plan described in section 105(d), amounts of a type which would be includible in the gross income of employees under non-qualified pension, profit-sharing and stock bonus plans, premiums on life and health insurance and miscellaneous benefits provided for employees such as safety, medical treatment, cafeteria, recreational facilities, membership dues, etc., which are otherwise allowable as deductions under chapter 1 of the Code.

(*d*) *Costs attributable to strikes, rework labor, scrap and spoilage.* Costs attributable to rework labor, scrap and spoilage which are incident to and necessary for production or manufacturing operations or processes and costs attributable to strikes incident to production or manufacturing operation or processes.

(*e*) *Factory administrative expenses.* Administrative costs of production (but not including any cost of selling or any return on capital) incident to and necessary for production or manufacturing operations or processes.

(*f*) *Officers' salaries.* Salaries paid to officers attributable to services performed incident to and necessary for production or manufacturing operations or processes.

(*g*) *Insurance costs.* Insurance costs incident to and necessary for production or manufacturing operations or processes such as insurance on production machinery and equipment.

A change in the taxpayer's treatment in his financial reports of costs described in this subdivision which results in a change in treatment of such costs for tax purposes shall constitute a change in method of accounting within the meaning of sections 446 and 481 to which paragraph (e) applies.

(3) *Exception.* In the case of a taxpayer whose method of accounting for production costs in his financial reports is not comparable to his method of accounting for such costs for tax purposes (such as a taxpayer using the prime cost method for purposes of financial reports), the following rules apply:

(i) *Indirect production costs included in inventoriable costs.* Indirect production costs which must enter into the computation of the amount of inventoriable costs (to the extent, and only to the extent, such costs are incident to and necessary for production or manufacturing operations or processes) include:

(*a*) Repair expenses,
(*b*) Maintenance,
(*c*) Utilities, such as heat, power and light,
(*d*) Rent,
(*e*) Indirect labor and production supervisory wages, including basic compensation, overtime pay, vacation and holiday pay, sick leave pay (other than payments pursuant to a wage continuation plan under section 105(d)), shift differential, payroll taxes and contribtuions to a supplemental unemployment benefit plan,
(*f*) Indirect materials and supplies,
(*g*) Tools and equipment not capitalized,
(*h*) Costs of quality control and inspection,
(*i*) Taxes otherwise allowable as a deduction under section 164 (other than State and local and foreign income taxes),
(*j*) Depreciation and amortization reported for financial purposes and cost depletion,
(*k*) Administrative costs of production (but not including any cost of selling or any return on capital) incident to and necessary for production or manufacturing operations or processes,
(*l*) Salaries paid to officers attributable to services performed incident to and necessary for production or manufacturing operations or processes, and
(*m*) Insurance costs incident to and necessary for production or manufacturing operations or processes such as insurance on production machinery and equipment.

(ii) *Costs not included in inventoriable costs.* Costs which are not required to be included in the computation of the amount of inventoriable costs include:

(*a*) Marketing expenses,
(*b*) Advertising expenses,
(*c*) Selling expenses,
(*d*) Other distribution expenses,
(*e*) Interest,
(*f*) Research and experimental expenses including engineering and product development expenses,
(*g*) Losses under section 165 and the regulations thereunder,
(*h*) Percentage depletion in excess of cost depletion,
(*i*) Depreciation reported for Federal income tax purposes in excess of depreciation reported by the taxpayer in his financial reports,
(*j*) Income taxes attributable to income received on the sale of inventory,
(*k*) Pension and profit-sharing contributions representing either past service costs or representing current service costs otherwise allowable as a deduction under section 404, and other employee benefits incurred on behalf of labor. These other benefits include workmen's compensation expenses, payments under a wage continuation plan described in section 105(d), amounts of a type which would be includible in the gross income of employees under nonqualified pension, profit-sharing and stock bonus plans, premiums on life and health insurance and miscellaneous benefits provided for employees such as safety, medical treatment, cafeteria, recreational facilities, membership dues, etc., which are otherwise allowable as deductions under chapter 1 of the Code.
(*l*) Cost attributable to strikes, rework labor, scrap and spoilage,
(*m*) General and administrative expenses incident to and necessary for the taxpayer's activities as a whole rather than to production or manufacturing operations or processes, and
(*n*) Salaries paid to officers attributable to the performance of services which are incident to and necessary for the taxpayer's activities as a whole rather than to production or manufacturing operations or processes.

(d) *Allocation methods*—(1) *In general.* Indirect production costs required to be included in the computation of the amount of inventoriable costs pursuant to paragraphs (b) and (c) of this paragraph must be allocated to goods in a taxpayer's ending inventory (determined in accordance with the taxpayer's method of identification) by the use of a method of allocation which fairly apportions such costs among the various items produced. Acceptable methods for allocating indirect production costs to the cost of goods in the ending inventory include the manufacturing burden rate method and the standard cost method. In addition, the practical capacity concept can be used in conjunction with either the manufacturing burden rate or standard cost method.

(2) *Manufacturing burden rate method*—(i) *In general.* Manufacturing burden rates may be developed in accordance with acceptable accounting principles and applied in a reasonable manner. In developing a manufacturing burden rate, the factors described in paragraph (d)(2)(ii) of this section may be taken into account. Furthermore, if the taxpayer chooses, he may allocate different indirect production costs on the basis of different manufacturing burden rates. Thus, for example, the taxpayer may use one burden rate for allocating rent and another burden rate for allocating utilities. The method used by the taxpayer in allocating such costs in his financial reports shall be given great weight in determining whether the taxpayer's method employed for tax purposes fairly allocates indirect production costs to the ending inventory. Any change in a manufacturing burden rate which is merely a periodic adjustment to reflect current operating conditions, such as increases in automation or or changes in operation, does not constitute a change in method of accounting under section 446. However, a change in the concept upon which such rates are developed does constitute a change in method of accounting requiring the consent of the Commissioner. The taxpayer shall maintain adequate records and working papers to support all manufacturing burden rate calculations.

(ii) *Development of manufacturing burden rate.* The following factors, among others, may be taken into account in developing manufacturing burden rates:

(*a*) The selection of an appropriate level of activity and period of time upon which to base the calculation of rates which will reflect operating conditions for purposes of the unit costs being determined;

(*b*) The selection of an appropriate statistical base such as direct labor hours, direct labor dollars, or machine hours, or a combination thereof, upon which to apply the overhead rate to determine production costs; and

(*c*) The appropriate budgeting, classification and analysis of expenses (for example, the analysis of fixed and variable costs).

(iii) *Operation of the manufacturing burden rate method.* (*a*) The purpose of the manufacturing burden rate method used in conjunction with the full absorption method of inventory costing is to allocate an appropriate amount of indirect production costs to a taxpayer's goods in ending inventory by the use of predetermined rates intended to approximate the actual amount of indirect production costs incurred. Accordingly, the proper use of the manufacturing burden rate method under this section requires that any net negative or net positive difference between the total predetermined amount of indirect production costs allocated to the goods in ending inventory and the total amount of indirect production costs actually incurred and required to be allocated to such goods (i.e., the under or over-applied burden) must be treated as an adjustment to the taxpayer's ending inventory in the taxable year in which such difference arises. However, if such adjustment is not significant in amount in relation to the taxpayer's total actual indirect production costs for the year then such adjustment need not be allocated to the taxpayer's goods in ending inventory unless such allocation is made in the taxpayer's financial reports. The taxpayer must treat both positive and negative adjustments consistently.

(*b*) Notwithstanding subdivision (*a*), the practical capacity concept may be used to determine the total amount of fixed indirect production costs which must be allocated to goods in ending inventory. See subparagraph (4) of this paragraph.

(3) *Standard cost method*—(i) *In general.* A taxpayer may use the so-called "standard cost" method of allocating inventoriable costs to the goods in ending inventory, provided he treats variances in accordance with the procedures prescribed in paragraph (d)(3)(ii) of this section. The method used by the taxpayer in allocating such costs in his financial reports shall be given great weight in determining whether the taxpayer's method employed for tax purposes fairly allocates indirect production costs to the ending inventory. For purposes of this subparagraph, a "net positive overhead variance" shall mean the excess of total standard (or estimated) indirect production costs over total actual indirect production costs and a "net negative overhead variance" shall mean the excess of total actual indirect production costs over total standard (or estimated) indirect production costs.

(ii) *Treatment of variances.* (*a*) The proper use of the standard cost method pursuant to this subparagraph requires that a taxpayer must reallocate to the goods in ending inventory a pro rata portion of any net negative or net positive overhead variances and any net negative or net positive direct production cost variances. The taxpayer must







V 38 I 181 SEP 19 73 XUM

apportion such variances among his various items in ending inventory. However, if such variances are not significant in amount in relation to the taxpayer's total actual indirect production costs for the year then such variances need not be allocated to the taxpayer's goods in ending inventory unless such allocation is made in the taxpayer's financial reports. The taxpayer must treat both positive and negative variances consistently.

(b) Notwithstanding subdivision (a), the practical capacity concept may be used to determine the total amount of fixed indirect production costs which must be allocated to goods in ending inventory. See subparagraph (4) of this paragraph.

(4) *Practical capacity concept*—(i) *In general.* Under the practical capacity concept, the percentage of practical capacity represented by actual production (not greater than 100 percent), as calculated under subdivision (ii) of this subparagraph, is used to determine the total amount of fixed indirect production costs which must be included in the taxpayer's computation of the amount of inventoriable costs. The portion of such costs to be included in the taxpayer's computation of the amount of inventoriable costs is then combined with variable indirect production costs and both are allocated to the goods in ending inventory in accordance with this paragraph. See the example in subdivision (ii) (d) of this subparagraph. The difference (if any) between the amount of all fixed indirect production costs and the fixed indirect production costs which are included in the computation of the amount of inventoriable costs under the practical capacity concept is allowable as a deduction for the taxable year in which such difference occurs.

(ii) *Calculation of practical capacity*—(a) *In general.* Practical capacity and theoretical capacity (as described in (c) of this subdivision) may be computed in terms of tons, pounds, yards, labor hours, machine hours, or any other unit of production appropriate to the cost accounting system used by a particular taxpayer. The determination of practical capacity and theoretical capacity should be modified from time to time to reflect a change in underlying facts and conditions such as increased output due to automation or other changes in plant operation. Such a change does not constitute a change in method of accounting under sections 446 and 481.

(b) *Based upon taxpayer's experience.* In selecting an appropriate level of production activity upon which to base the calculation of practical capacity, the taxpayer shall establish the production operating conditions expected during the period for which the costs are being determined, assuming that the utilization of production facilities during operations will be approximately at capacity. This level of production activity is frequently described as practical capacity for the period and is ordinarily based upon the historical experience of the taxpayer. For example, a taxpayer operating on a 5-day, 8-hour basis may have a "normal" production of 100,000 units a year based upon three years of experience.

(c) *Based upon theoretical capacity.* Practical capacity may also be established by the use of "theoretical" capacity, adjusted for allowances for estimated inability to achieve maximum production, such as machine breakdown, idle time, and other normal work stoppages. Theoretical capacity is the level of production the manufacturer could reach if all machines and departments were operated continously at peak efficiency.

(d) *Example.* The provisions of (c) of this subdivision may be illustrated by the following example:

Corporation X operates a stamping plant with a theoretical capacity of 50 units per hour. The plant actually operates 1960 hours per year based on an 8-hour day, 5 day week basis and 15 shutdown days for vacations and holidays. A reasonable allowance for down time (the time allowed for ordinary and necessary repairs and maintenance) is 5 percent of practical capacity before reduction for down time. Assuming no loss of production during starting up, closing down, or employee work breaks, under these facts and circumstances X may properly make a practical capacity computation as follows:

| | |
|---|---|
| Practical capacity without allowance for down time based on theoretical capacity per hour is (1960×50) | 98,000 |
| Reduction for down time (98,000×5 percent) | 4,900 |
| Practical capacity | 93,100 |

The 93,100 unit level of activity (i.e., practical capacity) would, therefore, constitute an appropriate base for calculating the amount of fixed indirect production costs to be included in the computation of the amount of inventoriable costs for the period under review. On this basis if only 76,000 units were produced for the period, the effect would be that approximately 81.6 percent (76,000, the actual number of units produced, divided by 93,100, the maximum number of units producible at practical capacity) of the fixed indirect production costs would be included in the computation of the amount of inventoriable costs during the year. The portion of the fixed indirect production costs not so included in the computation of the amount of inventoriable costs would be deductible in the year in which paid or incurred. Assume further that 7,600 units were on hand at the end of the taxable year and the 7,600 units were in the same proportion to the total units produced. Thus, 10 percent (7,600 units in inventory at the end of the taxable year, divided by 76,000, the actual number of units produced) of the fixed indirect production costs included in the computation of the amount of inventoriable costs (the above-mentioned 81.6 percent) and 10 percent of the variable indirect production costs would be included in the cost of the goods in the ending inventory, in accordance with a method of allocation provided by this paragraph.

(e) *Transition to full absorption method of inventory costing*—(1) *In general*—(i) *Mandatory requirement.* A taxpayer not using the full absorption method of inventory costing, as prescribed by paragraph (a) of this section, must change to that method. Any change to the full absorption method must be made by the taxpayer with respect to all trades or businesses of the taxpayer to which this section applies. A taxpayer not using the full absorption method of inventory costing, as prescribed by paragraph (a) of this section, who makes the special election provided in subdivision (ii) of this subparagraph during the transition period described in subdivision (ii) of this subparagraph need not change to the full absorption method of inventory costing for taxable years prior to the year for which such election is made. In determining whether the taxpayer is changing to a more or less inclusive method of inventory costing, all positive and negative adjustments for all items and all trades or businesses of the taxpayer shall be aggregated. If the net adjustment is positive, paragraph (e) (3) shall apply, and if the net adjustment is negative, paragraph (e) (4) shall apply to the change. The rules otherwise prescribed in sections 446 and 481 and the regulations thereunder shall apply to any taxpayer who fails to make the special election in subdivision (ii) of this subparagraph. The transition rules of this paragraph are available only to those taxpayers who change their method of inventory costing.

(ii) *Special election during two-year transition period.* If a taxpayer elects to change to the full absorption method of inventory costing during the transition period provided herein, he may elect on Form 3115 to change to such full absorption method of inventory costing and, in so doing, employ the transition procedures and adopt any of the transition methods prescribed in subparagraph (3) of this paragraph. Such election shall be made during the first 180 days of any taxable year beginning on or after September 19, 1973 and before September 19, 1975 (i.e., the "transition period") and the change in inventory costing method shall be made for the taxable year in which the election is made. Notwithstanding the preceding sentence if the taxpayer's prior returns have been examined by the Service prior to [the date of adoption of these regulations as a Treasury decision], and there is a pending issue involving the taxpayer's method of inventory costing, the taxpayer may request the application of this regulation by agreeing and filing a letter to that effect with the district director, within 90 days after September 19, 1973 to change to the full absorption method for the first taxable year of the taxpayer beginning after [the date of adoption of the regulations as a Treasury decision] and subsequently filing Form 3115 within the first 180 days of such taxable year of change.

(iii) *Change initiated by the Commissioner.* A taxpayer who properly makes an election under subdivision (ii) of this subparagraph shall be considered to have made a change in method of accounting not initiated by the taxpayer, notwithstanding the provisions of





§ 1.481–1(c)(5). Thus, any of the taxpayer's "pre-1954 inventory balances" with respect to such inventory shall not be taken into account as an adjustment under section 481. For purposes of this paragraph, a "pre-1954 inventory balance" is the net amount of the adjustments which would have been required if the taxpayer had made such change in his method of accounting with respect to his inventory in his first taxable year which began after December 31, 1953, and ended after August 16, 1954. See section 481(a)(2) and § 1.481–3.

(2) *Procedural rules for change.* If a taxpayer makes an election pursuant to subparagraph (1)(ii) of this paragraph, the Commissioner's consent will be evidenced by a letter of consent to the taxpayer, setting forth the values of inventory, as provided by the taxpayer, determined under the full absorption method of inventory costing, except to the extent that no determination of such values is necessary under subparagraph (3)(ii)(B) of this paragraph (the cut off method), the amount of the adjustments (if any) required to be taken into account by section 481, and the treatment to be accorded to any such adjustments. Such full absorption values shall be subject to verification on examination by the district director. The taxpayer shall preserve at his principal place of business all records, data, and other evidence relating to the full absorption values of inventory.

(3) *Transition methods.* In the case of a taxpayer who properly makes an election under subparagraph (1)(ii) of this paragraph during the transition period—

(i) *10-year adjustment period.* Such taxpayer may elect to take any adjustment required by section 481 with respect to any inventory being revalued under the full absorption method into account ratably over a period designated by the taxpayer at the time of such election, not to exceed the lesser of 10 taxable years commencing with the year of transition or the number of years the taxpayer has been on the inventory method from which he is changing. If the taxpayer dies or ceases to exist in a transaction other than one to which section 381(a) of the Code applies or if the taxpayer's inventory (determined under the full absorption method) on the last day of any taxable year is reduced (by other than a strike or involuntary conversion) by more than an amount equal to 33⅓ percent of the taxpayer's inventory (determined under the full absorption method) as of the beginning of the year of change, the entire amount of the section 481 adjustment not previously taken into account in computing income shall be taken into account in computing income for the taxable year in which such taxpayer so ceases to exist or such taxpayer's inventory is so reduced.

(ii) *Additional rules for LIFO taxpayers.* A taxpayer who uses the LIFO method of inventory identification may either—

(a) Employ the special transition rules described in subdivision (i) of this subparagraph. Accordingly, all LIFO layers must be revalued under the full absorption method and the section 481 adjustment must be computed for all items in all layers in inventory, but no pre-1954 inventory balances shall be taken into account as adjustments under section 481; or

(b) (1) Employ a cut-off method whereby the full absorption method is only applied in costing layers of inventory acquired during all taxable years beginning with the year for which an election is made under subparagraph (e)(1)(ii).

(2) In the case of a taxpayer using dollar value LIFO, employ a cut-off method whereby the taxpayer must use, for the year of change, the full absorption method in computing the base year cost and current cost of a dollar value inventory pool for the beginning of such year. The taxpayer shall not be required to recompute his LIFO inventories based on the full absorption method for a taxable year beginning prior to the year of change to the full absorption method. The base cost and layers of increment previously computed shall be retained and treated as if such base cost and layers of increment had been computed under the method authorized by this section. The taxpayer shall use the year of change as the base year in applying the double extension method or other method approved by the Commissioner, instead of the earliest year for which he adopted the LIFO method for any items in the pool.

(4) *Transition to full absorption method of inventory costing from a method more inclusive of indirect production costs*—(i) *Taxpayer has not previously changed to his present method pursuant to subparagraphs (1), (2), and (3) of this paragraph.* If a taxpayer wishes to change to the full absorption method of inventory costing (as prescribed by paragraph (a) of this section) from a method of inventory costing which is more inclusive of indirect production costs and he has not previously changed to his present method by use of the special transition rules provided by subparagraphs (1), (2) and (3) of this paragraph, he may elect on Form 3115 to change to the full absorption method of inventory costing and, in so doing, take into account any resulting section 481 adjustment generally over 10 taxable years commencing with the year of transition. The Commissioner's consent to such election will be evidenced by a letter of consent to the taxpayer setting forth the values of inventory, as provided by the taxpayer determined under the full absorption method of inventory costing, except to the extent that no determination of such values is necessary under subparagraph (3)(ii)(b) of this paragraph, the amount of the adjustments (if any) required to be taken into account by section 481, and the treatment to be accorded such adjustments, subject to terms and conditions specified by the Commissioner to prevent distortions of income. Such election must be made within the transition period described in subparagraph (1)(ii) of this paragraph. A change pursuant to this subparagraph shall be a change initiated by the taxpayer as provided by § 1.481–1(c)(5). Thus, any of the taxpayers "pre-1954 inventory balances" will be taken into account as an adjustment under section 481.

(ii) *Taxpayer has previously changed to his present method pursuant to subparagraphs (1), (2), and (3) of this paragraph or would satisfy all the requirements of subdivision (i) of this subparagraph but fails to elect within the transition period.* If a taxpayer wishes to change to the full absorption method of inventory costing (as prescribed by paragraph (a) of this section) from a method of inventory costing which is more inclusive of indirect production costs and he has previously changed to his present method pursuant to subparagraphs (1), (2), and (3) of this paragraph or he would satisfy the requirements of subdivision (i) of this subparagraph but he fails to elect within the transition period, he must secure the consent of the Commissioner prior to making such change.

(Sec. 7805 of the Internal Revenue Code of 1954, 68A Stat. 917 (26 U.S.C. 7805).)

[SEAL] DONALD C. ALEXANDER,
*Commissioner of Internal Revenue.*

Approved September 13, 1973.

FREDERIC W. HICKMAN,
*Assistant Secretary of the Treasury.*

[FR Doc.73-19930 Filed 9-14-73;4:26 pm]

---

**Title 31—Money and Finance: Treasury**

**CHAPTER II—FISCAL SERVICE, DEPARTMENT OF THE TREASURY**

**SUBCHAPTER B—BUREAU OF THE PUBLIC DEBT**

**PART 315—REGULATIONS GOVERNING UNITED STATES BONDS**

**Extended Maturity Period; Correction**

The definition of extended maturity period, appearing in § 315.2(e), 31 CFR Part 315, FEDERAL REGISTER, Volume 38, No. 174, Part II, page 24761, dated September 10, 1973, should be corrected to read:

**§ 315.2 Definition of words and terms as used in these regulations.**

* * * * * *

(e) "Extended maturity period" means any period after the original maturity date during which the owner may retain the bonds and continue to earn interest on the maturity value or extended maturity value under applicable extended maturity provisions of the circular offering such bonds for sale.

* * * * * *

THOMAS J. WINSTON,
*Chief Counsel, Bureau of the Public Debt.*

[FR Doc.73-19871 Filed 9-18-73;8:45 am]



V 38 I 181
SEP 19 73
XUM

Title 32—National Defense

CHAPTER VII—DEPARTMENT OF THE AIR FORCE

SUBCHAPTER A—ADMINISTRATION

PART 802—AUTHORITY OF ARMED FORCES PERSONNEL TO PERFORM NOTARIAL ACTS

PART 806—DISCLOSURE OF AIR FORCE RECORDS

Miscellaneous Amendments

Part 802 is being deleted because it is not required to be published by law, presidential directive or regulation. It consists largely of a summary of laws.

Subchapter A of Chapter VII of Title 32 of the Code of Federal Regulations is amended as follows:

1. Part 802 is herewith deleted in its entirety.

2. Part 806 is amended by correcting the office symbols in § 806.15: in the main text "(AF/JAJ)" and in the table "(AF/JAG)", both to read "(AF/JAJM)."

By order of the Secretary of the Air Force.

JOHN W. FAHRNEY,
*Colonel, USAF, Chief, Legislative Division, Office of The Judge Advocate General.*

[FR Doc.73-19853 Filed 9-18-73;8:45 am]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 17—MEDICAL

Grants and Assistance for Medical and Allied Health Education

On page 16917 of the FEDERAL REGISTER of June 27, 1973, there was published a notice of proposed regulatory development to implement the Veterans' Administration Medical School Assistance and Health Manpower Training Act of 1972 (86 Stat. 1100), which provides for assistance in establishment of new State medical schools, and for grants and other assistance to existing medical schools and other health manpower training institutions which are affiliated with Veterans Administration hospitals. Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations.

As a result of the notice of proposed regulatory development, sixteen written communications were received. There were none which objected to the provisions of the regulations generally, but raised questions of interpretation and offered comments on specific items. Changes which have been made in response to these communications are in § 17.402(f) which broadens the definition of "colleges and universities", eligible applicants for purposes of 38 U.S.C. 5071–5074, to include state university systems which may or may not include four-year undergraduate colleges; in § 17.404, requiring coordination of applications with all health planning agencies in the state; and in § 17.410, limiting the payment of indirect costs to programs authorized in 38 U.S.C. Chapter 82, Subchapters II and III. The majority of the questions and comments related to issues beyond the scope of the regulations, others related to the program guidelines which appeared on page 16937 of the "Notices" section of the same issue of the FEDERAL REGISTER.

The program guidelines will be rewritten to reflect the changed regulations, and to be otherwise clarified and expanded. They will be published separately and will be available, along with application materials, to eligible applicants from the Department of Medicine and Surgery (152J), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420.

*Effective date.*—The regulations set forth below shall become effective September 19, 1973.

Approved September 14, 1973.

DONALD E. JOHNSON,
*Administrator.*

Sections 17.400 through 17.416 are added to read as follows:

GRANTS AND ASSISTANCE FOR DEVELOPMENT, EXPANSION AND IMPROVEMENT OF MEDICAL AND ALLIED HEALTH EDUCATION

Sec.
17.400 Purpose and scope of the program.
17.401 Administration.
17.402 Definitions.
17.403 Eligibility.
17.404 Application.
17.405 Agreements and grant awards.
17.406 Payments.
17.407 Expenditure of grant funds.
17.408 Nondiscrimination.
17.409 Publications and copyright.
17.410 Accountability.
17.411 Records, reports, and audit.
17.412 Additional conditions.
17.413 Early termination and withholding of payments.
17.415 Right to hearing.
17.414 Recapture provision.
17.416 Expansion of hospital education and training capacity.

GRANTS AND ASSISTANCE FOR DEVELOPMENT, EXPANSION AND IMPROVEMENT OF MEDICAL AND ALLIED HEALTH EDUCATION

**§ 17.400 Purpose and scope of the program.**

The provisions of §§ 17.400 through 17.416 are applicable to a program of grants and other forms of assistance under the "Veterans' Administration Medical School Assistance and Health Manpower Training Act of 1972" (38 U.S.C. Chapter 82). This Act authorizes the Administrator of Veterans' Affairs to provide certain assistance in the establishment of new State medical schools and the improvement of existing medical schools affiliated with the Veterans Administration; to develop cooperative arrangements between institutions of higher education, hospitals, and other nonprofit health service institutions affiliated with the Veterans Administration to coordinate, improve, and expand the training of professional and allied health and paramedical personnel; to develop and evaluate new health careers, interdisciplinary approaches and career advancement opportunities; to improve and expand allied and other health manpower utilization; and for other purposes.

**§ 17.401 Administration.**

Programs of grants and other forms of assistance which are established under the provisions of 38 U.S.C. Chapter 82 will be administered in accordance with §§ 17.400 through 17.416 and with program guides which will be issued and updated periodically by the Administrator.

**§ 17.402 Definitions.**

For the purpose of §§ 17.400 through 17.416 the term:

(a) The "Administrator" means the Administrator of Veterans Affairs.

(b) The "Special Medical Advisory Group" means the group of representatives of medical, dental and allied professions, appointed and functioning under 38 U.S.C. 4112(a).

(c) "Program period" means the time (not exceeding 7 years) for which the grant assistance has been approved as specified in the agreement or grant document.

(d) An "award period" means the interval of time into which an approved activity is divided for budgetary purposes, as specified in the agreement or grant document.

(e) "Extension, expansion, alteration, remodeling, improvement, or repair" as used in 38 U.S.C. 5073 and 5096 relate to existing buildings and structures. None of these is synonymous with "construction" as used in 38 U.S.C. 5083(a) which relates to the construction of new free-standing structures. Both provisions are limited to facilities and property under the control and jurisdiction of the Administrator.

(f) For the purposes of 38 U.S.C. 5071–5074: (1) "Colleges" means nonprofit institutions of higher learning, which are primarily supported by the State, and are authorized to offer, and are offering, a formal program of college level studies leading to the baccalaureate degree and are accredited or approved by an accrediting body or bodies recognized for such purposes by the Commissioner of Education of the Department of Health, Education, and Welfare.

(2) "Universities" means educational institutions, which are primarily supported by the State; which are comprised of one or more undergraduate colleges or professional schools, each appropriately accredited or approved by an accrediting body or bodies recognized for such purposes by the Commissioner of Education of the Department of Health, Education, and Welfare; and which are authorized to confer degrees.

(3) "Medical school" means a nonprofit school of medicine or osteopathy which provides a complete course of study which culminates in a degree of doctor of medicine or doctor of osteopathy; and with regard to which there has been a finding made of reasonable assurance that such a school can proceed to full accreditation as determined by the body or bodies recognized for such purposes by the Commissioner of Education of the Department of Health, Education, and Welfare.

(4) "Faculty" means those individuals who have as their principal duties the instruction of students in the new medical school or the administration of the academic program of such a school.

(g) For the purposes of 38 U.S.C. 5081–5083: (1) "Medical school" means a nonprofit school of medicine or osteopathy which provides a course of study of not less than 2 years, which forms a part or whole of the necessary requirements leading to a degree of doctor of medicine or doctor or osteopathy, and which has been reviewed and accredited for its stage of development by an appropriate accediting agency recognized for such purpose by the Commissioner of Education of the Department of Health, Education, and Welfare.

(2) "Full-time student" means a student who is enrolled or is expected to be enrolled in a medical school on a full-time basis as determined by the medical school and is pursuing a course of study leading to the degree of doctor of medicine or doctor of osteopathy.

(h) For the purposes of 38 U.S.C. 5091–5093, an "eligible institution" means any nonprofit educational facility or other public or nonprofit institution, including universities, colleges, junior colleges, community colleges, schools of allied health professions, State and local systems of education, hospitals, and other nonprofit health manpower institutions for the training or education of allied health or other health personnel affiliated with the Veterans Administration for the conduct of or the providing of guidance for education and training programs for health manpower.

**§ 17.403 Eligibility.**

(a) To be eligible to receive assistance under 38 U.S.C. 5071–5074, the applicant must:

(1) Be a college or university as defined in § 17.402(f)(1) and (2);

(2) Be located within a reasonable distance of an existing Veterans Administration medical facility; and

(3) Furnish the Administrator with such evidence as he may require that the college or university has prepared and presented a plan for the proposed new school of medicine or osteopathy; and that in a letter dated not earlier than October 24, 1972, has received reasonable assurance of accreditation of the new school as defined in § 17.402(f)(3).

(b) To be eligible to receive assistance under 38 U.S.C. 5081–5083, the applicant must:

(1) Be a medical school as defined in § 17.402(g)(1); and

(2) Have been affiliated with the Veterans Administration under an agreement entered into pursuant to 38 U.S.C. 5051 for at least 12 months prior to the date of the application for a grant under this subchapter II.

(c) To be eligible to receive assistance under 38 U.S.C. 5091–5093, the applicant must:

(1) Be an "eligible institution" as defined in § 17.402(h); and

(2) Be affiliated with the Veterans Administration under an agreement entered into pursuant to 38 U.S.C. 5051, at the time of the award of a grant under this subchapter III.

**§ 17.404 Application.**

(a) Each eligible applicant desiring assistance shall submit an application in such form and at such time as the Administrator shall prescribe.

(b) Such application shall be executed by an individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of any agreement or award of funds.

(c) Such application shall state the purpose for which the application is made and shall contain a budget and a narrative plan by means of which the applicant intends to conduct the project or program and carry out the requirements of §§ 17.400 through 17.416.

(d) Such application shall include a statement from the appropriate state comprehensive health planning agency indicating the compatibility and relationship of the proposed program or projects to the overall health care and training plans of the state, region, or locality, as required in the Office of Management and Budget Circular No. A-95.

(e) For purposes of 38 U.S.C. 5071–5074: (1) Such application shall be executed by an individual authorized to act for the applicant and to assume in behalf of the applicant, the obligations imposed by the terms and conditions of any award of funds or of any formally executed agreement, including §§ 17.400 through 17.416. When the applicant is a school or college which is not controlled by the State, the application must be countersigned by an official similarly authorized by the State agency responsible for administering the State's contribution to its support.

(2) In addition to the information required in paragraph (c) of this section, such application shall include any proposed agreement for lease of land, buildings and structures under the control of the Administrator.

(3) Such application shall be accompanied by a statement assuring that adequate financial support for the new medical school will be provided by the State or by other sources. This statement must be executed by an appropriate official of the State in which the new school is to be located.

**§ 17.405 Agreements and grant awards.**

(a) For the purposes of 38 U.S.C. 5071–5074: (1) Within the limits of funds available each year for such purposes, the Administrator, upon recommendation of the Chief Medical Director and after consultation with the Special Medical Advisory Group, may enter into, or continue with, agreements to provide assistance to a total of not more than eight applicants whose proposals in his judgment best achieve the purposes of 38 U.S.C. 5071, taking into consideration:

(i) The relative merit of the applicant's overall plan for the establishment of the medical school;

(ii) The suitability of the Veterans Administration medical facility for development as medical school facilities; and the terms of any lease agreement;

(iii) The other facilities and resources available to the applicant to assure the sound establishment and continuing maintenance of the programs of the new medical school;

(iv) The arrangements to be maintained by the school with the Veterans Administration medical facility with which it is to be associated, and the extent to which they will be mutually beneficial to the mission of both; and

(v) The extent of the commitment of the State in which the new school is to be located to the provision of adequate financial support in the establishment of the school and in its continuing operation beyond the end of the program period.

(vi) The presence of existing or developing schools of medicine or osteopathy in the region to be served by the applicant.

(2) The terms of any agreement and the amount of any funds to be granted shall be determined by the Administrator on the basis of:

(i) The considerations and understandings involved in the lease;

(ii) His estimate of the sums necessary to accomplish the adequate extension, alteration, remodeling, improvement, or repair of the building or structures to be leased; and to adequately equip such buildings or structures for the purposes proposed; and

(iii) His estimate of the amounts necessary to assist in the payment of the cost of the salaries of faculty, the proportion will not exceed 90 percent of the salaries for the first year of operation, and a like percentage for the second and third years; 80 percent for the fourth year; 70 percent for the fifth year; 60 percent for the sixth year; and 50 percent for the seventh year.

(3) No recipient should anticipate receiving assistance in any one award year totaling more than one-eighth of the funds available for awards pursuant to 38 U.S.C. 5072 for that year.

(b) For the purposes of 38 U.S.C. 5081–5083: (1) Within the limits of funds available for such purposes, the Administrator, upon recommendation of the Chief Medical Director, after consultation with the Special Medical Advisory Group, may award grants and other assistance to those applicants whose projects or programs will in his judgment best promote the purposes of 38 U.S.C. 5081, taking into consideration:

(i) The relative merit of the project or program proposed by the applicant;

(ii) The other resources available to the applicant to supplement and complement the proposed program or project;

(iii) The capability of the applicant to carry out the proposed program or project, including the accomplishment of the







V 38 181 SEP 19 73 XUM

increased enrollment of full-time students without threat to its accreditation as required in § 17.402(g)(1);

(iv) The extent to which the plan for program or project has been coordinated with Veterans Administration facility(s) with which the applicant is affiliated for purposes of the program or project.

(2) The amount of any award shall be determined by the Administrator on the basis of his estimate of the sum necessary for the cost of the applicant's approved program or project.

(c) For the purpose of 38 U.S.C. 5091–5093: (1) Within the limits of funds available for such purpose, the Administrator, upon recommendation of the Chief Medical Director, after consultation with the Special Medical Advisory Group, may award grants to those applicants whose projects or programs will in his judgment best promote the purposes of 38 U.S.C. 5091, taking into consideration:

(i) The relative merit of the program or project proposed by the applicant;

(ii) The other resources available to the applicant to supplement and complement the proposed program or project;

(iii) The capability of the applicant to carry out the proposed program or project, including the increase in enrollment of students, under circumstances which will not compromise the quality of education at the institution nor jeopardize the accreditation of the training program by the appropriate body or bodies recognized for such purposes by the Commissioner of Education of the Department of Health, Education, and Welfare.

(iv) The extent to which the plan for the program or project has been coordinated with Veterans Administration facility(s) with which the applicant is or proposes to become affiliated for purposes of the program or project.

(2) The amount of any award shall be determined by the Administrator on the basis of his estimate of the sum necessary for the cost of the applicant's approved program or project.

(d) For the purposes of any grant program of 38 U.S.C. Chapter 82: (1) All grant awards shall be in writing, shall set forth the total amount of assistance awarded and the total period for which it will be available for obligation by the grantee (not to exceed 7 years).

(2) Neither the approval of any project nor the award of any grant shall commit or obligate the United States in any way to make any additional supplemental, continuation, or other award with respect to the approved project or to a portion thereof. For continuation support, grantees must make a separate application annually including an annual budget and report of balances remaining from previous award periods and at such time and in such form as the Administrator may require.

(3) The adequacy of a plan for assuring priority for admission of qualified veterans in all of the health manpower education and training programs, as provided in 38 U.S.C. 5070(e) shall be considered.

**§ 17.406 Payments.**

Payments made pursuant to grant awards may be made in installments, and either in advance or by way or reimbursement, with necessary adjustments on account of overpayments or underpayments as the Administrator may determine.

**§ 17.407 Expenditure of grant funds.**

(a) For the purposes of 38 U.S.C. 5071–5074, any funds awarded shall be expended solely for the costs of assistance in the establishment of new State medical schools in accordance with the applicable provision of 38 U.S.C., Chapter 82, §§ 17.400 through 17.416, and then the terms and conditions of the grant award.

(b) For the purposes of 38 U.S.C. 5081–5083, any funds granted shall be expended solely for the expansion and improvement of the training capacities of medical schools affiliated with the Veterans Administration and to permit such schools to cooperate with other public and nonprofit institutions of higher learning, hospitals and other health manpower institutions affiliated with the Veterans Administration to increase the production of professional and other health personnel in accordance with the applicable provisions of 38 U.S.C. Chapter 82, §§ 17.400 through 17.416, and the terms and conditions of the grant award.

(c) For the purposes of 38 U.S.C. 5091–5093, any funds granted shall be expended solely for the costs of assistance in the establishment of cooperative arrangements among universities, colleges, junior colleges, community colleges, schools of allied health professions, State and local systems of education, hospitals, and other nonprofit health manpower institutions affiliated with the Veterans Administration for educational and clinical projects and programs involving allied and other health manpower in accordance with applicable provisions of 38 U.S.C. Chapter 82, §§ 17.400 through 17.416, and the terms and conditions of the grant award.

(d) For the purposes of the entire chapter, 38 U.S.C., Chapter 82, any unobligated funds remaining in a grant account at the close of the award period may be carried forward and will be available during a subsequent award period within the approved program period. The amount of any subsequent award will take into consideration any unobligated balance in the grant account. At the end of the last award period of the approved program period, any unobligated funds remaining must be refunded to the Federal Government.

**§ 17.408 Nondiscrimination.**

(a) Grants made under 33 U.S.C. Chapter 82 shall be subject to Title IX of the "Education Amendments Act of 1972" (effective July 1, 1972) and regulations promulgated by the Department of Health, Education, and Welfare. Such title prohibits sex discrimination in all federally assisted education programs.

(b) Grants made under Public Law 92–541 (86 Stat. 1100) shall be subject to Title VI of the Civil Rights Act of 1964 (78 Stat. 252) which provides that no person in the United States shall on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance. Regulations implementing such Title VI have been issued as §§ 18.1 through 18.4 of this chapter.

(c) Grant funds used for remodeling, alteration, or repairs shall be subject to the condition that the grantee shall comply with the requirements of Executive Order 11246, 30 FR 12319 (September 24, 1965), as amended, and with the applicable rules, regulations, and procedures pursuant thereto.

**§ 17.409 Publications and copyright.**

Except as may otherwise be provided under the terms and conditions of the award, the grantee may copyright without prior approval any publications, films, or similar materials developed or resulting from a project supported by a grant under §§ 17.400 through 17.416, subject, however, to a royalty free, nonexclusive, and irrevocable license or right in the Government to reproduce, translate, publish, use, disseminate, and dispose of such materials and to authorize others to do so.

**§ 17.410 Accountability.**

The recipient shall allocate expenditures from the grant award between direct and indirect costs according to generally accepted accounting procedures.

(a) For the purpose of 38 U.S.C. 5071–5074, direct grant costs are limited to the Veterans Administration's contribution to the payment of faculty salaries. (§ 17.405(a)(2)(iii).)

(b) For the purposes of 38 U.S.C. 5081–5083 and 5091–5093, direct costs may include in proportion to time and effort spent, but are not limited to, fees and costs directly paid to personnel or for fringe benefits, publications, educational programs, training, or demonstration activities carried out in connection with projects and programs by grantee institutions. In addition, grants made pursuant to 38 U.S.C. 5081–5083 may include costs of construction, provided that such construction is located on land under the jurisdiction of the Administrator and leased to the grantee.

(c) For the purposes of 38 U.S.C. 5081–5083 and 5091–5093, indirect costs may be computed on a percentage basis or on the basis of a negotiated lump-sum allowance in accordance with the principles set forth in the Office of Management and Budget Circulars No. A–88, No. A–87, and No. A–21. In the method of computation used, only indirect costs shall be included which bear a reasonable relationship to the program funded by the grant and shall not exceed a percentage greater than the total institutional indirect cost is of the total direct salaries and wages paid by the institution.





**§ 17.411 Records, reports, and audit.**

(a) *Records.* Each recipient of assistance shall keep records which fully disclose the amount and disposition by the recipient of the proceeds of the assistance, the total cost of the project or undertaking in connection with which the assistance is made and used, the portion of the costs supplied by other public or private sources, and such other records prescribed by the Administrator as will facilitate an effective audit.

(b) *Reports.* Each recipient of assistance will furnish such periodic progress reports as the Administrator may find necessary.

(c) *Audit.* Any application for assistance shall constitute the consent of the applicant that the Administrator and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers and records which are pertinent to such assistance for the purposes of audit and examination.

**§ 17.412 Additional conditions.**

The Administrator may with respect to any grant award impose additional conditions prior to or at the time of any award when in his judgment such conditions are necessary to assure or protect advancement of the grant purposes, the interest of the Veterans Administration or the conservation of grant funds. All construction, and alterations of buildings and structures, related to the award of a grant or other assistance will be subject to section 102(2)(C) of the National Environmental Policy Act.

**§ 17.413 Early termination and withholding of payments.**

Whenever the Administrator finds that a grantee has failed in a material respect to comply with the applicable provisions of 38 U.S.C. Chapter 82, §§ 17.400 through 17.416, or the terms of the grant, he may, on reasonable notice to the grantee withhold further payments and take such other action, including the termination of the grant, as he finds appropriate to carry out the purposes of 38 U.S.C. Chapter 82 and §§ 17.400 through 17.416. Noncancelable obligations of the grantee properly incurred prior to the receipt of the notice of termination will be honored. The grantee shall be promptly notified of such termination in writing and given the reasons therefor.

**§ 17.414 Recapture provision.**

If the Administrator determines that any school established with assistance under §§ 17.400 through 17.416

(1) Is not accredited and fails to gain appropriate accreditation within a reasonable period of time;

(2) Is accredited but fails substantially to carry out the terms of the agreement entered into under 38 U.S.C. Chapter 82; or

(3) Is no longer operated for the purpose for which such assistance was granted,

he shall be entitled to recover from the recipient of assistance the facilities of such school which were established with assistance under §§ 17.400 through 17.416. In order to recover such facilities the Administrator may bring an action in the district court of the United States for the district in which such facilities are situated.

**§ 17.415 Right to hearing.**

The actions contemplated in §§ 17.413 and 17.414 shall not be taken until the grantee has been afforded an opportunity for a hearing. Whenever a hearing is held under this section the procedures shall be in accord with the provisions of §§ 18.9 and 18.10 of this chapter. Failure of a grantee to request a hearing or to appear at a scheduled hearing shall be deemed a waiver of the right to be heard and constitutes consent to the administrator's decision made on the basis of available information.

**§ 17.416 Expansion of hospital education and training capacity.**

Expenditures, not to exceed 30 percent of the funds appropriated under 38 U.S.C. 5082 for grants to affiliated medical and other schools, may be made for the extension, expansion, alteration, improvement, remodeling, or repair of Veterans Administration buildings and structures to make them suitable for use for health manpower education and training. In addition, such expenditures may be made to Veterans Administration hospitals and facilities for the development or initiation of improved methods of education and training.

[FR Doc.73-19891 Filed 9-18-73;8:45 am]

## Title 39—Postal Service

## CHAPTER I—U.S. POSTAL SERVICE

### SUBCHAPTER D—ORGANIZATION AND ADMINISTRATION

### PART 235—DEFENSE DEPARTMENT LIAISON

### Civil Preparedness

This document changes the section heading in § 235.2 from Civil Defense to Civil Preparedness, changes the title of Defense Coordinator in § 235.2(b) to Emergency Coordinator, and makes several other related changes in terminology.

Accordingly, in Subchapter D, Part 235 is amended as set forth below and is effective on September 19, 1973.

Sec.
235.1 Postal Service to the Armed Forces.
235.2 Civil preparedness.

AUTHORITY.—39 U.S.C. 401(2), 402, 403, 404, as enacted by Pub. L. 91-375, 84 Stat. 719.

**§ 235.1 Postal Service to the Armed Forces.**

(a) Publication 38, Postal Agreement with the Department of Defense, defines the Postal Service's responsibilities for providing postal service to the Armed Forces.

(b) The Chief Inspector is responsible for military liaison.

(c) Postal inspectors provide liaison between postmasters and military commanders, visit military installations as required, and make any necessary recommendations.

**§ 235.2 Civil preparedness.**

(a) *Mission.* The prime objective of postal emergency preparedness planning is to maintain or restore essential postal service in a national emergency, natural disaster, or disruptive domestic crisis.

(b) *Emergency Coordinator.* The Chief Inspector is designated Emergency Coordinator for the Postal Service. As Emergency Coordinator, he provides general direction and coordination of the following programs:

(1) National Civil Preparedness and Defense Mobilization;

(2) Natural Disaster Preparedness;

(3) Emergency Response to Disruptive Domestic Crisis.

(c) *Regional Emergency Coordinator.* The Chief Inspector may delegate authority to Regional Chief Postal Inspectors, or others, for the function of Regional Emergency Coordinator and the general direction and coordination of all such programs within the Postal Regions, as are conducted by him at the National level.

(d) *Postmaster General emergency line of succession.* (1) Deputy Postmaster General; (2) Senior Assistant Postmaster General, Administration; (3) Senior Assistant Postmaster General, Operations.

(e) *Headquarters and field lines of succession.* Each Headquarters organizational unit shall establish its own internal line of succession to provide for continuity under emergency conditions. Each Regional Postmaster General, Regional Chief Inspector, Postal Data Center Director, Inspector in Charge, and postmaster at first-class post offices shall prepare a succession list of officials who will act in his stead in the event he is incapacitated or absent in an emergency. Orders of succession shall be shown by position titles, except those of the Inspection Service may be shown by names.

(f) *Field responsibilities.* Postmasters and heads of other installations shall:

(1) Carry out civil preparedness assignments, programs, etc., as directed by regional officials.

(2) Comply with, and cooperate in community civil preparedness plans (including exercise) for evacuation, take cover and other survival measures prescribed for local populations.

(3) Designate representatives for continuing liaison with local civil preparedness organizations where such activity will not interfere with normal duties.

(4) Endeavor to serve (at their own option) as members on the staff of the local civil preparedness director, provided such service will not interfere with their primary postal responsibility in an emergency.

(5) Authorize and encourage their employees to participate voluntarily in nonpostal pre-emergency training programs



V 38 I 181 SEP 19 73 XUM

and exercises in cooperation with States and localities.

ROGER P. CRAIG,
*Deputy General Counsel.*

SEPTEMBER 11, 1973.

[FR Doc.73-19856 Filed 9-18-73;8:45 am]

## Title 42—Public Health

### CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### MISCELLANEOUS AMENDMENTS

*Amendments to Public Health Service Grant Regulations to conform with 45 CFR Part 74.*—The following amendments bring into conformity with 45 CFR Part 74 those Public Health Service grant program regulations in 42 CFR Chapter I which Part 74 affects. 45 CFR Part 74, which is a new Department of Health, Education, and Welfare (DHEW) regulation published in this issue of the FEDERAL REGISTER, provides a regulatory umbrella for DHEW implementation of Office of Management and Budget (OMB) Circular No. A-102 "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments." 45 CFR Part 74 also establishes (in Subpart Q) principles for determining allowable costs under DHEW grants to the various types of grantee organizations. These principles have hitherto been published by DHEW only in manual and brochure format.

*Effect on grants to State and local governments.* 45 CFR Part 74 is mandatorily applicable to DHEW grants to State and local governments (as defined in Subpart A of Part 74). For such grants, these amendments add, in the appropriate places, blanket cross-references to Part 74.

*Effect on grants to other recipients.* Those subparts of 45 CFR Part 74 which are derived from OMB Circular No. A-102 have been designed so that, where determined to be appropriate, they may be made applicable to DHEW grants to recipients which are not State or local governments. Subject to certain exceptions which are identified below, the following subparts of 45 CFR Part 74 have been determined to be appropriate for application to such grants under the affected programs covered by this Chapter I, and are specifically made so applicable by these amendments:

45 CFR PART 74

Subpart
- A General.
- B Cash Depositories.
- C Bonding and Insurance.
- D Retention and Custodial Requirements for Records.
- F Grant-Related Income.
- G Matching and Cost Sharing.
- K Grant Payment Requirements.
- L Budget Revision Procedures.
- M Grant Closeout, Suspension, and Termination.
- O Property.

With respect to Part 52 and Subpart B of Part 59a, Subpart L of 45 CFR Part 74 is not at this time made applicable to grants to recipients which are not State or local governments. Further study will be required before a determination can be made as to whether Subpart L of 45 CFR Part 74 should be made applicable to such grants.

The regulations in Part 57 are, for the most part, not affected by the issuance of 45 CFR Part 74. However, it has been determined that certain provisions of Subpart O "Property" of Part 74 shall apply to grants under Subparts L and Q of Part 57. Consequently, these amendments substitute a cross-reference to those provisions of Part 74 in place of the previous provisions of §§ 57.1109(b) and 57.1611(b).

*Cost principles.* Cross-references to Subpart Q "Cost Principles" of 45 CFR Part 74 are also added by these amendments where appropriate.

*Conflicting provisions.* These amendments also revoke or modify, as appropriate, specific provisions of Chapter I which would have conflicted with 45 CFR Part 74.

*Omission of notice of proposed rulemaking.* Notice of proposed rulemaking procedures and delay in effective date have been omitted as unnecessary in the issuance of these amendments which relate solely to the administrative requirements of Public Health Service grants.

*Opportunity to comment.* Written comments concerning these amendments are invited from interested persons. Comments may be addressed to the Assistant Secretary for Administration and Management, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, D.C. 20201. All comments received in response to this invitation will be available for public inspection and copying at room 4829, 400 Sixth Street SW., Washington, D.C., between the hours of 9 a.m. and 5:30 p.m. weekdays, Federal holidays excepted.

*Effective date.*—These amendments shall become effective on September 19, 1973.

Dated September 7, 1973.

FRANK CARLUCCI,
*Acting Secretary of Health, Education, and Welfare.*

Chapter I of Title 42 of the Code of Federal Regulations is amended as follows:

### PART 51—GRANTS TO STATES FOR COMPREHENSIVE HEALTH PLANNING AND PUBLIC HEALTH SERVICES

**§ 51.4 [Amended]**

1. Section 51.4 is amended by revoking the words "within 60 days" in paragraph (g)(1)(iv), by deleting the footnote to the second sentence of paragraph (j), and by revoking the words in the second sentence of paragraph (j) reading "Chapter 5-60 of the Department of Health, Education, and Welfare Grants Administration Manual" and substituting in their place the words "Subpart Q of 45 CFR Part 74."

**§ 51.6 [Amended]**

2. The third sentence of § 51.6 is revoked.

3. Subpart A of Part 51 is amended by adding a new § 51.9, reading as follows:

**§ 51.9 Applicability of 45 CFR Part 74.**

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants made under this subpart.

**§ 51.104 [Amended]**

4. Section 51.104 is amended by deleting the footnote to paragraph (o)(1), by revoking the words in paragraph (o)(1) reading "Chapter 5-60 of the Department of Health, Education, and Welfare Grants Administration Manual" and substituting in their place the words "Subpart Q of 45 CFR Part 74," and by revoking paragraphs (o)(4) and (o)(5).

**§ 51.104 [Amended]**

**§ 51.108 [Amended]**

5. The last sentence in § 51.108(a) is revoked.

6. Subpart B of Part 51 is amended by adding a new § 51.111, reading as follows:

**§ 51.111 Applicability of 45 CFR Part 74.**

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants made under this subpart.

7. Section 51.406 is amended by deleting the footnote to paragraph (b)(2), by revising the last sentence in paragraph (b)(2), and by revising paragraph (c). As amended, § 51.406 reads as follows:

**§ 51.406 Grant evaluation and award.**

* * * * * *

(b) * * *

(2) * * * In determining the grantee's share of project costs, costs borne by Federal grants, or costs used to match other Federal grants, may not be included except as may be otherwise provided by law.

(c) Allowability of costs shall be in conformance with the applicable principles prescribed by Subpart Q of 45 CFR Part 74.

* * * * * *

**§ 51.408 [Amended]**

8. Section 51.408(a) is amended by revoking the words "cost principles set forth in the Department of Health, Education, and Welfare Grants Administration Manual." and substituting in their place the words "applicable cost principles prescribed by Subpart Q of 45 CFR Part 74."

**§ 51.411 [Amended]**

9. Section 51.411 is amended by inserting after the work "Manual" a footnote 2 reference. The text of the footnote is as follows:

* The Department of Health, Education, and Welfare Grants Administration Manual is available for inspection at the Public Information Office of the several Department Regional Offices and available for purchase at the Government Printing Office, GPO document No. 894-523.

10. Section 51.414 is amended by revoking paragraphs (b), (c)(2), and (c)(3), and by revising paragraph (d)(2). As amended, § 51.414 reads as follows:

**§ 51.414 Grantee accountability.**

* * * * * *

(b) [Revoked]
(c) * * *
(2) [Revoked]
(3) [Revoked]
(d) * * *

(2) *Final settlement.* There shall be payable to the Federal Government as final settlement with respect to each approved project the total sum of:

(i) Any amount not accounted for pursuant to paragraph (a) of this section;

(ii) Any credits for earned interest pursuant to paragraph (c)(1) of this section;

(iii) Any other amounts due pursuant to Subparts F, M, and O of 45 CFR Part 74.

Such total sum shall constitute a debt owed by the grantee to the Federal government and shall be recovered from the grantee or its successors or assignees by setoff or other action as provided by law.

**§ 51.415 [Revoked]**

11. Section 51.415 is revoked.

12. The heading and text of § 51.417 are revised to read as follows:

**§ 51.417 Applicability of 45 CFR Part 74.**

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants under this subpart to State and local governments as those terms are defined in Subpart A of that Part 74. The relevant provisions of the following subparts of Part 74 shall also apply to grants to all other grantee organizations under this subpart:

45 CFR PART 74

Subpart
- A General.
- B Cash Depositories.
- C Bonding and Insurance.
- D Retention and Custodial Requirements for Records.
- F Grant-Related Income.
- G Matching and Cost Sharing.
- K Grant Payment Requirements.
- L Budget Revision Procedures.
- M Grant Closeout, Suspension, and Termination.
- O Property.
- Q Cost Principles.





### PART 51a—GRANTS FOR MATERNAL AND CHILD HEALTH AND CRIPPLED CHILDREN SERVICES

**§ 51a.205 [Amended]**

13. The third sentence of § 51a.205 is revoked.

**§ 51a.212 [Amended]**

**§§ 51a.215 and 51a.216 [Revoked]**

14. Sections 51a.212(b), 51a.213, and 51a.216 are revoked.

15. The heading and text of § 51a. 217 are revised to read as follows:

**§ 51a.217 Applicability of 45 CFR Part 74.**

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants under this subpart to State and local governments as those terms are defined in Subpart A of that Part 74. The relevant provisions of the following subparts of Part 74 shall also apply to grants to all other grantee organizations under this subpart:

45 CFR PART 74

Subpart
- A General.
- B Cash Depositories.
- C Bonding and Insurance.
- D Retention and Custodial Requirements for Records.
- F Grant-Related Income.
- G Matching and Cost Sharing.
- K Grant Payment Requirements.
- L Budget Revision Procedures.
- M Grant Closeout, Suspension, and Termination.
- O Property.
- Q Cost Principles.

16. Section 51a.307(b) is amended by deleting the footnote and by revising the last sentence. As amended, § 51a.307(b) reads as follows:

**§ 51a.307 Evaluation and grant award.**

* * * * * *

(b) The amount of any award shall be determined by the Secretary on the basis of his estimate of the sum necessary for the proper performance of the project: *Provided, however,* That no grant shall be made for an amount equal to more than 75 percent of the cost of the project. In determining the grantee's share of project costs, costs borne by Federal funds, or costs used to match other Federal grants, may not be included except as may be otherwise provided by law.

* * * * * *

17. Section 51a.309 is amended by deleting footnote 3 to paragraph (a), and by revising paragraph (a) to read as follows:

**§ 51a.309 Use of project funds.**

(a) Any funds granted pursuant to this subpart, as well as other funds to be used in the performance of the approved project shall be expended solely for carrying out the approved project in accordance with the statute, the regulations in this subpart, the terms and conditions of the award, and the applicable cost principles prescribed by Subpart Q of 45 CFR Part 74: *Provided, however,* That with respect to grants awarded prior to July 1, 1972, funds may not be used for the payment of indirect costs.

* * * * * *

18. Section 51a.314 is amended by revoking paragraphs (b), (c)(2), and (c)(3), and by revising paragraph (d)(2). As amended, § 51a.314 reads as follows:

**§ 51a.314 Grantee accountability.**

* * * * * *

(b) [Revoked]
(c) * * *
(2) [Revoked]
(3) [Revoked]
(d) * * *

(2) *Final settlement.* There shall be payable to the Federal Government as final settlement with respect to each approved project the total sum of:

(i) Any amount not accounted for pursuant to paragraph (a) of this section;

(ii) Any credits for earned interest pursuant to paragraph (c)(1) of this section;

(iii) Any other amounts due pursuant to Subparts F, M, and O of 45 CFR Part 74.

Such total sum shall constitute a debt owed by the grantee to the Federal Government and shall be recovered from the grantee or its successors or assignees by setoff or other action as provided by law.

**§ 51a.315 [Revoked]**

19. Section 51a.315 is revoked.

20. The heading and text of § 51a.317 are revised to read as follows:

**§ 51a.317 Applicability of 45 CFR Part 74.**

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants under this subpart to State and local governments as those terms are defined in Subpart A of that Part 74. The relevant provisions of the following subparts of Part 74 shall also apply to grants to all other grantee organizations under this subpart:

45 CFR PART 74

Subpart
- A General.
- B Cash Depositories.
- C Bonding and Insurance.
- D Retention and Custodial Requirements for Records.
- F Grant-Related Income.
- G Matching and Cost Sharing.
- K Grant Payment Requirements.
- L Budget Revision Procedures.
- M Grant Closeout, Suspension, and Termination.
- O Property.
- Q Cost Principles.



V 38 1 181 SEP 19 73 XUM

## PART 51b—GRANTS FOR COMMUNICABLE DISEASE CONTROL

21. Section 51b.6 is amended by deleting the footnote to paragraph (b), by revising the last sentence in paragraph (b), and by revising paragraph (c). As amended, § 51b.6 reads as follows:

**§ 51b.6 Grant evaluation and award.**

* * * * *

(b) * * * In determining the grantee's share of project costs, costs borne by Federal grants, or costs used to match other Federal grants, may not be included except as may be otherwise provided by law.

(c) Allowability of costs shall be in conformance with the applicable cost principles prescribed by Subpart Q of 45 CFR Part 74.

* * * * *

22. Section 51b.8(a) is revised to read as follows:

**§ 51b.8 Use of project funds.**

(a) Any funds granted pursuant to these regulations may be expended solely for carrying out the approved project in accordance with section 317 of the Act, these regulations, and the applicable cost principles prescribed by Subpart Q of 45 CFR Part 74.

* * * * *

23. Section 51b.13 is amended by revoking paragraphs (b), (c)(2), and (c)(3), and by revising paragraph (d)(2). As amended, § 51b.13 reads as follows:

**§ 51b.13 Grantee accountability.**

* * * * *

(b) [Revoked]
(c) * * *
(2) [Revoked]
(3) [Revoked]
(d) * * *

(2) *Final settlement.* There shall be payable to the Federal Government as final settlement with respect to each approved project the total sum of:

(i) Any amount not accounted for pursuant to paragraph (a) of this section;

(ii) Any credits for earned interest pursuant to paragraph (c)(1) of this section;

(iii) Any other amounts due pursuant to Subparts F, M, and O of 45 CFR Part 74.

Such total sum shall constitute a debt owed by the grantee to the Federal Government and shall be recovered from the grantee or its successors or assignees by setoff or other action as provided by law.

**§ 51b.14 [Revoked]**

24. Section 51b.14 is revoked.

25. The heading and text of § 51b.16 are revised to read as follows:

**§ 51b.16 Applicability of 45 CFR Part 74.**

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants under this part to State and local governments as those terms are defined in Subpart A of that Part 74. The relevant provisions of the following subparts of Part 74 shall also apply to grants to all other grantee organizations under this part:

45 CFR PART 74

Subpart
A General.
B Cash Depositories.
C Bonding and Insurance.
D Retention and Custodial Requirements for Records.
F Grant-Related Income.
G Matching and Cost Sharing.
K Grant Payment Requirements.
L Budget Revision Procedures.
M Grant Closeout, Suspension, and Termination.
O Property.
Q Cost Principles.

## PART 52—GRANTS FOR RESEARCH PROJECTS

**§ 52.15 [Revoked]**

26. Section 52.15 is revoked.

**§ 52.21 [Amended]**

27. Section 52.21 is amended by revoking the words "as provided in § 52.15" in the second sentence, and substituting in their place the words "pursuant to Subpart M of 45 CFR Part 74."

**§ 52.24 [Revoked]**

28. Section 52.24 is revoked.

**§ 52.33 [Amended]**

29. Section 52.33(b) is amended by revoking the words "subject to accounting as provided in § 52.42" in the second sentence, and substituting in their place the words "subject to the provisions of Subpart O of 45 CFR Part 74."

**§ 52.40 [Amended]**

30. Section 52.40 is amended by revoking the words "as provided in § 52.15," and substituting in their place the words "pursuant to Subpart M of 45 CFR Part 74."

**§§ 52.42, 52.43 and 52.44 [Revoked]**

31. Sections 52.42, 52.43, and 52.44 are revoked.

32. Section 52.45 is revised to read as follows:

**§ 52.45 Final settlement.**

There shall be payable to the United States as final settlement with respect to each approved project the total sum of (a) any amount not accounted for pursuant to § 52.41 and (b) any other amounts due pursuant to Subparts F, M, and O of 45 CFR Part 74. Such total sum shall constitute a debt owed by the grantee to the United States and shall be recovered from the grantee or its successors or assignees by setoff or other action as provided by law.

33. Part 52 is amended by adding a new Subpart F, to read as follows:

**Subpart F—Applicability of 45 CFR Part 74—HEW Administrative Requirements and Cost Principles**

Sec.
52.50 Grants to State and local governments.
52.51 Grants to other organizations.
52.52 Grants to individuals.

AUTHORITY.—(5 U.S.C. 301; sec. 215, 58 Stat. 690, as amended (42 U.S.C. 216). Reorg. Plan No. 3 of 1966, 31 FR 8855, 3 CFR 1966–1970 comp. office of Management and Budget Circulars A–102, A–87 and A–21.

**Subpart F—Applicability of 45 CFR Part 74—HEW Administrative Requirements and Cost Principles**

**§ 52.50 Grants to State and local governments.**

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants under this part to State and local governments as those terms are defined in Subpart A of 45 CFR Part 74.

**§ 52.51 Grants to other organizations.**

The relevant provisions of the following subparts of 45 CFR Part 74 shall apply to all grants under this part to organizations other than State and local governments as those terms are defined in Subpart A of 45 CFR Part 74:

45 CFR PART 74

Subpart
A General.
B Cash Depositories.
C Bonding and Insurance.
D Retention and Custodial Requirements for Records.
F Grant-Related Income.
G Matching and Cost Sharing.
K Grant Payment Requirements.
M Grant Closeout, Suspension, and Termination.
O Property.
Q Cost Principles.

**§ 52.52 Grants to individuals.**

The relevant provisions of Subparts A, B, C, D, F, G, K, and M of 45 CFR Part 74 shall apply to grants under this part to individuals.

## PART 53—GRANTS, LOANS AND LOAN GUARANTEES FOR CONSTRUCTION AND MODERNIZATION OF HOSPITALS AND MEDICAL FACILITIES

34. Section 53.128 is amended by revoking paragraph (g), by revoking paragraph (*l*)(2)(ii), and by adding a new paragraph (*l*)(3). As amended, § 53.128 reads as follows:

**§ 53.128 Assurances from applicant.**

* * * * *

(g) [Revoked]

* * * * *

(*l*) * * *
(2) * * *
(ii) [Revoked]

* * * * *

(3) That the applicant will comply with the bonding and insurance requirements set forth in Subpart C of 45 CFR Part 74.

35. Subpart M of Part 53 is amended by adding a new § 53.136, to read as follows:

**§ 53.136 Applicability of 45 CFR Part 74.**

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants under this part to State and local governments as those terms are defined in Subpart A of that Part 74. The relevant provisions of the following subparts of Part 74 shall also apply to grants to all other grantee organizations under this part:

45 CFR PART 74

Subpart
A General.
B Cash Depositories.
C Bonding and Insurance.
D Retention and Custodial Requirements for Records.
F Grant-Related Income.
G Matching and Cost Sharing.
K Grant Payment Requirements.
L Budget Revision Procedures.
M Grant Closeout, Suspension, and Termination.
O Property.
Q Cost Principles.





## PART 54—GRANTS FOR SPECIALIZED SERVICE FACILITIES

36. Section 54.209 is amended by revoking paragraph (*l*)(2)(ii) and by adding a new paragraph (*l*)(3). As amended, § 54.209 reads as follows:

**§ 54.209 State plan; assurances from applicant.**

* * * * *

(*l*) * * *
(2) * * *
(ii) [Revoked]
(iii) * * *

(3) That the applicant will comply with the bonding and insurance requirements set forth in Subpart C of 45 CFR Part 74.

* * * * *

37. Subpart C of Part 54 is amended by adding between existing §§ 54.214 and 54.215, a new § 54.214a, reading as follows:

**§ 54.214a Applicability of 45 CFR Part 74.**

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants under this subpart to State and local governments as those terms are defined in Subpart A of that Part 74. The relevant provisions of the following subparts of Part 74 shall also apply to grants to all other grantee organizations under this subpart:

45 CFR PART 74

Subpart
A General.
B Cash Depositories.
C Bonding and Insurance.
D Retention and Custodial Requirements for Records.
F Grant-Related Income.
G Matching and Cost Sharing.
K Grant Payment Requirements.
L Budget Revision Procedures.
M Grant Closeout, Suspension, and Termination.
O Property.
Q Cost Principles.

38. Subpart D of Part 54 is amended by adding a new § 54.309, to read as follows:

**§ 54.309 Applicability of 45 CFR Part 74.**

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants under this subpart to State and local governments as those terms are defined in Subpart A of that Part 74. The relevant provisions of the following subparts of Part 74 shall also apply to grants to all other grantee organizations under this subpart:

45 CFR PART 74

Subpart
A General.
B Cash Depositories.
C Bonding and Insurance.
D Retention and Custodial Requirements for Records.
F Grant-Related Income.
G Matching and Cost Sharing.
K Grant Payment Requirements.
L Budget Revision Procedures.
M Grant Closeout, Suspension, and Termination.
Q Cost Principles.

## PART 55—GRANTS FOR ADVANCEMENT OF HEALTH IN COAL MINING

39. Section 55.20 is amended by deleting the footnote to paragraph (b), by revising the last sentence in paragraph (b), and by revising paragraph (c). As amended, § 55.20 reads as follows:

**§ 55.20 Grant awards and payment.**

* * * * *

(b) * * * In determining the grantee's share of project costs, costs borne by Federal grants, or costs used to match other Federal grants may not be included except as may be otherwise provided by law.

(c) Allowability of costs shall be in conformance with the applicable principles prescribed by Subpart Q of 45 CFR Part 74.

* * * * *

**§§ 55.22, 55.40 and 55.41 [Revoked]**

40. Sections 55.22, 55.40, and 55.41 are revoked.

**§ 55.51 [Amended]**

41. In § 55.51, paragraph (b) is amended by revoking the words "subject to accounting as provided in § 55.61." in the second sentence, and substituting in their place the words "subject to the applicable provisions of Subpart O of 45 CFR Part 74.", and paragraph (d) is amended by revoking the parenthetical clause "(see Chapter 1–44 of the Department of Health, Education, and Welfare Grants Administration Manual)" in the first sentence.

**§ 55.60 [Amended]**

42. Section 55.60 is amended by revoking the words "as provided in § 55.22" in the last sentence, and substituting in their place the words "pursuant to Subpart M of 45 CFR Part 74".

**§ 55.61 [Revoked]**

**§ 55.62 [Amended]**

43. Sections 55.61 and 55.62(b) and (c) are revoked.

44. Section 55.63 is revised to read as follows:

**§ 55.63 Final settlement.**

There shall be payable to the Federal Government as final settlement with respect to each approved project the total sum of (a) any amount not accounted for pursuant to § 55.60 and (b) any other amounts due pursuant to Subparts, F, M, and O of 45 CFR Part 74. Such total sum shall constitute a debt owed by the grantee to the Federal Government and shall be recovered from the grantee or its successors or assignees by setoff or other action as provided by law.

45. Part 55 is amended by adding a new Subpart H, to read as follows:

**Subpart H—Applicability of 45 CFR Part 74—HEW Administrative Requirements and Cost Principles**

Sec.
55.70 Grants to State and local governments.
55.71 Grants to other organizations.

AUTHORITY.—(5 U.S.C. 301); sec. 215, 58 Stat. 690, as amended (42 U.S.C. 216). Reorg. Plan No. 3 of 1966, 31 FR 8855, 3 CFR 1966–1970 Comp. Office of Management and Budget Circulars A–102, A–87 and A–21.

**Subpart H—Applicability of 45 CFR Part 74—HEW Administrative Requirements and Cost Principles**

**§ 55.70 Grants to State and local governments.**

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants under this part to State and local governments as those terms are defined in Subpart A of that Part 74.

**§ 55.71 Grants to other organizations.**

The relevant provisions of the following subparts of 45 CFR Part 74 shall also apply to all grants under this part to organizations other than State and local governments as defined in Subpart A of 45 CFR Part 74:

45 CFR PART 74

Subpart
A General.
B Cash Depositories.
C Bonding and Insurance.
D Retention and Custodial Requirements for Records.
F Grant-Related Income.
G Matching and Cost Sharing.
K Grant Payment Requirements.
L Budget Revision Procedures.
M Grant Closeout, Suspension, and Termination.
O Property.
Q Cost Principles.

## PART 56—GRANTS FOR MIGRANT HEALTH SERVICE

46. Section 56.107 is amended by deleting the footnote to paragraph (b), by revising the last sentence in paragraph (b), and by revising paragraph (c). As amended, § 56.107 reads as follows:

**§ 56.107 Grant evaluation and award.**

* * * * *

(b) * * * In determining the grantee's share of project costs, costs borne by other Federal grants or costs used to match other Federal grants may not be included except as may be otherwise provided by law.

(c) Allowability of costs shall be in conformance with the applicable principles prescribed by Subpart Q of 45 CFR Part 74.

* * * * *



V 38 I 181 SEP 19 73 XUM

§ 56.109 [Amended]

47. Section 56.109(a) is amended by revoking the words "cost principles set forth in the Department of Health, Education, and Welfare Grants Administration Manual." and substituting in their place the words "the applicable cost principles prescribed by Subpart Q of 45 CFR Part 74."

48. Section 56.114 is amended by revoking paragraphs (b), (c)(2), and (c)(3), and by revising paragraph (d)(2). As amended, § 56.114 reads as follows:

§ 56.114 Grantee accountability.

• • • • • •

(b) [Revoked]
(c) • • •
(2) [Revoked]
(3) [Revoked]
(d) • • •

(2) *Final settlement.* There shall be payable to the Federal Government as final settlement with respect to each approved project the total sum of:

(i) Any amount not accounted for pursuant to paragraph (a) of this section;

(ii) Any credits for earned interest purusant to paragraph (c)(1) of this section;

(iii) Any other amounts due pursuant to Subparts, F, M, and O of 45 CFR Part 74.

Such total sum shall constitute a debt owed by the grantee to the Federal Government and shall be recovered from the grantee or its successors or assignees by setoff or other action as provided by law.

§ 56.115 [Revoked]

49. Section 56.115 is revoked.

50. The heading and text of § 56.117 are revised to read as follows:

§ 56.117 Applicability of 45 CFR Part 74.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants under this part to State and local governments as those terms are defined in Subpart A of that Part 74. The relevant provisions of the following subparts of Part 74 shall also apply to all other grantee organizations under this part:

45 CFR PART 74

Subpart
A General.
B Cash Depositories.
C Bonding and Insurance.
D Retention and Custodial Requirements for Records.
F Grant-Related Income.
G Matching and Cost Sharing.
K Grant Payment Requirements.
L Budget Revision Procedures.
M Grant Closeout, Suspension, and Termination.
O Property.
Q Cost Principles.

## PART 57—GRANTS FOR CONSTRUCTION OF HEALTH RESEARCH FACILITIES (INCLUDING MENTAL RETARDATION RESEARCH FACILITIES), TEACHING FACILITIES, STUDENT LOANS, EDUCATIONAL IMPROVEMENT AND SCHOLARSHIPS

51. Section 57.1109 is amended by revising paragraphs (b) and (d)(2), and by transferring the footnote from paragraph (b) to paragraph (c)(2). As amended, § 57.1109 reads as follows:

§ 57.1109 Accountability.

• • • • • •

(b) *Accounting for equipment.* Equipment acquired with grant funds awarded under this subpart shall be subject to accountability and related polices and procedures governing the title, use, and disposition of property acquired with grant funds as prescribed in §§ 74.131, 74.132, 74.135, 74.136, 74.137, and 74.141 of Subpart O of 45 CFR Part 74.

(c) • • •

(2) Other income earned by the grantee shall be disposed of in accordance with one of the alternatives specified in Chapter 1-420 of the Department of Health, Education, and Welfare Grants Administration Manual[1] as determined by the Secretary in the grant award

(d) • • •

(2) *Final settlement.* There shall be payable to the Federal Government as final settlement with respect to each approved project the total sum of (i) any amount not accounted for pursuant to paragraph (a) of this section; (ii) any amounts due pursuant to Subpart O of 45 CFR Part 74; (iii) any other settlements required pursuant to paragraph (c)(1) and (2) of this section. Such total sum shall constitute a debt owed by the grantee to the Federal Government and shall be recovered from the grantee or its successors or assignees by setoff or other action provided as by law.

52. Section 57.1611 is amended by revising paragraphs (b) and (d)(2). As amended, § 57.1611 reads as follows:

§ 57.1611 Grantee accountability.

• • • • • •

(b) *Accounting for equipment.* Equipment acquired with grant funds awarded under this subpart shall be subject to accountability and related policies and procedures governing the title, use, and disposition of property acquired with grant funds as prescribed in §§ 74.131, 74.132, 74.135, 74.136, 74.137, and 74.141 of Subpart O of 45 CFR Part 74.

• • • • • •

[1] The Department of Health, Education, and Welfare Grants Administration Manual is available for public inspection and copying at the Department's and Regional Offices' information centers listed in 45 CFR 5.31 and may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(d) • • •

(2) *Final settlement.* There shall be payable to the Federal Government as final settlement with respect to each approved project the total sum of (i) any amount not accounted for pursuant to paragraph (a) of this section; (ii) any amounts due pursuant to Subpart O of 45 CFR Part 74; (iii) any other settlements required pursuant to paragraph (c)(1) and (2) of this section. Such total sum shall constitute a debt owed by the grantee to the Federal Government and shall be recovered from the grantee or its successors or assignees by setoff or other action as provided by law.

## PART 59—GRANTS FOR FAMILY PLANNING SERVICES

53. Section 59.6(b) is amended by deleting the footnote and by revising the last sentence. As amended, § 59.6(b) reads as follows:

§ 59.6 Evaluation and grant award.

• • • • • •

(b) • • • In determining the grantee's share of project costs, costs borne by Federal funds or costs used to match other Federal grants may not be included except as may be otherwise provided by law.

• • • • • •

§ 59.8 [Amended]

54. Section 59.8(a) is amended by revoking the words "cost principles set forth in the Department of Health, Education, and Welfare Grants Administration Manual." and substituting in their place the words "the applicable cost principles prescribed by Subpart Q of 45 CFR Part 74."

55. Section 59.13 is amended by revoking paragraphs (b), (c)(2), and (c)(3), and by revising paragraph (d)(2). As amended, § 59.13 reads as follows:

§ 59.13 Grantee accountability.

• • • • • •

(b) [Revoked]
(c) • • •
(2) [Revoked]
(3) [Revoked]
(d) • • •

(2) *Final settlement.* There shall be payable to the Federal Government as final settlement with respect to each approved project the total sum of:

(i) Any amount not accounted for pursuant to paragraph (a) of this section;

(ii) Any credits for earned interest pursuant to paragraph (c)(1) of this section;

(iii) Any other amounts due pursuant to Subparts F, M, and O of 45 CFR Part 74.

Such total sum shall constitute a debt owed by the grantee to the Federal Government and shall be recovered from the grantee or its successors or assignees by setoff or other action as provided by law.

§ 59.14 [Revoked]

56. Section 59.14 is revoked.

57. The heading and text of § 59.16 are revised to read as follows:

§ 59.16 Applicability of 45 CFR Part 74.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants under this subpart to State and local governments as those terms are defined in Subpart A of that Part 74. The relevant provisions of the following subparts of Part 74 shall also apply to all other grantee organizations under this subpart:

45 CFR PART 74

Subpart
A General.
B Cash Depositories.
C Bonding and Insurance.
D Retention and Custodial Requirements for Records.
F Grant-Related Income.
G Matching and Cost Sharing.
K Grant Payment Requirements.
L Budget Revision Procedures.
M Grant Closeout, Suspension, and Termination.
O Property.
Q Cost Principles.

58. The footnote to § 59.206(c) is deleted, and § 59.906(c) is revised to read as follows:

§ 59.206 Evaluation and grant award.

• • • • • •

(c) Allowability of costs shall be in conformance with the applicable cost principles prescribed by Subpart Q of 35 CFR Part 74.

• • • • • •

§ 59.208 [Amended]

59. Section 59.208(a) is amended by revoking the words "cost principles set forth in the Department of Health, Education, and Welfare Grants Administration Manual." and substituting in their place the words "applicable cost principles prescribed by Subpart Q of 45 CFR Part 74."

60. Section 59.212 is amended by revoking paragraphs (b), (c)(2) and (c)(3), and by revising paragraph (d)(2). As amended, § 59.212 reads as follows:

§ 59.212 Grantee accountability.

• • • • • •

(b) [Revoked]
(c) • • •
(2) [Revoked]
(3) [Revoked]
(d) • • •

(2) *Final settlement.* There shall be payable to the Federal Government as final settlement with respect to each approved project the total sum of:

(i) Any amount not accounted for pursuant to paragraph (a) of this section;

(ii) Any credits for earned interest pursuant to paragraph (c)(1) of this section;





(iii) Any other amounts due pursuant to Subparts F, M, and O of 45 CFR Part 74.

Such total sum shall constitute a debt owed by the grantee to the Federal Government and shall be recovered from the grantee or its successors or assignees by setoff or other action as provided by law.

§ 59.213 [Revoked]

61. Section 59.213 is revoked.

62. The heading and text of § 59.215 are revised to read as follows:

§ 59.215 Applicability of 45 CFR Part 74.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants under this subpart to State and local governments as those terms are defined in Subpart A of that Part 74. The relevant provisions of the following subparts of Part 74 shall also apply to grants to all other grantee organizations under this subpart.

45 CFR PART 74

Subpart
A General.
B Cash Depositories.
C Bonding and Insurance.
D Retention and Custodial Requirements for Records.
F Grant-Related Income.
G Matching and Cost Sharing.
K Grant Payment Requirements.
L Budget Revision Procedures.
M Grant Closeout, Suspension, and Termination.
O Property.
Q Cost Principles.

## PART 59a—NATIONAL LIBRARY OF MEDICINE GRANTS

§§ 59a.16, 59a.20, 59a.23, 59a.24 and 59a.25 [Revoked]

63. Sections 59a.16, 59a.20, 59a.23, 59a.24, and 59a.25 are revoked.

64. Section 59a.26 is revised to read as follows:

§ 59a.26 Final settlement.

There shall be payable to the United States as final settlement the total of any amounts due pursuant to Subparts F, M, and O of 45 CFR Part 74. Such total sum shall constitute a debt owed by the grantee to the United States and shall be recovered from the grantee or its successors or assignees by setoff or other action as provided by law.

65. Subpart B of Part 59a is amended by adding a new § 59a.27, to read as follows:

§ 59a.27 Applicability of 45 CFR Part 74.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants under this subpart to State and local governments as those terms are defined in Subpart A of that Part 74. The relevant provisions of the following subparts of Part 74 shall also apply to grants to all other grantee organizations under this subpart.

45 CFR PART 74

Subpart
A General.
B Cash Depositories.
C Bonding and Insurance.
D Retention and Custodial Requirements for Records.
F Grant-Related Income.
G Matching and Cost Sharing.
K Grant Payment Requirements.
M Grant Closeout, Suspension, and Termination.
O Property.
Q Cost Principles.

## PART 87—GRANTS FOR RESEARCH AND DEMONSTRATIONS RELATING TO OCCUPATIONAL SAFETY AND HEALTH

66. Section 87.14 is amended by deleting the footnote to paragraph (b), by revising the last sentence in paragraph (b), and by revising paragraph (c). As amended, § 87.14 reads as follows:

§ 87.14 Grant awards.

• • • • • •

(b) • • • In determining the grantee's share of the project costs, costs borne by Federal grants, or costs used to match other Federal grants, may not be included except as may be otherwise provided by law.

(c) Allowability of costs shall be in conformance with the applicable principles prescribed by Subpart Q of 45 CFR Part 74.

• • • • • •

§ 87.15 [Revoked]

67. Section 87.15 is revoked.

§ 87.20 [Amended]

68. Section 87.20(a) is amended by revoking the words "set forth in the Department of Health, Education, and Welfare Grants Administration Manual." and substituting in their place the words "prescribed by Subpart Q of 45 CFR Part 74."

§ 87.30 [Amended]

69. Section 87.30 is amended by revoking the words "as provided in § 87.15," and substituting in their place the words "pursuant to Subpart M of 45 CFR Part 74,".

§§ 87.32 and 87.33 [Revoked]

70. Sections 87.32 and 87.33 are revoked.

71. Section 87.34 is revised to read as follows:

§ 87.34 Final settlement.

There shall be payable to the Federal Government as final settlement with respect to each approved project the total sum of (a) any amount not accounted for pursuant to § 87.31, and (b) any other amounts due pursuant to Subparts F, M, and O of 45 CFR Part 74. Such total sum shall constitute a debt owed by the grantee to the Federal Government and shall be recovered from the grantee or its successors or assignees by setoff or other action as provided by law.

72. Part 87 is amended by adding a new Subpart E, to read as follows:



V 38 I 181 S
SEP 19 73
XUM

Subpart E—Applicability of 45 CFR Part 74—HEW Administrative Requirements and Cost Principles

Sec.
87.40 Grants to State and local governments.
87.41 Grants to other organizations.

AUTHORITY.—5 U.S.C. 301; sec. 215, 58 Stat. 690, as amended (42 U.S.C. 216). Reorg. Plan No. 3 of 1966, 31 FR 8855, 3 CFR 1966–1970 Comp. Office of Management and Budget Circular A–102, A–87 and A–21.

## Subpart E—Applicability of 45 CFR Part 74—HEW Administrative Requirements and Cost Principles

### § 87.40 Grants to State and local governments.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants under this part to State and local governments as those terms are defined in Subpart A of that Part 74.

### § 87.41 Grants to other organizations.

The following provisions of 45 CFR Part 74 shall also apply to all grants under this part to organizations other than State and local governments as those terms are defined in Subpart A of 45 CFR Part 74:

45 CFR PART 74

Subpart
A General.
B Cash Depositories.
C Bonding and Insurance.
D Retention and Custodial Requirements for Records.
F Grant-Related Income.
G Matching and Cost Sharing.
K Grant Payment Requirements.
L Budget Revision Procedures.
M Grant Closeout, Suspension, and Termination.
O Property.
Q Cost Principles.

---

## PART 91—GRANTS FOR PREVENTION OF LEAD BASED PAINT POISONING

73. Section 91.6 is amended by deleting the footnote to paragraph (b), by revising the last sentence in paragraph (b), and by revising paragraph (c). As amended, § 91.6 reads as follows:

### § 91.6 Evaluation and grant award.

* * * * *

(b) * * * In determining the grantee's share of the project costs, costs borne by Federal grants, or costs used to match other Federal grants, may not be included except as may be otherwise provided by law.

(c) Allowability of costs shall be in conformance with the applicable principles prescribed by Subpart Q of 45 CFR Part 74.

* * * * *

### § 91.8 [Amended]

74. Section 91.8(a) is amended by revoking the words "cost principles set forth in the Department of Health, Education, and Welfare Grants Administration Manual." and substituting in their place the words "the applicable cost principles prescribed by Subpart Q of 45 CFR Part 74."

### § 91.13 [Amended]

75. Section 91.13 is amended by revoking the words in the second sentence reading "as set forth in the Department's Grants Administration Manual." and substituting in their place the words "prescribed by Subpart Q of 45 CFR Part 74." and by inserting a footnote 1 reference after the word "Manual" in the fourth sentence. The text of the footnote is as follows:

[1] The Department of Health, Education, and Welfare Grants Administration Manual is available for inspection at the Public Information Office of the several department regional offices and available for purchase at the Government Printing Office, GPO document No. 894–523.

76. Section 91.14 is amended by revoking paragraphs (b), (c)(2) and (c)(3), and by revising paragraph (d)(2). As amended, § 91.14 reads as follows:

### § 91.14 Grantee accountability.

* * * * *

(b) [Revoked]
(c) * * *
(2) [Revoked]
(3) [Revoked]
(d) * * *

(2) *Final settlement.* There shall be payable to the Federal Government as final settlement with respect to each approved project the total sum of:

(i) Any amount not accounted for pursuant to paragraph (a) of this section;

(ii) Any credits for earned interest pursuant to paragraph (c)(1) of this section;

(iii) Any other amounts due pursuant to Subparts F, M, and O of 45 CFR 74.

Such total sum shall constitute a debt owed by the grantee to the Federal Government and shall be recovered from the grantee or its successors or assignees by setoff or other action as provided by law.

### § 91.15 [Revoked]

77. Section 91.15 is revoked.

78. The heading and text of § 91.17 are revised to read as follows:

### § 91.17 Applicability of 45 CFR Part 74.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants under this part to State and local governments as those terms are defined in Subpart A of that Part 74. The relevant provisions of the following subparts of Part 74 shall apply also to grants to all other grantee organizations under this part:

45 CFR PART 74

Subpart
A General.
B Cash Depositories.
C Bonding and Insurance.
D Retention and Custodial Requirements for Records.
F Grant-Related Income.
G Matching and Cost Sharing.
K Grant Payment Requirements.
L Budget Revision Procedures.
M Grant Closeout, Suspension, and Termination.
O Property.
Q Cost Principles.

In addition, new § 205.18 cross-references Subpart Q "Cost Principles" of 45 CFR Part 74, since that subpart is mandatorily applicable to all DHEW grants.

*Conflicting provisions.* These amendments revoke or modify, as appropriate, those specific provisions of Part 205 which conflicted with 45 CFR Part 74.

*Omission of notice of proposed rule making.* Notice of proposed rule making procedures and delay in effective date have been omitted as unnecessary in the issuance of these amendments which relate to the administrative requirements of grants under Part 205 and the deletion of obsolete material.

*Opportunity to comment.* Written comments concerning these amendments are invited from interested persons. Comments may be addressed to the Assistant Secretary for Administration and Management, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, D.C. 20201. All comments received in response to this invitation will be available for public inspection at room 4829, 400 Sixth Street SW., Washington, D.C., between the hours of 9 a.m. and 5:30 p.m. weekdays, Federal holidays excepted.

*Effective date.*—These amendments shall become effective on September 19, 1973.

Dated September 7, 1973.

FRANK CARLUCCI,
*Acting Secretary of Health, Education, and Welfare.*

Chapter II of Title 42 of the Code of Federal Regulations is amended as follows:

## PART 205—RESEARCH PROJECTS RELATING TO MATERNAL AND CHILD HEALTH SERVICES AND CRIPPLED CHILDREN'S SERVICES, AND RESEARCH OR DEMONSTRATION PROJECTS RELATING TO CHILD WELFARE SERVICES

1. Section 205.4 is amended by revoking the last sentence in paragraph (b) and by revising paragraph (d). As amended, § 205.4 reads as follows:

### § 205.4 Application.

* * * * *

(b) The application shall be executed by an individual authorized to act for the applicant, and to assume for the applicant the obligations imposed by the terms and conditions of any grant, including these regulations.

* * * * *

(d) After a project is approved, the grantee shall submit in writing to the Bureau, for prior approval, information as to any substantial alteration in scope or purpose of the project, any change in project director, or any other change for which prior approval is required by the terms and conditions of the grant.

2. The heading and text of § 205.6 are revised to read as follows:

### § 205.6 Use of funds and allowability of costs.

Grants under this part will be available only for the Federal share of the allowable costs of approved projects. Allowability of costs shall be determined in accordance with the applicable cost principles prescribed by Subpart Q of 45 CFR Part 74.

### § 205.7 [Amended]

3. The last sentence of § 205.7 is revoked.

### §§ 205.8 and 205.9 [Revoked]

4. Sections 205.8 and 205.9 are revoked.

5. Section 205.10 is amended by revising the second sentence of paragraph (a), by revoking the last sentence of paragraph (a), by revoking paragraph (b), and by revising the second sentence of paragraph (c). As amended, § 205.10 reads as follows:

### § 205.10 Records and reports.

(a) The grantee shall establish and follow such accounting, budgetary, and other fiscal procedures as are necessary for the proper and efficient administration of the project, and shall maintain fiscal records. Such records shall show for each period of the grant the amount and disposition by the grantee of Federal and cost sharing funds, the total cost for the period, and such other records as will facilitate an effective audit.

(b) [Revoked]

(c) The grantee shall provide a progress report with each submission of an application for continuation support. A final project report shall be submitted for each project on or before the date specified by the terms and conditions of the grant. * * *

* * * * *

### §§ 205.13 and 205.14 [Revoked]

6. Sections 205.13 and 205.14 are revoked.

7. Section 205.15 is revised to read as follows:

### § 205.15 Final accounting and settlement.

(a) In addition to such other accounting as the Bureau may require, the grantee shall render with respect to each approved project a full account as provided herein, as of the termination date which shall be either (1) the end of the project period, or (2) the date of termination of grant support under Subpart M of 45 CFR Part 74, whichever occurs first.

(b) There shall be payable to the United States as final settlement with respect to each approved project the total sum of (1) any amount not accounted for under § 205.10(e), and (2) any other amounts due pursuant to Subparts F, M, and O of 45 CFR Part 74.

### § 205.16 [Amended]

8. Section 205.16(b) is revoked.

9. A new § 205.18 is added as follows:

### § 205.18 Applicability of 45 CFR Part 74.

The provisions of 45 CFR Part 74, establishing uniform administrative requirements and cost principles, shall apply to all grants under this part to State and local governments as those terms are defined in Subpart A of 45 CFR Part 74. The relevant provisions of the following subparts of 45 CFR Part 74 shall apply also to grants to all other grantee organizations under this part:

45 CFR PART 74

Subpart
A General.
B Cash Depositories.
C Bonding and Insurance.
D Retention and Custodial Requirements for Records.
F Grant-Related Income.
G Matching and Cost Sharing.
K Grant Payment Requirements.
M Grant Closeout, Suspension, and Termination.
O Property.
Q Cost Principles.

---

## PART 206—ADMINISTRATIVE PROCEDURE

### Subpart B—Grants to States

### §§ 206.5 through 206.7 [Revoked]

10. Subpart B of Part 206 is deleted.

---

## PART 208—SPECIAL PROJECT GRANTS FOR FAMILY PLANNING SERVICES [DELETED]

11. Part 208 is deleted.

(5 U.S.C. 301), Office of Management and Budget Circulars A–102, A–87, and A–21.)

[FR Doc.73–19606 Filed 9–18–73;8:45 am]

---

## Title 45—Public Welfare

## CHAPTER IX—ADMINISTRATION ON AGING, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## PART 901—GENERAL

## PART 903—GRANTS FOR STATE AND COMMUNITY PROGRAMS FOR THE AGING

## PART 904—RESEARCH AND DEVELOPMENT PROJECTS

## PART 905—TRAINING PROJECTS

## PART 909—NUTRITION PROGRAM FOR THE ELDERLY

### Miscellaneous Amendments

The following amendments conform the HEW-administered grant program regulations in Chapter IX with 45 CFR Part 74, which is a new Department of Health, Education, and Welfare (DHEW) regulation published in this issue of the FEDERAL REGISTER. 45 CFR Part 74 provides a regulatory umbrella for DHEW implementation of Office of Management and Budget (OMB) Circular No. A–102 "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments." Part 74 also establishes (in Subpart Q) principles for determining allowable costs under DHEW grants to the various types of grantee organizations. These principles have hitherto been published by DHEW only in manual and brochure format.

*Effect on grants to State and local governments.* Part 74 is mandatorily applicable to DHEW grants to State or local governments (as those terms are defined







V 38 I 181 SEP 19 73 XUM

in Subpart A of Part 74). For such grants, these amendments add (in new § 901.5) a blanket cross-reference to Part 74.

*Effect on grants to other organizations.* Those subparts of Part 74 which are derived from OMB Circular No. A-102 have been designed so that, where appropriate, they be made applicable to DHEW grants to recipients which are not State or local governments. The following subparts of Part 74 have been determined to be appropriate for application to such grants under this Chapter IX and are specifically made so applicable (in new § 901.5) by these amendments:

45 CFR PART 74

A General.
B Cash Depositories.
C Bonding and Insurance.
D Retention and Custodial Requirements for Records.
F Grant-Related Income.
G Matching and Cost Sharing.
H Standards for Grantee Financial Management Systems.
K Grant Payment Requirements.
M Grant Closeout, Suspension, and Termination.
O Property.

*Cost principles.* Subpart Q "Cost Principles" of 45 CFR Part 74 is also cross-referenced by these amendments, since that subpart is applicable to all DHEW grants.

*Revocation of conflicting provisions.* These amendments revoke those specific provisions in Chapter IX which would have conflicted with 45 CFR Part 74.

*Effect on programs administered by ACTION.* Parts 906 and 907 of this Chapter IX govern programs formerly administered by DHEW but now administered by ACTION, an independent agency. ACTION, like DHEW, is obligated to implement OMB Circular No. A-102. However, ACTION's programs are not covered by DHEW's implementation of the Circular in 45 CFR Part 74. Therefore (with one minor exception as explained below) these amendments have no effect on Parts 906 and 907.

Section 901.4 contained provisions on retention of records inconsistent with Attachment C of OMB Circular No. A-102 and Subpart D of 45 CFR Part 74. Section 901.4 was applicable to all the grant programs in this Chapter IX, including those covered by Parts 906 and 907. By agreement with ACTION, these amendments revise § 901.4 to (a) make it applicable only to Parts 906 and 907, and (b) apply the provisions of Attachment C of OMB Circular No. A-102 to grants made under those two parts. Records retention requirements (derived from Attachment C of OMB Circular No. A-102) for the DHEW-administered grant programs in this Chapter IX are set forth in Subpart D of 45 CFR Part 74 and are linked to this Chapter by new § 901.5 as described above.

*Omission of notice of proposed rulemaking.* Notice of proposed rulemaking and delay in effective date have been omitted as unnecessary in the issuance of these amendments which relate solely to the administrative requirements of grants for aging programs.

*Opportunity to comment.* Written comments concerning these amendments are invited from interested persons. Comments may be addressed to the Assistant Secretary for Administration and Management, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, D.C. 20201. All comments received in response to this invitation will be available for public inspection at room 4829, 400 Sixth Street SW., Washington, D.C., between the hours of 9 a.m. and 5:30 p.m. weekdays, Federal holidays excepted.

*Effective date.*—These amendments shall become effective September 19, 1973.

Dated September 7, 1973.

FRANK CARLUCCI,
*Acting Secretary of Health, Education, and Welfare.*

Chapter IX of Title 45 of the Code of Federal Regulations is amended as set forth below:

1. Section 901.4 is revised to read as follows:

**§ 901.4 Retention of records.**

The provisions of Attachment C of Office of Management and Budget Circular No. A-102 apply to all grants made under parts 906 and 907 of this chapter.

2. A new § 901.5 is added as follows:

**§ 901.5 General administrative requirements.**

The provisions of Part 74 of this title, establishing uniform administrative requirements and cost principles, shall apply to all grants under Parts 903, 904, 905, and 909 of this chapter to State or local governments as those terms are defined in Subpart A of that Part 74. The relevant provisions of the following subparts of Part 74 shall also apply to awards made to all other grantees under Parts 903, 904, 905, and 909 of this chapter:

45 CFR PART 74

Subpart
A General.
B Cash Depositories.
C Bonding and Insurance.
D Retention and Custodial Requirements for Records.
F Grant-Related Income.
G Matching and Cost Sharing.
H Standards for Grantee Financial Management Systems.
K Grant Payment Requirements.
M Grant Closeout, Suspension, and Termination.
O Property.
Q Cost Principles.

**§ 903.35 [Amended]**

3. Section 903.35 is amended by revoking the words "and limited to the extent that actual costs are incurred to the community project." at the end of the last sentence.

**§§ 903.79, 904.7, 904.10, 905.7, 905.10 [Revoked]**

4. Sections 903.79, 904.7, 904.10, 905.7, and 905.10 are revoked.

((5 U.S.C. 301), Office of Management and Budget Circulars A-102, A-87, and A-21.)

[FR Doc.73-19607 Filed 9-18-73;8:45 am]

## Title 47—Telecommunication

## CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

## PART 1—PRACTICE AND PROCEDURE

### Cut-off Dates for Filing of Certain Mutually Exclusive Applications

*Order.*—In the matter of amendment of § 1.227 of the rules concerning cut-off dates for the filing of certain mutually exclusive applications.

1. On July 11, 1972, the Commission released a Report and Order in Docket No. 19484 (37 FR 13982, July 15, 1972) and amended the rules to establish cut-off dates relating to the time in which applications, and amendments thereto, or petitions to deny applications may be filed in the Safety and Special Radio Services. One of the rule sections amended was § 1.227. Subparagraphs (1), (2), and (3) of paragraph (b) of that section specified what applications would be designated for hearing in consolidated proceedings, and subparagraph (4) provided, in essence, that mutually exclusive applications not meeting the requirements of subparagraphs (1), (2), and (3) of paragraph (b) would be dismissed without prejudice. In the subject rule making proceeding, a new subparagraph (4) was added to paragraph (b) concerning applications in the Safety and Special Radio Services, and the old subparagraph (4) was renumbered (5). The language in the newly renumbered subparagraph (5), however, was not amended to show that the subparagraph also applied to the new subparagraph (4). This oversight needs to be corrected by rule amendment as shown below.

2. The amendment herein is editorial in nature and hence the prior notice, procedure and effective date provisions of (5 U.S.C. 553) do not apply. Authority to promulgate the amendment is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and in § 0.231(d) of the Commission's rules.

3. Accordingly, Part 1 of the Commission's rules is amended as shown below, effective September 21, 1973.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303).)

Adopted September 11, 1973.

Released September 12, 1973.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] JOHN M. TORBET,
*Executive Director.*

Part 1 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

Section 1.227(b)(5) is amended to read as follows:

**§ 1.227 Consolidations.**

* * * * *

(b) * * *

(5) Any mutually exclusive application filed after the date prescribed in subparagraphs (1), (2), (3), or (4) of this paragraph will be dismissed without prejudice and will be eligible for refiling only after a final decision is rendered by





the Commission with respect to the prior application or applications or after such application or applications are dismissed or removed from the hearing docket.

* * * * *

[FR Doc.73-19922 Filed 9-18-73;8:45 am]

[Docket No. 19762; FCC 73-915]

## PART 73—RADIO BROADCAST SERVICES

### Table of Assignments in East Moline, Ill.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (East Moline, Illinois); RM-1973.

1. The Commission has before it a notice of proposed rulemaking adopted June 6, 1973 (FCC 73-606, 38 FR 15739) in the above-captioned proceeding, inviting comments on a proposal to assign Class B Channel 267 to either Moline or East Moline, Illinois [38 FR 21651]. The proceeding was instituted on the basis of a petition filed by Upper Rock Island Holding Company, Inc. (petitioner), proposing to assign Channel 267 to East Moline, Illinois.

2. East Moline (population 20,832),[1] located in Rock Island County (population 166,734), is part of the Davenport-Rock Island-Moline Urbanized Area (population 266,199). It presently has one daytime-only AM station (WDLM) and no FM assignments. In addition to the AM station at East Moline, there are 5 AM stations and 4 FM stations in the urbanized area, which are as follows: Davenport (pop. 98,469) has 3 AM stations and 2 FM stations (Channels 279, 293); Rock Island (pop. 50,166) has 1 AM station and 1 FM station (Channel 255); and Moline (pop. 46,237) has 1 AM station and 1 FM station (Channel 245).

3. Interested parties were invited to comment on the Commission's proposal on or before July 20, 1973, and could reply to such comments on or before August 10, 1973. Supporting comments were filed by petitioner and by the Moody Bible Institute (Moody), licensee of daytime-only AM station WDLM, East Moline, Illinois. There were no opposing comments filed.

4. In the Notice, we stated that the petitioner's engineering statement had indicated the proposed assignment would not foreclose future assignments on any of the six adjacent channels and that preclusion on Channel 267 would occur in a very limited area some nine miles northeast of East Moline, the only area where a station on Channel 267 could be located. Petitioner further had indicated that a station operating from this site with a maximum Class B facility would be able to place a 70 dBu signal or greater over the principal cities of the urbanized area. We stated that it appeared the channel could be assigned to any one of these cities, and if assigned to Davenport, Rock Island, or Moline it could be used at East Moline under the provisions of § 73.203(b). We also pointed out that in view of their populations and present channel assignments, and in view of the fact that Moline is located immediately adjacent to East Moline we were proposing assignment of the channel to either of the latter two communities.[2]

5. Petitioner points out in his supporting comments that there is a significantly greater need for an FM assignment at East Moline than there is in Moline. It states that there is only one daytime-only AM station (WDLM) and no FM outlet and that by way of contrast, there are an AM and an FM station in Moline. Moreover, it avers that there is a clear disparity in FM assignments to the various Quad Cities, since each of the other Quad Cities (Davenport, Rock Island and Moline) has at least one FM assignment and East Moline has none. Petitioner contends that a separate FM assignment in East Moline would be a definite plus factor and would increase the stature of the community and could well stimulate additional economic growth. It states that it intends to apply for the channel if assigned, and, if authorized, will promptly build the station.

6. The Moody Bible Institute (Moody), in its supporting comments, states that it would be inequitable to deprive East Moline of a single FM channel in order to assign a third channel to Davenport, or a second channel to Rock Island or to Moline. It contends that if Channel 267 were assigned to Davenport, Rock Island, or Moline, an East Moline applicant for this channel would have to compete with other applicants for this frequency who may specify the larger community of the assignment as their station location, whereas if the assignment is made to East Moline, applicants cannot specify Davenport, Rock Island or Moline as their station's location. Moody states that if the assignment is made to East Moline, it intends to file an application for a construction permit and if such permit is granted, it will promptly build the station.

7. We have given careful consideration to the proposal and comments filed in this proceeding, and believe that Channel 267 should be assigned to East Moline, Illinois. An interest has been shown for its use in East Moline whereas no interest has been shown in having it assigned to Moline or to any other community. The assignment of Channel 267 to East Moline would be in the public interest because it would provide for a first local FM service to a community of 20,832 persons. Further, since the preclusionary effect of the proposed assignment is limited to Channel 267 and the use of the channel is confined to a small area northeast of East Moline, this assignment would result in the efficient use of FM frequencies.

8. Authority for the adoption of the amendment contained herein appears in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended.

9. In view of the foregoing, *It is ordered*, That effective October 23, 1973, § 73.202(b) of the Commission's rules, the FM Table of Assignments is amended to read as follows:

| City: | Channel No. |
|---|---|
| East Moline, Illinois | 267 |

10. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083 (47 U.S.C. 154, 303, 307))

Adopted September 6, 1973.

Released September 12, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[3]
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

[FR Doc.73-19913 Filed 9-18-73;8:45 am]

[Docket No. 19698; FCC 73-914]

## PART 73—RADIO BROADCAST SERVICES

### FM Broadcast Stations; Table of Assignments

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Yorktown, Virginia); RM-1941.

1. The Commission has before it the notice of proposed rulemaking adopted in this proceeding on March 2, 1973, comments filed by the proponents, the Messrs. Eacho and Swartz ("E&S"), and reply comments filed by Hampton Roads Broadcasting Corporation ("Roads") licensee of Newport News, Virginia, Stations WGH(AM) and WGH-FM.

2. Roads has opposed the E&S petition which sought Channel 231 as a first assignment for Yorktown, Virginia, even before the Commission issued its notice of proposed rulemaking. One of the issues raised by Roads was resolved by the Commission when it adopted the Notice; others were deferred for later resolution. The issue that was resolved was the contention by Roads that Yorktown was not a community within the meaning of our rules. We held otherwise, finding that it had the requisite community of interests on the part of an identifiable population grouping. E&S have provided further support for this conclusion in their comments, and even Roads apparently has acquiesced in this view to which we continue to adhere.

3. E&S had submitted sufficient data to allay our concern on the matter of preclusionary effect stemming from the proposed assignment, so that question is no longer before us. What remains before us are a series of questions relating to the assigning of a Class B channel to Yorktown in the absence of a Class A channel to use instead. As we pointed out in the notice, where the facts of the case

[1] All population figures cited are from the 1970 U.S. Census unless otherwise specified.

[2] The notice set forth information furnished by petitioner concerning the economy, government, and other aspects of East Moline which will not be repeated here.

[3] Commissioner Robert E. Lee absent.



V 38 N 181 SEP 19 73 XUM

warrant, we have assigned Class B channels to various smaller communities even though such was not our usual practice. To help us evaluate the situation presented by the case, we called for more data on the approximate boundaries of Yorktown, as well as its population. From the information we have received it appears that Yorktown is generally considered to encompass the Grafton and Nelson census districts, with a total population of 14,593. In a number of cases we have made Class B assignments to communities in Virginia smaller than Yorktown, and in fact in two cases have provided two channels each to communities of Yorktown's size. Here, a Class A channel is unavailable to bring Yorktown a first local service, a matter of high priority, so that this channel represents Yorktown's only possible channel. Further support for making the assignment is found in the fact that it would make it possible to bring a first FM service to 5,371 persons and a second FM service to 7,628 additional persons.[1]

4. Roads questions the need for a local service in Yorktown, alleging that various area stations cover matters of local interest. Such coverage is not a substitute for a local transmission service, as a station whose principal obligation is to serve another community cannot be expected to provide the same service as would a local station. At most, the attention to Yorktown's needs by outside stations could indicate that the need for a local station was somewhat reduced; it does not provide any basis in itself for finding that the assignment should not be made. Finally, Roads questions the ability of the area to support a station unless it tapped advertising support from outside the county. Needless to say, there is never a guarantee that a station would be able to turn a profit or be able to survive, but that is not the question before us. E&S are willing to undertake the risk and nothing now before us suggests that Yorktown and the rest of the coverage area could not provide enough advertising support to sustain a station. There is nothing improper about obtaining advertising from outside the principal community, and if Roads is suggesting a detrimental impact on its own operation, it has failed to provide a meaningful basis for concern.

5. From the information before us, we have concluded that the public interest would be served by making the proposed assignment. From all indications, the assignment would have no significant negative impact. It would bring about important benefits by providing a first local service to a community of some size[2] and by providing significant numbers of people a first or second FM service.

[1] These figures were obtained from Commission study of the situation and not from the E&S showing that listed a higher figure for first service.

[2] Even though the transmitter would have to be located about 11 miles north of Yorktown, the station would still be able to provide city-grade coverage to the community.

6. Accordingly, *It is ordered*, That pursuant to authority found in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended, the FM Table of Assignments (§ 73.202(b) of the Commission's rules and regulations) is amended effective October 23, 1973, insofar as the community named below is concerned, to read as follows:

| City: | Channel No. |
|---|---|
| Yorktown, Virginia | 231 |

7. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083 (47 U.S.C. 154, 303, 307).)

Adopted September 6, 1973.

Released September 11, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[4]

[SEAL] VINCENT J. MULLINS, *Acting Secretary.*

[FR Doc.73-19915 Filed 9-18-73;8:45 am]

[Docket No. 19718; FCC 73-913]

## PART 73—RADIO BROADCAST SERVICES

### Television Broadcast Stations; Table of Assignments

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Ann Arbor, Flint, Mount Clemens, Port Huron, and Saginaw, Michigan); RM-1854.

1. The Commission here considers the notice of proposed rulemaking in this docket, adopted April 4, 1973 (FCC 73-368; 38 FR 9315), proposing amendment of the TV Table of Assignments (§ 73.606 (b) of the Commission's rules and regulations) as concerns Ann Arbor and other communities in Michigan.

2. The notice was based on the petition of Wolverine-Morningstar Broadcasting, Inc. (Wolverine-Morningstar), seeking the assignment of a first commercial television channel to Ann Arbor, Michigan. The notice described Wolverine-Morningstar,[1] and adduced certain basic information. Ann Arbor has a population of 99,797,[2] and it is the seat of Washtenaw County, population 234,133 (which constitutes the Ann Arbor Standard Metropolitan Statistical Area). Wolverine-Morningstar indicated that it would promptly file an application for a construction permit if the channel was assigned, and it affirmed this intention in its comments. The petitioner had asserted that while service was received from six television stations (five Detroit and one at Windsor), it felt that Ann Arbor merits a commercial channel of its own.[3] We need not repeat other information.

[4] Commissioner Robert E. Lee absent.

[1] It is a Michigan corporation, consisting of nine stockholders seven of whom reside in Ann Arbor and represent a cross-section of economic, social, and civic life of that community and the area.

[2] All population information is from the 1970 Census unless otherwise stated.

[3] Channel *68 is already assigned to that community.

3. As the notice stated, the Wolverine-Morningstar proposal was altered because of a conflict with a major reallocation plan for lower Ontario submitted by Canada for Commission approval on March 6, 1973. In the circumstances, the Commission proposed to assign Channel 31 to Ann Arbor in lieu of the original proposal, and this required changes elsewhere. As particularly relevant, Channel 31 must operate from a transmitter site at least 18 miles west-northwest of the Ann Arbor reference point to meet mileage separations to stations and assignments and a station with a transmitter so situated may provide Ann Arbor with the requisite principal community signal (§ 73.685(a)). However, Wolverine-Morningstar's original proposal had the same limitation and, as already noted, it has affirmed its willingness to proceed to apply for the channel if assigned.

4. The parties commenting are the petitioner, Wolverine-Morningstar; Rust Craft Broadcasting Company (Rust Craft), licensee of Station WEYI-TV, operating on Saginaw Channel 25 with identification as Saginaw-Flint-Bay City, Michigan; and the Association of Maximum Service Telecasters, Inc. (AMST). As already noted, Wolverine-Morningstar supports the assignment and represents that if it is made it will promptly seek authority to construct and operate a commercial broadcast station on Channel 31.

5. Both AMST and Rust Craft oppose the petition. AMST's objections concern two matters. Its first objection is a general one bottomed on short spacing of Channel 31 from the Ann Arbor reference point to the transmitter sites of Stations WDHO-TV, Channel 24, Toledo, Ohio (13 miles), and WGTE-TV, Channel 30, Toledo, Ohio (8.9 miles) and to the reference points for Channel 38 at Mount Clemens, Michigan (10.9 miles), and Channel 32 at Windsor, Ontario (9.5 miles). AMST, however, recognizes that these short spacings are not material considering the fact that the transmitter site for Channel 31 at Ann Arbor must be 18 miles west-northwest of the reference point and, thus, all the spacings would be met. The other AMST objection concerns the short spacing from Station WEYI-TV to the proposed Channel *28 assignment at Flint. Since this also serves as the basis for Rust Craft's objection, we discuss the two together in Para. 6.

6. Both Rust Craft and AMST point out that the Flint reference point is only about 14 miles from the new transmitter site of Station WEYI-TV, while our rules (§§ 73.610 and 73.698) require a 20 mile spacing to protect against harmful intermodulation interference. In this respect, it appears that Channel *28 could be located in a substantial area southeast of Flint and, thus, there would appear to be no problem. AMST, in anticipation of this fact, states that it is not sufficient to merely show that there is an area where a transmitter may be located consistent with mileage requirements and that a showing must be made of specific availability taking into account zoning, FAA considerations, economic factors including coverage, topography, and the area to be served.

7. The Commission in proposing Channel *28 at Flint was cognizant of the potential interference to Station WEYI-TV if a station were located near the Flint reference point. However, it is evident that there is a large area within which a transmitter site for operation on Channel *28 could be selected which meets all spacing requirements. In the circumstances, we do not feel that the matter is of as great a concern as AMST wishes us to believe. Our examination shows site availability as near as six miles to Flint and others toward Pontiac.[4] In our view, the appropriate balance of interests require the assignment of Channel 31 to Ann Arbor and making the other changes in the other communities in Michigan accordingly. Accordingly, we find that the public interest, convenience and necessity would be served by assigning Channel 31 to Ann Arbor, substituting Channel *28 for *31 at Flint, and making changes in assignments at Mount Clemens, Port Huron, and Saginaw. All the changes are of bare assignments.

8. Authority for this action taken here is found in sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended.

9. Accordingly *It is ordered*, That the Television Table of Assignments (§ 73.606 (b) of the Commission's rules and regulations) is amended effective October 23, 1973, as concerns the following communities in Michigan:

| City: | Channel No. |
|---|---|
| Ann Arbor, Michigan | 31+, *58+ |
| Flint, Michigan | 12−, *28−, 66− |
| Mount Clemens, Michigan | 38+ |
| Port Huron, Michigan | 46+ |
| Saginaw, Michigan | 25−, 45− |

10. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083 (47 U.S.C. 154, 303, 307).)

Adopted September 6, 1973.

Released September 12, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[4]

[SEAL] VINCENT J. MULLINS, *Acting Secretary.*

[FR Doc.73-19914 Filed 9-18-73;8:45 am]

## Title 49—Transportation

## CHAPTER X—INTERSTATE COMMERCE COMMISSION

### SUBCHAPTER A—GENERAL RULES AND REGULATIONS

## PART 1003—LIST OF FORMS

## PART 1134—CONTROL OR CONSOLIDATION OF MOTOR CARRIERS OR THEIR PROPERTIES

### Application for Temporary Authority

*Order.*—At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 9th day of March 1973.

Pursuant to section 210(c) of the Interstate Commerce Act, and good cause appearing therefor, the use of a new form for application for temporary operation of motor carriers pursuant to section 210a(b) being under consideration:

*It is ordered*, That application Form BMC-46 be, and it is hereby, vacated and revoked.

*It is further ordered*, That application for temporary operation of motor carriers, Form OP-F 46 (49 CFR 1003.1), be, and it is hereby, prescribed and approved.

*It is further ordered*, That 49 CFR 1003.1 be, and it is hereby, amended by revoking all references to Form BMC-46, and replacing said matter with the following:

§ 1003.1 Motor Carrier and Broker Forms OP-F 46.

Application for Approval under section 210a(b), Interstate Commerce Act, of the Temporary Operation of Motor-Carrier Properties sought to be Acquired under Separately filed Applications under section 5 or of Transfers of Motor-Carrier Certificates and Permits under section 212(b).

*It is further ordered*, That in view of the action taken above, 49 CFR 1134.6 (a) be, and it is hereby, amended by revoking all references to Form BMC-46 and replacing it with OP-F 46.

*It is further ordered*, That this order shall become effective September 23, 1973.

*And it is further ordered*, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission, Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-19940 Filed 9-18-73;8:45 am]

## PART 1003—LIST OF FORMS

## PART 1140—EXTENSIONS OF OPERATIONS

### Applications for Water Carrier Authority

*Order.*—At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 7th day of February 1973.

Pursuant to section 309 of the Interstate Commerce Act, and good cause appearing therefor, the use of a new form for application for water carrier certificates or permits being under consideration:

*It is ordered*, That application Forms B.W.C. 3, and B.W.C. 7 be, and they are hereby, vacated and revoked.

*It is further ordered*, That application for water carrier certificate or permit, Form OP-WC-20 (49 CFR 1003.2), be, and it is hereby, prescribed and approved.

*It is further ordered*, That 49 CFR 1003.2 be, and it is hereby, amended by revoking all references to forms B.W.C. 3 and B.W.C. 7, and replacing said matters with the following:

§ 1003.2 Water Carrier Application Forms OP-WC-20.

Applications under section 309 of the Interstate Commerce Act for Certificates of Public Convenience and Necessity and for Permits to operate as water carriers of passengers or property.

*It is further ordered*, That in view of the action taken above, 49 CFR 1140.1 (c) be, and it is hereby, revoked.

*It is further ordered*, That this order shall become effective September 23, 1973.

*And it is further ordered*, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission, Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-19938 Filed 9-18-73;8:45 am]

## Title 50—Wildlife and Fisheries

## CHAPTER I—BUREAU OF SPORT FISHERIES AND WILDLIFE, FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

## PART 32—HUNTING

### Sand Lake National Wildlife Refuge; South Dakota

The following special regulation is issued and is effective September 19, 1973.

§ 32.12 Special regulations: migratory game birds; for individual wildlife refuge areas.

SOUTH DAKOTA

SAND LAKE NATIONAL WILDLIFE REFUGE

Public hunting of waterfowl on the Sand Lake National Wildlife Refuge is permitted only on the areas designated by signs as open to hunting. These open areas, totaling 165 acres, are designated on a map available from the refuge headquarters and from the Area Manager, Bureau of Sport Fisheries and Wildlife, P.O. Box 250, Pierre, South Dakota 57501.

Hunting shall be in accordance with all applicable State regulations concerning the hunting of waterfowl subject to the following conditions:

(1) The open season for hunting geese on the refuge is from October 6, 1973, through December 2, 1973, inclusive. The open season for hunting ducks and coots on the refuge is from October 6, 1973, through December 4, 1973, inclusive.

(2) Hunting will be from established blind sites only, without cost, with each site restricted to not to exceed two hunters, and on a first-come, first-served basis. Blind sites and their use are more specifically described on a map and a list of regulations available at each of the hunting sites.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32.

[4] The area of availability centers on a point roughly midway between Ann Arbor and Pontiac and covers at least 250 square miles.

[4] Commissioner Robert E. Lee absent.









V 38 I 181
SEP 19 73
XUM

and are effective through December 4, 1973

LOUIS S. SWENSON,
*Refuge Manager, Sand Lake National Wildlife Refuge.*

SEPTEMBER 10, 1973.

[FR Doc.73-19854 Filed 9-18-73;8:45 am]

## Title 15—Commerce and Foreign Trade

### CHAPTER III—DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION, DEPARTMENT OF COMMERCE

### SUBCHAPTER B—EXPORT REGULATIONS

[13th Gen. Rev., Export Regs.]

### PART 377—SHORT SUPPLY CONTROLS

### Ferrous Scrap

The FEDERAL REGISTER issuance of July 2, 1973, announced a policy of licensing exports of ferrous scrap against accepted orders for less than 500 short tons, regardless of the date on which such an order was accepted. The purpose of this Bulletin is to suspend (except in the case of stainless steel scrap (Schedule B No. 282.0060)) licensing against such orders in the case of applications which were received in the Office of Export Control after September 10, 1973. Applications received after that time will be returned to the applicant without action.

This action has been taken because of a substantial increase in licensing activity for orders of less than 500 short tons. At the time the licensing controls were imposed, exporters were placed on notice that "in the event the volume of exports under this licensing procedure reaches an unacceptable level, further restrictions may be imposed on exports against orders of less than 500 short tons."

Licensing policy for exports in October of ferrous scrap, covering orders of 500 short tons or more, as well as those of less than 500 short tons, will be announced in a forthcoming Export Control Bulletin.

Accordingly, paragraph (c) of § 377.4 of the Export Control Regulations is revised to read as follows:

§ 377.4 Ferrous scrap.

* * * * *

(c) *Licensing system against orders of less than 500 short tons.* An application for a license to export ferrous scrap against an accepted order for less than 500 short tons, which is submitted on Forms FC-419 and FC-420, will be considered by the Office of Export Control, irrespective of the date on which the order was accepted, if accompanied by a photocopy or certified copy of the contract of sale for export to a foreign buyer, and a sworn affidavit by the applicant as to the amount previously exported against each such contract, if any. Provided, however, that applications for licenses to export ferrous scrap other than stainless steel scrap (Schedule B No. 282.-0060) will not be processed, if received in the Office of Export Control after September 10, 1973. The copy of the contract will serve in lieu of Form FC-842, Single Transaction Statement by Consignee and Purchaser, that would be otherwise required pursuant to § 375.2 of this chapter. After verification of the authenticity of the documentation submitted by the applicant, a license will be issued for export during the month specified in the contract for the total amount of the contract or the unfilled balance, whichever is the lesser amount. Such licenses shall expire 30 days after the date of issuance. Any cancellation of the contract automatically revokes the license that was issued against it. In the event of the cancellation of a contract, the applicant shall file a report of such cancellation with the Office of Export Control no later than five days from the date of cancellation. If a license has been issued against such a contract, the license shall be returned to the Office of Export Control with the notice of cancellation.

* * * * *

Effective date of action.—September 12, 1973.

RAUER H. MEYER,
*Director,*
*Office of Export Control.*

[FR Doc 73-20066 Filed 9-18-73;8:45 am]





# Proposed Rules

**This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.**

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### [ 7 CFR Part 46 ]

### LICENSE FEES

### Notice of Proposed Rule Making

Notice is hereby given that the United States Department of Agriculture is considering a revision of § 46.6 of the regulations (other than rules of practice) (7 CFR 46.1-46.44) effective under the Perishable Agricultural Commodities Act, 1930 (46 Stat. 531, et seq., as amended; 7 U.S.C. 499a et seq.).

*Statement of considerations leading to the proposed revision.* This Act is designed to prevent unfair and fraudulent practices of persons engaged in the business of marketing fresh or frozen fruits and vegetables or cherries in brine in interstate or foreign commerce. All persons engaged in business subject to the Act are required to be licensed.

The cost of administering this Act, except for the cost of legal services, is financed entirely by the annual license fees. The Act authorizes the Secretary of Agriculture to fix the license fee at such amount, not to exceed $100, as he deems necessary to meet reasonably anticipated expenses for administering the Act.

The source of funds for administering the Act has been shrinking steadily for more than a decade due to the decline in the number of firms handling fruits and vegetables subject to the Act. For example, the number of produce firms licensed under the Act declined from an all-time high of over 27,000 in 1956 to 16,878 on July 1, 1973. Mergers and acquisitions have been common among produce firms of all sizes, and have been one of the major factors attributing to this decline in the number of firms licensed under the Act. This trend is expected to continue.

The caseload of complaints handled under the Act, however, has remained relatively stable, while operating costs have increased, even though there has been no increase in the number of employees engaged in the administration of the Act.

The steady decline of the number of firms operating subject to the Act, and the gradually increasing operating costs has resulted in depleting the PACA Fund.

Because the present license fee of $75 per year is not producing sufficient revenue to meet current administrative expenses, it is proposed, in order to assure continued effective administration of the Act, to increase the annual license fee to $100, effective January 1, 1974.

All persons who desire to submit written data, views, or comments concerning the proposed increase in the fee should file the same in duplicate, with the Hearing Clerk, Room 112, Administration Building, U.S. Department of Agriculture, Washington, DC 20250, not later than November 1, 1973. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed revision of § 46.6 reads as follows:

§ 46.6 License fee.

The annual license fee is one hundred dollars ($100). The Director may require the fee be submitted in the form of a money order, bank draft, cashier's check or certified check made payable to Agricultural Marketing Service. Authorized representatives of the Division may accept fees and issue receipts therefor.

Done at Washington, DC, this 17th day of September 1973.

JOHN C. BLUM,
*Deputy Administrator, Regulatory Programs, Agricultural Marketing Service.*

[FR Doc.73-20047 Filed 9-18-73;8:45 am]

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

### [ 29 CFR Part 1910 ]

### STANDARD FOR OCCUPATIONAL EXPOSURE TO COKE OVEN EMISSIONS

### Notice of Proposed Rulemaking

The National Institute for Occupational Safety and Health (NIOSH), U.S. Department of Health, Education, and Welfare has submitted to the Secretary of Labor, pursuant to the Williams-Steiger Occupational Safety and Health Act of 1970, criteria for a recommended standard on the occupational exposure to coke oven emissions. The Office of Standards, Occupational Safety and Health Administration, U.S. Department of Labor is studying the criteria and would appreciate public participation on the issues of whether a new standard for coke oven emissions should be issued on the basis of the criteria or any other information, and, if so, what should be the contents of a proposed standard for coke oven emissions. The issues are set forth with greater particularity below.

Accordingly, interested persons are invited to submit written data, views and arguments concerning a standard on occupational exposure to coke oven emissions. Comments are specifically requested concerning:

(1) Whether a new standard on occupational exposure to coke oven emissions should be issued;

(2) Each section of the standard recommended by NIOSH;

(3) Suitable alternatives to the recommendations of NIOSH;

(4) Work injury and illness experience with coke oven emissions;

(5) Supported cost data of the estimated costs of coming into compliance with the standard recommended by NIOSH;

(6) Supported data on any possible environmental impact of the recommended standard, and specifically (a) any adverse environmental effects which cannot be avoided should the standard be adopted, (b) alternatives to such standard, (c) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and (d) any irreversible commitments of resources which would be involved if the standard should be implemented; and

(7) Any other related issues.

Communications should be submitted to the Office of Standards, Occupational Safety and Health Administration, U.S. Department of Labor, Room 504 Railway Labor Building, 400 First Street, NW., Washington, D.C. 20210, before November 19, 1973. The communications will be available for public inspection and copying at the Office of Standards.

The NIOSH document containing the criteria and the recommended standard on occupational exposure to coke oven emissions will be available for inspection and copying, upon request, at the Office of Standards in Washington, D.C. and at any of the following regional or area offices.

REGIONAL OFFICES

U.S. Department of Labor
Occupational Safety and Health Administration
Fourth Floor
18 Oliver Street
Boston, Massachusetts 02110

U.S. Department of Labor
Occupational Safety and Health Administration
Gateway Building
3535 Market Street, Room 15220
Philadelphia, Pennsylvania 19104

U.S. Department of Labor
Occupational Safety and Health Administration
300 South Wacker Drive
Room 1201
Chicago, Illinois 60606



V38-181 SEP 1973 XUM

U S Department of Labor
Occupational Safety and Health Administration
823 Walnut Street
Waltower Building—Room 300
Kansas City, Missouri 64106

U.S. Department of Labor
Occupational Safety and Health Administration
9437 Federal Building
450 Golden Gate Avenue
Box 36017
San Francisco, California 94102

U S Department of Labor
Occupational Safety and Health Administration
1515 Broadway
1 Astor Plaza
New York, New York 10036

U.S Department of Labor
Occupational Safety and Health Administration
1375 Peachtree Street, N.E.
Suite 587
Atlanta, Georgia 30309

U.S. Department of Labor
Occupational Safety and Health Administration
7th Floor—Texaco Building
1512 Commerce Street
Dallas, Texas 75201

U.S. Department of Labor
Occupational Safety and Health Administration
Federal Building—Room 15010
P.O. Box 3588, 1961 Stout Street
Denver, Colorado 80202

U.S. Department of Labor
Occupational Safety and Health Administration
506 Second Avenue
1808 Smith Tower Building
Seattle, Washington 98104

U.S. Department of Labor
Occupational Safety and Health Administration
Room 203—Midtown Plaza
700 East Water Street
Syracuse, New York 13210

U.S. Department of Labor
Occupational Safety and Health Administration
Federal Office Building
970 Broad Street—Room 1435C
Newark, New Jersey 07102

U.S. Department of Labor
Occupational Safety and Health Administration
370 Old Country Road
Garden City, Long Island, New York 11530

U.S Department of Labor
Occupational Safety and Health Administration
Condominium San Alberto Building
Santurce, Puerto Rico 00907

U S. Department of Labor
Occupational Safety and Health Administration
William J. Green, Jr Federal Bldg.
600 Arch Street
Philadelphia, Pennsylvania 19106

U S. Department of Labor
Occupational Safety and Health Administration
Charleston National Plaza
Suite 1726
700 Virginia Street
Charleston, West Virginia 25301

U.S. Department of Labor
Occupational Safety and Health Administration
Federal Building—Room 8081
400 N. 8th Street, P.O. Box 10186
Richmond, Virginia 23240

U.S. Department of Labor
Occupational Safety and Health Administration
Room 802—Jonnet Building
4099 William Penn Highway
Monroeville, Pennsylvania 15146

U.S. Department of Labor
Occupational Safety and Health Administration
1371 Peachtree Street, N.E.
Room 723
Atlanta, Georgia 30309

U.S. Department of Labor
Occupational Safety and Health Administration
Room 204—Bridge Building
Fort Lauderdale, Florida 33308

U.S. Department of Labor
Occupational Safety and Health Administration
2809 Art Museum Drive, Suite 4
Jacksonville, Florida 32207

U.S. Department of Labor
Occupational Safety and Health Administration
Room 561—600 Federal Building
Louisville, Kentucky 40202

U.S. Department of Labor
Occupational Safety and Health Administration
Commerce Building—Room 801
118 North Royal Street
Mobile, Alabama 36602

U.S. Department of Labor
Occupational Safety and Health Administration
1361 East Morehead Street
Charlotte, North Carolina 28204

U.S. Department of Labor
Occupational Safety and Health Administration
Federal Building—Room 1110A
31 Hopkins Plaza
Baltimore, Maryland 21201

U.S. Department of Labor
Occupational Safety and Health Administration
Todd Mall, 2047 Canyon Road
Birmingham, Alabama 35216

U.S. Department of Labor
Occupational Safety and Health Administration
300 South Wacker Drive
Chicago, Illinois 60606

U.S. Department of Labor
Occupational Safety and Health Administration
Room 224—Bryson Building
700 Bryden Road
Columbus, Ohio 43215

U.S. Department of Labor
Occupational Safety and Health Administration
Clark Building—Room 400
633 West Wisconsin Avenue
Milwaukee, Wisconsin 53203

U.S. Department of Labor
Occupational Safety and Health Administration
U.S. Post Office and Courthouse
Room 423
46 East Ohio Street
Indianapolis, Indiana 46204

U.S. Department of Labor
Occupational Safety and Health Administration
847 Federal Office Building
1240 East Ninth Street
Cleveland, Ohio 44199

U.S. Department of Labor
Occupational Safety and Health Administration
1600 Hayes Street—Suite 302
Nashville, Tennessee 37203

U.S. Department of Labor
Occupational Safety and Health Administration
Michigan Theatre Building, Room 626
220 Bagley Avenue
Detroit, Michigan 48226

U.S. Department of Labor
Occupational Safety and Health Administration
Room 5522, Federal Office Building
550 Main Street
Cincinnati, Ohio 45202

U.S. Department of Labor
Occupational Safety and Health Administration
Room 734, Federal Office Building
234 N. Summit Street
Toledo, Ohio 43604

U.S. Department of Labor
Occupational Safety and Health Administration
Adolphus Tower—Suite 1820
1412 Main Street
Dallas, Texas 75202

U.S. Department of Labor
Occupational Safety and Health Administration
Room 421, Federal Building
1205 Texas Avenue
Lubbock, Texas 79401

U.S. Department of Labor
Occupational Safety and Health Administration
Room 512—Petroleum Building
420 South Boulder
Tulsa, Oklahoma 74103

U.S. Department of Labor
Occupational Safety and Health Administration
307 Central National Bank Building
Houston, Texas 77002

U.S. Department of Labor
Occupational Safety and Health Administration
546 Carondelet Street—4th Floor
New Orleans, Louisiana 70130

U.S. Department of Labor
Occupational Safety and Health Administration
1627 Main Street
Room 1100
Kansas City, Missouri 64108

U.S. Department of Labor
Occupational Safety and Health Administration
210 North 12th Boulevard
Room 554
St. Louis, Missouri 63101

U.S. Department of Labor
Occupational Safety and Health Administration
City National Bank Building
Room 803
Harney and 16th Streets
Omaha, Nebraska 68101

U.S. Department of Labor
Occupational Safety and Health Administration
333 Queen Street—Suite 505
Honolulu, Hawaii 05913

U.S. Department of Labor
Occupational Safety and Health Administration
Hartwell Building, Room 514
19 Pine Avenue
Long Beach, California 90802

U.S. Department of Labor
Occupational Safety and Health Administration
Squire Plaza Building
8527 W. Colfax Avenue
Lakewood, Colorado 80215





U.S. Department of Labor
Occupational Safety and Health Administration
Suite 309
Executive Building
455 East 4th South
Salt Lake City, Utah 84111

U.S. Department of Labor
Occupational Safety and Health Administration
Suite 525—Petroleum Building
2812 1st Avenue North
Billings, Montana 59101

U.S. Department of Labor
Occupational Safety and Health Administration
100 McAllister Street, Room 1706
San Francisco, California 94102

U.S. Department of Labor
Occupational Safety and Health Administration
Suite 318—Amerco Towers
2721 North Central Avenue
Phoenix, Arizona 85004

U.S. Department of Labor
Occupational Safety and Health Administration
1203 South Carson Street
Carson City, Nevada 89701

U.S. Department of Labor
Occupational Safety and Health Administration
121—107th Street, N.E.
Bellevue, Washington 98004

U.S. Department of Labor
Occupational Safety and Health Administration
Federal Building, Room 227
605 West 4th Avenue
Anchorage, Alaska 99501

U.S. Department of Labor
Occupational Safety and Health Administration
Room 526 Pittock Block
921 S.W. Washington Street
Portland, Oregon 97205

NATIONAL OFFICE

U.S. Department of Labor
Occupational Safety and Health Administration
Office of Standards
Room 507—Railway Labor Building
400 First Street, N.W.
Washington, D.C. 20210

and they will be available for inspection at the national and regional offices of the U.S. Department of Health, Education, and Welfare, National Institute for Occupational Safety and Health, at the following addresses:

U.S. Department of HEW
National Institute for Occupational Safety & Health
Room 10-A-22
5600 Fishers Lane
Rockville, Maryland 20852

U.S. Department of HEW
National Institute for Occupational Safety & Health
1100 Commerce Street, Room 8-C-53
Dallas, Texas 75202

U.S. Department of HEW
National Institute for Occupational Safety & Health
401 North Broad Street
Philadelphia, Pennsylvania 19108

U.S. Department of HEW
National Institute for Occupational Safety & Health
9017 Federal Building
19th and Stout Streets
Denver, Colorado 80202

U.S. Department of HEW
National Institute for Occupational Safety & Health
John F. Kennedy Federal Building
Government Center
Boston, Massachusetts 02203

U.S. Department of HEW
National Institute for Occupational Safety & Health
26 Federal Plaza
New York, New York 10007

U.S. Department of HEW
National Institute for Occupational Safety & Health
601 East 12th Street
Kansas City, Missouri 64106

U.S. Department of HEW
National Institute for Occupational Safety & Health
254 Federal Office Building
50 Fulton Street
San Francisco, California 94102

U.S. Department of HEW
National Institute for Occupational Safety & Health
50 Seventh Street, N.E.
Atlanta, Georgia 30823

U.S. Department of HEW
National Institute for Occupational Safety & Health
Arcade Building—1321 Second Street
Seattle, Washington 98101

U.S. Department of HEW
National Institute for Occupational Safety & Health
300 South Wacker Drive
Chicago, Illinois 60607

Finally, copies of the NIOSH document may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

This advance notice of proposed rulemaking is issued under section 6 of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1593 (29 U.S.C. 655)) and Secretary of Labor's Order No. 12-71 (36 FR 8754).

Signed at Washington, D.C., this 13th day of September, 1973.

JOHN H. STENDER,
*Assistant Secretary of Labor.*

[FR Doc.73-19924 Filed 9-18-73;8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

### [ 40 CFR Part 120 ]

### NAVIGABLE WATERS OF STATE OF WEST VIRGINIA

#### Proposed Water Quality Standards

Notice is hereby given that pursuant to the authority of section 303(b) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1313(b); 86 Stat. 816 et seq.: Pub. L. 92-500) (the Act), regulations setting forth standards of water quality to be applicable to the navigable waters of the State of West Virginia are proposed.

Under section 303(a) of the Act, the Administrator of the Environmental Protection Agency is required to review water quality standards for interstate and intrastate waters adopted and submitted by the States. When he determines that changes in such standards are required to meet the requirements of the Act as in effect prior to October 18, 1972 (the date of enactment of the 1972 Amendments to the Act, Pub. L. 92-500), he must notify the State. If the State does not adopt the required revisions, or if the revisions submitted by the State do not meet the requirements of the Act, the Administrator is to publish proposed revised water quality standards in accordance with such requirements.

The State of West Virginia, prior to October 18, 1972, adopted water quality standards for both interstate and intrastate waters. After the enactment of the 1972 Amendments, EPA reviewed both the interstate and intrastate standards pursuant to section 303(a) of the Act. (A notice concerning EPA review of all interstate and intrastate water quality standards was published in the FEDERAL REGISTER on December 29, 1972, 37 FR 28775-28780). The interstate standards for West Virginia are identified in 40 CFR Part 120 (37 FR 6087, March 24, 1972). The intrastate standards are contained in the same document which sets forth the standards for interstate waters. The standards document is available for inspection and copying at the West Virginia Department of Natural Resources, Division of Water Resources, 1201 Greenbriar Street, Charleston, West Virginia 25311 and the EPA Regional Office, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106. EPA's information regulations, 40 CFR Part 2, provide that a fee may be charged for making copies.

On January 18, 1973, the Regional Administrator notified West Virginia that certain revisions to its interstate water quality standards were necessary to make the standards consistent with the applicable requirements of the Act. On March 8, 1973, a similar notification was made for intrastate water quality standards. The State has not formally submitted the required revisions within the 90-day period allowed by sections 303(a)(1) and 303(a)(2) of the Act. Accordingly, pursuant to section 303(b)(1), EPA is now proposing regulations setting forth standards required to comply with the Act as in effect prior to October 18, 1972.

Section 303(b)(2) of the Act requires the Administrator to promulgate standards no later than 190 days after the date of publication of this notice, unless by such time the State shall have adopted a water quality standard which the Administrator determines to be in accordance with the requirements of section 303(a) of the Act. However, the Administrator is not required to await State action for the entire 190 day period prior to promulgation. Thus, these standards may be promulgated by the Administrator at any time following the expiration of time for public comment.

Except as provided in the attached proposed regulations, the interstate and intrastate standards previously adopted by the State of West Virginia, as referenced above, are the effective water quality standards under section 303 of the Act for interstate and intrastate navigable waters within that State. Where the



V 38 181
SEP 19 73
XUM

proposed regulations set forth below are inconsistent with the referenced standards, these regulations, if promulgated, will supersede such standards to the extent of the inconsistency.

Interested persons may submit written data, views, or arguments, in triplicate, in regard to the proposed regulations to the Regional Administrator, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania, 19106. All relevant material received on or before December 18, 1973, will be considered.

Dated September 12, 1973.

JOHN QUARLES,
*Acting Administrator.*

The regulations in Chapter I of Title 40, Code of Federal Regulations, are amended as follows:

**§ 120.12 West Virginia water quality standards.**

(a) Uses. The assigned uses for West Virginia navigable waters will be the "future" uses designated in Chapter 20, Articles 5 and 5A, Code of West Virginia.

Zone Two of the Kanawha River will have an assigned use of Category C, Propagation of Fish and Other Aquatic Life. The Youghiogheny River and its tributaries will have an assigned use of Category C, Propagation of Fish and Other Aquatic Life.

(b) Stream flow. Water quality criteria shall apply in Zone One of the main stem of the Kanawha River whenever stream flow is greater than or equal to 1,800 c.f.s. at the Kanawha Falls gauge. This flow is considered the modified minimum mean 7-consecutive-day drought flow with a 10-year return frequency due to existing water control projects in the Kanawha Basin.

Water quality criteria shall apply in Zone Two of the main stem of the Kanawha River whenever stream flow is greater than or equal to 1,930 c.f.s. at the Charleston gauge. This flow is considered the modified minimum mean 7-consecutive-day drought flow with a 10-year return frequency due to existing water control projects in the Kanawha basin.

(c) Temperature. For all bodies of water temperature rise shall be limited to 5° F above natural in addition to other maximums.

Temperature for Zone Two of the Kanawha River is not to exceed 90° F in any case.

(d) Zone Two of the Kanawha River shall have a dissolved oxygen level of no less than 5 mg/l except that dissolved oxygen may range between 5 mg/l and 4 mg/l for short periods of time under extreme conditions: *Provided*, That the water quality is favorable in all other respects.

(e) For all bodies of water in the State, the fecal coliform content (either MPN or MF count) shall not exceed 200 per 100 ml as a 30-day geometric mean based on not less than five (5) samples during any 30-day period nor exceed 400 per 100 ml in more than ten percent (10%) of all samples during any 30-day period.

(f) Definitions. "Natural" or "natural occurring" values shall mean for all of the waters of the State:

(1) Those water quality values which exist unaffected by—or unaffected as a consequence of—any water use by any person;

(2) Those water quality values which exist unaffected by the discharge, or direct or indirect deposit of, any solid, liquid or gaseous substance by any person.

(g) pH. For all bodies of water, pH shall be not less than 6.5 nor more than 8.5 except streams carrying significant quantities of acid mine drainage.

(h) Section 16—Trout Waters—is expanded to include the following streams, stream stretches, lakes, reservoirs and ponds:

| *Stream* | *County* |
|---|---|
| Abes Run | Pocahontas. |
| Anglins Creek | Nicholas. |
| Anthony Creek | Greenbrier. |
| Back Fork, Elk River | Webster. |
| Beaver Creek | Pocahontas. |
| Big Bullskin Run | Jefferson. |
| Big Clear Creek | Greenbrier. |
| Big Huff Creek | Logan, Wyoming. |
| Big Run | Pendleton. |
| Big Run | Randolph. |
| Big Sandy Creek | Preston. |
| Blackwater River | Tucker. |
| Blaney Hollow & Morgan Run. | Monongalia. |
| Brushy Fork | Barbour. |
| Buckhannon River | Upshur. |
| Buffalo Creek | Preston. |
| Camp Branch | Hardy. |
| Camp Creek | Mercer. |
| Camp Five Run | Randolph. |
| Cattail Run | Jefferson. |
| Cherry River | Nicholas. |
| Clear Fork | McDowell. |
| Clover Run | Tucker. |
| Cold Stream | Hampshire. |
| Cranberry River | Pocahontas, Webster, Nicholas. |
| Cross Creek | Brooke. |
| Culverson Creek | Greenbrier. |
| Deer Creek | Nicholas. |
| Deer Creek | Pocahontas. |
| Desert Fork | Webster. |
| Dillons Run | Hampshire. |
| Dry Fork | McDowell. |
| Dry Fork | Randolph, Tucker. |
| Dumpling Run | Hardy. |
| East Fork, Glady Fork | Randolph. |
| East Fork, Greenbrier River. | Pocahontas. |
| East River, New River | Mercer. |
| Edwards Run & Pond | Hampshire. |
| Elklick Run | Tucker. |
| Elk River, Slaty Fork | Pocahontas. |
| Elk River (Webster Springs). | Webster. |
| Elk River (Whit. F) | Webster, Randolph. |
| Elkwater Fork | Randolph. |
| Elsey Run | Preston. |
| Evitts Run | Jefferson. |
| Five Mile Run | Pocahontas. |
| Flowing Springs Run | Jefferson. |
| Fall Run | Webster. |
| Gandy Creek | Randolph. |
| Gauley River (Head) | Randolph, Webster. |
| Glade Creek (Babcock) | Fayette. |
| Glade Creek, New River | Raleigh. |
| Glady Fork | Randolph. |
| Grave Creek | Marshall. |
| Harlan Run | Berkeley. |
| Hills Creek | Pocahontas. |
| Horseshoe Run | Tucker. |
| Kings Creek | Hancock. |
| Knapps Creek | Pocahontas. |
| Laurel Creek | Fayette. |
| Laurel Creek | Greenbrier, Nicholas. |
| Laurel Creek | Monroe. |
| Laurel Fork | Pendleton. |
| Laurel Fork | Randolph. |
| Laurel Fork | Webster. |
| Laurel Run | Greenbrier. |
| Laurel Run | Pocahontas. |
| Laurel Run | Preston. |
| Left Fork, Buckhannon River. | Upshur. |
| Left Fork, Holly River | Webster. |
| Left & Right Forks, Buckhannon River. | Randolph, Upshur. |
| Left & Right Forks, Little Kanawha River. | Upshur. |
| Little Clear Creek & Laurel Run Tributary. | Greenbrier. |
| Little Fork | Pendleton. |
| Little Kanawha River (Head). | Upshur, Lewis. |
| Little River (East Fork) | Pocahontas. |
| Little River (West Fork) | Pocahontas. |
| Long Marsh Run | Jefferson. |
| Lost River | Hardy. |
| Lower Cove Run | Hardy. |
| Marsh Fork | Raleigh. |
| Mash Fork | Mercer. |
| Maxwell Run | Tucker. |
| Meadow Branch | Morgan. |
| Meadow Creek | Greenbrier. |
| Meadow Creek | Summers. |
| Middle Creek | Berkeley. |
| Middle Fork River | Barbour, Randolph, Upshur. |
| Mill Creek (Grayson Gap). | Mineral. |
| Mill Creek | Fayette. |
| Mill Creek | Berkeley. |
| Mill Creek | Hampshire. |
| Milligan Creek | Greenbrier. |
| Moores Run | Hardy. |
| Mullenax Run | Pocahontas. |
| New Creek | Mineral. |
| North River | Hardy. |
| North Fork, Anthony Creek. | Greenbrier. |
| North Fork, Cherry River | Greenbrier, Nicholas. |
| North Fork, Deer Creek | Pocahontas. |
| North Fork, Fishing Creek Dam. | Wetzel. |
| North Fork, Lunice Creek | Grant. |
| North Fork, Patterson Creek. | Grant. |
| North Fork, South Branch. | Pendleton, Grant. |
| Opequon Creek | Berkeley, Jefferson. |
| Paint Creek | Fayette. |
| Panther Creek | McDowell. |
| Paw Paw Creek | Marion. |
| Pigeon Creek | Mercer. |
| Pinch Creek | Raleigh. |
| Pinnacle Creek | Wyoming. |
| Red Creek | Tucker. |
| Rich Creek | Monroe. |
| Right Fork, Buckhannon River. | Upshur, Randolph. |
| Right Fork, Little Kanawha River. | Webster, Upshur. |
| Right Fork, Middle Fork River. | Upshur. |
| Roaring Creek | Preston. |
| Rocky Marsh Run | Jefferson. |
| Saltlick Creek | Preston. |
| Seneca Creek | Pendleton. |
| Shavers Fork | Randolph. |
| Shavers Fork (Lower Section). | Randolph. |
| Shavers Fork (Upper Section). | Randolph, Pocahontas. |
| Sitlington Creek | Pocahontas. |
| Slip Hill Mill Run | Tucker. |
| South Branch (Franklin Section). | Pendleton. |





| *Stream* | *County* |
|---|---|
| South Branch (Smoke Hole Section). | Pendleton. |
| South Fork, Cherry River | Greenbrier, Nicholas. |
| South Fork, Cranberry River. | Pocahontas. |
| South Fork, Fishing Creek. | Wetzel. |
| South Fork, Lunice Creek. | Grant. |
| South Fork, Potts Creek | Monroe. |
| South Mill Creek | Grant. |
| Spring Creek | Greenbrier. |
| Spring Run | Grant. |
| Spruce Laurel Fork | Boone. |
| Stoney Creek | Pocahontas. |
| Sugar Creek | Webster. |
| Summersville Lake (Tailwaters). | Nicholas. |
| Sutton Lake (Tailwaters). | Braxton. |
| Swago Creek | Pocahontas. |
| Tea Creek | Pocahontas. |
| Three Spring Run | Randolph. |
| Tilhance Creek | Berkeley. |
| Tomlinson Run | Hancock. |
| Town Run or 76 Stream | Jefferson. |
| Trout Run | Hardy. |
| Turkey Creek | Monroe. |
| Tuscarora Creek | Berkeley. |
| Tygart River (Head) | Randolph. |
| Waites Run | Hardy. |
| Wayne Dam (Twelvepole Creek). | Wayne. |
| West Fork, Greenbrier River. | Pocahontas. |
| West Fork, Twelvepole Creek. | Wayne. |
| Wheeling Creek | Marshall, Ohio. |
| Whiteday Creek | Marion, Monongalia. |
| Wickwire Run | Taylor. |
| Wickwire Creek | Taylor. |
| Williams River | Pocahontas, Webster. |
| Wolf Creek | Fayette. |
| Wolf Creek | Preston. |
| Wolfpen Creek | Fayette. |
| *Lakes and Ponds* | *County* |
| Bear Rock | Ohio. |
| Berwind | McDowell. |
| Buffalo Fork | Pocahontas. |
| Burches | Marshall. |
| Cacapon | Morgan. |
| Castleman Run | Brooke. |
| Chief Logan | Logan. |
| Conaway | Tyler. |
| Coopers Rock | Monongalia. |
| Dents Run | Marion. |
| Edwards Run | Hampshire. |
| Fitzpatrick | Raleigh. |
| Fort Ashby | Mineral. |
| French Creek | Upshur. |
| Hawse Run | Pendleton. |
| Horse Creek | Wyoming. |
| Laurel | Mingo. |
| Little Beaver | Raleigh. |
| New Creek Dam 14 | Grant. |
| Seneca | Pocahontas. |
| Spruce Knob | Randolph. |
| Summersville Reservoir | Nicholas. |
| Summit | Greenbrier. |
| Sutton Reservoir | Braxton. |
| Teter Creek | Barbour. |
| Tomlinson Run | Hancock. |
| Thomas Park | Tucker. |
| Trout Pond | Hardy. |
| Warden | Hardy. |
| Westover Park | Monongalia. |

[FR Doc.73-19859 Filed 9-18-73;8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

**[ 47 CFR Part 73 ]**

[Docket No. 19811; FCC 73-912]

**FM BROADCAST STATIONS**

**Notice of Proposed Rule Making**

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Melbourne, Florida), RM-2013.

1. Notice of Proposed Rule Making is hereby given concerning proposed amendment of the FM Table of Assignments (§ 73.202(b) of the Commission's rules and regulations) with respect to the petition of Radio Melbourne, Inc. (Radio Melbourne), licensee of AM Station WMEL, Melbourne, Florida, proposing the assignment of Channel 292A as a third assignment to that community.

2. Melbourne, population 40,236,[1] is the largest community in Brevard County, population 230,006. There are presently five aural broadcast services at Melbourne; FM Stations WYRL, Channel 272A, WTAI-FM, Channel 296A, and AM Stations WTAI (daytime-only), WMEL, and WMMB.

3. Radio Melbourne, in support of its petition, contends that another FM channel assignment is necessary at Melbourne in order to meet the needs of the community. From a technical viewpoint, the assignment may be made without other changes in the FM Table of Assignments and in full compliance with all mileage separations if a transmitter site is selected 0.8 miles north of Melbourne (in order to meet spacing to the Channel 292A assignment at Avon Park) but there is no problem in providing a community-grade signal over the city. As Radio Melbourne contends, preclusion is minimal; of the four cities with over 2,500 population Vero Beach has three aural services (one FM station and 2 AM stations), and the other three are contiguous to Melbourne. Channel 288A could be assigned to Vero Beach (as proposed in Docket No. 19772 (FCC 73-642)); and, as to the other three communities, one could apply for the channel if assigned to Melbourne under the "10 mile" rule (§ 73.203(b)). In other respects, petitioner asserts that Melbourne is a thriving community with a full array of schools, businesses, government facilities, and industry, and the site of Florida Institute of Technology, Melbourne, it is claimed, is the heart of the southern part of Brevard County, an expanding area. Petitioner asserts that if the assignment is made it will promptly file an application for the channel and proceed to build and operate a station on it if the application is granted.

4. The petition is opposed by Broadcast Enterprises, Inc., the licensee of Stations WMMB and WYRL(FM), Melbourne, principally on the grounds that a third assignment to Melbourne would be a deviation from the population guideline for assigning only two FM channels to a city of 50,000 or less population. (See para. 4 of the Further Notice of Proposed Rule Making in Docket No. 14185, adopted June 25, 1962 (FCC 62-867), and incorporated by reference in para. 25 of the Third Report, Memorandum Opinion and Order (40 F.C.C. 747, 758 (1968)).)[2] Broadcast Enterprises states that this criterion has consistently been reaffirmed. Petitioner in its reply states that the population criteria are not determinative, citing our Hattiesburg decision, 37 F.C.C. 2d 54 (1972).

5. Oliva Broadcasting Company, licensee of daytime-only AM Station WIPC, Lake Wales, Florida, filed informal comments opposing the petition because of the asserted need for nighttime service at Lake Wales, population 8,240, which is located in Polk County, population 227,222. It apparently intends to petition for the reassignment of Channel 292A from Avon Park, population 6,717, which is located in Highlands County, population 29,507. Reassignment of Channel 292A from Avon Park to Lake Wales might be foreclosed by the assignment of Channel 292A to Melbourne, since the distance between the communities is 60 miles while the requisite mileage separation is 65 miles.

6. Despite the contentions of Broadcast Enterprises to the contrary, the population criteria for FM channel assignments are merely a guide with deviation permitted depending on demand and availability of an FM channel for assignment to the community; see, e.g., Fresno, 38 F.C.C. 2d 525, 526 (1972); Yakima (73-837), — F.C.C. 2d —— (1973). In this instance, there is a demand as evidenced by the petition of Radio Melbourne for a city (and county) with a rapidly increasing population[3] and from the technical viewpoint assignment of Channel 292A to Melbourne may be made without affecting the FM Table of Assignments in any other respect and with minimal preclusion. In the circumstances, we believe that the public interest, convenience, and necessity would be served by our adopting a Notice of Proposed Rule Making proposing assignment of 292A to Melbourne. While, as already noted, the proposal to assign Channel 292A to Melbourne might prohibit assignment of that same channel to Lake Wales, Oliva Broadcasting Co. has not petitioned for such a change, and we cannot presume that it will (it still may under the cut-off precodure set forth below).[4]

[1] All population information is from the 1970 Census

[2] Actually Radio Melbourne has petitioned for a "second" channel, but Melbourne has had two channels since Eau Gallie was merged with Melbourne (see Report and Order in Docket No. 19254 (FCC 71-988)).

[3] Melbourne's population increase between 1960 and 1970 was 235.8 percent and that of Brevard County was 106.4 percent.

[4] On August 15, 1973, the application of Tri-County Stereo, Inc. for a construction permit to construct on Channel 292A at Avon Park was accepted (BPH-8523).



V 38 I 181 SEP 19 73 XUM

7. In view of the foregoing and pursuant to authority found in sections 4(i), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, it is proposed to amend § 73.202(b) of the Commission's rules and regulations, the FM Table of Assignments, as concerns Melbourne, Florida, as follows:

| City | Channel No. | |
|---|---|---|
| | Present | Proposed |
| Melbourne, Fla | 272A, 296A | 272A, 292A, 296A |

8. *Showings required.* Comments are invited upon the proposal referred to above. Radio Melbourne should affirm its intention to promptly apply for the channel if assigned and to construct if its application is granted. Failure to file comments or address the issues raised may result in dismissal.

9. *Cut-off procedure.* The following procedures will govern:

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments.

(b) With respect to petitions for rule making which conflict with the proposal in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given, as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision herein.

10. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations, interested parties may file comments on or before October 23, 1973, and reply comments on or before November 1, 1973. All submissions by parties to this proceeding, or parties acting on behalf of such parties, must be made in written comments, reply comments, or other appropriate pleadings.

11. In accordance with the provisions of § 1.419 of the rules and regulations, an original and 14 copies of all comments, reply comments, pleadings, briefs, and other documents shall be furnished the Commission. These will be available for public inspection during regular business hours in the Commission's Public Reference Room at its Headquarters, 1919 M Street, NW., Washington, D.C.

Adopted September 6, 1973.

Released September 12, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[3]
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

[FR Doc.73-19917 Filed 9-18-73;8:45 am]

## [ 47 CFR Part 73 ]

[Docket No. 19816; FCC 73-930]

## EDUCATIONAL BROADCAST

### Notice of Inquiry and Notice of Proposed Rulemaking

In the matter of ascertainment of community problems by educational broadcast applicants; amendment of section IV (Statement of Program Service) of FCC Broadcast Application Forms 340 and 342 (Noncommercial Educational Broadcast Applications); and formulation of rules and policies relating to the renewal of educational broadcast licenses.

1. The Commission hereby gives notice of inquiry and proposed rule making concerning its requirements and policies with respect to the ascertainment of community problems, needs and interests by educational broadcast applicants and licensees and the renewal of educational broadcast licenses.

2. In petitions for rule making (RM–1851 and RM–1874), the National Association of Black Adult Educators, the National Black American Law Student Association, the National Association of Black Students and Hollis H. Larkins, Jr. (the "Black Associations"),[1] jointly, and Sandra W. Bennett, Ph. D.,[2] individually, have requested revision of FCC Forms 340 and 342[3] to require all applicants for noncommercial educational broadcast licenses, including applicants for renewal of station authorizations, to ascertain community problems, needs and interests and to propose programming in response thereto.[4] A statement in support of each petition has been filed by the National Association of Educational Broadcasters (NAEB), which has also referred to its comments submitted in Docket No. 19153, the Commission's rule making inquiry into the renewal process in the commercial broadcast field. Also, the Corporation for Public Broadcasting (CPB) has filed a petition for rule making (RM–1974), which requests certain changes in the noncommercial educational FM rules dealing with channel allocations, station licensing and operation and technical requirements. In its petition, CPB states that noncommercial FM applicants should be required to show that their stations will be used to serve ascertained community needs. The CPB petition has relevance to the inquiry herein. However, we are not attempting to dispose of the petition and its various requests concerning the educational FM rules in the context of this proceeding.

3. The Black Associations contend that noncommercial educational broadcasting has witnessed a shift in emphasis from "instructional" programming directed towards the student to "public" programming, which attempts to present news, public affairs and cultural offerings to the community at large. As a result, petitioners assert that educational broadcasters should be charged with the duty of ascertaining the educational and cultural needs of their communities under the same guidelines imposed on commercial broadcasters by the Commission's Primer on Ascertainment of Community Problems by Broadcast Applicants." See Report and Order in Docket No. 18774, 27 FCC 2d 650 (1971). Although petitioners concede that the Commission may have been correct in paying deference to the instructional programming expertise of educational broadcasters during the advent of the noncommercial service, they stress that the evident change in emphasis to public programming demonstrates the need to impose formal ascertainment requirements on educational broadcasters to insure programming responsive to the general educational and cultural interests of communities and to the special problems of minority groups. The Black Associations emphasize the need for diversified ideas if educational stations are to contribute to the educational process and to the development of cultural awareness. In this regard, petitioners note that some educational television stations have refused to carry certain programs even though the need for such programming was apparent from expressions of interest by the public. In addition, petitioners refer to an independent study of educational television viewing which apparently reveals that educational television is perceived not as a medium for community dialogue but rather as a communications vehicle for the better-educated segments of the population, which usually provide substantial financial support for the service.

4. The Black Associations maintain that even though the ascertainment process is no substitute for media access by the disadvantaged, it does provide broadcasters with the opportunity to program in response to community problems. They point out that several parties, in response to the Notice of Inquiry in Docket No. 18774, 20 FCC 2d 880 (1969), urged that educational applicants should not be exempted from the Primer's ascertainment requirements and that they would profit as much as commercial broadcast applicants from the information obtained through community surveys. As petitioners note, the Commission declined to apply the Primer guidelines to applicants for educational broadcast licenses because of the specialized programming presented by educational stations. See 27 FCC 2d at 651. In spite of this determination by the Commission, the Black Associations contend that an educational broadcast applicant must become familiarized with local concerns by surveying his community and by soliciting ideas for relevant programming. Therefore, petitioners request the Commission to amend its rules (§§ 73.503(a) and 73.621(a)) and application forms (FCC Forms 340 and 342) to require educational broadcast applicants to ascertain community problems, needs and interests and to propose programming in response thereto, consistent with existing Primer guidelines and with the following recommended requirements:

(a) The applicant will conduct his ascertainment survey by consulting with students, young people, women and ethnic, economic and political minorities;

(b) The applicant will demonstrate the criteria used to determine community leaders;

(c) The applicant will demonstrate that the leaders selected for consultation are recognized by the groups for which they are selected;

(d) The applicant will conduct his ascertainment survey on a continuing basis and will submit specific evidence semi-annually to the Commission to demonstrate that community problems, needs and interests are being served; and

(e) The applicant will demonstrate what steps he has taken to assure continuing contact with his community.

5. Sandra W. Bennett also asks that formal ascertainment requirements be imposed on educational broadcasters. She stresses that there is no sound reason to differentiate an educational broadcaster's obligations in this regard from those attached to a commercial broadcaster. Referring to an NAEB survey, petitioner asserts that local minority programming is virtually non-existent in public broadcasting, and she contends that ascertainment procedures which require an accounting of minority needs and interests should be instituted for educational broadcast applicants. Petitioner suggests that the ascertainment process must be on-going and that educational licensees must be able to show evidence of more than a six-month thrust every three years. She also recommends that every educational broadcaster be required to form a citizens' advisory council, whose membership would reflect diverse segments of the community and whose purpose would be to assist the educational station in identifying community problems and in formulating programming in response thereto.

6. The NAEB, in its statements in support of the rule making petitions, urges the Commission to initiate an inquiry to explore ascertainment criteria for public broadcasters. According to the NAEB, educational broadcasters must be attuned to the needs, interests and problems of their communities, and reasonable survey and reporting procedures, devised with the unique operations and objectives of noncommercial stations in mind, will assure their responsiveness to the primary needs of their service areas in the form of a continuing dialogue between station and community. Referring to its comments submitted in Docket No. 19153, the NAEB submits that the nature of materials to be included in renewal applications by educational broadcasters should await the outcome of an ascertainment inquiry when the Commission can make a more informed judgment on the content of renewal applications and the announcements to be aired by educational broadcasters.

7. No extended discussion of the basic responsibilities of educational broadcasters is required. Commission regulations provide that noncommercial educational stations are to be licensed upon a showing that the station will be used to advance educational programs (§ 73.503(a)) and to serve the educational needs of the community (§ 73.621 (a)). Congress has also recognized the significant contribution which noncommercial broadcasting can make in serving national and local needs, particularly in the areas of instructional and public affairs programming. In providing funding for public broadcasting through the Corporation for Public Broadcasting, Congress specifically declared that one of its purposes was "to encourage noncommercial educational radio and television broadcast programming which will be responsive to the interests of people both in particular localities and throughout the United States * * *" (section 396(a)(4) of the Communications Act of 1934, as amended). The House Report, in commenting on the initial financial assistance to CPB, stated (H. Rept. No. 572, 90th Cong., 1st Sess., p. 10):

> * * * the rewards which are reasonably to be expected from this seed program cannot be measured in money alone. Who can estimate the value to a democracy of a citizenry that is kept fully and fairly informed as to the important issues of our times and whose children have access to programs which make learning a pleasure?

Similarly, the Senate Report of the next year points out that "* * * public broadcasting can be * * * a vital public affairs medium—bringing in depth many aspects of community and political life; * * * a means of examining and solving the social and economic problems of American life today." (Sen. Rept. No. 91–167, 91st Cong., 1st Sess., p. 7). Moreover, the efforts of Congress[5] and the Commission[6] have been directed to insuring that those licensed to operate broadcast facilities do so in a manner that reflects an awareness and responsiveness to the problems, needs and interests of the public. And the Supreme Court has described the broadcaster as a proxy or fiduciary for the public, who is required to make a good faith effort to choose a program service that is responsive to community needs. See Red Lion Broadcasting Co., Inc. v. F.C.C., 395 U.S. 367 (1969).

8. In view of the foregoing, even though formal ascertainment requirements have not been imposed on noncommercial broadcasters, there appears to be no question concerning their obligations in this regard—they, like commercial broadcasters, have an affirmative duty to determine the needs and interests of their communities and to program in such a way as to meet those ascertained needs. See, for example, Report and Statement of Policy re: Commission En Banc Programming Inquiry, supra, which attempted to define the scope of a broadcaster's obligation in the following terms:

> The confines of the licensee's duty are set by the general standard "the public interest, convenience or necessity." The initial and principal execution of that standard, in terms of the area he is licensed to serve, is the obligation of the licensee. The principal ingredient of such obligation consists of a diligent, positive and continuing effort by the licensee to discover and fulfill the tastes, needs and desires of his service area. If he has accomplished this, he has met his public responsibility. (Footnote omitted) 20 RR at 1912.

And noncommercial broadcasters have increasingly recognized their duty to serve, to a significant extent, as outlets for local expression. When noncommercial frequencies were first allocated, applications by educational institutions seeking to meet their own institutional needs predominated. The present profile of noncommercial educational stations, however, is quite different, as petitioners have pointed out.[7] Although many stations still devote a portion of their broadcast day to instructional programming, the major part of that day, particularly evening hours and weekends, is occupied by programming which is aimed at a broad spectrum of community problems, needs and interests.

---

[1] The Black Associations consist of organizations whose memberships include black law students, student government and black student union groups and black adult educators and whose primary purpose is to secure educational opportunities for the disadvantaged. Hollis H. Larkins, Jr. is a graduate of the School of Education of California State College at San Diego and is active in community educational affairs in the Los Angeles area.

[2] Sandra W. Bennett, Ph. D., a former director of research and development for the Center for Continuing Medical Education at the Ohio State University College of Medicine, has filed a rule making petition (RM–1874) on her own behalf as a concerned citizen, educator, broadcaster and researcher in educational broadcasting.

[3] FCC Form 340 is the application form for authority to construct or make changes in a noncommercial educational AM, FM or TV broadcast station. FCC Form 342 is the application form for renewal of a noncommercial broadcast station license (AM, FM or TV).

[4] The Bennett petition only refers to educational television stations whereas the Black Associations' request applies to all applicants for educational station licenses.

[5] See Sections 307 (b) and (d), 309 and 315(a) of the Communications Act of 1934, as amended.

[6] See *Report and Order in Docket No. 18774, supra; Notice of Inquiry in Docket No. 18774, supra; Ascertainment of Community Needs by Broadcast Applicants*, 33 FR 12113 (1968); and *Report and Statement of Policy re: Commission En Banc Programming Inquiry*, 20 RR 1901 (1960).

[7] In terms of expanded service, for example, authorizations for noncommercial educational UHF–VHF stations have increased from 56 in 1961 to 236 in 1973. In addition, the average hours broadcast by each station have increased to 70.9, and approximately one-half of all stations are operating seven days a week. It is also estimated that about 63 percent of all broadcast hours are programmed in color. See *One Week of Public Broadcasting*, April, 1972, a survey conducted by Dr. Nathaniel Katzman for the Corporation for Public Broadcasting.

[8] About one-third of educational television programming is instructional in nature. This figure does not include transmissions over Instructional Television Fixed Service (ITFS), which was established on 2500–2690 MHz in 1963 as a supplemental service for the transmission of instructional and cultural materials to schools and other selected receiving locations. As of August, 1973, 500 ITFS channels were in use and another 100 such channels had been requested. It should be pointed out that this Notice does not pertain to the ITFS.

[9] Commissioner Robert E. Lee absent.







V 38 181 SEP 19 73 XUM

In this regard, it is recognized that many educational stations conduct regular assessments of community needs to develop responsive programming even though they are not bound by the formal requirements imposed on commercial broadcast applicants and licensees.

9. The noncommercial broadcast service, by definition, differs markedly from the commercial service. It is designed to serve the educational needs of the community, and it is intended to meet cultural and informational interests often given minimal attention by commercial broadcasters who normally program to reach a large mass audience. This is not to say that noncommercial broadcasting is somehow missing the mark if its programming attracts large audiences. But, quite obviously, noncommercial service can tolerate audiences that would spell immediate disaster in the commercial area. Its strength, in fact, may derive from its ability to be innovative and to serve significant minority tastes, needs and interests. Nevertheless, it is a mistake to regard the noncommercial service as something apart from, and outside of, the basic structure of the Communications Act and Commission policies. The Act and its legislative history and our own pronouncements make clear the obligations imposed on educational broadcasters and the authority of the Commission to examine whether educational broadcasters have sought to ascertain and to meet community needs and to contribute to the goal of an informed electorate through controversial issue programming.[9]

10. Therefore, the Commission agrees with the petitioners that noncommercial educational broadcasters should be attuned to the problems, needs and interests of their service areas and should present programming in response thereto. We do realize that many noncommercial stations currently assess community needs as a matter of policy in order to stimulate a continuing dialogue with the public and to serve as effective outlets for local expression. We also note that as noncommercial broadcasting has developed, the emphasis has shifted from instructional to public programming and that such a shift magnifies the need for educational broadcasters to be aware of, and responsive to, community needs. In the past, the Commission has not imposed formal ascertainment requirements on educational broadcasters because of the unique character of the noncommercial service. In our Report and Order in Docket No. 18774, supra, we stated that the Primer would not be applied to educational broadcast applicants even though several parties had contended that the ascertainment process would profit educational applicants as much as commercial applicants. Since the issuance of the Primer, we have been urged by several parties, including the petitioners, to impose formal ascertainment requirements on educational applicants, and we are now persuaded to reexamine our prior position in light of the apparent shift in programming emphasis with the growth of educational stations and of the increased awareness of the role to be served by educational broadcasting on the local, state and national levels.

11. We therefore invite comments from interested parties on the question of whether formal ascertainment requirements should be imposed on educational broadcast applicants, including applicants for renewal of station authorization, and, if so, what specific obligations should be assessed. We request comments on how educational radio and television stations, given their unique character and the special nature of their program service, can best ascertain community problems, needs and interests and whether there should be special procedures imposed in regard to the ascertainment of educational and instructional needs[10] as opposed to general community needs. We also ask parties to address themselves to the following questions: whether a distinction should be drawn between educational radio and television stations in terms of ascertainment requirements (see paragraph 12, infra.); whether a distinction should be drawn between classes of radio stations (for example, between a class D ten-watt FM station and a higher-powered educational radio station); whether the existence of a state-wide educational broadcast system should have any effect on ascertainment requirements imposed on member stations; and whether formal ascertainment procedures will impose substantial financial burdens on educational applicants and licensees. Since we have gained some experience with the Primer guidelines, which could be applied in most respects to educational broadcast applicants, we propose to offer the 1971 Primer as a reference point for this part of the inquiry. Therefore, we invite specific comments on whether the Primer guidelines can and should be applied to educational applicants, whether for new or modified facilities or for renewal of license. Parties commenting on this question who feel that the Primer should be applied to educational applicants, but with certain modifications, should set forth their proposed modifications and reasons therefor. In this regard, we note that the Primer for commercial applicants, at Question and Answer (18), suggests that applicants should not elicit program preferences, but should focus on community problems. In the educational area, it may be appropriate to permit educational stations to sound out program preferences or suggestions since their service offering is so specialized in nature. In any event, we request commenting parties to address such questions. We also ask for discussion on the additional requirements proposed by the Black Associations (see paragraph 4, supra), especially the requirement for a continuing ascertainment process, and on Sandra Bennett's proposal that every educational broadcaster be required to form a citizens' advisory council (see paragraph 5, supra).

12. In addition, commenting parties should be aware of the Commission's pending Notice of Inquiry in Docket No. 19715, 40 FCC 2d 379 (1973), which is a proceeding to investigate the ascertainment process applicable to commercial broadcast applicants and which was initiated, in part, because of complaints that various ascertainment requirements are unnecessary, impractical or unduly burdensome. Part I of the inquiry is designed to explore the alleged differences between radio and television relative to the role of each in discharging its public interest responsibilities under the Act and the effect of certain variables, such as market size, number of stations in a market, number of employees, specialized formats, etc., on those roles and the ascertainment process. Part II deals specifically with the ascertainment process for both radio and television in light of the differences elicited in Part I and raises numerous questions concerning certain ascertainment requirements. Parties commenting in this proceeding should feel free to address themselves to any question raised in Docket No. 19715 which they consider to have impact on our inquiry into ascertainment by educational applicants. It is quite conceivable that revisions or modifications in the Primer guidelines for commercial applicants could have a significant effect on our consideration of formal ascertainment requirements for educational broadcast applicants, and, for that reason, we ask commenting parties to assess the relevance of matters raised in Docket No. 19715.

[9] Even though section 399 of the Communications Act prevents educational stations from editorializing, the obligation that a licensee devote a reasonable amount of time to the discussion of controversial issues of public importance is applicable to noncommercial as well as commercial broadcast stations. The Senate Commerce Committee emphasized this obligation in its Report on S. 1090 (Authorization for Public Broadcasting, April 17, 1973) when it stated, "Public affairs programming, at the local and national levels, belongs in public broadcasting. Presented objectively these programs can enlighten their audiences, and bring increased understanding and added dimensions to the problems and issues which beset our society." Of course, the licensee's coverage of issues must be effected in full compliance with the "equal opportunities" and fairness requirements of Section 315 of the Act and Commission rules and policies.

[10] In addition to the obligation to serve local needs, particularly in the public affairs area, educational stations are encouraged to provide instructional services in an effort to fulfill the educational needs of the community. Congress, itself, has declared that it is in the public interest to use educational broadcast media for instructional purposes. See Section 396(a)(1) of the Communications Act of 1934, as amended. Therefore, comments are invited on whether educational applicants should also ascertain the *instructional* needs of the community (whether formal in-school or informal out-of-school) and, if so, what specific requirements should be imposed.





13. At present, applicants for authority to construct or make certain changes in a noncommercial educational AM, FM or TV station are required to file Form 340, Section IV of which consists of a statement of program service. Section IV requires information concerning the applicant's purpose and objective in establishing the proposed station, proposed program policies and program schedule, available facilities, staff and equipment, proposed network affiliation, etc. Section IV of Form 342 (educational station renewal application) requires the submission of program logs for a full week of operation and information concerning operating hours, sources of programming, types of programs (instructional, general educational, performing arts, public affairs, light entertainment and other), and whether the applicant contemplates any material changes in future program service and any network affiliation. Unlike similar sections in FCC Forms 301, 303, 314 and 315 (commercial broadcast application forms), there is no requirement in Forms 340 and 342 for the ascertainment of community problems, needs and interests by the educational applicant and for his program proposals in response thereto.

14. In the event that the Commission determines herein that formal ascertainment requirements should be imposed on educational broadcasters, then it is proposed to amend section IV of Forms 340 and 342 to require educational applicants and licensees to indicate the methods used to ascertain the needs and interests of the public to be served by the station; the significant needs and interests of the public which the applicant will serve during the coming license period; and typical and illustrative programs or program series that applicant plans to broadcast to meet ascertained needs and interests. See Appendix. In addition, it is proposed that section IV of Form 342 (renewal application) be amended to require information from educational licensees as to what programs or program series were presented during the year preceding the filing of the renewal application to meet the most significant needs and interests of the community. In this way, the Commission will be better able to evaluate an educational licensee's responsiveness to community needs and his performance in light of past proposals. Persons commenting on the proposed revisions in Forms 340 and 342 are also invited to suggest other modifications that would be consistent with the imposition of ascertainment requirements on educational applicants. The Commission believes that an effective public broadcasting system must be rooted in an awareness of, and responsiveness to, important community needs. Our proposals herein are not meant to place an undue or unnecessary burden upon the resources of educational applicants and licensees.[11] Our proposals are intended to enable educational broadcasters to develop the information necessary to make informed programming judgments.[12]

15. In our Notice of Inquiry and Notice of Proposed Rulemaking in Docket No. 19153, 27 FCC 2d 697 (1971), we indicated our intent to simplify the broadcast renewal process by concentrating on the essential elements of broadcast service to the public, by encouraging a continuing dialogue between a licensee and his community throughout the license period and by providing for more orderly procedures in the consideration of petitions to deny renewal applications and related pleadings. In paragraph 3 of the Notice, we indicated that Parts II and III of the inquiry concerning proposed revisions of our rules relating to the time for filing renewal applications, petitions to deny and related pleadings and to announcements of the filing of renewal applications would be applicable to broadcasting generally, including the noncommercial educational service. However, we also noted that Part I, which proposed requirements for the broadcast of notices to the public about the manner in which to comment on station performance and for the maintenance of a complaints and suggestions file, would exclude educational broadcasters; and that Part IV, which proposed revisions in Section IV–B (Statement of Television Program Service) of FCC Form 303 (renewal application) and the adoption of an annual reporting form, would apply only to commercial television stations.

16. On May 4, 1973, the Commission released an Interim Report and Order in Docket No. 19153,[13] FCC 73–451, 27 RR 2d 553, in which the proposals mentioned above were adopted with certain modifications. In regard to Parts II and III, which are applicable to *all* broadcast station licensees, Commission rules would be revised to change the filing dates for renewal applications (from 90 days prior to expiration of station license to four months) and for petitions to deny and related pleadings and to require the broadcasting of announcements both before and after the filing of a renewal application, which would apprise the public of the application's filing and of the appropriate time for submitting comments thereon. Pursuant to Part I, all commercial broadcast licensees would be required to broadcast announcements every 15 days during the license period, informing the public of licensee obligations and of the proper method for expressing opinions on station operation. All commercial broadcasters would also be required to retain in their public files written comments and suggestions received about station operation.[14] With respect to Part IV, which is applicable to commercial television stations only, we would require stations to prepare an annual listing of the significant problems and needs of their communities and of typical and illustrative programming aired during the year directed to those problems and needs. The listings are to be placed in the local public inspection file, and the three annual listings for the current license period are to be forwarded to the Commission upon the filing of the renewal application. Television licensees would also be required to compile composite week programming statistics in an annual programming report to be sent to the Commission each year and to be considered at renewal time. Moreover, certain revisions in Section

[11] The information which would be required under the proposed modification of FCC Forms 340 and 342 is in many instances already being developed by noncommercial educational applicants. Federal funds have been made available by Congress for assistance in the construction and expansion of educational stations under regulations promulgated by the Secretary of Health, Education, and Welfare. HEW regulations require, inter alia, that an applicant ascertain the broadcast needs of the area to be served, including an evaluation of the general or special educational and cultural needs for the establishment or improvement of educational broadcasting services which the project is designed to fulfill. Applicants are also asked to indicate the manner in which needs were determined, to identify the sources of information, to include appropriate supporting evidence, if relevant, to submit population and enrollment data of the area to be served, and to document and justify the proposed program service. Thus, any applicant seeking federal funds would have available much, if not all, of the information we propose to require.

[12] Parties are also invited to comment on the need for revisions in Commission regulations dealing with educational broadcast stations (§§ 73.503(a) and 73.621(a)) in the event ascertainment requirements are imposed herein. In this regard, we note that the Black Associations have suggested the addition of the following language at the end of the respective subparagraphs cited above:

All applicants for educational broadcast licenses, including applicants for the renewal of temporary educational station broadcast licenses, will ascertain the educational and cultural interests, needs and problems of the community, and make proposals for programs based on such ascertainment.

The Commission is not now proposing specific rule modifications in this regard. However, we do note that our Docket No. 19715 inquiry asks whether ascertainment requirements should be incorporated in regulations or should be left, as now, in policy statements and application forms.

[13] In paragraph 214 of the Interim Report, we explained that the report will not be published in the FEDERAL REGISTER until the annual programming report (see infra.) and revised Section IV–B of FCC Form 303 are cleared by the Office of Management and Budget. Therefore, the revised rules contained in the report will not become effective until 30 days after Federal Register publication, and the time for filing petitions for reconsideration will also run from the date of publication.

[14] The retention requirement for radio stations will be on an experimental basis and will be evaluated for usefulness by our reregulation task force in due course. See paragraph 51 of Interim Report, supra.



V 38 N 181 SEP 19 1973 XUM

IV-B of FCC Form 303 were made in an attempt to refine the information required of television licensees, which would be helpful in evaluating station performance.

17. Since we have issued our Interim Report and Order in Docket No. 19153 and since the questions raised in this proceeding concerning ascertainment by educational broadcasters have relevance to Parts I and IV of Docket No. 19153, we hereby invite comments on whether the requirements adopted in Parts I and IV should be applied to educational licensees and, if so, what modifications are called for in light of the unique nature of the noncommercial service. It would appear that the requirements to be imposed on commercial broadcasters concerning the airing of announcements about public comment on station operation and the maintenance of a local complaints and suggestions file would not be unduly burdensome on educational licensees and would serve to implement a continuing dialogue between station and community. In fact, in the Interim Report, we specifically noted that the public comment announcements were intended to supplement existing ascertainment procedures and that the complaints and suggestions file was a valuable device to test the nature of a station's response to community feedback. In regard to Part IV proposals concerning commercial television licensees, we request comments on whether a similar approach should be taken with educational television broadcasters and, if so, what modifications are appropriate to accommodate the specialized nature of educational broadcasting. While we do recognize that the Part IV proposals of Docket No. 19153 contain a modified approach to ascertainment by commercial television licensees, we do not intend to propose similar requirements for educational television licensees on the basis of this general notice. Rather, we prefer to solicit the suggestions of interested parties and to consider those comments in light of the final disposition of Docket No. 19153. We shall then be in a better position to assess the desirability of a further notice delineating specific proposals for the renewal process in the educational broadcast area. In the meantime, we offer the modifications of Section IV of FCC Forms 340 and 342 contained in the Appendix, which conform with existing ascertainment requirements for commercial applicants with the exception of proposed Question 7 of Form 342.

18. Authority for the institution of this proceeding and for the revisions of FCC Forms 340 and 342 is contained in Sections 4(i), 303, 307, 308 and 309 of the Communications Act of 1934, as amended.

19 In accordance with the procedures set forth in § 1.415 of the Commission's rules, interested persons may file comments on or before December 14, 1973, and reply comments on or before January 14, 1974. It is hoped that comments, either formal or informal, will be submitted by interested parties from all segments of the public and the various public broadcasting entities, particularly the individual licensees. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in the proceeding. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by these notices.

20. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all statements, briefs, and comments filed shall be furnished to the Commission. However, in an effort to obtain the widest possible response in this proceeding from licensees and members of the public, informal comments (without extra copies) will be accepted. Copies of all pleadings filed in this matter will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

Adopted September 6, 1973.

Released September 11, 1973.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

FCC FORM 340

Section IV—Statement of Program Service of Broadcast Applicant.

Add the following questions:

6. State in Exhibit No. ------ the methods used by the applicant to ascertain the problems, needs and interests of the public served by the station. Such information shall include: (1) identification of representative groups, interests and organizations which were consulted and (2) the major communities or areas which applicant principally undertakes to serve.

7. Describe in Exhibit No. ------ the significant problems, needs and interests of the public which the applicant believes his station will serve during the coming license period, including those with respect to national and international matters.

8 List in Exhibit No. ------ typical and illustrative programs or program series that applicant plans to broadcast during the coming license period to meet those problems, needs and interests.

NOTE.—Sufficient records shall be kept on file by the applicant, open for inspection by the Commission, for a period of 3 years from the date of filing of this statement (unless requested to be kept longer by the Commission) to support the representations required in answer to Questions 6, 7 and 8. These records should *not* be submitted with this application and need not be available for public inspection.

FCC FORM 342

Section IV—Statement of Program Service of Broadcast Applicant.

Add the following questions:

4. State in Exhibit No. ------ the methods used by the applicant to ascertain the problems, needs and interests of the public served by the station. Such information shall include: (1) identification of representative groups, interests and organizations which were consulted and (2) the major communities or areas which applicant principally undertakes to serve.

5. Describes in Exhibit No. ------ the significant problems, needs and interests of the public which the applicant believes his station will serve during the coming license period, including those with respect to national and international matters.

6. List in Exhibit No. ------ typical and illustrative programs or program series that applicant plans to broadcast during the coming license period to meet those problems, needs and interests.

NOTE.—Sufficient records shall be kept on file by the applicant, open for inspection by the Commission, for a period of 3 years from the date of filing of this statement (unless requested to be kept longer by the Commission) to support the representations required in answer to Questions 4, 5 and 6. These records should *not* be submitted with this application and need not be available for public inspection.

7. Describe in Exhibit No. ------ the specific programs or program series that applicant broadcast during the 12 months preceding the filing of this application to meet significant problems, needs and interests of the public.

[FR Doc.73-19916 Filed 9-18-73;8:45 am]

## NATIONAL CREDIT UNION ADMINISTRATION

[ 12 CFR Part 702 ]

### RESERVES

### Mandatory Charge-offs

On May 1, 1973, notice of proposed rule making regarding the addition of a new § 702.4 (12 CFR 702.4), the repeal of § 702.3 (12 CFR 702.3), and the revision of certain sections of Chapter VII of title 12 was published in the FEDERAL REGISTER (38 FR 10743).

After consideration of all such relevant matter as was presented by interested persons, notice is hereby given that the Administrator of the National Credit Union Administration, pursuant to the authority conferred in section 120, 73 Stat. 635 (12 U.S.C. 1766), is considering the revision of paragraph (b) of the proposed § 702.4 as set forth below.

The purpose of the revision is to further delineate the responsibilities and obligations of the board of directors of a Federal credit union.

Interested persons are invited to submit written comments, suggestions, or objections regarding the revision to the Administrator, National Credit Union Administration, Washington, D.C. 20456, to be received not later than November 23, 1973.

HERMAN NICKERSON, Jr.,
*Administrator.*

SEPTEMBER 12, 1973.

§ 702.4 Mandatory charge-offs.

* * * * * *

(b) The matter contained in paragraph (a) in this section is not intended to: (1) Prevent a Federal credit union's board of directors from exercising its responsibility to charge off any other loans that are known losses; or (2) prevent a Federal credit union's credit committee or loan officer from refinancing or extending a delinquent loan to preclude mandatory charge-off, provided such refinancing or extension is granted in accordance with Article IX, sections 6, 7, and 8 of the bylaws.

* * * * *

[FR Doc.73-19869 Filed 9-18-73;8:45 am]





# Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF THE TREASURY

### Office of the Secretary

[Treasury Dept. Order No. 226]

### OFFICE OF ANALYSIS AND SPECIAL STUDIES OF NATURAL RESOURCES AND ENERGY

### Creation

By virtue of the authority vested in the Secretary of the Treasury by Reorganization Plan No. 26 of 1950, there is hereby created in the Department of the Treasury an office of Analysis and Special Studies of Natural Resources and Energy. This office will report directly to the Deputy Secretary and be headed by a Special Assistant to the Deputy Secretary. The office will perform ongoing analyses and special studies of the international economic implications of the United States' position in selected natural resources, including coal, oil, natural gas, copper, and other minerals of importance to the U.S. balance of payments. The office will also advise the Deputy Secretary on related tax policies including depletion allowances, accelerated amortization, investment credits, and production incentives, as well as tariffs and quotas, financial and investment policies, price controls, and loans and guarantees as they affect U.S. natural resource and energy needs. Its work will complement the ongoing work in the natural resource field in the Office of the Assistant Secretary for International Affairs, the Assistant Secretary for Tax Policy, and other areas in the Office of the Secretary.

The work of the office will include contact with other Government agencies concerned with resources and energy, on the one hand; and the various parts of the Treasury concerned with tax policy, trade policy, economic policy, international affairs, and monetary affairs, on the other hand.

The office will concern itself with the supply and demand needs for significant energy resources of the U.S. economy and make recommendations to the Deputy Secretary about the most appropriate policies which will produce a favorable U.S. supply-demand balance for energy and other selected natural resources.

For reference purposes this office will be known as the Office of Natural Resources and Energy.

Dated September 1, 1973.

[SEAL] WILLIAM E. SIMON,
*Acting Secretary of the Treasury.*

[FR Doc.73-19909 Filed 9-18-73;8:45 am]

## DEPARTMENT OF DEFENSE

### Department of the Army

### JUNIOR SCIENCE AND HUMANITIES SYMPOSIA ADVISORY COMMITTEE

### Notice of Meeting

In accordance with Pub. L. 92-463 dated 6 October 1972, notice is given of a meeting of the Junior Science and Humanities Symposia (JSHS) Advisory Committee, as follows:

Date: 12 October 1973.
Time: 1330 hours.
Place: US Army Research Office, Box CM, Duke Station, Durham, North Carolina.

Agenda subjects will be as follows:

Action on Summary of 25th Meeting held 9 May 1973.
Status of Regional Program and Funding, FY 74.
Other Army Support of JSHSP, FY 74.
European Regional JSHS.
1974 National JSHS.
Judging of Student Papers, '74 National.
JSHS Contributions as Tax Exemptions.
Report of Sub-Committee on Expansion and Financial Support.
JSHS Policy on Animal Experimentation.

The meeting will be open to the public. For specific rules concerning participation contact Miss Patsy Ashe, Executive Secretary, JSHS Advisory Committee, U.S. Army Research Office, Box CM Duke Station, Durham, North Carolina 27706 AV 935-3331; AC 919 286-2285.

LOTHROP MITTENTHAL,
*COL, GS*
*Commanding.*

[FR Doc.73-19877 Filed 9-18-73;8:45 am]

### Office of the Secretary

### DDR&E HIGH ENERGY LASER REVIEW GROUP

### Notice of Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, effective January 5, 1973, notice is hereby given that closed meetings of the DDR&E High Energy Laser Review Group will be held on Tuesday and Wednesday, October 2 and 3, 1973.

This meeting will be to discuss classified matters.

MAURICE W. ROCHE,
*Director Correspondence and Directives OASD (Comptroller).*

SEPTEMBER 14, 1973.

[FR Doc.73-19884 Filed 9-18-73;8:45 am]

### Department of the Navy

### NAVAL ORDNANCE HYDROBALLISTICS ADVISORY COMMITTEE

### Notice of Meetings

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463 (1972)), notice is hereby given that closed meetings of the Naval Ordnance Hydroballistics Advisory Committee will be held September 24-27, 1973, at the Admiralty Research Laboratory, Teddington, London, England.

The agenda of these meetings consists of matters classified in the interest of national defense.

H. B. ROBERTSON, Jr.,
*Rear Admiral, JAGC, U.S. Navy,*
*Acting Judge Advocate General.*

SEPTEMBER 18, 1973.

[FR Doc.73-20104 Filed 9-18-73;11:22 am]

## DEPARTMENT OF JUSTICE

### Law Enforcement Assistance Administration

### ALARM COMMITTEE OF THE PRIVATE SECURITY ADVISORY COUNCIL

### Notice of Meeting

Notice is hereby given that the Alarm Committee of the Private Security Advisory Council to the Law Enforcement Assistance Administration will meet on Friday, September 21, at 9:30 a.m. The place of the meeting will be the Law Enforcement Assistance Administration, 633 Indiana Avenue, Washington, D.C., in the 11th Floor Conference Room.

The meeting will be open to the public. Any interested person may file a written statement with the council for its consideration.

Statements may be sent to or information requested from Robert Macy, Law Enforcement Assistance Administration, U.S. Department of Justice, 633 Indiana Avenue, Washington, D.C. 20530.

JACK A. NADOL,
*Advisory Committee Management Officer, Office of General Counsel.*

[FR Doc.73-19883 Filed 9-18-73;8:45 am]

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

### ALASKA

### Final Eligibility of Native Villages

This notice is published in exercise of authority delegated by the Secretary of



V 38 181 SEP 19 73 XUM

the Interior to the Director, Juneau Area Office, Bureau of Indian Affairs by Subpart 2651.2(a)(2) of Subchapter B of Chapter II of Title 43 of the Code of Federal Regulations published on Pages 14222 and 14223 of the May 30, 1973, issue of FEDERAL REGISTER.

The Alaska Native Claims Settlement Act of December 18, 1971 (Public Law 92-203, 92nd Congress, 85 Stat. 688-716), provides for the settlement of certain land claims of Alaska Natives and for other purposes.

Accordingly, pursuant to the authority contained in said Act of December 18, 1971, and Subpart 2651.2 of said regulations, notice is hereby given that the following is a final decision determining the eligibility of certain Native villages in Alaska listed in sections 11(b)(1) and 16(a) of said Act. Notice of Proposed Eligibility was published on pages 19255, 19256 and 19257 of the July 19, 1973, issue of the FEDERAL REGISTER. Said notice was also published in one or more newspapers of general circulation in Alaska and a copy was mailed to each affected village; all villages located in the Native region in which the affected village is located; all Native regional corporations within the State of Alaska; and the State of Alaska. Interested parties were allowed until August 20, 1973, to file protests to the proposed decisions.

No protests having been received as a result of the notice published in the FEDERAL REGISTER on July 19, 1973, the proposed decisions now become final.

The Director, Juneau Area Office, Bureau of Indian Affairs will provide certification as to the eligibility of each of the following villages listed for land benefits under the Act:

| Name of listed native village: | Bureau of Land Management Serial Number |
|---|---|
| Akhlok | AA-6645 |
| Akiachak | F-14823 |
| Akiak | F-14824 |
| Akutan | AA-6647 |
| Alakanuk | F-14825 |
| Aleknagik | AA-6648 |
| Allakaket | F-14827 |
| Ambler | F-14828 |
| Anaktuvuk Pass | F-14829 |
| Andreafsey (Andreafsky). | F-14830 |
| Angoon | AA-6978 |
| Anlak | F-14831 |
| Anvik | F-14832 |
| Arctic Village | F-14833 |
| Atka | AA-6649 |
| Atmautluak | F-14835 |
| Barrow | F-14836 |
| Beaver | F-14837 |
| Belkosky (Belkofski) | AA-6650 |
| Bethel | F-14838 |
| Birch Creek (near Fort Yukon). | F-14840 |
| Brevig Mission | F-14841 |
| Buckland | F-14842 |
| Cantwell | F-14844/ AA-7587 |
| Chalkyitsik | F-14816 |
| Chefornak | F-14848 |
| Chevak | F-14849 |
| Chignik | AA-6652 |
| Chignik Lagoon | AA-6654 |
| Chignik Lake | AA-6655 |
| Chistochina | AA-6656 |
| Circle | F-14989 |
| Clark's Point | AA-6657 |
| Copper Center | AA-6658 |
| Craig | AA-6979 |
| Crooked Creek | F-14990 |
| Deering | F-14851 |
| Dillingham | AA-6659 |
| Dot Lake | F-14852 |
| Eagle (Indian Village) | F-14853 |
| Eek | F-14854 |
| Egegik | AA-6660 |
| Ekiutna | AA-6661 |
| Ekwok | AA-6603 |
| Elim | F-14855 |
| Emmonak | F-14856 |
| English Bay | AA-6664 |
| False Pass | AA-6665 |
| Fort Yukon | F-14857 |
| Galena | F-14858 |
| Gambell | F-14859 |
| Golovin | F-14861 |
| Goodnews Bay (Mumtrak). | F-14862/ AA-7726 |
| Grayling | F-14863 |
| Gulkana | AA-6667 |
| Holy Cross | F-14865 |
| Hoonah | AA-6980 |
| Hooper Bay | F-14865 |
| Hughes | F-14867 |
| Huslia | F-14868 |
| Hydaburg | AA-6981 |
| Inalik (Diomede) | F-14869 |
| Kake | AA-6982 |
| Kaktovik | F-14870 |
| Kalskag | F-14871 |
| Kaltag | F-14872 |
| Karluk | AA-6674 |
| Kasigluk | F-14873 |
| Kiana | F-14874 |
| King Cove | AA-6675 |
| Kipnuk | F-14875 |
| Kivalina | F-14876 |
| Klawock | AA-6984 |
| Kobuk | F-14877 |
| Klukwan | AA-6985 |
| Kongiganok (Kongiganak). | AA-6673 |
| Koliganek | AA-6676 |
| Kongiganok (Kongiganak). | F-14878 |
| Kotlik | F-14879 |
| Kotzebue | F-14880 |
| Koyuk | F-14881 |
| Koyukuk | F-14882 |
| Kwethluk | F-14883 |
| Kwigillingok | F-14884 |
| Larsen Bay | AA-6677 |
| Levelock | AA-6678 |
| Lower Kalskag | F-14888 |
| Manokotak | AA-6679 |
| Marshall (Fortuna Ledge). | F-14892 |
| Mekoryuk | F-14895 |
| Mentasta Lake | F-18896/ AA-6716 |
| Minto | F-14897 |
| Mountain Village | F-14898 |
| Naknek | AA-6680 |
| Napaklak | F-14901 |
| Napaskiak | F-14902 |
| Nelson Lagoon | AA-6681 |
| Nenana | F-14903 |
| Newhalen | AA-6682 |
| New Stuyahok | AA-6683 |
| Newtok | F-14904 |
| Nightmute | F-14905 |
| Nikolai | F-14906 |
| Nikolski | AA-6684 |
| Ninilchik | AA-6685 |
| Noatak | F-14907 |
| Nome | F-14908 |
| Nondalton | AA-6686 |
| Noorvik | F-14910 |
| Northway | F-14912 |
| Nulato | F-14913 |
| Nunapitchuk | F-14914 |
| Old Harbor | AA-6687 |
| Oscarville | F-14916 |
| Ouzinkie | AA-6688 |
| Pedro Bay | AA-6690 |
| Perryville | AA-6691 |
| Pilot Point | AA-6692 |
| Pilot Station | F-14918 |
| Pitkas Point | F-14919 |
| Platinum | F-14920 |
| Point Hope | F-14921 |
| Port Graham | AA-6695 |
| Port Heiden | AA-6693 |
| Port Lions | AA-6694 |
| Portage Creek | AA-6717 |
| Quinhagak (Kulnhagak) | F-14885 |
| Rampart | F-14923 |
| Red Devil | F-14924 |
| Ruby | F-14925 |
| Russian Mission (Kuskokwin). | F-14926 |
| Russian Mission (Yukon). | F-14927 |
| St. George | AA-6696 |
| St. Mary's | F-14937 |
| St. Michael | F-14938 |
| St. Paul | AA-6697 |
| Sand Point | AA-6699 |
| Savoonga | F-14928 |
| Saxman | AA-6986 |
| Scammon Bay | F-14929 |
| Selawik | F-14930 |
| Shageluk | F-14931 |
| Shaktoolik | F-14932 |
| Sheldon's Point | F-14933 |
| Shishmaref | F-14934 |
| Shungnak | F-14935 |
| Sleetmute | F-14936 |
| South Naknek | AA-6747 |
| Stebbins | F-14939 |
| Stevens Village | F-14940 |
| Stony River | F-14941 |
| Tanacross | F-14943 |
| Tanana | F-14944 |
| Tatitlek (Tatilek) | AA-6703 |
| Teller | F-14946 |
| Tetlin | F-14947 |
| Togiak | AA-6705 |
| Toksook Bay | F-14948 |
| Tuluksak (Tulusak) | F-14949 |
| Tuntutuliak | F-14950 |
| Tununak | F-14951 |
| Twin Hills | AA-6706 |
| Tyonek | AA-6707 |
| Unalakleet | F-14952 |
| Unalaska | AA-6709 |
| Venetie | F-14953 |
| Wainwright | F-14954 |
| Wales | F-14955 |
| White Mountain | F-14956 |
| Yakutat | AA-6987 |

The Director, Juneau Area Office, Bureau of Indian Affairs will issue certificates of eligibility for land benefits under the act to the above named villages and will certify the record and the final decisions to the Secretary. A copy of this final decision and a certification of eligibility will be mailed to each eligible village; each other village located in the same region as the eligible village; all regional corporations within the State of Alaska; and the State of Alaska.

This is the first of several notices that final decisions have been made as to the eligibility of listed villages. Future notices will be issued as to the final eligibility of villages when and if such eligibility becomes established.

MORRIS THOMPSON,
*Director.*

SEPTEMBER 4, 1973.

[FR Doc.73-19825 Filed 9-18-73;8:45 am]





## DEPARTMENT OF AGRICULTURE

### Forest Service

### CALIFORNIA ADVISORY COMMITTEE TO THE U.S. FOREST SERVICE

#### Notice of Meeting

The California Advisory Committee to the U.S. Forest Service will hold a field meeting on October 10-12, 1973, on the Eldorado National Forest and vicinity.

The group will assemble at the Sacramento Airport at approximately 10:00 a.m. on October 10. They will travel over Forest roads in the vicinity of Georgetown, Blodgett Forest of the University of California Forestry School, Placerville and the Institute of Forest Genetics. Discussions will consider intensive management practices for production of timber, including research and development work by Forest Service and University specialists, and the infrared imagery use and rehabilitation work programmed for recent Eldorado fires. The group will conclude its meeting with a closing luncheon at the Sportsman's Hall in Pollock Pines at noon on October 12 and an open conference after lunch.

Public participation is invited, and written statements are welcome, before or after the meeting, by contacting the Forest Supervisor, Eldorado National Forest, 100 Forni Road, Placerville, California 95667—Telephone 916-622-5061. Oral statements can be made by making arrangements with the chairman in advance.

DOUGLAS R. LEISZ,
*Regional Forester.*

SEPTEMBER 11, 1973.

[FR Doc.73-19860 Filed 9-18-73;8:45 am]

### NORTH SHORE OF HUNTINGTON LAKE TIMBER SALES

#### Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the North Shore of Huntington Lake Timber Sales, Sierra National Forest, USDA-FS-DES (Adm) 74-28.

The environmental statement concerns a proposal to continue with the preparation and eventual sale of the Home Camp, Line Creek, Billy Creek and Bear Creek Timber Sales. These proposed timber sales are north of Huntington Lake on the Pineridge District, Sierra National Forest, Fresno County, California. The total area under study comprises 8,115 acres of National Forest lands within the 23,020-acre Kaiser Inventoried Roadless Area. Roughly 2,150 acres within the Study Area would be scheduled for various types of timber harvest at the first entry into the area. The remaining acreage would be logged at varying intervals during the next 100 years. The ultimate goal of this proposal is to place the Study Area under long-term multiple use management which includes the production of timber resources.

This draft environmental statement was filed with CEQ September 13, 1973.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
South Agriculture Bldg., Room 3230
12th St. & Independence Ave. S.W.
Washington, D.C. 20250

Sierra National Forest
Federal Building
1130 O Street
Fresno, Calif. 93721

USDA, Forest Service
California Region
630 Sansome St., Room 531
San Francisco, Ca. 94111

Pineridge Ranger District
Big Creek Ranger Station
P.O. Box 38
Big Creek, Calif. 93605

A limited number of single copies are available upon request to Sotero Muniz, Forest Supervisor, Sierra National Forest, Federal Building, 1130 O Street, Fresno, California 93721.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please refer to the name and number of the above named environmental statement when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Sotero Muniz, Sierra Forest Supervisor, Federal Building, 1130 O Street, Fresno, California 93721.

Comments must be received within 45 days after the date of filing with CEQ in order to be considered in the preparation of the final environmental statement.

PHILIP L. THORNTON,
*Deputy Chief, Forest Service.*

[FR Doc.73-19881 Filed 9-18-73;8:45 am]

### Office of the Secretary

### MIDAMERICA COMMODITY EXCHANGE

#### Order Designating a Contract Market for Live Hogs Under the Commodity Exchange Act

Pursuant to the authorization and direction contained in the Commodity Exchange Act as amended (7 U.S.C. 1 et seq.), I hereby designate the Mid-America Commodity Exchange of Chicago, Illinois, as a contract market for live hogs effective on this date, as shown below. The said exchange has applied for, and has otherwise complied with the requirements imposed by the said Act as a condition precedent to, such designation.

The designation is subject to suspension or revocation in accordance with the provisions of the said Act. For the purpose of any such suspension or revocation, this designation and the orders issued by the Secretary of Agriculture on October 24, 1922, and December 8, 1940, designating the said exchange as a contract market for the commodities specified in such orders, may constitute either a single designation or several designations.

Issued this 14th day of September 1973.

CLAYTON YEUTTER,
*Assistant Secretary.*

[FR Doc.73-19880 Filed 9-18-73;8:45 am]

### ADVISORY COMMITTEE ON HOG CHOLERA ERADICATION

#### Notice of Meeting

A meeting of the Advisory Committee on Hog Cholera Eradication will be held at 9:00 a.m., on October 15, 1973, at the Sheraton-Jefferson Hotel, St. Louis, Missouri.

The purpose of the committee is to advise and counsel the Secretary of Agriculture regarding program operations or measures to eradicate hog cholera from this country.

Topics of discussion will include a review of program progress, problems, and recommended actions.

The meeting is open to the public, however, space and facilities are limited. Comments of interested persons may be filed with the committee before or after the meeting.

Dated September 13, 1973.

F. J. MULHERN,
*Chairman.*

[FR Doc.73-19926 Filed 9-18-73;8:45 am]

## DEPARTMENT OF COMMERCE

### Domestic and International Business Administration

### SEMICONDUCTOR TECHNICAL ADVISORY COMMITTEE

#### Notice of Meeting

The Semiconductor Technical Advisory Committee of the U.S. Department of Commerce will meet on September 28, 1973, at 9:30 a.m. in Room



V 38 I 181 SEP 19 73 XUM

4833 of the Main Commerce Building, 14th and Constitution Avenue, NW., Washington, D.C.

Members advise the Office of Export Control, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to semiconductor products, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

Agenda items are as follows:

1. Comments on minutes of previous meeting.
2. Presentation of papers or comments by the public.
3. Review of work program.
4. Executive session:
a. Review of levels of control.
b. Discussion of further work on the review.
c. Discussion of information on foreign availability.
d. Problems related to export of technology.
5. Adjournment.

The public will be permitted to attend the discussion of agenda items 1–3, and a limited number of seats—approximately 15—will be available to the public for these agenda items. To the extent time permits, members of the public may present oral statements to the committee. Interested persons are also invited to file written statements with the committee.

With respect to agenda item (4), "Executive session," the Assistant Secretary of Commerce for Administration, on August 9, 1973, determined, pursuant to section 10(d) of Public Law 92–463, that this agenda item should be exempt from the provision of sections 10(a)(1) and (a)(3), relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in (5 U.S.C. 552(b)(1)).

Further information may be obtained from Rauer H. Meyer, Director, Office of Export Control, Room 1886C, U.S. Department of Commerce, Washington, D.C. 20230 (A/C 202+967–4293).

Minutes of those portions of the meeting which are open to the public will be available 30 days from the date of the meeting upon written request addressed to: Central Reference and Records Facility, U.S. Department of Commerce Washington, D.C. 20230.

Dated September 14, 1973.

STEVEN LAZARUS,
*Deputy Assistant Secretary for East-West Trade, U.S. Department of Commerce.*

[FR Doc.73–19942 Filed 9–18–73;8:45 am]

## TELECOMMUNICATIONS EQUIPMENT TECHNICAL ADVISORY COMMITTEE

### Notice of Meeting

The Telecommunications Equipment Technical Advisory Committee of the U.S. Department of Commerce will meet September 26, 1973 at 9:30 a.m. in Room 4833 of the Main Commerce Building, 14th and Constitution Avenue, NW, Washington, D.C.

Members advise the Office of Export Control, Bureau of East-West Trade, with respect to questions involving technical matters, world-wide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to telecommunications equipment, including technical data related thereto, and including those whose export is subject to multilatral (COCOM) controls.

Agenda items are as follows:

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Technical problems relating to export control coverage of telecommunications equipment and related technology.
4. Licensing procedures relating to telecommunications equipment and technology.
5. Foreign availability of telecommunications equipment currently under licensing control, including extent of U.S. participation and use of U.S. technology—specific reports by members serving as task leaders:
a. Radio transmitting equipment.
b. PCM transmission equipment.
c. Computers, peripherals and other controlled components used in telecommunications switching equipment.
d. Frequency division multiplexed transmission equipment.
6. Methodology for selecting topics and setting priorities for panel study.
7. Selection of task leaders and assignments for next panel study period.
8. Executive Session:
a. Foreign availability, including state of the art in the USSR, Eastern Europe, and People's Republic of China.
b. Significant technical parameters from the strategic standpoint, including adequacy of present control definition or coverage.
9. Adjournment.

The public will be permitted to attend the discussion of agenda items 1–7, and a limited number of seats—approximately 15—will be available to the public for these agenda items. To the extent time permits, members of the public may present oral statements to the committee. Interested persons are also invited to file written statements with the committee.

With respect to agenda item (8), "Executive session," the Assistant Secretary of Commerce for Administration, on September 7, 1973, determined, pursuant to section 10(d) of Public Law 92–463, that this agenda item should be exempt from the provision of sections 10(a)(1) and (a)(3), relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in 5 U.S.C. 552(b)(1).

Further information may be obtained from Rauer H. Meyer, Director, Office of Export Control, Room 1886C, U.S. Department of Commerce, Washington, D.C. 20230 (A/C 202 + 967–4293).

Minutes of those portions of the meeting which are open to the public will be available 30 days from the date of the meeting upon written request addressed to: Central Reference and Records Facility, U.S. Department of Commerce, Washington, D.C. 20230.

Dated September 14, 1973.

STEVEN LAZARUS,
*Deputy Assistant Secretary for East-West Trade, U.S. Department of Commerce.*

[FR Doc.73–19941 Filed 9–18–73;8:45 am]

## Maritime Administration

[Docket No. S–391]

## ATLANTIC RICHFIELD CO.

### Notice of Amended Application

Notice is hereby given that Atlantic Richfield Company has amended its application with respect to the carriage of bulk cargoes, notice of which was published in the FEDERAL REGISTER issue of June 27, 1973 (FR Doc. 73–12946, 38 FR 16924). Under said application as amended, application is being made for operating-differential subsidy on the following listed vessels for the carriage of bulk cargoes and in the trades as described hereinbelow:

| Applicant's name and address | Name of vessel | Type of vessel |
|---|---|---|
| Atlantic Richfield Co., 515 South Flower St., Los Angeles, Calif. 90071. | Atlantic Communicator. | Tanker. |
| | Sinclair Texas | Do. |
| | Arco Prudhoe Bay | Do. |
| | Arco Anchorage | Do. |

The foregoing application may be inspected in the Office of the Secretary, Maritime Subsidy Board, Maritime Administration, U.S. Department of Commerce, Washington, D.C., during regular working hours.

These vessels are to engage in the carriage of export bulk raw and processed agricultural commodities in the foreign commerce of the United States (U.S.) from ports in the U.S. to ports in the Union of Soviet Socialist Republics (U.S.S.R.), or other permissible ports of discharge. Liquid and dry bulk cargoes may be carried from U.S.S.R. and other foreign ports inbound to U.S. ports during voyages subsidized for carriage of export bulk raw and processed agricultural commodities to the U.S.S.R.

Full details concerning the U.S.-U.S.S.R. export bulk raw and processed agricultural commodities subsidy program, including terms, conditions and restrictions upon both the subsidized operators and vessels, appear in the regulations published in the FEDERAL REGISTER of August 3, 1973 (38 FR 20807).

For purposes of section 605(c), Merchant Marine Act, 1936, as amended (Act), it should be assumed that each vessel named will engage in the trades described on a full-time basis. Each voyage must be approved for subsidy before commencement of the voyage. The Maritime Subsidy Board (Board) will act on each request for a subsidized voyage as an administrative matter under the terms of the individual operating-differential subsidy contract for which





there is no requirement for further notices under section 605(c) of the Act.

Any person having an interest in the granting of such application and who would contest a finding of the Board that the service now provided by vessels of U.S. registry for the carriage of cargoes as previously specified is inadequate, must, on or before September 26, 1973, notify the Board's Secretary, in writing, of his interest and of his position, and file a petition for leave to intervene in accordance with the Board's rules of practice and procedure (46 CFR Part 201). Each such statement of interest and petition to intervene shall state whether a hearing is requested under section 605(c) of the Act and with as much specificity as possible the facts that the intervenor would undertake to prove at such hearing.

In the event a hearing under section 605(c) of the Act is ordered to be held with respect to said application, the purpose of such hearing will be to receive evidence relevant to (1) whether the application hereinabove described is one with respect to vessels to be operated in an essential service, served by citizens of the U.S. which would be in addition to the existing service, or services, and if so, whether the service already provided by vessels of U.S. registry is inadequate and (2) whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated thereon.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing, the Board will take such action as may be deemed appropriate.

(Catalogue of Federal Domestic Assistance Program No. 11.504, Operating-Differential Subsidies.)

Dated September 17, 1973.

By Order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
*Secretary.*

[FR Doc.73–20051 Filed 9–18–73;8:45 am]

[Docket No. S–302]

## PRUDENTIAL-GRACE LINES, INC.

### Notice of Application

Notice is hereby given that Prudential-Grace Lines, Inc. (PGL) has filed an application under the Merchant Marine Act, 1936, as amended (the Act), requesting permission, for a period of three years, for the SS BARBARA JANE to be chartered to United States citizen charterers for use in carrying petroleum and petroleum products in bulk in the domestic intercoastal and coastwise trades. The BARBARA JANE is a tank vessel owned by World Wide Tankers, Inc., an affiliate of PGL.

Inasmuch as PGL is a subsidized U.S. flag operator, written permission of the Maritime Administration under section 805(a) of the Act will be required for the chartering of the SS BARBARA JANE for operation in the domestic intercoastal and coastwise trade.

Interested parties may inspect this application in the Office of The Secretary, Maritime Administration, Department of Commerce Building, Fourteenth & E Streets NW., Washington, D.C. 20230.

Any person, firm or corporation having any interest (within the meaning of section 805(a)) in the application and desiring to be heard on issues pertinent to section 805(a) or desiring to submit comments or views concerning the application must, by the close of business on Oct. 1, 1973, file same with the Maritime Administration, in writing, in triplicate, together with petition for leave to intervene which shall state clearly and concisely the grounds of interest, and the alleged facts relied on for relief.

If no petitions for leave to intervene are received within the specified time or if it is determined that petitions filed do not demonstrate sufficient interest to warrant a hearing, the Maritime Administration will take such action as may be deemed appropriate.

In the event petitions regarding the relevant section 805(a) issues are received from parties with standing to be heard, a hearing has been tentatively scheduled for 10 a.m. on Oct. 3, 1973, in Room 4896, Department of Commerce Building, Fourteenth & E Streets NW., Washington, D.C. 20230. The purpose of the hearing will be to receive evidence under section 805(a) relative to whether the proposed operation (a) could result in unfair competition to any person, firm or corporation operating exclusively in the coastwise or intercoastal services, or (b) would be prejudicial to the objects and policy of the Act.

By Order of the Maritime Administration.

Dated September 17, 1973.

JAMES S. DAWSON, Jr.,
*Secretary.*

[FR Doc.73–20052 Filed 9–18–73;8:45 am]

## National Oceanic and Atmospheric Administration

## MARINE MAMMAL PROTECTION ACT

### Notice of Granting of Exemption on Grounds of Undue Economic Hardship

Notice is hereby given that, on September 11, 1973, as authorized by section 101(c) of the Marine Mammal Protection Act of 1972 ((16 U.S.C. 1361) 86 Stat. 1027 (1972)) and § 216.13 of the Regulations Governing the Taking and Importing of Marine Mammals and Marine Mammal Products (37 FR 28177, December 21, 1972), an exemption from the provisions of the Act on grounds of undue economic hardship was issued to the following named person, authorizing him to engage in the following described activity, subject to the conditions specified in the Letter of Exemption:

The Fouke Company, Route 1, P.O. Box 168, Whitehorse Road, Greenville, South Carolina 29611 (Mr. George H. Heinz, President), to import into the United States 50,500 skins of South African Cape fur seals (*Arctocephalus pusillus pusillus*) from the Republic of South Africa by no later than midnight EDT October 20, 1973, for the purpose of processing these skins and selling them in accordance with the usual business practices of the Company.

There was a finding of undue economic hardship if an exemption were not granted. Granting of the exemption would not result in a measurable adverse effect on the stocks of seals involved or the associated ecosystem.

Copies of the application for the exemption, of the Letter of Exemption and of all supporting documents except documents containing information exempt from public disclosure pursuant to the Freedom of Information Act (5 U.S.C. 522(b)), are available for inspection at the Office of the Director, National Marine Fisheries Service, Washington, D.C. 20235; copies of the application and the Letter of Exemption are also at the National Marine Fisheries Service Regional Offices. The Regional Offices are located at the following addresses: Southwest Region, 300 South Ferry Street, Terminal Island, California 90731, telephone 213–831–9281; Northeast Region, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930, telephone 617–281–0640; Southeast Region, Duval Building, 9450 Gandy Boulevard, St. Petersburg, Florida 33701, telephone 813–893–3141; Northwest Region, Lake Union Building, 1700 Westlake Avenue North, Seattle, Washington 98109, telephone 206–442–7575; Alaska Region, P.O. Box 1668, Juneau, Alaska 99801, telephone 907–586–7221.

The exemption has been granted to allow the company a grace period to adjust its business activities to the requirements of the Act and it shall not constitute a precedent for any request that the Company may submit with respect to a waiver of the moratorium.

ROBERT W. SCHONING,
*Director, National Marine Fisheries Service.*

SEPTEMBER 13, 1973.

[FR Doc.73–19882 Filed 9–18–73;8:45 am]

## National Technical Information Services

## GOVERNMENT-OWNED INVENTIONS

### Notice of Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for licensing in accordance with the GSA Patent Licensing Regulations.

Copies of Patent applications, either paper copy (PC) or microfiche (MF), can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22151, at the prices cited. Requests for copies of patent applications must include the PAT–APPL



V 381181 SEP 19 73 XUM

number and the title. Requests for licensing information should be directed to the address cited with each copy of the patent application.

Paper copies of patents cannot be purchased from NTIS but are available from the Commissioner of Patents, Washington, D.C. 20231, at $0.50 each. Requests for licensing information should be directed to the address cited below for each agency.

DOUGLAS J. CAMPION,
*Patent Program Coordinator, National Technical Information Service.*

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters; NASA—Code GP-2, Washington, D.C. 20546.

Patent Application 306,980: Telemetry Processor; filed November 15, 1972; PC $6.00/MF $1.45.
Patent Application 361, 666: Integrable Power Gyrator; filed May 18, 1973; PC $3.25/MF $1.45.
Patent 3,728,861: Ion Thruster with A Combination Keeper Electrode and Electron Baffle; filed April 24, 1973; not available NTIS.
Patent 3,729,343: Thermocouple Tape; filed January 8, 197 ; not available NTIS.
Patent 3,729,676: Ratemeter; filed July 13, 1971; not available NTIS.
Patent 3,729,743: Collapsible Structure for an Antenna Reflector; filed October 26, 1971; not available NTIS.
Patent 3,729,935: Solid Propellant Rocket Motor; filed May 28, 1971; not available NTIS.
Patent 3,732,040: Pump for Delivering Heated Fluids; filed March 2, 1971; not available NTIS.
Patent 3,732,158: Method and Lapparatus for Sputtering Utilizing an Apertured Electrode and a Pulsed Substrate Bias; filed January 14, 1971; not available NTIS.

U.S. ATOMIC ENERGY COMMISSION, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent Application 25,005: Gradient Armor System; filed April 2, 1970; PC $3.00/MF $0.95.
Patent Application 108,826: Multiple Lens Camera for Obtaining Time-Sequential Images; filed January 22, 1971; PC $3.00/MF $0.95.
Patent Application 123,362: Method for Production of Uniform Microspheres; filed March 11, 1971; PC $3.00/MF $0.95.
Patent Application 151,111: Superconductive Material and Method of Manufacturing; filed June 8, 1971; PC $3.00/MF $0.95.
Patent Application 155,012: Hybrid Laser Plasma Target—Neutral Beam Inhection Fiusion System; filed June 21, 1971; PC $3.50/MF $0.95.
Patent Application 178,988: Ultrasonic Void Fraction Detector; filed September 9, 1971; PC $3.00/MF $0.95.
Patent Application 203,248: Improved Loading Disk for Photometric Analyzer of Rotary Curvelte Type; filed November 30, 1970; PC $3.00/MF $0.95.
Patent Application 206,468: Improved Rotor for Multistation Photometric Analyzer; filed December 9, 1971; PC $3.00/MF $0.95.
Patent Application 215,159: A Method for Dispersing Crl 3+ Ions Impregnated in Silica; filed January 3, 1972; PC $3.00/MF $0.95.
Patent Application 216,947: Porous Metal Insulator Sandwich Membrane; filed January 11, 1972; PC $3.00/MF $0.95.
Patent Application 227,172: Improved Pulse Processing System; filed February 17, 1972; PC $3.00/MF $0.95.
Patent Application 228,676: Irrigation System; filed February 23, 1972; PC $3.00/MF $0.95.
Patent Application 260,237: Method for Preparation of Biocompatible and a Biofunctional Materials and Product Thereof; filed June 6, 1972; PC $3.25/MF $0.95.
Patent Application 265,049: Computer Generated Optical Sound Tracks; filed June 21, 1972; PC $3.00/MF $0.95.
Patent Application 277,192: Dynamic Multistation Photometric Analyzer for Serological Testing: filed August 2, 1972; PC $3.00/MF $0.95.
Patent Application 282,814: Dynamic Multistation Photometer-Fluorometer; filed August 22, 1972; PC $3.00/MF $0.95.
Patent Application 288,801: Zeeman Effect Absorption Spectrometer; filed September 13, 1972; PC $3.25/MF $0.95.
Patent Application 316,628: Portable Dynamic Multistation Photometer Fluorometer; filed December 19, ----; PC $3.00/MF $0.95.
Patent 3,371,558: Rotary Drilling Device; filed February 15, 1966, patented March 5, 1968; not available NTIS.
Patent 3,673,872: Cryogenic Sound Supported Intertial Reference; filed February 1, 1966, patented July 4, 1972; not available NTIS.
Patent 3,693,731: Method and Apparatus for Tunneling by Melting; filed January 8, 1971, patented September 26, 1972; not available NTIS.
Patent 3,695,384: Non-Meniscus Forming Orifices; filed September 25, patented October 3, 1972; not available NTIS.
Patent 3,697,259: Fluxless Aluminum Brazing Composition; filed October 2, 1970, patented October 10, 1972; not available NTIS.
Patent 3,699,474: Multiple Beam Laser System; filed November 20, 1971, patented October 17, 1972; not available NTIS.
Patent 3,701,080: Miniature Coaxial Cable Connector; filed June 2, 1971, patented October 24, 1972; not available NTIS.
Patent 3,702,279: Fibrous Thermal Insulation and Method for Preparing Same; filed April 7, 1971, patented November 7, 1972; not available NTIS.
Patent 3,702,450: Printed Circuit Steering Coils; filed May 11, 1971, patented November 7, 1972; not available NTIS.
Patent 3,702,589: Bimetallic Temperature Sensing Device; filed February 8, 1968, patented November 14, 1972; not available NTIS.
Patent 3,702,620: Actuator System; filed August 10, 1971, patented November 14, 1972; not available NTIS.
Patent 3,702,724: Ferroelectric Ceramic Plate Electrooptical Light Scattering Device and Method; filed October 13, 1971, patented November 14, 1972; not available NTIS.
Patent 3,702,932: Melting Cryogen Cooling for Radiation Logging Probe; filed April 15, 1971, patented November 14, 1972; not available NTIS.
Patent 3,702,961: Demand Regulated DC to DC Power Supply; filed March 19, 1971, patented November 14, 1972; not available NTIS.
Patent 3,703,208: Reduction of Radioactive Gas Contamination of Nuclear Detonations in Geological Formations; filed January 22, 1971, patented November 21, 1972; not available NTIS.
Patent 3,703,405: Vapor Deposition of Rhenium and Rhenium-Tungstien Alloy Coatings; filed October 27, 1970, patented November 21, 1972; not available NTIS.
Patent 3,707,188: Non Collapse Siemming of Casing Subjected to Explosive Effects; filed April 27, 1971, patented December 26, 1972; not available NTIS.
Patent 3,723,703: Laser Energized Plasma Source; filed February 8, 1971, patented March 27, 1973; not available NTIS.
Patent 3,706,029: Rotators to Resolve Each Parameter; filed November 16, 1971, patented December 12, 1972; not available NTIS.
Patent 3,707,869: Airborne Isokine IC Sampler; filed June 9, 1971, patented January 2, 1973; not available NTIS.
Patent 3,723,730: Multiple Ion Source Array; filed November 30, 1971, patented March 27, 1973; not available NTIS.
Patent 3,718,583: Method for the Concentration of Heavy Metal Cations Using Ion Selective Membranes; filed November 29, 1971, patented February 27, 1973; not available NTIS.
Patent 3,723,504: Rare Earth Removal from Americium Oxide; filed May 18, 1972, patented March 27, 1973; not available NTIS.
Patent 3,723,741: Method for Effecting Nuclear Polarization of A Beam of Atoms; filed September 1, 1971, patented March 27, 1973; not available NTIS.

[FR Doc.73-19872 Filed 9-18-73;8:45 am]

## United States Travel Service

### TRAVEL ADVISORY BOARD

#### Notice of Meeting

The Travel Advisory Board of the U.S. Department of Commerce will meet September 25 at 9:30 a.m. in Room 4830 of the Main Commerce Building, 14th Street and Constitution Avenue NW., Washington, D.C. 20230.

Members advise the Secretary of Commerce and the Assistant Secretary of Commerce for Tourism on policies and programs designed to accomplish the purposes of the International Travel Act of 1961, as amended.

Agenda items are as follows:

GENERAL SESSION

(1) Opening remarks by Assistant Secretary of Commerce for Tourism, C. Langhorne Washburn.

(2) Remarks by Under Secretary of Commerce, John K. Tabor.

(3) Review and discussion of USTS programs and activities.

EXECUTIVE SESSION

A closed Executive Session will be convened following the general session to discuss internal memoranda which relate to proposed revisions of USTS' future programs, objectives, and plans. Pursuant to section 10(d) of the Federal Advisory Committee Act, Pub. L. 92-463, it has been formally determined by the Assistant Secretary of Commerce for Administration, with the concurrence of the General Counsel, that these matters fall within section 552(b)(5) of Title 5 of the United States Code, and the public interest requires such matters to be withheld from disclosure. The specific exemption is the intra-agency communications exemption set forth in subsection (5) of section 552(b) of Title 5. Accordingly, the Executive Session shall be closed to the public and shall be exempt from the provisions of sections 10(a)(1) and 10(a)(3) of the Federal Advisory Committee Act, relating to public attendance and participation.





Established in July 1968, the Travel Advisory Board consists of senior representatives of 15 U.S. travel industry segments who are appointed by the Secretary of Commerce to serve two year terms.

A limited number of seats—approximately 14—will be available to observers from the public and the press for the General Session. The public will be permitted to file written statements with the Committee before or after the meeting. To the extent time is available after the General Session the presentation of oral statements will be allowed.

Robert Jackson, Director of Information Services of the United States Travel Service, Room 1525, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-967-4987 will respond to public requests for information about the meeting.

C. LANGHORNE WASHBURN,
*Assistant Secretary for Tourism U.S. Department of Commerce.*

[FR Doc.73-19876 Filed 9-18-73;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Center for Disease Control

### OCCUPATIONAL SAFETY AND HEALTH

#### Applications for Certification of Certain Gas Detector Tube Units

In the FEDERAL REGISTER of May 8, 1973 (38 FR 11458), the Department adopted regulations which set forth the requirements and procedures for the evaluation and certification of gas detector tube units (42 CFR Part 84). In accordance with § 84.3(a) of the regulations, notice is hereby given that the National Institute for Occupational Safety and Health will accept applications for certification of gas detector tube units pursuant to the following schedule:

| Gas | Dates for submittal | Test standard (ppm) |
|---|---|---|
| 1. Sulfur Dioxide ($SO_2$) | Oct. 1-31, 1973 | 5.0 |
| 2. Hydrogen Sulfide ($H_2S$) | Nov. 1-31, 1973 | 10.0 |
| 3. Carbon Dioxide ($CO_2$) | Dec. 1-31, 1973 | 5000.0 |

All applications and any questions concerning the certification program should be submitted to the Institute's Testing and Certification Laboratory, 944 Chestnut Ridge Road, Morgantown, W. Va. 26505.

Dated September 10, 1973.

MARCUS M. KEY,
*Director, National Institute for Occupational Safety and Health.*

[FR Doc.73-19870 Filed 9-18-73;8:45 am]

### Office of the Secretary

### OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION AND MANAGEMENT

#### Statement of Organization, Functions, and Delegations of Authority

Part 1 of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health, Education, and Welfare is amended to add a new section 1T300101 to reflect the establishment of the Operations Staff responsible directly to the Deputy Assistant Secretary for Administration. The new Section reads as follows:

1T300101.00 *Mission.* Formulates recommendations for plans and policies to the Deputy Assistant Secretary for Administration. Implements or oversees the implementation of the internal management policies and procedures for the organizational elements that comprise the Office of Administration. Prepares management studies on organizational effectiveness, suggests methods for improvement, and develops and monitors an operational planning system.

1T300101.10 *Organization.* The Operations Staff is under the direction of a Director who reports directly to the Deputy Assistant Secretary for Administration. The Staff consists of:

Internal Management Section
Budget and Finance Section

1T300101.20 *Functions.* Internal Management Section.

1. Develops policy and procedures on administrative matters.

2. Prepares, coordinates, and distributes DHEW FEDERAL REGISTER documents. Prepares internal manuals and directives as necessary.

3. Maintains staff files and implements paperwork management policy and procedures.

4. Maintains committee participation roster.

5. Coordinates requests for personal actions with DPO.

6. Performs staff duties for the Collective Bargaining Official.

7. Maintains liaison with DHEW Safety Program.

8. Coordinates on-the-job and other training activities.

9. Coordinates facilities (space) requirements.

10. Maintains equipment and furniture inventory and controls.

11. Conducts reviews of organizations, functions, and delegations of authority.

12. Conducts analyses of operations and management practices and procedures.

13. Develops and maintains the Office of Administration Operational Planning System and the Office's applications of the Manpower Utilization program.

14. Prepares reports pertinent to the Office of Administration participation in DHEW Management Improvement Program.

15. Develops performance indices and standards data for management review of effectiveness of the Office of Administration operations.

B. Budget and Finance Section

1. Formulates budget estimates and oversees the preparation of the operating budget and other aspects of budget execution.

2. Maintains or keeps in touch with those who maintain funds control and coordination of accounting and reporting.

3. Coordinates the budgetary and fiscal activities of the Working Capital Fund in cooperation with the Assistant Secretary, Comptroller.

4. Produces statistics to review Management's posture relative to program objectives and budget constraints.

5. Maintains position control data.

6. Develops and publishes periodic status of funds reports for organizational units and top management.

Dated September 13, 1973.

S. H. CLARKE,
*Acting Assistant Secretary for Administration and Management.*

[FR Doc.73-19908 Filed 9-18-73;8:45 am]

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Federal Disaster Assistance Administration

[Docket No. NFD-125; FDAA-398-DR]

### TEXAS

#### Amendment to Notice of Major Disaster

Notice of Major Disaster for the State of Texas, dated July 11, 1973, and published July 16, 1973 (38 FR 18918), and amended July 24, 1973, and published July 31, 1973 (38 FR 20359), is hereby further amended to include the following county among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 11, 1973:

The County of:
Sabine

Dated September 13, 1973.

(Catalog of Federal Domestic Assistance Program No. 50.002, Disaster Assistance.)

THOMAS P. DUNNE,
*Administrator, Federal Disaster Assistance Administration.*

[FR Doc.73-19887 Filed 9-18-73;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. EX73-7; Notice 1]

### ALBANY MOTOR CARRIAGE COMPANY

#### Petition for Temporary Exemption From Motor Vehicle Safety Standards

The Albany Motor Carriage Company Ltd. of Christchurch, Hampshire, England has applied for temporary exemptions for its Vintage Car Type A passenger car from certain safety standards on



V38I181
SEP 19 73
XUM

grounds of substantial economic hardship.

Albany manufactured 28 vehicles between July 1972, and July 1973. It intends to manufacture no more than 300 units for sale in the United States before terminating production, and therefore does not intend to achieve conformance with exempted standards. All exemptions requested are for the statutory maximum, 3 years. The vehicle is an open two-seater replica of vehicles manufactured in Great Britain in the first decade of the 20th century. Although it is powered by a contemporary Triumph Spitfire engine its top speed is limited to 40 mph. The company requests exemption from all or part of the following standards, for the reasons stated: Nos. 103 (the vehicle has no doors or sides), 104 (the vehicle does not need two wiping speeds due to the low top speed), 109 and 110 (the tires and rims are larger than those covered by the standards), 201 (the standard is intended for closed vehicles), 202, 208, 209, and 210 (compliance would involve substantial costs and destroy the character and hence the sales appeal of the vehicle).

In support of its petition Albany states that the total planned production of the Model A is 600 units, half of which are destined for the American market, and that "all costings have been based on this production run." There are no alternative markets capable of absorbing the planned USA sales of 300 units, and if the car cannot be sold in the USA "the product is not a viable commercial proposition and must be abandoned and the company wound up with a consequent loss of dollars already invested." Albany has made certain modifications to the vehicle which it briefly describes, so that it will conform with Standards Nos. 101, 102, 105, 108, 114, 204, and portions of 104. The company has submitted financial information from the date of incorporation, April 22, 1971, forward, together with a projected balance sheet as of March 31, 1974.

This notice of receipt of a petition for a temporary exemption is published in accordance with the NHTSA regulations on this subject (49 CFR 555.7), and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Interested persons are invited to submit comments on the petition of Albany described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street, SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received, are available for examination in the docket both before and after the closing date. Comments received after the closing date will also be filed and will be considered to the extent possible. If the petition is granted, notice will be published in the FEDERAL REGISTER pursuant to the authority indicated below.

Comment closing date.—October 18, 1973.

Proposed effective date.—Date of issuance of exemption.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C. 1410), delegations of authority at 49 CFR 1.51 and 49 CFR 501.8.)

Issued on September 12, 1973.

ROBERT L. CARTER,
*Associate Administrator,*
*Motor Vehicle Programs.*

[FR Doc.73-19824 Filed 9-18-73;8:45 am]

## ATOMIC ENERGY COMMISSION

### ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON INDIAN POINT NUCLEAR STATION UNIT 3

#### Notice of Meeting

SEPTEMBER 17, 1973.

In accordance with the purposes of section 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards Subcommittee on Indian Point Nuclear Station Unit 3 will hold a meeting on October 10, 1973, in Room 1046, at 1717 H Street NW., Washington, D.C. The purpose of this meeting will be to continue the Committee's formal Operating License review of Indian Point Unit 3. This facility is located at Buchanan, New York.

The following constitutes that portion of the Subcommittee's agenda for the above meeting which will be open to the public.

WEDNESDAY, OCTOBER 10, 9:30 A.M.–3:30 P.M.

The Subcommittee will hear presentations by Regulatory Staff and representatives of Consolidated Edison Company of New York and their representatives and hold discussions with these groups pertinent to issuance of an Operating License for Indian Point Unit 3.

In connection with the above agenda item, the Subcommittee will hold an executive session beginning at 8:30 a.m. which will involve a discussion of its preliminary views, and an executive session at the end of the day, consisting of an exchange of opinions of the Subcommittee members present and internal deliberations for the purpose of formulation of recommendations to the ACRS. In addition, prior to the executive session at the end of the day, the Subcommittee may hold a closed session with the Regulatory Staff and applicant to discuss privileged information relating to plant security and fuel design, if necessary.

I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that the executive session at the beginning and end of the meeting will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b) and that a closed session may be held, if necessary, to discuss certain information relating to plant security and fuel design which is privileged and falls within exemption (4) of 5 U.S.C. 552(b). It is essential to close such portions of the meeting to protect such privileged information and protect the free interchange of internal views and to avoid undue interference with agency or Committee operation.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by mailing 25 copies thereof, postmarked no later than October 3, 1973, to the Executive Secretary, Advisory Committee on Reactor Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Such comments shall be based upon the Preliminary Safety Analysis Report and related documents on file and available for public inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545, and the Hendrick Hudson Free Library, 31 Albany Post Road, Montrose, New York 10548.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statements and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of not more than 30 minutes at an appropriate time, chosen by the Chairman of the Subcommittee, between the hours of 1:30 p.m. and 3:00 p.m. on the day of the meeting.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee, who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled and in regard to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on October 9, 1973, to the Office of the Executive Secretary of the Committee, telephone: 301-973-5651, between 8:30 a.m. and 5:15 p.m., Eastern Daylight Time.





(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) A copy of the transcript of the open portions of the meeting will be available for inspection during the following workday at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545, and within approximately nine days at the Hendrick Hudson Free Library, 31 Albany Post Road, Montrose, New York 10548. On request, copies of the minutes of the meeting will be made available for inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545, on or after December 10, 1973. Copies may be obtained upon payment of appropriate charges.

JOHN C. RYAN,
*Advisory Committee*
*Management Officer.*

[FR Doc.73-20017 Filed 9-18-73;8:45 am]

## CIVIL AERONAUTICS BOARD

[Order 73-9-53]

### DEPARTMENT OF DEFENSE

#### Order Granting Extension of Temporary Relief Granted to Certain Unauthorized Indirect Air Carriers to Transport Household Goods

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 13th day of September 1973.

From time to time, at the request of the Department of Defense (DOD) the Board has granted relief from provisions of the Federal Aviation Act of 1958 (the Act) to permit 40 unauthorized indirect air carriers to transport used household goods[1] of Department of Defense personnel. A condition for obtaining such relief was that the firm seeking it have on file with the Board an application for air freight forwarder authority. The relief was to expire 180 days after the Board's decision in the Household Goods Air Freight Forwarder Investigation, Docket 20812, became final[2] or, as to each individual company, upon Board disposition of such company's application for interstate and/or international air freight forwarder authority, whichever event shall occur first.[3]

Since the processing of a number of the applications could not be concluded prior to the expiration of the temporary relief and the Department of the Army, acting in behalf of DOD, requested extension of such relief, the Board extended the temporary relief for 90 days.[4] A supplemental extension of 60 days was granted[5] and such relief is to expire on September 16, 1973.

Delays have been encountered in resolving control and/or interlocking relationship matters, some of which are complex. As a result, the applications of the eight applicants named in the appendix will not be completed prior to expiration of the extended deadline. Furthermore, in its July 6 letter, the Department of the Army requested an extension of the temporary relief for a reasonable period in those cases where processing could not be completed by the time limit previously set. We construe that letter to be a request for whatever additional extension of the temporary relief is necessary to complete the processing.

In view of these circumstances and DOD's request, the Board finds that further extension of the temporary relief to those carriers named in the appendix hereto[6] is in the public interest, and has decided to extend such relief for a period of 90 days to December 16, 1973.

*Accordingly, it is ordered:*

1. That pursuant to sections 101(3) and 204 of the Federal Aviation Act of 1958, as amended, the carriers listed in the appendix hereto are hereby relieved from the provisions of Title IV of the Act to the extent necessary to transport by air used household goods of personnel of DOD upon tender by that Department;

2. That the relief granted herein shall become effective September 17, 1973 and terminate on December 16, 1973, or as to each individual company named in the appendix hereto, upon Board disposition of such company's application for interstate and/or international air freight forwarded authority, whichever event shall occur first;

3. That this order may be amended or revoked at any time in the discretion of the Board without hearing; and

4. That copies of this order shall be served on the Military Traffic Management and Terminal Service, U.S. Army, and the companies listed in the appendix below.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.73-19932 Filed 9-18-73;8:45 am]

[1] The term "used household goods" means personal effects (including unaccompanied baggage) and property used or to be used in a dwelling, when a part of the equipment or the supply of such dwelling, but specifically excludes (1) furniture, fixtures, equipment and the property of stores, offices, museums, institutions, hospitals, or other establishments, when a part of the stock, equipment or supply of such stores, offices, museums, institutions, hospitals or other establishments, and (2) objects of art (other than personal effects), displays and exhibits.

[2] Order on reconsideration issued October 16, 1972. Temporary relief was to expire April 16, 1973.

[3] Order 71-10-56, dated October 13, 1971.

[4] Order 73-4-57, dated April 12, 1973.

[5] Order 73-7-56, dated July 13, 1973.

[6] Filed as part of the original document.

## CIVIL SERVICE COMMISSION

### DEPARTMENT OF AGRICULTURE

#### Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Agriculture to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary for Rural Development and Conservation, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant*
*to the Commissioners.*

[FR Doc 73-19955 Filed 9-18-73;8:45 am]

### DEPARTMENT OF DEFENSE

#### Notice of Title Change in Noncareer Executive Assignment

By notice of November 17, 1967, FR Doc. 67-13608, the Civil Service Commission authorized the departments and agencies to fill by noncareer executive assignment, certain positions removed from Schedule C of Civil Service Rule VI by 5 CFR 213.3301a on November 17, 1967. This is notice that the title of one such position so authorized to be filled by noncareer executive assignment has been changed from Deputy Director of Civil Defense for Special Activities, Office of the Director, Office of Civil Defense, Office of the Secretary of the Army, Department of the Army to Deputy Director, Defense Civil Prepardness Agency, Immediate Office of the Director, Defense Civil Prepardness Agency.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant*
*to the Commissioners.*

[FR Doc 73-19945 Filed 9-18-73;8:45 am]

### DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

#### Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary for Education (Policy Development), Office of the Assistant Secretary for Education, Education Division.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant*
*to the Commissioners.*

[FR Doc 73-19947 Filed 9-18-73;8:45 am]



V 38 N 181 SEP 19 73 XUM

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Housing and Urban Development to fill by noncareer executive assignment in the excepted service the position of Assistant to the Secretary (Public Affairs).

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73-19953 Filed 9-18-73;8:45 am]

## DEPARTMENT OF LABOR

### Notice of Title Change in Noncareer Executive Assignment

By notice of November 17, 1967, FR Doc. 67-13608, the Civil Service Commission authorized the departments and agencies to fill by noncareer executive assignment, certain positions removed from Schedule C of Civil Service Rule IV by 5 CFR 213.3301a on November 17, 1967. This is notice that the title of one such position so authorized to be filled by noncareer executive assignment has been changed from Deputy Administrator, Wage and Hour and Public Contracts Divisions, Office of the Administrator to Deputy Wage and Hour Administrator, Employment Standards Administration.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc 73-19946 Filed 9-18-73;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Transportation to fill by noncareer executive assignment in the excepted service the position of Chief Counsel, Federal Aviation Administration.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73-19950 Filed 9-18-73;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Transportation to fill by noncareer executive assignment in the excepted service the position of Director of Intergovernmental Affairs, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73-19951 Filed 9-18-73;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Transportation to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Deputy Under Secretary, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73-19952 Filed 9-18-73;8:45 am]

## EXPORT-IMPORT BANK

### Notice of Title Change In Noncareer Executive Assignment

By notice of January 15, 1971, FR Doc. 71-549, the Civil Service Commission authorized the Export-Import Bank to fill by noncareer executive assignment the position of Senior Vice President for Planning and Export Expansion. This is notice that the title of this position is now being changed to Senior Vice President for Public Affairs and Export Expansion.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73-19944 Filed 9-18-73;8:45 am]

## SPECIAL ACTION OFFICE FOR DRUG ABUSE PREVENTION

### Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Special Action Office for Drug Abuse Prevention to fill by noncareer executive assignment in the excepted service the position of General Counsel.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73-19948 Filed 9-18-73;8:45 am]

## SMALL BUSINESS ADMINISTRATION

### Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Small Business Administration to fill by noncareer executive assignment in the excepted service the position of Assistant Administrator for Planning, Research and Analysis.

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73-19949 Filed 9-18-73;8:45 am]

## COST OF LIVING COUNCIL

[Order No. 43]

### EXECUTIVE DIRECTOR, NATIONAL COMMISSION FOR INDUSTRIAL PEACE

#### Delegation of Authority

Pursuant to the authority vested in me as Executive Secretary of the Cost of Living Council by Cost of Living Council Order Number 25 (38 FR 12775, May 15, 1973), I hereby delegate to the Executive Director of the National Commission for Industrial Peace authority to:

1) Determine, in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-462, 86 Stat. 770), that meetings of the National Commission for Industrial Peace shall be closed, subject to the concurrence of the General Counsel of the Cost of Living Council; and

2) Sign notices with respect to meetings of the National Commission for Industrial Peace for publication in the FEDERAL REGISTER.

This delegation is effective as of September 17, 1973.

HENRY H. PERRITT, JR.,
*Executive Secretary,*
*Cost of Living Council.*

[FR Doc 73-19978 Filed 9-17-73;8:45 am]

[Order No. 42]

### ADMINISTRATOR, OFFICE OF FOOD

#### Delegation of Authority

Pursuant to the authority vested in me as Director of the Cost of Living Council by Cost of Living Council Order Nos. 14 and 29, it is hereby ordered as follows:

1. There is delegated to the Administrator, Office of Food, subject to the general policy guidance of and in coordination with the Director of the Cost of Living Council, or his delegate, authority to:

(a) Make decisions and issue orders with respect to prenotified price increases and all other filings from firms engaged in food manufacturing, food service activities, food wholesaling, or food retailing requiring decisions;





(b) Make decisions and issue orders with respect to individual requests for exceptions from firms engaged in food manufacturing, food service activities, food wholesaling, or food retailing or for class exceptions pertaining thereto;

(c) Make decisions and issue orders with respect to all requests for reconsideration of adverse actions taken by the Cost of Living Council or the Internal Revenue Service with respect to firms engaged in food manufacturing, food service activities, food wholesaling, or food retailing; and

(d) Request information and conduct hearings with respect to functions delegated in this paragraph.

2. The Administrator, Office of Food, may redelegate to personnel within the Office of Food any authority delegated to him by this order.

3. In exercising the authority delegated by this order or redelegated pursuant thereto officials of the Cost of Living Council shall be governed by the regulations and rulings of the Cost of Living Council and by the policies, procedures, and controls prescribed by the Director of the Cost of Living Council, or his delegate.

4. Actions taken by the Administrator, Office of Food, under paragraph 1(c) of this order, are administratively final. Review of these actions may be sought in the appropriate Federal district court pursuant to section 211 of the Economic Stabilization Act of 1970, as amended (Public Law 92-210, 85 Stat. 744).

5. This order is effective August 13, 1973.

JOHN T. DUNLOP,
*Director,*
*Cost of Living Council.*

[FR Doc.73-20090 Filed 9-18-73;10:19 am]

## ENVIRONMENTAL PROTECTION AGENCY

### ANTIMICROBIAL PROGRAM ADVISORY COMMITTEE

#### Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that a meeting of the Antimicrobial Program Advisory Committee will be held at 10:00 a.m., September 25, 1973, in Room E412, East Tower, Waterside Mall, 401 M Street SW., Washington, D.C.

This will be the first meeting of this Committee, which will be organizational, essentially, and may extend into the second day. The agenda includes brief addresses to the membership from Dr. Henry Korp, Deputy Assistant Administrator for Pesticide Programs; Dr. Leonard R. Axelrod, Director, Criteria and Evaluation Division; Mr. John Ritch, Sr., Director, Registration Division; Dr. William Murray, Director, Technical Services Division; and Dr. John V. Osmun, Director, Operations Division. The rules and regulations under which the Committee must function will be reviewed with the members, and some of the most pressing problems confronting Registration Division will be discussed.

The meeting will be open to the public. Any member of the public wishing to participate or present written or oral views should contact Dr. William G. Roessler, Executive Secretary, Antimicrobial Program Advisory Committee, 202-755-2562.

DAVID D. DOMINICK,
*Assistant Administrator*
*for Hazardous Materials Control.*

SEPTEMBER 12, 1973.

[FR Doc.73-19857 Filed 9-18-73;8:45 am]

### PESTICIDE CONTROL ACT IMPLEMENTATION

#### Notice of Hearing

On January 9, 1973, the Environmental Protection Agency published in the FEDERAL REGISTER (38 FR 1142) an Implementation Plan for the Federal Environmental Pesticide Control Act of 1972. That document set forth the Agency's general plan for implementing the Act, informed the public as to the dates when the different sections became or become effective, and invited preliminary views as to form and content of the regulations.

A further statement was published in the FEDERAL REGISTER (38 FR 3002) on January 31, 1973. This statement explained in detail the procedures to be followed by the Agency in supplementing those major sections of the Act which become fully effective in from 1 to 4 years, and solicited comments from interested persons on specific questions and issues. The statement also designated six subgroups to consider in detail procedures for the implementation of sections 3, 4, 5, 7, 8, and 24 of the Act, and listed the subgroups, their membership, and the issue areas to be considered by each group.

After further consideration of the issues listed under these subgroups, it was concluded that certain of these issues should be discussed in a public meeting to afford interested parties an additional opportunity to participate in the rule making process. Such meetings were held in several locations around the country earlier this year.

In response to the great interest shown by Region V, notice is hereby given that an additional one-day meeting open to the general public will be held as follows:

9:00 a.m., September 20, 1973, in the Mayfair Room, Sheraton-Blackstone Hotel, S. Michigan Avenue and E. Balboa Street, Chicago, Illinois.

Suggestions and comments are invited from all interested parties on how the subgroup should treat the following issues:

1. Section 3(d)—Classification of Pesticides.

The Act provides that within two years of enactment, all pesticides shall be classified for either general or restricted use. Comments are invited regarding the criteria and procedure which should be followed in implementing this provision.

2. Section 4—Certification of Applicators.

The Act provides that the pesticides designated as restricted shall be applied by or under the direct supervision of certified applicators or shall be subject to such other restrictions that the Administrator may provide by regulations. The certification of applicators is expected to be conducted by the States in accordance with plans approved by the Administrator. Comments are invited regarding the certification procedure pertaining especially to State responsibilities.

3. Section 24(c)—State registration of Pesticides to meet "Special Local Needs."

The Act provides for delegation of authority to State agencies to issue limited registrations of intrastate products to meet special local needs. The State agency must be certified by the Administrator as capable of exercising the necessary control to insure that such registrations will be in accord with the purposes of the Act. Comments are invited regarding the requirements for State certification to register products under this provision.

Persons wishing to make their views known to this Agency are invited to attend this meeting. Oral statements will be limited; however, written statements may be filed for the record. Four copies will be required, and may be presented to the receptionist at the hearing. Those who desire to make comments but are unable to attend the hearing may send written comments to Dr. A. Charles Lincoln, Chief, Pesticides Branch, EPA Region V, 1 North Wacker Drive, Chicago, Illinois 60606.

Done this 12th day of September 1973.

DAVID D. DOMINICK,
*Assistant Administrator for*
*Hazardous Materials Control.*

[FR Doc.73-19858 Filed 9-18-73;8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

[FCC 73-899]

### ALABASTER CARPHONE CO. AND TELPAGE, INC.

#### Memorandum Opinion and Order; Designating Applications for Consolidated Hearing on Stated Issues

In regard applications of Alabaster Carphone Company, Helena, Alabama, Docket No. 19806 File No. 811-C2-P-72, and Telpage, Inc., Tuscaloosa, Alabama, Docket No. 19807 File No. 1468-C2-P-72; for construction permits for new facilities in the Domestic Public Land Mobile Radio Service.

1. Before the Commission for consideration are the captioned applications to establish new two-way radiotelephone stations to operate on the 152.12-158.58 MHz frequency pair at Alabaster and Tuscaloosa, Alabama in the Domestic Public Land Mobile Radio Service (DPLMRS). Alabaster and Tuscaloosa, Alabama are only about 45 miles apart, and the applications are mutually exclusive, because the grant to both to operate on the same radio channels in the same locality would result in mutually harmful



V 381181 SEP 1973 XUM

electrical interference. Since both applicants appear to be legally, financially, and otherwise qualified to construct and operate the proposed facilities, the applications must be designated for comparative hearing to determine which applicant is better qualified to operate the proposed facilities in the public interest. Ashbacker Radio Corp. v. FCC, 326 U.S. 327 (1945).

2. The application of Alabaster Carphone Co. (Carphone) was filed on August 12, 1971. It appears from the application that Carphone was at the time of filing the original application a partnership of W. Rene Hill and Wallace Glasscock. Each partner had a 50 percent financial interest in the partnership; however, by letter dated February 8, 1972, the Carphone application was amended to show Mr. W. E. Glasscock to be the sole owner of Carphone, having purchased the partnership interest formerly held by W. Rene Hill. Mr. Glasscock is also the sole owner of Radio Dispatch Service, which is the licensee of Radio Station KIJ 352 operating in the DPLMRS in the Birmingham, Alabama, area. Prior to February 15, 1971, Mr. Glasscock was also the owner of Radio Dispatch Service which was the licensee of DPLMRS Radio Station KIY 733 in the Huntsville, Alabama, area. However, this station was sold for $13,000 pursuant to FCC consent dated January 1971.

3. The cost estimated by Carphone to establish its proposed facilities, as disclosed by its application, is $4,500. (Carphone Application, filed August 12, 1971, p. 5). A balance sheet submitted as Exhibit 8 to the same application discloses Mr. Glasscock's Current Assets to be $30,448.42 out of Total Assets of $120,848.44. Although Current Liabilities were stated to be $39,208.77, Deferred Liabilities were $10,318.43 with a Net Worth of $71,321.74.

4. Technically, Carphone proposes to operate its base station from a transmitter location in Helena, Shelby County, Alabama at a point 3 miles west of Highway 31 South at Alabaster, with 15F2 and 16F3 emissions and Input/Output powers of 220 and 120 watts. A Motorola Type CC 3040 C transmitter is also proposed, as well as a Decibel Products DB 224 E antenna and a Belden RG-8 transmission line. Carphone's antenna is to be located on top of a watertank mast, with the top of the antenna to be 130.5 feet above ground level. Appropriate frequency measuring equipment will be used to insure frequency stability. Mr. Glasscock will be in control of the proposed station, but installation and maintenance will be performed by Mr. Joe Cameron who holds First Class Radio Operator's License P 1613097.

5. The Carphone application was the subject of an informal protest filed February 18, 1972 by Telpage, Inc. (Telpage), the other competing applicant in this proceeding. The grounds of the informal protest are two: first, that Carphone did not have a proper certificate of Public Convenience and Necessity from the State of Alabama, as required by § 21.15(C)(4) of our rules, and, second, that the change in identity from a partnership to a proprietorship by Carphone amounted to a major amendment of the Carphone application, and thereby constituted grounds for its dismissal. We are of the view that the protest ought to be denied because, first, Carphone does have a proper certificate from the State of Alabama to serve the Alabaster area; and, second, the change in the business organization of Carphone does not constitute a major amendment of its application. The original Carphone application (Item #42, Exhibit 6) stated that the applicant did not intend to interconnect its station with the telephone company landline system "at that time", but if and when it did it would obtain appropriate state approval.

6. It appears that this state approval was sought, and obtained in PSC orders of April 26, 1972 and May 5, 1972. In its April 26, action[1] the Alabama Public Service Commission (PSC) found that Mr. Glasscock had been issued an Alabama Certificate of Public Convenience and Necessity on March 16, 1964 to operate a "Miscellaneous Common Carrier Service", and that he had requested recertification as required by the Alabama Radio Utility Act, No. 1595, enacted September 28, 1971. The Alabama Commission's opinion further recited that Mr. Glasscock had entered into an interconnection agreement with the South Central Bell Telephone Company, and it found that there would be in the future a public need and necessity for the service offered or proposed by Mr. Glasscock. It further found that the applicant has the "facilities, experience, personnel and financial ability to provide the public with the service contemplated", and that the contemplated service to the general public within its service area would be at rates which are "reasonable, uniform, and non-discriminatory" (PSC Op. & Order, p. 2). Mr. Glasscock was issued a certificate, therefore, authorizing him, subject to the licensing requirements of the FCC, to operate as a miscellaneous common carrier in intrastate communications, furnishing both interconnected two-way service and one-way radio service on a secondary basis within 40 miles of its base station in Birmingham, Alabama. The appropriate tariffs and rates on file by Mr. Glasscock with the FCC were considered to be the appropriate tariffs and rates for furnishing Mr. Glasscock's portion of the service being authorized by the Alabama Commission.

7. On May 5, 1972, the Alabama PSC in its Docket No. 16513, held that Carphone did not need a new certificate to serve Alabaster since Mr. Glasscock, its owner, already held a Certificate of Public Convenience and Necessity. The PSC held, however, that the certificated area already defined in the certificate was not to be enlarged. Alabaster is approximately 20 miles south of Birmingham; and Carphone, by letter dated May 6, 1972 to the Commission stated that the contour of its proposed station would be wholly confined within a circle of 40-mile radius of Birmingham. We conclude, based upon the foregoing, that Carphone has the requisite certificate of Public Convenience and Necessity, as required by Alabama law and our rules (§ 21.5(c)(4)).

8. The Telpage contention that the change of Carphone's business organization from a two-person partnership in which each partner has a 50 percent investment, to a proprietorship constitutes a major change in Carphone's application requiring its rejection, must be overruled. First, under § 21.23(c) of the rules, the amendment of the Carphone application does not fall within the category of examples described; it does not change a frequency; improve operating characteristics, enlarge service contours or materially alter the nature of its proposed service; nor do we consider it to be otherwise a major amendment of the Carphone application. Mr. Glasscock, prior to dissolution of the partnership, had a 50 percent ownership interest (or negative control) of Carphone. After the amendment Mr. Glasscock has sole control; but his prior responsibilities for the day-to-day operation of the station remain unaffected. Likewise, the responsibility for maintenance of the transmitter appears unaffected. Considering all the circumstances, we deem the change in ownership in Carphone to be one which does not materially alter the nature of the proposed service within the meaning of § 21.23(d) of our rules,[2] and we therefore, do not consider it to be a major change in its application.

9. Telpage is an Alabama Corporation, with its principal office located in Birmingham, Alabama, and was formerly known as Paresco, Inc. The principals of Telpage are Mr. Charles L. Escue, President, and Mr. James T. Parsons, Vice President. Both are 49 percent stockholders, whose wives each own 1 percent of Telpage stock. Mr. and Mrs. Escue are the sole stockholders and officers of Birmingham Communications, Inc., of Birmingham, Alabama, which employs approximately 12 persons in the installation and maintenance of communications equipment.

10. Telpage's financial qualifications are demonstrated in a balance sheet dated July 31, 1971 showing Total Current Assets of $3,958.86 and Total Stockholder's Equity of $4,712.76. Construction costs, estimated to be $8,000 for base station construction and $15,000 for 15

[1] *W. E. Glasscock d.b.a. Carphone Radio Telephone Dispatch Service* (Informal Docket No. U-2493).

[2] Section 21.23(d) states: "Amendments other than major amendments within the meaning of paragraph (c) of this section, will be considered on a case-by-case basis, and if found to materially alter an existing or proposed station, will be deemed to be a major change and will thereafter be listed in a public notice and subject to the provisions of section 21.27."





mobile units, are to be met under the terms of a standard Motorola lease-purchase agreement requiring 10 percent down and the balance payable in 60 months. Under terms of the Agreement, Telpage would pay $2,300 down, with the balance spread over 60 months.

11. Telpage proposes to erect its antenna at a point approximately 4 miles southeast of the Tuscaloosa County Court House, at a point 900 feet southwest of 2715 Skyland Boulevard. A Motorola Type CC 3040 C base station transmitter with 15F2/16F3 emission, with transmitter Input/Output powers of 220 and 120 watts, respectively, is proposed; and the mobile units will be FCC Type-Accepted. The Telpage antenna will be mounted on top of a 180-foot tower, and the top of the antenna will be 199 feet above ground. Maintenance of the Telpage transmitter will be provided by Chism Communications Service, Tuscaloosa, Alabama. Mr. Taylor Chism holds FCC Radio Telephone License Number P1-6-11089.

12. Telpage has a certificate issued by the Alabama Public Service Commission (PSC) on May 1, 1972, permitting it to offer to the general public in its service area within a 40-mile radius of Tuscaloosa, Alabama, two-way mobile radio communication service interconnected with the facilities of South Central Bell Telephone Company ("Bell"). The PSC found that the services offered by Telpage are essentially different from the service that Bell is presently authorized to offer in the same area, in that Telpage will provide message relay service and will transmit and relay messages as a secretarial service to its customers. The PSC found that there is presently and there would be in the future, a public need and necessity for the service proposed by Telpage, and that Telpage has the facilities, experience, personnel, and financial ability to provide the service contemplated. The PSC certificate issued to Telpage is subject to the licensing requirements of the FCC, and the requirement that the tariffs and rates filed by Telpage with the FCC are the appropriate tariffs and rates for furnishing Telpage's portion of the service authorized by the PSC.

13. Since it appears that both applicants are legally, financially, and otherwise qualified to construct and operate their proposed stations, *It is ordered*, Pursuant to sections 309 (d) and (e) of the Communications Act of 1934, as amended (47 U.S.C. § 309 (d) and (e)), that the captioned applications of Alabaster Carphone Company and Telpage, Inc., are designated for hearing in a consolidated proceeding upon the following issues:

1. To determine the nature and extent of services proposed by each applicant, including the rates, charges, personnel, practices, classifications, regulations, and facilities pertaining thereto.

2. To determine the total area and population to be served by Alabaster Carphone, Inc. within the 37 dbu contour of its proposed station, based upon the standards set forth in Section 21.504 of the FCC Rules and Regulations; and to determine the need for its proposed service in that area.[3]

3. To determine the total area and population to be served by Telpage, Inc., within the 37 dbu contour of its proposed station, based upon the standards set forth in Section 21.504 of the FCC Rules and Regulations; and to determine the need for the proposed service in that area.[3]

4. To determine, in light of the evidence adduced pursuant to the foregoing issues, which, if either, of the above-captioned applicants would better serve the public interest, convenience, and necessity.

14. *It is further ordered*, That the hearing shall be held at the Commission offices in Washington, D.C., at a time and place, and before an Administrative Law Judge, to be specified in a subsequent order.

15. *It is further ordered*, That the Burden of proof upon Issue 2 is upon Alabaster Carphone Company; the burden of proof upon Issue 3 is upon Telpage, Inc.; and the burden of proof upon Issues 1 and 4 is upon both applicants.

16. *It is further ordered*, That the Chief, Common Carrier Bureau, is made a party to the proceeding.

17. *It is further ordered*, That applicants and party respondent may avail themselves an opportunity to be heard by filing with the Commission pursuant to § 1.221(c) of the Commission's rules within twenty days of the release date hereof, a written notice stating an intention to appear on the date set for the hearing and present evidence on the issues specified in this Memorandum Opinion and Order.

By the Commission.

Adopted September 6, 1973.

Released September 12, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[4]
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

[FR Doc.73-19912 Filed 9-18-73;8:45 am]

[3] Section 21.504(a) of the Commission's Rules and Regulations describes a field strength contour of 37 decibels above one microvolt per meter as the limit of the reliable service area for base stations engaged in the one-way communications service. Propagation data set forth in § 21.504(b) are a proper basis for establishing both the location of the service contours and the areas of harmful interference for the facilities involved in this proceeding.

[4] Commissioner Robert E. Lee absent. Commissioner Johnson concurring in the result.

## PANEL 5 OF CABLE TV TECHNICAL ADVISORY COMMITTEE

### Notice of Meeting

SEPTEMBER 12, 1973.

Panel 5 of the Cable Television Technical Advisory Committee will hold an open meeting on Friday, September 28, 1973, at 10 a.m. The meeting will be held at the FCC Cable Bureau, 6th Floor Conference Room, 2025 M Street NW., Washington, D.C. The agenda of the meeting will include:

(1) Approval of minutes of last meeting.
(2) Review of interaction with other organizations and committees.
(3) Review of Panel 5 objectives and timetable.
(4) Task assignments.
(5) Other business.
(6) Next meeting date.
(7) Adjournment.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

[FR Doc.73-19921 Filed 9-18-73;8:45 am]

## RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

### Notice of Meetings

SEPTEMBER 12, 1973.

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the following is a listing of September meetings of the Radio Technical Commission for Marine Services (RTCM):

SPECIAL COMMITTEE No. 67

"Vessel Traffic Systems", 5th meeting, Thursday, September 13, 1973—10:00 a.m. (All day meeting), Conference Room A-110, 1229 20th Street NW., Washington, D.C.

PRINCIPAL AGENDA ITEMS

a. Report on Executive Committee action re Terms of Reference.
b. Discussion of U.S. Coast Guard Vessel Traffic Systems Study.
c. Discussion on Proposed Rules for Puget Sound Vessel Traffic System.
d. Status Reports on Work Assignments.

SPECIAL COMMITTEE No. 64

"MF, HF, and VHF Maritime Radioteleprinter and Data Systems and Operations", 39th Meeting. Tuesday, September 18, 1973—9:30 a.m. (All day meeting), Conference Room 205, 1229 20th Street NW., Washington, D.C.

PRINCIPAL AGENDA ITEMS

a. Report on MarAd developmental program for a Digital Selective Calling System.
b. Discussion of Comments on FCC Notice of Inquiry for 1974 Maritime Conference. (FCC Docket No. 19325)
c. Discussion of Direct Printing and Data Systems.

Chairman, SC-64, H. T. Blaker, Collins Radio Company, Arlington, Va. 22209 (Phone: (703) 524-9503).

SPECIAL COMMITTEE No. 66

"Receiver Standards for the Maritime Mobile Service", 14th Meeting, Wednesday, September 19, 1973—9:00 a.m. (All day meeting), Conference Room 205, 1229 20th Street NW., Washington, D.C.

PRINCIPAL AGENDA ITEM

a. Preparation of "Minimum Standards for Portable VHF Receivers in the Maritime Mobile Service".

Chairman, SC-67, Capt. B. Smith, Gulf Oil Corporation, Philadelphia, Pa. 19101 (Phone: (215) 839-6111).

RTCM EXECUTIVE COMMITTEE

Thursday, September 20, 1973, 1:45 p.m., Conference Room 847, 1919 M Street NW., Washington, D.C.



V 38 I 181 SEP 19 73 XUM

PRINCIPAL AGENDA ITEMS

a. Progress Reports on currently active committees.
b. Status Reports on other committees.
c. Approval of New Membership Applications.
d. Appointment of Budget Committee.
e. Discussion on 1974 St. Petersburg Assembly Meeting.
f. Discussion on application of "Federal Advisory Committee Act" (Pub. L. 92-463) as relating to RTCM.
g. Approval of SC-66 Report: "Minimum Standards for VHF Receivers in the Maritime Mobile Service." April 24, 1973.
h. Reports on recent developments relating to satellite communications for the Maritime service.

Agendas, working papers, and other appropriate documentation for each committee meeting are available at that meeting. Those desiring more specific information may contact either the designated Committee Chairman or the RTCM Secretariat. (Phone: (202) 632-6490)

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. Problems are studied by Special Committees and the final reports are approved by the RTCM Executive Committee. All RTCM meetings are open to the public.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

[FR Doc.73-19920 Filed 9-18-73;8:45 am]

[FCC 73-950]

## SPORTS EVENTS BY CBS AND NBC

### Memorandum Opinion and Order Regarding Prime Time Waiver

In the matter of requests for waiver of the prime time access rule (§ 73.658(k) of the Commission's rules) in connection with sports events, by Columbia Broadcasting System and National Broadcasting Company.

1. The Commission here considers certain requests for waiver of the prime time access rule (§ 73.658(k) of the Commission's rules) with respect to various sports events to be televised on networks during the fall and early winter of 1973. These requests were filed by Columbia Broadcasting System, Inc. (CBS) on August 24, 1973 and by National Broadcasting Company, Inc. (NBC) on August 7, 1973, with additional requests and information submitted August 23 and August 31. Since a general decision in the overall prime time access rule proceeding, Docket 19622, is expected fairly early this fall, we do not here consider the post-season pro football games included in these requests, occurring after December 16, 1973, which present some circumstances different from regular-season games.

2. Aside from the post-season football games mentioned, CBS requests a blanket waiver to cover its Sunday fall NFL National Football Conference football telecasts, tentatively scheduled to include 21 games on 13 dates between September 16 and December 9. All of these games, and whatever others may be included in the schedule, will start no later than about 4 p.m. e.t. (3 p.m. c.t., etc.), and waiver is sought only in the event of a "runover" beyond three hours, or after 7 p.m. e.t., to permit stations to carry the games to completion plus the usual three hours of evening CBS programs.

3. NBC's request is somewhat more elaborate. It asks for a similar blanket "runover" waiver for national or regional coverage of regular season NFL American Football Conference games scheduled to begin no later than 4 p.m., e.t. and which are expected to conclude no later than 7 p.m., e.t. (6 p.m., c.t.). The request also includes various post-season baseball game telecasts in October, the American and National League playoff games and then the World Series. These may be summarized as follows:

(a) "Runover" waivers for afternoon playoff and World Series games (the latter, at least, preceded by pre-game shows) where the telecast, or the second game of a playoff doubleheader, will start about 4 p.m., e.t., or where two playoff games will start at about 2 and about 3:30 e.t. and NBC will switch back and forth during the latter part of the afternoon;

(b) Two or three weekday evening World Series games starting with a pre-game show at 8 p.m., e.t.:

(1) "Runover" waiver is sought for the Mountain time zone stations, where the program will start at 6 p.m. e.t. and could run later than 9 p.m., m.t. (prime time in the Mountain zone is 6-10 p.m.).

(2) For Pacific time zone owned and affiliated stations, where prime time is 7-11 p.m., p.t. and the World Series telecast (evening in the East) will occur from about 5 to 8 p.m., p.t., it is requested that stations be permitted to schedule programs on the assumption that the World Series telecast will occupy only one hour of prime time, so that stations may follow it with two hours of material such as a special West Coast "network" schedule for NBC affiliates, or movies which are "off-network" and recently shown in the market.[1]

(3) Extension of the "network news following an hour of local news" waiver concept, which has prevailed under the rule,[2] to permit presentation of the NBC evening news by West Coast stations immediately after the World Series, about 8 p.m. p.t., if they have preceded the World Series with an hour of local news or public affairs programs.

4. CBS and NBC make essentially the same arguments. It is asserted that "runover" waivers were specifically contemplated in the original Report and Order in Docket No. 12782[3] and have been granted for the past two seasons; and, for that matter, all policy questions presented by these requests have been previously acted on.[4] Both networks argue that we should reach a decision now, and not wait until the overall proceeding concerning the prime time access rule, Docket No. 19622 is decided. That decision is not expected before late September and the parties here must make scheduling and sales plans which cannot wait until that time. They also point out that a decision now would be in accordance with the Commission policy of maintaining the status quo, which, in these instances, would include waivers of types previously granted.[5] The networks say that all of the events, including pre-game shows, if there are to be any, have been scheduled in such a way so as to minimize the possibility of intrusion into the access period by runovers, or to limit such intrusions to the less populous time zones. They also state that although there have been numerous requests for these runover type waivers, they are, for these events at least, seldom used (none for CBS regular season football games in 1972). Finally, both networks argue that the full presentation of the events under consideration to their conclusion is in the public interest.

*Discussion and conclusions.* 5. Upon consideration of the above, we are of the view that, except as noted below, these requested waivers should be granted. With respect to the CBS and NBC regular-season professional football games, waiver for these has been granted on the same basis in two previous years. It appears from past experience unlikely that they will last longer than three hours in the normal course of events, so that a 4 p.m., e.t. starting time appears appropriate and within the principle of "footnote 35", noted above. The same appears true of NBC's afternoon playoff and World Series baseball games, with one qualification: That where a pre-game show is involved, the game itself should start by 4:15 p.m., e.t. (in other words, we are prepared to assume that these games themselves will last no longer than 2:45 in the absence of extra inning play, but not that they will be completed in 2:30 or less).

6. As to the evening World Series requests, as has been mentioned before these present no problem in the Eastern and Central time zones, which is where the bulk of the top 50 markets and their TV homes are located, provided they start no earlier than 8 p.m., e.t. As was the case last year (see 37 FCC 2d 573), we believe that waiver is warranted, to take care of possible "runovers" beyond three hours for the game telecasts themselves, in the Mountain time zone, and, on the West Coast, to permit the carriage of the game itself at the beginning of prime time, plus two additional hours of material which is not eligible for unrestricted presentation during prime time under the rule (e.g., recently shown movies). We have noted in previous decisions the problems involved in these zones, when special live "simultaneous" material such as sports must be fitted into the usual pattern of delayed broadcasting; and we believe a similar approach is appropriate here. With respect to permitting Mountain and Pacific zone stations to carry the NBC nightly news on these evenings after the World Series (provided the station has presented an hour of local news just before the World Series), we granted this waiver last year (see 37 FCC 573), and see no reason to change our conclusions. However, it appears that this waiver should be subject to the same conditions imposed in our 1972 action: that these stations regularly carry on the same day of the week (in the absence of live, simultaneous network programming) an hour of local news or public affairs followed by network news; that they in fact carry on this particular day an hour of local news or public affairs immediately before the World Series; and that (taking into account the fact that two waivers apply to these situations) a half-hour of prime time on these stations remain free for the presentation of non-network material not restricted by the rule.

7. As to the arguments concerning the status quo, pending the overall decision, this policy was adopted late last year and early in 1973, when it appeared that decision in Docket 19622 would be reached by May or June of this year. This has not occurred; moreover, while decision is expected rather shortly, it does not appear likely that any substantial change in the rule will be put into effect before fall 1974. Therefore, as stated in another recent decision, we have, to some extent, modified this principle. However, in connection with the present matters, there is nothing in the comments filed in Docket 19622, or other circumstances, which indicate an approach different from that which has been adopted in the past, and therefore we are continuing the waiver policies adopted last year and before.

8. In view of the foregoing: *It is ordered,* That: notwithstanding the limitations contained in § 73.658(k), during the period ending December 16, 1973:

(a) Stations affiliated with (or owned commonly with) CBS and NBC networks may carry to completion professional baseball or regular-season football games (but not including any post-game material), without any of the time counting toward the permissible three hours of network prime-time programming, provided the game itself starts no later than about 4 p.m. e.t., or where it is a playoff or championship baseball game preceded by a "pre-game show" and the game itself starts no later than about 4:15 p.m., e.t.;

(b) Stations affiliated or under common ownership with the NBC network in the Mountain and Pacific time zones may schedule and present NBC evening World Series telecasts, and other NBC or off-network or recently shown movie programming the same evening, on the assumption that the World Series telecast occupies no more than three hours of prime time in the Mountain time zone and no more than one hour of prime time in the Pacific time zone; and

(c) Stations affiliated or under common ownership with the NBC network in the Mountain and Pacific time zones may present the NBC Nightly News following the World Series telecasts, without its counting toward the permissible three hours of network, off-network or recently shown movie programming, where all of the following conditions are met:

(1) At least a half-hour of prime time on the evening involved shall be devoted to material which is not network programming, off-network material, nor feature film shown in the market within the past two years;

(2) the station presents, immediately before the World Series, a full hour of local news or public affairs (except for commercial announcements or PSA's); and

(3) the station's regular schedule, when live simultaneous network programming is not involved, for the same day of the week as that involved in the waiver, includes an hour of local news or public affairs and a half-hour of network news between the hours of 5 and 7:30 p.m. local time.

Adopted September 11, 1973.

Released September 14, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[6]
VINCENT J. MULLINS,
*Acting Secretary.*

[FR Doc.73-19919 Filed 9-18-73;8:45 am]

[1] In the rest of the U.S., the World Series telecast will be the only NBC programming on these evenings.

[2] Footnote 36 of the Report and Order in Docket No. 12782, 23 FCC 2d 382, 395 (May 7, 1970).

[3] Footnote 35 of the Report and Order in Docket 12782, 23 FCC 2d 392.

[4] Various Requests for Waivers in Connection with Sports Events, 32 FCC 2d 58 (October 1971); and 37 FCC 2d 110 (September 1972). See also Network News Following Sports Events, 37 FCC 2d 573 (October 1972).

[5] The networks cite Mutual of Omaha (Wild Kingdom), FCC 73-636, 27 R.R. 2d 1567, released July 17, 1973.

[6] Commissioner Robert E. Lee absent; Commissioner H. Rex Lee concurring in the grant of the waivers for sports run-over but dissenting to grant of other waiver requests. Commissioner Johnson dissenting.

[Canadian List No. 314]

## CANADIAN STANDARD BROADCAST STATIONS

### Notification List

List of new stations, proposed changes in existing stations, deletions, and corrections in assignments of Canadian standard broadcast stations modifying the assignments of Canadian broadcast stations contained in the Appendix to the Recommendations of the North American Regional Broadcasting Agreement Engineering Meeting January 30, 1941.

AUGUST 31, 1973.

| Call letters | Location | Power kW | Antenna | Schedule | Class | Antenna height (feet) | Ground system: Number of radials | Ground system: Length (feet) | Proposed date of commencement of operation |
|---|---|---|---|---|---|---|---|---|---|
| | | *1000 kHz* | | | | | | | |
| (New) | Rimouski, Quebec, N. 48°-23'09", W. 68°41'22". | 10 | DA-2 | U | II | | | | E.I.O. 8.31.74. |
| | | *1250 kHz* | | | | | | | |
| CJRB (assignment of call letters) | Boissevain, Manitoba, N. 49°15'26", W. 100°03'24". | 10 | DA-2 | U | II | | | | |
| | | *1540 kHz* | | | | | | | |
| CIVH (assignment of call letters) | Vanderhoof, British Columbia, N. 54°00'59", W. 123°-59'24". | 1D/0.25N | ND-192 | U | IV | 200 | 120 | 250-310 | |
| | | *1540 kHz* | | | | | | | |
| CKNR (daytime power increase) | Elliot Lake, Ontario, N. 46°-22'40", W. 82°37'58". | 1D/0.25N | ND-195 | U | IV | 199 | 120 | 300 | |
| | | *1400 kHz* | | | | | | | |
| (New) | Golden, British Columbia, N. 51°18'13," W. 116°58'26". | 1D/0.25N | ND-185 | U | IV | 1150 | 120 | 281 | E.I.O. 8.31.74. |

[SEAL]

WALLACE E. JOHNSON,
*Chief, Broadcast Bureau,*
*Federal Communications Commission.*

[FR Doc.73-19923 Filed 9-18-73;8:45 am]







V 38 I 181 SEP 19 73 XUM

[FCC 73-893]

## SALEM BROADCASTING CO., INC., ET AL.

### Memorandum Opinion and Order Modifying Issues

In regard applications of Salem Broadcasting Co., Inc., Salem, New Hampshire, Docket No. 19434, File No. BP-18325; New Hampshire Broadcasting Corp., Salem, New Hampshire, Docket No. 19435, File No. BP-18479; Spacetown Broadcasting Corp., Derry, New Hampshire, Docket No. 19436, File No. BP-18492; for construction permits (38 FR 7358).

1. This proceeding, involving the above-captioned mutually exclusive applications for new daytime only Class II-D stations on 1110 kilohertz, was designated for hearing on various issues by our Memorandum Opinion and Order, FCC 72-136, 33 FCC 2d 672, released February 15, 1972.

2. Presently before us are the following matters: (a) A joint petition for waiver, filed March 20, 1973, by Salem Broadcasting Co., Inc. (Salem), and New Hampshire Broadcasting Corp. (New Hampshire); (b) oppositions filed March 29 and 30, 1973, by the Chief, Broadcast Bureau and by Spacetown Broadcasting Corp. (Spacetown), respectively; and (c) a joint reply filed April 12, 1973, by Salem and New Hampshire. In order to place the above matters in their proper perspective, it is necessary to recount briefly herein some recent developments which have substantially altered the posture of this proceeding since it was last before us.

3. After we designated this proceeding for hearing Spacetown filed a motion to enlarge issues based upon information contained in the 1970 U.S. Census Report, contending that the most recent information now available for Salem, New Hampshire, raises substantial and material questions of fact regarding whether or not the proposals of Salem and New Hampshire still fall within the exceptions to the Commission's prohibited overlap rule, § 73.37.[1] In its Memorandum Opinion and Order, FCC 72R-333, 38 FCC 2d 1970, released November 22, 1972, the Review Board generally agreed with Spacetown's contentions in this respect and, accordingly, added hearing issues to this proceeding to determine whether petitioners' applications violate § 73.37 (a), and if so, whether the proposals still fall within the exceptions to the overlap rule as contained in § 73.37(b) or whether they should be dismissed.[2]

4. In view of the above developments, Salem and New Hampshire (hereafter petitioners) have filed the instant joint petition for waiver of § 73.37 of the Rules. Essentially, they contend that they should not have been penalized because the town of Salem has increased in population; that they have prosecuted their applications in good faith and had no control over these new developments which now call into question their prior eligibility under the exceptions to the Commission's overlap rule; that, in any event, their proposals conform to the spirit of the Commission's pronouncements set forth in the Report and Order [Docket No. 15084, 29 FR 9492 at 9495, 2 RR 2d 1658 at 1668 (1964)] adopting this particular rule and the exceptions thereto;[3] and that, consequently, a waiver is justified in this case.

5. We believe that it would be premature to consider the merits of the petitioners' request for waiver at this juncture of the proceeding and on the basis of the information before us.[4] To adopt such a procedure now would undermine the orderliness of the Commission's processes. We do not, however, believe that the events described above should foreclose development at the evidentiary hearing of the parties' arguments for and against waiver, if it is determined that the petitioners' applications do not qualify for an exception to the rule.[5] The actions taken herein should not be construed as indicating how the waiver request should be disposed of, if indeed such a disposition is eventually required.

6. In view of the foregoing, we are convinced that both the public interest and the Commission's processes will be better served by dismissing the petitioners' request for waiver on the grounds that it is prematurely before us, and by modifying, of our own motion, the appropriate hearing issues in this proceeding in accordance with the above determinations. Also on our own motion, we shall delete hearing Issues (a) and (d), which were added by the Review Board (38 FCC 2d 170 at page 182). In our opinion, the matters to be explored under those hearing issues were acknowledged by the petitioners upon the filing of their applications and were appropriately considered prior to the Commission's acceptance of such applications; the recent developments in this proceeding have not raised any substantial or material questions of fact regarding these matters; and consequently, no useful purpose would be served by further delving into these matters in the evidentiary hearing.

7. Accordingly, *It is ordered*, That the joint petition for waiver, filed March 20, 1973, by New Hampshire Broadcasting Corp. and Salem Broadcasting Co., Inc., is dismissed without prejudice.

8. *It is further ordered*, That the hearing issues added in this proceeding by the Review Board (38 FCC 2d 170 at 182) are modified as follows:

(1) Hearing Issues (a) and (d) are deleted in their entirety;

(2) Hearing Issue (b) is amended to read: "to determine whether the application of Salem Broadcasting Co., Inc., still falls within any of the exceptions contained in § 73.37(b) of the Commission's rules and, if not, whether a waiver of § 73.37 should be granted or the application dismissed"; and

(3) Hearing Issue (e) is amended to read: "To determine whether the application of New Hampshire Broadcasting Corp. still falls within any of the exceptions contained in § 73.37(b) of the Commission's rules and, if not, whether a waiver of § 73.37 should be granted or the application dismissed."

Adopted September 6, 1973.

Released September 11, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[7]
VINCENT J. MULLINS,
*Acting Secretary.*

[FR Doc.73-19918 Filed 9-18-73;8:45 am]

[1] At the time of designation and based upon the most recent information then available to the Commission (1960 U.S. Census Report), we concluded that even though these two proposals violated § 73.37(a), they were nevertheless acceptable for filing and could be granted, if otherwise appropriate, because they qualified under an exception to the overlap rule [§ 73.37(b)], which provides that a first standard broadcast station in a community of any size wholly outside of an urbanized area may be authorized notwithstanding prohibited overlap.

[2] The Review Board also refused to consider both a request for waiver of § 73.37 by Salem and New Hampshire and a request to consider proffered information submitted by these two applicants which attempted to show their eligibility under another exception to the overlap rule.

[3] Petitioners contend that their proposals will achieve the results stated by the Commission in that rulemaking proceeding; i.e., to provide at least one local broadcast station to as many communities as possible, except where relatively small communities (under 25,000 population) "largely of a suburban character" are involved, because such communities may be served by stations in nearby urban areas.

[4] Any determinations by us with respect to a waiver of the rule at this stage of the proceeding may very well be academic, since petitioners have contended in these pleadings, as well as in pleadings before the Review Board, that their proposals in fact qualify under a different exception contained in § 73.37(b) when tested against the most recent population figures for the town of Salem.

[5] As we construe the Review Board's Memorandum Opinion and Order (*supra*, at paragraph 3) adding hearing issues [Issues (b) and (e)] to this proceeding, in the event it is determined in the evidentiary hearing that the petitioners do not now qualify under the exceptions contained in § 73.37(b), their applications could be summarily dismissed without the opportunity to present their cases for waiver of the rule.

[7] Commissioner Robert E. Lee absent; Commissioner Wiley concurring in the result.

## FEDERAL POWER COMMISSION

### ALGONQUIN GAS TRANSMISSION CORP.

### Notice of Rate Change Pursuant to Purchased Gas Cost Adjustment Provision; Correction

AUGUST 21, 1973.

In the Notice of Rate Change Pursuant to Purchased Gas Cost Adjustment Provision, issued July 30, 1973 and published in the FEDERAL REGISTER August 7, 1973, 38 FR 21298: First paragraph, change the filing date July 24, 1973 to July 17, 1973.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19831 Filed 9-18-73;8:45 am]

[Docket No. RP71-122]

### ARKANSAS LOUISIANA GAS CO.

### Notice of Tariff Filing

SEPTEMBER 11, 1973.

Take notice that on July 6, 1973, Arkansas Louisiana Gas Company (Arkla), in purported compliance with ordering paragraph (C) of Opinion No. 643-A and order issued April 10, 1973, and ordering paragraph (B) of Opinion No. 643-B and order issued on June 8, 1973, filed Substitute First Revised Sheets Nos. 3A, 3B, 3C, and Substitute Original Sheet No. 3D superseding respectively Original Sheets Nos. 3A, 3B, and 3C of Arkla's FPC Gas Tariff First Revised Volume No. 1.

In its filing Arkla states that the curtailment plan reflected in the tariff sheets submitted therewith, "although including subcategories within Priorities 1, 2, and 3 and several other refinements, is fully consistent with the principles and intent of the Commission's orders in Docket No. RP71-122."

Arkla includes within Priority 1 three subcategories, namely, P-1.1 residential; P-1.2 vital facilities such as hospitals, nursing homes, police, fire, schools and churches; and P-1.3 small commercial. Arkla states that the only practical method for classifying small commercial customers is on a monthly basis, therefore, Arkla has utilized 1,500 Mcf per month as the volumetric break point for determining small commercial customers instead of 50 Mcf per day. Arkla states that this is necessary since no peak-day data is obtainable for customers of this size. Arkla has also included within P-1.3 industrial customers whose use is as small as the small commercial users.

Arkla has subdivided Priority 2 into P-2.1 which includes large commercials, industrials using up to 9,000 Mcf per month and plant protection requirements; and P-2.2 containing feedstock and process uses. Arkla states that this differentiation is primarily based on logistical problems associated with curtailing large numbers of small customers. Therefore, small industrials (up to 9,000 Mcf per month) as well as large commercials and plant protection volumes were included in P-2.1. The relatively small number of large volume feedstock and process gas users were given P-2.2 status.

Arkla also subdivided Priority 3 into P-3.1 including 109 customers using less than 1,500 Mcf per day, whose total daily use is 62,579 Mcf and P-3.2 including 12 customers using 1,500 Mcf per day or more whose total daily use is 42,182 Mcf. Arkla states that this refinement is required for practical administration of its curtailment plan.

Any person, not already a party to this proceeding, desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20425, in accordance with sections 1.8, 1.10). All such petitions or protests should be filed on or before September 24, 1973. Additionally, persons who have heretofore been granted status as intervenors in Docket No. RP71-122, should file their comments, if any, on or before September 24, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19850 Filed 9-18-73;8:45 am]

[Project No. 271]

### ARKANSAS POWER AND LIGHT CO.

### Order Providing for Hearing

SEPTEMBER 10, 1973.

Arkansas Power and Light Company is the Licensee for the Carpenter and Remmel Project No. 271, located on the Ouachita River in Hot Springs and Garland Counties, Arkansas, near the town of Malvern and the City of Hot Springs, Arkansas, Lake Hamilton, the Project reservoir created by Carpenter Dam, has a shoreline of approximately 65 miles and a surface area of 72,000 acres. Lake Catherine, the Project reservoir created by Remmel Dam, has a shoreline of approximately 25 miles and a surface area 1,940 acres.

On September 10, 1973, we issued orders granting easements for effluent discharge lines into Lake Hamilton to LA-DU Enterprises, Inc., Gram Motel, Inc., and Quadrant Corporation and Fairwood Homes Association, all docketed under Project No. 271. In those orders we stated:

> • • • this Commission is concerned with the practice of allowing increased use of project lands and waters on a piecemeal basis rather than being related to a comprehensive consideration of the capacity of the project lands and waters to serve known and foreseeable proposed public uses which might be imposed upon them. Future applications, and those currently on file with the Commission, which might result in intensified use of this project's resources should be accompanied by a comprehensive plan defining present and potential development of the project. Where necessary, a hearing will be conducted to build a record upon which a decision can be made.

On October 30, 1972, an application for a change in land rights was filed for Project No. 271 by Arkansas Power and Light Company (Licensee). The application proposes to convey in fee to the City of Hot Springs, Arkansas, 100 acres of the 118 acre Electric Island and 16.2 acres of Little Goat Island, both located off shore of Point Lookout, one and one half miles west of Carpenter Dam in Lake Hamilton: The land would be leased to a private developer who would construct a recreation-amusement park area. The proposed facilities would include the construction of causeways between the mainland and islands and the construction of adequate water and sewage facilities on each island.

In our orders issued September 10, 1973, in Project No. 516 and September 10, 1973, in Project No. 271, we expressed our concern for a closer examination of the consequences of intensified use of project resources. Therefore, we are referring this application to hearing so that it may be considered together with other applications that may be on file and any future applications of a similar nature which may impose additional public use on project lands and waters, in particular, Lake Hamilton and Lake Catherine.

The hearing, or at least a portion of it, is to be held at or near Project No. 271 so that all interested parties could come before the Administrative Law Judge and submit comments pursuant to § 1.10 of our rules of practice and procedure without the requirement that they formally intervene. Such comment may be directed to present and foreseeable future developments which may impose additional public uses on project lands and waters and comments on present and future public use to be made of project lands and waters. Such comments may be offered in writing at any time, for incorporation into the record as though read, before closing of the record or orally at the public hearing without the need of a representative, need not be sworn to, will not be subject to cross examination, and are not probative evidence. However, the Administrative Law Judge may direct such clarifying questions as he deems necessary to achieve a complete record. This type of an examination into the intensified use of a project is in conformity with the public and recreational considerations required under section 10(a) of the Federal Power Act and also the requirement that we assess secondary impact under the National Environmental Policy Act and its established guidelines.

*The Commission finds:*

It is appropriate and in the public interest as provided herein to hold a public hearing respecting matters involved and issues presented in this proceeding on the application by Arkansas Power and Light Company, and such other purposes set forth in this Order.

*The Commission orders:*

(A)(1) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Federal Power Act, particularly section 4(g), 10(a), 10(c) and 309 thereof, and the Commission's rules of practice and procedure, a public hearing shall be held in the vicinity of Lake Hamilton and Lake Catherine and such other places deemed necessary by the assigned Administrative Law Judge upon notice fixing such place and time.







V 38 I 181 SEP 19 73 XUM

(2) The purpose of the hearing shall be to consider existing applications for further easements or other permission to utilize project lands and waters in light of a comprehensive analysis of the project lands and waters as a whole to be accumulated by developing a formal record pertaining to:

(a) Present utilization of Lake Hamilton and Lake Catherine and project lands.

(b) Anticipated future utilization of Lake Hamilton and Lake Catherine and project lands including proposed developments and easements.

(c) The present and reasonably foreseeable intensity of public use in relation to the capacity of project lands and waters to serve these multiple uses without further impairment of the natural resources they represent.

(d) Issues raised in any complaint not covered by the foregoing.

(3) Formal parties submitting evidence for admission to the record shall insofar as practicable submit their exhibits and testimony to be sworn to and to be subject to cross examination in writing in accordance with a schedule to be fixed by the Administrative Law Judge.

(4) In addition to the evidence presented by Commission Staff, formal parties and intervenors, the Administrative Law Judge shall receive from persons other than intervenors, oral or written statements of position and other comments not to be considered probative evidence which need not be sworn to and shall not be subject to cross examination.

(B) This order shall become final 30 days from the date of its issuance unless application for rehearing shall be filed as provided in section 313(a) of the Federal Power Act, and failure to file such an application shall constitute acceptance of the foregoing order. In acknowledgement of the acceptance of this order, it shall be signed for the Licensee and returned to the Commission within 60 days from the date of issuance of this order.

By the Commission.[1]

[SEAL] KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19845 Filed 9-18-73;8:45 am]

---

[Docket No. G-13385, etc.]

## CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY

### Findings and Order After Statutory Hearing; Correction

AUGUST 24, 1973.

In the Findings and Order After Statutory Hearing Issuing Certificates of Public Convenience and Necessity, Amending Orders Issuing Certificates, Terminating Certificates, Making Successors Co-respondent, Accepting Rate Schedules for Filing, and Granting Petition to Intervene, Issued March 1, 1973 and published in the FEDERAL REGISTER March 9, 1973, 38 FR 6438: Paragraph (K), Change "CI64-857" to "CI63-1407".

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19829 Filed 9-18-73;8:45 am]

[1] Commissioner Moody's dissent filed as part of the original document.

---

[Docket No. CP70-258]

## CITIES SERVICE GAS CO.

### Notice of Petition To Amend

SEPTEMBER 11, 1973.

Take notice that on August 30, 1973, Cities Service Gas Company (Petitioner), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP70-258 a petition to amend the Commission's order issued in said docket on July 22, 1970 (44 FPC 149), as amended on June 30, 1972 (47 FPC 1747), pursuant to section 7(c) of the Natural Gas Act by authorizing Petitioner to construct and operate certain facilities as an additional point of delivery between Petitioner and Kansas-Nebraska Natural Gas Company, Inc. (Kansas-Nebraska), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner is authorized among other things, to exchange natural gas with Kansas-Nebraska pursuant to the terms of an exchange agreement under which Petitioner delivers gas to Kansas-Nebraska at the discharge of its Hugoton Compressor Station in Grant County, Kansas, and Kansas-Nebraska delivers equivalent volumes to Petitioner at a point on Petitioner's Hugoton-Kansas City 26-inch pipeline near the town of Haven in Reno County, Kansas. In Docket No. CP74-23 Petitioner has filed for authorization to effectuate an amendment dated June 26, 1973, to its exchange agreement to provide for a further exchange point on its Hugoton-Kansas City 26-inch pipeline in Edwards County, Kansas, to be designated as the Unruh Exchange Point. In the instant petition to amend Petitioner proposes to construct and operate measuring, regulating and appurtenant facilities at the Unruh Exchange Point to deliver exchange volumes to Kansas-Nebraska.

Petitioner estimates the cost of the proposed facilities to be $9,800, which will be financed with cash on hand.

Petitioner states that these facilities, pursuant to the hereinbefore-mentioned exchange agreement, will provide Kansas-Nebraska's customers in the Pawnee Rock Unruh gas supply area with a greater assurance of supply with minimal capital expenditures. Deliveries through the Unruh Exchange Point are estimated to average up to 3,000 Mcf per day of natural gas.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 5, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNTH F. PLUMB,
*Secretary.*

[FR Doc.73-19839 Filed 9-18-73;8:45 am]

---

[Docket No. CI74-149]

## DAGGER DRAW TRANSMISSION CORP.

### Petition for a Declaratory Order

SEPTEMBER 10, 1973.

Take notice that on August 20, 1973, Dagger Draw Transmission Corporation (Petitioner), P.O. Box 1180, Roswell, New Mexico 88201, filed in Docket No. CI74-149, a petition for a declaratory order to determine whether it is a "natural-gas company" within the meaning of the Natural Gas Act, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Petitioner states that it is constructing a field gas gathering system to transport casinghead gas from various wells in Eddy County, New Mexico, to a terminal point in a presently installed field gathering system operated by Marathon Oil Company (Marathon). Petitioner states further that it is informed that Marathon will transport the gas to its liquid extraction plant in Eddy County, New Mexico, where the producers of such gas will sell the gas to Natural Gas Pipeline Company of America at the tailgate of the Marathon Plant. Petitioner's transportation service to the producers of the gas will be on a fee basis (calculated on volume and distance). Petitioner will not have any ownership, legal or beneficial, in the gas or in the products therefrom transported. Petitioner states that its facilities are all in Eddy County, New Mexico, and that the current capacity of the gathering system is 1,660 Mcf of gas per day and the estimated peak daily capacity will be 6,000 Mcf of gas.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 5, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19844 Filed 9-18-73;8:45 am]





[Docket Nos. CP73-47, CP73-88, etc.]

## EASCOGAS LNG, INCORPORATED, ET AL.

### Scheduling Formal Hearings, and Establishing Procedures; Correction

AUGUST 29, 1973.

In the order granting in part and denying in part application for rehearing, consolidating proceedings, scheduling formal hearings, and establishing procedures, issued August 7, 1973 and published in the FEDERAL REGISTER August 15, 1973 38 FR 22071: In right column of title, change "Docket Nos. CP73-47, CP73-8" to Docket Nos. CP73-47, CP73-88".

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19828 Filed 9-18-73;8:45 am]

---

[Docket No. CP70-138]

## EL PASO NATURAL GAS CO.

### Notice Denying Motion To Omit Intermediate Decision Procedure

SEPTEMBER 10, 1973.

On August 28, 1973, at the close of the hearing in the above-designated matter, El Paso Natural Gas Company filed a motion to omit the intermediate decision. On August 30, 1973, the Presiding Administrative Law Judge referred the motion to the Commission and stated that all participating parties, including the Commission Staff, support the motion.

There has been no showing that the due and timely execution of the Commission's functions imperatively and unavoidably requires the omission of the intermediate decision procedure in the above-designated matter and the motion is denied.

By direction of the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19840 Filed 9-18-73;8:45 am]

---

[Docket No. CP70-138]

## EL PASO NATURAL GAS CO.

### Notice of First Supplement To Petition To Amend; Correction

AUGUST 30, 1973.

In the Notice of First Supplement to Petition to Amend, Issued August 24, 1973 and published in the FEDERAL REGISTER September 6, 1973, 38 FR 24260: Paragraph 4, Last line, Change "September 28, 1973," to "August 28, 1973,".

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19830 Filed 9-18-73;8:45 am]

---

[Docket No. CI74-129]

## GAS MARKETING, INC.

### Petition for Special Relief or, in the Alternative, for Permission and Approval To Abandon

SEPTEMBER 10, 1973.

Take notice that on August 20, 1973, Gas Marketing, Inc. (Gas-Mark) P.O. Box 748, Salina, Kansas 67202, filed in Docket No. CI74-129 a petition for special relief pursuant to section 7(c) of the Natural Gas Act[1] by requesting authorization to continue the sale of natural gas to Panhandle Eastern Pipe Line Company from the Fruit Field, Kiowa County, Kansas, at a higher price so as to avoid abandonment of the subject sale or, in the alternative, if such relief is not granted, permission and approval pursuant to section 7(b) of the Natural Gas Act to abandon the aforesaid sale and facilities used therefor, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Gas-Mark proposes to continue a sale of natural gas to Panhandle from the Fruit Field at a new rate of 35.0 cents per Mcf at 14.65 psia pursuant to the terms of a contracted amendment dated September 25, 1972. Gas-Mark states that the subject gas originates from gas gathered and compressed from oil wells producing casinghead gas. Gas-Mark asserts that considering the volumes of gas now available from this acreage and the present price of such gas, its continued gathering, compressing and sale of such gas is no longer warranted from an economical standpoint. The application indicates that 113,117 Mcf of gas were sold from this acreage during the period from August 1971 through July 1972, at a gross profit of $9,978.77, with operating expenses of $8,226.78 and Depreciation of $3,542.54, for a net loss of $1,790.55. The aforesaid contract amendment states that Gas-Mark has discontinued operating its compressor equipment and is now flaring this gas.

If this special relief is not granted Gas-Mark requests authorization to abandon its facilities and cease the gathering, compression and sale of gas from the Fruit Field.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 5, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this petition if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Gas-Mark to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19843 Filed 9-18-73;8:45 am]

[1] It is assumed that Gas-Mark is filing this petition pursuant to Section 2.76 of our General Policy and Interpretations (18 CFR 2.76), as established by Commission Order No. 481, *Policy With Respect To Sales Where Reduced Pressures, Need For Reconditioning, Deeper Drilling, Or Other Factors Make Further Production Uneconomical At Existing Prices*, order issued April 12, 1973 (49 FPC ——).

---

[Project No. 2090]

## GREEN MOUNTAIN POWER CORP.

### Application for Amendment of License

SEPTEMBER 12, 1973.

Public notice is hereby given that application has been filed under the Federal Power Act (16 U.S.C. 791a–825r) by the Green Mountain Power Corporation (Correspondence to: Mr. Elliot G. Whitney, Vice President, Green Mountain Power Corporation, P.O. Box 486, Montpelier, Vermont 05602) for amendment of license of Waterbury Project No. 2090 located on the Waterbury River, in Washington County, Vermont.

The application seeks to remove from the license the 33 kv transmission line 4 miles long that extends from the project to the applicant's Waterbury switching station. The applicant states that due to changes in its system, the line is now part of its interconnected transmission system.

Any person desiring to be heard or to make protest with reference to said application should on or before October 23, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc 73-19835 Filed 9-18-73;8:45 am]



V 38 181 SEP 19 73 XUM

[Docket No. E-7740]

## INDIANA AND MICHIGAN ELECTRIC CO.

### Proposed Changes in Rates and Charges

SEPTEMBER 11, 1973.

Take notice that the Indiana and Michigan Electric Company (I&M) on August 30, 1973, tendered for filing proposed changes in its FPC Electric Rate Schedule Nos. 27 and 58. The proposed changes will increase I&M's revenues based on test year 1971 by approximately $380,000 annually from the City of Anderson, Indiana (Anderson) and by approximately $190,000 annually from the City of Richmond, Indiana (Richmond). The proposed effective date is March 29, 1972, the date on which I&M's revised tariff I.P. became effective with respect to I&M's customers in the State of Indiana, or upon the first next succeeding date on which the proposed changes may be made effective under law, statute, or rule. I&M requests waiver of the requirements of §§ 35.0, 35.3, 35.11, and 35.13 of the Commission's rules and regulations to the extent that they are inconsistent with this tendered filing.

In support of its filing, I&M states that the proposed changes incorporate the revisions in I&M's tariff I.P. on file with, and approved by, the Public Service Commission of Indiana and which become effective on March 29, 1973. Further, I&M states that this filing is made to effectuate the respective contractual obligations between I&M and the cities of Anderson and Richmond. In addition, I&M asserts that there is no bona fide dispute as to the reasonableness of the proposed increases in the record in Docket No. E-7740 to date.

In support of its requested effective date, I&M asserts that it is necessary, in the public interest, and in the interest of I&M's other municipal wholesale customers. Further, I&M avers that it is necessary to effectuate the express contractual obligations of Anderson and Richmond and to avoid a wholly unjustified windfall for those cities.

I&M states that copies of this filing were served on each of the affected customers and the Public Service Commission of Indiana.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8, 1.10 of the Commission's rules of practice and procedures (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 19, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19848 Filed 9-18-73;8:45 am]

[Docket No. CP74-3]

## LOWELL GAS CO.

### Notice of Application; Correction

JULY 27, 1973.

In the Notice of Application, issued July 11, 1973 and published in the FEDERAL REGISTER, July 19, 1973, 38 FR 19252: Third paragraph, lines 3 thru 8: Change "as a result of the expected curtailments of gas deliveries by its suppliers during the winter period of 1973-74 and its inability to secure additional supplies of natural gas needed to serve its customers." to read "in order to secure additional supplies of natural gas needed to serve its own retail customers and to help its wholesale customers who are supplied by a pipeline supplier whose supply has been curtailed with service during the winter period 1973-74."

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19847 Filed 9-18-73;8:45 am]

## NATIONAL POWER SURVEY EXECUTIVE ADVISORY COMMITTEE

### Order Designating Additional Member; Correction

JULY 3, 1973.

In the Order Designating Additional Member of The National Power Survey Executive Advisory Committee, Issued June 26, 1973 and published in the FEDERAL REGISTER July 19, 1973, 38 FR 19255:

*Under Membership:* Change "Institution, Inc." to "Institute".

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19833 Filed 9-18-73;8:45 am]

[Docket No. CP73-288]

## NATURAL GAS PIPELINE CO. OF AMERICA

### Amendment to Application

SEPTEMBER 10, 1973.

Take notice that on August 31, 1973, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP73-289 an amendment to its application filed in said docket on April 25, 1973, pursuant to section 7(c) of the Natural Gas Act to request authorization to construct and operate facilities to transport natural gas proposed to be exchanged with Texas Eastern Transmission Corporation (Texas Eastern), all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

In its application of April 25, 1973, Applicant seeks a certificate of public convenience and necessity authorizing the delivery to Texas Eastern of 5,000 Mcf of gas per day purchased in Lavaca County, Texas, and 10,000 Mcf of gas per day purchased in Harris County, Texas, in return for equivalent volumes of gas to be delivered by Texas Eastern in Brazoria County, Texas. In the instant amendment Applicant requests certificate authorization to construct and operate 1.7 miles of 6-inch pipeline in Lavaca County and 5.3 miles of 6-inch pipeline and a gas measuring facility in Harris County to receive gas from the producers thereof. The estimated cost of the subject facilities is $997,513.00, which would be financed with funds on hand.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before October 5, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19842 Filed 9-18-73;8:45 am]

[Docket No. CP73-348]

## NATURAL GAS PIPELINE CO. OF AMERICA

### Notice of Application; Correction

JULY 16, 1973.

In the Notice of Application, Issued July 10, 1973 and published in the FEDERAL REGISTER July 18, 1973 38 FR 19160:

In the Title: Change "Natural Gas Pipeline of America" to read "Natural Gas Pipeline Company of America."

First paragraph: Change "Natural Gas Pipeline of America" to read "Natural Gas Pipeline Company of America."

KENNETH F. PLUMB,
*Secretary.*

[FR Doc 73-19832 Filed 9-18-73;8:45 am]

[Docket No. E-7867]

## OHIO POWER CO.

### Extension of Time and Postponement of Prehearing Conference and Hearing

SEPTEMBER 11, 1973.

On August 28, 1973, Allied Chemical Corporation, Blaw Knox Company, Mobay Chemical Company and the Triangle Conduit & Cable Company filed a motion for a six-week postponement of the procedural dates set by the order issued August 1, 1973, in the above-designated matter. Counsel states that Commission Staff, Ohio Power Company, and the West Virginia Public Service Commission have no objection to the motion.

Upon consideration, notice is hereby given that the procedural dates are modified as follows:

Service of Testimony and Exhibits by Staff, October 2, 1973.
Service of Testimony and Exhibits by Interveners, October 16, 1973.
Rebuttal evidence by Ohio Power Company, October 31, 1973.
Prehearing Conference, November 6, 1973 (10:00 a.m., E.S.T.).
Cross-Examination, November 13, 1973 (10:00 a.m., E.S.T.).

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19838 Filed 9-18-73;8:45 am]





[Project No. 1988]

## PACIFIC GAS AND ELECTRIC CO.

### Notice of Application for Change in Land Rights

SEPTEMBER 12, 1973.

Public notice is hereby given that application has been filed January 14, 1972, under the Federal Power Act (16 U.S.C. 791a-825r) by Pacific Gas and Electric Company (Correspondence to: Mr. J. F. Roberts, Jr., Vice President, Rates and Valuation, 77 Beale Street, San Francisco, California 94106) for change in land rights for Project No. 1988, known as Kings River Project, located on the North Fork of Kings River in Fresno County, California.

Applicant requests Commission approval of the grant of an easement to the United States of America for a road right-of-way for the reconstruction, maintenance, and use of an existing road across Wishon Dam and adjacent property of Project No. 1988. The project lies within the boundaries of Sierra National Forest and the Forest Service, U.S. Department of Agriculture has assumed the maintenance and supervision of the road.

Any person desiring to be heard or to make protest with reference to said application should on or before October 10, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19834 Filed 9-18-73;8:45 am]

[Docket No. E-8369]

## SOUTHWESTERN ELECTRIC POWER CO.

### Proposed Changes in Rates and Charges

SEPTEMBER 12, 1973.

Take notice that Southwestern Electric Power Company (SWEPCO) on August 20, 1973, tendered for filing a proposed contract for electric service dated July 31, 1973, providing for SWEPCO to furnish the entire electric power and energy requirements of the City of Bentonville, Arkansas (City) for 10 years beginning September 1, 1973. Also submitted was an agreement between the City and SWEPCO dated July 31, 1973, providing for the City to sell and deliver to SWEPCO certain hydroelectric peaking power and energy that is sold and delivered to the City by the Southwestern Power Administration. The Company states that service will be furnished according to Rate Schedule No. W, Wholesale Electric Service for Resale to Municipalities, which is, according to SWEPCO, its standard established rate for this class of service. SWEPCO requests waiver of the Commission's requirements to permit an effective date of September 1, 1973.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 25, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19849 Filed 9-18-73;8:45 am]

[Docket No. CP70-7 (Phase II)]

## SOUTHERN NATURAL GAS CO.

### Petition To Amend

SEPTEMBER 11, 1973.

Take notice that on August 23, 1973, Southern Natural Gas Company (Petitioner), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP70-7 (Phase II) a petition to amend the Commission's order issued October 29, 1969 (42 FPC 944), in the subject docket pursuant to Section 7(c) of the Natural Gas Act by authorizing certain changes and reallocations in the contract quantities of natural gas to be delivered to Alabama Gas Corporation (Alagasco) among individual delivery points, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

By the Commission's order of October 20, 1969, Petitioner was authorized, inter alia, to sell and deliver to Alagasco at certain specified delivery points a contract demand of 408,725 Mcf. By order issued in the subject docket on October 20, 1971, this contract demand was reduced to 408,475 Mcf. On December 1, 1972, and December 8, 1972, Petitioner tendered for filing under section 4 of the Natural Gas Act a fifth revised Exhibit A and a sixth revised Exhibit A to its presently effective firm service agreement with Alagasco. By order issued March 20, 1973, in Docket No. RP73-73, the Commission rejected these filings because they were inconsistent with the outstanding certificate authorization in the subject docket.

Petitioner seeks authorization herein to make changes and reallocations in the contract quantities delivered to Alagasco among individual delivery points, pursuant to its fifth and sixth revised Exhibit A's. The fifth revised Exhibit A reallocates Alagasco's contract demand among several delivery points, and while the sixth revised Exhibit A includes the same revisions, it also includes a proposed integration of Alagasco's delivery points at Fairfax and Shawmut and a proposed integration of the Harbison-Walker and Birmingham delivery points.

In an affidavit filed with the petition to amend, an executive-vice president of Alagasco states that these changes and reallocations are needed:

1. To enable Alagasco to meet its firm gas load under design day conditions at other delivery points and to permit the utilization of a recently constructed LNG facility near Montgomery, Alabama, to assist in meeting these loads;

2. To restore contract demands at its Leeds and Tuscaloosa delivery points to the level which had existed previously and which would assure that the firm load serviced from these points could be met without curtailment in the event of low mean temperatures during the summer period; and

3. To recognize physical connections previously made, tying the Harbison-Walker (1971) delivery point to the Birmingham delivery point and interconnecting the Fairfax-Shawmut (1955) delivery points.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 5, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene with the Commission's rules.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19837 Filed 9-18-73;8:45 am]

[Docket No. CP74-60]

## TENNESSEE GAS PIPELINE CO.

### Notice of Application

SEPTEMBER 10, 1973.

Take notice that on August 31, 1973, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O.



V 38 I 181 SEP 19 73 XUM

Box 2511, Houston, Texas 77001, filed in Docket No. CP74-60 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas in interstate commerce for The Greenwich Gas Company (Greenwich), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to 4,000 Mcf of natural gas per day for Greenwich until October 31, 1974. Applicant states that to enable Greenwich to meet its peak shaving requirements, Greenwich has arranged to purchase 100,000 Mcf of vaporous gas equivalent of liquefied natural gas (LNG) from The Southern Connecticut Gas Company (Southern Connecticut). Southern Connecticut will vaporize the LNG and make equivalent volumes available to Applicant for transportation to Greenwich by reducing Southern Connecticut's takes from Applicant. Applicant proposes to collect a transportation charge comprised of a demand charge of 29.41 cents per Mcf per month plus a volume charge of 4.90 cents per Mcf. Applicant states that the proposed service would be rendered by means of existing facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 5, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19841 Filed 9-18-73;8:45 am]

[Docket No. CP74-37]

## TENNESSEE GAS PIPELINE CO.

### Notice of Application; Correction

SEPTEMBER 5, 1973.

In the Notice of Application, issued August 17, 1973, and published in the FEDERAL REGISTER August 27, 1973, 38 FR 22916: First paragraph, line 8: Delete "sale for resale and".

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19846 Filed 9-18-73;8:45 am]

[Docket No. E-6684]

## VIRGINIA ELECTRIC AND POWER CO. AND DAN RIVER, INC.

### Proposed Determination of Headwater Benefits Payments in the Roanoke River Basin

SEPTEMBER 13, 1973.

Public notice is hereby given that the Commission Staff proposes a determination pursuant to the provisions of Section 10(f) of the Federal Power Act (16 U.S.C. 803), of certain payments for benefits provided by the Federal Philpott and John H. Kerr headwater improvements in the Roanoke River basin to downstream hydroelectric plants owned by the Virginia Electric and Power Company (VEPCO) and Dan River Inc. (Dan River) during the period January 1, 1963, through December 31, 1968. The proposed payments, based on a report by the Commission's Bureau of Power, dated December 1972, amount to: $846,667 for benefits plus $83,975 for a share of the costs of the investigations, assigned to VEPCO; and $6,403 for benefits plus $635 for a share of the costs of the investigations, assigned to Dan River.

Copies of the December 1972 Bureau of Power report were sent to all parties to the investigation on January 17, 1973, with requests for comments or suggestions. The Commission Staff reviewed the comments received and, by letter of July 24, 1973, advised the parties that it did not propose to change its proposed determination. In that letter, the Staff also offered each party the opportunity to comment further on the report or to request a conference among the parties, requesting that any responses be made by August 15, 1973. No responses to that letter have been received.

Any person desiring to be heard or to make protest with reference to the proposed headwater benefits payments to be made by VEPCO and Dan River, should on or before October 15, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceedings. Persons wishing to become parties to the proceeding or to participate as a party therein must file a petition to intervene in accordance with the Commission's rules of practice and procedure.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19851 Filed 9-18-73;8:45 am]

[Docket No. RP72-98]

## TEXAS EASTERN TRANSMISSION CORP.

### Notice Deferring Procedural Dates

SEPTEMBER 11, 1973.

On September 7, 1973 Texas Eastern Transmission Corporation filed a motion to postpone procedural dates fixed by notice issued July 26, 1973, in the above-designated matter. On July 25, 1973, Texas Eastern Transmission Corporation filed a motion for approval of a Second Revised Stipulation and Agreement providing for a proposed settlement in the above matter.

Upon consideration, notice is hereby given that the procedural dates in the above matter are deferred pending further order of the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19836 Filed 9-18-73;8:45 am]

# POSTAL SERVICE

## POSTAL CONTRACTING MANUAL

### Notice of Amendment

Notice is hereby given that the Postal Contracting Manual, Publication 41 (see 39 CFR Part 601), has been amended by the issuance of Transmittal Letters 12 and 13, dated June 29, 1973, and July 10, 1973, respectively.

This notice is given pursuant to § 601.105 of Title 39, Code of Federal Regulations, which provides that notice of changes made in the Postal Contracting Manual will be periodically published in the FEDERAL REGISTER; that the text of such changes will be filed with the Director, Office of the Federal Register; and that subscribers to the basic Manual will receive amendments from the Government Printing Office. (For other availability of the Postal Contracting Manual, see 39 CFR 601.104.)

Amendments of the Postal Contracting Manual accompanying Transmittal Letters 12 and 13 were filed with the Director, Office of the Federal Register, simultaneously with the filing of this document.

(5 U.S.C. 552(a), 39 U.S.C. 401, 404, 410, 411, 2008.)

ROGER P. CRAIG,
*Deputy General Counsel.*

SEPTEMBER 11, 1973.

[FR Doc.73-19855 Filed 9-18-73;8:45 am]

# SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

## AZTEC PRODUCTS, INC.

### Order Suspending Trading

SEPTEMBER 10, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.05 par value, and all other securities of Aztec Products, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 11, 1973, through September 20, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-19861 Filed 9-18-73;8:45 am]

[File 500-1]

## BBI, INC.

### Order Suspending Trading

SEPTEMBER 10, 1973.

The common stock, $0.10 par value, of BBI, Inc., being traded on the American Stock Exchange and the PBW Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of BBI, Inc. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 11, 1973, through September 20, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-19862 Filed 9-18-73;8:45 am]

[Rel. No. 18091]

## JERSEY CENTRAL POWER & LIGHT CO.

### Notice of Proposed Issue and Sale of Short-Term Notes to Banks

SEPTEMBER 11, 1973.

Notice is hereby given that Jersey Central Power & Light Company (Jersey Central), Madison Avenue at Punch Bowl Road, Morristown, New Jersey 07960, an electric utility subsidiary company of General Public Utilities, a registered holding company, has filed a declaration and amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 6(a) and 7 of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Jersey Central requests that, for the period ending on December 31, 1974, it be permitted from time to time to issue or renew notes of a maturity of nine months or less evidencing short-term bank borrowings provided that the aggregate principal amount of such notes outstanding at any one time shall not be more than $96,000,000.

The new notes will bear interest at the prime interest rate for commercial borrowing of the bank from which the borrowing is made at the date of the issue of such note, will mature not more than nine months from date of issue, will be prepayable at any time without premium, and will not be issued as part of a public offering. Although no commitments or agreements for such borrowings have been made, if this declaration is granted by the Commission, Jersey Central expects that, as and to the extent that its cash needs require, borrowings will be effected from among the following banks, the maximum to be borrowed and outstanding at any one time from each such bank being as follows:

| | |
|---|---|
| Bankers Trust Company, New York, N.Y. | $3,000,000 |
| The Chase Manhattan Bank NA, New York, N.Y. | 15,000,000 |
| Chemical Bank, New York, N.Y. | 5,000,000 |
| Irving Trust Company, New York, N.Y. | 16,800,000 |
| Fidelity Union Trust Company, Newark, N.J. | 6,000,000 |
| First National State Bank of New Jersey, Newark, N.J. | 2,500,000 |
| National Newark & Essex Bank, Newark, N.J. | 5,000,000 |
| First Jersey National Bank, Jersey City, N.J. | 3,000,000 |
| American National Bank & Trust, Morristown, N.J. | 4,000,000 |
| Belmar-Wall National Bank, West Belmar, N.J. | 300,000 |
| The Central Jersey Bank and Trust Company, Freehold, N.J. | 1,500,000 |
| Colonial First National Bank, Red Bank, N.J. | 2,000,000 |
| First Merchants National Bank, Asbury Park, N.J. | 1,000,000 |
| First National Bank of New Jersey, Passaic, N.J. | 1,000,000 |
| First National Bank of South Jersey, Pleasantville, N.J. | 1,500,000 |
| First National State Bank of Northwest Jersey, Succasunna, N.J. | 500,000 |
| The First National Bank of Toms River, Toms River, N.J. | 1,200,000 |
| The First National Iron Bank of New Jersey, Morristown, N.J. | 3,000,000 |
| The Hunterdon County National Bank, Lambertville, N.J. | 700,000 |
| Mechanics National Bank of Burlington County, Burlington, N.J. | 400,000 |
| National Community Bank, Franklin, N.J. | 3,000,000 |
| The National State Bank, Elizabeth, N.J. | 2,000,000 |
| New Jersey Bank NA, Haledon, N.J. | 4,000,000 |
| Ocean County National Bank, Point Pleasant, N.J. | 400,000 |
| New Jersey National Bank, Asbury Park, N.J. | 4,000,000 |
| Peoples Trust Company of New Jersey, Hackensack, N.J. | 6,000,000 |
| Somerset Hills & County National Bank, Bernardsville, N.J. | 1,000,000 |
| Summit and Elizabeth Trust Company, Summit, N.J. | 1,200,000 |
| United Counties Trust Company, Summit, N.J. | 1,000,000 |
| | $96,000,000 |

It is stated that Jersey Central is required to maintain compensating balances with each of the banks equal to 10 percent of the lines of credit or 20 percent of the amounts actually borrowed, whichever is higher, except for the First National Bank of South Jersey, Pleasantville, N.J., which presently requires 10 percent of the amount of the line of credit as a compensating balance. Assuming a 9¼ percent prime rate and a 20 percent compensating balance, the effective rate of interest to be paid by Jersey Central is 11.56 percent (10.28 percent for borrowing from the First National Bank of New Jersey).

Jersey Central proposes to utilize the proceeds of the contemplated borrowings for the purpose of financing its business as a public utility company, including provisions for construction expenditures, the repayment of other short-term borrowings, and the temporary reimbursement of its treasury for construction expenditures provided thereon. The estimated cost of Jersey Central's 1973 construction program is approximately $205,000,000 (including allowance for funds used during construction).

The declaration states that Jersey Central's expenses incident to the proposed issuance of notes will be approximately $5,000, including legal fees of $4,200, and that no state commission or federal commission, other than this Commission, has jurisdiction over the proposed transaction.

[File No. 500-1]

## BENEFICIAL LABORATORIES, INC.

### Order Suspending Trading

SEPTEMBER 10, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, warrants, units and all other securities of Beneficial Laboratories, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this





V 38 I 181 SEP 19 73 XUM

Notice is further given that any interested person may, not later than October 4, 1973, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be granted as provided in rule 23 of the general rules and regulations promulgated under the Act or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-19867 Filed 9-18-73;8:45 am]

[Rel. No. 18092]

## OHIO EDISON CO.

### Notice of Filing of Application Regarding Proposed Acquisition of Utility Assets

SEPTEMBER 12, 1973.

Notice is hereby given that Ohio Edison Company (Ohio Edison), 47 North Main Street, Akron, Ohio 44308, a registered holding company and a public-utility company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating sections 9(a)(1) and 10 of the Act as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Ohio Edison proposes to acquire from the City of Akron, Ohio (the City), an underground electric distribution system (the System) being installed for the City as part of its development of the so-called Grant-Washington Urban Renewal District, Project No. Ohio R-18. By a Lease Agreement dated September 5, 1968, between the City and Ohio Edison, Ohio Edison leased the System from the City and has been providing through such System, electric service to the residences, businesses and other establishments in the District at the same rates and on the same terms as those applicable to like service throughout other portions of the City served by Ohio Edison. Following arms length bargaining, the Council of the City, on June 20, 1972, adopted an ordinance authorizing the sale of the System to Ohio Edison for $768,851 and pursuant thereto Ohio Edison and the City have entered into an Agreement, dated March 12, 1973, providing for the purchase by Ohio Edison from the City of the System for said amount. The Agreement provides, in effect, that the closing of the purchase and sale shall take place as soon as practicable after receipt by Ohio Edison, in form satisfactory to its counsel, of the last of any necessary orders of any regulatory authorities. Although the original cost of the System is not presently known, Ohio Edison estimates that such cost would approximate the amount of the successful bid for construction of the System, which amount was $572,441.04, plus capitalizable administrative costs, if any, incurred by the City.

The Grant-Washington Urban Renewal District lies within the City of Akron, which is the largest city within the service area of Ohio Edison, and the System is directly connected with other facilities of Ohio Edison and is supplied with electric energy provided by Ohio Edison. The System is therefore fully integrated with the electric facilities of Ohio Edison. Upon completion of the acquisition, Ohio Edison will continue to operate the System to serve electric customers connected and to be connected thereto. As of June 30, 1973, there were 60 residential customers, 41 commercial customers and 3 industrial customers served by the System, and the gross revenues derived from such customers during the twelve-month period ended that date aggregated $201,867.51.

Ohio Edison is subject to the accounting jurisdiction of The Public Utilities Commission of Ohio and the Federal Power Commission, pursuant to which it is required to keep its accounts in accordance with the Uniform System of Accounts prescribed by the Federal Power Commission. Except to the extent of such accounting jurisdiction by said two regulatory agencies, no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

The fees, commissions, and expenses paid or incurred or to be paid or incurred, directly or indirectly, in connection with the proposed transaction by Ohio Edison, are estimated at $7,500.

Notice is further given that any interested person may not later than October 9, 1973, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-19866 Filed 9-18-73;8:45 am]

[File No. 500-1]

## TRIEX INTERNATIONAL CORP.

### Order Suspending Trading

September 10, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.01 par value, of Triex International Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 11, 1973, through September 20, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.19865 Filed 9-18-73;8:45 am]

[File No. 500-1]

## U.S. FINANCIAL INC.

### Order Suspending Trading

SEPTEMBER 10, 1973.

The common stock, $2.50 par value, of U.S. Financial Incorporated being traded on the New York Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of U.S. Financial Incorporated, being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 11, 1973, through September 20, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-19863 Filed 9-18-73;8:45 am]

## BROKER-DEALER MODEL COMPLIANCE PROGRAM ADVISORY COMMITTEE

### Notice of Public Meetings

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92-463, 86 Stat. 770, the Securities and Exchange Commission announces the following public advisory committee meetings.

The Commission's Advisory Committee on a Model Compliance Program for Broker-Dealers, established on October 25, 1972 (Securities Exchange Act Release No. 9835), will hold meetings October 3-4, 1973 at the Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. The meetings will commence at 9:00 a.m., local time.

This Advisory Committee was formed to assist the Commission in developing a model compliance program to serve as an industry guide for the broker-dealer community. Assisted by this Committee's work, the Commission plans to publish a guide to broker-dealer compliance under the securities acts in order to advise broker-dealers of the standards to which they should adhere if investor confidence in the fairness of the market place is to be warranted and sustained. The Committee's recommendations are not intended to result in the expansion of Commission rules governing broker-dealers, but to inform broker-dealers as to the existing requirements and how they may comply with them.

The Committee's scheduled meetings will be for the purpose of reviewing drafts and proposals concerning the Committee's proposed report to the Commission on these compliance guidelines for broker-dealers.

These meetings are open to the public. Any interested person may attend and appear before or file statements with the Advisory Committee—which statements, if in written form, may be filed before or after the meeting or, if oral, at the time and in the manner and extent permitted by the Advisory Committee.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

SEPTEMBER 12, 1973.

[FR Doc.73-19907 Filed 9-18-73;8:45 am]





[File No. 500-1]

## COLORADO INTERSTATE GAS CO.

### Order Suspending Trading

SEPTEMBER 12, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the First Mortgage 3.35 percent Pipeline Bonds due July 1974, First Mortgage 4.70 percent Pipeline Bonds due March 1979, and 4¾ percent Debentures due April 1984 of Colorado Interstate Gas Co. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 13, 1973, through September 20, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-19892 Filed 9-18-73;8:45 am]

[File No. 500-1]

## TRIONICS ENGINEERING CORP.

### Order Suspending Trading

SEPTEMBER 13, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, and all other securities of Trionics Engineering Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 14, 1973, through September 23, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-19894 Filed 9-18-73;8:45 am]

[File 500-1]

## COLORADO INTERSTATE CORP.

### Order Suspending Trading

SEPTEMBER 12, 1973.

Debentures, 8½ percent, due April 1991, of Colorado Interstate Corporation being traded on the New York Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and 8½ percent Debentures due April 1991, First Mortgage 7½ percent Pipeline Bonds due June 1992, First Mortgage 8 percent Pipeline Bonds due June 1989, Preferred 5 percent Cum., Preferred 5.35 percent Cum., and Preferred 5.50 percent Cum. of Colorado Interstate Corporation being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 13, 1973, through September 22, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-19895 Filed 9-18-73;8:45 am]

[File No. 500-1]

## EQUITY FUNDING CORP. OF AMERICA

### Order Suspending Trading

SEPTEMBER 13, 1973.

The common stock, $.30 par value, of Equity Funding Corporation of America being traded on the New York Stock Exchange, the Midwest Stock Exchange, the Pacific-Coast Stock Exchange, the Philadelphia - Baltimore - Washington Stock Exchange, the Boston Stock Exchange; warrants to purchase the $.30 par value common stock being traded on the American Stock Exchange and the Philadelphia-Baltimore-Washington Stock Exchange; 9½ percent debentures due 1990 being traded on the New York Stock Exchange; and 5½ percent convertible subordinated debentures due 1991 being traded on the New York Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Equity Funding Corporation of America being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 14, 1973, through September 23, 1973.

By the Commission.

GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-19904 Filed 9-18-73;8:45 am]



V 38 I 181 SEP 19 73 XUM

[File No. 500-1]

## INDUSTRIES INTERNATIONAL, INC.

### Order Suspending Trading

SEPTEMBER 13, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, and all other securities of Industries International, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 14, 1973, through September 23, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-19903 Filed 9-18-73;8:45 am]

[File No. 500-1]

## GIANT STORES CORP.

### Order Suspending Trading

SEPTEMBER 13, 1973.

The Common stock, $.10 par value, of Giant Stores Corp. being traded on the American Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Giant Stores Corp., being traded otherwise than on a national securities; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 14, 1973, through September 23, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-19902 Filed 9-18-73;8:45 am]

[File No. 500-1]

## C I C INDUSTRIES, INC.

### Order Suspending Trading

SEPTEMBER 12, 1973.

The 11 percent Debentures due June 1975 of C I C Industries, Inc. being traded on the New York Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of C I C Industries, Inc., being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 12, 1973, through September 21, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-19901 Filed 9-18-73;8:45 am]

[File No. 500-1]

## FAIM INFORMATION SERVICES, INC.

### Order Suspending Trading

SEPTEMBER 12, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.01 par value, and all other securities of FAIM Information Services, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors:

*It is ordered*, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 11:45 a.m. (e.d.t.) September 12, 1973, through September 21, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-19900 Filed 9-18-73;8:45 am]

[File No. 500-1]

## NORTH AMERICAN BUILDING TECHNOLOGY, INC.

### Order Suspending Trading

SEPTEMBER 12, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.01 par value, and all other securities of North American Building Technology, Inc., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 11:45 a.m., (e.d.t.), September 12, 1973, through September 21, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-19899 Filed 9-18-73;8:45 am]

[File No. 500-1]

## FIRST LEISURE CORP.

### Order Suspending Trading

SEPTEMBER 12, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.10 par value and all other securities of First Leisure Corporation, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 13, 1973, through September 22, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-19898 Filed 9-18-73;8:45 am]

[File No. 500-1]

## COASTAL STATES GAS CORP.

### Order Suspending Trading

SEPTEMBER 12, 1973.

The common stock, $.33⅓ par value; $1.19 cumulative convertible preferred Series A, $.33⅓ par value; and $1.83 cumulative convertible preferred Series B, $.33⅓ par value of Coastal States Gas Corporation, being traded on the New York Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Coastal States Gas Corporation, being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 13, 1973, through September 22, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-19897 Filed 9-18-73;8:45 am]





[File No. 500-1]

## COASTAL STATES GAS PRODUCING CO.

### Order Suspending Trading

SEPTEMBER 12, 1973.

First Mortgage Bonds Series E 7¾ percent due 1991 of Coastal States Gas Producing Company being traded on the New York Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and First Mortgage Bonds Series A 5 percent due 1983, Series B 5 percent due 1985, Series C 6½ percent due 1986, Series D 7⅝ percent due 1989, and Series E 7¾ percent due 1991; 5½ percent Sinking Fund Debentures due 1977; and 6 percent Sinking Fund Debentures due March 1980 of Coastal States Gas Producing Company being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to sections 19(a)(4) and 15(c)(5) of the Securites Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 13, 1973, through September 22, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-19896 Filed 9-18-73;8:45 am]

[70-5386]

## METROPOLITAN EDISON CO.

### Notice of Proposed Issue and Sale of Cumulative Preferred Stock

SEPTEMBER 12, 1973.

Notice is hereby given that Metropolitan Edison Company (Met-Ed), 2800 Pottsville Pike, Mulhenberg Township, Berks County, Pennsylvania 19605, an electric utility subsidiary company of General Public Utilities Corporation, a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 (Act), designating section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Met-Ed proposes to issue and sell for cash, subject to the competitive bidding requirements of Rule 50 under the Act, 150,000 additional shares of its cumulative preferred stock (the New Preferred Stock). The New Preferred Stock will constitute a further series of Met-Ed's cumulative preferred stock of which there are outstanding 1,243,912 shares issued in nine series. The dividend rate and redemption prices of the New Preferred Stock will be determined by competitive bidding. In all other respects the New Preferred Stock will be similar to the outstanding series. The bidding procedures which Met-Ed will use with respect to the New Preferred Stock will require that (1) the price per share specified in the bids shall not be not less than $100 (the par value of the New Preferred Stock) or more than $102.75 and (2) the dividend rate for the New Preferred Stock, which shall be specified in such bids, shall be a multiple of 1/25th of 1 percent. Prior to October 1, 1978, none of the shares of the New Preferred Stock may be redeemed at the option of Met-Ed if the moneys for such redemption are obtained by Met-Ed directly or indirectly from or in anticipation of borrowings by or for the account of Met-Ed or the proceeds of any issue of any stock ranking prior to or on a parity with the New Preferred Stock at an interest or dividend cost less than the dividend cost of this issue, subject to certain exceptions.

The proceeds ($15,000,000, exclusive of premium and accrued dividends, if any) from the sale of the New Preferred Stock will be used for the payment of all or a portion of Met-Ed's short-term bank loans expected to be outstanding at the time of sale of the New Preferred Stock or for construction purposes or to reimburse Met-Ed's treasury for funds previously expended therefrom for construction purposes. The presently estimated cost of Met-Ed's 1973 construction program is approximately $145,000,000 (including allowance for funds used during construction).

The fees and expenses to be paid by Met-Ed in connection with the issue and sale of the New Preferred Stock are estimated to total $100,000, including legal fees of $26,500. The fees and expenses of counsel for the underwriters, to be paid by the successful bidders, will be supplied by amendment. It is stated that the Pennsylvania Public Utility Commission has jurisdiction over the proposed issuance and sale of the New Preferred Stock by Met-Ed and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than October 5, 1973, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at the above-stated address, and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc 73-19893 Filed 9-18-73;8:45 am]

[File No. 7-4443]

## PBW STOCK EXCHANGE, INC.

### Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

SEPTEMBER 13, 1973.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the American Depositary Receipt for American Units of the following company, which security is listed and registered on one or more other national securities exchange:

Plessey Company Limited (The) — File No. 7-4443

Upon receipt of a request, on or before September 29, 1973, from any interested person, the Commission will determine whether the application shall be set down for hearing. Any such request should state briefly the nature of the interest of the person making the request and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the date specified. If no one requests a hearing, this application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-19906 Filed 9-18-73;8:45 am]



V 38 181 SEP 19 73 XUM

[File No. 500-1]

## TELEPROMPTER CORP.

### Order Suspending Trading

SEPTEMBER 7, 1973.

The common stock, $1 par value, of TelePrompTer Corporation being traded on the New York Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of TelePrompTer Corporation, being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to section 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 6:50 p.m., e.d.t., on September 7, 1973, and continuing through September 16, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc 73-19905 Filed 9-18-73;8:45 am]

# TARIFF COMMISSION

[337-33]

## CERTAIN DISPOSABLE CATHETERS AND CUFFS THEREFOR

### Notice of Postponement of Hearing

On September 7, 1973, the U.S. Tariff Commission postponed indefinitely the public hearing scheduled for October 9, 1973, in connection with investigation No. 337-33, Certain Disposable Catheters and Cuffs Therefor. Notice of institution of the investigation and the ordering of the hearing was published in the FEDERAL REGISTER on August 15, 1973 (38 FR 22083). Notice of the rescheduling of the hearing will be published when a new hearing date is set.

Issued on September 14, 1973.

By order of the Commission.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.73-19886 Filed 9-18-73;8:45 am]

# DEPARTMENT OF LABOR

### Office of the Secretary

## BUFFALO, N.Y. PLANT OF GENERAL ELECTRIC CO.

### Certification of Eligibility of Workers To Apply for Adjustment Assistance

Under date of June 22, 1973, the U.S. Tariff Commission made a report of the results of its investigation (TEA-W-196) under section 301(c)(2) of the Trade Expansion Act of 1962 (76 Stat. 884) in response to a petition for determination of eligibility to apply for adjustment assistance on behalf of workers of the Buffalo, N.Y. plant of General Electric Co., New York, N.Y. In this report, the Commission, being equally divided, made no finding with respect to whether articles like or directly competitive with transistors and diodes produced by the Buffalo plant of General Electric Co. are, as a result in major part of concessions granted under trade agreements, being imported into the United States in such increased quantities as to cause, or threaten to cause unemployment or underemployment of a significant number or proportion of the workers of such firm, or an appropriate subdivision thereof. The President subsequently decided, under the authority of section 330(d)(1) of the Tariff Act of 1930, as amended, to consider the findings of those Commissioners who found in the affirmative as the finding of the Commission.

Upon receipt of the President's authorization, the Department, through the Director of the Office of Foreign Economic Policy, Bureau of International Labor Affairs on August 8, 1973 instituted an investigation.

Following this, the Director made a recommendation to me relating to the matter of certification (Notice of Delegation of Authority and Notice of Investigation, 34 FR 18342; 37 FR 2472; 38 FR 22083; 29 FR Part 90). In the recommendation she noted that imports like or directly competitive with transistors and diodes (semiconductors) produced by the Buffalo plant of General Electric Co. increased substantially. In 1970 the General Electric Co. began importing low-current silicon rectifiers and in 1971 began importing unijunction transistors—the semiconductor products that had constituted the major portion of production at the Buffalo plant. The concessions generated increased imports of semiconductors from foreign sources were the major factor in causing the decline in production and employment levels at the Buffalo plant during the period 1970-1972. Unemployment and underemployment of a significant number of workers began in September 1970, and the plant ceased operation in December 1972. After due consideration I make the following certification:

All hourly and salaried employees of the Buffalo, N.Y. plant of the General Electric Co., who became unemployed or underemployed after August 30, 1970, are eligible to apply for adjustment assistance under Title III, Chapter 3, of the Trade Expansion Act of 1962.

Signed at Washington, D.C. this 12th day of September 1973.

JOEL SEGALL, *Deputy Under Secretary for International Labor Affairs.*

[FR Doc.73-19852 Filed 9-18-73;8:45 am]

# INTERSTATE COMMERCE COMMISSION

[Notice 343]

## ASSIGNMENT OF HEARINGS

SEPTEMBER 14, 1973.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 134922 Sub 38, B. J. McAdams, Inc., now assigned September 17, 1973, at New York, N.Y., is cancelled and the application is dismissed.

MC 56553 Sub 15, Pulaski Highway Express, Inc., MC 56553 Sub 24, Pulaski Highway Express, Inc., now assigned October 9, 1973, at Columbia, Tenn., will be held in Holiday Inn, Route 31, North.

MC-F-11726, Estes Express Lines—Purchase (Portion)—Johnson's Express, Inc. (O. Tracy Parks, III, Trustee), MC-F-11727, Boyd Brothers Transportation Co., Inc.—Purchase (portion)—Johnson's Express, Inc. (O. Tracy Parks, III, Trustee), now assigned September 24, 1973, at Washington, D.C., is postponed to October 24, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-C-8039, P. C. White Truck Line, Inc., Et Al. V. Ross Neely Express, Inc., now assigned September 18, 1973, at Montgomery, Ala., is cancelled.

MC 59655 Sub 3, Sheehan Carriers, Inc., is continued to September 25, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 118722 Subs 2 and 3, Frigid Express, Inc., now assigned October 15, 1973, at New York, N.Y., will be held in Room B-2231, 26 Federal Plaza.

MC 7840 Sub 4, St. Lawrence Freightways, Inc., now assigned October 18, 1973, at Albany, N.Y., will be held in Room 434, Post Office Building, Broadway.

MC 124813 Sub 96, Umthun Trucking Co., MC 124078 Sub 510, Schwerman Trucking Co., MC 108449 Sub 334, Indianhead Truck Line, Inc., and MC 107496 Sub 827, Ruan Transport Corp., now assigned October 23, 1973, MC 119656 Sub 13, North Express, Inc., now assigned October 26, 1973, MC 21455 Sub 31, Gene Mitchell Co., now assigned October 29, 1973, and MC 27500 Sub 6, Mishak Truck Line, Inc., now assigned October 31, 1973, at Chicago, Ill., will be held in Room 1086A, Everett McKinley Dirksen Bldg., 219 South Dearborn Street.

MC 138479, C & C Cartage, Inc., now assigned October 9, 1973, MC 138548, Indianoaks Transportation Co., now assigned October 10, 1973, MC 127042 Sub 103, Hagen, Inc., now assigned continued hearing October 11, 1973.

MC-F-11662, Denver-Midwest Motor Freight, Inc., MC 127602 Sub 12, Denver-Midwest Motor Freight, Inc.—Purchase—Streator Transfer & Storage Co., now assigned October 15, 1973, at Chicago, Ill., will be held in room 1614 Court of Claims, Everett McKinley Dirksen Bldg., 219 S. Dearborn St.

MC 108119 Sub 37, E. L. Murphy Trucking Company, now assigned October 15, 1973, and MC 138097 Sub 2, Percy Kagel, D.b.a. Kagel Trucking, now assigned October 10, 1973, at St. Paul, Minn., will be held in Room 371, Main Post Office Bldg., 180 East Kellogg Blvd.





MC-F-11685, United Truck Service—Control—Ephraim Freightways, Inc., now assigned October 24, 1973; MC 113678 Sub 63, Curtis, Inc., MC 17094 Sub 1, Nate's Truck Line, Inc. Conversion Proceeding (now reentitled) Nebraska Illinois Colorado Express, Inc. Conversion Proceeding, now assigned October 29, 1973, at Denver, Colo., will be held in Room B-230, New Customs House, 19th and Stout St.

MC 138100, Mellow Truck Express, Inc., now assigned November 5, 1973, at Portland, Oreg., will be held in Room 401, 450 Multnomah Bldg., 219 SW. Pine St.

MC 34156 Sub 5, Niedert Motor Service, Inc., now assigned October 1, 1973, at Chicago, Ill., will be held in Room 1630, Everett McKinley Dirksen Bldg., 219 South Dearborn Street.

MC-FC-73486, Delta Bus Co., Saginaw, Michigan, Transferee, and Henry A. Crooks, D.b.a. Mio Bus Line, Onaway, Michigan, Transferor, now assigned October 10, 1973, at Lansing, Mich., will be held in Room 215, Federal Bldg., 325 Allegan Street.

MC 2202 Sub 435, Roadway Express, Inc., now assigned October 15, 1973, at Lansing, Mich., will be held in Room 215, Federal Bldg., 325 Allegan Street.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-19936 Filed 9-18-73;8:45 am]

## FOURTH SECTION APPLICATION FOR RELIEF

SEPTEMBER 14, 1973.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with § 1100.40 of the general rules of practice (49 CFR 1100.40) and filed an or before October 4, 1973.

FSA No. 42747—*Commodity Rates—Texas Export Railroad Company.* Filed by Southwestern Freight Bureau, Agent (No. B-438), for interested rail carriers. Rates on property moving on point-to-point commodity rates, between Texas Export Railroad Company stations, Bridgeport to Graham, Texas, on the one hand, and points in the United States and Canada, on the other.

Grounds for relief—New station.

By the Commission

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-19939 Filed 9-18-73;8:45 am]

[Notice 21]

## MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

SEPTEMBER 14, 1973.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(9)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

### MOTOR CARRIERS OF PASSENGERS

No. MC-1515 (Deviation No. 663) (Cancels Deviation No. 351), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third St., Cleveland, Ohio 44113, filed September 5, 1973. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage*, and *express* and *newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) From Chattanooga, Tenn., over Interstate Highway 75 to junction U.S. Highway 411, thence over U.S. Highway 411 to junction U.S. Highway 41, thence over U.S. Highway 41 to junction Georgia Highway 293, with the following access routes: (a) from Ringgold, Ga., over Georgia Highway 151 to junction Interstate Highway 75, (b) from Dalton, Ga., over U.S. Highway 41 to junction Interstate Highway 75, (c) from Dalton, Ga., over Georgia Highway 71 to junction Interstate Highway 75, (d) from Calhoun, Ga., over U.S. Highway 41 to junction Interstate Highway 75, (e) from Calhoun, Ga., over U.S. Highway 41 to junction Georgia Highway 156, thence over Georgia Highway 156 to junction Interstate Highway 75, (f) from Adairsville, Ga., over Georgia Highway 140 to junction Interstate Highway 75, and (g) from Cartersville, Ga., over U.S. Highway 411 to junction Interstate Highway 75, and (2) from Atlanta, Ga., over Interstate Highway 75 to junction Georgia Highway 5, thence over Georgia Highway 5 to junction U.S. Highway 41, with the following access routes: (a) from Marietta, Ga., over Georgia Highway 5 to junction Interstate Highway 75, and (b) from Marietta, Ga., over Georgia Highway 120 to junction Interstate Highway 75, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over a pertinent service route as follows: From Chattanooga, Tenn., over U.S. Highway 41 to junction Georgia Highway 293, thence over Georgia Highway 293 via Cartersville, Ga., to junction U.S. Highway 41, thence over U.S. Highway 41 to junction U.S. Highway 3 north of Marietta, Ga., thence over U.S. Highway 3 to Marietta, Ga., thence over Georgia Highway 120 to junction U.S. Highway 41, thence over U.S. Highway 41 to Atlanta, Ga., and return over the same route.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-19934 Filed 9-18-73;8:45 am]

## NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

SEPTEMBER 14, 1973.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by § 1.245 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

California Docket No. 53996, filed April 26, 1973. Applicant: WEBSTER DELIVERY SERVICE, INC., 886 North Mission Road, Los Angeles, Calif. Applicant's representative: Levin & Oberman, Incorporated, 3550 Wilshire Boulevard, Suite 1420, Los Angeles, Calif. 90010. Certificate of public convenience and necessity sought to operate a freight service as follows: APPENDIX A—Transportation of *general commodities:* (1) Abrasives, as listed under that heading in Items Nos. 5 through 45 of Western Classification No. 75, Cal. P.U.C. No. 8, George H Dumas, Agent, on the issue date thereof; (2) Adverstising matter, as listed under that heading in Items Nos. 225 through 330 of Western Classification No. 75, Cal. P.U.C. No. 8, George H. Dumas, Agent, on the issue date thereof and Supplements Nos. 41 and 46 thereto; (3) Cloth, dry goods or fabrics, as listed under that hearing in Items Nos. 12550 through 12885 of Western Classification No. 75, Cal. P.U.C. No. 8, George H. Dumas, Agent, on the issue date thereof and Supplements Nos. 41, 46, 48 and 50 thereto; (4) Drugs, medicines or toilet preparations, viz: perfumery; (5) Electrical appliances or equipment, or parts named, as listed under that heading in Items Nos. 15605 through 16250 of Western Classification, No. 75, Cal. P.U.C. No. 8, George H. Dumas, Agent, on the issue date thereof and Supplements Nos. 41, 46, 48, and 50 thereto; (6) Floor coverings, as listed under that heading in Items Nos. 17865 through 17965 of Western Classification No. 75, Cal. P.U.C. No. 8, George H. Dumas, Agent, on the issue date thereof and Supplements Nos. 46, 48, and 50



V 38 I 181 SEP 19 73 XUM

thereto; (7) Furniture, as listed under that heading in Items Nos. 19495 through 20494 of Western Classification No. 75, Cal. P.U.C. No. 8, George H. Dumas, Agent, on the issue date thereof, and Supplements Nos. 41, 46, 48, and 50 thereto; (8) Games or toys, as listed under that heading in Items Nos. 20670 through 20870 of Western Classification No. 75, Cal. P.U.C. No. 8, George H. Dumas, Agent, on the issue date thereof, and Supplements Nos. 41, 46, 48, and 50 thereto; (9) Glassware, as listed under that heading in Items Nos. 21265 through 21585 of Western Classification No. 75, Cal. P.U.C. No. 8, George H. Dumas, Agent, on the issue date thereof and Supplements Nos. 41, 46, 48, and 50 thereto; (10) Hardware, as listed under that heading in Items Nos. 22455 through 23660 of Western Classification No. 75, Cal. P.U.C. No. 8, George H. Dumas, Agent, on the issue date thereof and Supplements Nos. 41, 46, 48, and 50 thereto; (11) Machinery or machines, or parts named, as listed under that heading in Items Nos. 27145 through 391920 of Western Classification No. 75, Cal. P.U.C. No. 8, George H. Dumas, Agent, on the issue date thereof and Supplements Nos. 41, 46, 48, and 50 thereto; (12) Pads or padding, as listed under that heading in Items Nos. 35125 through 35155 of Western Classification No. 75, Cal. P.U.C. No. 8, George H. Dumas, Agent, on the issue date thereof, and Supplements Nos. 46 and 48 thereto; (13) Sheet steel ware, as listed under that heading in Items Nos. 40245 through 40490 of Western Classification No. 75, Cal. P.U.C. No. 8, George H. Dumas, Agent, on the issue date thereof and Supplements Nos. 41, 46, 48, and 50 thereto; (14) Stationery, as listed under that heading in Items Nos. 41203 through 41290 of Western Classification No. 75, Cal P.U.C. No. 8, George H. Dumas, Agent, on the issue date thereof and Supplements Nos. 46 and 50 thereto; (15) Trunks or traveling bags, as listed under that heading in Items Nos. 43240 through 43280 of Western Classification No. 75, Cal. P.U.C. No. 8, George H. Dumas, Agent, on the issue date thereof and Supplements Nos. 41 and 46 thereto; and (16) Miscellaneous commoditles, viz: boots or shoes, buckles, clothing, clocks, clothing, hosiery, notions, pillows, rubber, foam, silver plated ware, not on silver, synthetic resin articles, towels, or toweling, paper, watches.

APPENDIX B—LOS ANGELES BASIN TERRITORY includes that area embraced by the following boundary: Beginning at the point Ventura County-Los Angeles County boundary line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Highway No. 118 approximately two miles west of Chatsworth; easterly along State Highway No. 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Angeles National Forest Boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundary to the county road known as Mill Creek Road; westerly along Mill Creek Road to the county road 3.8 miles north of Yucapia; southerly along said county road to and including the unincorporated community of Yucapia; westerly along Redlands Boulevard to U.S. Highway No. 99; northwesterly along U.S. Highway No. 99 to the corporate boundary of the City of Redlands; westerly and northerly along said corporate boundary to Brookside Avenue; westerly along Brookside Avenue to Barton Avenue; westerly along Barton Avenue and its prolongation to Palm Avenue; westerly along Palm Avenue to La Cadena Drive; southwesterly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U.S. Highway No. 60; southwesterly along U.S. Highways Nos. 60 and 395 to the county road approximately one mile north of Perris; easterly along said county road via Nuevo and Lakeview to the corporate boundary of the City of San Jacinto; easterly, southerly and westerly along said corporate boundary to San Jacinto Avenue; southerly along San Jacinto Avenue to State Highway No. 74; westerly along State Highway No. 74 to the corporate boundary of the City of Hemet; southerly, westerly and northerly along said corporate boundary to the right of way of the Atchison, Topeka & Santa Fe Railway Company; southwesterly along said right of way to Washington Avenue; southerly along Washington Avenue, through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to the County road intersecting U.S. Highway No. 395, 2.1 miles north of the unincorporated community of Temecula; southerly along said County road to U.S. Highway No. 395; southeasterly along U.S. Highway No. 395 to the Riverside County-San Diego County boundary line, westerly along said boundary line to the Orange County-San Diego County boundary line; southerly along said Boundary line to the Pacific Ocean; northwesterly along the shore line of the Pacific Ocean to point of beginning; and to extend in a generally northeasterly direction along California Highway No. 14 via the cities of Newhall and Palmdale to the City of Lancaster, California and return; and to extend from the intersection of highways California No. 14 and California No. 126, westerly to the City of Saugus.

HEARING: Date, time, and place not shown. Request for procedural information should be addressed to the California Public Utilities Commission, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102, and should *not* be directed to the Interstate Commerce Commission.

California Docket No. 54277, filed August 27, 1973. Applicant: CITY DRAYAGE CO., INC., P.O. Box 156, San Leandro, Calif. 94577. Applicant's representative: William D. Taylor, Handler, Baker & Greene, 100 Pine Street, Suite 2550, San Francisco, Calif. 94111. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities*, except the following: (a) Used household goods and personal effects not packed in accordance with the crated property requirements; (b) Livestock; (c) Liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semi-trailers or a combination of such highway vehicles; (d) Commodities when transported in bulk in dump trucks or in hopper-type trucks; (e) Commodities when transported in motor vehicles equipped for mechanical mixing in transit; (f) Logs; (g) Fresh fruits and vegetables; (h) Articles of extra ordinary value; and (i) Automobiles, trucks, buses, and trailer coaches and campers. Between all points on or within 25 miles of points on the following routes: (1) U.S. Highway 101, between Santa Rosa and Salinas, inclusive; (2) State Highway 17, between San Rafael and Santa Cruz, inclusive; (3) State Highway 1, between Santa Cruz and Monterey, inclusive; (4) Interstate Highway 80, between San Francisco and Sacramento, inclusive; (5) State Highway 4, between junction with Interstate Highway 80, near Pinole, and Stockton, inclusive; (6) Interstate Highway 580, and U.S. Highway 50, between Oakland and Stockton, inclusive; (7) Interstate Highways 580 and 5, between junction with Interstate Highway 50, near Tracy, and State Highway 152, near Los Banos; (8) State Highway 99, between Sacramento and Tulare, inclusive; and (9) State Highway 152, between junction with Interstate Highway 5, near Los Banos, and State Highway 99, near Chowchilla. In performing the service herein authorized, applicant may make use of any and all streets, roads, highways and bridges necessary or convenient for the performance of said service.

HEARING: DATE, time, and place not shown. Requests for procedural information should be addressed to the California Public Utilities Commission, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102, and should not be directed to the Interstate Commerce Commission.

California Docket No. 54300, filed September 4, 1973. Applicant: HARRY LOUX, doing business as LOUX & SON DRAYAGE, 3138 Sheffield Avenue, Oakland, Calif. 94602. Applicant's representative: Daniel W. Baker, Handler, Baker & Greene, 100 Pine Street, Suite 2550, San Francisco, Calif. 94111. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities*, except the following: (a) Used household goods and personal effects not packed in accordance with the crated property requirements; (b) Livestock; (c) Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semi-trailers or a combination of such highway vehicles; (d) Commodities when transported in bulk in dump trucks or in hopper-type trucks; (e) Commodities when transported in motor vehicles equipped for mechanical mixing in transit; (f) Logs; (g) Fresh fruits and vegetables; (h) Articles of extraordinary value; and (i) Automobiles, trucks and buses. Between all points and places in the San Francisco Territory, as described hereafter, and all points within ten miles of any point therein; Between all points on or within ten miles of the following routes: (a) Interstate Highway 580, between Hayward and Livermore, inclusive; (b) Interstate Highway 680, between Mission San Jose and Vallejo, inclusive; (c) State Highway 24, between Oakland and Walnut Creek, inclusive; (d) Interstate Highway 80, between Richmond and Vallejo, inclusive; (e) State Highway, 4, between Pinole and Antioch, inclusive. In performing the service herein authorized, applicant may make use of any and all streets, roads, highways and bridges necessary or convenient for the performance of said service.

NOTE.—SAN FRANCISCO TERRITORY includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Boundary Line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U.S. Highway 101; southerly along an imaginary line 1 mile west of and paralleling U.S. Highway 101 to its intersection with Southern Pacific Company right of way at Arastradero Road; southeasterly along the Southern Pacific Company right of way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Avenue; easterly along W. Parr Avenue to Capri Drive; southerly along Capri Drive to E. Parr Avenue; easterly along E. Parr Avenue to the Southern Pacific Company right of way; southerly along the Southern Pacific Company right of way to the Campbell-Los Gatos city limits; easterly along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to U.S. Highway 101; northwesterly along U.S. Highway 101 to Tully Road; northeasterly along Tully Road to Wite Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 17 (Oakland Road); northerly along State Highway 17 to Warm Springs; northerly along the unnumbered highway via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive, Harbord Drive and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland boundary line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U.S. Highway 40 (San Pablo Avenue); northerly along U.S. Highway 40 to and including the City of Richmond; southwesterly along the highway extending from the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco Waterfront at the foot of Market Street; westerly along said waterfront and shore line to the Pacific Ocean; southerly along the shore line of the Pacific Ocean to the point of beginning.

HEARING: Date, time, and place not shown. Requests for procedural information should be addressed to the California Public Utilities Commission, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102, and should *not* be directed to the Interstate Commerce Commission.

Texas Docket No. 4398, filed July 26, 1973. Applicant: BURK MOTOR FREIGHT, INC., 512 Magnolia Street, Burkburnett, Tex. 76354. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities*, from Wichita Falls to Burkburnett, Texas, over U.S. Highway 277–281, and return over the same route, serving all intermediate points.

HEARING: Date, time, and place not shown. Requests for procedural information should be addressed to the Texas Railroad Commission, P.O. Drawer 12976, Austin, Tex. 78711, and should *not* be directed to the Interstate Commerce Commission.

Utah Docket No. 4599-Sub 2, filed March 26, 1973. Applicant: BILL'S MOVING, INC., doing business as PIONEER MOVING AND STORAGE, 471 West 5th South Street, Salt Lake City, Utah 84101. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of new furniture, new office fixtures, new commercial and institutional fixtures, new household fixtures and appliances, and new household and office furnishings, pianos and piano benches, over irregular routes between all points in the State of Utah. Further, Applicant seeks to remove from its present Certificate of Convenience and Necessity No. 1276 the last phrase, which reads as follows: "• • • and an operation in the transportation of items of household goods and baggage not requiring the use of numerous trucks or of vans and not operated in connection with, or as a part of, any interstate carrier service."

HEARING: October 23, 1973, at the Commission Hearing Room, 330 East 4th South Street, Salt Lake City, Utah, at 10:00 A.M.. Requests for procedural information should be addressed to the Utah Public Service Commission, 330 East 4th South Street, Salt Lake City, Utah 84111, and should *not* be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-19928 Filed 9-18-73;8:45 am]

[Notice 73]

## MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

The following publications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application) are governed by the new Special Rule 1100.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964

The publications hereinafter set forth reflect the scope of the applications *as filed* by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable by the Commission.

MOTOR CARRIER OF PROPERTY

No. MC 2229 (Sub-Nos. 67, 106, 111, 116, 118, 122, 126, 130, and 149) (NOTICE OF FILING OF PETITION TO RENEW OR EXTEND AUTHORITY TO TRANSPORT EXPLOSIVES), filed July 9, 1973. Petitioner: RED BALL MOTOR FREIGHT, INC., 3177 Irving Boulevard, P.O. Box 47407, Dallas, Tex. 75247. Petitioner's representative: Gary L. Johnson (same address as petitioner). Petitioner presently holds *motor carrier* certificates in No. MC 2229 (Sub-Nos. 67, 106, 111, 116, 118, 122, 126, 130, and 149) issued March 23, 1956, January 11, 1962, November 23, 1962, October 5, 1964, April 14, 1969, February 11, 1966, July 30, 1965, April 14, 1966, and August 26, 1969, respectively, authorizing transportation, over regular routes, of: (1) in Sub-No. 67, general commodities, including Classes A, B, and C explosives, (a) Between Lone Star, Tex., and Hugh Springs, Tex.; and (B) Between Daingerfield, Tex., and Naples, Tex.; (2) in Sub-No. 106, general commodities, including Classes A and B explosives, (A) Between Naples, Tex., and the plantsite of the Shell Oil Company Gas Plant located approximately four miles east of Bryans Mills, Tex.; (B) Between Mard, Tex., and the plantsite of the Shell Oil Company Gas Plant located approximately four miles east of Bryans Mills, Tex.; (c) Between Junction Farm to Market Road 2065 and Texas Highway 77 and the plantsite of







V 38 181
SEP 19 73
XUM

the Shell Oil Company Gas Plant located approximately four miles east of Bryans Mills, Tex.; and (D) Between Junction Farm to Market Road 1766 and Texas Highway 77, approximately five miles east of Naples, Tex., and the plantsite of the Shell Oil Company Gas Plant located approximately four miles east of Bryans Mills, Tex.; (3) in Sub-No. 111, general commodities, including Classes A and B explosives, Between Winnsboro, Tex., and Quitman, Tex.; (4) in Sub-No. 116, general commodities, including Classes A and B explosives, (A) Between Jasper, Tex., and the site of McGee Bend Reservoir located approximately 15 miles northwest of Jasper; and (b) Between Junction Texas Highways 63 and 255, located approximately 12 miles northwest of Jasper, Tex., and the site of McGee Bend Reservoir, located approximately 15 miles northwest of Jasper, Tex.; (5) in Sub-No. 118, general commodities, including Classes A and B explosives, (A) Between Bernice, La., and Monroe, La.; (B) Between Junction Louisiana Highways 2 and 143 (west of Sterlington, La.) and Sterlington, La.; (C) Between Sterlington, La., and Monroe, La.; (D) Between El Dorado, Ark., and Marion, La.; (E) Between Marion, La., and junction Louisiana Highways 143 and 2; and (F) Between Monroe, La., and West Monroe, La.; (6) in Sub-No. 122, general commodities, including Classes A and B explosives, (A) Between Anacoco, La., and Hemphill, Tex.; and (B) Between Burkeville, Tex., and Anacoco, La.; (7) in Sub-No. 126, general commodities, including Classes A and B explosives, Between Haynesville, La., and Sarepta, La.; (8) in Sub-No. 130, general commodities, including Classes A and B explosives, (A) Between Ruston, La., and Dubach, La.; and (B) Between Crossett, Ark., and Strong, Ark.; and (9) in Sub-No. 149, Classes A and B explosives, (A) Between Shreveport, La., and the Louisiana Army Ammunition Plant at or near Douline, La.; and (B) Between Shreveport, La., and Leesville, La. By the instant petition, petitioner seeks to (1) renew its explosives authority contained in Sub-Nos. 67, 106, 111, 116, 122, 126, and 130 for a period of 5 years; and (2) extend the time period for its explosives authority contained in Sub-Nos. 118 and 149 for an additional 5 years. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition on or before October 19, 1973.

No. MC 29800 (NOTICE OF FILING OF PETITION FOR MODIFICATION OF CERTIFICATE), filed August 31, 1973. Petitioner: JOHN M. ANDERSON CO., a Corporation, 31 Badlong Road, Cranston 9, R.I. 02910. Petitioner's representative: Paul F. Sullivan, 711 Washington Building, Washington, D.C. 20005. Petitioner presently holds a motor *common carrier* certificate in No. MC-29800, issued December 1, 1937, authorizing transportation, by motor vehicle, over irregular routes, of *heavy industrial and commercial machinery and equipment*, between points in Rhode Island, on the one hand, and on the other, Newark, N.J., and points in New Jersey within 15 miles thereof, points in Massachusetts and Connecticut, and those in the New York, N.Y., Commercial Zone, as defined by the Commssion in 1 M.C.C. 665. By the instant petition, petitioner seeks to modify its commodity description to read: "*Commodities*, the transportation of which because of size or weight, requires the use of special equipment or special handling and *self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts and supplies* moving in connection therewith (restricted to commodities which are transported on trailers)". Any interested person or persons desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition on or before October 19, 1973.

No. MC-124567 (Sub-No. 4) (NOTICE OF FILING OF PETITION FOR REOPENING OF A "GRANDFATHER PROCEEDING" AND FOR CORRECTION OF THE REISSUED CERTIFICATE), filed August 23, 1973. Petitioners: PETRUZELLO TRANSPORT, INC., Woodbridge, Conn. Petitioner's representative: Thomas W. Murrett, 342 North Main Street, West Hartford, Conn. 06117. Petitioner holds a certificate in No. MC-124567 (Sub-No. 4) which, in part, authorizes it to perform service, in interstate or foreign commerce, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, over described regular routes between New Haven and Bridgeport, Conn., serving the intermediate and off-route points of Berlin, Wallingford, Meriden, Stratford, Shelton, Derby, Seymour, Beacon Falls, Naugatuck, Waterbury, West Hartford, Trumbell, Ansonia, Bristol, New Britain, Milford, Devon, Woodmont, Orange, West Haven, East Haven, Branford, Hamden, and East Hartford, Conn. This authority was originally issued on March 29, 1941, in a "grandfather proceeding" in No. MC-8990; and it was subsequently reissued to petitioner on April 5, 1972. By the instant petition, petitioner requests that the original proceeding be reopened to correct its authority by deleting the service point of "West Hartford" and substituting in place thereof the point of "Hartford." Petitioner contends that it and its predecessors in interest have been serving Hartford since before the enactment of the Motor Carrier Act and that it was only through inadvertent error that this point was omitted from the original certificate. Petitioner also asserts that it is authorized to serve Hartford as a point within the commercial zone of New Britain, Conn., under the population-mileage formula established in *Commercial Zones and Terminal Areas*, 46 M.C.C. 665, 699 (1946), as set forth at (49 CFR 1048.101.). Any interested person or persons desiring to participate may file an original and six copies of his written representations, views or arguments in support of or against the petition on or before October 19, 1973.

APPLICATION(S) FOR CERTIFICATES OR PERMITS WHICH ARE TO BE PROCESSED CONCURRENTLY WITH APPLICATIONS UNDER SECTION 5 GOVERNED BY SPECIAL RULE 240 TO THE EXTENT APPLICABLE

No. MC 52110 (Sub-No. 137) filed July 3, 1973. Applicant: BRADY MOTORFRATE, INC., % Smith's Transfer Corporation, P.O. Box 1000, Staunton, Va. 24401. Applicant's representative: David G. Macdonald, 100 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, livestock, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment), (A) REGULAR ROUTES: (1) Between Hobart, Ind., and Chicago, Ill., serving all intermediate points, and off-route points within 25 miles of Chicago: From Hobart over Indiana Highway 130 to junction U.S. Highway 6, thence over U.S. Highway 6 to junction Indiana Highway 53, thence over Indiana Highway 53 to Gary, Ind., thence over city streets via Whiting, Ind., to Chicago, and return over the same route; (2) Between Chicago, Ill., and junction U.S. Highway 41 and U.S. Highway 30 serving no intermediate points, and serving the junction for joinder only: From Chicago over U.S. Highway 41 to junction U.S. Highway 52, and thence over U.S. Highway 52 to Indianapolis and return over the same route; (3) Between Elkhart, Ind., and South Bend, Ind., serving all intermediate points: From Elkhart over U.S. Highway 20, South Bend, and return over the same route; (4) Between South Bend, Ind., and Chicago, Ill., serving all intermediate points and off-route points in the Chicago, Ill., Commercial Zone, as defined by the Commission: From South Bend over U.S. Highway 20 to junction U.S. Highway 35, thence over U.S. Highway 35 to Michigan City, Ind., and thence over U.S. Highway 12 to Chicago, and return over the same route; (5) Between junction U.S. Highways 6 and 33 near Ligonier, Ind., and the Indiana-Ohio State line, serving all intermediate points: From junction U.S. Highway 33 and U.S. Highway 6 over U.S. Highway 6 to the Indiana-Ohio State line, and return over the same route; and (6) Between Elkhart, Ind., and Angola, Ind., serving no intermediate points and serving Angola, for joinder only: From Elkhart over U.S. Highway 20 to Angola, Ind., and return over the same route.

(B) ALTERNATE ROUTES FOR OPERATING CONVENIENCE ONLY: *General commodities*, (except those of unusual value, livestock, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk,





and those requiring special equipment, in connection with carriers' regular-route operations authorized herein between points in the Chicago, Ill., Commercial Zone, as defined by the Commission, and Fort Wayne, Ind., (1) Between points in the Chicago, Ill., Commercial Zone, as defined by the Commission and Fort Wayne, Ind., serving no intermediate points: From points in the Chicago commercial zone over U.S. Highway 41 to junction U.S. Highway 6 (also from points in the Chicago commercial zone over U.S. Highway 6 to junction U.S. Highway 41), thence over U.S. Highway 6 to junction Indiana Highway 130 north of Hobart, Ind., thence over Indiana Highway 130 to Valparaiso, Ind., (also over U.S. Highway 41 from junction U.S. Highway 6 to junction U.S. Highway 30, thence over U.S. Highway 30 to Valparaiso), and thence over U.S. Highway 30 to Fort Wayne, Ind., and return over the same routes; and (2) Between junction U.S. Highway 6 and Indiana Highway 130 north of Hobart, Ind., and junction U.S. Highways 6 and 33 south of Ligonier, Ind., serving no intermediate points and serving the junction of U.S. Highway 6 and Indiana Highway 130 for purpose of joinder only: From junction U.S. Highway 6 and Indiana Highway 130 over U.S. Highway 6 to junction U.S. Highway 33, and return over the same route.

NOTE.—Carrier presently holds authority co-extensive with each of the routes requested. The present authorities appear in MC-52110 (Route 10), and in MC 52110, Sub 84 (all others). This is a matter directly related to a Section 5 proceeding in No. MC-F-11876 published in the FEDERAL REGISTER issue of May 31, 1973. The purpose of the application is to insure carrier's authority to retain those highway segments as continued parts of its retained routes rather than have them canceled upon consummation of the described sale. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 123389 (Sub-No. 16) (CORRECTION), filed June 28, 1973, and published in the FEDERAL REGISTER issue of August 15, 1973, and republished, as corrected this issue. Applicant: CROUSE CARTAGE COMPANY, a Corporation, P.O. Box 151, Carroll, Iowa 51401. Applicant's representative: William S. Rosen, 630 Osborn Building, St. Paul, Minn. 55102. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: *General commodities* (except commodities in bulk, household goods as defined by the Commission, Classes A and B explosives, and commodities of unusual value): REGULAR ROUTES: (A) (1) Between Kansas City, Mo., and Grant City, Mo., serving the intermediate and off-route points of North Kansas City, Avenue City, Rochester, Union Star, King City, Stanberry, Carmack Corners, Gentry, Worth, Allendale, Sheridan, Ford City, Albany, and Denver; (a) From Kansas City over U.S. Highway 169 to Grant City, and return over the same route; (b) From Kansas City over U.S. Highway 169 to junction Missouri State Highway 31; thence over Missouri State Highway 31 to junction U.S. Highway 169; thence over U.S. Highway 169 to Grant City, and return over the same route; (2) Between St. Joseph, Mo., and Grant City, Mo., serving the intermediate and off-route points of Avenue City, Rochester, Union Star, King City, Carmack Corners, Gentry, Worth, Allendale, Sheridan, Ford City, Albany, and Denver; From St. Joseph Mo., over U.S. Highway 169 to Grant City, and return over the same route. IRREGULAR ROUTES: (B) (1) between King City, Mo., and points in Missouri; (2) between Albany, Mo., and points in that part of Missouri on and north of U.S. Highway 50 and on and west of U.S. Highway 65; and (3) between Carmack Corners, Gentry, Worth, Denver, Grant City, and Allendale, Mo., and points in Missouri.

NOTE.—Applicant states that it will tack this requested authority with the authority held in Certificate No. MC 69036, Sub-No. 8, at common points in northwestern Missouri, if the purchase proceeding in MC-F-11869 is granted. The instant application is a matter directly related to the Section 5 purchase proceeding in MC-F-11923, published in the FEDERAL REGISTER issue of July 11, 1973. The purpose of this republication is to: (1) correct the territorial description under (A)(1) of the application; and (2) correctly reference the MC-F proceeding that this application is directly related to, which was inadvertently omitted in the previous publication. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Kansas City, Mo.

APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto. (49 CFR 1.240).

MOTOR CARRIERS OF PROPERTY

MC-F-11981. Authority sought for control by DIRECT WINTERS TRANSPORT, LIMITED, 890 Caledonia Road, Toronto 19, Ontario, Canada, of LEAMINGTON TRANSPORT (WESTERN), LIMITED, 971 Dugald Road, Winnipeg, Manitoba, Canada, and for acquisition by INTERSTATE MOTOR FREIGHT SYSTEM OF CANADA, LIMITED, 890 Caledonia Road, Toronto 19, Ontario, INTERSTATE MOTOR FREIGHT SYSTEM, 134 Grandville SW. Grand Rapids, Michigan 49502, and FUQUA INDUSTRIES, INC., 3800 First National Bank Bldg., Atlanta, Ga. 30303, of control of LEAMINGTON TRANSPORT (WESTERN), LIMITED, through the acquisition by DIRECT WINTERS TRANSPORT, LIMITED. Applicants' attorneys: EDWARD K. WHEELER, RICHARD H. STRODEL, and CHANDLER L. van ORMAN, 704 Southern Building, 15th and H Streets NW., Washington, D.C. 20005. Operating rights sought to be controlled: *Meats*, fresh, frozen, salted, cooked, cured, and preserved, as a *common carrier* over irregular routes, from the port of entry on the United States-Canada Boundary line at or near Noyes, Minn., to the port of entry on the United States-Canada Boundary line at or near Detroit, Mich., serving neither Noyes, Minn., nor Detroit, Mich., nor any intermediate point, *Meats* from the ports of entry on the United States-Canada Boundary line located at or near Noyes, Minn., and Pembina, N. Dak., to points in Minnesota and Wisconsin and points in those parts of North Dakota, South Dakota, Iowa, Missouri, and Illinois lying on, east, and north of a line extending southward from Pembina over interstate Highway 29 to points in North Dakota, South Dakota, Iowa, Missouri, and Illinois, *Meat* and *dairy products*, from points in the above named destination States, to the ports of entry on the United States-Canada Boundary line at Detroit and Port Huron, Mich., Noyes, Minn., and Pembina, N. Dak., *Meats, meat products*, and *meat by-products*, and etc., from the plant site and storage facilities of Wilson & Co., Inc., at Logansport, Ind., and the storage facilities of Wilson & Co., Inc., Lafayette, Ind., to ports of entry in the United States-Canada boundary line located near Noyes, Minn., Pembina, N. Dak., and Detroit and Port Huron, Mich. DIRECT WINTERS TRANSPORT LIMITED is authorized to operate as a *common carrier* in New York and Michigan. Application has been filed for temporary authority under section 210a(b).

MC-F-11982. Authority sought for control by ROY M. McNAIR, 408 Burr-Duval, San Antonia, Tex., 78209 of SHAMROCK VAN LINES, INC., 39 NE. 29th Street, Oklahoma City, Okla. Applicants' attorney: HERBERT BURSTEIN, One World Trade Center, New York, N.Y. 10048. Operating rights sought to be controlled; *Houserold goods*, as a *common carrier* over irregular routes, between certain specified points in Texas, on the one hand, and, on the other, points in Arkansas, Colorado, Kansas, Louisiana, Missouri, New Mexico, and Oklahoma, between Wichita, Falls, Tex., on the one hand, and, on the other, points in Oklahoma, between points in Oklahoma and certain specified points in Texas, between points in those parts of North Carolina, South Carolina, and Virginia within 450 miles of Charlotte, N.C., *Household goods* and emigrant movables, between certain specified points in Texas, on the one hand, and, on the other, points in Arkansas, Louisiana, New Mexico, Oklahoma, and Texas, between points in Saline County, Ark., on the one hand, and, on the other, points in Louisiana, Mississippi, Oklahoma, Tennessee, and Texas, between points in Montana, Idaho, Oregon, Washington, California, and Nevada, between points in Montana on and west of U.S. Highway 89, on the one hand, and, on the other, points in Wyoming, Colorado, Utah, Arizona, and North Dakota, between points in Oklahoma, on the one



V 38 181 SEP 19 1973 XUM

hand, and, on the other, points in Arkansas, *Used household goods* and *used office fixtures*, between points in Arkansas, on the one hand, and, on the other, points in Alabama, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, Texas, North Carolina, and South Carolina, *Household goods*, between points in Texas, on the one hand, and, on the other, points in Arkansas, between points in Cuyahoga County, Ohio, on the one hand, and, on the other, points in Ohio, Pennsylvania, and New York, between points in Cuyahoga County, Ohio, on the one hand, and, on the other, points in Connecticut, Delaware, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, Pennsylvania, Rhode Island, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia, between points in Arkansas, Louisiana, Oklahoma, and Texas. *Household goods* as defined by the Commission, as a *broker*, between points in Montana, on the one hand, and, on the other, points in the United States, except Alaska and Hawaii. ROY M. McNAIR holds no authority from this Commission, however, he controls TOWNE SERVICES HOUSEHOLD GOODS TRANSPORTATION CO., INC., P.O. Box 16091, San Antonio, Tex. 78246, and Empire Moving & Storage, Inc., 408 Burr-Duval, San Antonio, Texas 78209, which is authorized to operate as a *common carrier* in Texas, Illinois, Louisiana, Missouri, New Mexico, Oklahoma, Kansas, Colorado, Wyoming, Arkansas, Mississippi, Alabama, Florida, Georgia, Delaware, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia. Application has not been filed for temporary authority under section 210a(b).

MC-F-11983. Authority sought for purchase by McLEAN TRUCKING COMPANY, P.O. Box No. 213, 617 Waughtown Street, Winston-Salem, North Carolina 27102, of a portion of the operating rights of VALLEY EXPRESS, INC., 116 Lake View Drive, Wausau, Wis. 54401, and for acquisition by AMORY MELLEN, JR., 617 Waughtown Street, Winston-Salem, N.C., of control of such rights through the purchase. Applicants' attorney: FRANCIS W. McINERNY, 1000 Sixteenth Street NW., Washington, D.C. 20036. Operating rights sought to be transferred: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, as a *common carrier* over regular routes, between Chicago, Illinois, and Milwaukee, Wisconsin, over U.S. Highway 41 to Chicago, and return over the same route; *Restriction:* Said operations are restricted against the transportation of traffic moving between Milwaukee, Wisconsin, and Chicago, Illinois. Vendee is auhorized to operate as a *common carrier* in Virginia, Massachusetts, Delaware, Maryland, Georgia, Missouri, North Carolina, South Carolina, New York, Illinois, Tennessee, Iowa, Indiana, Ohio, Texas, Maine, Michigan, Mississippi, New Jersey, New Hampshire, Rhode Island, Vermont, Wisconsin, Kentucky, West Virginia, Pennsylvania, Minnesota, Kansas, Connecticut, Louisiana, Florida, Arkansas, Alabama, and the District of Columbia. Application has been filed for temporary authority under section 210a(b). Waiver of the ten day rule has been requested.

MC-F-11984. Authority sought for purchase by FORE WAY EXPRESS, INC., 204 South Bellis Street, Wausau, Wis. 54401, of a portion of the operating rights of VALLEY EXPRESS, INC., 116 Lake View Drive, Wausau, Wis., 54401, and for acquisition by STANLEY STEFFKE, 2360 Alta Louise, Brookfield, Wis., of control of such rights through the purchase. Applicants' attorney: FRANCIS W. McINERNY, 1000 Sixteenth Street NW., Washington, D.C. 20036. Operating rights sought to be transferred: *General commodities*, with exceptions as a *common carrier* over regular routes between New Chester Township, Wisconsin, and Milwaukee, Wisconsin, from New Chester Township over unnumbered highways known as Adams and Marquette County Trunks E to junction U.S. Highway 51, thence over U.S. Highway 51 to junction U.S. Highway 18, thence over U.S. Highway 18 to Milwaukee, and return over the same route, with service authorized at Lawrence, Wisconsin, as an intermediate point, with restrictions. Vendee is authorized to operate as a *common carrier* in Wisconsin. Application has been filed for temporary authority under Section 210a(b). Waiver of the ten day rule has been requested.

MC-99565 Sub 11 is a directly related matter.

MC-F-11985. Authority sought for purchase by ARROW MOTOR FREIGHT LINE, INC., 2125 Commercial Street, Waterloo, Iowa 50704, of a portion of the operating rights of TAKIN BROS. FREIGHT LINE, INC., 2125 Commercial Street, Waterloo, Iowa 50704, and for acquisition by ALLEN E. KROBLIN, LOYAL H. FRISCH, AND KENNETH L. SCHADLE, 2125 Commercial Street, Waterloo, Iowa 50704, of control of such rights through the purchase. Applicant's representative: ALLEN KROBLIN, 2125 Commercial Street, Waterloo, Iowa 50704. Operating sought to be transferred: *General commodities* as a common carrier over regular routes, between Mason City, Iowa, and Osage, Iowa, serving all intermediate points and the off-route point of Orchard, Iowa, between Osage, Iowa, and Stacyville, Iowa, between Osage, Iowa, and Waterloo, Iowa, between Riceville, Iowa, and La Crosse, Wis., with exceptions, between Iowa Falls, Iowa, and Mason City, Iowa, between Thornton, Iowa, and Mason City, Iowa, from Mason City, Iowa, to Austin, Minn., serving no intermediate points, between Mason City, Iowa, and Grafton, Iowa, serving the intermediate point of Plymouth, Iowa, between La Crescent, Minn., and Davis Corners, Iowa, serving all intermediate points, with exceptions, from Grafton, Iowa to Austin, Minn., serving intermediate and off-route points within ten miles of Grafton, for pick-up only, alternate route for operating convenience only, between Nora Springs, Iowa, and Floyd, Iowa, between Cedar Falls, Iowa, and Iowa Falls, Iowa, with restrictions, between Davis Corners, Iowa, and junction U.S. Highway 63 and Iowa Highway 3, east of Waverly, Iowa, as an alternate route for operating convenience only in connection with carrier's regular route operations, serving no intermediate points, and serving the junction of U.S. Highway 63 and Iowa Highway 3 for joinder purposes only. *General commodities* with exceptions as a *common carrier* over irregular routes between Hampton, Iowa, on the one hand, and, on the other, Latimer, Coulter, Alexander, Rowan, Hansell, Dumont, Sheffield, Dows, and Geneva, Iowa. Vendee is authorized to operate as a *common carrier* in Minnesota, Wisconsin, Iowa, Illinois, South Dakota, and North Dakota. Application has not been filed for temporary authority under section 210a(b).

TRANSFER APPLICATIONS TO BE ASSIGNED FOR ORAL HEARING

No. MC-FC-74226. Authority sought by transferee, TAYLOR FREIGHT SYSTEM, INC., 1615 N. Delaware Avenue, Philadelphia, Pa. 19106, to acquire the operating rights of transferor, DEPENDABLE CONTAINER SERVICE, INC., Foot of 23rd Street, Brooklyn, N.Y. 11232. Transferee's attorney: Ronald N. Cobert, 1730 M Street NW., Washington, D.C. 20036. Transferor's attorney: Daniel McKinnon, c/o Dependable Container Service, Inc., Foot of 23rd Street, Brooklyn, N.Y. 11232. Operating rights in certificate No. MC-133704 (Sub-No. 1) sought to be transferred: *general commodities*, except commodities in bulk, classes A and B explosives, household goods as defined by the Commission, and commodities which because of size or weight require special equipment, from Philadelphia, Pa., to New York, N.Y., and from points in New Jersey, Delaware, and Maryland to Philadelphia; *electric fixtures and supplies*, from New York, N.Y., to Philadelphia, Pa., and from Philadelphia to points in New Jersey; *equipment, materials*, and *supplies* used in connection with dog shows, excluding animals, between points in Maryland, New York, New Jersey, Pennsylvania, Delaware, Virginia, Connecticut, and Massachusetts; *teletype machines and equipment*, between Philadelphia, Pa., on the one hand, and, on the other, New York, N.Y., and points in Maryland, New Jersey, and Delaware; and *glassware*, from New York, N.Y., to Philadelphia, Pa.





No. MC-FC-74488. Authority sought by transferee, JETEX FREIGHT SYSTEMS, INC., Windy Hill Farm, Newtown, Pa. 18940, to acquire a portion of the operating rights of transferor, JAMES H. RUSSELL, Washington Highway, Smithfield, R.I. 02917. Transferee's attorney: Ronald N. Cobert, 1730 M Street NW., Washington, D.C. 20036. Transferor's attorney: Daniel McKinnon, same address as transferor. Operating rights to be transferred in certificate No. MC-11727: *general commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between points in Gloucester, Atlantic, and Cape May Counties, N.J., on the one hand, and, on the other, Providence, R.I., Corning, N.Y., and points in that part of Pennsylvania east of the Susquehanna River, points in that part of New York within 150 miles of Newark, N.J., points in that part of Massachusetts on and east of U.S. Highway 5, and points in that part of Connecticut on and east of U.S. Highway 5 and those on U.S. Highway 1 between the New York-Connecticut State line and New Haven, Conn.

Pursuant to an order of the Commission, Division 3, dated August 31, 1973, the above-indicated transfer applications under section 212(b) of the Interstate Commerce Act are to be assigned for hearing at a time and place hereafter to be fixed for the purpose of determining whether said applications are exempt from the provisions of Section 5 of the act and, if so, whether the transferees are fit and the applications otherwise conform to the Rules and Regulations Governing Transfers of Rights to Operate as a Motor Carrier in Interstate or Foreign Commerce (49 CFR Part 1132). Interested parties have on or before October 19, 1973, in which to file petitions for leave to intervene. Such petitions should state the reason or reasons for the sought intervention, the place where petitioner wishes the hearing to be held, the number of witnesses it expects to present, and the estimated time required for presentation of its evidence.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-19033 Filed 9-18-73;8:45 am]

[Notice 125]

## MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 13, 1973.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR Part 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 730 (Sub-No. 351 TA), filed August 31, 1973. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., 1417 Clay Street, P.O. Box 958, Oakland, Calif. 94612. Applicant's representative: R. N. Cooledge (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gasoline*, in bulk, in tank vehicles, from Great Bend, Kans., to points in Colorado, for 180 days. SUPPORTING SHIPPER: Texaco, Inc., P.O. Box 52332, Houston, Tex. 77052. SEND PROTESTS TO: A. J. Rodriguez, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Ave., Box 36004, San Francisco, Calif. 94102.

No. MC 730 (Sub-No. 352 TA), filed September 4, 1973. Applicant: PACIFIC INTERMOUNTAIN EXPRESS COMPANY, 1417 Clay Street, P.O. Box 958, Oakland, Calif. 94612. Applicant's representative: R. N. Cooledge (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from points in San Juan County, N. Mex., to points in Arizona, for 180 days. SUPPORTING SHIPPERS: The Prater Co., Inc., Box 1498, Farmington, N. Mex. 87401; Thrifway Oil Company, P.O. Box 1367, Farmington, N. Mex. 87401; and Plateau, Inc., P.O. Box 108, Farmington, N. Mex. 87401. SEND PROTESTS TO: A. J. Rodriguez, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 29120 (Sub-No. 165 TA), filed August 31, 1973. Applicant: ALL-AMERICAN, INC., 900 West Delaware, P.O. Box 769, Sioux Falls, S. Dak. 57104. Applicant's representative: Michael Ogborn (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are sold, used, or dealt in by mail-order business houses, from the warehouses and facilities of Fingerhut Corporation at or near St. Cloud, Minn., to Cleveland and Cincinnati, Ohio; Omaha, Nebr.; and St. Louis, Mo., for 180 days. SUPPORTING SHIPPER: Fingerhut Corporation, 11 McLeland Road, St. Cloud, Minn. 56395. SEND PROTESTS TO: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Bldg., Pierre, S. Dak. 57501.

No. MC 29120 (Sub-No. 166 TA), filed September 4, 1973. Applicant: ALL-AMERICAN, INC., 900 West Delaware, P.O. Box 769, Sioux Falls, S. Dak. 57104. Applicant's representative: Michael Ogborn (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic bristle brushes*, from Brookings, S. Dak., to Karthaus, Pa., for 180 days. SUPPORTING SHIPPER: Minnesota Mining and Manufacturing Company (3-M), 3M Center, St. Paul, Minn. 55101, Kenneth A. Kumm, Manager, Transportation Operations. SEND PROTESTS TO: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 30887 (Sub-No. 194 TA), filed September 5, 1973. Applicant: SHIPLEY TRANSFER, INC., 49 Main Street, Box 55, Reisterstown, Md. 21136. Applicant's representative: William B. Eckels (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molten liquid polypropylene*, in bulk, in tank vehicles, from Crowley, La., to St. Marys, Ga., for 180 days. SUPPORTING SHIPPER: Mr. W. J. Jennings, Vice President, Crowley Hydrocarbon Chemicals, Inc., 271 Madison Ave., New York, N.Y. 10016. SEND PROTESTS TO: William L. Hughes, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 814-B Federal Bldg., Baltimore, Md. 21201.

No. MC 107002 (Sub-No. 436 TA), filed August 30, 1973. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, U.S. Highway 80 West, Jackson, Miss. 39205. Applicant's representative: John J. Borth (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic resins*, liquid, in bulk, in tank vehicles, from Taylorsville, Miss., to points in Alabama and Louisiana, for 180 days. SUPPORTING SHIPPER: Georgia-Pacific Corporation, P.O. Box 520, Crossett, Ark. 71635. SEND PROTESTS TO: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 110420 (Sub-No. 690 TA), filed September 5, 1973. Applicant: QUALITY CARRIERS, INC., Mail: P.O. Box 186, Pleasant Prairie, Wis. 53158, and Off.:



V 38 1 181 SEP 19 73 XUM

I–94 County Highway C Bristol, Kenosha Co., Wis. 53104. Applicant's representative: Fred H. Figge (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beverage bases, fruit emulsions, and fruit concentrates*, in bulk, in tank vehicles, from Chicago, Ill., Commercial Zone as defined by the Interstate Commerce Commission, to Inwood, W. Va.; Vincentown, N.J.; and Muskogee, Okla., for 180 days. SUPPORTING SHIPPER: Wagner Industries, Div. of A. E. Staley Manufacturing Company, 2011 Swift Drive, Oak Brook, Ill. 60521 (R. T. Schoettler, Transportation Manager). SEND PROTESTS TO: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 110563 (Sub-No. 111 TA), filed September 5, 1973. Applicant: COLDWAY FOOD EXPRESS, INC., 112 N. Ohio Avenue, P.O. Box 747, Ohio Building, Sidney, Ohio 45365. Applicant's representative: John L. Maurer (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses* as defined in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the plantsite and warehouse facilities utilized by Madison Foods, Inc., at or near Madison, Nebr., to points in Virginia, West Virginia, Maryland, Delaware, New York, Pennsylvania, New Jersey, Connecticut, Massachusetts, Maine, New Hampshire, Vermont, Rhode Island, and the District of Columbia, restricted to traffic originating at the plantsite and warehouse facilities utilized by Madison Foods, Inc., at or near Madison, Nebr., for 180 days. SUPPORTING SHIPPER: Armour and Company, Fresh Meats Division, Greyhound Tower, Phoenix, Ariz . 85077. SEND PROTESTS TO: District Supervisor Keith D. Warner, Interstate Commerce Commission, Bureau of Operations, 313 Federal Office Bldg., 234 Summit Street, Toledo, Ohio 43604.

No. MC 116314 (Sub-No. 25 TA), filed September 5, 1973. Applicant: MAX BINSWANGER TRUCKING, 13846 Alondra Boulevard, Santa Fe Springs, Calif. 90670. Applicant's representative: Carl H. Fritze, 1545 Wilshire Boulevard, Los Angeles, Calif. 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Colton, Creal, Crestmore, Monolith, Oro Grande, and Victorville, Calif., and the plant site of General Portland, Inc., California Division, at or near Gorman, Calif., to points in New Mexico and Ports of Entry on the United States-Mexico boundary at or near Calexico, Tecate, and San Ysidro, Calif., for 180 days. SUPPORTING SHIPPERS: Riverside Cement Co., 2404 Wilshire Blvd., Los Angeles, Calif. 90057; Southwestern Portland Cement Co., 1034 Wilshire Blvd., Los Angeles, Calif. 90017; Monolith Portland Cement Co., 3326 San Fernando Road, Los Angeles, Calif. 90065; General Portland, Inc., California Division, 3810 Wilshire Blvd., Los Angeles, Calif. 90010; and California Portland Cement Co., 800 Wilshire Blvd., Los Angeles, Calif. 90017. SEND PROTESTS TO: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708 Federal Bldg., 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 117940 (Sub-No. 95 TA), filed September 5, 1973. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Donald L. Stern, Suite 530, Univac Bldg., 7100 W. Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Such commodities* as are dealt in by retail department stores (except foodstuffs and furniture) and (2) *furniture* such as dealt in by retail department stores when moving with commodities dealt in by retail department stores (except foodstuffs), from points in Illinois, Maryland, Massachusetts, New Jersey, New York, and Pennsylvania, to Minneapolis-St. Paul, Minn., and their commercial zone, limited to traffic originating at points in the named origin states and destined to the plantsites and storage facilities of Dayton-Hudson Corporation and its wholly owned subsidiaries, for 180 days. SUPPORTING SHIPPER: Dayton's, a division of Dayton-Hudson Corporation, 700 On the Mall, Minneapolis, Minn. 55402. SEND PROTESTS TO: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Court House, 110 S. 4th Street, Minneapolis, Minn. 55401.

No. MC 120800 (Sub-No. 53 TA), filed September 4, 1973. Applicant: CAPITOL TRUCK LINE, INC., 2500 North Alameda Street, Compton, Calif. 90222. Applicant's representative: David P. Christianson, Suite 825, 606 South Olive St., Los Angeles, Calif. 90014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied natural gas* (LNG), from the Port of Entry, Highgate Springs, Vt., and the Port of Entry, Rouses Point, N.Y., on the International Boundary line between the United States and Canada, to Easton, Mass., and Marshfield, Mass., for 150 days. SUPPORTING SHIPPER: Brockton Taunton Gas Co., 125 High Street, Boston, Mass. SEND PROTESTS TO: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 7708, Federal Bldg., 300 North Los Angeles St., Los Angeles, Calif. 90012.

No. MC 123074 (Sub-No. 4 TA), filed September 5, 1973. Applicant: M. L. ASBURY, INC., 1100 South Oakwood, Detroit, Mich. 48217. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, Mich. 48080. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid silage additive*, in bulk, in tank vehicles, from Adrian, Mich., to points in Indiana and Ohio, for 150 days. SUPPORTING SHIPPER: Ruminant Nitrogen Products, Inc., 1510 East Maumee, Adrian, Mich. 49221. SEND PROTESTS TO: Melvin F. Kirsch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1110 Broderick Tower Bldg., 10 Witherell, Detroit, Mich. 48226.

No. MC 124821 (Sub-No. 10 TA), filed September 5, 1973. Applicant: WILLIAM GILCHRIST, 509 Susquehanna Avenue, Old Forge, Pa. 18518. Applicant's representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, Pa. 17011. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tile* (except clay tile), *facing or flooring*, from Chicago Heights, Ill., to points in New York, New Jersey, Pennsylvania, Virginia, Maryland, Delaware, Connecticut, Massachusetts, Rhode Island, Maine, New Hampshire, Vermont, and the District of Columbia, restricted to the transportation of traffic originating at the plant or storage facilities of Flintkote Company, Chicago Heights, Ill., and (2) materials and supplies used in the manufacture of the above commodities (except commodities in bulk), from points in the above-described destination states, to Chicago Heights, Ill., restricted to the transportation of traffic destined to the plant site of the Flintkote Company, Chicago Heights, Ill., for 180 days. SUPPORTING SHIPPER: The Flintkote Company, Flooring & Industrial Products Division, 480 Central Avenue, East Rutherford, N.J. 07073. SEND PROTESTS TO: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 309 U.S. Post Office Bldg., Scranton, Pa. 18503.

No. MC 128196 (Sub-No. 8 TA), filed August 31, 1973. Applicant: KARL ARTHUR WEBER, Off. 2002 West Cypress Street, Mlg.: P.O. Box 20662 (box zip 85036), Phoenix, Ariz. 85009. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, plywood, hardwood, particle boards, timbers and laminated wood products, wood building materials, gypsum and gypsum products*, including *metal studs, lathes, and wire forming materials*, including the loading and unloading of Piggy-back trailers and railroad cars, having a destination or a prior Interstate Commerce Commission movement, to off rail job sites, and *related products* used in construction with gypsum products, between points in Washington, Oregon, California, Nevada, Idaho, Montana, Wyoming, Utah, Colorado, Arizona, New Mexico, Texas, and Oklahoma, including the loading and unloading of piggy-back trailers and railcars, having a destination or a prior Interstate Commerce Commission movement, to off rail job sites, for 180 days. SUPPORTING SHIPPERS: Slaughter Industries, Inc., 2801 Lombardy Lane, Dallas, Tex. 75220; American Lumber Species, Inc., P.O. Box 214661, Sacramento, Calif., 95821; and Weber Lumber, 2002 W. Cypress, Phoenix, Ariz. 85009. SEND PROTESTS TO: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 3427 Federal Bldg., 230 N. First Ave., Phoenix, Ariz. 85025.





No. MC 128685 (Sub-No. 16 TA), filed August 30, 1973. Applicant: DIXON BROS., INC., P.O. Box 636, Newcastle, Wyo. 82701. Applicant's representative: Robert S. Stauffer, 3539 Boston Road, Cheyenne, Wyo. 82001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pre-packaged homes and buildings, complete or in sections, and all equipment, supplies, and component parts* used in construction, erection, or completion of such homes and building, from the plant site and warehousing facilities of Nordaas American Homes in or near Minnesota Lake, Minn., to points in Colorado, North Dakota, Montana, Nebraska, South Dakota, and Wyoming, for 180 days. SUPPORTING SHIPPER: Nordaas American Homes, Minnesota Lake, Minn. 56068. SEND PROTESTS TO: District Supervisor Paul A. Naughton, Interstate Commerce Commission, Bureau of Operations, Rm. 1006 Federal Bldg. and Post Office, 100 East B Street, Casper, Wyo. 82601.

No. MC 133666 (Sub-No. 7 TA), filed September 5, 1973. Applicant: JACOBSON TRANSPORT, INC., 1112 Second Avenue South, Wheaton, Minn. 56296. Applicant's representative: Keith C. Davison, 1112 Broadway, Wheaton, Minn. 56296. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquified petroleum gas*, in bulk, in tank vehicles, from International Border, between Manitoba, Canada, and points in Minnesota, to points in Minnesota, North Dakota, and South Dakota, for 180 days. SUPPORTING SHIPPER: Midwest Gas Supply Co., Alexandria, Minn. 56308. SEND PROTESTS TO: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Court House, 110 S. 4th Street, Minneapolis, Minn. 55401.

No. MC 133966 (Sub-No. 28 TA), filed September 5, 1973. Applicant: NORTH EAST EXPRESS, INC., P.O. Box 61, Mountaintop, Pa. 18707. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, as described in Appendix XI of "Descriptions in Motor Carrier Certificates," 61 M.C.C. 209, from Vicksburg, Mich., to Hartford, Hampden, and Meriden, Conn.; Baltimore and Rockville, Md.; the District of Columbia; Boston, Westminster, Holyoke, Hyde Park, and Needham, Mass.; Fairlawn, Hoboken, Passaic, and Trenton, N.J.; New York and Shoreham, L.I., N.Y.; Harrisburg, Lancaster, Philadelphia, and Reading, Pa.; and Providence, R.I., for 150 days. SUPPORTING SHIPPER: Simpson Lee Paper Company, Vicksburg, Mich. 49097. SEND PROTESTS TO: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 309 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 134783 (Sub-No. 10 TA), filed September 4, 1973. Applicant: DIRECT SERVICE INC., P.O. Box 786, Dimmett Highway West, Plainview, Tex. 79072. Applicant's representative: Ronald V. Dreckman (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat byproducts and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in "Descriptions in Motor Carrier Certificates," 61 M.C.C. 209 and 766, from the plantsite of John Morrell & Co., at or near Lubbock, Tex., to St. Paul, Minn., and Sioux Falls, S. Dak., for 180 days. SUPPORTING SHIPPER: Robert E. Lee, John Morrell & Co., 208 S. La Salle St., Chicago, Ill. 60604. SEND PROTESTS TO: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H-4395 Herring Plaza, Amarillo, Tex. 79101.

No. MC 136249 (Sub-No. 4 TA), filed August 28, 1973. Applicant: JAMES R. GALBRAITH, JR., Route No. 1, Box 123, Camanche, Iowa 52730. Applicant's representative: Carl E. Munson, 469 Fischer Building, Dubuque, Iowa 52001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and advertising material*, from Omaha, Nebr., to Clinton, Iowa, for 180 days. SUPPORTING SHIPPER: McMahon Beverage Co., 241 Main Street, Clinton, Iowa 52732. SEND PROTESTS TO: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 138954 (Sub-No. 1 TA), filed August 30, 1973. Applicant: G. L. CREECH, doing business as TRUCK SERVICE HAULING AND RENTAL, 1748 Sherwood Forrest Blvd., P.O. Box 15891, Baton Rouge, La. 70815. Applicant's representative: James B. Thompson III, Suite 410, Roumain Bldg., Baton Rouge, La. 70801. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel reinforcing rods*, from Baton Rouge, La., to Pascagoula, Miss., and Courtland, Ala., for 180 days. SUPPORTING SHIPPER: Armco Steel Corporation, P.O. Box 723, Houston, Tex. 77001, Mr. N. F. Starnes, Asst. Transportation Mgr., Southwestern Area. SEND PROTESTS TO: Ray C. Armstrong, Jr., District Supervisor, Interstate Commerce Commission, Bureau of Operations, T-9038 U.S. Postal Service Bldg., 701 Loyola Avenue, New Orleans, La. 70113.

No. MC 139053 TA, filed September 4, 1973. Applicant: HIRAM E. BLUE, JR., P.O. Box 94, Vardaman, Miss. 38878. Applicant's representative: Fred W. Johnson, Jr., P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, poles, piling, pallets, timbers, and crossties*, treated or untreated, between points in Calhoun, Chickasaw, and Pontotoc Counties, Miss., on the one hand, and, on the other, points in Louisiana, Arkansas, Tennessee, Alabama, and Georgia, for 90 days. SUPPORTING SHIPPERS: There are approximately 10 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 139054 TA, filed September 5, 1973. Applicant: RANKO SCHUUR AND ROGER SCHUUR, doing business as SHORTY'S TOWING SERVICE, 5755 University Ave. NE., Fridley, Minn. 55432. Applicant's representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked and disabled motor vehicles and replacement vehicles therefor*, between points in Hennepin, Ramsey, and Anoka Counties, Minn., on the one hand, and points in Illinois, Indiana, Iowa, Nebraska, North Dakota, South Dakota, and Wisconsin, on the other, for 180 days. SUPPORTING SHIPPERS: There are approximately 13 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: District Supervisor Raymond T. Jones, Interstate Commerce Commission, Bureau of Operations, 448 Federal Bldg. & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-19935 Filed 9-18-73;8:45 am]

---

[Notice 126]

## MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 14, 1973.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR, Part 1131)



V 38 I 181 SEP 19 73 XUM

published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 488 (Sub-No. 9 TA), filed September 7, 1973. Applicant: BREMAN'S EXPRESS COMPANY, 300 Canal Street, Leechburg, Pa. 15656. Applicant's representative: Edward Goldberg, Law & Finance Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refractory products and materials and supplies* used in the installation of refractory products (except in bulk or in tank or hopper vehicles), from Clearfield, Pa.; Curwensville, Pa.; Irvona, Pa.; and Pike Township, Clearfield County, Pa., to points in that part of Ohio east of U.S. Highway 21 and north of U.S. Highway 50, and that part of West Virginia east of U.S. Highway 21 and north of U.S. Highway 50, including points on the indicated portions of the highways specified with no transportation for compensation on return except as otherwise authorized, for 180 days. SUPPORTING SHIPPERS: North American Refractores, 1012 National City, E. 6th Bldg., Cleveland, Ohio 44114, and Swank Refractories Company, 101 Swank Court, P.O. Box 630, Johnstown, Pa. 15907. SEND PROTESTS TO: District Supervisor James C. Donaldson, Interstate Commerce Commission, Bureau of Operations, 2111 Federal Bldg., 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 52593 (Sub-No. 2 TA), filed September 6, 1973. Applicant: SIOUX CITY REFRIGERATED EXPRESS, INC., 605 South 14th Street, Box 82028, Lincoln, Nebr. 68359. Applicant's representative: John L. Ross, 69 Woodland Circle, Edina, Minn. 55424. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tires, farm implement rims, and wheels and raw rubber* for recapping tires (except commodities in bulk, in tank vehicles), from the plant facilities and warehouses of (a) Peterson Manufacturing Co., Elk Grove Village, Ill.; (b) Pirelli Tire Co., Elk Grove Village, Ill.; and (c) Ban Dag Corporation, Muscatine, Iowa, to West Point and Fremont, Nebr., for 180 days. SUPPORTING SHIPPER: Dexter L. Critel, D & S Tire Sales, 661 South Lincoln Street, West Point, Nebr. 68788. SEND PROTESTS TO: Max H. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 320 Federal Building & Court House, Lincoln, Nebr. 68508.

No. MC 82063 (Sub-No. 45 TA), filed September 5, 1973. Applicant: KLIPSCH HAULING CO., Office: 119 E. Loughborough Ave., Mlg.: 112 N. 4th Street, St. Louis, Mo. 63111. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Building, St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid hydrofluosilicic acid*, from Uncle Sam, La., to points in Texas and Oklahoma, for 180 days. SUPPORTING SHIPPER: Thompson-Hayward Chemical Company, P.O. Box 2383, Kansas City, Kans. 66110. SEND PROTESTS TO: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th Street, St. Louis, Mo. 63101.

No. MC 107496 (Sub-No. 907 TA), filed September 5, 1973. Applicant: RUAN TRANSPORT CORPORATION, Third and Keosauqua Way, P.O. Box 855 (Box zip 50304), Des Moines, Iowa, 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid animal feed*, in bulk, in tank vehicles, from Adrian, Mich., to points in Iowa, Illinois, and Wisconsin, for 150 days. SUPPORTING SHIPPER: Terra Chemicals International, Inc., 507 Sixth St., Sioux City, Iowa 51101. SEND PROTESTS TO: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 109449 (Sub-No. 16 TA), filed September 7, 1973. Applicant: KUJAK BROS. TRANSFER, INC., 352 Junction Avenue, P.O. Box 677, Winona, Minn. 55987. Applicant's representative: Charles E. Nieman, 1160 Northwestern Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap iron*, from La Crosse, Wis., to Lake City, Minn., for 180 days. SUPPORTING SHIPPER: Paper, Calmenson & Co., Highway No. 280 at Highway No. 36, St. Paul, Minn. 55165. SEND PROTESTS TO: A. N. Spath, District Supervisor, Interstate Commerce Commision, Bureau of Operations, 448 Federal Building & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 110420 (Sub-No. 691 TA), filed September 6, 1973. Applicant: QUALITY CARRIERS, INC., Mail: P.O. Box 186, Pleasant Prairie, Wis. 53158, and Off: I-94 County Highway C, Bristol, Kenosha Co., Wis. 53104. Applicant's representative: Richard L. Salamon (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium citrate*, dry, in bulk, from Zeeland, Mich., to St. Louis, Mo., for 180 days. SUPPORTING SHIPPER: Miles Laboratories, Inc., 1127 Myrtle St., Elkhart, Ind. 46514. SEND PROTESTS TO: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 111496 (Sub-No. 14 TA), filed September 7, 1973. Applicant: TWIN CITY FREIGHT, INC., 2280 Ellis Avenue, St. Paul, Minn. 55414. Applicant's representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, from points in Williams County, N. Dak., to points in Minnesota, and to those points in South Dakota, east of the Missouri River, for 180 days. SUPPORTING SHIPPER: Hardy Salt Company, P.O. Drawer 449, St. Louis, Mo. 63166. SEND PROTESTS TO: District Supervisor Raymond T. Jones, Interstate Commerce Commission, Bureau of Operations, 448 Federal Bldg. & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 112963 (Sub-No. 47 TA), filed September 6, 1973. Applicant: ROY BROS., INC., 764 Boston Road, Pinehurst, Mass. 01866. Applicant's representative: Leonard E. Murphy (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Caustic soda*, in bulk, in tank vehicles, from Providence, R.I., to Rumford, Maine, for 180 days. SUPPORTING SHIPPER: Polar Chemicals, Inc., Crowley Road, Lewiston, Maine 04240. SEND PROTESTS TO: Darrell W. Hammons, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 150 Causeway St., Boston, Mass. 02114.

No. MC 113025 (Sub-No. 6 TA), filed September 6, 1973. Applicant: RALPH C. ISLAND, doing business as ISLAND FREIGHT, P.O. Box 147, Deadwood, S. Dak. 57732. Applicant's representative: A. Milton Evans, P.O. Box 1286, Rapid City, S. Dak. 57701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Flour, feed, and feed ingredients*, in bulk, from the plantsite of Hubbard Milling Co., at Mankato, Minn., to the plantsite of Hubbard Milling Co., at Rapid City, S. Dak., for 180 days. SUPPORTING SHIPPER: Hubbard Milling Co., P.O. Box 431, Rapid City, S. Dak. 57701. SEND PROTESTS TO: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 369, Federal Building, Pierre, S. Dak. 57501.

No. MC 115162 (Sub-No. 280 TA), filed September 6, 1973. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fireplaces, fireplaces and chimney combined, and fireplace units*, from points in Madison County, Ala., to points in Macomb, Oakland, and Wayne Counties, Mich., for 180 days. SUPPORTING SHIPPER: Paneling Unlimited, 345 North Main, Plymouth, Mich. 48170. SEND PROTESTS TO: Clifford W. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 814, 2121 Building, Birmingham, Ala. 35203.

No. MC 120098 (Sub-No. 23 TA), filed August 31, 1973. Applicant: UINTAH FREIGHTWAYS, 1030 South Redwood Road, Salt Lake City, Utah 84104. Applicant's representative: William S. Richards, 900 Walker Bank Building, P.O. Box 2465, Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Barite*, from (1) points in Lander and Eureka Counties, Nev., to points in Wyoming, and (2) from Salt Lake City, Utah, and the Salt Lake City commercial zone, to points in Wyoming, for 180 days. SUPPORTING SHIPPER: Imco Services, a Division of Halliburton Company, 480 Colorado State Bank Bldg., Denver, Colo. 80202 (Charles W. Wareen, Area Manager). SEND PROTESTS TO: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5239 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 123476 (Sub-No. 19 TA), filed September 5, 1973. Applicant: CURTIS TRANSPORT, INC., 1334 Lonedell Road, Arnold, Mo. 63010. Applicant's representative: O. E. Mueller (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic foam products*, in extra high cube drop frame vans, from the plantsites and warehouses of Dow Chemical U.S.A., located at Magnolia, Ark., and Pevely, Mo., to points in Florida, Georgia, North Carolina, and South Carolina, for 180 days. SUPPORTING SHIPPER: Dow Chemical U.S.A., 433 Building, Midland, Mich. 48640. SEND PROTESTS TO: District Supervisor J. P. Werthmann, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th Street, St. Louis, Mo. 63101.

No. MC 124813 (Sub-No. 108 TA), filed September 6, 1973. Applicant: UMTHUN TRUCKING CO., 910 South Jackson Street, Eagle Grove, Iowa 50533. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime*, in bulk, from the plant of Rockwell Lime Company in Manitowoc County, Wis., to points in Iowa, for 180 days. SUPPORTING SHIPPER: Rockwell Lime Company, Route 4, Manitowoc, Wis. 54220. SEND PROTESTS TO: Herbert W. Allen, Transportation Specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 129973 (Sub-No. 7 TA), filed September 4, 1973. Applicant: FIELD MARKETING SERVICES, INC., Off: 825 Third Avenue, Mail: 466 Lexington Avenue, New York, N.Y. 10022. Applicant's representative: William J. Lippman, Suite 550, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Business and trade directories, registers and guides; credit reference books; and related publications, business materials and supplies*, (1) between points in Nassau, Suffolk, Westchester, Orange, Rockland, Putnam, New York, The Bronx, Queens, Kings, and Richmond Counties, N.Y., and Monmouth, Mercer, Middlesex, Somerset, Hunterdon, Union, Essex, Morris, Hudson, Bergen, Passaic, and Sussex Counties, N.J.; (2) between points in Cook, DuPage, Kane, Kendall, Lake, and Will Counties, Ill., and Lake County, Ind.; and (3) between points in Suffolk, Essex, Middlesex, Worcester, Norfolk, Bristol, Plymouth, and Barnstable Counties, Mass., and Hillsborough County, N.H., for 180 days. SUPPORTING SHIPPER: Dun & Bradstreet, Inc., Att: Eugene J. Gillespie, Jr., Vice President & General Counsel, 99 Church Street, New York, N.Y. 10007. SEND PROTESTS TO: Stephen P. Tomany, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 134404 (Sub-No. 11 TA), filed September 5, 1973. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 499, So. Bound Brook, N.J. 08880. Applicant's representative: Bert Collins, 5 World Trade Center, Suite 6193, New York, N.Y. 10045. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Molded tires, wheels*, and *hub caps* (except in bulk) in shipper's containers or packaged, from the plantsite of Amerace Corporation at Lineville, Ala., to Mobile, Ala.; Atlanta, Cartersville, McRae, and Savannah, Ga.; Arlington Heights, Chicago, Cicero, Genoa, Melrose Park, Olney, Polo, Princeton, Princeville, Northbrook, Springfield, and Streator, Ill.; Bluffton, Evansville, Ft. Wayne, Goshen, Indianapolis, Lynn, Muncie, Richmond, Shelbyville, So. Bend, Union City, and Warsaw, Ind.; Des Moines, Ft. Madison, and Manning, Iowa; Bowling Green, Ky.; Detroit, Jackson, and Kalamazoo, Mich.; Hampstead, Md.; Minneapolis, St. Louis Park, St. Paul, and Windom, Minn.; Brookhaven and Tupelo, Miss.; Jackson, Springfield, and St. Louis, Mo.; Omaha, Nebr.; New Orleans, La.; Charlotte, Fayetteville, and Wilmington, N.C.; Jacksonville, Fla.; Alliance, Ansonia, Ashtabula, Bucyrus, Celina, Cincinnati, Cleveland, Cuyahoga Falls, Geneva, Harrison, Massileon, Newark, Piqua, Shelby, Springfield, Toledo, Urbana, Van Wert, and Willard, Ohio; Harrisburg and Lansdale, Pa.; Manning, Orangeburg, Sumter, and Charleston, S.C.; Schulenburg, Tex.; Chattanooga, Jackson, Johnson City, Lawrenceburg, Memphis, Milan, and Nashville, Tenn.; Norfolk, Newport News, and Portsmouth, Va.; Martinsburg, W. Va.; Janesville, Horican, Milwaukee, Plymouth, Racine and Sheboygan, Wis., for 180 days. SUPPORTING SHIPPER: Amerace Corporation, Ace Road, Butler, N.J. 07405. SEND PROTESTS TO: District Supervisor Robert S. H. Vance, Bureau of Operations, Interstate Commerce Commission, 9 Clinton Street, Newark, N.J. 07102.

No. MC 134922 (Sub-No. 50 TA), filed September 7, 1973. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: L. C. Cypert (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and/or vegetable oils* and/or *shortenings* (except in bulk), from Helena, Ark., to Anniston, Birmingham, Huntsville, Mobile, Montgomery, and Tuscaloosa, Ala.; Jacksonville, Miami, Orlando, St. Petersburg, and Tampa, Fla.; Albany, Atlanta, Augusta, Columbus, Macon, and Thomasville, Ga.; Ft. Campbell, Lexington, Louisville, and Paducah, Ky.; Alexandria, Baton Rouge, Lake Charles, New Orleans, and Shreveport, La.; Biloxi, Columbus, Gulfport, Keesler AFB, Jackson, Vicksburg, and West Point, Miss.; Charlotte, Cherry Point, Durham, Fayetteville, Greensboro, Raleigh, Rocky Mount, Wilmington and Winston-Salem, N.C.; Charleston, Columbia, Ft. Jackson, Florence, Greenville, Orangeburg, Parris Island, and Spartanburg, S.C.; Bristol, Chattanooga, Columbia, Gallatin, Knoxville, and Nashville, Tenn.; Lynchburg, Norfolk, Richmond, and Roanoke, Va.; Beckley, Charleston, Norton, and Williamson, W. Va., for 180 days. SUPPORTING SHIPPER: Armour Food Company, 111 W. Clardendon Avenue, Greyhound Tower, Phoenix, Ariz. 85077. SEND PROTESTS TO: District Supervisor William H. Land, Jr., Bureau of Operations, Interstate Commerce Commission, 2519 Federal Office Bldg., 700 West Capitol, Little Rock, Ark. 72201.

No. MC 136777 (Sub-No. 5 TA), filed September 4, 1973. Applicant: POPELKA TRUCKING CO., doing business as THE WAGGONERS, 201 W. Park, P.O. Box 990, Livingston, Mont. 59047. Applicant's representative: David R. Kemp (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by tire stores for the account of Tom Sherry Tire, Inc., from Portland, Oreg., and Seattle, Wash., to points in Montana and Idaho, for 180 days. SUPPORTING SHIPPER: Tom Sherry Tire, Inc., 200 West Broadway, Missoula, Mont. 59801. SEND PROTESTS TO: Paul J.







V 38-181 SEP 19 73 XUM

Labane, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Rm. 222 U.S. Post Office Building, Billings, Mont. 59101.

No. MC 138080 (Sub-No. 3 TA), filed September 7, 1973. Applicant: EDWARD R. WOLFE, doing business as WOLFE TRUCKING, 6725 Doncaster Drive, Gladstone, Oreg. 97027. Applicant's representative: Edward R. Wolfe (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Expanded shale rock*, from points in Washington County, Oreg., to points in Idaho, for 180 days. SUPPORTING SHIPPER: Empire Building Material Co., 9255 NE. Halsey, P.O. Box 20086, Portland, Oreg. 97220. SEND PROTESTS TO: District Supervisor A. E. Odoms, Bureau of Operations, Interstate Commerce Commission, 450 Multnomah Building, 319 SW. Pine, Portland, Oreg. 97204.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-19937 Filed 9-18-73;8:45 am]

## CUMULATIVE LISTS OF PARTS AFFECTED—SEPTEMBER

**The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during September.**

**1 CFR** — Page
CFR checklist — 23771

**3 CFR**

PROCLAMATIONS:
4239 — 24191
4240 — 24193
4241 — 24881
4242 — 26099
4243 — 26101
4244 — 26179

EXECUTIVE ORDERS:
11359 (superseded by 11737) — 24883
11602 (superseded by E.O. 11738) — 25161
11635 (superseded by 11737) — 24883
11659 (amended by 11737) — 24883
11737 — 24883
11738 — 25161

Presidential Documents other than Proclamations and Executive Orders:
Memorandum of August 17, 1973 — 25903

**4 CFR**
400 — 24195
405 — 24195

PROPOSED RULES:
331 — 23971
351 — 23971, 26072
400 — 23971
401 — 23971
402 — 23971
403 — 23971
404 — 23971

**5 CFR**
213 — 2344, 24885, 25165, 25907, 26181

**6 CFR**
102 — 25427
150 — 24213
140 — 24214
150 — 23794, 23931, 24214, 24885, 25427, 25686, 26181
152 — 23794, 24214
155 — 24885

PROPOSED RULES:
Ch. I — 24917
152 — 23806, 24219, 24667

**7 CFR** — Page
2 — 24633
51 — 23931
52 — 24344, 25165
201 — 25661
250 — 24633
301 — 25664
354 — 23934
401 — 25907
725 — 23935
777 — 25665
864 — 25427
905 — 25665
908 — 24215, 25431, 25907
910 — 24345, 24890, 25908
928 — 24345
930 — 24890
932 — 24215
944 — 26108
948 — 25667
981 — 25668, 26181
991 — 23771
1001 — 24216
1002 — 24216
1004 — 24216
1006 — 24216
1007 — 24216
1011 — 24216
1012 — 24216
1013 — 24216
1015 — 24216
1030 — 24216
1033 — 24216
1036 — 24216
1040 — 24216
1044 — 24216
1046 — 24216
1049 — 24216
1050 — 24216, 26182
1060 — 24216
1061 — 24216
1062 — 24216
1063 — 24216
1064 — 24216
1065 — 24216
1068 — 24216
1069 — 24216
1070 — 24216
1071 — 24216
1073 — 24216
1075 — 24216
1076 — 24216
1078 — 24216
1079 — 24216
1090 — 24216

**7 CFR—Continued** — Page
1094 — 24216
1096 — 24216
1097 — 24216
1098 — 24216
1099 — 24216
1101 — 24216
1102 — 24216
1106 — 24216
1108 — 24216
1120 — 24216
1121 — 24216
1124 — 24216
1125 — 24216
1126 — 24216
1127 — 24216
1128 — 24216
1129 — 24216
1130 — 24216
1131 — 24216
1132 — 24216
1133 — 24216
1134 — 24216
1136 — 24216
1137 — 24216
1138 — 24216
1139 — 24216
1421 — 23935, 24634, 25668, 26006, 26182
1430 — 23939
1866 — 24346

PROPOSED RULES:
20 — 25690
26 — 23955, 25186
46 — 26207
52 — 24654, 24904, 24907, 24910
722 — 24911
932 — 24910
981 — 24911
1007 — 25024
1030 — 23796, 25448, 25756
1032 — 25756
1046 — 25756
1049 — 25756
1050 — 25186, 25756
1060 — 25222
1061 — 25222
1062 — 25756
1063 — 25222
1064 — 25222
1065 — 25222
1068 — 252222
1069 — 25222
1070 — 25222
1071 — 25024
1073 — 24654, 25024





**7 CFR—Continued** — Page
PROPOSED RULES—Continued
1076 — 25222
1078 — 25222
1079 — 25222
1090 — 25024
1094 — 25024
1096 — 25024, 29190
1097 — 25024
1098 — 25024
1099 — 25756
1102 — 25024
1104 — 25282
1106 — 25282
1108 — 25024
1120 — 25282
1126 — 25282
1127 — 25282
1128 — 25282
1129 — 25282
1130 — 25282
1131 — 25282
1132 — 25282
1136 — 25282
1701 — 24660

**8 CFR**
214 — 24891
238 — 24891
73 — 24346
82 — 23940
94 — 24891, 25669
97 — 23940
319 — 24640

PROPOSED RULES:
94 — 24219
102 — 23957
104 — 23957
113 — 26118
381 — 24374

**10 CFR**
110 — 23953

**12 CFR**
201 — 23772
204 — 25985
217 — 26109
329 — 25432
526 — 23940, 25433
545 — 24200
546 — 24201
561 — 26110
563 — 24202, 26110
566 — 26112
570 — 26112

PROPOSED RULES:
204 — 25703
220 — 26009
545 — 24228, 26133
702 — 26216

**13 CFR**
PROPOSED RULES:
107 — 24028

**14 CFR** — Page
39 — 23941, 24347, 24349, 24640, 24641, 25170, 25669, 25670, 25905
71 — 23941, 23942, 24204, 24350, 24641, 24892, 25171, 25433, 25905–25907, 26112
75 — 24204, 25171
91 — 24893
95 — 24893
97 — 24350
208 — 24642

**14 CFR—Continued** — Page
241 — 24351
288 — 23772
302 — 24894
389 — 24895, 26113
399 — 23777, 24642

PROPOSED RULES:
37 — 25450
39 — 23962
61 — 23962
71 — 23804, 23969, 24222, 24914, 25195, 25451, 25452, 25696, 26007
75 — 23804
121 — 23962
Ch. II — 24660
221 — 23804
241 — 24223, 24661
298 — 23805, 24662
372a — 24664
389 — 24662
399 — 25453

**15 CFR**
8 — 23777
256 — 25908
376 — 23777, 25446
377 — 25184, 26206
1000 — 25909

**16 CFR**
13 — 24352, 24353, 24634, 25434–25436

PROPOSED RULES:
1700 — 25195

**17 CFR**
210 — 26182
211 — 24635
231 — 24635
241 — 24635
251 — 24635
271 — 24635

PROPOSED RULES:
230 — 24668
270 — 26133

**19 CFR**
Ch. I — 25171
1 — 24354, 25171
4 — 24354

PROPOSED RULES:
1 — 24374, 25185
10 — 25995
11 — 25995
12 — 25995
19 — 25995
24 — 23954
25 — 25995
113 — 25995
114 — 25995
141 — 23954
142 — 25995
151 — 25448
172 — 25995

**20 CFR**
725 — 26042

PROPOSED RULES:
405 — 23802, 25448, 26132
725 — 26069

**21 CFR**
8 — 24643
9 — 24206
26 — 25985
45 — 25671
121 — 24354, 24643, 25437

**21 CFR—Continued** — Page
135 — 23942
135b — 24355, 24643, 24895, 25673, 26183
135c — 24355, 24644, 25673, 26183
135e — 25674, 25676
141 — 25674
144 — 25437
146 — 25674
149b — 25674
149d — 25675

PROPOSED RULES:
10 — 25195
121 — 24374, 14375, 25694
130 — 24220
135 — 25694
141e — 26006
273 — 26130
278 — 26007

**23 CFR**
PROPOSED RULES:
770 — 23969
772 — 25696

**24 CFR**
42 — 25172, 26113
200 — 25993
201 — 25676
203 — 24637
205 — 24637, 24896
207 — 24637
213 — 24637
220 — 24637
221 — 24637
232 — 24637
234 — 24637
235 — 24638
236 — 24638
241 — 24638
242 — 24638
244 — 24638, 24896
1700 — 23866
1710 — 23866
1715 — 23873
1720 — 23874
1914 — 23943–23945, 24355–24357, 25677, 25678, 25994, 26113, 26114
1915 — 24358, 24360

PROPOSED RULES:
20 — 24222
201 — 23803
205 — 26132
242 — 26132
244 — 26132

**25 CFR**
141 — 24638
251 — 25987
252 — 25988
256 — 23945

PROPOSED RULES:
221 — 23954, 23955
243 — 26118

**26 CFR**
1 — 24206, 26184

**29 CFR**
610 — 25988
612 — 25989
614 — 25989
1907 — 25150
1952 — 24896, 25172
1953 — 24361

PROPOSED RULES:
1910 — 24300, 24375, 26207



V 38 I 181 SEP 19 73 XUM

30 CFR — Page
57 — 23781
PROPOSED RULES:
504 — 24024

31 CFR
91 — 94897
315 — 24762, 26189
605 — 24898

32 CFR
166 — 25990
802 — 26190
806 — 26190
809 — 23945
1285 — 24206
1453 — 24210
PROPOSED RULES:
1604 — 25704

32A CFR
Ch. IV:
BP Notice 1 — 25175
Ch. X:
Reg. 1
Ch. XI
OIAB Rules and Procedures — 26103
Ch. XIII:
EPO Reg. 3 — 23977
PROPOSED RULES:
Ch. X — 26005

33 CFR
117 — 25433, 26115
127 — 24898
207 — 25176
401 — 24210
PROPOSED RULES:
117 — 24912–24914, 25455
127 — 23804

35 CFR
5 — 25438

36 CFR
50 — 24218
221 — 23948
PROPOSED RULES:
7 — 23796, 24912, 25185

38 CFR
1 — 24364
2 — 24366
17 — 24366, 26190
21 — 23948
36 — 25678

39 CFR
235 — 26193
3000 — 24898
3001 — 24898

40 CFR — Page
35 — 24639
50 — 25678
52 — 24333, 26324
113 — 25439
126 — 25681
129 — 24342
180 — 23781, 25440
PROPOSED RULES:
51 — 25697
52 — 23805
120 — 26209
180 — 23806, 24667, 24918, 25455
411 — 24462
412 — 24466
422 — 24470

41 CFR
1–1 — 24210
1–9 — 23782
1–18 — 23791
3–16 — 24644
114–50 — 24649

42 CFR
21 — 25683
51 — 26194
51a — 26195
51b — 26196
52 — 26196
53 — 26196
54 — 26197
55 — 26197
56 — 26197
57 — 26198
59 — 26198
59a — 26199
87 — 26199
91 — 26200
205 — 26201
206 — 26201
208 — 26201

43 CFR
4 — 23948
3830 — 24650
4710 — 24650
PUBLIC LAND ORDERS:
5383 — 25684

45 CFR
74 — 26274
201 — 26320
220 — 26320
401 — 26320
403 — 26320
404 — 26320
405 — 26320
406 — 26320
408 — 26320
416 — 26320
901 — 26201
903 — 26201
904 — 26201
905 — 26201
909 — 24900, 26201
PROPOSED RULES:
221 — 24872
233 — 23802

45 CFR—Continued — Page
PROPOSED RULES—Continued
250 — 25450
903 — 23912

46 CFR
PROPOSED RULES:
146 — 23959
542 — 23979
538 — 24228

47 CFR
0 — 24900
1 — 26202
2 — 24901, 25180, 25991
13 — 25684
23 — 24901
73 — 24367, 25991, 26203, 26204
74 — 25991, 25992
81 — 24211, 25180, 25991
83 — 24368, 25180, 25992
87 — 25684
89 — 24901
91 — 25182
93 — 24901
97 — 24211
PROPOSED RULES:
61 — 24920
73 — 25703, 26008, 26211, 26212
83 — 25196

49 CFR
1 — 24901, 24902
170 — 23791
171 — 23792
172 — 23792
177 — 23792
178 — 23792
393 — 25182
570 — 23949, 25685
1003 — 26205
1033 — 23792, 23793, 23952, 24212, 24902, 25183, 25685, 26205
1048 — 24368
1115 — 23953, 24903, 25686
1121 — 24902
1134 — 26205
1140 — 26205
PROPOSED RULES:
172 — 24915
173 — 24915
393 — 24223, 25452, 25696
542 — 23979
571 — 23804
1057 — 24228
1131 — 23979

50 CFR
20 — 23793
32 — 23793, 23794, 24212, 24369–24373, 24650–24652, 25183, 25441–25445, 25686, 25992, 26115, 26116, 26205
33 — 25445
253 — 26116
PROPOSED RULES:
21 — 23796
32 — 25693





## FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

| Pages | Date |
|---|---|
| 23765–23922 | Sept. 4 |
| 23923–24184 | 5 |
| 24185–24326 | 6 |
| 24327–24625 | 7 |
| 24627–24874 | 10 |
| 24875–25154 | 11 |
| 25155–25420 | 12 |
| 25421–25654 | 13 |
| 25655–25895 | 14 |
| 25897–26091 | 17 |
| 26093–26171 | 18 |
| 26173–26344 | 19 |



V 38 - 181 SEP 19 73 XUM

federal register

WEDNESDAY, SEPTEMBER 19, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 181

PART II

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Office of the Secretary

■

## ADMINISTRATION OF GRANTS

No. 181—Pt. II——1

V 38-181 SEP 1973 XUM

Title 45—Public Welfare

## SUBTITLE A—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, GENERAL ADMINISTRATION

## PART 74—ADMINISTRATION OF GRANTS

The following Part 74 establishes a regulatory umbrella for Department of Health, Educaton, and Welfare (DHEW) implementation of Office of Management and Budget (OMB) Circular No. A–102 "Uniform administrative requirements for grants-in-aid to State and local governments." In addition, Part 74 establishes (in Subpart Q and Appendices C, D, E, and F) principles for determining allowable costs under DHEW grants to the various types of grantee organizations.

*Relation to OMB Circular No. A–102.* Subparts B through P, inclusive, are derived from OMB Circular No. A–102, which is binding on DHEW and all other Federal agencies making grants to State and local governments. The Circular was one of the major results of the Federal Assistance Review (FAR) program, a three-year effort ordered by the President on March 29, 1969, to simplify, standardize, decentralize, and otherwise modernize the Federal grant machinery. Inherent in the FAR program and in the development of the standards in Circular A–102 was the concept of placing greater reliance on State and local governments.

Circular No. A–102 consists of a basic document, setting forth the Circular's purpose, background, certain definitions, coverage, etc., and a series of attachments, each of which covers a more or less discrete area of grant administration. The Circular's attachments are as follows:

| Attachment: | *Subject* |
|---|---|
| A | Cash Depositories. |
| B | Bonding and Insurance. |
| C | Retention and Custodial Requirements for Records. |
| D | Waiver of "Single" State Agency Requirements. |
| E | Program Income. |
| F | Matching Share. |
| G | Standards for Grantee Financial Management Systems. |
| H | Financial Reporting Requirements. |
| I | Monitoring and Reporting of Program Performance. |
| J | Grant Payment Requirements. |
| K | Budget Revision Procedures. |
| L | Grant Closeout Procedures. |
| M | Standard Forms for Applying for Federal Assistance. |
| N | Property Management Standards. |
| O | Procurement Standards. |

Subpart A of Part 74 provides general requirements applicable to Part 74 as a whole, and is roughtly analogous in function to the basic A–102 circular document. Subparts B through P of Part 74 correspond on a one-to-one basis with Attachments A through O of the Circular.

*Cost principles.* The four sets of cost principles prescribed by Subpart Q (and set forth in full text in Appendices C, D, E, and F) have been in use by DHEW for several years but have hitherto been published by DHEW only in staff manual and brochure formats.

Appendix C covers grants to State and local governments, and is taken essentially verbatim from OMB Circular No. A–87 "Principles for determining costs applicable to grants and contracts with State and local governments" which is binding on all Federal agencies. Appendix D covers grants to institutions of higher education; it is taken essentially verbatim from OMB Circular No. A–21, which is also Government-wide in applicability. Part I of Circular A–21 (and of Appendix D) is entitled "Principles for determining costs applicable to research and development under grants and contracts with educational institutions." Part II is entitled "Principles for determining costs applicable to training and other educational service under grants and contracts with educational institutions."

Appendices E and F respectively cover grants to hospitals and grants to all other nonprofit organizations. These two sets of cost principles were developed by DHEW several years ago because there are no Government-wide cost principles for these two kinds of grantee organizations. The DHEW principles are basically translations into the hospital and nonprofit organization context of the precedents established by the preexisting Government-wide cost principles that have been applicable to other types of grantee organizations. In the hospital cost principles, the provisions dealing with research patient care costs (for clinical research grants) were adapted from the principles used by the Social Security Administration for reimbursement of (hospital) provider costs under the Medicare program.

*Applicability of Subparts B through P.* Since OMB Circular No. A–102 is applicable to all Federal grants to State or local governments, Subparts B through P of Part 74 are of necessity applicable to all DHEW grants to State or local governments. For this purpose, the terms "State" and "local government" are (as in Circular A–102) defined in Part 74 (§ 74.3) so as not to include any institutions of higher education or hospitals.

Circular A–102 is not by its terms required to be applied to Federal grants to school districts. However, DHEW has elected to apply the Circular to its school district grantees as if such application had been made mandatory by OMB; the Department can find no basis for denying school districts the benefits of the new standardization of administrative requirements. DHEW has traditionally made grants to school districts on essentially the same terms and conditions as grants to other governmental entities; nor can the Department find any provisions in Circular A–102 which appear to be unsuitable for school districts. To reflect this decision, the definition of "local government" in § 74.3 expressly includes school districts, so that they are covered by Subparts B through P.

DHEW also had to consider the question of whether to apply the provisions of Circular A–102 to the nongovernmental sector, i.e., institutions of higher education, hospitals, and other nonprofit grantees. Although the Circular was designed only for grants to State and local governments, a substantial number of its provisions are equally appropriate for grants to nongovernmental grantees. Additionally, the General Services Administration is expected in the not too distant future to issue a Federal policy statement (binding on HEW) which in effect will extend the applicability of many of Circular A–102's provisions to nongovernmental grantees.

In keeping with the traditional DHEW practice of using similar terms and conditions for all eligible recipients, it would be clearly desirable for many DHEW grant programs to adopt these A–102 provisions, to the extent feasible, for all grantee types at the same time.

Consequently, Subparts B through P of Part 74 are designed so that the granting agencies of DHEW may, where determined to be appropriate, make them applicable to institutions of higher education, hospitals, and other types of grantees which are not State or local governments. This is reflected in §§ 74.1(b) and 74.4(a)(2) of Part 74.

Within certain attachments to Circular A–102 there are a few provisions which are suitable only for State and local governments (including school districts). The corresponding provisions in Subparts B through P of Part 74 expressly limit their applicability to only such grantees. Therefore a DHEW granting agency can make the appropriate provisions within a given subpart of Part 74 applicable to its nongovernmental grantees simply by making the entire subpart applicable; the inappropriate provisions are self-deleting for nongovernmental grantees and would not apply in such cases. This is reflected in § 74.4(a)(2)(ii).

Most of DHEW's decisions about applying Part 74 to nongovernmental grantees have been made, and are reflected in program regulation amendments published in separate documents in this issue of the FEDERAL REGISTER. Those amendments are discussed below.

*Deferred applicability to Office of Education and National Institute of Education programs.* Part 74 is effective on September 19, 1973, except for those programs administered by the Office of Education and the National Institute of Education. For such grant programs, Part 74 will become effective upon adoption or implementation by respectively the Commissioner of Education and the Director of the National Institute of Education in regulations issued by them with the approval of the Secretary of Health, Education, and Welfare. Both agencies have published proposals (Office of Education at 38 FR 10386, April 26, 1973, and National Institute of Education at 38 FR 1020, January 8, 1973) for agency-wide general provisions





regulations to cover all their grant programs. When republished in final form, those general provisions will be consistent with this Part 74, and will constitute the adoption or implementation of Part 74 by the Commissioner and the Director.

*Program regulation amendments.* In connection with the issuance of this Part 74, a number of amendments to DHEW grant program regulations are published in separate documents in this issue of the FEDERAL REGISTER. The CFR chapters involved are as follows:

Title 42, Chapter I, Public Health Service.
Title 42, Chapter II, Children's Bureau.
Title 45, Chapter II, Social and Rehabilitation Service (Assistance Programs).
Title 45, Chapter IV, SRS (Rehabilitation Programs).
Title 45, Chapter IX, Administration on Aging.

The primary purpose of those amendments is to relate those program regulations to this new Part 74. They accomplish this purpose in three ways:

(1) They revoke, or modify as necessary, provisions inconsistent with this Part 74;

(2) They insert crossreferences to this Part 74 where appropriate, in order to alert the reader of those regulations to the applicability of this regulation to grants to State and local governments; and

(3) Where determined to be appropriate, they provide exceptions to specified subparts of this Part 74. They also make specified subparts of Part 74 applicable to grants to other types of grantees.

*Omission of notice of proposed rule making.* Notice of proposed rule making and delay in effective date have been omitted in the issuance of these amendments which relate solely to administrative requirements and cost principles for DHEW grants.

*Opportunity to comment.* Written comments concerning these amendments are invited from interested persons. Comments may be addressed to the Assistant Secretary for Administration and Management, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, D.C. 20201. All comments received in response to this invitation will be available for public inspection at room 4829, 400 Sixth Street SW., Washington, D.C., between the hours of 9:00 a.m. and 5:30 p.m. weekdays, Federal holidays excepted.

Interested persons are reminded that, as explained above, much of the following Part 74 is derived from OMB Circulars A–102, A–87, and A–21, from which DHEW cannot unilaterally deviate. Consequently, the Department's discretion to act on any comments which take issue with provisions mandated by OMB circulars may be limited to referral of such comments to those Federal officials who are in a position to change the circulars.

Comments on other aspects of Part 74 (such as its applicability to school districts, institutions of higher education, hospitals, and other recipients not mandatorily covered by Circular A–102, the DHEW cost principles in Appendices E and F, etc.) will be considered independently by the Department.

*Effective date.*—This part shall become effective on September 19, 1973: *Provided, however,* That with respect to programs administered by the Office of Education and the National Institute of Education, this part shall become effective upon adoption or implementation in regulations issued by, respectively, the Commissioner of Education and the Director of the National Institute of Education, with the approval of the Secretary of Health, Education, and Welfare.

Dated September 7, 1973.

FRANK CARLUCCI,
*Acting Secretary of Health, Education, and Welfare.*

Subtitle A of Title 45 of the Code of Federal Regulations is amended by adding a new Part 74, as follows:


**Subpart A—General**

Sec.
74.1 Purpose and scope of this part.
74.2 Scope of subpart.
74.3 Definitions.
74.4 Applicability of this part.
74.5 Appeals.
74.6 Deviations.

**Subpart B—Cash Depositories**

74.10 Physical segregation and eligibility.
74.11 Checks-paid basis letter of credit.
74.12 Minority-owned banks.

**Subpart C—Bonding and Insurance**

74.15 General.
74.16 Construction and facility improvement.
74.17 Loan guarantees.

**Subpart D—Retention and Custodial Requirements for Records**

74.20 Length of retention period.
74.21 Starting date of retention period.
74.22 Substitution of microfilm.
74.23 Access to records.
74.24 Restrictions on public access.

**Subpart E—Waiver of "Single" State Agency Requirements [Reserved]**

**Subpart F—Grant-Related Income**

74.40 Scope of subpart.
74.41 Meaning of program income.
74.42 Interest income.
74.43 Sale of real and personal property.
74.44 Royalties.
74.45 Other program income.
74.46 Earmarked revenues of State or local governments.

**Subpart G—Matching and Cost Sharing**

74.50 Purpose and scope.
74.51 Definitions.
74.52 Allowability.
74.53 Valuation of in-kind contributions from third parties.
74.54 Supporting records for in-kind contributions from third parties.

**Subpart H—Standards for Grantee and Subgrantee Financial Management Systems**

74.60 Scope of subpart.
74.61 Standards.
74.62 Subgrantees.

**Subpart I—Financial Reporting Requirements**

74.70 Scope of subpart.
74.71 Definitions.
74.72 Authorized form and instructions.
74.73 Financial Status Report.
74.74 Report of Federal Cash Transactions.
74.75 Request for Advance or Reimbursement.
74.76 Outlay Report and Request for Reimbursement for Construction Programs.
74.77 Requests for supplementary Treasury checks.

**Subpart J—Monitoring and Reporting of Program Performance**

74.80 Scope of subpart.
74.81 Monitoring by grantees.
74.82 Performance reports for nonconstruction grants.
74.83 Performance reports for construction grants.
74.84 Significant developments between scheduled reporting dates.
74.85 Budget revision.
74.86 Site visits.

**Subpart K—Grant Payment Requirements**

74.90 Scope of subpart.
74.91 Definitions.
74.92 Payment methods for nonconstruction grants.
74.93 Payment methods for construction grants.
74.94 Withholding of payments.
74.95 Requesting advances or reimbursements.

**Subpart L—Budget Revision Procedures**

74.100 Scope of subpart.
74.101 Grant budget.
74.102 Nonconstruction grants.
74.103 Construction grants.
74.104 Construction and nonconstruction work under the same grant.
74.105 Authorized funds exceeding grantee needs.
74.106 Method of requesting approvals.
74.107 Notification of approval or disapproval.

**Subpart M—Grant Closeout, Suspension, and Termination**

74.110 Definitions.
74.111 Closeout.
74.112 Violation of grant terms and conditions.
74.113 Suspension.
74.114 Termination.

**Subpart N—Forms for Applying for Grants**

74.120 Scope of subpart.
74.121 Authorized forms and instructions.
74.122 Preapplication for Federal Assistance.
74.123 Notice of Preapplication Review Action.
74.124 Application for Federal Assistance (Nonconstruction Programs)
74.125 Application for Federal Assistance (for Construction Programs)
74.126 Application for Federal Assistance (Short Form)

**Subpart O—Property**

74.130 Scope of subpart.
74.131 General.
74.132 Definitions.
74.133 Real property.
74.134 Nonexpendable personal property.
74.135 Transfer of title to certain property.
74.136 Property management standards.
74.137 Expendable personal property.
74.138 Waiver of accountability.
74.139 Patents and inventions.
74.140 Copyrights.
74.141 Determining percentage of participation.

**Subpart P—Procurement Standards**

74.150 Scope of subpart.
74.151 General.
74.152 Code of Conduct.
74.153 Free competition.
74.154 Procedural requirements.
74.155 Negotiated procurements by State or local governments.




V 38-181 SEP 19 73 XUM

Sec.
74.156 Contractor responsibility.
74.157 Records for negotiated procurements by State or local governments.
74.158 Contract administration system.
74.159 Contract and subgrant provisions.

Subpart Q—Cost Principles

74.170 Scope of subpart.
74.171 Grants to State or local governments.
74.172 Grants to institutions of higher education.
74.173 Grants to hospitals.
74.174 Grants to other nonprofit organizations.
74.175 Subgrants and cost-type contracts.
Appendix A—[Reserved]
Appendix B—[Reserved]
Appendix C—Principles for determining costs applicable to grants and contracts with State and local governments.
Appendix D—Part I—Principles for determining costs applicable to research and development under grants and contracts with educational institutions.
Part II—Principles for determining costs applicable to training and other educational services under grants and contracts with educational institutions.
Appendix E—Principles for determining costs applicable to research and development under grants and contracts with hospitals.
Appendix F—Principles for determining costs applicable to grants and contracts with nonprofit institutions.

AUTHORITY: 5 U.S.C. 301. Subparts B through P inclusive also issued under Office of Management and Budget Circular No. A-102. Apendix C also issued under Office of Management and Budget Circular No. A-87. Appendix D also issued under Office of Management and Budget Circular No. A-21.

## Subpart A—General

### § 71.1 Purpose and scope of this part.

(a) This part establishes:

(1) Uniform requirements for the administration of HEW grants to State or local governments, and

(2) Principles for determining costs applicable to activities assisted by HEW grants awarded to:

(i) State or local governments

(ii) Institutions of higher education

(iii) Hospitals, and

(iv) Other nonprofit organizations.

(b) Subparts B through P, inclusive, of this part are designed so that they may also be applied to grants to grantees other than State and local governments, where the granting agency concerned as a matter of policy (see § 74.4(a)(2)) finds such application to be appropriate.

### § 71.2 Scope of subpart.

This subpart sets forth (a) general rules and regulations pertaining to this Part 74 (definitions, purpose and scope, applicability, and appeals) and (b) procedures for control of deviations from the part.

### § 71.3 Definitions.

As used in this part, the words and terms defined in this section shall have the meanings set forth below, unless a different definition is prescribed for a particular portion of this part.

"Grant" means money, or property provided in lieu of money, paid or furnished by the Federal Government to an eligible recipient under programs that provide financial assistance. The term includes such financial assistance when provided by contract, but does not include any Federal procurements subject to the procurement regulations in 41 CFR, nor does it include technical assistance or other assistance in the form of revenue sharing, loans, loan guarantees, interest subsidies, insurance, or direct appropriations.

"Grantee" means the organization or person to which a grant is made and which is accountable to the Federal Government for the use of the funds provided. The term does not include any secondary recipients such as subgrantees, contractors, etc., who may receive funds from a grantee pursuant to a grant.

"Granting agency" means the operating agency of HEW (or the organizational component within the Office of the Secretary of Health, Education, and Welfare) authorized to award and administer grants, including (1) the Office of Education, (2) the Health Services and Mental Health Administration, (3) the Social and Rehabilitation Service, (4) the National Institutes of Health, (5) the Food and Drug Administration, or (6) the National Institute of Education.

"HEW" means the U.S. Department of Health, Education, and Welfare, including its granting agencies.

The term "local government" means a local unit of government including specifically a county, municipality, city, town, township, school district, local public authority, special district, intrastate district, council of governments, sponsor group representative organization, and other regional or interstate government entity, or any agency or instrumentality of a local government exclusive of institutions of higher education and hospitals.

"OGPM" means the Office of Grants and Procurement Management, which is an organizational component within the Office of the Secretary of Health, Education, and Welfare.

"OMB" means the Office of Management and Budget within the Executive Office of the President.

"State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of State institutions of higher education and hospitals.

"Subgrant" means money, or property provided in lieu of money, paid or furnished by a grantee to an eligible recipient as financial assistance pursuant to a grant. The term includes such financial assistance when provided by contract, but does not include procurements, nor does it include any form of assistance which is excluded from the definition of "grant" in this section.

"Subgrantee" means the organization or person to which a subgrant is made and which is accountable to the grantee for the use of the funds provided.

"Terms and conditions" of a grant means all legal requirements imposed on a grant by the Federal Government whether under statute, regulations, the grant award document itself, or otherwise.

### § 74.4 Applicability of this part.

(a) *Subparts B through P, inclusive*—(1) *Applicability to State or local governments.* Except to the extent inconsistent with an applicable Federal statute or regulation, Subparts B through P, inclusive of this part, are applicable to all HEW grants to State or local governments. Note, however, that Subpart N "Forms for Applying for Grants" has a more limited applicability, as stated therein.

(2) *Applicability to other types of grantees.* (i) Subparts B through P, inclusive of this part, are applicable to HEW grants to grantees other than State and local governments only to the extent made applicable by other duly published HEW policy statements (usually, but not necessarily, in the program regulations of the granting agency).

(ii) Where any given subpart of this part has been so made applicable in its entirety, any particular provision in that subpart which by its terms is expressly limited to State or local governments shall not be deemed to have been made applicable to other grantees. See, for example, §§ 74.44(b) and (c)(1)(ii), 74.46, 74.61(h), 74.102(b)(3) and (4), 74.140, 74.154(e), 74.155, 74.157, and 74.159(b)(1) and (2).

(b) *Subpart Q.* The applicability of Subpart Q of this part is set forth therein.

### § 74.5 Appeals.

Attention is called to the fact that in accordance with Part 16 of this title, grantees may formally appeal certain postaward administrative decisions made by HEW officials.

### § 74.6 Deviations.

(a) A deviation shall be considered to be either of the following, except when specifically mandated by Federal legislation:

(1) Use of any policy, procedure, form, standard, or grant condition which is inconsistent with an applicable provision of this part, or

(23) Failure to use when applicable any policy, procedure, form, standard, or grant condition which is required by this part.

(b) In the interest of maintaining uniformity to the greatest extent feasible, deviations shall be kept to a minimum. A deviation, whether proposed by an applicant for a grant, a grantee, or an official of the granting agency, may be authorized only when necessary to meet programmatic objectives, or to conserve grant funds, or is otherwise essential in the public interest.





(c) Deviations from subparts B through P, inclusive, of this part may be made on an HEW grant to a State or a local government, or a class of such grants, only when authorized by both:

(1) The head of the granting agency, or other officials if designated in or pursuant to formal deviation control procedures established by the agency, and

(2) OGPM.

(d) Where a provision in subparts B through P, inclusive, of this part has been made applicable (in accordance with § 74.4(a)(2)) to a class of HEW grants to organizations other than State or local governments, deviations from that provision on such grants may be made only when authorized by the head of the granting agency or by other officials if designated in or pursuant to formal deviation control procedures established by the agency.

(e) Deviations from Subpart Q of this part and Appendices C, D, E, and F to this part may be made only as follows:

(1) In individual cases (i.e., where only a single grant is involved) deviations may be authorized by the head of the granting agency or by other officials if designated in or pursuant to formal deviation control procedures established by the agency.

(2) Deviations in classes of cases may be made only when authorized as provided in paragraph (c) of this section.

## Subpart B—Cash Depositories

### § 74.10 Physical segregation and eligibility.

Except as provided in § 74.11, HEW will not:

(a) Require physical segregation of cash depositories for HEW grant funds which are provided to a grantee;

(b) Establish any eligibility requirements for cash depositories in which HEW grant funds are deposited by grantees or their subgrantees.

### § 74.11 Checks-paid basis letter of credit.

A separate bank account shall be used when payments under letter of credit are made on a "check-paid" basis in accordance with agreements entered into by a grantee, the Federal Government, and the banking institutions involved. A checks-paid basis letter of credit is one under which funds are not drawn from the Treasury until the grantee's checks have been presented to its bank for payment.

### § 74.12 Minority-owned banks.

Consistent with the national goal of expanding opportunities for minority business enterprises, grantees are encouraged to use minority-owned banks.

## Subpart C—Bonding and Insurance

### § 74.15 General.

In administering HEW grants, grantees shall observe their regular requirements and practices with respect to bonding and insurance. HEW will not impose additional bonding and insurance requirements, including fidelity bonds, except as provided in §§ 74.16 and 74.17.

### § 74.16 Construction and facility improvement.

The recipient of an HEW grant which requires contracting for construction or facility improvement (including any HEW grant which provides for alterations or renovations of real property) shall follow its own requirements and practices relating to bid guarantees, performance bonds, and payment bonds except for contracts exceeding $100,000. For contracts exceeding $100,000, the minimum requirements shall be as follows:

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. The bid guarantee shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(b) A performance bond on the part of the contractor for 100 percent of the contract price. A performance bond is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under the contract.

(c) A payment bond on the part of the contractor for 100 percent of the contract price. A payment bond is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

### § 74.17 Loan guarantees.

Where in connection with an HEW grant, HEW also guarantees the payment of money borrowed by the grantee, the granting agency may at its discretion, require adequate bonding and insurance if the bonding and insurance requirements of the grantee are not deemed to be sufficient to protect adequately the interests of the Federal Government.

## Subpart D—Retention and Custodial Requirements for Records

### § 74.20 Length of retention period.

HEW will not impose record retention requirements over and above those established by the grantee except that financial records, supporting documents, statistical records, and all other records pertinent to an HEW grant, or to any subgrant (or negotiated contract exceeding $2,500) thereunder, shall be retained for a period of three years, with the following qualifications:

(a) If audit by or on behalf of the Federal Government has begun but is not completed at the end of the three-year period, or if audit findings have not been resolved at the end of the three-year period, the records shall be retained until resolution of the audit findings. In no case, however, will HEW require retention of records relating to any grant with respect to which actions by the United States to recover for diversion of money paid under the grant are barred by the statute of limitations in 28 U.S.C. 2415(b).

(b) In order to avoid duplicate record-keeping, granting agencies may make special arrangements with grantees to retain any records which are continuously needed for joint use. The granting agency will request transfer of records to its custody from grantees when it determines that the records possess long-term retention value. When the records are transferred to or maintained by HEW, the three year retention requirement is not applicable to the grantee.

### § 74.21 Starting date of retention period.

(a) *General.* Except for records covered by paragraphs (b) and (c) of this section, where HEW grants support is continued or renewed on an annual or essentially annual basis, the retention period for each year's records starts from the date of submission to HEW of the grantee's annual expenditure report for that year; in all other cases the retention period starts from the date of submission to HEW of the grantee's final expenditure report. The term "expenditure report" means:

(1) For nonconstruction grants, the "Financial Status Report" (or other report equivalent thereto).

(2) For construction grants, the "Outlay Report and Request for Reimbursement for Construction Programs" (or other report equivalent thereto).

(b) *Records for nonexpendable property.* For nonexpendable personal property whose acquisition cost was borne in whole or in part by an HEW grant, the property records required by § 74.136(a) shall be retained for three years after final disposition of the property. For purposes of this paragraph, payment by the grantee to the United States for the Federal share of the fair market value of such property, in accordance with Subpart O of this part, shall be deemed a final disposition of such property.

(c) *Records for indirect cost rate proposals, etc.*—(1) *Applicability.* This paragraph applies to records supporting (i) indirect cost rate proposals, (ii) cost allocation plans of State and local governments pursuant to Appendix C to this part, (iii) hospital patient care rate proposals, and (iv) any similar accounting computations of the rate at which a particular group of costs is chargeable to HEW grants. Examples of the latter are computer usage chargeback rate computations and composite fringe benefit rate computations.

(2) *If submitted to the Federal Government.* If the proposal, plan, or other computation is required to be submitted to the Federal Government to form the basis for negotiation of the rate, then the three-year retention period for its supporting records starts from the date of such submission.

(3) *If not submitted to the Federal Government.* If the proposal, plan, or other computation is not required to be submitted to the Federal Government for negotiation purposes, then the three-year retention period for its supporting records starts from the end of the



V 38 I 181 SEP 19 73 XUM

grantee's fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

**§ 74.22 Substitution of microfilm.**

Grantees may be authorized by the granting agency to substitute microfilm or other adequate copies in lieu of original records.

**§ 74.23 Access to records.**

(a) HEW and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the grantee which any of them determine are pertinent to a specific HEW grant, for the purpose of making audit; examination, excerpts and transcripts.

(b) In the case of a subgrant (or negotiated contract exceeding $2,500) under an HEW grant, the grantee, HEW, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the subgrantee (or the contractor) which the grantee, HEW, the Comptroller General of the United States, or any of their duly authorized representatives determine are pertinent to the specific HEW grant, for the purpose of making audit, examination, excerpts, and transcripts.

**§ 74.24 Restrictions on public access.**

Unless otherwise required by law, HEW will not place restrictions on grantees which will limit public access to the grantee's records or to the records of their subgrantees or contractors, except when the records must remain confidential for any of the following reasons:

(a) To prevent a clearly unwarranted invasion of personal privacy;

(b) To comply with an Executive Order or statute which specifically requires the records to be kept secret;

(c) To protect commercial or financial information obtained from a person or a firm on a privileged or confidential basis; or

(d) To protect information which can be improperly exploited for personal gains.

## Subpart E—Waiver of Single State Agency Requirements [Reserved]

## Subpart F—Grant-Related Income

**§ 74.40 Scope of subpart.**

This subpart sets forth standards for grantees in accounting for program income and other income related to projects and programs financed in whole or in part by HEW grants.

**§ 74.41 Meaning of program income.**

As used in this subpart, the term "program income" shall have the meaning set forth for that term in § 74.71.

**§ 74.42 Interest income.**

(a) As used in paragraph (b) of this section:

(1) The term "State" shall have the meaning set forth in § 102 of the Intergovernmental Cooperation Act of 1968.

(2) The term "grant-in-aid" shall have the meaning set forth for that term in section 106 of the Intergovernmental Cooperation Act of 1968.

(b) In accordance with section 203 of the Intergovernmental Cooperation Act of 1968, States shall not be held accountable for interest earned on grant-in-aid funds, pending their disbursement for program purposes.

(c) In all other cases, grantees shall remit to the Federal Government any interest earned on advances of grant funds.

**§ 74.43 Sale of real and personal property.**

Proceeds from the sale of real and tangible personal property whose acquisition cost was borne in whole or in part by an HEW grant shall be handled in accordance with Subpart O of this part.

**§ 74.44 Royalties.**

(a) *Applicability*—(1) Copyrights. This section applies to royalties received by grantees from copyrights on publications or other works developed under HEW grants.

(2) *Patents.* This section also applies to royalties received by grantees from patents on inventions conceived or first actually reduced to practice in the course of or under any HEW grant.

(b) *During the grant period.* (1) If the grantee is a State or local government, royalties received during the grant period shall be retained by the grantee. The terms and conditions of the grant shall provide either:

(i) That such royalties shall be used by the grantee for any purposes which further the objectives of the legislation under which the grant was made, or

(ii) That such royalties shall be deducted from total project costs for the purpose of determining the net costs on which the Federal share of costs shall be based.

(2) When the grantee is a State or local government, the grantee shall elect either of the alternatives specified in subparagraph (1) of this paragraph if the terms and conditions of the grant do not specify which is to be followed.

(3) If the grantee is not a State or local government, disposition of royalties received during the grant period shall be governed by agreements as provided in paragraphs (c)(1)(i) and (c)(2) of this section.

(c) *After the grant period*—(1) *Copyrights.* (i) Disposition of copyright royalties received after the termination or completion of the grant period should ordinarily be governed by specific agreements between the granting agency and the grantee. Such agreements may be negotiated on a case-by-case basis, or may be in the form of a standard rule or policy of the granting agency, agreed to by the grantee as one of the conditions of the grant.

(ii) If the grantee is a State or local government and no other agreement between the granting agency and the grantee is applicable, the Federal share of copyright royalties in excess of $200 received annually shall be paid by the grantee to the granting agency. In such cases, the Federal share of the royalties shall be computed on the same ration basis as the percentage of Federal participation in the cost of the project or program. This percentage of participation shall be determined in accordance with § 74.141.

(2) *Patents.* Disposition of patent royalties received after the termination or completion of the grant period shall be governed by agreements between the Assistant Secretary for Health, Department of Health, Education, and Welfare, and the grantee, pursuant to the Department's patent regulations (Parts 6 and 8 of this title).

**§ 74.45 Other program income.**

(a) This section applies to all program income earned during the grant period except royalties and proceeds from the sale of real property or tangible personal property.

(b) All such income earned during the grant period shall be retained by the grantee. The terms and conditions of the grant shall provide either:

(1) That such income shall be used by the grantee for any purposes which further the objectives of the legislation under which the grant was made, or

(2) That such income shall be deducted from total project costs for the purpose of determining the net costs on which the Federal share of costs shall be based.

(c) The grantee shall elect either of the alternatives specified in paragraph (b) of this section if the terms and conditions of the grant do not specify which is to be followed.

**§ 74.46 Earmarked revenues of State or local governments.**

State or local government grantees shall record the receipt and expenditure of revenues such as taxes, special assessments, levies, fines, etc., as a part of grant project transactions when such revenues are specifically earmarked for a grant project in accordance with the terms and conditions of a grant.

## Subpart G—Matching and Cost Sharing

**§ 74.50 Purpose and scope.**

This subpart sets forth criteria and procedures for the allowability and evaluation of cash and in-kind contributions in satisfying matching or cost sharing requirements of HEW grants.

**§ 74.51 Definitions.**

"Cash contributions" means the grantee's cash outlay, including the outlay of money contributed to the grantee by third parties. Unless authorized by Federal legislation, outlays charged to other Federal grants or to Federal contracts may not be considered as grantee's cash contributions.

"In-kind contributions" represent the value of noncash contributions provided by the grantee or third parties. In-kind contributions may consist of charges for real property and nonexpendable personal property, and the value of goods and services directly benefiting and





specifically identifiable to the grant-supported activity. Unless otherwise authorized by Federal legislation, charges for property purchased wholly with Federal funds, and charges based on the Federal share of the value of property purchased partly with Federal funds, may not be considered as the grantee's in-kind contributions.

"Matching or cost sharing" represents, in general, that portion of project costs not borne by the Federal Government.

"Project costs" means the sum of (a) the allowable costs incurred by the grantee and (b) the allowable in-kind contributions made by third parties.

**§ 74.52 Allowability.**

(a) Matching or cost sharing may consist of:

(1) Charges incurred by the grantee as project costs. Not all charges require cash outlays during the grant period by the grantee; examples are depreciation and use allowances for buildings and equipment.

(2) Project costs financed with cash contributed or donated to the grantee by third parties.

(3) Project costs represented by in-kind contributions made by non-Federal third parties. Where in-kind contributions are made by the Federal Government, they may be included in the grantee's matching or cost sharing only if Federal legislation authorizes such inclusion.

(b) All contributions whether cash or in-kind (including in-kind contributions from third parties) shall be accepted as part of the grantee's matching or cost sharing when such contributions:

(1) Are identifiable from the grantee's records, and

(2) Are not included as contributions for any other federally assisted program, or any Federal contract, and

(3) Are necessary and reasonable for proper and efficient accomplishment of project objectives, and

(4) If made by the grantee, are types of costs which are allowable under the applicable cost principles specified in Subpart Q of this part, and

(5) Are not borne by the Federal Government directly or indirectly under any Federal grant or contract (unless the other grant or contract may, under authority of law, be used for matching or cost sharing), and

(6) Conform to other applicable provisions of this subpart.

**§ 74.53 Valuation of in-kind contributions from third parties.**

(a) *Valuation of volunteer services.*—(1) *General.* Volunteer services may be furnished by professional and technical personnel, consultants, and other skilled and unskilled labor. Volunteered service may be counted as matching or cost sharing if it is an integral and necessary part of an approved program.

(2) *Rates for volunteer services.* Rates for volunteers should be consistent with those regular rates paid for similar work in other activities of the grantee. In cases where the kinds of skills required for the federally assisted activities are not found in the other activities of the grantee, rates used should be consistent with those paid for similar work in the labor market in which the grantee competes for the kind of services involved.

(3) *Volunteers employed by other organizations.* When an employer other than the grantee furnishes the services of an employee, these services shall be valued at the employee's regular rate of pay (exclusive of fringe benefits and overhead cost) provided these services are in the same skill for which the employee is normally paid.

(b) *Valuation of donated real or tangible personal property, or use thereof.*—(1) *Donation of title.* If the donor transfers title to the property, the amount to be allowed as matching or cost sharing shall be determined as if the grantee had purchased the property and had paid the fair market value of the property at the time of transfer.

(2) *Donation of use.* If only use of the property is donated, and the donor retains title, the amount to be allowed as matching or cost sharing shall be determined as if the grantee had rented the property and had paid the property's fair rental value.

(3) *Appraisal.* The granting agency may require that the value of real property be established by an independent appraiser (i.e., a private realty firm or a General Services Administration representative) and certified by the responsible official of the grantee as a precondition to allowability for matching or cost sharing purposes.

(c) *Valuation of other in-kind contributions by third parties.* Other necessary in-kind contributions made by third parties specifically for and in direct benefit to the grant program may be accepted as matching or cost sharing provided that they are adquately supported and permissible under the law. Such charges must be reasonable and properly justifiable.

**§ 74.54 Supporting records for in-kind contributions from third parties.**

The following requirements pertain to the grantee's supporting records for in-kind contributions from third parties:

(a) The extent of volunteer services must be supported by the same methods used by the grantee for its employees.

(b) The basis for determining the charges for personal services, material, equipment, buildings, and land must be documented.

## Subpart H—Standards for Grantee and Subgrantee Financial Management Systems

**§ 74.60 Scope of subpart.**

This subpart prescribes standards for financial management systems of grant-supported activities conducted by grantees and their subgrantees. Neither the Department nor its granting agencies will impose additional standards unless specifically provided for elsewhere in this part. However, suggestions and assistance may be provided in establishing or improving financial management systems when needed or requested.

**§ 74.61 Standards.**

Grantee financial management systems for grants and subgrantee financial management systems for subgrants shall provide for:

(a) Accurate, current, and complete disclosure of the financial results of each grant in accordance with Federal reporting requirements and for each subgrant in accordance with the grantee's requirements. Except when specifically required by law, HEW will not require financial reporting on the accrual basis from organizations whose records are not maintained on that basis. However, when accrual reporting is required by law, organizations whose records are not maintained on that basis will not be required to convert their accounting systems to the accrual basis; they may develop the accrual information through an analysis of the documentation on hand or on the basis of best estimates.

(b) Records which identify adequately the source and application of funds for grant- or subgrant-supported activities. These records shall contain information pertaining to grant or subgrant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.

(c) Effective control over and accountability for all grant or subgrant funds, and real and personal property acquired with grant or subgrant funds. Grantees and subgrantees shall adequately safeguard all such property and shall assure that it is used solely for authorized purposes.

(d) Comparison of actual with budgeted amounts for each grant or subgrant, and, when specifically required by the performance reporting requirements of the grant or subgrant, relation of financial information with performance or productivity data, including the production of unit cost information.

(e) Procedures to minimize the time elapsing between the transfer of funds from the U.S. Treasury and the disbursement by the grantee, whenever cash is advanced by the Federal Government. When advances are made by a letter-of-credit method, the grantee shall make drawdowns from the U.S. Treasury through his commercial bank as close as possible to the time of making the disbursements. Subgrantees shall institute analogous procedures when funds are advanced by the grantee.

(f) Procedures for determining the allowability and allocability of costs in accordance with the applicable cost principles prescribed by Subpart Q of this part.

(g) Accounting records which are supported by source documentation.

(h)(1) If the grantee or subgrantee is a State or local government, audits to be made by the State or local government or at its direction to determine, at a minimum, the fiscal integrity of grant or subgrant financial transactions and reports, and the compliance with the terms and conditions of the grant or subgrant. The grantee or subgrantee will



V 38 1 181 SEP 19 73 XUM

schedule such audits with reasonable frequency, usually annually, but not less frequently than once every two years, considering the nature, size, and complexity of the activity.

(2) Recipients other than State or local governments are encouraged but not required to meet the standard set forth in subparagraph (1) of this paragraph.

(i) A systematic method to assure timely and appropriate resolution of audit findings and recommendations.

**§ 74.62 Subgrantees.**

The standards in § 74.61, as they apply to subgrantees, shall be included in the terms and conditions of subgrants awarded under HEW grants.

## Subpart I—Financial Reporting Requirements

**§ 74.70 Scope of subpart.**

This subpart prescribes requirements for grantees to report financial information to granting agencies and to request advances and reimbursement when a letter-of-credit method is not used, and promulgates standard forms incident thereto.

**§ 74.71 Definitions.**

As used in this subpart and in the forms identified by this subpart:

"Accrued expenditures" are the charges incurred by the grantee during a given period requiring the provision of funds for: (a) Goods and other tangible property received; (b) services performed by employees, contractors, subgrantees, and other payees; and (c) amounts becoming owed under programs for which no current services or performance are required.

"Accrued income" is the earnings during a given period which is a source of funds resulting from (a) services performed by the grantee, (b) goods and other tangible property delivered to purchasers, and (c) amounts becoming owed to the grantee for which no current services or performance are required by the grantee.

"Disbursements" are payments in cash or by check.

"Federal funds authorized" represents the total amount of the Federal funds authorized for obligations and establishes the ceiling for obligation of Federal funds. This amount may include any authorized carryover of unobligated funds from prior fiscal years.

"In-kind contributions" represent the value of noncash contributions provided by the grantee or third parties. In-kind contributions may consist of charges for real property and nonexpendable personal property, and value of goods and services directly benefiting and specifically identifiable to the grant-supported activity. Unless otherwise authorized by Federal legislation, charges for property purchased wholly with Federal funds, and charges based on the Federal share of the value of property purchased partly with Federal funds, may not be considered as the grantee's in-kind contributions.

"Obligations" are the amounts of orders placed, contracts and grants awarded, services received, and similar transactions during a given period, which will require payment during the same or a future period.

"Outlays" represent charges made to the grant project or program. Outlays may be reported on a cash or accrued expenditure basis. See §§ 74.61(a) and 74.73(b).

"Program income" represents earnings by the grantee realized from the grant-supported activities as a result of the grant. Such earnings exclude interest income and may include, but will not be limited to, income from service fees, sale of commodities, usage or rental fees, sale of assets purchased with grant funds, and royalties on patents and copyrights. Program income may be reported on a cash or accrued income basis. See §§ 74.61(a) and 74.73(b).

"Unobligated balance" is the portion of the funds authorized by the granting agency which has not been obligated by the grantee and is determined by deducting the cumulative obligations from the funds authorized.

"Unpaid obligations" represent the amount of obligations incurred by the grantee which have not been paid.

**§ 74.72 Authorized forms and instructions.**

(a) Only those forms specified in §§ 74.73 through 74.76, inclusive, and such supplementary or other forms as may from time to time be authorized by OGPM and OMB, may be used:

(1) For obtaining financial information from grantees for grant programs, or

(2) For requesting advances or reimbursements when letters of credit are not used.

(b) All applicable standard instructions promulgated by OMB for use in connection with the forms specified in §§ 74.73 through 74.76, inclusive, shall be followed. Granting agencies may promulgate substantive supplementary instructions only with the approval of OGPM and OMB.

(c) Grantees shall submit the original and two copies of forms required pursuant to this subpart. However, granting agencies may waive the requirement for the second copy, or both copies, when not needed.

(d) The forms (with their instructions) specified in §§ 74.73 through 74.76, inclusive, shall be available to the public upon request to any granting agency.

**§ 74.73 Financial Status Report.**

(a) *Form.* Grantees shall use the standard Financial Status Report prescribed by Attachment H of OMB Circular No. A–102 to report the status of funds for all nonconstruction grant programs. Granting agencies, however, have the option of not requiring the Financial Status Report when the Request for Advance or Reimbursement (see § 74.75) is determined to provide adequate information to meet their needs, except that a final Financial Status Report shall be required at the completion of the grant when the Request for Advance or Reimbursement form is used only for advances.

(b) *Accounting basis.* Each grantee shall report outlays and program income on the same accounting basis, i.e., cash or accrued expenditure (accrual), which it used in maintaining its accounting records. The basis used by a grantee must be consistent for all grants. See § 74.61(a).

(c) *Frequency.* For research project grants, reports shall be submitted annually, and a final report shall be submitted upon completion or termination of grant support. For all other types of grants, the granting agency shall prescribe the frequency of the report, considering the size and complexity of the particular program. However, the report shall not be required more frequently than quarterly or less frequently than annually, and a final report shall be required upon completion or termination of grant support.

(d) *Due date.* When reports are required on a quarterly or semi-annual basis, they shall be due thirty days after the end of the specified reporting period. When required on an annual basis, they shall be due ninety days after the end of the grant year. Final reports shall be due ninety days after the completion or termination of grant support. Justified requests from individual grantees for extension of reporting due dates will be approved whenever feasible.

**§ 74.74 Report of Federal cash transactions.**

(a) *Form.* When funds are advanced to grantees through letters of credit or with Treasury checks, each grantee shall submit the Report of Federal Cash Transactions prescribed by Attachment H of OMB Circular No. A–102. This report will be used by HEW financial officers to monitor cash advanced to grantees and to obtain disbursement or outlay information for each grant or project from the grantees. The format of the report may be adapted as appropriate when reporting is to be accomplished with the assistance of automatic data processing equipment, provided that the information to be submitted is not changed.

(b) *Forecasts of Federal cash requirements.* Forecasts of Federal cash requirements may be required in the "Remarks" section of the report.

(c) *Cash in hands of secondary recipients.* When deemed necessary and feasible by the responsible HEW finance officer, grantees may be required to report in the "Remarks" section of the report the amount of cash advances in excess of three days' requirements in the hand of subgrantees or other secondary recipients, and to provide short narrative explanations of actions taken by the grantees to reduce the excess balances.

(d) *Frequency and due date.* Grantees shall submit the Report of Federal Cash Transactions no later than fifteen working days following the end of each quarter. However, where a letter of credit authorizes advances at an annualized rate of one million dollars or more, the responsible HEW financial officer may require the reports to be submitted within fifteen working days following the end of each month.





(e) *Waiver.* HEW finance officers may waive the requirement for submission of the Report of Federal Cash Transactions when a grantee's monthly advances do not exceed $10,000: *Provided,* That such advances are monitored through other forms authorized pursuant to this subpart, or the grantee's accounting controls are adequate to minimize excessive Federal advances.

**§ 74.75 Request for Advance or Reimbursement.**

(a) Grantees shall submit their requests for advance payments or reimbursements under nonconstruction grants and their requests for advance payments under construction grants, on the Request for Advance or Reimbursement form prescribed by Attachment H of OMB Circular No. A–102 when letters of credit or predetermined automatic Treasury check advance methods are not used. Additionally, granting agencies may prescribe this form for construction grants in lieu of the Outlay Report and Request for Reimbursement for Construction Programs as specified in § 74.76(d).

(b) Grantees will be authorized to submit no less often than monthly their requests for advances or reimbursement when letters of credit or predetermined automatic Treasury check advance methods are not used.

**§ 74.76 Outlay Report and Request for Reimbursement for Construction Programs.**

(a) *Construction grants paid by reimbursement method.* (1) Requests for reimbursement under construction grants shall be submitted on the Outlay Report and Request for Reimbursement for Construction Programs form prescribed by Attachment H of OMB Circular No. A–102. Granting agencies may, however, substitute the Request for Advance or Reimbursement form specified in § 74.75 in lieu of this form when they determine that the former provides adequate information to meet their needs.

(2) Grantees will be authorized to submit no less often than monthly their requests for reimbursement under construction grants.

(b) *Construction grants paid by letter of credit or Treasury check advances.* (1) When a construction grant is paid by letter of credit or Treasury check advances, the grantee shall report its outlays to the granting agency using the Outlay Report and Request for Reimbursement for Construction Programs form prescribed by Attachment H of OMB Circular No. A–102. In these cases, the grantee should leave blank those items on the form which are applicable only when requesting reimbursement, i.e., items 3, 5, 10, 11t, 11u, and 11v.

(2) In lieu of the certification and signatures in items 12, 12a, and 12b, the following certification, signed on behalf of the grantee by an authorized official of the grantee organization, shall be submitted to the granting agency with the outlay report:

I certify that to the best of my knowledge and belief the accompanying report is correct and complete and that all outlays reported therein are for the purposes set forth in the grant award documents.

Information as to percentage of project completion and certification thereof by the Government representative shall be submitted independently of the outlay report, at such times and by such means as may be prescribed by the granting agency.

(3) Frequency and due date of the Outlay Report and Request for Reimbursement for Construction Programs shall be governed by § 74.73(c) and (d).

(c) *Accounting basis.* The accounting basis for the Outlay Report and Request for Reimbursement for Construction Programs shall be governed by § 74.73(b).

(d) *Alternative forms.* For construction grants paid by the reimbursement method, or by Treasury check advances based on periodic requests from the grantee, granting agencies may substitute the Request for Advance or Reimbursement specified in § 74.75 in lieu of the Outlay Report and Request for Reimbursement for Construction Programs. When any other payment method is used granting agencies may substitute the Financial Status Report specified in § 74.73.

**§ 74.77 Requests for supplementary Treasury checks.**

When the drawing authority for a specified period under a letter of credit is insufficient, the grantee may request a supplementary Treasury check payment by letter.

## Subpart J—Monitoring and Reporting of Program Performance

**§ 74.80 Scope of subpart.**

This subpart sets forth the procedures for monitoring and reporting program performance under HEW grants. These procedures are designed to place greater reliance on grantees to manage the day-to-day operations of their grant-supported activities.

**§ 74.81 Monitoring by grantees.**

Grantees shall constantly monitor the performance under grant-supported activities to assure that adequate progress is being made towards achieving the goals of the grant. This review shall be made for each program, function, or activity of each grant as set forth in the approved grant application or State plan.

**§ 74.82 Performance reports for nonconstruction grants.**

(a) Where the granting agency determines that performance information sufficient to meet its programmatic needs will be available from continuation or renewal applications, the granting agency will require the grantee to submit a performance report only with the final Financial Status Report (or other financial report equivalent thereto). Note that the "Application for Federal Assistance (Nonconstruction Programs)" prescribed by Subpart N of this part, when used to request a continuation or renewal, provides information substantially equivalent to a performance report.

(b) Except as provided in paragraph (a) of this section, or as otherwise authorized by OGPM, granting agencies shall require grantees to submit a performance report with each Financial Status Report (or other financial report equivalent thereto) in the frequency established by Subpart I of this part. The granting agency shall prescribe the frequency with which performance reports will be submitted with the Request for Advance or Reimbursement when that form is used in lieu of the Financial Status Report; in such cases performance reports may be required not more frequently than quarterly, or less frequently than annually.

(c) Performance reports shall include, to the extent appropriate to the particular grant, a brief presentation of the following for each program, function, or activity involved:

(1) A comparison of actual accomplishments to the goals established for the period. Where the output of grant programs can be readily quantified, such quantitative data should be related to cost data for computation of unit costs.

(2) Reasons for slippage in those cases where established goals were not met.

(3) Other pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

**§ 74.83 Performance reports for construction grants.**

In general, granting agencies rely heavily on on-site technical inspection and certified percentage-of-completion data to keep themselves informed as to progress under construction grants. Therefore formal performance reports from grantees to supplement those sources of information shall be required only if deemed necessary by the granting agency, and in no case more frequently than quarterly.

**§ 74.84 Significant developments between scheduled reporting dates.**

Between the scheduled performance reporting dates, events may occur which have significant impact upon the grant-supported activity. In such cases, the grantee shall inform the granting agency as soon as the following types of conditions become known:

(a) Problems, delays, or adverse conditions which will materially impair the ability to attain the objectives of the grant. This disclosure shall be accompanied by a statement of the action taken, or contemplated, and any Federal assistance needed to resolve the situation.

(b) Favorable developments or events which enable meeting time schedules and goals sooner or at less cost than anticipated or producing more beneficial results than originally projected.

**§ 74.85 Budget revision.**

If any performance review conducted by the grantee discloses the need for change in the budget estimates in accordance with the criteria established in



V 38 1 81 SEP 19 73 XUM

Subpart L of this part, the grantee shall submit a request for budget revision.

**§ 74.86 Site visits.**

Site visits will be made by representatives of the Department or the granting agency as frequently as practicable to:

(a) Review program accomplishments and management control systems.

(b) Provide such technical assistance as may be required.

## Subpart K—Grant Payment Requirements

**§ 74.90 Scope of subpart.**

This subpart sets forth HEW's methods of making grant payments to grantees. These methods will minimize the time elapsing between the disbursement by a grantee and the transfer of funds from the United States Treasury to the grantee, whether such disbursement occurs prior to or subsequent to the transfer of funds.

**§ 74.91 Definitions.**

As used in this subpart:

"Advance by Treasury check" is a payment made by a Treasury check to a grantee upon its request or through the use of predetermined payment schedules before payments are made by the grantee.

"Letter of credit" is an instrument certified by an authorized official of a grantor agency which authorizes a grantee to draw funds when needed from the Treasury, through a Federal Reserve Bank and the grantee's commercial bank, in accordance with the provisions of Treasury Circular No. 1075.

"Percentage of completion method" refers to a system under which payments are made to the recipient of a construction grant according to a schedule which relates the amount and timing of each payment primarily or solely to the actual percentage of completion of the construction work under the grant rather than to the grantee's actual rate of disbursements.

"Reimbursement by Treasury check" is a payment made to a grantee with a Treasury check upon request for reimbursement from the grantee.

**§ 74.92 Payment methods for nonconstruction grants.**

(a) Letters of credit will be used to pay HEW grantees when all of the following conditions exist:

(1) There is or will be a continuing relationship between the grantee and the responsible HEW finance office for at least a twelve-month period and the total amount of advances to be received from the responsible HEW finance office is $250,000 or more, as prescribed by Treasury Circular No. 1075, and

(2) The grantee has established, or demonstrated to HEW the willingness and ability to establish procedures that will minimize the time elapsing between the transfer of funds from the Treasury and their disbursement by the grantee, and

(3) The grantee's financial management system meets the standards for fund control and accountability prescribed in Subpart H of this part.

(b) Advances by Treasury check will be used, in accordance with the provisions of Treasury Circular No. 1075, when the grantee meets all of the requirements specified in paragraph (a) of this section except those in paragraph (a)(1) of this section.

(c) Reimbursement by Treasury check will be the preferred (although not mandatory) method when the grantee does not meet the requirements specified in either or both of paragraphs (a)(2) and (a)(3) of this section. However, determinations to use the reimbursement by Treasury check method on these grounds may be made only by or with the concurrence of the Assistant Secretary, Comptroller, Department of Health, Education, and Welfare, or his designees. This method may also be used when the major portion of the program is accomplished through private market financing or Federal loans, and the Federal grant assistance constitutes a minor portion of the program.

(d) Grantees will be authorized to submit no less often than monthly their requests for advances or reimbursements when letters of credit or predetermined automatic Treasury check advances are not used.

**§ 74.93 Payment methods for construction grants.**

(a) The percentage of completion method will not be used to pay HEW construction grants.

(b) Reimbursement by Treasury check shall be the preferred method when the grantee does not meet the requirements specified in § 74.92(a) (2) and (3), and may be used for any other HEW construction grant except where HEW has entered into an agreement with a grantee to use a letter of credit for all HEW grants, including construction grants.

(c) When the reimbursement by Treasury check method is used, grantees will be authorized to submit no less often than monthly their requests for reimbursement.

(d) When the reimbursement by Treasury check method is not used, § 74.92 (a) and (b) shall be applicable to the construction grant. Implementing procedures under § 74.92 (a) and (b) shall be insofar as possible the same for construction grants as for nonconstruction grants awarded to the same grantee.

**§ 74.94 Withholding of payments.**

Unless otherwise required by law, payments for proper charges incurred by grantees will not be withheld unless the grant is suspended pursuant to § 74.113, or the grantee is indebted to the United States, and collection of the indebtedness will not impair the accomplishment of the objectives of any grant program sponsored by the United States. When a grant is suspended, payment adjustments will be made in accordance with § 74.113. When an indebtedness is to be collected, the HEW may, upon reasonable notice to the grantee, withhold from the grantee the right to receive payments under the grant(s) or require appropriate accounting adjustments to recorded grant cash balances for which the grantee is accountable to the Federal Government, in order to liquidate the indebtedness.

**§ 74.95 Requesting advances or reimbursements.**

Subpart I of this part sets forth the procedures and forms for requesting advances or reimbursements.

## Subpart L—Budget Revision Procedures

**§ 74.100 Scope of subpart.**

This subpart promulgates criteria and procedures to be followed by grantees in reporting deviations from grant budgets and requesting approvals for budget revisions. For those State plan or other grants which do not involve a "grant budget" as defined in § 74.101, only § 74.105 is applicable.

**§ 74.101 Grant budget.**

The term "grant budget" as used in this subpart means the financial plan approved by the granting agency for both the Federal and non-Federal shares to carry out the purpose of the grant. However, for those grant programs which do not involve Federal approval of a financial plan for the non-Federal share, the term "grant budget" shall mean the financial plan approved by the granting agency for use of the Federal grant funds to carry out the purpose of the grant. The grant budget is the financial expression of the project or program as approved during the grant application and award process. It should be related to performance for program evaluation purposes whenever appropriate and required by the granting agency.

**§ 74.102 Nonconstruction grants.**

(a) As used in paragraphs (b)(3) and (b)(4) of this section, the term "direct cost object class budget categories" means only the following:

(1) Personnel;
(2) Fringe benefits;
(3) Travel;
(4) Equipment;
(5) Supplies;
(6) Contractual;
(7) Construction; and
(8) Other.

(b) For nonconstruction grants, grantees shall request prior approvals promptly from grantor agencies for budget revisions whenever:

(1) The revision results from changes in the scope or the objective of the grant-supported program.

(2) The revision indicates the need for additional Federal funding.

(3) The grantee is a State or local government, the grant budget is over $100,000, and the cumulative amount of transfers among direct cost object class budget categories exceeds or is expected to exceed $10,000, or five percent of the grant budget, whichever is greater. The same criteria apply to the cumulative amount of transfers among programs, functions, and activities when budgeted separately for a grant awarded to a State or local government, except that the granting agency shall permit no transfer which would cause any Federal appropriation, or part thereof, to be used for purposes other than those intended.





(4) The grantee is a State or local government, the grant budget is $100,000, or less, and the cumulative amount of transfers among direct cost object class budget categories exceeds or is expected to exceed five percent of the grant budget. The same criteria apply to the cumulative amount of transfers among programs, functions, and activities when budgeted separately for a grant awarded to a State or local government, except that the granting agency shall permit no transfer which would cause any Federal appropriation, or part thereof, to be used for purposes other than those intended.

(5) The revisions involve the transfer of amounts budgeted for indirect costs to absorb increases in direct costs.

(6) The revisions pertain to the addition of items requiring prior approval by the granting agency in accordance with the provisions of the applicable cost principles specified in Subpart Q of this part.

(c) All other changes to nonconstruction grant budgets, except for the changes described in § 74.104, do not require approval. Examples of changes which do not require Federal approval are (1) the use of grantee funds in furtherance of program objectives over and above the grantee minimum share included in the approved grant budget and (2) the transfer of amounts budgeted for direct costs to absorb authorized increases in indirect costs.

(d) Paragraphs (b)(3) and (b)(4) of this section may be waived by the granting agency for those grant programs in which it determines that the requirements are not needed: *Provided, however,* That

(1) No different limitation or approval requirement for cumulative transfers may be imposed, and

(2) The granting agency shall in no case permit a transfer which would cause any Federal appropriation, or part thereof, to be used for purposes other than those intended.

**§ 74.103 Construction grants.**

For construction grants, grantees shall request prior approvals promptly from granting agencies for budget revisions whenever:

(a) The revision results from changes in the scope or the objective of the grant-supported program.

(b) The revision increases the budgeted amounts of Federal funds needed to complete the project.

**§ 74.104 Construction and nonconstruction work under the same grant.**

When a grant provides support for both construction and nonconstruction work, the granting agency may require the grantee to obtain prior approval from the granting agency before making any fund or budget transfers between the two types of work.

**§ 74.105 Authorized funds exceeding grantee needs.**

For both construction and nonconstruction grants, grantees shall notify the granting agency promptly whenever the amount of Federal authorized funds is expected to exceed the needs of the grantee by more than $5,000 or 5 percent of the Federal grant, whichever is greater. This notification will not be required where applications for additional funding are submitted for continuing grants, and such applications include the grantee's estimate of what the unobligated balance of Federal authorized funds will be at the end of the current period.

**§ 74.106 Method of requesting approvals.**

When requesting approval for budget revisions, grantees shall use the budget forms which were used in the grant application. However, grantees may request by letter the approvals required by the § 74.102(b)(6).

**§ 74.107 Notification of approval or disapproval.**

Within 30 days from the date of receipt of the request for budget revisions, the granting agency shall review the request and notify the grantee whether or not the budget revisions have been approved. If the revision is still under consideration at the end of 30 days, the granting agency shall inform the grantee in writing as to when the grantee may expect the decision.

## Subpart M—Grant Closeout, Suspension, and Termination

**§ 74.110 Definitions.**

As used in this subpart:

"Date of completion" means the date when all work under a grant is completed or the date in the grant award document, or any supplement or amendment thereto, on which Federal assistance ends.

"Disallowed costs" means those charges to a grant which the granting agency or its representative determines to be unallowable.

"Grant closeout" means the process by which a granting agency determines that all applicable administrative actions and all required work of the grant have been completed by the grantee and the granting agency.

"Suspension" means an action by a granting agency which temporarily suspends Federal assistance under the grant pending corrective action by the grantee or pending a decision to terminate the grant by the granting agency.

"Termination" means the cancellation of Federal assistance, in whole or in part, under a grant at any time prior to the date of completion.

**§ 74.111 Closeout.**

(a) In closing out HEW grants, the following shall be observed:

(1) Upon request, the granting agency shall make, or arrange for, prompt payment to the grantee for allowable reimbursable costs not covered by previous payments.

(2) The grantee shall immediately refund to the granting agency, or otherwise dispose of in accordance with instructions from the granting agency or the HEW financial officers representing the granting agency, any unencumbered balance of cash advanced to the grantee.

(3) The granting agency shall obtain from the grantee within 90 days after the date of completion of the grant all financial, performance, and other reports required as a condition of the grant. The agency may grant extensions when requested by the grantee.

(4) The granting agency shall make a settlement for any upward or downward adjustment of the Federal share of costs, to the extent called for by the terms and conditions of the grant.

(5) In the event a final audit has not been performed prior to the closeout of the grant, the granting agency shall retain the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

(b) The provisions of Subpart O of this part shall be observed by the grantee in accounting for any property acquired with grant funds, or received from the Federal Government in connection with the grant.

**§ 74.112 Violation of grant terms and conditions.**

When a grantee has materially failed to comply with the terms and conditions of a grant, the granting agency may suspend the grant, in accordance with § 74.113, terminate the grant for cause, as provided in § 74.114, or take such other remedies as may be legally available and appropriate in the circumstances.

**§ 74.113 Suspension.**

When a grantee has materially failed to comply with the terms and conditions of a grant, the granting agency may, after reasonable notice to the grantee, suspend the grant. No obligations incurred by the grantee during the period of suspension shall be allowable under the suspended grant, except that the granting agency may at its discretion allow necessary and proper costs which the grantee could not reasonably avoid during the period of suspension: *Provided,* That such costs would otherwise be allowable under the applicable cost principles specified in Subpart Q of this part. Appropriate adjustments to the payments under the suspended grant will be made, either by withholding the payments or by not allowing the grantee credit for disbursements which he may make in liquidation of unauthorized obligations he incurs during the period of suspension. Suspensions shall remain in effect until the grantee has taken corrective action to the satisfaction of the granting agency, or given assurances satisfactory to the granting agency that corrective action will be taken, or until the granting agency terminates the grant.

**§ 74.114 Termination.**

(a) *Termination for cause.* The granting agency may terminate any grant in whole, or in part, at any time before the date of completion, whenever it is determined that the grantee has materially failed to comply with the terms and con-



V 38 I 181 SEP 1973 XUM

ditions of the grant. The granting agency shall promptly notify the grantee in writing of the determination and the reasons for the termination, together with the effective date. Payments made to grantees or recoveries by granting agencies under grants terminated for cause shall be in accordance with the legal rights and obligations of the parties.

(b) *Termination on other grounds.* (1) Except as provided in paragraph (a) of this section, grants may be terminated in whole or in part only as follows:

(i) By the granting agency with the consent of the grantee, in which case the two parties shall agree upon the termination conditions, including the effective date and in the case of partial terminations, the portion to be terminated, or

(ii) By the grantee, upon written notification to the granting agency, setting forth the reasons for such termination, the effective date, and in the case of partial terminations, the portion to be terminated.

(2) When a grant is terminated pursuant to subparagraph (1) of this paragraph, the grantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The granting agency shall allow full credit to the grantee for the Federal share of the noncancellable obligations properly incurred by the grantee prior to termination.

## Subpart N—Forms for Applying for Grants

### § 74.120 Scope of subpart.

This subpart promulgates forms and instructions to be used by applicants in applying to HEW for grants. This subpart is not applicable, however, to those formula grant programs which do not require applicants to apply to HEW for funds on a project basis.

### § 74.121 Authorized forms and instructions.

(a) Only those forms specified in §§ 74.122 through 74.126, inclusive, and such supplementary or other forms as may from time to time be authorized by OGPM and OMB may be used in applying for grants.

(b) All applicable standard instructions promulgated by OMB for use in connection with the forms specified in §§ 74.122 through 74.126, inclusive, shall be followed. Granting agencies may promulgate supplementary instructions only with the approval of OGPM and OMB.

(c) Applicants shall submit the original and two copies of their applications. However, granting agencies may waive the requirement for the second copy, or both copies, when not needed.

(d) Except as provided by § 74.106 all requests by grantees for changes, continuations, and supplements to approved grants shall be submitted on the same form as the original application. For those purposes, only the affected pages of the forms should be submitted.

(e) The forms (with their instructions) specified in §§ 74.122 through 74.126, inclusive, shall be available to the public upon request to any granting agency.

### § 74.122 Preapplication for Federal Assistance.

(a) The Preapplication for Federal Assistance form prescribed by Attachment M of OMB Circular No. A–102 shall be used to:

(1) Establish communication between the applicant and the granting agency;

(2) Determine the applicant's eligibility;

(3) Determine how well the project can compete with similar applications from others; and

(4) Eliminate any proposals which have little or no chance for Federal funding before applicants incur significant expenditures for preparing an application.

(b) Preapplication shall be mandatory for all construction, land acquisition, or land development projects for which the need for Federal funding exceeds $100,000. The granting agency may require preapplication for other types of grant projects, or for those for which the Federal funds requested are for $100,000 or less. In addition, any applicant shall have the right to submit a preapplication even when not required by the granting agency.

### § 74.123 Notice of Preapplication Review Action.

The Notice of Preapplication Review Action form prescribed by Attachment M of OMB Circular No. A–102 will be used by granting agencies to inform the applicant of the results of the review of the preapplications submitted to them. The granting agency will send a notice to the applicant within 45 days of the receipt of the preapplication form. When the review cannot be made within 45 days, the applicant will be informed by letter as to when the review will be completed.

### § 74.124 Application for Federal Assistance (Nonconstruction Programs).

The Application for Federal Assistance (Nonconstruction Programs) form prescribed by Attachment M of OMB Circular No. A–102 shall be used to apply for any grant to which this subpart is applicable except where the forms specified in §§ 74.125 and 74.126 are to be used.

### § 74.125 Application for Federal Assistance (for Construction Programs).

The Application for Federal Assistance (for Construction Programs) form prescribed by Attachment M of OMB Circular No. A–102 shall be used to apply for any grant whose purpose is solely or primarily construction, land acquisition, or land development.

### § 74.126 Application for Federal Assistance (Short Form).

The Application for Federal Assistance (Short Form) form prescribed by Attachment M of OMB Circular No. A–102 shall be used to apply for any single-purpose, one-time grant of less than $10,000 not requiring clearinghouse approval, an environmental impact statement, or the relocation of persons, businesses, or farms. Granting agencies may, at their discretion, authorize or prescribe this form for applications for larger amounts.

## Subpart O—Property

### § 74.130 Scope of subpart.

This subpart prescribes policies and procedures governing title, use, and disposition, for real and tangible personal property whose acquisition cost was borne in whole or in part as a direct charge by HEW grants, and ownership and rights for intangible personal property developed under HEW grants.

### § 74.131 General.

Grantees may follow their own property management policies and procedures, provided they observe the requirements of this subpart. With respect to property covered by this subpart, granting agencies may not impose on their grantees any requirements (including property reporting requirements) not authorized by this part unless specifically required by Federal law.

### § 74.132 Definitions.

As used in this subpart:

"Acquisition" of property includes purchase, construction, or fabrication of property.

"Acquisition cost" of nonexpendable personal property acquired by purchase means the net invoice price of the property, including any attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Ancillary charges such as taxes, duty, protective in-transit insurance, freight, or installation shall be included in or excluded from acquisition cost in accordance with the grantee's regular accounting practices.

"Expendable personal property" means all tangible personal property other than nonexpendable property.

"Nonexpendable personal property" means tangible personal property having a useful life of more than one year and an acquisition cost of $300 or more per unit. A grantee may use its own definition of nonexpendable personal property provided that such definition would at least include all tangible personal property as defined herein.

"Personal property" means property of any kind except real property. It may be tangible—having physical existence, or intangible—having no physical existence, such as patents, inventions, and copyrights.

"Real property" means land, land improvements, structures and appurtenances thereto, excluding movable machinery and equipment.

### § 74.133 Real property.

Title to real property whose acquisition cost was borne in whole or in part by an HEW grant shall vest in the grantee upon acquisition. In the absence of applicable statutory provisions governing the use or disposition of such property, it shall be subject to the following requirements, in addition to any





other requirements imposed by the terms and conditions of the grant:

(a) The grantee shall use the real property for the purposes authorized by the original grant as long as needed.

(b) The granting agency may authorize the grantee to use the property for the following (but no other) purposes when the grantee determines that the property is no longer needed for the originally authorized purposes:

(1) Activities sponsored by other Federal awards (regardless of which Federal agency makes the other awards), or

(2) Activities not sponsored by other Federal awards, but which nevertheless, have purposes consistent with those of the legislation under which the original grant was made.

(c)(1) When no longer used in accordance with paragraphs (a) and (b) of this section, the grantee shall return to the control of the granting agency all real property whose acquisition cost was borne wholly by an HEW grant. If the acquisition cost of the property was borne partly by an HEW grant, the grantee may be relieved of accountability to the Federal Government with respect to the Federal interest in the property by compensating the Federal Government for its fair share of the current value of the property, or if the grantee no longer needs the property, by selling it and compensating the Federal Government for its fair share of the sales proceeds.

(2) The amount of compensation to the Federal Government under subparagraph (1) of this paragraph shall be computed by applying the percentage of Federal participation in the cost of the project or program for which the property was acquired to the property's current fair market value (if the grantee retains the property) or to the proceeds from sale (if the grantee sells the property). In most cases, the real property will have been acquired under a grant whose purpose was to assist the grantee in acquiring the property (e.g., a construction grant). In such cases, the "total cost of the project or program for which the property was acquired" will ordinarily be the same as the acquisition cost of the property.

### § 74.134 Nonexpendable personal property.

(a) *Title.* Title to nonexpendable personal property whose acquisition cost is borne wholly or in part by an HEW grant shall vest in the grantee upon acquisition, and except as provided in § 74.138, shall be subject to the restrictions on use and disposition set forth in paragraphs (b) and (c) of this section.

(b) *Use.* (1) The grantee shall use the property in the original grant project as long as there is a need for such property to accomplish the purpose of the project, whether or not the project continues to be supported by Federal funds.

(2) When there is no longer a need for the property to accomplish the purpose of the original project, the grantee shall use the property in connection with other Federal awards it has received in the following order of priority:

(i) Other awards made by the same granting agency needing the property;

(ii) Awards of other Federal agencies (including non-HEW agencies) needing the property.

(3) When the grantee no longer has need for such property in any of its federally financed activities, the property may be used for the grantee's own official activities in accordance with the following standards:

(i) If the property had an acquisition cost of less than $500 per unit and has been used four years or more, the grantee may use the property without reimbursement to the Federal Government or sell the property and retain the proceeds.

(ii) For all such property not covered under subdivision (i) of this subparagraph, the grantee may retain the property for its own use: *Provided*, That a fair compensation is made to the Federal Government for the Federal share of the property. The amount of such compensation shall be computed by applying the percentage of Federal participation in the cost of the project to the current fair market value of the property.

(c) *Disposition.* If the grantee has no need for the property, disposition of the property shall be made as follows:

(1) If the property had an acquisition cost of $1,000 or less per unit (except for property covered under paragraph (b)(3)(i) of this section), the grantee shall sell the property and reimburse the Federal Government in accordance with paragraph (c)(2)(iii) of this section.

(2) If the property had an acquisition cost of over $1,000 per unit, the grantee shall request disposition instructions from the granting agency. The granting agency shall issue instructions to the grantee within 120 days following the receipt of such request and the following procedures shall govern:

(i) If the grantee is instructed to ship the property elsewhere, the grantee shall be reimbursed with an amount which is computed by applying the percentage of the grantee's participation in the cost of the project to the current fair market value of the property, plus any shipping or interim storage costs incurred.

(ii) If the grantee is instructed to otherwise dispose of the property, the grantee shall be reimbursed for the costs incurred in such disposition.

(iii) If disposition or other instructions are not issued within the 120-day period specified in subparagraph (2) of this paragraph, the grantee shall sell the property and reimburse the Federal Government with an amount which is computed by applying the percentage of Federal participation in the cost of the project to the sales proceeds. The grantee may, however, deduct and retain from that amount $100 or 10 percent of the total sales proceeds, whichever is greater, for the grantee's selling and handling expenses.

### § 74.135 Transfer of title to certain property.

(a) Where the granting agency determines that an item of nonexpendable personal property with an acquisition cost of $1,000 or more which is to be borne wholly by an HEW grant is unique, difficult, or costly to replace, the granting agency may reserve the right to require the grantee to transfer title to the property to the Federal Government or to a third party named by the granting agency.

(b) Such reservation shall be subject to the following:

(1) The right to require transfer of title may be reserved only by means of an express special condition in the grant award document, or, if approval for the acquisition of the property is given after the grant is awarded, by means of a written stipulation at the time such approval is given.

(2) The property must be appropriately identified in the award document or otherwise made known to the grantee.

(3) The granting agency may not exercise the right until the grantee no longer needs the property in the project for which it was acquired. Such need shall be assumed to end on the date of completion or termination of the grant unless the grantee continues to conduct the project after that date and demonstrates to the granting agency a continued need for the property in the project.

(4) In order to exercise the right, the granting agency must issue disposition instructions to the grantee not later than 120 days after the grantee no longer needs the property in the project for which it was acquired. If instructions are not issued within that time, the granting agency's right shall lapse, and the grantee shall act in accordance with the applicable standards in paragraphs (b)(1), (b)(2), (b)(3), and (c)(2) of § 74.134.

(5) The grantee shall be entitled to reimbursement for any shipping and interim storage costs it incurs pursuant to the granting agency's disposition instructions.

### § 74.136 Property management standards.

Grantees' property management standards for nonexpendable personal property covered by § 74.134 shall include the following procedural requirements:

(a) Property records shall be maintained accurately and provide for:

(1) A description of the property;

(2) Manufacturer's serial number or other identification number;

(3) Acquisition date and cost;

(4) Source of the property;

(5) Percentage of Federal funds used in the acquisition of the property;

(6) Location, use, and condition of the property; and

(7) Ultimate disposition data including sales price or the method used to determine current fair market value if the grantee reimburses the Federal Government for the Federal share.

(b) A physical inventory of property shall be taken and the results reconciled with the property records at least once every two years to verify the existence, current utilization, and continued need for the property.



V 38 I 181
SEP 19 73
XUM

(c) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft to the property. Any loss, damage, or theft of nonexpendable personal property shall be investigated and fully documented.

(d) Adequate maintenance procedures shall be implemented to keep the property in good condition.

(e) Proper sales procedures shall be established for unneeded property which would provide for competition to the extent practicable and result in the highest possible return.

**§ 74.137 Expendable personal property.**

(a) *Consumable materials and supplies.* The cost principles prescribed by Subpart Q of this part provide, in effect, that the cost of consumable supplies or materials is allowable only to the extent that the supplies or materials are reasonably necessary to carry out the grant-supported project or program. Amounts in excess of need are therefore not allowable costs.

(b) *Other expendable personal property.* In many cases, items of expendable personal property (other than consumable supplies or materials) whose acquisition cost was borne in whole or in part by a grant have a useful life longer than the period of need on the project or program for which they were required. The grantee may at its option either retain or sell such items when no longer needed for any federally sponsored activity (including activities sponsored by other Federal agencies). However, compensation to the granting agency shall be required if the aggregate fair market value of all such items acquired under the same grant exceeds $500 when no longer needed for any federally sponsored activity. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original grant project or program to the current fair market value of items retained, and to the sales proceeds of items sold.

**§ 74.138 Waiver of accountability.**

(a) Where authorized under Federal law (e.g., (42 U.S.C. 1892) Pub. L. 85-934) title to tangible personal property whose acquisition cost is borne in whole or in part by an HEW grant shall vest in the grantee without regard to any other requirements of this part and without further obligation to the Federal Government, except as provided in paragraph (b) of this section.

(b) When title to an item of property having an acquisition cost of $1,000 or more is vested in the grantee pursuant to paragraph (a) of this section, the granting agency shall have the right to require the grantee to transfer title to the item of property to the Federal Government or to a third party named by the granting agency. The right may be exercised at any time, but no later than twelve months after the granting agency has received the final Financial Status Report (or other final financial report serving an essentially equivalent function) from the grantee after completion or termination of the project for which the property was acquired. If the right is exercised, the grantee shall be entitled to reimbursement for the costs incurred in transferring the property.

**§ 74.139 Patents and inventions.**

(a) All inventions conceived for first actually reduced to practice in the course of or under an HEW grant are subject to the Department of Health, Education, and Welfare Patent Regulations (Parts 6 and 8 of this title). Each such invention shall be promptly and fully reported to the Assistant Secretary for Health, Department of Health, Education, and Welfare.

(b) Determination as to ownership and disposition of rights to such inventions, including whether a patent application shall be filed, and, if so, the manner of obtaining, administering, and disposing of rights under any patent application or patent which may issue shall be made either:

(1) By the Assistant Secretary for Health, whose decision shall be considered as final, or

(2) Where the grantee has a separate formal institutional patent agreement with HEW, by the grantee in accordance with that agreement.

**§ 74.140 Copyrights.**

When a book or other copyrightable material is developed under a grant made to a State or local government, the author or grantee is free to copyright the work, but HEW shall have a royalty-free, nonexclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use the work for Government purposes. If the grantee is not a State or local government, the copyright policies of the granting agency shall govern.

**§ 74.141 Determining percentage of participation.**

(a) Various provisions in this subpart require a determination of the percentage of Federal (or grantee) participation in the cost of the project or program in order to compute the amount of compensation for the value, or proceeds from sale, of property. In determining the applicable percentage, there shall first be deducted from the allowable costs incurred during the grant period, any royalties or other income (not including interest income or proceeds from sale of property) earned by the grant-supported project or program during the grant period.

(b) The deduction of income required by paragraph (a) of this section is independent of, and is not intended to control, the disposition of such income pursuant to Subpart F of this part.

## Subpart P—Procurement Standards

**§ 74.150 Scope of subpart.**

(a) This subpart provides standards for use by grantees in establishing procedures for the procurement of supplies, equipment, construction, and other services whose cost is borne in whole or in part as a direct charge by HEW grants. These standards are furnished to insure that such materials and services are obtained in an effective manner and in compliance with the provisions of applicable Federal law and Executive Orders. No additional procurement standards will be imposed by HEW upon grantees unless specifically required by Federal law or Executive Orders.

(b) Except for § 74.159(c) the requirements of this subpart are applicable only to procurements, and not to subgrants or other forms of financial assistance provided by grantees to third parties.

**§ 74.151 General.**

(a) Grantees may use their own procurement policies provided that procurements whose cost is borne in whole or in part as a direct charge by HEW grants adhere to the standards set forth in this subpart.

(b) The standards contained in this subpart do not relieve the grantee of the responsibilities arising under its contracts. The grantee is the responsible authority regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in support of a grant. This includes but is not limited to: Disputes, claims, protests of award, source evaluation, or other matters of a contractual nature. Matters concerning violation of law are to be referred to such local, State, or Federal authority as may have proper jurisdiction.

**§ 74.152 Code of conduct.**

The grantee shall maintain a code or standard of conduct which shall govern the performance of its officers, employees, or agents in contracting with and expending Federal grant funds. The grantee's officers, employees or agents, shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or potential contractors. To the extent permissible under State or local law, rules or regulations, or if the grantee is not a State or local government to the extent that the grantee determines that it has the legal and practical capacity for enforcement, such standards shall provide for appropriate penalties, sanctions, or other disciplinary actions to be applied for violations of such standards either by the grantee's officers, employees, or agents, or by contractors or their agents.

**§ 74.153 Free competition.**

All procurement transactions of the grantee regardless of whether negotiated or advertised and without regard to dollar value shall be conducted in a manner so as to provide maximum open and free competition. The grantee should be alert to organizational conflicts of interest or noncompetitive practices among contractors which may restrict or eliminate competition or otherwise restrain trade.

**§ 74.154 Procedural requirements.**

The grantee shall establish procurement procedures which provide for, as a minimum, the following:

(a) Proposed procurement actions shall be reviewed by appropriate grantee officials to avoid purchasing unnecessary or duplicative items. Where appropriate, an analysis shall be made of lease and purchase alternatives to determine which would be the most economical, practical procurement.

(b) Invitations for bids or requests for proposals shall be based upon a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description shall not, in competitive procurements, contain features which unduly restrict competition. "Brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement, and when so used, the specific features of the named brand which must be met by offerors should be clearly specified.

(c) Positive efforts shall be made by the grantees to utilize small business and minority-owned business sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to compete for contracts to be performed under Federal grants.

(d) The type of procuring instruments used (i.e., fixed-price contracts, cost reimbursable contracts, purchase orders, incentive contracts, etc.), shall be appropriate for the particular procurement and for promoting the purposes of the grant project or program involved. The "cost-plus-a-percentage-of-cost" method of contracting shall not be used.

(e) If the grantee is a State or local government, formal advertising, with adequate purchase description, sealed bids, and public openings shall be the required method of procurement unless negotiation pursuant to § 74.155 is necessary to accomplish sound procurement. However, procurements of $2,500 or less need not be so advertised unless otherwise required by State or local law or regulations. When formal advertising is employed by the State or local government:

(1) The awards shall be made to the responsible bidder whose bid is responsive to the invitation and is most advantageous to the State or local government grantee, price and other factors considered. Factors such as discounts, transportation costs, and taxes may be considered in determining the lowest bid.

(2) Invitations for bids shall clearly set forth all requirements which the bidder must fulfill in order for his bid to be evaluated by the State or local government grantee.

(3) Any or all bids may be rejected when it is in the State or local government grantee's interest to do so, and such rejections are in accordance with applicable State or local law, rules, and regulations.

**§ 74.155 Negotiated procurements by State or local governments.**

(a) Procurements may be negotiated by State or local government grantees if it is not practicable or feasible to use formal advertising. Generally, procurements may be negotiated if one or more of the following conditions prevail:

(1) The public exigency will not permit the delay incident to advertising;

(2) The material or service to be procured is available from only one person or firm; all contemplated sole source procurements where the aggregate expenditure is expected to exceed $5,000 shall be referred to the granting agency for prior approval if such approval is required by the granting agency;

(3) The aggregate amount involved does not exceed $2,500;

(4) The contract is for personal or professional services, or for any service to be rendered by a university, college, or other educational institution;

(5) The material or services are to be procured and used outside the limits of the United States and its possessions;

(6) No acceptable bids have been received after formal advertising;

(7) The purchases are for highly perishable materials or medical supplies, for material or services where the prices are established by law, for technical items or equipment requiring standardization and interchangeability of parts with existing equipment, for experimental, developmental or research work, for supplies purchased for authorized resale, and for technical or specialized supplies requiring substantial initial investment for manufacture;

(8) Negotiation is otherwise authorized by applicable Federal, State, or local law, rules or regulations.

(b) Notwithstanding the existence of circumstances justifying negotiation, competition shall be obtained to the maximum extent practicable.

**§ 74.156 Contractor responsibility.**

Contracts shall be made by grantees only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources, and accessibility to other necessary resources.

**§ 74.157 Records for negotiated procurements by State or local governments.**

The procurement records or files of State or local government grantees for negotiated purchases in amounts in excess of $2,500 shall include the following pertinent information: justification for the use of negotiation in lieu of advertising, contractor selection, and the basis for the cost or price negotiated. Justification for the use of negotiation in lieu of advertising may be provided on a class basis or on an individual contract basis.

**§ 74.158 Contract administration system.**

A system for contract administration shall be maintained by the grantee to assure contractor compliance with terms, conditions, and specifications of the contract or order, and to assure adequate and timely follow up of all purchases.

**§ 74.159 Contract and subgrant provisions.**

(a) *General.* (1) The grantee shall include provisions to define a sound and complete agreement in all contracts and subgrants which it awards when the contract or subgrant costs are to be borne as a direct charge in whole or in part by an HEW grant.

(2) In awarding such contracts, the grantee must comply with the applicable requirements of paragraphs (b) and (c) of this section.

(3) In awarding such subgrants, the grantee must comply with the applicable requirements of paragraph (c) of this section.

(b) *Contracts under HEW grants.* (1) If the grantee is a State or local government, its contracts shall contain contractual provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate.

(2) All contracts awarded by State or local government grantees in excess of $2,500 shall contain suitable provisions for termination by the grantee including the manner by which it will be effected and the basis for settlement. In addition, such contracts shall set forth the conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(3) In all contracts for construction or facility improvement awarded in excess of $100,000, the bonding requirements set forth in Subpart C of this part shall be observed.

(4) All negotiated contracts (except those of $2,500 or less) shall include provisions giving access to, and requiring retention of, the contractor's records in accordance with §§ 74.20, 74.21, and 74.23(b).

(c) *Contracts and subgrants under HEW grants.* (1) Provisions for compliance with Executive Order No. 11246, entitled, "Equal Employment Opportunity," as supplemented in Department of Labor regulations (41 CFR Part 60) shall be included in all contracts and subgrants to which they are applicable.

(2) All contracts and subgrants in excess of $2,000 for construction or repair shall include a provision for compliance with the Copeland "Anti-Kick Back" Act (18 U.S.C. 874) as implemented in Department of Labor regulations (29 CFR Part 3). The grantee shall report all suspected or reported violations to the granting agency.

(3) When required by the HEW grant program enabling legislation, all construction contracts awarded by grantees and subgrantees in excess of $2,000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a–7) as supplemented by Department of Labor regulations (29 CFR Part 5). The grantee shall report all suspected or reported violations to the granting agency.

(4) Where applicable, all construction contracts exceeding $2,000 awarded by







V 38 I 181 SEP 19 73 XUM

grantees and subgrantees, and all other contracts awarded by them which exceed $2,500 and which involve the employment of mechanics and laborers, shall include a provision for compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–330) as implemented by Department of Labor regulations (29 CFR Part 5).

(5) All research or development agreements, whether contracts or subgrants, shall contain a notice to the effect that rights to inventions conceived or first actually reduced to practice in the course of or under the agreement shall be governed by the Department's Patent Regulations (Parts 6 and 8 of this title), implementing terms and conditions of the HEW grant, and any pertinent regulations or other requirements consistent therewith issued by the grantee. The grantee shall assure that the performer of the research or development work either is given all necessary information regarding these matters, or is advised as to the source of such information. This subparagraph shall also apply to nonresearch and nondevelopment awards in fields of science or technology in which there has been little significant experience outside of work funded by the Federal Government.

(6) Each contract of an amount in excess of $2,500 awarded by a grantee or subgrantee shall provide that the recipient will comply with applicable regulations and standards of the Cost of Living Council in establishing wages and prices. The provision shall advise the recipient that submission of a bid or offer or the submittal of an invoice or voucher for property, goods, or services furnished under a contract or agreement with the grantee or subgrantee shall constitute a certification by him that amounts to be paid do not exceed maximum allowable levels authorized by the Cost of Living Council regulations or standards. Suspected violations shall be reported by the grantee in writing to the local Internal Revenue Service field office with a copy to the granting agency.

(7) Contracts and subgrants in excess of $100,000 shall contain a provision which requires the recipient to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970 as amended (42 U.S.C. 1857b. et seq.). Suspected violations shall be reported by the grantee in writing to the regional office of the United States Environmental Protection Agency, with a copy to the granting agency.

## Subpart Q—Cost Principles

### § 74.170 Scope of subpart.

This subpart establishes the principles to be used (except to the extent inconsistent with an applicable Federal statute or regulation) in determining costs applicable to HEW grants, and to subgrants or cost-type contracts under HEW grants.

### § 74.171 Grants to State or local governments.

The principles to be used in determining the allowable costs of activities conducted or administered by State and local governments under grants (and subgrants) or cost-type contracts awarded to them under grants) are set forth in Appendix C to this part.

### § 74.172 Grants to institutions of higher education.

(a) *Research and development.* The principles for determining the allowable costs of research and development work performed by institutions of higher education under grants (and subgrants or cost-type contracts awarded to them under grants) are set forth in Part I of Appendix D to this part.

(b) *Training and other educational services.* The principles for determining the allowable costs of training and other educational services provided by institutions of higher education under grants (and subgrants or cost-type contracts awarded to them under grants) are set forth in Part II of Appendix D to this part.

(c) *Other activities.* Appendix D to this part shall be used as a guide for determining the allowable costs of other activities conducted by institutions of higher education under grants (and subgrants or cost-type contracts awarded to them under grants).

### § 74.173 Grants to hospitals.

(a) *Research and development.* The principles for determining the allowable costs of research and development work performed by hospitals under grants (and subgrants or cost-type contracts awarded to them under grants) are set forth in Appendix E to this part.

(b) *Other activities.* Appendix E to this part shall be used as a guide for determining the allowable costs of other activities conducted by hospitals under grants (and subgrants or cost-type contracts awarded to them under grants).

### § 74.174 Grants to other nonprofit organizations.

(a) *Nonconstruction.* The principles for determining the allowable costs of activities conducted by nonprofit organizations other than institutions of higher education, hospitals, States, and local governments under nonconstruction grants (and nonconstruction subgrants or cost-type contracts awarded to them under grants) are set forth in Appendix F to this part.

(b) *Construction.* Appendix F to this part shall be used as a guide for determining the allowable costs of work under construction grants to nonprofit organizations (other than institutions of higher education, hospitals, States, and local governments) and any construction subgrants or cost-type contracts awarded to such nonprofit organizations under grants.

### § 74.175 Subgrants and cost-type contracts.

(a) It should be noted that the cost principles applicable to a subgrantee or cost-type contractor under an HEW grant will not necessarily be the same as those applicable to the grantee. For example, where a State government awards a subgrant or cost-type contract to an institution of higher education, Appendix D to this part would apply to the costs incurred by the institution of higher education, even though Appendix C would apply to the costs incurred by the State.

(b) The principles to be used in determining the allowable costs of work performed by commercial organizations under cost-type contracts awarded to them under HEW grants are set forth in 41 CFR Subpart 1.15.2.

APPENDIX A [RESERVED]

APPENDIX B [RESERVED]

APPENDIX C—PRINCIPLES FOR DETERMINING COSTS APPLICABLE TO GRANTS AND CONTRACTS WITH STATE AND LOCAL GOVERNMENTS

PART I—GENERAL

A. PURPOSE AND SCOPE

1. *Objectives.* This appendix sets forth principles for determining the allowable costs of programs administered by State and local governments under grants from and contracts with the Federal Government. The principles are for the purpose of cost determination and are not intended to identify the circumstances or dictate the extent of Federal and State or local participation in the financing of a particular grant. They are designed to provide that federally assisted programs bear their fair share of costs recognized under these principles, except where restricted or prohibited by law. No provision for profit or other increment above cost is intended.

2. *Policy guides.* The application of these principles is based on the fundamental premises that:

a. State and local governments are responsible for the efficient and effective administration of grant and contract programs through the application of sound management practices.

b. The grantee or contractor assumes the responsibility for seeing that federally assisted program funds have been expended and accounted for consistent with underlying agreements and program objectives.

c. Each grantee or contractor organization, in recognition of its own unique combination of staff facilities and experience, will have the primary responsibility for employing whatever form of organization and management techniques may be necessary to assure proper and efficient administration.

3. *Application.* These principles will be applied in determining costs incurred by State and local governments under Federal grants and cost reimbursement type contracts (including subgrants and subcontracts) except those with (a) publicly financed educational institutions subject to Appendix D to this part and (b) publicly owned hospitals and other providers of medical care subject to requirements of Appendix E to this part.

B. DEFINITIONS

1. *Approval or authorization of the grantor Federal agency* means documentation evidencing consent prior to incurring specific cost.

2. *Cost allocation plan* means the documentation identifying, accumulating, and distributing allowable costs under grants and contracts together with the allocation methods used.

3. *Cost,* as used herein, means cost as determined on a cash, accrual, or other basis acceptable to the Federal grantor agency as a discharge of the grantee's accountability for Federal funds.

4. *Cost objective* means a pool, center, or area established for the accumulation of cost. Such areas include organizational units, functions, objects or items of expense, as well as ultimate cost objectives including specific grants, projects, contracts, and other activities.

5. *Federal agency* means the Department of Health, Education, and Welfare.

6. *Grant* means an agreement between the Federal Government and a State or local government whereby the Federal Government provides funds or aid in kind to carry out specified programs, services, or activities. The principles and policies stated in this appendix as applicable to grants in general also apply to any federally sponsored cost reimbursement type of agreement performed by a State or local government, including contracts, subcontracts and subgrants.

7. *Grant program* means those activities and operations of the grantee which are necessary to carry out the purposes of the grant, including any portion of the program financed by the grantee.

8. *Grantee* means the department or agency of State or local government which is responsible for administration of the grant.

9. *Local unit* means any political subdivision of government below the State level.

10. *Other State or local agencies* means departments or agencies of the State or local unit which provide goods, facilities, and services to a grantee.

11. *Services,* as used herein, means goods and facilities, as well as services.

12. *Supporting services* means auxiliary functions necessary to sustain the direct effort involved in administering a grant program or an activity providing service to the grant program. These services may be centralized in the grantee department or in some other agency, and include procurement, payroll, personnel functions, maintenance and operation of space, data processing, accounting, budgeting, auditing, mail and messenger service, and the like.

C. BASIC GUIDELINES

1. *Factors affecting allowability of costs.* To be allowable under a grant program, costs must meet the following general criteria:

a. Be necessary and reasonable for proper and efficient administration of the grant program, be allocable thereto under these principles, and, except as specifically provided herein, not be a general expense required to carry out the overall responsibilities of State or local governments.

b. Be authorized or not prohibited under State or local laws or regulations.

c. Conform to any limitations or exclusions set forth in these principles, Federal laws, or other governing limitations as to types or amounts of cost items.

d. Be consistent with policies, regulations, and procedures that apply uniformly to both federally assisted and other activities of the unit of government of which the grantee is a part.

e. Be accorded consistent treatment through application of generally accepted accounting principles appropriate to the circumstances.

f. Not be allocable to or included as a cost of any other federally financed program in either the current or a prior period.

g. Be net of all applicable credits.

2. *Allocable costs.* a. A cost is allocable to a particular cost objective to the extent of benefits received by such objective.

b. Any cost allocable to a particular grant or cost objective under the principles provided for in this appendix may not be shifted to other Federal grant programs to overcome fund deficiencies, avoid restrictions imposed by law or grant agreements, or for other reasons.

c. Where an allocation of joint cost will ultimately result in charges to a grant program, an allocation plan will be required as prescribed in section J.

3. *Applicable credits.* a. Applicable credits refer to those receipts or reduction of expenditure-type transactions which offset or reduce expense items allocable to grants as direct or indirect costs. Examples of such transactions are: purchase discounts; rebates or allowances; recoveries or indemnities on losses; sale of publications, equipment, and scrap; income from personal or incidental services; and adjustments of overpayments or erroneous charges.

b. Applicable credits may also arise when Federal funds are received or are available from sources other than the grant program involved to finance operations or capital items of the grantee. This includes costs arising from the use or depreciation of items donated or financed by the Federal Government to fulfill matching requirements under another grant program. These types of credits should likewise be used to reduce related expenditures in determining the rates or amounts applicable to a given grant.

D. COMPOSITION OF COST

1. *Total cost.* The total cost of a grant program is comprised of the allowable direct cost incident to its performance, plus its allocable portion of allowable indirect costs, less applicable credits.

2. *Classification of costs.* There is no universal rule for classifying certain costs as either direct or indirect under every accounting system. A cost may be direct with respect to some specific service or function, but indirect with respect to the grant or other ultimate cost objective. It is essential therefore that each item of cost be treated consistently either as a direct or an indirect cost. Specific guides for determining direct and indirect costs allocable under grant programs are provided in the sections which follow.

E. DIRECT COSTS

1. *General.* Direct costs are those that can be identified specifically with a particular cost objective. These costs may be charged directly to grants, contracts, or to other programs against which costs are finally lodged. Direct costs may also be charged to cost objectives used for the accumulation of costs pending distribution in due course to grants and other ultimate cost objectives.

2. *Application.* Typical direct costs chargeable to grant programs are:

a. Compensation of employees for the time and effort devoted specifically to the execution of grant programs.

b. Cost of materials acquired, consumed, or expended specifically for the purpose of the grant.

c. Equipment and other approved capital expenditures.

d. Other items of expense incurred specifically to carry out the grant agreement.

e. Services furnished specifically for the grant program by other agencies, provided such charges are consistent with criteria outlined in Section G of these principles.

F. INDIRECT COSTS

1. *General.* Indirect costs are those (a) incurred for a common or joint purpose benefiting more than one cost objective, and (b) not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved. The term "indirect costs," as used herein, applies to costs of this type originating in the grantee department, as well as those incurred by other departments in supplying goods, services, and facilities, to the grantee department. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect cost within a grantee department or in other agencies providing services to a grantee department. Indirect cost pools should be distributed to benefiting cost objectives on bases which will produce an equitable result in consideration of relative benefits derived.

2. *Grantee departmental indirect costs.* All grantee departmental indirect costs, including the various levels of supervision, are eligible for allocation to grant programs provided they meet the conditions set forth in this Appendix. In lieu of determining the actual amount of grantee departmental indirect cost allocable to a grant program, the following methods may be used:

a. *Predetermined fixed rates for indirect costs.* A predetermined fixed rate for computing indirect costs applicable to a grant may be negotiated annually in situations where the cost experience and other pertinent facts available are deemed sufficient to enable the contracting parties to reach an informed judgment (1) as to the probable level of indirect costs in the grantee department during the period to be covered by the negotiated rate, and (2) that the amount allowable under the predetermined rate would not exceed actual indirect cost.

b. *Negotiated lump sum for overhead.* A negotiated fixed amount in lieu of indirect costs may be appropriate under circumstances where the benefits derived from a grantee department's indirect services cannot be readily determined as in the case of small, self-contained or isolated activity. When this method is used, a determination should be made that the amount negotiated will be approximately the same as the actual indirect cost that may be incurred. Such amounts negotiated in lieu of indirect costs will be treated as an offset to total indirect expenses of the grantee department before allocation to remaining activities. The base on which such remaining expenses are allocated should be appropriately adjusted.

3. *Limitation on indirect costs.* a. Federal grants may be subject to laws that limit the amount of indirect cost that may be allowed. Agencies that sponsor grants of this type will establish procedures which will assure that the amount actually allowed for indirect costs under each such grant does not exceed the maximum allowable under the statutory limitation or the amount otherwise allowable under this Appendix, whichever is the smaller.

b. When the amount allowable under a statutory limitation is less than the amount otherwise allocable as indirect costs under this Appendix, the amount not recoverable as indirect costs under a grant may not be shifted to another federally sponsored grant program or contract.

G. COST INCURRED BY AGENCIES OTHER THAN THE GRANTEE

1. *General.* The cost of service provided by other agencies only may include allowable direct costs of the service plus a pro rata share of allowable supporting costs (section B.12.) and supervision directly required in performing the service, but not supervision of a general nature such as that provided by the head of a department and his staff assistants not directly involved in operations. However, supervision by the head of a department or agency whose sole function is providing the service furnished would be an eligible cost. Supporting costs include those furnished by other units of the supplying department or by other agencies.

2. *Alternative methods of determining indirect cost.* In lieu of determining actual indirect cost related to a particular service furnished by another agency, either of the following alternative methods may be used provided only one method is used for a spe-







V 38 I 181 SEP 19 73 XUM

cific service during the fiscal year involved.

a. *Standard indirect rate.* An amount equal to 10 percent of direct labor cost in providing the service performed by another State agency (excluding overtime, shift, or holiday premiums and fringe benefits) may be allowed in lieu of actual allowable indirect cost for that service.

b. *Predetermined fixed rate.* A predetermined fixed rate for indirect cost of the unit or activity providing service may be negotiated as set forth in section F.2.a.

H. COST INCURRED BY GRANTEE DEPARTMENT FOR OTHERS

1. *General.* The principles provided in section G. will also be used in determining the cost of services provided by the grantee department to another agency.

J. COST ALLOCATION PLAN

1. *General.* A plan for allocation of costs will be required to support the distribution of any joint costs related to the grant program. All costs included in the plan will be supported by formal accounting records which will substantiate the propriety of eventual charges.

2. *Requirements.* The allocation plan of the grantee department should cover all joint costs of the department as well as costs to be allocated under plans of other agencies or organizational unit which are to be included in the costs of federally sponsored programs. The cost allocation plans of all the agencies rendering services to the grantee department, to the extent feasible, should be presented in a single document. The allocation plan should contain, but not necessarily be limited to, the following:

a. The nature and extent of services provided and their relevance to the federally sponsored programs.

b. The items of expense to be included.

c. The methods to be used in distributing cost.

3. *Instructions for preparation of cost allocation plans.* The Department of Health, Education, and Welfare, in consultation with the other Federal agencies concerned, will be responsible for developing and issuing the instructions for use by State and local government grantees in preparation of cost allocation plans. This responsibility applies to both central support services at the State and local government level as well as indirect cost proposals of individual grantee departments.

4. *Negotiation and approval of indirect cost proposals for States.* a. The Department of Health, Education, and Welfare, in collaboration with the other Federal agencies concerned, will be responsible for negotiation, approval and audit of cost allocation plans, which will be submitted to it by the States. These plans will cover central support service costs of the State.

b. At the grantee department level in a State, a single Federal agency will have responsibility similar to that set forth in a. above for the negotiation, approval and audit of the indirect cost proposal. Cognizant Federal agencies have been designated for this purpose. Changes which may be required from time to time in agency assignments will be arranged by the Department of Health, Education, and Welfare in collaboration with the other interested agencies, and submitted to the Office of Management and Budget for final approval. A current list of agency assignments will be maintained by the Department of Health, Education, and Welfare.

c. Questions concerning the cost allocation plans approved under a. and b. above should be directed to the agency responsible for such approvals.

5. *Negotiation and approval of indirect cost proposals for local governments.* a. Cost allocation plans will be retained at the local government level for audit by a designated Federal agency except in those cases where that agency requests that cost allocation plans be submitted to it for negotiation and approval.

b. A list of cognizant Federal agencies assigned responsibility for negotiation, approval and audit of central support service cost allocation plans at the local government level is being developed. Changes which may be required from time to time in agency assignments will be arranged by the Department of Health, Education, and Welfare in collaboration with the other interested agencies, and submitted to the Office of Management and Budget for final approval. A current list of agency assignments will be maintained by the Department of Health, Education, and Welfare.

c. At the grantee department level of local governments, the Federal agency with the predominant interest in the work of the grantee department will be responsible for necessary negotiation, approval and audit of the indirect cost proposal.

6. *Resolution of problems.* To the extent that problems are encountered among the Federal agencies in connection with 4. and 5. above, the Office of Management and Budget will lend assistance as required.

PART II—STANDARDS FOR SELECTED ITEMS OF COST

A. PURPOSE AND APPLICABILITY

1. *Objective.* This part provides standards for determining the allowability of selected items of cost.

2. *Application.* These standards will apply irrespective of whether a particular item of cost is treated as direct or indirect cost. Failure to mention a particular item of cost in the standards is not intended to imply that it is either allowable or unallowable, rather determination of allowability in each case should be based on the treatment of standards provided for similar or related items of cost. The allowability of the selected items of cost is subject to the general policies and principles stated in Part I of this appendix.

B. ALLOWABLE COSTS

1. *Accounting.* The cost of establishing and maintaining accounting and other information systems required for the management of grant programs is allowable. This includes cost incurred by central service agencies for these purposes. The cost of maintaining central accounting records required for overall State or local government purposes, such as appropriation and fund accounts by the Treasurer, Comptroller, or similar officials, is considered to be a general expense of government and is not allowable.

2. *Advertising.* Advertising media includes newspapers, magazines, radio, and television programs, direct mail, trade papers, and the like. The advertising costs allowable are those which are solely for:

a. Recruitment of personnel required for the grant program.

b. Solicitation of bids for the procurement of goods and services required.

c. Disposal of scrap or surplus materials acquired in the performance of the grant agreement.

d. Other purposes specifically provided for in the grant agreement.

3. *Advisory councils.* Costs incurred by State advisory councils or committees established pursuant to Federal requirements to carry out grant programs are allowable. The cost of like organizations is allowable when provided for in the grant agreement.

4. *Audit service.* The cost of audits necessary for the administration and management of functions related to grant programs is allowable.

5. *Bonding.* Costs of premiums on bonds covering employees who handle grantee agency funds are allowable.

6. *Budgeting.* Costs incurred for the development, preparation, presentation, and execution of budgets are allowable. Costs for services of a central budget office are generally not allowable since these are costs of general government. However, where employees of the central budget office actively participate in the grantee agency's budget process, the cost of identifiable services is allowable.

7. *Building lease management.* The administrative cost for lease management which includes review of lease proposals, maintenance of a list of available property for lease, and related activities is allowable.

8. *Central stores.* The cost of maintaining and operating a central stores organization for supplies, equipment, and materials used either directly or indirectly for grant programs is allowable.

9. *Communications.* Communication costs incurred for telephone calls or service, telegraph, teletype service, wide area telephone service (WATS), centrex, telpak (tie lines), postage, messenger service and similar expenses are allowable.

10. *Compensation for personal services*—a. *General.* Compensation for personal services includes all remuneration, paid currently or accrued, for services rendered during the period of performance under the grant agreement, including but not necessarily limited to wages, salaries, and supplementary compensation and benefits (section B.13.). The costs of such compensation are allowable to the extent that total compensation for individual employees: (1) is reasonable for the services rendered, (2) follows an appointment made in accordance with State or local government laws and rules and which meets Federal merit system or other requirements, where applicable, and (3) is determined and supported as provided in b. below. Compensation for employees engaged in federally assisted activities will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities of the State or local government. In cases where the kinds of employees required for the federally assisted activities are not found in the other activities of the State or local government, compensation will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor market in which the employing government competes for the kind of employees involved. Compensation surveys providing data representative of the labor market involved will be an acceptable basis for evaluating reasonableness.

b. *Payroll and distribution of time.* Amounts charged to grant programs for personal services, regardless of whether treated as direct or indirect costs, will be based on payrolls documented and approved in accordance with generally accepted practice of the State or local agency. Payrolls must be supported by time and attendance or equivalent records for individual employees. Salaries and wages of employees chargeable to more than one grant program or other cost objective will be supported by appropriate time distribution records. The method used should produce an equitable distribution of time and effort.

11. *Depreciation and use allowances.* a. Grantees may be compensated for the use of buildings, capital improvements, and equipment through use allowances or depreciation. Use allowances are the means of providing compensation in lieu of depreciation or other equivalent costs. However, a combination of the two methods may not be used in connection with a single class of fixed assets.





b. The computation of depreciation or use allowance will be based on acquisition cost. Where actual cost records have not been maintained, a reasonable estimate of the original acquisition cost may be used in the computation. The computation will exclude the cost or any portion of the cost of buildings and equipment donated or borne directly or indirectly by the Federal Government through charges to Federal grant programs or otherwise, irrespective of where title was originally vested or where it presently resides. In addition, the computation will also exclude the cost of land. Depreciation or a use allowance on idle or excess facilities is not allowable, except when specifically authorized by the grantor Federal agency.

c. Where the depreciation method is followed, adequate property records must be maintained, and any generally accepted method of computing depreciation may be used. However, the method of computing depreciation must be consistently applied for any specific asset or class of assets for all affected federally sponsored programs and must result in equitable charges considering the extent of the use of the assets for the benefit of such programs.

d. In lieu of depreciation, a use allowance for buildings and improvements may be computed at an annual rate not exceeding 2 percent of acquisition cost. The use allowance for equipment (excluding items properly capitalized as building cost) will be computed at an annual rate not exceeding 6⅔ percent of acquisition cost of usable equipment.

e. No depreciation or use charge may be allowed on any assets that would be considered as fully depreciated: *provided, however,* That reasonable use charges may be negotiated for any such assets if warranted after taking into consideration the cost of the facility or item involved, the estimated useful life remaining at time of negotiation, the effect of any increased maintenance charges or decreased efficiency due to age, and any other factors pertinent to the utilization of the facility or item for the purpose contemplated.

12. *Disbursing service.* The cost of disbursing grant program funds by the Treasurer or other designated officer is allowable. Disbursing services cover the processing of checks or warrants, from preparation to redemption, including the necessary records of accountability and reconciliation of such records with related cash accounts.

13. *Employee fringe benefits.* Costs identified under a. and b. below are allowable to the extent that total compensation for employees is reasonable as defined in section B.10.

a. Employee benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, sick leave, court leave, military leave, and the like, if they are: (1) provided pursuant to an approved leave system, and (2) the cost thereof is equitably allocated to all related activities, including grant programs.

b. Employee benefits in the form of employers' contribution or expenses for social security, employees' life and health insurance plans, unemployment insurance coverage, workmen's compensation insurance, pension plans, severance pay, and the like, provided such benefits are granted under approved plans and are distributed equitably to grant programs and to other activities.

14. *Employee morale, health, and welfare costs.* The costs of health or first-aid clinics and/or infirmaries, recreational facilities, employees' counseling services, employee information publications, and any related expenses incurred in accordance with general State or local policy are allowable. Income generated from any of these activities will be offset against expenses.

15. *Exhibits.* Costs of exhibits relating specifically to the grant programs are allowable.

16. *Legal expenses.* The cost of legal expenses required in the administration of grant programs is allowable. Legal services furnished by the chief legal officer of a State or local government or his staff solely for the purpose of discharging his general responsibilities as legal officer are unallowable. Legal expenses for the prosecution of claims against the Federal Government are unallowable.

17. *Maintenance and repair.* Costs incurred for necessary maintenance, repair, or upkeep of property which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are allowable.

18. *Materials and supplies.* The cost of materials and supplies necessary to carry out the grant programs is allowable. Purchases made specifically for the grant program should be charged thereto at their actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received by the grantee. Withdrawals from general stores or stockrooms should be charged at cost under any recognized method of pricing consistently applied. Incoming transportation charges are a proper part of material cost.

19. *Memberships, subscriptions and professional activities*—a. *Memberships.* The cost of membership in civic, business, technical and professional organizations is allowable provided: (1) the benefit from the membership is related to the grant program, (2) the expenditure is for agency membership, (3) the cost of the membership is reasonably related to the value of the services or benefits received, and (4) the expenditure is not for membership in an organization which devotes a substantial part of its activities to influencing legislation.

b. *Reference material.* The cost of books and subscriptions to civic, business, professional, and technical periodicals is allowable when related to the grant program.

c. *Meetings and conferences.* Costs are allowable when the primary purpose of the meeting is the dissemination of technical information relating to the grant program and they are consistent with regular practices followed for other activities of the grantee.

20. *Motor pools.* The costs of a service organization which provides automobiles to user grantee agencies at a mileage or fixed rate and/or provides vehicle maintenance, inspection and repair services are allowable.

21. *Payroll preparation.* The cost of preparing payrolls and maintaining necessary related wage records is allowable.

22. *Personnel administration.* Costs for the recruitment, examination, certification, classification, training, establishment of pay standards, and related activities for grant programs, are allowable.

23. *Printing and reproduction.* Costs for printing and reproduction services necessary for grant administration, including but not limited to forms, reports, manuals, and informational literature, are allowable. Publication costs of reports or other media relating to grant program accomplishments or results are allowable when provided for in the grant agreement.

24. *Procurement service.* The cost of procurement service, including solicitation of bids, preparation and award of contracts, and all phases of contract administration in providing goods, facilities and services for grant programs, is allowable.

25. *Taxes.* In general, taxes or payments in lieu of taxes which the grantee agency is legally required to pay are allowable.

26. *Training and education.* The cost of in-service training, customarily provided for employee development which directly or indirectly benefits grant programs, is allowable. Out-of-service training involving extended periods of time is allowable only when specifically authorized by the grantor agency.

27. *Transportation.* Costs incurred for freight, cartage, express, postage, and other transportation costs relating either to goods purchased, delivered, or moved from one location to another, are allowable.

28. *Travel.* Travel costs are allowable for expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business incident to a grant program. Such costs may be charged on an actual basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip, and results in charges consistent with those normally allowed in like circumstances in nonfederally sponsored activities. The difference in cost between first-class air accommodations and less-than-first-class air accommodations is unallowable except when less-than-first-class air accommodations are not reasonably available.

C. COSTS ALLOWABLE WITH APPROVAL OF GRANTOR AGENCY

1. *Automatic data processing.* The cost of data processing services to grant programs is allowable. This cost may include rental of equipment or depreciation on grantee-owned equipment. The acquisition of equipment, whether by outright purchase, rental-purchase agreement or other method of purchase, is allowable only upon specific prior approval of the grantor Federal agency as provided under the selected item for capital expenditures.

2. *Building space and related facilities.* The cost of space in privately or publicly owned buildings used for the benefit of the grant program is allowable subject to the conditions stated below. The total cost of space, whether in a privately or publicly owned building, may not exceed the rental cost of comparable space and facilities in a privately owned building in the same locality. The cost of space procured for grant program usage may not be charged to the program for periods of nonoccupancy, without authorization of the grantor Federal agency.

a. *Rental cost.* The rental cost of space in a privately owned building is allowable.

b. *Maintenance and operation.* The costs of utilities, insurance, security, janitorial services, elevator service, upkeep of grounds, normal repairs, and alterations and the like, are allowable to the extent they are not otherwise included in rental or other charges for space.

c. *Rearrangements and alterations.* Cost incurred for rearrangement and alteration of facilities required specifically for the grant program or those that materially increase the value or useful life of the facilities (section C.3.) are allowable when specifically approved by the grantor agency.

d. *Depreciation and use allowances on publicly owned buildings.* These costs are allowable as provided in section B.11.

e. *Occupancy of space under rental-purchase or a lease with option-to-purchase agreement.* The cost of space procured under such arrangements is allowable when specifically approved by the Federal grantor agency.

3. *Capital expenditures.* The cost of facilities, equipment, other capital assets, and repairs which materially increase the value or useful life of capital assets is allowable when such procurement is specifically approved by the Federal grantor agency. When assets acquired with Federal grant funds are (a) sold, (b) no longer available for use in a federally sponsored program, or (c) used for purposes not authorized by the grantor agency,



V 38 181
SEP 19 73
XUM

the Federal grantor agency's equity in the asset will be refunded in the same proportion as Federal participation in its cost. In case any assets are traded on new items, only the net cost of the newly acquired assets is allowable.

4. *Insurance and indemnification.* a. Cost of insurance required, or approved and maintained pursuant to the grant agreement, is allowable.

b. Cost of other insurance in connection with the general conduct of activities is allowable subject to the following limitations:

(1) Types and extent and cost of coverage will be in accordance with general State or local government policy and sound business practice.

(2) Costs of insurance or of contributions to any reserve covering the risk of loss of, or damage to, Federal Government property are unallowable except to the extent that the grantor agency has specifically required or approved such costs.

c. Contributions to a reserve for a self-insurance program approved by the Federal grantor agency are allowable to the extent that the type of coverage, extent of coverage, and the rates and premiums would have been allowed had insurance been purchased to cover the risks.

d. Actual losses which could have been covered by permissible insurance (through an approved self-insurance program or otherwise) are unallowable unless expressly provided for in the grant agreement. However, costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound management practice, and minor losses not covered by insurance, such as spoilage, breakage and disappearance of small hand tools which occur in the ordinary course of operations, are allowable.

e. *Indemnification* includes securing the grantee against liabilities to third persons and other losses not compensated by insurance or otherwise. The Government is obligated to indemnify the grantee only to the extent expressly provided for in the grant agreement, except as provided in d. above.

5. *Management studies.* The cost of management studies to improve the effectiveness and efficiency of grant management for ongoing programs is allowable except that the cost of studies performed by agencies other than the grantee department or outside consultants is allowable only when authorized by the Federal grantor agency.

6. *Preagreement costs.* Costs incurred prior to the effective date of the grant or contract, whether or not they would have been allowable thereunder if incurred after such date, are allowable when specifically provided for in the grant agreement.

7. *Professional services.* Cost of professional services rendered by individuals or organizations not a part of the grantee department is allowable subject to such prior authorization as may be required by the Federal grantor agency.

8. *Proposal costs.* Costs of preparing proposals on potential Federal Government grant agreements are allowable when specifically provided for in the grant agreement.

D. UNALLOWABLE COSTS

1. *Bad debts.* Any losses arising from uncollectible accounts and other claims, and related costs, are unallowable.

2. *Contingencies.* Contributions to a contingency reserve or any similar provision for unforeseen events are unallowable.

3. *Contributions and donations.* Unallowable.

4. *Entertainment.* Costs of amusements, social activities, and incidental costs relating thereto, such as meals, beverages, lodgings, rentals, transportation, and gratuities, are unallowable.

5. *Fines and penalties.* Costs resulting from violations of, or failure to comply with, Federal, State, and local laws and regulations are unallowable.

6. *Governor's expenses.* The salaries and expenses of the office of the Governor of a State or the chief executive of a political subdivision are considered a cost of general State or local government and are unallowable.

7. *Interest and other financial costs.* Interest on borrowings (however represented), bond discounts, cost of financing and refinancing operations, and legal and professional fees paid in connection therewith, are unallowable except when authorized by Federal legislation.

8. *Legislative expenses.* Salaries and other expenses of the State legislature or similar local governmental bodies such as county supervisors, city councils, school boards, etc., whether incurred for purposes of legislation or executive direction, are unallowable.

9. *Underrecovery of costs under grant agreements.* Any excess of cost over the Federal contribution under one grant agreement is unallowable under other grant agreements.

## APPENDIX D

### PART I—PRINCIPLES FOR DETERMINING COSTS APPLICABLE TO RESEARCH AND DEVELOPMENT UNDER GRANTS AND CONTRACTS WITH EDUCATIONAL INSTITUTIONS

A. PURPOSE AND SCOPE

1. *Objectives.* This appendix provides principles for determining the costs applicable to research and development work performed by educational institutions under grants from and contracts with the Federal Government. These principles are confined to the subject of cost determination and make no attempt to identify the circumstances or dictate the extent of agency and institutional participation in the financing of a particular research or development project. The principles are designed to provide recognition of the full allocated costs of such research work under generally accepted accounting principles. No provision for profit or other increment above cost is intended.

2. *Policy guides.* The successful application of these principles requires development of mutual understanding between representatives of universities and of the Federal Government as to their scope, implementation, and interpretation. It is recognized that—

a. The arrangements for agency and institutional participation in the financing of a research and development project are properly subject to negotiation between the agency and the institution concerned in accordance with such Government-wide criteria as may be applicable.

b. Each college and university, possessing its own unique combination of staff, facilities, and experience, should be encouraged to conduct research in a manner consonant with its own academic philosophies and institutional objectives.

c. Each institution, in the fulfillment of its obligations, should employ sound management practices.

d. The application of the principles established herein should require no significant changes in the generally accepted accounting practices of colleges and universities and standards herein provided on a consistent basis. Where wide variations exist in the treatment of a given cost item among institutions, the reasonableness and equitableness of such treatments will be fully considered during the rate negotiations and audit.

3. *Application.* The Department of Health, Education, and Welfare, will apply these principles and related policy guides in determining the costs incurred for such work under any type of research and development agreement. These principles should also be used as a guide in the pricing of fixed-price contracts or lump sum agreements.

B. DEFINITION OF TERMS

1. *Organized research* means all research activities of an institution that are separately budgeted and accounted for.

2. *Departmental research* means research activities that are not separately budgeted and accounted for. Such research work, which includes all research activities not encompassed under the term "organized research," is regarded for purposes of this document as a part of the instructional activities of the institution.

3. *Research agreement* means any valid arrangement to perform federally sponsored research, including grants, cost-reimbursement type contracts, cost-reimbursement type subcontracts, and fixed-price contracts and subcontracts for research.

4. *Other institutional activities* means all organized activities of an institution not directly related to the instruction and research functions, such as residence halls, dining halls, student hospitals, student unions, intercollegiate athletics, bookstores, faculty housing, student apartments, guest houses, chapels, theaters, public museums, and other similar activities or auxiliary enterprises. Also included under this definition is any other category of cost treated as "unallowable," provided such category of cost identifies a function or activity to which a portion of the institution's indirect costs (as defined in section E.1.) are properly allocable.

5. *Apportionment* means the process by which the indirect costs of the institution are assigned as between (a) instruction and research, and (b) other institutional activities.

6. *Allocation* means the process by which the indirect costs apportioned to instruction and research are assigned as between (a) organized research, and (b) instruction, including departmental research.

7. *Stipulated salary support* is a fixed or a stated dollar amount of the salary of professorial or other professional staff involved in the conduct of research which a Government agency agrees in advance to reimburse an educational institution as a part of sponsored research costs.

8. *Federal agency* or sponsoring agency means the Department of Health, Education, and Welfare.

C. BASIC CONSIDERATIONS

1. *Composition of total costs.* The cost of a research agreement is comprised of the allowable direct costs incident to its performance, plus the allocable portion of the allowable indirect costs of the institution, less applicable credits as described in section C.5.

2. *Factors affecting allowability of costs.* The tests of allowability of costs under these principles are: (a) they must be reasonable; (b) they must be allocable to research agreements under the standards and methods provided herein; (c) they must be accorded consistent treatment through application of those generally accepted accounting principles appropriate to the circumstances; and (d) they must conform to any limitations or exclusions set forth in these principles or in the research agreement as to types or amounts of cost items.

3. *Reasonable costs.* A cost may be considered reasonable if the nature of the goods or services acquired or applied, and the amount involved therefor, reflect the action that a prudent person would have taken under the circumstances prevailing at the time the decision to incur the cost was made. Major considerations involved in the determination of the reasonableness of a cost are:





(a) whether or not the cost is of a type generally recognized as necessary for the operation of the institution or the performance of the research agreement; (b) the restraints or requirements imposed by such factors as arm's-length bargaining, Federal and State laws and regulations, and research agreement terms and conditions; (c) whether or not the individuals concerned acted with due prudence in the circumstances, considering their responsibilities to the institution, its employees, its students, the Government, and the public at large; and (d) the extent to which the actions taken with respect to the incurrence of the cost are consistent with established institutional policies and practices applicable to the work of the institution generally, including Government research.

4. *Allocable costs.* a. A cost is allocable to a particular cost objective (i.e., a specific function, project, research agreement, department, or the like) if the goods or services involved are chargeable or assignable to such cost objective in accordance with relative benefits received or other equitable relationship. Subject to the foregoing, a cost is allocable to a research agreement if it is incurred solely to advance the work under the research agreement; or it benefits both the research agreement and other work of the institution in proportions that can be approximated through use of reasonable methods; or it is necessary to the overall operation of the institution and, in the light of the standards provided in this appendix is deemed to be assignable in part to organized research. Where the purchase of equipment or other capital items is specifically authorized under a research agreement, the amounts thus authorized for such purchases are allocable to the research agreement regardless of the use that may subsequently be made of the equipment or other capital items involved.

b. Any costs allocable to a particular research agreement under the standards provided in this appendix may not be shifted to other research agreements in order to meet deficiencies caused by overruns or other fund considerations, to avoid restrictions imposed by law or by terms of the research agreement; or for other reasons of convenience.

5. *Applicable credits.* a. The term applicable credits refers to those receipt or negative expenditure types of transactions which operate to offset or reduce expense items that are allocable to research agreements as direct or indirect costs. Typical examples of such transactions are: purchase discounts, rebates, or allowances; recoveries or indemnities on losses; sales of scrap or incidental services; and adjustments of overpayments or erroneous charges.

b. In some instances, the amounts received from the Federal Government to finance institutional activities or service operations should be treated as applicable credits. Specifically, the concept of netting such credit items against related expenditures should be applied by the institution in determining the rates or amounts to be charged to Government research for services rendered whenever the facilities or other resources used in providing such services have been financed directly, in whole or in part, by Federal funds. (See sections F.6., J.10.b., and J.37. for areas of potential application in the matter of direct Federal financing.)

6. *Costs incurred by State and local governments.* Costs incurred or paid by State or local governments in behalf of educational institutions for certain personnel benefit programs such as pension plans, FICA, and any other costs specifically disbursed in behalf of and in direct benefit to the institutions, are allowable costs of such institutions whether or not these costs are recorded in the accounting records of such institutions, subject to the following:

a. Such costs meet the requirements of sections C.1. through C.5.

b. Such costs are properly supported by cost allocation plans in accordance with Appendix C to this part.

c. Such costs are not otherwise borne directly or indirectly by the Federal Government.

D. DIRECT COSTS

1. *General.* Direct costs are those costs which can be identified specifically with a particular research project, an instructional activity or any other institutional activity or which can be directly assigned to such activities relatively easily with a high degree of accuracy.

2. *Application to research agreements.* Identifiable benefit to the research work rather than the nature of the goods and services involved is the determining factor in distinguishing direct from indirect costs of research agreements. Typical transactions chargeable to a research agreement as direct costs are the compensation of employees for performance of work under the research agreement, including related staff benefit and pension plan costs to the extent that such items are consistently treated by the educational institution as direct rather than indirect costs; the costs of materials consumed or expended in the performance of such work; and other items of expense incurred for the research agreement, including extraordinary utility consumption. The cost of materials supplied from stock or services rendered by specialized facilities or other institutional service operations may be included as direct costs of research agreements provided such items are consistently treated by the institution as direct rather than indirect costs and are charged under a recognized method of costing or pricing designed to recover only actual costs and conforming to generally accepted cost accounting practices consistently followed by the institution.

E. INDIRECT COSTS

1. *General.* Indirect costs are those that have been incurred for common or joint objectives and therefore cannot be identified specifically with a particular research project, an instructional activity or any other institutional activity. At educational institutions such costs normally are classified under the following functional categories: general administration and general expenses; research administration expenses; operation and maintenance expenses; library expenses; and departmental administration expenses.

2. *Criteria for distribution*—a. *Base period.* A base period for distribution of indirect costs is the period during which such costs are incurred and accumulated for distribution to work performed within that period. The base period normally should coincide with the fiscal year established by the institution, but in any event the base period should be so selected as to avoid inequities in the distribution of costs.

b. *Need for cost groupings.* The overall objective of the allocation and apportionment process is to distribute the indirect costs described in section F to organized research, instruction, and other activities in reasonable proportions consistent with the nature and extent of the use of the institution's resources by research personnel, academic staff, students, and other personnel or organizations. In order to achieve this objective, it may be necessary to provide for selective distribution by establishing separate groupings of cost within one or more of the functional categories of indirect costs referred to in section E.1. In general, the cost groupings established within a functional category should constitute, in each case, a pool of those items of expense that are considered to be of like character in terms of their relative contribution to (or degree of remoteness from) the particular cost objectives to which distribution is appropriate. Cost groupings should be established considering the general guides provided in c. below. Each such pool or cost grouping should then be distributed individually to the appertaining cost objectives, using the distribution base or method most appropriate in the light of the guides set out in d. below.

c. *General considerations on cost groupings.* The extent to which separate cost groupings and selective distribution would be appropriate at an institution is a matter of judgment to be determined on a case-by-case basis. Typical situations which may warrant the establishment of two or more separate cost groups (based on account classification or analysis) within a functional category include but are not limited to the following:

(1) Where certain items or categories of expense relate solely to one of the three major divisions of the institution (instruction, organized research or other institutional activities) or to any two but not the third, such expenses should be set aside as a separate cost grouping for direct assignment or selective distribution in accordance with the guides provided in b. above and d. below.

(2) Where any types of expense ordinarily treated as general administration and general expenses or departmental administration expenses are charged to research agreements as direct costs, the similar type expenses applicable to other activities of the institution must, through separate cost groupings, be excluded from the indirect costs allocable to those research agreements and included in the direct cost of other activities for cost allocation purposes.

(3) Where it is determined that certain expenses are for the support of a service unit or facility whose output is susceptible of measurement on a workload or other quantitative basis, such expenses should be set aside as a separate cost grouping for distribution on such basis to organized research and other activities at the institution or within the department.

(4) Where organized activities (including identifiable segments of organized research as well as the activities cited in section B.4.) provide their own purchasing, personnel administration, building maintenance or similar service, the distribution of general administration and general expenses or operation and maintenance expenses to such activities should be accomplished through cost groupings which include only that portion of central indirect costs (such as for overall management) which are properly allocable to such activities.

(5) Where the institution elects to treat as indirect charges the cost of the pension plan and other staff benefits, such costs should be set aside as a separate cost grouping for selective distribution to appertaining cost objectives, including organized research.

(6) The number of separate cost groupings within a functional category should be held within practical limits, after taking into consideration the materiality of the amounts involved and the degree of precision attainable through less selective methods of distribution.

d. *Selection of distribution method.* (1) Actual conditions must be taken into account in selecting the method or base to be used in distributing to applicable cost objectives the expenses assembled under each of the individual cost groupings established as indicated under b. above. Where a distribution can be made by assignment of a cost grouping directly to the area benefited, the distribution should be made in



V 38 181 SEP 1973 XUM

that manner. Where the expenses under a cost grouping are more general in nature, the distribution to appertaining cost objectives should be made through use of a selected base which will produce results that are equitable to both the Government and the institution. In general, any cost element or cost-related factor associated with the institution's work is potentially adaptable for use as a distribution base provided (a) it can readily be expressed in terms of dollars or other quantitative measure (total direct expenditures, direct salaries, manhours applied, square feet utilized, hours of usage, number of documents processed, population served, and the like); and (b) it is common to the appertaining cost objectives during the base period.

(2) Results of cost analysis studies may be used when they result in more accurate and equitable distribution of costs. Such cost analysis studies may take into consideration weighting factors, population, or space occupied if they produce equitable results. Cost analysis studies, however, should (a) be appropriately documented in sufficient detail for subsequent review by the cognizant Federal agency, (b) distribute the indirect costs to the appertaining cost objectives in accord with the relative benefits derived, (c) be conducted to fairly reflect the true conditions of the activity and to cover representative transactions for a reasonable period of time, (d) be performed specifically at the institution at which the results are to be used, and (e) be updated periodically and used consistently. Any assumptions made in the study will be sufficiently supported. The use of cost analysis studies and periodic changes in the method of cost distribution must be fully justified.

(3) The essential consideration in selection of the distribution base in each instance is that it be the one best suited for assigning the pool of costs to appertaining cost objectives in accord with the relative benefits derived; the traceable cause and effect relationship; or logic and reason, where neither benefit nor cause and effect relationship is determinable.

3. *Administration of limitations on allowances for research costs.* Research agreements may be subject to statutory or administrative policies that limit the allowance of research costs. When the maximum amount allowable under a statutory limitation or the terms of a research agreement is less than the amount otherwise reimbursable under this Appendix, the amount not recoverable under that research agreement may not be charged to other research agreements.

F. IDENTIFICATION AND ASSIGNMENT OF INDIRECT COSTS

1. *General administration and general expenses.* a. The expenses under this heading are those that have been incurred for the general executive and administrative offices of educational institutions and other expenses of a general character which do not relate solely to any major division of the institution; i.e., solely to (1) instruction, (2) organized research, or (3) other institutional activities. The general administration and general expense category should also include the staff benefit and pension plan costs applicable to the salaries and wages included therein, an appropriate share of the costs of the operation and maintenance of the physical plant, and charges representing use allowances and/or depreciation applicable to the buildings and equipment utilized in performing the functions represented thereunder.

b. The expenses included in this category may be apportioned and allocated on the basis of total expenditures exclusive of capital expenditures in situations where the results of the distribution made on this basis are deemed to be equitable both to the Government and the institution; otherwise the distribution of general administration and general expenses should be made through use of selected bases applied to separate cost groupings established within this category of expenses in accordance with the guides set out in section E.2.d.

2. *Research administration expenses.* a. The expenses under this heading are those that have been incurred by a separate organization or identifiable administrative unit established solely to administer the research activity, including such functions as contract administration, security, purchasing, personnel administration, and editing and publishing of research reports. They include the salaries and expenses of the head of such research organization, his assistants, and their immediate secretarial staff together with the salaries and expenses of personnel engaged in supporting activities maintained by the research organization, such as stock rooms, stenographic pools, and the like. The salaries of members of the professional staff whose appointments or assignments involve the performance of such administrative work may also be included to the extent that the portion so charged to research administration is supported as required by section J.7. The research administration expense category should also include the staff benefit and pension plan costs applicable to the salaries and wages included therein, an appropriate share of the costs of the operation and maintenance of the physical plant, and charges representing use allowance and/or depreciation applicable to the buildings and equipment utilized in performing the functions represented thereunder.

b. The expenses included in this category should be allocated to organized research and, where necessary, to departmental research or to any other benefiting activities on any basis reflecting the proportion fairly applicable to each. (See section E.2.d.)

3. *Operation and maintenance expenses.* a. The expenses under this heading are those that have been incurred by a central service organization or at the departmental level for the administration, supervision, operation, maintenance, preservation, and protection of the institution's physical plant. They include expenses normally incurred for such items as janitorial and utility services; repairs and ordinary or normal alterations of buildings, furniture and equipment; and care of grounds and maintenance and operation of buildings and other plant facilities. The operation and maintenance expense category should also include the staff benefit and pension plan costs applicable to the salaries and wages included therein, and charges representing use allowance and/or depreciation applicable to the buildings and equipment utilized in performing the functions represented thereunder. Costs incurred in the purchases of rare books (museum-type books) with no research value should not be allocated to Government-sponsored research.

b. The expenses included in this category should be allocated on the basis of population including students and other users. Where the results of the distribution made on this basis are deemed to be inequitable to the Government or the institution, the distribution should then be made on a selective basis in accordance with the guides set out in section E.2. Such selective distribution should be made through use of reasonable methods which give adequate recognition to the utilization of the library attributable to faculty, research personnel, students and others. The method used will be based on data developed periodically on the respective institution's experience for representative periods.

5. *Departmental administration expenses.* a. The expenses under this heading are those that have been incurred in academic deans' offices, academic departments and organized research units such as institutes, study centers and research centers for administrative and supporting services which benefit common or joint departmental activities or objectives. They include the salaries and expenses of deans or heads, or associate deans or heads, of colleges, schools, departments, divisions, or organized research units, and their administrative staffs together with the salaries and expenses of personnel engaged in supporting activities maintained by the department, such as stockrooms, stenographic pools, and the like, provided such supporting services cannot be directly identified with a specific research project, with an instructional activity or with any other institutional activity. The salaries of other members of the professional staff whose appointments or assignments involve the performance of such administrative work may also be included to the extent that the portion so charged to departmental administration expenses is supported as required by section J.7. The departmental administration expense category should also include the staff benefit and pension plan costs applicable to the salaries and wages included therein, an appropriate share of the costs of the operation and maintenance of the physical plant, and charges representing use allowances and/or depreciation applicable to the buildings and equipment utilized in performing the functions represented thereunder.

b. The distribution of departmental administration expenses should be made through use of selected bases applied to cost groupings established within this category of expenses in accordance with the guides set out in section E.2.d.

6. *Setoff for indirect expenses otherwise provided for by the Government.* a. The items to be accumulated under this heading are the reimbursements and other receipts from the Federal Government which are used by the institution to support directly, in whole or in part, any of the administrative or service (indirect) activities described in the foregoing (sections F.1. through F.5.). They include any amounts thus applied to such activities which may have been received pursuant to an institutional base grant or any similar contractual arrangement with the Federal Government other than a research agreement as herein defined (section B.3).

b. The sum of the items in this group shall be treated as a credit to the total indirect cost pool before it is apportioned to organized research and to other activities. Such setoff shall be made prior to the determination of the indirect cost rate or rates as provided in section G.





G. DETERMINATION AND APPLICATION OF INDIRECT COST RATE OR RATES

1. *Indirect cost pools.* a. Subject to b. below, indirect costs allocated to organized research should be treated as a common pool, and the costs in such common pool should then be distributed to individual research agreements benefiting therefrom on a single rate basis.

b. In some instances a single rate basis for use across the board on all Government research at an institution may not be appropriate, since it would not take into account those different environmental factors which may affect substantially the indirect costs applicable to a particular segment of Government research at the institution. For this purpose, a particular segment of Government research may be that performed under a single research agreement or it may consist of research under a group of research agreements performed in a common environment. The environmental factors are not limited to the physical location of the work. Other important factors are the level of the administrative support required, the nature of the facilities or other resources employed, the scientific disciplines or technical skills involved, the organizational arrangements used, or any combination thereof. Where a particular segment of Government research is performed within an environment which appears to generate a significantly different level of indirect costs, provision should be made for a separate indirect cost pool applicable to such work. The separate indirect cost pool should be developed during the course of the regular distribution process, and the separate indirect cost rate resulting therefrom should be utilized provided it is determined that (1) such indirect cost rate differs significantly from that which would have obtained under a. above, and (2) the volume of research work to which such rate would apply is material in relation to other Government research at the institution.

2. *The distribution base.* Indirect costs allocated to organized research should be distributed to applicable research agreements on the basis of direct salaries and wages. For this purpose, an indirect cost rate should be determined for each of the separate indirect cost pools developed pursuant to section G.1. The rate in each case should be stated as the percentage which the amount of the particular indirect cost pool is of the total direct salaries and wages of all research agreements identified with such pool. For the purpose of establishing an indirect cost rate, direct salaries and wages may include that portion contributed to the research by the institution for cost sharing or other purposes. Bases other than salaries and wages may be used provided it can be demonstrated that they produce more equitable results.

3. *Negotiated lump sum for indirect costs.* A negotiated fixed amount in lieu of indirect costs may be appropriate for self-contained, off-campus, or primarily subcontracted research activities where the benefits derived from an institution's indirect services cannot be readily determined. Such amount negotiated in lieu of indirect costs will be treated as an offset to total indirect expenses before apportionment to instruction, organized research, and other institutional activities. The base on which such remaining expenses are allocated should be appropriately adjusted.

4. *Predetermined fixed rates for indirect costs.* Public Law 87–638 (76 Stat. 437) authorizes the use of predetermined fixed rates in determining the indirect costs applicable under research agreements with educational institutions. The stated objectives of the law are to simplify the administration of cost-type research and development contracts (including grants) with educational institutions, to facilitate the preparation of their budgets, and to permit more expeditious closeout of such contracts when the work is completed. In view of the potential advantages offered by this procedure, consideration should be given to the negotiation of predetermined fixed rates for indirect costs in those situations where the cost experience and other pertinent facts available are deemed sufficient to enable the parties involved to reach an informed judgment as to the probable level of indirect costs during the ensuing accounting period.

5. *Negotiated fixed rates and carryforward provisions.* When a fixed rate is negotiated in advance for a fiscal year (or other time period), the over- or under-recovery for that year may be included as an adjustment to the indirect cost for the next rate negotiation. When the rate is negotiated before the carryforward adjustment is determined due to the delay in audit, the carryforward may be applied to the next subsequent rate negotiation. When such adjustments are to be made, each fixed rate negotiated in advance for a given period will be computed by applying the expected indirect costs allocable to Government research for the forecast period plus or minus the carryforward adjustment (over- or under-recovery) from the prior period, to the forecast distribution base. Unrecovered amounts under lump-sum agreements or cost-sharing provisions of prior years shall not be carried forward for consideration in the new rate negotiation. There must, however, be an advance understanding in each case between the institution and the cognizant Federal agency as to whether these differences will be considered in the rate negotiation rather than making the determination after the differences are known. Further, institutions electing to use this carryforward provision may not subsequently change without prior approval of the cognizant Federal agency. In the event that an institution returns to a postdetermined rate, any over- or under-recovery during the period in which negotiated fixed rates and carryforward provisions were followed will be included in the subsequent postdetermined rates. Where multiple rates are used, the same procedure will be applicable for determining each rate. This procedure also applies to rates established for grants and contracts for training and other educational services, but does not apply to cost-type research agreements covering work performed in wholly or partially Government-owned facilities.

H. SIMPLIFIED METHOD FOR SMALL INSTITUTIONS

1. *General.* a. Where the total direct cost of all federally supported work under research and educational service agreements at an institution does not exceed $1 million in a fiscal year (excluding direct payments by the institution to participants under educational service agreements for stipends, support, and similar costs requiring little, if any, indirect cost support), the use of the abbreviated procedure described in 2., below, may be used in determining allowable indirect costs. Under this abbreviated procedure, the institution's most recent annual financial report and immediately available supporting information, with salaries and wages segregated from other costs, will be utilized as a basis for determining the indirect cost rate applicable both to federally supported research and educational service agreements.

b. The rigid formula approach provided under this abbreviated procedure should not be used where it produces results which appear inequitable to the Government or the institution. In any such case, indirect costs should be determined through use of the regular procedure.

2. *Abbreviated procedure.* a. Establish the total amount of salaries and wages paid to all employees of the institution.

b. Establish an indirect cost pool consisting of the expenditures (exclusive of capital items and other costs specifically identified as unallowable) which customarily are classified under the following titles or their equivalents:

(1) General administration and general expenses (exclusive of costs of student administration and services, student aid, student activities, and scholarships).

(2) Operation and maintenance of physical plant.

(3) Library.

(4) Department administration expenses, which will be computed as 20 percent of the salaries and expenses of deans and heads of departments.

In those cases where expenditures classified under 2.b.(1) and 2.b.(2) have previously been allocated to other institutional activities, they may be included in the indirect cost pool. The total amount of salaries and wages included in the indirect cost pool must be separately identified.

c. Establish a salary and wage distribution base, determined by deducting from the total of salaries and wages as established under 2.a. the amount of salaries and wages included under 2.b.

d. Establish the indirect cost rate, determined by dividing the amount in the indirect cost pool 2.b. by the amount of the distribution base 2.c.

e. Apply the indirect cost rate established to direct salaries and wages for individual agreements to determine the amount of indirect costs allocable to such agreements.

J. GENERAL STANDARDS FOR SELECTED ITEMS OF COST

Sections J.1. through J.46. provide standards to be applied in establishing the allowability of certain items involved in determining cost. These standards should apply irrespective of whether a particular item of cost is properly treated as direct cost or indirect cost. Failure to mention a particular item of cost in the standards is not intended to imply that it is either allowable or unallowable; rather determination as to allowability in each case should be based on the treatment or standards provided for similar or related items of cost. In case of discrepancy between the provisions of a specific research agreement and the applicable standards provided, the provisions of the research agreement should govern.

1. *Advertising costs.* The term advertising costs means the costs of advertising media and corollary administrative costs. Advertising media include magazines, newspapers, radio and television programs, direct mail, exhibits, and the like. The only advertising costs allowable are those which are solely for: (a) The recruitment of personnel required for the performance by the institution of obligations arising under the research agreement, when considered in conjunction with all other recruitment costs, as set forth in J.32.; (b) the procurement of scarce items



V 381181 SEP 19 73 XUM

for the performance of the research agreement; or (c) the disposal of scrap or surplus materials acquired in the performance of the research agreement. Costs of this nature, if incurred for more than one research agreement or for both research agreement work and other work of the institution, are allowable to the extent that the principles in sections D and E are observed.

2. *Bad debts.* Any losses, whether actual or estimated arising from uncollectible accounts and other claims, related collections costs, and related legal costs, are unallowable.

3. *Capital expenditures.* The costs of equipment, buildings, and repairs which materially increase the value or useful life of buildings or equipment, are unallowable except as provided for in the research agreement. Government funds shall not be used for the acquisition of land, or any interest therein, except with the specific prior approval of the sponsoring agency.

4. *Civil defense costs.* Civil defense costs are those incurred in planning for, and the protection of life and property against, the possible effects of enemy attack. Reasonable costs of civil defense measures (including costs in excess of normal plant protection costs, first-aid training and supplies, firefighting training, posting of additional exit notices and directions, and other approved civil defense measures) undertaken on the institution's premises pursuant to suggestions or requirements of civil defense authorities are allowable when distributed to all activities of the institution. Capital expenditures for civil defense purposes will not be allowed, but a use allowance or depreciation may be permitted in accordance with provisions set forth in section J.10. Costs of local civil defense projects not on the institution's premises are unallowable.

5. *Commencement and convocation costs.* Costs incurred for commencements and convocations apply only to instruction and therefore are not allocable to research agreements, either as direct costs or indirect costs.

6. *Communication costs.* Costs incurred for telephone services, local and long-distance telephone calls, telegrams, radiograms, postage and the like, are allowable.

7. *Compensation for personal services*—a. *General.* Compensation for personal services covers all remuneration paid currently or accrued to the institution for services of employees rendered during the period of performance under Government research agreements. Such remuneration includes salaries, wages, staff benefits (see section J.39.), and pension plan costs (see section J.23.). The costs of such remuneration are allowable to the extent that the total compensation to individual employees is reasonable for the services rendered and conforms to the established policy of the institution consistently applied, and provided that the charges for work performed directly on Government research agreements and for other work allocable as indirect costs to organized research are determined and supported as hereinafter provided.

b. *Payroll distribution.* Amounts charged to organized research for personal services, except stipulated salary support, regardless of whether treated as direct costs or allocated as indirect costs, will be based on institutional payrolls which have been approved and documented in accordance with generally accepted institutional practices. Support for direct and indirect allocations of personal service costs to (1) instruction, (2) organized research, and (3) indirect activities as defined in section E.1., or (4) other institutional activities as defined in section B.4., will be provided as described in c., d., e., and f., below.

c. *Stipulated salary support.* As an alternative to payroll distribution, stipulated salary support amounts may be provided in the research agreement for professorial staff, any part of whose compensation is chargeable to Government-sponsored research. Stipulated salary support may also be provided for any other professionals who are engaged part time in sponsored research and part time in other work. The stipulated salary support for an individual will be determined by the Government and the educational institution during the proposal and award process on the basis of considered judgment as to the monetary value of the contribution which the individual is expected to make to the research project. This judgment will take into account any cost sharing by the institution and such other factors as the extent of the investigator's planned participation in the project and his ability to perform as planned in the light of his other commitments. It will be necessary for those who review research proposals to obtain information on the total academic year salary of the faculty members involved; the other research projects or proposals for which salary is allocated; and any other duties they may have such as teaching assignments, administrative assignments, number of graduate students for which they are responsible, or other institutional activities. Stipulated amounts for an individual must not per se result in increasing his official salary from the institution.

d. *Direct charges for personal services under payroll distribution.* The direct cost charged to organized research for the personal services of professorial and professional staff, exclusive of those whose salaries are stipulated in the research agreement, will be based on institutional payroll systems. Such institutional payroll systems must be supported by either: (1) an adequate appointment and workload distribution system accompanied by monthly reviews performed by responsible officials and a reporting of any significant changes in workload distribution of each professor or professional staff member, or (2) a monthly after-the-fact certification system which will require the individual investigators, deans, departmental chairmen or supervisors having first-hand knowledge of the services performed on each research agreement to report the distribution of effort. Reported changes will be incorporated during the accounting period into the payroll distribution system and into the accounting records. Direct charges for salaries and wages of nonprofessionals will be supported by time and attendance and payroll distribution records.

e. *Direct charges for personal services under stipulated salaries.* The amounts stipulated for salary support will be treated as direct costs. The stipulated salary for the academic year will be prorated equally over the duration of the grant or contract period during the academic year, unless other arrangements have been made in the grant or contract instrument. No time or effort reporting will be required to support these amounts. Special provision for summer salaries, or for a particular "off period" if other than summer, will be required. The research agreements will state that any research covered by summer salary support must be carried out during the summer, not during the academic year, and at locations approved in advance in writing by the granting agency. The certification required in section K will attest to this requirement as well as all others in a given research agreement. Stipulated salary support remains fixed during the funding period of the grant or contract and will be costed at the rate described above unless there is a significant change in performance. For example, a significant change in performance would exist if the faculty member (1) was ill for an extended period, (2) took sabbatical leave to devote effort to duties unrelated to his research, or (3) was required to increase substantially his teaching assignments, administrative duties, or responsibility for more research projects. In the latter event, it will be the responsibility of the educational institution to reduce the charges to the research agreement proportionately or seek an appropriate amendment. In the case of those covered by stipulated salary support, the auditors are no longer required to review the precise accuracy of time or effort devoted to research projects. Rather, their reviews should include steps to determine on a sample basis that an institution is not reimbursed for more than 100 percent of each faculty member's salary and that the portion of each faculty member's salary charged to Government-sponsored research is reasonable in view of his university workload and other commitments. The stipulated salary method may also be agreed upon for that portion of a professional's salary that represents cost sharing by the institution.

f. *Indirect personal services costs.* Allowable indirect personal services costs will be supported by the educational institution's accounting system maintained in accordance with generally accepted institutional practices. Where a comprehensive accounting system does not exist, the institution should make periodic surveys no less frequently than annually to support the indirect personal services costs for inclusion in the overhead pool. Such supporting documentation must be retained for subsequent review by Government officials.

g. *General guidance for charging personal services.* Budget estimates on a monthly, quarterly, semester, or yearly basis do not qualify as support for charges to federally sponsored research projects and should not be used unless confirmed after the fact. Charges to research agreements may include reasonable amounts for activities contributing and intimately related to work under the agreement, such as preparing and delivering special lectures about specific aspects of the ongoing research, writing research reports and articles, participating in appropriate research seminars, consulting with colleagues and graduate students with respect to related research, and attending appropriate scientific meetings and conferences. In no case should charges be made to federally sponsored research projects for lecturing or preparing for formal courses listed in the catalog and offered for degree credit, or for committee or administrative work related to university business.

h. *Nonuniversity professional activities.* A university must not alter or waive university-wide policies and practices dealing with the permissible extent of professional services over and above those traditionally performed without extra university compensation, unless such arrangements are specifically authorized by the sponsoring agency. Where university-wide policies do not adequately define the permissible extent of consultantship or other nonuniversity activities undertaken for extra pay, the Government may require that the effort of professional staff working under research agreements be allocated as between (1) university activities, and (2) nonuniversity professional activities. If the sponsoring agency should consider the extent of nonuniversity professional effort excessive, appropriate arrangements governing compensation will be negotiated on a case-by-case basis.

i. *Salary rates for academic year.* Charges for work performed on Government research by faculty members during the academic year will be based on the individual faculty member's regular compensation for the continuous period which, under the practice of the institution concerned, constitutes the basis of his salary. Charges for work performed on research agreements during all or any portion of such period would be allowable at the base salary rate. In no event will the charge to research agreements, irrespective of the basis of computation, exceed the proportionate share of the base salary for that period, and any extra compensation above the base salary for work on Government research during such period would be unallowable. This principle applies to all members of the faculty at an institution. Since intrauniversity consulting is assumed to be undertaken as a university obligation requiring no compensation in addition to full-time base salary, the principle also applies to those who function as consultants or otherwise contribute to a research agreement conducted by another faculty member of the same institution. However, in unusual cases where consultation is across departmental lines or involves a separate or remote operation, and the work performed by the consultant is in addition to his regular departmental load, any charges for such work representing extra compensation above the base salary are allowable provided such consulting arrangement is specifically provided for in the research agreement or approved in writing by the sponsoring agency.

j. *Salary rates for periods outside the academic year.* Charges for work performed by faculty members on Government research during the summer months or other periods not included in the base salary period will be determined for each faculty member at a monthly rate not in excess of that which would be applicable under his base salary and will be limited to charges made in accordance with other subsections of J.7.

k. *Salary rates for part-time faculty.* Charges for work performed on Government research by a faculty member having only part-time appointment for teaching will be determined at a rate not in excess of that for which he is regularly paid for his part-time teaching assignments. Example: An institution pays $5,000 to a faculty member for half-time teaching during the academic year. He devoted one-half of his remaining time (25 percent of his total available time) to Government research. Thus his additional compensation, chargeable by the institution to Government research agreements, would be one-half of $5,000 or $2,500.

8. *Contingency provisions.* Contributions to a contingency reserve or any similar provision made for events the occurrence of which cannot be foretold with certainty as to time, intensity, or with an assurance of their happening, are unallowable.

9. *Deans of faculty and graduate schools.* The salaries and expenses of deans of faculty and graduate schools, or their equivalents, and their staffs, are allowable.

10. *Depreciation and use allowances.* a. Institutions may be compensated for the use of buildings, capital improvements, and usable equipment on hand through use allowances or depreciation. Use allowances are the means of providing such compensation when depreciation or other equivalent costs are not considered. However, a combination of the two methods may not be used in connection with a single class of fixed assets.

b. Due consideration will be given to Government-furnished facilities utilized by the institution when computing use allowances and/or depreciation if the Government-furnished facilities are material in amount. Computation of the use allowance and/or depreciation will exclude both the cost or any portion of the cost of buildings and equipment borne by or donated by the Federal Government, irrespective of where title was originally vested or where it presently resides and, secondly, the cost of grounds. Capital expenditures for land improvements (paved areas, fences, streets, sidewalks, utility conduits, and similar improvements not already included in the cost of buildings) are allowable provided the systematic amortization of such capital expenditures has been provided, based on reasonable determinations of the probable useful lives of the individual items involved, and the share allocated to organized research is developed from the amount thus amortized for the base period involved. Amortization methods once used should not be changed for a given building or equipment unless approved in advance by the cognizant Federal agency.

c. Where the use allowance method is followed, the use allowance for buildings and improvements will be computed at an annual rate not exceeding 2 percent of acquisition cost. The use allowance for equipment will be computed at an annual rate not exceeding 6⅔ percent of acquisition cost of usable and needed equipment in those cases where the institution maintains current records with respect to such equipment on hand. Where the institution's records reflect only the cost (actual or estimated) of the original complement of equipment, the use allowance will be computed at an annual rate not exceeding 10 percent of such cost. Original complement for this purpose means the complement of equipment initially placed in buildings to perform the functions currently being performed in such buildings; however, where a permanent change in the function of a building takes place, a redetermination of the original complement of equipment may be made at that time to establish a new original complement. In those cases where no equipment records are maintained, the institution will justify a reasonable estimate of the acquisition cost of usable and needed equipment which may be used to compute the use allowance at an annual rate not exceeding 6⅔ percent of such estimate.

d. Where the depreciation method is followed, adequate property record must be maintained and periodic inventory (a statistical sampling basis is acceptable) must be taken to insure that properties for which depreciation is charged do exist and are needed. The period of useful service (service life) established in each case for usable capital assets must be determined on a realistic basis which takes into consideration such factors as type of construction, nature of the equipment used, technological developments in the particular research area, and the renewal and replacement policies followed for the individual items or classes of assets involved. Where the depreciation method is introduced for application to assets acquired in prior years, the annual charges therefrom must not exceed the amounts that would have resulted had the depreciation method been in effect from the date of acquisition of such assets.

e. Where an institution elects to go to a depreciation basis for a particular class of assets, no depreciation, rental or use charge may be allowed on any such assets that, under d. above, would be viewed as fully depreciated provided, however, that reasonable use charges may be negotiated for any such assets if warranted after taking into consideration the cost of the facility or item involved, the estimated useful life remaining at time of negotiation, the actual replacement policy followed in the light of service lives used for calculating depreciation, the effect of any increased maintenance charges or decreased efficiency due to age, and any other factors pertinent to the utilization of the facility or item for the purpose contemplated.

11. *Employee morale, health, and welfare costs and credits.* The costs of house publications, health or first-aid clinics and/or infirmaries, recreational activities, employees' counseling services, and other expenses incurred in accordance with the institution's established practice or custom for the improvement of working conditions, employer-employee relations, employee morale, and employee-performance, are allowable. Such costs will be equitably apportioned to all activities of the institution. Income generated from any of these activities will be credited to the cost thereof unless such income has been irrevocably set over to employee welfare organizations.

12. *Entertainment costs.* Costs incurred for amusement, social activities, entertainment, and any items relating thereto, such as meals, lodging, rentals, transportation, and gratuities, are unallowable.

13. *Equipment and other facilities.* The costs of permanent equipment or other facilities are allowable where such purchases are approved by the sponsoring agency concerned or provided for by the terms of the research agreement. Total expenditures for permanent equipment may not exceed 125 percent of the amount allotted for the permanent equipment category by the sponsoring agency (through an approved budget or other document) except with approval. The term "permanent equipment" shall mean an item of property which has an acquisition cost of $200 or more and has an expected service life of one year or more.

a. *General purpose equipment.* Approval must be obtained to acquire with Government funds any general purpose permanent equipment, i.e., any items which are usable for activities of the institution other than research, such as office equipment and furnishings, air conditioning, reproduction, or printing equipment, motor vehicles, etc., or any automatic data processing equipment.

b. *Research equipment.* Approval must be obtained to acquire with Government funds any item of permanent research equipment costing $1,000 or more.

14. *Fines and penalties.* Costs resulting from violations of, or failure of the institution to comply with, Federal, State, and local laws and regulations are unallowable except when incurred as a result of compliance with specific provisions of the research agreement or instructions in writing from the contracting officer.

15. *Insurance and indemnification.* a. Costs of insurance required or approved, and maintained, pursuant to the research agreement, are allowable.

b. Costs of other insurance maintained by the institution in connection with the general conduct of its activities, are allowable subject to the following limitations: (1) types and extent and cost of coverage must be in accordance with sound institutional practice; (2) costs of insurance or of any contributions to any reserve covering the risk of loss of or damage to Government-owned property are unallowable except to the extent that the Government has specifically required or approved such costs; and (3) costs of insurance on the lives of officers or trustees are unallowable except where such insurance is part of an employee plan which is not unduly restricted.

c. Contributions to a reserve for an approved self-insurance program are allowable to the extent that the types of coverage, extent of coverage, and the rates and premiums would have been allowed had insurance been purchased to cover the risks.

d. Actual losses which could have been covered by permissible insurance (through an approved self-insurance program or otherwise) are unallowable unless expressly provided for in the research agreement, except that costs incurred because of losses not covered under existing deductible clauses for insurance coverage provided in keeping with sound management practice as well as minor losses not covered by insurance, such as spoilage, breakage, and disappearance of







V 38 181 SEP 1973 XUM

small hand tools, which occur in the ordinary course of operations, are allowable.

e. Indemnification includes securing the institution against liabilities to third persons and other losses not compensated by insurance or otherwise. The Government is obligated to indemnify the institution only to the extent expressly provided for in the research agreement, except as provided in d. above.

16. *Interest, fund raising, and investment management costs.* a. Costs incurred for interest on borrowed capital or temporary use of endowment funds, however represented, are unallowable.

b. Costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions, are not allowable under Government research agreements.

c. Costs of investment counsel and staff and similar expenses incurred solely to enhance income from investments are not allowable under Government research agreements.

d. Costs related to the physical custody and control of monies and securities are allowable.

17. *Labor relations costs.* Costs incurred in maintaining satisfactory relations between the institution and its employees, including costs of labor management committees, employees' publications, and other related activities, are allowable.

18. *Losses on other research agreements or contracts.* Any excess of costs over income under any other research agreement or contract of any nature is unallowable. This includes, but is not limited to, the institution's contributed portion by reason of cost-sharing agreements or any under-recoveries through negotiation of flat amounts for indirect costs.

19. *Maintenance and repair costs.* Costs incurred for necessary maintenance, repair, or upkeep of property (including Government property unless otherwise provided for) which neither add to the permanent value of the property nor appreciably prolong its intended life but keep it in an efficient operating condition, are allowable.

20. *Material costs.* Costs incurred for purchased materials, supplies, and fabricated parts directly or indirectly related to the research agreement, are allowable. Purchases made specifically for the research agreement should be charged thereto at their actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received by the institution. Withdrawals from general stores or stockrooms should be charged at their cost under any recognized method of pricing stores' withdrawals conforming to sound accounting practices consistently followed by the institution. Incoming transportation charges are a proper part of material cost. Direct material cost should include only the materials and supplies actually used for the performance of the research agreement, and due credit should be given for any excess materials retained, or returned to vendors. Due credit should be given for all proceeds or value received for any scrap resulting from work under the research agreement. Where Government-donated or furnished material is used in performing the research agreement, such material will be used without charge.

21. *Memberships, subscriptions, and professional activity costs.* a. Costs of the institution's membership in civic, business, technical, and professional organizations are allowable.

b. Costs of the institution's subscriptions to civic, business, professional, and technical periodicals are allowable.

c. Costs of meetings and conferences, when the primary purpose is the dissemination of technical information, are allowable. This includes costs of meals, transportation, rental of facilities, and other items incidental to such meetings or conferences.

22. *Patent costs.* Cost of preparing disclosures, reports, and other documents required by the research agreement and of searching the art to the extent necessary to make such invention disclosures, are allowable. In accordance with the clauses of the research agreement relating to patents, costs of preparing documents and any other patent costs, in connection with the filing of a patent application where title is conveyed to the Government, are allowable. (See also section J.33.)

23. *Pension plan costs.* Costs of the institution's pension plan which are incurred in accordance with the established policies of the institution are allowable, provided such policies meet the test of reasonableness and the methods of cost allocation are not discriminatory, and provided appropriate adjustments are made for credits or gains arising out of normal and abnormal employee turnover or any other contingencies that can result in forfeitures by employees which inure to the benefit of the institution.

24. *Plant security costs.* Necessary expenses incurred to comply with Government security requirements, including wages, uniforms, and equipment of personnel engaged in plant protection, are allowable.

25. *Preresearch agreement costs.* Costs incurred prior to the effective date of the research agreement, whether or not they would have been allowable thereunder if incurred after such date, are unallowable unless specifically set forth and identified in the research agreement.

26. *Professional services costs.* a. Costs of professional services rendered by the members of a particular profession who are not employees of the institution are allowable subject to b. and c. below, when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Government. Retainer fees to be allowable must be reasonably supported by evidence of services rendered.

b. Factors to be considered in determining the allowability of costs in a particular case include (1) the past pattern of such costs, particularly in the years prior to the award of Government research agreements; (2) the impact of Government research agreements on the institution's total activity; (3) the nature and scope of managerial services expected of the institution's own organizations; and (4) whether the proportion of Government work to the institution's total activity is such as to influence the institution in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under Government research agreements.

c. Costs of legal, accounting, and consulting services, and related costs, incurred in connection with organization and reorganization or the prosecution of claims against the Government, are unallowable. Costs of legal, accounting and consulting services, and related costs, incurred in connection with patent infrigement litigation, are unallowable unless otherwise provided for in the research agreement.

27. *Profits and losses on disposition of plant, equipment, or other capital assets.* Profits or losses of any nature arising from the sale or exchange of plant, equipment, or other capital assets, including sale or exchange of either short- or long-term investments, shall not be considered in computing research agreement costs.

28. *Proposal costs.* Proposal costs are the costs of preparing bids or proposals on potential Government and nongovernment research agreements or projects, including the development of engineering data and cost data necessary to support the institution's bids or proposals. Proposal costs of the current accounting period of both successful and unsuccessful bids and proposals normally should be treated as indirect costs and allocated currently to all activities of the institution, and no proposal costs of past accounting periods will be allocable in the current period to the Government research agreement. However, the institution's established practices may be to treat proposal costs by some other recognized method. Regardless of the method used, the results obtained may be accepted only if found to be reasonable and equitable.

29. *Public information services costs.* Costs of news releases pertaining to specific research or scientific accomplishment are unallowable unless specifically authorized by the sponsoring agency.

30. *Rearrangement and alteration costs.* Costs incurred for ordinary or normal rearrangement and alteration of facilities are allowable. Special arrangement and alteration costs incurred specifically for the project are allowable when such work has been approved in advance by the sponsoring agency concerned.

31. *Reconversion costs.* Costs incurred in the restoration or rehabilitation of the institution's facilities to approximately the same condition existing immediately prior to commencement of Government research agreement work, fair wear and tear excepted, are allowable.

32. *Recruiting costs.* a. Subject to b., c., and d. below, and provided that the size of the staff recruited and maintained is in keeping with workload requirements, costs of "help wanted" advertising, operating costs of an employment office necessary to secure and maintain an adequate staff, costs of operating an aptitude and educational testing program, travel costs of employees while engaged in recruiting personnel, travel costs of applicants for interviews for prospective employment, and relocation costs incurred incident to recruitment of new employees, are allowable to the extent that such costs are incurred pursuant to a well-managed recruitment program. Where the institution uses employment agencies, costs not in excess of standard commercial rates for such services are allowable.

b. In publications, costs of help-wanted advertising that includes color, includes advertising material for other than recruitment purposes, or is excessive in size (taking into consideration recruitment purposes for which intended and normal institutional practices in this respect), are unallowable.

c. Costs of help-wanted advertising, special emoluments, fringe benefits, and salary allowances incurred to attract professional personnel from other institutions that do not meet the test of reasonableness or do not conform with the established practices of the institution, are unallowable.

d. Where relocation costs incurred incident to recruitment of a new employee have been allowed either as an allocable direct or indirect cost, and the newly hired employee resigns for reasons within his control within 12 months after hire, the institution will be required to refund or credit such relocation costs to the Government.

33. *Royalties and other costs for use of patents.* Royalties on a patent or amortization of the cost of acquiring a patent or invention or rights thereto, necessary for the proper performance of the research agreement and applicable to tasks or processes thereunder, are allowable unless the Government has a license or the right to free use of the patent, the patent has been adjudicated to be invalid or has been administratively determined to be invalid, the patent is





considered to be unenforceable, or the patent has expired.

34. *Sabbatical leave costs.* Costs of leave of absence to employees for performance of graduate work or sabbatical study, travel, or research, are allowable provided the institution has a uniform policy on sabbatical leave for persons engaged in instruction and persons engaged in research. Such costs will be allocated on an equitable basis among all appertaining activities of the institution. Where sabbatical leave is included in fringe benefits for which a cost is determined for assessment as a direct charge, the aggregate amount of such assessments applicable to all work of the institution during the base period must be reasonable in relation to the institution's actual experience under its sabbatical leave policy.

35. *Scholarships and student aid costs.* Costs of scholarships, fellowships and other forms of student aid apply only to instruction and therefore are not allocable to research agreements, either as direct costs or indirect costs. However, in the case of students actually engaged in work under research agreements, any tuition remissions to such students for work performed are allocable to such research agreements provided consistent treatment is accorded such costs. (See section J.39.)

36. *Severance pay.* a. Severance pay is compensation in addition to regular salaries and wages which is paid by an institution to employees whose services are being terminated. Costs of severance pay are allowable only to the extent that such payments are required by law, by employer-employee agreement, by established policy that constitutes in effect an implied agreement on the institution's part, or by circumstances of the particular employment.

b. Severance payments that are due to normal, recurring turnover and which otherwise meet the conditions of a. above may be allowed provided the actual costs of such severance payments are regarded as expenses applicable to the current fiscal year and are equitably distributed among the institution's activities during that period.

c. Severance payments that are due to abnormal or mass terminations are of such conjectural nature that allowability must be determined on a case-by-case basis. However, the Government recognizes its obligation to participate, to the extent of its fair share, in any specific payment.

37. *Specialized service facilities operated by institution.* a. The costs, including amortization by generally accepted accounting practice, of institutional services involving the use of highly complex and specialized facilities such as electronic computers, including the cost of adapting computers for use, wind tunnels, and reactors are allowable provided the charges therefor meet the conditions of b. or c. below, and otherwise take into account any items of income or Federal financing that qualify as applicable credits under section C.5.

b. The costs of such institutional services normally will be charged directly to applicable research agreements based on actual usage or occupancy of the facilities on the basis of a schedule of rates that (1) is designed to recover only aggregate costs of providing such services over a long term agreed upon in advance by the cognizant Federal agency on an individual basis, and (2) is applied on a nondiscriminatory basis as between organized research and other work of the institution, including usage by the institution for internal purposes. Commercial or accommodation sales of computer services will be charged at not less than the above rates; however, if the rates charged for these services are greater, the total amount of charges above the scheduled rates when significant may be considered in revising the schedule of rates. Further, within the constraints of this paragraph, it is not necessary that the rates charged for services be equal to the cost of providing those services during any one fiscal year.

c. In the absence of an acceptable arrangement for direct costing as provided in b. above, the costs incurred for such institutional services may be assigned to research agreements as indirect costs, provided the methods used achieve substantially the same results. Such arrangements should be worked out in coordination with the cognizant Federal agency in order to assure equitable distribtuion of the indirect costs.

38. *Special services costs.* Costs incurred for general public relations activities, catalogs, alumni activities, and similar services, are unallowable.

39. *Staff benefits.* a. Staff benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, sick leave, military leave, and the like, are allowable provided such costs are absorbed by all institutional activities, including organized research, in proportion to the relative amount of time or effort actually devoted to each. (See section J.34. for treatment of sabbatical leave.)

b. Staff benefits in the form of employer contributions or expenses for social security, employee insurance, workmen's compensation insurance, the pension plan (see section J.23.), tuition or remission of tuition for individual employees or their families (see section J.35.), and the like, are allowable provided such benefits are granted in accordance with established institutional policies, and provided such contributions and other expenses, whether treated as indirect costs or as an increment of direct labor costs, are distributed to particular research agreements and other activities in a manner consistent with the pattern of benefits accruing to the individuals or groups of employees whose salaries and wages are chargeable to such research agreements and other activities.

40. *Student activity costs.* Costs incurred for intramural activities, student publications, student clubs, and other student activities, apply only to instruction and therefore are not allocable to research agreements, either as direct costs or indirect costs.

41. *Student services costs.* Costs of the deans of students, administration of student affairs, registrar, placement offices, student advisers, student health and infirmary services, and such other activities as are identifiable with student services apply only to instruction and therefore are not allocable to research agreements, either as direct costs or indirect costs. However, in the case of students actually engaged in work under research agreements, a proportion of student services costs measured by the relationship between hours of work by students on such research work and total student hours including all research time may be allowed as a part of research administration expenses.

42. *Taxes.* a. In general, taxes which the institution is required to pay and which are paid or accrued in accordance with generally accepted accounting principles, and payments made to local governments in lieu of taxes which are commensurate with the local government services received are allowable, except for: (1) taxes from which exemptions are available to the institution directly or which are available to the institution based on an exemption afforded the Government and in the latter case when the sponsoring agency makes available the necessary exemption certificates, and (2) special assessments on land which represent capital improvements.

b. Any refund of taxes, interest, or penalties, and any payment to the institution of interest thereon, attributable to taxes, interest, or penalties which were allowed as research agreement costs, will be credited or paid to the Government in the manner directed by the Government provided any interest actually paid or credited to an institution incident to a refund of tax, interest and penalty will be paid or credited to the Government only to the extent that such interest accrued over the period during which the institution had been reimbursed by the Government for the taxes, interest, and penalties.

43. *Transportation costs.* Costs incurred for freight, express, cartage, postage, and other transportation services relating either to goods purchased, in process, or delivered, are allowable. When such costs can readily be identified with the items involved, they may be charged directly as transportation costs or added to the cost of such items. Where identification with the materials received cannot readily be made, inbound transportation costs may be charged to the appropriate indirect cost accounts if the institution follows a consistent, equitable procedure in this respect. Outbound freight, if reimbursable under the terms of the research agreement, should be treated as a direct cost.

44. *Travel costs.* a. Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the institution. Such costs may be charged on an actual basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip and not to selected days of the trip, and results in charges consistent with those normally allowed by the institution in its regular operations.

b. Travel costs are allowable subject to c., d., e., and f. below, when they are directly attributable to specific work under a research agreement or are incurred in the normal course of administration of the institution or a department or research program thereof.

c. The difference in cost between first-class air accommodations and less than first-class air accommodations is unallowable except when less than first-class air accommodations are not reasonably available to meet necessary mission requirements, such as where less than first-class accommodations would:
(1) Require circuitous routing, (2) require travel during unreasonable hours, (3) greatly increase the duration of the flight, (4) result in additional costs which would offset the transportation savings, or (5) offer accommodations which are not reasonably adequate for the medical needs of the traveler.

d. Costs of personnel movements of a special or mass nature are allowable only when authorized or approved in writing by the sponsoring agency or its authorized representative.

e. Foreign travel costs are allowable only when the travel has received specific prior approval. Each separate foreign trip must be specifically approved. For purposes of this provision, foreign travel is defined as "any travel outside of Canada and the United States and its territories and possessions."

f. Expenditures for domestic travel may not exceed $500, or 125 percent of the amount allotted for such travel by the sponsoring agency, whichever is greater, except with approval.

45. *Termination costs applicable to research agreements.* a. Termination of research agreements generally gives rise to the incurrence of costs or to the need for special treatment of costs, which would not have arisen had the agreement not been terminated. Items peculiar to termination are set forth below. They are to be used in conjunction with all other provisions of this Appendix in the case of termination.



V 38 181 SEP 1973 XUM

b. The cost of common items of material reasonably usable on the institution's other work will not be allowable unless the institution submits evidence that it could not retain such items at cost without sustaining a loss. In deciding whether such items are reasonably usable on other work of the institution, consideration should be given to the institution's plans and orders for current and scheduled work. Contemporaneous purchases of common items by the institution will be regarded as evidence that such items are reasonably usable on the institution's other work. Any acceptance of common items as allowable to the terminated portion of the agreement should be limited to the extent that the quantities of such items on hand, in transit, and on order are in excess of the reasonable quantitative requirements of other work.

c. If in a particular case, despite all reasonable efforts by the institution, certain costs cannot be discontinued immediately after the effective date of termination, such costs are generally allowable within the limitations set forth in this Appendix, except that any such costs continuing after termination due to the negligent or willful failure of the institution to discontinue such costs will be considered unacceptable.

d. Loss of useful value of special tooling, and special machinery and equipment is generally allowable, provided: (1) such special tooling, machinery, or equipment is not reasonably capable of use in the other work of the institution; (2) the interest of the Government is protected by transfer of title or by other means deemed appropriate by the contracting officer or equivalent; and (3) the loss of useful value as to any one terminated agreement is limited to that portion of the acquisition cost which bears the same ratio to the total acquisition cost as the terminated portion of the agreement bears to the entire terminated agreement and other Government agreements for which the special tooling, special machinery, or equipment was acquired.

e. Rental costs under unexpired leases are generally allowable where clearly shown to have been reasonably necessary for the performance of the terminated agreement, less the residual value of such leases, if: (1) the amount of such rental claimed does not exceed the reasonable use value of the property leased for the period of the agreement and such further period as may be reasonable; and (2) the institution makes all reasonable efforts to terminate, assign, settle, or otherwise reduce the cost of such lease. There also may be included the cost of alterations of such leased property, provided such alterations were necessary for the performance of the agreement, and of reasonable restoration required by the provisions of the lease.

f. Settlement expenses including the following are generally allowable: (1) accounting, legal, clerical, and similar costs reasonably necessary for the preparation and presentation to contracting officers or equivalent of settlement claims and supporting data with respect to the terminated portion of the agreement, and the termination and settlement of subagreements; and (2) reasonable costs for the storage, transportation, protection, and disposition of property provided by the Government or acquired or produced by the institution for the agreement.

g. Claims under subagreements, including the allocable portion of claims which are common to the agreement and to other work of the institution, are generally allowable.

K. *Certification of charges.* To assure that expenditures for research grants and contracts are proper and in accordance with the research agreement documents and approved project budgets, the annual and/or final fiscal reports or vouchers requesting payment under research agreements will include a certification, signed by an authorized official of the university, which reads essentially as follows: "I certify that all expenditures reported (or payments requested) are for appropriate purposes and in accordance with the agreements set forth in the application and award documents."

PART II—PRINCIPLES FOR DETERMINING COSTS APPLICABLE TO TRAINING AND OTHER EDUCATIONAL SERVICES UNDER GRANTS AND CONTRACTS WITH EDUCATIONAL INSTITUTIONS

A. *Purpose.* This part extends the scope of Part I To cover the determination of costs incurred by educational institutions under Federal grants and contracts for training and other educational services.

B. *Application.* The Department of Health, Education and Welfare will use Parts I and II of this Appendix as a basis for determining allowable costs under grants and cost reimbursement type contracts with educational institutions for work performed under federally supported education service agreements.

C. *Terminology.* The following definitions are to be used in determining the indirect cost of federally sponsored training and other educational services under this Part II:

1. *Educational service agreement* means any grant or contract under which Federal financing is provided on a cost reimbursement basis for all or an agreed portion of the costs incurred for training or other educational services. Typical of the work covered by educational service agreements are summer institutes, special training programs for selected participants, professional or technical services to cooperating countries, the development and introduction of new or expanded courses, and similar instructional oriented undertakings, including special research training programs, that are separately budgeted and accounted for by the institution.

The term does not extend to: (a) grants or contracts for organized research, (b) arrangements under which the Federal financing is exclusively in the form of scholarships, fellowships, traineeships, or other fixed amounts such as a cost of education allowance or the normal published tuition rates and fees of an institution, or (c) construction, facility and exclusively general resource or institutional-type grants.

2. *Instruction* means all of the academic work other than organized research carried on by an institution, including the teaching of graduate and undergraduate courses, departmental research (see section B.2. of Part I) and all special training or other instructional-oriented projects sponsored by the Federal Government or others under educational service agreements.

D. *Student administration and services.* In addition to the five major functional categories of indirect costs described in section F of Part I, there is established an additional category under the title "Student administration and services" to embrace the following:

1. The expenses in this category are those that have been incurred for the administration of student affairs and for services to students, including expenses of such activities as deans of students, admissions, registrar, counseling and placement services, student advisers, student health and infirmary services, catalogs, and commencements and convocations. The salaries of members of the academic staff whose academic appointments or assignments involve the performance of such administrative or service work may also be included to the extent that the portion so charged is supported pursuant to section J.2. of Part I. The student administration and services category also includes the staff benefit and pension plan costs applicable to the salaries and wages included therein, an appropriate share of the cost of the operation and maintenance of the physical plant, and charges representing use allowance or depreciation applicable to the buildings and equipment utilized in the performance of the functions included in this category.

2. The expenses in this category are generally applicable in their entirety to the instruction activity. They should be allocated to applicable cost objectives within the instruction activity, including educational service agreements, when such agreements reasonably benefit from these expenses. Such expenses should be allocated on the basis of population served (computed on the basis of full-time equivalents including students, faculty, and others as appropriate) or other methods which will result in an equitable distribution to cost objectives in relation to the benefits received and be consistent with guides provided in section E.2. of Part I.

E. *Direct costs of educational service agreements.* Direct costs of work performed under educational service agreements will be determined consistent with the principles set forth in section D of Part I.

F. *Indirect costs of the instruction activity.* The indirect costs of the instruction activity as a whole should include its allocated share of administrative and supportive costs determined in accordance with the principles set forth in section D above and in section F of Part I. Such costs may include other items of indirect cost incurred solely for the instruction activity and not included in the general allocation of the various categories of indirect expenses. Costs incurred for the institutions by State and local governments are allowable as provided for in section C.6. of Part I.

G. *Indirect costs applicable to educational service agreements.* The individual items of indirect costs applicable to the instruction activity as a whole should be assigned to: (1) educational service agreements, and (2) all other instructional work through use of appropriate cost groupings, selected distribution bases, and other reasonable methods as outlined in section E.2. of Part I. A single indirect pool may be used for all educational service agreements provided this results in a reasonably equitable distribution of costs among agreements in relation to indirect support services provided. However, when the level of indirect support significantly varies for work performed either on campus or off campus under a particular agreement or group of agreements, separate cost pools should be established consistent with the principles set forth in section G.1.b. of Part I. Where direct charges are provided for under educational service agreements for such things as commencement fees, student fees, and tuition, the related indirect costs, through separate cost groupings, should be excluded from the indirect costs allocable to the service agreements.

H. *Indirect cost rates for educational service agreements.* An indirect cost rate should be determined for the educational service agreement pool or pools, as established under section G above. The rate in each case should be stated as the percentage which the amount of the particular educational service agreement pool is of the total direct salaries and wages of all educational service agreements identified with such pool. Indirect costs should be distributed to individual agreements by applying the rate or rates established to direct salaries and wages for each agreement. When a fixed rate is negotiated in advance of a fiscal year, the over- or under-recovery for that year may be included as an adjustment to the indirect cost for the next rate negotiation as in sections G.4. and G.5. of Part I.

I. *General standards for selected items of cost.* The standards for selected items of cost as set forth in sections J.1. through J.46. of Part I applicable to research agreements will also be applied to educational service agreements with the following modifications:

1. *Commencement and convocation costs (J.5.).* Expenses incurred for convocations and commencements apply to the instruction activity as a whole. Such expenses are unallowable as direct costs of educational service agreements unless specifically authorized in the agreement or approved in writing by the sponsoring agency. For eligibility of allocation as indirect costs, see section D.

2. *Compensation for personal services (J.7.).* Charges to educational service agreements for personal services will normally be determined and supported consistent with the provisions of section J.7. of Part I. However, the provision for stipulated salary support will not be used for educational service agreements. Also, charges may include compensation in excess of the base salary of a faculty member for the conduct of courses outside the normal duties of such member provided that: (a) extra charges are determined at a rate not greater than the basic salary rate of the member; (b) salary payments for such work follow practices consistently applied within the institution; and (c) specific authorization for such charges is included in the educational service agreement.

3. *Scholarships and student aid costs (J.35.).* Expenses incurred for scholarships and student aid are unallowable as either direct costs or indirect costs of educational service agreements, unless specifically authorized in the educational service agreement or approved in writing by the sponsoring agency.

4. *Student activity costs (J.40.).* Expenses incurred for student activities are unallowable as either direct costs or indirect costs of educational service agreements, unless specifically authorized in the educational service agreement or approved in writing by the sponsoring agency.

5. *Student services costs (J.41.).* Expenses incurred for student services are unallowable as direct costs of educational service agreements unless specifically authorized in the agreement or approved in writing by the sponsoring agency. For eligibility of allocation as indirect costs, see section D.





APPENDIX E—PRINCIPLES FOR DETERMINING COSTS APPLICABLE TO RESEARCH AND DEVELOPMENT UNDER GRANTS AND CONTRACTS WITH HOSPITALS

I. PURPOSE AND SCOPE

A. *Objectives.* This appendix provides principles for determining the costs applicable to research and development work performed by hospitals under grants and contracts with the Department of Health, Education and Welfare. These principles are confined to the subject of cost determination and make no attempt to identify the circumstances or dictate the extent of hospital participation in the financing of a particular research or development project. The principles are designed to provide recognition of the full allocated costs of such research work under generally accepted accounting principles. These principles will be applicable to both proprietary and non-profit hospitals. No provision for profit or other increment above cost is provided for in these principles. However, this is not to be interpreted as precluding a negotiated fee between contracting parties when a fee is appropriate.

B. *Policy guides.* The successful application of these principles requires development of mutual understanding between representatives of hospitals and of the Department of Health, Education and Welfare as to their scope, applicability and interpretation. It is recognized that:

1. The arrangements for hospital participation in the financing of a research and development project are properly subject to negotiation between the agency and the hospital concerned in accordance with such Government-wide criteria as may be applicable.

2. Each hospital, possessing its own unique combination of staff, facilities and experience, should be encouraged to conduct research in a manner consonant with its own institutional philosophies and objectives.

3. Each hospital in the fulfillment of its contractual obligations should be expected to employ sound management practices.

4. The application of the principles established herein shall be in conformance with the generally accepted accounting practices of hospitals.

5. Hospitals receive reimbursements from the Federal Government for differing types of services under various programs such as support of Research and Development (including discrete clinical centers) Health Services Projects, Medicare, etc. It is essential that consistent procedures for determining reimbursable costs for similar services be employed without regard to program differences. Therefore, both the direct and indirect costs of research programs must be identified as a cost center(s) for the cost finding and step-down requirements of the Medicare program, or in its absence the Medicaid program.

C. *Application.* All operating agencies within the Department of Health, Education and Welfare that sponsor research and development work in hospitals will apply these principles and related policy guides in determining the costs incurred for such work under grants and cost-reimbursement type contracts and subcontracts. These principles will also be used as a guide in the pricing of fixed-price contracts and subcontracts.

II. DEFINITIONS OF TERMS

A. "Organized research" means all research activities of a hospital that may be identified whether the support for such research is from a federal, non-federal or internal source.

B. "Departmental research" means research activities that are not separately budgeted and accounted for. Such work, which includes all research activities not encompassed under the term organized research, is regarded for purposes of this document as a part of the patient care activities of the hospital.

C. "Research agreement" means any valid arrangement to perform federally-sponsored research or development including grants, cost-reimbursement type contracts, cost-reimbursement type sub-contracts, and fixed-price contracts and sub-contracts.

D. "Instruction and training" means the formal or informal programs of educating and training technical and professional health services personnel, primarily medical and nursing training. This activity, if separately budgeted or identifiable with specific costs, should be considered as a cost objective for purposes of indirect cost allocations and the development of patient care costs.

E. "Other hospital activities" means all organized activities of a hospital not immediately related to the patient care, research, and instructional and training functions which produce identifiable revenue from the performance of these activities. If a non-related activity does not produce identifiable revenue, it may be necessary to allocate this expense using an appropriate basis. In such a case, the activity may be included as an allocable cost (See para. III D below.) Also included under this definition is any category of cost treated as "Unallowable," provided such category of cost identifies a function or activity to which a portion of the institution's indirect cost (as defined in para. V. A.) are properly allocable.

F. "Patient care" means those departments or cost centers which render routine or ancillary services to in-patients and/or out-patients. As used in para. IX B.23, it means the cost of these services applicable to patients involved in research programs.

G. "Allocation" means the process by which the indirect costs are assigned as between:

1. Organized research,
2. Patient care including departmental research.
3. Instruction and training, and
4. Other hospital activities.

H. "Cost center" means an identifiable department or area (including research) within the hospital which has been assigned an account number in the hospital accounting system for the purpose of accumulating expense by department or area.

I. "Cost finding" is the process of recasting the data derived from the accounts ordinarily kept by a hospital to ascertain costs of the various types of services rendered. It is the determination of direct costs by specific identification and the proration of indirect costs by allocation.

J. "Step down" is a cost finding method that recognizes that services rendered by certain nonrevenue-producing departments or centers are utilized by certain other nonrevenue producing centers as well as by the revenue-producing centers. All costs of nonrevenue-producing centers are allocated to all centers which they serve, regardless of whether or not these centers produce revenue. Following the apportionment of the cost of the nonrevenue-producing center, that center will be considered closed and no further costs are apportioned to that center.

K. "Scatter bed" is a bed assigned to a research patient based on availability. Research patients occupying these beds are not physically segregated from nonresearch patients occupying beds. Scatter beds are geographically dispersed among all the beds available for use in the hospital. There are no special features attendant to a scatter bed that distinguishes it from others that could just as well have been occupied.

L. "Discrete bed" is a bed or beds that have been set aside for occupancy by research patients and are physically segregated from other hospital beds in an environment that permits an easily ascertainable allocation of costs associated with the space they occupy and the services they generate.

III. BASIC CONSIDERATIONS

A. *Composition of total costs.* The cost of a research agreement is comprised of the allowable direct costs incident to its performance plus the allocable portion of the allowable indirect costs of the hospital less applicable credits. (See para. III–E.)

B. *Factors affecting allowability of costs.* The tests of allowability of costs under these principles are:

1. They must be reasonable,
2. They must be assigned to research agreements under the standards and methods provided herein,
3. They must be accorded consistent treatment through application of those generally accepted accounting principles appropriate to the circumstances (See para. I–B.5.) and
4. They must conform to any limitations or exclusions set forth in these principles or in the research agreement as to types or amounts of cost items.

C. *Reasonable costs.* A cost may be considered reasonable if the nature of the goods or services acquired or applied, and the amount



V 38 1 81 SEP 19 73 XUM

involved therefor reflect the action that a prudent person would have taken under the circumstances prevailing at the time the decision to incur the cost was made. Major considerations involved in the determination of the reasonableness of a cost are:

1. Whether or not the cost is of a type generally recognized as necessary for the operation of the hospital or the performance of the research agreement,

2. The restraints or requirements imposed by such factors as arm's length bargaining, federal and state laws and regulations, and research agreement terms and conditions,

3. Whether or not the individuals concerned acted with due prudence in the circumstances, considering their responsibilities to the hospital, its patients, its employees, its students, the Government, and the public at large, and

4. The extent to which the actions taken with respect to the incurrence of the cost are consistent with established hospital policies and practices applicable to the work of the hospital generally, including Government research.

D. *Allocable costs.* 1. A cost is allocable to a particular cost center (i.e., a specific function, project, research agreement, department, or the like) if the goods or services involved are chargeable or assignable to such cost center in accordance with relative benefits received or other equitable relationship. Subject to the foregoing, a cost is allocable to a research agreement if it is incurred solely to advance the work under the research agreement; or it benefits both the research agreement and other work of the hospital in proportions that can be approximated through use of reasonable methods; or it is necessary to the overall operation of the hospital and, in light of the standards provided in this chapter, is deemed to be assignable in part to organized research. Where the purchase of equipment or other capital items are specifically authorized under a research agreement, the amounts thus authorized for such purchases are allocable to the research agreement regardless of the use that may subsequently be made of the equipment or other capital items involved.

2. Any costs allocable to a particular research agreement under the standards provided in these principles may not be shifted to other research agreements in order to meet deficiencies caused by overruns or other fund considerations, to avoid restrictions imposed by law or by terms of the research agreement, or for other reasons of convenience.

E. *Applicable credits.* 1. The term applicable credits refers to those receipts or negative expenditure types of transactions which operate to offset or reduce expense items that are allocable to research agreements as direct or indirect costs as outlined in para. V–A. Typical examples of such transactions are: purchase discounts, rebates, or allowances; recoveries or indemnities on losses; sales of scrap or incidental services; tuition; adjustments of overpayments or erroneous charges; and services rendered to patients admitted to federally funded clinical research centers, primarily for care though also participating in research protocols.

2. In some instances, the amounts received from the Federal Government to finance hospital activities or service operations should be treated as applicable credits. Specifically, the concept of netting such credit items against related expenditures should be applied by the hospital in determining the rates or amounts to be charged to government research for services rendered whenever the facilities or other resources used in providing such services have been financed directly, in whole or in part, by federal funds. Thus, where such items are provided for or benefit a particular hospital activity, i.e., patient care, research, instruction and training, or other, they should be treated as an offset to the indirect costs apportioned to that activity. Where the benefits are common to all hospital activities they should be treated as a credit to the total indirect cost pool before allocation to the various cost objectives.

IV. DIRECT COSTS

A. *General.* Direct costs are those that can be identified specifically with a particular cost center. For this purpose, the term cost center refers not only to the ultimate centers against which costs are finally lodged such as research agreements, but also to other established cost centers such as the individual accounts for recording particular objects or items of expense, and the separate account groupings designed to record the expenses incurred by individual organizational units, functions, projects and the like. In general, the administrative functions and service activities described in para. VI are identifiable as separate cost centers, and the expenses associated with such centers become eligible in due course for distribution as indirect costs of research agreements and other ultimate cost centers.

B. *Application to research agreements.* Identifiable benefit to the research work rather than the nature of the goods and services involved is the determining factor in distinguishing direct from indirect costs of research agreements. Typical of transactions chargeable to a research agreement as direct costs are the compensation of employees for the time or effort devoted to the performance of work under the research agreement, including related staff benefit and pension plan costs to the extent that such items are consistently accorded to all employees and treated by the hospital as direct rather than indirect costs (see para. V. B4b); the costs of materials consumed or expended in the performance of such work; and other items of expense incurred for the research agreement, such as extraordinary utility consumption. The cost of materials supplied from stock or services rendered by specialized facilities or other institutional service operations may be included as direct costs of research agreements provided such items are consistently treated by the institution as direct rather than indirect costs and are charged under a recognized method of costing or pricing designed to recover only the actual direct and indirect costs of such material or service and conforming to generally accepted cost accounting practices consistently followed by the institution.

V. INDIRECT COSTS

A. *General.* Indirect costs are those that have been incurred for common or joint objectives, and thus are not readily subject to treatment as direct costs of research agreements or other ultimate or revenue producing cost centers. In hospitals such costs normally are classified but not necessarily restricted to the following functional categories: Depreciation; Administrative and General (including fringe benefits if not charged directly); Operation of Plant; Maintenance of Plant; Laundry and Linen Service; Housekeeping; Dietary; Maintenance of Personnel; and Medical Records and Library.

B. *Criteria for distribution.*—1. *Base period.* A base period for distribution of indirect costs is the period during which such costs are incurred and accumulated for distribution to work performed within that period. The base period normally should coincide with the fiscal year established by the hospital, but in any event the base period should be so selected as to avoid inequities in the distribution of costs.

2. *Need for cost groupings.* The overall objective of the allocation process is to distribute the indirect costs described in para. VI to organized research, patient care, instruction and training, and other hospital activities in reasonable proportions consistent with the nature and extent of the use of the hospital's resources by research personnel, medical staff, patients, students, and other personnel or organizations. In order to achieve this objective with reasonable precision, it may be necessary to provide for selective distribution by establishing separate groupings of cost within one or more of the functional categories of indirect costs referred to in para. V–A. In general, the cost groupings established within a functional category should constitute, in each case, a pool of those items of expense that are considered to be of like character in terms of their relative contribution to (or degree of remoteness from) the particular cost centers to which distribution is appropriate. Each such pool or cost grouping should then be distributed individually to the related cost centers, using the distribution base or method most appropriate in the light of the guides set out in B3 below. While this paragraph places primary emphasis on a step-down method of indirect cost computation, para. VIII provides an alternate method which may be used under certain conditions.

3. *Selection of distribution method.* Actual conditions must be taken into account in selecting the method or base to be used in distributing to related cost centers the expenses assembled under each of the individual cost groups established as indicated under B2 above. Where a distribution can be made by assignment of a cost grouping directly to the area benefited, the distribution should be made in that manner. Care should be given, however, to eliminate similar or duplicative costs from any other distribution made to this area. Where the expenses under a cost grouping are more general in nature, the distribution to related cost centers should be made through use of a selected base which will produce results which are equitable to both the Government and the hospital. In general, any cost element or cost-related factor associated with the hospital's work is potentially adaptable for use as a distribution base provided:

a. It can readily be expressed in terms of dollars or other quantitative measure (total direct expenditures, direct salaries, manhours applied, square feet utilized, hours of usage, number of documents processed, population served, and the like); and

b. It is common to the related cost centers during the base period. The essential consideration in selection of the distribution base in each instance is that it be the one best suited for assigning the pool of costs to related cost centers in accord with the relative benefits derived; the traceable cause and effect relationship; or logic and reason, where neither benefit nor cause and effect relationship is determinable.

4. *General consideration on cost groupings.* The extent to which separate cost groupings and selective distribution would be appropriate at a hospital is a matter of judgment to be determined on a case-by-case basis. Typical situations which may warrant the establishment of two or more separate cost groups (based on account classification or analysis) within a functional category include but are not limited to the following:

a. Where certain items or categories of expense relate solely to one of the major divisions of the hospital (patient care, sponsored research, instruction and training, or other hospital activities) or to any two but not all, such expenses should be set aside as a separate cost grouping for direct assignment or selective distribution in accordance with the guides provided in B2 and B3 above.





b. Where any types of expense ordinary treated as indirect cost as outlined in para. V–A are charged to research agreements as direct costs, the similar type expenses applicable to other activities of the institution must through separate cost grouping be excluded from the indirect costs allocable to research agreements.

c. Where it is determined that certain expenses are for the support of a service unit or facility whose output is susceptible of measurement on a workload or other quantitative basis, such expenses should be set aside as a separate cost grouping for distribution on such basis to organized research and other hospital activities.

d. Where organized activities (including identifiable segments of organized research as well as the activities cited in para. II–E) provide their own purchasing, personnel administration, building maintenance, or housekeeping or similar service, the distribution of such elements of indirect cost to such activities should be accomplished through cost grouping which includes only that portion of central indirect costs (such as for overall management) which are properly allocable to such activities.

e. Where the hospital elects to treat as indirect charges the costs of pension plans and other staff benefits, such costs should be set aside as a separate cost grouping for selective distribution to related cost centers, including organized research.

f. Where the hospital is affiliated with a medical school or some other institution which performs organized research on the hospital's premises, every effort should be made to establish separate cost groupings in the Administrative and General or other applicable category which will reasonably reflect the use of services and facilities by such research. (See also para. VII–A.3)

5. *Materiality.* Where it is determined that the use of separate cost groupings and selective distribution are necessary to produce equitable results, the number of such separate cost groupings within a functional category should be held within practical limits, after taking into consideration the materiality of the amounts involved and the degree of precision attainable through less selective methods of distribution.

C. *Administration of limitations on allowances for indirect costs.* 1. Research grants may be subject to laws and/or administrative regulations that limit the allowance for indirect costs under each such grant to a stated percentage of the direct costs allowed. Agencies that sponsor such grants will establish procedures which will assure that:

a. the terms and amount authorized in each case conform with the provisions of paragraphs III, V and IX of these principles as they apply to matters involving the consistent treatment and allowability of individual items of cost; and

b. the amount actually allowed for indirect costs under each such research grant does not exceed the maximum allowable under the limitation or the amount otherwise allowable under these principles, whichever is the smaller.

2. Where the actual allowance for indirect costs on any research grant must be restricted to the smaller of the two alternative amounts referred to in C1 above, such alternative amounts should be determined in accordance with the following guides:

a. The maximum allowable under the limitation should be established by applying the stated percentage to a direct cost base which shall include all items of expenditure authorized by the sponsoring agency for inclusion as part of the total cost for the direct benefit of the work under the grant; and

b. The amount otherwise allowable under these principles should be established by applying the current institutional indirect cost rate to those elements of direct cost which were included in the base on which the rate was computed.

3. When the maximum amount allowable under a statutory limitation or the terms of a research agreement is less than the amount otherwise allocable as indirect costs under these principles, the amount not recoverable as indirect costs under the research agreement involved may not be shifted to other research agreements.

VI. IDENTIFICATION AND ASSIGNMENT OF INDIRECT COSTS

A. *Depreciation or use charge.* 1. The expenses under this heading should include depreciation (as defined in para. IX–B.9a) on buildings, fixed equipment, and movable equipment, except to the extent purchased through federal funds. Where adequate records for the recording of depreciation are not available, a use charge may be substituted for depreciation (See para. IX–B.)

2. The expenses included in this category should be allocated to applicable cost centers in a manner consistent with the guides set forth in para. V–B. on a basis that gives primary emphasis to (a) space utilization with respect to depreciation on buildings and fixed equipment; and (b) specific identification of assets and their use with respect to movable equipment as it relates to patient care, organized research, instruction and training, and other hospital activities. Where such records are not sufficient for the purpose of the foregoing, reasonable estimates will suffice as a means for effecting distribution of the amounts involved.

B. *Administration and general expenses.* 1. The expenses under this heading are those that have been incurred for the administrative offices of the hospital including accounting, personnel, purchasing, information centers, telephone expense, and the like which do not relate solely to any major division of the institution, i.e., solely to patient care, organized research, instruction and training, or other hospital activities.

2. The expenses included in this category may be allocated on the basis of total expenditures exclusive of capital expenditures, or salaries and wages in situations where the results of the distribution made on this basis are deemed to be equitable both to the Government and the hospital; otherwise the distribution of Administration and General expenses should be made through use of selected bases, applied to separate cost groupings established within this category of expenses in accordance with the guides set out in para. V–B.

C. *Operation of plant.* 1. The expenses under this heading are those that have been incurred by a central service organization or at the departmental level for the administration, supervision, and provision of utilities (exclusive of telephone expense) and protective services to the physical plant. They include expenses incurred for such items as power plant operations, general utility costs, elevator operations, protection services, and general parking lots.

2. The expenses included in this category should be allocated to applicable cost centers in a manner consistent with the guides provided in para. V–B. on a basis that gives primary emphasis to space utilization. The allocations should be developed as follows:

a. Where actual space and related cost records are available and can readily be developed and maintained without significant change in the accounting practices, the amount distributed should be based on such records;

b. Where the space and related cost records maintained are not sufficient for purposes of the foregoing, a reasonable estimate of the proportion of total space assigned to the various costs centers normally will suffice as a means for effecting distribution of the amounts involved; or

c. Where it can be demonstrated that an area or volume of space basis of allocation is impractical or inequitable, other basis may be used provided consideration is given to the use of facilities by research personnel and others, including patients.

D. *Maintenance of plant.* 1. The expenses under this heading should include:

a. All salaries and wages pertaining to ordinary repair and maintenance work performed by employees on the payroll of the hospital;

b. All supplies and parts used in the ordinary repairing and maintaining of buildings and general equipment; and

c. Amounts paid to outside concerns for the ordinary repairing and maintaining of buildings and general equipment.

2. The expenses included in this category should be allocated to applicable cost centers in a manner consistent with the guides provided in para. V–B. on a basis that gives primary emphasis to space utilization. The allocations and apportionments should be developed as follows:

a. Where actual space and related cost records are available and can readily be developed and maintained without significant change in the accounting practices, the amount distributed should be based on such records;

b. Where the space and related cost records maintained are not sufficient for purposes of the foregoing, a reasonable estimate of the proportion of total space assigned to the various cost centers normally will suffice as a means for effecting distribution of the amounts involved; or

c. Where it can be demonstrated that an area or volume of space basis of allocation is impractical or inequitable, other basis may be used provided consideration is given to the use of facilities by research personnel and others, including patients.

E. *Laundry and linen.* 1. The expenses under this heading should include:

a. Salaries and wages of laundry department employees, seamstresses, clean linen handlers, linen delivery men, etc.;

b. Supplies used in connection with the laundry operation and all linens purchased; and

c. Amounts paid to outside concerns for purchased laundry and/or linen service.

2. The expense included in this category should be allocated to related cost centers in a manner consistent with the guides provided in para. V–B. on a basis that gives primary emphasis to actual pounds of linen used. The allocations should be developed as follows:

a. Where actual poundage and related cost records are available or can readily be develop and maintained without significant change in the accounting practices, the amount distributed should be based on such records;

b. Where it can be demonstrated that a poundage basis of allocation is impractical or inequitable other bases may be used provided consideration is given to the use of linen by research personnel and others, including patients.

F. *Housekeeping.* 1. The expenses under this heading should include:

a. All salaries and wages of the department head, foreman, maids, porters, janitors, wall washers, and other housekeeping employees;

b. All supplies used in carrying out the housekeeping functions; and

c. Amounts paid to outside concerns for purchased services such as window washing, insect extermination, etc.

2. The expenses included in this category should be allocated to related cost centers in a manner consistent with the guides pro-



V 38 181
SEP 19 73
XUM

vided in para. V–B. on a basis that gives primary emphasis to space actually serviced by the housekeeping department. The allocations and apportionments should be developed as follows:

a. Where actual space serviced and related cost records are available or can readily be developed and maintained without significant change in the accounting practices, the amount distributed should be based on such records;

b. Where the space serviced and related cost records maintained are not sufficient for purposes of the foregoing, a reasonable estimate of the proportion of total space assigned to the various cost centers normally will suffice as a means for effecting distribution of the amounts of housekeeping expenses involved; or

c. Where it can be demonstrated that the space serviced basis of allocation is impractical or inequitable, other bases may be used provided consideration is given to the use of housekeeping services by research personnel and others, including patients.

G. *Dietary.* 1. These expenses, as used herein, shall mean only the subsidy provided by the hospital to its employees including research personnel through its cafeteria operation. The hospital must be able to demonstrate through the use of proper cost accounting techniques that the cafeteria operates at a loss to the benefit of employees.

2. The reasonable operating loss of a subsidized cafeteria operation should be allocated to related cost centers in a manner consistent with the guides provided in para. V–B. on a basis that gives primary emphasis to number of employees.

H. *Maintenance (housing) of personnel.* 1. The expenses under this heading should include:

a. The salaries and wages of matrons, clerks, and other employees engaged in work in nurses' residences and other employees' quarters;

b. All supplies used in connection with the operation of such dormitories; and

c. Payments to outside agencies for the rental of houses, apartments, or rooms used by hospital personnel.

2. The expenses included in this category should be allocated to related cost centers in a manner consistent with the guides provided in para. V–B. on a basis that gives primary emphasis to employee utilization of housing facilities. The allocation should be developed as follows:

a. Appropriate credit should be given for all payments received from employees or otherwise to reduce the expense to be allocated;

b. A net cost per housed employee may then be computed; and

c. Allocation should be made on a departmental basis based on the number of housed employees in each respective department.

I. *Medical records and library.* 1. The expenses under this heading should include:

a. The salaries and wages of the records librarian, medical librarian, clerks, stenographers, etc.; and

b. All supplies such as medical record forms, chart covers, filing supplies, stationery, medical library books, periodicals, etc.

2. The expenses included in this category should be allocated to related cost centers in a manner consistent with the guides provided in para. V–B. on a basis that gives primary emphasis to a special time survey of medical records personnel. If this appears to be impractical or inequitable, other bases may be used provided consideration is given to the use of these facilities by research personnel and others, including patients.

### VII. DETERMINATION AND APPLICATION OF INDIRECT COST RATE OR RATES

A. *Indirect cost pools.* 1. Subject to (2) below, indirect costs allocated to organized research should be treated as a common pool, and the costs in such common pool should be distributed to individual research agreements benefiting therefrom on a single rate basis.

2. In some instances a single rate basis for use on all government research at a hospital may not be appropriate since it would not take into account those different environmental factors which may affect substantially the indirect costs applicable to a particular segment of government research at the institution. For this purpose, a particular segment of government research may be that performed under a single research agreement or it may consist of research under a group of research agreements performed in a common environment. The environmental factors are not limited to the physical location of the work. Other important factors are the level of the administrative support required, the nature of the facilities or other resources employed, the scientific disciplines or technical skills involved, the organizational arrangements used, or any combination thereof. Where a particular segment of government research is performed within an environment which appears to generate a significantly different level of indirect costs, provision should be made for a separate indirect cost pool applicable to such work. An example of this differential may be in the development of a separate indirect cost pool for a clinical research center grant. The separate indirect cost pool should be developed during the course of the regular distribution process, and the separate indirect cost rate resulting therefrom should be utilized provided it is determined that:

a. Such indirect cost rate differs significantly from that which would have obtained under (1) above; and

b. The volume of research work to which such rate would apply is material in relation to other government research at the institution.

3. It is a common practice for grants or contracts awarded to other institutions, typically University Schools of Medicine, to be performed on hospital premises. In these cases the hospital should develop a separate indirect cost pool applicable to the work under such grants or contracts. This pool should be developed by a selective distribution of only those indirect cost categories which benefit the work performed by the other institution, within the practical limits dictated by available data and the materiality of the amounts involved. Hospital costs determined to be allocable to grants or contracts awarded to another institution may not be recovered as a cost of grants or contracts awarded directly to the hospital.

B. *The distribution base.* Preferably, indirect costs allocated to organized research should be distributed to applicable research agreements on the basis of direct salaries and wages. However, where the use of salaries and wages results in an inequitable allocation of costs to the research agreements, total direct costs or a variation thereof, may be used in lieu of salaries and wages. Regardless of the base used, an indirect cost rate should be determined for each of the separate indirect cost pools developed pursuant to para. VII–A. The rate in each case should be stated as the percentage which the amount of the particular indirect cost pool is of the total direct salaries and wages (or other base selected) for all research agreements identified with such a pool.

C. *Negotiated lump sum for overhead.* A negotiated fixed amount in lieu of indirect costs may be appropriate for self-contained or off-campus research activities where the benefits derived from a hospital's indirect services cannot be readily determined. Such amount negotiated in lieu of indirect costs will be treated as an offset to the appropriate indirect cost pool after allocation to patient care, organized research, instruction and training, and other hospital activities. The base on which such remaining expenses are allocated should be appropriately adjusted.

D. *Predetermined overhead rates.* The utilization of predetermined fixed overhead rates may offer potential advantages in the administration of research agreements by facilitating the preparation of research budgets and permitting more expeditious close out of the agreements when the work is completed. Therefore, to the extent allowed by law, consideration may be given to the negotiation of predetermined fixed rates in those situations where the cost experience and other pertinent factors available are deemed sufficient to enable the Government and the hospital to reach a reasonable conclusion as to the probable level of the indirect cost rate for the ensuing accounting period.

### VIII. SIMPLIFIED METHOD FOR SMALL INSTITUTIONS

A. *General.* 1. Where the total direct cost of all government-sponsored research and development work at a hospital in a year is minimal, the use of the abbreviated procedure described in para. VIII–B below may be acceptable in the determination of allowable indirect costs. This method may also be used to initially determine a provisional indirect cost rate for hospitals that have not previously established a rate. Under this abbreviated procedure, data taken directly from the institution's most recent annual financial report and immediately available supporting information will be utilized as a basis for determining the indirect cost rate applicable to research agreements at the institution.

2. The rigid formula approach provided under the abbreviated procedure has limitations which may preclude its use at some hospitals either because the minimum data required for this purpose are not readily available or because the application of the abbreviated procedure to the available data produces results which appear inequitable to the Government or the hospital. In any such case, indirect costs should be determined through use of the regular procedure rather than the abbreviated procedure.

3. In certain instances where the total direct cost of all government-sponsored research and development work at the hospital is more than minimal, the abbreviated procedure may be used if prior permission is obtained. This alternative will be granted only in those cases where it can be demonstrated that the step-down technique cannot be followed.

B. *Abbreviated procedure.* 1. Total expenditures as taken from the most recent annual financial report will be adjusted by eliminating from further consideration expenditures for capital items as defined in para. IX–B.4 and unallowable costs as defined under various headings in para. IX and para. III–E.

2. Total expenditures as adjusted under the foregoing will then be distributed among (a) expenditures applicable to administrative and general overhead functions, (b) expenditures applicable to all other overhead functions, and (c) expenditures for all other purposes. The first group shall include amounts associated with the functional categories, Administration and General, and Dietary, as defined in para. VI. The second group shall include Depreciation, Operation of Plant, Maintenance of Plant, and Housekeeping. The third group—expenditures for all other purposes—shall include the amounts applicable to all other activities, namely, patient care, organized research, instruction and training, and other hospital activities as defined under para. II–E. For the purposes of this section, the functional categories of Laundry and Linen, Maintenance of Personnel, and Medical Records and Library as defined in para. VI shall be considered as expenditures for all other purposes.

3. The expenditures distributed to the first two groups in para. VIII–B.2 should then be adjusted by those receipts or negative expenditure types of transactions which tend to reduce expense items allocable to research agreements as indirect costs. Examples of such receipts or negative expenditures are itemized in para. III–E.1.

4. In applying the procedures in para. VIII–B.1 and B.2., the cost of unallowable activities such as Gift Shop, Investment Property Management, Fund Raising, and Public Relations, when they benefit from the hospital's indirect cost services, should be treated as expenditures for all other purposes. Such activities are presumed to benefit from the hospital's indirect cost services when they include salaries of personnel working in the hospital. When they do not include such salaries, they should be eliminated from the indirect cost rate computation.

5. The indirect cost rate will then be computed in two stages. The first stage requires the computation of an Administrative and General rate component. This is done by applying a ratio of research direct costs over total direct costs to the Administrative and General pool developed under para. VIII–B.2 and B.3. above. The resultant amount—that which is allocable to research—is divided by the direct research cost base. The second stage requires the computation of an All other Indirect Cost rate component. This is done by applying a ratio of research direct space over total direct space to All Other Indirect Cost pool developed under para. VIII B.2. and B.3 above. The resultant amount—that which is allocable to research—is divided by the direct research cost base.

The total of the two rate components will be the institution's indirect cost rate. For the purposes of this section, the research direct cost or space and total direct cost or space will be that cost or space identified with the functional categories classified under Expenditures for all other purposes under para. VIII–B.2.

### IX. GENERAL STANDARDS FOR SELECTED ITEMS OF COST

A. *General.* This section provides standards to be applied in establishing the allowability of certain items involved in determining cost. These standards should apply irrespective of whether a particular item of cost is properly treated as direct cost or indirect cost. Failure to mention a particular item of cost in the standards is not intended to imply that it is either allowable or unallowable; rather, determination as to allowability in each case should be based on the treatment or standards provided for similar or related items of cost. In case of discrepancy between the provisions of a specific research agreement and the applicable standards provided, the provisions of the research agreement should govern. However, in some cases advance understandings should be reach on particular cost items in order that the full costs of research be supported. The extent of allowability of the selected items of cost covered in this section has been stated to apply broadly to many accounting system in varying environmental situations. Thus, as to any given research agreement, the reasonableness and allocability of certain items of costs may be difficult to determine, particularly in connection with hospitals which have medical school or other affiliations. In order to avoid possible subsequent disallowance or dispute based on unreasonableness or nonallocability, it is important that prospective recipients of federal funds particularly those whose work is predominantly or substantially with the Government, seek agreement with the Government in advance of the incurrence of special or unusual costs in categories where reasonableness or allocability are difficult to determine. Such agreement may also be initiated by the Government. Any such agreement should be incorporated in the research agreement itself. However, the absence of such an advance agreement on any element of cost will not in itself serve to make that element either allowable or unallowable. Examples of costs on which advance agreements may be particularly important are:

1. Facilities costs, such as:
   a. Depreciation
   b. Rental
   c. Use charges for fully depreciated assets
   d. Idle facilities and idle capacity
   e. Plant reconversion
   f. Extraordinary or deferred maintenance and repair
   g. Acquisition of automatic data processing equipment.
2. Preward costs
3. Non-hospital professional activities
4. Self-insurance
5. Support services charged directly (computer services, printing and duplicating services, etc.)
6. Employee compensation, travel, and other personnel costs, including:
   a. Compensation for personal service, including wages and salaries, bonuses and incentives, premium payments, pay for time not worked, and supplementary compensation and benefits, such as pension and retirement, group insurance, severance pay plans, and other forms of compensation
   b. Morale, health, welfare, and food service and dormitory costs
   c. Training and education costs
   d. Relocation costs, including special or mass personnel movement

B. *Selected items.*—1. *Advertising costs.* The term advertising costs means the costs of advertising media and corollary administrative costs. Advertising media include magazines, newspapers, radio and television programs, direct mail, exhibits, and the like. The only advertising costs allowable are those which are solely for:

a. The recruitment of persons required for the performance by the institution of obligations arising under the research agreement, when considered in conjunction with all other recruitment costs as set forth in para IX–B.34

b. The procurement of scarce items for the performance of the research agreement; or

c. The disposal of scrap or surplus materials acquired in the performance of the research agreement.

Costs of this nature, if incurred for more than one research agreement or for both research agreement work and other work of the institution, are allowable to the extent that the principles in paragraph IV and V are observed.

2. *Bad debts.* Losses arising from uncollectible accounts and other claims and related collection and legal costs are unallowable except that a bad debt may be included as a direct cost of the research agreement to the extent that it is caused by a research patient and approved by the awarding agency. This inclusion is only intended to cover the situation of the patient admitted for research purposes who subsequently or in conjunction with the research receives clinical care for which a charge is made to the patient. If, after exhausting all means of collecting these charges, a bad debt results, it may be considered an appropriate charge to the research agreement.

3. *Bonding costs.* a. Bonding costs arise when the Government requires assurance against financial loss to itself or others by reason of the act or default of the hospital. They arise also in instances where the hospital requires similar assurance.

Included are such types as bid, performance, payment, advance payment, infringement, and fidelity bonds.

b. Costs of bonding required pursuant to the terms of the research agreement are allowable.

c. Costs of bonding required by the hospital in the general conduct of its business are allowable to the extent that such bonding is in accordance with sound business practice and the rates and premiums are reasonable under the circumstances.

4. *Capital expenditures.* The costs of equipment, buildings, and repairs which materially increase the value or useful life of buildings or equipment should be capitalized and are unallowable except as provided for in the research agreement.

5. *Civil defense costs.* Civil defense costs are those incurred in planning for, and the protection of life and property against the possible effects of enemy attack. Reasonable costs of civil defense measures (including costs in excess of normal plant protection costs, first-aid training and supplies, firefighting training, posting of additional exit notices and directions, and other approved civil defense measures) undertaken on the institution's premises pursuant to suggestions or requirements of civil defense authorities are allowable when distributed to all activities of the institution. Capital expenditures for civil defense purposes will not be allowed, but a use allowance or depreciation may be permitted in accordance with provisions set forth elsewhere. Costs of local civil defense projects not on the institution's premises are unallowable.

6. *Communication costs.* Costs incurred for telephone services, local and long distance telephone calls, telegrams, radiograms, postage, and the like are allowable.

7. *Compensation for personal services.*—a. *General.* Compensation for personal services covers all remuneration paid currently or accrued to employees of the hospital for services rendered during the period of performance under government research agreements. Such remuneration includes salaries, wages, staff benefits (see para. IX–B.10), and pension plan costs (see para. IX–B.25). The costs of such remuneration are allowable to the extent that the total compensation to individual employees is reasonable for the services rendered and conforms to the established policy of the institution consistently applied, and provided that the charges for work performed directly on government research agreements and for other work allocable as indirect costs to sponsored research are determined and supported as hereinafter provided. For non-profit, nonproprietary institutions, where federally supported programs constitute less than a preponderance of the activity at the institution the primary test of reasonableness will be to require that the institution's compensation policies be applied consistently both to federally-sponsored and non-sponsored activities alike. However, where special circumstances so dictate a contractual clause may be utilized which calls for application of









V 38 I 181 SEP 1973 XUM

the test of comparability in determining the reasonableness of compensation.

b. *Payroll distribution.* Amounts charged to organized research for personal services, regardless of whether treated as direct costs or allocated as indirect costs, will be based on hospital payrolls which have been approved and documented in accordance with generally accepted hospital practices. In order to develop necessary direct and indirect allocations of cost, supplementary data on time or effort as provided in (c) below, normally need be required only for individuals whose compensation is properly chargeable to two or more research agreements or to two or more of the following broad functional categories: (1) patient care; (2) organized research; (3) instruction and training; (4) indirect activities as defined in para. V–A; or (5) other hospital activities as defined in para. II–E.

c. *Reporting time or effort.* Charges for salaries and wages of individuals other than members of the professional staff will be supported by daily time and attendance and payroll distribution records. For members of the professional staff, current and reasonable estimates of the percentage distribution of their total effort may be used as support in the absence of actual time records. The term professional staff for purposes of this section includes physicians, research associates, and other personnel performing work at responsible levels of activities. These personnel normally fulfill duties, the competent performance of which usually requires persons possessing degrees from accredited institutions of higher learning and/or state licensure. In order to qualify as current and reasonable, estimates must be made no later than one month (though not necessarily a calendar month) after the month in which the services were performed.

d. *Preparation of estimates of effort.* Where required under (c) above, estimates of effort spent by a member of the professional staff on each research agreement should be prepared by the individual who performed the services or by a responsible individual such as a department head or supervisor having first-hand knowledge of the services performed on each research agreement. Estimates must show the allocation of effort between organized research and all other hospital activities in terms of the percentage of total effort devoted to each of the broad functional categories referred to in (b) above. The estimate of effort spent on a research agreement may include a reasonable amount of time spent in activities contributing and intimately related to work under the agreement, such as preparing and delivering special lectures about specific aspects of the ongoing research, writing research reports and articles, participating in appropriate research seminars, consulting with colleagues with respect to related research, and attending appropriate scientific meetings and conferences. The term "all other hospital activities" would include departmental research, administration, committee work, and public services undertaken on behalf of the hospital.

e. *Application of budget estimates.* Estimates determined before the performance of services, such as budget estimates on a monthly, quarterly, or yearly basis do not qualify as estimates of effort spent.

f. *Non-hospital professional activities.* A hospital must not alter or waive hospital-wide policies and practices dealing with the permissible extent of professional services over and above those traditionally performed without extra hospital compensation, unless such arrangements are specifically authorized by the sponsoring agency. Where hospital-wide policies do not adequately define the permissible extent of consultantships or other non-hospital activities undertaken for extra pay, the Government may require that the effort of professional staff working under research agreements be allocated as between (1) hospital activities, and (2) non-hospital professional activities. If the sponsoring agency should consider the extent of non-hospital professional effort excessive, appropriate arrangements governing compensation will be negotiated on a case by case basis.

g. *Salary rates for part-time appointments.* Charges for work performed on government research by staff members having only part-time appointments will be determined at a rate not in excess of that for which he is regularly paid for his part-time staff assignment.

8. *Contingency provisions.* Contributions to a contingency reserve or any similar provisions made for events the occurrence of which cannot be foretold with certainty as to time, intensity, or with an assurance of their happening, are unallowable.

9. *Depreciation and use allowances.* a. Hospitals may be compensated for the use of buildings, capital improvements and usable equipment on hand through depreciation or use allowances. Depreciation is a charge to current operations which distributes the cost of a tangible capital asset, less estimated residual value, over the estimated useful life of the asset in a systematic and logical manner. It does not involve a process of valuation. Useful life has reference to the prospective period of economic usefulness in the particular hospital's operations as distinguished from physical life. Use allowances are the means of allowing compensation when depreciation or other equivalent costs are not considered.

b. Due consideration will be given to government-furnished research facilities utilized by the institution when computing use allowances and/or depreciation if the government-furnished research facilities are material in amount. Computation of the use allowance and or depreciation will exclude both the cost or any portion of the cost of grounds, buildings and equipment borne by or donated by the Federal Government, irrespective of where title was originally vested or where it presently resides, and secondly, the cost of grounds. Capital expenditures for land improvements (paved areas, fences, streets, sidewalks, utility conduits, and similar improvements not already included in the cost of buildings) are allowable provided the systematic amortization of such capital expenditures has been provided in the institution's books of account, based on reasonable determinations of the probable useful lives of the individual items involved, and the share allocated to organized research is developed from the amount thus amortized for the base period involved.

c. Normal depreciation on a hospital's plant, equipment, and other capital facilities, except as excluded by (d) below, is an allowable element of research cost provided that the amount thereof is computed:

1. Upon the property cost basis used by the hospital for Federal Income Tax purposes (See section 167 of the Internal Revenue Code of 1954); or

2. In the case of non-profit or tax exempt organizations, upon a property cost basis which could have been used by the hospital for Federal Income Tax purposes, had such hospital been subject to the payment of income tax; and in either case

3. By the consistent application to the assets concerned of any generally accepted accounting method, and subject to the limitations of the Internal Revenue Code of 1954 as amended, including—

i. The straight line method;

ii. The declining balance method, using a rate not exceeding twice the rate which would have been used had the annual allowance been computed under the method described in (1) above;

iii. The sum of the years-digits method; and

iv. Any other consistent method productive of an annual allowance which, when added to all allowances for the period commencing with the use of the property and including the current year, does not during the first two-thirds of the useful life of the property exceed the total of such allowances which would have been used had such allowances been computed under the method described in (ii) above.

d. Where the depreciation method is followed, adequate property records must be maintained. The period of useful service (service life) established in each case for usable capital assets must be determined on a realistic basis which takes into consideration such factors as type of construction, nature of the equipment used, technological developments in the particular research area, and the renewal and replacement policies followed for the individual items or classes of assets involved. Where the depreciation method is introduced for application to assets acquired in prior years, the annual charges therefrom must not exceed the amounts that would have resulted had the depreciation method been in effect from the date of acquisition of such assets.

e. Depreciation on idle or excess facilities shall not be allowed except on such facilities as are reasonably necessary for standby purposes.

f. Where an institution elects to go on a depreciation basis for a particular class of assets, no depreciation, rental or use charge may be allowed on any such assets that would be viewed as fully depreciated; provided, however, that reasonable use charges may be negotiated for any such assets if warranted after taking into consideration the cost of the facility or item involved, the estimated useful life remaining at time of negotiation, the actual replacement policy followed in the light of service lives used for calculating depreciation, the effect of any increased maintenance charges or decreased efficiency due to age, and any other factors pertinent to the utilization of the facility or item for the purpose contemplated.

g. Hospitals which choose a depreciation allowance for assets purchased prior to 1966 based on a percentage of operating costs in lieu of normal depreciation for purposes of reimbursement under Public Law 89–97 (Medicare) shall utilize that method for determining depreciation applicable to organized research.

The operating costs to be used are the lower of the hospital's 1965 operating costs or the hospital's current year's allowable costs. The percent to be applied is 5 percent starting with the year 1966–67, with such percentage being uniformity reduced by one-half percent each succeeding year. The allowance based on operating costs is in addition to regular depreciation on assets acquired after 1965. However, the combined amount of such allowance on pre-1966 assets and the allowance for actual depreciation on assets acquired after 1965 may not exceed 6 percent of the hospital's allowable cost for the current year. After total depreciation has been computed, allocation methods are used to determine the share attributable to organized research.

For purposes of this section, "Operating Costs" means the total costs incurred by the hospital in operating the institution, and includes patient care, research, and other activities. "Allowable Costs" means operating costs less unallowable costs as defined in these principles; by the application of allocation methods to the total amount of such allowable costs, the share attributable to Federally-sponsored research is determined.





A hospital which elects to use this procedure under Public Law 89–97 and subsequently changes to an actual depreciation basis on pre-1966 assets in accordance with the option afforded under the Medicare program shall simultaneously change to an actual depreciation basis for organized research.

Where the hospital desires to change to actual depreciation but either has no historical cost records or has incomplete records, the determination of historical cost could be made through appropriate means involving expert consultation with the determination being subject to review and approval by the Department of Health, Education, and Welfare.

h. Where the use allowance method is followed, the use allowance for buildings and improvements will be computed at an annual rate not exceeding two percent of acquisition cost. The use allowance for equipment will be computed at an annual rate not exceeding six and two-thirds percent of acquisition cost of usable equipment in those cases where the institution maintains current records with respect to such equipment on hand. Where the institution's records reflect only the cost (actual or estimated) of the original complement of equipment, the use allowance will be computed at an annual rate not exceeding ten percent of such cost. Original complement for this purpose means the complement of equipment initially placed in buildings to perform the functions currently being performed in such buildings; however, where a permanent change in the function of a building takes place, a redetermination of the original complement of equipment may be made at that time to establish a new original complement. In those cases where no equipment records are maintained, the institution will justify a reasonable estimate of the acquisition cost of usable equipment which may be used to compute the use allowance at an annual rate not exceeding six and two-thirds percent of such estimate.

1. Depreciation and/or use charges should usually be allocated to research and other activities as an indirect cost.

10. *Employee morale, health, and welfare costs and credits.* The costs of house publications, health or first-aid benefits, recreational activities, employees' counseling services, and other expenses incurred in accordance with the hospital's established practice or custom for the improvement of working conditions, employer-employee relations, employee morale, and employee performance, are allowable. Such costs will be equitably apportioned to all activities of the hospital. Income generated from any of these activities will be credited to the cost thereof unless such income has been irrevocably set over to employee welfare organizations.

11. *Entertainment costs.* Except as pertains to 10 above, costs incurred for amusement, social activities, entertainment, and any items relating thereto, such as meals, lodging, rentals, transportation, and gratuities are unallowable.

12. *Equipment and other facilities.* The cost of equipment or other facilities are allowable on a direct charge basis where such purchases are approved by the sponsoring agency concerned or provided for by the terms of the research agreement.

13. *Fines and penalties.* Costs resulting from violations of, or failure of the institution to comply with federal, state and local laws and regulations are unallowable except when incurred as a result of compliance with specific provisions of the research agreement, or instructions in writing from the awarding agency.

14. *Insurance and indemnification.* a. Costs of insurance required or approved and maintained pursuant to the research agreement are allowable.

b. Costs of other insurance maintained by the hospital in connection with the general conduct of its activities are allowable subject to the following limitations: (1) types and extent and cost of coverage must be in accordance with sound institutional practice; (2) costs of insurance or of any contributions to any reserve covering the risk of loss of or damage to government owned property are unallowable except to the extent that the Government has specifically required or approved such costs; and (3) costs of insurance on the lives of officers or trustees are unallowable except where such insurance is part of an employee plan which is not unduly restricted.

c. Contributions to a reserve for an approved self-insurance program are allowable to the extent that the types of coverage, extent of coverage, and the rates and premiums would have been allowed had insurance been purchased to cover the risks. Such contributions are subject to prior approval of the Government.

d. Actual losses which could have been covered by permissible insurance (through an approved self-insurance program or otherwise) are unallowable unless expressly provided for in the research agreement, except that costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound management practice as well as minor losses not covered by insurance such as spoilage, breakage and disappearance of small hand tools which occur in the ordinary course of operations are allowable.

15. *Interest, fund raising and investment management costs.* a. Costs incurred for interest on borrowed capital or temporary use of endowment funds, however represented, are unallowable.

b. Costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions are not allowable.

c. Costs of investment counsel and staff and similar expenses incurred solely to enhance income from investments are not allowable.

d. Costs related to the physical custody and control of monies and securities are allowable.

16. *Labor relations costs.* Costs incurred in maintaining satisfactory relations between the hospital and its employees, including costs of labor management committees, employees' publications, and other related activities are allowable.

17. *Losses on research agreements or contracts.* Any excess of costs over income under any agreement or contract of any nature is unallowable. This includes, but is not limited to, the hospital's contributed portion by reason of cost-sharing agreements, underrecoveries through negotiation of flat amounts for overhead, or legal or administrative limitations.

18. *Maintenance and repair costs.* a. Costs necessary for the upkeep of property (including government property unless otherwise provided for), which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are to be treated as follows:

1. Normal maintenance and repair costs are allowable;

2. Extraordinary maintenance and repair costs are allowable, provided they are allocated to the periods to which applicable for purposes of determining research costs.

b. Expenditures for plant and equipment, including rehabilitation thereof, which according to generally accepted accounting principles as applied under the hospital's established policy, should be capitalized and subjected to depreciation, are allowable only on a depreciation basis.

19. *Material costs.* Costs incurred for purchased materials, supplies and fabricated parts directly or indirectly related to the research agreement, are allowable. Purchases made specifically for the research agreement should be charged thereto at their actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received by the institution. Withdrawals from general stores or stockrooms should be charged at their cost under any recognized method of pricing stores withdrawals conforming to sound accounting practices consistently followed by the hospital. Incoming transportation charges are a proper part of material cost. Direct material cost should include only the materials and supplies actually used for the performance of the research agreement, and due credit should be given for any excess materials retained or returned to vendors. Due credit should be given for all proceeds or value received for any scrap resulting from work under the research agreement. Where government donated or furnished material is used in performing the research agreement, such material will be used without charge.

20. *Memberships, subscriptions and professional activity costs.* a. Costs of the hospital's membership in civic, business, technical and professional organizations are allowable.

b. Costs of the hospital's subscriptions to civic, business, professional and technical periodicals are allowable.

c. Costs of meetings and conferences, when the primary purpose is the dissemination of technical information, are allowable. This includes costs of meals, transportation, rental of facilities, and other items incidental to such meetings or conferences.

21. *Organization costs.* Expenditures such as incorporation fees, attorneys' fees, accountants' fees, brokers' fees, fees to promoters and organizers in connection with (a) organization or reorganization of a hospital, or (b) raising capital, are unallowable.

22. *Other business expenses.* Included in this item are such recurring expenses as registry and transfer charges resulting from changes in ownership of securities issued by the hospital, cost of shareholders meetings preparation and publication of reports to shareholders, preparation and submission of required reports and forms to taxing and other regulatory bodies, and incidental costs of directors and committee meetings. The above and similar costs are allowable when allocated on an equitable basis.

23. *Patient care.* The cost of routine and ancillary or special services to research patients is an allowable direct cost of research agreements.

a. Routine services shall include the costs of the regular room, dietary and nursing services, minor medical and surgical supplies and the use of equipment and facilities for which a separate charge is not customarily made.

b. Ancillary or special services are the services for which charges are customarily made in addition to routine services, such as operating rooms, anesthesia, laboratory, BMR–EKG, etc.

c. Patient care, whether expressed as a rate or an amount, shall be computed in a manner consistent with the procedures used to determine reimbursable costs under Public Law 89–97 (Medicare Program) as defined under the "Principles Of Reimbursement For Provider Costs" published by the Social Security Administration of the Department of Health, Education, and Welfare. The allowability of specific categories of cost shall be in accordance with those principles rather than the principles for research contained herein. In the absence of participation in the Medicare program by a hospital, all refer-



V 38 1 181 SEP 19 73 XUM

ences to the Medicare program in these principles shall be construed as meaning the Medicaid program.

i. Once costs have been recognized as allowable, the indirect costs or general service center's cost shall be allocated (stepped-down) to special service centers, and all patient and nonpatient costs centers based upon actual services received or benefiting these centers.

ii. After allocation, routine and ancillary costs shall be apportioned to scatter-bed research patients on the same basis as is used to apportion costs to Medicare patients, i.e. using either the departmental method or the combination method, as those methods are defined by the Social Security Administration; except that final settlement shall be on a grant-by-grant basis. However, to the extent that the Social Security Administration has recognized any other method of cost apportionment, that method generally shall also be recognized as applicable to the determination of research patient care costs.

iii. A cost center must be established on Medicare reimbursement forms for each discrete-bed unit grant award received by a hospital. Routine costs should be stepped-down to this line item(s) in the normal course of stepping-down costs under Medicare/Medicaid requirements. However, in stepping-down routine costs, consideration must be given to preventing a step-down of those costs to discrete-bed unit line items that have already been paid for directly by the grant, such as bedside nursing costs. Ancillary costs allocable to research discrete-bed units shall be determined and proposed in accordance with Section 23.c.ii.

d. Where federally sponsored research programs provide specifically for the direct reimbursement of nursing, dietary, and other services, appropriate adjustment must be made to patient care costs to preclude duplication and/or misallocation of costs.

24. *Patent costs.* Costs of preparing disclosures, reports and other documents required by the research agreement and of searching the art to the extent necessary to make such invention disclosures are allowable. In accordance with the clauses of the research agreement relating to patents, costs of preparing documents and any other patent costs, in connection with the filing of a patent application where title is conveyed to the Government, are allowable. (See also para. IX–B.36.)

25. *Pension plan costs.* Costs of the hospital's pension plan which are incurred in accordance with the established policies of the institution are allowable, provided such policies meet the test of reasonableness and the methods of cost allocation are not discriminatory, and provided appropriate adjustments are made for credits or gains arising out of normal and abnormal employee turnover or any other contingencies that can result in forfeitures by employees which inure to the benefit of the hospital.

26. *Plan security costs.* Necessary expenses incurred to comply with government security requirements including wages, uniforms and equipment of personnel engaged in plant protection are allowable.

27. *Preresearch agreement costs.* Costs incurred prior to the effective date of the research agreement, whether or not they would have been allowable thereunder if incurred after such date, are unallowable unless specifically set forth and identified in the research agreement.

28. *Professional services costs.* a. Costs of professional services rendered by the members of a particular profession who are not employees of the hospital are allowable subject to (b) and (c) below when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Government. Retainer fees to be allowable must be reasonably supported by evidence of services rendered.

b. Factors to be considered in determining the allowability of costs in a particular case include (1) the past pattern of such costs, particularly in the years prior to the award of government research agreements on the institution's total activity; (2) the nature and scope of managerial services expected of the institution's own organizations; and (3) whether the proportion of government work to the hospital's total activity is such as to influence the institution in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under government research agreements.

c. Costs of legal, accounting and consulting services, and related costs incurred in connection with organization and reorganization or the prosecution of claims against the Government are unallowable. Costs of legal, accounting and consulting services, and related costs incurred in connection with patent infringement litigation are unallowable unless otherwise provided for in the research agreement.

29. *Profits and losses on disposition of plant equipment, or other assets.* Profits or losses of any nature arising from the sale or exchange of plant, equipment, or other capital assets, including sales or exchange of either short- or long-term investments, shall be excluded in computing research agreement costs.

30. *Proposal costs.* Proposal costs are the costs of preparing bids or proposals on potential government and non-government research agreements or projects, including the development of technical data and cost data necessary to support the institution's bids or proposals. Proposal costs of the current accounting period of both successful and unsuccessful bids and proposals normally should be treated as indirect costs and allocated currently to all activities of the institution, and no proposal costs of past accounting periods will be allocable in the current period to the government research agreement. However, the institution's established practices may be to treat proposal costs by some other recognized method. Regardless of the methods used, the results obtained may be accepted only if found to be reasonable and equitable.

31. *Public information services costs.* Costs of news releases pertaining to specific research or scientific accomplishment are unallowable unless specifically authorized by the sponsoring agency.

32. *Rearrangement and alteration costs.* Costs incurred for ordinary or normal rearrangement and alteration of facilities are allowable. Special rearrangement and alteration costs incurred specifically for a project are allowable only as a direct charge when such work has been approved in advance by the sponsoring agency concerned.

33. *Reconversion costs.* Costs incurred in the restortion or rehabilitation of the institution's facilities to approximately the same condition existing immediately prior to commencement of government research agreement work, fair wear and tear excepted, are allowable.

34. *Recruiting costs.* a. Subject to (b), (c), and (d) below, and provided that the size of the staff recruited and maintained is in keeping with workload requirements, costs of "help wanted" advertising, operating costs of an employment office necessary to secure and maintain an adequate staff, costs of operating an aptitude and educational testing program, travel costs of employees while engaged in recruiting personnel, travel costs of applicants for interviews for prospective employment, and relocation costs incurred incident to recruitment of new employees are allowable to the extent that such costs are incurred pursuant to a well managed recruitment program. Where an institution uses employment agencies, costs not in excess of standard commercial rates for such services are allowable.

b. In publications, costs of help wanted advertising that includes color, includes advertising material for other than recruitment purposes, or is excessive in size (taking into consideration recruitment purposes for which intended and normal institutional practices in this respect) are unallowable.

c. Costs of help wanted advertising, special emoluments; fringe benefits, and salary allowances incurred to attract professional personnel from other institutions that do not meet the test of reasonableness or do not conform with the established practices of the institution are unallowable.

d. Where relocation costs incurred incident to recruitment of a new employee have been allowed either as an allocable direct or indirect cost, and the newly hired employee resigns for reasons within his control within twelve months after hire, the institution will be required to refund or credit such relocations costs as were charged to the Government.

35. *Rental costs (including sale and leaseback of facilities).* a. Rental costs of land, building, and equipment and other personal property are allowable if the rates are reasonable in light of such factors as rental costs of comparable facilities and market conditions in the area, the type, life expectancy, condition, and value of the facilities leased, options available, and other provisions of the rental agreement. Application of these factors, in situations where rentals are extensively used, may involve among other considerations comparison of rental costs with the amount which the hospital would have received had it owned the facilities.

b. Charges in the nature of rent between organizations having a legal or other affiliation or arrangement such as hospitals, medical schools, foundations, etc., are allowable to the extent such charges do not exceed the normal costs of ownership such as depreciation, taxes, insurance, and maintenance, provided that no part of such costs shall duplicate any other allowed costs.

c. Unless otherwise specifically provided in the agreement, rental costs specified in sale and lease-back agreements incurred by hospitals through selling plant facilities to investment organizations such as insurance companies or to private investors, and concurrently leasing back the same facilities are allowable only to the extent that such rentals do not exceed the amount which the hospital would have received had it retained legal title to the facilities.

36. *Royalties and other costs for use of patents.* Royalties on a patent or amortization of the cost of acquiring a patent or invention or rights thereto necessary for the proper performance of the research agreement and applicable to tasks or processes thereunder are allowable unless the Government has a license or the right to free use of the patent, the patent has been adjudicated to be invalid, or has been administratively determined to be invalid, the patent is considered to be unenforceable, or the patent has expired.

37. *Severance pay.* a. Severance pay is compensation in addition to regular salaries and wages which is paid by a hospital to employees whose services are being terminated. Costs of severance pay are allowable only to the extent that such payments are required by law, by employer-employee agreement, by established policy that constitutes in effect an implied agreement on the institution's part, or by circumstances of the particular employment.

b. Severance payments that are due to normal, recurring turnover, and which otherwise meet the conditions of (a) above may be allowed provided the actual costs of such severance payments are regarded as expenses applicable to the current fiscal year and are equitably distributed among the institution's activities during that period.

c. Severance payments that are due to abnormal or mass terminations are of such conjectural nature that allowability must be determined on a case-by-case basis. However, the Government recognizes its obligation to participate to the extent of its fair share in any specific payment.

38. *Specialized service facilities operated by a hospital.* a. The costs of institutional services involving the use of highly complex and specialized facilities such as electronic computers and reactors are allowable provided the charges therefor meet the conditions of (b) or (c) below, and otherwise take into account any items of income or federal financing that qualify as applicable credits under para. III–E.

b. The costs of such hospital services normally will be charged directly to applicable research agreements based on actual usage or occupancy of the facilities at rates that (1) are designed to recover only actual costs of providing such services, and (2) are applied on a nondiscriminatory basis as between organized research and other work of the hospital including commercial or accommodation sales and usage by the hospital for internal purposes. This would include use of such facilities as radiology, laboratories, maintenance men used for a special purpose, medical art, photography, etc.

c. In the absence of an acceptable arrangement for direct costing as provided in (b) above, the costs incurred for such institutional services may be assigned to research agreements as indirect costs, provided the methods used achieve substantially the same results. Such arrangements should be worked out in coordination with all government users of the facilities in order to assure equitable distribution of the indirect costs.

39. *Special administrative costs.* Costs incurred for general public relations activities, catalogs, alumni activities, and similar services are unallowable.

40. *Staff and/or employee benefits.* a. Staff and/or employee benefits in the form of regular compensation paid to employees during periods of authorized absences from the job such as for annual leave, sick leave, military leave and the like are allowable provided such costs are absorbed by all hospital activities including organized research in proportion to the relative amount of time or effort actually devoted to each.

b. Staff benefits in the form of employer contributions or expenses for Social Security taxes, employee insurance, Workmen's Compensation insurance, the Pension Plan (see para. IX–B.25), hospital costs or remission of hospital charges to the extent of costs for individual employees or their families, and the like are allowable provided such benefits are granted in accordance with established hospital policies, and provided such contributions and other expenses whether treated as indirect costs or an increment of direct labor costs are distributed to particular research agreements and other activities in a manner consistent with the pattern of benefits accruing to the individuals or groups of employees whose salaries and wages are chargeable to such research agreements and other activities.

41. *Taxes.* a. In general, taxes which the hospital is required to pay and which are paid or accrued in accordance with generally accepted accounting principles, and payments made to local governments in lieu of taxes which are commensurate with the local government services received are allowable except for (1) taxes from which exemptions are available to the hospital directly or which are available to the hospital based on an exemption afforded the Government and in the latter case when the sponsoring agency makes available the necessary exemption certificates, (2) special assessments on land which represent capital improvements, and (3) Federal Income Taxes.

b. Any refund of taxes, interest, or penalties, and any payment to the hospital of interest thereon attributable to taxes, interest or penalties, which were allowed as research agreement costs will be credited or paid to the Government in the manner directed by the Government provided any interest actually paid or credited to a hospital incident to a refund of tax, interest, and penalty will be paid or credited to the Government only to the extent that such interest accrued over the period during which the hospital had been reimbursed by the Government for the taxes, interest, and penalties.

42. *Transportation costs.* Costs incurred for inbound freight, express, cartage, postage and other transportation services relating either to goods purchased, in process, or delivered are allowable. When such costs can readily be identified with the items involved, they may be charged directly as transportation costs or added to the cost of such items. Where identification with the material received cannot readily be made, inbound transportation costs may be charged to the appropriate indirect cost accounts if the institution follows a consistent equitable procedure in this respect. Outbound freight, if reimbursable under the terms of the research agreement, should be treated as a direct cost.

43. *Travel costs.* a. Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the hospital. Such costs may be charged on an actual basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two provided the method used is applied to an entire trip and not to selected days of the trip, and results in charges consistent with those normally allowed by the institution in its regular operations.

b. Travel costs are allowable subject to (c) and (d) below when they are directly attributable to specific work under a research agreement or when they are incurred in the normal course of administration of the hospital or a department or research program thereof.

c. The difference in cost between first class air accommodations and less than first class air accommodations is unallowable except when less than first class air accommodations are not reasonably available to meet necessary mission requirements such as where less than first class accommodations would (1) require circuitous routing, (2) require travel during unreasonable hours, (3) greatly increase the duration of the flight, (4) result in additional costs which would offset the transportation savings, or (5) offer accommodations which are not reasonably adequate for the medical needs of the traveler.

d. Costs of personnel movements of a special or mass nature are allowable only when authorized or approved in writing by the sponsoring agency or its authorized representative.

44. *Termination costs applicable to contracts.* a. Contract terminations generally give rise to the incurrence of costs or to the need for special treatment of costs which would not have arisen had the contract not been terminated. Items peculiar to termination are set forth below. They are to be used in conjunction with all other provisions of these principles in the case of contract termination.

b. The cost of common items of material reasonably usable on the hospital's other work will not be allowable unless the hospital submits evidence that it could not retain such items at cost without sustaining a loss. In deciding whether such items are reasonably usable on other work of the institution, consideration should be given to the hospital's plans for current scheduled work or activities including other research agreements. Contemporaneous purchases of common items by the hospital will be regarded as evidence that such items are reasonably usable on the hospital's other work. Any acceptance of common items as allowable to the terminated portion of the contract should be limited to the extent that the quantities of such items on hand, in transit, and on order are in excess of the reasonable quantitative requirement of other work.

c. If in a particular case, despite all reasonable efforts by the hospital, certain costs cannot be discontinued immediately after the effective date of termination, such costs are generally allowable within the limitations set forth in these principles, except that any such costs continuing after termination due to the negligent or willful failure of the hospital to discontinue such costs will be considered unacceptable.

d. Loss of useful value of special tooling and special machinery and equipment is generally allowable, provided (1) such special tooling, machinery or equipment is not reasonably capable of use in the other work of the hospital; (2) the interest of the Government is protected by transfer of title or by other means deemed appropriate by the contracting officer; and (3) the loss of useful value as to any one terminated contract is limited to that portion of the acquisition cost which bears the same ratio to the total acquisition cost as the terminated portion of the contract bears to the entire terminated contract and other government contracts for which the special tooling, special machinery or equipment was acquired.

e. Rental costs under unexpired leases are generally allowable where clearly shown to have been reasonably necessary for the performance of the terminated contract, less the residual value of such leases, if (1) the amount of such rental claimed does not exceed the reasonable use value of the property leased for the period of the contract and such further period as may be reasonable; and (2) the hospital makes all reasonable efforts to terminate, assign, settle, or otherwise reduce the cost of such lease. There also may be included the cost of alterations of such leased property, provided such alterations were necessary for the performance of the contract and of reasonable restoration required by the provisions of the lease.

f. Settlement expenses including the following are generally allowable: (1) accounting, legal, clerical, and similar costs reasonably necessary for the preparation and presentation to contracting officers of settlement claims and supporting data with respect to the terminated portion of the contract and the termination and settlement of subcontracts; and (2) reasonable costs for the storage, transportation, protection, and disposition of property provided by the Government or acquired or produced by the institution for the contract.

g. Subcontractor claims including the allocable portion of claims which are common to the contract and to other work of the contractor are generally allowable.

45. *Voluntary services.* The value of voluntary services provided by sisters or other members of religious orders is allowable provided that amounts do not exceed that paid other employees for similar work. Such amounts must be identifiable in the records of the hospital as a legal obligation of the hospital. This may be reflected by an agreement between the religious order and the hospital supported by evidence of payments to the order.







V 38 181 SEP 1973 XUM

APPENDIX F—PRINCIPLES FOR DETERMINING COSTS APPLICABLE TO GRANTS AND CONTRACTS WITH NONPROFIT INSTITUTIONS

A. PURPOSE AND SCOPE

1. *Objectives.* This Appendix provides principles for determining the costs applicable to grants and contracts awarded by the Department of Health, Education, and Welfare and performed by nonprofit organizations other than educational institutions, hospitals and State and local Government organizations. These principles are confined to the subject of cost determination and make no attempt to identify the circumstances or dictate the extent of agency and institutional participation in the financing of a particular project. The principles are designed to provide recognition of the full allocated costs of work under generally accepted accounting principles. No provision for profit or other increment above cost is provided for in these principles.

2. *Definition of Nonprofit Institution.* (a) A nonprofit institution for purposes of this document is any corporation, foundation, trust, association, cooperative or other organization other than (i) educational institutions, (ii) hospitals and (iii) State and local Governmental agencies, bureaus or departments, which is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest, which is not organized primarily for profit and which uses all income exceeding costs to maintain, improve and or expand its operations.

The charter or other legally binding authority for the existence of the institution must provide that no part of the net earnings, properties or other assets of the institution, on dissolution or otherwise, shall inure to the benefits of any private person or individual including any member, employee, officer, director or trustee of the institution, and that, on liquidation or dissolution all properties and assets remaining after providing for all debts and obligations shall be distributed and paid over to such other fund, foundation or other organization formed and operated as a nonprofit institution, as defined herein, as the board of directors or trustees may determine. Institutions which have received tax exemptions as nonprofit institutions from the U.S. Internal Revenue Service shall be considered to have met the criteria of this definition.

(b) For purposes of this document, the terms nonprofit and not-for-profit as they are descriptively applied to institutions shall be considered synonymous provided the requirements of 2(a) are met.

3. *Policy guides.* The successful application of these principles requires development of mutual understanding between representatives of nonprofit institutions and of the Federal Government as to their scope, applicability, and interpretation. It is recognized that the arrangements for agency and institutional participation in the financing of a project are properly subject to negotiation between the agency and the institution concerned in accordance with such governmentwide criteria as may be applicable, that each institution should be expected to employ sound management practice in the fulfillment of its obligation, and that each grantee or contractor organization in recognition of its own unique combination of staff, facilities and experience should be responsible for employing whatever form of organization and management techniques as may be necessary to assure proper efficient administration.

4. *Application.* These principles shall be applied in determining cost incurred in the performance of all grants and cost-reimbursement type contracts awarded by the Department of Health, Education, and Welfare. The principles shall also apply to cost-reimbursement type contracts performed under DHEW grants and cost-reimbursement type subcontracts and shall be used as a guide in the pricing of fixed price contracts and subcontracts. The principles do not apply to construction grants or contracts.

B. BASIC CONSIDERATIONS

1. *Composition of total cost.* The total cost of a contract or grant is the sum of the allowable direct and indirect costs allocable to the grant/contract less any applicable credits. In ascertaining what constitutes costs, any generally accepted accounting method of determining or estimating costs that is equitable under the circumstances may be used.

2. *Factors affecting allowability of costs.* Factors to be considered in determining the allowability of individual items of cost include (a) reasonableness, (b) allocability, (c) application of those generally accepted accounting principles and practices appropriate to the particular circumstances, and (d) any limitations or exclusions set forth in this document or otherwise included in the grant/contract as to types or amounts of cost items.

3. *Definition of reasonableness.* A cost is reasonable if, in its nature or amount, it does not exceed that which would be incurred by an ordinarily prudent person in the conduct of competitive business. The question of the reasonableness of specific costs must be scrutinized with particular care in connection with institutions or separate divisions thereof which may not be subject to effective competitive restraints. What is reasonable depends upon a variety of considerations and circumstances involving both the nature and amount of the cost in question. In determining the reasonableness of a given cost, consideration shall be given to:

(a) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the institution or the performance of the grant/contract.

(b) The restraints or requirements imposed by such factors as generally accepted sound business practices, arms length bargaining, Federal and State laws and regulations, and grant/contract terms and specifications;

(c) The action that a prudent businessman would take in the circumstances, considering his responsibilities to the public at large, the Government, his employees, his clients, shareholders or members and the fulfillment of the purposes for which the institution was organized; and

(d) Significant deviations from the established practices of the institution which may unjustifiably increase the grant/contract costs.

4. *Definition of allocability.* A cost is allocable if it is assignable or chargeable to a particular cost objective, such as a grant/contract, project, product, service, process, or other major activity, in accordance with the relative benefits received or other equitable relationship. Subject to the foregoing, a cost is allocable to a Government grant/contract if it:

(a) Is incurred specifically for the grant/contract;

(b) Benefits both the grant/contract and other work and can be distributed to them in reasonable proportion to the benefits received; or

(c) Is necessary to the overall operation of the institution, although a direct relationship to any particular cost objective cannot be shown.

Where an organization utilizes the Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations (or comparable generally accepted accounting standards peculiar to its particular organizational structure or activity) to allocate costs to non-HEW supported activities it must also use such standards to allocate costs to HEW grants/contracts.

5. *Applicable credits.* The term applicable credits refers to those receipt or negative expenditure types of transactions which operate to offset or reduce expense items that are allocable to grants or contracts as direct or indirect costs. Typical examples of such transactions are: purchase discounts, rebates or allowances; recoveries or indemnities on losses; sales of scrap or incidental services; and adjustments of overpayments or erroneous charges. The applicable portion of any income, rebate, allowance, and other credit relating to any allowable cost, received by or accruing to the grantee/contractor shall be credited to the Government either as a cost reduction or by cash refund, as appropriate.

C. DIRECT COSTS

1. A direct cost is any cost which can be identified specifically with a particular cost objective. Direct costs are not limited to items which are incorporated in the end product as materiel or labor. Costs identified specifically with the grant/contract are direct costs of the grant/contract and may be charged directly thereto. Costs identified specifically with other work of the institution are direct costs of that work and are not to be charged to the grant/contract either directly or indirectly. Items charged as direct cost to Government-supported projects must be charged in a uniform manner to all other work of the institution in order to preclude an overcharge to the Government as a result of the Government's participation in the indirect cost pool. Conversely, where the institution's established accounting system provides for the treatment of certain items of cost as direct costs of the institution, then the same items must be considered direct costs to Government-supported projects and may not be included in the indirect cost pool.

2. Certain types of cost, or costs associated with certain activities are not reimbursable as a charge to a DHEW grant/contract. These unallowable costs or activities are identified in section G. Even though a particular activity or cost is designated as unallowable for purposes of computing costs charged to Government work, it nonetheless must be treated as a direct cost or activity if a portion of the institution's indirect cost (as defined in section D) is properly allocable to it. The amount of indirect cost allocated must be in accordance with the principles set forth in section D–2. In general, an unallowable institutional activity shall be treated as a direct function when it (1) includes salaries of personnel, (2) occupies space, and (3) is serviced by an indirect cost grouping(a). Thus the costs associated with the following types of activities when normal or necessary to an institution's primary mission shall be treated as direct costs:

(a) Maintenance of membership rolls, subscriptions, publications and related functions.

(b) Providing services and information to members, legislative or administrative bodies or the public.

(c) Promotion, lobbying, and other forms of public relations.

(d) Meetings and conferences except those held to conduct the general administration of the institution.

(e) Fund raising.

(f) Maintenance, protection, and investment of special funds not used in operation of institutions.

(g) Administration of group benefits on behalf of members or clients including life and hospital insurance, annuity or retirement plans, financial aid, etc.





(h) Other activities performed primarily as a service to a membership, clients, or the public.

3. This definition shall be applied to all items of cost of significant amount unless the institution demonstrates that the application of any different current practice achieves substantially the same results. Direct cost items of minor amount may be distributed as indirect costs as provided in section D.

D. INDIRECT COSTS

1. An indirect cost is one which, because of its incurrence for common or joint objectives, is not readily subject to treatment as a direct cost. Minor direct cost items may be considered to be indirect costs for reasons of practicality. After direct costs have been determined and charged directly to the grant/contract or other work as appropriate, indirect costs are those remaining to be allocated to the several classes of work. The overall objective of the allocation process is to distribute the indirect costs of the institution to its various major activities or cost objectives in reasonable proportions with the benefits provided to those activities or cost objective. Because of the diverse natures and purposes of organizations falling within the definition of a non-profit organization, it is impractical to specifically identify those functions which constitute major activities for purposes of identifying and distributing indirect costs. Such identification will be dependent upon an institution's purpose-inbeing, the services it renders to the public, its clients and/or members, the amount of effort devoted to fund raising activities, public relations, and membership activities, etc. (See section C–2.)

2. Indirect costs shall be accumulated by logical cost groupings with due consideration of the reasons for incurring the costs. Each grouping should be determined so as to permit distribution of the grouping on the basis of the benefits accruing to the several cost objectives. Sub-grouping may be required where there is no single equitable distribution base for all the elements of cost comprising a group. Actual conditions must be taken into account in selecting the method or base to be used in distributing the expenses assembled under each of the individual cost groupings established to applicable cost objectives. Where a distribution can be made by assignment of a cost grouping directly to the area benefited, the distribution should be made in that manner. Where the expenses under a cost grouping are more general in nature, the distribution to the cost objectives should be made through use of a selected base which will produce results which are equitable to both the Government and the institution. In general, any cost element or cost-related factor associated with the institution's work is potentially adaptable for use as a distribution base provided (1) it can readily be expressed in terms of dollars or other quantitative measure (total direct expenditures, direct salaries, manhours applied, square feet utilized, hours of usage, number of documents processed, population served, and the like); and (2) it is common to the cost objectives during the base period. The essential consideration in selection of the distribution base in each instance is that it be the one best suited for assigning the pool of costs to the cost objectives in accord with the relative benefits derived; the traceable cause and effect relationship; or logic and reason, where neither benefit nor cause and effect relationship is determinable.

3. The number and composition of the groupings should be governed by practical considerations and should be such as not to complicate unduly the allocation where substantially the same results are achieved through less precise methods.

4. A base period for distribution of indirect costs is the period during which such costs are incurred and accumulated for distribution to work performed within that period. The base period normally should coincide with the fiscal year established by the institution, but in any event the base period should be so selected as to avoid inequities in the distribution of costs.

E. DETERMINATION AND APPLICATION OF INDIRECT COST RATE OR RATES

1. *Indirect cost pools.* (a) Subject to (b) below, indirect costs allocable to an institution's direct functions should be treated as a common pool, and the costs in such common pool should then be distributed to the individual projects benefiting therefrom by use of a single rate.

(b) In some instances a single rate for use across the board on all activities at an institution may not be appropriate, since it would not take into account those different environmental factors which may affect substantially the indirect costs applicable to a particular segment of work at the institution. For this purpose, a particular segment of work may be that performed under a single grant/contract or it may consist of work under a group of grants/contracts performed in a common environment. The environmental factors are not limited to the physical location of the work. Other important factors are the level of the administrative support required, the nature of the facilities or other resources employed, the scientific disciplines or technical skills involved, the organizational arrangements used, or any combination thereof. Where a particular segment of work is performed within an environment which appears to generate a significantly different level of indirect costs, provision should be made for a separate indirect cost pool applicable to such work. The separate indirect cost pool should be developed during the course of the regular distribution process, and the separate indirect cost rate resulting therefrom should be utilized provided it is determined that (1) such indirect cost rate differs significantly from that which would have been obtained under (a) above, and (2) the volume of work to which such rate would apply is material in relation to other activity at the institution.

2. *The distribution base.* Indirect costs should be distributed to each applicable project on the basis of direct salaries and wages, total direct costs or other basis which results in an equitable distribution. For this purpose, an indirect cost rate should be determined for each of the separate indirect cost pools developed pursuant to section E.1. The rate in each case should be stated as the percentage which the amount of the particular indirect cost pool is of the base selected.

F. APPLICATION OF PRINCIPLES AND PROCEDURES

1. Costs shall be allowed to the extent that they are reasonable (see B.3) allocable (see B.4) and determined to be allowable in view of the other factors set forth in paragraph B.2. and section G. These criteria apply to all of the selected items of cost which follow notwithstanding that particular guidance is provided in connection with certain specific items for emphasis or clarity.

2. Costs of all subcontracts under a grant or cost-reimbursement type contract are subject to those Federal cost regulations and policies appropriate to the subcontract involved. Thus if the subcontract is for supplies or services with a nonprofit institution other than an educational institution, hospital or State and local governmental unit this document would apply; if the subcontract is for supplies or services with a commercial organization, Federal Procurement Regulation Part 1.15.2 would apply; if the subcontract is with an educational institution. Appendix D to this Part (Federal Procurement Regulation Part 1.15.3) would apply; if the subcontract is with a hospital, the Department of Health, Education, and Welfare's Cost Principles for Hospitals would apply (see Appendix E to this Part).

3. Selected items of cost are treated in Section G. However, section G does not cover every element of cost and every situation that might arise in a particular case. Failure to treat any item of cost in Section G is not intended to imply that it is either allowable or unallowable. With respect to all items, whether or not specifically covered, determination of allowability shall be based on the principles and standards set forth in this document and, where appropriate, the treatment of similar or related selected items.

G. GENERAL STANDARDS FOR SELECTED ITEMS OF COST

Sections G–1 through G–46 provide standards to be applied in establishing the allowability of certain items involved in determining costs. These standards should apply irrespective of whether a particular item of cost is properly treated as direct cost or indirect cost. Failure to mention a particular item of cost in the standards is not intended to imply that it is either allowable or unallowable; rather determination as to allowability in each case should be based on the treatment or standards provided for similar or related items of cost. In case of a discrepancy between the provisions of a specific grant/contract and the applicable standards provided, the provisions of the grant/contract shall govern. Under any given grant/contract the reasonableness and allocability of certain items of costs may be difficult to determine. This is particularly true in connection with nonprofit institutions which are so diverse in nature and not subject to effective competive restraints. In order to avoid possible subsequent disallowance or dispute based on unreasonableness or nonallocability, it is important that institutions entering into grants or contracts with the Government seek agreement in advance of the incurrence of special or unusual costs in categories where reasonableness or allocability are difficult to determine. Such action may also be initiated by the Government. Examples of costs on which advance agreements may be particularly important are:

1. Compensation for personal services;
2. Consultant fees;
3. Deferred maintenance costs;
4. Excess facility costs;
5. Materiel, services, and supplies sold between organizations or divisions under common control;
6. Preaward costs;
7. Publication and public information costs;
8. Royalties;
9. Training and educational costs;
10. Travel costs, as related to special or mass personnel movement, and to the class of air-travel accommodations allowable;
11. Use charge for fully depreciated assets;
12. Depreciation or use charge on assets donated to the institution by third parties.

1. *Advertising costs.* (a) Advertising costs mean the costs of advertising media and corollary administrative costs. Advertising media include magazine, newspapers, radio, and television programs, direct mail, trade papers, outdoor advertising, dealer cards, and window displays, conventions, exhibits, free goods, and samples, and the like.

(b) The only advertising costs allowable are those which are solely for (1) the recruitment of personnel required for the performance by the institution of obligations arising under the grant/contract, when considered in conjunction with all other recruitment



V 38 181 SEP 1973 XUM

costs, as set forth in G.36; (2) the procurement of scarce items for the performance of the grant/contract or (3) the disposal of scrap or surplus materials acquired in the performance of the project. Costs of this nature, if incurred for more than one Government award or for both Government work and other work of the institution, are allowable to the extent that the principles in paragraphs B–3, B–4, and section D are observed.

2. *Bad debts.* Bad debts, including losses (whether actual or estimated) arising from uncollectible customers' accounts and other claims, related costs, and related legal costs, are unallowable.

3. *Bidding or proposal costs.* Bidding or proposal costs are the immediate costs of preparing bids or proposals on potential Government and non-Government contracts or projects or applications for financial assistance under Federal grant and contract programs, including development of scientific, engineering and cost data necessary to support the institution's bids, proposals or applications. Bidding costs of the current accounting period are allowable as part of the indirect cost pool. Costs of past accounting periods are unallowable. Bidding costs do not include any of those costs described in section G–16 and G–30.

4. *Bonding costs.* (a) Bonding costs arise when the Government requires assurance against financial loss to itself or others by reason of the act or default of the grantee/contractor. They arise also in instances where the grantee/contractor requires similar assurance. Included are such bonds as bid, performance, payment, advance payment, infringement, and fidelity bonds.

(b) Costs of bonding required pursuant to the terms of the grant/contract are allowable.

(c) Costs of bonding required by the grantee/contractor in the general conduct of its operations are allowable to the extent that such bonding is in accordance with sound business practice and the rates and premiums are reasonable under the circumstances.

5. *Civil defense costs.* (a) Civil defense costs are those incurred in planning for, and the protection of life and property against, the possible effects of enemy attack. Reasonable costs of civil defense measures (including costs in excess of normal plant protection costs, first-aid training and supplies, fire fighting training and equipment, posting of additional exit notices and directions, and other approved civil defense measures) undertaken on the institution's premises pursuant to suggestions or requirements of civil defense authorities are allowable when allocated to all work of the institution.

(b) Costs of capital assets under (a) above are allowable through depreciation or use charges in accordance with G–10.

(c) Contributions to local civil defense funds and projects are unallowable.

6. *Compensation for personal services.*—(a) *Definition.* Compensation for personal services includes all remuneration paid currently or accrued in whatever form and whether paid immediately or deferred for services rendered by employees of the institution during the period of grant/contract performance. It includes, but is not limited to salary, wages, directors' and executive committee members' fees, bonuses, incentive awards, employee insurance, fringe benefits, and contributions to pension, annuity, and management employee incentive compensation plans.

(b) *Allowability.* Except as otherwise specifically provided in this subsection, the costs of compensation for personal services are to be treated as allowable to the extent that:

(1) Compensation is paid in accordance with policy, programs, and procedures that effectively relate individual compensation to the individual's contribution to the performance of grant or contract work, result in internally consistent treatment of employees in like situations, and effectively relate compensation paid within the organization to that paid for similar services outside the organization;

(2) Total compensation of individual employees is reasonable for the services rendered; and

(3) Costs are not in excess of those costs which are allowable by the Internal Revenue Code and regulations thereunder.

(c) *Reasonableness.* (1) When the institution is predominantly engaged in activities other than those sponsored by the Federal Government, compensation for employees on federally sponsored work will be considered reasonable to the extent that it is consistent with that paid for similar work in the institution's other activities;

(2) When the institution is predominantly engaged in federally sponsored activities, and in cases where the kind of employees required for the federally sponsored activities are not found in the institution's other activities, compensation for employees on federally sponsored work will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor markets in which the institution competes for the kind of employees involved.

(d) *Review and approval of compensation of individual employees.* In determining the reasonableness of compensation, the compensation of each individual employee normally need not be subject to review and approval. Reviews and approvals of individuals need be made only in those cases in which a general review reveals amounts or types of compensation which appear unreasonable or otherwise out of line.

(e) *Special considerations in determining allowability.* Certain conditions require special consideration and possible limitation as to allowability for grant and contract cost purposes where amounts appear excessive. Among such conditions are the following:

(1) Compensation to share holders, members, trustees, directors, associates, officers or members of the immediate families thereof, or to persons who are contractually committed to acquire a substantial financial interest in the enterprise. Determination should be made that such compensation is reasonable for the actual personal services rendered rather than a distribution of earnings in excess of costs.

(2) Any change in an institution's compensation policy resulting in a substantial increase in the institution's level of compensation, particularly when it was concurrent with an increase in the ratio of Government awards to other business, or any change in the treatment of allowability of specific types of compensation due to changes in Government policy.

(3) The institution's activities are such that its compensation levels are not subject to the restraints normally occurring in the conduct of competitive business.

(f) Notwithstanding any other provisions of this subsection, costs of compensation are not allowable to the extent that they result from provisions of labor-management agreements that, as applied to work in the performance of Government grants or contracts are determined to be unreasonable either because they are unwarranted by the character and circumstances of the work or because they are discriminatory against the Government. The application of the provisions of a labor-management agreement designed to apply to a given set of circumstances and conditions of employment (for example, work involving extremely hazardous activities or work not requiring recurrent use of overtime) is unwarranted when applied to a Government grant or contract involving significantly different circumstances and conditions of employment, (for example, work involving less hazardous activities or work continually requiring use of overtime). It is discriminatory against the Government if it results in individual personnel compensation (in whatever form or name) in excess of that being paid for similar non-Government work under comparable circumstances. Disallowance of costs will not be made under this subparagraph unless:

(1) The institution has been permitted an opportunity to justify the costs; and

(2) Due consideration has been given to whether there are unusual conditions pertaining to the Government work which impose burdens, hardships, or hazards on the institution's employees, for which compensation that might otherwise appear unreasonable is required to attract and hold necessary personnel.

(g) (1) In addition to the general requirements set forth in (a) through (f) of this subsection, certain forms of compensation are subject to further requirements as specified in (2) through (9) below.

(2) *Salaries and wages.* Salaries and wages for current services include gross compensation paid to employees in the form of cash, products, or services, and are allowable. However, see G.25 as it relates to compensation for overtime.

(3) *Incentive compensation.* Incentive compensation to employees based on cost reduction, or efficient performance, suggestion awards, safety awards, etc. are allowable to the extent that the overall compensation is determined to be reasonable and such costs are paid or accrued pursuant to an agreement entered into in good faith between the institution and the employees before the services were rendered, or pursuant to an established plan followed by the institution so consistently as to imply, in effect, an agreement to make such payment. Awards, and incentive compensation when deferred are allowable to the extent provided in (4) below.

(4) *Deferred compensation.* (a) As used herein, deferred compensation includes all remuneration, in whatever form, for which the employee is not paid until after the lapse of a stated period of years or the occurrence of other events as provided in the plans, except that it does not include normal end of accounting period accruals for regular salaries and wages. It includes (i) contributions to pension and annuity plans, (ii) contributions to disability, withdrawal, insurance, survivorship, and similar benefit plans, and (iii) other deferred compensation.

(b) Deferred compensation is allowable to the extent that (i) except for past service pension and retirement costs, it is for services rendered during the grant/contract period; (ii) it is, together with all other compensation paid to the employee, reasonable in amount; (iii) it is paid pursuant to an agreement entered into in good faith between the institution and its employees before the services are rendered, or pursuant to an established plan followed by the institution so consistently as to imply, in effect, an agreement to make such payments; (iv) the benefits of the plan are vested in the employees or their designated beneficiaries and no part of the deferred compensation reverts to the employer institution; (v) in the case of past service pension costs, it is amortized over a period of ten years or more; and (vi) for a plan which is subject to approval by the Internal Revenue Service, it fails within the criteria and standards of the Internal Revenue Code and the regulations of the Internal Revenue Service.

(c) In determining the cost of deferred compensation allowable under the grant or contract, appropriate adjustments shall be made for credits or gains, including those





arising out of both normal and abnormal employee turnover, or any other contingencies that can result in a forfeiture by employees of such deferred compensation. Adjustments shall be made only for forfeitures which directly or indirectly inure to the benefit of the institution; forfeitures which inure to the benefits of other employees covered by a deferred compensation plan with no reduction in the institution's costs will not normally give rise to an adjustment in grant/contract costs. Adjustments for normal employee turnover shall be based on the institution's experience and on foreseeable prospects, and shall be reflected in the amount of cost currently allowable. Such adjustments will be unnecessary to the extent that the institution can demonstrate that its contributions take into account normal forfeitures. Adjustments for possible future abnormal forfeitures shall be effected according to the following rules:

(i) Abnormal forfeitures that are foreseeable and which can be currently evaluated with reasonable accuracy, by actuarial or other sound computation shall be reflected by an adjustment of current costs otherwise allowable; and

(ii) Abnormal forfeitures, not within (i) above, may be made the subject of agreement between the Government and the institution either as to an equitable adjustment or a method of determining such adjustment.

(d) In determining whether deferred compensation is for services rendered during the agreement period or is for future services, consideration shall be given to conditions imposed upon eventual payment, such as requirements of continued employment, consultation after retirement, and covenants not to compete.

(5) *Fringe benefits.* Fringe benefits are allowances and services provided by the institution to its employees as compensation in addition to regular wages and salaries. Costs of fringe benefits, such as pay for vacations, holidays, sick leave, military leave, employee insurance, and supplemental unemployment benefit plans are allowable to the extent required by law, employer-employee agreement, or an established policy of the institution.

(6) Severance pay. See G.40.

(7) Training and education expenses. See G.44.

(8) *Location allowances.* (a) "Location allowances," sometimes called "supplemental pay" or "incentive pay," are compensation in addition to normal wages or salaries and are paid by institutions to especially compensate or induce employees to undertake or continue work at locations which may be isolated or in an unfavorable environment. Location allowances include extra wage or salary payments in the form of station allowances, extended per diem, or mileage payments for daily commuting; they also include such benefits as institution-furnished housing. Payment of location allowances shall be allowed as costs under grants and cost-reimbursement type contracts, or recognized in pricing fixed-price type contracts, only with prior approval in writing from the awarding agency and only where and so long as the isolation or unfavorable environment of the site makes such payments necessary to the accomplishment of the work without unacceptable delays. Whether the site is so isolated, or its environment is so unfavorable, as to require location allowances is to be determined in the light of (a) its location and climate; (b) the availability and adequacy of housing within reasonable commuting distance; and (c) the availability and adequacy of educational, recreational, medical, and hospital facilities. The extent to which compensation includes location allowances is to be determined by comparing it with (a) the institution's normal compensation policy, including pay scales at its principal operating locations; (b) pay scales of other organizations and concerns operating at or near the site; and (c) compensation paid by other concerns within the same field for similar services elsewhere.

(b) Locations for which location allowances are paid shall be reviewed at least once a year to determine whether such allowances should continue to be allowed.

(9) *Support of salaries and wages.* (a) Direct charges for professionals must be supported by either:

(i) An adequate appointment and workload distribution system, accompanied by monthly reviews performed by responsible change in workload distribution of each professional (i.e., an exception reporting system) or

(ii) A monthly after-the-fact certification system which will require persons in supervisory positions having firsthand knowledge of the services performed to report the distribution of effort (i.e., a positive reporting system). Such reports must account for the *total* salaried effort of the persons covered. Consequently, a system which provides for the reporting only of effort applicable to federally sponsored activities is not acceptable.

(b) Direct charges for salaries and wages of nonprofessionals will be supported by time and attendance and payroll distribution records.

(c) Allowable indirect personal services costs will be supported by the institution's accounting system maintained in accordance with generally accepted institutional practices. Where a comprehensive accounting system does not exist, the institution should make periodic surveys no less frequently than annually to support the indirect personal services costs for inclusion in the overhead pool. Such supporting documentation must be retained for subsequent review by Government representatives.

7. *Capital expenditures.* The costs of equipment, buildings, and repairs which materially increase the value or useful life of buildings or equipment, are unallowable except as provided for in the grant/contract.

8. *Contingencies.* (a) A contingency is a possible future event or condition arising from presently known or unknown causes, the outcome of which is indeterminable at the present time.

(b) In historical costing, contingencies are not normally present since such costing deals with costs which have been incurred and recorded on the institution's books. Accordingly, contingencies are generally unallowable for historical costing purposes. However, in some cases, as for example, terminations, a contingency factor may be recognized which is applicable to a past period to give recognition to minor unsettled factors in the interest of expeditious settlement.

(c) In connection with estimates of future costs, contingencies fall into two categories:

(1) Those which may arise from presently known and existing conditions, the effects of which are foreseeable within reasonable limits of accuracy; e.g., pension funds, sick leave, and vacation accruals, etc. In such situations where they exist, contingencies of this category are to be included in the estimates of future cost so as to provide the best estimate of performance costs; and

(2) Those which may arise from presently known or unknown conditions, the effect of which cannot be measured so precisely as to provide equitable results to the institution and to the Government; e.g., results of pending litigation, and other general business risks. Contingencies of this category are to be excluded from cost estimates under the several items of cost, but should be disclosed separately, including the basis upon which the contingency is computed in order to facilitate the negotiation of appropriate contractual coverage (see, for example, G–17, G–21, and G–40).

9. *Contributions and donations.* (a) Contributions and donations by the grantee/contractor are unallowable.

(b) The value of donated services or goods provided by individual volunteers or members of volunteer organizations is not an allowable cost; however, the fair market value of donated services or goods utilized in the performance of a direct cost activity as defined in C.1 and C.2 shall be considered in the determination of the indirect cost rate(s) and, accordingly, shall be allocated a proportionate share of indirect cost.

10. *Depreciation and use allowances.* (a) Institutions may be compensated for the use of buildings, capital improvements and usable equipment on hand through depreciation or use allowances. Depreciation is a charge to current operations which distributes the cost of a tangible capital asset, less estimated residual value, over the estimated useful life of the asset in a systematic and logical manner. It does not involve a process of valuation. Useful life has reference to the prospective period of economic usefulness in the particular institution's operations as distinguished from physical life. Use allowances are the means of allowing compensation when depreciation or other equivalent costs are not considered.

(b) Depreciation or a use allowance on assets donated by third parties is allowable. However, any limitations on the amount of depreciation which would have applied to the donor as a result of restrictions contained in this Section shall also apply to the recipient organization.

(c) Due consideration will be given to Government-furnished facilities utilized by the institution when computing use allowances and/or depreciation if the Government-furnished facilities are material in amount. Computation of the use allowance and/or depreciation will exclude both the cost or any portion of the cost of grounds, buildings and equipment borne by or donated by the Federal Government, irrespective of where title was originally vested or where it presently resides, and secondly, the cost of grounds. Capital expenditures for land improvements (paved areas, fences, streets, sidewalks, utility conduits, and similar improvements not already included in the cost of buildings) are allowable provided the systematic amortization of such capital expenditures has been provided in the institution's books of account, based on reasonable determinations of the probable useful lives of the individual items involved, and the share allocated to the grant or contract is developed from the amount thus amortized for the base period involved.

(d) Normal depreciation on an institution's plant, equipment, and other capital facilities, except as excluded by (d) below, is an allowable element of cost provided that the amount thereof is computed:

(1) Upon a property cost basis which could have been used by the institution for Federal Income Tax purposes, had such institution been subject to the payment of income tax; and

(2) By the consistent application to the assets concerned of any generally accepted accounting method, and subject to the limitations of the Internal Revenue Code of 1954 as amended, including—

(i) The straight line method;

(ii) The declining balance method, using a rate not exceeding twice the rate which would have been used had the annual allowance been computed under the method described in (i) above;

(iii) The sum-of-the-years-digits method; and

(iv) Any other consistent method productive of an annual allowance which, when added to all allowances for the period commencing with the use of the property and including the current year, does not during



V 38 N 181 SEP 19 73 XUM

the first two-thirds of the useful life of the property exceed the total of such allowances which would have been used had such allowances been computed under the method described in (ii) above.

(v) Where the depreciation method is followed, adequate property records must be maintained. The period of useful service (service life) established in each case for usable capital assets must be determined on a realistic basis which takes into consideration such factors as type of construction, nature of the equipment used, technological developments in the particular area, and the renewal and replacement policies followed for the individual items or classes of assets involved. Where the depreciation method is introduced for application to assets acquired in prior years, the annual charges therefrom must not exceed the amounts that would have resulted had the depreciation method been in effect from the date of acquisition of such assets.

(vi) Depreciation on idle or excess facilities shall not be allowed except on such facilities as are reasonably necessary for standby purposes. (See G. 13.)

(vii) Where an institution elects to go on a depreciation basis for a particular class of assets, no depreciation, rental or use charge may be allowed on any such assets that would be viewed as fully depreciated. *Provided, however*, that reasonable use charges may be negotiated for any such assets if warranted after taking into consideration the cost of the facility or item involved, the estimated useful life remaining at time of negotiation, the actual replacement policy followed in the light of service lives used for calculating depreciation, the effect of any increased maintenance charges or decreased efficiency due to age, and any other factors pertinent to the utilization of the facility or item for the purpose contemplated.

(viii) Where the use allowance method is followed, the use allowance for buildings and improvements will be computed at an annual rate not exceeding 2 percent of acquisition cost. The use allowance for equipment will be computed at an annual rate not exceeding 6⅔ percent of acquisition cost of usable equipment in those cases where the institution maintains current records with respect to such equipment on hand. Where the institution's records reflect only the cost (actual or estimated) of the original complement of equipment, the use allowance will be computed at an annual rate not exceeding 10 percent of such cost. Original complement for this purpose means the complement of equipment initially placed in buildings to perform the functions currently being performed in such buildings; however, where a permanent change in the function of a building takes place, a redetermination of the original complement of equipment may be made at that time to establish a new original complement. In those cases where no equipment records are maintained, the institution will justify a reasonable estimate of the acquisition cost of usable equipment which may be used to compute the use allowance at an annual rate not exceeding 6⅔ percent of such estimate.

(ix) Depreciation and/or use charges should usually be allocated to all activities as an indirect cost.

11. *Employee morale, health, welfare costs, and credits.* (a) Employee morale, health, and welfare activities are those services or benefits provided by the institution to its employees to improve working conditions, employer-employee relations, employee morale, and employee performance. Such activities include house publications, health or first-aid clinics, recreation, employee counseling services and, for the purpose of this paragraph, food and dormitory services. Food and dormitory services include operating or furnishing facilities for cafeterias, dining rooms, canteens, lunch wagons, vending machines, living accommodations, or similar types of services for the institution's employees at or near its facilities.

(b) Except as limited by (c) below, the aggregate of costs incurred on account of all activities mentioned in (a) above, less income generated by all such activities is allowable to the extent that the net amount is reasonable.

(c) Losses from the operation of food and dormitory services may be included as cost incurred under (b) above, only if the institution's objective is to operate such services on a break-even basis. Losses sustained because food services or lodging accommodations are furnished without charge or at prices or rates which obviously would not be conducive to accomplishment of the above objective, are not allowable, except that a loss may be allowed to the extent the institution can demonstrate that unusual circumstances exist (e.g., (i) where the institution must provide food or dormitory services at remote locations where adequate commercial facilities are not reasonably available or (ii) where it is necessary to operate a facility at a lower volume than the facility could economically support) such that, even with efficient management, operation of the services on a break-even basis would require charging inordinately high prices or prices or rates higher than those charged by commercial establishments offering the same services in the same geographical areas.

(d) In those situations where the institution has an arrangement authorizing an employee association to provide or operate a service such as vending machines in the institution's plant, and retain the profits derived therefrom, such profits shall be treated in the same manner as if the institution were providing the service (but see (e)).

(e) Contributions by the institution to an employee organization, including funds set over from vending machine receipts or similar sources, may be included as cost incurred under (b) above only to the extent that the institution demonstrates that an equivalent amount of the costs incurred by the employee organization would be allowable if incurred by the institution directly.

12. *Entertainment costs.* Costs of amusement, diversion, social activities, ceremonials, and incidental costs relating thereto, such as meals, lodging, rentals, transportation, and gratuities, are unallowable (but see G–11 and G–43).

13. *Excess facility costs.* (a) As used in this paragraph, the words and phrases defined in this subparagraph (a) shall have the meanings set forth below.

(1) Facilities means plant or any portion thereof (inclusive of land integral to the operation); equipment individually or collectively; or any other tangible capital asset, wherever located, and whether owned or leased by the institution.

(2) Idle Facilities means completely unused facilities that are excess to the institution's current needs.

(3) Idle Capacity means the unused capacity of partially used facilities. It is the difference between that which a facility could achieve under 100 percent operating time on a one shift basis less operating interruptions resulting from time lost for repairs, setups, unsatisfactory materiels, and other normal delays, and the extent to which the facility was actually used to meet demands during the accounting period. (A multiple shift basis may be used if it can be shown that this amount of usage could normally be expected for the type of facility involved.)

(4) Costs of idle facilities or idle capacity are costs such as maintenance, repair, housing, rent, and other related costs, e.g., property taxes, insurance, and depreciation.

(b) The costs of idle facilities are unallowable except to the extent that:

(i) They are necessary to meet fluctuations in workload; or

(ii) Although not necessary to meet fluctuations in workload, they were necessary when acquired and are now idle because of changes in program requirements, grantee/contractor efforts to produce more economically, reorganization, termination, or other causes which could not have been reasonably foreseen.

Under the exception stated in (ii) of this subparagraph (b), costs of idle facilities are allowable for a reasonable period of time, ordinarily not to exceed 1 year, depending upon the initiative taken to use, lease, or dispose of such facilities (but see G.42(b) and (e)).

(c) The costs of idle capacity are normal costs of doing business and are a factor in the normal fluctuations of usage or overhead rates from period to period. Such costs are allowable, provided the capacity is reasonably anticipated to be necessary or was originally reasonable and is not subject to reduction or elimination by subletting, renting, or sale, in accordance with sound business, economics, or security practices. Widespread idle capacity throughout an entire plant or among a group of assets having substantially the same function may be idle facilities.

14. *Fines and penalties.* Costs of fines and penalties resulting from violations of, or failure of the institution to comply with, Federal, State, and local laws and regulations are unallowable except when incurred as a result of compliance with specific provisions of the grant or contract instructions in writing from the awarding agency.

15. *Fringe benefits.* (See G.–6–(g)–(5.)

16. *Independent research and development.* (a) An institution's independent research and development (I.R. & D.) is that research and development which is not sponsored by the Government or a non-Government organization or agency under a grant/contract or other arrangement.

(b) Basic research, for the purpose of this document, is that type of research which is directed toward increase of knowledge within a particular discipline. In such research, the primary aim of the investigator is a fuller knowledge or understanding of the subject under study, rather than any practical application thereof. Applied research, for the purpose of this document consists of that type of effort which (1) is normally derived from the results of basic research, but may not be severable from the related basic research, (2) attempts to determine and expand the potentialities of new scientific discoveries or improvements in technology, materiels, processes, methods, devices, and techniques, and (3) attempts to "advance the state of the art." Applied research, does not include any such efforts when their principal aim is the design, development, or test of specific articles or services to be offered for sale, which are within the definition of the term development as defined in (c) below. Census research, for the purpose of this document, is that type of activity devoted to the compilation and interpretation of statistical and other analytical information acquired through survey (e.g. interview, circularization of questionnaires), observations or from books, treatises, articles or other sources relative to specifically defined activities, occurrences or conditions for the purpose of accomplishing some scientific end.

(c) "Development" is the systematic use of scientific knowledge which is directed toward the production of, or improvements in, useful products to meet specific performance





requirements, but exclusive of manufacturing and production engineering.

(d) Independent research and development will be treated in a manner consistent with the treatment of sponsored research and development. Accordingly, an institution's I.R. & D. shall be allocated in proportionate share of indirect costs on the same basis that indirect costs are allocated to sponsored research and development.

(e) The cost of an institution's I.R. & D. including its proportionate share of indirect costs, is unallowable.

17. *Insurance and indemnification.* (a) Insurance includes insurance which the institution is required to carry, or which is approved, under the terms of the grant or contract and any other insurance which the institution maintains in connection with the general conduct of its business.

(1) Costs of insurance required or approved, and maintained, pursuant to the grant or contract are allowable.

(2) Costs of other insurance maintained by the institution in connection with the general conduct of its business are allowable subject to the following limitations:

(a) Types and extent of coverage shall be in accordance with sound business practice and the rates and premiums shall be reasonable under the circumstances;

(b) Costs allowed for business interruption or other similar insurance shall be limited to exclude coverage of profit;

(c) Costs of insurance or of any provision for a reserve covering the risk of loss of or damage to Government property are allowable only to the extent that the institution is liable for such loss or damage and such insurance or reserve does not cover loss or damage which results from willful misconduct or lack of good faith on the part of any of the institution's trustees, directors or officers, or other equivalent representatives, who have supervision or direction of (i) all or substantially all of the institution's business, or (ii) all or substantially all of the institution's operations at any one separate location in which the grant or contract is being performed, or who are specifically identified as the project director in the project or otherwise primarily responsible for the direction and/or execution of the project supported by the grant or contract.

(d) Provisions for a reserve under an approved self-insurance program are allowable to the extent that types of coverage, extent of coverage, and the rates and premiums would have been allowed had insurance been purchased to cover the risks; and

(e) Costs of insurance on the lives of trustees, officers, or other employees holding positions of similar responsibilities are allowable only to the extent that the insurance represents additional compensation. (See G–6).

(3) Actual losses which could have been covered by permissible insurance (through an approved self-insurance program or otherwise) are unallowable unless expressly provided for in the grant or contract, except:

(a) Costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound business practice, are allowable; and

(b) Minor losses not covered by insurance, such as spoilage, breakage, and disappearance of supplies, which occur in the ordinary course of doing business, are allowable.

(b) Indemnification includes securing the institution against liabilities to third persons and any other loss or damage not compensated by insurance or otherwise. The Government is obligated to indemnify the institution only to the extent expressly provided in (a) (3) above.

18. *Interest and other financial costs.* (a) Costs incurred for interest on borrowed capital or temporary use of endowment funds, however represented, are unallowable.

(b) Costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions, are unallowable.

(c) Costs of investment counsel and staff and similar expenses incurred solely to enhance income from investments are unallowable.

(d) Where substantial effort or time is devoted to fund raising and investment activities as described in (b) and (c) in relation to other functions of an institution, such activities shall be considered as a major activity of the institution and shall be allocated its share of indirect costs in accordance with section D. (See also C–2.)

19. *Labor relations costs.* Costs incurred in maintaining satisfactory relations between the institution and its employees, including costs of labor management committees, employee publications, and other related activities, are allowable.

20. *Losses on other grants or contracts.* Any excess of costs over income on any grant or contract is unallowable as a cost of any other grant or contract.

21. *Maintenance and repair costs.* (a) Costs necessary for the upkeep of property (including Government property unless otherwise provided for), which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are to be treated as follows (but see G–10):

(1) Normal maintenance and repair costs are allowable:

(2) Extraordinary maintenance and repair costs are allowable, provided such are allocated to the periods to which applicable for purposes of determining grant or contract costs.

(b) Expenditures for plant and equipment, including rehabilitation thereof, which, according to generally accepted accounting principles as applied under the institution's established policy, should be capitalized and subjected to depreciation, are allowable only on a depreciation basis.

22. *Materiels costs.* (a) The cost of consumable supplies, serum, drugs, fabricated parts, and other materiels necessary to carry out the objectives of a grant or contract, whether purchased outside or manufactured by the institution are allowable subject to the provisions (b) through (e) below. The cost may include such collateral items as inbound transportation and intransit insurance.

In computing these costs consideration will be given to reasonable overruns, spoilage, or defective work if consistent with the nature of the project being performed and the recognized practice of the industry.

(b) Costs of materiel shall be suitably adjusted for applicable portions of income and other credits, including available trade and cash discounts, refunds, rebates, allowances, and credits for scrap and salvage and materiel returned to vendors. Such income and other credits shall either be credited directly to the cost of the materiel involved or be allocated (as credits) to indirect costs. However, where the institution can demonstrate that failure to take cash discounts was due to reasonable circumstances, such lost discounts need not be so credited.

(c) Reasonable adjustments arising from differences between periodic physical inventories and book inventories may be included in arriving at costs, provided such adjustments relate to the period of performance of the grant or contract.

(d) When the materiels are purchased specifically for and identifiable solely with performance under a grant or contract, the actual purchase cost thereof should be charged to that grant or contract. If materiel is issued from stores, any generally recognized method of pricing such materiel is acceptable if that method is consistently applied and the results are equitable. When estimates of materiel costs to be incurred in the future are required, either current market price or anticipated acquisition cost may be used, but the basis of pricing must be disclosed.

(e) Allowance for all materiels, supplies and services which are sold or transferred between any division, subsidiary or affiliate of the institution under a common control shall be on the basis of cost incurred in accordance with these principles, except that when it is the established practice of the transferring organization to price interorganization transfers of materiels, supplies and services at other than cost for non-Government work of the institution or any division, subsidiary or affiliate of the institution under a common control, allowance may be at a price when:

(1) It is or is based on an "established catalog or market price of commercial items sold in substantial quantities to the general public;" or

(2) It is the result of "adequate price competition" and is the price at which an award was made to the affiliated organization after obtaining quotations on an equal basis from such organization and one or more outside sources which normally produce the item or its equivalent in significant quantity.

*Provided*, that in either case:

(1) The price is not in excess of the transferor's current sales price to his most favored customer (including any division, subsidiary, or affiliate of the institution under a common control) for a like quantity under comparable conditions, and

(2) The price is not determined to be unreasonable by the awarding agency.

The price determined in accordance with (1) above should be adjusted, when appropriate, to reflect the quantities being procured and may be adjusted upward or downward to reflect the actual cost of any modifications necessary because of grant or contract requirements.

23. *Organization costs.* Expenditures, such as incorporation fees, attorney's fees, accountant's fees, broker's fees, fees to promoters and organizers, in connection with (a) organization or reorganization of a business, or (b) raising capital, are unallowable unless specified otherwise in the grant or contract.

24. *Other business expenses.* Included in this item are such recurring expenses as preparation and publication of reports to members and trustees; preparation and submission of required reports and forms to taxing and other regulatory bodies; and incidental costs of director and committee meetings. The above and similar costs are allowable when allocated on an equitable basis.

25. *Overtime, extra-pay shift and multishift premiums.* Premiums for overtime, extra-pay shifts, and multishift work are allowable only to the extent approved by the awarding agency except:

(a) When necessary to cope with emergencies, such as those resulting from accidents, natural disasters, breakdowns of production equipment, or occasional production bottlenecks of a sporadic nature;

(b) When by indirect labor employees such as those performing duties in connection with administration, protection, transportation, maintenance, standby plant protection, operation of utilities, or accounting;

(c) In the performance of tests, laboratory procedures, or other similar operations which are continuous in nature and cannot reason-



V 38 181 SEP 19 1973 XUM

ably be interrupted or otherwise completed; or

(d) When lower overall cost to the Government will result.

Overtime premiums and shift premiums may be considered proper for approval when determined in writing by the awarding agency that approval:

(a) Is necessary to meet delivery or performance schedules, and such schedules are determined to be extended to the maximum consistent with essential program objectives;

(b) Is necessary to make up for delays which are beyond the control and without the fault or negligence of the institution;

(c) Is necessary to eliminate foreseeable bottlenecks of an extended nature which cannot be eliminated in any other way.

Approvals should ordinarily be prospective, but may be retroactive where justified by the circumstances. Such approvals may be for an individual grant or contract project, or program, or for a division, department, or branch, as most practicable.

Overtime for which overtime premiums would be at Government expense should not be approved under an award where the institution is already obligated, without the right to additional compensation, to meet the required delivery date.

Where overtime premiums or shift premiums are being paid at Government expense in connection with the performance of Government grant or contract the continued need therefor should be subject to periodic review by the awarding agency.

26. *Patent and copyright costs.* Costs of preparing disclosures, reports, and other documents required by the grant/contract and of searching the art to the extent necessary to make such disclosures, are allowable. In accordance with the conditions of the grant or contract relating to patents or copyrights, costs of preparing documents and any other costs, in connection with the filing of a patent application or copyright where title is conveyed to the Government, are allowable. However, similar costs incurred in connection with patents or copyrights where title is not conveyed to the Government are unallowable. (See G–39.)

27. *Pension plans.* (See G–6(g)–(4).)

28. *Plant protection costs.* Costs of items such as (a) wages, uniforms, and equipment of personnel engaged in plant protection, (b) depreciation on plant protection capital assets, and (c) necessary expenses to comply with security requirements are allowable.

29. *Plant reconversion costs.* Plant reconversion costs are those incurred in the restoration or rehabilitation of the institution's facilities to approximately the same condition existing immediately prior to the commencement of the grant or contract work, fair wear and tear excepted. Reconversion costs are unallowable except for the cost of removing Government property and the restoration or rehabilitation costs caused by such removal. However, in special circumstances where equity so dictates, additional costs may be allowed to the extent agreed upon in writing before the costs are incurred. Whenever such costs are given consideration, care should be exercised to avoid duplication through allowance as contingencies, as additional profit or fee, or in other grants or contracts.

30. *Preaward costs.* Preaward costs are those incurred prior to the effective date of the grant or contract directly pursuant to the negotiation and in anticipation of the award of the grant or contract where such incurrence is necessary to comply with the proposed delivery schedule or period of performance. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the award and only with the prior written approval of the awarding agency.

31. *Professional service cost—legal, accounting, scientific and other.* (a) Costs of professional services rendered by members of a particular profession who are not employees of the institution are allowable, subject to (b), (c) and (d) below, when reasonable in relation to the services rendered. (But see G–23.)

(b) Factors to be considered in determining the allowability of costs in a particular case include:

(1) The nature and scope of the service rendered in relation to the service required;

(2) The necessity of contracting for the service considering the institution's capability in the particular area;

(3) The past pattern of such costs, particularly in years prior to the award of Government work;

(4) The impact of Government work on the institution's business (i.e., what new problems have arisen);

(5) Whether the proportion of Government work to the institution's total business is such as to influence the institution in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under Government grants/contracts;

(6) Whether the service can be performed more economically by employment rather than by contracting;

(7) The qualifications of the individual or concern rendering the service and the customary fees charged, especially on non-government grants/contracts;

(8) Adequacy of the contractual agreement for the service (e.g., description of the service, estimate of time required, rate of compensation; termination provisions).

(c) Retainer fees to be allowable must be reasonably supported by evidence of bona fide services available or rendered.

(d) Costs of legal, accounting, and consulting service, and related costs, incurred in connection with organization and reorganization, defense of anti-trust suits, and the prosecution of claims against the Government, are unallowable. Costs of legal, accounting, and consulting services, and related costs, incurred in connection with patent or copyright infringement litigation, are unallowable unless otherwise provided for in the grant or contract.

32. *Profits and losses on disposition of plant equipment, or other capital assets.* Profits or losses of any nature arising from the sale or exchange of plant, equipment, or other capital assets, including sale or exchange of either short- or long-term investments, shall be excluded in computing grant or contract costs.

33. *Public information services costs.* Public information services costs include the costs associated with promotions, public relations, pamphlets, news releases, and other forms of information services. Such costs are normally incurred to:

(a) Inform or instruct individuals, groups or the general public about health or social problems;

(b) Interest individuals or groups in participating in a service program of the institution;

(c) Provide stewardship reports to State and local Government agencies, benefactor foundations and associations, etc.;

(d) Appeal for funds;

(e) Disseminate the results of sponsored and non-sponsored research or other activity to the scientific community.

To the extent that the costs incurred for any of these purposes are identifiable with a particular cost objective they should be charged to the objective to which they relate.

If these costs are not identifiable with a particular cost objective, they should be allocated as indirect costs to all major activities of the institution except that costs related to fund-raising appeals are unallowable as costs of grants and contracts.

Public information service costs are unallowable as a direct cost of grants and contracts unless formally approved by the awarding agency.

34. *Publication and printing costs.* Publication costs include the costs of printing (including the processes of composition, platemaking, press work, binding and the end products produced by such processes), distribution, promotion, mailing and general handling.

Publication costs are unallowable as a direct cost of grants and contracts unless formally approved by the awarding agency.

35. *Rearrangement and alteration costs.* Costs incurred for ordinary or normal rearrangement and alteration of facilities are allowable. Special arrangement and alteration costs incurred specifically for the project are allowable when written approval has been given in advance by the awarding agency.

36. *Recruitment costs.* (a) Subject to (b), (c), and (d) of this G–36, and provided that the size of the staff recruited and maintained is in keeping with workload requirements, costs of help-wanted advertising, operating costs of an employment office necessary to secure and maintain an adequate labor force, costs of operating an aptitude and educational testing program, travel costs of employees while engaged in recruiting personnel, and travel costs of applicants for interviews for prospective employment are allowable to the extent that such costs are incurred pursuant to a well managed recruitment program. Where the institution uses employment agencies, costs not in excess of standard commercial rates for such services are allowable.

(b) In publications, costs of help-wanted advertising that (1) includes color, (2) includes advertising materiel for other than recruitment purposes, or (3) is excessive in size (taking into consideration recruitment purposes for which intended and normal business practices in this respect) are unallowable.

(c) Costs of (1) help-wanted advertising and (2) excessive salaries, fringe benefits, and special emoluments that have been offered to prospective employees, designed to attract personnel from another institution performing as grantee or contractor to the Government, or in excess of the standard practices in comparable institutions, are unallowable.

(d) Where relocation costs incurred incident to recruitment of a new employee have been allowed either as an allocable direct or indirect cost and the newly hired employee resigns for reasons within his control within 12 months after hire, the institution shall be required to refund or credit such relocation costs to the Government.

37. *Relocation costs.* (a) Relocation costs, for the purpose of this document, are costs incident to the permanent change of duty assignment (for an indefinite period, or for a stated period of no less than 12 months) of an existing employee or upon recruitment of a new employee. These costs may include, but are not limited to cost of (i) transportation of the employee, members of his immediate family and his household and personal effects to the new location; (ii) finding a new home, such as advance trips by employees and spouses to locate living quarters and temporary lodging during the transition period; (iii) closing costs (i.e., brokerage fees, legal fees, appraisal fees, etc.), incident to the disposition of housing; (iv) other necessary and reasonable expenses normally incident to relocation, such as cost of cancelling an unexpired lease, disconnecting or reinstalling household appliances, and purchase of insurance against damages to personal property; (v) loss on sale of home; and (vi) acquisition





of a home in a new location (i.e., brokerage fees, legal fees, appraisal fees, etc.).

(b) Subject to (c) below, relocation costs of the type covered in (a) (i), (ii), (iii), and (iv) above are allowable, provided (i) the move is for the benefit of the employer; (ii) reimbursement is in accordance with an established policy or practice consistently followed by the employer, and such policy or practice is designed to motivate employees to relocate promptly and economically; (iii) the costs are not otherwise unallowable under the provisions of G–36 or any other paragraph of this document and (iv) amounts to be reimbursed shall not exceed the employee's actual (or reasonably estimated) expenses.

(c) Costs otherwise allowable under (b) above are subject to the following additional provisions: (i) the transition period for incurrance of costs of the type covered in (a) (ii) above shall be kept to the minimum number of days necessary under the circumtances, but shall not, in any event, exceed a cumulative total of 30 days including advance trip time; and (ii) allowance for cost of the type covered in (a) (iii) above shall not exceed 8 percent of the sales price of the property sold. Costs of the type covered in (a) (iii) and (iv) above are allowable only in connection with the relocation of existing employees, and are not allowable for newly recruited employees.

(d) Costs of the type covered in (a) (v) and (vi) above are not allowable.

38. *Rental costs (including sale and leaseback of facilities).* (a) Rental costs of land, building, and equipment and other personal property are allowable if the rates are reasonable in light of such factors as rental costs of comparable facilities and market conditions in the area, the type, life expectancy, condition, and value of the facilities leased, options available, and other provisions of the rental agreement. Application of these factors, in situations where rentals are extensively used, may involve among other considerations, comparison of rental costs with the amount which the institution would have received had it owned the facilities.

(b) Charges in the nature of rent between plants, divisions, or organizations under common control are allowable to the extent such charges do not exceed the normal costs of ownership, such as depreciation, taxes, insurance, and maintenance: *Provided*, That no part of such costs shall duplicate any other allowed costs.

(c) Unless otherwise specifically provided in the grant or contract, rental costs specified in sale and leaseback agreements, incurred by institutions through selling plant facilities to investment organizations, such as insurance companies, associate institutions, or to private investors, and concurrently leasing back the same facilities, are allowable only to the extent that such rentals do not exceed the amount which the grantee/contractor would have received had it retained legal title to the facilities.

(d) Rentals for land, building and equipment and other personal property owned by affiliated organizations including corporations or by stockholders, members, directors, trustees, officers or other key personnel of the institution or their families either directly or through corporations, trusts or other similar arrangements in which they hold a more than token interest are allowable only to the extent that such rentals do not exceed the amount the institution would have received had legal title to the facilities been vested in it.

(e) The allowability of rental costs under unexpired leases in connection with terminations is treated in G–42(e).

39. *Royalties and other costs for use of patents and copyrights.* (a) Royalties on a patent or copyright or amortization of the cost of acquiring by purchase a copyright, patent or rights thereto, necessary for the proper performance of the grant or contract applicable to grant products or processes, are allowable unless:

(1) The Government has a license or the right to free use of the patent;

(2) The patent or copyright has been adjudicated to be invalid, or has been administratively determined to be invalid;

(3) The patent or copyright is considered to be unenforceable; or

(4) The patent or copyright is expired.

(b) Special care should be exercised in determining reasonableness where the royalties may have been arrived at as a result of less than arm's-length bargaining; e.g.:

(1) Royalties paid to persons, including corporations, affiliated with the institution;

(2) Royalties paid to unaffiliated parties, including corporations, under an agreement entered into in contemplation that a Government grant or contract would be awarded; or

(3) Royalties paid under an agreement entered into after the award of the grant or contract.

(c) In any case involving a patent or copyright formerly owned by the institution, the amount of royalty allowed should not exceed the cost which would have been allowed had the institution retained title thereto.

40. *Severance pay.* (a) Severance pay, also commonly referred to as dismissal wages, is a payment in addition to regular salaries and wages, by institutions to workers whose employment is being terminated. Costs of severance pay are allowable only to the extent that, in each case, it is required by (1) law, (2) employer-employee agreement, (3) established policy that constitutes, in effect, an implied agreement on the institution's part, or (4) circumstance of the particular employment.

(b) Costs of severance payments are divided into two categories as follows:

(1) Actual normal turnover severance payments shall be allocated to all work performed in the institution's facilities; or, where the institution provides for accrual of pay for normal severances, such method will be acceptable if the amount of the accrual is reasonable in light of payments actually made for normal severances over a representative past period, and if amounts accrued are allocated to all work performed in the institution's facilities; and

(2) Abnormal or mass severance pay is of such a conjectural nature that measurement of costs by means of an accrual will not achieve equity to both parties. Thus, accruals for this purpose are not allowable. However, the Government recognizes its obligation to participate, to the extent of its fair share, in any specific payment. Thus, allowability will be considered on a case-by-case basis in the event of occurrence.

41. *Taxes.* (a) Taxes are certain charges levied by Federal, State, or local governments. They do not include fines and penalties except as otherwise provided herein. In general, taxes which the institution is required to pay and which are paid or accrued in accordance with generally accepted accounting principles are allowable, except for:

(1) Federal income taxes and similar levies against income of the institution derived from activities unrelated to the project supported by the grant or contract;

(2) Taxes in connection with financing, refinancing, or refunding operations (see G–18);

(3) Taxes from which exemptions are available to the institution directly or available to the institution based on an exemption afforded the Government except when the awarding agency determines that the administrative burden incident to obtaining the exemption outweighs the corresponding benefits accruing to the Government;

(4) Special assessments on land which represent capital improvements; and

(5) Taxes on any category of property which is used solely in connection with work other than on Government grants or contracts. (Taxes on property used solely in connection with either non-Government or Government work should be considered directly applicable to the respective category of work unless the amounts involved are insignificant or comparable results would otherwise be obtained.)

(b) Taxes otherwise allowable under paragraph (a) of this section, but upon which a claim of illegality or erroneous assessment exists, are allowable provided the institution, prior to payment of such taxes:

(1) Promptly requests instructions from the awarding agency concerning such taxes, and

(2) Takes all action directed by the awarding agency arising out of subparagraph (1) of this paragraph or an independent decision of the Government as to the existence of a claim of illegality or erroneous assessment, including cooperation with and for the benefit of the Government to (i) determine the legality of such assessment, or (ii) secure a refund of such taxes.

Reasonable costs of any such action undertaken by the institution at the direction or with the concurrence of the awarding agency are allowable. Interest and penalties incurred by an institution by reason of the nonpayment of any tax at the direction of the awarding agency or by reason of the failure of the awarding agency to issue timely direction after prompt request therefor, are also allowable.

(c) Any refund of taxes, interest, or penalties, and any payment to the institution of interest thereon, attributable to taxes, interest, or penalties which were allowed as project costs, shall be credited or paid to the Government in the manner directed by the Government, provided any interest actually paid or credited to an institution incident to a refund of tax, interest or penalty shall be paid or credited to the Government only to the extent that such interest accrued over the period during which the institution had been reimbursed by the Government for the taxes, interest or penalties.

42. *Termination costs.* Grants and contracts terminations generally give rise to the incurrence of costs, or the need for special treatment of costs, which would not have arisen had the project not been terminated. Cost principles covering these items are set forth below. They are to be used in conjunction with the remainder of this document in termination situations.

(a) *Common items.* The cost of items reasonably usable on the institution's other work shall not be allowable unless the institution submits evidence that it could not retain such items at cost without sustaining a loss. In deciding whether such items are reasonably usable on other work of the institution, the awarding agency should consider the institution's plans and orders for current and scheduled production. Contemporaneous purchases of common items by the institution shall be regarded as evidence that such items are reasonably usable on the institution's other work. Any acceptance of common items as allocable to the terminated portion of the project should be limited to the extent that the quantities of such items on hand, in transit, and on order are in excess of the reasonable quantitative requirements of other work.

(b) *Costs continuing after termination.* If in a particular case, despite all reasonable efforts by the institution, certain costs cannot be discontinued immediately after the effective date of termination, such costs are generally allowable within the limitations set forth in this document, except that any such



V 38 181 SEP 1973 XUM

costs continuing after termination due to the negligent or willful failure of the institution to discontinue such costs shall be considered unallowable.

(c) *Initial costs.* Initial costs, including starting load and preparatory costs, are allowable, subject to the following:

(1) Starting load costs are costs of a nonrecurring nature arising in the early stages of operation, investigation or production and not fully absorbed because of the termination. Such costs may include the cost of labor and materiel, and related indirect cost attributable to such factors as:

(a) Excessive spoilage resulting from inexperienced labor;

(b) Idle time and subnormal production occasioned by testing and changing methods of processing;

(c) Employee training; and

(d) Unfamiliarity or lack of experience with the product, materiels, manufacturing processes, and techniques.

(2) Preparatory costs are costs incurred in preparing to perform the terminated project including costs of initial plant rearrangement and alterations, management and personnel organization, production planning and similar activities, but excluding special machinery and equipment and starting load costs.

(3) If initial costs are claimed and have not been segregated on the institution's books, segregation for settlement purposes shall be made from cost reports and schedules which reflect the high unit cos. incurred during the early stages of the project.

(4) When the settlement proposal is on the inventory basis, initial costs should normally be allocated on the basis of total end items called for by the project immediately prior to termination; however, if the project includes end items of a diverse nature, some other equitable basis may be used, such as machine or labor hours.

(5) When initial costs are included in the settlement proposal as a direct charge, such costs shall not also be included in overhead.

(6) Initial costs attributable to only one project shall not be allocated to other projects.

(d) *Loss of useful value.* Loss of useful value of special tooling and special machinery and equipment is generally allowable if:

(1) Such special tooling, machinery, or equipment is not reasonably capable of use in the other work of the institution;

(2) The interest of the Government is protected by transfer of title or by other means deemed appropriate by the awarding agency and

(3) The loss of useful value as to any one terminated project is limited to that portion of the acquisition cost which bears the same ratio to the total acquisition cost as the terminated portion of the project bears to the entire terminated project and other Government projects for which the special tooling and special machinery and equipment were acquired.

(e) *Rental costs.* Rental costs under unexpired leases are generally allowable where clearly shown to have been reasonably necessary for the performance of the terminated project less the residual value of such leases, if:

(1) The amount of such rental claimed does not exceed the reasonable use value of the property leased for the period of the project and such further period as may be reasonable; and

(2) The institution makes all reasonable efforts to terminate, assign, settle, or otherwise reduce the cost of such lease.

There also may be included the cost of alterations of such leased property, provided such alterations were necessary for the performance of the project, and of reasonable restoration required by the provisions of the lease.

(f) *Settlement expenses.* Settlement expenses including the following are generally allowable:

(1) Accounting, legal, clerical, and similar costs reasonably necessary for—

(a) The preparation and presentation to awarding agency of settlement claims and supporting data with respect to the terminated portion of the project, and

(b) The termination and settlement of subcontracts; and

(2) Reasonable costs for the storage, transportation, protection, and disposition of property acquired or produced for the project.

(g) *Subcontractor claims.* Subcontractor claims, including the allocable portion of claims which are common to the project and to other work of the institution are generally allowable.

43. *Trade, Business, Technical, and Professional Activity Costs*—(a) *Membership.* This category includes costs of memberships in trade, business, technical, and professional organizations. Such costs are allowable.

(b) *Subscriptions.* This item includes cost of subscriptions to trade, business, professional, or technical periodicals. Such costs are allowable.

(c) *Meetings and conferences.* This item includes costs of meals, transportation, rental of facilities for meetings, and costs incidental thereto, when the primary purpose of the incurrence of such costs is the dissemination of technical information or stimulation of production. Such costs are allowable.

44. *Training and educational costs.* (a) The costs of training courses taken by a bona fide employee to acquire basic skills which he should bring to the job or to qualify a person for duties other than those related to an institution's goals are unallowable.

(b) Costs of on-the-job training and part-time education, at an undergraduate or post-graduate college level, related to the job requirements of bona fide employees, identified in (1) through (5) below, are allowable.

(1) Training materiels;

(2) Textbooks;

(3) Fees charged by the educational institution;

(4) Tuition charged by the educational institution, or in lieu of tuition, instructors' salaries and the related share of indirect cost of the educational institution to the extent that the sum thereof is not in excess of the tuition which would have been paid to the participating educational institution; and

(5) Straight-time compensation of each employee for time spent attending classes during working hours not in excess of 156 hours per year where circumstances do not permit the operation of classes or attendance at classes after regular working hours.

(c) Costs of tuition, fees, training materiels and textbooks (but not subsistence, salary, or any other emoluments) in connection with full time scientific and medical education at a post-graduate (but not undergraduate) college level related to the job requirements of bona fide employees for a total period not to exceed 1 school year for each employee so trained, are allowable when approved in writing by the awarding agency.

(d) Grants to educational or training institutions, including the donation of facilities or other properties, scholarships, or fellowships, are considered contributions and are unallowable.

45. *Transportation costs.* Transportation costs include freight, express, cartage, and postage charges relating either to goods purchased, in process, or delivered. These costs are allowable. When such costs can readily be identified with the items involved, they may be directly costed as transportation costs or added to the cost of such items (see G-22).

Where identification with the materiels received cannot readily be made, inbound transportation costs may be charged to the appropriate indirect cost accounts if the institution follows a consistent, equitable procedure in this respect. Outbound freight, if reimbursable under the terms of the grant or contract, shall be treated as a direct cost.

46. *Travel costs.* (a) Travel costs include costs of transportation, lodging, subsistence, and incidental expenses, incurred by institution personnel in a travel status while on official business.

(b) Travel costs may be based upon actual costs incurred, or on a per diem or mileage basis in lieu of actual costs, or on a combination of the two, provided the method used does not result in an unreasonable charge. The difference in cost between first-class and less than first-class air accommodations is unallowable except when less than first-class air accommodations are not reasonably available to meet necessary mission requirements, such as where less than first-class accommodations would (1) require circuitous routing, (2) require travel during unreasonable hours, (3) greatly increase the duration of the flight, (4) result in additional costs which would offset the transportation savings, or (5) offer accommodations which are not reasonably adequate for the medical needs of the traveler.

(c) Travel costs incurred in the normal course of overall administration of the business are allowable and shall be treated as indirect costs.

(d) Travel costs directly attributable to specific grant or contract performance are allowable and may be charged to the grant or contract in accordance with the principle of direct costing (see section C).

(e) Costs of personnel movement of a special or mass nature are allowable only when authorized or approved in writing by the sponsoring agency.

[FR Doc.73-19603 Filed 9-18-73;8:45 am]



federal register

WEDNESDAY, SEPTEMBER 19, 1973

WASHINGTON, D.C.

Volume 38 ■ Number 181

PART III

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Social and Rehabilitation Service

■

## GRANT PROGRAM REGULATIONS AND PRINCIPLES FOR DETERMINING ALLOWABLE COSTS

No. 181—Pt. III——1

V 38-181 SEP 1973 XUM

Title 45—Public Welfare

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 201—GRANTS TO STATES FOR PUBLIC ASSISTANCE PROGRAMS

PART 220—SERVICE PROGRAMS FOR FAMILIES AND CHILDREN: TITLE IV PARTS A AND B OF SOCIAL SECURITY ACT

Miscellaneous Amendments

The following amendments relate the grant program regulations in Chapter II to 45 CFR Part 74, which is a new Department of Health, Education, and Welfare (DHEW) regulation published in this issue of the FEDERAL REGISTER. Part 74 provides a regulatory umbrella for DHEW implementation of Office of Management and Budget (OMB) Circular No. A–102, "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments." Part 74 also established (in Subpart Q) principles for determining allowable costs under DHEW grants to the various types of grantee organizations. The principles have hitherto been published by DHEW only in manual and brochure format.

*Effect on grants to State and local governments.* Part 74 is mandatorily applicable (with certain exceptions) to DHEW grants to State or local governments (as defined in Subpart A of Part 74). For such grants, these amendments add blanket cross-references to those subparts of Part 74 which are mandatorily applicable. However, current regulations pertaining to matching and cost sharing will continue to apply to all programs under Chapter II, and current financial reporting requirements will continue to apply to programs under titles I, IV–A, X, XIV, XVI, and XIX of the Social Security Act.

*Cost principles.* Cross-references to Subpart Q, "Cost Principles," of Part 74 are also added by these amendments, since that subpart is applicable to all DHEW grants.

*Conflicting provisions.* These amendments also revoke or modify, as appropriate, those specific provisions in Chapter II which would have conflicted with Part 74.

*Omission of notice of proposed rulemaking.* Notice of proposed rulemaking and delay in effective date have been omitted as unnecessary in the issuance of these amendments which relate solely to administrative requirements for grants for public assistance and child welfare services programs.

*Opportunity to comment.* Written comments concerning these amendments are invited from interested persons. Comments may be addressed to the Assistant Secretary for Administration and Management, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, D.C. 20201. All comments received will be available for public inspection at Room 4829, 400 Sixth Street SW., Washington, D.C., between the hours of 9 a.m. and 5:30 p.m. weekdays, Federal holidays excepted.

*Effective date.*—The amendments shall become effective on September 19, 1973.

Dated September 7, 1973.

FRANK CARLUCCI,
*Acting Secretary of Health, Education, and Welfare.*

Chapter II of Title 45 of the Code of Federal Regulations is amended as set forth below:

1. Section 201.5 of Part 201 is amended by adding a new paragraph (e) as follows:

**§ 201.5 Grants.**

* * * * *

(e) *General administrative requirements.* With the following exceptions, the provisions of Part 74 of this title, establishing uniform administrative requirements and cost principles, shall apply to all grants made to States under this part:

45 CFR PART 74

Subpart G Matching and Cost Sharing.
Subpart I Financial Reporting Requirements.

**§ 220.75 [Revoked]**

2. Section 220.75 is revoked.

3. Section 220.79 is amended to read as follows:

**§ 220.79 Refunds.**

Amounts refunded or repaid to the State shall be reported for any necessary adjustments in accordance with § 220.74(c).

**§ 220.81 [Revoked]**

4. Section 220.81 is revoked.

5. Subpart D of Part 220 is amended by adding a new § 220.85, reading as follows:

**§ 220.85 Other administrative requirements.**

The provisions of Part 74 of this title (with the exception of Subpart G, Matching and Cost Sharing), establishing uniform administrative requirements and cost principles, shall apply to all grants made to States under this subpart.

[FR Doc.73 19604 Filed 9-18-73;8:45 am]

---

CHAPTER IV—SOCIAL AND REHABILITATIVE SERVICE (REHABILITATION PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 401—THE STATE VOCATIONAL REHABILITATION PROGRAM

PART 403—SPECIAL PROJECTS IN VOCATIONAL REHABILITATION

PART 404—PROJECT GRANTS AND ASSISTANCE FOR REHABILITATION FACILITIES

PART 405—RESEARCH AND DEMONSTRATION

PART 406—TRAINING AND TRAINEESHIPS

PART 408—PROJECT GRANTS FOR REHABILITATION OF THE MENTALLY RETARDED

PART 416—DEVELOPMENTAL DISABILITIES PROGRAM AND GRANTS FOR INITIAL STAFFING OF COMMUNITY MENTAL RETARDATION FACILITIES

Miscellaneous Amendments

The following amendments conform the affected grant program regulations in Chapter IV with 45 CFR Part 74, which is a new Department of Health, Education, and Welfare (DHEW) regulation published in this issue of the FEDERAL REGISTER. Part 74 provides a regulatory umbrella for DHEW implementation of Office of Management and Budget (OMB) Circular No. A–102, "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments." Part 74 also establishes (in Subpart Q) principles for determining allowable costs under DHEW grants to the various types of grantee organizations. These principles have hitherto been published by DHEW only in manual and brochure format.

*Effect on grants to State and local governments.* Part 74 is mandatorily applicable (with certain exceptions) to DHEW grants to State or local governments (as defined in Subpart A of Part 74). For such grants, these amendments add blanket cross-references to those subparts of Part 74 which are mandatorily applicable. However, current regulations pertaining to matching and cost sharing will continue to apply in formula grant programs.

*Effect on grants to other organizations.* Those subparts of Part 74 which are derived from OMB Circular No. A–102 have been designed so that, where determined to be appropriate, they may be made applicable to DHEW grants to organizations which are not State or local governments. The following subparts of Part 74 have been determined to be appropriate for application to such grants under this Chapter IV and are specifically made so applicable by these amendments:

45 CFR PART 74

Subpart
A General.
B Cash Depositories.
C Bonding and Insurance.
D Retention and Custodial Requirements for Records.
F Grant-Related Income.
G Matching and Cost Sharing.
H Standards for Grantee Financial Management Systems.
K Grant Payment Requirements.
M Grant Closeout, Suspension, and Termination.
O Property.

*Cost principles.* Cross-references to Subpart Q, "Cost Principles" of Part 74 are also added by these amendments, since that subpart is applicable to all DHEW grants.

*Conflicting provisions.* These amendments also revoke or modify, as appropriate, those specific provisions in Chapter IV which would have conflicted with Part 74.





*Omission of notice of proposed rulemaking.* Notice of proposed rulemaking and delay in effective date have been omitted as unnecessary in the issuance of these amendments which relate solely to grants for rehabilitation and developmental disabilities programs.

*Opportunity to comment.* Written comments concerning these amendments are invited from interested persons. Comments may be addressed to the Assistant Secretary for Administration and Management, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, D.C. 20201. All comments received will be available for public inspection at room 4829, 400 Sixth Street SW., Washington, D.C., between the hours of 9 a.m. and 5:30 p.m. weekdays, Federal holidays excepted.

*Effective date.*—These amendments shall become effective September 19, 1973.

Dated September 7, 1973.

FRANK CARLUCCI,
*Acting Secretary of Health, Education, and Welfare.*

Chapter IV of Title 45 of the Code of Federal Regulations is amended as set forth below:

1. Subpart C, of Part 401, is amended by adding a new § 401.69, reading as follows:

**§ 401.69 General administrative requirements.**

The provisions of Part 74 of this title (with the exception of Subpart G, Matching and Cost Sharing) establishing uniform administrative requirements and cost principles, shall apply to all grants made to States under this part.

**§§ 403.9, 403.29, 403.49, 404.48, 404.60, 404.93, 405.19, 406.19, 406.51 [Revised]**

2. Sections 403.9, 403.29, 403.49, 404.48, 404.60, 404.93, 405.19, 406.19, and 406.51 are revised to read as follows:

*Termination*

(a) *Termination for cause.* The Administrator may terminate any grant in whole, or in part, at any time before the date of completion whenever it is determined that the grantee has materially failed to comply with the terms and conditions of the grant. The Administrator shall promptly notify the grantee in writing of the determination and the reasons for the termination, together with the effective date. Payments made to grantees or recoveries by the Administrator under grants terminated for cause shall be in accordance with the legal rights and obligations of the parties.

(b) *Termination on other grounds.*

(1) Except as provided in paragraph (a) of this section, grants may be terminated in whole or in part as follows:

(i) By the Administrator, with the consent of the grantee, in which case the two parties shall agree upon the termination conditions, including the effective date, and in the case of partial terminations, the portion to be terminated, or

(ii) By the grantee, upon written notification to the Administrator, setting forth the reasons for such termination, the effective date, and in the case of partial terminations, the portion to be terminated.

(2) When a grant is terminated pursuant to paragraph (b)(1) of this section, the grantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Administrator shall allow full credit to the grantee for the Federal share of the noncancellable obligations properly incurred by the grantee prior to termination.

3. Section 401.77(b) is revised to read as follows:

**§ 401.77 Purchase of goods, facilities, or services from other agencies of the State.**

* * * * *

(b) Federal financial participation will be available in expenditures under the State plan for payment of costs of other public agencies pursuant to the principles and procedures prescribed by Subpart Q of Part 74 of this title.

---

4. Subpart A of Part 403 is amended by adding a new § 403.16, reading as follows:

**§ 403.16 Other administrative requirements.**

The provisions of Part 74 of this title, establishing uniform administrative requirements and cost principles, shall apply to all grants under this subpart to State and local governments as those terms are defined in Subpart A of that Part 74. The relevant provisions of the following subparts of Part 74 shall also apply to grants to all other grantee organizations under this subpart:

45 CFR PART 74

Subpart
A General.
B Cash Depositories
C Bonding and Insurance.
D Retention and Custodial Requirements for Records.
F Grant-Related Income.
G Matching and Cost Sharing.
H Standards for Grantee Financial Management Systems.
K Grant Payment Requirements.
M Grant Closeout, Suspension, and Termination.
O Property.
Q Cost Principles.

5. Subpart B of Part 403 is amended by adding a new § 403.33, reading as follows:

**§ 403.33 Other administrative requirements.**

The provisions of Part 74 of this title, establishing uniform administrative requirements and cost principles shall apply to all grants under this subpart to State and local governments as those terms are defined in Subpart A of that Part 74. The relevant provisions of the following subparts of Part 74 shall also apply to grants to all other grantee organizations under this subpart:

45 CFR PART 74

Subpart
A General.
B Cash Depositories.
C Bonding and Insurance.
D Retention and Custodial Requirements for Records.
F Grant-Related Income.
G Matching and Cost Sharing.
H Standards for Grantee Financial Management Systems.
K Grant Payment Requirements.
M Grant Closeout, Suspension, and Termination.
O Property.
Q Cost Principles.

6. Subpart C of Part 403 is amended by adding a new § 403.50, reading as follows:

**§ 403.50 Other administrative requirements.**

The provisions of Part 74 of this title, establishing uniform administrative requirements and cost principles, shall apply to all grants under this subpart to State and local governments as those terms are defined in Subpart A of that Part 74. The relevant provisions of the following subparts of Part 74 shall also apply to grants to all other grantee organizations under this subpart:

45 CFR PART 74

Subpart
A General.
B Cash Depositories.
C Bonding and Insurance.
D Retention and Custodial Requirements for Records.
F Grant-Related Income.
G Matching and Cost Sharing.
H Standards for Grantee Financial Management Systems.
K Grant Payment Requirements.
M Grant Closeout, Suspension, and Termination.
O Property.
Q Cost Principles.

7. Subpart A of Part 404 is amended by adding a new § 404.6, reading as follows:

**§ 404.6 Other administrative requirements.**

The provisions of Part 74 of this title, establishing uniform administrative requirements and cost principles, shall apply to all grants under this part to State and local governments as those terms are defined in Subpart A of that Part 74. The relevant provisions of the following subparts of that Part 74 shall also apply to grants to all other grantee organizations under this part:

45 CFR PART 74

Subpart
A General.
B Cash Depositories.
C Bonding and Insurance.
D Retention and Custodial Requirements for Records.
F Grant-Related Income.
G Matching and Cost Sharing.
H Standards for Grantee Financial Management Systems.
K Grant Payment Requirements.
M Grant Closeout, Suspension, and Termination.
O Property.
Q Cost Principles.

**§ 404.22 [Amended] and § 404.28 [Revoked]**

8. Sections 404.22(c), 404.22(k)(2)(ii), and 404.28 are revoked.



V38-181
SEP 19 73
XUM

9. Subpart B of Part 405 is amended by adding a new § 405.9, reading as follows:

**§ 405.9 Other administrative requirements.**

The provisions of Part 74 of this title, establishing uniform administrative requirements and cost principles, shall apply to all grants under this subpart to State and local governments as those terms are defined in Subpart A of that Part 74. The relevant provisions of the following subparts of Part 74 shall also apply to grants to all other grantee organizations under this subpart:

45 CFR PART 74

Subpart
A General.
B Cash Depositories.
C Bonding and Insurance.
D Retention and Custodial Requirements for Records.
F Grant-Related Income.
G Matching and Cost Sharing.
H Standards for Grantee Financial Management Systems.
K Grant Payment Requirements.
M Grant Closeout, Suspension, and Termination.
O Property.
Q Cost Principles.

10. Subpart A of Part 406 is amended by adding a new § 406.5, reading as follows:

**§ 406.5 Other administrative requirements.**

The provisions of Part 74 of this title, establishing uniform administrative requirements and cost principles, shall apply to all grants under this part to State and local governments as those terms are defined in Subpart A of that Part 74. The relevant provisions of the following subparts of Part 74 shall also apply to grants to all other grantee organizations under this part.

45 CFR PART 74

Subpart
A General.
B Cash Depositories.
C Bonding and Insurance.
D Retention and Custodial Requirements for Records.
F Grant-Related Income.
G Matching and Cost Sharing.
H Standards for Grantee Financial Management Systems.
K Grant Payment Requirements.
M Grant Closeout, Suspension, and Termination.
O Property.
Q Cost Principles.

11. Part 408 is amended by revoking § 408.10 and by adding a new § 408.16, reading as follows:

**§ 408.16 Other administrative requirements.**

The provisions of Part 74 of this title, establishing uniform administrative requirements and cost principles, shall apply to all grants under this part to State and local governments as those terms are defined in Subpart A of that Part 74. The relevant provisions of the following subparts of Part 74 shall also apply to grants to all other grantee organizations under this part:

45 CFR PART 74

Subpart
A General.
B Cash Depositories.
C Bonding and Insurance.
D Retention and Custodial Requirements for Records.
F Grant-Related Income.
G Matching and Cost Sharing.
H Standards for Grantee Financial Management Systems.
K Grant Payment Requirements.
M Grant Closeout, Suspension, and Termination.
O Property.
Q Cost Principles.

**§ 416.15 [Amended]**

12. In § 416.15(b), the words "as specified in § 416.38" are revoked.

**§ 416.16 [Revoked]**

13. Section 416.16 is revoked.

14. Section 416.25 is revised to read as follows:

**§ 416.25 Methods of administration.**

(a) *General.* The State plan shall provide for such methods of administration as are necessary for the proper and efficient operation of the plan. Such methods shall include provision for informing the general public in the State of the kinds and locations of services and facilities which are available under the State plan.

(b) *Other administrative requirements.* The provisions of Part 74 of this title (with the exception of Subpart G, Matching and Cost Sharing) establishing uniform administrative requirements and cost principles, shall apply to all grants made to States under this subpart.

15. Section 416.38 is revised to read as follows:

**§ 416.38 Reports.**

The State plan shall provide that the State agency or agencies will make such reports in such form and containing such information as the Administrator may require, and will keep such records and afford such access thereto as the Administrator finds necessary to assure the correctness and verification of such reports. All reports shall be transmitted by the State Council to the Regional Commissioner.

**§§ 416.74 and 416.75 [Amended]**

16. Sections 416.74 and 416.75 are amended by deleting the parenthetical references.

17. Section 416.99 is revised to read as follows:

**§ 416.99 Other administrative requirements.**

The provisions of Part 74 of this title, establishing uniform administrative requirements and cost principles, shall apply to all grants under this subpart to State and local governments as those terms are defined in Subpart A of that Part 74. The relevant provisions of the following subparts of Part 74 shall also apply to grants to all other grantee organizations under this subpart:

45 CFR PART 74

Subpart
A General.
B Cash Depositories.
C Bonding and Insurance.
D Retention and Custodial Requirement for Records.
F Grant-Related Income.
G Matching and Cost Sharing.
H Standards for Grantee Financial Management Systems.
K Grant Payment Requirements.
M Grant Closeout, Suspension, and Termination.
O Property.
Q Cost Principles.

((5 U.S.C. 301) Office of Management and Budget Circulars A–102, A–87, and A–21)

[FR Doc.73–19605 Filed 9–18–73;8:45 am]



federal register

WEDNESDAY, SEPTEMBER 19, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 181

PART IV

# ENVIRONMENTAL PROTECTION AGENCY

■

## AIR PROGRAMS

## Approval and Promulgation of Compliance Schedules; Correction



V 38-181
SEP 19 73
XUM

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Approval and Promulgation of Compliance Schedules

*Correction*

In FR Doc. 73-18629, appearing at page 24333, in the issue for Friday, September 7, 1973, the tables in § 52.524(c) should appear as set forth below:





| Source | Location | Regulation Involved | Date of Adoption | Effective Date | Final Compliance Date |
|---|---|---|---|---|---|
| AIR QUALITY CONTROL REGION # 048 | | | | | |
| Brevard County | | | | | |
| Houdaille-Duval-Wright Company Permit no. AO 5-369 | Sharpes, Florida | 17-2.04(2) | 4/17/73 | Immediately | 7/1/74 |
| IGA Market Board Order AP-773-73 | Melbourne, Florida | 17-2.04(6)(e) | 7/11/73 | Immediately | 7/1/75 |
| Macasphalt Corporation, Florida Mac Div. Permit no. AO 5-326 | Eau Gallie, Florida | 17-2.04(2) | 4/17/73 | Immediately | 7/1/74 |
| Orlando Utilities Commission, Indian River Plant Unit #1 Permit no. AO 5-505 | Titusville, Florida | 17-2.04(6) (e) 2.c | 4/17/73 | Immediately | 7/1/75 |
| Unit #2 Permit no. AO 5-506 | Titusville, Florida | 17-2.04(6) (e) 2.c | 4/17/73 | Immediately | 7/1/75 |
| Winn Dixie Stores, Inc. #10 Permit no. SO 5-112 | Melbourne, Florida | 17-2.04(6)(a) | 4/17/73 | Immediately | 3/2/74 |
| Winn Dixie Stores, Inc. #89 Permit no. SO 5-144 | Eau Gallie, Florida | 17-2.04(6)(a) | 4/17/73 | Immediately | 3/2/74 |
| Winn Dixie Stores, Inc. #104 Permit no. SO 5-113 | Satellite Beach, Florida | 17-2.04(6)(a) | 4/17/73 | Immediately | 3/2/74 |
| Lake County | | | | | |
| Florida Food Products Inc. Citrus Peel Dryer Permit no. AO 35-59 | Eustis, Florida | 17-2.04(2) & (4) | 4/17/73 | Immediately | 6/1/75 |
| Citrus Peel Cooler Permit no. AO 35-60 | | 17-2.04(2) & (4) | 4/17/73 | Immediately | 6/1/75 |
| Growers Container Cooperative, Inc. Board Order - AP-789-73 | Leesburg, Florida | 17-2.04(6)(a) | 7/11/73 | Immediately | 5/1/75 |
| Macasphalt Corp. #9 Unit Permit no. AO 35-420 | Astatula, Florida | 17-2.04(2) | 4/17/73 | Immediately | 7/1/74 |
| Macasphalt Corp. #KG-20 Unit Permit no. AO 35-9 | Okahumpha, Florida | 17-2.04(2) | 4/17/73 | Immediately | 6/30/73 |
| Rolling Grade Co. Board Order - AP-787-73 | Leesburg, Florida | 17-2.04(2) | 7/11/73 | Immediately | 7/1/75 |
| Orange County | | | | | |
| Basic Asphalt & Construction Corp. Permit no. AO 48-466 | Lockhart, Florida | 17-2.04(2) | 4/17/73 | Immediately | 6/30/73 |
| Fairvilla Fresh Fruit Co. (Coca Cola Foods Div.) Permit no. AO 48-751 | Orlando, Florida | 17-2.04(6)(e) | 4/17/73 | Immediately | 7/1/75 |
| Fairway Market Board Order - AP-788-73 | Orlando, Florida | 17-2.04(6)(a) | 7/11/73 | Immediately | 7/1/75 |
| Goodyear Recapping Industries Permit no. AO 48-464 | Orlando, Florida | 17-2.03(1) | 4/17/73 | Immediately | 6/30/73 |
| Orange Co. Concrete (Florida Mining & Materials Corp.) Permit no. AO 48-867 | Orlando, Florida | 17-2.04(2) | 4/17/73 | Immediately | 9/30/73 |
| Orlando General Hosp. Permit no. SO 48-419 | Orlando, Florida | 17-2.04(6)(a) | 4/17/73 | Immediately | 9/18/73 |
| Orlando Paving Co. Permit no. AO 48-2019 | Pine Hills, Florida | 17-2.04(2) | 4/17/73 | Immediately | 6/1/74 |



V 38 1 81 SEP 19 73 XUM

| | | | | | |
|---|---|---|---|---|---|
| Orlando Utilities Commission - Lake Highland Plant | Orlando, Florida | | | | |
| Boiler #1 Permit no. AO 48-501 | | 17-2.04(6)(e) 2.c | 4/17/73 | Immediately | 7/1/75 |
| Boiler #2 Permit no. AO 48-502 | | 17-2.04(6)(e) 2.c | 4/17/73 | Immediately | 7/1/75 |
| Boiler #3 Permit no. AO 48-503 | | 17-2.04(6)(e) 2.c | 4/17/73 | Immediately | 7/1/75 |
| Boiler #4 Permit no. AO 48-504 | | 17-2.04(6)(e) 2.c | 4/17/73 | Immediately | 7/1/75 |
| Plymouth Citrus Products Cooperative Heil Dryer #6 Permit no. AO 48-3 | Plymouth, Florida | 17-2.04(2) | 4/17/73 | Immediately | 11/30/73 |
| Heil Dryer #5 Permit no. AO 48-4 | | 17-2.04(2) | 4/17/73 | Immediately | 11/30/73 |
| Taft Asphalt Permit no. AO 48-518 | Taft, Florida | 17-2.04(2) | 4/17/73 | Immediately | 7/1/74 |
| Winter Garden Citrus Products Cooperative Dryer #2 Permit no. AO 48-44 | Winter Garden, Florida | 17-2.04(2) | 4/17/73 | Immediately | 7/30/73 |
| Dryer #4 Permit no. AO 48-46 | | 17-2.04(2) | 4/17/73 | Immediately | 7/30/73 |
| Winter Park Memorial Hospital Permit no. SO 48-402 | Winter Park, Florida | 17-2.04(6)(a) | 4/17/73 | Immediately | 5/15/74 |
| Winn Dixie Stores, Inc. | | | | | |
| Store #20 Permit no. SO 48-102 | Orlando, Florida | 17-2.04(6)(a) | 4/17/73 | Immediately | 3/2/74 |
| Store #41 Permit no. SO 48-109 | Orlando, Florida | 17-2.04(6)(a) | 4/17/73 | Immediately | 3/2/74 |
| Store #48 Permit no. SO 48-101 | Winter Garden, Florida | 17-2.04(6)(a) | 4/17/73 | Immediately | 3/2/74 |
| Store #69 Permit no. SO 48-103 | Maitland, Florida | 17-2.04(6)(a) | 4/17/73 | Immediately | 3/2/74 |
| Store #78 Permit no. SO 48-104 | Apopka, Florida | 17-2.04(6)(a) | 4/17/73 | Immediately | 3/2/74 |
| Store #98 Permit no. SO 48-106 | Pine Castle, Florida | 17-2.04(6)(a) | 4/17/73 | Immediately | 3/2/74 |
| Store #103 Permit no. AO 48-107 | Orlando, Florida | 17-2.04(6)(a) | 4/17/73 | Immediately | 3/2/74 |
| Store #121 Permit no. SO 48-2009 | Orlando, Florida | 17-2.04(6)(a) | 4/17/73 | Immediately | 3/2/74 |
| **Osceola County** | | | | | |
| City of Kissimmee, (Electric Generating Facility) Permit no. AO 49-648 | Kissimmee, Florida | 17-2.04(1)a | 4/17/73 | Immediately | 1/1/75 |
| The Marks - St. Cloud, Inc. Permit no. SO 49-493 | St. Cloud, Florida | 17-2.04(6)(a) | 4/17/73 | Immediately | 5/15/74 |
| Osceola Fruit Distributors, Inc. Permit no. AO 49-357 | Kissimmee, Florida | 17-2.04(2) | 4/17/73 | Immediately | 7/15/73 |
| Osceola Tire Service Permit no. AO 49-439 | Kissimmee, Florida | 17-2.03(1) | 4/17/73 | Immediately | 6/1/73 |
| **Seminole County** | | | | | |
| O. F. Asphalt Co. Permit no. AO 59-630 | Sanford, Florida | 17-2.04(2) | 4/17/73 | Immediately | 10/20/73 |
| 41 Acres Concentrate, Inc. Permit no. AO 59-54 | Forrest City, Florida | 17-2.04(2) | 4/17/73 | Immediately | 1/1/75 |
| K-Mart (Colonial Stores, Inc.) Permit no. SO 59-448 | Fern Park, Florida | 17-2.04(6)(a) | 4/17/73 | Immediately | 5/15/74 |
| Macasphalt Corporation Unit 5 Permit no. AO 59-554 | North Orlando, Florida | 17-2.04(2) | 4/17/73 | Immediately | 7/1/74 |







| | | | | | |
|---|---|---|---|---|---|
| Seminole Memorial Hosp. Permit no. SO 59-362 | Sanford, Florida | 17-2.04(6)(a) | 4/17/73 | Immediately | 5/15/74 |
| **Volusia County** | | | | | |
| Florida Power Corp., Turner Plant | | | | | |
| Unit #1 Permit no. AO 64-378 | Enterprise, Florida | 17-2.04(6)(e) 2.c. | 4/17/73 | Immediately | 1/15/75 |
| Unit #2 Permit no. AO 64-379 | Enterprise, Florida | 17-2.04(6)(e) 2.c. | 4/17/73 | Immediately | 1/15/75 |
| Unit #3 Permit no. AO 64-380 | Enterprise, Florida | 17-2.04(6)(e) 2.c. | 4/17/73 | Immediately | 1/15/75 |
| Unit #4 Permit no. AO 64-381 | Enterprise, Florida | 17-2.04(6)(e) 2.c. | 4/17/73 | Immediately | 1/15/75 |
| K-Mart (Colonial Stores Inc.) Permit no. SO 64-446 | Daytona Beach, Florida | 17-2.04(6)(a) | 4/17/73 | Immediately | 5/15/74 |
| Meadow Gold of Florida (Beatrice Foods Inc.) Permit no. SO 64-467 | Orange City, Florida | 17-2.04(6)(a) | 4/17/73 | Immediately | 5/15/74 |
| Winn Dixie Stores, Inc. Store #4 Permit no. SO 64-98 | New Smyrna Bch, Florida | 17-2.04(6)(a) | 4/17/73 | Immediately | 3/2/74 |
| Store #47 Permit no. SO 64-86 | Deland, Florida | 17-2.04(6)(a) | 4/17/73 | Immediately | 3/2/74 |
| Store #52 Permit no. SO 64-77 | Deland, Florida | 17-2.04(6)(a) | 4/17/73 | Immediately | 3/2/74 |
| Store #62 Permit no. SO 64-78 | Daytona Beach, Florida | 17-2.04(6)(a) | 4/17/73 | Immediately | 3/2/74 |
| Store #109 Permit no. SO 64-82 | Port Orange, Florida | 17-2.04(6)(a) | 4/17/73 | Immediately | 3/2/74 |
| Store #113 Permit no. SO 64-95 | Deltona, Florida | 17-2.04(6)(a) | 4/17/73 | Immediately | 3/2/74 |



AIR QUALITY CONTROL REGION # 049

| | | | | | |
|---|---|---|---|---|---|
| **Alachua County** | | | | | |
| Colonial Stores, Inc. Store #7714, Sunshine Mall Permit no. SO 01-2015 | Gainesville, Florida | 17-2.04(6)(a) | 5/15/73 | Immediately | 3/15/74 |
| Colonial Stores, Inc. Store #7713, Royal Park Plaza Permit no. SO 01-2016 | Gainesville, Florida | 17-2.04(6)(a) | 5/15/73 | Immediately | 3/15/74 |
| **Bradford County** | | | | | |
| Bradford County Hosp. Board Order - AP-781-73 | Starke, Florida | 17-2.04(6)(a) | 7/11/73 | Immediately | 3/15/74 |
| **Clay County** | | | | | |
| Clay Memorial Hosp. Board Order - AP-782-73 | Green Cove Springs, Florida | 17-2.04(6)(a) | 7/11/73 | Immediately | 3/15/74 |
| Solite Corporation | Green Cove Springs, Florida | | | | |
| Kiln #2 Permit no. AO 10-2032 | | 17-2.04(2) | 5/15/73 | Immediately | 1/1/74 |
| Kiln #3 Permit no. AO 10-2033 | | 17-2.04(2) | 5/15/73 | Immediately | 1/1/74 |
| Kiln #4 Permit no. AO 10-2034 | | 17-2.04(2) | 5/15/73 | Immediately | 1/1/74 |
| Kiln #5 Permit no. AO 10-2035 | | 17-2.04(2) | 5/15/73 | Immediately | 1/1/74 |
| **Columbia County** | | | | | |
| American Wood Products Permit no. AO 12-2036 | Lake City, Florida | 17-2.04(2) | 5/15/73 | Immediately | 6/5/74 |









XUM 3 7 6 1 UMS 1 8 1 1 8 3 V

| | | | | | |
|---|---|---|---|---|---|
| **Dixie County** | | | | | |
| Georgia-Pacific Corporation<br>Permit no AO 16-2040 | Cross City, Florida | 17-2.04(2) | 5/15/73 | Immediately | 7/1/74 |
| **Duval County** | | | | | |
| Asphalt Contracting Company<br>Permit no AO 16-2031 | Jacksonville, Florida | 17-2.04(2) | 5/15/73 | Immediately | 7/1/73 |
| Colonial Stores, Inc.<br>5950 Ramona Blvd.<br>Permit no. SO 16-2020 | Jacksonville, Florida | 17-2.04(6)(a) | 5/15/73 | Immediately | 3/15/74 |
| Colonial Stores, Inc.<br>7450 Beach Blvd.<br>Permit no. SO 16-2021 | Jacksonville, Florida | 17-2.04(6)(a) | 5/15/73 | Immediately | 3/15/74 |
| Colonial Stores, Inc.<br>925 S. McDuff Ave.<br>Permit no. SO 16-2026 | Jacksonville, Florida | 17-2.04(6)(a) | 5/15/73 | Immediately | 3/15/74 |
| Colonial Stores, Inc.<br>Store #7200 Univ. Blvd.<br>Permit no. SO 16-2027 | Jacksonville, Florida | 17-2.04(6)(a) | 5/15/73 | Immediately | 3/15/74 |
| Jacksonville Electric Authority, Kennedy Station | Jacksonville, Florida | | | | |
| Unit #8<br>Permit no. AO 16-734 | | 17-2.04(6)(e) | 5/15/73 | Immediately | 6/30/75 |
| Unit #9<br>Permit no. AO 16-733 | | 17-2.04(6)(e) | 5/15/73 | Immediately | 6/30/75 |
| Unit #10<br>Permit no. AO 16-732 | | 17-2.04(b)(e) | 5/15/73 | Immediately | 6/30/75 |
| Jacksonville Electric Authority, Northside Station | Jacksonville, Florida | | | | |
| Unit #1<br>Permit no. AO 16-731 | | 17-2.04(6)(e) | 5/15/73 | Immediately | 6/30/75 |
| Jacksonville Electric Authority, Southside Station | Jacksonville, Florida | | | | |
| Unit #1<br>Permit no. AO 16-726 | | 17-2.04(6)(e) | 5/15/73 | Immediately | 6/30/75 |
| Unit #2<br>Permit no. AO 16-727 | | 17-2.04(6)(e) | 5/15/73 | Immediately | 6/30/75 |
| Unit #3<br>Permit no. AO 16-728 | | 17-2.04(6)(e) | 5/15/73 | Immediately | 6/30/75 |
| Unit #4<br>Permit no. AO 16-729 | | 17-2.04(6)(e) | 5/15/73 | Immediately | 6/30/75 |
| Unit #5<br>Permit no. AO 16-730 | | 17-2.04(6)(e) | 5/15/73 | Immediately | 6/30/75 |
| National Merchandise Company | Jacksonville, Florida | | | | |
| Old Warehouse, Liberty St.<br>Permit no. SO 16-2028 | | 17-2.04(6)(a) | 5/15/73 | Immediately | 3/15/74 |
| New Warehouse, Liberty St.<br>Permit no. SO 16-2029 | | 17-2.04(6)(a) | 5/15/73 | Immediately | 3/15/74 |
| Pic N' Save Store #1, Univ. Blvd.<br>Permit no. SO 16-2030 | Jacksonville Florida | 17-2.04(6)(a) | 5/15/73 | Immediately | 3/15/74 |
| Rose's Store, Inc.<br>Board Order - AP-777-73 | Jacksonville, Florida | 17-2.04(6)(a) | 7/11/73 | Immediately | 3/15/74 |
| St. Regis Paper Co. | Jacksonville, Florida | | | | |
| Recovery Boiler #1<br>Permit no. AO 16-287 | | 17-2.04(6)(d) | 5/15/73 | Immediately | 7/1/75 |
| Recovery Boiler #1<br>Permit no. AO 16-287 | | 17-2.04(6)(d) 1.b. | 5/15/73 | Immediately | 5/1/75 |
| Recovery Boiler #2 & 3<br>Permit no. AO 16-288 | | 17-2.04(6)(d) 1.a. | 5/15/73 | Immediately | 7/1/75 |
| Recovery Boiler #2 & 3<br>Permit no. AO 16-288 | | 17-2.04(6)(d) 1.b. | 5/15/73 | Immediately | 5/1/75 |
| Bark Boiler #1<br>Permit no. AO 16-286 | | 17-2.04(2) | 5/15/73 | Immediately | 4/1/75 |







| | | | | | |
|---|---|---|---|---|---|
| Bark Boiler #2<br>Permit no. AO 16-82 | | 17-2.04(2) | 5/15/73 | Immediately | 4/1/75 |
| Lime Kiln Stack #1<br>Permit no. AO 16-280 | | 17-2.04(2) | 5/15/73 | Immediately | 10/1/74 |
| Lime Kiln Stack #2<br>Permit no. AO 16-281 | | 17-2.04(2) | 5/15/73 | Immediately | 10/1/74 |
| Lime Kiln Stack #3<br>Permit no. AO 16-282 | | 17-2.04(2) | 5/15/73 | Immediately | 10/1/74 |
| Non-condensable Gas Sources<br>Permit no. AO 16-2090 | | 17-2.04(4) | 5/15/73 | Immediately | 6/1/75 |
| Winn-Dixie Store #35<br>4444 Hendricks Ave.<br>Permit no. SO 16-2022 | Jacksonville, Florida | 17-2.04(6)(a) | 5/15/73 | Immediately | 3/15/74 |
| Winn-Dixie Store #45<br>1410 N. Edgewood Ave.<br>Permit no. AO 16-2023 | Jacksonville, Florida | 17-2.04(6)(a) | 5/15/73 | Immediately | 3/15/74 |
| Winn-Dixie Store #60<br>3978 St. John's Ave.<br>Permit no. AO 16-2024 | Jacksonville, Florida | 17-2.04(6)(a) | 5/15/73 | Immediately | 3/15/74 |
| Winn-Dixie Store #129<br>5300 Firestone Ave.<br>Permit no. AO 16-2025 | Jacksonville, Florida | 17-2.04(6)(a) | 5/15/73 | Immediately | 3/15/74 |
| Woolco Department Stores | Jacksonville, Florida | | | | |
| Lenox Ave. Store<br>Board Order - AP-778-73 | | 17-2.04(6)(a) | 7/27/73 | Immediately | 3/15/74 |
| Store #6149<br>Board Order - AP779-73 | | 17-2.04(6)(a) | 7/27/73 | Immediately | 3/15/74 |
| **Gadsden County** | | | | | |
| Dresser Minerals (Pennsylvania Glass Sand Company) | Havana, Florida | | | | |
| a) Raymond Mill Exhaust<br>Permit no. AO 20-1033 | | 17-2.04(2) | 5/15/73 | Immediately | 1/1/74 |
| b) Transport System<br>Permit no. AO 20-1034 | | 17-2.04(2) | 5/15/73 | Immediately | 1/1/74 |
| c) Cooler Discharge Stack<br>Permit no. AO 20-1035 | | 17-2.04(2) | 5/15/73 | Immediately | 1/1/74 |
| d) Dryer #2<br>Permit no. AO 20-1036 | | 17-2.04(2) | 5/15/73 | Immediately | 1/1/74 |
| Floridin Company (Pennsylvania Glass Sand Corp.) | Quincy, Florida | | | | |
| Stack #4, East Dryer Stack, #2 Dry Dept.<br>Permit no. AO 20-2002 | | 17-2.04(2) | 5/15/73 | Immediately | 2/1/75 |
| Stack #5, Center Dryer Stack, #2 Dry Dept.<br>Permit no. AO 20-2001 | | 17-2.04(2) | 5/15/73 | Immediately | 5/1/75 |
| Stack #6, West Dryer Stack, #2 Dry Dept.<br>Permit no. AO 20-2000 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Stack #9, Mill Cyclone Stack, #5 Mill Dept.<br>Permit no. AO 20-2010 | | 17-2.04(2) | 5/15/73 | Immediately | 9/1/73 |
| Stack #10, Separator Cyclone, #5 Mill Dept.<br>Permit no. AO 20-2009 | | 17-2.04(2) | 5/15/73 | Immediately | 9/1/73 |
| Stack #12, Mill Cyclone, #2 Mill Dept.<br>Permit no. AO 20-2008 | | 17-2.04(2) | 5/15/73 | Immediately | 8/1/74 |
| Stack #13, Elevator Cyclone, #2 Mill Dept.<br>Permit no. AO 20-2007 | | 17-2.04(2) | 5/15/73 | Immediately | 8/1/74 |
| Stack #16, #2 Raymond Mill, #3 Mill Dept.<br>Permit no. AO 20-2013 | | 17-2.04(2) | 5/15/73 | Immediately | 10/1/74 |
| Stack #17, #3 Raymond Mill, #3 Mill Dept.<br>Permit no. AO 20-2011 | | 17-2.04(2) | 5/15/73 | Immediately | 10/1/74 |
| Stack #19, Cyclone Collector for #1 Dryer<br>Permit no. AO 20-2015 | | 17-2.04(2) | 5/15/73 | Immediately | 12/1/73 |
| Stack #20, Cyclone Collector for #2 Dryer<br>Permit no. AO 20-2016 | | 17-2.04(2) | 5/15/73 | Immediately | 6/1/74 |

| | | | | | |
|---|---|---|---|---|---|
| Pat Higdon Industries Permit no. AO 20-614 | Quincy, Florida | 17-2.04(2) | 5/15/73 | Immediately | 8/30/73 |

Hamilton County

| | | | | | |
|---|---|---|---|---|---|
| Occidental Chemical Company | White Springs, Florida | | | | |
| Sulfuric Acid Plant A Permit no. AO 24-600 | | 17-2.04(6) (b)1. | 5/15/73 | Immediately | 7/1/75 |
| Sulfuric Acid Plant B Permit no. AO 24-605 | | 17-2.04(6) (b)1. | 5/15/73 | Immediately | 7/1/75 |

Leon County

| | | | | | |
|---|---|---|---|---|---|
| City of Tallahassee Power System Unit #1 Permit no. AO 37-2047 | Tallahassee, Florida | 17-2.04(6) (e)2. | 5/15/73 | Immediately | 4/1/75 |
| Colonial Stores, Inc. | Tallahassee, Florida | | | | |
| Store #7276 1111 Apalachee Pkwy Permit no. SO 37-2017 | | 17-2.04(6)(a) | 5/15/73 | Immediately | 3/15/74 |
| Store #7229 1847 W. Tenn. St. Permit no. SO 37-2018 | | 17-2.04(6)(a) | 5/15/73 | Immediately | 3/15/74 |
| Store #7232 Thomasville Rd. Permit no. SO 37-2019 | | 17-2.04(6)(a) | 5/15/73 | Immediately | 3/15/74 |
| Elberta Crate & Box Co. Permit no. AO 37-2038 | Tallahassee, Florida | 17-2.04(2) | 5/15/73 | Immediately | 6/5/74 |
| Hammons Asphalt Paving Inc. Permit no. AO 37-2039 | Tallahassee, Florida | 17-2.04(2) | 5/15/73 | Immediately | 7/4/74 |
| Moody Construction Co. Permit no. AO 37-2037 | Tallahassee, Florida | 17-2.04(2) | 5/15/73 | Immediately | 1/1/74 |

Liberty County

| | | | | | |
|---|---|---|---|---|---|
| A. M. Schuler and Son Pole Company Permit no. SC-73008 | Hosford, Florida | 17-2.04(6)(a) | 5/15/73 | Immediately | 9/15/73 |
| B. M. Harmon Construction Company Permit no. AO 39-1049 | Telogia, Florida | 17-2.04(2) | 5/15/73 | Immediately | 7/30/73 |
| Florida Veneer Company Permit no. SO 39-2000 | Hosford, Florida | 17-2.04(6)(a) | 5/15/73 | Immediately | 12/1/74 |



| | | | | | |
|---|---|---|---|---|---|
| Tenneco Chemicals, Inc. | Telogia, Florida | | | | |
| Wood Boiler Permit no. AO 39-942 | | 17-2.04(2) | 5/15/73 | Immediately | 12/1/74 |
| Fuel Oil Boiler Permit no. AO 39-940 | | 17-2.04(6) (e)3. | 5/15/73 | Immediately | 5/24/74 |

Marion County

| | | | | | |
|---|---|---|---|---|---|
| Certified Grocers of Florida Permit no. SO 42-420 | Ocala, Florida | 17-2.04(6)(a) | 4/17/73 | Immediately | 2/22/74 |
| Gibson's Products Co. of Ocala Permit no. SO 42-2008 | Ocala, Florida | 17-2.04(6)(a) | 4/17/73 | Immediately | 3/1/74 |
| J. T. Goethe Lumber Co. | Dunnellon, Florida | | | | |
| Bark Boiler Permit no. AO 42-521 | | 17-2.04(2) | 4/17/73 | Immediately | 12/30/74 |
| Tee Pee Burner Permit no. SO 42-474 | | 17-2.04(6)(a) | 4/17/73 | Immediately | 12/30/74 |
| Junie Counts Construction Co. Board Order - AP-783-73 | Ocala, Florida | 17-2.04(2) | 7/11/73 | Immediately | 5/31/74 |
| Ocala Cleat Co., Inc. Permit no. AO 42-750 | Ocala, Florida | 17-2.04(6)(a) | 4/17/73 | Immediately | 8/30/73 |
| Shelton's Thriftway, Inc. Permit no. SO 42-286 | Ocala, Florida | 17-2.04(6)(a) | 4/17/73 | Immediately | 5/30/73 |

Nassau County

| | | | | | |
|---|---|---|---|---|---|
| Container Corporation of America | Fernandina Bch. Florida | | | | |
| Power Boiler #3 Permit no. AO 45-2085 | | 17-2.04(6) (e)2.c. | 5/15/73 | Immediately | 1/1/75 |
| Power Boiler #3 Permit no. AO 45-2085 | | 17-2.04(6) (e)2.a. | 5/15/73 | Immediately | 1/1/75 |
| Power Boiler #4 Permit no. AO 45-2086 | | 17-2.04(6) (e)2.c. | 5/15/73 | Immediately | 1/1/75 |



| | | | | | |
|---|---|---|---|---|---|
| Power Boiler #4 Permit no. AO 45-2086 | | 17-2.04(6) (e)2.a. | 5/15/73 | Immediately | 7/1/75 |
| Power Boiler #5 Permit no. AO 45-2087 | | 17-2.04(6) (e)2.c. | 5/15/73 | Immediately | 1/1/75 |
| Power Boiler #5 Permit no. AO 45-2087 | | 17-2.04(6) (e)2.a. | 5/15/73 | Immediately | 7/1/75 |
| Recovery Boiler #3 Permit no. AO 45-2088 | | 17-2.04(6) (d)1.a | 5/15/73 | Immediately | 7/1/75 |
| Recovery Boiler #3 Permit no. AO 45-2088 | | 17-2.04(6) (d)1.b | 5/15/73 | Immediately | 7/1/75 |
| Recovery Boiler #4 Permit no. AO 45-2089 | | 17-2.04(6) (d)1.a | 5/15/73 | Immediately | 7/1/75 |
| ITT Rayonier, Inc. | Fernandina Bch. Florida | | | | |
| Power Boiler #1 Permit no. AO 45-2074 | | 17-2.04(6) (e)2. | 5/15/73 | Immediately | 7/1/75 |
| Power Boiler #2 Permit no. AO 45-2075 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Power Boiler #3 Permit no. AO 45-2076 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Power Boiler #4 Permit no. AO 45-2077 | | 17-2.04(6)(e) | 5/15/73 | Immediately | 7/1/75 |
| Primary Chlorine Tower Vents Permit no. AO 45-2078 | | 17-2.03(1) | 5/15/73 | Immediately | 7/1/75 |
| $SO_2$ Recovery Towers Permit no. AO 45-2079 | | 17-2.03(1) | 5/15/73 | Immediately | 7/1/75 |
| Lime Rock Tower Permit no. AO 45-2080 | | 17-2.03(1) | 5/15/73 | Immediately | 7/1/75 |
| Absorption Tower Permit no. AO 45-2081 | | 17-2.03(1) | 5/15/73 | Immediately | 7/1/75 |
| Flash Chlorine Tower Washer Vent Permit no. AO 45-2082 | | 17-2.03(1) | 5/15/73 | Immediately | 7/1/75 |
| Hot Caustic Extraction Stage Tank Blow Vents Permit no. AO 45-2083 | | 17-2.03(1) | 5/15/73 | Immediately | 7/1/75 |
| Chlorine Dioxide Retention Tank Vents Permit no. AO 45-2084 | | 17-2.03(1) | 5/15/73 | Immediately | 7/1/75 |



Putnam County

| | | | | | |
|---|---|---|---|---|---|
| Food Fair Stores, Inc. Permit no. SO 54-2031 | Palatka, Florida | 17-2.04(6)(a) | 5/15/73 | Immediately | 9/30/73 |
| Hudson Pulp and Paper Company | Palatka, Florida | | | | |
| Recovery Boiler #1 Permit no. AO 54-2058 | | 17-2.04(6) (d)1. | 5/15/73 | Immediately | 7/1/75 |
| Recovery Boiler #2 Permit no. AO 54-2059 | | 17-2.04(6) (d)1. | 5/15/73 | Immediately | 7/1/75 |
| Recovery Boiler #3 Permit no. AO 54-2060 | | 17-2.04(6) (d)1. | 5/15/73 | Immediately | 7/1/75 |
| Smelt Dissolving Tank #1 Permit no. AO 54-2061 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |







MUX

| | | | | | |
|---|---|---|---|---|---|
| Smelt Dissolving Tank #2<br>Permit no. AO 54-2062 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Smelt Dissolving Tank #3<br>Permit no. AO 54-2063 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Lime kiln #1<br>Permit no. AO 54-2064 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Lime kiln #2<br>Permit no. AO 54-2065 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Lime kiln #3<br>Permit no. AO 54-2066 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Combination Boiler #1<br>Permit no. AO 54-2072 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Combination Boiler #4<br>Permit no. AO 54-2073 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Power Boiler #1<br>Permit no. AO 54-2067 | | 17-2.04(6)(e) | 5/15/73 | Immediately | 7/1/75 |
| Power Boiler #2<br>Permit no. AO 54-2068 | | 17-2.04(6)(e) | 5/15/73 | Immediately | 7/1/75 |
| Power Boiler #3<br>Permit no. AO 54-2069 | | 17-2.04(6)(e) | 5/15/73 | Immediately | 7/1/75 |
| Power Boiler #4<br>Permit no. AO 54-2070 | | 17-2.04(6)(e) | 5/15/73 | Immediately | 7/1/75 |
| Power Boiler #5<br>Permit no. AO 54-2071 | | 17-2.04(6)(e) | 5/15/73 | Immediately | 7/1/75 |
| **Suwanee County** | | | | | |
| Florida Power Corp. | Live Oak, Florida | | | | |
| Boiler #1<br>Permit no. AO 61-2044 | | 17-2.04(6)(e)2.c. | 5/15/73 | Immediately | 1/15/75 |
| Boiler #2<br>Permit no. AO 61-2045 | | 17-2.04(6)(e)2.c. | 5/15/73 | Immediately | 1/15/75 |
| Boiler #3<br>Permit no. AO 61-2046 | | 17-2.04(6)(e)2.c. | 5/15/73 | Immediately | 1/15/75 |



| | | | | | |
|---|---|---|---|---|---|
| **Taylor County** | | | | | |
| The Buckeye Cellulose Corporation<br>Recovery Boiler #1<br>Permit no. AO 62-2091 | Perry, Florida | 17-2.04(6)(d)1. | 5/15/73 | Immediately | 7/1/75 |
| **Wakulla County** | | | | | |
| City of Tallahassee S..O. Purdom Electric Generating Units<br>Unit #1<br>Permit no. AO 65-2050 | St. Marks, Florida | 17-2.04(6)(e)2. | 5/15/73 | Immediately | 4/1/75 |
| Unit #2<br>Permit no. AO 65-2051 | | 17-2.04(6)(e)2. | 5/15/73 | Immediately | 4/1/75 |
| Unit #3<br>Permit no. AO 65-2052 | | 17-2.04(6)(e)2. | 5/15/73 | Immediately | 4/1/75 |
| Unit #4<br>Permit no. AO 65-2053 | | 17-2.04(6)(e)2. | 5/15/73 | Immediately | 4/1/75 |
| Units #5 & #6<br>Permit no. AO 65-2054 | | 17-2.04(6)(e)2. | 5/15/73 | Immediately | 4/1/75 |
| Unit #7<br>Permit no. AO 65-2055 | | 17-2.04(6)(e)2. | 5/15/73 | Immediately | 4/1/75 |





AIR QUALITY CONTROL REGION # 050

**Broward County**

| | | | | | |
|---|---|---|---|---|---|
| Broward County Incinerator #2<br>Old Unit<br>Permit no. SO 6-2064 | Pompano Bch, Florida | 17-2.04(6)(a) | 5/15/73 | Immediately | 12/31/74 |
| New Unit<br>Permit no. SO 6-2065 | | 17-2.04(6)(a) | 5/15/73 | Immediately | 12/31/74 |
| City of Ft. Lauderdale | Ft. Lauderdale, Florida | | | | |
| North Unit<br>Permit no. SC-612 | | 17-2.04(6)(a) | 5/15/73 | Immediately | 6/30/73 |
| South Unit<br>Permit no. SC-613 | | 17-2.04(6)(a) | 5/15/73 | Immediately | 6/30/73 |
| Nichols Unit<br>Permit no. SC-614 | | 17-2.04(6)(a) | 5/15/73 | Immediately | 6/30/73 |
| Boudaille Duval Wright<br>Permit no. AO 6-2063 | Deerfield Beach, Florida | 17-2.04(2) | 5/15/73 | Immediately | 6/14/74 |
| **Dade County** | | | | | |
| City of Homestead Diesel Engines<br>Permit no. AO 13-2057 | Homestead, Florida | 17-2.04(1) | 5/15/73 | Immediately | 1/6/75 |
| City of Miami, Dept. of Sanitation<br>City of Miami Incinerator<br>Permit no. SO 13-2061 | Miami, Florida | 17-2.04(6)(a) | 5/15/73 | Immediately | 3/3/75 |
| Dade County Public Works Dept.<br>Northeast Incinerator<br>Permit no. SO 13-2062 | North Miami Bch, Florida | 17-2.04(6)(a) | 5/15/73 | Immediately | 7/1/75 |
| General Portland, Inc. | Miami, Florida | | | | |
| #1 Kiln<br>Permit no. AC-481 | | 17-2.04(6)(f) | 5/15/73 | Immediately | 8/30/73 |
| #2 Kiln<br>Permit no. AC-73018 | | 17-2.04(6)(f) | 5/15/73 | Immediately | 8/30/73 |
| #1 Clinker Cooler<br>Permit no. AC-482 | | 17-2.04(6)(f) | 5/15/73 | Immediately | 8/30/73 |
| #2 Clinker Cooler<br>Permit no. AC-73019 | | 17-2.04(6)(f) | 5/15/73 | Immediately | 8/30/73 |



| | | | | | |
|---|---|---|---|---|---|
| U. S. Foundry & Manufacturing Corp.<br>Permit no. AO 13-2066 | Miami, Florida | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| **Indian River County** | | | | | |
| City of Vero Beach | Vero Beach, Florida | | | | |
| Unit #1 & 2<br>Permit no. AO 31-422 | | 17-2.04(6)(e)2. | 5/15/73 | Immediately | 3/11/74 |
| Unit #3<br>Permit no. AO 31-524 | | 17-2.04(6)(e)2. | 5/15/73 | Immediately | 3/11/74 |
| **Monroe County** | | | | | |
| Utility Board of the City of Key West<br>Unit #1,2,3,4 & 5<br>Permit no. AO 44-1119 | Key West, Florida | 17-2.04(6)(e)2 | 5/15/73 | Immediately | 6/30/74 |
| **Palm Beach County** | | | | | |
| Atlantic Sugar Association<br>Unit #1<br>Permit no. AO 50-2031 | Belle Glade, Florida | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Unit #2<br>Permit no. AO 50-2032 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Unit #3<br>Permit no. AO 50-2033 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Eastern Cement | Rivera Beach, Florida | | | | |
| Ship Loading<br>Permit no. AO 50-2067 | | 17-2.04(3) | 5/15/73 | Immediately | 1/6/75 |
| Truck Loading<br>Permit no. AO 50-2067 | | 17-2.04(3) | 5/15/73 | Immediately | 10/4/73 |
| Florida Sugar Corporation<br>Unit #4<br>Permit no. AO 50-2034 | Belle Glade, Florida | 17-2.04(6)(e)3 | 5/15/73 | Immediately | 7/1/75 |
| Unit #5<br>Permit no. AO 50-2035 | | 17-2.04(6)(e)3 | 5/15/73 | Immediately | 7/1/75 |







XUM 3 7 6 1 3 M S 1 8 1 8 3 V

| | | | | | |
|---|---|---|---|---|---|
| Colt & Western Food Products Co. | South Bay, Florida | | | | |
| Unit #2 & 3 (Common Stack) Permit no. AO 50-2054 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Unit #4 Permit no. AO 50-2053 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Unit #5 Permit no. AO 50-2055 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Unit #6 Permit no. AO 50-2056 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Osceola Farms Co. | Pahokee, Florida | | | | |
| Unit #1 Permit no. AO 50-2048 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Unit #2 Permit no. AO 50-2049 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Unit #3 Permit no. AO 50-2050 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Unit #4 Permit no. AO 50-2051 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Unit #5 Permit no. AO 50-2052 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Sugar Growers Coop of Florida | Belle Glade, Florida | | | | |
| Unit #1 Permit no. AO 50-2044 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Unit #2 Permit no. AO 50-2045 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Unit #3 Permit no. AO 50-2046 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Unit #5 Permit no. AO 50-2047 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Talisman Sugar Corporation | Belle Glade, Florida | | | | |
| Unit #1 Permit no. AO 50-2036 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Unit #2 Permit no. AO 50-2037 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Unit #3 Permit no. AO 50-2038 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Unit #4 Permit no. AO 50-2039 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Unit #5 Permit no. AO 50-2040 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| United States Sugar Corporation | Bryant, Florida | | | | |
| Unit #1 Permit no. AO 50-2041 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Unit #2 Permit no. AO 50-2042 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Unit #3 Permit no. AO 50-2043 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |

St. Lucie County

| | | | | | |
|---|---|---|---|---|---|
| City of Ft. Pierce | Ft. Pierce, Florida | | | | |
| Diesel Units Permit no. AO 56-424 | | 17-2.04(6)(e)2 | 5/15/73 | Immediately | 1/30/75 |
| Package Boiler Unit Permit no. AO 56-425 | | 17-2.04(6)(e)2 | 5/15/73 | Immediately | 1/30/75 |
| Unit #5 Permit no. AO 56-426 | | 17-2.04(6)(e)2 | 5/15/73 | Immediately | 1/30/75 |
| Unit #6 Permit no. AO 56-427 | | 17-2.04(6)(e)2 | 5/15/73 | Immediately | 1/30/75 |
| Unit #4 Permit no. AO 56-428 | | 17-2.04(6)(e)2 | 5/15/73 | Immediately | 1/30/75 |



AIR QUALITY CONTROL REGION # 051

Charlotte County

| | | | | | |
|---|---|---|---|---|---|
| Macasphalt Corporation Permit no. AO 8-2023 | Port Charlotte, Florida | 17-2.04(2) | 5/15/73 | Immediately | 6/14/74 |

Collier County

| | | | | | |
|---|---|---|---|---|---|
| Fred's Market Permit no. SO 11-2002 | Immokalee, Florida | 17-2.04(6)(a) 2.a | 5/15/73 | Immediately | 3/8/74 |

Desoto County

| | | | | | |
|---|---|---|---|---|---|
| Hercules, Inc. | Nocatee, Florida | | | | |
| Steam Boiler #1 Permit no. AO 14-2014 | | 17-2.04(2) | 5/15/73 | Immediately | 9/30/73 |
| Steam Boiler #2 Permit no. AO 14-2015 | | 17-2.04(2) | 5/15/73 | Immediately | 9/30/73 |
| Steam Boiler #3 Permit no. AO 14-2016 | | 17-2.04(2) | 5/15/73 | Immediately | 9/30/73 |
| Steam Boiler #4 Permit no. AO 14-2017 | | 17-2.04(2) | 5/15/73 | Immediately | 9/30/73 |
| Steam Boiler #5 Permit no. AO 14-2018 | | 17-2.04(2) | 5/15/73 | Immediately | 9/30/73 |
| Steam Boiler #6 Permit no. AO 14-2019 | | 17-2.04(2) | 5/15/73 | Immediately | 9/30/73 |

Glades County

| | | | | | |
|---|---|---|---|---|---|
| Glades County Sugar Growers Co-op Assoc. | Moore Haven, Florida | | | | |
| Steam Boiler #1 Permit no. AO 22-2037 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Steam Boiler #2 Permit no. AO 22-2038 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Steam Boiler #3 Permit no. AO 22-2039 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Steam Boiler #4 Permit no. AO 22-2040 | | 17-2.04(6)(e)2.c | 5/15/73 | Immediately | 7/1/75 |

Hendry County

| | | | | | |
|---|---|---|---|---|---|
| Everglades Sugar Refinery Permit no. AO 26-2025 | Clewiston, Florida | 17-2.04(6)(e)2.c | 5/15/73 | Immediately | 7/1/75 |
| U. S. Sugar Corporation | Clewiston, Florida | | | | |
| Steam Boiler #1 Permit no. AO 26-2028 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Steam Boiler #2 Permit no. AO 26-2029 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Steam Boiler #3 Permit no. AO 26-2030 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Steam Boiler #5 Permit no. AO 26-2031 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Steam Boiler #6 Permit no. AO 26-2032 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Steam Boiler #7 Permit no. AO 26-2033 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Steam Boiler #9 Permit no. AO 26-2034 | | 17-2.04(6)(e)2.c | 5/15/73 | Immediately | 7/1/75 |
| Bagasse Dryer Permit no. AO 26-2035 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |

Highlands County

| | | | | | |
|---|---|---|---|---|---|
| Ewell Engineering & Contracting Co. Permit no. AO 28-2013 | Avon Park, Florida | 17-2.04(2) | 5/15/73 | Immediately | 6/14/74 |
| Florida Home Juice Permit no. AO 28-2041 | Avon Park, Florida | 17-2.04(2) | 5/15/73 | Immediately | 2/28/75 |
| Florida Power Corporation | Avon Park, Florida | | | | |
| Steam Boiler Unit #1 Permit no. AO 28-2022 | | 17-2.04(6)(e)2c | 5/15/73 | Immediately | 2/15/74 |
| Steam Boiler Unit #2 Permit no. AO 28-2021 | | 17-2.04(6)(e)2.a | 5/15/73 | Immediately | 7/1/75 |
| Steam Boiler Unit #2 Permit no. AO 28-2021 | | 17-2.04(6)(e)2.c | 5/15/73 | Immediately | 2/15/74 |

| | | | | | |
|---|---|---|---|---|---|
| St. Regis Paper Co. | Lake Placid, Florida | | | | |
| Steam Boiler #1 Permit no. AO 28-2026 | | 17-2.04(6)(e)2.c | 5/15/73 | Immediately | 1/1/75 |
| Steam Boiler #2 Permit no. AO 28-2027 | | 17-2.04(6)(e)2.c | 5/15/73 | Immediately | 1/1/75 |
| Sebring Utilities Commission Permit no. AO 28-2020 | Sebring, Florida | 17-2.04(6)(e)2.c | 5/15/73 | Immediately | 7/1/75 |
| **Lee County** | | | | | |
| Harper Brothers Permit no. AO 36-2012 | Ft. Myers, Florida | 17-2.04(2) | 5/15/73 | Immediately | 6/14/74 |
| Warren Brothers Permit no. AO 36-2010 | Ft. Myers, Florida | 17-2.04(2) | 5/15/73 | Immediately | 6/1/74 |
| **Sarasota County** | | | | | |
| Warren Brothers Permit no. AO 58-2011 | Sarasota, Florida | 17-2.04(2) | 5/15/73 | Immediately | 7/1/74 |



AIR QUALITY CONTROL REGION #052

| | | | | | |
|---|---|---|---|---|---|
| **Citrus County** | | | | | |
| Carroll Contracting, Inc. Permit no. AO 9-2020 | Inverness, Florida | 17-2.04(2) | 4/17/73 | Immediately | 7/1/74 |
| Florida Power Corp., Crystal River Plant | Red Level, Florida | | | | |
| Unit #1 Permit no. AO 9-376 | | 17-2.04(6)(e)2.a | 4/17/73 | Immediately | 7/1/75 |
| Unit #2 Permit no. AO 9-377 | | 17-2.04(6)(e)2.a | 4/17/73 | Immediately | 7/1/75 |
| Unit #1 Permit no. AO 9-376 | | 17-2.04(6)(e)2.c | 4/17/73 | Immediately | 2/1/75 |
| Unit #2 Permit no. AO 9-377 | | 17-2.04(6)(e)2.c | 4/17/73 | Immediately | 2/1/75 |
| **Hardee County** | | | | | |
| Peace River Processors, Inc. Permit no. AO 25-2124 | Wauchula, Florida | 17-2.04(6)(e)3 | 5/15/73 | Immediately | 7/1/75 |
| Revell Crate Company Permit no. SO 25-2017 | Wauchula, Florida | 17-2.04(1)(a)(b)(c) | 5/15/73 | Immediately | 1/1/74 |
| **Hernando County** | | | | | |
| Brooksville Citrus Growers Association Permit no. AO 27-167 | Brooksville, Florida | 17-2.04(6)(e) | 5/15/73 | Immediately | 7/1/75 |
| Chemical Lime, Inc. | Brooksville, Florida | | | | |
| a) Dryer Permit no. AO 27-389 | | 17-2.04(2) | 5/15/73 | Immediately | 3/24/75 |
| b) Kiln Permit no. AO 27-390 | | 17-2.04(2) | 5/15/73 | Immediately | 3/24/75 |
| c) Hydrator Plant Permit no. AO 27-391 | | 17-2.04(2) | 5/15/73 | Immediately | 3/24/75 |
| d) Bagging Operation Permit no. AO 27-392 | | 17-2.04(2) | 5/15/73 | Immediately | 3/24/75 |





| | | | | | |
|---|---|---|---|---|---|
| Dairy Service Corporation Citrus Peel Dryer Permit no. AO 27-2002 | Brooksville, Florida | 17-2.04(2) | 5/15/73 | Immediately | 6/2/75 |
| **Hillsborough County** | | | | | |
| American Can Company Permit no. AO 29-2169 | Tampa, Florida | 17-2.04(5) | 5/15/73 | Immediately | 7/1/75 |
| American Oil Company Permit no. AO 29-2133 | Tampa, Florida | 17-2.04(6)(e)3 | 5/15/73 | Immediately | 3/1/74 |
| Borden Inc. Permit no. AO 29-2082 | Plant City, Florida | 17-2.04(3) | 5/15/73 | Immediately | 7/1/75 |
| C. F. Industries | Zephyr Hills, Florida | | | | |
| Phosphate Plant Permit no. AO 29-2083 | | 17-2.04(2),(3),(6)(c) | 5/15/73 | Immediately | 7/1/75 |
| Sulfuric Acid Plants Permit no. AO 29-2083 | | 17-2.04(6)(b)1 | 5/15/73 | Immediately | 9/1/73 |
| Cone Brothers Contracting Company E. Osborne Ave. Permit no. AO 29-2165 | Tampa, Florida | 17-2.04(2) | 5/15/73 | Immediately | 5/1/74 |
| Cone Brothers Contracting Company 14814 N. 12th St. Permit no. AO 29-2166 | Tampa, Florida | 17-2.04(2) | 5/15/73 | Immediately | 5/1/74 |
| Davenport Drugs, Inc. Permit no. SO 29-2035 | Tampa, Florida | 17-2.04(6)(a) | 5/15/73 | Immediately | 10/1/73 |
| Detsco Terminals, Inc. Permit no. AO 29-2119 | Tampa, Florida | 17-2.04(2) &(3) | 5/15/73 | Immediately | 7/1/75 |
| Eastern Associated Permit no. AO 29-2170 | Tampa, Florida | 17-2.04(2) &(3) | 5/15/73 | Immediately | 7/1/75 |
| Florida Sip, Inc. Permit no. AO 29-2121 | Plant City, Florida | 17-2.04(2)(6)(e)3 | 5/15/73 | Immediately | 7/1/74 |
| Florida Steel Corp. Permit no. AO 29-2177 | Tampa, Florida | 17-2.04(2) &(3) | 5/15/73 | Immediately | 7/1/75 |



| | | | | | |
|---|---|---|---|---|---|
| General Portland Inc. | Tampa, Florida | | | | |
| Kiln #1 - #5 Case no. 205899 | | 17-2.04(6)(f) | 5/15/73 | Immediately | 8/1/73 |
| Clinker Cooler #1 - #6 Case no. 205899 | | 17-2.04(6)(F) | 5/15/73 | Immediately | 8/1/73 |
| Material Handling Case no. 205899 | | 17-2.04(3) | 5/15/73 | Immediately | 9/1/73 |
| Fugitive Dust Generation Case no. 205899 | | 17-2.04(3) | 5/15/73 | Immediately | 8/1/73 |
| All Other Sources Permit no. AO 29-2181 | | 17-2.04(2),(3),(6)(f) | 5/15/73 | Immediately | 7/1/75 |
| Gant Shopping Center Permit no. SO 29-2037 | Brandon, Florida | 17-2.04(6)(a) | 5/15/73 | Immediately | 10/1/73 |
| Gardinier, Inc. Permit no. AO 29-2180 | Gibsonton, Florida | 17-2.04(6)(b) | 5/15/73 | Immediately | 7/1/75 |
| W. R. Grace & Company 1604 36th St. Permit no. AO 29-2182 | Tampa, Florida | 17-2.04(2)(3) | 5/15/73 | Immediately | 7/1/75 |
| W. R. Grace & Company 35th & 3rd Ave. Permit no. AO 29-2132 | Tampa, Florida | 17-2.04(2)(3) | 5/15/73 | Immediately | 7/1/75 |
| International Minerals & Chemicals Corp. Permit no. AO 29-2173 | Port Sutton, Florida | 17-2.04(2),(3) | 5/15/73 | Immediately | 7/1/75 |
| Jos Schlitz Brewing Co. Permit no. AO 29-2112 | Tampa, Florida | 17-2.04(6)(e)3 | 5/15/73 | Immediately | 7/1/75 |
| Kaiser Agricultural Chemicals | Tampa, Florida | | | | |
| Cooler & Dryer Granulation Plant Permit no. AO 29-2130 | | 17-2.04(2),(3) | 5/15/73 | Immediately | 7/1/74 |
| Nitric Acid Plant Permit no. AO 29-2129 | | 17-2.04(6)(g)2 | 5/15/73 | Immediately | 7/1/75 |
| Loading & Unloading Facilities Permit no. AO 20-2128 | | 17-2.04(3) | 5/15/73 | Immediately | 7/1/75 |
| Mineral Aggregates, Inc. Permit no. AO 29-2172 | Tampa, Florida | 17-2.04(2) | 5/15/73 | Immediately | 1/1/75 |









MAX

| | | | | | |
|---|---|---|---|---|---|
| National Gypsum Co. | Tampa, Florida | | | | |
| Holo-Flite Unit<br>Permit no. AO 29-2174 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Rock Dryer<br>Permit no. AO 29-2175 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Wallboard Dryer<br>Permit no. AO 29-2176 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Nitram, Inc.<br>Permit no. AO 29-2179 | Tampa, Florida | 17-2.04(2), (3),(6)(a), (e)3,(g) | 5/15/73 | Immediately | 7/1/75 |
| Penny-Saver Grocery<br>Permit no. SO 29-2034 | Tampa, Florida | 17-2.04(6)(a) | 5/15/73 | Immediately | 10/1/73 |
| Reynolds Metal Co.<br>Permit no. AO 29-2178 | Tampa, Florida | 17-2.03(1)<br>17-2.04(5) | 5/15/73 | Immediately | 7/1/75 |
| River Gulf Terminal, Inc.<br>Permit no. AO 29-2188 | Tampa, Florida | 17-2.04(3), (2) | 5/15/73 | Immediately | 7/1/75 |
| Robbins Manufacturing Company<br>Permit no. AO 29-2125 | Tampa, Florida | 17-2.04(6)(a) | 5/15/73 | Immediately | 3/1/74 |
| Seaboard Coastline Railroad<br>Permit no. AO 29-2189 | Tampa, Florida | 17-2.04(2), (3) | 5/15/73 | Immediately | 7/1/75 |
| Security Feeds (Feeds for Florida, Inc.)<br>Permit no. AO 29-2183 | Tampa, Florida | 17-2.04(3) | 5/15/73 | Immediately | 7/1/75 |
| Tampa, City of; Tampa Municipal Incinerator<br>Board Order - #73-40 | Tampa, Florida | 17-2.04(6)(a) | 5/15/73 | Immediately | 3/1/75 |
| Tampa, City of; Water Department<br>Permit no. AO 29-2122 | Tampa, Florida | 17-2.04(6) (e)3 | 5/15/73 | Immediately | 3/1/74 |
| Tampa Electric Co.<br>Hookers Point Units No. 1-6<br>Permit no. AO 29-2093 | Tampa, Florida | 17-2.04(6)(e) 2 a,b,c,e | 5/15/73 | Immediately | 6/30/74 |
| Big Bend Station Unit 1 & 2<br>Permit no. AO 29-2092 | North Ruskin, Florida | 17-2.04(6) (e)2d | 5/15/73 | Immediately | 7/1/75 |



| | | | | | |
|---|---|---|---|---|---|
| Big Bend Station Unit 1<br>Permit no. AO 29-2092 | North Ruskin, Florida | 17-2.04(6) (e)2a | 5/15/73 | Immediately | 9/30/74 |
| Big Bend Station Unit 2<br>Permit no. AO 29-2092 | North Ruskin, Florida | 17-2.04(6) (e)2a | 5/15/73 | Immediately | 8/30/73 |
| F. J. Gannon Station Units 1-4<br>Permit no. AO 29-2191 | Tampa, Florida | 17-2.04(6) (e)2a,c | 5/15/73 | Immediately | 4/30/75 |
| F. J. Gannon Station Units 5 & 6<br>Permit no. AO 29-2191 | Tampa, Florida | 17-2.04(6) (e)2d | 5/15/73 | Immediately | 7/1/75 |
| F. J. Gannon Station Unit 5<br>Permit no. AO 29-2191 | Tampa, Florida | 17-2.04(6) (e)2a | 5/15/73 | Immediately | 7/30/74 |
| F. J. Gannon Station Unit #6<br>Permit no. AO 29-2191 | Tampa, Florida | 17-2.04(6) (e)2a | 5/15/73 | Immediately | 5/30/74 |
| Thriftway Food Store<br>Permit no. SO 29-2036 | Brandon, Florida | 17-2.04(6)(a) | 5/15/73 | Immediately | 10/1/73 |

Levy County

| | | | | | |
|---|---|---|---|---|---|
| Florida Power Corp. | Inglis, Florida | | | | |
| Stack #1, Units #1,3 & 5<br>Permit no. AO 38-2041 | | 17-2.04(6)(e) | 5/15/73 | Immediately | 2/15/74 |
| Stack #2, Units #2 & 4<br>Permit no. AO 38-2042 | | 17-2.04(6)(e) | 5/15/73 | Immediately | 2/15/74 |
| Stack #3, Unit #6<br>Permit no. AO 38-2043 | | 17-2.04(6)(e) | 5/15/73 | Immediately | 2/15/74 |
| Georgia-Pacific Corporation | Chiefland, Florida | | | | |
| Boiler #1<br>Permit no. AO 38-2028 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/74 |
| Boiler #2<br>Permit no. AO 38-2029 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/74 |
| Boiler #3<br>Permit no. AO 38-2030 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/74 |





Manatee County

| | | | | | |
|---|---|---|---|---|---|
| Bordon, Inc. Chemical Div./Smith Douglas<br>Sulfuric Acid Plant<br>Permit no. AO 41-2042 | Piney Point, Florida | 17-2.04(6) (b)1. | 5/15/73 | Immediately | 7/1/75 |
| Auxiliary Boiler<br>Permit no. AO 41-2043 | | 17-2.04(6) (e)2.c | 5/15/73 | Immediately | 4/1/74 |
| Manatee Terminals, Inc.<br>Permit no. AO 41-2044 | Port Manatee, Florida | 17-2.04(3) | 5/15/73 | Immediately | 6/14/74 |

Pasco County

| | | | | | |
|---|---|---|---|---|---|
| Des Little and Sons, Inc.<br>Permit no. AO 51-2123 | New Port Richey, Florida | 17-2.04(2) | 5/15/73 | Immediately | 7/8/74 |
| Evans Packing Company Citrus Feed Mills<br>Permit no. AO 51-2055 | Dade City, Florida | 17-2.04(2) | 5/15/73 | Immediately | 6/1/75 |
| Lykes Pasco Packing Company (Citrus Processing Plant) | Dade City, Florida | | | | |
| Power Plant Boiler #2<br>Permit no. AO 51-2074 | | 17-2.04(6) (e)2c | 5/15/73 | Immediately | 7/1/75 |
| Power Plant Boiler #3<br>Permit no. AO 51-2075 | | 17-2.04(6) (e)2c | 5/15/73 | Immediately | 7/1/75 |
| Power Plant Boiler #4<br>Permit no. AO 51-2076 | | 17-2.04(6) (e)2c | 5/15/73 | Immediately | 7/1/75 |
| Power Plant Boiler #5<br>Permit no. AO 51-2077 | | 17-2.04(6) (e)2c | 5/15/73 | Immediately | 7/1/75 |
| Vitamin P. Boiler<br>Permit no. AO 51-2078 | | 17-2.04(6) (e)2c | 5/15/73 | Immediately | 7/1/75 |
| Concentrate Plant Boiler<br>Permit no. AO 51-2079 | | 17-2.04(6) (e)2c | 5/15/73 | Immediately | 7/1/75 |
| Winn Dixie Stores, Inc. Holiday Store #695<br>Permit no. SO 51-2007 | Holiday, Florida | 17-2.04(6)(a) | 5/15/73 | Immediately | 1/1/74 |



Pinellas County

| | | | | | |
|---|---|---|---|---|---|
| David Dilgore and Company, Inc.<br>Permit no. AO 52-2046 | Clearwater, Florida | 17-2.04(2) | 5/15/73 | Immediately | 6/2/75 |
| Florida Power Corporation - Bartow Plant - Weedon Island | St. Petersburg, Florida | | | | |
| Unit #1<br>Permit no. AO 52-2037 | | 17-2.04(6) (e)2c | 5/15/73 | Immediately | 1/5/74 |
| Unit #2<br>Permit no. AO 52-2038 | | 17-2.04(6) (e)2c | 5/15/73 | Immediately | 1/5/74 |
| Unit #3<br>Permit no. AO 52-2039 | | 17-2.04(6) (e)2c | 5/15/73 | Immediately | 1/5/74 |
| Florida Power Corp. Bayboro Plant<br>13th Ave S @ 3rd St. | St. Petersburg, Florida | | | | |
| Unit #2<br>Permit no. AO 52-2044 | | 17-2.04(6) (e)2c | 5/15/73 | Immediately | 2/15/74 |
| Unit #3<br>Permit no. AO 52-2045 | | 17-2.04(6) (e)2c | 5/15/73 | Immediately | 2/15/74 |
| Unit #4<br>Permit no. AO 52-2046 | | 17-2.04(6) (e)2c | 5/15/73 | Immediately | 2/15/74 |
| Florida Power Corp. Higgins Plant | Oldsmar, Florida | | | | |
| Unit #1<br>Permit no. AO 52-2040 | | 17-2.04(6) (e)2c | 5/15/73 | Immediately | 2/15/74 |
| Unit #2<br>Permit no. AO 52-2041 | | 17-2.04(6) (e)2c | 5/15/73 | Immediately | 2/15/74 |
| Unit #3<br>Permit no. AO 52-2042 | | 17-2.04(6) (e)2c | 5/15/73 | Immediately | 2/15/74 |
| Moorefield Paving Contractors, Inc.<br>Permit no. AO 52-2047 | Largo, Florida | 17-2.04(2) | 5/15/73 | Immediately | 1/1/74 |
| Stauffer Chemical Co. | Tarpon Springs, Florida | | | | |
| a) Boiler<br>Permit no. AO 52-2054 | | 17-2.04(6) (e)3 | 5/15/73 | Immediately | 6/4/75 |
| b) Roaster<br>Permit no. AO 52-2095 | | 17-2.04(3) (6)(c)1b | 5/15/73 | Immediately | 6/1/75 |
| c) Phosphorus Furnace<br>Permit no. AO 52-2053 | | 17-2.04(1) | 5/15/73 | Immediately | 6/1/75 |









XUM 3781 SMS 1881 3V

| | | | | | |
|---|---|---|---|---|---|
| d) Nodulizing Kiln<br>Permit no. AO 52-2050 | | 17-2.04(2), (6)(c)1.b | 5/15/73 | Immediately | 6/1/75 |
| N. P. Hood & Sons, Inc.<br>Boiler House<br>Permit no. AO 52-2034 | Dunedin, Florida | 17-2.04(6) (e)3 | 5/15/73 | Immediately | 1/1/74 |
| Kresge Store<br>Permit no. SO 52-2010 | St. Petersburg, Florida | 17-2.04(6) (a)3 | 5/15/73 | Immediately | 1/1/74 |
| Pinellas Cigar Co.<br>Permit no. SO 52-2008 | St. Petersburg, Florida | 17-2.04(6) (a)3 | 5/15/73 | Immediately | 1/1/74 |
| St. Johns Catholic Church<br>Permit no. SO 52-2011 | St. Petersburg Beach, Florida | 17-2.04(6) (a)3 | 5/15/73 | Immediately | 1/1/74 |

Polk County

| | | | | | |
|---|---|---|---|---|---|
| Agrico Chemical Company<br>Permit no. AO 53-2145 | South Pierce, Florida | 17-2.04(3) | 5/15/73 | Immediately | 7/1/75 |
| Agrico Chemical<br>Permit no. AO 53-2146 | Pierce, Florida | 17-2.04(2)(3) | 5/15/73 | Immediately | 7/1/75 |
| Alcoma Packing Company<br>Permit no. AO 53-358 | Lake Wales, Florida | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Blue Seal Asphalt Company<br>Permit no. AO 53-2154 | Lakeland, Florida | 17-2.04(2) | 5/15/73 | Immediately | 1/1/74 |
| Borden, Inc. Chemical Division<br>Permit no. AO 53-2141 | Lakeland, Florida | 17-2.04(3) | 5/15/73 | Immediately | 7/1/75 |
| Brewster Phosphates, Inc.<br>Permit no. AO 53-2096 | Bradley, Florida | 17-2.04(2)(3) | 5/15/73 | Immediately | 6/1/75 |
| C. F. Chemical Ind. Inc.<br>Sulfuric Acid Plants #1 and #2<br>Permit no. AO 53-2094 | Bartow, Florida | 17-2.04(6)(b) | 5/15/73 | Immediately | 7/1/75 |
| Sulfuric Acid Plants #3 and #4<br>Permit no. AO 53-2094 | | 17-2.04(6)(b) | 5/15/73 | Immediately | 7/1/75 |
| Sulfuric Acid Plants #5 and #6<br>Permit no. AO 53-2094 | | 17-2.04(6)(b) | 5/15/73 | Immediately | 5/1/75 |
| City of Lakeland Power Plants<br>Unit #7, Boiler #12<br>Permit no. AO 53-576 | Lakeland, Florida | 17-2.04(6)(e) | 5/15/73 | Immediately | 6/1/75 |
| Unit #4, #9 Boiler<br>Permit no. AO 53-577 | | 17-2.04(6)(e) | 5/15/73 | Immediately | 6/1/75 |
| Gas Turbines #1, #2, #3<br>Permit no. AO 53-578 | | 17-2.04(6)(e) | 5/15/73 | Immediately | 6/1/75 |
| Larsen Plt.<br>Unit #5, Boiler #10<br>Permit no. AO 53-579 | | 17-2.04(6)(e) | 5/15/73 | Immediately | 6/1/75 |
| Larsen Plt.<br>Unit #6, Boiler #11<br>Permit no. AO 53-580 | | 17-2.04(6)(e) | 5/15/73 | Immediately | 6/1/75 |
| Citrus World, Inc.<br>100,000 #/hr Waste Heat Evaporator<br>Permit no. AO 53-567 | Lake Wales, Florida | 17-2.04(2) | 5/15/73 | Immediately | 6/1/74 |
| 1st Cooler Scrubber<br>Permit no. AO 53-568 | | 17-2.04(2) | 5/15/73 | Immediately | 6/1/74 |
| 50,000 #/hr Waste<br>Permit no. AO 53-569 | | 17-2.04(2) | 5/15/73 | Immediately | 6/1/74 |
| Peel Cooler<br>Permit no. AO 53-570 | | 17-2.04(2) | 5/15/73 | Immediately | 6/1/74 |
| Storage Bin Cooler System<br>Permit no. AO 53-571 | | 17-2.04(2) | 5/15/73 | Immediately | 6/1/74 |
| Pellet Cooler System<br>Permit no. AO 53-572 | | 17-2.04(2) | 5/15/73 | Immediately | 6/1/74 |
| Air conveyor, Discharge Stack<br>Permit no. AO 53-573 | | 17-2.04(2) | 5/15/73 | Immediately | 6/1/74 |





| | | | | | |
|---|---|---|---|---|---|
| Coca-Cola Company Foods Division<br>Boilers<br>Permit no. AO 53-2153 | Auburndale, Florida | 17-2.04(6) (e)3 | 5/15/73 | Immediately | 7/1/75 |
| D. S. Prosser, Jr., Partnership<br>Permit no. AO 53-2150 | Highland City, Florida | 17-2.04(2) | 5/15/73 | Immediately | 6/1/74 |
| Egar Concrete Co., Inc.<br>Permit no. AO 53-2164 | Auburndale, Florida | 17-2.04(2) | 5/15/73 | Immediately | 1/1/74 |
| Farmland Industries, Inc.<br>Permit no. AO 53-2137 | Green Bay, Florida | 17-2.04(3) | 5/15/73 | Immediately | 7/1/75 |
| Florida Tile Industries Inc. (Sikes Corp.)<br>Permit no. AO 53-2155 | Lakeland, Florida | 17-2.03(1) | 5/15/73 | Immediately | 1/1/74 |
| Hunt Brothers<br>Permit no. AO 53-2159 | Lake Wales, Florida | 17-2.04(6)(e) | 5/15/73 | Immediately | 7/1/75 |
| International Minerals & Chemicals Company, Noralyn Plant<br>Permit no. AO 53-2138 | Mulberry, Florida | 17-2.04(2), (3) | 5/15/73 | Immediately | 6/1/75 |
| Kraft Foods - Div. of Kraft Co.<br>Citrus Pulp Drying Plant Boilers<br>Permit no. AO 53-2161 | Lakeland, Florida | 17-2.04(6) (e)3 | 5/15/73 | Immediately | 7/1/75 |
| Lake Hamilton Citrus, Inc.<br>Permit no. AO 53-2168 | Bartow, Florida | 17-2.04(2) | 5/15/73 | Immediately | 6/1/74 |
| Macasphalt Corp. Unit #4<br>Permit no. AO 53-2134 | Lake Wales, Florida | 17-2.04(2) | 5/15/73 | Immediately | 1/1/74 |
| Mobil Chemical Company<br>Permit no. AO 53-2142 | Nichols, Florida | 17-2.04(2), (3) | 5/15/73 | Immediately | 7/1/75 |
| Orlando Paving Company<br>Permit no. AO 53-2160 | Loughman, Florida | 17-2.04(2) | 5/15/73 | Immediately | 6/1/74 |
| Owens-Illinois<br>Permit no. AO 53-2167 | Lakeland, Florida | 17-2.04(2) | 5/15/73 | Immediately | 1/1/74 |
| Royster Company<br>Permit no. AO 53-2081 | Mulberry, Florida | 17-2.04(6)(b) | 5/15/73 | Immediately | 7/1/75 |
| Standard Sand & Silica Company<br>Flint Rock Dryer<br>Permit no. AO 53-2156 | Davenport, Florida | 17-2.04(2) | 5/15/73 | Immediately | 7/1/74 |
| #2 Silica Dryer<br>Permit no. AO 53-2158 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/74 |
| #1 Silica Dryer<br>Permit no. AO 53-2157 | | 17-2.04(2) | 5/15/73 | Immediately | 7/1/74 |
| Sun Coast Canning Company<br>Citrus Feed Mill<br>Permit no. AO 53-2163 | Ft. Meade, Florida | 17-2.04(2) | 5/15/73 | Immediately | 7/1/75 |
| Swift and Company<br>Permit no. AO 53-2135 | Bartow, Florida | 17-2.04(2), (3),(6)(b) | 5/15/73 | Immediately | 7/1/75 |
| USS Agri-Chemical Co.<br>Permit no. AO 53-2139 | Bartow, Florida | 17-2.04(2), (6) (b),(c), (e)3 | 5/15/73 | Immediately | 7/1/75 |
| USS Agri-Chemical Co.<br>Permit no. AO 52-2144 | Ft. Meade, Florida | 17-2.04(2) and (3)<br>17-2.04(6) (b),(c),(e)3 | 5/15/73 | Immediately | 7/1/75 |
| West Gibson Department Store<br>Permit no. SO 53-2019 | Lakeland, Florida | 17-2.04(6)(a) | 5/15/73 | Immediately | 1/1/74 |
| Woolco Department Store (Lake Parker Shopping Mall)<br>Permit no. SO 53-2025 | Lakeland, Florida | 17-2.04(6)(a) | 5/15/73 | Immediately | 1/1/74 |
| W. R. Grace & Company Bartow Works<br>Permit no. AO 53-2136 | Bartow, Florida | 17-2.04(2), (3),(6)(b) | 5/15/73 | Immediately | 7/1/75 |
| W. R. Grace & Company Marco Chemical Div.<br>Permit no. SO 53-2024 | Bartow, Florida | 17-2.04(6) (a)(3) | 5/15/73 | Immediately | 1/1/74 |
| Yogurt Master<br>Permit no. SO 53-2020 | Lakeland, Florida | 17-2.04(6)(a) | 5/15/73 | Immediately | 1/1/74 |



XUM
SEP 19 73
38 181 83V

Sumter County

| | | | | | |
|---|---|---|---|---|---|
| Dixie Lime & Stone Company<br>Quick Lime Plant<br>Permit no. AO 60-711 | Sumterville, Florida | 17-2.04(2) | 4/17/73 | Immediately | 2/15/75 |
| Fine Limestone Plant<br>Permit no. AO 60-712 | | 17-2.04(2) | 4/17/73 | Immediately | 2/15/75 |



AIR QUALITY CONTROL REGION #005

Bay County

| | | | | | |
|---|---|---|---|---|---|
| Arizona Chemical Co.<br>Permit no. AO 03-744 | Panama City, Florida | 17-2.03(1)<br>17-2.04(2) | 5/15/73 | Immediately | 3/1/74 |
| Cove Contractors<br>Permit no. AO 03-366 | Panama City, Florida | 17-2.04(6)(e)3. | 5/15/73 | Immediately | 1/1/74 |
| International Paper Company | Panama City, Florida | | | | |
| Power Boiler #4<br>Permit no. AO 03-691 | | 17-2.04(6)(e)2. | 5/15/73 | Immediately | 1/1/74 |
| Power Boiler #5<br>Permit no. AO 03-692 | | 17-2.04(6)(e)2. | 5/15/73 | Immediately | 1/1/74 |
| Gulf Power Company<br>Smith Generating Station<br>Board Order - AP-765-73 | Panama City, Florida | 17-2.04(6)(e)2a & d | 7/30/73 | Immediately | 7/1/75 |

Calhoun County

| | | | | | |
|---|---|---|---|---|---|
| Hayes Forest Products Industries | Blountstown, Florida | | | | |
| TeePee Burner (25 ft. Dia.)<br>Permit no. SO 07-502 | | 17-2.04(6)(a) | 5/15/73 | Immediately | 11/1/74 |
| TeePee Burner (20 ft. Dia.)<br>Permit no. SO 07-503 | | 17-2.04(6)(a) | 5/15/73 | Immediately | 11/1/74 |

Escambia County

| | | | | | |
|---|---|---|---|---|---|
| Alger-Sullivan Co. | Century, Florida | | | | |
| a) Two Boilers with Common Stack<br>Permit no. AO 17-1073 | | 17-2.04(2) | 5/15/73 | Immediately | 8/30/73 |
| b) Dry Shaving Cyclone<br>Permit no. AO 17-1075 | | 17-2.04(2) | 5/15/73 | Immediately | 8/30/73 |
| Atmore Pole & Timber Company<br>Permit no. AO 17-983 | Davisville, Florida | 17-2.04(6)(a) | 5/15/73 | Immediately | 12/30/73 |
| American Creosote Works, Inc.<br>Permit no. AO 17-980 | Pensacola, Florida | 17-2.04(2) | 5/15/73 | Immediately | 1/15/74 |





| | | | | | |
|---|---|---|---|---|---|
| Boise Cascade Corporation<br>Board Order - AP-784-73 | Cantonment, Florida | 17-2.04(2) | 7/11/73 | Immediately | 5/24/74 |
| Brickerstaff Clay Products Co.<br>Permit no. AO 17-2003 | Barth, Florida | 17-2.04(2) | 5/15/73 | Immediately | 1/1/74 |
| Escambia Treating Co.<br>Permit no. AO 17-937 | Pensacola, Florida | 17-2.04(2) | 5/15/73 | Immediately | 10/30/73 |
| Louisiana Land & Exploration Co. | Century, Florida | | | | |
| a) Wiggins Lake Prod. Facility #1<br>Permit no. AO 17-522 | | 17-2.04(6)(h) 2a | 5/15/73 | Immediately | 7/1/75 |
| b) Wiggins Lake Prod. Treating Facilities #2<br>Permit no. AO 17-736 | | 17-2.04(6)(h) 2a | 5/15/73 | Immediately | 7/1/75 |
| Monsanto Corporation | Gonzales, Florida | | | | |
| a) Adipic Acid Synthesis<br>Permit no. AO 17-687 | | 17-2.04(2) | 5/15/73 | Immediately | 3/15/74 |
| b) Ammonia Oxidation<br>Permit no. AO 17-686 | | 17-2.04(6)(g) | 5/15/73 | Immediately | 3/15/74 |
| St. Regis Paper Company | Cantonment, Florida | | | | |
| a) #1 Power Boiler, #1 Mill<br>Permit no. AO 17-542 | | 17-2.04(6)(e)2. | 5/15/73 | Immediately | 7/1/73 |
| b) #2 Power Boiler, #2 Mill<br>Permit no. AO 17-543 | | 17-2.04(6)(e)2. | 5/15/73 | Immediately | 7/1/73 |
| c) #3 Power Boiler, #1 Mill<br>Permit no. AO 17-544 | | 17-2.04(6)(e)2 | 5/15/73 | Immediately | 7/1/73 |
| d) #4 Power Boiler, #2 Mill<br>Permit no. AO 17-545 | | 17-2.04(6)(e)2. | 5/15/73 | Immediately | 7/1/73 |
| e) #1 Power Boiler, #2 Mill<br>Permit no. AO 17-621 | | 17-2.04(6)(e)2 | 5/15/73 | Immediately | 7/1/73 |
| f) #3 Power Boiler, #2 Mill<br>Permit no. AO 17-626 | | 17-2.04(6)(e)2 | 5/15/73 | Immediately | 7/1/73 |



| | | | | | |
|---|---|---|---|---|---|
| Weis Fricker Mahogany Company<br>Permit no. AO 17-396 | Pensacola, Florida | 17-2.04(2) | 5/15/73 | Immediately | 5/24/74 |
| Gulf Power Company<br>Crist Generating Station<br>Board Order - AP-765-73 | Pensacola, Florida | 17-2.04(6)(e)2a & d | 7/30/73 | Immediately | 7/1/75 |

Gulf County

| | | | | | |
|---|---|---|---|---|---|
| Basic Magnesia Inc. | Port St. Joe, Florida | | | | |
| Magnesium Oxide Calciner #1<br>Permit no. AO 23-339 | | 17-2.04(2) | 5/15/73 | Immediately | 1/1/74 |
| Magnesium Oxide Calciner #2<br>Permit no. AO 23-340 | | 17-2.04(2) | 5/15/73 | Immediately | 1/1/74 |
| St. Joe Paper Company | Port St. Joe, Florida | | | | |
| Power Boiler #3<br>Permit no. AO 23-445 | | 17-2.04(6)(e)3. | 5/15/73 | Immediately | 5/24/74 |
| Power Boiler #4<br>Permit no. AO 23-446 | | 17-2.04(2) | 5/15/73 | Immediately | 5/24/74 |
| Power Boiler #5<br>Permit no. AO 23-447 | | 17-2.04(6)(e)3. | 5/15/73 | Immediately | 5/24/74 |
| Power Boiler #6<br>Permit no. AO 23-448 | | 17-2.04(6)(e)3. | 5/15/73 | Immediately | 5/24/74 |
| Power Boiler #7<br>Permit no. AO 23-449 | | 17-2.04(6)(e)3 | 5/15/73 | Immediately | 5/24/74 |
| Power Boiler #8<br>Permit no. AO 23-450 | | 17-2.04(6)(e)3 | 5/15/73 | Immediately | 5/24/74 |

Jackson County

| | | | | | |
|---|---|---|---|---|---|
| Dixie Lime & Stone Company, Green Valley Plant<br>Permit no. AO 32-1059 | Marianna, Florida | 17-2.04(2) | 5/15/73 | Immediately | 1/1/74 |
| Gold Kist Peanuts<br>Permit no. AO 32-1080 | Graceville, Florida | 17-2.04(2)<br>17-2.04(6)(e)3 | 5/15/73 | Immediately | 4/30/74 |
| Gulf Power Company<br>Scholz Generating Sta.<br>Board Order - AP-765-73 | Sneads, Florida | 17-2.04(6)(e)2a & d | 7/30/73 | Immediately | 7/1/75 |







XUM 37 61 SEP 18 1973 V

Santa Rosa County

| | | | | | |
|---|---|---|---|---|---|
| Air Products & Chemicals, Inc. (Escambia Chemical Corporation) | Pace, Florida | | | | |
| No. 2 Nitric Acid Plant Permit no. AO 57-2003 | | 17-2.04(6)(g)2. | 5/15/73 | Immediately | 7/1/75 |
| No. 1 Nitric Acid Plant Permit no. AO 57-2002 | | 17-2.04(6)(j)2. | 5/15/73 | Immediately | 7/1/75 |
| Amerada-Hess Oil Permit no. AO 57-2001 | Jay, Florida | 17-2.04(6)(h)2. | 5/15/73 | Immediately | 7/1/75 |
| Exxon Company, USA | Jay, Florida | | | | |
| Facility #2 Permit no. AO 57-1066 | | 17-2.04(6)(h)2. | 5/15/73 | Immediately | 7/1/75 |
| Facility #3 Permit no. AO 57-1096 | | 17-2.04(6)(h)2. | 5/15/73 | Immediately | 7/1/75 |
| Facility #4 Permit no. AO 57-1101 | | 17-2.04(6)(h)2. | 5/15/73 | Immediately | 7/1/75 |
| Facility #5 Permit no. AO 57-1115 | | 17-2.04(6)(h)2. | 5/15/73 | Immediately | 7/1/75 |
| Sun Oil Company Permit no. AO 57-1061 | Jay, Florida | 17-2.04(6)(h)2. | 5/15/73 | Immediately | 7/1/75 |

MICROFILM EDITION
FEDERAL REGISTER
35mm MICROFILM

**Complete Set 1936–71, 202 Rolls $1,439**

| Vol. | Year | Price | Vol. | Year | Price | Vol. | Year | Price |
|---|---|---|---|---|---|---|---|---|
| 1 | 1936 | $7 | 13 | 1948 | $28 | 25 | 1960 | $49 |
| 2 | 1937 | 12 | 14 | 1949 | 22 | 26 | 1961 | 44 |
| 3 | 1938 | 8 | 15 | 1950 | 28 | 27 | 1962 | 46 |
| 4 | 1939 | 14 | 16 | 1951 | 44 | 28 | 1963 | 50 |
| 5 | 1940 | 14 | 17 | 1952 | 41 | 29 | 1964 | 54 |
| 6 | 1941 | 21 | 18 | 1953 | 30 | 30 | 1965 | 58 |
| 7 | 1942 | 37 | 19 | 1954 | 37 | 31 | 1966 | 60 |
| 8 | 1943 | 53 | 20 | 1955 | 41 | 32 | 1967 | 69 |
| 9 | 1944 | 42 | 21 | 1956 | 42 | 33 | 1968 | 55 |
| 10 | 1945 | 47 | 22 | 1957 | 41 | 34 | 1969 | 62 |
| 11 | 1946 | 47 | 23 | 1958 | 41 | 35 | 1970 | 59 |
| 12 | 1947 | 24 | 24 | 1959 | 42 | 36 | 1971 | 97 |

Order Microfilm Edition from Publications Sales Branch
National Archives and Records Service
Washington, D.C. 20408

V 38-1 81

SEP 1973

XUM

182

federal register

September 20, 1973—Pages 26345–26433

THURSDAY, SEPTEMBER 20, 1973

WASHINGTON, D.C.

Volume 38 ■ Number 182

Pages 26345–26433

## HIGHLIGHTS OF THIS ISSUE

**This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.**

**NATIONAL EMPLOY THE HANDICAPPED WEEK, 1973—**
Presidential Proclamation ..... 26351

**PESTICIDES—**
EPA prohibits certain nontoxic claims on labeling; effective 12–19–73 ..... 26360
EPA interim rules for assessment of civil penalties; effective 9–21–73; comments prior to final rules by 10–22–73 ..... 26360, 26358

**BANKING—**
FHLBB amends rules on investments in nationwide loans; effective 9–20–73 ..... 26357
FHLBB amends book-entry procedures for certain securities; effective 9–14–73 ..... 26355
FHLBB amendment relating to amortization of advances to member banks; effective 9–20–73 ..... 26357

**SEX DISCRIMINATION**—HEW proposes rules on admissions to health training programs; comments by 10–23–73 ..... 26384

**PUBLIC ASSISTANCE**—HEW to implement certain provisions of the Social Security Amendments of 1972; effective 10–30–72 ..... 26378

**DISABLED VETERANS**—VA proposes to provide for special automobile equipment; comments by 10–23–73 ..... 26393

**CREDIT UNIONS**—NCUA increases the maximum permissible dividend rate ..... 26408

**MILITARY INDUCTION**—SSS proposed Amendments to regulations; comments by 10–23–73 ..... 26392

**MEETINGS—**
Agriculture Department: Coconino National Forest Multiple Use Advisory Committee, 9–27–73 ..... 26397
Atomic Energy Commission: Advisory Committee on Reactor Safeguards, Subcommittee on Regulatory Guides, 10–10–73 ..... 26398

V38-182

SEP 20 73

XUM

# REMINDERS

**Rules Going Into Effect Today**

NOTE: There were no items published after October 1, 1972, that are eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

page no. and date

**SEPTEMBER 20**

ATOMIC ENERGY COMMISSION—Simplification of definition of "calendar quarter" 22467; 8-21-73


federal register

Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by the Executive Branch of the Federal Government. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $2.50 per month or $25 per year, payable in advance. The charge for individual copies is 20 cents for each issue, or 20 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.




# Contents


## THE PRESIDENT

**Proclamation**

National Employ the Handicapped Week, 1973 ..... 26351

## EXECUTIVE AGENCIES

**AGRICULTURAL MARKETING SERVICE**

**Rules and Regulations**

Potato Research and Promotion Plan; determining representation on the National Potato Promotion Board ..... 26354

Valencia oranges grown in Arizona and designated part of California; limitation of handling ..... 26353

**Proposed Rules**

Expenses and rates of assessment:
- Irish potatoes grown in designated counties in Idaho and Malheur County, Oregon ..... 26384
- Oranges and grapefruit grown in Lower Rio Grande Valley, Texas ..... 26384

**AGRICULTURE DEPARTMENT**

*See also* Agricultural Marketing Service; Forest Service.

**Notices**

Expert Panel on Nitrites and Nitrosamines; establishment ..... 26397

**ATOMIC ENERGY COMMISSION**

**Rules and Regulations**

Licensing of production and utilization facilities; operators' licenses; requalification requirements for operating personnel; correction ..... 26354

**Notices**

Advisory Committee on Reactor Safeguards; Subcommittee on Regulatory Guides; meeting ..... 26398

Gulf Oil Corp.; availability of applicant's environmental report ..... 26399

Power Reactor Development Co.; issuance of amendment to provisional operating license ..... 26399

Wisconsin Public Service Corp. et al.; order for evidentiary hearing ..... 26399

**CIVIL AERONAUTICS BOARD**

**Notices**

*Hearings, etc.:*
- American Airlines, Inc., and Trans World Airlines, Inc ..... 26399
- Great Western Airlines, Inc ..... 26400
- Luthi Aviation, Inc ..... 26400

**CIVIL SERVICE COMMISSION**

**Rules and Regulations**

Excepted service:
- General Services Administration; correction ..... 26353
- National Aeronautics and Space Administration ..... 26353
- Office of Emergency Preparedness; correction ..... 26353

**Notices**

Machinist, WG-10; manpower shortage; listing ..... 26401

**COMMERCE DEPARTMENT**

*See* Maritime Administration.

**COMMITTEE FOR PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY HANDICAPPED**

**Notices**

Procurement List 1973; additions and deletions (4 documents) ..... 26401

**DELAWARE RIVER BASIN COMMISSION**

**Notices**

Comprehensive Plan; public hearing ..... 26403

**ENVIRONMENTAL PROTECTION AGENCY**

**Rules and Regulations**

Enforcement of Federal Insecticide, Fungicide, and Rodenticide Act; prohibition of nontoxic claims of labeling of pesticides ..... 26360

General grant procedures; extension of comment period ..... 26358

Proceedings conducted in assessment of civil penalties ..... 26360

Water quality standards; adoption, identification, and availability of State standards ..... 26358

**Proposed Rules**

Washington State; approval and promulgation of implementation plans ..... 26390

**Notices**

Registrations and tolerances of pesticides aldrin and dieldrin; supplemental notice of hearing ..... 26403

Stationary source enforcement proceeding; procedure for public hearing ..... 26403

Use of products containing calcium cyanide, strychnine, etc., for home, urban, and field rodenticides; hearings ..... 26404

**ENVIRONMENTAL QUALITY COUNCIL**

**Notices**

Environmental impact statements; public availability ..... 26402

**FEDERAL AVIATION ADMINISTRATION**

**Rules and Regulations**

Airworthiness directives; Boeing model B-17 F & G ..... 26358

**Proposed Rules**

Certification of airports serving cab-certificated air carriers; clarification of "serving" ..... 26389

Transition area; designation ..... 26389

**FEDERAL COMMUNICATIONS COMMISSION**

**Rules and Regulations**

Experimental, auxiliary, and special broadcast and other program services; television broadcast booster stations; termination of proceeding ..... 26381

Industrial radio services; non-Government fixed and land mobile telemetering; correction ..... 26381

Radio broadcast services; table of assignments, FM broadcast stations in Virginia and West Virginia ..... 26380

**Proposed Rules**

Tables of assignments:
- FM broadcast stations, Sun Valley, Idaho ..... 26390
- Television broadcast stations, Wheeling, W. Va ..... 26391

**Notices**

Canada-USA TV agreement of 1952; amendment to Table A ..... 26405

Standard broadcast applications ready and available for processing ..... 26407

*Hearings, etc.:*
- Hawaiian Telephone Co ..... 26405
- Henderson Broadcasting Co., Inc., et al ..... 26406

**FEDERAL DEPOSIT INSURANCE CORPORATION**

**Rules and Regulations**

Interest on deposits; "noninsured" banks in Massachusetts ..... 26355

**Proposed Rules**

Interest on deposits; offering and use of NOW accounts by banks in Massachusetts and New Hampshire ..... 26391

**FEDERAL HOME LOAN BANK BOARD**

**Rules and Regulations**

Advances; amortization of advances ..... 26357

Bonds and debentures; book-entry procedures for bank securities ..... 26355

Operations; nationwide lending and participation loans ..... 26357

**FEDERAL INSURANCE ADMINISTRATION**

**Rules and Regulations**

National Flood Insurance Program:
- Areas eligible for sale of insurance; status of participating communities (2 documents) ..... 26367
- Identification of special hazard areas; list of communities ..... 26368

**FEDERAL MARITIME COMMISSION**

**Notices**

Matson Navigation Co. and McCabe, Hamilton & Renny Co.; agreement filed ..... 26407

**FEDERAL POWER COMMISSION**

**Notices**

Authorization of sale, resale and delivery of natural gas; findings and order after statutory hearing ..... 26412, 26413



*(Continued on next page)*





V 38 I 182 S SEP 20 73 XUM

Authorization to sell natural gas; applications for certificates, abandonment of service and petitions to amend certificates 26413

*Hearings, etc.:*
Harvey E. Yates Co., et al 26415
Mississippi River Transmission Corp 26416

**FEDERAL RESERVE SYSTEM**
**Notices**
Alabama Financial Group, Inc.; order approving acquisition of insurance company 26407
Bank of Virginia Co.; acquisition of bank 26408
First Virginia Bankshares Corp.; proposed acquisition of Robert C. Gilkison, Inc.; correction 26408
Quindaro Bancshares, Inc.; formation of bank holding company 26408

**FISH AND WILDLIFE SERVICE**
**Rules and Regulations**
Hunting:
Bitter Lake National Wildlife Refuge, N. Mex. 26381
Brigantine National Wildlife Refuge, New Jersey 26382
Lacreek National Wildlife Refuge, S. Dak. (2 documents) 26382
Ouray National Wildlife Refuge, Utah 26383
Parker River National Wildlife Refuge, Mass 26382

**FOOD AND DRUG ADMINISTRATION**
**Proposed Rules**
Canned grapefruit; standards of identity, quality, and fill of container; correction 26384

**FOREST SERVICE**
**Notices**
Coconino National Forest Advisory Committees; meeting 26397

**HEALTH, EDUCATION, AND WELFARE DEPARTMENT**
*See also* Food and Drug Administration; Social and Rehabilitation Service.
**Proposed Rules**
Nondiscrimination on basis of sex under Public Health Service Act 26384

**HEARINGS AND APPEALS OFFICE**
**Notices**
Petitions for modification of application of mandatory safety standards:
Burgess Mining and Construction Corp. 26395
Southern Electric Generating Co. (2 documents) 26396

**HOUSING AND URBAN DEVELOPMENT DEPARTMENT**
*See* Federal Insurance Administration.

**IMMIGRATION AND NATURALIZATION SERVICE**
**Rules and Regulations**
Nonimmigrant classes; nonimmigrant transits; correction 26354

**INTERIOR DEPARTMENT**
*See also* Fish and Wildlife Service; Hearings and Appeals Office; Land Management Bureau.
**Rules and Regulations**
Utilization of personal property; utilization of excess 26370

**INTERSTATE COMMERCE COMMISSION**
**Notices**
Assignment of hearings 26416
Motor carrier, broker, water carrier and freight forwarder applications 26418
Motor Carrier Board transfer proceedings 26416
Seaboard Coast Line Railroad Co.; exemption from mandatory car service rules 26417
State of Oregon; transportation of hay 26417

**JUSTICE DEPARTMENT**
*See* Immigration and Naturalization Service.

**LAND MANAGEMENT BUREAU**
**Rules and Regulations**
Public land orders regarding lands in certain States (11 documents) 26370–26377
**Notices**
Nevada; proposed classification terminated 26395
Oregon; proposed withdrawal addition to National Forest 26395

**MARITIME ADMINISTRATION**
**Notices**
Applications for construction of various tankers:
American Trading Transportation Co., Inc. 26397
Bermuth, Lembcke Co., Inc. 26397
Bethlehem Steel Corp. and Gulf Oil Corp. 26398
Chestnut Shipping Co. 26398
Cities Service Tankers Corp. 26398
First Pennsylvania Tanker I and II, Inc. 26398
Fuel Transport, Inc. 26398
National Steel and Shipbuilding Co. and Third Group, Inc.; award of construction-differential subsidy contract 26398

**NATIONAL CREDIT UNION ADMINISTRATION**
**Notices**
Federal credit union bylaws; increase of maximum permissible dividend rate 26408

**SECURITIES AND EXCHANGE COMMISSION**
**Rules and Regulations**
Interpretative releases; market identification requirement of reporting rule for market information on transactions in listed securities 26358
**Notices**
*Hearings, etc.:*
Continental Vending Machine Corp 26408
Diversified Earth Sciences, Inc. 26408
Franz Hubinger A.B. Inc. 26408
Investors Diversified Services, Inc., et al 26409
Koracorp Industries, Inc. 26410
Massachusetts Electric Co. 26410
Stratton Group, Ltd. 26411
TelePrompTer Corp. 26411
Woodpark Associates Fund 26411

**SELECTIVE SERVICE SYSTEM**
**Proposed Rules**
Selective Service regulations 26392

**SMALL BUSINESS ADMINISTRATION**
**Notices**
Investcal Small Business Investment Co.; filing of application for transfer of control of licensed small business investment company 26412

**SOCIAL AND REHABILITATION SERVICE**
**Rules and Regulations**
Administration of public assistance programs 26378

**TRANSPORTATION DEPARTMENT**
*See* Federal Aviation Administration.

**TREASURY DEPARTMENT**
**Notices**
Decisions with respect to claims, penalties, and forfeitures; delegation order 26395

**VETERANS ADMINISTRATION**
**Rules and Regulations**
Miscellaneous amendments to chapter 26368
**Proposed Rules**
Special automobile equipment; payment or reimbursement 26393
**Notices**
120-bed rehabilitation/nursing home care building, California; availability of draft environmental impact statement 26412






# List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month. In the last issue of the month the cumulative list will appear at the end of the issue.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1973, and specifies how they are affected.

**3 CFR**
PROCLAMATION:
4245 26351

**5 CFR**
213 (3 documents) 26353

**7 CFR**
908 26353
1207 26354
PROPOSED RULES:
906 26384
945 26384

**8 CFR**
214 26354

**10 CFR**
50 26354
55 26354

**12 CFR**
325 26355
506 26355
506a 26357
525 26357
563 26357
PROPOSED RULES:
329 26391

**14 CFR**
39 26358
PROPOSED RULES:
71 26389
139 26389

**17 CFR**
241 26358

**21 CFR**
PROPOSED RULES:
27 26384

**24 CFR**
1914 (2 documents) 26367
1915 26368

**32 CFR**
PROPOSED RULES:
1623 26392
1626 26392
1628 26392
1631 26392
1632 26392
1641 26392

**38 CFR**
PROPOSED RULES:
17 26393

**40 CFR**
35 26358
120 26358
162 26360
168 26360
PROPOSED RULES:
52 26390

**41 CFR**
8–14 26368
8–16 26369
8–95 26369
114 26370

**43 CFR**
PUBLIC LAND ORDERS:
5169 (Amended by PLO 5396) 26376
5170 (Amended by PLO 5395) 26375
5171 (Amended by PLO 5389) 26371
5172 (Amended by PLO 5392) 26373
5173 (Amended by PLO 5391) 26372
5175 (Amended by PLO 5394) 26375
5176 (Amended by PLO 5393) 26373
5177 (Amended by PLO 5392) 26373
5179 (Amended by PLO 5389, 5393, 5395, 5396, 5397) 26370–26377
5180 (Amended by PLO 5388, 5393, 5394, 5396, 5397) 26370–26377
5181 (Amended by PLO 5388, 5394) 26370–26377
5186 (Amended by PLO 5393) 26373
5191 (See PLO 5391, 5392, 5394, 5396, 5397) 26370–26377
5192 (See PLO 5389, 5393, 5395, 5396, 5397) 26370–26377
5193 (See PLO 5393, 5394, 5395, 5396, 5397) 26370–26377
5194 (See PLO 5388, 5394) 26370, 26375
5213 (See 5391) 26372
5250 (See PLO 5389, 5393, 5395, 5396, 5397) 26370–26377
5251 (See PLO 5393, 5394, 5395, 5396, 5397) 26370–26377
5252 (See PLO 5391) 26372
5253 (See PLO 5389) 26371
5254 (See PLO 5393) 26373
5256 (See PLO 5396) 26376
5321 (See PLO 5391) 26372
5387 26370
5388 26370
5389 26371
5390 26372
5391 26372
5392 26373
5393 26373
5394 26375
5395 26375
5396 26376
5397 26377

**45 CFR**
205 26378
233 26379
234 26380
PROPOSED RULES:
83 26384

**47 CFR**
73 26380
74 26381
91 26381
PROPOSED RULES:
73 (2 documents) 26390, 26391

**50 CFR**
32 (6 documents) 26381–26383



V 38 I 182 SEP 20 73 XUM

# Presidential Documents

## Title 3—The President

PROCLAMATION 4245

## National Employ the Handicapped Week, 1973

*By the President of the United States of America*

### A Proclamation

This country was founded upon a promise made to all of its people: that our government would work to assure every citizen a fair and equal start in the race of life. Implicit in this promise is the concept that a person has a right to compete for any job he is able to perform.

This promise has been kept for a great many of our people, but not for all. Too many handicapped persons—particularly young disabled veterans—are unable to find work.

Perhaps the greatest difficulty a handicapped person faces is not his own disability, but rather the attitudes of society concerning that disability. Yet handicapped people are able to perform a wide range of jobs with great skill and efficiency. The employer who hires the handicapped is not only helping them; he is also helping himself and his country.

Let us all work therefore to make good on the promise America has always held out to its people—allowing each person who is willing to work and who is qualified to work a fair chance to work.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, in accordance with a joint resolution of the Congress approved August 11, 1945, as amended (36 U.S.C. 155), do hereby proclaim the week of October 7, 1973, as National Employ the Handicapped Week.

I urge the Nation's Governors, mayors, and all other public officials, as well as leaders in every area of American life, to join with the handicapped themselves in making this observance a time of new awakening in our country to the value and the importance of employing handicapped men and women.

IN WITNESS WHEREOF, I have hereunto set my hand this eighteenth day of September, in the year of our Lord nineteen hundred seventy-three, and of the Independence of the United States of America the one hundred ninety-eighth.

Richard Nixon

[FR Doc.73-20187 Filed 9-18-73;5 pm]



V 38-182 SEP 20 73 XUM

# Rules and Regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

## Title 5—Administrative Personnel

### CHAPTER I—CIVIL SERVICE COMMISSION

### PART 213—EXCEPTED SERVICE

#### Office of Emergency Preparedness; Correction

In the FEDERAL REGISTER of July 24, 1973, FR Doc. 73-15157, appearing on page 19801, paragraph (n) (2) was added to § 213.3326 in error; it should have appeared as a title change to the position listed in § 213.3326(n)(1). This section should read as set out below.

**§ 213.3326 Office of Emergency Preparedness.**

* * * * *

(n) *Government Preparedness Office.*

(1) Assistant Director.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–58 Comp, p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73-20027 Filed 9-19-73;8:45 am]

### PART 213—EXCEPTED SERVICE

#### General Services Administration; Correction

In the FEDERAL REGISTER of August 17, 1973, FR Doc. 73-17325, appearing on page 22215, the headnote of paragraph (a) of § 213.3337 was incorrectly shown as "Office of Administrator for Federal Management Policy", it should read "Office of the Administrator".

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–58 Comp. p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73-20026 Filed 9-19-73;8:45 am]

### PART 213—EXCEPTED SERVICE

#### National Aeronautics and Space Administration

Section 213.3348 is amended to show that the positions of Associate Administrator for Advanced Research and Technology, and Associate Administrator for Space Science and Applications are no longer excepted under Schedule C, and that the following positions are excepted under Schedule C: Associate Administrator for Aeronautics and Space Technology, Associate Administrator for Space Science, Associate Administrator for Applications, Associate Administrator for Tracking and Data Acquisition, and Associate Administrator for Organization and Management.

Effective on September 20, 1973, § 213.3348 is amended by revoking paragraphs (e) and (f) and adding paragraphs (p) thru (t) as set out below.

**§ 213.3348 National Aeronautics and Space Administration.**

* * * * *

(e) [Revoked]

(f) [Revoked]

* * * * *

(p) Associate Administrator for Aeronautics and Space Technology.

(q) Associate Administrator for Space Science.

(r) Associate Administrator for Applications.

(s) Associate Administrator for Tracking and Data Acquisition.

(t) Associate Administrator for Organization and Management.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–58 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73-20025 Filed 9-19-73;8:45 am]

## Title 7—Agriculture

### CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Reg. 450]

### PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

#### Limitation of Handling

This regulation fixes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period September 21–27, 1973. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 908. The quantity of Valencia oranges so fixed was arrived at after consideration of the total available supply of Valencia oranges, the quantity of Valencia oranges currently available for market, the fresh market demand for Valencia oranges, Valencia orange prices, and the relationship of season average returns to the parity price for Valencia oranges.

**§ 908.750 Valencia Orange Regulation 450.**

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the respective quantities of Valencia oranges that may be marketed from District 1, District 2, and District 3 during the ensuing week stems from the production and marketing situation confronting the Valencia orange industry.

(i) The committee has submitted its recommendation with respect to the quantities of Valencia oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Valencia oranges continues to be generally strong. Prices f.o.b. averaged $3.52 per carton on a sales volume of 510 carlots during the week ended September 13, 1973, compared with $3.35 per carton on sales of 459 carlots a week earlier. Track and rolling supplies at 258 cars were up 10 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the respective quantities of Valencia oranges which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time



V 38-182 SEP 20 73 XUM

intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on September 18, 1973.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period September 21, 1973, through September 27, 1973, are hereby fixed as follows:

(i) District 1: Unlimited;

(ii) District 2: 650,000 cartons;

(iii) District 3: Unlimited.

(2) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated September 19, 1973.

CHARLES R. BRADER,
*Director, Fruit and Vegetable Division Agricultural Marketing Service.*

[FR Doc.73-20212 Filed 9-19-73;11:35 am]

## CHAPTER XI—AGRICULTURAL MARKETING SERVICE, (MARKETING AGREEMENTS AND ORDERS; MISCELLANEOUS COMMODITIES), DEPARTMENT OF AGRICULTURE

[Amdt. 1]

## PART 1207—POTATO RESEARCH AND PROMOTION PLAN

### Subpart—Rules and Regulations

REPRESENTATION ON NATIONAL POTATO PROMOTION BOARD

Notice was published in the August 9, 1973, FEDERAL REGISTER (38 FR 21499) regarding a proposal to amend the base period to be used in determining representation on the National Potato Promotion Board. The proposed amendment was unanimously recommended by the National Potato Promotion Board, established pursuant to the Potato Research and Promotion Plan (7 CFR Part 1207). The Plan is effective under the Potato Research and Promotion Act (7 U.S.C. 2611–2627).

The notice afforded interested persons an opportunity to file written data, views, or arguments not later than September 10, 1973. None was received.

The National Potato Promotion Board at its 1973 annual meeting unanimously recommended that each future Board's membership be determined on the basis of average potato production during the three preceding years, rather than the one preceding year as is currently used.

The one-year basis for representation results in a Board composition which reflects the relative importance of each State in total U.S. potato production the preceding year. However, this basis can result in significant variation in representation from year to year. For example, because of an unusually sharp drop in production in 1972 mainly due to extreme weather, six States lost a member on the 1973 Board. It is anticipated that some of these States will regain these membership losses in 1974. The effect of such short term variation is a decline in continuity of membership which may be detrimental to operations of the Board. Under the amended base period, membership on the 1974 Board will reflect 1971–73 average production, the 1975 Board will be based upon 1972–74 production, and so on.

The Board's office has recently been relocated and Section 1207.501 is being amended to reflect the Board's current address.

After consideration of all relevant matters, including the proposal set forth in the notice which was recommended by the National Potato Promotion Board, it is hereby found that Subpart—Rules and Regulations (37 F.R. 17379) should be amended as hereinafter set forth:

1. § 1207.501 *Communications* is revised to read as follows:

**§ 1207.501 Communications.**

All communications in connection with the Potato Research and Promotion Plan shall be addressed to: National Potato Promotion Board, 1385 South Colorado Boulevard, Suite 512, Denver, CO 80222.

2. A new § 1207.550 is added to read as follows:

**§ 1207.550 Determination of membership.**

Pursuant to § 1207.320 and the recommendation of the National Potato Promotion Board, annual membership on the Board shall be determined on the basis of the average potato production of the three preceding years in each of the 48 contiguous States as set forth in the Crop Production Annual Summary Reports issued by the Crop Reporting Board of the U.S. Department of Agriculture.

(7 U.S.C. 2611–2627; 84 Stat. 2041.)

Dated September 17, 1973, to become effective October 31, 1973.

CHARLES R. BRADER,
*Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.73-20050 Filed 9-19-73;8:45 am]

## Title 8—Aliens and Nationality

## CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE, DEPARTMENT OF JUSTICE

## PART 214—NONIMMIGRANT CLASSES

### Nonimmigrant Transits

*Correction*

In FR Doc. 73-19251, appearing on page 24891 in the issue of Tuesday, September 11, 1973, make the following changes:

1. In § 214.2, in the twenty-second line of paragraph (c)(1), delete the words "time for connecting".

2. Following § 214.2(c)(1) there is an undesignated paragraph beginning "Except for transit * * *". The text of this undesignated paragraph should be "run in" to paragraph (c)(1).

## Title 10—Atomic Energy

## CHAPTER I—ATOMIC ENERGY COMMISSION

## PART 50—LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

## PART 55—OPERATORS' LICENSES

### Requalification Requirements for Operating Personnel of Production and Utilization Facilities; Correction

In FR Doc. 73-17000 appearing at page 22221 in the issue of Friday, August 17, 1973, the following changes should be made:

1. In the second column on page 22221, the seventh line in paragraph 1. should read "requirements of Appendix A of Part 55."

2. In the second column on page 22222, the eighth line in § 50.54(i-1) should read "the licensee shall not, except as specifical-".

3. In the second column on page 22223:

a. The second line in paragraph 3.e. should read "requirements of paragraphs 3a and 3b if the".

b. The sixth line in paragraph 5. should read "examinations administered, the answers given by".

Dated at Washington, D.C. this 14th day of September 1973.

For the Atomic Energy Commission.

GORDON M. GRANT,
*Acting Secretary of the Commission.*

[FR Doc.73-20035 Filed 9-19-73;8:45 am]





## Title 12—Banks and Banking

## CHAPTER III—FEDERAL DEPOSIT INSURANCE CORPORATION

### SUBCHAPTER B—REGULATIONS AND STATEMENTS OF GENERAL POLICY

## PART 329—INTEREST ON DEPOSITS

### "Noninsured" Banks in Massachusetts

1. Under the authority contained in sections 9 and 18(g) of the Federal Deposit Insurance Act, the Board of Directors of the Federal Deposit Insurance Corporation is amending Part 329 of the Corporation's rules and regulations pertaining to the advertisement and payment of interest or dividends on deposits in insured nonmember banks (12 C.F.R. Part 329). The amendment extends the provisions of Part 329 to banks in Massachusetts (including mutual savings banks) that are not insured by the Federal Deposit Insurance Corporation.

2. Section 329.0 is amended to read as follows:

**§ 329.0 Scope.**

The provisions of this Part 329 apply to the advertisement and payment of interest or dividends on deposits in insured nonmember banks.[1] The provisions of this Part 329 do not apply to any deposit in a bank outside of, or payable only at a bank's office which is located outside of, the States of the United States and the District of Columbia. Except as provided in §§ 329.7, 329.8, and 329.10, the provisions of this Part 329 do not apply to mutual savings banks or to guaranty savings banks operating in the State of New Hampshire so long as said guaranty savings banks operate substantially under and pursuant to the laws of the State of New Hampshire pertaining to mutual savings banks and do not engage in commercial banking.

(Section 9, 18(g); 64 Stat. 881–82, Pub. L. No. 93–100, §§ 1 and 3 (August 16, 1973); 12 U.S.C. 1819, 1828(g).)

3. The requirements of sections 553(b) and (d) of Title 5, United States Code, and §§ 302.1, 302.2 and 302.5 of the rules and regulations of the Federal Deposit Insurance Corporation, with respect to notice, public participation and deferred effective date were not followed in connection with this amendment because the Board found that the public interest compelled it to make the action effective as soon as possible.

4. *Effective date.*—This amendment is effective Sept. 20, 1973.

By order of the Board of Directors, September 14, 1973.

FEDERAL DEPOSIT INSURANCE CORPORATION,
[SEAL] ALAN R. MILLER,
*Executive Secretary.*

[FR Doc.73-20074 Filed 9-19-73;8:45 am]

[1] Wherever the terms "insured nonmember bank" or "insured nonmember mutual savings bank" appear in this Part 329, they shall be deemed to include banks and mutual savings banks, respectively, in Massachusetts that are not insured by the Federal Deposit Insurance Corporation.

## CHAPTER V—FEDERAL HOME LOAN BANK BOARD

### SUBCHAPTER A—GENERAL

[No. 73-1317]

## PART 506—BONDS AND DEBENTURES

## PART 506a—BOOK-ENTRY PROCEDURE FOR FEDERAL HOME LOAN BANK SECURITIES

### Book-Entry Procedure for Federal Home Loan Bank Securities

SEPTEMBER 14, 1973.

The Federal Home Loan Bank Board in Resolution No. 73-521, dated April 10, 1973, proposed to amend the General Regulations of the Federal Home Loan Bank Board (12 CFR Subchapter A) by amending Part 506 thereof (12 CFR Part 506), and by adding a new Part 506a thereto (12 CFR Part 506a), for the purpose of providing appropriate regulations for the issuance of consolidated Federal Home Loan Bank bonds or notes in bookentry form. Notice of such proposed rulemaking was duly published in the FEDERAL REGISTER on May 3, 1973, as FR Doc. No. 73-8749 (38 FR 10969), with an invitation for interested persons to submit written comments by May 18, 1973.

On the basis of its consideration of all relevant material presented by interested persons and otherwise available, the Board considers it desirable to adopt the proposed amendments with the changes discussed herein.

The first sentence of paragraphs (a) and (b) of proposed § 506a.4 is revised by changing the phrase therein, "Fiscal Agent of the Federal Home Loan Banks", to read, "Fiscal Agent of the United States". This change is technical and does not affect the substance of the section.

Accordingly, the Federal Home Loan Bank Board hereby amends said Subchapter A of its General Regulations as proposed in said Resolution No. 73-521, subject to the following changes, effective September 14, 1973:

1. In the first sentence of paragraph (a) of § 506a.4, the phrase "Fiscal Agent of the Federal Home Loan Banks" is changed to read "Fiscal Agent of the United States".

2. In the first sentence of paragraph (b) of § 506a.4, the phrase "Fiscal Agent of the Federal Home Loan Banks" is changed to read "Fiscal Agent of the United States".

Since affording notice and public procedure on the above amendment would delay it from becoming effective for a period of time and since it is in the public interest that the authority contained in the amendment become effective as soon as possible, the Board hereby finds that notice and public procedure on said amendment are contrary to the public interest under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and since the amendment relieves restriction, publication for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of the amendment is unnecessary; and the Board hereby provides that the amendment shall become effective as hereinbefore set forth.

(Secs. 11, 17, 47 Stat. 733, 736, as amended (12 U.S.C. 1431, 1437); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1947 Supp.)

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
*Assistant Secretary.*

**§ 506.3 Transactions in consolidated bonds (transfers, exchanges, redemptions, etc.).**

The general regulations of the Treasury Department now or hereafter in force governing transactions in United States securities, except subpart O of Treasury Department Circular No. 300 (31 CFR part 306, as amended) regarding book-entry procedure, are hereby adopted, so far as applicable and as necessarily modified to relate to consolidated Federal home loan bank bonds, as the regulations of the Board for similar transactions in consolidated Federal home loan bank bonds. Book-entry procedure for consolidated Federal home loan bank bonds is contained in part 506a of this subchapter.

## PART 506a—BOOK-ENTRY PROCEDURE FOR FEDERAL HOME LOAN BANK SECURITIES


Sec.
506a.1 Definition of terms.
506a.2 Authority of Reserve banks.
506a.3 Scope and effect of book-entry procedure.
506a.4 Transfer or pledge.
506a.5 Withdrawal of Federal home loan bank securities.
506a.6 Delivery of Federal home loan bank securities.
506a.7 Registered bonds and notes.
506a.8 Servicing book-entry Federal home loan bank securities; payment of interest; payment at maturity or upon call.
506a.9 Obligation of United States with respect to Federal home loan bank securities.


AUTHORITY.—Sec. 11, 47 Stat. 733, as amended; sec. 17, 47 Stat. 736, as amended, 12 U.S.C. 1431, 1437; Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1947 Supp.

**§ 506a.1 Definition of terms.**

In this part, unless the context otherwise requires or indicates:

(a) "Reserve bank" means the Federal Reserve Bank of New York (and any other Federal Reserve bank which agrees to issue Federal home loan bank securities in book-entry form) acting as fiscal agent of the Federal home loan banks and, when indicated, acting in its individual capacity.

(b) "Federal home loan bank security" means a consolidated bond or consolidated note of the Federal home loan banks issued by the Federal Home Loan Bank Board under the Federal Home Loan Bank Act, as amended, in the form of a definitive Federal home loan bank security or a book-entry Federal home loan bank security.[1]

[1] Consolidated bonds issued with maturities of 1 year or less may be designated consolidated notes.



V 38 1 82 SEP 20 73 XUM

(c) "Definitive Federal home loan bank security" means a Federal home loan bank security in engraved or printed form.

(d) "Book-entry Federal home loan bank security" means a Federal home loan bank security in the form of an entry made as prescribed in this part on the records of a Reserve bank.

(e) "Pledge" includes a pledge of, or any other security interest in, Federal home loan bank securities as collateral for loans or advances or to secure deposits of public monies or the performance of an obligation.

(f) "Date of call" is the date fixed in the official notice of call published in the FEDERAL REGISTER on which the Federal home loan banks will make payment of the security before maturity in accordance with its terms.

(g) "Member bank" means any national bank, State bank or bank or trust company which is a member of a Reserve bank.

**§ 506a.2 Authority of Reserve banks.**

Each Reserve bank is hereby authorized, in accordance with the provisions of this part, to (a) issue book-entry Federal home loan bank securities by means of entries on its records which shall include the name of the depositor, the amount, the series, and maturity date; (b) effect conversions between book-entry Federal home loan bank securities and definitive Federal home loan bank securities; (c) otherwise service and maintain book-entry Federal home loan bank securities; and (d) issue a confirmation of transaction in the form of a written advice (serially numbered or otherwise) which specifies the amount and description of any securities, that is, series and maturity date, sold or transferred and the date of the transaction.

**§ 506a.3 Scope and effect of book-entry procedure.**

(a) A Reserve bank as fiscal agent of the Federal home loan banks may apply the book-entry procedure provided for in this part to any Federal home loan bank securities which have been or are hereafter deposited for any purpose in accounts with it in its individual capacity under terms and conditions which indicate that the Reserve bank will continue to maintain such deposit accounts in its individual capacity, notwithstanding application of the book-entry procedure to such securities. This paragraph is applicable, but not limited, to such securities deposited:

(1) As collateral pledged to a Reserve bank (in its individual capacity) for advances by it;

(2) By a member bank for its sole account;

(3) By a member bank held for the account of its customers;

(4) In connection with deposits in a member bank of funds of States, municipalities, or other political subdivisions; or

(5) In connection with the performance of an obligation or duty under Federal, State, municipal, or local law, or judgments or decrees of courts.

The application of the book-entry procedure under this paragraph shall not derogate from or adversely affect the relationships that would otherwise exist between a Reserve bank in its individual capacity and its depositors concerning any deposits under this paragraph. Whenever the book-entry procedure is applied to such Federal home loan bank securities, the Reserve bank is authorized to take all action necessary in respect of the book-entry procedure to enable such Reserve bank in its individual capacity to perform its obligations as depositary with respect to such Federal home loan bank securities.

(b) A Reserve bank as fiscal agent of the Federal home loan banks may apply the book-entry procedure to Federal home loan bank securities deposited as collateral pledged to the United States under Treasury Department Circulars Nos. 92 and 176, both as revised and amended, and may apply the book-entry procedure, with the approval of the Secretary of the Treasury, to any other Federal home loan bank securities deposited with a Reserve bank as fiscal agent of the United States.

(c) Any person having an interest in Federal home loan bank securities which are deposited with a Reserve bank (in either its individual capacity or as fiscal agent of the United States) for any purpose shall be deemed to have consented to their conversion to book-entry Federal home loan bank securities pursuant to the provisions of this part, and in the manner and under the procedures prescribed by the Reserve bank.

(d) No deposits shall be accepted under this section on or after the date of maturity or call of the securities.

**§ 506a.4 Transfer or pledge.**

(a) A transfer or a pledge of book-entry Federal home loan bank securities to a Reserve bank (in its individual capacity or as fiscal agent of the United States), or to the United States, or to any transferee or pledgee eligible to maintain an appropriate book-entry account in its name with a Reserve bank under this part, is effected and perfected, notwithstanding any provision of law to the contrary, by a Reserve bank making an appropriate entry in its records of the securities transferred or pledged. The making of such an entry in the records of a Reserve bank shall (1) have the effect of a delivery in bearer form of definitive Federal home loan bank securities; (2) have the effect of a taking of delivery by the transferee or pledgee; (3) constitute the transferee or pledgee a holder; and (4) if a pledge, effect a perfected security interest therein in favor of the pledgee. A transfer or pledge of book-entry Federal home loan bank securities effected under this paragraph shall have priority over any transfer, pledge, or other interest, theretofore or thereafter effected or perfected under paragraph (b) of this section or in any other manner.

(b) A transfer or a pledge of transferable Federal home loan bank securities, or any interest therein, which is maintained by a Reserve bank (in its individual capacity or as fiscal agent of the United States) in a book-entry account under this part, including securities in book-entry form under § 506a.3(a)(3) of the "General Regulations" of the Federal Home Loan Bank Board, is effected, and a pledge is perfected, by any means that would be effective under applicable law to effect a transfer or to effect and perfect a pledge of the Federal home loan bank securities, or any interest therein, if the securities were maintained by the Reserve bank in bearer definitive form. For purposes of transfer or pledge hereunder, book-entry Federal home loan bank securities maintained by a Reserve bank shall, notwithstanding any provision of law to the contrary, be deemed to be maintained in bearer definitive form. A Reserve bank maintaining book-entry Federal home loan bank securities either in its individual capacity or as fiscal agent of the United States is not a bailee for purposes of notification of pledges of those securities under this paragraph, or a third person in possession for purposes of acknowledgment of transfers thereof under this paragraph. Where transferable Federal home loan bank securities are recorded on the books of a depositary (a bank, banking institution, financial firm, or similar party, which regularly accepts in the course of its business Federal home loan bank securities as a custodial service for customers, and maintains accounts in the name of such customers reflecting ownership of or interest in such securities) for account of the pledgor or transferor thereof and such securities are on deposit with a Reserve bank in a book-entry account hereunder, such depositary shall, for purposes of perfecting a pledge of such securities or effecting delivery of such securities to a purchaser under applicable provisions of law, be the bailee to which notification of the pledge of the securities may be given or the third person in possession from which acknowledgment of the holding of the securities for the purchaser may be obtained. A Reserve bank will not accept notice or advice of a transfer or pledge effected or perfected under this paragraph, and any such notice or advice shall have no effect. A Reserve bank may continue to deal with its depositor in accordance with the provisions of this part, notwithstanding any transfer or pledge effected or perfected under this paragraph.

(c) No filing or recording with a public recording office or officer shall be necessary or effective with respect to any transfer or pledge of book-entry Federal home loan bank securities or any interest therein.

(d) A Reserve bank shall, upon receipt of appropriate instructions, convert book-entry Federal home loan bank securities into definitive Federal home loan bank securities and deliver them in accordance with such instructions; no such conversion shall affect existing interests





in such Federal home loan bank securities.

(e) A transfer of book-entry Federal home loan bank securities within a Reserve bank shall be made in accordance with procedures established by the Reserve bank not inconsistent with this part. The transfer of book-entry Federal home loan bank securities by a Reserve bank may be made through a telegraphic transfer procedure.

(f) All requests for transfer or withdrawal must be made prior to the maturity or date of call of the securities.

**§ 506a.5 Withdrawal of Federal home loan bank securities.**

(a) A depositor of book-entry Federal home loan bank securities may withdraw them from a Reserve bank by requesting delivery of like definitive Federal home loan bank securities to itself or on its order to a transferee.

(b) Federal home loan bank securities which are actually to be delivered upon withdrawal may be issued in bearer form only until the date of the first issue of such securities in registered form; thereafter, all Federal home loan bank securities, regardless of form of original issue, which are actually to be delivered upon withdrawal may be issued in bearer or registered form.

**§ 506a.6 Delivery of Federal home loan bank securities.**

A Reserve bank which has received Federal home loan bank securities and effected pledges, made entries regarding them, or transferred or delivered them according to the instructions of its depositor is not liable for conversion or for participation in breach of fiduciary duty even though the depositor had no right to dispose of or take other action in respect of the securities. A Reserve bank shall be fully discharged of its obligations under this part by the delivery of Federal home loan bank securites in definitive form to its depositor or upon the order of such depositor. Customers of a member bank or other depositary (other than a Reserve bank) may obtain Federal home loan bank securities in definitive form only by causing the depositor of the Reserve bank to order the withdrawal thereof from the Reserve bank.

**§ 506a.7 Registered bonds and notes.**

Registered Federal home loan bank securities deposited with a Reserve bank for any purpose specified in § 506a.3 shall be assigned for conversion to book-entry Federal home loan bank securities. The assignment, which shall be executed in accordance with the provisions of subpart F of 31 CFR part 306, so far as applicable, shall be to "Federal Reserve Bank of _____, as fiscal agent of the Federal home loan banks, for conversion to book-entry Federal home loan bank securities."

**§ 506a.8 Servicing book-entry Federal home loan bank securities; payment of interest; payment at maturity or upon call.**

Interest becoming due on book-entry Federal home loan bank securities shall be charged in the Federal Home Loan Bank Board's symbol account with the Treasurer of the United States on the interest due date and remitted or credited in accordance with the depositor's instructions. Such securities shall be redeemed and charged in the same account on the date of maturity, call or advance refunding, and the redemption proceeds, principal and interest, shall be disposed of in accordance with the depositor's instructions.

**§ 506a.9 Obligation of United States with respect to Federal home loan bank securities.**

Federal home loan bank securities are not obligations of the United States and are not guaranteed by the United States.

[FR Doc.73-20045 Filed 9-19-73;8:45 am]

---

**SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM**

[No. 73-1318]

## PART 525—ADVANCES

### Amortization of Advances

SEPTEMBER 14, 1973.

The Federal Home Loan Bank Board considers it desirable to amend § 525.10 of the Regulations for the Federal Home Loan Bank System (12 CFR 525.10) for the purpose of eliminating the provisions therein regarding amortization of advances to members on the security of home mortgages and/or obligations of the United States. Accordingly, on the basis of such consideration, the Board hereby amends said § 525.10 to read as set forth below, effective September 20, 1973.

The present § 525.10 provides, in part, that advances to members on the security of home mortgages and/or obligations of the United States for periods of more than one year shall be made on a monthly or quarterly amortization basis, with interest thereon payable monthly or quarterly, unless prior approval of the Board is obtained to make such advances on a nonamortized basis. The amended regulation deletes such provisions regarding amortization and nonamortization of advances. Therefore, it will no longer be necessary for a Bank to apply to the Board for specific approval to make certain advances on a nonamortized basis. However, the making of such advances must be consistent with such Bank's statement of policy governing the extension of credit to its members, adopted pursuant to the provisions of § 525.2 (12 CFR 525.2).

Since the above amendment relieves restriction, the Board hereby finds that notice and public procedure with respect to said amendment is unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and since publication of said amendment for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of said amendment would in the opinion of the Board likewise be unnecessary for the same reason, the Board hereby provides that said amendment shall become effective as hereinbefore set forth.

**§ 525.10 Terms of advances.**

The Banks may make advances to members on the security of home mortgages and/or obligations of the United States, as provided in section 10 of the act, for periods of not to exceed ten years.

(Secs. 10, 17, 47 Stat. 731, 736, as amended; 12 U.S.C. 1430, 1437. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943-48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
*Assistant Secretary.*

[FR Doc.73-20046 Filed 9-19-73;8:45 am]

---

**SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION**

[No. 73-1316]

## PART 563—OPERATIONS

### Nationwide Lending and Participation Loans

SEPTEMBER 14, 1973.

The Federal Home Loan Bank Board, in Resolution No. 73-479, dated March 29, 1973 (38 FR 9153) amended Part 563 of the Rules and Regulations for Insurance of Accounts (12 CFR Part 563) for the purpose of revising the regulatory provisions regarding nationwide lending (12 CFR 563.9) and participation loans (12 CFR 563.9-1).

Section 563.9(e)(2)(i) provides in this part, that "Any insured institution, to the extent permitted by this paragraph * * * may purchase from any approved lender, any whole nationwide loan, * * *" The Board considers it desirable to delete the requirement that whole nationwide loans must be purchased only from "approved lenders." With this amendment, insured institutions will be permitted to purchase whole nationwide loans from anyone. Such institutions have been permitted to do this prior to the amendments in Resolution No. 73-479.

Accordingly, the Federal Home Loan Bank Board hereby amends said § 563.9(e)(2) by revising subdivision (i) thereof to read as set forth below, effective September 20, 1973.

Since the amendment to § 563.9(e)(2)(i) relieves a restriction, the Board hereby finds that notice and public procedure with respect to said amendment is unnecessary under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and since publication of said amendment for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date of said amendment would in the opinion of the Board likewise be unnecessary for the same reason, the Board hereby provides that said amendment shall become effective as hereinbefore set forth.

The text of said § 563.9(e)(2)(i), as amended, is as follows:

**§ 563.9 Nationwide lending.**

* * * * * * *

(e) *Other nationwide lending.* * * *



V 38 I 182 SEP 20 73 XUM

(2) *Investments in nationwide loans.* (i) Any insured institution, to the extent permitted by this paragraph, may make or may purchase any whole nationwide loan, and may participate with only an approved lender or lenders in making any nationwide loan, and may purchase a participation interest in any nationwide loan owned by only an approved lender or lenders. Except in the case of (*a*) a loan originally made in an amount in excess of $500,000, or (*b*) an insured loan or a guaranteed loan, any nationwide loan so invested in shall be serviced by or through a local eligible servicer.

* * * * *

(Secs. 402, 403, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1726. Reorg. Plan No. 3 of 1947, 12 F.R. 4981, 3 CFR, 1943–48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
*Assistant Secretary.*

[FR Doc.73-20044 Filed 9-19-73;8:45 am]

## Title 14—Aeronautics and Space

### CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 73-NW-10-AD; Amendment 39-1722]

### PART 39—AIRWORTHINESS DIRECTIVES

#### Boeing Model B-17 F & G

There has been a failure of the lower front spar cap center section on a Boeing B-17G that resulted in partial wing failure. Crack initiation and growth may have been accelerated by fretting caused by relative movement between the spar cap and the terminal plates. Further, there have been indications that the airplane may have been operated at excessive gross weights which would aggravate the problem. Since this condition is likely to exist or develop in other airplanes of the same design, an airworthiness directive is being issued to require inspection of the lower front spar cap center section for cracks and repair as necessary on all B-17F and G airplanes.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

BOEING. Applies to all B-17 F & G airplanes certified in all categories.

Compliance required within the next 125 hours' time in service after the effective date of this AD, unless already accomplished within the last 125 hours' time in service, and thereafter at intervals not to exceed 250 hours' time in service from the last inspection.

To detect cracking in the front spar lower cap center section, P/N 753424-2, accomplish the following:

(a) Remove the most inboard bolt from the 8 bolt pattern attaching the front spar center section lower chord P/N 753424-2 to the terminal plates, P/N 56-3852-500 (aft) and 46-3852 (forward), left and right-hand sides. The bolt is approximately 8 inches inboard of the inboard jack pad. Using eddy current inspection procedures, or boroscope methods, inspect the front spar lower chord center section for cracks around the bolt hole in both the forward and aft wall of the tube. Particular attention should be given to the top and bottom portion of the tube. Removal of the bolt may necessitate installation of an access panel in the wing fillet fairing just forward of the front spar. The access panels may be installed using the procedures of FAA Advisory Circular 43.13-2.

(b) If cracks are found, replace the spar cap with a serviceable part of the same part number, or repair in accordance with Army T.O. No. 01-20E-3 or other method approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

(c) After repairs per (b) have been accomplished, re-inspect in accordance with (a) at intervals not to exceed 250 hours' time in service.

This Amendment becomes effective September 20, 1973.

This Amendment is made under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Seattle, Washington, September 12, 1973.

C. B. WALK, JR.,
*Director,*
*Northwest Region.*

[FR Doc.73-20003 Filed 9-19-73;8:45 am]

## Title 17—Commodity and Securities Exchanges

### CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-10388]

### PART 241—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

#### Interpretation of Market Identification Requirement of Rule for Reporting of Market Information on Transactions in Listed Securities

The Securities and Exchange Commission has annouced an interpretation of the market designation requirements of Rule 17a-15 [17 CFR 240.17a-15] under the Securities Exchange Act of 1934 (the "Rule").[1] The Rule provides for the reporting of prices and volume of completed transactions in listed securities. Pargaraph (b) of the Rules states that "(e)ach such composite tape or interrogation system, in displaying last sale reports, shall identify the marketplace where such transaction was executed."

The Commission has determined that any interrogation device shall be deemed to comply with the Rule if it is capable of reporting:

1. The last sale in any given security, regardless of the market center in which it takes place and whether or not that market center is identified; *and*

2. The last sale price in each market center in which such security is traded, upon specific inquiry for each such market center's last sale information as to that security.

If interrogation devices are capable of meeting both these requirements, the viewer will be able to see the last sale reported on the consolidated tape and know the current price level, as well as the present trend, if any. In addition, by selectively querying each market, he will be able to see the last price in all of the market centers where that security is traded. Although ideally an interrogation device should be capable of arraying and identifying simultaneously the last sale in each market center for a given security, the use of display units able to provide the same information, albeit in a less convenient manner, would not be inconsistent with the basic objective of the Rule.

(Secs. 10(b), 15(c), 17(a), 23(a), 48 Stat. 891, 895, 897, 901, 49 Stat. 1377, 1379, 52 Stat. 1075, 1076, 78 Stat. 570, 84 Stat. 1653, 15 U.S.C. 78j(b), 78o(c), 78q., 78w.)

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

September 12, 1973.

[FR Doc.73-19980 Filed 9-19-73;8:45 am]

[1] Notice of the adoption of Rule 17a-15 was given in Securities Exchange Act Release No. 9850 (November 8, 1972), published in the FEDERAL REGISTER for November 15, 1972 at 37 FR 24173.

## Title 40—Protection of Environment

### CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

### PART 35—STATE AND LOCAL ASSISTANCE

#### Extension of Public Comment Period for Interim State and Local Assistance Grant Regulations

With reference to the publication on June 29, 1973 of 40 CFR Part 35, State and local assistance grant regulations pertaining to water pollution control program grants, the comment period on these interim regulations is hereby extended to September 30, 1973. Interested parties are encouraged to submit written comments to: Director, Grants Administration Division, Environmental Protection Agency, Washington, D.C. 20460.

ROBERT L. SANSOM,
*Assistant Administrator,*
*for Air and Water Programs.*

Dated September 13, 1973.

[FR Doc.73-19975 Filed 9-19-73;8:45 am]

### PART 120—WATER QUALITY STANDARDS

#### Adoption, Identification and Availability of State Standards

Under section 303(a)(1) of the Federal Water Pollution Control Act, as amended (Pub. L. 92-500; 86 Stat. 816)





(the Act), any water quality standards applicable to interstate waters which were adopted by any State and submitted to and approved by, or awaiting approval by the Administrator prior to October 18, 1972, under the previous law will automatically remain in effect unless the Administrator determines by January 18, 1973, that such standards are not consistent with the applicable requirements of the Act as in effect immediately prior to the date of enactment of the 1972 Amendments and notified the State of required changes. If the State fails to adopt such changes within 90 days, the Administrator is required to promulgate water quality standards pursuant to the procedure established by section 303(b) of the Act.

States are also required under section 303(a)(2) of the Act to submit to the Administrator by November 17, 1972, any water quality standards applicable to intrastate waters and adopted pursuant to State law before October 18, 1972. Such standards will also become automatically effective under the Act unless the Administrator determines that the standards are not consistent with applicable requirements of the former law and notifies the State of required changes within 120 days following the date on which the standards are submitted. As with interstate water quality standards, the State has 90 days to adopt the suggested changes after which the Administrator is to proceed to promulgate standards under section 303(b).

On December 29, 1972, the Environmental Protection Agency published in the FEDERAL REGISTER a notice that interstate and intrastate water quality standards had been submitted by the States and were subject to review by the Agency. The public was invited to review the standards which had been submitted, and to provide comments upon such standards to the appropriate Regional Administrator.

On January 18, 1973, the Regional Administrators notified some States that revisions were necessary in their water quality standards. Among the States so notified were California, Maryland, and Mississippi. As required by section 303(a), these States adopted changes in water quality standards adequate to meet the requirements of the Federal Water Pollution Control Act as in effect prior to October 18, 1972. The standards so adopted are those set forth below in paragraph 18 and the last paragraph under "California," and all standards listed under "Maryland" and "Mississippi."

The Administrator did not request changes in standards adopted by the State of South Carolina. Nevertheless, the State adopted a revised plan of implementation and enforcement for interstate waters within its jurisdiction. Accordingly, such standards are considered to have been submitted pursuant to section 303(a)(1). The Regional Administrator having determined such standards to be consistent with the applicable requirements of the Act as in effect prior to October 18, 1972, such standards are the water quality standards applicable to interstate waters within the State of South Carolina.

The remainder of the standards noticed herein were adopted by the States and approved by the Administrator, or awaiting approval by him, prior to October 18, 1972. No changes were requested by the Agency for these standards. Accordingly, pursuant to section 303(a)(1), such standards shall be the standards applicable to the interstate waters for which adopted.

Section 120.10 of Title 40 of the Code of Federal Regulations is amended as follows:

§ 120.10 **Standards adopted.**

* * * * *

CALIFORNIA

Water quality standards established by California in June 1967 for interstate waters subject to its jurisdiction and which are contained in the following documents:

1. Water Quality Control Policy for Klamath River in California, 1967, as amended June 5, 1969.[1]
2. Water Quality Control Policy for Smith River, 1967, as amended June 4, 1970.[1]
3. Water Quality Control Policy for Humboldt Bay, 1967.[1]
4. Water Quality Control Policy for Humboldt-Del Norte Coast, 1967.[1]
5. Water Quality Control Policy for Sonoma-Marin Coast, 1967.[1]
6. Water Quality Control Policy for Mendocino Coast, 1967.[1]
7. Lake Tahoe Water Quality Control Policy, June 1966, with Addendum Regarding Control of Siltation adopted December 17, 1970.[1]
8. Water Quality Control Policy for East Walker River, 1967.[1]
9. Water Quality Control Policy for West Fork Carson River, 1967.[1]
10. Water Quality Control Policy for Truckee River, 1967, as amended June 5, 1969.[1]
11. Water Quality Control Policy for West Walker River and Lake Topaz, 1967.[1]
12. Water Quality Control Policy for East Fork Carson River, 1967.[1]
13. Statement of Policy for Water Quality Control of Minor California, Nevada Interstate Waters, April 1967.[1]
14. Water Quality Control Policy for Pacific Ocean, 1967 (Within the San Diego Water Quality Control Region, March 30, 1967).[1]
15. Water Quality Control Policy for San Diego Bay, 1966.[1]
16. Water Quality Control Policy for Mission Bay including Tidal Prism of San Diego River and Agua Hedionda Lagoon, 1967.[1]
17. Water Quality Control Policy for Tijuana River Basin in California, 1967.[1]
18. Water Quality Control Policy for Sacramento-San Joaquin Delta, 1967, as amended:[1] Supplemental plan adopted by State, April 19, 1973.
19. Water Quality Control Policy for Goose Lake, California, January 1967.[1]
20. Water Quality Control Policy for Tidal Waters Inland from the Golden Gate within the San Francisco Bay Region, 1967, as amended December 3, 1970.[1]
21. Water Quality Control Policy for Pacific Ocean, Pescadero Point to Mouth of Tomales Bay (Bolinas Lagoon, Drakes Estero, Limantour Estero, Portions of Tomales Bay and Tidal Portions of Coastal Streams), 1967.[1]
22. Water Quality Control Policy for Coastal Waters, Point Piedras Blancas to Pescadero Point, 1967.[1]
23. Water Quality Control Policy for Coastal Waters, Point Arguello to Point Piedras Blancas.[1]
24. Water Quality Control Policy for Coastal Waters, Rincon Point to Point Arguello, 1967.[1]
25. Water Quality Control Policy for Pacific Ocean Coastal Waters, Rincon Point to San Gabriel River, 1967.[1]
26. Water Quality Control Policy for San Gabriel Tidal Prism, 1967.[1]
27. Water Quality Control Policy for Pacific Ocean Coastal Waters, 1967 (San Gabriel River to the Drainage Divide Between Muddy Canyon and More Canyon, Orange County, March 1967), as amended December 4, 1969.[1]
28. Water Quality Control Policy for Coastal Bays, Marinas and Sloughs, 1967.[1]
29. Water Quality Control Policy for Colorado River in California, 1967, as amended June 4, 1970.[1]
30. Water Quality Control Policy for Alamo River in California, 1967.[1]
31. Water Quality Control Policy for New River in California, 1967.[1]
32. Water Quality Control Policy for Harbors, Marinas, and Tidal Prisms of Los Angeles and Ventura Counties, 1967, as revised February 6, 1969, December 4, 1969, and November 5, 1970, and corrected February 18, 1971.[1]
33. Water Quality Control Policy for the Lost River in California, September, 1969, as revised November 18, 1970.[1]
34. Water Quality Plan for the Bryant Creek Basin, January 21, 1971.[1]
35. Water Quality Control Plan for Control of Temperature in the Coastal and Interstate Waters and Enclosed Bays and Estuaries of California, May 18, 1972.[1]
36. Water Quality Control Plan for Ocean Waters of California, July 6, 1972.[2]

Also, the Amendments to Interstate Water Quality Control Plans and Policies (Resolution No. 73-23) adopted by the State Water Resources Control Board on May 17, 1973, and approved by the EPA Regional Administrator on June 29, 1973.

* * * * *

FLORIDA

Section 17-3.05(g) of the Rules of the Department of Pollution Control, Supplement No. 23 is replaced by § 17-3.05(3), consisting of revised temperature criteria. These revisions amend the Water Quality Standards approved by the Secretary of the Interior, on January 17, 1968, and are applicable to all waters in the State.

* * * * *

HAWAII

* * * * *

The Implementation and Enforcement Plan has been amended, with the dates and the Lists of Discharges, dated February 17, 1972, and June 23, 1972, superseding the dates contained in the previous list of the same name, with the following exceptions:

1. The Sand Island Sewage Treatment Plant schedule is inconsistent with plans and grant offer dates.

[1] Temperature requirements established by the Water Quality Control Plan for control of temperature in the Coastal and Interstate Waters and Enclosed Bays and Estuaries of California (paragraph 35) supersede temperature requirements stated in water quality control policies for particular waters.

[2] The criteria of the Water Quality Control Plan for Ocean Waters of California will co-exist with the provisions of existing water quality standards, provided that no direct conflict between numerical values occurs. If two numerical values conflict, the more stringent value will prevail.



V 38-182 SEP 20 73 XUM

2. All discharges associated with the Honolulu Sewage Treatment System must have schedules consistent with the recommendation of the Pearl Harbor Enforcement Conference.

3. The schedule for bringing the Tri-Services Sewage Treatment Plant discharges into full compliance with State-Federal water quality standards should be shown on the List of Discharges.

4. Specific performance requirements must be established for entrees such as "Zone of Mixing" are shown under the column heading "Further Treatment Needs and Priority".

* * * * *

MARYLAND

Water quality standards established by Maryland effective May 1, 1973, for all navigable waters subject to its jurisdiction and which are contained in the following documents: Maryland Water Pollution Control Regulations 08.05.04.01; 04.02; 04.03; 04.09 and 04.11, approved by the Regional Administrator of EPA on July 2, 1973.

* * * * *

MISSISSIPPI

Water quality standards for all waters including stream classifications and water quality criteria amended on April 24, 1973, and contained in the document *State of Mississippi Water Quality Criteria for Intrastate, Interstate and Coastal Waters*, approved by the Regional Administrator of EPA on May 15, 1973.

* * * * *

MISSOURI

Water quality standards established by Missouri in June 1967 for interstate waters subject to its jurisdiction and which are contained in the following documents:

1. "St. Francis and Little Rivers and Tributaries and Lower Mississippi River Tributaries; Lower Mississippi River Basin, Southwest-Lower Mississippi; Water Quality Standards," June 1968, as revised.

2. "Osage and Gasconade Rivers and Tributaries; Osage-Gasconade River Basin; Water Quality Standards," June 1968, amended January 12, 1971 and August 11, 1971."

3. Grand and Chariton Rivers and Tributaries; Grand-Chariton River Basin, Missouri River Basin; Water Quality Standards," June 1968, as revised.

4. "Minor Missouri River Tributaries; Missouri River Basin, Water Quality Standards," June 1968, as revised.

5. "White, North Fork, Spring, Eleven Point, Current and Black Rivers and Tributaries; White River Basin, Southwest Lower Mississippi; Water Quality Standards," June 1968, as revised.

6. "Missouri River; Missouri River Basin; Water Quality Standards," June 1967, revised August 1967, amended February 27, 1970 and by correction dated May 1969 and May 1970.

7. "Mississippi River; Upper Mississippi River Basin, Southwest-Lower Mississippi; Water Quality Standards," June 1967, revised August 1968, as revised.

8. "Big Blue River; Missouri River Basin; Water Quality Standards," June 1967, revised August 1968, as revised.

9. "Spring and Elk Rivers and Tributaries; Grand (Neosho) River Basin, Southwest-Lower Mississippi; Water Quality Standards," June 1968, as revised.

10. "Meramec River and Tributaries and Mississippi River Tributaries; Upper Mississippi River Basin; Water Quality Standards," June 1968, as revised.

11. "Salt River and Tributaries, Mississippi River Tributaries and Des Moines River; Upper Mississippi River Basin; Water Quality Standards," June 1968, as revised.

* * * * *

SOUTH CAROLINA

Water quality standards implementation plan applicable to all waters established by South Carolina Pollution Control Authority on January 23, 1973, and contained in the document "Water Pollution Control Implementation Plan for the State of South Carolina, January 23, 1973."

Dated September 10, 1973.

JOHN QUARLES,
*Acting Administrator.*

[FR Doc.73-19748 Filed 9-19-73;8:45 am]

## SUBCHAPTER E—PESTICIDE PROGRAMS

## PART 162—REGULATIONS FOR THE ENFORCEMENT OF THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

### Prohibition of Nontoxic Claims on Labeling for Pesticides

On August 3, 1972, there was published in the FEDERAL REGISTER (37 FR 15522) a notice of proposed rulemaking concerning the amendment of the regulations for the enforcement of the Federal Insecticide, Fungicide, and Rodenticide Act (40 CFR 162.14(a) (5) and 162.122). Said notice was published pursuant to provisions of section 6 of the Act (7 U.S.C. 135d). Interested persons were given a period of 30 days to submit written data, views, or arguments. The spectrum of these views from the public was mixed. The segments of industry engaged in the manufacture and sale of pyrethrin insecticides and the governments of certain foreign countries engaged in the production of pyrethrins opposed the amendment; however, comments received from the public and from public officials overwhelmingly endorsed the amendment. After due consideration of all relevant matters presented, and pursuant to authority under section 25 of the Federal Insecticide, Fungicide, and Rodenticide Act as amended by the Federal Environmental Pesticide Control Act of 1972 (P.L. 92-516 86 Stat. 993) the following changes are made.

1. Section 162.14(a)(5) is hereby amended as set forth below.

**§ 162.14 Misbranding.**

(a) * * *

(5) Unwarranted claims as to the safety of the economic poison or its ingredients, including a statement such as "safe", "nontoxic", "nonpoisonous", "noninjurious", or "harmless" with or without such a qualifying phrase as "when used as directed".

* * * * *

**§ 162.122 [Revoked]**

2. Section 162.122 (Interpretation with Respect to claims for Safety and Nontoxicity on Labeling of Economic Poisons) is revoked.

*Effective date.*—This amendment is effective immediately with respect to new applications for registration or applications for amended registration under the Act. Registrants affected by this action will have until December 19 to submit revised labeling, complying with this amendment.

The views submitted expressed that a reasonable period of time be permitted to provide for shipment and normal disposition of labeled stock of affected merchandise. Since this rule change affects products which are of a low order of toxicity, I am persuaded that such reasonable time should be granted. Therefore, the effective date is hereby set at one year from the date of publication of the notice with respect to packaged or labeled stock on hand of products bearing such claims. Sale and use of such merchandise thereafter in channels of trade is not affected by this order.

Done at Washington, D.C., the 13th day of September 1973.

JOHN QUARLES,
*Acting Administrator.*

[FR Doc.73-20069 Filed 9-19-73;8:45 am]

## PART 168—RULES OF PRACTICE GOVERNING PROCEEDINGS CONDUCTED IN THE ASSESSMENT OF CIVIL PENALTIES UNDER THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

Interim rules are hereby promulgated to amend Chapter I of Title 40 of the Code of Federal Regulations by adding a new Part 168, to read as set forth below. These rules will govern all proceedings conducted in the assessment of a civil penalty as provided in section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended by the Federal Environmental Pesticide Control Act of 1972. (Public Law 92-516; 86 Stat. 973. *et. seq.*).

Section 25(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended by the Federal Environmental Pesticide Control Act of 1972 (86 Stat. 993) empowers the Administrator of the Environmental Protection Agency "* * * to prescribe regulations to carry out the provisions of [the] Act." Pursuant to this authority, these rules of practice are promulgated to implement section 14(a) of the Act. They provide a procedure for the assessment of civil penalties against any person who is found to be in violation of any provision of the Act. They establish a mechanism whereby any alleged violator may be given notice of the charges against him and may receive an opportunity to request a hearing on the questions of his liability for the acts charged and the appropriateness of the civil penalty which is proposed to be assessed against him.

These rules provide that a complaint shall be issued to persons found to be in violation of the Act. The complaint shall set forth the provisions alleged to be violated, the amount of the civil penalty which is proposed to be assessed and a notice of opportunity for hearing. Within twenty (20) days after receipt of such a complaint, an alleged violator may file an answer. The answer may admit, deny or explain any allegation contained in the complaint, or it may challenge the appropriateness of the proposed penalty, or both. Failure to file a timely answer shall be deemed to be an admission of all allegations and shall result in a default order requiring payment of the civil penalty. Similarly, failure to specifically answer allegations of the complaint shall be deemed to be an admission of those allegations.

These rules encourage settlement of cases by allowing Consent Agreements, if approved by the Regional Administrator, and by providing prehearing conferences in which issues may be simplified and settlement possibilities may be explored.

Following a hearing, if one is requested, an Administrative Law Judge shall make an initial decision. This initial decision may be appealed to the Regional Administrator by any party or reviewed by the Regional Administrator on his own initiative. Any party adversely affected by a final order of the Regional Administrator may move that matters claimed to have been erroneously decided be reheard, reargued or reconsidered.

Interested parties may submit written comments, concerning these interim rules. Such comments should be filed in duplicate and addressed to Mrs. Betty J. Billings, Hearing Clerk, Environmental Protection Agency, East Tower, Waterside Mall, Washington, D.C. 20460. All such comments received on or before October 22, 1973, will be considered prior to the promulgation of final regulations. Such comments will be available for the public inspection at the office of the hearing clerk during regular business hours, 8 a.m.–4:30 p.m.

*Effective date.* The interim rules of practice for civil penalties promulgated hereby shall become effective on September 21, 1973. All Environmental Protection Agency civil penalty assessment proceedings conducted after September 21, 1973, pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, shall be subject to these rules of practice. It is necessary that these rules of practice take effect prior to a thirty-day (30) period following promulgation to insure that the Environmental Protection Agency's authority to assess civil penalties, pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, will be uniformly applied. Such civil penalty assessment authority is currently in effect.

The rules in this part shall apply to remaining phases of any proceedings underway insofar as practicable and fair, provided that any phase of a proceeding which might have been conducted differently under the rules in this part shall not be affected.

Dated September 14, 1973.

JOHN QUARLES,
*Acting Administrator.*

**Subpart A—In General**

Sec.
168.01 Scope of these rules, applicability of the Federal Rules of Civil Procedure.





Sec.
168.02 Use of number.
168.03 Definitions.
168.04 Filing and service.
168.05 Time.
168.06 *Ex parte* discussion of proceeding.
168.07 Arrangements for examining agency records, transcripts, and orders.

**Subpart B—Parties and Appearances**

168.20 Appearances.
168.21 Intervention.
168.22 Consolidation and severance.
168.23 Fees of witnesses.

**Subpart C—Prehearing Procedures**

168.30 Issuance of complaint.
168.31 Contents of the complaint.
168.32 Motions.
168.33 Answer to the complaint.
168.34 Failure to answer the complaint.
168.35 Informal settlement and consent agreement.
168.36 Prehearing conference.

**Subpart D—Hearing Procedure**

168.40 Scheduling the hearing.
168.41 Duties and powers of Administrative Law Judge.
168.42 Failure to appear.
168.43 Filing and certification of transcripts.
168.44 Evidence.
168.45 Objections and offers of proof.
168.46 Burden of presentation and the burden of persuasion.
168.47 Appeal from or review of interlocutory orders or rulings.
168.48 Filings of briefs and proposed findings of fact, conclusions of law and proposed order.

**Subpart E—Post Hearing Procedures**

168.50 Initial decision.
168.51 Appeal from or review of initial decisions.
168.52 Denial of appeal.
168.53 Final order.
168.54 Motion to reopen hearings; to rehear or reargue any proceedings; or to reconsider a final order.
168.55 Procedure for disposition of motions.

AUTHORITY.—Sections 14 and 25, Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 86 Stat. 992 and 997.

**SUBPART A—IN GENERAL**

**§ 168.01 Scope of these rules, applicability of the Federal Rules of Civil Procedure.**

(a) These rules of practice shall govern all proceedings conducted in the assessment against any party of any civil penalty pursuant to the provisions of section 14(a) of the Act (86 Stat. 992).

(b) In the absence of specific provisions in these rules, procedural questions shall be resolved in accordance with the provisions of the Federal Rules of Civil Procedure.

**§ 168.02 Use of number.**

As used in these rules, words in the singular number shall be deemed to import the plural and vice versa, as the case may require.

**§ 168.03 Definitions.**

As used herein:

(a) The term "Act" means the Federal Insecticide, Fungicide, and Rodenticide Act, as amended by the Federal Environmental Pesticide Control Act of 1972 (86 Stat. 973) and any other legislation supplementary thereto and amendatory thereof.

(b) The term "Administrative Law Judge" means an Administrative Law Judge appointed pursuant to 5 U.S.C. 3105 (see also 5 CFR 930, as amended by 37 FR 16787). Such term is synonymous with the term "Hearing Examiner" as used in the Act or in Title 5 of the United States Code.

(c) The term "Agency" means the United States Environmental Protection Agency.

(d) The term "commencement of the hearing" means that stage of the proceeding at which the Administrative Law Judge orders the parties or their counsel to appear at a prehearing conference, or at which the Administrative Law Judge sets a matter for hearing, where circumstances render the prehearing conference unnecessary or impracticable.

(e) The term "complaint" means a written communication issued by the complainant to a person alleged to be in violation of the Act in the manner specified therein. The complaint shall contain a proposed civil penalty and shall give the alleged violator notice of opportunity for a hearing.

(f) The term "complainant" means any person authorized by the Regional Administrator to issue Complaints and Notices of Opportunity for Hearing to persons alleged to be in violation of the Act.

(g) The term "Consent Agreement" means any written document containing stipulations of fact, conclusions of law and a specified proposed penalty acceptable to both complainant and respondent which results from any settlement conference conducted pursuant to § 168.43 (a) below. Such Consent Agreement does not dispose of a case unless it becomes a final order of the Regional Administrator as provided in § 168.43(c).

(h) The term "Final Order" means an order disposing of a matter of controversy between any respondent and the Agency. The final order may be issued by the Regional Administrator upon (1) default of the respondent, (2) ratification of a Consent Agreement, or (3) completion of a hearing.

(i) The term "hearing" means a hearing open to the public which is conducted pursuant to the provisions of 5 U.S.C. 554 *et seq.* and of the regulations of this part.

(j) The term "Hearing Clerk" means the Hearing Clerk, Environmental Protection Agency, Washington, D.C. 20460.

(k) The term "Initial Decision" means the decision of the Administrative Law Judge supported by findings of fact and conclusions of law, as well as reasons therefor. Such decision shall become the final order of the Regional Administrator without further proceedings unless (1) an appeal is taken to the Regional Administrator therefrom by a party, or (2) the Regional Administrator orders review thereof on his own initiative.

(l) The term "party" means any person, group, organization, agency, or department that participates in a hearing.

(m) The term "person" includes any individual, partnership, association, corporation, and any organized group of persons whether incorporated or not.



V38-182 SEP 20 73 XUM

(n) The term "Regional Administrator" means the Administrator of any Regional Office of the Agency or his delegatee.

(o) The term "Regional Hearing Clerk" means an individual duly authorized to serve as hearing clerk for a given Region. Correspondence may be addressed to the Regional Hearing Clerk, Environmental Protection Agency, (address of Regional Office).

(p) The term "Regional Judicial Officer" means an officer or employee of the Agency appointed by a Regional Administrator to serve as the Judicial Officer for a Region as provided in these rules.

(1) *Office.* One or more Regional Judicial Officers may be designated to perform functions thereinafter provided within the Region of his designation.

(2) *Qualifications.* A Regional Judicial Officer shall be a permanent or temporary employee of the Agency who performs other duties for the Agency. Such Regional Judicial Officer shall not have engaged in the performance of investigative or prosecuting functions in the particular case or in a factually related case.

(3) *Functions.* The Regional Administrator may delegate any or part of his authority to act in a given case to a Regional Judicial Officer. The Regional Administrator may separately delegate his authority to rule on interlocutory orders and motions, and may also delegate his authority to make findings of fact and draw conclusions of law in a particular proceeding, provided that this delegation shall not preclude the Regional Judicial Officer from referring any motion or case to the Regional Administrator when such referral is appropriate. The Regional Administrator, in deciding a case himself, may consult with the Regional Judicial Officer in the preparation (or may altogether assign the preliminary drafting) of findings of fact or conclusions of law.

(q) The term "respondent" means any person proceeded against in the complaint.

Terms defined in the Act and not explicitly defined herein are used herein with the meanings given in the Act.

**§ 168.04 Filing and service.**

(a) *Filing of pleadings and documents.* All documents or papers required or authorized to be filed, shall be filed in triplicate with the Regional Hearing Clerk.

(1) All filing may be accomplished by certified mail, return receipt requested, addressed to the Regional Hearing Clerk, Environmental Protection Agency (address of Regional Office). Filing is deemed effective at the time of mailing. Filing shall be deemed timely if postmarked on the due date.

(b) *Service of papers.* At the same time that a party files triplicate copies of document or paper with the Regional Hearing Clerk, it shall serve copies thereof upon all other parties. A certificate of service shall accompany each document or paper. Each party shall file an original and two (2) copies of all papers filed in connection with an appeal to the Regional Administrator.

(c) *Service of complaint.* Service of the complaint may be made personally on the respondent (or his representative), or by certified mail, return receipt required. Service upon a party who has appeared through a representative shall be made only upon such representative. Proof of service of the Complaint and Notice shall be made by affidavit of the person making personal service, or by properly executed return receipt. Such proof of service shall be filed with the Regional Hearing Clerk immediately upon completion of service.

**§ 168.05 Time.**

(a) *Computation.* In computing any period of time prescribed or allowed in these rules, the day from which the designated period begins to run shall not be included. Saturdays, Sundays and legal holidays shall be included in computing the time allowed for the filing of any document or paper. When such time expires on a Saturday, Sunday, or legal holiday, however, such period shall be extended to include the next following business day.

(b) *Extensions of Time.* Requests for extensions of time for the filing of any pleading, document or motion shall be granted only under exceptional circumstances upon good cause shown, and after consideration of the views of the other parties. Such requests must be received in advance of the date on which the pleading, document or motion is due to be filed. Such requests, if made prior to commencement of hearing, may be granted by the Regional Administrator.

(c) *Service by Mail.* Where service of a pleading or document is by mail, three (3) days shall be added to the time allowed by these rules for the filing of a responsive pleading.

**§ 168.06 Ex parte discussion of proceeding.**

At no stage in the proceeding shall the Regional Administrator, Regional Judicial Officer or the Administrative Law Judge discuss *ex parte* the merits of the proceeding with any person who is connected with the proceeding in an advocative, investigative, or expert capacity, or with any representative of such person. The Regional Administrator, the Regional Judicial Officer, or the Administrative Law Judge may discuss the merits of the case with any such person if all parties to the proceeding, or their representatives, have been given reasonable notice and opportunity to be present. Any memorandum or other communication addressed to the Regional Administrator, Regional Judicial Officer or the Administrative Law Judge during the pendency of the proceeding, and relating to the merits thereof, by or on behalf of any party, shall be regarded as argument made in the proceeding. Such other parties shall be given an opportunity to file a reply thereto. Nothing in this section shall limit discussions between respondent and complainant for the purposes of exploring settlement of the case.

**§ 168.07 Arrangements for examining agency records, transcripts, and orders.**

(a) Subject to the provisions of law restricting public disclosure of confidential information, any person may, at the offices of the Regional Hearing Clerk, inspect and copy any document filed in any proceeding.

(b) Duplication costs shall be borne by any such person who is not a party to the proceeding in which such documents are filed.

(c) All orders, decisions or other signed documents required under these rules whether issued by an Administrative Law Judge or by the Regional Administrator, shall be made available to the public.

(d) All transcripts and docket entries shall become part of the official docket and shall be retained by the Regional Hearing Clerk. At least two copies of all final orders shall be retained by the Regional Hearing Clerk and filed chronologically. Such documents shall be periodically bound and indexed. All documents shall be made available to the public for reasonable inspection during Agency business hours.

(e) All orders, decisions or other documents made or signed by the Administrative Law Judge or by the Regional Administrator shall be filed with the Regional Hearing Clerk. The Regional Hearing Clerk shall immediately serve all parties with a copy of such order, decision or other document.

**SUBPART B—PARTIES AND APPEARANCES**

**§ 168.20 Appearances.**

(a) *Representatives.* Any party may appear in person or by counsel or other representative. Persons who appear as counsel or other representative must conform to the standards of ethics as required of practitioners before the courts of the United States.

(b) *Failure to appear.* If any party to the proceeding, after being duly notified, fails to appear at any prehearing conference or fails to give notice thereat that he wishes to participate in the subsequent hearing, he shall be deemed to have waived his right to a hearing in the proceeding unless otherwise ordered by the Administrative Law Judge. If any party to the proceeding, after being duly notified, fails to appear at a hearing, he shall be deemed to have waived his right to present evidence at the hearing in support of his pleadings. An initial decision may be rendered in the absence of such evidence. Failure to appear shall not be deemed to be a waiver of the right to be served with a copy of the initial decision of the Administrative Law Judge or to file exceptions and to appeal as provided in § 168.51 below.





**§ 168.21 Intervention.**

(a) *Pleading.* Any person may file a motion for leave to intervene in a hearing conducted under this part. Such motion must set forth the grounds for the proposed intervention, the position and interest of the movant in the proceedings, and the impact that such intervention will have on the expeditious progress of the proceedings.

(b) *When filed.* A motion for leave to intervene in a hearing must ordinarily be filed prior to the commencement of the first prehearing conference. Any motion filed after that time must include a statement of good cause for the failure to file the motion prior to the commencement of the first prehearing conference and shall be granted only upon a finding (1) that extraordinary circumstances justify the granting of the motion, and (2) that the intervenor shall be bound by any agreements, arrangements and other matters previously made in the proceeding.

(c) *Disposition.* Leave to intervene will be granted only insofar as movant demonstrates (1) that there exist common questions of fact or law, (2) that he may be adversely affected by a final order of the Regional Administrator, and (3) that his presence in the case would not unreasonably broaden the issues as already presented. If leave is granted, the movant shall thereby become a full-status party to the proceedings. If leave is denied, the movant may request that the ruling be certified on interlocutory appeal to the Regional Administrator as provided in § 168.47 below.

(d) *Amicus curiae.* Persons not parties to the proceedings who wish to file briefs may do so by motion to the Administrative Law Judge or the Regional Administrator. Such motion shall identify the interest of the applicant and shall state the reasons why the proposed *amicus* brief is desirable. Unless all parties otherwise consent, or unless the Administrative Law Judge or Regional Administrator on good cause shown so order an *amicus curiae* shall file its brief within the time allowed the party whose position the brief will support.

**§ 168.22 Consolidation and severance.**

(a) *Consolidation.* The Administrative Law Judge may, by motion or *sua sponte*, consolidate two or more proceedings docketed under these rules where there exist common parties, common questions of fact or law or where such consolidation would expedite or simplify consideration of the issues. Consolidation shall not affect the right of any party to raise issues that could have been raised if consolidation had not occurred.

(b) *Severance.* The Administrative Law Judge may, by motion or *sua sponte*, for good cause shown order any proceedings severed with respect to some or all parties or issues.

**§ 168.23 Fees of witnesses.**

Witnesses summoned before the Administrative Law Judge shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

**SUBPART C—PREHEARING PROCEDURES**

**§ 168.30 Issuance of complaint.**

If the complainant has reason to believe that a person has violated any provision of the Act, he may institute a proceeding for the assessment of a civil penalty by issuing a complaint pursuant to the provisions of section 14(a) of the Act (86 Stat. 992). At the time the complaint is issued the complainant shall file a copy of the complaint with the Regional Hearing Clerk. Upon receipt of a Complaint the Regional Hearing Clerk shall assign an I.F.&R. docket number. Thereafter, each document filed in the proceeding shall bear such docket number.

**§ 168.31 Contents of the complaint.**

(a) *Alleged violation.* Each Complaint shall contain (1) specific reference to the provision of the Act which respondent is alleged to have violated, and (2) a concise statement of a factual basis for the alleged violation.

(b) *Amendment of the complaint.* At any time prior to the commencement of hearing, upon motion granted by the regional Administrator, the complaint may be amended. At any time after commencement but prior to the close of the hearing, upon motion granted by the Administrative Law Judge, the complaint may be amended.

**§ 168.32 Motions.**

(a) *General.* All motions except those made orally on the record during a hearing shall be in writing, shall state with particularity the grounds therefor, shall set forth the relief or order sought and shall be accompanied by any affidavit or other evidence relied upon. Such written motions shall be filed with the Regional Hearing Clerk if made before commencement of hearing, or with the Hearing Clerk, if made after commencement of hearing.

(b) *Response to Motions.* Within ten (10) days after service of any written motion, any party may file a response in support of or in opposition to the motion. This response shall be accompanied by any affidavit or other evidence relied upon. If no response is filed, the parties shall be deemed to have waived any objection to the granting of the motion.

(c) *Decision.* The Regional Administrator shall rule upon all preliminary motions filed or made prior to the commencement of the hearing. The Administrative Law Judge shall rule upon all motions filed or made after the commencement of the hearing and prior to the filing of his initial decision. Such decision shall be made at the time of filing on *ex parte* motions or where the movant has stated that no party objects to the granting of such motion. Otherwise, such decision shall await the answering papers and reply papers if permitted. Oral argument on motions will be permitted where the Administrative Law Judge or the Regional Administrator deems it necessary. The Regional Administrator shall rule upon all motions filed after the filing of the initial decision.

**§ 168.33 Answer to the complaint.**

(a) *General.* Where respondent wishes to contest any material fact set forth in the Complaint or where respondent feels that the amount of the penalty proposed in the Complaint is inappropriate with respect to such violation, he shall file a written Answer to the Complaint with the Regional Hearing Clerk. Any answer to the complaint must be received by the Regional Hearing Clerk within twenty (20) days after receipt of the complaint.

(b) *Contents of the answer to the complaint.* The Answer to the Complaint shall clearly and directly admit, deny or explain each of the factual allegations contained in the Complaint with regard to which respondent has any knowledge. Such answer shall contain (1) a definite statement of the facts which constitute the grounds of defense, and (2) a concise statement of the facts which respondent intends to place at issue in the hearing.

(c) *Failure to answer specifically.* Failure of respondent to plead specifically to any factual allegation contained in the complaint shall constitute an admission of such allegation, and shall likewise constitute consent to the issuance by the Administrative Law Judge of a default order. Such default order shall be an initial decision which shall become a final order as provided in § 168.34(a) herein.

(d) *Procedure upon admission of facts.* Upon admission by respondent of the facts set forth in the complaint, complainant shall file with the Regional Hearing Clerk recommended findings of fact, conclusions of law and a proposed order assessing a civil penalty. Respondent may within ten (10) days thereafter file objections or exceptions to the proposed order together with a supporting brief with the Regional Hearing Clerk. Failure to state in writing that he desires to make oral argument on such findings of fact, conclusions of law, or on the amount of the penalty proposed to be assessed, shall be construed as a waiver of oral argument.

(e) *Procedure upon denial of facts.* The denial of any material fact or the raising of any affirmative defense shall be construed as a request for a hearing.

**§ 168.34 Failure to answer the complaint; payment.**

(a) *Default order.* Failure of respondent to file a timely answer to the complaint shall constitute an admission of all facts alleged in the complaint and a waiver of respondent's right to a hearing on such factual allegations. The penalty proposed to be assessed in the Complaint shall thereupon become due and payable by default without further proceedings.

(b) *Payment of a civil penalty.* Payment shall be made by forwarding to the Regional Hearing Clerk a cashiers check



V 38 182 SEP 20 73 XUM

in the amount of the assessed penalty, payable to the United States of America.

**§ 168.35 Informal settlement and consent agreement.**

(a) *Settlement policy.* The Agency encourages settlement at any time after the initiation of the proceedings where such settlement is consistent with the provisions and the objectives of the Act. Whether or not respondent requests a hearing, he may confer with complainant concerning the facts stated in the complaint or concerning the amount of the proposed civil penalty. The terms of such settlement agreement shall be expressed in a written Consent Agreement submitted to the Regional Administrator. Such Consent Agreement shall be accompanied by a proposed final order of the Regional Administrator.

(b) *Consent agreement.* A written Consent Agreement signed by the parties, shall be prepared and filed with the Regional Administrator whenever settlement or compromise is proposed. The Consent Agreement shall state that respondent (1) admits the jurisdictional allegations of the complaint (2) admits the facts as stipulated in the Consent Agreement, or neither admits nor denies specific factual allegations contained in the complaint, and (3) consents to the assessment of a given proposed civil penalty. The Consent Agreement shall set forth terms of the Agreement and shall contain a statement of reasons as to why the proposed penalty is appropriate.

(c) *Evaluation of the consent agreement.* No settlement or compromise agreement shall be dispositive of any action pending under section 14(a) of the Act (86 Stat. 992) without a final order of the Regional Administrator. The Regional Administrator shall evaluate the appropriateness of the proposed penalty, as provided in § 168.53(b) herein. The Regional Administrator may require that any or all of the parties to the settlement appear before him to answer inquiries relating to the proposed Consent Agreement.

(d) *Failure to ratify consent agreement.* Upon the failure of the parties to arrive at a mutually satisfactory settlement or upon failure of the Regional Administrator to ratify a Consent Agreement certified to him by the parties, the matter shall proceed to hearing before an Administrative Law Judge.

**§ 168.36 Prehearing conference.**

(a) *Purpose of prehearing conference.* When it appears that such procedure will expedite the proceeding, the Administrative Law Judge, at any time prior to the commencement of the oral hearing, may request the parties or their counsel to appear at a conference before him to consider:

(i) The possibility of settlement of the case;

(ii) The simplification of issues;

(iii) The necessity or desirability of amendments to pleadings;

(iv) The possibility of obtaining admissions or stipulations of fact and of documents which will avoid unnecessary proof;

(v) The limitation of the number of expert or other witnesses;

(vi) The setting of a time and place for the public hearing, after giving careful consideration of the convenience of all parties, witnesses, and public interest, and

(vii) Any other matters as may expedite the disposition of the proceeding.

(b) *Exchange of witness lists and documents.* At the prehearing conference each party shall make available to each other party the names of the expert and other witnesses he intends to call together with a brief narrative summary of their expected testimony. Copies of all documents and exhibits which the party intends to introduce into evidence shall be marked for identification as ordered by the Administrative Law Judge. Thereafter, witnesses, documents, or exhibits may be added and narrative summaries of expected testimony amended only upon motion by a party.

(c) *Record of the prehearing conference.* No transcript of any prehearing conference shall be made, but the Administrative Law Judge shall prepare and file for the record a written summary of the action taken at such conference. Such summary shall incorporate any written stipulations or agreements made by the parties at or as a result of such conference, all rulings upon matters considered at such conference, and appropriate orders containing directions to the parties. Such summary shall direct the subsequent course of the proceeding, unless modified by the Administrative Law Judge, on motion or *sua sponte*, to prevent manifest injustice.

(d) *Unavailability of a prehearing conference.* Where circumstances render a prehearing conference unnecessary, or impracticable, the Administrative Law Judge, on motion or *sua sponte*, may request the parties to correspond with him for the purpose of accomplishing any of the objectives set forth in this section. The Administrative Law Judge shall submit a written summary of such correspondence for the record.

## SUBPART D—HEARING PROCEDURE

**§ 168.40 Scheduling the hearing.**

(a) *Assignment of Administrative Law Judge.* Upon receipt of a request for a hearing or upon receipt of an answer which denies material factual allegations contained in the Complaint, the Regional Hearing Clerk shall refer the proceeding to the Chief Administrative Law Judge. He in turn shall assign an Administrative Law Judge to conduct the hearing and thereafter to direct all matters concerning the proceedings, except as otherwise allowed in these rules.

(b) *Notice of intent to hold a hearing.* The Administrative Law Judge shall, after consideration of the convenience of the parties, forthwith serve upon parties a notice of intent to hold a hearing, setting a time and place for such hearing.

(c) *Postponement of hearing.* Except in the case of an extreme emergency or in unusual circumstances, and for good cause shown, no request for postponement of a hearing will be considered. Such request must be received in writing at least three (3) days in advance of the time set for the hearing. No postponement in excess of thirty (30) days shall be allowed.

**§ 168.41 Duties and powers of Administrative Law Judge.**

(a) *Duties.* It shall be the duty of the Administrative Law Judge to conduct a fair and impartial hearing, assure that the facts are fully elicited, adjudicate all issues, and avoid delay.

(b) *Powers.* The Administrative Law Judge shall have authority after the commencement of the hearing to:

(i) Rule upon motions, requests, and offers of proof and issue all necessary orders;

(ii) Conduct the procedural affairs of the hearing;

(iii) Administer oaths and affirmations and take affidavits;

(iv) Examine witnesses and receive documentary or other evidence;

(v) Admit or exclude evidence;

(vi) Hear oral argument on facts and/or law; and

(vii) Do all other acts and take all measures necessary for the maintenance of order at the hearing and for the efficient, fair and impartial conduct of the proceeding.

(c) *Disqualification.* The Administrative Law Judge shall not decide any matter in which he has (1) a financial interest or (2) any relationship with a party or with the subject matter which would make it otherwise inappropriate for him to act. Any party may, by motion made to the Administrative Law Judge, request that he disqualify himself and withdraw from the proceeding. The Administrative Law Judge shall then rule upon the motion and, upon request of the movant, shall certify an adverse ruling to the Regional Administrator on appeal. The Administrative Law Judge may at any time withdraw from any proceeding in which he deems himself disqualified for any reason.

(d) *Absence or change.* In case of the absence, the inability to act, or the removal by disqualification or withdrawal of the Administrative Law Judge, the powers and duties to be performed by him may be assigned to another Administrative Law Judge without abatement of the proceeding, unless otherwise ordered by the Regional Administrator.

**§ 168.42 Failure to appear.**

(a) The failure of a party to appear at a hearing shall constitute a waiver of all rights in the proceeding except the right to be served with a copy of the initial decision of the Administrative Law Judge and to request review.

(b) Requests for reinstatement must be made, within five (5) days after the scheduled hearing date. Such requests shall be granted only where an extreme





emergency or unusual circumstance prevented the appearance of the party seeking reinstatement.

**§ 168.43 Filing and certification of transcripts.**

The Hearing shall be transcribed verbatim. Promptly following the taking of the last evidence, the reporter shall transmit to the Regional Hearing Clerk the original of the transcript of testimony and of the exhibits introduced or offered into evidence at the hearing and as many copies of the transcript as required. The Administrative Law Judge shall promptly certify the original transcript and exhibits as the true transcript of the testimony offered or received at the hearing, and shall certify the exhibits accompanying the transcript as all of the exhibits introduced at the hearing, except in such particulars as he shall specify. A copy of such transcript and exhibits. The Regional Hearing Clerk shall promptly serve notice upon each of the parties of the filings of the certified transcripts. Any party to the proceedings who desires a copy of the transcript of the hearing may request such copy from the Regional Hearing Clerk.

**§ 168.44 Evidence.**

(a) *General.* The Adminstrative Law Judge shall admit all evidence which is relevant, material, and is not unduly repetitious. Relevant and material evidence may be received at the hearing although such evidence may be inadmissible under the rules of evidence applicable to judicial proceedings. The weight to be given all evidence shall be determined by its reliability and probative value.

(b) *Examination of witnesses.* Witnesses shall be examined orally, under oath of affirmation, and shall be subject to cross-examination. In multiparty proceedings the Administrative Law Judge may limit cross-examination to the respondent and one other party on each side if it appears that such cross-examination will adequately protect all similarly-situated parties. Additional parties may, however, engage in cross-examination upon a showing that their cross-examination will raise matters not covered by previous cross-examination.

(c) *Verified statements.* The Administrative Law Judge, may admit as evidence in lieu of oral testimony, an affidavit containing statements of fact or opinion if the matters therein contained would be admissible if subjected to the same rules applied to oral evidence. Before any such statement is read or admitted into evidence the witness shall deliver to the Administrative Law Judge, the reporter, and opposing counsel a copy thereof. The witness proponent of the affidavit shall be subject to oral cross-examination on the contents of such statements. Admission of such verified statements shall be denied when it appears to the Administrative Law Judge that the memory or the demeanor of the witness is of importance.

(d) *Exhibits.* Except where the Administrative Law Judge finds it impracticable, a copy of each exhibit filed with the Administrative Law Judge shall be furnished to each party. A true copy of an exhibit may be substituted for the original.

(e) *Official Notice.* Official notice may be taken of any matter judicially noticed in the Federal courts, and of other facts within the specialized knowledge and experience of the Agency. Opposing parties shall be given adequate opportunity to show that such facts are erroneously noticed.

**§ 168.45 Objections and offers of proof.**

(a) *Objection.* Any objection concerning the conduct of the hearing, the admission or rejection of evidence, the limitation of the scope of any examination or cross-examination, or a ruling by the Administrative Law Judge, may be stated orally if on the record, or in writing. The party raising the objection must supply a short statement of the grounds for the objection. The transcript shall not include any argument or debate thereon, unless the Administrative Law Judge, orders that such argument be transcribed. The ruling of the Administrative Law Judge on any objection shall be a part of the transcript. An automatic exception will follow any ruling which may be pursued on appeal by a party adversely affected. No objection shall be deemed waived by further participation in the hearing.

(b) *Offer of proof.* Whenever evidence is excluded from the record, the party offering such evidence may make an offer of proof, which shall be included in the transcript. The offer of proof for excluded oral testimony shall consist of a brief statement describing the nature of the evidence excluded. The offer of proof for excluded documents or exhibits shall consist of the insertion in the record of the documents or exhibits excluded. Where the Regional Administrator decides that the ruling of the Administrative Law Judge in excluding the evidence was both erroneous and prejudicial, the hearing may be reopened to permit the taking of such evidence. Where appropriate, the Regional Administrator may evaluate improperly excluded evidence in preparing his final order.

**§ 168.46 Burden of presentation and the burden of persuasion.**

(a) *Burden of presentation.* At the hearing, the Complainant shall have the burden of going forward with the presentation of an affirmative case for the assessment of an appropriate civil penalty.

(b) *Burden of persuasion.* In establishing that the violation occurred as set forth in the Complaint and that the civil penalty assessed is appropriate, the burden of persuasion shall rest with the Complainant.

**§ 168.47 Appeal from or review of interlocutory orders or rulings.**

(a) *Request for interlocutory appeal.* Except as provided in this section, appeals to the Regional Administrator shall obtain as a matter of right only from an initial decision of the Administrative Law Judge. Appeals from other orders or rulings shall lie only if the Administrative Law Judge, upon request of a party, certifies such orders or rulings to the Regional Administrator on appeal. Requests to the Administrative Law Judge for special permission to appeal from an adverse ruling shall be filed in writing within five (5) days of the receipt of the ruling and shall state briefly the grounds to be relied upon on appeal.

(b) *Availability of interlocutory appeal.* The Administrative Law Judge may certify an order or ruling for appeal to the Regional Administrator when: (1) the order or ruling involves an important question of law or policy concerning which there is substantial ground for difference of opinion; and (2) either (i) an immediate appeal from the order and ruling will materially advance the ultimate termination of the proceeding, or (ii) review after the final order is issued will be inadequate or ineffective.

(c) *Decision.* If the Regional Administrator determines that certification was improvidently granted, or if he takes no action within thirty (30) days of the certification, the appeal shall be deemed dismissed. When the Administrative Law Judge declines to certify an order or ruling to the Regional Administrator on interlocutory appeal, it may be reviewed by the Regional Administrator only upon appeal from the initial decision, except when the Regional Administrator determines, upon direct requests of a party and in exceptional circumstances, that to delay review would be deleterious to the public interest. Ordinarily, the interlocutory appeal will be decided on the basis of the submissions made to the Administrative Law Judge. The Regional Administrator may, however, allow further briefs and oral argument.

(d) *Stay of proceedings.* Except in extraordinary circumstances proceedings will not be stayed pending an interlocutory appeal; where a stay is granted, a stay of more than thirty (30) days must be approved by the Regional Administrator.

**§ 168.48 Filing of briefs and proposed findings of fact, conclusions of law and proposed order.**

Within twenty (20) days after the last evidence is taken in a hearing, each party may file with the Regional Hearing Clerk proposed findings of fact, conclusions of law, and a proposed order, based solely on the record, and a brief in support thereof, together with references to relevant pages of the transcript. A copy of each such document shall be served upon each other party. Each party may, within the same period, file with the Regional Hearing Clerk a brief, concerning each of the exceptions or objections taken to actions or rulings of the Administrative Law Judge at the hearing, upon which the party wishes to rely. Within twenty (20) days thereafter, each party may file a reply brief which takes specific exception to matters contained in opposing briefs and contains alternative findings of fact,



V 38 1 82 SEP 20 73 XUM

conclusions of law and proposed order. Failure of a party to request oral argument on any objections briefed shall constitute a waiver of oral argument. The hearing shall be deemed terminated at the conclusion of the briefing period.

SUBPART E—POST HEARING PROCEDURES

**§ 168.50 Initial decision.**

The Administrative Law Judge shall, within a reasonable time after the termination of the hearing, evaluate the record before him, and prepare, and file his initial decision with the Regional Hearing Clerk. This initial decision shall contain his findings of fact, conclusions of law, and proposed order. A copy of the initial decision shall be served upon each of the parties, and shall be transmitted to the Regional Administrator by the Regional Hearing Clerk. Such initial decision shall become the final decision of the Regional Administrator thirty (30) days after service thereof without further proceedings unless (1) an appeal to the Regional Administrator is taken therefrom by a party to the proceeding or (2) the Regional Administrator, on his own initiative, elects to review such initial decision. No decision shall be final for the purposes of judicial review except as contained in a final order of the Regional Administrator.

**§ 168.51 Appeal from or review of initial decisions.**

(a) *Exceptions and request for oral argument.* (1) Within twenty (20) days after the filing of the Administrative Law Judge's initial decision, any party may appeal to the Regional Administrator any exception taken thereto and may request oral argument upon any matter set forth in such decision or upon any adverse order or ruling to which he objected during the hearing. Appeal may be made by filing exceptions in writing with the Regional Hearing Clerk. Such exceptions shall contain alternative findings of fact, conclusions of law, and a proposed order together with references to the relevant pages of the record and initial decision. A copy of each such document taking exception with the initial decision shall be served upon each other party.

(2) Within ten (10) days of the service of exceptions and briefs under paragraph (1) of this subsection, any other party or *amicus curiae* may file and serve a reply brief responding to exceptions or arguments raised by any party, together with references to the relevant portions of the record, initial decision, or opposing brief. Reply briefs shall not, however, raise additional exceptions.

(b) *Review by Regional Administrator upon his own initiative.* Whenever the Regional Administrator determines to review an initial decision on his own initiative, notice of such intention shall be served upon the parties within thirty (30) days after the date of service of the initial decision. Such notice shall include a statement of issues to be briefed by the parties and a time schedule concerning service and the filing of briefs.

(c) *Scope of appeal or review.* Except when the Regional Administrator determines that additional issues should be argued the appeal of the initial decision shall be limited to the issue raised by appellant. Where it is determined that additional issues should be argued, counsel for the parties shall be given reasonable written notice of such determination to permit preparation of adequate argument.

(d) *Argument before the Regional Administrator.* Failure of a party to request oral argument on the exceptions filed shall constitute a waiver of oral argument. The Regional Administrator may, nonetheless, on his own initiative, set a matter for oral argument. The time and place for such oral argument shall be assigned after giving consideration to the convenience of the parties.

**§ 168.52 Denial of appeal.**

If after review of the entire record following filing of an appeal and of any brief permitted to be filed in connection therewith, the Regional Administrator decides that no change or modification of the initial decision of the Administrative Law Judge is necessary, he may dismiss the appeal and adopt all or part of the initial decision as the final order of the Regional Administrator. Such action shall preserve rights of the appellant to appeal to the U.S. Courts of Appeals.

**§ 168.53 Final order.**

(a) *Final order.* As soon as practicable after the filing of exceptions to the initial decision of the Administrative Law Judge and after receipt of any response thereto and following oral argument, if any, the Regional Administrator shall, on appeal or review from an initial decision of the Administrative Law Judge, issue his final order. Such final order shall include findings of fact, conclusions of law and an order assessing a given civil penalty. Such final order may accept or reject all or part of the initial decision of the Administrative Law Judge. A final order must likewise be issued for any Consent Agreement signed by the parties to become effective.

(b) *Evaluation of the penalty.* The final order of the Regional Administrator shall consider the appropriateness of the penalty proposed to be assessed in the Consent Agreement, or the initial decision out of which the final order originates. In evaluating the appropriateness of such proposed penalty, the Regional Administrator must consider (1) the size of respondent's business, (2) the effect of such proposed penalty on respondent's ability to continue in business, and (3) the gravity of the violation. In evaluating the appropriateness of such proposed penalty, the Regional Administrator may also consider (1) respondent's history of compliance with the Act, and (2) any evidence of good faith.

**§ 168.54 Motion to reopen hearings; to rehear or reargue any proceedings; or to reconsider a final order.**

(a) *Filing service.* A motion to reopen a hearing to take further evidence, to rehear or reargue a proceeding or to reconsider any final order, must be made by motion to the Regional Administrator, filed with the Regional Hearing Clerk. Every such motion must state the specific grounds upon which relief is sought.

(b) *Motion to reopen hearing.* A motion to reopen a hearing for the purpose of taking further evidence may be filed at any time after the termination of the hearing and prior to the issuance of the Regional Administrator's final order. Each such motion shall state briefly the nature and purpose of the evidence to be adduced, shall show that such evidence is not cumulative, and shall set forth a good reason why such evidence was not adduced at a hearing.

(c) *Motion to rehear, reargue, or reconsider.* Motions to rehear or reargue the proceeding or to reconsider the final order shall be filed within ten (10) days after the date of service of the final order. Every such motion must state specifically the matters claimed to have been erroneously decided. The nature of any alleged error must be briefly stated.

**§ 168.55 Procedure for disposition of motions.**

Within ten (10) days following the service of any motion provided for in § 168.54, any other party to the proceeding may file with the Regional Hearing Clerk an answer thereto. As soon as practicable thereafter, the Regional Administrator shall announce his intent to grant or to deny such motion. Unless the Regional Administrator determines otherwise, implementation of the final order shall not be stayed pending the decision to grant or to deny the motion. The conduct of any proceeding required by the granting of any motion allowed in this section shall be governed by the provisions of the applicable section of these rules.

[FR Doc.73-20068 Filed 9-19-73;8:45 am]





Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-213]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

**§ 1914.4 Status of participating communities.**

| State | County | Location | Map No. | State map repository | Local map repository | Effective date of authorization of sale of flood insurance for area |
|---|---|---|---|---|---|---|
| Michigan | Jackson | Jackson, city of | | | | Sept. 19, 1973. Emergency. |
| Texas | Harris | Unincorporated areas. | | | | Sept. 14, 1973. Emergency. |

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, P.L. 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969.)

Issued September 12, 1973.

GEORGE K. BERNSTEIN,
*Federal Insurance Administrator.*

[FR Doc.73-19925 Filed 9-19-73;8:45 am]

[Docket No. FI-212]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

**§ 1914.4 Status of participating communities.**

| State | County | Location | Map No. | State map repository | Local map repository | Effective date of authorization of sale of flood insurance for area |
|---|---|---|---|---|---|---|
| Arizona | Maricopa | Scottsdale, city of. | 1 04 013 0420 01 through 1 04 013 0420 07 | Arizona State Land Department, 1624 W. Adams, Rm. 400, Phoenix, Ariz. 85007. Arizona Department of Insurance, P.O. Box 7098, 718 W. Glenrosa Phoenix, Ariz. 85011. | City Hall, 3939 Civic Center Plaza, Scottsdale, Ariz. 85251. | Mar. 26, 1971. Emergency. Sept. 21, 1973. Regular. |
| California | San Bernardino | Victorville, city of. | 1 06 071 4040 01 through 1 06 071 4040 06 | Department of Water Resources, P.O. Box 388, Sacramento, Calif. 95802. California Insurance Department, 107 South Broadway, Los Angeles, Calif. 90012, and 1407 Market St., San Francisco, Calif. 94103. | Victorville City Hall, 16618 Union St., Victorville, Calif. 92392. | June 11, 1971. Emergency. Sept. 21, 1973. Regular. |
| Massachusetts | Norfolk | Quincy, city of | 1 25 021 1060 10 through 1 25 021 1060 20 | Division of Water Resources, Water Resources Commission, State Office Bldg., 100 Cambridge St., Boston, Mass. 02202. Massachusetts Division of Insurance, 100 Cambridge St., Boston, Mass. 02202. | Department of Planning Programming and Development Office, 55 Sea St., Quincy, Mass. 02171. | June 19, 1970. Emergency. Sept. 21, 1973. Regular. |

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969.)

Issued September 7, 1973.

GEORGE K. BERNSTEIN,
*Federal Insurance Administrator.*

[FR Doc.73-19889 Filed 9-19-73;8:45 am]



V 38-182 SEP 20 73 XUM

[Docket No. FI-211]

## PART 1915—IDENTIFICATION OF SPECIAL HAZARD AREAS

### List of Communities With Special Hazard Areas

The Federal Insurance Administrator finds that comment and public procedure and the use of delayed effective dates in identifying the areas of communities which have special flood or mudslide hazards, in accordance with 24 CFR Part 1915, would be contrary to the public interest. The purpose of such identifications is to guide new development away from areas threatened by flooding, a purpose which is accomplished pursuant to statute by denying subsidized flood insurance to structures thereafter built within such areas. The practice of issuing proposed identifications for comment or of delaying effective dates would tend to frustrate this purpose by permitting imprudent or unscrupulous builders to start construction within such hazardous areas before the official identification became final, thus increasing the communities' aggregate exposure to loss of life and property and the agency's financial exposure to flood losses, both of which are contrary to the statutory purposes of the program. Accordingly, the Department is not providing for public comment in issuing this amendment and it will become effective September 20, 1973. Section 1915.3 is amended by adding in alphabetical sequence a new entry to the table, which entry reads as follows:

**§ 1915.3 List of communities with special hazard areas.**

| State | County | Location | Map No. | State map repository | Local map repository | Effective date of identification of areas which have special flood hazards |
|---|---|---|---|---|---|---|
| Arizona | Maricopa | Scottsdale, city of. | H 04013 0420 01 through H 04013 0420 07 | Arizona State Land Department, 1624 W. Adams, Rm. 400, Phoenix, Ariz. 85007. Arizona Department of Insurance, P.O. Box 7098, 718 W. Glenrosa, Phoenix, Ariz. 85011. | City Hall, 3939 Civic Center Plaza, Scottsdale, Ariz. 85251. | Sept. 21, 1973. |
| California | San Bernardino | Victorville, city of. | H 06 071 404 01 through H 06 071 4040 06 | Department of Water Resources, P.O. Box 388, Sacramento, Calif. 95802. California Insurance Department, 107 South Broadway, Los Angeles, Calif. 90012, and 1407 Market St., San Francisco, Calif. 94103. | Victorville City Hall, 16618 Union St., Victorville, Calif. 92392. | Do. |
| Massachusetts | Norfolk | Quincy, city of. | H 25 021 1060 10 through H 25 021 1060 20 | Division of Water Resources, Water Resources Commission, State Office Bldg., 100 Cambridge St., Boston, Mass. 02202. Massachusetts Division of Insurance, 100 Cambridge St., Boston, Mass. 02202. | Department of Planning, Programing, and Development Office, 55 Sea St., Quincy, Mass. 02121. | Do. |
| New York | Steuben | Riverside village of. | H 36 007 5220 01 | New York State Department of Environmental Conservation Division of Resources Management Services Bureau of Water Management. Albany N.Y. 12201. New York State Insurance Department 123 William St. New York N.Y. and 324 State St. Albany N.Y. 12210. | Village Voting Booth Village of Riverside Painted Post N.Y. 14870. | Do. |
| Do | do | Elma town of. | H 36 029 1844 01 through H 36 029 1844 06 | do | Town Hall 1910 Bowen Rd. Elma N.Y. 14059. | Do. |
| Ohio | Lucas | Washington township of. | H 39 095 5320 01 | Ohio Department of Natural Resources Ohio Departments Bldg. Columbus Ohio 43215. Ohio Insurance Department 115 E. Rich St. Columbus Ohio 43125. | Washington Township Bldg. 5714 Blessing Dr. Toledo Ohio 43612. | Do. |

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Public Law 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969.)

Issued September 7, 1973.

GEORGE K. BERNSTEIN,
*Federal Insurance Administrator.*

[FR Doc.73-19888 Filed 9-19-73;8:45 am]

## Title 41—Public Contracts and Property Management

### CHAPTER 8—VETERANS ADMINISTRATION

### MISCELLANEOUS AMENDMENTS TO CHAPTER

Organizational titles and cross references have been updated. In addition § 8-4.410-5 is revised to prescribe use of GSA Form 1685, Supplemental Provisions (Utility Service Contract), where applicable. Sections 8-4.408 and 8-4.411-2 are revised to update title and address for the GSA office responsible for the review of utility contracts. Section 8-4.411-3 is revised to delete the word "legal" since legal review of contracts for utility connections and contracts for combined utility connections and services is the responsibility of the office of the General Counsel. Section 8-16.703(a) is revised to provide that the use of VA Form 08-6279, Special Provisions (Architect-Engineer Contract), is not mandatory when other contract forms are more appropriate as in the case of small and uncomplicated projects. Section 8-95.102 is amended to cite revised dollar limitation of repair costs to properties acquired under chapter 37, title 38, United States Code, which may be authorized at the local level.

Compliance with the provisions of § 1.12 of Title 38, Code of Federal Regulations, as to notice of proposed regulatory development and delayed effective date is unnecessary in this instance and would serve no useful purpose. The amendments only involve agency procedure or practice.

Chapter 8 is amended as follows:

### PART 8-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

1. In § 8-4.408(b), the introductory portion preceding subparagraph (1) is amended to read as follows:

**§ 8-4.408 GSA long-term contracts.**

* * * * *

(b) The request will be submitted to General Services Administration, Federal Supply Service, Public Utilities Management Division, Washington, D.C. 20406. It will state the reason a long-term contract is believed justified and will include the following information:

* * * * *

2. In § 8-4.410-5, paragraphs (b) and (c) are amended to read as follows:

**§ 8-4.410-5 Uniform clauses for utility service contracts.**

* * * * *

(b) In addition to the clauses contained in GSA Form 1685, Supplemental Provisions (Utility Service Contract), the clauses referred to in this paragraph will be included, when applicable. Stock of the form will be obtained from the VA Forms and Publications Depot.

(1) Changes in rates (§ 8-7.150-7).

(2) Termination. (When a termination clause is appropriate, it will be written to cover the needs of the specific contract, conforming to the principals of FPR 1-8.7 insofar as practical.)

(c) Negotiated cost-reimbursement and fixed-price contracts will also include the following clauses, when required by the referenced FPR section:

(1) Negotiated overhead rates (FPR 1-3.704).

(2) Certificate of current cost or pricing data (FPR 1-3.807-4).

(3) Subcontracting considerations in cost analysis (FPR 1-3.807-10).

(4) Contract clauses (FPR 1-3.814).

3. Sections 8-4.411-2 and 8-4.411-3 are revised to read as follows:

**§ 8-4.411-2 Prior review by GSA.**

Except as provided in § 8-4.411-3, proposed utility procurements meeting the criteria of FPR 1-4.411-1 will be forwarded to General Services Administration, Federal Supply Service, Public Utilities Management Division, Washington, D.C. 20406, for prior review.

**§ 8-4.411-3 Alternative prior review by the procuring agency.**

Prior review of contracts for utility connections and contracts for combined utility connections and services consummated by the designated contracting officer(s) in Central Office will be made by technical and administrative personnel in the Office of Construction, when required by FPR 1-4.411-1.

### PART 8-16—PROCUREMENT FORMS

4. In § 8-16.703, paragraph (a) is amended to read as follows:

**§ 8-16.703 Terms, conditions, and provisions.**

(a) In addition to the requirements of Standard Form 253, General Provisions (Architect-Engineer Contract), contracting officers at both the Central Office and field station level will review, be guided by, and include in all negotiated architect-engineer contracts the mandatory, and where necessary, authorized revisions set forth in VA Form 08-6279, Special Provisions (Architect-Engineer Contract). In case of small and uncomplicated projects for which other contract forms are more appropriate, the use of VA Form 08-6279 is not mandatory.

* * * * *

### PART 8-95—LOAN GUARANTY AND EDUCATION AND REHABILITATION PROGRAMS

5. The title of Part 8-95 is changed to read "Loan Guaranty and Education and Rehabilitation Programs".

6. In Subpart 8-95.1, § 8-95.102 is revised to read as follows:

**§ 8-95.102 Authorization for repairs to properties.**

(a) Except as provided in this subpart, Directors, VA Regional Offices, are authorized to purchase supplies and services for the repair to any Veterans Administration property acquired under chapter 37, title 38, United States Code, where the cost does not exceed $4,000 on any single transaction.

(b) In those cases where the expenditure is known or estimated to exceed $4,000, the request, together with the loan guaranty folder, will be forwarded to the Chief Benefits Director for approval.

(c) During the period when the Veterans Administration has assumed custody of the property from a holder and prior to its conveyance to the Veterans Administration pursuant to Veterans Administration Regulation 4320 (38 CFR 36.4320), repairs are authorized not in excess of $750 when appropriate to make the property ready for sale at an earlier date than would otherwise be possible if the repair program was delayed until such time as the Veterans Administration acquired absolute title.

(d) No repairs may be made to property by the holder when it has continued custody except for emergency repairs not in excess of $50 unless adequate notice has been given the Director, VA Regional Office. Emergency repairs as applied in this paragraph will be deemed to mean those requiring immediate action to preserve the property from serious damage or to correct a situation imminently dangerous to life or limb, and includes the initial cleanup of the property in order to prevent the risk of damage by fire or vandalism.

(e) An approved management broker may be authorized, at the time a property is listed with him, to incur expenses for fuel and utilities or other recurring items which are required to be furnished by the Veterans Administration to its tenants or are required in the maintenance of the property. Advance blanket authorizations to management brokers will be limited to repairs not in excess of $75 in any transaction. Repair jobs may not be split to circumvent this restriction. Expenditures in excess of $75 require prior approval of the Director, Regional Office, having jurisdiction of the property.

7. In § 8-95.104, paragraph (a) is amended to read as follows:

**§ 8-95.104 Qualification of bidders.**

(a) Qualifications of bidders shall be established in accordance with the procedures outlined in FPR 1-1.12 and Subpart 8-1.12 of this chapter.

* * * * *

8. Section 8-95.105 is revised to read as follows:

**§ 8-95.105 Debarred, suspended and ineligible bidders.**

Firms or individuals will be debarred and suspended in accordance with FPR 1-1.6 and Subpart 8-1.6 of this chapter.

9. In § 8-95.106, paragraph (b) is amended to read as follows:

**§ 8-95.106 Lien waivers.**

* * * * *

(b) Contractors will be required to notify the Director, Regional Office, of any subcontracts for services or materials in excess of $1,000. Such subcontractors or material men will be required to sign the release or waiver jointly with the prime contractor or to execute release or waiver in his own name.

* * * * *

10. In § 8-95.107, paragraph (a) is amended to read as follows:

**§ 8-95.107 Stipulations against liens.**

(a) Where determined necessary by the Director, Regional Office, contracts in an amount less than $1,000 may contain the following:

The contractor expressly waives any and all rights to file or maintain any mechanics lien or claim against the aforesaid premises.

* * * * *

11. The title of Subpart 8-95.2 is changed to read "Education and Rehabilitation Program".

12. Section 8-95.200 is revised to read as follows:

**§ 8-95.200 Scope of subpart.**

This subpart sets forth policy and procedures with respect to the education and rehabilitation program as it pertains to contracts for training, education, guidance and approval of institutions and training establishments.

13. In § 8-95.201-2, paragraph (a) is amended to read as follows:

**§ 8-95.201-2 Requirements when contracts are not required.**

(a) When a contract is not required, a signed statement of charges will be obtained from the educational institution or training establishment for courses to be offered, including the rate of tuition, fees, and separate charges, if any, for books, supplies, and equipment handling charges, refund policy and such other provisions as are required to determine proper payment. The statement of charges may be in the form of a statement on VA Form 22-1905, Authorization and Certification of Entrance or Reentrance into Training, that charges will be in accordance with catalog or other





V 38-182 SEP 20 73 XUM

published document (identify publication). The statement of charges may not exceed those charges paid by nonveterans or that is published in the school catalog or other published document.

* * * * * *

(Sec. 205(c), 63 Stat. 309, as amended, 40 U.S.C. 486(c); sec. 210(c), 72 Stat. 1114 (38 U.S.C. 210(c)).)

These regulations are effective October 15, 1973.

Approved September 14, 1973.

By direction of the Administrator.

[SEAL] RUFUS H. WILSON,
*Associate Deputy Administrator.*

[FR Doc.73-20006 Filed 9-19-73;8:45 am]

## CHAPTER 114—DEPARTMENT OF THE INTERIOR

### PART 114–43—UTILIZATION OF PERSONAL PROPERTY

### Subpart 114–43.3—Utilization of Excess

PERFORMANCE REPORTS

Pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301 and Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), Subpart 114–43.3 of Chapter 114, Title 41 of the Code of Federal Regulations, is revised as set forth below.

This revision relates only to matters of internal Department practice. It is, therefore, determined that the public rulemaking procedure is unnecessary and this revision shall become effective on September 20, 1973.

RICHARD R. HITE,
*Deputy Assistant Secretary of the Interior.*

SEPTEMBER 13, 1973.

Section 114–43.319 is revised to read as follows:

**§ 114–43.319 Performance reports.**

(a) The Quarterly Report—Utilization and Disposal of Excess and Surplus Personal Property, Standard Form 121, shall be prepared and submitted in accordance with FPMR 101–43.4907 and the supplemental instructions set forth in §§ 114–43.319–50, 51, and 52.

(b) The annual report of the utilization of foreign excess property shall be submitted to the Director of Management Operations by July 25 of each year. Negative reports, when applicable, may be submitted in memorandum form, in lieu of the prescribed Standard Form 365.

The materials previously contained under § 114–43.319 (a), (b), and (c) are moved to new subsections and amended to read as follows:

**§ 114–43.319–50 Preparation of S.F. 121.**

(a) All data called for on Standard Form 121 are to be reported without regard to the instruction found on the reverse of the form, which provides that data for Lines 1, 2, 3, 5, 11, 12, 13, 15, and 28 need not be reported unless otherwise directed by GSA.

(b) On Line 1 report only transfers of available property to other Department of the Interior Bureaus and Offices whether with or without reimbursement.

(c) On Line 9 report only excess property transferred to Federal agencies outside the Department of the Interior with or without reimbursement.

(d) On Lines 10 and 14 report all property determined to be surplus during the quarter whether such determination was made by the General Services Administration or by the holding Bureau or Office.

(e) Since no property may be disposed of as surplus until it has first been found to be excess, the original cost of property reported under section III must first have been reported under section II of the report.

(f) The following data shall be entered in the space reserved for "Remarks" on Standard Form 121, or in an attachment thereto:

(1) The value of available property transferred in from other Interior Bureaus and Offices with or without reimbursement, in terms of original acquisition costs,

(2) The value of excess property acquired from Federal agencies outside of Interior, whether with or without reimbursement, in terms of original acquisition cost (estimated if not known),

(3) When an entry is made on Line 6, 7, 16, or 26, a certification to the effect that the requirements of FPMR 101–45.5 have been complied with in any instances where excess or surplus property is disposed of by abandonment or destruction, and

(4) Appropriate explanations, when entries made require an explanation, as in the case of Lines 3, 13, 22, and 27.

**§ 114–43.319–51 Property excepted from reporting.**

The following transactions should not be included in the Standard Form 121 report:

(a) Transfers and sales of personal property made pursuant to the Exchange/Sale authority in sec. 201(c) of the Federal Property and Administrative Services Act of 1949, as amended.

(b) Destruction, abandonment, or reduction to scrap of property as a result of board of survey action if such property was not, in fact, first determined to be excess or surplus. However, the proceeds from sales of all scrap should be reported on Line 30.

**§ 114–43.319–52 Submission and due date.**

Separate Standard Form 121 reports, consolidated for the Bureau, shall be submitted for Job Corps property (see 755 DM 554) and for other Bureau property. Reports should be submitted, in original only, to the Director of Management Operations by the 25th of the month following the close of the reporting period.

[FR Doc.73-19969 Filed 9-19-73;8:45 am]

## Title 43—Public Lands: Interior

## CHAPTER II—BUREAU OF LAND MANAGEMENT

### APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5387]

### NEVADA

### Withdrawal of Land for Protection of Desert Pupfish

By virtue of the authority vested in the President and pursuant to Executive Order 10355 of May 26, 1952 (17 FR 4831), it is ordered as follows:

1. Subject to valid existing rights, the following described public lands which are under the jurisdiction of the Secretary of the Interior are hereby withdrawn from all forms of appropriation under the public land laws, including the mining laws, 30 U.S.C. Ch. 2, but not from leasing under the mineral leasing laws, to preserve, protect, and enhance the habitat of rare species of desert pupfish.

MOUNT DIABLO MERIDIAN

T. 17 S., R. 50 E.,
sec. 14, lot 11,
sec. 35, SW¼NE¼, S½NE¼SE¼, SE¼SE¼.

The areas described aggregate 136.84 acres in Nye County.

2. The withdrawal made by this order does not alter the applicability of the public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws. However, leases, licenses, contracts, or permits will be issued only if the proposed use of the lands will not interfere with the proper management of the areas.

JACK O. HORTON,
*Assistant Secretary of the Interior.*

SEPTEMBER 13, 1973.

[FR Doc.73-19963 Filed 9-19-73;8:45 am]

[Public Land Order 5388]

### ALASKA

### Amendment of Public Land Orders No. 5181 and No. 5180, as Amended

By virtue of the authority vested in the President, and pursuant to Executive Order No. 10355 of May 26, 1952 (17 FR 4831), and by virtue of the authority vested in the Secretary of the Interior by section 17(d)(1) of the Alaska Native Claims Settlement Act of December 18, 1971, (hereinafter referred to as the "Act"), 43 U.S.C. section 1616(d)(1), it is ordered as follows:

1. Public Land Order No. 5181 of March 9, 1972, as amended by Public Land Order No. 5194 of March 17, 1972, withdrawing lands for classification and study as possible additions to the National Wildlife Refuge System, pursuant to section 22(e) of the Act, 43 U.S.C. 1621(e), is hereby amended to add the following described lands to paragraph 1 thereof:





SEWARD MERIDIAN

PROTRACTED DESCRIPTIONS

T. 9 S., R. 75 W. (Fractional).
T. 20 S., R. 60 W. (Fractional).
T. 21 S., R. 58 W. (Fractional).
T. 25 S., R. 46 W. (Fractional).
T. 26 S., Rs 45 and 46 W. (Fractional).
T. 27 S., R. 46 W. (Fractional).
T. 28 S., Rs. 46 and 47 W.
T. 29 S., R. 47 W.
T. 30 S., Rs. 46 and 47 W. (Fractional).
T. 34 S., Rs. 51 and 52 W.
T. 41 S., Rs. 60, 61, 62 W.
T. 42 S., R. 62 W.
T. 43 S., Rs. 63 and 64 W.
T. 44 S., Rs. 63 and 64 W.
T. 45 S., Rs. 64, 65, 66 W.
T. 46 S., Rs. 64, 65, 66, 67 W.
T. 51 S., R. 72 W. (E½).
T. 55 S., R. 83 W.
T. 56 S., R. 84 W., that portion outside of Izembek National Wildlife Refuge.
T. 23 N., Rs. 90 and 91 W. (Fractional).
T. 24 N., R. 90 W. (Fractional).
T. 23 N., R. 91 W. (Fractional).

UMIAT MERIDIAN

PROTRACTED DESCRIPTIONS

T. 7 S., R. 29 E., west of the Arctic National Wildlife Refuge.

2. Subject to valid existing rights, all of the lands described in paragraph 1 of this order are added to paragraph 1 of Public Land Order No. 5181, as amended, and immediately become subject to all of the terms and conditions of that order, including withdrawal of the lands from selection by the State of Alaska under the Alaska Statehood Act, 72 Stat. 339, and from location and entry under the mining laws, 30 U.S.C. Ch. 2, and from leasing under the Mineral Leasing Act of February 25, 1920, as amended, 30 U.S.C. sections 181–287 (1970). Any of the lands described in paragraph 1 of this order that are included in Public Land Order No. 5180 of March 9, 1972, as amended by Public Land Orders No. 5193 of March 17, 1972, and No. 5251 of September 12, 1972, are deleted from that order.

3. Public Land Order No. 5181, as amended, is also hereby modified and corrected by deleting the following described lands:

SEWARD MERIDIAN

PROTRACTED DESCRIPTIONS

T. 17 S., R. 74 W., that portion lying within the Cape Newenham National Wildlife Refuge.
T. 17 S., R. 75 W. (E½).
T. 18 S., R. 74 W., that portion lying within the Cape Newenham National Wildlife Refuge.
T. 18 S., R. 75 W. (E½).
T. 52 S., R. 72 W. (W½).

4. Subject to valid existing rights, all of those lands described in paragraph 3 of this order that are shown to be deleted from Public Land Order No. 5181, except those lands lying within the Cape Newenham National Wildlife Refuge, are hereby added to Public Land Order No. 5180, as amended by Public Land Orders No. 5193, and No. 5251, and immediately become subject to all of the terms and conditions of that order, including the withdrawal of the lands from selection by the State of Alaska under the Alaska Statehood Act, 72 Stat. 339, and from location and entry under the mining laws (except for locations for metalliferous minerals), 30 U.S.C. Ch. 2, and from leasing under the Mineral Leasing Act of February 25, 1920, as amended, 30 U.S.C. sections 181–287 (1970).

5. The purpose of this order is to supplement Public Land Order No. 5181, as amended, to reserve additional lands for classification and study as possible additions to the National Wildlife Refuge System pursuant to section 22(e) of the Act.

6. While the lands described in paragraphs 1 and 3 of this order remain withdrawn, the land shall be subject to administration by the Secretary of the Interior under the applicable laws and regulations, and his authority to make contracts and to grant leases, permits, rights-of-way, or easements shall not be impaired by this withdrawal. New applications for leases under the Mineral Leasing Act of February 25, 1920, *supra*, will be rejected until this order is modified or the lands are appropriately classified for mineral leasing.

7. It is hereby determined that the promulgation of this public land order is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. section 4332(2)(C), is required.

September 14, 1973.

ROGERS C. B. MORTON,
*Secretary of the Interior.*

[FR Doc.73-19994 Filed 9-19-73;8:45 am]

[Public Land Order 5389]

### ALASKA

### Amendment of Public Land Orders No. 5171 and No. 5179, as Amended

By virtue of the authority vested in the Secretary of the Interior by sections 11(a)(3) and 17(d)(2)(A), of the Alaska Native Claims Settlement Act of December 18, 1971 (hereinafter referred to as the "Act"), 43 U.S.C. sections 1610(a)(3), 1616(d)(2)(A), and pursuant to Executive Order No. 10355 of May 26, 1952 (17 FR 4831), it is ordered as follows:

1. Public Land Order No. 5179 of March 9, 1972, as amended by Public Land Orders No. 5192 of March 17, 1972, and No. 5250 of September 12, 1972, withdrawing lands in aid of legislation concerning additions to or creation as units of the National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems, and for classification, and Public Land Order No. 5171 of March 9, 1972, as amended by Public Land Order No. 5253 of September 12, 1972, withdrawing lands for selection by the Village Corporation and the Regional Corporation for the approximate area covered by the operations of the Northwest Alaska Native Association, are hereby amended to the extent necessary to accommodate the right of the Village Corporation for the Village of Kotzebue to select and the Regional Corporation to identify the following described lands pursuant to the terms of the Act, 43 U.S.C. section 1616(d)(2)(E):

KATEEL RIVER MERIDIAN

PROTRACTED DESCRIPTIONS

T. 10 N., R. 11 W. (Fractional).
T. 10 N., R. 24 W. (Fractional), including all offshore islands.
T. 11 N., Rs. 5 and 6 W.
T. 11 N., Rs. 7, 8, 9, 10 and 25 W. (Fractional).
T. 11 N., R. 24 W. (Fractional), including all offshore islands.
T. 12 N., R. 10 W. (Fractional).
T. 12 N., R. 24 W. (Fractional), including all offshore islands.
T. 12 N., R. 25 W.
T. 13 N., R. 23 W. (Fractional), including all offshore islands.
T. 13 N., R. 24 W. (Fractional).
T. 13 N., R. 25 W.
T. 14 N., R. 23 W. (Fractional), including all offshore islands.
T. 14 N., Rs. 24 and 25 W. (Fractional).
Ts. 22 thru 24 N., R. 17 W.

This order does not otherwise serve to change the provisions of Public Land Order No. 5179, as amended, so far as the above-identified lands are concerned.

2. Public Land Order No. 5171, as amended, is further amended to add the following described lands to paragraph 1 of said order:

a. Kotzebue

KATEEL RIVER MERIDIAN

PROTRACTED DESCRIPTIONS

T. 9 N., Rs. 14 and 15 W. (Fractional).
T. 10 N., Rs. 12 thru 15 W. (Fractional).
T. 11 N., Rs. 11 thru 15 W. (Fractional).
T. 12 N., R. 12 W.
T. 12 N., Rs. 11, 13 thru 15 W. (Fractional).
T. 13 N., R. 12 W. (NE¼, S½).
T. 13 N., Rs. 11, 14 and 15 W. (Fractional).
T. 14 N., Rs. 14 and 15 W. (Fractional).
T. 15 N., R. 9 W.
T. 15 N., R. 16 W. (Fractional).
T. 16 N., R. 16 W. (Fractional).
T. 19 N., Rs. 14 and 15 W. (Fractional).
T. 20 N., Rs. 15, 16 and 19 W.
T. 21 N., Rs. 16 thru 19 W.
T. 22 N., Rs. 18 thru 20 W.

3. Subject to valid existing rights, all of the lands described in paragraph 2 of this order are added to paragraph 1 of Public Land Order No. 5171, as amended, and immediately become subject to all of the terms and conditions of that order, including the withdrawal of the lands from selection by the State of Alaska under the Alaska Statehood Act, 72 Stat. 339, and from location and entry under the mining laws, 30 U.S.C. Ch. 2, and from leasing under the Mineral Leasing Act of February 25, 1920, as amended, 30 U.S.C. sections 181–287 (1970). These lands are also withdrawn for classification or reclassification pursuant to section 17(d)(1) of the Act, and are subject to administration by the Secretary of the Interior under the applicable laws and regulations, as provided for by paragraphs 3 and 4 of Public Land Order No. 5171. Any of the lands described in paragraph 2 of this order that are listed in Public Land Order No. 5179, as amended, are hereby deleted from that order.



V 38-182 SEP 20 73 XUM

4. The purpose of this order is to supplement Public Land Order No. 5171, as amended, by accommodating the right of the Village Corporation to select and the Regional Corporation to identify certain lands pursuant to the terms of the Act, 43 U.S.C. section 1616(d)(2)(E), and by reserving additional lands for selection by the Village Corporation pursuant to section 12 of the Act.

5. It is hereby determined that the promulgation of this public land order is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, 43 U.S.C. section 4332(2)(C), is required.

ROGERS C. B. MORTON,
*Secretary of the Interior.*

SEPTEMBER 14, 1973.

[FR Doc.73-19995 Filed 9-19-73;8:45 am]

[Public Land Order 5390]

## ALASKA

### Withdrawals for Selections by Village Corporations and Regional Corporation In Bristol Bay Region and for Classification for Lands in Withdrawals

By virtue of the authority vested in the Secretary of the Interior by section 11(a)(3) of the Alaska Native Claims Settlement Act of December 18, 1971, (hereinafter called the "Act"), 43 U.S.C. section 1610(a)(3), it is ordered as follows:

1. Subject to valid existing rights and prior appropriations, the following described lands are hereby withdrawn from all forms of appropriation under the public land laws, including selections by the State of Alaska under the Alaska Statehood Act, 72 Stat. 339, and from location and entry under the mining laws, 30 U.S.C. Ch. 2, and from leasing under the Mineral Leasing Act of February 25, 1920, as amended, 30 U.S.C. sections 181–287 (1970), and are hereby reserved: (a) For selection under section 12 of said Act by the corporations established pursuant to section 8 of said Act for the villages named below (hereinafter called "Village Corporations"); (b) For reallocation to Village Corporations under section 12(b) of said Act by the corporation established pursuant to section 7 of said Act as the Regional Corporation for the approximate area covered by the operation of the Bristol Bay Native Corporation (said corporation being referred to hereinafter as the "Regional Corporation"):

a. Chignik and Chignik Lagoon

SEWARD MERIDIAN

PROTRACTED DESCRIPTIONS

T. 42 S., Rs. 57 thru 61 W.

2. After each Village Corporation has exhausted its rights of selection under subsections 12(a) and 12(b) of said Act in the area withdrawn in their behalf in paragraph 1 of this order, said Regional Corporation may select any of the remaining lands under section 12 of said Act.

3. Prior to the conveyance of any of the lands withdrawn by this order to any Village Corporation or said Regional Corporation, the lands shall be subject to administration by the Secretary of the Interior under applicable laws and regulations, and his authority to make contracts and to grant leases, permits, rights-of-way, or easements shall not be impaired by this withdrawal. Applications for leases under the Mineral Leasing Act, *supra*, will be rejected until this order is modified or the lands are appropriately classified to permit mineral leasing.

4. By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 FR 4831), and by virtue of the authority vested in the Secretary of the Interior in section 17(d)(1) of said Act, it is ordered as follows: Subject to valid existing rights, the lands described in paragraph 1 of this order are hereby withdrawn from all forms of appropriation under the public land laws, including selections by the State of Alaska under the Alaska Statehood Act, 72 Stat. 339, and from location and entry under the mining laws, 30 U.S.C. ch. 2, and from leasing under the Mineral Leasing Act of February 25, 1920, as amended 30 U.S.C. sections 181–287 (1970), but not from selection pursuant to section 12 of the Act by corporations formed pursuant to section 7 or section 8 of said Act, and are hereby reserved for study and review by the Secretary of the Interior for the purpose of classification or reclassification of any lands not conveyed pursuant to section 14 of said Act.

5. It is hereby determined that the promulgation of this public land order is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. section 4332(2)(C), is required.

ROGERS C. B. MORTON,
*Secretary of the Interior.*

SEPTEMBER 14, 1973.

[FR Doc.73-19996 Filed 9-19-73;8:45 am]

[Public Land Order 5391]

## ALASKA

### Amendment of Public Land Orders No. 5173 and No. 5180 as Amended

By virtue of the authority vested in the Secretary of the Interior by sections 11(a)(3) and 17(d)(1) of the Alaska Native Claims Settlement Act of December 18, 1971, (hereinafter referred to as the "Act"), 43 U.S.C. sections 1610(a)(3), 1616(d)(1) and pursuant to Executive Order No. 10355 of May 26, 1952 (17 FR 4831), it is ordered as follows:

1. Public Land Order No. 5173 of March 9, 1972, as amended, by Public Land Orders No. 5191 of March 17, 1972, No. 5213 of May 30, 1972, No. 5252 of September 12, 1972, and No. 5321 of December 7, 1972, withdrawing lands for selection under section 12 of the Act by the Village Corporations and the Regional Corporation for the approximate area covered by the operations of the Tanana Chiefs Conference, now known as Doyon, Limited, is hereby amended to add the following described land to paragraph 1b for selection by the Village Corporation for the Village of Nenana:

FAIRBANKS MERIDIAN

PROTRACTED DESCRIPTIONS

Ts. 2 thru 4 S., R. 14 W.
Ts. 4 and 5 S., R. 15 W.
T. 5 S., R. 3 W, outside of Blair Lake Air Force Range.

2. Subject to valid existing rights, all of the lands described in paragraph 1 of this order are added to paragraph 1 of Public Land Order No. 5173, as amended, and immediately become subject to all of the terms and conditions of that order, including withdrawal of the lands from selection by the State of Alaska under the Alaska Statehood Act, 72 Stat. 339, and from location and entry under the mining laws, 30 U.S.C. Ch. 2, and from leasing under the Mineral Leasing Act of February 25, 1920, as amended, 30 U.S.C. sections 181–287 (1970). These lands are also withdrawn for classification or reclassification pursuant to section 17(d)(1) of the Act, and are subject to administration by the Secretary of the Interior under the applicable laws and regulations, as provided for in paragraphs 4 and 5 of Public Land Order No. 5173. Any of the lands described in paragraph 1 of this order that are listed in Public Land Order No. 5180 of March 9, 1972, as amended by Public Land Orders No. 5193 of March 17, 1972, and No. 5251 of September 12, 1972, are deleted from that order.

3. Public Land Order No. 5173, as amended, is also hereby modified and corrected by adding to, deleting from, or changing the descriptions of the lands previously described therein as follows:

1a. *Minto:*

FAIRBANKS MERIDIAN

PROTRACTED DESCRIPTIONS

Delete T. 5 N., R. 10 W., and T. 6 N., Rs. 7 thru 10 W.

1b. *Nenana:* The following descriptions are hereby amended to delete (fractional) and to add that portion lying outside the Blair Lake Air Force Range:

T. 4 S., R. 4 W.
T. 6 S., R. 3 W.
T. 5 S., R. 4 W.

Add (fractional) to the following townships:

FAIRBANKS MERIDIAN

PROTRACTED DESCRIPTIONS

T. 4 N., R. 33 E.
Ts. 9 thru 16 N., R. 32 E.
Ts. 17 thru 24 N., R. 31 E.
Ts. 2 thru 4 N., R. 27 W.
Ts. 9 thru 12 S., R. 28 W.

Delete Ts. 25 and 26 N., R. 28 E. in their entireties.

Change T. 35 N., R. 7 E., T. 36 N., R. 7 E., and T. 31 N., R. 6 E. to show only those portions lying outside Venetie Indian Reserve.





COPPER RIVER MERIDIAN

PROTRACTED DESCRIPTIONS

Delete T. 20 N., R. 13 E., and T. 21 N., R. 14 E. in their entireties.

KATEEL RIVER MERIDIAN

PROTRACTED DESCRIPTIONS

Add (fractional) to the following townships:

Ts. 16 and 17 N., R. 27 E.
Ts. 16 thru 19 S., R. 30 E.

Delete T. 3 S., R. 29 E. in its entirety.

4. The purpose of this order is to supplement Public Land Order No. 5173 by reserving additional lands for selection by the Village Corporation for the Village of Nenana pursuant to section 12 of the Act, and to modify and correct descriptions of the lands previously described in said order.

5. It is hereby determined that the promulgation of this public land order is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. section 4332(2)(C), is required.

September 14, 1973.

ROGERS C. B. MORTON,
*Secretary of the Interior.*

[FR Doc.73-19997 Filed 9-19-73;8:45 am]

[Public Land Order 5392]

## ALASKA

### Amendment of Public Land Orders No. 5172, No. 5179, No. 5180, and No. 5181

By virtue of the authority vested in the Secretary of the Interior by sections 11(a)(3), 17(d)(1), and 17(d)(2)(A) of the Alaska Native Claims Settlement Act of December 18, 1971, (hereinafter referred to as the "Act"), 43 U.S.C. sections 1610(a)(3), 1616(d)(1), and 1616(d)(2)(A), and pursuant to Executive Order No. 10355 of May 26, 1952 (17 FR 4831), it is ordered as follows:

1. Public Land Order No. 5172 of March 9, 1972, as amended by Public Land Order No. 5191 of March 17, 1972, withdrawing lands for selection under section 12 of the Act by the Village Corporations and the Regional Corporation for the approximate area covered by operation of the Association of Village Council Presidents, now known as Calista, Incorporated, is hereby amended to add the following described lands to paragraph 1 of said order:

SEWARD MERIDIAN

PROTRACTED DESCRIPTIONS

T. 1 N., Rs. 69 and 70 W.
T. 5 N., Rs. 68 and 79 W.
Ts. 7 and 8 N., R. 78 W.
T. 9 N., Rs. 78 and 79 W.
T. 10 N., Rs. 78 and 79 W.
T. 11 N., Rs. 61, 62, 63, 78 W.
T. 12 N., Rs. 61, 62, 63, 78 W.
T. 13 N., Rs. 60, 61, 62, 63 W.
T. 15 N., Rs. 84 and 85 W., those portions lying outside Clarence Rhode National Wildlife Refuge.
T. 21 N., R. 87 W.
T. 22 N., R. 87 W.
T. 23 N., Rs. 64, 65, 66, 67, 85, 86 W.
T. 24 N., Rs. 64, 65, 66, 85, 86 W.
T. 25 N., Rs. 65 and 73 W.
T. 26 N., Rs. 65, 73, 78, 79, 80, 81 W.
T. 27 N., Rs. 78, 79, 80, 81 W.
T. 28 N., Rs. 78 and 80 W.
T. 29 N., Rs. 77 and 78 W.
T. 32 N., R. 74 W.
T. 1 S., Rs. 69, 70, 71, 82, 83 W.
T. 2 S., Rs. 69 thru 74 W.
T. 2 S., R. 75 W. (Fractional).

2. Subject to valid existing rights, all of the lands described in paragraph 1 of this order are added to paragraph 1 of Public Land Order No. 5172, as amended, and immediately become subject to all of the terms and conditions of that order, including the withdrawal of the lands from selection by the State of Alaska under the Alaska Statehood Act, 72 Stat. 339, and from location and entry under the mining laws, 30 U.S.C. Ch. 2, and from leasing under the Mineral Leasing Act of February 25, 1920, as amended, 30 U.S.C. section 181–287 (1970). The lands are also withdrawn for classification or reclassification pursuant to section 17(d)(1) of the Act, and are subject to administration by the Secretary of the Interior under the applicable laws and regulations, as provided for by paragraphs 3 and 4 of Public Land Order No. 5172. Any of the lands described in paragraph 1 of this order are deleted from those listed in Public Land Order No. 5179 of March 9, 1972, as amended by Public Land Orders No. 5192 of March 17, 1972, and No. 5250 of September 12, 1972, Public Land Order No. 5180 of March 9, 1972, as amended by Public Land Orders No. 5193 of March 17, 1972, and No. 5251 of September 12, 1972, and No. 5181 of March 9, 1972, as amended by Public Land Order No. 5194 of March 17, 1972.

3. Public Land Order No. 5172, as amended, is hereby further modified by adding to, deleting from, or changing the descriptions of the lands in that order as follows:

A. Delete the names of the Native Villages listed under subparagraphs a, b, c, d, e, f, g, h, i, j, and k of paragraph 1, leaving the lands described therein withdrawn for selection under section 12 of the Act by the appropriate Village Corporations established under section 8 of the Act in the Calista Region.

B. Delete the following described lands from those described in paragraph 1 of said order, as herein amended:

SEWARD MERIDIAN

PROTRACTED DESCRIPTIONS

T. 6 N., R. 83 W.
T. 31 N., R. 76 W.
T. 32 N., Rs. 76 and 77 W.
T. 7 N., R. 82 W.
T. 5 N., R. 69 W.

4. The purpose of this order is to supplement Public Land Order No. 5172, as amended, by reserving additional lands for selection by the Village Corporations in the Calista Region pursuant to section 12 of the Act, and to make necessary corrections in the descriptions of the lands previously included in said order.

5. It is hereby determined that the promulgation of this public land order is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C), is required.

ROGERS C. B. MORTON,
*Secretary of the Interior.*

SEPTEMBER 14, 1973.

[FR Doc.73-19998 Filed 9-19-73;8:45 am]

[Public Land Order 5393]

## ALASKA

### Amendment of Public Land Orders No. 5176, No. 5179, No. 5180, and No. 5186 as Amended

By virtue of the authority vested in the Secretary of the Interior by sections 11(a)(3), and 17(d)(2)(A) of the Alaska Native Claims Settlement Act of December 18, 1971 (hereinafter referred to as the "Act"), 43 U.S.C. sections 1610(a)(3) and 1616(d)(2)(A), and pursuant to Executive Order No. 10355 of May 26, 1952 (17 FR 4831), it is ordered as follows:

1. Paragraph 1 of Public Land Order No. 5176 is amended to add the words "and Port Graham" to existing subparagraph a and to establish two new subparagraphs as set forth below:

b. Tatitlek
c. Eyak

2. Public Land Order No. 5179 of March 9, 1972, as amended by Public Land Orders No. 5192 of March 17, 1972, and No. 5250 of September 12, 1972, withdrawing lands in aid of legislation concerning additions to or creation as units of the National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems, and for classification, and Public Land Order No. 5176 of March 9, 1972, as amended by Public Land Orders No. 5191 of March 17, 1972, and No. 5252 of September 12, 1972, withdrawing lands for selection under section 12 of the Act by the Village Corporations and the Regional Corporation for the approximate area covered by the operation of the Chugach Native Association, are hereby amended to the extent necessary to accommodate the right of the appropriate Village Corporation in the Chugach Region to select and the Chugach Regional Corporation to identify the following ascribed lands pursuant to the terms of the Act, 43 U.S.C. section 1616(d)(2)(E):

a. Add to paragraph 1b of Public Land Order No. 5176 as established in paragraph 1 of this order for Tatitlek:

COPPER RIVER MERIDIAN PROTRACTED DESCRIPTIONS

T. 9 S., R. 1 E.
T. 10 S., Rs. 1 and 2 E.

b. Add to paragraph 1c of Public Land Order No. 5176 as established in paragraph 1 of this order for Eyak, pending a determination pursuant to section 11(b)(3) of the Act, as to its eligibility to



V 38 I 182 SEP 20 73 XUM

receive benefits under the provisions of the Act:

COPPER RIVER MERIDIAN PROTRACTED DESCRIPTIONS

T. 13 S., Rs. 4 thru 6 E.
T. 14 S., Rs. 3 and 4 E.
T. 15 S., Rs. 3 and 4 E., lying outside of Chugach National Forest.

3. Public Land Order No. 5179, as amended, and Public Land Order No. 5176, as amended, are hereby amended to the extent necessary to accommodate the right of the Chugach Regional Corporation to identify the following described lands for selection pursuant to the terms of the Act, 43 U.S.C. section 1616(d)(2)(E):

COPPER RIVER MERIDIAN PROTRACTED DESCRIPTIONS

T. 8 S., R. 3 E.
T. 9 S., Rs. 2 thru 4 E.
T. 10 S., Rs. 3 thru 9 E.
T. 11 S., Rs. 4 thru 7 and 9 E.
T. 12 S., Rs. 4 thru 6 E.

This order does not otherwise serve to change the provisions of Public Land Order No. 5179, as amended, so far as the lands described in paragraphs 2 and 3, hereof, are concerned.

4. Public Land Order No. 5176, as amended, is further amended to delete the following described lands from paragraph 2 of that order and add them to paragraph 1 of said order in the following manner:

a. Add to paragraph 1b of Public Land Order No. 5176 as established in paragraph 1 of this order for Tatitlek:

COPPER RIVER MERIDIAN PROTRACTED DESCRIPTIONS

T. 9 S., R. 2 W.

b. Add to paragraph 1a of Public Land Order No. 5176 as established in paragraph 1 of this order for English Bay and Port Graham:

SEWARD MERIDIAN PROTRACTED DESCRIPTIONS

T. 2 S., R. 2 W.
T. 3 S., Rs. 2 and 3 W. (Fractional).
T. 4 S., Rs. 2 thru 4 W. (Fractional).
T. 5 S., Rs. 3 thru 5 W. (Fractional).
T. 6 S., Rs. 4, 5, and 7 W. (Fractional).
T. 6 S., R. 6 W. (Fractional), lying outside of Kenai National Moose Range.
T. 7 S., Rs. 5 and 6 W. (Fractional).
T. 8 S., R. 6 W. (Fractional).

5. Public Land Order No. 5176, as amended, is further amended to delete the following described lands from paragraph 1 of that order and add them to paragraph 2 thereof:

SEWARD MERIDIAN PROTRACTED DESCRIPTIONS

T. 7 S., Rs. 9 and 10 W.
T. 8 S., Rs. 9 and 10 W.

6. Public Land Order No. 5176, as amended, is also hereby amended to add the following described lands to paragraphs 1 and 2 as follows:

a. Add to paragraph 1b as established in paragraph 1 of this order for Tatitlek:

COPPER RIVER MERIDIAN PROTRACTED DESCRIPTIONS

T. 9 S., R. 1 W.

b. Add to paragraph 2 for regional selection:

U.S. Survey No. 440, situated at the head of Orca Bay

SEWARD MERIDIAN PROTRACTED DESCRIPTIONS

T. 1 N., R. 2 E., lying outside of the Chugach National Forest.
T. 2 N., R. 2 E., lying outside of the Chugach National Forest.
T. 2 N., R. 3 E.
T. 3 N., R. 3 E., lying outside of the Chugach National Forest.
T. 3 N., R. 4 E.
T. 4 N, R. 4 E., lying outside of the Chugach National Forest.

COPPER RIVER MERIDIAN

PROTRACTED DESCRIPTIONS

T. 16 S., R. 9 E., lying outside of the Chugach National Forest.
T. 17 S., R. 9 E., lying outside of the Chugach National Forest.
T. 18 S., Rs. 9, 17 and 18 E.
T. 19 S., R. 9 E., lying outside of the Chugach National Forest.
T. 19 S., Rs. 13, 14, 15, 17 E.
T. 20 S., Rs. 6 thru 8 E., lying outside of the Chugach National Forest.
T. 20 S., R. 9 E., lying outside of the Chugach National Forest.
T. 21 S., Rs. 7 and 8 E., lying outside of the Chugach National Forest.
T. 20 S., Rs. 10, 11, 11½, 19, 20, 24 and 25 E.
T. 20 S., R. 26 E. (Fractional).
T. 21 S., R. 24 E. (E½).
T. 21 S., Rs. 20, 21, 25 E.
T. 21 S., R. 26 E. (Fractional).
T. 22 S., R. 24 E. (E½).
T. 22 S., R. 25 E.
T. 22 S., R. 26 E. (Fractional).
T. 23 S., Rs. 23 thru 25 E.
T. 23 S., R. 26 E. (Fractional).
T. 24 S., Rs. 23 thru 25 E. (Fractional).
T. 25 S., Rs. 25 and 26 E. (Fractional).

7. Subject to valid existing rights, all of the lands described in paragraph 6 of this order are added to paragraphs 1 and 2 of Public Land Order No. 5176, as amended, and immediately become subject to all of the terms and conditions of that order, including withdrawal from selection by the State of Alaska under the Alaska Statehood Act, 72 Stat. 339, and from location and entry under the mining laws, 30 U.S.C. Ch. 2, and from leasing under the Mineral Leasing Act of February 25, 1920, as amended, 30 U.S.C. sections 181–287 (1970). These lands are also withdrawn for classification or reclassification pursuant to section 17(d)(1) of the Act, and are subject to administration by the Secretary of the Interior under the applicable laws and regulations, as provided for by paragraphs 4 and 5 of Public Land Order No. 5176. Any of the lands described in paragraph 6 of this order that are listed in Public Land Order No. 5179, as amended, and Public Land Order No. 5186 of March 9, 1972, as amended by Public Land Order No. 5254 of September 12, 1972, are deleted from those orders.

8. Public Land Order No. 5176, as amended, is further amended to delete the following described lands from paragraph 2:

SEWARD MERIDIAN

PROTRACTED DESCRIPTIONS

T. 1 S., Rs. 3 and 4 W.
T. 1 S., R. 5 W., east of Kenai National Moose Range.
T. 2 S., Rs. 3 and 4 W.
T. 2 S, R 5 W., east of Kenai National Moose Range.
T. 3 S., R. 3 W. (Fractional).
T. 3 S., R. 4 W.
T. 3 S, R. 5 W., east of Kenai National Moose Range.
T. 4 S., R. 5 W.
T. 5 S., R. 2 W.

COPPER RIVER MERIDIAN

PROTRACTED DESCRIPTIONS

T. 7 S., Rs. 6 thru 10 W.
T. 7 S., R. 11 W. (Fractional).
T. 8 S., Rs. 8 thru 10 W.
T. 8 S., R. 11 W. (Fractional).
T. 10 S., Rs. 2 thru 4 W.
T. 10 S., R. 5 W., east of Chugach National Forest.
T. 11 S., Rs. 2 and 3 W.
T. 11 S., Rs. 4 and 5 W., east of Chugach National Forest.
T. 12 S., R. 1 W.
T. 12 S., Rs. 2 and 3 W., east of Chugach National Forest.
T. 13 S., R. 1 E.
T. 13 S., R. 1 W., east of Chugach National Forest.
T. 14 S., R. 1 E., east of Chugach National Forest.

9. Subject to valid existing rights, all of the lands described in paragraph 8 of this order that are shown to be deleted from Public Land Order No. 5176, as amended, are hereby added to Public Land Order No. 5180 of March 9, 1972, as amended by Public Land Orders No. 5193 of March 17, 1972, and No. 5251 of September 12, 1972, and immediately become subject to all of the terms and conditions of that order, including the withdrawal of the lands from selection by the State of Alaska under the Alaska Statehood Act, 72 Stat. 339, and from location and entry under the mining laws (except for locations for metalliferous minerals), 30 U.S.C. Ch. 2, and from leasing under the Mineral Leasing Act of February 25, 1920, as amended, 30 U.S.C. sections 181–287 (1970). So long as these lands remain withdrawn, they shall be subject to administration by the Secretary of the Interior under the applicable laws and regulations, as provided for by paragraph 2 of Public Land Order No. 5180.

10. The purpose of this order is to supplement Public Land Order No. 5176, as amended, by providing for 3 villages not previously listed in the order, by accommodating the right of the Village Corporations to select certain lands, and the Regional Corporation to identify certain lands for selection pursuant to section 17(d)(2)(E) of the Act, 43 U.S.C. section 1616(d)(2)(E), by reserving additional lands for selection by the Village Corporations and the Regional Corporation pursuant to section 12 of the Act, and to make necessary corrections in the descriptions of the lands previously included in said order and to delete certain lands therefrom.

11. It is hereby determined that the promulgation of this public land order is not a major Federal action significantly affecting the quality of the human environment, and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C) is required.

ROGERS C. B. MORTON,
*Secretary of the Interior.*

SEPTEMBER 14, 1973.

[FR Doc.73-19999 Filed 9-19-73;8:45 am]





[Public Land Order 5394]

## ALASKA

### Amendment of Public Land Orders No. 5175, No. 5180, and No. 5181, as Amended

By virtue of the authority vested in the Secretary of the Interior by sections 11(a)(3), 17(d)(1), and 22(e) of the Alaska Native Claims Settlement Act of December 18, 1971, (hereinafter referred to as the "Act"), 43 U.S.C. sections 1610(a)(3), 1616(d)(1), and 1621(e), and pursuant to Executive Order No. 10335 of May 26, 1952 (17 FR 4831), it is ordered as follows:

1. Public Land Order No. 5175 of March 9, 1972, as amended by Public Land Order No. 5191 of March 17, 1972, withdrawing lands for selection under section 12 of the Act by the Village Corporations and the Regional Corporation for the approximate area covered by the operations of the Aleut League, is hereby amended by adding the following described lands to paragraph 1 of that order:

SEWARD MERIDIAN

PROTRACTED DESCRIPTIONS

T. 47 S., R. 68 W.
T. 48 S., Rs. 68 and 69 W.
T. 49 S., R. 69 W.
T. 50 S., R. 70 W.
T. 50 S., Rs. 69, 71, 72 W. (Fractional).
T. 52 S., R. 78 W.
T. 52 S., Rs. 65, 67, 70 W. (Fractional).
T. 52 S., R. 78 W.
T. 53 S., Rs. 68, 72, 73, 79, 80, 81 W. (Fractional).
T. 53 S., R. 74 W. (E½) (Fractional).
T. 53 S., R. 78 W.
T. 54 S., Rs. 70, 80, 81 W. (Fractional).
T. 54 S., R. 78 W. (N½).
T. 55 S., Rs. 80 and 81 W. (Fractional).
T. 56 S., Rs. 68, 67, 69, 70, 80 W. (Fractional).
T. 57 S., Rs. 67, 69, 70, 71, 78, 79, 81 W. (Fractional).
T. 58 S., Rs. 67, 69, 70, 71, 79, 80, 81 W. (Fractional).
T. 59 S., Rs. 69, 70, 71, 81 W. (Fractional).
T. 60 S., Rs. 70 and 71 W. (Fractional).
T. 61 S., Rs. 71, 72, 73, 90, 91 W. (Fractional).
T. 62 S., Rs. 86 and 87 W. (Fractional), those portions within Deer Island.

2. Subject to valid existing rights, all of the lands described in paragraph 1 of this order are added to paragraph 1 of Public Land Order No. 5175, as amended, and immediately become subject to all of the terms and conditions of that order, including withdrawal of the lands from selection by the State of Alaska under the Alaska Statehood Act, 72 Stat. 339, and from location and entry under the mining laws, 30 U.S.C. Ch. 2, and from leasing under the Mineral Leasing Act of February 25, 1920, as amended, 30 U.S.C. sections 181–287 (1970). The lands are also withdrawn for classification or reclassification pursuant to section 17(d)(1) of the Act, and are subject to administration by the Secretary of the Interior under the applicable laws and regulations, as provided for by paragraphs 3 and 4 of Public Land Order No. 5175. Any of the lands described in paragraph 1 of this order are deleted from those listed in Public Land Order No. 5180 of March 9, 1972, as amended by Public Land Orders No. 5193 of March 17, 1972, and No. 5251 of September 12, 1972, and from Public Land Order No. 5181 of March 9, 1972, as amended by Public Land Order No. 5194 of March 17, 1972.

3. Public Land Order No. 5175, as amended, is hereby further modified by adding to, deleting from, or changing the description of the lands in paragraph 1 of that order as follows:

A. Delete the names of the Native Villages listed under a, b, c, and d, thereof, leaving the lands described withdrawn for selection under section 12 of the Act by the appropriate Village Corporations established under section 8 of the Act in the Aleut League Region:

B. Delete from paragraph 1 the following described lands:

SEWARD MERIDIAN

PROTRACTED DESCRIPTIONS

T. 54 S., Rs. 74 and 75 W. (Fractional).
T. 55 S., R. 82 W.
T. 59 S., R. 80 W.
Ts. 58 and 59 S., R. 89 W., those portions within the Izembek National Wildlife Refuge.
T. 59 S., Rs. 89 and 90 W., those portions within the Izembek National Wildlife Refuge.
T. 58 S., R. 66 W.
T. 60 S., Rs. 65 and 68 W.
T. 61 S., Rs. 65, 69, and 70 W.

4. Subject to valid existing rights, all of the lands described in paragraph 3 of this order that are deleted from Public Land Order No. 5175, are hereby added to Public Land Order No. 5180 as amended by Public Land Orders No. 5193 and No. 5251, and immediately become subject to all of the terms and conditions of that order, including the withdrawal of the lands from selection by the State of Alaska under the Alaska Statehood Act, 72 Stat. 339, and from location and entry under the mining laws (except for locations for metalliferous minerals), 30 U.S.C. Ch. 2, and from leasing under the Mineral Leasing Act of February 25, 1920, as amended, sections 181–287 (1970). So long as these lands remain withdrawn they shall be subject to administration by the Secretary of the Interior under the applicable laws and regulations, as provided for by paragraph 2 of Public Land Order No. 5180

5. The purpose of this order is to supplement Public Land Order No. 5175, as amended, by reserving additional lands for selection by the Village Corporations under section 12 of the Act, and to modify and correct the descriptions of the lands previously described in said order.

6. It is hereby determined that the promulgation of this public land order is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. section 4332(2)(C), is required.

ROGERS C. B. MORTON,
*Secretary of the Interior.*

SEPTEMBER 14, 1973.

[FR Doc.73-20000 Filed 9-19-73;8:45 am]

[Public Land Order 5395]

## ALASKA

### Amendment of Public Land Orders No. 5170 and No. 5179, as Amended and No. 5180 as Amended

By virtue of the authority vested in the Secretary of the Interior by sections 11(a)(3), and 17(d)(2)(A) of the Alaska Native Claims Settlement Act of December 18, 1971 (hereinafter referred to as the "Act"), 43 U.S.C. sections 1610(a)(3), 1616(d)(2)(A), and pursuant to Executive Order No. 10355 of May 26, 1952 (17 FR 4831), it is ordered as follows:

1. Public Land Order No. 5170 of March 9, 1972, withdrawing lands for selection under section 12 of the Act by the Village Corporations and Regional Corporation for the approximate area covered by the operations of the Bering Straits Association, is hereby amended to delete from and add to the lands described in subparagraphs a and b of paragraph 1, and to withdraw lands for selection by the Village Corporations for the Villages of Shishmaref, Stebbins, and King Island under new subparagraphs c, d, and e of paragraph 1 of said order, as follows:

a. *Gambell.* Delete the lands listed in paragraph 1a for Gambell and add the following described lands located on St. Lawrence Island:

KATEEL RIVER MERIDIAN

PROTRACTED DESCRIPTIONS

T. 22 S., Rs. 64 and 65 W. (Fractional).
T. 23 S., Rs. 64 and 65 W.
T. 23 S., R. 68 W. (Fractional).
T. 24 S., Rs. 61, 62, 63, 64, and 65 W. (Fractional).
T. 24 S., R. 66 W.
T. 24 S., R. 68 W (Fractional).
T. 25 S., Rs. 62, 66, 67, and 68 W. (Fractional).

b. *Inalik.*

KATEEL RIVER MERIDIAN

PROTRACTED DESCRIPTIONS

Add T. 1 S., Rs. 41, 42, and 43 W.
Delete T. 4 N., Rs. 43 and 44 W.

c. *Shishmaref.*

KATEEL RIVER MERIDIAN

PROTRACTED DESCRIPTIONS

T. 9 N., R. 32 W.
T. 8 N., Rs. 32 and 33 W.

d. *Stebbins.*



V 38-182 SEP 20 73 XUM

KATEEL RIVER MERIDIAN

PROTRACTED DESCRIPTIONS

T. 22 S., R. 13 W.
T. 23 S., Rs. 13 and 14 W. (Fractional).
T. 24 S., R. 14 W.
T. 25 S., Rs. 14 and 15 W.
T. 26 S., Rs. 15 and 16 W.

e. *King Island.* The following described section 11(b)(3) of the Act as to its lands are withdrawn for King Island, pending a determination pursuant to eligibility to receive benefits under provisions of the Act:

KATEEL RIVER MERIDIAN

PROTRACTED DESCRIPTIONS

T. 5 S., Rs. 38 and 39 W.
T. 5 S., R. 40 W. (Fractional).
T. 6 S., Rs. 37 and 38 W.
T. 6 S., R. 39 W. (Fractional).
T. 7 S., R. 37 W.
T. 7 S., R. 38 W. (Fractional).
T. 8 S., Rs. 36 and 37 W.
T. 8 S., Rs. 38 and 39 W. (Fractional).
T. 9 S., Rs. 37 and 38 W.
T. 9 S., R. 39 W. (Fractional).
T. 10 S., R. 37 W.
T. 10 S., Rs. 38 and 39 W. (Fractional).
T. 11 S., R. 37 W. (Fractional).

2. Subject to valid existing rights, all of the lands described in paragraph 1 of this order that are shown to be added to paragraph 1 of Public Land Order No. 5170, hereby immediately become subject to all of the terms and conditions of that order, including withdrawal of the lands from selection by the State of Alaska under the Alaska Statehood Act, 72 Stat. 339, and from location and entry under the mining laws, 30 U.S.C. Ch. 2, and from leasing under the Mineral Leasing Act of February 25, 1920, as amended, 30 U.S.C. section 181–287 (1970). These lands are also withdrawn for classification or reclassification pursuant to section 17(d)(1) of the Act, and are subject to administration by the Secretary of the Interior under the applicable laws and regulations, as provided for by paragraphs 3 and 4 of Public Land Order No. 5170. Any of the lands withdrawn in paragraph 1 of this order that are listed in Public Land Order No. 5179 of March 9, 1972, as amended by Public Land Orders No. 5192 of March 17, 1972, and No. 5250 of September 12, 1972, or as withdrawn by Public Land Order No. 5180 of March 9, 1972, as amended by Public Land Order No. 5193 of March 17, 1972, and No. 5251 of September 12, 1972, are deleted from those orders.

3. The purpose of this order is to supplement Public Land Order No. 5170 by reserving lands for selection by the Village Corporations for the Villages of Inalik, Shishmaref, Stebbins, and King Island, and to alter the lands withdrawn for Gambell and to delete certain lands from said order, which deleted lands become subject to all outstanding prior withdrawals.

4. It is hereby determined that the promulgation of this public land order is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. section 4332(2)(C), is required.

ROGERS C. B. MORTON,
*Secretary of the Interior.*

SEPTEMBER 14, 1973.

[FR Doc.73-19993 Filed 9-19-73;8:45 am]

---

[Public Land Order 5396]

## ALASKA

### Amendment of Public Land Orders No. 5169, No. 5179, and No. 5180, as Amended

By virtue of the authority vested in the Secretary of the Interior by sections 11(a)(3), 17(d)(1), and 17(d)(2)(A) of the Alaska Native Claims Settlement Act of December 18, 1971 (hereinafter referred to as the "Act"), 43 U.S.C. sections 1610(a)(3), 1616(d)(1), and 1616(d)(2)(A), and pursuant to Executive Order No. 10355 of May 26, 1952 (17 FR 4831), it is ordered as follows:

1. Public Land Order No. 5179 of March 9, 1972, as amended by Public Land Orders No. 5192 of March 17, 1972, and No. 5250 of September 12, 1972, withdrawing lands in aid of legislation concerning addition to or creation as units of the National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems, and for classification, and Public Land Order No. 5169 of March 9, 1972, as amended by Public Land Orders No. 5191 of March 17, 1972, and No. 5256 of September 12, 1972, withdrawing lands for selection under section 12 of the Act by the Village Corporations and the Regional Corporation for the approximate area covered by the operations of the Arctic Slope Native Association, are hereby amended to the extent necessary to accommodate the right of the Regional Corporation to identify the following described lands for selection pursuant to the terms of the Act, 43 U.S.C. section 1616(d)(2)(E):

UMIAT MERIDIAN

PROTRACTED DESCRIPTIONS

T. 3 S., R. 6 W., that portion lying outside of Naval Petroleum Reserve No. 4.
T. 4 S., Rs. 6 and 7, 10 thru 15 W., those portions lying outside of Naval Petroleum Reserve No. 4.
T. 5 S., Rs. 6 and 7 W.
T. 5 S., Rs. 8 thru 10 W., those portions lying outside of Naval Petroleum Reserve No. 4.
T. 5 S., Rs. 11 thru 14 W.
T. 5 S., Rs. 15 and 16 W., those portions lying outside of Naval Petroleum Reserve No. 4.
T. 6 S., Rs. 5 thru 15 W.
T. 6 S., R. 16 W., that portion lying outside of Naval Petroleum Reserve No. 4.
T. 7 S., Rs. 5 thru 15 W.
T. 7 S., R. 16 W., that portion lying outside of Naval Petroleum Reserve No. 4.
T. 8 S., Rs. 5 thru 15 W.
T. 8 S., R. 16 W., that portion lying outside of Naval Petroleum Reserve No. 4.
T. 9 S., Rs. 5 thru 15 W.
T. 9 S., R. 16 W., that portion lying outside of Naval Petroleum Reserve No. 4.
T. 10 S., Rs. 5 thru 15 W.
T. 10 S., R. 16 W., that portion lying outside of Naval Petroleum Reserve No. 4.
T. 11 S., Rs. 5 thru 15 W.
T. 11 S., R. 16 W., that portion lying outside of Naval Petroleum Reserve No. 4.
T. 12 S., Rs. 5 thru 15 W. (Fractional).
T. 12 S., R. 16 W. (Fractional), that portion lying outside of Naval Petroleum Reserve No. 4.
T. 13 S., R. 5 W. (Fractional).

KATEEL RIVER MERIDIAN

PROTRACTED DESCRIPTIONS

T. 29 N., R. 25 E.
T. 29 N., R. 26 E. (Fractional).
T. 30 N., R. 25 E.
T. 30 N., R. 26 E. (Fractional).
T. 33 N., R. 14 E., that portion lying outside of Naval Petroleum Reserve No. 4.
T. 33 N., Rs. 15 thru 18 E.
T. 34 N., R. 14 E. (Fractional), that portion lying outside of Naval Petroleum Reserve No. 4.
T. 34 N., Rs. 15 thru 25 E. (Fractional).

FAIRBANKS MERIDIAN

PROTRACTED DESCRIPTIONS

T. 34 N., Rs. 21 and 22 W.
T. 35 N., Rs. 19 thru 23 W.
T. 36 N., Rs. 20 thru 23 W.
T. 36 N., R. 24 W. (Fractional).
T. 37 N., Rs. 20 thru 24 W. (Fractional).

This order does not otherwise serve to change the provisions of Public Land Order No. 5179, as amended, so far as the above-described lands are concerned.

2. Public Land Order No. 5169, as amended, is further amended to delete the following described lands from subparagraph 1b, and add them to paragraph 2 of said order:

UMIAT MERIDIAN

PROTRACTED DESCRIPTIONS

T. 1 S., Rs. 21 and 22 E.
T. 2 S., Rs. 21 and 22 E.
T. 3 S., Rs. 22 thru 24 E.
T. 3 S., R. 25 E. (W½).
T. 4 S., Rs. 23 and 24 E.
T. 5 S., R. 24 E.
T. 5 S., R. 25 E. (W½)

3. Public Land Order No. 5169, as amended, is further amended to add the following described lands to paragraphs 1 and 2 of that order, as follows:

a. To subparagraph 1a for Barrow:

UMIAT MERIDIAN

PROTRACTED DESCRIPTIONS

T. 6 N., R. 42 W.

b. To subparagraph 1b for Kaktovik:

UMIAT MERIDIAN

PROTRACTED DESCRIPTIONS

T. 1 S., R. 24 E. (secs. 19 thru 36).

c. To subparagraph 1c for Point Hope:

UMIAT MERIDIAN

PROTRACTED DESCRIPTIONS

T. 9 S., R. 61 W. (Fractional).
T. 10 S., R. 61 W. (Fractional).
T. 11 S., R. 60 W.
T. 11 S., R. 61 W. (Fractional).
T. 12 S., R. 60 W. (Fractional).
T. 12 S., R. 61 W. (Fractional).

d. To paragraph 2 for Regional selection:

UMIAT MERIDIAN

PROTRACTED DESCRIPTIONS

T. 4 S., R. 8 W., that portion lying outside Naval Petroleum Reserve No. 4.
T. 7 S., R. 59 W. (secs. 13 thru 36).
T. 7 S., R. 60 W. (secs. 13, 14, 23 thru 26, 35 and 36).
T. 8 S., R. 59 W.
T. 8 S., R. 60 W. (secs. 1, 2, 11 thru 14, 23 thru 26, 35 and 36).
T. 12 S., Rs. 49 thru 56 W. (Fractional).
Ts. 3 and 4 N., R. 43 W.
T. 5 N., R. 42 W.





4. Subject to valid existing rights, all of the lands described in paragraph 3 of this order are added to paragraphs 1 and 2 of Public Land Order No. 5169, as amended, and immediately become subject to all of the terms and conditions of that order, including withdrawal of the lands from selection by the State of Alaska under the Alaska Statehood Act, 72 Stat. 339, and from location and entry under the mining laws, 30 U.S.C. Ch. 2, and from leasing under the Mineral Leasing Act of February 25, 1920, as amended, 30 U.S.C. sections 181–287 (1970). Any of the lands described in paragraph 3 of this order that are listed in Public Land Order No. 5179, as amended, are hereby deleted from that order.

5. Public Land Order No. 5169, as amended, is also hereby modified and corrected by changing, adding to, or deleting from the lands described in paragraphs 1a and 2 thereof as follows:

a. Correction to paragraph 1a for Barrow:

UMIAT MERIDIAN

PROTRACTED DESCRIPTIONS

Ts. 5 thru 8 N., R. 40 W., is corrected by deleting "(W½)" and adding "those portions lying outside of Naval Petroleum Reserve No. 4."

b. Delete from paragraph 2 the following described lands:

UMIAT MERIDIAN

PROTRACTED DESCRIPTIONS

T. 7 S., R. 60 W. (secs. 13, 14, 23 thru 26, 35 and 36).
T. 8 S., R. 59 W.
T. 8 S., R. 60 W. (secs. 1, 2, 11 thru 14, 23 thru 26, 35 and 36).
T. 12 S., Rs. 49 thru 56 W. (Fractional).
Ts. 3 and 4 N., R. 43 W.
T. 5 N., R. 42 W.

6. Public Land Order No. 5169, as amended, is hereby further amended to delete the following described lands from paragraph 2 thereof, as follows:

UMIAT MERIDIAN

PROTRACTED DESCRIPTIONS

T. 6 S., R. 18 E.
T. 7 S., Rs. 17 and 18 E.
T. 8 S., Rs. 16 thru 18 E.
T. 9 S., Rs. 16 thru 18 E.
T. 10 S., Rs. 15 thru 18 E.
T. 11 S., Rs. 15 thru 18 E.
T. 12 S., Rs. 13 thru 18 E.
T. 13 S., Rs. 13 thru 18 E.
T. 14 S., Rs. 13 thru 17 E.
T. 15 S., R. 13 E.

7. Subject to valid existing rights, all of the lands described in paragraph 6 of this order that are shown to be deleted from Public Land Order No. 5169, as amended, are hereby added to Public Land Order No. 5180 of March 9, 1972, as amended by Public Land Orders No. 5193 of March 17, 1972 and No. 5251 of September 12, 1972, and immediately become subject to all of the terms and conditions of that order, including the withdrawal of the lands from selection by the State of Alaska under the Alaska Statehood Act, 72 Stat. 339, and from location and entry under the mining laws (except for locations for metalliferous minerals), 30 U.S.C. Ch. 2, and from leasing under the Mineral Leasing Act of February 25, 1920, as amended, 30 U.S.C. sections 181–287 (1970). So long as these lands remain withdrawn, they shall be subject to administration by the Secretary of the Interior under the applicable laws and regulations, as provided for by paragraph 2 of Public Land Order No. 5180.

8. The purpose of this order is to supplement Public Land Order No. 5169, as amended, by accommodating the right of the Arctic Slope Regional Corporation to identify certain lands for selection under section 17(d)(2)(E) of the Act, and by reserving additional lands for selection by the Village Corporations and the Regional Corporation under section 12 of the Act, and to make necessary additions, deletions, and corrections in the descriptions of the lands previously included in said order.

9. While the lands described in paragraphs 3 and 5 of this order which are shown to be added to those described in Public Land Order No. 5169, as amended, remain withdrawn, the lands shall be subject to administration by the Secretary of the Interior under the applicable laws and regulations and his authority to make contracts, and to grant leases, permits, rights-of-way or easements shall not be impaired by this withdrawal. New applications for leases under the Minerals Leasing Act, *supra*, will be rejected until this order is modified or the lands are appropriately classified to permit mineral leasing.

10. It is hereby determined that the promulgation of this public land order is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. section 4332(2)(C), is required.

ROGERS C. B. MORTON,
*Secretary of the Interior.*

SEPTEMBER 14, 1973.

[FR Doc.73-20001 Filed 9-19-73;8:45 am]

---

[Public Land Order 5397]

## ALASKA

### Amendment of Public Land Orders No. 5177, No. 5179, and No. 5180, as Amended

By virtue of the authority vested in the Secretary of the Interior by sections 11(a)(3), 17(d)(1), and 17(d)(2)(A), of the Alaska Native Claims Settlement Act of December 18, 1971, (hereinafter referred to as the "Act), 43 U.S.C. sections 1610(a)(3), 1616(d)(1), and 1616(d)(2)(A), and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Public Land Order No. 5179 of March 9, 1972, as amended by Public Land Orders No. 5192 of March 17, 1972, and No. 5250 of September 12, 1972, withdrawing lands in aid of legislation concerning addition to or creation as units of the National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems, and for classification, and Public Land Order No. 5177 of March 9, 1972, as amended by Public Land Order No. 5191 of March 17, 1972, withdrawing lands for selection under section 12 of the Act by the Village Corporations and the Regional Corporation for the approximate area covered by the operations of the Kodiak Area Native Association, now known as Koniag, Incorporated, are hereby amended to the extent necessary to accommodate:

a. The right of the Village Corporations to select and the Regional Corporation to identify for selection pursuant to the terms of the Act, 43 U.S.C. section 1616(d)(2)(E) the following described lands:

SEWARD MERIDIAN

PROTRACTED DESCRIPTIONS

T. 38 S., Rs. 51 thru 53 W.
T. 40 S., Rs. 53 and 54 W.
T. 41 S., Rs. 52 thru 54 W.

b. The right of the Regional Corporation to identify for selection pursuant to the terms of the Act, 43 U.S.C. section 1616(d)(2)(E), the lands in the townships listed below except all those lands within the protracted sections which are wholly or in part within one mile of the mean high water mark of the Aniakchak River as it traverses any of the following described lands:

SEWARD MERIDIAN

PROTRACTED DESCRIPTIONS

T. 36 S., R. 52 W.
T. 37 S., Rs. 51 thru 54 W.
T. 38 S., R. 54 W.
T. 39 S., Rs. 51 thru 54 W.
T. 40 S., Rs. 51 and 52 W.

2. Public Land Order No. 5177, as amended, is further amended as follows:

a. Delete subparagraphs b, c, and d of paragraph 1 in their entireties, and modify subparagraph a of paragraph 1 by deleting the name Akiok, thereby leaving the lands described therein, except as modified below, withdrawn for selection under section 12 of the Act by any eligible Village Corporation established under section 8 of the Act requiring deficiency withdrawal in the Koniag Region.

b. Add to paragraph 1:

SEWARD MERIDIAN

PROTRACTED DESCRIPTIONS

T. 27 S., R. 42 W.
T. 31 S., Rs. 46 and 47 W.
T. 32 S., Rs. 42 and 43 W. (Fractional).
T. 32 S., Rs. 46 and 47 W.
T. 33 S., Rs. 46 thru 48 W.
T. 34 S., Rs. 44 thru 50 W.
T. 35 S., Rs. 45 thru 50 W.
T. 35 S., R. 44 W. (Fractional).



V 38-182 SEP 20 73 XUM

T. 36 S., Rs. 44 thru 47 W. (Fractional).
T. 36 S., Rs. 48 thru 50 W.
T. 37 S., Rs. 47 thru 49 W. (Fractional).
T. 38 S., Rs. 47 thru 49 W. (Fractional).
T. 39 S., R. 49 W. (Fractional).

c. Add to paragraph 2:

SEWARD MERIDIAN

PROTRACTED DESCRIPTIONS

T. 37 S., R. 50 W.
T. 38 S., R. 50 W.
T. 39 S., R. 50 W.
T. 41 S., R. 51 W. (Fractional).
T. 42 S., R. 49 W. (Fractional).
T. 42 S., R. 50 W. (Fractional).
T. 42 S., R. 51 W. (Fractional).
T. 44 S., Rs. 54 and 55 W. (Fractional).
T. 45 S., R. 54 W.

d. Delete the following described lands from paragraph 1a of that order and add them to paragraph 2:

SEWARD MERIDIAN

PROTRACTED DESCRIPTIONS

Ts. 29 thru 32 S., R. 45 W.

e. Delete from paragraph 2 of that order:

SEWARD MERIDIAN

PROTRACTED DESCRIPTIONS

T. 27 S., R. 45 W. (Fractional).
T. 28 S., R. 45 W.

3. Subject to valid existing rights all of the lands described in subparagraph 2 of this order which are added to paragraphs 1 and 2 of Public Land Order No. 5177, as amended, immediately become subject to all of the terms and conditions of that order, including the withdrawal of the lands from selection by the State of Alaska under the Alaska Statehood Act, 72 Stat. 339, and from location and entry under the mining laws, 30 U.S.C. Ch. 2, and from leasing under the Mineral Leasing Act of February 25, 1920, as amended, 30 U.S.C. sections 181–287 (1970). These lands are also withdrawn for classification or reclassification pursuant to section 17(d)(1) of the Act, and are subject to administration by the Secretary of the Interior under the applicable laws and regulations, as provided for by paragraphs 4 and 5 of Public Land Order No 5177. Any of the lands described in paragraph 2 of this order that are included in Public Land Order No. 5179 of March 9, 1972, as amended by Public Land Orders No. 5192 of March 17, 1972, and No. 5250 of September 12, 1972, and in Public Land Order No. 5180 of March 9, 1972, as amended by Public Land Orders No. 5193 of March 17, 1972, and No. 5251 of September 12, 1972, are hereby deleted from those orders.

4. Subject to valid existing rights, all of the lands described in paragraph 2 of this order that are shown to be deleted from Public Land Order No. 5177, as amended, are hereby added to Public Land Order No. 5180 of March 9, 1972, as amended by Public Land Orders No. 5193 of March 17, 1972, and No. 5251 of September 12, 1972, and immediately become subject to all of the terms and conditions of that order, including the withdrawal of the lands from selection by the State of Alaska under the Alaska Statehood Act, 72 Stat. 339, and from location and entry under the mining laws (except for locations for metalliferous minerals), 30 U.S.C. Ch. 2, and from leasing under the Mineral Leasing Act of February 25, 1920, as amended, 30 U.S.C. sections 181–287 (1970). So long as these lands remain withdrawn, they shall be subject to administration by the Secretary of the Interior under the applicable laws and regulations, as provided for by paragraph 2 of Public Land Order No. 5180.

5. The purpose of this order is to supplement Public Land Order No. 5177, as amended, by providing for 3 villages not previously listed in the order, by accommodating the right of the Village Corporations to select and the Regional Corporation to identify certain lands for selection pursuant to the terms of 43 U.S.C. 1616(d)(2)(E), by reserving additional lands for selection by the Village Corporations and Regional Corporation under section 12 of the Act and by deleting other lands from that order.

6. It is hereby determined that the promulgation of this public land order is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. section 4332(2)(C), is required.

ROGERS C. B. MORTON,
*Secretary of the Interior.*

SEPTEMBER 14, 1973.

[FR Doc.73-20002 Filed 9-19-73;8:45 am]

## Title 45—Public Welfare

## CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### ADMINISTRATION OF PUBLIC ASSISTANCE PROGRAMS

On June 21, 1973, a notice of proposed rulemaking was published in the FEDERAL REGISTER (38 FR 16308) to amend certain regulations relating to the administration of the public assistance programs under titles I, IV–A, IV–B, X, XIV, XVI, and XIX of the Social Security Act. The amendments implement several provisions of Public Law 92–603, Social Security Amendments of 1972, approved on October 30, 1972, relating to: (1) Options for States (a) to charge for cost of reproducing State program manuals and other policy issuances made available to individuals, organizations, or agencies (section 406), and (b) to deny or discontinue assistance to aged, blind, or disabled individuals who have been out of the State for more than 90 days, until they have been back in the State for specified periods of time (section 408); (2) fiscal penalty for failure to comply with requirements for offering and providing family planning services to current recipients and to former applicants of AFDC (section 299E); (3) requirement for States to pass on part of the increases in social security benefits in determining need and the amount of assistance payments to needy aged, blind, or disabled persons (section 304 and 306); and (4) provision for Federal financial participation (a) in costs of institutional services in intermediate care facilities under title XI of the act for States that do not have an approved title XIX plan, (section 292) and (b) in rent payments made directly to public housing agencies on behalf of aged, blind, or disabled recipients of financial assistance (section 409).

Three comments were received on the proposal: one favorable, one objecting to option to discontinue assistance after 90-day absence, and one pointing out the technical error in the statutory reference to section 402(a)(15)(B). The statute provides the discontinuation option. A technical amendment to correct the citation has been submitted. Therefore, no changes have been made and the proposed amendments are hereby adopted as set forth below.

Chapter II, of title 45 of the Code of Federal Regulations is amended as set forth below:

### PART 205—GENERAL ADMINISTRATION—PUBLIC ASSISTANCE PROGRAMS

1. Section 205.70 of part 205 is revised as follows:

**§ 205.70 Availability of agency program manuals.**

*State plan requirements.*—A State plan under title I, IV–A, IV–B, X, XIV, XVI, or XIX of the Social Security Act must provide that:

(a) Program manuals and other policy issuances which affect the public, including the State agency's rules and regulations governing eligibility, need and amount of assistance, recipient rights and responsibilities, and services offered by the agency, will be maintained in the State office and in each local and district office for examination on regular workdays during regular office hours by individuals, upon request for review, study, or reproduction by the individual.

(b) (1) A current copy of such material will be made available without charge or at a charge related to the cost of reproduction for access by the public through custodians who (i) request the material for this purpose, (ii) are centrally located and publicly accessible to a substantial number of the recipient population they serve, and (iii) agree to accept responsibility for filing all amendments and changes forwarded by the agency.

(2) Under this requirement the material, if requested, must be made available without charge or at a charge related to the cost of reproduction to public or university libraries, the local or district offices of the Bureau of Indian Affairs, and welfare or legal services offices or organizations. The material may also be made available, with or without charge, to other groups and to individuals. Wide availability of agency policy materials is recommended.





(c) Upon request, the agency will reproduce without charge or at a charge related to the cost of reproduction the specific policy materials necessary for an applicant or recipient, or his representative, to determine whether a fair hearing should be requested or to prepare for a fair hearing; and will establish policies for reproducing policy materials without charge, or at a charge related to cost, for any individual who requests such material for other purposes.

2. A new § 205.146 is added to Part 205, as set forth below, and part 233 is amended by deleting paragraph (b)(5) of § 233.10 and transferring its content to paragraph (a) of the new § 205.146:

**§ 205.146 Specific limitations on Federal financial participation under title IV–A.**

(a) *Penalty for failure to certify WIN registrants.*—Pursuant to section 403(c) of the act, notwithstanding any other provision of this chapter, the Federal share of assistance payments under title IV–A of the act, with respect to any State, for any fiscal year beginning on or after July 1, 1973, shall be reduced by 1 percentage point (calculated without regard to any other reduction under this section) for each percentage point by which the number of individuals certified to the manpower agency as ready for employment or training under the State's WIN program falls below 15 percent of the average number of individuals in the State who are required to be registered during such fiscal year. (See § 220.35(b)(5) of this chapter.)

(b) *Penalty for failure to offer and arrange for provision of family planning services under title IV–A of the Act.*—Pursuant to section 403(f) of the act, notwithstanding any other provision of this chapter, total payments to a State under title IV–A of the Act, for any fiscal year beginning on or after July 1, 1973, shall be reduced by 1 percent (calculated without regard to any other reduction under this section) if such State:

(1) In the immediately preceding fiscal year failed to carry out the provisions of section 402(a)(15) of the act, which require the offering and arrangement for provision of family planning services, or

(2) In the immediately preceding fiscal year (but in the case of the fiscal year beginning July 1, 1972, considering only the third and fourth quarters thereof), failed to carry out the provisions of section 402(a)(15) of the act with respect to any individual who within 3 months had been an applicant for or a recipient of AFDC under the State's approved title IV–A plan.

This penalty will be applied in accordance with instructions to be issued by SRS.

### PART 233—COVERAGE AND CONDITIONS OF ELIGIBILITY IN FINANCIAL ASSISTANCE PROGRAMS

3. Section 233.20 is amended by revising paragraph (d) as set forth below:

**§ 233.20 Need and amount of assistance.**

* * * * *

(d) *Other requirements.*—(1) Pass-on of part of the increase in OASDI benefits enacted in 1969. In the case of any individual who is a recipient of OAA, AB, APTD, or AABD for any month through December 1973 and in such month also receives OASDI benefits, the total of his aid or assistance for such month, plus OASDI benefits received in such month, shall exceed by $4 (or, if less, the amount of the increase in his OASDI benefits under Public Law 91–172) the sum of the OASDI benefits he would have received in such month without regard to the increase enacted by Public Law 91–172, plus the supplementary aid or assistance payment he would have received for such month under the applicable State plan as in effect for March 1970.

(2) Pass-on of part of the increase in OASDI benefits enacted in 1972. In addition to the amount specified in subparagraph (1) of this paragraph, in the case of any individual who is a recipient of OAA, AB, APTD, or AABD for any month after October 1972 (or, at the option of the State, September 1972) and before January 1974, and in such month also receives a monthly OASDI benefit which was increased as a result of the enactment of Public Law 92–336, the total of his aid or assistance for such month, plus OASDI benefits received in such month, shall exceed by $4 (or, if less, the amount of the increase in his OASDI benefit) the sum of the OASDI benefit he would have received in such month without regard to the increase enacted by Public Law 92–336, plus the supplementary aid or assistance payments he would have received for such month under the applicable State plan as in effect for October 1972 (or September 1972 if the State chose that option).

(3) The State agency must submit to the Regional Commissioner a description of the methods it uses to implement the requirements specified in paragraph (d)(1) and (2) of this section, and must submit promptly a description of any changes in such methods.

4. Section 233.40 is revised as set forth below:

**§ 233.40 Residence.**

(a) *Condition for plan approval.* A State plan under title I, IV–A, X, XIV, or XVI of the Social Security Act may not impose any residence requirement which excludes any individual who is a resident of the State, except as provided in paragraph (b) of this section. For purposes of this section:

(1) A resident of a State is one who is living in the State voluntarily with the intention of making his home there and not for a temporary purpose. A child is a resident of the State in which he is living other than on a temporary basis. Residence may not depend upon the reason for which the individual entered the State, except insofar as it may bear upon whether he is there voluntarily or for a "temporary purpose."

(2) Residence is retained until abandoned. Temporary absence from the State, with subsequent returns to the State, or intent to return when the purposes of the absence have been accomplished, does not interrupt continuity of residence.

(b) *Exception.* A State plan under title I, X, XIV, or XVI need not include an individual who has been absent from the State for a period in excess of 90 consecutive days (regardless of whether he has maintained his residence in the State during this period) until he has been present in the State for a period of 30 consecutive days (or a shorter period specified by the State) in the case of such individual who has maintained his residence in the State during such period of absence or for a period of 90 consecutive days (or a shorter period as specified by the State) in the case of any other such individual. An individual thus excluded under any such plan may not, as a consequence of that exclusion, be excluded from assistance under the State's title XIX plan if otherwise eligible under the title XIX plan (see § 248.40 of this chapter).

5. Section 233.145 of part 233, chapter II, title 45 of the Code of Federal Regulations is revised to read as follows:

**§ 233.145 Expiration of medical assistance programs under titles I, IV–A, X, XIV and XVI of the Social Security Act.**

(a) Under the provisions of section 121 (b) of Public Law 89–97, enacted July 30, 1965, no payment may be made to any State under title I, IV–A, X, XIV or XVI of the Social Security Act for aid or assistance in the form of medical or any other type of remedial care for any period after December 31, 1969. However, these provisions do not affect the availability of Federal financial participation in the cost of medical or remedial care furnished under title IV–A of the Act (pursuant to sections 403(a)(5) and 406(e)) of the Act, as emergency assistance to needy families with children (see § 233.120 of this part), subject to the provisions of paragraph (c)[1] of this section. Federal financial participation in vendor payments for medical care and services is not otherwise available except under title XIX of the Act.

(b) Under the provisions of section 4(c) of Public Law 92–223, enacted December 28, 1971, and the provisions of section 292 of Public Law 92–603, enacted October 30, 1972:

(1) In the case of any State which on January 1, 1972, had in effect a State plan approved under title XIX of the Social Security Act, section 1121 of the Act authorizing payments under title I, X, XIV, or XVI of the Act for assistance in the form of institutional services in

[1] See notice published 8/29/73 (38 FR 23337).



V 38 182 SEP 20 73 XUM

intermediate care facilities is rescinded; and

(2) In the case of any State which on January 1, 1972, did not have in effect a State plan approved under title XIX of the act, Federal financial participation is available in assistance in the form of institutional services in intermediate care facilities pursuant to section 1121 of the act and under the provisions of § 234.130 of this chapter until the first day of the first month after January 1, 1972, that the State has in effect a State plan approved under title XIX.

## PART 234—FINANCIAL ASSISTANCE TO INDIVIDUALS

6. A new § 234.75 is added to Part 234, as set forth below:

**§ 234.75 Rent payments to public housing agencies.**

At the option of a State, if its plan approved under title I, X, XIV, or XVI of the Social Security Act so provides, Federal financial participation under such title is available in rent payments made directly to a public housing agency on behalf of a recipient or a group or groups of recipients of OAA, AB, APTD, or AABD. Such Federal financial participation is available in rent payments only to the extent that they do not exceed the amount included for rent under the State's standard of assistance or the amount of rent due under applicable law, whichever is less.

7. Section 234.120 is revised to read as set forth below:

**§ 234.120 Federal financial participation.**

Federal financial participation is available in assistance payments made under a State plan under title I, IV–A, X, XIV, or XVI of the Social Security Act to any family or individual for periods beginning with the month in which they meet all eligibility conditions under the plan and in which an application has been received by the agency. Such assistance payments include:

(a) Money payments (titles I, IV–A, X, XIV, and XVI, see § 234.11 of this chapter);

(b) Protective and vendor payments for dependent children (title IV–A, see § 234.60 of this chapter);

(c) Protective payments for the aged, blind, or disabled (titles I, X, XIV, and XVI, see § 234.70 of this chapter);

(d) AFDC foster care payments (title IV–A, see § 233.110 of this chapter);

(e) Vendor payments for institutional services in intermediate care facilities (titles I, X, XIV, and XVI), but only in a State that did not, as of January 1, 1972, have an approved plan under title XIX of the act, and only until such State has such a plan in effect (see § 234.130 of this chapter);

(f) Emergency assistance to needy families with children (title IV–A, see § 233.120 of this chapter);

(g) Vendor payments for home repairs (titles I, IV–A, X, XIV, and XVI, see § 233.20(c) of this chapter); and

(h) Rent payments to public housing agencies (titles I, X, XIV, and XVI, see § 234.75 of this chapter).

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).)

*Effective date.*—The regulations are effective October 30, 1972, except as otherwise specified for § 205.146.

(Catalog of Federal Domestic Assistance Program No. 13.754, Public Assistance-Social Services and No. 13.761, Public Assistance-Maintenance Assistance (State Aid).)

Dated August 23, 1973.

JAMES S. DWIGHT, Jr.,
*Administrator, Social and Rehabilitation Service.*

Approved September 17, 1973.

CASPAR W. WEINBERGER,
*Secretary of Health, Education, and Welfare.*

[FR Doc.73-20041 Filed 9-19-73;8:45 am]

## Title 47—Telecommunication

## CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19677; FCC 73-943]

## PART 73—RADIO BROADCAST SERVICES

### Table of Assignments; FM Broadcast Stations

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Richlands, Virginia, and Welch, West Virginia); RM–1949, and RM–1911.

1. The Commission has before it the notice of proposed rulemaking in this proceeding adopted January 31, 1973 (FCC 73–129, 38 FR 3998) and responsive comments filed by Clinch Valley Broadcasting Corporation ("Clinch") and by Pocahontas Broadcasting Company ("Pocahontas").

2. Clinch and Pocahontas each seek the assignment of Channel 288A. Clinch wishes it assigned to Richlands, Virginia, and Pocahontas to Welch, West Virginia. Neither the showings of the parties nor our own study has indicated the availability of another channel for assignment to either community. Thus, even though there is merit in both of the proposals, it will be possible to accommodate only one of them. In essence, then, it is necessary to make a comparison between them and to determine which possible use would be preferable.

3. Before examining the merits of the conflicting proposals, there is one procedural matter to resolve. That involves the filing of supplemental pleadings by each of the parties. Pocahontas filed a separate motion seeking acceptance of its pleadings; Clinch's request for consideration of its supplemental pleading was contained in the pleading itself. Clinch has opposed the Pocahontas motion. In its motion Pocahontas asserts that Clinch introduced new engineering data in a supplemental pleading to which Pocahontas should be entitled to respond as it did by the filing of its pleading. Alternatively, Pocahontas seeks rejection of both sets of supplemental pleadings. Clinch's response is that it was Pocahontas that first introduced new issues in its reply comments, something contrary to applicable procedural requirements.

4. At times we have authorized the acceptance of supplemental pleadings, and indeed, in some instances, justice clearly requires such action. Nevertheless, we do not do so with regularity lest we undermine our processes. Thus, a substantial showing is required before we could make an affirmative finding. In this case, Clinch's argument is only that it too is entitled since Pocahontas was the first to introduce new data in its reply comments. Nowhere is there a real explanation for the late raising of the new material or any indication it could not have been raised earlier. Under these circumstances we do not intend to accept the late-filed pleadings nor to accept any new showing first advanced in a reply. One other point needs to be made in this connection. All of the improperly raised matters related to engineering issues. Although the issues are important ones, most of the showings would have been unsatisfactory even if they had been submitted properly. This being the case, the Commission has conducted its own study, which is discussed below.

5. Although extensive pleadings have been filed, the questions to be addressed are relatively few. Each of these questions however, has been given lengthy attention, particularly the matter of first FM service that the proponents think one or the other possible assignment might provide. The simple answer to this point is that neither would be able to provide a first FM service. This determination is based on the Commission's own calculations and no substantial evidence has been submitted to support a contrary conclusion.[1] Our calculations, however, do show a notable difference between the proposals in terms of their being able to provide a second FM service. A Richlands station could provide a second FM service to approximately 50 percent of the area it would cover, in contrast to a figure of about 5 percent for a Welch operation. We shall return to this distinction subsequently.

6. Richlands has a population of 4,843, and the county in which it is located (Tazewell) has a population of 39,816. The only local service in Richlands is provided by a daytime-only AM station. Welch has a population of 4,149 and McDowell County in which it is located, has a population of 50,666. Welch is served by a daytime-only AM station and by a Class IV full-time station. Since neither of these communities has an FM assignment[2], a strong case could be made for making a first FM assignment to either of them. Lengthy description of local activities is not required here because we do not question the ability of either community to support a station. Nor need we delve into the particular of their economies or population growth or decline. The fact is that both are in a coal mining region and have felt the impact of the decline in coal mining and its recent resurgence. Both are some distance from larger cities in the region. Thus in overall terms, their general situations are similar.

7. Of the distinguishing factors, the only ones that favor Welch are the larger size of its county (of which it is the seat) and the county's lack of an FM assignment. The situation affecting the county is not the principal basis upon which an assignment is premised. Rather, an assignment is made to a particular community, based on its need and on the ability of a station there to bring a needed service to its coverage area. In these terms, Richlands is to be preferred. It is larger; it has fewer stations and locating a station there would mean the bringing of a second FM service to a far larger area. We also note that Welch has a daily newspaper, Richlands only a weekly. All of these points are of significance and in sum, they make the case clear. Our view is not altered by the fact that Richlands' county already has FM stations, since they are well removed from Richlands. The presence or absence of other services in the county is of importance, but that importance declines sharply with distance. Likewise the suggestion of Pocahontas that an AM station could be built in Richlands is not only speculative, but the showing supporting the assertion was defective as well. Richlands may not be as centrally located in its county as is Welch, but this is of little significance since virtually all of Welch's proposed coverage area already receives two FM services. The balance is clear: Richlands is the preferable location for the assignment.[3]

8. Accordingly, *it is ordered*, That effective October 26, 1973, the FM Table of Assignments (Section 73.202(b)) is amended to read as follows for the community listed:

| City: | Channel No. |
|---|---|
| Richlands, Va | 288A |

9. *It is further ordered*, That Pocahontas' Motion to Accept Additional Pleading is denied and all unauthorized pleadings by both parties are rejected and those portions of the Pocahontas reply comments which, contrary to our rules, raised new issues are stricken.

10. Authority for the actions taken herein is contained in secs. 4(i), 303 and 307(b) of the Communications Act of 1934, as amended. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307).)

Adopted September 11, 1973.

Released September 14, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[4]
VINCENT J. MULLINS,
*Acting Secretary.*

[FR Doc. 73-20010 Filed 9-19-73;8:45 am]

[1] The listening test using a single FM car radio on which Pocahontas attempted to rely is without weight, as is its speculation on shadowing based on assumptions and lacking in data or calculations of any type.

[2] Welch once had an FM station operating on a channel assigned to Bluefield, West Virginia. That station was moved some years ago to Bluefield, Virginia. We do not see in this departure of the station from Welch any basis for different treatment than the present case would otherwise merit.

[3] In order to meet spacing requirements a site five miles northeast of the community would have to be used. Clinch has satisfactorily established that it would be able to provide the requisite city coverage from such location, without suffering significant shadowing problems.

[4] Commissioner Robert E. Lee absent.





[Docket No. 19756]

## PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

### Subpart H—Television Broadcast Booster Stations

REPORT AND ORDER TERMINATING PROCEEDING

Adopted September 11, 1973, released September 14, 1973 by the Commission (Commissioner Robert E. Lee absent).

1. As a result of our Task Force study on re-regulation of broadcasting, we issued a Notice of Proposed Rule Making, released June 5, 1973 (FCC 73–590), looking toward deletion of Subpart H, concerning Television Broadcast Booster Stations, Part 74 of our Rules and Regulations. Closing dates for comments and reply comments were July 16 and July 26, 1973, respectively. Publication was made in the Federal Register on June 11, 1973 (38 F.R. 15374).

2. Rules implementing the service of television broadcast booster stations were promulgated by Report and Order in Docket No. 11331, adopted May 20, 1960, 20 Pike and Fischer R.R. 1505. Such stations are essentially co-channel amplifying transmitters by which the licensee of a UHF television broadcast station may boost its signal where the strength of such signal is low within the station's theoretical Grade A contour.

3. Deletion of Subpart H was proposed on the ground that it serves no useful purpose. There are no stations authorized under this subpart. Construction permits were granted for two such stations in 1960 and 1961, and each was cancelled at the request of the permittee after two-and-one-half months. No licenses were ever issued. No applications have been filed in this service since 1961. It appears unlikely that there would be any requests for television booster stations in the future, inasmuch as conventional translators are available and more practical.

4. No comments were filed in this proceeding.

5. Lack of interest in or utilization of this service appears to have resulted from at least two practical considerations. First, inherent in the co-channel operation of TV boosters are technical difficulties of avoiding undesirable interference. Second, the use of TV translators has been a satisfactory and preferable alternative.

6. We conclude that Subpart H serves no useful purpose and that its deletion from our Rules and Regulations would be in the public interest.

7. In view of the foregoing, *it is ordered*, That, effective October 26, 1973, Part 74 of the Commission's rules and regulations is amended by deleting the provisions of Subpart H in its entirety (§§ 74.801–74.884) and designating it as Reserved.

8. Authority for the action taken herein is contained in secs. 4(i) and 303 (j) and (r) of the Communications Act of 1934, as amended, and Sections 1.425 and 1.427(a) of the Commission's rules and regulations.

9. *It is further ordered*, That this proceeding is terminated.

Adopted September 11, 1973.

Released September 14, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

[FR Doc.73-20011 Filed 9-19-73;8:45 am]

[Docket No. 19451]

## PART 91—INDUSTRIAL RADIO SERVICES

### Non-Government Fixed and Land Mobile Telemetering Operations; Correction

In the matter of amendment of Parts 2, 89, 91 and 93 of the Commission's Rules to Permit non-Government Fixed and Land Mobile Telemetering in the Band 1427–1435 MHz on a secondary basis.

In the Report and Order in Docket 19451, FCC 73–757, released July 24, 1973, and published in the FEDERAL REGISTER on August 1, 1973 (38 FR 20435), § 91.554(b) was amended by adding limitations (48) and (49). This is corrected to specify limitations (49) and (50).

Released: September 12, 1973.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

[FR Doc.73-20009 Filed 9-19-73;8:45 am]

## Title 50—Wildlife and Fisheries

## CHAPTER I—BUREAU OF SPORT FISHERIES AND WILDLIFE, DEPARTMENT OF THE INTERIOR

## PART 32—HUNTING

### Bitter Lake National Wildlife Refuge, New Mexico

The following special regulation is issued and is effective on September 20, 1973.

[1] Commissioner Robert E. Lee absent.



V38-1820 SEP 20 1973 XUM

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

NEW MEXICO

BITTER LAKE NATIONAL WILDLIFE REFUGE

The public hunting of ring-necked and white-winged pheasants, quail, and rabbits on the Bitter Lake National Wildlife Refuge, N. Mex., is permitted as follows: Pheasants, from December 15, 1973 through December 18, 1973, inclusive; quail from November 10, 1973 through January 27, 1974, inclusive; rabbits from November 6, 1973 through January 20, 1974, inclusive, only in the areas open to waterfowl hunting. These areas, comprising 3,320 acres, are delineated on maps available at refuge headquarters, 13 miles northeast of Roswell, N. Mex., and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, N. Mex. 87103.

Hunting shall be in accordance with all applicable State regulations governing the hunting of pheasants, quail, and rabbits.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 27, 1974.

BARNET W. SCHRANCK,
*Refuge Manager, Bitter Lake National Wildlife Refuge, Roswell, N. Mex.*

SEPTEMBER 13, 1973.

[FR Doc.73-19967 Filed 9-19-73;8:45 am]

## PART 32—HUNTING

### Brigantine National Wildlife Refuge, New Jersey

The following special regulation is issued and is effective during the period September 20, 1973 through January 1, 1974.

§ 32.12 Special regulations; migratory game birds, for individual wildlife refuge areas.

NEW JERSEY

BRIGANTINE NATIONAL WILDLIFE REFUGE

Public hunting of rails, gallinules, waterfowl, and coots on the Brigantine National Wildlife Refuge, New Jersey, is permitted during established State and Federal seasons on only those areas designated by signs as open to hunting.

These open areas are delineated as Hunting Units 1 and 2 on maps available at refuge headquarters, Oceanville, New Jersey 08231, or from the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Massachusetts 02109.

Hunting shall be in accordance with State and Federal regulations covering the hunting of migratory game birds.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, as set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 30, 1974.

WILLARD M. SPAULDING, JR.,
*Acting Regional Director, Bureau of Sport Fisheries and Wildlife.*

SEPTEMBER 11, 1973.

[FR Doc.73-19965 Filed 9-19-73;8:45 am]

## PART 32—HUNTING

### Lacreek National Wildlife Refuge, South Dakota

The following special regulation is issued and is effective on September 20, 1973.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

SOUTH DAKOTA LACREEK NATIONAL WILDLIFE REFUGE

Public hunting of ducks and coots on the Lacreek National Wildlife Refuge, South Dakota, is permitted from October 6 through December 4, 1973, but only on the area designated by signs as open to hunting. This open area, known as the Little White River Recreation Area and comprising 310 is delineated on a map available at the refuge headquarters, Martin, South Dakota 57551, and from the Area Manager, Bureau of Sport Fisheries and Wildlife, Federal Building, Pierre, South Dakota 57501. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks and coots.

In addition to the regular duck and coot season, the same area described above will be open from December 16 through December 31, 1973, for the hunting of mallards only in accordance with the State of South Dakota's High Plains Mallard Season.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 30, 1973.

HAROLD H. BURGESS,
*Refuge Manager, Lacreek National Wildlife Refuge, Martin, South Dakota.*

SEPTEMBER 11, 1973.

[FR Doc.73-19964 Filed 9-19-73;8:45 am]

## PART 32—HUNTING

### Parker River National Wildlife Refuge, Massachusetts

The following special regulation is issued and is effective during the period October 20, 1973 through January 31, 1974.

§ 32.12 Special regulations; migratory game birds, for individual wildlife refuge areas.

MASSACHUSETTS

PARKER RIVER NATIONAL WILDLIFE REFUGE

Public hunting of waterfoul and coots on the Parker River National Wildlife Refuge, Massachusetts, is permitted only on the areas designated by signs as open to hunting. These open areas, comprising 1,900 acres, and known as the Pine Island Hunting Area, Parker River Hunting Area, Nelson's Island Hunting Area, and the Youth Hunting Area, are delineated on maps available at refuge headquarters, Newburyport, Massachusetts or from the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Massachusetts 02109. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of migratory game birds, subject to the following special conditions:

(1) The number of hunters on the Pine Island Area will be limited to 100 each day, Parker River Area to 50 each day, and the Nelson's Island Area to 50 each day. Participation will be on a first-come, first-served basis from Monday through Friday, except holidays and opening day. Participation on opening day, Saturdays, and holidays will be by advance permit secured via mail. Hunters on all three areas are limited to 25 shotshells per day.

(2) The Youth Hunting Area will be open during the regular State waterfowl season for Young Waterfowl trainees on selected days except Sundays under the provisions of this special program. Young Waterfowl trainees who hunt will be required to participate in the Bureau's iron shot program. Literature describing this program is available at the refuge headquarters.

The provisions of this special regulation supplement the regulations governing hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 31, 1974.

WILLARD M. SPAULDING,
*Acting Regional Director, Bureau of Sport Fisheries and Wildlife.*

SEPTEMBER 11, 1973.

[FR Doc.73-19966 Filed 9-19-73;8:45 am]

## PART 32—HUNTING

### Lacreek National Wildlife Refuge, S. Dak.

The following special regulation is issued and is effective on September 20, 1973.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

SOUTH DAKOTA

LACREEK NATIONAL WILDLIFE REFUGE

Public hunting of upland game on the Lacreek National Wildlife Refuge, South Dakota, is permitted only on the areas designated by signs as open to hunting. The two open areas; Little White Recreation Area (310 acres) and Habitat Unit 10 (1,000 acres) are delineated on a map





available at the refuge headquarters, Martin, South Dakota 57551, and from the Area Manager, Bureau of Sport Fisheries and Wildlife, Federal Building, Pierre, South Dakota 57501. Hunting shall be in accordance with all applicable State and Federal regulations governing the hunting of upland game subject to the following special conditions:

LITTLE WHITE RIVER RECREATION AREA

(a) Species permitted to be taken: Cock pheasants during the seasons specified below.

(b) Open season: Cock pheasants from noon to sunset daily October 20 through October 27th and 11 AM to sunset October 28 through November 23, 1973.

(c) The hunting of other upland species, as may be authorized by South Dakota State regulations, is permitted from October 20 through December 31, 1973.

HABITAT UNIT 10

(a) Species permitted to be taken; Cock pheasants during the season specified below. The hunting of other species, is prohibited on this unit.

(b) Open season: Cock pheasants from noon to sunset daily October 20 through October 27 and 11 AM to sunset October 28 through November 23, 1973.

(c) Access: Designated parking areas and entrance points will be available in the north and southwest corners of the hunting area. Entrance at any point other than the designated areas is prohibited.

(d) Permits: Hunting will be allowed by special permit-reports available at designated entrances.

The provisions of this special regulation supplement the regulations which govern hunting in wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective until February 28, 1974.

HAROLD H. BURGESS,
*Refuge Manager, Lacreek National Wildlife Refuge, Martin, South Dakota.*

SEPTEMBER 12, 1973.

[FR Doc.73-20024 Filed 9-19-73;8:45 am]

## PART 32—HUNTING

### Ouray National Wildlife Refuge, Utah

The following special regulation is issued and is effective on September 20, 1973.

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

UTAH

OURAY NATIONAL WILDLIFE REFUGE

Public hunting of pheasants on the Ouray National Wildlife Refuge, Utah, is permitted from November 10 through December 9, 1973, inclusive, but only on the area designated by signs as open to hunting. This open area, comprising 7,500 acres, is delineated on maps available at refuge headquarters, Vernal, Utah, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 10597 West 6th Avenue, Denver, Colorado 80215. Hunting shall be in accordance with all applicable State regulations covering the hunting of pheasants.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 9, 1973.

H. J. JOHNSON,
*Refuge Manager, Ouray National Wildlife Refuge, Vernal, Utah.*

SEPTEMBER 10, 1973.

[FR Doc.73-20023 Filed 9-19-73;8:45 am]



V 38 I 182 SEP 20 73 XUM

# Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

[ 7 CFR Part 906 ]

### HANDLING OF ORANGES AND GRAPEFRUIT GROWN IN LOWER RIO GRANDE VALLEY IN TEXAS

#### Proposed Expenses and Rate of Assessment for Fiscal 1973–74

This notice invites written comment relative to the proposed expenses of $680,000 and rate of assessment of $0.045 per 7/10 bushel carton or equivalent quantity of oranges and grapefruit, to support the activities of the Texas Valley Citrus Committee for the 1973–74 fiscal period under Marketing Order No. 906.

Consideration is being given to the following proposals submitted by the Texas Valley Citrus Committee, established pursuant to the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in Lower Rio Grande Valley in Texas, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(1) That expenses that are reasonable and likely to be incurred by the Texas Valley Citrus Committee, during the period August 1, 1973, through July 31, 1974, will amount to $680,000.

(2) That there be fixed at $0.045 per 7/10 bushel carton or equivalent quantity of oranges and grapefruit, the rate of assessment payable by each handler in accordance with § 906.34 of the aforesaid marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals shall file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than October 1, 1973. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated September 17, 1973.

CHARLES R. BRADER,
*Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.73-20049 Filed 9-19-73;8:45 am]

[ 7 CFR Part 945 ]

### IRISH POTATOES GROWN IN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREGON

#### Proposed Expenses and Rate of Assessment

Consideration is being given to the approval of a proposed $36,825 budget and a twenty six hundredths cent per hundredweight rate of assessment for the Idaho-Eastern Oregon Potato Committee, for its fiscal period ending May 31, 1974. This committee was established under Marketing Agreement No. 98 and Order No. 945, both as amended (7 CFR Part 945).

This marketing order program regulates the handling of Irish potatoes grown in Idaho and Malheur County, Oregon, under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

All persons who desire to submit written data, views, or arguments in connection with these proposals shall file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112–A, Washington, D.C. 20250, not later than September 28, 1973. All written comments will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposals are as follows:

§ 945.226 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending May 31, 1974, by the Idaho-Eastern Oregon Potato Committee, for its maintenance and functioning, and for such purposes as the Secretary determines to be appropriate, will amount to $36,825.

(b) The rate of assessment to be paid by each handler in accordance with this part, shall be $0.0026 per hundredweight of potatoes handled by him as the first handler during the fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve to the extent authorized in § 945.44(b).

(d) Terms used in this section shall have the same meaning as when used in the marketing agreement and this part.

Dated September 17, 1973.

CHARLES R. BRADER,
*Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.73-20048 Filed 9-19-73;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

[ 21 CFR Part 27 ]

### CANNED GRAPEFRUIT

#### Proposed Amendment to Standards of Identity, Quality, and Fill of Container

*Correction*

In FR Doc. 73–17153, appearing at page 22408 in the issue of Monday, August 20, 1973, make the following changes:

1. In the third column on page 22409, "3. *Flavours*", should read "3.2 *Flavours*".

2. In the nineteenth line of the first incomplete paragraph in the third column on page 22411, the figures in the parenthesis reading "2.2.3" should read "2.3.3".

3. In the first line of § 27.91(b)(1)(vi), "*Accepted number* (c).", should read "*Acceptance number* (c)."

### Office of the Secretary

[ 45 CFR Part 83 ]

### NONDISCRIMINATION ON THE BASIS OF SEX UNDER TITLES VII AND VIII OF THE PUBLIC HEALTH SERVICE ACT

Pursuant to section 215(b) of the Public Health Service Act (42 U.S.C. 216(b)), the Director of the Office for Civil Rights, with the approval of the Secretary of Health, Education, and Welfare, hereby gives notice that he proposes to revise Part 83 of Title 45 of the Code of Federal Regulations to read as set forth below.

This also constitutes notice that, upon publication in final form of the revised Part 83, (1) HEW Form 590A (3/72) and HEW Form 590C (6/72)—*Explanation of HEW Form 590, Assurance of Compliance with Section 799A of Part H, Title VII, of the Public Health Service Act, and Section 845 of Part C, Title VIII, of the Public Health Service Act*—will no longer be in effect, (2) HEW Form 590 (3/72)—*Assurance of Compliance with Public Health Service Act Sections 799A and 845*—and HEW Form 590B (6/72)—*Assurance of Compliance with 45 CFR Part 83*—will be considered to be modified by the deletion of the second paragraphs of those forms, and (3) any entity which has, before publication in final form of the revised Part 83, submitted HEW Form 590 or HEW Form 590B to the Director will be considered to have filed a satisfactory assurance of compliance with the revised Part 83 unless (i) that assurance is rejected in writing by the Director or (ii) the entity notifies the Director that it no longer intends to comply with its assurance.

Persons who wish to submit comments, suggestions, or objections pertaining to these revised regulations may present their views in writing to the Director of the Office for Civil Rights of the Department of Health, Education, and Welfare, 330 Independence Avenue, SW., Washington, D.C., 20201, on or before October 23, 1973. Comments received in response to this notice will be available for public inspection in Room 3256, 330 Independence Avenue, SW., Washington, D.C. 20201, between 9:00 a.m. and 5:30 p.m. Monday through Friday (except Federal holidays).

Dated August 1, 1973.

PETER E. HOLMES,
*Director, Office for Civil Rights.*

Approved September 17, 1973.

CASPAR W. WEINBERGER,
*Secretary, Health, Education, and Welfare.*

### PART 83—REGULATION FOR THE ADMINISTRATION AND ENFORCEMENT OF SECTIONS 799A AND 845 OF THE PUBLIC HEALTH SERVICE ACT

#### Subpart A—Purposes; Definitions; Coverage


Sec.
83.1 Purpose.
83.2 Definitions.
83.3 Coverage.
83.4 Effect of title IX of the Education Amendments of 1972.


#### Subpart B—Discrimination in Admissions Prohibited


83.10 General obligations.
83.11 Specific discriminatory acts prohibited.
83.12 Recruitment.
83.13 State law and licensure requirements.
83.14 Development and dissemination of nondiscrimination policy.
83.15 Designation by entity of responsible employee.


#### Subpart C—Procedures


83.20 Procedures for the submission of assurances and evaluation of compliance status.
83.21 Compliance information.
83.22 Review or other investigation.
83.23 Actions by entities against students and employees.
83.24 Procedures for effecting compliance.
83.25 Administrative proceedings.
83.26 Decision, notice, and review.


AUTHORITY: Section 215(b) of the Public Health Service Act, 42 U.S.C. 216(b).

#### Subpart A—Purposes; Definitions; Coverage

§ 83.1 Purposes.

(a) The purposes of this part of (1) to effectuate the provisions of sections 799A and 845 of the Public Health Service Act, which forbid the extension of Federal support under title VII or VIII of that Act to any entity of the types described in those sections unless that entity submits to the Secretary of Health, Education, and Welfare an assurance satisfactory to him that it will not discriminate on the basis of sex in the admission of individuals to its training programs, and (2) to implement the policy of the Secretary that no Federal support will be extended under those titles to any other entity unless that entity submits to the Secretary an assurance satisfactory to him that it will not discriminate on the basis of sex in the admission of individuals to its training programs.

(b) The objective of this part is to abolish use of sex as a criterion in the admission of individuals to every training program operated by an entity receiving support under title VII or VIII of the Act, and thereby to foster maximum use of all available human resources in meeting the Nation's needs for qualified health personnel. Sections 799A and 845 and this part do not prohibit consideration of sex, or any action based on sex, where that consideration or action is designed to overcome the effects of prior discriminatory policies or practices.

§ 83.2 Definitions.

As used in this part, the term—

(a) *"Act"* means the Public Health Service Act;

(b) *"Administrative law judge"* means a person appointed by the Reviewing Authority to preside over a hearing held under this part.

(c) *"Assurance commitment clause"* means a clause in an invitation for a contract offer extended by the Federal Government under title VII or VIII of the Act which, when executed by an entity as part of such offer, becomes, upon acceptance of such offer by the Federal Government, a contractual obligation of such entity to comply with its assurance submitted to the Director under this part.

(d) *"Department"* means the Department of Health, Education, and Welfare.

(e) *"Director"* means the Director of the Office for Civil Rights of the Department.

(f) *"Entity"* means

(1) A school of medicine, school of dentistry, school of osteopathy, school of pharmacy, school of optometry, school of podiatry, school of veterinary medicine, or school of public health, as defined by section 724 of the Act;

(2) A school of nursing, as defined by section 843 of the Act;

(3) A school or college of a training center for an allied health profession as defined by section 795 of the Act, or of another institution of undergraduate education which school or college can provide a training program;

(4) An affiliated hospital, as defined by section 724 or 795 of the Act; and

(5) Any other institution, organization, consortium, or agency which is eligible to receive Federal support.

(g) *"Federal support"* means assistance extended after November 18, 1971, under title VII or VIII of the Act to an entity by means of a grant to, a contract with, or a loan guarantee or interest subsidy payment made on behalf of, such entity.

(h) *"Federally supported entity"* means an entity which receives Federal support.

(i) *"Reviewing authority"* means that component of the Department to which the Secretary delegates authority to review the decision of an administrative law judge in a proceeding arising under this part.

(j) *"Secretary"* means the Secretary of Health, Education, and Welfare.

(k) *"Training program"* means a program of training described by section 724(4) of the Act, a program of education described by, or specified by regulations pursuant to, section 795(1) of the Act, a program of education described by section 843(c), 843(d), or 843(e) of the Act, and a program leading to any license or certification requisite to the practice of a health profession for which a degree specified in any such section is granted.

§ 83.3 Coverage.

(a) If an entity receives Federal support for any of its training programs, all of its training programs thereby become subject to this part.

(b) The obligation imposed by this part on a Federally supported entity not to discriminate on the basis of sex in the admission of individuals to a training program includes not only the obligation not to discriminate on such basis in the selection of individuals for such program, but also the obligation not to discriminate on such basis against individuals after their selection for such program.

(c) If a training center for allied health professions gives to students admitted to an undergraduate program of such center preference for enrollment in any training program of such center over individuals not admitted to such undergraduate program, or gives such students exclusive access to enrollment in any such training program, the obligations imposed by this part shall apply to such undergraduate program.

(d) An entity shall not discriminate on the basis of sex in violation of this part for as long as such entity receives or benefits from Federal support. For purposes of the preceding sentence, an entity shall be deemed to continue to receive or benefit from Federal support for as long as it retains ownership, possession, or use of property which has a remaining useful life and which was acquired in whole or in part with Federal support. If an entity receives value for property which was acquired in whole or in part with Federal support and such value is applied toward the acquisition of other property, such entity shall be deemed to continue to receive or benefit from such support for as long as such other property has a useful life and such entity retains ownership, use, or possession of such other property.

(e) An entity shall not transfer property which was acquired, constructed, altered, repaired, expanded, or renovated







V 38-182 SEP 20 73 XUM

in whole or in part with Federal support unless the agency, organization, or individual to whom such property is to be transferred has submitted to the Director, and he has found satisfactory, an assurance of compliance with this Part. The preceding sentence shall not apply with respect to any real property for which payments have been recaptured by the United States under title VII or VIII of the Act or with respect to any other property for which the transferring entity has refunded to the Federal Government, or otherwise properly accounted for, the Federal share of the fair market value of such property.

**§ 83.4 Effect of title IX of the Education Amendments of 1972.**

(a) The obligations imposed by this part are independent of obligations imposed by title IX of the Education Amendments of 1972 and any regulations promulgated thereunder.

**§§ 83.5 through 83.9 [Reserved]**

## Subpart B—Discrimination in Admissions Prohibited

**§ 83.10 General obligations.**

(a) *Eligibility for support.* No entity will be provided Federal support unless such entity has furnished the Director assurances satisfactory to him that it will not discriminate on the basis of sex, in violation of this part, in the admission of individuals to each of its training programs.

(b) *Eliminating the effects of discrimination.* An assurance of compliance with this part will not be satisfactory to the Director if the entity submitting such assurance fails to take whatever action is necessary for such entity to eliminate the effects of any discrimination on the basis of sex in the admission of individuals to its training programs which such entity practiced prior to the submission to the Director of such assurance, or practices at the time of or subsequent to such submission. The Director may require such entity, as a condition to determining that its assurance is, or remains, satisfactory, to take specific actions, or to submit to him specific information, bearing upon compliance with this part.

**§ 83.11 Specific discriminatory acts prohibited.**

(a) *Discrimination in selection.* In determining whether an individual satisfies any enrollment, eligibility, or other condition for selection for a training program, a Federally supported entity shall not:

(1) On the basis of sex, give preference to one individual over another by ranking applicants on such basis, or otherwise give such preference; or

(2) Otherwise treat one individual differently from another on the basis of sex.

(b) *Discrimination in the provision of benefits and services.* In providing financial aid or any other benefit, or in providing any service, to an applicant for a training program or to a student enrolled in such program, no Federally supported entity shall on the basis of sex:

(1) Treat one individual differently from another in determining whether such individual satisfies any requirement or condition for the provision of such benefit or service;

(2) Provide a different benefit or service, or provide a benefit or a service in a different manner;

(3) Deny an individual any such benefit or service;

(4) Subject an individual to separate treatment or rules of behavior;

(5) Discriminate against an individual by assisting an agency, organization, or individual in providing, in a manner which discriminates on the basis of sex, a benefit or service (except housing) to applicants for or students enrolled in a training program; or

(6) Otherwise limit any individual in the enjoyment of any right, privilege, advantage, or opportunity.

(c) *Housing.* If a Federally supported entity provides housing for any students enrolled in its training programs, housing units made available by such entity to such students of one sex shall be comparable in quantity and quality to housing units so made available to such students of the other sex. A Federally supported entity shall not on the basis of sex limit the housing opportunities of applicants for or students enrolled in its training programs by its policies or practices relating to the granting or withholding of permission for such applicants or students to use housing other than that operated or controlled by such entity. If a Federally supported entity assists, through solicitation, listing, or approval of housing, or otherwise, an agency, organization, or individual in providing housing to such students, such entity shall take such action as may be necessary to insure that housing provided with such assistance to such students of one sex is comparable in quantity and quality to that provided to such students of the other sex. A Federally supported entity shall apprise such students and applicants of the availability of housing operated or controlled by such entity as well as other housing opportunities which may exist in the community.

(d) *Inter-institutional programs.* If a Federally supported entity aids participation, by any applicant for or student enrolled in any of its training programs, in any program or activity of another organization or agency, such entity shall:

(1) Develop and implement a procedure to assure itself that such organization or agency takes no action with respect to such applicants or students which this Part would prohibit such entity from taking; and

(2) Not aid such participation if such organization or agency takes such action.

(e) *Discrimination in employment prohibited.* A Federally supported entity shall not discriminate on the basis of sex in employment practices relating to its professional and other staff who work directly with applicants for or students enrolled in any of its training programs.

**§ 83.12 Recruitment.**

(a) *Comparable recruitment.* A Federally supported entity shall, with respect to each of its training programs, make comparable efforts to recruit members of each sex in the geographic area from which such entity attracts its students. A Federally supported entity shall not recruit for any of its training programs exclusively or primarily at organizations or agencies which admit as members or students, or which provide a service for, only members of one sex unless such entity can demonstrate that such action is part of a recruitment program which does not have the effect of discriminating on the basis of sex in selection for a training program.

(b) *Recruitment practices.* A Federally supported entity shall:

(1) Prominently include a statement of its policy of nondiscrimination on the basis of sex in each announcement, bulletin, catalogue, or application form which describes the training program of such entity or is used in connection with the recruitment of employees who will work directly with applicants for or students enrolled in a training program;

(2) Distribute without discrimination on the basis of sex any announcements, bulletins, catalogues, or other materials used in connection with the recruitment of students for a training program or employees who will work directly with applicants for such program or with such students; and

(3) Apprise each of its recruitment representatives of its policy of nondiscrimination on the basis of sex, and require such representatives to adhere to such policy.

**§ 83.13 State law and licensure requirements.**

The obligation of an entity to comply with this Part is not obviated or alleviated by any State or local law which would render an applicant for or student enrolled in a training program ineligible on the basis of sex for any license or certificate requisite to the practice of the health profession for which such applicant seeks, or student pursues, training.

**§ 83.14 Development and dissemination of nondiscrimination policy.**

A Federally supported entity shall develop a written policy statement of nondiscrimination on the basis of sex, in accordance with this part, and shall publicize such statement to applicants, students, employees, and prospective employees. Such entity shall also publicize such statement to any institution or agency from which it recruits or attempts to recruit students or employees for its training programs.





**§ 83.15 Designation by entity of responsible employee.**

A Federally supported entity shall designate an employee who shall be responsible for its efforts to comply with this part, including the investigation of any complaint communicated to such entity alleging its noncompliance with this part.

**§§ 83.16 through 83.19 [Reserved]**

## Subpart C—Procedures

**§ 83.20 Procedures for the submission of assurances and evaluation of compliance status.**

(a) *Submission of assurance.* Except to the extent provided in the next sentence, after the Director determines that an assurance submitted to him by an entity under this part is satisfactory, such entity need not submit to him another assurance under this part unless the Director notifies such entity that such assurance is no longer satisfactory. An entity which submits to the Department a contract offer under title VII or VIII of the Act shall submit with such offer an executed assurance commitment clause.

(b) *Determination.* The Director will determine that an assurance submitted to him by an entity under this part is satisfactory unless (i) such assurance is not submitted to him in the form prescribed by him or (ii) he determines that such entity is unable or unwilling to comply with its obligations under this part. If the Director determines that an entity's assurance is not satisfactory under clause (i) or (ii) of the preceding sentence, he will attempt to secure a satisfactory assurance before he takes further action under this part.

**§ 83.21 Compliance information.**

(a) *Reports.* A Federally supported entity shall develop and maintain records containing such information as the Director requires for the purpose of carrying out his responsibilities under this part. Such entity shall also submit to the Director, at such time and in such form as he prescribes, any information he requires for that purpose.

(b) *Access to records and facilities.* (1) A Federally supported entity shall permit access by the Director during normal business hours to such of its books, records, accounts, and other sources of information as the Director determines to bear upon compliance with this part.

(2) A Federally supported entity shall permit the Director to make copies of any written information which he determines to bear upon compliance with this part.

(3) A Federally supported entity shall permit access to its facilities by the Director during normal business hours.

**§ 83.22 Review or other investigation.**

(a) *Submittal of information or complaints to the Director.* An individual who believes that he or she is or has been subjected to discrimination prohibited by this Part and who wishes to submit a complaint to the Director, should do so in writing. An individual who has information bearing upon the compliance of a Federally supported entity with this part and who wishes to submit such information to the Director should do so by any means of communication he desires to use. A written communication to the Director under this paragraph should provide the name of the person making the complaint or providing the information, his or her telephone number, the name and address of the Federally supported entity concerned, a descripton of the acts or policies alleged to be discriminatory or otherwise to bear upon compliance with this part, and the names of other persons who may have pertinent information.

(b) *Reviews.* The Director may review any practice or policy of a Federally supported entity which he determines bears upon its compliance with this part, or which he determines bears upon any complaint he has received concerning the subjection of any individual or class of individuals to discrimination prohibited by this part.

(c) *Results of investigation.* If, following a review of an entity's practices or policies, the Director determines that such entity is in compliance with this part, he will in writing so inform such entity and any individual whose complaint concerning such entity was considered during such review, indicating the basis for his determination. If the Director determines that such entity is probably not in compliance with this part, he will attempt to secure voluntary compliance by such entity. If such voluntary compliance cannot be secured, he will take further action under § 83.24.

**§ 83.23 Actions by entities against students and employees.**

A Federally supported entity shall permit the Director to interview any of its employees or students without a representative of such entity being present at such interview. A Federally supported entity shall take no adverse action with regard to any individual or group as a result of, or in regard to, (a) the participation of that individual or group in any activity of the Department undertaken pursuant to this part, or (b) any communication by that individual or group with the Director in regard to that entity's obligations under this part.

**§ 83.24 Procedures for effecting compliance.**

(a) The Director will institute administrative proceedings for the purpose of terminating, denying, or refusing to continue Federal support to an entity, or take other actions authorized by law, including referral to the Department of Justice with a recommendation for judicial enforcement proceedings, if he determines that:

(1) An assurance submitted by such entity under this part is not satisfactory; or

(2) Such entity has failed to comply with such assurance. The Director will not delegate his function under this paragraph.

(b) The Secretary will not, under title VII or VIII of the Act, make, or approve an application for a new grant to, or enter into a new contract with, or for the benefit of, an entity during the period beginning with the issuance by the Director to such entity of a notice of an opportunity for a hearing under this part and ending with final agency action, within the meaning of § 83.26(d), with respect to such entity's compliance with this part.

(c) If an administrative proceeding under this part results in a finding of noncompliance with this part by an entity, such entity will not subsequently be determined by the Director to be in compliance with this part until it has submitted to him an assurance of such compliance that is satisfactory to him. Such assurance shall be accompanied by evidence showing specifically and in detail the actions taken by such entity subsequent to such finding in order to achieve such compliance. If the Director determines that such assurance is not satisfactory, such entity may submit in writing to the Director a request for a hearing, specifying in detail why it believes such determination to be erroneous. After the Director receives such a request, he will give such entity an expeditious hearing.

**§ 83.25 Administrative proceedings.**

(a) *Imposition of sanctions.* No order under this part terminating, denying, or refusing to continue Federal support will become effective until there has been a finding on the record, after an opportunity for hearing, of failure by an entity to comply with this part, and such finding has become final as provided in § 83.26(d).

(b) *Opportunity for hearing.* (1) Whenever the Director determines that administrative proceedings will be instituted under § 83.24(a), notice of opportunity for a hearing will be given by registered mail, return receipt requested, to any Federally supported entity which is to be made a party. This notice will advise such entity of each alleged failure to comply with this part and of the matters of fact and law asserted as a basis for institution of the proceeding. Such notice will fix a period of not less than 20 days after the date of receipt of such notice within which such entity may request the Director to schedule the matter for hearing.

(2) A request by an entity for a hearing should be mailed to the Director by registered or certified mail.

(3) A party named in a notice of opportunity for hearing may waive such hearing and, in lieu thereof, may submit written information and argument for the record. Failure of a party to request a hearing under this section or to appear at a hearing for which a date has been set shall be deemed to be a waiver of such party's right to a hearing.

(c) *Place of hearings.* Hearings under this part will be held at the offices of the Department in Washington, D.C., unless the administrative law judge determines



V 38 I 182 SEP 20 73 XUM

that for the convenience of the parties another place will be selected. The Director will provide promptly and in writing to any party notice of any change in the time or place of a hearing.

(d) *Conduct of hearings.* (1) The Reviewing Authority shall appoint an administrative law judge to conduct a hearing under this part. Such hearing shall be conducted in accordance with procedures prescribed by the Director personally.

(2) A party to a hearing shall have the right to counsel and to a fair opportunity to present evidence and argument and to cross-examine witnesses.

(3) All testimony, documents, and other evidence offered or taken for the record shall be open to examination by the parties, and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the hearing, and the record shall consist of all documents filed from the date of the notice of opportunity for hearing, as well, as the transcript of the hearing and all exhibits made part thereof.

(4) Any individual (other than a Government employee on official business) who, having been invited or requested to appear and testify as a witness on the Government's behalf, attends at a time and place scheduled for a hearing under this part, shall be reimbursed for his or her travel and actual expenses of attendance in an amount not to exceed the amount payable under standardized travel regulations to a Government employee traveling on official business.

**§ 83.26 Decision, notice, and review.**

(a) *Decision by administrative law judge.* (1) Within 30 days after a hearing is held, or after such hearing is waived and written information and argument for the record are submitted, under this Part, the administrative law judge shall make an initial decision based on the entire record.

(2) If a party waives a hearing pursuant to § 83.25(b)(3) and does not submit written information and argument for the record, the administrative law judge shall make a final decision in writing based on the record as a whole.

(3) The administrative law judge shall mail a copy of a decision issued under paragraph (1) or (2) of this section to each party to the hearing.

(b) *Review by the Reviewing Authority.* A party shall have a right to review by the Reviewing Authority of the decision of the administrative law judge. To obtain such review, a party shall, within 20 days after the issuance of the initial decision of the administrative law judge, file with the Reviewing Authority exceptions to such decision with reasons for such exceptions. The Reviewing Authority shall give to each party a reasonable opportunity to file briefs or other written statements. A party may file responses to such exceptions, briefs, or statements within ten days after the filing of any such exception, brief, or statement with the Reviewing Authority.

(c) *Review in certain cases by the Secretary.* (1) In order for a party to obtain review of the decision of the Reviewing Authority, such party shall request such review in writing from the Secretary within 30 days after issuance of the decision by the Reviewing Authority. The Secretary's decision to undertake or not to undertake review will be communicated in writing, within 30 days after such request, to each party. Failure of a party to request a review by the Secretary will not be deemed by him to be a failure to exhaust administrative remedies for the purpose of obtaining judicial review. Review will be granted by the Secretary only where he determines that special and important questions of fact or law require such review, and the Secretary may grant or deny in whole or in part a request for review under this part.

(2) The Secretary will also review a decision on his own motion if he determines that such review is required by questions of fact or law relating to such decision. His decision to undertake such review will be communicated in writing, within 30 days after the issuance of the Reviewing Authority's decision, to each party and such review will be undertaken within 60 days after the date of such notification.

(d) *Final agency action for purposes of judicial review.* A decision under this section will become the final decision of the Department and will constitute final agency action within the meaning of section 704 of title 5 of the United States Code in the following manner:

(1) A decision by an administrative law judge pursuant to paragraph (a) will become final on the 21st day after such decision is made, unless prior to such day review by the Reviewing Authority has been requested under paragraph (b) of this section.

(2) A decision by the Reviewing Authority, under paragraph (b), will become final:

(i) On the 31st day following its issuance unless review by the Secretary is requested prior to such day under paragraph (c)(1) of this section, or unless the Secretary undertakes review on his own motion prior to such day under subparagraph (c)(2) of this section; or

(ii) On the 31st day following a request that the Secretary review such decision under paragraph (c)(1) of this section, unless the Secretary prior to such day grants such review.

(3) A decision of the Secretary under subparagraph (c) (1) or (2) of this section will become final on the day following its issuance.

APPENDIX

Public Health Service Act:

Section 724(4):

The terms "school of medicine", "school of dentistry", "school of osteopathy", "school of pharmacy", "school of optometry", "school of podiatry", "school of veterinary medicine", and "school of public health" mean a school which provides training leading, respectively, to a degree of doctor of medicine, a degree of doctor of dentistry or an equivalent degree, a degree of doctor of osteopathy, a degree of bachelor of science in pharmacy or doctor of pharmacy, a degree of doctor of optometry or and equivalent degree, a degree of doctor of podiatry or doctor of surgical chiropody, a degree of doctor of veterinary medicine or an equivalent degree, and a graduate degree in public health, and including advanced training related to such training provided by any such school * * *.

Section 795:

(1) The term "training center for allied health professions" means a junior college, college or university.

(A) Which provides, or can provide programs of education leading to a baccalaureate or associate degree or to the equivalent of either or to a higher degree in the medical technology, optometric technology, dental hygiene, or any of such other of the allied health professions curriculums as are specified by regulations, or which, if in a junior college provides a program (i) leading to an associate or an equivalent degree, (ii) of education in optometric technology, dental hygiene, or curriculums as are specified by regulation, and (iii) acceptable for full credit toward a baccalaureate or equivalent degree in the allied health professions or designed to prepare the student to work as a technician in a health occupation specified by regulations of the Surgeon General,

(B) Which provides training for not less than a total of twenty persons in such curriculums,

(C) Which, if in a college or university which does not include a teaching hospital or in a junior college, is affiliated (to the extent and in the manner determined in accordance with regulations) with such a hospital,

(D) Which is (or is in a college or university, which is) accredited by a recognized body or bodies approved for such purpose by the Commissioner of Education, or which is in a junior college which is accredited by the regional accrediting agency for the region in which it is located or there is satisfactory assurance afforded by such accrediting agency to the Surgeon General that reasonable progress is being made toward accreditation by such junior college, and

(E) In the case of an applicant for a grant under section 793, which, if the college or university does not include a school of medicine, school of osteopathy, school of optometry, or school of dentistry, as defined in paragraph (4) of section 724, as may be appropriate in the light of the training for which the grant is to be made, is affiliated (to the extent and in the manner determined in accordance with regulations) with such a school, * * *

Section 843:

* * * * * *

(b) The term "school of nursing" means a collegiate, associate degree or diploma school of nursing.

(c) The term "collegiate school of nursing" means a department, division, or other administrative unit in a college or university which provides primarily or exclusively a program of education in professional nursing and allied subjects leading to the degree of bachelor of arts, bachelor of science, bachelor of nursing, or to an equivalent degree, or to a graduate degree in nursing, and including advanced training related to such program of education provided by such school, but only if such program, or such unit, college or university is accredited.

(d) The term "associate degree school of nursing" means a department, division, or other administrative unit in a junior college, community college, college or university which provides primarily or exclusively a two-year program of education in professional nursing and allied subjects leading to an associate degree in nursing or to an equivalent degree, but only if such program, or such unit, college, or university is accredited.

(e) The term "diploma school of nursing" means a school affiliated with a hospital or university, or an independent school, which provides primarily or exclusively a program of education in professional nursing and allied subjects leading to a diploma or to equivalent indicia that such program has been satisfactorily completed, but only if such program, or such affiliated school or such hospital or university or such independent school is accredited.

* * * * *

[FR Doc.73-20040 Filed 9-19-73;8:45 am]





## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### [ 14 CFR Part 71 ]

[Airspace Docket No. 73-GL-43]

### TRANSITION AREA

### Proposed Designation

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Ashland, Ohio.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before October 23, 1973, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief.

Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A new public use instrument approach procedure has been developed for the Ashland County Airport, Ashland, Ohio, utilizing a non-Federal nondirectional beacon as a navigational aid. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedure by designating a transition area at Ashland, Ohio. The new procedure will become effective concurrently with the designation of the transition area.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (38 FR 435), the following transition area is added:

ASHLAND, OHIO

That airspace extending upward from 700 feet above the surface within a 5½-mile radius of the Ashland County Airport (latitude 40°54'11" N., longitude 82°15'21" W.); within 3 miles each side of the 002° bearing from the airport extending from the 5½-mile-radius area to 12 miles north of the airport excluding that portion which overlies the Mansfield, Ohio transition area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Des Plaines, Illinois, on September 5, 1973.

R. O. ZIEGLER,
*Acting Director,*
*Great Lakes Region.*

[FR Doc.73-20004 Filed 9-19-73;8:45 am]

### [ 14 CFR Part 139 ]

[Docket No. 13202; Notice No. 73-25]

### CERTIFICATION OF AIRPORTS SERVING CAB-CERTIFICATED AIR CARRIERS

### Clarification of Serving

The Federal Aviation Administration is considering amending Part 139 of the Federal Aviation Regulations to clairfy, and make more specific, the meaning of the term "serving" used in prescribing the applicability of Part 139 and certain of the provisions contained in the part.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591. All communications received on or before October 22, 1973, will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Part 139 of the Federal Aviation Regulations provides for the issuance of airport operating certificates for land airports serving CAB-certificated air carriers. As originally adopted, Part 139 was applicable only to land airports serving "scheduled" air carriers operating large aircraft (other than helicopters). Amendment 139-1 (38 FR 9795), published in the FEDERAL REGISTER on April 20, 1973, amended Part 139, effective May 21, 1973, to make the Part applicable to all airports serving air carriers certificated by the Civil Aeronautics Board. As noted in the preamble to Amendment 139-1, the FAA recognized that the additional airports to which Part 139 would be applicable by virtue of Amendment 139-1 would not be able to comply with all of the requirements of Part 139 before the effective date of May 21, 1973. The FAA had determined that those additional airports were able to conduct a safe operation, and that provisional operating certificates, subject to such terms, conditions and limitations as the Administrator finds are necessary to assure safety in air transportation, should be issued to those airports pending their compliance with Part 139. Accordingly, § 139.1 was amended to make the Part applicable to all airports serving air carriers, and a new § 139.12 was added to Part 139 which provisionally certificated for a period of 45 days (until July 5, 1973; later extended to October 5, 1973, by Amendment 139-2, 38 FR 17714, July 3, 1973) airports and heliports which, on May 20, 1973, were serving CAB-certificated air carriers conducting only unscheduled operations or operations with small aircraft in order that they might continue to serve such air carriers pending compliance with Part 139. Section 139.12 also provided for the extension of that certification to May 21, 1974, upon the request of the airport operator prior to October 5, 1973, and compliance by the operator with the requirements of that section.

The FAA has received considerable comment and recommendations regarding the broadened applicability of Part 139 to include all airports serving CAB-certificated air carriers. A substantial number of those comments assert that it is unreasonable and unrealistic to consider those airports or landing areas, which only infrequently or occasionally, or seasonally, accommodate air carrier operations, as "serving" air carriers. It is further asserted that the economic and practical burdens of complying with the requirements of Part 139 in these circumstances are disproportionate to the benefits of the air carrier operation and unnecessary, by reason of the infrequent or occasional character of the air carrier activity.

The FAA believes, in the light of comments received and based on additional airport data and information collected during the course of the airport certification program, that a distinction may reasonably and properly be made between airports, for certification purposes, based on "frequency-of-operation." Precedent is found for this kind of distinction in § 121.7 of Part 121 of the Federal Aviation Regulations, which requires intrastate common carriage by commercial operators to be conducted in accordance with rules applicable to domestic air carriers, if the commercial operator's activity exceeds certain specified rates, i.e., a total of 36 or more flights or 18 or more round trips in any 90 consecutive days. This provision was incorporated in the regulations applicable to commercial operators in 1949, and no reasons based on safety considerations for abolishing



V 38 I 182 SEP 20 73 XUM

this frequency-of-operation distinction have become apparent.

Accordingly, the FAA proposes to amend Part 139 to clarify and give definition to the term "serving" as used in the Part. As proposed herein, Part 139 would be applicable to any airport expected to be used by scheduled air carriers as a regular, provisional, or refueling airport. Such airports are identified in air carrier operations specifications and have well defined meanings, as follows: A *regular airport* is an airport approved as a regular terminal or intermediate stop on an authorized route; a *provisional airport* is an airport approved for use by an air carrier for the purpose of providing service to a community when the regular airport serving that community is not available; a *refueling airport* is an airport approved as an airport to which flights may be dispatched only for fueling. The Part would also be applicable to airports expected to be used by air carrier users when the "frequency-of-operation" is 36 or more flights in any period of 90 consecutive days.

This amendment is proposed under the authority of sections 313(a), 609, 610(a), and 612 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1429, 1430(a), and 1432), and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend Part 139 of the Federal Aviation Regulations by amending § 139.1 by adding a new paragraph (c) to read as follows:

§ 139.1 Applicability.

* * * * *

(c) For the purpose of this part an airport is considered to be serving air carrier users if—

(1) The airport is expected to be used by any scheduled air carrier as a regular, provisional, or refueling airport; or

(2) The airport is expected to be used by air carrier users for 36 or more flights in any period of 90 consecutive days.

Issued in Washington, D.C., on September 10, 1973.

CLYDE W. PACE, JR.,
*Director,*
*Airports Service, AAS-1.*

[FR Doc.73-20005 Filed 9-19-73;8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

### [ 40 CFR Part 52 ]

### WASHINGTON STATE

### Approval and Promulgation of Implementation Plans; Correction

In regulations proposed on July 16, 1973 (38 FR 18974), for preconstruction review of parking facilities in the Seattle and Spokane areas of Washington State, a permit for construction, modification, or enlargement of any parking facility was proposed to be required "after the effective date of this regulation." At the time of the proposal, a court-ordered deadline of August 15, 1973, for promulgation was in effect.

Promulgation of final transportation control regulations for affected States is now required to take place by October 15, 1973, in accordance with the revised court order. It is the Agency's intention that such regulations will still be applicable to all construction, modification, or enlargement commenced after August 15, 1973, regardless of the date of proposal or promulgation. Wording in regulations proposed for other States has reflected this, and is given herein for Washington State.

This notice of proposed rulemaking is issued under the authority of section 110(c) and section 301(a) of the Clean Air Act (42 U.S.C. 1857c-5(c) and 1857g (a)).

Dated September 14, 1973.

JOHN QUARLES,
*Acting Administrator.*

SUBPART WW—WASHINGTON

1. The document proposing to revise Part 52 of Chapter I of Title 40 of the Code of Federal Regulations, published in the FEDERAL REGISTER on July 16, 1973, at 38 FR 18974, is corrected by changing the words "after the date of this regulation" to read "after August 15, 1973" in § 52.2486(c).

[FR Doc.73-20071 Filed 9-19-73;8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

### [ 47 CFR Part 73 ]

[Docket No. 19824; FCC 73-947]

### FM BROADCAST STATIONS

### Proposed Table of Assignments, Sun Valley, Idaho

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations (Sun Valley, Idaho), Docket No. 19824, RM-2060.

1. Notice of proposed rulemaking is hereby given concerning proposed amendment of the FM Table of Assignments (§ 73.202(b) of the Commission's Rules and Regulations) with respect to the petition of Sun Valley Radio, Inc. (SVR), proposing the assignment of Channel 247 in lieu of Channel 288A presently assigned to Sun Valley, Idaho.

2. Sun Valley, population 180, is located in Blaine County, population 5,749. The only broadcast station in the county is Class IV AM Station KSKI at the county seat, Hailey, population 1,425.

3. In support of the petition, SVR adduces substantial information and data concerning Sun Valley and the general area it feels should be served. We are informed that Sun Valley is located approximately in the center of the State of Idaho and that Blaine County's population increase between 1960 and 1970 was 25 percent as compared to the State's overall increase of 6.8 percent. Petitioner states that Sun Valley, as the site of a world famous ski resort, is the focal point of Blaine County. We are told that one million families travel to the Sun Valley area annually for skiing and other recreational purposes (excellent trout fishing area). Petitioner's purpose is to have a wide area facility to serve Sun Valley, Ketchum, Hailey, and Bellevue. In this respect, petitioner describes the educational systems, availability of news media for these communities, and the topography of the area. SVR states that the Wood River Valley area is experiencing rapid growth; indeed, a new resort city, Elkhorn, with condominiums, lodges, shops, a lake, ice rink, and other sporting activities is under construction near Sun Valley. From a technical viewpoint, it is asserted that a station on the Class A channel assigned to Sun Valley would not adequately serve the needs for local expression. It is contended that the terrain—a narrow winding valley with steep mountains—make a station on a Class A channel impracticable. It is asserted that the assignment of Channel 247 may be made to Sun Valley with full compliance with the Commission's Rules and Regulations. Indeed, SVR states that Channel 247 is one of many channels that could be assigned to the area without impinging on mileage separations and that the preclusionary effect is minimal. SVR states that if Channel 247 is assigned to Sun Valley it will file an application for its use.

4. It appears that the assignment of Channel 247 to Sun Valley is possible without changes elsewhere and the preclusionary effect is minimal. While there is preclusion on Channels 244A, 246, 247, 248, and 249A, the area is sparsely populated and there are many other FM channels available for assignment to communities located within the precluded areas. On the other hand, petitioner has failed to submit any information as to the extent of the Channel 247 service area and the nature of FM and other aural service within such area. This information should be submitted. In other respects, we conclude that Sun Valley Radio, Inc., has made a sufficient showing that the public interest, convenience, and necessity might be served by the assignment of Channel 247 in lieu of Channel 288A at Sun Valley.

5. In view of the foregoing and pursuant to authority found in sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, it is proposed to amend § 73.202(b) of the Commission's Rules and Regulations, the FM Table of Assignments, as concerns Sun Valley, Idaho, as follows:

| City | Channel No. | |
|---|---|---|
| | Present | Proposed |
| Sun Valley, Idaho..... | 288A | 247 |

6. *Showings required.* Comments are invited upon the proposal referred to above. As indicated, there are questions about the area to be served and the nature of other aural services that are available in that area. Petitioner should also affirm its intention to apply for the channel if assigned and to promptly build on it if the application is granted. Failure to file comments or address the issues raised may result in dismissal.

7. *Cut-off procedure.* The following procedures will govern:

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments.

(b) With respect to petitions for rule making which conflict with the proposal in this Notice, they will be considered as comments in this proceeding, and Public Notice to that effect will be given, as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision herein.

8. Pursuant to applicable procedures set out in § 1.415 of the Commission's Rules and Regulations, interested parties may file comments on or before October 26, 1973, and reply comments on or before November 5, 1973. All submissions by parties to this proceeding or persons acting on behalf of such parties, shall be made in written comments, reply comments, or other appropriate pleadings.

9. In accordance with the provisions of § 1.419 of the Commission's Rules and Regulations, an original and 14 copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

Adopted September 11, 1973.

Released September 14, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

[FR Doc.73-20012 Filed 9-19-73;8:45 am]

### [ 47 CFR Part 73 ]

[Docket No. 19826; FCC 73-953]

### TELEVISION BROADCAST STATIONS

### Proposed Table of Assignments, Wheeling, W. Va.

In the matter of amendment of § 73.606(b), *Table of assignments*, Television broadcast stations (Wheeling, West Virginia), Docket No. 19826, RM-2214.

1. Notice of Proposed Rule Making is hereby given concerning proposed amendment of the Television Table of Assignments (§ 73.606(b) of the Commission's Rules and Regulations) with respect to the petition of the West Virginia Board of Regents, licensee of noncommercial educational television broadcast Station WWVU-TV, Morgantown, West Virginia (WWVU-TV), proposing that Channel 41 at Wheeling, West Virginia be reserved for noncommereial educational use. Wheeling, population 48,188, has three television assignments: Channel 41; Channel 7, which is occupied by Station WTRF-TV; and Channel 14 which is unavailable for television use pending further action in Docket No. 18261 which concerns the use of that channel for the land mobile service.

2. WWVU-TV, as part of its program to provide a permanent state-wide system of educational television for West Virginia together with the West Virginia Educational Broadcasting Authority[2], is constructing a translator network throughout the state which includes a translator operating on Channel 41 at Wheeling, West Virginia. The purpose of the translator network is to extend the programming of Station WWVU-TV to areas unserved in West Virginia by educational television. WWVU-TV broadcasts 77 hours of weekly programming including a full week-day school service, programming from the Public Broadcasting Service, the Eastern Educational Television Network, and the Public Television Library. The purpose of the translator plan (five of the proposed seven are under construction) is to extend educational programming now serving approximately 85% of West Virginia population to ten additional counties and as concerns Wheeling to provide it and other communities in the Northern Panhandle of West Virginia with such service. The petitioner adduces information and data about the Panhandle which is not essential to our action in this proceeding, e.g., the topography.

3. WWVU-TV notes that there is only one West Virginia commercial television station in the Panhandle area, that is, Station WTRF-TV, Channel 7, Wheeling, West Virginia, although there is service from out-of-state stations.[3] It further points out that since Channel 41 was assigned to Wheeling in 1966 it has remained fallow, and that although a construction permit was granted for use of Channel 14 in 1966, the station was never constructed and the permit was deleted in 1969. It states that commercial television has shown little interest in Wheeling and that it is unlikely that reservation of Channel 41 for noncommercial educational use will deprive the community of a possible commercial television station.

4. While WWVU-TV already is the holder of a construction permit for a translator on Channel 41, its purpose in having the channel reserved for noncommercial educational use is to assure itself that the channel will continue to be used for educational purposes. (In addition to using the channel for a translator operation, it mentions the possibility that the West Virginia Board of Regents may activate the channel as a broadcast station, depending on how the West Virginia educational television system develops in the future.) In the circumstances, it appears that the public interest, convenience, and necessity would be served by the adoption of the Notice of Proposed Rule Making to consider the reservation of Channel 41 at Wheeling as a noncommercial educational reservation.

5. In view of the foregoing and pursuant to the authority found in sections 4(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, it is proposed to amend § 73.606 (b) of the Commission's Rules and Regulations, the Television Table of Assignments, as concerns Wheeling, West Virginia, as follows:

| City | Channel No. | |
|---|---|---|
| | Present | Proposed |
| Wheeling, W. Va..... | 7, 11*4, 41 | 7, 11*4, *41 |

6. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations, interested parties may file comments on or before October 26, 1973, and reply comments on or before November 5, 1973. All submissions by parties to this proceeding, or persons acting on behalf of such parties, must be made in written comments, reply comments, or other appropriate pleadings.

7. In accordance with the provisions of § 1.419 of the rules and regulations, an original and 14 copies of all comments, reply comments, pleadings, briefs, and other documents shall be furnished the Commission. These will be available for public inspection during regular business hours in the Commission's Public Reference Room at its Headquarters, 1919 M Street, NW., Washington, D.C.

Adopted September 11, 1973.

Released September 14, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[3]
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

[FR Doc.73-20013 Filed 9-19-73;8:45 am]

## FEDERAL DEPOSIT INSURANCE CORPORATION

### [ 12 CFR Part 329 ]

### INTEREST ON DEPOSITS

### Offering and Use of NOW Accounts by Banks in Massachusetts and New Hampshire

1. Notice is hereby given that the Board of Directors of the Federal Deposit Insurance Corporation is considering a number of amendments to Part 329 of the Corporation's rules and regulations relating to the payment of interest on

[1] Commissioner Robert E. Lee absent.

[2] The West Virginia Educational Broadcasting Authority is the licensee of noncommercial educational television Station WMUL-TV, Channel *33, Huntington, and WSWP-TV, Channel *9, Grandview, West Virginia.

[3] Station WSRV-TV, Channel 9, Steubenville, Ohio, and stations at Pittsburgh and Youngstown.

[3] Commissioner Robert E. Lee absent.







V 38 1 82 SEP 20 73 XUM

deposits (12 CFR Part 329). The proposed amendments would establish certain restrictions on the offering and use of interest or dividend bearing accounts from which withdrawals may be made by negotiable or transferable instruments for the purpose of making transfers to third parties. These accounts will be referred to herein as "NOW accounts".

By virtue of section 2(a) of Public Law 93–100, depository institutions in Massachusetts and New Hampshire may allow their customers to use NOW accounts, while depository institutions in other States are barred from allowing their customers to use such accounts. The term "depository institution" includes all insured nonmember commercial and mutual savings banks as well as State nonmember banks (including mutual savings banks) that are not insured by the Federal Deposit Insurance Corporation. Section 2(a) becomes effective on September 15, 1973.

The Board of Directors proposes to treat NOW accounts as a form of savings deposit for purposes of Part 329. They would thus be subject to regulation by the Federal Deposit Insurance Corporation pursuant to the authority granted to the Board in section 18(g) of the Federal Deposit Insurance Act (12 U.S.C. 1828 (g)) to promulgate regulations prohibiting the payment of interest on demand deposits, and regulations governing the advertisement and payment of interest or dividends on deposits in insured nonmember banks. Section 3 of Public Law 93–100 has, in effect, extended this authority to all banks in Massachusetts that are not insured by the Federal Deposit Insurance Corporation. The Board accordingly proposes to adopt uniform regulations for NOW accounts in all insured nonmember commercial and mutual savings banks in Massachusetts and New Hampshire and all noninsured banks in Massachusetts.

The amendments proposed by the Board of Directors would establish restrictions on both the offering and use of NOW accounts. Mutual savings banks in Massachusetts and New Hampshire which are presently making NOW accounts available to their customers should consider the way in which any of the proposed amendments, if adopted as final regulations by the Board of Directors, might alter the conditions under which they could continue to make such accounts available; and what steps they would have to take to bring their existing practices into conformance with the regulations. Commercial banks, and those mutual savings banks which are not presently making NOW accounts available to their customers, should bear the proposed amendments in mind in the event that they do decide to make these accounts available before the Board of Directors has had the opportunity to adopt final regulations. The Board of Directors strongly encourages both groups of banks to present their views on the following proposals before the comment period expires on November 1, 1973. This is particularly important with respect to the last set of proposals which are presented here as a series of alternative restrictions, any combination of which might appear in a final regulation. These latter restrictions impose fairly stringent limitations on the use of NOW accounts and could have a significant impact on the attractiveness of such accounts to potential customers.

The proposals are as follows:

(1) Banks in Massachusetts and New Hampshire would be authorized to offer NOW accounts only to residents of those two States and would be required to restrict their advertising accordingly.

(2) No bank would be permitted to pay interest at a rate in excess of 4½ percent per annum on any NOW account.

(3) NOW accounts would be defined as "savings deposits" as that term is now defined in Part 329 with respect to commercial banks. This means that their use would be limited to individuals and certain nonprofit organizations (i.e., those operated primarily for religious, philanthropic, charitable, educational, fraternal, or other similar purposes). It also means that the holder of a NOW account could, at any time, be required to give not less than 30 days' written notice of an intended withdrawal to the depository bank.

(4) The holder of a NOW account would be subject to any one or a combination of the following restrictions:

(a) He would not be permitted to draw more than a limited number of free items (e.g., 10 items) on his account during any given calendar month. Additional items would be subject to a mandatory service charge.

(b) No interest could be paid on his account unless he maintained a specified minimum (or average daily) balance in the account.

(c) His account would bear interest at a "split rate", i.e., a lower rate of interest on the first $200 or $300 and a higher rate (not to exceed 4½ percent) on anything in excess of that amount.

(d) No interest could be paid on any amount in his account which exceeded the lowest balance in the account during any given calendar month.

The proposal which relates to the offering of NOW accounts is designed to limit the competition for such accounts to residents of Massachusetts and New Hampshire. Banks in those States which choose to solicit NOW accounts will not be able to offer them to new customers in other States.

No bank would be permitted to pay interest on a NOW account at a rate in excess of 4½ percent per annum. This rate would be the same for both commercial and mutual savings banks in Massachusetts and New Hampshire, thus emphasizing the fact that all banks in those two States would be allowed to compete for NOW accounts on essentially the same basis.

The last two sets of proposals are partially designed to retain the traditional distinction—explicitly sanctioned by Federal law—between demand and savings desposits. This would be done by classifying NOW accounts as "savings deposits" and restricting their use to individuals and certain nonprofit organizations, as well as subjecting the withdrawal of funds to a 30-day prior notice requirement (to be imposed at the discretion of the bank). Limiting the number of free items that may be drawn on such accounts during a single month, perhaps in combination with other of the restrictions described above, may be necessary in order to emphasize the difference between NOW accounts and demand accounts.

2. This notice is published pursuant to section 553(b) of Title 5, United States Code, and §§ 302.1–302.5 of the rules and regulations of the Federal Deposit Insurance Corporation.

3. Interested persons are invited to submit written data, views or arguments regarding the proposed amendments to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429, no later than November 1, 1973.

By order of the Board of Directors, September 14, 1973.

FEDERAL DEPOSIT INSURANCE CORPORATION,
[SEAL] ALAN R. MILLER,
*Executive Secretary.*

[FR Doc.73-20073 Filed 9-19-73;8:45 am]

## SELECTIVE SERVICE SYSTEM

**[ 32 CFR Parts 1623, 1626, 1628, 1631, 1632, 1641 ]**

### SELECTIVE SERVICE REGULATIONS

**Notice of Proposed Rulemaking**

Pursuant to the Military Selective Service Act, as amended (50 U.S. Code App., sections 451 et seq.), and Executive Order Number 11623 dated October 12, 1971, the Director of Selective Service hereby gives public notice that consideration is being given to the following proposed amendments to the Selective Service Regulations constituting a portion of Chapter XVI of the Code of Federal Regulations. These regulations implement the Military Selective Service Act, as amended (50 U.S. Code App., sections 451 et seq.).

The revocation of § 1623.3 would remove a possibly confusing cross-reference. The revision of § 1626.4(b) eliminates the delay in processing the appeal of a registrant who does not request a personal appearance before the appeal board. The addition of § 1628.6(c) would authorize the Director of Selective Service to cancel an order for an Armed Forces examination. The insertion of a new subparagraph (1) in § 1631.6(b) and the revocation of § 1631.7 would provide "unsatisfactory reservists" additional procedural rights prior to their being ordered for induction. The addition of § 1632.1(d) would authorize the Director of Selective Service to cancel an order to report for induction. The revocation of § 1641.8 eliminates the requirement that a Registration Certificate that has been lost or mislaid be returned to the local board after it has been located.

All persons who desire to submit views to the Director on the proposals should prepare them in writing and forward them to the Director, Selective Service System, Attn: LLD, 1724 F Street NW., Washington, D.C. 20435. Comments received by October 23, 1973, will be considered.





### PART 1623—CLASSIFICATION PROCEDURE

The proposed amendments follow:

§ 1623.3 [Revoked]

1. Section 1623.3 *Physical examination,* is revoked.

### PART 1626—APPEAL TO APPEAL BOARD

2. Paragraph (b) of § 1626.4, Review by appeal board, is amended to read as follows:

§ 1626.4 Review by appeal board.

* * * * *

(b) Upon receipt of the registrant's file, the appeal board shall ascertain whether the registrant has requested a personal appearance before the appeal board. If no such request had been made, the appeal board may classify the registrant forthwith.

* * * * *

### PART 1628—EXAMINATION OF REGISTRANTS

Paragraph (c) of § 1628.6, Order to report for armed forces examination, is added to read as follows:

§ 1628.6 Order to report for armed forces examination.

(c) The Director may direct the cancellation of an order for Armed forces examination for any registrant prior to his failing or refusing to report for or submit to such examination.

### PART 1631—ALLOCATION OF INDUCTIONS

Paragraph (b) of § 1631.6 is amended to read as follows:

§ 1631.6 Action by local board upon receipt of allocation.

* * * * *

(b) Registrants shall be selected and ordered to report for induction in the following categories and in the order indicated:

(1) Registrants described in section 6(c)(2)(D) of the Military Selective Service Act.

(2) Volunteers who have not attained the age of 26 years in the sequence in which they have volunteered for induction.

(3) Nonvolunteers in the Extended Priority Selection Group who have not attained the age of 26 years in the order in which their random sequence number had been reached.

(4) Nonvolunteers in the First Priority Selection Group for the current calendar year in the order of their random sequence number established by random selection procedures prescribed in accordance with § 1631.1.

(5) Nonvolunteers who have not attained the age of 26 years in each of the lower priority selection groups, in turn, within the group in the order of their random sequence number established by random selection procedures prescribed in accordance with § 1631.1.

(6) Nonvolunteers who have attained the age of 19 years during the calendar year but who have not attained the age of 20 years, in the order of their random sequence number established by random selection procedures prescribed in accordance with § 1631.1.

(7) Nonvolunteers who have attained the age of 26 years and each year thereafter in turn, most recent year first, within the year group in the order of their random sequence number established by random selection procedures prescribed in accordance with § 1631.1: *Provided,* That the random sequence number established on December 1, 1969, will apply to any registrant born prior to January 1, 1944.

(8) Nonvolunteers who have attained the age of 18 years and 6 months and who have not attained the age of 19 years in the order of the random sequence number established by random selection procedures prescribed in accordance with § 1631.1 for registrants who during the current calendar year have attained the age of 19 years but who have not attained the age of 20 years.

§ 1631.7 [Revoked]

* * * * *

Section 1631.7 *Registrants who shall be inducted without calls,* is revoked.

### PART 1632—DELIVERY AND INDUCTION

Paragraph (d) of § 1632.1 *Order to report for induction,* is added to read as follows:

§ 1632.1 Order to report for induction.

* * * * *

(d) The Director may direct the cancellation of an order to report for induction for any registrant prior to his failing or refusing to report for induction.

### PART 1641—DUTY OF REGISTRANTS

§ 1641.8 [Revoked]

Section 1641.8, Duty to return registration certificate to local board, is revoked.

Dated September 13, 1973.

BYRON V. PEPITONE,
*Director.*

[FR Doc.73-19956 Filed 9-18-73;8:45 am]

## VETERANS ADMINISTRATION

**[ 38 CFR Part 17 ]**

### SPECIAL AUTOMOBILE EQUIPMENT

**Payment or Reimbursement**

It is proposed to add § 17.115d to provide additional authority under which payment or reimbursement for special automobile equipment may be made. This authority is required to prevent inequities between two distinct benefit program procedures which permit Veterans Administration payment for an automobile or adaptive equipment to the supplier or veteran if he has already acquired same and §§ 17.80 through 17.91, "Payment and Reimbursement of the Expenses of Unauthorized Medical Services," in which procedures are so circumscribed, generally speaking, that an eligible veteran who has not been authorized in advance to obtain an appliance, would not be eligible for reimbursement. Under such circumstances the Veterans Administration finds itself in the anomalous position of providing reimbursement for some equipment obtained under one authority, and denying reimbursement for the additional required equipment medically needed, even though the veteran purchased all of the equipment at the same time.

The new section will permit reimbursement to any eligible veteran who acquires a powered lifter or other device of access or egress, or other appliance or therapeutic or rehabilitative device, coincident with obtaining an automobile or adaptive equipment under the provisions of § 3.808 of this chapter, where such appliance or device is not adaptive equipment for purposes of chapter 39, United States Code, when a medical determination of need is made. The medical determination of need does not have to precede the purchase. Further, this purchase will not be considered as unauthorized when the veteran would clearly have been entitled, had the medical prescription been submitted in advance.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (27H), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. All relevant material received before October 23, 1973, will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays), during the mentioned 30-day period and for 10 days thereafter. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Assistance Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.



V 38 1 82 SEP 20 73 XUM

Notice is also given that it is proposed to make any regulation that is adopted effective the date of enactment of Public Law 91-666, January 11, 1971.

**§ 17.115d Special automobile equipment.**

Any veteran who acquires a powered lifter or other device of access or egress, or other appliance or therapeutic or rehabilitative device, coincident with obtaining an automobile or adaptive equipment under the provisions of § 3.808 of this chapter (where such appliance or device is not adaptive equipment for purposes of chapter 39, title 38, United States Code) shall be deemed to have complied with this section when a medical determination of need for such is made. The medical determination of need does not have to precede the purchase, and payment or reimbursement is not subject to the provisions of §§ 17.80 through 17.91, since the procurement is not to be considered as unauthorized under these circumstances when the veteran would clearly have been eligible and entitled to the device or equipment had the medical prescription been submitted in advance.

Approved September 14, 1973.

By direction of the Administrator.

[SEAL] RUFUS H. WILSON,
*Associate Deputy Administrator.*

[FR Doc.73-20008 Filed 9-19-73;8:45 am]





# Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF THE TREASURY

### Office of the Secretary

[T.D. 73-261 Treasury Dept. order No. 165, rev., amdt. 7]

### DECISIONS WITH RESPECT TO CLAIMS, PENALTIES AND FORFEITURES

#### Delegation Order

By virtue of the authority vested in the Secretary of the Treasury by Reorganization Plan No. 26 of 1950 (3 CFR, 1949-1953 Comp. p. 1017) and pursuant to authorization provided by Treasury Department Order No. 190, Revision 9 (38 FR 17517), it is hereby ordered that subparagraph (h)(8) of paragraph 1 of Treasury Department Order No. 165, Revised, dated November 2, 1954 (T.D. 53654; 19 FR 7241), as amended, is further amended by deleting:

(8) Section 592, Tariff Act of 1930 (19 U.S.C. 1592), if the Commissioner finds that the decision is in accordance with an established policy of mitigation or remission which has been approved by the Secretary in a factually similar cases;

and by inserting in lieu thereof the following:

(8) Section 592, Tariff Act of 1930, as amended (19 U.S.C. 1592);

Dated September 11, 1973.

[SEAL] EDWARD L. MORGAN,
*Assistant Secretary for Enforcement, Tariff and Trade Affairs, and Operations.*

[FR Doc.73-20042 Filed 9-19-73;8:45 am]

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[Nev-062152]

### NEVADA

#### Proposed Classification Terminated

SEPTEMBER 13, 1973.

In a notice dated March 16, 1971, which notice appeared at page 5624 in the FEDERAL REGISTER published March 25, 1971, The Bureau of Land Management proposed to classify for entry under the Dessert Land Act (19 Stat. 377; 43 U.S.C. 321-323) the following described lands among others:

MOUNT DIABLO BASE AND MERIDIAN, NEVADA

T. 19 N., R. 47 E.,
Sec. 23, E½SE¼;
Sec. 24, SW¼, W½SE¼.

Containing 320 acres in Lander County.

The lands were *not* thereafter classified as proposed nor was there continuance of the proposed as prescribed by the Classification and Multiple Use Act of September 19, 1964 (78 Stat. 986) 43 U.S.C. 1411-18).

The regulation in 43 CFR 2462.4(b) states that "The segregative effect of a proposed classification will terminate in one of the following ways: • • • expiration of a two-year period from the date of publication of the notice of proposed classification • • •" More than two years have passed therefore, the proposal has terminated by operation of the cited regulation. Land status records will be so noted.

The petition for classification filed by Izona Pierce, Nev-062152, cannot be approved and is hereby denied.

Moneys tendered toward purchase of the land will be refunded shortly.

For the State Director.

WILLIAM J. MALENCIK,
*Chief,*
*Division of Technical Services.*

[FR Doc.73-20022 Filed 9-19-73;8:45 am]

[OR 8160]

### OREGON

#### Notice of Proposed Withdrawal Addition to National Forest

SEPTEMBER 13, 1973.

The Department of Agriculture, on behalf of the Forest Service, has filed application, OR 8160, for the withdrawal of land as an addition to the Deschutes National Forest.

The land involved was acquired under section 8 of the Act of June 28, 1934, as amended (43 U.S.C. 315g) and is within the exterior boundaries of the Deschutes National Forest.

The land has been determined to be suitable for administration as part of the Deschutes National Forest, and that the land be set apart and reserved as part of said national forest as authorized by Public Law 87-524, enacted July 9, 1962 (76 Stat. 140; 43 U.S.C. 315g.1).

All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing no later than October 20, 1973 to the undersigned officer of the Bureau of Land Management, Department of the Interior, P.O. Box 2965 (729 N.E. Oregon Street), Portland, Oregon 97208.

The authorized officer of the Bureau of Land Management will prepare a report for consideration by the Secretary of the Interior, who will determine whether or not the land will be withdrawn as requested by the applicant agency.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested part of record.

The land involved in the application is:

DESCHUTES NATIONAL FOREST

WILLAMETTE MERIDIAN

T. 20 S., R. 15 E., sec. 30, lots 1, 2, 3, and 4.

The area described contains approximately 163.76 acres in Deschutes County, Oregon.

IRVING W. ANDERSON,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc.73-20021 Filed 9-19-73;8:45 am]

### Office of Hearings and Appeals

[Docket No. M 74-14]

### BURGESS MINING AND CONSTRUCTION CORP.

#### Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 861(c) (1970), Burgess Mining and Construction Corp., located at Birmingham, Alabama, has filed a petition to modify the application of 30 CFR 77.502 to its Bibb Strip Operation and to its Johns Strip Operation.

30 CFR 77.502 reads as follows:

§ 77.502 *Electric equipment; examination, testing, and maintenance.*

Electric equipment shall be frequently examined, tested, and properly maintained by a qualified person to assure safe operating conditions. When a potentially dangerous condition is found on electric equipment, such equipment shall be removed from service until such condition is corrected. A record of such examinations shall be kept.

Petitioner states that it has four (4) Lima 2400 draglines in operation and one (1) Bucyrus-Erie 88-B dragline, presently out of operation, but subject to return to operation. The five (5) draglines are diesel operated and contain a small low-voltage power generator for lighting purposes only. Petitioner requests that the requirement for testing, examination and maintenance be waived as it applies to this equipment.

As an alternative method petitioner states that although an employee may not be qualified under 30 CFR 77.103, the employee shall not be permitted or required to make repairs to such electrical equipment unless he has the experience or skill to do so.



V 38 I 182 SEP 20 73 XUM

Also major repairs to the generation equipment have been made by the manufacturer and this practice will be continued or a local electrical contractor will be utilized. Petitioner contends that the alternative method will provide the same measure of protection afforded the miners in the affected areas as the application of the mandatory safety standard.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before October 23, 1973. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings, Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

GILBERT O. LOCKWOOD,
*Acting Director,*
*Office of Hearing and Appeals.*

SEPTEMBER 4, 1973.

[FR Doc.73-19961 Filed 9-19-73;8:45 am]

[Docket No. M 74-7]

## SOUTHERN ELECTRIC GENERATING CO.

### Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 861(c) (1970), Southern Electric Generating Company, located at Birmingham, Alabama, has filed a petition to modify the application of 30 CFR 75.701-4(a) to its SEGCO No. 1 Mine.

30 CFR 75.701-4(a) reads as follows:

§ 75.701-4 *Grounding wires; capacity of wires.* Where grounding wires are used to ground metallic sheaths, armors, conduits, frames, casings, and other metallic enclosures, such grounding wires will be approved if:

(a) The cross-sectional area (size) of the grounding wire is at least one-half of the cross-sectional area (size) of the power conductor where the power conductor used is No. 6 A.W.G., or larger.

As an alternative method petitioner requests that the application of the mandatory safety standard be modified to allow the continued use of its presently existing system. Petitioner states that the safety of mine personnel was a major factor in the design of the system and that to date the system has performed in the manner planned without injury or accident to personnel.

Petitioner states that the mandatory standard requires that the neutral conductor of certain high-voltage mine power cables have a cross-sectional area one-half the size of the power conductor. In SEGCO Mine No. 1, this would apply to seven (7) 4160 volt and four (4) 480 volt borehole cables consisting of 300 MCM cu. power conductors with 2 #6 cu. conductors for the ground and one insulated conductor for the ground continuity check circuit.

In support of its petition, petitioner states that the above phase conductors are over sized in order to minimize the voltage drop at the extremities of each 4.16 Kv feeder. Each borehole source includes a continuously rated grounding resistor to limit the phase-to-ground current to 25 amperes. The existing 2 #6 cu. ground conductors, rated approximately 130 amperes continuous, far exceed the maximum 25 amperes which can be imposed upon the ground conductors. Petitioner submitted, with its petition, a single line diagram showing the characteristics of an AC circuit from the 46/12 Kv substation to the face equipment. The maximum voltage difference between the frame and ground is shown for the maximum length of an AC 4.16 Kv underground feeder at SEGCO Mine No. 1. The normal feeder usually includes approximately 700 feet of 300 MCM borehole cable and 5600 feet of 4/0 cu. cable.

The total Ohmic value of the ground conductors for the distance from the 25 ampere grounding resistor to the most remote extremity of the feeder determines the maximum shock hazard potential which can exist between the machine and ground. Petitioner contends that the following calculations demonstrate that a difference of potential of only 35 volts can occur which is only 35 percent of the allowable 100 volts permitted by the mandatory safety standards.

| | |
|---|---|
| Borehole Cable—800 feet w/2 #6 cu. ground conductors | =0.218 Ohm |
| Mine Power Cable—6600 feet w/2 #4 cu. ground conductors | =1.140 Ohm |
| Total OHMIC value of ground conductors | =1.358 Ohm |
| Maximum IR shock hazard = (25a) (1.4 OHM) | =35 Volts |

Increased resistance at the grounding resistor would limit phase-to-ground amperes to a smaller value, thus reducing the maximum difference of potential if a frame-to-ground short circuit should occur. Petitioner avers that a hazard to personnel could only occur if the grounding resistor was shorted out which could only occur by someone installing a jumper across the grounding resistor. In such an event, 2,400 volts difference of potential between frame and ground could occur regardless of the size of the neutral conductors.

Petitioner contends that the present high-voltage cables have 2 #6 cu. ground wires in the 300 MCM cu. borehole cable and have operated safely for 15 years. Petitioner states that based on calculations, this method cannot create an unacceptable difference of potential at SEGCO Mine No. 1. Petitioner contends that this system provides safety to personnel in the affected area which is practically the same as that required by the mandatory standard, which would require an additional 1/0 cu. neutral conductor installed from the 4.16 Kv borehole source to the extremities of the 4.16 Kv circuits. The continued existing use of the cables having 2 #6 cu. borehole ground wires provides a safety ground system which has very low shock hazard characteristics. Petitioner also avers that the above calculations demonstrate that a difference of potential of only 35 volts can occur which is only 35 percent of the allowable 100 volts permitted by the mandatory safety standards.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before October 23, 1973. Such requests and comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

NEWTON FRISHBERG,
*Acting Director,*
*Office of Hearings and Appeals.*

[FR Doc.73-19976 Filed 9-19-73;8:45 am]

[Docket No. M 74-8]

## SOUTHERN ELECTRIC GENERATING CO.

### Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. section 861(c) (1970), Southern Electric Generating Company, located at Birmingham, Alabama, has filed a petition to modify the application of 30 CFR 75.804 (a) to its SEGCO No. 1 Mine.

30 CFR 75.804(a) reads as follows:

§ 75.804 *Underground high-voltage cables.*

(a) Underground high-voltage cables used in resistance grounded systems shall be equipped with metallic shields around each power conductor with one or more ground conductors having a total cross-sectional area of not less than one-half the power conductor, and with an insulated external conductor not smaller than No. 8 (A.W.G.) or an insulated internal ground check conductor not smaller than No. 10 (A.W.G.) for the ground continuity check circuit.

As an alternative, petitioner requests that the application of the mandatory safety standard be modified to allow the continued use of its presently existing system. Petitioner states that the safety of mine personnel was a major factor in the design of the system and that to date the system has performed in the manner planned without injury or accident to personnel.

Petitioner states that the mandatory standard requires that the neutral conductor of certain high-voltage mine power cables have a cross-sectional area one-half the size of the power conductor. In SEGCO Mine No. 1, this would apply to approximately 20,000 feet of mine power cable consisting of 4/0 cu. power conductors with 2 #4 cu. ground wires and one insulated conductor for the ground continuity check circuit.

In support of its petition, petitioner states that the above phase conductors are over sized in order to minimize the voltage drop at the extremities of each 4.16 Kv feeder. Each borehole source includes a continuously rated grounding resistor to limit the phase-to-ground current to 25 amperes. The existing 2 #4 cu. ground conductors, rated approximately 170 amperes continuous, far exceed the maximum 25 amperes which can be imposed upon the ground conductors. Petitioner submitted, with its petition, a single line diagram showing the characteristics of an AC circuit from the 46/12 Kv substation to the face equipment. The maximum voltage difference between the frame and ground is shown for the maximum length of an AC 4.16 Kv underground feeder at SEGCO Mine No. 1. The normal feeder usually includes approximately 5600 feet of 4/0 cu. cable.

The total Ohmic value of the ground conductors for the distance from the 25 ampere grounding resistor to the most remote extremity of the feeder determines the maximum shock hazard potential which can exist between the machine and ground. Petitioner contends that the following calculations show the maximum IR drop due to the 25 ampere fault level for feeder lengths in excess of those at SEGCO Mine No. 1:

| | |
|---|---|
| Borehole Cable—800 feet w/2 #6 cu. ground conductors | =0.218 Ohm |
| Mine Power Cable—6600 feet w/2 #4 cu. ground conductors | =1.140 Ohm |
| Total OHMIC value of ground conductors | =1.358 Ohm |
| Maximum IR shock hazard = (25a) (1.4 Ohm) | =35 Volts |

Petitioner contends that increased resistance at the grounding resistor would limit phase-to-ground amperes to a smaller value, thus reducing the maximum difference of potential if a frame-to-ground short circuit should occur. Petitioner avers that a hazard to personnel could only occur if the grounding resistor was shorted out which could only occur by someone installing a jumper across the grounding resistor. In such an event, 2400 volts difference of potential between frame and ground could occur regardless of the size of the neutral conductors.

Petitioner contends that the present high-voltage cables have 2 #4 cu. ground wires in the 4/0 cu. mine power cable and have operated safely for 15 years. Petitioner states that based on calculations, this method cannot create an unacceptable difference of potential at SEGCO Mine No. 1. Petitioner contends that this system provides safety to personnel in the affected area which is practically the same as the proposed system, which would require an additional 1/0 cu. neutral conductor be installed from the 4.16 Kv borehole source to the extremities of the 4.16 Kv circuits. Petitioner also avers that the continued existing use of the cables having the 2 #4 cu. mine power cable ground wires provides a safety ground system which has very low shock hazard characteristics. Petitioner states that the above calculations show that a difference of potential of only 35 volts can occur which is only 35 per cent of the allowable 100 volts permitted by the mandatory safety standards.

Persons interested in this petition may request a hearing on the petition or furnish comments on or before October 23, 1973. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

NEWTON FRISHBERG,
*Acting Director,*
*Office of Hearings and Appeals.*

[FR Doc.73-19990 Filed 9-19-73;8:45 am]





## DEPARTMENT OF AGRICULTURE

[Region 3]

### Forest Service

### COCONINO NATIONAL FOREST ADVISORY COMMITTEES

### Notice of Meeting

The Coconino National Forest Multiple Use Advisory Committee will meet at 2 p.m. September 27, 1973 in the Supervisor's Office.

The purpose of this meeting is to present each member with a copy of the newly revised Forest Multiple Use Guide.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor's Office, Telephone 774-5261, Ext. 1400. Written statements may be filed with the committee before or after the meeting.

The committee has established the following rules for public participation:

Dated September 13, 1973.

DON D. SEAMAN,
*Forest Supervisor.*

[FR Doc 73-20039 Filed 9-19-73;8:45 am]

### Office of the Secretary

### NITRITES AND NITROSAMINES

### Establishment of Expert Panel

After consultation with the Office of Management and Budget, notice is hereby given that the Secretary will establish an Expert Panel on Nitrites and Nitrosamines.

The Department has been meeting periodically with approximately 50 representatives from government, industry, the academic community, private foundations, and the foreign research community to evaluate information concerning the safety of nitrites and nitrates in food. While these discussions have served to bring together a wide range of experience for expert evaluation, the volume of information now available is such that specific data must be studied and evaluated to effectively advise the Secretary.

Therefore, the Secretary has determined that establishment of an Expert Panel on Nitrites and Nitrosamines is in the public interest in connection with the duties imposed on the Department by law.

The purpose of this panel is to evaluate use of nitrites and the potential formation of nitrosamines in food and to advise the Secretary concerning regulations for the safe use of curing substances.

Notice is given in compliance with Public Law 92-463. The requirements of Draft Office of Management and Budget/Department of Justice memorandum that notice must be published at least 30 days prior to the filing of a committee's charter has been waived by the Office of Management and Budget because of the need for expeditious action.

Done at Washington, D.C., on September 17, 1973.

JOSEPH R. WRIGHT, JR.,
*Assistant Secretary for Administration.*

[FR Doc.73-20019 Filed 9-18-73;8:45 am]

## DEPARTMENT OF COMMERCE

### Maritime Administration

### AMERICAN TRADING TRANSPORTATION CO., INC.

### Application for Construction of Four 89,000 DWT Tankers

Notice is hereby given that American Trading Transportation Company, Inc., has filed an application dated August 31, 1973, pursuant to Title V of the Merchant Marine Act, 1936, as amended for construction-differential subsidy to aid in the construction of four 89,000 DWT tankers of approximately 16.5 knots speed proposed for operation in worldwide tanker trades.

Interested parties may inspect this application in the office of the Secretary, Room 3099-B, Maritime Administration, Commerce Department Building, Fourteenth and E Streets NW., Washington, D.C. 20235.

Dated September 14, 1973.

By order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, JR.,
*Secretary.*

[FR Doc.73-20058 Filed 9-19-73;8:45 am]

### BERNUTH, LEMBCKE CO., INC.

### Application for Construction of Three 270,700 DWT Tankers

Notice is hereby given that Bernuth, Lembcke Co., Inc., has filed an application dated August 30, 1973, pursuant to Title V of the Merchant Marine Act, 1936, as amended for construction—differential subsidy to aid in the construction of



V 38 I 182 SEP 20 73 XUM

three 270,700 DWT tankers of approximately 16.0 knot speed proposed for operation in worldwide tanker trades.

Interested parties may inspect this application in the office of the Secretary, Room 3099–B, Maritime Administration, Commerce Department Building, Fourteenth and E Streets NW., Washington, D.C. 20235.

Dated September 14, 1973.

By order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, Jr.,
*Secretary.*

[FR Doc.73–20057 Filed 9–19–73;8:45 am]

## BETHLEHEM STEEL CORP. AND GULF OIL CORP.

### Notice of Award of Construction-Differential Subsidy Contracts Under Marad Tanker Construction Program

Notice is hereby given that on June 28, 1973, the Maritime Subsidy Board awarded construction-differential subsidy contracts, Contracts Nos. MA/MSB–277 and MA/MSB–280, to Bethlehem Steel Corporation (Bethlehem) and Contracts Nos. MA/MSB–278 and MA/MSB–281 to Gulf Oil Corporation for two 265,000 deadweight ton tankers, MA Design T10–S–101b, to be constructed by Bethlehem at its Sparrows Point, Maryland shipyard. The applications for such contracts, dated April 30, 1973, and originally filed by Jefferson Tanker Corporation and Washington Tanker Corporation, were noticed in the FEDERAL REGISTER on May 21, 1973, 38 FR 13392. The Maritime Administration was advised on June 20, 1973, that Gulf Oil Corporation assumed such applications and was in effect the successor in interest to Jefferson and Washington with respect to such applications.

Dated September 14, 1973.

By order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, Jr.,
*Secretary.*

[FR Doc.73–20060 Filed 9–19–73;8:45 am]

## CHESTNUT SHIPPING CO.

### Application for Construction of DWT Tankers

Notice is hereby given that Chestnut Shipping Co. has filed an application dated August 20, 1973, pursuant to Title V of the Merchant Marine Act, 1936, as amended for construction-differential subsidy to aid in the construction of two 89,700 DWT tankers of approximately 16.0 knots speed proposed for operation in worldwide tanker trades.

Interested parties may inspect this application in the office of the Secretary, Room 3099–B, Maritime Administration, Commerce Department Building, Fourteenth and E Streets NW., Washington, D.C. 20235.

Dated September 14, 1973.

By order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, Jr.,
*Secretary.*

[FR Doc.73–20055 Filed 9–19–73;8:45 am]

## CITIES SERVICE TANKERS CORP.

### Application for Construction of Two 265,000 DWT Tankers

Notice is hereby given that Cities Service Tankers Corporation has filed an application dated August 28, 1973, pursuant to Title V of the Merchant Marine Act, 1936, as amended for construction-differential subsidy to aid in the construction of two 265,000 DWT tankers of approximately 14.75 knots speed proposed for operation in worldwide tanker trades.

Interested parties may inspect this application in the office of the Secretary, Room 3099–B, Maritime Administration, Commerce Department Building, Fourteenth and E Streets, NW. Washington, D.C. 20235.

Dated September 14, 1973.

By order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, Jr.,
*Secretary.*

[FR Doc.73–20059 Filed 9–19–73;8:45 am]

## FIRST PENNSYLVANIA TANKER I, INC. AND FIRST PENNSYLVANIA II, INC.

### Application for Construction of Two 265,000 DWT Tankers

Notice is hereby given that First Pennsylvania Tanker I, Inc., and First Pennsylvania II, Inc., have filed applications dated June 19, 1973, pursuant to Title V of the Merchnat Marine Act, 1936, as amended for construction-differential subsidy to aid in the construction by each of one 265,000 DWT tanker of approximately 15.25 knots speed proposed for operation in worldwide tanker trades.

Interested parties may inspect this application in the office of the Secretary, Room 3099–B, Martime Administration, Commerce Department Building, Fourteenth and E Streets NW., Washington. D.C. 20235.

Dated September 14, 1973.

By order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, Jr.,
*Secretary.*

[FR Doc.73–20056 Filed 9–19–73;8:45 am]

## FUEL TRANSPORT, INC.

### Application for Construction of Two 89,700 DWT Tankers

Notice is hereby given that Fuel Transport, Inc. has filed an application dated August 27, 1973, pursuant to Title V of the Merchant Marine Act, 1936, as amended for construction-differential subsidy to aid in the construction of two 89,700 DWT tankers of approximately 16.0 knots speed proposed for operation in worldwide tanker trades.

Interested parties may inspect this application in the office of the Secretary, Room 3099–B, Maritime Administration, Commerce Department Building, Fourteenth and E Streets NW., Washington, D.C. 20235.

Dated September 14, 1973.

By order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, Jr.,
*Secretary.*

[FR Doc.73–20054 Filed 9–19–73;8:45 am]

## NATIONAL STEEL AND SHIPBUILDING CO.

### Notice of Award of Construction-Differential Subsidy Contract Under Marad Tanker Construction Program

Notice is hereby given that on June 21, 1973, the Maritime Subsidy Board awarded a construction-differential subsidy contract, Contract No. MA/MSB–264, to National Steel and Shipbuilding Co. (NASSCO) and Contract No. MA/MSB–265 to Third Group Inc. for four 89,700 deadweight ton tankers, MA Design T8–S–100b, to be constructed by NASSCO at its San Diego, California shipyard. The application of Third Group, Inc. for such contract, dated February 16, 1973, and subsequently modified, was noticed in the FEDERAL REGISTER on March 26, 1973, 38 FR 7823.

Dated: September 14, 1973.

By order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, Jr.,
*Secretary.*

[FR Doc.73–20053 Filed 9–19–73;8:45 am]

# ATOMIC ENERGY COMMISSION

## ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON REGULATORY GUIDES

### Notice of Meeting

SEPTEMBER 18, 1973.

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards' Subcommittee on Regulatory Guides will hold a meeting on October 10, 1973, in Room 1062, at 1717 H Street, NW., Washington, D.C. The subjects scheduled for discussion are drafts of proposed Regulatory Guides.

The Subcommittee is meeting to formulate recommendations to the ACRS regarding the above subjects.

I have determined, in accordance with subsection 10(d) of Public Law 92–463, that the purpose of the meeting will be to discuss draft documents which fall within exemption (5) of 5 U.S.C. 552(b) and will consist of an exchange of opinions, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b). It is essential to close such meetings to protect the free interchange of internal views and to avoid undue interference with agency and Committee operation.

JOHN C. RYAN,
*Advisory Committee Management Officer.*

[FR Doc.73–20189 Filed 9–19–73;8:45 am]





[Docket No. 70–1372]

## GULF OIL CORP.

### Availability of Applicant's Environmental Report

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations in Appendix D to 10 CFR Part 50, notice is hereby given that a report entitled "Environmental Impact Report—Gulf Youngsville Nuclear Facility" and "Addendum" thereto, dated February 1973, submitted by Gulf Oil Corporation, are available for public inspection in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C., and in the Franklin County Library, 1026 Justice Street, Louisburg, North Carolina. The report and addendum are also being made available to the public at the State Clearinghouse, Office of the Planning Coordinator, Clearinghouse and Information Center, 116 West Jones Street, Raleigh, North Carolina, and at the Regional Clearinghouse, Mr. Roy L. Lowe, Executive Director, Kerr-Tarr Regional Council of Governments, Post Office Box 1500, Henderson, North Carolina.

The report and addendum discuss the environmental considerations related to the proposed construction and operation of the Gulf Youngsville Nuclear Facility located in Franklin County, North Carolina. It is planned for the facility to fabricate cold fuel for High-Temperature Gas-Cooled Reactor power plants.

After the report and addendum have been analyzed by the Commission's Director of Regulation or his designee, a draft environmental statement related to the proposed action will be prepared. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a notice of its availability. The notice will request comments from interested persons on the proposed action and on the draft environmental statement. The notice will also contain a statement to the effect that the comments of Federal agencies and State and local officials and interested persons thereon will be available when received.

Dated at Bethesda, Maryland, this 14th day of September 1973.

For the Atomic Energy Commission.

R. B. CHITWOOD,
*Chief, Technical Support Branch, Directorate of Licensing.*

[FR Doc.73–20036 Filed 9–19–73;8:45 am]

[Docket No. 50–16]

## POWER REACTOR DEVELOPMENT CO.

### Issuance of Amendment to Provisional Operating License

The Commission has issued, effective as of date of issuance, Amendment No. 6 to Facility License No. DPR–9. The amendment authorizes the Power Reactor Development Co. to possess, but not operate, the Enrico Fermi Atomic Power Plant.

By application dated August 14, 1973, the Power Reactor Development Co. requested an amendment to the license to possess, but not operate, the Enrico Fermi Atomic Power Plant. The fuel has been removed from the facility and shipped offsite.

The Commission has found that the application for the amendment complies with the requirements of the Atomic Energy Act of 1954, as amended ("the Act"), and the Commission's regulations published in 10 CFR Chapter I. The Commission has made the findings required by the Act and the Commission's regulations which are set forth in the amendment and has concluded that the issuance of the amendment will not be inimical to the common defense and security or to the health and safety of the public. The Commission has also found that prior public notice of this amendment is not required since the amendment does not involve a significant hazards consideration.

For further details with respect to this amendment, see (1) the application dated August 14, 1973, and (2) the amendment to the license which are available for public inspection in the Commission's Public Document Room 1717 H Street, NW., Washington, D.C. A copy of item (2) may be obtained upon request sent to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Director of Licensing.

Dated at Bethesda, Maryland, this 5th day of September.

For the Atomic Energy Commission.

ALFRED BURGER,
*Acting Chief, Operating Reactors Branch No. 1, Directorate of Licensing.*

[FR Doc.73–19962 Filed 9–19–73;8:45 am]

[Docket No. 50–305]

## WISCONSIN PUBLIC SERVICE CORP. ET AL.

### Notice and Order for Evidentiary Hearing

In the matter of Wisconsin Public Service Corporation, Wisconsin Power and Light Company, and Madison Gas and Electric Company (Kewaunee Nuclear Power Plant) Docket No. 50–305.

By stipulation of the parties dated February 13, 1973, approved by the Board, it was agreed, *inter alia*, that the Evidentiary Session which had earlier commenced, would be recessed and would reconvene at a date to be later designated.

Pursuant to agreement among the parties, approved by the Board, the Evidentiary Session will continue on October 30, 1973, at 10:00 a.m., local time, at the Kewaunee County Courthouse, Circuit Courtroom, 613 Dodge Street, Kewaunee, Wisconsin 54216.

It is so ordered.

Issued at Washington, D.C., this 17th day of September 1973.

THE ATOMIC SAFETY AND LICENSING BOARD,
JOHN B. FARMAKIDES,
*Chairman.*

[FR Doc.73–20037 Filed 9–19–73;8:45 am]

# CIVIL AERONAUTICS BOARD

[Docket No. 25890; Order 73–9–55]

## AMERICAN AIRLINES, INC. AND TRANS WORLD AIRLINES, INC.

### Order of Investigation and Suspension Regarding Passenger Fare Increases

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 13th day of September 1973.

By tariff revisions[1] marked to become effective September 15, 1973, American Airlines, Inc. (American), and Trans World Airlines, Inc. (TWA) propose to increase their passenger fares in the 48 contiguous states and the District of Columbia by eight percent and seven percent, respectively.[2] Other carriers have filed tariffs proposing increases of five or seven percent for effect on October 1, 1973.

These proposals raise basic issues of rate-making policy which the Board believes can best be considered on an industry-wide basis. In view of the imminence of the effective date of American's and TWA's proposals, we are herein suspending those carrier's tariffs to afford the Board a more adequate period of time within which to evaluate their proposals in conjunction with the proposals which have been made by other carriers for effect on October 1. The Board contemplates reaching its decision on these matters at an early date.

Upon consideration of all relevant matters, the Board has determined that the proposed fare increases may be unjust or unreasonable, or unjustly discriminatory, or unduly preferential, or unduly prejudicial, or otherwise unlawful, and should be suspended and set for investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly

[1] Revisions to Airline Tariff Publishers, Inc., Agent, Tariff C.A.B. No. 136.

[2] Contemporaneously, American and TWA filed motions requesting the Board to amend Orders 71–4–60 and 72–8–50 to provide that the lawful maximum fares applicable between points in the 48 contiguous states and the District of Columbia are 8.0 percent and 7.0 percent, respectively, above the current fares. By order issued simultaneously herewith, the Board grants in part and dismisses the motion.



V 38-182 SEP 20 73 XUM

sections 204, 403, 404, and 1002 thereof,

*It is ordered*, That:

1. An investigation be instituted to determine whether the fares and provisions described in Appendix A attached hereto,[1] and rules, regulations, and practices affecting such fares and provisions, are or will be unjust, or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial or otherwise unlawful, and if found to be unlawful, to determine and prescribe the lawful fares and provisions, and rules, regulations, or practices affecting such fares and provisions;

2. Pending hearing and decision by the Board, the fares and provisions described in Appendix A hereto are suspended and their use deferred to and including December 13, 1973, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board; and

3. A copy of this order will be filed with the aforesaid tariff and be served on American Airlines, Inc., and Trans World Airlines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.73-20031 Filed 9-19-1973;8:45 am]

---

[Docket No. 24775; Order 73-9-50]

## GREAT WESTERN AIRLINES, INC.

### Order To Show Cause Regarding Establishment of Service Mail Rates

SEPTEMBER 12, 1973.

Issued under delegated authority.

Final service mail rates per great circle aircraft mile for the transportation of mail by aircraft as shown by the Appendix[1] were established by the Board and are currently in effect for Ross Aviation, Inc., d/b/a Great Western Airlines, Inc. (Ross), an air taxi operating pursuant to 14 CFR, Part 298.

By petition filed September 21, 1972, Ross requested the Board to reopen its current service mail rates and fix new final service mail rates per great circle aircraft mile as set forth in the Appendix. In support of its request, Ross alleged that it had incurred increases in its costs for fuel, oil, maintenance, crew costs, hangar rentals, and overhead. These increases were set out in the POD Form 2751-C attached to the petition.

On September 28, 1972, the Postal Service filed a motion for extension of time to reply stating that, since the petition involved a number of routes and points, the determination of the Postal Service position could not be made in the normal procedural time allowed. The request was granted October 5, 1972, and an extension was granted November 3, 1972.

On July 11, 1973, the Postal Service filed a late reply with petition to the Board for leave to file a late document, which is granted. The reply stated that the parties had come to an agreement and supported the rates set forth in the Appendix.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the petition and other matters officially noticed, it is proposed to issue an order[2] to include the following findings and conclusions:

The fair and reasonable final service mail rates to be paid on and after September 21, 1972, to Ross Aviation, Inc. d/b/a Great Western Airlines, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be the rates per great circle aircraft mile based on five round trips per week as set forth below:

| Route: | Rate (cents per mile) |
|---|---|
| Sheridan and Cheyenne via Newcastle and Wheatland, Wyo. | 49.62 |
| Cheyenne and Rock Springs via Rawlins, Wyo. | 58.72 |
| Riverton, Wyo., and Denver, Colo., via Worland, Casper, and Cheyenne, Wyo. | 54.53 |
| Medford and Portland via Klamath Falls and Bend, Oreg. | 51.59 |
| Spokane, Wash., and Boise, Idaho via Lewiston, Idaho | 53.63 |
| Ely and Reno via Elko, Nev. | 44.71 |
| Reno and Winnemucca via Lovelock, Nev. | 60.19 |
| Reno and Las Vegas, Nev. | 45.25 |

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR, Part 302, 14 CFR, Part 298, and 14 CFR 385.16(f),

*It is ordered*, That:

1. Ross Aviation, Inc., d/b/a Great Western Airlines, Inc., Allegheny Airlines, Inc., Hughes Air Corp., d/b/a Air West, Frontier Airlines, Inc., United Air Lines, Inc., Western Air Lines, Inc., the Postmaster General, and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rates specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Ross Aviation, d/b/a Great Western Airlines, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR, Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within ten days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within ten days after service of this Order, or if notice is filed and answer is not filed within 30 days after service of this Order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rates specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rates shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the Rules of Practice (14 CFR 302.307); and

5. This order shall be served on Ross Aviation, d/b/a Great Western Airlines, Inc., Allegheny Airlines, Inc., Hughes Air Corp., d/b/a Air West, Frontier Airlines, Inc., United Air Lines, Inc., Western Air Lines, Inc., and the Postmaster General.

This order will be published in the FEDERAL REGISTER.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.73 20033 Filed 9-19-73;8:45 am]

---

[Docket Nos. 25361, 25363, 25364; Order 73-9-52]

## LUTHI AVIATION, INC.

### Order To Show Cause Regarding Establishment of Service Mail Rates

Issued under delegated authority September 12, 1973.

Final service mail rates per great circle aircraft mile for the transportation of mail by aircraft as shown in the Appendix[1] were established by the Board and are currently in effect for Luthi Aviation, Inc., an air taxi operating pursuant to 14 CFR Part 298.

By petitions filed March 28, 1973, Luthi requested the Board to reopen its current service mail rates and fix new final service mail rates per great circle aircraft mile as set forth in the Appendix.

On July 20, 1973, the Postal Service filed a late reply with petition to the Board for leave to file a late document, which is granted. The reply stated that the parties had come to an agreement and supported the rates set forth in the Appendix.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the petition and other matters officially noticed, it is proposed to issue an order[2] to include the following findings and conclusions:

The fair and reasonable final service mail rates to be paid on and after March 28, 1973, to Luthi Aviation, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be the rates per great circle aircraft mile, based on five round trips per week as set forth below:

| Route: | Rate (cents per mile) |
|---|---|
| Williston and Fargo via Minot and Devils Lake, N. Dak. | 64.85 |
| Minneapolis (Twin Cities), Minn. and Fargo, N. Dak. | 67.45 |
| Dickinson and Fargo via Bismark and Jamestown, N. Dak. | 64.17 |

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a) and 406 thereof, and regulations promulgated in 14 CFR, Part 302, 14 CFR, Part 298, and 14 CFR 385.16(f),

*It is Ordered*, That:

1. Luthi Aviation, Inc., the Postmaster General, Frontier Airlines, Inc., North Central Airlines, Inc., Northwest Airlines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rates specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rate of compensation to be paid to Luthi Aviation, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR, Part 302, and notice of any objection to the rate or to the other findings and conclusions proposed herein, shall be filed within ten days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this Order;

3. If notice of objection is not filed within ten days after service of this Order, or if notice is filed and answer is not filed within 30 days after service of this Order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rate specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rate shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the rules of practice (14 CFR 302.307); and

5. This Order shall be served on Luthi Aviation, Inc., the Postmaster General, Frontier Airlines, Inc., North Central Airlines, Inc., Northwest Airlines, Inc.,

This order will be published in the FEDERAL REGISTER.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.73-20032 Filed 9-19-73;8:45 am]

---

[1] Filed as part of the original document.

[2] Filed as part of the original document.

[2] As this Order to Show Cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR, Part 385. These provisions will apply to final action taken by the staff under authority delegated in Section 385.16(g).

[1] Filed as part of the original document.

[2] As this Order to Show Cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR Part 385. These provisions will apply to final action taken by the staff under authority delegated in § 385.16(g).





## CIVIL SERVICE COMMISSION

### MACHINIST WG–10

### Manpower Shortage; Notice of Listing

Under the provisions of 5 U.S.C. 5723, the Civil Service Commission found a manpower shortage on August 30, 1973, for the Washington, D.C. SMSA and Dahlgren, Virginia, for positions of Machinist, WG–10.

Assuming other legal requirements are met, an appointee to one of these positions may be paid for the expense of travel and transportation to first post of duty.

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73–20028 Filed 9–19–73;8:45 am]

---

## COMMITTEE FOR PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY HANDICAPPED

### PROCUREMENT LIST 1973

### Deletion

Notice of proposed deletion from Procurement List 1973, March 12, 1973 (38 FR 6742), was published in the FEDERAL REGISTER on July 20, 1973 (38 FR 19448).

Pursuant to the above notice the following commodity is deleted from Procurement List 1973, March 12, 1973 (38 FR 6742).

COMMODITY

*Class 7510*
Binder, Looseleaf
7510–582–3801
7510–582–3809

By the Committee.

CHARLES W. FLETCHER,
*Executive Director.*

[FR Doc.73–19960 Filed 9–19–73;8:45 am]

---

### PROCUREMENT LIST 1973

### Proposed Additions

Notice is hereby given pursuant to section 2(a)(2) of Public Law 92–28; 85 Stat. 79, of the proposed additions to the following commodities to Procurement List 1973, March 12, 1973 (38 FR 6742).

COMMODITIES

*Class 6532*
Robe, Dressing Nomex
6532–003–3057
6532–006–3482
*Class 8345*
Case, Flag, Interment
8345–782–3010

Comments and views regarding these proposed additions may be filed with the Committee on or before October 23, 1973. Communications should be addressed to the Executive Director, Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

By the Committee.

CHARLES W. FLETCHER,
*Executive Director.*

[FR Doc.73–19957 Filed 9–19–73;8:45 am]

---

### PROCUREMENT LIST 1973

### Proposed Addition

Notice is hereby given pursuant to section 2(a)(2) of Public Law 92–28; 85 Stat. 79, of the proposed addition of the following commodity to Procurement List 1973, March 12, 1973 (38 FR 6742).

COMMODITY

*CLASS 8465*
Whistle, Ball, Plastic
8465–254–8803

Comments and views regarding this proposed addition may be filed with the Committee on or before October 23, 1973. Communications should be addressed to the Executive Director, Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

By the Committee.

CHARLES W. FLETCHER,
*Executive Director.*

[FR Doc.73–19958 Filed 9–19–73;8:45 am]

---

### PROCUREMENT LIST

### Withdrawal of Proposed Additions

Notice is hereby given that the commodities and services published on pages 14902 and 14903 of the FEDERAL REGISTER of July 26, 1972, as proposed additions to the Initial Procurement List are withdrawn except for those listed below.

COMMODITIES

*CLASS 7340*
Fork, Table
7340–241–8169
Spoon, Table
7340–241–8171

*CLASS 7520*
Marker, Tube Type, Three-Color Set
7520–558–1501
Pencil, Mechanical, China-Marking
7520–557–4570



V 38 I 182 SEP 20 73 XUM

*CLASS 7530*

Folder, File, Manila
7530-273-9845

*CLASS 7920*

Scraper and Squeegee
7920-045-2556
Brush, Scrub, Household
7920-282-2470

*CLASS 8465*

Bag, Soiled Clothes, Submarine
8465-762-7671
Case, Maintenance Equipment, Small Arms M16A1
8465-781-9584

SERVICES

Furniture Rehabilitation
San Antonio, Texas
Mailing
Uncasville, Connecticut

By the Committee.

CHARLES W. FLETCHER,
*Executive Director,*

[FR Doc.73-19959 Filed 9-19-73;8:45 am]

## COUNCIL ON ENVIRONMENTAL QUALITY

### ENVIRONMENTAL IMPACT STATEMENTS

#### Notice of Public Availability

Environmental impact statements received by the Council on Environmental Quality from September 10 through September 14, 1973.

DEPARTMENT OF DEFENSE, ARMY CORPS

Contact: Mr. Francis X. Kelly, Director, Office of Public Affairs, Attn.: DAEN-PAP, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-7168.

*Final*

Aquatic Plant Control Program, Florida, September 11: The statement refers to the proposed use of the chemical 2,4-D in order to control the growth and dispersal of water hyacinth in the waters of the State of Florida. The action will result in a temporary deterioration of water quality, with the amount of dissolved oxygen available for other life being reduced; non-target (broadleaf) species will be affected; the elimination of hyacinth could provide an opportunity for the spread of other problem plants; sports fishing in the vicinity of treated plants may be temporarily curtailed (approximately 200 pages). Comments made by: OEO, HUD, USDA, DOI, DOC, EPA, and state agencies and concerned citizens. (ELR Order No. 31488) (NTIS Order No. EIS 73 1488-F.)

Greenville Harbor, Washington County, Miss., September 10: The project consists of the widening of an existing channel from 250' to 500'; the construction of an inner harbor channel (500' wide); the extension of a 300' wide channel into the La Grange Crevasse area; and related work. Dredged spoil will be utilized to provide 390 acres of raised landfill. Marine ecosystems will be adversely affected (Vicksburg District) (50 pages). Comments made by: EPA, DOI, HEW, DOT, and state and regional agencies. (ELR Order No. 31477) (NTIS Order No. EIS 73 1477-F.)

Mississippi River, Vicksburg-Yazoo, Adams County, Miss., September 7: Proposed is a flood control project which will involve the construction of 12.4 miles of levee, a pumping plant, 12 miles of channel works, culverts, and a weir. Also involved is the acquisition of 2,000 acres to mitigate project induced fish and wildlife losses. Flood protection will be provided for 16,400 acres (Vicksburg District) (45 pages). Comments made by: EPA, USDA, DOI, USCG, HEW, and state agencies. (ELR Order No. 31467) (NTIS Order No. EIS 73 1467-F.)

Flushing Bay and Creek, Mississippi, September 7: Proposed is the maintenance dredging of the existing channel to its authorized project dimensions. Spoil will be disposed in approved dumping grounds of the Atlantic (New York District) (28 pages). Comments made by: USDA, DOC, USCG, DOI, USN, and one state agency. (ELR Order No. 31468) (NTIS Order No. EIS 73 1468-F.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Sheldon Meyers, Director, Office of Federal Activities, Room 3630, Waterside Mall, Washington, D.C. 20460, 202-755-0940.

*Final*

Sewage System, Southern Dade County, Fla., September 11: The proposed action is the construction of major wastewater management facilities for the South District. Included are: a sewage transmission system intercepting flows from 9 systems in South Dade; a single 50 MOD regional secondary treatment plant which will replace the 9 smaller plants; and a deep well disposal system for the treated and disinfected effluent. Potential accidents could pollute the Biscayne Aquifer. (The statement "Ocean Outfalls and Other Methods of Treated Wastewater Disposal in Southeast Florida," NTIS Order # EIS 73 0401F, March 22, 1973 should be considered part of this statement by reference (approximately 250 pages). Comments made by: USDA, DOT, HEW, COE, DOC, state and local agencies, and concerned citizens. (ELR Order No. 31490) (NTIS Order No. EIS 73 1490-F.)

Sewage System, Central Dade County, Fla., September 11: The statement refers to the proposed construction of wastewater pumping stations, force mains, a treatment plant, and an ocean outfall, for Central Dade County. Upon completion of phase three of the project, system capacity will be 115 MGD at 90 percent BOD and suspended solids removal. There will be adverse impact from construction disruption. (The statement "Ocean Outfalls and Other Methods of Treated Wastewater Disposal in Southeast Florida," March 22, 1973, should be considered part of this statement by reference.) (277 pages.) Comments made by: DOT, HEW, HUD, USDA, COE, DOC, state and local agencies, and concerned citizens. (ELR Order No. 31489) (NTIS Order No. EIS 73 1489-F.)

DEPARTMENT OF TRANSPORTATION

FEDERAL AVIATION ADMINISTRATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Quality, 400 7th Street SW., Washington, D.C. 20590, 202-426-4357.

*Draft*

Cumberland Municipal Airport, Maryland, September 11: The proposed project involves the construction of a new asphalt runway (5400' x 150'); installation of runway lighting; and construction of a railroad tunnel and related work. One family will be displaced; 168 acres of land will be acquired. There will be loss of wildlife, and increases in air and noise pollution levels (72 pages). (ELR Order No. 31492) (NTIS Order No. EIS 73 1492-D.)

Thief River Falls Airport, Pennington County, Minn., September 11: The project will include the acquisition of 410 acres in fee title and 243 acres in easement; the widening and extending of the NW/SE runway from 90' x 5100' to 150' x 6500'; the construction of parallel taxiways; and the installation of lighting. Eight families will be displaced by the project; two roads will be relocated; air and noise pollution levels will increase (18 pages). (ELR Order No. 31491) (NTIS Order No. EIS 73 1491-D.)

FEDERAL HIGHWAY ADMINISTRATION

*Draft*

Route 99, Stanislaus County, Calif., September 10: The proposed project is the conversion of a portion of Route 99 from four to six lanes. Total length of the project is 5.1 miles; land acquisition will total 25 acres, with 1 family and 2 businesses being displaced. Noise and air pollution will increase. (ELR Order No. 31476) (NTIS Order No. EIS 73 1476-D.)

I 35, US 61, Duluth, St. Louis County, Minn., September 10: The proposed project involves the relocation of 3.6 miles of I 35, and the extension of 4 miles of US 61. The total amount of right-of-way is not specified. Displacements will include 63 businesses and 32 families. A 4(f) review will be filed due to the taking of land from the Leif Ericson Park. Other adverse impacts will include increases in air and noise pollution, and disruption of drainage patterns (193 pages). (ELR Order No. 31480) (NTIS Order No. EIS 73 1480-D.)

Route 36, Macon County, Mo., September 11: Proposed is the construction of 4.9 miles of highway, with bridges and interchanges. The project will require 300 acres of right-of-way, displacing 8 families and 4 businesses. Adverse impact will also include loss of wildlife, and increased air, noise, and water pollution levels (11 pages). (ELR Order No. 31487) (NTIS Order No. EIS 73 1487-D.)

I 40, Durham and Orange Counties, N.C., September 10: Proposed is the construction of 16.7 miles of new I 40, from south of Durham to I 85. The total amount of right-of-way; most of it in timber land, is not specified. Displacements will include 107 families and 40 businesses. Several streams will be crossed, along with the upper watershed of New Hope Creek, causing soil erosion, siltation, and disruption to wildlife. Increased noise and air pollution levels will result (99 pages). (ELR Order No. 31479) (NTIS Order No. EIS 73 1479-D.)

*Final*

Md. Rt. 2 and Md. Rt. 4, Calvert County, Md., September 11: The proposed project is the dualization of 5.68 miles of Routes 2 and 4 in Calvert County. The project will acquire 38 acres of wooded land for right-of-way and displace 10 families and 3 businesses. An increase in noise and air pollution levels will occur (approximately 100 pages). Comments made by: ACE, USDA, DOC, DOI, DOT, EPA, HEW, and USN. (ELR Order No. 31481) (NTIS Order No. EIS 73 1481-F.)

US 23 from Carey to Fostoria, Wyandot, Seneca, and Wood Counties, Ohio, September 13: The project would relocate and improve approximately 20 miles of road on US 23 between Carey and Fostoria, Ohio. The four-lane, linked access, divided highway passes mainly through agricultural lands, displacing about 23 families. The road would also affect traffic in the towns of Carey and Fostoria. Comments made by: USDA, EPA, HUD, DOI, and state agencies. (ELR Order No. 31497) (NTIS Order No. EIS 73 1497-F.)

L.R. 1022 (Traffic Route 219 relocated), several counties in Pennsylvania, September 10: The statement considers the proposed construction of L.R. 1022 (Traffic Route 219 Relocated). The portion of T.R. 219 involved





requires the construction of a 4-lane, limited access highway beginning between Hastings and Barnesboro on S.R. 11409, Cambria County; continuing through Jefferson, Elk and Indiana Counties to T.R. 153, Clearfield County. Project length is approximately 50 miles. An unspecified amount of land will be required for right-of-way. Temporary turbidity, sedimentation of streams, dust, increased noise level and soil erosion will occur during construction (278 pages). Comments made by: USDA, COE, DOI, EPA, HEW, ARC, and state agencies. (ELR Order No. 31478) (NTIS Order No. EIS 73 1478-F.)

TIMOTHY ATKESON,
*General Counsel.*

[FR Doc.73-20061 Filed 9-19-73;8:45 am]

## DELAWARE RIVER BASIN COMMISSION

### COMPREHENSIVE PLAN

#### Notice of Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, September 26, 1973, in the ASTM Building, 19th and Race Sts., Philadelphia beginning at 2 p.m. The subjects of the hearing will be as follows:

A. A proposal that the Ninth Annual Water Resources Program adopted by the Commission on September 27, 1972, be readopted and continued unchanged as the Tenth Water Resources Program in accordance with the requirements of § 13.2 of the Compact.

B. A proposal to amend the Comprehensive Plan so as to include therein the following projects:

1. *Warren and Sussex Counties Soil Conservation Districts.* Modification of the Paulins Kill Watershed Project in Warren and Sussex Counties, N.J. It is proposed to delete those parts of the watershed plan providing for two miles of channelization, dike construction, and construction of a grade control structure below the Route 94 bridge on Blair Creek. Flood control structures and land treatment measures in the plan have been completed and, with the proposed changes, it is proposed that the budget be terminated.

2. *Kress, Inc.* A well water supply project to augment public water supplies in Dreher Township, Wayne County, Pa. Designated as well No. 1, the new facility is expected to yield about 26,000 gallons per day to serve the Kresswood Streams development.

3. *Mount Laurel Municipal Utilities Authority.* A sewage treatment facility to provide interim service in Mt. Laurel Township, Burlington County, N.J. A treatment plant and a six mile-long force main will relieve overloaded conditions in existing treatment facilities in the area. The treatment plant will provide 90 percent removal of $BOD_5$ to a sewage flow of about 400,000 gallons per day. Treated effluent will discharge to a tidal portion of Rancocas Creek.

4. *City of Coatsville.* A project to provide emergency supply of raw water to serve the City of Coatsville and adjacent municipalities in Chester County, Pa. The emergency allocation provides for withdrawal of one million gallons per day from the West Branch Brandywine Creek at a new diversion point. The emergency allocation is for a thirty-day period.

5. *Borough of Kennett Square.* Upgrading and expansion of the Borough's sewage treatment plant in Kennett Township, Chester County, Pa. Improvements are designed to provide removal of 92 percent $BOD_5$ and suspended solids from a sewage flow of about 1.1 million gallons per day. Treated effluent will discharge to the West Branch of Red Clay Creek.

6. *Southampton Sewerage Co.* Phase I of a sewage treatment project to serve the Leisure Towne and Hampton Lakes development in Southampton Township, Burlington County, N.J. The treatment plant is designed to provide removal of 97 percent $BOD_5$ and suspended solids to a sewage flow of about 500,000 gallons per day. Treated effluent will discharge to the South Branch of Rancocas Creek below Vincentown.

7. *Pennsylvania Department of Environmental Resources.* A well water supply project to provide public water supplies in the Nockamixon State Park, Bucks County, Pa. The proposed well is located in the park on the north side of Tohickon Creek and is expected to yield 195,000 gallons per day.

8. *Landwhere Corp.* A sewage treatment plant to serve the Reflection Lakes Mobile Homes and Campsites in Manchester Township, Wayne County, Pa. The plant will provide removal of 95 percent $BOD_5$ and 97 percent of suspended solids from an ultimate sewage flow of 340,000 gallons per day. Treated effluent will discahrge to the South Branch of Equinunk Creek.

9. *Chalfont-New Britain Township Joint Sewer Authority.* Expansion of the Authority's sewage treatment plant serving Doylestown Township and adjacent municipalities in Bucks County, Pa. Expanded f cilities will provide for removal of 98 percent $BOD_5$ from an ultimate sewage flow of seven million gallons per day. Treated effluent will discharge to Neshaminy Creek.

C. A proposal to approve the following water pollution abatement schedules as submitted in accordance with § 3-4.2 (2) of the Basin Regulations-Water Quality:

1. *U.S. Department of the Army, Burlington Army Ammunition Plant.* A violation of the effluent requirements of the Commission's Basin Regulations was determined for this facility located in Burlington, N.J., and discharging into Zone 2 of the Delaware Estuary. An abatement schedule for this facility was approved on August 23, 1972, that required compliance by June 1973. The plant has since ceased operation. The revised schedule withdraws the allocation of 11 pounds per day of carbonaceous oxygen demand assigned to the facility and requires the Department of the Army to construct a treatment plant prior to any future reactivation of the facility.

2. *Township of Falls Authority.* A violation of the effluent requirements of the Commission's Basin Regulations was determined for this facility located in Bucks County, Pa., and discharging to Zone 2 of the Delaware Estuary. The proposed schedule permits the Township of Falls Authority to divert its wastewater flows via the Neshaminy Interceptor to the City of Philadelphia's Northeast Plant. Such diversion shall be completed within six months of the completion of the expanded Philadelphia Northeast Plant (December 31, 1975). The allocation of 220 pounds per day of carbonaceous oxygen demand shall be withdrawn and returned to the Zone 2 reserve.

Documents relating to the above projects may be examined at the Commission's offices. Persons wishing to testify are requested to notify the Secretary prior to the hearing.

W. BRINTON WHITALL,
*Secretary.*

SEPTEMBER 13, 1973.

[FR Doc.73-19979 Filed 9-19-73;8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

[Dockets No. 145 et al.]

### REGISTRATIONS AND TOLERANCES OF PESTICIDES ALDRIN AND DIELDRIN

#### Amendment to Supplemental Notice of Hearing

The hearing session schedule to begin October 2, 1973, in Washington, D.C., in a supplemental notice of hearing issued July 18, 1973 (38 FR 19712), in the consolidated proceedings under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 *et seq.*), as amended by the Federal Environmental Pesticide Control Act of 1972 (86 Stat. 973), and sections 406 and 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346 and 346a), involving registrations and tolerances of the pesticides aldrin and dieldrin, will begin instead on Tuesday, October 16, 1973, at 9:30 a.m., local time, in the EPA Hearing Room, Room 3906, Waterside Mall, 401 M Street, SW., Washington, D.C.

HERBERT L. PERLMAN,
*Chief Administrative Law Judge.*

SEPTEMBER 14, 1973.

[FR Doc.73-19974 Filed 9-19-73;8:45 am]

### STATIONARY SOURCE ENFORCEMENT PROCEEDING

#### Notice and Procedure for Public Hearing

Commencing on October 18, 1973, at 9:30 a.m., a public hearing will be held to consider the status of compliance with sulfur oxide emission regulations by powerplants through the application of control technology for removing sulfur oxides from their emission gases. The hearing will convene at the Marriott Twin Bridges Motel, U.S. Route 1, Arlington, Virginia, and transfer to the Crystal City Theatre, 1811 Jefferson Davis Highway, Arlington, Virginia, starting October 23, 1973.

Notices of violation have been issued by EPA pursuant to section 113(a)(1) of the Clean Air Act, as amended (42 U.S.C. 1857c-8), with respect to the following powerplants:

(1) Northern Indiana Public Service Co.
Bailly Station
Gary Vicinity, Indiana
(2) Public Service Co., Indiana, Inc.
Wabash River Station
Terre Haute, Indiana
(3) West Pennsylvania Power Co.
Mitchell Station
Courtney (Washington County), Pennsylvania

Pursuant to Section 114(a) of the Clean Air Act, as amended (42 U.S.C.



V 38 I 182 SEP 20 73 XUM

1857c–9), the owners and operators of these and other powerplants, as listed below, have been requested to attend the hearing:

(1) (a) Tennessee Valley Authority
Widows Creek Station
Stevenson, Alabama
(b) Tennessee Valley Authority
Kingston Station
Kingston, Tennessee
(2) (a) American Electric Power Company
Kammer Station
Wheeling Vicinity, West Virginia
(b) American Electric Power Company
Cardinal Station
Brilliant, Ohio
(3) (a) Ohio Edison
Sammis Station
Stratton, Ohio
(b) Ohio Edison
Burger Station
Shadyside, Ohio
(4) (a) Commonwealth Edison
Joliet Station
Joliet, Illinois
(b) Commonwealth Edison
Waukegan Station
Waukegan, Illinois
(5) (a) Kansas City Power and Light Co.
Hawthorne Station
Kansas City, Missouri
(b) Kansas City Power and Light Co.
La Cygne Station
La Cygne, Kansas
(6) Louisville Gas and Electric Co.
Paddy's Run #6 Station
Louisville, Kentucky
(7) Boston Edison
Mystic Station
Everett, Massachusetts
(8) Commonwealth Edison
Will County Station
Joliet Vicinity, Illinois
(9) Illinois Power Co.
Wood River Station
Wood River, Illinois
(10) Potomac Electric and Power Co.
Dickerson Station
Dickerson, Maryland
(11) Philadelphia Electric Co.
Eddystone Station
Eddystone, Pennsylvania
(12) Duquesne Light Co.
F. Phillips Station
South Heights, Pennsylvania
(13) Southern California Edison
Mohave Station
Clark County, Nevada
(14) Public Service of New Mexico
San Juan Station
Four Corners Vicinity, New Mexico

At this hearing each company issued a notice of violation will be required to answer relevant questions and present information bearing on:

(1) The finding of violation;
(2) The nature of the violation;
(3) Any efforts taken to achieve compliance;
(4) Application of control technology both in general and as it relates to specific power plants; and
(5) A reasonable and expeditious schedule for achieving compliance with applicable regulations.

All other companies requested to attend the hearing will be expected to answer questions and present information bearing on items 3–5, as listed above.

In addition, the three companies issued a notice of violation and the first four companies, as listed above, issued a request for information pursuant to section 114 will be requested to submit a detailed report to the Dirceter, Division of Stationary Source Enforcement (DSSE), Environmental Protection Agency, Room 3220, Waterside Mall, 401 M Street SW., Washington, D.C. 20460, to be received no later than 12:00 noon October 12, 1973.

The Administrator encourages other members of the powerplant industry, related industries, vendors of control equipment and other interested persons to attend the hearing and to present information and views pertinent to the application of control technology for removing sulfur oxides from powerplants. The hearing is being held both to fulfill the statutory requirements of section 113(a)(4) of the Clean Air Act, as amended (42 U.S.C. 1857c–8), and to elicit information on the status of compliance by power plants generally through the use of sulfur oxide control technology.

Any person may participate in the public hearing through the filing of written comments or information with the Director, DSSE. Written matter may be submitted for inclusion in the record of the hearing at any time prior to completion of the hearing.

Any person desiring to make an oral statement at the hearing and not otherwise requested or invited to testify shall file a written request (10 copies, if practicable) to make an oral statement with the Director, DSSE, not later than October 12, 1973. Persons failing to submit timely written requests to give oral presentations at the public hearing shall not be entitled to appear at the hearing except at the discretion of the hearing panel. Such persons are not precluded, however, from submitting written statements for the record and written questions to be propounded by the hearing panel. Written requests to make oral presentations shall contain a summary of such person's oral statement. Direct oral statements by invited participants, other than the owners and operators of power plants to whom notices of violation have been issued, shall be limited to twenty (20) minutes, and all other participants shall be limited to fifteen (15) minutes, followed by such questioning as the hearing panel deems appropriate. Requests for additional time can be presented to the Director, DSSE, but must include a showing that any information requiring additional time for presentation cannot be submitted appropriately as written matter.

The public hearing is designed to give all persons an opportunity to participate in this proceeding. Participants may present data, views, arguments, or other pertinent information concerning compliance by the above powerplants with applicable regulations and may submit written questions to be propounded to a witness by the hearing panel. Participants in the proceeding may, in addition, submit written requests to question specified witnesses directly. Such written requests may be submitted at any time and shall be allowed at the discretion of the hearing panel. Requests to question a witness directly shall contain a showing that the issues to be addressed are critical to the issues in the proceeding and that interrogation of the witness by the requesting party is likely to be more effective in eliciting critical information than by the panel or through written questions submitted by such participant. Such requests shall specify the particular issues to be pursued on direct examination of a witness.

The panel may exclude irrelevant or redundant material or questions, and may direct that corroborative material be submitted in writing rather than presented orally.

A verbatim transcript of the proceeding will be made and copies will be available from the reporter at the expense of any person requesting them.

Dated September 17, 1973.

RUSSELL E. TRAIN,
*Administrator.*

[FR Doc.73-20070 Filed 9-19-73;8:45 am]

## USE OF PRODUCTS CONTAINING CALCIUM CYANIDE, STRYCHNINE, SODIUM MONOFLUOROACETATE (1080) AND SODIUM CYANIDE FOR HOME, URBAN AND FIELD RODENTICIDES

### Notice of Public Hearings

On August 28, 1973, this Agency published in the FEDERAL REGISTER, a notice of intent to hold informal public hearings to solicit views of interested persons on whether or not the use of products containing calcium cyanide, strychnine, sodium monofluoroacetate (1080), and sodium cyanide as rodenticides should be canceled or amended. These hearings are considered necessary to expedite preparations for the formal hearing to be held in December of 1973 as announced in the FEDERAL REGISTER Notice dated June 19, 1973.

This notice is published to provide information to interested parties as to the specific dates and location of these hearings. The dates and locations are as follows:

September 17, 1973, 9:00 a.m.

Room 3906, Waterside Mall
401 M Street SW.
Washington, D.C.

(This hearing may be extended to include September 18, dependent upon the number of requests to present views.)

September 25, 1973, 9:30 a.m.

State Social Services Building
Basement Meeting Room
1575 Sherman Street
Denver, Colorado

September 27, 1973, 9:00 a.m.

Conference Rooms A and B
11th Floor
1600 Patterson Street
Dallas, Texas





October 2, 1973, 9:30 a.m.

Assembly Conference Room
Department of Food and Agriculture
1220 N Street
Sacramento, California

(86 Stat. 996.)

Dated September 17, 1973.

DAVID D. DOMINICK,
*Assistant Administrator for Hazardous Materials Control.*

[FR Doc.73-20072 Filed 9-19-73;8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

[TIAS-2594; Supp. 2]

### CANADA-U.S.A. TV AGREEMENT OF 1952
### Amendment to Table A

SEPTEMBER 13, 1973.

*Supplement No. 2* To the Table of Canadian Television Channel Allocations with 250 miles of the Canada-U.S.A. border, dated March 21, 1973, as revised to January 20, 1973.

Pursuant to exchange of correspondence between the Department of Communications of Canada and the Federal Communications Commission, Table A of the Canadian-U.S.A. Television Agreement has been amended as follows:

| Province and city | Channel No. Delete | Channel No. Add |
|---|---|---|
| Ontario: | | |
| Ayr | | [1] 8 |
| Chatham | | [2] 58, 59 [3], 81— |
| Exeter | | [4] 52— |
| Forest | | [5] 21+ |
| Goderich | 34— | 59 |
| Guelph | 16+ | 80 |
| Hanover | | [6] 26 |
| Leamington | 80+ | 22—, 73 |
| London | 52—, 71 | 78 |
| Oil Springs | | [7] 29+, [8] 12— |
| Oshawa | | 16+ |
| Preston | 28 | |
| Sarnia | 71+, 88 | 68, 79— |
| Stratford | 36 | 30— |
| Windsor | | [9] 22—, [10] 26—, [11] 32+, [12] 78 |
| Wingham | 73 | 60 |
| Woodstock | 18 | 71 |

[1] 43°15'35" North Latitude, 82°39'30" West Longitude.
[2] 42°25'40" North Latitude, 82°07'14" West Longitude. This allocation is already included in Table A and is included herein to specify the approximate location of the transmitter site only.
[3] 42°27'00" North Latitude, 82°05'00" West Longitude.
[4] 43°21'00" North Latitude, 81°28'48" West Longitude.
[5] 43°05'00" North Latitude, 82°00'00" West Longitude.
[6] 44°09'00" North Latitude, 81°02'00" West Longitude.
[7] 42°27'15" North Latitude, 81°15'58" West Longitude.
[8] 42°43'21" North Latitude, 82°10'00" West Longitude.
[9] 42°08'00" North Latitude, 82°45'42" West Longitude.
[10] 42°17'42" North Latitude, 83°05'00" West Longitude. This allocation is already included in Table A and is included herein to specify the approximate location of the transmitter site only.
[11] 42°08'28" North Latitude, 82°51'10" West Longitude. This allocation is already included in Table A and is included herein to specify the approximate location of the transmitter site only.
[12] 42°09'00" North Latitude, 82°57'05" West Longitude. This allocation is already included in Table A and is included herein to specify the approximate location of the transmitter site only.

There are apparent short-spacings between some of the Canadian allocations specified above and technically related United States allocations using reference points of cities to which some of the channels are assigned. However, minimum required mileage separations are met on the basis of pertinent approximate transmitter sites specified below.

Approximate site locations:

| Quebec | Channel No. Delete | Channel No. Add |
|---|---|---|
| Sept Iles | | 13+ |

[14] Limitation to protect CJBR-TV, Rimouski, Quebec.

Further amendments to Table A will be issued as public notices in the form of numbered supplements or recapitulated lists.

Copies of the basic Table of Allocations may be obtained from Information Planning Associates, Inc., 310 Maple Drive, Rockville, Maryland 20850 (telephone 340–0250, area code 301).

[SEAL] WALLACE E. JOHNSON,
*Chief, Broadcast Bureau, Federal Communications Commission.*

[FR Doc.73-20018 Filed 9-19-73;8:45 am]

[Docket No. 19819; FCC 73-937]

## HAWAIIAN TELEPHONE CO.

### Memorandum Opinion and Order Re Tariff Investigation and Hearing

1. On April 27, 1973, The Hawaiian Telephone Co. (Hawtel) filed revisions to its Tariff F.C.C. No. 10 [1] under Transmittal No. 344 which are currently scheduled to become effective September 14, 1973. The revisions provide for substantial increases to the monthly rates and non-recurring charges applicable to Hawtel's "Wide Spectrum Services" (CATV channel distribution) offering. In the economic data submitted pursuant to Section 61.38 of our rules, Hawtel estimates that the proposed increases will provide additional revenues of approximately $326,000 annually (to produce an overall rate of return for the service of 9 percent).

2. On May 22, 1973, The Hawaiian Cable Television Association (HCTA), a trade association representing the five cable television systems which use Hawtel's Wide Spectrum Services, filed a petition for rejection or suspension of the above-referenced tariff revisions. HCTA seeks rejection of the revisions on the grounds that Hawtel failed to comply with the notice requirements of §§ 61.32 and 61.58 of our rules and regulations; that the economic support data filed pursuant to § 61.38 was inadequate and incomplete; and that Hawtel failed to demonstrate compliance with the Cost of Living Council's Economic Stabilization Program ("Phase III") regulations. Alternatively, HCTA seeks suspension and investigation of the revisions on the grounds that the claimed rate base is "grossly overstated" (in connection with this point, petitioner challenges the valuation of assets, charges to depreciation and provision for working cash); that the 9 percent rate of return has not been justified; and that the proposed rate increases are intended to intimidate customers into buying the facilities at an inflated price.

3. In its reply, Hawtel denied the allegations in the HCTA petition and attacked the petition itself on two grounds. First, Hawtel argued that the petition should be dismissed for failure to comply with Section 1.44(a) of the rules, 47 CFR 1.44(a) (1972), which prohibits the joinder of a request requiring Commission action (here, a request for suspension of the revisions) with a request for action by the staff under delegated authority (rejection of the revisions). Second, Hawtel believes the petition exceeds the bounds of permissible advocacy in charging it with, among other things, "extortionist tactics" in addition to generally impugning its character.[2] For this reason Hawtel urged that the petitioner be required to supply evidence to prove its charges or that the offending language be stricken from the petition.

4. We agree with Hawtel that the HCTA petition is procedurally defective under our rules. We have previously indicated that we intend to enforce the impermissive joinder rules.[3] Therefore, under § 1.44(e) we shall order the petition to be dismissed. With respect to the second challenge to the petition, since we have ordered it dismissed *in toto*, we do not need to rule on the relief requested by Hawtel. However, we regard it as inappropriate for parties to use extreme accusatory terminology unless they advance a firm factual basis for their charges.

5. Although we have concluded that HCTA's petition should be dismissed on procedural grounds, on our own motion we have made an examination of the tariff revisions. The proposed increase in monthly charges for CATV channel distribution service amounts to approximately 100 percent. We note that this is the first increase in rates which Hawtel has sought since we asserted jurisdiction over the service, *Hawaiian Telephone Co.*, 16 F.C.C. 2d 308 (1969). Hawtel states that the return, after tax, for calendar year 1972 was .62 percent and that it has historically earned a low rate of return for the service. In view of this low rate of return, it would appear that some revenue relief would be appropriate. However, we are of the opinion the magnitude of the increases presents questions of lawfulness and reasonableness which cannot be resolved on the pleadings now before us.

6. In view of the foregoing, we are unable to conclude that all features of the tariff revisions are just and reasonable within the meaning of section 201(b) of the Act. We shall therefore designate the revisions for hearing and shall suspend the effectiveness thereof and enter

[1] Specifically, 2d Revised Page 20, Supplement No. 4 defers the effective date of the revisions until September 14, 1973.

[2] HCTA Petition, at pp. 2, 8, 19.

[3] *See* 41 F.C.C. 2d 232 (1973), 39 F.C.C. 2d 637, 639 (1973).



V38-1820 SEP 20 73 XUM

an accounting order providing for possible refund. However, in view of the currently low rate of return being earned on this service, the concomitant possibility that other Hawtel customers are being forced to bear part of the costs for Wide Spectrum Service, and the protection afforded customers by the accounting order we are providing herein, we shall suspend the revisions for a period of one day.

7. In the present case, we believe it desirable that the Administrative Law Judge render an Initial Decision and that the trial staff of the Common Carrier Bureau be separated from both the Commission and the Administrative Law Judge. As we have previously explained, 32 F.C.C. 2d 89, 90 (1971), the separation of the trial staff simply means that such staff: (1) will not make any oral presentations to the Administrative Law Judge or the Commission without the other parties being present, and (2) will not make any written presentations to the Administrative Law Judge or the Commission which are not served on the other parties.

*Accordingly, it is ordered*, That, pursuant to the provisions of sections 4(i), 4(j), 201, 204, and 403 of the Communications Act of 1934, an investigation is instituted into the lawfulness of the above-referenced tariff revisions filed by The Hawaiian Telephone Co., including any cancellations, amendments, or reissues thereof; and no changes shall be made in such tariff schedules during the pendency of this proceeding without prior approval by the Commission;

*It is further ordered*, That, pursuant to the provisions of Section 204 of the Act, the above tariff revisions ARE HEREBY SUSPENDED until September 15, 1973, and that The Hawaiian Telephone Co., as to the subject increased monthly and non-recurring charges and until further order of the Commission, shall keep accurate account of all amounts received by reason of such increases, specifying by whom and in whose behalf such amounts were paid, and upon completion of the hearing and decision therein, the Commission may by further order require the refund thereof with interest, pursuant to Section 204 of the Act, and the carrier shall file such reports on the amounts accounted for as aforesaid as the Chief, Common Carrier Bureau shall require;

*It is further ordered*, That, without in anyway limiting the scope of the investigation, it shall include consideration of the following issues:

(1) Whether the charges, classifications, practices, and regulations published in the above-referenced tariff are or will be unjust and unreasonable within the meaning of section 201(b) of the Act;

(2) If any of such charges, classifications, practices, and regulations are found to be unlawful, whether the Commission, pursuant to Section 205 of the Act, should prescribe charges, classifications, practices, or regulations for the service governed by the tariff, and if so, what should be prescribed;

(3) The amounts properly includable in the rate base for Wide Spectrum Service, including the net investment of The Hawaiian Telephone Co., in property used and useful in the provision of that service;

(4) The amounts properly includable as expenses and taxes incurred by The Hawaiian Telephone Co., in the provision of Wide Spectrum Service;

(5) The propriety of the plant and depreciation accounting performed by The Hawaiian Telephone Co., in connection with the Wide Spectrum Service since the institution of that service;

(6) The fair rate of return required by The Hawaiian Telephone Co., on its allowable rate base associated with Wide Spectrum Service determined pursuant to the foregoing as well as upon any other alternative approaches that may be appropriate; and

(7) From the foregoing issues three through six, what revenues are required to give The Hawaiian Telephone Co., a fair rate of return for Wide Spectrum Service (as determined in issue six above);

*It is further ordered*, That, the hearing in this proceeding shall commence at the Commission offices in Washington, D.C., at a time to be specified by the presiding Administrative Law Judge; and that such Administrative Law Judge shall, upon the closing of the record prepare an initial decision which shall be subject to the submission of exceptions and requests for oral argument as provided in 47 CFR 1.276 and 1.277, after which the Commission shall issue its decision as provided in 47 CFR 1.282 and that the trial staff of the Common Carrier Bureau be separated both from the Commission and from the Administrative Law Judge;

*It is further ordered*, That The Hawaiian Telephone Co. is named party respondent to the investigation ordered herein and that the Hawaiian Cable Television Association is hereby granted leave to intervene, upon filing within ten (10) days of the release of this order a notice of intention to participate, and shall be permitted to appear and adduce any relevant and probative evidence which bears on the issues specified for investigation herein; and

*It is further ordered*, That the above-referenced petition to reject or suspend filed by The Hawaiian Cable Television Association is, for the reasons cited herein, dismissed.

Adopted September 11, 1973.

Released September 13, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

[FR Doc 73-20016 Filed 9-19-73;8:45 am]

[1] Commissioner Robert E. Lee absent.

[Docket Nos. 19813-19815; FCC 73-929]

## HENDERSON BROADCASTING CO. ET AL.

### Order Designating Applications for Consolidated Hearing on Stated Issues

In re applications of Henderson Broadcasting Co., Inc., Bloomington, Indiana. Docket No. 19813, File No. BPH-7946. Requests: 96.7 MHz, No. 244A; 420 watts (H & V); 700 feet; Indiana Communications, Inc., Bloomington, Indiana, Docket No. 19814, File No. BPH-8030, Requests: 96.7 MHz, No. 244A; 3 kW (H & V); 300 feet; Bloomington Media Corporation. Bloomington, Indiana, Docket No. 19815, File No. BPH-8032, Requests: 96.7 MHz, No. 244A; 3 kW (H & V); 300 feet, for construction permits.

1. The Commission has before it the above applications which are mutually exclusive in that each applicant seeks the same FM broadcast channel allocated to Bloomington, Indiana. Therefore, a comparative hearing is required.

2. Section 73.210 of our rules provides that the main studio of a commercial FM broadcast station must either be located in the proposed city of license or that good cause must be shown for locating the main studio outside the community. Although Henderson Broadcasting Co., Inc. (Henderson), has proposed to locate its studio at its transmitter site outside of Bloomington, it has submitted a showing in support of its proposal, indicating that the studio will be readily accessible by highway and is only three miles from the center of the city. We find the showing to be adequate, and therefore, no issue will be specified.

3. Section 1.580 of our rules requires that an applicant filing for a construction permit for an FM broadcast station shall publish a notice of such filing at least twice a week for two-consecutive weeks within the three-week period immediately following the tendering for filing of that application in a daily newspaper of general circulation published in the community in which the proposed station is to be located. Henderson's application was tendered for filing on June 7, 1972. Henderson asserts that, due to a misunderstanding between one of its principals and the newspaper which published the notices, only one publication was made during the week of June 11, while another was effected on June 22, and the third and fourth were made on June 28 and 29. We find that the public has received adequate notice of the filing of Henderson's application and that the publications amount to substantial compliance with section 1.580 of our rules.

4. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

5. *Accordingly, it is ordered*, That the applications are designated for hearing in a consolidated proceeding, pursuant to section 309(e) of the Communications Act of 1934, as amended, at a time and place to be specified in a subsequent Order, on the following issues:

1. To determine which of the proposals would, on a comparative basis, best serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications for construction permits should be granted.

6. *It is further ordered*, That each of the applicants shall file a written appearance stating an intention to appear and present evidence on the specified issues, within the time and in the manner required by section 1.221(c) of our rules.

7. *It is further ordered*, That the applicants shall give notice of the hearing, within the time and in the manner specified in § 1.594 of our rules, and shall seasonably file the statement required by § 1.594(g).

Adopted September 6, 1973.

Released September 14, 1973.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

[FR Doc.73-20015 Filed 9-19-73;8:45 am]

## STANDARD BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

SEPTEMBER 14, 1973.

Notice is hereby given, pursuant to § 1.571(c) of the Commission's rules, that on October 24, 1973, the standard broadcast applications listed in the attached Appendix will be considered as ready and available for processing. Pursuant to § 1.227(b)(1) and § 1.591(b) of the Commission's rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on October 23, 1973, which involves a conflict necessitating a hearing with an application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by the close of business on October 23, 1973.

The attention of any party in interest desiring to file pleadings concerning any pending standard broadcast application, pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 1.580(i) of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

Adopted September 12, 1973.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

APPENDIX

| | |
|---|---|
| BP-19425 | NEW, Jamesville, Virginia<br>Parker-Rew Enterprises<br>Req: 1520 kHz, 500 W, DA, Daytime |
| BP-19458 | NEW, Anchorage, Alaska<br>Mt. Susitna Broadcasting Corporation<br>Req: 1080 kHz, 10 kW, U |

[FR Doc.73-20014 Filed 9-19-73;8:45 am]





## FEDERAL MARITIME COMMISSION

### MATSON NAVIGATION CO. AND McCABE, HAMILTON & RENNY CO.

### Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, and San Francisco, California. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before October 10, 1973. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Peter P. Wilson, Counsel
Matson Navigation Company
100 Mission Street
San Francisco, California 94105

Agreement No. T-2851, between Matson Navigation Co. (Matson) and McCabe, Hamilton & Renny Co. (McCabe) provides for a cargo services arrangement whereby McCabe is to furnish Matson comprehensive terminal, stevedore, container freight yard, and container freight station services as required by Matson at the Ports of Kahului, Nawiliwili, and Port Allen, Hawaii. As compensation, McCabe is to receive rates as agreed upon by the parties and filed with the Commission. The agreement replaces a similar agreement between the parties (FMC Agreement No. T-2701) previously approved by the Commission on April 19, 1973.

By order of the Federal Maritime Commission,

Dated September 14, 1973.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.73-20043 Filed 9-19-73;8:45 am]

## FEDERAL RESERVE SYSTEM

### ALABAMA FINANCIAL GROUP, INC.

### Order Approving Acquisition of Southern States Life Insurance Co.

The Alabama Financial Group, Inc., Birmingham, Alabama, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y, to acquire all of the voting shares of Southern States Life Insurance Company, Birmingham, Alabama ("Company"), a company that will engage de novo in the activity of underwriting credit life and credit accident and health insurance directly related to extensions of credit by Applicant's subsidiaries. Such activity has been determined by the Board to be closely related to the business of banking (12 CFR 225.4(a)(10)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (138 FEDERAL REGISTER 14793). The time for filing comments and views has expired, and none has been timely received.

Applicant, the fourth largest bank holding company in the State, controls seven banks with aggregate deposits approximating $664 million and representing 9.7 percent of total deposits in commercial banks in Alabama.[1]

Company will engage de novo in the activity of acting as underwriter for credit life and credit accident and health insurance directly related to extensions of credit by the bank holding company system.

Credit life and credit accident and health (disability) insurance is generally made available by banks and other lenders and such insurance is designed to assure repayment of a loan in the event of death or disability of the borrower. In connection with its addition of credit life underwriting to the list of permissible activities for bank holding companies, the Board stated that:

To assure that engaging in the underwriting of credit life and credit accident and health insurance can reasonably be expected to be in the public interest, the Board will only approve applications in which an applicant demonstrates that approval will benefit the consumer or result in other public benefits. Normally such a showing would

[1] All banking data are as of December 31, 1972, and reflect holding company formations and acquisitions approved through July 20, 1973.



V 38-182 SEP 20 73 XUM

be made by a projected reduction in rates or increase in policy benefits due to bank holding company performance of this service.

Applicant has stated that within ninety days after approval of the proposed transaction, there will be a 5 percent reduction from the premiums presently being charged, for all credit accident and health insurance written by Company; and there will be a 15 percent reduction from the premiums presently being charged, for all credit life insurance written by Company. It appears that the proposed rates are below those generally prevailing in the areas involved. The Board believes that the reduced cost of such insurance coverage is pro-competitive and in the public interest, and accordingly, the Board concludes that considerations relating to the public benefits factors are consistent with approval of the application.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof; it is subject to the further condition that the proposed activities must be commenced within no less than three months after the effective date hereof unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[1] effective September 13, 1973.

[SEAL] CHESTER B. FELDBERG, *Secretary of the Board.*

[FR Doc.73-19971 Filed 9-19-73;8:45 am]

### BANK OF VIRGINIA CO.

#### Acquisition of Bank

Bank of Virginia Company, Richmond, Virginia, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Bank of Virginia-Petersburg, Petersburg, Virginia. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 8, 1973.

Board of Governors of the Federal Reserve System, September 12, 1973.

[SEAL] THEODORE E. ALLISON, *Assistant Secretary of the Board.*

[FR Doc.73-19970 Filed 9-19-73;8:45 am]

### FIRST VIRGINIA BANKSHARES CORP.

#### Proposed Acquisition of Robert C. Gilkison, Inc.

*Correction*

In FR document 73-19220 appearing at page 24933 of the issue for September 11, 1973, the name of the company to be acquired should read Robert C. Gilkison, Inc.

Board of Governors of the Federal Reserve System, September 13, 1973.

[SEAL] THEODORE E. ALLISON, *Assistant Secretary of the Board.*

[FR Doc.73-19972 Filed 9-19-73;8:45 am]

### QUINDARO BANCSHARES, INC.

#### Formation of Bank Holding Co.

Quindaro Bancshares, Inc., Kansas City, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 percent of the voting shares of The Quindaro State Bank, Kansas City, Kansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank, to be received not later than September 26, 1973.

Board of Governors of the Federal Reserve System, September 13, 1973.

[SEAL] THEODORE E. ALLISON, *Assistant Secretary of the Board.*

[FR Doc.73-19973 Filed 9-19-73;8:45 am]

## NATIONAL CREDIT UNION ADMINISTRATION

### FEDERAL CREDIT UNION BYLAWS

#### Increase of Maximum Permissible Dividend Rate

Notice is hereby given that as of September 13, 1973, the Administrator of the National Credit Union Administration, with the consent of the National Credit Union Board, pursuant to the authority conferred by sec. 108, 73 Stat. 631, 12 U.S.C. 1758, and sec. 120, 73 Stat. 635, 12 U.S.C. 1766, has authorized an amendment to Article XIV, Section 2, of the Federal Credit Union Bylaws, to increase the maximum permissible dividend rate from 6 percent per annum to 7 percent per annum.

HERMAN NICKERSON, Jr., *Administrator.*

[FR Doc.73-19968 Filed 9-19-73;8:45 am]

## SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

### CONTINENTAL VENDING MACHINE CORP.

#### Order Suspending Trading

SEPTEMBER 14, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, 10¢ par value, of Continental Vending Machine Corporation, and the 6 percent convertible subordinated debentures due September 1, 1976 being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to sec. 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period September 17, 1973 through September 26, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-19986 Filed 9-19-73;8:45 am]

[File No. 500-1]

### DIVERSIFIED EARTH SCIENCES, INC.

#### Order Suspending Trading

SEPTEMBER 12, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.80 par value, and all other securities of Diversified Earth Sciences, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to sec. 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 11:45 a.m. (EDT) September 12, 1973 through midnight (EDT) September 21, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-19984 Filed 9-19-73;8:45 am]

[File No. 500-1]

### FRANZ HUBINGER A.G. INC.

#### Order Suspending Trading

SEPTEMBER 12, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.01 par value, and all other securities of Franz Hubinger A. G. Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to sec. 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 3:00 p.m. (edt) September 12, 1973 through September 21, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-19985 Filed 9-19-73;8:45 am]

[File No. 812-3471]

### INVESTORS DIVERSIFIED SERVICES, INC., ET AL.

#### Filing of Application for Exemption

SEPTEMBER 14, 1973.

Notice is hereby given that Investors Diversified Services, Inc. ("IDS"), Investors Syndicate of America, Inc. ("ISA"), IDS Life Insurance Company ("IDS Life"), IDS Life Variable Annuity Fund A and IDS Life Variable Annuity Fund B (collectively the "Variable Annuity Funds"), IDS Tower, Minneapolis, Minnesota 55402, and IDS Growth Fund, Inc., IDS New Dimensions Fund, Inc., IDS Progressive Fund, Inc., Investors Mutual, Inc., Investors Selective Fund, Inc., Investors Stock Fund, Inc., Investors Variable Payment Fund, Inc., 1000 Roanoke Building, Minneapolis, Minnesota 55402 (collectively the "Mutual Funds") (collectively the "Applicants") have filed an application pursuant to sec. 6(c) of the Investment Company Act of 1940 ("Act") for an order of temporary exemption from secs. 15(a), 15(b), and 15(c) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

IDS acts as investment adviser to, and as principal underwriter for, the Mutual Funds and ISA, a wholly-owned subsidiary of IDS. IDS and IDS Life, a wholly-owned subsidiary of IDS, act as investment advisers for the Variable Annuity Funds. ID Life, in addition, acts as principal underwriter for the Variable Annuity Funds. The Mutual Funds and Variable Annuity Funds are registered under the Act as diversified open-end management investment companies; ISA is registered under the Act as a face-amount certificate company.

On May 1, 1973, the Alleghany Corporation ("Alleghany") owned beneficially 44.4 percent of the outstanding voting securities of IDS which ownership gave Alleghany presumptive control of IDS pursuant to sec. 2(a)(9) of the Act. Alleghany, in turn, is presumptively controlled by The Allan Corporation which beneficially owns 29.2 percent of Alleghany's outstanding voting securities. Mr. Allan P. Kirby ("Kirby") owned beneficially 20.2 percent of Alleghany and 2.5 percent of IDS. All of the outstanding voting securities of The Allan Corporation are owned by a series of trust funds the trustees of which are Kirby's wife and four children. The beneficiaries of such trusts are the same as the trustees with the addition of Kirby's grandchildren.

On May 2, 1973, Kirby died. For a number of years prior to his death, Kirby's property had been under the guardianship of his two sons, Allan P. Kirby, Jr. and F. M. Kirby. Kirby's will admitted to probate on May 14, 1973, named his two sons, William G. Rabe, and the Manufacturers Hanover Trust Company as executors to whom the power to vote the stock of the decedent passed under New Jersey law. Under the will, the F. M. Kirby Foundation ("Foundation"), a charitable organization incorporated in 1931, is to receive a specific legacy of one million shares of Alleghany common stock which amount represents approximately 12.3 percent of Alleghany. When this legacy is distributed, the power to vote these shares will be held by the directors of the Foundation who are Kirby's widow and his four children. They also have the power to elect the directors of the Foundation.

Each of the investment advisory contracts and principal underwriting agreements in effect on May 1, 1973, between IDS and the Mutual Funds, ISA, and the Variable Annuity Funds, and the Investment advisory contracts and principal underwriting agreements between IDS Life and the Variable Annuity Funds contained the provision required by sec. 15 of the Act for automatic termination in the event of their "assignment". Section 2(a)(4) of the Act defines the term "assignment" to include, in part, any direct or indirect transfer of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor.

On May 10, 1973, the boards of directors of the Mutual Funds approved new underwriting contracts with IDS, and the boards of directors of the Variable Annuity Funds approved new underwriting contracts with IDS Life. On August 8, 1973, the board of directors of ISA approved a new underwriting contract with IDS.

On June 13 and June 20, 1973, respectively, the Mutual Funds and the Variable Annuity Funds held their annual meetings of shareholders and contract holders. With full knowledge of Kirby's death and its effect on the ownership and the voting of Alleghany stock, the shareholders of the Mutual Funds approved a new investment advisory contract with IDS and the contract holders of the Variable Annuity Funds approved new investment advisory contracts with IDS Life and between IDS and IDS Life. On August 8, 1973 the shareholder of ISA approved a new investment advisory contract with IDS. All new investment advisory contracts approved are identical or substantial indentical with such contracts in existence on the date of Kirby's death.

Section 15(a) of the Act provides, in pertinent part, that it shall be unlawful for any person to serve or act as an investment adviser of an investment company except pursuant to a written contract which has been approved by a vote of a majority of the outstanding voting securities of such company.

Section 15(b) of the Act provides, in pertinent part, that it shall be unlawful for any principal underwriter for an open-end company to offer for sale, sell, or deliver after sale any security of which such company is the issuer except pursuant to a written contract with such company.

Section 15(c) of the Act provides, in pertinent part, that it shall be unlawful for any investment company having a board of directors to enter into, renew, or perform any investment advisory or underwriting contract unless the terms of such contract and any renewal thereof have been approved by the vote of a majority of directors who are not parties to such contract or interested persons of any such party.

Applicants submit that if the transfer of the right to vote the Alleghany stock owned by Kirby at his death constitutes an "assignment" of the investment advisory and underwriting contracts, those contracts would have automatically terminated upon Kirby's death. Therefore, Applicants request an order pursuant to sec. 6(c) of the Act exempting them from the provisions of secs. 15(a), 15(b), and 15(c), to the extent necessary to permit the following: (i) IDS to act as investment adviser for the Mutual Funds on the same terms and conditions set forth in the investment advisory contracts between IDS and the Mutual Funds, all dated June 7, 1972, for the period from May 2 to June 13, 1973; (ii) IDS to act as investment adviser for ISA on the same terms and conditions set forth in the investment advisory contract between IDS and ISA, dated December 7, 1971, for the period from May 2 to August 8, 1973; (iii) IDS and IDS Life to act as investment advisers for IDS Life Variable Annuity Fund A on the same terms and conditions set forth in the investment advisory contract between such fund and IDS and IDS Life, dated July 11, 1972, for the period from May 2 to June 20, 1973; (iv) IDS and IDS Life to act as investment adviser for IDS Life Variable Annuity Fund B on the same terms and conditions set forth in the investment advisory contract between such fund and IDS and IDS Life, dated June 20, 1972, for the period from May 2 to June 20, 1973; (v) IDS to act as principal underwriter for the Mutual Funds on the same terms and conditions set forth in the underwriting contracts between IDS and the Mutual Funds, all dated May 11, 1972, for the period from May 2 to May 10, 1973; (vi) IDS to act as principal underwriter for ISA on the same terms and conditions set forth in the underwriting contract between IDS and ISA, dated December 7, 1971, for the period from May 2 to August 8, 1973; and (vii) IDS Life to act

[1] Voting for this action: Chairman Burns and Governors Mitchell, Daane, Brimmer, Sheehan, and Holland. Absent and not voting: Governor Bucher.







V 38 1 182 SEP 20 73 XUM

as principal underwriter for the Variable Annuity Funds on the same terms and conditions set forth in the underwriting contracts between IDS Life and the Variable Annuity Funds, both dated November 12, 1969, for the period from May 2 to May 10, 1973.

Applicants also seek an order of exemption from the provisions of secs. 15(a), 15(b), and 15(c) of the Act to the extent such exemption is required upon distribution under Kirby's will of the one million shares of Alleghany to the Foundation, in order to permit the following: (i) IDS to act as investment adviser for the Mutual Funds and ISA and IDS Life and IDS to act as investment advisers for the Variable Annuity Funds from the date of the distribution respectively, until, the final adjournment of the stockholder's meetings or contract holder's meetings of the Mutual Funds, ISA, and the Variable Annuity Funds held subsequent to such distribution; (ii) IDS to act as principal underwriter for ISA and the Mutual Funds for the period from the date of such distribution respectively, until, the next board of directors meeting of ISA and the Mutual Funds held subsequent to such distribution; and (iii) IDS Life to act as principal underwriter for the Variable Annuity Funds for the period from the date of such distribution until, respectively, the next board of directors meeting of each Variable Annuity Fund held subsequent to such distribution.

Applicants represent that at the board of directors meetings, held on May 10, 1973, in the case of the Mutual Funds and the Variable Annuity Funds and on August 8, 1973, in the case of ISA, each board unanimously approved new advisory and underwriting contracts after having received full disclosure of the relevant portions of Kirby's will. At the shareholder's meetings of the Mutual Funds and ISA and at the contract holder's meetings of the Variable Annuity Funds held on June 13, August 8, and June 20, 1973, respectively, the shareholders and contract holders, with full disclosure of the effects of Kirby's death on the stock ownership of Alleghany, approved new advisory contracts with IDS and IDS Life and ratified the payment of advisory and service fees to IDS and IDS Life from May 2, 1973, to the date the new contracts were approved by the respective shareholders.

Applicants expect no changes in the investment advisory or underwriting policies, practices, or personnel of IDS and IDS Life due to the transfer of Alleghany stock to Kirby's executors and then to the Foundation. No change will occur in the control relationship between The Allan Corporation and Alleghany.

Applicants estimate that it will cost approximately $350,000 to hold special shareholder's meetings and contract holder's meetings for the Mutual Funds and the Variable Annuity Funds following the distribution to the Foundation. Applicants contend that no substantial benefit to the shareholders would result from such meetings.

Applicants submit that the granting of the requested exemptions is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and the provisions of the Act.

Notice is further given than any interested person may, not later than October 9, 1973, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the addresses stated above. Proof of such service (by affidavit, or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in the application unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-19982 Filed 9-19-73;8:45 am]

[File No. 500-1]

## KORACORP INDUSTRIES, INC.

### Order Suspending Trading

SEPTEMBER 14, 1973.

The common stock, $1 par value, of Koracorp Industries, Incorporated being traded on the New York Stock Exchange and the Pacific Coast Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Koracorp Industries, Incorporated being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to secs. 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 17, 1973 through September 26, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-19987 Filed 9-19-73;8:45 am]

[File No. 70-5384]

## MASSACHUSETTS ELECTRIC CO.

### Proposed Issue and Sale of Shares of Cumulative Preferred Stock at Competitive Bidding

SEPTEMBER 14, 1973.

Notice is hereby given that Massachusetts Electric Company ("Mass Electric"), 20 Turnpike Road, Westborough, Massachusetts 01581, an electric utility subsidiary company of New England Electric System, a registered holding company, has filed a declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating secs. 6(a) and 7, of the Act and rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, as amended, which is summarized below, for a complete statement of the proposed transaction.

Mass Electric proposes to issue and sell, subject to the competitive bidding requirements of rule 50, 200,000 shares of a new series of its cumulative preferred stock, —% Series, $100 par value ("stock"). The dividend rate (which shall be a multiple of .04 of 1 percent and the price to be paid for the stock (which shall not be less than $100 per share nor more than $102.75) will be determined by the competitive bidding. Dividends shall be cumulative from the date of initial issue. The stock will not be redeemable prior to October 1, 1978, in connection with a refunding by the issuance of debt securities or other preferred stock at a lesser effective cost of money.

The proceeds from the sale of the stock, estimated at $20,000,000, will be applied toward the payment of outstanding short-term notes incurred to temporarily finance construction expenditures pending permanent financing. According to the declaration, it is expected that these notes will aggregate $28,700,000 prior to the issuance of the stock.

Mass Electric states that the Massachusetts Department of Public Utilities has jurisdiction over the proposed transaction and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction. Fees and expenses related to the proposed transaction are estimated at $75,000, including New England Power Service Company expenses (at cost) of $30,000 and accounting fees of $7,500. The fees and expenses of counsel for the bidders will be supplied by amendment and will be paid by the successful bidders, except as provided in the purchase agreement relating to purchase of the stock.

Notice is further given that any interested person may, not later than October 10, 1973, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration, as amended, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney-at-law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-19983 Filed 9-19-73;8:45 am]

[File No. 500-1]

## STRATTON GROUP, LTD.

### Order Suspending Trading

SEPTEMBER 14, 1973.

The common stock, $.25 par value, of Stratton Group, Ltd. being traded on the American Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Stratton Group, Ltd. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to sec. 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 17, 1973 through September 26, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-19988 Filed 9-19-73;8:45 am]

[File No. 811-1906]

## WOODPARK ASSOCIATES FUND

### Filing of Application

SEPTEMBER 14, 1973.

Notice is hereby given that Woodpark Associates Fund ("Applicant"), 100 Park Avenue, New York, New York 10017, an open-end, non-diversified management investment company registered under the Investment Company Act of 1940 (the "Act"), has filed an application pursuant to Section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant was organized as a Delaware corporation in June 1969, and filed a Notification of Registration on Form N-8A and a Registration Statement on Form N-8B-1 with the Commission on July 18, 1969.

Applicant represents that during the period from December 1, 1969 to April 1970, it engaged in the offer and sale of its shares of Common Stock, par value $1 per share ("Shares"); that since April 1970 Applicant has neither offered nor sold any of its Shares; and that on or prior to July 16, 1970, all but two of its shareholders (each of which held 500 Shares) tendered their Shares for redemption in cash. Applicant also represents that on July 17, 1973, the directors and remaining two shareholders of Applicant unanimously approved resolutions authorizing and adopting proposals that Applicant cease being an investment company; that it be liquidated and dissolved under the laws of the State of Delaware, and authorizing and directing the officers of Applicant to file a certificate of Dissolution with the Secretary of State of Delaware as soon as practicable; and that on that date the two remaining shareholders redeemed their shares for cash. Applicant further represents that it has no Shares outstanding, and further sales of its Shares will not be made.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than October 10, 1973 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for a hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-19981 Filed 9-19-73;8:45 am]

[File No. 500-1]

## TELEPROMPTER CORP.

### Order Suspending Trading

SEPTEMBER 14, 1973.

The common stock, $1 par value, of TelePrompTer Corporation being traded on the New York Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of TelePrompTer Corporation being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors.

*It is ordered*, Pursuant to sec. 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 17, 1973 through September 26, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-19989 Filed 9-19-73;8:45 am]







V 38 N 182 SEP 20 73 XUM

## SMALL BUSINESS ADMINISTRATION

### INVESTCAL SMALL BUSINESS INVESTMENT CO.

#### Notice of Filing of Application for Transfer of Control of Licensed Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pursuant to § 107.701 of the Regulations governing small business investment companies (13 CFR 107.701(1973)) for the transfer of control of Investcal Small Business Investment Company (Investcal), 1400 Fifth Avenue, Suite 201, San Diego, California 92101, a Federal licensee under the Small Business Investment Act of 1958, as amended (the Act), License No. 09 14-0012.

Investcal was licensed on September 20, 1960. Its present combined paid-in capital and paid-in surplus is $152,000. This proposed transfer of control is subject to and contingent upon the approval by SBA.

Saraphen Investment Company, Inc. (Saraphen), 315 South Beverly Drive, Suite 300, Beverly Hills, California 90212 (a California Corporation), is owned by Mr. Richard S. De Bro and Diana Investment Company, Inc. Saraphen plans to purchase about 70 percent of the common capital stock of the licensee. The major business of Saraphen is investment in financial institutions. When acquired by Saraphen, Investcal will constitute the largest percentage of Saraphen's assets. After the acquisition, Saraphen plans to invest an additional $350,000 in Investcal, bringing its private capital to about $502,000.

The new officers and directors of Investcal will be:

President, Director

Mr. Richard S. De Bro
25440 Malibu Road
Malibu, California 90265

Vice President, Director

Mr. Joseph T. Gudmundsson
3592 Tilden Avenue
Los Angeles, California 90034

Secretary-Treasurer, Director

Ms. Julie W. Solomon
10580 Selkirk
Bel Air, California 90024

Matters involved in SBA's consideration of the application include the general business reputation and character of the new owners and the probability of successful operation of Investcal under their control and management (including adequate profitability and financial soundness) in accordance with the Act and Regulations.

Notice is hereby given that any interested person may, not later than 15 days from the date of publication of this Notice, submit to SBA, in writing, relevant comments on the transfer of control. Any such communication should be addressed to:

Deputy Associate Administrator for Investment
Small Business Administration
1441 L Street NW.
Washington, D.C. 20416

A copy of this Notice shall be published by the transferee in a newspaper of general circulation in both San Diego and Los Angeles, California.

Dated September 7, 1973.

JAMES THOMAS PHELAN,
*Deputy Associate Administrator,*
*Investment Division.*

[FR Doc.73-20030 Filed 9-19-73;8:45 am]

## VETERANS ADMINISTRATION

### 120-BED REHABILITATION/NURSING HOME CARE BUILDING, SEPULVEDA, CALIFORNIA

#### Notice of Availability of Draft Environmental Impact Statement

Notice is hereby given that a document entitled "Draft Environmental Statement for a 120-Bed Rehabilitation/Nursing Home Care Building, at the Veterans Administration Hospital, Sepulveda, California," dated July 23, 1973, has been prepared as required by the National Environmental Policy Act of 1969. This project consists of the construction of a 120-Bed Rehabilitation/Nursing Home Care Building, connecting tunnel to an existing building, parking area and access road; all to be located on the property of the present Veterans Administration Hospital. The draft statement discusses the environmental impact of the above construction. The document is being placed for public examination in the Veterans Administration office in Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office:

Mr. Arthur W. Farmer, Assistant Chief Medical Director for Administration and Facilities (13), Room 600, Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420.

Single copies of the draft statement may be obtained on request to the above office.

Dated September 14, 1973.

By direction of the Administrator.

[SEAL] RUFUS H. WILSON,
*Associate Deputy Administrator.*

[FR Doc.73-20007 Filed 9-19-73;8:45 am]

## FEDERAL POWER COMMISSION

[Docket No. G-10413, etc.]

### AUTHORIZATION TO SELL NATURAL GAS

#### Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

SEPTEMBER 7, 1973.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before October 5, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.





| Docket No. and date filed | Applicant | Purchaser and location | Price per mcf | Pressure base |
|---|---|---|---|---|
| G-10413 D8-30-73 | The California Co., a Division of Chevron Oil Co., 1111 Tulane Ave., New Orleans, La. 70112. | Texas Eastern Transmission Corp., Chevron Field, Kleburg County, Tex. | Depleted | |
| G-12078 D8-22-73 | Mobil Oil Corp., 3 Greenway Plaza East, Suite 800, Houston, Tex. 77046. | El Paso Natural Gas Co. & Pecos Co., Jack Herbert Field, Upton County, Tex. | Depleted | |
| CI73-166 C8-27-73 [1] | Skelly Oil Co., P.O. Box 1650, Tulsa, Okla. 74102. | El Paso Natural Gas Co., Canada Mesa No. 3 Unit, Rio Arriba County, N. Mex. | [2] 28.0 | 15.025 |
| CI73-350 (CI70-624) F8-23-73 [3] | Glynn D. Buie & G. Phil Roberts (successors to Anadarko Production Co.), 861 The Main Bldg., Houston, Tex. 77002. | Texas Eastern Transmission Corp., Skull Creek Field, Colorado County, Tex. | 35.0 | 14.65 |
| CI74-144 A8-27-73 | Champlin Petroleum Co., P.O. Box 9365, Fort Worth, Tex 76107. | Tennessee Gas Pipeline Co., a Division of Tenneco Inc., Aqua Dulce Field, Nueces County, Tex. | [4] 35.0 | 14.65 |
| CI74-145 A8-27-73 | Gulf Oil Corp., P.O. Box 1589, Tulsa, Okla. 74102. | El Paso Natural Gas Co., Langlie Mattix (Queen) Field, Lea County, N. Mex. | [5] [6] 35.0 | 14.65 |
| CI74-150 A8-29-73 | Gulf Oil Corp. | El Paso Natural Gas Co., Papoose Canyon Field, Dolores County, Colo. | [6] 30.0 | 15.025 |

[1] Amendment to a pending application.
[2] Subject to upward and downward Btu adjustment.
[3] An application is now pending in CI73-350 for special relief under Section 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76).
[4] Subject to downward Btu adjustment.
[5] Applicant is willing to accept a certificate in conformance with the provisions of Opinion No. 662.
[6] Including upward Btu adjustment.

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.

[FR Doc.73-19826 Filed 9-19-73—8:45 am]

[Docket No. G-4359, etc.]

### AUTHORIZATIONS OF SALE, RESALE, AND DELIVERY OF NATURAL GAS

#### Findings and Order After Statutory Hearing Issuing Certificates of Public Convenience and Necessity, Amending Orders Issuing Certificates, Making Successors Co-respondent, Accepting Rate Schedules for Filing

SEPTEMBER 7, 1973.

Each Applicant herein has filed an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce or a petition to amend an order issuing a certificate, all as more fully set forth in the applications and petitions to amend.

Applicants have filed FPC gas rate schedules or supplements to rate schedules on file with the Commission and propose to initiate, add or discontinue in part natural gas service in interstate commerce as indicated in the tabulation herein.

After due notice by publication in the FEDERAL REGISTER, notices of intervention were filed and withdrawn by the People of the State of California and the Public Utilities Commission of the State of California in Docket Nos. CI73-166 and CI73-211. No further notices of intervention, protests to the granting of the applications and petitions to amend, or petitions to intervene have been filed.

At a hearing held on August 24, 1973, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications and petitions and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record,

*The Commission finds:*

(1) Each Applicant herein is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption, subject to the jurisdiction of the Commission, and will, therefore, be a "natural-gas company" within the meaning of the Natural Gas Act upon the commencement of service under the authorizations hereinafter granted.

(2) The sales of natural gas hereinbefore described, as more fully described in the applications in this proceeding, will be made in interstate commerce subject to the jurisdiction of the Commission; and such sales by Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicants are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(4) The sales of natural gas by Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity; and certificates therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the orders issuing certificates of public convenience and necessity in various dockets involved herein should be amended as hereinafter ordered.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that certain successors in interest, who are herein authorized to continue sales of natural gas in interstate commerce, should be made co-respondents in their predecessors' rate proceedings.

(7) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the FPC gas rate schedules and supplements related to the authorizations hereinafter granted should be accepted for filing.

(8) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that the orders issuing certificates, for sales authorized herein to be continued under new or amended certificates, should be amended by deleting therefrom authorization to sell gas.

(9) Section 154.93 of the Regulations under the Natural Gas Act should be waived to the extent necessary to permit the acceptance for filing of the rate schedules for the sales authorized in Docket Nos. CI73-196, CI73-537, CI73-570 and CI73-652 with contractual provisions for the possible sales of the Federal Government's royalty shares of the gas at prices in excess of the otherwise applicable rates, with contractual provisions to increase rates to higher area rates found to be proper by hearing, rule-making, or Commission approved settlement, or with contractual provisions for reserve incentives.

(10) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and the public convenience and necessity require that Applicants in Docket Nos. CI66-1312 and CI73-701 be made co-respondents in their predecessors' rate proceedings.

*The Commission orders:*

(A) Certificates of public convenience and necessity are issued upon the terms and conditions of this order authorizing sales by Applicants of natural gas in interstate commerce for resale, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as hereinbefore described and as more fully described in the applications and in the tabulation herein.

(B) The certificates granted in paragraph (A) above are not transferable and shall be effective only so long as Applicants continue the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission.

(C) The grant of the certificates issued in paragraph (A) above shall not



V 38-182 SEP 20 73 XUM

be construed as a waiver of the requirements of Section 7 of the Natural Gas Act or of Part 154 or Part 157 of the Commission's Regulations thereunder and is without prejudice to any findings or orders which have been or which may hereafter be made by the Commission in any proceedings now pending or hereafter instituted by or against Applicants. Further, our action in this proceeding shall not foreclose or prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. The grant of the certificates aforesaid for service to the particular customers involved does not imply approval of all of the terms of the contracts, particularly as to the cessation of the service upon termination of said contracts as provided by section 7(b) of the Natural Gas Act. The grant of the certificates aforesaid shall not be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales of natural gas subject to said certificates.

(D) The orders issuing certificates of public convenience and necessity in various dockets are amended by adding thereto or deleting therefrom authorization to sell natural gas or by substituting successors in interest as certificate holders as more fully described in the applications and in the tabulation herein. In all other respects said orders shall remain in full force and effect.

(E) Within 90 days from the date of initial delivery, Applicants in Docket Nos. CI61–1306, CI73–440, CI73–537, CI73–570, CI73–627 and CI73–630 shall each file three copies of a rate schedule-quality statement in the form prescribed in Opinion Nos. 468–A, 586, 595, 598, and 607, as applicable.

(F) Within 90 days from the date of this order, Applicants in Docket Nos. G–4359, G–17520 and CI72–711 shall each file three copies of a rate schedule-quality statement in the form prescribed in Opinion Nos. 586, 595, or 598, as applicable.

(G) The certificates and certificate authorization granted in Docket Nos. G–4359, G–17520, CI61–1306, CI72–711, CI73–440, CI73–537, CI73–570, CI73–627 and CI73–630 are subject to the Commission's findings and orders accompanying Opinion Nos. 468, 468–A, 586, 586–A, 595, 595–A, 598, 598–A, 607, and 607–A, as applicable. If the quality of the gas deviates at any time from the quality standards set forth in the Regulations under the Natural Gas Act so as to require a downward adjustment of the existing rates, notices of changes in rate shall be filed pursuant to Section 4 of the Natural Gas Act; provided, however, that adjustments reflecting changes in Btu content of the gas shall be computed by the applicable formula and charged without the filing of notices of changes in rate.

(H) Applicants in the dockets indicated shall charge and collect the following rates, subject to Btu adjustment where applicable:

| Docket No. | Rate (cents per Mcf) | Pressure Base (p.s.i.a.) |
|---|---|---|
| G–4359 | 9.8230 | 14.65 |
| CI61–1306 | 24.0 | 14.65 |
| CI73–53 | 33.0 | 15.025 |
| CI73–166 | 24.0 | 14.65 |
| CI73–211 | [3]7.0 | 14.65 |
| CI73–440 | 18.5 | 14.65 |
| CI73–479 | 27.0 | 14.65 |
| CI73–537 | 26.0 | 15.025 |
| CI73–570 | [1]21.5 | 14.65 |
| | [2]20.0 | 14.65 |
| CI73–630 | 27.0 | 14.65 |
| CI73–693 | [4]28.0 | 15.025 |
| CI73–701 | [3]22.0 | 15.025 |
| | [4]28.0 | 15.025 |

[1] For sales of gas-well gas.
[2] For sales of casinghead gas.
[3] For sales of gas-well gas completed before 6–1–70.
[4] For sales of gas-well gas completed after 6–1–70.

(I) Applicants in Docket Nos. CI73–53, CI73–479 and CI73–652 shall comply with Section 2.71 of the Commission's General Policy and Interpretations with respect to the transportation of liquids and liquefiable hydrocarbons, subject to final judicial review of Order No. 449.

(J) The rate schedules and rate schedule supplements related to the authorizations granted herein are accepted for filing or are redesignated, all as set forth in the tabulation herein. Where the effective date is the date of initial delivery, Applicant shall advise the Commission of said date within 10 days thereof.

(K) Applicants in the following dockets are made co-respondents in their predecessors' rate proceedings and said proceedings are redesignated accordingly:

| *Successor's certificate docket No.* | *Rate proceeding docket No.* |
|---|---|
| CI65–235 | RI70–82 |
| CI66–1312 | RI70–675 |
| CI73–701 | RI72–110 |

Applicants shall comply with the refunding procedure required by the Natural Gas Act and Section 154.102 of the Regulations thereunder.

(L) The orders issuing certificates in Docket Nos. G–6319 and G–10243 are amended by deleting therefrom authorization to sell gas from properties from which sales are authorized herein in Docket No. CI73–701, and the order issuing the certificate in Docket No. G–11175 is amended by deleting therefrom authorization to sell gas from properties from which sales are authorized herein in Docket No. CI73–693.

(M) The acceptance for filing of the rate schedules for the sales authorized in Docket Nos. CI73–196 and CI73–652 should not be construed as meaning that any rate increase based upon the provisions for the sales of the Federal Government's royalty shares of the gas at prices in excess of the otherwise applicable rate or upon reserve incentives would be accepted for filing without suspension.

(N) Pioneer Enterprises, Inc., Applicant in Docket No. CI66–1312, and J. Gregory Merrion and Robert L. Bayless, Applicants in Docket No. CI73–701, are made co-respondents in the proceedings pending in Docket Nos. RI70–675 and RI72–110, respectively; and said proceedings are redesignated accordingly. They shall comply with the refunding procedure required by the Natural Gas Act and Section 154.102 of the Regulations thereunder.

(O) Within 30 days from the date of this order, Applicant in Docket No. CI73–570 shall file three copies of a revised billing statement, as required by Section 154.92(b) of the Regulations under the Natural Gas Act, reflecting any sales of casinghead gas.

(P) Within 30 days from the date of this order, Applicant in Docket No. CI73–652 shall file for each rate schedule three copies of a billing statement as required by § 154.92(b) of the regulations under the Natural Gas Act.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

| Docket No. and Date Filed | Applicant | Purchaser and Location | FPC Gas Rate Schedule [1] Description and Date of Document | Number | Supp. |
|---|---|---|---|---|---|
| G–4359 C 12–21–72 [2] | Sohio Petroleum Co. | Trunkline Gas Co., Nona Mills Field, Hardin County, Tex. | Amendment 8–16–72 [3] (Effective Date: 5–2–72) [4] | 5 | 10 |
| G–17966 D 1–24–73 | Gulf Oil Corp. | Northern Natural Gas Co., North Hutchinson Field, Hansford County, Tex. | Agreement 9–1–72 [5] (Effective Date: The date of this order). | 142 | 7 |
| G–17520 F 1–16–73 | Continental Oil Co. | Southern Natural Gas Co., North Bayou Long Field, Iberia Parish, La. | Assignment 9–18–72 [6] (Effective Date: 4–25–72) [7] | 175 | 8 |
| CI61–1306 C 11–29–72 [2] | Exxon Corp. | Trunkline Gas Co., Heard Ranch & Medio Creek Fields, Bee County, Tex. | Amendment 11–2–72 [8] | 272 | 6 |
| CI65–235 E 1–26–73 [10] | Walter H. Stephens & Frank W. Cass. | El Paso Natural Gas Co., Spraberry Field, Reagan County, Tex. | Amerada Hess Corp., FPC Gas Rate Schedule No. 124 and Supplement Nos. 1–9 thereto. | 1 | 1–9 |
| | | | Notice of Succession 1–23–73 | 1 | |
| | | | Assignment 10–23–72 [11] (Effective Date: 11–1–72) [7] | 1 | 10 |
| CI65–946 D 1–2 | Amerada Hess Corp. | Northern Natural Gas Co., Ozona (Canyon) and Hunt-Baggett (Strawn) Fields, Crockett County, Tex. | Assignment 2–17–70 [12] | 126 | 10 |
| | | | Assignment 6–30–73 (Effective Date: The date of this order). | 126 | 11 |

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Succession.
F—Partial succession.
See footnotes at end of table.





[1] Interest previously covered under General Crude Oil Company (Operator), *et al.*, FPC Gas Rate Schedule No. 5, cancelled by order dated 5–2–72, issuing a small producer certificate to General Crude Oil Company in Docket No. CI72–1, effective as of the date of first delivery, 1–1–72.
[2] Amends contract pricing provision to area rate and dedicates interest previously sold under General Crude's FPC Gas Rate Schedule No. 5.
[3] Effective date of small producer certificate authorization of operator.
[4] Increases 25 percent interest in the Williams, Inc. lease from The California Company, a Division of Chevron Oil Company to Continental Oil Company. Acreage previously covered by contract on file as The California Company, a Division of Chevron Oil Company (Operator), FPC Gas Rate Schedule No. 13.
[5] Effective date by increasing depth limitation.
[6] Previously accepted for filing by letter dated 3–15–73, insofar as it pertains to acreage previously certificated.
[7] Where no effective date is shown, it is the date of initial delivery.
[8] Partial assignment of interest previously assigned to this filing has been cancelled.
[9] From Amerada Hess Corporation.
[10] Interest in acreage assigned by Amerada to Walter W. King who operates under a small producer certificate in Docket No. CI66–191 in the partnership name of Wallen Production Company. No certificate filing required. 18 CFR 2.70.
[11] From Pecos Growers Oil Company to The Nueces Company.
[12] From The Nueces Company to Applicant.
[13] Midwest Oil Corporation's related deletion filing is included in this tabulation.
[14] Petition to amend certificate to include interest acquired from Midwest Oil Corporation.
[15] No certificate filing required. Applicant's rate schedule covers the acreage acquired from Midwest Oil Corporation. Applicant and Midwest are signatory parties to a contract dated October 5, 1967, which covers the subject acreage.
[16] No certificate filing required. 18 CFR 2.64.
[17] From Midwest Oil Corporation to Arkansas Louisiana Exploration Company and Stephens Production Company, *et al.*
[18] Sale previously made under terms of a 10–1–51 operating agreement. Applicant had no certificate or rate schedule on file previously to cover sales from her interest.
[19] Revised billing statement to reflect applicable contract rate effective 1–1–73.
[20] Contract dated prior to January 1, 1973, but Commission restricts the price, the total price for the gas shall be considered to include, as a tax component, 100 percent of seller's taxes.
[21] Deletes acreage which should not have been included in the contract.
[22] Previously accepted for filing.
[23] Proposes rate increases to any higher rate prescribed by the Commission in an area rate proceeding, statement of general policy, rulemaking proceedings or comparable proceeding for the area.
[24] Amends contract to limit its coverage to gas produced from formations above the base of the Granite Wash Formation.
[25] Provides that (1) seller may elect to process the gas for the extraction of liquefiable hydrocarbon, (2) the price is to increase 1.0 cent per Mcf for each 500 billion cubic feet of recoverable reserves (up to a 3.0 cent maximum).
[26] Also on file as Amerada Hess Corporation FPC Gas Rate Schedule No. 31.
[27] From Amerada Hess Corporation to Applicant.
[28] Sale previously made under terms of a 10–1–51 operating agreement. Applicant had no certificate or rate schedule on file previously to cover sales from her interest.
[29] Amends contract to extend term to 1992, eliminates favored-nation clauses, establishes prices of 22.0 cents per Mcf for gas from wells completed before 9–1–70 and 28.0 cents per Mcf for gas from wells completed thereafter, provides for 0.5 cent per Mcf escalation on 1–1–74 and every year thereafter, extends make-up period for prepaid gas to five years, establishes buyer's option to specify development of leases and increased contract quantities for Applicant's acreage.
[30] Also on file as Amerada Hess Corporation FPC Gas Rate Schedule No. 25.

[FR Doc.73–19827 Filed 9–19–73;8:45 am]

[Docket No. CI74–168]

## HARVEY E. YATES CO., ET AL.

### Notice of Application

SEPTEMBER 13, 1973.

Take notice that on August 30, 1973, Harvey E. Yates Co. et al. (Applicants), 112 North First Street, Artesia, New Mexico 88210, filed in Docket No. CI74–168 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Transwestern Pipeline Co. from acreage in Eddy County, New Mexico, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants state that they commenced the sale of natural gas on August 15, 1973, within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29), and propose to continue said sale for one year from the end of the sixty-day emergency period within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicants propose to sell approximately 150,000 M c.f. of gas per month at 54.25 cents per million Btu at 14.65 p.s.i.a.

| Docket No. and Date Filed | Applicant | Purchaser and Location | FPC Gas Rate Schedule [1] Description and Date of Document | Number | Supp. |
|---|---|---|---|---|---|
| CI66–1312 E 8–9–73 | Pioneer Enterprises, Inc. | El Paso Natural Gas Co., Southeast Fort Stockton Field, Pecos County, Tex. | Pecos Growers Oil Co. FPC Gas Rate Schedule No. 1 and Supplement Nos. 1–2 | 1 | 1–2 |
| | | | Notice of Succession 3–5–73 | 1 | |
| | | | Assignment 10–25–72 [14] | 1 | 3 |
| | | | Assignment 11–30–72 [14] | 1 | 4 |
| | | | (Effective Date: 12–1–72) [7] (c) | 25 | |
| CI68–655 F 2–5–73 [15] [16] | Arkla Exploration Co. | Arkansas Louisiana Gas Co., Haynesville Field, Union County, Ark. | Assignment 6–1–72 [17] (Effective Date: 12–1–72) [7] | 47 | 3 |
| CI68–778 [18] | Midwest Oil Corp. | do | Assignment 6–1–72 [17] | 47 | 3 |
| CI72–711 5–14–72 [2] | Evelyn J. Bailey, et al. | Panhandle Eastern Pipe Line Co., Guymon-Hugoton Gas Field, Texas County, Okla. | Contract 12–28–70 (Effective Date: The date of this order) | 1 | |
| CI73–53 A 7–20–72 4–16–73 [21] | The California Co., a Division of Chevron Oil Co. | Florida Gas Transmission Co., Plomaton Field, Escambia County, Ala. | Contract 6–27–72 | 75 | |
| CI73–166 A 9–5–72 | Skelly Oil Co. | El Paso Natural Gas Co., Artha County, N. Mex. | Contract 8–21–72 [22] | 264 | |
| CI73–196 A 9–14–72 | Tenneco Oil Co. | El Paso Natural Gas Co., Florance-Jal-Eumont, Eddy & Lea Counties, N. Mex. | Contract 8–2–72 Letter Agreement 8–29–72 [23] | 282 1 | 1 |
| CI73–211 A 9–22–72 | Champlin Petroleum Co. | El Paso Natural Gas Co., Jones Ranch Unit, Eddy County, N. Mex. | Contract 8–7–72 | 130 | |
| CI73–440 A 12–20–73 [24] | Texaco Inc. | Northern Natural Gas Co., Turkey Roost Field, Sherman County, Tex. | Contract 9–18–72 | 487 | |
| CI73–479 A 1–17–73 | Champlin Petroleum Co. | Northern Natural Gas Co., Gomez Field, Pecos County, Tex. | Contract 8–15–72 | 133 | |
| CI73–537 A 2–12–73 | Texaco Inc. | Transcontinental Gas Pipe Line Corp., Hilton Field, Calcasieu Parish, La. | Contract 1–15–73 [25] | 494 | |
| CI73–570 A 2–26–73 | Sun Oil Co. | Arkansas Louisiana Gas Co., Rump Dome Field, Hempstead County, Ark. | Contract 1–10–73 Letter Agreement 1–15–73 Amendment 3–12–73 [26] | 515 515 515 | 1 2 |
| CI73–627 A 3–23–73 | Amoco Production Co. | Arkansas Louisiana Gas Co., Cameron Field, Lee-Pierre County, Ohio | Contract 2–1–73 | 608 | |
| CI73–630 A 3–23–73 | Union Oil Co. of California. | Natural Gas Pipeline Co. of America Indian Basin Field, Eddy County, N. Mex. | Contract 1–7–72 [24] | 213 | |
| CI73–682 A 3–30–73 | Thomas G. Vessels | Panhandle Eastern Pipeline Co., Watonburg, et al., Counties, Colo. | Contract 7–15–71 [27] Contract 7–30–71 | 1 2 | |
| CI73–693 F 4–11–73 | J. Gregory Merrion, et al. | El Paso Natural Gas Co., Ignacio Field, La Plata County, Colo. | Contract 7–10–56 [7] Letter Agreement 8–15–56 Letter Agreement 10–2–56 Assignment 10–29–73 [28] (Effective Date: 11–1–72) [7] | 18 18 18 18 | 1 2 3 4 |
| CI73–701 F 4–13–73 | J. Gregory Merrion, et al. | do | Contract 11–7–51 Assignment 2–27–68 Letter Agreement 6–6–68 Letter Agreement 4–30–73 Assignment 10–29–73 [29] Amendatory Agreement 8–27–73 [30] (Effective Date: 11–1–72) [7] | 19 19 19 19 19 | 1 2 3 4 5 |



V 38 I 182 SEP 20 73 XUM

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 28, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19992 Filed 9-19-73;8:45 am]

[Docket No. CP73-130]

## MISSISSIPPI RIVER TRANSMISSION CORP.

### Notice of Filing

SEPTEMBER 13, 1973.

Take notice that Mississippi River Transmission Corp. (Mississippi) on August 22, 1973, tendered for filing Seventh Revised Sheet No. 1 to its FPC Gas Tariff, First Revised Volume No. 1 and Fourth Revised Sheet No. 1 and Original Sheets Nos. 28 and 29 to its FPC Gas Tariff, Original Volume No. 2. The Company states that the sheets are to be effective July 5, 1973.

According to Mississippi, this filing is made to reflect authorization for Mississippi to develop and use the East Unionville Field, Lincoln Parish, Louisiana as an underground gas storage field pursuant to Commission order issued July 5, 1973, in Docket No. CP73-130.

Mississippi states that Mississippi has delivered volumes of natural gas to Texas Eastern Transmission Corp. (Texas Eastern) representing the remaining recoverable gas reserves in the Vaughn Sand reservoir of the Cotton Valley formation.

Mississippi also states that Texas Eastern will pay Mississippi for such volumes of natural gas delivered by Mississippi at the rate of 21.475 cents per M c.f. (18.3 cents per M c.f. plus applicable Louisiana severance tax). Mississippi further states that the volume delivered to Texas Eastern is 6.5 billion cubic feet @15.025 less production volumes subsequent to January 1, 1972, resulting in a net volume of approximately 5.5BCF.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 28, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-19991 Filed 9-19-73;8:45 am]

## INTERSTATE COMMERCE COMMISSION

[Notice No. 344]

### Assignment of Hearings

SEPTEMBER 17, 1973.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 120265 Sub 2, Vandalia Air Freight, Inc., MC-F-11805, Quick Air Freight, Inc.—Control—Vandalia Air Freight, Inc., MC-C-8076, Quick Air Freight, Inc.—Investigation and Revocation of Certificates—now assigned September 27, 1973, at Columbus, Ohio, is postponed indefinitely.

MC 52110 Sub 133, Brady Motorfrate, Inc., now assigned October 17, 1973, at Washington, D.C., is cancelled and the application is dismissed.

W-1069 Sub 1, Gulf Atlantic Transport Corp., now assigned November 27, 1973, at Washington, D.C., advanced to October 29, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 125996 Sub 33, Road Runner Trucking, Inc., MC 125996 Sub 38, Road Runner Trucking, Inc., now assigned October 10, 1973, at Chicago, Ill., will be held in Room 705, 610 S. Canal Street.

MC 71035 Sub 1, W. T. Gibson Transportation, Inc., now assigned October 12, 1973, MC-C-8089, Interstate Motor Freight System, A Corporation—Investigation and Revocation of Certificates—now assigned October 15, 1973, MC 35628 Sub 343, Interstate Motor Freight System, now assigned October 15, 1973, at Kansas City, Mo., will be held in Room 609, Federal Bldg., 911 Walnut St.

I&S M 27070, Increased Class Rates For Short Hauls to and from The South, now assigned October 2, 1973, at Washington, D.C., is postponed to December 3, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC-97699 Sub 39, Barber Transportation Co., now assigned October 1, 1973, at Denver, Colo., is postponed indefinitely.

Finance Docket No. 27438, National Railroad Passenger Corporation, Discontinuance of Trains Nos. 98 and 99 Between Norfolk/Newport News and Richmond, Virginia, now assigned September 24, 1973, at Newport News, Va., and September 26, 1973, at Richmond, Va., is cancelled and reassigned to October 24, 1973, at Newport News, Va., and October 26, 1973, at Richmond, Va., in hearing rooms to be later designated.

MC 48213 Sub 34, C. E. Lizza, Inc., now assigned September 26, 1973, at Washington, D.C., is cancelled and application dismissed.

MC 121082 Sub 5, Allied Delivery System, Inc., now assigned October 2, 1973, at Washington, D.C., is postponed to October 11, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 138504, Hatfield Recon Center, Inc., now assigned October 1, 1973, at Washington, D.C., is postponed indefinitely.

MC 107012 Sub 179, North American Van Lines, Inc., now assigned October 17, 1973, at Chicago, Ill., is postponed indefinitely.

MC 125996 Sub 38, Road Runner Trucking, Inc., now being assigned October 10, 1973, (2 days), at Chicago, Ill., in Room 705, 610 S. Canal St.

MC 19778 Sub 83, The Milwaukee Motor Transportation Co., now being assigned hearing October 17, 1973 (3 days), in Room 1086A, Everett McKinley Dirksen Bldg., 219 South Dearborn Street, Chicago, Illinois.

MC 108119 Sub 37, E. L. Murphy Trucking Company, now assigned October 15, 1973, at St. Paul, Minn., is postponed indefinitely.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-20064 Filed 9-19-73;8:45 am]

[Notice No. 354]

## MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before October 11, 1973. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-74645. By order entered September 12, 1973, the Motor Carrier Board approved the transfer to Rieder Transportation Co., Inc., Gloucester, New Jersey, of the operating rights set forth in Certificate No. MC-133960 (Sub-No. 1), issued by the Commission October 9, 1970, to George J. Rieder, doing business as Rieder Transportation Company, Gloucester, New Jersey, authorizing the transportation of kitchen appliances and fixtures, from Camden, N.J., to points in Pennsylvania and Delaware, and returned shipments of kitchen appliances and fixtures, from points in Pennsylvania and Delaware, to Camden, N.J.—David S. Winston, 1420 Walnut St., Philadelphia, Pa. 19102, attorney for applicants.

No. MC-FC-74662. By order of September 12, 1973, the Motor Carrier Board approved the transfer to William P. Sonderman, doing business as Fredericktown Daily Express, Fredericktown, Mo., of Certificate No. MC-121180 (Sub-No. 2) issued May 5, 1965, to Orville R. Fadler, doing business as Fredericktown Daily Express, Fredericktown, Mo., authorizing the transportation of general commodities, with the usual exceptions, over a specified route between St. Louis, Mo., and Fredericktown, Mo., serving all intermediate points in Madison County, Mo., except Mine La Motte, Mo.—Mr. Herman W. Huber, Attorney at Law, 101 East High Street, Jefferson City, Mo. 65101.,

No. MC-FC-74672. By order of September 12, 1973, the Motor Carrier Board approved the transfer to Otto Services, Ltd., West Allis, Wis. 53212, of Permit No. MC-17702, issued August 15, 1969, to Ben H. Schuster, doing business as Ben H. Schuster Trucking, Menomonee Falls, Wis. 53051, authorizing the transportation of processed milk, empty milk containers, concentrated orange juice, and dairy machinery and parts thereof, between Germantown, Wis., and Chicago, Ill., over specified routes, serving the intermediate point of Milwaukee, Wis.—Richard C. Alexander, 710 North Plankinton Avenue, Milwaukee, Wis. 53203, Attorney for Applicants.

No. MC-FC-74689. By order entered September 13, 1973, the Motor Carrier Board approved the transfer to L. & E. Freight Lines, Inc., Limon, Colo., of the operating rights set forth in Certificate No. MC-135480, issued by the Commission March 23, 1972, to Art Walker, doing business as Colorado Springs-Limon Transportation Company, Limon, Colo., authorizing the transportation of general commodities, with the usual exceptions, between Colorado Springs, Colo., and Limon, Colo., over specified routes, serving all intermediate points.—David E. Driggers, 1600 Lincoln Center, 1660 Lincoln Street, Denver, Colorado 80203, attorney for applicants.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-20065 Filed 9-19-73;8:45 am]





[Ex Parte 241; Rule 19, Exemption 50]

## SEABOARD COAST LINE RAILROAD CO.

### Exemption of the Mandatory Car Service Rules

It appearing, that there is an emergency movement of military inpedimenta from Camp Lejeune, North Carolina, to Fort Stewart, Georgia; that the originating carrier has insufficient system cars of suitable dimensions immediately available for loading with this traffic; that sufficient cars of other ownerships having suitable dimensions are available on the lines of the originating carrier and on its connections; and that compliance with Car Service Rules 1 and 2 would prevent the timely assembly and use of such cars.

*It is ordered*, That pursuant to the authority vested in me by Car Service Rule 19, the Car Service Division of the Association of American Railroads is authorized to direct the movement to the Seaboard Coast Line Railroad Co., the railroads designated by the Car Service Division are authorized to move to, and the Seaboard Coast Line Railroad Co. is authorized to accept, assemble, and load not to exceed thirty (30) empty cars with military impedimenta from Camp Lejeune, North Carolina, to Fort Stewart, Georgia, regardless of the provisions of Car Service Rules 1(b), 2(c), 2(d), or 2(e).

Effective September 10, 1973.

Expires September 21, 1973.

Issued at Washington, D.C., September 7, 1973.

INTERSTATE COMMERCE, COMMISSION,
[SEAL] R. D. PFAHLER,
*Agent.*

[FR Doc.73-20062 Filed 9-19-73;8:45 am]

[Drought Order No. 69 (Sub No. 3)]

## STATE OF OREGON

### Transportation of Hay to Affected Areas

In the Matter of Relief under section 22 of the Interstate Commerce Act.

It appearing, that by reasons of drought conditions existing in certain portions of the State of Oregon, hereinafter referred to as the disaster area, the Assistant Secretary of the United States Department of Agriculture has requested the Commission to enter an order under section 22 of the Interstate Commerce Act authorizing railroads subject to the Commission's jurisdiction of transport hay to the disaster area at reduced rates:

*It is ordered*, That carriers by railroad participating in the transportation of hay to the counties of:

| | |
|---|---|
| Baker | Lake |
| Crook | Malheur |
| Deschutes | Union |
| Grant | Wallowa |
| Harney | Wheeler |

all located in the State of Oregon, referred to herein as the disaster area, be, and they are hereby, authorized under section 22 of the Interstate Commerce Act to establish and maintain until October 31, 1973, reduced rates for such transportation, the rates to be published and filed in the manner prescribed in section 6 of the Interstate Commerce Act except that they may be effective one day after publication and filing instead of thirty.

*It is further ordered*, That the class of persons entitled to such reduced rates is hereby defined as persons designated as being in distress and in need of relief by the United States Department of Agriculture or by such State agents or agencies as may in turn be designated by the United States Department of Agriculture to assist in relieving the distress caused by the drought.

*It is further ordered*, That, during the period in which any reduced rates authorized by this order are effective the carriers may, notwithstanding the provisions of section 4 of the Interstate Commerce Act, maintain higher rates to directly intermediate points and maintain through rates in excess of the aggregate of intermediate rates over the same routes if one or more of the factors of such aggregate of intermediate rates is a reduced rate established under the authority of the order.

*It is further ordered*, That any tariffs or tariff provisions published under the authority of this order shall explicitly so state, making reference to this order by number and date.

*And it is further ordered*, That, subject to the conditions in the succeeding paragraphs hereof, the use of reduced rates established by authority of this order may be conditioned upon the release by the shipper of the value of the commodity, which released value, in its relation to the invoice value of the property at time of shipment, shall be in the same percentage relation which the reduced rates bear to the rates which otherwise would apply.

*And it is further ordered*, That tariffs containing released rates filed under authority of this order shall show in connection with such rates the following notation:

The released value must be entered on shipping order and bill of lading in the following form:

The agreed or declared value of the property is hereby specifically stated by the shipper to be not in excess of (show percent) of the invoice value of the property herein described.

If the shipper fails or declines to execute the above statement, shipments will not be accepted for transportation at the rates subject hereto. Rates published elsewhere in other tariffs lawfully filed with the Interstate Commerce Commission will apply in such a case. Rates herein published on released value have been authorized by the Interstate Commerce Commission in Drought Order No. 69 of August 8, 1973.

*And it is further ordered*, That notice to the affected railroads and the general public shall be given by depositing a



V 38-182 SEP 20 73 XUM

copy of this order in the Office of the Secretary of the Commission and by filing a copy with the Director, Office of the Federal Register; and that copies be mailed to the Chairman of the Traffic Executive Association-Eastern Railroads, New York, New York; the Chairman of the Southern Freight Association, Atlanta, Georgia; the Chairman of the Executive Committee, Western Railroads Traffic Association, Chicago, Illinois; the Vice President and Director, Economics and Finance Department, Association of American Railroads, Washington, D.C.; and to the President of the American Short Line Railroad Association, Washington, D.C.

Dated at Washington, D.C., this 13th day of September 1973.

By the Commission, Chairman Stafford.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-20063 Filed 9-19-73;8:45 am]

[Notice No. 74]

## MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

SEPTEMBER 14, 1973.

The following applications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by Special Rule 1100.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under the rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and within 60 days of the date of this publication, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

No. MC 340 (Sub-No. 26), filed July 17, 1973. Applicant: QUERNER TRUCK LINES, INC., 1131-33 Austin Street, San Antonio, Tex. 78208. Applicant's representative: M. Ward Bailey, 1412 Continental Life Bldg., Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Candy and confectionery and related products* (except in bulk) and (2) *advertising matter, premium and display materials* when shipped in the same vehicle with candy and confectionery and related products, in vehicles equipped with mechanical refrigeration, from the plantsite and warehouse facilities of M&M/Mars, Division of Mars, Incorporated, located at Doraville, Decatur, Atlanta, and Albany, Ga., to points in Arizona, Arkansas, California, Colorado, Illinois, Indiana, Louisiana, Minnesota, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington and Wisconsin, restricted to the transportation of traffic originating at the plantsite and warehouse facilities of M&M/Mars, Division of Mars, Incorporated.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Atlanta, Ga.

No. MC 531 (Sub-No. 295), filed July 30, 1973. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, P.O. Box 14048, Houston, Tex. 77021. Applicant's representative: Wray E. Hughes (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum wax*, in bulk, in tank vehicles, from Gulf Oil Company-U.S. Bayou Olefin Plant at or near Baytown, Tex., to points in Connecticut and New Jersey.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex., or New Orleans, La.

No. MC 3991 (Sub-No. 5) (CORRECTION), filed May 4, 1973, and published in the FEDERAL REGISTER issue of June 21, 1973, and republished as corrected, this issue. Applicant: J. C. TRUCKING COMPANY, INCORPORATED, 70 Orchard Street, New Haven, Conn. 06519. Applicant's representative: Sidney L. Goldstein, 109 Church Street, New Haven, Conn. 06510. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Women's and children's dresses and suits*, on hangers, from Waterbury, Conn., to North Bergen, N.J., and New York, N.Y.; (2) *women's and children's dress materials*, such as cut goods, trimmings, buttons, buckles, belts, threads, women's and children's dress materials (not otherwise indexed by name), from North Bergen, N.J., and New York, N.Y., to Waterbury, Conn.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to correctly indicate the commodity and territorial description under (1) above, which was inadvertently omitted in the previous publication. If a hearing is deemed necessary, applicant requests it be held at Hartford or New Haven, Conn.

No. MC 25798 (Sub-No. 242), filed August 3, 1973. Applicant: CLAY HYDER TRUCKING LINES, INC., 502 East Bridgers Avenue, Auburndale, Fla. 33823. Applicant's representative: Tony G. Russell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned or preserved foodstuffs*, (except chilled or frozen), (1) from Mountain Home, N.C., to points in Virginia, South Carolina, Florida, West Virginia, Georgia, and Landover, Md., and (2) from Front Royal, Va., to points in Florida.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Tampa, Fla., or Washington, D.C.

No. MC 29886 (Sub-No. 296), filed July 19, 1973. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trucks and truck chassis*, in secondary movements, in driveaway service, from South Bend, Ind., to points in Oregon, Washington, Idaho, Montana, and their respective International Boundary lines between the United States and Canada, restricted to traffic having a prior movement by motor carrier from the Ford Motor Company plant in Jefferson County, Ky.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 30844 (Sub-No. 478), filed August 13, 1973. Applicant: KROBLIN REFRIGERATED XPRESS, INC., 2125 Commercial Street, P.O. Box 5000, Waterloo, Iowa 50702. Applicant's representative: Truman A. Stockton, The 1650 Grant Street Bldg., Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs*, (1) from Holland, Mich., Henderson, N.C., Iowa City and Muscatine, Iowa, Toledo, Fremont, and Bowling Green, Ohio, Salem, N.J., and Mechanicsburg, Chambersburg, Leetsdale, and Pittsburgh, Pa.; to Greenville, S.C., and (2) from Greenville, S.C., to points in Alabama, Georgia, Mississippi, Tennessee, and New Orleans, La., and its Commercial Zone., restricted to shipments originating at, and/or destined to the facilities of H. J. Heinz Co.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa., or Washington, D.C.

No. MC 31389 (Sub-No. 171), filed August 6, 1973. Applicant: MCLEAN TRUCKING COMPANY, a Corporation, 617 Waughtown Street, P.O. Box 213, Winston-Salem, N.C. 27102. Applicant's representative: David F. Eshelman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), Between Louisville, Ky., and Leitchfield, Ky.: From Louisville over Interstate Highway 65 to junction U.S. Highway 62, thence over U.S. Highway 62 to Leitchfield, and return over the same route, serving no intermediate points.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Louisville, Ky.

No. MC 35807 (Sub-No. 38), filed June 27, 1973. Applicant: WELLS FARGO ARMORED SERVICE CORPORATION, P.O. Box 4313, Atlanta, Ga. 30302. Applicant's representative: Harry J. Jordon, 1000 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Silver bullion*, from West Point and New York, N.Y., to points in the Chicago, Ill., Commercial Zone, under continuing contract or contracts with the General Services Administration.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Albany, N.Y., or Chicago, Ill.

No. MC 35807 (Sub-No. 39), filed July 5, 1973. Applicant: WELLS FARGO ARMORED SERVICE CORPORATION, P.O. Box 4313, Atlanta, Ga. 30302. Applicant's representative: Harry J. Jordon, 1000 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Food coupons*, between points in the United States (except Alaska and Hawaii), under continuing contract or contracts with the General Services Administration.

NOTE.—Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Atlanta, Ga.

No. MC 42261 (Sub-No. 115), filed August 6, 1973. Applicant: LANGER TRANSPORT CORP., Box 305, Jersey City, N.J. 07303. Applicant's representative: W. C. Mitchell, 370 Lexington Avenue, New York, N.Y. 10017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic materials*, such as plastic powder, flakes, granules, lumps, pellets, or solid mass, in bulk, in plastic liners, in van type vehicles on traffic having a prior movement by water from the plantsite of General Electric Company, located at or near Selkirk, N.Y., to points in New York Harbor as defined in Ex Parte No. 140.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 42487 (Sub-No. 812), filed July 19, 1973. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, Calif. 94025. Applicant's representative: J. J. Augustine, P.O. Box 5138, Chicago, Ill. 60680. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) serving the plantsite and facilities of The Warren Group, Division of Warren Tool Corporation, at or near Hiram, Ohio, as an off-route point in connection with carrier's regular-route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Cleveland, Ohio.

No. MC 47583 (Sub-No. 15), filed July 16, 1973. Applicant: TOLLIE FREIGHTWAYS, INC., 41 Lyons Street, Kansas City, Kans. 66118. Applicant's representative: D. S. Hults, P.O. Box 225, Lawrence, Kans. 66044. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fibrous glass products and materials, mineral wool, mineral wool products and materials, insulated air ducts, roofing materials, insulating products, and materials including products necessary in the insulation thereof*, from the plantsites and storage facilities of Owens Corning Fiberglas Corp., located at Kansas City and Pauline, Kans., and the plantsite of Certain-Teed Saint-Gobain Insurance Corp., located at Kansas City, Mo., to points in Colorado.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 52460 (Sub-No. 125), filed August 6, 1973. Applicant: HUGH BREEDING, INC., 1420 West 35th St., Tulsa, Okla. 74107. Applicant's representative: Steve B. McCommas (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, from the plantsite of Farmland Industries, Inc., at or near Enid, Okla., to points in Arkansas, Colorado, Kansas, Louisiana, Missouri, and Texas, restricted to shipments originating at the above-named plantsite.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Oklahoma City, Okla.

No. MC 56244 (Sub-No. 31), filed August 3, 1973. Applicant: KUHN TRANSPORTATION COMPANY, INC., R.D. #2, Gardners, Pa. 17324. Applicant's representative: John M. Musselman, P.O. Box 1146, 410 North Third Street, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry starch*, from Indianapolis, Ind., to Peach Glen and Orrtanna, Pa.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa., or Washington, D.C.

No. MC 74695 (Sub-No. 13), filed July 9, 1973. Applicant: SOUTHERN TRUCKING COMPANY, a Corporation, Penn Central Railroad Yards, Route 169, Jersey City, N.J. 07305. Applicant's representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, N.J. 08904. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Compressed industrial gases*, in gas cylinders and tube trailers, from Linden and Newark, N.J., to points in Connecticut, and *empty cylinders and trailers* on return, under a continuing contract with

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.







V 38-182 SEP 20 73 XUM

Industrial Gases, Division of Chemetron Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or New York, N.Y.

No. MC 95304 (Sub-No. 19) (ANNOTATION), filed June 20, 1973, published in the FEDERAL REGISTER issue September 7, 1973, and republished as annotated, this issue. Applicant: NORTHERN NECK TRANSFER, INC., P.O. Box 345, Montross, Va. 22520. Applicant's representative: L. C. Major, Jr., Suite 301 Tavern Square, 421 King Street, Alexandria, Va. 22314.

NOTE.—The purpose of this partial republication is to indicate the correct docket No. of MC 95304 in lieu of MC 9530 as previously published. The rest of the notice remains as originally published.

No. MC 96902 (Sub-No. 4), filed July 30, 1973. Applicant: CENTRAL EXPRESS, INC., 304 Grove Street, Westwood, Mass. 02090. Applicant's representative: Frank J. Weiner, 15 Court Square, Boston, Mass. 02108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Exposed and processed photographic film*, other than for commerical theater or television exhibition, and together therewith, *incidental supplies* used in and for shipping film, between Boston and Southbridge, Mass.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 106398 (Sub-No. 678), filed July 2, 1973. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, Okla. 74151. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden poles, crossarms, flooring block, and lumber*, from Spartanburg, S.C., and East Point, Ga., to points in Illinois, Indiana, Michigan, Ohio, and Kentucky.

NOTE.—Applicant holds contract carrier authority under MC 111309, therefore dual operations may be involved. Common control may also be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C.

No. MC 106398 (Sub-No. 679), filed July 3, 1973. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, Okla. 74151. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wire fencing, fencing materials, pipe, tubing, posts, and hardware* essential in the installation of a fence, from Batavia, Ohio, to points in Wisconsin, Michigan, Illinois, Indiana, Ohio, Kentucky, West Virginia, Virginia, Maryland, Delaware, Pennsylvania, New Jersey, and New York.

NOTE.—Dual operations and common control may be involved. Applicant states that the requested authority cannot be tacked with its present authority. If a hearing is deemed necessary, applicant requests it be held at Cincinnati, Ohio.

No. MC 106497 (Sub-No. 81), filed August 1, 1973. Applicant: PARKHILL TRUCK COMPANY, a Corporation, P.O. Box 912 (Bus. Rte. I–44 East), Joplin, Mo. Applicant's representative: A. N. Jacobs, P.O. Box 113, Joplin, Mo. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, and aluminum and aluminum products*, from points in Pierce County, Wash., to points in the United States including Alaska but (excluding Hawaii).

NOTE.—Common control may be involved. Applicant states that the requested authority can be tacked with Sub-No. 48 at points in Oregon, Washington, and Wyoming to serve points in the United States (except Alaska and Hawaii) on size and weight commodities. Applicant does not intend to tack.

HEARING: October 2, 1973, at 9:30 o'clock a.m., d.s.t. (or 9:30 o'clock a.m., United States Standard Time, if that time is observed), in U.S. Customs Court Room 1057, 909 First Ave., at Seattle, Wash.

No. MC 106497 (Sub-No. 82), filed August 16, 1973. Applicant: PARKHILL TRUCK COMPANY, a Corporation, P.O. Box 912 (Bus. Rte. I–44 East), Joplin, Mo. 64801. Applicant's representative: A. N. Jacobs, P.O. Box 113, Joplin, Mo. 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Modular ovens*, and (2) *returned shipments* of the commodities in (1) above, from the facilities of the Singer Company, Cobble Division, at Chattanooga, Tenn., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Memphis, Tenn.

No. MC 106674 (Sub-No. 109) (AMENDMENT), filed April 30, 1973, published in the FEDERAL REGISTER issue of June 14, 1973, and republished as amended this issue. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 122, Delphi, Ind. 46923. Applicant's representative: Donald W. Smith, 900 Circle Tower, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed, feed supplements, drugs, medicine, medicated feeding compounds, conditioning powders, regulators and tonics, agricultural insecticides, fungicides, animal and poultry dip and paper bags*, from the plantsites and warehouse facilities used by Elanco Products Co., at Indianapolis and Lafayette, Ind., and at or near Clinton, Ind., to points in Illinois, Indiana, Iowa, Kentucky, Michigan, Missouri, Nebraska, Ohio, Tennessee, and Wisconsin.

NOTE.—The purpose of this republication is to show the plantsite at or near Clinton, Ind., rather than in the city of Clinton. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or St. Louis, Mo.

No. MC 107012 (Sub-No. 187), filed July 23, 1973. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Lincoln Highway & Meyer Road, Fort Wayne, Ind. 46801. Applicant's representative: Terry G. Fewell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Appliances*, from Dubuque, Iowa, to points in the United States, including Alaska and Hawaii; and (2) *airconditioners*, from Columbia, Tenn., to points in the United States, including Alaska and Hawaii, restricted against tacking with any of applicant's existing authority.

NOTE.—Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 107012 (Sub-No. 188), filed July 30, 1973. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Lincoln Highway & Meyer Road, Fort Wayne, Ind. 46801. Applicant's representative: Michael L. Harvey (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural spray machines, related agricultural equipment, parts, and components*, between points in Washington, Oregon, California, Arizona, New Mexico, Texas, Oklahoma, Kansas, Idaho, Colorado, Louisiana, Arkansas, Missouri, Iowa, Minnesota, North Dakota, Florida, Georgia, South Carolina, North Carolina, Virginia, West Virginia, New Jersey, Pennsylvania, New York, Maine, and Ohio.

NOTE.—Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 107012 (Sub-No. 189), filed August 1, 1973. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Lincoln Highway East & Meyer Road, Fort Wayne, Ind. 46801. Applicant's representative: Donald C. Lewis (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture and commercial and institutional fixtures and equipment*, from Temple, Tex., to points in New Mexico, Arizona, California, Colorado, Utah, Idaho, Wyoming, Nevada, Oregon, and Washington.

NOTE.—Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 107012 (Sub-No. 190), filed August 3, 1973. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Lincoln Highway & Meyer Road, Fort Wayne, Ind. 46801. Applicant's representative: Michael L. Harvey (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Organs*, from the plantsite and warehouse facilities of Conn Organ Corporation, at or near Greer, S.C., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 107107 (Sub-No. 428), filed July 31, 1973. Applicant: ALTERMAN TRANSPORT LINES, INC., 12805 NW. 42d Avenue (LeJeune Rd), Opa Locka, Fla. 33054. Applicant's representative: Ford W. Sewell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts* as defined by the Commission (except commodities in bulk), *candy, confectionery, and related advertising and promotional and display materials* when moving with the above-named commodities, from West Chicago, Ill., and Milwaukee, Wis., to points in Alabama, Georgia, and Florida.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 107295 (Sub-No. 657), filed July 30, 1973. Applicant: PRE-FAB TRANSIT CO., a Corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cabinets, wooden, parts thereof and countertops, with and without vinyl covering and plastic, and sinks set-up and knocked down*, from Boise Cascade Corporation plantsite and warehouse, located at West, Va., and Berryville, Orange, and Winchester, Va., on the one hand, and, on the other, to points in the United States, including Alaska (but excluding Hawaii).

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 107295 (Sub-No. 660), filed August 2, 1973. Applicant: PRE-FAB TRANSIT CO., a Corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Skylights, plastic, with and without metal frames, ventilators, hatches, aluminum, and plastic sheets and accessories used in the installation* thereof, from Garland, Tex., to points in the United States (except Alaska and Hawaii).





NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 107295 (Sub-No. 662), filed August 6, 1973. Applicant: PRE-FAB TRANSIT CO., a Corporation, 100 South Main Street, Farmer City, Ill. 61482. Applicant's representative: Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe conduit* (other than iron or steel), from points in St. Louis County, Mo., to points in California, Arizona, Montana, Wyoming, Colorado, New Mexico, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Wisconsin, Illinois, Mississippi, Michigan, Indiana, Ohio, Pennsylvania, West Virginia, Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Tennessee, Kentucky, and the District of Columbia.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 107456 (Sub-No. 22), filed July 27, 1973. Applicant: HARRY L. YOUNG AND SONS, INC., 542 West Sixth South, Salt Lake City, Utah 84104. Applicant's representative: Lon Rodney Kump, 720 Newhouse Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber mill products, particleboard, plywood, and hardboard*, (1) between points in Utah, on the one hand, and, on the other, points in Idaho, Oregon, Washington, and Montana, and (2) between points in Idaho, on the one hand, and, on the other, points in Oregon and Washington.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg., or Salt Lake City, Utah.

No. MC 107515 (Sub-No. 669), filed August 6, 1973. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Citrus products, juices, drinks, beverages, and drink and beverage concentrates*, in bulk, in tank vehicles, from Orlando, Indiantown, and Dunedin, Fla., to points in the United States including Alaska but excluding Hawaii.

NOTE.—Dual operations and common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at either Orlando, Tampa, or Miami, Fla.

No. MC 107882 (Sub-No. 32), filed July 30, 1973. Applicant: ARMORED MOTOR SERVICE CORPORATION, 160 Ewingville Road, Trenton, N.J. 08638. Applicant's representative: Herbert Alan Dubin, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Bullion*, from West Point and New York, N.Y., to points in Chicago, Ill., under contract with General Services Administration.

NOTE.—Dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Trenton, N.J., or Washington, D.C.

No. MC 107993 (Sub-No. 28), filed July 20, 1973. Applicant: J. J. WILLIS TRUCKING COMPANY, a Corporation, P.O. Box 20096, Dallas, Tex. 75220. Applicant's representative: Joe P. Willis (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from points in Maricopa County, Ariz., to points in California, Colorado, New Mexico, Nevada, Texas, and Utah.

NOTE.—Common control may be involved. Applicant states that the requested authority can be tacked at Texas with Sub 19 to serve Oklahoma on iron and steel articles requiring special equipment. If a hearing is deemed necessary, applicant requests it be held at Phoenix, Ariz., or Dallas, Tex.

No. MC 109533 (Sub-No. 54), filed July 9, 1973. Applicant: OVERNITE TRANSPORTATION COMPANY, a Corporation, 1100 Commerce Road, Richmond, Va. 23224. Applicant's representative: Eugene T. Liipfert, Suite 1100, 1660 L Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Class A and B explosives, new furniture, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, uncrated new household, office and store appliances and equipment), between Bluefield, W. Va., and Huntington, W. Va.: From Bluefield over U.S. Highway 460 to junction West Virginia Turnpike (Interstate Highway 77), thence over West Virginia Turnpike (Interstate Highway 77) to Charleston, W. Va., thence over Interstate Highway 64 to Huntington, and return over the same routes, serving no intermediate points and serving the off-route points of Ashland, Catlettsburg and Louisa, Ky.; Chesapeake, Ohio, and Ceredo and Kenova, W. Va., the regular-route authority as requested hereinabove, if granted, shall not be severable, by sale or otherwise, from the irregular-route authority contained in Sub-45 or Sub-48.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 109677 (Sub-No. 47), filed August 3, 1973. Applicant: FORT EDWARD EXPRESS CO., INC., Route 9, Saratoga Road, Fort Edward, N.Y. 12828. Applicant's representative: Harold G. Hernly, 118 North St. Asaph Street, Alexandria, Va. 22314. Authority sought to operate as a *common carrier*, by motor vehicle,



V 38 1 82
SEP 20 73
XUM

over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles, from Everett, Mass., to points in Connecticut, Maine, New Hampshire, New York, Rhode Island, and Vermont.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 110420 (Sub-No. 686), filed July 13, 1973. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: Fred H. Figge (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from Milton, Wis., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 111170 (Sub-No. 208), filed July 16, 1973. Applicant: WHEELING PIPE LINE, INC., P.O. Box 1718, El Dorado, Ark. 71730. Applicant's representative: Don A. Smith, P.O. Box 43, Fort Smith, Ark. 72901. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum products* in bulk, from points in Union County, Ark., to points in Texas, (2) *ground slate*, in bulk, from Bryant, Ark., to Lone Star, Tex., and (3) *chemicals*, in bulk, from the plantsite of Commercial Solvents Corporation, located at Sterlington, La., to points in Alabama, Arizona, Arkansas, California, Colorado, Idaho, Kansas, Louisiana, Mississippi, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Tennessee, Texas, Utah, Washington, and Wyoming, restricted to traffic originating at the plantsite of Commercial Solvents Corporation.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark., or Memphis, Tenn.

No. MC 111201 (Sub-No. 16), filed August 2, 1973. Applicant: J. N. ZELLNER & SON TRANSFER COMPANY, a Corporation, P.O. Box 90818, East Point, Ga. 30044. Applicant's representative: Guy H. Postell, Suite 713, 3384 Peachtree Road NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beverages* (except alcoholic beverages), in containers, between points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 111545 (Sub-No. 188), filed July 25, 1973. Applicant: HOME TRANSPORTATION COMPANY, INC., 1425 Franklin Rd., Marietta, Ga. 30062. Applicant's representative: Robert E. Born, P.O. Box 6426, Station A, Marietta, Ga. 30062. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel strapping*, from Pittsburg, Calif., to points in the United States in and east of Minnesota, Iowa, Nebraska, Kansas, Oklahoma, and Texas.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 112520 (Sub-No. 274), filed July 30, 1973. Applicant McKENZIE TANK LINES, INC., P.O. Box 1200, Tallahassee, Fla. 32302. Applicant's representative: W. Guy McKenzie, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Caustic soda*, in bulk, in tank vehicles, from McIntosh, Ala., to points in Florida.

NOTE.—Common control may be involved. Applicant states that the requested authority can be tacked at Pensacola, Fla. with its Sub 204 authority to provide service to points in Connecticut, Georgia, Indiana, Kentucky, Louisiana, North Carolina, Pennsylvania, South Carolina, Tennessee, Texas, and Missouri, but further indicates that a restriction against tacking will be appropriate. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 112595 (Sub-No. 53), filed July 16, 1973. Applicant: FORD BROTHERS, INC., P.O. Box 727, Ironton, Ohio 45638. Applicant's representative: James W. Muldoon, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, in bulk, in tank or hopper type vehicles, from the storage, distribution, or warehouse sites of Bulk Distribution Centers, Inc., from points in Campbell and Kenton Counties, Ky., to points in Illinois, Indiana, Kentucky, Michigan, Ohio, and Tennessee, restricted to shipments having a prior movement by rail.

NOTE.—Applicant states that tacking possibilities exist at points in Campbell and Kenton Counties, Ky., on petroleum products having a prior movement by rail, to provide a through service from points in Ohio, West Virginia, and points in Kentucky on and west of U.S. Highway 31, to the destination points requested herein. Applicant states, however, that it has no present intention to tack. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 112801 (Sub-No. 144), filed July 9, 1973. Applicant: TRANSPORT SERVICE CO., a Corporation, Two Salt Creek Lane, Hinsdale, Ill. 60521. Applicant's representative: Carl L. Steiner, 39 South La Salle St., Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium sulphate*, in bulk, in tank vehicle, from Danville, Ill., to points in Wisconsin, Missouri, Kentucky, Indiana, Michigan, and Ohio.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 112801 (Sub-No. 145), filed July 16, 1973. Applicant: TRANSPORT SERVICE CO., a Corporation, 2 Salt Creek Lane, Hinsdale, Ill. 60521. Applicant's representative: Carl L. Steiner, 39 South La Salle St., Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid animal and poultry feed*, in bulk, in tank vehicles, from Lincoln, Nebr., to points in Iowa, Missouri, Kansas, Colorado, Wyoming, South Dakota, and Minnesota.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 112822 (Sub-No. 285), filed July 26, 1973. Applicant: BRAY LINES INCORPORATED, P.O. Box 1191, 1401 N. Little St., Cushing, Okla. 74023. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Canned goods*, from points in Oregon and Washington, to points in Alabama, Arkansas, Colorado, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Utah, and Wisconsin, and (2) *petfoods*, from points in Washington, to points in Alabama, Arkansas, Colorado, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Ohio, Oklahoma, Tennessee, Texas, Utah, and Wisconsin.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg., or Seattle, Wash.

No. MC 112963 (Sub-No. 46), filed August 7, 1973. Applicant: ROY BROS., INC., 764 Boston Road, Pinehurst, Mass. 01866. Applicant's representative: Leonard E. Murphy (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from points in New Jersey, to points in Maine, New Hampshire, and Vermont.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at either Boston, Mass., Newark, N.J., or New York, N.Y.

No. MC 113784 (Sub-No. 50), filed August 2, 1973. Applicant: LAIDLAW TRANSPORT LIMITED, 65 Guise Street, Hamilton, Ontario L8L 4M1, Canada. Applicant's representative: David A. Sutherland, 2001 Massachusetts Avenue NW., Washington, D.C. Authority sought





to operate as a *common carrier*, by motor vehicle, over irregualr routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the plantsite and facilities of the Ford Motor Co., located at Romeo, Macomb County, Mich., and the ports of entry on the International Boundary line between the United States and Canada on the Detroit River, restricted to the transportation of traffic in foreign commerce.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich., Chicago, Ill., or Washington, D.C.

No. MC 114273 (Sub-No. 147), filed August 6, 1973. Applicant: CEDAR RAPIDS STEEL TRANSPORTATION, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Robert E. Konchar, Suite 315 Commerce Exchange Building, 2720 First Avenue NE., P.O. Box 1943, Cedar Rapids, Iowa 52406. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles and nonferrous metals and plastic articles*, moving in mixed loads with iron and steel articles, from Chicago, Ill., and its Commercial Zone to points in Iowa.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114632 (Sub-No. 60), filed July 20, 1973. Applicant: APPLE LINES, INC., P.O. Box 507, Madison, S. Dak. 57042. Applicant's representative: Andrew Clark, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Petroleum and petroleum products*, in containers, from Olathe, Kans., to points in Iowa, Minnesota, Nebraska, and Wisconsin; (2) (a) *agricultural machinery and equipment*; (b) *attachments*; (c) *engines*; (d) *equipment* designed to be used in conjunction with the commodities described in (2) (a) through (c) above; and (e) *materials, supplies, and equipment* used or useful in the manufacture or distribution of the commodities described in (2) (a) through (d) above (except commodities in bulk) from Salem, S. Dak., to points in Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Montana, Nebraska, New York, North Dakota, Ohio, Pennsylvania, South Dakota, Wisconsin, and Wyoming: and (3) *prefabricated metal buildings, building panels and metal building components and parts;* from Atlantic, Iowa, to points in Colorado, Kansas, Minnesota, Missouri, Montana, Nebraska, North Dakota, South Dakota, and Wisconsin.

NOTE.—Applicant states that the requested authority in (3) above can be tacked with its existing authority at Atlantic, Iowa, to provide a through service from Chicago Heights and Bartonville, Ill., to the destination states named in (3) above. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 115022 (Sub-No. 27), filed July 27, 1973. Applicant: CHAMBERLAIN MOBILEHOME TRANSPORT, INC., 64 East Main Street, Thomaston, Conn. 06787. Applicant's representative: Bernard J. Hasson, Jr., 927 15th Street NW., Suite 306, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings and buildings in section* mounted on wheeled undercarriages, from points in Hampshire County, Mass., to points in Connecticut, Maine, New Hampshire, New Jersey, New York, Rhode Island, and Vermont.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 115841 (Sub-No. 458), filed August 6, 1973. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 1215 Banhead Highway West, Birmingham, Ala. 35202. Applicant's representative: Roger M. Shaner, P.O. Box 10327, Birmingham, Ala. 35202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lighting fixtures, plastic light diffusers, and articles* used in the installation thereof (except in bulk), from the plantsite of Litecraft-Luminous Ceilings, Division of the Celotex Corporation, at or near Scottsboro, Ala., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at either Miami, Fla., Atlanta, Ga., or Washington, D.C.

No. MC 117344 (Sub-No. 227), filed July 9, 1973. Applicant: THE MAXWELL CO., a Corporation, 10380 Evendale Drive, Cincinnati, Ohio 45215. Applicant's representative: James R. Stiverson, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Hydrofluosilicic acid*, in bulk in rubber-lined tank vehicles, from Columbus, Ohio, to points in Indiana, Kentucky, Michigan, Pennsylvania, and West Virginia.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 117439 (Sub-No. 45), filed July 30, 1973. Applicant: BULK TRANSPORT, INC., U.S. Highway 190, P.O. Box 89, Port Allen, La. 70767. Applicant's representative: John Schwab, P.O. Box 3036, Baton Rouge, La. 70821. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mineral filler*, in bulk, from Mobile, Ala., to points in Florida, Louisiana, and Mississippi.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Houston, Tex.

No. MC 117878 (Sub-No. 4), filed July 27, 1973. Applicant: DWIGHT CHEEK, doing business as DWIGHT CHEEK TRUCKING, 2909 South Pierce (Box 1882), Amarillo, Tex. 79105. Applicant's representative: Joe T. Lanham, 1102 Perry-Brooks Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packing houses*, as described in Sections A & C of Appendix I to the Report in "Descriptions in Motor Carrier Certificates," 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from Amarillo, Tex., to points in Louisiana.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Amarillo or Dallas, Tex.

No. MC 118474 (Sub-No. 9), filed July 10, 1973. Applicant: AIR VAN LINES, INC., 135 Post Road, Anchorage, Alaska 99501. Applicant's representative: Michael J. Roberts, 1660 L Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods* as defined by the Commission, between Seattle, Wash., and Minneapolis and St. Paul, Minn., on the one hand, and, on the other, points in Alaska.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Anchorage, Alaska, or Seattle, Wash.

No. MC 119384 (Sub-No. 25), filed July 16, 1973. Applicant: MORTON TRUCK LINES INC., 101 West Willis Avenue, Box 96, Perry, Iowa 50220. Applicant's representative: Arnold Rautanen (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from Quincy, Ill., to Cleveland and Solon, Ohio.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 119777 (Sub-No. 259), filed June 18, 1973. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer L, Madisonville, Ky. 42431. Applicant's representative: Carl U. Hurst, P.O. Box E, Bowling Green, Ky. 42101. Authority



V 38 I 182
SEP 20 73
XUM

sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pallets, skids, bases, boxes, crates, crating, veneer, baskets treads, risers, sills, molding, cardboard, cartons, nails, flooring, lumber, treated poles, treated lumber, treated crossarms, and treated crossties*, from points in the United States (except Arkansas; Louisiana; Texas; Oklahoma; New Mexico; Mississippi; Missouri; Colorado; Kansas; Moncure, N.C.; Chicago, Ill.; Oskosh, Wis.; Jamaica and Long Island, N.Y.; Memphis, Tenn.; and Norfolk and Chesapeake, Va.) to points in Kentucky.

NOTE.—Applicant holds contract carrier authority in No. MC 126970 (Subs 1 and 3), therefore dual operations may be involved. Common control may also be involved. Applicant states that the requested authority can be tacked with its existing authority at points in Kentucky to serve points in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas, however, applicant has no present intention to tack. Persons interested in the tacking possibilities are cautioned that failure to oppose the application may result in an unrestricted grant of authority. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky.

No. MC 119777 (Sub-No. 268), filed July 27, 1973. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Box L, Madisonville, Ky. 42431. Applicant's representative: Ronald E. Butler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Hay bales, construction machinery, tree spades, stump cutters, irrigation equipment, drainage systems, log splitters, log chippers, and* (2) *attachments, parts, and supplies* used in operation of commodities in (1) above, from Pella, Iowa, to points in the United States, including Alaska, but excluding Hawaii.

NOTE.—Applicant also holds contract carrier authority in MC 126970 and Subs 1 and 3 thereunder, therefore dual operations may be involved. Common control may also be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn., or Lexington, Ky.

No. MC 119897 (Sub-No. 16), filed August 3, 1973. Applicant: A–1 TRANSPORTATION COMPANY, a Corporation, 8826 Mississippi Street, Houston, Tex. 77029. Applicant's representative: J. G. Dail, Jr., 1111 E Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid coal tar and liquid coal tar products*, in bulk, in tank vehicles, from Houston, Tex., to points in Arkansas, Oklahoma, Louisiana, and Texas.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Houston, Tex.

No. MC 120910 (Sub-No. 5), filed July 5, 1973. Applicant: SERVICE EXPRESS, INC., P.O. Box 1009, Tuscaloosa, Ala. 35401. Applicant's representative: William P. Jackson, 919 Eighteenth Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles, pipe, valves, fittings, hydrants, castings, and accessories therefor*, from the facilities of Central Foundry Company at or near Holt, Ala., to points in Arkansas, Louisiana, and Mississippi, restricted to the transportation of shipments originating at th facilities of Central Foundry at or near Holt, Ala.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Tuscaloosa, Ala., or Washington, D.C.

No. MC 123048 (Sub-No. 267), filed July 5, 1973. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton Avenue, Racine, Wis. 53401. Applicant's representative: Paul L. Gartzke, 121 W. Doty Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural implements;* (2) *attachments* for agricultural implements; and (3) *parts* for agricultural implements; from points in Sac County, Iowa, to points in the United States (except Alaska and Hawaii), restricted against tacking with any of applicant's existing authority.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 123048 (Sub-No. 274), filed July 30, 1973. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 1919 Hamilton Avenue, Racine, Wis. 53401. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors* (except truck tractors), and *parts, implements, attachments, accessories, and supplies therefor*, when moving in straight or mixed loads, from Jacksonville, Fla., and Savannah, Ga., to points in Louisiana, Missouri, Illinois, Iowa, Wisconsin, Kentucky, Indiana, Ohio, the Lower Peninsula of Michigan, Virginia, West Virginia, Maryland, Delaware, New Jersey, and Pennsylvania.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 124692 (Sub-No. 114), filed July 2, 1973. Applicant: SAMMONS TRUCKING, a Corporation, P.O. Box 1447, Missoula, Mont. 59801. Applicant's representative: Gene P. Johnson, 425 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic and aluminum pipe, iron and steel articles, aluminum and aluminum products, and machinery and equipment* used or useful in the manufacture or handling of the commodities described above, from points in Spokane County, Wash., and Tulare County, Calif., to points in Washington, Oregon, Idaho, California, Montana, Wyoming, North Dakota, South Dakota, Utah, Nevada, Arizona, New Mexico, and Colorado, restricted to shipments originating at the facilities of ASC Industries.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its present authority. If a hearing is deemed necessary, applicant requests it be held at Spokane, Wash., or San Francisco, Calif.

No. MC 124947 (Sub-No. 21), filed August 2, 1973. Applicant: MACHINERY TRANSPORTS, INC., P.O. Box 2338, 608 Cass Street, East Peoria, Ill. 61611. Applicant's representative: Rufus H. Lawson, P.O. Box 75124, Oklahoma City, Okla. 73107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Material handling equipment* and (2) *parts and accessories* for material handling equipment, from Waco, Tex., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at either Fort Worth, Tex., Washington, D.C., or Chicago, Ill.

No. MC 124947 (Sub-No. 22), filed August 2, 1973. Applicant: MACHINERY TRANSPORTS, INC., P.O. Box 2338, 608 Cass Street, East Peoria, Ill. 61611. Applicant's representative: Rufus H. Lawson, P.O. Box 75124, Oklahoma City, Okla. 73107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electrical substations, related parts, and accessories*, from Springdale, Ark., to points in the United States (except Alaska, Hawaii, Idaho, Nevada, Montana, Utah, and Wyoming) and (2) *parts and accessories* used in the assembly and construction of electrical substations, from points in the United States (except Alaska, Hawaii, Idaho, Nevada, Montana, Utah, and Wyoming), to Springdale, Ark.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at either Fort Worth, Tex., Washington, D.C., Chicago, Ill., or Kansas City, Mo.

No. MC 126305 (Sub-No. 54), filed July 25, 1973. Applicant: BOYD BROTHERS TRANSPORTATION CO., INC., R.D. 1, Clayton, Ala. 36016. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *spheres, highway marking strip glass, ballotini, and glass*, crushed, ground or powdered, from the facilities of Potters Industries, Inc., located at Brownwood, Tex., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas and (2) *materials and supplies* used in the manufacture and sale of glass spheres and glass spheres (except in bulk, in tank vehicles), from the above-named destination points, to the facilities of Potters Industries, Inc., located at Brownwood, Tex.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 126904 (Sub-No. 12), filed July 25, 1973. Applicant: H. C. PARISH TRUCK SERVICE, INC., Route #2, Freeburg, Ill. 62243. Applicant's representative: B. W. La Tourette, Jr., 611 Olive Street, Suite 1850, St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper*, in rolls, and sheets, from (1) Wickliffe, Ky., to Memphis, Tenn., and (2) Memphis, Tenn., to Dayton, Ohio.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Dayton, Ohio.

No. MC 128521 (Sub-No. 2) (CORRECTION), filed June 5, 1973, published in the FEDERAL REGISTER issue of August 2, 1973, and republished as corrected, in part, this issue. Applicant: BIRMINGHAM-NASHVILLE EXPRESS, INC., 317 Arlington Avenue, P.O. Box 7429, Nashville, Tenn. 37210. Applicant's representative: Walter Harwood, 1822 Parkway Towers, Nashville, Tenn. 37210.

NOTE.—The purpose of this partial republication is to correct the route description to U.S. Highway 43 in lieu of U.S. Highway 431, which was shown in previous notice. The rest of the application remains as previously published.

No. MC 128642 (Sub-No. 11), filed July 25, 1973. Applicant: SKYLINE TRANSPORT, INC., 1910 Russell Street, Baltimore, Md. 21230. Applicant's representative: H. Neil Garson, Court Square Bldg., 1400 North Uhle Street, Arlington, Va. 22201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid dextrose corn syrup and blends thereof*, in bulk, from Skyline Terminals, Inc., Baltimore, Md., to Dover, Newark, and Wilmington, Del.; Altoona, Biglerville, Chambersburg, Denver, Gardners, Harrisburg, Lancaster, Norristown, Philadelphia, Reading, Sayre, Shippensburg, Williamsport, and York, Pa.; Atlantic City, Bridgeton, Camden, Cedarville, Ocean City, Patterson, Pensauken, and Vineland, N.J.; Alexandria, Charlottesville, Cheriton, Harrisonburg, Parksley, Petersburg, Richmond, and Springfield, Va., and the District of Columbia.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 128988 (Sub-No. 26), filed July 30, 1973. Applicant: JO/KEL, INC., P.O. Box 1249, City of Industry, Calif. 91749. Applicant's representative: Ernest D. Salm, 8179 Havasu Circle, Buena Park, Calif. 90621. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Airconditioning, camping, heating, recreational, and mobile home equipment, and equipment, materials, and supplies* utilized in the manufacture, distribution and sale of airconditioning, camping, heating, mobile home, and recreational equipment, from Santa Fe Springs, Calif., to (a) the facilities of the Coleman Company at Wichita, Kans.; (b) the facilities of Winnebago, Inc., and Boise Cascade Corporation at or near Forest City, Iowa; and (c) points in Elkhart, Kosciusko, La Grange, La Porte, Marshall, Noble, and St. Joseph Counties, Ind.; and Berrien, Calhoun, Cass, Lenawee, St. Joseph, and Shiawassee Counties, Mich., under contract with the Coleman Company, restricted against the transportation of commodities in bulk or those which by reason of size or weight require the use of special equipment.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 129516 (Sub-No. 22), filed August 6, 1973. Applicant: PATTON'S, INC., 2300 Canyon Road, Ellensburg, Wash. 98926. Applicant's representative: James T. Johnson, 1610 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pulverized wood fiber*, from Bellingham, Wash., to points in California, Arizona, Nevada, Utah, Nebraska, and Montana.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 129572 (Sub-No. 3), filed August 1, 1973. Applicant: ANDICO, INC., 5150 West 4900 South, Kearns, Utah 84118. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel tube, coiled steel, and materials* used in the fabrication of steel tube, (1) from Los Angeles and Gardena, Calif., to points in Washington and Oregon and (2) from Geneva, Utah, to Los Angeles and Gardena, Calif., under contract with Automation Industries, Inc., Harris Tube Division.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif., or Salt Lake City, Utah.

No. MC 133119 (Sub-No. 26), filed August 7, 1973. Applicant: HEYL TRUCK LINES, INC., 235 Mill St., Akron, Iowa 51001. Applicant's representative: Roger Heyl (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Potatoes, frozen and potato products*, from Grand Forks, N. Dak., to points in California, Nevada, and Utah, restricted to traffic originating at Grand Forks, N. Dak., and (2) *frozen citrus concentrate*, from points in Willacy, Starr, Hidalgo, Cameron, and Nueces Counties, Tex., to ports of entry on the International Boundary line between the United States and Canada in Minnesota, North Dakota, Montana, Idaho, and Washington, restricted to traffic moving in foreign commerce.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Grand Forks, N. Dak., or Omaha, Nebr.

No. MC 133233 (Sub-No. 23), filed June 22, 1973. Applicant: CLARENCE L. WERNER, doing business as WERNER ENTERPRISES, 805 32d Avenue, Council Bluffs, Iowa 51501. Applicant's representative: Charles J. Kimball, 2310 Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron pipe, fittings and accessories therefore*, from points in Pottawatamie County, Iowa, to points in Arizona, Arkansas, California, Colorado, Idaho, Illinois, Indiana, Kansas, Michigan, Missouri, Montana, Nebraska, Nevada, New Mexico, Ohio, Oklahoma, Oregon, Texas, Utah, Washington, and Wyoming, under a continuing contract with Griffin Pipe Products Co.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Omaha, Nebr.

No. MC 133318 (Sub-No. 6), filed July 26, 1973. Applicant: VAN DE HOGEN CARTAGE LIMITED, Route 4, Chatham, Ontario, Canada. Applicant's representative: William J. Hirsch, Suite 444, 35 Court Street, Buffalo, N.Y. 14202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Lime*, from points in Ottawa and Sandusky Counties, Ohio, to ports of entry on the International Boundary line between United States and Canada, located at points in Michigan and New York, and *returned shipments* on return, under a continuing contract with Canadian Gypsum Company Limited; (2) *building materials*, from points in New York, Ohio, and Pennsylvania, to ports of entry on the International Boundary line between the United States and Canada, located at points in Michigan and New York, and *returned shipments* on return, under a continuing contract with Webster and Sons Limited (Ontario) and Webster and Sons Limited (Quebec); (3) *silica sand, in bags*, from points in LaSalle County, Ill., to ports of entry on the International Boundary line between the United States and Canada located at points in







V 38-182 SEP 20 73 XUM

Michigan and New York, and *returned shipments* on return, under a continuing contract with Geo. E. White & Son Ltd., and Webster and Sons Limited (Ontario); (4) *emery*, from points in New York, to ports of entry on the International Boundary line between the United States and Canada, located at points in Michigan and New York, and *returned shipments* on return, under a continuing contract with Webster and Sons Limited (Ontario); (5) *iron*, in bags, from Muskegon, Mich., to ports of entry on the International Boundary line between the United States and Canada located at points in Michigan and New York, and *returned shipments* on return, under a continuing contract with Webster and Sons Limited (Ontario); (6) *rough castings*, from the installation of Aurora Tool & Mfg. Ltd. (Casting Div.), in the Province of Ontario, Canada, to Dansville, N.Y., Detroit, Mich., Chicago, Ill., Auburn and Elkhart, Ind., and Akron and Fayette, Ohio, and *returned shipments* on return, under a continuing contract with Aurora Tool & Mfg. Ltd. (Casting Div.); (7) *automotive boxes*, from ports of entry on the International Boundary line between the United States and Canada, located at points in Michigan and New York, to points in Indiana, Michigan and Ohio, and *returned shipments* on return, under a continuing contract with Kohen Box Co. (Windsor) Ltd.; and (8) *building brick*, from Corunna, Mich., to ports of entry on the International Boundary line between the United States and Canada, located at points in Michigan, and *returned shipments* on return, under a continuing contract with Canadian Builders Supply Ltd.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y.

No. MC 133775 (Sub-No. 14), filed July 18, 1973. Applicant: REEFER TRANSIT LINE, INC., 55 East Washington Street, Chicago, Ill. 60602. Applicant's representative: Patrick H. Smyth, 327 S. La Salle St., Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, packinghouse products, and commodities used by packinghouses*, as defined in Appendix I to the report in "Descriptions in Motor Carrier Certificates," 61 M.C.C. 209 and 766 (except hides and commodities in bulk), and (2) *materials, supplies and equipment* for the commodities in (1) above (except commodities in bulk), between the facilities of Yankton Sioux Industries, at or near Wagner, S. Dak., on the one hand, and, on the other, points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, North Dakota, Ohio, Pennsylvania, Rhode Island, South Dakota, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Minneapolis, Minn.

No. MC 133966 (Sub-No. 27), filed July 16, 1973. Applicant: NORTH EAST EXPRESS, INC., P.O. Box 61, Montaintop, Pa. 18707. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic containers*, with or without lids and handles, and *materials and supplies* used in the manufacture and distribution of such commodities, between the plantsites of Better Plastics, Inc., at South Rockwood, Mich., Malvern, Pa., Kissimmee, Fla., and Leominster, Mass.; and (2) *plastic containers*, with or without lids and handles, from the plantsite of Better Plastic, Inc., at South Rockwood, Mich., Malvern, Pa., Kissimmee, Fla., and Leominster, Mass., to points in the United States on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minn., thence northward along the western boundaries of Itasca and Koochiching Counties, Minn., to the International Boundary line between the United States and Canada; and (3) *materials and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above on return.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa.

No. MC 134183 (Sub-No. 1), filed August 2, 1973. Applicant: CHARLES ZUMSTEIN, doing business as C. E. ZUMSTEIN CO., P.O. Box 27, Lewisburg, Ohio 45338. Applicant's representative: E. Stephen Heisley, 611 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a *contract carrier*, by motor vehicles, over irregular routes, transporting: *Glass and materials, equipment, and supplies* used or useful in the manufacture, production, sale, and distribution of glass (except commodities in bulk), between Lewisburg, Ohio, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under contract or contracts with Paul Manufacturing Company, a subsidiary of Ohio Plate Glass Company of Toledo, Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Toledo, Ohio.

No. MC 134235 (Sub-No. 1), filed July 27, 1973. Applicant: KUHNLE BROTHERS, INC., P.O. Box 128, Chagrin Falls, Ohio 44022. Applicant's representative: Herbert M. Canter, 315 Seitz Building, 201 East Jefferson Street, Syracuse, N.Y. 13202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, from the facilities of Morton Salt Company, Division of Morton-Norwich Products, Inc., at Milo, N.Y., to points in Pennsylvania, Maryland, Delaware, New Jersey, Massachusetts, Connecticut, Vermont, and New Hampshire.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Syracuse, N.Y., or Washington, D.C.

No. MC 134405 (Sub-No. 13), filed August 1, 1973. Applicant: BACON TRANSPORT COMPANY, a Corporation, P.O. Box 1134, Ardmore, Okla. 73401. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 NW. 58th, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, from the plantsite of Farmland Industries, Inc., Nitrogen Plant at or near Enid, Okla., to points in Arkansas, Colorado, Kansas, Missouri, Oklahoma, and Texas, restricted to traffic originating at the above named origin.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Oklahoma City, Okla., or Kansas City, Mo.

No. MC 134783 (Sub-No. 8), filed July 6, 1973. Applicant: DIRECT SERVICE INCORPORATED, P.O. Box 786, Plainview, Tex. 79072. Applicant's representative: John C. Sims, 1607 Broadway, Lubbock, Tex. 79401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I of the report in "Descriptions of Motor Carrier Certificates," 61 M.C.C. 209 and 766, from the plantsite and storage facilities of Jimmy Dean Meat Co., at or near Plainview and Lubbock, Tex., to points in Washington, Montana, Idaho, Oregon, Nevada, Utah, and Arizona.

NOTE.—Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Lubbock or Dallas, Tex.

No. MC 135185 (Sub-No. 14), filed June 28, 1973. Applicant: COLUMBINE CARRIERS, INC., 2149 South Clermont Street, Englewood, Colo. 80110. Applicant's representative: Charles J. Kimball, 2310 Colorado State Bank Bldg., 1600 Broadway, Denver, Colo. 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning, scouring and washing compounds, polishing and buffing compounds, disinfectants, deodorants, drugs, and toilet preparations, insecticides, other household cleaning supplies, chemicals, hydraulic cement, sand, coal tar, adhesive paste, plastic synthetics, paint solvents, rubber cement, caulking and brazing compounds, varnish, paints (liquid, paste or dry), phosphoric acid, and titanium dioxide*, (1) from the plantsite and storage facilities utilized by Lehn & Fink Products Co., at or near Lincoln, Ill., to the storage facilities utilized by Lehn & Fink Products Co., at or near Dallas, Tex., and (2) from the plantsite and storage facilities utilized by Lehn & Fink Products Co., at or near Toledo, Ohio, to the storage facilities utilized by Lehn & Fink Products Co., at or near Los Angeles, San Francisco, Brisbane, and Oakland, Calif., Vancouver and Seattle, Wash., and Dallas, Tex., restricted to traffic to be performed under a continuing contract or contracts with Lehn & Fink Products Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 135613 (Sub-No. 3), filed August 7, 1973. Applicant: ALAN D. BIRKS, doing business as AL BIRK'S BOAT HAULING, 3322 NE. 162d Avenue, Portland, Oreg. 97230. Applicant's representative: Philip G. Skofstad, 3076 E. Burnside, Portland, Oreg. 97214. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boats*, (1) between points in Oregon and Washington, on the one hand, and, on the other, points in California, and (2) between points in Oregon and Washington.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 135813 (Sub-No. 3), filed July 23, 1973. Applicant: PARR TRUCKING SERVICE, INC., 829 Alsop Lane, Owensboro, Ky. 42301. Applicant's representative: George M. Catlett, 703–706 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, and household goods as defined by the Commission), including transportation of freight in containers and empty containers, (1) between Owensboro, Ky., on the one hand, and, on the other, points in Hancock County, Ky., and (2) between points in Hancock County, Ky., restricted in (1) and (2) above to traffic having a prior or subsequent movement by rail or water.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Owensboro or Louisville, Ky.

No. MC 135827 (Sub-No. 1), filed August 3, 1973. Applicant: PANTIER, INC., 1501 Second Street, Perry, Iowa 50220. Applicant's representative: William L. Fairbank, 900 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fertilizer and pesticides*, from Perry, Iowa, to points in Illinois, Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota, and (2) *pesticides*, from Des Moines, Iowa, to points in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, South Dakota, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Chicago, Ill.

No. MC 136155 (Sub-No. 3), filed August 7, 1973. Applicant: GAY TRUCKING COMPANY, a Corporation, P.O. Box 7179, Savannah, Ga. 31408. Applicants representative: William P. Sullivan, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from points in Chatham County, Ga., to points in Florida, Mississippi, North Carolina, South Carolina, and Virginia.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Atlanta, Ga.

No. MC 136812 (Sub-No. 2), filed August 6, 1973. Applicant: CLEON CARDER TRUCK LINE, INC., P.O. Box 1395, East Highway 50, Dodge City, Kans. 67801. Applicant's representative: Clyde N. Christey, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, from the plantsite and storage facilities of Farmland Industries, Inc., at or near Enid, Okla., to points in Kansas, Texas, Colorado, Missouri, Arkansas, and Louisiana, restricted to shipments originating at the above named plantsite.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 138314 (Sub-No. 2), filed July 30, 1973. Applicant: SHARKEY TRANSPORTATION, INC., 4 Valley View Drive, Burlington, Iowa 52601. Applicant's representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, Ill. 62701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry animal and poultry feed, dry animal and poultry mineral mixtures*, and *animal and poultry tonics, insecticides* (other than agricultural), *livestock and poultry feeders* and *equipment and premiums and advertising matter* relating to such products from the plantsite of Moorman Mfg. Co., located at Alpha, Ill., to points in Wisconsin and Iowa, under contract with Moorman Mfg. Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Chicago, Ill.

No. MC 138410 (Sub-No. 3), filed July 27, 1973. Applicant: DUANE LeROY OLSEN, doing business as OLSEN TRUCKING, P.O. Box 4176, South Lake Tahoe, Calif. 95705. Applicant's representative: Duane LeRoy Olsen (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paving materials, decomposed granite, rock and sand*, in bulk, in dump trucks, from points in Carson City, Douglas, Lyon, and Storey Counties, Nev., to points in Alpine, Amador, and El Dorado Counties, Calif.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Carson City or Reno, Nev.

No. MC 138420 (Sub-No. 8), filed August 8, 1973. Applicant: CHIZEK ELEVATOR & TRANSPORT, INC., P.O. Box 147, Cleveland, Wis. 53105. Applicant's representative: Michael J. Wyngaard, 329 West Wilson Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bin boxes, cheese boxes, pallets, and skids*, from the Town of Herman (Sheboygan County), Wis., to points in Illinois, and Indiana; (2) *malt beverages and related advertising equipment, materials, premiums, and supplies*, when shipped therewith, from; (a) St. Louis, Mo., to Fond du Lac, Manitowoc, Sheboygen, Racine, Kenosha, Milwaukee, Cudahy, Burlington, Straford, and Twin Lakes, Wis.; (b) Columbus, Ohio, Fort Wayne, Ind., and Detroit, Mich., to points in Wisconsin; and (c) Chicago, Ill., to points in Kenosha, Racine, and Milwaukee Counties, Wis.; (3) *return of rejected shipments and empty malt beverages containers*, from (a) Fond du Lac, Manitowoc, Sheboygan, Racine, Kenosha, Milwaukee, Cudahy, Burlington, Straford, and Twin Lakes, Wis., to St. Louis, Mo.; (b) points in Wisconsin to Columbus, Ohio, Fort Wayne, Ind., and Detroit, Mich.; and (c) points in Kenosha, Racine, and Milwaukee Counties, Wis., to Chicago, Ill.; (4) *malt beverages and carbonated beverages and related advertising equipment, materials, premiums, and supplies*, when shipped therewith, from St. Paul and Minneapolis, Minn., to points in Wisconsin; and (5) *return of rejected shipments and empty malt and carbonated beverage containers*, from points in Wisconsin, to St. Paul and Minneapolis, Minn.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at either Madison or Milwaukee, Wis.

No. MC 138558 (Sub-No. 1), filed May 31, 1973. Applicant: ROY ZENERE TRUCKING & EXCAVATING, INC., 321 E. Margaret Street, Thornton, Ill. 60476. Applicant's representative: Roy Zenere (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except Class A and B explosives, household goods, and commodities of unusual value), between points in Winnebago, Boone, McHenry, Lake, Ogle, DeKalb, Kane, Du Page, Cook, Lee, Kendall, Will, Bureau, LaSalle, Grundy, Kankakee, Putnam, Marshall, Woodford, Livingston, Iroquois, McLean, Ford, Champaign, Vermilion Counties, Ill., and points in Lake, Porter, LaPorte, Joseph, Elkhart, Newton, Jasper, Pulaski, Fulton, Starke, Marshall, Kosciusko, Wabash, Howard, Cass, Carroll, Clinton, White,







V 38 I 182 SEP 20 73 XUM

Pippecace, Fountain, Warren, and Benton Counties, Ind.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 138615 (Sub-No. 1), filed August 7, 1973. Applicant: DORSEY L. HANCOCK, Route 2, Norman Park, Ga. 31771. Applicant's representative: Sam J. Gardner, Jr., 104 1st St. SE., P.O. Box 68, Moultrie, Ga. 31768. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal feed and inedible tallow*, from Moultrie, Ga, to points in Georgia, Alabama, and Florida, under contract with Cope Rendering Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Jacksonville, Fla., or Atlanta, Ga.

No. MC 138748 (Sub-No. 2), filed July 27, 1973. Applicant: DODDS REALTY, doing business as DODDS SERVICE CO., a Corporation, 40 Terminal Street, Dubuque, Iowa 52001. Applicant's representative: Michael J. Wyngaard, 329 West Wilson Street, Madison, Wis. 53703. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Twine*, (1) from Dubuque, Iowa, to points in Wisconsin, Iowa, Illinois, Minnesota, Nebraska, Kansas, Indiana, Missouri, North Dakota, and South Dakota, and (2) from Minneapolis, Minn., to points in Wisconsin, Iowa, Minnesota, Nebraska, North Dakota, and South Dakota, under contract with Dubuque Twine Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Madison, Wis., or Dubuque, Iowa.

No. MC 138759 (Sub-No. 1), filed July 30, 1973. Applicant: P. J. QUIGLEY, P.O. Box 201, Belmond, Iowa 50421. Applicant's representative: Carl E. Munson, 469 Fischer Building, Dubuque, Iowa 52001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Feed and feed ingredients*, between the plantsite of Central Soya Company, Inc., located at or near Belmond, Iowa, on the one hand, and, on the other, points in Minnesota, South Dakota, and Wisconsin, under contract with Central Soya Company, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Des Moines, Iowa.

No. MC 138835 (Sub-No. 2), filed August 8, 1973. Applicant: EASTERN REFRIGERATED TRANSPORT, INC., P.O. Box 1059, Harrisburg, Va. 22801. Applicant's representative: Harry J. Jordan, 1000 16th St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the plantsite and warehouse facilities of Morton Frozen Foods, Division of Continental Baking Company, at Crozet, Va., to points in North Carolina, South Carolina, Georgia, Maryland, Missouri, Iowa, Kentucky, Indiana, Michigan, Ohio, Tennessee, West Virginia, Maine, New Hampshire, Vermont, Wisconsin, Illinois, Virginia, Minnesota, Connecticut, Delaware, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and the District of Columbia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Roanoke, Va., or Washington, D.C.

No. MC 138835 (Sub-No. 3), filed August 8, 1973. Applicant: EASTERN REFRIGERATED TRANSPORT, INC., P.O. Box 1059, Harrisonburg, Va. 22801. Applicant's representative: Harry J. Jordan, 1000 16th St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods and materials and supplies* used in the manufacture thereof, from points in Maine, New Hampshire, Vermont, Kentucky, Indiana, Michigan, Ohio, Tennessee, West Virginia, Illinois, Virginia, Minnesota, Wisconsin, Connecticut, Delaware, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and the District of Columbia, to the warehouse and plant facilities of Morton Frozen Foods Division, Continental Baking Company, located at Crozet, Va.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Roanoke, Va., or Washington, D.C.

No. MC 138857 (CORRECTION), filed June 18, 1973, published in the FEDERAL REGISTER issue of August 30, 1973, and republished as corrected, in part, this issue. Applicant: W. L. BURGESS, d.b.a. BURGESS TRUCKING COMPANY, P.O. Box 137, Clinton, Ky. 42031. Applicant's representative: Robert M. Pearce, P.O. Box E, Bowling Green, Ky. 42101.

NOTE.—The purpose of this partial republication is to correct part (1) of the application which reads *"Between Clinton and Anna, Ill.,"* to read: *"Between Clinton, Ky., and Anna, Ill.*, serving all intermediate points. The rest of the notice remains the same.

No. MC 138891 (Sub-No. 2), filed July 31, 1973. Applicant: FRANK TRANSFER & STORAGE, INC., 324 East 8th Street, Sioux Falls, S. Dak. 57102. Applicant's representative: Mead Bailey, 809 National Bank of South Dakota Building, 141 North Main Avenue, Sioux Falls, S. Dak. 57102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meat, meat products, and meat byproducts and articles distributed by meat-packing houses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) between the facilities of Iowa Beef Processors, Inc., located at or near Luverne, Minn., and railroad ramp facilities for trailer-on-flatcar service at Sioux Falls, S. Dak., and (2) *empty non-owned trailers* used in transporting the above described commodities, between the facilities of Iowa Beef Processors, Inc., located at or near Luverne, Minn., and Sioux Falls, S. Dak.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Sioux Falls, S. Dak., or Sioux City, Iowa.

No. MC 138907 (Sub-No. 1), filed July 25, 1973. Applicant: MORIS WEBSTER AND RODNEY WEBSTER, doing business as WEBSTER BROTHERS, St. Vincent, Minn. 56755. Applicant's representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Soybean meal*, from ports of entry on the International Boundary line between the United States and Canada, located at points in Minnesota, to points in Minnesota, under contract with L. V. Patterson Ltd.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 138967, filed July 9, 1973. Applicant: PAUL R. ELLIOTT & ROBERT K. ELLIOTT, a Partnership, doing business as PAUL-ROBERT TRANSPORT COMPANY, 61 Rayette Road, Box 93, Concord, Ontario, Canada. Applicant's representative: J. R. Shingelton, 235 St. Clair Avenue West, Suite 209, Toronto, Ontario, M4V 1R4 Canada. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Automotive engine parts, iron or steel; mufflers and parts; tail pipe brackets*, (1) from ports of entry on the International Boundary line between the United States and Canada at Buffalo, N.Y., and Detroit, Mich., to Chicago, Ill.; Detroit, Mich.; and Cleveland, Ohio; and (2) from Muskegon, Mich.; Columbia City, Ind.; and Toledo, Ohio, to ports of entry on the International Boundary line between the United State and Canada located at Buffalo, N.Y., and Detroit, Mich., under contract with D & B Manufacturing Co., Ltd.; Cloyes Canada Ltd.; Flexo Manufacturing Co., Ltd.; Wohlert Corp., Ltd.; and R. K. Elliott Co., Ltd.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Buffalo, N.Y. or Detroit, Mich.

No. MC 138979, filed July 23, 1973. Applicant: KAL AUTO TRANSPORT, INC., 1290 South 10th Street, Richmond, Calif. 94804. Applicant's representative: Robert C. Marks, 3755 Alhambra Avenue, Martinez, Calif. 94553. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Automobiles*, new, used, wrecked, and/or repossessed, between points in California (except points in Imperial, Los Angeles, Orange, Riverside, San Bernardino, and San Diego Counties), Oregon, Washington, Idaho, Montana, Utah, Nevada, Wyoming, and Colorado, under contract with Peugeot Western Dist., Inc.; Saab-Scania, Lts.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.





No. MC 138985 (Sub-No. 1), filed August 2, 1973. Applicant: KELSE McGARY, 80 High Street, Houlton, Maine. Applicant's representative: Frank J. Weiner, 15 Court Square, Boston, Mass. 02108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Landscape ties, furring strips and pallets*, from Smyrna Mills, Maine, to points in Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, Vermont, and the District of Columbia, under a contract with Guy Friel & Sons, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Boston, Mass., or Bangor or Portland, Maine.

No. MC 139029 (Sub-No. 1), filed July 9, 1973. Applicant: SNODGRASS, INC., 923 Second Corso, Nebraska City, Nebr. 68410. Applicant's representative: A. J. Swanson, 521 South 14th St., P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel*, and iron *and steel articles*, as defined by the Commission, between points in Iowa, Nebraska, Kansas, Missouri, and Oklahoma, under contract with Steel & Pipe Supply Co., located at Manhattan, Kans.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Lincoln or Omaha, Nebr., or Kansas City, Mo.

No. MC 139036, filed July 27, 1973. Applicant: LEONARD GUSTAFSON, doing business as CHIPMUNK EXPRESS, Box 61, Rapid River, Mich. 49878. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, Mich. 48080. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Precut and prefabricated buildings and components thereof* and *materials and supplies* used in connection with the transportation, installation, and construction thereof, from the plantsite of American Timber Homes, Inc., at or near Escanaba, Mich., to points in Illinois, Indiana, Iowa, Kentucky, Minnesota, Missouri, Ohio, Pennsylvania, and Wisconsin; and (2) *sawdust*, from points in the upper peninsula of Michigan to points in Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Lansing, Mich., or Madison or Milwaukee, Wis.

No. MC 139039, filed July 27, 1973. Applicant: A. MARIANNI'S SONS, INC., 3301 Tulip Street, Philadelphia, Pa. 19134. Applicant's representative: Alan Kahn, 1920 Two Center Plaza, Philadelphia, Pa. 19102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metals*, in detachable, roll-off containers, and *empty roll-off containers*, between Philadelphia, Pa., on the one hand, and, on the other, points in Atlantic, Burlington, Camden, Cumberland, Gloucester, Mercer, Ocean, and Salem Counties, N.J., and New Castle County, Del.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 139040, filed July 27, 1973. Applicant: JAMES L. NANNEY, doing business as NANNEY TRANSPORT, Route 1, Benton, Ky. 42066. Applicant's representative: H. S. Melton, Jr., P.O. Box 1407, Avondale Section, Paducah, Ky. 42001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used motor vehicles*, (1) from Detroit, Mich., to Benton and Murray, Ky., and (2) from Benton and Murray, Ky., to Indianapolis, Ind.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Memphis, Tenn.

No. FF-443, filed August 29, 1973. Applicant: NORTHWEST CONSOLIDATORS, INC., 221 1st Avenue West, Seattle, Washington 98109. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, D.C. 20006. Authority sought to engage in operation, in interstate commerce, as a *freight forwarder*, through use of the facilities of common carriers by railroad, motor vehicle, water and express, in the transportation of (a) *used household goods and unaccompanied baggage*, and (b) *used automobiles*, between points in the United States (including Hawaii but excluding Alaska), restricted in (b) to the transportation of import-export traffic.

NOTE.—Applicant requests that this application be assigned to modified procedure, but should a hearing be deemed necessary, applicant requests it be held at Washington, D.C., or Seattle, Wash.

APPLICATION(S) IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED

No. MC 135895 (Sub-No. 4), filed August 3, 1973. Applicant: DON RAY BOYD AND JACKIE ROGERS, a Partnership, doing business as B & R DRAYAGE COMPANY, 481 Julienne Street, Jackson, Miss. 39204. Applicant's representative: Douglas C. Wynn, P.O. Box 1295, Greenville, Miss. 38701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand, sand products, commercial, technical and industrial sands, and mineral fillers, in bags, in containers and in bulk*, from the plant sites, warehouses and shipping points of the Mississippi Valley Silica Company located in St. Tammany Parish, La., to points in Mississippi, Alabama, and Florida.

INTERSTATE COMMERCE COMMISSION, No. MC-137029 (NOTICE OF FILING AN APPLICATION FOR A POSTAL CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY), filed June 4, 1973. Applicant: John Heywood Thompson, Jr., 108 Clearview Drive, Atlanta, Texas, 75551. Applicant's representative: Gerald A. Braswell, 512 Candlewood Road, Fort Worth, Texas 76013. By application filed June 4, 1973, applicant seeks a Postal Certificate of Public Convenience and Necessity to transport *Mail* in the following territory: (1) Between Ft. Worth, Tex., and Memphis, Tenn., from Ft. Worth, Tex., over Texas Highway 183 to Dallas, Tex., thence over Interstate Highway 30 to Little Rock, Ark., thence over Interstate Highway 40 to Memphis, Tenn., and return over the same route, serving the intermediate point of Texarkana, Tex.-Ark.; (2) Between Shreveport, La., and Memphis, Tenn., from Shreveport, La., over Louisiana Highway 1 to the Louisiana-Texas State line, thence over Texas Highway 77 to Atlanta, Tex., thence over U.S. Highway 59 to Texarkana, Tex.-Ark., thence over Interstate Highway 30 to Little Rock, Ark., thence over Interstate Highway 40 to Memphis, Tenn., and return over the same route; (3) Between Shreveport, La., and New Orleans, La., from Shreveport, La., over Louisiana Highway 1 to Alexandria, La., thence over U.S. Highway 71 to junction U.S. Highway 190, thence over U.S. Highway 190 to Baton Rouge, La., thence over U.S. Highway 61 to New Orleans, La., and return over the same route, serving the intermediate points of Natchitoches, Alexandria, and Baton Rouge, La.; (4) Between Shreveport, La., and Birmingham, Ala., from Shreveport, La., over Interstate Highway 20 to Meridian, Miss., thence over Interstate Highways 20 and 59 to Birmingham, Ala., and return over the same route, serving the intermediate points of Ruston, Monroe, and Rayville, La., Jackson, Newton, and Meridian, Miss., and Tuscaloosa, Ala.; (5) Between Shreveport, La., and Texarkana, Tex.-Ark., from Shreveport, La., over Louisiana Highway 1 to the Louisiana-Texas State line, thence over Texas Highway 77 to Atlanta, Tex., thence over U.S. 59 to Texarkana, Tex.-Ark., and return over the same route; (6) Between Texarkana, Tex.-Ark., and Longview, Tex., from Texarkana, Tex.-Ark., over U.S. Highway 59 to Linden, Tex., thence over Texas Highway 155 to junction U.S. Highway 259, thence over U.S. Highway 259 to Longview, Tex., and return over the same route, serving the intermediate point of Atlanta, Tex.; (7) Between Texarkana, Tex.-Ark., and Cookville, Tex., from Texarkana, Tex.-Ark., over U.S. Highway 67 to Cookville, Tex., and return over the same route, serving the intermediate points of Red Water, Maud, Corley, Naples, and Omaha, Tex.

Appended to the application are copies of seven postal contracts held by applicant which were in effect on July 1, 1971, the critical "grandfather" date: Route No. 75222 relating to service between Ft. Worth, Tex., and Memphis, Tenn.; Route No. 38013 relating to service between Shreveport, La., and Memphis, Tenn.; Route No. 71014 relating to service between Shreveport, La., and New Orleans, La.; Route No. 35019 relating to service between Shreveport, La., and Birmingham, Ala.; Route No. 71015 relating to service between Shreveport, La., and



V 38-182 SEP 20 73 XUM

Texarkana, Tex.-Ark.; Route No. 75511 relating to service between Texarkana, Tex.-Ark.. and Longview, Tex.; Route No. 75512 relating to service between Texarkana, Tex.-Ark., and Cookville, Tex.

Any interested person desiring to oppose the application may file with the Commission an original and one copy of his written representations, views, or arguments in opposition to the application on or before Oct. 23, 1973. A copy of each such pleading should be served upon applicant's representative.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-19929 Filed 9-19-73;8:45 am]

## CUMULATIVE LISTS OF PARTS AFFECTED—SEPTEMBER

**The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during September.**

**1 CFR** — Page
CFR checklist — 23771

**3 CFR**
PROCLAMATIONS:
4239 — 24191
4240 — 24193
4241 — 24881
4242 — 26099
4243 — 26101
4244 — 26179
4245 — 26351
EXECUTIVE ORDERS:
11359 (superseded by 11737) — 24883
11602 (superseded by E.O. 11738) — 25161
11635 (superseded by 11737) — 24883
11659 (amended by 11737) — 24883
11737 — 24883
11738 — 25161
Presidential Documents other than Proclamations and Executive Orders:
Memorandum of August 17, 1973 — 25903

**4 CFR**
400 — 24195
405 — 24195
PROPOSED RULES:
331 — 23971
351 — 23971, 26072
400 — 23971
401 — 23971
402 — 23971
403 — 23971
404 — 23971

**5 CFR**
213 — 2344, 24885, 25165, 25907, 26181, 26353

**6 CFR**
102 — 25427
130 — 24213
140 — 24214
150 — 23794, 23931, 24214, 24885, 25427, 25686, 26181
152 — 23794, 24214
155 — 24885
PROPOSED RULES:
Ch. I — 24917
152 — 23806, 24219, 24667

**7 CFR** — Page
2 — 24633
51 — 23931
52 — 24344, 25165
201 — 25661
250 — 24633
301 — 25664
354 — 23934
401 — 25907
725 — 23935
777 — 25665
864 — 25427
905 — 25665
908 — 24215, 25431, 25907, 26353
910 — 24345, 24890, 25908
928 — 24345
930 — 24890
932 — 24215
944 — 26108
948 — 25667
981 — 25668, 26181
991 — 23771
1001 — 24216
1002 — 24216
1004 — 24216
1006 — 24216
1007 — 24216
1011 — 24216
1012 — 24216
1013 — 24215
1015 — 24216
1030 — 24216
1033 — 24216
1036 — 24216
1040 — 24216
1044 — 24216
1046 — 24216
1049 — 24216
1050 — 24216, 26182
1060 — 24216
1061 — 24216
1062 — 24216
1063 — 24216
1064 — 24216
1065 — 24216
1068 — 24216
1069 — 24216
1070 — 24216
1071 — 24216
1073 — 24216
1075 — 24216
1076 — 24216
1078 — 24216
1079 — 24216
1090 — 24216
1094 — 24216
1096 — 24216
1097 — 24216

**7 CFR—Continued** — Page
1098 — 24216
1099 — 24216
1101 — 24216
1102 — 24216
1106 — 24216
1108 — 24216
1120 — 24216
1121 — 24216
1124 — 24216
1125 — 24216
1126 — 24216
1127 — 24216
1128 — 24216
1129 — 24216
1130 — 24216
1131 — 24216
1132 — 24216
1133 — 24216
1134 — 24216
1136 — 24216
1137 — 24216
1138 — 24216
1139 — 24216
1207 — 26354
1421 — 23935, 24634, 25668, 26006, 26182
1430 — 23939
1866 — 24346
PROPOSED RULES:
20 — 25690
26 — 23955, 25186
46 — 26207
52 — 24654, 24904, 24907, 24910
722 — 24911
906 — 26384
932 — 24910
945 — 26384
981 — 24911
1007 — 26024
1030 — 23796, 25448, 25756
1032 — 25756
1046 — 25756
1049 — 25756
1050 — 25186, 25756
1060 — 25222
1061 — 25222
1062 — 25756
1063 — 25222
1064 — 25222
1065 — 25222
1068 — 252222
1069 — 25222
1070 — 25222
1071 — 25024
1073 — 24654, 25024
1076 — 25222
1078 — 25222
1079 — 25222





**7 CFR—Continued** — Page
PROPOSED RULES—Continued
1090 — 25024
1094 — 25024
1096 — 25024, 29190
1097 — 25024
1098 — 25024
1099 — 25756
1102 — 25024
1104 — 25282
1106 — 25282
1108 — 25024
1120 — 25282
1126 — 25282
1127 — 25282
1128 — 25282
1129 — 25282
1130 — 25282
1131 — 25282
1132 — 25282
1138 — 25282
1701 — 24660

**8 CFR**
214 — 24891, 26354
238 — 24891
73 — 24346
82 — 23940
94 — 24891, 25669
97 — 23940
319 — 24640
PROPOSED RULES:
94 — 24219
102 — 23957
104 — 23957
113 — 26118
381 — 24374

**10 CFR**
50 — 26354
55 — 26354
110 — 23953

**12 CFR**
201 — 23772
204 — 25985
217 — 26109
329 — 25432, 26355
506 — 26355
506a — 26355
525 — 26357
526 — 23940, 25433
545 — 24200
546 — 24201
561 — 26110
563 — 24202, 26110, 26357
566 — 26112
570 — 26112
PROPOSED RULES:
204 — 25703
220 — 26009
329 — 26391
545 — 24228, 26133
702 — 26216

**13 CFR**
PROPOSED RULES:
107 — 24028

**14 CFR**
39 — 23941, 24347, 24349, 24640, 24641, 25170, 25669, 25670, 25905, 26358
71 — 23941, 23942, 24204, 24350, 24641, 24892, 25171, 25433, 25905–25907, 26112
75 — 24204, 25171

**14 CFR—Continued** — Page
91 — 24893
95 — 24893
97 — 24350
208 — 24642
241 — 24351
288 — 23772
302 — 24894
389 — 24895, 26113
399 — 23777, 24642
PROPOSED RULES:
37 — 25450
39 — 23962
61 — 23962
71 — 23804, 23969, 24222, 24914, 25195, 25451, 25452, 25696, 26007, 26389
75 — 23804
121 — 23962
139 — 26389
Ch. II — 24660
221 — 23804
241 — 24223, 24661
298 — 23805, 24662
372a — 24664
389 — 24662
399 — 25453

**15 CFR**
8 — 23777
256 — 25908
376 — 23777, 25446
377 — 25184, 26206
1000 — 25909

**16 CFR**
13 — 24352, 24353, 24634, 25434–25436
PROPOSED RULES:
1700 — 25195

**17 CFR**
210 — 26182
211 — 24635
231 — 24635
241 — 24635, 26358
251 — 24635
271 — 24635
PROPOSED RULES:
230 — 24668
270 — 26133

**19 CFR**
Ch. I — 25171
1 — 24354, 25171
4 — 24354
PROPOSED RULES:
1 — 24374, 25185
10 — 25995
11 — 25995
12 — 25995
19 — 25995
24 — 23954
25 — 25995
113 — 25995
114 — 25995
141 — 23954
142 — 25995
151 — 25448
172 — 25995

**20 CFR**
725 — 26042
PROPOSED RULES:
405 — 23802, 25448, 26132
725 — 26069

**21 CFR** — Page
8 — 24643
9 — 24203
26 — 25985
45 — 25671
121 — 24354, 24643, 25437
135 — 23942
135b — 24355, 24643, 24895, 25673, 26183
135c — 24355, 24644, 25673, 26183
135e — 25674, 25676
141 — 25674
144 — 25437
146 — 25674
149b — 25674
149d — 25675
PROPOSED RULES:
10 — 25195
27 — 26384
121 — 24374, 14375, 25694
130 — 24220
135 — 25694
141c — 26006
273 — 26130
278 — 26007

**23 CFR**
PROPOSED RULES:
770 — 23969
772 — 25696

**24 CFR**
42 — 25172, 26113
200 — 25993
201 — 25675
203 — 24637
205 — 24637, 24896
207 — 24637
213 — 24637
220 — 24637
221 — 24637
232 — 24637
234 — 24637
235 — 24638
236 — 24638
241 — 24638
242 — 24638
244 — 24638, 24896
1700 — 23866
1710 — 23866
1715 — 23873
1720 — 23874
1914 — 23943–23945, 24355–24357, 25677, 25678, 25994, 26113, 26114, 26367
1915 — 24358, 24360, 26368
PROPOSED RULES:
20 — 24222
201 — 23803
205 — 26132
242 — 26132
244 — 26132

**25 CFR**
141 — 24638
251 — 25987
252 — 25938
256 — 23945
PROPOSED RULES:
221 — 23954, 23955
243 — 26118

**26 CFR**
1 — 24206, 26184



V 38 I 182 SEP 20 73 XUM

29 CFR — Page
610 — 25988
612 — 25989
614 — 25989
1907 — 25150
1952 — 24896, 25172
1953 — 24361
PROPOSED RULES:
1910 — 24300, 24375, 26207

30 CFR
57 — 23781
PROPOSED RULES:
504 — 24024

31 CFR
91 — 94897
315 — 24762, 26189
605 — 24898

32 CFR
166 — 25990
802 — 26190
806 — 26190
809 — 23945
1285 — 24206
1453 — 24210
PROPOSED RULES:
1604 — 25704
1623 — 26392
1626 — 26392
1628 — 26392
1631 — 26392
1632 — 26392
1641 — 26392

32A CFR
Ch. IV:
BP Notice 1 — 25175
Ch. X:
Reg. 1
Ch. XI
OIAB Rules and Procedures — 26103
Ch. XIII:
EPO Reg. 3 — 23977
PROPOSED RULES:
Ch. X — 26005

33 CFR
117 — 25433, 26115
127 — 24898
207 — 25176
401 — 24210
PROPOSED RULES:
117 — 24912-24914, 25455
127 — 23804

35 CFR
5 — 25438

36 CFR
50 — 24218
221 — 23948
PROPOSED RULES:
7 — 23796, 24912, 25185

38 CFR
1 — 24364
2 — 24366
17 — 24366, 26190
21 — 23948
36 — 25678
PROPOSED RULES:
17 — 26393

39 CFR — Page
235 — 26193
3000 — 24898
3001 — 24898

40 CFR
35 — 24639, 26358
50 — 25678
52 — 24333, 26324
113 — 25439
120 — 26358
126 — 25681
129 — 24342
162 — 26360
168 — 26360
180 — 23781, 25440
PROPOSED RULES:
51 — 25697
52 — 23805, 26390
120 — 26209
180 — 23806, 24667, 24918, 25455
411 — 24462
412 — 24466
422 — 24470

41 CFR
1-1 — 24210
1-9 — 23782
1-18 — 23791
3-16 — 24644
8-4 — 26368
8-16 — 26369
8-95 — 26369
114 — 26370
114-50 — 24649

42 CFR
21 — 25683
51 — 26194
51a — 26195
51b — 26196
52 — 26196
53 — 26196
54 — 26197
55 — 26197
56 — 26197
57 — 26198
59 — 26198
59a — 26199
87 — 26199
91 — 26200
205 — 26201
206 — 26201
208 — 26201

43 CFR
4 — 23948
3830 — 24650
4710 — 24650
PUBLIC LAND ORDERS:
5169 (Amended by PLO 5396) — 26376
5170 (Amended by PLO 5395) — 26375
5171 (Amended by PLO 5389) — 26371
5172 (Amended by PLO 5392) — 26373
5173 (Amended by PLO 5391) — 26372
5175 (Amended by PLO 5394) — 26375
5176 (Amended by PLO 5393) — 26373
5177 (Amended by PLO 5392) — 26373
5179 (Amended by PLO 5389, 5393, 5395, 5396, 5397) — 26370-26377
5180 (Amended by PLO 5388, 5393, 5394, 5396, 5397) — 26370-26377
5181 (Amended by PLO 5388, 5394) — 26370-26377
5186 (Amended by PLO 5393) — 26373
5191 (See PLO 5391, 5392, 5394, 5396, 5397) — 26370-26377

43 CFR—Continued — Page
PUBLIC LAND ORDERS—Continued
5192 (See PLO 5389, 5393, 5395, 5396, 5397) — 26370-26377
5193 (See PLO 5393, 5394, 5395, 5396, 5397) — 26370-26377
5194 (See PLO 5388, 5394) — 26370-26377
5213 (See 5391) — 26372
5250 (See PLO 5389, 5393, 5395, 5396, 5397) — 26370-26377
5251 (See PLO 5393, 5394, 5395, 5396, 5397) — 26370-26377
5252 (See PLO 5391) — 26372
5253 (See PLO 5389) — 26371
5254 (See PLO 5393) — 26373
5255 (See PLO 5396) — 26376
5321 (See PLO 5391) — 26372
5383 — 25684
5387 — 26370
5388 — 26370
5389 — 26371
5390 — 26372
5391 — 26372
5392 — 26373
5393 — 26373
5394 — 26375
5395 — 26375
5396 — 26376
5397 — 26377

45 CFR
74 — 26274
201 — 26320
205 — 26378
220 — 26320
233 — 26379
234 — 26380
401 — 26320
403 — 26320
404 — 26320
405 — 26320
406 — 26320
408 — 26320
416 — 26320
901 — 26201
903 — 26201
904 — 26201
905 — 26201
909 — 24900, 26201
PROPOSED RULES:
83 — 26384
221 — 24872
233 — 23802
250 — 25450
903 — 23912

46 CFR
PROPOSED RULES:
146 — 23959
542 — 23979
538 — 24228

47 CFR
0 — 24900
1 — 26202
2 — 24901, 25180, 25991
13 — 25684
23 — 24901
73 — 24367, 25991, 26203, 26204, 26380
74 — 25991, 25992, 26381
81 — 24211, 25180, 25991
83 — 24368, 25180, 25992
87 — 25684
89 — 24901
91 — 25182, 26381
93 — 24901
97 — 24211





47 CFR—Continued — Page
PROPOSED RULES:
61 — 24920
73 — 25703, 26008, 26211, 26212, 26380
83 — 25196

49 CFR
1 — 24901, 24902
170 — 23791
171 — 23792
172 — 23792
177 — 23792
178 — 23792
393 — 25182
570 — 23949, 25685
1003 — 26205
1033 — 23792, 23793, 23952, 24212, 24902, 25183, 25685, 26205
1048 — 24368
1115 — 23953, 24903, 25686
1121 — 24902
1134 — 26205
1140 — 26205
PROPOSED RULES:
172 — 24915
173 — 24915
393 — 24223, 25452, 25696
542 — 23979
571 — 23804

49 CFR—Continued — Page
PROPOSED RULES—Continued
1057 — 24228
1131 — 23979

50 CFR
20 — 23793
32 — 23793, 23794, 24212, 24369-24373, 24650-24652, 25183, 25441-25445, 25686, 25992, 26115, 26116, 26205, 26381-26383
33 — 25445
253 — 26116
PROPOSED RULES:
21 — 23796
32 — 25693

## FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

| Pages | Date |
|---|---|
| 23765-23922 | Sept. 4 |
| 23923-24184 | 5 |
| 24185-24326 | 6 |
| 24327-24625 | 7 |
| 24627-24874 | 10 |
| 24875-25154 | 11 |
| 25155-25420 | 12 |
| 25421-25654 | 13 |
| 25655-25895 | 14 |
| 25897-26091 | 17 |
| 26093-26171 | 18 |
| 26173-26344 | 19 |
| 26345-26433 | 20 |



V 38-182 SEP 20 73 XUM

V 38-182 SEP 2073 XUM

V 38-182

*Just Released*

## CODE OF FEDERAL REGULATIONS

(Revised as of July 1, 1973)

| | |
|---|---|
| Title 30 | $4.15 |
| Title 32 (Parts 700–799) | 5.90 |
| Title 36 | 2.50 |

[*A Cumulative checklist of CFR issuances for 1973 appears in the first issue of the Federal Register each month under Title 1*]

**Order from Superintendent of Documents,**
**United States Government Printing Office,**
**Washington, D.C. 20402**

SEP 20 73
XUM

183

federal register

September 21, 1973—Pages 26435–26593

FRIDAY, SEPTEMBER 21, 1973

WASHINGTON, D.C.

Volume 38 ■ Number 183

Pages 26435–26593

## HIGHLIGHTS OF THIS ISSUE

**This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.**

**JOHNNY HORIZON '76 CLEAN UP AMERICA MONTH**—Presidential proclamation ..... 26441

**ENVIRONMENT**—
EPA establishes tolerances for the insecticide parathion; effective 9–21–73 ..... 26450
EPA and FDA tolerances for the fungicide benomyl (2 documents); effective 9–21–73 ..... 26447, 26450
EPA proposed water quality standards for Puerto Rico; comments by 10–23–73 ..... 26463
EPA invites comments on proposed transportation control strategies for California and Oregon; comments by 10–12–73 ..... 26462

**STERILIZATION**—Proposed HEW amendments to procedures under federally assisted programs, and proposed procedures under Medicaid (2 documents); comments by 10–23–73 ..... 26459, 26460

**NEW DRUGS**—
FDA withdraws approval of certain cardiovascular preparations; effective 10–1–73 ..... 26477
FDA proposes to withdraw approval of certain gastrointestinal drugs; hearing requests by 10–23–73 ..... 26479

**NARCOTICS**—Drug Enforcement Administration establishes aggregate production quotas for 1974; effective 9–21–73 ..... 26472

**CONTROLLED SUBSTANCES**—Drug Enforcement Administration additions to list; effective 9–21–73 ..... 26447

**RADIOACTIVE MATERIALS**—FAA amends rules for transport by aircraft; effective 10–1–73 ..... 26446

**AIR CARRIERS**—CAB proposes to require reporting of charges by foreign governments for airport facilities and services; comments by 11–5–73 ..... 26461

**POULTRY**—
USDA proposed criteria for condemning birds affected with airsacculitis; comments by 11–30–73 ..... 26454
USDA proposes procedures for approval of labeling, marking devices, and containers; comments by 11–30–73 ..... 26455

**COTTON TEXTILES FROM PERU**—CITA announces import limitations ..... 26487

**(Continued inside)**

**PART II:**
**MINIMUM WAGE**—Labor Department determinations for federally assisted construction ..... 26533



V 38-183 SEP 21 73 XUM

# REMINDERS

**Rules Going Into Effect Today**

This list includes only rules that were published in the FEDERAL REGISTER after October 1, 1972.

page,no. and date

CUSTOMS DUTIES—Foreign military personnel; free entry privileges . 22548; 8–22–73

SEC—Applications, exemptions, etc.; new requirements . 22324; 8–29–73


federal register

Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by the Executive Branch of the Federal Government. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $2.50 per month or $25 per year, payable in advance. The charge for individual copies is 20 cents for each issue, or 20 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.







MEETINGS—
Interior Dept.: Secretary's Advisory Committee on Metal and Nonmetallic Mine Health and Safety, 10–10 and 10–11–73 ... 26475
National Park Service, Western Regional Advisory Committee, 10–5 and 10–6–73 ... 26474
Sleeping Bear Dunes National Lakeshore Advisory Commission, 9–28–73 ... 26475
State Department: Shipping Coordinating Committee, 10–1–73 ... 26471
HEW: Health Resources Administration, Nursing Research and Education Advisory Committee, 9–73 ... 26480
Commerce Department: DIBA, Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee, 10–3–73 ... 26476
USDA: Raisin Advisory Board, 10–5–73 ... 26476
DOD: Defense Science Board, 10–11 and 10–12–73 ... 26471
Wage Committee, 10–2, 10–9, 10–16, 10–23, and 10–30–73 ... 26471
Coast Guard: New York Harbor Vessel Traffic System Advisory Committee, 10–17–73 ... 26480
Civil Rights Commission: New Jersey State Advisory Committee, 9–21–73 ... 26485


# Contents


## THE PRESIDENT

**Proclamation**

Johnny Horizon '76 Clean Up America Month ... 26441

## EXECUTIVE AGENCIES

### AGRICULTURAL MARKETING SERVICE

**Rules and Regulations**

Lemons grown in California and Arizona; limitation of handling ... 26443

**Proposed Rules**

Oranges, grapefruit, tangerines, and tangelos grown in Florida; limitation of handling ... 26454

**Notices**

Raisin Advisory Board; meeting ... 26476

### AGRICULTURE DEPARTMENT

*See* Agricultural Marketing Service; Animal and Plant Health Inspection Service.

### ANIMAL AND PLANT HEALTH INSPECTION SERVICE

**Proposed Rules**

Airsacculitis; proposed inspection regulations ... 26454
Federally inspected poultry products; labeling and official marks of inspection ... 26455

### ATOMIC ENERGY COMMISSION

**Notices**

Delmarva Power & Light Co. et al; receipt of application and availability of environmental report ... 26481
Florida Power and Light Co.; hearing on application for construction permit and availability of environmental report (2 documents) ... 26482, 26483
Potomac Electric Power Co.; receipt of application for construction permits and availability of environmental report ... 26481

### CIVIL AERONAUTICS BOARD

**Proposed Rules**

Uniform system of accounts; charges by foreign governments for airport and en route facilities and services ... 26461

**Notices**

*Hearings, etc.:*
American Airlines, Inc. and Hughes Airwest ... 26484
International Air Transport Association ... 26484
Surinaamse Luchtvracht Onderneming N.V ... 26485

### CIVIL RIGHTS COMMISSION

**Notices**

Arizona; notice of hearing ... 26485
New Jersey State Advisory Committee; meeting ... 26485

### CIVIL SERVICE COMMISSION

**Rules and Regulations**

Excepted service:
Environmental Protection Agency ... 26443
National Foundation on the Arts and the Humanities ... 26443

### COAST GUARD

**Notices**

New York Harbor Vessel Traffic System Advisory Committee; meeting ... 26480

### COMMERCE DEPARTMENT

*See also* Domestic and International Business Administration.

**Notices**

Organization and functions:
Domestic and International Business Administration ... 26476
National Oceanic and Atmospheric Administration ... 26477

### COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

**Notice**

Cotton textiles and products from Peru; entry or withdrawal from warehouse for consumption ... 26487

### DEFENSE DEPARTMENT

**Notices**

Meetings:
Hemoglobinopathy Policy Review Advisory Committee ... 26471
Science Board ... 26471
Wage Committee ... 26471

### DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

**Notices**

Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee; meeting ... 26476

### DRUG ENFORCEMENT ADMINISTRATION

**Rules and Regulations**

Controlled substances; Schedule I; additions ... 26447

**Notices**

Schedule I and II controlled substances; 1974 final aggregate production quotas ... 26472

### EMPLOYMENT STANDARDS ADMINISTRATION

**Notices**

Minimum wages for Federal and Federally assisted construction; general wage determination decisions ... 26533

### ENVIRONMENTAL PROTECTION AGENCY

**Rules and Regulations**

Fuels and fuel additives; controls applicable to motor vehicle manufacturers ... 26449
Tolerances and exemptions for pesticide chemicals in or on raw agricultural commodities:
Benomyl ... 26450
Parathion or its methyl homolog ... 26450

**Proposed Rules**

California and Oregon; implementation of State plans ... 26462
Puerto Rico; interstate water quality standards ... 26463

### FEDERAL AVIATION ADMINISTRATION

**Rules and Regulations**

Chief Counsel et al.; miscellaneous amendments ... 26444
Federal airways, restricted areas, special use airspace, and transition areas; alterations, redesignations, and revocations (8 documents) ... 26444, 26445
Radioactive and other hazardous materials; transportation ... 26446
Standard instrument approach procedures ... 26446



*(Continued on next page)*





V 38 1 183 S SEP 21 73 XUM

FEDERAL COMMUNICATIONS COMMISSION

Rules and Regulations

FM broadcast stations in certain States (2 documents) ---- 26451, 26453

Proposed Rules

FM broadcast stations in certain states (2 documents) ---- 26463, 26465

Puerto Rico; dual-language TV/FM programming ---- 26464

Notices

Common carrier services information; domestic public radio services applications accepted for filing ---- 26485

Telerent Leasing Corp. et al.; petition for declaratory rulings; extension of time ---- 26487

FEDERAL HIGHWAY ADMINISTRATION

Proposed Rules

Commercial vehicles; automatic devices for reducing front-wheel braking effect; correction ---- 26461

FEDERAL POWER COMMISSION

Notices

*Hearings, etc.:*

Adobe Oil Co ---- 26488
Algonquin Gas Transmission Co ---- 26488
Arkansas Louisiana Gas Co ---- 26488
Ballard & Cordell Corp ---- 26489
Brunson and McKnight, Inc., et al ---- 26490
Cities Service Gas Co ---- 26491
Consolidated Gas Supply Corp ---- 26491
Corpening Enterprises ---- 26491
Duke Power Co ---- 26491
Emerald Petroleum Corp ---- 26491
Exxon Corp ---- 26492
Florida Gas Exploration Co. et al. and Edwin L. Cox ---- 26493
Florida Power and Light Co ---- 26493
Franks Petroleum, Inc ---- 26494
Hannifin, D. L. and Joe Don Cook ---- 26494
Inexco Oil Co ---- 26495
Maine Yankee Atomic Power Co ---- 26496
Michigan Wisconsin Pipe Line Co ---- 26496
National Exploration Co ---- 26497
Northern Natural Gas Co ---- 26497
Pacific Gas and Electric Co ---- 26498
Pacific Gas Transmission Co ---- 26499
Panhandle Eastern Pipe Line Co ---- 26499
Phillips Petroleum Co ---- 26500
Public Service Company of New Hampshire ---- 26500
Rodman Corp ---- 26501
Shenandoah Oil Corp., et al ---- 26501
Sklar & Phillips Oil Co., et al ---- 26502
Stingray Pipeline Co. et al ---- 26503
Texas Eastern Transmission Corp. (2 documents) ---- 26504, 26505
Texas Gas Transmission Corp ---- 26505
Virginia Electric and Power Co. and Dan River Inc ---- 26506

FEDERAL RESERVE SYSTEM

Proposed Rules

Former members and employees of the Board; limitation on activities ---- 26469

Massachusetts and New Hampshire; policies with respect to NOW accounts ---- 26468

Notices

Acquisitions:

Chemical New York Corp ---- 26506
First National City Corp. (2 documents) ---- 26506, 26507
Mercantile Bancorporation (3 documents ---- 26507, 26508
United Missouri Bancshares, Inc ---- 26508
West Florida Bank Holding Co ---- 26509

Illinois Neighborhood Development Corp.; formation of bank holding company ---- 26507

FOOD AND DRUG ADMINISTRATION

Rules and Regulations

Food additives; benomyl ---- 26447

Notices

Certain cardiovascular preparations; withdrawal of approval of NDAs ---- 26477

Certain combination gastrointestinal drugs; opportunity for hearing on proposed withdrawal of NDAs ---- 26479

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

*See* Food and Drug Administration; Health Resources Administration; Public Health Service; Social and Rehabilitation Service.

HEALTH RESOURCES ADMINISTRATION

Notices

Nursing Research and Education Advisory Committee; meeting ---- 26480

INDIAN AFFAIRS BUREAU

Notices

Alaska; applications for determination of eligibility of unlisted villages ---- 26472

INTERIOR DEPARTMENT

*See also* Indian Affairs Bureau; Land Management Bureau; National Park Service.

Notices

Secretary's Advisory Committee on Metal and Nonmetallic Mine Health and Safety; meeting ---- 26475

INTERSTATE COMMERCE COMMISSION

Notices

Assignment of hearings (2 documents) ---- 26510

Fourth section application for relief (2 documents) ---- 26511

Motor carrier board transfer proceedings ---- 26510

JUSTICE DEPARTMENT

*See also* Drug Enforcement Administration.

Rules and Regulations

Declassification of documents; review procedures; correction ---- 26448

LABOR DEPARTMENT

*See also* Employment Standards Administration; Occupational Safety and Health Administration.

Rules and Regulations

Assistant Regional Director for Labor-Management Services; miscellaneous amendments ---- 26449

LAND MANAGEMENT BUREAU

Notices

California; proposed withdrawal and reservation of lands ---- 26473

Oregon; designation of Deschutes River Recreation Lands ---- 26474

NATIONAL PARK SERVICE

Notices

Cowpens National Battlefield Site, S.C.; designation of boundary ---- 26474

Sleeping Bear Dunes National Lakeshore Advisory Commission; meeting ---- 26475

Western Regional Advisory Committee; meeting ---- 26474

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

Rules and Regulations

State developmental plans; Utah; correction ---- 26449

Proposed Rules

Anhydrous ammonia; storage and handling ---- 26459

PUBLIC HEALTH SERVICE

Proposed Rules

PHS supported programs; sterilization procedures ---- 26459

SECURITIES AND EXCHANGE COMMISSION

Notices

Litigation and administrative proceedings affecting professionals practicing before the Commission; extension of comment period ---- 26509

SMALL BUSINESS ADMINISTRATION

Notices

Delegation of authority:

Associate Administrator for Finance and Investment ---- 26509
Associate Administrator for Procurement and Management Assistance ---- 26510

SOCIAL AND REHABILITATION SERVICE

Proposed Rules

Medical assistance programs; sterilization procedures ---- 26460

STATE DEPARTMENT

Notices

Shipping Coordinating Committee; meeting ---- 26471

TRANSPORTATION DEPARTMENT

*See* Coast Guard; Federal Aviation Administration; Federal Highway Administration.






# List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month. In the last issue of the month the cumulative list will appear at the end of the issue.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1973, and specifies how they are affected.

**3 CFR**

PROCLAMATION:

4246 ---- 26441

**5 CFR**

213 (2 documents) ---- 26443

**7 CFR**

910 ---- 26443

PROPOSED RULES:

905 ---- 26454

**9 CFR**

PROPOSED RULES:

381 (2 documents) ---- 26454, 26455

**12 CFR**

PROPOSED RULES:

217 ---- 26468
266 ---- 26469

**14 CFR**

Ch. I ---- 26444
71 (7 documents) ---- 26444, 26445
73 (2 documents) ---- 26445
97 ---- 26446
103 ---- 26446

PROPOSED RULES:

241 ---- 26461

**21 CFR**

121 ---- 26447
308 ---- 26447

**28 CFR**

17 ---- 26448

**29 CFR**

201 ---- 26449
202 ---- 26449
203 ---- 26449
204 ---- 26449
205 ---- 26449
206 ---- 26449
1952 ---- 26449

PROPOSED RULES:

1910 ---- 26459

**40 CFR**

80 ---- 26449
180 (2 documents) ---- 26450

PROPOSED RULES:

52 ---- 26462
120 ---- 26463

**42 CFR**

PROPOSED RULES:

50 ---- 26459

**45 CFR**

PROPOSED RULES:

249 ---- 26460

**47 CFR**

73 (2 documents) ---- 26451

PROPOSED RULES:

73 (3 documents) ---- 26463–26465

**49 CFR**

PROPOSED RULES:

393 ---- 26461



V 38 I 183 SEP 21 73 XUM

# Presidential Documents

## Title 3—The President

PROCLAMATION 4246

# Johnny Horizon '76 Clean Up America Month

*By the President of the United States of America*

## A Proclamation

While the Federal Government pursues its national responsibility to prevent pollution of our air, water and land resources, no contribution to a better environment can match the exercise of individual responsibility. We must recognize that environmental improvement and protection require the commitment and positive action of each and every American.

We can have clean air, clean water, beautiful, open forests and shores, but all these will not improve our environment if our immediate surroundings are cluttered and degraded. Our most precious environment is the area in which we live—our city streets and rural towns. Environmental awareness goes far beyond the improvement of what we commonly refer to as our natural resources.

The spirit with which we work to enhance our lives must be one of: "I'll help, too." To dramatize this spirit, the Congress has by House Joint Resolution 695, 93rd Congress, designated the period of September 15 to October 15, 1973 as "Johnny Horizon '76 Clean Up America Month" and requested the President to issue a proclamation calling for observance of this month.

NOW, THEREFORE, I, RICHARD NIXON, President of the United States of America, do hereby proclaim "Clean Up America Month," and ask our Nation's attention to the Johnny Horizon '76 environmental awareness and action program for America's 200th birthday and related Bicentennial activities. I urge representatives of business, industry, labor, government, civic groups and other citizens to join together to demonstrate the significant results that can be realized when Americans translate their concerns into affirmative action. I further urge neighborhood and community cleanups, beautification programs, resource recovery and education programs, anti-litter campaigns, energy and wildlife conservation efforts and other worthwhile activities.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of September, in the year of our Lord nineteen hundred seventy-three, and of the Independence of the United States of America the one hundred ninety-eighth.

Richard Nixon

[FR Doc.73-20296 Filed 9-20-73;9:43 am]



V 38 I 183 SEP 21 73 XUM

# Rules and Regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

## Title 7—Agriculture

### CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 605]

### PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

#### Limitation of Handling

This regulation fixes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period Sept. 23–29, 1973. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910. The quantity of lemons so fixed was arrived at after consideration of the total available supply of lemons, the quantity of lemons currently available for market, the fresh market demand for lemons lemon prices, and the relationship of season average returns to the parity price for lemons.

§ 910.905 Lemon Regulation 605.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuatae the declared policy of the act.

(2) The need for this regulation to limit the quantity of lemons that may be marketed during the ensuing week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation with respect to the quantity of lemons it deems advisable to be handled during the ensuing week. Such recommendation resulted from consideration of the factors enumerated in the order. The committee further reports the demand for lemons continues about unchanged but is expected to ease as the week progresses due to cooler weather and competition from Florida lemons. Sales volume is expected to drop about 8 percent and average f.o.b. price about 56 cents per carton this week. Average f.o.b. price was $8.06 per carton the week ended September 15, 1973, compared to $8.30 per carton the previous week. Track and rolling supplies at 124 cars were down 13 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until October 23, 1973 (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on September 18, 1973.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period September 23, 1973, through September 29, 1973, is hereby fixed at 225,000 cartons.

(2) As used in this section, "handled", and "carton(s)" have the same meaning as when ussed in the said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).)

Dated September 19, 1973.

CHARLES R. BRADER,
*Acting Deputy Director, Fruit and Vegetable Division Agricultural Marketing Service.*

[FR Doc.73-20275 Filed 9-20-73;8:45 am]

## Title 5—Administrative Personnel

### CHAPTER I—CIVIL SERVICE COMMISSION

### PART 213—EXCEPTED SERVICE

#### Environmental Protection Agency

Section 213.3318 is amended to show that two positions of Public Information Specialist, Office of Public Affairs, have been excepted under Schedule C.

Effective September 21, 1973, § 213.3318 (c)(4) is added as set out below.

§ 213.3318 Environmental Protection Agency.

* * * * * *

(c) *Office of Public Affairs.* * * *

(4) Two Public Information Specialists.

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954–58 Comp. p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73-20170 Filed 9-20-73;8:45 am]

### PART 213—EXCEPTED SERVICE

#### National Foundation on the Arts and the Humanities

Section 213.3382 is amended to show that one position of Special Assistant to the Chairman of the National Endowment for the Humanities is excepted under Schedule C.

Effective September 21, 1973, § 213.3382(e) is added as set out below.

§ 213.3382 National Foundation on the Arts and the Humanities.

* * * * * *

(e) One Special Assistant to the Chairman of the National Endowment for the Humanities.

(5 U.S.C. secs. 3301, 3302, E.O. 10577; 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73-20171 Filed 9-20-73;8:45 am]



V 38-183 SEP 21 73 XUM

Title 14—Aeronautics and Space

## CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 13209]

## CHIEF COUNSEL ET AL.

### Miscellaneous Amendments

The purpose of these amendments is to make changes in the Federal Aviation Regulations that are necessary because of the appointment of a Chief Counsel of the Federal Aviation Administration and the transfer of the functions of the former General Counsel to the Chief Counsel, effective September 17, 1973.

This rulemaking action therefore changes the term "General Counsel" to "Chief Counsel," the term "Deputy General Counsel" to "Deputy Chief Counsel" and the term "Associate General Counsel" to "Assistant Chief Counsel" wherever they occur in the Federal Aviation Regulations, including Special Federal Aviation Regulations and Exemptions, Special Conditions and Orders issued in accordance with those regulations. For reasons of economy the editions of these regulations that are currently for sale will not be reprinted merely to make these changes. Whenever they are reprinted for other reasons, the printing changes will be made. However, the pages of Part 11, "General Rule-making Procedures" and of Part 13, "Enforcement Procedures" reflecting the changes will be reprinted as soon as possible.

Notice and public procedures thereon are not required since these amendments merely reflect changes of FAA organization, and they may therefore be made effective immediately.

In consideration of the foregoing, the Federal Aviation Regulations (14 CFR Chapter I) are amended, effective September 17, 1973, by striking out the terms "General Counsel", "Deputy General Counsel", and "Associate General Counsel" wherever they appear and inserting in place thereof the terms "Chief Counsel", "Deputy Chief Counsel," and "Assistant Chief Counsel", respectively.

(Sec. 301(a), 302(f), 303(d), and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1341 (a), 1343(d), 134(d), and 1354(a)); sec. 6(c) and 9(e)(2) Department of Transportation Act (49 U.S.C. 1655(c).)

Issued in Washington, D.C., on September 17, 1973.

ALEXANDER P. BUTTERFIELD,
*Administrator.*

[FR Doc.73-20294 Filed 9-20-73;8:45 am]

[Airspace Docket No. 73-AL-8A]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

### Redesignation of Colored Federal Airways and Transition Area

On June 26, 1973, a notice of proposed rule making (NPRM) was published in the FEDERAL REGISTER (38 FR 16785) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation regulations that would alter Amber Federal Airway No. 1 between Anchorage and Skwentna, Alaska, Radio Beacons; revoke Red Federal Airway No. 82 between Skwentna and Matanuska, Alaska, Intersection; redesignate the Skwentna Transition Area to include a smaller area and also lower the floor. Editorial changes generated by conversion of the Anchorage and Skwentna Radio Ranges to Radio Beacons were made effective October 11, 1973, in Airspace Docket No. 73-AL-8.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No comments were received.

In consideration of the foregoing, Part 71 of the Federal Aviation regulations is amended, effective 0901 G.m.t. November 8, 1973, as hereinafter set forth.

1. Section 71.105 (38 FR 305 and 21492) is amended as follows: In A-1 "Campbell Lake RBN; INT Campbell Lake RBN 331° and Skwentna, Alaska, RBN 111° bearings; Skwentna RBN;" is deleted and "Campbell Lake RBN; Skwentna RBN;" is substituted therefor.

2. Section 71.107 (38 FR 306) is amended as follows: "Red Federal Airway No. 82" is revoked.

3. In § 71.181 (38 FR 435) Skwentna, Alaska, is amended to read:

That airspace extending upward from 700 feet above the surface within 4.5 miles N and 9.5 miles S of the 291° and 111° bearings from the Skwentna RBN, extending from 7.5 miles W to 18.5 miles E of the RBN.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on September 11, 1973.

CHARLES H. NEWPOL,
*Acting Chief, Airspace and Air Traffic Rules Division.*

[FR Doc.73-20098 Filed 9-20-73;8:45 am]

[Airspace Docket No. 73-WA-28]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

### Revocation of VOR Federal Airway

On June 26, 1973, a notice of proposed rule making (NPRM) was published in the FEDERAL REGISTER (38 FR 16786) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation regulations that would revoke VOR Federal Airway No. 52 north between St. Louis, Mo., and Quincy, Ill., and VOR Federal Airway No. 9 west between St. Louis and Capital, Ill.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation regulations is amended, effective 0901 G.m.t., December 6, 1973, as hereinafter set forth.

Section 71.123 (38 FR 307, 8133 and 37 FR 23329) is amended as follows:

1. In V-52, "Quincy, Ill.; St. Louis, Mo., including a N alternate;" is deleted and "Quincy, Ill.; St. Louis, Mo.;" is substituted therefor.

2. In V-9 "Capital, Ill., including a W alternate;" is deleted and "Capital, Ill.;" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on September 11, 1973.

CHARLES H. NEWPOL,
*Acting Chief, Airspace and Air Traffic Rules Division.*

[FR Doc.73-20099 Filed 9-20-73;8:45 am]

[Airspace Docket No. 73-EA-53]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

### Alteration of Control Zone

*Correction*

In FR Doc. 73-19640, appearing on page 25905 of the issue for Monday, September 17, 1973, the description for Charleston, W. Va. (§ 71.171) should read as set forth below:

Within a 5.5-mile radius of the center, 38°22'22" N., 81°35'35" W., of Kanawha Airport, Charleston, W. Va.; within a 6-mile radius of the center of the Kanawha Airport, extending clockwise from a 319° bearing to a 229° bearing from the airport; within 2 miles each side of the extended centerline of Runway 5, extending from the 5.5-mile radius to 6.5 miles northeast of the lift-off end of Runway 5; within 1.5 miles each side of the extended centerline of Runway 14, extending from the 5.5-mile radius to 6.5 miles southeast of the lift-off end of Runway 14; within 2 miles each side of the Charleston VORTAC 081° radial, extending from the 5.5-mile radius to 2 miles east of the VORTAC; within 2 miles each side of the extended centerline of Runway 23, extending from the 5.5-mile radius to 6.5 miles southwest of the lift-off end of Runway 23 and within 2 miles each side of the extended centerline of Runway 32, extending from the 5.5-mile radius to 6.5 miles northwest of the lift-off end of Runway 32.

[Airspace Docket No. 73-EA-55]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

### Alteration of Control Zone and Transition Area

*Correction*

In FR Doc. 73-19642, appearing on page 25906 of the issue for Monday, September 17, 1973, in the seventh line of the description for Wrightstown, N.J. (§71.181), the last figure reading "03" should read "031".





[Airspace Docket No. 73-RM-22]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

### Alteration of Transition Area

On August 9, 1973, a notice of proposed rulemaking was published in the FEDERAL REGISTER (38 FR 21503) stating that the Federal Aviation Administration was considering an amendment to Part 71 of the Federal Aviation regulations that would alter the description of the Sheridan, Wyo., transition area.

Interested persons were given 30 days in which to submit written comments, suggestions, or objections. No objections have been received, and the proposed amendment is hereby adopted without change.

*Effective date.*—This amendment shall be effective 0901 G.m.t., November 8, 1973.

(Sec. 307(a) Federal Aviation Act of 1958, as amended, (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Aurora, Colorado, on September 10, 1973.

I. H. HOOVER,
*Acting Director, Rocky Mountain Region.*

In § 71.181 (38 FR 578) after the text "• • • from 18.5 miles northwest to 34 miles southeast of the VORTAC", add:

• • • and that airspace southeast of Sheridan bounded on the north by a line located 5 miles south of and parallel to the Sheridan VORTAC 104° radial, on the east by a 35-mile-radius arc of the Sheridan VORTAC, and on the south by a line located 10 miles north of and parallel to the Sheridan VORTAC 138° radial.

[FR Doc.73-19740 Filed 9-20-73;8:45 am]

[Airspace Docket No. 73-NE-23]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

### Alteration of Transition Area

On Page 19839 of the FEDERAL REGISTER dated July 24, 1973, the Federal Aviation Administration published a notice of proposed rulemaking which would alter the Laconia, New Hampshire, 700-foot Transition Area.

Interested parties were given 30 days after publication in which to submit written data or views. No objections to the proposed regulations have been received.

In view of the foregoing, the proposed regulations are hereby adopted effective 0901 G.m.t., October 11, 1973.

(Sec. 307(a), Federal Aviation Act of 1958 72 Stat. 749 (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Burlington, Massachusetts, on September 5, 1973.

FERRIS J. HOWLAND,
*Director, New England Region.*

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to delete the description of the Laconia, New Hampshire, 700-foot Transition Area and insert the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 6.5 mile-radius of the center, 43°34'25" N, 71°25'22" W, of Laconia Municipal Airport, Laconia, New Hampshire; and within 6.5 miles northwest and 4.5 miles southeast of the 247° bearing and the 067° bearing from the Belmont NDB, 43°32'09" N, 71°32'09" W, extending from 11.5 miles southwest of the NDB to 5.5 miles northeast of the NDB.

[FR Doc.73-20097 Filed 9-20-73;8:45 am]

[Airspace Docket No. 73-SW-34]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

## PART 73—SPECIAL USE AIRSPACE

### Alteration of Restricted Area and Controlled Airspace; Correction

On August 14, 1973, FEDERAL REGISTER Document 73-16768 was published in the FEDERAL REGISTER (38 FR 21917) amending Part 73 of the Federal Aviation regulations to reduce the volume and stratify the altitude structure of the Camp Claiborne, La., restricted area complex, effective 0901 G.m.t., September 13, 1973.

Subsequent to publication, it was determined that several corrections should be made to the descriptions of the restricted areas. The designated altitude for Restricted Area R-3801A should be described as extending from 1,500 feet AGL rather than 7,500 feet AGL. One of the geographical reference points used to define the boundaries of Restricted Area R-3801A and two of those used to define R-3801C should be corrected. Also, the designated altitude for R-3801C should be listed as extending only to and including 14,000 feet MSL rather than FL-200. Therefore, action is taken herein to make the corrections.

Since these editorial changes are minor amendments in which the public is not particularly interested, notice and public procedure thereon are unnecessary. However, as it is essential that the boundaries and altitudes of the restricted areas be accurately stated, good cause exists for making these amendments effective immediately.

In consideration of the foregoing, FEDERAL REGISTER Document 73-16768 (38 FR 21917) is amended, effective on September 21, 1973, as hereinafter set forth.

1. In the Boundaries for R-3801A, Camp Claiborne, La., "latitude 31°23'40" N., longitude 93°06'45" W.;" is deleted and "latitude 31°23'40" N., longitude 93°05'45" W.;" is substituted therefor.

2. In the Designated altitudes for R-3801A, Camp Claiborne, La., "7,500 feet AGL" is deleted and "1,500 feet AGL" is substituted therefor.

3. In the Boundaries for R-3801C, Camp Claiborne, La., "latitude 31°05'15" N., longitude 92°34'54" W.; to latitude 31°18'55" N., longitude 92°49'45" W.;" is deleted and "latitude 31°05'15" N., longitude 92°34'50" W.; to latitude 31°13'55" N., longitude 92°49'45" W.;" is substituted therefor.

4. In the Designated altitudes for R-3801C, Camp Claiborne, La., "to and including FL 200" is deleted and "to and including 14,000 feet MSL" is substituted therefor.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on September 12, 1973.

H. B. HELSTROM,
*Chief, Airspace and Air Traffic Rules Division.*

[FR Doc.73-20101 Filed 9-20-73;8:45 am]

[Airspace Docket No. 73-WA-23]

## PART 73—SPECIAL USE AIRSPACE

### Alteration of Restricted Areas

On June 26, 1973, a notice of proposed rule making (NPRM) was published in the FEDERAL REGISTER (38 FR 16786) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 73 of the Federal Aviation regulations that would change the Time of designation and the Using agency for Restricted Areas R-3601A and B, Brookville, Kans. The designated altitudes for R-3601A would also be changed.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No comments were received.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 6, 1973, as hereinafter set forth.

In § 73.36 (38 FR 650):

1. The description of Restricted Area R-3601A Brookville, Kans., is amended to read as follows:

R-3601A BROOKVILLE, KANS

*Boundaries.* Beginning at latitude 38°45'-20" N., longitude 97°46'00" W.; to latitude 38°39'45" N., longitude 97°46'00" W.; along the Missouri Pacific Railroad to latitude 38°-38'20" N., longitude 97°47'30" W.; to latitude 38°38'20" N., longitude 97°56'00" W.; to latitude 38°45'20" N., longitude 97°56'00" W.; to point of beginning.

*Designated altitudes.* Surface to FL-180.

*Time of designation.* Sunrise to 2400 hours c.s.t., Tuesday through Saturday; sunrise to sunset Sunday.

*Controlling agency.* Federal Aviation Administration, Kansas City ARTC Center.

*Using agency.* Commander, Kansas ANG, McConnell AFB, Kans.

2. The description of Restricted Area R-3601B Brookville, Kans., is amended to read as follows:

R-3601B BROOKVILLE, KANS.

*Boundaries.* Beginning at latitude 38°38'-20" N., longitude 97°50'00" W.; to latitude 38°35'00" N., longitude 97°50'00" W.; to latitude 38°35'00" N., longitude 97°56'00" W.; to latitude 38°38'20" N., longitude 97°56'00" W.; to point of beginning.

*Designated altitudes.* Surface to 6,500 feet MSL.



V 38 I 183
SEP 21 73
XUM

*Time of designation.* Sunrise to 2400 hours c.s.t., Tuesday through Saturday; sunrise to sunset Sunday.

*Controlling agency.* Federal Aviation Administration, Kansas City ARTC Center.

*Using agency.* Commander, Kansas ANG, McConnell AFB, Kans.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on September 12, 1973.

CHARLES H. NEWPOL,
*Acting Chief, Airspace and Air Traffic Rules Division.*

[FR Doc 73-20100 Filed 9-20-73;8:45 am]

[Docket No. 13194; Amdt. No. 882]

## PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

### Miscellaneous Amendments

This amendment to Part 97 of the Federal Aviation regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAP's) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAP's for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 FR 5609).

SIAP's are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. Copies of SIAP's adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAPs may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue SW., Washington, D.C. 20591, or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150.00 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30 each.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by originating, amending, or canceling the following VOR-VOR/DME SIAPs, effective November 1, 1973.

Ann Arbor, Mich.Ann Arbor Municipal Arpt., VOR/DME Rwy 6, Amdt. 2
Ann Arbor, Mich.—Ann Arbor Municipal Arpt., VOR Rwy 24, Amdt. 3
Cheboygan, Mich.—Cheboygan Arpt., VOR Rwy 9, Orig.
Logansport, Ind.—Logansport Municipal Arpt., VOR-A, Amdt. 3
Teterboro, N.J.—Teterboro Arpt., VOR/DME-A, Amdt. 6

Effective September 27, 1973:

Cape Girardeau, Mo.—Cape Girardeau Municipal Arpt., VOR Rwy 2, Amdt. 5
McAllen, Tex.—Miller Int'l Arpt., VOR Rwy 13, Amdt. 9
Napa, Cal.—Napa County Arpt., VOR Rwy 6, Amdt. 4
Santa Rosa, Cal.—Sonoma County Arpt., VOR Rwy 32, Amdt. 6

Effective September 6, 1973:

Torrance, Cal.—Torrance Municipal Arpt., VOR Rwy 11 L, Amdt. 10

2. Section 97.25 is amended by originating, amending, or canceling the following SDF-LOC-LDA SIAPs, effective September 27, 1973.

Columbus, Miss.—Golden Triangle Regional Arpt., LOC Rwy 18, Orig., Canceled

Effective September 6, 1973:

Torrance, Cal.—Torrance Municipal Arpt., LOC Rwy 29R, Amdt. 2

3. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAPs, effective November 1, 1973.

Hazleton, Pa.—Hazleton Municipal Arpt., NDB Rwy 28, Orig.

Effective September 27, 1973:

McAllen, Tex.—Miller Int'l Arpt., NDB Rwy 13, Amdt. 1

4. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAPs, effective November 1, 1973.

Reading, Pa.—Reading Municipal General Carl A. Spaatz Field, ILS Rwy 36, Amdt. 19

Effective September 27, 1973:

Columbus-West Point-Starkville, Miss.—Golden Triangle Regional Arpt., ILS Rwy 18, Orig.
McAllen, Tex.—Miller Int'l Arpt., ILS Rwy 13, Amdt. 1
Santa Rosa, Cal.—Sonoma County, ILS Rwy 32, Orig.

5. Section 97.33 is amended by originating, amending, or canceling the following RNAV SIAPs, effective September 6, 1973.

Torrance, Cal.—Torrance Municipal Arpt., RNAV Rwy 29R, Amdt. 4

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1948 (49 U.S.C. 1438, 1354, 1421, 1510), sec. 6(c), Department of Transportation Act, (49 U.S.C. 1655(c), 5 U.S.C. 552(a)(1)).)

Issued in Washington, D.C., on September 13, 1973.

JAMES M. VINES,
*Chief, Aircraft Programs Division.*

NOTE.—Incorporation by reference provisions in §§ 97.10 and 97.20 (35 FR 5610) approved by the Director of the Federal Register on May 12, 1969.

[FR Doc 73-20096 Filed 9-20-73;8:45 am]

[Docket No. 12574; Amdt. No. 103-18]

## PART 103—TRANSPORTATION OF DANGEROUS ARTICLES AND MAGNETIC MATERIALS

### Carriage of Radioactive and Other Hazardous Materials; Suspension

The purpose of this amendment to Part 103 of the Federal Aviation Regulations is to suspend the effectiveness of that part of Amendment 103-17 applicable to § 103.23, which became effective July 11, 1973, and to reinstate the previous rules of § 103.23 in effect immediately prior to that date.

Amendment 103-17, which became effective July 11, 1973 (38 FR 17831), prescribed, among other things, new rules in § 103.23 governing the distribution of packages of radioactive materials being transported in aircraft, consisting of the method to be used in determining the distance packages must be kept from a space occupied by a person or an animal.

As explained in the preamble to Amendment 103-17, the amendment was adopted by the FAA only after a notice of proposed rulemaking had been published (Notice 73-7; 38 FR 6690) and careful consideration had been given to all comments received from interested persons. Upon completion of the evaluation of comments, the FAA determined that the adoption of Amendment 103-17 was in the public interest and would not adversely affect the safety of persons aboard aircraft.

After Amendment 103-17 became effective, the FAA received a letter from the Department of Health, Education, and Welfare (HEW) dated August 6, 1973, regarding Amendment 103-17. The HEW letter supports the continued carriage aboard aircraft of radioactive materials for medical use, since short-lived materials must reach their destination by the fastest means available. However, the letter expresses the view that there are areas of public health concern which indicate a need to continue review of the potential radiation exposure to passengers and crewmembers and suggests that additional data is needed to adequately evaluate exposures under the conditions prescribed in Amendment 103-17. Accordingly, HEW advised that it will defer specific comments on the public health aspects of Amendment 103-17 until data becomes available from FAA studies being conducted.

In light of the HEW comments, the FAA has determined that the public interest requires suspension of the effectiveness of that part of Amendment 103-17 which amends § 103.23 and reinstatement of the rules of § 103.23 previously in effect on July 10, 1973. Such a suspension will permit current studies to be completed and make more data available, thereby providing HEW an opportunity to evaluate the public health significance of Amendment 103-17 and advise the FAA. Thereafter, the FAA will take whatever rule-making action that is deemed appropriate.

In view of the public health considerations involved, I find that notice and public procedure hereon are contrary to the public interest and that good cause exists for making these amendments effective on less than 30 days notice.

(Sec. 313(a), 601, 604, and 902, Federal Aviation Act of 1958 (49 U.S.C. 1345(a)), 1421, 1424, and 1472); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c).)

In consideration of the foregoing, Part 103 of the Federal Aviation Regulations is amended, effective October 1, 1973, by suspending the effectiveness of that part of Amendment 103-17 which amends § 103.23, published in the FEDERAL REGISTER July 5, 1973 (38 FR 17831), and by reissuing § 103.23 as it was in effect July 10, 1973.

Issued in Washington, D.C., on September 13, 1973.

JAMES E. DOW,
*Acting Administrator.*

[FR Doc.73-20186 Filed 9-20-73;8:45 am]

## Title 21—Food and Drugs

## CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### SUBCHAPTER B—FOOD AND FOOD PRODUCTS

## PART 121—FOOD ADDITIVES

### Benomyl

A petition (FAP 2H5004) was filed by E. I. du Pont de Nemours & Co., Inc., Wilmington, DE 19898, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348), proposing establishment of a food additive tolerance (21 CFR Part 121) for residues of the fungicide benomyl (methyl-1-(butylcarbamoyl) - 2 - benzimidazolecarbamate) in or on raisins at 50 parts per million, resulting from application of the fungicide to growing grapes.

Subsequently, the petitioner amended the petition by proposing that the tolerance for residues of benomyl be expressed as "combined residues of benomyl and its metabolites containing the benzimidazole moiety (calculated as benomyl)" and by requesting additional tolerances for combined residues of benomyl and its metabolites containing the benzimidazole moiety (calculated as the fungicide) in dried grape pomace and raisin waste at 125 parts per million. (For related document, see this issue of the FEDERAL REGISTER, page 26450.)

The Reorganization Plan No. 3 of 1970, published in the FEDERAL REGISTER of October 6, 1970 (35 FR 15623), transferred (effective December 2, 1970) to the Administrator of the Environmental Protection Agency the functions vested in the Secretary of Health, Education, and Welfare for establishing tolerances for pesticide chemicals under sections 406, 408, and 409 of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 346, 346a, and 348). Pesticide and food additive tolerances for combined residues of benomyl and its metabolites containing the benzimidazole moiety (calculated as benomyl) have previously been established.

Having evaluated the data in the petition and other relevant material, it is concluded that the tolerances should be established.

Therefore, pursuant to provisions of the act (sec. 409(c) (1), (4), 72 Stat. 1786; 21 U.S.C. 348(c) (1), (4), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 FR 9038), Part 121 is amended as follows:

1. Section 121.343 in Subpart C is revised to read as follows:

**§ 121.343 Benomyl.**

Tolerances are established for combined residues of the fungicide benomyl (methyl - 1 - (butylcarbamoyl) - 2-benz - imidazolecarbamate) and its metabolites containing the benzimidazole moiety (calculated as benomyl) as follows:

125 parts per million in dried grape pomace and raisin waste when present therein as a result of application of the fungicide to growing grapes.

70 parts per million in dried apple pomace when present therein as a result of application (preharvest and/or postharvest) of the fungicide to the raw agricultural commodity apples.

2. Section 121.1254 is added to read as follows:

**§ 121.1254 Benomyl.**

A tolerance of 50 parts per million is established for combined residues of the fungicide benomyl (methyl-1-(butylcarbamoyl) - 2 - benzimidazolecarbamate) and its metabolites containing the benzimidazole moiety (calculated as benomyl) in raisins when present therein as a result of application of the fungicide to growing grapes.

Any person who will be adversely affected by the foregoing order may at any time on or before October 23, 1973, file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & M Streets SW., Waterside Mall, Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

*Effective date.*—This order shall become effective on September 21, 1973.

(Sec. 409(c) (1), (4), 72 Stat. 1786; 21 U.S.C. 348(c) (1), (4).)

Dated September 18, 1973.

HENRY J. KORN,
*Deputy Assistant Administrator for Pesticide Programs.*

[FR Doc.73-20181 Filed 9-20-73;8:45 am]

## CHAPTER II—DRUG ENFORCEMENT ADMINISTRATION, DEPARTMENT OF JUSTICE

## PART 308—SCHEDULES OF CONTROLLED SUBSTANCES

### Additions to Schedule I

A notice was published in the FEDERAL REGISTER on May 31, 1973 (38 FR 14288), proposing placement of 2-5,dimethoxyamphetamine (2,5-DMA) in Schedule I of the Controlled Substances Act. All persons were given until July 6, 1973, to file objections, comments or requests for a hearing. No comments, objections, or requests for a hearing were received by that date.

A notice was published in the FEDERAL REGISTER on July 2, 1973 (38 FR 17499), proposing placement of 4-bromo-2,5-dimethoxyamphetamine (4 - bromo - 2,5 - DMA) in Schedule I of the Controlled Substances Act. All interested persons were given until August 1, 1973, to file objections, comments, or requests for a hearing. On July 27, 1973, the Church of the Tree of Life submitted comments on the proposal, stating that 4-bromo-2,5-DMA is a sacrament of their church, that its placement in Schedule I without an exemption for the members of the Church would violate the members' Constitutional rights, that the substance is unusually safe, non-toxic, and non-addictive, and that the proposal to place 4-bromo-2,5-DMA in Schedule I without controlling alcohol and tobacco was incongruous and distorted. In discussions between DEA and a representative of the Church of the Tree of Life, it was explained that an exemption for bona fide religious use of 4-bromo-2,5-DMA was subject to the decisions involving the Church of the Awakening (see Kennedy v. Bureau of Narcotics and Dangerous Drugs, 93 S.Ct. 901, 1414 (1973) and 459 F.2d 415 (9th Cir., 1972)), that all evidence available to the government indicated a definite toxicity for the substance, and that control over alcohol and tobacco was neither possible (see 21 U.S.C. 802(6)) nor relevant. The Church of the Tree of Life agreed not to request a hearing on this proposal but reserved its right to petition to decontrol 4-bromo-2,5-DMA in the future.







V 38 1 83 SEP 21 73 XUM

On August 23, 1973, a second comment regarding 4-bromo-2,5-DMA was received; although past the closing date for filing objections, the comments were considered. Dr. Thomas F. Budinger of the Lawrence Berkeley Laboratory of the University of California at Berkeley, objected to the placement of 4-bromo-2,5-DMA in Schedule I and proposed that it be placed in Schedule II instead. Dr. Budinger stated that the substance "clearly has a potential for abuse" but that research now indicates that radioactively-tagged 4-bromo-2,5-DMA may be the only known radiopharmaceutical preparation with a suitable radioactive half-life that concentrates specifically in the brain, thus giving the substance "great potential • • • in the practice of nuclear medicine for diagnosis of cerebrovascular accidents." Dr. Budinger further objected that inclusion in Schedule I would greatly hamper research and development of 4-bromo-2,5-DMA, and that inclusion in Schedule II would not. It is the position of the Drug Enforcement Administration that, at this time, 4-bromo-2,5-DMA does not have "a currently accepted medical use in treatment in the United States, or a currently accepted medical use with severe restrictions." This condition must be found to exist in order to place the substance in Schedule II (21 U.S.C. 812(b)(2)(B)), and therefore, Dr. Budinger's alternative proposal cannot be adopted. In addition, the DEA does not believe that inclusion of a substance in Schedule I will hamper or interfere with legitimate research. Dr. Budinger did not request a hearing.

A notice was published in the FEDERAL REGISTER on July 2, 1973 (38 FR 17499), proposing placement of 4-methoxyamphetamine in Schedule I of the Controlled Substances Act. All interested persons were given until August 1, 1973, to file objections, comments, or requests for a hearing. No objections, comments, or requests for a hearing were received by that date.

Based upon the investigations of the Drug Enforcement Administration (and its predecessor agency, the Bureau of Narcotics and Dangerous Drugs) and upon the scientific and medical evaluation and recommendations of the Secretary of Health, Education, and Welfare, received pursuant to section 201(b) of the Controlled Substances Act (21 U.S.C. 811(b)), the Acting Administrator of the Drug Enforcement Administration finds that each of the following substances: 2,5-dimethoxyamphetamine; 4-bromo-2,5-dimethoxyamphetamine; and 4-methoxyamphetamine; and the salts, isomers and salts of isomers of each such substance (whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation):

(1) Has a high potential for abuse;

(2) Has no currently accepted medical use in treatment in the United States; and

(3) Lacks accepted safety for use under medical supervision.

Therefore, under the authority vested in the Attorney General by section 201(a) (21 U.S.C. 811(a)) and delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of title 28 of the Code of Federal Regulations (see 38 FR 18380, July 2, 1973), the Acting Administrator hereby orders that § 308.11(d) of Title 21 of the Code of Federal Regulations be amended by adding new subparagraphs (18), (19), and (20) to read:

§ 308.11 Schedule I.

• • • • •

(d) *Hallucinogenic substances.* • • •

| | |
|---|---|
| (18) 2,5-dimethoxyamphetamine ---- Some trade or other names: 2,5 - dimethoxy-a-methylphenethylamine; 2,5-DMA. | 7396 |
| (19) 4 - bromo-2,5-dimethoxyamphetamine ---- Some trade or other names: 4-bromo - 2,5-dimethoxy-a-methylphenethylamine; 4 - bromo-2,5-DMA. | 7391 |
| (20) 4-methoxyamphetamine ---- Some trade or other names: 4-methoxy - a - methylphenethylamine; paramethoxyamphetamine; PMA. | 7411 |

EFFECTIVE DATES

The requirements imposed upon the three hallucinogenic substances controlled by this order shall become effective as follows:

1. *Registration.* Any person who manufactures, distributes, engages in research, imports or exports any of these substances or who proposes to engage in the manufacture, distribution, importation, or exportation of, or research with, any of these substances, shall obtain a registration to conduct that activity on or before October 31, 1973.

2. *Security.* These hallucinogens must be manufactured, distributed and stored in accordance with §§ 301.71, 301.72(a), 301.73, 301.74, 301.74(a) and 301.76 of Title 21 of the Code of Federal Regulations on or before October 31, 1973. In the event that this poses special hardships, the Drug Enforcement Administration will entertain any justified requests for extensions of time.

3. *Labeling and packaging.* All labels on commercial containers of, and all labeling of, any of these hallucinogens which are packaged after October 31, 1973, shall comply with the requirements of §§ 301.03–302.05 and 302.08 of Title 21 of the Code of Federal Regulations. In the event these effective dates pose special hardships on any manufacturer, the Drug Enforcement Administration will entertain any justified requests for an extension of time.

4. *Inventory.* Every registrant required to keep records who possesses any quantity of any of these hallucinogens shall take an inventory of all stocks of those substances on hand on October 31, 1973.

5. *Records.* All registrants required to keep records pursuant to Part 304 of Title 21 of the Code of Federal Regulations shall maintain such records on these hallucinogens commencing on the date on which the inventory of those substances is taken.

6. *Order forms.* Each distribution of any of these hallucinogens on or after October 31, 1973, shall utilize an order form pursuant to Part 305 of Title 21 of the Code of Federal Regulations except as permitted in § 305.03 of that title.

7. *Quotas.* Quotas on these substances will be established to take effect on January 1, 1974. All interested persons required to obtain quotas shall submit applications on or before October 31, 1974.

8. *Importation and exportation.* All importation and exportation of any of these hallucinogenic substances on and after October 31, 1973, shall be in compliance with Part 312 of Title 21 of the Code of Federal Regulations.

9. *Criminal liability.* Any activity with any of these hallucinogens, not authorized by, or in violation of, the Controlled Substances Act or the Controlled Substances Import and Export Act, conducted after September 21, 1973 shall be unlawful, except that any person who is not now registered to handle these substances but who is entitled to registration under those Acts may continue to conduct normal business or professional practice with those substances between the date on which this order is published and the date on which he obtains the proper registration.

10. *Other.* In all other respects, this order is effective September 21, 1973.

Dated September 14, 1973.

JOHN R. BARTELS, JR.,
*Acting Administrator,*
*Drug Enforcement Administration.*

[FR Doc.73-20145 Filed 9-20-73;8:45 am]

## Title 28—Judicial Administration

### CHAPTER I—DEPARTMENT OF JUSTICE

[Order No. 534-73]

### PART 17—REGULATIONS RELATING TO THE CLASSIFICATION AND DECLASSIFICATION OF NATIONAL SECURITY INFORMATION AND MATERIAL PURSUANT TO EXECUTIVE ORDER NO. 11652

#### Procedures for Review of Requests for Declassification of Documents

*Correction*

In FR Doc. 73-17963, appearing at page 22777 of the issue for Friday, August 24, 1973, the section heading for § 17.36 reading "Mandatory review of material over 30 years old." should read "Mandatory review of material over 10 years old."





## Title 29—Labor

### CHAPTER II—OFFICE OF THE ASSISTANT SECRETARY FOR LABOR-MANAGEMENT RELATIONS, DEPARTMENT OF LABOR

### PART 201—GENERAL

### PART 202—REPRESENTATION PROCEEDINGS

### PART 203—UNFAIR LABOR PRACTICE PROCEEDINGS

### PART 204—STANDARDS OF CONDUCT FOR LABOR ORGANIZATIONS

### PART 205—GRIEVABILITY AND ARBITRABILITY PROCEEDINGS

### PART 206—MISCELLANEOUS

#### Assistant Regional Director for Labor-Management Services

Secretary of Labor's Order No. 13–73, involving certain changes in organizational terminology, was published in the FEDERAL REGISTER on September 10, 1973, at 38 FR 24690, and it provided for the amendment of preexisting documents and issuances to reflect the new terminology in the course of normal updating and maintenance.

Pursuant to Order No. 13–73, the title of the regional head of the Labor-Management Services Administration was designated "Assistant Regional Director for Labor-Management Services". Accordingly, this document is issued to revise these rules by replacing the term "Regional Administrator" with that of "Assistant Regional Director for Labor-Management Services." In accordance with Order 13–73, preexisting documents, forms and issuances referring to "Regional Administrator" shall continue to be used until the supply is exhausted, and it shall be unnecessary to change the term "Regional Administrator" when so used.

Chapter II of Title 29, including Parts 201, 202, 203, 204, 205, and 206 (37 FR 18780, dated Sept. 15, 1972) is amended as follows:

1. Section 201.15 is amended to read as follows:

§ 201.15 Assistant Regional Director for Labor-Management Services.

"Assistant Regional Director for Labor-Management Services" means the administrator of a region of the Labor-Management Services Administration, with geographical boundaries as fixed by the Assistant Secretary.

2. The title "Regional Administrator" as used in Parts 201–206 inclusive is hereby changed to "Assistant Regional Director for Labor-Management Services."

*Effective date.*—This change shall be effective on September 21, 1973.

Signed at Washington, D.C., this 17th day of September 1973.

PAUL J. FASSER, JR.,
*Assistant Secretary of Labor*
*for Labor-Management Relations.*

[FR Doc.73-20106 Filed 9-20-73;8:45 am]

### CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

### PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

#### Utah Developmental Plan; Correction

The document amending Part 1952 of Chapter XVII of Title 29 of the Code of Federal Regulations, published in the FEDERAL REGISTER on Wednesday, January 10, 1973, at 38 FR 1180, is corrected by changing the address of the Utah Industrial Commission, Safety Division, from 158 Social Hall Avenue, Salt Lake City, Utah 84114, to 350 East Fifth South, Salt Lake City, Utah 84111.

Signed at Washington, D.C., this 18th day of September, 1973.

JOHN H. STENDER,
*Assistant Secretary of Labor.*

[FR Doc.73-20158 Filed 9-20-73;8:45 am]

## Title 40—Protection of Environment

### CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

### PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

#### Controls Applicable to Motor Vehicle Manufacturers

On January 10, 1973 (38 FR 1254), EPA promulgated regulations prescribing certain labeling and gasoline filler inlet design requirements applicable to motor vehicle manufacturers. These regulations require that any motor vehicle that is equipped with an emission control device which the Administrator determines will be significantly impaired by the use of leaded gasoline (e.g., any vehicle which is certified using a catalytic converter) shall be labeled "Unleaded Gasoline Only", both on the instrument panel and adjacent to the gasoline filler inlet compartment, and that the filler inlet shall be so designed as to prevent the insertion of a gasoline pump nozzle dispensing leaded fuel. The regulations further require that when such insertion is attempted with the incorrect nozzle, the filler inlet shall be so designed as to immediately activate the automatic shut-off of that nozzle.

Several of the motor vehicle manufacturers petitioned EPA to re-examine these requirements. Specifically, EPA was asked to reconsider the unleaded fuel labeling requirements, the 0.91" diameter filler inlet restrictor requirement, and the immediate shut-off requirement.

EPA has reconsidered these requirements and has determined to take the following actions:

1. *Unleaded fuel labeling requirement.* The regulations require that a vehicle which requires the use of unleaded gasoline shall be labeled "Unleaded Gasoline Only" both on the instrument panel and in the area adjacent to but outside the gasoline filler inlet compartment. Manufacturers requested to place the label inside the filler inlet compartment. EPA concludes that in general the labeling requirements as originally promulgated are necessary to provide adequate warning to both the vehicle operator and any person introducing gasoline into such vehicle and that the printed notice is not unduly burdensome to either the vehicle manufacturer or the purchaser in terms of vehicle appearance. However, the Agency has decided to add a provision that alternative modification schemes may be approved if determined to fulfill the purposes of this requirement.

2. *0.91" diameter filler inlet restrictor requirement.* The regulations, as promulgated in January, required that unleaded fuel nozzles have outside diameters no greater than 0.85" and that leaded nozzles have outside diameters no smaller than 0.93". The regulations also required manufacturers to equip catalyst-controlled vehicles with nozzle restrictors no greater than 0.91" in inside diameter which would activate the automatic shut-off of nozzles with diameters greater than 0.84" if they are inserted in the filler inlet. Manufacturers argued that they should not be required to design against the insertion of a nozzle with a diameter between 0.84" and 0.93" since such a nozzle would be illegal. The Agency concludes that this argument is valid in that surveillance of nozzle usage in service stations will deal adequately with possible illegally sized nozzles. EPA has revised the regulations to require that the insertion of a nozzle with a diameter greater than 0.93" would be prevented and the attempted filling with such a nozzle would activate the automatic shut-off on that nozzle.

3. *Immediate shut-off requirement.* Manufacturers requested clarification as to how quickly the automatic shut-off must be activated when filling is attempted with a leaded nozzle in an unleaded fuel filler inlet. Based upon discussion with the Society of Automotive Engineers' Fuel Supply Systems Committee and data received from the petitioners, the term "immediately" in the regulation has been defined to require the design of the filler inlet to activate the automatic shut-off of a standard nozzle so as to allow a maximum of 700 cubic centimeters of fuel to be delivered into the vehicle fuel tank per attempt. The provision establishes an ascertainable standard of performance lacking in the promulgated language.

The agency finds that good cause exists for omitting as unnecessary and impracticable a notice of proposed rule making, public comment, and postponement of effective date in the issuance of these amendments, in that (1) they are designed to clarify the regulations or to make more flexible their application; (2) to the extent substantive revisions are made they are of minor regulatory impact and were recommended by the regulated parties; and (3) considerations of lead time for the 1975 model year dictate immediate promulgation.



V 3811833 SEP 21 73 XUM

Part 80, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows, effective on September 21, 1973.

The provisions of this Part 80 are issued under sections 211 and 301 of the Clean Air Act, as amended (42 U.S.C. 1857f–6c and 1857g(a)).

Dated: September 12, 1973.

JOHN QUARLES,
*Acting Administrator.*

Section 80.24 of Part 80, Title 40 of the Code of Federal Regulations, is revised to read as follows:

**§ 80.24 Controls applicable to motor vehicle manufacturers.**

The manufacturer of any motor vehicle equipped with an emission control device which the Administrator has determined will be significantly impaired by the use of leaded gasoline shall:

(a) Affix two or more permanent legible labels reading "Unleaded Gasoline Only" to such vehicle at the time of its manufacture, as follows:

(1) One label shall be located on the instrument panel so as to be readily visible to the operator of the vehicle: *Provided, however,* That the required statement may be incorporated into the design of the instrument panel rather than provided on a separate label; and

(2) One label shall be located immediately adjacent to each gasoline filler tank inlet, outside of any filler inlet compartment, and shall be located so as to be readily visible to any person introducing gasoline to such filler inlet: *Provided, however,* That the Administrator may, upon application from a motor vehicle manufacturer, approve other label locations that achieve the purpose of this paragraph.

(3) Such labels shall be in the English language in block letters which shall be of a color that contrasts with their background.

(b) Manufacture such vehicle with each gasoline tank filler inlet having a restriction which prevents the insertion of a nozzle with a spout as described in § 80.22(f)(1) and allows the insertion of a nozzle with a spout as described in § 80.22(f)(2).

(1) Such filler inlet shall be designed to pass not more than 700 c.c. of gasoline into the tank when the introduction of gasoline into such filler inlet is attempted from a nozzle, as described in § 80.22(f)(1), which has a vacuum port the center of which is located within 0.87 inches of the tip and which passes less than 120 c.c. of fuel when fully and rapidly activated with the nozzle vacuum port plugged. During such attempted introduction, the terminal end of the nozzle spout shall be within the filler inlet beyond the cam surface. The nozzle may have *any* orientation within the filler inlet which may reasonably be expected to be encountered in use. The nozzle valve shall be fully and rapidly opened to a 12 ± 1 gallon/minute flow setting. This test is conducted using a test fixture which positions the filler inlet pipe in the same position as it is installed in the vehicle.

[FR Doc.73–20179 Filed 9–20–73;8:45 am]

## PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

### Parathion or its Methyl Homolog

In response to a petition (PP 3E1302) submitted by Dr. C. C. Compton, Coordinator, Interregional Research Project No. 4, State Agricultural Experiment Station, Rutgers University, New Brunswick, NJ 08903, on behalf of the IR–4 Technical Committee and the Agricultural Experiment Station of California, a notice was published by the Environmental Protection Agency in the FEDERAL REGISTER of July 23, 1973 (38 FR 19699), proposing establishment of tolerances for residues of the insecticide parathion (*O,O*-diethyl *O*-*p*-nitrophenyl phosphorothioate) or its methyl homolog (*O,O*-dimethyl *O*-*p*-nitrophenyl phosphorothioate) in or on mustard seed and rape seed at 0.2 part per million. No comments or requests for referral to an advisory committee were received.

It is concluded that the proposal should be adopted.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticide Programs (36 FR 9038), § 180.121 is amended by revising the paragraph "0.2 part per million • • •" to read as follows:

**§ 180.121 Parathion or its methyl homolog; tolerances for residues.**

• • • • •

0.2 part per million in or on mustard seed, sunflower seed, and rape seed.

• • • • •

Any person who will be adversely affected by the foregoing order may at any time on or before October 23, 1973, file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & M Streets. SW., Waterside Mall, Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

*Effective date.*—This order shall become effective on September 21, 1973.

(Sec. 408(e), 68 Stat. 514; 21 U.S.C. 346a(e).)

Dated September 18, 1973.

HENRY J. KORP,
*Deputy Assistant Administrator for Pesticide Programs.*

[FR Doc.73–20180 Filed 9–20–73;8:45 am]

### SUBCHAPTER E—PESTICIDE PROGRAMS

## PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

### Benomyl

A petition (PP 2F1218) was filed by E.I. du Pont de Nemours & Co., Inc., Wilmington, DE 19898, in accordance with provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a), proposing establishment of a tolerance for residues of the fungicide benomyl (methyl-1-(butylcarbamoyl) - 2 - benzimidazolecarbamate) in or on the raw agricultural commodity grapes at 10 parts per million.

Subsequently, the petitioner amended the petition by proposing that the tolerance for residues of benomyl be expressed as "combined residues of benomyl and its metabolites containing the benzimidazole moiety (calculated as benomyl)" and by requesting additional tolerances for combined residues of benomyl and its metabolites containing the benzimidazole moiety (calculated as the fungicide) in poultry liver at 0.2 part per million and eggs and meat, fat and meat byproducts (except liver) of poultry at 0.1 part per million. (For a related document, see this issue of the FEDERAL REGISTER page 26447.)

Based on consideration given the data submitted in the petition and other relevant material, it is concluded that:

1. The fungicide is useful for the purpose for which the tolerances are being established.

2. There is no reasonable expectation that residues in eggs, meat, milk, or poultry will exceed the proposed tolerances and § 180.6(a)(2) applies.

3. The tolerances established by this order will protect the public health.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2)), the authority transferred to the Administrator of the Environmental Protection Agency (36 FR 15623), and the authority delegated by the administrator to the Deputy Assistant Administrator for Pesticide Programs (36 FR 9038), § 180.294 is amended by revising the paragraphs "10 parts per million • • •" and "0.1 part per million • • •" and by adding the new paragraph "0.2 part per million • • •", as follows:

**§ 180.294 Benomyl; tolerances for residues.**

• • • • •





10 parts per million in or on grapes and mushrooms.

• • • • •

0.2 part per million in poultry liver.

• • • • •

0.1 part per million in milk and the meat, fat and meat byproducts of cattle, goats, hogs, horses, poultry (except liver), and sheep.

Any person who will be adversely affected by the foregoing order may at any time on or before October 23, 1973, file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & M Streets, SW., Waterside Mall, Washington, D.C. 20460, written objections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

*Effective date.*—This order shall become effective on September 21, 1973.

(Sec. 408(d)(2), 68 Stat. 512; 21 U.S.C. 346a(d)(2).)

Dated September 18, 1973.

HENRY J. KORP,
*Deputy Assistant Administrator for Pesticide Programs.*

[FR Doc.73–20182 Filed 9–20–73;8:45 am]

## Title 47—Telecommunication

## CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19763; FCC 73–952]

## PART 73—RADIO BROADCAST SERVICES

### FM Broadcast Stations in Certain States

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Ripley, Miss.; Berryville, Ark.; Caro, Mich.; Mitchell, S.D.; Bolivar, Tenn.; Honea Path, S.C.; Pawhuska, Okla.; Oak Creek, Colo.; Springhill, La.; Quitman, Miss.; and Huntingburg, Ind.) RM–2066, RM–2103, RM–2110, RM–2112, RM–2123, RM–2138, RM–2141, RM–2171, RM–2173, RM–2174, RM–2178 (38 FR 20469).

1. The Commission has under consideration its Notice of Proposed Rule Making (FCC 73–607, 38 FR 15971) which was adopted June 6, 1973, and which requested interested parties to submit comments concerning the proposed changes in the FM Table of Assignments, section 73.202(b) of the Rules, on or before July 20, 1973, and to file reply comments on or before July 31, 1973. An Order extending the time for the filing of comments to August 3, 1973 and of reply comments to August 14, 1973, was granted in the case of Ripley, Mississippi. A similar Order which extended the time for filing reply comments up to and including August 8, 1973, was issued with regard to Huntingburg, Indiana. All comments and reply comments that were filed in response to the Notice were considered in making the subsequent determinations.

2. *Caro, Michigan* (RM–2110); *Bolivar, Tennessee* (RM–2123); *Pawhuska, Oklahoma* (RM–2141); *Oak Creek, Colorado* (RM–2171); *Springhill, Louisiana* (RM–2173); *Quitman, Mississippi* (RM–2174). Petitioners have requested that the Commission assign first FM channels (Class A) to these six communities. No additional changes in the FM Table of Assignments are required. The specific channel that has been proposed for each locality and the identity of the petitioner are as follows:

Channel 285A to Caro, Michigan (Tuscola Broadcasting Company).
Channel 244A to Bolivar, Tennessee (Bolivar Broadcasting Service, Inc.).
Channel 272A to Pawhuska, Oklahoma (Cherokee Broadcasting Company).
Channel 280A to Oak Creek, Colorado (Elliott Bayly).
Channel 224A to Springhill, Louisiana (Springhill Broadcasting Company).
Channel 252A to Quitman, Mississippi (Radio Station WBFN).

The populations of these communities range in size from 492 in Oak Creek, Colorado, to 6,674 in Bolivar, Tennessee.[1] With the exception of Oak Creek, which has no broadcast station, each town has only a local AM station which does not transmit at night. The assignment of a Class A FM channel would enable these communities to receive their first local nighttime service. Economic and demographic data further justifying the need of these communities for a first FM assignment was contained in the notice of proposed rulemaking and need not be repeated in this decision.

3. These changes in the FM Table of Assignments comply with the Commission's minimum mileage separation rule provided that the transmitter site in Caro, Michigan, is situated four miles east of that city and the transmitter location in Bolivar, Tennessee is 5.5 miles east of that city. Therefore, since there has been no opposition to these proposals and since the petitioners have all expressed their intent to apply for these channels, we are of the view that the requested assignments are in the public interest.

4. *Honea Path, South Carolina* (RM–2138). On February 12, 1973, Andco Broadcasting Company (Andco), the licensee of standard broadcast Station WHPB in Belton, South Carolina, petitioned the Commission to assign Channel 276A to Honea Path as its first FM assignment. Honea Path (poulation 3,707) is located in the northwest corner of the State in Anderson County (population 105,474) with approximately 3 percent of the city extending into Abbeyville County (poulation 21,112). While this community does receive broadcast service from stations in tht South Carolina towns of Anderson, Belton and Greenville, it has no locally operated broadcast stations. Andco has expressed in its supporting statements the intent to file for Channel 276A in Honea Path, provided the channel is assigned there, and to operate the station independently of its AM operation in Belton.

5. The need of Honea Path for a first FM assignment is clearly stated in the notice of proposed rulemaking and requires no further elaboration here. It is sufficient to note that the shift of Honea Path from a rural agricultural community to a more industrialized locality has been a consequential factor in our decision to assign Channel 276A to that city. However, in order that the minimum milcage separation rule not be violated, the eventual occupant of Channel 276A must build his transmitter 5 miles south of Honea Path. Subject to this stipulation we believe that the assignment of Channel 276A to Honea Path is warranted.

6. *Berryville, Arkansas* (RM–2103). KTHS, Inc. petitioned the Commission on December 4, 1972, to substitute Channel 296A for Channel 237A at Berryville. Berryville (population 2,271) is located in Carroll County (population 12,301) approximately sixty miles south of Springfield, Missouri. It has one Class A FM channel (237A) which is unoccupied and a daytime-only AM station licensed to petitioner.

7. On August 4, 1972, KTHS, Inc. had applied for authority to operate on Channel 237A at Berryville, but its application was rejected duc to the failure of its proposed transmitter site to be the required mileage separation distance of 65 miles from Station KTTS–FM in Springfield, Missouri. A subsequent search by the petitioner for a location this distance from Station KTTS–FM failed to discover a site which was for sale or, alternatively, a site which was economically feasible to develop. The petitioner adds that any of these locations were well outside Berryville's city limits and would have resulted in a signal of dubious quality to this community. In light of these circumstances, the petitioner's request to substitute Channel 296A for Channel 237A at Berryville appears to be in the public interest. The petitioner's engineering statement indicates that Channel 296A is available for use in Berryville without violating our minimum mileage separation requirement. Since petitioner has manifested his intent to apply for Channel 296A if it is assigned and since this change will allow the residents of Berryville to receive a local nighttime service, the substitution of Channel 296A for Channel 237A at Berryville is warranted.

8. *Mitchell, South Dakota* (RM–2112). Radio Station KYNT(AM) in Yankton, South Dakota, filed a petition on January 2, 1973, proposing the substitution of Channel 269A for Channel 265A at Mitchell, South Dakota. Mitchell, with a population of 13,425 persons, is located in Davison County (population 17,319),

[1] All population figures are from the 1970 U.S. Census.



V 38 I 183 SEP 21 73 XUM

about 69 miles west of Sioux Falls. The community has a Class IV AM broadcast station, and the only FM channel assigned to it, Channel 265A, is unoccupied.

9. Petitioner had previously applied on August 8, 1972, for authorization to operate on Channel 262 in Yankton, but was rejected because its proposed transmitter site would have been short-spaced to the reference point of Channel 265A at Mitchell. Since this latter channel is unoccupied, petitioner's request to substitute Channel 269A would result in the elimination of the short spacing problem, thereby allowing the utilization of Channel 262 at Yankton. Channel 269A can be placed in Mitchell without affecting any other FM assignments. For these reasons petitioner's proposal merits adoption.

10. *Ripley, Mississippi* (RM–2066). On September 28, 1972, Kerry Hill filed a petition to assign Channel 288A to Ripley, Mississippi. Ripley, with a population of 3,482 persons, is located in the north central portion of the State in Tippah County (population 15,852). It has no FM assignments and the only local broadcast service which it receives is provided by Station WCSA, a daytime-only AM station. As the notice of proposed rulemaking indicates, the assignment of FM Channel 288A to Ripley would be instrumental in presenting to the public developmental problems which currently affect the community. Petitioner has expressed his intent to apply for this channel if it is assigned. Numerous letters in support of this petition were received from interested persons in the Ripley area.

11. Comments were filed by petitioner, Kerry Hill, and J. W. Furr. Hill supports the proposed assignment of Channel 288A to Ripley. Furr contends that the assignment of Channel 288A to Ripley would be in conflict with his application for the same channel at Aberdeen, Mississippi, which was filed with the Commission on December 26, 1972. Furr states that petitioner's engineering report indicates that a station operating on Channel 288A at Ripley would have to be located in a five-square-mile area approximately six miles east of the city, in order to comply with the Commission's mileage separation requirements and still provide the required city-grade signal over the entire community of Ripley. Furr mentions that in computing the required 65-mile separation from Aberdeen, petitioner mistakenly used the geographical center of Aberdeen as the reference point. He points out that Section 73.208(b) of the Rules requires that the coordinates of Furr's proposed transmitter site be used. When this is done, there are no permissible transmitter sites available which prevents petitioner from having Channel 288A assigned to Ripley. Furr indicates in a counterproposal that Channel 272A could be assigned to Ripley in lieu of Channel 288A.

12. Petitioner in his reply comments notes that his engineering statement was submitted prior to any application for Channel 288A at Aberdeen, and, therefore, could not be expected to consider Furr's proposed antenna site. He does agree, though, that the grant of Furr's application would preclude the use of Channel 288A in Ripley. Petitioner requests that Furr's counterproposal assigning Channel 272A to Ripley be adopted.

13. The assignment of Channel 272A to Ripley would not violate the Commission's mileage separation rule nor result in any additional changes in the FM Table of Assignments provided that the transmitter site is six miles east of the city. In accord with previous decisions, specific notice of the counterproposal to assign Channel 272A to Ripley is not required before it can be adopted. See, e.g., Owensboro on the Air, Inc. v. U.S. 262 F. 2d 702 (D.C. Cir. 1958). Therefore, since the counterproposal would allow this community to have its first FM service, we believe that the assignment of Channel 272A to Ripley, Mississippi, is warranted.

14. *Huntingburg, Indiana* (RM–2178). On April 10, 1973, Paul Knies petitioned to have Channel 265A assigned to Huntingburg, Indiana. This city has a population of 4,794 persons and is located in Dubois County (population 30,934), 67 miles west of Louisville, Kentucky. Petitioner's proposal is in conformity with the Commission's minimum mileage separation rule and does not require any changes in the FM Table of Assignments, provided the transmitter site is three miles north of Huntingburg. Presently, Huntingburg has no local broadcast facilities and petitioner notes that the county has only one daytime AM station an its affiliated FM station. Petitioner has expressed his intent to apply for Channel 265A if it is assigned to Huntingburg.

15. Comments and reply comments were filed by petitioner Paul Knies and Jasper on the Air, Inc., the licensee of WITZ and WITZ–FM in Jasper, Indiana. Jasper on the Air notes that since the communities of Huntingburg and Jasper are in the same county and only five miles apart, on March 28, 1972, it was granted authorization for dual city identification pursuant to § 73.1201(b) of the rules. Jasper on the Air further states that while Jasper is the principal city in terms of its public service obligations, WITZ and WITZ–FM have provided ample local service to Huntingburg. This claim of sufficient service, however, does not follow automatically just because Jasper on the Air has been granted dual city identification. The numerous letters from interested parties in the Huntingburg area present strong evidence that the needs of this community are not being adequately served and that it could use its own local broadcast station. The Mayor, the Chamber of Commerce and the editor of the weekly newspaper, have all stressed the fact that a local radio station, whose primary concern is Huntingburg, would be of substantial benefit. Further, petitioner believes that ample service is not being provided to Huntingburg because WITZ–FM, which is the only nighttime voice in the county, operates only 16 hours a day with up to 14 hours per day of its programming duplicated from daytime-only AM Station WITZ.

16. Jasper on the Air also challenges a claim in support of petitioner's request which was advanced by Thomas Brumett, the Supertintendent of North Spencer County School Corp. and which stated that a station operating at Huntingburg on Channel 265A could furnish 1 mV/m service to eight communities in adjacent Spencer County. Mr. Brumett's contention was without the benefit of engineering advice and Jasper on the Air is correct in noting that a 1 mV/m contour would not extend to half of these communities. However, the principal reason for assigning Channel 265A to Huntingburg is not to serve the eight communities in Spencer County, but to provide Huntingburg with local FM service. Jasper on the Air's last objection involves a counterproposal, advanced in its reply comments, which would assign Channel 265A to communities other than Huntingburg. In our notice of proposed rulemaking we stated that counter proposals advanced in the proceeding itself would be considered if they were included in the comments, so that parties may treat them in their reply comments. Since Jasper on the Air made its counterproposal in its reply comments, we shall not consider it.

17. Petitioner's proposal has the distinct advantage of not only providing Huntingburg with its first local FM channel assignment, but also of creating a competitive broadcast voice in Dubois County. Based on the evidence submitted by petitioner we believe that Huntingburg can maintain an FM station. As petitioner indicates, the estimated retail sales in 1970 for the county were $69,681,000. He also states that there are twenty industrial establishments in the city, along with over 100 places of business. In view of the need for local FM service and the lack of any substantial objection to this proposal, we conclude that it is in the public interest to assign Channel 265A to Huntingburg.

18. Authority for the adoption of the amendments contained herein appears in sections 4(i), 303, and 307(b) of the Communications Act of 1934, as amended.

19. In view of the foregoing, *it is ordered*, That effective October 26, 1973, section 73.202(b) of the Commission's rules, the FM Table of Assignments, is amended to read as follows for the communities indicated:

| City: | Channel No. |
|---|---|
| Berryville, Ark | 296A |
| Oak Creek, Colo | 280A |
| Huntingburg, Ind | 265A |
| Springhill, La | 224A |
| Caro, Mich | 285A |
| Quitman, Miss | 252A |
| Ripley, Miss | 272A |
| Pawhuska, Okla | 272A |
| Honea Path, S.C | 276A |
| Mitchell, S. Dak | 269A |
| Bolivar, Tenn | 244A |





20. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307.)

Adopted September 11, 1973.

Released September 17, 1973.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

[FR Doc.73–20156 Filed 9–20–73;8:45 am]

[Docket No. 19740; FCC 73–946]

## PART 73—RADIO BROADCAST SERVICES

### FM Broadcast Stations in Kentucky

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Elkhorn City, Hindman, Jenkins and Neon, Kentucky), RM–1914, RM–2091, (38 FR 13387).

1. The Commission has before it the Notice of Proposed Rule Making in this proceeding (FCC 73–495), adopted May 9, 1973, and responsive comments filed by Knott County Broadcasting Corporation (Knott) and by Allen Epling.

2. Knott and Epling had each filed a petition for rulemaking seeking a first FM assignment in Hindman and Elkhorn City, Kentucky, respectively. Each proposed the assignment of Channel 296A and the substitution of Channel 232A for the unoccupied Channel 296A assignment at Neon, Kentucky. Because the communities are closer to one another than our spacing requirements would allow, it would not have been possible to accommodate both requests. Commission study indicated that it would be possible to avoid this conflict and to assign Class A channels to Hindman and to Elkhorn City without depriving any other community of a current assignment. Under this approach, set forth in the Notice, Elkhorn City could have Channel 276A and Hindman could have Channel 296A, provided Channel 232A [1] were substituted for Channel 276A at Jenkins, Kentucky, and Channel 261A were substituted for Channel 296A at Neon, Kentucky. None of these proposed changes would affect any existing operation. The only comments filed were those of the petitioners, and each supported the Notice as it related to its own proposal.

3. This case does not involve conflicts of any sort to be resolved and so does not require extended discussion. Although they have become involved in this proceeding, the communities of Neon and Jenkins would suffer no injury, as each would continue to have a single Class A assignment available for use. Even as to other communities not directly involved, our study of the pattern of assignments suggests that the proposed alteration of the FM Table would not work to deprive such communities of otherwise possible assignments. Since this is the case and since we do not have to choose between conflicting proposals, the question is simply one of the need for the requested assignments.

4. At some length the petitioners have set forth the facts which lead them to believe that a first FM assignment is required in order to meet important local needs. Although neither community is particularly large, each functions as a trade center for a significant number of persons. Thus, even though Hindman has only 808 residents, it is the seat of Knott County and currently supports a daytime-only AM station, licensed to Knott. In fact, Hindman is the only incorporated community in the county, and the proposed assignment would bring the county's first full-time radio service. Elkhorn City is somewhat larger (population 1,081), but it has no local station at all. Since both areas are to some degree isolated and lack nearby full-time radio service, the proposed assignments could bring important area benefits in addition to providing first FM assignments in the communities. In our view, this situation provides ample reason for making the proposed assignments.

5. Accordingly, *It is ordered*, That effective October 26, 1973, the FM Table of Assignments (§ 73.202(b) of the Commission's rules and regulations) is amended to read as follows for the communities indicated:

| City: | Channel No. |
|---|---|
| Elkhorn City, Ky | 276A |
| Hindman, Ky | 296A |
| Jenkins, Ky | 232A |
| Neon, Ky | 261A |

6. Authority for the actions taken herein is contained in sections 4(i), 303 and 307(b) of the Communications Act of 1934, as amended.

7. *It is further ordered*, That this proceeding is terminated.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 307.)

Adopted September 11, 1973.

Released September 14, 1973.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

[FR Doc.73–20149 Filed 9–20–73;8:45 am]

[1] Antenna site at Jenkins, Kentucky, must be located at least 2 miles west of the community.



V38I183 SEP 21 73 XUM

# Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### [ 7 CFR Part 905 ]

### ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA

### Limitation of Handling

These proposals would extend the current grade and size limitations for the period October 15, 1973, through September 29, 1974, applicable to oranges (but not including the current grade requirement on shipments of Valencia, Lue Gim Gong, and similar late maturing oranges of the Valencia type), grapefruit, tangerines, and tangelos handled between the production area in Florida and any point outside thereof. The proposed limitations applicable to the specified varieties of oranges (including the proposed minimum grade requirement applicable to shipments of Valencia, Lue Gim Gong, and similar late maturing oranges of the Valencia type), grapefruit, tangerines, and tangelos are designed to promote orderly marketing and provide consumers with an ample supply of acceptable quality fruit.

Notice is hereby given that the Department is considering proposed amendments, as hereinafter set forth, pursuant to the applicable provisions of the marketing agreement, as amended, and Order No. 905, as amended (7 CFR Part 905), regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The amendments were proposed by the Growers Administrative Committee established under said amended marketing agreement and order, as the agency to administer the terms and provisions thereof.

The proposed amendments reflect the Department's appraisal of the need for regulation of shipments of the specified varieties of oranges, grapefruit, tangerines, and tangelos during the period October 15, 1973, through September 29, 1974, based on the available supply and current and prospective market conditions. The amendments are designed to continue shipment of ample supplies of fruit of the better grades and more desirable sizes in the interest of both growers and consumers. The proposed action is designed to maintain orderly marketing conditions by preventing the demoralizing effect on the market caused by shipment of lower quality and smaller size fruit when more than ample supplies of the more desirable grades and sizes are available to serve consumer's needs. The proposed amendments are consistent with the objective of the act of promoting orderly marketing and protecting the interest of consumers.

The regulatory proposals are as follows:

*Order.* 1. In § 905.550 (Orange Regulation 72; 38 FR 25665) the provisions of paragraph (b) preceding subparagraph (1) thereof and subparagraph (9) are amended to read as follows:

**§ 905.550 Orange Regulation 72.**

* * * * * *

(b) During the period October 15, 1973, through September 29, 1974, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

* * * * * *

(9) Any Valencia, Lue Gim Gong, and similar late maturing oranges of the Valencia type, grown in the production area, which do not grade at least U.S. No. 1; and

* * * * * *

2. In § 905.551 (Grapefruit Regulation 74; 38 FR 25665) the provisions of paragraph (b) preceding subparagraph (1) thereof are amended to read as follows:

**§ 905.551 Grapefruit Regulation 74.**

* * * * * *

(b) During the period October 15, 1973, through September 29, 1974, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

* * * * * *

3. In § 905.552 (Tangerine Regulation 45; 38 FR 25665) the provisions of paragraph (b) preceding subparagraph (1) thereof are amended to read as follows:

**§ 905.552 Tangerine Regulation 45.**

* * * * * *

(b) During the period October 15, 1973, through September 29, 1974, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

* * * * * *

4. In § 905.553 (Tangelo Regulation 45; 38 FR 25665) the provisions of paragraph (b) preceding subparagraph (1) thereof are amended to read as follows:

**§ 905.553 Tangelo Regulation 45.**

* * * * * *

(b) During the period October 15, 1973, through September 29, 1974, no handler shall ship between the production area and any point outside thereof in the continental United States, Canada, or Mexico:

* * * * * *

5. In § 905.554 (Export Regulation 23; 38 FR 25665) the provisions of paragraph (b) preceding subparagraph (1) thereof and subparagraph (9) are amended to read as follows:

**§ 905.554 Export Regulation 23.**

* * * * * *

(b) During the period October 15, 1973, through September 29, 1974, no handler shall ship to any destination outside the continental United States other than to Canada or Mexico:

* * * * * *

(9) Any Valencia, Lue Gim Gong, and similar late maturing oranges of the Valencia type, grown in the production area, which do not grade at least U.S. No. 1;

* * * * * *

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals should file the same, in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112A, Washington, D.C. 20250, not later than October 2, 1973. All written submission made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated September 18, 1973.

CHARLES R. BRADER,
*Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.73-20175 Filed 9-20-73;8:45 am]

## Animal and Plant Health Inspection Service

### [ 9 CFR Part 381 ]

### AIRSACCULITIS

### Proposed Inspection Regulations

Pursuant to the authority in the Poultry Products Inspection Act (71 Stat. 441 as amended; 21 U.S.C. 451 et seq.), the Animal and Plant Health Inspection Service is proposing an amendment to Part 381, Subpart K, of the poultry products inspection regulations to clarify present criteria for condemning birds affected with airsacculitis.

*Statement of considerations.* Preventing adulteration of the poultry supply is a principal function of the Animal and Plant Health Inspection Service of the Department of Agriculture. It is the intent of Congress that when poultry or poultry products are condemned because of disease, such condemnation shall be achieved through uniform application of inspection standards.

Airsacculitis is a condition of poultry that renders the poultry adulterated, in whole or in part, requiring condemnation of the entire carcass or those affected parts. Achieving uniformity of application requires that the standards for condemnation be delineated in the regulations. Therefore, the Animal and Plant Health Inspection Service proposes to amend the poultry products inspection regulations to provide a new section concerning airsacculitis. Part 381 would be amended as set forth below:

At the beginning of the part, the table of contents, Subpart K, would be amended by adding a heading for § 381.84, and a new § 381.84 would be added to read as follows:

**§ 381.84 Airsacculitis.**

Carcasses of poultry with evidence of extensive involvement of the air sacs with airsacculitis or those showing airsacculitis along with systemic changes shall be condemned. Less affected carcasses may be passed for food after complete removal and condemnation of all affected tissues including the exudate.

* * * * * *

Any person wishing to submit written data, views, or arguments concerning the proposed amendment may do so by filing them in duplicate with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by November 30, 1973.

Any person desiring opportunity for oral presentation of views should address such requests to the Inspection Standards and Regulations Staff, Scientific and Technical Services, Meat and Poultry Inspection Program, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, so that arrangements may be made for such views to be presented prior to the date specified in the preceding paragraph. A record will be made of all views orally presented.

All written submissions and records of oral views made pursuant to this notice will be made available for public inspection in the Office of the Hearing Clerk during regular hours of business, unless the person makes the submission to the Staff identified in the preceding paragraph and requests that it be held confidential. A determination will be made whether a proper showing in support of the request has been made on grounds that its disclosure could adversely affect such person by disclosing information in the nature of trade secrets or commercial or financial information obtained from any person and privileged or confidential. If it is determined that a proper showing has been made in support of the request, the material will be held confidential; otherwise, notice will be given of denial of such request and an opportunity afforded for withdrawal of the submission. Requests for confidential treatment will be held confidential (7 CFR 1.27(c)).

Comments on the proposal should bear a reference to the date and page number of this issue of the FEDERAL REGISTER.

Done at Washington, D.C., on September 14, 1973.

F. J. MULHERN,
*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc.73-20172 Filed 9-20-73;8:45 am]

### [ 9 CFR Part 381 ]

### FEDERALLY INSPECTED POULTRY PRODUCTS

### Labeling and Official Marks of Inspection

Pursuant to the authority in the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), the Animal and Plant Health Inspection Service is considering amending the poultry products inspection regulations (9 CFR 381.1, 381.130, 381.131, 381.132, 381.133, 381.134, 381.135, 381.142, 381.175, and 381.205).

The proposal is intended to establish procedures for the approval of labeling, marking devices, and containers for use with poultry products; provide criteria for manufacturers to print labels or other devices bearing the marks of inspection; permit inspectors to approve certain modifications of labels previously approved; and establish equitable procedures for processing label approval applications in the Washington office.

*Statement of considerations.* Preventing the distribution of misbranded and improperly packaged poultry products is one of the principal objectives of the Poultry Products Inspection Act. The Act requires that poultry products prepared at federally inspected establishments or distributed in commerce bear marking or labeling which has been approved by the Secretary. Many years ago, the Secretary promulgated regulations to accomplish that responsibility. However, those regulations are in general terms and it appears desirable that they should be modified to clarify the requirements concerning approval of labeling, marking devices, and containers and to provide additional information concerning procedures for submitting such articles to the Department's Meat and Poultry Inspection Program for approval.

During the past few years the poultry industry has been rapidly expanding, not only in numbers of plants and volume of production, but in greater diversification of the types of products processed and marketed. This expansion in the production of new poultry products has required the Department to establish standards and develop new marking and labeling requirements. Many of those requirements have not been clearly understood by many plant owners and operators. This has made it more difficult for them to prepare new labeling material and to follow appropriate procedures in submitting it to the Department for approval. Another development is that for the past few years there has been a large increase in the number of personal visits to the Department's Washington office by plant officials and representatives. This has made it difficult for the Department to maintain a proper balance between the service rendered to those personal visitors and those making application by mail. At one time, applications for labeling approval submitted by mail were not being processed as rapidly as those brought to the Department personally or by a representative. This was an unjust arrangement for plant owners and operators desiring to use mail service. Some minor organizational and procedural changes were made to alleviate this inequity.

Due to the increased workload, and in order to establish clearly understandable procedures and requirements, other changes are necessary so the Department can improve its labeling approval service. This proposal sets forth proposed procedures and requirements for submitting labeling applications which could aid the Department's efforts to formalize this matter so an equitable, expeditious service can be rendered to those seeking labeling approval.

This proposal also contains a provision to formalize the procedure for granting approval to manufacture marking and labeling devices. The Act and regulations promulgated thereunder prohibit casting, printing, lithographing, or otherwise making any device containing the official mark of inspection or any label bearing such mark without approval by the Administrator. At this time, there is no official procedure for delegating such authority. This proposal would rectify that matter. Establishing a formal procedure would be advantageous to manufacturers and suppliers of marking and labeling devices since it would eliminate the possibility of misunderstanding.

The specific proposed amendments to the regulations are as follows:

1. Section 381.131 and the title thereof would be revised to read as follows:

**§ 381.131 Prior approval required for certain labeling and marking devices; conditions and procedure.**

(a)(1) No labeling or device bearing an official mark as provided for in Subpart M of this subchapter, or simulation thereof, shall be used until it has been approved in finished form, as provided in this section. This requirement does not, however, apply to labeling used on the outside of an immediate or shipping container and approved in accordance with § 381.134(b) of this subchapter.

(2) No labeling or device bearing an official mark, or simulation thereof, shall be made or caused to be made in finished form until it has been approved in sketch form, as provided in this section; except that such prior approval of a sketch will not be required when finished labeling is submitted initially: *Provided, however,* That no more than 100 prints of the







V 38-183
SEP 21 73
XUM

labeling may be prepared in finished form without sketch approval and such prints shall be marked "Proof" before being removed from the printing establishment or printing facility.

(3) Inserts, tags, liners, pasters, and similar articles containing printed or graphic matter for use on, or to be placed within, containers or coverings for product shall be submitted for approval in the same manner as provided for in subparagraph (2) of this paragraph. Inspectors in charge may, however, permit use of such devices which bear no reference to any product and which are not false or misleading in any particular, even though not so submitted.

(b) Requests for approval required under paragraph (a) of this section shall be made on Form MP-480, Application for Approval of Labels, Marking or Device,[1] in accordance with the procedures prescribed in this section. To request approval, the applicant (or his agent) shall submit sketches or proofs of the labeling or device, as described in paragraph (a) of this section. Copies of these sketches or proofs shall be attached to Form MP-480 completed as prescribed in paragraph (d) of this section. Applications shall be mailed to: Labels and Packaging Staff, Meat and Poultry Inspection Program, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Post Office Box 7416, Benjamin Franklin Station, Washington, D.C. 20044, or delivered to the office of said Staff, U.S. Department of Agriculture, Washington, D.C. Applications will be processed in accordance with the following procedures:

(1) Applications received by mail will be stamped with the date of receipt and will be processed in the daily order in which they are received.

(2) Applications delivered to the office of said Staff by the applicant (or his agent) shall be handled as follows:

(i) The application shall be left with the receptionist who will stamp thereon the date of receipt, which will be used to determine priority of processing applications as provided in subparagraph (b)(1); and instructions shall also be left with the receptionist identifying the person to be notified of the final action and the method of notification desired; or

(ii) The applicant (or his agent) may schedule a conference with the label review office for the purpose of presenting applications in person. Such conferences will be scheduled, based on available time, Monday through Friday. Every effort will be made to schedule conferences to meet the desires of the applicant. However, availability of label review personnel for such conferences will be dependent upon the processing of all applications on an equitable time basis, regardless of the mode of receipt. These procedures for scheduling conferences only apply to routine applications. Conferences to discuss principles of labeling or special problems will be by appointment during regular working hours Monday through Friday.

Information supplied under this section will be treated as confidential insofar as authorized under the provisions of 5 U.S.C. 552, 18 U.S.C. 1905, §§ 9(a)(5) and 22 of the Act, and 15 U.S.C. 50, and the public information regulations of the Department of Agriculture (7 CFR 1.1 et seq. and supplementary regulations). All information requested must be given either in the space provided on Form MP-480 or by attaching additional sheets as necessary.

(c) The sketch for labeling or a device shall be an accurate representation of the labeling or device as it will appear in finished form. To be considered for approval, the sketch shall:

(1) Show all of the features required by Subparts M and N of this subchapter.

(2) Represent by rough drawings, printing, or other means, the exact information to be shown, the approximate location thereof, and size of type to be used. When a comprehensive sketch of a true color reproduction of the finished labeling or device with complete details is submitted, it will be eligible for final approval under the conditions stated in paragraph (e) of this section.

(3) Indicate transparent or semi-transparent colored coverings.

(4) Present pictorials, if used, in color photographs, color transparencies or color prints.

(5) Indicate, if proposed for multiplant operations, the official establishment numbers of the plants at which the final labels will be used.

(6) Show each applicable ingredient statement and formula for which the labeling format will be used.

(d) Form MP-480 shall be completed in its entirety in accordance with the instructions provided on the reverse side of the form and shall conform with the following provisions:

(1) Entries shown under the item—"Fill Specifications" shall specify the quantity of each component of the product, either by weight or percentage, if the product consists of two or more major distinct components such as "turkey and gravy," "frozen dinner," etc. The space shall not be used for such products as stews, soup, patties, etc.

(2) Entries shown under the item—"Formula Breakdown of Each Major Component" shall specify a formula, listing the ingredients and quantity, either by weight or percentage, of each ingredient used in the preparation of each component making up the product. In cases where the percentages of ingredients may vary, approximate percentages may be given if the limits of variations are stated. When a complex ingredient (such as a breading or seasoning mixture), for which there is no Food and Drug Administration standard of identity, is shown in a formula, the formula shall be further explained by listing the common name of each ingredient therein. The quantity need not be shown for each ingredient in gravy bases, gravy mixes, seasoning mixes, and relishes. The space shall not be used for products that do not have distinctly separate components such as stews, soup, patties, etc.

(3) The space provided for "Complete Formula" shall be used to show the complete formula of the product and to specify the quantity of each ingredient used to prepare the product, either by weight or percentage, in descending order of predominance, when required in the specific case by the Administrator.

(4) "Processing Procedures" shall describe those processing procedures (fabricating, cooking, smoking, curing, canning, etc.) that may significantly affect the physical properties or condition of the product, or both. Description of the establishment control methods exercised with respect to the processing procedures shall be provided when it is required in the specific case by the Administrator to enable determination whether the product complies with statements on the labeling.

(e)(1) Finished labeling shall not be printed prior to obtaining sketch approval except as provided for in paragraph (a)(2) of this section. In any case, if finished labeling is printed prior to sketch approval, the applicant shall assume full responsibility and risk for the labeling which may be disapproved for use in accordance with the regulations in this Part.

(2) Finished labeling submitted for approval shall be accompanied by a copy of the approved sketch or make reference to the approved sketch, if a sketch has been approved, or other approval; or comply with the requirements of this section with respect to submission of sketches for approval: *Provided*, That,

(i) Finished labeling intended for use at more than one official establishment shall be submitted in sufficient copies to provide two copies for each official establishment designated on the application;

(ii) Lithographed labels, metal containers or sections therefrom shall not be submitted for approval. Paper takeoffs can be used to represent lithographed labels submitted for approval. Such paper takeoffs shall not be in the form of a negative but shall be a complete reproduction of the label as it will appear on the package, including any color scheme involved; and

(iii) For fiber containers, the printed layers such as kraft paper sheet, showing the entire label shall be submitted for approval in lieu of the complete container.

(f) At an official establishment, application for approval of a device or a sketch of any labeling or device, proof of any labeling, or any finished labeling completed in accordance with this section, may be submitted by the applicant to the inspector in charge. Applications may also be submitted to Washington, D.C., as hereinafter provided.

(1) If such material is submitted to the inspector in charge, he shall initially review the material as follows:

[1] Copies of this form may be obtained from any Meat and Poultry Inspection Program office or from the Administrator.





(i) If he determines that the device, sketch of labeling or device, proof of labeling, or finished labeling and the formulation of the product on which the labeling is to be used are in accordance with the applicable provisions of §§ 381.96 or 381.97, 381.117 through 381.122, 381.125, 381.147(f)(3), and 381.155 through 381.170 of this subchapter, he shall sign the application in the space provided therefor, and submit an imprint of the device, the sketch of labeling or device, proof of labeling, or finished labeling and the formulation to the Labels and Packaging Staff for review to determine whether the proposed labeling or device complies with all the applicable provisions of this subchapter, and approval or disapproval accordingly.

(ii) If the inspector in charge determines that the device, sketch, proof, or finished labeling or the formulation of the product on which the labeling or the device is to be used is not in accordance with the regulations cited in subparagraph (1)(i) of this paragraph, he shall notify the applicant and request that the labeling or device be revised or the product formulation be changed in accordance with the applicable regulations: *Provided*, That, if the applicant does not agree with the inspector in charge's determination, the inspector in charge shall complete Form MP-442, "Checklist for Accuracy of Labels," identifying nonconforming features of the device, sketch, proof, finished labeling, or product formulation. The completed Form MP-442, signed by the inspector in charge, shall be submitted with the application and the imprint of the device, sketch, proof, or finished labeling to the Washington, D.C., office of the Labels and Packaging Staff for review and decision.

(2) If the Washington office of the Labels and Packaging Staff concurs with the inspector in charge's determinations, the application will be returned to the applicant without further action. If, however, said office does not agree with the inspector in charge's determinations, the application will be further processed in the usual manner for a determination whether the proposed labeling or device complies with all the applicable provisions of this subchapter, and approval or disapproval accordingly.

(3) The operator of an official establishment may submit applications for approval of a device, sketch of labeling or device, proof of labeling or finished labeling to the Washington office of the Labels and Packaging Staff for review If said office determines that the device, sketch, proof, or finished labeling or the formulation of the product on which the labeling or device is to be used is not in accordance with the regulations cited in paragraph (f)(1)(i) of this section, the application will be returned to the applicant with an appropriate explanation of why the material submitted appears not to be in accordance with the regulations. Otherwise, it will be processed in the usual manner for a determination whether the proposed labeling or device complies with all the applicable provisions of this subchapter and approval or disapproval accordingly.

(4) Applications for approval of a device, a sketch of labeling or device, proof of labeling, or finished labeling will be reviewed and processed by the Washington, D.C., office of the Labels and Packaging Staff in the order received by that office. If an application is returned to the applicant because the sketch, proof, or finished labeling or product formulation does not comply with the regulations cited in paragraph (f)(1)(i) of this section, and an application is resubmitted therefor, it will be handled as a new application in accordance with this section.

(g) A sample of the product for which labeling approval is being sought may be required to be furnished by the applicant to the Washington, D.C., office of the Labels and Packaging Staff to determine the acceptability of the proposed labeling.

(h) Two copies of the approved sketch shall be mailed to the inspector in charge of the official establishment concerned, and, if requested, a copy of the approved sketch may be given to the applicant or his agent. Copies of approved sketches for multiplant operations may be sent to the applicant under appropriate procedures approved by the Administrator.

(i)(1) All applications for approval of labeling or devices intended for use on or with products to be imported into the United States shall comply with all requirements of this section, except that the applications shall be presented directly to the Labels and Packaging Staff, Meat and Poultry Inspection Program, Post Office Box 7416, Benjamin Franklin Station, Washington, D.C. 20044.

(2) After receiving an approved sketch, the applicant shall submit the finished labeling or device in the same manner as required for sketches, except that a minimum of four copies of the finished labeling or device plus one for each foreign plant producing the product involved and one for each port of entry where the product will be offered for importation into the United States shall be furnished. Each port of entry and each foreign producing plant shall be listed in the application.

(3) The import inspector shall not allow entry of the product proposed for importation into the United States until he receives an approved copy of the finished labeling or device.

(j) Copies of the approved application for labeling or devices pertaining to domestic product shall be mailed to the inspector in charge of the official establishment concerned, and he shall deliver a copy to the applicant. When an applicant desires wider than usual distribution of approved copies, he shall provide extra copies of the application, along with mailing or other distribution instructions. Approved applications for foreign product shall be returned to the applicant. Copies shall be sent to the inspector of the foreign plant where the product is to be prepared. Each labeling or device made or caused to be made by the applicant for approval of such labeling or device, shall conform to the approved sketch or proof.

(k) The Administrator may approve and authorize the use of abbreviations for marks of inspection under the regulations in this subchapter. Such authorized abbreviations shall have the same force and effect as the marks themselves.

(l) Any action taken by any inspector in charge or any other employee of the Inspection Service under this subchapter with respect to any application for approval of any labeling or device may be appealed to the immediate supervisor of such employee by the applicant. An order under section 8(d) of the Act to withhold any marking, labeling or container from use may be issued only by the Administrator in accordance with § 381.130 of this part.

**§ 381.130 [Amended]**

2. Section 381.130 would be amended by adding a sentence to the end of that section to read: "For the purpose of this section, the Administrator shall not mean his delegate."

**§ 381.1 [Amended]**

3. Section 381.1(b)(3) would be amended by adding the following phrase to the end of the sentence: "unless otherwise specified."

4. Section 381.132 and the title thereof would be revised to read as follows:

**§ 381.132 Authorization required to make labeling or other devices bearing official marks.**

(a) No person shall cast, print, lithograph, or otherwise make or cause to be made any labeling or device bearing any official mark, or simulation thereof, except as authorized by the Administrator as provided for in this section and in § 381.131 of this subchapter.

(b) Receipt of an approved sketch or proof for a labeling or device bearing the official mark as provided for in § 381.131 of this subchapter, shall be deemed sufficient authorization by the Administrator to make or cause to be made such labeling or device in accordance with the provisions of this section.

(c)(1) The operator of the official establishment, prior to making or causing to be made, labeling or devices in accordance with the approved sketch bearing the official mark shall make and deliver to the manufacturer a certificate in the following form:

(Firm's letterhead)

I hereby certify that this establishment (insert establishment number) has been duly authorized by the Secretary of Agriculture, to make or cause to be made the following labeling or device bearing the official mark of inspection, and I do hereby authorize (Name and Address of Manufacturer) to



V 381183 SEP 21 73 XUM

make said labeling or device as indicated below:

Type of labeling or device
Final approval number (when applicable)
Date of sketch or final approval
Brand name
Product name
Quantity (units) to be manufactured
Deliver to: Name and address----------
Signed ----------
Title ----------
Date ----------

(2) The certificate required by paragraph (c)(1) of this section shall be prepared in triplicate and distributed as follows:

(i) The original certificate and a copy of the approved labeling or device and the order to manufacture shall be delivered to the manufacturer.

(ii) One copy of the certificate shall be delivered to the inspector in charge of the official establishment to be filed by him in the official program file in the establishment.

(3) One copy of the certificate, a copy of the approved labeling or device, a copy of the order to manufacture and a record of the quantity received and disposition made of the labeling or device, shall be maintained by the operator of the official establishment as provided for in Subpart Q of this subchapter.

(d)(1) Each manufacturer who shall cast, print, lithograph, or otherwise make or cause to be made, any labeling or device bearing any official mark or simulation thereof shall maintain, as provided in Subpart Q of this subchapter, the documents prescribed in paragraph (c)(2)(i) of this section along with records to show the quantity of such labeling or device so made and the disposition made of such articles by the manufacturer. The manufacturer shall afford to any authorized representative of the Secretary, upon his request, an opportunity to inspect and copy such documents and records during regular hours of business.

(2) No manufacturer shall deliver any such labeling or device to any person who was not authorized, as provided in this section, to receive such articles.

5. Section 381.133 would be amended by revoking paragraph (a) in its entirety; deleting the paragraph designation "(b)" with the provisions of that paragraph becoming the text of the amended § 381.133; and changing the section heading as follows: § 381.133 *Requirements of analysis.*

6. A new § 381.142 would be added to Subpart N as follows:

**§ 381.142 Containers.**

Containers for any product shall not result in the adulteration or misbranding of the product. Containers shall not be composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health under conditions of use. Containers shall adequately protect products and shall not be deceptive. Container composition shall comply with section 409 of the Federal Food, Drug, and Cosmetic Act, as amended, and the implementing regulations in 21 CFR 121, Subparts B, E, and F.

7. Section 381.134 would be amended by revising paragraph (b) to read as follows:

**§ 381.134 Label approvals by the inspector in charge.**

• • • • •

(b) Stencils, labels, box dies, and brands may be used on shipping containers which contain properly labeled immediate containers or immediate containers which contain properly marked poultry products, such as tierces, barrels, drums, boxes, crates, and large-size berboard containers, without approval as provided for in § 381.131 of this part. *Provided,* That the stencils, labels, box dies, and brands are not false or misleading and are approved by the inspector in charge. The official inspection legend for use in combination with such devices shall be approved by the Administrator as provided for in this part.

• • • • •

8. Section 381.135 and the title thereof would be revised to read:

**§ 381.135 Inspector in charge may permit modifications of approved labelings or markings.**

(a) The inspector in charge may permit modifications of approved labeling or marking under any of the following circumstances, provided the labeling or marking, as modified, is so used as not to be false or misleading.

(1) When all features of the labeling or marking are proportionately enlarged and the color scheme remains the same;

(2) When abbreviations are substituted for words, such as "lb." for "pound," or "oz." for "ounce," or words are substituted for abbreviations such as "pound" for "lb.";

(3) When the name and address of the distributor are included in the blank space following the words "prepared for" or a similar statement, on a master or stock label which was approved with the understanding that such information would be added later;

(4) When, during any holiday season, special designs or wrappers are used with approved labelings or markings on a label;

(5) When there is a slight change in the directions pertaining to opening a can or serving the product;

(6) When the appropriate name or class of the poultry is added to a master or stock label which was approved without this information appearing on the label;

(7) When there is a change in the quantity of an ingredient shown in the formula without a change in the order of predominance shown in the ingredients statement on the label: *Provided,* That the change in the quantity of ingredients complies with any minimum or maximum limits for the use of such ingredients prescribed in Subparts O and P of this part, or identified in the original approved application as a condition for approval of the product name.

(b) Request for such permission shall be made to the inspector in charge, prior to printing the modified labeling, on Form MP-480, as specified in § 381.131, except that in lieu of a sketch sufficient copies of the previously approved labeling may be modified to indicate the change(s) and the information on Form MP-480 may be limited to the modification requested.

(c) The inspector in charge shall review the application for permission for use of a modified labeling, and, if appropriate, indicate approval by signing his name in the appropriate space on Form MP-480.

(d) Prior to use, three copies of the modified finished labeling shall be submitted to the inspector in charge on Form MP-480 for his approval. If approved, the inspector in charge will indicate approval by signing his name on Form MP-480 in the appropriate space and distribute copies as follows:

(1) one copy to the establishment operator,

(2) one copy to the inspector at the establishment, for filing along with the original approval, and

(3) one copy to the Labels and Packaging Staff, Meat and Poultry Inspection Program, for review and filing.

(e) If the inspector in charge determines that the modification does not comply with the regulations, and the applicant disagrees, the application for modification must be submitted to the Labels and Packaging Staff for review and decision.

8. Section 381.175 would be amended by adding a new paragraph (d)—a paragraph (c) is proposed in another document to be published separately—to read as follows:

**§ 381.175 Records required to be kept.**

• • • • •

(d) The operator of each official establishment and the manufacturer of any labeling or device bearing any official inspection mark shall also maintain the records required by § 381.132 of this subchapter.

9. Section 381.205(c) would be amended as follows:

**§ 381.205 Labeling of immediate containers of imported poultry products.**

• • • • •

(c) Labeling for immediate containers of imported poultry products shall be submitted for approval to the Labels and Packaging Staff, Meat and Poultry Inspection Program, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, and approved as provided in Subpart N of this Part, before products bearing such labeling will be admitted into the United States.

• • • • •

8. The table of contents to Subpart N—Labeling and Containers would be amended to reflect new headings for §§ 381.131, 381.132, 381.133, and 381.135, and to add the new § 381.142 with its heading, as follows:

Sec.
381.131 Prior approval required for certain labeling and marking devices; conditions and procedures.
381.132 Authorization required to make labeling or other devices bearing official marks.
381.133 Requirements of analysis.
381.135 Inspector in charge may permit modifications of approved labelings or markings.
381.142 Containers.

• • • • •

Any person wishing to submit written data, views, or arguments concerning the proposed amendments may do so by filing them in duplicate with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by November 30, 1973.

Any person desiring opportunity for oral presentation of views should address such requests to the Labels and Packaging Staff, Scientific and Technical Services, Meat and Poultry Inspection Program, Animal and Plant Health Inspection Servire, U.S. Department of Agriculture, Washington, D.C. 20250, so that arrangements may be made for such views to be presented prior to the date specified in the preceding paragraph. A record will be made of all views orally presented.

All written submissions and records of oral views made pursuant to this notice will be made available for public inspection in the Office of the Hearing Clerk during regular hours of business, unless the person makes the submission to the Staff identified in the preceding paragraph and requests that it be held confidential. A determination will be made whether a proper showing in support of the request has been made on grounds that its disclosure could adversely affect such person by disclosing information in the nature of trade secrets or commercial or financial information obtained from any person and privileged or confidential. If it is determined that a proper showing has been made in support of the request, the material will be held confidential; otherwise, notice will be given of denial of such request and an opportunity afforded for withdrawal of the submission. Requests for confidential treatment will be held confidential (7 CFR 1.27(c)).

Comments on the proposal should bear a reference to the date and page number of this issue of the FEDERAL REGISTER.

Done at Washington, D.C., on September 17, 1973.

F. J. MULHERN,
*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc.73-20173 Filed 9-20-73;8:45 am]

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

**[ 29 CFR Part 1910 ]**

[S-73-9]

### ANHYDROUS AMMONIA

### Storage and Handling

Pursuant to section 6(b) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1593; 29 U.S.C. 655), Secretary of Labor's Order No. 12-71 (36 FR 8754), and 29 CFR Part 1911, it is hereby proposed to amend Part 1910 of Title 29, Code of Federal Regulations, as set forth herein.

Paragraph (a)(3) of § 1910.267 applies paragraphs (a) and (b) of § 1910.111, concerning the storage and handling of anhydrous ammonia, to agricultural operations. Since paragraphs (g) and (h) of this section refer specifically to systems mounted on farm vehicles, and since paragraphs (c) through (f) could also conceivably apply, it is proposed to amend paragraph (a)(3) of § 1910.267 by deleting the reference to "(a) and (b)", so that the entire anhydrous ammonia standard will be made applicable to agricultural operations.

Written data, views, and arguments concerning the proposal may be mailed to the Office of Standards, Occupational Safety and Health Administration, U.S. Department of Labor, Room 504, 400 First Street NW., Washington, D.C. 20210. All written submissions received before October 22, 1973, will be considered. The data, views, and arguments will be available for public inspection and copying at the Office of Standards located at the above address. Pursuant to 29 CFR 1911.11 (b) and (c), interested persons may, in addition to filing written material as provided above, file objections to the proposal requesting an informal hearing with respect thereto in accordance with the following conditions:

(1) The objections must include the name and address of the objector;

(2) The objections must be postmarked on or before October 22, 1973;

(3) The objections must specify the provisions of the proposed rule to which objection is taken, and must state the grounds therefor;

(4) Each objection must be separately stated and numbered; and

(5) The objections must be accompanied by a summary of the evidence proposed to be adduced at the requested hearing.

As amended, 29 CFR 1910.267(a)(3) would read as follows:

**§ 1910.267 Agricultural operations.**

(a) • • •

(3) Storage and handling of anhydrous ammonia—§ 1910.111.

• • • • •

(Sec. 6, Public Law 91-596, 84 Stat. 1593 (29 U.S.C. 655). Secretary's Order No. 12-71 (36 FR 8754).)

Signed at Washington, D.C., this 18th day of September, 1973.

JOHN H. STENDER,
*Assistant Secretary of Labor.*

[FR Doc.73-20157 Filed 9-20-73;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Public Health Service

**[ 42 CFR Part 50 ]**

### PHS SUPPORTED PROGRAMS

### Sterilization Procedures

In the FEDERAL REGISTER for August 3, 1973, the Department published a notice of Guidelines for Sterilization Procedures under HEW Supported Programs (38 FR 20930). As stated in the notice, the Guidelines have been approved by the Secretary and its policies will be implemented through regulations issued by the affected agencies in the Department. The Public Health Service is among the agencies affected.

Notice is hereby given that the Assistant Secretary for Health, with the approval of the Secretary, proposes to amend Part 50 of Title 42, Code of Federal Regulations by adding a new subpart B which sets forth the policy that programs or projects supported in whole or in part by Federal funds administered by the Public Health Service shall not perform nor arrange for sterilization of any individual within certain classes of persons unless prescribed procedures are followed. Specifically, the regulations would require that such programs or projects shall not perform nor arrange for the performance of a non-therapeutic sterilization of any person who is under the age of twenty-one or who is legally incapable of giving informed consent to the sterilization unless a Review Committee (established in accordance with the regulations) has reviewed and approved the sterilization. Moreover, if the individual belongs to the class of those who are legally incapable of consenting—due to nonage, mental capacity or condition, or court adjudication—the regulations would, in addition to Review Committee approval, require a judicial determination that the proposed sterilization is in the best interest of the patient. The proposed regulations are by way of limitation and do not require any PHS supported program or project to provide or arrange for the provision of sterilization. Upon their effective date, the regulations will apply to existing programs and projects as well as to programs or projects approved for Federal support on and after that date.

Interested persons may address comments, data, views and arguments, in writing, in triplicate, to the Assistant Secretary for Health, U.S. Department of Health, Education, and Welfare, 330 Independence Avenue, Washington, D.C. 20201. All comments received in response to this notice will be available for public inspection at the foregoing address on weekdays between the hours of 9 a.m. and 5 p.m. All material received on or before October 23, 1973 will be considered. It is proposed to make the regulations effective upon their republication in the FEDERAL REGISTER.

It is therefore proposed to amend Part 50 (whose establishment was proposed







V 38 I 183 S SEP 21 73 XUM

on May 21, 1973 (38 FR 13418)) by adding a new subpart B in the manner set forth below.

Dated August 28, 1973.

H. E. SIMMONS,
*Acting Assistant Secretary for Health.*

Approved September 17, 1973.

CASPAR W. WEINBERGER,
*Secretary.*

**Subpart B—Sterilization of Persons Under 21 and Persons Legally Incapable of Consenting**

Sec.
50.301 Applicability.
50.302 Definitions.
50.303 General policy.
50.304 Composition and duties of the Review Committee.
50.305 Duties of the program or project.

AUTHORITY.—Sec. 215, 58 Stat. 690, as amended; 42 U.S.C. 216.

**§ 50.301 Applicability.**

The provisions of this subpart are applicable to programs or projects which are supported in whole or in part by Federal financial assistance, whether by grant or contract, administered by the Public Health Service.

**§ 50.302 Definitions.**

As used in this subpart:

(a) "Public Health Service" means the Health Services Administration, Health Resources Administration, National Institutes of Health, Center for Disease Control, Food and Drug Administration and all of their constituent agencies.

(b) "Sterilization" means any procedure or operation the primary purpose of which is to render an individual permanently incapable of reproducing and which is not a necessary part of the treatment of an illness or injury.

(c) "Committee" means the Review Committee required by § 50.303(a).

(d) "Secretary" means the Secretary of Health, Education, and Welfare and any other officer or employee of the Department of HEW to whom the authority involved has been delegated.

(e) A person "legally incapable of giving consent" includes any person who (1) under State law, is a minor whose consent to the sterilization would not be legally effective, (2) has been adjudicated incompetent by a court of competent jurisdiction, or (3) in the judgment of a responsible program or project official, appears to be incapable of giving informed consent because of a mental condition or lack of mental capacity.

**§ 50.303 General policy.**

(a) Programs or projects supported in whole or in part by Federal funds shall not perform nor arrange for the performance of a sterilization of any individual who is under the age of twenty-one or who is legally incapable of giving consent unless:

(1) A Review Committee, as described in § 50.304, has reviewed and approved the sterilization, and

(2) In the case of an individual who is legally incapable of giving consent, a court of competent jurisdiction has determined that the proposed sterilization is in the best interests of the patient.

(b) In no case shall sterilization be performed on a legally competent individual, irrespective of age, unless that individual has given written informed consent to the sterilization.

(c) These regulations are by way of limitation and are not intended to require any program or project to provide or arrange for sterilization.

**§ 50.304 Composition and duties of the Committee.**

(a) The Committee referred to in § 50.303(a) shall be composed of not less than five members selected by responsible authorities of the program or project. The members shall be so selected that the Committee will be competent to deal with the medical, legal, social and ethical issues involved in sterilization. No member may be an officer, employee or other representative of the program or project under which the procedure is proposed, nor may any member be otherwise involved in the proposed sterilization. Both sexes shall be represented on the Committee, and at least one member shall be a representative selected from the population served by the program or project.

(b) The Committee shall determine whether the proposed sterilization is in the best interest of the patient and in doing so shall:

(1) Review appropriate medical, social, and psychological information concerning the patient, including the age of the patient, alternative family planning methods, and the adequacy of consent;

(2) Interview concerned individuals, as well as others, who in its judgment will contribute pertinent information; and

(3) Record its findings and determinations, collect supporting documentation and transmit these records to the program or project.

**§ 50.305 Duties of the program or project.**

(a) Whenever the Committee determines that a sterilization of an individual who is incapable of consenting is appropriate, the program or project shall seek to obtain the court determination required by § 50.303(a)(2).

(b) The program or project shall maintain records transmitted by the Review Committee as part of the permanent record of the patient; the records shall be available for examination by the Secretary to determine compliance with these regulations.

(c) The program or project shall report to the Secretary at least annually, the number and nature of the sterilizations subject to the procedures set forth in this subpart, the number of Committee disapprovals of such sterilizations, the number and nature of conditional Committee approvals, and such other relevant information regarding such procedures as the Secretary may request.

[FR Doc.73-20127 Filed 9-20-73;8:45 am]

## Social and Rehabilitation Service

**[ 45 CFR Part 249 ]**

## MEDICAL ASSISTANCE PROGRAMS

### Sterilization Procedures

Notice is hereby given that the regulation set forth in tentative form below is proposed by the Administrator, Social and Rehabilitation Service, with the approval of the Secretary of Health, Education, and Welfare. The proposed regulation will implement the guidelines approved by the Secretary and published in the FEDERAL REGISTER on August 3, 1973 regarding procedures to be followed in safeguarding individual rights in cases of sterilization under title XIX of the Social Security Act.

The provisions of 45 CFR 249.10(a)(11) and 45 CFR 249.10(c)(2) setting forth requirements which must be met in order for a state plan to meet conformity criteria and for federal financial participation to be available in expenditures for sterilization, will be made applicable to services under Titles IVA and VI of the Social Security Act and included in the social services regulations when those regulations are published.

Prior to adoption of the proposed regulations, consideration will be given to any comments, suggestions, or objections thereto which are submitted in writing to the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, 330 Independence Avenue SW., Washington, D.C. 20201, on or before October 23, 1973. Comments received will be available for public inspection in Room 5224 of the Department's offices at 301 C Street SW., Washington, D.C. on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (area code 202-962-4451).

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).)

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program.)

Dated September 12, 1973.

JAMES S. DWIGHT, Jr.,
*Administrator, Social and Rehabilitation Service.*

Approved September 17, 1973.

CASPER W. WEINBERGER,
*Secretary.*

Section 249.10, Part 249, Chapter II, Title 45 of the Code of Federal Regulations is amended to add subparagraphs (a)(11) and (c)(2) as follows:

**§ 249.10 Amount, duration and scope of medical assistance.**

(a) *State plan requirements.* A State plan for medical assistance under title XIX of the Social Security Act must:

* * * * *

(11) provide that (i) any non-emergency procedure which will have the effect of rendering an individual permanently incapable of reproducing is supported by evidence that the recipient or some other legally authorized individual acting on the recipient's behalf voluntarily consents in writing to the performance of such procedure and (ii) any procedure or operation the primary purpose of which is to render an individual permanently incapable of reproducing and which is not a necessary part of the treatment of an illness or injury:

(*a*) In the case of any recipient who is under age 21 or legally incapable of giving informed consent has been reviewed and approved by a committee designated by the State agency, and

(*b*) In the case of any recipient who is legally incapable of giving informed consent, has been determined by a court of competent jurisdiction to be in the individual's best interest.

The committee referred to in paragraph (a)(11)(ii)(*a*) of this section shall be composed of no less than five members competent to deal with the medical, legal, social and ethical issues involved in sterilization and shall include at least one member of the population served by the agency. The committee shall have both male and female members. No member shall otherwise be an officer, employee or other representative of the State agency or its local subdivision, or of the institution, agency or physician providing the proposed sterilization. The duties of the committee shall be to review medical, social, and psychological information concerning the recipient, the feasibility of utilizing alternative family planning methods, and the adequacy of consent; to interview or otherwise consult with individuals who in its judgment will contribute relevant information; to determine whether the proposed sterilization procedure is in the best interest of the recipient; and to record its findings and determinations, collect supporting documentation, and transmit these records to the agency.

* * * * *

(c) *Limitations* * * *

(2) Federal financial participation is not available in expenditures for procedures for sterilization unless the requirements in paragraph (a)(11) of this section have been met.

* * * * *

[FR Doc.73-20128 Filed 9-20-73;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

**[ 49 CFR Part 393 ]**

[Docket No. MC-53; Notice No. 73-24]

### AUTOMATIC DEVICES FOR REDUCING FRONT-WHEEL BRAKING EFFORT ON COMMERCIAL VEHICLES

### Notice of Proposed Rulemaking

*Correction*

In FR Doc. 73-19440 appearing at page 25452 in the issue of Thursday, September 13, 1973, after the last word in the last line of § 393.48(c)(2), insert "of that section".





## CIVIL AERONAUTICS BOARD

**[ 14 CFR Part 241 ]**

[Docket No. 25903; EDR-254]

### CHARGES BY FOREIGN GOVERNMENTS FOR AIRPORT AND EN ROUTE FACILITIES AND SERVICES

### Proposed Rule Making

SEPTEMBER 17, 1973.

Notice is hereby given that the Civil Aeronautics Board has under consideration amendment to Part 241 of its Economic Regulations (14 CFR Part 241), which would require certificated route and supplemental air carriers to report charges by foreign governments for airport and en route facilities and services.

The background and principal features of the proposed amendment are described in the attached Explanatory Statement, and the proposed amendment is set forth in the Proposed Rule. The amendment is proposed under the authority of sections 204(a) and 407 of the Federal Aviation Act of 1958, as amended (72 Stat. 743 and 766, as amended; 49 U.S.C. 1324 and 1377).

Interested persons may participate in the proposed rule making through submission of twelve (12) copies of written data, views or arguments pertaining thereto, addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All relevant material received on or before November 5, 1973, will be considered by the Board before taking final action upon the proposed rule. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 711 Universal Building, 1825 Connecticut Avenue, NW, Washington, D.C. upon receipt.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

*Explanatory statement.* On January 16, 1973, the Civil Aeronautics Board's Bureau of Accounts and Statistics issued an information request to all route and supplemental air carriers for the submission of data relating to charges by foreign governments on air carriers for the facilities and services provided by the foreign governments. The request also specified the intention of the Board to initiate a Notice of Proposed Rule Making to amend Part 241 of the Economic Regulations to require the air carriers to submit this data on a recurring basis.

The need for this information arises from the fact that there has been a steady increase in the number of foreign governments which levy charges on international air carriers for airport and en route facilities and services, such as communication facilities and navigation aids, air traffic services, meteorological services, passenger services, fuel through-put services, aircraft landing services, and other ancillary aviation services. Moreover, not only has the number of foreign governments levying such charges increased steadily following the 1967 ICAO conference on "Airport and Route Facilities," but in some cases, the amounts of these charges have also been increased since their initial establishment, apparently with the ultimate goal of achieving a complete recovery of all costs associated with the establishment of the various facilities and services.

To insure that the Board is completely aware of developments in the area of cost recovery policies of foreign governments, and the trends associated therewith, it is proposed to amend Part 241 of the Economic Regulations to provide for quarterly reporting of these charges on a new Form 41 Schedule P-11, "Charges by Foreign Governments for Airport and En Route Facilities and Services" (Appendix A).[1] This schedule will require each route and supplemental air carrier to identify the foreign government to which charges were paid for airport and en route facilities and services, and the amounts charged therefor, broken down by type of expense, and by name of the airport where the expense was incurred. The Board has tentatively concluded that data reported on the proposed schedule will be of considerable value to the Board in revealing the disparity of charges made, not only between airports of different countries, but between airports within the same national jurisdiction.

It is proposed to amend Part 241 of the Economic Regulations (14 CFR Part 241) as follows:

**Section 22 [Amended]**

1. Amend paragraph (a) of section 22—General Reporting Instructions as follows:

(a) Add Schedule P-11—Charges by Foreign Governments for Airport and En Route Facilities and Services in the List of Schedules in CAB Form 41 report to read:

| Schedule No. | Schedule title | Filing frequency |
|---|---|---|
| * | * * * * | * |
| P-10 | Payroll | Do. |
| P-11 | Charges by Foreign Governments for Airport and En Route Facilities and Services. | Do. |
| P-41 | Taxes | Annually. |
| * | * * * * | * |

(b) Include Schedule P-11 in the list of Due Dates of Schedules in CAB Form 41 for the following due dates: Feb. 10, May 10, Aug. 10 and Nov. 10.

**Section 24 [Amended]**

2. Amend Section 24 Profit and Loss Elements to include, following the description of Schedule P-10, the following description of Schedule P-11:

[1] Filed as part of original document.



V 38 I 183 SEP 21 73 XUM

*Schedule P–11—Charges by Foreign Governments for Airport and En Route Facilities and Services*

(a) Schedule P–11 shall be filed by all route air carriers that are performing international operations.

(b) This schedule shall reflect the charges for airport and en route facilities and services by foreign governments, such as communication facilities and navigation aids, air traffic services, meteorological services, through-put charges for aircraft fuel, landing fees, passenger head tax, and other ancillary aviation services.

(c) A separate Schedule P–11 shall be filed for each foreign government to which charges are paid and the name of the government shall be reported in item (1).

(d) Item (2) "Name of Airport" shall reflect the name(s) of the airport(s) under the jurisdiction of the foreign government to which charges for airport and en route facilities and services apply. For each airport reported, show the amount charged by the foreign government broken down by type of expense indicated on lines 1 through 7.

**Section 32 [Amended]**

3. Amend paragraph (a) of Section 32—General Reporting Instructions as follows:

(a) Add Schedule P–11—Charges by Foreign Governments for Airport and En Route Facilities and Services in the List of Schedules in CAB Form 41 Reports to read:

| Schedule No. | Schedule title | Filing frequency |
|---|---|---|
| • | • • • • | • |
| P–7..... | Aircraft and Traffic Servicing, Promotion and Sales, and General and Administrative Expense Functions—Group II and Group III Air Carriers. | Do. |
| P–11..... | Charges by Foreign Governments for Airport and En Route Facilities and Services. | Do. |
| Y–3.1..... | Statement of Traffic and Capacity Statistics. | Monthly. |
| • | • • • • | • |

(b) Include Schedule P–11 in the list of "Due Dates of Schedules in CAB Form 41" for the following due dates: Feb. 10, May 10, Aug. 10, and Nov. 10.

**Sec. 34 [Amended]**

4. Amend Section 34—Profit and Loss Elements to Include, following the description of Schedule P–7, the following description of Schedule P–11:

*Schedule P–11—Charges by Foreign Governments for Airport and En Route Facilities and Services*

(a) Schedule P–11 shall be filed by all supplemental air carriers that are performing international operations.

(b) This schedule shall reflect the charges for airport and en route facilities and services by foreign governments, such as communication facilities and navigation aids, air traffic services, meteorological services, through-put charges for aircraft fuel, landing fees, passenger head tax, and other ancillary aviation services.

(c) A separate Schedule P–11 shall be filed for each foreign government to which charges are paid and the name of the government shall be reported in item (1).

(d) Item (2) "Name of Airport" shall reflect the name(s) of the airport(s) under the jurisdiction of the foreign government to which charges for airport and en route facilities and services apply. For each airport reported, show the amount charged by the foreign government broken down by type of expense indicated on lines 1 through 7.

[FR Doc.73–20164 Filed 9–20–73;8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

**[ 40 CFR Part 52 ]**

**CALIFORNIA AND OREGON**

**Implementation of State Plans; Opportunity for Public Comment**

On June 15, 1973, pursuant to § 110(a) of the Clean Air Act and 40 CFR Part 51, the Administrator announced his disapproval of the control strategies for photochemical oxidants and carbon monoxide in the San Diego, Sacramento, San Joaquin, and San Francisco regions, and for photochemical oxidants in the Southeast Desert region, due to the lack of timely submittal of transportation control plans. This was published in the FEDERAL REGISTER on June 22, 1973 (38 FR 16550). The Administrator proposed transportation control plans for these regions on July 16, 1973 (38 FR 18948).

On June 15, 1973, the Administrator also announced his partial approval and partial disapproval of the control strategies for photochemical oxidants and carbon monoxide in the Portland region of Oregon. Transportation control plans were proposed for this region on August 2, 1973 (38 FR 20766.)

If, prior to promulgation, a State has adopted and submitted a plan or revision which the Administrator determines to be in accordance with applicable requirements, the State plan will be approved in lieu of promulgation of all or part of the Administrator's proposals. This notice is issued to advise the public that the State of California has submitted a Revision 3 to the State General Plan and to the plans for San Francisco, San Diego, San Joaquin, and Sacramento, and that the State of Oregon has submitted supplemental information for the Portland region. Comments may be submitted on whether the control strategies should be approved or disapproved in whole or in part by the Administrator under § 110(a) of the Clean Air Act. Only comments received within 21 days from the publication of this notice will be considered. Notice of opportunity to comment on State plans has been published previously on April 24, April 27, May 4, June 1, June 22, July 18, August 3, and August 15, 1973.

A more detailed description of the information submitted is set forth below.

CALIFORNIA

A document entitled "The State of California Implementation Plan for Achieving and Maintaining the National Ambient Air Quality Standards, Revision 3, State General Plan, San Francisco Bay Area Basin Plan, San Diego Air Basin Plan, San Joaquin Valley Air Basin Plan, Sacramento Valley Air Basin Plan," dated June 21, 1973, was received on August 21, 1973, including within it a submittal letter from the Governor dated July 25, 1973. This document notes on page 11 of the chapter entitled "Part I, State General Plan," that a "Regional Transportation Plan" was to be prepared by the Metropolitan Transportation Commission (MTC) for adoption by June 30, 1973, and that, upon adoption, it would be submitted to EPA as a part of Revision 3. The MTC's "Regional Transportation Plan" was included in the submission received on August 21, 1973, consisting of five documents: "Proposed Regional Transportation Plan: Support System Transit—Service Areas," "Proposed Regional Transportation Plan: Existing and Approved Facilities," and "Proposed Regional Transportation Plan: Improvement Proposals," (three maps, dated May 31, 1973), "Regional Transportation Plan, Proposed, June 1, 1973," and a memorandum dated July 10, 1973, from Paul C. Watt, MTC, "Subject: Guide to Revisions and/or Changes In Proposed Regional Transportation Plan" with two attachments consisting of Resolution No. 85 adopted by the MTC on June 27, 1973, and "Revisions to Regional Transportation Plan as Adopted June 27, 1973". Additional documents in the State submission are the "Revision No. 3, Appendix VI—Summaries," dated June 21, 1973, and "Revision to *Appendix* of the State of California Implementation Plan for Achieving and Maintaining the National Ambient Air Quality Standards," dated June 21, 1973. Finally, an unsigned paper by the MTC staff was also included, entitled "Proposed Strategies for Transportation Controls," dated August 21, 1973.

Four public hearings were held by the California Air Resources Board during May 1973, on Revision 3. Four public meetings were held on the Regional Transportation Plan by the MTC.

The Governor's letter, dated July 25, 1973, requests extensions until 1977 of the attainment dates for the photochemical oxidant standard in the San Diego, San Francisco, and Sacramento regions, and for the carbon monoxide standard in the Sacramento region.

OREGON

A document entitled "Department of Environmental Quality, Supplemental Information and Plans, Portland Transportation Control Strategy," has been received, including letters dated August 15 and August 20, 1973, from





Diarmuid F. O'Scannlain, Director, Oregon Department of Environmental Quality. An official transmittal by the Governor is expected shortly. The document consists of Section 1 (Motor Vehicle Inspection/Maintenance—Retrofit Program) Section 2 (Traffic Flow and Mass Transit Improvement Programs), and Appendices A through E. On August 15, 1973, the state Legislative Emergency Board approved an expenditure of $1,000,000 to begin implementation of the vehicle inspection program.

Copies of the proposed California Revision 3 are available at the Regional Counsel's Office, Room 118–A, EPA, Region IX, 100 California Street, San Francisco, California, 94111, and at the Air Resources Board, 1025 P Street, Sacramento, California 95814. Copies of the Oregon supplemental information are available at the Air Programs Branch, Room 10–B, EPA, Region X, 1200 Sixth Avenue, Seattle, Washington 98101, and at the Department of Environmental Quality, 1234 SW. Morrison Street, Portland, Oregon 97205.

Dated: September 18, 1973.

RUSSELL E. TRAIN,
*Administrator.*

[FR Doc.73–20178 Filed 9–20–73;8:45 am]

**[ 40 CFR Part 120 ]**

**PUERTO RICO**

**Interstate Water Quality Standards**

Notice is hereby given that pursuant to the authority of section 303(b) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251, 1313(b); 86 Stat. 816 et seq; P.L. 92–500) ("the Act"), regulations setting forth standards of water quality to be applicable to the navigable waters of the Commonwealth of Puerto Rico are proposed.

Under section 303(a) of the Act, the Administrator of the Environmental Protection Agency is required to review water quality standards for interstate and intrastate waters adopted and submitted by the States. When he determines that changes in such standards are required to meet the requirements of the Act as in effect prior to October 18, 1972 (the date of enactment of the 1972 Amendments to the Act, P.L. 92–500), he must notify the State. If the State does not adopt the required revisions, or if the revisions submitted by the State do not meet the requirements of the Act, the Administrator is to publish proposed revised water quality standards in accordance with such requirements.

The Commonwealth of Puerto Rico prior to October 18, 1972, adopted water quality standards for both interstate and intrastate waters. After the enactment of the 1972 Amendments, EPA reviewed both the interstate and intrastate standards pursuant to section 303(a) of the Act. (A notice concerning EPA review of all interstate and intrastate water quality standards was published in the FEDERAL REGISTER on December 29, 1972, 37 FR 28775–28780.) The interstate standards for Puerto Rico are identified in 40 CFR Part 120 (37 FR 6087, March 24, 1972). The intrastate standards are contained in the same document which is available for inspection and copying at the Environmental Quality Board, 1550 Ponce deLeon Avenue, 4th Floor, P.O. Box 11488, Santurce, Puerto Rico 00910 and the EPA Regional Office, 26 Federal Plaza, Room 908, New York, New York 10007. EPA's information regulations, 40 CFR Part 2, provide that a fee may be charged for making copies.

On January 17, 1973, the Regional Administrator notified Puerto Rico that certain revisions to its interstate water quality standards were necessary to make the standards consistent with the applicable requirements of the Act. On March 8, 1973, a similar notification was made for intrastate water quality standards. The State has not formally submitted the required revisions within the 90-day period allowed by sections 303(a)(1) and 303(a)(2) of the Act. Accordingly, pursuant to section 303(b)(1), EPA is now proposing regulations setting forth standards required to comply with the Act as in effect prior to October 18, 1972.

Section 303(b)(2) of the Act requires the Administrator to promulgate standards no later than April 1, 1974, unless by such time the State shall have adopted a water quality standard which the Administrator determines to be in accordance with the requirements of section 303(a) of the Act. However, the Administrator is not required to await State action for the entire 190 day period prior to promulgation. Thus, these standards may be promulgated by the Administrator at any time following the expiration of time for public comment.

Except as provided in the attached proposed regulations, the interstate and intrastate standards previously adopted by the Commonwealth of Puerto Rico as referenced above are the effective water quality standards under section 303 of the Act for interstate and intrastate navigable waters within that State. Where the proposed regulations set forth below are inconsistent with the referenced standards, these regulations, if promulgated, will supersede such standards to the extent of the inconsistency.

Interested persons may submit written data, views, or arguments, in triplicate, in regard to the proposed regulations to the Regional Administrator, 26 Federal Plaza, Room 908, New York, New York 10007. All revelant material received not later than October 23, 1973.

Dated September 13, 1973.

JOHN QUARLES,
*Acting Administrator.*

Chapter I of Title 40, Code of Federal Regulations, is amended as follows:

1. Part 120 is amended to add a new § 120.12 as follows:

**§ 120.12 Puerto Rico water quality standards.**

(a) *Mixing zone.* In no case shall the maximum length of the major axis of the mixing zone in coastal waters exceed 4000 feet.

(b) *Dissolved oxygen.* For Class SC waters the disclosed oxygen concentration shall not be less than 5 mg/1 except when natural conditions cause this value to be depressed.

[FR Doc.73–20177 Filed 9–20–73;8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

**[ 47 CFR Part 73 ]**

[Docket No. 19720; FCC 73–944]

**FM BROADCAST STATIONS**

**Tupelo, Miss.; Termination**

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Tupelo, Mississippi), RM–1915, (38 FR 9835).

1. The Commission has before it the notice of proposed rulemaking in this proceeding, adopted April 11, 1973 (FCC 73–391; 38 FR 9835), comments filed by the proponent, Town 'N Country (TNC) and an informal response from the mayor of Baldwyn, Mississippi.

2. The proposal put forward in the Notice was to assign Channel 240A to Tupelo, Mississippi, as a second FM assignment. Tupleo, a community of 20,471 persons, already has an operating Class C FM station on its only current FM channel. Before we could proceed to make the requested assignment, it would be necessary to favorably resolve the several issues presented by this case. Beyond the always-present question of the justification for the assignment itself, we need to consider the matters of intermixture and preclusion. In some instances, we decide against making an assignment without regard to such other factors, but the reasoning applicable to such cases does not apply here. TNC has provided sufficient support to warrant making the assignment were it not for these other matters. Since there is no dispute on this score, we need not pursue the aspect of the filings concerned with making a prima facie case for assigning a second channel. Instead we will turn to the other questions to see if they dictate a different resolution of the case.

3. The first point to consider is that of intermixture. As TNC has observed, in some instances we have added a Class A channel to the existing Class B or C assignment (or assignments) in a community. If a Class B or Class C channel, as the case may be, is not available and additional FM service is needed, quite obviously this is the only means to bring it. If no other problems are presented and a party is willing to proceed using a Class A channel, we have given our approval. Before we can conclude that no other problems are presented, we need to examine other aspects of the situation. Since Class A channels are normally intended for use in smaller communities, we need to consider the impact on channel availability for such smaller communities. This channel could instead be used at Baldwyn or Booneville, Mississippi, but the latter already has a channel for



V 38 I 183 SEP 21 73 XUM

which an application has been filed. Baldwyn does not, and TNC acknowledges that no channel other than 240A could be made available to Baldwyn. Thus, we face a question of preclusion.

4. How important is the preclusionary effect on Baldwyn? To answer this point we need to consider relative need and likelihood of interest in using the channel at Baldwyn. If the Tupelo need is demonstrably greater or no interest in Baldwyn were apparent, it would be possible to accommodate the TNC request. If not, its proposal must be denied. The material on these points is not extensive. Baldwyn's mayor simply states that there is interest in use of the channel and that we should not deprive this community of 2,366 persons of its only chance for local broadcast service. TNC points to Baldwyn's small size, contrasting it with Tupelo's: TNC also emphasizes Tupelo's growth and economic development.

5. Our guidelines for the making of assignments indicate that one or two FM channels might be assigned to communities having a population under 50,000. Tupelo's population is toward the lower end of the range, and for most communities of like size in Mississippi, we have provided only a single FM assignment. In addition, we note that Tupelo has a VHF television station, three AM stations in operation (two full-time, one Class III and one Class IV), an AM station under construction and a 100 kilowatt operation on its current FM assignment.[1] This is not the picture of great deprivation calling for immediate remedy regardless of the consequences.

6. Baldwyn lacks any means of local expression, save for its weekly newspaper. As a small community, it is a suitable location for a Class A assignment. The mayor assures us that interested parties will step forward shortly. If they did, our current inclination would be to act favorably on their request. However, these interested parties have yet to speak. For this reason, we do not think it appropriate to assign the channel to Baldwyn now. If a rule making proposal were to be filed, the matter could then be pursued. In the meantime, we shall not make an assignment to any community. TNC is invited to renew its request should a Baldwyn proposal not be forthcoming within six months. In this way we can protect Baldwyn's needs in a reasonable manner without precluding a future assignment to Tupelo should Baldwyn parties not proceed in due course.

7. Accordingly, *it is ordered*, That the subject proposal is denied and that this proceeding is terminated.

Adopted: September 11, 1973.

Released: September 14, 1973.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

[FR Doc.73-20151 Filed 9-20-73;8:45 am]

[1] It also has a daily newspaper and a large CATV system. Baldwyn has a CATV system, too, but only a weekly newspaper.

## [ 47 CFR Part 73 ]

[Docket No. 19825; FCC 73-951]

## DUAL-LANGUAGE TV/FM PROGRAMMING IN PUERTO RICO

### Notice of Inquiry and Proposed Rule Making

In the Matter of Dual-Language TV/FM Programming in Puerto Rico.

1. The Commission wishes to explore the subject of dual-language programming and to consider the possibility of adopting rules applicable to the presentation of such programming. The need for a rulemaking proceeding was expressed in our Memorandum Opinion and Order adopted June 27, 1973 (FCC 73-706, 41 F.C.C. 2d), continuing in effect the current experimental dual-language operation conducted by San Juan, Puerto Rico, Stations WAPA-TV and WPRM (FM). Pending the outcome of the rule making proceeding to be inaugurated, we declined to expand dual-language operations to encompass new parties or areas of operation.

2. For the purposes of this proceeding, dual-language programming refers to the telecast of a program in one language with the simultaneous transmission of the audio material in a second language. As now conducted experimentally, this has meant the telecast of programs in Spanish on Station WAPA-TV with the audio portion being carried in English on Station WPRM-FM. Thus viewers have a choice of languages when they watch the limited number[1] of programs involved in the experimental operation, mostly feature films.

3. The genesis of the experiment was in 1967 when Station WAPA-TV petitioned the Commission for approval of an agreement with Station WIAC-FM which provided for such an operation for up to 10 hours per week. The Commission indicated its lack of objection to the experiment and the operation commenced. Subsequently objections were raised in a petition for reconsideration, but the Commission found them insufficient to warrant termination of the experiment. On rare occasions, pursuant to Commission approval, the experiment reached beyond San Juan, but for the most part, the experiment continued as originally proposed, save for the replacement of Station WIAC-FM by WPRM-FM. Periodic reports were provided on the experience with the experimental operation.

4. Although there had been some general expressions of interest by other parties, little had happened to suggest that the scope of the subject went beyond the limited purposes of the experimental operation. More recently, however, the Commission received a request from WAPA-TV to extend dual-language operations into the Aguadilla-Mayaguez and Ponce areas of Puerto Rico, and it also received a request from Station WRIK-TV in Ponce for permission to conduct its own dual-language operations in San Juan, Ponce and Mayaguez. In the above Memorandum Opinion and Order the Commission denied both requests to extend dual-language operations and continued the existing WAPA-TV experimental operation pending further action. The action contemplated was the initiation of a rulemaking proceeding on the subject of dual-language programming. In so acting we agreed with the assertion of Station WRIK-TV that all desirous of conducting dual-language operations should be on equal footing, but we held that further inquiry would be required before such operations could be regularized. Even had the requests not been filed, since the experiment had continued for a substantial period, it was clear that the time had come to resolve the legal and policy questions raised by these operations, particularly if they were to be conducted on a continuing basis.

5. In the June 27, 1973, document we indicated our current inclination toward making some provision for dual-language operations on a permanent basis. This inclination should not be taken as expressing a definitive view that such should be our conclusion. Nor, if we should decide to proceed along this line, was it our intention to permit unrestricted dual-language operations. As will be seen from the discussion below, the methodology for conducting these operations may bear significantly on the nature of the restrictions which ought to apply. The broad scope of our inquiry in this proceeding is intended to permit an exploration of all matters pertinent to dual-language operations in Puerto Rico. However, it is not our intention to extend the inquiry to include the possibility of such operations elsewhere. Puerto Rico is unique in that its two languages—English and Spanish—enjoy equal status.[2] It is officially bi-lingual and follows a policy of fostering the ability in all its citizens of being able to utilize both languages. This situation does not obtain anywhere else. By no means do we denigrate the various foreign language offerings of various television and radio stations. Whether partially or totally oriented toward the providing of such offerings, these stations have provided meritorious service in responding to needs in their areas. Nevertheless, the situation on the mainland is different from that obtaining in Puerto Rico. In order for it to be analogous, there would have to be a mainland policy of fostering a facility in Spanish on the part of all continentals. Such, obviously, is not the case. In addition, it is not only Spanish that would be involved on the mainland, for it would be necessary to include the many other languages that are understood by significant numbers of mainland people.

6. At present, the dual-language method utilized in San Juan is that of employing an FM station to broadcast

[1] The parties are limited to providing a maximum of 10 hours per week of dual-language programming.

[2] Title 1, Section 51 P.R. Laws Annotated (1965).





the second audio signal. As we observed in the recent Memorandum Opinion and Order, it was not clear that FM transmissions of material of little value absent the companion video portion was "broadcasting" as defined by the Communications Act. This is a point we intend to consider and one on which we seek comments. Even if we reach the conclusion that it is broadcasting within the meaning of the Communications Act, there are other problems to consider since the programming has little value to a person not watching the TV station. Obviously, it is also duplicative and during the hours involved prevents the FM station from presenting programming directly intended for its FM audience. Were spectrum space unlimited, our concern would be lessened, but since this is not at all the case, we need to consider the impact on FM stations and audience alike. One method of avoiding this problem would be to use a multiplexing approach. Whether the second audio signal were to be multiplexed on the TV signal or were to become one of the forms of FM subsidiary communications authorization (SCA),[3] other problems could be introduced. Technology for the latter approach exists, but in terms of coverage or otherwise, it may not be considered satisfactory. As to the former, new methodology would be required. We need to know how feasible these approaches are, not just technically, but economically as well. What costs would there be for the stations involved, TV or FM? Would it be an expense that they could or would accept? What of the cost to the public? If they had to obtain special receivers or pay for major modifications of current home equipment, would the cost be too high? Would it diminish usage to the point of vitiating the purpose of such operations? Might it not most affect those in greatest need for the service? In responding to these issues parties should address all the policy ramifications and consequences involved. If parties believe that these obstacles could be overcome, they are requested to offer technical proposals for consideration in this proceeding.

7. There are other questions, not necessarily related to methodology, that have to be considered. On what basis should an FM station's main channel be used? What we have in mind here are limitations on the number of hours, or part of the day when the operation would be conducted, or as to minimum number of FM stations in a market before such use of an FM station could be permitted. The possibility of cumulative effects from multiple, perhaps simultaneous, operations also needs to be considered. Should coverage differentials between stations be considered by the Commission or should selection of station be left to private negotiations. What of our multiple ownership rules and our policies on joint rates? Should a rate differential be permitted for dual-language operations? Would this be an unfair form of competition? What of the effect on the inauguration of regular telecasting in English, as once was conducted in San Juan on Channel 18? Would there be an impact? If so, how much should this be taken into account? If such operations are to be permitted on a regularized basis, should they be terminated, reduced or rescheduled upon the commencement of regular, full-time telecasting of English language programming?

8. From reports provided by Station WAPA-TV, we have gathered that dual-language programming has been a popular concept.[4] However, more than local popularity is involved, and before any regularization of this service can be sanctioned, we need answers to the above questions. We seek all useful information, and parties should feel free to comment on any aspect of the issues involved. Because of the wide range of issues involved and the equally wide range of possible solutions, we are not setting forth the language of any proposed rules. While the possibility exists that a further notice of rule making and responsive comments to it may be needed, interested parties are advised that if the information received in response to this document is sufficient for the purpose, rules may be adopted without any further notice. Authority for the subject proposal to amend the Commission's rules is found in sections 4(i), 303(b), (g), and (r) 313(a), and 403 of the Communications Act of 1934, as amended.

9. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules, interested parties may file comments on or before October 26, 1973, and reply comments on or before November 5, 1973. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken. In reaching its decision in this proceeding, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this notice.

10. In accordance with the provisions of § 1.419 of the rules, an original and 14 copies of all comments, replies, pleadings, briefs, and other documents shall be furnished the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its Headquarters in Washington, D.C. (1919 M Street, NW.).

Adopted September 11, 1973.

Released September 14, 1973.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

[FR Doc.73-20153 Filed 9-20-73;8:45 am]

[3] Already, several SCA operations are being conducted on a dual-language basis pursuant to our current SCA rules.

[4] It is not clear how this popularity translates into ratings. WAPA-TV's experience suggests that the impact may vary.

## [ 47 CFR Part 73 ]

[Docket No. 19823; FCC 73-945]

## FM BROADCAST STATIONS IN CERTAIN STATES

### Table of Assignments

In the Matter of amendment of § 73.202(b), *Table of assignments*, FM Broadcast Stations (Brattleboro, Vt.; Ship Bottom, N.J.; Derby, Kans.; Amherst, Mass.; Tallulah, La.; Wadesboro, N.C.; Jena, La.; Bowling Green, Mo.; Chillicothe, Ill.; and Butler, Mo.), RM-2131, RM-2159, RM-2189, RM-2190, RM-2191, RM-2202, RM-2204, RM-2207, RM-2220, RM-2221, RM-2233.

1. The Commission has under consideration eleven petitions which propose amending § 73.202(b) of the rules, the FM Table of Assignments, by assigning a first FM channel to each of the above-mentioned communities. With the exception of Derby, Kansas, none of these ten communities are located in or near an urbanized area. All petitions are unopposed. The specific channel that has been proposed for each locality and the identity of the respective petitioners are as follows:

| | |
|---|---|
| RM-2131 | Channel 244A to Brattleboro, Vermont (Southern Vermont Broadcasters, Inc.). |
| RM-2159 | Channel 261A to Ship Bottom, New Jersey (Max L. Raab). |
| RM-2189 | Channel 240A to Derby, Kansas (Benjamin Foster and Hank Parkinson). |
| RM-2190 | Channel 224A to Brattleboro, Vermont (Radio Brattleboro, Inc.). |
| RM-2191 | Channel 285A to Amherst, Massachusetts (Hampshire County Broadcasting Co.). |
| RM-2202 | Channel 285A to Tallulah, Louisiana (Radio Station KTLD). |
| RM-2204 | Channel 272A to Wadesboro, North Carolina (Carolinas Advertising, Inc.). |
| RM-2207 | Channel 257A to Jena, Louisiana (Radio Station KCKW). |
| RM-2220 | Channel 265A to Bowling Green, Missouri (Pike County Broadcasting Co.). |
| RM-2221 | Channel 232A to Chillicothe, Illinois (William D. Englebrecht). |
| RM-2233 | Channel 288A to Butler, Missouri (Bates County Broadcasting Co.). |

A brief description of each petition follows.

2. *Brattleboro, Vermont (RM-2131 and RM-2190).* Two separate petitions were filed each proposing the assignment of a first FM channel to Brattleboro, Vermont. One was filed on December 11, 1972, as a supplemental filing on March 19, 1973, by Southern Vermont Broadcasters, Inc., licensee of AM Station WTSA, Brattleboro, requesting the assignment of Channel 244A (RM-2131); the other petition was filed on May 4, 1973, by Radio Brattleboro, Inc., licensee of AM Station WKVT, Brattleboro, requesting the assignment of Channel 224A (RM-2190). Both channels could be assigned there in conformity with the Commission's minimum mileage separation rule and without affecting any other



V 38 I 183 SEP 21 73 XUM

assignments in the FM Table of Assignments. Brattleboro (population 12,239)[1] is in Windham County (population 33,074) and is located in the southeastern part of Vermont. It has no local FM facilities, but has two Class IV AM facilities which provide limited nighttime service to Brattleboro and Windham County.

3. In support of their requests, petitioners state that Brattleboro is the fourth largest community in the State of Vermont and the largest community in the state without an FM channel. They indicate it is anticipated that the town of Brattleboro will steadily grow in the next decade. Petitioners state that employment in non-manufacturing occupations has been growing rapidly, especially in the areas of trade, services, and government, and based on a 3.5 percent annual increase in wholesale employment it is estimated that 607 people will be employed in wholesale trade in Brattleboro by 1977. They add that the manufacturing sector of the economy is divided into durables (lumber and wood products) and non-durables (food, paper, printing and publishing, and leather products). Petitioners state that a survey completed in August 1972 showed a 16 percent increase in new retail establishments since 1967 with a 22 percent increase in retail sales between 1967 and 1971. They point out that Brattleboro has six elementary schools, pre-school nurseries, kindergartens, junior-senior high school, and a parochial elementary school, in addition to three colleges located in the area. Petitioners state that if the proposed channels are assigned, the types of broadcasts which will be provided to the residents in this area, presently not available, are political gatherings, local and community meetings, local news concerning emergency conditions, information of interest to the Brattleboro area and civil defense evacuation warnings. Each petitioner states that if its requested assignment is made it will apply for use of the requested channel and, if authorized, will construct and operate a new FM station in Brattleboro.[2]

4. It would appear that petitioners have made a sufficient public interest showing to warrant issuance of a Notice of Proposed Rule Making as to their proposals. Considering the size of Brattleboro and its anticipated steady growth, we are of the opinion that institution of a rule making looking toward the assignment of two FM channels to Brattleboro, Vermont, merits consideration.

5. *Ship Bottom, New Jersey (RM–2159).* Max L. Raab filed a petition on March 13, 1973, proposing the assignment of Channel 261A to Ship Bottom, New Jersey. Ship Bottom (population 1,079) is located on Long Beach Island in Ocean County (population 208,470). There are no local broadcast facilities in this community. The engineering study which accompanied the petition discloses that the proposed channel assignment can be made in conformity with the Commission's mileage separation requirements and without affecting any currently assigned channel in the FM Table.

6. Petitioners states that while Ship Bottom is a well-known resort community whose population expands to 16,000 persons each summer, the FM service it receives from surrounding cities is not adequate to meet its needs. Petitioner adds that neither FM Station WADB in Point Pleasant, N.J., nor FM Station WOBM at Tom's River, N.J., provide a 1 mV/m service to Ship Bottom and that presently the closest FM assignment is in Atlantic City. A local FM station, petitioner emphasizes, will be more willing to concentrate on developments which affect Ship Bottom. Petitioner believes that Ship Bottom is able to support an FM station. He comments that Ocean County's retail business has improved to meet the demands of the tourist trade. He states that 79 county merchandise establishments had a combined retail sale of $41,000,131 in 1971. Petitioner further declares that, as evidence of the prosperity in the county, total personal income has increased in 1970 from $1,013,000,912 to an estimated $1,167,000,826 in 1972. Based upon these considerations, the possibility of assigning Channel 261A to Ship Bottom should be explored in a rule making proceeding.

7. *Derby, Kansas (RM–2189).* Benjamin Foster and Hank Parkinson requested the Commission to amend the FM Table of Assignments by adding Channel 240A to Derby, Kansas. Derby, with a population of 7,947 persons, is located in Sedgewick County (population 350,694), 10 miles southeast of Wichita, Kansas. There are no local broadcast facilities in Derby although a daily newspaper is published in the city.

8. Petitioners state in support of their request that Derby's location, which provides easy access to a number of major employment centers in that vicinity, has been a significant factor in bringing about a sharp population increase. Petitioners mention that Derby now has its own water and sanitation facilities, school and local government, which consists of a mayor and an eight member city council. They also observe that there are thirty civic and 20 religious organizations which serve the Derby community. A local FM station, petitioners contend, would be able to provide assistance to these organizations, thereby allowing them to offer better service to Derby residents. Lastly, they add that a Class A FM channel would be able to extend service to a number of contiguous smaller communities.

9. Petitioners' engineering statement attests that the proposed assignment of Channel 240A to Derby would comply with the Commission's mileage separation requirements and would not interfere with the operation of any existing FM stations. Petitioners have noted that those channels which might have been available to them in Wichita under Section 73.203(b) of the Rules have already been occupied. Petitioners have expressed their intent to apply for Channel 240A if it is assigned to Derby. Since this request would supply Derby with its first local broadcast facility, we feel that consideration of the proposal to assign Channel 240A to Derby is warranted.[3]

10. *Amherst, Massachusetts (RM–2191).* On May 9, 1973 Hampshire County Broadcasting Company filed a petition proposing the assignment of Channel 265A to Amherst, Massachusetts. Amherst, with a population of 26,331 persons, is located in Hampshire County (population 123,981) and is 87 miles from Boston. It presently has three educational FM stations, which are licensed to various colleges in the city, and a daytime-only AM station.

11. Petitioner supports its request for an FM assignment to Amherst by noting the sharp population increase which occurred there and in Hampshire County from 1960 to 1970. During this period Amherst registered a 91.9 percent increase, while Hampshire County had a population gain of 20.1 percent. Petitioner also cites the 1967 U.S. Census of Business which reported that Amherst's retail sales amounted to $15,581,000 for the preceding year. Petitioner remarks that Amherst is essentially a college town with the University of Massachusetts, Amherst College and Hampshire College located within its borders. It contends that an FM assignment to this city would provide a clear fulltime signal to the steel-framed dormitories on the college campuses which obstruct AM reception. Petitioner also stresses the lack of competing radio voices in Hampshire County. Two of the stations in the county are WITT in Amherst, which does not operate at night, and WARE in Ware, Massachusetts, the transmitter site of which prohibits it from serving much of Hampshire County. The two remaining stations in the county, WHMP–AM and FM in Northampton, Mass., are owned by the company which controls two-thirds of the daily newspaper. Petitioner concludes that the assignment of Channel 265A to Amherst would enhance competition among these various radio stations, thereby improving the quality of broadcasting in the county.

12. Petitioner's engineering report determines that the assignment of Channel 265A to Amherst is in conformity with the Commission's minimum mileage separation rule provided that the transmitter site is located two miles southwest of Amherst. The engineering report notes that the requested assignment will have no preclusive effect on any of the six adjacent channels. The precluded area on Channel 265A is limited to a small area near Amherst. Petitioner has expressed its intent to apply for Channel 265A if it is assigned to Amherst.

13. In view of the apparent need for a first fulltime local broadcast service in the area, the proposal to assign FM Channel 265A to Amherst merits consideration in a rule making proceeding.

14. *Tallulah, Louisiana (RM–2202).* Radio Station KTLD petitioned the Commission on May 23, 1973, to assign FM Channel 285A to Tallulah, Louisiana. Tallulah (population 10,500) is situated in Madison Parish (population 15,065) and is in the east central portion of the state. AM Station KTLD is the only local broadcast facility in this community. KTLD has indicated its intent to apply for use of Channel 285A in Tallulah provided the channel is assigned there.

15. In elaborating on the need of this community for a first local FM service, petitioner emphasizes the 26 percent increase in population which occurred between 1960 and 1970. Petitioner contends that Tallulah is the trade and growth center of Madison Parish. It further believes that an FM channel would encourage additional industrial development in the community which would be instrumental in reducing unemployment and raising the standard of living.

16. The engineering data submitted with the petition concludes that there would be no preclusion with regard to the pertinent adjacent channels. While there would be a minimum preclusionary effect on Channel 285A, there is no town with a population of over 2,500 persons which would be denied access to this channel as a result of the proposed assignment. However, in order to comply with the Commission's mileage separation rule and to avoid interference with any existing station, the transmitter must be located west of the city. Subject to this stipulation, we believe that the proposal to assign Channel 285A to Tallulah merits consideration.

17. *Wadesboro, North Carolina (RM–2204).* Carolinas Advertising, Inc., petitioned the Commission on May 23, 1973, to amend the FM Table of Assignments by adding Channel 272A to Wadesboro, North Carolina. Carolinas Advertising, Inc. is the licensee of WADE, a daytime-only AM station which is the only local broadcast facility in Wadesboro. Wadesboro, with a population of 3,977 persons, is the seat of Anson County (population 23,488) and is situated approximately 45 miles southeast of Charlotte, North Carolina. Petitioner states its intent to file an application for a construction permit if Channel 272A is assigned to Wadesboro.

18. Petitioner observes that while the economy of the area is basically agricultural, there has been consistent industrial development. It notes that the greater utilization of farm machinery has contributed to a 50 percent rise in farm income during the last decade in Anson County. Petitioner also mentions that trade and manufacturing employment in the county totaled 3,000 persons as of January 30, 1973, and county bank deposits are in excess of $45 million.

19. Petitioner's engineering report declares that the assignment of Channel 272A to Wadesboro would meet all the Commission's mileage separation requirements, provided the transmitter site is located 6 miles southwest of the city. The report indicates that there will be no preclusionary effect on any of the six adjacent channels. In view of the foregoing information we believe that petitioner has made a sufficient preliminary public interest showing to warrant exploring the possibility of assigning Channel 272A to Wadesboro.

20. *Jena, Louisiana (RM–2207).* On June 1, 1973, Radio Station KCKW, a daytime-only AM station and the sole broadcast facility in Jena, proposed to amend the FM Table of Assignments by assigning Channel 257A to Jena, Louisiana. Petitioner states that should this channel be assigned to Jena it will apply for and, if granted a construction permit, will build a Class A FM station. Jena (population 2,431) is located in LaSalle Parish (population 13,295) in the central portion of the state.

21. Petitioner contends that Jena warrants a first FM assignment because of the rapid growth and the development which this county is experiencing. It comments that the average family income in LaSalle Parish has increased from $3,433 in 1960 to $5,799 in 1970. Petitioner also mentions the construction of three new hospitals in LaSalle Parish, along with the recent establishment of two garment plants and four other manufacturing shops. It states that these additions have increased the number of available jobs by some 1,750 between 1968 and 1970.

22. The engineering study submitted with the petition indicates that the assignment of Channel 257A to Jena would have no adverse effect upon any existing or proposed station and be in accord with the Commission's mileage separation requirements. The engineering report further points out that the proposed assignment would not cause any preclusionary effect on the six adjacent channels. While a certain region would be precluded from operation on Channel 257A as a consequence of the proposed assignment, there is at least one additional FM channel available for assignment to those communities with a population of over 2,500 persons within the preclusion area. For these reasons we believe that consideration of the proposal to assign Channel 257A to Jena as its first FM channel is warranted.

23. *Bowling Green, Missouri (RM–2220).* Pike County Broadcasting Company filed a petition on June 18, 1973, which requested the Commission to assign Channel 265A to Bowling Green, Missouri. Bowling Green (population 2,936) is located in Pike County (population 16,928) and currently has a daytime-only AM station KPCR, which is operated by the petitioner. If Channel 265A is assigned to Bowling Green, petitioner proposes to apply for the channel and construct the station should its application be granted.

24. Petitioner emphasizes the lack of local nighttime broadcast service in a community the size of Bowling Green. It mentions that Station KPCR is unable to get authorization to transmit at night because of the interference problems with Station WCKY, a Class I–B station which transmits on the same frequency from Cincinnati, Ohio. Petitioner then states that a fulltime local FM station would be able to inform the people in this primarily agricultural community of potential weather problems and school closings, services not presently available at night. Petitioner adds that numerous community leaders and members of the public have been concerned about the lack of fulltime local radio service. Therefore, since this proposal is in full compliance with the Commission's mileage separation rules and does not require the deletion or substitution of any channel in the FM Table of Assignments, we believe that consideration of the request to assign Channel 265A to Bowling Green, Missouri, is warranted.

25. *Chillicothe, Illinois (RM–2221).* On June 29, 1973, William D. Engelbrecht proposed that the FM Table of Assignments be amended to include the assignment of Channel 232A to Chillicothe, Illinois. Chillicothe, with a population of 6,052 persons is approximately 150 miles southwest of Chicago and situated at the junction of Woodford, Peoria, and Marshall Counties. The combined population of these three counties is 236,632 persons. Chillicothe has no local broadcast facilities. Petitioner has expressed his intent to apply for Channel 232A if it is assigned to this community.

26. Petitioner supports his request for this assignment by noting that Chillicothe has experienced a 14 percent population increase between 1960 and 1970. He declares that retail sales for this city have been estimated at $16,293,400 for 1972, a 47 percent increase over the corresponding 1963 figure. Petitioner concludes from this information that Chillicothe is developing into a trading center for the numerous small surrounding farm communities. He further states that Chillicothe has two banks and two savings and loan institutions with combined assets of almost $59 million. Petitioner then stresses the fact that a community of this magnitude has a

[1] All population figures cited are from the 1970 U.S. Census.

[2] However, it is not clear from the petitions whether if two channels are assigned to Brattleboro each petitioner is willing to build a station there. Petitioners should furnish information on this point in their comments as well as information as to whether Brattleboro could support two FM stations.

[3] The original petition for this rule making was filed on October 13, 1971, but it appears that the petition was misplaced. The petition was refiled on May 4, 1973. Since the original petition would have been considered by this time under the normal processing schedule, we believe it to be equitable and in the public interest to process the May 4, 1973 petition earlier than would normally be the case.







V 38 I 183 SEP 21 73 XUM

weekly newspaper as its only local medium of mass communication.

27. Petitioner's engineering study demonstrates that this proposal is in accord with our minimum mileage separation rule for all adjacent and co-channel stations. Based on these observations, we conclude that petitioner's request to assign Channel 232A to Chillicothe, Illinois, warrants our consideration in a rule-making proceeding.

28. *Butler, Missouri (RM–2233)*. Bates County Broadcasting Company filed a petition with the Commission on July 18, 1973, which sought the amendment of the FM Table of Assignments to include Channel 288A at Butler, Missouri. Petitioner is the licensee of the daytime-only radio station, KMAM, at Butler. Butler (population 3,984), the seat of Bates County (population 15,468), is located 50 miles south of Kansas City. The only local broadcast service in the city is provided by Station KMAM. If Channel 288A is assigned to Butler, petitioner has stated his intent to promptly file an application for its use.

29. Bates County Broadcasting Company supports its petition by noting that Butler is located in a primarily agricultural region. It states that there is a pressing need for providing local weather information to the farmers in the late evening and early morning hours. As an indication that Butler will be able to support an FM assignment, petitoner remarks that the consumer spendable income per family is $5,100. It also mentions that the city has two banks, three Farm Loan Associations and an airport.

30. Petitioner states that the unavailability of FM channels in nearby communities makes section 73.203(b) of the Commission's Rules inapplicable. The accompanying engineering statement discloses that the proposed assignment would comply with the minimum separation rule and would not necessitate a deletion or substitution of any present FM channel assignment. For these reasons we feel that the assignment of Channel 288A to Butler, Missouri, merits consideration.

31. Since Amherst, Massachusetts, and Brattleboro, Vermont, are within 250 miles of the U.S.-Canadian border, the assignment of the respective channels to these communities is conditional upon the concurrence of the Canadian Government.

32. In view of the foregoing and pursuant to the authority contained in sections 4(i), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, it is proposed to amend the FM Table of Assignments, section 73.202 (b) of the Commission's rules and regulations, as follows for the named communities:

| City | Channel No. | |
|---|---|---|
| | Present | Proposed |
| Brattleboro, Vt. | | 224A, 244A |
| Ship Bottom, N.J. | | 261A |
| Derby, Kans. | | 240A |
| Amherst, Mass. | | * 265A |
| Tallulah, La. | | * 265A |
| Wadesboro, N.C. | | * 272A |
| Jena, La. | | 257A |
| Bowling Green, Mo. | | 265A |
| Chillicothe, Ill. | | 232A |
| Butler, Mo. | | 288A |

* In order to meet the minimum spacing requirements of our rules, a site 2 miles southwest of Amherst, Mass., would be required; a site 6 miles southwest of Wadesboro, N.C., would be required; and a site west of Tallulah, La., would be required.

33. *Showings required.* Comments are invited on the proposals discussed above. Proponents will be expected to answer whatever questions are raised in the Notice and other questions that may be presented in initial comments. The proponents of the proposed assignments are expected to file comments even if they only resubmit or incorporate by reference their former pleading. They should also restate their present intention to apply for the channel if it is assigned and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

34. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding:

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered, if advanced in reply comments.

(b) With respect to petitions for rule making which conflict with the proposals in this notice, they will be considered as comments in the proceeding, and public notice to this effect will be given, as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

35. Pursuant to applicable procedures set out in § 1.415 of the Commission's rules and regulations, interested parties may file comments on or before October 26, 1973, and reply comments on or before November 5, 1973. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings.

36. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and fourteen copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

37. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C. (1919 M Street, NW.).

Adopted September 11, 1973.

Released September 17, 1973.

FEDERAL COMMUNICATIONS COMMISSION

[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

[FR Doc.73-20152 Filed 9-20-73;8:45 am]

## FEDERAL RESERVE SYSTEM

### [ 12 CFR Part 217 ]

### MASSACHUSETTS AND NEW HAMPSHIRE NOW Accounts

On September 15, 1973, a new Federal law becomes effective with applicability to interest-bearing accounts from which the depositor is allowed to make transfers of funds by negotiable orders of withdrawal (NOW's). At the present time, such accounts are offered only by mutual savings banks in Massachusetts and New Hampshire.

Section 2(a) of P.L. 93–100 provides that "No depository institution shall allow the owner of a deposit or account on which interest or dividends are paid to make withdrawals by negotiable or transferable instrument for the purpose of making transfers to third parties, except that such withdrawals may be made in the States of Massachusetts and New Hampshire." The Board regards this language as affirmatively authorizing, so far as Federal law is concerned, NOW accounts in the two States for all depository institutions, including member banks. This authorization, however, is subject to the Board's broad authority under section 19(j) of the Federal Reserve Act to prescribe regulations governing the payment of interest on deposits in member banks.

The Board proposes to treat the NOW account as a form of savings deposit. This would mean that (1) such accounts may be offered only to individuals and certain nonprofit organizations, and (2) withdrawals from such accounts are subject to the right of the bank to require the depositor to give at least 30 days notice of any intended withdrawal, although this right need not be exercised.

The Board believes some limitation is needed so as to assure that the offering of NOW accounts remains a regional, rather than a national, experiment. Accordingly, the Board proposes to limit these accounts to residents of Massachusetts and New Hampshire (except that a bank could offer NOW accounts to any of its present customers). This is consistent with the statutory focus on "the owner of a deposit or account on which interest or dividends are paid."





The Board further believes that some constraints on the use of such accounts are needed in order to differentiate NOW accounts from ordinary demand deposits. Without some constraints, one can expect an excessive initial conversion from family checking accounts to NOW accounts in the two States. Such an eventuality would be consistent with the public interest only if brought about in an orderly and carefully planned manner. Therefore, the Board proposes for the present to permit the payment of interest on the minimum (or average) balance in such accounts, subject to the requirement that the bank impose a per-item service charge on all items written by the depositor in excess of a 10 item-per-month limit. (Such a requirement would not preclude service charges on the first 10 items.) As an alternative, it is considering requiring, if interest is to be paid, (1) that the number of negotiable orders of withdrawals that a depositor writes per month not exceed 15 items, and (2) that there be a minimum (or average daily) balance of $400 in the account. (This alternative might be further conditioned to provide a lower interest rate ceiling on the first $400 in the account than on the remainder, and to call for some per-item service charge for items in excess of 15 per month.)

At the same time, the Board believes that NOW accounts should be differentiated in some fashion from ordinary savings deposits. For that reason, it proposes to set the maximum rate of interest payable on such deposits at a level below that for ordinary savings deposits; it is preliminarily giving consideration to a maximum rate of 4½ percent for NOW accounts.

The Federal Reserve System also proposes to permit all thrift institutions offering NOW accounts to make full use of the Federal Reserve collection system in order to clear these items—so long as any nonmember thrift institution clearing items in this manner maintains a clearing account with the Federal Reserve Bank of Boston. "Full use" of the collection system would include sending items directly to the Federal Reserve for collection and receiving items drawn on the institution directly from the Federal Reserve. Under section 13 of the Federal Reserve Act, the nonmember clearing account must be of a size sufficient to offset the items in transit. The dollar amount of the items in transit would generally be a function of the total dollar amount of the NOW accounts in the institution. Accordingly, the Board proposes to require, as a condition to clearing NOW's for a nonmember thrift institution, a clearing balance of 3 percent of the total NOW accounts of the institution. This requirement is not intended to affect present clearing arrangements for nonmember commercial banks. In this connection, it should be noted that the reserve requirement for a member bank's savings deposits (including NOW accounts) is presently 3 percent.

Interested persons are invited to submit relevant data, views, or arguments with respect to the Board's proposed policies. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 1, 1973. Such material will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's rules regarding availability of information.

Pending the Board's adoption of final rules for NOW accounts, it is recommended that member banks abstain from offering NOW accounts, Offering NOW accounts, in the present uncertain environment, would be unwise, since the proposed policies outlined above are tentative and subject to change before final adoption in light of the public comments received.

By order of the Board of Governors, September 14, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-20075 Filed 9-20-73;8:45 am]

### [ 12 CFR Part 266 ]

### FORMER MEMBERS AND EMPLOYEES OF THE BOARD

### Limitations on Activities

The Board of Governors proposes to adopt rules relating to activities of former members and employees of the Board in matters connected with their duties or official responsibilities while employed by the Board.

Although the Federal Criminal Code applies criminal sanctions against former officers and employees of the Government whose activities involve a conflict of interest or an appearance of such conflict, it is believed that rules of the Board on this subject would provide additional protection to the public as well as to both present and former employees, the adoption of such rules seem particularly desirable in view of the increase in the last few years in the number of the Board's employees and in the Board's responsibilities in areas that require applications for its approval.

Accordingly, the Board proposes to adopt the following new Part 266:

**PART 266—LIMITATIONS ON ACTIVITIES OF FORMER MEMBERS AND EMPLOYEES OF THE BOARD**

§ 266.1 Scope.

This Part relates to limitations on former members and employees of the Board with respect to participation in matters connected with their former duties and official responsibilities while serving with the Board.

§ 266.2 Definitions.

(a) "Employee" means a regular officer or employee of the Board; it does not include a consultant to the Board.

(b) "Official responsibility", with respect to a matter, means administrative, supervisory, or decisional authority, whether intermediate or final, exercisable alone or with others, personally or through subordinates, to approve, disapprove, decide, or recommend Board action or to express staff opinions in dealings with the public.

(c) "Appear personally" includes personal appearance or attendance before, or personal communication, either written or oral, with the Board or a Federal Reserve Bank or any member or employee thereof, or personal participation in the formulation of material relating to such an appearance or communication, in connection with any application or interpretation arising under the statutes or regulations administered by the Board or the Federal Reserve Banks, except that requests for general information or explanations of Board policy or interpretation shall not be construed to be a personal appearance.

§ 266.3 Limitations.

(a) *Matters on which member or employee worked.* No former member or employee of the Board shall act as an agent, representative, or attorney for, or appear personally on behalf of, anyone other than the United States, an agency thereof, or a Federal Reserve Bank in connection with any judicial or other proceeding, application, request for ruling or determination, or other particular matter involving a specific party or parties in which the United States, an agency thereof, or a Federal Reserve Bank is also a party or has a direct and substantial interest and in which he participated personally and substantially as a member or employee of the Board through approval, disapproval, decision, recommendation, advice, investigation, or otherwise.

(b) *Matters within Board member or employee's official responsibility.* No former member or employee of the Board shall appear personally before any court, the Board, or a Federal Reserve Bank, on behalf of anyone other than the United States, an agency thereof, or a Federal Reserve Bank, in connection with any proceeding, application, request for ruling or determination, or other particular matter involving a specific party or parties in which the United States, an agency thereof, or a Federal Reserve Bank is also a party or has a direct and substantial interest, and which was under his official Federal Reserve responsibility, at any time within a period of one year after the termination of such responsibility.

[1] While former consultants to the Board are not covered by these Rules, they appear to fall within the coverage of section 207 of the United States Criminal Code (18 U.S.C. § 207) that provides criminal penalties for engaging in activities similar, although not identical, to those described in paragraphs (a) and (b) of section 266.3 of this Part.



V 38-183 SEP 21 73 XUM

(c) *Consultation as to propriety of appearance before the Board.* Any former member or employee of the Board who wishes to appear before the Board on behalf of any party other than the United States or a Federal Reserve Bank at any time within two years from termination of employment with the Board is advised to consult the General Counsel or the Secretary of the Board as to the propriety of such appearance.

(d) *Disclosure of unpublished information.* Former Board members and employees are strongly advised not to disclose unpublished information of the Board obtained in the course of their work. Questions with respect to this provision should be addressed to the General Counsel or the Secretary or the Board.

(e) *Rulemaking proceedings.* Nothing in this section shall preclude a former member or employee of the Board from representing another person in any proceeding governed by a rule, regulation, standard, or policy of the Board solely by reason of the fact that such former member or employee participated in or had official responsibility in the formulation or adoption of such rule, regulation, standard, or policy.

(f) *Effective date.* This Part shall become effective immediately upon adoption by the Board following the period for comment. Notwithstanding the foregoing, the limitations of this Part, other than that provided by paragraph (d) of this section, shall not apply to any activities with respect to a specific matter before the Board in which any former Board member or employee may be engaged on September 21, 1973, the date of publication of this Part, until the expiration of 60 days following the effective date of this Part or of such additional period as the Secretary of the Board may determine to be appropriate in order to avoid inequity.

**§ 266.4 Suspension of appearance privilege.**

If any person knowingly and willfully fails to comply with the provisions of this Part, the Board may decline to permit such person to appear personally before it for such periods of time as it may determine and may impose such other sanctions as the Board may deem just and proper.

**§ 266.5 Criminal penalties.**

Any former member or employee of the Board who engages in actions in contravention of paragraphs (a) or (b) of § 266.3 may be subject to criminal penalties for violation of section 207 of the United States Criminal Code (18 U.S.C. 207).

To aid in the consideration of this proposal by the Board, interested persons are invited to submit relevant data, views, or arguments. Any such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 23, 1973. Such material will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's rules regarding availability of information.

By order of the Board of Governors, September 18, 1973.

[SEAL] CHESTER B. FELDBERG,
*Secretary of the Board.*

[FR Doc.73-20271 Filed 9-20-73;8:45 am]





# Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF STATE

[Public Notice CM-68]

### SHIPPING COORDINATING COMMITTEE

#### Notice of Meeting

A meeting of the Shipping Coordinating Committee (as a whole) and its subcommittee, the National Committee for the Prevention of Marine Pollution, will be held at 9:30 a.m. on Monday, October 1, 1973, in Room 4234, Coast Guard Headquarters, 400 Seventh Street SW., Washington, D.C. The meeting will be open to the public.

The meeting will consider preparations for the IMCO-sponsored International Conference on Marine Pollution scheduled to meet in London, October 8 to November 2.

For further information on the subject matter of the meeting, contact Mr. Richard K. Bank, Executive Secretary, Shopping Coordinating Committee, Department of State, Washington, D.C. 20520, telephone, area code 202-632-0704.

Dated September 18, 1973.

RICHARD K. BANK,
*Executive Secretary,*
*Shipping Coordinating Committee.*

[FR Doc.73-20105 Filed 9-20-73;8:45 am]

## DEPARTMENT OF DEFENSE

### Office of the Secretary of Defense

### DoD HEMOGLOBINOPATHY POLICY REVIEW ADVISORY COMMITTEE

#### Establishment, Organization and Functions

In accordance with the provisions of Public Law 92-463, Federal Advisory Committee Act, notice is hereby given that the DoD Hemoglobinopathy Policy Review Advisory Committee has been found to be in the public interest in connection with the performance of duties imposed on the Department of Defense by law. The Office of Management and Budget has also reviewed the justification for this advisory committee and concurs with its establishment.

The charter for the DoD Hemoglobinopathy Policy Review Advisory Committee is as follows:

*Designation.* The Department of Defense Hemoglobinopathy (Sickle Cell Trait) Policy Review Advisory Committee, hereinafter referred to as "the Committee" is hereby established as being in the public interest in connection with the performance of duties imposed on the Department of Defense by statute. The Committee will be operated in accordance with the Federal Advisory Committee Act (Public Law 92-463) and Executive Order 11686, and implementing OMB and DoD regulations.

*Objectives and scope.* The Committee serves as a scientific advisory body to the Assistant Secretary of Defense (Health and Environment) to provide him with scientific and professional advice and recommendations on hemoglobinopathy policy.

*Duties.* The Committee shall assist the Assistant Secretary of Defense (Health and Environment) by providing professional advice and recommendations concerning the safe and efficient utilization, by the military department, of persons with various hemoglobinopathies, the various methods and procedures to identify such persons, and various medical research programs to answer military requirements concerning military duty for persons with these hemoglobinopathies.

*Membership.* The Committee shall be composed of not more than nine members. Six of the members shall be selected from civil life on the basis of their nationally recognized competence in fields allied to the duties of the Committee. Three members will be selected from the military departments. Each Surgeon General will nominate one military medical corps officer to serve as a member of the Committee with authority to speak for his department.

Members of the Committee shall be selected and appointed by the Assistant Secretary of Defense (Health and Environment) with the approval of the Secretary of Defense or his designated representative.

Members of the Committee shall recommend to the Assistant Secretary of Defense (Health and Environment), from among the membership, a chairman who shall serve during the duration of the Committee.

*Meetings.* The Committee shall meet at least once for a one-day session. The Principal Deputy Assistant Secretary of Defense (Health and Environment), who is a full-time, salaried Federal employee, is designated to approve all meetings and agenda in advance, be in attendance at all meetings, and is authorized and required to adjourn any meeting when he determines adjournment to be in the public interest.

*Responsible official.* The report of the Committee shall be made to the Assistant Secretary of Defense (Health and Environment).

*Support.* The Office of the Assistant Secretary of Defense (Health and Environment) is responsible for providing necessary administrative support to the Committee.

*Resources.* The estimated operating cost of the Committee is $5,000 for one year. Less than one-quarter man-year of full-time staff support is required.

*Duration and termination date.* The period of time necessary for the Committee to accomplish its duties is anticipated to be one year. Should the requirement for the Committee continue beyond that period, the Assistant Secretary of Defense (Health and Environment) may request continuation of the Committee for one additional year. Otherwise, the Committee shall terminate one year from the date this charter is filed, as indicated below, or whenever its mission is completed, whichever is sooner.

*Dated filed.*

MAURICE W. ROCHE,
*Director, Correspondence and Directives Directorate, OASD (Comptroller).*

SEPTEMBER 18, 1973.

[FR Doc.73-20107 Filed 9-20-73;8:45 am]

### DEFENSE SCIENCE BOARD

#### Notice of Meeting

The Defense Science Board will meet in closed session in the Pentagon, Washington, D.C., October 11 and 12, 1973.

MAURICE W. ROCHE,
*Director, Correspondence and Directives, OASD (Comptroller).*

SEPTEMBER 18, 1973.

[FR Doc.73-20150 Filed 9-20-73;8:45 am]

### DEFENSE WAGE COMMITTEE

#### Notice of Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92-463, effective January 5, 1973, notice is hereby given that meetings of the Department of Defense Wage Committee will be held on:

Tuesday, October 2, 1973.
Tuesday, October 9, 1973.
Tuesday, October 16, 1973.
Tuesday, October 23, 1973.
Tuesday, October 30, 1973.

These meetings will convene at 9:30 a.m. and will be held in Room 1E-801, The Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and make recommendations to the Assistant Secretary of Defense (Manpower and Reserve Affairs) on all matters involved in the development and authorization of wage schedules for Federal prevailing rate



V 38 I 183 SEP 21 73 XUM

employees pursuant to Public Law 92–392.

At these scheduled meetings, the Committee will consider wage survey specifications, wage survey data, local reports and recommendations, statistical analyses and proposed pay schedules derived therefrom.

Under the provisions of section 10(d) of Public Law 92–463 and 5 U.S.C. 552 (b)(2) and (4), the Assistant Secretary of Defense (Manpower and Reserve Affairs) has determined that these meetings will be closed to the public.

However, members of the public who may wish to do so, are invited to submit material in writing to the Chairman concerning matters felt to be deserving of the Committee's attention. Additional information concerning these meetings may be obtained by contacting the Chairman, Department of Defense Wage Committee, Room 3D–281, the Pentagon, Washington, D.C.

MAURICE W. ROCHE,
*Director, Correspondence and Directives, OASD (Comptroller).*

SEPTEMBER 18, 1973.

[FR Doc.73–20029 Filed 9–20–73;8:45 am]

## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

### CONTROLLED SUBSTANCES IN SCHEDULES I AND II

### 1974 Final Aggregate Production Quotas

Section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in schedules I and II by July 1 of each year. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration pursuant to § 0.100 of Title 28 of the Code of Federal Regulations (see 38 FR 18380, July 2, 1973).

On July 3, 1973, a notice of the proposed aggregate production quotas for these substances, including a detailed explanation of factors considered, was published in the FEDERAL REGISTER (38 FR 17741). All interested parties were invited to comment on or object to the proposed aggregate production quotas on or before July 30, 1973. No comments or objections have been received by the Administration any proposed quota except amphetamine. On July 30, 1973, the Pennwalt Corporation filed comments stating that (1) the estimated conversion of demand from combination amphetamine products (being withdrawn from the market) to single-entity preparations has been underestimated by DEA; (2) the estimated continuing need for single-entity preparations has been underestimated by DEA; and (3) projected inventories of amphetamines on hand at the end of 1973 have been overestimated by DEA. At the same time, Pennwalt Corporation requested a hearing on the proposed amphetamine quota. The Administrator is now evaluating Pennwalt Corporation's comments and has not reached a decision whether to grant a full adversary-type hearing. Any other person interested in the matter of the proposed aggregate production quota for amphetamines is welcome to submit comments at any time prior to the Administrator's final decision. In the event that comments or objections raise one or more issues which the Administrator finds, in his sole discretion, warrant a full adversary-type hearing, the Administrator shall publish an order for a public hearing in the FEDERAL REGISTER summarizing the issues to be heard and setting the time for the hearing (which shall not be less than 30 days after the date of publication).

Based upon consideration of the factors set forth in 38 FR 17741, the Acting Administrator of the Drug Enforcement Administration, under the authority vested in the Attorney General by section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826) and delegated to the Administrator by § 0.100 of Title 28 of the Code of Federal Regulations (see 38 FR 18380), orders that the aggregate production quotas for 1974 for narcotics and cocaine, expressed in grams in terms of their respective anhydrous bases, be established as follows:

| Basic class: | *Granted 1974* |
|---|---|
| 1. Alphaprodine | 68,000 |
| 2. Anlleridine | 265,000 |
| 3. Apomorphine | 3,600 |
| 4. Cocaine | 1,125,000 |
| 5. Codeine (for conversion) | 1,071,142 |
| 6. Codeine (for sale) | 41,000,000 |
| 7. Diphenoxylate | 900,000 |
| 8. Dihydrocodeine | 740,000 |
| 9. Ecgonine | 305,300 |
| 10. Ethylmorphine | 31,000 |
| 11. Fentanyl | 3,816 |
| 12. Hydrocodone | 748,000 |
| 13. Hydromorphone | 58,000 |
| 14. Levorphanol | 14,000 |
| 15. Methadone | 3,500,000 |
| 16. Methadone Intermediate (4-cyano-2 - dimethylamino-4,4-diphenyl butane) | 1,700,000 |
| 17. Mixed Alkaloids of Opium | 110,000 |
| 18. Morphine (for conversion) | 37,370,000 |
| 19. Morphine (for sale) | 685,000 |
| 20. Norpethidine | 730,000 |
| 21. Opium (tinctures, extracts, etc., expressed in terms of opium) | 1,765,000 |
| 22. Oxycodone (for conversion) | 3,500 |
| 23. Oxycodone (for sale) | 1,840,000 |
| 24. Oxymorphone | 5,080 |
| 25. Pethidine | 17,900,000 |
| 26. Phenazocine | 300 |
| 27. Thebaine (for conversion) | 996,000 |
| 28. Thebaine (for sale) | 3,050,000 |

The Administrator also orders that the aggregate production quotas for stimulants for 1974, expressed in grams of the anhydrous free base, be established as follows:

| Basic class: | *Granted 1974* |
|---|---|
| 29. Amphetamine | [reserved] |
| 30. Methamphetamine | 517,961 |
| 31. Methylphenidate | 1,516,511 |
| 32. Phenmetrazine | 3,046,344 |

The Administrator also orders that the aggregate production quotas for hallucinogens for 1974, expressed in grams, be established as follows:

| Basic class: | *Granted 1974* |
|---|---|
| 33. Beta-(3,4-methylene dioxyphenyl) isopropylamine | 1,075 |
| 34. Mescaline hydrochloride | 285 |
| 35. N, N-diethyltryptamine | 22 |
| 36. N, N-dimethyltryptamine | 115 |

All persons who submitted an application for either an individual manufacturing quota or procurement quota for 1974 will be notified by mail as to their respective 1974 quota established by the Drug Enforcement Administration.

This order is effective Sept. 21, 1973.

Dated Sept. 14, 1973.

JOHN R. BARTELS, Jr.,
*Acting Administrator, Drug Enforcement Administration.*

[FR Doc.73–20146 Filed 9–20–73;8:45 am]

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

### ALASKA

### Applications for Determination of Eligibility of Unlisted Villages

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Director, Juneau Area Office, Bureau of Indian Affairs by § 2651.2(a) (6), (8), (9), and (10) of Subchapter B of Chapter II Title 43 of the Code of Federal Regulations published on Pages 14223 of the May 30, 1973, issue of FEDERAL REGISTER.

The Alaska Native Claims Settlement Act of December 18, 1971 (Public Law 92–203, 92nd Congress, 85 Stat. 688–716), provides for the Settlement of certain land claims of Alaska Natives and for other purposes.

Accordingly, pursuant to the Authority contained in said Act of December 18, 1971, and § 2651.2 of said regulations, notice is hereby given that the following is a list of Native villages not listed in section 11(b) of the Act who have filed applications with the Director, Juneau Area Office, Bureau of Indian Affairs for the determination of their eligibility for land benefits under the Act:

| Name of unlisted native village: | *Bureau of Land Management serial number* |
|---|---|
| Alaktalik | AA–8481 |
| Alexander (Alexander Creek. | AA–8487 |
| Attu | AA–8488 |
| Anton Larsen Bay | AA–8460 |
| Ayakulik | AA–8482 |
| Bells Flats | AA–8459 |
| Bettles Field (Evansville). | F–19328 |





| Name of unlisted native village: | *Bureau of Land Management serial number* |
|---|---|
| Caswell | AA–8468 |
| Chenega | AA–8483 |
| Chickaloon | AA–8489 |
| Chuloonawick (Chuloonavik). | F–19571 |
| Council | F–19525 |
| Eyak | AA–8484 |
| Haycock | F–19578 |
| Haines | AA–8465 |
| Healy Lake | F–19329 |
| Kasilof | AA–8464 |
| King Island | F–19573 |
| Knik | AA–8485 |
| Litnik | AA–8490 |
| Little Afognak | AA–8469 |
| Montana Creek | AA–8495 |
| Point Possession | AA–8462 |
| Port William | AA–8461 |
| Solomon | F–19570 |
| Tenakee | AA–8491 |
| Uganik | AA–8492 |
| Umkumute (Umkumiute) | F–19558 |
| Wiseman | F–19575 |
| Woody Island | AA–8463 |

The foregoing applications were filed in duplicate with the Director, Juneau Area Office, Bureau of Indian Affairs prior to September 1, 1973. All of the above listed applications constituted prima facie evidence of compliance with the requirements of § 2651.2(b) of the regulations. The Director, Juneau Area Office, Bureau of Indian Affairs has already filed the above listed applications with the appropriate office of the Bureau of Land Management and each application identifies the township or townships in which each Native village is located.

Pursuant to § 2651.2(a)(8) of the regulations the Director, Juneau Area Office, Bureau of Indian Affairs is publishing a notice of the filing of the above listed applications in the FEDERAL REGISTER and in one or more newspapers of general circulation in Alaska and shall promptly review the statement contained in each application. He shall investigate and examine records and evidence that may have a bearing on the character of the village and its eligibility pursuant to this Subpart 2651, and thereafter make findings of fact as to the character of each village. No later than December 19, 1973, the Director, Juneau Area Office, Bureau of Indian Affairs, shall make a determination as to the eligibility of each village as a Native village for land benefits under the Act and shall issue a decision. He shall publish his decision in the FEDERAL REGISTER and in one or more newspapers of general circulation in Alaska and shall mail a copy of the decision to the representative or representatives of each village, all villages in the region in which the village is located, all regional corporations, and the State of Alaska.

Any interested party may protest a decision of the Director, Juneau Area Office, Bureau of Indian Affairs, regarding the eligibility of a Native village for land benefits under the provisions of section 11(b)(3)(A) and (B) of the Act by filing a notice of protest with the Director, Juneau Area Office, Bureau of Indian Affairs, within thirty days from the date of publication of the decision in the FEDERAL REGISTER. A copy of the protest must be mailed to the representative or representatives of the village, all villages in the region in which the village is located, all regional corporations within Alaska, the State of Alaska, and any other parties of record. If no protest is received within the thirty-day period, the decision shall become final and the Director, Juneau Area Office, Bureau of Indian Affairs, shall certify the record and the decision to the Secretary. No protest shall be considered which is not accompanied by supporting evidence. Anyone protesting a decision concerning the eligibility or ineligibility of any unlisted Native village shall have the burden of proof in establishing that the decision is incorrect. Such decision shall become final unless appealed to the Secretary by a notice filed with the Ad Hoc Board as established in § 2651.2(a)(5) of the regulations within thirty days of its publication in the FEDERAL REGISTER.

This is the first and only notice of applications filed requesting the determination of eligibility of unlisted villages under the provisions of section 11(b)(3) of the Act.

MORRIS THOMPSON,
*Director.*

[FR Doc.73–20088 Filed 9–20–73;8:45 am]

### Bureau of Land Management

[CA 568]

### CALIFORNIA

### Proposed Withdrawal and Reservation of Lands

SEPTEMBER 14, 1973.

The Bureau of Land Management, U.S. Department of the Interior, has filed an application, serial No. CA 568, for the withdrawal of the national resource lands described below, from appropriation under the public land laws including the mining laws, but not the mineral leasing laws, for inclusion in the Amargosa Canyon—Dumont Dunes Natural Area in California. The purpose of the withdrawal and reservation of the lands is to protect substantial public values in the Amargosa Canyon—Dumont Dunes Area which include but are not limited to the desert pupfish, the desert flora and fauna, and the Dumont Sand Dunes.

On or before October 24, 1973, all persons who wish to submit comments, suggestions, or objections in connection with the proposed protective withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, U.S. Department of the Interior, Room E–2841, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

The Department's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. Adjustments will be made as necessary to provide the maximum concurrent utilization of the lands for purposes other than the applicant's, to eliminate lands needed for purposes more essential than the applicant's, and to reach agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior, who will determine whether or not the lands will be withdrawn as required.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

If circumstances warrant, a public hearing will be held at a convenient time and place, which will be announced.

The lands involved in the application are:

SAN BERNARDINO MERIDIAN, CALIFORNIA

T. 18 N., R. 6 E.,
Sec. 1.
T. 18 N., R. 7 E.,
Secs. 1 and 2, partly unsurveyed;
Secs. 3 and 4, unsurveyed;
Sec. 5, E½E½, unsurveyed;
Sec. 6, Lots 1 and 2 of NW¼;
Sec. 8, E½E½, unsurveyed;
Secs. 9 and 10, partly unsurveyed.
T. 18 N., R. 8 E.,
Sec. 6.
T. 19 N., R. 7 E.,
Secs. 1, 2, and 3, unsurveyed;
Secs. 10, 11, 12, 13, 14, and 15, All, unsurveyed, excepting patented Mineral Survey 4731;
Secs. 21, 22, and 28, unsurveyed;
Secs. 26 and 27, partly unsurveyed;
Sec. 28, unsurveyed;
Sec. 31;
Secs. 32, 33, 34, and 35, partly unsurveyed.
T. 19 N., R. 8 E.,
Sec. 6, fractional NW¼, unsurveyed.
T. 19½ N., R. 7 E.,
Sec. 33, fractional E½, unsurveyed;
Secs. 34 and 35, unsurveyed.
T. 19½ N., R. 8 E.,
Sec. 31, fractional W½, unsurveyed.
T. 20 N., R. 7 E.,
Sec. 15;
Sec. 21, E½;
Sec. 22, E½, NW¼, N½SW¼, and SW¼SW¼;
Sec. 25, E½, N½NW¼, SE¼NW¼, NE¼SW¼, and S½SW¼;
Sec. 26, Lots 1 and 4, E½NE¼NE¼, NW¼NE¼NE¼, NE¼NW¼NE¼, W½W½NE¼, and NW¼;
Sec. 27, Lots 1, 2, 3, 5, and 6, NE¼, and NW¼NW¼;
Sec. 28, Lots 1, 2, and 8;
Sec. 33, Lots 1, 2, and 3, and SE¼;
Sec. 34, Lots 1, 2, 3, 4, 5, 6, 7, and 8, and SW¼;
Sec. 35, Lots 1, 4, 5, 6, 7, and 8, E½SE¼, and SW¼SE¼.

The areas described aggregate 22,763.48 acres in Inyo and San Bernardino Counties, California.

WALTER F. HOLMES,
*Chief, Branch of Lands and Minerals Operations.*

[FR Doc.73–20087 Filed 9–20–73;8:45 am]



V 38 I 183 SEP 21 73 XUM

[OR 11172]

## OREGON

### Designation of the Deschutes River Recreation Lands

AUGUST 29, 1973.

Pursuant to the authority in 43 CFR, Subpart 2070, and the authorization from the Director dated August 15, 1973, I hereby designate the national resource lands in the following described areas as the Deschutes River Recreation Lands:

WILLAMETTE MERIDIAN

T. 1 N., R. 15 E.,
Sec. 1, W½;
Sec. 2;
Sec. 11;
Sec. 12, W½;
Sec. 13, W½;
Sec. 14;
Sec. 23;
Sec. 24;
Sec. 25;
Sec. 26;
Sec. 36.
T. 1 N., R. 16 E.,
Sec. 30, S½S½, N½SW¼, SW¼NW¼;
Sec. 31 to 33, inclusive;
Sec. 34, S½.
T. 2 N., R. 15 E.,
Sec. 23;
Sec. 35.
T. 1 S., R. 15 E.,
Sec. 1;
Secs. 24 to 26, inclusive;
Sec. 35;
Sec. 36.
T. 1 S., R. 16 E.,
Secs. 4 to 8, inclusive;
Secs. 17 to 20, inclusive;
Secs. 29 to 32, inclusive.
T. 2 S., R. 15 E.,
Sec. 1;
Sec. 2;
Secs. 11 to 15, inclusive;
Secs. 22 to 28, inclusive;
Secs. 32 to 35, inclusive.
T. 2 S., R. 16 E.,
Secs. 5 to 8, inclusive;
Secs. 17 to 19, inclusive;
Sec. 20, W½;
Sec. 29, W½, NW¼NE¼, SE¼;
Sec. 30;
Sec. 31, N½, NE¼SE¼;
Sec. 32, N½NE¼.
T. 3 S., R. 14 E.,
Sec. 1;
Sec. 10, SE¼SE¼;
Sec. 11, S½;
Secs. 12 to 15, inclusive;
Secs. 21 to 28, inclusive;
Secs. 33 to 36, inclusive.
T. 3 S., R. 15 E.,
Secs. 3 to 10, inclusive;
Secs. 16 to 18, inclusive.
T. 4 S., R. 14 E.,
Secs. 1 to 4, inclusive;
Sec. 7, SE¼SE¼;
Sec. 8, S½;
Secs. 9 to 17, inclusive;
Secs. 20 and 21;
Secs. 28 and 29;
Secs. 32 and 33.
T. 5 S., R. 13 E.,
Secs. 12 and 13;
Secs. 24 and 25;
Sec. 36.
T. 5 S., R. 14 E.,
Secs. 4 to 7, inclusive;
Secs. 18 and 19;
Secs. 30 and 31.
T. 6 S., R. 14 E.,
Secs. 6 and 7;
Secs. 13 to 27, inclusive;
Sec. 28, that portion lying north of the north boundary of the Warm Springs Indian Reservation;
Sec. 29, that portion lying north of the Warm Springs Indian Reservation;
Secs. 30 and 31;
Secs. 34 to 36, inclusive.
T. 7 S., R. 14 E.,
Secs. 1 to 3, inclusive;
Sec. 4, that portion lying on the east side of the Deschutes River;
Sec. 9, that portion lying east of the Deschutes River;
Secs. 10 to 16, inclusive;
Sec. 17, that portion lying east of the Deschutes River;
Sec. 20, that portion lying east of the Deschutes River;
Secs. 21 to 28, inclusive;
Sec. 29, that portion lying east of the Deschutes River;
Sec. 32, that portion lying east of the Deschutes River;
Secs. 33 to 36, inclusive.
T. 8 S., R. 14 E.,
Secs. 1 to 3, inclusive;
Sec. 4, that portion lying east of the Deschutes River;
Sec. 5, that portion lying east of the Deschutes River;
Sec. 9, that portion of the NE¼ lying east of the Deschutes River;
Secs. 10 to 14, inclusive;
Sec. 15, that portion lying east of the Deschutes River.
Sec. 16, that portion lying east of the Deschutes River;
Sec. 20, that portion lying east of the Deschutes River;
Sec. 21, that portion lying east of the Deschutes River.
Secs. 22 to 28, inclusive;
Sec. 29, that portion lying east of the Deschutes River.
Sec. 32, that portion lying east of the Deschutes River.
Secs. 33 to 36, inclusive.
T. 9 S., R. 13 E.,
Sec. 12, that portion lying east of the Deschutes River;
Sec. 13, N½;
Sec. 14, that portion of the N½ lying south of the Deschutes River;
Sec. 15, that portion of the N½ lying south of the Deschutes River;
Sec. 16, that portion lying south of the Deschutes River;
Sec. 17, that portion lying east of the Deschutes River;
Sec. 20, that portion lying east of the Deschutes River;
Sec. 29, that portion of the W½NW¼ lying east of the Deschutes River, W½NE¼, E½NW¼;
Sec. 30, that portion lying east of the Deschutes River;
Sec. 31, that portion lying east of the Deschutes River;
T. 9 S., R. 14 E.,
Secs. 1 to 4, inclusive;
Sec. 5, that portion lying east of the Deschutes River;
Sec. 6, that portion lying east of the Deschutes River;
Sec. 7, that portion of the N½N½ lying southeast of the Deschutes River, S½NW¼, N½SW¼.

The areas described aggregate about 130,000 acres, of which approximately 39,000 acres are national resource lands administered by the Prineville District of the Bureau of Land Management. The lands are located in Wasco, Sherman, and Jefferson Counties.

The Deschutes River recreation lands include Class II—General Outdoor Recreation Areas, under the Bureau of Outdoor Recreation System of Classification.

ARCHIE D. CRAFT,
*State Director.*

[FR Doc.73-20203 Filed 9-21-73;8:45 am]

## National Park Service

### COWPENS NATIONAL BATTLEFIELD SITE, S.C.

#### Designation of Boundary

Section 301 and 302 of the Act of April 11, 1972 (86 Stat. 121), authorize a revision of the boundaries of the Cowpens National Battleground (Battlefield) Site in South Carolina to add approximately 845 acres to this area, which previously comprised 1.24 acres. The Act provided that the revision was to become effective upon publication in the Federal Register of a map or other description of the lands so added.

Notice is given that the boundaries of the Cowpens National Battlefield Site, South Carolina have been revised, pursuant to the above act, to include altogether, the lands (approximately 845.76 acres) depicted on boundary map numbered 331-30,001B, dated July 1973, prepared by the Denver Service Center of the National Park Service. This map is on file and available for inspection in the administrative office of the Cowpens National Battlefield Site, c/o Kings Mountain National Military Park, P.O. Box 31, Kings Mountain, North Carolina 28086, and in the office's of the National Park Service, Department of the Interior, Washington, D.C. 20240.

Dated September 7, 1973.

RAYMOND L. FREEMAN,
*Associate Director,*
*National Park Service.*

[FR Doc.73-20094 Filed 9-20-73;8:45 am]

### WESTERN REGIONAL ADVISORY COMMITTEE

#### Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Western Regional Advisory Committee will be held from 8 a.m. to 4:30 p.m., October 5–6 at the Stovepipe Wells Village, Death Valley National Monument. On the 5th, the Committee will tour Death Valley National Monument for on-the-ground orientation and inspection to provide background for discussion topics on the 6th.

The purpose of the Western Regional Advisory Committee is to provide for the free exchange of ideas between the National Park Services and the public and to facilitate the solicitation of advice or counsel from members of the public in problems and programs pertinent to the Western Region of the National Park Service.





The members of the Advisory Committee are as follows:

Mr. Ben Avery, Phoenix, Arizona.
Mr. Jack H. Walston, Los Angeles, California.
Dr. R. Roy Johnson, Prescott, Arizona.
Mr. James R. Hooper, Crescent City, California.
Mr. Lewis Swifton Eaton, Fresno, California.
Mr. Todd Watkins, Bishop, California.
Mr. C. Clifton Young, Reno, Nevada.
Mr. Ed Fike, Las Vegas, Nevada.
Mr. David W. Baille, Jr., Lihue, Kauai, Hawaii.

The matters to be considered at the are:

1. Mining in Death Valley, Organ Pipe Cactus and Coronado National Monuments and Lake Mead National Recreation Area.
2. Current Legislative Proposals to end or restrict mining in the national parks.
3. National park status for Death Valley National Monument.
4. Other topics of interest.

The meeting will be open to the public. The Committee will plan to arrive the afternoon of October 4, with an orientation program that evening at the Village. On October 5, transportation facilities will not be available for the public, but they are welcome to participate in the tour by providing their own transportation. Any member of the public may file with the Committee a written statement concerning the matters to be considered.

Persons wishing further information concerning the meeting, or who wish to submit written statements, may contact Regional Director Howard Chapman, Western Regional Office, 450 Golden Gate Avenue, San Francisco, California, at 415–556–1486, or Superintendent James B. Thompson, Death Valley National Monument, Death Valley, California, at 714–786–2331.

Dated September 11, 1973.

IRA WHITLOCK,
*Acting Associate Director,*
*National Park Service.*

[FR Doc.73-20093 Filed 9-20-73;8:45 am]

### SLEEPING BEAR DUNES NATIONAL LAKESHORE ADVISORY COMMISSION

#### Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Sleeping Bear Dunes National Lakeshore Advisory Commission will be held between 1 p.m. and 5 p.m. on Friday, September 28, 1973, at the Glen Haven Interim Visitor Center, Glen Arbor, Michigan.

The Commission was established by Public Law 91-479 to meet and consult with the Secretary of the Interior on general policies and specific matters related to the administration and development of the Sleeping Bear Dunes National Lakeshore.

The members are as follows:

Mr. John B. Daugherty (Chairman)
Frankfort, Michigan
Mr. William B. Bolton
Empire, Michigan
Mr. Verrol Conklin
Honor, Michigan
Mr. Frank C. MacFarlane
Cedar, Michigan
Mr. John Stanz
Glen Arbor, Michigan
Mr. Carl T. Johnson
Cadillac, Michigan
Mr. Noble Travis
Leland, Michigan
Mr. Louis F. Twardzik
East Lansing, Michigan
Ms. Charles R. Williams
Traverse City, Michigan
Mr. Charles Yeates
Allegan, Michigan

The purpose of the meeting is to report on the status of land acquisition and related activities, and to bring the commission members up to date on management programs and plans. These items will be presented by the staff of Sleeping Bear Dunes National Lakeshore. Committee reports and discussions include, committee appointments for the commission; background and current status of the national lakeshore master plan; and review of the State of Michigan Waterways Commission proposal to construct a launching facility in Good Harbor Bay.

The meeting is open to the public. It is expected that 20 persons will be able to attend the session in addition to the advisory commission members and the national lakeshore staff.

Any member of the public may file with the Commission a written statement concerning matters to be discussed. Further information concerning this meeting may be obtained from J. A. Martinek, Superintendent, Sleeping Bear Dunes National Lakeshore, Frankfort, Michigan, at 616–352–9611. Minutes of the meeting will be available for public inspection two weeks after the meeting at the office of the Superintendent, 400½ Main Street, Frankfort, Michigan.

Dated September 14, 1973.

IRA WHITLOCK,
*Acting Associate Director,*
*National Park Service.*

[FR Doc.73-20188 Filed 9-20-73;8:45 am]

## Office of the Secretary

### SECRETARY'S ADVISORY COMMITTEE ON METAL AND NONMETALLIC MINE HEALTH AND SAFETY

#### Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that the Secretary's Advisory Committee on Metal and Nonmetallic Mine Health and Safety, authorized to be established under the Federal Metal and Nonmetallic Mine Safety Act (Public Law 89-577), will meet on Wednesday, October 10, 1973 and Thursday, October 11, 1973, starting at 8:30 a.m. each day, in the Auditorium of the General Services Administration, located at 18th and F Streets NW., Washington, D.C.

Section 7(a) of the Act requires the Advisory Committee to include among its members an equal number of persons qualified by experience and affiliation to present the viewpoint of the mine operators, and of persons similarly qualified to present the viewpoint of the mine workers, as well as one or more representatives of mine inspection or safety agencies of the states. The members of the Advisory Committee are as follows:

REPRESENTATIVES OF THE MINE OPERATORS

Dr. James Boyd, Committee Chairman
Past Chairman of the Board
Copper Range Company, Inc.
700 New Hampshire Avenue NW.
Washington, D.C. 20037

Mr. Marion W. Bevard, President
District Concrete Company
4714 St. Barnabas Road
Temple Hills, Maryland 20031

Mr. Gordon M. Miner, Vice President-Operations
Hecla Mining Company
Box 320
Wallace, Idaho 83873

REPRESENTATIVES OF THE MINE WORKERS

Mr. L. Damian Helnen, Vice President
Local 7044, United Steelworkers of America
627 Julius Street
Lead, South Dakota 57754

Mr. Ernest H. Ronn, Sub-District Director
United Steelworkers of America, District 33
P.O. Box 83
Negaunee, Michigan 49866

Mr. Joseph F. Sedivy, Executive Secretary
Ohio State Building and Construction Trades Council
236 East Town Street, Suite 303
Columbus, Ohio 43215

REPRESENTATIVES OF STATE MINE INSPECTION OR SAFETY AGENCIES

Mr. Norman R. Blake, Deputy Commissioner of Mines
Colorado Division of Mines
Department of Natural Resources
1845 Sherman Street
Denver, Colorado 80203

Mr. Harry R. Mason, Chairman
New York State Board of Standards and Appeals
11 North Pearl Street, Suite 1802
Albany, New York 12207

Mr. Verne C. McCutchan, State Mine Inspector
State of Arizona
431 State Capitol Building
Phoenix, Arizona 85007

The matters to be discussed at this meeting are new and revised health and safety standards relating to (1) air quality, ventilation, radiation, and physical agents, and (2) fire prevention and control in underground metal and nonmetallic mines.

The meeting of the Advisory Committee is open to the public. Public attendance will be limited to the seating available in the Auditorium. Persons desiring to attend this meeting are requested to notify the Executive Secretary in writing of their intention to attend the meeting by Wednesday, October 3, 1973.

Written data, views, or arguments concerning the subjects to be considered may be filed, together with 25 copies thereof, with the Executive Secretary by Wednesday, October 3, 1973. Any such submissions, timely received, will be provided to the members of the Committee



V 38 I 183 SEP 21 73 XUM

and will be included in the record of the meeting. Persons wishing to orally address the Committee at the meeting should submit a written request to be heard, together with 25 copies thereof, to the Executive Secretary no later than October 3, 1973. The request must contain a short summary of the intended presentation and an estimate of the amount of time that will be needed. Copies of the suggested new and revised standards may be obtained from or may be examined in the office of the Executive Secretary.

At the meeting the Chairman will announce whether oral presentations will be allowed, and, if so, under what conditions.

All written notices and requests to the Executive Secretary should be addressed as follows:

Mr James I Craig
Executive Secretary
Secretary's Advisory Committee on Metal and Nonmetallic Mine Health and Safety
Mining Enforcement and Safety Administration
Room 2517
U.S. Department of the Interior
Washington, D.C. 20240

Dated September 17, 1973.

STEPHEN A. WAKEFIELD,
*Assistant Secretary of the Interior.*

[FR Doc.73-20095 Filed 9-20-73;8:45 am]

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### RAISIN ADVISORY BOARD

### Notice of Public Meeting

Pursuant to the Federal Advisory Committee Act (P. L. 92-463; 86 Stat. 770), notice is given of a meeting of the Raisin Advisory Board at 7:30 p.m., P.d.t., October 5, 1973, in the Runway Room of the Airport Marina Hotel, Fresno, California.

The purpose of the meeting is to: Review marketing policy matters for the 1973-74 crop year; consider California's 1973 raisin production; consider the need for volume regulation during the 1973-74 crop year; and make the annual review of payment rates to handlers for services on reserve tonnage raisins. The meeting will be open to the public.

The Raisin Advisory Board is established under the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989), regulating the handling of raisins produced from grapes grown in California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674).

The names of board members, agenda, summary of the meeting and other information pertaining to the meeting may be obtained from Clyde E. Nef, Manager, Raisin Administrative Committee, 732 North Van Ness, Fresno, California 93720; telephone 209-268-5666.

Dated September 18, 1973.

JOHN C. BLUM,
*Deputy Administrator, Regulatory Programs.*

[FR Doc.73-20174 Filed 9-20-73;8:45 am]

## DEPARTMENT OF COMMERCE

### Domestic and International Business Administration

### COMPUTER PERIPHERALS, COMPONENTS AND RELATED TEST EQUIPMENT TECHNICAL ADVISORY COMMITTEE

### Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a meeting of the Input/Output Equipment Subgroup of the Computer Peripherals, Components, and Related Test Equipment Technical Advisory Committee will be held Wednesday, October 3, 1973, at 10 a.m. in the Board Room, Building 4A, Varian Data Machines, 611 Hansen Way, Palo Alto, California.

Members advise the Office of Export Control, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to computer peripherals, components, and related test equipment, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

Agenda items are as follows:

1. Opening remarks and review of purpose of subgroup by Irving L. Weiselman, Chairman.
2. Presentation of papers or comments by the public.
3. Discussion and modification of reports prepared by members of the subgroup.
4. Executive session: Continuation of discussion and modification of reports prepared by members of the subgroup.
5. Adjournment.

The public will be permitted to attend the discussion of agenda items 1-3, and a limited number of seats will be available to the public for these agenda items. To the extent time permits, members of the public may present oral statements to the subcommittee. Interested persons are also invited to file written statements with the subcommittee.

With respect to agenda item 4, "Executive Session," the Assistant Secretary of Commerce for Administration, on August 13, 1973, determined, pursuant to section 10(d) of Public Law 92-463, that this agenda item should be exempt from the provisions of sections 10(a)(1) and (a)(3), relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in 5 U.S.C. 552(b)(1).

Further information may be obtained from Irving L. Wieselman, Chairman of the subgroup, Data Products Corporation, 6219 De Soto Avenue, Woodland Hills, California 91364 (A/C 213 + 887-8000).

Minutes of those portions of the meeting which are open to the public will be available 30 days from the date of the meeting upon written request addressed to: Central Reference and Records Inspection Facility, U.S. Department of Commerce, Washington, D.C. 20230.

Dated September 18, 1973.

STEVEN LAZARUS,
*Deputy Assistant Secretary for East-West Trade, U.S. Department of Commerce.*

[FR Doc.73-20185 Filed 9-20-73;8:45 am]

### Office of the Secretary

[Dept. Organization Order 40-1; Amdt. 2]

### DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION

### Organization and Functions

This order effective August 24, 1973, further amends the material appearing at 37 FR 25557 of December 1, 1972, 38 FR 12145 of May 9, 1973, and supersedes the material appearing at 37 FR 25559 of December 1, 1972.

At the direction of the Secretary, Department Organization Order 40-1, dated November 17, 1972, as amended, is hereby further amended as follows:

1. In Sec. 8. *The Bureau of Competitive Assessment and Business Policy.* The Office of Business Assistance is renamed the Office of the Ombudsman for Business. Paragraph .05 is amended to read as follows:

.05 The *Office of the Ombudsman for Business* shall be headed by the Ombudsman for Business and shall:

a. Receive and answer questions on Federal programs of interest to business; assist business by providing a focal point for receiving and handling communications involving information, complaints, criticisms and suggestions about Government activities relating to business; arrange conferences with appropriate officials within the Department and in other agencies, and follow up on referrals to determine whether further assistance is necessary and appropriate; and develop suggested changes to remedy the causes of business complaints about the Federal Government, as appropriate.

b. In carrying out its functions, the Office shall not represent, intervene on behalf of or otherwise seek to assist business and individuals on specific matters, cases, or issues before Federal regulatory agencies or before Federal departments exercising a regulatory function with respect thereto; nor shall it participate in, intervene in regard to, or in any way seek to influence, the negotiation or renegotiation of the terms of contracts between business and the Government.

NOTE.—A copy of the Organization Chart is attached to the original of this document on file in the Office of the Federal Register.

HENRY B. TURNER,
*Assistant Secretary for Administration.*

[FR Doc.73-20086 Filed 9-20-73;8:45 am]





[Dept. Organization Order 25-5B; Amdt. 2]

### NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

### Organization and Functions

This order effective September 16, 1973, further amends the material appearing at 38 FR 15980 of June 19, 1973, and 38 FR 19267 of July 19, 1973.

Department Organization Order 25-5B, effective May 7, 1973, is hereby further amended as follows:

1. In Sec. 12. *National Marine Fisheries Service,* paragraphs .03 and .04 are revised to read as follows:

.03 The *Office of Resource Utilization* shall plan, develop, evaluate, and manage programs of economic and marketing research including demand and supply projections, cost benefit studies, and foreign trade analysis of collection, analysis, compilation, and dissemination of fisheries statistical and market news information; of financial assistance to the fishing industry in the form of loans, mortgages, loan insurance, and subsidies; of microbiological, chemical, and technological research to enhance the quality and utilization of fishery resources; of voluntary national inspection and certification of fishery products; to improve marketing practices and to alleviate extraordinary short term supply-demand imbalances; and of fishery extension services. The Office shall also be responsible for the management of national research programs in fishery products technology.

.04 The *Office of Resource Management* shall manage programs concerning promulgation and enforcement of domestic and international regulations for the protection of marine fisheries and marine mammal resources of the United States; the Pribilof Islands fur seal harvest; the Columbia River Anadromous Fisheries Resources Enhancement; water resources development projects and fisheries environment protection; and State-Federal fisheries management. It shall plan, develop, and evaluate programs to improve the management of fisheries resources so as to achieve the appropriate allocation of these resources among competing users and to protect their environment; establish national guidelines for managing fisheries for biological, economic, and social purposes; provide a mechanism through legislation, coordination, and cooperation for State and the Federal Government to jointly manage resources within these guidelines; and administer a grant-in-aid program to improve the capability of the States to conduct improved biological, social, and economic information required for management of fisheries resources.

2. In Sec. 14. *National Weather Service,* paragraph .02 is revised to read as follows:

.02 The *Office of Meteorological Operations* shall have cognizance over and establish policies and procedures to observe, prepare and distribute forecasts of weather conditions and warnings of severe storms and other adverse weather conditions for protection of life and property; develop the plans and procedures for operation of meteorological field services; and serve as the primary channel for coordinating NWS field services operations and for technical aspects of meteorological programs.

3. In Sec. 17. *Environmental Research Laboratories:* (a) The introductory paragraph is revised to read as follows:

The Environmental Research Laboratories (ERL) shall conduct an integrated program of research, fundamental technology development, and services relating to the oceans and inland waters, the lower and upper atmosphere, and the space environment so as to increase understanding of man's geophysical environment and thus provide the scientific basis for improved services. The ERL shall be organized as set forth below.

(b) Paragraph .02, *Earth Sciences Laboratories,* is deleted in its entirety, and paragraphs .03 through .06 are renumbered .02 through .05 respectively.

4. The organization chart attached to this amendment supersedes the organization chart of June 26, 1973, which is attached as Exhibit 1 to Amendment 1. Copy of the Organization Chart is attached to the original of this document on file in the Office of the Federal Register. A copy of each organization map is also attached to the original of this document on file in the Office of the Federal Register.

HENRY B. TURNER,
*Assistant Secretary for Administration.*

[FR Doc.73-20085 Filed 9-20-73;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

[DESI 9861; Docket No. FDC-D-495; NDA Nos. 9-921, 10-456, and 10-646]

### CERTAIN CARDIOVASCULAR PREPARATIONS

### Withdrawal of Approval of New-Drug Applications

On August 25, 1972, a notice of opportunity for hearing (DESI 9861) was published in the FEDERAL REGISTER (37 FR 17226), in which the Commissioner of Food and Drugs proposed, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), to withdraw approval of the new drug applications for Butiserpine Tablets and Butiserpine R-A Tablets in the absence of substantial evidence that these fixed combination drugs have the effect they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or that each component of the combinations contributes to the total effects claimed for the drugs.

On September 22, 1972 McNeil Laboratories, holder of NDA 9-921 Butiserpine Tablets and NDA 10-646 Butiserpine R-A Tablets, elected to avail itself of the opportunity for a hearing on the two drugs. This request for a hearing was supplemented on July 24, 1973, when McNeil Laboratories submitted data and arguments it contends entitle it to a hearing. The thrust of the request for hearing is that (1) the data submitted constitute substantial evidence of effectiveness of the drugs and (2) the drugs are exempt from the provisions of 21 U.S.C. 355 both because they are not now new drugs and because they are encompassed by the "grandfather" provisions of the Drug Amendments of 1962.

The Commissioner has reviewed McNeil Laboratories' request for a hearing and the medical documentation submitted, with the following findings:

THE DRUGS—RATIONALE AND CLAIMS

a. Butiserpine Tablets contain 15 milligrams butabarbital sodium and 0.1 milligram reserpine per tablet. Butiserpine R-A Tablets (Repeat Action Tablets) are labeled as containing a single dose of Butiserpine in the outer layer for immediate release and a second equal dose in the specially coated core for delayed release. The current labeling indicates that the Butiserpine drugs are effective in the treatment of mild to moderate hypertension, severe essential hypertension, premenstrual tension and anxiety neurosis.

The combination is described as providing the intermediate "daytime sedative" effect of sodium butabarbital and the mild tranquilizing and antihypertensive effects of reserpine, for antihypertensive-sedative effect without sedative accumulation or reserpine overload.

b. Indications for use contained in previous labeling, such as recommendations for use in coronary occlusion, angina pectoris, congestive heart failure, menopausal syndrome, functional gastrointestinal disorders, and insomnia, were reviewed by the National Academy of Sciences-National Research Council, and the Commissioner and found to be unsupported by substantial evidence of effectiveness. These indications for use have been deleted from the labeling by McNeil Laboratories. In its request for hearing the firm has not attempted to demonstrate that these indications are supported by adequate evidence.

c. Butiserpine Elixer was labeled as containing 15 milligrams butabarbital sodium and 0.1 milligram reserpine per 5 cubic centimeters. Each dose contained 7 percent alcohol. Indications for use in current and former labeling were the same as for the other butiserpine drugs. Approval of NDA 10-456 was withdrawn by notice published in the FEDERAL REGISTER on November 29, 1972 (37 FR 25247) after McNeil Laboratories failed to request a hearing.

LEGAL ARGUMENTS

a. The request for hearing on whether the butiserpine drugs are exempt from the drug effectiveness provisions of 21 U.S.C. 355 under the "grandfather" clause, section 107(c) of P.L. 87-781, is denied. The new-drug applications involved had not been withdrawn prior to



V 38 I 183 SEP 21 73 XUM

enactment of Public Law 87–781. They were "deemed approved" under the 1962 amendments to the act and one subject to withdrawal on the basis of the effectiveness requirements of the amendments.

b. The request for hearing on whether the butiserpine drugs are generally recognized as safe and effective for use and not new drugs within the meaning of 21 U.S.C. 321(p) is also denied. No adequate and well controlled clinical investigations of the butiserpine drugs published in the medical literature have been identified in the request for hearing. There is no data upon which experts can fairly and responsibly conclude that the safety and effectiveness of a fixed combination of 15 milligrams butabarbital sodium and 0.1 milligram reserpine has been proven and is so well established that such combination drugs can be generally recognized among such experts as safe and effective for their intended uses. The data are evaluated below.

DATA SUBMITTED IN SUPPORT OF REQUEST FOR HEARING

Literature relative to the individual components of the butiserpine drugs is only partially relevant to a determination of the safety and effectivenes of those components when administered in a single, combined dosage form. Data on individual components do not take into account factors pertinent to an assessment of the safety and effectiveness of the fixed combination, including, among other things, drug interaction (whether it be additive, synergistic, or negative). Insofar as the request for hearing is based on data respecting individual components of the butiserpine drugs, it is denied.

McNeil Laboratories has also identified data on the butiserpine drugs which it states constitute substantial evidence of the drugs effectiveness. On their face, these data do not qualify as adequate and well controlled studies. They may be summarized as follows:

a. *The Dituri Study (unpublished).* McNeil Laboratories described the data as a "double-blind" study of two different treatment regiments. One group of nine hypertensive patients was administered butabarbital sodium 30 milligrams twice daily for four weeks, followed by reserpine 0.2 milligram twice daily for four weeks. Seven of the nine patients experienced lowered blood pressure on both drugs.

A second group of 10 hypertensive patients received reserpine 0.2 milligram twice daily for four weeks, followed by two butiserpine tablets (equivalent to butabarbital sodium 30 milligrams and reserpine 0.2 milligram) twice daily for four weeks. Four of 10 patients on reserpine alone experienced lower blood pressure readings. Three of these four pateints maintained decreased readings or experienced a further drop in blood pressure. Of the six patients who did not respond to reserpine alone, three evidenced a decrease in blood pressure readings on butiserpine.

This investigation, conducted in 1955, is not adequate and well controlled under § 130.12(a)(5) (21 CFR 130.12). The data consists of 32 pages of unevaluated forms upon which are cryptically recorded (1) the identification of the drug as "Group A", or "B" etc., (2) the patient's name, sex, age, weight, and diagnosis, (3) concurrent treatments, (4) dates of semimonthly visits, (5) pulse and blood pressure readings on the dates of visits, (6) side effects, (7) dosage of drug administered, and (8) in some cases, brief "additional comments". There is no manuscript or other evaluation of the data by Dr. Dituri. No statement of the objective of the study is provided as required by § 130.12(a)(5)(ii)(*a*)(*1*) (21 CFR 130.12).

Many patients had multiple diagnosis in addition to hypertension, such as diabetes mellitus, obesity, arthritis, arteriosclerotic heart disease, psychoneuroses, and pyelonephritis. The data do not reflect a method of patient selection that provides adequate assurance that they are suitable for the purposes of the study as required by § 130.12(a)(5)(ii)(*a*)(*2*) (21 CFR 130.12). It is possible these subjects are suitable for purposes of the study, but the data do not show that any criteria other than hypertension was used to include subjects in the study, and no criteria are stated for exclusion of subjects from the study because of concurrent medical conditions. More important, however, is the fact that the data show only three patients diagnosed with "hypertension associated with conditions requiring the use of a daytime sedative (e.g. anxiety and tension)". Because McNeil Laboratories has indicated in its request for hearing (p. 3, Summary of Information) that the drug is indicated for patients with both hypertension and anxiety, it is apparent that the Dituri subjects were not suitable for purposes of the study.

The Dituri data also suffers from other deficiencies. Since there is no protocol or manuscript provided, there is no way for any reviewer of the data to determine how subjects were assigned to test groups to minimize bias as required by § 130.12(a)(5)(ii)(*a*)(*2*)(*ii*) (21 CFR 130.12), or how comparability in test and control groups of pertinent variables, such as age, sex, severity, or duration of disease, and use of drugs other than the test drug was achieved, as required by § 130.12(a)(5)(ii)(*a*)(*2*)(*iii*) (21 CFR 130.12). In this connection, the Commissioner observes that no information on the subjects relative to the history of their hypertension, its severity, duration, or regulation by other drugs was provided.

There is no explanation of the methods of observation and recording of results, including variables measured, quantitation, assessment of any subjects' responses, and steps taken to minimize bias on the part of the subjects and observer as required by § 130.12(a)(5)(ii)(*a*)(*3*) (21 CFR 130.12). The data does reflect pulse and blood pressure readings were taken once every two weeks, but no explanation is provided concerning the quantitative significance between different readings and variables which could influence such readings, such as body position when blood pressures were recorded.

There is no comparison of results of treatment with the control treatments which would permit quantitative evaluation of the results; and the nature of the control is neither stated nor documented, as required by § 130.12(a)(5)(ii)(*a*)(*4*) (21 CFR 130.12). Although McNeil Laboratories describes the study as "double blind" there is no data to show that the study was blind either to Dr. Dituri or the subjects.

Finally, there is no statistical analysis provided, as required by § 130.12(a)(5)(ii)(*a*)(*5*) (21 CFR 130.12). In this connection, however, the Commissioner observes that the group on butiserpine (six of 10 with some improvement) did not do as well as the control group (seven of nine with some improvement).

b. Clark, T. and Cross, C., "Clinical Effectiveness of Four Hypotensive Preparations" Angiology, 16: 238, May, 1965. A group of 118 hypertensive patients was divided into four sub-groups: 14 patients were given butabarbital 30 milligrams three or four times daily for three months; 35 patients were given butiserpine two to four times a day for a minimum of three months and for as long as eight months; 29 patients were given butabarbital 30 milligrams and hydrochlorothiazide (25 milligrams or 50 milligrams) one to three times daily for a minimum of three months; and another 40 patients were treated similarly with a combination of butabarbital, reserpine, and hydrochlorothiazide. The authors concluded that excellent control of blood pressure was obtained by butabarbital in 11 or 14 patients (79 percent); twelve patients (86 percent) reported they were less nervous, irritable, and no longer sufferred from insomnia. The butiserpine patients also were reported to have excellent results in the control of blood pressure (65 percent), nervousness (85 percent), irritability (100 percent), and insomnia (86 percent). Results in the two other treatment groups were also reported as excellent. However, on its face the study fails to meet the requirements of an adequate and well controlled study.

The purpose of the study, as stated by the authors, was to determine the clinical effectiveness of butabarbital alone and in combination with hydrochlorothiazide and/or reserpine. It was not designed to determine the contribution, if any, of butabarbital and reserpine to safety and effectiveness of the combination drug as required by 21 CFR 3.86. On this basis alone the study cannot be accepted as demonstrating the effectiveness of butiserpine. The authors of the paper concur. They state as a conclusion: "Although the role of the barbiturate has not been scientifically established, there is a clinical impression that it adds to the therapeutic usefulness of an antihypertensive agent."

Even if the study were designed to satisfy the inquiry into the roles the individual components play, there are





patent defects in the study rendering it unacceptable. The plan of study did not include a method of patient selection which (1) provides adequate assurance that they are suitable for purposes of the study (all patients were diagnosed as having hypertension, but it is unclear whether and how any diagnosis of anxiety was made, or whether the presence of anxiety was assumed on the basis of remarks or comments by patients to the investigators; the patient population had variable disease conditions in that some patients had labile hypertension, that is variable from day to day, while others had chronic or relatively stable hypertension; (2) diagnostic criteria of the condition to be treated or diagnosed, including confirmatory laboratory tests (diagnosis appears to be based on only one blood-pressure reading, body position unstated; no baseline was established by a number of readings at different times in different body attitudes; no laboratory tests, such as x-ray to determine heart enlargement, renal function tests to determine kidney involvement, eye ground examinations to determine vessel changes, etc. were conducted); (3) assigned the subjects to test groups in a way to minimize bias (labile hypertension patients were administered butabarbital while chronic patients were given the other test substances); and (4) assured comparability in test and control groups of pertinent variables such as severity and duration of disease and use of drugs other than the test substance (the authors state the test subjects were not comparable in duration or severity of disease; there is no indication of what other drugs, if any, the subjects in different test groups received), all of which are required by § 130.12(a)(5)(ii)(*a*)(*2*) (21 CFR 130.12).

The data do not show the methods of observation of results, including the variables measured and quantification (measurement of variables and quantification of results would appear to be impossible given the absence of an established baseline for blood pressure, particularly for those patients with labile or variable hypertension) as required by § 130.12(a)(5)(ii)(*a*)(*3*) (21 CFR 130.12). The data also do not provide information on the nature of any controls employed so as to minimize bias on the part of the investigators, and to permit quantitative evaluation of the contribution the components make to butiserpine (apparently neither the subjects or the investigators were blinded to minimize bias; reserpine was not administered alone and butabarbital was given to patients with labile, not chronic hypertension) as required by § 130.12(a)(5)(ii)(*4*) (21 CFR 130.12).

There was no statistical analysis. The only analysis was computation of rough percentages showing success of butabarbital similar to butiserpine in patient groups with different diagnoses.

c. Johnson, H. J., "Collections of Case Reports" (unpublished). Groups of from 14 to 49 patients diagnosed as suffering from anxiety, hypertension, or both were treated with butiserpine over a period of three weeks to two and one-half years. McNeil Laboratories state the treatments were generally successful.

The Johnson data is nothing more than a collection of case histories of patients administered butiserpine. The data do not purport to be controlled clinical investigations. In no respect are the criteria for well controlled investigations as set forth in § 130.12(a)(5)(ii) (21 CFR 130.12) satisfied by this data; i.e., there is no protocol, diagnostic criteria are unstated, patients were not assigned to test groups to minimize bias, pertinent variables such as duration and severity of disease and use of concurrent therapy are not taken into account, there is no comparison of the patients with any control (historical controls are inappropriate, but even so no data were provided in an attempt to establish such a control), and there is no statistical analysis. All of the data is testimonial in nature.

d. *All clinical data.* None of the data purport to establish the contributions the individual components make to the safety and effectiveness of butiserpine. McNeil Laboratories has not attempted to establish that there is a significant patient population for which combined therapy is necessary. At a minimum, such a population must be identified and documented; and thereafter, separate groups should be administered butiserpine, butabarbital alone, and reserpine alone. Statistical analysis must show a significant increase in effectiveness or safety of the combination over that of either component alone.

CONCLUSION

Therefore, the Commissioner of Food and Drugs, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505(e), 52 Stat. 1053, as amended; 21 U.S.C. 355(e)), and under authority delegated to him (21 CFR 2.120), finds that on the basis of new information before him with respect to each of said drugs, evaluated together with the evidence available to him when each application was approved, there is a lack of substantial evidence that each of the drugs will have the effects it is purported or is represented to have under the conditions of use prescribed, recommended or suggested in the labeling thereof.

Pursuant to the foregoing findings, approvals of the above new-drug applications, and all amendments and supplements thereto, are withdrawn effective October 1, 1973.

(Sec. 505(e), 52 Stat. 1053, as amended (21 U.S.C. 355(e)).)

Dated September 19, 1973.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[FR Doc.73-20214 Filed 9-20-73;8:45 am]

[DESI 5668; Docket No. FDC–D–599; NDA No. 5–668 etc.]

## CERTAIN COMBINATION GASTROINTESTINAL DRUGS

### Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Applications

In a notice (DESI 5668) published in the FEDERAL REGISTER of June 18, 1971 (36 FR 11757), the Commissioner of Food and Drugs announced his conclusions pursuant to the evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group, on the drugs described below stating that the drugs were regarded as possibly effective and lacking substantial evidence of effectiveness for the various labeled indications. The possibly effective indications have been reclassified as lacking substantial evidence of effectiveness in that no data have been submitted pursuant to the notice.

| NDA No. | Drug | NDA holder |
|---|---|---|
| 5-668... | Malglyn Tablets and Malglyn Compound Magma containing phenobarbital, belladonna alkaloids, and dihydroxyaluminum aminoacetate. | Brayten Pharmaceutical Co., 1715 West 38th St. Chattanooga, Tenn. 37409 |
| 11-183 | Aludrox SA suspension containing ambutonium bromide, butabarbital, aluminum hydroxide gel, and magnesium hydroxide. | Wyeth Laboratories Division, American Home Products Corp., P.O. Box 8299, Philadelphia, Pa. 19101. |
| 11-391 | Aludrox SA tablets containing ambutonium bromide, butabarbital, dried aluminum hydroxide gel, and magnesium hydroxide. | Wyeth Laboratories Division, American Home Products Corp. |

The holders of the new drug applications listed above have informed the Food and Drug Administration that marketing of Malglyn Magma Compound and Aludrox SA Suspension and Tablets has been discontinued.

Therefore, notice is given to the holder(s) of the new drug application(s) and to any other interested person that the Commissioner proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the listed new drug application(s) and all amendments and supplements thereto on the grounds that new information before him with respect to the drug(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug(s) will have all the effects purported or represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

All identical, related, or similar products, not the subject of an approved new



V 38 I 183 SEP 21 73 XUM

drug application, are covered by the new drug application(s) reviewed. See 21 CFR 130.40 (37 FR 23185, October 31, 1972). Any manufacturer or distributor of such an identical, related, or similar product is an interested person who may in response to this notice submit data and information, request that the new drug application(s) not be withdrawn, request a hearing, and participate as a party in any hearing. Any person who wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (BD–300), 5600 Fishers Lane, Rockville, Maryland 20852.

In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner hereby gives the applicant(s) and any other interested person an opportunity for a hearing to show why approval of the new drug applications(s) should not be withdrawn.

On or before Oct. 23, 1973, the applicant(s) and any other interested person is required to file with the Hearing Clerk, Food and Drug Administration, Room 6–86, 5600 Fishers Lane, Rockville, Maryland 20852, a written appearance electing whether or not to avail himself of the opportunity for a hearing. Failure of an applicant or any other interested person to file a written appearance of election within the specified time will constitute an election by him not to avail himself of the opportunity for a hearing. No extension of time may be granted.

If no person elects to avail himself of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing approval of the application(s).

If an applicant or any other interested person elects to avail himself of the opportunity for a hearing, he must file, on or before October 23, 1973, a written appearance requesting the hearing, giving the reasons why approval of the new drug application(s) should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data he is prepared to prove in support of his opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing (21 CFR 130.14(b)).

If review of the data submitted by an applicant or any other interested person warrants the conclusion that there exists substantial evidence demonstrating the effectiveness of the product(s) for the labeling claims involved, the Commissioner will rescind this notice of opportunity for hearing.

If review of the data in the application(s) and data submitted by the applicant(s) or any other interested person in a request for a hearing, together with the reasoning and factual analysis in a request for a hearing, warrants the conclusion that no genuine and substantial issue of fact precludes the withdrawal of approval of the application(s), the Commissioner will enter an order of withdrawal making findings and conclusions on such data.

If, upon the request of the new drug applicant(s) or any other interested person, a hearing is justified, the issues will be defined, a hearing examiner will be named, and he shall issue, as soon as practicable after October 23, 1973 a written notice of the time and place at which the hearing will commence. All persons interested in identical, related, or similar products covered by the new drug application(s) will be afforded an opportunity to appear at the hearing, file briefs, present evidence, cross-examine witnesses, submit suggested findings of fact, and otherwise participate as a party. The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

Requests for a hearing and/or elections not to request a hearing may be seen in the Office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052–53, as amended; 21 U.S.C. 355), and the Administrative Procedure Act (5 U.S.C. 554), and under authority delegated to the Commissioner (21 CFR 2.120).

Dated September 13, 1973.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[FR Doc.73–20148 Filed 9–20–73;8:45 am]

### Health Resources Administration

### NURSING RESEARCH AND EDUCATION ADVISORY COMMITTEE

#### Notice of Meeting

The Administrator, Health Resources Administration, announces the meeting date and other required information for the following National Advisory body scheduled to assemble the month of September 1973:

| Committee name | Date, time, and place | Type of meeting and/or contact person |
|---|---|---|
| Nursing Research and Education Advisory Committee. | 9/24–25, 8:30 a.m., Conference Room 3, Bldg. 31, National Institutes of Health, Bethesda, Md. | Open—8:30 a.m.–10:00 a.m. on Sept. 24. Closed—remainder of meeting. Contact Dr. Doris Bloch, Federal Bldg., Room 6A–10, 9000 Rockville Pike, Bethesda, Md., code 301–496–6955. |

*Purpose.* The committee is charged with the initial review of research grant applications in all areas of nursing education and practice, including studies of extended professional roles model curricula, clinical investigations, historical research, and institutional research development and with surveying the status of research in nursing education and practice.

*Agenda.* Agenda items will cover administrative and staff reports during the open session of the meeting. The remainder of the meeting will be devoted to the review of grant applications and will not be open to the public, in accordance with the determination by the Administrator, Health Resources Administration, pursuant to Public Law 92–463, section 10(d).

Agenda items are subject to change as priorities dictate.

A roster of members and other relevant information regarding the open/closed session may be obtained from the contact persons listed above.

Dated September 17, 1973.

KENNETH M. ENDICOTT, M.D.,
*Administrator, Health Resources Administration.*

[FR Doc.73–20147 Filed 9–20–73;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

[CGD 73–213N]

### NEW YORK HARBOR VESSEL TRAFFIC SYSTEM ADVISORY COMMITTEE

#### Notice of Meeting

This is to give notice pursuant to Publice Law 92–463, sec. 10(a), approved October 6, 1972, that the New York Harbor Vessel Traffic System Advisory Committee will conduct an open meeting on Wednesday, October 17, 1973, in the Auditorium of Building 108, Governors Island, New York beginning at 10:30 a.m.

Members of the Committee and their industry positions are:

Admiral John M. Will, USN (Ret.), State of New York Board of Commissioners of Pilots.
Captain H. C. Breitenfeld, United New York Sandy Hook Pilots' Benevolent Association.
Captain W. H. Burrill, State of New Jersey Board of Commissioners of Pilots.
Mr. Richard Dewling, U.S. Environmental Protection Agency.
Captain L. T. Earl, United New Jersey Sandy Hook Pilots' Benevolent Association.
Mr. A. Giallorenzi, American Institute of Merchant Shipping—Petroleum Industry Representative.
Mr. Alfred Hammon, Port Authority of New York and New Jersey.
Captain T. A. King, U.S. Department of Commerce Maritime Administration.
Commodore F. Lindner, Long Island Sound Commodores Association.
Colonel H. W. Lombard, USA, Department of the Army, Corps of Engineers.
Mr. Robert W. Sanders, New York Harbor Panel Marine Towing and Transportation Industry.
Captain R. D. Sante, USN, U.S. Navy, Military Sealift Command.
Captain S. M. Seledee, American Institute of Marine Underwriters.
Captain J. G. Stillwaggon, Interport Pilot's Associates, Inc.
Captain K. C. Torrens, American Institute of Merchant Shipping.

The Agenda for the October 17, 1973 meeting consists of:

1. Brief discussion of changes made to the Implementation Working Paper.
2. Report to the Committee of the progress on Communications analysis. Committee to determine:
   a. Are additional studies required?
   b. Time reports, if any, should be completed.
   c. Briefing of probability of multi-channel Vessel Traffic System Communications Requirements nationally—re: Headquarters Study.
3. Announce:
   a. Status of sub-committees for the study of Long Island Sound and Upper Hudson River.
   b. Specific tasks of sub-committees.
4. Announce the Committee procedures relative to requests for exemptions to the system.
5. Discuss equipment requirements for vessels—determine economic impact on the industry.
6. Report by the Captain of the Port New York, reference to possible speed limits to be imposed in the various areas of the harbor and anchorage area restrictions with respect to length, tugs required, etc.
7. Comments from the floor.

The New York Harbor Vessel Traffic System Advisory Committee was established by the Commander, Third Coast Guard District on April 1, 1973, to advise on the need for, and development, installation and operation of a Vessel Traffic System for the New York Harbor. Public members of the Committee serve voluntarily without compensation from the Federal Government, either travel or per diem.

Interested persons may seek additional information by writing Commander H. A. Pledger, Project Officer, Vessel Traffic System, Third Coast Guard District, Governors Island, New York 10004, or by calling 212–264–0409.

Dated September 7, 1973.

G. W. WAGNER,
*Captain, U.S. Coast Guard, Acting Commander, Third Coast Guard District.*

[FR Doc.73–20092 Filed 9–20–73;8:45 am]





## ATOMIC ENERGY COMMISSION

[Docket Nos. 50–450 and 50–451]

### DELMARVA POWER & LIGHT COMPANY AND PHILADELPHIA ELECTRIC COMPANY

#### Notice of Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicants' Environmental Report; Time for Submission of Views on Antitrust Matter

Delmarva Power & Light Company, 800 King Street, Wilmington, Delaware 19899, and Philadelphia Electric Company, 2301 Market Street, Philadelphia, Pennsylvania 19101 (the applicants), pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, have filed an application which was docketed on August 16, 1973, for authorization to construct and operate two generating units utilizing high temperature gas-cooled reactors. The application was tendered on April 30, 1973. Following a preliminary review for completeness, it was accepted on June 15, 1973.

The proposed nuclear facilities, designated by the applicants as the Summit Power Station, Units 1 and 2 will be located on a site in New Castle County, Delaware, approximately 1.2 miles south of the Chesapeake and Delaware Canal, 5 miles northeast of Middletown, Delaware, and 15 miles southwest of Wilmington, Delaware. Each reactor is designed for initial operation at approximately 2000 megawatts thermal, with a net electrical output of approximately 785 megawatts.

A Notice of Hearing with opportunity for public participation is being published separately.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Office of Antitrust and Indemnity, Directorate of Licensing, on or before October 30, 1973. The request should be filed in connection with Docket Nos. 50–450–A and 50–451–A.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545, and at the Newark Free Library, Elkton Road and Delaware Avenue, Newark, Delaware 19711.

The applicants also filed, pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in Appendix D to 10 CFR, Part 50, an environmental report dated April 1973. Following a preliminary review for completeness, it was rejected on June 15, 1973, for lack of sufficient information. The applicants submitted a supplement to the environmental report on July 30, 1973, and the report was accepted. The report has been made available for public inspection at the aforementioned locations. The report, which discusses environmental considerations related to the proposed construction of the Summit Power Station, Units 1 and 2 is also being made available at the Delaware State Planning Office, Tomas Collins Building, 530 South Dupont Highway, Dover, Delaware 19901, and at the Wilmington Metropolitan Area Planning and Coordinating Council, 4613 Robert Kirkwood Highway, Wilmington, Delaware 19808.

After the report has been analyzed by the Commission's Director of Regulation or his designee, a draft environmental statement will be prepared by the Commission. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement, requesting comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials thereon will be made available when received.

Dated at Bethesda, Maryland, this 20th day of August 1973.

For the Atomic Energy Commission.

DARRELL G. EISENHUT,
*Acting Chief, Gas Cooled Reactors Branch, Directorate of Licensing.*

[FR Doc.73–18380 Filed 8–20–73;8:45 am]

[Docket Nos. 50–448 and 50–449]

### POTOMAC ELECTRIC POWER COMPANY

#### Notice of Receipt of Application for Construction Permits and Facility Licenses and Availability of Applicant's Environmental Report; Time for Submission of Views on Antitrust Matter

Potomac Electric Power Company (the applicant), pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, has filed an application, which was docketed on August 9, 1973, for authorization to construct and operate two single cycle, forced circulation, boiling water nuclear reactors. The application was tendered on July 2, 1973. Following a preliminary review for completeness, it was found acceptable for docketing on August 6, 1973.

The proposed nuclear facilities, designated by the applicant as the Douglas Point Nuclear Generating Station, Units 1 & 2 are located on the east bank of the Potomac River, about 30 miles south-southwest of Washington, D.C., in Charles County, Maryland, and are designed for initial operation at approximately 3579 megawatts (thermal), with a net electrical output of approximately 1173 megawatts.

A Notice of Hearing with opportunity for public participation is being published separately.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Office of Antitrust and Indemnity, Directorate of Licensing, on or before October 30, 1973. The request should be filed in connection with Docket Nos. 50–448–A & 50–449–A.

The applicant has also filed, pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in Appendix D to 10 CFR, Part 50, an environmental report dated August 8, 1973. The report has been made available for public inspection at the aforementioned locations. The report, which discusses environmental considerations relative to the proposed construction of the Douglas Point Nuclear Generating Station, Units 1 & 2, is also being made available at the Department



V 38 I 183 SEP 21 73 XUM

of State Planning, 301 West Preston Street, Baltimore, Maryland 21201 and at the Metropolitan Washington Council of Governments, 1225 Connecticut Avenue NW., Washington, D.C. 20036.

After the report has been analyzed by the Commission's Director of Regulation or his designee, a draft environmental statement will be prepared by the Commission. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement, requesting comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials thereon will be made available when received.

Dated at Bethesda, Maryland, this 14th day of August 1973.

For the Atomic Energy Commission.

WALTER R. BUTLER,
*Chief, Boiling Water Reactors, Branch 1 Directorate of Licensing.*

[FR Doc.73-18379 Filed 8-30-73;8:45 am]

---

[Docket No. 50-389]

## FLORIDA POWER & LIGHT CO.

### Hearing on Application for Construction Permit

In the matter of Florida Power & Light Company (St. Lucie Plant, Unit 2).

Pursuant to the Atomic Energy Act of 1954, as amended (the Act), and the regulations in Title 10, Code of Federal Regulations, Part 50, "Licensing of Production and Utilization Facilities," and Part 2, "Rules of Practice," notice is hereby given that a hearing will be held, at a time and place to be set in the future by an Atomic Safety and Licensing Board (Board), to consider the application filed under the Act by the Florida Power and Light Company (the applicant), for a construction permit for a pressurized water nuclear reactor designated as the St. Lucie Plant, Unit 2 (the facility), which is to be designed for initial operation at approximately 2570 thermal megawatts with a net electrical output of approximately 810 megawatts. The proposed facility is to be located on the applicant's site on Hutchinson Island in St. Lucie County, Florida, between the cities of Ft. Pierce and Stuart on the East Coast of Florida. The hearing will be scheduled to begin in the vicinity of the site of the proposed facility.

The hearing will be conducted by an Atomic Safety and Licensing Board (Board) which has been designated by the Chairman of the Atomic Safety and Licensing Board Panel, consisting of Dr. David L. Hetrick, Dr. Frank F. Hooper, and John B. Farmakides, Esq., Chairman. Dr. Marvin M. Mann has been designated as a technically qualified alternate, and Michael Glaser, Esq. has been designated as an alternate qualified in the conduct of administrative proceedings.

Upon completion by the Commission's regulatory staff of a favorable safety evaluation of the application and an environmental review, and upon receipt of a report by the Advisory Committee on Reactor Safeguards, the Director of Regulation will consider making affirmative findings on Items 1–3, a negative finding on Item 4, and an affirmative finding on Item 5 specified below as a basis for the issuance of a construction permit to the applicant:

*Issues pursuant to the Atomic Energy Act of 1954, as amended.* 1. Whether in accordance with the provisions of 10 CFR § 50.35(a):

(a) The applicant has described the proposed design of the facility including, but not limited to, the principal architectural and engineering criteria for the design, and has identified the major features or components incorporated therein for the protection of the health and safety of the public;

(b) Such further technical or design information as may be required to complete the safety analysis and which can reasonably be left for later consideration, will be supplied in the final safety analysis report;

(c) Safety features or components, if any, which require research and development have been described by the applicant and the applicant has identified, and there will be conducted a research and development program reasonably designed to resolve any safety questions associated with such features or components; and

(d) On the basis of the foregoing, there is reasonable assurance that (i) such safety questions will be satisfactorily resolved at or before the latest date stated in the application for completion of construction of the proposed facility, and (ii) taking into consideration the site criteria contained in 10 CFR Part 100, the proposed facility can be constructed and operated at the proposed location without undue risk to the health and safety of the public.

2. Whether the applicant is technically qualified to design and construct the proposed facility;

3. Whether the applicant is financially qualified to design and construct the proposed facility;

4. Whether the issuance of a permit for construction of the facility will be inimical to the common defense and security or to the health and safety of the public.

*Issue pursuant to National Environmental Policy Act of 1969 (NEPA).* 5. Whether, in accordance with the requirements of Appendix D of 10 CFR Part 50, the construction permit should be issued as proposed.

In the event that this proceeding is not a contested procedure as defined by 10 CFR 2.4(n), the Board will determine (1) without conducting a de novo evaluation of the application, whether the application and the record of the proceeding contain sufficient information, and the review of the application by the Commission's regulatory staff has been adequate, to support the findings proposed to be made by the Director of Regulation on Items 1–4 above, and to support, insofar as the Commission's licensing requirements under the Act are concerned, the issuance of the construction permit proposed by the Director of Regulation; and (2) determine whether the review conducted by the Commission pursuant to NEPA has been adequate. In the event that this proceeding is not contested the Board will convene a prehearing conference of the parties at a time and place to be set by the Board. It will also set the schedule for the evidentiary hearing. Notice of the prehearing conference and the hearing will be published in the FEDERAL REGISTER.

In the event that this proceeding becomes a contested proceeding, the Board will consider Items 1–5 above as a basis for determining whether the construction permit should be issued to the applicant.

The Board will convene a special prehearing conference of the parties to the proceeding and persons who have filed petitions for leave to intervene, or their counsel, to be held at such time as may be appropriate, at a place to be set by the Board for the purpose of dealing with the matters specified in 10 CFR 2.751a. Notice of the special prehearing conference will be published in the FEDERAL REGISTER.

The Board will convene a prehearing conference of the parties, or their counsel, to be held subsequent to any special prehearing conference, after discovery has been completed, at a time and place to be set by the Board for the purpose of dealing with the matters specified in 10 CFR 2.752.

With respect to the Commission's responsibilities under NEPA, and regardless of whether the proceeding is contested or uncontested, the Board will, in accordance with section A.11 of Appendix D of 10 CFR Part 50, (1) determine whether the requirements of section 102(2) (C) and (D) of NEPA and Appendix D of 10 CFR Part 50 have been complied with in this proceeding; (2) independently consider the final balance among conflicting factors contained in the record of the proceeding with a view to determining the appropriate action to be taken; and (3) determine whether the construction permit should be issued, denied, or appropriately conditioned to protect environmental values.

For further details, see the application for a construction permit and the applicant's Environmental Report, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., between the hours of 8:30 a.m. and 5 p.m. on weekdays. Copies of those documents are also available at the Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida 33450, for inspection by members of the public between the hours of 8 a.m. and 9:30 p.m. Monday through Thursday, 8 a.m. and 5 p.m. on Friday, and 2 p.m. and 5 p.m. on Sunday. As they become available, a copy of the Safety Evaluation Report by the Commission's Directorate of Licensing, the Commission's draft and final detailed statements on environmental considerations, the report of the Advisory Committee on Reactor Safeguards (ACRS), the proposed construction permit, other relevant documents, and the transcripts of the prehearing conferences and of the hearing will also be available at the above locations. Copies of the Directorate of Licensing's safety evaluation, the Commission's final detailed statement on environmental considerations, the proposed construction permit, and the ACRS report, may be obtained, when available, by request to the Deputy Director for Reactor Projects, Directorate of Licensing, United States Atomic Energy Commission, Washington, D.C. 20545.





Any person who does not wish to, or is not qualified to become a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.715. A person making a limited appearance may only make an oral or written statement on the record, and may not participate in the proceeding in any other way. Limited appearances will be permitted at the time of the hearing in the discretion of the Board, within such limits and on such conditions as may be fixed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission, United States Atomic Energy Commission, Washington, D.C. 20545, not later than October 23, 1973.

A person permitted to make a limited appearance does not become a party, but may state his position and raise questions which he would like to have answered to the extent that the questions are within the scope of Items 1–5 above.

Any person whose interest may be affected by the proceeding, who does not wish to make a limited appearance but who wishes to participate as a party in the proceeding must file a written petition under oath or affirmation for leave to intervene in accordance with the provisions of 10 CFR 2.714. A petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

A petition for leave to intervene must be filed with the Office of the Secretary of the Commission, United States Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., not later than October 23, 1973. A petition for leave to intervene which is not timely will not be granted unless the Board determines that the petitioner has made a substantial showing of good cause for failure to file on time and after the Board has considered those factors specified in 10 CFR 2.714(a)(1)–(4) and 2.714(d).

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have all the rights to participate fully in the conduct of the hearing, such as the examination and cross-examination of witnesses, with respect to their contentions related to the matters at issue in the proceeding.

An answer to this notice, pursuant to the provisions of 10 CFR 2.705, must be filed by the applicant not later than October 11, 1973.

Papers required to be filed in this proceeding may be filed by mail or telegram addressed to the Secretary of the Commission, United States Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, or may be filed by delivery to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of the petition or request for limited appearance should also be sent to the Chief Hearing Counsel, Office of the General Counsel, U.S. Atomic Energy Commission, Washington, D.C. 20545, and to Mr. Jack R. Newman, Newman, Reis & Axelrad, 1100 Connecticut Avenue NW., Washington, D.C. 20036, attorney for the applicant.

Pending further order of the Board, parties are required to file, pursuant to the provisions of 10 CFR 2.708, an original and twenty (20) conformed copies of each such paper with the Commission.

With respect to this proceeding, pursuant to 10 CFR 2.785, an Atomic Safety and Licensing Appeal Board will exercise the authority and the review function which would otherwise be exercised and performed by the Commission. Notice as to the membership of the Appeal Board will be published in the FEDERAL REGISTER.

Dated at Washington, D.C., this 13th day of September 1973.

UNITED STATES ATOMIC ENERGY COMMISSION,
GORDON M. GRANT,
*Acting Secretary of the Commission.*

[FR Doc.73-20034 Filed 9-20-73;8:45 am]

---

[Docket No. 50-389]

## FLORIDA POWER AND LIGHT CO.

### Receipt of Application for Construction Permit and Facility License; Availability of Applicant's Environmental Report; Time for Submission of Views on Antitrust Matter

The Florida Power and Light Company (the applicant), pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, has filed an application dated May 14, 1973, which was docketed September 4, 1973, for authorization to construct and operate a pressurized water nuclear reactor. The application was initially tendered on April 19, 1973. Following a preliminary review for completeness, the Preliminary Safety Analysis Report was found to be acceptable for docketing; however, the Environmental Report was rejected for lack of sufficient information. The applicant submitted additional environmental information on August 8, 1973, and the application was found acceptable for docketing. Docket No. 50-389 has been assigned to this application and should be referenced in any correspondence relating to it.

The proposed nuclear facility, designated by the applicant as the St. Lucie Plant, Unit 2, is to be located at the applicant's site on Hutchinson Island in St. Lucie County, Florida, between the Cities of Ft. Pierce and Stuart on the East Coast of Florida. The facility is to be designed for initial operation at approximately 2570 megawatts thermal, with a net electrical output of approximately 810 megawatts.

A Notice of Hearing with opportunity for public participation is being published separately.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Office of Antitrust and Indemnity, Directorate of Licensing, on or before November 20, 1973. The submittal should reference Docket No. 50-389-A.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545, and at the Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida 33450.

The applicant has also filed, pursuant to the National Environmental Policy Act of 1969 and the regulations of the Commission in Appendix D to 10 CFR Part 50, an Environmental Report. This report, which discusses environmental considerations related to the proposed construction of the St. Lucie Plant, Unit 2, is available for public inspection at the aforementioned locations, and is also being made available at the Department of Administration, State Planning and Development Clearinghouse, 725 South Bronough Street, Tallahassee, Florida 32304.



V 38 I 183 SEP 21 73 XUM

After the Environmental Report has been analyzed by the Commission's Director of Regulation or his designee, a draft environmental statement will be prepared by the Commission. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement, requesting comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials thereon will be made available when received.

Dated at Bethesda, Maryland, this 12th day of September 1973.

For the Atomic Energy Commission.

KARL R. GOLLER,
*Chief, Pressurized Water Reactors Branch No. 3, Directorate of Licensing.*

[FR Doc.73-20038 Filed 9-20-73;8:45 am]

## CIVIL AERONAUTICS BOARD

[Docket No. 25881]

### AMERICAN AIRLINES, INC. AND HUGHES AIRWEST

**Route Exchange Agreement, Notice of Prehearing Conference**

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on October 24, 1973, at 10:00 a.m. (local time) in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge Alexander N. Argerakis.

In order to facilitate the conduct of the conference parties are instructed to submit one copy to each party and four copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) statement of positions of parties; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before October 11, 1973, and the other parties on or before October 18, 1973. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Operating Rights, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., September 17, 1973.

[SEAL] RALPH L. WISER,
*Chief Administrative Law Judge.*

[FR Doc.73-20159 Filed 9-20-73;8:45 am]

[Docket No. 24488; Order 73-9-58]

### INTERNATIONAL AIR TRANSPORT ASSOCIATION

**Fares Over South Pacific**

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 14th day of September 1973.

By Order 73-7-55, dated July 12, 1973, the Board approved IATA agreements revising the South Pacific fare structure. The Board's approval of that portion of the agreement which provides for through fares between the mainland U.S. and South Pacific points in excess of the sum of local sector fares was approved subject to modification after receipt and evaluation of carrier justification and comments from interested third parties.[1]

Comments in support of the IATA agreement have been received from American Airlines, Inc. (American), Pan American World Airways, Inc. (Pan American) and Air New Zealand Limited (New Zealand). The respondents generally contend that IATA negotiates fares for international routes based on cost considerations for the routes to be operated; that it would be unsound to construct an international fare for a long-haul, low-traffic-density route by using a domestic fare that is recognized as unprofitable; that domestic and international fare structures will always coexist and the resultant fare undercutting cannot be entirely eliminated; that the Board has approved IATA resolutions establishing the precedence of specified through fares over any lower combinations of intermediate fares; that the problems of establishing international fares are made more difficult because of the multi-tier domestic fare structure to Hawaii; and that fluctuations in domestic fares are beyond the control of IATA members and compliance with the Board's proposal would create additional problems of routing control and other undercuts. Pan American further alleges that the Board erred in its fare table in Appendix B of Order 73-7-55 in that the combination of fares over Honolulu are in fact understated and are not in conformance with the IATA agreements.

The Board has on several occasions in the past addressed itself to the matter of the combinability of fares. The first major decision, IATA Regional Traffic Conference Investigation, 24 CAB 463 (1957), commonly known as the TAN case, dealt primarily with the combinability of U.S. domestic fares in international air transportation offered by non-IATA carriers. More recently, by Order 72-10-1, October 2, 1972, the Board conditioned IATA Resolution 001 (Permanent Effectiveness Resolution) as follows:

> No IATA resolution shall be construed as preventing any agent or carrier from selling a ticket or any number of tickets for air transportation to any person who meets the travel requirements affixed to the air fares subject to the stipulations contained in the lawful tariffs of the various carriers involved in said transportation, as filed with the Civil Aeronautics Board (where such filing is required by law).

[1] For example, the sum of the local-sector coach/economy one-way fares over Honolulu on mainland-Sydney services would undercut the through IATA fares from $18 to $55. On mainland-Papeete services, the undercuts range from $28 to $65.

As a consequence of the above condition the combination of sector fares filed with the Board in the carriers' tariffs are valid for transportation even though the IATA through fare as published may be undercut. As we said in Order 72-10-1:

> A through fare which is higher than the aggregate of intermediate fares is ordinarily considered to be unreasonable per se, and would not ordinarily be permitted to go into effect.

While the lower combination fares are legal and can be used to secure the desired transportation, Board approval of the higher IATA through-fare agreement would mean that the higher fares will be shown in various ticket-selling publications, and as a consequence only the more knowledgeable traveler or travel agent would be aware of the savings to be realized from the purchase of a combination of fares ticket. We, therefore, conclude that approval of the agreements establishing through first-class and normal economy fares higher than the sum of the individual sector fares would be adverse to the public interest.

We do not deny that certain procedural problems may result from our decision but we do not believe these problems are insurmountable. Should domestic fares change, IATA has ample wherewithal to likewise change IATA fares by mail or cable vote. Further, as noted in Order 73-7-55, although an IATA review of the fare construction rules is pending, we have serious reservations about constructing South Pacific fares over Los Angeles rather than over Hawaii because, for example, Hawaii is a stop on many South Pacific services.

Finally, we would first point out that level of mainland-Hawaii fares is not at issue in this proceeding. In any event the Board has recently permitted certain increases in the domestic Hawaii fares. A comparison of the IATA-agreed South Pacific through fares and the combination of fares over Hawaii reflecting the increase is shown in the attachments hereto. It is apparent that significant undercuts will continue to exist.

The Board, acting pursuant to sections 102, 204(a) and 412 of the Act, finds that the agreement establishing first-class and economy fares in air transportation at levels higher than the sum of the individual sector fares are adverse to the public interest or in violation of the Act and should be disapproved.

Accordingly, *It is ordered, That:* The following resolutions incorporated in Agreement C.A.B. 23596 as they would apply in air transportation be and hereby are disapproved.

| Agreement CAB 23596 | IATA No. | Title | Application |
|---|---|---|---|
| R 6 | 015a | South Pacific Proportional Fares-North America (Revalidating and Amending). | 3/1 South Pacific. |
| R 7 | 050a | II South Pacific First-Class Fares. | Do. |
| R-9 | 066a | II South Pacific Economy-Class Fares. | Do. |





This Order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[1]

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.73-20163 Filed 9-20-73;8:45 am]

[Docket No. 25630]

### SURINAAMSE LUCHTVRACHT ONDERNEMING N.V.

**Postponement of Prehearing Conference and Hearing**

In the matter of Surinaamse Luchtvract Onderneming N.V. (Surinam Air Cargo Corporation), foreign air carrier permit renewal, Surinam-Miami service.

Counsel for the applicant has requested a postponement of the prehearing conference and hearing in this proceeding to October 17, 1973, in order to have sufficient time to prepare exhibit material requested by the Bureau of Operating Rights.

Accordingly, notice is given that the prehearing conference and hearing now scheduled for October 3, 1973 (38 FR 25466, September 13, 1973), is hereby postponed to October 17, 1973, at 10 a.m. (local time), in Room 503, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned.

Dated at Washington, D.C., September 17, 1973.

[SEAL] ALEXANDER N. ARGERAKIS,
*Administrative Law Judge.*

[FR Doc.73-20160 Filed 9-20-73;8:45 am]

## COMMISSION ON CIVIL RIGHTS

### ARIZONA

**Notice of Hearing**

Notice is hereby given, pursuant to the provisions of the Civil Rights Act of 1957, 71 Stat. 634, as amended, that a public hearing of the U.S. Commission on Civil Rights will commence on October 22, 1973, and that an executive session, if appropriate, will be convened on October 21, 1973, to be held at the Navajo Civic Center, Window Rock, Arizona.

The purpose of the hearing is to collect information concerning legal developments constituting a denial of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin which affect educational opportunities, or the provision of medical and welfare services, or employment opportunities, or economic development for the Navajo Indians who reside on or near the Navajo Reservation in Arizona, New Mexico, or Utah; to appraise the laws and policies of the Federal Government with respect to denials of equal protection of the laws under the Constitution because of race, color, religion, sex, or national origin as they affect the educational opportunities, or the provision of medical and welfare services, or employment opportunities, or economic development for Navajo Indians, in the above areas, and to disseminate information with respect to denials of equal protection of the laws because of race, color, religion, sex, or national origin in the fields of education, medical and welfare services, employment, economic development, and related matters.

Dated at Washington, D.C., September 18, 1973.

STEPHEN HORN,
*Acting Chairman.*

[FR Doc.73-20191 Filed 9-20-73;8:45 am]

### NEW JERSEY STATE ADVISORY COMMITTEE

**Agenda and Notice of Open Meeting**

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the New Jersey State Advisory Committee will convene at 7:30 p.m. on September 21, 1973, in Room 115, Labor Education Center, Rutgers University, Ryders Lane, New Brunswick, New Jersey 08903.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Mid-Atlantic Regional Office of the Commission, Room 510, 2120 L Street NW., Washington, D.C. 20425.

The purpose of this meeting shall be to discuss current developments in the progress of the New Jersey State Advisory Committee's prison study.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., September 13, 1973.

ISAIAH T. CRESWELL, JR.,
*Advisory Committee Management Officer.*

[FR Doc.73-20270 Filed 9-20-73;8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

[Report 666]

### COMMON CARRIER SERVICES INFORMATION[1]

**Domestic Public Radio Services Applications Accepted for Filing[2]**

SEPTEMBER 17, 1973.

Pursuant to §§ 1.227(b)(3) and 21.30(b) of the Commissions rules, an application, in order to be considered with any domestic public radio services application appearing on the list below, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed below if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

20253-C2-74—Comex, Inc. (KCI295). C.P. to utilize facilities operating on 43.22 mHz as standby at Loc. #1: Elm Street, Manchester, New Hampshire, and to replace transmitter at Loc. #3: Swenson's Quarry, Rattlesnake Hill, Concord, New Hampshire.

20254-C2-P-74—Radio Relay Corporation (KEC745). C. P. to change antenna system operating on 43.22 MHz at Loc. #7: 135 St. Andrews Lane, Glen Cove, New York.

20255-C2-P-74—General Telephone Company of the Southwest (KKO351). C.P. for additional facilities to operate on 152.54 MHz at 5.6 Miles West of San Angelo, Texas.

20256-C2-P-74—Phenix Communications Company, Inc. (KLF555). C.P. to change antenna system and location and to replace transmitter operating on 152.09 MHz to be located at a new site described as Loc. #2: 809 S. Seventh Street, Opelika, Alabama.

20257-C2-AL-74—Collins Communications Company. Consent to Assignment of License from Clarence Collins, ASSIGNOR to Collins Radio Communications Corporation, ASSIGNEE. Station: (KUO574), Garner. Lake Route, Gillette, Wyoming.

20259-C2-P-74—Telepage, Inc. (KLF605). C.P. to change antenna system and location operatin on 158.61 mHz to a new Loc. #2: 1010 West Holly Street, Bellingham, Washington.

20260-C2-P-74—Southwestern Bell Telephone Company (NEW). C.P. for a new 2-way station to operate on 152.66 MHz to be located 6 miles South of Canadian, by Hwy. 60, Texas.

[1] All applications listed below are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

[2] The above alternative cutoff rules apply to those applications listed below as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio, and Local Television Transmission Services (part 21 of the rules).

[1] Attachment A, Comparison of IATA South Pacific Through Fares and Combination of Local Fares over Honolulu (One-Way First-Class Fares), is filed as part of the original document.



V 38 I 183 SEP 21 73 XUM

20261–C2–P–74 — Massachusetts-Connecticut Mobile Telephone Company (KQZ747). C.P. for additional facilities to operate on 158.70 MHz to be located at seven new sites described as: Loc. #2: Killingsworth, Connecticut; Loc. #3: Beseck Mountain, Middletown, Connecticut; Loc. #4: End of Cook Drive, Montville, Connecticut; Loc. #5: On Route 195 approx. 0.5 mile South of Storrs, Connecticut; Loc. #6: Willis Street, Bristol, Connecticut; Loc. #7: Highland Avenue, Torrington, Connecticut; Loc. #8: Circle Watner Tract, Extension of Garden Hill, Waterbury, Connecticut; and control facilities to operate on 75.46 MHz at a location described as Loc. #9: Meriden Mountain, Connecticut.

20262–C2–P–(2)–74—Westchester Mobilfone System, Inc. (KEA274). C.P. to change antenna location and replace transmitter operating on 152.06 and 152.15 MHz to be located at St. Marys In The Field School, Mt. Pleasant, New York.

20263–C2–P–74—Zipcall (KTS212). C.P. for additional facilities to operate on 43.22 MHz at Loc. #1: End of Tower Road, Fall River, Massachusetts.

20264–C2–AL–73—Montana Communications. Consent to Assignment of License from Montana Communications, ASSIGNOR to James W. Corn d/b as Omnicom, ASSIGNEE. Station: KOF914, 3200 Clark, on TV Mtn., 9 miles north of Missoula, Montana.

*MAJOR AMENDMENTS*

4472–C2–P–(2)–73—Gulf Mobilphone Alabama, Inc. (NEW), Birmingham, Alabama. Amend to change base and mobile frequencies for location #2 to 454.275 and 459.275 respectively. All other particulars remain as reported on PN #628, dated December 26, 1972.

8336–C2–P–73—Portable Communications, Inc. (NEW). Amend to change base frequency to 454.325 MHz and location to near Rt. 83 and Center Rd., 6 miles SE. of Dunkirk, New York. All other particulars to remain as reported on PN #649, dated May 21, 1973.

8337–C2–P–73—Portable Communications, Inc. (NEW). Amend to change location to near Rt. 83 and Center Rd., 6 miles SE. of Dunkirk, New York. All other particulars to remain as reported on PN #649, dated May 21, 1973.

*CORRECTION*

20157–C2–P–74—General Telephone Company of the Southwest (KKO966). Correct call sign to read (KKQ966) instead of (KKO966). All other particulars to remain as reported on PN #662, dated August 20, 1973.

*INFORMATIVE*

It appears that the following applications may be mutually exclusive and subject to the Commission's rules regarding ex parte presentations, by reasons of potential electrical interference.

*California*

United Radiophone System (NEW) 102–C2–P–(2)–73.

Peninsula Radio Secretarial Service, Inc. (KMA608) 2607–C2–P–73.

• • • • • •

*Indiana—454.125 MHz*

Lake Shore Communications (KSJ818) 1956–C2–P–73.

Mobile Radio Communications of Gary KSD-311) 3985–C2–P–73.

RURAL RADIO SERVICE

60056–C6–AL–74—Montana Communications. Consent to Assignment of License from Montana Communications, ASSIGNOR, to James W. Corn d/b as Omnicom, ASSIGNEE. Station: KPX22, Temporary-Fixed.

POINT TO POINT MICROWAVE SEAVICE

9484–C1–P–72 and 2034–C1–L–73—Madison Valley Telephone Company. (New) Big Sky, 30.5 miles SW. of Bozeman, Montana. Lat. 45°16'05" N., Long. 111°17'24" W. C.P. for a new station on frequencies: 10,915V and 11,155H to Big Sky P.R. on azimuth 344°43'.

766–C1–P–74—The Mountain States Telephone and Telegraph Company. (KPR76) 2 miles North of Salt Lake City, Utah. Lat. 40°48'18" N., Long. 111°53'48" W. C.P. to increase circuit capacity and transmitter power output to 2 watts on frequencies: 6241.7H and 6301.0H toward Ogden, Utah, via Passive Reflector.

767–C1–P–74—Same. (KPR77) 431 26th Street, Ogden, Utah. Lat. 41°13'04" N., Long. 111°58'07" W. C.P. to increase circuit capacity and transmitter power output to 2 watts on frequencies: 6019.3H and 6078.6H toward Salt Lake City via Passive Reflector and frequencies: 6056.4H and 6115.7H toward Little Mountain, Utah.

768–C1–P–74—Same. (KPS98) 8.3 miles WSW. of Plain City, Utah. Lat. 41°15'25" N., Long. 112°14'13" W. C.P. to increase circuit capacity and transmitter power output to 2 watts on frequencies: 6308.4H and 6367.-7H toward Ogden, Utah, and frequencies: 6382.6H and 10.995V toward Brigham City, Utah.

769–C1–P–74—Same. (KPZ71) 42 East Second South, Brigham City, Utah. Lat. 41°30'23" N., Long. 112°00'49" W. C.P. to increase circuit capacity and transmitter power output to 2 watts on frequencies: 6130.5H and 11,445V toward Little Mountain and frequencies: 6115.7H and 11,645V toward Logan, Utah, via double Passive Reflectors.

770–C1–P–74—Same. (KPZ72) 10 South 1st East, Logan, Utah. Lat. 41°43'52" N., Long. 111°49'53" W. C.P. to increase circuit capacity and transmitter power output on frequencies: 6367.7H and 10,715V toward Brigham City, Utah, via double Passive Reflectors.

771–C1–P–74—KHC Microwave Corporation. (New) 6 miles West of Winnle, Texas. Lat. 29°50'48" N., Long. 94°29'05" W. C.P. for a new station on frequencies: 5945.2H, 6004.5H, 6063.8H, 6123.1H, and 6152.8V toward LaBelle, Texas, on azimuth 91°13'. (NOTE.—A waiver of Section 21.701(1) is requested by KHC.)

772–C1–P–74—Northwestern Bell Telephone Company. (New) ½ mile SW. of Jamestown, North Dakota. Lat. 46°54'16" N., Long. 98°43'57" W. C.P. for a new station on frequencies: 11,685 and 11,445 toward Courtenay, North Dakota, on azimuth 19°47'.

773–C1–P–74—Same. (New) South edge of Courtenay, North Dakota. Lat. 47°13'08" N., Long. 98°33'59" W. C.P. for a new station on frequencies: 10,755 and 10,995 toward Jamestown, North Dakota, on azimuth 199°55'.

774–C1–P–74—The Pacific Telephone and Telegraph Company. (KME46) 3848 Seventh Avenue, San Diego, California. Lat. 32°44'52" N., Long. 117°09'29" W. C.P. to change antenna system and add frequency 3710V toward Mt. Laguna, Calif., on azimuth 77°24'.

775–C1–P–74—The Pacific Telephone and Telegraph Company. (KMJ79) Mt. Laguna, Calif. Lat. 32°53'08" N., Long. 116°25'103" W. C.P. to change antenna system and add frequencies: 3750V toward San Diego, Calif., on Azimuth 257°49'; 3750H toward El Centro, Calif., on Azimuth 97°08'.

776–C1–P–74—Same. (KHZ78) 763 State Street, El Centro, California. Lat. 32°47'29" N., Long. 115°33'35" W. C.P. to add frequency 3710H toward Mt. Laguna, Calif., on azimuth 277°36'.

779–C1–P–74—Pacific Northwest Bele Telephone Company.(KOJ91) 208 West Yakima Avenue, Yakima, Washington. Lat. 46°36'-03" N., Long. 120°30'37" W. C.P. to add frequency 4130V toward Bluelight Hill, Washington, on azimuth 158°48'.

780–C1–P–74—Same. (KOJ92) 6 miles Northeast of Bickleton, Washington. Lat. 46°04'-50" N., Long. 120°13'14" W. C.P. to add frequency 4170V toward Joe Butte, Washington, on azimuth 87°53'.

781–C1–P–74—New England Telephone and Telegraph Company. (KCL85) 25 Concord Street, Manchester, New Hampshire. Lat. 42°59'32" N., Long. 71°27'46" W. C.P. to add frequencies: 6197.2H and 6256.5H toward Nashua, N.H., on azimuth 181°47'; delete frequency 6271.4V toward Nashua, N.H.

782–C1–P–74—Same. (KPP37) 50 Feet West of Water Tank on Columbia Avenue Extension 1.1 mile North of Nashua Central Office, Nashua, New Hampshire. C.P. to change antenna system, delete frequency 6108.3V toward Manchester, New Hampshire, add frequencies: 5945.2H and 6123.1H toward Manchester, New Hampshire, on Azimuth 01°47'.

777–C1–P–74—Midwestern Relay Company (WIV61) 3.8 miles West of Hinckley, Minnesota. Lat. 45°01'28" N., Long. 93°01'21" W. C.P. to add frequency 6375.2H and delete frequency 6256.2H toward Isantl, Minnesota, on azimuth 191°58'.

778–C1–P–74—Same. (WIV63) Duluth, Minnesota. Lat. 46°47'21" N., Long. 92°06'51" W. C.P. to change polarization of frequency 6375.2 from H to V toward Duquette, Minnesota, on azimuth 216°10'.

783–C1–P–74—Penn Service Microwave Company. (WAY89) 3 miles South of Williamsport, Pennsylvania. Lat. 41°12'31" N., Long. 76°57'30" W. C.P. to shorten authorized radio path to Cogan Station on azimuth 325°30' by ten feet.

784–C1–P–74 — Eastern Microwave, Inc. (New) 0.4 mile North of West Richfield, Ohio. Lat 41°14'43" N., Long. 81°39'23" W. C.P. for a new station on frequencies: 10,775V and 10,935V toward Parma, Ohio, on azimuth 339°5'.

785–C1–P–74—Same. (New 0.4 mile North of West Richfield, Ohio. Lat. 41°14'43" N., Long. 81°39'23" W. C.P. for a new station on frequencies: 10,775V and 10,935V toward Akron, Ohio, on azimuth 163°21'.





786–C1–P–74—Eastern Microwave, Inc. (New) 0 4 mile north of West Richfield, Ohio. Lat. 41°14'43" N., Long. 81°39'23" W. C.P. for a new station on frequency: 10,775V toward Cleveland, Ohio, on azimuth 340°23'.

787–C1–P–74—Microwave Transmission Corporation. (KPZ25) 6.7 miles South of Kennewich, Washington. Lat. 46°06'16" N., Long. 119°07'50" W. C.P. to change point of communication to Walla Walla, Washington, on azimuth 92°2'; change antenna system.

788–C1–P–74—United Wehco, Inc. (New) 3.0 miles North of Bruce, Arkansas. Lat. 34°17'54" N., Long. 92°11'08" W. C.P. for a new station on frequencies: 6226.9H and 6286.2H toward Pine Bluff. Lat. 34°12'11" N. Long. 92°05'30" W. Arkansas, on azimuth 140°41'. (Information: United Wehco, by separate amendment, is severing from its pending application, file number 1883–C1–P–72, that portion for service to Pine Bluff and, by this application, restores same service proposal to Pine Bluff. 30 daya Public Notice is not applicable. See Public Notice period is not applicable. See Public Notice October 12, 1971, and September 5, 1972.

*Corrections*

373–C1–P–74—Michigan Bell Telephone Company. (KQF43) Correct to read C.P. to add frequencies: 4010H and 4090H toward Flint, Michigan, on azimuth 183°20'; 4010V and 4090V toward Saginaw, Michigan, on azimuth 323°48'. (All other particulars to remain the same as report on Public Notice #661, dated August 13, 1973.)

497–C1–P–74—American Telephone and Telegraph Company. (KKP96) Correct to read C.P. to add frequency 3950H toward Emory, Texas, on azimuth 83°50'.

498–C1–P–74—Same. (KKP97) Correct to read C.P. to add frequency 3950H toward Lindale, Texas, on azimuth 127°38'.

499–C1–P–74—Same. (KKP98) Correct to read C.P. to add frequency 3950H toward East Mountain, Texas, on azimuth 79°54'.

500–C1–P–74—Same. (KKP99) Correct to read C.P. to add frequency 3990H toward Marshall, Texas, on azimuth 89°24'.

501–C1–P–74—Same. (KKT20) Correct to read C.P. to add frequency 3950H toward Leigh, Texas, on azimuth 92°30'.

592–C1–P–74—Same. (KKT21) Correct to read C.P. to add frequency 3990H toward Shreveport, La., on azimuth 107°28'. All other particulars same as reported Public Notice dated September 4, 1973, Report No. 664.

760–C1–P–74—Florida Telephone Corporation. Correct to read (KIO44) Winter Garden, Fla. (All other particulars same as reported Public Notice dated September 10, 1973, Report No. 665.

[FR Doc.73–20154 Filed 9–20–73;8:45 am]

[Docket No. 19808]

## TELERENT LEASING CORP. ET AL.

### Petition for Declaratory Rulings

In the matter of Telerent Leasing Corporation, et al., petition for declaratory rulings on questions of Federal pre-emption on regulation of interconnection of subscriber-furnished equipment to the nationwide switched public telephone network.

1. In its Memorandum Opinion and Order of September 6, 1973, in this proceeding (FCC 73–901) released September 7, 1973 which designated the above captioned matter for oral argument before the Commission on October 30, 1973, preliminary procedural dates were established, namely, October 1, 1973, for filing of briefs and October 15, 1973, for filing replies and statements of intention to appear for the oral argument.

2. In order to establish a procedure whereby all parties filing briefs may receive prompt service of all briefs filed by other parties and, in light of the tight schedule previously established, we shall require all parties who plan to file briefs with the Commission on or before October 1, 1973, to notify the Chief, Common Carrier Bureau, and Chief, Domestic Rates Division, in writing, on or before September 24, 1973, of such intention. We shall promptly issue a public notice prior to October 1, 1973, listing all such parties and all parties so listed shall be served with a copy of all briefs filed on October 1, 1973, and with a copy of reply briefs. We also shall extend the time for filing reply briefs from October 15, 1973, to and including October 22, 1973, in order to grant additional time for the preparation of such reply briefs.

3. Accordingly, *it is, hereby, ordered,* Pursuant to authority delegated by section 0.303(c) of the Commission's Rules. That the time for filing reply comments is extended from October 15, 1973, to October 22, 1973.

4. *It is further ordered,* That each person or entity intending to file a brief on or before October 1, 1973, shall so notify the Chief of the Common Carrier Bureau and the Chief, Domestic Rates Division, in writing by no later than September 24, 1973.

5. *It is further ordered,* That a copy of all briefs filed on or before October 1, 1973 and replies filed on or before October 22, 1973, shall be served on all parties listed in a Public Notice to be published by the Commission prior to October 1, 1973.

[SEAL] BERNARD STRASSBURG,
*Chief, Common Carrier Bureau.*

Adopted September 14, 1973.

Released September 14, 1973.

[FR Doc.73–20155 Filed 9–20–73;8:45 am]

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN PERU

### Entry or Withdrawal From Warehouse for Consumption

SEPTEMBER 19, 1973.

On November 23, 1971, the United States Government, in furtherance of the objectives of, and under the terms of, the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, concluded a comprehensive bilateral cotton textile agreement with the Government of Peru concerning exports of cotton textiles and cotton textile products from Peru to the United States over a five-year period beginning on October 1, 1971, and extending through September 30, 1976. Among the provisions of the agreement are those establishing an aggregate limit for the 64 categories and within the aggregate limit specific limits on Categories 22, 56, 57, 58, and 60 for the third agreement year beginning October 1, 1973.

Accordingly, there is published below a letter of September 19, 1973, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, directing that the amounts of cotton textiles and cotton textile products in the above categories, produced or manufactured in Peru, which may be entered or withdrawn from warehouse for consumption in the United States for the twelve-month period beginning October 1, 1973, and extending through September 30, 1974,, be limited to the designated levels. The letter published below and the actions pursuant thereto are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

SETH M. BODNER,
*Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.*

COMMISSIONER OF CUSTOMS,
*Department of the Treasury,*
*Washington, D.C.*

SEPTEMBER 19, 1973.

DEAR MR. COMMISSIONER: Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to the bilateral cotton textile agreement of November 23, 1971, between the Governments of the United States and Peru, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective October 1, 1973 and for the twelve-month period extending through September 30, 1974, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 22, 56, 57, 58, and 60, produced or manufactured in Peru, in excess of the following levels of restraint:

| Category: | | *Twelve-Month Levels of Restraint* |
|---|---|---|
| 22 | square yards | 1,929,375 |
| 56 | dozen | 53,927 |
| 57 | do | 44,100 |
| 58 | do | 99,225 |
| 60 | do | 15,914 |

In carrying out this directive, entries of cotton textiles and cotton textile products in the above categories, produced or manufactured in Peru, which have been exported to the United States from Peru prior to October 1, 1973, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the period October 1, 1972 through September 30, 1973. In the event that the levels of restraint established for such goods for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of November 23, 1971, between the Governments of the United States and Peru which provide, in



V 38 I 183
SEP 21 73
XUM

part, that within the aggregate limit, the limits of certain categories may be exceeded by not more than 5 percent; for the limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements. Any appropriate adjustments pursuant to the provisions of the bilateral agreement referred to above will be made to you by further letter.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on April 29, 1972 (37 FR 8802), as amended on February 14, 1973 (38 FR 4336).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Peru and with respect to imports of cotton textiles and cotton textile products from Peru have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely.

SETH M. BODNER,
*Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.*

[FR Doc 73-20304 Filed 9-20-73;8:45 am]

## FEDERAL POWER COMMISSION

[Docket No. CI73-900]

### ADOBE OIL CO.

### Order Granting Intervention, Setting Hearing Date and Prescribing Procedure

SEPTEMBER 13, 1973.

On June 18, 1973, Adobe Oil Company (Adobe) filed an application in Docket No. CI73-900 for a limited term certificate of public convenience and necessity with pregranted abandonment authority, pursuant to section 7(c) of the Natural Gas Act and the Commission's regulations thereunder, for the sale of gas to Transwestern Pipeline Company (Transwestern) from the Rock Tank (Morrow) Field, Eddy County, New Mexico (Permian Basin).

Specifically, Adobe proposes to sell approximately 240,000 Mcf per month to Transwestern for one year from its No. 2 Smith Federal well pursuant to a letter agreement dated May 2, 1973. The proposed rate of 54.25 cents per Mcf, subject to downward Btu adjustment from a base of 1,000 and upward Btu adjustment from a base of 1,000 to a maximum of 1,100 Btu, exceeds the applicable area ceiling rate of 35 cents per Mcf for sales in the Permian Basin, established by Commission Opinion No. 662.

Adobe commenced a 60 day emergency sale pursuant to § 157.29 of the Commission's regulations under the Natural Gas Act from the subject well on June 20, 1973. This sale ended August 19, 1973. On August 17, 1973, an extension of the 60 day emergency sale was granted by letter.

A late petition to intervene in the above application was filed by Transwestern on July 18, 1973.

Transwestern, in its petition to intervene, has requested that the intermediate decision be omitted, that oral hearing be waived and that the application be heard under the shortened procedure afforded by § 1.32 of the Commission's rules of practice and procedure.

The application in this proceeding represents a sizable volume of gas potentially available to the interstate market. It is of critical importance that interstate pipelines procure emergency supplies of gas to avoid disruption of service to consumers nevertheless, we must determine whether the rate to be paid serves the public convenience and necessity. It is therefore necessary that this application be set for public hearing and expeditious determination. The hearing will be held to allow presentations, cross-examination, and rebuttal of evidence by any participant. This evidence should be directed to the issue of whether the present or future public convenience and necessity requires issuance of a limited-term certificate on the terms proposed in that application.

*The Commission finds*

(1) The intervention of Transwestern in this proceeding may be in the public interest.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the issues in this proceeding be scheduled for hearing in accordance with the procedures set forth below.

*The Commission orders*

(A) Petitioner's request that the intermediate decision be omitted, that oral hearing be waived and that the application be heard under the shortened procedure afforded by § 1.32 of the Commission's Rules of Practice and Procedure is not in the public interest and is hereby denied.

(B) Transwestern is hereby permitted to intervene in this proceeding, subject to the Rules and Regulations of the Commission: *Provided, however,* That the participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in said petition for leave to intervene; and *Provided, further,* That the admission of said intervenor shall not be construed as recognition by the Commission that it might be aggrieved by any order or orders of the Commission entered in this proceeding.

(C) Pursuant to the authority of the Natural Gas Act, particularly sections 7 and 15 thereof, the Commission's rules of practice and procedure and the Regulations under the Natural Gas Act, a public hearing shall be held on October 2, 1973, at 10 a.m., e.d.t. in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, concerning the issue of whether a certificate of public convenience and necessity should be granted as requested by the applicant.

(D) On or before September 21, 1973, Adobe and any supporting party shall file with the Commission and serve upon all parties, including Commission Staff, their testimony and exhibits in support of their position.

(E) An Administrative Law Judge to be designated by the Chief Administrative Law Judge—See Delegation of Authority, 18 CFR 3.5(d)—shall preside at, and control this proceeding in accordance with the policies expressed in the Commission's rules of practice and procedure and the purposes expressed in this order.

By the Commission.[1]

[SEAL] KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20130 Filed 9-20-73;8:45 am]

[Docket Nos. CP72-35, CP69-41]

### ALGONQUIN GAS TRANSMISSION CO.

### Compliance Tariff Filing

SEPTEMBER 12, 1973.

Take notice that on August 21, 1973, Algonquin Gas Transmission Company (Algonquin) tendered for filing First Revised Sheet No. 11-D to its FPC Gas Tariff, Original Volume No. 1. Algonquin states the tariff sheet as revised complies with the condition specified in the Commission's order issued in these dockets on August 10, 1973, and conforms the Minimum Bill provision to the subject tariff sheets requirements of that order.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NW., Washington, D.C 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 26, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20124 Filed 9-20-73;8:45 am]

[Docket No. RP71-122]

### ARKANSAS LOUISIANA GAS CO.

### Order Denying Petition, Establishing Procedures and Setting Hearing Date

SEPTEMBER 13, 1973.

On May 14, 1973, Arkansas Lightweight Aggregate Corporation (Arkansas Lightweight) filed its petition with the

[1] Statements of Commissioners Brooke and Moody are filed as part of the original document.





Commission seeking a declaratory order as to the proper interpretation of, or, in the alternative, extraordinary relief from the curtailment plan ordered by the Commission for Arkansas Louisiana Gas Company (Arkla) in Opinion Nos. 643 and 643-A issued in the above-captioned proceeding on January 8 and April 10, 1973, respectively. Notice of Arkansas Lightweight's petition was given by publication in the FEDERAL REGISTER on June 1, 1973 (38 FR 15383).

Arkansas Lightweight alleges that the natural gas requirements for its England, Arkansas aggregate manufacturing plant are approximately 1500-2200 Mcfd, whereas its contract maximum is 1200 Mcfd. Arkansas Lightweight states that despite the disparity between its requirements and its contract maximum, Arkla has until recently served the total requirements of the England plant. However, by letter dated April 12, 1973, Arkla notified Arkansas Lightweight that it was exceeding its daily contract maximum and that Arkla could no longer deliver more than that amount. Arkansas Lightweight further alleges that if deliveries are reduced to 1200 Mcfd, it will be forced to reduce production at its England plant by 50% which will cause it to lay off several of its 29 employees.

Therefore, Arkansas Lightweight requests the Commission by way of declaratory order to direct Arkla to measure curtailments from actual requirements rather than from contractual entitlements. Arkansas Lightweight argues that this interpretation is consistent with the intent of Opinion Nos. 643 and 643-A. Alternatively, should the Commission determine not to issue the declaratory order sought, Arkansas Lightweight requests extraordinary relief in the form of authorization to receive its daily requirements for a period of one year. During this period Arkansas Lightweight will complete the installation of alternate fuel facilities thereby enabling it to operate within its contractual limitation without disruption.

On June 19, 1973, Arkla filed its answer to Arkansas Lightweight's petition. Therein, Arkla opposed both Arkansas Lightweight's request for a declaratory order and its request for extraordinary relief.

Arkla argues that since the petition fails to disclose a case or controversy with regard to the contractual relations between Arkla and Arkansas Lightweight, a request for a declaratory order will not lie. Arkla further states that the appropriate vehicle for the relief sought by Arkansas Lightweight is extraordinary relief, not a declaratory order.

A fair reading of Opinion No. 643 issued in this docket on January 8, 1973, leaves no doubt as to the lack of merit or Arkansas Lightweight's request for a declaratory order. Therein, we stated as paragraph 42:

> If system deliverability permits only partial delivery of gas to a given category of use, curtailment will be effected on the basis of a pro rata sharing based on historical deliveries to customers for that category. Historical takes will be calculated on the basis of a 3-year average taken from the 3-year period ending September 30, 1971, which is prior to the implementation of the filed curtailment plan on October 15, 1971. On days when curtailment is required, total deliveries to individual customers may not exceed contract volumes.

The allegations made by Arkansas Lightweight, at best, constitute the basis for the filing of a request seeking extraordinary relief. Therefore, Arkansas Lightweight's petition for a declaratory order is denied. We will treat its filing solely as a petition for extraordinary relief.

*The Commission finds*

It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon a hearing to determine whether the public convenience and necessity requires the grant of extraordinary relief sought.

*The Commission orders*

(A) Pursuant to the authority of the Natural Gas Act, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter 1), a public hearing shall be held commencing on October 2, 1973, at 10:00 a.m. (EDT) in a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 to determine whether extraordinary relief is required.

(B) On or before September 17, 1973, Arkansas Lightweight shall prepare and file with the Commission and serve on all parties, including Staff, testimony and exhibits in support of its request for extraordinary relief. Any other party herein choosing to file evidence and exhibits shall make them available to all participants at the beginning of the hearing and should endeavor to make such materials available at an earlier date if possible.

(C) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for the purpose (see Delegation of Authority, 18 CFR 3.5(d)) shall preside at the hearing in this proceeding pursuant to the Commission's rules of practice and procedure.

By the Commission.

[SEAL] KENNETH F. PLUMB,
*Secretary.*

[FR Doc 73-20108 Filed 9-20-73;8:45 am]

[Docket No. CI73-898]

### BALLARD & CORDELL CORP.

### Order Providing for Hearing, Permitting Intervention and Establishing Procedures

SEPTEMBER 13, 1973.

On April 15, 1971, the Commission, acting pursuant to the authority of the Natural Gas Act, as amended, particularly sections 4, 5, 7, 8, 10, and 16 thereof (52 Stat. 822, 823, 824, 825, 826, 830; 56 U.S.C. 717c, 717d, 717f, 717g, 717l and 717), issued Order 431 promulgating a Statement of General Policy with respect to the establishment of measures to be taken for the protection of as reliable and adequate service as present natural gas supplies and capacities will permit.

On June 18, 1973, The Ballard & Cordell Corporation (Applicant) filed in Docket No. CI73-898 an application pursuant to section 7(c) of the Natural Gas Act and § 2.70 of the Commission's general policy and interpretations thereunder for a limited term certificate of public convenience and necessity with pre-granted abandonment, authorizing the emergency sale of natural gas to Texas Eastern Transmission Corporation (Texas Eastern) from acreage in Wharton County, Texas. Applicant requests that the application be disposed of under the shortened procedure set forth in § 1.32 of the Commission's rules of practice and procedure.

The one year limited-term certificate application, pursuant to a letter agreement dated June 1, 1973, limits Texas Eastern's obligation to purchase to 3,000 Mcf per day at a rate of 50.0¢ per Mcf.

Applicant received a limited-term certificate in Docket No. CI72-853 authorizing sales to Texas Eastern from the same acreage at a rate of 35.0¢ per Mcf. This limited-term certificate expired on August 5, 1973.

In Order 431, the Commission amended Part 2, Subchapter A, General Rules, Chapter I, Title 18 of the Code of Federal Regulations by adding a new § 2.70, which reads in pertinent part:

> (3) The Commission recognizing that additional short-term gas purchases may still be necessary to meet the 1971-1972 demands, will continue the emergency measures referred to earlier for the stated 60-day period. If the emergency purchases are to extend beyond the 60-day period, paragraph 12 in the Notice issued by the Commission on July 17, 1970, in Docket No. R-389A should be utilized (35 FR 11638). The Commission will consider if the pipeline demonstrates emergency need • • •

Paragraph 12 of R-389A provided, in part, that applicants, requesting certificates for sales of natural gas in excess of the ceiling or guideline rate, shall state the grounds for claiming that the present or future public convenience and necessity requires issuance of a certificate on the terms proposed in the application.

The application in this proceeding represents a significant volume of gas potentially available to the interstate market. It is of critical importance that interstate pipelines procure emergency supplies of gas to avoid disruption of service to consumers; nevertheless, we must determine whether the rate to be paid serves the public convenience and necessity. It is therefore necessary that this application be set for public hearing and expeditious determination. The hearing will be held to allow presentation, cross-examination, and rebuttal of evidence by any participant. This evidence should be directed to the issue of whether the present or future public convenience and necessity requires issuance of a limited-term certificate on



V 381 83 SEP 21 73 XUM

the terms proposed in that application.

The period for filing protests or interventions expired on July 16, 1973. No protests or interventions were received prior to that date. On July 18, 1973, Texas Eastern filed a late petition to intervene in support of the application. Texas Eastern requests that the certificate be issued under the shortened procedure prescribed in § 1.32 of the Commission's rules of practice and procedure.

*The Commission finds*

(1) Good cause exists to set for formal hearing the application for a limited term certificate herein and deny the requests to dispose of this application under the shortened procedure prescribed in § 1.32 of the Commission's rules of practice and procedure.

(2) It may be in the public interest to permit Texas Eastern Transmission Corporation, which filed a late petition, to intervene in this proceeding.

*The Commission orders*

(A) The application for limited-term certificate for sale of natural gas filed in Docket No. CI73-898 is hereby set for hearing and the requests to dispose of this application under the shortened procedure prescribed in Section 1.32 of the Commission's rules of practice and procedure are hereby denied.

(B) Pursuant to the authority contained in and subject to the authority conferred upon the Federal Power Commission by the Natural Gas Act, including particularly Sections 7, 15, and 16, and the Commission's rules and regulations under that Act, a public hearing shall be held commencing October 17, 1973 at 10:00 a.m. (EDT) at a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, concerning whether the present or future convenience and necessity requires the issuance of a limited-term certificate for the sale of natural gas on the terms proposed in this application and whether the issuance of said certificate should be conditioned in any way.

(C) Texas Eastern Transmission Corporation is hereby permitted to become an intervener, subject to the rules and regulations of the Commission; *Provided, however,* That participation of such intervener shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and, *Provided, further,* That the admission of such intervener shall not be construed as recognition by the Commission that it might be aggrieved because of any order of the Commission entered in these proceedings.

(D) The applicant seeking the limited-term certificate and the proposed purchaser, Texas Eastern shall, on or before October 5, 1973, file with the Commission and serve on all parties to this proceeding, including Commission Staff, all testimony to be sponsored in support of the instant application.

By the Commission.[1]

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-20121 Filed 9-20-73;8:45 am]

[Docket No. CI73-920]

## BRUNSON AND McKNIGHT, INC. ET AL.

### Order Granting Intervention, Setting Hearing Date, and Prescribing Procedure

SEPTEMBER 13, 1973.

On June 25, 1973, Brunson and McKnight, Inc. (Operator), et al., (Brunson and McKnight) filed an application for a limited term certificate of public convenience and necessity with pre-granted abandonment authority, pursuant to section 7(c) of the Natural Gas Act and the Regulations thereunder, for the sale of gas to Transwestern Pipeline Company (Transwestern) from the South Carlsbad Area, Eddy County, New Mexico) Permian Basin).

Specifically, Brunson and McKnight proposes to sell approximately 40,000 Mcf of gas per month to Transwestern for a period of one year pursuant to a letter agreement dated April 17, 1973. The proposed rate of 52 cents per Mcf, subject to downward Btu adjustment from a base of 1000 and upward Btu adjustment from a base of 1000 to a maximum of 1100 Btu, exceeds the applicable area ceiling rate of 35 cents per Mcf for sales in the Permian Basin, established by Commission Opinion No. 662.

Brunson and McKnight commenced a 60 day emergency sale pursuant to § 157.29 of the Commission's regulations under the Natural Gas Act from the subject well on May 17, 1973. Such sale ended on July 16, 1973. Brunson and McKnight were authorized to extend such emergency sale an additional 60 days by letter of July 13, 1973.

A timely petition to intervene in support of the application was filed on July 23, 1973, by Transwestern.

Brunson and McKnight, in its application, has requested that the intermediate decision be omitted, that oral hearing be waived and that the application be heard under the shortened procedure afforded by § 1.32 of the Commission's rules of practice and procedure.

The application in this proceeding represents a sizeable volume of gas potentially available to the interstate market. It is of critical importance that interstate pipelines procure emergency supplies of gas to avoid disruption of service to consumers nevertheless, we must determine whether the rate to be paid serves the public convenience and necessity. It is therefore necessary that this application be set for public hearing and expeditious determination. The hearing will be held to allow presentation, cross-examination, and rebuttal of evidence by any participant. This evidence should be directed to the issue of whether the present or future convenience and necessity requires issuance of a limited-term certificate on the terms proposed in that application.

*The Commission finds*

(1) The intervention of Transwestern in this proceeding may be in the public interest.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the issues in this proceeding be scheduled for hearing in accordance with the procedures set forth below.

*The Commission orders*

(A) Applicant's request that the intermediate decision be omitted, that oral hearing be waived and that the application be heard under the shortened procedure afforded by Section 1.32 of the Commission's Rules of Practice and Procedure is not in the public interest and is hereby denied.

(B) Transwestern is hereby permitted to intervene in this proceeding, subject to the Rules and Regulations of the Commission: *Provided, however,* That the participation of such intervener shall be limited to matters affecting asserted rights and interests as specifically set forth in said petition for leave to intervene; and *Provided, further,* That the admission of said intervener shall not be construed as recognition by the Commission that it might be aggrieved by any order or orders of the Commission entered in this proceeding.

(C) Pursuant to the authority of the Natural Gas Act, particularly sections 7 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act, a public hearing shall be held on October 30, 1973, at 10 a.m. (e.s.t.) in a hearing room of the Federal Power Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, concerning the issue of whether a certificate of public convenience and necessity should be granted as requested by the applicant.

(D) On or before October 9, 1973, Brunson and McKnight and any supporting party shall file with the Commission and serve upon all parties, including Commission Staff, their testimony and exhibits in support of their positions.

(E) An Administrative Law Judge to be designated by the Chief Administrative Law Judge—See Delegation of Authority, 18 CFR 3.5(d)—shall preside at, and control this proceeding in accordance with the policies expressed in the Commission's rules of practice and procedure and the purposes expressed in this order.

By the Commission.[1]

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-20103 Filed 9-20-73;8:45 am]

[1] Statements of Commissioners Moody and Brooke filed as part of the original document.

[1] Statements of Commissioners Brooke and Moody filed as part of the original document.





[Docket No. CP74-57]

## CITIES SERVICE GAS CO.

### Notice of Application

SEPTEMBER 12, 1973.

Take notice that on August 30, 1973, Cities Service Gas Company (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP74-57 an application pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction during the calendar year 1974 and operation of facilities to take in to its pipeline system natural gas purchased from producers and other similar sellers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system supplies of natural gas in various producing areas generally coextensive with said system.

The total cost of the proposed facilities will not exceed $4,000,000, and the cost of any single project will not exceed $1,000,000. The facilities are to be financed with cash on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 9, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations and under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-20114 Filed 9-20-73;8:45 am]

[Docket No. RP72-157]

## CONSOLIDATED GAS SUPPLY CORP.

### Proposed Changes in Rates and Charges

SEPTEMBER 12, 1973.

Take notice that Consolidated Gas Supply Corporation (Consolidated) tendered for filing on August 27, 1973, proposed changes in its FPC Gas Tariff, First Revised Volume No. 1. The filing consists of a proposed Second Substitute Eighteenth Revised Sheet No. 8 which reflects an increase in revenues of $0.7 million annually over the revenues that would be generated under Alternate First Substitute Eighteenth Revised Sheet No. 8, filed July 24, 1973. The proposed effective date is October 1, 1973.

In support of its filing, Consolidated states that the proposed rates reflect an increase from Transcontinental Gas Pipe Line Corporation (Transco), filed on August 15, 1973, and proposed to be effective on October 1, 1973. Further, Consolidated states that it did not receive notice of Transco's rate change in sufficient time for Consolidated to meet the 45 day notice requirement of § 12.5 of the General Terms and Conditions of its FPC Gas Tariff. Accordingly, Consolidated requests waiver of that section and such other of the Commission's rules and regulations as may be required to permit the proposed changes to become effective October 1, 1973.

Consolidated states that copies of this filing were served on each of its jurisdictional customers and interested State Commissions.

Any person not presently a party to this proceeding who desires to be heard or protest said changes should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). Any party desiring to comment or object should also file as prescribed above. All such petitions, protests, or comments should be filed on or before September 20, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person not presently a party who wishes to become a party must file a petition to intervene. Copies of Consolidated's tendered filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-20125 Filed 9-20-73;8:45 am]

[Docket No. CI73-889]

## CORPENING ENTERPRISES

### Notice Denying Motion To Reschedule Hearing

SEPTEMBER 12, 1973.

On September 6, 1973, A. V. Corpening, Jr. d/b/a Corpening Enterprises (Corpening) filed a motion requesting that the hearing on its application for a limited term certificate be rescheduled at some date after October 21, 1973.

Upon consideration, notice is hereby given that the motion is denied. The procedural dates set by the order issued August 31, 1973, are in effect.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-20118 Filed 9-20-73;8:45 am]

[Docket No. E-8275]

## DUKE POWER CO.

### Notice of Application

SEPTEMBER 13, 1973.

Take notice that on June 14, 1973, Duke Power Company (Applicant) tendered for filing a supplemental Exhibit A-1 dated May 24, 1973, amending the Electric Power Contract with the City of Landis, North Carolina, designated Rate Schedule FPC No. 230. Exhibit A-1 provides for an increase in contract demand from 4,000 KW to 5,500 KW made at the City's request, to become effective July 20, 1973, for a term of one year thereafter.

Any person wishing to be heard or to make any protests with reference to such Application should, on or before October 5, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The Application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-20109 Filed 9-20-73;8:45 am]

[Docket No. CI72-845]

## EMERALD PETROLEUM CORP.

### Order Setting Matter for Formal Hearing, Prescribing Procedures and Fixing Date of Hearing

SEPTEMBER 13, 1973.

On April 15, 1971, the Commission, acting pursuant to the authority of the Natural Gas Act, as amended, particularly Sections 4, 5, 7, 8, 10, and 16 thereof



V 38 I 183 SEP 21 73 XUM

(52 Stat. 822, 823, 824, 825, 826, 830; 56 U.S.C. 717c, 717d, 717f, 717g, 717i, and 717), issued Order 431 promulgating a Statement of General Policy with respect to the establishment of measures to be taken for the protection of as reliable and adequate service as present natural gas supplies and capacities will permit.

On July 24, 1973, Emerald Petroleum Corporation (Emerald) filed in the above-entitled docket a petition to amend a current one year limited term certificate under which it is selling natural gas to Transcontinental Gas Pipeline Corporation (Transco). The original certificate permitted Emerald to sell Transco natural gas from August 1, 1972, through August 10, 1973, from the Southwest Lake Boeuf Field, Lafourche Parish, South Louisiana, at a rate of 35 cents per Mcf.

In its current petition, Emerald proposes to continue its sale of gas to Transco for an additional year. A letter agreement submitted concurrently with the petition provides for the sale of all available gas on a best efforts basis. Emerald estimates that the initial daily volume will be 3,000 Mcf. The letter agreement requires that the gas have a gross heating value of at least 1000 Btu per cubic foot but does not provide for a price adjustment for Btu content. The new proposed rate is 50.0 cents per Mcf which is above the 26.875 cents per Mcf area rate for South Louisiana.

In Order 431, the Commission amended Part 2, Subchapter A, General Rules, Chapter I, Title 18 of the Code of Federal regulations by adding a new § 2.70, which reads, in pertinent part:

(3) The Commission recognizing that additional short-term gas purchases may still be necessary to meet the 1971-1972 demands, will continue the emergency measures referred to earlier for the stated 60-day period. If the emergency purchases are to extend beyond the 60-day period, paragraph 12 in the Notice issued by the Commission on July 17, 1970, in Docket No. R-389A should be utilized (35 FR 11638). The Commission will consider if the pipeline demonstrates emergency need * * *.

Paragraph 12 of R-389A provided, in part, that applicants, requesting certificates for sales of natural gas in excess of the ceiling or guideline rate, shall state the grounds for claiming that the present or future public convenience and necessity requires issuance of a certificate on the terms proposed in the application.

The application in this proceeding represents a sizeable volume of gas potentially available to the interstate market. It is of critical importance that interstate pipelines procure emergency supplies of gas to avoid disruption of service to consumers; nevertheless, we must determine whether the rate to be paid serves the public convenience and necessity. It is therefore necessary that this application be set for public hearing and expeditious determination. The hearing will be held to allow presentation, cross-examination, and rebuttal of evidence by any participant. This evidence should be directed to the issue of whether the present or future public convenience and necessity requires issuance of a limited-term certificate on the terms proposed in that application.

Public notice of the petition was given with protests or petitions to intervene due on August 13, 1973. None were received. Transco filed a letter in support of the petition.

*The Commission finds*

(1) Good cause exists to set for formal hearing the petition to amend the limited-term certificate herein.

*The Commission orders*

(A) The petition to amend the limited-term certificate for sale of natural gas filed in Docket No. CI72-845 is hereby set for hearing.

(B) Pursuant to the authority contained in and subject to the authority conferred upon the Federal Power Commission by the Natural Gas Act, including particularly sections 7, 15, and 16 and the Commission's rules and regulations under that Act, a public hearing shall be held commencing October 10, 1973, at 10 a.m. (e.d.t.) at a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, concerning whether the present or future public convenience and necessity requires the issuance of a limited-term certificate for the sale of natural gas on the terms proposed in this application and whether the issuance of said certificate should be conditioned in any way.

(C) Emerald shall, on or before September 26, 1973, file with the Commission and serve on all parties to this proceeding, including Commission Staff, all testimony to be sponsored in support of this application.

By the Commission.[1]

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-20137 Filed 9-20-73;8:45 am]

[Docket No. CI74-2]

## EXXON CORP.

### Order Granting Intervention, Setting Hearing Date and Prescribing Procedures

SEPTEMBER 13, 1973.

Exxon Corporation (Exxon) filed an application in Docket No. CI74-2 on July 2, 1973 for a limited-term certificate of public convenience and necessity with pre-granted abandonment authority, pursuant to Order No. 431 and § 157.23 of the Commission's regulations under the Natural Gas Act for the sale of gas to United Gas Pipe Line Company (United) from acreage in the Arp Field, Smith County, Texas Railroad Commission District 6.

Specifically, Exxon proposes to deliver gas to United at 50.0¢ per Mcf (14.65 psia) without any Btu adjustment. Exxon's proposed sale is for a period of one year. Delivery is to be made at the wellhead. The projected delivery volume is 60,000 Mcf per month. Gas is to be sold from a lease in the Arp Field, Smith County, Texas Railroad Commission District 6. Exxon initiated a 60-day emergency sale to United on June 25, 1973 which terminated on August 24, 1973. The proposed rate exceeds the applicable area base rate of 23.5 cents established by the Commission's Opinion No. 607.

The application in this proceeding represents a sizeable volume of gas potentially available to the interstate market. It is of critical importance that interstate pipelines procure emergency supplies of gas to avoid disruption of service to consumers; nevertheless, we must determine whether the rate to be paid serves the public convenience and necessity. It is therefore necessary that this application be set for public hearing and expeditious determination. The hearing will be held to allow presentation, cross-examination, and rebuttal of evidence by any participant. This evidence should be directed to the issue of whether the present or future public convenience and necessity requires issuance of limited-term certificates on the terms proposed in the application.

A timely petition to intervene in favor of the application was filed by United on July 20, 1973.

*The Commission finds*

(1) The intervention of United in this proceeding may be in the public interest.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the issues in this proceeding be scheduled for hearing in accordance with the procedures set forth below.

*The Commission orders*

(A) United is hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervener shall be limited to matters affecting asserted rights and interests as specifically set forth in said petition for leave to intervene; and *Provided, further,* That the admission of said intervener shall not be construed as recognition by the Commission that it might be aggrieved by any order or orders of the Commission entered in this proceeding.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 7 and 15 thereof, the Commission's rules of practice and procedure, and the Regulations under the Natural Gas Act, a public hearing shall be held on October 30, 1973, at 10 a.m. (e.s.t.) in a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, concerning the issue of whether a certificate of public convenience and necessity should be granted as requested by Exxon.

(C) On or before October 16, 1973, Exxon and any supporting parties shall file with the Commission and serve upon all parties, including Commission Staff, their testimony and exhibits in support of their positions.

(D) An Administrative Law Judge to be designated by the Chief Administrative Law Judge—See Delegation of Authority, 18 CFR 3.5(d)—shall preside at, and control this proceeding in accordance with the policies expressed in the Commission's rules of practice and procedure and the purposes expressed in this order.

By the Commission.[1]

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-20131 Filed 9-20-73;8:45 am]

[Dockets Nos. CI73-676; CI73-746]

## FLORIDA GAS EXPLORATION COMPANY ET AL.

### Order Granting Motion To Consolidate Proceedings and Fixing Date for Hearing

SEPTEMBER 13, 1973.

By orders of July 25, 1973, and August 2, 1973, in the above-named dockets the Commission set the two applications for separate hearings and prescribed a different set of procedural dates for each proceeding.

By a motion filed August 11, 1973, Florida Gas Exploration Company (Operator), et al., seeks consolidation of these proceedings stating that the two applications concerned natural gas production from the same well, that the two applicants have one hundred percent of the working interest in this well, and that the two underlying contracts have the same terms.

We find that orderly procedure requires that these two applications be consolidated for purposes of hearing and disposition. We further find that the procedural dates set forth in the motion seeking consolidation of these proceedings should be adopted as the procedural dates for the consolidated proceeding and we shall so provide.

*The Commission finds*

It is necessary and in the public interest that the above-docketed proceedings be consolidated for hearing and disposition and that the motion to consolidate these proceedings be granted.

*The Commission orders*

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 7, 15, and 16 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR, Chapter I) Docket Nos. CI73-676 and CI73-746 are consolidated for the purpose of hearing and disposition.

(B) The Chief Administrative Law Judge shall designate a Presiding Administrative Law Judge to preside at the hearing in this consolidated proceeding pursuant to the Commission's rules of practice and procedure.

(C) The procedural dates established by the order of August 2, 1973, in Docket No. CI73-746 are hereby adopted as the procedural dates for this consolidated proceeding, i.e.,

(a) Applicants and all intervenors supporting the applications shall file their direct testimony and evidence on or before September 24, 1973. All testimony and evidence shall be served upon the Presiding Administrative Law Judge, the Commission Staff, and all other parties to these proceedings.

(b) The Commission Staff and all intervenors opposing the application shall file their direct testimony and evidence on or before October 8, 1973. All testimony and evidence shall be served upon the Presiding Administrative Law Judge, and all other parties to these proceedings.

(c) All rebuttal testimony and evidence shall be served on or before October 23, 1973. All parties submitting rebuttal testimony and evidence shall serve such testimony and evidence upon the Presiding Administrative Law Judge, the Commission Staff, and all other parties to these proceedings.

(d) The hearing will commence October 29, 1973, at 10 a.m. (e.s.t.) in a hearing room of the Federal Power Commission, Washington, D.C.

(e) The Administrative Law Judge's decision shall be rendered on or before December 4, 1973. All briefs on exceptions shall be due on or before December 14, 1973, and replies thereto shall be due on or before December 21, 1973.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-20138 Filed 9-20-73;8:45 am]

[Docket No. E-8323]

## FLORIDA POWER AND LIGHT CO.

### Order Accepting Service Agreement for Filing, Denying Motion To Reject, and Permitting Intervention

SEPTEMBER 13, 1973.

On July 16, 1973, Florida Power and Light Company (Florida) tendered for filing a service agreement dated April 16, 1973, between Florida and the City of Homestead (Homestead), providing for Florida to supply emergency power and energy to Homestead under Rate Schedule WH. An effective date of September 16, 1973, was requested for the agreement.

At the same time the company exercised its right to make its FPC Electric Tariff Original Volume No. 1 and accompanying Rate Schedule SR applicable to the City of Homestead as of September 1, 1973, subject to refund in accordance with Ordering Paragraph (A) of the Commission's Order of March 29, 1973 in Docket No. E-8008.

On July 31, 1973, Florida amended the July 16 filing by requesting an effective date of September 1, 1973 for the service agreement and the substitution of Rate Schedule SR. Florida also requested such waiver of the notice requirements of our Rules as may be necessary.

In response to the Secretary's notice for comments, Homestead filed a protest, petition to intervene, a motion to reject and opposition to waiver of notice requirements.

In support of its motion to reject, Homestead claims that Florida has given no justification for the proposed rates and that the proposed increases are contrary to antitrust laws and policies. Our review of the filing reveals that the rates and charges that Florida seeks to apply to Homestead in this docket under Rate Schedule SR are currently suspended until September 1, 1973, and under review in Docket No. E-8008. Florida did file supporting data and evidence for the requested rates in that docket. Whether such support is sufficient to justify the proposed increases will be determined in the proceedings ordered in that docket. By its July 16, 1973, filing, Florida is merely exercising its contractual right to file unilaterally and apply the SR Rate to Homestead.

As to the possible antitrust problems raised by the motion to reject, Homestead argues that Florida should not be able to impose terms and rates such as those proposed in this filing. There is no question of "imposition" in this proceeding, however, because the contract filed by Florida recognizes the right of either party to "unilaterally at any time seek, by appropriate filing wth the regulatory agency * * * having jurisdiction, changes or substitutions in the rate and terms and conditions for such service." Having conceded such a right to Florida in the signed service agreement, Homestead is in no position to complain of Florida's exercise of its contractual rights.

In the alternative, Homestead requests that if we fail to reject the filing, we suspend the requested rates for the full five month statutory period. These same rates have been suspended and set for hearing in Docket No. E-8008 and are presently scheduled to become effective, subject to refund, September 1, 1973, the same effective date as requested in this docket. We fail to recognize any hardship that might be suffered by Homestead by our failure to suspend the rates for an additional five months in this docket. Homestead has a right to refund of any amount found to be unreasonable or unjustified in Docket No. E-8008; therefore, we shall deny the request for a five month suspension.

Finally, since the amendment to the filing advancing the effective date to September 1, 1973 was filed on July 31, 1973, it complies with the thirty day notice requirements of our rules and regulations; therefore, no action is required by us on the request for waiver of those regulations.

*The Commission finds*

(1) Florida's July 16, 1973, filing should be accepted for filing under Section 205 of the Federal Power Act and made effective September 1, 1973.

(2) Homestead's motion to reject should be denied.

(3) Good cause exists to permit the intervention of the above-named petitioner.

[1] Statements of Commissioners Brooke and Moody filed as part of the original document.



V 38 183 SEP 21 73 XUM

*The Commission orders*

(A) Florida's agreement with Homestead and the superseding rate schedule thereunder is accepted for filing to become effective on September 1, 1973.

(B) Consistent with our order issued March 29, 1973 in Docket No. E–8008, Florida will be required to refund to Homestead any amount found to be unjustified or unreasonable by the proceedings in Docket No. E–8008.

(C) Homestead's motion to reject is denied.

(D) The above-named petitioner is hereby permitted to interevene in this proceeding, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenor shall be limited to matters affecting rights and interests specifically set forth in the petition to intervene, and *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that he might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(E) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73–20136 Filed 9–20–73;8:45 am]

---

[Docket No. CI74–3]

## FRANKS PETROLEUM, INC.

### Order Providing for Hearing, Permitting Intervention, and Prescribing Procedures

SEPTEMBER 13, 1973.

On April 15, 1971, the Commission, acting pursuant to the authority of the Natural Gas Act, as amended, particularly sections 4, 5, 7, 8, 10 and 16 thereof (52 Stat. 822, 823, 824, 825, 826, 830; 56 U.S.C. 717c, 717d, 717f, 717g, 717l, and 717), issued Order 431 promulgating a Statement of General Policy with respect to the establishment of measures to be taken for the protection of as reliable and adequate service as present natural gas supplies and capacities will permit.

On July 2, 1973, Franks Petroleum Inc. (Franks) filed in Docket No. CI74–3 an application pursuant to section 7(c) of the Natural Gas Act and Order No. 431 in Docket No. R–418, for a one year limited-term certificate of public convenience and necessity with pre-granted abandonment authorizing the sale of natural gas to United Gas Pipe Line Company (United) from acreage in Columbia County, South Arkansas.

The limited-term certificate application provides for Franks to sell to United approximately 4,500 Mcf of gas per month at a contractually agreed rate of 48.0¢ per Mcf (15.025 psia), subject to upward and downward Btu adjustment from a 1,000 Btu base.

Franks states that it commenced a sixty day emergency sale to United on July 11, 1973, pursuant to § 157.29 of the Commission's regulations. The emergency sale expires on September 9, 1973. Franks requests that its application be disposed of under the shortened procedure as prescribed by Section 1.32 of the Commission's Rules of Practice and Procedure.

In Order 431, the Commission amended Part 2, Subchapter A, General Rules, Chapter I, Title 18 of the Code of Federal Regulations by adding a new § 2.70, which reads, in pertinent part:

> (3) The Commission recognizing that additional short-term gas purchases may still be necessary to meet the 1971–1972 demands, will continue the emergency measures referred to earlier for the stated 60-day period. If the emergency purchases are to extend beyond the 60-day period, paragraph 12 in the Notice issued by the Commission on July 17, 1970, in Docket No. R–389A should be utilized (35 FR 11638). The Commission will consider if the pipeline demonstrates emergency need • • •

Paragraph 12 of R–389A provided, in part, that applicants, requesting certificates for sales of natural gas in excess of the ceiling or guideline rate, shall state the grounds for claiming that the present or future public convenience and necessity requires issuance of a certificate on the terms proposed in the application.

The application in this proceeding represents a volume of gas potentially available to the interstate market. It is of critical importance that interstate pipelines procure emergency supplies of gas to avoid disruption of service to consumers; nevertheless, we must determine whether the rate to be paid serves the public convenience and necessity. It is therefore necessary that this application be set for public hearing and expeditious determination. The hearing will be held to allow presentation, cross-examination, and rebuttal of evidence by any participant. This evidence should be directed to the issue of whether the present or future public convenience and necessity requires issuance of a limited-term certificate on the terms proposed in that application.

On July 20, 1973, United filed a timely petition to intervene in this proceeding, pursuant to the notice of the instant application.

*The Commission finds*

(1) Good cause exists to set for formal hearing the application for a limited term certificate herein and to deny Franks' request that its application be disposed of under the shortened procedure prescribed by § 1.32 of the Commission's rules of practice and procedure.

(2) It may be in the public interest to permit United Gas Pipe Line Company, which filed a timely petition, to intervene in this proceeding.

*The Commission orders*

(A) The application for limited-term certificate for sale of natural gas filed in Docket No. CI74–3 is hereby set for hearing.

(B) Franks' request that its application be disposed of under the shortened procedure prescribed by § 1.32 of the Commission's rules of practice and procedure is hereby denied.

(C) Pursuant to the authority contained in and subject to the authority conferred upon the Federal Power Commission by the Natural Gas Act, including particularly sections 7, 15, and 16, and the Commission's rules and regulations under that Act, a public hearing shall be held commencing October 10, 1973, at 10 a.m. (e.d.t.) at a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, concerning whether the present or future convenience and necessity requires the issuance of a limited-term certificate for the sale of natural gas on the terms proposed in this application and whether the issuance of said certificate should be conditioned in any way.

(D) United Gas Pipe Line Company is hereby permitted to become an intervenor, subject to the rules and regulations of the Commission; *Provided, however,* That participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and, *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order of the Commission entered in these proceedings.

(E) The applicant seeking the limited-term certificate and the proposed purchaser, United, shall, on or before October 1, 1973, file with the Commission and serve on all parties to this proceeding, including Commission Staff, all testimony to be sponsored in support of the instant application.

By the Commission.[1]

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73–20133 Filed 9–20–73;8:45 am]

---

[Docket No. CI73–940]

## D. L. HANNIFIN AND JOE DON COOK

### Order Granting Intervention, Setting Hearing Date and Prescribing Procedure

SEPTEMBER 13, 1973.

On June 29, 1973, D. L. Hannifin and Joe Don Cook (Hannifin and Cook) filed an application in Docket No. CI73–940 for a limited term certificate of public convenience and necessity with pre-granted abandonment authority pursuant to section 7(c) of the Natural Gas Act, for the sale of gas to El Paso Natural Gas Company (El Paso) from the South Carlsbad Morrow Field (Grace Atlantic No. 1 well), Eddy County, New Mexico (Permian Basin).

Specifically, Hannifin and Cook propose to sell approximately 210,000 Mcf of gas per month to El Paso for a period of twelve months following the expiration of an initial 60 day delivery period, pursuant to a letter agreement dated June 9, 1973. The proposed rate of 55 cents per Mcf, subject to upward and downward Btu adjustment, exceeds the current area ceiling rate of 35 cents for sales in the Permian Basin, established by Commission Opinion No. 662.

Hannifin and Cook commenced a 60 day emergency sale pursuant to § 157.29 of the Commission's regulations under the Natural Gas Act from the subject well on June 9, 1973. This sale ended on August 8, 1973.

A timely petition to intervene in the support of the application was filed by El Paso on July 24, 1973.

Hannifin and Cook, in their application, have requested that the intermediate decision be omitted, that oral hearing be waived and that the application be heard under the shortened procedure afforded by § 1.32 of the Commission's rules of practice and procedure.

The application in this proceeding represents a sizeable volume of gas potentially available to the interstate market. It is of critical importance that interstate pipelines procure emergency supplies of gas to avoid disruption of service to consumers nevertheless, we must determine whether the rate to be paid serves the public convenience and necessity. It is therefore necessary that this application be set for public hearing and expeditious determination. The hearing will be held to allow presentation, cross-examination, and rebuttal of evidence by any participant. This evidence should be directed to the issue of whether the present or future public convenience and necessity requires issuance of a limited-term certificate on the terms proposed in that application.

*The Commission finds*

(1) The intervention of El Paso in this proceeding may be in the public interest.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the issues in this proceeding be scheduled for hearing in accordance with the procedures set forth below.

*The Commission orders*

(A) Applicant's request that the intermediate decision be omitted, that oral hearing be waived and that the application be heard under the shortened procedure afforded by § 1.32 of the Commission's rules of practice and procedure is not in the public interest and is hereby denied.

(B) El Paso is hereby permitted to intervene in this proceeding, subject to the Rules and Regulations of the Commission: *Provided, however,* That the participation of such intervener shall be limited to matters affecting asserted rights and interests as specifically set forth in said petition for leave to intervene; and *Provided, further,* That the admission of said intervener shall not be construed as recognition by the Commission that it might be aggrieved by any order or orders of the Commission entered in this proceeding.

(C) Pursuant to the authority of the Natural Gas Act, particularly sections 7 and 15 thereof, the Commission's rules of practice and procedure, and the Regulations under the Natural Gas Act, a public hearing shall be held on October 4, 1973, at 10 a.m. (e.d.t.) in a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, concerning the issue of whether a certificate of public convenience and necessity should be granted as requested by the applicants.

(D) On or before September 24, 1973, Hannifin and Cook and any supporting party shall file with the Commission and serve upon all parties, including the Commission Staff, their testimony and exhibits in support of their position.

(E) An Administrative Law Judge to be designated by the Chief Administrative Law Judge—See Delegation of Authority, 18 CFR 3.5(d)—shall preside at, and control this proceeding in accordance with the policies expressed in the Commission's rules of practice and procedure and the purposes expressed in this order.

By the Commission.[1]

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc 73–20134 Filed 9–20–73;8:45 am]

---

[Docket No. CI73–747]

## INEXCO OIL CO.

### Intervention and Setting Date for Hearing

SEPTEMBER 12, 1973.

The above-named Applicant has filed applications pursuant to section 7(c) of the Natural Gas Act,[1] and pursuant to § 2.75 [2] of the Commission's General Policy Statements, the Optional Procedure for Certificating New Producer Sales of Natural Gas set forth in Order No. 455,[3] (hereinafter § 2.75) for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas in interstate commerce.

On May 5, 1973, Inexco Oil Company (Inexco) filed in Docket No. CI73–747 an application pursuant to § 2.75 of the Commission's rules of practice and procedure (18 C.F.R. § 2.75) for authorization to sell natural gas to Natural Gas Pipe Line Company (Natural) from Strong City Area, Roger Mills County, Oklahoma, Hugoton-Anadarko. The contract, dated April 1, 1973, extends for a term of 20 years and provides for an initial price of 50 cents per Mcf, 1 cent per Mcf escalations each year, upward or downward Btu adjustments from 1,000, and 100 percent reimbursements for any new or additional taxes to the seller.

Inexco states that deliveries will not commence prior to the issuance of a satisfactory certificate pursuant to § 2.75. The contract may be terminated upon 30 days notice if the Commission issues an order denying certification or granting a certificate with unacceptable conditions or upon 10 days notice if a satisfactory certificate is not issued within 8 months.

Notice of Inexco's application was issued on May 30, 1973, and published in the FEDERAL REGISTER on June 4, 1973 (38 FR 14717). Timely petitions to intervene were filed by the following:

Associated Gas Distributors
American Public Gas Association
Natural Gas Pipeline Company of America

A formal hearing has been requested, and we find a hearing is desirable to determine, on the record, whether the present and future public convenience and necessity will be served by certificating these sales, and whether the proposed rate is just and reasonable, taking into consideration all factors bearing on maintenance of an adequate and reliable supply of gas, delivered at the lowest reasonable cost.[4]

This hearing is not the proper forum for the relitigation of the propriety of the § 2.75 procedures; that matter is now before the Court of Appeals. See n. 3, supra. This hearing will be addressed solely to the issues of public convenience and necessity, and the justness and reasonableness, of the particular sales and rates herein proposed.

Those parties and intervenors desiring to submit cost and non-cost data should structure their evidence to reflect the tests under § 2.75 for determining the justness and reasonableness of the rate sought.

No intervenor has questioned Natural's need for the additional natural gas supplies that will be available to it as a result of these purchases. However, we are unable to determine the extent of Natural's need for new supplies since it has failed to submit the certification required by § 2.75h (18 CFR 2.75h). Accordingly, we shall require Natural to present evidence as to its need for additional supplies of natural gas and whether or not a comparable supply of natural gas is available to McCulloch at any rate lower than the rates proposed in these applications.

*The Commission finds*

(1) It is necessary and in the public interest that the above-docketed proceeding be set for a formal hearing.

(2) It is desirable and in the public interest to allow the above-named petitioners to intervene in this proceeding.

*The Commission orders*

(A) Pursuant to the authority of the Natural Gas Act particularly sections 4,

---

[1] Statements of Commissioners Brooke and Moody are filed as part of the original document.

[1] Statements of Commissioners Brooke and Moody filed as part of the original document.

[1] 15 U.S.C. 717, *et seq.* (1970).

[2] 18 C.F.R. 2.75.

[3] Statement Of Policy Relating To Optional Procedure For Certificating New Producer Sales of Natural Gas, Docket No. R–411, —— F.P.C. —— (issued August 3, 1972, appeal pending sub nom. John E. Moss, et al. v. F.P.C. No. 72–1837 (D.C. Cir.)

[4] Opinion and Order Issuing Certificate of Public Convenience and Necessity And Determining Just And Reasonable Rates, Opinion No. 659, Belco Petroleum Corporation, Agent, et al., Docket Nos. CI73–293, et al., —— F.P.C. ——, —— (issued May 30, 1973, slip op. at para. 21, p. 5).





V 38 I 183
SEP 21 73
XUM

5, 7, 14, 15 and 16 thereof, the Commission's rules of practice and procedure, and the Regulations under the Natural Gas Act (18 CFR, Chapter I) a public hearing on the issues presented by the applications herein shall be held commencing January 8, 1974, at 10 a.m. (e.s.t.) in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

(B) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding pursuant to the Commission's rules of practice and procedure.

(C) Applicant and all intervenors supporting the applications shall file their direct testimony and evidence on or before November 28, 1973. All testimony and evidence shall be served upon the Presiding Administrative Law Judge, the Commission Staff, and all parties to these proceedings.

(D) The Commission Staff and all intervenors opposing the applications shall file their direct testimony and evidence on or before December 12, 1973. All testimony and evidence shall be served upon the Presiding Administrative Law Judge, and all other parties to these proceedings.

(E) All rebuttal testimony and evidence shall be served on or before January 2, 1974. All parties submitting rebuttal testimony and evidence shall serve such testimony and evidence upon the Presiding Administrative Law Judge, the Commission Staff, and all other parties to these proceedings.

(F) The above-named petitioners are permitted to intervene in these proceedings subject to the rules and regulations of the Commission; *Provided, however,* That the participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in said petitions for leave to intervene; and *provided, further,* That the admission of such interests shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any order or orders of the Commission entered in these proceedings.

(G) The Administrative Law Judge's decision shall be rendered on or before February 18, 1974. All briefs on exceptions shall be due on or before February 28, 1974, and replies thereto shall be due on or before March 9, 1974.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc 73-20112 Filed 9-20-73;8:45 am]

[Docket No. E-8395]

## MAINE YANKEE ATOMIC POWER CO.

### Order Initiating Investigation and Hearing

SEPTEMBER 13, 1973.

Pursuant to the rate schedule filing requirements of the Federal Power Act, section 205, 16 U.S.C. 824d, Maine Yankee Atomic Power Company (Maine Yankee) filed on October 10, 1972, its wholesale for resale rate schedule for electric service to be rendered to that Company's 11 sponsor companies.[1]

This initial rate schedule filing was conditionally accepted by an order issued in Docket No. E-7787 on November 6, 1972, and made effective by another order in that docket issued December 13, 1972.

In order that we may determine the justness and reasonableness of Maine Yankee's Rate Schedule FPC No. 1 we will initiate an investigation and hearing under section 206 of the Federal Power Act.

Any person desiring to participate in the proceeding ordered herein should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the requirements of §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 1, 1973. Protests will be considered by the Commission in determining whether appropriate action has been taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

*The Commission finds*

(1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission enter upon an investigation to determine if the rates and charges contained in Maine Yankee's Rate Schedule FPC No. 1 are unjust, unreasonable, unduly discriminatory or preferential.

(2) The disposition of this proceeding should be expedited in accordance with the procedure set forth below.

*The Commission orders*

(A) Pursuant to the authority of the Federal Power Act, particularly section 206 thereof, the Commission's rules of practice and procedure, and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held commencing with a prehearing conference on January 11, 1974, at 10 a.m., e.s.t., in a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, to determine if the rates, charges, classifications and services contained in Maine Yankee's Rate Schedule FPC No. 1 are unjust, unreasonable, unduly discriminatory or preferential.

(B) At the prehearing conference on January 11, 1974, prepared testimony and exhibits of all parties shall be admitted to the record as the respective complete cases-in-chief subject to appropriate motions, if any, by parties to the proceeding. All parties will be expected to come to this conference prepared to effectuate the provisions of § 1.18 of the Commission's rules of practice.

(C) On or before December 6, 1973, the Commission Staff shall serve its prepared testimony and exhibits. The prepared testimony and exhibits of all intervenors shall be served on or before December 20, 1973. Any evidence by Maine Yankee shall be served on or before January 7, 1973. The public hearing herein ordered shall convene on January 18, 1974, at 10 a.m., E.S.T.

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (see Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding, shall prescribe relevant procedural matters not herein provided, and shall control the proceeding in accordance with the policies expressed in the Commission's Rules of Practice and Procedure.

(E) The Secretary of the Commission shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-20102 Filed 9-20-73;8:45 am]

[Docket No. CP73-293]

## MICHIGAN WISCONSIN PIPE LINE CO.

### Certificate of Public Convenience and Necessity

SEPTEMBER 13, 1973.

Take notice that Michigan Wisconsin Pipe Line Company (Michigan-Wisconsin) on August 23, 1973, tendered for filing Origin Sheets Nos. 344 through 354 designated as Rate Schedule X-37 to Michigan Wisconsin's Gas Tariff, First Revised Volume No. 2. The Company states that the sheets are to be effective September 25, 1973.

According to Michigan Wisconsin, this filing is made to reflect authorization for the exchange of natural gas with Southern Natural Gas Company (Southern Natural), pursuant to Commission order issued July 11, 1973, in Docket No. CP73-293.

Any person desiring to be heard or to protest should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washintgon, D.C. 20426 in accordance with Commission's rules of practice and procedure. All such petitions or protests should be filed on or before September 28, 1973. Protests will be considered by the Commission in determining the appropriate action, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-20123 Filed 9-20-73;8:45 am]

[1] Bangor Hydro-Electric Company, Cambridge Electric Light Company, Central Maine Power Company, Central Vermont Public Service Corporation, Connecticut Light and Power Company, Hartford Electric Light Company, Maine Public Service Company, Montaup Electric Company, New England Power Company, Public Service Company of New Hampshire and Western Massachusetts Electric Company.





[Docket No. CI74-156 etc.]

## NATIONAL EXPLORATION CO.

### Notice of Applications

SEPTEMBER 14, 1973.

Take notice that on August 22, 1973, National Exploration Company (Applicant), One Elzabethtown Plaza, Elizabeth, New Jersey 07207, filed in Docket Nos. CI74-156, CI74-157, CI74-158, and CI74-159 applications pursuant to section 7(c) of the Natural Gas Act for certificates of public convenience and necessity authorizing sales and deliveries of natural gas in interstate commerce to Valley Gas Transmission, Inc., for resale to Iroquois Gas Corporation, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Applicant states that it commenced the sales of natural gas on August 1, 1973, within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sales for one year from the end of the sixty-day emergency periods within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70). Applicant requests authorization for the following sales at rates subject to upward and downward Btu adjustment:

| Docket No. | Location | Estimated monthly sales volume (Mcf) | Pressure base | Estimated initial upward Btu adjustment (cents) |
|---|---|---|---|---|
| CI74-156 | McCaskill Field, Karnes County, Tex. | 775,000 | 50.0 cents at 14.65 psia | 6.4 |
| CI74-157 | Bayes Field, Calcasieu Parish, La. | 45,000 | 50.0 cents at 15.025 psia | 6.85 |
| CI74-158 | Glasscock Field, Colorado County, Tex. | 9,000 | 50.0 cents at 14.65 psia | 1.5 |
| CI74-159 | Village Mills Field, Hardin County, Tex. | 21,000 | 50.0 cents at 14.65 psia | 1 |

Applicant, as small producer certificate holder in Docket No. CS71-484, states that it is filing the subject certificate applications solely to secure abandonment authorizations. Section 157.40(c) of the regulations under the Natural Gas Act (18 CFR 157.40(c)) provides that small producers are authorized to make small producer sales nationwide at the prices specified in their contracts with the gas purchasers but that they are not relieved from compliance with section 7(b) of the Natural Gas Act with respect to any small producer sale.

In its application in Docket No. CI74-156 Applicant states that the proposed sale will not impair Applicant's ability to sell gas from the McCaskill Field to Elizabethtown Gas Company for transportation by Transcontinental Gas Pipe Line Corporation as proposed in Docket No. CP74-3.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said applications should on or before September 28, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, hearings will be held without further notice before the Commission on these applications if no petitions to intervene are filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificates is required by the public convenience and necessity. If petitions for leave to intervene are timely filed, or if the Commission on its own motion believes that formal hearings are required, further notice of such hearings will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearings.

KENNETH F. PLUMB, *Secretary.*

[FR Doc 73-20139 Filed 9-20-73;8:45 am]

[Docket No. CP74-63]

## NORTHERN NATURAL GAS CO.

### Notice of Application

SEPTEMBER 12, 1973.

Take notice that on September 4, 1973, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska, filed in Docket No. CP74-63 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale of natural gas pursuant to a new Agricultural Crop Drying Rate Schedule, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to make available on a best efforts basis volumes of gas for the drying of seed, grain and other agricultural crops pursuant to advance operating arrangements made on a daily basis. Northern anticipates that limited volumes would be available due to the fact that its utility customers normally operate within a margin of safety of their firm entitlement. Additional volumes may also be available as a result of certain exchange agreements it has entered into with other pipeline companies. Northern estimates it will have available approximately 750,000 Mcf during the months of September, October and November. For volumes authorized for delivery under this rate schedule the utility will pay a 20¢ per Mcf nomination charge plus the approximate commodity charge up to the total of the utility's firm entitlement. For volumes delivered above the utility's firm entitlement, the utility will pay a rate equivalent to the ERS-1 commodity rate.

Concurrently, with its certificate application, Northern submitted for filing, pursuant to section 4 of the Natural Gas Act, as part of its FPC Gas Tariff, Third Revised Volume No. 1, Original Sheet Nos. 42, 43 and 44; First Revised Sheet Nos. 4a and 27f, Second Revised Sheet Nos. 19, 27 and 59b, and Fifth Revised Sheet No. 1.

Original Sheet Nos. 42, 43 and 44 constitute a proposed initial rate schedule which Northern proposes to utilize to make additional volumes of gas available for Agricultural Crop Drying Service (ACDS-1). The other listed tariff sheets provide for changes in presently effective rate schedules to accommodate the proposed ACDS-1 schedule.

Northern requests waiver of the notice requirements of § 154.22 of the Commission's regulations to the extent required to permit the proposed tariff sheets to become effective concurrently with the issuance of a requested temporary certificate but not later than September 15, 1973.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before September 17, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to



V 38 I 183 SEP 21 73 XUM

the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc 73-20111 Filed 9-20-73;8:45 am]

---

[Project 137]

## PACIFIC GAS AND ELECTRIC CO.

### Application for New Major License for Constructed Project

SEPTEMBER 11, 1973.

Public notice is hereby given that application for new major license has been filed December 26, 1972, under the Federal Power Act (16 U.S.C. 791a–825r) by Pacific Gas and Electric Company (Correspondence to Mr. J. F. Roberts, Jr., Vice President—Rates and Valuation, Pacific Gas and Electric Company, 77 Beale Street, San Francisco, California 94106), for its constructed Mokelumne River Project No. 137, located in Alpine, Amador, and Calaveras Counties, California; near the Communities of West Point, Pine Grove, Mokelumne Hill, and Jackson, California on the Mokelumne River, North Fork Mokelumne River, and the Bear River. The project affects public lands and lands of the United States within the Eldorado, Stanislaus, and Toiyabe National Forests.

The Project has an installed capacity of 192,750 kw (255,000 hp). The project consists of:

(A) *Headwater Storage Dams and Reservoirs.* (1) Upper Blue Reservoir having a storage capacity of 7,300 acre-feet and a surface area of 343 acres at elevation 8,137.5 feet (all elevations are U.S.G.S. datum); (2) an earth-fill dam about 837 feet long and 31 feet high containing a 51 foot long spillway; (3) an outlet consisting of two 18-inch diameter steel pipes through the dam; (4) Lower Blue Lake Reservoir having a storage capacity of about 5,053.4 feet; (5) an earth-fill dam about 1,063 feet long and 40 feet high containing a 60 foot long spillway; (6) an outlet consisting of two 30-inch diameter steel pipes through the dam; (7) Twin Lake Reservoir having a storage capacity of 1,207 acre-feet and a surface area of 106 acres at elevation 8144.7 feet; (8) an earth-fill dam about 1520 feet long and 22 feet high; (9) an 18 foot long spillway located about 4,000 feet east of the dam; (10) an outlet consisting of two 12-inch diameter steel pipes through the dam; (11) Meadow Lake Reservoir having a storage capacity of about 5,656 acre-feet and a surface area of 140 acres at elevation 7,774.4 feet; (12) a rock-fill dam about 775 feet long and 77 feet high containing a 45 foot long spillway; (13) an outlet consisting of two 30-inch diameter steel pipes through the dam; (14) Upper Bear River Reservoir having a storage capacity of 6,959 acre-feet and a surface area of 169 acres at elevation 5,876.0 feet; (15) a rock-fill dam about 760 feet long and 77 feet high containing a 354 foot long spillway; (16) an outlet consisting of three 16-inch diameter steel pipes through the dam; (17) Lower Bear River Reservoir having a storage capacity of 49,079 acre feet and a surface area of 727 acres at elevation 5818.2 feet; (18) a main rock-fill dam about 979 feet long and 249 feet high; (19) an auxiliary rock-fill dam about 865 feet long and 145 feet high; (20) a 316 foot long spillway located between the main and auxiliary dams; (21) a concrete diversion dam about 91 feet long in Gold Creek; (22) a tunnel about 2½ miles long from the reservoir passing under Gold Creek and receiving water diverted from that stream; and (23) a steel penstock extending about 4,000 feet from the tunnel outlet to Salt Springs powerhouse.

(B) *Regulating and Diversion Dams and Reservoirs and Powerplants: Salt Springs Unit.*—(1) Salt Springs Reservoir having a storage capacity of 141,857 acre-feet and a surface area of 963 acres at elevation 3,959.2 feet; (2) a rock-fill dam about 1,257 feet long and 328 feet high within eleven 11′ by 40′ radial gates (one 11′ by 32′ radial gate and one 6′ by 11′ gate) located on a 480 foot long spillway; (3) a tunnel connected to a penstock 475 feet long diverting water from the reservoir to the powerhouse; (4) a powerhouse containing a 29,700 kw generating unit and a 9,350 kw generating unit; (5) an outdoor transformer and switching station; (6) a 16.5 mile long single circuit 115 kv transmission line; and (7) appurtenant facilities.

*Tiger Creek Unit.*—(1) Tiger Creek Conduit extending about 17.80 miles along the North Fork Mokelumne River from Salt Springs powerhouse to Tiger Creek Regulator Dam and Reservoir, thence 2.52 miles to Tiger Creek Forebay Dam and Reservoir to a penstock 4,940 feet long into the Tiger Creek powerhouse; (2) various spillways appurtenant to Tiger Creek conduit; (3) Tiger Creek Afterbay Dam and Reservoir having about 2,607 acre-feet capacity; (4) Tiger Creek powerhouse containing two 25,500 kW generating units; (5) an outdoor transformer and switching station; (6) a 23.52 mile long double-circuit 230 kV transmission line; and (7) appurtenant facilities.

*West Point Unit.* (1) A water conduit, consisting of headworks, a tunnel about 13,000 feet long, a surge tank, and 650 feet of penstock, extending from Tiger Creek Afterbay dam to West Point powerhouse; (2) a powerhouse containing a 13,600 kw generating unit; (3) an outdoor transforming station at the powerhouse; (4) a 23.5 mile long single-circuit 60 kv transmission line; and (5) appurtenant facilities.

*Electra Unit.* (1) A diversion dam and reservoir about 450 feet upstream from West Point powerhouse; (2) a tunnel leading from an intake at the diversion dam to the tailrace at the West Point Powerhouse; (3) a tunnel about 43,000 feet long leading from the tailrace to Tabeaud reservoir; (4) Tabeaud dam and reservoir of about 1,158 acre-feet capacity; (5) a pressure conduit from Tabeaud reservoir to Electra powerhouse, consisting of an outlet tunnel about 2,900 feet long and a penstock about 3,000 feet long; (6) Electra powerhouse containing three 29,700 kw generating units; (7) a low concrete afterbay dam below the powerhouse; (8) an outdoor transformer and switching station near the powerhouse; and (9) appurtenant facilities.

The project includes the following existing and proposed recreational facilities:

(1) the existing facilities at Upper and Lower Blue Lakes are composed of 63 camp units at four locations, proposed additional recreational facilities are the construction of two campgrounds, first phase of a group-camp, two picnic areas, a parking lot, and a visitor's station; (2) the existing facilities at Lower Bear River Reservoir are the Bear River Resort, two campgrounds, one picnic area, a summer home tract, a Boy Scout Camp, 97 campground units, and three unimproved boat launching sites, proposed is the construction of an 8-unit boat access campground, and (3) picnic areas exist at Tiger Creek-West Point, Electra-Lake Tabeaud, and Salt Springs, proposed are fishing areas and a nature trail at Lake Tabeaud.

According to the application: (1) the estimated net investment is $40,639,709.00 as of December 31, 1971, which is less than its estimate of fair value, (2) the annual taxes paid to State and local governments are reported to be $1,306,000.00.

Any person desiring to be heard or to make protest with reference to said application should on or before November 12, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20113 Filed 9-20-73;8:45 am]





[Docket No. RP73-111]

## PACIFIC GAS TRANSMISSION CO.

### Order Vacating Prior Letter Order, Initiating Investigation, and Establishing Hearing Procedures

SEPTEMBER 13, 1973.

On May 17, 1973, Pacific Gas Transmission Company (PGT) tendered for filing pursuant to § 153.8 of the regulations under the Natural Gas Act and the requirements of ordering paragraph (F) of Commission Order issued March 13, 1970 in Docket No. CP69–347, an amendment to its gas purchase contract with Alberta and Southern Gas Company, Ltd. (Alberta Gas), of Calgary, Alberta Province, Canada. The proposed amendment would increase the price PGT pays for gas at the Canadian border by one cent per Mcf to provide for an exploration and development (E&D) fund in Canada, with resultant new supplies to be committed to Alberta Gas. The increase in price would be collected by PGT pursuant to its cost of service tariff on file and approved by this Commission.

Notice of PGT's proposed amendment to its purchase gas contract was issued June 12, 1973, providing for protests and petitions to intervene to be filed on or before June 25, 1973. A petition to intervene was filed on June 25, 1973, by the People of California and the Public Utilities Commission of the State of California. Hearing was not requested.

A letter order issued by the Commission's Secretary on June 29, 1973, rejected the proposed contract amendment and stated that the filing by PGT constituted a material change to PGT's importation authority granted in Docket No. CP69–347 which did not cover such a revision as that proposed.

PGT filed a Petition for Reconsideration on July 30, 1973, arguing that the Commission erred in rejecting PGT's May 17, 1973, filing. One allegation of error set forth by PGT was the treating of the filing by the Commission as a rate filing under section 154 of the Regulations when it was meant to be an informational filing under § 153.8 in compliance with the Commission's order in Docket No. CP69–347 issued March 13, 1970, concerning subsequent amendments to its contracts under its import authorization. PGT states that its filing was "patently inadequate" under section 154, and if considered as such, should have been rejected as a rate filing, but not rejected on the substantive merits without reasonable notice and a hearing as required by § 154.38.

PGT further states that the Commission's initial order authorizing gas importation by PGT, issued April 5, 1960, in Docket No. G–17351, reversed the presiding examiner who had suggested that certain conditions be adopted to provide for the possibilities that rate of return would not be regulated by Canadian authorities so as to provide adequate protection to United States consumers and that Canadian producer prices might not be regulated at all. In that order, the Commission rejected the imposition of a fixed border price or fixed Canadian rates of return to be effective for the life of the project, but rather noted that any increases in Canadian prices would receive the closest scrutiny whenever applications for contemplated expansion of the project were filed with the Commission. Rather than imposing fixed price conditions, the Commission, in its April 5, 1960, order, authorized PGT to file a cost of service tariff which allowed it to adjust its rates automatically for changes in purchased gas costs.

PGT further asserts that the Commission's rejection of its filing upon grounds that the increased purchased gas costs constituted a "material change" in PGT's outstanding importation authority is in error and inconsistent with prior Commission actions involving similar PGT filings. The most recent amendment to PGT's import authorization was approved by Commission order issued March 13, 1970 in Docket No. CP69–347. Order Paragraph (C) contained the condition that "PGT shall not materially change or alter its import operations without first obtaining the permission and approval of the Commission".

PGT states that the Commission has not applied the phrase "materially change or alter its import operation" to price changes in PGT's contract with its supplier, Alberta Gas. In support of this argument PGT cites its contract amendment filed by letter dated July 12, 1971, providing for a price of gas sold to be the greater of the cost of service price or 28 cents per Mcf, and another amendment filed by letter dated September 26, 1972, which raised the specified price to 31 cents per Mcf. PGT states that the Commission received both of these changes, made in the same manner as the filing in the instant case, without comment, without treating them as rate filings, and subsequently recognized the first amendment in an order issued January 4, 1972, (Docket No. RP71–98) by quoting it as an accomplished fact.

Upon reconsideration of our June 29 letter order, we find that PGT's May 15, 1973, filing was improperly rejected and accordingly we shall vacate our prior order. We are, however, greatly concerned with allowing PGT to pass on to its consumers as purchased gas cost the exploration and development costs of Canadian producers, without proper guarantee that any resultant benefits would accrue directly to United States' customers. Accordingly, we shall institute a proceeding under section 5(a) of the Natural Gas Act to determine whether PGT's cost of service tariff should be modified to limit or redefine the costs which may be reflected as purchased gas costs in PGT's rates.

*The Commission finds*

(1) The letter order issued June 29, 1973, in this proceeding should be vacated.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the Commission enter upon an investigation under section 5(a) to determine whether PGT's cost of service tariff should be modified to limit or redefine the costs which may be reflected as purchased gas costs in PGT's rates.

(3) Good cause exists to grant the subject petition to intervene.

*The Commission orders*

(A) Pursuant to the authority of the Natural Gas Act, an investigation is hereby instituted under section 5(a) thereof to determine whether PGT's cost of service tariff should be modified to limit or redefine the costs which may be reflected as purchased gas costs in PGT's rates.

(B) Staff and other parties shall file testimony and exhibits on or before October 19, 1973. PGT shall file rebuttal testimony and exhibits on or before November 9, 1973. A public hearing shall be held, commencing with a prehearing conference on November 20, 1973, before a Presiding Administrative Law Judge (see Delegation of Authority, 18 CFR 3.5 (d)), beginning at 10 a.m., e.s.t., in a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

(C) The above-named petitioner is hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenor shall be limited to matters affecting rights and interests specifically set forth in the respective petitions to intervene, and *Provided further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they, or any of them, might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(D) The Secretary of the Commission shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20135 Filed 9-20-73;8:45 am]

---

[Docket No. RP71-119]

## PANHANDLE EASTERN PIPE LINE CO.

### Motion of Michigan Seamless Tube Co. for Extraordinary Relief and Hearing

SEPTEMBER 12, 1973.

On August 24, 1973, Michigan Seamless Tube Company (Movant) filed a petition for extraordinary relief and an opportunity to be heard pursuant to § 1.7 (b) of the Commission rules of practice and procedure in connection with deliveries of natural gas supplies to it by its supplier Panhandle Eastern Pipe Line Company (Panhandle).

In its petition Movant alleges that it is a corporation engaged in the manufacture and sale of cold drawn seamless steel tubing and that approximately twelve percent of its production is used by the energy industry. Its principal



V 38 I 183 SEP 21 73 XUM

place of business is in the community of South Lyon, Michigan, where it employs approximately 560 persons.

On or about June 1, 1970, Movant entered into a 3-year contract with Panhandle for the direct purchase of natural gas from that pipeline on an interruptible basis. Movant uses this natural gas in virtually all of its operations, including in its manufacturing process, plant protection and to meet its heat requirements. Movant has historically required 2600 Mcf of natural gas per day to meet all of these needs.

Movant indicates that while it has limited alternate fuel capability for some operations, which it intends to substantially increase over the course of the next year, that the complete interruption of natural gas for any appreciable period during the 1973 through 1974 heating season will necessitate a drastic curtailment of plant operations with consequent loss of employment and other irreparable damages.

It alleges that any drastic curtailment would require it to shut down its entire South Lyon's operation. The Movant further contends that the extensive program it has undertaken aimed at maximizing its alternate fuel capability in view of the current shortage of natural gas will enable it to convert approximately 50 percent of its facilities to fuel oil by October 1, 1973. Movant estimates that by August 1, 1974, approximately 84 percent of its facilities will have been converted to fuel oil. However, it strongly contends that 16 percent of its facilities must continue to utilize natural gas, because of the nature of certain of its operations.

Hence, Movant alleges that it will require a minimum of 1,355 Mcf per day for its operations from October 1, 1973, to August 1, 1974, and that, thereafter, it will require only 425 Mcf of gas per day, because of its current program aimed at providing its facility at South Lyon with alternate fuel capability.

The Movant argues that the Commission's Policy Statement issued on January 8, 1973, as amended on March 2, 1973, in Order No. 467–B, Docket No. R–469 have grave potential implications as far as it is concerned, and that under the recommended curtailment priorities set forth in that order, it will be subject to 100 percent natural gas curtailment on or about October 31, 1973. It contends that such a curtailment will result in irreparable damage to both it and its employees. Movant urges that the priority guidelines set forth in Order No. 467–B, though they may establish basic policy, may not be totally inflexible. It, therefore, requests that it be granted a hearing on this matter by the Commission pursuant to § 1.7(b) of its Rules of Practice and Procedure in order to purchase a minimum volume of 1,355 Mcf of natural gas per day from Panhandle for the period from October 1, 1973, to August 1, 1974, and 425 Mcf per day, thereafter.

Any person desiring to be heard or to make any protest with reference to said petition for extraordinary relief should on or before September 21, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 5, 15, and 16 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the request is required by the public convenience and necessity. If a petition for leave to intervene is timely filed or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73–20110 Filed 9–20–73;8:45 am]

[Docket No. CI72–552]

## PHILLIPS PETROLEUM CO.

### Petition To Amend

SEPTEMBER 12, 1973.

Take notice that on September 4, 1973, Phillips Petroleum Company (Petitioner), Bartlesville, Oklahoma 74004, filed in Docket No. CI72–552 a petition to amend the order issuing a certificate of public convenience and necessity in said docket pursuant to section 7(c) of the Natural Gas Act by authorizing Petitioner to exchange natural gas with Natural Gas Pipeline Company of America (Natural) at an additional point, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner is authorized in the subject docket to exchange up to 10,000,000 Mcf of natural gas per month with Natural at various specified points. Petitioner now requests authorization to exchange gas at an additional redelivery point from Natural to Petitioner at a mutually agreeable point on Natural's 24-inch Old Ocean Lateral in Brazoria County, Texas. The additional redelivery point is said to provide greater flexibility in the operation of Natural's system and to enable Petitioner to receive additional gas at its industrial complex located near said point.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 9, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73–20116 Filed 9–20–73;8:45 am]

[Docket No. E–8372]

## PUBLIC SERVICE CO. OF NEW HAMPSHIRE

### Notice of Application

SEPTEMBER 13, 1973.

Take notice that on August 20, 1973, Public Service Company of New Hampshire (Applicant) tendered for filing, pursuant to Section 205 of the Federal Power Act and Part 35 of the Commission's regulations, a Transmission Contract dated May 31, 1973, with Vermont Electric Power Company (VELCO) providing for transmission through Applicant's 345 KV system of entitlements of power which Northeast Utilities will sell VELCO from July 1, 1973 to May 31, 1974. Segments of Applicant's 345 KV system to be used for the transmission run from the point of interconnection of Applicant's system to that of Northeast Utilities at the Massachusetts-New Hampshire state boundary to the point of interconnection with VELCO's system at the New Hampshire-Vermont state line. Monthly charges of $2,025/mo. over the 11-month term of the contract are identical to those charged for similar transmission service under Applicant's Rate Schedules FPC Nos. 52 and 54, and in Docket No. E–8210. The Agreement takes effect July 1, 1973.

Any person wishing to be heard or to make any protests with reference to such Application should, on or before September 28, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The Application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73–20126 Filed 9–20–73;8:45 am]





[Docket No. CI73–694]

## RODMAN CORP.

### Order Setting Date for Hearing and Granting Intervention

SEPTEMBER 12, 1973.

The above-named Applicant has filed applications pursuant to section 7(c) of the Natural Gas Act,[1] and pursuant to § 2.75[2] of the Commission's General Policy Statements, the Optional Procedure for Certificating New Producer Sales of Natural Gas set forth in Order No. 455,[3] (hereinafter § 2.75) for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas in interstate commerce.

On April 16, 1973, The Rodman Corporation (Rodman) filed in Docket No. CI73–694 an application pursuant to § 2.75 of the Commission's rules of practice and procedure (18 C.F.R. § 2.75) for a certificate to sell natural gas from previously dedicated acreage in the Hugoton-Anadarko to Cities Service Gas Company (Cities Service). The sale contract, dated April 5, 1973, is an amendment to contracts dated August 4, 1967, September 19, 1969, and March 1, 1971, as supplemented, and filed with the Commission as Rodman FPC Gas Rate Schedule Numbers 1, 3, and 4 respectively. Sales under these rate schedules were authorized in Docket Nos. CI68–255, CI70–573, and CI71–784, respectively. Rodman seeks an initial price of 55 cents per Mcf with 1 cent per Mcf yearly escalation, and upward and downward Btu adjustment from 1000.

The April 5, 1973, amendment which gives rise to this application requires Rodman to drill or cause to be drilled one hundred new wells within five years of the effective date on a final appealable order of the Commission approving the proposed rates. Such wells are to be drilled to a depth sufficient to adequately test all functions within the prescribed acreage from which it can reasonably be expected that gas in commercial quantities can be produced.

Rodman states that deliveries from certain wells covered by the application have commenced and that deliveries from other wells will commence as such other wells are completed. Until the six month period runs, or until certification is obtained, whichever occurs first, the rates charged will be those applicable under the respective rate schedules.

Notice of Rodman's application was issued on May 10, 1973, and was published in the FEDERAL REGISTER on May 22, 1973 (38 FR 13502). A petition of intervene was filed by Cities Service Gas Company.

This hearing is not the proper forum for the relitigation of the propriety of the § 2.75 procedures; that matter is now before the Court of Appeals. See n. 3, *supra*. This hearing will be addressed solely to the issues of public convenience and necessity, and the justness and reasonableness, of the particular sales and rates herein proposed.

Those parties and intervenors desiring to submit cost and non-cost data should structure their evidence to reflect the tests under § 2.75 for determining the justness and reasonableness of the rate sought.

*The Commission finds*

(1) It is necessary and in the public interest that the above-docketed proceeding be set for a formal hearing.

(2) It is desirable and in the public interest to allow the above-named petitioners to intervene in this proceeding.

*The Commission orders*

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 7, 14, 15 and 16 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act (18 CFR Chapter I) a public hearing on the issues presented by the applications herein shall be held commencing October 18, 1973, at 10:00 a.m. (EDT) in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

(B) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding pursuant to the Commission's rules of practice and procedure.

(C) Applicant and all intervenors supporting the applications shall file their direct testimony and evidence on or before September 28, 1973. All testimony and evidence shall be served upon the Presiding Administrative Law Judge, the Commission Staff, and all parties to these proceedings.

(D) The Commission Staff and all intervenors opposing the applications shall file their direct testimony and evidence on or before October 5, 1973. All testimony and evidence shall be served upon the Presiding Administrative Law Judge, and all other parties to these proceedings.

(E) All rebuttal testimony and evidence shall be served on or before October 12, 1973. All parties submitting rebuttal testimony and evidence shall serve such testimony and evidence upon the Presiding Administrative Law Judge, the Commission Staff, and all other parties to these proceedings.

(F) The above-named petitioners are permitted to intervene in these proceedings subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in said petitions for leave to intervene; and *provided, further,* That the admission of such interests shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any order or orders of the Commission entered in these proceedings.

(G) The Administrative Law Judge's decision shall be rendered on or before November 16, 1973. All briefs on exceptions shall be due on or before November 27, 1973, and replies thereto shall be due on or before December 3, 1973.

By the Commission.

[SEAL] KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73–20119 Filed 9–20–73;8:45 am]

[Docket No. CI73–922, etc.]

## SHENANDOAH OIL CORP. ET AL.

### Order Consolidating Proceedings, Granting Intervention, Setting Hearing Date and Prescribing Procedures

SEPTEMBER 13, 1973.

Shenandoah Oil Corporation (Shenandoah) in Docket No. CI73–922, Rains & Williamson Oil Co., Inc. (R&W) in Docket No. CI73–930 and W. S. Etchieson and J. B. Watkins (E&W) in Docket No. CI74–4 filed applications on June 25, June 28 and July 2, 1973, respectively, for limited term certificates of public convenience and necessity with pre-granted abandonment authority, pursuant to Order No. 431 and § 157.23 of the Commission's Regulations under the Natural Gas Act for the sale of gas to Panhandle Eastern Pipe Line Company (Panhandle) from the Hugoton Anadarko Area.

Specifically, all sellers propose to deliver gas to Panhandle at 50.0¢ per Mcf (14.65 psia) with a Btu adjustment from 1000 Btu/cf, although E&W would set 1200 Btu as the highest permissible Btu adjustment. The proposed sales are for a period of one year with the exception of R&W, which is to be for a period of two years. Projected monthly volumes are as follows: Shenandoah—15,000 Mcf; R&W—60,000 Mcf; and E&W—60,000 Mcf. Delivery will be made by all applicants to acceptable points on Panhandle's pipeline. Shenandoah's saleable gas is from its Kincannon No. 1 well in Cimarron County, Oklahoma. R&W's saleable gas is from its Sword No. 1 well in Meade County, Kansas, E&W's saleable gas is from its leases in the SW/4 of Section 86 and the E/2 of the SE/4 of Section 92, Block 5, I&GN Survey, Carson County, Texas. Shenandoah is making an emergency 60-day sale to Panhandle that began on July 17, 1973 and is to terminate on September 15, 1973. E&W is making a sale for 60-days from one of its leases for the same period as Shenandoah and made another from its other lease beginning on June 14, 1973 and terminating on August 13, 1973. There is no indication that R&W is making an emergency 60-day sale to Panhandle from the instant well. The proposed rates all exceed the applicable area

[1] 15 U.S.C. 717, et seq. (1970).
[2] 18 CFR 2.75.
[3] Statement Of Policy Relating To Optional Procedure For Certificating New Producer Sales of Natural Gas, Docket No. R–441, ____ F.P.C. ____ (issued August 3, 1972, appeal pending sub nom. John E. Moss, et al. v. F.P.C., No. 72–1837 (D.C. Cir.)



V 38 I 183 SEP 21 73 XUM

base rate of 21.315 cents established by the Commission's Opinion No. 586.

The applications in this proceeding represent a sizeable volume of gas potentially available to the interstate market. It is of critical importance that interstate pipelines procure emergency supplies of gas to avoid disruption of service to consumers; nevertheless, we must determine whether the rates to be paid serve the public convenience and necessity. It is therefore necessary that these applications be set for public hearing and expeditious determination. The hearing will be held to allow presentation, cross-examination, and rebuttal of evidence by any participant. This evidence should be directed to the issue of whether the present or future public convenience and necessity requires issuance of limited-term certificates on the terms proposed in the applications.

All the instant dockets contemplate limited term sales at the same price, from the same area, and to the same purchaser and thus contain common questions of law and fact. Accordingly, consolidating these dockets will aid in the expedition of the hearing process.

Petitions to intervene in each of the above applications were filed by Panhandle on July 12, 1973 in the case of CI73-922, on July 26, 1973 in the case of CI73-930, and on July 20, 1973 in the case of CI74-4.

*The Commission finds*

(1) Docket Nos. CI73-922, CI73-930 and CI74-4 should be consolidated for hearing and decision as they involve common questions of fact and law.

(2) The intervention of Panhandle in this proceeding may be in the public interest.

(3) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the issues in this proceeding be scheduled for hearing in accordance with the procedures set forth below.

*The Commission orders*

(A) The applications listed at the head of this order are hereby consolidated for hearing and decision.

(B) Panhandle is hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervener shall be limited to matters affecting asserted rights and interests as specifically set forth in said petition for leave to intervene; and *Provided, further,* That the admission of said intervener shall not be construed as recognition by the Commission that it might be aggrieved by any order or orders of the Commission entered in this proceeding.

(C) Pursuant to the authority of the Natural Gas Act, particularly sections 7 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act, a public hearing shall be held on October 24, 1973, at 10 a.m. (e.d.t.) in a hearing room of the Federal Power Commission, 825 North Capital Street, N.E., Washington, D.C. 20426, concerning the issue of whether certificates of public convenience and necessity should be granted as requested by applicants.

(D) On or before October 10, 1973, applicants and any supporting parties shall file with the Commission and serve upon all parties, including Commission Staff, their testimony and exhibits in support of their positions.

(E) An Administrative Law Judge to be designated by the Chief Administrative Law Judge—See Delegation of Authority, 18 CFR 3.5(d)—shall preside at, and control this proceeding in accordance with the policies expressed in the Commission's rules of practice and procedure and the purposes expressed in this order.

By the Commission.[1]

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-20132 Filed 9-20-73;8:45 am]

---

[Docket No. CI74-20]

## SKLAR & PHILLIPS OIL CO. ET AL.

### Order Granting Intervention, Setting Hearing Date and Prescribing Procedures

SEPTEMBER 13, 1973.

Sklar & Phillips Oil Co. (Operator), et al., hereinafter referred to as S & P, filed an application in docket No. CI74-20 on July 12, 1973 for a limited-term certificate of public convenience and necessity with pre-granted abandonment authority, pursuant to Order No. 431 and § 157.23 of the Commission's regulations under the Natural Gas Act for the sale of gas to Arkansas Louisiana Gas Company (Arkla) from acreage in the Danville Field, Bienville Parish, North Louisiana.

Specifically, S & P proposes to deliver gas to Arkla at 58.3¢ per Mcf (15.025 psia) which includes a 3.3¢ per Mcf tax reimbursement (100%) and does not include any Btu adjustment. S & P's proposed sale is for a period of one year. Delivery is to be made at some central point in the lease. The projected delivery volume is 300,000 Mcf per month. Gas is to be sold from a lease in the Danville Field, Bienville Parish, North Louisiana. The proposed rate exceeds the applicable area base rate of 25.875 cents established by the Commission's Opinion No. 607-A.

The application in this proceeding represents a sizeable volume of gas potentially available to the interstate market. It is of critical importance that interstate pipelines procure emergency supplies of gas to avoid disruption of service to consumers; nevertheless, we must determine whether the rate to be paid serves the public convenience and necessity. It is therefore necessary that this application be set for public hearing and expeditious determination. The hearing will be held to allow presentation, cross-examination, and rebuttal of evidence by any participant. This evidence should be directed to the issue of whether the present or future public convenience and necessity requires issuance of limited-term certificates on the terms proposed in the application.

A timely petition to intervene in favor of the application was filed by Arkla on August 6, 1973.

*The Commission finds*

(1) The intervention of Arkla in this proceeding may be in the public interest.

(2) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Natural Gas Act that the issues in this proceeding be scheduled for hearing in accordance with the procedures set forth below.

*The Commission orders*

(A) Arkla is hereby permitted to intervene in this proceeding, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervener shall be limited to matters affecting asserted rights and interests as specifically set forth in said petition for leave to intervene; and *Provided, further,* That the admission of said intervener shall not be construed as recognition by the Commission that it might be aggrieved by any order or orders of the Commission entered in this proceeding.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 7 and 15 thereof, the Commission's rules of practice and procedure, and the regulations under the Natural Gas Act, a public hearing shall be held on October 19, 1973, at 10 a.m. (e.d.t.) in a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, concerning the issue of whether a certificate of public convenience and necessity should be granted as requested by S & P.

(C) On or before October 5, 1973, S & P and any supporting parties shall file with the Commission and serve upon all parties, including Commission Staff, their testimony and exhibits in support of their positions.

(D) An Administrative Law Judge to be designated by the Chief Administrative Law Judge—See Delegation of Authority, 18 CFR 3.5(d)—shall preside at, and control this proceeding in accordance with the policies expressed in the Commission's rules of practice and procedure and the purposes expressed in this order.

By the Commission.[1]

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-20120 Filed 9-20-73;8:45 am]

---

[1] Statements of Commissioners Brooke and Moody are filed as part of the original document.

[1] Statements of Commissioners Brooke and Moody filed as part of the original document.





[Docket No. CP73-27, etc.]

## STINGRAY PIPELINE CO. ET AL.

### Consolidating Proceedings; Granting Interventions and Conditional Intervention

SEPTEMBER 13, 1973.

Pursuant to an order issued July 13, 1973, the applications for certificates of public convenience and necessity filed by Stingray Pipeline Company (Stingray), Docket No. CP73-27, Sun Oil Company (Sun), Docket Nos. CI73-878, CI73-879, CI73-880, and Pennzoil Offshore Transmission Company (POTCO), Docket No. CP72-292, were consolidated. The hearing date for this proceeding has been set for September 4 and will be commenced with a prehearing conference. In addition, the interventions of various parties were granted in the consolidated proceeding.

Since the date of the above order, additional petitions to intervene and applications pertaining to the instant proceeding have been received by the Commission.

Four untimely petitions to intervene in the Stingray Pipeline Company, Docket No. CP73-27, were tendered by Iowa Electric Light and Power Company (Iowa), Mobil Oil Corporation (Mobil), Transcontinental Gas Pipeline Company (Transco) and Diamond Shamrock Corporation (Diamond). Despite the late filings of these interventions, the petitioners have shown sufficient interest in the proceedings in Docket No. CP73-27 to warrant intervention. Specifically, these interests include Mobil's ownership of interests in offshore oil and gas leases that are potentially productive of gas within the general supply area to be served by both the Stingray and POTCO applicants. Transco's interest in the consolidated Stingray proceeding arises from their acquisition of interests in, and rights to, purchase gas from certain leases in the offshore Cameron area of Louisiana and the adjacent High Island area offshore Texas in close proximity to the proposed facilities of both Stingray and POTCO. Finally, Iowa's interest emanates from the substantial contractual purchases they make from Natural Gas Pipeline Company of America, one of the Stingray partners. Diamond Shamrock's intervention is based on their proposed sales of gas to Trunkline Gas Company which will be transported through the Stingray system. The grant of intervention for the above petitioners will not delay the consolidated proceedings.

On July 31, 1973, Anadarko Production Company (Andarko), submitted applications which were filed under Docket Nos. CI74-68, CI74-69, and CI74-70. These applications were tendered for the purpose of obtaining a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act and § 2.75 of the Commission's general policy and interpretations (18 CFR 2.75). In these filings Anadarko proposes the sale and delivery for resale of natural gas in interstate commerce to Trunkline Gas Company (Trunkline), which is one of the participants in the Stingray project. The proposed sale covers gas to be extracted from certain Blocks in the West Cameron, Vermilion and East Cameron areas of offshore Louisiana. Since the gas which Anadarko wishes to sell represents a portion of Stingray's potential gas supply for transportation, we are of the view that Anadarko's applications herein should be consolidated with the proceedings in Docket No. CP73-27 et al.

In each of the Sun Oil Docket Nos. CI73-878, CI73-879, CI73-880, additional petitions to intervene have been submitted since the date of our July 13, 1973, order. These interventions were filed by the following parties:

Associated Gas Distributors
Central Illinois Light Company
Michigan Gas Utilities Company
American Public Gas Association
Trunkline Gas Company
Mobil Oil Corporation

Trunkline Gas Company demonstrates sufficient interest in the above dockets because it is the proposed purchaser of the gas to be sold pursuant to the contracts under scrutiny in those dockets. Central Illinois Light Company and Michigan Gas Utilities Company are both customers of Trunkline and will be affected by the Sun Oil Company sales to Trunkline. Mobil Oil Corporation illustrates sufficient interest by its aforementioned showing of ownership interests in offshore leases near those from which the gas which is the subject of the contracts in the Sun Oil dockets will be produced. Associated Gas Distributors and the American Public Gas Association both claim interest in the case by virtue of their capacity as representatives of various distributors who would be affected by any pricing precedent which may be established and by the effect a decision herein would have on the current gas supply situations. Since the above petitioners have demonstrated sufficient interest in the proceedings in Docket Nos. CI73-878, CI73-879, and CI73-880, their intervention is sufficiently warranted.

In our order of July 13, 1973, we indicated that POTCO's certificate application in Docket No. CP72-292 should be consolidated with the Stingray proceeding until such time as the question of comparative hearings with respect to the two applications is resolved. This finding and order was accompanied by a conditional intervention for the POTCO intervenors in the Stingray proceeding, conditioned upon an ultimate finding that a comparative hearing is necessary. Since our previous order, untimely petitions to intervene in Docket No. CP72-292 have been filed by Texas Eastern Transmission Company (Texas Eastern), Transcontinental Gas Pipeline Corporation and Mobil Oil Corporation. Although untimely, the petitioners have shown sufficient interest in the proceedings in Docket No. CP72-292 to warrant intervention subject to the condition set forth in our July 13, 1973, order. This interest is exemplified by the previously mentioned interest of Transco and Mobil in the Stingray Docket No. CP73-27 et al. and by the fact that Texas Eastern is a purchaser of gas from United Gas Pipe Line Company, who is to be the purchaser of the gas transported through the proposed POTCO facility.

On September 5, 1972, Shell Oil Company (Shell), filed in Docket Nos. CP73-160 and CI73-164 applicatons for certificates of public convenience and necessity covering proposed sales of natural gas from Shell to Natural Gas Pipeline Company of America (Natural). The subject of these sales is gas from the Vermilion and West Cameron Areas of offshore Louisiana. In the above applications, Shell states that Stingray will be the medium of transportation for some or all of the gas covered by the sale of Shell to Natural.

In view of the fact that Shell's applications bear such a close relationship to the Stingray proceeding, a relationship nearly identical to that between Stingray and the already consolidated Sun Oil dockets, Shell's motion to consolidate Docket Nos. CI73-160 and CI73-164 with CP73-27 et al. should be granted.

On April 5, 1973, Natural filed in Docket No. CP73-262 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities to increase the capacity of its Louisiana supply pipelne. Specifically, Natural proposes to construct and operate approximately 71.56 miles of 30-inch loop pipeline in Liberty and Jefferson Counties, Texas and Cameron Parish, Louisiana. Additionally, Natural proposes to add an extra 8,000 horsepower of compression at Compressor Station No. 343 in Liberty County, Texas and to modify certain existing compressor stations. The total estimated cost of the proposed facilities is $19,020,000.

It is readily apparent from the Natural application that the additional facilities they propose are to aid in the transportation of gas purchased by Natural and received through the Stingray pipeline system. Indeed, the additional supplies of gas from offshore sources for which Natural has contracted will be transported onshore by the Stingray line and Natural has indicated in its application that the onshore facilities they propose are sought specifically to provide the means and added capacity for the onshore transmission of gas made available from offshore Louisiana by previous transmission through the Stingray facility (Natural Application, page 3).

Therefore Natural's application in Docket No. CP73-262 should be consolidated with the proceedings in Docket No. CP73-27 et al.

On February 14, 1973, Natural tendered for filing in Docket No. CP73-219 an abbreviated application pursuant to section 7(c) of the Natural Gas Act for



V 38 I 183 SEP 21 73 XUM

a certificate of public convenience and necessity authorizing the transportation and delivery of up to 200,000 Mcf per day of natural gas for Trunkline and the construction and operation of certain facilities therefor. The proposed facilities will cost Natural $343,000. These facilities will enable Natural to redeliver quantities of gas to Trunkline which Trunkline will commit for transportation through the proposed Stingray facility. Also certain additions to Natural's Louisiana pipeline at its onshore connection with the Stingray line are proposed.

Because the transportation and delivery agreement involves gas which will be entirely transported through the Stingray facility and because the proposed facilities are intended to supplement Natural's ability to redeliver the Stingray gas, it is the opinion of the Commission that the relationship between the proposals in Docket No. CP73–219 and the Stingray project in Docket No. CP73–27 et al. compels the consolidation of the dockets.

Four petitions to intervene were timely filed in Docket No. CP73–219. The intervenors are:

Mississippi River Transmission Corporation
Michigan Gas Utilities Company
Central Illinois Light Company
Trunkline Gas Company

Trunkline Gas Company has a sufficient interest in the proceeding to warrant intervention by virtue of their status as party to the transportation and delivery agreement and as recipient of the additional quantities of gas which Natural will be able to deliver to Trunkline upon completion of the proposed facilities.

The remaining intervenors in this docket have demonstrated sufficient interest for intervention because each is a purchaser of gas from Trunkline and the quantities they thus receive may be affected by the subject matter of the docket.

*The Commission finds*

(1) It is necessary and appropriate that the proceedings in Docket Nos. CP73–27 et al., CI74–68, CI74–69, CI74–70, CI73–160, CI74–164, CP73–262, and CP73–219 be consolidated for hearing and decision.

(2) It is desirable and in the public interest to allow the aforementioned parties who have formally petitioned to intervene in Docket Nos. CI73–878, CI73–879, and CI73–880 to so intervene in order that they may establish the facts and the law from which the nature and validity of their alleged rights and interests may be determined.

(3) It is desirable and in the public interest to allow the aforementioned parties who have formally petitioned to intervene in Docket No. CP73–27 et al., to so intervene in order that they may establish the facts and the law from which the nature and validity of their alleged rights and interests may be determined.

(4) It is necessary and appropriate to grant the motion filed by Shell Oil Company to consolidated Docket Nos. CI73–160 and CI73–164 with CP73–27 et al.

(5) It is desirable and in the public interest to allow the aforementioned parties who have formally petitioned for intervention in Docket No. CP72–292 to so intervene in order that they may establish the facts and the law from which the nature and validity of their alleged rights and interests may be determined.

(6) It is desirable and in the public interest to allow the aforementioned parties who have formally petitioned for intervention in Docket No. CP73–219 to so intervene in order that they may establish the facts and the law from which the nature and validity of their alleged rights and interests may be determined.

(7) It is in the public interest to allow Texas Eastern Transmission Company, intervenor in Docket No. CP72–292, to intervene in the consolidated proceeding represented by Docket No. CP73–27 et al. subject to the conditions set forth in the body of this order.

*The Commission orders*

(A) Docket Nos. CP73–27, CI73–878, CI73–879, CI73–880, CI74–68, CI74–69, CI74–70, CI73–160, CI73–164, CP73–262, and CP73–219 are consolidated for purposes of hearing and disposition.

(B) The above-named petitioners, who have petitioned to intervene in the proceedings consolidated by ordering paragraph (A) herein, are permitted to intervene in such consolidated proceeding subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in said petitions for leave to intervene; and *provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(C) The above-named petitioners, who have petitioned to intervene in the proceedings in Docket No. CP72–292, are permitted to intervene in such proceedings subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in said petitions for leave to intervene; and *provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they or any of them might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(D) Texas Eastern Transmission Company, a party to the proceeding in Docket No. CP72–292, is permitted to intervene in the procedings consolidated by ordering paragraph (A) herein subject to the rules and regulations of the Commission and subject to the provisions of intervention as set forth in ordering paragraph (B) herein: *Provided, however,* That the intervention of such parties shall be conditioned on the Commission's determination of the need for comparative hearings regarding the application herein and should the Commission determine that comparative hearings are not required such intervention shall be revoked.

(E) The direct case of Anadarko Production Company, Shell Oil Company, and Natural Gas Pipe Line Company of America in the proceedings consolidated by Ordering paragraph (A) herein and all intervenors in support thereof shall be filed and served on all parties of record including the Commission staff on or before September 21, 1973.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73–20122 Filed 9–20–73;8:45 am]

[Docket No. RP74–5]

## TEXAS EASTERN TRANSMISSION CORP.

### Order Accepting for Filing and Suspending Proposed Rates, Permitting Intervention and Establishing Hearing Procedures

SEPTEMBER 13, 1973.

Texas Eastern Transmission Corporation (Texas Eastern) tendered proposed changes in its FPC Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2 on July 31, 1973.[1] The proposed changes would increase revenues from jurisdictional sales by $97,100,000 based on the 12 month period ending March 31, 1973, as adjusted.

The principal reasons for the proposed increase, as enunciated by Texas Eastern, are increased cost of labor, supplies, and working capital; the need for an increased rate of return of 9.25 percent; the need for an overall depreciation rate of 5.5 percent; and increased taxes.

The application by Texas Eastern contains certain revisions to its Purchased Gas Adjustment Provision (PGA) which were incorporated in Exhibit E to the Revised Stipulation and Agreement of July 25, 1973, in Docket No. RP72–98. The company maintains that certain other sheets in this filing are being revised as set forth in Article VII of the July 25 agreement. In accordance with Commission Order No. 483, issued April 30, 1973, in Docket No. R–462, Texas Eastern includes in this filing new tariff sheets containing procedures to track research and development expenitures.

Notice of this application was issued on August 13, 1973, providing for all comments and petitions to intervene to be filed by September 1, 1973. Numerous petitions to intervene have been filed:[2] Additionally, Notice of Intervention has been filed by the Tennessee Public Service Commission and the Public Service Commission of the State of New York.

With regard to the proposed research and development (R&D) tracking provision, our review indicates that it is consistent with the guidelines for such provisions contained in our Order No. 483, issued April 30, 1973, in Docket No. R–462. However, our acceptance of the provision shall be conditioned upon Texas Eastern's modification of it to reflect the amount which the actual balances in their Account 188 during the 12 month period ending 3 months prior to the effective date of R&D adjustment (reduced as provided in the R&D provision) exceed or are less than the amount allowed in Texas Eastern's last previous rate proceedings. These modifications are to be made before the end of the suspension period order herein.

Further review of the application indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. We will therefore suspend the proposed rates for the full statutory period and establish hearing procedures.

*The Commission finds*

(1) The proposed changes in Texas Eastern's FPC Gas Tariff should be accepted for filing as hereafter ordered.

(2) The proposed tariff sheets should be accepted for filing, suspended and the use thereof deferred until February 14, 1974.

(3) The proposed R&D tracking provision should be accepted as conditioned above and suspended until February 14, 1974.

(4) It is necessary and proper in the public interest and to aid in the enforcement of the Natural Gas Act that the Commission enter upon a hearing concerning the lawfulness of rates and charges contained in Texas Eastern's FPC Gas Tariff, as proposed to be amended to this docket.

(5) Good cause exists to permit the intervention of the above petitioners for intervention.

(6) The disposition of this proceeding should be expedited in accordance with the procedure set forth below.

*The Commission orders*

(A) The proposed tariff sheets filed by Texas Eastern on July 31, 1973, are accepted for filing and suspended as hereinafter ordered.

(B) Pending a hearing and a decision thereon, the accepted tariff sheets are suspended for the full statutory term and the use thereof deferred until February 14, 1973, or until such time as they are made effective in the manner provided in the Natural Gas Act.

(C) The proposed R&D tracking provision is accepted as modified above and the use thereof suspended until February 14, 1974.

(D) Pursuant to authority of the Natural Gas Act, particularly section 4 and 5 thereof, the Commission's rules and regulations (18 CFR Chapter I), a public hearing shall be held, commencing with a prehearing conference on January 9, 1974, at 10 a.m., e.s.t., in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, concerning the lawfulness and reasonableness of the rates and charges in Texas Eastern's FPC Gas Tariff, as proposed to be amended herein.

(E) At a prehearing conference on January 9, 1974, Texas Eastern prepared testimony (Statement P) together with its entire rate filing shall be admitted to the record as its complete case-in-chief subject to appropriate motions, if any, by parties to the proceeding. All parties will be expected to come to the conference.

(F) On or before December 21, 1973, the Commission Staff shall serve its prepared testimony and exhibits. Any intervenor evidence will be filed on or before January 4, 1973. Any rebuttal evidence by Texas Eastern shall be served on or before January 25, 1974. The public hearing herein ordered shall convene on February 12, 1974, at 10 a.m., e.s.t.

(G) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (see Delegation of Authority, 18 CFR 315(d)), shall preside at the hearing in this proceeding, shall control this proceeding in accordance with the policies expressed in § 2.59 of the Commission's rules of practice and procedure.

(H) The above-named petitioners for intervention are permitted to intervene.

(I) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

APPENDIX A

THIRD REVISED VOLUME NO. 1

First Revised Sheet No. 1
Third Revised Sheet No. 13
Third Revised Sheet No. 13A
Third Revised Sheet No. 13B
Third Revised Sheet No. 13C
Third Revised Sheet No. 13D
First Revised Sheet No. 18
First Revised Sheet No. 25
First Revised Sheet No. 29
First Revised Sheet No. 30
First Revised Sheet No. 39
First Revised Sheet No. 43
First Revised Sheet No. 75
First Revised Sheet No. 98
First Revised Sheet No. 99
First Revised Sheet No. 100
First Revised Sheet No. 101
First Revised Sheet No. 102
First Revised Sheet No. 103
First Revised Sheet No. 104
Original Sheet No. 105
Original Sheet No. 106
Original Sheet No. 107

ORIGINAL VOLUME NO. 2

Ninth Revised Sheet No. 232
Ninth Revised Sheet No. 235
Fifth Revised Sheet No. 241
Tenth Revised Sheet No. 322

APPENDIX B

Philadelphia Gas Works
United Cities Gas Company
Central Illinois Public Service Company
Missouri Utilities Company
Arkansas-Missouri Power Company
Associated Natural Gas Company
Mississippi Valley Gas Company
Consolidated Edison Company of New York, Inc.
Public Service Electric and Gas Company
Orange and Rockland Utilities, Inc.
Elizabethtown Gas Company
Algonquin Gas Transmission Company
Long Island Lighting Company
United Natural Gas Company
Philadelphia Electric
New Jersey Natural Gas Company
Brooklyn Union Gas Company
Texas Gas Transmission Corporation
Columbia Gas Transmission Corporation
Equitable Gas Company
Central Hudson Gas and Electric Corporation
Memphis Light, Gas and Water Division, City of Memphis, Tennessee
Consolidated Gas Supply Corporation
Arthur F. Sampson, Administrator General Services Administration
Boston Gas Company
Bristol and Warren Gas Company
Brockton Taunton Gas Company
Cape Cod Gas Company
Commonwealth Gas Company
The Connecticut Gas Company
Connecticut Natural Gas Corporation
Fall River Gas Company
The Hartford Electric Light Company
Town of Middleborough, Municipal Gas and Electric Department
New Bedford Gas and Edison Light Company
The Newport Gas Light Company
North Attleboro Gas Company
City of Norwich, Department of Public Utilities
Pequot Gas Company
Providence Gas Company
South County Gas Company
The Southern Connecticut Gas Company
Tiverton Gas Company
Columbia Gas of Ohio

[FR Doc.73–20142 Filed 9–20–73;8:45 am]

[Dockets Nos. RP71–130, RP72–58]

## TEXAS EASTERN TRANSMISSION CORP.

### Postponement of Conference

SEPTEMBER 14, 1973.

On September 12, 1973, Texas Eastern Transmission Corporation filed a motion to postpone and reset the conference scheduled for September 18, 1973, by notice issued September 7, 1973, in the above-designated matter.

Upon consideration, notice is hereby given that the informal conference to be presided over by Staff Counsel is postponed to September 25, 1973, at 10 a.m. (e.d.t.) in a hearing room of the Federal Power Commission at 825 North Capitol Street N.E., Washington, D.C. 20426.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73–20141 Filed 9–20–73;8:45 am]

[Docket No. CP73–324]

## TEXAS GAS TRANSMISSION CORP.

### Amendment to Application

SEPTEMBER 12, 1973.

Take notice that on August 16, 1973, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica St., Owensboro, Kentucky 42301, filed in Docket

[1] See Appendix A.
[2] See Appendix B.







V38-1833
SEP 21 73
XUM

No. CP73-324 an amendment to its application in said docket pursuant to section 7(c) of the Natural Gas Act and § 157.7(g) of the regulations thereunder by requesting authorization for the construction and abandonment, during the twelve-month period commencing on the date of authorization, and operation of additional gas compression and related metering and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

In its original application in the subject docket, Texas Gas proposed to spend up to $1,000,000 for the proposed projects with no single project to exceed $250,000. Now, Texas Gas proposes to spend up to $3,000,000 for the proposed projects with no single project to exceed $500,000.

Any person desiring to be heard or to make any protest with reference to said amendment to application should on or before October 9, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20115 Filed 9-20-73;8:45 am]

[Docket No. E-6684]

## VIRGINIA ELECTRIC AND POWER CO. AND DAN RIVER, INC.

### Proposed Determination of Headwater Benefits Payments

SEPTEMBER 13, 1973.

Public notice is hereby given that the Commission Staff proposes a determination pursuant to the provisions of section 10(f) of the Federal Power Act (16 U.S.C. 803), of certain payments for benefits provided by the Federal Philpott and John H. Kerr headwater improvements in the Roanoke River basin to downstream hydroelectric plants owned by the Virginia Electric and Power Company (VEPCO) and Dan River Inc. (Dan River) during the period January 1, 1963, through December 31, 1968. The proposed payments, based on a report by the Commission's Bureau of Power, dated December 1972, amount to: $846,667 for benefits plus $83,975 for a share of the costs of the investigations, assigned to VEPCO; and $6,403 for benefits plus $635 for a share of the costs of the investigations assigned to Dan River.

Copies of the December 1972 Bureau of Power report were sent to all parties to the investigation on January 17, 1973, with requests for comments or suggestions. The Commission Staff reviewed the comments received and, by letter of July 24, 1973, advised the parties that it did not propose to change its proposed determination. In that letter, the Staff also offered each party the opportunity to comment further on the report or to request a conference among the parties, requesting that any responses be made by August 15, 1973. No responses to that letter have been received.

Any person desiring to be heard or to make protest with reference to the proposed headwater benefits payments to be made by VEPCO and Dan River, should on or before October 15, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceedings. Persons wishing to become parties to the proceeding or to participate as a party therein must file a petition to intervene in accordance with the Commission's rules of practice and procedure.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20129 Filed 9-20-73;8:45 am]

# FEDERAL RESERVE SYSTEM

## CHEMICAL NEW YORK CORP.

### Acquisition of Bank

Chemical New York Corporation, New York, New York, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of First National Bank of Greenwich, Greenwich, New York. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Chemical New York Corporation is also engaged in the following nonbank activities: short term land development and mortgage construction loans, equipment leasing outside the United States and equipment leasing within the United States. In addition to the factors considered under section 3 of the Act (banking factors), the Board will consider the proposal in the light of the company's nonbanking activities and the provisions and prohibitions in section 4 of the Act (12 U.S.C. 1843).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 9, 1973.

Board of Governors of the Federal Reserve System, September 14, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-20076 Filed 9-20-73;8:45 am]

## FIRST NATIONAL CITY CORP.

### Proposed Acquisition of Capital Financial Services, Inc. No. 21

First National City Corporation, New York, New York (through its wholly owned indirect subsidiary, Nationwide Financial Corporation of Oregon), has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire certain of the assets of Capital Financial Services, Inc. No. 21, Portland, Oregon. Notice of the application was published on May 11, 1973 in The Oregonian, a newspaper circulated in Portland, Oregon.

Applicant states that its indirect subsidiary would thereby engage in the activities of making consumer installment personal loans, purchasing consumer installment sales finance contracts, and acting as broker for the sale of consumer related life, accident and health insurance and consumer credit related property and casualty insurance; it would offer to sell such insurance as follows: a) Group credit life-accident and health insurance to cover the outstanding balances of loans to borrowers in the event of their death or, to make the contractual monthly payments on loans in the event of borrower's disability. b) Individual casualty insurance on property; generally automobiles and household goods, subject to Security Agreements. Further, Applicant states that in regard to the sale of credit related insurance, no offer will be made of insurance counseling.

Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.





Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 9, 1973.

Board of Governors of the Federal Reserve System, September 14, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-20079 Filed 9-20-73;8:45 am]

## FIRST NATIONAL CITY CORP.

### Order Approving Acquisition of Gateway Life Insurance Co.

First National City Corporation, New York, New York, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act and § 225.4(b)(2) of the Board's Regulation Y to acquire all of the voting shares of Gateway Life Insurance Company, Phoenix, Arizona ("Gateway"), a company that would engage in the activity of underwriting, as reinsurer, credit life and credit accident and health insurance sold by Applicant's consumer finance subsidiary, Nationwide Financial Services Corporation ("Nationwide").[1] Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a)(10)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (37 FR 25966). The time for filing comments and views has expired, and none has been timely received.

Applicant, the largest banking organization and bank holding company in New York, controls seven banks with aggregate domestic deposits of $15.5 billion, representing 14.3 per cent of total deposits in commercial banks in the State.[2] Applicant also controls nonbanking subsidiaries engaged principally in mortgage banking, leasing, conditional sales financing, and consumer financing.

Gateway, with total assets of $1.25 million, would underwrite, as reinsurer, credit life and credit accident and health insurance made available by an unrelated direct underwriter in connection with extensions of consumer credit by Nationwide. Nationwide operates 85 small loan offices in 14 States throughout the South, the Mid-West, and the Far West. Gateway would reinsure credit life and credit accident and health insurance written in connection with Nationwide's loans in all of the States in which Nationwide conducts business, with the exception of Florida.

Applicant is not engaged in reinsurance of credit life and health and accident policies sold in connection with consumer credit. Applicant is engaged, indirectly through Lakeland Assurance Company, Phoenix, Arizona, in reinsuring mortgage life and accident and health insurance sold in connection with mortgages serviced by Applicant's mortgage banking subsidiary.[3] However, Lakeland does not engage in nor have experience in underwriting credit life and accident and health reinsurance. Accordingly, it does not appear that Applicant's acquisition of Gateway would result in any significant adverse effects on existing or potential competition.

As in past cases where credit life and credit accident and health insurance underwriting activities were acquired, the Board must be satisfied that the public interest is met. Applicant has committed that within 90 days from approval of the proposal, Gateway and its direct underwriter will reduce the rates charged on credit life insurance policies by amounts varying from 3 to 15 percent in the various States in which Nationwide operates. Further, Applicant states that within 90 days from approval of the proposal, Gateway will reduce the rates charged on credit accident and health insurance policies by 5 percent or increase policy benefits by at least 5 percent. It is the Board's judgment that these benefits to the public are consistent with approval of the application.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under Section 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

The transaction shall be consummated not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of New York.

By order of the Board of Governors,[4] effective September 11, 1973.

[SEAL] CHESTER B. FELDBERG,
*Secretary of the Board.*

[FR Doc.73-20082 Filed 9-20-73;8:45 am]

## ILLINOIS NEIGHBORHOOD DEVELOPMENT CORP.

### Formation of Bank Holding Company

Illinois Neighborhood Development Corporation, Chicago, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of The South Shore National Bank of Chicago, Chicago, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 9, 1973.

Board of Governors of the Federal Reserve System, September 14, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-20077 Filed 9-20-73;8:45 am]

## MERCANTILE BANCORPORATION

### Acquisition of Bank

Mercantile Bancorporation, Inc., St. Louis, Missouri, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 90 per cent or more of the voting shares of Lewis & Clark State Bank of St. Louis County, St. Louis, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 9, 1973.

Board of Governors of the Federal Reserve System, September 14, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-20081 Filed 9-20-73;8:45 am]

[1] The application relates to a matter on which the Board reserved decision in its Order of December 14, 1972, approving Applicant's acquisition of Nationwide. (See Federal Reserve Bulletin, January 1973, p. 27, especially footnote 1.)

[2] Banking data are as of June 30, 1972, adjusted to reflect holding company formations and acquisitions approved through July 31, 1973.

[3] Lakeland Assurance Company was indirectly acquired by Applicant prior to December 31, 1970, and has 10-year grandfather privileges under section 4(a)(2) of the Act. The Board has not yet determined whether reinsuring mortgage redemption and accident and health insurance related thereto is an activity closely related to banking.

[4] Voting for this action: Vice Chairman Mitchell and Governors Sheehan, Bucher, and Holland. Absent and not voting: Chairman Burns and Governors Daane and Brimmer.



V 38-183 SEP 21 73 XUM

## MERCANTILE BANCORPORATION INC.

### Order Approving Acquisition of Bank

Mercantile Bancorporation Inc., St. Louis, Missouri, ("Applicant") a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire at least 90 per cent of the voting shares, plus directors' qualifying shares, of Cape State Bank and Trust Company, Cape Girardeau, Missouri ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and none have been received.

Applicant, the largest banking organization in Missouri, controls eight banks [1] with aggregate deposits of $1,290 million [2] representing approximately 9.2 per cent of total commercial bank deposits in the State. The acquisition of Bank, with deposits of $15.0 million, would increase Applicant's percentage share of deposits in the State by only one-tenth of a percentage point and would not result in any significant increase in the concentration of banking resources in Missouri.

Bank, located in Cape Girardeau, Missouri, is the third largest of eight banks in its market area (approximated by Cape Girardeau County and the northern portion of Scott County). Bank holds 12.0 per cent of total market deposits, whereas the two largest banks control approximately 32 and 26 per cent, respectively. Applicant's nearest subsidiary bank is located in St. Louis, approximately 130 road miles from Bank and outside Bank's market area. Because of the distances separating Applicant's subsidiary banks from Bank and because of the restrictive Missouri branching laws, it is unlikely that competition would develop between Bank and any of Applicant's subsidiaries. Consummation of the proposal would not eliminate existing or potential competition, nor would it have significant adverse effects on any competing bank.

The financial and managerial resources and prospects of Applicant, its present subsidiaries, and Bank are all regarded as satisfactory and lend weight toward approval of the application. It appears that the major banking needs of Bank's service area are presently being met by the existing banking institutions; however, Applicant proposes to expand Bank's services, including its corporate and personal trust, real estate and investment management operations, in order to make Bank more responsive to the needs of the community. It is felt that expansion of these services would be beneficial to the area to be served and these benefits outweigh any possible adverse effects. It is the Reserve Bank's judgment that the proposed acquisition is in the public interest and that the application should be approved.

On the basis of the record as summarized above, the Federal Reserve Bank of St. Louis approves the application, provided that the transaction shall not be consummataed (a) before the thirtieth calendar day following the date of this Order or (b) later than three months after the date of this Order, unless such period is extended for good cause by the Board or by this Federal Reserve Bank pursuant to delegated authority.

By order of the Federal Reserve Bank of St. Louis, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, effective September 10, 1973.

[SEAL] HAROLD E. UTHOFF,
*Vice President.*

[FR Doc.73-20083 Filed 9-20-73;8:45 am]

[1] Applicant received Board approval to acquire Mercantile National Bank of St. Louis County, St. Louis County, Missouri, a de novo bank, on July 12, 1973.

[2] Banking data are as of December 31, 1972, adjusted to reflect holding company formations and acquisitions approved by the Board through June 21, 1973.

## MERCANTILE BANCORPORATION INC.

### Order Approving Acquisition of Bank

Mercantile Bancorporation Inc., St. Louis, Missouri ("Applicant"), a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire at least 90 percent of the voting shares, plus directors' qualifying shares, of United Bank of Farmington, Farmington, Missouri ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time of filing comments and views has expired, and the application and comments received have been considered in light of factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the largest banking organization in Missouri, controls eight subsidiary banks [1] with aggregate deposits of $1.29 billion, representing 9.2 percent of total commercial bank deposits in the State.[2] Acquisition of Bank, with $17.4 million in deposits, would increase Applicant's share of commercial bank deposits in the State by only one-tenth of a percentage point and would not result in any significant increase in the concentration of banking resources in Missouri.

Bank is the larger of two banks in Farmington and the largest of seven banks in its banking market (which includes areas and towns near Farmington) and controls 23.3 per cent of market area deposits. Although Bank is the largest in the area, the second and third largest banks in the market hold, respectively, 22.5 and 15.3 per cent of deposits and all of the area banks appear to be viable competitors. Applicant's closest subsidiary to Bank is located 70 miles north of Bank, and none of Applicant's subsidiaries competes with Bank to any significant extent. Furthermore, because of the distances separating Applicant's subsidiary banks from Bank and Missouri branching restrictions, it is unlikely that competition would develop between Bank and any of Applicant's present or proposed subsidiaries. The prospect of Applicant entering Bank's market de novo is unlikely in view of the relatively low population density and below average growth rate in Bank's market area.

The financial and managerial resources and prospects of Applicant, its present subsidiaries, and Bank are all regarded as satisfactory and consistent with approval of the application. There is no evidence to suggest that the major banking needs of Bank's service area are not presently being met by existing financial institutions; however, Applicant intends to make bond investment consultation and trust service available to Farmington residents drawing on the experience of its subsidiary banks. Applicant also sees the need for offering a more diversified deposit program. Thus, considerations relating to convenience and needs are consistent with approval of the application. It is the Reserve Bank's judgement that the proposed acquisition is in the public interest and that the application should be approved.

On the basis of the record as summarized above, the Federal Reserve Bank of St. Louis approves the application, provided that the transaction shall not be consummated (a) before the thirtieth calendar day following the date of this Order or (b) later than three months after the date of this Order, unless such period is extended for good cause by the Board or by this Reserve Bank pursuant to delegated authority.

By order of the Federal Reserve Bank of St. Louis, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, effective September 11, 1973.

[SEAL] HAROLD E. UTHOFF,
*Vice President.*

[FR Doc.73-20084 Filed 9-20-73;8:45 am]

[1] Applicant also received Board approval to acquire Mercantile National Bank of St. Louis County, St. Louis County, Missouri, a de novo bank, on July 12, 1973.

[2] Banking data are as of December 31, 1972, adjusted to reflect holding company formations and acquisitions approved by the Board through July 15, 1973.

## UNITED MISSOURI BANCSHARES, INC.

### Order Approving Acquisition of Bank

United Missouri Bancshares, Inc., Kansas City, Missouri, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more (plus directors' qualifying shares) of the voting shares of Hickman Mills Bank & Trust Co., Kansas City, Missouri (Bank).

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the fifth largest bank holding company and the fifth largest banking organization in Missouri, controls twelve banks with aggregate deposits of $654.7 million representing approximately 5 percent of the total commercial bank deposits in the State. (Banking data are as of December 30, 1972, adjusted to reflect holding company formations and acquisitions approved by the Board through July 31, 1973.) Applicant's lead bank, United Missouri Bank of Kansas City, N.A. (United Missouri Bank) ($459.2 million in deposits), located in downtown Kansas City, is the second largest bank operating in the Kansas City market (approximated by the old Kansas City SMSA less the section of Cass County south of Harrisonville).[1] In addition to United Missouri Bank, applicant has two other subsidiaries in the Kansas City market;[2] aggregate deposits of the three subsidiaries ($500.9 million) represent 12.03 percent of the total deposits in the Kansas City market. Approval of the acquisition of Bank would increase Applicant's share only slightly to 12.08 percent of the total market deposits.

Bank ($20.4 million in deposits), located in the southern portion of Kansas City, approximately ninteteen miles south of Applicant's lead bank, is one of the smaller banks operating in the Kansas City market with about .5 percent of total deposits in the market. There is some present competition between Bank and Applicant's subsidiaries since they are located in the same market. However, the amount of such competition would appear to be minimized due to the fact that Applicant and Bank are affiliated through common stock ownership, and Bank has enjoyed a close working relationship with Applicant and United Missouri Bank. On the basis of the facts of record, notably the existence of numerous banking alternatives available in the Kansas City market, Bank's small market share, the common ownership and relationship between Applicant's lead bank and Bank, and the fact that the close association would be likely to continue regardless of the Board's action on the present application, the Board concludes that consummation of the proposal would not eliminate any significant existing competition nor foreclose significant potential competition.

The financial and managerial resources and future prospects of Applicant, Applicant's present subsidiaries and Bank are satisfactory and consistent with approval of the application. Considerations relating to the convenience and needs of the communities to be served are regarded as consistent with approval. It is the Board's judgment that the transaction would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,[3] effective September 13, 1973.

[SEAL] CHESTER B. FELDBERG,
*Secretary of the Board.*

[FR Doc.73-20080 Filed 9-20-73;8:45 am]

[1] The old Kansas City Standard Metropolitan Statistical Area includes Cass, Clay, Jackson and Platte Counties in Missouri, and Johnson and Wyandotte Counties in Kansas.

[2] In addition, Applicant has applied to the Comptroller of the Currency to organize a national bank in Blue Springs, Missouri (located nine miles east of downtown Kansas City). The Comptroller announced preliminary approval on June 14, 1973.

## WEST FLORIDA BANK HOLDING CO., INC.

### Acquisition of Bank

West Florida Bank Holding Co., Inc., Panama City, Florida, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of Panama City National Bank, Panama City, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank, to be received not later than September 28, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-20078 Filed 9-20-73;8:45 am]

[3] Voting for this action: Chairman Burns and Governors Mitchell, Daane, Brimmer, Sheehan and Holland. Absent and not voting: Governor Bucher.



## SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-5422, 34-10394]

### LITIGATION AND ADMINISTRATIVE PROCEEDINGS AFFECTING PROFESSIONALS PRACTICING BEFORE THE COMMISSION

#### Extension of Comment Period

On July 25, 1973, the Commission announced an inquiry to obtain information and ascertain views of interested persons concerning the materiality of disclosure in filings with the Commission of civil and criminal litigation and of administrative disciplinary proceedings involving professionals such as accountants and attorneys who practice before the Commission. (Securities Act Release No. 5411, Securities Exchange Act Release No. 10296) (38 FR 22191). The time for submitting such comments expires September 15, 1973. However, the Commission has received requests for additional time within which to submit comments on these issues. Accordingly, the time for submitting such comments has been extended to October 30, 1973. Those submitting comments should consider and address themselves particularly to the factors set forth in the release announcing the Commission's inquiry. All communications will be placed in the public files of the Commission and should refer to File No. S7-488.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

SEPTEMBER 18, 1973.

[FR Doc.73-20176 Filed 9-20-73;8:45 am]

## SMALL BUSINESS ADMINISTRATION

[Delegation of Authority 12, Revision 1, Amdt. 2]

### ASSOCIATE ADMINISTRATOR FOR FINANCE AND INVESTMENT

#### Delegation of Authority

Delegation of Authority No. 12 (Revision 1) (38 FR 13063), as amended (38 FR 16001), is hereby further amended to effect the transfer of the authorities necessary for the 406 program from the Associate Administrator for Finance and Investment to the Associate Administrator for Procurement and Management Assistance.

Paragraph IC of Delegation of Authority No. 12 (Revision 1), as amended, is therefore deleted in its entirety.

*Effective date.*—August 20, 1973.

THOMAS S. KLEPPE,
*Administrator.*

[FR Doc.73-20089 Filed 9-20-73;8:45 am]



V38-1833 SEP 21 1973 XUM

[Delegation of Authority 13, Amdt. 1]

## ASSOCIATE ADMINISTRATOR FOR PROCUREMENT AND MANAGEMENT ASSISTANCE

### Delegation of Authority

Delegation of Authority No. 13 (37 FR 20752) is hereby amended to include authorities necessary for the 406 program. The functions of this program are transferred to the Associate Administrator for Procurement and Management Assistance from the Associate Administrator for Finance and Investment.

Paragraph IC is added to Delegation of Authority No. 13 and reads as follows:

* * * * *

C. *406 Program.* 1. To execute grants, agreements, and contracts providing financial assistance to public or private organizations to pay all or part of the costs of projects designed to provide technical and management assistance to individuals or enterprises eligible for assistance under section 402 of the Economic Opportunity Act of 1964, as amended, with special attention to small business concerns located in urban areas of high concentration of unemployed or low-income individuals or owned by low-income individuals. Such financial assistance may be provided for projects, including without limitation:

a. Planning and research, including feasibility studies and market research;

b. The identification and development of new business opportunities;

c. The furnishing of centralized services with regard to public services and government programs, including programs authorized under section 402 of the Economic Opportunity Act of 1964, as amended;

d. The establishment and strengthening of business service agencies, including trade associations and cooperatives;

e. The encouragement of the placement of subcontracts by major businesses with small business concerns located in urban areas of high concentration of employed or low-income individuals or owned by low-income individuals, including the provision of incentives and assistance to such major businesses so that they will aid in the training and upgrading of potential subcontractors or other small business concerns;

f. The furnishing of business counseling, management training, and legal and other related services, with special emphasis on the development of management training programs using the resources of the business community, including the development of management training opportunities in existing businesses, and with emphasis in all cases upon providing management training of sufficient scope and duration to develop entrepreneurial and managerial self-sufficiency on the part of the individuals served.

* * * * *

*Effective Date.*—August 20, 1973.

THOMAS S. KLEPPE,
*Administrator.*

[FR Doc.73-20091 Filed 9-20-73;8:45 am]

## INTERSTATE COMMERCE COMMISSION

[Notice 346]

### ASSIGNMENT OF HEARINGS

SEPTEMBER 18, 1973.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after September 21, 1973.

Correction:

MC 138479, C & C Cartage, Inc., now assigned October 9, 1973; MC 138548, Indianoaks Transportation Co., now assigned October 10, 1973; MC 127042 Sub 103, now assigned continued hearing October 11, 1973; MC-F-11662, Denver-Midwest Motor Freight, Inc., MC 127602 Sub 12, Denver-Midwest Motor Freight, Inc.—Purchase—Streator Transfer & Storage Co., now assigned October 15, 1973, will be held in Room 813, 610 S. Canal St., Chicago, Ill., instead of Room 1614 Court of Claims, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Chicago, Ill.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-20166 Filed 9-20-73;8:45 am]

[Notice 345]

### ASSIGNMENT OF HEARINGS

SEPTEMBER 18, 1973.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after September 21, 1973.

No. 35889, Illinois Central Gulf Railroad Company-Electric Commuter Train Fares, now assigned October 9, 1973, at Chicago, Illinois, is postponed to October 15, 1973, will be held in Room 1614, Court of Claims, Everett McKinley Dirksen Bldg., 219 South Dearborn Street, Chicago, Illinois.

MC-115331 Sub 342, Truck Transport, Inc., now assigned September 27, 1972, at St. Louis, Mo., is postponed indefinitely.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-20165 Filed 9-20-73;8:45 am]

[Notice 355]

### MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before October 15, 1973. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-74555. By order entered September 14, 1973, the Motor Carrier Board approved the transfer to C & W Czyzewski Enterprise, Inc., doing business as R & M Messenger and Delivery Service, Irvington, N.J., of the operating rights set forth in Certificate No. MC-2644, issued by the Commission May 21, 1973, to Ranchero Leasing, Inc., doing business as Ranchero Transport and Leasing Co., Newark, N.J., authorizing the transportation of general commodities, with the usual exceptions, between New York, N.Y., on the one hand, and, on the other, 31 specified points in New Jersey—Robert B. Pepper, 168 Woodbridge Ave., Highland Park, N.J. 08904, practitioner for applicants.

No. MC-FC-74582. By order of September 17, 1973, the Motor Carrier Board approved the transfer to Joe N. Quince, doing business as Beloit Cartage, Beloit, Wis., of Certificate No. MC-24113 issued August 11, 1960, to Earl S. Babcock, doing busines as Beloit Cartage, Beloit, Wis., authorizing the transportation of: Foodstuffs, fresh fruits and vegetables, and groceries between Janesville, Wis., and Chicago, Ill.; and general commodities, with the usual exceptions, between Beloit, Wis., and South Beloit, Wis. Dual operations were approved—Mr. John L. Bruemmer, Attorney at Law, 121 West Doty Street, Madison, Wis. 53703.

No. MC-FC-74631. By order of September 17, 1973, the Motor Carrier Board approved the transfer to Benton's Hartford Express, Inc., Stafford Springs, Conn., of Certificate of Registration No. MC-57346 (Sub-No. 1) issued March 19, 1964, to Francis C. Layman, doing business as Benton's Hartford Express, Stafford Springs, Conn., evidencing a right to engage in transportation in interstate or foreign commerce corresponding in scope to the grant of authority in Motor Common Carrier Certificate C-1061 issued July 30, 1958, by the Connecticut Public Utilities Commission—Thomas W. Murrett, 342 North Main Street, West Hartford, Conn. 06117. Attorney for applicants.

No. MC-FC-74701. By order of September 17, 1973, the Motor Carrier Board approved the transfer to Annett Bus Service, Inc., Box 123, Harrington, Del., of Certificates Nos. MC-94132 and MC-94132 (Sub-No. 2) issued January 23, 1941, and October 15, 1970, respectively, to John H. Annett, Harrington, Del., authorizing the transportation of passengers and their baggage, in charter operations, from Milford, Del., to points in New Jersey, Maryland, Pennsylvania, Virginia, and the District of Columbia; and between points in Carolina County, Md., on the one hand, and on the other, Milford, Del.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-20167 Filed 9-20-73;8:45 am]

### FOURTH SECTION APPLICATION FOR RELIEF

SEPTEMBER 18, 1973.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed on or before Oct. 9, 1973.

FSA No. 42748—*Beet or Cane Sugar to Points in Iowa and Wisconsin.* Filed by Western Trunk Line Committee, Agent, (No. A-2689), for interested rail carriers. Rates on sugar, beet or cane, dry, in bulk, in carloads, as described in the application, from points in Montana, transcontinental and western trunk-line territories, to specified points in Iowa and Wisconsin.

Grounds for relief—Rate relationship, returned shipments.

Tariffs—Supplement 143 to Western Trunk Line Committee, Agent, tariff 159-0, I.C.C. No. A-4481, and 3 other schedules named in the application. Rates are published to become effective on October 15, 1973.

By the Commission.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-20169 Filed 9-20-73;8:45 am]

### FOURTH SECTION APPLICATION FOR RELIEF

SEPTEMBER 18, 1973.

An application, as summarized below, has been filed reuqesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed on or before October 9, 1973.

FSA No. 42735—Amended—Asphalt (Asphaltum), Pitch or Tar Between Points in Southern Territory also from Points in Southwestern Territory to Points in Southern Territory. Filed by Southwestern Freight Bureau, Agent, (No. B-430, as amended), for interested rail carriers. Rates on asphalt (asphaltum), pitch or tar, in carloads, as described in the application, between points in southern territory; also from points in Arkansas, Kansas, Louisiana, Missouri, Oklahoma and Texas, to points in southern territory.

Grounds for relief—Rate relationship and market competition.

Tariffs—Supplement 73 to Southwestern Freight Bureau, Agent, tariff 126-L, I.C.C. No. 4789, and supplement 8 to Southern Freight Association, Agent, tariff S-2011-N, I.C.C. No. S-1112. Rates are published to become effective on October 18, 1973.

By the Commission.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-20168 Filed 9-20-73;8:45 am]







V 38-183 SEP 21 73 XUM

## CUMULATIVE LISTS OF PARTS AFFECTED—SEPTEMBER

**The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during September.**


**1 CFR** — Page

CFR checklist — 23771

**3 CFR**

PROCLAMATIONS:

4239 — 24191
4240 — 24193
4241 — 24881
4242 — 26099
4243 — 26101
4244 — 26179
4245 — 26351
4246 — 26441

EXECUTIVE ORDERS:

11359 (superseded by 11737) — 24883
11602 (superseded by E.O. 11738) — 25161
11635 (superseded by 11737) — 24883
11659 (amended by 11737) — 24883
11737 — 24883
11738 — 25161

Presidential Documents other than Proclamations and Executive Orders:

Memorandum of August 17, 1973 — 25903

**4 CFR**

400 — 24195
405 — 24195

PROPOSED RULES:

331 — 23971
351 — 23971, 26072
400 — 23971
401 — 23971
402 — 23971
403 — 23971
404 — 23971

**5 CFR**

213 — 2344, 24885, 25165, 25907, 26181, 26353, 26443

**6 CFR**

102 — 25427
150 — 24213
140 — 24214
150 — 23794, 23931, 24214, 24885, 25427, 25686, 26181
152 — 23794, 24214
155 — 24885

PROPOSED RULES:

Ch. I — 24917
152 — 23806, 24219, 24667

**7 CFR**

2 — 24633
51 — 23931
52 — 24344, 25165
201 — 25661
250 — 24633
301 — 25664
354 — 23934
401 — 25907
725 — 23935
777 — 25665
864 — 25427
905 — 25665
908 — 24215, 25431, 25907, 26353
910 — 24345, 24890, 25908, 26443
928 — 24345
930 — 24890
932 — 24215
944 — 26108
948 — 25667
981 — 25668, 26181
991 — 23771
1001 — 24216
1002 — 24216
1004 — 24216
1006 — 24216
1007 — 24216
1011 — 24216
1012 — 24216
1013 — 24213
1015 — 24216
1030 — 24216
1033 — 24216
1036 — 24216
1040 — 24216
1044 — 24216
1046 — 24216
1049 — 24216
1050 — 24216, 26182
1060 — 24216
1061 — 24216
1062 — 24216
1063 — 24216
1064 — 24216
1065 — 24216
1068 — 24216
1069 — 24216
1070 — 24216
1071 — 24216
1073 — 24216
1075 — 24216
1076 — 24216
1078 — 24216
1079 — 24216
1090 — 24216
1094 — 24216
1096 — 24216
1097 — 24216
1098 — 24216
1099 — 24216
1101 — 24216
1102 — 24216
1106 — 24216
1108 — 24216
1120 — 24216
1121 — 24216
1124 — 24216
1125 — 24216
1126 — 24216
1127 — 24216
1128 — 24216
1129 — 24216
1130 — 24216
1131 — 24216
1132 — 24216
1133 — 24216
1134 — 24216
1136 — 24216
1137 — 24216
1138 — 24216
1139 — 24216
1207 — 26354
1421 — 23935, 24634, 25668, 26006, 26182
1430 — 23939
1866 — 24346

PROPOSED RULES:

20 — 25690
26 — 23955, 25186
46 — 26207
52 — 24654, 24904, 24907, 24910
722 — 24911
905 — 26454
906 — 26384
932 — 24910
945 — 26384
981 — 24911
1007 — 25024
1030 — 23796, 25448, 25756
1032 — 25756
1046 — 25756
1049 — 25756
1050 — 25186, 25756
1060 — 25222
1061 — 25222
1062 — 25756
1063 — 25222
1064 — 25222
1065 — 25222
1068 — 25222
1069 — 25222
1070 — 25222
1071 — 25024
1073 — 24654, 25024
1076 — 25222
1078 — 25222
1079 — 25222
1090 — 25024
1094 — 25024
1096 — 25024, 29190
1097 — 25024
1098 — 25024
1099 — 25756
1102 — 25282
1104 — 25282
1106 — 25282
1108 — 25024
1120 — 25282
1126 — 25282
1127 — 25282
1128 — 25282
1129 — 25282
1130 — 25282
1131 — 25282
1132 — 25282
1136 — 25282
1701 — 24660

**8 CFR**

214 — 24891, 26354
238 — 24891

**9 CFR**

73 — 24346
82 — 23940
94 — 24891, 25669
97 — 23940
319 — 24640

PROPOSED RULES:

94 — 24219
102 — 23957
104 — 23957
113 — 26118
381 — 24374, 26454, 26455







**10 CFR** — Page

50 — 26354
55 — 26354
110 — 23953

**12 CFR**

201 — 23772
204 — 25985
217 — 26109
329 — 25432, 26355
506 — 26355
506a — 26355
525 — 26357
526 — 23940, 25433
545 — 24200
546 — 24201
561 — 26110
563 — 24202, 26110, 26357
566 — 26112
570 — 26112

PROPOSED RULES:

204 — 25703
217 — 26468
220 — 26009
266 — 26469
329 — 26391
545 — 24228, 26133
702 — 26216

**13 CFR**

PROPOSED RULES:

107 — 24028

**14 CFR**

Ch. I — 26444
39 — 23941, 24347, 24349, 24640, 24641, 25170, 25669, 25670, 25905, 26358
71 — 23941, 23942, 24204, 24350, 24641, 24892, 25171, 25433, 25905–25907, 26112, 26444, 26445
73 — 26445
75 — 24204, 25171
91 — 24893
95 — 24893
97 — 24350, 26446
103 — 26446
208 — 24642
241 — 24351, 26461
288 — 23772
302 — 24894
389 — 24895, 26113
399 — 23777, 24642

PROPOSED RULES:

37 — 25450
39 — 23962
61 — 23962
71 — 23804, 23969, 24222, 24914, 25195, 25451, 25452, 25696, 26007, 26389
75 — 23804
121 — 23962
139 — 26389
Ch. II — 24660
221 — 23804
241 — 24223, 24661
298 — 23805, 24662
372a — 24664
389 — 24662
399 — 25453

**15 CFR**

8 — 23777
256 — 25908
376 — 23777, 25446
377 — 25184, 26206
1000 — 25909

**16 CFR**

13 — 24352, 24353, 24634, 25434–25436

PROPOSED RULES:

1700 — 25195

**17 CFR**

210 — 26182
211 — 24635
231 — 24635
241 — 24635, 26358
251 — 24635
271 — 24635

PROPOSED RULES:

230 — 24668
270 — 26133

**19 CFR**

Ch. I — 25171
1 — 24354, 25171
4 — 24354

PROPOSED RULES:

1 — 24374, 25185
10 — 25995
11 — 25995
12 — 25995
19 — 25995
24 — 23954
25 — 25995
113 — 25995
114 — 25995
141 — 23954
142 — 25995
151 — 25448
172 — 25995

**20 CFR**

725 — 26042

PROPOSED RULES:

405 — 23802, 25448, 26132
725 — 26069

**21 CFR**

8 — 24643
9 — 24206
26 — 25985
45 — 25671
121 — 24354, 24643, 25437, 26447
135 — 23942
135b — 24355, 24643, 24895, 25673, 26183
135c — 24355, 24644, 25673, 26183
135e — 25674, 25676
141 — 25674
144 — 25437
146 — 25674
149b — 25674, 26183
149d — 25675
308 — 26447

PROPOSED RULES:

10 — 25195
27 — 26384
121 — 24374, 14375, 25694
130 — 24220
135 — 25694
141e — 26006
273 — 26130
278 — 26007

**23 CFR**

PROPOSED RULES:

770 — 23969
772 — 25696

**24 CFR**

42 — 25172, 26113
200 — 25993
201 — 25676
203 — 24637
205 — 24637, 24896
207 — 24637
213 — 24637
220 — 24637
221 — 24637
232 — 24637
234 — 24637
235 — 24638
236 — 24638
241 — 24638
242 — 24638
244 — 24638, 24896
1700 — 23866
1710 — 23866
1715 — 23873
1720 — 23874
1914 — 23943–23945, 24355–24357, 25677, 25678, 25994, 26113, 26114, 26367
1915 — 24358, 24360, 26368

PROPOSED RULES:

20 — 24222
201 — 23803
205 — 26132
242 — 26132
244 — 26132

**25 CFR**

141 — 24638
251 — 25987
252 — 25988
256 — 23945

PROPOSED RULES:

221 — 23954, 23955
243 — 26118

**26 CFR**

1 — 24206, 26184

**28 CFR**

17 — 26448

**29 CFR**

201 — 26449
202 — 26449
203 — 26449
204 — 26449
205 — 26449
206 — 26449
610 — 25988
612 — 25989
614 — 25989
1907 — 25150
1952 — 24896, 25172, 26449
1953 — 24361

PROPOSED RULES:

1910 — 24300, 24375, 26207, 26459

**30 CFR**

57 — 23781

PROPOSED RULES:

504 — 24024

**31 CFR**

91 — 94897
315 — 24762, 26189
605 — 24898

**32 CFR**

166 — 25990
802 — 26190
806 — 26190
809 — 23945
1285 — 24206
1453 — 24210




V 38-183
SEP 21 73
XUM

**32 CFR—Continued** Page

PROPOSED RULES:
1604 — 25704
1623 — 26392
1626 — 26392
1628 — 26392
1631 — 26392
1632 — 26392
1641 — 26392

**32A CFR**
Ch. IV:
BP Notice 1 — 25175
Ch. X:
Reg. 1
Ch. XI
OIAB Rules and Procedures — 26103
Ch. XIII:
EPO Reg. 3 — 23977
PROPOSED RULES:
Ch. X — 26005

**33 CFR**
117 — 25433, 26115
127 — 24898
207 — 25176
401 — 24210
PROPOSED RULES:
117 — 24912–24914, 25455
127 — 23804

**35 CFR**
5 — 25438

**36 CFR**
50 — 24218
221 — 23948
PROPOSED RULES:
7 — 23796, 24912, 25185

**38 CFR**
1 — 24364
2 — 24366
17 — 24366, 26190
21 — 23948
36 — 25678
PROPOSED RULES:
17 — 26393

**39 CFR**
235 — 26193
3000 — 24898
3001 — 24898

**40 CFR**
35 — 24639, 26358
50 — 25678
52 — 24333, 26324
80 — 26449
113 — 25439
120 — 26358
126 — 25681
129 — 24342
162 — 26360
168 — 26360
180 — 23781, 25440, 26450
PROPOSED RULES:
51 — 25697
52 — 23805, 26390, 26462
120 — 26209, 26463
180 — 23806, 24667, 24918, 25455
411 — 24462
412 — 24466
422 — 24470

**41 CFR** Page
1–1 — 24210
1–9 — 23782
1–18 — 23791
3–16 — 24644
8–4 — 26368
8–16 — 26369
8–95 — 26369
114–43 — 26370
114–50 — 24649

**42 CFR**
21 — 25683
51 — 26194
51a — 26195
51b — 26196
52 — 26196
53 — 26196
54 — 26197
55 — 26197
56 — 26197
57 — 26198
59 — 26198
59a — 26199
87 — 26199
91 — 26200
205 — 26201
206 — 26201
208 — 26201
PROPOSED RULES:
50 — 26459

**43 CFR**
4 — 23948
3830 — 24650
4710 — 24650
PUBLIC LAND ORDERS:
5169 (Amended by PLO 5396) — 26376
5170 (Amended by PLO 5395) — 26375
5171 (Amended by PLO 5389) — 23371
5172 (Amended by PLO 5392) — 26373
5173 (Amended by PLO 5391) — 26372
5175 (Amended by PLO 5394) — 26375
5176 (Amended by PLO 5393) — 26373
5177 (Amended by PLO 5397) — 26377
5179 (Amended by PLO 5389, 5393, 5395, 5396, 5397) — 26370–26377
5180 (Amended by PLO 5388, 5393, 5394, 5396, 5397) — 26370–26377
5181 (Amended by PLO 5388, 5394) — 26370–26377
5186 (Amended by PLO 5393) — 26373
5191 (See PLO 5371, 5392, 5394, 5396, 5397) — 26370–26377
5192 (See PLO 5389, 5393, 5395, 5396, 5397) — 26370–26377
5193 (See PLO 5393, 5394, 5395, 5396, 5397) — 26370–26377
5194 (See PLO 5388, 5394) — 26370–26377
5213 (See 5391) — 26372
5250 (See PLO 5389, 5393, 5395, 5396, 5397) — 26370–26377
5251 (See PLO 5393, 5394, 5395, 5396, 5397) — 26370–26377
5252 (See PLO 5391) — 26372
5253 (See PLO 5389) — 26371
5254 (See PLO 5393) — 26373
5256 (See PLO 5396) — 26376
5321 (See PLO 5391) — 26372
5383 — 25684

**43 CFR—Continued** Page
PUBLIC LAND ORDERS—Continued
5387 — 26370
5388 — 26370
5389 — 26371
5390 — 26372
5391 — 26372
5392 — 26373
5393 — 26373
5394 — 26375
5395 — 26375
5396 — 26376
5397 — 26377

**45 CFR**
74 — 26274
201 — 26320
205 — 26378
220 — 26320
233 — 26379
234 — 26380
401 — 26320
403 — 26320
404 — 26320
405 — 26320
406 — 26320
408 — 26320
416 — 26320
901 — 26201
903 — 26201
904 — 26201
905 — 26201
909 — 24900, 26201
PROPOSED RULES:
83 — 26384
221 — 24872
233 — 23802
249 — 26460
250 — 25450
903 — 23912

**46 CFR**
PROPOSED RULES:
146 — 23959
542 — 23979
538 — 24228

**47 CFR**
0 — 24900
1 — 26202
2 — 24901, 25180, 25991
13 — 25684
23 — 24901
73 — 24367, 25991, 26203, 26204, 26380, 26451
74 — 25991, 25992, 26381
81 — 24211, 25180, 25991
83 — 24368, 25180, 25992
87 — 25684
89 — 24901
91 — 25182, 26381
93 — 24901
97 — 24211
PROPOSED RULES:
61 — 24920
73 — 25703, 26008, 26211, 26212, 26380, 26463–26465

**49 CFR**
1 — 24901, 24902
170 — 23791
171 — 23792
172 — 23792







**49 CFR—Continued** Page
177 — 23792
178 — 23792
393 — 25182
570 — 23949, 25685
1003 — 26205
1033 — 23792, 23793, 23952, 24212, 24902, 25183, 25685, 26205
1048 — 24368
1115 — 23953, 24903, 25686
1121 — 24902
1134 — 26205
1140 — 26205
PROPOSED RULES:
172 — 24915
173 — 24915
393 — 24223, 25452, 25696, 26461
542 — 23979
571 — 23804
1057 — 24228
1131 — 23979

**50 CFR** Page
20 — 23793
32 — 23793, 23794, 24212, 24369–24373, 24650–24652, 25183, 25441–25445, 25686, 25992, 26115, 26116, 26205, 26381–26383
33 — 25445
253 — 26116
PROPOSED RULES:
21 — 23796
32 — 25693


## FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

| *Pages* | *Date* |
|---|---|
| 23765–23922 | Sept. 4 |
| 23923–24184 | 5 |
| 24185–24326 | 6 |
| 24327–24625 | 7 |
| 24627–24874 | 10 |
| 24875–25154 | 11 |
| 25155–25420 | 12 |
| 25421–25654 | 13 |
| 25655–25895 | 14 |
| 25897–26091 | 17 |
| 26093–26171 | 18 |
| 26173–26344 | 19 |
| 26345–23433 | 20 |
| 26435–26593 | 21 |



V38-183 SEP 21 73 XUM

federal register

FRIDAY, SEPTEMBER 21, 1973

WASHINGTON, D.C.

Volume 38 ■ Number 183

PART II

# DEPARTMENT OF LABOR

## Employment Standards Administration

■

## Minimum Wages for Federal and Federally Assisted Construction

Area Wage Determination Decisions, Modifications, and Supersedeas Decisions



V 38-183 SEP 21 73 XUM

## DEPARTMENT OF LABOR

### Employment Standards Administration

### MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

### General Wage Determination Decisions, Modifications and Supersedeas Decisions

*General wage determination decisions.* General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and Federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determinations frequently and in large volume causes these procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

*Modifications and supersedeas decisions to general wage determination decisions.* Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in the foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and Federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

*New general wage determination decisions.* New General Wage Determination Decision No. AQ–4012 for the State of Florida; and AQ–3012 and AQ–3013 for the State of Massachusetts.

*Modifications to general wage determination decisions.* Modifications to General Wage Determination Decisions for the following States (the numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State):

| | |
|---|---|
| Arizona: | |
| AQ–1025 | Sept. 7, 1973. |
| Idaho: | |
| AQ–1028; AQ–1029; AQ–1030; AQ–1031. | Sept. 7, 1973. |
| Iowa: | |
| AQ–3 | July 20, 1973. |
| AQ–11; AQ–12; AQ–13; AQ–14; AQ–15; AQ–16; AQ–17. | Aug. 3, 1973. |
| AQ–19; AQ–20 | Aug 24, 1973. |
| Louisiana: | |
| AP–736 | June 1, 1973. |
| AQ–8 | July 27, 1973. |
| Montana: | |
| AP–914 | June 29, 1973. |
| Nebraska: | |
| AQ–26 | Sept. 7, 1973. |
| Nevada: | |
| AP–264 | Mar. 9, 1973. |
| AP–266 | Mar 30, 1973. |
| AP–269 | Mar 16, 1973. |
| AP–290 | Apr. 6, 1973. |
| New Mexico: | |
| AP–740 | July 6, 1973. |
| New York: | |
| AP–452 | Dec. 15, 1973. |
| Oregon: | |
| AQ–1022 | Sept. 7, 1973. |
| Pennsylvania: | |
| AP–834 | May 25, 1973. |
| Puerto Rico: | |
| AP–412 | Aug. 18, 1973. |
| Tennessee: | |
| AP–193 | May 25, 1973. |
| Texas: | |
| AP–369 | Dec. 15, 1972. |
| AP–396 | Jan. 26, 1973. |
| AP–722; AP–724; AP–729 | Apr. 27, 1973. |
| AQ–10 | Aug. 3, 1973. |
| Utah: | |
| AQ–1017 | Aug. 31, 1973. |
| Washington: | |
| AQ–1021; AQ–1024 | Sept. 7, 1973. |
| West Virginia: | |
| AP–403 | July 21, 1973. |

*Supersedeas decisions to general wage determination decisions.* Supersedeas Decisions to General Wage Determination Decisions for the following States (the numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State; Supersedeas Decision numbers are in parentheses following the numbers of the decision being superseded):

| | |
|---|---|
| Hawaii: | |
| AP–291 (AQ–1039); AP–292 (AQ–1040). | Apr. 13, 1973. |
| Montana: | |
| AP–917 (AQ–1041) | June 6, 1973. |
| AQ–1019 (AQ–1038) | Aug. 31, 1973. |
| Tennessee: | |
| AP–190 (AQ–4011) | May 25, 1973. |
| Texas: | |
| AP–732 (AQ–27) | May 18, 1973. |

Signed at Washington, D.C., this 14th day of September 1973.

RAY J. DOLAN,
*Assistant Administrator,*
*Wage & Hour Division.*





NEW DECISION

STATE: Florida
DECISION NUMBER: AQ-4012
DESCRIPTION OF WORK: Highway Construction.

COUNTY: See below*
DATE: Date of Publication

T-FLA-3-D

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| *Counties: DeSoto, Hardee, Highlands, Okeechobee, & Polk. | | | | | | |
| Bricklayers | $3.24 | | | | | |
| Carpenters | 3.24 | .15 | 1% | | .05 | |
| Electricians | 7.25 | | | | | |
| Laborers: | | | | | | |
| Laborers | 2.00 | | | | | |
| Asphalt rakers | 3.00 | | | | | |
| Pipelayers | 2.65 | | | | | |
| Truck drivers | 2.25 | | | | | |
| Power Equipment Operators: | | | | | | |
| Asphalt paving machine | 3.00 | | | | | |
| Backhoe | 3.28 | | | | | |
| Bulldozer | 2.88 | | | | | |
| Cranes, derricks, draglines | 2.99 | | | | | |
| Earth movers | 3.00 | | | | | |
| Motor graders | 3.00 | | | | | |
| Oilers | 2.33 | | | | | |
| Rollers, base | 2.30 | | | | | |
| Rollers, finish | 2.90 | | | | | |



V 38 I 183 SEP 21 73 XUM

NEW DECISION

STATE: Massachusetts
COUNTY: Norfolk
DECISION NO.: AQ-3,012
DATE: Date of Publication
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction

BUILDING, HEAVY & HIGHWAY CONSTRUCTION 11-MASS-1-2-3-T (1-3)

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| ASBESTOS WORKERS: | | | | | | |
| Bellingham, Franklin, Plainville, & Wrentham | $8.80 | .505 | .45 | | .005 | |
| Remainder of County | 8.955 | .55 | .50 | | .01 | |
| BOILERMAKERS | 8.705 | .50 | 10% | | .01 | |
| BRICKLAYERS; Cement masons; Plasterers; & Stonemasons: | | | | | | |
| Dover, Needham, & Wellesley | 8.25 | .50 | .70 | | .04 | |
| Medfield, Medway, & Millis | 8.45 | .50 | .50 | | .04 | |
| Avon, Holbrook, Randolph, & Stoughton | 8.45 | .55 | .45 | | .02 | |
| Bellingham, Canton, Dedham, Foxboro, Franklin, Norfolk, Norwood, Plainville, Sharon, Walpole, Westwood, & Wrentham | 8.78 | .62 | .55 | | .04 | |
| Braintree, Cohasset, N. Weymouth, Quincy, S. Weymouth, & Weymouth | 8.70 | .65 | .60 | | .04 | |
| BRICKLAYERS; Stonemasons: Brookline, & Milton | 8.45 | .50 | .50 | | .04 | |
| CARPENTERS; Soft floor layers: Quincy | 8.75 | .30 | .30 | | | |
| Brookline, Dedham, & Milton | 8.35 | .50 | .50 | | .02 | |
| Avon, Holbrook, Randolph, & Stoughton | 7.75 | .35 | .40 | | | |
| Bellingham, Franklin, Medfield, Medway, & Millis | 8.05 | .25 | .30 | | .025 | |
| Dover, Needham, & Wellesley | 8.75 | .30 | .30 | | .02 | |
| Canton, Foxboro, Norfolk, Norwood, Plainville, Sharon, Walpole, Westwood & Wrentham | 8.35 | .50 | .50 | | .02 | |
| Braintree, Cohasset, N. Weymouth, S. Weymouth, & Weymouth | 8.35 | .50 | .50 | | | |
| CEMENT MASONS: Brookline, & Milton | 8.90 | .35 | .20 | | .04 | |
| ELECTRICIANS: | | | | | | |
| Avon, Holbrook, Randolph, & Stoughton: | | | | | | |
| Electrical contracts less than $20,000.00 | 7.55 | 4% | 5% | | 1% | |
| Electrical contracts $20,000.00 or more | 9.15 | 4% | 5% | | 1% | |
| Plainville | 8.65 | .38 | 1%+.25 | | .02 | |
| Remainder of County | 9.10 | .35 | 1%+.95 | | .05 | |
| ELEVATOR CONSTRUCTORS | 9.125 | .345 | .23 | 2%+a+b | .015 | |
| ELEVATOR CONSTRUCTORS' HELPERS | 70%LR | .345 | .23 | 2%+a+b | .015 | |
| ELEVATOR CONSTRUCTORS' HELPERS (PROB.) | 50%LR | | | | | |
| GLAZIERS | 8.55 | .25 | .36 | | .02 | |
| IRONWORKERS | 8.29 | .45 | 1.05 | | .03 | |

AQ-3,012 P. 2

11-MASS-1-2-3-T (2-3)

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| LABORERS (BUILDING): | | | | | | |
| Laborers; Carpenter tenders; Cement finisher tenders; Wrecking laborers | $6.80 | .40 | .40 | | .05 | |
| Jackhammer op.; Pavement breakers; Wagon drills; Asphalt rakers; Carbide core drilling machine; Chain saw op.; Pipelayer; Barco type jumping tampers; Laser beam; Concrete pump; Mason tenders; Mortar mixers; Ride-on motorized buggy | 7.05 | .40 | .40 | | .05 | |
| Air track; Block pavers; Rammers; Curb setters | 7.30 | .40 | .40 | | .05 | |
| Blasters; Powdermen | 7.55 | .40 | .40 | | .05 | |
| Open air caisson; Cylindrical work & boring crew: | | | | | | |
| Laborer; Top man | 6.55 | .40 | .40 | | .05 | |
| Helper | 6.67 | .40 | .40 | | .05 | |
| Bottom men | 7.30 | .40 | .40 | | .05 | |
| Driller | 7.42 | .40 | .40 | | .05 | |
| LATHERS: | | | | | | |
| Franklin, & Quincy | 7.15 | .45 | .55 | | .01 | |
| Dover, Medfield, Needham, & Wellesley | 7.15 | .45 | .50 | | .01 | |
| Avon, Canton, Cohasset, Foxboro, Holbrook, Plainville, Randolph, Sharon, S. Braintree, S. Weymouth, Stoughton, & Weymouth | 7.15 | .45 | .55 | | .01 | |
| LEADBURNERS | 8.25 | .30 | | c | .01 | |
| LINE CONSTRUCTION: | | | | | | |
| Linemen | 8.08 | .25 | 1% | d | | |
| Equipment operator | 7.17 | .25 | 1% | d | | |
| Driver groundman | 5.41 | .25 | 1% | d | | |
| MARBLE SETTERS; Terrazzo workers | 7.65 | .50 | .50 | | | |
| MARBLE SETTERS' HELPERS | 6.50 | .20 | .10 | | | |
| MILLWRIGHTS | 8.83 | .50 | .30 | | .02 | |
| PAINTERS: | | | | | | |
| Bellingham: | | | | | | |
| Brush | 7.20 | .40 | .40 | | | |
| Steel | 7.45 | .40 | .40 | | | |
| Spray | 8.20 | .40 | .40 | | | |
| Dover, Medfield, Medway, Millis, Needham, & Wellesley: | | | | | | |
| Brush | 7.00 | .35 | .25 | | | |
| Steel | 7.25 | .35 | .25 | | | |
| Spray | 7.95 | .35 | .25 | | | |
| Remainder of County: | | | | | | |
| Brush | 7.86 | .62 | .40 | | .04 | |
| Steel | 7.86+e | .62 | .40 | | .04 | |
| Spray | 8.86 | .62 | .40 | | .04 | |
| PILEDRIVERMEN | 8.65 | .50 | .30 | | | |





AQ-3,012 P. 3

11-MASS-1-2-3-T (3-3)

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| PLASTERERS: | | | | | | |
| Brookline, & Milton | $7.75 | .45 | 1.00 | | .02 | |
| PLASTERERS' TENDERS: | | | | | | |
| Avon, Bellingham, Braintree, Brookline, Canton, Cohasset, Dedham, Dover, Foxboro, Franklin, Holbrook, Medfield, Medway, Millis, Milton, Needham, Norfolk, Norwood, Plainville, Quincy, Randolph, Sharon, S. Bellingham, Stoughton, Walpole, Wellesley, Westwood, Weymouth, & Wrentham | 7.05 | .40 | .40 | | .05 | |
| PLUMBERS; Steamfitters: | | | | | | |
| Avon, Holbrook, Randolph, & Stoughton | 7.95 | .25 | .40 | | .05 | |
| Dover, Medfield, Medway, & Wellesley | 8.675 | .53 | .55 | | .025 | |
| PLUMBERS; Gasfitters: | | | | | | |
| Bellingham, Braintree, Brookline, Canton, Cohasset, Dedham, Foxboro, Franklin, Millis, Milton, Needham, Norfolk, N. Weymouth, Norwood, Plainville, Quincy, Sharon, S. Weymouth, Walpole, Westwood, Weymouth, & Wrentham | 9.35 | .50 | .60 | | .03 | |
| ROOFERS | 8.00 | .30 | .20 | | | |
| SHEET METAL WORKERS | 8.73 | .46 | .45 | | .02 | |
| SPRINKLER FITTERS | 8.75 | .30 | .50 | | .05 | |
| STEAMFITTERS: | | | | | | |
| Bellingham, Brookline, Canton, Dedham, Foxboro, Franklin, Medway, Milton, Needham, Norfolk, Norwood, Plainville, Quincy, Sharon, Walpole, Westwood, & Wrentham | 9.36 | .51 | .65 | | .05 | |
| TERRAZZO WORKERS' HELPERS | 7.40 | .20 | .10 | | | |
| TILE SETTERS | 8.20 | .20 | .25 | | | |
| TILE SETTERS' HELPERS | 6.50 | .20 | .10 | | | |

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service as Vacation Pay credit
b. 6 Paid Holidays: A through F.
c. 9 Paid Holidays: A through F, Washington's Birthday, Good Friday, & Christmas Eve, provided the employee has worked 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding the following holiday.
d. 7 Paid Holidays: A through F, & Bunker Hill Day provided the employee has been employed 10 working days prior to the listed holidays.
e. Employer pays $5.00 per day extra above the brush rate.

AQ-3,012 P. 4

MASS-1-PEO-1-2-3-c (1-2)

| BUILDING, HEAVY & HIGHWAY CONSTRUCTION POWER EQUIPMENT OPERATORS | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. |
| Shovels, cranes, truck cranes, dragglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, cherry pickers, boring machines, rotary drills, post hole hammers, post hole diggers, pumpcrete machines, pavement breakers, mechanical hoist, cement concrete pavers, shaft hoists, steam engines, cableways, paving concrete mixers, trenching machines, hoisting engines, uke loaders, asphalt plant (on site), concrete batching &/or mixing plant (on site), crusher plant (on site), Timber jacks | $9.11 | .55 | .60 | a | .02 |
| Boom over 150' including jib - additional $.35 per hour<br>Boom over 185' including jib - additional $.70 per hour<br>Boom over 210' including jib - additional $1.00 per hour<br>Boom over 250' including jib - additional $1.50 per hour<br>Boom over 295' including jib - additional $2.00 per hour | | | | | |
| Master mechanic | 9.86 | .55 | .60 | a | .02 |
| Sonic or vibratory hammers, graders, scrapers, tractors, concrete pumps, tandem scrapers, bulldozers, mulching machines, york rakes, portable steam boilers, rollers, spreaders, tampers, self-propelled or tractor drawn, asphalt pavers, mechanics maintenance, group pumps, locomotive or machines used in place thereof, portable steam generators, paving screed machines, stationary steam boilers, paving concrete finishing machines | 8.99 | .55 | .60 | a | .02 |







XUM 3712 UMS 38183V

AQ-3,012 P. 5

MASS-1-EO-1-2-3-c (2-2)

BUILDING, HEAVY & HIGHWAY CONSTRUCTION

POWER EQUIPMENT OPERATORS

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Oth |
| Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), wellpoint systems (operating and installing), syphons-pulsometers, concrete mixers, valves controlling permanent plant air or steam, conveyors, Jackson type tamper, single diaphragm pump | $7.625 | .55 | .60 | a | .02 | |
| Assistant engineers (firemen) | 8.31 | .55 | .60 | a | .02 | |
| Oilers and apprentices (other than truck cranes and gradalls) | 6.75 | .55 | .60 | a | .02 | |
| Oilers and apprentices on truck cranes and gradalls | 7.13 | .55 | .60 | a | .02 | |

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. 10 paid holidays: A through F; Washington's Birthday; Columbus Day; Veterans' Day; & Patriots' Day.

MASS-1-LAB-2-3-i

HEAVY & HIGHWAY CONSTRUCTION

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Oth |
| LABORERS: Carpenter tenders; Cement finisher tenders; Laborers; Wrecking laborers | $6.30 | .40 | .40 | | .05 | |
| Asphalt rakers; Fence & guard rail erectors; Laser beam operators; Mason tenders; Pipelayers; Pneumatic drill operators; Pneumatic tool operators; Wagon drill operators | 6.55 | .40 | .40 | | .05 | |
| Air track operators; Block pavers; Rammers; Curb setters | 6.80 | .40 | .40 | | .05 | |
| Blasters; Powdermen | 7.05 | .40 | .40 | | .05 | |

AQ-3,012 P. 6

MASS-1-TD-1 -A 1 of 1

TRUCK DRIVERS-BUILDING CONSTRUCTION

| | BASIC HOURLY RATE | FRINGE BENEFITS PAYMENTS | | | |
|---|---|---|---|---|---|
| | | H & W | PENSIONS | VACATION | APP. TR. |
| Two axle equipment | $3.97 | .24 | .35 | a+b | |
| Three axle equipment | 4.02 | .24 | .35 | a+b | |
| Four and five axle equipment | 4.12 | .24 | .35 | a+b | |
| Low bed trailer | 4.22 | .24 | .35 | a+b | |
| Specialized earth moving equipment other than conventional | 4.22 | .24 | .35 | a+b | |
| Helpers on low beds | 3.97 | .24 | .35 | a+b | |

PAID HOLIDAYS: (Where Applicable)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.
b. Holidays: A through F, Washington's Birthday, Columbus Day and Veterans' Day after 30 days employment, provided an employee works two days of the calendar week in which the holiday falls.

NOTICES





AQ-3,012 P. 7

MASS - 1 - TD - 2-3 D

TRUCK DRIVERS:
HEAVY AND HIGHWAY CONSTRUCTION

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Ot |
| Station wagons, panel trucks and pick-up trucks | $5.91 | .35 | .50 | a+b | | |
| Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift opers. | 6.01 | .35 | .50 | a+b | | |
| Three axle equipment and tiremen | 6.06 | .35 | .50 | a+b | | |
| Four and five axle equipment | 6.16 | .35 | .50 | a+b | | |
| Specialized earth moving equipment under 35 tons other than conventional type trucks, low bed, vachaul, mechanics, paving restoration equipment, Mechanics | 6.26 | .35 | .50 | a+b | | |
| Specialized earth moving equipment over 35 tons | 6.51 | .35 | .50 | a+b | | |
| Trailers for earth moving equipment, (double hookup) | 6.76 | .35 | .50 | a+b | | |

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.
b. Holidays: A through F, Washington's Birthday, Columbus Day and Veteran's Day after 30 days employment provided an employee works two days of the calendar week in which the holiday falls.

NOTICES

NEW DECISION

STATE: Massachusetts
COUNTY: Norfolk
DECISION NO.: AQ-3,013
DATE: Date of Publication
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.

RESIDENTIAL

11-R-MASS-T (1-3)

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| ASBESTOS WORKERS: | | | | | | |
| Bellingham, Franklin, Plainville, & Wrentham | $8 80 | .505 | .45 | | .005 | |
| Remainder of County | 8.955 | .55 | .50 | | .01 | |
| BRICKLAYERS; Cement masons; Plasterers: | | | | | | |
| Dover, Needham, & Wellesley | 8.25 | .50 | .70 | | .04 | |
| Medfield, Medway, & Millis | 8.45 | .50 | .50 | | .04 | |
| Avon, Holbrook, Randolph, & Stoughton | 8.45 | .55 | .45 | | .02 | |
| Bellingham, Canton, Dedham, Foxboro, Franklin, Norfolk, Norwood, Plainville, Sharon, Walpole, Westwood, & Wrentham | 8.78 | .62 | .55 | | .04 | |
| Braintree, Cohasset, N. Weymouth, Quincy, S. Weymouth, & Weymouth | 8.70 | .65 | .60 | | .04 | |
| BRICKLAYERS: | | | | | | |
| Brookline, & Milton | 8.45 | .50 | .50 | | .04 | |
| CARPENTERS; Soft floor layers: | | | | | | |
| Quincy | 8.75 | .30 | .30 | | | |
| Brookline, Dedham, & Milton | 8.35 | .50 | .50 | | .02 | |
| Avon, Holbrook, Randolph, & Stoughton | 7.75 | .35 | .40 | | | |
| Bellingham, Franklin, Medfield, Medway, & Millis | 8.05 | .25 | .30 | | .025 | |
| Dover, Needham, & Wellesley | 8.75 | .30 | .30 | | .02 | |
| Canton, Foxboro, Norfolk, Norwood, Plainville, Sharon, Walpole, Westwood & Wrentham | 8.35 | .50 | .50 | | .02 | |
| Braintree, Cohasset, N. Weymouth, S. Weymouth, & Weymouth | 8.35 | .50 | .50 | | | |
| CEMENT MASONS: | | | | | | |
| Brookline, & Milton | 8.90 | .35 | .20 | | .04 | |
| ELECTRICIANS: | | | | | | |
| Avon, Holbrook, Randolph, & Stoughton: | | | | | | |
| Electrical contracts less than $20,000.00 | 7.55 | 4% | 5% | | 1% | |
| Electrical contracts $20,000.00 or more | 9.15 | 4% | 5% | | 1% | |
| Plainville | 8.65 | .38 | 1%+.25 | | .02 | |
| Remainder of County | 9.10 | .35 | 1%+.95 | | .05 | |
| GLAZIERS | 8.55 | .25 | .36 | | .02 | |
| IRONWORKERS | 8.29 | .45 | 1.05 | | .03 | |



11-R-MASS-T (2-3)

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| LABORERS: | | | | | | |
| Laborers; Carpenter tenders; Cement finisher tenders; Wrecking laborers | $6.80 | .40 | .40 | | .05 | |
| Jackhammer op.; Pavement breakers; Wagon drills; Asphalt rakers; Carbide core drilling machine; Chain saw op.; Pipelayer; Barco type jumping tampers; Laser beam; Concrete pump; Mason tenders; Mortar mixers; Ride-on motorized buggy | 7.05 | .40 | .40 | | .05 | |
| Air track; Block pavers; Rammers; Curb setters | 7.30 | .40 | .40 | | .05 | |
| Blasters; Powdermen | 7.55 | .40 | .40 | | .05 | |
| Open air caisson; Cylindrical work & boring crew: | | | | | | |
| Laborer; Top man | 6.55 | .40 | .40 | | .05 | |
| Helper | 6.67 | .40 | .40 | | .05 | |
| Bottom men | 7.30 | .40 | .40 | | .05 | |
| Driller | 7.42 | .40 | .40 | | .05 | |
| LATHERS: | | | | | | |
| Franklin, & Quincy | 7.15 | .45 | .55 | | .01 | |
| Dover, Medfield, Needham, & Wellesley | 7.15 | .45 | .50 | | .01 | |
| Avon, Canton, Cohasset, Foxboro, Holbrook, Plainville, Randolph, Sharon, S. Braintree, S. Weymouth, Stoughton, & Weymouth | 7.15 | .45 | .55 | | .01 | |
| PAINTERS: | | | | | | |
| Bellingham: | | | | | | |
| Brush | 7.20 | .40 | .40 | | | |
| Steel | 7.45 | .40 | .40 | | | |
| Spray | 8.20 | .40 | .40 | | | |
| Dover, Medfield, Medway, Millis, Needham, & Wellesley: | | | | | | |
| Brush | 7.00 | .35 | .25 | | | |
| Steel | 7.25 | .35 | .25 | | | |
| Spray | 7.95 | .35 | .25 | | | |
| Remainder of County: | | | | | | |
| Brush | 7.86 | .62 | .40 | | .04 | |
| Steel | 7.86+a | .62 | .40 | | .04 | |
| Spray | 8.86 | .62 | .40 | | .04 | |
| PLASTERERS: | | | | | | |
| Brookline, & Milton | 7.75 | .45 | 1.00 | | .02 | |







11-R-MASS-T (3-3)

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| PLASTERERS' TENDERS: | | | | | | |
| Avon, Bellingham, Braintree, Brookline, Canton, Cohasset, Dedham, Dover, Foxboro, Franklin. Holbrook, Medfield, Medway, Millis, Milton, Needham, Norfolk, Norwood, Plainville, Quincy, Randolph, Sharon, S. Bellingham, Stoughton, Walpole, Wellesley, Westwood, Weymouth, & Wrentham | $7.05 | .40 | .40 | | .05 | |
| PLUMBERS; Steamfitters: | | | | | | |
| Avon, Holbrook, Randolph, & Stoughton | 7.95 | .25 | .40 | | .05 | |
| Dover, Medfield, Medway, & Wellesley | 8.675 | .53 | .55 | | .025 | |
| PLUMBERS; Gasfitters: | | | | | | |
| Bellingham, Braintree, Brookline, Canton, Cohasset, Dedham, Foxboro, Franklin, Millis, Milton, Needham, Norfolk, N. Weymouth, Norwood, Plainville, Quincy, Sharon, S. Weymouth, Walpole, Westwood, Weymouth, & Wrentham | 9.35 | .50 | .60 | | .03 | |
| ROOFERS | 8.00 | .30 | .20 | | | |
| SHEET METAL WORKERS | 8.73 | .46 | .45 | | .02 | |
| STEAMFITTERS: | | | | | | |
| Bellingham, Brookline, Canton, Dedham, Foxboro, Franklin, Medway, Milton, Needham, Norfolk, Norwood, Plainville, Quincy, Sharon, Walpole, Westwood, & Wrentham | 9.36 | .51 | .65 | | .05 | |
| TILE SETTERS | 8.20 | .20 | .25 | | | |
| TILE SETTERS' HELPERS | 6.50 | .20 | .10 | | | |

FOOTNOTE:
a. Employer pays $5.00 per day extra above the brush rate.



| POWER EQUIPMENT OPERATORS | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. |
| Shovels, cranes, truck cranes, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, cherry pickers, boring machines, rotary drills, post hole hammers, post hole diggers, pumpcrete machines, pavement breakers, mechanical hoist, cement concrete pavers, shaft hoists, steam engines, cableways, paving concrete mixers, trenching machines, hoisting engines, uke loaders, asphalt plant (on site), concrete batching &/or mixing plant (on site), crusher plant (on site), Timber jacks | $9.11 | .55 | .60 | a | .02 |
| Boom over 150' including jib - additional $.35 per hour | | | | | |
| Boom over 185' including jib - additional $.70 per hour | | | | | |
| Boom over 210' including jib - additional $1.00 per hour | | | | | |
| Boom over 250' including jib - additional $1.50 per hour | | | | | |
| Boom over 295' including jib - additional $2.00 per hour | | | | | |
| Master mechanic | 9.86 | .55 | .60 | a | .02 |
| Sonic or vibratory hammers, graders, scrapers, tractors, concrete pumps, tandem scrapers, bulldozers, mulching machines, york rakes, portable steam boilers, rollers, spreaders, tampers, self-propelled or tractor drawn, asphalt pavers, mechanics maintenance, group pumps, locomotive or machines used in place thereof, portable steam generators, paving screed machines, stationary steam boilers, paving concrete finishing machines | 8.99 | .55 | .60 | a | .02 |







XUM 3712 UMS 38183V

AQ-3,013 P. 5

| POWER EQUIPMENT OPERATORS | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Oth |
| Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), wellpoint systems (operating and installing), syphons-pulsometers, concrete mixers, valves controlling permanent plant air or steam, conveyors, Jackson type tamper, single diaphragm pump | $7.625 | .55 | .60 | a | .02 | |
| Assistant engineers (firemen) | 8.31 | .55 | .60 | a | .02 | |
| Oilers and apprentices (other than truck cranes and gradalls) | 6.75 | .55 | .60 | a | .02 | |
| Oilers and apprentices on truck cranes and gradalls | 7.13 | .55 | .60 | a | .02 | |

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:
a. 10 paid holidays: A through F; Washington's Birthday; Columbus Day; Veterans' Day; & Patriots' Day.

| TRUCK DRIVERS | BASIC HOURLY RATES | FRINGE BENEFITS PAYMENTS | | | | |
|---|---|---|---|---|---|---|
| | | H & W | PENSIONS | VACATION | APP. TR. | OT |
| Two axle equipment | $3.97 | .24 | .35 | a+b | | |
| Three axle equipment | 4.02 | .24 | .35 | a+b | | |
| Four and five axle equipment | 4.12 | .24 | .35 | a+b | | |
| Low bed trailer | 4.22 | .24 | .35 | a+b | | |
| Specialized earth moving equipment other than conventional | 4.22 | .24 | .35 | a+b | | |
| Helpers on low beds | 3.97 | .24 | .35 | a+b | | |

PAID HOLIDAYS: (Where Applicable)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.

b. Holidays: A through F, Washington's Birthday, Columbus Day and Veterans' Day after 30 days employment, provided an employee works two days of the calendar week in which the holiday falls.



MODIFICATIONS P. 1

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| DECISION #AQ-1,025 - Mod. #1<br>(38 FR 24493 - September 7, 1973)<br>Pima County, Arizona | | | | | | |
| Change:<br>Carpenters:<br>Millwrights | $8.625 | .40 | .60 | | .025 | |
| Cement Masons | 7.585 | .30 | .45 | | .025 | |
| Laborers:<br>Tunnel and Shaft Workers<br>Bull gang, muckers, Trackman; Dumpman; Concrete crew (includes rodders and spreaders); Grout crew; Swamper (brakeman and switchman on tunnel work) | 5.725 | .35 | .60 | | .05 | |

MODIFICATIONS P. 2

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| DECISION #AQ-1,028 - Mod. #1<br>(38 FR 24507 - September 7, 1973)<br>Ada, Adams, Blaine, Boise, Butte, Camas, Canyon, Cassia, Custer, Elmore, Gem, Gooding, Jerome, Lemhi, Lincoln, Minnidoka, Owyhee, Payette, Twin Falls, Valley and Washington Counties, Idaho | | | | | | |
| Change:<br>Carpenters:<br>Carpenters; Floor layer; Shingler; Drywall applicator and installer of metal studs, metal framing, accoustical material, metal partition, porcelain and enanel and metal panels, marlite and rigid of flexible palstic laminates, wetherstripping and insulation | $6.95 | .32 | .30 | | .10 | |
| Saw filer; Stationary machine; Piledriverman; Bridgeman and wharf builders | 7.13 | .32 | .30 | | .10 | |
| Millwrights; Machine erector; Piledriverman's boom man | 7.25 | .32 | .30 | | .10 | |
| DECISION #AQ-1,029 - Mod. #1<br>(38 FR 24513 - September 7, 1973)<br>Ada County, Idaho | | | | | | |
| Change:<br>Carpenters:<br>Carpenters; Drywall applicators; Floor layers; Shinglers | 6.95 | .32 | .30 | | .10 | |
| Piledrivermen | 7.13 | .32 | .30 | | .10 | |
| Millwrights; Piledrivermen's boom man | 7.25 | .32 | .30 | | .10 | |







XUM

MODIFICATIONS P. 3

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| DECISION #AQ-1,030 - Mod.#1 (38 FR 24517 - September 7, 1973) Bannock, Bear Lake, Bingham, Bonneville, Caribou, Clark, Franklin, Fremont, Jefferson, Madison, Oneida, Power and Teton Counties, Idaho | | | | | | |
| Change: Carpenters: Carpenters; Floor layer; Shingler; Drywall applicator and installer of metal studs, metal framing, accoustical material, metal partition, porcelain and enamel and metal panels, marlite and rigid or flexible plastic laminates, weatherstripping and insulation | $6.95 | .32 | .30 | | .10 | |
| Saw filer; Stationary machine; Piledriverman; Bridgeman and wharf builder | 7.13 | .32 | .30 | | .10 | |
| Millwrights; Machine erector; Piledriverman's boom man | 7.25 | .32 | .30 | | .10 | |
| Soft Floor Layers | 6.20 | | | | | |
| DECISION #AQ-1,031 - Mod. #1 (38 FR 24523 - September 7, 1973) Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Pierce, Shoshone Counties, Idaho | | | | | | |
| Change: Carpenters (That portion of Idaho Co. south of the 46th parallel) Carpenters; Floor layer; Shingler; Drywall applicator and installer of metal studs, metal framing, accoustical material, metal partition, porcelain and enamel and metal panels, marlete and rigid or flexible plastic laminates, weatherstripping and insulation | 6.95 | .32 | .30 | | .10 | |
| Saw filer; Stationary machine; Piledriverman; Bridgeman and wharf builder | 7.13 | .32 | .30 | | .10 | |
| Millwrights; Machine erector; Piledriverman's boom man | 7.25 | .32 | .30 | | .10 | |

MODIFICATIONS P. 4

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| DECISION #AQ-3 - Mod. #1 (38 FR 19641 - July 20, 1973) Scott County, Iowa | | | | | | |
| Change: Building Construction: Plumbers-Steamfitters | $8.25 | .40 | .35 | | .10 | |
| DECISION #AQ-11 - Mod. #3 (38 FR 21055 - August 3, 1973) Woodbury County (City of Sioux City & abutting municipalities), Iowa | | | | | | |
| Change: Building Construction: Electricians | 8.15 | .25 | 1% | | 1% | |
| Plasterers | 6.90 | | | | | |
| DECISION #AQ-12 - Mod. #2 (38 FR 21059 - August 3, 1973) Clinton County (City of Clinton & abutting municipalities), Iowa | | | | | | |
| Change: Building Construction: Plumbers-Steamfitters | 8.25 | .40 | .35 | | .10 | |
| DECISION #AQ-13 - Mod. #2 (38 FR 21062 - August 3, 1973) Dubuque County (City of Dubuque & abutting municipalities), Iowa | | | | | | |
| Change: Building Construction: Cement masons | 7.12 | | | | | |
| Electricians | 7.05 | .27 | 1% | | 1% | |





MODIFICATIONS P. 5

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| DECISION #AQ-14 - Mod. #2 (38 FR 21066 - August 3, 1973) Story County (City of Ames & abutting municipalities), Iowa | | | | | | |
| Change: Building Construction: Electricians | $8.85 | .30 | 1% | | 1% | |
| Glaziers | 6.895 | .30 | .25 | 2 wks | | |
| Plumbers-Steamfitters | 8.05 | .30 | .50 | | .10 | |
| DECISION #AQ-15 - Mod. #2 (38 FR 21070 - August 3, 1973) Polk County (City of Des Moines & abutting municipalities), Iowa | | | | | | |
| Change: Building Construction: Electricians | 8.85 | .30 | 1% | | 1% | |
| Glaziers | 6.895 | .30 | .25 | 2 wks | | |
| Plumbers-Steamfitters | 8.05 | .30 | .50 | | .10 | |
| DECISION #AQ-16 - Mod. #2 (38 FR 21074 - August 3, 1973) Des Moines County (City of Burlington & abutting municipalities & Burlington Ordnance Plant), Iowa | | | | | | |
| Change: Building Construction: Bricklayers-Stonemasons | 7.77 | | .20 | | | |
| DECISION #AQ-17 - Mod. #2 (38 FR 21078 - August 3, 1973) Black Hawk County (City of Waterloo & abutting municipalities), Iowa | | | | | | |
| Change: Building Construction: Electricians: | | | | | | |
| Electricians | 7.80 | .30 | 1% | | 1% | |
| Cable splicers | 8.30 | .30 | 1% | | 1% | |
| Plumbers-Steamfitters | 7.47 | .42 | .50 | | .08 | |

MODIFICATION P. 6

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| DECISION #AQ-19 - Mod. #1 (38 FR 22857 - August 24, 1973) Linn County (City of Cedar Rapids & abutting municipalities), Iowa | | | | | | |
| Change: Building Construction: Plumbers-Steamfitters | $7.90 | .30 | .30 | | .10 | |
| DECISION #AQ-20 - Mod. #1 (38 FR 22861 - August 24, 1973) Johnson County (City of Iowa City & abutting municipalities), Iowa | | | | | | |
| Change: Building Construction: Plumbers-Steamfitters | 7.90 | .30 | .30 | | .10 | |



MUX

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| **DECISION #AP-736 - Mod. #5** (38 FR 14609 - June 1, 1973) Rapides Parish, Louisiana | | | | | | |
| Change: | | | | | | |
| Electricians | $7.70 | .30 | 1% | | 1/2% | |
| Plumbers-Steamfitters | 7.30 | .30 | .25 | | .05 | |
| **DECISION #AQ-8 - Mod. #4** (38 FR 20204 - July 27, 1973) Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Washington, West Baton Rouge & West Feliciana Parishes, Louisiana | | | | | | |
| Change: | | | | | | |
| Electricians: | | | | | | |
| Electricians: Evangeline Parish | 7.70 | .30 | 1% | | 1/2% | |
| Cable splicers: Evangeline Parish | 8.20 | .30 | 1% | | 1/2% | |
| Glaziers: Ascension (east & south of Highway #22), Assumption (south of Grand Bayou), Jefferson, Lafourche, Livingston (east & south of Highway #22), Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Morgan City Area), St. Tammany, Tangipahoa (east of Highway #51), Terrebonne & Washington Parishes | 6.975 | .17 | .20 | | .01 | |



| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| **DECISION #AQ-8 (CONT'D)** | | | | | | |
| Laborers: St, Tammany (as far south as Bayou Lacombe and east to the Mississippi state line at Pearlington), Tangipahoa (except that portion south of a line running due east from the western boundary of Tangipahoa Parish which follows the northern city limits of Independence, Louisiana to 20 miles east of U.S. Highway #51, then running south paralleling Highway #51 at a 20 miles distance to Lake Pontchartrain) and Washington Parishes: | | | | | | |
| Building and labor construction | $3.84 | | | | | |
| Stone mason helpers; mechanical tool operators; sewermen (bottom men, caulkers, tenders, joint wipers, hot-pot, grade carriers, layers and ditchers 4 feet or over); tender of all crafts; sandblaster (nozzlemen); Sandblaster (pot tender); laying non-metallic pipe over 4 feet deep, including sewer pipe, drain pipe, and underground tile; septic tank diggers and installers, over 4 feet deep; gas and oil pipeline laborers and wrapper | 3.99 | | | | | |
| Gunite tool operators | 4.09 | | | | | |
| Plumbers-Pipefitters: Allen (northeast corner), Evangeline (except southwest corner) Parishes | 7.30 | .30 | .25 | | .05 | |







DECISION #AP-914 - Mod. #5
(38 FR 17396 - June 29, 1973)
Statewide, Montana



| LABORERS: | EASTERN COUNTIES | WESTERN COUNTIES | MON-LAB-2-3-b ALL COUNTIES | | | |
|---|---|---|---|---|---|---|
| | Basic Hourly Rates | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. |
| Asphalt Raker | $5.53 | $5.68 | .37 | .27 | | .03 |
| Axeman | 5.37 | 5.52 | .37 | .27 | | .03 |
| Car and Truck Loaders, Scissorman | 5.37 | 5.52 | .37 | .27 | | .03 |
| Caisson Workers (Free Air) | 5.53 | 5.68 | .37 | .27 | | .03 |
| Carpenter Tender | 5.37 | 5.52 | .37 | .27 | | .03 |
| Cement Handlers | 5.53 | 5.68 | .37 | .27 | | .03 |
| Cement Mason Tender | 5.53 | 5.68 | .37 | .27 | | .03 |
| Choker Setter | 5.53 | 5.68 | .37 | .27 | | .03 |
| Chuck Tender and Nipper (above ground) | 5.37 | 5.52 | .37 | .27 | | .03 |
| Concrete Laborers (wet or dry); Bucketman and Signalman | 5.53 | 5.68 | .37 | .27 | | .03 |
| Concrete or Asphalt Saw | 5.47 | 5.62 | .37 | .27 | | .03 |
| Concrete Vibrator (5" and over) | 5.58 | 5.73 | .37 | .27 | | .03 |
| Cosmolene applying and removing | 5.37 | 5.52 | .37 | .27 | | .03 |
| Core Drill | 5.97 | 6.12 | .37 | .27 | | .03 |
| Curb Machine | 5.47 | 5.62 | .37 | .27 | | .03 |
| Drills, Air-Tract, self-propelled, Cat or Truck mounted air operated | 5.63 | 5.78 | .37 | .27 | | .03 |
| Drills, Air-Tract, with Dual Masts | 5.73 | 5.88 | .37 | .27 | | .03 |
| Drills, Air-Tract, self-propelled, Mustang type or similar | 5.68 | 5.83 | .37 | .27 | | .03 |
| Dumpman (Spotter) | 5.37 | 5.52 | .37 | .27 | | .03 |
| Dumpman (Grademan) | 5.53 | 5.68 | .37 | .27 | | .03 |
| Fence Erector and Installer (Incl. installation and erection of fences, guard rails, median rails, reference posts, guide posts and right-of-way markers) | 5.37 | 5.52 | .37 | .27 | | .03 |
| Form Stripper | 5.37 | 5.52 | .37 | .27 | | .03 |
| Form Setter | 5.47 | 5.62 | .37 | .27 | | .03 |
| Grade Setter | 5.63 | 5.78 | .37 | .27 | | .03 |
| General Laborer | 5.37 | 5.52 | .37 | .27 | | .03 |
| Hand Faller | 5.45 | 5.60 | .37 | .27 | | .03 |
| High Scaler | 5.73 | 5.88 | .37 | .27 | | .03 |
| High Pressure Machine Nozzleman | 5.57 | 5.72 | .37 | .27 | | .03 |
| Heater Tender | 5.37 | 5.52 | .37 | .27 | | .03 |
| Jackhammer, Pavement Breaker, Wagon Drills, Concrete Vibrator, Mechanical Tamper, Vibrating Roller hand steered and other Air Tools | 5.53 | 5.68 | .37 | .27 | | .03 |
| Landscape Laborer | 5.37 | 5.52 | .37 | .27 | | .03 |
| Nozzleman-Air and Water, Gunite and Placo Machine | 5.47 | 5.62 | .37 | .27 | | .03 |
| Pipe Layer (all types) | 5.53 | 5.68 | .37 | .27 | | .03 |
| Pipe Wrapper | 5.53 | 5.68 | .37 | .27 | | .03 |
| Post Hole Digger (Power Auger) | 5.47 | 5.62 | .37 | .27 | | .03 |



DECISION #AP-914(Cont'd)

| | EASTERN COUNTIES | WESTERN COUNTIES | MON-LAB-2-3-b ALL COUNTIES | | | |
|---|---|---|---|---|---|---|
| | Basic Hourly Rates | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. |
| Power Saw, Bucking | $5.53 | $5.68 | .37 | .27 | | .03 |
| Power Saw, Falling | 5.63 | 5.78 | .37 | .27 | | .03 |
| Powderman Helper | 5.47 | 5.62 | .37 | .27 | | .03 |
| Powderman | 5.93 | 6.08 | .37 | .27 | | .03 |
| Power Driven Wheelbarrow | 5.47 | 5.62 | .37 | .27 | | .03 |
| Riprapper | 5.53 | 5.68 | .37 | .27 | | .03 |
| Riprap Helper | 5.37 | 5.52 | .37 | .27 | | .03 |
| Scaleman | 5.53 | 5.68 | .37 | .27 | | .03 |
| Sandblaster | 5.47 | 5.68 | .37 | .27 | | .03 |
| Sodcutter-Hand Operated | 5.37 | 5.52 | .37 | .27 | | .03 |
| Stake Jumper for Equipment | 5.37 | 5.52 | .37 | .27 | | .03 |
| Tar Pot | 5.47 | 5.62 | .37 | .27 | | .03 |
| Tool Checker, Toolhouseman | 5.37 | 5.52 | .37 | .27 | | .03 |

*Eastern Counties: Blaine-Carter-Custer-Daniels-Dawson-Fallon-Garfield-McCone-Petroleum-Phillips-Powder River-Prairie-Richland-Roosevelt-Sherdian-Valley and Wibaux

*Western Counties: Beaverhead-Big Horn-Broadwater-Carbon-Cascade-Chouteau-Deer Lodge-Fergus-Flathead-Gallatin-Glacier-Golden Valley-Granite-Hill-Jefferson-Judith Basin-Lake-Lewis & Clark-Liberty-Lincoln-Madison-Meagher-Mineral-Missoula-Musselshell-Park-Pondera-Powell-Ravalli-Rosebud-Sanders-Silverbow-Stillwater-Sweetgrass-Teton-Toole-Treasure-Wheatland and Yellowstone







XUM

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| DECISION #AQ-26 - Mod. #1 (38 FR 21541 - September 7, 1973) Douglas and Sarpy Counties, Nebraska | | | | | | |
| Change: HEAVY & HIGHWAY CONSTRUCTION | | | | | | |
| Ironworkers: Structural and Reinforcing | $7.00 | .25 | .20 | .20 | | |
| Laborers: Common laborer | 5.25 | .25 | .25 | .10 | .02 | |
| Towboat & Dredge Deckhands | 5.35 | .25 | .25 | .10 | .02 | |
| Form Setter Helpers | 5.45 | .25 | .25 | .10 | .02 | |
| Rakers & Screedmen on Asphalt Work; Mortar mixers; Chain Saw Operator | 5.43 | .25 | .25 | .10 | .02 | |
| Pipelayers; Concrete Saw Operator | 5.50 | .25 | .25 | .10 | .02 | |
| Form Setters & Precast Manhole Setters Inlet Builders and Manhole Setters | 5.88 | .25 | .25 | .10 | .02 | |



| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| DECISION #AP-264 - Mod. #3 (38 FR 6584 - March 9, 1973) Statewide, Nevada | | | | | | |
| Change: Carpenters: Nye (North of Highway #6, exlcuding the town of Tonopah) and all remaining Counties | $6.90 | .50 | .70 | .90 | .03 | |
| Electricians: Clark and Lincoln Counties, and Nye County (South of Mt. Diablo Base Line) Electricians; Technicians | 10.23 | .43 | 1% | | .05 | |
| Cable splicers | 10.56 | .43 | 1% | | .05 | |
| Ironworkers: Elko, Eureka (N.E. portion including Cities of Palisade, Beawawe and Eureka), Humboldt (N.E. portion including Town of McDermit to south-southeast border of Humboldt County), Lander (N.E. portion including City of Battle Mountain, Lincoln (N.E. portion south of 37th parallel), Nye(N.E. portion)and White Pine Counties Structural; Ornamental; Reinforcing; Fence erectors; Machinery movers; Riggers | 7.53 | .50 | .65 | | .05 | |
| DECISION #AP-266 - Mod. #2 (38 FR 8395 - March 30, 1973) Clark, Lincoln and Nye (South of Highway #6) excluding the Nevada Test Site) Counties, Nevada | | | | | | |
| Change: Electricians: Electricians; Technicians | 10.23 | .43 | 1% | | .05 | |
| Cable splicers | 10.56 | .43 | 1% | | .05 | |
| Ironworkers (Eastern portion of Lincoln County Only Structural; Ornamental; Reinforcing; Fence erectors | 7.53 | .50 | .65 | | .05 | |
| Plasterers | 6.93 | .50 | | .90 | .03 | |





| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| DECISION #AP-269 - Mod. #3 (38 FR 7190 - March 16, 1973) Washoe County, Nevada | | | | | | |
| Change: Bricklayers; Stonemasons: Zone A: Within 15 miles radius of Court House in Reno | $8.95 | .40 | | | .01 | |
| Zone B: Within 15 to 35 miles radius of Court House in Reno | 9.30 | .40 | | | .01 | |
| Zone C: Within 35 to 75 miles radius of Court House in Reno | 9.70 | .40 | | | .01 | |
| Carpenters: Carpenters | 6.90 | .50 | .70 | .90 | .03 | |
| Millwrights | 7.20 | .50 | .70 | .90 | .03 | |
| Lathers | 7.71 | .40 | .10 | 1.00 | .01 | |
| Plasterers | 7.35 | .50 | .50 | | | |
| Plaster tenders | 7.15 | .50 | .40 | | | |
| Roofers | 8.10 | .25 | .05 | | .02 | |
| Sheet Metal Workers | 8.30 | .69 | 1.05 | 10% | .02 | |
| Tile Setters: Zone A: Within 15 miles radius of Court House in Reno | 8.95 | .40 | | | .01 | |
| Zone B: Within 15 to 35 miles radius of Court House in Reno | 9.30 | .40 | | | .01 | |
| Zone C: Within 35 to 75 miles radius of Court House in Reno | 9.70 | .40 | | | .01 | |
| DECISION #AP-290 - Mod. #2 (38 FR 8914 - April 6, 1973) Clark (excluding the Nevada Test Site) County, Nevada | | | | | | |
| Change: Electricians: Electricians | 10.23 | .43 | 1% | | .05 | |
| Cable splicers | 10.56 | .43 | 1% | | .05 | |
| Plasterers | 6.93 | .50 | | .90 | .03 | |



| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| DECISION #AP-740 - Mod. #3 (38 FR 18148 - July 6, 1973) Statewide, New Mexico | | | | | | |
| Change: CARPENTERS (STATEWIDE): From nearest basing points of the following cities or towns: Alamogordo, Albuquerque, Artesia, Bayard, Belen, Carlsbad, Clovis, Deming, Espanola, Eunice, Farmington, Gallup, Grants, Hobbs, Las Cruces, Las Vegas, Lordsburg, Lovington, Portales, Raton, Roswell, Ruidoso, Santa Fe, Santa Rosa, Silver City, Socorro, Taos & Tucumcari: ZONE (1) - 0 to 15 road miles from nearest basing point: Carpenters | $6.75 | .38 | .40 | | .08 | |
| ZONE (2) - 15 to 35 road miles from nearest basing point: Carpenters | 7.50 | .38 | .40 | | .08 | |
| ZONE (3) - Over 35 road miles from nearest basing point: Carpenters | 7.75 | .38 | .40 | | .08 | |
| From nearest basing points of the following cities or towns: Albuquerque City limits; Santa Fe City limits; the Main Post Office at Las Cruces and Carlsbad: ZONE (1) - 0 to 15 road miles from nearest basing point: Millwrights & Piledrivermen | 7.00 | .38 | .40 | | .08 | |
| ZONE (2) - 15 to 35 road miles from nearest basing point: Millwrights & Piledrivermen | 7.75 | .38 | .40 | | .08 | |
| ZONE (3) - Over 35 road miles from nearest basing point: Millwrights & Piledrivermen | 8.00 | .38 | .40 | | .08 | |
| DECISION #AP-452 - Mod. #4 (37 FR 26782 - December 15, 1972) Albany County, New York | | | | | | |
| Change: Roofers | $8.30 | .63 | .30 | | .02 | |



XLVM

MODIFICATIONS P. 15

DECISION #AQ-1,022 - Mod. #1
(38 FR 24532 - September 7, 1973)
Statewide, Oregon

Change:
Line Construction

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Oth |
| Cable splicers leadman pole sprayer | $9.13 | .25 | 1% | | 1/2% | |
| Tree trimmer | 7.47 | .25 | 1% | | 1/2% | |
| Line equipment man | 7.13 | .25 | 1% | | 1/2% | |
| Head groundman (chipper); Head groundman; Powderman; Jackhammer man | 6.25 | .25 | 1% | | 1/2% | |
| Groundman; Tree trimmer helper | 5.90 | .25 | 1% | | 1/2% | |
| Hole digger | 5.65 | .25 | 1% | | 1/2% | |

MODIFICATIONS P. 16

Decision #AP-834-Mod. #2
( 38 FR 14060-May 25, 1973)
Erie County, Pennsylvania

Change:
Building Construction

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Oth |
| Bricklayers | $9.76 | .30 | | | | |
| Cement Masons | 8.87 | .25 | | | ½% | |
| Electricians | 9.72 | .18 | 1%+.18 | | ½ of 1% | |
| Ironworkers: | | | | | | |
| Structural | 8.7375 | .78 | .69 | | .10 | |
| Ornamental | 8.7375 | .78 | .69 | | .10 | |
| Reinforcing | 8.7375 | .78 | .69 | | .10 | |
| Plasterers | 9.02 | .30 | | | 1½% | |
| Plumbers | 9.39 | .25 | .28 | | .04 | |
| Roofers: | | | | | | |
| Composition | 7.20 | .30 | .30 | | | |
| Steamfitters | 9.39 | .25 | .28 | | .04 | |
| Stone Masons | 9.76 | .30 | | | | |
| Truck Drivers | 5.45 | d | e | | | |

Laborers:
Schedule attached

Power Equipment Operators
Schedule attached

Add:
Footnotes:

d. Employer agree to contribute $54.94 per month.

e. Employer agree to contribute $12.00 per week.





AF-834 (CONT'D)

MODIFICATIONS P. 17
PA-25-LAB-1-B

BUILDING CONSTRUCTION

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. |
| Laborers: | | | | | |
| Building & common, carpenter tender, heaters & salamanders, power sweepers, power vacum sweepers, pumps including 1½", signal man concrete bucket, wrecking & demolition, window washing | $7.00 | .30 | .50 | | .01 |
| Bricklayer & mason tenders, electric operated conveyor, electric operated hoist, fork lift up to 9 ft., plumber & sewer laborers, scaffold builders, float grinder & sander | 7.10 | .30 | .50 | | .01 |
| Burners, concrete saw operator, hod carriers, mortar mixers, plaster tankers, powered wheelbarrows & buggies | 7.20 | .30 | .50 | | .01 |
| Duel vibrator roller (walk behind type), Berfix cutting tool, blasters helpers, drill operator helper, jackhammer & air tool operators, mechanical tampers & air tampers, vibrator - air or otherwise | 7.25 | .30 | .50 | | .01 |
| Mixing mortar for more than 3 masons by hand | 7.30 | .30 | .50 | | .01 |
| Blasters, drill operators, gunite nozzle man & machine man | 7.40 | .30 | .50 | | .01 |
| Plaster mixing machine & pump | 7.45 | .30 | .50 | | .01 |

AF-834 (CONT'D)

MODIFICATIONS P. 18
PA-25 PEO 1 E 1 of 4

POWER EQUIPMENT OPERATORS
Building Construction:

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. |
| Auger (truck or tractor mounted), austin western or similar type, austin western or similar type up to 25 tons (25 tons or over requires an oiler), backhoe, backhoe (under 5/8 yd.), batch plant - automatic, boom - side, cableways, conveyor belts - up to 4 floors, conveyor belts - over 4 units, crane - tower (climbing type), derrick - (all types), derrick - traveler, dragline, drill-caisson, electro matic or similar, grad-all (remote control or otherwise), heli-copter, helicopter - hoist operating, hi-lift (3 yds, or over), hoist - on 50 ft. stack or over, hoist on slip form jobs, hoist - hod (single cage), hoist - hod (2 cages up to 10 floors), hop - to or similar type with 360 de-gree swing, hop-to or similar type with 360 degree swing under 5/8 yd., Koeh-ring scooper, kocal or similar type, leverman, mix mobile or similar type, mixer - concrete paving, mixer - paving (self propelled), multiple bowl machines or multi-engine, pile driver - franki or similar type, pile driver (when assi-tance is required it will be an operat-ing engineer), placer - belt (concrete), plant - central mix, quad nine, shovels (all types), shovels (under 5/8 yd.), tractors - boom mounted (all types), tugboat, whirlers, boat - job work (in-board or outboard), bulldozer, carrier ross or similar type, compactor - (with blade attached), curb builder - self propelled, drill - core, drill - well & core (truck mounted), engineer - main-tenance (daily rated) grader, grader - elevating, greaser - equipment, hi-lift (less than 3 yds.), hoist - 2 drums in one unit, hop-to or similar type with 180 degree swing, tractors (all types with hydraulic backhoe attached, cranes tower | | | | | |







MUX 3712 BMS 38183V

| POWER EQUIPMENT OPERATORS: (CONT'T) | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. |
| Metro chip harvester (or similar type) mixer - paving mixer - mortar - over 10 cu. ft., plant - crushing & screening, pumprete - mobile or similar type road builder - automatic, scoop - self-powered & tractor drawn (single bowl), spray cure machine (power driven), spreader, steam jenny (or similar type) syphon (steam or air) Tractors (all types with hydraulic backhoe attached | $8.87 | .50 | .50 | | .10 |
| Austin western or similar type with jib +.25¢, austin western or similar type 25 ton or over with jib +.25¢, cranes (excluding over head cranes), crane-placed on building structure, hoist single cage with chicago boom attached +.25¢, engineer - lead, hoist - hod (2 cages over 10 floors) | 9.14 | .50 | .50 | | .10 |
| Cranes - 100 ft. to 150 ft. | 9.14 | .50 | .50 | | .10 |
| Cranes - 150 ft. to 200 ft. | 9.40 | .50 | .50 | | .10 |
| Cranes - Over 200 ft. | 9.67 | .50 | .50 | | .10 |
| Back filling machine, boat - material or personnel, compressor & air pump, compressor & air tugger, compressor & gunite machine (combination), compressor & sand blasting unit (combination), compressors (two), crane - overhead, fork lift - elevating - lull or similar type generators - two, grader - sub, jumbo - power, layer - cable, layer - pipe - no joint, lift slab machine, locomotive, machines - other minor, machines - small (two), mucking machine, mobile tower, pipe - bending machine (pipeline only), pipe - cleaning machine, pipe - wrapping machine, plant - asphalt operator, plant - portable curshing & screening, plant - refrigeration pump - grout, spreader - concrete, asphalt & stone, well point systems (section IC), winch truck (handling steel), wire wrapping machine - pre stress, drill - davey or similar, drill - truck mounted and/or core drill for testing, elecvator (new buildings and major remodeling of old), hoist | | | | | |



| POWER EQUIPMENT OPERATORS (CON'T) | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. |
| one drum, paver - asphalt, post driver - guard rail (other than truck mounted), post driver - guard rail (truck mounted), pumpkrete machine operator - stationary, pumpkrete - or similar type (not self - propelled), tire repairman, trencher machine, welder, welding machines (up to and including 4) | $8.46 | .50 | .50 | | .10 |
| Boiler, breaker - pavement (self-propelled or ridden), compactor (ridden or self-propelled), crane - carry, crusher - stone, drill - well (horizontal), drill (self-propelled & self contained), elevator (alterations of old buildings), finisher - broom (C.M.I. or similar type), finishing machine & spreader (concrete), forklifts (ridden or self-propelled), form line machine, minor equipment (all other), motorman, pipe dream, roller, saw - concrete (ridden or self-propelled), soil stabilizer, tractors (when used for snaking and hauling), truck - winch, tugger | 8.36 | .50 | .50 | | .10 |
| Compressor - single (over 65 cu. ft. regardless of power used, hoist - mono-rail (regardless of power used), pump (over 1½ inch discharge regardless of power used), oiler - truck crane (50 tons or over & fireman) | 8.05 | .50 | .50 | | .10 |
| Blaster - water, boring machine, broom - power, compressor - 65 cu. ft. or under (regardless of power used)(2 gun painters), conveyor - 1 story (regardless of power used), conveyor - (over 1 and up to 3 units regardless of power used), generator (4 KW or over), hauck machine or similar type, heaters - up to and including four, jack & pump - motor hydraulic, jenny - steam (or similar type), ladavator, mixer - concrete (regardless of power used), mixer - mortar (over 10 cu. ft. regardless of power used), mobile - track (or similar type), mulching machine, pin puller, pulverizer, pump - 1½ inch discharge or less, regulator - ballast, seeding machine, shoulder, spray cure machine, | | | | | |







| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. |
| syphon - (steam or air), tie tamper (multiple heads), tractor - farm (when used for landscaping), welding machine - single (300 amp. or over), oiler, truck crane | $7.61 | .50 | .50 | | .10 |
| Brake man, deck hand, helicopter signalman, oiler, mechanic helper | 7.36 | .50 | .50 | | .10 |



DECISION #AP-412 - Mod. #1
(37 FR 16778 - August 18, 1972
Puerto Rico, Island Wide

Change:
Description of work to read:
Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |

DECISION #AP-193 - Mod. #4
(38 FR 14075 - May 25, 1973)
Shelby County, Tennessee

Change:
Building Construction:

| Power Equipment Operators: | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. |
| Pushdozer, locomotive, trenching mach. (18 inches or smaller), tandem roller, paver, mixer mobiles, 2-drum hoists, bulldozer, trexacavator, scraper, front end loader, fork lift back filler, blade grader, central mixing plants | $5.85 | .20 | .20 | | |





XUM 3712 3MS 38183V

| | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| DECISION #AP-369 - Mod. #1 (37 FR 26775 - December 15, 1972) Cameron, Hidalgo, Starr & Willacy Counties, Texas | | | | | | |
| Change: Building Construction: Carpenters: Carpenters | $4.50 | | | | .025 | |
| Plumbers-Pipefitters | 6.20 | .18 | | | .05 | |
| DECISION #AP-396 - Mod. #3 (38 FR 2646 - January 26, 1973) Cameron, Hidalgo, Starr & Willacy Counties, Texas | | | | | | |
| Change: Building Construction: Carpenters: Carpenters | 4.50 | | | | .025 | |
| Plumbers-Pipefitters | 6.20 | .18 | | | .05 | |
| DECISION #AP-722 - Mod. #4 (38 FR 10588 - April 27, 1973) Harris County, Texas | | | | | | |
| Change: Line Construction: Linemen | 8.035 | .28 | 1% | | 1/2% | |
| Groundmen | 5.50 | .28 | 1% | | 1/2% | |
| Groundmen (1st 6 mos.) | 4.02 | .28 | 1% | | 1/2% | |
| DECISION #AP-724 - Mod. #3 (38 FR 10594 - April 27, 1973) Galveston County, Texas | | | | | | |
| Change: Line Construction: Linemen | 8.035 | .28 | 1% | | 1/2% | |
| Groundmen | 5.50 | .28 | 1% | | 1/2% | |
| Groundmen (1st 6 mos.) | 4.02 | .28 | 1% | | 1/2% | |



| | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| DECISION #AP-729 - Mod. #5 (38 FR 10609 - April 27, 1973) Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Parker, Rockwall, Tarrant & Wise Counties, Texas | | | | | | |
| Change: Building Construction: Cement masons: Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Counties | $7.065 | .40 | .35 | | .01 | |
| Electricians: Electricians: Grayson County | 7.225 | .30 | 1% | | .00 | |
| Denton, Hood, Johnson, Palo Pinto, Parker, Tarrant & Wise Counties | 8.10 | 4% | 1% | | 7/10% | |
| Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Counties: Zone A - All work performed in Dallas County | 8.10 | 4% | 1% | | 7/10% | |
| Zone B - All work performed outside of Dallas County up to a radius of 40 road miles from the City Hall in the City of Dallas | 8.35 | 4% | 1% | | 7/10% | |
| Zone C - All work performed outside of Zone A & Zone B | 8.60 | 4% | 1% | | 7/10% | |
| Cable splicers: Denton, Hood, Johnson, Palo Pinto, Parker, Tarrant & Wise Counties | 8.35 | 4% | 1% | | 7/10% | |
| Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Counties: Zone A - All work performed in Dallas County | 8.91 | 4% | 1% | | 7/10% | |
| Zone B - All work performed outside of Dallas County up to a radius of 40 road miles from the City Hall in the City of Dallas | 9.16 | 4% | 1% | | 7/10% | |
| Zone C - All work performed outside of Zone A & Zone B | 9.41 | 4% | 1% | | 7/10% | |







| | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| DECISION #AP-729 (CONT'D) | | | | | | |
| Building Construction (Cont'd): Lathers: Grayson, Collin, Dallas, Denton, Ellis, Hunt, Kaufman & Rockwall Counties | $7.61 | .20 | | .50 | .04 | |
| Plumbers-Steamfitters | 7.75 | .33 | .79 | | .07 | |
| Line Construction: Lineman | 8.42 | | 1% | | 1/2% | |
| Cable splicer | 9.26 | | 1% | | 1/2% | |
| Lineman operator | 8.42 | | 1% | | 1/2% | |
| Groundman, 1st 6 months | 5.05 | | 1% | | 1/2% | |
| Groundman, 2nd 6 months | 5.47 | | 1% | | 1/2% | |
| Groundman, 1 year & over | 5.89 | | 1% | | 1/2% | |
| DECISION #AQ-10 - Mod. #1 (38 FR 21082 - August 3, 1973) Travis County, Texas | | | | | | |
| Change: Building Construction: Electricians: Electricians | $7.75 | | 1% | | .8% | |
| Cable splicers | 7.75 | | 1% | | .8% | |



| | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| DECISION #AQ-1,017 - Mod. # 1 (38 FR 23745 - August 31, 1973) Statewide, Utah | | | | | | |
| Change: Cement Masons: Cement Masons | $7.02 | .45 | .45 | .25 | | |
| Machine Operator; Mastic floor materials; Spark proofing; scaffold (2040 ft) | 7.145 | .45 | .45 | .25 | | |
| Truck Drivers: See Attached Schedule | | | | | | |







XUM

DECISION #AQ-1,017 (Cont'd)

MODIFICATIONS P. 27
UTAH-1-TD-1-2-3-h (1-3)

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| **AREA I *** | | | | | | |
| **TRUCK DRIVERS** | | | | | | |
| DUMP TRUCKS - Water Level Capacity (Bottom end or side) (including Dumpster Trucks, Euclid Type trucks, Turnawagons, Turnarockers & Dumpcrete) | | | | | | |
| Less than 8 yds. | $6.75 | .45 | .30 | .45 | .05 | |
| 8 yds. & less than 14 yds. | 6.90 | .45 | .30 | .45 | .05 | |
| 14 yds. & less than 35 yds. | 7.05 | .45 | .30 | .45 | .05 | |
| 35 yds. & less than 55 yds. | 7.25 | .45 | .30 | .45 | .05 | |
| 55 yds. & less than 75 yds. | 7.45 | .45 | .30 | .45 | .05 | |
| 75 yds. & less than 95 yds. | 7.65 | .45 | .30 | .45 | .05 | |
| 95 yds. & less than 105 yds. | 7.85 | .45 | .30 | .45 | .05 | |
| Over 105 yds. | 7.97 | .45 | .30 | .45 | .05 | |
| Whenever doubles are used, the drivers will be paid under the appropriate yardage schedule as outlined plus 25¢ per hour. | | | | | | |
| When three (3) or more trailers are put into operation, use the appropriate yardage rate as outlined above plus 25¢ per hour for the third (3rd) and each additional trailer which is pulled by one power unit. | | | | | | |
| Whenever additional power units are used and operated by one driver, he shall receive an additional 50¢ per hour for operating such equipment. | | | | | | |
| FLAT RACK TRUCKS, Bulk Cement Trucks, Transport Trucks, Semi-Trailer, (Carrying capacity): | | | | | | |
| Pickup | 6.575 | .45 | .30 | .45 | .05 | |
| Less than 10 tons | 6.65 | .45 | .30 | .45 | .05 | |
| 10 tons & less than 15 tons | 6.80 | .45 | .30 | .45 | .05 | |
| 15 tons & less than 20 tons | 6.90 | .45 | .30 | .45 | .05 | |
| 20 tons & over | 7.05 | .45 | .30 | .45 | .05 | |
| Employees driving any of the above on Flat Rack Trucks with Winch, Hoist Attachments or "A" Frames shall receive $.125 additional per hour when such winch hoist or "A" Frames are in use. | | | | | | |

MODIFICATIONS P. 28
UTAH-1-TD-1-2-3-h (2-3)

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| DECISION #AQ-1,017 (Cont'd) | | | | | | |
| **AREA I * Cont'd** | | | | | | |
| **TRUCK DRIVERS Cont'd** | | | | | | |
| When drivers load and unload sack cement, explosives and/or railroad ties by hand they shall receive $.15 per hour additional for actual hours worked. | | | | | | |
| TRANSIT MIX TRUCKS: | | | | | | |
| 4½ yds. capacity & less | $6.775 | .45 | .30 | .45 | .05 | |
| Over 4½ yds. capacity to & incl. 6½ yds. | 6.875 | .45 | .30 | .45 | .05 | |
| Over 6½ yds. | 6.975 | .45 | .30 | .45 | .05 | |
| Concrete pumping trucks | 6.975 | .45 | .30 | .45 | .05 | |
| WATER, FUEL & OIL TANK TRUCKS: | | | | | | |
| 0 to 1200 gals. | 6.625 | .45 | .30 | .45 | .05 | |
| 1200 to 2500 gals. | 6.75 | .45 | .30 | .45 | .05 | |
| 2500 to 4000 gals. | 6.90 | .45 | .30 | .45 | .05 | |
| 4000 to 6000 gals. | 7.20 | .45 | .30 | .45 | .05 | |
| 6000 gals. to less than 10,000 | 7.45 | .45 | .30 | .45 | .05 | |
| 10,000 gals. to less than 15,000 gals. | 7.70 | .45 | .30 | .45 | .05 | |
| 15,000 gals. to less than 20,000 gals. | 7.95 | .45 | .30 | .45 | .05 | |
| 20,000 gals. to less than 25,000 gals. | 8.20 | .45 | .30 | .45 | .05 | |
| Over 25,000 gals. | 8.45 | .45 | .30 | .45 | .05 | |
| Whenever two water tanks are pulled, driver will receive 25¢ per hour in addition to the combined water gallonage rates. | | | | | | |
| Oil Spreader Operator (on single man operation where boot man is not required) | 7.45 | .45 | .30 | .45 | .05 | |
| CONSTRUCTION JOB SERVICEMEN: | | | | | | |
| Telescopic Manlift Truck | 6.95 | .45 | .30 | .45 | .05 | |
| Fork Lift (under 6 tons) & Straddle Truck | 6.95 | .45 | .30 | .45 | .05 | |
| Truck Driver Helper | 6.525 | .45 | .30 | .45 | .05 | |
| Chauffeurs | 6.525 | .45 | .30 | .45 | .05 | |
| Bunkers & Truck Loaders | 6.65 | .45 | .30 | .45 | .05 | |
| Warehousemen (Counter Clerk) | 6.70 | .45 | .30 | .45 | .05 | |
| Warehousemen | 6.575 | .45 | .30 | .45 | .05 | |
| Washers, Greasers & Tiremen | 6.725 | .45 | .30 | .45 | .05 | |
| Gas Station Attendants | 6.525 | .45 | .30 | .45 | .05 | |
| Fork Lift (Over 6 tons) | 7.05 | .45 | .30 | .45 | .05 | |
| Material Engineer | 6.87 | .45 | .30 | .45 | .05 | |







DECISION #AQ-1,017 (Cont'd)

MODIFICATIONS P. 29
UTAH-1-TD-1-2-3-h (3-3)

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| **AREA I * Cont'd** | | | | | | |
| **TRUCK DRIVERS Cont'd** | | | | | | |
| CONSTRUCTION JOB SERVICEMEN: (cont'd) | | | | | | |
| Teamster Mechanic | $7.76 | .45 | .30 | .45 | .05 | |
| Teamster Mechanic helper | 7.51 | .45 | .30 | .45 | .05 | |
| Teamster Welder | 7.76 | .45 | .30 | .45 | .05 | |
| Teamster Driving Two Horses | 7.525 | .45 | .30 | .45 | .05 | |
| Teamster Driving Three or More Horses | 7.625 | .45 | .30 | .45 | .05 | |
| Sweeper or vacuum truck | 6.90 | .45 | .30 | .45 | .05 | |

MODIFICATIONS P. 30
UTAH-2-TD-1-2-3-h (1-3)

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| DECISION #AQ-1,017 (Cont'd) | | | | | | |
| **AREA 2**** | | | | | | |
| **TRUCK DRIVERS** | | | | | | |
| DUMP TRUCKS - Water Level Capacity (Bottom end or side) (including Dumpster Trucks, Euclid Type Trucks, Turnawagons, Turnarockers & Dumpcrete) | | | | | | |
| Less than 8 yds. | $7.75 | .45 | .30 | .45 | .05 | |
| 8 yds. & less than 14 yds. | 7.90 | .45 | .30 | .45 | .05 | |
| 14 yds. & less than 35 yds. | 8.05 | .45 | .30 | .45 | .05 | |
| 35 yds. & less than 55 yds. | 8.25 | .45 | .30 | .45 | .05 | |
| 55 yds. & less than 75 yds. | 8.45 | .45 | .30 | .45 | .05 | |
| 75 yds. & less than 95 yds. | 8.65 | .45 | .30 | .45 | .05 | |
| 95 yds. & less than 105 yds. | 8.85 | .45 | .30 | .45 | .05 | |
| Over 105 yds. | 8.97 | .45 | .30 | .45 | .05 | |
| Whenever doubles are used, the drivers will be paid under the appropriate yardage schedule as outlined plus 25¢ per hour. | | | | | | |
| When three (3) or more trailers are put into operation, use the appropriate yardage rate as outlined above plus 25¢ per hour for the third (3rd) and each additional trailer which is pulled by one power unit. | | | | | | |
| Whenever additional power units are used and operated by one driver, he shall receive an additional 50¢ per hour for operating such equipment. | | | | | | |
| FLAT RACK TRUCKS, Bulk Cement Trucks, Transport Trucks, Semi-Trailer, (Carrying capacity): | | | | | | |
| Pickup | 7.575 | .45 | .30 | .45 | .05 | |
| Less than 10 tons | 7.65 | .45 | .30 | .45 | .05 | |
| 10 tons & less than 15 tons | 7.80 | .45 | .30 | .45 | .05 | |
| 15 tons & less than 20 tons | 7.90 | .45 | .30 | .45 | .05 | |
| 20 tons & over | 8.05 | .45 | .30 | .45 | .05 | |
| Employees driving any of the above on Flat Rack Trucks with Winch, Hoist Attachments or "A" Frames shall receive $.125 additional per hour when such winch hoist or "A" Frames are in use. | | | | | | |

DECISION #AQ-1,017 (Cont'd)

AREA 2**

| TRUCK DRIVERS (Cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| When drivers load and unload sack cement, explosives and/or railroad ties by hand they shall recieve $.15 per hour additional for actual hours worked. | | | | | | |
| TRANSIT MIX TRUCKS: | | | | | | |
| 4½ yds. capacity & less | $7.775 | .45 | .30 | .45 | .05 | |
| Over 4½ yds. capacity to & including 6½ yds. | 7.875 | .45 | .30 | .45 | .05 | |
| Over 6½ yds. | 7.975 | .45 | .30 | .45 | .05 | |
| Concrete pumping trucks | 7.975 | .45 | .30 | .45 | .05 | |
| WATER, FUEL & OIL TANK TRUCKS: | | | | | | |
| 0 to 1200 gals. | 7.625 | .45 | .30 | .45 | .05 | |
| 1200 to 2500 gals. | 7.75 | .45 | .30 | .45 | .05 | |
| 2500 to 4000 gals. | 7.90 | .45 | .30 | .45 | .05 | |
| 4000 to 6000 gals. | 8.20 | .45 | .30 | .45 | .05 | |
| 6000 gals. to less than 10,000 10,000 gals. to less than 15,000 gals. | 8.45 | .45 | .30 | .45 | .05 | |
| 15,000 gals. to less than 20,000 gals. | 8.70 | .45 | .30 | .45 | .05 | |
| 20,000 gals. to less than 25,000 gals. | 8.95 | .45 | .30 | .45 | .05 | |
| Over 25,000 gals. | 9.20 | .45 | .30 | .45 | .05 | |
| Whenever two water tanks are pulled, driver will receive 25¢ per hour in addition to the combined water gallonage rates. | 9.45 | .45 | .30 | .45 | .05 | |
| Oiler Spreader Operator (on single man operation where boot man is not required) | 8.45 | .45 | .30 | .45 | .05 | |
| CONSTRUCTION JOB SERVICEMEN: | | | | | | |
| Telecopic Manlift Truck | 7.95 | .45 | .30 | .45 | .05 | |
| Fork Lift (under 6 tons) & Straddle Truck | 7.95 | .45 | .30 | .45 | .05 | |
| Truck Driver Helper | 7.525 | .45 | .30 | .45 | .05 | |
| Chauffeurs | 7.525 | .45 | .30 | .45 | .05 | |
| Bunker & Truck Loaders | 7.65 | .45 | .30 | .45 | .05 | |
| Warehousemen (Counter Clerk) | 7.70 | .45 | .30 | .45 | .05 | |
| Warehousemen | 7.575 | .45 | .30 | .45 | .05 | |
| Washers, Greasers & Tiremen | 7.725 | .45 | .30 | .45 | .05 | |
| Gas Station Attendants | 7.525 | .45 | .30 | .45 | .05 | |
| Fork Lift (Over 6 tons) | 8.05 | .45 | .30 | .45 | .05 | |
| Material Engineer | 7.87 | .45 | .30 | .45 | .05 | |



DECISION #AQ-1,017 (Cont'd)

AREA 2**

| TRUCK DRIVERS (Cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| CONSTRUCTION JOB SERVICEMEN: (Cont'd) | | | | | | |
| Teamster Mechanic | $8.76 | .45 | .30 | .45 | .05 | |
| Teamster Mechanic Helper | 8.51 | .45 | .30 | .45 | .05 | |
| Teamster Welder | 8.76 | .45 | .30 | .45 | .05 | |
| Teamster Driving Two Horses | 8.525 | .45 | .30 | .45 | .05 | |
| Teamster Driving Three or More Horses | 8.625 | .45 | .30 | .45 | .05 | |
| Sweeper or vacuum truck | 7.90 | .45 | .30 | .45 | .05 | |







DECISION #AQ-1,017 (Cont'd)

UTAH
AREA DEFINITIONS (Cont'd)
for
Truck Drivers & Operating Engineers (2-3)

Thence Southerly along the Utah/Colorado border, to the Southerly line of township 6 S;
Thence Westerly to the N.E. corner of township 7 S, range 23 E;
Thence Southerly to the S.E. cornef of township 7 S, range 23 E;
Thence Westerly to the S.W. corner of township 7 S, range 20 E;
Thence Southerly to the S.E. corner of township 8 S, range 19 E;
Thence Westerly to the S.E. corner of township 8 S, range 16 E;
Thence Southerly to the S.E. corner of township 11 S, range 16 E;
Thence Westerly to the S.E. corner of township 11 S, range 14 E;
Thence Southerly to the S.E. corner of township 16 S, range 14 E;
Thence Westerly to the S.E. corner of township 16 S, range 12 E;
Thence Southerly to the S.E. corner of township 20 S, range 12 E;
Thence Westerly to the S.E. corner of township 20 S, range 8 E;
Thence Southerly to the S.E. corner of township 21 S, range 8 E;
Thence Westerly to the S.E. corner of township 21 S, range 6 E;
Thence Southerly to the S.E. corner of township 23 S, range 6 E;
Thence Westerly to the S.E. corner of township 23 S, range 5 E;
Thence Southerly to the N.E. corner of township 27 S, range 5 E;
Thence Easterly to the N.E. corner of township 27 S, range 7 E;
Thence Southerly to the S.E. corner of township 30 S, range 7 E;
Thence Westerly to the S.E. corner of township 30 S, range 4 E;
Thence Southerly to the S.E. corner of township 31 S, range 4 E;
Thence Westerly to the S.W. corner of township 31 S, range 4 E;
Thence Southerly to the S.E. corner of township 35 S, range 3 E;
Thence Westerly to the S.W. corner of township 35 S, range 3 E;
Thence Southerly to the S.E. corner of township 37 S, range 2 E;
Thence Westerly to the S.W. corner of township 37 S, range 2 E;
Thence Southerly to the S.E. corner of township 39 S, range 1 E;
Theoce Westerly crossing the Salt Lake Meridian to the S.E. corner of township 39 S, range 2 W;
Thence Southerly to the S.E. corner of township 41 S, range 2 W;
Thence Westerly to the S.E. corner of township 41 S, range 4 W;
Thence Southerly along the Easterly line of range 4 W, to the Utah/Arizona border;
Thence Westerly along the Utah/Arizona border to the S.W. corner of Utah;
Thence Northerly along the Utah/Nevada border to the point of beginning;

* * * * * * *

Commencing at the intersection of the Utah/Colorado border and the Southerly line of Township 34 S,
Thence Westerly to the S.W. corner of township 34 S, range 21 E;
Thence Northerly to the S.W. corner of township 29 S, range 21 E;
Thence Westerly to the S.W. corner of township 29 S, range 19 E;
Thence Northerly to the N.W. corner of township 23 S, range 19 E;
Thence Easterly to the N.W. corner of township 23 S, range 22 E;
Thence Northerly to the N.W. corner of township 21 S, range 22 E;
Thence Easterly to the N.E. corner of township 21 S, range 24 E;



DECISION #AQ-1,017 (Cont'd)

UTAH
AREA DEFINITIONS
for
Truck Drivers & Operating Engineers

** AREA 2: All areas not included within Area-1 as defined below.

* AREA 1: All areas included in the description defined below which is based upon township and range-lines as referenced to the Salt Lake City Base and Meridian:

Commencing at the intersection of the Utah-Nevada border and the Northerly line of Township 36S, thence easterly along the northerly lines of Township 36S to the Northeast corner of Township 36S, Range 17W.

Thence Northerly to the N.W. corner of township 35S, range 16 W;
Thence Easterly to the N.E. corner of township 35S, range 16 W;
Thence Northerly to the N.W. corner of township 31S, range 15 W;
Thence easterly to the N.E. corner of township 31S, range 15 W;
Thence Northerly to the N.W. corner of township 26S, range 14 W;
Thence Easterly to the N.E. corner of township 26S, range 14 W;
Thence Northerly to the N.W. corner of township 25S, range 13 W;
Thence Easterly to the N.E. corner of township 25S, range 13 W;
Thence Northerly to the N.W. corner of township 24S, range 12 W;
Thence Easterly to the N.E. corner of township 24S, range 12 W;
Thence Northerly to the N.W. corner of township 19S, range 11 W;
Thence Easterly to the N.E. corner of township 19S, range 11 W;
Thence Northerly to the N.W. corner of township 17S, range 10 W;
Thence Easterly to the N.E. corner of township 17S, range 10 W;
Thence Northerly to the N.W. corner of township 16S, range 9 W;
Thence Easterly to the N.E. corner of township 16S, range 9 W;
Thence Northerly to the N.W. corner of township 15S, range 8 W;
Thence Easterly to the N.E. corner of township 15S, range 8 W;
Thence Northerly to the S.W. corner of township 7S, range 7 W;
Thence Westerly to the S.W. corner of township 7S, range 10 W;
Thence Northerly crossing the Salt Lake Base line to the N.W. corner of township 6N, range 10 W;
Thence Easterly to the N.W. corner of township 6N, range 8 W;
Thence Northerly to the N.W. corner of township 12 N, range 8 W;
Thence Easterly to the N.E. corner of township 12 N, range 8 W;
Thence Northerly along the Westerly line of range 7 W to the Utah/Idaho border
Thence Easterly along the Utah/Idaho border crossing the Salt Lake Meridian to the Intersection of the Utah/Idaho/Wyoming borders
Thence Southerly along the Utah/Wyoming Border
Thence Easterly along the Utah/Wyoming border to the Easterly line of range 11 E;
Thence Southerly along the East line of range 11 E, crossing the Salt Lake Base line to the N.E. corner of township 4S, range 11 E;
Thence Easterly to the N.W. corner of township 4S, range 18E;
Thence Northerly to the N.W. corner of township 1S, range 18 E;
Thence Easterly along the Salt Lake Base line to the N.E. corner of township 1 S, range 24 E;
Thence Southerly to the N.E. corner of township 3 S, range 24 E;
Thence Easterly along the Northern line of township 3S, to the Utah/Colorado border;

DECISION #AQ-1,017 (Cont'd)

Thence Southerly to the N.E. corner of township 31 S, range 24 E;
Thence Easterly along the Northerly line of township 31 S, to the Utah/Colorado border;
Thence Southerly along the Utah/Colorado border to the point of beginning.

NOTE: Truck Drivers, only - If any part of portion of any job or project falls within Area 2, then the Area 2 rate of pay will apply for all work done on said job or project. This means, all actual on-site work, such as dams, bridges, roads, etc., including barrow pits which may be located in Area 1.



| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Oth. |
| DECISION #AQ-1,021 - Mod. #1 (38 FR 24549 - September 7, 1973) Statewide, Washington | | | | | | |
| Change: | | | | | | |
| Bricklayers: | | | | | | |
| Pierce County | $8.34 | .40 | .35 | | .02 | |
| Lewis, Mason and Thurston Counties | 7.15 | .40 | .30 | | .02 | |
| Electricians: | | | | | | |
| Chelan, Douglas, Grant and Okanogan Counties | | | | | | |
| Electricians | 8.05 | .35 | 1%+.40 | | .02 | |
| Cable splicers | 8.86 | .35 | 1%+.40 | | .02 | |
| Glaziers: | | | | | | |
| Island, King, Kitsap, Pacific (Northern part), Snohomish, Clallam, Grey Harbor, Jefferson, Lewis, Mason, Pierce, San Juan, Skagit, Thurston and Whatcom Counties | 7.20 | .22 | .40 | b | | |
| Plumbers: | | | | | | |
| Statewide (except Clallam, Clark, Jefferson and Kings Counties, and Chelan, Douglas and Okanogan Cos. west of the 119°, 30 min., and Kittitas County north of the 47°, 15 min. Latitude) | 7.96 | .33 | .85 | .49 | .08 | |
| Clallam, Jefferson and King Cos. and Chelan, Douglas and Okanogan Counties west of the 119°, 30 min., and Kittitas County north of the 47°, 15 min. latitude | 8.04 | .52 | .85 | .63 | .07 | |
| Sprinkler Fitters: | | | | | | |
| Island, King, Kitsap, Pierce, Skagit, Snohomish and Thurston Counties | 9.08 | .40 | .60 | | .07 | |
| Line Construction: | | | | | | |
| Cable splicers leadman pole sprayer | 9.13 | .25 | 1% | | 1/2% | |
| Lineman; Pole sprayer; Heavy line equipment man; Certified lineman welder | 8.26 | .25 | 1% | | 1/2% | |
| Tree trimmer | 7.47 | .25 | 1% | | 1/2% | |
| Line equipment man | 7.13 | .25 | 1% | | 1/2% | |
| Head Groundman (Chipper); Head Groundman; Powderman; Jackhammer man | 6.25 | .25 | 1% | | 1/2% | |
| Groundman; Tree trimmer helper | 5.90 | .25 | 1% | | 1/2% | |
| Hole digger | 5.65 | .25 | 1% | | 1/2% | |









| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Oth. |
| DECISION #AQ-1,021 (cont'd) | | | | | | |
| Laborers: | | | | | | |
| Chelan, Douglas, Kittitas, Okanogan and Yakima Counties West of the 120 meridian. | | | | | | |
| See attached page | | | | | | |
| Truck Drivers: | | | | | | |
| All Counties and parts of Cos. East of the 120th meridian. | | | | | | |
| See attached two pages | | | | | | |
| Clark, Cowlitz, Klickitat, Southern part of Pacific, Skamania, and Wahkiakum Counties | | | | | | |
| See attached three pages | | | | | | |

FOOTNOTE:
b. Two weeks' vacation with pay after 1 year of employment. Also seven paid holidays. A trhough F. plus Washington's Birthday.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.





Chelan, Douglas, Kittitas, Okanogan and Yakima Cos. West of the 120th Meridian

| LABORERS | BASIC HOURLY RATES | FRINGE BENEFITS PAYMENTS | | | |
|---|---|---|---|---|---|
| | | H & W | PENSIONS | VACATION | APP. TR. |
| General Labor; Carpenter Tender; Form Stripper; Rip Rap Man; Track Laborer; Stake Hopper; Choke Setter; Fence Laborer | $5.55 | .55 | .65 | | .03 |
| Air Track & Wagon Drill Helper; Crusher Feeder; Dump & Stock Pile Man; Powder Man Helper; Sloper, Over 20 feet | 5.65 | .55 | .65 | | .03 |
| Power Buggy; Drill Chipper; Grinder and similar light power tools; Faller and bucker (Hand); Grout Man (Power) | 5.70 | .55 | .65 | | .03 |
| Asphalt Raker & Spreader; Cement Handler; Sack of Bulk; Dope Pot Tender; House Wreckers; Jackhammer; Pavement Breaker; Tamper Vibrator; Track Spike Puller; Concrete Saw and similar heavy power tools; Nozzleman (Air & Water) | 5.75 | .55 | .65 | | .03 |
| Formsetter; Steel Forms; Grade Checker; Swinging Stage or Bosun Chair over water or over 25 feet in height | 5.80 | .55 | .65 | | .03 |
| Air Track & Wagon Drill Operator; Chain Saw Operator; Gunite Man; High Scaler; Pipe Layer & Caulker; Pipe Wrapper; Sand Blaster; Timber Man; Open Ditch; Mortar Man & Hod Carrier | 5.85 | .55 | .65 | | .03 |
| Faller & Bucker (Chain Saw); Powder Man | 5.90 | .55 | .65 | | .03 |
| Caisson Workers; Free Air | 5.95 | .55 | .65 | | .03 |
| TUNNEL SHAFTS, FREE AIR | | | | | |
| Topman & Bull Gang | 5.65 | .55 | .65 | | .03 |
| Chuck Tender; Mucker & Laborer; Nipper; Brakeman | 5.70 | .55 | .65 | | .03 |
| Powder Man Helper | 5.80 | .55 | .65 | | .03 |
| Miner (including Monolithic Worker); Re-Timberman; Maintenance Man; Spader | 5.90 | .55 | .65 | | .03 |
| Miner; Shaft & Raise | 5.95 | .55 | .65 | | .03 |
| Powder Man | 6.05 | .55 | .65 | | .03 |







XUM 3717 2 3MS 38183V

All Counties and parts of Counties East of the 120th Meridian

| TRUCK DRIVERS | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| Group I<br>FLAT BED TRUCK, single rear axle; Eacorr Driver; Fish Truck; Fork Lift, 3,000 lbs. & under; Fuel Truck Driver (steam cleaner & washer); Helper & Swamper; Leverman Loading Trucks at Bunkers; Pickup Hauling Material; Stationary Fuel Op.; Team Driver; Tractor (small rubber tired pulling trailer or sim. equip.); Water Tank Truck 1,800 gallons | $6.70 | .62 | .50 | | | |
| Group II<br>BUS DRIVER OR MANHAUL DRIVER; Flat Bed Truck, dual rear axle; Tireman No. 1; Warehouseman | 6.75 | .62 | .50 | | | |
| Group III<br>BUGGY MOBILE & SIM.; Bulk Cement Tanker; Oil Tank Driver; Power Operated Sweeper; Semi-Trailer, low bed, truck & Trailer; Straddle Carrier (Koss, Hyster & sim.); Transit Mixers & Trucks Hauling Concrete (3 yds. & under); Trucks, side end and bottom dump (under 6 yds.); Water Tank Truck (1,801 - 4,000 gallons) | 6.80 | .62 | .50 | | | |
| Group IV<br>AUTO CRANE - 2000 lbs. capacity; Bulk Cement Spreader; Dumptor (6 yds. & under); Flaherty Spreader, box driver; Flat Bed Truck (using power take off); Fork Lift (over 3,000 lbs.) Oil Distributor Driver (road, bootman; leverman, helper); Rubber tired Tunnel Jumbo; Scissors Truck; Slurry Truck Driver; Transit Mixers & Trucks Hauling Concrete (over 3 yds. to 6 yds.) Trucks, side, end and bottom dump (over 6 yds. to 12 yds.); Water Tank Truck (4,001 - 6,000 gals.); Wrecker & Tow Trucks | 6.90 | .62 | .50 | | | |



| TRUCK DRIVERS (CONT'D) | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| Group V<br>LOW BOY (under 50 tons); Service Greaser; Tireman No. 2 | $6.95 | .62 | .50 | | | |
| Group VI<br>A-FRAME (Swedish Crane, Iowa 3,000, hydrolift); Water Tank Truck (over 6,001 - 8,000 gals.) | 7.00 | .62 | .50 | | | |
| Group VII<br>DUMPTOR (over 6 yds.); Transit Mixers & Trucks Hauling Concrete (6 yds. to 10 yds.) Trucks, side, end & bottom dump (over 12 yds. incl. 20 yds.) | 7.05 | .62 | .50 | | | |
| Group VIII<br>LOW BOY (over 50 tons); Water Tank Truck (8,001 - 10,000 gals.); 10¢ for each add. 2,000 gals. | 7.10 | .62 | .50 | | | |
| Group IX<br>TRANSIT MIXERS & TRUCKS Hauling Concrete, (10 yds. to 15 yds.); Trucks, side, end & bottom dump (over 20 yds. incl. 30 yds.) | 7.20 | .62 | .50 | | | |
| Group X<br>TOURNAROCKER, DW'S & sim. w/2 or 4 wheel power tractor w/trailer or yardage scale whichever is greater | 7.25 | .62 | .50 | | | |
| Group XI<br>TRANSIT MIXERS & TRUCKS Hauling Concrete (15 yds. to 20 yds.); Trucks, side, end & bottom dump (over 30 yds. to 40 yds.) | 7.35 | .62 | .50 | | | |
| Group XII<br>TRANSIT MIXERS & TRUCKS Hauling Concrete (over 20 yds.); Trucks, side, end & bottom dump (over 40 yds. to 50 yds.) | 7.50 | .62 | .50 | | | |
| Group XIII<br>TRUCKS, side, end and bottom dumps, (over 50 yds. to 100 yds.) | 7.65 | .62 | .50 | | | |
| Group XIV<br>TRUCKS, side, end and bottom dump (over 100 yds.) | 7.80 | .62 | .50 | | | |







Clark, Cowlitz, Klickitat, Southern part of Pacific, Skamania, and Wahkiakum Counties

| TRUCK DRIVERS | BASIC HOURLY RATES | FRINGE BENEFITS PAYMENTS: H & W | PENSIONS | VACATION | APP. TR. | OTHERS |
|---|---|---|---|---|---|---|
| Battery rebuilders; Bus or manhaul driver; Concrete buggies (power operated); Dump trucks, side, end & bottom dumps, incl. semi-trucks & trains or combin. thereof: 6 cu. yds. & under; Lift jitneys, fork lifts (all sizes used in loading, unloading & transporting material on job site); Loader and/or leverman on concrete dry batch plant (manually operated); Pilot car; Solo flat bed & misc. body trucks, 0-10 tons; Truck helper; Truck mechanic helper; Warehouseman (warehouse parts, tool men & parts chaser, checkers & receivers); Water wagons (rated capacity); up to 1600 gals | $6.23 | .40 | .45 | .25 | | |
| "A" frame or hydra-lift truck w/load bearing surfaces; Lubrication man, fuel truck driver, tireman, wash rack, steam cleaner or combin.; Team drivers | 6.28 | .40 | .45 | .25 | | |
| Dump trucks, side, end & bottom dumps, incl. semi-trucks & trains or combin. thereof: over 6 cu. yds. & incl. 10 cu. yds.; Slurry truck driver or leverman; Transit mix & wet or dry mix trucks: 5 cu. yds. & under; Tireman (full-time basis); Water wagons (rated capacity); 1600 to 3000 gals. | 6.33 | .40 | .45 | .25 | | |
| Flaherty spreader driver or leverman; Low bed equipment, flat bed semi-trailer, truck & trailer or doubles transporting equipment or wet or dry materials; Lumber carrier driver-Straddle carrier (used in loading, unloading and transporting of materials on job site); Oil distributor driver or leverman; Water wagons (rated capacity); 3000 to 5000 gals. | 6.38 | .40 | .45 | .25 | | |
| Dumpsters or similar equipment, all sizes; Transit mix & wet or dry mix trucks, over 5 cu. yds. & incl. 7 cu. yds. | 6.43 | .40 | .45 | .25 | | |



| | BASIC HOURLY RATES | FRINGE BENEFITS PAYMENTS: H & W | PENSIONS | VACATION | APP. TR. | OTHERS |
|---|---|---|---|---|---|---|
| Dump trucks, side, end & bottom dumps, incl. semi trucks & trains or combin. thereof: over 10 cu. yds. & incl. 20 cu. yds.; Transit mix & wet or dry mix trucks; over 7 cu. yds. & incl. 9 cu. yds.; Truck Mechanic--welder--body repairman; Water wagons (rated capacity) 5000 to 7000 gals. | $6.53 | .40 | .45 | .25 | | |
| Dump trucks, side, end & bottom dumps, incl. semi trucks & trains of combin. thereof: over 20 cu. yds. & incl. 30 cu. yds.; Transit mix & wet or dry mix trucks: over 9 cu. yds. & incl. 11 cu. yds.; Water Wagons (rated capacity); over 7000 gals. to 10,000 gals. | 6.63 | .40 | .45 | .25 | | |
| Dump trucks, side, end & bottom dumps, incl. semi trucks & trains or combin. 40 cu. yds.; Transit mix & wet or dry mix trucks: over 11 cu. yds. and incl. 13 cu. yds.; Water Wagons (rated capacity): over 10,000 gals. to 15,000 gals. | 6.73 | .40 | .45 | .25 | | |
| Dump trucks, side end & bottom dumps, incl. semi-trucks & trains or combin. thereof: over 40 cu. yds. & incl. 50 cu. yds.; Transit mix & wet or dry mix trucks: over 13 cu. yds. and incl. 15 cu. yds. | 6.83 | .40 | .45 | .25 | | |
| Dump trucks, side, end & bottom dumps, incl. semi trucks & trains or combin. thereof: over 50 cu. yds. & incl. 60 cu. yds. | 7.00 | .40 | .45 | .25 | | |
| Dump trucks, side, end & bottom dumps, incl. semi trucks & trains or combin. thereof: over 60 cu. yds. & incl. 70 cu. yds. | 7.10 | .40 | .45 | .25 | | |
| Dump trucks, side, end & bottom dumps, incl. semi truck & trains or combin. thereof: 70 cu. yds. and incl. 80 cu. yds. | 7.20 | .40 | .45 | .25 | | |





XUM

3-WAS-TD c 1-2-3 (3-3)

| | BASIC HOURLY RATES | FRINGE BENEFITS PAYMENTS | | | | |
|---|---|---|---|---|---|---|
| | | H & W | PENSIONS | VACATION | APP. TR. | OTHERS |
| Dump trucks, side, end & bottom dump, including semi trucks & trains or combin. thereof: over 80 cu. yds. & incl. 90 cu. yds. | $7.30 | .40 | .45 | .25 | | |
| Dump trucks, side, end & bottom dump (incl. semi-trucks and trains or combin. thereof: over 90 cu. yds. & incl. 100 cu. yds. | 7.40 | .40 | .45 | .25 | | |

Drivers and Helpers (handling sacked cement add $.15 per hour).

Winch truck - takes classification of truck on which winch is mounted



| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| DECISION #AQ-1,024 - Mod. #1 (38 FR 24570 - September 7, 1973) King, Island, Pierce and Snohomish Counties, Washington | | | | | | |
| Change: | | | | | | |
| Bricklayers: | | | | | | |
| Pierce County | 8.34 | .40 | .35 | | .02 | |
| Glaziers | 7.20 | .22 | .40 | a | | |
| Plumbers | 8.04 | .52 | .85 | .63 | .07 | |

FOOTNOTE:
a. Two weeks paid vacation after 1 year of employment. 7 Paid holidays A through F. plus Washington's Birthday.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

| | | | | | | |
|---|---|---|---|---|---|---|
| Decision #AP-403-Mod. #4 (37 FR 14661-July 21, 1972) Cabell County, West Virginia | | | | | | |
| CHANGE: | | | | | | |
| Carpenters | $7.60 | .30 | .50 | | .03 | |
| Piledrivermen | 7.85 | .30 | .50 | | .03 | |





SUPERSEDEAS DECISION

STATE: Hawaii
DECISION NUMBER: AQ-1,039
Supersedes Decision #AP-291 dated April 13, 1973, in 38 FR 9404.
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories), heavy and highway construction and dredging.

COUNTIES: Statewide
DATE: Date of Publication

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| ASBESTOS WORKERS | $6.20 | .23 | .50 | | .02 | |
| BOILERMAKERS | 7.00 | .18 | .30 | | .03 | |
| BRICKLAYERS; Stonemasons | 6.60 | .45 | .50 | | .03 | |
| CARPENTERS: | | | | | | |
| Carpenters; Piledrivermen | 6.83 | .37 | .45 | | .05 | |
| Millwrights | 7.08 | .37 | .45 | | .05 | |
| CEMENT MASONS: | | | | | | |
| Cement masons | 6.30 | .45 | .50 | | .05 | |
| Trowel machine operators | 6.40 | .45 | .50 | | .05 | |
| DRYWALL INSTALLERS | 6.93 | .37 | .45 | | .07 | |
| ELECTRICIANS: | | | | | | |
| Line equipment operator | 6.8 | .25 | .90 | 7.2% | .10 | |
| Electricians; Linemen | 7.28 | .25 | .90 | 7.2% | .10 | |
| Cable splicers | 8.01 | .25 | .90 | 7.2% | .10 | |
| ELEVATOR CONSTRUCTORS | 6.90 | .185 | .20 | 2%+a | | |
| ELEVATOR CONSTRUCTORS' HELPERS | 70%JR | .185 | .20 | 2%+a | | |
| ELEVATOR CONSTRUCTORS' HELPERS (PROB.) | 50%JR | | | | | |
| GLAZIERS | 6.70 | .53 | .15 | .43 | .08 | |
| IRONWORKERS: | | | | | | |
| Bridge; Ornamental; Reinforcing; Structural | 7.55 | | .50 | .10 | .02 | |
| LATHERS (Metal, wire and wood) | 7.25 | .24 | .60 | | .01 | |
| MARBLE SETTERS | 6.60 | .45 | .50 | | .03 | |
| PAINTERS: | | | | | | |
| Brush | 6.85 | .38 | .40 | | .04 | |
| Tapers | 7.30 | .38 | | | .04 | |
| Spray | 7.35 | .38 | .40 | | .04 | |
| PLASTERERS | 7.41 | .45 | .40 | | .15 | |
| PLASTERERS' HOD CARRIERS: | | | | | | |
| Hod Carriers | 5.91 | .37 | .46 | .12 | .08 | |
| Mortar Mixers | 6.11 | .37 | .46 | .12 | .08 | |



| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| PLUMBERS; Steamfitters | $8.00 | .55 | .90 | 9% | .10 | |
| ROOFERS | 6.65 | .44 | .30 | | .02 | |
| SHEET METAL WORKERS | 7.60 | .45 | .90 | 7.90% | .15 | |
| SOFT FLOOR LAYERS | 6.25 | .20 | | .10 | .04 | |
| SPRINKLER FITTERS | 8.70 | .30 | .50 | | .05 | |
| TERRAZZO WORKERS: | | | | | | |
| Terrazzo workers | 6.15 | .20 | .30 | | | |
| Terrazzo base grinder | 5.85 | .20 | .30 | | | |
| Floor machine grinder and helper | 5.05 | .20 | .30 | | | |
| TERRAZZO WORKERS' HELPERS: | | | | | | |
| 1st 60 calendar days' experience | 4.75 | .20 | .30 | | | |
| TILE SETTERS (ceramic) | 6.15 | .20 | .30 | | | |
| TILE SETTERS' HELPERS (ceramic): | | | | | | |
| 1st 60 calendar days' experience | 4.75 | .20 | .30 | | | |
| Over 60 but less than 90 calendar days' experience | 4.85 | .20 | .30 | | | |
| After 90 calendar days' experience | 5.05 | .20 | .30 | | | |
| TRUCK DRIVERS: | | | | | | |
| Flatbed | 5.63 | .43 | .70 | .25 | .15 | |
| Dump, 8 yds. and under; Water truck up to and incl. 1500 gals. | 5.90 | .43 | .70 | .25 | .15 | |
| Water truck (over 1500 gals.) | 6.21 | .43 | .70 | .25 | .15 | |
| Tandem, semi-trailer, or semi-dump | 6.66 | .43 | .70 | .25 | .15 | |
| Slip-in or pump | 6.98 | .43 | .70 | .25 | .15 | |
| End dumps, unlicensed (Euclid, Mack, Caterpillar, or similar); Tractor trailer (hauling equipment) | 7.09 | .43 | .70 | .25 | .15 | |
| WELDERS: Receive rate prescribed for craft performing operations to which welding is incidental. | | | | | | |

FOOTNOTE:
a. Employer contributes 4% of basic hourly rate for 5 years' service and 2% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit.
6 Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.





XUM

AQ-1,039 P. 3

LABORERS:

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| GROUP I<br>Asphalt tenders and rakers; Barko and similar type tampers; Buggymobile; Chainsaw, faller, logloader and bucker; Concrete and magnesite mixer under 1/2 yd.; Concrete grinder; Concrete pan work; Concrete saw (walking or hand type); Cribbers; Cut granite curb setter; Form raisers; Header board; Mortar mixers (block-brick-masonry); Jackhammer operator; Jackson and similar type compactors; Lagging, sheeting, whaling, bracing, trench-jacking, hand-guided lagging hammer; Magnesite and mastic workers (wet or dry); Mechanical drillers not covered elsewhere; Pavement breakers; Pipelayers, caulkers, bander; Pipe-wrappers, kettlemen, potmen and men applying asphalt, Lay-Kold, creosote and similar type materials; Post hole diggers (hand held--gas, air and electric); Riprap, stonepaver and rock-slinger, incl. placing of sacked concrete (wet or dry); Rotary scarifier; Roto-tiller; Sandblasters; Tank cleaners; Tree climbers; Vibra-screed (bull float in connection with laborers' work); Vibrator; Burning, welding, signaling, and rigging in connection with laborers' work; Concrete pump machine; Joy drill Model TWH-2A, Gardner Denver DH-132, and similar type drills (Track Drillers, Diamond Core, and Wagon Drillers; and Davis Trencher T-66 or similar | $5.96 | .37 | .46 | .12 | .08 | |

AQ-1,039 P. 4

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| GROUP II<br>Asphalt shovelers; Cement dumpers; Choke setter and rigger (clearing work); Concrete chipping; Concrete laborers (wet or dry) incl. bucket tender for concrete; Driller's helper, chuck tender, outside nipper; Guinea chaser (stakeman); High pressure nozzleman-hydraulic monitor (over 100# pressure) excl. levee work; Loading and unloading, carrying and handling of all rods and materials for use in reinforcing concrete construction; Mucker (under ground) Sloper; All pneumatic, gas and electric tools not listed in Group I | $5.76 | .37 | .46 | .12 | .08 | |
| GROUP III<br>All clean-up work on debris, grounds and buildings; Bridge laborers; Construction laborers; Dumpman; Gardeners; Horticultural and landscape laborers; General laborers; Limbers, brush loaders and pilers; Maintenance, repair (track and roadbeds) | 5.56 | .37 | .46 | .12 | .08 | |
| Mason Tenders | 6.01 | .37 | .46 | .12 | .08 | |
| High Scaler | 6.21 | .37 | .46 | .12 | .08 | |
| Gunnite Operator | 6.26 | .37 | .46 | .12 | .08 | |
| Powderman | 6.46 | .37 | .46 | .12 | .08 | |



AQ-1,039 P. 5

OPERATOR EQUIPMENT OPERATORS

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| GROUP I<br>Partsman (heavy duty repair shop parts room when needed); Repairman helper | $5.35 | .43 | .70 | .25 | .15 | |
| GROUP II<br>Compressor, electrically, diesel or gas powered etc.; Hydraulic monitor; material loader and/or conveyor operator (handling building material); Mixer box operator (concrete plant); Pump operator; Spreader boxman (with screeds); Tar pot fireman (power agitated) | 5.46 | .43 | .70 | .25 | .15 | |
| GROUP III<br>Oiler; Fireman; Switchman; Brakeman; Deckhand; Tar pot fireman; Box operator (bunker); Locomotive (up to and incl. 30 tons); Roller (5 tons and under); Screedman (except asphaltic concrete paving); Self-propelled, automatically applied concrete curing machine (on streets, highways, airports and canals); Tugger hoist, single drum | 5.63 | .43 | .70 | .25 | .15 | |
| GROUP IV<br>Boom truck or dual purpose "A" Frame truck; Fork lift of lumber stacker (construction job site); Material hoist (1 drum); Straddle truck; Ross carrier and similar (jobsite ); Dinky operator | 5.90 | .43 | .70 | .25 | .15 | |
| GROUP V<br>Concrete mixer (up to 2 yds.); Concrete pumps or pumpcrete guns; Generators, gasoline or diesel driven (100 K.W.); Lubrication and service engineer (mobile and grease rack); Towermobile; Welding machine (gasoline or dicsel); Agri-Cat (Mini Cat) | 6.21 | .43 | .70 | .25 | .15 | |

AQ-1,039 P. 6

POWER EQUIPMENT OPERATORS

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| GROUP VI<br>Combination loader and backhoe incl. Hopto (up to & incl. 1/2 yd.); Concrete batch plants (wet or dry); Concrete saws &/or grinder (self-propelled unit on streets, highways, airports and canals); Drilling machinery (not to apply to waterliners, wagon drills or jackhammers); Highline cable-way signalman; Loader (up to & incl. 2-1/2 cu. yds.); Lull high lift; Pavement breaker; Maginnis Internal Full Slab Vibrator (on airports, highways, canals, and warehouses); Mechanical finishers (concrete) (large Clary, Johnson Bidwell Bridge Deck or similar types); Mobile crane driver; Portable crushers; Power jumbo operator (setting slip forms, etc., in tunnels); Rollers (over 5 tons); Self-propelled compactor (single engine); Small rubber-tired tractors; Trencher (up to and incl. 6'); Slip form pumps (power driven by hydraulic, electric, gas, etc., lifting device for concrete forms) | $6.66 | .43 | .70 | .25 | .15 | |
| GROUP VII<br>Crusher plant; Dual drum mixer; Grade-setter; Hoist (2 drums); Loader (over 2-1/2 cu. yds. up to and incl. 5 cu. yds.); Mechanical finishers or spreader machine asphalt (Barber Greene and similar) (Screedman required); Mine or shaft hoist; Pavement breaker, truck mounted, with compressor combination; Pavement breaker with compressor combination (operates 1 or 2); Pipe cleaning machine (Tractor propelled and supported); Pipe wrapping machine (tractor propelled and supported); Pipe bending machine (pipe lines only); Self-propelled elevating grade plane; Slusher operator; Trencher (over 6'); Water tanker (pulled by Euclids, T-Pulls, DW-10, 20, 21 or similar); Mixermobile (over 5 tons); Small tractor (with boom D-6 or similar) | 6.98 | .43 | .70 | .25 | .15 | |

AO-1,039 P. 7

| POWER EQUIPMENT OPERATORS | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Or |
|---|---|---|---|---|---|---|
| GROUP VIII | | | | | | |
| Boring machine; Cast-in-place pipe laying machine; Concrete batch plant (multiple units); Combination loader and hydraulic backhoe (over 1/2 yd. to and incl. 3/4 yd.); Conveyor (tunnel); Engineer, locomotive (over 30 tons up to and incl. 100 tons); Finishing machine operator (airports and highways); Hydraulic backhoe (over 1/2 yd. to and incl. 3.4 yd.); Kolman loader; Mechanical trench shield; Mucking machine; No-joint pipe laying machine; Portable crushing and screening plants; Saurman type dragline (under 5 yds.); Self-propelled boom type lifting device; Stationary pipe wrapping cleaning and bending machine; Surface heater and planer; Tunnel badger; Tri-batch paver | $7.09 | .43 | .70 | .25 | .15 | |
| GROUP IX | | | | | | |
| Boom type backfilling machine; Combination mixer and compressor (gunite); Domore loader and Adams Elegrader; Lull Hi-lift (40' or over); Rubber tired earthmoving equipment (up to 12 cu. yds.); Wheel trencher (over 6') | 7.20 | .43 | .70 | .25 | .15 | |
| GROUP IX-A | | | | | | |
| Dozers; Heavy duty repairman or welder; Push cats; Scrapers; Self-propelled compactor with dozer; Sheep foot; Tractors; Tractors (with boom, larger than D-6 and similar) | 7.43 | .43 | .70 | .25 | .15 | |
| GROUP X | | | | | | |
| Chicago boom; Hoist (3 drums); Koehring skooper; Loader (over 5 yds. up to and incl. 12 yds.); Locomotive (over 100 tons) (Single or multiple units); Power blade operator; Rubber tired earthmoving equipment (up to and incl. 35 cu. yds. Euclids, T-Pulls, DW-10, 20, 21 and similar); Saurman type dragline (5 yds. or over); Soil stabilizer (P&H equal); Sub-grader (Gurries or other automatic type); Track-laying type earthmoving machine (single engine with tandem scraper); Tractor, compressor, Drill combination; Tractor (Tandem scraper); Tractors (D-9 or equivalent) | 7.49 | .43 | .70 | .25 | .15 | |

AO-1,039 P. 8

| POWER EQUIPMENT OPERATORS | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. |
|---|---|---|---|---|---|
| GROUP X-A | | | | | |
| Cranes (not over 25 tons); Power shovels, Clamshells, Draglines, backhoes, Gradealls (up to and incl. 1 cu. yd.) | $7.64 | .43 | .70 | .25 | .15 |
| GROUP XI | | | | | |
| Automatic slip form paver (concrete or asphalt) (Gradesetter, Screedman required); Cranes (over 25 tons); DW-10, 20, etc. (Tandem); Earth-moving machines (multiple propulsion power units and two or more scrapers) (up to and incl. 35 cu. yds. struck "MRC"); Highline cableway; Lift slab machine; Loader (over 12 yds.); Power shovels, clamshells, draglines, backhoes, Gradealls (over 1 yd. and up to 7 yds.); Power blade operator (16 or over); Pre-stress wire wrapping machine; Self-propelled compactor (with multiple propulsion power units); Single engine rubber tired earth moving machine (with tandem scraper); Tandem cats; Tower cranes, mobile; Trencher (pulling attached shield); Universal, Liebher, Linden and similar types of tower cranes; Wheel excavator (up to and incl. 750 cu. yds. per hour) | 7.79 | .43 | .70 | .25 | .15 |
| GROUP XII | | | | | |
| Band wagon (in conjunction with wheel excavator); Derricks; Drill rigs; Multi-propulsion earth moving machines (2 or more scrapers) (over 35 cu. yds. "struck" mrc); Power shovels and draglines (7 cu. yds. mrc and over); Rubber tired earthmoving equipment (over 35 cu. yds. Euclids, T-Pulls, DW-10, 20, 21 and similar); Wheel excavator (over 750 cu. yds.) | 8.15 | .43 | .70 | .25 | .15 |





AO-1,039 P. 9

| DREDGING | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. |
|---|---|---|---|---|---|
| WATER FRONT CONSTRUCTION | | | | | |
| HYDRAULIC SUCTION DREDGES | | | | | |
| Leverman | $7.76 | .43 | .65 | .25 | .15 |
| Assistant to engineer (steam or electric) | 7.46 | .43 | .65 | .25 | .15 |
| Welder | 7.39 | .43 | .65 | .25 | .15 |
| Deckmate | 6.93 | .43 | .65 | .25 | .15 |
| Winchman (stern winch on dredge) | 6.60 | .43 | .65 | .25 | .15 |
| Fireman | 5.92 | .43 | .65 | .25 | .15 |
| Oiler; Deckhand | 5.64 | .43 | .65 | .25 | .15 |
| Leveeman | 5.47 | .43 | .65 | .25 | .15 |
| CLAM SHELL DREDGES | | | | | |
| Leverman | 7.76 | .43 | .65 | .25 | .15 |
| Watch engineer | 7.46 | .43 | .65 | .25 | .15 |
| Deckmate | 6.93 | .43 | .65 | .25 | .15 |
| Barge mate (seagoing) | 6.93 | .43 | .65 | .25 | .15 |
| Fireman | 5.92 | .43 | .65 | .25 | .15 |
| Oiler; Deckhand | 5.64 | .43 | .65 | .25 | .15 |
| Bargeman | 5.47 | .43 | .65 | .25 | .15 |
| BOAT OPERATORS | | | | | |
| Master boat operator | 7.59 | .43 | .65 | .25 | .15 |
| Boat operator | 7.39 | .43 | .65 | .25 | .15 |
| Boat deckhand | 5.64 | .43 | .65 | .25 | .15 |
| DERRICKS | | | | | |
| Operators (derricks, pile drivers and cranes) | 7.76 | .43 | .65 | .25 | .15 |
| Deckmate | 6.93 | .43 | .65 | .25 | .15 |
| Fireman | 5.92 | .43 | .65 | .25 | .15 |
| Oiler; Deckhand | 5.64 | .43 | .65 | .25 | .15 |



MIX

SUPERSEDEAS DECISION

STATE: Hawaii
DECISION NUMBER: AQ-1,040
COUNTIES: Statewide
DATE: Date of Publication
Supersedes Decision #AP-292 dated April 13, 1973, in 38 FR 9409
DESCRIPTION OF WORK: Residential Construction consisting of single family homes and garden type apartments up to and including 4 stories.)

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. |
| ASBESTOS WORKERS | $6.20 | .23 | .50 | | .02 |
| BOILERMAKERS | 7.00 | .18 | .30 | | .03 |
| BRICKLAYERS; Stonemasons | 6.60 | .45 | .50 | | .03 |
| CARPENTERS: | | | | | |
| Carpenters; Pile-drivermen | 6.83 | .37 | .45 | | .05 |
| Millwrights | 7.08 | .37 | .45 | | .05 |
| CEMENT MASONS: | | | | | |
| Cement masons | 6.30 | .45 | .50 | | .05 |
| Trowel machine operators | 6.40 | .45 | .50 | | .05 |
| DRYWALL INSTALLERS | 6.93 | .37 | .45 | | .07 |
| ELECTRICIANS: | | | | | |
| Line equipment operator | 6.84 | .25 | .90 | 7.2% | .10 |
| Electricians; Linemen | 7.28 | .25 | .90 | 7.2% | .10 |
| Cable splicers | 8.01 | .25 | .90 | 7.2% | .10 |
| ELEVATOR CONSTRUCTORS | 6.90 | .185 | .20 | 2%+a | |
| ELEVATOR CONSTRUCTORS' HELPERS | 70%JR | .185 | .20 | 2%+a | |
| ELEVATOR CONSTRUCTORS' HELPERS (PROB.) | 50%JR | | | | |
| GLAZIERS | 6.70 | .53 | .15 | .43 | .08 |
| IRONWORKERS: | | | | | |
| Bridge; Ornamental; Reinforcing; Structural | 7.55 | | .50 | .10 | .02 |
| LATHERS (Metal, wire and wood) | 7.25 | .24 | .60 | | .01 |
| MARBLE SETTERS | 6.60 | .45 | .50 | | .03 |
| PAINTERS: | | | | | |
| Brush | 6.85 | .38 | .40 | | .04 |
| Tapers | 7.30 | .38 | | | .04 |
| Spray | 7.35 | .38 | .40 | | .04 |
| PLASTERERS | 7.41 | .45 | .40 | | .15 |
| PLASTERERS' HOD CARRIERS: | | | | | |
| Hod Carriers | 5.91 | .37 | .46 | .12 | .08 |
| Mortar Mixers | 6.11 | .37 | .46 | .12 | .08 |

AQ-1,040 P. 2

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | O |
| PLUMBERS; Steamfitters | $8.00 | .53 | .90 | 9% | .10 | |
| ROOFERS | 6.65 | .44 | .30 | | .02 | |
| SHEET METAL WORKERS | 7.60 | .45 | .90 | 7.90% | .15 | |
| SOFT FLOOR LAYERS | 6.25 | .20 | | .10 | .04 | |
| SPRINKLER FITTERS | 8.70 | .30 | .50 | | .05 | |
| TERRAZZO WORKERS: | | | | | | |
| Terrazzo workers | 6.15 | .20 | .30 | | | |
| Terrazzo base grinder | 5.85 | .20 | .30 | | | |
| Floor machine grinder and helper | 5.05 | .20 | .30 | | | |
| TERRAZZO WORKERS' HELPERS: | | | | | | |
| 1st 60 calendar days' experience | 4.75 | .20 | .30 | | | |
| TILE SETTERS (ceramic) | 6.15 | .20 | .30 | | | |
| TILE SETTERS' HELPERS (ceramic): | | | | | | |
| 1st 60 calendar days' experience | 4.75 | .20 | .30 | | | |
| Over 60 but less than 90 calendar days' experience | 4.85 | .20 | .30 | | | |
| After 90 calendar days' experience | 5.05 | .20 | .30 | | | |
| TRUCK DRIVERS: | | | | | | |
| Flatbed | 5.63 | .43 | .70 | .25 | .15 | |
| Dump, 8 yds. and under; Water truck up to and incl. 1500 gals. | 5.90 | .43 | .70 | .25 | .15 | |
| Water truck (over 1500 gals.) | 6.21 | .43 | .70 | .25 | .15 | |
| Tandem, semi-trailer, or semi-dump | 6.66 | .43 | .70 | .25 | .15 | |
| Slip-in or pump | 6.98 | .43 | .70 | .25 | .15 | |
| End dumps, unlicensed (Euclid, Mack, Caterpillar, or similar); Tractor trailer (hauling equipment) | 7.09 | .43 | .70 | .25 | .15 | |
| WELDERS: Receive rate prescribed for craft performing operations to which welding is incidental. | | | | | | |

FOOTNOTE:
a. Employer contributes 4% of basic hourly rate for 5 years' service and 2% of basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit.
6 Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.





AQ-1,040 P. 3

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. |
| LABORERS: | | | | | |
| GROUP I<br>Asphalt ironers and rakers; Barko and similar type tampers; Buggymobile; Chainsaw, faller, logloader and bucker; Concrete and magnesite mixer under 1/2 yd.; Concrete grinder; Concrete pan work; Concrete saw (walking or hand type); Cribbers; Cut granite curb setter; Form raisers; Header board; Mortar mixers (block-brick-masonry); Jackhammer operator; Jackson and similar type compactors; Lagging, sheeting, whaling, bracing, trench-jacking, hand-guided lagging hammer; Magnesite and mastic workers (wet or dry); Mechanical drillers not covered elsewhere; Pavement breakers; Pipelayers, caulkers, bander; Pipe-wrappers, kettlemen, potmen and men applying asphalt, Lay-Kold, creosote and similar type materials; Post hole diggers (hand held--gas, air and electric); Riprap, stonepaver and rock-slinger, incl. placing of sacked concrete (wet or dry); Rotary scarifier; Roto-tiller; Sandblasters; Tank cleaners; Tree climbers; Vibra-screed (bull float in connection with laborers' work); Vibrator; Burning, welding, signaling, and rigging in connection with laborers' work; Concrete pump machine; Joy drill Model TWH-2A, Gardner Denver DH-132, and similar type drills (Track Drillers, Diamond Core, and Wagon Drillers; and Davis Trencher T-66 or similar | $5.96 | .37 | .46 | .12 | .08 |

AQ-1,040 P. 4

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. |
| GROUP II<br>Asphalt shovelers; Cement dumpers; Choke setter and rigger (clearing work); Concrete chipping; Concrete laborers (wet or dry) incl. bucket tender for concrete; Driller's helper, chuck tender, outside nipper; Guinea chaser (stakeman); High pressure nozzleman-hydraulic monitor (over 100# pressure) excl. levee work; Loading and unloading, carrying and handling of all rods and materials for use in reinforcing concrete construction; Mucker (under ground) Sloper; All pneumatic, gas and electric tools not listed in Group I | $5.76 | .37 | .46 | .12 | .08 |
| GROUP III<br>All clean-up work on debris, grounds and buildings; Bridge laborers; Construction laborers; Dumpman; Gardeners; Horticultural and landscape laborers; General laborers; Limbers, brush loaders and pilers; Maintenance, repair (track and roadbeds) | 5.56 | .37 | .46 | .12 | .08 |
| Mason Tenders | 6.01 | .37 | .46 | .12 | .08 |
| High Scaler | 6.21 | .37 | .46 | .12 | .08 |
| Gunnite Operator | 6.26 | .37 | .46 | .12 | .08 |
| Powderman | 6.46 | .37 | .46 | .12 | .08 |







MUX 38 FR 26570 26571

AQ-1,040 P. 5

| OPERATOR EQUIPMENT OPERATORS | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. |
|---|---|---|---|---|---|
| GROUP I<br>Partsman (heavy duty repair shop parts room when needed); Repairman helper | $5.35 | .43 | .70 | .25 | .15 |
| GROUP II<br>Compressor, electrically, diesel or gas powered etc.; Hydraulic monitor; material loader and/or conveyor operator (handling building material); Mixer box operator (concrete plant); Pump operator; Spreader boxman (with screeds); Tar pot fireman (power agitated) | 5.46 | .43 | .70 | .25 | .15 |
| GROUP III<br>Oiler; Fireman; Switchman; Brakeman; Deckhand; Tar pot fireman; Box operator (bunker); Locomotive (up to and incl. 30 tons); Roller (5 tons and under); Screedman (except asphaltic concrete paving); Self-propelled, automatically applied concrete curing machine (on streets, highways, airports and canals); Tugger hoist, single drum | 5.63 | .43 | .70 | .25 | .15 |
| GROUP IV<br>Boom truck or dual purpose "A" Frame truck; Fork lift of lumber stacker (construction job site); Material hoist (1 drum); Straddle truck; Ross carrier and similar (jobsite ); Dinky operator | 5.90 | .43 | .70 | .25 | .15 |
| GROUP V<br>Concrete mixer (up to 2 yds.); Concrete pumps or pumpcrete guns; Generators, gasoline or diesel driven (100 K.W.); Lubrication and service engineer (mobile and grease rack); Towermobile; Welding machine (gasoline or diesel); Agri-Cat (Mini Cat) | 6.21 | .43 | .70 | .25 | .15 |

AQ-1,040 P. 6

| POWER EQUIPMENT OPERATORS | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. |
|---|---|---|---|---|---|
| GROUP VI<br>Combination loader and backhoe incl. Hopto (up to & incl. 1/2 yd.); Concrete batch plants (wet or dry); Concrete saws &/or grinder (self-propelled unit on streets, highways, airports and canals); Drilling machinery (not to apply to waterliners, wagon drills or jackhammers); Highline cable-way signalman; Loader (up to & incl. 2-1/2 cu. yds.); Lull high lift; Pavement breaker Maginnis Internal Full Slab Vibrator (on airports, highways, canals, and warehouses); Mechanical finishers (concrete) (large Clary, Johnson Bidwell Bridge Deck or similar types); Mobile crane driver; Portable crushers; Power jumbo operator (setting slip forms, etc., in tunnels); Rollers (over 5 tons); Self-propelled compactor (single engine); Small rubber-tired tractors; Trencher (up to and incl. 6'); Slip form pumps (power driven by hydraulic, electric, gas, etc., lifting device for concrete forms) | $6.66 | .43 | .70 | .25 | .15 |
| GROUP VII<br>Crusher plant; Dual drum mixer; Grade-setter; Hoist (2 drums); Loader (over 2-1/2 cu. yds. up to and incl. 5 cu. yds.); Mechanical finishers or spreader machine asphalt (Barber Greene and similar) (Screedman required); Mine or shaft hoist; Pavement breaker, truck mounted, with compressor combination; Pavement breaker with compressor combination (operates 1 or 2); Pipe cleaning machine (Tractor propelled and supported); Pipe wrapping machine (tractor propelled and supported); Pipe bending machine (pipe lines only); Self-propelled elevating grade plane; Slusher operator; Trencher (over 6'); Water tanker (pulled by Euclids, T-Pulls, DW-10, 20, 21 or similar); Hixermobile (over 5 tons); Small tractor (with boom D-6 or similar) | 6.98 | .43 | .70 | .25 | .15 |

NOTICES





AQ-1,040 P. 7

| POWER EQUIPMENT OPERATORS | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. |
|---|---|---|---|---|---|
| GROUP VIII<br>Boring machine; Cast-in-place pipe laying machine; Concrete batch plant (multiple units); Combination loader and hydraulic backhoe (over 1/2 yd. to and incl. 3/4 yd.); Conveyor (tunnel); Engineer, locomotive (over 30 tons up to and incl. 100 tons); Finishing machine operator (airports and highways); Hydraulic backhoe (over 1/2 yd. to and incl. 3.4 yd.); Kolman loader; Mechanical trench shield; Mucking machine; No-joint pipe laying machine; Portable crushing and screening plants; Saurman type dragline (under 5 yds.); Self-propelled boom type lifting device; Stationary pipe wrapping cleaning and bending machine; Surface heater and planer; Tunnel badger; Tri-batch paver | $7.09 | .43 | .70 | .25 | .15 |
| GROUP IX<br>Boom type backfilling machine; Combination mixer and compressor (gunite); Domore loader and Adams Elegrader; Lull Hi-lift (40' or over); Rubber tired earthmoving equipment (up to 12 cu. yds.); Wheel trencher (over 6') | 7.20 | .43 | .70 | .25 | .15 |
| GROUP IX-A<br>Dozers; Heavy duty repairman or welder; Push cats; Scrapers; Self-propelled compactor with dozer; Sheep foot; Tractors; Tractors (with boom, larger than D-6 and similar) | 7.43 | .43 | .70 | .25 | .15 |
| GROUP X<br>Chicago boom; Hoist (3 drums); Koehring skooper; Loader (over 5 yds. up to and incl. 12 yds.); Locomotive (over 100 tons) (Single or multiple units); Power blade operator; Rubber tired earthmoving equipment (up to and incl. 35 cu. yds. Euclids, T-Pulls, DW-10, 20, 21 and similar); Saurman type dragline (5 yds. or over); Soil stabilizer (P&H equal); Sub-grader (Gurries or other automatic type); Track-laying type earthmoving machine (single engine with tandem scraper); Tractor, compressor, Drill combination; Tractor (Tandem scraper); Tractors (D-9 or equivalent) | 7.49 | .43 | .70 | .25 | .15 |

AQ-1,040 P. 8

| POWER EQUIPMENT OPERATORS | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. |
|---|---|---|---|---|---|
| GROUP X-A<br>Cranes (not over 25 tons); Power shovels, Clamshells, Draglines, Backhoes, Gradealls (up to and incl. 1 cu. yd.) | $7.64 | .43 | .70 | .25 | .15 |
| GROUP XI<br>Automatic slip form paver (concrete or asphalt) (Gradesetter, Screedman required); Cranes (over 25 tons); DW-10, 20, etc. (Tandem); Earth-moving machines (multiple propulsion power units and two or more scrapers) (up to and incl. 35 cu. yds. struck "MRC"); Highline cableway; Lift slab machine; Loader (over 12 yds.); Power shovels, clamshells, draglines, backhoes, Gradealls (over 1 yd. and up to 7 yds.); Power blade operator (16 or over); Pre-stress wire wrapping machine; Self-propelled compactor (with multiple propulsion power units); Single engine rubber tired earth moving machine (with tandem scraper); Tandem cats; Tower cranes, mobile; Trencher (pulling attached shield); Universal, Liebher, Linden and similar types of tower cranes; Wheel excavator (up to and incl. 750 cu. yds. per hour) | 7.79 | .43 | .70 | .25 | .15 |
| GROUP XII<br>Band wagon (in conjunction with wheel excavator); Derricks; Drill rigs; Multi-propulsion earth moving machines (2 or more scrapers) (over 35 cu. yds. "struck" mrc); Power shovels and draglines (7 cu. yds. mrc and over); Rubber tired earthmoving equipment (over 35 cu. yds. Euclids, T-Pulls, DW-10, 20, 21 and similar); Wheel excavator (over 750 cu. yds.) | 8.15 | .43 | .70 | .25 | .15 |

NOTICES



XUM 38 FR 26572 26573

SUPERSEDEAS DECISION

STATE: Montana

COUNTIES: Beaverhead, Deer Lodge, Gallatin, Granite, Jefferson, Madison, Powell, Ravalli and Silver Bow

DECISION NUMBER: AQ-1,038

DATE: Date of Publication

Supersedes Decision No. AQ-1,019 dated August 31, 1973, in 38 FR 23721

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories.)

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Othe |
| ASBESTOS WORKERS | $7.95 | .44 | .72 | | | |
| BOILERMAKERS | 8.25 | .30 | 1.00 | | .02 | |
| BRICKLAYERS: | | | | | | |
| Deer Lodge, Granite and Powell Counties | 6.35 | | | | | |
| Beaverhead, Jefferson, (except Northern tip of County), and Silver Bow Counties | 7.50 | | | | | |
| Gallatin County | 7.10 | | | | | |
| Madison and Ravalli Counties | 6.65 | .30 | .25 | | | |
| Jefferson (Northern tip of County) | 6.65 | | | | | |
| CARPENTERS: | | | | | | |
| Beaverhead, and Silver Bow Counties | 6.11 | .30 | .45 | .50 | .02 | |
| Deer Lodge, Granite, Powell (Southern area) Counties | 6.11 | .30 | .45 | .25 | .02 | |
| Gallatin, Madison (East of Madison River) Counties | 6.13 | .30 | .45 | | .02 | |
| Powell (Northern area) and Ravalli Counties | 5.97 | .30 | .35 | | .01 | |
| Jefferson, Madison (West of the Madison River) | 6.25 | .30 | .45 | | .02 | |
| CEMENT MASONS: | | | | | | |
| Beaverhead, Deer Lodge, Jefferson (Southern area incl. town of Wickes) | | | | | | |
| Madison, Powell (South portion incl. town of Deer Lodge) and Silver Bow Cos. | 6.80 | | | | | |
| Gallatin County | 5.95 | .25 | | | | |
| Granite, Powell (North portion) and Ravalli Counties | 6.40 | .35 | | | | |
| Jefferson County (Area North of the Town of Wickes) | 6.22 | | | | | |
| ELECTRICIANS: | | | | | | |
| Beaverhead, Jefferson, Madison and Silver Bow Counties | 7.10 | .30 | 1% | | 1/2% | |
| Deer Lodge, Granite and Powell Counties | 6.95 | | 1% | | 1/2% | |
| Gallatin County | 6.60 | .20 | 1% | | 1/2% | |
| Ravalli County | 7.00 | .20 | 1% | | 1/2% | |



| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Othe |
| ELEVATOR CONSTRUCTORS | $6.74 | .345 | .23 | 2%+a | | |
| ELEVATOR CONSTRUCTORS' HELPERS | 70%JR | .345 | .23 | 2%+a | | |
| ELEVATOR CONSTRUCTORS' HELPERS (PROB.) | 50%JR | | | | | |
| GLAZIERS: | | | | | | |
| Beaverhead, Jefferson, Madison and Silver Bow Counties | 5.50 | | .10 | b | | |
| IRONWORKERS: | | | | | | |
| Ornamental; Structural and Reinforcing | 7.10 | .40 | .65 | | .05 | |
| PAINTERS: | | | | | | |
| Beaverhead, Jefferson, Madison and Silver Bow Counties | | | | | | |
| Brush | 5.56 | | | | | |
| Roller, over 8 ft. handle | 6.06 | | | | | |
| Spray | 8.34 | | | | | |
| Granite (Northern area, North limits of Phillipsburg), Powell (Northern area through south limits of Helmville) and Ravalli Counties | | | | | | |
| Brush and Spray | 6.56 | .30 | .15 | | | |
| PLASTERERS: | | | | | | |
| Beaverhead, Deer Lodge, Jefferson, Madison, (Southern area incl. the Town of Wickes), Powell and Silver Bow Cos. | 4.90 | .30 | | .60 | | |
| Gallatin County | 5.80 | .25 | | | | |
| Granite, Powell (Northern area incl. the City of Helmville), and Ravalli Cos. | 6.65 | .35 | | | | |
| PLUMBERS: | | | | | | |
| Beaverhead, Deer Lodge, Gallatin, Granite, Jefferson, Madison, Powell and Silver Bow Counties | 7.50 | .25 | .35 | | .05 | |
| ROOFERS | 5.62 | .37 | .35 | .50 | | |
| SHEET METAL WORKERS: | | | | | | |
| Gallatin County | 6.56 | .27 | .10 | | .02 | |
| Beaverhead, Deer Lodge, Granite, Jefferson, (Southern area to Boulder City), Madison, Powell and Silver Bow Counties | 6.55 | .27 | .20 | | | |
| Jefferson (Northern area incl. City of Boulder), County | 6.88 | .22 | .10 | | .01 | |
| Ravalli County | 6.88 | .22 | .10 | | .01 | |
| SPRINKLER FITTERS | 7.65 | .30 | .50 | | .05 | |
| TERRAZZO WORKERS AND TILE SETTERS: | | | | | | |
| Gallatin County | 7.10 | | | | | |
| Madison and Ravalli Counties | 6.65 | .30 | .25 | | | |







FOOTNOTE:

a. Employer contributes 4% basic hourly rate for over 5 years' service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.

b. All employees who have worked 1720 hours or more in any one year for the same employer, shall receive one week's vacation with pay. Any employee who has worked 1720 hours or more in each of two (2) consecutive years for the same employer, shall receive two (2) weeks vacation with pay. 6 paid Holidays plus Washington's Birthday and Miner's Day.

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.



Beaverhead, Deer Lodge, Jefferson, Madison, Powell and Silver Bow Counties

4=MON-FRI=8:00 AM=1 LABORER=1-b (1-2)

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. |
| General laborer; Axeman; Carpenter tender; Car and truck loaders, Scissorman; Chuck tender and nipper (above ground); Cosmolene, applying and temoving; Fence erector and installer incl. the installation and erection fences, guard rails, median rails, erference posts, guide posts and right-of-way markers); Form stripper; Form setter; Landscape laborer; Nozzleman-air and water, gunnite and place machine; Pilot car; Riprap helper; Scaleman; Sod cutter (hand operated) (General laborer); Stake jumper for equipment; Tool checker, toolhouseman | $5.00 | .37 | .27 | .50 | .03 |
| Riprapper; Sandblaster; Sandblaster tailhouseman; Pot tender | 5. | .37 | .27 | .50 | .03 |
| Hand faller | 5.08 | .37 | .27 | .50 | .03 |
| Post hole digger (power Auger) | 5.09 | .37 | .27 | .50 | .03 |
| Concrete or asphalt saws; Tar pot operator | 5.10 | .37 | .27 | .50 | .03 |
| Powderman helper | 5.12 | .37 | .27 | .50 | .03 |
| Caisson workers (free air); Clocker setter; Pipe wrapper; Power saw (bucking); Spike driver, single or dual or hand | 5.16 | .37 | .27 | .50 | .03 |
| Drills, air-tract, self-propelled car or truck mount air operated drills; Jackhammer, pavement breaker, wagon driller, mechanical tamper, vibrating roller hand steered and other power tools | 5.17 | .37 | .27 | .50 | .03 |
| Asphalt raker; Dumpman (grademan) | 5.18 | .37 | .27 | .50 | .03 |
| High pressure machine nozzleman | 5.22 | .37 | .27 | .50 | .03 |
| Pipe layer (all types); Cutting torch operator | 5.25 | .37 | .27 | .50 | .03 |
| Powderman | 5.27 | .37 | .27 | .50 | .03 |
| Grade setter | 5.28 | .37 | .27 | .50 | .03 |







XUM

4-MONT-LAB-1-b (2-2)

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. |
|---|---|---|---|---|---|
| High scaler | $5.35 | .37 | .27 | .50 | .03 |
| Dumpman (spotter) | 5.38 | .37 | .27 | .50 | .03 |
| Power saw (falling) | 5.40 | .37 | .27 | .50 | .03 |
| Rigger | 5.50 | .37 | .27 | .50 | .03 |
| Core drill operator | 5.60 | .37 | .27 | .50 | .03 |
| Concrete worker, wet or dry; Tending masons when pouring and finishing concrete | 5.08 | .37 | .27 | .50 | .03 |
| Vibrator operator; Tending stonesetters, Marble setters, Tile setters, Skagiola and Terrazzo workers; Tending brick masons or brick or stone work; Tending plasterers or stuccoing or plastering; (This does not include rubbing down of foundation or concrete walls), Surekete, Stonehard and Rubberslate; Concrete conveyor swinger operator | 5.24 | .37 | .27 | .50 | .03 |
| Power driven concrete buggies | 5.12 | .37 | .27 | .50 | .03 |
| GALLATIN COUNTY | | | | | |
| Laborers: General laborers Hod carriers; Jackhammer operator; Vibrator; Mixer; Concrete pump tender; Nozzleman; Concrete curb machine; Curb form setter | 5.19 | .37 | .27 | | .03 |
| Granite and Ravalli Counties | | | | | |
| Laborers All power tools, creosote workers; Jackhammer; Marble and tile setters' tenders; Pipelayers; Pipewrappers; Pot tenders; Small concrete mixers; Vibrators | 5.44 | .37 | .27 | | .03 |
| Cement masons and plasterer's tenders; Mason tenders; Pumpcrete, gunnite and plasterer pump | 5.455 | .37 | .27 | | .03 |
| | 5.705 | .37 | .27 | | .03 |
| | 5.855 | .37 | .27 | | .03 |



Beaverhead, Deer Lodge, Granite, Jefferson, Madison, Powell (Southern area) and Silver Bow Counties — MON-3-PEC-1-f (1-4)

| POWER EQUIPMENT OPERATORS | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | O |
|---|---|---|---|---|---|---|
| A-FRAME TRUCK CRANE | $6.86 | .45 | .45 | | .03 | |
| AIR COMPRESSOR, single | 6.55 | .45 | .45 | | .03 | |
| AIR COMPRESSOR, 2 or more; Belt finishing; Conveyor loader, over 42" belt; Roller, steel & self-propelled rubber on other than blade or hot-mix oil paving | 6.72 | .45 | .45 | | .03 | |
| AIR DOCTOR; Asphalt paving machine, or screed; Bit grinder; Bituminous mixer, paver; Boring machine, large (for guard rail holes); Bulldozer, rubber-tired or otherwise; Concrete batch plant, 1 & 2 mixers; Concrete bucket dispatcher; Concrete Curing Machine; Concrete finishing machine, paving; Concrete float & spreader; Concrete Power saw, self-propelled; Concrete travel batcher; Crusher and/or screening plant; Distributor; Elevating grader; Gradall; Heavy duty rotary drills (Quarry Master, Joy drills & similar types); Hoist, or air tugger, 2 or more drums; Hot plant; Hot plant fireman (when in operation); Industrial Locomotive, all types; Loaders, rubber-tired, over 1 yd. to & incl. 3 yds.; Loaders, track-type, up to & incl. 5 yds.; Loaders, tranacavator & Athey; Loader & Hoe combination, rubber-tired, loader 1 yd. & under, hoe 1 yd. & under; Mountain logger or similar; Mucking Machine; Pavement breaker, Emsco & similar; Power auger, large truck or tractor, mounted & punch; Power mixer, single or double drum; Power saw, self-propelled, multiple cut; Pumpcrete or grout machine; Push tractor; Refrigerator plant; Roller, steel & self-propelled rubber on Blade on hot-mix oil paving Roller, 25 tons, working weight or over, any type or make; Roller, Wagner & similar; Ross & similar type Carriers (on Constr. site); Scraper DW 10; Scraper, DW 15, 20, 21 & similar if Power unit is not used; Self-propelled sheepsfoot & similar; Shov- | | | | | | |









MON-3-PEO-1-f (2-4)

| POWER EQUIPMENT OPERATORS: (Cont) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | O |
|---|---|---|---|---|---|---|
| ele, incl. all attachs, under 1 yd.; Trenching machine; Turnhead conveyor or head tower op. on batch plant; water pull, when used for compaction; Washing & screening plant | 7.02 | .45 | .45 | | .03 | |
| AUTOMATIC FINEGRADER, gurries & similar; Motor patrol; Paving & mixing machine; Scraper, DW 15, 20, 21 & similar if power unit is used; Scraper, single engine; Slip form paver | 7.15 | .45 | .45 | | .03 | |
| BORING MACHINE; Concrete mixer, 3 bags & under; Fireman; Heavy duty rotary drill helper; Retort op. | 6.61 | .45 | .45 | | .03 | |
| BROOM OP., self-propelled | 6.69 | .45 | .45 | | .03 | |
| CABLEWAY OP. | 7.53 | .45 | .45 | | .03 | |
| CEMENT SILO | 6.81 | .45 | .45 | | .03 | |
| CENTRAL MIXING PLANTS, concrete dams & stationary | 7.27 | .45 | .45 | | .03 | |
| CHAIN BUCKET LOADER; Chip-gravel spreader self-propelled; DW 10, 15, 20 tractor pulling roller | 6.74 | .45 | .45 | | .03 | |
| CONCRETE BATCH PLANT OP., 3 & 4 mixers | 7.22 | .45 | .45 | | .03 | |
| CONCRETE BATCH PLANT OP., 5 mixers & over | 7.42 | .45 | .45 | | .03 | |
| CONCRETE BATCH PLANT OILER, up to & incl. 2 mixers | 6.54 | .45 | .45 | | .03 | |
| CONCRETE BATCH PLANT OILER, 3 mixers & over | 6.85 | .45 | .45 | | .03 | |
| CONCRETE MIXER OP., 4 bags & over | 6.78 | .45 | .45 | | .03 | |
| CONVEYOR LOADER, to & incl. 42" belt | 6.60 | .45 | .45 | | .03 | |
| CRANE, to & incl. 80' boom with jib | 7.18 | .45 | .45 | | .03 | |
| CRANE, 81' to 130' boom | 7.33 | .45 | .45 | | .03 | |
| CRANE, 131' to 150' boom | 7.38 | .45 | .45 | | .03 | |



MON-3-PEO-1-f (3-4)

| POWER EQUIPMENT OPERATORS: (Cont) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. |
|---|---|---|---|---|---|
| CRANE, 151' boom & over | $7.43 | .45 | .45 | | .03 |
| CRANE OILER; Oiler driver, rubber-tired cranes | 6.59 | .45 | .45 | | .03 |
| CRANES, electric overhead; Shovels, incl. all attachs. 1 yd. to & incl. 3 yds.; Track type tractor, on euclid loader | 7.20 | .45 | .45 | | .03 |
| CRANE, TOWER; Scraper, tandem or (engine) | 7.51 | .45 | .45 | | .03 |
| CRANE, WHIRLEY | 7.55 | .45 | .45 | | .03 |
| CRANE, WHIRLEY OILER; hydralift & similar; Oiler, hoist house, dams; Shovel oiler, over 3 yds.; Winch truck with boom | 6.92 | .45 | .45 | | .03 |
| CRUSHER AND/OR SCREENING PLANT HELPER, (If over 2 separate units); Crusher oiler; Field equip. service helper; Hot plant oiler, 100 tons per hr. or over; Mechanic and/or welder helper on job; Oilers, other than shovels & cranes; Shovel oiler, 3 yds. & under; Washing and screening plant oiler | 6.51 | .45 | .45 | | .03 |
| CRUSHER CONVEYOR, when required; Farm type tractor, up to & incl. 50 H.P.; Grade setter | 6.48 | .45 | .45 | | .03 |
| DRILLING MACHINE (does not include Jackhammer, Wagon drillers or waterlines) | 6.93 | .45 | .45 | | .03 |
| EUCLID LOADER & similar; Loader & hoe combination, rubber-tired, loader 1 yd. to & incl. 3 yds., hoe over 1 yd. | 7.21 | .45 | .45 | | .03 |
| FARM TYPE TRACTOR, over 50 H.P.; Heaters, Herman Nelson & similar | 6.56 | .45 | .45 | | .03 |
| FIELD EQUIPMENT SERVICE MAN | 6.94 | .45 | .45 | | .03 |
| FORK LIFT (On constr. site) | 6.83 | .45 | .45 | | .03 |
| HOIST, OR AIR TUGGER, single drum; Farm grader | 6.79 | .45 | .45 | | .03 |







XUM

| POWER EQUIPMENT OPERATORS: (Cont.) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| FULLER KENYON PUMP; Loaders (Barber Green & similar) | $6.67 | .45 | .45 | | .03 | |
| HELICOPTER HOIST | 7.52 | .45 | .45 | | .03 | |
| LOADERS, RUBBER-TIRED, 1 yd. & under | 6.73 | .45 | .45 | | .03 | |
| LOADERS, RUBBER-TIRED, over 3 yds. to & incl. 5 yds. | 7.14 | .45 | .45 | | .03 | |
| LOADERS, RUBBER-TIRED, 5 yds. to & incl. 10 yds. | 7.24 | .45 | .45 | | .03 | |
| LOADERS, RUBBER-TIRED, over 10 yds. to & incl. 15 yds. | 7.34 | .45 | .45 | | .03 | |
| LOADERS, RUBBER-TIRED, over 15 yds. (factory rating not to incl. side-boards) | 7.44 | .45 | .45 | | .03 | |
| LOADERS, TRACK-TYPE, over 5 yds. to & incl. 10 yds. Scraper, twin engine | 7.25 | .45 | .45 | | .03 | |
| LOADERS, TRACK-TYPE, over 10 yds. to & incl. 15 yds. | 7.35 | .45 | .45 | | .03 | |
| LOADERS, TRACK-TYPE, over 15 yds. | 7.45 | .45 | .45 | | .03 | |
| MECHANIC AND/OR WELDER, on job | 7.09 | .45 | .45 | | .03 | |
| MIXERMOBILE | 7.10 | .45 | .45 | | .03 | |
| PILEDRIVER (when shovel equip. is not used) | 6.67 | .45 | .45 | | .03 | |
| QUAD CAT | 7.32 | .45 | .45 | | .03 | |
| SCRAPER, single or twin engine pulling belly dump trailer | 7.40 | .45 | .45 | | .03 | |
| SHOVELS, incl. all attachs., over 3 yds. to & incl. 5 yds., Stiff-leg derrick & guy derrick | 7.47 | .45 | .45 | | .03 | |
| SHOVELS, incl. all attachs., over 5 yds. | 7.60 | .45 | .45 | | .03 | |



| POWER EQUIPMENT OPERATORS | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| A-Frame Truck Crane, Winch Truck and similar | $6.86 | .45 | .45 | | .03 | |
| Air Compressor, Single | 6.55 | .45 | .45 | | .03 | |
| Air Compressor, two or more | 6.72 | .45 | .45 | | .03 | |
| Air Doctor | 7.02 | .45 | .45 | | .03 | |
| Asphalt Paving Machine | 7.02 | .45 | .45 | | .03 | |
| Asphalt Paving Machine Screed | 7.02 | .45 | .45 | | .03 | |
| Automatic Finegrader, Gurries and other similar types | 7.15 | .45 | .45 | | .03 | |
| Belt Finish Machine | 6.72 | .45 | .45 | | .03 | |
| Bit Grinder | 7.02 | .45 | .45 | | .03 | |
| Bituminous Mixer Paving, Travel Plant Boring Machine (small), jeep, pickup or farm tractor mounted | 7.02 | .45 | .45 | | .03 | |
| Boring Machine (large) | 6.61 | .45 | .45 | | .03 | |
| Broom, self-propelled | 7.02 | .45 | .45 | | .03 | |
| Cableway Highline | 6.69 | .45 | .45 | | .03 | |
| Cement Silo | 7.53 | .45 | .45 | | .03 | |
| Central Mixing Plants, Concrete dam & stationary | 6.81 | .45 | .45 | | .03 | |
| Chain Bucket Loader | 7.27 | .45 | .45 | | .03 | |
| Chip or Gravel Spreader, self-propelled | 6.74 | .45 | .45 | | .03 | |
| Concrete Batch Plant, one & two mixers | 6.74 | .45 | .45 | | .03 | |
| Concrete Batch Plant, three and four mixers | 7.02 | .45 | .45 | | .03 | |
| Concrete Batch Plant, five mixers & over | 7.22 | .45 | .45 | | .03 | |
| Concrete Batch Plant Oiler, up to & incl. two mixers | 7.42 | .45 | .45 | | .03 | |
| Concrete Batch Plant Oiler, three mixers and over | 6.54 | .45 | .45 | | .03 | |
| Concrete Bucket Dispatcher | 6.85 | .45 | .45 | | .03 | |
| Concrete Curing Machine | 7.02 | .45 | .45 | | .03 | |
| Concrete Finish Machine Paving | 7.02 | .45 | .45 | | .03 | |
| Concrete Float-Spreader | 7.02 | .45 | .45 | | .03 | |
| Concrete Mixer, three bags & under | 7.02 | .45 | .45 | | .03 | |
| Concrete Mixer, four bags and over | 6.61 | .45 | .45 | | .03 | |
| Concrete Power Saw, self-propelled | 6.78 | .45 | .45 | | .03 | |
| Concrete Travel Batcher | 7.02 | .45 | .45 | | .03 | |
| Conveyor Loader, up to & incl. 42" belt | 7.02 | .45 | .45 | | .03 | |
| Conveyor Loader, over 42 inch belt | 6.60 | .45 | .45 | | .03 | |
| Crane, to & incl. 80' boom with jib | 6.72 | .45 | .45 | | .03 | |
| Crane, 81' to 130' boom | 7.18 | .45 | .45 | | .03 | |
| | 7.33 | .45 | .45 | | .03 | |





| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| Crane, 131' to 150' boom | $7.38 | .45 | .45 | | .03 | |
| Crane, 151' boom & over | 7.43 | .45 | .45 | | .03 | |
| Crane Oiler | 6.59 | .45 | .45 | | .03 | |
| Crusher | 7.02 | .45 | .45 | | .03 | |
| Crusher Oiler & Helper | 6.51 | .45 | .45 | | .03 | |
| Crusher Conveyor, when required | 6.48 | .45 | .45 | | .03 | |
| Distributor | 7.02 | .45 | .45 | | .03 | |
| DW 10, 15, or 20 Tractor pulling roller | 6.74 | .45 | .45 | | .03 | |
| Electric Overhead Cranes | 7.20 | .45 | .45 | | .03 | |
| Elevating Grader | 7.02 | .45 | .45 | | .03 | |
| Farm Type Tractor, up to & incl. 50 HP Engine | 6.48 | .45 | .45 | | .03 | |
| Farm Type Tractor, over 50HP Engine | 6.56 | .45 | .45 | | .03 | |
| Field Equipment Serviceman | 6.94 | .45 | .45 | | .03 | |
| Field Equipment Serviceman Helper | 6.51 | .45 | .45 | | .03 | |
| Fireman | 6.61 | .45 | .45 | | .03 | |
| Forklift, on construction job site | 6.83 | .45 | .45 | | .03 | |
| Form Grader | 6.79 | .45 | .45 | | .03 | |
| Gradall | 7.02 | .45 | .45 | | .03 | |
| Grade Setter | 6.48 | .45 | .45 | | .03 | |
| Heavy Duty Drill, all types | 7.02 | .45 | .45 | | .03 | |
| Heavy Duty Driller Helper | 6.61 | .45 | .45 | | .03 | |
| Herman-Nelson Heaters & similar type | 6.56 | .45 | .45 | | .03 | |
| Hoist, Single drum | 6.79 | .45 | .45 | | .03 | |
| Hoist, two or more drums | 7.02 | .45 | .45 | | .03 | |
| Helicopter Hoist | 7.52 | .45 | .45 | | .03 | |
| Hot Plant | 7.02 | .45 | .45 | | .03 | |
| Hot Plant Fireman, when in Operation | 7.02 | .45 | .45 | | .03 | |
| Hot Plant Oiler, 100 ton per hour or over | 6.51 | .45 | .45 | | .03 | |
| Hydra lift and similar types | 6.92 | .45 | .45 | | .03 | |
| Industrial Locomotive all classes | 7.02 | .45 | .45 | | .03 | |
| Mechanic and/or Welder on job | 7.12 | .45 | .45 | | .03 | |
| Mechanic and/or Welder Helper on job | 6.51 | .45 | .45 | | .03 | |
| Mixermobile | 7.10 | .45 | .45 | | .03 | |
| Motor Patrol | 7.15 | .45 | .45 | | .03 | |
| Mountain Logger or smilar type | 7.02 | .45 | .45 | | .03 | |
| Mucking Machine | 7.02 | .45 | .45 | | .03 | |
| Oiler-Driver, Tubber Tired Cranes | 6.59 | .45 | .45 | | .03 | |
| Oilers, other than Shovels & Cranes | 6.51 | .45 | .45 | | .03 | |
| Oiler, hoist house, dams | 6.92 | .45 | .45 | | .03 | |
| Pavement Breaker, Emsco & similar | 7.02 | .45 | .45 | | .03 | |
| Paving & Mixing Machine | 7.15 | .45 | .45 | | .03 | |
| Power Auger, Large Truck or Tractor Mounted | 7.02 | .45 | .45 | | .03 | |
| Power Mixer, single or double drum | 7.02 | .45 | .45 | | .03 | |
| Power Saw, Multiple cut, self-propelled | 7.02 | .45 | .45 | | .03 | |
| Pumpcrete or Crout Machine | 7.02 | .45 | .45 | | .03 | |
| Pumpman | 6.55 | .45 | .45 | | .03 | |



| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| Push Tractor | $7.02 | .45 | .45 | | .03 | |
| Quad Cat | 7.32 | .45 | .45 | | .03 | |
| Refrigerator Plant | 7.02 | .45 | .45 | | .03 | |
| Retort | 6.61 | .45 | .45 | | .03 | |
| Roller, on blade or hot mix oil paving | 7.02 | .45 | .45 | | .03 | |
| Roller, on other blade or hot mix paving | 6.72 | .45 | .45 | | .03 | |
| Roller, 25 ton or over | 7.02 | .45 | .45 | | .03 | |
| Ross & similar type carriers, on construction site | 7.02 | .45 | .45 | | .03 | |
| Rubber-tired Dozer | 7.02 | .45 | .45 | | .03 | |
| Rubber-tired Front End Loader, 1 yd. & under | 6.73 | .45 | .45 | | .03 | |
| Rubber-tired Front End Loader, 1 yd. to and incl. 3 yds. | 7.02 | .45 | .45 | | .03 | |
| Rubber-tired Front End Loader, over 3 yds. to and incl. 5 yds. | 7.14 | .45 | .45 | | .03 | |
| Rubber-tired Front End Loader, over 5 yds. to and incl. 10 yds. | 7.24 | .45 | .45 | | .03 | |
| Rubber-tired Front End Loader, over 10 yds. to and incl. 15 yds. | 7.34 | .45 | .45 | | .03 | |
| Rubber-tired Front End Loader, over 15 yds. | 7.44 | .45 | .45 | | .03 | |
| Scraper, DW 15, 20, 21 & similar type if power unit is not used | 7.02 | .45 | .45 | | .03 | |
| Scraper, single or twin engine pulling belly dump trailer | 7.40 | .45 | .45 | | .03 | |
| Scraper, single engine | 7.15 | .45 | .45 | | .03 | |
| Scraper, twin engine | 7.25 | .45 | .45 | | .03 | |
| Scraper, tandem engine | 7.51 | .45 | .45 | | .03 | |
| Self-propelled Sheepfoot and similar type | 7.02 | .45 | .45 | | .03 | |
| Shovels, incl. all attachments, under 1 cu. yd. | 7.02 | .45 | .45 | | .03 | |
| Shovels, incl. all attachments, 1 cu. yd. to & incl. 3 cu. yd. | 7.20 | .45 | .45 | | .03 | |
| Shovels, incl. all attachments, over 3 cu. yd. to & incl. 5 cu. yd. | 7.47 | .45 | .45 | | .03 | |
| Shovels, incl. all attachments, over 5 cu. yd. | 7.60 | .45 | .45 | | .03 | |
| Shovel Oiler, 3 yds. & under | 6.51 | .45 | .45 | | .03 | |
| Shovel Oiler, over 3 cu. yds. | 6.92 | .45 | .45 | | .03 | |
| Slip form paver | 7.15 | .45 | .45 | | .03 | |
| Stiff leg derrick & guy derrick | 7.47 | .45 | .45 | | .03 | |
| Track-type front end loaders; up to & incl. 5 cu. yds. | 7.02 | .45 | .45 | | .03 | |
| Track-type front end loaders; over 5 cu. yd. to & incl. 10 cu. yd. | 7.25 | .45 | .45 | | .03 | |
| Track-type front end loaders, over 10 cu. yd. to & incl. 15 cu. yd. | 7.35 | .45 | .45 | | .03 | |



NOTICES

26378

NOTICES

26379

XUM

| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| Track-type front end loaders, over 15 cu. yd. | $7.45 | .45 | .45 | | .03 | |
| Track-type tractor with or without attachments | 7.02 | .45 | .45 | | .03 | |
| Track-type tractor, on Euclid Loader Trenching Machine | 7.20 | .45 | .45 | | .03 | |
| Turnhead Conveyor, or Head Tower on Batch Plant | 7.02 | .45 | .45 | | .03 | |
| Wagner Roller & similar type | 7.02 | .45 | .45 | | .03 | |
| Whirley Crane | 7.55 | .45 | .45 | | .03 | |
| Whirley Crane Oiler | 6.92 | .45 | .45 | | .03 | |
| Water Pull when used for compaction | 7.02 | .45 | .45 | | .03 | |
| Washing and Screening Plant | 7.02 | .45 | .45 | | .03 | |
| Washing and Screening Plant Oiler | 6.51 | .45 | .45 | | .03 | |



| Gallatin County | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Oth. |
|---|---|---|---|---|---|---|
| Truck Drivers: Dump, 7 yds. or less; Pickup, hauling materials; Flat, less than 2 ton; Service and A-Frame trailers | $4.76 | .45 | .25 | | | |
| House movers | 4.80 | .45 | .25 | | | |
| Flat, 2 - 5 tons | 4.91 | .45 | .25 | | | |
| Dump, over 7 yds. to and incl. 10 yds.; Flat, 5 - 8 tons; Semi and four wheel trailers | 5.01 | .45 | .25 | | | |
| Dump, over 10 yds. to and incl. 15 yds. | 5.17 | .45 | .25 | | | |
| Dump, over 15 yds. to and incl. 20 yds. | 5.31 | .45 | .25 | | | |







Beaverhead, Deer Lodge and Silver Bow Counties

| TRUCK DRIVERS | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| COMBINATION Truck; Concrete Mixer and Transit Mixer: To and incl. 4 cu. yds. | $6.30 | .475 | .325 | | | |
| Over 4 cu. yds. to and incl. 6 cu. yds. | 6.38 | .475 | .325 | | | |
| Over 6 cu. yds. to and incl. 8 cu. yds. | 6.46 | .475 | .325 | | | |
| Over 8 cu. yds. to and incl. 10 cu. yds. | 6.54 | .475 | .325 | | | |
| Over 10 cu. yds. - additional $.08 per hour each additional 2 cu. yds. increment | | | | | | |
| DISTRIBUTOR DRIVER AND HELPER | 6.23 | .475 | .325 | | | |
| DRY BATCH TRUCKS: 3 Batch or under | 6.05 | .475 | .325 | | | |
| Over 3 Batch to and incl. 5 Batch | 6.18 | .475 | .325 | | | |
| Over 5 Batch to and incl. 10 Batch | 6.34 | .475 | .325 | | | |
| Over 10 Batch to and incl. 15 Batch | 6.50 | .475 | .325 | | | |
| Over 15 Batch - additional $.15 per hour each additional 5 Batch increment | | | | | | |
| DUMPMAN, GRAVEL SPREADER BOX: Pickup Driver, Hauling Materials; Pilot Car Driver, Teamsters and Helpers; Warehousemen, Partsmen, Cardex men, Warehouse Expediter | 6.05 | .475 | .325 | | | |
| DUMP TRUCKS AND SIMILAR EQUIPMENT WATER LEVEL CAPACITY, INCLUDING SIDEBOARDS: 7 cu. yds. or less | 6.05 | .475 | .325 | | | |
| Over 7 cu. yds. to and incl. 10 cu. yds. | 6.18 | .475 | .325 | | | |
| Over 10 cu. yds. to and incl. 15 cu. yds. | 6.34 | .475 | .325 | | | |
| Over 15 cu. yds. to and incl. 20 cu. yds. | 6.48 | .475 | .325 | | | |
| Over 20 cu. yds. to and incl. 25 cu. yds. | 6.54 | .475 | .325 | | | |
| Over 25 cu. yds. to and incl. 30 cu. yds. | 6.60 | .475 | .325 | | | |
| Over 30 cu. yds. to and incl. 35 cu. yds. | 6.66 | .475 | .325 | | | |
| Over 35 cu. yds. to and incl. 40 cu. yds. | 6.72 | .475 | .325 | | | |
| Over 40 cu. yds. to and incl. 45 cu. yds. | 6.78 | .475 | .325 | | | |
| Over 45 cu. yds. - additional $.06 per hour each additional 5 cu. yds. increment | | | | | | |
| DUMPSTERS | 6.18 | .475 | .325 | | | |



| TRUCK DRIVERS | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| DW 20, DW 21, or EUCLID TRACTORS, PULLING P.R. 21 or SIMILAR DUMP WAGONS: To and incl. 25 cu. yds. | $6.54 | .475 | .325 | | | |
| Over 25 cu. yds. to and incl. 30 cu. yds. | 6.60 | .475 | .325 | | | |
| Over 30 cu. yds. - additional $.06 per hour each additional 5 cu. yds. increment | | | | | | |
| SERVICEMEN | 6.79 | .475 | .325 | | | |
| POWDER TRUCK DRIVER (bulk unloader type) | 6.23 | .475 | .325 | | | |
| FLAT TRUCKS: To and incl. 3 Tons | 6.05 | .475 | .325 | | | |
| Over 3 tons Factory rating | 6.40 | .475 | .325 | | | |
| FUEL TRUCK; SERVICE TIREMEN | 6.52 | .475 | .325 | | | |
| LOWBOYS, FOUR-WHEEL TRAILER, FLOAT SEMI-TRAILER | 6.40 | .475 | .325 | | | |
| LUMBER CARRIERS, LIFT TRUCKS; Power broom | 6.14 | .475 | .325 | | | |
| WATER TANK DRIVERS, PETROLEUM PRODUCTS DRIVERS: 2,500 gals. and under | 6.05 | .475 | .325 | | | |
| Over 2,500 gals. to and incl. 4,500 gals. | 6.34 | .475 | .325 | | | |
| Over 4,500 gals. to and incl. 6,000 gals. | 6.54 | .475 | .325 | | | |
| Over 6,000 gals. to and incl. 8,000 gals. | 6.60 | .475 | .325 | | | |
| Over 8,000 gals. to and incl. 10,000 gals. | 6.68 | .475 | .325 | | | |
| Over 10,000 gals. - additional $.08 per hour each additional 2,000 gals. increment | | | | | | |
| WINCH, A-FRAME, SWEDISH CRANE, HYDRA-LIFT, CROUTCRETE, AND COMBINATION MULCHING, SEEDING AND FERTILIZING | 6.30 | .475 | .325 | | | |
| TRUCK MECHANIC | 6.79 | .475 | .325 | | | |





MX 38 FR 26580

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. |
|---|---|---|---|---|---|
| LINE CONSTRUCTION: (Jobs 69,000 volts or less) | | | | | |
| Cable splicer | $7.18 | .25 | 1% | | ½% |
| Linemen | 6.49 | .25 | 1% | | ½% |
| Line equipment operators; Powdermen | 6.38 | .25 | 1% | | ½% |
| Experienced groundmen (2 yrs.); Truck drivers | 5.05 | .25 | 1% | | ½% |
| Groundmen | 4.49 | .25 | 1% | | ½% |
| (Jobs over 69,000 volts) and/or (projects of $400,000 or over) Cable splicers | 7.36 | .25 | 1% | | ½% |
| Linemen; Pole sprayer | 6.99 | .25 | 1% | | ½% |
| Line equipment operators; Powdermen | 6.42 | .25 | 1% | | ½% |
| Groundmen | 5.31 | .25 | 1% | | ½% |





SUPERSEDEAS DECISION

STATE: Montana

COUNTIES: Big Horn, Carbon, Carter, Custer, Dawson, Fallon, Garfield, Golden Valley, Mc Cone, Musselshell, Park, Petroleum, Prairie, Powder Rive Richland, Roosevelt, Rosebud, Stillwater, Sweetgrass, Treasure, Wibaux and Yellowstone

DATE: Date of Publication

DECISION NUMBER: AQ-1,041

Supersedes Decision No. AP-917 dated June 6, 1973, in 38 FR 17415.

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).



| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| ASBESTOS WORKERS | $7.96 | .44 | .72 | | | |
| BOILERMAKERS | 8.25 | .30 | 1.00 | | .02 | |
| BRICKLAYERS: | | | | | | |
| Big Horn, Carbon, Carter, Custer, Dawson, Fallon, McCone, Powder River, Prairie, Richland, Rosebud, Sweetgrass, Stillwater, Treasure, Wibaux and Yellowstone Counties | 7.75 | | | | .02 | |
| Park County | 7.10 | | | | | |
| Roosevelt County | 6.25 | | | | | |
| CARPENTERS: | | | | | | |
| Big Horn, Carbon, Carfield, Golden Valley, Musselshell, Petroleum, Rosebud, Stillwater, Treasure and Yellowstone Counties | | | | | | |
| Carpenters | 6.27 | .30 | .45 | | .02 | |
| Floor sander; Sawmen | 6.395 | .30 | .45 | | .02 | |
| Piledrivermen | 6.42 | .30 | .45 | | .02 | |
| Millwrights | 6.57 | .30 | .45 | | .02 | |
| Carter, Custer, Dawson, Fallon, McCone, Powder River, Prairie, Richland, Ronsevelt and Wibaux Counties | | | | | | |
| Carpenters | 6.00 | .30 | .45 | | .02 | |
| Piledrivermen | 6.25 | .30 | .45 | | .02 | |
| Millwrights | 6.50 | .30 | .45 | | .02 | |
| Park and Sweetgrass Counties | | | | | | |
| Carpenters | 6.13 | .30 | .45 | | .02 | |
| Millwrights and Piledrivermen | 6.38 | .30 | .45 | | .02 | |
| CEMENT MASONS: | | | | | | |
| Big Horn, Carbon, Golden Valley, Stillwater, Treasure and Yellowstone Counties | $6.00 | .35 | | | | |
| Park and Sweetgrass Counties | 5.95 | .25 | | | | |
| Carter, Custer, Dawson, Fallon, Powder River, Prairie, Richland, Rosebud, and Wibaux Counties | 5.75 | | | | | |
| ELECTRICIANS: | | | | | | |
| Big Horn, Carbon, Golden Valley, Musselshell, Powder River, Rosebud, Stillwater, Treasure and Yellowstone Counties | | | | | | |
| Electricians | 7.42 | .20 | 1% | | 1/2% | |
| Cable splicers | 7.87 | .20 | 1% | | 1/2% | |
| Fergus and Petroleum Counties | | | | | | |
| (Electrical contracts less than $20,000) | 5.40 | | 1% | | 1/2% | |
| (Electrical contracts $20,000 or more) | 6.10 | | 1% | | 1/2% | |
| Park and Sweetgrass Counties | | | | | | |
| (Electrical contracts less than $25,000) | 6.05 | .20 | 1% | | 1/2% | |
| (Electrical contracts over $25,000) | 6.94 | .20 | 1% | | 1/2% | |
| Carter, Dawson, Fallon, McCone, Prairie, Richland, Roosevelt, & Wibaux Counties | 6.40 | | 1% | | 1/2% | |
| Custer and Garfield Counties | 5.64 | | 1% | | 1/2% | |
| ELEVATOR CONSTRUCTORS | 6.74 | .345 | .23 | 2%+a | | |
| ELEVATOR CONSTRUCTORS' HELPERS | 70%JR | .345 | .23 | 2%+a | | |
| ELEVATOR CONSTRUCTORS' HELPERS (PROB.) | 50%JR | | | | | |
| IRONWORKERS: | | | | | | |
| Big Horn, Carbon, Carter, Custer, Dawson, Fallon, Golden Valley, Musselshell, Powder River, Prairie, Rosebud, Stillwater, Sweetgrass, Treasure, Wibaux and Yellowstone Cos. | | | | | | |
| Structural; Ornamental and Reinforcing | 7.03 | .40 | .65 | | .05 | |
| Garfield, McCone, Petroleum, Richland, and Roosevelt Counties | | | | | | |
| Structural; Ornamental and Reinforcing | 7.03 | .40 | .65 | | .05 | |
| Park County | | | | | | |
| Structural; Ornamental and Reinforcing | 7.10 | .40 | .65 | | .05 | |

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| MARBLE MASONS: | | | | | | |
| Big Horn, Carbon, Carter, Custer, Dawson, Fallon, McCone, Powder River, Prairie, Richland, Rosebud, Stillwater, Sweetgrass, Treasure, Wibaux and Yellowstone Counties | 7.75 | | | | | |
| Roosevelt County | 6.25 | | | | | |
| Park County | 7.10 | | | | | |
| PAINTERS: | | | | | | |
| Brush | 5.84 | .25 | .20 | | | |
| Steel | 6.09 | .25 | .20 | | | |
| Spray | 6.82 | .25 | .20 | | | |
| PLASTERERS: | | | | | | |
| Big Horn, Carbon, Golden Valley, Stillwater, Treasure and Yellowstone Counties | 6.00 | .35 | | | | |
| Park and Sweetgrass Counties | 5.80 | .25 | | | | |
| Carter, Custer, Dawson, Fallon, Powder River, Prairie, Richland, Rosebud and Wibaux Counties | 5.75 | | | | | |
| PLUMBERS: | | | | | | |
| Park and Sweetgrass Counties | 7.20 | .25 | .25 | | .05 | |
| Remaining Counties | 7.30 | .40 | .40 | | 1½ | |
| ROOFERS: | | | | | | |
| Big Horn, Carbon, Carter, Custer, Dawson, Fallon, Golden Valley, Musselshell, Park, Powder River, Prairie, Richland, Rosebud, Stillwater, Sweetgrass, Treasure, Wibaux and Yellowstone Counties | 7.05 | .32 | .20 | | .02 | |
| Garfield, McCone, Petroleum and Roosevelt Counties | 6.15 | | | | | |
| SHEET METAL WORKERS | 7.05 | .32 | .20 | | .02 | |
| SOFT FLOOR LAYERS | 5.84 | .25 | .20 | | | |
| SPRINKLER FITTERS | 7.20 | .30 | .50 | | .05 | |
| TILE AND TERRAZZO WORKERS | | | | | | |
| Big Horn, Carbon, Carter, Custer, Dawson, Fallon, McCone, Powder River, Prairie, Richland, Rosebud, Sweetgrass, Stillwater, Treasure, Wibaux and Yellowstone Cos. | 7.75 | | | | .02 | |
| Park County | 7.10 | | | | | |

FOOTNOTE:
a. Employer contributes 4% basic hourly rate for over 5 years' service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit.
Six Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.



| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| LABORERS: | | | | | | |
| Carter, Custer, Dawson, Fallon, Powder River, Prairie, and Wibaux Counties | | | | | | |
| General laborers | $5.24 | .37 | .27 | | .03 | |
| Jackhammer operator; Mechanical tampers; Pipelayers (all types); Pavement breakers; Pneumatic and electric tools operator; Pipewrappers | 5.46 | .37 | .27 | | .03 | |
| Mason and plasterer's tenders | 5.64 | .37 | .27 | | .03 | |
| Big Horn, Carbon, Golden Valley, Musselshell, Rosebud, Stillwater, Treasure and Yellowstone Counties | | | | | | |
| General laborers; Concrete laborers; Chuck tenders and nippers | 5.39 | .37 | .27 | | .03 | |
| Cement handler (sack or bulk); Jackhammer operator; Mortarman; Pipelayer (all types); Pipewrapper; Primerhouseman | 5.16 | .37 | .27 | | .03 | |
| Mason and plasterer's tenders | 5.64 | .37 | .27 | | .03 | |
| Garfield, Mc Cone, Petroleum, Richland and Roosevelt Counties | | | | | | |
| General laborers | 5.17 | .37 | .27 | | .03 | |
| Air tool operator (jackhammer, vibrator) | 5.42 | .37 | .27 | | .03 | |
| Brick tenders | 5.57 | .37 | .27 | | .03 | |
| Mortar mixers | 5.67 | .37 | .27 | | .03 | |
| Pipelayers (concrete and clay) | 5.42 | .37 | .27 | | .03 | |
| Plasterer's tenders | 5.67 | .37 | .27 | | .03 | |
| Park and Sweetgrass Counties | | | | | | |
| General laborers | 5.19 | .37 | .27 | | .03 | |
| Hod carriers; Jackhammer operator; Vibrator; Mixer; Concrete pump tender; Nozzleman; Concrete curb machine; Curb form setter | 5.44 | .37 | .27 | | .03 | |







Dawson, Park, Mc Cone, Richland, Roosevelt and Stillwater Counties

MONT-1-PEO-2-3-b (1-4)

| POWER EQUIPMENT OPERATORS | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| A-Frame Truck Crane, Winch Truck and similar | $6.86 | .45 | .45 | | .03 | |
| Air Compressor, Single | 6.55 | .45 | .45 | | .03 | |
| Air Compressor, two or more | 6.72 | .45 | .45 | | .03 | |
| Air Doctor | 7.02 | .45 | .45 | | .03 | |
| Asphalt Paving Machine | 7.02 | .45 | .45 | | .03 | |
| Asphalt Paving Machine Screed | 7.02 | .45 | .45 | | .03 | |
| Automatic Finegrader, Gurries and other similar types | 7.15 | .45 | .45 | | .03 | |
| Belt Finish Machine | 6.72 | .45 | .45 | | .03 | |
| Bit Grinder | 7.02 | .45 | .45 | | .03 | |
| Bituminous Mixer Paving, Travel Plant | 7.1[illegible] | .45 | .45 | | .03 | |
| Boring Machine (small), jeep, pickup or farm tractor mounted | 6.61 | .45 | .45 | | .03 | |
| Boring Machine (large) | 7.02 | .45 | .45 | | .03 | |
| Broom, self-propelled | 6.69 | .45 | .45 | | .03 | |
| Cableway Highline | 7.53 | .45 | .45 | | .03 | |
| Cement Silo | 6.81 | .45 | .45 | | .03 | |
| Central Mixing Plants, Concrete dam & stationary | 7.27 | .45 | .45 | | .03 | |
| Chain Bucket Loader | 6.74 | .45 | .45 | | .03 | |
| Chip or Gravel Spreader, self-propelled | 6.74 | .45 | .45 | | .03 | |
| Concrete Batch Plant, one & two mixers | 7.02 | .45 | .45 | | .03 | |
| Concrete Batch Plant, three and four mixers | 7.22 | .45 | .45 | | .03 | |
| Concrete Batch Plant, five mixers & over | 7.42 | .45 | .45 | | .03 | |
| Concrete Batch Plant Oiler, up to & incl. two mixers | 6.54 | .45 | .45 | | .03 | |
| Concrete Batch Plant Oiler, three mixers and over | 6.85 | .45 | .45 | | .03 | |
| Concrete Bucket Dispatcher | 7.02 | .45 | .45 | | .03 | |
| Concrete Curing Machine | 7.02 | .45 | .45 | | .03 | |
| Concrete Finish Machine Paving | 7.02 | .45 | .45 | | .03 | |
| Concrete Float-Spreader | 7.02 | .45 | .45 | | .03 | |
| Concrete Mixer, three bags & under | 6.61 | .45 | .45 | | .03 | |
| Concrete Mixer, four bags and over | 6.78 | .45 | .45 | | .03 | |
| Concrete Power Saw, self-propelled | 7.02 | .45 | .45 | | .03 | |
| Concrete Travel Batcher | 7.02 | .45 | .45 | | .03 | |
| Conveyor Loader, up to & incl. 42" belt | 6.60 | .45 | .45 | | .03 | |
| Conveyor Loader, over 42 inch belt | 6.72 | .45 | .45 | | .03 | |
| Crane, to & incl. 80' boom wfth jib | 7.18 | .45 | .45 | | .03 | |
| Crane, 81' to 130' boom | 7.33 | .45 | .45 | | .03 | |



MONT- -PEO-2-3-b (2-4)

| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. |
|---|---|---|---|---|---|
| Crane, 131' to 150' boom | $7.38 | .45 | .45 | | .03 |
| Crane, 151' boom & over | 7.43 | .45 | .45 | | .03 |
| Crane Oiler | 6.59 | .45 | .45 | | .03 |
| Crusher | 7.02 | .45 | .45 | | .03 |
| Crusher Oiler & Helper | 6.51 | .45 | .45 | | .03 |
| Crusher Conveyor, when required | 6.48 | .45 | .45 | | .03 |
| Distributor | 7.02 | .45 | .45 | | .03 |
| DW 10, 15, or 20 Tractor pulling roller | 6.74 | .45 | .45 | | .03 |
| Electric Overhead Cranes | 7.20 | .45 | .45 | | .03 |
| Elevating Grader | 7.02 | .45 | .45 | | .03 |
| Farm Type Tractor, up to & incl. 50 HP Engine | 6.48 | .45 | .45 | | .03 |
| Farm Type Tractor, over 50HP Engine | 6.56 | .45 | .45 | | .03 |
| Field Equipment Serviceman | 6.94 | .45 | .45 | | .03 |
| Field Equipment Serviceman Helper | 6.[illegible] | .45 | .45 | | .03 |
| Fireman | 6.[illegible] | .45 | .45 | | .03 |
| Forklift, on construction job site | 6.83 | .45 | .45 | | .03 |
| Form Grader | 6.79 | .45 | .45 | | .03 |
| Gradall | 7.02 | .45 | .45 | | .03 |
| Grade Setter | 6.48 | .45 | .45 | | .03 |
| Heavy Duty Drill, all types | 7.02 | .45 | .45 | | .03 |
| Heavy Duty Driller Helper | 6.61 | .45 | .45 | | .03 |
| Herman-Nelson Heaters & similar type | 6.56 | .45 | .45 | | .03 |
| Hoist, Single drum | 6.79 | .45 | .45 | | .03 |
| Hoist, two or more drums | 7.02 | .45 | .45 | | .03 |
| Helicopter Hoist | 7.52 | .45 | .45 | | .03 |
| Hot Plant | 7.02 | .45 | .45 | | .03 |
| Hot Plant Fireman, when in Operation | 7.02 | .45 | .45 | | .03 |
| Hot Plant Oiler, 100 ton per hour or over | 6.51 | .45 | .45 | | .03 |
| Hydra lift and similar types | 6.92 | .45 | .45 | | .03 |
| Industrial Locomotive all classes | 7.02 | .45 | .45 | | .03 |
| Mechanic and/or Welder on job | 7.12 | .45 | .45 | | .03 |
| Mechanic and/or Welder Helper on job | 6.51 | .45 | .45 | | .03 |
| Mixermobile | 7.10 | .45 | .45 | | .03 |
| Motor Patrol | 7.15 | .45 | .45 | | .03 |
| Mountain Logger or smiilar type | 7.02 | .45 | .45 | | .03 |
| Mucking Machine | 7.02 | .45 | .45 | | .03 |
| Oiler-Driver, Tubber Tired Cranes | 6.59 | .45 | .45 | | .03 |
| Oilers, other than Shovels & Cranes | 6.51 | .45 | .45 | | .03 |
| Oiler, hoist house, dams | 6.92 | .45 | .45 | | .03 |
| Pavement Breaker, Esnco & similar | 7.02 | .45 | .45 | | .03 |
| Paving & Mixing Machine | 7.15 | .45 | .45 | | .03 |
| Power Auger, Large Truck or Tractor Mounted | 7.02 | .45 | .45 | | .03 |
| Power Mixer, single or double drum | 7.02 | .45 | .45 | | .03 |
| Power Saw, Multiple cut, self-propelled | 7.02 | .45 | .45 | | .03 |
| Pumpcrete or Grout Machine | 7.02 | .45 | .45 | | .03 |
| Pumpman | 6.55 | .45 | .45 | | .03 |





XUM

AQ-1.041 P. 7

MONT-1 PEO-2-3-b (3-4)

| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Oth |
| Push Tractor | $7.02 | .45 | .45 | | .03 | |
| Quad Cat | 7.32 | .45 | .45 | | .03 | |
| Refrigerator Plant | 7.02 | .45 | .45 | | .03 | |
| Retort | 6.61 | .45 | .45 | | .03 | |
| Roller, on blade or hot mix oil paving | 7.02 | .45 | .45 | | .03 | |
| Roller, on other blade or hot mix paving | 6.72 | .45 | .45 | | .03 | |
| Roller, 25 ton or over | 7.02 | .45 | .45 | | .03 | |
| Ross & similar type carriers, on construction site | 7.02 | .45 | .45 | | .03 | |
| Rubber-tired Dozer | 7.02 | .45 | .45 | | .03 | |
| Rubber-tired Front End Loader, 1 yd. & under | 6.73 | .45 | .45 | | .03 | |
| Rubber-tired Front End Loader, 1 yd. to and incl. 3 yds. | 7.02 | .45 | .45 | | .03 | |
| Rubber-tired Front End Loader, over 3 yds. to and incl. 5 yds. | 7.14 | .45 | .45 | | .03 | |
| Rubber-tired Front End Loader, over 5 yds. to and incl. 10 yds. | 7.24 | .45 | .45 | | .03 | |
| Rubber-tired Front End Loader, over 10 yds. to and incl. 15 yds. | 7.34 | .45 | .45 | | .03 | |
| Rubber-tired Front End Loader, over 15 yds. | 7.44 | .45 | .45 | | .03 | |
| Scraper, DW 15, 20, 21 & similar type if power unit is not used | 7.02 | .45 | .45 | | .03 | |
| Scraper, single or twin engine pulling belly dump trailer | 7.40 | .45 | .45 | | .03 | |
| Scraper, single engine | 7.15 | .45 | .45 | | .03 | |
| Scraper, twin engine | 7.25 | .45 | .45 | | .03 | |
| Scraper, tandem engine | 7.51 | .45 | .45 | | .03 | |
| Self-propelled Sheepfoot and similar type | 7.02 | .45 | .45 | | .03 | |
| Shovels, incl. all attachments, under 1 cu. yd. | 7.02 | .45 | .45 | | .03 | |
| Shovels, incl. all attachments, 1 cu. yd. to & incl. 3 cu. yd. | 7.20 | .45 | .45 | | .03 | |
| Shovels, incl. all attachments, over 3 cu. yd. to & incl. 5 cu. yd. | 7.47 | .45 | .45 | | .03 | |
| Shovels, incl. all attachments, over 5 cu. yd. | 7.60 | .45 | .45 | | .03 | |
| Shovel Oiler, 3 yds. & under | 6.51 | .45 | .45 | | .03 | |
| Shovel Oiler, over 3 cu. yds. | 6.92 | .45 | .45 | | .03 | |
| Slip form paver | 7.15 | .45 | .45 | | .03 | |
| Stiff leg derrick & guy derrick | 7.47 | .45 | .45 | | .03 | |
| Track-type front end loaders; up to & incl. 5 cu. yds. | 7.02 | .45 | .45 | | .03 | |
| Track-type front end loaders; over 5 cu. yd. to & incl. 10 cu. yd. | 7.25 | .45 | .45 | | .03 | |
| Track-type front end loaders, over 10 cu. yd. to & incl. 15 cu. yd. | 7.35 | .45 | .45 | | .03 | |

AQ-1.041 P. 8

MONT-1-PEO-2-3-b (4-4)

| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Oth |
| Track-type front end loaders, over 15 cu. yd. | $7.45 | .45 | .45 | | .03 | |
| Track-type tractor with or without attachments | 7.02 | .45 | .45 | | .03 | |
| Track-type tractor, on Euclid Loader | 7.20 | .45 | .45 | | .03 | |
| Trenching Machine | 7.02 | .45 | .45 | | .03 | |
| Turnhead Conveyor, or Head Tower on Batch Plant | 7.02 | .45 | .45 | | .03 | |
| Wagner Roller & similar type | 7.02 | .45 | .45 | | .03 | |
| Whirley Crane | 7.55 | .45 | .45 | | .03 | |
| Whirley Crane Oiler | 6.92 | .45 | .45 | | .03 | |
| Water Pull when used for compaction | 7.02 | .45 | .45 | | .03 | |
| Washing and Screening Plant | 7.02 | .45 | .45 | | .03 | |
| Washing and Screening Plant Oiler | 6.51 | .45 | .45 | | .03 | |

NOTICES

FEDERAL REGISTER, VOL. 38, NO. 183—FRIDAY, SEPTEMBER 21, 1973



AQ-1.041 P. 9

MON-2-PE -1-8 (1-3)

REMAINING COUNTIES

| POWER EQUIPMENT OPERATORS: | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| ASPHALT PAVING MACHINE; Air doctor; Bit grinder; Bituminous mixer; Bulldozers; Boring machine, large; Concrete finish machine, paving; Concrete float and spreader; Crusher and/or screening plant, portable; Distributor; Elevating grader; Front end loader, rubber-tired, 1 yd. and incl. 3 yds.; Heavy duty rotary drills; Quarry master; Hoist, two or more drums; Hot plant fireman; Industrial locomotive; Mucking machine; Pavement breaker, Emsco and similar type; Paver mixer, single or double drum; Power saw, self-propelled, multiple cut; Pumpcrete or grout machine; Roller, finish high type pavement; Ross and similar type carriers, on construction site; Roller, 25 tons or over; Screed; Shovel, incl. all attachments, under 1 yd.; Track-type tractor with or without attachments, incl. track-tupe loader, front-end up to and incl. 5 cu. yds.; Traxcavator, and Athey type loader; Wagner roller and similar type | $7.02 | .45 | .45 | | .03 | |
| A-FRANE TRUCK CRANE; Hoist; Single drum | 6.77 | .45 | .45 | | .03 | |
| AIR COMPRESSOR, SINGLE; Crusher and/or screening plant helper, if over 2 units | 6.51 | .45 | .45 | | .03 | |
| AIR COMPRESSOR, TWO OR MORE; Front-end loader, rubber-tired, under 1 yds.; Roller, grade or finish | 6.71 | .45 | .45 | | .03 | |
| BELT FINISHING | 6.69 | .45 | .45 | | .03 | |
| BORING MACHINE, Small; Firemen; Mixer, concrete, 3 bags or under; Retort | 6.58 | .45 | .45 | | .03 | |
| CABLEWAY | 7.54 | .45 | .45 | | .03 | |
| CEMENT SILO | 6.79 | .45 | .45 | | .03 | |
| CONCRETE BATCH PLANT; Crusher and/or screening plant stationary | 6.91 | .45 | .45 | | .03 | |

AQ-1.041 P. 10

MON-2-PEO-1-8 (2-3)

| POWER EQUIPMENT OPERATORS (cont'd): | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| HELICOPTER HOIST | $7.52 | .45 | .45 | | .03 | |
| CONVEYOR; Chip and gravel spreader | 6.72 | .45 | .45 | | .03 | |
| CRANE OPERATORS: | | | | | | |
| To and incl. 80' w/jibs | 7.18 | .45 | .45 | | .03 | |
| 81' to 130' boom | 7.33 | .45 | .45 | | .03 | |
| 131' to 150' boom | 7.38 | .45 | .45 | | .03 | |
| 151' boom and over | 7.43 | .45 | .45 | | .03 | |
| ELECTRIC OVERHEAD CRANE; Euclid loader and similar type; Shovels, incl. all attachments, 1 yd. to and incl. 4 yds.; Tournapull, DW 20, 21 and similar type scrapers | 7.21 | .45 | .45 | | .03 | |
| CRANE OILER-DRIVER, rubber tired | 6.57 | .45 | .45 | | .03 | |
| DRILLING MACHINE, does not incl. jackhammer, wagon driller, or water liner; Feild equipment serviceman; Winch truck with hydraulic boom | 6.92 | .45 | .45 | | .03 | |
| FORK LIFT, on construction site | 6.81 | .45 | .45 | | .03 | |
| FRONT-END LOADER, rubber-tired, over 3 yds. and incl. 5 yds.; LeTourneau, single and similar type; Motor patrol; Automatic finegrader, gurries and similar type | 7.15 | .45 | .45 | | .03 | |
| FRONT-END LOADERS, rubber-tired, over 5 yds. to and incl. 10 yds.; Scraper, twin-engine; Track-type front-end loaders, over 5 cu. yds. to and incl. 10 cu. yds. | 7.25 | .45 | .45 | | .03 | |
| FRONT-END LOADERS, rubber-tired, 10 yds. to and incl. 15 yds.; Track-type front-end loaders to and incl. 15 cu. yds. | 7.35 | .45 | .45 | | .03 | |
| FRONT-END LOADERS, rubber-tired, over 15 yds. (factory struck rating, not to include sideboards); Track-type front-end loaders, over 15 cu. yds. | 7.45 | .45 | .45 | | .03 | |
| GRADE SETTER; Herman Nelson heaters and similar type | 6.48 | .45 | .45 | | .03 | |
| LETOURNEAU, Tandem and similar type; Quad Cat | | | | | | |

NOTICES

FEDERAL REGISTER, VOL. 38, NO. 183—FRIDAY, SEPTEMBER 21, 1973

XUM

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| POWER EQUIPMENT OPERATORS (cont'd) | | | | | | |
| LOADER, BARBER GREEN and similar type | $6.66 | .45 | .45 | | .03 | |
| MECHANIC AND/OR WELDER, on job site | 7.12 | .45 | .45 | | .03 | |
| MECHANIC AND/OR WELDER, HELPER; Heavy duty rotary drill helper; Oiler | 6.47 | .45 | .45 | | .03 | |
| MIXER, CONCRETE, 3 bags and under | 6.58 | .45 | .45 | | .03 | |
| MIXER, CONCRETE, 4 bags and over | 6.83 | .45 | .45 | | .03 | |
| MIXERMOBILE | 7.11 | .45 | .45 | | .03 | |
| PUMPMAN | 6.52 | .45 | .45 | | .03 | |
| SHOVELS, over 4 yds.; Stiff leg, Guy derrick; Scraper, tandem 3 engines | 7.51 | .45 | .45 | | .03 | |
| TRACTOR, rubber-tired, (Industrial) | 6.46 | .45 | .45 | | .03 | |
| TOWER CRANE | 7.51 | .45 | .45 | | .03 | |
| TRENCHING MACHINE | 6.96 | .45 | .45 | | .03 | |



| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. |
| LINE CONSTRUCTION: (Jobs 69,000 volts or less) | | | | | |
| Cable splicer | $7.18 | .25 | 1% | | ½% |
| Linemen | 6.49 | .25 | 1% | | ½% |
| Line equipment operators; Powdermen | 6.38 | .25 | 1% | | ½% |
| Experienced groundmen (2 yrs.); Truck drivers | 5.05 | .25 | 1% | | ½% |
| Groundmen | 4.49 | .25 | 1% | | ½% |
| (Jobs over 69,000 volts) and/or (projects of $400,000 or over) Cable splicers | 7.36 | .25 | 1% | | ½% |
| Linemen; Pole sprayer | 6.99 | .25 | 1% | | ½% |
| Line equipment operators; Powdermen | 6.42 | .25 | 1% | | ½% |
| Groundmen | 5.31 | .25 | 1% | | ½% |





SUPERSEDEAS DECISION

STATE: Tennessee
DECISION NO.: AQ-4011
Supersedes Decision No. AP-190 dated May 25, 1973 in 38 FR 14068
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

COUNTIES: Anderson and Roane
DATE: Date of Publication

*Oak Ridge, Atomic Energy Commission Only

1 - Term. 1-W 1 of 2

BUILDING CONSTRUCTION

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Oth |
| Asbestos workers | $7.55 | .25 | .20 | | .03 | |
| Boilermakers | 6.85 | .40 | .60 | | .01 | |
| Bricklayers & Stonemasons | 7.63 | | | | .02 | |
| Carpenters & soft floor layers | 6.33 | | .20 | | .02 | |
| Cement masons | 5.70 | | | | .02 | |
| Electricians (Oak Ridge in Anderson Co., & Roane County): | | | | | | |
| Electricians & Linemen | 7.36 | .25 | 1% | | .5% | |
| Cable splicers | 7.87 | .25 | 1% | | .5% | |
| Elevator conetructors | 5.82 | .17 | .185 | 2%+a+b | .005 | |
| Elevator constructors' helpers | 70%JR | .17 | .185 | 2%+a+b | .005 | |
| Elevator constructors' helpers (prob.) | 50%JR | | | | | |
| Glaziers | 5.75 | | .25 | | .005 | |
| Ironworkers: | | | | | | |
| Structural & ornamental | 6.685 | .125 | .10 | | .02 | |
| Reinforcing | 6.565 | .125 | .10 | | .02 | |
| Fence erector | 6.685 | .125 | .10 | | .02 | |
| Lathers | 6.45 | | .20 | | .01 | |
| Leadburners | 7.80 | .30 | | o | .01 | |
| Marble setters | 7.63 | | | | .02 | |
| Millwrights | 6.79 | | .20 | | .02 | |
| Painters: | | | | | | |
| Commercial | 6.00 | | .20 | | .02 | |
| Industrial | 6.35 | | .20 | | .02 | |
| Piledrivermen | 6.58 | | .20 | | .02 | |
| Plasterers | 6.85 | | | | | |
| Plumbers & Steamfitters | 7.13 | .35 | .45 | .30+e | .05 | |
| Roofers: | | | | | | |
| Compoeition | 5.55 | | .15 | | | |
| Slate and tile | 5.60 | | .15 | | | |
| Helpers | 4.17 | | .15 | | | |
| Sheet metal workers | 8.40 | .30 | .30 | | .02 | |
| Sprinkler fitters | 8.05 | .30 | .40 | | .05 | |
| Terrazzo workers | 7.63 | | | | .02 | |
| Tile setters | 7.63 | | | | .02 | |
| Truck drivers: | | | | | | |
| Up to 3 tons & incl. 4 yds., dump truck | 4.28 | | d | | .01 | |
| 3 to 5 tons & incl. 6 yds., dump truck | 4.48 | | d | | .01 | |
| 5 tons & over incl. dump trucks over 6 yds., ready-mix concrete truck, tank trucks, floats and lowboys, winch truck and semi-trailer trucks | 4.63 | | d | | .01 | |
| Water Well Drill Operators | 3.00 | | | | | |
| Water Well Drill Helpers | 2.00 | | | | | |
| Welders-receive rate prescribed for | | | | | | |



PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

c. Holidays, A through F plus Washington's Birthday, Good Friday and Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.

d. $6.00 per week for each employee.

e. $.05 Holiday pay..





XMX 38 FR 26588 SEP 21 1973

BUILDING CONSTRUCTION

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Oth |
| LABORERS: | | | | | | |
| Group A<br>Common Laborer | $4.22 | .10 | .10 | | .01 | |
| Group B<br>Mortar mixer, plasterer tender | 4.37 | .10 | .10 | | .01 | |
| Group C<br>Hod carriers, power buggies, yarner, potman, grademan, snake man, form setter & strippers, pipelayers, Asphalt raker, jackhammer op., air tool op., vibrator op., chain saw op., chain saw filer, barco tamp op. | 4.37 | .10 | .10 | | .01 | |
| Group D<br>Acetlyene burner | 4.40 | .10 | .10 | | .01 | |
| Group E<br>Wagon drill operator | 4.52 | .10 | .10 | | .01 | |
| Group F<br>Caisson hole man | 5.02 | .10 | .10 | | .01 | |
| Group G<br>Powderman | 4.72 | .10 | .10 | | .01 | |
| Tunnel Construction: | | | | | | |
| Group H<br>Outside laborer | 4.22 | .10 | .10 | | .01 | |
| Group I<br>Tunnel laborer | 4.62 | .10 | .10 | | .01 | |
| Group J<br>Chuck tender | 4.77 | .10 | .10 | | .01 | |
| Group K<br>Concrete gun op., nozzleman | 4.92 | .10 | .10 | | .01 | |
| Group L<br>Tunnel miner | 5.02 | .10 | .10 | | .01 | |



BUILDING CONSTRUCTION

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. |
| GROUP A<br>Backhoes, cable ways, ross carrier, clamshells, cranes derricks, draglines, tournapulls, pans, scrapers, scoops, etc., head tower machines, locomotives (over 20 tons), shovels, mechanics & welders, winch trucks with A-frame, skimmer scoops, locomotives cranes, over-head cranes, pile drivers, skid rigs, side boom tractors, euclid loaders, hoist (any size handling steel or stone), derrick boats, dredge boats, engines used in connection with hoist material with an attached device on tower or engine, mucking machines, hi-lifts or end loaders, finish graders, cherry-pickers, tower cranes, skylift & gradall, dozers, earth augers and pole machine operators, core drill & foundation drills. | $6.13 | .20 | .20 | | .02 |
| GROUP B<br>Tractors, farm type tractors with attachments, central compressor plants, elevators, used for hoisting building material, central mixing plants, hoist, pump crete machines, concrete pumps, trenching machines, backfillers (other than cranes), crushing plant operators, elevating graders, paving machines (black top), fork-lift, paving machines, (concrete), boat operator or engineer (30 tons or over) tracmobile, maintainers, blacktop roller, switchman, locomotive under 20 tons. | 5.69 | .20 | .20 | | .02 |
| GROUP C<br>Asphalt plant operators, barber green type loaders, engine tender other than steam, mixers, over 2 bags not to include central plants, pumps, 2 not more than 5, scarifiers, spreader box (bituminous), asphalt mixers, portable compressors, 2 not more than 3, rollers, sub-grader machine, tractors, farm type without attachments, | | | | | |







BUILDING CONSTRUCTION

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Oth |
| GROUP C (CONT'D)<br>cable head tower engineman, dredge booster pump operators, boat operator or engine, under 30 tons, finishing machine, fireman & oiler (combination), motor crane oiler & driver, welding machine (2 not more than 3), heaters, stationery or portable (to 5), compressors (portable 2 not more than 3), greaser or fuel trucks | $4.77 | .20 | .20 | | .02 | |
| GROUP D<br>Air compressor (1 portable), fireman, portable curshers, welding machine (1), conveyors, pumps (1), oiler, heater (1). | 4.38 | .20 | .20 | | .02 | |

SUPERSEDEAS DECISION

STATE: Texas
DECISION NO.: AQ-27
COUNTY: Bexar
DATE: Date of Publication
Supersedeas Decision No. AP-732, dated May 18, 1973, in 38 FR 13302.
DESCRIPTION OF WORK: Residential construction consisting of single family houses and garden type apartments up to and including 4 stories.

| BUILDING CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| AIR CONDITIONING INSTALLERS | $3.50 | | | | | |
| AIR CONDITIONING INSTALLERS' HELPERS | 2.19 | | | | | |
| BRICKLAYERS | 7.27 | .30 | .30 | | .05 | |
| CARPENTERS | 4.09 | | | | | |
| CARPENTERS' HELPERS | 2.42 | | | | | |
| CEMENT MASONS | 7.02 | .25 | | | | |
| DUCT INSTALLERS | 3.45 | | | | | |
| DUCT INSTALLERS' HELPERS | 2.09 | | | | | |
| ELECTRICIANS: | | | | | | |
| Single or multiple family dwellings or apartments up to and including 8 units not exceeding 2 stories | 5.10 | .25 | 1% | | 1/2% | |
| Over 8 units or over 2 stories | 7.58 | .25 | 1% | | 1/2% | |
| FORM SETTERS | 3.29 | | | | | |
| FORM SETTERS' HELPERS | 2.25 | | | | | |
| GLAZIERS | 3.50 | | | | | |
| INSULATION INSTALLERS | 4.50 | | | | | |
| IRONWORKERS | 4.66 | | | | | |
| LABORERS, UNSKILLED | 2.29 | | | | | |
| PAINTERS | 3.00 | | | | | |
| PAINTERS' HELPERS | 2.08 | | | | | |
| TAPE & FLOAT | 4.00 | | | | | |
| PLASTERERS | 6.98 | | | | .01 | |
| PLUMBERS & PIPEFITTERS | 7.13 | .25 | .35 | | .10 | |
| ROOFERS | 3.19 | | | | | |
| ROOFERS, SHINGLERS | 3.50 | | | | | |
| SHEETROCK INSTALLER | 4.00 | | | | | |
| SOFT FLOOR LAYERS | 3.71 | | | | | |
| SOFT FLOOR LAYERS' HELPERS | 1.97 | | | | | |
| TILE SETTERS | 5.18 | | | | | |
| TILE SETTERS' HELPERS | 3.30 | | | | | |
| TRUCK DRIVERS | 2.25 | | | | | |
| T.V. ANTENNA INSTALLERS | 3.50 | | | | | |
| T.V. ANTENNA INSTALLERS' HELPERS | 2.25 | | | | | |
| POWER EQUIPMENT OPERATORS: | | | | | | |
| Fork lifts | 2.75 | | | | | |
| Foundation drill operator (crawler mounted) | 5.85 | | | | | |
| Front end loader | 2.58 | | | | | |
| Tractor | 3.75 | | | | | |

AQ-27 P. 2

16 - Texas - 3 1 (1 - 2)

| INCIDENTAL PAVING & UTILITIES & SITE PREPARATION | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| Air Tool Man | $2.40 | | | | | |
| Asphalt Heaterman | 2.75 | | | | | |
| Asphalt Raker | 2.75 | | | | | |
| Batching Plant Scaleman | 3.35 | | | | | |
| Batterboard Setter | 2.65 | | | | | |
| Carpenter | 3.35 | | | | | |
| Carpenter Helper | 2.35 | | | | | |
| Concrete Finisher (Paving) | 3.40 | | | | | |
| Concrete Finisher Helper (Paving) | 2.50 | | | | | |
| Concrete Finisher (Structures) | 3.00 | | | | | |
| Concrete Finisher Helper (Structures) | 2.60 | | | | | |
| Concrete Rubber | 2.65 | | | | | |
| Electrician | 5.10 | | | | | |
| Fireman | 2.85 | | | | | |
| Form Builder (Structures) | 3.50 | | | | | |
| Form Builder Helper (Structures) | 2.50 | | | | | |
| Form Setter (Paving and Curb) | 3.20 | | | | | |
| Form Setter (Structures) | 3.00 | | | | | |
| Form Setter Helper (Structures) | 2.50 | | | | | |
| Laborer, Common | 2.00 | | | | | |
| Laborer, Utility Man | 2.15 | | | | | |
| Mechanic | 3.15 | | | | | |
| Mechanic Helper | 2.75 | | | | | |
| Oiler | 2.40 | | | | | |
| Serviceman | 2.75 | | | | | |
| Pipelayer | 2.60 | | | | | |
| Pipelayer Helper | 2.15 | | | | | |
| Powderman | 2.85 | | | | | |
| Powderman Helper | 2.00 | | | | | |
| Reinforcing Steel Setter (Paving) | 2.75 | | | | | |
| Reinforcing Steel Setter (Structures) | 3.00 | | | | | |
| Reinforcing Steel Setter Helper | 2.25 | | | | | |
| Spreader Box Man | 2.55 | | | | | |
| Swamper | 2.50 | | | | | |





AQ-27 P. 3

16 - Texas - 3 1 (2 - 2)

| INCIDENTAL PAVING & UTILITIES & SITE PREPARATION | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| Power Equipment Operators: | | | | | | |
| Asphalt Distributor | $2.85 | | | | | |
| Asphalt Paving Machine | 2.75 | | | | | |
| Bulldozer, 150 HP and Less | 3.00 | | | | | |
| Bulldozer, over 150 HP | 3.25 | | | | | |
| Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY) | 3.25 | | | | | |
| Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over) | 3.50 | | | | | |
| Crusher or Screening Plant Operator | 3.00 | | | | | |
| Elevating Grader | 3.00 | | | | | |
| Foundation Drill Operator (Crawler Mounted) | 3.85 | | | | | |
| Foundation Drill Operator (Truck Mounted) | 4.80 | | | | | |
| Foundation Drill Operator Helper | 3.60 | | | | | |
| Front End Loader (2½ CY and Less) | 2.75 | | | | | |
| Front End Loader (Over 2½ CY) | 3.25 | | | | | |
| Motor Grader Operator, Fine Grade | 3.75 | | | | | |
| Motor Grader Operator | 3.25 | | | | | |
| Roller, Steel Wheel (Plant-Mix Pavements) | 2.25 | | | | | |
| Roller, Steel Wheel (Other-Flat Wheel or Tamping) | 2.25 | | | | | |
| Roller, Pneumatic (Self-Propelled) | 2.25 | | | | | |
| Scrapers (17 CY and Less) | 3.00 | | | | | |
| Scrapers (Over 17 CY) | 3.15 | | | | | |
| Tractor (Crawler Type) 150 HP and Less | 2.30 | | | | | |
| Tractor (Crawler Type) over 150 HP | 2.50 | | | | | |
| Tractor (Pneumatic) 80 HP and Less | 2.00 | | | | | |
| Tractor (Pneumatic) over 80 HP | 2.50 | | | | | |
| Traveling Mixer | 2.50 | | | | | |
| Trenching Machine | 3.00 | | | | | |
| Wagon Drill, Boring Machine or Post Hole Driller Operator | 2.75 | | | | | |
| Truck Drivers: | | | | | | |
| Single Axle, Light | 2.00 | | | | | |
| Single Axle, Heavy | 2.00 | | | | | |
| Tandem Axle or Semitrailer | 2.25 | | | | | |
| Lowboy-Float | 2.90 | | | | | |
| Winch | 2.75 | | | | | |
| Welder | 4.00 | | | | | |
| Welder Helper | 2.85 | | | | | |

[FR Doc.73-19890 Filed 9-20-73;8:45 am]







XMX 38 FR 25712

MICROFILM EDITION

# FEDERAL REGISTER

35mm MICROFILM

**Complete Set 1936–71, 202 Rolls $1,439**

| Vol. | Year | Price | Vol. | Year | Price | Vol. | Year | Price |
|---|---|---|---|---|---|---|---|---|
| 1 | 1936 | $7 | 13 | 1948 | $28 | 25 | 1960 | $49 |
| 2 | 1937 | 12 | 14 | 1949 | 22 | 26 | 1961 | 44 |
| 3 | 1938 | 8 | 15 | 1950 | 28 | 27 | 1962 | 46 |
| 4 | 1939 | 14 | 16 | 1951 | 44 | 28 | 1963 | 50 |
| 5 | 1940 | 14 | 17 | 1952 | 41 | 29 | 1964 | 54 |
| 6 | 1941 | 21 | 18 | 1953 | 30 | 30 | 1965 | 58 |
| 7 | 1942 | 37 | 19 | 1954 | 37 | 31 | 1966 | 60 |
| 8 | 1943 | 53 | 20 | 1955 | 41 | 32 | 1967 | 69 |
| 9 | 1944 | 42 | 21 | 1956 | 42 | 33 | 1968 | 55 |
| 10 | 1945 | 47 | 22 | 1957 | 41 | 34 | 1969 | 62 |
| 11 | 1946 | 47 | 23 | 1958 | 41 | 35 | 1970 | 59 |
| 12 | 1947 | 24 | 24 | 1959 | 42 | 36 | 1971 | 97 |

Order Microfilm Edition from Publications Sales Branch
National Archives and Records Service
Washington, D.C. 20408

V 38-183 SEP 2173 XUM

184

September 24, 1973—Pages 26595–26668

# federal register

MONDAY, SEPTEMBER 24, 1973

WASHINGTON, D.C.

Volume 38 ■ Number 184

Pages 26595–26668

PART I

## HIGHLIGHTS OF THIS ISSUE

**This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.**

**PHASE IV**—CLC revises regulations regarding construction industry; effective 9–26–73 ..... 26611

**CONTROLLED DRUGS**—Justice Department exempts certain research chemicals; effective 9–24–73 ..... 26610

**HOUSEHOLD MOVERS**—ICC amendments on uniform rates for identical services and credit card systems (2 documents); effective 1–1–74 and 11–2–73, respectively ..... 26608

**HISTORIC PLACES**—Interior Department amendments to National Register ..... 26618

**MEDICARE**—HEW proposal concerning computation of supplementary medical insurance premium rates; comments by 10–24–73 ..... 26616

**AIR TAXIS**—CAB proposal on reporting requirements; comments by 10–19–72 ..... 26616

**AIR CARGO RATES**—CAB adopts IATA resolution on import service fees ..... 26627

**TEXTILE IMPORTS**—CITA renews import limitations on certain cotton products from Costa Rico ..... 26630

**NATURAL GAS**—FPC policy statement on measures for adequate service during 1973–1974 winter heating season ..... 26603

**MEETINGS**—

DoD: Army Advisory Committee for National Dredging Study, 9–27 and 9–28–73 ..... 26618

Commission on Civil Rights: State Advisory Committees, 9–25, 9–26, and 9–29–73 ..... 26629

FPC: National Power Survey, Technical Advisory Committee on Conservation of Energy, 9–26–73 ..... 26645

Coordinating Committee, 10–3–73 ..... 26645

Executive Advisory Committee, 10–4–73 ..... 26645

Commerce Department: Management-Labor Textile Advisory Committee, 10–2–73 ..... 26624

**PART II:**

**UNITED STATES BOARD OF PAROLE**—Justice Department organization, operation and procedures for Northeast Region; effective 10–1–73 .... 26651

**PART III:**

**EDUCATIONAL OPPORTUNITY GRANTS**—HEW proposes 1974–1975 expected family contribution schedules; comments by 11–23–73 ..... 26659



V38-184 SEP 24 73 XUM

# REMINDERS

**Rules Going Into Effect Today**

This list includes only rules that were published in the FEDERAL REGISTER after October 1, 1972.

page no. and date

**SEPTEMBER 24**

CAB—Authority to direct air carriers to charter aircraft to foreign air freight forwarders (3 documents)..... 22771–22772; 8–24–73

EPA—Approval and promulgation of compliance schedules..... 22736; 8–23–73


federal register

Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by the Executive Branch of the Federal Government. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $2.50 per month or $25 per year, payable in advance. The charge for individual copies is 20 cents for each issue, or 20 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.




# Contents


**AGRICULTURAL MARKETING SERVICE**
**Rules and Regulations**
Valencia oranges grown in Arizona and designated parts of California; limitation of handling.. 26601
**Proposed Rules**
Oranges and grapefruit grown in the lower Rio Grande Valley in Texas; Limitation of handling (2 documents)..... 26614
Oranges and grapefruit grown in the lower Rio Grande Valley in Texas; container, pack, and container marketing requirements.. 26615
Winter pears; expenses and rate of assessment for 1973–74 fiscal period..... 26615

**AGRICULTURE DEPARTMENT**
*See* Agricultural Marketing Service, Forest Service, Packers and Stockyards Administration.

**ARMY DEPARTMENT**
**Notices**
Advisory Committee for National Dredging Study; meeting..... 26618

**ATOMIC ENERGY COMMISSION**
**Notices**
Forked River Nuclear Generating Station; availability of decision of Atomic Safety and Licensing Board..... 26626
Niagara Mohawk Power Corp.; evidentiary hearing..... 26626
Wisconsin Public Service Corp., et al.; order extending completion date..... 26626

**CIVIL AERONAUTICS BOARD**
**Rules and Regulations**
Inspection of accounts and property; reorganization of board components..... 26601
**Proposed Rules**
Reporting of certain data by commuter air carriers and other air taxi operators..... 26616
**Notices**
International Air Transport Association; agreement and order regarding cargo rates (2 documents)..... 26627
*Hearings, etc.:*
Allegheny Airlines, Inc..... 26626
Gateway Aviation, Ltd..... 26627
Haiti Air Transport, S.A.M..... 26627
IU International Corp. and IU Forwarding, Inc..... 26627
Sedalia, Marshall, Boonville Stage Line, Inc..... 26629

**CIVIL RIGHTS COMMISSION**
**Notices**
Agenda of State Advisory Committees:
Connecticut..... 26629
Indiana..... 26629
Maine..... 26630
Pennsylvania..... 26630

**CIVIL SERVICE COMMISSION**
**Rules and Regulations**
Promotion, evaluation, awards, absence and leave, and separations, demotions and furloughs; effective dates..... 26601
**Notices**
Veterinarian, world-wide; establishment of minimum rates and rate ranges..... 26630

**COMMERCE DEPARTMENT**
*See also* Maritime Administration, National Oceanic and Atmospheric Administration.
**Notices**
Management-Labor Textile Advisory Committee; meeting..... 26624

**COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS**
**Notices**
Certain cotton textiles produced or manufactured in Costa Rica..... 26630

**COST OF LIVING COUNCIL**
**Rules and Regulations**
Construction; Phase IV regulations..... 26611

**CUSTOMS SERVICE**
**Notices**
Richard C. O'Rourke, Chicago, Ill.; cancellation with prejudice of customhouse broker license.. 26618

**DEFENSE DEPARTMENT**
*See* Army Department.

**DRUG ENFORCEMENT ADMINISTRATION**
**Rules and Regulations**
Agency references and parts redesignations; editorial changes.. 26609
Schedules of controlled substances; exempt chemical preparations..... 26610

**EDUCATION OFFICE**
**Proposed Rules**
Basic Educational Opportunity Grant Program; family contribution for 1974–75 academic year..... 26660

**FEDERAL DISASTER ASSISTANCE ADMINISTRATION**
**Notices**
New Britain township, Pa.; amendment to notice of major disaster..... 26624

**FEDERAL POWER COMMISSION**
**Rules and Regulations**
Policy regarding measures for participation of service for 1973–74 winter heating season.. 26603
**Notices**
National Power Survey; agenda of meetings:
Coordinating Committee..... 26645
Executive Advisory Committee.. 26645
Technical Advisory Committee on Conservation..... 26645
*Hearings, etc.:*
Alabama Power Co..... 26631
Arkansas Louisiana Gas Co..... 26631
Atlantic Richfield Co..... 26631
Brockton Tauton Gas Co..... 26631
Colorado Interstate Gas Co..... 26632
Consolidated Edison Co..... 26632
Consolidated Gas Supply Corp.. 26632
Duke Power Commission..... 26632
Filing of electric services tariff changes..... 26633
Filing of natural gas tariff changes..... 26634
Florida Power Corp..... 26634
Florida Power and Light Co..... 26635
Georgia Power Co..... 26635
Gulf Power Co..... 26635
Illinois Power Co..... 26635
Kansas-Nebraska Natural Gas Co., Inc..... 26636
Michigan Wisconsin Pipe Line Co..... 26636
Mobile Oil Corp..... 26636
Monsanto Co., et al..... 26636
Montana-Dakota Utilities Co. (2 documents)..... 26637
Northern Indiana Public Service Co..... 26639
Natural Gas Pipeline Company of America..... 26638
Panhandle Eastern Pipe Line Co..... 26639
Rate Changes..... 26644
Raton Natural Gas Co..... 26639
Robert Davis Weimer..... 26640
Signal Oil and Gas Co..... 26640
Southern Natural Gas Co..... 26640
Tennessee Gas Pipeline Co. and Tenneco, Inc..... 26640
Texas Eastern Transmission Corp..... 26641
Texas Gas Transmission Corp.. 26641
Tomlinson Drilling Program.. 26641
United Gas Pipe Line et al..... 26642
United States Department of the Interior et al..... 26643
Wisconsin Public Service Commission..... 26644

**FEDERAL TRADE COMMISSION**
**Rules and Regulations**
Prohibited trade practices; cease and desist orders:
Mo-Mod Sales Co., et al..... 26602
Modern Mobile Home, Inc., et al..... 26602

**FISH AND WILDLIFE SERVICE**
**Rules and Regulations**
Certain migratory birds; open season bag limits, and possession; correction..... 26609

**FOREST SERVICE**
**Notices**
Construction and operation of Forest Service recreation cabins in roadless areas; availability of draft environmental statement.. 26621


*(Continued on next page)*



V 38 I 184 SEP 24 73 XUM

CONTENTS


GENERAL SERVICES ADMINISTRATION
Rules and Regulations
Desk with locks; use standards ---- 26604
Policies and procedures relating to GSA sponsored Advisory committee ---- 26604

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
*See* Education Office, Social and Rehabilitation Service, Social Security Administration.

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
*See* Federal Disaster Assistance Administration.

INTERIOR DEPARTMENT
*See* National Park Service.

INTERSTATE COMMERCE COMMISSION
Rules and Regulations
Practices of motor common carriers of household goods:
Participation in rates at different levels ---- 26608
Use of credit card system ---- 26608
Securities; expanded definition ---- 26609
Notices
Assignment of hearings ---- 26645

JUSTICE DEPARTMENT
*See* Drug Enforcement Administration, Land and Natural Resource Division; Parole Board.

LAND AND NATURAL RESOURCES DIVISION
Notices
Action to enjoin discharge of pollutants; proposed consent judgment ---- 26618

MARITIME ADMINISTRATION
Notices
Apollo Marine Shipping Co.; construction of DWT tankers ---- 26622
Bulk lumber carriers; intent to compute estimated cost of construction ---- 26622
Chestnut Shipping Co.; application for operating-differential subsidy ---- 26622

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
Notices
Permits to take or import marine mammals:
Consideration of applications ---- 26623
Instructions for preparing application ---- 26622

NATIONAL PARK SERVICE
Notices
National Register of Historic Places; list of additions, deletions and corrections ---- 26618

PACKERS AND STOCKYARDS ADMINISTRATION
Notices
Interstate Producers Livestock Association; deposting of stockyards ---- 26621

PAROLE BOARD
Rules and Regulations
Parole, release, supervision and recommitment of prisoners, youth offenders, and juvenile delinquents; organization, operation, and procedures ---- 26652

SOCIAL AND REHABILITATION SERVICE
Rules and Regulations
Financial Assistance Program; dependent children of unemployed fathers; correction ---- 26608

SOCIAL SECURITY ADMINISTRATION
Proposed Rules
Supplementary medical insurance benefits; premium rate ---- 26616

SPECIAL ACTION OFFICE FOR DRUG ABUSE PREVENTION
Rules and Regulations
Confidentiality of drug abuse patient records; redesignation of part ---- 26609

TRANSPORTATION DEPARTMENT
*See* Urban Mass Transportation Administration.

TREASURY DEPARTMENT
*See* Customs Bureau.

URBAN MASS TRANSPORTATION ADMINISTRATION
Notices
Redelegations of Authority:
Associate Administrator for Capitol Assistance ---- 26625
Associate Administrator for Program Planning ---- 26625
Associate Administrator for Research and Development ---- 26625
Associate Administrator for Transit Planning ---- 26625
Director of Transit Management ---- 26625
Urban Mass Transportation Programs ---- 26624
Revocations of redelegations of authority:
Assistant Administrator, Office of Program Demonstrations ---- 26624
Assistant Administrator, Office of Program Operations ---- 26624
Assistant Administrator for Program Planning ---- 26624
Director, Office of Civil Rights and Service Development ---- 26625






# List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month. In the last issue of the month the cumulative list will appear at the end of the issue.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1973, and specifies how they are affected.

**5 CFR**
335 ---- 26601
430 ---- 26601
451 ---- 26601
630 ---- 26601
715 ---- 26601

**6 CFR**
150 ---- 26611

**7 CFR**
908 ---- 26601
PROPOSED RULES:
906 (3 documents) ---- 26614, 26615
927 ---- 26615

**14 CFR**
240 ---- 26601
PROPOSED RULES:
298 ---- 26616

**16 CFR**
13 (2 documents) ---- 26601

**18 CFR**
2 ---- 26603
157 ---- 26603

**20 CFR**
PROPOSED RULES:
405 ---- 26616

**21 CFR**
Ch. II ---- 26609
1308 ---- 26610
1401 ---- 26611

**28 CFR**
2 ---- 26652

**41 CFR**
101–25 ---- 26604
105–64 ---- 26604

**45 CFR**
233 ---- 26608
PROPOSED RULES:
190 ---- 26660

**49 CFR**
1056 (2 documents) ---- 26608
1115 ---- 26609

**50 CFR**
20 ---- 26609



V 38-184 SEP 24 73 XUM

# Rules and Regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

## Title 5—Administrative Personnel

### CHAPTER I—CIVIL SERVICE COMMISSION

### PART 335—PROMOTION AND INTERNAL PLACEMENT

### PART 430—PERFORMANCE EVALUATION

### PART 451—INCENTIVE AWARDS

### PART 630—ABSENCE AND LEAVE

### PART 715—NONDISCIPLINARY SEPARATIONS, DEMOTIONS AND FURLOUGHS

#### Effective Dates

In the FEDERAL REGISTER of July 11, 1973, FR Doc. 73-14107, beginning on page 18445, amendments were made to Parts 335, 430, 451, 630, and 715 without stating an effective date. The effective dates for these changes are as follows:

"Amendments to Parts 430, 451, 630, and 715 are effective upon implementation by an agency or January 19, 1974, whichever comes first. Part 335 is effective upon implementation by an agency or 6 months after issuance of revised FPM Chapter 335, whichever comes first."

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73-20211 Filed 9-21-73;8:45 am]

## Title 7—Agriculture

### CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Reg. 449, Amdt. 1]

### PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

#### Limitation of Handling

This regulation increases the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period September 14-20, 1973. The quantity that may be shipped is increased due to improved market conditions for California-Arizona Valencia oranges. The regulation and this amendment are issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 908.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674) and upon the basis of the recommendation and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for an increase in the quantity of oranges available for handling during the current week results from changes that have taken place in the marketing situation since the issuance of Valencia Orange Regulation 449 (38 FR 25431). The marketing picture now indicates that there is a greater demand for Valencia oranges than existed when the regulation was made effective. Therefore, in order to provide an opportunity for handlers to handle a sufficient volume of Valencia oranges to fill the current demand thereby making a greater quantity of Valencia oranges available to meet such increased demand, the regulation should be amended, as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this amendment until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restriction on the handling of Valencia oranges grown in Arizona and designated part of California.

(b) *Order, as amended.* The provisions in paragraph (b)(1)(ii) of § 908.749 (Valencia Orange Regulation 449 (38 FR 25431)) are hereby amended to read as follows:

"(ii) District 2: 625,000 cartons."

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674).)

Dated September 19, 1973.

CHARLES R. BRADER,
*Acting Deputy Director, Fruit and Vegetable Division Agricultural Marketing Service.*

[FR Doc.73-20276 Filed 9-21-73;8:45 am]

## Title 14—Aeronautics and Space

### CHAPTER II—CIVIL AERONAUTICS BOARD

#### SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-822]

### PART 240—INSPECTION OF ACCOUNTS AND PROPERTY

#### Amendment of Part Due to Reorganization of Board Components

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. A recent reorganization within the Board has resulted in the transfer of the Board's audit functions from the Bureau of Accounts and Statistics to the Bureau of Enforcement. In order to reflect this reorganization, we are deleting the reference to "the Field Audits Division, Bureau of Accounts and Statistics" which is contained in § 240.1(b) of our Economic Regulations (14 CFR Part 240).

Since the amendment provided for herein is of a technical nature, relating to a rule of agency organization, the Board finds that notice and public procedure hereon are not necessary, and that the amendment may be made effective immediately.

Accordingly, the Civil Aeronautics Board hereby amends section 240.1 of Part 240 of its Economic Regulations (14 CFR Part 240) effective September 18, 1973, as follows:

Amend § 240.1 by revising paragraph (b), the revised section to read in part as follows:

§ 240.1 Interpretation.

* * * * *

(b) The term "special agent" and "auditor" are construed to mean any employee of the Bureau of Enforcement and any other employee of the Board specifically designated by it or by the Director, Office of Facilities and Operations.

* * * * *

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended; 72 Stat. 743 (49 U.S.C. 1324).)

By the Civil Aeronautics Board.

Effective: September 18, 1973.
Adopted: September 18, 1973.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.73-20280 Filed 9-21-73;8:45 am]



V 38 1184 SEP 24 73 XUM

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket C-2435]

PART 13—PROHIBITED TRADE PRACTICES

Mo-Mod Sales Co. et al.

Subpart—Advertising falsely or misleadingly: § 13.73 *Statutory requirements;* 13.73–92 Truth in Lending Act: § 13.155 *Prices;* 13.155–95 Terms and conditions; § 13.155–95(a) Truth in Lending Act. Subpart—Misrepresenting—Goods: § 13.1623 *Statutory requirements;* 13.1623–95 Truth in Lending Act. Subpart—Misrepresenting—Prices: § 13.1823 *Terms and conditions;* 13.1823–20 Truth in Lending Act. Subpart—Neglecting—to make material disclosure: § 13.1852 *Statutory requirements;* 13.1852–75 Truth in Lending Act: § 13.1905 *Terms and conditions;* 13.1905–60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147 (15 U.S.C. 45, 1601–1605)) [Cease and desist order, Mo-Mod Sales Co. d/b/a Sipe's Mobile Homes, et al., Docket C-2435, August 31, 1973.]

*In the Matter of Mo-Mod Sales, Co., a corporation doing business as Sipe's Mobile Homes, and Harvey C. Herrick, and John L. Sipe, individually and as officers of said corporation.*

Consent order requiring a Sedalia, Missouri, mobile home dealer, among other things to cease violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of consumer credit, such information as required by Regulation Z of the said Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

*It is ordered,* That respondent Mo-Mod Sales Co., a corporation, and its officers, and Harvey C. Herrick and John L. Sipe, individually and as officers of said corporation, trading under said corporate name or under any trade name or names, their successors and assigns, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the arrangement, extension, or advertisement of consumer credit in connection with the sale of mobile homes or other products or services, as "advertisement" and "consumer credit" are defined in Regulation Z (12 CFR Part 226) of the Truth in Lending Act (Pub. L. 90–321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Representing, directly or by implication, in any advertisement, as "advertisement" is defined in Regulation Z, the amount of the downpayment required or that no downpayment is required, the amount of any installment payment, the number of installments or the period of repayment, or that there is no charge for credit, unless all of the following items are stated in terminology prescribed under § 226.8 of Regulation Z:

(a) The cash price;

(b) The amount of the downpayment required or that no downpayment is required, as applicable;

(c) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;

(d) The amount of the finance charge expressed as an annual percentage rate; and

(e) The deferred payment price.

2. Failing, in any consumer credit transaction or advertisement, to make all the disclosures, determined in accordance with §§ 226.4 and 226.5 of Regulation Z, in the manner, form, and amount required by §§ 226.6, 226.7, 226.8, 226.9, and 226.10 of Regulation Z.

3. Failing to deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in any aspect of preparation, creation, and placing of advertising, all persons engaged in reviewing the legal sufficiency of advertising, and all present and future agencies engaged in preparation, creation, and placing of advertising on behalf of respondents, and failing to secure from each such person or agency a signed statement acknowledging receipt of said order.

*It is further ordered,* That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

*It is further ordered,* That the individual respondents named herein promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business or employment. Such notice shall include respondents' current business address and a statement as to the nature of the business or employment in which they are engaged as well as a description of their duties and responsibilities.

*It is further ordered,* That respondents shall, within sixty (60) days after service upon them of this order, file, individually, with the Commission, a report in writing, setting forth in detail the manner and form in which each of them has complied with this order.

Issued August 31, 1973.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.73-20208 Filed 9-21-73;8:45 am]

[Docket C-2434]

PART 13—PROHIBITED TRADE PRACTICES

Modern Mobile Homes, Inc., et al.

Subpart—Advertising falsely and misleadingly: § 13.73 *Statutory requirements;* 13.73–92 Truth in Lending Act: § 13.155 *Prices;* 13.155–95 Terms and conditions; 13.155–95(a) Truth in Lending. Subpart—Misrepresenting—Goods: § 13.1623 *Statutory requirements;* 13.1623–95 Truth in Lending Act. Subpart—Misrepresenting—Prices: § 13.1823 *Terms and conditions;* 13.1823–20 Truth in Lending Act. Subpart—Neglecting—to make material disclosure: § 13.1852 *Statutory requirements;* 13.1852–75 Truth in Lending Act: § 13.1905 *Terms and conditions;* 13.1905–60 Truth in Lending Act.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, 82 Stat. 146, 147 (15 U.S.C. 45, 1601–1605)) [Cease and desist order, Modern Mobile Homes, Inc., et al., Docket C-2434, August 30, 1973.]

*In the Matter of Modern Mobile Homes, Inc., a corporation, and Alfred V. Paussa and Richard D. Miller, individually and as officers of said corporation.*

Consent order requiring a Kansas City, Missouri, mobile home dealer, among other things to cease violating the Truth in Lending Act by failing to disclose to consumers, in connection with the extension of consumer credit, such information as required by Regulation Z of the said Act.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

*It is ordered,* That respondent Modern Mobile Homes, Inc., a corporation, and its officers, and Alfred V. Paussa and Richard D. Miller, individually and as officers of said corporation, trading under said corporate name or under any trade name or names, their successors and assigns, and respondents' agents, representatives, and employees, directly or through any corporation, subsidiary, division, or other device, in connection with the arrangement, extension, or advertisement of consumer credit in connection with the sale of mobile homes or other products or services, as "advertisement" and "consumer credit" are defined in Regulation Z (12 CFR Part 226) of the Truth in Lending Act (Pub. L. 90–321, 15 U.S.C. 1601 et seq.), do forthwith cease and desist from:

1. Representing, directly or by implication, in any advertisement, as "advertisement" is defined in Regulation Z, the amount of the downpayment required or that no downpayment is required, the amount of any installment payment, the number of installments or the period of repayment, or that there is no charge for credit, unless all of the following items are stated in terminology prescribed under § 226.8 of Regulation Z:

(a) The cash price;

(b) The amount of the downpayment required or that no downpayment is required, as applicable;

(c) The number, amount, and due dates or period of payments scheduled to repay the indebtedness if the credit is extended;

(d) The amount of the finance charge expressed as an annual percentage rate; and





(e) The deferred payment price.

2. Failing, in any consumer credit transaction or advertisement, to make all the disclosures, determined in accordance with §§ 226.4 and 226.5 of Regulation Z, in the manner, form, and amount required by §§ 226.6, 226.7, 226.8, 226.9, and 226.10 of Regulation Z.

3. Failing to deliver a copy of this order to cease and desist to all present and future personnel of respondents engaged in any aspect of preparation, creation, and placing of advertising, all persons engaged in reviewing the legal sufficiency of advertising, and all present and future agencies engaged in preparation, creation, and placing of advertising on behalf of respondents, and failing to secure from each such person or agency a signed statement acknowledging receipt of said order.

*It is further ordered,* That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

*It is further ordered,* That the individual respondents named herein promptly notify the Commission of the discontinuance of their present business or employment and of their affiliation with a new business or employment. Such notice shall include respondents' current business address and a statement as to the nature of the business or employment in which they are engaged as well as a description of their duties and responsibilities.

*It is further ordered,* That respondents shall, within sixty (60) days after service upon them of this order, file, individually, with the Commission, a report in writing, setting forth in detail the manner and form in which each of them has complied with this order.

Issued August 30, 1973.

By the Commission.

[SEAL] CHARLES A. TOBIN, *Secretary.*

[FR Doc.73-20209 Filed 9-21-73;8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

[Docket No. RM74-3; Order 491]

PART 2—GENERAL POLICY AND INTERPRETATIONS

PART 157—APPLICATIONS FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY AND FOR ORDERS PERMITTING AND APPROVING ABANDONMENT UNDER SECTION 7 OF THE NATURAL GAS ACT

Policy Regarding Establishment of Measures To Be Taken for Protection of Reliable and Adequate Service for 1973–1974 Winter Heating Season

SEPTEMBER 14, 1973.

Effective upon the date of issuance of this order, the Commission issues herein a new policy statement, amends §§ 2.68 and 2.70 of its General Policy and Interpretations and §§ 157.22 and 157.29 of its regulations under the Natural Gas Act.

Our authority to promulgate this policy statement and amend prior policy statements and regulations is contained in the Natural Gas Act, particularly sections 7 and 16 therein, and the Administrative Procedure Act. No notice of these actions is required under the Administrative Procedure Act, nor do we find that notice and public procedure would either be practicable, necessary, or serve the public interest.[1] We have used such summary procedures in order that we may promulgate policies to assist some 43 million gas consumers to obtain adequate, safe and reliable service for the 1973–1974 winter heating season.[2] However, we will re-examine our actions herein, on or before March 15, 1973, the latter being the termination date unless otherwise ordered.[3]

In Commission Order Nos. 402 and 402–A,[4] the Commission promulgated a policy statement (§ 2.68 of our General Policy and Interpretations), which encouraged persons and companies exempt under sections 1(b) and 1(c) of the Act (distribution companies and intrastate pipelines) to make short-term sales or deliveries of natural gas in interstate commerce so as to make available temporary emergency gas supplies, without our approval, for up to 60 days.

Under Order No. 418,[5] we amended §§ 157.22 and 157.29 of our regulations under the Natural Gas Act, to provide for emergency sales by producers to interstate pipelines and for emergency operations (e.g. exchanges) between pipelines for up to 60 days, which transactions were exempted from prior Commission certificate authorization under section 7 of the Act.

In conjunction with Order Nos. 402 and 418, the Commission issued Order No. 431,[6] promulgating § 2.70 of our General Policy and Interpretations, indicating that "[n]otwithstanding these emergency measures (Order Nos. 402 and 418), a number of natural gas pipelines indicated their inability to deliver sufficient gas to meet their firm demands." By that order we continued the prior emergency measures, i.e. up to 60 days, but provided that we would consider limited-term certificates for purchases extending beyond that 60-day period, with pregranted abandonment, if the pipeline demonstrates emergency need and has (1) made every reasonable effort to fill all storage fields and (2) filed curtailment plans.[7] § 2.70(b)(3)

Promulgation of the above-emergency measures has resulted in commitments of natural gas to interstate consumers of 1.2 trillion cubic feet, through purchases ranging for 60 days to three years, from 1971 through May of 1973.

In Order No. 418, we noted that:

> Several parties suggested that the proposed 60-day period of emergency operation be extended to periods ranging from three to six months. • • • We shall • • • defer disposition of this issue until such time as we may propose additional rules applicable to emergency transactions on a more extended basis. 44 FPC at 1575.

We now dispose of that reserved issue, at least on an interim basis.

On July 16, 1973, the Commission's staff released its most recent report on past curtailments and projected curtailments for the 1973–1974 winter heating season.[8] That report indicated (after eliminating intercompany transactions) that net curtailments of firm requirements customers of the major interstate pipelines represented about .8 trillion cubic feet from April 1972 to March 1973, and was reported to increase to about 1.2 trillion cubic feet during the April 1973–March 1974 period. Such curtailments for the 1973–1974 winter heating season are estimated to be .5 trillion cubic feet of natural gas; the equivalent of about 85 million barrels of oil. The report further indicated acute regional curtailments, both this summer and for the current winter-heating season, in the New England, Appalachian, Great Lakes and Northern Plains regions. Such curtailments will result, as they did last year, in severe economic and environmental consequences, resulting in the closing of schools and factories, the denial of utility service to new customers, the utilization by industry and electric utilities of alternate fuels which impact upon ambient air quality standards, and the transfer of unfulfilled demand to other fuels in short supply with the resultant upward price pressures. At least for the 1973–1974 winter-heating season, reliable and adequate gas service is even more jeopardized than at the juncture when we initiated emergency measures, *supra,* over three and one-half years ago.

We further take notice of the overall domestic fuel situation for this 1973–1974 winter heating season. The unfulfilled demand for natural gas cannot be readily transferred to other fuels. Propane and fuel oils are in limited supply and neither can fulfill the projected firm requirements for customers of interstate pipelines.

In order that this Commission can discharge its responsibilities to the Nation's

[1] 5 U.S.C. 553(b)(3)(A) and (B). Cf. "Memphis Light, Gas and Water Division v. F.P.C.", 462 F. 2d 853 (D.C. Cir. 1972) reversed on other grounds, 411 U.S. 458 (1973).

[2] Cf. "F.P.C. v. Louisiana Power & Light Co.", 406 U.S. 621 (1972); "Alabama Gas Corp. v. F.P.C.", 5th Cir., No. 72–1415, February 7, 1973; "P.S.C. of N.Y. v. F.P.C.", 467 F.2d 361 (D.C. Cir. 1972). See also "Gulf States Utilities Co. v. F.P.C.", S.Ct. No. 71–1178, May 14, 1973, slip op. at 14–15; "Mobile Oil Corp. v. F.P.C.", 469 F.2d 130 (D.C. Cir. 1972), cert. denied, S.Ct. No. 72–1108, June 4, 1973.

[3] See P.S.C. of N.Y., supra, rehearing order of May 19, 1972.

[4] 43 FPC 707 (1970), 43 FPC 822 (1970).

[5] 44 FPC 1574 (1970).

[6] 45 FPC 570 (1971).

[7] Such filings for limited-term certificates were made pursuant to Paragraph 12 in Docket No. R–389–A, July 17, 1970. 35 F.R. 11638.

[8] We take official notice of FPC News Release No. 19441, July 16, 1973, publishing that report.



V 38-184 SEP 24 73 XUM

gas consumers and carry out our Congressionally-delegated mandate, we are effective this day amending §§ 2.68 and 2.70 of our General Policy and Interpretations and §§ 157.22 and 157.29 of our regulations under the Natural Gas Act, to change the 60-day emergency measures provided therein, so as to change the term to a maximum of 180 days under which no Commission authorization is required in advance.* Concurrently, we are providing that § 2.70(b)(3), which provides for the filing of limited-term certificates under Paragraph 12, supra, is hereby stayed, pending further review and order of the Commission. All such limited-term certificate applications, which have been filed with the Secretary as of the date of issuance of this order, will be processed, as in the past, and any applications submitted after the date of this order, shall be returned, without prejudice to the applicant. Applicants are free to file notices of withdrawal of limited-term certificates previously filed, pursuant to § 1.11(d) of our rules and regulations.

On or before March 15, 1974, the Commission will have reviewed the emergency measures provided herein. Transactions entered into prior to March 15, 1974, may continue for a period up to 180 days, i.e. an emergency measure initiated on February 1, 1974, may continue until July 31, 1974. Those 60-day emergency transactions which have commenced as of the date of issuance of this order may continue, depending upon the agreement between the parties, for 180 days beginning at the time of termination of the 60-day transaction. In addition to the existing reporting requirements, we will require that the pipeline purchaser report to the Secretary within ten (10) days after deliveries commence under the 180-day procedure, the estimated volumes and rate charged for the emergency sale.

We will review these measures to determine their impact during the 1973–1974 winter-heating season and to determine what emergency measures may be required during the 1974 summer storage injection period and the 1974–1975 winter-heating season.

*The Commission finds*

(1) The revisions to the policy statements and regulations herein do not require notice or hearing under 5 U.S.C. 553.

(2) Many interstate natural gas pipelines have been unable to obtain and are expected to have problems in obtaining, short-term emergency, gas supplies to meet their firm requirements during the 1973–1974 winter-heating season, in the absence of the revised emergency measures herein promulgated.

*The Commission orders that effective upon issuance*

(A) Part 2, Subchapter A, General Rules, Chapter I of Title 18 of the Code of Federal Regulations, is amended by revising the following:

In § 2.68 (a) and (b)—The 60-day periods found therein are changed to 180 days.

In § 2.70(b)(3)—The 60-day periods found therein are changed to 180 days.

The following provision is stayed pending further order of the Commission:

If the emergency purchases are to extend beyond the 60-day period Paragraph 12 in the notice issued by the Commission on July 17, 1970, in Docket No. R–389–A should be utilized. The Commission will consider limited-term certificates with pregranted abandonment, if the pipeline demonstrates emergency need, after complying with subparagraphs (1) and (2) of this paragraph.

(B) Section 157.22, Subchapter E, Chapter I, Title 18 of the Code of Federal Regulations, is amended by revising the following:

In § 157.22(a)—The sixty-day period is changed to 180 days.

In § 157.22(d)—The 60-day period is changed to 180 days.

(C) Section 159.29, Subchapter E, Chapter I, Title 18 of the Code of Federal Regulations, is amended by revising the following:

In § 157.29(a)—The sixty (60) day period is changed to 180 days.

In § 157.29(b)—The 60-day period is changed to 180 days.

(D) The revisions and amendments in (A), (B), and (C) are effective upon issuance and until March 15, 1974.

(E) The Commission provides that any interested person may file comments on the revisions effective herein, such filings to be made in written form with the Secretary of the Commission and to be filed during the period January 15, 1974 to February 15, 1974, for consideration by the Commission prior to its March 15, 1974 review.

By the Commission.

[SEAL] KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20264 Filed 9-21-73;8:45 am]

*Section 7(c) of the Act provides, in part, that we "may by regulation exempt from the requirements of this section temporary acts or operations for which the issuance of a certificate will not be required." 15 U.S.C. 717 f(c). See Section 2.67a of the General Policy and Interpretations, concerning the finding of insufficient gas supplies and rate treatment of the investment tax credit. Order No. 448, 47 FPC 141 (1972).

## Title 41—Public Contracts and Property Management

## CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

### SUBCHAPTER E—SUPPLY AND PROCUREMENT

[FPMR Amdt. E–133]

### PART 101–25—GENERAL

### Desks With Locks

Prior approval of the validity of the requirement for desks with locks is no longer required. Therefore, use standards for desks with locks and guidelines for determining justification for their purchase are rescinded.

The table of contents for Part 101–25 is amended by deleting and reserving § 101–25.302–6, as follows:

**Subpart 101–25.3—Use Standards**

§ 101–25.302–6 [Reserved]

Section 101–25.302 is amended by deleting 101–25.302–6 as follows:

**§ 101–25.302–6 [Reserved]**

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).)

*Effective date.*—This regulation is effective September 24, 1973.

Dated September 18, 1973.

ARTHUR F. SAMPSON,
*Administrator of General Services.*

[FR Doc.73-20220 Filed 9-21-73;8:45 am]

## CHAPTER 105—GENERAL SERVICES ADMINISTRATION

## PART 105–64—ADVISORY COMMITTEE MANAGEMENT

### Policies and Procedures Relating to GSA-Sponsored Advisory Committees

This regulation prescribes policies and procedures in GSA regarding the establishment, operation, termination, and control of advisory committees for which GSA has responsibility.

Chapter 105 is amended by the addition of new Part 105–64 as follows:


Sec.
105–64.000 Scope of part.

**Subpart 105–64.1—General Provisions**

105–64.101 Applicability.
105–64.102 Definitions.
105–64.103 Policy.
105–64.104 Responsibilities.

**Subpart 105–64.2—Establishment of Advisory Committees**

105–64.200 Scope of subpart.
105–64.201 Proposals for establishing advisory committees.
105–64.202 Review and approval of proposals.
105–64.203 Advisory committee charters.
105–64.203–1 Preparation of charters.
105–64.203–2 Active charters file.
105–64.203–3 Submission to Library of Congress.
105–64.204 Advisory committee membership.

**Subpart 105–64.3—Advisory Committee Procedures**

105–64.300 Scope of subpart.
105–64.301 Meetings.
105–64.301–1 Agenda.
105–64.301–2 Security clearance.
105–64.301–3 Time and place.
105–64.301–4 Public notice of meetings.
105–64.301–5 Minutes of meetings.
105–64.301–6 Public attendance and participation.
105–64.302 Committee records and reports.
105–64.303 Fiscal and administrative provisions.
105–64.304 Renewal of advisory committees.
105–64.305 Termination of advisory committees.
105–64.306 Complaint procedures.

**Subpart 105–64.4—Reports**

105–64.400 Scope of subpart.
105–64.401 Report to Assistant Administrator.
105–64.402 Annual report to the Office of Management and Budget.


AUTHORITY.—Pub. L. 92–463 dated October 6, 1972, and Executive Order 11686 of October 7, 1972.





**§ 105–64.00 Scope of part.**

This part sets forth policies and procedures in GSA regarding the establishment, operation, termination, and control of advisory committees for which GSA has responsibility. It implements the Federal Advisory Committee Act (Pub. L. 92–463), which authorizes a system governing the establishment and operation of advisory committees in the executive branch of the Federal Government, and Executive Order 11686 of October 7, 1972, which directs the heads of all executive departments and agencies to take appropriate action to ensure their ability to comply with the provisions of the Act.

### Subpart 105–64.1—General Provisions

**§ 105–64.101 Applicability.**

This Part 105–64 applies to all advisory committees for which GSA has responsibility. In general, such committees are characterized by fixed membership, a defined purpose of providing advice regarding matters of concern to GSA operations, a formal structure (e.g., officers), and regular or periodic meetings. This part also applies to any committee used to advise GSA officials though not established for that purpose. Such applicability, however, is limited solely to the period of its use as an advisory body. This part does not apply to:

(a) Any local civic group whose primary function is to render a public service in connection with a Federal program;

(b) Any State or local committee, council, board, commission, or similar group established to advise or make recommendations to State or local officials or agencies; or

(c) The National Historical Publications Commission or the National Archives Trust Fund Board but does apply to committees that are advisory to them.

**§ 195–64.102 Definitions.**

(a) The term "advisory committee" means any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee thereof that is:

(1) Established by statute or reorganization plan;

(2) Established or utilized by the President; or

(3) Established or utilized by one or more agencies to obtain advice or recommendation for the President or for one or more agencies or officers of the Federal Government. The term "advisory committee" excludes the Advisory Commission on Intergovernmental Relations, the Commission on Government Procurement, and any committee which is composed wholly of full-time officers of the Federal Government.

(b) The term "Presidential advisory committee" means an advisory committee that advises the President.

**§ 105–64.103 Policy.**

The basic GSA policy on committee management is as follows:

(a) Advisory committees will be formed or used by GSA only when specifically authorized by law or by the President, or specifically determined as a matter of formal record by the Administrator of General Services to be in the public interest in connection with the performance of duties imposed on GSA by law;

(b) Advisory committees will not be used to administer a function which is the assigned responsibility of a service or staff office;

(c) The assigned responsibility of a GSA official may not be delegated to any committee;

(d) No advisory committee may be used for functions that are not solely advisory unless specifically authorized by statute or Presidential directive. Making policy decisions and determining action to be taken with respect to any matter considered by an advisory committee is solely the responsibility of GSA; and

(e) In carrying out its responsibilities, GSA will consult with and obtain the advice of interested groups substantially affected by its programs. The use of advisory committees for this purpose is considered to be in the public interest and necessary for the proper performance by GSA of its assigned functions.

**§ 105–64.104 Responsibilities.**

(a) Responsibility for coordination and control of committee management in GSA is vested in the Assistant Administrator. This responsibility will be exercised through the Director of Management Services, Office of Administration, or his designee, who shall serve as the GSA Committee Management Officer. This Officer shall, on behalf of the Assistant Administrator, carry out the functions prescribed in section 8(b) of the Federal Advisory Committee Act. Specifically he shall control and supervise the establishment, procedures, and accomplishments of advisory committees for which GSA is responsible. Such control and supervision shall be adequate to ensure compliance with the GSA guidelines provided by these regulations.

(b) Each Head of Service and Staff Office and Regional Administrator shall designate a Committee Management Officer who shall coordinate and control committee management within the service, staff office, or regional office, and shall act as liaison to the GSA Committee Management Officer. This Officer shall also:

(1) Assemble and maintain the reports, records, and other papers of any advisory committee for which GSA has responsibility. Arrangements may be made, however, for the Government chairman or other designated GSA representative to retain physical custody of such reports, records, and other papers to facilitate committee operations. After the committee is terminated, all committee records shall be disposed of in accordance with existing regulations; and

(2) Within existing agency regulations as found in Part 105–60, carry out the provisions of 5 U.S.C. 552 with respect to the reports, records, and other papers of advisory committees for which GSA is responsible.

### Subpart 105–64.2—Establishment of Advisory Committees

**§ 105–64.200 Scope of subpart.**

This subpart prescribes the policy and procedures for establishing advisory committees within GSA.

**§ 105–64.201 Proposals for establishing advisory committees.**

The Head of a Service or Staff Office may propose establishment of a Central Office or regional advisory committee within the scope of his program responsibilities. Each such proposal shall be submitted to the Assistant Administrator (Attn: GSA Committee Management Officer) for review and coordination and shall include the following:

(a) A letter to the Director, Office of Management and Budget, for signature of the Administrator of General Services, describing the nature and purpose of the proposed advisory committee and the reasons it is needed, including the reasons its functions cannot be performed by an existing committee or Federal agency; and

(b) A notice for publication in the FEDERAL REGISTER containing a certification by the Administrator that creation of the advisory committee is in the public interest and describing the nature and purpose of the committee.

**§ 105–64.202 Review and approval of proposals.**

(a) The GSA Committee Management Officer shall review each proposal for establishment of an advisory committee to ensure conformity with GSA committee management policies and procedures. Thereafter, the letter of justification addressed to the Director, Office of Management and Budget, shall be forwarded through the Assistant Administrator to the Administrator of General Services for his signature.

(b) When notified by the Office of Management and Budget that establishment of the advisory committee would be in accord with the Federal Advisory Committee Act, the GSA Committee Management Officer shall secure final clearance and approval of the Federal Register notice in accordance with established GSA procedures. The notice must be published at least 30 calendar days prior to the filing of a committee charter in accordance with § 105–64.203.

**§ 105–64.203 Advisory committee charters.**

No advisory committee may meet or take any action until its charter has been approved by the Administrator of General Services and forwarded by the Assistant Administrator to the standing committees of the Senate and the House of Representatives having legislative jurisdiction over GSA. This requirement



V 38-184 SEP 24 73 XUM

applies to committees used as advisory committees though not established for that purpose, but only to the extent that the group performs the function of advising a GSA official.

§ 105–64.203–1 Preparation of charters.

(a) The Head of Service or Staff Office having jurisdiction over an advisory committee shall, following publication of the FEDERAL REGISTER notice regarding the establishment of that committee, prepare the committee's charter in accordance with this § 105–64.203–1. The completed charter shall be forwarded to the Assistant Administrator (Attn: GSA Committee Management Officer) for review, submission to the Administrator for approval, and filing.

(b) Each advisory committee charter shall contain the following information:

(1) The committee's official designation;

(2) The committee objectives and the scope of its activities;

(3) The period of time necessary for the committee to carry out its purposes. If the committee is intended to function as a standing advisory committee, this fact should be made clear;

(4) The official to whom the committee reports, including his name, title, and organization;

(5) The agency and office responsible for providing the necessary support for the committee;

(6) A description of the duties for which the committee is responsible. If such duties are not solely advisory, the statutory or Presidential authority for such additional duties shall be specified;

(7) The estimated annual operating costs in dollars and man-years for the committee;

(8) The estimated number and frequency of committee meetings;

(9) The committee's termination date, if it is less than 2 years from the date of its establishment; and

(10) The date the charter is filed. This date shall be inserted by the GSA Committee Management Officer after the Administrator approves the charter.

§ 105–64.203–2 Active charters file.

The original signed copy of each charter shall be retained by the GSA Committee Management Officer in a special file of active charters.

§ 105–64.203–3 Submission to Library of Congress.

A copy of each charter shall be furnished by the GSA Committee Management Officer to the Library of Congress at the time or shortly after copies are filed with the requisite committees of the Congress. Copies shall be forwarded to: Library of Congress, Exchange and Gift Division, Federal Advisory Committee Desk, Washington, D.C. 20540.

§ 105–64.204 Advisory committee membership.

(a) Advisory committees established by GSA shall be representative of the points of view within the profession, industry, or other group to which they relate, taking into account such factors as size, functions, geographical location, affiliation, and other relevant considerations affecting the character of an advisory committee. Representatives of the public interest shall be included on any advisory committee concerned with questions of social policy. The chairman, members, alternates, and observers, as appropriate, of all advisory committees shall be designated by the Administrator. Nominations shall be submitted by the Head of Service or Staff Office or Regional Administrator sponsoring the committee to the Assistant Administrator (Attn: GSA Committee Management Officer) for review and forwarding to the Administrator.

(b) There shall be no discrimination on the basis of race, color, age, national origin, religion, or sex in the selection of advisory committee membership.

## Subpart 105–64.3—Advisory Committee Procedures

§ 105–64.300 Scope of subpart.

This subpart sets forth the procedures which will be followed in the operation of advisory committees within GSA.

§ 105–64.301 Meetings.

Each advisory committee and each meeting thereof shall be under the chairmanship of or shall meet only in the presence of a full-time salaried employee of GSA. The Government chairman or representative shall determine when a meeting of an advisory committee is to be held and may adjourn any meeting whenever he considers such action is in the public interest.

§ 105–64.301–1 Agenda.

An agenda shall be prepared or approved by the Government chairman or representative for each meeting of an advisory committee. The agenda shall list the matters to be considered at the meeting and shall indicate whether any part of the meeting is concerned with matters covered by the exemptions from 5 U.S.C. 552(b) (Freedom of Information Act). Ordinarily, copies of the agenda shall be distributed to committee members prior to the date of the meeting.

§ 105–64.301–2 Security clearance.

All persons attending advisory committee meetings at which classified information will be considered are required to have security clearance commensurate with the category of classified matter to be discussed.

§ 105–64.301–3 Time and place.

Meetings shall be held only at the time and place determined or approved by the Government chairman or representative. Unless otherwise authorized, meetings shall be held in space under the control of the Government.

§ 105–64.301–4 Public notice of meetings.

(a) The responsible Head of Service or Staff Office shall ensure that timely notice is given of each advisory committee meeting by publication of a notice in the FEDERAL REGISTER at least 7 calendar days prior to the date of the meeting. Shorter advance notice may be provided only in emergency situations or when 7-day notice is clearly impracticable. To the extent practicable, announcements may also be made by general press releases, direct mailing, or publication in trade and professional journals appropriate to the nature of the committee meeting.

(b) The fact that a meeting may be closed to the public pursuant to the exemptions under the Freedom of Information Act does not, in general, relieve GSA of the requirement of publication of a notice of that meeting. An exception from this notice requirement may be authorized for reasons of national security by the Director, Office of Management and Budget, upon request by the Administrator of General Services at least 30 calendar days prior to the meeting.

(c) Each notice of meeting should state the name of the advisory committee, the time of the meeting, its purpose, and whether (or the extent to which) the public will be permitted to attend or participate. Whenever practicable, a summary of the agenda should be included. If the meeting is to be open to the public, the place of meeting should be specified in the notice. If any part of the meeting is to be closed, the notice should indicate the reasons therefor.

§ 105–64.301–5 Minutes of meetings.

Detailed minutes shall be kept of each advisory committee meeting. The minutes shall include at least the following items: The time and place of the meeting; a list of the advisory committee members and staff and agency employees present at the meeting; a complete summary of matters discussed and conclusions reached; copies of all reports received, issued, or approved by the advisory committee; an explanation of the extent to which the meeting was open to the public; and an explanation of the extent of public participation, including a list of members of the public who presented oral or written statements and an estimate of the number of members of the public who attended the meeting. The committee chairman shall certify the accuracy of all minutes.

§ 105–64.301–6 Public attendance and participation.

(a) Each GSA advisory committee meeting shall be open to the public unless the Administrator determines otherwise as provided in § 105–64.301–6(e).

(b) Interested persons shall be permitted to attend, appear before, or file statements with a GSA advisory committee unless the Administrator determines otherwise as provided by § 105–64.301–6(e). When required for the orderly operation of the advisory committee, the Federal Register notice announcing the committee meeting may prescribe appropriate procedures for attendance, appearances, and filing statements.





(c) Advisory committee meetings which are open to the public shall be held at a reasonable time and at a place that is reasonably accessible. The size of the meeting room shall be adequate to accommodate the anticipated public participants in addition to the committee members.

(d) Whenever an advisory committee anticipates widespread public interest in one of its meetings, it may establish procedures for the orderly conduct of that meeting, including the requirement of advance approval for oral participation. Public notice of such procedures shall be given at the time of announcement of the meeting or, in any event, sufficiently in advance of the meeting to permit the public to comply.

(e) An advisory committee meeting will not be open to the public nor will the attendance, appearances, or filing of statements by interested persons be permitted at such a meeting whenever the Administrator of General Services determines that it is concerned with matters listed in 5 U.S.C. 552(b). If it is determined that only a portion of the meeting is concerned with such matters, only that portion of the meeting shall be closed. Any determinations concerning the closing of meetings shall be submitted in writing by the Head of the Service or Staff Office to the Administrator for approval at least 30 calendar days in advance of the scheduled date of the meeting.

(f) If a meeting is scheduled to discuss matters which are exempt under 5 U.S.C. 552(b), it may be closed to public attendance only if the Administrator determines that the meeting (or portion) will consist of an exchange of opinions, that the discussion if written would fall within exemption (5) of 5 U.S.C. 552(b), and that it is essential to close such meeting (or portion) to protect the free exchange of internal views and to avoid undue interference with GSA or committee operations.

§ 105–64.302 Committee records and reports.

(a) Except for those instances in which the Administrator of General Services has determined otherwise pursuant to 5 U.S.C. 552(b), the records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda, or other documents that were made available to or prepared for or by a GSA advisory committee shall be available (until the committee ceases to exist) for public inspection and copying in the office of the Government chairman (or GSA representative) of the committee. After the committee is terminated, disposition of the committee documents and the subsequent release of information therefrom shall be in accordance with existing Federal records, statutes, and regulations. The provisions of 5 U.S.C. 552(b)(5) shall not apply to access to advisory committee documents unless the Administrator determines that denial is essential to protect the free exchange of internal agency views and to avoid undue interference with GSA or committee operations. Except where prohibited by contractual agreements entered into prior to January 5, 1973, copies of transcripts, if any, of advisory committee meetings shall be made available by the Government chairman to any person at the actual cost of duplication.

(b) Subject to 5 U.S.C. 552(b) and instructions of the Director, Office of Management and Budget, at least eight copies of each report made by an advisory committee shall be filed by its Government chairman or GSA representative with the Library of Congress at the time of its issuance. Where appropriate, copies of background papers prepared by consultants to the advisory committee shall also be filed with the Library of Congress. The letter of transmittal shall identify the materials being furnished and a copy of the transmittal shall be provided to the GSA Committee Management Officer.

§ 105–64.303 Fiscal and administrative provisions.

(a) The Head of each Service or Staff Office shall ensure that in accordance with established GSA procedures records are maintained which fully disclose the disposition of any funds at the disposal of an advisory committee and the nature and extent of its activities.

(b) In those instances in which GSA is assigned administrative support responsibilities for a Presidential advisory committee, the Agency Liaison Division, Office of Management Services, Office of Administration, GSA, shall arrange for the maintenance of all necessary financial records as a part of its support services.

(c) Unless otherwise provided in the applicable Presidential order, statute, or other establishing authority, the GSA service or staff office sponsoring an advisory committee shall provide the necessary support services for operation of that committee.

§ 105–64.304 Renewal of advisory committees.

(a) The anniversary date for renewal of a nonstatutory advisory committee in existence when the Federal Advisory Committee Act became effective shall be January 5, 1975, and every 2 years thereafter. Each advisory committee established after January 4, 1973, may be renewed for successive 2-year periods beginning with the actual date of its establishment.

(b) Except in those instances in which the continued existence of an advisory committee is provided for by law, the renewal of an advisory committee requires that the responsible Head of Service or Staff Office submit to the Assistant Administrator (Attn: GSA Committee Management Officer) the following:

(1) An updated charter with a full explanation of the need for the renewal of the committee. (See § 105–64.203–1 for the contents of the charter.) The charter and explanation shall be furnished 60 calendar days prior to the 2-year anniversary date of the committee;

(2) A letter to the Director, Office of Management and Budget, for signature of the Administrator of General Services, setting forth the reasons for renewal of the committee; and

(3) A notice for publication in the FEDERAL REGISTER containing a certification by the Administrator that renewal of the advisory committee is in the public interest and describing the nature and purpose of the committee.

(c) Upon receipt of the above documents, the Assistant Administrator shall secure the approval of the Administrator for each advisory committee whose renewal is adequately justified. The Administrator will inform the Office of Management and Budget of his determination and the reasons therefor not more than 60 calendar days prior to the 2-year anniversary date of the committee. Following receipt of the Office of Management and Budget concurrence in the committee renewal, the Assistant Administrator shall publish notice of the renewal in the FEDERAL REGISTER and shall file copies of the updated charter as prescribed in § 105–64.203.

(d) No advisory committee required to file a new charter shall take any action other than the preparation of the charter between the date the new charter is required and the date it is actually filed.

§ 105–64.305 Termination of advisory committees.

(a) An advisory committee which has fulfilled its purpose as stated in its charter shall be terminated as soon as possible by the sponsoring Head of Service or Staff Office by written notification to the GSA Committee Management Officer.

(b) Failure to effect the continuation of an advisory committee by no later than each successive anniversary date will result in the automatic termination of that committee.

§ 105–64.306 Complaint procedures.

(a) Any person whose request for access to an advisory committee document is denied may seek administrative review pursuant to Part 105–60, which implements the Freedom of Information Act.

(b) On matters not involving access to documents, written complaints may be filed by aggrieved individuals or organizations with the Assistant Administrator addressed to the General Services Administration (AL), Washington, DC 20405. Such complaints must be filed within 90 days from the date the grievance arose. The Assistant Administrator shall promptly act upon the complaint and written notice of its disposition shall be provided to the complainant.

## Subpart 105–64.4—Reports

§ 105–64.400 Scope of subpart.

This subpart sets forth the reports required by this Part 105–64 and prescribes instructions for submission of the reports.



V 38 184 SEP 24 73 XUM

**§ 105–64.401 Report to Assistant Administrator.**

By January 15 of each year, the Head of the appropriate Service or Staff Office shall report on the activities of each advisory committee under his jurisdiction in existence during the preceding calendar year. The report shall be submitted to the Assistant Administrator (Attn: GSA Committee Management Officer) and shall include the following information:

(a) The exact name of the advisory committee;

(b) Whether the committee is ad hoc or continuing (Generally an ad hoc committee is one that is established for a particular purpose and has a short duration. A short duration is usually less than 12 months.);

(c) Establishment date or date of continuation (The establishment date is the original creation date of the committee. The continuation date is the latest date that a review has taken place and the determination to continue the committee has been made. Indicate the most recent date.);

(d) Specific establishment authority;

(e) A statement indicating whether the committee was:

(1) Specifically directed by law;

(2) Authorized by law;

(3) Established by agency authority; or

(4) Established by Presidential directive;

(f) Termination or report date (This date indicates when the committee will cease functioning. It may be the final terminating date or the date a new continuance is due.);

(g) Brief statement of function;

(h) The principal reports, by subject and date, submitted by the committee;

(i) The dates of the committee's meetings during the preceding year, with a summary total of the number of times met;

(j) The name, occupation, position, and address of each committee member;

(k) The estimated total aggregate annual cost to the United States to fund, service, supply, and maintain the committee;

(l) The estimated annual man-years of staff support for the committee;

(m) A statement of the specific accomplishments of the committee during the preceding year;

(n) Any recommendations for exclusion for national security reasons of information from the President's report to Congress; and

(o) Any recommendations to modify, merge, or abolish an advisory committee.

**§ 105–64.402 Annual report to the Office of Management and Budget.**

By February 1 of each year, the GSA Committee Management Officer shall prepare for the signature of the Assistant Administrator an annual GSA report to the Office of Management and Budget regarding the status of all advisory committees for which GSA is responsible.

*Effective date.*—These regulations are effective September 24, 1973.

Dated September 18, 1973.

ARTHUR F. SAMPSON,
*Administrator of General Services.*

[FR Doc.73-20221 Filed 9-21-73;8:45 am]

## Title 45—Public Welfare

### CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### PART 233—COVERAGE AND CONDITIONS OF ELIGIBILITY IN FINANCIAL ASSISTANCE PROGRAMS

#### Dependent Children of Unemployed Fathers; Correction

FR Document 73–14304, published at page 18549 in the issue dated Thursday, July 12, 1973, is corrected by changing the word "employed" in § 233.100(a)(1), first line, to "unemployed".

Dated September 12, 1973.

LUISA V. IGLESIAS,
*Acting Assistant Administrator for Policy Coordinaion, Social and Rehabilitation Service.*

Approved: September 19, 1973.

THOMAS S. MCFEE,
*Deputy Assistant Secretary for Management Planning and Technology.*

[FR Doc.73-20272 Filed 9-21-73;8:45 am]

## Title 49—Transportation

### CHAPTER X—INTERSTATE COMMERCE COMMISSION

#### SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. MC–19 (Sub-No. 7)]

### PART 1056—TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE OR FOREIGN COMMERCE

#### Participation in Rates at Different Levels

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 4th day of September 1973.

*It appearing* that investigation of the matters and things involved in this proceeding has been made and that the Commission has made and filed its report herein containing its findings of facts and conclusions thereon, which report is hereby referred to and made a part thereof:

*It is ordered*, That part 1056 of Chapter X of Title 49 of the Code of Federal Regulations be, and it is hereby, amended by the addition of § 1056.21 as set forth below.

*It is further ordered*, That this order shall become effective on January 1, 1974, and shall remain in effect until modified or revoked in whole or in part by further order of the Commission.

*And it is further ordered*, That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

(49 U.S.C. 301, 302, 304, 308, and 317 (5 U.S.C. 553 and 559).)

By the Commission.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

49 CFR Part 1056 shall be amended by th addition of the following:

**§ 1056.21 Uniform rates for identical services.**

(a) No motor common carrier of household goods shall have in effect for its account more than one level of line-haul rates, whether local or joint, covering the transportation of noncontainerized household goods in interstate or foreign commerce between the same two points in the same direction.

(b) No motor common carrier of household goods shall have in effect for its account more than one level of line-haul rates, whether local or joint, covering the transportation of containerized household goods in interstate or foreign commerce between the same two points in the same direction.

[FR Doc.73-20292 Filed 9-21-73;8:45 am]

[Ex Parte No. MC–19 (Sub-No. 16)]

### PART 1056—TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE OR FOREIGN COMMERCE

#### Use of Credit Card Systems

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 4th day of September 1973.

*It appearing*, that investigation of the matters and things involved in this proceeding having been made, and the Commission, on the date hereof, having made and filed a report herein containing its findings of fact and conclusions thereon, which report is hereby made a part hereof:

*It is ordered*, That Part 1056 of Subchapter A of Chapter X of Title 49 of the Code of Federal Regulations be, and it is hereby, amended by adding a new § 1056.25, reading as set forth below.

(49 U.S.C. 304, 308, and 323.)

*It is further ordered*, That this order shall become effective on November 2, 1973.

*It is further ordered*, That notice of this order shall be given the public by depositing a copy thereof in the Office of the Secretary of this Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

*And it is further ordered*, That the petition of the Mover's & Warehousemen's Association of America, Inc., filed November 9, 1971, in all other respects be, and it is hereby, denied.

By the Commission.

[SEAL] ROBERT L. OSWALD,
*Secretary.*





**§ 1056.25 Credit card plans; quarterly reporting required.**

(a) Each motor common carrier of household goods desiring to participate in a credit card plan must obtain prior approval for such plan from the Interstate Commerce Commission by submitting a copy of its agreement with each financial institution participating in the plan. Except in unusual circumstances and on an experimental basis, such a plan shall be equally available to all certificated motor common carriers of household goods desiring to participate therein. Approval or disapproval will be made informally by the Commission in the form of a letter indicating informal consent for or disapproval of the plan. Notices of approval will be published by the Commission in the Federal Register.

(b) Each motor common carrier of household goods participating in an approved credit card plan shall file with the Commission quarterly reports showing (1) by bill of lading number and date each shipment transported for which a credit card was utilized by the shipper for the payment of all or a portion of the total charges, (2) the total charges for each such shipment, (3) the amount paid by carrier for credit checks and collection service on each shipment, (4) the points from and to which each such shipment moved, (5) the credit card system utilized (and the financial institution controlling the said system) for each such shipment, and (6) the quarterly totals for items (1), (2), and (3).

[FR Doc.73-20293 Filed 9-21-73;8:45 am]

[Ex Parte No. 275]

### PART 1115—ISSUANCE OF SECURITIES, ASSUMPTION OF OBLIGATIONS, AND FILING OF CERTIFICATES AND REPORTS

#### Change in Effective Date

SEPTEMBER 18, 1973.

The report of the Commission upon further consideration and order, 344, I.C.C. 114, entered August 16, 1973, provided that the order would become effective 60 days after publication in the FEDERAL REGISTER.

In the publication in the FEDERAL REGISTER of September 5, 1973 (38 FR 23953) as corrected in the FEDERAL REGISTER of September 11, 1973 (38 FR 24903) and of September 14, 1973 (38 FR 25686) the effective date of the order entered August 16, 1973, was incorrectly set forth.

The report and order stated that the order was to become effective 60 days after publication in the FEDERAL REGISTER. The 60th day following corrected publication is Saturday, November 10, 1973, therefore, the order will be effective, Monday, November 12, 1973.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-20291 Filed 9-21-73;8:45 am]

## Title 50—Wildlife and Fisheries

### CHAPTER I—BUREAU OF SPORT FISHERIES AND WILDLIFE, FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

#### SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION, AND IMPORTATION OF WILDLIFE

### PART 20—MIGRATORY BIRD HUNTING

#### Open Seasons, Bag Limits, and Possession of Certain Migratory Game Birds; Corrections

In FR Doc. 73–18361 appearing on page 23524 in the issue of Friday, August 31, 1973, technical or typographical errors are corrected as follows:

1. On page 23526, in § 20.105(e), the season dates for geese in the Coastal and Inland Zones of Massachusetts are amended to read "Oct. 20–Nov. 17/ Dec. 8–Jan. 17."

2. On page 23527, in § 20.105(e), in the Mississippi Flywaywide restrictions, the areas closed to canvasback and redhead hunting in Minnesota are amended to read "Statewide." The counties listed beside Minnesota are deleted.

3. On page 23527, in § 20.105(e), in the Mississippi Flyway table, the next two lines after "Illinois:" are amended to read:

| | | |
|---|---|---|
| Ducks | Oct. 20–Dec. 3 | Point system. |
| Geese: [1,2] | | |

4. On page 23527, in § 20.105(e), in the Mississippi Flyway table, the season dates for ducks in Iowa are amended to read "Oct. 6–Oct. 10/Oct. 20–Nov. 28."

5. On page 23528, footnote 2 is amended to read:

6. On page 23531, in § 20.105(g), in the Seasons in the Atlantic Flyway, the season dates for Florida are amended to read "Nov. 22–Dec. 9/Dec. 20–Jan. 20."

7. On page 23531, in § 20.105(g), in the Seasons in the Central Flyway, the lines for Montana seasons are amended to read:

| | | |
|---|---|---|
| Montana [1] | Sept. 29–Nov. 27/ Dec. 15–Dec. 30. | |

8. On page 23531, in § 20.105(h), in the Seasons in the Atlantic Flyway, the season dates for Florida are amended to read "Jan. 21–Jan. 31."

(40 Stat. 755; (16 U.S.C. 703 et seq.).)

*Effective date.*—These amendments are effective September 24, 1973.

F. V. SCHMIDT,
*Acting Director, Bureau of Sport Fisheries and Wildlife.*

SEPTEMBER 19, 1973.

[FR Doc.73-20265 Filed 9-21-73;8:45 am]

## Title 21—Food and Drugs

### CHAPTER II—DRUG ENFORCEMENT ADMINISTRATION, DEPARTMENT OF JUSTICE

### AGENCY REFERENCES AND PARTS REDESIGNATION

#### Editorial Changes

On July 1, 1973, Reorganization Plan No. 2 of 1973 became effective. Pursuant to this Plan, the Bureau of Narcotics and Dangerous Drugs was abolished, and all functions of the Bureau were transferred to the Drug Enforcement Administration. On July 2, 1973, an order was published in the FEDERAL REGISTER (38 FR 18380) delegating the functions vested in the Attorney General under the Comprehensive Drug Abuse Prevention and Control Act of 1970 to the Administrator of the Drug Enforcement Administration.

Therefore, it is hereby ordered that all references to the Bureau of Narcotics and Dangerous Drugs in Title 21, Chapter II, of the Code of Federal Regulations be hereby changed to refer to the Drug Enforcement Administration, and that all references to the Director of the Bureau of Narcotics and Dangerous Drugs be hereby changed to refer to the Administrator of the Drug Enforcement Administration, and that all references to the Regional Director of the Bureau of Narcotics and Dangerous Drugs be hereby changed to refer to the Regional Administrator of the Drug Enforcement Administration.

The Office of the Federal Register has notified the Drug Enforcement Administration that the Food and Drug Administration intends to republish and redesignate its regulations in a series covering Parts 1–1299, and has asked the Drug Enforcement Administration to redesignate its parts and sections beginning with Part 1300. Therefore, pursuant to the authority vested in the Attorney General by sections 201, 202(d), 301, 302(f), 304, 305, 306(f), 307, 308, 501(b), 505, 507, 511, 513, 704(c), 705, 1002, 1003, 1004, 1006, 1007(b), 1008(d), 1008(e), and 1015 of the Comprehensive Drug Abuse Prevention and Control Act of 1970, and delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations (38 FR 18380), it is hereby ordered that all parts and sections now contained in Title 21, Chapter II, of the Code of Federal Regulations be redesignated upward by one thousand (e.g., Part 301 becomes Part 1301, and § 303.37 becomes § 1303.37).

[1] In the States of Illinois and Wisconsin, the kill of Canada geese will be limited to 28,000 birds in each State. In the Swan Lake area of Missouri the kill of Canada geese will be limited to 17,500 birds. When it is determined by the Director, Bureau of Sport Fisheries and Wildlife, that the quota of Canada geese allotted to the State of Illinois or to the Swan Lake area of Missouri will have been killed, the season for taking Canada geese in the respective areas will be closed by the Director upon giving public notice through local information media at least 48 hours in advance of the time and day of closing.



V 38-184 SEP 24 73 XUM

These orders shall become effective on September 24, 1973.

Dated September 14, 1973.

JOHN R. BARTELS, JR.,
*Acting Administrator,*
*Drug Enforcement Administration.*

[FR Doc.73-20144 Filed 9-21-73;8:45 am]

## PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

### Exempt Chemical Preparations

The Administrator of the Drug Enforcement Administration has received applications pursuant to § 1308.23 of Title 21 of the Code of Federal Regulations requesting that several chemical preparaitons containing controlled substances be granted the exemptions provided for in § 1308.24 of Title 21 of the Code of Federal Regulations.

The Administrator hereby finds that each of the following chemical preparations and mixtures is intended for laboratory, industrial, educational, or special research purposes, is not intended for general administration to a human being or other animal, and either (a) contains no narcotic controlled substance and is packaged in such a form or concentration that the package quantity does not present any significant potential for abuse, or (b) contains either a narcotic or nonnarcotic controlled substance and one or more adulterating or denaturing agents in such a manner, combination, quantity, proportion or concentration, that the preparation or mixture does not present any potential for abuse. If the preparation or mixture contains a narcotic controlled substance, the preparation or mixture is formulated in such a manner that it incorporates methods of denaturing or other means so that the preparation or mixture is not liable to be abused, and so that the narcotic substance cannot in practice be removed. The Administrator further finds that exemption of the following chemical preparations and mixtures is consistent with the public health and safety as well as the needs of researchers, chemical analysts, and suppliers of these products.

Therefore, under the authority vested in the Attorney General by sections 301 and 501(b) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 821 and 871(b)) and delegated to the Administrator of the Drug Enforcement Administration by § 0.100 of Title 28 of the Code of Federal Regulations (see 38 FR 18380, July 2, 1973) the Administrator hereby orders that Part 1308 of Title 21 of the Code of Federal Regulations be amended as follows:

By amending § 1308.24(e) by adding the following chemical preparations:

**§ 1308.24 Exempt chemical preparations.**

* * * * *

(i) * * *

| Manufacturer or supplier | Product name and supplier's catalog number | Form of product | Date of application |
|---|---|---|---|
| American Hospital Supply Corp. (Harleco Division). | Clinicard, pseudo-cholinesterase, catalog No. 32307. | Clinicard cuvette containing a powder to be reconstituted by adding 3 ml water. | May 31, 1973 |
| Amersham/Searle | HPL Immunoassay Kit No. 1M-68 | Bottle: 30 ml | May 18, 1973 |
| Bio-Reagents & Diagnostics, Inc. | Toxicology control urine-dried No. 6716-25 | Bottle: 25 ml | June 25, 1973 |
| Do | Toxicology control serum-dried No. 6726-10 | Bottle: 10 ml | Do. |
| Do | Toxicology urine proficiency control-dried No. 6736-25. | Bottle: 25 ml | Do. |
| Do | Abnormal control urine, assayed-dried No. 6954-25. | do | Do. |
| Clinical Assays, Inc | Morphine urine standard No. CA-224 | Vial: 5 or 10 ml | June 13, 1973 |
| Do | Morphine urine standard No. CA-225 | do | Do. |
| Do | Morphine urine standard No. CA-226 | do | Do. |
| Do | Morphine Urine Standard No. CA-227 | do | Do. |
| Do | Morphine Urine Standard No. CA-228 | do | Do. |
| Do | Morphine Urine Standard No. CA-229 | do | Do. |
| Do | 4H Morphine No. CA-615 | do | Do. |
| Diagnostics, Inc | DiAgAu Buffer, No. 65 | Bottle: 1 gal | May 7, 1973 |
| Do | DiAgAu Plates, No. 50 | Plate: 16 ml | Do. |
| Do | DiAgAu Plates, No. 55 | do | Do. |
| Grand Island Biological Co | Dextrose-Gelatin-Veronal Buffer Solution NDC No. 815-0566-1 and No. 815-0566-2. | Bottle: 100 ml and 500 ml. | July 5, 1973 |
| Hoffmann-La Roche Inc | Abuscreen Radioimmunoassay for Barbiturates (125I). | Vial: 60 ml and 5 ml | July 6, 1973 |
| Do | Abuscreen Radioimmunoassay for Barbiturates (131I). | Vial: 60 ml and 5 ml | Do. |
| Kallestad Labs, Inc | Osmotect Buffer No. M 101 | Vial: 7 dram, 7.4 g per vial, 5 vials per package. | May 17, 1973 |
| Do | Buffer No. C135 | Vial: 7 dram | Do. |
| Do | Osmotect Agar Gel Plate Kit No. M 100 | Plate: 2 ml, 6 per kit | Do. |
| Materials & Technology Systems, Inc. | Carboxymethylmorphine Sensitized RBC | Vial: 50 ml | May 3, 1973 |
| Do | Egonine Sensitized RBC | do | Do. |
| Do | 5-ethyl-5-(1-carboxy-n-propyl) barbituric acid Sensitized RBC. | do | Do. |
| SIGMA Chemical Co | SGOT Single Assay Vial, No. 55-1 | Vial: 3 ml | May 29, 1973 |
| Do | SGOT Assay Vial, No. 55-5 | Vial: 15 ml | Do. |
| Do | SGOT 10 Assay Vial, No. 55-10 | Vial: 30 ml | Do. |
| Do | SGPT Single Assay Vial, No. 55-1P | Vial: 3 ml | Do. |
| Do | SGPT 5 Assay Vial, No. 55-5P | Vial: 15 ml | Do. |
| Do | SGPT 10 Assay Vial, No. 55-10P | Vial: 30 ml | Do. |
| Do | SGOT Reagent No. 155-10 | do | Do. |
| Do | SGOT Reagent No. 155-100 | Vial: 100 ml | Do. |
| Do | SGPT Reagent No. 155-10P | Vial: 30 ml | Do. |
| Do | SGPT Reagent No. 155-100P | Vial: 100 ml | Do. |
| Do | LDH-P Reagent No. 125-10 | Vial: 30 ml | Do. |
| Do | LDH-P Reagent No. 125-100 | Vial: 100 ml | Do. |
| SYVA Co | Frat Opiate Spin Label Reagent B | Bottle: 5 ml | May 22, 1973 |
| Do | Frat Methadone Spin Label Reagent B | do | Do. |
| Do | Frat Barbiturate Spin Label Reagent B | do | Do. |
| Do | Frat Amphetamine Spin Label Reagent B | do | Do. |
| Do | Frat Cocaine Metabolite Spin Label Reagent B. | do | Do. |
| Do | Emit Opiate Enzyme Reagent B | do | Do. |
| Do | Emit Methadone Enzyme Reagent B | do | Do. |
| Do | Emit Barbiturate Enzyme Reagent B | do | Do. |
| Do | Emit Amphetamine Enzyme Reagent B | do | Do. |
| Do | Emit Cocaine Metabolite Enzyme Reagent B. | do | Do. |
| Do | Emit Opiate Enzyme Reagent B | Bottle: 60 ml | Do. |
| Do | Emit Methadone Enzyme Reagent B | do | Do. |
| Do | Emit Barbiturate Enzyme Reagent B | do | Do. |
| Do | Emit Amphetamine Enzyme Reagent B | do | Do. |
| Do | Emit Cocaine Metabolite Enzyme Reagent B. | do | Do. |
| Do | Emit Low Calibrator | Vial: 3 ml | May 5, 1973. |
| Do | Emit Medium Calibrator | do | Do. |
| Do | Emit High Calibrator | do | Do. |
| Do | Products of the following substances either alone or in combination with one another and not to exceed 10 micrograms per milliliter lyophilized human urine: (1) Amphetamine, (2) Benzoyl Egonine, (3) Codeine, (4) Egonine, (5) 2-Ethilidene-1,5-dimethyl-3,3-diphenyl-pyrrolidine, (6) Glutethimide, (7) Methadone, (8) Methamphetamine, (9) Methaqualone, (10) Morphine, (11) Morphine Glucuronide, (12) Pentobarbital, (13) Phenobarbital, (14) Secobarbital. | Vial: 50 ml | May 31, 1973. |





*Effective date.*—This order is effective on September 21, 1973. Any interested person may file written comments on or objections to the order by November 20, 1973. If any such comments or objections raise significant issues regarding any finding of fact or conclusion of law upon which the order is based, the Administrator shall immediately suspend the effectiveness of the order until he may reconsider the application in light of the comments and objections filed. Thereafter, the Administrator shall reinstate, revoke or amend his original order as he determines appropriate.

Dated September 14, 1973.

JOHN R. BARTELS, JR.,
*Acting Administrator,*
*Drug Enforcement Administration.*

[FR Doc.73-20143 Filed 9-21-73;8:45 am]

## CHAPTER III—SPECIAL ACTION OFFICE FOR DRUG ABUSE PREVENTION

## PART 1401—CONFIDENTIALITY OF DRUG ABUSE PATIENT RECORDS

### Redesignation of Part

Under date of November 17, 1972, the Special Action Office for Drug Abuse Prevention caused to be published under Title 21 of the FEDERAL REGISTER Part 401, Chapter III relating to the "Confidentiality of Drug Abuse Patient Records." (Volume 37, No. 223, pages 24636–24639; 37 CFR 401). It is now desired to redesignate said Part 401, Chapter III of the Code of Federal Regulations. Therefore, it is ordered that Part 401, Chapter III of Title 21 of the Code of Federal Regulations be redesignated and shall hereafter be referred to as Part 1401, Chapter III of Title 21 of such Code, and §§ 401.01 to 401.73 therein are redesignated accordingly and shall be hereafter referred to as §§ 1401.01 to 1401.73.

By order of the Director of the Special Action Office for Drug Abuse Prevention.

Effective September 24, 1973.

GRASTY CREWS, II,
*General Counsel.*

[FR Doc.73-20223 Filed 9-21-73;8:45 am]

## Title 6—Economic Stabilization

## CHAPTER I—COST OF LIVING COUNCIL

## PART 150—COST OF LIVING COUNCIL; PHASE IV PRICE REGULATIONS

### Construction Industry

The purpose of this amendment to Part 150 of the Cost of Living Council Phase IV Price Regulations is to revise Subpart N—Construction.

On July 19, 1973, the Cost of Living Council established Part 150 and issued Subpart N, 38 FR 19462 (July 20, 1973) as the first body of Phase IV price stabilization regulations. As originally issued, Subpart N was essentially a republication of the regulations first issued on June 18, 1973, 38 FR 15821. In light of its experience under Subpart N and the earlier regulations and on the basis of comments received, the Council finds that a number of technical adjustments to the regulations are required.

A new § 150.61 is being added to Subpart D—Exemptions, to exempt from the operation of Phase IV price regulations those small firms which are engaged in construction operations but have annual sales and revenues from construction operations of no more than $1 million.

Since profit margin limitations are the primary basis for price stabilization with respect to the construction industry, Subpart N is being revised and restated in its entirety so as to state its operative rules in terms relating to profit margins, eliminate references to individual prices, and incorporate several provisions to facilitate an effective and equitable operation of the profit margin limitation. In addition, a number of other minor technical changes are reflected.

As revised, § 150.451 provides that Subpart N applies to the construction operations of all firms other than those small firms exempt under new § 150.60. Under the earlier regulations, firms deriving less than 20 percent and less than $50 million in annual sales and revenues from construction operations were subject to other applicable provisions of Part 150 dealing with manufacturers, service organizations, retailers, etc. As revised, Subpart N becomes applicable to the construction operations of all firms, other than the small exempt firms. Paragraph (b) of § 150.451 provides that Subpart N supersedes certain provisions of Part 150 that could otherwise be applicable to a firm's construction operations.

In § 150.452 the definition of "annual sales or revenues" has been shortened by incorporating by reference the definition of that term as set forth in the general definintions in § 150.31. The definition of "base period" has been changed to conform to the phraseology in the definition of "base period" in the general definitions in § 150.31. The definition of "construction industry" has been eliminated as surplusage and covered by the defined term "construction operations".

Section 150.453 has been changed in two respects. In paragraph (c)(2) "the owner or user, the CISC or Council" have been added to the list of persons who can notify a prime contractor of a CISC or Council action resulting in a wage or salary reduction. In paragraph (d), the authorization for a prime contractor to place in escrow an amount due a subcontractor to cover a wage or salary reduction has been limited to those situations where the prime contractor does not otherwise retain a sufficient percentage of the subcontract price pending completion of the project.

Former § 150.456 has been divided into two separate sections, § 150.454 covering the calculation of a firm's base period profit margin limitation and § 150.455 setting forth the rules for measuring a firm's compliance therewith.

Under new § 150.454 governing the calculation of a firm's base period profit margin, a firm having both construction and nonconstruction operations is required to calculate a separate base period profit margin for each. Its nonconstruction operations are then governed by other appropriate provisions of Part 150 while its construction operations are subject to Subpart N. However, if its annual revenues from nonconstruction operations are more than 50 percent of its total revenues and its construction and nonconstruction operating incomes cannot be separately identified, the firm's entire operations are subject to such other provisions of Part 150 as are applicable to its nonconstruction operations. If its annual revenues from nonconstruction operations are not more than 50 percent of its total revenues and its construction and nonconstruction operating incomes cannot be separately identified, the firm's entire operations are subject to the profit margin limitation prescribed in Subpart N and in all other respects its nonconstruction operations are subject to such other pricing rules in Part 150 as may be applicable.

New § 150.455(a) prescribes the basic profit margin limitation (i.e. a firm's profit margin on construction operations may not exceed its base period profit margin on construction operations). However, under paragraph (b), if 90 percent or more of a firm's annual sales and revenues come from the sale of exempt items and it derives less than $50 million of its annual sales and revenues from nonexempt items, the firm is excused from the profit margin limitation for the following year. Under paragraphs (c) and (d), if a firm exceeds its profit margin limitation, the Cost of Living Council will consider certain enumerated causal factors in determining what sanctions should be applied for the overage.

New § 150.456 is a revision of former § 150.455 and has been recast in terms of a firm's profit margin rather than the prices it charges so as to conform to the overall restructuring of revised Subpart N.

New § 150.457 replaces former § 150.454 and prescribes an annual reporting requirement for firms deriving $10 million or more annually from construction operations. It also requires firms deriving less than $10 million but more than $1 million from construction to maintain records to demonstrate their compliance with Subpart N.

Because the purpose of this amendment is to provide immediate guidance and information with respect to the decisions of the Council, the Council finds that publication in accordance with normal rule making procedure is impracticable and that good cause exists for making these amendments effective in less than 30 days.

(Economic Stabilization Act of 1970, as amended, Pub. L. 92-210, 85 Stat. 743; Pub. L. 93-28, 87 Stat. 27; E.O. 11730, 38 FR 19345; Cost of Living Council Order No. 14, 38 FR 1489.)

In consideration of the foregoing Part 150 of Title 6 of the Code of Federal Regulations is amended as follows, effective September 26, 1973.



V 38-184 SEP 24 73 XUM

Issued in Washington, D.C., on September 21, 1973.

JOHN T. DUNLOP,
*Director,*
*Cost of Living Council.*

1. Section 150.60(a)(2)(iii) and (b)(2)(iii) are amended to read as follows:

**§ 150.60 Small business: exemption of firms with 60 or fewer employees.**

(a) • • •
(2) • • •
(iii) A firm which on August 12, 1973, was engaged in construction operations as defined in § 150.452 and which derived more than $1 million in annual sales and revenues from those construction operations during its most recently completed fiscal year.

• • • • • •

(b) • • •
(2) • • •
(iii) A firm which at any time during its first four calendar quarters after June 30, 1973, was engaged in construction operations as defined in § 150.452 and had annual sales and revenues from those construction operations of $1 million or more.

2. The items in the table of sections pertaining to Subpart N are amended to read as follows:

**Subpart N—Construction**


Sec.
150.451 Applicability and scope.
150.452 Definitions.
150.453 Redetermination of contracts over $500,000 when wages reduced by CISC or the Council.
150.454 Base period profit margin calculation.
150.455 Profit margin limitation.
150.456 Pass through of certain wage adjustments.
150.457 Reporting; recordkeeping.


3. Subpart N is amended to read as follows:

**Subpart N—Construction**

**§ 150.451 Applicability and scope.**

(a) This subpart applies to the construction operations of all firms which derived $1 million or more in annual sales or revenues from construction operations during its most recently completed fiscal year.

(b) With respect to firms to which this subpart applies, this subpart supersedes the provisions of §§ 150.3, 150.10, and 150.11 and Subparts E, F, G, H and K of this part except as otherwise provided in § 150.454. To the extent that this subpart may be inconsistent with any other provisions in this part, the provisions in this subpart govern.

**§ 150.452 Definitions.**

As used in this subpart—

"Annual sales or revenues" means annual sales or revenues as defined in § 150.31 and includes a firm's pro rata share of annual sales or revenues derived from the construction operations of any joint venture in which it is a participant.

"Base period" means any one, at the option of the firm concerned, of that firm's fiscal years ending after August 15, 1968, except a fiscal year for which compliance is being measured. If a firm uses for its base period, a fiscal year ending after August 15, 1971, and prior to January 11, 1973, for which the firm exceeded a profit margin limitation imposed pursuant to the provisions of Part 300 of this title in effect on January 10, 1973, it shall reduce its operating income for that fiscal year to the level of operating income it would have obtained for that fiscal year had it been in compliance with that Part 300 of this chapter profit margin restraint.

"Construction operations" includes all work relating to the erecting, construction, altering, remodeling, painting, or decorating of installations such as buildings, bridges, highways, and the like when performed on a contract basis, but does not include maintenance work performed by workers employed on a permanent basis in a particular plant or facility for the purpose of keeping such plant or facility in efficient operating condition. It also includes the transporting of materials and supplies to or from a particular building or project by the workers of the contractor or subcontractor performing the construction or the manufacturing of materials, supplies, or equipment on the site of a project by those workers and all other work classified as construction in § 5.2(g) of Title 29 Code of Federal Regulations.

**§ 150.453 Redetermination of contracts over $500,000 when wages reduced by CISC or the Council.**

(a) The contract price for each construction contract in excess of $500,000, all or part of which is performed by construction workers whose wages and salaries are subject to review by the Construction Industry Stabilization Committee (CISC) or the Cost of Living Council, shall be redetermined prior to final payment if the wage and salary level of those construction workers is reduced as a result of CISC or Council action. The amount by which the contract price is reduced as a result of the redetermination must fairly reflect the results of the CISC or Council action, including any cost increases directly resulting from the CISC or Council action.

(b) Redetermination of any Federal Government fixed-price prime construction contract in excess of $500,000 affected by CISC or Council action shall be conducted in the manner provided in the applicable federal procurement regulations and applicable regulations of the Department of Defense.

(c) Redetermination of fixed-price prime construction contracts in excess of $500,000 other than those referred to in paragraph (b) of this section shall be conducted in the following manner:

(1) Upon notification of a reduction in the wages and salaries of construction workers subject to CISC or Council review each subcontractor performing work under the prime contract, whose construction workers have had a reduction of wages and salaries as a result of CISC or Council action, shall promptly notify the prime contractor of any such reduction, notwithstanding the dollar value of the subcontract.

(2) In the absence of a contract clause relating to redetermination of the contract price, and after notification by his subcontractors, the owner or user, CISC, or the Council of a reduction in the wages and salaries of construction workers as a result of CISC or Council action, the prime contractor shall offer in writing to redetermine the contract price with the owner or user prior to final payment, and furnish the owner or user with a statement of the estimated number of employees affected by the CISC or Council action.

(3) The owner or user shall notify the contractor of his intention to jointly redetermine the contract price within 90 days after receipt of the offer referred to in paragraph (c)(2) of this section.

(d) In complying with this section, the prime contractor may require each subcontractor, regardless of tier, to submit to him a statement of the estimated number of employees affected by the results of the CISC or Council action. The final payment due the subcontractor engaged to perform the subcontracted work shall be jointly redetermined to reflect fairly the results of the CISC or Council action, including any cost increases directly resulting from such action. Pending notification by the owner or user of his intent to redetermine the contract price, and if the prime contractor does not hold sufficient funds in the form of retainage to fairly reflect the CISC or Council action, the prime contractor may place in escrow an amount which fairly reflects that action. The prime contractor shall refund to the subcontractor the amount placed in escrow if the owner or user does not indicate to the prime contractor his intention to jointly redetermine the contract price within the 90-day period specified, or if the owner or user does notify the prime contractor during that time period that he will not redetermine the contract price.

**§ 150.454 Base period profit margin calculation.**

(a) Except as provided in paragraphs (b) and (c) of this section, each firm to which this subpart applies shall, to the extent possible and consistent with the accounting principles customarily used in preparation of its financial statements, calculate its base period profit margin on construction operations separately from its base period profit margin on its other operations. In calculating a base period profit margin on construction operations, the firm shall use the definition of base period set forth in § 150.452 and in calculating a base period profit margin on other operations the firm shall use the definition of base period set forth in § 150.31. The firm's other operations are subject to Subpart E, Subpart K, or such other provisions of this part as may be applicable.

(b) If a firm's annual sales or revenues from other than construction operations are more than 50 percent of its total annual sales or revenues and the firm cannot separate its construction and nonconstruction operating income, the firm shall treat its construction operations as part of its other operations for purposes of Subpart E, Subpart K, or such other provisions of this part as may be applicable.

(c) If a firm's annual sales or revenues from other than construction operations are not more than 50 percent of its total annual sales or revenues and the firm cannot separate its construction and nonconstruction operating income, the firm shall treat its nonconstruction operations as part of its construction operations for profit margin purposes under this subpart. However, in all other respects its nonconstruction operations remain subject to Subpart E, Subpart K, or such other provisions of this part as may be applicable.

**§ 150.455 Profit margin limitation.**

(a) A firm's profit margin on construction operations for any fiscal year may not exceed the firm's base period profit margin on construction operations.

(b) A firm which during its most recent fiscal year derived both (1) 90 percent or more of its annual sales or revenues from the sales of exempt items or from exempt sales and (2) less than $50 million of its annual sales or revenues from the sale or lease of nonexempt items, is not subject to a profit margin limitation for the next ensuing fiscal year.

(c) When a firm is in violation of its profit margin limitation on construction operations, the Council in determining an appropriate sanction will consider whether the excess results from factors such as variation in the profit margin caused by the accounting method used on multiyear projects, or other factors which are unique to the construction industry and which would distort the comparison of a firm's current profit margin on construction operations with that which prevailed in its base period.

(d) Any justification advanced by a firm for its profit margin excess based on any of the factors listed in paragraph (c) of this section, must be included in the firm's annual report required under § 150.457.

**§ 150.456 Pass through of certain wage adjustments.**

In computing its profit margin under this subpart, a firm may treat as allowable costs for construction operations any wage or salary adjustment contained in a collective bargaining agreement or pay practice entered into after November 8, 1971, to the extent that adjustment has been approved by CISC or the Council. However, a firm may not treat as allowable costs any such adjustment incurred during the period from 9:00 p.m. e.s.t., June 13, 1973, through 11:59 p.m., e.s.t., August 12, 1973, unless the effective date of the adjustment was prior to June 13, 1973.

**§ 150.457 Reporting; recordkeeping.**

(a) Except as provided in paragraph (c) of this section, each firm having construction operations to which this subpart applies and which derives $10 million or more in annual sales or revenues from construction operations, shall prepare and submit to the Cost of Living Council within 90 days after the end of each fiscal year ending after June 12, 1973, a sales and profit margin report on a form prescribed by and in accordance with instructions issued by the Council.

(b) Each firm to which this subpart applies and which derives more than $1 million but less than $10 million in annual sales or revenues from construction operations shall maintain in accordance with § 150.164 such records as are sufficient to demonstrate that the firm is in compliance with this subpart.

(c) A firm is not required to submit the reports otherwise required under paragraph (a) of this section if:

(1) the firm has both construction and non-construction operations and pursuant to § 150.454(b) treats its construction operations as part of its other operations; or

(2) during its most recent fiscal year, the firm derived both (i) 90 percent or more of its annual sales or revenues from the sale of exempt items or exempt sales and (ii) less than $50 million of its annual sales or revenues from the sale of non-exempt items.

[FR Doc.73-20469 Filed 9-21-73;10:46 am]







V 38 184 SEP 24 73 XUM

# Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### [ 7 CFR Part 906 ]

### ORANGES AND GRAPEFRUIT GROWN IN THE LOWER RIO GRANDE VALLEY IN TEXAS

### Proposed Limitation of Handling

This notice proposes minimum grade and size requirements for oranges grown in the Lower Rio Grande Valley in Texas for the period October 16, 1973, through November 3, 1974. The proposed requirements are designed to promote orderly marketing and provide consumers with an ample supply of acceptable quality fruit.

The proposal would limit the handling of oranges by establishing regulations, pursuant to the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

All persons who desire to submit written data, views, or arguments in connection with the proposal should file the same with the Hearing Clerk, Room 112A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than October 1, 1973. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed regulation was recommended by the Texas Valley Citrus Committee, and it reflects the committee's appraisal of the need for regulation, and of the crop and current and prospective market conditions. Shipments of oranges from the production area are expected to begin on or about October 16, 1973. The proposed grade and size requirements provided herein are designed to prevent the handling on and after October 16, 1973, of any oranges of lower grades and smaller sizes than those herein specified, so as to provide consumers with good quality fruit, consistent with the overall quality of the crop, while providing producers fair returns pursuant to the declared policy of the act. The proposed grade and size requirements are the same as those currently in effect through October 15, 1973, under § 906.350 Orange Regulation 24 (37 FR 21801). Such proposal reads as follows:

§ 906.352 **Orange Regulation 25.**

*Order.* (a) During the period October 16, 1973, through November 3, 1974, no handler shall handle:

(1) Any oranges of any variety, grown in the production area, unless such oranges grade U.S. Fancy, U.S. No. 1, U.S. No. 1 Bright, U.S. No. 1 Bronze, U.S. Combination with not less than 60 percent, by count, of the oranges in any lot thereof grading at least U.S. No. 1 grade; or U.S. No. 2;

(2) Any oranges of any variety, grown in the production area, which are smaller than pack size 288, as such size is specified in § 51.691(c) of the U.S. Standards for Oranges (Texas and States other than Florida, California and Arizona), except that the minimum diameter limit for pack size 288 oranges in any lot shall be $2^{5}/_{16}$ inches;

(3) Any oranges of any variety, grown as aforesaid, for which inspection is required unless an appropriate inspection certificate has been issued with respect thereto not more than 48 hours prior to the time of shipment; or

(4) Any oranges of any variety, grown as aforesaid, unless such oranges meet all the applicable container and pack requirements which are in effect pursuant to the aforesaid marketing agreement and order during the period.

(b) Terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order; and terms relating to grade and diameter, when used herein, have the same meaning as is given to the respective term in the United States Standards for Oranges (Texas and States other than Florida, California and Arizona) (7 CFR 51.680–51.714).

Dated September 19, 1973.

CHARLES R. BRADER,
*Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.73-20277 Filed 9-21-73;8:45 am]

### [ 7 CFR Part 906 ]

### ORANGES AND GRAPEFRUIT GROWN IN THE LOWER RIO GRANDE VALLEY IN TEXAS

### Proposed Limitation of Handling

This notice proposes minimum grade and size requirements for grapefruit grown in the Lower Rio Grande Valley in Texas for the period October 16, 1973, through November 3, 1974. The proposed requirements are designed to promote orderly marketing and provide consumers with an ample supply of acceptable quality fruit.

The proposal would limit the handling of grapefruit by establishing regulations, pursuant to the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906), regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

All persons who desire to submit written data, views, or arguments in connection with the proposal should file the same with the Hearing Clerk, Room 112A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than October 1, 1973. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed grade requirements provided herein are the same as those currently in effect, while the proposed size requirements for the periods specified are comparable to those in effect during the past season. The proposed more stringent size requirement, for the period November 5, 1973, through February 24, 1974, is designed to prevent a weakening of the market during a period of normally heavy shipments, and to maintain the competitiveness of Texas grapefruit when other areas are shipping greater volumes of larger grapefruit. Grade and size requirements are currently in effect through October 15, 1973, under § 906.351 Grapefruit Regulation 24 (37 FR 21801).

Such proposal reads as follows:

§ 906.353 **Grapefruit Regulation 25.**

*Order.* (a) During the period October 16, 1973, through November 3, 1974; no handler shall handle:

(1) Any grapefruit of any variety, grown in the production area, unless such grapefruit grade U.S. Fancy; U.S. No. 1 Bright; U.S. No. 1; U.S. No. 1 Bronze; or U.S. No. 2;





(2) Any grapefruit of any variety, grown in the production area, which are smaller than pack size 112, as such size is specified in § 51.630(c) of the U.S. Standards for Grapefruit (Texas and States other than Florida, California and Arizona), except that the minimum diameter limit for pack size 112 grapefruit in any lot shall be $3^{1}/_{16}$ inches: *Provided,* That during the period November 5, 1973, through February 24, 1974, no handler shall handle any grapefruit of any variety, grown in the production area, which are smaller than pack size 96, as such size is specified in § 51.630(c) of the aforesaid U.S. Standards for Grapefruit, except that the minimum diameter limit for pack size 96 grapefruit in any lot shall be $3^{1}/_{16}$ inches;

(3) Any grapefruit of any variety, grown as aforesaid, for which inspection is required unless an appropriate inspection certificate has been issued with respect thereto not more than 48 hours prior to the time of shipment; or

(4) Any grapefruit of any variety, grown as aforesaid, unless such grapefruit meet all the applicable container and pack requirements which are in effect pursuant to the aforesaid marketing agreement and order during the period.

(b) Terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said marketing agreement and order; and terms relating to grade and diameter, when used herein, shall have the same meaning as is given to the respective term in the United States Standards for Grapefruit (Texas and States other than Florida, California and Arizona) (7 CFR 51.620–51.653).

Dated September 19, 1973.

CHARLES R. BRADER,
*Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.73-20278 Filed 9-21-73;8:45 am]

### [ 7 CFR Part 906 ]

### ORANGES AND GRAPEFRUIT GROWN IN THE LOWER RIO GRANDE VALLEY IN TEXAS

### Proposed Container, Pack, and Container Marking Requirements

This notice proposes a modification of the container, pack, and container marking requirements for Texas oranges and grapefruit grown in the Lower Rio Grande Valley in Texas, which would become effective October 16, 1973.

Consideration is being given to the following proposal, applicable to § 906.340 *Container, pack, and container marking regulations,* recommended by the Texas Valley Citrus Committee, established pursuant to the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906) regulating the handling of oranges and grapefruit grown in the Lower Rio Grande Valley in Texas. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

All persons who desire to submit written data, views, or arguments in connection with the proposal should file the same with the Hearing Clerk, Room 112A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than October 1, 1973. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

This action reflects the committee's appraisal of the need for restricting the use of containers and pack sizes to those most suitable for the packing and handling of fruit to promote orderly marketing, so as to provide consumers with good quality fruit, while providing producers a fair return pursuant to the declared policy of the act. The proposed amendment would authorize shipment of five 8-pound bags of fruit in the master container authorized in paragraph (a)(1)(vi) of § 906.340. Currently this master container is authorized only for the shipment of eight 5-pound bags of fruit. The applicable provisions in paragraph (a)(1)(iv)(b) would also be modified to conform to this proposed change. The proposed amendment would also delete paragraphs (a)(1)(xi), (a)(1)(xii), and (a)(1)(xiii), because the provisions in these paragraphs expired July 31, 1973, and they are obsolete.

The proposal is that paragraphs (a)(1)(xi), (a)(1)(xii), and (a)(1)(xiii) be deleted and that the provisions of paragraphs (a)(1)(iv)(b) and (a)(1)(vi) of § 906.340 (7 CFR 906.340) be amended to read as follows:

§ 906.340 **Container, pack, and container marking regulations.**

(a) • • •
(1) • • •
(iv) • • •

(b) Bags having a capacity of 8-pounds of fruit: *Provided,* That fruit when packed in such bags shall be handled only when packed in the numbers and containers specified in paragraphs (a)(1)(v) and (a)(1)(vi) of this section;

• • • • • •

(vi) Closed fiberboard carton with inside dimensions of 20 x $13^{1}/_{4}$ inches and of a depth from $9^{3}/_{4}$ to $10^{3}/_{4}$ inches: *Provided,* That the container has a Mullen or Cady test of at least 250 pounds and the container is used only for the shipment of eight 5-pound bags of fruit, or five 8-pound bags of fruit;

• • • • • •

Dated: September 19, 1973.

CHARLES R. BRADER,
*Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.73-20279 Filed 9-21-73;8:45 am]

### [ 7 CFR Part 927 ]

### BEURRE D'ANJOU, BEURRE BOSC, WINTER NELIS, DOYENNE DU COMICE, BEURRE EASTER, AND BEURRE CLAIRGEAU VARIETIES OF PEARS GROWN IN OREGON, WASHINGTON, AND CALIFORNIA

### Proposed Expenses and Fixing of Rate of Assessment for 1973–74 Fiscal Period

This notice invites written comments relative to the proposed expenses of $82,445 and the assessment rate of $0.015 per standard western pear box of winter pears to support the activities of the Control Committee during the 1973–74 fiscal period under Marketing Order No. 927.

Consideration is being given to the following proposal submitted by the Control Committee, established pursuant to the marketing agreement, as amended, and Order No. 927, as amended (7 CFR Part 927), regulating the handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in Oregon, Washington, and California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions thereof:

(1) That expenses which are reasonable and necessary to be incurred by the Control Committee, during the period July 1, 1973, through June 30, 1974, will amount to $82,445.

(2) That the rate of assessment for such period, payable by each handler in accordance with § 927.41, be fixed at $0.015 per standard western pear box of pears, or an equivalent quantity of pears in other containers or in bulk.

Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order.

All persons who desire to submit written data, views, or arguments in connection with the aforesaid proposals shall file the same in quadruplicate, with the Hearing Clerk, United States Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than October 9, 1973. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: September 18, 1973.

CHARLES R. BRADER,
*Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.73-20213 Filed 9-21-73;8:45 am]



V 38-184 SEP 24 73 XUM

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Social Security Administration

**[ 20 CFR Part 405 ]**

[Reg. No. 5]

### SUPPLEMENTARY MEDICAL INSURANCE BENEFITS

### Premium Rate

Notice is hereby given pursuant to the Administrative Procedure Act, as amended (5 U.S.C. 553) that the amendments to the regulations (20 CFR 405.902), set forth below in tentative form are proposed by the Acting Commissioner of Social Security with the approval of the Secretary of Health, Education, and Welfare. The proposed amendments reflect section 203 of the Social Security Amendments of 1972 (Pub. L. 92–603) which limits any increase in the supplementary medical insurance premium rate for a 12-month period beginning July of any year to the percentage by which cash benefits under title II were increased during the preceding 12 months. The actual computation process (as promulgated by Pub. L. 92–603) is not being included since the computation process and all actuarial assumptions are published in the FEDERAL REGISTER whenever there is a premium increase. A cross-reference to section 1839 of the Act, as amended (that section stating the computation process) has been included. The premium rates and the dates for which they are effective through June 1974 are set forth below.

Prior to the final adoption of the proposed regulations, consideration will be given to any comments, views, or objections relating thereto which are submitted in writing in triplicate to the Acting Commissioner of Social Security, Department of Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington, D.C. 20201, on or before October 24, 1973.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue SW., Washington, D.C. 20201.

(Secs. 1102, 1839, and 1871, 49 Stat. 647 as amended, 79 Stat. 306, as amended; 79 Stat. 331 (42 U.S.C. 1302, 1395r, hh).)

(Catalog of Federal Domestic Assistance Program No. 13.801, Health Insurance for the Aged—Supplementary Medical Insurance.)

Dated August 24, 1973.

ARTHUR E. HESS,
*Acting Commissioner of Social Security.*

Approved September 19, 1973.

CASPAR W. WEINBERGER,
*Secretary of Health, Education, and Welfare.*

Subpart I of Regulations No. 5 of the Social Security Administration (20 CFR Part 405) is amended as follows:

1. Paragraph (a) of § 405.902 is revised to read as follows:

**§ 405.902 Amount of premiums.**

(a) *Enrollment in initial enrollment period.* Where an individual enrolls during his initial or deemed initial enrollment period (see § 405.212) or under the "good cause" provisions discussed in § 405.224, his monthly premiums under the supplementary medical insurance program will be the standard premium as determined under subparagraph (1) or (2) of this paragraph.

(1) The standard monthly premium under the supplementary medical insurance program is $3 for each month of coverage (see § 405.220) from July 1966 through March 1968; $4 for each month of coverage from April 1968 through June 1970; $5.30 for each month from July 1970 through June 1971; $5.60 for each month from July 1971 through June 1972; $5.80 for each month from July 1972 through June 1973.

(2) During December 1972, and each December thereafter, the Secretary shall determine and promulgate (setting forth the actuarial assumptions and bases employed by him) the standard premium which shall be applicable for the 12-month period commencing July 1 in the succeeding year. Such standard premium shall be determined as prescribed in section 1839 of the Act, as amended.

* * * * * *

[FR Doc.73-20274 Filed 9-21-73;8:45 am]

## CIVIL AERONAUTICS BOARD

**[ 14 CFR Part 298 ]**

[Docket No. 25800; EDR—251B]

### CLASSIFICATION AND EXEMPTION OF AIR TAXI OPERATORS

### Reporting of Certain Data by Commuter Air Carriers and Other Air Taxi Operators

SEPTEMBER 18, 1973.

By notice of proposed rulemaking EDR-251,[1] the Board gave notice that it had under consideration an amendment to Part 298 of its Economic Regulations (14 CFR Part 298), which would revise the report forms (Form 298–C) presently required to be filed quarterly by commuter air carriers, and would impose on all air taxis—including commuters—a new requirement to report annually with respect to their overall operations, both scheduled and nonscheduled. For the latter purpose, a new reporting form (Form 298–D) was proposed.

Since issuing said Notice, we have decided that the data which we have proposed, in this proceeding, to obtain annually from all air taxi operators with respect to their overall operations would be more useful to us if reported in a manner which would separately disclose domestic operations and international operations. We are accordingly substituting the proposed rule set forth hereinbelow, including the proposed CAB Form 298–D annexed thereto, for the proposed rule and Form 298–D set forth in EDR–251.

In view of the fact that the time for filing comments in this proceeding has already been extended to October 19, 1973, by Supplemental Notice EDR–251A,[2] and since the within proposal does not substantially revise the initial proposal in EDR–251, we are not now further extending the time for filing comments.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

*Explanatory statement.* There are between 400 and 500 U.S. air taxis which have been authorized by foreign governments (chiefly Canada) to perform international services. Schedules T–1 and T–2 of the Form 298–C filed by commuter air carriers presently provide us, and will continue to provide us, with particular information enabling us to determine the extent of a commuter's scheduled operations in any international market. However, the proposed Form 298–D which was part of EDR–251 would present data on the overall operations of air taxis in an undifferentiated manner which would completely preclude us from determining the extent of any air taxi operator's nonscheduled operations in any or all international markets.

We believe that specific information as to the volume of nonscheduled air taxi operations in country-to-country markets would be very useful to us, particularly for bilateral intergovernmental discussions on nonscheduled air services, and that to require air taxis to file reports annually on a form specifically disclosing such data would not be unduly burdensome. We have therefore tentatively concluded that the reports which we have proposed in EDR–251 to require of air taxis, including commuters, should be appropriately revised to accomplish the purpose discussed above.

Proposed rule. It is proposed to amend Part 298 of the Economic Regulations (14 CFR Part 298) as follows:

1. Amend the Table of Contents by adding a new § 298.6—Extension of filing time, under Subpart A—General; deleting and reserving § 298.62 under Subpart F—Reporting of Scheduled Operations by Commuter Air Carriers; and adding a new Subpart F–1—Reporting by Air Taxi Operators, consisting of a new § 298.67—Reporting instructions, the table as amended to read as follows:

Sec.
298.6 Extension of filing time.

**Subpart F—Reporting of Scheduled Operations by Commuter Air Carriers**

298.62 [Reserved]

**Subpart F–1—Reporting by Air Taxi Operators**

298.67 Reporting instructions.

[1] Dated August 15, 1973; 38 FR 22494.

[2] Dated August 29, 1973; 38 FR 23805, September 4, 1973.





2. Amend § 298.2 by adding thereto certain definitions, the section as amended to read as follows:

**§ 298.2 Definitions.**

* * * * * *

"Air transportation" means * * *

"Aircraft hours" means the airborne hours of aircraft computed from the moment an aircraft leaves the ground until it touches the ground at the end of a flight.

"Aircraft miles" means the miles (computed in airport-to-airport distances) for each flight stage actually completed, whether or not performed in accordance with the scheduled pattern.

* * * * * *

"Competitive market" means * * *

"Departure" means takeoff from an airport.

"Flight stage" means the operation of an aircraft from takeoff to landing.

* * * * * *

"Maximum payload capacity" means * * *

"Mile" means a statute mile *i.e.*, 5,280 feet.

"Noncompetitive market" means * * *

"Passengers carried" means passengers on board each flight stage.

"Point" when used * * *

"Revenue passenger-mile" means one revenue passenger transported one mile. Revenue passenger-miles are computed by summation of the products of the revenue aircraft miles flown on each flight stage multiplied by the number of revenue passengers carried on that flight stage.

"Revenue seat-miles available" means the total of the products of aircraft miles and number of seats available for revenue use on each flight stage, representing the total passenger-carrying capacity offered.

"Revenue ton-mile" means one ton of revenue traffic transported one mile. Revenue ton-miles are computed by summation of the products of the revenue aircraft miles flown on each flight stage multiplied by the number of revenue tons carried on that stage. (A standard weight of 200 pounds per passenger may be used in the computation.)

"Revenue ton-miles available" means the aggregate of the products of the aircraft miles flown on each flight stage multiplied by the capacity in tons available for use on that stage.

"Ton" means a short ton, *i.e.*, 2,000 pounds.

3. Add a new § 298.6, following § 298.5, to read as follows:

**§ 298.6 Extension of filing time.**

If circumstances prevent the filing of a report within the prescribed time limit, consideration will be given to the granting of an extension upon receipt of a written request therefor, addressed to the Director, Bureau of Accounts and Statistics, Civil Aeronautics Board, Washington, D.C. 20428. Such a request must give a sufficient reason for granting the extension, set forth the date when the report can be filed, and be submitted sufficiently in advance of the due date to permit proper time for consideration and communication to the carrier of the action taken. Except in cases of emergency, no request for extension will be entertained which is not received in sufficient time to enable the Board to pass thereon before the prescribed due date. If a request is denied, the carrier remains subject to the filing requirements to the same extent as if no request for extension had been made.

4. Delete and reserve § 298.62, as follows:

**§ 298.62 [Reserved]**

5. Amend paragraph (b) of § 298.64 by adding thereto new subparagraphs (5) and (6), the section as amended to read as follows:

**§ 298.64 Reporting instructions.**

* * * * * *

(b) * * *

(5) Columns (5), (6) and (7) shall set forth, respectively, aircraft hours flown, aircraft miles flown and aircraft departures performed during the reporting quarter.

(6) Columns (8), (9), (10), and (11) shall set forth, respectively, revenue passenger-miles, revenue seat-miles available, revenue ton-miles and revenue ton-miles available for the reporting quarter.

6. Amend Part 298 by adding a new Subpart F–1, consisting of a new § 298.67, the caption and text of the subpart to read as follows:

**Subpart F–1—Reporting by Air Taxi Operators**

**§ 298.67 Reporting instructions.**

(a) Each air taxi operator (including commuter air carriers) shall file CAB Form 298–D, entitled "Report of All Revenue Operations Performed by Air Taxi Operators and Commuter Air Carriers," in accordance with the provisions of this part and in the manner set forth in said form, which is made a part hereof and annexed hereto.

(b) CAB Form 298–D shall be prepared for the period January 1 through December 31 of each year. It shall be completed in triplicate and filed with the Board (i.e., postmarked) not more than forty (40) days after the end of each calendar year, and shall be addressed to the Civil Aeronautics Board, Attention of the Bureau of Accounts and Statistics, Washington, D.C. 20428.

(c) Items 1 through 4 under Part I of CAB Form 298–D shall set forth, in total, respectively, the number of passengers carried, aircraft hours flown, aircraft miles flown and number of aircraft departures performed in all revenue domestic operations, whether scheduled or nonscheduled.

(d) Items 1 through 4 under Part II of CAB Form 298–D shall set forth, respectively, the number of passengers carried, aircraft hours flown, aircraft miles flown and number of aircraft departures performed in revenue operations in each market of international operations (e.g., United States-Bahamas, United States-Canada, United States-Mexico), the name of each such market shall be inserted over columns (a) through (c), and the total for each item shall be set forth in column (d).

(e) The certificate contained in CAB Form 298–D shall be executed by the officer in charge of the carrier's accounts.

[FR Doc.73-20281 Filed 9-21-73;8:45 am]



V 38 I 184 S
SEP 24 73
XUM

# Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF THE TREASURY

### United States Customs Service

[T.D. 73-264]

### RICHARD C. O'ROURKE, CHICAGO, ILLINOIS

### Cancellation With Prejudice of Customhouse Broker's License No. 4010

SEPTEMBER 17, 1973.

Notice is hereby given that the Commissioner of Customs on September 17, 1973, pursuant to section 641, Tariff Act of 1930, as amended, and § 111.51(b), Customs Regulations, as amended, upon the specific request of Richard C. O'Rourke, canceled with prejudice customhouse broker's license No. 4010 issued to him on April 15, 1968, for the Customs district of Chicago.

[SEAL] VERNON D. ACREE,
*Commissioner of Customs.*

[FR Doc.73-20266 Filed 9-21-73;8:45 am]

## DEPARTMENT OF DEFENSE

### Department of the Army

### ADVISORY COMMITTEE FOR NATIONAL DREDGING STUDY

### Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (PL 92-463) notice is hereby given of the fourth meeting of the Advisory Committee for National Dredging Study to be held September 27 and 28, 1973. The meeting will begin at 9:30 a.m. in Room 6A092, the Forrestal Building, Washington, D.C.

The purpose of the meeting is to discuss procedures with the management consulting firm conducting the National Dredging Study.

Within the facilities available (about 22 persons) the meeting will be open to observers. However, the purpose of the meeting is not compatible with participation in the proceedings by the observers. Any member of the public who wishes to do so will be permitted to file a written statement with the Committee before or after the meeting.

Inquiries may be addressed to the Designated Federal Representative, Mr. Eugene B. Conner, DAEN-CWO-M, Office Chief of Engineers, U.S. Army, Washington, D.C. 20314.

For the Chief of Engineers.

Dated September 18, 1973.

JAMES L. KELLY,
*Brigadier General, USA,*
*Deputy Director of Civil Works.*

[FR Doc.73-20192 Filed 9-21-73;8:45 am]

## DEPARTMENT OF JUSTICE

### Land and Natural Resources Division

### ACTION TO ENJOIN DISCHARGE OF POLLUTANTS

### Notice of Proposed Consent Judgment

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19020, notice is hereby given that on July 27, 1973, a proposed consent judgment and stipulation in United States v. Wire Rope Corporation of America, Inc. was lodged with the United States District Court for the Western District of Missouri. The proposed decree would establish effluent limitations for discharges from the company's wire rope manufacturing facility at St. Joseph, Missouri.

The Department of Justice will receive for 30 days from the date of publication of this notice written comments relating to the proposed judgment. Comments should be addressed to the United States Attorney, Western District of Missouri, 549 United States Court House, Kansas City, Missouri 64106, and refer to the United States v. Wire Rope Corporation of America, Inc., D.J. Ref. 62-43-8.

The proposed consent decree may be examined at the office of the United States Attorney, Western District of Missouri, 549 United States Court House, Kansas City, Missouri, at the Region VII Office of the Environmental Protection Agency, 1735 Baltimore Avenue, Kansas City, Missouri, and at the Pollution Control Section, Land and Natural Resources Division, Department of Justice, Room 2623, Department of Justice Building, Ninth Street and Pennsylvania Avenue NW., Washington, D.C. A copy of the proposed consent judgment and stipulation may be obtained in person or by mail from any of the above offices. In requesting a copy, please enclose a check in the amount of $4.90 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

WALLACE H. JOHNSON,
*Assistant Attorney General,*
*Land and Natural Resources Division.*

[FR Doc.73-20206 Filed 9-21-73;8:45 am]

## DEPARTMENT OF THE INTERIOR

### National Park Service

### NATIONAL REGISTER OF HISTORIC PLACES

### List of Additions, Deletions and Corrections

By notice in the FEDERAL REGISTER of February 28, 1973, Part II, there was published a list of the properties included in the National Register of Historic Places. This list has been amended by a notice in the FEDERAL REGISTER of March 6 (pp. 6084-6086), April 10 (pp. 9095-9097), May 1 (pp. 10745-10748), June 5 (pp. 14770-14777), July 3 (pp. 17744-17749), August 7 (pp. 21278-21284), and September 4 (pp. 23808-23811). Further notice is given that certain amendments or revisions in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 915, 16 U.S.C. 470.

The following are corrections to previous listings in the FEDERAL REGISTER:

**Georgia**

*Liberty County*

Riceboro vicinity, *Woodmanston Site (LeConte Plantation)*, S of Riceboro.

**Louisiana**

*Caddo Parish*

Shreveport, *Lindsay, Colonel Robert H., House (Symphony House)*, 2803 Woodlawn Avenue.

**Maryland**

*Baltimore (independent city)*

*Federal Hill Historic District*, bounded on the N by Hughes Street, on the W by Hanover, on the S by Cross, and on the E by Piers.

**Massachusetts**

*Suffolk County*

Boston, *Blackstone Block Historic District*, bounded by Union, Hanover, Blackstone and North streets.

**Pennsylvania**

*Union County*

New Berlin, *New Berlin Presbyterian Church (Community Center)*, Vine and High Streets.

**South Carolina**

*Charleston County*

Mount Pleasant, *Mount Pleasant Historic District.*

The following properties have been demolished and removed from the National Register:

**North Carolina**

*Richmond County*

Rockingham, *Great Falls Mill*, W. Washington and Broad Avenue.

**Tennessee**

*White County*

Sparta vicinity, *Lincoln, Jesse, House*, W. of Sparta on Tenn. 26.





The following properties have been added to the National Register since September 4:

**Alabama**

*Covington County*

Opp, *Shepard, William T., House*, Poley Road (8-14-73).

*Mobile County*

Dauphin Island, *Indian Mound Park* (8-14-73).

Mobile, *Spring Hill College Quadrangle*, 4307 Old Shell Road (8-17-73).

*Montgomery County*

Montgomery vicinity, *Muklassa*, NE. of Montgomery (8-28-73).

**California**

*Alameda County*

Oakland, *Paramount Theatre*, 2025 Broadway (8-14-73).

*Butte County*

Chico vicinity, *Mud Creek Canyon*, N. of Chico (8-14-73).

*San Bernardino County*

Needles vicinity, *Piute Pass Archeological District*, NW. of Needles (8-14-73).

*San Mateo County*

Portola Valley, *Casa de Tableta*, 3915 Alpine Road (8-14-73).

**Colorado**

*Clear Creek County*

Georgetown, *Grace Episcopal Church*, Taos Street (between 4th and 5th Streets) (8-14-73).

*El Paso County*

Colorado Springs, *McAllister House*, 423 N. Cascade Avenue (8-14-73).

**Delaware**

*New Castle County*

Smyrana vicinity, *Old Brick Store*, NE of Smyrna off U.S. 13 (8-14-73).

**District of Columbia**

*Commandant's Office, Washington Navy Yard*, Montgomery Square and Dahlgren Avenue (8-14-73).

*Law, Thomas, House*, 1252 6th Street, S.W. (8-14-73).

*Main Gate, Washington Navy Yard*, 8th and M streets, S.E. (8-14-73).

*Phillips, Duncan, House*, (The Phillips Collection) 1600-1614 21st Street, N.W. (8-14-73).

*Quarters A, Washington Navy Yard*, E of the Main Gate and S of M Street, S.E. (8-14-73).

*Quarters B, Washington Navy Yard*, Charles Morris Avenue (8-14-73).

*Tucker House and Myers House*, 2310-2320 S Street, N.W. (8-14-73).

**Florida**

*Dade County*

Florida City, *Florida Pioneer Museum*, 0.5 mile S of Lucy Street on S.R. 27 (Krome Avenue) (8-14-73).

*Palm Beach County*

Palm Beach, *Breakers Hotel Complex*, South County Road (8-14-73).

*Putnam County*

Crescent City, *Hubbard House*, 600 N. Park Street (8-14-73).

*Volusia County*

Port Orange vicinity, *Dunlawton Plantation-Sugar Mill Ruins*, W of Port Orange off Nova Road (8-28-73).

**Georgia**

*Bibb County*

Macon, *Baber, Ambrose, House*, 577-587 Walnut Street (8-14-73).

*Hall County*

Buford vicinity, *Bowman-Pirkle House*, NE of Buford off U.S. 23 on Friendship Road (8-14-73).

*Walton County*

Monroe, *Davis-Edwards House*, 238 N. Broad Street (8-14-73).

**Hawaii**

*Honolulu County*

Honolulu, *U.S. Immigration Office*, 505 Ala Moana Boulevard (8-14-73).

Kahuku vicinity, *Burial Platform*, NW of Kahuku off Kamehameha Highway (8-14-73).

Waimanalo vicinity, *Bellows Field Archeological Area*, SE of Waimanalo (8-14-73).

**Illinois**

*Cook County*

Chicago, *Dewes, Francis J., House*, 503 W. Wrightwood (8-14-73).

Chicago, *Marquette Building*, 140 S. Dearborn Street (8-17-73).

Chicago, *Halsted, Ann, House*, 440 Belden (8-17-73).

Glenview, *Kennicott's Grove*, near Milwaukee and Lake Avenues (8-13-73).

Oak Park, *Galc, Walter, House*, 1031 W. Chicago Avenue (8-17-73).

*Kane County*

Carpentersville, *Library Hall*, 21 N. Washington Street (8-14-73).

*White County*

Carmi, *Robinson-Stewart House*, 110 S. Main Cross Street (8-17-73).

**Indiana**

*DeKalb County*

Auburn vicinity, *Cornell, William, Homestead*, SW of Auburn off Ind. 427, on Cedar Chapel Road (CR 68) (8-14-73).

*Harrison County*

Corydon, *Corydon Historic District* (8-28-73).

*St. Joseph County*

Mishawaka, *Beiger House*, 317 Lincolnway East (8-28-73).

South Bend, *Oliver, Joseph D., Residence*, 808 W. Washington Avenue (8-28-73).

**Iowa**

*Johnson County*

Iowa City, *First Presbyterian Church*, 26 E. Market Street (8-28-73).

*Louisa County*

Columbus Junction, *Community Building*, 122 E. Maple Street (8-14-73).

*Union County*

Creston, *Creston Railroad Depot*, 200 W. Adams Street (8-15-73).

*Washington County*

Washington, *Young, Alexander, Cabin*, W. Madison Street between G and H avenues (8-14-73).

**Kansas**

*Marion County*

Florence, *Harvey House*, 204 W. 3rd Street (8-14-73).

**Kentucky**

*Jefferson County*

Louisville, *Christ Church Cathedral*, 421 S. 2nd Street (8-14-73).

Louisville, *Louisville Board of Trade Building*, 301 W. Main Street (8-14-73).

**Louisiana**

*Natchitoches Parish*

Natchitoches vicinity, *Cherokee Plantation*, SE. of Natchitoches on Cane River Road (8-14-73).

*Rapides Parish*

Pineville vicinity, *Old SLU Site*, N. or Pineville at 2500 Shreveport Highway in Kisatchel National Forest (8-14-73).

**Maine**

*Aroostook County*

New Sweden vicinity, *Timmerhuset*, W of New Sweden on Me. 161 (8-23-73).

*Cumberland County*

Portland vicinity, *Fort Gorges*, E of Portland on Hog Island, Portland Harbor (8-28-73).

*Franklin County*

Farmington, *Free Will Baptist Meetinghouse*, Main Street (8-28-73).

*Kennebec County*

Monmouth, *Cumston Hall*, Main Street (8-14-73).

*York County*

Kittery Point, *Pepperrell, William, House*, Pepperrell Cove on Me. 103 (8-14-73).

**Maryland**

*Baltimore County*

Pikesville vicinity, *Sudbrook Park*, S of Pikesville off U.S. 140 on Greenwood Road (6-19-73).

*Carroll County*

Uniontown, *Uniontown Academy*, W side of Uniontown Road (8-14-73).

*Harford County*

Berkley vicinity, *Rigbie House*, SE of Berkley off Md. 623 (8-14-73).

Churchville vicinity, *Medical Hall Historic District*, W of Churchville off Md. 154 (8-28-73).

*Somerset County*

Manokin vicinity, *Sudler's Conclusion*, NW of Manokin off Md. 361 (8-28-73).

**Massachusetts**

*Barnstable County*

Hyannis Port, **Kennedy Compound*, Irving and Marchant avenues (11-28-72).

*Berkshire County*

Pittsfield vicinity, *South Mountain Concert Hall*, S of Pittsfield off U.S. 7/20 on New South Mountain Road (8-14-73).

*Essex County*

Salem, *Chestnut Street District*, bounded roughly by Broad, Flint, Federal, and Summer streets (8-28-73).

*Middlesex County*

Billerica, *Billerica Town Common District*, bounded by Cummings Street, and Concord and Boston roads (8-14-73).



V 38-184 SEP 24 73 XUM

Billerica, *Sababth Day House*, 20 Andover Road (8–14–73).

*Suffolk County*

Boston, *Back Bay Historic District*, (8–14–73).
Chelsa, *Naval Hospital Boston*, 1 Broadway (8–14–73).

### Michigan

*Missaukee County*

*Boven Earthwork*, Southwestern Missaukee County (8–14–73).

*Ottawa County*

*Battle Point Site*, Northwest Ottawa County (8–14–73).

### Minnesota

*Cass County*

Pillager vicinity, *Rice Lake Hut Rings*, N of Pillager (8–14–73).

*Crow Wing County*

Trommald vicinity, *Fort Flatmouth Mound Group*, SE of Cass Lake (8–14–73).

*Morrison County*

Little Falls vicinity, *Belle Prairie Village Site*, N of Little Falls (8–14–73).

### Mississippi

*Claiborne County*

Russum vicinity, *Centers Creek Mound*, N of Russum (8–14–73).

*Marshall County*

Abbeville vicinity, *Civil War Earthworks at Tallahatchie Crossing*, off Miss. 7 (8–14–73).

*Washington County*

Foote vicinity, *Mount Holly*, NW of Foote off Miss. 1 (8–14–73).
Greenville vicinity, *Winterville Site*, N of Greenville (8–17–73).

### Nebraska

*Cheyenne County*

Potter vicinity, *West Stevens Site*, E of Potter (8–28–73).

*Colfax County*

Schuyler vicinity, *Schuyler Site*, (8–14–73).

*Dakota County*

Homer vicinity, *Homer Site*, NE of Homer (8–14–73).

*Douglas County*

Omaha, *Barton, Guy C., House*, 3522 Farnam Street (8–14–73).

*Gage County*

Blue Springs vicinity, *Blue Springs Site* (8–14–73).

*Nance County*

Genoa vicinity, *Wright Site* (8–14–73).

*Polk County*

Osceola vicinity, *Clarks Site* (8–14–73).

*Sarpy County*

Papillion vicinity, *Kurz Omaha Village* (8–14–73).

*Saunders County*

Cedar Bluffs vicinity, *Pahuk* (8–14–73).

*Sioux County*

Crawford vicinity, *Hudson-Meng Bison Kill Site*, in Nebraska National Forest (8–28–73).

### New Jersey

*Hudson County*

Jersey City, *Old Bergen Church*, Bergen and Highland Avenues (8–14–73).

### New Mexico

*Mora County*

Mora, *St. Vrain's Mill*, on N. Mex. 38 (8–28–73).

*Quay County*

Tucumcari, *Baca-Goodman House*, corner of Aber and 3rd Streets (8–14–73).

*Santa Fe County*

Santa Cruz, *La Iglesia de Santa Cruz and the site of the Plaza of Santa Cruz de la Canada* (8–17–73).

### New York

*Montgomery County*

Fonda vicinity, *Caughnawaga Indian Village Site*, W. of Fonda (8–28–73).

*New York County*

New York, *Haughwout, E. V., Building*, 488–492 Broadway (8–28–73).

*Oneida County*

Boonville, *Erwin Library and Pratt House*, 104 and 106 Schuyler Street (8–14–73).

*Orange County*

Fort Montgomery vicinity, *Fort Montgomery Site*, S. of Fort Montgomery (8–14–73).

*Richmond County*

New York, *New Dorp Light*, Altamont Avenue, Staten Island (8–28–73).

*Rockland County*

Garnerville, *Garner, Henry, Mansion*, 18 Railroad Avenue (8–14–73).

*Wayne County*

Lyons, *Broad Street-Water Street Historic District* (8–14–73).

### North Carolina

*Caswell County*

Locust Hill vicinity, *Moore House (Stamp's Quarter)*, E. of Locust Hill off U.S. 158 (8–28–73).

*Catawba County*

Newton vicinity, *Rudisill-Wilson House*, S.W. of Newton off N.C. 10 (8–14–73).

*Craven County*

New Bern, *Gull Harbor*, 514 E. Front Street (8–14–73).

*Cumberland County*

Fayetteville, *Liberty Row*, 101–143 Person Street (8–14–73).

*Moore County*

Pinehurst, *Pinehurst Historic District* (8–14–73).

### Ohio

*Franklin County*

Westerville, *Hart, Gideon, House*, 7328 Hempstead Road (8–14–73).

*Hancock County*

Findlay, *Hull, Jasper G., House*, 422 W. Sandusky Street (8–14–73).

*Lake County*

Painesville, *Seeley, Uri, House*, 969 Riverside Drive (8–14–73).
Painesville, *Sessions House (Tuscan House)*, 157 Mentor Avenue (8–14–73).
Unionville, *Connecticut Land Company Office*, 7071 E. Main Street (8–14–73).

*Lucas County*

Maumee, *First Presbyterian Church of Maumee Chapel*, 200 E. Broadway (8–14–73).

### Oklahoma

*Canadian County*

El Reno vicinity, *Darlington Agency Site*, about 8 miles NW. of El Reno (8–14–73).

### Pennsylvania

*Delaware County*

Upland, *Crozer, George K., Mansion*, 6th Street (8–14–73).

*Montgomery County*

Lederach vicinity, *Kolb, Dielman, Homestead*, S. of Lederach on Kinsey Road (8–17–73).
Woxall, *Nungesser, Valentine, House*, Skippack Road (8–17–73).

### Rhode Island

*Washington County*

Saunderstown vicinity, *Casey, Silas, Farm*, N. of Saunderstown on R.I. 138 (8–14–73).

### South Carolina

*Aiken County*

Beech Island vicinity, *Fort Moore-Savano Town Site*, NW. of Beech Island (8–14–73).

*Beaufort County*

Port Royal vicinity, *Hasell Point Site* (8–14–73).
Port Royal vicinity, *Little Barnwell Island*, N. of Port Royal (8–14–73).

*Chester County*

Chester vicinity, *Fishdam Ford*, SW of Chester off S.C. 72 (also in Union County) (8–14–73).

*Union County*

Chester vicinity, *Fishdam Ford* (See Chester County).

### Tennessee

*Davidson County*

Nashville, *Hubbard House*, 1109 1st Avenue, South (8–14–73).

*Monroe County*

Vonore vicinity, *Chota and Tanasi Cherokee Village Sites*, SE of Vonore in Cherokee National Forest (8–30–73).

*White County*

Sparta vicinity, *Sparta Rock House*, 3 miles E of Sparata on U.S. 70 (8–14–73).

### Texas

*Bowie County*

Texarkana vicinity, *Texarkana Phase Archeological District*, NW of Texarkana (8–14–73).

*Montgomery County*

Montgomery vicinity, *Kirbee Kiln Site*, S of Montgomery (8–28–73).

*Red River County*

Blakeney vicinity, *Kaufman, Sam, Site*, N of Blakeney (8–14–73).

*Zapata County*

San Ygnacio vicinity, *Dolores Viejo*, N of San Ygnacio off U.S. 83 (8–17–73).

### Vermont

*Bennington County*

Arlington vicinity, *Arlington Green Covered Bridge*, W of Arlington off Vt. 313 (8–28–73).
Bennington vicinity, *Bennington Falls Covered Bridge*, NW of Bennington off Vt. 67A (8–28–73).
Bennington vicinity, *Henry Covered Bridge*, NW of Bennington off Vt. 87A (8–28–73).





Bennington vicinity, *Silk Covered Bridge*, NW of Bennington off Vt. 67A (8–28–73).

*Windham County*

Brattleboro vicinity, *Creamery Covered Bridge*, W of Brattleboro off Vt. 9 (8–28–73).
Green River, *Green River Covered Bridge*, across the Green River (8–28–73).
Newfane vicinity, *Williamsville Covered Bridge*, SW of Newfane at Williamsville (8–14–73).
Townshend vicinity, *Scott Covered Bridge*, W of Townshend off Vt. 30 (8–28–73).

*Windsor County*

Hartland vicinity, *Martin's Mill Covered Bridge*, S of Hartland off U.S. 5 (8–28–73).
Hartland vicinity, *Willard Covered Bridge*, NE of Hartland off U.S. 5 (8–28–73).
Perkinsville vicinity, *Upper Falls Covered Bridge*, N of Perkinsville off Vt. 131 (8–28–73).
Windsor vicinity, *Bowers Covered Bridge*, W of Windsor (8–28–73).
Woodstock vicinity, *Lincoln Covered Bridge*, SW of Woodstock off U.S. 4 (8–28–73).
Woodstock vicinity, *Taftsville Covered Bridge*, E of Woodstock off U.S. 4 (8–28–73).

### Virginia

*Albemarle County*

Charlottesville vicinity, *Ash Lawn*, SE of Charlottesville off Va. 53 (8–14–73).

*Charles City County*

Tettington vicinity, *Margots*, NE of Tettington off Va. 621 (8–17–73).

*Fauquier County*

Delaplane vicinity, *Ashleigh*, S. of Delaplane off U.S. 17 (8–14–73).

*Hampton (independent city)*

*Chesterville Plantation Site*, on Langley Air Force Base (8–14–73).

*James City County*

Toano vicinity, *Stone House Site*, NE. of Toano off Va. 600 (8–14–73).

*Loudoun County*

Leesburg vicinity, *Exeter*, E. of Leesburg on Edwards Ferry Road (8–14–73).

*Middlesex County*

Saluda vicinity, *Deer Chase*, SE. of Saluda off Va. 629 (8–14–73).

*Orange County*

Gordonsville, *Exchange Hotel*, S. Main Street (8–14–73).

*Richmond County*

Farnham, *Farnham Church*, at intersection of Va. 602 and 692 (8–14–73).

*Wise County*

Big Stone Gap, *"June Tolliver" House*, on Va. 613 (8–28–73).

### Washington

*Chelan County*

Wenatchee vicinity, *Wenatchee Flat Site*, N. of Wenatchee (8–14–73).

*King County*

Kirkland, *Kirk, Peter, Building*, 620 Market Street (8–14–73).

*Kitsap County*

Olalla, *Nelson, Charles F., House*, corner of Nelson and Crescent Valley Roads (8–28–73).

*Spokane County*

Spokane, *Glover House*, W. 321 8th Avenue (8–14–73).

### West Virginia

*Greenbrier County*

Lewisburg, *Greenbrier County Courthouse and Lewis Spring*, corner of Court and Randolph streets (8–17–73).

*Jefferson County*

Halltown vicinity, *Beall-Air*, W. of Halltown off U.S. 340 (8–17–73).
Shepherdstown, *Shepherdstown Historic District* (8–17–73).
Shepherdstown vicinity, *Cold Spring*, S. of Shepherdstown off Flowing Springs Road (8–14–73).
Shepherdstown vicinity, *Elmwood*, S. of Shepherdstown on CR 17 (8–17–73).

### Wisconsin

*Fond du Lac County*

Ripon, *Little White Schoolhouse*, SE. corner of Blackburn and Blossom streets (8–14–73).

*Oneida County*

Rhinelander, *First National Bank*, 8 W. Davenport Street (8–14–73).

### Wyoming

*Park County*

Cody vicinity, *Colter's Hell*, W. of Cody on U.S. 14/16/20 (8–14–73).

ROBERT M. UTLEY,
*Director, Office of Archeology and Historic Preservation.*

[FR Doc.73–20222 Filed 9–21–73;8:45 am]

## DEPARTMENT OF AGRICULTURE

### Forest Service

### CONSTRUCTION AND OPERATION OF FOREST SERVICE RECREATION CABINS IN ROADLESS AREAS

### Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for Construction and Operation of Forest Service Recreation Cabins in Roadless Areas, USDA–FS–DES (Adm) 74–29.

The environmental statement concerns the proposed construction and operation of seven public recreation cabins. The proposed locations are around Revillagigedo Island, Tongass National Forest, Ketchikan Area, near saltwater in roadless areas. The construction of the cabins will be a cooperative project between the USDA, Forest Service, Tongass National Forest, Ketchikan Area, and the Alaska Sports and Wildlife Club, Ketchikan, Alaska 99901, and will expand the existing public recreation cabin system, primarily located on freshwater lakes and streams. The intent of the project is to provide increased opportunity for the public to experience hiking, fishing, beachcombing, sightseeing, hunting, photography, and similar activities in an area not now readily accessible by small boat.

This draft environmental statement was filed with CEQ on September 18, 1973.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service
So. Agriculture Bldg., Room 3230
12th St. & Independence Ave. SW.
Washington, D.C. 20250

USDA, Forest Service
Alaska Region
Federal Office Building
Juneau, Alaska 99801

Area Manager, Chatham Area
Tongass National Forest
Federal Building
Sitka, Alaska 99835

Area Manager, Stikine Area
Tongass National Forest
Federal Building

Area Manager, Ketchikan Area
Tongass National Forest
Federal Building, Room 313
Ketchikan, Alaska 99901

A limited number of single copies are available upon request to Richard M. Wilson, Area Manager, Tongass National Forest, Ketchikan Area, Box 2278, Ketchikan, Alaska 99901.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please refer to the name and number of the environmental statement above when ordering.

Comments are invited from the public, and from state and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Richard M. Wilson, Area Manager, Tongass National Forest, Ketchikan Area, Box 2278, Ketchikan, Alaska 99901. Comments must be received by November 2, 1973, in order to be considered in the preparation of the final environmental statement.

PHILIP L. THORNTON,
*Deputy Chief, Forest Service.*

[FR Doc.73–20216 Filed 9–21–73;8:45 am]

### Packers and Stockyards Administration

### INTERSTATE PRODUCERS LIVESTOCK ASSOCIATION, SULLIVAN, ILLINOIS, ET AL.

### Deposting of Stockyards

It has been ascertained, and notice is hereby given, that the livestock markets named herein, originally posted on the respective dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 et seq.), no longer come within the definition of a stockyard under said Act and are, therefore, no longer subject to the provisions of the Act.

| *Facility number, name, and location of stockyard* | *Date of posting* |
|---|---|
| IL–157—Interstate Producers Livestock Association, Sullivan, Ill. | Nov. 19, 1959 |
| IA–174—Lawton Sale Barn, Lawton, Iowa. | May 20, 1959 |



V 38-184 SEP 24 73 XUM

| | |
|---|---|
| ME-100—Line Road Auction House, Buxton, Maine. | Aug. 4, 1971 |
| MD-103—Barcus Livestock Sales, Centreville, Md. | Dec. 15, 1966 |
| MS-114—Forrest County Livestock Market, Hattiesburg, Miss. | Jan. 6, 1959 |
| NC-136—Iredell Livestock Co., Statesville, N.C. | Apr. 8, 1959 |
| TN-149—Newport Livestock Auction Co., Newport, Tenn. | June 12, 1959 |
| WI-104—Clear Lake Livestock Market, Clear Lake, Wis. | Aug. 30, 1968 |

Notice or other public procedure has not preceded promulgation of the foregoing rule. There is no legal justification for not promptly depositing a stockyard which is no longer within the definition of that term contained in the Act.

The foregoing is in the nature of a rule relieving a restriction and may be made effective in less than 30 days after publication in the FEDERAL REGISTER. This notice shall become effective September 24, 1973.

(42 Stat. 159, as amended and supplemented (7 U.S.C. 181 et seq.).)

Done at Washington, D.C., this 17th day of September 1973.

EDWARD L. THOMPSON,
*Chief, Registrations, Bonds, and Reports Branch Livestock Marketing Division.*

[FR Doc.73-20215 Filed 9-21-73;8:45 am]

## DEPARTMENT OF COMMERCE

### Maritime Administration

### APOLLO MARINE SHIPPING CO.

#### Construction of DWT Tankers

Notice is hereby given that Apollo Marine Shipping Company has filed an application dated September 17, 1973, pursuant to Title V of the Merchant Marine Act, 1936, as amended, for construction-differential subsidy to aid in the construction of three 38,300 DWT, one 89,700 DWT and four 380,000 DWT tankers, a total of eight new tanker vessels to be used in the foreign commerce of the United States.

Interested parties may inspect this application in the office of the Secretary, Room 3099-B, Maritime Administration, Commerce Department Building, Fourteenth and E Streets NW., Washington, D.C. 20235.

Dated September 18, 1973.

By order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, Jr.,
*Secretary.*

[FR Doc.73-20289 Filed 9-21-73;8:45 am]

### BULK LUMBER CARRIERS

#### Intent To Compute Estimated Cost of Construction

Notice is hereby given of the intent of the Maritime Subsidy Board to compute the estimated foreign cost of the construction of bulk lumber carriers of about 40,000 to 60,000 DWT pursuant to the provisions of section 502(b) of the Merchant Marine Act, 1936, as amended.

Any person, form or corporation having any interest (within the meaning of section 502(b)) in such computations may file written statements by the close of business on October 22, 1973, with the Secretary, Maritime Subsidy Board, Maritime Administration, Room 3099B, Department of Commerce Building, 14th & E Streets NW., Washington, D.C. 20230.

Dated September 18, 1973.

By order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, Jr.,
*Secretary.*

[FR Doc.73-20288 Filed 9-21-73;8:45 am]

[Docket No. S-393]

### CHESTNUT SHIPPING CO.

#### Notice of Application

Notice is hereby given that Chestnut Shipping Company has filed an application for operating-differential subsidy on two (2) tankers (to be constructed) of approximately 89,700 deadweight tons each. Said vessels will operate generally from West Africa to U.S. Atlantic/Gulf ports and may be operated in other worldwide services in the carriage of liquid and dry bulk cargoes not subject to the cargo preference statutes including 10 U.S.C. 2631, 46 U.S.C. 1241, and 15 U.S.C. 616a.

This application has been submitted in lieu of an operating-differential subsidy application by Chestnut Shipping Company dated July 9, 1973, notice of which appeared in the FEDERAL REGISTER of July 25, 1973 (38 FR 19918), FR Doc. 73-15287.

Any party having an interest in such application and who would contest a finding of the Board that the service now provided by vessels of United States registry for the worldwide carriage of liquid and dry bulk cargoes, not subject to the cargo preference statutes, moving in the foreign commerce of the United States is inadequate, must, on or before October 5, 1973 notify the Secretary in writing of his interest and of his position and file a petition for leave to intervene in accordance with the Board's rules of practice and procedure (46 CFR Part 201). Each such statement of interest and petition to intervene shall state whether a hearing is requested under section 605(c) of the Merchant Marine Act, 1936, as amended, and with as much specificity as possible the facts that the intervenor would undertake to prove at such hearing.

In the event that a section 605(c) hearing is ordered to be held, the purpose of such hearing will be to receive evidence relevant to whether the service already provided by vessels of U.S. registry for the worldwide movement of liquid and dry bulk cargoes in the foreign oceanborne commerce of the United States is inadequate and whether in the accomplishment of the purposes and policy of the Act additional vessels should be operated in such service.

If no request for hearing and petition for leave to intervene is received within the specified time, or if the Maritime Subsidy Board determines that petitions for leave to intervene filed within the specified time do not demonstrate sufficient interest to warrant a hearing the Maritime Subsidy Board will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.504 Operating-Differential Subsidies (ODS).)

Dated September 19, 1973.

By Order of the Maritime Subsidy Board.

JAMES S. DAWSON, Jr.,
*Secretary.*

[FR Doc.73-20287 Filed 9-21-73;8:45 am]

### National Oceanic and Atmospheric Administration

### PERMITS TO TAKE OR IMPORT MARINE MAMMALS

#### Instructions for Preparing Application

The following information will be used as the basis for determining whether an application is complete and whether a scientific research or a public display permit should be issued by the Secretary of Commerce. The Marine Mammal Commission and the Committee of Scientific Advisors on Marine Mammals will review all completed applications submitted to them by the Secretary pursuant to § 216.12(b) of the interim regulations (37 FR 28182, December 21, 1972).

An original and four copies of the application are required.

*Give complete information.* It is to the Applicant's benefit to furnish all required information. Incomplete information may delay processing of the application or even result in its rejection. Only a completed application will be forwarded to the Marine Mammal Commission and the Committee of Scientific Advisors and be noted in the FEDERAL REGISTER. Where questions do not apply so indicate rather than leave blank. Provide a response to each applicable item of the application.

If additional space is needed to provide information the Applicant should prepare an original and four copies of supplemental attachments properly identified by the appropriate item number in these instructions.

*Where to Send Application.* Send the original and four copies of the completed application to the Director, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Washington, D.C. 20235. Assistance may be obtained by writing the Director or calling the Law Enforcement and Marine Mammal Protection Division in Washington, D.C. (area code 202), phone number 343-4543.

*Instructions for Preparing Application.* Provide the following information using separate sheets as needed.





1. Title: As applicable, either—
(1) Application for Public Display Permit Under the Marine Mammal Protection Act of 1972, or
(2) Application for Scientific Research Permit Under the Marine Mammal Protection Act of 1972

2. List the date of the application.

3. If the Applicant is a partnership or a corporate entity set forth the details. If the marine mammal to be taken or imported, or the marine mammal product to be imported, is to be utilized or displayed by a party other than the Applicant, set forth the name of the party and such other information as would be required if such party were an Applicant.

4. Provide a statement on the purpose of the proposed taking or importing, including a brief description of:
(a) The need for the marine mammal(s) and/or marine mammal product(s); and
(b) How they will be used.

5. If the application is for a scientific research permit, provide the following additional information:
(a) A detailed description of the scientific research project or program in which the marine mammal or product thereof is to be used;
(b) A list of the names and addresses of the sponsors or cooperating institutions and the scientists involved;
(c) A copy of the formal research proposal or contract if one has been prepared;
(d) A statement of whether the proposed research has broader significance than the individual researcher's goals (i.e., does the proposed research respond directly or indirectly to recommendations of any national or international scientific body charged with research or management of marine mammals and, if so, how?); and
(e) A description of the arrangements, if any, for the disposition of any dead specimen or its skeleton or other remains, for the continual benefit to science, in a museum or other institutional collection.

6. Describe any marine mammals to be taken or imported, whether for public display or scientific research or any marine mammal products to be imported, including the following:
(a) A list of each species to be taken or imported and the number of each, including the common and scientific name;
(b) A physical description of each animal to be taken or imported, including the age, size, and sex;
(c) A list of the probable dates of capture and importation for each animal and the location of capture and importation, as specifically as possible;
(d) A description of the status of the stock of each species related insofar as possible to the location or area of taking;
(e) A description of the manner of taking for each marine mammal, including the gear to be used;
(f) The name and qualifications of the persons or entity which will capture the animals;
(g) If the capture is to be done by a contractor, a statement as to whether a qualified member of your staff (include name(s) and qualifications) will supervise or observe the capture. Accompany such statement with a copy of the proposed contract;
(h) In the case of imported animals indicate, if known, the management and protection programs of the country from which the animal originates; and
(i) For any marine mammal products to be imported, provide the information sought in this paragraph for all marine mammals from which component parts of such products are derived.

7. Describe the manner of transportation of any marine mammal taken or imported, including:
(a) Mode of transportation;
(b) Name of transportation company;
(c) Length of time in transit for the transfer of the animal(s) from the capture site to the research or display facility;
(d) Length of time in transit for any future move or transfer of the animal(s) that is planned;
(e) The qualifications of the common carrier or agent used for transportation of the animals;
(f) A description of the pen, container, cage, cradle, or other devices used, both to hold the animal at the capture cite and during transportation;
(g) Special care before and during transportation, such as salves, antibiotics, moisture; and
(h) A statement as to whether the animals will be accompanied by a veterinarian or other similarly qualified person, and the qualifications of such person.

8. Describe the contemplated care and maintenance of any mammals sought, including a complete description of the facilities where any such mammals will be maintained or displayed, including:
(a) The dimension of the pools or other holding facilities and the number of animals by species to be held in each;
(b) The water supply, amount, and quality;
(c) The diet, amount and type, for all animals;
(d) Sanitation practices used;
(e) Qualifications and experience of the staff; and
(f) A written certification from a licensed veterinarian knowledgeable in the field of marine mammals that he has personally reviewed the arrangements for transporting and maintaining the animal(s) and that in his opinion they are adequate to provide for the well-being of the animal.

9. If the application is for public display, provide a detailed description of the proposed display, including:
(a) A description of the manner, location, and number of times per day and per week the animal(s) will be displayed;
(b) An indication as to whether the display is for profit;
(c) An estimate of the numbers and types of people who it is estimated will benefit by such display;
(d) A list of any educational or scientific programs connected to the contemplated display; and
(e) A description of the Applicant's enterprise and its connections with any governmental, educational, medical, or other scientific entities.

10. If the marine mammal to be taken or imported is listed as an endangered species pursuant to the Endangered Species Act of 1969 or any Act superseding it, or has been designated by the Secretary as depleted, or if the marine mammal product to be imported is composed in whole or in part from such mammal, provide a detailed justification of the need for such mammal(s), or product(s) including a discussion of possible alternatives, whether or not under the control of the Applicant. Please note that pursuant to the Act and interim regulations that no public display permits may be issued for such endangered or depleted species.

11. For the year preceding the date of this application, provide a detailed description of all marine mammal mortalities, including:
(a) A list of all marine mammals captured, transported, maintained, displayed, or utilized for scientific research and/or for all marine mammals caused to be captured, transported, maintained, displayed, or utilized for scientific research, by the Applicant;
(b) The numbers of mortalities among such mammals, by species, by date and location of such mortalities;
(c) The cause(s) of any such mortalities; and
(d) The steps which have been taken by the Applicant to avoid or decrease any such mortalities.

12. A certification in the following language:

I hereby certify that the foregoing information is complete, true, and correct to the best of my knowledge and belief. I understand that this information is submitted for the purpose of obtaining a permit under the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) and regulations promulgated thereunder, and that any false statement may subject me to the criminal penalties of 18 U.S.C. 1001, or to penalties provided under the Marine Mammal Protection Act of 1972.

Signature of Applicant

Dated September 19, 1973.

WILLIAM F. ROYCE,
*Associate Director of Research.*

[FR Doc.73-20218 Filed 9-21-73;8:45 am]

### PERMITS TO TAKE OR IMPORT MARINE MAMMALS

#### Consideration of Permits To Import

The Marine Mammal Protection Act of 1972 provides for a Marine Mammal Commission and a Committee of Scientific Advisors on Marine Mammals to assist the Secretary of Commerce and provide consultation and recommendations to him. Under the Act no permits



V 38-184 SEP 24 73 XUM

to take or import marine mammals or to import marine mammal products for purposes of scientific research or public display may be issued by the Secretary without a review by the Commission and the Committee.

The Commission was appointed on May 14, 1973, and the Committee was appointed on August 7, 1973. Therefore, notice is hereby given that since these entities are available to review applications for permits to take or import marine mammals or to import marine mammal products for purposes of scientific research or public display, such applications will be accepted at this time for consideration by the Secretary. Detailed instructions on how to prepare and file such applications are being published in the FEDERAL REGISTER contemporaneously with this notice.

*Effective date.*—This notice is effective on September 24, 1973.

Dated September 19, 1973.

WILLIAM F. ROYCE,
*Associate Director of Research.*

[FR Doc.73-20217 Filed 9-21-73;8:45 am]

### Office of the Secretary

### MANAGEMENT-LABOR TEXTILE ADVISORY COMMITTEE

#### Notice of Public Meeting

SEPTEMBER 20, 1973.

The Management-Labor Textile Advisory Committee will meet at 2:00 p.m. on October 2, 1973 in Room 6802, Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

The Committee, which is comprised of 40 members representing the industry, trade associations, and trade unions, advises Department officials on conditions in the textile industry and on trade in textiles and apparel.

The agenda for the meeting is as follows:

1. Review of Import Trends.
2. Implementation of Textile Agreements.
3. Report on Conditions in the Domestic Market.
4. Other Business.

A limited number of seats will be available to the public. The public will be permitted to file written statements with the committee before or after the meeting. To the extent time is available at the end of the meeting the presentation of oral statements will be allowed.

Portions of future meetings which concern subjects not listed above will be open to public participation unless it is determined, in accord with S10(d) of the Federal Advisory Committee Act and the OMB-Justice memorandum on Advisory Committee Management, that specifically identified portions will be closed.

Further information concerning the Committee may be obtained from Arthur Garel, Director, Office of Textiles, Main Commerce Building, U.S. Department of Commerce, Washington, D.C. 20230.

SETH M. BODNER,
*Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.*

[FR Doc.73-20314 Filed 9-21-73;8:45 am]

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Federal Disaster Assistance Administration

[Docket No. NFD-126; FDAA-400-DR]

### NEW BRITAIN TOWNSHIP, PENN.

#### Amendment to Notice of Major Disaster

Notice of major disaster for the State of Pennsylvania, dated July 18, 1973, and published July 24, 1973 (38 FR 19852); amended July 24, 1973, and published July 31, 1973 (38 FR 20359); and amended August 29, 1973, and published September 6, 1973 (38 FR 24242), is hereby further amended to include the following area among those counties determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 17, 1973:

New Britain Township
(within Bucks County)

Assistance for New Britain Township is limited to the incidence period August 2-3, 1973.

(Catalog of Federal Domestic Assistance Program No. 50.002, Disaster Assistance.)

Dated September 17, 1973.

THOMAS P. DUNNE,
*Administrator, Federal Disaster Assistance Administration.*

[FR Doc.73-20219 Filed 9-21-73;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### Urban Mass Transportation Administration

### URBAN MASS TRANSPORTATION PROGRAMS

#### Redelegations of Authority

The purpose of the following notices is to reflect changes in the organization and structure of and redelegations of authority in the Urban Mass Transportation Administration.

Since these changes are solely matters of departmental management, procedures and practices, notice and public procedure thereon is unnecessary, and they may be made effective in less than thirty days after publication in the Federal Register.

Issued in Washington, D.C., September 7, 1973.

JOHN E. HIRTEN,
*Acting Urban Mass Transportation Administrator.*

[FR Doc.73-20193 Filed 9-21-73;8:45 am]

### ASSISTANT ADMINISTRATOR, OFFICE OF PROGRAM DEMONSTRATIONS

#### Revocation of Redelegation of Authority With Respectto Urban Mass Transportation Program

Pursuant to the authority delegated to me by §§ 1.45(b) and 1.50 of the regulations of the Secretary of Transportation (49 CFR 1.45(b) and 1.50), I hereby revoke the delegation of authority to the Assistant Administrator, Office of Program Demonstrations (who will henceforth be designated Associate Administrator for Research and Development), made in 35 FR 10121, June 10, 1970, such revocation to become effective September 10, 1973.

Issued at Washington, D.C., September 7, 1973.

JOHN E. HIRTEN,
*Acting Urban Mass Transportation Administrator.*

[FR Doc.73-20196 Filed 9-21-73;8:45 am]

### ASSISTANT ADMINISTRATOR, OFFICE OF PROGRAM OPERATIONS

#### Revocation of Redelegation of Authority with Respect to Urban Mass Transportation Program

Pursuant to the authority delegated to me by §§ 1.45(b) and 1.50 of the regulations of the Office of the Secretary of Transportation (49 CFR 1.45(b) and 1.50), I hereby revoke the redelegation of authority to the Assistant Administrator, Office of Program Operations, made in 33 FR 12977, September 13, 1968, such revocation to become effective September 10, 1973.

Issued in Washington, D.C., September 7, 1973.

JOHN E. HIRTEN,
*Acting Urban Mass Transportation Administrator.*

[FR Doc.73-20195 Filed 9-21-73;8:45 am]

### ASSISTANT ADMINISTRATOR FOR PROGRAM PLANNING

#### Revocation of Redelegation of Authority With Respect to Urban Mass Transportation Program

Pursuant to the authority delegated to me by §§ 1.45(b) and 1.50 of the regulations of the Secretary of Transportation (49 CFR 1.45(b) and 1.50), I hereby revoke the redelegation of authority to the Assistant Administrator for Program Planning (who will henceforth be designated Associate Administrator for Program Planning), made in 36 FR 17527, August 26, 1971, such revocation to become effective September 10, 1973.

Issued in Washington, D.C., September 7, 1973.

JOHN E. HIRTEN,
*Acting Urban Mass Transportation Adminnstrator.*

[FR Doc.73-20194 Filed 9-21-73;8:45 am]





### ASSOCIATE ADMINISTRATOR FOR CAPITAL ASSISTANCE

#### Redelegation of Authority With Respect to Urban Mass Transportation Program

Pursuant to the authority delegated to me by §§ 1.45(b) and 1.50 of the regulations of the Office of the Secretary of Transportation (49 CFR 1.45(b) and 1.50), the Associate Administrator for Capital Assistance is hereby authorized to execute grant contracts and loan agreements and amendments thereto with respect to approved capital grant and loan and advance land acquisition loan projects under sections 3, 4, 7 and 16 of the Urban Mass Transportation Act of 1964 as amended (49 U.S.C. §§ 1602, 1603, 1606, and 1612) and is further authorized, in connection with the administration of such projects, to approve requisitions for funds, third party contracts, and project budget amendments within previously approved limits.

The Associate Administrator for Capital Assistance is further authorized to redelegate to one or more employees under his jurisdiction the authority redelegated herein.

This redelegation becomes effective September 10, 1973.

Issued in Washington, D.C., September 7, 1973.

JOHN E. HIRTEN,
*Acting Urban Mass Transportation Administrator.*

[FR Doc.73-20199 Filed 9-21-73;8:45 am]

### ASSOCIATE ADMINISTRATOR FOR PROGRAM PLANNING

#### Redelegation of Authority With Respect to Urban Mass Transportation Program

Pursuant to authority delegated to me by §§ 1.45(b) and 1.50 of the regulations of the Office of the Secretary of Transportation (49 CFR 1.45(b) and 1.50), the Associate Administrator for Program Planning is hereby authorized to execute grant contracts and amendments and interagency agreements for approved policy research and planning or evaluation projects under sections 6(a) and 9 of the Urban Mass Transportation Act of 1964 as amended (49 U.S.C. §§ 1605(a) and 1607a) and is further authorized in connection with the administration of such contracts to approve requisitions for funds, third party contracts, and project budget amendments within previously approved limits.

The Associate Administrator for Program Planning is further authorized to redelegate to one or more employees under his jurisdiction the authority redelegated herein.

This redelegation becomes effective September 10, 1973.

Issued at Washington, D.C., September 7, 1973.

JOHN E. HIRTEN,
*Acting Urban Mass Transportation Administrator.*

[FR Doc.73-20198 Filed 9-21-73;8:45 am]

### ASSOCIATE ADMINISTRATOR FOR RESEARCH AND DEVELOPMENT

#### Redelegation of Authority With Respect to Urban Mass Transportation Program

Pursuant to the authority delegated to me by §§ 1.45(b) and 1.50 of the regulations of the Office of the Secretary of Transportation (49 CFR 1.45(b) and 1.50), the Associate Administrator for Research and Development is hereby authorized to execute grant contracts and amendments and interagency agreements for approved research and development projects under section 6(a) and grant contracts and amendments for university research and training projects under section 11 of the Urban Mass Transportation Act of 1964 as amended (49 U.S.C. §§ 1605(a) and 1607c), and is further authorized, in connection with the administration of such contracts, to approve requisitions for funds, third party contracts and project budget amendments within previously approved limits.

The Associate Administrator for Research and Development is further authorized to redelegate to one or more employees under his jurisdiction the authority redelegated herein.

This redelegation becomes effective September 10, 1973.

Issued in Washington, D.C., September 7, 1973.

JOHN E. HIRTEN,
*Acting Urban Mass Transportation Administrator.*

[FR Doc.73-20201 Filed 9-21-73;8:45 am]

### ASSOCIATE ADMINISTRATOR FOR TRANSIT PLANNING

#### Redelegation of Authority With Respect to Urban Mass Transportation Program

Pursuant to the authority delegated to me by §§ 1.45(b) and 1.50 of the regulations of the Office of the Secretary of Transportation (49 CFR 1.45(b) and 1.50), the Associate Administrator for Transit Planning is hereby authorized to execute grant contracts and amendments and inter-agency agreements for approved planning, engineering, architectural, feasibility and operational improvement study projects, and demonstrations of advanced transportation systems and techniques in an operational environment, under sections 6(a), 9, and 16 of the Urban Mass Transportation Act of 1964 as amended (49 U.S.C. §§ 1605(a), 1607(a), and 1612, and is further authorized in connection with the administration of such contracts to approve requisitions for funds, third party contracts, and project budget amendments within previously approved limits.

The Associate Administrator for Transit Planning is further authorized to redelegate to one or more employees under his jurisdiction the authority redelegated herein.

This redelegation becomes effective September 10, 1973.

Issued in Washington, D.C., September 7, 1973.

JOHN E. HIRTEN,
*Acting Urban Mass Transportation Administrator.*

[FR Doc.73-20200 Filed 9-21-73;8:45 am]

### DIRECTOR, OFFICE OF CIVIL RIGHTS AND SERVICE DEVELOPMENT

#### Revocation of Redelegation of Authority With Respect to Urban Mass Transportation Program

Pursuant to the authority delegated to me by §§ 1.45(b) and 1.50 of the regulations of the Office of the Secretary of Transportation (49 CFR 1.45(b) and 1.50), I hereby revoke the redelegation of authority to the Director, Office of Civil Rights and Service Development (who will henceforth be designated as Director of Civil Rights) made in 33 FR 19201, December 18, 1970, such revocation to become effective September 10, 1973.

Issued in Washington, D.C., September 7, 1973.

JOHN E. HIRTEN,
*Acting Urban Mass Transportation Administrator.*

[FR Doc.73-20197 Filed 9-21-73;8:45 am]

### DIRECTOR OF TRANSIT MANAGEMENT

#### Redelegation of Authority With Respect to Urban Mass Transportation Program

Pursuant to the authority delegated to me by §§ 1.45(b) and 1.50 of the regulations of the Office of the Secretary of Transportation (49 CFR 1.45(b) and 1.50) the Director of Transit Management is hereby authorized to execute grant contracts and amendments and inter-agency agreements for approved research, study, technical assistance, and managerial training fellowship projects under sections 6, 9 and 10 of the Urban Mass Transportation Act of 1964 as amended (49 U.S.C. §§ 1605, 1607a and 1607b), and is further authorized in connection with the administration of such projects to approve requisitions for project funds, third party contracts, and project budget amendments within previously approved limits.

The Director of Transit Management is further authorized to redelegate to one or more employees under his jurisdiction the authority redelegated herein.

This redelegation becomes effective September 10, 1973.

Issued in Washington, D.C., September 7, 1973.

JOHN E. HIRTEN,
*Acting Urban Mass Transportation Administrator.*

[FR Doc.73-20202 Filed 9-21-73;8:45 am]



V 38 I 184 SEP 24 73 XUM

## ATOMIC ENERGY COMMISSION

[Docket No. 50-363]

### JERSEY CENTRAL POWER & LIGHT CO.

**Notice of Availability of Initial Decision of the Atomic Safety and Licensing Board for the Forked River Nuclear Generating Station, Unit 1**

Pursuant to the National Environmental Policy Act of 1969 and the United States Atomic Energy Commission's regulation in Appendix D, section A.9 and A.11, to 10 CFR Part 50, notice is hereby given that an Initial Decision dated July 9, 1973, by the Atomic Safety and Licensing Board in the above captioned proceeding authorizing issuance of a permit to Jersey Central Power and Light Company for construction of Forked River Nuclear Generating Station, Unit 1 located in Ocean County, New Jersey, is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C., and in the Ocean County Library, 15 Hooper Avenue, Toms River, New Jersey 08753.

The Initial Decision is also being made available at the Division of State and Regional Planning Department of Community Affairs, P.O. Box 2768, Trenton, New Jersey 08625, and at the Ocean County Planning Board, Court House Square, Toms River, New Jersey 08753.

The Initial Decision modified in certain respects the contents of the Final Environmental Statement relating to the construction of the Forked River Nuclear Generating Station, Unit 1 prepared by the Commission's Directorate of Licensing. A copy of this final Environmental Statement is also available for public inspection at the above designated locations.

Pursuant to the provisions of 10 CFR Part 50, Appendix D, section A.11, the Final Environmental Statement is deemed modified to the extent that the findings and conclusions relating to environmental matters contained in the Initial Decision are different from those contained in the Final Environmental Statement. As required by section A.11 of Appendix D, a copy of the Initial Decision, which modifies the Final Environmental Statement, has been transmitted to the Council on Environmental Quality and made available to the public as noted herein.

Single copies of the Initial Decision and of the Final Environmental Statement may be obtained by writing the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Maryland this 18th day of September 1973.

For the Atomic Energy Commission.

WM. H. REGAN, JR.,
*Chief, Environmental Projects Branch No. 4 Directorate of Licensing.*

[FR Doc.73-20205 Filed 9-21-73;8:45 am]

[Docket No. 50-410]

### NIAGARA MOHAWK POWER CORP.

**Notice and Order for Evidentiary Hearing**

The Atomic Energy Commission (the Commission) by its "Notice of hearing on application for construction permit" dated September 21, 1972, ordered a hearing to be held on the application of the Niagara Mohawk Power Corporation for a construction permit for a boiling water reactor designed for initial operation at approximately 3,323 thermal megawatts with a net electrical output of approximately 1,100 megawatts. The proposed facility, designated as the Nine Mile Point Unit No. 2, is to be located at the Applicant's site on the southeast shore of Lake Ontario in the town of Scriba, Oswego County, New York. This hearing will be held pursuant to the Atomic Energy Act of 1954, as amended, the National Environmental Policy Act of 1969, and the Regulations in 10 CFR Part 50, Licensing of Production and Utilization Facilities, and 10 CFR Part 2, Rules of Practice.

The hearing will be evidentiary in nature and will be conducted by the Atomic Safety and Licensing Board (the Board) appointed by the Commission on November 15, 1972. This Board consists of Dr. Marvin M. Mann and Dr. William E. Martin as technically qualified members, and Daniel M. Head as chairman.

Prehearing Conferences were held by the Board in Oswego, New York, on January 9, 1973, April 27, 1973, and September 12, 1973, in accordance with the provisions of §§ 2.715(a) and 2.752 of the Commission's rules of practice, 10 CFR Part 2. As a result of these prehearing conferences, the Board permitted intervention by Mrs. Susanne Weber and Ecology Action under 10 CFR 2.714(a) and admitted participation by the State of New York pursuant to the provisions of 10 CFR 2.715(c). In addition, the Board admitted as issues in controversy certain contentions raised by the intervenors.

The evidentiary hearing which is being set by this order will consider the issues in controversy between the parties as well as the issues that have been designated determination by the Board in the Commission's aforementioned "Notice of hearing on application for construction permit."

Please take notice, and *it is hereby ordered*, That the evidentiary hearing in this proceeding is scheduled to begin at 10 a.m., local time, on Wednesday, October 10, 1973, in the City Council Chamber, City Hall, West Oneida Street, Oswego, New York 13126. The hearing shall run continuously until all evidence has been received or until continued by order of this Board.

Members of the public are invited to attend this public hearing and they may request to make limited appearances pursuant to § 2.715(a) of the Commission's Rules of Practice, 10 CFR Part 2. Oral or written statements and questions to be presented by limited appearances will be received prior to the start of the taking of evidence at the hearing.

Issued at Washington, D.C., this 18th day of September 1973.

By order of the Atomic Safety and Licensing Board.

DANIEL M. HEAD,
*Chairman.*

[FR Doc.73-20190 Filed 9-21-73;8:45 am]

[Docket No. 50-305]

### WISCONSIN PUBLIC SERVICE CORP., ET AL.

**Order Extending Completion Date**

Wisconsin Public Service Corporation, Wisconsin Power and Light Company, and Madison Gas and Electric Company are the holders of Provisional Construction Permit No. CPPR-50, issued by the Commission on August 6, 1968, for the construction of the Kewaunee Nuclear Power Plant, a 1650 megawatt (thermal) pressurized water nuclear reactor, presently under construction at the companies' site in the Town of Carlton, Kewaunee County, Wisconsin.

On July 17, 1973, Wisconsin Public Service Corporation filed a request for an extension of the completion date for the following reason. In December 1972, specific design criteria were issued by the AEC to deal with postulated breaks outside containment in lines carrying high-energy fluids. Meeting these criteria has required very significant modifications to many parts of the plant. The plant, in areas other than those affected by these modifications, is essentially complete, but because of the plant modifications, the overall schedule may be somewhat delayed. Fuel loading is now scheduled in early October. The Director of Regulation having determined that this action involves no significant hazards considerations, that good cause has been shown, and that the requested extension is for a reasonable period, the bases for which are set forth in a memorandum dated August 30, 1973, from R. C. DeYoung to A. Giambusso:

It is hereby ordered that the latest completion date for CPPR-50 is extended from August 31, 1973, to November 29, 1973.

For the Atomic Energy Commission.

Date of issuance September 17, 1973.

A. GIAMBUSSO,
*Deputy Director for Reactor Projects, Directorate of Licensing.*

[FR Doc.73-20204 Filed 9-21-73;8:45 am]

## CIVIL AERONAUTICS BOARD

[Docket Nos. 21991 and 22209]

### ALLEGHENY AIRLINES, INC.

**Notice of Hearing**

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on November 6, 1973, at 10:00 a.m. (local time), in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge Louis W. Sornson.

Dated at Washington, D.C., September 18, 1973.

[SEAL] RALPH L. WISER,
*Chief Administrative Law Judge.*

[FR Doc.73-20285 Filed 9-21-73;8:45 am]





[Docket No. 25857]

### GATEWAY AVIATION, LTD.

**Notice of Prehearing Conference and Hearing Regarding Foreign Air Carrier Permit**

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on October 16, 1973, at 10:00 a.m. (local time) in Room 1031, Universal North, 1875 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge Richard M. Hartsock.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before October 9, 1973.

Dated at Washington, D.C., September 18, 1973.

RALPH L. WISER,
*Chief Administrative Law Judge.*

[FR Doc.73-20286 Filed 7-21-73;8:45 am]

[Docket No. 25856]

### HAITI AIR TRANSPORT, S.A.M.

**Notice of Prehearing Conference and Hearing Regarding Foreign Air Carrier Permit**

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on October 17, 1973, at 10:00 a.m. (local time) in Room 1031, Universal North, 1875 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge Joseph L. Fitzmaurice.

Notice is also given that the hearing may be held immediately following conclusion of the prehearing conference unless a person objects or shows reason for postponement on or before October 10, 1973.

Dated at Washington, D.C., September 18, 1973.

RALPH L. WISER,
*Chief Administrative Law Judge.*

[FR Doc.73-20283 Filed 9-21-73;8:45 am]

[Docket No. 25204]

### IU INTERNATIONAL CORP., AND IU FORWARDING, INC.

**Acquisition of Control of Airborne Freight Corporation; Notice of Prehearing Conference**

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on October 30, 1973, at 10:00 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before Administrative Law Judge Frank M. Whiting.

In order to facilitate the conduct of the conference parties are instructed to submit one copy to each party and four copies to the Judge of (1) proposed statements of issues; (2) proposed stipulations; (3) requests for information; (4) statement of positions of parties; and (5) proposed procedural dates. The Bureau of Operating Rights will circulate its material on or before October 15, 1973, and the other parties on or before October 23, 1973. The submissions of the other parties shall be limited to points on which they differ with the Bureau of Operating Rights, and shall follow the numbering and lettering used by the Bureau to facilitate cross-referencing.

Dated at Washington, D.C., September 18, 1973.

RALPH L. WISER,
*Chief Administrative Law Judge.*

[FR Doc.73-20284 Filed 9-21-73;8:45 am]

[Docket No. 23333 Agreement CAB 23928]

### INTERNATIONAL AIR TRANSPORT ASSOCIATION

**Agreement and Order Regarding Cargo Rates**

SEPTEMBER 17, 1973.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's economic regulations between various air carriers, foreign air carriers and other carriers embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA), and adopted at a meeting held in New York on August 16, 1973, between British Overseas Airways Corp., Pan American World Airways, Inc., and Trans World Airlines, Inc. The agreement, relating to import service charges, has been assigned the above CAB agreement number.

The agreement, for intended effectiveness October 1, 1973, amends an attachment to existing resolution 502b and governs terminal service charges on inbound shipments at U.S. airports. The amendment would clarify the existing wording by specifying that an airline shall charge a $2.50 import service fee per carrier airwaybill for providing assistance and/or facilities in presenting a shipment or portions thereof for Customs examination, and/or for opening or closing such packages if required. The previous wording was less clear as to whether such charges could be levied if the carrier did not perform the actual opening and/or closing of the shipment.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found that Agreement CAB 23928 is adverse to the public interest or in violation of the Act.

Accordingly, *It is ordered*, That:

Agreement CAB 23928 be and hereby is approved.

Persons entitled to petition the Board for review of this order pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.73-20282 Filed 9-21-73;8:45 am]

[Docket No. 25280; Order 73-9-36]

### INTERNATIONAL AIR TRANSPORT ASSOCIATION

**Order Relating to Cargo Rates**

SEPTEMBER 10, 1973.

Agreements have been filed with the Board, pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA). The agreements were adopted at the Composite Cargo Traffic Conferences held May/June 1973 in Mexico City. Together they comprise those portions of the worldwide cargo rate structure, intended for effectiveness from October 1, 1973, through September 30, 1975, which have only limited application in air transportation as defined by the Act.

General cargo rates over the South Atlantic, and within Traffic Conference 2 (Europe/Africa/Middle East) have indirect application in air transportation as defined by the Act insofar as they are combinable with general cargo rates to/from United States points, and will be approved herein. We will also approve currency surcharge resolutions for these areas, but will disclaim jurisdiction with respect to other resolutions (such as specific commodity rates which are noncombinable) which do not affect air transportation.

Cargo rates within Traffic Conference 3 (Asia/Australia/Australasia), and rates between that area and Conference 2 (Joint Conference 2/3), affect air transportation directly only where rates to/from the U.S. territories and possessions in the Pacific are included. Rates for these U.S. points will be considered concurrently with Board action on the overall transpacific rate agreements,[1] but

[1] By Order 73-9-30 (September 10, 1973), the Board established procedural dates for the receipt of justification, comments and replies with respect to those portions of the Mexico City Agreements directly affecting air transportation.



V 38 184 SEP 24 73 XUM

delegated
gulations,

following
the agree-
ve indirect
on as de-
o the pub-
e Act:

| Agreement C.A.B. | IATA No. | Title | Application |
|---|---|---|---|
| 23800 | | | |
| R-2 | 401tz | South Atlantic Escape Resolution—Cargo (NEW) | ½ (South Atlantic). |
| R-4 | 501 | Minimum Charges for Cargo—South Atlantic (Revalidating and Amending). | ½ (South Atlantic). |
| R-5 | 534c | South Atlantic Bulk Unitization Charges (Revalidating and Amending). | ½ (South Atlantic). |

| Agreement C.A.B. 23800 | IATA No. | Title | Application |
|---|---|---|---|
| R-7 | 590 | Specific Commodity Rates Board (Revalidating and Amending). | ½ (South Atlantic). |

| Agreement C.A.B. 23799 | IATA No. | Title | Application |
|---|---|---|---|
| R-3 | 206c | Transportation of Human Eyes and Dehydrated Corneas (Revalidating and Amending). | 2/3. |
| R-6 | 535 | JT/3 Bulk Unitization Charges (Revalidating and Amending). | 2/3. |
| R-8 | 590 | Specific Commodity Rates Board (Revalidating and Amending). | 2/3. |

3. It is not found that the following resolutions, incorporated in the agreements indicated, are adverse to the public interest or in violation of the Act to the extent they do not directly apply in air transportation as defined by the Board; transportation as defined by the Act, provided that approval is subject, where applicable, to conditions previously imposed by the Board:

| Agreement C.A.B. 23774 | IATA No. | Title | Application |
|---|---|---|---|
| R-1 | 022a | TC3 Special Rules for Sales of Cargo Air Transportation (Revalidating and Amending). | 2 |
| R-2 | 115l | Meeting Note-IATA Cargo Competition (Revalidating and Amending). | 2/3. |
| R-3 | 501 | Minimum Charges for Cargo (Revalidating and Amending). | 2/3. |
| R-4 | 536 | TC3 Bulk Unitization Rules (Revalidating and Amending). | 2/3. |
| R-5 | 590 | Specific Commodity Rates Board (Revalidating and Amending). | 2/3. |

| Agreement C.A.B. 23799 | IATA No. | Title | Application |
|---|---|---|---|
| R-1 | 001c | Cargo Tie-In Resolution (NEW) | 2/3; 1/2/3. |
| R-2 | 022k | JT2/JT23 Special Rules for Sales of Cargo Air Transportation (Revalidating and Amending). | 2/3; 1/2/3. |
| R-4 | 501 | Minimum Charges for Cargo (Revalidating and Amending). | 2/3. |
| R-5 | 501 | Minimum Charges for Cargo (Except North and Central Pacific) (Revalidating and Amending). | 1/2/3. |
| R-7 | 555 | JT23 and JT123 General Cargo Rates | 2/3; 1/2/3. |

| Agreement C.A.B. 23819 | IATA No. | Title | Application |
|---|---|---|---|
| R-1 | 001e | Cargo Tie-In Resolution—Mid-Atlantic (NEW) | ½ (Middle Atlantic). |
| R-2 | 022k | JT12 (Mid-Atlantic) Special Rules for Sales of Cargo Air Transportation (Revalidating and Amending). | ½ (Middle Atlantic). |
| R-3 | 501 | Minimum Charges for Cargo—Mid-Atlantic (Revalidating and Amending). | ½ (Middle Atlantic). |
| R-4 | 534b | Mid-Atlantic Bulk Unitization Charges (Revalidating and Amending). | ½ (Middle Atlantic). |
| R-5 | 534b | Mid-Atlantic General Cargo Rates | ½ (Middle Atlantic). |
| R-6 | 590 | Specific Commodity Rates Board (Revalidating and Amending). | ½ (Middle Atlantic). |

we will herein approve the TC3 and JT2/3 cargo rate agreements insofar as they involve combinable rates between foreign points, and we will disclaim jurisdiction with respect to non-combinable rates. We will also take similar action with respect to the Mid-Atlantic cargo rate structure, which includes rates to/from San Juan and the U.S. Virgin Islands.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14:

1. It is not found that the following resolutions, incorporated in the agreements indicated, and which have indirect application in air transportation as defined by the Act, are adverse to the public interest or in violation of the Act:

| Agreement C.A.B. 23798 | IATA No. | Title | Application |
|---|---|---|---|
| R-1 | 001tz | TC2 Special Effectiveness Resolution (NEW) | ½ (South Atlantic). |
| R-3 | 022m | TC2 Special Rules for Sales of Cargo Air Transportation (Revalidating and Amending). | ½ (South Atlantic). |
| R-6 | 552 | TC2 General Cargo Rates | ½ (South Atlantic). |

| Agreement C.A.B. 23800 | IATA No. | Title | Application |
|---|---|---|---|
| R-1 | 001c | Cargo Tie-In Resolution (NEW) | ½ (South Atlantic). |
| R-2 | 022k | JT12 (South Atlantic) Special Rules for Sales of Cargo Air Transportation (Revalidating and Amending). | ½ (South Atlantic). |
| R-3 | 534b | TC3 Bulk Unitization Rules (Revalidating and Amending). | ½ (South Atlantic). |
| R-6 | 552 | South Atlantic General Cargo Rates | ½ (South Atlantic). |

2. It is not found that the following resolutions, incorporated in the agreements indicated, affect air transportation within the meaning of the Act:

| Route | Effective on and after | Rate cents per mile |
|---|---|---|
| St. Louis and Kansas City, Mo., Sheldon and Des Moines, Iowa, via Spencer and Fort Dodge, Iowa. | Jan. 16, 1973 ....do | 79.52 66.21 |
| Chicago, Ill. and Louisville, Ky., Sioux City and Des Moines, via Carroll, Iowa. | ....do ....do | 62.05 55.80 |
| Burlington and Des Moines via Iowa City, Iowa. | ....do | 51.98 |
| Decorah and Des Moines, via Mason City, Iowa. | ....do | 54.75 |
| Dubuque and Des Moines, via Waterloo, Iowa. | ....do | 52.46 |
| Sioux Falls, S. Dak., and AMF Twin Cities, Minneapolis, Minn., via Windom and Willmar, Minn. | ....do | 63.83 |
| Alliance, Nebr., via North Platte and Grand Island, Nebr. | ....do | 63.90 |
| AMF Twin Cities, Minneapolis, Minn., and Des Moines, Iowa. | ....do | 168.57 |





*Accordingly, It is ordered,* That: 1. Those portions of Agreements C.A.B. 23798 and C.A.B. 23800 described in finding paragraph 1 above, which have indirect application in air transportation as defined by the Act, be and hereby are approved;

2. Jurisdiction be and hereby is disclaimed with respect to those portions of Agreements C.A.B. 23798, C.A.B. 23800 and C.A.B. 23799 described in finding paragraph 2 above;

3. Those portions of Agreements C.A.B. 23774, C.A.B. 23799, and C.A.B. 23819 described in finding paragraph 3 above be and hereby are approved to the extent they have no direct application in air transportation as defined by the Act, subject, where applicable, to conditions previously imposed by the Board; and

4. Action be and hereby is deferred with respect to those portions of Agreements C.A.B. 23774, C.A.B. 23799, and C.A.B. 23819 described in finding paragraph 3 above to the extent they have direct application in air transportation as defined by the Act.

This order will be published in the FEDERAL REGISTER.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.73-20161 Filed 9-21-73;8:45 am]

[Docket No. 25119 etc.; Order 73-9-51]

## SEDALIA, MARSHALL, BOONVILLE STAGE LINE, INC.

### Service Mail Rates; Order To Show Cause

SEPTEMBER 12, 1973.

Dockets Nos. 25119, 25120, 25121, 25122, 25123, 25124, 25125, 25126, 25127, 25128, 25131, 25133, 25134, 25269, 25270, 25271, 25285, 25286.

Final service mail rates per great circle aircraft mile for the transportation of mail by aircraft as shown by the Appendix were established by the Board and are currently in effect for Sedalia, Marshall, Boonville Stage Line, Inc. (Sedalia), an air taxi operating pursuant to 14 CFR, Part 298.

As set forth in the Appendix,[2] Sedalia petitioned the Board to reopen its current service mail rates and fix new final service mail rates per great circle aircraft mile.

On July 11, 1973, the Postal Service filed a late reply with petition to the Board for leave to file a late document, which is granted. The reply stated that the parties had come to an agreement and supported the rates set forth in the Appendix.

It is in the public interest to fix, determine, and establish the fair and reasonable rate of compensation to be paid by the Postmaster General for the proposed transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, between the aforesaid points. Upon consideration of the petition and other matters officially mentioned, it is proposed to issue an order[1] to include the following findings and conclusions:

*It is ordered,* That: 1. Sedalia, Marshall, Boonville Stage Line, Inc., the Postmaster General, Texas International Airlines, Inc., Ozark Air Lines, Inc., Frontier Airlines, Inc., Braniff Airways, Inc., Delta Air Lines, Inc., United Air Lines, Inc., and all other interested persons are directed to show cause why the Board should not adopt the foregoing proposed findings and conclusions and fix, determine, and publish the final rates specified above for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith as specified above as the fair and reasonable rates of compensation to be paid to Sedalia, Marshall, Boonville Stage Line, Inc.;

2. Further procedures herein shall be in accordance with 14 CFR Part 302, and notice of any objection to the rates or to the other findings and conclusions proposed herein, shall be filed within ten days, and if notice is filed, written answer and supporting documents shall be filed within 30 days after service of this order;

3. If notice of objection is not filed within ten days after service of this Order, or if notice is filed and answer is not filed within 30 days after service of this Order, all persons shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order incorporating the findings and conclusions proposed herein and fix and determine the final rates specified herein;

4. If answer is filed presenting issues for hearing, the issues involved in determining the fair and reasonable final rates shall be limited to those specifically raised by the answer, except insofar as other issues are raised in accordance with Rule 307 of the Rules of Practice (14 CFR 302.307); and

5. This order shall be served on Sedalia, Marshall, Boonville Stage Line, Inc., the Postmaster General, Ozark Air Lines, Inc., Frontier Airlines, Inc., Braniff Airways, Inc., Delta Air Lines, Inc., Texas International Airlines, Inc., and United Air Lines, Inc.

The fair and reasonable final service mail rates to be paid, on and after effective dates indicated, to Sedalia, Marshall, Boonville Stage Line, Inc., in its entirety by the Postmaster General pursuant to section 406 of the Act for the transportation of mail by aircraft, the facilities used and useful therefor, and the services connected therewith, shall be the rates per great circle aircraft mile based on five round trips per week as set forth below:

| Agreement C.A.B. 23798 | IATA No. | Title | Application |
|---|---|---|---|
| R-2 | 005a | Procedures for Changes to Rates and Conditions within Scandinavia (NEW). | 2 |
| R-4 | 501 | Minimum Charges for Cargo (Revalidating and Amending) | 2/3. |
| R-5 | 534c | Shipper Packed Unit Rates (NEW) | 2/3. |
| R-7 | 590 | Specific Commodity Rates Board (Revalidating and Amending) | 2/3. |

This order will be published in the FEDERAL REGISTER.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.73-20162 Filed 9-21-73;8:45 am]

[1] As this Order to Show Cause is not a final action, it is not regarded as subject to the review provisions of 14 CFR, Part 385. These provisions will apply to final action taken to by the staff under authority delegated in § 385.16(g).

[2] Filed as part of original document.

## COMMISSION ON CIVIL RIGHTS

### CONNECTICUT STATE ADVISORY COMMITTEE

#### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Connecticut State Advisory Committee to this Commission will convene at 8:00 p.m. on September 26, 1973, at the Holiday Inn, 900 East Main Street, Meriden, Connecticut 06450.

Persons wishing to attend this meeting should contact the Committee Chairman or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York, New York 10007.

The purpose of this meeting shall be to receive status reports from all Connecticut State Advisory Committee Subcommittees.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated a Washington, D.C., September 17, 1973.

ISAIAH T. CRESWELL, JR.,
*Advisory Committee Management Officer.*

[FR Doc.73-20267 Filed 9-21-73;8:45 am]

### INDIANA STATE ADVISORY COMMITTEE

#### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Indiana State Advisory Committee to this Commission will convene at 9 a.m. on Septembr 29, 1973, at the Holiday Inn, 800 East 81 Avenue, Merrillville, Indiana 46410.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Midwestern Regional Office of the Commission, Room 1428, 219 South Dearborn Street, Chicago, Illinois 60604.

The purpose of this meeting shall be (1) to review a proposal to conduct a study on the Migrant labor force in In-



V 38 I 184 SEP 24 73 XUM

diana and (2) to discuss current developments regarding conditions in Indiana prisons.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 17, 1973.

ISAIAH T. CRESWELL, JR.,
*Advisory Committee Management Officer.*

[FR Doc.73-20268 Filed 9-21-73;8:45 am]

## MAINE STATE ADVISORY COMMITTEE

### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maine State Advisory Committee to this Commission will convene at 7:00 p.m. on September 25, 1973, at the Newman Center, Orono, Maine 04473.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Northeastern Regional Office of the Commission, Room 1639, 26 Federal Plaza, New York, New York 10007.

The purpose of this meeting shall be to conduct the 1973 annual meeting of the Maine State Advisory Committee at which time there will be a review of all Committee activities held during the past twelve months.

This meeting will be conducted pursuant to the rules and regulations of the Commission.

Dated at Washington, D.C., September 17, 1973.

ISAIAH T. CRESWELL, JR.,
*Advisory Committee Management Officer.*

[FR Doc.73-20269 Filed 9-21-73;8:45 am]

## PENNSYLVANIA STATE ADVISORY COMMITTEE

### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Pennsylvania State Advisory Committee will convene at 2:00 p.m. on September 25, 1973, in Room 1244, Treaty Room, 6 Penn Center, Philadelphia, Pennsylvania 19103.

Persons wishing to attend this meeting should contact the Committee Chairman, or the Mid-Atlantic Regional Office of the Commission in Room 510, 2120 L Street NW., Washington, D.C. 20425.

The purpose of this meeting shall be to discuss the role and functions of the State Advisory Committees, and to discuss proposed programs to be undertaken by the Pennsylvania State Advisory Committee during the balance of FY '74.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 13, 1973.

ISAIAH T. CRESWELL, JR.,
*Advisory Committee Management Officer.*

[FR Doc.73-20117 Filed 9-21-73;8:45 am]

## CIVIL SERVICE COMMISSION

### VETERINARIAN, WORLDWIDE

### Notice of Establishment of Minimum Rates and Rate Ranges

Under authority of 5 U.S.C. 5303 and Executive Order 1121, the Civil Service Commission has increased special minimum salary rates and rate ranges as follows:

GS-701 VETERINARIAN

Geographic coverage: World-wide
Effective date: First day of the first pay period beginning on or after September 30, 1973

(Per Annum Rates)

| Grade | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
|---|---|---|---|---|---|---|---|---|---|---|
| GS-9 | $13,162 | $13,549 | $13,936 | $14,323 | $14,710 | $15,097 | $15,484 | $15,871 | $16,258 | $16,645 |

All new employees in the specified occupational level will be hired at the minimum rates.

As of the effective date, all agencies will process a pay adjustment to increase the pay of employees on the roles in the affected occupational level. An employee who immediately prior to the effective date was receiving basic compensation at one of the statutory rates shall receive basic compensation at the corresponding numbered rate authorized by this notice on or after such date. The pay adjustment will not be considered an equivalent increase within the meaning of 5 U.S.C. 5335.

Under the provisions of section 3-2b, Chapter 571, FPM, agencies may pay the travel and transportation expenses to first post of duty under 5 U.S.C. 5723, of new appointees to positions cited.

UNITED STATES CIVIL SERVICE COMMISSION,

[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

(This special rate schedule for computer purposes is designated as Table No. 400.)

[FR Doc.73-20210 Filed 9-21-73;8:45 am]

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### CERTAIN COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN COSTA RICA

### Entry or Withdrawal From Warehouse for Consumption

SEPTEMBER 19, 1973.

On September 17, 1973, the United States Government in furtherance of the objectives of, and under the terms of, the Long-Term Arrangement Regarding International Trade in Cotton Textiles, done at Geneva on February 9, 1962, including Article 6(c) thereof relating to nonparticipants, informed the Government of Costa Rica that it was renewing for an additional twelve-month period beginning October 1, 1973 and extending through September 30, 1974, the restraint on imports into the United States of cotton textile products in Category 53, produced or manufactured in Costa Rica. Pursuant to Annex B, paragraph 2, of the Long-Term Arrangement, the level of restraint for this twelve-month period is five (5) percent greater than the level of restraint applicable to this category for the preceding twelve-month period.

There is published below a letter of September 19, 1973, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, directing that the amount of cotton textile products in Category 53, produced or manufactured in Costa Rica, which may be entered or withdrawn from warehouse for consumption in the United States for the twelve-month period beginning October 1, 1973, be limited to 32,414 dozen.

SETH M. BODNER,
*Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.*

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
*Department of the Treasury,*
*Washington, D.C.*

SEPTEMBER 19, 1973.

DEAR MR. COMMISSIONER: Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, including Article 6(c) thereof relating to non-participants, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective October 1, 1973 and for the twelve-month period extending through September 30, 1974, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 53, produced or manufactured in Costa Rica, in excess of a level of restraint for the period of 32,414 dozen.

In carrying out this directive, entries of cotton textile products in Category 53, produced or manufactured in Costa Rica, which have been exported to the United States from Costa Rica prior to October 1, 1973, shall, to the extent of any unfilled balances, be charged against the level of restraint established for such goods during the period October 1, 1972 through September 30, 1973. In the event that the level of restraint established for that period has been exhausted by previous entries, such goods shall be subject to the level set forth in this letter.

A detailed description of Category 53 in terms of TSUSA numbers was published in the Federal Register on April 29, 1972 (37 FR 8802), as amended on February 14, 1973 (38 FR 4436).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of Costa Rica and with respect to imports of cotton textiles and cotton textile products from Costa Rica have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

SETH M. BODNER,
*Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.*

[FR Doc.73-20305 Filed 9-21-73;8:45 am]





## FEDERAL POWER COMMISSION

[Docket No. E-8360]

### ALABAMA POWER CO.

### Notice of Filing of Petition for Declaratory Order

SEPTEMBER 18, 1973.

Take notice that on August 13, 1973, Alabama Power Company (Petitioner) petitioned the Commission pursuant to sections 202, 205, 206, 307 and 309 of the Federal Power Act and § 1.7(c) of the regulations issued thereunder, to issue a declaratory order adjudicating a controversy between petitioner and Alabama Electric Cooperative (Cooperative) over proper calculation of the fuel cost adjustment factor provided for in the interconnection agreement between the parties, accepted for filing June 22, 1972 and designated FPC Rate Schedule No. 133. The dispute pertains to controverted inclusion of a transmission loss factor in fuel cost adjustment computations, with petitioner claiming proper entitlement to $755.97 witheld by the Cooperative upon its own recalculation of fuel adjustment unit price for electric service rendered in June, 1973. Petitioner asks the Commission to take jurisdiction herein and set this matter for hearing to determine matters raised hereby.

Any person wishing to be heard or to make any protests with reference to this petition should on or before October 10, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. This petition is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20238 Filed 9-21-73;8:45 am]

[Docket No. RP74-10]

### ARKANSAS LOUISIANA GAS CO.

### Notice of Proposed Changes in FPC Gas Tariff

SEPTEMBER 18, 1973.

Take notice that Arkansas Louisiana Gas Company (Arkansas), on August 30, 1973, tendered for filing proposed changes in its FPC Gas Tariff Original Volume No. 3. According to Arkansas, the proposed changes would increase revenues from jurisdictional sales and service by approximately $330 based on the 12 month period ending September 30, 1974, as adjusted.

Arkansas states that the reason for the proposed changes are that a routine periodic price escalation has occurred under a field sale contract covering small volumes of gas attributable to minor interests in wells in the Bryans Mill Field, Cass County, Texas.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 2, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20229 Filed 9-21-73;8:45 am]

[Docket No. CI74-169]

### ATLANTIC RICHFIELD CO.

### Notice of Application

SEPTEMBER 18, 1973.

Take notice that on September 10, 1973, Atlantic Richfield Company (Applicant), P.O. Box 2819, Dallas, Texas 75221, filed in Docket No. CI74-169 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to El Paso Natural Gas Company from acreage in Pecos County, Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it commenced the sale of gas on August 30, 1973, within the contemplation of § 157.29 of the regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sale for two years from the end of the sixty-day emergency period within the contemplation of § 2.70 of the Commission's General Policy and Interpretations (18 CFR 2.70). Applicant proposes to sell approximately 60,000 Mcf of gas per month at 45.0 cents per Mcf at 14.65 psia.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before October 15, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20237 Filed 9-21-73;8:45 am]

[Docket No. CP73-307]

### BROCKTON TAUNTON GAS CO.

### Order Amending Order Authorizing Importation of Liquefied Natural Gas

SEPTEMBER 14, 1973.

On August 10, 1973, Brockton Taunton Gas Company (Petitioner) filed in Docket No. CP73-307 a petition to amend the order authorizing the importation of liquefied natural gas (LNG) pursuant to section 3 of the Natural Gas Act by extending the time in which Petitioner may import LNG purchases from Gaz Metropolitan, Inc., Montreal, P.Q., Canada, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner was authorized by order issued July 31, 1973, in the instant docket to import 4,583,440 U.S. gallons of LNG at 12.742 cents per U.S. gallon, equivalent



V 38-184
SEP 24 73
XUM

to approximately 400 billion Btu at a price of $1.46 per million Btu between June 15, 1973, and September 15, 1973.

As a result of a delay in commencement of deliveries, Petitioner now proposes to complete the authorized importation and to transport said quantities of LNG to its storage facilities at Easton, Massachusetts, by October 31, 1973, in lieu of the September 15, 1973, deadline.

*The Commission finds*

It is necessary and appropriate in carrying out the provisions of the Natural Gas Act and to amend the order authorizing the importation of liquefied natural gas as hereinafter ordered.

*The Commission orders*

(A) The order authorizing the importation of liquefied natural gas in Docket No. CP73-307 is amended by extending the term of the authorization from September 15, 1973, to October 31, 1973.

(B) In all other respects said order shall remain in full force and effect.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-20239 Filed 9-21-73;8:45 am]

## COLORADO INTERSTATE GAS CO.

### Notice of Proposed Changes in Service Agreements

SEPTEMBER 19, 1973.

Take notice that Colorado Interstate Gas Company, a division of Colorado Interstate Corporation (CIG), on August 30, 1973, tendered for filing 16 revised service agreements between CIG and certain of its existing jurisdictional customers. These revised service agreements provide for various changes in peak day demand and annual or seasonal volumes, plus other minor revisions, to become effective on October 1, 1973.

Copies of the filing were mailed to each of the customers for which a revised service agreement was filed.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or bfore September 24, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-20226 Filed 9-21-73;8:45 am]

[Docket No. E-8377]

## CONSOLIDATED EDISON CO.

### Notice of Termination

SEPTEMBER 18, 1973.

Take notice that on August 28, 1973, Consolidated Edison Company of New York, Inc. (Consolidated) tendered for filing notice that its Rate Schedule F.P.C. No. 26, effective April 30, 1972, terminated on October 28, 1972.

Consolidated states that pursuant to section 3 of the Rate Schedule, its term ended on October 28, 1972.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 2, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants partis to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-20230 Filed 9-21-73;8:45 am]

[Docket No. RP72-157]

## CONSOLIDATED GAS SUPPLY CORP.

### Notice of Proposed Changes in Rates and Charges

SEPTEMBER 17, 1973.

Take notice that Consolidated Gas Supply Corporation (Consolidated), on August 27, 1973, tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1, pursuant to its PGA clause which provides for increased rates to become effective October 1, 1973. The proposed rate increase would generate approximately $710,000 in additional jurisdictional revenues, annually.

Consolidated states that the proposed rates reflect an increase in rates from Transcontinental Gas Pipe Line Corporation (Transco), filed on August 15, 1973, to become effective October 1, 1973. Consolidated states further that since it did not receive notice of Transco's increase in sufficient time to make a timely filing, it is requesting a waiver of the 45-day notice requirement of rate change contained in its PGA clause and any other of the Commission's rules and regulations as may be required to permit the proposed rates to become effective on October 1, 1973.

Copies of the filing were served upon Consolidated's jurisdictional customers, and interested state commissions.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 24, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-20225 Filed 9-21-73;8:45 am]

[Docket No. E-8314]

## DUKE POWER COMMISSION

### Notice of Application

SEPTEMBER 18, 1973.

Take notice that on July 12, 1973, Duke Power Company (Applicant) tendered for filing, pursuant to Section 205 of the Federal Power Act and Part 35 of the regulations issued thereunder, a Supplemental Contract dated June 20, 1973, to an original contract and supplement thereto with the United States Government acting by and through the Southeastern Power Administration. The original contract dated December 16, 1963 was designated Rate Schedule FPC No. 130 and took effect December 20, 1963, while the supplement thereto was designated Supplement No. 2 to Rate Schedule FPC No. 130 and became effective November 20, 1966. The Supplemental Contract notice hereby extends the present expiration date for five years to midnight, July 20, 1978, effective July 20, 1973.

Any person wishing to be heard or to make any protests with reference to such Application should, on or before October 5, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The Application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-20240 Filed 9-21-73;8:45 am]





[Docket N. R-463]

## FILING OF ELECTRIC SERVICE TARIFF CHANGES

### Order Denying Applications for Rehearing

SEPTEMBER 14, 1973.

On July 17, 1973, the Commission issued Order No. 487 amending § 35.13 of its Regulations under the Federal Power Act to require, inter alia, all electric utilities that apply for rate increases to file unadjusted cost of service data for the most recent twelve consecutive months of actual experience (Period I) and to file estimated cost data for any twelve consecutive month period beginning after period I but no later than the date on which the new rates become effective (Period II). Period II is the test period and is voluntary for electric utilities with applications for increases less than one million dollars. In addition, Order No. 487 requires that electric utilities file workpapers in support of its case.

Order No. 487 was issued as a result of the notice of proposed rulemaking in Docket No. R-463 (37 FR 28195 December 21, 1972) requesting comments on the proposal.

On August 16, 1973, Consumer Owned Systems (Consumers)[1] and the American Public Power Association (APPA) filed separate applications for rehearing of Order No. 487.[2] Consumers and APPA allege that the Commission has not shown how Order No. 487 will meet the objections set forth in that order; the Commission made no attempt to explain how the departure from actual cost ratemaking will lead to data better suited for determining rates; the rulemaking will facilitate a price squeeze by a utility; the rulemaking is inconsistent with the Phase IV of the Economic Stabilization Program; the differences between Order No. 488 issued on July 17, 1973, in Docket No. R-464 as to utilizing year end rate base for natural gas as companies and Order No. 487 discriminates against wholesale customers of electric utilities; the order established no guidelines for the future test period data.

Also on August 16, 1973, the Cities of Bedford, et al., (Cities)[3] filed an application for rehearing of Order No. 487. In support of their application Cities maintain that the regulations under Order No. 488 (the Natural Gas Act) and Order No. 487 (Federal Power Act) are not "essentially the same"; the Commission's assurance of due process safeguard are without merit; the legal authority for use of future test period data is doubtful; and Order No. 487 violates due process principles.

In addition, on August 16, 1973, Congressman Michael J. Harrington filed a formal application for rehearing. In support of his application Congressman Harrington claims Order No. 487 is not in the public interest and will result in prolonged rate cases. Congressman Harrington also urged consideration of the alternative proposal filed by APPA on June 5, 1973.

In Order No. 487 we stated that the goal of the future test period is to enable us to determine rates for the future based on the costs of service during the period in which the rates are in effect. To the extent the applications for rehearing object to the principle of a future test period they raise no issues or facts not previously considered or warrant modification of Order No. 487.

As to the contention that the test period in Order No. 487 is different than the test period in Order No. 488, we agree. What is important however is that in substantive import the test periods are similar. Under the Natural Gas Act, we have jurisdiction to certificate new plant facilities and therefore the issue as to new facilities is an issue before us in a certificate proceeding. Therefore, a future test period as set forth in Order No. 487 would be improper for gas pipelines since it would be tantamount to prejudgment of Commission action on certification of the facilities. On the other hand, we have no jurisdiction under Parts II and III of the Federal Power Act to certificate electric plant facilities and therefore do not have the same constraint on data we may consider in determining just and reasonable rates.

Moreover, the existing regulations under the Natural Gas Act preclude inclusion of non-certificated facilities in rate base. There is no such limitation in the Regulations under the Federal Power Act since we have no certification authority over electric facilities.

The argument that use of future test period data is contrary to court preference for actual data misconceives the the essence of the rulemaking. By requiring actual and estimated data to be filed we provide for a means by which estimates can be compared to actual experience in arriving at the rates to be set for the future. In addition, as we noted in the order, the burden is on the applicant to support the estimated costs. If such estimates can be shown through discovery or cross-examination to be excessive, too speculative or conjectural, their appropriateness will be questioned. None of the cases cited by APPA or Consumers hold that fully supported cost estimates cannot be used in ratemaking.

APPA and Consumers allege that the future test period will facilitate price squeezes. Such an issue, if raised by a filing, cannot be dealt with summarily in a rulemaking and would require development at an evidentiary hearing.

The manner in which estimates are to be filed is set forth in Order No. 487 (mimeo page 9) along with workpapers. We see no reason to dictate by what method estimates will be determined since we believe this is a question of fact to be developed in a hearing. As to the claim that a detailed description of workpapers is required, we disagree. The workpapers to be filed reflect the data on the specific statements required by § 35.13b(iii) and (ill) of the regulations, therefore further detail is not required. If further information is required it may be obtained through discovery.

Cities contend that the holding in "Mobil Oil Corp. v. F.P.C.," (Slip Opinion No. 72-1471) (July 11, 1973) (Mobil) makes our issuance of Order No. 487 somehow invalid and violative of due process. Based upon our review of Mobil we do not agree with Cities contention and believe due process has been afforded. In "Mobil" the Court was faced with a rulemaking proceeding in which a rate was established. Here, no rate has been established, only filing requirements have been changed and a new test period designated.

Contrary to the assumption of Cities, (Application Page 10) there is no requirement in section-553 of the Administrative Procedure Act or in "Mobil" which requires the Commission to hold a hearing or permit cross examination or oral argument when the Commission is establishing a procedural rule of general applicability such as Order No. 487.[4] Cities claim that Order No. 487 will be detrimental to wholesale customers and that such customers have thereby been harmed is unsubstantiated and without merit. Cities also argues that the Commission is required to give the opportunity to show "the impossibility of private electric companies making accurate future estimates." (Application Page 12). Cities will have the opportunity to make such a showing in the context of a rate increase filing.

Some applicants question the reference to "El Paso Natural Gas Company v. F.P.C.,"[5] in our prior order and its applicability to this proceeding. That case was cited only for the proposition that the test period approach to rulemaking has been affirmed and that the formulation of a test period is a matter within the Commission's discretion and is not to be overturned unless it plainly contravenes the statutory scheme.

Arguments raised in the applications for rehearing not considered above raise no new issues or facts not previously considered or which warrant modification of the prior order.

*The Commission finds*

For the reasons set forth above the Applications for Rehearing by APPA, Consumers, Cities and Congressman Harrington should be denied.

*The Commission orders*

The above described Applications for Rehearing are denied.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-20259 Filed 9-21-73;8:45 am]

[1] See Appendix A for list of consumer owned systems.

[2] Both applications are, in substantial part, identical.

[3] See Appendix for other cities.

[4] CF. Phillips Petroleum Co. v. F.P.C., 475 F2d 842 (10th Cir. 1973).

[5] 449 F.2d 1245 (CA5 1971)



V 38-184 SEP 24 73 XUM

[Docket No. R-464]

## FILING OF NATURAL GAS TARIFF CHANGES

### Order Denying Rehearing

SEPTEMBER 14, 1973.

On August 16, 1973, El Paso Natural Gas Company (El Paso) filed a petition seeking rehearing of our Order No. 488, issued in Docket No. R-464 on July 17, 1973.

El Paso requests that the Commission renotice its requirements set out in paragraph 4 of revised Statement O. El Paso states that in Order No. 488, the Commission imposed new requirements which were not specified in the notice of proposed rulemaking and which impose an additional burden on the Company. Specifically, El Paso objects to the requirement that the digest of contractual provisions with individual producers include "estimated peak day deliverability for reserves dedicated under each contract as well as contemplated swings between sources of supply". (Order No. 488, p. 17.)

El Paso also seeks clarification of revised Statement O as regards which contracts must be reported—all contracts with a producer who supplies over 1.0 billion cubic feet (BCF) per year or only individual contracts for deliveries in excess of 1 BCF per year. Also, El Paso has expressed concern about the meaning of the term "swing", used in Order No. 488.

Finally El Paso seeks a postponement of the effective date of Order No. 488 until January 1, 1974, to allow time for the reporting companies to prepare the data and to permit action on the matters raised in its petition.

We fail to see how paragraph (4) of Statement O, as finally adopted, represents "an entirely new subject not set forth in the Commission notice of proposed rulemaking * * *" (Petition pg. 4). As El Paso correctly points out, we indicated in the notice that we were seeking a digest of contractual provisions relative to pricing, volumes (both minimum and maximum obligations) and terms. Clearly, we expressed our intent to obtain as complete a compilation as possible relative to volumes. An estimate of peak day deliverability relates anticipated operations to the contractual provisions. This gives the Commission and its staff a better understanding of the pipeline company's view of actual potential versus contractual entitlements. Obviously, it is meaningless to have contractual data which does not reflect the Company's anticipated operations as reflected in other portions of the rate increase filing.

El Paso also requests clarification of the term "swing" as used in Order No. 488. No meaningful analysis can be made of the deliverability of a pipeline company without an analysis of the flexibility afforded by individual contracts, and the shifts in takes under those contracts as reflected in the rate increase filing. Pipeline companies are required by Section 154.63 of the Regulations to file test year sales volumes and revenues under Statement G and the associated purchased gas costs under Schedule H(1)-3 of Statement H. In preparing its estimated test year sales and purchased gas cost it is necessary for the pipeline company to determine where it has the flexibility to increase takes under certain contracts and cut back on others. We recognize that contractual provisions are not always controlling since capacity limitations as well as the existence of other pipelines in the area are important considerations. What we are requiring in Statement O is an explanation of the level of takes under individual contracts during different times of the year as reflected in other portions of the filing. As regards the additional point of clarification raised by El Paso, the ordering language of R-488 presents the correct requirement as to which contracts must be reported. The requirement is that all contracts with producer suppliers who deliver in excess of 1.0 billion cubic feet annually must be reported.

Finally, El Paso requests a postponement of the effective date of our Order No. 488 to afford the affected parties a reasonable period of time to develop the new information and to permit action on the matters raised in its petition. As we have stated, we fail to see how any pipeline company preparing a rate increase filing would not have the requested information available to it. Furthermore, we note that El Paso's general rate increase filings in Docket No. RP73-104 and RP73-109 are not subject to this rulemaking since they were filed before July 17, 1973. We fail to see the justification for granting El Paso's request for an extension of the effective date.

*The Commission finds*

El Paso's Application for Rehearing raises no new issues of fact or law not already considered by us or which would warrant an amendment of Order No. 488.

*The Commission orders*

El Paso's Petition, filed on August 16, 1973, is hereby denied.

By the Commission.

[SEAL] KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73 20260 Filed 9-21-73;8:45 am]

---

[Docket No. E-8340]

## FLORIDA POWER CORP.

### Notice of Applications

SEPTEMBER 18, 1973.

Take notice that on July 27, 1973, Florida Power Corporation (Applicant) tendered for filing, pursuant to Section 205 of the Federal Power Act and Part 35 of the Regulations issued thereunder, an interconnection agreement executed July 2, 1973, with the City of Gainesville, Florida pursuant to the Supreme Court's ruling in "Gainesville Utilities Department v. Florida Power Corporation", 402 U.S. 515 (1971). The provisions of the agreement, to take effect July 2, 1973, accord with the Commission's order issued November 5, 1968 (Opinion No. 550 in Docket No. E-7257), excepting the parties' agreement to (1) certain modifications of physical facilities, and (2) exclusion of any provision permitting recovery of annual costs of frequency regulation for Applicant's control area.

Applicant additionally files letters of commitment for limited term purchases of firm power by the Cities of Wauchula (1,500 kw for the period commencing June 25, 1973, and terminating September 30, 1974), Tallahassee (from 40,000 to 50,000 kw for the period May 1, 1975 to October 1, 1975; from 75,000 to 90,000 kw for the period April 1, 1976, to March 31, 1977; 130,000 kw for the period from the later of the commercial operation date of the New Hopkin's No. 2 Generating Unit or April 1, 1977, to March 31, 1978; and 90,000 kw for the period from April 1, 1978, to March 31, 1979), and Kissimmee and St. Cloud (10,000 kw from February 15, 1973 to May 1, 1974).

Applicant files a contract dated October 10, 1972, supplemental to Rate Schedule FPC No. 70, providing for the sale by Tampa Electric Company of 200 megawatts of firm capacity from April 1, 1973, through September 30, 1973, and December 1, 1973, through March 31, 1974, the quantity of the sale falling to 100 megawatts for the intervening period October 1, 1973, through November 30, 1973.

Also tendered for filing are:

(1) An amendment dated November 14, 1972, to Applicant's interconnection agreement with Tallahassee (Rate Schedule FPC No. 70), providing for additional facilities and establishment by negotiation of demand charge for firm service; (2) a letter of commitment dated November 14, 1972, with Tallahassee for construction of additional 230 kv facilities; and, (3) an amendment dated October 10, 1972, to Applicant's purchase contract with Tampa Electric Company (Rate Schedule FPC No. 70), extending the term thereof until April 1, 1973.

Any person wishing to be heard or to make any protests with reference to such Applications should, on or before October 12, 1974, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The Application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20241 Filed 9-21-73;8:45 am]





[Docket No. E-8008]

## FLORIDA POWER & LIGHT CO.

### Notice of Extension of Time and Postponement of Prehearing Conference

SEPTEMBER 14, 1973.

On September 13, 1973, Florida Power & Light Company filed a motion for revision of procedural dates as fixed by order issued on May 31, 1973, in the above-designated matter. The motion states that counsel for intervener joins in the request and that Staff Counsel has no objection.

Upon consideration, notice is hereby given that the procedural dates are modified as follows:

Prehearing Conference, September 20, 1973, 10:00 a.m., e.d.t.
Intervenors' Testimony and Exhibits, October 1, 1973.
FP&L's Rebuttal Testimony, October, 15, 1973.
Cross-examination, October 23, 1973, 10:00 a.m., e.d.t.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20242 Filed 9-21-73;8:45 am]

---

[Project No. 1218]

## GEORGIA POWER CO.

### Notice of Issuance of Annual License

SEPTEMBER 14, 1973.

On February 26, 1970, Georgia Power Company, Licensee for Flint River Project No. 1218 located on Flint River in Dougherty and Lee Counties, Georgia, near the City of Albany, filed an application for a new license under § 15 of the Federal Power Act and Commission regulations thereunder (§§ 16.1-16.6).

The license for Project No. 1218 was issued effective January 1, 1933, for a period ending September 16, 1971. In order to authorize the continued operation of the project pursuant to section 15 of the Act pending completion of Licensee's application and Commission's action thereon, it is appropriate and in the public interest to issue an annual license to Georgia Power Company for continued operation and maintenance of Project No. 1218.

Take notice that an annual license is issued to Georgia Power Company (Licensee) under section 15 of the Federal Power Act for the period September 17, 1973, to September 16, 1974, or until Federal takeover, or the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Flint River Project No. 1218, subject to the terms and conditions of its license.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20243 Filed 9-21-73;8:45 am]

---

[Docket No. E-8306]

## GULF POWER CO.

### Notice of Application

SEPTEMBER 14, 1973.

Take notice that on June 25, 1973, Gulf Power Company (Applicant) tendered for filing pursuant to section 205 of the Federal Power Act and Part 35 of the Commission's rules, a Wholesale Electric Service Contract and original supplement thereto with Gulf Coast Electric Cooperative, dated May 30, 1973. Service under the agreement commenced July 1, 1972, with a delivery voltage of 46,000 volts and capacity of 12,000 kVA.

Any person wishing to be heard or to make any protests with reference to such Application should, on or before September 28, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The Application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20244 Filed 9-21-73;8:45 am]

---

[Docket No. E-8153]

## ILLINOIS POWER CO.

### Order Accepting for Filing and Suspending Rates

SEPTEMBER 17, 1973.

Illinois Power Company (IP) by letter dated April 18, 1973, submitted for filing an Interconnection Agreement dated March 30, 1973, between itself and Central Illinois Light Company (CILCO). Said filing was completed on August 16, 1973. The tendered filing provides an increase in the rate for emergency energy and revises other services classifications and the rates and charges therefore.

The proposed agreement provides for IP and CILCO to each maintain reserve capacity of at least (1) 15 percent of such party's highest adjusted demand, or (2) 50 percent of the accredited capacity of such party's largest single generating source, or (3) 50 percent of such party's largest non-firm power purchase, whichever is greater. The proposed agreement incorporates Service Scheduled A through F which specify classifications of service and rates therefor as follows:

(A) Firm Power and Participation (unit) Power—to be negotiated by separate agreement.

(B) Emergency Energy—17.5 mills/kWh or 110% of out-of-pocket costs, whichever is greater.

(C) Maintenance Power—8¢/kW per day or 40¢/kW per week (less 8¢/kW per day up to 40¢/kW per week for each kW curtailed by the supplier), Maintenance Energy—110% of out-of-pocket costs; or at the option of the supplying party, maintenance power and energy may be settled for by the return of equivalent power and energy.

(D) Economy Energy—priced on a split-the-savings basis, Non-Displacemen (surplus) Energy—negotiated rate, but not less than supplier's incremental cost plus 0.5 mill/kWh.

(E) Short-Term Firm Power—10¢/kW per day or 50¢/kW per week, associated energy is billed at 110 percent of out-of-pocket costs.

(F) Short-Term Non-Firm—8¢/kW per day or 40¢/kW per week (less 8¢/kW per day up to 40¢/kW per week for each kW curtailed by the supplier); associated energy is billed at 110 percent of out-of-pocket costs.

Out-of-pocket costs are based on the costs of fuel, labor, maintenance and operation supplies (including start-up costs, if any), purchased energy, losses in transmission and transformation, including all other factors that are a part of incremental costs.

The proposed agreement contains a tax clause and provision for interest to accrue on past due amounts at a rate equal to the prime rate of Continental Illinois National Bank and Trust Company of Chicago.

As maintenance energy was billed at 110 percent of out-of-pocket costs, the added 10 percent was about .53 mill/kW with respect to the sale by CIL, while the added 10 percent was about 1.3 mills/kWh with respect to the sale by IP. In light of such difference, IP was requested to explain the cost basis of the 10 percent adder. IP responded that the 10 percent adder was designed to cover administrative costs and provide a reasonable margin of profit. IP further stated that variations in out-of-pocket costs are anticipated but that over an extended period of time, out-of-pocket costs should reflect average costs. In the case of the cited sale of maintenance energy, IP explained that forced outages of large generating units resulted in abnormally high costs.

The Commission is unable to accept as sufficient IP's support for the 10 percent adder. The Commission therefore, deems it appropriate to suspend the tendered filing for 1 day and order a hearing to determine the validity of the proposed addition of 10 percent to out-of-pocket costs as provided in the tendered rate filings.

*The Commission finds*

(1) It is necessary and proper and in the public interest for the enforcement of the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the rates of charges contained in the proposed filing in this docket, and that the tendered rates be suspended as hereinafter provided.

*The Commission orders*

(A) Pursuant to the authority of the Federal Power Act, particularly section 205(e) thereof, a public hearing shall be heard, commencing with a prehearing conference on November 1, 1973, at 10:00 a.m. in a hearing room at the Federal Power Commission, 825 North Capitol St. NE., Washington, D.C. 20426, concerning the lawfulness of the rates,



V 38 I 184 SEP 24 73 XUM

charges, classifications and services contained in the rate filings subject to this Docket.

(B) Pending hearing and a final decision in this proceeding, the proposed rate schedules in this Docket are hereby accepted for filing as of September 15, 1973, suspended and the use thereof deferred until September 16, 1973.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-20245 Filed 9-21-73;8:45 am]

[Docket No. RP74-11]

## KANSAS-NEBRASKA NATURAL GAS CO., INC.

### Notice of Proposed Changes in FPC Gas Tariff

SEPTEMBER 17, 1973.

Take notice that Kansas-Nebraska Natural Gas Company, Inc. (Kansas-Nebraska), on August 31, 1973, tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1.

According to Kansas-Nebraska, Original Sheet No. 24D; First Revised Sheet Nos. 8, 8B, 15B, 23, 24B, and 24C; Second Revised Sheet Nos. 15, 24A and PGA-1; Third Revised Sheet Nos. 6, 7, and 14 and Fourth Revised Sheet Nos. 5, 9, 12, and 16 FPC Gas Tariff, Second Revised Volume No. 1 have an effective date of October 16, 1973, and will supersede the tariff sheets on file with the FPC in Docket No. CP73-224.

Kansas-Nebraska states that the proposed changes would increase revenues from jurisdictional sales and service by $2,179,700 based on the 12 month period ending April 30, 1973, as adjusted. In addition, Kansas-Nebraska states that it proposes to change the definition of Billing Demand in paragraph 3.b. on Sheet No. 5, Rate Schedule CD-1 so that deliveries under this rate schedule will be limited to 80 percent of the contract demand during the months of April, May, September and October and 60 percent of the contract demand during the months of June, July and August.

According to Kansas-Nebraska it proposes to restrict the reselling of gas for boiler fuel or generation of electricity for new or additional use to any presently served customers or to any new customer. Kansas-Nebraska further states that under the proposed tariff the largest new installation which would be accepted would be one with an annual requirement of 50,000 Mcf.

Kansas-Nebraska also states that it proposes to increase its depreciation rate for its transmission system properties to a rate of 4 percent. In addition, Kansas-Nebraska states that the proposed rate of return of 9.78 percent will enable Kansas-Nebraska to earn a return of 13 percent on equity.

Any person desiring to be heard or to protest should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Commission's rules of Practice and procedure. All such petitions or protests should be filed on or before September 24, 1973. Protests will be considered by the Commission in determining the appropriate action, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-20224 Filed 9-21-73;8:45 am]

[Docket No. CP74-58]

## MICHIGAN WISCONSIN PIPE LINE CO.

### Notice of Application

SEPTEMBER 18, 1973.

Take notice that on August 31, 1973, Michigan Wisconsin Pipeline Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP74-58 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act requesting permission and approval to abandon certain facilities by sale to Keokuk Gas Service Company (Keokuk) and for a certificate of public convenience and necessity authorizing the relocation of a delivery point for Keokuk, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it proposes to sell to Keokuk at a net depreciated cost of $201,452.25 approximately 25 miles of right-of-way, pipeline, sales meter station sites and related facilities, owned and operated by Applicant to render service to Keokuk in Lee County, Iowa. Applicant also proposes to construct a relocated delivery point facility located at approximately Mile Post 31.93 in Lee County, Iowa. The estimated cost of the proposed facility is $26,510, which will be financed by Applicant from internally generated funds.

Applicant states the abandonment by sale to Keokuk will eliminate three existing delivery points and approximately 25 miles of right-of-way pipeline and related facilities and will enable Keokuk to utilize these facilities as a part of its local distribution system with resulting operational and cost advantages to the company. Applicant further states that the construction of the relocated station will enable Applicant to continue selling the the same volumes of gas to Keokuk presently authorized under various Commission certificates of public convenience and necessity.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 9, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecesary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-20246 Filed 9-21-73;8:45 am]

[Rate Schedule Nos. 3, etc.]

## MONSANTO CO., ET AL.

### Notice of Rate Change Filings

SEPTEMBER 14, 1973.

Take notice that the producers listed in the appendix attached below have filed proposed increased rates to the applicable area new gas ceiling based on the interpretation of vintaging concepts set forth by the Commission in its Opinion No. 639, issued December 12, 1972.

The information relevant to each of these sales is listed in the appendix below.

Any person desiring to be heard or to make any protest with reference to said filings should on or before September 27, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-20247 Filed 9-21-73;8:45 am]





APPENDIX

| Filing date | Producer | Rate schedule No. | Buyer | Area |
|---|---|---|---|---|
| Aug. 27, 1973 | Monsanto Co., 1300 Post Oak Tower, 5051 Westheimer, Houston, Tex. 77027. | 3 | Mississippi River Transmission Corp. | Other southwest area. |
| Aug. 30, 1973 | do | 64 | Natural Gas Pipeline Co. of America. | Texas gulf coast. |
| Do | Ashland Oil, Inc., P.O. Box 1503, Houston, Tex. 77001. | 165 | Arkansas Louisiana Gas Co. | Other southwest area. |
| Do | Pennzoil Producing Co., 900 Southwest Tower, Houston, Tex. 77002. | 251 | Texas Eastern Transmission Corp. | Do. |
| Sept. 4, 1973 | Skelly Oil Co., P.O. Box 1650, Tulsa, Okla. 74102. | 269 | Lone Star Gas Co. | Do. |
| Do | Champlin Petroleum Co., P.O. Box 9365, Fort Worth, Tex. 76107. | 2 | Texas Eastern Transmission Corp. | Do. |
| Do | do | 11 | United Gas Pipe Line Co. | Do. |
| Do | do | 12 | do | Do. |
| Do | do | 13 | do | Do. |

[FR Doc.73-20247 Filed 9-21-73;8:45 am]

[Docket No. E-8385]

## MONTANA-DAKOTA UTILITIES CO.

### Notice of Application

SEPTEMBER 18, 1973.

Take notice that on September 4, 1973, Montana-Dakota Utilities Co. filed an application pursuant to Section 204 of the Federal Power Act seeking an Order authorizing the Applicant to enter into a Guaranty Agreement with a bank (to be selected) acting as Trustee (the "Trustee"), guaranteeing payment of the principal, premium, if any, and interest on pollution control revenue bonds designated "County of Richland, Montana, Pollution Control Revenue Bonds (Montana-Dakota Utilities Co. Project)" (the "Bonds") to be issued by Richland County, Montana, an organized county within the State of Montana, being a body corporate and politic (the "County"), pursuant to a Trust Indenture (the "Indenture") to be entered into between the County and the Trustee. The aggregate amount of such obligations to be the subject of the Guaranty Agreement shall not exceed $4,500,000.

The Applicant proposes to enter into a Guaranty Agreement with the Trustee under the Indenture pursuant to which the Bonds of the County are to be issued to finance the construction and acquisition in the County of water and air pollution control facilities at an existing 50 megawatt electric generating station, known as the Lewis and Clark Station, presently owned by the Applicant (said air and water pollution control facilities are hereinafter referred to as the "Project"). The Project will be owned by the County and will be leased by the County to the Applicant. The term of the lease (the "Lease"), will commence with the date of issuance of the bonds and will terminate on the date of final payment of the Bonds, such lease term to be more specifically set forth in the Lease at the time of execution.

Under the Guaranty Agreement, the Applicant will unconditionally guaranty to the Trustee for the benefit of the holders from time to time of the Bonds and the interest coupons appertaining thereto (a) the full and prompt payment of the principal of and premium, if any, on each Bond when and as the same shall become due, whether at the stated maturity thereof, by acceleration, call for redemption or otherwise, and (b) the full and prompt payment of any interest on any Bond when and as the same shall become due.

The County is authorized to issue the bonds under the Industrial Development Projects Acts, being Title 11, Chapter 41, Revised Code of Montana, 1947, as amended, and the County will issue the Bonds pursuant to the Indenture. Interest payable on the Bonds will be exempt from Federal Income Tax as enacted and construed on the date of original delivery (except as provided by section 103(c)(7) of the Internal Revenue Code of 1954 as to bonds held by a substantial user of the Project or a "related user" as such term is defined in section 103(c)(6)(C) of the Code).

While the County will be the issuer of the Bonds as required for purposes of exemption of the interest on the Bonds from Federal Income taxation, the credit of the County will not be pledged to the payment of the bonds. The Bonds will be payable only from the revenues and income under the Lease, and all lease rentals will be assigned to, and deposited directly with, the Trustee. The Lease will require that the Company continue to pay rental whether or not the Project is destroyed, and the amount payable will be the amount required to pay principal, premium, if any, and interest on the Bonds and to pay from time to time the fees and expenses of the County and Trustee. Under the terms of the Lease Agreement, the County will sell, assign, transfer and convey to the Applicant at a purchase price of $1,000, payable in cash or certified check, all of its right, title and interest in the Project within 30 days from the completion date as specified in the Lease, provided however, notwithstanding the foregoing, such sale, assignment, transfer and conveyance will not operate by merger or otherwise to terminate the Lease, the lease term or the obligations, terms and conditions of the Lease.

The guaranty proposed herein is required because, under the United States Bankruptcy Act, the claim provable with respect to a lease is limited to one year's rent in the case of the bankruptcy of the Applicant and three years' rent in the event of the reorganization of the Applicant. If there is no guaranty as herein proposed, rating agencies customarily rate industrial revenue bonds to be paid out of the lease payments one grade lower than they rate senior unsecured long-term debt of the lessee.

The guaranty is to be absolute and unconditional. It will apply notwithstanding any default on the part of the County or any compromise, settlement, modification, amendment, release or termination of any or all of the obligations, convenants or agreements of the County. The guaranty is desired by the Applicant, since it will permit the Applicant to obtain the most advantageous interest rate for the Bonds with a consequent reduction in the rental to be paid by the Applicant under the Lease.

The Bonds will be sold to underwriters by the County, and a Bond Purchase Agreement relating to the Bonds will be entered into between the County and the underwriters. The Applicant will not be a party to that agreement.

The sale of the bonds will be governed by state law and will be accomplished without competitive bidding by the County. Since the guaranty by the Applicant will be given to the Trustee for the benefit of the holders of the Bonds issued by the County, the Applicant believes that competitive bidding with respect to the guaranty is not possible. The guaranty is the subject of an application for exemption from competitive bidding under § 34.2(f)(2).

Any person desiring to be heard or to make any protest with reference to said application should on or before October 12, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-20248 Filed 9-21-73; 8:45 am]

[Docket No. E-8384]

## MONTANA-DAKOTA UTILITIES CO.

### Notice of Application

SEPTEMBER 18, 1973.

Take notice that on September 4, 1973, Montana-Dakota Utilities Co. filed an



V 38-184 SEP 24 73 XUM

application pursuant to section 204 of the Federal Power Act seeking an order authorizing the Applicant to enter into a Guaranty Agreement with a bank (to be selected) acting as Trustee (the "Trustee"), guaranteeing payment of the principal, premium, if any, and interest on pollution control revenue bonds designated "County of Morton, North Dakota, Pollution Control Revenue Bonds (Montana-Dakota Utilities Co. Project)" (the "Bonds") to be issued by Morton County, North Dakota, an organized county within the State of North Dakota, being a body corporate and politic (the "County"), pursuant to a Trust Indenture (the "Indenture") to be entered into between the County and the Trustee. The aggregate amount of such obligations to be the subject of the Guaranty Agreement shall not exceed $6,000,000.

The Applicant proposes to enter into a Guaranty Agreement with the Trustee under the Indenture pursuant to which the Bonds of the County are to be issued to finance the construction and acquisition in the County of water and air pollution control facilities at an existing 100 megawatt electric generating station, known as the Rolland M. Heskett Station, presently owned by the Applicant (said air and water pollution control facilities are hereinafter referred to as the "Project"). The Project will be owned by the County and will be leased by the County to the Applicant. The term of the lease (the "Lease"), will commence with the date of issuance of the bonds and will terminate on the date of final payment of the Bonds, such lease term to be more specifically set forth in the Lease at the time of execution.

Under the Guaranty Agreement, the Applicant will unconditionally guaranty to the Trustee for the benefit of the holders from time to time of the Bonds and the interest coupons appertaining thereto (a) the full and prompt payment of the principal of and premium, if any, on each Bond when and as the same shall become due, whether at the stated maturity thereof, by acceleration, call for redemption or otherwise, and (b) the full and prompt payment of any interest on any Bond when and as the same shall become due.

The County is authorized to issue the bonds under the Municipal Industrial Development Act of 1955, being Chapter 40–57 of the North Dakota Century Code, as amended, and the County will issue the Bonds pursuant to the Indenture. Interest payable on the Bonds will be exempt from Federal Income Tax as enacted and construed on the date of original delivery (except as provided by section 103(c)(7) of the Internal Revenue Code of 1954 as to bonds held by a substantial user of the Project or a "related user" as such term is defined in section 103(c)(6)(C) of the Code).

While the County will be the issuer of the Bonds as required for purposes of exemption of the interest on the Bonds from Federal Income taxation, the credit of the County will not be pledged to the payment of the bonds. The Bonds will be payable only from the revenues and income under the Lease, and all lease rentals will be assigned to, and deposited directly with, the Trustee. The Lease will require that the Company continue to pay rental whether or not the Project is destroyed, and the amount payable will be the amount required to pay principal, premium, if any, and interest on the Bonds and to pay from time to time the fees and expenses of the County and the Trustee. Under the terms of the Lease Agreement, the County will sell, assign, transfer and convey to the Applicant at a purchase price of $1,000, payable in cash or certified check, all of its right, title and interest in the Project within 30 days from the completion date as specified in the Lease, provided however, notwithstanding the foregoing, such sale, assignment, transfer and conveyance will not operate by merger or otherwise to terminate the Lease, the lease term or the obligations, terms and conditions of the Lease.

The guaranty proposed herein is required because, under the United States Bankruptcy Act, the Claim provable with respect to a lease is limited to one year's rent in the case of the bankruptcy of the Applicant and three years' rent in the event of the reorganization of the Applicant. If there is no guaranty as herein proposed, rating agencies customarily rate industrial revenue bonds to be paid out of the lease payments one grade lower than they rate senior unsecured long-term debt of the lessee.

The guaranty is to be absolute and unconditional. It will apply notwithstanding any default on the part of the County or any compromise, settlement, modification, amendment, release or termination of any or all of the obligations, covenants or agreements of the County. The guaranty is desired by the Applicant, since it will permit the Applicant to obtain the most advantageous interest rate for the Bonds with a consequent reduction in the rental to be paid by the Applicant under the Lease.

The Bonds will be sold to underwriters by the County, and a Bond Purchase Agreement relating to the Bonds will be entered into between the County and the underwriters. The Applicant will not be a party to that agreement.

The sale of the bonds will be governed by state law and will be accomplished without competitive bidding by the County. Since the guaranty by the Applicant will be given to the Trustee for the benefit of the holders of the Bonds issued by the County, the Applicant believes that competitive bidding with respect to the guaranty is not possible. The guaranty is the subject of an application for exemption from competitive bidding under § 34.2(f)(2).

Any person desiring to be heard or to make any protest with reference to said application should on or before October 12, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20249 Filed 9-21-73;8:45 am]

[Docket Nos. G-16026 etc.]

## NATURAL GAS PIPELINE COMPANY OF AMERICA

### Order Granting Motion and Adopting Settlement Agreement Relative to Consolidated Effective Tax Rate Issue

SEPTEMBER 17, 1973.

On June 27, 1973, Natural Gas Pipeline Company of America (Natural) filed a motion renewing a motion made on April 3, 1972, for Commission approval of a settlement agreement in the above dockets. The proposed settlement concerns the consolidated effective tax rate issue raised in the above dockets.

These proceedings arose from a petition filed by Natural on May 19, 1970, in these dockets, requesting an order finding and declaring that Natural had no liability under "the consolidated effective tax rate" conditions in settlement agreements previously approved by this Commission in these dockets. Natural also asked approval of the use of that interpretation of the consolidated effective tax rate issue in any future rate proceedings it might be involved in before the Commission.

The settlement agreement provides that Natural would not have a refund obligation under these dockets relative to the consolidated effective tax rate conditions existing therein; further, such conditions were to be terminated by the agreement. Additionally, if Peoples Gas (parent of Natural), through its own operations or those of any company other than Natural in which Peoples Gas owns 50 percent or more of the stock, shall suffer tax losses, even to the extent of creating a "loss company" within the system, such result will not and may not be used to reduce the rates of Natural below the level they otherwise would be.

Notice of this motion renewing the April 3, 1972, motion was issued on July 6, 1973, providing for all comments to be filed by July 16, 1973. No comments have been received.

The provisions of this settlement are consistent with our decision in "Florida Gas Transmission Company," Opinion Nos. 611 and 611–A (issued February 16, 1972, and January 19, 1973, respectively). In that decision, we stated:

> • • • In our opinion a utility should be regarded on the basis of its being an independent entity; that is, a utility should be considered as nearly as possible on its own merits and not on those of its affiliates. (47 FPC 363).

Our reasoning was that reducing the rate of a regulated pipeline because of exploration and development by an affiliated company would discourage the very enterprise which, in this time of limited natural gas supplies, we wish to encourage; therefore, the tax losses sustained by an affiliate should not be used to reduce the tax allowance of another affiliate.

*The Commission finds*

The settlement of the consolidated effective tax rate issues as contained in the agreement submitted on April 3, 1972, and renewed on June 27, 1973, is reasonable, proper, and in the public interest. The agreement carries out the provisions of the Natural Gas Act and should be approved.

*The Commission orders*

(A) The settlement agreement, hereby incorporated by reference, is approved: *Provided, however,* That such approval is without prejudice to any findings or orders which may be made by the Commission in any proceeding hereinafter instituted by or against Natural or any other person or party.

(B) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20250 Filed 9-21-73;8:45 am]

[Docket No. E-8378]

## NORTHERN INDIANA PUBLIC SERVICE CO.

### Notice of Supplement to Service Agreement

SEPTEMBER 18, 1973.

Take notice that on August 30, 1973, Northern Indiana Public Service Company (Northern) tendered for filing Exhibit B–9, Supplement to Service Agreement, between Northern and Kankakee Valley Rural Electric Membership Corporation, covering supply of electric energy for resale at the Four Seasons Delivery Point located in Porter Township, Porter County, Indiana.

Northern states that the supplement provides for service to be furnisehd under Rate VA11 of Northern's FPC Electric Service Tariff—First Revised Volume No. 1.

According to Northern the map appearing in the tariff is being revised to show all delivery points for which contracts have been filed with the Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and proecedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 2, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken ,but will not serve to make protestants parties to teh proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20231 Filed 9-21-73;8:45 am]

## PANHANDLE EASTERN PIPE LINE CO.

### Notice of Proposed Tariff Changes

SEPTEMBER 19, 1973.

Take notice that on August 28, 1973, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following tariff sheets to its FPC Gas Tariff, Original Volume No. 2:

Ninth Revised Sheet No. 1.
Original Sheet Nos. 205 through 231.

The tariff sheets are being filed in order to effectuate the Transportation and Sale, and Exchange Agreement between Panhandle and Colorado Interstate Gas Company as authorized by the Federal Power Commission's orders issued March 30, 1973, and July 19, 1973, in Docket Nos. CP72–181 and CP73–44. Panhandle proposes that the tariff sheets be made effective October 1, 1973.

Copies of the filing were served upon Colorado Interstate Gas Company.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 24, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20227 Filed 9-21-73;8:45 am]

[Docket No. RP73-92]

## RATON NATURAL GAS CO.

### Notice of Proposed Filing Pursuant to Purchased Gas Adjustment Clause

SEPTEMBER 14, 1973.

Take notice that on August 16, 1973, Raton Natural Gas Company (Raton) submitted for filing as a part of its FPC Gas Tariff, Original Volume No. 1, the following revised Tariff Sheets, to become effective October 1, 1973:

Second Revised Sheet No. 3a.
First Revised Sheet No. 20b.

Raton states that the filing of Second Revised Sheet No. 3a is submitted only for the purpose of effecting a change in Raton's rates to compensate Raton for the increase in charges for gas purchased from Colorado Interstate Company (CIG) in the amount of 2.39¢ per Mcf, which CIG proposes to make effective October 1, 1973, and to pass through a reduction in charges by CIG as the result of the settlement in Docket No. RP72–113, approved by Commission order issued July 5, 1973.

Raton states that the filing reflects an increase in demand charge of 4.0¢ per Mcf, an increase in commodity charge of 1.93¢ per Mcf and a reduction in the surcharge to recover Deferred Gas Purchase Costs from 10.56¢ to 2.55¢ for the succeeding six months from effective date.

Raton says that the filing of First Revised Sheet No. 20b is for inclusion of Paragraph 18.10 providing for flow-through of jurisdictional refunds in compliance with Commission order in Docket No. RP73–92.

On September 6, 1973, Raton filed another letter with the Commission. Raton states that since the filing of August 16, 1973, it has been brought to Raton's attention that certain of the figures set forth on said proposed Second Revised Sheet No. 3a and the accompanying Exhibit A do not correctly reflect the rates and charges which Raton should charge to include CIG filing of PGA and in Docket No. RP73–93 which become effective October 1, 1973. Accordingly, Raton submitted a substitute Second Revised Sheet No. 3a and a substitute Exhibit A in substitution for the same instruments filed on August 16, 1973, and requests the Commission to accept this filing as though filed on August 16, 1973. In the alternative, Raton requests the Commission to waive the 45-day notice requirement of Section 18.2 of Raton's tariff in order that the changes proposed may become effective as of October 1, 1973.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 25, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20251 Filed 9-21-73;8:45 am]







V 38 184
SEP 24 73
XUM

[Docket No. ID–1631]

## ROBERT DAVIS WEIMER

### Notice of Application

SEPTEMBER 18, 1973.

Take notice that on August 27, 1973, Robert Davis Weimer (Applicant), filed a supplemental application pursuant to section 305(b) of the Federal Power Act, seeking authority to hold the position of President of Delmarva Power & Light Company.

By Commission order dated July 12, 1971, Applicant was authorized to hold the positions of Executive Vice-President and Director of Delmarva Power & Light Company, Director of Delmarva Power & Light Company of Maryland, and Director of Delmarva Power & Light Company of Virginia, Delmarva Power & Light Company of Maryland and Delmarva Power & Light Company of Virginia are a part of the public utility holding company system of Delmarva Power & Light Company. Delmarva Power & Light Company owns the total outstanding long-term debt and common stock of Delmarva Power & Light Company of Maryland and Delmarva Power & Light Company of Virginia.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 28, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene in accordance with the requirements of the Commission's rules of practice and procedures (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20252 Filed 9-21-73;8:45 am]

[Docket No. CI74–166]

## SIGNAL OIL AND GAS CO.

### Notice of Application

SEPTEMBER 18, 1973.

Take notice that on September 4, 1973, Signal Oil and Gas Company (Applicant), P.O. Box 94193, Houston, Texas 77018, filed in Docket No. CI74–166 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Panhandle Eastern Pipe Line Company at its Aline Plant, Alfalfa County, Oklahoma, from production in Alfalfa and Major Counties, Oklahoma, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it commenced a sale of natural gas on August 24, 1973, within the contemplation of Section 157.29 of the Regulations under the Natural Gas Act (18 CFR 157.29) and proposes to continue said sale for two years from the end of the sixty-day emergency period. Applicant proposes to sell approximately 18,000 Mcf of gas per month at 50.0 cents per Mcf at 14.65 p.s.i.a., subject to upward and downward Btu adjustment, but states that it will accept a certificate conditioned to 45.0 cents per Mcf, subject to Btu adjustment, which reserving its right to file for its full contractual entitlement.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before October 4, 1973 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20232 Filed 9-21-73;8:45 am]

## SOUTHERN NATURAL GAS CO.

### Notice of Proposed Changes in FPC Gas Tariff

SEPTEMBER 19, 1973.

Take notice that Southern Natural Gas Company (Southern) on August 28, 1973, tendered for filing Rate Schedule X–23 containing original tariff sheets to its FPC Gas Tariff, Original Volume No. 2 to become effective thirty (30) days after filing. Southern states that the Rate Schedule X–23 tariff sheets contain an agreement dated January 29, 1973, for the exchange of natural gas between Southern and Michigan Wisconsin Pipe Line Company (Michigan Wisconsin).

Southern states that this filing is being made pursuant to Commission order dated July 11, 1973, issuing certificates of public convenience and necessity in Docket No. CP73–290 authorizing Southern and Michigan Wisconsin to exchange and transport natural gas in interstate commerce.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 24, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing have been mailed to Michigan Wisconsin and are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20228 Filed 9-21-73;8:45 am]

[Docket No. CP74–60]

## TENNESSEE GAS PIPELINE CO. AND TENNECO INC.

### Notice of Application

SEPTEMBER 10, 1973.

Take notice that on August 31, 1973, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP74–60 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas in interstate commerce for The Greenwich Gas Company (Greenwich), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to 4,000 Mcf of natural gas per day for Greenwich until October 31, 1974. Applicant states that to enable Greenwich to meet its peak shaving requirements, Greenwich has arranged to purchase 100,000 Mcf of vaporous gas equivalent of liquefied natural gas (LNG) from The Southern Connecticut Gas Company (Southern Connecticut). Southern Connecticut will vaporize the LNG and make equivalent volumes available to Applicant for transportation to Greenwich by reducing Southern Connecticut's takes from Applicant. Applicant proposes to collect a transportation charge comprised of a demand charge of 29.41 cents per Mcf per month plus a volume charge of 4.90 cents per Mcf. Applicant states that the proposed service would be rendered by means of existing facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 5, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20253 Filed 9-21-73;8:45 am]

[Docket No. RP72–64]

## TEXAS GAS TRANSMISSION CORP.

### Notice of Proposed Change in FPC Gas Tariff

SEPTEMBER 14, 1973.

Take notice that on August 29, 1973, Texas Gas Transmission Corporation (Texas Gas) tendered for filing as part of its FPC Gas Tariff, Third Revised Volume No. 1, Substitute First Revised Sheet No. 91. Texas Gas requests that the filing be made effective as of the date of Commission approval of the requested substitution.

Texas Gas states that the sole purpose of this filing is to include in Category No. 2 of the curtailment priorities set in Texas Gas' filing of May 17, 1973, firm industrial sales up to 300 Mcf per day as authorized in Opinion No. 647–A, "United Gas Pipe Line Company", Docket Nos. RP71–29, et al., issued May 30, 1973.

Copies of the filing have been served upon Texas Gas' customers and interested State commissions.





It appears reasonable and consistent with the public interest in this proceeding to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the requirements of §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) on or before September 24, 1973. All protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to patricipate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Persons that have previously filed a notice or petition for intervention in this proceeding need not file additional notices or petitions to become parties with respect to the instant filing. This filing which was made with the Commission is available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20254 Filed 9-21-73;8:45 am]

[Docket No. CP72–93]

## TEXAS EASTERN TRANSMISSION CORP.

### Order Granting Withdrawal of Application

SEPTEMBER 17, 1973.

On February 6, 1973, Texas Eastern Transmission Corporation (Texas Eastern) filed in Docket No. CP72–93 a notice of withdrawal of its application in that docket. Texas Eastern filed an application on October 4, 1971, requesting authorization pursuant to section 3 of the Natural Gas Act for the importation of approximately 12 trillion Btu of liquefied natural gas (LNG) from Libya. The LNG was to be imported in 12 cargo lots of approximately one trillion Btu each. By order issued February 15, 1972, the Commission authorized the importation of two shiploads of LNG, and scheduled hearing on the remaining ten shiploads. The formal hearing was held on March 14, 1972. On May 2, 1972, the Administrative Law Judge issued his Initial Decision, authorizing the importation of the remaining ten shiploads, subject to certain conditions. Texas Eastern's notice of withdrawal was filed while the proceeding was pending decision by the Commission.

Upon consideration, the Commission finds that good cause exists for permitting withdrawal, pursuant to Section 1.11(d) of the Commission's Rules of Practice and Procedure, of Texas Eastern's application filed in the above-entitled docket.

*The Commission orders*

Permission is hereby granted for the withdrawal of the application filed October 4, 1971, by Texas Eastern Transmission Corporation.

By the Commission.

[SEAL] KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20255 Filed 9-21-73;8:45 am]

[Docket No. CI74–170]

## TOMLINSON DRILLING PROGRAM

### Notice of Application

SEPTEMBER 18, 1973.

Take notice that on September 10, 1973, Tomlinson Drilling Program—1972—A Limited Partnership, et al. (Applicants), c/o Tomlinson Oil Co., Inc., Suite 1030, 200 West Douglas, Wichita, Kansas 67202, filed in Docket No. CI74–170 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce to Northern Natural Gas Company from the North Balko Area, Beaver County, Oklahoma, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants propose to sell approximately 15,000 Mcf of gas per month for one year at 45.0 cents per Mcf at 14.65 p.s.i.a., subject to upward and downward Btu adjustment within the contemplation of § 2.70 of the Commission's general policy and interpretations (18 CFR 2.70).

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before October 4, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required,



V 38-184 SEP 24 73 XUM

further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20233 Filed 9-21-73;8:45 am]

[Docket Nos. CP67-26 etc.]

## UNITED GAS PIPE LINE CO. ET AL.

### Findings and Order After Statutory Hearing Granting Abandonment, Fixing Date for Hearing, Establishing Procedures, Granting Interventions and Terminating Proceedings

SEPTEMBER 17, 1973.

United Gas Pipe Line Company (United) and Texas Eastern Transmission Corporation (Texas Eastern) filed a joint application on November 27, 1972, pursuant to section 7(c) of the Natural Gas Act (Act) for an amendment to the certificate of public convenience and necessity issued by the Commission on September 23, 1966, in Docket No. CP67-26 at 36 FPC 670.[1]

The Commisison in the aforementioned certificate authorized United and Texas Eastern to exchange natural gas and to establish specific delivery points for this purpose. These joint Applicants presently request authorization to operate two additional delivery points. It is unclear from their application to amend whether they request permission to make additional exchanges in a quantitative sense or whether they seek permission solely to operate two new exchange delivery points in order to make exchanges of natural gas previously authorized by the Commission. In their proposed amendment, applicants seek to establish the following two new delivery points:

(1) At the outlet side of United's existing measuring station located at the point of interconnection of the lines of Texas Eastern and United near Kosciusko in Attala County, Mississippi.[2]

(2) At the tailgate of Gulf Oil Corporation's Venice Gasoline Plant near Venice in Plaquemines Parish, Louisiana.

The proposed additional exchange points sought by the joint applicants in their application to amend the certificate issued in Docket No. CP67-27 are considerably distant from a geographic point of view. The Venice exchange point is located in southern Louisiana close to where the Mississippi flows into the Gulf of Mexico and the other proposed exchange point is close to that terminus on United's system situated near Kosciusko in the Attala County Mississippi.

[1] The Commission by order issued on July 22, 1969, amended the aforementioned certificate by authorizing the joint applicants to construct and operate two additional delivery points for the exchange of natural gas (42 FPC 157).

[2] United is presently delivering gas to Texas Eastern at this point pursuant to the terms of a service agreement between the latter two companies.

The following petitioners have filed petitions to intervene in the proceeding relating to the joint application filed in Docket No. CP67-26:

| Applicant: | *Date of filing* |
|---|---|
| Shell Oil Co. | Dec. 18, 1972 |
| Texaco Inc. | Dec. 26, 1972 |
| Exxon Corp. | Dec. 26, 1972 |
| State of Louisiana, Louisiana Public Service Commission and Louisiana Municipal Gas Association | Dec. 26, 1972 |
| New Orleans Public Service Inc. and the City of New Orleans | Dec. 27, 1972 |
| Louisiana Gas Service Co. | Jan. 2, 1973 |
| Louisiana Power & Light Co. | Jan. 2, 1973 |

The aforementioned petitioners generally contend that the joint applicants did not allege certain definitive facts in their application upon which a full evaluation of the proposal could be made. They raise questions relating to the benefit and impact that the proposed exchanges will have upon the respective markets and operations of the joint-applicants. Certain interveners stress that the joint-application does not specify the volumes of gas contemplated under this exchange and that it also fails to reveal the source, nature and status of those volumes to be delivered from the tailgate of the Gulf Oil Corporation's Venice Gasoline Plant near Venice in Plaquemines Parish, Louisiana.

The questions raised by petitioners present issues that require an evidentiary record to resolve. We shall order a hearing to be held on the issues presented in the joint application for amendment filed in Docket No. CP67-26.

On November 27, 1972, United filed an application in Docket No. CP73-142 requesting that the Commission issue an order pursuant to section 7(b) of the Act permitting it to abandon the natural gas transportation service under which it transports certain volumes of gas belonging to Mid-Louisiana Gas Company (Mid-Louisiana) from the Hester Storage Field in St. James Parish, Louisiana, to points of interconnection with Mid-Louisiana's facilities in East Baton Rouge Parish, Louisiana.[3]

United seeks to abandon only that service that specifically relates to its transportation of Hester Field volumes for Mid-Louisiana and desires to maintain the points of receipt and delivery of the transport gas as exchange points under the provisions of an existing exchange agreement between the latter two companies.

In support of its application in Docket No. CP73-142, United contends that the uncertificated reserves attached to its system in the New Orleans Area are declining so rapidly that it can only render adequate service to that area by changing the flow patterns on its system to enable it to divert gas from its Napoleonville-Kosciusko line. United further alleges that the approval of its application will not affect the volumes which need to be diverted from its Napoleonville-Kosciusko line, but will only affect the percentages of gas diverted therefrom that will flow toward New Orleans and Baton Rouge. It therefore contends that the approval of this application will not have an adverse affect on its customers.

On January 2, 1973, Mid-Louisiana filed a petition to intervene in opposition to the abandonment proceeding in Docket No. CP73-142, alleging that it would be aggrieved by the grant of United's application through the loss of a means of transporting its Hester Storage Field gas to its Baton Rouge market.

Subsequently, on January 22, 1973, Mid-Louisiana filed a motion to withdraw its intervention alleging that it no longer had any objection to the Commission's approval of the abandonment since it had made other suitable arrangements to transport its gas, which arrangements have been certificated by order issued January 12, 1973, in Transcontinental Gas Pipe Line Corporation, Docket No. CP73-52.

The following petitioners have filed timely petitions to intervene in the proceeding in Docket No. CP73-142 in which United seeks to abandon the above-described transportation service for Mid-Louisiana:

| *Applicants* | *Date of filing* |
|---|---|
| Shell Oil Co. | Dec. 18, 1972 |
| Laclede Gas Co. | Dec. 27, 1972 |
| The Exxon Corp. | Jan. 2, 1973 |
| State of Louisiana, Louisiana Public Service Commission and Louisiana Municipal Association. | Jan. 2, 1973 |
| Louisiana Gas Service Co. | Jan. 2, 1973 |
| Louisiana Power and Light Co. | Jan. 2, 1973 |

In those petitions to intervene, petitioners generally contend that approval of United's application in Docket No. CP73-142 will permit United to change the flow patterns of gas on its system in such a manner that will be to the detriment of all who oppose the proposition that United's "Green System—east" is jurisdictional under the Act and that the Commission should issue a certificate for the operation of these facilities. They urge that the patterns of flow on United's system will be the crucial factor in determining the jurisdictional status of United's "Green System—east."[4]

[3] The Commission authorized the aforementioned transportation service by order issued on November 15, 1971, in United Gas Pipe Line Company, in Docket No. CP72-42, 46 FPC 1215. This service commenced on January 3, 1972, under United's Rate Schedule X-44 of its FPC Gas Tariff, Original Volume No. 2.

[4] These petitioners also contend that the approval of United's abandonment application in Docket No. CP73-142 and its request in Docket No. CP73-143 to operate a presently existing, though closed, valve at its Marchand Junction (connection point between United's jurisdictional Napoleon-Kosciusko line and its New Orleans-Baton Rouge line) will enable United to divert additional interstate gas into its intrastate system.

[5] See Louisiana Power and Light Company, et al. v. Federal Power Commission, case Nos. 72-1714, et al. (5th Cir.), issued on June 28, 1973, — F. 2d —.





The United States Court of Appeal for the 5th Circuit has recently handed down its decision sustaining the Commission's decision in Opinion Nos. 610 and 610-A that United's "Green System" is jurisdictional.[5] Accordingly, there is no basis for delaying our decision on the question of abandonment insofar as it relates to the jurisdictional issue sought to be preserved by these petitions.

The above-noted petitions to intervene in Docket CP73-142 were filed well before June 28, 1973, the date on which the Court handed down its decision in the "Louisiana Power" case, supra. The main basis of possible aggrievement cited in these petitions was predicated upon the hypothesis that any change in the existing flow patterns on United's system might affect the outcome of certain matters pending before the Court and this Commission relating to the jurisdiction and certification of specific portions of United's system. Upon the basis of the evidentiary record in Docket No. CP71-89, the Court found that United's facilities and the services it renders in these areas to be jurisdictional. Shortly after the Court handed down the aforementioned decision, the Commission issued a conditional certificate of public convenience and necessity permitting United to operate its facilities and provide certain services, previously uncertificated, in its New Orleans and Victoria Divisions.[6] Hence, the course of events subsequent to the filing of the aforementioned petitions have resolved these pending issues and mooted much of the basis for opposition to the grant of the abandonment.

Laclede Gas Company (Laclede) filed a petition to intervene in Docket No. CP73-142 predicated upon a different hypothesis from that noted above. In its petition, Laclede contends that the abandonment sought by United in the aforementioned docket is closely related to United's filing in Docket No. CP73-143. It argues that United in the aforementioned dockets is seeking authority to divert interstate gas to a specific portion of its intrastate market when it is curtailing up to thirty percent of its contract obligation to its pipeline customers. However, the Commission in Opinion No. 610 provided for United to deliver interstate gas into various parts of its uncertificated system on an emergency basis (47 FPC at 267-268). In Opinion No. 661, supra, we granted United the certificate it requested subject to several conditions. In so doing we reiterated our position that it was to operate its system on an integrated basis and that there was to be no disparity in the service rendered anywhere on its pipeline. (See Opinion No. 661, mimeo pp. 4-5.) There no longer is any purpose to isolating such parts of United's system from each other because of jurisdictional distinctions.

[6] See Commission Opinion No. 661 issued on July 20, 1973, in United Gas Pipe Line Company, Docket No. CP71-89.

Our Opinions Nos. 610 and 661, supra, are dispositive of the manner in which United will be required to render service to its customers. Hence, United can no longer be viewed as having an interstate and intrastate market. Laclede certainly has presented no predicate upon which it can be assumed that United, contrary to the directives of this Commission, will provide its formerly intrastate customers with more than their proper entitlements as determined by the Commission.

The petitions do not raise any issue of substance in the light of the subsequent decisions rendered by the Courts and this Commission. Thus formal hearing in order to re-argue the same issues that have finally been adjudicated will serve no useful purpose. The Commission has, therefore, on its own motion received and made part of the record in this proceeding all evidence, including the application and exhibits thereto, submitted in support of the authorization sought herein at a hearing held on September 12, 1973, and in consideration of this record will grant the abandonment sought by United herein.

United filed its application in Docket No. CP73-143 on November 27, 1972, seeking authorization, as previously noted pursuant to section 7(c) of the Act to divert natural gas from its certificated Napoleonville-Kosciusko line to its then uncertificated New Orleans-Baton Rouge line by opening an existing, though closed, valve between these facilities. However, the aforementioned Opinions are dispositive of United's application in Docket No. CP73-143. In those Opinions, the Commission determined that United's facilities in its New Orleans Division are jurisdictional and issued a certificate to operate those facilities with the other sections of United's pipeline on an integrated basis. Accordingly, we will terminate the proceeding initiated by the filing of United in Docket No. CP73-143.

*The Commission finds*

(1) The public convenience and necessity requires that the proceeding entitled "United Gas Pipe Line Company" in Docket No. CP67-26 be set for formal hearing.

(2) The intervention of the above-named petitioners who filed petitions to intervene in Docket No. CP67-26 may be in the public interest.

(3) The public convenience and necessity requires that the proceeding entitled "United Gas Pipe Line Company" in Docket No. CP73-143 should be terminated.

(4) The public convenience and necessity requires that the abandonment of service sought in the proceeding entitled "United Gas Pipe Line Company" in Docket No. CP73-142 should be granted.

(5) The intervention of the above-named petitioners who filed petitions to intervene in Docket No. CP73-142 may be in the public interest.

*The Commission orders*

(A) A hearing will be convened on October 17, 1973, in the proceeding entitled "United Gas Pipe Line Company" in Docket No. CP67-26 in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 at 10:00 a.m. (EDT). The Chief Administrative Law Judge will designate an appropriate Administrative Law Judge of the Commission to preside at this hearing pursuant to the Commission's Rules of Practice and Procedure.

(B) United Gas Pipe Line Company and all parties in support of its application, will serve their direct case on all parties to the proceeding, including Commission Staff, on or before October 5, 1973.

(C) The above-named petitioners seeking permission to intervene in the proceedings entitled "United Gas Pipe Line Company" in Docket Nos. CP67-26 and CP73-142 are hereby permitted to intervene in these proceedings, as indicated above, subject to the rules and regulations of the Commission: *Provided, however,* That the participation of such interveners shall be limited to matters affecting rights and interests specifically set forth in their petitions to intervene: *And provided, further,* That the admission of such interveners shall not be construed as recognition by the Commission that such interveners might be aggrieved, because of any order or orders issued by the Commission in these proceedings.

(D) The abandonment sought in the proceeding entitled "United Gas Pipe Line Company" in Docket No. CP73-142 is granted.

(E) The proceeding entitled United Gas Pipe Line Company in Docket No. CP73-143 is terminated.

By the Commission.

[SEAL] KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20256 Filed 9-21-73;8:45 am]

[Docket No. E-8393]

## DEPARTMENT OF THE INTERIOR, ET AL.

### Notice for Recommendation for Approval of Rates and Charges

SEPTEMBER 14, 1973.

Notice is hereby given that the Secretary of the Interior (Secretary), acting on behalf of the Alaska Power Administration (APA), filed with the Federal Power Commission on September 10, 1973, a recommendation in Docket No. E-8393 for confirmation and approval of Rate Schedule SN-F1 for wholesale firm electric power service from the Snettisham Project (Project). The Secretary recommends approval of the proposed rate schedule for the 5-year period beginning with the date of issuance of the Commission's order granting such approval.



V 38-184
SEP 24 73
XUM

The Project is a hydroelectric development located near Juneau, Alaska. It is being constructed by the Corps of Engineers of the U.S. Army under the provisions of section 204 of the Flood Control Act of 1962 (Pub. L. 87-874, approved October 23, 1962, 76 Stat. 1173, 1193), which also provides for the Secretary to operate and maintain the Project as well as to sell the electric power and energy generated at the Project. The Secretary has delegated his functions to APA. The first stage of the Project, known as Long Lake, is scheduled for completion by October 1, 1973. It is anticipated that the second stage, known as Crater Lake, will be completed in fiscal year 1978.

The proposed rate schedule provides for a straight energy charge of 15.6 mills per kilowatt-hour for all energy sold thereunder and makes no provision for a capacity charge. It is available in the area served by the Project to wholesale firm power customers for general power service.

In support of the proposed rate schedule, the Secretary submitted to the Commission the repayment study prepared by APA for the purpose of showing that such rate schedule will produce revenues sufficient to assure repayment of the Project's costs associated with electric power within 54 years of the commencement of commercial operation of the Long Lake stage and within 50 years of the commencement of commercial operation of the Crater Lake stage.

Proposed Rate Schedule SN-F1, together with the repayment study in support thereof, is on file with the Commission and available for public inspection. Any person desiring to make comments or suggestions for the Commission's consideration with respect to said rate schedule sohuld submit the same in writing on or before October 1, 1973, to the Federal Power Commission, Washington, D.C. 20426.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20257 Filed 9-21-73;8:45 am]

[Project No. 1979]

## WISCONSIN PUBLIC SERVICE COMMISSION

### Notice of Application for Approval of Conveyance of Interest in Project Lands

SEPTEMBER 17, 1973.

Public notice is hereby given that application was filed September 5, 1972, under the Federal Power Act (16 USC 791a-825r) by the Wisconsin Public Service Corporation (Correspondence to: Mr. D. A. Bollom, Controller, Wisconsin Public Service Corporation, P.O. Box 700, Green Bay, Wisconsin 54305) for approval of conveyance of an interest in project lands for constructed Project No. 1979, known as the Alexander Project, located on the Wisconsin River in Lincoln County, Wisconsin near the City of Merrill.

Wisconsin Public Service Corporation seeks Commission approval to lease approximately 0.40 acre of project land to the Wisconsin Department of Natural Resources for use as a parking lot adjacent to Council Grounds State Park. The proposed parking lot would be located within the project's transmission line right-of-way near a water recreation area.

Any person desiring to be heard or to make protest with reference to said application should on or before October 29, 1973, file with the Federal Power Commission, Washington, D.C., 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20258 Filed 9-21-73;8:45 am]

[Docket Nos. RI73-198, etc.]

## RATE CHANGES

### Order Providing for Hearing and Suspension

SEPTEMBER 14, 1973.

Respondent has filed a proposed change in rate and charge for the jurisdictional sale of natural gas, as set forth in Appendix A hereof.

The proposed changed rate and charge may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

*The Commission finds*

It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon a hearing regarding the lawfulness of the proposed change, and that the supplement herein be suspended and its use be deferred as ordered below.

*The Commission orders*

(A) Under the Natural Gas Act, particularly sections 4 and 15, the Regulations pertaining thereto (18 CFR, Chapter I), and the Commission's rules of practice and procedure, a public hearing shall be held concerning the lawfulness of the proposed change.

(B) Pending hearing and decision thereon, the rate supplement herein is suspended and its use deferred until date shown in the "Date Suspended Until" column. This supplement shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplement, nor the rate schedule sought to be altered, shall be changed until disposition of this proceeding or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB,
*Secretary.*

| Docket No. | Respondent | Rate schedule No. | Supplement No. | Purchaser and producing area | Amount of annual increase | Date filing tendered | Effective date unless suspended | Date suspended until— | Cents per Mcf* Rate in effect | Cents per Mcf* Proposed increased rate | Rate in effect subject to refund in dockets No. |
|---|---|---|---|---|---|---|---|---|---|---|---|
| R173-198.. | Mobil Oil Corp..... | 201 | 12 | West Texas Gathering Co. (Emperor Field, Winkler County, Texas, RR #8) (Permian Basin). | $(56,776) | 8-17-73 | 8-7-73 | [4] Accepted | 27.89 | [1] [3] 22.89 | R173-198. |
| | do | | 13 | do | 56,776 | 8-17-73 | | 8-18-73 | [2] 22.89 | [3] 27.89 | |
| R170-1759 | do | 226 | 11 | Transwestern Pipeline Company (Kermit Field, Winkler County, Texas, RR #8) (Permian Basin). | (8,870) | 8-17-73 | 8-7-73 | [4] Accepted | 27.319 | [1] [3] 24.5 | R170-1759. |
| | do | | 15 | do | 8,870 | 8-17-73 | | 8-18-73 | [1] 24.5 | 27.319 | |
| R170-1759 | do | 227 | 28 | do | (5,310) | 8-17-73 | 8-7-73 | [4] Accepted | 27.319 | [3] [1] 24.5 | R170-1759. |
| | do | | 29 | do | 5,310 | 8-17-73 | | 8-18-73 | [1] 24.5 | 27.319 | |
| R170-1759 | do | 228 | 14 | do | (3,108) | 8-17-73 | 8-7-73 | [4] Accepted | 27.319 | [1] [3] 24.5 | R170-1759. |
| | do | | 15 | do | 3,108 | 8-17-73 | | 8-18-73 | [1] 24.5 | 27.319 | |
| R173-156.. | do | 241 | 22 | El Paso Natural Gas Company (Brown-Bassett (Ellenburger) Fld., Terrell County, Texas, RR #7-C) (Permian Basin). | (268,476) | 8-17-73 | 8-7-73 | [4] Accepted | 25.462 | [1] [3] 20.462 | R173-156. |
| | do | | 23 | do | 268,476 | 8-17-73 | | 8-18-73 | [3] 20.462 | 25.462 | |
| R170-1760 | do | 250 | 8 | Transwestern Pipeline Company (Kermit Field, Winkler County, Texas, RR #8) (Permian Basin). | (7,892) | 8-17-73 | 8-7-73 | [4] Accepted | 27.319 | [3] [1] 24.5 | R170-1760. |
| | do | | 9 | do | 7,892 | 8-17-73 | | 8-18-73 | [1] 24.5 | 27.319 | |

* Unless otherwise stated, the pressure base is 14.65 psia.
[1] Rate decrease filed pursuant to Ordering Paragraph (E) of Opinion No. 662.
[2] Reflects treating charge deduction.
[3] Subject to quality adjustments pursuant to Opinion No. 662.
[4] The proposed rate is accepted as of the date shown in the "Effective Date Unless Suspended" column, the date of issuance of Opinion No. 662. The proposed rate accepted herein shall not exceed the applicable area rate as adjusted for quality, and gathering allowance if applicable, pursuant to Opinion No. 662.
[5] Includes 1.5¢ gathering allowance.





Mobile is currently collecting increased rates subject to refund which are in excess of the just and reasonable rates established in Opinion No. 662 (Permian II). Mobil has filed herein decreased rates down to the levels prescribed in that opinion, and concurrently has filed rate increases back up to its current rate levels. The proposed decreases are accepted as of August 7, 1973, the effective date of Opinion No. 662. Mobil's proposed rate increases are suspended in the same suspension proceedings applicable to its currently effective rates for one day from the date of filing with waiver of the 30 day notice period granted.

[FR Doc.73-20140 Filed 9-21-73;8:45 am]

## NATIONAL POWER SURVEY; EXECUTIVE ADVISORY COMMITTEE

### Agenda for Meeting

Agenda for a meeting of the Executive Advisory Committee, to be held at the Federal Power Commission Offices, 825 North Capitol Street NE., Washington, D.C., October 4, 1973, at 9:30 a.m., in Hearing Room A.

1. Call to order and opening remarks by FPC Chairman John N. Nassikas.
2. Objectives and purposes of meeting.
A. Comments by EAC Chairman Shearon Harris.
B. Status of Technical Advisory Committee Report Preparation and Plans for Distribution—Mr. D. G. Lewis, National Power Survey Director.
C. Report from Technical Advisory Committee on Finance: Development of Future Financial Requirements Model—Mr. Gordon R. Corey.
D. Other Business.
3. Adjournment.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or if oral, at the time and in the manner permitted by the committee.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20236 Filed 9-21-73;8:45 am]

## NATIONAL POWER SURVEY; COORDINATING COMMITTEE

### Agenda for Meeting

Agenda for a meeting of the Coordinating Committee, to be held at the Federal Power Commission Offices, 825 North Capitol Street NE., Washington, D.C., October 3, 1973, 1:30 p.m., Room 5200.

1. Call to order by FPC Coordinating Representative.
2. Objectives and purposes of meeting.
A. Introductory Remarks—Mr. Shearon Harris.
B. Review of Status of Technical Advisory Committee Report Preparation.
C. Plans for Executive Advisory Committee Review of TAC Reports.
D. Other Business.
3. Adjournment.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or if oral, at the time and in the manner permitted by the committee.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20235 Filed 9-21-73;8:45 am]

## NATIONAL POWER SURVEY; TECHNICAL ADVISORY COMMITTEE ON CONSERVATION OF ENERGY, TASK FORCE ON PRACTICES AND STANDARDS

### Agenda for Meeting

Agenda for Technical Advisory Committee on Conservation of Energy Task Force on Practices and Standards, to be held at the Federal Power Commission Offices, 825 North Capitol Street NE., Washington, D.C., September 26, 1973, in Room 6200 at 9:30 a.m.

1. Meeting called to order by FPC Staff Representative.
2. Objectives and purposes of the meeting.
A. Introductory remarks by Chairman Charles A. Berg.
B. Review of revised Chapter VI—Draft Report on Electricity Pricing and Rate Structures.
3. Adjournment.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the Committee—which statements, if in written form, may be filed before or after the meeting, or, if oral, at the time and in the manner permitted by the Committee.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20234 Filed 9-21-73;8:45 am]

## INTERSTATE COMMERCE COMMISSION

[Notice 347]

### ASSIGNMENT OF HEARINGS

SEPTEMBER 19, 1973.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC-5227 Sub 6, Economy Movers, Inc., and MC-114211 Sub 189, Warren Transport, Inc., now assigned September 28, 1973 at Omaha, Nebr., is postponed indefinitely.

MC-F-11613, Brown Transport Corp—Control—Harper Motor Lines, Inc., Finance Docket No. 27338, Harper Motor Lines, Inc., Notes, now assigned September 24, 1973, at Atlanta, Ga., is postponed to October 29, 1973, at Atlanta, Ga., same time and place.

MC-C-7901, North American Van Lines, Inc.,—Investigation and Revocation of Certificates, now assigned October 1, 1973, hearing will be held in the Auxiliary Court Room, 2nd Floor, Federal Bldg., 1300 S. Harrison Street, Fort Wayne, Ind.

MC-C-7924, Overland Motor Express, Inc., D.B.A. Boulder-Denver Truck Line, et al. -V-Englewood Transit Company, now assigned October 5, 1973, will be held in Room 1430 Federal Bldg., 1961 Stout Street, Denver, Colo.

MC-F-11840, Consolidated Freightways Corporation of Del.—Purchase—Harris Motor Express, Inc., now assigned October 3, 1973, at Washington, D.C., is cancelled and transferred to modified procedure.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-20290 Filed 9-21-73;8:45 am]



V38-184 SEP 24 73 XUM

# CUMULATIVE LISTS OF PARTS AFFECTED—SEPTEMBER

**The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during September.**

**1 CFR** — Page
CFR checklist — 23771

**3 CFR**
PROCLAMATIONS:
4239 — 24191
4240 — 24193
4241 — 24881
4242 — 26099
4243 — 26101
4244 — 26179
4245 — 26351
4246 — 26441
EXECUTIVE ORDERS:
11359 (superseded by 11737) — 24883
11602 (superseded by E.O. 11732) — 25161
11635 (superseded by 11737) — 24883
11659 (amended by 11737) — 24883
11737 — 24883
11738 — 25161
Presidential Documents other than Proclamations and Executive Orders:
Memorandum of August 17, 1973 — 25903

**4 CFR**
400 — 24195
405 — 24195
PROPOSED RULES:
331 — 23971
351 — 23971, 26072
400 — 23971
401 — 23971
402 — 23971
403 — 23971
404 — 23971

**5 CFR**
213 — 2344, 24885, 25165, 25907, 26181, 26353, 26443
335 — 26601
430 — 26601
451 — 26601
630 — 26601
715 — 26601

**6 CFR**
102 — 25427
150 — 24213
140 — 24214
150 — 23794, 23931, 24214, 24885, 25427, 25686, 26181, 26611
152 — 23794, 24214
155 — 24885
PROPOSED RULES:
Ch. I — 24917
152 — 23806, 24219, 24667

**7 CFR**
2 — 24633
51 — 23931
52 — 24344, 25165
201 — 25661
250 — 24633
301 — 25664
354 — 23934

**7 CFR—Continued** — Page
401 — 25907
725 — 23935
777 — 25665
864 — 25427
905 — 25665
908 — 24215, 25431, 25907, 26353, 26601
910 — 24345, 24890, 25908, 26443
928 — 24345
930 — 24890
932 — 24215
944 — 26108
948 — 25667
981 — 25668, 26181
991 — 23771
1001 — 24216
1002 — 24216
1004 — 24216
1006 — 24216
1007 — 24216
1011 — 24216
1012 — 24216
1013 — 24213
1015 — 24216
1030 — 24216
1033 — 24216
1036 — 24216
1040 — 24216
1044 — 24216
1046 — 24216
1049 — 24216
1050 — 24216, 26182
1060 — 24216
1061 — 24216
1062 — 24216
1063 — 24216
1064 — 24216
1065 — 24216
1068 — 24216
1069 — 24216
1070 — 24216
1071 — 24216
1073 — 24216
1075 — 24216
1076 — 24216
1078 — 24216
1079 — 24216
1090 — 24216
1094 — 24216
1096 — 24216
1097 — 24216
1098 — 24216
1099 — 24216
1101 — 24216
1102 — 24216
1106 — 24216
1108 — 24216
1120 — 24216
1121 — 24216
1124 — 24216
1125 — 24216
1126 — 24216
1127 — 24216
1128 — 24216
1129 — 24216
1130 — 24216
1131 — 24216
1132 — 24216
1133 — 24216
1134 — 24216
1136 — 24216
1137 — 24216

**7 CFR—Continued** — Page
1138 — 24216
1139 — 24216
1207 — 26354
1421 — 23935, 24634, 25668, 26006, 26182
1430 — 23939
1866 — 24346
PROPOSED RULES:
20 — 25690
26 — 23955, 25186
46 — 26207
52 — 24654, 24904, 24907, 24910
722 — 24911
905 — 26454
906 — 26384, 26614, 26615
927 — 26615
932 — 24910
945 — 26384
981 — 24911
1007 — 25024
1030 — 23796, 25448, 25756
1032 — 25756
1046 — 25756
1049 — 25756
1050 — 25186, 25756
1060 — 25222
1061 — 25222
1062 — 25756
1063 — 25222
1064 — 25222
1065 — 25222
1068 — 25222
1069 — 25222
1070 — 25222
1071 — 25024
1073 — 24654, 25024
1076 — 25222
1078 — 25222
1079 — 25222
1090 — 25024
1094 — 25024
1096 — 25024, 29190
1097 — 25024
1098 — 25024
1099 — 25756
1102 — 25024
1104 — 25282
1106 — 25282
1108 — 25024
1120 — 25282
1126 — 25282
1127 — 25282
1128 — 25282
1129 — 25282
1130 — 25282
1131 — 25282
1132 — 25282
1136 — 25282
1701 — 24660

**8 CFR**
214 — 24891, 26354
238 — 24891

**9 CFR**
73 — 24346
82 — 23940
94 — 24891, 25669
97 — 23940
319 — 24640





**9 CFR—Continued** — Page
PROPOSED RULES:
94 — 24219
102 — 23957
104 — 23957
113 — 26118
381 — 24374, 26454, 26455

**10 CFR**
50 — 26354
55 — 26354
110 — 23953

**12 CFR**
201 — 23772
204 — 25985
217 — 26109
329 — 25432, 26355
506 — 26355
506a — 26355
525 — 26357
526 — 23940, 25433
545 — 24200
546 — 24201
561 — 26110
563 — 24202, 26110, 26357
566 — 26112
570 — 26112
PROPOSED RULES:
204 — 25703
217 — 26468
220 — 26009
266 — 26469
329 — 26391
545 — 24228, 26133
702 — 26216

**13 CFR**
PROPOSED RULES:
107 — 24028

**14 CFR**
Ch. I — 26444
39 — 23941, 24347, 24349, 24640, 24641, 25170, 25669, 25670, 25905, 26358
71 — 23941, 23942, 24204, 24350, 24641, 24892, 25171, 25433, 25905–25907, 26112, 26444, 26445
73 — 26445
75 — 24204, 25171
91 — 24893
95 — 24893
97 — 24350, 26446
103 — 26446
208 — 24642
240 — 26601
241 — 24351, 26461
288 — 23772
302 — 24894
389 — 24895, 26113
399 — 23777, 24642
PROPOSED RULES:
37 — 25450
39 — 23962
61 — 23962
71 — 23804, 23969, 24222, 24914, 25195, 25451, 25452, 25696, 26007, 26389
75 — 23804
121 — 23962
139 — 26389
Ch. II — 24660
221 — 23804
241 — 24223, 24661
298 — 23805, 24662, 26616
372a — 24664
389 — 24662
399 — 25453

**15 CFR** — Page
8 — 23777
256 — 25908
376 — 23777, 25446
377 — 25184, 26206
1000 — 25909

**16 CFR**
13 — 24352, 24353, 24634, 25434–25436, 26602
PROPOSED RULES:
1700 — 25195

**17 CFR**
210 — 26182
211 — 24635
231 — 24635
241 — 24635, 26358
251 — 24635
271 — 24635
PROPOSED RULES:
230 — 24668
270 — 26133

**18 CFR**
2 — 26603
157 — 26603

**19 CFR**
Ch. I — 25171
1 — 24354, 25171
4 — 24354
PROPOSED RULES:
1 — 24374, 25185
10 — 25995
11 — 25995
12 — 25995
19 — 25995
24 — 23954
25 — 25995
113 — 25995
114 — 25995
141 — 23954
142 — 25995
151 — 25448
172 — 25995

**20 CFR**
725 — 26942
PROPOSED RULES:
405 — 23802, 25448, 26132, 26616
725 — 26669

**21 CFR**
Ch. II — 23609
8 — 24643
9 — 24206
26 — 25985
45 — 25671
121 — 24354, 24643, 25437, 26447
135 — 23942
135b — 24355, 24643, 24895, 25673, 26183
135c — 24355, 24644, 25673, 26183
135e — 25674, 25676
141 — 25674
144 — 25437
146 — 25674
149b — 25674, 26183
149d — 25675
308 — 26447
308 — 26610
1401 — 26611
PROPOSED RULES:
10 — 25195
27 — 26384
121 — 24374, 14375, 25694
130 — 24220
135 — 25694

**21 CFR—Continued** — Page
PROPOSED RULES—Continued
141e — 26006
273 — 26130
278 — 26007

**23 CFR**
PROPOSED RULES:
770 — 23969
772 — 25696

**24 CFR**
42 — 25172, 26113
200 — 25993
201 — 25676
203 — 24637
205 — 24637, 24896
207 — 24637
213 — 24637
220 — 24637
221 — 24637
232 — 24637
234 — 24637
235 — 24638
236 — 24638
241 — 24638
242 — 24638
244 — 24638, 24896
1700 — 23866
1710 — 23866
1715 — 23873
1720 — 23874
1914 — 23943–23945, 24355–24357, 25677, 25678, 25994, 26113, 26114, 26367
1915 — 24358, 24360, 26368
PROPOSED RULES:
20 — 24222
201 — 23803
205 — 26132
242 — 26132
244 — 26132

**25 CFR**
141 — 24638
251 — 25987
252 — 25988
256 — 23945
PROPOSED RULES:
221 — 23954, 23955
243 — 26118

**26 CFR**
1 — 24206, 26184

**28 CFR**
2 — 26652
17 — 26448

**29 CFR**
201 — 26449
202 — 26449
203 — 26449
204 — 26449
205 — 26449
206 — 26449
610 — 25988
612 — 25989
614 — 25989
1907 — 25150
1952 — 24896, 25172, 26449
1953 — 24361
PROPOSED RULES:
1910 — 24300, 24375, 26207, 26459

**30 CFR**
57 — 23781
PROPOSED RULES:
504 — 24024



V 38 I 184 SEP 24 73 XUM

**31 CFR** — Page

91 — 94897
315 — 24762, 26189
605 — 24898

**32 CFR**

166 — 25990
802 — 26190
806 — 26190
809 — 23945
1285 — 24206
1453 — 24210

PROPOSED RULES:

1604 — 25704
1623 — 26392
1626 — 26392
1628 — 26392
1631 — 26392
1632 — 26392
1641 — 26392

**32A CFR**

Ch. IV:
BP Notice 1 — 25175
Ch. X:
Reg. 1
Ch. XI
OIAB Rules and Procedures — 26103
Ch. XIII:
EPO Reg. 3 — 23977

PROPOSED RULES:

Ch. X — 26005

**33 CFR**

117 — 25433, 26115
127 — 24898
207 — 25176
401 — 24210

PROPOSED RULES:

117 — 24912–24914, 25455
127 — 23804

**35 CFR**

5 — 25438

**36 CFR**

50 — 24218
221 — 23948

PROPOSED RULES:

7 — 23796, 24912, 25185

**38 CFR**

1 — 24364
2 — 24366
17 — 24366, 26190
21 — 23948
36 — 25678

PROPOSED RULES:

17 — 26393

**39 CFR**

235 — 26193
3000 — 24898
3001 — 24898

**40 CFR**

35 — 24639, 26358
50 — 25678
52 — 24333, 26324
80 — 26449
113 — 25439
120 — 26358
126 — 25681
129 — 24342
162 — 26360
168 — 26360
180 — 23781, 25440, 26450

**40 CFR—Continued** — Page

PROPOSED RULES:

51 — 25697
52 — 23805, 26390, 26462
120 — 26209, 26463
180 — 23806, 24667, 24918, 25455
411 — 24462
412 — 24466
422 — 24470

**41 CFR**

1–1 — 24210
1–9 — 23782
1–18 — 23791
3–16 — 24644
8–4 — 26368
8–16 — 26369
8–95 — 26369
101–25 — 26604
105–64 — 26604
114–43 — 26370
114–50 — 24649

**42 CFR**

21 — 25683
51 — 26194
51a — 26195
51b — 26196
52 — 26196
53 — 26196
54 — 26197
55 — 26197
56 — 26197
57 — 26198
59 — 26198
59a — 26199
87 — 26199
91 — 26200
205 — 26201
206 — 26201
208 — 26201

PROPOSED RULES:

50 — 26459

**43 CFR**

4 — 23948
3830 — 24650
4710 — 24650

PUBLIC LAND ORDERS:

5169 (Amended by PLO 5396) — 26376
5170 (Amended by PLO 5395) — 26375
5171 (Amended by PLO 5389) — 26371
5172 (Amended by PLO 5392) — 26373
5173 (Amended by PLO 5391) — 26372
5175 (Amended by PLO 5394) — 26375
5176 (Amended by PLO 5393) — 26373
5177 (Amended by PLO 5397) — 26377
5179 (Amended by PLO 5389, 5393, 5395, 5396, 5397) — 26370–26377
5180 (Amended by PLO 5388, 5393, 5394, 5396, 5397) — 26370–26377
5181 (Amended by PLO 5388, 5394) — 26370–26377
5186 (Amended by PLO 5393) — 26373
5191 (See PLO 5391, 5392, 5394, 5396, 5397) — 26370–26377
5192 (See PLO 5389, 5393, 5395, 5396, 5397) — 26370–26377
5193 (See PLO 5393, 5394, 5395, 5396, 5397) — 26370–26377
5194 (See PLO 5388, 5394) — 26370–26377
5213 (See 5391) — 26372
5250 (See PLO 5389, 5393, 5395, 5396, 5397) — 26370–26377
5251 (See PLO 5393, 5394, 5395, 5396, 5397) — 26370–26377

**43 CFR—Continued** — Page

PUBLIC LAND ORDERS—Continued

5252 (See PLO 5391) — 26372
5253 (See PLO 5389) — 26371
5254 (See PLO 5393) — 26373
5255 (See PLO 5396) — 26376
5321 (See PLO 5391) — 26372
5383 — 25684
5387 — 26370
5388 — 26370
5389 — 26371
5390 — 26372
5391 — 26372
5392 — 26373
5393 — 26373
5394 — 26375
5395 — 26375
5396 — 26376
5397 — 26377

**45 CFR**

74 — 26274
201 — 26320
205 — 26378
220 — 26320
233 — 26379, 26608
234 — 26380
401 — 26320
403 — 26320
404 — 26320
405 — 26320
406 — 26320
408 — 26320
416 — 26320
901 — 26201
903 — 26201
904 — 26201
905 — 26201
909 — 24900, 26201

PROPOSED RULES:

83 — 26384
190 — 26660
221 — 24872
233 — 23802
249 — 26460
250 — 25450
903 — 23912

**46 CFR**

PROPOSED RULES:

146 — 23959
542 — 23979
538 — 24228

**47 CFR**

0 — 24900
1 — 26202
2 — 24901, 25180, 25991
13 — 25684
23 — 24901
73 — 24367, 25991, 26203, 26204, 26380, 26451, 26453
74 — 25991, 25992, 26381
81 — 24211, 25180, 25991
83 — 24368, 25180, 25992
87 — 25684
89 — 24901
91 — 25182, 26381
93 — 24901
97 — 24211

PROPOSED RULES:

61 — 24920
73 — 25703, 26008, 26211, 26212, 26380, 26463–26465





**49 CFR** — Page

1 — 24901, 24902
170 — 23791
171 — 23792
172 — 23792
177 — 23792
178 — 23792
393 — 25182
570 — 23949, 25685
1003 — 26205
1033 — 23792, 23793, 23952, 24212, 24902, 25183, 25685, 26205
1048 — 24368

**49 CFR—Continued** — Page

1056 — 26608
1115 — 23953, 24903, 25686, 26609
1121 — 24902
1134 — 26205
1140 — 26205

PROPOSED RULES:

172 — 24915
173 — 24915
393 — 24223, 25452, 25696, 26461
542 — 23979
571 — 23804
1057 — 24228
1131 — 23979

**50 CFR** — Page

20 — 23793, 26609
32 — 23793, 23794, 24212, 24369–24373, 24650–24652, 25183, 25441–25445, 25686, 25992, 26115, 26116, 26205, 26381–26383
33 — 25445
253 — 26116

PROPOSED RULES:

21 — 23796
32 — 25693

## FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

| *Pages* | *Date* |
|---|---|
| 23765–23922 | Sept. 4 |
| 23923–24184 | 5 |
| 24185–24326 | 6 |
| 24327–24625 | 7 |
| 24627–24874 | 10 |
| 24875–25154 | 11 |
| 25155–25420 | 12 |
| 25421–25654 | 13 |
| 25655–25895 | 14 |
| 25897–26091 | 17 |
| 26093–26171 | 18 |
| 26173–26344 | 19 |
| 26345–23433 | 20 |
| 26435–26593 | 21 |
| 26595–26668 | 24 |



V 38 I 184 SEP 24 73 XUM

federal register

MONDAY, SEPTEMBER 24, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 184

PART II




# DEPARTMENT OF JUSTICE

## U.S. Board of Parole

■

## PAROLE, RELEASE, SUPERVISION AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

Revision of Organization, Operation and Procedures



V 38-184 SEP 24 73 XUM

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

PART 2—PAROLE, RELEASE, SUPERVISION AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

Organization, Operation and Procedures

The following rules reflect the revised organization, operation, and procedures of the United States Board of Parole, and are published under the authority of 28 CFR, Part O, Subpart V, and 18 U.S.C. §§ 4201–4210, 5001–5037.

The Board of Parole expressly disclaims that its rules are subject to the rule making provisions of the Administrative Procedure Act, 5 U.S.C. § 553(b) and does not acquiesce in the Order of the United States District Court for the District of Columbia, dated July 25, 1973, in Richard Pickus, et al. v. U.S. Board of Parole, Civil Action 112–73, from which Order the Board of Parole has filed an appeal to the United States Court of Appeals for the District of Columbia Circuit.

These rules will become effective in the Board's Northeast Region (Region I) on October 1, 1973, and will apply to all subsequent parole and parole revocation hearings conducted in that region. Region I is comprised of the following states: Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, and the District of Columbia. Federal prisoners outside of the Northeast Region will be considered for parole and parole revocation under the Board's present rules until such time as the revised procedures are made applicable to other regions as these regions become operational.

Part 2 of 28 CFR is revised to read as follows:

Sec.


2.1 Definitions.
2.2 Granting of parole.
2.3 Eligibility for parole.
2.4 Same; indeterminate sentence.
2.5 Same; juvenile delinquents.
2.6 Same; committed youth offenders.
2.7 Youth offenders; observation and study.
2.8 Date service of sentence commences.
2.9 Parole of prisoners subject to local detainer.
2.10 Parole of prisoner subject to deportation.
2.11 Application by prisoner.
2.12 Withheld and forfeited good time.
2.13 Delegation to hearing examiners.
2.14 Reports considered.
2.15 Initial hearing.
2.16 Communication with the Board.
2.17 Review hearings.
2.18 Hearing procedure.
2.19 Parole of prisoner in state or territorial institutions.
2.20 Appeal of hearing panel decision.
2.21 Appeal to National Appellate Board.
2.22 Original jurisdiction cases.
2.23 Appeal of original jurisdiction decisions.
2.24 Consideration by the Board.
2.25 Release plans.
2.26 Release; discretionary power of Board.
2.27 Reopening of cases.
2.28 Petition for consideration of parole prior to date set at hearing.
2.29 Community supervision by United States Probation Officers.
2.30 Same; sponsorship of parolees.
2.31 Same; changes in parole plan.
2.32 Same; travel by parolees and mandatory releasees.
2.33 Same; supervision reports.
2.34 Duration of period of community supervision.
2.35 Committed fines.
2.36 Mandatory release in the absence of parole.
2.37 Same; youth offenders.
2.38 Revocation of parole or mandatory release.
2.39 Same; youth offenders.
2.40 Same; warrant placed as detainer and dispositional interview.
2.41 Same; execution of warrant; notice of alleged violations.
2.42 Same; unexpired term of imprisonment.
2.43 Revocation by the Board.
2.44 Same; legal counsel and witnesses at preliminary interviews and revocation hearings.
2.45 Discharge from supervision.
2.46 Same; youth offenders.
2.47 Setting aside of conviction.
2.48 Jurisdiction over District of Columbia prisoners.
2.49 Jurisdiction over District of Columbia committed youth offenders.
2.50 Confidentiality of parole records.
2.51 Mental competency proceedings.


AUTHORITY.—18 U.S.C. 4201–4210, 5001–5037, 28 CFR Part 0, Subpart V.

**§ 2.1 Definitions.**

(a) For the purposes of this part, the term "Board" means the United States Board of Parole; and the terms "Youth Correction Division" and "Division" each mean the Youth Correction Division of the Board.

(b) As used in this part, the term "National Appellate Board" means the Chairman, Vice Chairman and at least one member of the Board, all of whom also serve as National Appellate Board members in the headquarters office, i.e., Washington, D.C.

(c) All other terms used in this part shall be deemed to have the same meaning as identical or comparable terms have when those terms are used in Chapter 311 of Part IV of Title 18 of the United States Code.

**§ 2.2 Granting of parole.**

The granting of parole rests in the discretion of the Board of Parole. The Board may parole a prisoner who is otherwise eligible if (a) in the opinion of the Board such release is not incompatible with the welfare of society; (b) he has observed substantially the rules of the institution in which he is confined; and (c) there is reasonable probability that he will live and remain at liberty without violating the laws. (18 U.S.C. 4203(a))

**§ 2.3 Eligibility for parole.**

A Federal prisoner, other than a juvenile delinquent or a committed youth offender, wherever confined and serving a definite term or terms of over one hundred and eighty days may, in accordance with the regulations prescribed in this part, be released on parole after serving one third of such term or terms or after fifteen years of a life sentence, or of a sentence of over forty-five years. (18 U.S.C. 4202.)

**§ 2.4 Same; indeterminate sentence.**

A Federal prisoner, other than a juvenile delinquent or a committed youth offender, who has been sentenced to a maximum term of imprisonment in excess of one year may, if the court has designated a minimum term to be served, which term may be less than, but not more than, one third of the maximum sentence imposed, be released on parole after serving the minimum term. In cases in which a court imposes a maximum sentence of imprisonment upon a prisoner and specifies that the prisoner may become eligible for parole at such times as the Board may determine, the prisoner may be released on parole at any time in the discretion of the Board. (18 U.S.C. 4208.)

**§ 2.5 Same; juvenile delinquents.**

A juvenile delinquent who has been committed and who, by his conduct, has given satisfactory evidence that he has reformed, may be released on parole at any time under such terms and conditions as the Board deems proper if it shall appear to the satisfaction of the Board that there is reasonable probability that the juvenile will remain at liberty without violating the law. (18 U.S.C. 5037.)

**§ 2.6 Same; committed youth offenders.**

The Youth Correction Division may at any time, after reasonable notice to the Director of the Bureau of Prisons, release conditionally under supervision a committed youth offender. A youth offender committed under section 5010(b) of Title 18 of the United States Code to a maximum six-year term shall be released conditionally under supervision on or before the expiration of four years from the date of his conviction. A youth offender committed under section 5010(c) of Title 18 of the United States Code to a maximum term which is more than six years shall be released conditionally under supervision not later than two years before the expiration of the term imposed by the court. (18 U.S.C. 5017.)

**§ 2.7 Youth offenders; observation and study.**

The court may order a youth to be committed to the custody of the Attorney General for observation and study at an appropriate classification center or agency. Within sixty days from the date of the order, or such additional period as the court may grant, the Youth Correction Division shall, pursuant to the authority delegated to the Division by the Attorney General by § 0.127(b)(3) of this chapter, report its findings to the court. (18 U.S.C. 5010(e))

**§ 2.8 Date service of sentence commences.**

(a) Service of a sentence of imprisonment commences to run on the date on which the person is received at the penitentiary, reformatory, or jail for





service of the sentence: Provided, however, that any such person shall be allowed credit toward the service of his sentence for any days spent in custody in connection with the offense or acts for which sentence was imposed.

(b) Service of the sentence of any person who is committed to a jail or other place of detention to await transportation to the place at which his sentence is to be served shall commence to run from the date on which he is received at such jail or other place of detention.

(c) Service of the sentence of a committed youth offender commences to run and continues to run uninterruptedly from the date of conviction.

**§ 2.9 Parole of prisoner subject to local detainer.**

A prisoner, after he becomes eligible for parole, may, in the discretion of the Board, be released to the custody of an authorized official who has lodged a detainer against the prisoner, and, in such case, the Board may expressly provide that the prisoner be released only to the detaining authorities.

**§ 2.10 Parole of prisoner subject to deportation.**

A prisoner, who is an alien and subject to deportation, may be released on parole on the express conditions that he be deported and that he remain outside of the jurisdiction of the United States. Any such prisoner, when his parole becomes effective, shall be delivered to a duly authorized immigration official for deportation. Alien prisoners who are deemed fit for release into community supervision by the Board, even though they may eventually be deported under detainers filed against them, may be paroled generally; provided, that immigration authorities shall be notified of all such general paroles, as well as other forms of release, and of the effective date of such releases as established by orders of the Board. In such cases, the Board may parole the prisoner subject either "to the immigration detainer only" or "to the immigration detainer or an approved plan should the detainer be lifted."

**§ 2.11 Application by prisoner.**

A prisoner, other than a juvenile delinquent or a committed youth offender, desiring to apply for a parole shall execute such form or forms as may be prescribed by the Board. Such forms shall be available at each Federal institution and shall be provided to prisoners eligible for parole. Juvenile delinquents and committed youth offenders shall not apply for parole. Instead, regular hearings, which may not be waived, shall be scheduled for each juvenile and committed youth offender by the Youth Correction Division. The Division may order parole as the result of any such hearing or may order a later review of the adjustment of the juvenile or youth concerned.

**§ 2.12 Withheld and forfeited good time.**

(a) Section 4202 of Title 18 of the United States Code permits Federal prisoners to be paroled if they have observed the rules of the institution in which they are confined and if they are otherwise eligible for parole. Any forfeiture of statutory good time shall be deemed to indicate that the prisoner has violated the rules of the institution to a serious degree, and a parole will not be granted in any such case in which such a forfeiture remains effective against the prisoner concerned. Any withholding of statutory good time shall be deemed to indicate that the prisoner has engaged in some less serious breach of the rules of the institution. Nevertheless, parole will not usually be granted unless and until such good time has been restored.

(b) Neither a forfeiture of good time nor a withholding of good time shall bar a prisoner from applying for and receiving a parole hearing.

**§ 2.13 Delegation to hearing examiners.**

(a) As provided below, the Board of Parole may delegate to hearing examiners the authority to make decisions relative to the granting or denial of parole or reparole; and revocation or reinstatement of parole or mandatory release.

(b) Hearing examiners shall function as two-man panels and the concurrence of both examiners shall be required for their decision. In the event of a split decision by the panel, the appropriate regional Administrative Hearing Examiner shall cast the deciding vote.

(c) When a hearing examiner panel proposes to make a decision which falls outside of explicit guidelines for parole decisionmaking promulgated by the Board, the concurrence of the appropriate regional Administrative Hearing Examiner is required.

(d) In the event the Administrative Hearing Examiner is serving as a member of a hearing examiner panel or is otherwise unavailable, cases requiring his action under paragraphs (b) or (c) of this section will be referred to another hearing examiner.

(e) However a Regional Director may review the decision of any examiner panel and submit this decision, prior to written notification to the prisoner, with his recommendation and vote to the National Appellate Board for reconsideration and any action it may deem appropriate. Written notice of this reconsideration action shall be mailed or transmitted to the prisoner within fifteen working days of the date of the hearing.

(f) All decisions made under paragraphs (b) and (c) of this section and the action of the National Appellate Board under paragraph (e) of this section shall be subject to a prisoner's right of appeal as provided in §§ 2.20 and 2.21.

**§ 2.14 Reports considered.**

Decisions as to whether a parole shall be granted or denied shall be determined on the basis of the application, if any, submitted by the prisoner, together with the classification study and all reports assembled by all the services which shall have been active in the development of the case. These reports may include the reports by the prosecuting officer and the sentencing judge, records from the Federal Bureau of Investigation, report from the officials in each institution in which the applicant shall have been confined, all records of social agency contacts, and all correspondence and such other records as are necessary or appropriate for a complete presentation of the case. Before making a decision as to whether a parole should be granted or denied in any particular case, the Board will consider all available relevant and pertinent information concerning the case. The Board encourages the submission of such information by interested persons.

**§ 2.15 Initial hearing.**

(a) Initial hearings shall be conducted by examiners designated by the Board. The examiner panel shall inform the prisoner of the decision and, if parole is denied, of the reasons therefor. This decision of the examiner panel, subject to the provisions of § 2.13(b) and (c), shall be final unless action is initiated by the Regional Director pursuant to § 2.13(e).

(b) In accordance with § 2.2, the reasons for parole denial may include, but are not limited to, the following reasons with further specification where appropriate:

(1) Release at this time would depreciate the seriousness of the offense committed and would thus be incompatible with the welfare of society.

(2) There does not appear to be a reasonable probability at this time that the prisoner would live and remain at liberty without violating the law.

(3) The prisoner has (a serious) (repeated) disciplinary infraction(s) in the institution.

(4) Additional institutional treatment is required to enhance the prisoner's capacity to lead a law-abiding life.

(c) Written notification of the decision shall be mailed or transmitted to the prisoner within fifteen working days of the date of the hearing. If parole is denied, the prisoner shall also receive in writing as part of the decision the reasons therefor.

**§ 2.16 Communication with the Board.**

Attorneys, relatives, or interested parties wishing a personal interview to discuss a specific case with a representative of the Board of Parole must submit a written request to the appropriate regional office setting forth the nature of the information to be discussed.

**§ 2.17 Review hearings.**

All hearings subsequent to the initial hearing shall be considered as review hearings. Review hearings by examiners designated by the Board shall be scheduled for each Federal institution, and prisoners shall appear for such hearings in person, except those with continuance of six months or less. Such cases shall be considered by an examiner panel on the basis of the prisoner's record and a written institutional report. Notification of review hearing decisions shall be given as set forth in § 2.15.



V 38 I 184 SEP 24 73 XUM

§ 2.18 Hearing procedure.

(a) Prisoners shall be given written notice of the time and place of the hearing described in § 2.15 and § 2.17. Prisoners may be represented at hearings by a person of their choice. The function of the prisoner's representative shall be to offer a statement at the conclusion of the interview of the prisoner by the examiner panel and to provide such additional information as the examiner panel shall request. Interested parties who oppose parole may select a representative to appear and offer a statement. The presiding hearing examiners shall limit or exclude any irrelevant or repetitious statement.

(b) No interviews with the Board, or any representative thereof, shall be granted to a prisoner unless his name is docketed for a hearing in accordance with Board procedures. Hearings shall not be open to the public, and the records of all such hearings shall be treated as confidential and shall not be open to inspection by the prisoner concerned, his representative or any other unauthorized person.

§ 2.19 Parole of prisoner in state or territorial institutions.

Any person who has been convicted of any offense against the United States, which is punishable by imprisonment but who is confined therefor in a state reformatory or other state or territorial institution, shall be eligible for parole by the Board on the same terms and conditions and by the same authority, and subject to recommital for the violation of such parole as though he were confined in a Federal penitentiary, reformatory, or other correctional institution. However, a prisoner who is serving concurrent state and federal sentences in a state institution may be considered for parole by an examiner panel on the record only.

§ 2.20 Appeal of hearing panel decision.

(a) A prisoner may file with the responsible Regional Director a written request for appeal of a hearing panel decision to grant, deny, or revoke parole or to revoke mandatory release. This request for appeal must be filed within thirty days from the entry of such decision. The appeal shall be considered by the Regional Director who may affirm the decision, order a new institutional hearing, order a regional appellate hearing, reverse the decision, or modify a continuance or the effective date of parole. Reversal of an examiner panel decision or the modification of such a decision by more than ninety days, whether based upon the record or following a regional appellate hearing, shall require the concurrence of two out of three Regional Directors. Appeal decisions requiring a second or additional vote shall be referred to other Regional Directors on a rotating basis.

(b) Attorneys, relatives, or other interested parties who wish to appear for (or against) a prisoner at a regional appellate hearing must submit a written request to the responsible Regional Director.

(c) If no request for appeal is made within thirty days of entry of the original decision, this decision shall stand as the final decision of the Board.

§ 2.21 Appeal to National Appellate Board.

(a) A prisoner may file a written appeal of the Regional Director's decision with the National Appellate Board. The appeal must be submitted within thirty days after the entry of the Regional Director's written decision. The National Appellate Board may, upon the concurrence of two members, affirm, modify, or reverse the decision, or order a rehearing at the institutional or regional level.

(b) Decisions of the National Appellate Board shall be final.

§ 2.22 Original jurisdiction cases.

(a) A Regional Director may designate certain cases to be within the original jurisdiction of the Regional Directors. All original jurisdiction cases shall be heard by a panel of hearing examiners who shall follow the procedures provided in § 2.18. A summary of this hearing and any additional comments that the hearing examiners may deem germane shall be submitted to the five Regional Directors. The Regional Directors shall by a majority vote serve as the original decisionmakers.

(b) The following criteria will be used in designating cases for the original jurisdiction of the Regional Directors:

(1) National Security. Prisoners who have committed serious crimes against the security of the nation, e.g., espionage or aggravated subversive activity.

(2) Organized Crime. Prisoners who in the Board's judgment were professional criminals or played a significant role in organized criminal activity.

(3) National or unusual interest. Prisoners who have received national or unusual attention because of the nature of the crime, arrest, trial or prisoner status, or because of the community status of the offender or his victim.

(4) Long-term sentences. Prisoners sentenced to a maximum term of twenty-five years (or more), or prisoners serving a life sentence.

§ 2.23 Appeal of original jurisdiction decisions.

(a) Cases decided under the procedure specified in § 2.22 may be appealed within thirty days of the entry of the decision to the National Appellate Board. The National Appellate Board, upon the concurrence of two members may affirm the decision or schedule the case for hearing before the entire Board at its next quarterly meeting. A quorum of six members shall be required and all decisions shall be by a majority vote. The Chairman shall vote on the decision only in the absence of a member. This appellate decision shall be final.

(b) Attorneys, relatives, or other interested parties who wish to speak for or against parole at this appeal hearing must submit a written request to the Chairman of the Board.

(c) If no request for appeal is made within thirty days of the entry of the Regional Directors' decision, this decision shall stand as the final decision of the Board.

§ 2.24 Consideration by the Board.

In the exercise of its discretion, the Board generally considers, but is not limited to, the following factors:

(a) *Sentence data.* (1) Type of sentence.

(2) Length of sentence.

(3) Recommendations of judge, U.S. Attorney, and other responsible officials.

(b) *Present offense.* (1) Facts and circumstances of the offense.

(2) Mitigating and aggravating factors.

(3) Activities following arrest and prior to confinement, including adjustment on bond or probation, if any.

(c) *Prior criminal record.* (1) Nature and pattern of offenses.

(2) Adjustment to previous probation, parole, and confinement.

(3) Detainers.

(d) *Changes in motivation and behavior.* (1) Changes in attitude toward self and others.

(2) Reasons underlying changes.

(3) Personal goals and description of personal strength or resources available to maintain motivation for law-abiding behavior.

(e) *Personal and social history.* (1) Family and marital history.

(2) Intelligence and education.

(3) Employment and military experience.

(4) Physical and emotional health.

(f) *Institutional experience*—(1) *Program goals and accomplishments.* (A) Academic.

(B) Vocational education, training or work assignments.

(C) Therapy.

(2) *General adjustment.* (A) Interpersonal relationships with staff and inmates.

(B) Behavior, including misconduct.

(g) *Community resources, including release plans.* (1) Residence; live along, with family, or others.

(2) Employment, training, or academic education.

(3) Special needs and resources to meet them.

(h) *Use of scientific data and tools.* (1) Psychological and psychiatric tests and evaluations.

(2) Statistical parole experience tables (salient factor score).

(i) *Decision guidelines.* The Board shall adopt and periodically review explicit guidelines for parole decisionmaking to insure consistent treatment of similarly situated offenders.

(j) *Comments by hearing examiners.* Evaluative comments supporting a decision, including impressions gained from the hearing.





§ 2.25 Release plans.

(a) In general, the following factors should be present before a prisoner is released after parole has been granted.

(1) There should be available to the parolee an adviser who is a responsible citizen living in or near the community in which the parolee will reside. The probation officer may serve as such adviser in appropriate cases with approval of the Board;

(2) There should be satisfactory evidence that the prospective parolee will be legitimately employed following his release; and

(3) There should be satisfactory assurance that necessary after care will be available to a parolee who is ill or who has some other demonstrable problem which requires special care.

(b) Generally, parolees will be released only to the place of their legal residence unless the Board is satisfied that another place of residence will serve the public interest more effectively or will improve the probabilities of the applicant's readjustment. Any of the requirements described in paragraphs (a) and (b) of this section may be waived by the Board whenever circumstances warrant such waiver.

(c) Insofar as it is practicable, the details of each plan for release shall be verified by a field investigation by the United States Probation Officer of the district into which release will be made.

§ 2.26 Release; discretionary power of Board.

When an effective date has been set by the Board, release on that date shall be conditioned upon continued good conduct by the prisoner and the completion of a satisfactory plan for his supervision. The appropriate Regional Director may, on his own motion, reconsider any case prior to release and may reopen and advance, postpone, or rescind a parole which has been granted. If such a previously granted parole is rescinded, or postponed for more than sixty days, the prisoner will be given a new hearing in accordance with § 2.18, except that a postponement for development and approval of release plans up to one hundred and twenty days may be had without a new hearing. The Board, or a member thereof, may add to or modify the conditions of parole at any time.

§ 2.27 Reopening of cases.

Notwithstanding the appeal procedure of §§ 2.20 and 2.21, the appropriate Regional Director may on his own motion reopen any case at any time upon the receipt of new information of substantial significance. Original jurisdiction cases may be reopened under the procedure of this section on the motion of two out of three Regional Directors.

§ 2.28 Petition for consideration of parole prior to date set at hearing.

When a prisoner has met the minimum time of imprisonment required by law, the Bureau of Prisons may petition the responsible Regional Director for consideration of parole prior to the date set by the Board at the initial or review hearing. The petition must show cause why it should be granted, i.e., an emergency, hardship, or other extraordinary circumstances exist that would warrant consideration of early parole.

§ 2.29 Community supervision by United States Probation Officers.

Pursuant to section 3655 of Title 18 of the United States Code, United States Probation Officers are required to provide such parole services as the Attorney General may request. The Attorney General has delegated his authority in this regard to the Board (28 CFR 0.126 (b)). In conformity with the foregoing, probation officers function as parole officers and provide supervision to parolees and mandatory releases under the Board's jurisdiction.

§ 2.30 Same; sponsorship of parolees.

It is the policy of the Youth Correction Division to cooperate with groups desiring to serve as sponsors of parolees. The functions and responsibilities of sponsors are prescribed by rules and regulations adopted by the Division. In all cases, sponsors are subordinate to and cooperate with probation officers to whom the parolees are assigned.

§ 2.31 Same; changes in parole plan.

A parole plan approved by the Board with respect to a prisoner may be changed after release of the prisoner upon application by a probation officer and approval by the Board.

§ 2.32 Same; travel by parolees and mandatory releasees.

Except as otherwise provided in this section, it is the general rule of the Board that a parolee may travel outside his supervision district only with the prior approval of the Board. Travel outside a district without prior Board approval may be authorized by a probation officer subject to the following-described limitations.

(a) Board approval shall be required for vacation trips outside the district.

(b) Board approval shall be required for recurring travel outside the district, except in cases involving parolees who cross district boundaries to engage in or seek employment or for shopping or recreation, if such travel is not more than fifty miles from the district line.

(c) Board approval shall be required for travel outside the continental limits of the United States, including travel or work aboard ship.

(d) Board approval shall be required in any case in which specific travel conditions have been imposed upon the parolee by the Board.

Board approval shall not be required for temporary leave to enter another district for a period not to exceed twenty days to investigate reasonably certain employment possibilities, if such leave shall have been approved by the probation officer concerned.

§ 2.33 Same; supervision reports.

All parolees and mandatory releasees shall make such reports to the United States Probation Officers to whom they have been assigned as may be required by the Board. On the basis of summary reviews of the progress of parolees, submitted in accordance with Board procedures, the Board may modify the reporting requirement of parolees and releasees.

§ 2.34 Duration of period of community supervision.

Any prisoner, with the exception of those sentenced prior to June 29, 1932, who is paroled under the provisions of laws relating to parole, shall continue on parole until the expiration of the maximum term or terms specified in his sentence without deductions of allowance for good time. Prisoners sentenced prior to June 29, 1932, shall receive reductions in their maximum term or terms of imprisonment for such good time allowances as may be authorized by law.

§ 2.35 Committed fines.

In any case in which a prisoner shall have had a fine imposed upon him by the committing court for which he is to stand committed until it is paid or until he is otherwise discharged according to law, such prisoner shall not be released on parole or mandatory release until payment of the fine is resolved according to law.

§ 2.36 Mandatory release in the absence of parole.

Whenever an applicant shall have been denied a parole and there shall have been no subsequent change in the Board's order of denial such individual shall be released by operation of law. Such mandatory release shall occur at the end of the sentence imposed by the court less such good time and extra good time deductions as he may have earned through his behavior and efforts at the institution of confinement. He shall be released as though on parole, with supervision until the expiration of the maximum term or terms for which he was sentenced less one hundred and eighty days. Insofar as possible release plans shall be completed before the release of any such prisoner and he shall be continued under supervision for any period in excess of one hundred and eighty days which remains of his term, under such conditions as may be prescribed by the Board.

§ 2.37 Same; youth offenders.

A prisoner committed under the Youth Corrections Act must be released conditionally under supervision not later than two years before the expiration of the term imposed by the court.

§ 2.38 Revocation of parole or mandatory release.

(a) If a parolee or mandatory releasee violates any of the conditions under which he shall have been released, and satisfactory evidence thereof is presented



V 38-184 SEP 24 73 XUM

to the Board, or a member thereof, a warrant may be issued and the offender returned to an institution. Warrants shall be issued only by the Board, or a member thereof.

(b) A warrant for the apprehension of any parolee shall be issued only within the maximum term or terms for which the prisoner was sentenced.

(c) A warrant for the apprehension of any mandatory releasee shall be issued only within the maximum term or terms for which the prisoner was sentenced, less one hundred and eighty days.

**§ 2.39 Same; youth offenders.**

In addition to issuance of a warrant on the basis of violation of any of the conditions of release, the Youth Correction Division may, when the Division is of the opinion that such youth offender would benefit by further treatment, direct his return to custody or issue a warrant for his apprehension and return to custody. Upon return to custody, such youth offender shall be given an opportunity to appear before the Division, or hearing examiner(s). The Division may then, or at its own discretion, revoke its order of conditional release.

**§ 2.40 Same; warrant placed as detainer and dispositional interview.**

(a) In those instances where the prisoner is serving in an institution on a new sentence, the warrant may be placed there as a detainer. The prisoner shall be advised that he may communicate with the Board relative to disposition of the warrant. Should further information be deemed necessary, the Regional Director may designate a hearing examiner to conduct a dispositional interview at the institution where the prisoner is confined. At such dispositional interview, the prisoner may be represented by counsel of his own choice and may call witnesses in his own behalf, provided that he bears their expenses. He shall be given timely notice of the dispositional interview and its procedure.

(b) Following the interivew, the Regional Director may withdraw the warrant, let the warrant stand, or execute the warrant. If the warrant is executed, the prisoner shall be given a revocation hearing.

(c) In all cases, including those where a dispositional interivew is not conducted, the Board shall conduct annual reivews relative to the disposition of the warrant. These decisions will be made by the Regional Director. The Board shall request periodic reports from institution officials for its consideration.

**§ 2.41 Same; execution of warrant; notice of alleged violations.**

(a) Any officer of any Federal correctional institution, or any Federal officer authorized to serve criminal process within the United States, to whom a warrant shall be delivered shall execute such warrant by taking such prisoner and returning him to the custody of the Attorney General. Delivery of the warrant to a Federal officer shall be considered completed when the warrant is signed and placed in the mail at the Board headquarters or regional office before the expiration of the maximum term of sentence.

(b) On arrest of the prisoner the officer executing the warrant shall deliver to him a copy of the Warrant Application listing the alleged violations of parole or mandatory release upon which the warrant was issued.

**§ 2.42 Same; unexpired term of imprisonment.**

Service of the unexpired term of imprisonment of any such prisoner shall begin to run on the date he is returned to the custody of the Attorney General under a violator warrant, and the time the prisoner was on parole or mandatory release shall not diminish the time he was sentenced to serve.

**§ 2.43 Revocation by the Board.**

(a) A prisoner who is retaken on a warrant issued by a Board Member shall be given a preliminary interview by an official designated by the Board. This preliminary interview shall be held prior to the possible return of the prisoner to a Federal institution. Following receipt of a summary or digest of the preliminary interview, the Board or a member thereof, unless he decides to reinstate the prisoner to parole or mandatory release supervision, shall give the prisoner an opportunity to appear at a revocation hearing before a hearing examiner panel designated by the Board.

(b) If the prisoner requests a local hearing prior to his return to a Federal institution, he shall be given a revocation hearing reasonably near the place of an alleged violation if the following conditions are met: (1) The local hearing would facilitate the production of witnesses or the retention of counsel; (2) the prisoner has not been convicted of a crime committed while under community supervision; and (3) the prisoner denies that he has violated any condition of his release. Otherwise, he shall be given a revocation hearing after he is returned to a Federal institution.

(c) Following the revocation hearing, parole or mandatory release may be reinstated, revoked, or the terms and conditions thereof may be modified. If the parole or mandatory release is revoked, the prisoner shall receive a written statement of the reasons for revocation and the evidence upon which the decision was based. Whenever parole or mandatory release is revoked, the prisoner may be required to serve all or any part of the remaining term for which he was originally sentenced, less such good time as he may earn following his recommitment.

(d) The decision resulting from a revocation hearing shall be subject to a prisoner's right to appeal as provided in §§ 2.20 and 2.21 or 2.23.

**§ 2.44 Same; legal counsel and witnesses at preliminary interviews and revocation hearings.**

(a) Each alleged parole or mandatory release violator shall be advised that he may be represented by counsel at the preliminary interview, the revocation hearing, or both, as authorized by § 2.43, and that he may present documentary evidence and testimony of voluntary witnesses who have relevant and material information. The alleged violator must, however, arrange for the appearance of counsel and witnesses and presentation of documentary evidence. The presiding hearing examiner shall limit or exclude any irrelevant or repetitious statement.

(b) Such alleged violator shall also be advised that if he is financially unable to retain counsel, he may make application to the United States District Court, which court may in its discretion appoint counsel to represent him if it finds that he is financially unable to retain counsel and that the interests of justice require appointment of counsel for the preliminary interview or revocation hearing, or both.

(c) When the alleged violator has not been convicted of a new criminal offense while under supervision and does not admit violation of any of the conditions of his parole or mandatory release, the Board shall on request of the alleged violator or, on its own motion, ask adverse witnesses, i.e., persons whose testimony would support revocation, to attend the preliminary interview or the revocation hearing to permit cross-examination. However, such an adverse witness need not appear for confrontation and cross-examination if the hearing officer or examiner panel finds good cause for his nonappearance.

**§ 2.45 Discharge from supervision.**

When the Board shall have modified the reporting requirement of a parolee and a period of at least one year shall have passed since the modification occurred, the Board may further order that the parolee be released from all supervision by the probation officer. In such cases, however, the parolee may be reinstated to supervision, or a warrant may be issued for him as a violator at any time prior to the expiration of the sentence or sentences imposed by the court.

**§ 2.46 Same; youth offenders.**

A committed youth offender may remain under supervision until the expiration of his sentence or he may be unconditonally discharged at any time after one year of continuous supervision or parole.

**§ 2.47 Setting aside of conviction.**

When an unconditional discharge has been granted to a youth offender prior to the expiration of his maximum term of sentence, his conviction shall be automatically set aside and the Division shall issue to the youth offender a certificate to that effect.

**§ 2.48 Jurisdiction over District of Columbia prisoners.**

Whenever a prisoner who was convicted in the District of Columbia is confined in, or as a parolee is returned to, a penal or correctional institution other than an institution of the District of Columbia, the Board shall exercise the same power and authority with respect to that prisoner as the Board of Parole for the District of Columbia would exercise with respect to him if the prisoner had been confined in or returned to an institution of the District of Columbia.

**§ 2.49 Jurisdiction over District of Columbia committed youth offenders.**

The Youth Corrections Act (18 U.S.C. Ch. 402) applies to youth offenders convicted in the District of Columbia. Committed youth offenders convicted in the District of Columbia, wherever they may be undergoing treatment, are subject to all the provisions of the Youth Corrections Act and are therefore under the jurisdiction of the Youth Correction Division as provided in that Act.

**§ 2.50 Confidentiality of parole records.**

To the end that the objectives and procedures of professionalized parole may be advanced and, more specifically, so that the channels of information vital to sound parole actions may be kept open and that offenders released on parole may be protected against publicity deleterious to their adjustment, the following principles relating to the confidentiality of parole records shall be followed by the Board:

(a) Dates of sentence and commitment, parole eligibility dates, mandatory release dates, and dates of termination of sentence will be disclosed in individual cases upon proper inquiry by a party in interest.

(b) Whther an inmate is being considered for parole, has been granted or denied parole, and if granted parole, the effective date set by the Board may be disclosed by the Board in its discretion whenever the public interest is deemed to require it.

(c) Who, if anyone, has supported an application for parole may be revealed at the Board's discretion only in the most exceptional circumstances, with the express approval of such person(s), and after a decision to grant parole has been made.

(d) Other matters contained in parole records will be held strictly confidential and will not be disclosed to unauthorized persons.

**§ 2.51 Mental competency proceedings.**

(a) Whenever a prisoner is scheduled for a hearing in accordance with the provisions of this part and reasonable doubt exists as to his mental competency, i.e., his ability to understand the nature of and participate in scheduled proceedings, a preliminary hearing to determine his mental competency shall be conducted by a panel of hearing examiners designated by the Board of Parole.

(b) At the competency hearing, the hearing examiners shall receive oral or written psychiatric testimony and other evidence that may be available. A preliminary determination of the prisoner's mental competency shall be made upon the testimony, evidence and the hearing examiners' personal observations of the prisoner. If the examiners determine that the prisoner is mentally competent, the previously scheduled hearing shall be held. If they determine that the prisoner is not mentally competent, the previously scheduled hearing shall be tentatively postponed.

(c) Whenever the hearing examiners determine that a person is incompetent and postpone the previously scheduled hearing, they shall forward the record of the preliminary hearing with their findings to the Regional Director for review. If the Regional Director concurs with their findings, he shall order the tentatively postponed hearing to be postponed indefinitely until such time as it is determined that the prisoner has recovered sufficiently to understand the nature of and participate in the proceedings. In any such case, the Regional Director shall require a progress report at least every six months on the mental health of the prisoner. When the Regional Director determines that the prisoner has sufficiently recovered, he shall reschedule the hearing for the earliest possible date.

(d) If the Regional Director disagrees with the findings of the hearing examiners as to the mental competency of the prisoner, he shall take such action as he deems appropriate.

Dated September 14, 1973.

MAURICE H. SIGLER,
*Chairman,*
*U.S. Board of Parole.*

[FR Doc.73-20184 Filed 9-21-73;8:45 am]







V 38 184 SEP 24 73 XUM

federal register

MONDAY, SEPTEMBER 24, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 184

PART III




# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Office of Education

■

# BASIC EDUCATIONAL OPPORTUNITY GRANT PROGRAM

## Proposed Family Contribution Schedules for Use in Academic Year 1974–1975

No. 181—Pt. III——1

V 38 184 SEP 24 73 XUM

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Office of Education

[ 45 CFR Part 190 ]

### BASIC EDUCATIONAL OPPORTUNITY GRANT PROGRAM

### Family Contribution Schedules for Use in Academic Year 1974–75

Pursuant to the authority contained in Subpart I of Part A of Title IV of the Higher Education Act of 1965 as amended (20 U.S.C. 1070a) notice is hereby given that the Commissioner of Education, with the approval of the Secretary of Health, Education and Welfare, proposes to issue the following regulations under Part 190 of Title 45 of the Code of Federal Regulations, covering the basis for determining the expected family contributions toward the education of both dependent and independent students for awards to be received during academic year 1974–75. The regulations appear below in their entirety. The previous set of regulations describing Family Contributions for the Basic Educational Opportunity Grant Program for use during academic year 1973–74, were published in the FEDERAL REGISTER on Monday, June 11, 1973 (38 FR 15418–15427).

These regulations are being submitted in advance of the February 1 deadline specified in the Higher Education Act of 1965 as amended so that the required Congressional review of the Schedules may be completed earlier than the May 1 date specified in the statute. It is the opinion of the Commissioner that the May 1 deadline for the Congressional action does not permit students, parents, and educational institutions sufficient time to make effective decisions concerning the packaging of student financial aid resources.

This opinion is also shared by the House Special Subcommittee on Education, which has introduced H.R. 9196. This Bill, if adopted, would require that the Commissioner submit the Schedule of Family Contributions to be used for Fiscal Year 1975 no later than August 15, 1973, and not later than July 1 in succeeding years. Further, the Bill would give the Congress until December 15, 1973, for Fiscal Year 1975, and until November 1 in succeeding years, to review the proposed Schedule.

Although this Bill has not yet been enacted into law, the Commissioner is submitting the Family Contribution Schedules at this time. Further, the completion of the Congressional review before December 15 is clearly in the best interest of students, parents, and institutions of higher education and, therefore, is sought for these Schedules.

The Schedules submitted for use in academic year 1974–75 are identical to those in use during academic year 1973–74. It is realized that changes in the Family Contribution Schedules will need to be considered as comments are received by the Office of Education on the basis of experience gained regarding the effect of the Schedules during academic year 1973–74.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed rules to Peter K. U. Voigt, Acting Coordinator, Basic Educational Opportunity Grants, U.S. Office of Education, Room 4010, Federal Office Building No. 6, 400 Maryland Avenue SW., Washington, D.C. 20202, on or before November 23, 1973. Comments received will be available for public inspection at the above office Monday through Friday between 8:00 a.m. and 4:30 p.m.

(The Catalogue of Federal Domestic Assistance number for this program is 13.539, Basic Educational Opportunity Grant Program.)

Dated August 27, 1973.

PETER P. MUIRHEAD,
*U.S. Commissioner of Education.*

Approved September 19, 1973.

CASPAR W. WEINBERGER,
*Secretary, Department of Health, Education, and Welfare.*

#### Subpart C—Expected Family Contribution for Dependent Students


Sec.
190.31 Indicators of financial strength.
190.32 Special definitions.
190.33 The expected family contribution for dependent students from parents' income.
190.34 Computation of standard expected contribution from parents' assets.
190.35 Computation of standard expected contribution from parents' other assets.
190.36 Computation for expected contribution from parents' income, assets, and other assets adjusted for number of family members attending institutions of postsecondary education.
190.37 Computation of expected contribution from the student's effective income.
190.38 Computation of expected contribution from students' assets.
190.39 Computation of the total expected family contribution.


AUTHORITY: Subpart 1 of Part A of Title IV of the Higher Education Act of 1965, as amended (20 U.S.C. 1070a).

#### Subpart C—Expected Family Contribution for Dependent Students

**§ 190.31 Indicators of financial strength.**

"Expected family contribution" with respect to each dependent student means the amount which the family of that student may reasonably be expected to contribute toward the cost of his education for an academic year. Each of the following elements of financial strength will be considered in determining the family contribution for dependent students:

(a) The amount of the effective income of the student.

(b) The amount of the effective income of the student's parent(s).

(c) The number of dependents of the student's parent(s).

(d) The number of dependents of the student's parent(s) who are in attendance, on at least a half-time basis, in a program of postsecondary education.

(e) The amount of assets of the student.

(f) The amount of assets and other assets of the student's parent(s).

(g) Unusual expenses of the student and the unusual expenses of the student's parent(s). Such unusual expenses shall be limited to medical and dental expenses and expenses arising from catastrophe.

(h) The additional expenses incurred in providing an income when two parents are employed or when a family is headed by a single parent.

(20 U.S.C. 1070a(a)(3)(B)(ii).)

**§ 190.32 Special definitions.**

For purposes of this subpart:

(a) "Assets" means cash on hand including amounts in checking accounts, savings accounts and trusts, the current market value at the time of application of stocks, bonds, any other securities, real estate, home (if owned), income producing property, business equipment and business inventory which are held by the student's parents and by the student.

(b) "Other assets" means consumer durables and personal assets such as automobiles, boats, art objects, electronic sound and visual equipment, jewelry, antiques, and cameras, each of which has a value of $500 or more.

(c)(1) "Annual adjusted family income" for any base year means the sum of the following: Adjusted gross income as defined in section 62 of the Internal Revenue Code of the student's parents, investment income of the student's parents upon which no Federal income tax is required to be paid such as interest on municipal and State bonds, other income of the parents upon which no Federal income tax is required to be paid such as child support payments, income of the parents received under income maintenance programs including welfare benefits, social security benefits except those benefits paid to or on account of the student included in paragraph (f) of this section, and Veteran's benefits except those veteran's benefits paid under chapters 34 and 35 of title 38 of the United States Code.

(2) In the case of the student whose parents are divorced, or are separated and file separate returns for Federal income tax puposes, only the income as described in paragraph (c)(1) of this section of the parent claiming or eligible to claim the student as an exemption for Federal income tax purposes for the base year shall be considered in determining the annual adjusted family income. If no parent claims or is eligible to claim the student as an exemption for Federal income tax purposes, the income of both parents shall be combined to determine the annual adjusted family income.

(3) In the case of the student whose parents are married and not separated but file separate returns for Federal income tax purposes, the income as described in paragraph (c)(1) of this section of both parents shall be combined to determine the annual adjusted family income for that student.

(d) "Base year" means the tax year for which information is requested by the Commissioner for the purpose of determining family income.





(e) "Dependent student" means any student who does not qualify as an independent student as defined in § 190.42(a).

(f) "Effective income of the student" means any amount paid to, or on account of, the student under the Social Security Act which would not be paid if he were not a student, i.e., under section 202(d) of title II of the Social Security Act, 42 U.S.C. 402(d), and one-half of any amount paid the student under chapter 34 of title 38, United States Code (Veterans Educational Assistance—38 U.S.C. 1651 et seq.) and chapter 35 of title 38, United States Code (War Orphans' and Widows' Education Assistance—38 U.S.C. 1700 et seq.). The amount of the effective income of the student is the amount to be received during the academic year for which Basic Grant assistance is requested.

(20 U.S.C. 1070a(a)(3)(B)(iv).)

(g) "Effective family income" of a student's parents means the annual adjusted family income received for the base year minus the Federal income tax paid or payable with respect to such income during the base year.

(20 U.S.C. 1070a(a)(3)(B)(iii).)

(h) "Employment expenses offset" means an allowance to meet expenses relating to employment where both parents are employed or where one parent qualifies as a surviving spouse or as head of a household under section 2 of the Internal Revenue Code.

(i) "Expenses arising from catastrophe" means those types and amounts of casualty losses which may be deducted under section 165(c)(3) of the Internal Revenue Code which were incurred during the base year by the student, the parents of the student and the parents' dependents.

(20 U.S.C. 1070a(a)(3)(B)(ii)(V).)

(j) "Family size offset" means an allowance to meet subsistence expenses, including food, shelter, clothing, and other basic needs of a family. For purposes of this part the "Weighted Average Threshold at the Low Income Level," as developed by the Social Security Administration shall be used as a basis to determine the amount for the family size offset.

(k) "Federal income tax" means the tax on income paid to the U.S. Government under chapter 2 of the Internal Revenue Code and the tax on income paid to the Governments of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands under the laws applicable to those jurisdictions.

(20 U.S.C. 1070a(a)(3)(B)(iii).)

(l) "Medical expenses" means those types of medical and dental expenses, except premiums for medical insurance, that may be deducted under section 213 of the Internal Revenue Code which were incurred during the base year by the student, the parents of the student and the parents' dependents.

(m) "Net assets" means the current market value of the assets included in paragraph (a) of this section, minus the outstanding liabilities (indebtedness) against such assets at the time of application.

(n) "Net other assets" means the current market value of the assets, included in paragraph (b) of this section, minus the outstanding liabilities (indebtedness) against such assets at the time of application.

(o) "Parent" means the mother or father of the student, unless any other person, except the student's spouse, provides more than one-half of the student's support and claims or is eligible to claim the student as an exemption for Federal income tax purposes for the base year, in which case such person shall be considered the parent.

(20 U.S.C. 1070a(a)(3)(B) unless otherwise noted.)

**§ 190.33 The expected family contribution for dependent students from parents' income.**

The expected family contribution for dependent students from parents' income for each grant shall be an amount determined in the following manner:

(a) Add to annual adjusted family income the effective income of the student attributable to the dependents of the student who is a veteran.

(b) Determine effective family income by subtracting from the amount determined in paragraph (a) of this section the amount of Federal income tax paid or payable with respect to such income.

(c) Determine discretionary income by deducting the following from effective family income:

(1) *Family size offset.* A family size offset in the amount specified in the following table. Family size includes the student, the student's parents and persons for whom the parents may claim an exemption under section 151 of the Internal Revenue Code. Family size is to be determined for the base year. If the parents are divorced or separated, family size shall include the student and any parent whose income is taken into account for the purpose of computing the annual adjusted family income and his or her exemptions.

FAMILY SIZE OFFSETS

| *Family size* | *Dollar amount* |
|---|---|
| 2 | 2,800 |
| 3 | 3,350 |
| 4 | 4,300 |
| 5 | 5,050 |
| 6 | 5,700 |
| 7 | 6,300 |
| 8 | 7,000 |
| 9 | 7,700 |
| 10 | 8,400 |
| 11 | 9,100 |
| 12 | 9,800 |

(2) *Unusual expenses.* The amount by which the sum of medical and dental expenses and losses resulting from catastrophes incurred in the base year and not compensated by insurance exceeds 20 percent of effective family income. Unusual expenses may be deducted if they were incurred by the student and any parent (and any persons for whom an exemption was claimed by that parent) whose income is taken into account for the purpose of computing the annual adjusted family income.

(3) *Employment expense offset.* An employment expense offset in an amount equal to 50 percent of the adjusted gross income earned in the base year by the parent earning the lesser income if both parents are employed, or 50 percent of the adjusted gross income of a parent qualifying as surviving spouse or as head of household as defined in section 2 of the Internal Revenue Code, but in no case shall such an offset exceed $1,500. The expense may be claimed only if the income of both parents or the income of the surviving spouse or head of household is taken into account for the purposes of computing the annual adjusted family income.

(d) To determine the expected family contribution from parental income the following rates shall be applied to discretionary income:

| | |
|---|---|
| $0 | (No contribution expected.) |
| $1 to 4,999 | 20 percent of Discretionary Income. |
| $5,000 or more | $1,000 plus 30 percent of Discretionary Income in excess of 5,000. |

(20 U.S.C. 1070a(a)(3)(B).)

**§ 190.34 Computation of standard expected contribution from parents' assets.**

(a) The expected contribution from parental assets shall be an amount determined in the following manner:

(1) Determine the net assets owned by the parents.

(2) If the amount of discretionary income determined in paragraph (c) of § 190.33 is a negative amount, subtract that amount from the amount of net assets determined in paragraph (a)(1) of this section.

(3) Deduct an asset reserve of $7500 from net assets as determined in paragraph (a)(1) or paragraph (a)(2) of this section whichever is applicable.

(4) The contribution from parental assets shall be an amount equal to 5 percent of the remainder obtained in paragraph (a)(3) of this section.

(b) If the student's parents are divorced or separated only the assets of the parent whose income is taken into account for the purpose of computing annual adjusted family income shall be considered.

(20 U.S.C. 1070a(a)(3)(B).)

**§ 190.35 Computation of standard expected contribution from parents' other assets.**

(a) The expected contribution from other parental assets shall be an amount determined in the following manner:

(1) Determine the total amount of net other assets owned by the parents and deduct from that amount an asset reserve of $7,500.



V 38 I 184 SEP 24 73 XUM

(2) The contribution from other parental assets shall be an amount equal to 5 percent of the remainder obtained in subparagraph (1) of this paragraph.

(b) If the student's parents are divorced or separated only the other assets of the parent whose income is taken into account for the purpose of computing annual adjusted family income shall be considered.

(20 U.S.C. 1070a(a)(3)(B).)

**§ 190.36 Computation for expected contribution from parents' income, assets, and other assets adjusted for number of family members attending institutions of postsecondary education.**

(a) For each grant the amount expected from parents' income as determined in § 190.33 shall be added to the amount expected from parents' assets as determined in § 190.34 and parent's other assets as determined in § 190.35.

(b) For each grant the combined expectation calculated on the basis of the above formula shall be further adjusted in the following manner to take into consideration the number of family members who will be in attendance, on at least a half-time basis, in programs of postsecondary education during the academic year for which basic grant assistance is required:

| *Number of family members attending institutions of postsecondary education* | *Expected contribution from combined contribution per student* |
|---|---|
| 1 | 100 percent of contribution from the amount determined in paragraph (a) of this section. |
| 2 | 70 percent of contribution from the amount determined in paragraph (a) of this section. |
| 3 | 50 percent of contribution from the amount determined in paragraph (a) of this section. |
| 4 or more | 40 percent of contribution from the amount determined in paragraph (a) of this section. |

Family members include the student, the student's parents and persons for whom the parent may claim an exemption under section 151 of the Internal Revenue Code. When the student's parents are divorced or separated and are filing separate returns for Federal income tax purposes, family members shall include the student and any parent whose income is taken into account for the purpose of computing annual adjusted family income and his or her exemptions.

(20 U.S.C. 1070a(a)(3)(B).)

**§ 190.37 Computation of expected contribution from the student's effective income.**

The expected family contribution shall include 100 percent of the student's effective income for the academic year for which aid is requested; except that, that portion of effective income of the student attributable to the dependents of a veteran shall instead be included as a part of, and treated as, annual adjusted family income.

(20 U.S.C. 1070a(a)(3)(B).)

**§ 190.38 Computation of expected contribution from student's assets.**

For each grant the contribution from the student's assets shall be an amount equal to 33 per centum of his net assets as defined in § 190.32(m).

(20 U.S.C. 1070a(a)(3)(B).)

**§ 190.39 Computation of the total expected family contribution.**

For each grant the total expected family contribution shall be the sum of:

(a) The expected contribution from parents' discretionary income, parents' assets, and other assets as determined in § 190.36.

(b) The expected contribution from the student's effective income as determined in § 190.37, and

(c) The expected contribution from the student's assets as determined in § 190.38.

**Subpart D—Expected Family Contribution for Independent Students**

Sec.


190.41 Indicators of financial strength.
190.42 Special definitions.
190.43 Computation of the expected family contribution from effective income for independent students.
190.44 The expected family contribution for independent students from annual adjusted family income.
190.45 Computation of expected contribution from the assets of the independent student and his or her spouse.
190.46 Computation of expected contribution from the other assets of the independent student and his or her spouse.
190.47 Computation for expected contribution from income, assets, and other assets adjusted for number of family members attending institutions of postsecondary education.
190.48 Computation of the total expected family contribution.


AUTHORITY: Subpart 1 of part A of title IV of the Higher Education Act of 1965, as amended (20 U.S.C. 1070a).

**Subpart D—Expected Family Contribution for Independent Students**

**§ 190.41 Indicators of financial strength.**

"Expected Family Contribution" with respect to each independent student means the amount which that student, and his or her spouse, if any, may reasonably be expected to contribute toward the cost of his or her education for an academic year. Each of the following elements of financial strength will be considered in determining the family contribution for independent students:

(a) The amount of effective income of the independent student.

(b) The amount of annual adjusted family income of the independent student and the independent student's spouse.

(c) The number of persons whom the independent student can claim as an exemption.

(d) The number of dependents of the independent student who in addition to the student will be in attendance, on at least a half-time basis, in a program of postsecondary education.

(e) The amount of the assets and the other assets of the independent student and his or her spouse.

(f) The unusual expenses of the independent student, and his or their dependents. Such unusual expenses shall be limited to medical and dental expenses and expenses arising from catastrophe.

(g) The additional expenses incurred in providing an income where both the independent student and his spouse are employed or where the independent student qualifies as a surviving spouse or as head of a household under section 2 of the Internal Revenue Code.

(20 U.S.C. 1070a(a)(3)(C).)

**§ 190.42 Special definitions.**

For the purposes of this subpart:

(a) "Independent Student" means a student who:

(1) Has not and will not be claimed as an exemption for Federal income tax purposes by any person except his or her spouse for the calendar year(s) in which aid is received and the calendar year prior to the academic year for which aid is requested,

(2) Has not received and will not receive financial assistance of more than $600 from his or her parent(s) in the calendar year(s) in which aid is received and the calendar year prior to the academic year for which aid is requested, and

(3) Has not lived or will not live for more than 2 consecutive weeks in the home of a parent during the calendar year in which aid is received and the calendar year prior to the academic year for which aid is requested.

(b) "Assets" means cash on hand including amounts in checking accounts, savings accounts and trusts, the current market value at the time of application of stocks, bonds, and other securities, real estate, home (if owned), income producing property, business equipment and business inventory which are held by the independent student and/or his spouse.

(c) "Other assets" means consumer durables and personal assets such as automobiles, boats, art objects, electronic sound and visual equipment, jewelry, antiques, and cameras, each of which has a value of $500 or more.

(d) (1) "Annual Adjusted Family Income" for any base year means the sum of the following: Adjusted gross income as defined in section 62 of the Internal Revenue Code of the student and the student's spouse, investment income upon which no Federal income tax is required to be paid such as interest on municipal and State bonds, other income of the student and the student's spouse upon which no Federal income tax is required to be paid such as child support payments, income of the student and the student's spouse received under income maintenance programs including welfare benefits, social security benefits except those benefits paid to or on account of the student included in paragraph (g) of this section, and veteran's benefits except those veteran's benefits paid to the independent student under chapters 34 and 35 of title 38 of the United States Code.

(2) In the case of the student who is divorced, or is separated and files a separate return for Federal income tax purposes, only the student's own income shall be considered in determining the annual adjusted family income.

(3) In the case where the student and his spouse are married and not separated but file separate returns for Federal income tax purposes, the income as described in paragraph (d)(1) of this section of both the applicant and spouse shall be combined to determine the annual adjusted family income for that student.

(e) "Base year" means the tax year for which information is requested by the Commissioner for the purpose of determining family income.

(f) "Dependent" means the independent student's spouse and such other persons who are eligible to be claimed as an exemption for Federal income tax purposes by the student during the base year.

(g) The "effective income of the student" means any amount paid to, or on account of, the student under the Social Security Act which would not be paid if he were not a student; i.e., under section 202(d) of title II of the Social Security Act, 42 U.S.C. 402(d), and one-half of any amount paid the student under chapter 34 of title 38, United States Code (Veterans Educational Assistance—38 U.S.C. 1651 et seq.) and chapter 35 of title 38, United States Code (War Orphans' and Widows' Education Assistance—38 U.S.C. 1700 et seq.). The amount of the effective income of the student is the amount to be received during the academic year for which basic grant assistance is requested.

(h) "Effective family income" means the annual adjusted family income received during the base year minus the Federal income tax paid or payable with respect to such income.

(i) "Employment expense offset" means an allowance to meet expenses relating to employment where both the independent student and his or her spouse are employed or where the independent student qualifies as a surviving spouse or as head of a household under section 2 of the Internal Revenue Code.

(j) "Expenses arising from catastrophe" means those types and amounts of casualty losses which may be deducted under section 165(c)(3) of the Internal Revenue Code which were incurred by the independent student and his dependents during the base year.

(k) "Family size offset" means an allowance to meet subsistence expenses, including food, shelter, clothing, and other basic needs of the independent student and his dependents. For purposes of this part the "Weighted Average Thresholds at the Low Income Level," as developed by the Social Security Administration, shall be used as a basis to determine the amount for the family size offset except in the case of a single independent student, where an amount estimated to be equal to living expenses during periods of nonenrollment shall be utilized.

(l) "Federal income tax" means the tax on income paid to the U.S. Government under chapter 2 of the Internal Revenue Code and the tax on income paid to the Governments of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands under the laws applicable to those jurisdictions.

(20 U.S.C. 1070a(a)(3)(B)(iii).)

(m) "Medical expenses" means those types of medical and dental expenses, except premiums for medical insurance, that may be deducted under section 213 of the Internal Revenue Code, which were incurred by the independent student and his dependents during the base year.

(n) "Net assets" means the current market value at the time of application of the assets included in paragraph (b) of this section minus the outstanding liabilities (indebtedness) against such assets.

(20 U.S.C. 1070a(a)(3)(C).)

(o) "Net other assets" means the current market value at the time of application of the other assets included in paragraph (c) of this section minus the outstanding liabilities (indebtedness) against such assets.

(20 U.S.C. 1070a(a)(3)(C).)

**§ 190.43 Computation of the expected family contribution from effective income for independent students.**

The expected family contribution shall include 100 per centum of the student's effective income for the academic year for which aid is requested; except that, that portion of effective income of the student attributable to the dependents of a veteran shall instead be included as a part of, and treated as, annual adjusted family income.

(20 U.S.C. 1070a(a)(3)(C).)

**§ 190.44 The expected family contribution for independent students from annual adjusted family income.**

The expected family contribution of the independent student from annual adjusted family income shall be an amount determined in the following manner:

(a) Determine effective family income by subtracting from the annual adjusted family income (including the portion of the effective income of the student attributable to the dependents of a veteran) the amount of Federal income tax paid or payable with respect to such income.

(b) Determine discretionary income by deducting the following from effective family income:

(1) *Family size offset.* A family size offset in the amount specified in the following table. Family size includes the student and his dependents, as defined in section 190.42(f) at the close of the base year. If the student is divorced or separated, family size shall include any person whose income is taken into account for the purpose of computing the annual adjusted family income and his or her exemptions as defined in section 151 of the Internal Revenue Code.

| *Family size* | *Dollar amount* |
|---|---|
| 2 | $2,800 |
| 3 | 3,350 |
| 4 | 4,300 |
| 5 | 5,050 |
| 6 | 5,700 |
| 7 | 6,300 |
| 8 | 7,000 |
| 9 | 7,700 |
| 10 | 8,400 |
| 11 | 9,100 |
| 12 | 9,800 |

An offset of $700 shall be made for the single independent student.

(2) *Unusual expenses.* The amount by which the sum of medical and dental expenses, and losses resulting from catastrophes incurred in the base year and not compensated by insurance, exceeds 20 percent of effective family income. Unusual expenses may be deducted if they were incurred by the independent student and his dependents during the base year.

(3) *Employment expense offset.* An employment expense offset in an amount equal to 50 percent of the adjusted gross income earned in the base year by either a married independent student or the student's spouse, whoever earns the lesser, or 50 percent of the adjusted gross income during the base year of an independent student qualifying as a surviving spouse or as head of household as defined in section 2 of the Internal Revenue Code, but in no case shall such an offset exceed $1,500.

(c) Determine the expected family contribution from the family income of the independent student and his or her spouse by applying the following rates to discretionary income:

(1) 75 percent of discretionary income for the single independent student with no dependents;

(2) 50 percent of discretionary income for the married independent student with no dependents other than spouse; and

(3) 40 percent of discretionary income for the independent student who has dependents other than spouse.

(20 U.S.C. 1070a(a)(3)(C).)

**§ 190.45 Computation of expected contribution from the assets of the independent student and his or her spouse.**

The expected contribution from the assets of the independent student and his or her spouse shall be determined in the following manner:

(a) Determine the total amount of net assets owned by the student and the student's spouse.

(b) If the amount of discretionary income determined in paragraph (b) of § 190.44 is a negative amount, subtract that amount from the amount of net







V 38 1 184
SEP 24 73
XUM

assets determined in paragraph (a) of that section.

the amount determined in paragraph (a)

(c) The contribution from assets shall be an amount equal to 33 percent of or (b) of this section, whichever is applicable.

**§ 190.46 Computation of expected contribution from the other assets of the independent student and his or her spouse.**

The expected contribution from the other assets of the independent student and his or her spouse shall be determined in the following manner:

(a) Determine the total amount of net other assets owned by the student and the student's spouse and deduct from that amount an other asset reserve of $7,500.

(b) The contribution from other assets shall be an amount equal to 33 percent of the remainder obtained in paragraph (a) of this section.

**§ 190.47 Computation for expected contribution from annual adjusted family income, assets and other assets adjusted for number of family members attending institutions of postsecondary education.**

(a) For each grant the amount expected from family income as determined in § 190.44 shall be added to the amount expected from assets as determined in § 190.45 and other assets as determined in § 190.46.

(b) For each grant the combined expectation calculated on the basis of the above formula shall be further adjusted in the following manner to take into consideration the number of family members who will be in attendance, on at least a half-time basis, in programs of postsecondary education during the academic year for which basic grant assistance is requested:

| *Number of family members attending institutions of postsecondary education* | *Expected contribution from combined contribution per student* |
|---|---|
| 1 | 100 percent of contribution from the amount determined in paragraph (a) of this section. |
| 2 | 70 percent of contribution from the amount determined in paragraph (a) of this section. |
| 3 | 50 percent of contribution from the amount determined in paragraph (a) of this section. |
| 4 or more | 40 percent of contribution from the amount determined in paragraph (a) of this section. |

Family members shall include any person whose income is taken into account for the purpose of computing the annual adjusted family income and his or her exemptions.

**§ 190.48 Computation of the total expected family contribution.**

For each grant the total expected family contribution shall be the sum of:

(a) The expected contribution from the student's effective income as determined in § 190.43, and

(b) The expected contribution from discretionary income, assets, and other assets as determined in § 190.47.

APPENDIX

EXPECTED FAMILY CONTRIBUTION FOR DEPENDENT STUDENTS, ACADEMIC YEAR 1974–75

*Summary of Calculation*

| | | |
|---|---|---|
| 1. Parents' adjusted gross income in 1973 | | |
| 2. Other parental income in 1973 | + | |
| 3. Parents' annual adjusted income in 1973 | = | |
| 4. Parents' Federal income tax paid for 1973 | − | |
| 5. Effective family income in 1973 | = | |
| 6. Family size offset | + | |
| 7. Unusual expenses | + | |
| 8. Employment expense offset | + | |
| 9. Total offsets against income (lines 6+7+8) | − | |
| 10. Discretionary income (line 5 minus line 9) | | |
| 11. Determine net assets of parents | | |
| 12. If line 10 is a negative amount, subtract from line 11 the amount necessary to bring discretionary income up to zero. Enter the remainder of the net assets | | |
| 13. If line 10 is a positive amount, enter that amount. If line 10 is a negative amount enter zero | | |
| 14. Determine net other assets of parents | | |
| 15. Multiply discretionary income in line 13 by applicable rate to obtain standard contribution | | |
| 16. Subtract asset reserve of $7500 from amount entered on line 12 to obtain available parental assets | | |
| 17. Multiply available parental assets by 0.05 | × 0.05 | |
| 18. Parental contribution from assets | | |
| 19. Subtract other asset reserve of $7500 from amount entered on line 14 to obtain available other assets of parents | | |
| 20. Multiply available other assets of parents by 0.05 | × 0.05 | |
| 21. Parental contribution from other assets | | |
| 22. Add lines 15 plus line 18 plus 21 to obtain standard contribution from income, assets, and other assets | | |
| 23. Multiply standard contribution by multiple student rate to determine expected family contribution for each family member in postsecondary education | | |
| 24. Effective income of student | | |
| 25. Determine net assets of student | | |
| 26. Multiply student's net assets by 0.33 | × 0.33 | |
| 27. Student's contribution from assets | | |
| 28. Total family contribution equals sum of lines 23 plus 24 plus 27 | = | |

EXPLANATION OF CALCULATION [1]

1. *Parents' adjusted gross income in 1973 (line 1).* All income which is available to the parents should be considered in the evaluation of parental ability to support the cost of postsecondary education. The most valid reference for parental income subject to Federal income tax is the adjusted gross income item in the family's Federal income tax return. This information is readily available to most families, and the information can be verified by referring to the IRS forms actually filed by the parents.

If it may be assumed that family income will be measured on an annual basis, which year of family income shall be used? Parents provide from their current income for the education of their children. However, if we attempted to use current year information, a parent would have to estimate the amount of income which he will receive during a year in which a child is a student since application for aid is made before the student enrolls for a particular year of study. A study by Orwig and Jones shows that income received during the tax year prior to the year in which the student is applying for aid is the best practical indicator of the income from which a student's actual expenses will be paid.[2] If estimates of the income received during the actual year of attendance are provided by parents, middle income families systematically underestimate their earnings, and lower income families systematically overestimate their earnings. The amount to be entered here, therefore, is from the previous year's Federal income tax form.

2. *Other parental income in 1973 (line 2).* Information on other family income must also be collected since this income does clearly contribute to family financial strength and may represent a considerable portion of the parental income of many Basic Grant recipients. Elements of other family income are: Income from tax exempt bonds, that portion of pensions on which no Federal income tax is required, welfare benefits, social security benefits (except those included in effective income of the student), child support payments, income of families which didn't file income tax returns, that portion of capital gains on which no Federal income tax is required, etc.

3. *Parents' annual adjusted income in 1973 (line 3).* Parents' annual adjusted income is the sum of parents' adjusted gross income (line 1) plus other family income (line 2).

4. *Parents' Federal income tax paid for 1973 (line 4).* The legislation requires that a deduction be made, from annual adjusted income, for the amount of Federal income tax paid on income received during the base year.

5. *Effective family income in 1973 (line 5).* The result of subtracting Federal income tax paid (line 4) from the annual adjusted income (line 3) is effective family income and is the base for calculating expected contribution from parental income.

6. *Family size offset (line 6).* In addition to taxes, a family has basic subsistance expenses which must be met before any contribution from income can be expected. These expenses will vary depending on size of the family involved. For purposes of the basic grant, the "Weighted Average Thresholds At the Low Income Level," developed by the Social Security Administration and published by the Bureau of the Census, have been used as a reasonable approximation of basic family expenses.[3] These expenses are based on the food costs of a family of a given size, and make certain assumptions about the additional expenses of shelter and other family needs.

The data are revised annually, and thus can be used to update the family contribution schedules from year to year. The figures supplied by the Bureau of the Census have been incremented by 4 percent to reflect estimated cost of living increases from the fall of 1971 to the present, and then rounded to facilitate calculation. The resulting figures have been called "Family Size Offsets." Their derivation is illustrated below:

DERIVATION OF FAMILY OFFSETS

| *Family size* | *Family size offset* |
|---|---|
| 2 Member Family | 2800 |
| 3 Member Family | 3350 |
| 4 Member Family | 4300 |
| 5 Member Family | 5050 |
| 6 Member Family | 5700 |
| 7 Member Family | 6300 |
| 8 Member Family | 7000 |
| 9 Member Family | 7700 |
| 10 Member Family | 8400 |
| 11 Member Family | 9100 |
| 12 Member Family | 9800 |

*Census Bureau category "7 or more persons" are for 8 member family. Values for family size 7–12 have been extrapolated.

7. *Unusual expenses (line 7).* The Basic Grant program is required by law to take into consideration two kinds of unusual expenses, those arising from a "catastrophe" and "unusual medical expenses." It is proposed to use the Internal Revenue Service definitions of medical and dental expenses and casualty loss in determining "unusual expenses" for the Basic Grant program. The use of Internal Revenue Service definitions avoids the need for creating a new definition of expenses which would be used only by the Basic Grants program. However, some distinction must be made between expenses which may be itemized for income tax purposes, and those itemized expenses which are "unusual" as used for the Basic Grant legislation.

For purposes of the Basic Grant program, those items which may be included as unusual expenses are:

1. Those medical and dental expenses (not compensated by insurance or otherwise) which may be listed as "medicine and drugs" on line 2 of Schedule A, Form 1040 of the Internal Revenue Service and those expenses which may be listed as "Other Medical and Dental Expenses" on line 6 of Schedule A, Form 1040. The gross amount of all such medical, dental and drug expenses is to be used in the Basic Grant calculation.

2. Those casualty or theft loss(es) permitted by the Internal Revenue Service (Form 1040, Schedule A, line 30).

The amount of unusual expenses which may be deducted from effective family income (line 5 of this illustration) is that amount of unusual expenses (as defined above) in excess of 20 percent of effective family income. This exclusion is designed to confine claims for such expenses to those which are genuinely unusual.

8. *Employment expense offset (line 8).* In constructing budgets which recognize expenses for families, due provision must be made for the expenses of the breadwinner which occur as a result of employment itself. Some expenses for clothing, transportation, and other items are attributable to occupational needs. When both parents work, additional employment expenses are incurred. Also, if a household is headed by a single parent, the costs associated with that employment are greater than for a comparable worker who has the economic advantage of a nonemployed spouse. Therefore in the determination of family contribution an "Employment Expense Offset" has been constructed to treat more equitably the income of the two parent family where both parents work, or the single parent household. It is recognized that both of these types of families will occur frequently in the lower income families where Basic Grant eligibility is greatest. The offset provides that 50 percent of the earnings of that parent with the lesser earnings, or 50 percent of the earnings of the single parent, will be protected from any contribution toward education. The maximum offset is $1,500 and would thus assure that up to $30 a week would be available for the additional expenses which these parents face.

9. *Total offsets against income (line 9).* The sum of line 6 (family size offset) plus line 7 (unusual expenses) plus line 8 (employment expense offset) is the total amount which can be deducted from effective family income (line 5) in order to determine discretionary parental income.

10. *Discretionary income (line 10).* The income which remains after allowance has been made for family living expenses, Federal income taxes, unusual expenses and the employment expense offset may be identified as discretionary income. This income is available for the purchases of goods and services which enhance the standard of living of the family including the cost of postsecondary education.

11. *Net assets of parents (line 11).*—For purposes of Basic Grants, the following types of assets will be considered: Equity in farm, business, home, other real estate, stocks, bonds, other investments, savings accounts, etc. Since equity is being measured, debts against the stated assets will be deducted in evaluating the net worth of these assets.

12. *Asset adjustment in cases of negative discretionary income (line 12).*—In measuring family financial strength both income and assets must be considered. Very low income families may have a strong enough asset position such that a contribution from those assets can be expected. At the same time, the calculation of discretionary income for those families may yield a negative amount due to the low level of income. Therefore, in order to arrive at a family contribution which more equitably treats both the income and the assets of these families, an amount sufficient to offset the negative discretionary income is subtracted from the net assets. The resulting amount of adjusted net assets becomes the base from which the contribution from assets is expected.

13. *Discretionary income (line 13).*—In cases where the discretionary income on line 10 is a negative amount a zero is entered here. Where line 10 is a positive amount, that positive amount is repeated here.

14. *Net other assets of parents (line 14).*—For purposes of basic grants the following types of other assets will be considered: automobiles, boats, art objects, electronic sound and visual equipment, jewelry, antiques, cameras, etc., each of which has a value of $500 or more. Since equity is being measured, debts against the stated assets will be deducted in evaluating the net worth of these assets.

15. *Standard income contribution rate (line 15).*—A contribution of 20 percent is expected from the first $5,000 of discretionary income. When discretionary income exceeds $5,000, the expected income contribution is $1,000 plus 30 percent of the amount in excess of $5,000. The contribution rates will generally be at the 20 percent level for most of the income range where basic grant eligibility will occur.

These contribution rates appear reasonable in terms of the several demands made on family income especially in light of the fact that the cost of supporting the student for the academic year is included in the cost of education and does not have to be met from the general budget resources.

The illustrative chart below shows the expected family contribution from annual adjusted family income which does not reflect adjustments for Federal income taxes paid, unusual expenses, or employment expense offset.

CONTRIBUTION FROM ANNUAL ADJUSTED FAMILY INCOME FOR DEPENDENT STUDENTS

| Annual adjusted* family income | Family Size | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
| $3,000 | $34 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 4,000 | 216 | $117 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 5,000 | 375 | 289 | $120 | 0 | 0 | 0 | 0 | 0 | 0 |
| 6,000 | 543 | 458 | 291 | $163 | $64 | 0 | 0 | 0 | 0 |
| 7,000 | 708 | 625 | 460 | 334 | 236 | $127 | 0 | 0 | 0 |
| 8,000 | 870 | 789 | 636 | 502 | 406 | 299 | $180 | $99 | 0 |
| 9,000 | 1,022 | 953 | 791 | 669 | 576 | 469 | 333 | 235 | $116 |
| 10,000 | 1,303 | 1,181 | 959 | 838 | 746 | 642 | 526 | 410 | 292 |
| 11,000 | 1,555 | 1,432 | 1,190 | 1,008 | 914 | 812 | 698 | 583 | 467 |
| 12,000 | 1,800 | 1,684 | 1,442 | 1,260 | 1,122 | 980 | 868 | 755 | 640 |
| 13,000 | 2,049 | 1,928 | 1,693 | 1,511 | 1,374 | 1,221 | 1,054 | 925 | 811 |
| 14,000 | 2,281 | 2,166 | 1,930 | 1,755 | 1,620 | 1,467 | 1,300 | 1,133 | 977 |
| 15,000 | 2,515 | 2,400 | 2,164 | 1,989 | 1,858 | 1,710 | 1,543 | 1,376 | 1,209 |
| 16,000 | 2,745 | 2,634 | 2,398 | 2,223 | 2,092 | 1,947 | 1,786 | 1,619 | 1,452 |
| 17,000 | 2,970 | 2,861 | 2,632 | 2,457 | 2,326 | 2,181 | 2,020 | 1,860 | 1,695 |
| 18,000 | 3,169 | 3,065 | 2,857 | 2,688 | 2,560 | 2,415 | 2,254 | 2,094 | 1,933 |
| 19,000 | 3,420 | 3,311 | 3,082 | 2,913 | 2,790 | 2,649 | 2,488 | 2,328 | 2,167 |
| 20,000 | 3,640 | 3,536 | 3,307 | 3,138 | 3,015 | 2,876 | 2,722 | 2,562 | 2,401 |

*Adjusted gross income plus nontaxable income.

16. *Available parental assets (line 16).*—In order to determine the amount of parental assets which can be assessed for contribution for educational purposes, an asset reserve of $7,500 is subtracted from the net assets of parents. Since families accumulate assets for several purposes including retirement, future consumption, the postsecondary education of their children and the provision of an economic buffer in the event of catas-

[1] Reference numbers are keyed to the line numbers in preceeding summary.

[2] Orwig and Jones, "Can Financial Need Analysis Be Simplified?" The American College Testing Program, Iowa City, Iowa, 1970—p. 11.

[3] From "Weighted Average Thresholds At the Low Income Level" in 1971 by size of family and sex of head, by farm-nonfarm residence; current population reports, consumer income, characteristics of the low-income population; 1971 series p. 60, No. 82, July 1972.







V 38 184 SEP 24 73 XUM

trophe, some portion of assets should be reserved from any contribution toward postsecondary education, and remaining assets be assessed at some rate less than 100 percent. After a review of the available data, it was decided that $7,500 was an adequate asset reserve since it appears that average home equity for the families of the majority of basic grant recipients may be in approximately this amount. If data from the Department of the Census are read in conjunction with the Survey of Economic Opportunity. In addition, the $7,500 amount would allow for emergencies and retirement needs.

17. *Asset assessment rate (line 17).*—Once the available parental assets have been determined, a contribution rate of 5 percent will be assessed on the parents' net worth in excess of $7,500. Because the value of assets grows, this rate of asset assessment will generally leave the family's asset position largely unimpaired.

18. *Parental contribution from assets (line 18).*—The result of multiplying the available parental assets (line 16) by the assets assessment rate (line 17) is the expected parental contribution from assets.

19. *Available other parental assets (line 19).*—In order to determine the amount of other parental assets which can be assessed for contribution for educational purpoes, an other asset reserve of $7,500 is subtracted from the net other assets of parents (line 14).

20. *Other asset assessment rate (line 20).*—Once the available other parental assets have been determined, a contribution rate of 5 percent will be assessed on the parents' net worth in excess of $7,500.

21. *Parental contribution from other assets (line 21).*—The result of multiplying the available other parental assets (line 19) by the other assets assessment rate (line 20) is the expected parental contribution from other assets.

22. *Standard parental contribution from income, assets, and other assets (line 22).*—The standard parental contribution (contribution before multiple student adjustment) from income, assets, and other assets is determined by adding the contribution from income (line 15), the contribution from assets (line 18), and the contribution from other assets (line 21).

23. *Multiple student adjustment (line 23).*—Adding the Parental Income Contribution to the parental asset contribution and the other parental asset contribution results in the expected contribution from parents with one family member in postsecondary education. Some adjustment must then be made for those families in which more than one family member will be enrolled in postsecondary education for the academic year 1974–75.

Since each student has an allowance for costs of attendance, the family's discretionary income is effectively increased when there is more than one family member in postsecondary education. In order to determine the appropriate percentages, the contributions expected from different family sizes were compared. These investigations indicated that 140 percent of the contribution for one child would be a reasonable assessment against the family with two students. Thus, each student would receive 70 percent of the contribution which the family would make if there were only one student in the family. Similarly, 150 percent of the single student contribution seemed adequate for the family with three children in postsecondary education; each student could expect 50 percent of the single student contribution. For families with four or more students, each family will be assessed 40 percent of the single student contribution for each child in postsecondary education.

The following table summarizes the treatment of families with different numbers of family members in postsecondary education:

| Number of students | Contribution per student as a percent of standard contribution | Family contribution for all students as a percent of standard contribution |
|---|---|---|
| | *Percent* | *Percent* |
| 1 | 100 | 100 |
| 2 | 70 | 140 |
| 3 | 50 | 150 |
| 4 or more | 40 | 160+ |

24. *Effective income of the student (line 24).*—For purpose of the Basic Grants program effective income of the student is: That amount of social security benefits paid to or on behalf of a student because he is a student; and one-half of that amount of veteran's readjustment benefits and/or war orphan's benefits (exclusive of dependency allowances) paid to or on behalf of a student because he is a student. In both cases the amount is the total to be received during the academic year for which Basic Grant assistance is requested. Veteran's dependency allowance are clearly not for the support of the Veteran himself. Therefore they are included with and given the same treatment as "other family income".

25. *Net assets of the student (line 25).*—The applicant's net assets would be defined in the same fashion as the assets of the parents. Debts against these assets would be deducted. Trust funds in the student's name would be included.

26. *Student asset assessment rate (line 26).*—In determining a fair treatment of student assets the theory of the major need analysis systems has been followed; i.e., that because the student himself is the direct beneficiary of postsecondary education, he should be expected to invest a greater portion of his resources in meeting his educational costs than should be expected from his parents.

Usual financial aid procedures divide a student's assets by the number of years remaining for a 4-year program of postsecondary education. The result of this division is considered to be the student's asset contribution.

For the Basic Grants program, a different treatment of student assets is employed. One-third of the student's assets (recalculated each year) would be expected. This method is simple, provides a modest reserve for the student, and avoids the assumption that all students are enrolled in a traditional 4-year program.

27. *Student's contribution from assets (line 27).*—The result of multiplying the student's net assets (line 25) by the student asset assessment rate (line 26) is that amount expected from student assets for educational purposes.

28. *Total family contribution (line 28).*—The total expected family contribution for a dependent student is determined by adding line 23 plus line 24 plus line 27.

EXPECTED FAMILY CONTRIBUTION FOR INDEPENDENT STUDENTS, ACADEMIC YEAR 1974–75

Summary of Calculations

| | | |
|---|---|---|
| 1. | Effective income of student | |
| 2. | Adjusted gross income of applicant (and spouse) | |
| 3. | Other family income | + |
| 4. | Annual adjusted family income of applicant (and spouse) (line 2+line 3) | = |
| 5. | Federal income tax paid | − |
| 6. | Effective family income | = |
| 7. | Family size offset | + |
| 8. | Unusual expenses | + |
| 9. | Employment expense offset | + |
| 10. | Total offsets against income (lines 7+8+9) | = |
| 11. | Discretionary income (line 6 minus line 10) | = |
| 12. | Determine net assets of applicant (and spouse) | |
| 13. | If line 11 is a negative amount, subtract from line 12 the amount necessary to bring discretionary income to zero. Enter the amount of the remainder of net assets | |
| 14. | If line 11 is a positive amount, enter that amount. If line 11 is a negative amount, enter zero | |
| 15. | Determine net other assets of applicant (and spouse) | |
| 16. | Multiply discretionary income on line 14 by applicable rate to obtain standard contribution | |
| 17. | Multiply amount of assets of applicant (and spouse) entered on line 13 by 0.33 | × 0.33 |
| 18. | Contribution from assets | |
| 19. | Subtract other asset reserve of $7500 from amount entered on line 15 to obtain available other assets of applicant (and spouse) | |
| 20. | Multiply available other assets by 0.33 | × 0.33 |
| 21. | Contribution from other assets | |
| 22. | Add lines 16 plus 18 plus 21 to obtain standard contribution from income, assets, and other assets | |
| 23. | Multiply standard contribution by multiple student rate to determine expected family contribution for each family member in postsecondary education | |
| 24. | Total family contribution equals sum of lines 1 plus 23 | |

EXPECTED FAMILY CONTRIBUTION FOR INDEPENDENT STUDENTS ACADEMIC YEAR 1974–75

*Explanation of calculations.*[1] For the purposes of the Basic Grants program, independent (self-supporting) student status may be claimed if the applicant:

(1) Has not been and will not be claimed as an exemption for Federal income tax purposes by any person except his or her spouse for the calendar year(s) in which aid is received and the calendar year prior to the academic year for which aid is requested, and

(2) Has not received and will not receive financial assistance of more than $600 (in cash or kind) from his or her parent(s) in the calendar year(s) in which aid is received and the calendar year prior to the academic year for which aid is requested, and

(3) Has not lived or will not live for more than two consecutive weeks in the home of a parent during the calendar year(s) in which aid is received and the calendar year prior to the academic year for which aid is requested.

Once a student has been determined to meet these criteria and is defined as an independent student, his expected family contribution is calculated according to the process outlined below.

[1] Reference numbers are kneyed to line items of preceding summary.





1. *Effective income of student (line 1).* For purposes of the Basic Grants program. Effective income of the student is: That amount of social security benefits paid to or on behalf of the student because he is a student; and, one-half of the amount of veteran's readjustment benefits and/or war orphan's benefits (exclusive of dependency allowances) paid to or on behalf of a student because he is a student. In both cases, the amount is the total to be received during the academic year for which Basic Grant assistance is requested. Dependency allowances are clearly not for the support of the Veteran himself. Therefore they are included with, and given the same treatment as, "other family income".

2. *Adjusted gross income of applicant (and spouse) (line 2).* All income which is available to the applicant (and spouse) should be considered in the evaluation of ability to support the cost of postsecondary education. The most valid reference for taxable income is the adjusted gross income item in the Federal income tax return. This information is readily available and can be verified by referring to the IRS forms actually filed.

The decision as to which year's income is to be considered is a difficult one for independent students. Traditionally, a student's income may vary considerably from year to year. While it may be preferable to ask the student to estimate his earnings for the current year, obtaining realistic projections of earnings would not be possible without establishing counseling centers where students could be assisted in preparing this information.

Because this is not feasible at this time, it has been determined that the adjusted gross income to be considered is that amount entered on the previous year's Federal income tax form.

This also has the advantage of being consistent with the data collected for dependent students and assures that the family contribution of all students is determined from the same base.

3. *Other income of the independent student (line 3).* Information on other income of the independent student must also be collected since this income does clearly contribute to financial strength and may represent a considerable portion of the income of many Basic Grant recipients. Elements of other income are: Income from tax exempt bonds, that portion of pensions on which no Federal income tax is required, that portion of capital gains on which no Federal income tax is required, welfare benefits, social security retirement, child support payments, veteran's disability, income of persons who did not file income tax returns, etc.

4. *Annual adjusted family income of applicant (and spouse) (line 4).*—Annual adjusted family income is the sum of adjusted gross income (line 2), and other family income (line 3).

5. *Federal income tax paid by applicant (and spouse) (line 5).* The legislation requires that a deduction be made, from annual adjusted income, for the amount of Federal income tax paid on income received during the base year.

6. *Effective family income (line 6).* The result of subtracting Federal income tax paid (line 5) from the annual adjusted family income (line 4) is effective family income.

7. *Family size offset (line 7).* In addition to taxes, there are basic subsistence expenses which must be met before any contribution from income can be expected. These expenses will vary depending on the size of the family involved. For the single independent student, this offset is $700 which covers the student's summer living expenses. Using the same base for deriving family size offsets as is used for multiple member families (weighted average thresholds at the low-income level) and adjusting for an estimated 4 percent inflation, the family size offset for a single member family is $2,114 per year. Generally, a student is in school for approximately 65 percent of the year (two 16-week semesters plus a 2-week break between semesters). Since his expenses during this 34-week academic year are covered in his cost of attendance, the $700 offset provides for his expenses during that period of time when he is not in school.

For married independent students and those with additional dependents, the family size offset is the same as that for the parent's of dependent students:

| *Family size* | *Family size offset* |
|---|---|
| 2 | $2, 800 |
| 3 | 3, 350 |
| 4 | 4, 300 |
| 5 | 5, 050 |
| 6 | 5, 700 |
| 7 | 6, 300 |
| 8 | 7, 000 |
| 9 | 7, 700 |
| 10 | 8, 400 |

8. *Unusual expenses (line 8).*—The Basic Grants program is required by law to take into consideration at least two kinds of unusual expenses, those arising from a "catastrophe" and "unusual medical expenses." It is proposed to use the Internal Revenue Service definitions for medical and dental expenses and casualty loss(es) to constitute "unusual expenses" for the Basic Grants program. The use of Internal Revenue Service definitions avoids the need for creating a new definition of expenses which would be used only by the Basic Grants program. However, some distinction must be made between expenses which may be itemized for income tax purposes, and those itemized expenses which are "unusual" for Basic Grants.

For purposes of the Basic Grants program those items which may be included as unusual expenses are:

1. Those medical and dental expenses incurred during the base year (not compensated by insurance or otherwise) which may be listed as "medicine and drugs" on line 2 of Schedule A, Form 1040 of the Internal Revenue Service and those expenses which may be listed as "Other Medical and Dental Expenses" on line 6 of Schedule A, Form 1040. The gross amount of all medical, dental and drug expenses may be listed.

2. In addition, those casualty or theft loss(es) incurred during the base year permitted by the Internal Revenue Service (Form 1040, Schedule A, line 30).

The amount of unusual expenses which may be deducted is that amount of unusual expenses (as defined above) in excess of 20 percent of the effective family income. This exclusion is designed to confine claims for such expenses to those which are genuinely unusual.

9. *Employment expense offset (line 9).* In constructing budgets which recognize minimum expenses for families, provision must be made for the expenses of the breadwinner which occur as a result of employment itself. Some expenses for clothing, transportation, food, and other items are attributable to occupational needs. When two persons work, additional employment expenses are incurred Also, if a household is headed by a single person, the costs associated with that employment are greater than for a comparable worker who has the economic advantage of a nonemployed spouse. Therefore, in the determination of family contribution an "Employment Expense Offset" has been constructed to treat more equitably the income of the two-person family where both persons work during the base year, or the single person who heads a household during the base year. It is recognized that both of these types of families will occur frequently in the lower income families where Basic Grants eligibility is greatest. The offset provides that 50 percent of the earnings of that person with the lesser earnings, or 50 percent of the earnings of the single head of household, will be protected from any contribution toward education. The maximum offset would be $1,500 and would thus assure that up to $30 a week would be available for the additional expenses which these persons face.

10. *Total offsets from income (line 10).* The sum of line 7 (family size offset) plus line 8 (unusual expenses) plus line 9 (employment expense offset) is the total amount which can be deducted from effective family income (line 8) in order to determine discretionary income.

11. *Discretionary income (line 11).* The income which remains after adjustment has been made for family living expenses, Federal income taxes, unusual expenses and the employment expense offset may be identified as discretionary income. This income is available for the purchase of goods and services which enhance the standard of living of the family, including postsecondary education.

12. *Net assets of applicant (and spouse) (line 12).* For purposes of Basic Grants, the following types of assets will be considered: Equity in farm, business, home, other real estate, stocks, bonds, other investments, savings accounts, etc. Since equity is being measured, debts against the stated assets will be deducted in evaluating the net worth of these assets.

13. *Asset adjustment in cases of negative discretionary income (line 13).*—In measuring family financial strength both income and assets must be considered. Very low income families may have a strong enough asset position such that a contribution from those assets can be expected. At the same time, the calculation of discretionary income for those families may yield a negative amount due to the low level of income. Therefore, in order to arrive at a family contribution which more equitably treats both the income and the assets of these families, an amount sufficient to offset the negative discretionary income is subtracted from the net assets. The resultant amount of adjusted net assets becomes the base from which the contribution from assets is expected.

14. *Discretionary income (line 14).*—In cases where the discretionary income on line 11 is a negative amount a zero is entered here. Where line 11 is a positive amount, that positive amount is repeated here.

15. *Net other assets of applicant (and spouse) (line 15).*—For purposes of Basic Grants, the following types of other assets will be considered: automobiles, boats, art, objects, electronic sound and visual equipment, jewelry, antiques, cameras, etc., each of which has a value of $500 or more. Since equity is being measured, debts against the stated assets will be deducted in evaluating the net worth of these assets.

16. *Standard income contribution rate (line 16).*—Because of the direct benefits of postsecondary education received by the independent student, the expected contribution rate for such students from income has traditionally been much greater than the rate applied to the discretionary income of the parents of dependent students. In fact, the independent student has usually been expected to use all of his discretionary income for educational purposes.

In developing a system for the Basic Grants program, it was felt that a 100 percent contribution rate was excessive, espe-



V 38-184
SEP 24 73
XUM

cially for independent students with family responsibilities.

The following income contribution schedule was developed to accommodate these responsibilities:

(a) 75 percent of discretionary income for the single independent student with no dependents.

(b) 50 percent of discretionary income for the married independent student with no dependents other than spouse.

(c) 40 percent of discretionary income for independent students who have dependents other than spouse.

The amount of expected contribution from annual adjusted family income is shown in the illustrative charts at the end of this paper. Annual adjusted family income does not reflect the adjustments for Federal income taxes paid, unusual expenses, or employment expense offset.

17. *Asset contribution rate (line 17).*—In determining a fair treatment of student assets, it has been assumed that since a student is the direct beneficiary of postsecondary education, he should be expected to invest a greater portion of his resources in meeting his educational costs than would be expected from his parents.

Existing financial aid procedures divide a student's assets by the number of years remaining in a 4-year program of postsecondary education. The result of this division is considered to be the student asset contribution.

For the Basic Grants program, a different treatment of student assets is employed. One-third of the student's assets (recalculated each year) would be expected. This method is simple, provides a modest reserve for the student, and avoids the assumption that a student is enrolled in a traditional 4-year program.

18. *Contribution from assets (line 18).*—The result of multiplying the student's net assets (line 13) by the student asset assessment rate (line 17) is that amount expected from student assets for educational purposes.

19. *Available other assets of applicant (and spouse) (line 19).*—In order to determine the amount of other assets which can be assessed for contribution for educational purposes, an other asset reserve of $7500 is subtracted from the net other assets (line 15).

20. *Other asset contribution rate (line 20).*—A contribution rate of 33 percent (recalculated each year) is expected from other assets.

21. *Contribution from other assets (line 21).*—The result of multiplying the student's net other assets (line 15) by the student's other asset assessment rate (line 20) is that amount expected from students' other assets for educational purposes.

22. *Standard contribution from income, assets, and other assets (line 22).*—The standard contribution (contribution before multiple student adjustment) from income, assets, and other assets is determined by adding the contribution from income (line 16), the contribution from assets (line 18) and the contribution from other assets (line 21).

23. *Multiple student adjustment (line 23).*—Adding the Income Contribution from annual adjusted family income to the asset contribution and the other asset contribution results in the expected contribution for one family member in postsecondary education from family income and assets. Some adjustment must then be made for those families in which more than one family member will be enrolled in postsecondary education for the academic year 1974–75.

Since each student has an allowance for costs of attendance, the family's discretionary income is effectively increased when there is more than one family member in postsecondary education. In order to determine the appropriate percentages, the contributions expected from different family sizes were compared. These investigations indicated that 140 percent of the contribution for one child would be a reasonable assessment against the family with two students. Thus, each student would receive 70 percent of the contribution which the family would make if there were only one student in the family. Similarly, 150 percent of the single student contribution seemed adequate for the family with three children in postsecondary education; each student could expect 50 percent of the single student contribution. For families with four or more students, each family will be assessed 40 percent of the single student contribution for each child in postsecondary education.

The following table summarizes the treatment of families with different numbers of family members in postsecondary education:

| Number of students | Contribution per student as a percent of standard contribution | Family contribution for all students as a percent of standard contribution |
|---|---|---|
| | *Percent* | *Percent* |
| 1 | 100 | 100 |
| 2 | 70 | 140 |
| 3 | 50 | 150 |
| 4 or more | 40 | 160+ |

24. *Total family contribution (line 24).*—The total expected family contribution for an independent student is determined by adding line 1 plus line 23.

CONTRIBUTION FROM ANNUAL ADJUSTED INCOME FOR INDEPENDENT STUDENTS—NO DEPENDENTS

Annual adjusted family income [1]

| | |
|---|---|
| $1,000 | 225 |
| $2,000 | 975 |
| $3,000 | 1,825 |
| $4,000 | 2,263 |
| $5,000 | 2,894 |
| $6,000 | 3,516 |
| $7,000 | 4,125 |
| $8,000 | 4,732 |
| $9,000 | 5,347 |
| $10,000 | 5,976 |
| $11,000 | 6,591 |
| $12,000 | 7,201 |
| $13,000 | 7,811 |
| $14,000 | 8,404 |
| $15,000 | 8,983 |
| $16,000 | 9,546 |
| $17,000 | 10,108 |
| $18,000 | 10,671 |
| $19,000 | 11,228 |
| $20,000 | 11,768 |

[1] Adjusted gross income plus nontaxable income.

MARRIED INDEPENDENT STUDENTS WITH NO OTHER DEPENDENTS (OTHER THAN SPOUSE)—CONTRIBUTION FROM INCOME

Annual adjusted family income [1]

| | |
|---|---|
| Less than: | |
| $ 1,000 | 0 |
| $ 2,000 | 0 |
| $ 3,000 | 86 |
| $ 4,000 | 515 |
| $ 5,000 | 939 |
| $ 6,000 | 1,358 |
| $ 7,000 | 1,771 |
| $ 8,000 | 2,176 |
| $ 9,000 | 2,586 |
| $10,000 | 3,005 |
| $11,000 | 3,424 |
| $12,000 | 3,833 |
| $13,000 | 4,240 |
| $14,000 | 4,635 |
| $15,000 | 5,025 |
| $16,000 | 5,408 |
| $17,000 | 5,783 |
| $18,000 | 6,158 |
| $19,000 | 6,533 |
| $20,000 | 6,900 |

[1] Adjusted gross income plus non-taxable income.

INDEPENDENT STUDENTS WITH DEPENDENTS INCOME CONTRIBUTION TABLE

| Annual adjusted family income [1] | Family size | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 |
| Less than: | | | | | | | | | | | |
| $3,000 | $69 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 4,000 | 412 | $235 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 5,000 | 751 | 577 | $241 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| 6,000 | 1,086 | 915 | 582 | $327 | $129 | 0 | 0 | 0 | 0 | 0 | 0 |
| 7,000 | 1,417 | 1,249 | 919 | 667 | 472 | $255 | 0 | 0 | 0 | 0 | 0 |
| 8,000 | 1,741 | 1,578 | 1,252 | 1,003 | 811 | 597 | $361 | $120 | 0 | 0 | 0 |
| 9,000 | 2,069 | 1,906 | 1,583 | 1,330 | 1,150 | 938 | 705 | 470 | $232 | 0 | 0 |
| 10,000 | 2,404 | 2,241 | 1,918 | 1,678 | 1,492 | 1,283 | 1,052 | 819 | 584 | $346 | $80 |
| 11,000 | 2,739 | 2,576 | 2,253 | 2,010 | 1,827 | 1,624 | 1,396 | 1,166 | 933 | 698 | 460 |
| 12,000 | 3,066 | 2,912 | 2,589 | 2,346 | 2,163 | 1,960 | 1,737 | 1,509 | 1,279 | 1,047 | 812 |
| 13,000 | 3,392 | 3,238 | 2,924 | 2,681 | 2,498 | 2,295 | 2,072 | 1,849 | 1,623 | 1,393 | 1,161 |
| 14,000 | 3,708 | 3,554 | 3,240 | 3,006 | 2,826 | 2,623 | 2,400 | 2,177 | 1,954 | 1,729 | 1,500 |
| 15,000 | 4,020 | 3,866 | 3,552 | 3,318 | 3,144 | 2,947 | 2,724 | 2,501 | 2,278 | 2,055 | 1,832 |
| 16,000 | 4,326 | 4,178 | 3,864 | 3,630 | 3,456 | 3,262 | 3,048 | 2,825 | 2,602 | 2,379 | 2,156 |
| 17,000 | 4,626 | 4,481 | 4,176 | 3,942 | 3,768 | 3,574 | 3,360 | 3,146 | 2,926 | 2,702 | 2,480 |
| 18,000 | 4,926 | 4,781 | 4,476 | 4,251 | 4,080 | 3,886 | 3,672 | 3,458 | 3,244 | 3,027 | 2,804 |
| 19,000 | 5,226 | 5,081 | 4,776 | 4,551 | 4,386 | 4,198 | 3,984 | 3,770 | 3,556 | 3,342 | 3,128 |
| 20,000 | 5,520 | 5,381 | 5,076 | 4,851 | 4,686 | 4,501 | 4,296 | 4,082 | 3,868 | 3,654 | 3,440 |

[1] Adjusted gross income plus nontaxable income.

[FR Doc.73-20273 Filed 9-21-73;8:45 am]



V 38-184 SEP 24 73 XUM

*Just Released*

# CODE OF FEDERAL REGULATIONS

(Revised as of July 1, 1973)

Title 31—Money and Finance: Treasury ..... $4.75

Title 41—Public Contracts and Property Management (Chapters 19–100) ..... 2.30

[*A Cumulative checklist of CFR issuances for 1973 appears in the first issue of the Federal Register each month under Title 1*]

Order from Superintendent of Documents,
United States Government Printing Office,
Washington, D.C. 20402

V 38-184 SEP 24 73 XUM

185

September 25, 1973—Pages 26669–26790

# federal register

TUESDAY, SEPTEMBER 25, 1973

WASHINGTON, D.C.

Volume 38 ■ Number 185

Pages 26669–26790

PART I

## HIGHLIGHTS OF THIS ISSUE

**This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.**

**NUCLEAR MATERIAL**—AEC proposes control requirements; comments by 11–24–73 ..... 26735

**OFF-BASE HOUSING**—DoD revises equal opportunity standards ..... 26720

**SAVINGS AND LOAN ASSOCIATIONS**—FHLBB amendments pertaining to lending territories (2 documents); effective 9–25–73 ..... 26710, 26711

**FLAMMABILITY STANDARDS**—Consumer Product Safety Commission approves alternate sampling plan for mattresses and pads ..... 26757

**DRUGS**—FDA withdraws approval of certain drugs (3 documents); effective 10–5–73 ..... 26748, 26752

**ANTIDUMPING**—Treasury Department investigation of certain non-powered hand tools from Japan ..... 26738

**OFF-ROAD VEHICLES**—USDA regulations for use in National Forests; effective 10–20–73 ..... 26723

**PUBLIC SCHOOLS**—Equal Employment Opportunity Commission regulations on recordkeeping and filing requirements, effective 10–25–73 ..... 26719

**MEDICARE/MEDICAID**—HEW proposed rules for limitation of Federal payment to State planning agencies; comments by 10–10–73 ..... 26730

**"AFFILIATED PERSON"**—SEC issues interpretation ..... 26716

**DOMESTIC SUGAR BEETS**—USDA sets rates of commercially recoverable sugar; effective 10–25–73 ..... 26706

**PART II:**

**ADULT EDUCATION**—HEW proposes priorities for 1974 applications for special projects and teacher training; comments by 10–25–73 ..... 26787



V 38-185 SEP 25 73 XUM

# REMINDERS

NOTE: There were no items published after October 1, 1972, that are eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

federal register

Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by the Executive Branch of the Federal Government. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $2.50 per month or $25 per year, payable in advance. The charge for individual copies is 20 cents for each issue, or 20 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.





MEETINGS—
CLC: Food Industry Wage and Salary Committee, 9–27–73 ..... 26765
Labor Management Advisory Committee ..... 26765
USDA: Forest Research Advisory Committee, Orono, Maine, 10–15–73 ..... 26742
Ottawa National Forest Multiple Use Advisory Committee, 10–18 and 10–19–73 ..... 26742
DoD: Chief of Naval Operations Industry Advisory Committee for Telecommunications, 10–16 and 10–17–73 ..... 26738
State Department: Secretary of State's Advisory Committee on Private International Law, 10–5–73 ..... 26738
HEW: National Advisory Committees, October meetings ..... 26753
NIH Cancer Control Advisory Committee, 10–4–73 ..... 26753
NIH Periodontal Diseases Advisory Committee, 10–16 and 10–17–73 ..... 26754
NIH Dental Caries Program Advisory Committee, 10–15 and 10–16–73 ..... 26754
NIH Pulmonary Diseases Advisory Committee, 10–8 and 10–9–73 ..... 26754
NIH National Advisory Commission on Multiple Sclerosis, 10–3–73 ..... 26754
NIH Hypertension Information and Education Advisory Committee, 10–23–73 ..... 26754
NIH Ad Hoc Toxicology Committee, 9–27 and 9–28–73 ..... 26753
Interior Department: Prineville District Advisory Board, 10–25–73 ..... 26739
Advisory Board on National Parks, Historic Sites, Buildings and Monuments, 10–1 thru 10–3–73 ..... 26739
National Science Foundation: Advisory Panel for Astronomy, 10–15 and 10–16–73 ..... 26774
Advisory Panel for Experimental R&D Incentives, Public Sector Subcommittee, 10–9–73 ..... 26774
Advisory Panel for Atmospheric Sciences, 10–10 and 10–11–73 ..... 26774
Advisory Panel for Regulatory Biology, 10–11 and 10–12–73 ..... 26774
GSA: National Health Resources Advisory Committee, 10–11 and 10–12–73 ..... 26773
AEC: Advisory Committee on Reactor Safeguards Subcommittee on D. C. Cook Nuclear Plant, Units 1 & 2, 10–5–73 ..... 26755

# Contents

AGRICULTURAL MARKETING SERVICE
Rules and Regulations
Milk in certain marketing areas:
Austin-Waco, Texas; order suspending certain provisions ..... 26709
Wichita, Kansas; order amending order ..... 26707
Proposed Rules
Milk in the Frontier marketing area; postponement of hearing ..... 26729
Raisins produced from grapes grown in California; designation of desirable free tonnage for natural Thompson seedless raisins ..... 26729

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE
Rules and Regulations
Domestic beet sugar area; determination of sugar commercially availability; 1973 crop ..... 26706

AGRICULTURE DEPARTMENT
*See also* Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Animal and Plant Health Inspection Service; Forest Service; Plant and Operations Office.
Notices
Chairman, Commodity Exchange Commission; designation ..... 26744

ANIMAL AND PLANT HEALTH INSPECTION SERVICE
Notices
Soil samples; list of approved laboratories authorized to receive interstate and foreign shipments for testing, processing, or analysis ..... 26739

ATOMIC ENERGY COMMISSION
Proposed Rules
Special nuclear material; fundamental controls ..... 26735
Notices
Advisory Committee on Reactor Safeguards; Subcommittee on D.C. Cook Nuclear Plant; meeting ..... 26755
Duke Power Co.; assignment of members of Atomic Safety and Licensing Appeal Board ..... 26755
Toledo Edison Co. et al.; order for special prehearing conference ..... 26755
United Nuclear Corp.; availability of applicant's environmental report ..... 26756

CIVIL AERONAUTICS BOARD
Notices
Seaboard World Airlines, Inc.; order to show cause regarding flag-stop service at Bangor, Alaska ..... 26756

CIVIL SERVICE COMMISSION
Rules and Regulations
Excepted service:
Department of Agriculture ..... 26675
Department of Commerce ..... 26675
Department of Housing and Urban Development ..... 26675
Department of the Interior ..... 26675
Environmental Protection Agency ..... 26675
Veterans Administration ..... 26675

COMMERCE DEPARTMENT
*See* Domestic and International Business Administration; Foreign Domestic Investments Office; Maritime Administration.

CONSUMER PRODUCT SAFETY COMMISSION
Notices
Alternate sampling plan for mattresses and mattress pads; approval ..... 26757

COST OF LIVING COUNCIL
Notices
Food Industry Wage and Salary Committee; closed meeting ..... 26765
Labor-Management Advisory Committee; determination to close meeting ..... 26765

DEFENSE DEPARTMENT
*See also* Navy Department.
Rules and Regulations
Equal opportunity in off-base housing program ..... 26720

DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION
Notices
Applications and decisions on applications for duty-free entry of scientific articles:
Cornell University (2 documents) ..... 26744, 26746
North Texas State University ..... 26747
San Francisco University ..... 26746
University of Rhode Island ..... 26746

EDUCATION OFFICE
Proposed Rules
Special projects and teacher training in adult education; priorities for fiscal year 1974 ..... 26787

ENVIRONMENTAL PROTECTION AGENCY
Notices
Calcium cyanide, strychnine, sodium monofluoroacetate and sodium cyanide used in certain rodenticides; order fixing parties ..... 26759
Motor vehicle pollution control; California State standards; public meeting ..... 26760

(Continued on next page)



V 38 185 SEP 25 73 XUM

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Rules and Regulations

Records and reports; public elementary and secondary school systems, districts, and individual schools; recordkeeping and filing requirements ---- 26719

FEDERAL AVIATION ADMINISTRATION

Rules and Regulations

Airworthiness directives:
- General Dynamics model airplanes ---- 26713
- Nickel-cadmium batteries ---- 26713

Colored Federal airways and reporting points; redesignation ---- 26714

Establishment of jet routes and area high routes:
- Alteration of RNAV waypoint reference facilities ---- 26715
- Extension of jet route ---- 26715

Special use airspace; revocation of restricted area ---- 26714

Standard instrument approach procedures; miscellaneous amendments ---- 26715

Proposed Rules

Control zone; alteration (4 documents) ---- 26730, 26731

Control zone and transition area; alteration and revocation ---- 26732

Jet route; establishment ---- 26735

Restricted areas and controlled airspace; designation ---- 26732

Transition area; alteration (4 documents) ---- 26732–26734

VOR Federal airway:
- Extension ---- 26734
- Designation and extension ---- 26734

FEDERAL COMMUNICATIONS COMMISSION

Rules and Regulations

Commission organization; recap of § 0.821 ---- 26724

Notices

*Hearings, etc.:*
- American Telephone and Telegraph Co. and Western Union Telegraph Co ---- 26761
- Board of Education, Union School District #46 and College of Dupage ---- 26763
- Boston Broadcasters, Inc ---- 26764
- ITT World Communications, Inc ---- 26765

FEDERAL HOME LOAN BANK BOARD

Rules and Regulations

Operations:
- Definitions; normal lending territory ---- 26711
- NOW accounts (2 documents) ---- 26709, 26712
- Real estate loan percentage-of-assets limitations ---- 26710

Proposed Rules

Federal home loan bank system; NOW accounts ---- 26736

FEDERAL POWER COMMISSION

Notices

National Gas Survey; orders designating members and representatives (4 documents) ---- 26771

*Hearings, etc.:*
- Amoco Production Co. et al ---- 26765
- El Paso Natural Gas Co ---- 26766
- Michigan Power Co ---- 26766
- Mississippi River Transmission Corp ---- 26767
- Mt. Carmel Public Utility Co ---- 26767
- Natural Gas Pipeline Company of America and Texaco, Inc ---- 26767
- Panhandle Eastern Pipeline Co ---- 26767
- Portland General Electric Co ---- 26768
- Potomac Edison Co ---- 26768
- South Texas Natural Gas Gathering Co ---- 26769
- Southern Natural Gas Co ---- 26770
- Southwest Gas Corp ---- 26770
- Utah Power & Light Co ---- 26770
- Western Massachusetts Electric Co ---- 26771

FEDERAL RESERVE SYSTEM

Notices

Acquisitions of banks:
- Chase Manhattan Corp ---- 26772
- Combanks Corp ---- 26772
- West Florida Bank Holding Co., Inc ---- 26773

FBT Bank; order approving application for consolidation of banks ---- 26772

Old Kent Financial Corp.; order approving acquisition of bank ---- 26772

FISH AND WILDLIFE SERVICE

Rules and Regulations

Hunting; wildlife refuges in certain States:
- Delaware; Prime Hook National Wildlife Refuge ---- 26727
- Mississippi; Yazoo National Wildlife Refuge ---- 26728
- New York; Montezuma National Wildlife Refuge ---- 26727
- Oklahoma; Tishomingo National Wildlife Refuge (2 documents) ---- 26727

FOOD AND DRUG ADMINISTRATION

Notices

Filing of petitions for food additives:
- American Cyanamid Co ---- 26747
- Sandoz Colors & Chemicals ---- 26752

Withdrawal of approval of new drug applications:
- Certain combination anorectic drugs; final order on objections and request for hearing ---- 26748
- Certain drugs containing pentaerythritol tetranitrate in combination with rauwolfia alkaloids ---- 26752
- Wampole Laboratories; Vastran Forte Capsules ---- 26752

FOREIGN DIRECT INVESTMENTS OFFICE

Rules and Regulations

Foreign direct investment regulations; revisions ---- 26676

FOREST SERVICE

Rules and Regulations

Use of off-road vehicles ---- 26723

Notices

Forest Research Advisory Committee, Orono, Maine; meeting ---- 26742

Multiple Use Advisory Committee; meeting ---- 26742

GENERAL SERVICES ADMINISTRATION

Notices

Conservation of paper products, recommended procedures and solicitation of cooperation ---- 26773

National Health Resources Advisory Committee; meeting ---- 26773

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

*See also* Education Office; Food and Drug Administration; Health Services Administration; National Institutes of Health; Social Security Administration.

Proposed Rules

Capital expenditures; payment to States for costs of review ---- 26730

HEALTH SERVICES ADMINISTRATION

Notices

National advisory committees; meetings ---- 26753

INDIAN AFFAIRS BUREAU

Proposed Rules

Salt River Indian Irrigation Project, Arizona; revisions ---- 26729

INTERIOR DEPARTMENT

*See also* Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau.

Notices

Proposed development of Horicon National Wildlife Refuge, Wis.; availability of draft environmental statement ---- 26739

INTERSTATE COMMERCE COMMISSION

Rules and Regulations

Abandonment of railroad lines; special procedures for proposed railroad abandonment; corrected order ---- 26726

Extension of credit to shippers by motor carriers; payment of rates and charges of motor carriers; credit regulations ---- 26726

Notices

Assignment of hearings ---- 26782

Motor Carrier Board transfer proceedings ---- 26782







LABOR DEPARTMENT

*See* Occupational Safety and Health Administration; Wage and Hour Division.

LAND MANAGEMENT BUREAU

Notices

Chief, Division of Management Services, State Office, et al.; delegation of authority regarding contracts and leases ---- 26738

Prineville District Advisory Board; meeting ---- 26739

MARITIME ADMINISTRATION

Notices

Applications for construction of various tankers and oil vessels:
- Exxon Corp ---- 26747
- Waterman Marine Corp ---- 26747

NATIONAL INSTITUTES OF HEALTH

Notices

Meetings, various advisory bodies:
- Ad Hoc Toxicology Committee ---- 26753
- Cancer Control Advisory Committee ---- 26753
- Hypertension information and Education Advisory Committee ---- 26754
- Periodontal Diseases Advisory Committee ---- 26754
- National Advisory Commission on Multiple Sclerosis ---- 26754
- Dental Caries Program Advisory Committee ---- 26754
- Pulmonary Diseases Advisory Committee ---- 26754

National Research and Demonstration Centers; establishment ---- 26754

NATIONAL PARK SERVICE

Notice

Secretary's Advisory Board on National Parks, Historic Sites, Buildings and Monuments; meetings ---- 26739

NATIONAL SCIENCE FOUNDATION

Notices

Meetings, various advisory panels:
- Advisory Panel for Atmospheric Sciences ---- 26774
- Advisory Panel for Astronomy ---- 26774
- Advisory Panel for Experimental R & D Incentives; Public Sector Subcommittee ---- 26774
- Advisory Panels for Regulatory and Systematic Biology ---- 26774

NAVY DEPARTMENT

Notices

Chief of Naval Operations Industry Advisory Committee for Telecommunications (CIACT); meeting ---- 26738

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

Notices

New Mexico Developmental Plan; submission of Plan and availability for public comment ---- 26780

Variances and interim orders:
- Burd & Fletcher Co ---- 26778
- Fisher Scientific Co ---- 26779
- Rollins College ---- 26781
- Sprague ---- 26781

PANAMA CANAL

Rules and Regulations

Air navigation; general traffic circuit rules ---- 26722

Notices

Canal Zone postal service; certain postage rates ---- 26775

PLANT AND OPERATIONS OFFICE

Notices

Fee schedule ---- 26742

SECURITIES AND EXCHANGE COMMISSION

Rules and Regulations

Interpretative release; interpretation of "affiliated person" ---- 26716

Notices

*Hearings, etc.:*
- CNA Association Members Fund, Inc ---- 26775
- Chicago Board Options Exchange, Inc., and Chicago Board Options Exchange Clearing Corp ---- 26775
- Home-Stake Production Co ---- 26776
- Mississippi Power Co ---- 26776

SMALL BUSINESS ADMINISTRATION

Notices

Vicksburg Small Business Investment Co.; filing of application for approval of conflict of interest transaction ---- 26777

SOCIAL SECURITY ADMINISTRATION

Rules and Regulations

Federal health insurance for the aged; designation of extended care facilities as skilled nursing facilities ---- 26718

STATE DEPARTMENT

Notices

Secretary of State's Advisory Committee on Private International Law; meeting ---- 26738

TARIFF COMMISSION

Notices

Conversion of TSUS into format of Brussels tariff nomenclature; change in deadline ---- 26777

Petitions for determinations; investigations:
- Forann Corp ---- 26777
- M. Lauer, Inc ---- 26778
- Mather Co ---- 26778
- Moxees Shoe Corp ---- 26778

TRANSPORTATION DEPARTMENT

*See* Federal Aviation Administration.

TREASURY DEPARTMENT

Notices

Non-powered hand tools from Japan; antidumping proceeding ---- 26738

WAGE AND HOUR DIVISION

Rules and Regulations

Laundry and cleaning industry in Puerto Rico; wage order ---- 26718




V 38 I 185 SEP 25 73 XUM

# List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month. In the last issue of the month the cumulative list will appear at the end of the issue.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1973, and specifies how they are affected.


5 CFR
213 (6 documents) ..... 26675

7 CFR
891 ..... 26706
1073 ..... 26707
1129 ..... 26709
PROPOSED RULES:
989 ..... 26729
1140 ..... 26729

10 CFR
PROPOSED RULES:
70 ..... 26735

12 CFR
545 (2 documents) ..... 26709, 26710
561 ..... 26711
563 (2 documents) ..... 26711, 26712
PROPOSED RULES:
526 ..... 26736

14 CFR
39 (2 documents) ..... 26713
71 ..... 26714
73 ..... 26714
75 (2 documents) ..... 26715
97 ..... 26715
PROPOSED RULES:
71 (12 documents) ..... 26730–26734
73 ..... 26732
75 ..... 26735

15 CFR
1000 ..... 26676
1020 ..... 26697
1025 ..... 26699
1030 ..... 26699
1035 ..... 26703
1040 ..... 26704
1050 ..... 26705

17 CFR
241 ..... 26716

20 CFR
405 ..... 26718

25 CFR
PROPOSED RULES:
221 ..... 26729

29 CFR
723 ..... 26718
1602 ..... 26719

32 CFR
301 ..... 26720

35 CFR
51 ..... 26722

36 CFR
295 ..... 26723

42 CFR
PROPOSED RULES:
81 ..... 26730

45 CFR
PROPOSED RULES:
167 ..... 26788

47 CFR
0 ..... 26724

49 CFR
1121 ..... 26726
1322 ..... 26726

50 CFR
32 (5 documents) ..... 26727, 26728






# Rules and Regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

## Title 5—Administrative Personnel

### CHAPTER I—CIVIL SERVICE COMMISSION

### PART 213—EXCEPTED SERVICE

#### Department of Commerce

Section 213.3214 is amended to show that the Schedule B authority covering 35 positions of Minority Business Opportunity Specialist in grades GS–9 through GS–15 in the Office of Minority Business Enterprise is extended from December 31, 1973, to December 31, 1974.

Effective September 25, 1973, § 213.3214(c)(1) is amended as set out below.

**§ 213.3214 Department of Commerce.**

• • • • • •

(c) *Office of Minority Business Enterprise.* (1) Until December 31, 1974, not to exceed 35 positions of Minority Business Opportunity Specialist at grades GS–9 through GS–15.

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954–58 Comp. p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73-20386 Filed 9-24-73;8:45 am]

### PART 213—EXCEPTED SERVICE

#### Department of Agriculture

Section 213.3313 is amended to show that ten positions of Federal Regional Council Representatives, Office of the Under Secretary, are excepted under Schedule C.

Effective September 25, 1973, § 213.3313(c)(7) is added as set out below.

**§ 213.3313 Department of Agriculture.**

• • • • • •

(c) *Office of the Under Secretary.* • • •

(7) Ten Federal Regional Council Representatives.

• • • • • •

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954–58 Comp. p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73-20388 Filed 9-24-73;8:45 am]

### PART 213—EXCEPTED SERVICE

#### Environmental Protection Agency

Section 213.3318 is amended to reflect the following title changes: from Special Assistant to the Assistant Administrator for Planning and Management to Special Assistant to the Administrator and from Program Advisor to the Special Assistant to the Assistant Administrator for Planning and Management to Program Advisor to the Special Assistant to the Administrator.

Effective September 25, 1973, § 213.3318(a)(1) is amended, § 213.3318(a)(10) is added, and § 213.3318(h) is revoked as set out below.

**§ 213.3318 Environmental Protection Agency.**

(a) *Office of the Administrator.*

(1) Four Special Assistants to the Administrator. • • •

(10) One Program Advisor to the Special Assistant to the Administrator.

• • • • • •

(h) [Revoked]

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–58 Comp. p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73-20387 Filed 9-24-73;8:45 am]

### PART 213—EXCEPTED SERVICE

#### Department of the Interior

Section 213.3312 is amended to show that one position of Confidential Assistant (Administrative Assistant) to the Assistant Secretary for Congressional and Public Affairs is excepted under Schedule C.

Effective September 25, 1973, § 213.3312(a)(5) is amended as set out below.

**§ 213.3312 Department of the Interior.**

(a) *Office of the Secretary.* • • •

(5) Three Special Assistants to the Assistant Secretary for Fish and Wildlife and Parks and one Confidential Assistant (Administrative Assistant) to each of the four Assistant Secretaries for Energy and Minerals, Land and Water Resources, Fish and Wildlife and Parks, and Congressional and Public Affairs.

• • • • • •

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954–58 Comp. p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73-20384 Filed 9-24-73;8:45 am]

### PART 213—EXCEPTED SERVICE

#### Department of Housing and Urban Development

Section 213.3384 is amended to show that one position of Secretary to the Deputy Assistant Secretary for Policy Development is excepted under Schedule C.

Effective September 25, 1973, § 213.3384(j) is added as set out below.

**§ 213.3384 Department of Housing and Urban Development.**

• • • • • •

(j) *Office of the Assistant Secretary for Policy Development and Research.*

(1) One Secretary to the Deputy Assistant Secretary for Policy Development.

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954–58 Comp. p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73-20385 Filed 9-24-73;8:45 am]

### PART 213—EXCEPTED SERVICE

#### Veterans Administration

Section 213.3327 is amended to show that one position of Director, National Cemetery System is excepted under Schedule C.

Effective on September 25, 1973, § 213.3327(a)(9) is added as set out below.

**§ 213.3327 Veterans Administration.**

(a) *Office of the Administrator.* • • •

(9) Director, National Cemetery System.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954–58 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION.
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73-20470 Filed 9-24-73;8:45 am]



V 38 185
SEP 25 73
XUM

Title 15—Commerce and Foreign Trade

## CHAPTER X—OFFICE OF FOREIGN DIRECT INVESTMENTS, DEPARTMENT OF COMMERCE

## FOREIGN DIRECT INVESTMENT REGULATIONS

### Revision of Parts

The Office of Foreign Direct Investment (the Office) publishes hereinafter a complete composite of the Foreign Direct Investment Regulations (the Regulations) as amended to date. The amended Regulations include changes published in the FEDERAL REGISTER on September 6, 1972, February 3, 1973, May 17, 1973, and June 25, 1973.

In this edition of the regulations the Office also promulgates a minor amendment to section 319 of the Foreign Direct Investment Regulations. The countries designated under section 319(b) are amended to include the Iraq-Saudi Arabia Neutral Zone as an additional "country" and, commencing May 15, 1972, the Ryukyu Islands as part of Japan.

This amendment takes effect September 25, 1973. These designations of additional Schedule B Areas represent clarifications of the Regulations. Accordingly it is unnecessary to have notice or public procedure regarding the change.

ROBERT H. ENSLOW,
*Director, Office of Foreign Direct Investments.*

Accordingly, Parts 1000, 1025, 1030, 1035, 1040, and 1050 are revised to read as follows:

## PART 1000—FOREIGN DIRECT INVESTMENT REGULATIONS

### Subpart A—Relation of This Part to Other Laws and Regulations

Sec.
1000.101 Relation of this part to other laws and regulations.

### Subpart B—Prohibitions

1000.201 Prohibited direct investment in affiliated foreign nationals.
1000.202 Repatriation of direct investment earning. (REVOKED)
1000.203 Liquid foreign balances.
1000.204 Evasion.

### Subpart C—General Definitions

1000.301 Foreign country.
1000.302 Foreign national.
1000.303 Nationals of more than one foreign country. (REVOKED)
1000.304 Affiliated foreign national.
1000.305 Direct investor.
1000.306 Positive and negative direct investment.
1000.307 Person; corporation.
1000.308 Transfer.
1000.309 Property; property interest.
1000.310 Interest.
1000.311 Banking institution. (REVOKED)
1000.312 Transfers of capital.
1000.313 Net transfer of capital.
1000.314 Authorization and exemption.
1000.315 General authorization and exemption.
1000.316 Specific authorization and exemption.
1000.317 Domestic bank; foreign bank.
1000.318 United States.
1000.319 Schedule A, B, and C countries.
1000.320 Effective date.
1000.321 Year; period.
1000.322 Person within the United States.
1000.323 International finance subsidiary.
1000.324 Long-term foreign borrowing.
1000.325 Incorporated and unincorporated affiliated foreign nationals. (proposed but withdrawn prior to adoption; see § 1000.304 (b) (3)).

### Subpart D—Interpretations

1000.401 Reference to amended sections.
1000.402 Effect of amendment of sections of this part or of other orders, etc.
1000.403 Transactions between principal and agent. (REVOKED)
1000.404 Distribution, apportionment or allocation of earnings.

### Subpart E—Authorizations or Exemptions

1000.501 Exclusion from authorization or exemption.
1000.502 Elections with respect to §§ 1000.503 and 1000.504.
1000.503 Positive direct investment not exceeding $6,000,000; minimum allowable.
1000.504 Authorized positive direct investment in scheduled areas; schedular allowables.
1000.505 Transfers between affiliated foreign nationals.
1000.506 Additional authorized positive direct investment in any one or more scheduled areas; incremental earnings allowable.
1000.507 Alternative minimum and Schedule A supplemental allowable. (REVOKED)

### Subpart F—Records and Reports

1000.601 Records.
1000.602 Reports.

### Subpart G—Penalties

1000.701 Penalties.
1000.702 Effect upon lenders.

### Subpart H—Procedures

1000.801 Applications for specific authorizations and exemptions.
1000.802 Petition for reconsideration; appeals.
1000.803 Proof of authority to file certain documents.
1000.304 Amendment, modification, or revocation.
1000.805 Rules governing availability of information.
1000.806 Delegations.

### Subpart I—Direct and Indirect Interests; Affiliated, Associated and Family Groups; Ownership of Direct Investors; Rules for Reporting

1000.901 Direct interests.
1000.902 Indirect interests.
1000.903 Affiliated groups.
1000.904 Family groups.
1000.905 Associated groups.
1000.906 Ownership of direct investors.
1000.907 Reporting.

### Subpart J—Repayment of Borrowings

1000.1001 Definitions.
1000.1002 Transfers of capital in connection with repayment of borrowings.
1000.1003 Effect of transfers of capital in repayment of borrowings.
General Authorization No. 1—Transfers of Capital. (REVOKED)

### Subpart K—Direct Investment in Canada

1000.1101 Definitions.
1000.1102 Authorized positive direct investment in Canada.
1000.1103 Net transfers of capital to Schedule B countries.
1000.1104 Reinvested earnings—Schedule B countries.
1000.1105 Foreign balances.
1000.1106 Long-term foreign borrowing.
1000.1107 Canadian program.

### Subpart L—Exploration and Development Expenditures (Withdrawn)

### Subpart M—Affiliated Foreign Nationals of Air Carriers Engaged in Foreign Air Transportation

1000.1301 Exclusions.
1000.1302 Foreign air transport allowable.
1000.1303 Adjustment to incremental earning allowable.

### Subpart N—Overseas Finance Subsidiaries

1000.1401 Definitions.
1000.1402 Qualification.
1000.1403 Transfers of overseas proceeds; foreign balances.
1000.1404 Repayment of overseas borrowing and proceeds borrowing.
1000.1405 Authorized repayments.
1000.1406 Substitution of borrowing.
1000.1407 Assumption of debt obligation incurred by overseas finance subsidiary.

### General Authorizations

1 Transfers of Capital. (REVOKED, superseded by Subpart J, Repayment of Borrowings).
2 Limited Authorization to Refrain from Repatriation. (REVOKED)
3 Authorized Transfers of Capital. (REVOKED)
4 Canada—Application of Foreign Direct Investment Regulations (Proposed but withdrawn prior to adoption; superseded by Subpart K, Direct Investment in Canada).

### General Interpretative Rules

1 § 1000.312—Transfer of capital. (REVOKED)
2 G.A.1(2)(b)—Certificate. (REVOKED)
3 § 1000.312—Transfer of capital. (REVOKED)

Identity of Countries in Schedules A, B, and C.

AUTHORITY: The provisions of this Part 1000 issued pursuant to sec. 5 of the Act of Oct. 6, 1917, 40 Stat. 415, as amended, 12 U.S.C. 95a; E.O. 11387, Jan. 1, 1968, 33 FR 47; Department Organization Order 25-3A (formerly Department Order 184-A), Jan. 1, 1968, 33 FR 54.

### Subpart A—Relation of This Part to Other Laws and Regulations

#### § 1000.101 Relation of this part to other laws and regulations.

(a) This part is independent of Title 31 CFR, Chapter V. The prohibitions contained in this part are in addition to the prohibitions contained in said Chapter V. No license contained in or issued pursuant to said Chapter V shall be deemed to authorize any transaction prohibited by this part, nor shall any license or authorization issued pursuant to any other provision of law be deemed to authorize any transaction so prohibited.

(b) No authorization or exemption contained in or issued pursuant to this part shall be deemed to authorize any transaction to the extent that it is prohibited by reason of the provisions of any law or statute other than 12 U.S.C. 95a, as amended, or any proclamation, order, or regulation other than those contained in or issued pursuant to Executive Order 11387 or this part.

(c) No authorization or exemption contained in or issued pursuant to this part shall be deemed to authorize any transaction to the extent that it is prohibited by reason of the provisions of any part of Title 31 CFR.





### Subpart B—Prohibitions

#### § 1000.201 Prohibited direct investment in affiliated foreign nationals.

(a) Except as provided in this part, and as otherwise permitted by the Secretary of Commerce (hereinafter referred to as the Secretary) by means of rulings, instructions, authorizations, waivers, exemptions or otherwise, positive direct investment by a direct investor in affiliated foreign nationals of such direct investor in Schedule A, B, or C countries is prohibited during any year (as defined in § 1000.321) commencing with the effective date.

(b)(1) All transactions prohibited by section 1 of Executive Order 11387 which are not prohibited by this part are hereby authorized.

(2) To the extent delineated from time to time by the Board of Governors of the Federal Reserve System nothing in this part shall apply to any bank or other financial institution certified by the Board as being subject to the Federal Reserve Foreign Credit Restraint Program, or to any program instituted by the Board under section 2 of Executive Order 11387.

(c) Nothing contained in this part shall be construed to limit the right of a person within the United States to make a bona fide transfer of capital or earnings in the ordinary course of business to a foreign national in respect of an interest in such person held by such foreign national.

(d) In addition to all other powers reserved to the Secretary in this part, the Secretary may in his discretion, as to any direct investor, amend or revoke the authorizations set forth in this part by reducing the amount of positive direct investment, positive net transfers of capital and reinvestment of earnings authorized in any scheduled area during a year, by limiting the application of such authorizations and exemptions and of § 1000.201 from "during any year" to periods shorter than a year, and by otherwise imposing such conditions as the Secretary shall deem appropriate to carry out the purposes of this part. In exercising his discretion with respect to any direct investor, the Secretary may consider, among other factors, the following:

(1) Whether the positive direct investment, positive net transfers of capital or reinvestment of earnings by such direct investor in any scheduled area during any quarter is, or may reasonably be estimated to be, materially in excess of 25 percent of the amount thereof generally authorized to such direct investor during the year;

(2) Whether the transactions resulting in such excess during such quarter are in accordance with the customary business practices of the direct investor; and

(3) Whether the direct investor has complied with the provisions of Subpart F.

#### § 1000.202 Repatriation of direct investment earnings. (REVOKED)

#### § 1000.203 Liquid foreign balances.

(a) For purposes of this section:

(1) The term "foreign balances" means money on deposit in a foreign bank (as defined in § 1000.317), including certificates of deposit and fixed interest deposits of such a bank, negotiable instruments, nonnegotiable instruments acquired after June 30, 1968, and commercial paper of an unaffiliated foreign national (other than negotiable instruments, nonnegotiable instruments or commercial paper arising from the export by the direct investor of goods or services from the United States to foreign nationals) and securities issued or guaranteed by a foreign country.

(2) The term "liquid foreign balances" means foreign balances (as defined in paragraph (a)(1) of this section) other than (i) those negotiable instruments, nonnegotiable instruments, commercial paper and securities which are acquired on or before June 30, 1968, and which are not redeemable at the option of the direct investor and are not transferable and readily marketable; (ii) bank deposits, negotiable instruments, nonnegotiable instruments, commercial paper and securities with a period of more than 1 year remaining to maturity when acquired by the direct investor and which are not redeemable in full at the option of the direct investor within a period of 1 year after such acquisition; (iii) foreign balances which are subject to restrictions of a foreign country on liquidation and transfer; and (iv) foreign balances which have been pledged or hypothecated in connection with borrowings by a direct investor or its affiliated foreign nations.

(3) [Revoked]

(4) Foreign balances shall be deemed to be held by a direct investor if title to such balances is held (i) by any person (including an affiliated foreign national of the direct investor) principally formed or availed of for the purpose of holding title to such balances; or (ii) by any person (including an affiliated foreign national of the direct investor), if such balances are returnable to the direct investor on its demand without material conditions and if the holding of such balances is unrelated to the business needs of such person.

(5) Negotiable instruments, nonnegotiable instruments, commercial paper and securities constituting foreign balances shall be valued at their respective fair market values or, if evidence of fair market value is not readily available, at the cost to the direct investor.

(b) Each direct investor shall maintain books and records that identify separately all proceeds of long-term foreign borrowing received with respect to each long-term foreign borrowing made by the direct investor and the uses to which such proceeds have been put.

(c) Each direct investor is hereby required to limit the amount of liquid foreign balances held at the end of any month (other than Canadian foreign balances, as defined in § 1000.1105(a)) to the sum of (1) the amount of available proceeds (as defined in § 1000.324(d)) of such direct investor at the end of such month, plus (2) the greater of (i) the average end-of-month amount of such balances (other than available proceeds in the form of such balances, and Canadian foreign balances) held by such direct investor during 1965 and 1966 (whether or not a direct investor at that time) or (ii) $100,000.

(d) (1) [Revoked]

(2) A direct investor which expended proceeds of long-term foreign borrowing made during 1965 or any succeeding year and deducted the amount of such proceeds from net transfer of capital to a schedule area under § 1000.313(d)(1) may thereafter deduct, during 1973 or any succeeding year, from positive direct investment in a different scheduled area, an amount equal to all or a part of such expended proceeds as are allocated pursuant to this subparagraph. Proceeds shall be allocated in a different scheduled area pursuant to this subparagraph if (i) an entry is made in the books and records maintained by the direct investor under paragraph (b) of this section and § 1000.601; (ii) the allocation and the deduction from positive direct investment in a different scheduled area are reported on the next annual report of the direct investor (Form FDI–102F) filed for the year for which the deduction is made; and (iii) the proceeds with respect to which such deduction is made, as of the end of the year for which the deduction is made and thereafter, are not held, directly or indirectly, in the form of foreign balances or in the form of securities (including debt obligations, equity interests and any other type of investment contract) of foreign nationals or in the form of any other foreign property: *Provided*, That such proceeds may remain expended in an affiliated foreign national or again be expended at any time in making transfers of capital to affiliated foreign nationals. The direct investor shall be deemed at the time of such deduction from positive direct investment in a different scheduled area to have made a transfer of capital equal to the amount of such deduction to the scheduled area in which the deduction from net transfer of capital under § 1000.313(d)(1) was previously made. The direct investor may thereafter continue to change the scheduled area in which a deduction from positive direct investment is made, up to the amount of proceeds of long-term foreign borrowing expended in making the original transfer of capital for which a deduction under § 1000.313(d)(1) was made: *Provided*, That each time such change occurs, the direct investor shall be deemed to have



V 38 185 SEP 25 73 XUM

made a transfer of capital to the immediately previous scheduled area in the amount of the deduction from positive direct investment in the subsequent scheduled area.

(3) A direct investor which, during 1968 or any succeeding year, allocates proceeds of long-term foreign borrowing and deducts the amount of such proceeds from positive direct investment in a scheduled area under § 1000.306(e), may, during 1969 or any succeeding year, reallocate all or part of such proceeds of long-term foreign borrowing to positive direct investment in another scheduled area. The direct investor which makes a reallocation under this paragraph (d)(3) of this section shall be deemed at the time of such reallocation to have made a transfer of capital equal to the amount so reallocated to the scheduled area in which the proceeds of long-term foreign borrowing were allocated immediately prior thereto. The direct investor may thereafter continue to reallocate to different scheduled areas, up to the amount of proceeds of long-term foreign borrowing previously allocated: *Provided*, That each time such reallocation occurs, the direct investor shall be deemed to have made a transfer of capital equal to the amount so reallocated to the scheduled area to which the proceeds of long-term foreign borrowing were allocated or reallocated immediately prior to such reallocation.

(e) [Revoked]

**§ 1000.204 Evasion.**

Anything in this part to the contrary notwithstanding, any transaction for the purpose of, or which has the effect of, evading or avoiding any of the provisions set forth in this part may be disregarded in whole or in part for purposes of measuring compliance with the provisions of this part.

## Subpart C—General Definitions

**§ 1000.301 Foreign country.**

The term "foreign country" includes, but not by way of limitation:

(a) The state and the government of any foreign country as well as any political subdivision, agency, or instrumentality thereof or any territory, dependency, colony, protectorate, mandate, dominion, possession or place subject to the jurisdiction thereof.

(b) Any other government (including any political subdivision, agency, or instrumentality thereof) to the extent and only to the extent that such government exercises or claims to exercise control, authority, jurisdiction or sovereignty over territory which constitutes such foreign country.

(c) [Revoked]

(d) Any territory which is controlled or occupied by the military, naval or police forces or other authority of a foreign country.

**§ 1000.302 Foreign national.**

(a) The term "foreign national" means a foreign country (as defined in § 1000.301) and any person which is not a person within the United States (as defined in § 1000.322), including a corporation or partnership organized under the laws of a foreign country (as defined in § 1000.304(a)(1)(i)), a business venture conducted within a foreign country (as defined in § 1000.304(a)(1)(ii) and (iii)), and a foreign bank (as defined in § 1000.317(b)).

(b) Notwithstanding the provisions of paragraph (a) of this section, the Secretary retains full power to determine that any person is a foreign national.

**§ 1000.304 Affiliated foreign national**

(a) Except as provided in paragraphs (b)(4), (c), and (d) of this section, the term "affiliated foreign national" of a person within the United States includes each of the following in which such person owns, directly or indirectly, a 10-percent interest:

(1) A corporation or partnership organized under the laws of a foreign country (including all business ventures conducted by employees or partners of such corporation or partnership on behalf of such corporation or partnership within any foreign countries assigned to the same scheduled area as the country of organization);

(2) A business venture conducted within a foreign country on behalf of such person within the United States by such person or by employees or partners of such person; and

(3) A business venture conducted on behalf of a corporation or partnership organized under the laws of a foreign country by employees or partners of such corporation or partnership if the business venture is conducted within a foreign country which is not assigned to the same scheduled area as the country of organization.

For purposes of determining whether a business venture conducted on behalf of a foreign corporation or partnership is a separate affiliated foreign national, Canada shall be deemed to be in a scheduled area other than Schedule B.

(b)(1) A corporation or partnership referred to in paragraph (a)(1) of this section is an affiliated foreign national in the scheduled area in which the foreign country under whose laws it is organized is located. A business venture referred to in paragraph (a)(2) or (3) of this section is an affiliated foreign national in the scheduled area in which the business is conducted: *Provided*, That, if such a business venture is conducted in more than one scheduled area during any year, the scheduled area in which the business venture is conducted for the greatest period of time during such year shall, for purposes of this section, be deemed the only scheduled area in which the business venture is conducted during such year.

(2) The term "10 percent interest," when used with respect to any corporation, partnership or business venture referred to in paragraph (a) of this section, means (i) 10 percent or more of the total combined voting power of all outstanding securities of such corporation or (ii) 10 percent or more of the profit interest in such partnership or business venture. Whether a person within the United States directly or indirectly owns a 10 percent interest in a corporation, partnership or business venture referred to in paragraph (a) of this section shall be determined in accordance with the provisions of §§ 1000.901 and 1000.902.

(3) For purposes of this part, the term "incorporated affiliated foreign national" includes a corporation described in paragraph (a)(1) of this section and the term "unincorporated affiliated foreign national" includes a partnership described in paragraph (a)(1) of this section and a business venture described in paragraph (a)(2) or (3) of this section.

(4) Notwithstanding the provisions of paragraph (a) of this section and the foregoing provisions of this paragraph (b), the Secretary retains full power, with respect to any person within the United States, to determine that any person is an affiliated foreign national of such person within the United States and to determine the scheduled area in which such affiliated foreign national is located.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a corporation, partnership or business venture referred to in paragraph (a) of this section shall not be considered an affiliated foreign national of a person within the United States if the operations of such corporation, partnership, or business venture consist solely of charitable, educational, religious, scientific, literary, or other similar activities not engaged in for profit.

(d) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a business venture referred to in paragraph (a)(2) or (3) of this section shall not be considered an affiliated foreign national of a person within the United States during any year if (1) the business venture does not have or involve, at any time during such year, gross assets of more than $50,000 (valued at the greatest of cost, book value, replacement value or market value); or (2) the business venture is commenced during such year and is not reasonably expected to be conducted within one or more foreign countries for more than 12 consecutive months; or (3) the business venture is terminated during such year and was not in fact conducted within one or more foreign countries for more than 12 consecutive months.

**§ 1000.305 Direct investor.**

The term "direct investor" means any person within the United States which directly or indirectly owns or acquires a 10-percent interest in a corporation or partnership organized under the laws of a foreign country or in a business venture conducted within a foreign country as described in § 1000.304.

**§ 1000.306 Positive and negative direct investment.**

(a) Direct investment by a direct investor in all affiliated foreign nationals in any scheduled area during any period means:





(1) The net transfer of capital (as defined in § 1000.313(c)) made during such period by the direct investor to all incorporated and unincorporated affiliated foreign nationals in such scheduled area; and

(2) The direct investor's share in the total reinvested earnings of all incorporated affiliated foreign nationals in such scheduled area during such period (computed in accordance with paragraphs (b) and (c) of this section).

(3) If the sum of paragraphs (a)(1) and (2) of this section is in excess of zero, the direct investment during such period shall be positive direct investment; if a negative amount, it shall be negative direct investment.

(b) A direct investor's share in the total reinvested earnings of all incorporated affiliated foreign nationals in any scheduled area during any period means the direct investor's share in the total earnings or losses during such period of such incorporated affiliated foreign nationals (computed in accordance with paragraph (c) of this section) less an amount (which may be positive or negative) obtained by subtracting (1) the sum of (i) the direct investor's share of all dividends paid during such year to such affiliated foreign nationals by incorporated affiliated foreign nationals of the direct investor in other scheduled areas and (ii) the direct investor's share of all earnings remitted during such year to such affiliated foreign nationals by unincorporated affiliated foreign nationals of the direct investor in other scheduled areas from (2) the sum of (x) all dividends paid during such year by such affiliated foreign nationals to the direct investor and (y) the direct investor's share of all dividends paid during such year by such affiliated foreign nationals to affiliated foreign nationals of the direct investor in other scheduled areas: *Provided*, That, in calculating a direct investor's share in the total reinvested earnings of incorporated affiliated foreign nationals for any year (including the years 1965 and 1966), a direct investor may elect, in such manner as the Secretary may determine, to treat dividends paid within 60 days after the end of the year as having been paid during such year.

(c) Computations of earnings or losses of affiliated foreign nationals under this section or any other provision of this part shall (except as otherwise provided herein) be made in accordance with accounting principles generally accepted in the United States and consistently applied: to the extent such principles are reflected in reports to stockholders, the computation shall follow the principles used in preparing such reports. The earnings or loss of each incorporated affiliated foreign national in that scheduled area shall be added to the earnings or loss of every other incorporated affiliated foreign national in that scheduled area in order to determine the total earnings or losses of such affiliated foreign nationals as a group. In computing such total earnings and losses, there shall be excluded all dividends paid during such year to such affiliated foreign nationals by incorporated foreign nationals of the direct investor in the same or other scheduled areas and all earnings of unincorporated affiliated foreign nationals of the direct investor in other scheduled areas. Earnings and losses shall be computed without regard to U.S. taxes and foreign withholding taxes on the payment of dividends. Earnings shall not be reduced by application or provision by the direct investor of reserves for devaluation or impairment of investment. Notwithstanding the foregoing, the Secretary shall have the right, generally or specifically, in his discretion to disapprove any such accounting principles determined by him to be inconsistent with the purposes of this part and to prescribe such principles as he may deem appropriate to carry out the purposes of this part.

(d) For purposes of this part:

(1) Earnings of an unincorporated affiliated foreign national during any period shall be deemed to have been remitted to the extent that such earnings exceed the net increase in the net assets of the unincorporatd affiliated foreign national during the period.

(2) The term "dividends" means cash dividends, whether paid out of current or accumulated earnings (other than liquidating dividends). The amount of a dividend paid shall be calculated before deducting foreign withholding taxes. A dividend shall be deemed to have been paid to a direct investor or an affiliated foreign national, as the case may be, when entered on the books of account of the recipient as actually having been paid in cash or as being subject to payment upon demand, whichever first

(e)(1) There shall be deducted from positive direct investment in a scheduled area during any year, as calculated under paragraph (a) of this section, an amount equal to any available proceeds (as defined in § 1000.324(d)) allocated by the direct investor to such positive direct investment for such year. Available proceeds shall be allocated to such positive direct investment for such year if (i) an entry is made in the books and records maintained by the direct investor under §§ 1000.203(b) and 1000.601; (ii) the allocation and deduction is reported on the next annual report of the direct investor (Form FDI–102F) filed for the year for which the deduction is made; and (iii) the proceeds, as of the end of the year for which the deduction is made and thereafter, are not held, directly or indirectly, in the form of foreign balances or in the form of securities (including debt obligations, equity interests, and any other type of investment contract) of foreign nationals or in the form of any other foreign property: *Provided*, That proceeds so allocated may at any time be expended in making transfers of capital to affiliated foreign nationals. In addition, available proceeds of long-term foreign borrowing made on or before February 28, 1974 (including available proceeds so treated under § 1000.1403(a) (1) as the result of proceeds borrowing made on or before February 28, 1974), shall be allocated to such positive direct investment for the year 1973 if bookkeeping entries and a report on Form FDI–102F for 1973 are made with respect to such allocation, as required under this section, and such proceeds, as of February 28, 1974, are not held, directly or indirectly, in the form of foreign balances or in the form of securities of foreign nationals or in the form of any other foreign property: *Provided*, That proceeds so allocated may at any time be expended in making transfers of capital to affiliated foreign nationals.

(2) [Revoked]

(3) A deduction made pursuant to paragraph (e)(1) of this section from positive direct investment in all scheduled areas by a direct investor electing to be governed by § 1000.503 for any year, commencing with the year 1969, shall be deemed to have been made in each scheduled area in the same proportions as the amount of positive direct investment (calculated as provided in paragraph (a) of this section and, in the case of positive direct investment in the year 1969, disregarding each scheduled area's proportionate share of aggregate annual losses, as defined in § 1000.503(b) in effect for the year 1969) in such scheduled area during such year. A deduction made pursuant to paragraph (e)(1) of this section or § 1000.203(d)(2) or (3) from positive direct investment in Schedules B and C by a direct investor that elected to be governed by § 1000.507 for any year shall be deemed to have been made in each such scheduled area in the same proportions as the amount of positive direct investment (calculated as provided in paragraph (a) of this section) made by the direct investor in such scheduled area during such year. The Secretary may, upon application pursuant to § 1000.801, permit a direct investor to apportion such deductions in some other manner reasonably reflecting the direct investor's interests in each scheduled area during such year.

**§ 1000.307 Person; corporation.**

(a) The term "person" means an individual, corporation, partnership, business venture, trust, or estate.

(b) The term "corporation" means an organization or entity incorporated under the laws of the United States or a foreign country and any other organization or entity not so incorporated but which is organized under the laws of the United States or a foreign country and has all or a substantial part of the legal characteristics commonly attributed to corporations under the laws of the United States.

**§ 1000.308 Transfer.**

The term "transfer" means any act or transaction, whether or not evidenced by a writing and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, transfer, or



V 38 185 SEP 25 73 XUM

alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property wherever located.

**§ 1000.309 Property, property interest.**

The terms "property" and "property interest" include any property, real, personal, or mixed, tangible or intangible (including the value of services performed), or interest or interests therein, present, future or contingent.

**§ 1000.310 Interest.**

The term "interest" when used with respect to property shall mean an interest of any nature whatsoever, direct or indirect.

**§ 1000.311 Banking institution. (REVOKED)**

**§ 1000.312 Transfers of capital.**

(a) *Transfers of capital by direct investor.*—Except as otherwise provided in paragraph (c) of this section, a transfer of capital by a direct investor to an affiliated foreign national means any transfer of funds or other property by or on behalf or for the benefit of a direct investor directly or indirectly to or on behalf or for the benefit of an affiliated foreign national (including a transfer described in § 1000.505); and any transaction or occurrence as a result of or in connection with which the direct investor directly or indirectly acquires or increases a debt or equity interest in the affiliated foreign national or the affiliated foreign national directly or indirectly disposes of or reduces a debt or equity interest in the direct investor held by the affiliated foreign national. Such transfers of capital shall include, but not by way of limitation:

(1) The aquisition by the direct investor of an equity interest in or debt obligation of an affiliated foreign national (including the acquisition of an equity interest in or a debt obligation of a foreign national as a result of which the foreign national becomes an affiliated foreign national of the direct investor).

(2) A contribution by the direct investor to the capital of the affiliated foreign national.

(3) The complete or partial satisfaction by the direct investor of a debt obligation of the direct investor held by the affiliated foreign national.

(4) The reduction of an equity interest in the direct investor held by the affiliated foreign national (as the result of a redemption of stock, liquidating dividend, or like transaction).

(5) A transfer by the affiliated foreign national of an equity interest in or debt obligation of the direct investor held by the affiliated foreign national.

(6) The complete or partial satisfaction by the direct investor of a debt obligation of an affiliated foreign national, whether or not such debt obligation was guaranteed or assumed by the direct investor.

(7) The complete or partial satisfaction by a direct investor of a long-term foreign borrowing made by the direct investor before or after the effective date of the regulations to the extent the proceeds of the borrowing were expended in making transfers of capital on or after January 1, 1965, or were allocated by the direct investor (on the books and records maintained by the direct investor under §§ 1000.203(b) and 1000.601) to positive direct investment. A transfer of capital resulting from the repayment of a borrowing by a direct investor shall be deemed to have been made to the scheduled area in which such proceeds were expended or to which they were allocated at the time of such repayment and with respect to which a deduction was made under § 1000.203(d)(2), § 1000.203(d)(3), § 1000.306(e), or § 1000.313(d)(1); or if deductions were made in two or more scheduled areas with respect to such repaid borrowing, the transfer shall be apportioned among such scheduled areas in the same proportions as the amount of such deductions in each such scheduled area. If any apportionment made by a direct investor hereunder is determined by the Secretary to be inconsistent with the purposes of this part, the Secretary shall have the right, in his discretion, to make an apportionment consistent with the purposes of this part.

(8) A lease of property by a direct investor to an affiliated foreign national, if the property has a remaining useful life when leased of a year or more and is not required or expected to be returned to the direct investor in less than one year.

(9) A pledge, hypothecation or other transfer by a direct investor of foreign balances (as defined in § 1000.203(a)(1)) or equity securities of a foreign corporation owned by the direct investor (other than equity securities of an affiliated foreign national of the direct investor), which pledge, hypothecation, or other transfer is made by the direct investor to or with a foreign national, on or after the effective date of the regulations, pursuant to an express or implied agreement with the foreign national whereby the foreign national transfers or agrees to transfer funds or other property, as a loan or otherwise, to an affiliated foreign national of the direct investor or to the direct investor itself for investment in such an affiliated foreign national: *Provided*, That this subparagraph shall not apply to a pledge, hypothecation or other transfer by a direct investor to a foreign national in connection with a borrowing by the direct investor for investment in an affiliated foreign national, if the borrowing is not a long-term foreign borrowing (as defined in § 1000.324(a)).

(b) *Transfers of capital by affiliated foreign nationals.*—Except as otherwise provided in paragraph (c) of this section, a transfer of capital by an affiliated foreign national to a direct investor in such affiliated foreign national means any of the following transactions or occurrences as a result of or in connection with which the affiliated foreign national directly or indirectly acquires or increases a debt or equity interest in the direct investor or the direct investor directly or indirectly disposes of or reduces a debt or equity interest in the affiliated foreign national held by the direct investor:

(1) The acquisition by an affiliated foreign national of an equity interest in or debt obligation of the direct investor.

(2) A contribution by an affiliated foreign national to the capital of the direct investor.

(3) The complete or partial satisfaction by an affiliated foreign national of a debt obligation of the affiliated foreign national held by the direct investor.

(4) The reduction of an equity interest in an affiliated foreign national held by the direct investor (as the result of a redemption of stock, liquidating dividend, or like transaction):

(5) A transfer by the direct investor of an equity interest in or debt obligation of an affiliated foreign national held by the direct investor.

(6) The complete or partial satisfaction by an affiliated foreign national of a debt obligation of the direct investor, whether or not such debt obligation was guaranteed or assumed by the affiliated foreign national.

(c) *Transactions not involving transfer of capital.*—Notwithstanding the provisions of paragraphs (a) and (b) of this section, the following shall not be deemed transfers of capital:

(1)(i) An acquisition by a direct investor described in paragraph (a)(1) of this section if the acquisition is from a person within the United States acting for its own account. If the acquisition is of an equity interest from a person within the United States which was immediately prior to the transaction a direct investor in the affiliated foreign national, and the acquiring and divesting direct investors each file Form FDI–107 on or before the end of the month following the close of the calendar quarter during which the acquisition occurs, direct investment made by the divesting direct investor in 1965, 1966, and the year of the acquisition that corresponds to the interest transferred shall be deemed to have been made by the acquiring direct investor (except that the provisions of §§ 1000.203(d)(2) and (3), 1000.306(e)(1) and 1000.313(d)(1) shall be disregarded in calculating such direct investment unless the acquiring direct investor shall have assumed the obligation to repay long-term foreign borrowing in connection with which deductions under such sections were made), and annual earnings (as defined in § 1000.504(b)(4)) in 1966, 1967, and the year immediately preceding the year of acquisition that correspond to the interest transferred shall be attributed to the acquiring direct investor.

(ii) A transfer of capital shall not be deemed to occur in connection with or as the result of any combination of two or more direct investors or of a direct investor and a person within the United States. For purposes of this subparagraph, such combination shall include merger, consolidation, reorganization, acquisition (from a person within the United States acting for its own account) of a direct investor which thereby becomes an affiliate, or other combination. The surviving direct investor shall file Form FDI–107 on or before the end of the month following the close of the calendar quarter during which the combination occurs. The aggregate amount of direct investment made by each of the direct investors involved in the combination in 1965, 1966, and the year in which the combination occurs shall be deemed to have been made by the surviving direct investor. The aggregate amount of annual earnings (as defined in § 1000.504(b)(4)) of each of the direct investors involved in the combination in 1966, 1967, and the year immediately preceding the year in which the combination occurs shall be attributed to the surviving direct investor. The aggregate amount of liquid foreign balances held by each of the direct investors involved in the combination in 1965 and 1966 and each month commencing with the month during which the combination occurs shall be attributed to the surviving direct investor.

(2) A transfer described in paragraph (a)(5) of this section unless (i) the transferee is the direct investor or (ii) the transferor or transferee is an affiliated foreign national which is an affiliate of the direct investor as defined in § 1000.903(a).

(3) An acquisition by an affiliated foreign national described in paragraph (b)(1) of this section unless the acquisition is from the direct investor.

(4) A transfer described in paragraph (b)(5) of this section, other than a transfer after December 31, 1972, of a qualified export obligation, unless (i) the transfer is made (A) to a foreign national or (B) to a financial institution subject to the Federal Reserve Foreign Credit Restraint Program and the transfer is charged against the ceiling of such institution under such Program, and (ii) the transfer constitutes a transfer of capital after application of paragraph (c)(12) of this section: *Provided*, That, if the transfer is of a debt obligation and does not constitute a transfer of capital because of this paragraph, repayment by the affiliated foreign national of such debt obligation to a person within the United States shall be deemed a transfer of capital by the affiliated foreign national.

(5) An increase in an equity interest in a corporation resulting from the reinvestment of earnings of such corporation.

(6) An increase or decrease in the value of assets resulting from a reappraisal of such assets.

(7) The making of a guarantee.

(8) The payment by the primary obligor of interest currently due, fees or commissions in connection with borrowings or extensions of credit (including prepayments of interest if such prepayments are made in the course of customary lending practices or commercial transactions).

(9) The payment by the lessee under a lease of real or personal property of rental currently due (including prepayments of rental if such prepayments are customarily made by lessees under leases of the type involved).

(10) The payment by the licensee under a license agreement of royalties currently due (including prepayments of royalties if such prepayments are customarily made by licensees under agreements of the type involved).

(11) A transfer of patents, copyrights, trademarks, trade names, trade secrets, technology, proprietary processes, proprietary information or similar intangibles or any rights or interests therein or applications or contracts relating thereto (each of the foregoing being hereinafter referred to as an intangible), regardless of the form of the transfer or the consideration exchanged therefor: *Provided*, That the foregoing shall not apply to the transfer of an intangible by a direct investor to an affiliated foreign national on or after the effective date if (i) the direct investor had a previously established practice with respect to the exploitation of intangibles of the type so transferred and the transfer represents a substantial departure from such previously established practice and (ii) the intangible transferred was, prior to the transfer, a substantial source of royalty or other like income to the direct investor: *And provided, further*, That, if the transfer of an intangible to an affiliated foreign national does not constitute a transfer of capital under this subparagraph, no deduction for amortization or any like charge with respect to the intangible transferred shall be made against earnings in calculating the earnings of the transferee affiliated foreign national.

(12) On or after July 1, 1972, any transaction described in paragraph (b) of this section, other than a transaction entered into after December 31, 1972, involving a qualified export obligation or qualified export lease, in connection with which a financial institution subject to the Federal Reserve Foreign Credit Restraint Program, without charging its ceiling under such Program, acquires a debt obligation of a foreign national and transfers funds or other property (i) to the direct investor, or (ii) to an affiliated foreign national, or (iii) to a foreign financial institution which transfers funds or other property to an affiliated foreign national or to the direct investor, or (iv) to a foreign national other than a financial institution and other than an affiliated foreign national ("unaffiliated foreign national"), or to a foreign financial institution which transfers funds or other property to an unaffiliated foreign national, which unaffiliated foreign national transfers funds or other property to an affiliated foreign national or to the direct investor, unless, for purposes of this paragraph (c)(12) of this section, (iv) the debt obligation is treated as a direct or indirect export credit to an unaffiliated foreign national under the Federal Reserve Foreign Credit Restraint Program and is acquired without the intervention of the direct investor or an affiliated foreign national in a manner that departs from their previously established practices: *Provided*, That if the transaction does not constitute a transfer of capital because of this paragraph, repayment of the debt obligation by a foreign national to a person within the United States shall be deemed a transfer of capital by the affiliated foreign national.

(13)(i) Commencing January 1, 1973: (A) The acquisition by a direct investor of a qualified export obligation of an incorporated affiliated foreign national, until such obligation has been outstanding for a period longer than the arm's length term applicable to it; (B) the payment or satisfaction of a qualified export obligation by an incorporated affiliated foreign national to a direct investor, or the transfer by a direct investor of a qualified export obligation of an incorporated affiliated foreign national, except to the extent that a transfer of capital by the direct investor was previously recognized with respect to such obligation in 1973 or subsequently; and (C) any repayment, relating to a qualified export obligation, that would be deemed a transfer of capital by an affiliated foreign national under the proviso to paragraph (c)(4) or the proviso to paragraph (c)(12) of this section.

(ii)(A) The term "qualified export obligation" means a debt obligation of an affiliated foreign national acquired in any year by a direct investor attendant to a sale by a direct investor to an affiliated foreign national of United States goods or United States services. Each installment payable on an installment sale which entails a qualified export obligation is considered a separate qualified export obligation of the affiliated foreign national.

(B) In no case shall a qualified export obligation arise in connection with (*1*) a transaction which is in substance a contribution to capital, regardless of the manner in which such transaction is entered in the books and records of the direct investor, or (*2*) an installment sale, unless its terms require installment payments at an arm's length rate, considering the time and amount of each payment to be made, except that, for purposes of determining the arm's length rate, the credit standing of the affiliated foreign national shall be disregarded.

(iii) The term "United States goods" means tangible property (A) grown, produced or manufactured in the United States, and (B) exported from the United States by the direct investor. Property is grown, produced or manufactured in the United States only if it may be classified as "domestic" for purposes of a Department of Commerce Shipper's Export Declaration (Commerce Department Form 7525–V or any superseding form).

(iv) The term "United States services" means services performed for an







V 38 185 SEP 25 73 XUM

affiliated foreign national by a direct investor but does not include services performed by any affiliated foreign national of the direct investor.

(v) The "arm's length term" means the period for which credit would have been extended, at the time the sale was entered into, in an independent transaction between unrelated parties under similar circumstances, considering all relevant factors, such as the type of goods or services involved, the security involved, shipping time, and the terms prevailing at the situs for comparable transactions, except that the credit standing of the affiliated foreign national shall be disregarded. With respect to the sale of United States goods, any term of 180 days or less from the time of shipment of the goods shall be deemed an arm's length term. With respect to the sale of United States services, any term of 90 days or less, measured from the end of the month in which such services would be billed in a similar transaction between unrelated parties, shall be deemed an arm's length term: *Provided*, That in the case of United States services related and subsidiary to a sale of goods which entails a qualified export obligation, the arm's length term shall be the same as that for the sale of the goods.

(vi) (A) Any direct investor may elect that none of its transactions shall be deemed to involve qualified export obligations (as defined in paragraph (c) (13) (ii) of this section) or qualified export leases (as defined in paragraph (c) (14) of this section).

(B) An election pursuant to this paragraph (c) (13) (vi) must be made on the Form FDI–102F filed by the direct investor for the year 1973 and may not thereafter be revoked by the direct investor without obtaining the prior permission of the Office.

(C) Notwithstanding any other provision of this part, the Secretary retains full power to deem that any direct investor has elected that none of its obligations shall be deemed to involve qualified export obligations or qualified export leases, effective for 1973 or any subsequent year.

(14) Commencing January 1, 1973, a transfer of property pursuant to a qualified export lease or the return of property so transferred. The term "qualified export lease" means a lease of United States goods (as defined in paragraph (c) (13) (iii) of this section) by a direct investor to an affiliated foreign national which requires rental payments at an arm's length rate, considering the time and amount of each rental payment to be made, except that, for purposes of determining the arm's length rate the credit standing of the affiliated foreign national shall be disregarded.

(d) The term "debt obligation" or "debt interest" means any item of indebtedness or liability, regardless of the maturity thereof (excluding capital surplus, and contingency reserves) which would, in accordance with accounting principles generally accepted in the United States, be included in determining total liabilities as of the date on which the existence of a debt obligation or debt interest is to be determined: *Provided*, That a debt obligation or debt interest shall not include the liability of an affiliated foreign national to a direct investor arising out of the declaration of a dividend until such dividend becomes payable on demand.

(e) [Revoked]

### § 1000.313 Net transfer of capital.

(a) A net transfer of capital (which may be a positive or negative amount) by a direct investor to all incorporated affiliated foreign nationals in any scheduled area during any period means (1) the aggregate of all transfers of capital made during such period by the direct investor to such affiliated foreign nationals, less (2) the aggregate of all transfers of capital made during such period by such affiliated foreign nationals to the direct investor.

(b) (1) A net transfer of capital (which may be a positive or negative amount) by a direct investor to all unincorporated affiliated foreign nationals in any scheduled area during any period means the direct investor's share of the aggregate net increase or net decrease, during such period, in the aggregate net assets of such affiliated foreign nationals (whether such net increase or decrease results from any transfer of capital (as defined in § 1000.312), earnings, or losses or any combination thereof). In calculating the net assets of all unincorporated affiliated foreign nationals in any scheduled area, there shall be excluded (i) all equity interests in and debt obligations of such unincorporated affiliated foreign nationals held by the direct investor or affiliated foreign nationals of the direct investor, except qualified export obligations held and acquired by the direct investor after 1972 unless such obligations have been outstanding for periods longer than the qualifying terms applicable to them, and (ii) all assets of such unincorporated affiliated foreign nationals consisting of equity interests in or debt obligations of the direct investor or affiliated foreign national of the direct investor.

(2) Any reduction in net assets of an unincorporated affiliated foreign national resulting from a repayment after 1972 of a qualified export obligation acquired by a direct investor prior to 1973 shall be disregarded in calculating the increase or decrease in net assets of such unincorporated affiliated foreign national.

(c) A net transfer of capital (which may be a positive or negative amount) by a direct investor to all incorporated and unincorporated affiliated foreign nationals in any scheduled area during any period means (1) the net transfer of capital by the direct investor to all incorporated affiliated nationals in such scheduled area during such period, and (2) the net transfer of capital by the direct investor to all unincorporated affiliated foreign nationals in such scheduled area during such period. If the sum of paragraphs (c) (1) and (2) of this section is in excess of zero, the net transfer of capital during such period shall be deemed a positive net transfer of capital; if a negative amount, it shall be deemed a negative net transfer of capital.

(d) In calculating the amount of the net transfer of capital made by a direct investor to a scheduled area during any period (including the years 1965 and 1966) pursuant to paragraph (c) of this section:

(1) [Revoked][1]

(2) There shall be included all transfers of funds or other property as a result of which the direct investor became a direct investor in any affiliated foreign national and all transfers of funds or other property to or on behalf of or for the benefit of such affiliated foreign national made by or on behalf of or for the benefit of such direct investor within 12 months (whether or not during the period for which the calculation is being made) prior to the date of the transfer by which it became a direct investor in such affiliated foreign national, to the same extent as if the direct investor had been a direct investor in such affiliated foreign national during such 12-month period.

(e) (1) In calculating the amount of the net transfer of capital made by a direct investor to all affiliated foreign nationals in any scheduled area during the year 1972, the direct investor may include transfers of capital by incorporated affiliated foreign nationals and decreases in net assets of unincorporated affiliated foreign nationals in such scheduled area that are recognized upon repayments of debt obligations outstanding as of December 31, 1972, by such affiliated foreign nationals to the direct investor during January 1973 or, as alternatively elected by the direct investor, during January and February 1973: *Provided*, That the direct investor has made a worldwide negative net transfer of capital during the period elected under this section: *And provided further*, That the aggregate amount of such transfers of capital and decreases in net assets included in calculating the amounts of the net transfers of capital made by the direct investor during the year 1972 does not exceed the amount of such worldwide negative net transfer of capital.

(2) The worldwide net transfer of capital by a direct investor during the period elected by the direct investor under this section means the algebraic sum of the net transfers of capital by the direct investor to all incorporated and unincorporated affiliated foreign nationals in all scheduled areas during such period.

[1] All references to § 1000.313(d)(1) refer to that section prior to its revocation effective July 1, 1972. Former § 1000.313(d)(1) read as follows:

"(1) There shall be deducted an amount equal to the proceeds of long-term foreign borrowing actually expended in making transfers of capital to affiliated foreign nationals in such scheduled area during such period."





(3) Any transfer of capital or decrease in net assets that is included in calculating the amount of a net transfer of capital made by a direct investor to all affiliated foreign nationals in any scheduled area during the year 1972 pursuant to this section shall be excluded in calculating the amount of the net transfer of capital made by the direct investor to such affiliated foreign nationals in such scheduled area during the year 1973.

(4) All calculations under this paragraph (e) shall be made in accordance with this part as in force on December 31, 1972.

(f) [Revoked]

### § 1000.314 Authorization and exemption.

The terms "authorization" and "exemption" mean an authorization or exemption which is set forth in this part or which is issued pursuant to this part.

### § 1000.315 General authorization and exemption.

The term "general authorization" and "general exemption" mean an authorization or exemption which is set forth in this part or which is issued pursuant to this part and published in the FEDERAL REGISTER.

### § 1000.316 Specific authorization and exemption.

The terms "specific authorization" and "specific exemption" mean an authorization or exemption which is issued pursuant to this part but which is neither set forth in this part nor published in the FEDERAL REGISTER.

### § 1000.317 Domestic bank; foreign bank.

(a) The term "domestic bank" includes any branch or office within the United States of any of the following: (1) A bank or trust company organized under the banking laws of the United States; (2) a private bank or banker subject to supervision and examination under the banking laws of the United States; and (3) a foreign bank described in paragraph (b) (1) of this section.

(b) The term "foreign bank" includes any branch or office within a foreign country of any of the following: (1) A bank, trust company, private bank or merchant bank organized under the laws of a foreign country; and (2) a domestic bank described in paragraphs (a) (1) or (2) of this section.

### § 1000.318 United States.

(a) The term "United States" includes the States, the District of Columbia, the Commonwealth of Puerto Rico, the Panama Canal Zone, the Virgin Islands, Guam, Wake Island, American Samoa, and the Trust Territory of the Pacific Islands.

(b) For purposes of this part, a person is organized under the laws of the United States if it is organized under the laws of the United States, any State, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or the Trust Territory of the Pacific Islands.

### § 1000.319 Schedule A, B, and C countries.

(a) Schedule A countries are all foreign countries designated as less developed countries in the Executive order, as from time to time in force, issued under section 4916 of the Internal Revenue Code.

(b) Schedule B countries are such other foreign countries as the Secretary may determine to be developed countries in which a high level of capital inflow is essential for the maintenance of economic growth and financial stability, and where those requirements cannot be adequately met from non-U.S. sources. The following countries are hereby determined to fall in this category: Abu Dhabi, Australia, The Bahamas, Bahrain, Bermuda, Canada, Hong Kong, Iran, Iraq, Iraq-Saudi Arabia Neutral Zone, Ireland, Japan (including Ryukyu Islands commencing May 15, 1972), Kuwait, Kuwait-Saudi Arabia Neutral Zone, Libya, New Zealand, Qatar, Saudi Arabia, the United Kingdom, and, commencing with the year 1970, Spain.

(c) Schedule C countries are all foreign countries not included as Schedule A or B countries.

(d) The Secretary may in his discretion, from time to time, transfer any foreign country from any one of the Schedules to another.

### § 1000.320 Effective date.

The term "effective date" means 12:00 noon eastern standard time of January 1, 1968.

### § 1000.321 Year; period.

(a) The term "year" shall mean a calendar year except with respect to a person who has applied for and received the permission provided in paragraph (b) of this section. With respect to such person, the term "year" shall mean such person's fiscal year. The term "period" shall mean any period of time (including a year) on the basis of which compliance with the provisions of this part is or may be measured, or for which reports must be filed pursuant to Subpart F of this part.

(b) A direct investor which customarily maintains its books of account on the basis of a fiscal year other than a calendar year may apply to the Secretary for permission to have its compliance with the provisions of this part measured on the basis of its fiscal year. The Secretary may, in his discretion, grant the application upon a showing of good cause therefor, including a showing that, notwithstanding the granting of such application, the direct investor will substantially comply with the provisions of this part on a calendar year basis. The Secretary may make the grant of the application subject to any terms and conditions that he deems necessary.

### § 1000.322 Person within the United States.

(a) The term "person within the United States" means:

(1) An individual who is a resident of the United States;

(2) An individual, wherever residing, who is a citizen of the United States and the center of whose economic interests is located within the United States;

(3) A corporation or partnership organized under the laws of the United States (excluding a branch of such a corporation or partnership if the branch is a separate foreign national under § 1000.302);

(4) A trust (other than a trust which is deemed a corporation under § 1000.307 (b)) governed by the laws of the United States if the grantor of the trust is, or the person under whose will the trust was created was at the time of his death, a person within the United States;

(5) An estate, if the decedent was a person within the United States at the time of his death;

(6) A domestic bank (as defined in § 1000.317(a));

(7) An affiliated group (as defined in § 1000.903); and

(8) A family group (as defined in § 1000.904).

(b) Notwithstanding the provisions of paragraph (a) of this section, the Secretary retains full power to determine that any person is a person within the United States.

### § 1000.323 International finance subsidiary.

(a) The term "international finance subsidiary" of a direct investor means a corporation organized under the laws of the United States, all the stock of which (disregarding directors' qualifying shares) is owned directly or indirectly by the direct investor, and the principal business of which is to borrow funds from foreign nationals other than affiliated foreign nationals and to invest such funds in debt or equity security of affiliated foreign nationals.

(b) For purposes of this part, a direct investor and all of its international finance subsidiaries shall be considered a single person.

### § 1000.324 Long-term foreign borrowing.

(a) (1) "Foreign borrowing" means a borrowing made by a direct investor on or after May 1, 1970, from any foreign national (other than an affiliated foreign national and except as provided in § 1000.1106), including, but not by way of limitation, an extension of credit by any such foreign national to the direct investor in connection with the purchase of property (including securities) by the direct investor from such foreign national: *Provided*, That (i) the borrowing is from a foreign bank; or (ii) the borrowing is from or is guaranteed by a foreign country or any agency thereof; or (iii) at the time of the borrowing, the debt obligations resulting therefrom would, if purchased by nationals or residents of the United States, be subject to the Interest Equalization Tax (Internal Revenue Code, Chapter 41, sections 4911–4931); or (iv) the lender agrees in writing that, for a period of



V 38 185 SEP 25 73 XUM

3 years from the original date of the borrowing or until final maturity, whichever first occurs, it will not sell or otherwise transfer the debt obligation resulting from the borrowing to a resident or national of the United States (other than a foriegn bank described in § 1000.317(b)(2) or a Canadian person (as defined in § 1000.1101(d)) or to any person who the lender has reason to believe will sell or otherwise transfer the debt obligation to any such U.S. resident or national or Canadian person.

(2) In the case of borrowings made on or after May 1, 1970, "long-term foreign borrowing" means a foreign borrowing (as defined in paragraph (a)(1) of this section) to the extent that such foreign borrowing is not repaid within 12 months after the original date of the borrowing: *Provided*, That solely for purposes of this subparagraph, a borrowing that is repaid in whole or in part pursuant to provisions in a debt instrument for acceleration upon default or that is repaid by reason of the conversion of convertible debt instruments shall be deemed to have been repaid in accordance with the maturities otherwise provided in such instruments.

(3) In the case of borrowings made prior to May 1, 1970, "long-term foreign borrowing" shall be as defined by paragraphs (a) and (e) of this section as in effect on April 30, 1970.

(b) (1) The refinancing in whole or in part of a foreign borrowing or a long-term foreign borrowing (by renewal, extension, or continuance of such borrowing or by making a foreign borrowing from the same or another lender) shall not, to that extent, be deemed a repayment of the borrowing or the making of a new borrowing.

(2) The delivery of equity securities of a direct investor to holders of debt instruments issued by the direct investor in connection with a long-term foreign borowing, pursuant to the exercise of conversion or similar rights, shall be deemed a repayment of the borrowing to the extent of the principal amount of indebtedness surrendered by such holders in exchange for such equity securities.

(c) "Proceeds of long-term foreign borrowing" means (1) the gross amount or value (before deducting any discounts, commissions or fees) of funds or other property received by a direct investor from the first purchaser or holder in exchange for the debt obligation issued or created in connection with the borrowing, and reported by the direct investor on its next and all succeeding periodic reports filed with the Office (whether quarterly on Form FDI–102 or annually on Form FDI–102F) for periods during which such borrowing is outstanding, less (2) repayments of principal of such borrowing.

(d) "Available proceeds" means proceeds of long-term foreign borrowing (as defined in paragraph (c) of this section) less (1) amounts allocated to positive direct investment and deducted under § 1000.306(e), and (2) amounts expended prior to July 1, 1972 in transfers of capital to affiliated foreign nationals other than Canadian affiliates as defined in § 1000.1101(a) and deducted under § 1000.313(d)(1).

(e) [Revoked]

**§ 1000.325 Incorporated and unincorporated affiliated foreign nationals. (Proposed but withdrawn prior to adoption; see § 1000.304(b)(3)).**

**Subpart D—Interpretations**

**§ 1000.401 Reference to amended sections.**

Reference to any section of this part or to any regulation, ruling, order, instruction, direction, authorization, license or exemption issued pursuant to this part shall be deemed to refer to the same as currently amended unless otherwise so specified.

**§ 1000.402 Effect of amendment of sections of this part or of other orders, etc.**

Any amendment, modification, or revocation of any section of this part or of any order, regulation, ruling, instruction, authorization, license, or exemption issued by or under the direction of the Secretary pursuant to 12 U.S.C. 95a, as amended, shall not unless otherwise specifically provided be deemed to affect any act done or omitted to be done, or any suit or proceeding had or commenced in any civil or criminal case, prior to such amendment, modification, or revocation, and all penalties, forfeitures, and liabilities under any such section, order, regulation, ruling, instruction, authorization, license, or exemption shall continue in effect and may be enforced as if such amendment, modification, or revocation had not been made.

**§ 1000.403 Transactions between principal and agent. (REVOKED)**

**§ 1000.404 Distribution, apportionment or allocation of earnings.**

In any case of two or more organizations, trades or businesses owned or controlled directly or indirectly by the same interests, the Secretary may distribute, apportion or allocate earnings or any component of earnings, if he determines that such distribution, apportionment, or allocation is necessary or appropriate clearly or properly to reflect earnings attributable to a direct investor's interest in affiliated foreign nationals or otherwise to carry out the purposes of this part.

**Subpart E—Authorizations or Exemptions**

**§ 1000.501 Exclusion from authorization or exemption.**

(a) No authorization or exemption contained in this part, or issued by or under the direction of the Secretary pursuant to this part, shall be deemed to authorize or validate any direct investment made prior to the issuance thereof, unless such authorization or other exemption specifically so provides.

(b) The Secretary reserves the right to exclude transactions or property or classes thereof from the operation of any authorization or exemption or from the privileges therein conferred, or to restrict the applicability thereof with respect to particular persons. Such action shall be binding upon all persons receiving actual notice or constructive notice thereof.

**§ 1000.502 Elections with respect to §§ 1000.503 and 1000.504.**

(a) A direct investor shall elect for each year, commencing with the year 1973, to be governed by the provisions of

(1) Section 1000.503, or

(2) Section 1000.504 (a) and (c), or

(3) Section 1000.504(b).

(4) [Revoked]

(b) The election made pursuant to this paragraph shall be binding and effective as to all (and not less than all) scheduled areas and as to the year for which the election is made, and shall be made on Form FDI–102F timely filed by the direct investor pursuant to § 1000.602 (b)(3) for the year for which the election is made.

(c) [Revoked]

(d) [Revoked]

**§ 1000.503 Positive direct investment not exceeding $6 million; minimum allowable.**

(a) If for any year commencing with the year 1973 a direct investor elects under § 1000.502(a)(1), positive direct investment is authorized for such year in all scheduled areas in an aggregate amount not exceeding $6 million.

(b) [Revoked]

(c) If a direct investor elects to make positive direct investment during any year commencing with the year 1969 as authorized under this section, no positive direct investment shall be authorized in such year under § 1000.504 and any positive direct investment which would otherwise have been authorized in such year under § 1000.504 (d), (e), or (f) or § 1000.1302 shall, notwithstanding those provisions, not be authorized in such year or succeeding years.

(d) Positive direct investment made during the year 1968 which was authorized by § 1000.503 as in effect for such year shall reduce the amount of positive direct investment authorized to be made in succeeding years under § 1000.504(f). Such reduction shall first be made in the scheduled area in which such positive direct investment was made, and to the extent that the amount of positive direct investment made in such scheduled area exceeds the amount of positive direct investment authorized to be made in such scheduled area under § 1000.504(f), further reductions shall be made in the amount of positive direct investment authorized under § 1000.504(f) in Schedules C, B, and A, in that order, until such reductions shall equal in the aggregate the total amount of positive direct investment made or the total amount of positive direct investment authorized under § 1000.504(f), whichever is less.

**§ 1000.504 Authorized positive direct investment in scheduled areas; scheduular allowables.**

(a) *Historical allowables.*—If for any year commencing with the year 1969 a direct investor elects under § 1000.502(a)(2), positive direct investment for such year is authorized as follows:

(1) In Schedule A, in an amount not exceeding 110 percent of the average of direct investment by the direct investor in Schedule A during the years 1965 and 1966;

(2) In Schedule B, in an amount not exceeding 65 percent of the average of direct investment by the direct investor in Schedule B during the year 1965 and 1966;

(3) In Schedule C, in an amount not exceeding 35 percent of the average of direct investment by the direct investor in Schedule C during the years 1965 and 1966.

(b) *Earnings allowable.*—If for any year commencing with the year 1971 a direct investor elects under § 1000.502(a)(3), positive direct investment for such year is authorized as follows:

(1) In Schedule A, in an amount not exceeding 40 percent of the annual earnings of the direct investor in Schedule A during the immediately preceding year.

(2) In Schedule B, in an amount not exceeding 40 percent of the annual earnings of the direct investor in Schedule B during the immediately preceding year;

(3) In Schedule C, in an amount not exceeding 40 percent of the annual earnings of the direct investor in Schedule C during the immediately preceding year.

(4) The term "annual earnings" means the algebraic sum of a direct investor's share of total earnings or total losses during a year of all the direct investor's incorporated affiliated foreign nationals in a schedule area (excluding Canadian affiliates as defined in § 1000.1101(a) from Schedule B) determined in accordance with the provisions of § 1000.306(c) and the direct investor's share of net earnings or losses during such year of all the direct investor's unincorporated affiliated foreign nationals in such scheduled area (excluding Canadian affiliates as defined in § 1000.1101(a) from Schedule B) determined in accordance with accounting principles generally accepted in the United States consistently applied: *Provided*, That annual earnings of less than zero shall for purposes of this section be treated as zero.

(c) *Adjustment to historical allowable.*—If for any year commencing with the year 1971 a direct investor elects under § 1000.502(a)(2),

(1) The amount of positive direct investment authorized in Schedule C under paragraph (a)(3) of this section shall be increased by the lesser of either the amount by which 40 percent of annual earnings in Schedule C during the immediately preceding year is in excess of positive direct investment authorized in Schedule C under said paragraph (a)(3) of this section during the current year or the amount of positive direct investment authorized in Schedule A under paragraph (a)(1) of this section: *Provided*, That the amount of positive direct investment authorized in Schedule A under said paragraph (a)(1) of this section shall be reduced by the amount of such increase:

(2) The amount of positive direct investment authorized in Schedule C under paragraph (a)(3) of this section shall be increased by the lesser of either the amount by which 40 percent of annual earnings in Schedule C during the immediately preceding year is in excess of positive direct investment authorized in Schedule C under paragraph (a)(3) of this section during the current year or the amount of positive direct investment authorized in Schedule B under paragraph (a)(2) of this section: *Provided*, That the amount of positive direct investment authorized in Schedule B under said paragraph (a)(2) of this section shall be reduced by the amount of such increase; and

(3) The amount of positive direct investment authorized in Schedule B under paragraph (a)(2) of this section shall be increased by the lesser of either the amount by which 40 percent of annual earnings in Schedule B during the immediately preceding year is in excess of positive direct investment authorized in Schedule B under said paragraph (a)(2) of this section during the current year or the amount of positive direct investment authorized in Schedule A under paragraph (a)(1) of this section (calculated after the reduction provided in subparagraph (1) of this paragraph): *Provided*, That the amount of positive direct investment authorized in Schedule A under paragraph (a)(1) of this section shall be reduced by the amount of such increase.

(d) *Carryforward allowables and use of schedular allowables in other scheduled areas.*—(1) If, during any year commencing with the year 1969, the amount of positive direct investment authorized to a direct investor in Schedule A under paragraphs (a)(1) and (c) of this section or paragraph (b)(1) of this section exceeds the amount of direct investment (whether positive or negative) made by the direct investor during such year in Schedule A, or if no positive direct investment is so authorized to the direct investor in Schedule A during such year but the direct investment by the direct investor in Schedule A during such year is negative, the direct investor is authorized to make additional positive direct investment in Schedule A during succeeding years in an aggregate amount of not more than the amount of such excess, or the amount of such negative direct investment, as the case may be.

(2) If, during any year commencing with the year 1969, the amount of positive direct investment authorized to a direct investor in Schedule B under paragraphs (a)(2) and (c) of this section or paragraph (b)(2) of this section exceeds the amount of direct investment (whether positive or negative) made by the direct investor during such year in Schedule B, or if no positive direct investment is so authorized to the direct investor in Schedule B during such year but the direct investment by the direct investor in Schedule B during such year is negative, the direct investor is authorized to make additional positive direct investment in Schedule A during such year, and, to the extent additional positive direct investment in Schedule A is not made during such year the direct investor is authorized to make additional positive direct investment in Schedules A and B during succeeding years: *Provided*, That the aggregate amount of additional positive direct investment authorized by this subparagraph shall not be more than the amount of such excess, or the amount of such negative direct investment, as the case may be.

(3) If, during any year commencing with the year 1969, the amount of positive direct investment authorized to a direct investor in Schedule C under paragraphs (a)(3) and (c) of this section or paragraph (b)(3) of this section exceeds the amount of direct investment (whether positive or negative) made by the direct investor during such year in Schedule C, or if no positive direct investment is so authorized to the direct investor in Schedule C during such year but the direct investment by the direct investor in Schedule C during such year is negative, the direct investor is authorized to make additional positive direct investment in Schedule A or B during such year, and, to the extent additional positive direct investment in Schedules A or B is not made during such year, the direct investor is authorized to make additional positive direct investment in Schedules A, B, or C during succeeding years: *Provided*, That the aggregate of additional positive direct investment authorized by this subparagraph shall not be more than the amount of such excess, or the amount of such negative direct investment, as the case may be.

(e) *Schedule C total losses; reinvestment allowable.*—If the incorporated affiliated foreign nationals of a direct investor in Schedule C have total losses during any year commenting with the year 1969 (calculated as provided in § 1000.306(c)), such losses shall, for purposes of this section, be disregarded in calculating the direct investment (whether positive or negative) made by the direct investor in Schedule C for such year: *Provided*, That the direct investor shall be authorized to reinvest additional earnings of incorporated affiliated foreign nationals in Schedule C during succeeding years in an aggregate amount of not more than the direct investor's share of such total losses.

(f) *Carryforward allowables from 1968.*—(1) A direct investor authorized under former § 1000.504(b)(1), as in effect on December 31, 1968, to make positive direct investment in Schedule A during 1969 is authorized to make positive direct investment in Schedule A during 1969 and succeeding years in an aggregate amount not to exceed the amount of positive direct investment so authorized to be made during 1969 under said former § 1000.504(b)(1).

(2) A direct investor authorized under former § 1000.504(b)(2), as in effect on









V 38 185 SEP 25 73 XUM

December 31, 1968, to make positive direct investment in Schedule B during 1969 is authorized to make positive direct investment in Schedules A or B during 1969 and succeeding years in an aggregate amount not to exceed the amount of positive direct investment so authorized to be made during 1969 under said former § 1000.504(b)(2).

(3)(i) A direct investor authorized to make positive direct investment, to make a positive net transfer of capital, or to reinvest additional earnings of incorporated affiliated foreign nationals under former § 1000.504(c) (1) and (2), as in effect on December 31, 1968, is authorized to make positive direct investment in Schedules A, B, or C during 1969 and succeeding years in an aggregate amount not to exceed the aggregate amount of positive direct investment, positive net transfer of capital, and additional reinvested earnings so authorized to be made under said former § 1000.504 (c) (1) and (2).

(ii) A direct investor authorized under former § 1000.504(c)(3), as in effect on December 31, 1968, to reinvest earnings of incorporated affiliated foreign nationals in Schedule C during 1969 shall be authorized to reinvest earnings of incorporated affiliated foreign nationals in Schedule C during 1969 or succeeding years in an aggregate amount not to exceed the amount of earnings so authorized to be reinvested during 1969 under said former § 1000.504(c)(3).

**§ 1000.505 Transfers between affiliated foreign nationals.**

(a) (1) For purposes of the succeeding provisions of this § 1000.505, (i) if funds or other property are transferred by an unincorporated affiliated foreign national of a direct investor to the direct investor or to another affiliated foreign national of the direct investor, the funds or property shall, if the transferee is not the immediate parent of the transferor affiliated foreign national, be treated as having been transferred by such immediate parent and (ii) if funds or other property are transferred to an unincorporated affiliated foreign national of a direct investor by the direct investor or by another affiliated foreign national of the direct investor, the funds or property shall, if the transferor is not the immediate parent of the transferee affiliated foreign national, be treated as having been transferred to such immediate parent: *Provided*, in each case, That the immediate parent is the direct investor or an incorporated affiliated foreign national of the direct investor and that such immediate parent is not the immediate parent of both the transferor and transferee affiliated foreign national.

(2) For purposes of §§ 1000.312 and 1000.313(a), (i) if funds or other property are deemed under paragraph (a)(1)(ii) of this section to have been transferred by an incorporated affiliated foreign national of a direct investor to the direct investor, the transfer shall be treated as a transfer of capital by the incorporated affiliated foreign national to the direct investor (in an amount equal to the full amount or value of the funds or property so transferred) and (ii) if funds or other property are deemed under paragraph (a)(1)(i) of this section to have been transferred by the direct investor to an incorporated affiliated foreign national of the direct investor, the transfer shall be treated as a transfer of capital by the direct investor to the incorporated affiliated foreign national (in an amount equal to the full amount or value of the funds or property so transferred): *Provided, in each case*, That either the affiliated foreign national actually transferring the funds or other property or the affiliated foreign national actually receiving such funds or other property is an affiliate of the direct investor as defined in § 1000.903(a) and that the transfer, if actually made by or to the direct investor, as the case may be, would have constituted a transfer of capital under § 1000.312.

(3) For purposes of §§ 1000.312 (a) and (b) and 1000.313(a), if funds or other property are transferred (or deemed under paragraph (a)(1) of this section to have been transferred) by an incorporated affiliated foreign national of a direct investor to another incorporated affiliated foreign national of such direct investor, the transfer shall be treated as a transfer of capital by the transferor affiliated foreign national to the direct investor (in an amount equal to the full amount or value of the funds or property so transferred) and as a further transfer of capital in an equivalent amount by the direct investor to the transferee affiliated foreign national: *Provided*, That the affiliated foreign national actually transferring the funds or other property or the affiliated foreign national actually receiving such funds or other property is an affiliate of the direct investor as defined in § 1000.903(a) and that the transfer, if actually made by the direct investor, would have constituted a transfer of capital under § 1000.312(a): *And provided further*, That a charter of a vessel by an incorporated affiliated foreign national of such direct investor shall not be subject to this subparagraph.

(4) In calculating the net transfer of capital made by a direct investor during any period to all unincorporated affiliated foreign nationals in a schedule area under § 1000.313(b), the direct investor shall be deemed not to have any share in a net increase or decrease in the net assets of an unincorporated affiliated foreign national in the scheduled area if the immediate parent of such unincorporated affiliated foreign national is not the direct investor or an affiliate of the direct investor as defined in § 1000.903(a).

(5) For purposes of §§ 1000.312(a) and 1000.313(a), if an unincorporated affiliated foreign national of a direct investor has a net decrease in its net assets during any period, the direct investor shall be deemed to have made a transfer of capital to the immediate parent of such unincorporated affiliated foreign national to the extent that the direct investor's share of such net decrease is not attributable to losses incurred by the unincorporated affiliated foreign national during such period: *Provided*, That such immediate parent is an incorporated affiliated foreign national and is an affiliate of the direct investor as defined in § 1000.903(a).

(6) For purposes of §§ 1000.312(b) and 1000.313(a), (i) if an unincorporated affiliated foreign national of a direct investor has a net increase in its net assets during any period, the immediate parent of such unincorporated affiliated foreign national shall be deemed to have made a transfer of capital to the direct investor to the extent that the direct investor's share of such net increase is not attributable to earnings of the unincorporated affiliated foreign national during such period, and (ii) if an unincorporated affiliated foreign national of a direct investor incurs a loss during any period but such unincorporated affiliated foreign national has no change or has a net increase in its net assets during such period, or has a net decrease in its net assets during such period but the loss exceeds the net decrease in net assets, the immediate parent of such unincorporated affiliated foreign national shall be deemed to have made a transfer of capital to the direct investor in an amount equal to (*a*) the direct investor's share of the loss, (*b*) the direct investor's share of the net increase in net assets plus the direct investor's share of the loss or (*c*) the amount by which the direct investor's share of the loss exceeds the direct investor's share of the net decrease in net assets, as the case may be: *Provided, in each case*, That the immediate parent of the unincorporated affiliated foreign national is an incorporated affiliated foreign national and is an affiliate of the direct investor as defined in § 1000.903(a).

(7) In determining the effect of transfers between affiliated foreign nationals and the effect of changes in net assets of unincorporated affiliated foreign nationals under this § 1000.505, the fact that the underying transactions may involve qualified export obligations or qualified export leases (as defined respectively in §§ 1000.312(c)(13) and 1000.312(c)(14) shall be disregarded.

(b) Notwithstanding anything to the contrary contained in paragraph (a) of this section, a trade credit extended by one affiliated foreign national of a direct investor to another affiliated foreign national of such direct investor in the ordinary course of business pursuant to arm's-length terms shall not be deemed a transfer of capital by the direct investor to the affiliated foreign national receiving the credit nor a transfer of capital by the affiliated foreign national extending the credit to the direct investor if the obligation is in fact paid within 12 months after extension of the credit, in which event payment of the obligation shall not be deemed a transfer of capital by the direct investor to the affiliated foreign national receiving payment nor a transfer of capital by the affiliated foreign national making payment to the direct investor. If the affiliated foreign national extending or receiving the credit is an unincorporated affiliated foreign national of the direct investor and the obligation is in fact paid within 12 months, any change in the net assets of the unincorporated affiliated foreign national attributable to the transaction shall not be taken into account under § 1000.313(b) in calculating the net transfer of capital made by the direct investor to all unincorporated affiliated foreign nationals in the scheduled area in which such unincorporated affiliated foreign national is located.

(c) For purposes hereof, the immediate parent of a partnership referred to in § 1000.304(a)(1) is the direct investor or affiliated foreign national which is the partner, the immediate parent of a business venture referred to in § 1000.304(a)(2) is the direct investor, and the immediate parent of a business venture referred to in § 1000.304(a)(3) is the corporation or partnership on whose behalf the business venture is conducted.

**§ 1000.506 Additional authorized positive direct investment in any one or more scheduled areas; incremental earnings allowable.**

(a) For the purposes of this section:

(1) The term "aggregate annual earnings" means the algebraic sum of a direct investor's annual earnings in all scheduled areas as defined in § 1000.504(b)(4).

(2) The term "base period aggregate annual earnings" means an amount equal to 50 percent of the sum of the aggregate annual earnings for the years 1966 and 1967: *Provided*, That the base period aggregate annual earnings shall in no event be less than zero.

(3) The term "incremental earnings" means, with respect to each year beginning with the year 1970, the amount, if any, by which the aggregate annual earnings for such year exceed the base period aggregate annual earnings.

(4) The term "incremental earnings allowable" means, with respect to each year beginning with the year 1973 in which there are incremental earnings, the amount by which 40 percent of the incremental earnings for such year exceeds the greatest of the following (computed without regard to the reduction provisions of § 1000.1003 or any authorization, exemption, ruling, compliance settlement or order, and without regard to any election made under § 1000.502(a)): (i) $2 million, or (ii) the amount of positive direct investment, if any, authorized to be made by the direct investor during such year in all scheduled areas under § 1000.504(a)(1), (2), and (3), or (iii) the amount of positive direct investment, if any, authorized to be made by the direct investor during such year in all scheduled areas under § 1000.504(b)(1), (2), and (3).

(b) For any year, commencing with the year 1970, a direct investor that elects under § 1000.502(a)(1) may make additional positive direct investment in excess of that authorized by § 1000.503 in all scheduled areas in an aggregate amount not exceeding the direct investor's incremental earnings allowable for such year.

(c) For any year, commencing with the year 1973, a direct investor that elects under § 1000.502(a) (2) or (3) may make additional positive direct investment in excess of that authorized by § 1000.504 in any scheduled area in an amount not exceeding the direct investor's incremental earnings allowable for such year: *Provided*, That the aggregate of positive direct investment made pursuant to this paragraph in all scheduled areas shall not exceed the incremental earnings allowable. Additional positive direct investment made in Schedule C for such year pursuant to this section shall be computed in accordance with § 1000.504(e).

(d) If, during any year commencing with the year 1970, the incremental earnings allowable authorized to a direct investor exceeds the aggregate of additional positive direct investment made in all scheduled areas pursuant to paragraph (b) or (c) of this section, the direct investor is authorized to make additional positive direct investment, during succeeding years, in the same manner as provided in paragraphs (b) and (c) of this section, in an aggregate amount not exceeding such excess.

**§ 1000.507 Alternative minimum and Schedule A supplemental allowable. [Revoked]**

## Subpart F—Records and Reports

**§ 1000.601 Records.**

Every person subject to the provisions of this part shall keep in the United States a full and accurate record of each transaction engaged in by it which is subject to the provisions of this part, regardless of whether such transaction is effected pursuant to authorization or otherwise, and of every other transaction between such person and an affiliated foreign national. Such records (including, but not limited to, source materials, journals or other books of original entry, ledgers, financial statements, work papers, regardless of by whom prepared, and minute books) shall be retained for the greater of (a) 3 years after the date on which an annual report, relating to the year in which the transaction is effected, is due, irrespective of whether such person is exempt from filing such report and irrespective of whether there is a reporting requirement with respect to such transaction, or (b) 3 years after the due date for the filing of an annual report relating to or containing information concerning or based upon such transaction, whether or not the transaction is individually identified.

**§ 1000.602 Reports.**

(a) Every person is required to furnish under oath, in the form of reports or otherwise, from time to time and at any time as may be required by the Secretary, complete information relative to any transaction with respect to which records are required to be kept under this part or information otherwise reasonably related to direct investment or the purposes of Executive Order 11387 or of this part. The Secretary may require that such reports include the production of any books of account, contracts, letters, or other papers, relevant to direct investment or transactions related thereto in the custody or control of persons required to make such reports. Complete information with respect to transactions related to direct investment may be required either before or after such transactions are completed. The Secretary may, through any person or agency, investigate any such transaction or any violation of the provisions of this part, regardless of whether any report has been required or filed in connection therewith.

(b) In addition to such other reports as may be required under paragraph (a) of this section, the following reports are required to be filed by direct investors with the Office of Foreign Direct Investments, Department of Commerce, Washington, D.C. 20230:

(1) *Form FDI–101, Base Period Report.*—Each direct investor must file this report on or before the end of the month following the close of the calendar quarter during which it becomes a direct investor, unless the direct investor is exempt from filing as provided in the instructions to this report. If an exemption from filing ceases to apply to a direct investor, such direct investor must file this report on or before the end of the month following the close of the calendar quarter during which the exemption ceases to apply.

(2) *Form FDI–102, Cumulative Quarterly Report.*—Each direct investor must file this report (on Form FDI–102/102F) within 45 days after the close of each quarter of the calendar year, unless such filing is waived by OFDI or the direct investor is exempt from filing as provided in the instructions to this report.

(3) *Form FDI–102F, Annual Report.*—Each direct investor must file this report (on Form FDI–102/102F) for each year on or before April 30 of the succeeding year, unless the direct investor is exempt from filing as provided in the instructions to this report or is exempt from filing a Base Period Report on Form FDI–101 as provided in the instructions to such report.

(4) *Form FDI–102F/S, Annual Report: Short Form.*—If a direct investor elects pursuant to § 1000.502(a)(1) to be governed by the provisions of § 1000.503 and satisfies other criteria specified in the instructions to this report, it may file its Annual Report on Form FDI–102F/S in lieu of Form FDI–102F on or before April 30 of the year succeeding the year for which the report is filed.

(5) *Form FDI–105, AFN Financial Structure and Related Data.*—Each direct investor must file this report on or before the date specified in the instructions to this report.







V 38 185 SEP 25 73 XUM

(6) *Form FDI–106, Standard Certificate for Repayment of Borrowings Made on or after May 1, 1970.*—In order for positive direct investment resulting from the repayment of borrowing made by a direct investor or its affiliated foreign national to be authorized under Subpart J of this part, a certificate on Form FDI–106 must be filed not later than 10 days after the direct investor makes the borrowing or guarantees the borrowing by its affiliated foreign national.

(7) *Form FDI–107, Adjusted 1965–67 Base Period and Prior Years' Annual Earnings Report for DIs Engaging in § 312(c)(1) Transactions.*—If the filing of Forms FDI–107 is elected under § 1000.312(c)(1)(i), this report must be filed by the acquiring and divesting direct investors on or before the end of the month following the close of a calendar quarter during which the acquisition occurred. The surviving direct investor is required by § 1000.312(c)(1)(ii) to file this report on or before the end of the month following the close of the calendar quarter during which a combination of direct investors occurred.

(c) Applications for extensions of time in which to file reports shall be made to the Office of Foreign Direct Investments and must be received by the Office prior to the time such reports are due. Applications shall contain a statement of reasons for inability to report on time. An extension of time will be given for good cause shown.

(d) Reports mailed to the Office are deemed filed on the date post-marked on the envelope in which they are mailed. Reports delivered directly to the Office are deemed filed when received as evidenced by the Office's date stamp thereon.

(e) Copies of all necessary forms, and instructions as to their preparation and filing, may be obtained from the Office of Foreign Direct Investments, Department of Commerce, Washington, D.C. 20230.

### Subpart G—Penalties

**§ 1000.701 Penalties.**

(a) Attention is directed to 12 U.S.C. 95a, which provides in part:

> Whoever willfully violates any of the provisions of this section or of any license, order, rule, or regulation issued thereunder, shall, upon conviction, be fined not more than $10,000, or, if a natural person, may be imprisoned for not more than 10 years, or both; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both. As used in this section the term "person" means an individual, partnership, association, or corporation.

This section is applicable to violations of any provision of this part and to violations of the provisions of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the direction or authorization of the Secretary pursuant to this part or otherwise under such section.

(b) Attention is also directed to 18 U.S.C. 1001, which provides:

> Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than $10,000 or imprisoned not more than 5 years, or both.

**§ 1000.702 Effect upon lenders.**

Any person (other than an affiliated foreign national of a direct investor) who lends money or extends credit to such direct investor or to an affiliated foreign national of such direct investor and who does not have actual knowledge, when such loan is made or credit extended (or when a commitment is given to make the loan or extend the credit), that the use of the proceeds thereof, the repayment thereof or any other transaction in connection therewith will involve or constitute a violation by the direct investor of any provision of this part or of any license, ruling, regulation, order, direction or instruction issued by or pursuant to the authorization or direction of the Secretary pursuant to this part or otherwise under § 1000.701, may receive repayment thereof (together with all interest and other fees and charges) and otherwise participate in any other transaction in connection therewith without being subject to the penalties referred to in § 1000.701(a), and such person's rights against the direct investor or affiliated foreign national in connection with such loan or extension of credit shall not in any way be affected or impaired by reason of the provisions of this part.

### Subpart H—Procedures

**§ 1000.801 Applications for specific authorizations and exemptions.**

(a) *Filing.*—Transactions subject to the prohibitions contained in this part which are not generally authorized may be effected only under specific authorization. Persons subject to the requirements of this part may be exempted from complying with any requirement thereof only through a specific exemption. Any person may file an application for specific authorization or for specific exemption. Such application shall contain all relevant information and shall be filed in triplicate with the Director, Office of Foreign Direct Investments, Department of Commerce, Washington, D.C. 20230. An applicant may furnish additional information or present views concerning the application at any time before a decision has been rendered thereon. The application may include a request that the Director, in his discretion, grant the applicant a conference with the Director or his designee.

(b) *Decisions.*—Written notice of action taken on an application shall be given to the applicant. Whenever an application is denied, such notice shall include a brief statement of the grounds therefor.

**§ 1000.802 Petitions for reconsideration; appeals.**

This section sets forth the procedures applicable to (1) petitions to the Director for reconsideration of administrative actions and (2) appeals to the Foreign Direct Investments Appeals Board (the "Board") from administrative actions and decisions on petitions for reconsideration.

(a) *General provisions.*—(1) The term "administrative action" means, with respect to any person, (i) a decision upon an application for a specific authorization or exemption filed by such person, or (ii) any action taken specifically with respect to such person pursuant to the exercise of a discretionary power by the Secretary in accordance with any provision of this part. The term "administrative action" does not include an opinion or ruling interpreting the regulations, or a decision upon a petition for reconsideration or upon an appeal.

(2) Notice of an administrative action or of a decision rendered upon a petition for reconsideration or upon an appeal shall be deemed to have been given on the date when mailed or delivered to the petitioner or appellant: *Provided*, That notice of an administrative action taken prior to the effective date of this section shall be deemed to have been given on such effective date.

(3) A petition for reconsideration shall be deemed filed on the date received by the Office of Foreign Direct Investments. An appeal shall be deemed filed on the date received by the secretary of the Board.

(4) Any person may withdraw a petition for reconsideration or an appeal at any time prior to the date a decision is rendered thereon.

(b) *Petitions for reconsideration.*—Any person may petition for reconsideration of an administrative action taken with respect to such person unless such person has previously appealed the same or a related administrative action to the Board and such appeal is then pending or a decision has been rendered thereon. The filing of a petition for reconsideration shall not suspend or stay the effect of the administrative action of which reconsideration is sought unless the Director, in his discretion, so orders.

(1) *Form of petitions.*—An original and five copies of the petition for reconsideration and all supporting documents shall be submitted. The petition shall enclose a copy of the administrative action of which reconsideration is asked, and shall state the grounds upon which the petition is based and the relief requested. All facts and argument in support of the petition shall be separately identified and set forth in detail.

(2) *Filing.*—A petition for reconsideration of an administrative action shall be filed not later than 20 days after notice of the administrative action is given to the petitioner. It shall be addressed to the Director, Office of Foreign Direct Investments, Ref.: "Petition for Reconsideration," U.S. Department of Commerce, Washington, D.C. 20230. If a petition is withdrawn, the time which has elapsed since notice of the administrative action was given to the petitioner shall not be counted as part of the time allowed for appeal. Requests for extension of time within which to file petitions for reconsideration may be granted in the discretion of the Director.

(3) *Conferences.*—The petition may include a request that the Director, in his discretion, grant an informal conference with the Director or his designee.

(4) *Decisions.*—The Director may dismiss the petition, may grant or deny the petition in whole or in part, or may modify all or part of the administrative action under reconsideration. Written notice of the decision shall be given to the petitioner.

(c) *Appeals*—(1) *Foreign Direct Investment Appeals Board.*—The Foreign Direct Investment Appeals Board is established in the Office of the Secretary. The Secretary of Commerce (without power of delegation) shall appoint three responsible officials of the Department of Commerce, none of whom shall be employees of the Office of Foreign Direct Investments, to serve as members of the Board. The Board may, in its discretion, establish rules of procedure in addition to those set forth in this section. Any person may appeal in writing to the Board on the ground that an administrative action or a decision on petition for reconsideration with respect to such person resulted in unusual hardship upon appellant and is inconsistent with achievement of the goals and objectives of Executive Order 11387 and this part. An appeal may not be filed if such person has previously filed a petition for reconsideration respecting the same or a related administrative action and no decision has been rendered thereon or the petition has not been withdrawn. The filing of an appeal shall not suspend or stay the effect of the administrative action or decision on the petition for reconsideration under appeal unless the Board, in its discretion, so orders.

(2) *Form of appeals.*—An original and ten copies of the appeal and all supporting documents shall be submitted. The appeal shall enclose a copy of the administrative action or decision on the petition for reconsideration from which appeal is made, and shall state the particulars upon which the appeal is based and the relief requested. All facts and argument in support of the appeal shall be separately identified and set forth in detail. The Board may, in its discretion, request an appellant to make an oral presentation to the Board or any member thereof, at a time and place designated by the Board.

(3) *Filing.*—Appeals shall be filed with the Board not later than 30 days after notice of the administrative action or decision on the petition for reconsideration has been given to the appellant. Requests for extensions of time within which to file appeals may be granted in the discretion of the Board. Appeals shall be addressed to the Secretary, Foreign Direct Investment Appeals Board, U.S. Department of Commerce, Washington, D.C. 20230.

(4) *Decisions.*—The Board may dismiss, grant or deny the appeal in whole or in part or modify all or part of the administrative action or decision on the petition for reconsideration under appeal. Written notice of the Board's decision shall be furnished to the appellant and shall constitute final Departmental action.

**§ 1000.803 Proof of authority to file certain documents.**

An application for a specific authorization or exemption, a request for an interpretative opinion, a petition for reconsideration or an appeal will not be considered unless in the case of:

(a) A corporation, partnership, trust, or other unincorporated entity, it is executed by a corporate officer, general partner, trustee, or other duly authorized person who shall certify his authority to act on behalf of the entity;

(b) A natural person, it is executed and acknowledged by him; or

(c) Submission by an attorney or agent on behalf of any person, it is accompanied by a duly authorized power of attorney.

**§ 1000.804 Amendment, modification, or revocation.**

The provisions of this part and any rulings, exemptions, authorizations, instructions, waivers, orders, or forms issued under this part may be amended, modified, or revoked at any time. Unless the Secretary otherwise specifies, the public interest requires that such amendments, modifications, or revocations be made without prior notice.

**§ 1000.805 Rules governing availability of information.**

Completed Forms FDI–101, –102, –102F, –103, –104, –105, –106, or any other completed forms filed with the Office, applications and requests for specific authorizations, exemptions or interpretations, petitions for reconsideration, appeals, materials submitted thereunder, and decisions thereon are considered to be matters covered by 5 U.S.C. 552(b). Other information, records, and material of the Office of Foreign Direct Investments if required by 5 U.S.C. 552 to be made available to the public shall be available in accordance with the provisions of Department Order 64 of the Secretary of Commerce (32 FR 9643, July 4, 1967) and in accordance with the provisions of Part 4 of this title (32 FR 9643, July 4, 1967).

**§ 1000.806 Delegations.**

Any function, duty or authority under this part may be performed or exercised by the Secretary or any person, agency or instrumentality designated by him (directly or indirectly by one or more redelegations of authority); and the term "Secretary," as used in this part, shall include any such designated person, agency, or instrumentality, as applicable.



### Subpart I—Direct and Indirect Interests; Affiliated, Associated and Family Groups; Ownership of Direct Investors; Rules for Reporting

**§ 1000.901 Direct interests.**

A direct interest in a person is an interest which is not owned through an intervening person or chain of persons. The amount of a direct interest owned by one person in another person is calculated according to the following rules:

(a) The amount of a direct interest owned by a person in a corporation is the percentage of the total combined voting power of all outstanding securities of the corporation possessing voting power represented by such securities which are beneficially owned by such person or in respect of which such person beneficially owns voting trust certificates, depositary receipts or other similar instruments representing such securities. Voting power means the power presently to vote in the election of the directors of the corporation or, if the corporation does not have directors, in the election or appointment of persons performing management functions or functions supervisory of management.

(b) The amount of a direct interest owned by a person in a partnership, trust, or business venture which is not a corporation is such person's percentage share in the profits of such organization: *Provided*, That if an interest in an such organization shall entitle the owner to a fixed amount out of, rather than a percentage of profits, or another arrangement is in effect which may cause the interest in profits to vary in accordance with future conditions or contingencies, the interest shall be calculated by reference to the proportion of the profits of the organization actually distributed or distributable to such person at the close of the most recent annual accounting period of the organization.

(c) If the rules set forth in paragraphs (a) or (b) of this section are not applicable to a particular corporation, partnership, trust or business venture in which such person owns an interest, the amount of the interest shall be calculated by any reasonable method which fairly reflects the amount thereof.

**§ 1000.902 Indirect interests.**

An indirect interest in a person is an interest owned through ownership of an intervening person or chain of persons. The amount of an indirect interest owned by one person in another person is calculated by multiplying together the direct interests of each person in the chain in each person in the chain (treating stock of a higher tier corporation held by a lower tier corporation as not outstanding).

**§ 1000.903 Affiliated groups.**

(a) For purposes of paragraph (b) of this section, an "affiliate" of a person within the United States means any other person (other than an individual), wheresoever located, in which the aggregate of direct interests owned by such



V 38 I 185 SEP 25 73 XUM

person within the United States and any affiliate or affiliates (as herein defined) of such person exceeds 50 percent.

(b) An "affiliated group" means a person within the United States and all of its affiliates which are persons within the United States; such person and such affiliates are members of the affiliated group. Any person which owns a direct or indirect interest in a member of an affiliated group but which is not itself a member thereof shall be deemed to own a direct or indirect interest, as the case may be, in the affiliated group.

(c) Except as provided in § 1000.906(b)(1), the members of an affiliated group shall, for all purposes of this part, be considered a single person within the United States.

(d) An affiliated group shall file reports under § 1000.602 in the manner provided in § 1000.907.

**§ 1000.904 Family groups.**

(a) For all purposes of this part, an individual who is a person within the United States, his spouse (unless legally separated), and all relatives of such individual or his spouse residing with such individual shall be considered a single person within the United States.

(b) A family group shall file reports under § 1000.602 in the manner provided in § 1000.907.

**§ 1000.905 Associated groups.**

(a) An "associated group" consists of two or more persons within the United States (one or all of which may be an affiliated or family group) which, pursuant to an express or implied agreement or understanding, act in concert to own or acquire interests in the same corporation or partnership organized under the laws of a foreign country or in the same business venture conducted within a foreign country: *Provided*, That, the interests are not owned or acquired through a corporation, partnership (other than a joint venture), or trust which is a person within the United States (without regard to whether the corporation, partnership, or trust is organized or created for the purpose of owning or acquiring such interests); *And provided further*, That the aggregate of such interests would, if owned or acquired by only one of such persons, cause such person to be a direct investor in the corporation, partnership, or business venture under § 1000.305.

(b)(1) Notwithstanding the provisions of § 1000.305, each member of an associated group shall be deemed a direct investor in the corporation, partnership, or business venture in which the interests are owned or acquired (hereinafter referred to as the "group affiliated foreign national") for all purposes of this part: *Provided*, That, a person which is a direct investor by virtue of this paragraph (b)(1) of this section but not by virtue of the provisions of § 1000.305 shall not be subject to the provisions of § 1000.203.

(2)(i) Notwithstanding the provisions of § 1000.503, positive direct investment made during any year, commencing with the year 1970, by members of an associated group that elect § 1000.503 in group affiliated foreign nationals of the associated group shall not be authorized by § 1000.503, unless the aggregate of direct investment made during the year by all such members (being considered for purposes of this subdivision as a single direct investor) in all group affiliated foreign nationals would have been authorized by § 1000.503.

(ii) [Revoked]

(iii) [Revoked]

(3) Unless the election referred to in § 1000.907(c)(2) has been made and approved by the Secretary, each member of an associated group shall file separate reports under § 1000.602 in the manner provided in § 1000.907.

**§ 1000.906 Ownership of direct investors.**

(a)(1) Unless the election provided for in paragraph (b)(1) of this section is made, no direct investment made or foreign balances held before or after the effective date by a direct investor shall be deemed to have been made or held by any other person within the United States because such other person owns or acquires a direct or indirect interest in such direct investor.

(2) A person within the United States which owns a direct or indirect interest in a direct investor may, depending on all the facts and circumstances of the particular case, be deemed to be acting for or on behalf of the direct investor if such person transfers funds or other property to affiliated foreign nationals of the direct investor.

(b)(1) Persons within the United States owning a direct interest in a direct investor may elect not to be governed by the rule set forth in paragraph (a)(1) of this section: *Provided*, That this election shall not, unless the Secretary in his sole discretion determines otherwise, be available if there are more than 10 persons (whether such persons are persons within the United States or foreign nationals) which own direct interest in such direct investor. For purposes of this paragraph (b) of this section, each member of an affiliated group shall be considered a separate person within the United States.

(2) An election pursuant to paragraph (b)(1) of this section as to any direct investor shall be made with the consent of those persons within the United States owning, in the aggregate, a majority interest in such direct investor. The election shall be evidenced by a document executed by or on behalf of all persons consenting thereto (hereinafter referred to as the "consenting owners") and such documents shall be filed promptly after its execution with the Program Reports Division, Office of Foreign Direct Investments, U.S. Department of Commerce, Washington, D.C. 20230. All persons within the United States owning a direct interest in the direct investor shall be afforded a reasonable opportunity to join in the election and, if any persons within the United States owning a direct interest in the direct investor do not join in the election, the document evidencing the election shall recite that a reasonable opportunity to join in the election was in fact afforded to such persons.

(3)(i) Notwithstanding the provisions of § 1000.305, if an election pursuant to paragraph (b)(1) of this section is made as to any direct investor (hereinafter referred to in this paragraph (3) of this section as the "principal direct investor"), each consenting owner shall be deemed a direct investor in every affiliated foreign national of the principal direct investor for all purposes of this part. The entire amount of direct investment made and foreign balances held by the principal direct investor before and after the effective date shall be deemed to have been made or held by the consenting owners. The portion of such foreign balances and direct investment allocable to each such consenting owner shall be a fraction thereof, the numerator of such fraction to be the direct interest in the principal direct investor owned by such consenting owner and the denominator of such fraction to be the aggregate of the direct interest in the principal direct investor owned by all consenting owners.

(ii) Notwithstanding the provisions of § 1000.503, positive direct investment made (or deemed to have been made under subdivision (i) of this subparagraph) during any year, commencing with the year 1970, by consenting owners that elect § 1000.503 in an affiliated foreign national of the principal direct investor shall not be authorized by § 1000.503, unless the aggregate of direct investment made or deemed to have been made during the year by all consenting and nonconsenting owners electing § 1000.503 (such owners being considered for purposes of this subdivision as a single direct investor) in all affiliated foreign nationals of the principal direct investor would have been authorized by § 1000.503.

(iii) [Revoked]

(iv) [Revoked]

(4) Once an election is made pursuant to paragraph (b)(1) of this section, it may not be changed without the permission of the Secretary.

**§ 1000.907 Reporting.**

(a) Except as provided in paragraph (b)(3) of this section (or unless a specific exemption from reporting is otherwise available) each person within the United States which is a direct investor by virtue of the provisions of §§ 1000.305, 1000.905(b)(1), or 1000.906(b)(3)(i), other than a direct investor as to which an election has been made under § 1000.906(b)(1), shall file separate reports (including Forms FDI–101 and FDI–102) under § 1000.602.

(b)(1) If a direct investor owns direct interests in one or more other direct investors as to which an election has been made under § 1000.906(b)(1) and such direct investor has consented to





the election, the reports filed by the direct investor shall include, in addition to all other required information, the direct investor's fractional share (computed in accordance with § 1000.906(b)(3)(i)) of the amount of foreign balances, direct investment and other items which such direct investors would have been required to include in their reports if the elections had not been made.

(2) If a direct investor owns indirect interests in one or more other direct investors, or owns direct interests in one or more other direct investors as to which an election has not been made under § 1000.906(b)(1) or as to which such an election has been made but the direct investor has not consented thereto, reports filed by the direct investor shall not include any foreign balances held or direct investment made by such other direct investors during the relevant period before or after the effective date or any other items required to be included in the reports of such other direct investors for such period.

(3) If, by virtue of the provisions of paragraph (b)(2) of this section, a direct investor has no foreign balances or direct investment transactions which are reportable by it for any period before or after the effective date, the direct investor shall not be required to file a Form FDI–101 or FDI–102 for such period.

(c)(1) If a direct investor is a member of one or more associated groups, the reports filed by the direct investor shall include, in addition to all other required information, the net transfers of capital made by the direct investor to all group affiliated foreign nationals during the relevant period, and, if any of the group affiliated foreign nationals are incorporated affiliated foreign nationals as defined in § 1000.304, shall also include the direct investor's proportionate share in the reinvested earnings of such incorporated affiliated foreign nationals during such period. A member of an associated group which is a direct investor under § 1000.905(b)(1) but not under § 1000.305 is not subject to the provisions of § 1000.203, and such member shall not report its foreign balances on Forms FDI–101 or FDI–102.

(2) Notwithstanding the foregoing, the members of an associated group may elect, by a document executed by or on behalf of a majority in interest of the members of the group and filed with the Program Reports Division, Office of Foreign Direct Investments, U.S. Department of Commerce, Washington, D.C. 20230, to have one member of the group file reports under § 1000.602 on behalf of all members, each such report to reflect the aggregate direct investment transactions of all members with all group affiliated foreign nationals during the relevant period before or after the effective date. Such election shall be subject to the approval of the Secretary who may grant such approval subject to any terms and conditions that he deems necessary. Once an election is made pursuant to this paragraph (c)(2) of this section it may not be changed without the permission of the Secretary.

(d) If a direct investor is an affiliated or family group, the reports filed by the direct investor shall aggregate all foreign balances, direct investment transactions and other reportable items attributable to each member of the group. The group's Forms FDI–101 and FDI–102 shall be filed on behalf of the group by one member thereof. Such member shall also file all other reports, certificates, and other documents required to be filed by the group under the provisions of this part.

## Subpart J—Repayment of Borrowings

**§ 1000.1001 Definitions.**

For purposes of this part and General Authorization No. 1 (33 FR 818):

(a) The term "borrowing by an affiliated foreign national" means a borrowing by an affiliated foreign national of a direct investor from any person (other than the direct investor or another affiliated foreign national of the direct investor), including, but not by way of limitation, an extension of credit by any such person to the affiliated foreign national in connection with the purchase of property (including securities) by the affiliated foreign national from such person. Repayment by a direct investor of a borrowing by an affiliated foreign national includes repayment of all interest, premiums and other fees and charges, if any, owing to the lender in connection therewith.

(b) The term "borrowing by a direct investor" means a borrowing by the direct investor, repayment of which by the direct investor would constitute a transfer of capital under § 1000.312(a)(7).

(c) The term "guarantee," when used with respect to a borrowing by an affiliated foreign national, includes (1) a written acknowledgement of secondary responsibility (whether or not legally enforceable) to a bank with respect to the borrowing or with respect to the financial condition of the affiliated foreign national; (2) a written guarantee, endorsement, surety agreement, application for letter of credit or standby agreement with respect to the borrowing; (3) a contingent contractual commitment with respect to the borrowing of the type involved in so-called through-put agreements, take-or-pay contracts, keep-well agreements, and other similar written agreements; and (4) a mortgage, pledge or hypothecation of property as security for repayment of the borrowing, other than a mortgage, pledge or hypothecation to or with a foreign national which constitutes a transfer of capital under § 1000.312(a)(9). The term "guarantee" includes a guarantee given by one affiliated foreign national of a direct investor with respect to a borrowing by another affiliated foreign national of the direct investor if repayment pursuant to the guarantee would result in a transfer of capital by the direct investor under § 1000.505.

(d) The term "bank" means a domestic bank or a foreign bank as described in § 1000.317.

**§ 1000.1002 Transfers of capital in connection with repayment of borrowings.**

(a) Subject to the provisions of § 1000.1003, positive direct investment by a direct investor during any year in affiliated foreign nationals in any Scheduled Area is authorized, notwithstanding the provisions of § 1000.201, to the extent such positive direct investment is attributable in whole or in part to those transfers of capital by the direct investor (including transfers of capital under § 1000.505) as are described in paragraphs (a)(1) through (6) of this section:

(1) A transfer of capital, pursuant to a guarantee made prior to June 10, 1968, which transfer is made in repayment of, or to enable an affiliated foreign national to repay, a borrowing by such affiliated foreign national: *Provided*, That, in the case of a guarantee made on or after January 1, 1968, the direct investor shall have complied with the certification requirements set forth in section 2(a)(1) of General Authorization No. 1.

(2) A transfer of capital in repayment of, or to enable an affiliated foreign national to repay, a borrowing by such affiliated foreign national from a bank made prior to January 1, 1968, or a borrowing by such affiliated foreign national from a bank made on or after January 1, 1968, pursuant to a fixed loan commitment or line of credit established prior to such date or pursuant to any renewal or extension of such a fixed loan commitment or line of credit: *Provided*, That the liquid assets of the affiliated foreign national are not sufficient to repay such borrowing and that the affiliated foreign national has made every reasonable effort to refinance the borrowing on terms generally available to companies of similar size and financial position; *And provided further*, That, if, on or after January 1, 1968, the amount of such a fixed loan commitment or line of credit is increased by 10 percent or more, a new fixed loan commitment or line of credit shall be deemed to have been established at the time of such increase in an amount equal to the amount of the increase.

(3) A transfer of capital consisting of the delivery of equity securities of the direct investor, pursuant to the exercise of conversion or similar rights, to holders of debt obligations issued by the direct investor or by an affiliated foreign national of the direct investor, without regard to the date the borrowing is made: *Provided*, That, for purposes of § 1000.1003, any such transfer of capital shall be deemed to have been made in the year immediately following the year in which the conversion or similar rights are exercised.

(4) A transfer of capital (other than a transfer referred to in paragraph (a)(3) of this section) in repayment of a borrowing by the direct investor made prior to June 10, 1968: *Provided*, That with respect to a borrowing made on or after January 1, 1968, the direct investor shall



V 38 185
SEP 25 73
XUM

have complied with the certification requirements set forth in section 2(b) of General Authorization No. 1.

(5) A transfer of capital, pursuant to a guarantee made on or after June 10, 1968, which transfer is made in repayment of, or to enable an affiliated foreign national to repay, a borrowing by such affiliated foreign national: *Provided*, That the direct investor shall have complied with the certification requirements set forth in paragraph (b) of this section.

(6) A transfer of capital (other than a transfer referred to in paragraph (a)(3) of this section) in repayment of a borrowing by the direct investor made on or after June 10, 1968: *Provided*, That the direct investor shall have complied with the certification requirements set forth in paragraph (b) of this section.

(b) The certificate required by paragraphs (a)(5) and (6) of this section shall (after June 9, 1969) be made on Form FDI–106, and shall, except as otherwise provided in paragraph (e)(3) of this section, be delivered to the Secretary not later than 10 days after the date of the borrowing by the direct investor or the date of the guarantee of the borrowing by the affiliated foreign national, as the case may be. It shall be executed by the direct investor or a duly authorized representative of the direct investor, shall state the amount of the borrowing, and the amount of the required principal repayment, shall identify the lender (or the managing underwriter, if the borrowing involves a public offering), and shall certify as follows:

(1) If the direct investor believes, on the basis of all facts and circumstances existing when the certificate is delivered to the Secretary, that it will not make any transfers of capital in connection with repayment of the borrowing within 7 years after the date of the borrowing (or the date of the guarantee, if the borrowing is by an affiliated foreign national), the certificate shall state such belief and the reasons therefor.

(2) If the direct investor believes, on the basis of all facts and circumstances existing when the certificate is delivered to the Secretary, that it will make transfers of capital in connection with repayment of the borrowing within the aforesaid 7-year period, but also believes, on the basis of such facts and circumstances, that no positive direct investment by the direct investor in any scheduled area during any year will result in whole or in part from such transfers, or that any positive direct investment in any scheduled area which does result from such transfers will be authorized by this part (otherwise than by this section), the certificate shall state such beliefs and the reasons therefor.

(c) In determining whether a transfer of capital in connection with the repayment of a borrowing will be made within 7 years from the date of the borrowing or the guarantee thereof, as the case may be, and whether any such transfer will result in unauthorized positive direct investment during any year:

(1) A direct investor may disregard the possible occurrence of events (such as defaults by the direct investor or the borrowing affiliated foreign national, as the case may be), which are not reasonably likely to occur in view of the facts and circumstances existing when the certificate is delivered to the Secretary;

(2) A direct investor may disregard potential transfers of capital resulting from conversions into equity securities of the direct investor of the debt obligation as to which the certificate is being given and of other convertible debt obligations issued by the direct investor or affiliated foreign nationals of the direct investor: *Provided*, That potential transfers of capital resulting from conversions of debt obligations issued on or after June 10, 1968, shall not be disregarded if (i) the obligations have an original maturity of less than 7 years or (ii) the obligations are not sold in a public offering and are convertible within 3 years from the date of issuance; and

(3) A direct investor must consider, if a guaranteed borrowing by an affiliated foreign national is involved, whether the borrowing affiliated foreign national is reasonably likely to have sufficient financial resources to repay the borrowing after such affiliated foreign national (and all other affiliated foreign nationals in the same scheduled area) have paid all dividends or remittance which they may be required to pay by virtue of the limitations imposed in this part on positive direct investment.

(d) Notwithstanding the provisions of paragraph (a) of this section, no positive direct investment resulting from repayment of a borrowing shall be authorized by this subpart if repayment is made at the option of the direct investor. For purposes hereof, a repayment shall be deemed to have been made at the option of a direct investor if it was made pursuant to a call or like provision resting control of the time of repayment in the direct investor or an affiliated foreign national or if, at the time of repayment, the direct investor or an affiliated foreign national had the option to renew, extend or continue the borrowing and such option was not exercised.

(e) For purposes of this part and of General Authorization No. 1:

(1) A borrowing by a direct investor or an affiliated foreign national shall be deemed to have been made on the date the proceeds thereof are received by the borrower or, if an extension of credit in connection with the purchase of property is involved, on the date such property is purchased. Notwithstanding the foregoing, (i) if a borrowing involves a public offering of debt obligations, the borrowing shall be deemed to have been made on the date the obligations are issued and (ii) if a borrowing involves the use of an overdraft facility, the borrowing shall be deemed to have been on the date the overdraft is used.

(2) The refinancing by a direct investor of a foreign borrowing or a long-term foreign borrowing in accordance with the provisions of § 1000.324(b)(1), or the refinancing of a borrowing by an affiliated foreign national (by renewal, extension or continuance of such borrowing or by making a subsequent borrowing from the same or another lender), shall not be deemed a repayment of the original borrowing or the making of a new borrowing.

(3) If funds are to be borrowed by a direct investor or an affiliated foreign national pursuant to an arrangement with a lender (such as a line of credit or revolving credit arrangement) whereby the funds may be taken down from time to time over a specified period up to a stated maximum aggregate amount (or pursuant to a renewal or extension of such an arrangement), the direct investor may, in lieu of filing a separate certificate as to each take-down which constitutes a borrowing, file a single certificate with respect to all such borrowings, such certificate to be filed on or prior to the date of the first borrowing under the arrangement or under the renewal or extension thereof, as the case may be.

**§ 1000.1003 Effect of transfers of capital in repayment of borrowings.**

(a) For the purposes of this § 1000.1003, the term "repayment charge" shall mean an amount equivalent to the amount of positive direct investment made by a direct investor pursuant to § 1000.1002. A repayment charge shall be incurred by a direct investor in any year in which positive direct investment is made pursuant to § 1000.1002.

(b) The amount of positive direct investment authorized to be made by a direct investor under Subparts E and M of this part shall be reduced as provided in paragraphs (c) and (d) of this section until reductions equal in the aggregate to the repayment charge shall have been made.

(c)(1) In any year, commencing with the year 1973, in which a repayment charge is incurred, the amount of positive direct investment authorized to be made by the direct investor shall be reduced and, except as hereinafter provided, such reduction shall be made first in the amount of positive direct investment authorized under Subpart E of this part in the scheduled area in which the positive direct investment under § 1000.1002 was made, and, to the extent that the repayment charge exceeds the amount of positive direct investment so authorized in such scheduled area, further reduction shall be made in the amount of positive direct investment authorized under Subpart E of this part in Schedules C, B, and A, in that order, and then in the amount of positive direct investment authorized under Subpart M of this part: *Provided*, That a direct investor electing to be governed by § 1000.503 that makes negative direct investment, as defined in § 1000.306, may decrease the amount of the repayment charge in the amount of such negative direct investment: *And provided further*, That the amount of the reduction of the amount of positive direct investment authorized under Subpart E or M of this part shall not exceed the repayment charge (as decreased by negative direct investment), and that such reduction shall not reduce authorized positive direct investment under said subparts in any year to an amount less than zero.

(2) Reductions under paragraph (c)(1) of this section in the amount of positive direct investment authorized under Subpart E of this part shall be made first on the aggregate amount of positive direct investment authorized under § 1000.503 or § 1000.504, whichever is elected by the direct investor for the year, and then in the amount of positive direct investment authorized under § 1000.506.

(3) Reductions under paragraph (c)(1) of this section in the amount of positive direct investment authorized in Schedule C pursuant to § 1000.504 shall be made first in the amount of authorized positive direct investment under § 1000.504 (a) and (c) or (b), (d)(3), and (f)(3)(i), and then in the amount of authorized reinvested earning under § 1000.504 (e) and (f)(3)(ii).

(4) Reductions in the amount of authorized positive direct investment under paragraph (c)(1) of this section for a repayment charge attributable to transfers of capital primarily related to operations in foreign air transportation by direct investors described in § 1000.1302(a) shall be made first in the amount of authorized positive direct investment under Subpart M of this part.

(5) [Revoked]

(d) If the repayment charge incurred in any year exceeds the amount of authorized positive direct investment reduced under this section, reductions shall be made in each succeeding year in the same manner and order as set forth in paragraph (c) of this section.

General Authorization No. 1—Transfers of Capital, (REVOKED), superseded by Subpart-J, Repayment of Borrowings).

## Subpart K—Direct Investment In Canada

**§ 1000.1101 Definitions.**

(a) The term "Canadian affiliate" of a direct investor means an affiliated foreign national of the direct investor in Canada.

(b) The term "Non-Canadian Scheduled B affiliate" of a direct investor means an affiliated foreign national of the direct investor in a Schedule B country other than Canada.

(c) The term "Canadian bank" includes any branch or office within Canada of any of the following: Any bank or trust company organized under the banking laws of Canada or any province thereof, or any private bank or banker subject to supervision and examination under the banking laws of Canada or any province thereof.

(d) The term "Canadian person" means an individual who is a resident of Canada, a Canadian bank, and a Corporation or other entity (other than a bank) organized under the laws of Canada or any political subdivision thereof.

**§ 1000.1102 Authorized positive direct investment in Canada.**

Positive direct investment by a direct investor during any year in Canadian affiliates of the direct investor is authorized, without limitation as to amount.

**§ 1000.1103 Net transfers of capital to Schedule B countries.**

(a) For purposes of determining the net transfer of capital by a direct investor to all incorporated affiliated foreign nationals of the direct investor in Schedule B countries during any period (including the years 1965 and 1966) under § 1000.313(a), there shall be included only (1) the aggregate of all transfers of capital made during such period by the direct investor to incorporated Non-Canadian Schedule B affiliates of the direct investor less (2) the aggregate of all transfers of capital made during such period by such incorporated Non-Canadian Schedule B affiliates to the direct investor.

(b) For purposes of determining the net transfer of capital by a direct investor to all unincorporated affiliated foreign nationals of the direct investor in Schedule B countries during any period (including the years 1965 and 1966) under § 1000.313(b), there shall be included only the direct investor's share of the aggregate net assets of unincorporated Non-Canadian Schedule B affiliates of the direct investor.

(c) The provisions of § 1000.505(b) relating to the extension of short-term trade credits from one affiliated foreign national of a direct investor to another affiliated foreign national of the direct investor shall not be applicable if either the affiliated foreign national extending the credit or the affiliated foreign national receiving the credit is a Canadian affiliate.

(d) [Revoked]

**§ 1000.1104 Reinvested earnings—Schedule B countries.**

(a) For purposes of determining a direct investor's share in the total reinvested earnings of all incorporated affiliated foreign nationals of the direct investor in Schedule B countries during any period (including the years 1965 and 1966) under § 1000.306(a)(2), there shall be included only the direct investor's share in the total reinvested earnings of all incorporated Non-Canadian Schedule B affiliates of the direct investor during such period.

(b) In determining the direct investor's share in the total reinvested earnings of all incorporated Non-Canadian Schedule B affiliates during any period pursuant to § 1000.306(b), all incorporated and unincorporated Canadian affiliates of the direct investor shall be deemed to be in a scheduled area other than Schedule B.

**§ 1000.1105 Foreign balances.**

(a) The term "Canadian foreign balances" means (1) money on deposit in a Canadian bank (including fixed interest deposits of a Canadian bank); (2) negotiable instruments, nonnegotiable instruments or commercial paper of Canadian persons; and (3) securities issued or guaranteed by the Government of Canada or any political subdivision thereof or by any agency or instrumentality of the Government of Canada or any such political subdivision.

(b) For purposes of § 1000.203(c), the average end-of-month amounts of liquid foreign balances (other than direct investment liquid foreign balances) held by a direct investor during 1965 and 1966 and as of the end of any month commencing June 1968 shall be calculated by excluding all such liquid foreign balances then held by the direct investor which constitute Canadian foreign balances.

(c) [Revoked]

**§ 1000.1106 Long-term foreign borrowing.**

For all purposes of this part, a borrowing by a direct investor from a Canadian person, whether before or after the effective date, shall not be deemed a "long-term foreign borrowing": *Provided*, That, a borrowing involving the public offering, prior to April 1, 1968, of instruments of indebtedness of a direct investor, shall be considered a long-term foreign borrowing in its entirety if less than 25 percent of the aggregate principal amount of such instruments was sold to Canadian persons, or, if 25 percent or more of the aggregate principal amount of such instruments was sold to Canadian persons, the borrowing shall be considered a long-term foreign borrowing to the extent of the aggregate principal amount which the direct investor proves, to the satisfaction of the Secretary, to have been sold to persons other than Canadian persons: *And provided further*, That, a borrowing involving the public offering, on or after April 1, 1968, of instruments of indebtedness of a direct investor, shall be considered a long-term foreign borrowing in its entirety if such instruments are sold through underwriters in accordance with agreements limiting such sales to persons other than Canadian persons (other than sales to underwriters or securities dealers who are Canadian persons but who agree that they are purchasing such instruments as principals for resale to persons who are not Canadian persons and sales to agents or fiduciaries who are Canadian persons but who are acting for the benefit of persons who are not Canadian persons).

**§ 1000.1107 Canadian program.**

If a program for governing transfers of capital to foreign countries or the nationals thereof by Canadian affiliates and other Canadian business ventures shall hereafter be instituted by the Canadian Government or by any department or agency thereof (which program is consistent with the purposes of the regulations), the regulations will be amended appropriately with respect to transfers of capital to or from Canadian affiliates of a direct investor certified as subject to







V 38 185 SEP 25 73 XUM

or participating in such program by the Canadian Government or such department or agency.

## Subpart L—Exploration and Development Expenditures

**(Proposed but Withdrawn Prior to adoption; see Federal Register, Vol. 34, No. 122—Thursday, June 26, 1969)**

## Subpart M—Affiliated Foreign Nationals of Air Carriers Engaged in Foreign Air Transportation

### § 1000.1301 Exclusions.

(a) For purposes of determining transfers of capital to incorporated or unincorporated affiliated foreign nationals, for any period (including the years 1965 and 1966), a direct investor who is an "air carrier" or "supplemental air carrier", engaged in "foreign air transportation" as those terms are defined in the Federal Aviation Act of 1958 as amended, 49 U.S.C. § 1301 (3), (21), and (32), may elect to exclude from such transfers (i) flight equipment expendable parts described in Civil Aeronautics Board asset account number (CAB No.) 1310, (ii) aircraft engines described in CAB No. 1602, and (iii) flight equipment rotable parts and assemblies described in CAB No. 1608; *Provided*, That if such assets are so excluded, the direct investor shall also exclude, in calculating the amount of such transfers, reserves for depreciation or obsolescence or like reserves associated with such assets, and shall exclude all charges to depreciation expense or any other charges against earnings associated with such assets; *And provided further*, That such assets are reasonably necessary to the direct investor's operations in foreign air transportation.

(b) The election provided under this section shall be made as to any compliance year commencing with 1968 by stating that a § 1000.1301 election is made on the cover page of the last quarterly report for such year on Form FDI–102 timely filed by the direct investor pursuant to § 1000.602(b)(2) and by filing with said Form FDI–102, if not previously filed, an appropriately revised base period report on Form FDI–101. An election made pursuant to this section shall be binding and effective as to all assets meeting the requirements of paragraph (a) of this section and shall be binding and effective as to the year for which the election is made and for all succeeding years. Such an election may not thereafter be changed without the consent of the Secretary.

### § 1000.1302 Foreign air transport allowable.

(a) Positive direct investment by a direct investor who is an "air carrier" or "supplemental air carrier" engaged in "foreign air transportation" as those terms are defined in the Federal Aviation Act of 1958, as amended, 49 U.S.C. § 1301 (3), (21), and (32), and who elects under § 1000.502(a) (2) or (3), is authorized during any year commencing with the year 1971 in an amount not to exceed 40 percent of aggregate annual foreign air transport earnings for the immediately preceding year: *Provided*, That such positive direct investment is primarily related to the direct investor's operations in foreign air transportation.

(b) "Aggregate annual foreign air transport earnings" for any year shall mean operating profit from international and territorial route operations as properly reported by the direct investor for such year for Civil Aeronautics Board (CAB) income statement account number 7999 minus (1) annual net interest expense (including amortization of debt discount less capitalized interest) or amortization charges related to investment in international and territorial route operations as properly reported on and included in CAB Schedule P–3 or comparable nondivisional report; (2) taxes assessed by foreign countries and primarily related to the direct investor's operations in foreign air transportation; and (3) Federal subsidy as properly reported in CAB account number 4100.

(c) (1) If, during any year commencing with the year 1969, the amount of positive direct investment authorized under § 1000.504 to a direct investor governed by this section exceeds the amount of direct investment (whether positive or negative) not primarily related to the direct investor's operations in foreign air transportation made by the direct investor during such year under § 1000.504, the direct investor is authorized to make additional positive direct investment as provided in paragraph (a) of this section during such year or succeeding years: *Provided*, That the aggregate amount of additional positive direct investment authorized by this subparagraph shall not be more than the amount of such excess, and that the amount of positive direct investment authorized to the direct investor under § 1000.504 shall be reduced by the amount of additional positive direct investment made under this subparagraph.

(2) If, during any year commencing with the year 1969, the amount of positive direct investment authorized to a direct investor under paragraph (a) of this section exceeds the amount of direct investment (whether positive or negative) made by the direct investor during such year under paragraph (a) of this section, the direct investor is authorized to make additional positive direct investment as provided in paragraph (a) of ths section during succeeding years in a aggregate amount of not more than the amount of such excess.

(d) A direct investor governed by this section shall recalculate the amount of positive direct investment authorized to be made in any year commencing with the year 1971 under § 1000.504 (a) and (b) to exclude from the calculation of direct investment during the years 1965 and 1966 under § 1000.504(a), and from the calculation of annual earnings during any year under § 1000.504(b)(4), transfers of capital primarily related to the direct investor's operations in foreign air transportation, aggregate annual foreign air transport earnings and all component accounts and charges associated with such earnings, and all reserves or charges against earnings associated with such transfers.

(e) A direct investor governed by this section shall file on or before June 30, 1969, a revised Base Period Report on Form FDI–101 to exclude any direct investment primarily related to foreign air transportation, and shall thereafter file separate Cumulative Quarterly Reports and Annual Reports on Forms FDI–102 and FDI–102F as provided in § 1000.602 (b) (2) and (3) with respect to direct investment governed by this section and with respect to direct investment not so governed.

### § 1000.1303 Adjustment to incremental earnings allowable.

(a) For direct investors governed by § 1000.1302, "aggregate annual earnings" under § 1000.506(a)(1) shall mean the sum of "aggregate annual foreign air transport earnings" as defined in § 1000.1302(b) plus the algebraic sum of such direct investor's annual earnings (as calculated under §§ 1000.504(b)(4) and 1000.1302(d)) during a year in all scheduled areas.

(b) All reference to § 1000.504 in § 1000.506(a)(4) and (c) shall be deemed to include reference to § 1000.1302(a).

## Subpart N—Overseas Finance Subsidiaries

### § 1000.1401 Definitions.

(a) "Overseas finance subsidiary" of a direct investor means an affiliated foreign national which:

(1) Is incorporated under the laws of a foreign country other than Canada;

(2) Is directly or indirectly wholly owned (disregarding directors' qualifying shares) by the direct investor;

(3) Has as its principal business making overseas borrowing (as defined in paragraph (b) of this section) and investing overseas proceeds (as defined in paragraph (c) of this section) in (i) debt obligations of the direct investor and (ii) debt obligations of or equity securities in affiliated foreign nationals of the direct investor; and

(4) Has been qualified as an overseas finance subsidiary pursuant to § 1000.1402(a).

(b) "Overseas borrowing" means borrowing by an overseas finance subsidiary which, if made by a direct investor, would qualify as long term foreign borrowing under § 1000.324.

(c) "Overseas proceeds" means the funds or other property received by an overseas finance subsidiary from the first purchaser or holder in exchange for the debt obligation issued or created in connection with an overseas borrowing, less reductions provided for in § 1000.1404.

(d) "Available overseas proceeds" means overseas proceeds held by the overseas finance subsidiary.

(e) "Proceeds borrowing" means a borrowing by a direct investor from its overseas finance subsidiary of overseas proceeds, (1) which borrowing is continuously outstanding for at least 12 months after the date of the borrowing and (2) in exchange for which borrowing the overseas finance subsidiary receives and thereafter holds a debt obligation of the direct investor until such borrowing is repaid or until such debt obligation is canceled.





### § 1000.1402 Qualification.

(a) *Certificate.* An affiliated foreign national may be qualified as an overseas finance subsidiary for any year, commencing with the year 1970, if its direct investor shall have delivered to the Secretary in such year or in any prior year a certificate executed by the direct investor, or its duly authorized representative, which certificate states that:

(1) The affiliated foreign national has been organized as provided in § 1000.1401(a)(1), is owned as provided in paragraph (a)(2) of that section and is operating so that its principal business is as provided in paragraph (a)(3) of that section; and

(2) The direct investor will take all action necessary to cause such affiliated foreign national at all times to operate in the manner provided in § 1000.1401(a)(3).

(b) *Records.* A direct investor shall maintain books and records that identify separately each overseas borrowing and proceeds borrowing, the uses to which all overseas proceeds have been put, and all repayments of proceeds borrowing and overseas borrowing.

(c) *Revocations.* Qualifications as an overseas finance subsidiary may not thereafter be withdrawn or canceled by the direct investor except as permitted by the Secretary by authorization, exemption or otherwise. The Secretary may revoke the qualification of an affiliated foreign national as an overseas finance subsidiary if he determines, in his discretion, that such affiliated foreign national was not organized as provided in § 1000.1401(a)(1), is not owned as provided in paragraph (a)(2) of that section, is not operating so that its principal business is as provided in paragraph (a)(3) of that section, or has not complied with paragraph (b) of this section.

(d) *Effect on certain specific authorizations.* Any foreign-incorporated finance subsidiary of a direct investor which, pursuant to specific authorization issued under § 1000.801, has been deemed to be a person within the United States or an unaffiliated foreign lender, shall, beginning January 1, 1970, be governed in all respects by the provisions of this subpart in lieu of the provisions and conditions of such specific authorization, except that no certificate need be filed pursuant to paragraph (a) of this section.

### § 1000.1403 Transfers of overseas proceeds; foreign balances.

(a) *Transfers of overseas proceeds.* (1) The transfer of funds or other property in proceeds borrowing shall not be a transfer of capital under § 1000.312(b). For all purposes of this part, the funds or other property received by the direct investor in exchange for the debt obligation issued or created in connection with a proceeds borrowing shall be treated as available proceeds of long-term foreign borrowing (as defined in § 1000.324(d)).

(2) Notwithstanding the provisions of § 1000.505, the transfer of overseas proceeds by an overseas finance subsidiary in the acquisition of an equity interest in or a debt obligation of another affiliated foreign national of the direct investor shall not be included by the direct investor in the calculation of net transfer of capital under § 1000.313.

(3) Notwithstanding the provisions of § 1000.505, the return of overseas proceeds to an overseas finance subsidiary upon the satisfaction, liquidation, sale or other disposition of an equity interest or debt obligation acquired pursuant to paragraph (a)(2) of this section shall not be included by the direct investor in the calculation of net transfer of capital under § 1000.313:

(b) *Foreign balances.* (1) Foreign balances, as defined in § 1000.203(a)(1), held in liquid form by an overseas finance subsidiary, other than (i) available overseas proceeds and (ii) funds contributed to an overseas finance subsidiary as original or additional equity capital, shall be included in the computation of liquid foreign balances held by the direct investor for purposes of § 1000.203(c).

(2) [Revoked]

### § 1000.1404 Repayment of overseas borrowing and proceeds borrowing.

(a) For the purposes of this subpart, repayment by a direct investor of overseas borrowing shall mean (i) the complete or partial repayment by the direct investor directly of overseas borrowing and (ii) complete or partial repayment by the direct investor of proceeds borrowing to enable the overseas finance subsidiary to repay overseas borrowing. Notwithstanding the provisions of § 1000.312(a) (6) and (7), a repayment by the direct investor of overseas borrowing or a repayment by the direct investor of proceeds borrowing shall have the effect prescribed by subparagraphs (1) through (6) of this paragraph:

(1) Any repayment by the direct investor of overseas borrowing or proceeds borrowing shall constitute a reduction of available proceeds of long-term foreign borrowing held by the direct investor pursuant to § 1000.1403(a)(1). Overseas proceeds which became available proceeds of long-term foreign borrowing pursuant to such section shall be reduced in the same amount.

(2) The amount of any repayment by the direct investor or overseas borrowing or proceeds borrowing that exceeds the aggregate amount of reduction of available proceeds pursuant to subparagraph (1) of this paragraph shall constitute a transfer of capital to each scheduled area in proportion to and to the extent that the direct investor has expended or allocated to each such scheduled area available proceeds of long-term foreign borrowing and has made a deduction under § 1000.203(d)(2), § 1000.203(d)(3), § 1000.306(e), or § 1000.313(d)(1). Overseas proceeds so expended or allocated shall be reduced in the amount of transfers of capital to scheduled areas prescribed by this subparagraph.

(3) The amount of any repayment by the direct investor of overseas borrowing or proceeds borrowing that exceeds the aggregate amount of reduction of available proceeds pursuant to subparagraph (1) of this paragraph and the aggregate amount of transfers of capital pursuant to subparagraph (2) of this paragraph shall constitute a transfer of capital under § 1000.312(a) to each scheduled area in proportion to and to the extent that the overseas finance subsidiary has, as of the time of repayment, transferred overseas proceeds to other affiliated foreign nationals of the direct investor pursuant to § 1000.1403(a)(2). Overseas proceeds held by such affiliated foreign nationals shall be reduced by an amount equal to the transfers of capital prescribed by this subparagraph.

(4) The amount of any repayment by the direct investor of overseas borrowing or proceeds borrowing that exceeds the aggregate amount of (i) the reduction of available proceeds pursuant to subparagraph (1) of this paragraph and (ii) transfers of capital pursuant to subparagraphs (2) and (3) of this paragraph, shall constitute a transfer of capital under § 1000.312(a) to the scheduled area in which the overseas finance subsidiary is incorporated. Overseas proceeds held by the overseas finance subsidiary at the time of the repayment shall be reduced by an amount equal to the transfer of capital prescribed by this subparagraph.

(5) For purposes of subparagraphs (2), (3), and (4) of this paragraph, transfers of capital resulting from the delivery of equity securities of a direct investor to holders of debt instruments issued by the overseas finance subsidiary in connection with an overseas borrowing, pursuant to the exercise of conversion or similar rights, shall be deemed to have been made in the year immediately following the year in which the conversion or similar rights are exercised.

(6) The aggregate amount of transfers of capital and reduction of available proceeds of long-term foreign borrowing pursuant to paragraphs (a)(1) through (4) of this section and paragraph (b) of this section shall not exceed the amount of overseas proceeds (calculated without regard to the provisions of paragraphs (a)(1) through (4) of this section): *Provided*, That any transfer of funds or other property, in partial or complete repayment by the direct investor of proceeds borrowing, which repayment is made after complete repayment of the overseas borrowing, shall be a transfer of capital to the scheduled area in which such overseas finance subsidiary is incorporated.

(b) For purposes of this subpart, repayment by the overseas finance subsidiary of overseas borrowing shall mean the complete or partial repayment of overseas borrowing other than with funds



V 38 I 185 SEP 25 73 XUM

or other property supplied to the overseas finance subsidiary by the direct investor to enable the overseas finance subsidiary to repay overseas borrowing. A repayment by the overseas finance subsidiary of overseas borrowing shall have the effect prescribed by subparagraphs (1) and (2) of this paragraph:

(1) The complete or partial repayment by an overseas finance subsidiary of overseas borrowing shall reduce available overseas proceeds, but not to an amount less than zero. Overseas proceeds held by the overseas finance subsidiary shall be reduced by an amount equal to the reduction of available overseas proceeds prescribed by this subparagraph.

(2) The amount of any repayment by an overseas finance subsidiary of overseas borrowing that exceeds the reduction of available overseas proceeds pursuant to subparagraph (1) of this paragraph shall be treated as a repayment by the direct investor of overseas borrowing with the effects prescribed by paragraph (a) of this section.

(c) Notwithstanding the provisions of § 1000.505, the complete or partial repayment by an affiliated foreign national (other than an overseas finance subsidiary) of overseas borrowing shall be treated as a repayment by the direct investor of overseas borrowing, with the effects prescribed by paragraph (a) of this section: *Provided*, That such repayment shall also be treated as a transfer from such affiliated foreign national to the direct investor in the amount of such repayment.

**§ 1000.1405 Authorized repayments.**

(a) Overseas borrowing shall be deemed to be a borrowing by an affiliated foreign national within the meaning of § 1000.1001(a). A borrowing by an overseas finance subsidiary other than an overseas borrowing shall not be deemed to be a borrowing by an affiliated foreign national for any purposes of this part.

(b) Subject to the provisions of § 1000.1003, positive direct investment during any year in affiliated foreign nationals in any scheduled area is authorized, notwithstanding the provisions of § 1000.201, to the extent such positive direct investment is attributable to a transfer of capital in repayment of overseas borrowing pursuant to a guarantee: *Provided*, That the direct investor shall have complied with the certification requirements set forth in § 1000.1002(b).

(c) For the purposes of § 1000.1002(b) and (c), the term "transfer of capital" shall include a transfer of capital attributable to a repayment of overseas borrowing pursuant to § 1000.140(a).

(d) All reference to Subpart J in § 1000.1002(d) and all reference to § 1000.1002 in § 1000.1003 shall be deemed to include reference to paragraph (b) of this section.

**§ 1000.1406 Substitution of borrowing.**

(a) To the extent that a foreign borrowing (as defined in § 1000.324(a)(1)) is substituted for a proceeds borrowing, as defined in § 1000.1401(e), or for other borrowing by a direct investor from its overseas finance subsidiary that would qualify as a proceeds borrowing under § 1000.1401(e) if such borrowing and the underlying borrowing by the overseas finance subsidiary were continuously outstanding for at least 12 months, such foreign borrowing shall, for the purposes of this part, be treated as a continuance of such proceeds borrowing or other borrowing by the direct investor from its overseas finance subsidiary: *Provided*, That repayment of such foreign borrowing shall reduce proceeds of long-term foreign borrowing or involve a transfer of capital, or both, as prescribed under §§ 1000.324(c) and 1000.312(a)(7).

(b) To the extent that a proceeds borrowing, as defined in § 1000.1401(e), or other borrowing by a direct investor from its overseas finance subsidiary that would qualify as a proceeds borrowing under § 1000.1401(e) if such borrowing and the underlying borrowing by the overseas finance subsidiary were continuously outstanding for at least 12 months, is substituted for a foreign borrowing (as defined in § 1000.324(a)(1)), such proceeds borrowing or other borrowing by the direct investor from its overseas finance subsidiary shall, for the purposes of this part, be treated as a continuance of such foreign borrowing: *Provided*, That repayment of such borrowing from the overseas finance subsidiary or underlying foreign borrowing shall have the effect prescribed under § 1000.1404.

(c) A substitution under paragraph (a) or (b) of this section shall be made on the books and records maintained by the direct investor under §§ 1000.203(b), 1000.601, and 1000.1402(b).

**§ 1000.1407 Assumption of debt obligation incurred by overseas finance subsidiary.**

(a) To the extent that a direct investor, pursuant to an election under section 4912(c) of the Internal Revenue Code of 1954, as amended, assumes the obligation to repay overseas borrowing incurred by an overseas finance subsidiary, such assumption is foreign borrowing as defined in § 1000.324(a)(1) and also shall have the effect prescribed by subparagraphs (1) through (5) of this paragraph:

(1) To the extent of available overseas proceeds of such overseas borrowing held by the overseas finance subsidiary at the time of assumption, such assumption shall constitute a transfer of capital by the direct investor to the overseas finance subsidiary.

(2) The amount of such assumption that exceeds the amount of the transfer of capital pursuant to subparagraph (1) of this paragraph shall constitute a transfer of capital by the direct investor to and to the extent of the amount of overseas proceeds of such overseas borrowing that have been transferred by the overseas finance subsidiary to other affiliated foreign nationals in such scheduled area pursuant to § 1000.1403(a)(2) and are held by such affiliated foreign nationals at the time of assumption.

(3) The amount of such assumption that exceeds the aggregate amount of transfers of capital pursuant to subparagraphs (1) and (2) of this paragraph shall constitute foreign borrowing substituted for proceeds borrowing pursuant to § 1000.1406(a) to the extent that overseas proceeds of such overseas borrowing have been transferred by the overseas finance subsidiary to the direct investor in a proceeds borrowing, as defined in § 1000.1401(e), that is outstanding at the time of assumption.

(4) The amount of such assumption that exceeds the aggregate amount of transfers of capital pursuant to subparagraphs (1) and (2) and substituted foreign borrowing pursuant to subparagraph (3) of this paragraph shall constitute foreign borrowing made by the direct investor on the date of the assumption.

(5) Overseas proceeds of such overseas borrowing shall be reduced by the amount of such assumption or the amount of such proceeds, whichever is less.

(b) To the extent that a direct investor, pursuant to an election under section 4912(c) of the Internal Revenue Code of 1954, as amended, assumes the obligation to repay borrowing incurred by an overseas finance subsidiary that would qualify as overseas borrowing if it were continuously outstanding for at least 12 months but at the time of such assumption has not so qualified, such assumption is foreign borrowing as defined in § 1000.324(a)(1) and also shall have the effect prescribed by subparagraphs (1) through (4) of this paragraph:

(1) To the extent that proceeds of such borrowing by the overseas finance subsidiary are held by the overseas finance subsidiary at the time of assumption, such assumption shall constitute a transfer of capital by the direct investor to the overseas finance subsidiary.

(2) The amount of such assumption that exceeds the amount of the transfer of capital pursuant to subparagraph (1) of this paragraph shall constitute a transfer of capital by the direct investor to each scheduled area in proportion to and to the extent of the amount of proceeds of such borrowing by the overseas finance subsidiary that have been transferred by the overseas finance subsidiary to other affiliated foreign nationals in such scheduled area pursuant to § 1000.1403(a)(2) and are held by such affiliated foreign nationals at the time of assumption.

(3) The amount of such assumption that exceeds the aggregate amount of transfers of capital pursuant to subparagraphs (1) and (2) of this paragraph shall constitute foreign borrowing substituted for borrowing by a direct investor from its overseas finance subsidiary pursuant to § 1000.1406(a) to the extent that proceeds of such borrowing by the overseas finance subsidiary have been transferred by the overseas finance subsidiary to the direct investor in a borrowing that is outstanding at the time of assumption and would qualify as proceeds borrowing under § 1000.1401(e) if such borrowing and the underlying borrowing by the overseas finance subsidiary were continuously outstanding for at least 12 months.

(4) The amount of such assumption that exceeds the aggregate amount of transfers of capital pursuant to subparagraphs (1) and (2) and substituted foreign borrowing pursuant to subparagraph (3) of this paragraph shall constitute foreign borrowing made by the direct investor on the date of assumption.

(c) An asumption under paragraph (a) or (b) of this section shall be reported on the books and records maintained by the direct investor under §§ 1000.203(b), 1000.601 and 1000.1402(b).

GENERAL AUTHORIZATIONS

1 Transfers of capital. (REVOKED, superseded by Subpart-J, Repayment of Borrowings).
2 Limited authorization to refrain from repatriation. (REVOKED)
3 Authorized transfers of capital. (REVOKED)
4 Canada—Application of foreign direct investment regulations. (Proposed but withdrawn prior to adoption; superseded by Subpart-K, Direct Investment in Canada).

GENERAL INTERPRETATIVE RULES

1 § 1000.312—Transfer of capital. (REVOKED)
2 General Authorization 1(2)(b)—Certificate. (REVOKED)
3 § 1000.312—Transfer of capital. (REVOKED)

IDENTITY OF COUNTRIES IN SCHEDULES A, B, AND C

For the information of the public, there follow the names of the countries allocated to Schedule A, Schedule B, and Schedule C pursuant to § 1000.319 of the Foreign Direct Investment Regulations. Determination of the schedule of any country, territory, department, province or possession under § 1000.319 depends upon its classification as to less developed country status under § 4916(b) of the Internal Revenue Code, and applicable Executive orders thereunder, administered by the Department of the Treasury. Since no official enumeration of less developed countries has been promulgated pursuant to § 4916(b), the lists below cannot be either definitive or exhaustive.

*I. Schedule A Countries*

Afghanistan.
Algeria.
Angola.
Anguilla.
Antigua.
Argentina.
Bangladesh.
Barbados.
Belize.
Bhutan.
Bolivia.
Botswana.
Brazil.
British Indian Ocean Territory.
British Solomon Islands.
British Virgin Islands.
Brunei.
Burma.
Burundi.
Cambodia.
Cameroon.
Canton and Enderbury Islands.
Cape Verde.
Central African Republic.
Chad.
Chile.
China, Republic of.
Christmas Island.
Cocos (Keeling) Islands.
Colombia.
Comoro Islands.
Congo.
Cook Islands.
Costa Rica.
Cyprus.
Dahomey.
Dominica.
Dominican Republic.
Ecuador.
El Salvador.
Egypt.
Equatorial Guinea.
Ethiopia.
Faeroe Islands.
Falkland Islands.
Fiji.
Finland.
French Guiana.
French Polynesia.
French Southern and Antarctic Lands.
French Territory of Afars and Issas.
Gabon.
Gambia.
Ghana.
Gibraltar.
Gilbert and Ellice Islands.
Greece.
Greenland.
Grenada.
Guadeloupe.
Guatemala.
Guinea.
Guyana.
Haiti.
Honduras.
Iceland.
India.
Indonesia.
Israel.
Ivory Coast.
Jamaica.
Jordan.
Kenya.
Korea, Republic of.
Laos.
Lebanon.
Lesotho.
Liberia.
Macao.
Madagascar.
Malawi.
Malaysia.
Maldives.
Mali.
Malta.
Martinique.
Mauritania.
Mauritius.
Mexico.
Montserrat.
Morocco.
Mozambique.
Nauru.
Nepal.
Netherlands Antilles.
New Caledonia.
New Hebrides.
Nicaragua.
Niger.
Nigeria.
Niue.
Norfolk Island.
Oman.
Pakistan.
Panama.
Papua New Guinea.
Paraguay.
Peru.
Philippines.
Pitcairn Island.
Portuguese Guinea.
Portuguese Timor.
Reunion.
Rwanda.
Ryukyu Islands, including Okinawa, (prior to May 15, 1972).
St. Christopher—Nevis—Anguilla.
St. Helena.
St. Lucia.
St. Pierre and Miquelon.
St. Vincent.
Sao Tome and Principe.
Senegal.
Seychelles.
Sierra Leone.
Sikkim.
Singapore.
Somalia.
Southern Rhodesia.
Spanish North Africa.
Spanish Sahara.
Sri Lanka (Ceylon).
Sudan.
Surinam.
Svalbard.
Swaziland.
Syria.
Tanzania.
Thailand.
Togo.
Tonga.
Trinidad and Tobago.
Tunisia.
Turkey.
Turks and Caicos Islands.
Uganda.
United Arab Emirates (excluding Abu Dhabi).
Upper Volta.
Uruguay.
Venezuela.
Vietnam, Republic of
Wallis and Futuna.
Western Samoa.
Yemen (Aden).
Yemen (San'a).
Yugoslavia.
Zaire.
Zambia.

*II. Schedule B Countries*

Abu Dhabi.
Australia.
Bahamas.
Bahrain.
Bermuda.
Canada.
Hong Kong.
Iran.
Iraq.
Iraq-Saudi Arabia Neutral Zone.
Ireland.
Japan (including Ryukyu Islands commencing May 15, 1972).
Kuwait.
Libya.
New Zealand.
Qatar.
Saudi Arabia.
Spain (effective January 1, 1970).
United Kingdom.

*III. Schedule C Countries*

Albania.
Andorra.
Austria.
Belgium.
Bulgaria.
China, Peoples Republic of.
Cuba.
Czechoslovakia.
Denmark.
France.
Germany, East.
Germany, West.
Hungary.
Italy.
Korea, North.
Liechtenstein.
Luxembourg.
Monaco.
Mongolia.
Netherlands.
Norway.
Poland. (*)
Portugal.
Romania.
San Marino.
South Africa.
South-West Africa.
Soviet Union. (**)
Spain (prior to January 1, 1970).
Sweden.
Switzerland.
Vatican City.
Vietnam, North.

*IV. Areas Not Subject to the Regulations*

American Samoa.
Canal Zone.
Guam.
Johnston Atoll.
Midway Islands.
Navassa Island.
Puerto Rico.
Trust Territory of the Pacific Islands (Caroline Islands, Mariana Islands, and Marshall Islands).
Virgin Islands.
Wake Island.

Any country in any Schedule may be subject to additional Treasury Department, Commerce Department, and other governmental controls.

## FOREIGN DIRECT INVESTMENT RULES OF PRACTICE AND GENERAL PROCEDURES

### PART 1020—INVESTIGATIVE PROCEDURES

Sec.
1020.111 Investigations.
1020.112 Investigative policy.
1020.113 By whom conducted.
1020.114 Notification of purpose.
1020.121 Orders to furnish information.
1020.122 Authority to initiate investigations and to issue or modify agency process.
1020.123 Motions relating to agency process.
1020.124 Review; finality.
1020.131 Investigative hearings.
1020.132 Rights of witnesses in investigations.
1020.141 Noncompliance with orders or directions.
1020.151 Termination of investigations.

AUTHORITY: The provisions of this Part 1020 issued pursuant to sec. 5 of the Act of Oct. 6, 1917, 40 Stat. 415, as amended, 12 U.S.C. 95a; E.O. 11387, Jan. 1, 1968, 33 FR 47; Department Organization Order 25-3A (formerly Department Order 184-A), Jan 1, 1968, 33 FR 54.

**§ 1020.111 Investigations.**

The Office [1] may, in its discretion, initiate investigations relating to com-

(*) Includes Danzig and de facto areas of 1937 Germany east of the Oder-Neisse Line.
(**) Includes the de facto areas of Estonia, Latvia, Lithuania, Southern Kuril Islands, Habomai Islands, southern Sakhalin, and northern East Prussia.

[1] As used in Parts 1020–1050 of this chapter, the "Office" means the Office of Foreign Direct Investments, U.S. Department of Commerce.







V 38 N 185
SEP 25 73
XUM

pliance by any person[1] with the Foreign Direct Investments Program (hereinafter referred to as the Program) as embodied in E.O. 11387 and Part 1000 of this chapter, any rule, regulation, or order thereunder, term or condition of any authorization or exemption issued thereunder, any decree of court relating thereto, or any other agency action thereunder.

**§ 1020.112 Investigative policy.**

The Office encourages voluntary cooperation with its investigations. Where the circumstances appear so to require, however, the Office may invoke compulsory process as authorized by law.

**§ 1020.113 By whom conducted.**

Investigations will be conducted by representatives of the Office duly designated and authorized for the purpose. Such representatives are authorized, among other things, to administer oaths and receive affirmations in any matter under investigation by the Office.

**§ 1020.114 Notification of purpose.**

Any person under investigation who is compelled or requested to furnish information or documentary evidence shall be advised with respect to the general purpose for which such information or evidence is sought.

**§ 1020.121 Orders to furnish information.**

(a) The Office may issue orders requiring any person or persons named therein:

(1) To appear before a designated representative at a designated time and place to testify, produce documentary evidence, and/or produce other information relating to any transaction involving foreign direct investment; and/or

(2) To file (whether on a continuing basis, at stated intervals, upon the occurrence of specified acts or omissions, or otherwise) reports or answers in writing to specified questions, relating to any matter that is or has been under investigation or inquiry, or is likely to lead to the production of information relating to any such matter.

(b) Any person required to submit any report, whether under this section or under § 1000.602(b) of this chapter, shall preserve, or cause to be preserved, for at least 3 years after the date of filing of such report all working papers, irrespective of by whom prepared, used in the preparation of such report; all exhibits, all schedules, and all attachments to such papers; and all books and all records related to such report or to such other papers, that were prepared in the ordinary course of business.

**§ 1020.122 Authority to initiate investigations and to issue or modify agency process.**

The Director of the Compliance Division is hereby delegated, without power of redelegation, the authority to initiate investigations under § 1020.111 and to issue orders under § 1020.121 and, for good cause shown, to limit, quash, modify, or withdraw such orders or to extend the time prescribed therein for compliance.

**§ 1020.123 Motions relating to agency process.**

Any motion to limit, quash, modify, or withdraw any order issued under § 1020.121 or to extend the time prescribed for compliance must be filed with the Office (to the attention of the person issuing said order) within seven (7) days after service of such order, or, if the return date is less than seven (7) days after service of the order, within such other time prior to the return date as may be designated in such order. Any allegation of undue burden must be accompanied by an affidavit setting forth with particularity the supporting facts.

**§ 1020.124 Review; finality.**

(a) Upon denial of a motion made under § 1020.123, the moving party may appeal to the decision officer pursuant to the procedure set out in § 1030.514 of this chapter. The determination of the decision officer shall constitute final agency action.

(b) The Director of the Compliance Division may extend the return date specified in an order issued pursuant to § 1020.121 by up to twenty (20) days later than the date of denial of relief under paragraph (a) of this section where:

(1) Such relief is requested by motion under § 1020.123 for the purpose of seeking judicial review of the order without first committing a willful violation thereof, and

(2) The public interest in effective enforcement and administration of the Program will not be compromised thereby.

**§ 1020.131 Investigative hearings.**

(a) The Office may conduct investigative hearings in the course of any investigation or inquiry relating to the administration or enforcement of the Program, as described in § 1020.111, including inquiries initiated for the purpose of determining whether to institute a proceeding under Part 1030 of this chapter.

(b) Investigative hearings shall be nonadjudicative proceedings, presided over by a representative of the Office (hereinafter referred to as the "presiding official") designated in the order issued pursuant to § 1020.121.

(c) Investigative hearings shall be stenographically recorded unless the presiding official, in his discretion upon the request of a witness, otherwise orders.

(d) Unless otherwise ordered by the Director of the Office, investigative hearings shall not be public.

**§ 1020.132 Rights of witnesses in investigations.**

Any person compelled or requested to submit information to the Office, or to testify in an investigative hearing, shall be entitled to be accompanied, represented, and advised by counsel or another person who has entered an appearance under § 1050.101 of this chapter (referred to hereafter in this section as "counsel") as follows:

(a) Counsel for a witness may advise his client, in confidence, and upon the initiative of either himself or the witness, with respect to any question asked of his client. If it appears that counsel is prompting the witness under color of this paragraph, the presiding official will so note and take appropriate action in respect thereto under paragraph (f) of this section. If, upon advice of counsel, the witness refuses to answer a question, counsel may briefly state that he has advised his client not to answer the question and the legal grounds for such refusal.

(b) Where it is claimed that the testimony or other evidence sought is outside the scope of the investigation, or that the witness is privileged to refuse to answer a question or to produce other evidence, counsel for the witness may object and briefly and precisely state the grounds therefor.

(c) Cumulative objections are unnecessary. Repetition of the grounds for any objection will not be allowed. At the request of counsel and/or when directed by the presiding official, any objections will be treated as continuing objections and preserved throughout the further course of the hearings as to any related line of inquiry.

(d) Any motion challenging the Office's authority to conduct the investigation or the sufficiency or legality of the order to testify or produce documents or other information must have been addressed to the Office prior to the hearing (see § 1020.123). Additional copies of such motions may be filed with the presiding official as part of the record of the investigation and may be incorporated by reference into counsel's statements or objections, but no arguments in support thereof will be allowed at the hearing.

(e) After the presiding official and/or counsel for the Compliance Division have completed the examination of a witness, counsel for the witness may request the presiding official to permit the witness to clarify any of his answers in order that they may not remain equivocal or incomplete. The granting or denial of such request shall be within the sole discretion of the presiding official, and any grant may be withdrawn if counsel attempts to lead the witness or suggest answers.

(f) The presiding official shall take all necessary and appropriate actions to avoid delay, to prevent or restrain disorderly, dilatory, obstructive, or contumacious conduct and/or otherwise to regulate the course of the hearing.

**§ 1020.141 Noncompliance with orders or directions.**

(a) In cases of failure to comply fully with any compulsory process, including an order issued under § 1020.121, or refusal to obey a direction by a presiding official to answer a specific question, the Office may initiate or recommend appropriate action. The fact that an order is partially defective, or that a person may so believe, will not excuse compliance with the remainder of the order.

(b) Honest mistakes or isolated oversights, made in a good faith attempt to comply with an order of the Office or the direction of a presiding official, will normally not lead to an enforcement action.

**§ 1020.151 Termination of investigations.**

When the facts disclosed by an investigation indicate that further action is not necessary or warranted in the public interest, the investigative file will be closed, without prejudice to further investigation by the Office at any time if circumstances so warrant.

[1] As used in Parts 1020–1050 of the chapter, "person" means any individual, corporation, partnership, business venture, trust, or estate.





## PART 1025—SETTLEMENT PROCEDURES

Sec.
1025.111 General policy.
1025.211 Informal, voluntary settlement.
1025.311 Consent agreement policy and procedures.

AUTHORITY: The provisions of this Part 1025 issued pursuant to Sec. 5 of the Act of Oct. 6, 1917, 40 Stat. 415, as amended (12 U.S.C. 95a); E.O. 11387, Jan. 1, 1968, 33 FR 47; Department Organization Order 25–3A (formerly Department Order 184–A), Jan. 1, 1968, 33 FR 54.

**§ 1025.111 General policy.**

When the Office has reason to believe that any person subject to the jurisdiction of the Office (referred to hereinafter in this part as a "party") has violated any requirement of the Program, the Office may initiate enforcement action. Sections 5(b)(3) and 17 (as amended) of the Act of October 6, 1917 (50 U.S.C. App. 5(b)(3) 17), permit either criminal or civil sanctions, and Part 1030 of this chapter provides for formal administrative proceedings. Ordinarily, in the absence of willful violation or flagrant disregard of Program requirements, the Office will utilize one of the settlement procedures described in this part when such resolution is deemed to be in the public interest.

**§ 1025.211 Informal, voluntary settlement.**

(a) *Policy.* In determining whether to afford a party the opportunity for informal, voluntary settlement, the Office will consider the following:

(1) Whether the party acted in good faith;

(2) Whether the alleged noncompliance was unintentional or unforeseeable and whether the party took steps to avoid the alleged noncompliance;

(3) Whether the party cooperated with the office in ascertaining the facts and did not attempt to conceal or falsify information;

(4) The nature of the alleged noncompliance;

(5) The prior conduct of the party with respect to Program requirements; and

(6) Other relevant factors, including whether the Office believes that the party's assurances of future compliance with the Program will be adequate to ensure such compliance.

(b) *Investigation.* In addition to any investigation the Office may conduct into the substantive nature of the noncompliance, the Office may conduct an independent inquiry regarding any or all of the items enumerated in paragraph (a) of this section.

(c) *Conference policy.* It is the policy of the Office to give any party the opportunity to discuss with the staff, on an informal basis, the possible settlement of any compliance investigation involving such party. Ordinarily, any request for such discussion should be directed, in the first instance, to the staff member responsible for conducting the investigation.

(d) *Form.* (1) Disposition of a matter by an informal settlement will be in the form of an exchange of agreed-upon letters passing between the party and the Office. The letter from the Office will be signed by the Director of the Office.

(2) The letter from the party to the Office will set forth the pertinent circumstances relating to and constituting the alleged noncompliance, the steps taken to undo, correct, and prevent its recurrence, and other matters agreed upon by the party and the Office. The letter from the Office to the party will state the intention of the Office, based on the representations in the party's letter, to close the matter; however, the Office will expressly reserve the power to reopen the matter should the public interest so require.

**§ 1025.311 Consent agreement policy and procedures.**

(a) *Preliminary Notice.* If the Office, in its discretion, determines that informal, voluntary settlement is inappropriate, it will, where time, the nature of the matter involved, and the public interest permit, notify the party (i) of its intention to institute a formal proceeding against the party and (ii) that the party will be afforded an opportunity to confer with the Office staff and to submit an appropriate consent agreement proposal for consideration by the Office. Such notice may be in the form specified in § 1030.211 of this chapter or, in the discretion of the Office, in such other form sufficient to apprise the party of the nature of the alleged noncompliance. The party may appear personally or he may be represented by a person who has entered an appearance under § 1050.101 of this chapter.

(b) *Conditions.* The Office will consider each such case individually, on the basis of all relevant facts and circumstances, including any mitigating or extenuating factors. Depending upon the circumstances of the case, administrative settlement of compliance matters by a consent agreement may entail one or more of the remedies set forth in § 1030.472 of this chapter.

(c) *Form of agreement.* (1) Every consent agreement tendered by a party shall contain an appropriate form of order or judgment to be entered, an admission of all jurisdictional facts, and express waivers of further procedural steps, of any requirement of findings, and of rights to seek any form of judicial or appellate review or otherwise to challenge or contest the content, validity, or finality of the order. In addition, such proposed agreement may contain a statement that the signing thereof is for settlement purposes only and does not constitute an admission by the party that the law has been violated.

(2) The Office will determine whether the public interest would be better served by an agreement providing for an administrative consent order or a judicial consent judgment. Among the factors that the Office will ordinarily consider in making such determination are: (i) The nature and gravity of the alleged noncompliance, (ii) the prior conduct of the party with respect to Program requirements and (iii) the likelihood that subsequent enforcement proceedings against the party will be necessary.

## PART 1030—PROCEDURES AND RULES OF PRACTICE FOR FORMAL ADMINISTRATIVE PROCEEDINGS

**Subpart A—General Policies and Procedures; Scope of Rules**

Sec.
1030.111 Formal administrative proceedings.
1030.112 Scope of the rules in this part.

**Subpart B—Notice; Answer; Other Pleadings**

1030.211 Commencement of proceedings.
1030.212 Answer.
1030.213 Default.
1030.221 Amendments, by leave.
1030.222 Amendments conforming pleadings to evidence.
1030.223 Supplemental pleadings.

**Subpart C—Prehearing Procedures; Motions; Discovery**

1030.311 Prehearing conferences.
1030.321 Motions.
1030.326 Interlocutory appeals.
1030.331 Discovery.

**Subpart D—Hearings**

1030.411 Public hearings.
1030.412 Expedition of hearings.
1030.413 Rights of parties.
1030.414 Examination of witnesses.
1030.415 Admissibility of evidence.
1030.416 Objections.
1030.417 Burden of proof.
1030.418 Use of information obtained in investigations.
1030.421 Transcript.
1030.422 Record.
1030.423 Excluded evidence.
1030.431 Hearing examiners.
1030.433 Powers and duties.
1030.434 Suspension of attorneys.
1030.451 In camera policy.
1030.461 Submission by the parties of proposed findings, conclusions, and order.
1030.471 Hearing examiner's findings, conclusions, recommended decision and proposed order.
1030.472 Form of proposed order.



V 38 185 SEP 25 73 XUM

Subpart E—Decision and Review

Sec.
1030.510 Decision officer: designation and disqualification.
1030.511 Objections.
1030.513 Decision.
1030.514 Appeals from orders under Part 1020 of this chapter.
1030.515 Petition for reconsideration.

AUTHORITY: The provisions of this Part 1030 issued pursuant to sec. 5 of the Act of Oct. 6, 1917, 40 Stat. 415, as amended, 12 U.S.C. 95a; E.O. 11387, Jan. 1, 1968, 33 FR 47; Department Organization Order 25-3A (formerly Department Order 184-A), Jan. 1, 1968, 33 FR 54.

## Subpart A—General Policies and Procedures; Scope of Rules

### § 1030.111 Formal administrative proceedings.

The Office may institute a formal administrative proceeding when, on the basis of facts known to the Office, there is reason to believe that any person (hereinafter referred to as "respondent") has violated any requirement of the Program. Such proceedings may include, but are not limited to, allegations that the respondent has failed to comply with or is in violation, willfully or otherwise, of any such agency action; or that the respondent has made a transaction with intent to evade any requirement of the Program. Such proceedings shall be conducted in accordance with procedures that will assure due process of law to any party who may be adversely affected because of the determination therein.

### § 1030.112 Scope of the rules in this part.

(a) The rules in this part govern procedure in formal administrative proceedings described in § 1030.111.

(b) Except as specifically provided, the rules in this part do not govern any other proceedings, such as negotiations for the entry of consent orders, investigative hearings pursuant to § 1020.131 of this chapter, applications for specific authorizations or exemptions, or promulgation of substantive rules and regulations, general bulletins, interpretative opinions, or other rule making procedures.

## Subpart B—Notice; Answer; Other Pleadings

### § 1030.211 Commencement of proceedings.

A formal administrative proceeding is commenced by the issuance and service of a notice, signed by the Director of the Office, containing the following:

(a) A clear and concise statement of facts sufficient to inform the respondent with reasonable definiteness of the type of acts or practices alleged to constitute a violation;

(b) Designation of specific requirements of the Program actions alleged to have been violated;

(c) A statement that the notice has been issued upon representations of the Director of the Compliance Division as summarized in the notice, and that respondent will have the opportunity to controvert the same;

(d) The substance of §§ 1030.212 and 1030.213;

(e) Specification of the time and place for hearing, such time to be at least twenty (20) days after service of the notice unless it is found and so stated in the notice that the public interest requires a shorter period;

(f) Identification of the person who will preside over the hearing and/or prehearing matters (hereinafter referred to as the "hearing examiner") and of the representative or representatives of the Compliance Division designated to prosecute the matter;

(g) A form of order which the Office has reason to believe should issue if the facts are found to be as alleged in the notice; and

(h) Recital of the legal authority and jurisdiction for institution of the proceeding.

### § 1030.212 Answer.

(a) A respondent shall, except as provided otherwise pursuant to § 1030.211 (e), have twenty (20) days after service of such notice within which to file an answer.

(b) Each answer shall contain a specific admission, denial, or explanation of each fact alleged in the notice or, if the respondent is without knowledge thereof, a statement to that effect. Allegations of a notice not specifically answered pursuant to this paragraph shall be deemed to have been admitted.

(c) Each answer shall contain a concise statement of each defense or affirmative matter that respondent will present, including a concise statement of the facts upon which it is founded. No defense or affirmative matter of which the respondent was aware at the time of filing his answer but did not include therein may be added by way of amendment or supplemental pleading under §§ 1030.221–1030.223, unless the hearing examiner, in his discretion, is convinced that respondent's failure was justifiable and that the interests of justice require its later admission.

### § 1030.213 Default.

Failure of the respondent to file an answer within the time provided or to appear as ordered shall constitute a waiver of his right to appear and contest the allegations of the notice and shall authorize the Office, without further notice, to find the facts to be as alleged in the notice and to enter findings and an order thereon.

### § 1030.221 Amendments, by leave.

The hearing examiner may, in his discretion, in the interests of justice, to facilitate the determination of a controversy, and upon such terms as are just, allow amendments to the notice or answer at any time prior to the filing of his decision.

### § 1030.222 Amendments conforming pleadings to evidence.

When issues not raised by the notice or answer but reasonably within the scope thereof are tried by express or implied consent of the parties, they shall be treated in all respects as though they had been timely raised. Amendments necessary to make the notice or answer conform to the evidence and the raising of such issues shall be allowed at any time.

### § 1030.223 Supplemental pleadings.

The hearing examiner may, in his discretion, in the interests of justice, to facilitate the determination of a controversy, and upon such terms as are just, allow service of a supplemental notice or answers setting forth transactions, occurrences, or events which occurred or were discovered since the date of the notice or answer sought to be supplemented and which are relevant to any of the issues involved in the proceeding.

## Subpart C—Prehearing Procedures; Motions; Discovery

### § 1030.311 Prehearing conferences.

(a) The hearing examiner may direct any or all parties to meet with him for a conference to consider any or all of the following:

(1) Simplication and clarification of the issues;

(2) Necessity or desirability of amendments to pleadings;

(3) Stipulations or admissions of fact and of the contents, authenticity, and admissibility of documents; and

(4) Such other matters as may aid in the orderly and expeditious disposition of the proceeding, including disclosure of documents or other physical exhibits which will be offered in evidence in the course of the proceeding and of the names of witnesses.

(b) Prehearing conferences shall not be public unless all parties so agree.

(c) The hearing examiner, at his discretion, may direct that the prehearing conference be stenographically reported.

(d) When, as a result of a prehearing conference, it appears to the hearing examiner that the orderly, fair, and expeditious disposition of the proceeding will be aided thereby, he shall enter upon the record an order reciting any and all actions taken as a result of the conference. Insofar as such order states the issues to be resolved in the proceeding or the facts or documents which have been admitted to or stipulated by the parties, such order shall take precedence over any prior pleading or portion of the proceeding.

### § 1030.321 Motions.

(a) While a proceeding is before a hearing examiner all motions must be addressed to him. Copies of all written motions must be served upon each party.

(b) Motions should, if practicable, be in writing and shall state the particular order, ruling, or action desired and the grounds therefor. However, the hearing examiner may allow oral motions to be made before him, in appropriate cases, when each party affected or to be affected by such motion is present. Oral motions must be made upon the record.

(c) Within ten (10) days after service of any written motion, or within such longer or shorter time as may be fixed by the hearing examiner, the opposing party shall answer. Failure to answer shall constitute consent to the granting of the relief or sanction requested in the motion. The moving party will ordinarily have no right to reply.

(d) As a matter of discretion, the hearing examiner may waive the requirements of paragraphs (a) through (c) of this section as to motions for extensions of time and he may rule upon such motions ex parte.

(e) The hearing examiner shall rule, either in writing or upon the record, upon all motions presented to him. No formal opinion or findings are required on any motion.

### § 1030.326 Interlocutory appeals.

No interlocutory appeal to the decision officer (see § 1030.510) will be allowed from any decision of the hearing examiner unless the hearing examiner certifies that the ruling involves an important question of law that should be resolved at that time.

### § 1030.331 Discovery.

(a) The Federal Rules of Civil Procedure shall apply to discovery proceedings. There will be no fixed rule on priority of discovery.

(b) Discovery (including requests for admission) and compulsory process for discovery shall be available to the parties to a formal administrative proceeding under this part. Upon written motion pursuant to § 1030.321, the hearing examiner shall promptly rule upon any objection to discovery action initiated pursuant to this section. The hearing examiner shall also have the power to grant a protective order or relief to any party or third party subjected to discovery or compulsory process for discovery.

## Subpart D—Hearings

### § 1030.411 Public hearings.

All hearings in formal administrative proceedings shall be public unless otherwise ordered by the hearing examiner.

### § 1030.412 Expedition of hearings.

Hearings shall proceed with all reasonable expedition, be held at one place, and continue without suspension until concluded, unless the hearing examiner specifically provides otherwise. The hearing examiner may, in the interests of justice, in order to assure full and fair presentation of the issues, and consistent with the public interest in the expeditious administration and enforcement of the Program, order brief intervals in any proceeding. In unusual and exceptional circumstances, for good cause stated on the record, he shall have the authority to order hearings at more than one place and to order brief intervals to permit discovery necessarily deferred during the prehearing procedures.

### § 1030.413 Rights of parties.

Every party shall have the right of representation by counsel, due notice, presentation of evidence, objection, cross-examination, motion argument, determination upon a record, and all other rights essential to a fair hearing.

### § 1030.414 Examination of witnesses.

An adverse party, or an officer, agent, or employee thereof, and any witness determined by the hearing examiner to be hostile, unwilling, or evasive, may be interrogated by leading questions. Any witness may be contradicted and impeached by any party, including the party calling him.

### § 1030.415 Admissibility of evidence.

Technical rules of evidence shall not apply in proceedings under this part. Relevant, material, and reliable evidence shall be admitted. Irrelevant, immaterial, unreliable, and unduly repititious evidence shall be excluded. Immaterial or irrelevant parts of admissible documents shall be segregated and excluded so far as practicable.

### § 1030.416 Objections.

Objections to evidence shall be timely and shall briefly state the grounds relied upon but the transcript shall not include argument or debate thereon except as ordered by the hearing examiner. The hearing examiner shall, when requested by a party, rule upon the record on any properly presented objection, or specifically defer such ruling. Any objection not ruled upon shall be deemed overruled. The substance of any overruled objection shall be deemed preserved without formal exception.

### § 1030.417 Burden of proof.

Counsel representing the Compliance Division shall have the burden of persuasion and the burden of going forward with evidence to show, prima facie, that respondent failed to comply with a requirement of the Program, but the proponent of any proposition shall be required to sustain the burden of persuasion and the burden of going forward with evidence with respect thereto.

### § 1030.418 Use of information obtained in investigations.

Any documents, papers, books, physical exhibits, or other materials or information obtained by the Office under any of its powers may be disclosed by counsel representing the Compliance Division when necessary in connection with formal administrative proceedings and may be offered in evidence by such counsel in any such proceeding.

### § 1030.421 Transcript.

Hearings shall be stenographically recorded and transcribed by a reporter under the supervision of the hearing examiner. The original transcript shall be a part of the record and the sole official transcript.

### § 1030.422 Record.

The record shall include the pleadings, all motions, all orders of the hearing examiner, the original transcript, all exhibits offered in evidence by any party, all proposed findings of fact, conclusions, and orders, and the recommended decision and proposed order of the hearing examiner. Except as provided under § 1030.451, the record shall be open to public inspection during business hours at the Department of Commerce, Office of Foreign Direct Investments, upon application therefor to the Clerk.

### § 1030.423 Excluded evidence.

When an objection to a question propounded to a witness is sustained, the examining attorney may make a specific offer on the record of what he expected to prove by the answer of the witness, or the hearing examiner may, in his discretion, hear and record the evidence in full. Rejected exhibits, adequately marked for identification, and other rejected evidence shall be retained in the record and be available for consideration by any reviewing authority.

### § 1030.431 Hearing examiners.

(a) Hearings and prehearing matters in formal administrative proceedings shall be presided over by a hearing examiner appointed or designated pursuant to section 3105 or section 3344 of title 5, United States Code.

(b) The hearing examiner for prehearing matters may differ from the hearing examiner presiding over the hearing. A hearing examiner who opens the hearings under a particular notice shall, in the ordinary course, be the sole hearing examiner for such hearings, but, in the event of the death, illness, or other unavailability of a hearing examiner, or other extenuating and unusual circumstances, another hearing examiner may be appointed as provided in paragraph (a) of this section.

(c) In the event of the substitution of a new hearing examiner for the one originally designated, any motion predicated upon such substitution shall be made within five (5) days following notice of such substitution.

### § 1030.433 Powers and duties.

Hearing examiners shall conduct fair and impartial hearings, take all necessary action to avoid delay in the disposition of proceedings, and maintain order. They shall have all powers necessary and appropriate to that end, including, but not limited to, the following:

(a) To administer oaths and receive affirmations;

(b) To issue compulsory process;

(c) To take depositions or to order depositions or other discovery procedures as provided in § 1030.331;

(d) To rule upon offers of proof and receive evidence;

(e) To regulate the course of the hearings and the conduct of the parties and their counsel therein;

(f) To hold conferences for stipulations, simplification of issues, settlement, or any other proper purpose;

(g) To consider the rule upon, as justice may require, all procedural and other motions;







V 38 185 SEP 25 73 XUM

(h) To make findings of fact and conclusions of law and to issue recommended decisions and proposed orders and

(i) To take any action authorized by the rules in this part or in conformance with law.

**§ 1030.434 Suspension of attorneys.**

(a) The hearing examiner shall have the authority, for good cause stated on the record, to suspend or bar from participation in a particular proceeding any attorney who shall refuse to comply with his direction, or who shall be guilty of disorderly, dilatory, obstructive, or contumacious conduct in the course of such proceeding.

(b) Any attorney so suspended or barred may appeal to the decision officer. Appeals shall be in the form of a brief, not to exceed ten (10) pages in length and shall be filed within five (5) days after notice of the hearing examiner's action. Answer thereto may be filed within five (5) days after service of the appeal brief and may not exceed ten (10) pages. The decision of the decision officer shall constitute final agency action. The appeal shall not operate to suspend the hearing unless otherwise ordered by the decision officer. In the event the hearing is not suspended, the attorney may continue to participate therein pending disposition of the appeal.

**§ 1030.451 In camera policy.**

(a) Hearing examiners shall have the authority, for good cause stated on the record, to order any documents, or oral testimony, or other matter offered in evidence, whether admitted or rejected, to be placed in camera.

(b) Except as provided in paragraph (c) of this section, matter placed in camera is kept confidential and is not part of the public record. Only the respondent, his counsel, authorized personnel of the Office and court personnel concerned with judicial review shall have access to such matter. Where it is appropriate, in order to protect a trade secret or other confidential business information, the hearing examiner may enter other orders necessary and appropriate to protect such information from misuse.

(c) The power of the hearing examiner, the Office and reviewing courts to disclose in camera matter to the extent necessary for the proper disposition of a proceeding is specifically reserved.

**§ 1030.461 Submission by the parties of proposed findings, conclusions, and order.**

(a) Within such time after the close of the reception of the evidence as the hearing examiner may fix, each party to a proceeding under this part shall file with the hearing examiner for his consideration all proposed findings of fact, conclusions of law, and forms of order, together with briefs in support thereof. Answering briefs may be filed within a reasonable time thereafter, as fixed by the hearing examiner. The hearing examiner, in his discretion, may vary the sequence of filing documents following the close of reception of evidence.

(b) Such proposed findings, conclusions, and orders and any briefs or other papers shall be in writing, shall be served upon all parties, and shall contain adequate references to the record and authorities relied on. "Passim" references to the record may not be used.

(c) If a party fails to file a proposed finding as to any fact involved in the proceeding, or a proposed conclusion of law as to any legal question raised by the proceeding, he shall be deemed to have waived any objections or contentions with regard to that fact or that question of law.

**§ 1030.471 Hearing examiner's findings, conclusions, recommended decision and proposed order.**

(a) Within a reasonable time after receipt of all briefs and/or other papers pursuant to § 1030.461, the hearing examiner who presided, unless he shall become unavailable to the Office, shall make findings of fact and conclusions of law and issue a recommended decision and proposed order. The findings, conclusions, recommended decision and proposed order shall be served upon the parties and shall be included in the record.

(b) The findings of fact and conclusions of law shall be numbered and shall contain appropriate references to the record.

**§ 1030.472 Form of proposed order.**

(a) If the hearing examiner determines that the respondent has not violated any requirement of the Program, he shall in his proposed order dismiss the notice.

(b) If the hearing examiner determines that the respondent has violated any requirement of the Program, he shall issue a proposed order taking into account, in fashioning said proposed order, the nature and circumstances of the violation as well as the importance of encouraging future good faith efforts to comply with the Program. Where appropriate (including, but not limited to, cases where the respondent's violation involves positive direct investment or the holding of liquid foreign balances under circumstances where such is prohibited or in excess of the amount generally and/or specifically authorized or failure to comply with conditions of specific authorizations, and/or willful failure to or delay in filing required reports) the proposed order may include in addition to any other appropriate remedies:

(1) Reduction during any year or years in the amount of positive direct investment and/or liquid foreign balances that would have been authorized to the respondent under Part 1000 of this chapter;

(2) A requirement that the respondent repatriate all or part of its share in the earnings of incorporated affiliated foreign nationals, which repatriation shall be disregarded for the purpose of measuring compliance with the provisions of Part 1000 of this chapter;

(3) A requirement that the respondent cause its affiliated foreign nationals to make transfers of capital to the respondent, which transfers shall be disregarded for the purpose of measuring compliance with the provisions of Part 1000 of this chapter;

(4) A requirement that the respondent repatriate available proceeds of long-term foreign borrowing, which proceeds may not be held thereafter in the form of foreign balances or other foreign property;

(5) A requirement that quarterly or other special reports be filed with the Office containing such information as may be appropriate.

## Subpart E—Decision and Review

**§ 1030.510 Decision officer; designation and disqualification.**

(a) The Director of the Office shall be the decision officer unless he is unavailable by reason of disqualification or otherwise, in which case the Deputy Director of the Office shall be the decision officer.

(b) The decision officer shall withdraw from any case when he is disqualified by reason of personal relationship or interest or other just cause. If the decision officer has not withdrawn from the case and respondent believes that grounds for disqualification exist, respondent shall submit, with its first brief submitted pursuant to § 1030.511, a motion supported by an affidavit or affidavits specifying such grounds with particularity. In such case, the decision officer shall himself rule upon the motion in writing and his decision shall become part of the record of the case.

(c) If both the Director and the Deputy Director of the Office are disqualified or otherwise unavailable, the Appeals Board for the Department of Commerce shall perform the functions of the decision officer under the rules contained in this subpart, and the decision and order of the Appeals Board shall constitute the final agency action.

**§ 1030.511 Objections.**

(a) Any party in a proceeding under this part may file specific objections to the hearing examiner's findings of fact, conclusions of law, recomemnded decision and/or proposed order, provided that notice of intent to file such ojections is filed with the Office within ten (10) days after service upon the parties of the hearing examiner's recommended decision and proposed order.

(b) Objections shall be in the form of a brief, not to exceed thirty (30) pages, filed no later than thirty (30) days after service of the hearing examiner's recommended decision and proposed order. Answering briefs, not to exceed thirty (30) pages, shall be filed not later than thirty (30) days after the closing date for submission of each objection. Reply briefs, not to exceed fifteen (15) pages, shall be filed not later than seven (7) days after the closing date for submission of answering briefs. Briefs, if typewritten, shall be double spaced.

(c) The briefs shall be made a part of the record and the entire record shall then be certified promptly to the decision officer.

(d) If no notice of intent to file objections to the hearing examiner's findings of fact, conclusions of law, recommended decision or proposed order are filed within the time provided in paragraph (a) of this section, the record shall be certified at the conclusion of such time to the decision officer who shall decide the case in the manner provided in § 1030.513(b). The decision officer may, at his discretion, request the parties to submit briefs on any or all of the issues raised by the record.

**§ 1030.513 Decision.**

(a) If objections are filed pursuant to § 1030.511, unless all parties have stipulated otherwise in writing, there shall be oral argument before the decision officer at a date and time set by him in writing and served on all parties, which argument shall be reported stenographically. The original transcript shall be made a part of the record. Each party shall be limited to thirty (30) minutes for presentation of oral argument, unless the decision officer shall determine that the circumstances of the case require more lengthy presentation.

(b) The decision officer, in deciding a matter, shall not be limited to consideration of the issues raised by the parties, but may consider all issues raised by the record.

(c) Within a reasonable time after receipt and consideration of the record and oral argument, if any, the decision officer shall do one of the following:

(1) Remand the case to the hearing examiner for the reception of additional evidence;

(2) Issue an interlocutory decision, either orally or in writing, with respect to the issues of fact and questions of law involved in the proceeding. Thereafter, in his discretion, he may direct the hearing examiner to conduct a separate hearing on relief and form of order. The decision officer may permit the filing of additional briefs and may request that the prevailing party or parties propose a form of order and the other party or parties comment thereon, or that all parties present their views concurrently. Any failure to object to any part of a form of order proposed by a prevailing party will constitute a waiver of objection to it. The decision officer shall then render a decision as specified in subparagraph (3) of this paragraph;

(3) Issue findings of fact and conclusions of law and render a decision that adopts, modifies or sets aside the hearing examiner's findings, conclusions and recommended decision and states the reasons for his action, and enter an order which shall be served on each party to the proceeding.

(d) The order entered by the decision officer shall become effective ten (10) days after service thereof, unless the respondent appeals to the Appeals Board for the Department of Commerce, pursuant to the procedure set out in Part 1035 of this chapter or files a petition for reconsideration under § 1030.515.

**§ 1030.514 Appeals from orders under Part 1020 of this chapter.**

Any party appealing from the denial of a motion under § 1020.123 of this chapter, shall file an appeal brief, not to exceed thirty (30) pages, within seven (7) days after service of the order denying said motion. The answering brief, not to exceed thirty (30) pages, shall be filed within seven (7) days thereafter. Oral argument will not be allowed. Within a reasonable time after receipt of the briefs, the decision officer shall render an appropriate decision.

**§ 1030.515 Petition for reconsideration.**

Any party may petition for reconsideration of a final decision or order of the decision officer by filing a written brief with the Office stating succinctly and with particularity the grounds upon which reconsideration is being sought within five (5) days after the date of service of the decision officer's order. The decision officer shall thereafter enter as promptly as possible an order either granting or denying the petition.

---

## PART 1035—RULES OF PRACTICE FOR APPEALS IN PROCEEDINGS ORIGINATING UNDER PART 1030

Sec.

1035.101 Scope of rules.
1035.102 Board.
1035.103 Appeals.
1035.104 Certification of the record.
1035.105 Briefs.
1035.107 Oral Argument.
1035.108 Disposition of appeals by Board.
1035.109 Content of orders.

AUTHORITY: The provisions of this Part 1035 issued pursuant to sec. 5 of the Act of Oct. 6, 1917, 40 Stat. 415, as amended, (12 U.S.C. 95a); E.O. 11387, Jan. 1, 1968, 33 FR 47; Department Organization Order 25-3A (formerly Department Order 184-A), Jan. 1, 1968, 33 FR 54.

**§ 1035.101 Scope of rules.**

The rules of practice in this part shall govern appeals from final decisions of the decision officer in proceedings originating under Part 1030 of this chapter. Appeals in proceedings originating under Part 1000 of this chapter shall be governed by § 1000.802 of this chapter.

**§ 1035.102 Board.**

(a) The Appeals Board for the Department of Commerce (referred to in this part as the "Board") shall have sole and exclusive jurisdiction to hear administrative appeals from final decisions of decision officers in proceedings under Part 1030 of this chapter. The decision of the Board shall constitute final agency action.

(b) The Chairman of the Board shall designate a panel of three Board members, from time to time, to pass upon such appeals.

(c) All communications to the Board shall be addressed to: Chairman, Department of Commerce Appeals Board, Department of Commerce, Washington, D.C. 20230, and shall be in writing.

**§ 1035.103 Appeals.**

(a) The respondent in a proceeding under Part 1030 of this chapter may appeal to the Board from the decision and order of the decision officer, provided that notice of intent to appeal is filed with the Board within ten (10) days after service of the decision officer's decision and order or, if the respondent files a petition for reconsideration of the decision officer's order (pursuant to § 1030.515 of this chapter), notice of intent to appeal shall be filed with the Board within ten (10) days after the date of service of the decision officer's order either denying the petition for reconsideration or disposing of a petition that had been granted.

(b) The respondent, in a proceeding under Part 1030 of this chapter, may appeal on the following grounds: that prejudicial error of law was committed; that the findings were clearly erroneous or were not supported by substantial evidence; or that the provisions of the order are arbitrary, capricious or an abuse of discretion.

**§ 1035.104 Certification of the record.**

Promptly after the filing of notice of intent to appeal, the record including the decision and order of the decision officer, and any petition for reconsideration and order relating thereto, shall be certified to the Board.

**§ 1035.105 Briefs.**

(a) The appeal brief shall be served and filed no later than thirty (30) days after service of the appropirate order of the decision officer (determined pursuant to § 1035.103(a)); the answering brief shall be served and filed no later than thirty (30) days after service of the appeal brief; and the reply brief shall be served and filed no later than seven (7) days after service of the answering brief. The appeal and answering briefs shall not exceed thirty (30) pages (if typewritten, double spaced) exclusive of appendices, and the reply brief shall not exceed fifteen (15) pages.

(b) An original and five (5) copies of each brief shall be filed with the Board and three (3) copies shall be served upon each party to the proceeding, including the Office.

(c) The appeal and answering briefs shall contain in the following order:

(1) Index, table of cases, statutes, and other authorities—and page references thereto;

(2) Concise, nonargumentative statement of facts, with specific page references to the record to support each assertion;

(3) Argument, with specific page references to the record to support each assertion;

(4) Conclusion;







V 38 185 SEP 25 73 XUM

(5) Appendix (optional), any record material or exhibits on which the party places particular reliance.

(d) The appeal brief shall, in addition, include in the argument section a specific explanation of how the grounds for appeal fall within the standards of § 1035.103(b), and, following the conclusion, any form of order that the respondent proposes be issued in lieu of the order issued by the decision officer.

**§ 1035.107 Oral argument.**

The Board will ordinarily determine an appeal on the basis of the briefs. The Board will allow oral argument only in exceptional cases when it deems it necessary, upon its own motion.

**§ 1035.108 Disposition of appeals by Board.**

(a) The appeal shall be determined upon the basis of the record and the briefs and argument ,and shall not constitute a hearing de novo. The Board shall not substitute its discretion for that of the decision officer in any matter involving expertise in interpreting, defining, administering, or effectuating the policies and purposes of the regulations or other agency actions under the Program. The Board shall not consider facts or arguments affecting the merits of the policies embodied in the regulations or other agency actions alleged to have been violated.

(b) Unless two members of the Board are of the opinion, and so advise the Chairman of the Board in writing within 20 days after the date of the filing of the appeal brief, that they desire to grant the appeal or consider further briefs or arguments, the Chairman of the Board shall, on the 20th day after the date of the filing of the appeal brief, enter an order pursuant to § 1035.109(b).

**§ 1035.109 Content of orders.**

(a) The grant of an appeal may be by an order remanding the matter to the decision officer, accompanied with a brief statement of reasons therefor.

(b) The denial of an appeal ordinarily will be in the form of an order signed by the Chairman of the Board, stating that the appeal was denied by the Board on a particular date, and ordinarily will not be accompanied by an explanatory statement. Such denial without an explanatory statement shall be deemed equivalent to adoption by the Board of the decision officer's decision.

(c) Where the Board grants an appeal in part and denies it in part, it ordinarily will remand the matter to the decision officer, as specified in paragraph (a) of this section. Where the Board can appropriately dispose of such a matter by entering its own order, rather than by remanding the matter, it may do so.

(d) Entry of an order by the Board shall be effective ten (10) days after service thereof.

## PART 1040—COMPLIANCE PROCEDURES; REPORTS, ADVISORY OPINIONS, AND ENFORCEMENT

### Subpart A—Compliance Reports

Sec.
1040.111 Compliance reports following Parts 1030 or 1035 orders.
1040.114 Noncompliance with reporting requirements.
1040.121 Comment on report.

### Subpart B—Advisory Opinions on Compliance

Sec.
1040.211 Request for opinion.
1040.212 Response by Office.
1040.214 Advisory opinion during compliance investigation.
1040.221 Revocation.
1040.222 Reliance.

### Subpart C—Enforcement

1040.311 Enforcement.

AUTHORITY: The provisions of this Part 1040 issued pursuant to sec. 5, of the Act of Oct. 6, 1917, 40 Stat. 415, as amended, (12 U.S.C. 95a); E.O. 11387, Jan. 1, 1968, 33 FR 47; Department Organization Order 25-3A (formerly Department Order 184-A), Jan. 1, 1968, 33 FR 54.

### Subpart A—Compliance Reports

**§ 1040.111 Compliance reports following Parts 1030 or 1035 orders.**

(a) Whenever, in a proceeding under Parts 1030 or 1035, an order is entered requiring the respondent to refrain from or to undertake any future act or practice, the Office will further require the respondent to file a compliance report with the Office. Such requirement will be by action of the Director of the Compliance Division pursuant to § 1020.121(a)(2) of this chapter.

(b) Such report shall be in writing, signed by the respondent or an officer thereof, be made under oath or affirmation, and be filed with the Office, Attention: Director of Compliance Division.

(c) Such report shall set forth in detail the manner and form of the respondent's compliance with each of the provisions of the order.

(d) Such report shall be filed within twenty (20) days after the order becomes effective unless the Director of the Compliance Division, upon timely request, extends such time. Further and subsequent reports may also be required by the Director of the Compliance Division.

**§ 1040.114 Noncompliance with reporting requirements.**

In cases of failure to comply with compliance report requirements, the Office may initiate appropriate action pursuant to § 1020.141 of this chapter.

**§ 1040.121 Comment on report.**

The Office will review compliance reports. The Director of the Compliance Division may comment in wrting to the respondent in respect to whether the actions set forth in such a report evidence compliance with the order.

### Subpart B—Advisory Opinions on Compliance

**§ 1040.211 Request for opinion.**

Any respondent subject to an order issued under Parts 1030 or 1035 of this chapter may request advice from the Office as to whether a proposed course of action, if pursued by it, will constitute compliance with such order. The request for advice should be submitted in writing and should include full information regarding the proposed course of action.

**§ 1040.212 Response by Office.**

On the basis of the facts submitted as well as other information properly available to it, the Office will, where it is practicable and otherwise appropriate, by letter signed by the Director of the Compliance Division, inform the respondent whether the proposed course of action, if pursued, would constitute compliance with the order. The Office expressly reserves the power to take such other and/or additional action as the public interest may require.

**§ 1040.214 Advisory opinion during compliance investigation.**

Once the Office has instituted an investigation to determine whether a respondent is in violation of an outstanding order issued against it, the Office will ordinarily consider it inappropriate to give the respondent an advisory opinion on the subject. No request for an advisory opinion, in such circumstances, will ordinarily cause the Office to discontinue such investigation.

**§ 1040.221 Revocation.**

The Office may, at any time, reconsider any advice or comment made under §§ 1040.121 or 1040.212, and rescind, alter, or revoke the same. If it does so, the Office will, whenever possible, give prompt notice to the respondent.

**§ 1040.222 Reliance.**

(a) When the Office believes that a respondent has violated an order issued against it under Parts 1030 or 1035 of this chapter but the respondent establishes to the Office that it acted in actual, properly warranted, and good faith reliance upon written advice to it under §§ 1040.121 or 1040.212, then the Office will not proceed or recommend any proceeding against such respondent in respect to such possible violation without first giving respondent notice under § 1040.221 and an opportunity to discontinue the questioned practice or transaction and to correct the effects thereof.

(b) If the respondent effects such discontinuance and correction promptly and fully, and satisfies the Office that it is complying with the requirements of the Program is regard to the matter, then the Office will take no further action.





### Subpart C—Enforcement

**§ 1040.311 Enforcement.**

When the Office has information indicating that a respondent has failed or is failing to comply with the provisions of an order entered against the respondent under Part 1030, the Office may institute or recommend a civil or criminal enforcement proceeding (see, e.g., 50 U.S.C. App. 5(b)(3), 17) or a further administrative proceeding under Part 1030 of this chapter.

## PART 1050—MISCELLANEOUS RULES

Sec.
1050.101 Appearances.
1050.102 Standards of conduct.
1050.103 Requirements as to form and filing of documents.
1050.104 Clerk.
1050.105 Time computation.
1050.106 Service.
1050.107 Fees.
1050.108 Ex parte communications.
1050.111 Freedom of information.

AUTHORITY: The provisions of this Part 1050 issued pursuant to sec. 5 of the Act of Oct. 6, 1917, 40 Stat. 415, as amended, (12 U.S.C. 95a); E.O. 11387, Jan. 1, 1968, 33 FR 47; Department Organization Order 25-3A (formerly Department Order 184-A), Jan. 1, 1968, 33 FR 54.

**§ 1050.101 Appearances.**

(a) *Qualifications.* (1) Members of the bar of a Federal Court or of the highest court of any State or territory of the United States are eligible to practice before the Office and the Appeals Board for the Department of Commerce in any proceeding under Parts 1020–1050 of this chapter.

(2) Any individual or member of a partnership involved in any such proceeding may appear on behalf of himself or of such partnership, upon adequate identification. A corporation or association may be represented by an Officer thereof.

(3) Accountants who are authorized to practice in any State or territory of the United States are eligible to appear before the Office on behalf of any person or party in matters arising under Part 1025 or 1040 of this chapter.

(b) *Notice of appearance.* Any person desiring to appear before the Office on behalf of a person or party shall file a written notice of his appearance, stating the basis of his eligibility under this section. No other application shall be required for admission to practice, and no register of attorneys will be maintained.

**§ 1050.102 Standards of conduct.**

(a) All attorneys practicing before the Office shall conform to the standards of ethical conduct required of practitioners in the courts of the United States. Accountants who prepare reports or other documents for submittal to the Office or who appear before the Office shall conform to the standards of ethical conduct prescribed by the State Board of Accountancy or other licensing authority for the State in which such accountant maintains his principal place of business.

(b) If the Office has reason to believe that any person is not conforming to such standards, or that he has been otherwise guilty of conduct warranting disciplinary action, the Office may issue an order requiring such person to show cause why he should not be suspended or disbarred from practice or appearance before, or from the preparation of reports or other documents for submittal to, the Office. The alleged offender shall be granted due opportunity to be heard and may be represented by counsel. Thereafter, if warranted by the facts, the Office may issue against the person an order of reprimand, suspension, disbarment, or other appropriate sanction.

**§ 1050.103 Requirements as to form and filing of documents.**

(a) *Filing.* In formal administrative proceedings under Part 1030 of this chapter, except as otherwise provided, all documents submitted to the Office shall be addressed to the hearing examiner. Where practicable, such documents shall be filed with him; otherwise, they shall be filed with the Clerk (see § 1050.104). Informational applications or requests, however, may be submitted directly to the official in charge thereof or to the Director of the appropriate Division.

(b) *Title.* Documents shall clearly show the file or docket number and title of the matter in connection with which they are filed.

(c) *Copies.* Five copies of all formal documents shall be filed, unless otherwise specified. Informal applications and correspondence should be submitted in the form of an original and two copies thereof.

(d) *Form.* (1) Documents shall be printed, typewritten (double spaced) or otherwise processed in permanent form.

(2) Wherever practicable, documents shall be on paper approximately 8½ inches by 11 inches, bound or stapled on the left side.

(e) *Signature.* One copy of each document filed shall be signed by a person who has entered an appearance (or in informal matters by a person qualified to do so).

**§ 1050.104 Clerk.**

The Director of the Office shall designate an employee of the Office to serve as Clerk of the Office. The Clerk shall, in general, perform the functions of the Clerk of a district court, in respect to the proceedings under Part 1030 of this chapter and where otherwise appropriate. Papers may be filed with him; he shall accept and record receipt of formal papers; he shall enter the orders of hearing examiners and cause them to be served upon parties. Where it is appropriate, the Clerk shall sign documents and other papers in the name of the Office. Nothing contained in this section shall be deemed to preclude the Clerk from performing any other functions within the Office.

**§ 1050.105 Time computation.**

Computation of any period of time prescribed or allowed under Parts 1020–1040 of this chapter shall begin with the first business day following that on which the act, event, or development initiating such period of time shall have occurred. When the last day of the period so computed is a Saturday, Sunday, or national holiday, or other day on which the Office is closed, the period shall run until the end of the next following business day. When such period of time, with the intervening Saturdays, Sundays, and national holidays counted, is 5 days or less, each Saturday, Sunday, and any such holiday shall be excluded from the computation. When such period of time, with the intervening Saturdays, Sundays, and national holidays counted, exceeds 5 days, each of the Saturdays, Sundays, and such holidays shall be included in the computation.

**§ 1050.106 Service.**

(a) *By the Office.* (1) Service of notices, orders, and other processes of the Office or a hearing examiner may be effected as follows:

(i) *By registered or certified mail.* A copy of the document shall be addressed to the person to be served, at its residence, office, or place of business, and sent thereto by registered or certified mail; or

(ii) *By delivery to an individual.* A copy thereof may be delivered to the natural person to be served, or to a member of the partnership to be served, or to any officer or director of the corporation or unincorporated association to be served; or

(iii) *By delivery to an address.* A copy thereof may be left at the office or place of business of the person, or it may be left at the residence of the person or of a member of the partnership or of an officer or director of the corporation or unincorporated association to be served.

(2) All other documents may be similarly served, or they may be served by ordinary first-class mail.

(b) *By other parties.* Service of documents by parties other than the Office shall be by delivering copies thereof as follows: Upon the Office, by personal delivery or delivery by first-class mail to the Clerk; upon any other party, by delivery to the party, as specified in paragraph (a) of this section.

(c) *Service on attorney of party.* When a party is represented by a person qualified pursuant to § 1050.101(a), and such representative has filed a notice of appearance as required by § 1050.101(b), or has filed any pleading or other document on behalf of the party, any notice, order, or other process or communication required or permitted to be served upon a person or party may be served upon such representative in lieu of any other service.

(d) *Proof of service.* (1) When service is by registered, certified, or ordinary first class, it is complete upon delivery of the document by the post office to the person served.

(2) The return post office receipt for a document registered or certified and mailed, or the verified return or certificate by the person serving the document



V 38 185 SEP 25 73 XUM

by personal delivery, shall be proof of the service of the document. All documents served by ordinary mail shall have appended thereto a certificate of service, setting forth the manner of said service, including the address of any person so served.

**§ 1050.107 Fees.**

(a) *Witnesses.* Any person compelled to appear in person in response to compulsory process shall, upon his application therefor, be paid the same fees and mileage as are paid witnesses in the courts of the United States.

(b) *Responsibility.* The fees and mileage referred to in this section shall be paid by the party at whose instance the witness appears.

**§ 1050.108 Ex parte communications.**

(a) In a formal administrative proceeding, no person not employed by the Office and no employee or agent of the Office who performs any investigative or prosecuting function in connection with the proceeding, shall communicate ex parte, directly or indirectly, with any person involved in the decisional process in such proceeding, with respect to the merits of that or a factually related proceeding.

(b) In a formal administrative proceeding, no person involved in the decisional process of such proceeding shall communicate ex parte, directly or indirectly, with any person not employed by the Office, or with any employee or agent of the Office who performs any investigative or prosecuting function in connection with the proceedings, with respect to the merits of that or a factually related proceeding.

(c) In a formal administrative proceeding, if an ex parte communication is made to or by any employee involved in the decisional process, in violation of paragraph (a) or (b) of this section, such employee shall promptly inform the Office of the substance of such communication and the circumstances thereof. The Office will take such action thereon as it may consider appropriate.

**§ 1050.111 Freedom of information.**

(a) All documents (including transcripts) filed in formal administrative proceedings conducted under Part 1030 of this chapter (except those documents placed in camera pursuant to § 1030.451 (b) of this chapter), and such other documents as the Office may from time to time designate, shall be made part of the public records of the Office. Copies thereof are maintained for public inspection and copying in the office of the Clerk (see § 1050.104).

(b) For good cause shown and upon application by any party submitting a document that is to be placed on the public record, pursuant to paragraph (a) of this section, the Office may excise trade secrets and customarily privileged commercial or financial information obtained from any person. Requests for such excision may be made by timely submittal to the Office of a written request specifying with particularity each item sought to be excised and setting forth in each instance a full statement of the party's business reasons for requesting excision. Mere conclusory allegations and requests that an entire document be omitted from the public record will not be deemed to satisfy the requirements of this paragraph.

(c) All documents of any description received by the Office from any person in connection with an investigation of possible noncompliance with the Program, and not described in paragraph (a) of this section, are considered part of the investigatory files of the Office, compiled for law enforcement purposes, and will not be disclosed to any person except pursuant to law.

(d) Terms used in this section shall have the meanings ascribed thereto in 5 U.S.C. §§ 551–553.

*Effective date.* The amendments to Parts 1020–1050 shall be effective as of the date of publication in final form in the FEDERAL REGISTER, and shall govern all proceedings commenced after the effective date and all pending proceedings except to the extent that the Director of the Office determines, in his discretion, that application of the amendments or any portion thereof in a pending proceeding would not be feasible or would work injustice, in which case the appropriate former rule or rules shall apply.

[FR Doc.73-19181 Filed 9-24-73;8:45 am]

## Title 7—Agriculture

### CHAPTER VIII—AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE (SUGAR), DEPARTMENT OF AGRICULTURE

SUBCHAPTER K—GENERAL CONDITIONAL PAYMENTS PROVISIONS

### PART 891—DOMESTIC BEET SUGAR AREA

#### Subpart F—Determination of Sugar Commercially Recoverable

RATES OF RECOVERABILITY: 1973 CROP

Pursuant to section 302(a) of the Sugar Act of 1948, as amended (7 U.S.C. 1132(a)), and as provided in § 891.45 (38 F.R. 6374), Subpart F of Part 891 is amended by adding § 891.46 to read as follows:

**§ 891.46 Rates of recoverability, 1973 crop.**

The hundredweight of sugar, raw value, commercially recoverable from sugarbeets on the 1973 crop shall be computed by multiplying the net weight thereof in tons, at the time of delivery to a processor, by the rate of commercially recoverable sugar which is applicable under the following provisions of this section:

(a) For sugarbeets marketed within a settlement area under any type of agreement other than "individual test" or a "combined individual-cossette test" contract, the rate of commercially recoverable sugar per ton of beets with respect to each settlement area is established as follows:

| Sugar companies and settlement areas | 1966–72 average sugar content (percent) | Rate of commercially recoverable sugar (hundredweight) |
|---|---|---|
| Amalgamated Sugar Co.: | | |
| Idaho Districts and Elwyhee District | 16.01 | 2.820 |
| Cache, Franklin, and Ogden District | 15.24 | 2.679 |
| Utah-Idaho Sugar Co.: | | |
| Layton, Idaho District | 15.79 | 2.776 |
| Buckeye Sugars, Inc.: | | |
| Ottawa, Ohio | 14.76 | 2.595 |

(b) For sugarbeets marketed under "individual test" contracts, other than those sugarbeets marketed for processing by the American Crystal Sugar Company at their Moorhead, Crookston, and East Grand Forks, Minnesota, and Drayton, North Dakota factories, the rate of commercially recoverable sugar per ton of beets shall be computed by multiplying 20 hundredweight by the percentage of sugar content of such beets, and then multiplying the result by 83.9 percent (the average extraction rate, as adjusted for shrink, effective for such beets). This computation can be shortened by the use of the factor of 0.1678. As an example, a content of 16.37 when multiplied by 0.1678 would result in a rate of commercially recoverable sugar of 2.747 hundredweight.

(c) For sugarbeets marketed under "combined individual-cossette test" contracts, including those sugarbeets marketed for processing by the American Crystal Sugar Company at their Moorhead, Crookston, and East Grand Forks, Minnesota, and Drayton, North Dakota factories, the rate of commercially recoverable sugar per ton of beets for a producer shall be computed by multiplying 20 hundredweight by the adjusted percentage of sugar content of the beets delivered by such producer and then multiplying the result by 87.9 percent (the average extraction rate effective for such beets). This computation can be shortened by the use of the factor of 0.1758. As an example, an adjusted content of 16.37 when multiplied by 0.1758 would result in a rate of commercially recoverable sugar of 2.878 hundredweight. The adjusted percentage of sugar content for each producer shall be obtained by multiplying the weighted average percentage of sugar content of the beets delivered by him by a factor, the numerator of which shall be the appropriate factory cossette test average set forth below and the denominator of which shall be the weighted average sugar content of all beets delivered to the factory at such time as the Agricultural Stabilization and Conservation State Committee determines that at least 97 percent of the current crop of beets has been delivered to such factory.





| Sugar companies and settlement areas: | 1966–72 average sugar content (percent) |
|---|---|
| Amalgamated Sugar Co., Nyssa-Nampa District | 15.08 |
| American Crystal Sugar Co., Moorhead, Crookston, and East Grand Forks, Minn., Factories and Drayton, N. Dak. | 15.64 |
| Utah-Idaho Sugar Co.: | |
| Toppenish-Mosses Lake District | 15.69 |
| Utah Area (also includes beets from the Layton Utah Area) and Idaho District | 15.55 |

STATEMENT OF BASES AND CONSIDERATIONS

Section 891.45 (38 FR 6374) provides the method of determining and establishing amount of sugar commercially recoverable from sugarbeets and provides that the rates shall become effective when public notice thereof is given in the Federal Register.

Pursuant to that regulation, this section sets forth the rates of recoverability as determined for the 1973 crop. Definitive rates are specified for the various settlement areas wherein sugarbeets are marketed under "cossette test" contract. Within these areas, the rates give effect to 1966–72 average percentages of sugar content and the 1967–71 national average extraction rate of beet sugar, raw value, of 87.9 percent.

The Amalgamated Sugar Company's Idaho districts of Twin Falls Northside, Twin Falls Southside, Mini-Cassia Northside, Mini-Cassia Southside and Elwyhee are not listed as separate settlement areas in paragraph (a) of this section since there is no separate past production history for each of these districts. Therefore, payments for these districts will be based on the 1966–72 average sugar content computed for the company's Idaho and Elwyhee districts combined.

In lieu of an extensive table of definitive rates applicable to sugarbeets of various percentages of sugar content as marketed under "individual test" contracts, this section provides that the rate of recoverability per ton of beets of any given percentage of sugar content so marketed may be computed by multiplying such content by the factor of 0.1678. This factor gives effect to the average rate of extraction of sugar, raw value, of 83.9 percent, as applicable to individual test beets. Listings of the applicable rates (expressed in hundredths) will be available for inspection at county ASCS offices in sugarbeet producing counties. Similarly, for beets marketed under "combined individual-cossette test" contracts, a factor of 0.1758 may be used to give effect to the average extraction rate of 87.9 percent. The difference between 87.9 and 83.9 represents the average "shrink" in percentage of sugar content between the time of delivery and the time of processing for all beets of the crops of 1967–71 marketed under individual test contracts. The lower percentage is not specified for beets marketed under combined individual-cossette tests because the results of such tests include adjustments to the cossette basis.

The percentages of 87.9 and 83.9 as determined herein for the 1973 crop, compare with the percentages of 88.8 and 84.8 for the 1972 crop.

Beginning with the 1964 crop, the regulations have provided that the 7-year factory cossette test average be substituted for the current year's factory cossette test average in calculating the factor to be applied to individual grower's sugar content for those growers marketing beets under "combined individual-cossette contracts". The average sugar content for each factory shown in paragraph (c) of this section represents the weighted average of the factory's cossette tests for the crops 1966–72.

The American Crystal Sugar Company factories at Moorhead, Crookston, and East Grand Forks, Minnesota and Drayton, North Dakota have been included in paragraph (c) of this section as a "combined individual-cossette test" area effective with the 1973 crop. This determination is based on the method the company proposes to use in making individual tests of producers' beets and is deemed necessary to avoid inequities in Sugar Act payments.

A notice of proposed rule making was not given for this determination as it follows mathematical formulas which make use of actual operating and production data reported by the sugar factories involved. Therefore, no discretionary decisions are involved and a public recommendation would not change the data. Public notice is, therefore, unnecessary.

Accordingly, I hereby find and conclude that the foregoing determination will effectuate the applicable provisions of the Act.

(Secs. 302, 303, 304, 403, 61 Stat. 930 as amended, 932; 7 U.S.C. 1132, 1133, 1134, 1153.)

Effective date.—September 25, 1973.

Signed at Washington, D.C., on September 19, 1973.

E. J. PERSON,
*Deputy Administrator, Programs, Agricultural Stabilization and Conservation Service.*

SEPTEMBER 19, 1973.

[FR Doc.73-20348 Filed 9-24-73;8:45 am]

---

### CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Milk Order No. 73; Docket No. AO-173-A29]

### PART 1073—MILK IN THE WICHITA, KANSAS, MARKETING AREA

#### Order Amending Order

*Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Wichita, Kansas, marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in sec. 8c (9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

ORDER RELATIVE TO HANDLING

*It is therefore ordered*, That on and after the effective date hereof, the handling of milk in the Wichita, Kansas marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as



V 38 1185
SEP 25 73
XUM

amended, and as hereby further amended, as follows:

1. Section 1073.7 is revised as follows:

**§ 1073.7 Producer.**

"Producer" means any person who produces milk in compliance with the Grade A inspection requirements of a duly constituted regulatory agency, which milk is received at a pool plant, diverted to a nonpool plant pursuant to § 1073.14(b), or accounted for by a cooperative association pursuant to § 1073.14(c), except:

(a) A producer-handler as defined in any order (including this part) issued pursuant to the Act, or

(b) A person with respect to milk that is physically received at a pool plant as diverted milk from an other order plant if a Class II or Class III classification under this order is designated for such milk and it is subject to the pricing and pooling provisions of another order issued pursuant to the Act.

2. In § 1073.8, paragraphs (c) and (d) are revised as follows:

**§ 1073.8 Handler.**

* * * * *

(c) Any cooperative association with respect to milk of producers it diverts from a pool plant to a nonpool plant;

(d) Any cooperative association with respect to milk it receives for its account from the farm of a producer in a tank truck owned and operated by, or under the control of, such association, for delivery to a pool plant(s); and

* * * * *

3. Section 1073.10 is revised as follows:

**§ 1073.10 Distributing plant.**

"Distributing plant" means a plant approved by a duly constituted regulatory agency for the processing or packaging of Grade A milk and from which during the month route disposition is made in the marketing area.

4. Section 1073.11 is revised as follows:

**§ 1073.11 Supply plant.**

"Supply plant" means a plant from which fluid milk products, acceptable to a duly constituted regulatory agency for distribution under a Grade A label, are shipped during the month to, and physically received at, a distributing plant.

5. Section 1073.12 is revised as follows:

**§ 1073.12 Pool plant.**

"Pool plant" means a plant specified in paragraph (a), (b) or (c) of this section that is not an other order plant or a producer-handler plant.

(a) A distributing plant that has:

(1) Route disposition, except filled milk, during the month of not less than 35 percent (25 percent for each month of March through July) of the fluid milk products, except filled milk, that are approved by a duly constituted regulatory agency for distribution under a Grade A label and are physically received at such plant, or diverted therefrom by the plant operator or a cooperative association to a nonpool plant as producer milk pursuant to § 1073.14, and route disposition, except filled milk, in the marketing area during the month is not less than 10 percent of such fluid milk products. If the entire quantity of fluid milk products, except filled milk, disposed of in packages in a particular size and form is received in such packages from other plants, all such disposition shall be credited to the plant from which such packages were received and shall be deducted from the appropriate disposition of the receiving plant; or

(2) Qualified as a pool plant in the immediately preceding month on the basis of performance standards described in paragraph (a)(1) of this section.

(b) A supply plant from which during the month not less than 50 percent of the total quantity of Grade A milk approved by a duly constituted regulatory agency that was physically received at such plant from dairy farmers and handlers described in § 1073.8(d), or diverted therefrom by the plant operator or a cooperative association as producer milk to a nonpool plant pursuant to § 1073.14, is shipped to a plant(s) described in paragraph (a) of this section. A supply plant that was a pool plant pursuant to this paragraph in each of the months of September through December shall be a pool plant in each of the following months of January through August unless the plant operator requests the market administrator in writing that such plant not be a pool plant. Such nonpool status shall be effective the first month following such notice and thereafter until the plant again qualifies as a pool plant on the basis of shipments; and

(c) A plant that is approved by a duly constituted regulatory agency to handle milk for fluid consumption, that is operated by a cooperative association, and from which during the month not less than 50 percent of the milk of producer members of such association is delivered directly or is transferred by the association to pool plants described in paragraph (a) of this section, unless such plant qualifies for the month as a pool plant under another order issued pursuant to the Act by delivering 50 percent or more of its Grade A receipts from dairy farmers to plants qualified as pool distributing plants under such other order.

6. Section 1073.14 is revised as follows:

**§ 1073.14 Producer milk.**

"Producer milk" shall be that skim milk and butterfat in milk from producers that is:

(a) Received at a pool plant directly from a producer or a handler pursuant to § 1073.8(d);

(b) Diverted by the operator of a pool plant or by a cooperative association to a nonpool plant other than a producer-handler plant, subject to the conditions of paragraph (d) of this section; or

(c) The difference between the quantity of milk as received by a handler pursuant to § 1073.8(d) from producers' farms and the quantity of such milk delivered to pool plants. For the purposes of §§ 1073.53 and 1073.82, such milk shall be deemed to have been received by such handler at the pool plant to which all other producer milk in the same tank truck was delivered.

(d) The following conditions shall apply to milk diverted from a pool plant to a nonpool plant that is not a producer-handler plant:

(1) Such milk shall be accounted for as received by the diverting handler at the location of the nonpool plant;

(2) Milk of a producer shall not be eligible for diversion from a pool plant under this section if during the month less than 15 percent of total milk of such person as a producer is received at a pool plant;

(3) The total quantity of milk diverted by a cooperative association that is greater than the total quantity of producer milk received at all pool plants during the month from the cooperative association shall not be producer milk;

(4) The total quantity of milk diverted by the operator (other than a cooperative association) of a pool plant that is greater than the total quantity received at such plant during the month from producers who are not members of a cooperative association shall not be producer milk;

(5) The diverting handler shall designate the dairy farmers' deliveries that are not producer milk pursuant to this paragraph. If the handler falls to make such designation, no milk diverted by him to a nonpool plant shall be producer milk;

(6) To the extent that it would result in nonpool plant status for the pool plant from which diverted, milk diverted for the account of a cooperative association from the pool plant of another handler shall not be producer milk; and

(7) Milk diverted to an other order plant shall be producer milk only if a Class II or Class III classification is designated for such milk pursuant to the provisions of another order issued pursuant to the Act and such milk is not subject to the pricing and pooling provisions of such order.

7. In § 1073.30, paragraph (c) is revised as follows:

**§ 1073.30 Reports of receipts and utilization.**

* * * * *

(c) Each cooperative association shall report with respect to milk for which it is a handler pursuant to § 1073.8(c) and (d), as follows:

(1) Receipts of skim milk and butterfat in producer milk;

(2) The quantities delivered to each pool plant of another handler pursuant to § 1073.8(d) (the utilization of which is accountable by the latter under paragraph (a) of this section);

(3) The utilization of milk received under § 1073.8(d) but not delivered to the pool plant of another handler pursuant to such paragraph, and the utilization of milk for which the cooperative





is the handler pursuant to § 1073.8(c); and

(4) Such other information as the market administrator may require.

8. In § 1073.53, the section title and the introductory paragraph are revised as follows:

**§ 1073.53 Location adjustments to handlers.**

For milk received from producers or from a handler pursuant to § 1073.8(d) at a plant and classified as Class I milk or assigned Class I location adjustment credit pursuant to paragraph (d) of this section or for other source milk to which a location adjustment is applicable, the price at such plant when located:

* * * * *

9. In § 1073.61, paragraph (c) is revised as follows:

**§ 1073.61 Plants subject to other Federal orders.**

* * * * *

(c) A supply plant meeting the requirements of § 1073.12(b) that also meets the pooling requirements of another Federal order and from which greater qualifying shipments are made during the month to plants regulated under such other order than are made to plants regulated under this part, except during the months of January through August if such plant retains automatic pooling status under this part.

10. In § 1073.71, paragraph (a) is revised as follows:

**§ 1073.71 Computation of uniform prices.**

* * * * *

(a) Combine into one total the values computed pursuant to § 1073.70 for all handlers who filed the reports prescribed by § 1073.30 for the month, except those in default of payments required pursuant to § 1073.84 for the preceding month;

11. In § 1073.80, the introductory sentence in paragraph (d) is revised as follows:

**§ 1073.80 Time and method of payment.**

* * * * *

(d) Each handler who receives milk for which a cooperative association is the handler pursuant to § 1073.8(d), including the milk of producers who are not members of such association, and who the market administrator determines have authorized such cooperative association to collect for their milk, shall, on or before the second day prior to the date payments are due individual producers, pay such cooperative association for such milk as follows:

* * * * *

12. In § 1073.82, the section title and paragraph (a) are revised as follows:

**§ 1073.82 Location adjustments to producers and on nonpool milk.**

(a) For producer milk received at plants located outside Zone 1 there shall be added or deducted, as the case may be, an adjustment for each such plant for all milk at the rates specified in § 1073.53 (b) and (c); and

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

*Effective date.*—November 1, 1973.

Signed at Washington, D.C., on September 19, 1973.

CLAYTON YEUTTER,
*Assistant Secretary.*

[FR Doc.73-20342 Filed 9-24-73;8:45 am]

---

[Milk Order No. 129]

## PART 1129—MILK IN THE AUSTIN-WACO, TEXAS, MARKETING AREA

### Order Suspending Certain Provisions

This order suspending certain provisions is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Austin-Waco marketing area.

Notice of proposed rulemaking was published in the FEDERAL REGISTER (38 FR 23535) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon. None was filed in opposition to the proposed suspension.

After consideration of al relevant material, including the proposal set forth in the aforesaid notice, data, views, and arguments filed thereon, and other available information, it is hereby found and determined that for the months of October 1973 through March 1974 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1129.20, which defines a "fluid milk product", the language "cultured sour cream."

STATEMENT OF CONSIDERATION

This suspension will result in milk used in sour cream being classified as Class II milk rather than Class I milk under the order.

The suspension was requested by the two pool plant operators regulated under the Austin-Waco order. Handlers in the North Texas and San Antonio Federal order markets, where sour cream is a Class II product, account for a substantial portion of the total sour cream sales in the Austin-Waco marketing area, competing with handlers under the Austin-Waco order. By changing the classification of sour cream under the Austin-Waco order as proposed, the producer price to Austin-Waco handlers for milk in such use will be closely aligned with the price of milk so used under such other orders.

The uniform classification of milk in Austin-Waco and other Texas markets has been recommended by the Department on the basis of a hearing covering 32 Federal orders. In this circumstance, the suspension of sour cream from the fluid milk product definition should apply for the period of October 1973–March 1974.

It is thereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension (38 FR 23535).

Therefore, good cause exists for making this order effective October 1, 1973.

*It is therefore ordered*, That the aforesaid provisions of the order are hereby suspended for the months of October 1973 through March 1974.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

*Effective date.*—October 1, 1973.

Signed at Washington, D.C., on September 19, 1973.

CLAYTON YEUTTER,
*Assistant Secretary.*

[FR Doc.73-20345 Filed 9-24-73;8:45 am]

---

## Title 12—Banks and Banking

## CHAPTER V—FEDERAL HOME LOAN BANK BOARD

### SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[No. 73-1340]

## PART 545—OPERATIONS

### NOW Accounts

SEPTEMBER 14, 1973.

Section 2(a) of Public Law No. 93-100 of August 16, 1973, provides that "No depository institution [as defined in section 2(b)] shall allow the owner of a deposit or account on which interest or dividends are paid to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties, except that such withdrawals may be made in the States of Massachusetts and New Hampshire." By section 8 thereof, section 2 takes effect on the thirtieth day after the day of its enactment.

The Federal Home Loan Bank Board considers it desirable to amend Part 545 of the Rules and Regulations for the Federal Savings and Loan System by adding a new subparagraph (3) to § 545.4-1(a) thereof. The purpose of the new subparagraph (3) is to make clear that the Board considers that section 2 of said Public Law No. 93-100 permits each Federal association having its home office in New Hampshire or Massachusetts to allow the owner of a savings account on which interest or dividends are paid to



V 38 185 SEP 25 73 XUM

make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties. By companion Resolution No. 73-1341, the Board adopts a similar amendment to Part 563 of the Rules and Regulations for Insurance of Accounts (12 CFR Part 563). By companion Resolution No. 73-1339, the Board proposes amendments to Part 526 of the Regulations for the Federal Home Loan Bank System (12 CFR Part 526) relating to the issuance and payment of interest or dividends on transaction accounts by member institutions having their home offices in New Hampshire or Massachusetts.

Accordingly, the Federal Home Loan Bank Board hereby amends said § 545.4-1(a) by adding a new subparagraph (3) thereto to read as set forth below, effective September 15, 1973.

Since affording notice and public procedure on the above amendment would delay it from becoming effective for a period of time and since it is in the public interest that such amendment becomes effective as soon as possible, the Board hereby finds that notice and public procedure thereon are contrary to the public interest under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and the Board hereby finds that publication of such amendment for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date thereof is unnecessary since it relieves restrictions; and the Board hereby provides that such amendment shall become effective as hereinbefore set forth.

**§ 545.4-1 Payments to third parties by withdrawal or transfer of savings accounts; checks and money orders.**

(a) *Withdrawals and transfers.* • • •

(3) *Exception for transaction accounts.* Notwithstanding this paragraph (a) or any other provision of this subchapter C to the contrary, each Federal association having its home office in New Hampshire or Massachusetts may allow the owner of a savings account on which interest or dividends are paid to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties.

• • • • • •

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Public Law 93-100. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
*Assistant Secretary.*

[FR Doc.73-20419 Filed 9-24-73;8:45 am]

---

[No. 73-1337]

## PART 545—OPERATIONS

### Real Estate Loan Percentage-of-Assets Limitations

SEPTEMBER 14, 1973.

The Federal Home Loan Bank Board, by Resolution No. 73-921, dated July 3, 1973, proposed to amend Part 545 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR Part 545) for the purposes described herein. By a companion document (Resolution No. 73-922; July 3, 1973) the Board proposed collateral amendments to Parts 561 and 563 of the Rules and Regulations for Insurance of Accounts (12 CFR Parts 561 and 563). Notice of such proposed rulemaking was duly published in the FEDERAL REGISTER on July 15, 1973, and allowed until August 15, 1973, for interested persons to submit written comments.

On the basis of its consideration of all relevant material presented by interested persons and otherwise available, the Board hereby amends said Part 545 by revising § 545.6-6 and paragraphs (a)(1)(i), (c)(1)(ii) and (iii), and (c)(2)(i) and (iii) of § 545.6-7 thereof to read as set forth below. By companion Resolution No. 73-1338, the Board adopts amendments to said Parts 561 and 563.

Section 5(c) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)) provides that Federal associations "shall lend their funds only • • • on the security of first liens on real property within 100 miles of their home office or within the State in which such home office is located • • •." Pursuant to that language, the revised § 545.6-6 expands the "regular lending area" of a Federal association to include the entire State in which an association's home office is located and any area outside such State within a radius of 100 miles from such an association's home office. In the previous § 545.6-6, the Board had confined the "regular lending area" of a Federal association to the area within a radius of 100 miles from such an association's home office both within and without the State in which such home office is located and an additional area within a radius of 100 miles from each branch or agency of such an association to the extent that such additional area is also within the State in which the association's home office is located. (There continues to be a further provision for additional lending area for Federal associations which have converted from State-chartered institutions.) In so prescribing the regular lending area of Federal associations, the Board did not grant the full lending area available in section 5(c). Furthermore, this restriction on regular lending area was a basis for certain real estate loan percentage-of-assets restrictions in § 545.6-7.

Under paragraph (a) of § 545.6-7 a loan on the security of a single-family dwelling, a home or combination of home and business property is not subject to a percentage-of-assets limitation if such a loan, among other things, is made on the security of any such property located within the Federal association's "regular lending area." A loan on the security of such properties located beyond the association's regular lending area is subject to the "general" 20-percent-of-assets category of § 545.6-7(c)(1). As a result, prior to the instant amendment a loan of $45,000 or less on the security of a single-family dwelling or on the security of a home or combination of home and business property located within the State in which the association's home office is located but located beyond the 100 mile radius around home or branch offices had to be included within the general 20-percent-of-assets category under § 545.6-7(c)(1). The expansion of the "regular lending area" to include the entire State thereby allows for the removal of such loans from the "general" 20-percent-of-assets category.

Under paragraph (c)(1)(i) of § 545.6-7, any loan on the security of other dwelling units (defined in § 541.10-3; generally multi-family apartment loans) falls within the general 20-percent-of-assets category without regard to the location of the security property. However, loans made on other dwelling units located within regular lending area also may be placed in the "special" 20-percent-of-assets category of § 545.6-7(c)(2), assuming that the other requirements of that category are met also. Under the previous "regular lending area" computation, a loan made on an apartment building located within the State but beyond the 100 mile radius around home or branch offices had to be included within the general category and could not be included in the special category. Under the revised "regular lending area" definition, such an apartment loan could be included within the "special" category. The same result applies to the type of security property described as "a combination of dwelling units, including homes, and business property involving only minor or incidental business use" (defined in § 541.11-1).

This same result applies to certain participation loans. Under § 545.6-7(c)(3)(ii) and (iii), a participation interest in a loan on the security of a single-family dwelling, a home, or combination of home and business property located beyond regular lending area but within the State had to be placed in either the general category or the "participation" 20-percent-of-assets category. By applying the revised statewide regular-lending-area definition, participation loans made on the security of such properties located within the State but beyond a 100-mile radius of home or branch offices, would not be subject to percentage-of-assets limitations.

In connection with expanding the regular lending area, the Board also finds it desirable to make four conforming amendments to § 545.6-7, as were discussed in said Resolution No. 73-921. These amendments delete now unnecessary exceptions from the previous restrictions for insured loans secured by a single-family dwelling, a home, or combination of home and business property located more than 100 miles from an office of the Federal association but within the State in which the association's home office is located. These exceptions are deleted from § 545.6-7(a)(1)(i), (c)(1)(ii)(b), (c)(1)(iii)(b) and (c)(2)(i). Insured loans now must be allocated to percentage-of-assets categories on the same basis as uninsured conventional loans.

Revised § 545.6-7(c)(2)(iii) provides that otherwise qualifying loans secured by other dwelling units or a combination of dwelling units, including homes, and business property involving only minor or incidental business use may be placed in the "special" 20-percent-of-assets category if, at the time the loan is allocated to that category, the lending Federal association meets the net worth requirement set forth in Insurance Regulation § 563.13. The provision previously required that at the time the loan was to be allocated to the "special" category, the Federal association's net worth had to be not less than 5% of the average of the association's savings accounts balances as of the close of the three preceding calendar years.

Accordingly, the Federal Home Loan Bank Board hereby amends said Part 545 by revising § 545.6-6 and paragraphs (a)(1)(i), (c)(1)(ii) and (iii), and (c)(2)(i) and (iii) of § 545.6-7 to read as set forth below, effective September 25, 1973.

Since the above amendments relieve restrictions, the Board hereby finds that the delay in the effective date of 30 days after publication in the FEDERAL REGISTER with respect to said amendments is unnecessary under the provisions of 12 CFR 508.14 and 5 U.S.C. 553(d), and the Board hereby provides that such amendments shall become effective as hereinbefore set forth.

**§ 545.6-6 Lending area.**

The regular lending area of a Federal association consists of the area: (a) Within the State in which such association's home office is located; (b) within any portion of a circle with a radius of 100 miles from such association's home office which is outside of the State in which such association's home office is located; and (c) in the case of a Federal association which is converted from a State-chartered institution, beyond the areas specified in paragraphs (a) and (b) of this section but within which area such association made loans while operating under State charter. Each converted association that desires to continue to make loans beyond the areas specified in paragraph (a) and (b) of this section but in the areas in which it made loans while operating under State charter shall file with the Board a map showing the areas within which such association made loans while operating under State charter. For the purpose of this section, the term "State" shall include the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States; and a county, parish, or similar political subdivision of a State is the unit of "area" in which a converted association made loans beyond the areas specified in paragraphs (a) and (b) of this section while operating under State charter.





**§ 545.6-7 Percentage limitations on real estate loan investments.**

(a) *Loan investments not subject to percentage limitations.* The following investments by a Federal association in loans on the security of real estate shall not be subject to any percentage-of-assets or percentage-of-savings-accounts limitation:

(1) A loan on the security of a single-family dwelling, or on the security of a home or combination of home and business property except, however, any such loan which is:

(i) On the security of any such property located beyond the association's regular lending area;

• • • • • •

(c) *Percentage limitations for other loans.* Except as specified in paragraphs (a) and (b) of this section, no Federal association may make any investment in a real estate loan unless the amount of such investment can be allocated within one or more of 3 percentage-limitation categories specified in this paragraph. In the case of a loan investment which is specified as allocable to more than one of the 3 categories, all or part of any allocation to any one of such categories may be reallocated at any time to another one of such categories, if applicable.

(1) *General 20-percent-of-assets category.* The following investments, not to exceed at any one time an amount equal to 20 percent of the association's assets, are allocable to this category:

(i) Any loan on the security of other improved real estate, other dwelling units, or a combination of dwelling units, including homes, and business property involving only minor or incidental business use, without regard to the location of the security property;

(ii) Any loan on the security of a single-family dwelling, if either—

(*a*) Such loan exceeds $45,000, or

(*b*) The security property is located beyond the association's regular lending area;

(iii) Any loan on the security of a home or combination of home and business property if either—

(*a*) The amount of such loan exceeds, for any dwelling unit in any such security property which is not a single-family dwelling, an amount prescribed in or under section 207(c)(3) of the National Housing Act; or

(*b*) The security property is located beyond the association's regular lending area;

• • • • • •

(2) *Special 20-percent-of-assets category.* The following investments, not to exceed at any one time an amount equal to 20 percent of the association's assets, are allocable to this category: any loan, or participation interest in a loan, on the security of other dwelling units or a combination of dwelling units, including homes, and business property involving only minor or incidental business use, if—

(i) The security property is located within the association's regular lending area;

• • • • • •

(iii) At the time of the allocation to this category, the association's net worth (as defined in § 561.13 of this chapter) meets the net worth requirement of § 563.13 of this chapter.

• • • • • •

(Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
*Assistant Secretary.*

[FR Doc.73-20417 Filed 9-24-73;8:45 am]

---

## SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

[No. 73-1338]

## PART 561—DEFINITIONS

## PART 563—OPERATIONS

### Normal Lending Territory

SEPTEMBER 14, 1973.

The Federal Home Loan Bank Board, by Resolution No. 73-922, dated July 3, 1973, proposed to amend Parts 561 and 563 of the Rules and Regulations for Insurance of Accounts (12 CFR Parts 561 and 563), for the purposes described herein. By a companion document (Resolution No. 73-921; July 3, 1973) the Board proposed collateral amendments to Part 545 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR Part 545). Notice of such proposed rulemaking was duly published in the FEDERAL REGISTER on July 15, 1973, and allowed until August 15, 1973, for interested persons to submit written comments. On the basis of its consideration of all relevant material presented by interested persons and otherwise available, the Board hereby amends said Parts 561 and 563 by revising §§ 561.22 and 563.9(b) to read as set forth below. By companion Resolution No. 73-1337, the Board adopts amendments to said Part 545.

The revised § 561.22 expands the definition of "normal lending territory" of insured institutions to conform with the expansion of "regular lending area" of § 545.6-6 for Federal associations as amended by Resolution No. 73-1337. "Normal lending territory" as previously defined by the Board in Insurance Regulation 561.22 was the same area as "regular lending area", except that the 100-mile radius from an insured institution's principal office, branch office or agency office was reduced to 50 miles if the insured institution has scheduled items (other than assets acquired in a merger instituted for supervisory reasons) in excess of 4 percent of its specified assets. Under the revised definition, "normal lending territory" includes the entire State in which an insured institution's



V 38 185 SEP 25 73 XUM

principal office is located, plus the territory within any portion of a circle with a radius of 100 miles from the institution's principal office which is outside of such state. The provision for "grandfathered" normal lending territory and the reduction in normal lending territory caused by having a scheduled items ratio in excess of 4 percent remains unchanged.

The term "normal lending territory" is used principally for nationwide loans (§ 563.9) and participation loans (§ 563.9–1). Under the previous § 563.9(b) nationwide lending provision, an insured institution having a scheduled-items ratio in excess of 4% had a 20-percent-of-assets limit on loans made on the security of real estate located between 50 and 100 miles from the principal, branch, agency or other approved office of the institution. Under revised § 563.9(b), the Board has put the section in conformity with the expanded normal lending territory definition by substituting a statewide limitation for the 100-mile limitation. This means that the 20-percent limit applies to loans made on the security of real estate located anywhere in the State but beyond 50 miles from the offices of an association which has a scheduled-items ratio in excess of 4%.

The application of § 563.9(e), concerning other nationwide loans, is also affected by the expansion of normal lending territory, although no language change was necessary. An investment by an insured institution in a conventional whole loan secured by improved real estate located beyond the previous 100 mile normal lending territory but within the State in which the insured institution's principal office is located was a "nationwide loan" and was subject to the 15%-of-assets limitation of § 563.9(e). As a result of the revision of "normal lending territory", such an in-State investment is no longer a "nationwide loan" and would not be subject to that percentage-of-assets limitation.

A similar change occurs in the participation loan provisions of § 563.9–1. Under § 563.9–1(b), concerning participation loans outside normal lending territory, the 40%-of-assets limitation previously included participation loan investments on the security of improved real estate located beyond the 100-mile radius but within the State. Under the expanded definition of normal lending territory, such investments are still "participation loans", but now are within § 563.9–1(a) (participation loans within normal lending territory) and are therefore not subject to any of the § 563.9–1(b) requirements.

Accordingly, the Federal Home Loan Bank Board hereby amends Parts 561 and 563 of the Rules and Regulations for the Federal Savings and Loan Insurance Corporation by revising §§ 561.22 and 563.9(b) to read as set forth below, effective September 25, 1973.

Since the above amendments relieve restriction, the Board hereby finds that the delay in the effective date of 30 days after publication in the FEDERAL REGISTER with respect to said amendments is unnecessary under the provisions of 12 CFR 508.14 and 5 U.S.C. 553(d), and the Board hereby provides that such amendments shall become effective as hereinbefore set forth.

**§ 561.22 Normal lending territory.**

(a) *Scheduled items not in excess of 4 percent.* "Normal lending territory" for an insured institution which, at the close of its most recent semiannual period, had scheduled items (other than assets acquired in a merger instituted for supervisory reasons) not in excess of 4 percent of its specified assets means the territory: (1) Within the State in which such institution's principal office is located; (2) within any portion of a circle with a radius of 100 miles from such institution's principal office which is outside of the State in which such institution's principal office is located; and (3) beyond paragraph (a)(1) and (2) of this section but within which territory the institution was operating on June 27, 1934.

(b) *Scheduled items in excess of 4 percent.* "Normal lending territory" for an insured institution which, at the close of its most recent semiannual period, had scheduled items (other than assets acquired in a merger instituted for supervisory reasons) in excess of 4 percent of its specified assets means the territory: (1) Within the portion of the State in which the institution's principal office is located which is within a radius of 50 miles from such principal office or from each place of business which has been approved in writing by the institution's appropriate supervisory authority as a branch office, agency office, or similar place of business for such institution; (2) within any portion of a circle with a radius of 50 miles from such institution's principal office which is outside of the State in which such institution's principal office is located; and (3) beyond 50 miles from such institution's principal office but within which territory the institution was operating on June 27, 1934.

(c) *Definitions.* For the purpose of this section, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States; and a county, parish, or similar political subdivision of a State is the unit of "territory" in which the institution was operating on June 27, 1934.

**§ 563.9 Nationwide lending.**

* * * * *

(b) *Loans beyond normal lending territory when scheduled items exceed 4%.* Any insured institution which, at the close of its most recent semiannual period, had scheduled items (other than assets acquired in a merger instituted for supervisory reasons) in excess of 4 percent of its specified assets, may, to the extent that it has legal power to do so, make or purchase whole loans in an aggregate amount not exceeding 20 percent of its assets on the security of real estate located outside its normal lending territory but within the State in which its principal office is located.

* * * * *

(Secs. 402, 403, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1726. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
*Assistant Secretary.*

[FR Doc.73–20418 Filed 9–24–73;8:45 am]

---

FEDERAL HOME LOAN BANK BOARD

[No. 73–1341]

## PART 563—OPERATIONS

### NOW Accounts

SEPTEMBER 14, 1973.

Section 2(a) of Public Law No. 93–100 of August 16, 1973, provides that "No depository institution [as defined in section 2(b)] shall allow the owner of a deposit or account on which interest or dividends are paid to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties, except that such withdrawals may be made in the States of Massachusetts and New Hampshire." By section 8 thereof, section 2 takes effect on the thirtieth day after its enactment.

The Federal Home Loan Bank Board, as the operating head of the Federal Savings and Loan Insurance Corporation, considers it desirable to amend Part 563 of the Rules and Regulations for Insurance of Accounts by adding a new § 563.7–3 thereto. The purpose of the new section is to make clear that the Board considers that section 2 of said Public Law No. 93–100 permits each insured institution having its principal office in New Hampshire or Massachusetts to allow the owner of a savings account on which interest or dividends are paid to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties. By companion Resolution No. 73–1340, the Board adopts a similar amendment to Part 545 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR Part 545). By companion Resolution No. 73–1339, the Board proposes amendments to Part 526 of the Regulations for the Federal Home Loan Bank System (12 CFR Part 526) relating to the issuance and payment of interest or dividends on transaction accounts by member institutions having their home offices in New Hampshire or Massachusetts.

Accordingly, the Federal Home Loan Bank Board hereby amends said Part 563 by adding a new § 563.7–3 thereto, immediately after § 563.7–2, to read as set forth below, effective September 15, 1973.

Since affording notice and public procedure on the above amendment would delay it from becoming effective for a period of time and since it is in the public interest that such amendment becomes effective as soon as possible, the Board hereby finds that notice and public procedure thereon are contrary to the public interest under the provisions of 12 CFR 508.11 and 5 U.S.C. 553(b); and the Board hereby finds that publication of such amendment for the 30-day period specified in 12 CFR 508.14 and 5 U.S.C. 553(d) prior to the effective date thereof is unnecessary since it relieves restrictions; and the Board hereby provides that such amendment shall become effective as hereinbefore set forth.

**§ 563.7–3 Exception for transaction accounts.**

Notwithstanding any other provision of this subchapter D to the contrary, each insured institution having its principal office in New Hampshire or Massachusetts is not prohibited from allowing the owner of a savings account on which interest or dividends are paid to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties.

(Secs. 402, 403, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1726. Public Law 93–100. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
*Assistant Secretary.*

[FR Doc.73–20420 Filed 9–24–73;8:45 am]

---

## Title 14—Aeronautics and Space

## CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 11423; Amdt. 39–1723]

## PART 39—AIRWORTHINESS DIRECTIVES

### Nickel-Cadmium Batteries

Amendment 39–1521 (37 FR 18522), AD 72–19–4, as amended by Amendment 39–1598 (38 FR 5238), effective March 6, 1973, requires, in part, that aircraft to which it applies be modified before October 1, 1973, to prevent a possible battery fire that could result from overheating caused by an undetected battery failure. The required modification must be FAA approved as meeting one of the following three alternative objectives: (1) Automatic control of battery charging rate as a function of battery temperature; (2) warning of battery overtemperature, based on sensing of battery temperature, with means and procedures for disconnecting the battery from the charging source; and (3) warning of battery failure with means and procedures for disconnecting the battery from its charging source.

After the issuance of Amendment 39–1598, the FAA has determined that parts are not available in sufficient quantities to permit timely compliance by all affected persons. Furthermore, the FAA has determined that sufficient parts will be available in time to permit compliance by February 1, 1974, and that extension of the compliance time until that date will have no adverse effect on safety. Therefore, Amendment 39–1521, AD 72–19–4, as amended by Amendment 39–1598, is being further amended to require acceptable modification before February 1, 1974.

Since this amendment merely extends a compliance date and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c).)

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (14 CFR § 11.89), § 39.13 of Part 39 of the Federal Aviation Regulations, Amendment 39–1521 (37 F.R. 18522), AD 72–19–4, as amended by Amendment 39–1598 (38 F.R. 5238), is further amended by striking out the words "October 1, 1973" from paragraph (f) and inserting the words "February 1, 1974" in place thereof.

Issued in Washington, D.C., on September 11, 1973.

This amendment becomes effective September 19, 1973.

JAMES F. RUDOLPH,
*Director,*
*Flight Standards Service.*

[FR Doc.73–20351 Filed 9–24–73;8:45 am]

---

[Airworthiness Docket No. 73–WE–16–AD; Amdt. 39–1720]

## PART 39—AIRWORTHINESS DIRECTIVES

### General Dynamics Model 340/440 and C–131E Airplanes, Including Those Converted to Turbo-Propeller Power

There have been cracks in the nose landing gear, left hand upper, drag struts in the area of the shear-bolt bore that could result in failure of the drag strut and collapse of the nose landing gear. Since this condition is likely to exist or develop in airplanes of the same type design, an A.D. is being issued to require repetitive inspections and replacement or repair of cracked drag struts on General Dynamics Model 340/440 and C–131E airplanes, including those converted to turbo-propeller power.

The 1200 landing compliance time for the initial inspection and modification has been established by the agency on the basis of safety considerations. It is the same as that recommended in General Dynamics Service Bulletin No. 32–8, dated August 10, 1973.

This compliance time provides the lead time for operators to schedule and plan compliance with the AD with a minimum burden. To prescribe the initial inspection and modification required by this AD under the usual notice and public procedures followed by the agency within the time the agency has determined is required in the interest of safety, would necessarily result in a reduction of the compliance time for the initial inspection and modification required by this A.D. This could possibly leave the operators insufficient time to schedule airplanes for compliance with the A.D. Therefore, accomplishment of the initial inspection and modification required by this A.D. within the time the agency has determined is necessary makes strict compliance with the notice and public procedure provisions of the Administrative Procedure Act impracticable and this amendment becomes effective 30 days after publication in the Federal Register. However, interested persons are invited to submit such written data, views, or arguments as they may desire regarding this A.D. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Regional Counsel, FAA Western Region, Attention: Rules Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. All communications received before the effective date will be considered by the Administrator, and the AD may be changed in the light of comments received. All comments will be available both before and after the effective date in the Rules Docket for examination by interested persons. Operators are urged to submit their comments as early as possible so that comments will be received in sufficient time to amend the AD before it becomes effective.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

GENERAL DYNAMICS. Applies to Models 340/440 and C–131E airplanes certificated in all categories, including those converted to Turbo-propeller power.

Compliance required as indicated.

To detect cracks originating at the shear-bolt bore in the drag strut, and to prevent possible failure of the landing gear, accomplish the following:

(a) Non-Modified Struts (See Note, below).

(1) Within 1200 landings after the effective date of this A.D., unless already accomplished within the last 4800 landings prior to this A.D., perform a disassembly inspection of the nose landing gear, left hand, upper drag strut for crack development in the area of the clutch plate to strut shear bolt attach hole per General Dynamics Service Bulletin No. 32–8, dated August 10, 1973, or later FAA-approved revisions, and modify the strut per Part III of the Bulletin.

(2) If no cracks are found, repeat the inspection at intervals not to exceed 6000 landings thereafter, until the strut has been modified in accordance with the provisions of Part IV, Service Bulletin No. 32–8, or later FAA-approved revisions.

(3) If cracks are located, replace the drag strut with new or serviceable parts of the same type design. The various configurations and the reinspection requirements are as shown below:

(A) The installation of new P/N 340–7310231–1 parts reconfigured per Part IV of Service Bulletin No. 32–8 or original configuration P/N's 340–5210103 and 340–5215103 struts modified per Part III and Part IV of Service Bulletin No. 32–8 constitutes terminating action.

(B) If new or previously modified struts are used for replacement, which do not have the modifications of Part IV, Service Bulletin No. 32–8 incorporated, perform repetitive inspections at intervals not to exceed







V 38 185 SEP 25 73 XUM

6000 landings from the time of replacement.

(C) If previously modified parts are used for replacement that have a subsequent rework accomplished per Part IV of Service Bulletin No. 32–8, perform an initial inspection at or before 20,000 landings following rework, and at intervals not to exceed 6000 landings thereafter.

(D) Struts repaired per Part II of the Service Bulletin No. 32–8, or later FAA-approved revisions, will be inspected at intervals not to exceed 6000 landings following the repair.

(b) Modified or New Struts (See Note, below).

(1) On or before 20,000 landings after the effective date of this AD, perform a disassembly inspection of the nose landing gear, left hand upper drag strut in the area of the clutch plate to strut shear bolt attach hole as specified in General Dynamics Service Bulletin No. 32–8, or later FAA-approved revisions.

(2) If no cracks are found, repeat the inspection in (b)(1), above, at intervals not to exceed 6000 landings until the strut has been modified in accordance with the provisions of Part IV, Service Bulletin No. 32–8, or later FAA-approved revisions.

(3) If cracks are found, replace the drag struts with new or serviceable parts of the same type design. Re-inspection requirements for each type part are as specified in (a)(3)(A)(B)(C) and (D), above.

(c) Equivalent inspections and installations may be approved by the Chief, Aircraft Engineering, FAA Western Region.

(d) For the purpose of complying with this A.D., subject to acceptance by the assigned FAA Maintenance Inspector, the number of landings may be determined by dividing each airplane's hours time in service by the operators fleet average time from takeoff to landing for the airplane type.

NOTE.—The following definitions apply.

Non-Modified Struts—This is an original configuration strut, which has not been modified by previous Service Engineering Reports or by Service Bulletin 32-8.

Modified Struts—This includes all struts modified by previous SER's No. 15–4–340–38/440–38 and 15–4–440–44A/440–44 and/or by Part III of Service Bulletin No. 32–8 that have not been modified per Part IV of Service Bulletin No. 32–8.

New Struts—Part Number 340–7310231–1 struts that have not been reworked per Part IV of Service Bulletin No. 32–8.

This amendment becomes effective October 18, 1973.

(Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c).))

Issued in Los Angeles, California, on September 7, 1973.

ROBERT O. BLANCHARD,
*Acting Director,*
*FAA Western Region.*

[FR Doc.73–20352 Filed 9–24–73;8:45 am]

[Airspace Docket No. 73–AL–8]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

### Redesignation of Colored Federal Airways and Reporting Points

On June 26, 1973, a notice of proposed rulemaking (NPRM) was published in the Federal Register (38 FR 16785) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter Amber Federal Airway No. 1 between Anchorage and Skwentna, Alaska, Radio Rangers; revoke Red Federal Airway No. 82 between Skwentna and Matanuska, Alaska, Intersection; redesignate the Skwentna Transition Area to include a smaller area and also lower the floor; and effect editorial changes generated by conversion of the Anchorage and Skwentna Radio Ranges to Radio Beacons and NAVAID name changes.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. No comments were received.

Effective October 11, 1973, the Anchorage and Skwentna Radio Ranges (RR) will be converted to Radio Beacons (RBN), and the Anchorage NAVAID will be renamed at that time as the Campbell Lake RBN. The editorial amendment associated with these NAVAIDS will be made effective simultaneously with the conversions, and are contained herein as Airspace Docket No. 73–AL–8. The substantive amendment proposed in the Notice will be contained in Airspace Docket No. 73–AL–8A which will be published later with an effective date of November 8, 1973, and will reflect the realignment of Amber Airway No. 1 from Campbell Lake RBN to Skwentna RBN, revocation of Red Airway No. 82 in its entirety, and reconfiguration of the Skwentna Transition Area.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 GMT, October 11, 1973, as hereinafter set forth.

1. Section 71.103 (38 FR 305 and 22770) is amended as follows:

a. In G–8 "INT northeast course Kenai and a bearing of 266° from Anchorage, Alaska, RR; Anchorage RR; INT northeast course Anchorage RR and southeast course Skwentna, Alaska, RR;" is deleted and "INT northeast course Kenai and a bearing of 266° from Campbell Lake, Alaska, RBN; Campbell Lake RBN; INT Campbell Lake RBN 026° and Skwentna, Alaska, RBN 111° bearings;" is substituted therefor.

b. In G–9 "Anchorage, Alaska, RR." is deleted and "to Campbell Lake, Alaska, RBN." is substituted therefor.

2. Section 71.105 (38 FR 305 and 21492) is amended as follows:

In A–1 "INT west course Hinchinbrook RR and southeast course Anchorage, Alaska, RR; Anchorage, RR; INT northwest course Anchorage and southeast course Skwentna, Alaska, RR; Skwentna RR;" is deleted and "INT west course Hinchinbrook RR and 122° Campbell Lake, Alaska, RBN; Campbell Lake RBN; INT Campbell Lake RBN 331° and Skwentna, Alaska, RBN 111° bearings; Skwentna RBN;" is substituted therefor.

3. Section 71.107 (38 FR 306) is amended as follows:

a. In R–40 "INT east course Kenai, Alaska, RR and southwest course Anchorage, Alaska, RR; Anchorage, RR." is deleted and "to Campbell Lake, Alaska, RBN." is substituted therefor.

b. R–82 is amended to read:

"R–82 from Skwentna, Alaska, RBN; to INT Skwentna RBN 111° and Campbell Lake, Alaska, RBN 026° bearings."

4. Section 1.109 (38 FR 306 and 8133) is amended as follows:

In B–26 "From Anchorage, Alaska, RR," is deleted and "From Campbell Lake, Alaska, RBN, via" is substituted therefor.

5. Section 71.171 (38 FR 351) is amended as follows:

In Anchorage, Alaska (Anchorage International Airport), "Anchorage RR southwest course extending from the 5-mile radius zone to 8.5 miles southwest of the RR;" is deleted and "Campbell Lake RBN 209° bearing extending from the 5-mile radius zone to 8.5 miles southwest of the RBN;" is substituted therefor.

6. Section 71.211 (38 FR 618) is amended as follows:

a. "Anchorage, Alaska, RR" is deleted and "Campbell Lake, Alaska, RBN" is substituted therefor.

b. "Skwentna, Alaska, RR" is deleted and "Skwentna, Alaska, RBN" is substituted therefor.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c).))

Issued in Washington, D.C., on September 10, 1973.

CHARLES H. NEWPOL,
*Acting Chief, Airspace and*
*Air Traffic Rules Division.*

[FR Doc.73–20353 Filed 9–24–73;8:45 am]

[Airspace Docket No. 73–SW–56]

## PART 73—SPECIAL USE AIRSPACE

### Revocation of Restricted Area

The purpose of this amendment to Part 73 of the Federal Aviation Regulations is to revoke Restricted Area R–5116A and R–5116B, White Sands Missile Range, N. Mex.

The United States Air Force has advised the Federal Aviation Administration that the requirement for restricted airspace R–5116 A & B is no longer valid.

Since this amendment returns the airspace to public use and is a minor amendment upon which the public would have no particular reason to comment, notice and public procedure thereon are unnecessary. In order to make this airspace available for public use at the earliest possible date, good cause exists for making this amendment effective on less than 30 days notice.

In consideration of the foregoing, Part 73 of the Federal Aviation Regulations is amended, effective September 25, 1973.

Section 73.51 (38 FR 658, 1923, 14271 and 12735) is amended as follows:

1. "R–5116A White Sands Proving Grounds, N. Mex." is deleted.

2. "R–5116B White Sands Proving Grounds, N. Mex." is deleted.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c).))

Issued in Washintgon, D.C., on September 10, 1973.

CHARLES H. NEWPOL,
*Acting Chief, Airspace and*
*Air Traffic Rules Division.*

[FR Doc.73–20354 Filed 9–24–73;8:45 am]

[Airspace Docket No. 73–WA–39]

## PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

### Alteration of RNAV Waypoint Reference Facilities

The purpose of this amendment to Part 75 of the Federal Aviation Regulations is to amend several RNAV waypoint reference facilities on J859R, J880R, and J992R. These changes are prompted by the alteration of other RNAV routes which share common waypoints with J859R, J880R, and J992R. The action taken herein will assign a single reference facility to waypoints which are included in more than one route.

Since this amendment is minor in nature with no substantive change in regulation and upon which the public affected thereby would not be particularly interested in commenting, notice and public procedure thereon are unnecessary. However, since sufficient time must be allowed to make appropriate changes on aeronautical charts, this amendment will become effective in more than 30 days after publication.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., November 8, 1973, as hereinafter set forth.

Section 75.400 (38 FR 700) is amended as follows:

*Waypoint, location, and reference facility*

1. In J859R Kansas City, Mo., to Denver, Colo., "Walcott, Kans.; 39°13'06" N. 94°59'28" W.; Salina, Kans., Enterprise, Kans. 38°58'04" N. 96°59"46" W. Salina, Kans.," is deleted and "Walcott, Kans., 39°13'06" N. 94°59'28" W. Butler, Mo., Enterprise, Kans., 38°58'04" N. 96°59'46" W. Wichita, Kans.," is substituted therefor.

2. In J880R Jacksonville, Fla., to Cleveland, Ohio, "Beech Mountain, N.C., 36°05'30" N. 82°04'58" W. Greensboro, N.C.," is deleted and "Beech Mountain, N.C., 36°05'30" N. 82°04'58" W. Spartanburg, S.C.," is substituted therefor.

3. In J992R Refinery, Tex., to Tulsa, Okla., "Tulsa, Okla., 36°11'46" N. 95°47'16" W. Oklahoma City, Okla.," is deleted and "Tulsa, Okla., 36°11'46" N. 95°47'16" W. Tulsa, Okla.," is substituted therefor.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c).))

Issued in Washington, D.C., on September 10, 1973.

CHARLES H. NEWPOL,
*Acting Chief, Airspace and*
*Air Traffic Rules Division.*

[FR Doc.73–20355 Filed 9–24–73;8:45 am]





[Airspace Docket No. 73–RM–19]

## PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

### Extension of Jet Route

On July 20, 1973, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (38 FR 19415) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 75 of the Federal Aviation Regulations that would extend Jet Route 148 from Delta, Utah, to Coaldale, Nev.

Interested persons were afforded an opportunity to participate in the proposed rulemaking through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 6, 1973, as hereinafter set forth.

In § 75.100 (38 FR 681) the description of the Jet Route 148 is amended to read as follows:

Jet Route No. 148. From Coaldale, Nev., via Delta, Utah; Myton, Utah; Cheyenne, Wyo.; to O'Neill, Nebr.

This amendment is made under the authority of Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on September 17, 1973.

H. B. HELSTROM,
*Chief, Airspace and Air*
*Traffic Division.*

[FR Doc.73–20356 Filed 9–24–73;8:45 am]

[Docket No. 13181; Amdt. No. 881]

## PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

### Miscellaneous Amendments

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAP's) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAP's for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260–3, 8260–4, or 8260–5 and made a part of the public rulemaking dockets of the FAA in accordance with the procedures set forth in Amendment No. 97–696 (35 FR 5609).

SIAP's are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. Copies of SIAP's adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAP's may be purchased from the FAA Public Document Inspection Facility, HQ–405, 800 Independence Avenue SW., Washington, D.C. 20591, or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150.00 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30.00 each.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.23 is amended by originating, amending, or canceling the following VOR–VOR/DME SIAP's, effective October 28, 1973.

Ft. Worth, Tex.—Greater Southwest Int'l Dallas/Ft. Worth Field, VOR Rwy 13, Amdt. 12, Canceled.
Ft. Worth, Tex.—Greater Southwest Int'l Dallas/Ft. Worth Field, VOR/DME Rwy 35, Amdt. 3, Canceled.

• • • effective October 25, 1973

Brownsville, Tex.—Brownsville Int'l Arpt., VOR Rwy 26, Amdt. 14.
Commerce, Tex.—Commerce Municipal Arpt., VORTAC–A, Amdt. 1.
Pontiac, Mich.—Oakland-Pontiac Arpt., VOR Rwy 9R, Amdt. 14.
Pontiac, Mich.—Oakland-Pontiac Arpt., VOR Rwy 27L, Amdt. 7.
Waco, Tex.—Waco-Madison Cooper Arpt., VOR Rwy 14, Amdt. 14.
Waco, Tex.—Waco-Madison Cooper Arpt., VORTAC Rwy 32, Amdt. 6.

• • • effective September 27, 1973

Salinas, Cal.—Salinas Municipal Arpt., VOR Rwy 13, Amdt. 7.
Salinas, Cal.—Salinas Municipal Arpt., VOR/DME–A, Amdt. 2.
Salinas, Cal.—Salinas Municipal Arpt., VOR/DME Rwy 13, Amdt. 2.
Santa Ynez, Cal.—Santa Ynez Arpt., VOR–A, Amdt. 1.

2. Section 97.25 is amended by originating, amending, or canceling the following SDF–LOC–LDA SIAP's, effective October 28, 1973.

Ft. Worth, Tex.—Greater Southwest Int'l Dallas/Ft. Worth Field, LOC (BC) Rwy 31, Amdt. 16, Canceled.

• • • effective October 25, 1973

Waco, Tex.—Waco-Madison Cooper Arpt., LOC (BC) Rwy 36, Amdt. 4.

• • • effective September 27, 1973

Niagara Falls, N.Y.—Niagara Falls Int'l Arpt., LOC (BC) Rwy 10L, Amdt. 1.

3. Section 97.27 is amended by originating, amending, or canceling the following NDE/ADF SIAP's, effective October 28, 1973.

Ft. Worth, Tex.—Greater Southwest Int'l Dallas/Ft. Worth Field, NDB Rwy 13, Amdt. 17, Canceled.

• • • effective October 25, 1973

Brownsville, Tex.—Brownsville Int'l Arpt., NDB Rwy 13R, Amdt. 5.



V 38 I 185 SEP 25 73 XUM

Brownsville, Tex.—Brownsville Int'l Arpt., NDB Rwy 17L, Orig., Canceled.
Ft. Lauderdale, Fla.—Ft. Lauderdale Executive Arpt., NDB Rwy 8, Orig.
Heber Springs, Ark.—Heber Springs Municipal Arpt., NDB-A, Amdt. 2.
Philadelphia, Pa.—Philadelphia Int'l Arpt., NDB Rwy 27L, Orig.
Waco, Tex.—Waco-Madison Cooper Arpt., NDB Rwy 18, Amdt. 9.

4. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAP's, effective October 28, 1973.

Ft. Worth, Tex.—Greater Southwest Int'l Dallas/Ft. Worth Field, ILS Rwy 13, Amdt. 17, Canceled.

• • • effective October 25, 1973

Brownsville, Tex.—Brownsville Int'l Arpt., ILS Rwy 13R, Amdt. 2.
Miami, Fla.—Miami Int'l Arpt., ILS Rwy 27R, Amdt. 1.
Pontiac, Mich.—Oakland-Pontiac Arpt., ILS Rwy 9R, Amdt. 2.
Waco, Tex.—Waco-Madison Cooper Arpt., ILS Rwy 18, Amdt. 6.

• • • effective September 27, 1973

Salinas, Cal.—Salinas Municipal Arpt., ILS/DME Rwy 31, Orig.

• • • effective August 30, 1973

Newark, N.J.—Newark Int'l Arpt., ILS Rwy 22R, Amdt. 5, Canceled.

5. Section 97.31 is amended by originating, amending, or canceling the following Radar SIAP's, effective October 28, 1973.

Ft. Worth, Tex.—Greater Southwest Int'l Dallas/Ft. Worth Field, RADAR-1, Amdt, 8, Canceled.

• • • effective October 25, 1973

Augusta, Ga.—Daniel Field, RADAR-1, Orig.
Augusta, Ga.—Bush Field, RADAR-1, Orig.
Covington, Ky.—Greater Cincinnati Arpt., RADAR-1, Amdt. 14.

6. Section 97.33 is amended by originating, amending, or canceling the following RNAV SIAP's, effective October 28, 1973.

Ft. Worth, Tex.—Greater Southwest Int'l Arpt. Dallas/Ft. Worth Field RNAV Rwy 31, Amdt. 1, Canceled.
Ft. Worth, Tex.—Greater Southwest Int'l Arpt. Dallas/Ft. Worth Field RNAV Rwy 35, Amdt. 1, Canceled.

• • • effective October 25, 1973

Cleveland, Ohio—Cleveland Hopkins Int'l Arpt., RNAV Rwy 23L, Amdt. 2, Canceled.
Houston, Tex.—Houston Intercontinental Arpt. RNAV Rwy 26, Orig.
Pontiac, Mich.—Oakland - Pontiac Arpt., RNAV Rwy 27L, Amdt. 1.

• • • effective August 30, 1973

Columbus, Ind.—Bakalar Municipal Arpt., RNAV Rwy 22, Orig., Canceled.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1948; 49 U.S.C. 1438, 1354, 1421, 1510, Sec. 6(c) Department of Transportation Act, 49 U.S.C. 1655(c) and 5 U.S.C. 552(a)(1).)

Issued in Washington, D.C., on September 6, 1973.

JAMES M. VINES,
*Chief,*
*Aircraft Programs Divisions.*

NOTE.—Incorporation by reference provisions in §§ 97.10 and 97.20 (35 FR 5610) approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.73-20357 Filed 9-24-73;8:45 am]

## Title 17—Commodity and Securities Exchanges

### CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-10391]

### PART 241—INTERPRETATIVE RELEASES RELATING TO THE SECURITIES EXCHANGE ACT OF 1934 AND GENERAL RULES AND REGULATIONS THEREUNDER

### Interpretation of "Affiliated Person"

The Securities and Exchange Commission today announced that it has sent the following letter to the New York Stock Exchange in response to the Exchange's proposed interpretation of the term "affiliated person" as used in Rule 19b-2 under the Securities Exchange Act of 1934 [17 C.F.R. 240.19b-2] and in the New York Stock Exchange's Rule 318:

THE NEW YORK STOCK EXCHANGE,
*Eleven Wall Street,*
*New York, N.Y.*

Attention: David D. Huntoon
Re: Proposed Interpretation of the Term "Affiliated Person"

GENTLEMEN: This is in further response to your letter of May 31, 1973 enclosing for our concurrence a "significant interpretation" of the term "affiliated person", as that term is used in Securities Exchange Act Rule 19b-2 and NYSE Rule 318. While our letter of June 1, 1973 indicated that we had no objection to your issuance of the proposed interpretation as of that date, pending our consideration of its appropriateness, it also indicated that, because of the importance of this interpretation, we would solicit public comments thereon. We further stated that it might be necessary to revise the proposed interpreation as a result of our conclusions after further consideration of the interpretation and any comments received. We have received comments from thirteen persons and organizations representing various sectors of the investment community expressing diverse views regarding the appropriateness of the interpretation. Our conclusions, based on our consideration of the comments received and our view of the purposes of Rule 19b-2, as expressed in Securities Exchange Act Release No. 9950 (January 16, 1973), are set forth below.

The proposed interpretation delineates certain circumstances under which the term "affiliated person" would include an institutional account over which a money manager exercises investment discretion. Rule 19b-2, clause (b) provides, in part, that an "affiliated person" of a member shall include:

"(1) any person directly or indirectly controlling, controlled by or under common control with such member, whether by contractual arrangement or otherwise, provided that the right to exercise investment discretion with respect to an account, without more, shall not constitute control; • • •" Thus, under clause (b)(1), in order to find that a person is an "affiliated person" for purposes of Rule 19b-2 a finding of "control" must be made. NYSE Rule 318 contains identical language.

The NYSE's proposed interpretation would find the existence of "control" in all cases where, in addition to having investment discretion, a money manager, by contract or by furnishing additional services, has decreased the likelihood that his customer will dispense with his services in favor of those of another money manager on the basis of competitive merit alone. While in certain respects the NYSE's interpretation is consistent with the "competitive merit" considerations which we enunciated in Release No. 9950, at pages 152 and 153, the rigid approach implicit in the interpretation would deprive the term "control" of the flexibility which we intended it to have by giving rise to an irrebuttable presumption of control without regard to whether, in a particular case, control is actually present.

The terms "affiliated person" and "control" were assigned by the Commission "their traditional legal meanings", as indicated in Release No. 9950 at footnote 434 on page 152, and the NYSE should utilize those traditional meanings in applying Rule 19b-2 and its Rule 318. While it may be difficult for securities exchanges to probe the relationships between customers and their money managers and other factual circumstances having a bearing on the question of control, denial of membership on an exchange is a serious matter and must be based on a careful review of all relevant facts and the particular circumstances of each case. At page 8 of Release No. 9950 we stated that Rule 19b-2 *"requires"* exchanges "to make exchange membership available to *any* person or entity, assuming minimum standards of financial responsibility and competency are met" and assuming the availability of a seat, "provided *only* that each member demonstrate his commitment to compete for the public's exchange securities business" [emphasis supplied]. This does not mean that each member must prove that persons for whom the member effected at least 80 percent of the value of its exchange securities transactions during the preceding six months were not affiliates of the member. Rather, disclosure of the identity of a member's affiliates (if any) and a showing that the required volume of transactions was for persons other than those affiliates satisfactorily demonstrates the requisite commitment of the public's business. A determination that a broker-dealer is not engaged in a "public securities business" as defined in Rule 19b-2 and Rule 318 must be bottomed on findings more substantial and more carefully tailored to particular situations that those envisaged by the NYSE's proposed interpretation. All exchanges should carefully formulate questions to be put to their memberships and to applicants for membership designed to uncover the identities of affiliates and the amount of business done for the accounts of those affiliates. The exchanges' power under their rules to compel disclosures which will reveal control relationships cannot be questioned. The burden of proof that a broker-dealer's claimed "public" business is in fact a "private" business because of a control relationship with its customer, however, must rest with the securities exchange which denies membership.

An additional disagreement we have with the NYSE's interpretation stems from its premise that a money manager's "control" over an "account" can be determined without also determining that a money manager is in a control relationship with the persons who own the account or are charged with its care. It is difficult to conceive of a money management relationship which by itself so separates an account from the persons whose account it is or those charged with its care that control over the account could be said to have passed to the money manager. We believe that such a situation generally could exist only where other factors clearly establish a money manager's control relationship with those persons sufficient to enable the money manager to direct their allocation of money management for the account. Those ultimately responsible for an account are legally entitled, and, indeed, are obliged, to make such disposition of the funds constituting the account as they deem appropriate. No money management agreement, whatever its terms may be, can deprive such ultimately responsible persons of that right or relieve them of that duty. At page 153 of Release No. 9950 we noted that whether an adviser "with mere discretionary authority over an account" was a broker, an insurance company or a bank, he was "subject to discharge by whoever is ultimately in control of the account." We also noted that if the element of competition for the account's business was present and the money manager had no authority in the selection or retention of a money manager, that account "should not be considered a captive or 'controlled' advisory account." In the words of Release No. 9950, at page 152, it is the receipt of business "because of an identity of interest between the broker and his 'customer'" that requires the business to be characterized as private, rather than public. In this context, the person owning or ultimately responsible for the account, not the account itself, is the customer.

A transaction executed by a broker-dealer subsidiary of an insurance company, for example, for an account of its parent—consisting of the parent's assets invested for its sole benefit—is clearly executed for an affiliated person and does not qualify as public securities business. A transaction executed for a corporation's pension fund account managed by that insurance company parent, however, should qualify as public business absent other circumstances evidencing a control relationship between the insurance company and the trustees of the pension fund or the corporation (in the event the pension fund's trustees are deemed affiliates of the corporation). As we stated in Release No. 9950 at pages 155 and 156:

"Where the insurance company, or its subsidiary, is simply managing and investing pension fund assets without any other indicia of control, as is typically the case with a separate account, we would consider transactions executed on an exchange for the account by the insurer's affiliated member to be public business • • •."

The NYSE's interpretation would make ready and inexpensive mobility of an account the definitive test of whether a control relationship exists between the money manager and the person owning or charged with custody of that account. Mobility of a managed account is, of course, an evidentiary factor to be considered in determining whether a control relationship exists between a money manager and his customer, but the customer must be allowed sufficient latitude to exchange easy mobility of the account for economical packages of money management, brokerage and other services. Contractual impediments to mobility (e.g., notice periods prior to cancellation, liquidated damages, termination or increase in price of other services) do not by themselves, except in extreme cases, demonstrate either conclusively or presumptively that a control relationship between the parties exists.

Similarly, the coupling of investment discretion over a customer's account with commercial banking, insurance or investment banking services does not prove the existence of a control relationship, although it may be evidence of it, particularly where it can be demonstrated that a mix of services provided to the customer at a particular price was not obtainable from any other source. For example, the fact that a bank may provide various banking services to a corporation in addition to managing its employees' profit-sharing plan is not a sufficient basis for concluding that a control relationship exists between them. Moreover, the fact that an insurance company may write group life insurance for a corporation in addition to managing its employees' pension fund would be unlikely to affect the corporation's desire to seek the best available performance, consistent with the most economical cost of management, for its pension fund.

Certainly state law to the effect that "separate accounts" of an insurance company are to be deemed property of that insurance company has little, if anything, to do with whether the persons beneficially interested in or ultimately responsible for such accounts are in a control relationship with the insurance company. While many states have adopted statutes under which separate accounts legally are deemed to be the property of insurance companies (for purposes quite different from those governing qualification for exchange membership), such laws do not change the practical nature of these separate accounts whereby all gains and losses, as well as income, inure to the benefit of the account holder. Furthermore, these state statutes typically provide that the assets of separate accounts may not be used to satisfy the obligations of the insurance company. Even more significantly, the technical ownership of the funds by the insurer does not, as a practical matter, restrict their mobility. Thus, such laws cannot be said to constitute a realistic index of control sufficient to overcome our view that for purposes of Rule 19b-2 separate accounts of insurance companies are essentially public business. To assert the existence of affiliation under such circumstances would appear to contravene the conclusion articulated in Release No. 9950 that separate accounts of insurance companies would be considered to be "public" business, absent a showing of other indicia of control. As stated by the Supreme Court in *Rochester Telephone Corp.* v. *United States*, 307 U.S. 125, 145 (1959): "• • • control cannot be determined by artificial tests but is an issue of fact to be determined by the special circumstances of each case."

In light of the foregoing, it appears that none of the hypothetical cases submitted by the NYSE set forth facts sufficient to support a predetermined finding of control by a money manager over the persons owning or charged with custody of a pension fund or trust. Thus, it does not appear that the NYSE's proposed interpretation is in accord with the intent of Rule 19b-2 and the interpretation therefore should be promptly withdrawn. While the Commission encourages the NYSE to publish new hypothetical situations which illustrate cases in which the NYSE believes that facts will require it to find that a control relationship exists, such hypotheticals should be drawn with the principles set forth above in mind. Such hypotheticals, of course, as significant interpretations, should be submitted to the Commission for its review prior to their circulation.

The Commission, in promulgating Rule 19b-2, of course, stressed the experimental nature of its policymaking endeavors, thus leaving open the possibility that changes in the rule might be appropriate after necessary experience with the rule has been obtained. The interpretations you have furnished would effect significant changes in the concept of the term "affiliated person" bringing the scope of that term closer to the formulation utilized by two Congressional subcommittees in drafting new legislation. As you know, we have advised the Congress that its approach—which would preclude any exchange member from executing transactions for any institutional account the member manages—reflects a valid legislative resolution of the issues involved. As a matter of administrative policymaking, however we did not believe we should adopt that approach without first obtaining some practical experience with a somewhat more gradual formulation.

The Commission has no further comment at this time.

Sincerely yours,

RAY GARRETT, JR.,
*Chairman.*

The Exchange's proposed interpretation, which was enclosed with its letter to the Commission dated May 31, 1973, is attached hereto as Exhibit 1.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

SEPTEMBER 13, 1973.

MAY 31, 1973.

MR. JOHN LIFTIN,
*Associate Director,*
*Division of Market Regulation,*
*Securities and Exchange Commission,*
*Washington, D.C.*

DEAR MR. LIFTIN: In SEC Release No. 9950, the Commission stated that it expected national securities exchanges to discuss in advance significant interpretations of the rule adopted by them pursuant to Rule 19b-2. The interpretation which is the subject of this letter is significant because the dollar value of transactions involved.

The definition of "affiliated person" in Exchange Rule 318, adopted pursuant to SEC Rule 19b-2 includes the following language:

"any person directly or indirectly controlling, controlled by or under common control with the member or member organization, whether by contractual arrangement or otherwise, provided that the right to exercise investment discretion with respect to an account, without more, shall not constitute control;"

The Exchange intends to issue a circular containing the attached language. We would appreciate your concurrence that this interpretation is consistent with SEC Rule 19b-2.

Questions regarding this matter may be directed to David D. Huntoon at (212) 623-5253.

Very truly yours.

JAMES E. BUCK.

INTERPRETATION OF RULE 318

Under the existing definition of "affiliated person", the Exchange has determined that for an account not to be considered to be in a control relationship with the person holding the investment discretion, the conferring of such discretion must be based on competitive merit and may not be the result of or incidental to other circumstances or relationships. Among other circumstances and relationships which are considered to constitute such a control relationship for the purposes of Rule 318 are:

(1) Investment discretion is given pursuant to a contract or agreement which can be cancelled only on notice of more than 30 days.

(2) Investment discretion is given pursuant to a contract or agreement which provides for a penalty upon termination.

(3) Investment discretion cannot be cancelled without the incurrence of substantial expense or hardship.

(4) Investment discretion is part of a more extensive relationship which includes providing other services to a substantial degree,









V 38 I 185 SEP 25 73 XUM

including, but not limited to, commercial banking, insurance and investment banking.

(5) The account is a so-called "separate account" managed by an insurance company which exercises investment discretion and under applicable law the securities in the account are the property of the insurance company.

The following examples may serve to illustrate this interpretation.

(1) The portfolio of a pension fund is managed by an investment manager which has discretion over the account. The discretion may be cancelled at any time on receipt by the investment manager from the fund of written notice without the payment of any penalty of any sort. Neither the investment manager nor the pension fund have any other relationship which might constitute control. The pension fund is not considered to be controlled by the investment manager, and is not an "affiliated person" of the investment manager.

(2) The circumstances are the same as in (1) above, except that the investment discretion is given by a contract which may be cancelled only on notice which must be given at least 90 days prior to the effective date of cancellations. The pension fund is considered to be controlled by the investment manager and is an "affiliated person" of the investment manager.

(3) A pension fund is managed by an insurance company as a "separate account" and the insurance company has investment discretion over the account. The agreement between the pension fund and the insurance company provides that investment discretion may be cancelled upon 30 days written notice, but that in the event of such cancellation a substantial cash penalty must be paid. The pension fund is considered to be controlled by the insurance company and is an "affiliated person" of the insurance company, even though under applicable law the securities in the "separate account" are not considered to be the property of the insurance company.

(4) A charitable trust is managed by an investment manager which exercises investment discretion over the trust account. The discretion may be cancelled at any time by the trustees (who have no other relationship with the investment manager) upon written notice, without penalty. However, the investment manager also provides office space, clerical support, telephones and other services which are necessary to the trust. In order to cancel the investment discretion, the trustees would have to find other quarters and arrange for clerical, telephone and other essential services. The trust is considered to be controlled by the investment manager, and is an "affiliated person" of the manager.

(5) A pension or profit sharing trust established by the X corporation is managed by an investment manager which holds investment discretion over the trust account. The discretion may be cancelled forthwith at any time by the trustees without penalty. The parent of the investment advisor is a bank holding company which has as another of its subsidiaries the principal commercial bank servicing the X corporation. The trustees of the trust are officers and/or employees of the X corporation. Under these circumstances, the trust will be considered to be in a control relationship with the investment manager and an "affiliated person" of the manager.

(6) A pension or profit sharing trust established by the X corporation is managed by an investment manager which holds investment discretion over the trust account. The discretion may be cancelled forthwith at any time by the trustees without penalty. The investment manager is also an investment banker and has traditionally been a managing underwriter of securities issued by X corporation. The trustees of the trust are officers and/or employees of X corporation. Under these circumstances, the trust will be considered to be controlled by the investment manager and an "affiliated person" of the manager.

(7) A pension or profit sharing trust established by the X corporation is managed by an insurance company as a "separate account" and the insurance company holds investment discretion over the trust account. The discretion may be cancelled forthwith at any time by the trustees without penalty. The account of the trust is operated as a "separate account" by the insurance company. The insurance company provides substantial insurance coverage to X corporation. The trustees of the trust are officers and/or employees of X corporation. Under these circumstances, the trust will be considered to be controlled by the insurance company and an "affiliated person" of the insurance company, even though under applicable state law the securities in the "separate account" are not considered to be the property of the insurance company.

(8) A pension or profit sharing trust is managed by an insurance company which holds investment discretion over the trust account. The discretion may be cancelled forthwith at any time by the trustees without penalty. The trust account is operated as a "separate account" by the insurance company. Under applicable law the securities held in the "separate account" are considered the property of the insurance company which operates the "separate account". Under these circumstances, the "separate account" is considered to be an "affiliated person" of the insurance company.

[FR Doc.73-20336 Filed 9-24-73;8:45 am]

## Title 20—Employees' Benefits

## CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Reg. No. 5, further amended]

## PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED (1965- )

### Designation of Extended Care Facilities as Skilled Nursing Facilities

The Social Security Amendments of 1972 (P.L. 92-603; 86 Stat. 1329-1493) designated or redesignated "extended care facilities" as "skilled nursing facilities" throughout title XVIII of the Social Security Act. In order to conform the regulations of the Social Security Administration to this change in name, the regulations of the Social Security Administration (20 CFR Part 405) are amended as follows: Wherever the terms "extended care facility," and "extended care facilities," appear, the terms "skilled nursing facility" or "skilled nursing facilities," as the case may be, is substituted therefor, and the indefinite article "an" is changed to "a" as appropriate.

(Sec. 1102, 1814, 1861, 1864, 1866, and 1871, 49 Stat. 647, as amended; 79 Stat. 294, as amended; 79 Stat. 313, as amended; 79 Stat. 326, as amended; 79 Stat. 327, as amended; 79 Stat. 331, 42 U.S.C. 1302, 1395f, 1395x, 1395aa, 1395cc, and 1395hh.)

*Effective date.*—This amendment is effective September 25, 1973.

(Catalog of Federal Domestic Assistance Program Nos. 13.800, Health Insurance for the Aged—Hospital Insurance, and 13.801, Health Insurance for the Aged—Supplemental Medical Insurance.)

Dated September 6, 1973.

ARTHUR E. HESS,
*Acting Commissioner of Social Security.*

Approved September 20, 1973.

CASPAR W. WEINBERGER,
*Secretary of Health, Education, and Welfare.*

[FR Doc.73-20412 Filed 9-24-73;8:45 am]

## Title 29—Labor

## CHAPTER V—WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR

## PART 723—LAUNDRY AND CLEANING INDUSTRY IN PUERTO RICO

### Wage Order

Pursuant to sections 5, 6 and 8 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, 1064, as amended; 29 U.S.C. 205, 206, 208) and Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp., p. 1004), and by means of Administrative Order No. 625 (38 FR 9031), the Secretary of Labor appointed and convened Industry Committee No. 115 for the Laundry and Cleaning Industry in Puerto Rico, referred to the Committee the question of the minimum rate or rates of wages to be paid under section 6(c) of the Act to employees in the industry, and gave notice of a hearing to be held by the Committee.

Subsequent to an investigation and a hearing conducted pursuant to the notice, the Committee has filed with the Administrator of the Wage and Hour Division of the Department of Labor a report containing its findings of fact and recommendations with respect to the matters referred to it.

Accordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938, Reorganization Plan No. 6 of 1950, and 29 CFR 511.18, the recommendations of Industry Committee No. 115 are hereby published, amending subparagraph (1) of paragraph (b) of § 723.2, Code of Federal Regulations.

As amended § 723.2 reads as follows:

§ 723.2 **Wage rates.**

. . . . . .

(b) *Other activities classification.* (1) The minimum rate for this classification is $1.60 an hour.

. . . . . .

(Secs. 5, 6, 8, 52 Stat. 1062, 1064, as amended; 29 U.S.C. 205, 206, 208).

*Effective date.*—This amendment shall become effective October 11, 1973.

Signed at Washington, D.C., this 18th day of September 1973.

WARREN D. LANDIS,
*Acting Administrator, Wage and Hour Division, U.S. Department of Labor.*

[FR Doc.73-20374 Filed 9-24-73;8:45 am]





## CHAPTER XIV—EQUAL EMPLOYMENT OPPPORTUNITY COMMISSION

## PART 1602—RECORDS AND REPORTS

### Recordkeeping and Filing Requirements Report EEO-5

By virtue of the authority vested in it by sec. 713(a) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. sec. 2000e-12(a), 78 Stat. 265, The Equal Employment Opportunity Commission (hereinafter referred to as the Commission) hereby amends Title 29, Chapter XIV, Part 1602 of the Code of Federal Regulations.

On June 12, 1973, there was published in the FEDERAL REGISTER (38 FR 15462) a notice of proposed rule making with proposed amendments to Part 1602 of the regulations. The proposed amendments adding Subparts L, M, and N, §§ 1602.39-1602.46, would have required public and private elementary and secondary school systems, districts, and individual schools to keep personnel and employment records for a period of two years, keep employment statistics by race and job category as required by Report EEO-5 for a period of three years, and file Report EEO-5 annually unless the school system employed fewer than 100 employees. Pursuant to the June 12, 1973, notice, a duly constituted public hearing was held at 10 a.m., June 27, 1973, in the hearing room of the Equal Employment Opportunity Commission, Washington, D.C., for the purpose of considering the views of the public on the proposed amendments. Three individuals were heard by the Commission and four written comments were received during the period that the record remained open.

All comments submitted with respect to the proposed amendments were given due consideration. The public comments resulted in certain changes. Reporting and recordkeeping requirements for private schools were temporarily eliminated due to an incomplete universe of names and addresses of private schools. The reporting and recordkeeping requirements for private schools will be imposed in 1974. In addition, due to time limitations, the date on which the 1973 EEO-5 must be filed has been deferred from October 15, 1973, to November 30, 1973. The October 15, date shall apply to all calendar years after 1973.

Part 1602, Chapter XIV of Title 29 of the Code of Federal Regulations is amended by adding new subparts L, M, and N and by adding new §§ 1602.39, 1602.40, 1602.41, 1602.42, 1602.43, 1602.44, 1602.45, and 1602.46 thereto to read as follows below. These amendments shall become effective October 25, 1973.

**Subpart L—Elementary and Secondary School Systems, Districts, and Individual Schools Recordkeeping**

Sec.
1602.39 Records to be made or kept.
1602.40 Preservation of records made or kept.

AUTHORITY.—Sec. 709(c), 78 Stat. 265, 42 U.S.C. sec. 2000e-8(c), 29 CFR 1602.3.

**Subpart L—Elementary and Secondary School Systems, Districts, and Individual Schools Recordkeeping**

### § 1602.39 Records to be made or kept.

On or before October 15, 1973, and annually thereafter, every public elementary and secondary school system or district, including every individually or separately administered district within a system, with 15 or more employees and every individual school within such system or district, regardless of the size of the school shall make or keep all records and information therefrom which are or would be necessary for the completion of report EEO-5 whether or not it is required to file such a report under § 1602.41. The instructions for completion of report EEO-5 are specifically incorporated herein by reference and have the same force and effect as other sections of this part.[1] Such records and the information therefrom shall be retained at all times for a period of 3 years at the central office of the elementary or secondary school system or district, or at the individual school which is the subject of the records and the information therefrom, where more convenient, and shall be made available if requested by an officer, agent, or employee of the Commission under sec. 710 of Title VII, as amended. It is the responsibility of every such school system or district, to obtain from the Commission or its delegate necessary instructions in order to comply with the requirements of this section.

### § 1602.40 Preservation of records made or kept.

(a) Any personnel or employment record made or kept by a school system, district, or individual school (including but not necessarily limited to application forms submitted by applicants and other records having to do with hiring, promotion, demotion, transfer, layoff, or termination, rates of pay or other terms of compensation, and selection for training or apprenticeship) shall be preserved by such school system, district, or school, as the case may be, for a period of 2 years from the date of the making of the record or the personnel action involved, whichever occurs later. In the case of involuntary termination of an employee, the personnel records of the individual terminated shall be kept for a period of 2 years from the date of termination. Where a charge of discrimination has been filed, or an action brought against an elementary or secondary school by the Commission or the Attorney General, the respondent elementary or secondary school system, district, or individual school shall preserve similarly at the central office of the system or district or individual school which is the subject of the charge or action, where more convenient, all personnel records relevant to the charge or action until final disposition thereof. The term "personnel record relevant to the charge," for example, would include personnel or employment records relating to the person claiming to be aggrieved and to all other employees holding positions similar to that held or sought by the person claiming to be aggrieved; and application forms or test papers completed by an unsuccessful applicant and by all other candidates for the same position as that for which the person claiming to be aggrieved applied and was rejected. The date of "final disposition of the charge or the action" means the date of expiration of the statutory period within which a person claiming to be aggrieved may bring an action in a U.S. district court or, where an action is brought against a school system, district, or school either by a person claiming to be aggrieved, the Commission, or the Attorney General, the date on which such litigation is terminated.

(b) The requirements of this section shall not apply to application forms and other preemployment records of applicants for positions known to applicants to be a temporary or seasonal nature.

NOTE.—The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

**Subpart M—Elementary-Secondary Staff Information Report**

Sec.
1602.41 Requirement for filing and preserving copy of report.
1602.42 Penalty for making of willfully false statements on report.
1602.43 Commission's remedy for school systems', districts', or individual schools' failure to file report.
1602.44 School systems', districts', or individual schools' exemption from reporting requirement.
1602.45 Additional reporting requirements.

AUTHORITY.—Sec. 709(c), 78 Stat. 265, 42 U.S.C. sec. 2000e-8(c); 29 CFR 1602.3.

**Subpart M—Elementary-Secondary Staff Information Report**

### § 1602.41 Requirement for filing and preserving copy of report.

(a) On or before October 15, 1974, and annually thereafter, certain public elementary and secondary school systems and districts, including individually or separately administered districts within such systems, and individual schools within such systems or districts shall file with the Commission or its delegate executed copies of Elementary-Secondary Staff Information Report EEO-5 in conformity with the directions set forth in the form and accompanying instructions. The elementary and secondary school systems and districts covered are: (1) Every one of those which have 100 or more employees, and (2) every one of those others which have 15 or more employees from whom the Commission requests the filing of reports. Every such elementary or secondary school system or district shall retain at all times, for a

[1] NOTE.—Instructions were published as an appendix to the proposed regulations on June 12, 1973 (38 FR 15463).



V 38-185 SEP 25 73 XUM

period of 3 years, a copy of the most recently filed report EEO–5 at the central office of the school system or district, or the individual school which is the subject of the report, where more convenient, and shall make the same available if requested by an officer, agent, or employee of the Commission under the authority of sec. 710 of Title VII, as amended. It is the responsibility of the school systems or districts above described in this section to obtain from the Commission or its delegate necessary supplies of the form.

(b) For calendar year 1973, the requirements of paragraph (a) of this section shall be carried out on or before November 30, 1973.

**§ 1602.42 Penalty for making of willfully false statements on report.**

The making of willfully false statements on report EEO–5 is a violation of the United States Code, Title 18, section 1001, and is punishable by fine or imprisonment as set forth therein.

**§ 1602.43 Commission's remedy for school systems', districts', or individual schools' failure to file report.**

Any school system, district, or individual school failing or refusing to file report EEO–5 when required to do so may be compelled to file by order of a U.S. district court, upon application of the Commission or the Attorney General.

**§ 1602.44 School systems', districts', or individual schools' exemption from reporting requirements.**

If it is claimed that the preparation or filing of the report would create undue hardship, the school system, district, or individual school may apply to the Commission for an exemption from the requirements set forth in this part by submitting to the Commission or its delegate a specific proposal for an alternative reporting system prior to the date on which the report is due.

**§ 1602.45 Additional reporting requirements.**

The Commission reserves the right to require reports, other than that designated as the Elementary-Secondary Information Report EEO–5, about the employment practices of private or public individual school systems, districts, or schools, or groups thereof, whenever, in its judgment, special or supplemental reports are necessary to accomplish the purposes of Title VII. Any system for the requirement of such reports will be established in accordance with the procedures referred to in section 709(c) of Title VII and as otherwise prescribed by law.

**Subpart N—Records and Inquiries as to Race, Color, National Origin, or Sex**

**§ 1602.46 Applicability of State or local law.**

The requirements imposed by the Equal Employment Opportunity Commission in these regulations, subparts L and M of this part, supersede any provisions of State or local law which may conflict with them.

(Sec. 709(c), 78 Stat. 265, 42 U.S.C. 2000e–8(c), 29 CFR 1602.3.)

Signed at Washington, D.C., this 17th day of September 1973.

WILLIAM H. BROWN III,
*Chairman.*

[FR Doc. 73-20438 Filed 9-24-73;8:45 am]

## Title 32—National Defense

## CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

### SUBCHAPTER Q—CIVIL RIGHTS

### PART 301—EQUAL OPPORTUNITY IN OFF-BASE HOUSING PROGRAM

The Assistant Secretary of Defense (Manpower and Reserve Affairs) approved the following revision to Part 301. This Part 301 revises the policies covering "restrictive sanctions" and "relief for complainants"; updates the reporting requirements; includes sex discrimination under its provisions; and authorizes commanders to use verifiers under certain conditions.

Sec.
301.1 Purpose.
301.2 Applicability and scope.
301.3 Definitions.
301.4 Objectives and policies.
301.5 Reports.
301.6 Check list for commanders.
301.7 Definitions of terms.

AUTHORITY.—Sec. 301, 80 Stat. 379; 5 U.S.C. Sec. 301.

**§ 301.1 Purpose.**

This Part 301 supplements the "equal opportunity" provisions of DOD Directive 1100.15, "Equal Opportunity Within the DOD," dated December 14, 1970,[1] relating to equal opportunity in off-base housing and fair housing enforcement.

**§ 301.2 Applicability and scope.**

The provisions of this Part apply to all DOD Components (Military Departments, Defense Agencies, Specified and Unified Commands and other DOD Components) which have under their jurisdiction:

(a) Military personnel authorized to live in the civilian community in the United States, or

(b) DOD personnel authorized to live in the civilian community in areas outside of the United States.

**§ 301.3 Definitions.**

Terms which apply to this Part are contained in § 301.7.

**§ 301.4 Objectives and policies.**

The Department of Defense is fully committed to the goal of obtaining equal treatment for all DOD personnel as specified in DOD Directive 1100.15.[1] To carry out this policy with regard to off-base housing and fair housing enforcement, the Secretaries of the Military Departments and Heads of other DOD Components concerned will develop and issue implementing regulations consistent with the following:

(a) *National Housing Policy.* In the United States, Federal legislation prohibits discrimination in housing against any person because of race, color, religion, or national origin:

(1) Title VIII of the Civil Rights Act of 1968 contains the fair housing provisions; outlines the responsibilities of the Secretary of Housing and Urban Development with regard to the Act; and requires all executive departments and agencies to administer housing and urban development programs and activities under their jurisdiction in a manner which will reflect "affirmatively" the furthering of the purposes of Title VIII.

(2) Title IX of the Civil Rights Act of 1968 makes it a crime to willfully intimidate or interfere with any person by force or threat because of his activities in support of fair housing.

(3) 42 U.S.C. 1982 states that all citizens shall have the same right as is enjoyed by white citizens to purchase, lease, sell and convey real and personal property.

(b) *DOD Fair Housing Policy.* The Department of Defense intends that Federal fair housing legislation be supported and that DOD personnel have equal opportunity for available housing regardless of race, color, religion, national origin or sex. This includes the objective of eliminating discrimination against DOD personnel in off-base housing. This is not achieved simply by finding a place to live in a particular part of town or in a particular facility for a person from a minority group. It is achieved only when a person who meets the ordinary standards of character and financial responsibility is able to obtain off-base housing in the same manner as any other person anywhere in the area surrounding his installation, without suffering refusal and humiliation because of his race, color, religion, national origin or sex.

(1) The accomplishment of the objective shall not be hampered in any case by requiring the submission of a formal complaint of discrimination. A suspected discriminatory act, with or without the filing of a formal complaint, is a valid basis for investigation and, if discrimination is substantiated, for imposition of restrictive sanctions.

(2) No member of the Armed Forces moving into or changing his place of residence in the commuting area of a military installation or activity in the United States and no DOD member moving into or changing his place of residence in the commuting area of a DOD installation or activity outside the United States, shall be authorized to enter into a rental, purchase or lease arrangement with an agent or a facility which is under restrictive sanctions. (See paragraph (b)(3) of this section.)

[1] Filed as part of the original. Copies available from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, Pa. 19120, Attention: Code 300.





(3) Restrictive sanctions shall be imposed upon substantiation that discrimination was practiced by an agent in accordance with (d)(2) of this section. These sanctions are not applicable to DOD personnel who may be residing in a facility at the time the restriction is imposed or to the extension or renewal of a rental or lease agreement originally entered into prior to the imposition of the restrictive sanctions. Relocation of a tenant within a restricted facility is not authorized without the written approval of the commander.

(4) In the case of paragraph (b)(3) of this section, the agent shall be informed in writing that restrictions have been imposed, the reasons therefor, and the actions which must be taken to remove the restriction after the 180 days minimum restriction expires. In order for restrictive sanctions to be removed, the agent must provide assurances of future non-discriminatory practices.

(5) After imposition of restrictive sanctions, the commander shall insure that DOD personnel comply with the restrictive sanctions imposed on the agent.

(6) If a discrimination complaint is substantiated, the commander shall take whatever action is deemed reasonable to assist the complainant in obtaining suitable housing. If, due to discrimination practices in the community, suitable housing cannot be obtained by the complainant in a reasonable amount of time, the complainant and the commander may use this fact as a reason to justify a request for, if otherwise eligible, priority in obtaining military housing or for compassionate reassignment.

(7) The fact that 42 U.S.C. 1982 and P.L. 90–284 may or may not provide a remedy in a given case of discrimination affecting DOD personnel does not relieve a commander of the responsibility to insure equal treatment and opportunity for such personnel or to impose restrictive sanctions against the agent when appropriate.

(8) Consistent with the policy of freedom of choice, commanders shall insure non-discrimination in referring personnel to off-base housing facilities.

(9) Continuing efforts (as described in Part 239a and Part 239b) shall be made to identify and solicit non-discriminatory assurances from those rental facilities within the commuting area which are considered to be suitable for occupancy by DOD personnel.

(10) An information program to apprise DOD personnel of the DOD policy and program for equal opportunity in off-base housing shall be developed at each installation. For support of this program, use should be made of local community resources such as civil rights organizations, religious and civic groups, and others.

(c) *DOD personnel seeking off-base housing.* DOD personnel shall:

(1) Be processed through the Housing Referral Office in the United States and, when available, in areas outside the United States.

(2) Be provided the following assistance in seeking temporary and permanent off-base housing:

(i) Counseling concerning the Equal Opportunity in Off-Base Housing Program, with particular stress placed on obligation of applicants to report any indication of discrimination against them in their search for housing.

(ii) Personal assistance by:

(*a*) Ascertaining the applicant's desires and requirements for housing and matching them as nearly as possible with current available listings.

(*b*) Offering to follow up by a telephone check of the selected listings to insure their availability. In taking this action, a record shall be made of the date, time and nature of the conversation confirming the unit, which record shall be retained for future reference. In no case will the race, color, religion, national origin, or sex of the applicant be divulged.

(*c*) Offering the services of a command representative (such as a unit sponsor or other person) to accompany and assist the applicant in his search for housing. The command representative will be responsible for taking the following action:

(*1*) If an agent of a housing facility refuses to accept or consider the applicant as a tenant; falsely indicates the unit sought has been rented to another applicant; or otherwise fails to furnish the unit under the same terms and conditions as are ordinarily applied to applicants for his facilities, the agent will be queried concerning the reasons why the unit is not available. After all reasonable steps have been taken to ascertain whether any valid nondiscriminatory reason can be shown for the agent's rejection of the applicant, and there appears to be no such reason, a reasonable effort will be made to persuade the agent to make the unit available to the applicant.

(*2*) Failing to persuade the agent to accept the applicant as a tenant, the incident will be reported to the appropriate command official for investigation. (Whether a complaint is or is not filed by the applicant, the procedures outlined in paragraph (d)(1) and (2) of this section as warranted by the circumstances, shall be followed.)

(d) *Responsibilities of commanders—*(1) *Enforcement procedures in the United States.* Every commander shall:

(i) Insure that on office and staff serving the command are available to advise DOD personnel concerning:

(*a*) The procedures set forth in this part.

(*b*) The application of 42 U.S.C. 1982 and P.L. 90–284 in specific situations.

(*c*) The rights of individuals to pursue remedies through civilian channels, without recourse or in addition to the procedures prescribed herein, including the right to:

(*1*) Make a complaint directly to the Department of Housing and Urban Development (HUD) or to the Department of Justice; and,

(*2*) Bring a private civil action in any court of competent jurisdiction.

(ii) Periodically review the off-base housing procedures in his command to insure adequacy and compliance with this part. In order to assist the commander in accomplishing this review, a checklist is provided in § 301.6 of this part.

(2) *Complaint procedures in the United States.* Upon receipt of a housing discrimination complaint, an investigation will be initiated within three (3) working days after receipt of the complaint, using verifiers if deemed necessary. Verifiers will not be used for the sole purpose of ascertaining the sincerity of the practices of an agent unless a housing discrimination complaint has been filed against the agent. The investigation shall conform to the due-process procedure as set forth for Armed Forces Disciplinary Control Boards.[2]

(i) If the complaint is not substantiated by the investigation, the complainant will be (*a*) so informed, (*b*) advised of his rights to pursue further actions through HUD, the Department of Justice, and/or State or Federal Court, and (*c*) offered whatever assistance is appropriate and can be provided legally by the Military Service in pursuing the courses of action in paragraph (d)(1) of this section.

(ii) If the complaint is substantiated by the investigation, restrictive sanctions will be imposed against the agent for a minimum of 180 days; the agent will be informed in writing of this action and advised on what action he must take to remove the restrictive sanctions after the 180 day minimum.

(*a*) The complainant will be informed in writing of the results of the investigation and action will be taken to assure relief for the complainant as outlined in paragraph (b)(6) of this section.

(*b*) The complainant shall also be informed of his rights to pursue further actions through HUD, the Justice Department and/or State or Federal Courts and he shall be offered whatever assistance can be provided legally by the Military Service in pursuing these courses of action.

(c) If the act of discrimination falls under existing laws, the commander shall forward a copy of the complaint directly to HUD using HUD Form 903, if the complainant concurs. A complaint must be received by HUD within 180 days after the occurrence of the alleged discriminatory act. A copy of the Complaint shall also be forwarded to the Department of Justice (Civil Rights Division), Washington, D.C. 20530.

(iii) Where more than one complaint alleging discrimination involves the same agent, documentation may be consolidated. In these cases, if appropriate, the consolidated documentation shall be

[2] Filed as part of the original. Copies available from The Adjutant General's Center, Attention: DAAG–PAS–I, Washington, D.C. 20314.



V 38 I 185
SEP 25 73
XUM

forwarded to HUD and to the Department of Justice (Civil Rights Division), Washington, D.C. 20530.

(3) *Complaint procedures in areas outside the United States.* The procedures outlined in paragraph (d)(2) of this section shall be used for processing complaints of housing discrimination in areas outside the United States with the exception of submitting complaints to HUD or the Department of Justice.

(4) *Cooperation with Governmental agencies investigating alleged housing discrimination complaints.* Commanders shall cooperate to the fullest extent possible with other governmental agencies investigating housing discrimination complaints filed by a complainant.

**§ 301.5 Reports.**

(a) *Reporting requirements.* (1) A copy of each investigative report that substantiates a case of housing discrimination shall be submitted by the Military Services to the Assistant Secretary of Defense (Manpower and Reserve Affairs) and not later than 45 days from the date the case is forwarded from the installation. Under normal circumstances, the installation will complete required investigation and processing of complaints within 20 days from the date that a housing complaint is filed by a complainant. The Military Services shall summarize and make appropriate comments to include the affirmative action taken in the case prior to submission of the report to the Assistant Secretary of Defense (Manpower and Reserve Affairs).

(2) A copy of investigative reports that do not substantiate allegations of housing discrimination shall be kept on file at the installation level for a period of 24 months. Requests for these cases to be forwarded to the Assistant Secretary of Defense (Manpower and Reserve Affairs) normally will be made only when other government or civilian agencies have expressed an interest.

(3) Each Military Service shall submit semi-annual reports to the Assistant Secretary of Defense (Manpower and Reserve Affairs) as follows:

(i) Total number of rental facilities surveyed during the reporting period.

(ii) Total number of rental facilities listed to date and number of rental facilities listed during the reporting period.

(iii) Total number of rental facilities under restrictive sanctions and number of rental facilities restricted during the reporting period.

(iv) Total number of discrimination complaints processed during the reporting period by each Military Service.

(v) The number of compassionate reassignment and priority housing requests received under the provisions of this Part and their disposition during the reporting period.

(vi) By installation in the United States, a list of housing facilities upon which restrictive sanctions have been imposed. This shall include, as available, the name and address of the facility and agent, the reason for the restriction and the status of negotiations with the agent.

(vii) A short narrative report summarizing servicewide significant Equal Opportunity in Off-Base Housing activities, problems and experiences and appropriate explanatory comments concerning the statistical portion of the report.

(viii) Reports (as of December 31 and June 30) shall be submitted to the Assistant Secretary of Defense (Manpower and Reserve Affairs) not later than the 25th of the month following the end of the reporting period.

(b) *Report control symbol.* (1) Reports of investigation required in (a)(1) and (2) of this section are exempt from RCS by Paragraph III.D.6., DoD Directive 5000.19, "Policies for the Management and Control of DoD Information Requirements," June 2, 1971.[1]

(2) The report required in paragraph (a)(3) of this section is assigned Report Control Symbol DD-M(SA) 1146.

**§ 301.6 Check list for commanders.**

(a) Are newly assigned personnel informed as to the requirements of the equal opportunity in off-base housing program prior to obtaining housing off-base?

(b) Is there an effective equal opportunity in off-base housing information program?

(c) Are community resources being used to support the equal opportunity in off-base housing information program?

(d) Are housing discrimination complaints being expeditiously processed?

(e) Are complainants being informed, in writing, of the results of investigations?

(f) Are housing surveys being conducted periodically to obtain new listings?

(g) Are restrictive sanctions being imposed immediately for a minimum of 180 days on agents found to be practicing discrimination?

(h) Are the services of command representatives offered to accompany and assist applicants in their search for housing?

(i) Are Housing Referral Office and equal opportunity personnel sensitive to the problems of minority personnel?

(j) Are accurate equal opportunity in off-base housing reports being submitted in a timely manner?

**§ 301.7 Definition of terms.**

(a) *Agent.* Real estate agency, manager, landlord or owner, as appropriate, of a housing facility doing business with DOD personnel or a Housing Referral Office.

(b) *Area Outside the U.S.* An area in which DOD personnel reside but which is not subject to U.S. laws or regulations.

(c) *Commander.* The military or civilian head of any installation, organization or agency of the DOD.

(d) *Commuting Area.* That area defined in DOD Instruction 4165.45, "Determination of Family Housing Requirements," January 19, 1972.[1]

(e) *Complainant.* A military member, adult dependent acting for a military member, or a civilian employee of the DOD who submits a complaint of discrimination.

(f) *Discrimination.* The act of denying housing to DOD personnel because of race, color, religion, national origin, or sex.

(g) *DOD personnel.* In the United States, military personnel and their dependents, and non-appropriated and appropriated fund U.S. citizen civilian employees and their dependents, assigned to any DOD component.

(h) *Listed facility.* A suitable facility listed with the housing referral office as available for DOD personnel which is not under restrictive sanctions and whose agent and/or owner has provided a nondiscriminatory assurance.

(i) *Relief for the complainant.* Action taken by a commander for the benefit of a complainant if a discrimination complaint is substantiated.

(j) *Restrictive sanctions.* Action taken by a commander to preclude DOD personnel from entering into a new rental, lease or purchase arrangement with, or otherwise moving into, a housing facility, the agent of which has been found to have discriminated against DOD personnel. Restrictive sanctions are effective against the agent and the facility.

(k) *Verifiers.* Volunteers used by the commander during the course of a housing discrimination investigation to determine if, in fact, housing discrimination is being practiced by a facility or individual as alleged. Verifiers are not required to be prospective tenants.

MAURICE W. ROCHE,
*Director, Correspondence and Directives, OASD (Comptroller).*

SEPTEMBER 20, 1973.

[FR Doc.73-20422 Filed 9-24-73;8:45 am]

## Title 35—Panama Canal

## CHAPTER I—CANAL ZONE REGULATIONS

## PART 51—AIR NAVIGATION

### General Traffic Circuit Rules

Effective September 25, 1973 § 51.122 (c) and (d), Subpart B of Part 51 of Title 35, Code of Federal Regulations, is amended to read as follows:

**§ 51.122 General traffic circuit rules.**

* * * * *

(c) Aircraft entering the traffic circuit shall exercise caution and courtesy so as not to cause aircraft already in the circuit to deviate from their course. Aircraft shall enter for runway 35 downwind where Galeta Road intersects with Randolph Road; for runway 17, aircraft shall enter south of New France Field. Straight in approaches to either runway will not be permitted.

(d) Aircraft leaving the traffic circuit shall, when departing runway 35, proceed straight out to the Colon breakwater, and then make a 45° right turn; aircraft departing runway 17 shall proceed straight out to Randolph Road, and then make a 45° left turn.

* * * * *

(2 C.Z.C. § 701, 76 A Stat. 29; 35 CFR 3.1(a)(2); 35 CFR 51.81.)

Dated August 29, 1973.

[SEAL] DAVID S. PARKER,
*Governor.*

[FR Doc.73-20335 Filed 9-24-73;8:45 am]





## Title 36—Parks, Forests, and Memorials

## CHAPTER II—FOREST SERVICE, DEPARTMENT OF AGRICULTURE

## PART 295—USE OF OFF-ROAD VEHICLES

In notice of proposed rulemaking published on March 2, 1973 (38 FR 5643), the Forest Service requested public comment on a proposal for a regulation of the use of off-road vehicles on National Forest System lands.

Comments were received from Governmental agencies (National, State, and local), organizations, companies, and formal groups, as well as many private individuals. The majority of respondents expressed support for the regulations in general, but numerous suggestions were made for change or improvement.

Several respondents felt the definitions were too broad and/or incomplete to ensure uniform interpretation. Accordingly, some revisions and expansions have been incorporated to provide for more uniform terminology and interpretation. A few comments were concerned with the delays that could be encountered to obtain a permit for emergency repairs for utility maintenance. All utilities located on National Forest System lands are under a permit, lease or license and, therefore, the use of any off-road vehicles authorized in the permitting document is exempt from these regulations. Administrative instructions in the Forest Service Manual also address the point of access for emergency purposes so as to minimize delays.

Some Governmental agency comments on the designation of areas indicated the need for cooperation with other agencies in the planning process. This need does exist and has been recognized in the regulations. Several comments were received concerning the need for seasonal restrictions. Although this is not specifically stated in the regulations, the instructions in the Forest Service Manual, FSM 2351, address this situation.

Several respondents commented that the section on public participation was not specific enough in that it did not identify the specific method for this participation. The Forest Service Manual instructions on this issue outline various methods for public participation and it is felt that latitude must be available at the local level to choose one or more methods rather than to be restrictive in the regulation. Comments were also received indicating the need for more time for public participation. This is recognized and although not specifically detailed in the regulation, it has been changed to indicate that adequate time will be provided for public participation.

Numerous responses were made to the requirement for the posting of signs to identify areas or trails having off-road vehicle restrictions. The majority of responses desired to have the Forest Service sign the areas open to off-road vehicle travel rather than the closed areas. Several reasons were given: the impact of signing would be lessened in that areas where this use is permitted would have less emphasis on esthetics; there would be less area open to off-road vehicles than are closed, thus less signing. Others felt that enforcement would be simplified in that vandalism to the signing of closed areas could effectively negate the closure in that enforcement would be questionable without the signs, whereas the absence of the signing of open areas would cause no problems. The Forest Service policy has been one of multiple use with a philosophy that the National Forests are public lands and as such are open to the public. Although there is merit to many of the reasons stated for signing of open areas this concept cannot be accepted for all National Forest System lands. Modification has been made to the regulations to eliminate the mandatory signing of closed areas and the Forest Service Manual instructions have been changed to allow latitude as to the signing of either open or closed areas or the use of maps and brochures and the possible elimination of all signing.

Many comments were received on the exemption of equipment used in connection with mining activities. Only 25 percent of comments were in favor of the exemption. However, because the Forest Service is in the process of issuing new regulations governing mining activities, no change is being made in this regulation until the mining regulations are finalized. Necessary changes will then be made in this part to bring them into agreement with the mining regulations.

Several comments were concerned about the specifics of permits. Most felt the regulations were too vague. The Forest Service Manual contains instructions on permit issuance and it is felt that no additional instructions should be provided in the regulations. A comment was received relative to permit needs for group activities such as races, rallies, meets and other events. Since there is a requirement for a permit to conduct group activities on National Forest System lands it was not included in this regulation. A few respondents questioned the monitoring procedure. The Executive order was explicit in indicating that each agency would monitor; therefore, for clarification purposes, the regulation has been modified to indicate monitoring by the Forest Service.

Several comments were received concerning operating conditions, for which § 295.6 was reserved. Subsequently, operating conditions have been written and the proposed rulemaking process will bring them to the attention of interested parties for comment.

In consideration of the foregoing, 36 CFR Chapter II is amended by adding a new Part 295—Use of Off-Road Vehicles—to read as set forth below.

*Effective date.*—This amendment is effective October 20, 1973.

ROBERT W. LONG,
*Assistant Secretary for Conservation, Research, and Education.*

SEPTEMBER 19, 1973.

Sec.
295.1 Applicability.
295.2 Definitions.
295.3 Planning Designation of Areas and Trails.
295.4 Public Participation.
295.5 Public Information.
295.6 Operating Conditions. (Reserved)
295.7 Restricted and Prohibited Use.
295.8 Off-Road Vehicle Permit.
295.9 Monitoring Effects of Off-Road Vehicle Use.

AUTHORITY.—30 Stat. 35, as amended; 16 U.S.C. 551; 50 Stat. 525, as amended; 7 U.S.C. 1011; 83 Stat. 852; E.O. 11644.

**§ 295.1 Applicability.**

The regulations in this part pertain to administrative designation of specific areas and trails of National Forest System lands on which the use of off-road vehicles shall be allowed, restricted, or prohibited and establishing controls governing the use of off-road vehicles on such areas. The use of off-road vehicles in National Forest Wilderness and Primitive Areas is governed by §§ 293.1 through 293.17 of this Title.

**§ 295.2 Definitions.**

(a) "Off-road vehicles" means any motorized vehicles designed for or capable of cross country travel on or immediately over land, water, sand, snow, ice, marsh, swampland, or other terrain which would include, but not be limited to, such vehicles as four wheel drive, motorcycle, snowmobile, amphibious, and air cushion vehicles; except that such term excludes (1) any registered motorboat, (2) any military, fire, emergency or law enforcement vehicle when used for official or emergency purposes, and (3) any vehicle whose use is expressly authorized by the Chief, Forest Service, under a permit, lease, license, or contract.

(b) "National Forest System lands" means National Forests, National Grasslands, and other lands and interests in land administered by the Forest Service.

(c) "Official use" means an employee, agent, or designated representative of the Federal Government or one of its contractors in the course of his employment, agency, or representation.

(d) "Trail" means a designated path or way of varying width which is commonly used by and maintained for hikers, horsemen, snow travelers, bicyclists or for motorized vehicles with a total width of 40 inches or less.

**§ 295.3 Planning designation of areas and trails.**

On National Forest System lands the continuing resource planning process



V 38 185 SEP 25 73 XUM

will provide for designation of specific areas and trails for off-road vehicle use, use restrictions, and closures to any or all types of such use. This process will include coordination with appropriate Federal, State, and local agencies. The planning process will analyze and evaluate alternatives to enable decisions which best provide for the protection of the natural and historic resources, promotion of safety for all users, minimization of use conflicts, and accomplishment of all of the other resource objectives for National Forest System lands. Analysis and evaluation of off-road vehicles uses will take into consideration factors such as noise, safety, quality of the various recreational experiences provided, potential impacts on soil, watershed, vegetation, fish, wildlife, fish and wildlife habitat, and existing or proposed recreational uses of the same or neighboring lands.

**§ 295.4 Public participation.**

The public shall be provided an opportunity to participate in the designation of areas and trails relating to off-road vehicle use. Advance notice will be given to allow review by the public of proposed designations or revisions of designations of any areas or trails for off-road vehicle use, for restrictions, or for closures to such use. Adequate time will be allowed for public response prior to any designations or revisions. In emergency situations, designation or revision of designation may be made without public participation to protect natural resources and to provide for public safety.

**§ 295.5 Public information.**

Areas and trails may be marked with appropriate signs to control off-road vehicle use. All notices issued concerning the regulation of off-road vehicles shall be posted so as to reasonably bring them to the attention of the public, and a copy of the notice shall be kept available to the public in the offices of the District Rangers and Forest Supervisors. Information and maps will be published and distributed describing the conditions of use and the time periods when areas and trails are: (a) Open to off-road vehicle use, (b) restricted to certain types of off-road vehicle use, (c) closed to off-road vehicle use.

**§ 295.6 Operating conditions. [Reserved]**

**§ 295.7 Restricted and prohibited use.**

Except as provided in § 295.8, and except for use in connection with mining activities under the provisions of the General Mining Act of 1872, the use of off-road vehicles is prohibited in areas and trails on National Forest System lands during any period when such areas and trails have been closed to vehicles or certain types of vehicles pursuant to these regulations.

**§ 295.8 Off-road vehicle permit.**

Use of off-road vehicles on National Forest System lands where the use of off-road vehicles is prohibited may be allowed for official use or with prior authorization by means of an Off-Road Vehicle permit. Off-Road Vehicle permits may be issued by the Chief or authorized official of the Forest Service, and such permits will be for a specific area, conditions of use, and a definite period of time. Off-Road Vehicle permits shall be revocable for violation of the rules and regulations governing the National Forests.

**§ 295.9 Monitoring effects of off-road vehicle use.**

The effects of off-road vehicle use on National Forest System lands will be monitored by the Forest Service. Designation, use restrictions, and operating conditions will be revised as needed to meet changing conditions.

[FR Doc.73-20324 Filed 9-24-73;8:45 am]

## Title 47—Telecommunication

## CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

## PART 0—COMMISSION ORGANIZATION

### Chief Broadcast Bureau; Delegation of Authority

There have been approximately twenty-one amendments to § 0.281 since it was published at 28 FR 12402, November 22, 1963. To coincide with the 1973 revision of Title 47, Chapter I, Parts 0 to 19 of the Code of Federal Regulations, it is appropriate to recap § 0.281. The text of this section, which was last amended effective November 7, 1972 and published in the FEDERAL REGISTER at 37 FR 23336, is set forth below.

Released September 20, 1973.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

The text of § 0.281 as in effect on September 20, 1973, is as follows:

CHIEF, BROADCAST BUREAU

**§ 0.281 Authority delegated.**

The Chief of the Broadcast Bureau is delegated authority to act upon applications, requests, and other matters which are not in hearing status relating to broadcast services as follows:

(a) Formal applications for broadcast authorizations:

(1) For construction permits for new or changed standard, FM, noncommercial educational FM, television, television translator, FM translator, FM booster facilities, and UHF television booster facilities, or for modification thereof; for licenses or modification thereof; or for renewal of licenses for such facilities for the normal license term, which applications comply fully with the requirements of the Communications Act and the provisions of this chapter, accord with Commission policy and standards, are not mutually exclusive with any other application, and concerning which no petition to deny pursuant to § 1.580 of this chapter or other substantial objection has been filed.

(2) For assignment of broadcast licenses or permits or for transfer of control of broadcast licensees or permittees, which applications comply fully with the requirements of the Communications Act and the provisions of this chapter, accord with Commission policy and standards, and concerning which no petition to deny pursuant to § 1.580 of this chapter or other substantial objection has been filed;

(3) For new or modified experimental, developmental, and auxiliary broadcast authorizations covered by Part 74 of this chapter, or for renewal of authority for such facilities.

(4) For reinstatement of expired construction permits.

(5) For new or modified Subsidiary Communications Authorizations, or for renewal of such Authorizations.

(b) Designate for hearing, upon appropriate issues, mutually exclusive applications for new or modified standard, FM, noncommercial FM, and television facilities.

(c) Requests for temporary authority:

(1) For temporary waiver of technical operating requirements relating to overall system performance or elements thereof and rules requiring that specified items of equipment be employed.

(2) For operation with temporary antenna system.

(3) For operation with auxiliary transmitter as main transmitter.

(4) For operation with new or modified equipment pending repair of existing equipment or pending receipt and action upon a formal application.

(5) For operation with reduced power or to make other changes in operation of authorized equipment for technical reasons.

(6) For special operation necessary to facilitate equipment, program and service tests or to comply with technical requirements specified in authorizations, orders, rules or releases of the Commission.

(7) For operation with licensed, new, or modified equipment at a temporary site with a temporary antenna system when in case of an emergency it becomes impossible to continue operating at the regularly authorized site.

(8) For special operation of stations in the experimental, developmental and auxiliary broadcast services covered by Part 74 of this chapter.

(9) For temporary authority in emergency cases, at times outside of the regular office hours of the Commission, which require immediate action during such hours.

(10) For authority for television broadcast stations to operate with visual-to-aural power other than that specified in this chapter.

(d) Miscellaneous applications and requests:

(1) For temporary operation, for a lesser period of time than specified by §§ 73.71, 73.261, and 73.651 of this chapter, or to remain silent for temporary periods.





(2) For extension of time within which a transfer of control or assignment of license may be effectuated.

(3) For authority for FM broadcast stations to transmit multiplex facsimile in accordance with § 73.266 of this chapter.

(4) For authority to rebroadcast when authorization is required under Parts 73 and 74 of this chapter.

(5) For any permit required by the provisions of section 325(b) of the Communications Act.

(6) For cancellation of licenses, construction permits or other authorizations.

(7) For withdrawal of papers in accordance with § 1.8 of this chapter.

(8) For the extension of time in which to file briefs, comments, pleadings, and all other papers, including papers relating to matters which are to be decided by the Commission, such as applications for review of actions taken by the Chief, Broadcast Bureau, and including situations in which the filing date was initially specified by the Commission.

(9) For conducting equipment and program tests.

(10) For operation during daytime for specified periods with the nighttime facilities in order to check measurements and operation.

(11) For extension of time within which to comply with technical requirements specified in authorizations, orders, and rules or releases of the Commission.

(12) For television site survey.

(13) For standard broadcast special field test authorizations.

(14) For authority to relocate the main studio outside the corporate limits of the community to which the station is assigned, when no change in station location or identification is involved.

(15) For waiver of the transmitter inspection requirements imposed by §§ 73.93(e), 73.265(e), and 73.565(e) of this chapter.

(16) To waive the provisions of the note to §§ 1.571 and 73.37 of this chapter to the extent necessary to accept for filing and application by an existing standard broadcast facility for change of site or antenna efficiency, which would result in new or increased cochannel or first adjacent channel overlap, if it is found that good cause for the change exists, and such overlap is not in excess of 2 miles along the line of maximum penetration.

(17) For waiver of the provisions of § 73.652(a) of this chapter to permit multiple-city identification, where the additional community or communities with which identification is sought, are provided with the requisite field intensity specified in § 73.685(a) of this chapter by the station seeking such authority.

(e) Applications or requests concerning experimental or developmental broadcast stations involving:

(1) Assignment from time to time of the frequency or frequencies, power, emission, and type of equipment to be employed by any experimental or developmental broadcast station, so as to provide the maximum results from the experimentation with the minimum interference.

(2) Addition, modification, or coordination of programs of research or experimentation of any experimental or developmental broadcast station, so as to provide the maximum results from the experimentation which can be reasonably expected of the licensee or licensees.

(f) To withdraw authorizations for equipment and service or program tests where the terms of the construction permit have not been met.

(g) Requests for modification of tower painting and lighting specifications.

(h) To issue such National Defense Emergency Authorizations as may be required to permit stations licensed by the Commission to participate in approved National Defense Plans during a national emergency, and to issue such further authorizations as may be appropriate under Executive Order 11092.

(i) To dismiss applications without prejudice (1) as provided in § 1.568 (a) and (b) of this chapter, or (2) where an application is not timely filed under the Commission's rules in order to receive comparative consideration with an application or applications with which it is mutually exclusive.

(j) To give written consent to applicants who request authority to make minor changes in effecting transfers of control, or assignment of licenses, previously authorized by the Commission.

(k) To advise licensees to cease operation in the event renewal applications are not filed with the Commission prior to the expiration date of the particular license.

(l) To defer action on those renewal license applications received subsequent to the fifteenth day of the month prior to the expiration date of the particular license.

(m) To grant, for good cause shown, requests for temporary authority to continue operation for a period not to exceed 90 days, where an application for renewal of license has been filed subsequent to the expiration of the particular license.

(n) To dismiss or return applications or petitions which are not acceptable under Commission rules.

(o) To extend the time to file oppositions to petitions relating to broadcast applications not designated for hearing.

(p) To administer, interpret, and apply orders or rules of practice and procedure promulgated by the Commission relating to financial and statistical data of stations in the broadcast service and broadcast networks and chains, including applications for extension of time in which to file financial and statistical statements and reports.

(q) To declare a construction permit for a broadcast facility automatically forfeited if the station authorized by the construction permit is not ready for operation within the time specified therein or within such further time as the Commission may have allowed for completion, and if no application for extension of construction permit has been granted by the Commission or timely filed by the permittee, and to place a notation of the forfeiture in the records of the Commission as of the expiration date of the construction permit.

(r) After coordination with the U.S. Information Agency, to authorize the use of frequencies and frequency hours by international broadcast stations; and to grant, upon adequate showing of need, waivers for operation in excess of the frequency-hour limitations imposed by § 73.702(1) and the note to § 1.574 (c) of this chapter.

(s) To determine whether an application for modification constitutes a major change in facilities, and whether an amendment to an application constitutes a major amendment; and, if so, to so designate such a change or amendment.

(t) To direct standard broadcast stations to refrain from pre-sunrise operation with their daytime facilities pursuant to § 73.87 of this chapter.

(u) To dismiss petitions and other pleadings which have clearly been rendered moot.

(v) To extend the time to file responses to official correspondence.

(w) With the concurence of the General Counsel, to issue rulings and interpretations with respect to, and to act upon complaints arising under, section 315 of the Communications Act and §§ 73.120, 73.290, 73.590 or 73.657 of this chapter.

(x) To issue Notices of Apparent Liability in amounts not in excess of $250, under Section 503(b) of the Communications Act and § 1.621 of this chapter.

(y) To issue lists of applications for standard broadcast facilities establishing a "cut-off" date pursuant to the provisions of § 1.571(c) of this chapter.

(z) To dismiss, subject to request within 30 days for reinstatement and hearing, applications for extensions of time in which to construct a station where it appears that the failure to complete was due to causes under the control of the grantee.

(aa) To dismiss, as repetitious, any petition for reconsideration of a Commission order which disposed of a petition for reconsideration and which did not reverse, change, or modify the original order.

(bb) To dismiss or deny petitions for rule making which are repetitive or moot or which, for other reasons, plainly do not warrant consideration by the Commission.

(cc) To act on requests for temporary exemption from the provisions of § 73.242(a) of the Commission's rules and regulations, and if good cause is shown to grant temporary exemption for a period of no more than 3 months.

(dd) To accept and grant reinstatement applications beyond the 30-day period in § 1.534(b) of this chapter.

(ee) To grant temporary operation by remote control pending receipt and consideration of a formal application.



V 38 N 185 SEP 25 73 XUM

(ff) To waive the provisions of the note to §§ 1.571 and 73.37 of this chapter to the extent necessary to accept and grant an application by an existing standard broadcast facility for change of site or antenna efficiency, which would result in new or increased co-channel or first adjacent channel overlap, if it is found that good cause for the change exists, and such overlap is not in excess of 2 miles along the line of maximum penetration.

(gg) To grant, grant in part, or dismiss, as appropriate, informal applications for Presunrise Service Authority (PSA) in acordance with § 73.99 of this chapter, and to suspend, modify, or withdraw such authority under the circumstances outlined therein.

(hh) To grant temporary authority for subchannel operation.

(ii) In conjunction with the Office of Chief Engineer, to rule on objections based on claimed phonetic similarity arising under § 1.550 of this chapter.

(jj) In conjunction with the Office of Chief Engineer, to waive the provisions of § 1.550(d) (1) of this chapter if an examination of the call signs of the broadcast stations notified by applicant clearly indicates that no significant likelihood of public confusion could arise and that no purpose would be served by the waiting period prescribed.

(kk) For waiver of the provisions of §§ 73.117 and 73.287 of this chapter to permit multiple-city identification, where the additional community or communities with which identification is sought are provided with the minimum principal city signal intensity specified in §§ 73.188(b) and 73.315(a) of this chapter for AM and FM broadcast stations, respectively; and to dismiss requests for multiple-city identification which do not meet principal city coverage requirements.

(ll) To act on requests for waiver of § 73.651(c) or § 74.931(a) of this chapter, where operation under such requests will not exceed 10 hours per week, to permit operation by a noncommercial educational television broadcast station or an instructional television fixed station of their aural transmitters to transmit music accompanied by slides, films, or other visual transmissions.

[FR Doc.73-20380 Filed 9-24-73;8:45 am]

## Title 49—Transportation

### CHAPTER X—INTERSTATE COMMERCE COMMISSION

### SUBCHAPTER B—PRACTICE AND PROCEDURE

[Ex Parte No. 274 (Sub-No. 1)]

### PART 1121—ABANDONMENT OF RAILROAD LINES

### Special Procedures for Proposed Railroad Abandonment; Corrected Order [1]

At a general session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 14th day of January 1972.

**§ 1121.32 Notice, publication, posting, service.**

(a) *Publication in county newspapers.* The front page of the application (short-form) and attachment (if any) must be published by the applicant in some newspaper of general circulation in each county in which any part of the line of railroad sought to be abandoned is situated. The notice must be published at least once during each of three consecutive weeks. The last publication date must be at least 20 days before the date specified therein for the filing of protests with the Commission.

(b) *Posting.* Copy of the front page of the application and attachment (if any) must be posted in a conspicuous place at each agency station on the line sought to be abandoned. If there is no agency station on the line sought to be abandoned, the notice shall be posted at the agency station on the applicant's line through which business for the line sought to be abandoned is handled.

(c) *Mail service.* On or before the date the application is filed with the Commission, the applicant shall serve, by first class mail:

(1) A conformed copy of the application on the governor and public service commission of each state in which any part of the line of railroad sought to be abandoned is situated, accompanied by a statement that if they desire to be heard in the matter they shall advise the Commission within the period specified of their interest in the proceeding; and

(2) Copy of the notice on all shippers and consignees which, after diligent, inquiry, are found to be located on the line proposed to be abandoned and to have used the services of said line during the 12-month period immediately preceding the date of filing the application and upon all prospective shippers and consignees which may have newly located on the line during the aforesaid 12-month period regardless of whether or not they may have utilized the line during the period.

(d) *Certificate of service.* A certificate of mail service and proof of publication and posting of the notice shall be filed with the Commission at least 10 days before the date specified in the notice for the filing of protests.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-20326 Filed 9-24-73;8:45 am]

### SUBCHAPTER D—TARIFFS AND SCHEDULES

[Ex Parte No. MC-1 (Sub-No. 3)]

### PART 1322—EXTENSION OF CREDIT TO SHIPPERS BY MOTOR CARRIERS

### Payment of Rates and Charges of Motor Carriers Credit Regulations—Household Goods

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 5th day of September 1973.

It appearing, that pursuant to part II of the Interstate Commerce Act (section 223) and section 553 of the Administrative Procedure Act (5 U.S.C. section 553), a rulemaking proceeding was instituted by the Commission on November 24, 1970, for the purpose of determining whether and to what extent the currently effective rules and regulations pertaining to the period of credit following delivery of freight by motor common carriers of household goods should be modified or changed, and whether the carriers should be allowed to impose penalty charges upon shippers who fail to pay the freight charges within the credit period;

If further appearing, that investigation of the matters and things involved in this proceeding has been made and that the Commission has made and filed its report herein containing its findings of facts and conclusions thereon, which report is hereby referred to and made a part hereof;

*It is ordered,* That Part 1322 of Chapter X of Title 49 of the Code of Federal Regulations be, and it is hereby, modified by amending § 1322.1 by adding thereto the

**§ 1322.1 Carrier may extend credit to shipper.**

* * * * *

following provisions:

(c) *Exceptions—Carriers of houshold goods.* Except as provided in paragraph (b) of this section, motor common carriers of household goods must also provide in their tariffs that (1) the aforestated credit period of 7 calendar days shall automatically be extended to a total of 30 calendar days for any shipper who has not paid the carrier's freight bill within the aforesaid 7-day period, (2) such shipper will be assessed a service charge by the carrier equal to 1 percent of the amount of said freight bill, subject to a $10 minimum charge, for such extension of the credit period, and (3) no such carrier shall grant credit to any shipper which falls to pay a duly presented freight bill within the 30-day period, unless and until such shipper affirmatively satisfies the carrier that all future freight bills duly presented will be paid strictly in accordance with the rules and regulations prescribed by the Commission for the settlement of carrier rates and charges. *Provided,* That no service charge authorized herein shall be assessed in connection with rates and charges on freight transported for the United States, for any department, bureau, or agency thereof, or for any State or territory, or political subdivision thereof, or for the District of Columbia.

*It is further ordered,* That this order shall become effective on November 5, 1973, and shall remain in effect until modified or revoked in whole or in part by further order of the Commission.

*And it is further ordered,* That notice of this order shall be given to the general public by depositing a copy thereof in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register (49 U.S.C. 301, 302, 304, 308, and 323, 5 U.S.C. 553 and 599).

By the Commission.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-20428 Filed 9-24-73;8:45 am]

[1] In the order of the Commission, served September 1, 1972, part 1121.32 was inadvertently omitted. (37 FR 18918, September 16, 1972.)





## Title 50—Wildlife and Fisheries

### CHAPTER I—BUREAU OF SPORT FISHERIES AND WILDLIFE, FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

### PART 32—HUNTING

### Montezuma National Wildlife Refuge, New York

The following special regulation is issued and effective during the period December 5, 1973, through February 28, 1974.

**§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.**

NEW YORK

MONTEZUMA NATIONAL WILDLIFE REFUGE

The public hunting of gray squirrels, cottontail rabbits, raccoons, foxes, and unprotected mammals is permitted from December 5, 1973, to February 28, 1974, inclusive, on the Montezuma National Wildlife Refuge, New York except on areas designated by signs as closed. The open area, comprising 5,285 acres, is delineated on maps available at refuge headquarters, RD1, Box 232, Seneca Falls, New York, 13148; and from the Regional Director, Bureau of Sport Fisheries and Wildlife, John W. McCormack Post Office and Courthouse, Boston, Massachusetts 02109.

Hunting shall be in accordance with all other applicable state regulations governing the hunting of the above mammals.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through February 28, 1974.

RICHARD E. GRIFFITH,
*Regional Director, Bureau of Sport Fisheries and Wildlife.*

SEPTEMBER 17, 1973.

[FR Doc.73-20331 Filed 9-24-73;8:45 am]

### PART 32—HUNTING

### Prime Hook National Wildlife Refuge, Delaware

The following special regulation is issued and is effective during the period November 3, 1973, through January 3, 1974.

**§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.**

DELAWARE

PRIME HOOK NATIONAL WILDLIFE REFUGE

The public hunting of waterfowl, rails, coots, gallinules, common snipe, woodcock, and mourning doves on Prime Hook National Wildlife Refuge is permitted within the regularly established 1973–74 waterfowl hunting season of the State of Delaware, but only within the 1,663 acre waterfowl hunting area as delineated on a map available at refuge headquarters, RD 1, Box 195, Milton, Delaware 19968, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, U.S. Post Office and Courthouse, Boston, Massachusetts 02109.

Hunting shall be in accordance with all applicable Federal and State regulations covering the hunting of migratory birds subject to the following special conditions:

(1) Permits will be issued by a ticket-lottery system at two hours before sunrise. Hunters arriving after the lottery will be issued permits on a first-come, first-served basis until 3:00 p.m. Permits will be surrendered at the checking station within one hour after sunset.

(2) Hunting shall be only from blinds at locations designated by refuge personnel. The possession of a loaded gun or shooting outside of a blind while hunting migratory game birds is prohibited. Three hunters per blind permitted.

(3) Access to the waterfowl hunting area will be at the refuge headquarters, and other designated access points.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge area generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through January 16, 1974.

RICHARD E. GRIFFITH,
*Regional Director, Bureau of Sport Fisheries and Wildlife.*

SEPTEMBER 17, 1973.

[FR Doc.73-20329 Filed 9-24-73;8:45 am]

### PART 32—HUNTING

### Tishomingo National Wildlife Refuge, Oklahoma

The following special regulation is issued and is effective on September 25, 1973.

**§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.**

OKLAHOMA

TISHOMINGO NATIONAL WILDLIFE REFUGE

Public hunting of quail on the Tishomingo National Wildlife Refuge, Oklahoma, is permitted only on the area designated by signs as open to hunting. This open area, comprising 3,170 acres, is delineated on maps available at refuge headquarters, Tishomingo, Oklahoma, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, New Mexico 87103. Hunting shall be in accordance with all applicable State regulations governing the hunting of quail subject to the following special conditions:

(1) The open season for hunting quail on the Management Unit (Zones 1 and 2) extends from sunrise to 11:45 A.M. November 20, 1973 through February 1, 1974, inclusive, on Tuesdays, Thursdays, Saturdays, Sundays, and all national holidays.

(2) Dogs may be used for the purpose of hunting and retrieving.

(3) A Federal permit is not required to enter the public hunting area, but hunters, upon entering and leaving, shall report at designated checking stations as may be established for the regulation of the hunting activity and shall furnish information pertaining to their hunting, as requested.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through February 1, 1974.

ERNEST S. JEMISON,
*Refuge Manager, Tishomingo National Wildlife Refuge, Tishomingo, Oklahoma.*

SEPTEMBER 11, 1973.

[FR Doc.73-20332 Filed 9-24-73;8:45 am]

### PART 32—HUNTING

### Tishomingo National Wildlife Refuge, Oklahoma

The following special regulation is issued and is effective on September 25, 1973.

**§ 32.32 Special regulations; big game; for individual wildlife refuge areas.**

OKLAHOMA

TISHOMINGO NATIONAL WILDLIFE REFUGE

Public hunting of deer on the Tishomingo National Wildlife Refuge, Oklahoma, is permitted only on the area designated by signs as open to hunting. This open area, comprising 3,170 acres, is delineated on maps available at refuge headquarters, Tishomingo, Oklahoma, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, Post Office Box 1306, Albuquerque, New Mexico 87103. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer subject to the following special conditions:

(1) The archery deer hunting season on the Management Unit (Zone 1, 2, and 3) is from October 13 through October 21, 1973, to buck only deer hunting. Shooting hours are from daylight to dark. No permit required. A maximum of 60 archery hunters per day will be admitted to the hunting area.

(2) The gun deer hunting season on the Management Unit will be open November 23, 24, 25, 1973, to buck deer hunting only by permits. The Oklahoma Wildlife Department will issue 35 permits per day by public drawing. Shooting hours are from daylight to dark.

(3) A Federal permit is not required to enter the public hunting area for the hunting of deer, but hunters, upon entering and leaving, shall report at designated checking stations as may be established for the regulation of the



V 38 I 185 SEP 25 73 XUM

hunting activity and shall furnish information pertaining to their hunting, as requested.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 25, 1973.

ERNEST S. JEMISON,
*Refuge Manager, Tishomingo National Wildlife Refuge, Tishomingo, Oklahoma.*

SEPTEMBER 10, 1973.

[FR Doc.73-20333 Filed 9-24-73;8:45 am]

## PART 32—HUNTING

### Yazoo National Wildlife Refuge, Mississippi

The following special regulations are issued and are effective on September 29, 1973.

**§ 32.22 Special regulations; upland game; for individual refuge areas. areas.**

MISSISSIPPI

YAZOO NATIONAL WILDLIFE REFUGE

Public hunting of squirrels on the Yazoo National Wildlife Refuge, Mississippi, is permitted only on the areas designated by signs as open to hunting. These open areas, comprising approximately 10,500 acres, are delineated on a map available at refuge headquarters and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, 17 Executive Park Drive NE., Atlanta, Georgia 30329. Hunting shall be in accordance with all applicable State regulations governing the hunting of squirrels subject to the following special conditions:

(1) The open season extends from September 29–October 10, 1973, Sundays excluded, one-half hour before official sunrise to official sunset. Hunters may not enter hunting area earlier than one hour before official sunrise and must depart area immediately after official sunset.

(2) Bag limit: 8 per day.

(3) Firearms: shotguns, 10 gauge or smaller (no buckshot or slugs permitted, possession illegal), rifles limited to 22 caliber (22 magnum and 222 rifles prohibited). *All shotguns must be plugged to hold three shells. Sidearms (pistols and revolvers) prohibited.*

(4) Use of dogs prohibited.

(5) No firearms may be discharged within 250 yards of Refuge Headquarters or residences.

(6) Carrying of loaded firearms in vehicles prohibited. Shooting from vehicles or paved roads prohibited.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through October 10, 1973.

PHILLIP S. MORGAN,
*Acting Regional Director, Bureau of Sport Fisheries and Wildlife.*

SEPTEMBER 14, 1973.

[FR Doc.73-20330 Filed 9-24-73;8:45 am]





# Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

## DEPARTMENT OF THE INTERIOR

### Bureau of Indian Affairs

### [ 25 CFR Part 221 ]

### SALT RIVER INDIAN IRRIGATION PROJECT, ARIZONA

### Proposed Revisions

Pursuant to the authority vested in the Secretary of the Interior for issuance of irrigation operation and maintenance orders fixing per acre assessments against lands included in Indian Irrigation Projects, delegated to the Commissioner of Indian Affairs by Order No. 2508 (10 BIAM 2.1, Section 15a) and redelegated to the Area Directors by 10 BIAM 4.1, notice is hereby given that it is proposed to modify § 221.120 *Basic assessment*, of Title 25, Code of Federal Regulations, dealing with operation and maintenance assessment against the lands under the Salt River Indian Irrigation Project in Arizona, by increasing the annual basic assessment rate for the calendar year 1974 and subsequent years until further notice, from $7.35 to $9.60 per acre; § 221.121 *Payment*, to change annual date of payment from April 1 to February 1 each year; and § 221.123 *Excess water*, by increasing the rate from $8.00 to $9.50 per acre-foot.

The revised sections will read as follows:

**§ 221.120 Basic assessment.**

The basic operation and maintenance assessment against the lands under the Salt River Indian Irrigation Project in Arizona to which water can be delivered through the irrigation project works is hereby fixed at $9.60 per acre for the year 1974 and subsequent years until further notice. The payment of the per-acre assessment shall entitle the land for which payment is made to receive three acre-feet of water per annum, or such lesser amount as represents the proportionate share of the available supply of water.

**§ 221.121 Payment.**

The annual basic charge fixed in § 221.120 shall be due and payable on or before February 1, 1974, and on February 1 of each year thereafter until further notice. Charges not paid on the due date shall stand as a first lien against the lands until paid.

**§ 221.123 Excess water.**

Additional water in excess of the basic apportionment of three acre-feet per acre per annum, may be purchased if and when the water is available at the rate of $9.50 per acre-foot or fraction thereof, measured at the farm delivery point. Payment shall be made in advance of delivery.

It is the policy of the Department of the Interior whenever practicable to afford the public an opportunity to participate in the rule making process. Accordingly, interested persons may submit written comments, suggestions, or objections with respect to the proposed revisions to John Artichoker, Area Director, Phoenix Area Office, Post Office Box 7007, Phoenix, Arizona 85011, on or before October 25, 1973.

JOHN ARTICHOKER,
*Area Director.*

[FR Doc.73-20328 Filed 9-24-73;8:45 am]

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

### [ 7 CFR Part 989 ]

### RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

### Proposed Designation of Desirable Free Tonnage for Natural Thompson Seedless Raisins

Notice is given of a proposal to designate a desirable free tonnage for natural Thompson Seedless raisins of 150,000 tons which would be made available as free tonnage during the 1973–74 crop year. This action would be in accordance with the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989), hereinafter referred to collectively as the "order", regulating the handling of raisins produced from grapes grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The proposal was unanimously recommended by the Raisin Administrative Committee.

The Committee's recommendation is pursuant to § 989.54 of the order and is based on its review of shipment data, inventory data, and other matters, relating to a desirable free tonnage for natural Thompson Seedless raisins for the 1973–74 crop year.

The proposed desirable free tonnage is based upon the following estimates:

| Item | *Natural condition tons* |
|---|---|
| 1. Free tonnage trade demand | 131,500 |
| 2. Desirable carryout Aug. 31, 1974 | 20,000 |
| 3. Total requirements | 151,500 |
| 4. Less carryin Sept. 1, 1973 | 1,500 |
| 5. Desirable free tonnage | 150,000 |

Consideration will be given to any written data, views, or arguments pertaining to the proposal which are received by the Hearing Clerk, U.S. Department of Agriculture, Room 112, Administration Building, Washington, D.C. 20250, not later than October 15, 1973. All written submissions made pursuant to this notice should be in quadruplicate and will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated September 19, 1973.

CHARLES R. BRADER,
*Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.73-20343 Filed 9-24-73;8:45 am]

### [ 7 CFR Part 1140 ]

### MILK IN THE FRONTIER MARKETING AREA

### Postponement of Hearing on Proposed Marketing Agreement and Order

A notice was issued on July 10, 1973 (38 FR 18681), giving notice of a public hearing to be held at the U.S. Courthouse, Old Federal Building (Courtroom 1), 111 South Wolcott Street, Casper, Wyoming, beginning at 10 a.m., local time, on August 7, 1973, with respect to a proposed marketing agreement and order, regulating the handling of milk in the Frontier marketing area.

The hearing was convened on August 7 and recessed on August 10, 1973. The Administrative Law Judge scheduled the hearing to reconvene at the same place on September 25, 1973, at 9 a.m., local time.

Notice is hereby given, pursuant to the rules of practice applicable to such proceedings (7 CFR Part 900), that said hearing is postponed until the earliest date feasible for rescheduling, such date and the time and place of the hearing to be announced later. The major order proponent had requested a postponement of the hearing for approximately sixty days.

Copies of this notice of postponement of hearing may be procured from the Hearing Clerk, Room 112, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

Signed at Washington, D.C., on September 20, 1973.

JOHN C. BLUM,
*Deputy Administrator Regulatory Programs.*

[FR Doc.73-20433 Filed 9-24-73;8:45 am]



V 38 185 SEP 25 73 XUM

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Office of the Secretary

### [ 42 CFR Part 81 ]

### CAPITAL EXPENDITURES

### Payment to States for Costs of Review

On August 3, 1973, a notice of proposed rulemaking was published in the FEDERAL REGISTER (38 FR 20994) stating that the Assistant Secretary for Health of the Department of Health, Education, and Welfare, with the approval of the Secretary of Health, Education, and Welfare, proposed to issue a new Part 81 of Title 42, Code of Federal Regulations, entitled "Limitation on Federal Participation for Capital Expenditures". The Notice stated that the purpose of the proposed Part 81 was to implement the provisions of section 1122 of the Social Security Act, as added by Section 221(a) of the Social Security Amendments of 1972 (86 Stat. 1386–89; 42 U.S.C. 1320a–1). Interested persons were given 30 days to comment on the proposal.

The proposed Part 81 did not include any provision implementing paragraph (c) of such section 1122, relating to payment to the States by the Secretary from the Federal Hospital Insurance Trust Fund for the performance of functions under section 1122(b). Such a provision has now been prepared for inclusion in Part 81.

Accordingly, notice is hereby given that the Assistant Secretary for Health, with the approval of the Secretary, proposes to add to 42 CFR Part 81, as such Part 81 was proposed in the notice of proposed rulemaking published on August 3, 1973 (38 FR 20994), a new § 81.110, entitled "Payment by Secretary of costs of agency review".

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed new 42 CFR 81.110 to the Comprehensive Health Planning Service, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, on or before October 10, 1973. Comments will be available for public inspection in Room 7–43, Parklawn Building, between the hours of 8:30 a.m. and 5 p.m., Monday through Friday.

It is, therefore, proposed to add the following new § 81.110 to the new Part 81 of Title 42, as such Part 81 was proposed in the notice of proposed rulemaking published in the FEDERAL REGISTER on August 3, 1973 (38 FR 20994).

Dated August 31, 1973.

H. E. SIMMONS,
*Acting Assistant Secretary for Health.*

Approved September 21, 1973.

CASPAR W. WEINBERGER,
*Secretary of Health, Education, and Welfare.*

**§ 81.110 Payment by Secretary of costs of agency review.**

(a) In accordance with section 1122(c) of the Act, the Secretary will pay to each designated planning agency, from the Federal Hospital Insurance Trust Fund, an amount for each fiscal year beginning with the fiscal year ending June 30, 1974, to be determined as follows:

(1) The Secretary will determine, on the basis of information furnished to him by the designated planning agency and such other information as may be available to him, (i) the amount of funds, both Federal and non-Federal, which will be expended in such State during such fiscal year to carry out sections 314(a) and (b) of the Public Health Service Act, and (ii) the amount of such funds which will be expended for the purpose of cost containment.

(2) The amount to be paid to each designated planning agency under this paragraph will be computed by multiplying the lesser of (i) the amount determined pursuant to clause (ii) of paragraph (a)(1) of this section or (ii) 50 percent of the amount determined pursuant to clause (i) of paragraph (a)(1), of this section, by the percentage obtained by dividing the total amount of Federal expenditures for hospital and nursing home services under Titles V, XVIII and XIX of the Act in such State by the total amount of all expenditures for hospital and nursing home services, from whatever source in such State. This computation shall utilize data from the latest fiscal year for which all necessary data is available, as determined by the Secretary.

(3) The amounts to be paid to the States pursuant to this paragraph for each fiscal year will be published by the Secretary in the FEDERAL REGISTER as soon as practicable following the beginning of such fiscal year.

(b) Each designated planning agency shall be responsible for making payments from funds paid to it by the Secretary pursuant to paragraph (a) of this section to the other agencies described in § 81.105 in such State. The method for computing such payments shall be described in the Agreement.

(c) The Secretary shall from time to time make payments to a designated planning agency of all or a portion of the amount determined pursuant to paragraph (a) of this section, in advance or by way of reimbursement as provided in the Agreement, to the extent he determines such payments necessary to promote the carrying out of the purposes of section 1122 of the Act in such State. Such payments shall be subject to adjustments, on account of overpayments or underpayments previously made, in accordance with the Agreement.

(d) The designated planning agency shall keep such records and accounts, and furnish such reports to the Secretary, as may be required pursuant to the Agreement.

[FR Doc.73-20497 Filed 9-24-73;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### [ 14 CFR Part 71 ]

[Airspace Docket No. 73–EA–84]

### CONTROL ZONE

### Proposed Alteration

The Federal Aviation Administration is considering amending § 71.171 of Part 71 of the Federal Aviation Regulations so as to alter the Calverton, N.Y., Control Zone (38 FR 362).

The communications and weather information at the Peconic River Airport will be available from 0800 to sunset, local time, Monday through Saturday. It is proposed to alter the control zone description so as to make its effectivity coincident with such availability.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430. All communications received on or before October 25, 1973, will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Calverton, New York, proposes the airspace action hereinafter set forth:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations so as to alter the Calverton, N.Y. control zone as follows:

In the text, delete "from 0800 to 1630 hours, local time, Monday through Friday." and substitute in lieu thereof, "from 0800 to sunset, local time, Monday through Saturday."

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 [72 Stat. 749; 49 U.S.C. 1348] and section 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)].

Issued in Jamaica, N.Y., on September 11, 1973.

ROBERT H. STANTON,
*Director, Eastern Region.*

[FR Doc.73-20358 Filed 9-24-73;8:45 am]





### [ 14 CFR Part 71 ]

[Airspace Docket No. 73–SO–61]

### CONTROL ZONE

### Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Knoxville, Tenn. (Downtown Island Airport) control zone.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Federal Aviation Administration, Southern Region, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before October 25, 1973, will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in light of comments received.

The official docket will be available for examination by interested persons at the Federal Aviation Administration, Southern Region, Room 770, 3400 Whipple Street, East Point, Ga.

The Knoxville (Downtown Island Airport) control zone described in 71.171 (38 FR 351) would be amended to read:

Within a 5-mile radius of Downtown Island Airport (Lat. 35°57'45" N, Long. 83°52'30" W); excluding the portion within the Knoxville control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

The proposed alteration is required to provide controlled airspace protection for IFR operations at Knoxville Downtown Island Airport. An instrument approach procedure to this airport, utilizing the Knoxville VOR and Knoxville Approach Control Radar, is proposed.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in East Point, Ga., on September 10, 1973.

PHILLIP M. SWATEK,
*Director, Southern Region.*

[FR Doc.73-20368 Filed 9-24-73;8:45 am]

### [ 14 CFR Part 71 ]

[Airspace Docket No. 73–EA–80]

### CONTROL ZONE

### Proposed Alteration

The Federal Aviation Administration is considering amending § 71.171 of the Federal Aviation Regulations so as to alter the Morristown, N.J., Control Zone (38 FR 403, 21393).

A review of the terminal airspace requirements for Morristown, New Jersey, indicates a need to alter the control zone to conform to the criteria of the Terminal Instrument Procedures (TERPs).

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430. All communications received on or before October 25, 1973, will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Morristown, New Jersey, proposes the airspace action hereinafter set forth:

1. Amend § 71.171 of Part 71 of the Federal Aviation Regulations by deleting the description of the Morristown, N.J. control zone and by substituting the following in lieu thereof:

Within a 5-mile radius of the center, 40°47'58" N., 74°34'56" W., of Morristown Municipal Airport, Morristown, N.J., extending clockwise from a 339° bearing to a 229° from the airport; within a 6-mile radius of the center of Morristown Municipal Airport, extending clockwise from a 229° bearing to a 339° bearing from the airport and within 3 miles each side of a 204° bearing from the Chatham, N.J., RBN, extending from the 5-mile-radius zone to 8.5 miles southwest of the RBN, excluding a 1-mile radius of the center, 40°41'28" N., 74°32'08" W., of Somerset Hills, Airport, Basking Ridge, N.J. This control zone is effective from 0630 to 2230 hours, local time, daily.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 [72 Stat. 749; 49 U.S.C. 1348] and section 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)].

Issued in Jamaica, N.Y., on September 11, 1973.

ROBERT H. STANTON,
*Director, Eastern Region.*

[FR Doc.73-20363 Filed 9-24-73;8:45 am]

### [ 14 CFR Part 71 ]

[Airspace Docket No. 73–EA–71]

### CONTROL ZONE

### Proposed Alteration

The Federal Aviation Administration is considering amending § 71.171 of the Federal Aviation Regulations so as to alter the New York, N.Y. (La Guardia Airport) Control Zone (38 FR 406).

A review of the terminal area airspace requirements for New York, N.Y., indicates a need to alter the control zone so as to conform to the criteria of the Terminal Instrument Procedures (TERP's).

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430. All communications received within 30 days after publication in the Federal Register will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of New York, New York (La Guardia Airport), proposes the airspace action hereinafter set forth:

1. Amend § 71.171 of the Federal Aviation Regulations by deleting the description of the New York, N.Y. (La Guardia Airport) control zone and by substituting the following in lieu thereof:

Within a 5-mile radius of the center 40°-46'36" N., 73°52'24" W. of La Guardia Airport; within 1.5 miles each side of a line bearing 124° from a point 40°46'20" N., 73°-51'34" W., extending from said point to 5 miles southeast of said point.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 [72 Stat. 749; 49 U.S.C. 1348] and section 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)].

Issued in Jamaica, N.Y., on September 11, 1973.

ROBERT H. STANTON,
*Director, Eastern Region.*

[FR Doc.73-20361 Filed 9-24-73;8:45 am]



V 38-185
SEP 25 73
XUM

[ 14 CFR Part 71 ]

[Airspace Docket No. 73-EA-77]

## CONTROL ZONE AND TRANSITION AREA

### Proposed Alteration and Revocation

The Federal Aviation Administration is considering amending §§ 71.171 and 71.181 of the Federal Aviation Regulations so as to alter the Newburgh, N.Y., Control Zone (38 FR 405) and Transition Area (38 FR 543) and revoke the Middletown, N.Y., Transition Area (38 FR 533).

A review of the terminal airspace requirements for Montgomery, N.Y., Middletown, N.Y., and Newburgh, N.Y., indicates a need to increase the controlled airspace to protect aircraft executing instrument procedures for Randall Airport, Orange County Airport and Stewart Airport. Such alteration will also permit the deleting of the Middletown, N.Y., Transition Area, which will be included in the Newburgh, N.Y., Transition Area.

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, N.Y. 11430. All communications received on or before October 25, 1973, will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal areas aforementioned, proposes the airspace action hereinafter set forth:

1. Amend § 71.171 of the Federal Aviation Regulations by deleting the description of the Newburgh, N.Y. control zone and by substituting the following in lieu thereof:

Within a 5-mile radius of the center, 41°-30'05" N., 74°05'40" W., of Stewart Airport, Newburgh, N.Y., extending clockwise from a 066° bearing to a 209° bearing from the airport; within a 5.5-mile radius of the center of the airport, extending clockwise from a 209° bearing to a 249° bearing from the airport; within a 5-mile radius of the center of the airport, extending clockwise from a 249° bearing to a 315° bearing from the airport; within a 6.5-mile radius of the center of the airport, extending clockwise from a 315° bearing to a 066° bearing from the airport; within 3 miles each side of the Stewart VOR (41°30'28" N., 74°05'53" W.) 325° radial, extending from the VOR to 15 miles northwest of the VOR and within 4.5 miles each side of the Stewart VOR 085° radial, extending from the VOR to 11.5 miles east of the VOR, excluding the portion that coincides with the Poughkeepsie, N.Y., control zone. This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airman's Information Manual.

2. Amend § 71.181 of the Federal Aviation Regulations by deleting the description of the Newburgh, N.Y., transition area and by substituting the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of the center, 41°30'05" N., 74°05'40" W. of Stewart Airport, Newburgh, N.Y., extending clockwise from a 222° bearing to a 332° bearing from the airport; within an 11.5-mile radius of the center of Stewart Airport, extending clockwise from the 332° bearing to a 045° bearing from the airport; within an 8.5-mile radius of the center of Stewart Airport, extending clockwise from a 045° bearing to a 076° bearing from the airport, within a 10-mile radius of the center of Stewart Airport, extending clockwise from a 076° bearing to a 130° bearing from the airport; within a 12.5-mile radius of the center of Stewart Airport, extending clockwise from a 130° bearing to a 159° bearing from the airport; within a 14.5-mile radius of the center of Stewart Airport, extending clockwise from a 159° bearing to a 191° bearing from the airport, within a 12.5-mile radius of the center of Stewart Airport, extending clockwise from a 191° bearing to a 222° bearing from the airport; within 3.5 miles each side of the Stewart VOR (41°30'28" N., 74°05'53" W.) 325° radial, extending from the Stewart VOR to 18.5 miles northwest of the Stewart VOR; within 5 miles each side of the Stewart VOR 085° radial, extending from the Stewart VOR to 13 miles east of the Stewart VOR; within 5 miles each side of the Huguenot VORTAC 074° radial extending from the Huguenot VORTAC to 20 miles east of the Huguenot VORTAC; within a 7-mile radius of the center 41°30'41" N., 74°15'51" W. of Orange County Airport, Montgomery, N.Y., extending clockwise from a 332° bearing to a 074° bearing from the airport; within a 7.5-mile radius of the center of Orange County Airport, extending clockwise from a 074° bearing to a 161° bearing from the airport; within an 8-mile radius of the center of Orange County Airport, extending clockwise from a 161° bearing to a 228° bearing from the airport within a 9-mile radius of the center of Orange County Airport, extending clockwise from a 228° bearing to a 332° bearing from the airport; within 3.5 miles each side of the Orange County Airport ILS localizer south course, extending from the OM to a point 14 miles south of the OM; within a 6-mile radius of the center, 41°25'54" N., 74°23'45" W. of Randall Airport, Middletown, N.Y., extending clockwise from a 015° bearing to a 128° bearing from the airport; within a 6.5-mile radius of the center of Randall Airport, extending clockwise from a 128° bearing to a 167° bearing from the airport; within a 6-mile radius of the center of Randall Airport, extending clockwise from a 167° bearing to a 227° bearing from the airport; within a 7-mile radius of the center of Randall Airport, extending clockwise from a 227° bearing to a 309° bearing from the airport; within a 6.5-mile radius of the center of Randall Airport, extending clockwise from a 309° bearing to a 015° bearing from the airport; and within 2 miles each side of the Huguenot VORTAC 082° radial, extending from the Huguenot VORTAC to 10 miles east of the Huguenot VORTAC.

3. Amend § 71.181 of the Federal Aviation Regulations so as to revoke the Middletown, N.Y., transition area.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 [72 Stat. 749; 49 U.S.C. 1348] and section 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)].

Issued in Jamaica, N.Y., on September 11, 1973.

ROBERT H. STANTON,
*Director, Eastern Region.*

[FR Doc.73-20360 Filed 9-24-73;8:45 am]

---

[ 14 CFR Parts 71, 73 ]

[Airspace Docket No. 73-SW-33]

## RESTRICTED AREAS AND CONTROLLED AIRSPACE

### Proposed Designation

On July 31, 1973, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (38 FR 20348) stating that the Federal Aviation Administration was considering amendments to Parts 71 and 73 of the Federal Aviation Regulations that would alter the description of Restricted Areas R-2401 and R-2402, Fort Chaffee, Ark., and include R-2401 in the description of the continental control area. The deadline for public comment on the proposal was August 30, 1973.

Subsequent to publication of the NPRM, problems in the distribution of the notice arose which required an extension of the comment period.

In consideration of the foregoing, the comment period for the proposal to alter the Fort Chaffee, Ark., Restricted Areas R-2401 and R-2402, as contained in Airspace Docket No. 73-SW-33, is extended to September 30, 1973.

This action is taken under the authority of sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on September 10, 1973.

CHARLES H. NEWPOL,
*Acting Chief, Airspace and Air Traffic Rules Division.*

[FR Doc.73-20364 Filed 9-24-73;8:45 am]

---

[ 14 CFR Part 71 ]

[Airspace Docket No. 73-EA-68]

## TRANSITION AREA

### Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of the Federal Aviation Regulations so as to alter the Hershey, Pa., Transition Area (38 FR 501).

A review of the terminal area airspace requirements for Hershey, Pa., indicates a need to alter the transition area to conform to the criteria of the Terminal Instrument Procedures (TERP's).

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430. All communications received on or before October 25, 1973, will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Hershey, Pennsylvania, proposes the airspace action hereinafter set forth:

1. Amend § 71.181, Federal Aviation Regulations so as to delete the description of the Hershey, Pa. 700-foot floor transition area and by substituting the following in lieu thereof:

HERSHEY, PA.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the center, Lat. 40°17'35" N., Long. 76°39'40" W. of Hershey Airpark, Hershey, Pa.; within a 7-mile radius of the center of the airport extending clockwise from a 092° bearing to a 041° bearing from the airport excluding that portion that coincides with the Harrisburg, Pa., transition area. This transition area shall be effective from sunrise to sunset, daily.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 [72 Stat. 749; 49 U.S.C. 1348] and section 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)].

Issued in Jamaica, N.Y., on September 11, 1973.

ROBERT H. STANTON,
*Director, Eastern Region.*

[FR Doc.73-20362 Filed 9-24-73;8:45 am]

---

[ 14 CFR Part 71 ]

[Airspace Docket No. 73-SW-62]

## TRANSITION AREA

### Proposed Alteration

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations to alter the Lafayette, La., transition area.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101. All communications received within 30 days after publication of this notice in the Federal Register will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested persons at the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, Fort Worth, Texas. An informal docket will also be available for examination at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

It is proposed to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth.

In § 71.181 (38 FR 435), the Lafayette, La., transition area is amended to read:

LAFAYETTE, LA.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Lafayette Airport (latitude 30°12'00" N., longitude 91°59'40" W.); within 2 miles each side of the Lafayette ILS localized north course extending from the OM to the 5-mile radius area; within 2 miles each side of the Lafayette ILS localizer south course extending from the 5-mile-radius-area to the 5-mile-radius area of the Abbeville Municipal Airport (latitude 29°58'19" N., longitude 92°05'06" W.); within 2 miles each side of the Lafayette VORTAC 171° radial extending from the 5-mile-radius area of the Lafayette Airport to 8 miles south of the VORTAC; within 2 miles each side of the 276° bearing from the Lafayetto RBN (latitude 30°11'35" N., longitude 91°52'58" W.) extending from the RBN to the 5-mile-radius area; within 2 miles each side of the Lafayette VORTAC 206° radial extending from the VORTAC to the 5-mile-radius area of the Abbeville Airport; within a 5-mile-radius of Acadiana Regional Airport (latitude 30°-02'15" N., longitude 91°53'00" W.); within 2 miles each side of the Lafayette VORTAC 139° radial extending from the 5-mile-radius area of Lafayette Airport to the 5-mile-radius area of Acadiana Airport; within 3 miles each side of the Lafayette VORTAC 145° radial extending from the 5-mile-radius area of Acadiana to 17.5 miles from the Lafayette VORTAC.

The proposed amendment to the transition area will provide controlled airspace for aircraft executing the proposed VORTAC runway 34 standard instrument approach to Acadiana Airport.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348) and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Fort Worth, Tex., on September 10, 1973.

ALBERT H. THURBURN,
*Acting Director, Southeast Region.*

[FR Doc.73-20369 Filed 9-24-73;8:45 am]

---

[ 14 CFR Part 71 ]

[Airspace Docket No. 73-WE-15]

## TRANSITION AREA

### Proposed Alteration

The Federal Aviation Administration is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the description of Blythe, California transition area.

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace and Procedures Branch, Federal Aviation Administration, 15000 Aviation Blvd., P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. All communications received within 30 days after publication of this notice in the Federal Register will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the office of the Regional Counsel, Federal Aviation Administration, 15000 Aviation Blvd., Lawndale, California. 90261.

The FAA has developed two new VOR instrument approach procedures and an Area Navigation Approach to Blythe Airport, California. The new VOR procedures (VOR-A and VOR RWY 26) procedures will utilize the Blythe VORTAC 250° M (264° T) and 052° M (066° T) radials respectively as final approach courses. The VOR 26 approach will also incorporate a 15 NM mile arc transition extending from the Blythe 080° M counterclockwise to the 052° M radial. In addition, holding will be approved east of the 080°/15 DME fix.

The procedure turn for the VOR RWY 26 approach is described on the 052°/8 DME fix (McGowan intersection). The McGowan intersection is also designated as the intersection of the 052° M radial of the Blythe VORTAC and the 004° M bearing from the Ripley radiobeacon.







V 38 185 SEP 25 73 XUM

Describing the intersection in this manner will require that Ripley be redesignated from a SABH to a HSAB radiobeacon.

The proposed alteration of the Blythe, California transition area is necessary to provide controlled airspace protection for aircraft executing the proposed instrument procedures.

If the proposals outlined above are adopted, the current VOR–2 instrument approach procedure to Blythe Airport will be cancelled.

In consideration of the foregoing, the FAA proposes the following airspace action.

In § 71.181 (38 FR 435), the description of the Blythe, California transition area is amended to read as follows:

BLYTHE, CALIF.

That airspace extending upward from 700 feet above the face within 3 miles each side of the Blythe VORTAC 264° radial, extending from the VORTAC to 9 miles W. of the VORTAC; that airspace extending upward from 1,200 feet above the surface within 9.5 miles S. and 4.5 miles N. of the Blythe VORTAC 264° radial, extending from the VORTAC to 18.5 miles W. of the VORTAC; within 4.5 miles N.W. and 9.5 miles S.E. of the Blythe VORTAC 066° radial, extending from the VORTAC to 28 miles N.E. of the VORTAC; within 9 miles N. and 10 miles S. of the Blythe VORTAC 094° radial, extending from the VORTAC to 36 miles E. of the VORTAC, excluding the airspace within R–2306B, and that airspace within an arc of an 18-mile radius circle centered on the Blythe Airport (latitude 33°37'15" N., longitude 114°43'00" W.), extending clockwise from longitude 114°30'00" W. to the S. edge of V–16.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)), and of section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Los Angeles, California, on September 7, 1973.

ROBERT O. BLANCHARD,
*Acting Director,*
*Western Region.*

[FR Doc.73–20370 Filed 9–24–73;8:45 am]

[ 14 CFR Part 71 ]

[Airspace Docket No. 73–EA–79]

## TRANSITION AREA

### Proposed Alteration

The Federal Aviation Administration is considering amending § 71.181 of the Federal Aviation Regulations so as to alter the Andover, N.J., Transition Area (38 FR 440).

A review of the terminal airspace requirements for Andover, N.J. indicates a need to alter the transition area so as to conform to the criteria of the Terminal Instrument Procedures (TERP's).

Interested parties may submit such written data or views as they may desire. Communications should be submitted in triplicate to the Director, Eastern Region, Attn: Chief, Air Traffic Division, Department of Transportation, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York 11430. All communications received on or before October 25, 1973, will be considered before action is taken on the proposed amendment. No hearing is contemplated at this time, but arrangements may be made for informal conferences with Federal Aviation Administration officials by contacting the Chief, Airspace and Procedures Branch, Eastern Region.

Any data or views presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official docket will be available for examination by interested parties at the Office of Regional Counsel, Federal Aviation Administration, Federal Building, John F. Kennedy International Airport, Jamaica, New York.

The Federal Aviation Administration, having completed a review of the airspace requirements for the terminal area of Andover, New Jersey, proposes the airspace action hereinafter set forth:

1. Amend § 71.181 of Part 71 of the Federal Aviation Regulations by deleting the description of the Andover, N.J., 700-foot floor transition area and by substituting the following in lieu thereof:

That airspace extending upward from 700 feet above the surface within a 10.5-mile radius of the center 41°00'00"N., 74°44'00"W. of Aeroflex-Andover Airport, Andover, N.J., extending clockwise from a 103° bearing to a 103° bearing from the airport; within a 9.5-mile radius of the center of the airport, extending clockwise from a 103° bearing to a 174° bearing from the airport; within an 8.5-mile radius of the center of the airport extending clockwise from a 174° bearing to a 225° bearing from the airport; within a 7-mile radius of the center of the airport, extending clockwise from a 225° bearing to a 295° bearing from the airport; within a 6-mile radius of the center of the airport, extending clockwise from a 295° bearing to a 053° bearing from the airport; within 1.5 miles each side of the Stillwater, N.J. VORTAC 083° radial, extending from the 7-mile-radius area to the Stillwater, N.J., VORTAC.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 [72 Stat. 749; 49 U.S.C. 1348] and section 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)].

Issued in Jamaica, N.Y., on September 11, 1973.

ROBERT H. STANTON,
*Director, Eastern Region.*

[FR Doc.73–20359 Filed 9–24–73;8:45 am]

[ 14 CFR Part 71 ]

[Airspace Docket No. 73–RM–24]

## VOR FEDERAL AIRWAY

### Proposed Designation

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would designate VOR Federal Airway No. 207 west alternate between Denver, Colo., and Gill, Colo.

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 601 E. 12th Street, Kansas City, Mo. 64106. All communications received on or before October 25, 1973, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The proposed amendment would designate new VOR Federal Airway No. 207 west alternate from Denver, Colo., to Gill, Colo., via INT Denver 359°T(346° M) and Gill 224°T(211°M) radials. This amendment would provide for segregation of departing and arriving aircraft northeast of Denver.

This amendment is proposed under the authority of Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on September 10, 1973.

CHARLES H. NEWPOL,
*Acting Chief, Airspace and*
*Traffic Rules Division.*

[FR Doc 73 20365 Filed 9–24–73;8:45 am]

[ 14 CFR Part 71 ]

[Airspace Docket No. 73–CE–27]

## VOR FEDERAL AIRWAY

### Proposed Designation and Extension

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would:

1. Designate a new VOR Federal Airway between Kansas City, Mo., and Ottumwa, Iowa.

2. Extend an airway from Kirksville, Mo., to Ottumwa.

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Central Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 601 E. 12th Street, Kansas City, Mo. 64106. All communications received on or before October 25, 1973, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on September 10, 1973.

CHARLES H. NEWPOL,
*Acting Chief, Airspace and*
*Air Traffic Rules Division.*

[FR Doc.73–20367 Filed 9–24–73;8:45 am]

[ 14 CFR Part 75 ]

[Airspace Docket No. 73–SW–59]

## JET ROUTE

### Proposed Establishment

The Federal Aviation Administration (FAA) is considering an amendment to Part 75 of the Federal Aviation Regulations that would establish a new jet route from Humble, Tex., to Little Rock, Ark., via Daisetta, Tex.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before October 25, 1973 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The proposed amendment would establish new Jet Route No. J–180 from Humble, Tex., to Little Rock, Ark., via Daisetta, Tex. This jet route would be used primarily for traffic from over Little Rock and Memphis, Tenn., en route to the Houston, Tex., Terminal Area, and would relieve traffic congestion in the Shreveport, La., area.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on September 10, 1973.

CHARLES H. NEWPOL,
*Acting Chief, Airspace and*
*Air Traffic Rules Division.*

[FR Doc.73–20366 Filed 9–24–73;8:45 am]

## ATOMIC ENERGY COMMISSION

[ 10 CFR Part 70 ]

### SPECIAL NUCLEAR MATERIAL

### Fundamental Nuclear Material Controls

The Atomic Energy Commission has under consideration amendments to 10 CFR Part 70, "Special Nuclear Material" which would specify fundamental nuclear material controls required to be established, maintained, and followed by licensees authorized to possess at any one time and location more than one effective kilogram of special nuclear material in unsealed form.

Part 70 of the Commission's regulations now requires that each application for a license to possess at any one time more than 5,000 grams of contained uranium-235, uranium-233, or plutonium, or any combination thereof, except in reactors or as sealed sources, contain a description of the applicant's procedures for control of and accounting for special nuclear material. In addition, each applicant is required to identify those fundamental material controls in the described procedures which he considers essential for assuring that the special nuclear material in his possession under license will be protected adequately. Further, as a condition of each license, the licensee is required to maintain such fundamental material controls and such other material control procedures as the Commission determines to be essential for the safeguarding of special nuclear material.

During the six years in which these requirements have been in effect fundamental material controls have been incorporated into licenses by a series of license conditions based on each license application. These license conditions now have been developed to the point where they can be standardized and included as a part of AEC regulations. The proposed amendments would eliminate the need for each license applicant to identify and to state these fundamental controls and for the Commission to issue separate but essentially similar conditions for each licensee. Instead the amendments would require each major licensee to establish, maintain, and follow specified fundamental nuclear material controls and to describe to the Commission his program to comply with such requirements. Some changes from the wording of the license conditions have been made in the fundamental material control requirements and additional requirements for control of scrap and waste have been included.

When the Commission determines that requirements specific to a given licensee are needed in addition to those in the proposed amendments, specific license conditions would be issued on a case by case basis.

Pursuant to the Atomic Energy Act of 1954, as amended, and section 553 of Title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Part 70 is contemplated. All interested persons who desire to submit written comments or suggestions should send them to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, by November 24, 1973. Copies of comments on the proposed amendments may be examined at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

1. Paragraph (b) of § 70.22 is amended to read as follows and footnote 1 thereto is deleted:

§ 70.22 Contents of applications.

* * * * * *

(b) Each application for a license to possess at any one time and location special nuclear material in a quantity exceeding one effective kilogram of special nuclear material and to use such special nuclear material for activities other than those involved in the operation of a nuclear reactor licensed pursuant to Part 50 of this chapter, or as sealed sources, shall contain a full description of the applicant's program for control of and accounting for special nuclear material which will be in his possession under license, to show how compliance with the requirements of § 70.58 will be accomplished.

* * * * * *

§ 70.32 [Amended]

2. Paragraph (c) of § 70.32 is deleted.

3. A new § 70.58 is added to read as follows:

§ 70.58 Fundamental nuclear material controls.

(a) Each licensee who is authorized to possess at any one time and location special nuclear material in a quantity exceeding one effective kilogram, and to use such special nuclear material for activities other than those involved in the operation of a nuclear reactor licensed pursuant to Part 50 of this chapter, or as sealed sources, shall establish, maintain, and follow written material control and accounting procedures in compliance with the fundamental nuclear material controls requirements specified in paragraphs (b) through (k) of this section and such other controls as the Commission determines to be







V 38 I 185 SEP 25 73 XUM

essential for the control of and accounting for special nuclear material.

(b)(1) The overall planning, coordination, and administration of the material control and accounting functions for special nuclear materials shall be vested in a single individual at an organizational level sufficient to assure independence of action and objectiveness of decisions. In manufacturing organizations, such individual shall be independent of individuals or units that are solely responsible for production functions.

(2) Material control and accounting functions shall be identified and assigned in the licensee organization to provide a separation of functions so that the activities of one individual or organizational unit serve as controls over and checks of the activities of other individuals or organizational units.

(3) Material control and accounting functional and organizational relationships shall be set forth in writing in job descriptions, organizational directives, instructions, procedure manuals, etc. Such documentation shall include position qualification requirements and definitions of authorities, responsibilities, and duties. Delegations of material control and accounting responsibilities and authority shall be in writing.

(c) A management system shall be established, maintained, and followed to provide for the development, revision, implementation, and enforcement of nuclear material control and accounting procedures. The system shall include:

(1) Provisions for written approval of such procedures and any revisions thereto by the individual with overall responsibility for the material control and accounting function and by licensee plant management.

(2) Provision for a review at least every 12 months of the nuclear material control system. Such a review shall include an audit of the nuclear material records by individuals in licensee management independent of both nuclear material control management personnel and personnel who have direct responsibility for the receipt, custody, utilization, measurement, measurement quality, and shipment of special nuclear material. The results of the review and audit along with recommendations for improvements shall be documented, reported to the licensee's corporate management and plant management, and kept available at the plant for inspection for a period of five years.

(d) Material Balance Areas (MBA) or Item Control Areas (ICA) shall be established for physical and administrative control of nuclear material.

(1) Each MBA shall be an identifiable physical area such that the quantity of nuclear material being moved into or out of the MBA can be measured.

(2) A sufficient number of MBAs shall be established so that nuclear material losses, thefts, or diversions can be localized and the mechanisms identified.

(3) The custody of all nuclear material within an MBA shall be the responsibility of a single individual.

(4) ICAs shall be established according to the same criteria as MBAs except that control into and out of such areas shall be by item identity and count for previously determined special nuclear material quantities.

(e) A system shall be established, maintained, and followed for the measurement of all special nuclear material received, produced, transferred between MBAs, on inventory, or shipped, discarded, or otherwise removed from inventory and for the determination of the limit of error associated with each such measured quantity. The system shall provide for sufficient measurements to substantiate the quantities of element and isotope measured and the associated limits of error.

(f) A program shall be established, maintained, and followed for the maintenance of acceptable measurement quality in terms of measurement bias and random and systematic errors and for the evaluation and control of the quality of the measurement system.

(g) Procedures shall be established, maintained, and followed to:

(1) Assure accurate identification and measurement of the quantities of special nuclear material received and shipped by a licensee;

(2) Review and evaluate shipper-receiver differences both individually and in series;

(3) Take appropriate investigative and corrective action to reconcile shipper-receiver differences that are statistically significant; and

(4) Maintain records of shipper-receiver difference evaluations, investigations and corrective actions on file at the facility for a period of five years.

(h) A system of storage and internal handling controls shall be established, maintained, and followed to provide continuous knowledge of the identity, quantity, and location of all special nuclear material contained within a facility in discrete items and containers. Such a system shall include procedures as specified in § 70.51(e)(1).[1]

(i) Procedures for special nuclear material scrap and waste control shall be established, maintained, and followed to limit the accumulation and the uncertainty of measurement of these materials on inventory. Such procedures shall include:

(1) Identification and classification of scrap; [2]

(2) Regular processing and recovery of scrap materials so that no item of scrap remains on inventory longer than three months;

(3) Minimization of the quantities of waste held on inventory so that no disposable waste is kept on inventory longer than three months, except as specifically authorized by the Commission; and

(4) Limitation of the uncertainty in measurement of scrap and waste materials so that the total measurement uncertainty attributable to these materials during a material balance period does not exceed thirty (30) percent of the limit of error of the plant material unaccounted for for that period.

(j) Physical inventory procedures shall be established, maintained, and followed so that special nuclear material balances and their measurement uncertainties can be determined on the basis of measurements in compliance with the material balance and inventory requirements and criteria specified in § 70.51.[1]

(k) A system of records and reports shall be established, maintained, and followed which will provide information sufficient to locate special nuclear material and to close a measured material balance around each material balance area and the total plant, as specified in § 70.51.[1] Such a system shall include:

(1) A centralized accounting system employing double entry bookkeeping;

(2) Subsidiary accounts for each material balance area and item control area;

(3) Records pertinent to the requirements of § 70.51 (e)(1).[1]

(4) Procedures for the reconciliation of subsidiary accounts to control accounts at the end of each accounting period; and

(5) Procedures for reconciliation of control and subsidiary accounts to the results of physical inventories.

(l) Each licensee subject to the requirements of this section who has not submitted a description of his fundamental material controls pursuant to this part by September 25, 1973, shall submit by December 24, 1973, a full description of his program for control of and accounting for special nuclear material in his possession under license to show how compliance with the requirements of this section will be accomplished.

(Secs. 53, 161, 68 Stat. 930, 148 (42 U.S.C. 2073, 2201).)

Dated at Washington, D.C., this 19th day of September 1973.

For the Atomic Energy Commission.

PAUL C. BENDER,
*Secretary of the Commission.*

[FR Doc.73-20302 Filed 9-24-73;8:45 am]

[1] As proposed in amendments to 10 CFR Part 70 published for public comment in 38 FR 3077 dated February 1, 1973.

[2] Guidance as to classification is provided in Regulatory Guide 5.2 "Classification of Unirradiated Plutonium and Uranium Scrap" which is available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies may be obtained by addressing a request to the Director of Regulatory Standards, U.S. Atomic Energy Commission, Washington, D.C. 20545.

## FEDERAL HOME LOAN BANK BOARD

[No. 73-1339]

### [ 12 CFR Part 526 ]

### FEDERAL HOME LOAN BANK SYSTEM

### NOW Accounts

SEPTEMBER 14, 1973.

Section 2(a) of Public Law No. 93-100 of August 16, 1973, provides that "No depository institution (as defined in section 2(b)) shall allow the owner of a deposit or account on which interest or dividends are paid to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties, except that such withdrawals may be made in the States of Massachusetts and New Hampshire." By section 8 thereof, section 2 takes effect on the thirtieth day after the day of its enactment.

The Federal Home Loan Bank Board considers that deposits or accounts on which Federal Home Loan Bank member institutions may pay interest on dividends and may allow the owner to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third persons (NOW accounts) are "regular accounts" as that term is defined in § 526.1(d) (12 CFR 526.1(d)). Such accounts of member institutions are subject to the Board's authority under section 5B of the Federal Home Loan Bank Act (12 U.S.C. 1425b) to prescribe regulations governing the payment and advertisement of interest or dividends thereon.

The Board, in conjunction with the Board of Governors of the Federal Reserve Board and the Board of Directors of the Federal Deposit Insurance Corporation, proposes to amend Part 526 of the Regulations for the Federal Home Loan Bank System (12 CFR Part 526) to prescribe the maximum rate of return which may be paid on NOW accounts and the conditions under which a return may be paid. The Board expects that final regulations for NOW accounts and those of the Federal Reserve Board and the Federal Deposit Insurance Corporation will be similar in substance. Therefore the Board urges interested persons to comment to the Board on the proposed NOW account regulations of those agencies as well as the Board's. Member institutions should keep these proposed amendments (and those of the Federal Reserve Board and the Federal Deposit Insurance Corporation) in mind if they decide to make these accounts available to their customers before the Board has had the opportunity to adopt final regulations in this area.

The Board proposes to add two definitions to § 526.1. The term "instrument" would be defined to include any paper writing, whether or not negotiable, by which payment or credit is effected. The term "transaction account" would be the term used to describe a NOW account and would mean a "regular account" (as defined in § 526.1(d)) of a member institution upon which the owner is allowed to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties.

New § 526.8 would set forth the rules under which a member institution having its home office in New Hampshire or Massachusetts may pay a return on transaction accounts. If the member institution did not comply with those rules, it could not pay a return on its transaction accounts.

The Board proposes to set the maximum rate of return on transaction accounts at 4.50 percent on the lowest monthly balance for each month of the distribution period. A service charge would be required for the handling of each transaction-account-related instrument in excess of 10 per month.

The Board proposes to limit the payment of interest or dividends to transaction accounts of owners having addresses in New Hampshire or Massachusetts (except that a member institution could pay a return on transaction accounts of out-of-state customers who create transaction accounts by transfers of funds from savings accounts in existence on September 14, 1973). In order to provide competitive equality with commercial banks and mutual savings banks, interest or dividends could be paid only on transaction accounts owned by individuals and certain non-profit organizations. Advertising for interest or dividend-paying transaction accounts would be limited primarily to the States of New Hampshire and Massachusetts and would be subject to the existing advertising restrictions of § 526.6.

Accordingly, the Federal Home Loan Bank Board hereby proposes to amend said Part 526 by adding new paragraphs (k) and (l) to § 526.1 thereof and by adding new § 526.8 thereto to read as set forth below.

Interested persons are invited to submit written data, views, and arguments to the Office of the Secretary, Federal Home Loan Bank Board, 101 Indiana Avenue, NW., Washington, D.C. 20552, by November 9, 1973, as to whether this proposal should be adopted, rejected, or modified. Written material submitted will be available for public inspection at the above address unless confidential treatment is requested or the material would not be made available to the public or otherwise disclosed under § 505.6 of the General Regulations of the Federal Home Loan Bank Board (12 CFR 505.6).

**§ 526.1 Definitions.**

As used in this Part 526—

* * * * *

(k) *Instrument.* The term "instrument" includes any paper writing, whether or not negotiable, by which payment or credit is effected.

(l) *Transaction account.* The term "transaction account" means a "regular account", as that term is defined in paragraph (d) of this section, of a member institution upon which the owner is allowed to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties.

**§ 526.8 Transaction accounts.**

(a) *General.* Subject to the provisions of this section, each member institution having its home office in New Hampshire or Massachusetts may pay a return on transaction accounts.

(b) *Maximum rate of return.* Such member institution may pay a return on a transaction account at a rate not in excess of 4.50 percent per annum on the lowest monthly balance for each month of the distribution period.

(c) *Service charge.* Such member institution shall impose a service charge for the handling of each instrument in excess of 10 per month in connection with any transaction account.

(d) *Limitations on owners.* (1) Transaction accounts, or the entire beneficial interest therein, issued by such member institution may be owned only by (i) one or more individuals or (ii) a corporation, business trust, association or other organization which is not operated for profit; and

(2) Interests in transaction accounts issued by such member institution may be owned only by (i) owners having addresses in New Hampshire or Massachusetts, or (ii) owners whose transaction accounts are created by transfers of funds from such owners' savings accounts which were in such member institution on September 14, 1973.

(e) *Advertising.* Each newspaper, magazine, radio, television or similar advertisement, announcement or solicitation by such member institution relating to transaction accounts shall be limited to media primarily serving residents of New Hampshire and Massachusetts. All other advertisements, announcements and solicitations including direct mailing, circulars, and notices, to the extent practicable, shall be directed only to residents of New Hampshire and Massachusetts. The provisions of § 526.6 shall also apply to all advertisements, announcements and solicitations related to transaction accounts.

(Sec. 5B, 47 Stat. 727, as added by sec. 4, 80 Stat. 824, as amended by Public Law 91-151, sec. 2(b), 83 Stat. 371; sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1425b, 1437). Sec. 2, Public Law 93-100. Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

[SEAL] EUGENE M. HERRIN,
*Assistant Secretary.*

[FR Doc.73-20421 Filed 9-24-73;8:45 am]







V 38 185 SEP 25 73 XUM

# Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF STATE

[Public Notice CM-67]

### SECRETARY OF STATE'S ADVISORY COMMITTEE ON PRIVATE INTERNATIONAL LAW

#### Notice of Meeting

A meeting of the Secretary of State's Advisory Committee on Private International Law will be held at 10 a.m. on Friday, October 5, 1973, in room 5519 of the Department of State. The Committee meeting will be open to the public.

The principal topics of the meeting will be consideration of positions to be taken by the United States at the Diplomatic Conference on Wills to be held in Washington from October 16–26, 1973, and in bilateral negotiations on the recognition and enforcement of foreign judgments.

Members of the general public who desire to attend the meeting will be admitted up to the limits of the capacity of the meeting room. Entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is requested that prior to October 5, 1973, members of the general public who plan to attend the meeting inform their name and affiliation and address to Mr. Robert E. Dalton, Office of the Legal Adviser, Department of State; the telephone number is area code 202–632–2107. All non-government attendees at the meeting should use the C Street entrance to the building.

Dated September 13, 1973.

ROBERT E. DALTON,
*Executive Director.*

[FR Doc.73-20341 Filed 9-24-73;8:45 am]

## DEPARTMENT OF THE TREASURY

### Office of the Secretary

### NON-POWERED HAND TOOLS FROM JAPAN

#### Antidumping Proceeding Notice

SEPTEMBER 21, 1973.

On August 20, 1973, information was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), indicating a possibility that certain non-powered hand tools from Japan are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.). For the purpose of this notice, the term "non-powered hand tools" means wrenches, pliers, chisels, punches, screwdrivers, hammers, metal-cutting snips and shears, wheel and gear pullers, valve tools, and body and fender tools.

There is evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined as a result thereof that there are grounds for so doing, the United States Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of information received from all sources is as follows:

The information received tends to indicate that the prices of the merchandise sold for exportation to the United Staes are less than the prices for home consumption.

This notice is published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

[SEAL] EDWARD L. MORGAN,
*Assistant Secretary of the Treasury.*

[FR Doc.73-20502 Filed 9-24-73;8:45 am]

## DEPARTMENT OF DEFENSE

### Department of the Navy

### CHIEF OF NAVAL OPERATIONS INDUSTRY ADVISORY COMMITTEE FOR TELECOMMUNICATIONS (CIACT)

#### Notice of Meetings

Pursuant to the provisions of the Federal Advisory Committee Act [Public Law 92–463 (1972)], notice is hereby given that closed meetings of the Chief of Naval Operations Industry Advisory Committee for Telecommunications will be held on October 16 and 17, 1973, at Sunnyvale, California. The meetings will be closed to the public as the committee will be participating in classified discussions.

H. B. ROBERTSON, Jr.,
*Rear Admiral, JAGC, U.S. Navy,*
*Acting Judge Advocate General.*

SEPTEMBER 18, 1973.

[FR Doc.73-20308 Filed 9-24-73;8:45 am]

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

### CHIEF, DIVISION OF MANAGEMENT SERVICES, STATE OFFICE ET AL.

#### Delegation of Authority Regarding Contracts and Leases

A. Pursuant to delegation of authority contained in Bureau Manual 1510–03B2, and 38 FR No. 154, dated August 10, 1973, the Chief, Division of Management Services, State Office, Chief, Branch of Administrative Management, State Office, and Chief, Procurement and Property Section, State Office, are authorized:

1. To enter into contracts with established sources for supplies, equipment and services, regardless of amount, and

2. To enter into contracts on the open market for supplies, equipment and services, not to exceed $2,500 per transaction ($2,000 for construction), provided that the requirement is not available from established sources. (sec. 302(c)(3) of the FPAS Act).

3. To enter into contracts in an unlimited amount for necessary procurements in the case of emergency fire suppression work for the rental of equipment and aircraft and for the purchase of supplies, equipment and services required in such operations. (sec. 302(c)(2) of the FPAS Act).

If purchases for capitalized property are to be charged to fire suppression funds, or if the item is not included in an approved equipment budget, prior approval of purchase by the Assistant Director Administration is required. This authority may be exercised only in a true emergency situation such as immediate use in suppression of active fires; and delivery for use on that fire is attainable.

B. The (1) District Managers and (2) District Chiefs, Division of Administration, are authorized to enter into contracts under the authority of A 1, 2, and 3 above, *excluding capitalized property*, as appropriate.

C. The Chief, Division of Management Services, and Chief, Branch of Administrative Management are delegated authority to negotiate contracts in excess of $2,500 under sec. 302(c)(10) of the FPAS Act of 1949, for air transportation services not related to emergency fire presuppression or suppression, in accordance with the following:

1. *Limitations.* This authority may be used only:

a. To hire aircraft with crew for transportation of persons or cargo, not for project work.

b. To hire such aircraft for unforeseeable short term needs, where lead time is not available to permit the Service Center to handle the contract.

c. After it has been determined that Bureau-owned aircraft, or aircraft available under existing contracts or offers (when appropriate) cannot satisfy the need.

D. District Managers may redelegate the authority granted in "B" above.

E. All previous delegations of procurement authority are hereby canceled.

CURTIS V. MCVEE,
*State Director.*

SEPTEMBER 6, 1973.

[FR Doc.73-20327 Filed 9-24-73;8:45 am]





### PRINEVILLE DISTRICT ADVISORY BOARD

#### Bureau of Land Management

#### Notice of Meeting

Notice is hereby given that the Prineville District Advisory Board will meet on October 25, 1973, commencing at 10 a.m. in the Prineville District Office, Bureau of Land Management, 185 E. Belknap Street, Prineville, Oregon. The agenda for the meeting includes review of Step 1 of the Management Framework Plans for the Glass Butte-Hampton-Brothers Planning Units and the Lower John Day-Fossil Planning Units.

The meeting will be open to the public. It will be held in the conference room which accommodates about 30 people. In addition to District presentation and discussion of topics by board members, there will be time allowed for brief questions and statements by non-members. Written statements will also be accepted for consideration. Send them to the chairman in care of the co-chairman, Prineville District Manager, P.O. Box 550 Prineville, Oregon 97754.

PAUL W. ARRASMITH,
*District Manager.*

SEPTEMBER 14, 1973.

[FR Doc.73-20392 Filed 9-24-73;8:45 am]

### National Park Service

### SECRETARY'S ADVISORY BOARD ON NATIONAL PARKS, HISTORIC SITES, BUILDINGS AND MONUMENTS

#### Notice of Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that meetings of the Advisory Board on National Parks, Historic Sites, Buildings and Monuments will be held on October 1, 2, and 3, at the Department of the Interior, 18th and C Streets NW., Washington, D.C.

The purpose of the Advisory Board is to advise the Secretary of the Interior on matters relating to the National Park System, and the administration of the Historic Sites Act of 1935.

The members of the Advisory Board are as follows:

Dr. Melvin M. Payne (Chairman), Washington, D.C.
Mrs. Lyndon B. Johnson (Vice Chairman), Stonewall, Texas.
Mr. Peter C. Murphy, Jr. (Secretary), Springfield, Oregon.
Hon. E. Y. Berry, Rapid City, South Dakota.
Laurence W. Lane, Jr., Menlo Park, California.
Dr. A. Starker Leopold, Berkeley, California.
Mr. Linden C. Pettys, Ludington, Michigan.
Mr. Steven Rose, Arcadia, California.
Capt. Walter M. Schirra, Jr., Englewood, Colorado.
Dr. Douglas W. Schwartz, Santa Fe, New Mexico.
Dr. William G. Shade, Bethlehem, Pennsylvania.

Meetings will be conducted in different locations as follows:

*October 1.* 9 a.m., Room 5160. The Advisory Board will meet on October 1 in regard to administrative matters pertaining to the Board and to hear reports on several topics, including Bicentennial activities, Regional Advisory Committees, archeological salvage, backcountry management, and the campground reservation system. This session is open to the public.

*October 2.* The Board will meet in committee sessions for the entire day. At 9 a.m., North Penthouse, Room 8068, the Natural Areas Committee and the Recreation Areas Committee will meet in joint session. From 9 a.m. to 9:45 a.m., the committees will hear legislative reports on proposed additions to the National Park System. This portion of the meeting shall be closed to the public. Commencing at 9:45 a.m. the committees shall consider 73 natural areas as potential additions to the National Registry of Natural Landmarks. This portion of the meeting shall be open to the public.

At 9 a.m., Room 5160, the Historical Areas Committee will meet. From 9 a.m. to 9:30 a.m., the committee will consider reports on two pending legislative proposals. This portion of the meeting shall be closed to the public. At 9:30 a.m., the committee will hear reports on various studies, including a part of the Theme, "Architecture in the South," and the study to revise the boundaries of Cape Krusenstern, Alaska. This portion of the meeting shall be open to the public.

*October 3.* Room 5160, commencing at 9 a.m. the Advisory Board shall be reconvened to receive reports from the committee meetings and from ad hoc committees. The meeting will be an executive session in order for the Advisory Board to formulate its comments and recommendations. This meeting will be closed to the public.

The meeting will be open to the public only as indicated above. The Secretary of the Interior has made a determination in accordance with section 10(d) of the Federal Advisory Committee Act that the portions of the meeting to be closed will involve matters exempt from public disclosure under the provisions of 5 U.S.C. 552(b).

Any member of the public may file with the Advisory Board a statement in writing concerning any of the matters to be discussed. In regard to the meeting on October 1, facilities and space to accommodate members of the public are limited and it is expected that not more than 35 people will be able to attend. Persons desiring further information concerning this meeting or who wish to file written statements, may contact Miss Shirley Luikens, National Park Service, Washington, D.C., at 202–343–2012.

Minutes of the meeting will be available for public inspection 8 to 10 weeks after the meeting in Room 3123, Interior Building, Washington, D.C.

Dated September 18, 1973.

STANLEY W. HULETT,
*Associate Director,*
*National Park Service.*

[FR Doc.73-20526 Filed 9-24-73;8:45 am]

### Office of the Secretary

[INT DES 73-55]

### PROPOSED DEVELOPMENT OF HORICON NATIONAL WILDLIFE REFUGE, WISCONSIN

#### Availability of Draft Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, Public Law 91–190, the Department of the Interior has prepared a draft environmental statement for development of the Horicon National Wildlife Refuge, Wisconsin, and invites written comments within 45 days of this notice.

The proposal recommends the purchase of 42.86 acres of land as an addition to the Horicon National Wildlife Refuge, Dodge County, Wisconsin. Planned development will include a visitor information center, wildlife walking trail, hiking trail, approximately 1½ miles of new road, parking areas, and rehabilitation of existing roadway.

Copies of the draft statement are available for inspection at the following locations:

Bureau of Sport Fisheries and Wildlife
Federal Building, Fort Snelling
Twin Cities, Minnesota 55111

Headquarters
Horicon National Wildlife Refuge
Route 2
Mayville, Wisconsin 53050

Bureau of Sport Fisheries and Wildlife
Office of Environmental Quality
Department of the Interior
Room 2246
18th and C Streets NW.
Washington, D.C. 20240

Single copies may be obtained by writing the Chief, Office of Environmental Quality, Bureau of Sport Fisheries and Wildlife, Department of the Interior, Washington, D.C. 20240. Comments concerning the proposed action should also be addressed to the Chief, Office of Environmental Quality. Please refer to the statement number above.

Dated September 17, 1973.

LAURENCE E. LYNN, Jr.,
*Assistant Secretary,*
*Program Development and Budget.*

[FR Doc.73-20334 Filed 9-24-73;8:45 am]

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

[PPQ 639, Amdt.]

### SOIL SAMPLES

#### List of Approved Laboratories Authorized To Receive Interstate and Foreign Shipments of Soil Samples for Processing, Testing, or Analysis

This document amends the regulation listing laboratories authorized to receive interstate and foreign shipments of soil samples for processing, testing, or analysis by deleting reference to 11 laboratories which no longer receive interstate shipments of soil samples for analysis, and by deleting reference to 22 laboratories whose permits to receive foreign



V 381185 SEP 25 73 XUM

soil samples have expired. It also lists 15 laboratories whose permits to receive foreign soil samples were extended. It further amends the regulation by adding 65 laboratories approved since the last amendment of the list to receive soil samples shipped interstate and shipped from foreign sources. Various other changes were also made.

Under the Japanese Beetle, Whitefringed Beetle, Witchweed, Imported Fire Ant, and Golden Nematode Quarantines (Notices of Quarantine Nos. 48, 72, 80, 81, and 85; 7 CFR 301.48, 301.72, 301.80, 301.81, and 301.85), under sections 8 and 9 of the Plant Quarantine Act of 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), the list of laboratories (37 FR 7813) operating under a compliance agreement and approved under said Quarantines to receive interstate and foreign shipments of soil samples for processing, testing, or analysis is hereby amended by deleting therefrom, adding thereto, and correcting certain listings as set forth below:

DELETIONS

Agronomics International Corp., Baruesville, Minn.
Alpha Research & Development, Inc., Blue Island, Ill.
Ansul Co., Marinette, Wis.
Associated Laboratories, Orange, Calif.[2] (6-30-73).
California State University, College of Sciences, San Diego, Calif.,[2] (6-30-73).
Dickinson College, Department of Biology, Carlisle, Pa.[2] (6-30-73).
Earth Sciences Associates, Palo Alto, Calif.[2] (6-30-73).
England, C. W., Laboratories, Inc., Beltsville, Md.[2] (6-30-73).
Florida State University, Department of Oceanography, Tallahassee, Fla.[2] (6-30-75).
Ford County Farm Bureau, Inc., Melvin, Ill.
Forsyth Dental Center, Boston, Mass.[2] (6-30-73).
Hayssen Manufacturing Co., Sheboygan, Wis.[2] (6-30-73).
Larsen, Herluf T., Harrisburg, Pa.
Lerch Brothers, Inc., Hibbing, Minn.[2] (6-30-73).
Mecom, John W., Houston, Tex.[2] (6-30-73).
Minnesota, University of, Department of Plant Pathology, St. Paul, Minn.[2] (6-30-73).
Missouri, University of, Department of Agronomy, Columbia, Mo.
Mobile Testing Co., Corpus Christi, Tex.
Nevada, University of, Desert Research Institute, Reno, Nev.[2] (6-30-73).
Pan American Laboratories, Brownsville, Tex.[2] (6-30-73).
Plant Science Associates, Inc., Winter Haven, Fla.
Rochester, University of, School of Medicine and Dentistry, Department of Radiation, Biology, and Biophysics, Rochester, N.Y.[2] (6-30-73).
Smith, Charles M., Circle "S" Ranch, Red Oak, Iowa[2] (6-30-73).
Smithsonian Institution, Radiation Biology Laboratory, Rockville, Md.[2] (6-30-73).
Southern Illinois University, Department of Plant Industries, Carbondale, Ill.[2] (6-30-73).
Southern Turf Nurseries, Tifton, Ga.[2] (6-30-73).
Standard Brands, Inc., Fleischmann Laboratories, Stamford, Conn.[2] (6-30-73).
Stanford Research Institute, Irvine, Calif.

See footnotes at end of document.

Texas A & M University, Soil and Crop Sciences Department, College Station, Tex.[2] (6-30-75).
U.S. Department of Agriculture, ARS, U.S. Water Conservation Laboratory, Phoenix, Ariz.[2] (6-30-73).
U.S. Environmental Protection Agency, Western Environmental Research Laboratory, Las Vegas, Nev.[2] (6-30-73).
Willchemco Testing Laboratory, Grand Island, Nebr.

ADDITIONS

Ambric Testing & Engineering Associates, Inc., Testing Laboratories, Arlington, Va.
American Testing Institute, San Diego, Calif.[2] (6-30-74).
Arizona, University of, Department of Geosciences, Tucson, Ariz.[2] (6-30-74).
Bethany Laboratory of Uni-Royal Chemical, Division of Uni-Royal, Inc., Bethany, Conn.
Brigham Young University, Department of Anthropology & Archaeology, Provo, Utah[2] (6-30-74).
California Department of Food & Agriculture, Chemistry Laboratories, Sacramento, Calif.
California, University of, Department of Plant Pathology, Davis, Calif.[2] (6-30-74).
California, University of, Department of Agronomy & Range Science, Davis, Calif.[2] (6-30-75).
Chemonics Industries, Phoenix, Ariz.[2] (6-30-78).
Coles County Farm Bureau, Charleston, Ill.
Colorado State University, College of Veterinary Medicine & Biomedical Sciences, Fort Collins, Colo.[2] (6-30-74).
Crop Chemical Testing Services, Inc., Arcola, Ill.
Dames & Moore, Seattle, Washington[2] (6-30-74).
Dickinson Laboratories, Inc., El Paso, Tex.[2] (6-30-74).
Environmental Science & Engineering Corp., Mt. Juliet, Tenn.
Florida Technological University, Department of Biological Sciences, Orlando, Fla.[2] (6-30-74).
Florida University of, Agricultural Research & Education Center, Belle Glade, Fla.[2] (6-30-74).
Florida, University of, Department of Geology, Gainesville, Fla.[2] (6-30-74).
Franklin, R. T. & Assoc., Burbank, Calif.
Geocon Incorporated, San Diego, Calif.[2] (6-30-74).
GREFCO, Inc., Torrance, Calif.[2] (6-30-78).
GREFCO, Inc., Lompoc, Calif.[2] (6-30-74).
Grubbs Consulting Engineers, Little Rock, Ark.
Hill Top Research, Inc., Miamiville, Ohio.
Kansas State University, Dept. of Agronomy, Manhattan, Kans.[2] (6-30-74).
McClellan Engineers, Clayton, Mo.
Memphis State University, Department of Biology, Memphis, Tenn.
Merck Institute for Therapeutic Research, Rahway, N.J.[2] (6-30-78).
Mountain State Research & Development, Tucson, Ariz.[2] (6-30-74).
Norvell Plowman Laboratories, Little Rock, Ark.
Oregon State Highway Department, Salem Oregon.[3]
Pacific Environmental Laboratory, San Francisco, Calif.[2] (6-30-75).
Pennsylvania, University of, Dept. of Geology, Philadelphia, Pa.[2] (6-30-78).
Pioneer Testing Laboratory, Inc., Redlands, Calif.
Resources International, Fresno, Calif.
Rhode Island, University of, Department of Botany, Kingston, R.I.[2] (6-30-74).
Shannon & Wilson, Inc., Portland, Oreg.
Shilstone Testing Laboratory, Corpus Christi, Tex.
Smith, Kline & French Laboratories, Philadelphia, Pa.[2] (6-30-74).
Soil Consultants, Inc., Merrifield, Va.
Soilab Enterprises, Lancaster, Calif.
Southern Illinois University, University Museum, Carbondale, Ill.[2] (6-30-74).
Southwestern Laboratories, Dallas, Tex.[2] (6-30-74).
State University of New York, State University College at Brockport, Brockport, N.Y.[2] (6-30-74).
Tennessee Valley Authority, Materials Engineering Laboratory, Knoxville, Tenn.
Texas, University of, Radiocarbon Laboratory, Balcones Research Center, Austin, Tex.[2] (6-30-74).
United Horticulture, Inc., Apopka, Fla.[2] (6-30-74).
University of Southern California, Dept. of Geological Sciences, Los Angeles, Calif.[2] (6-30-74).
University of South Alabama, Dept. of Geology, Mobile, Ala.[2] (6-30-74).
U.S. Department of Agriculture, APHIS, Environmental Quality Laboratory, Brownsville, Tex.
U.S. Department of Agriculture, SCS, Soil Survey Investigations Unit, Lincoln, Nebr.[2] (6-30-78).
U.S. Department of Agriculture, ARS, Southern Piedmont Conservation Research Center, Watkinsville, Ga.[2] (6-30-78).
U.S. Department of Agriculture, APHIS, Southern Methods Development Laboratory, Gulfport, Miss.
U.S. Department of Defense, U.S. Army Mobile Equipment Research Development Center, Countermine/Counter Intrusion Dept., Fort Belvoir, Va.[2] (6-30-74).
U.S. Environmental Protection Agency, Pesticides Monitoring Laboratory, Bay St. Louis, Miss.
U.S. Environmental Protection Agency, Robert Kerr Laboratories, Ada, Okla.[2] (6-30-75).
U.S. Geological Survey, Quality of Water Laboratory, Water Resources Division, Menlo Park, Calif.
Value Engineering Company, Alexandria, Va.
West Virginia, University of, Soil Testing Laboratory, Morgantown, W. Va.
Wisconsin, University of, Dept. of Anthropology, Madison, Wis.[2] (6-30-74).
Wisconsin, University of, Dept. of Anthropology, Milwaukee, Wis.[2] (6-30-74).
Woodward-Gizienski & Associates, San Diego, Calif.[2] (6-30-74).

CORRECTIONS

Change "A & L Agricultural Laboratories, Memphis, Tenn.[2] (6-30-73)" to read:
A & L Laboratory, Memphis, Tenn.
Change "Advanced Tests and Inspections, Inc., National City, Calif." to read:
American Testing Institute, San Diego, Calif.
Change "Analytical Development Corp., Monument, Colo." to read:
Analytical Development Corp., Monument, Colo.[2] (6-30-74).
Change "Atkins Farmlab, Sacramento, Calif." to read:
Atkins Farmlab, Chico, Calif.
Change "Brucker and Thacker, St. Louis, Mo." to read:
Brucker & Associates, St. Louis, Mo.
Change "Ecto Engineers and Associates, Baton Rouge, La." to read:
Woodward & Associates, Inc., Baton Rouge, La.
Change "Eico Engineers & Associates, Houston, Tex." to read:
Woodward-Etco & Associates, Inc., Houston, Tex.[2] (6-30-78).
Change "Georgia, University of, Institute of Ecology, Athens, Georgia" to read:
Georgia, University of, Institute of Ecology, Athens, Ga.[2] (6-30-75).





Change "Gribaldo, Jones, & Associates, Mountain View, Calif.[2] (6-30-73)" to read:
Gribaldo, Jones, & Associates, Mountain View, Calif.
Change "Hawley & Hawley, Assayers & Chemists, Inc., Tucson, Ariz.[2] (6-30-75)" to read:
Hawley & Hawley, Division of Skyline Labs, Inc., Tucson, Ariz.[2] (6-30-75).
Change "Kentucky, University of, Agronomy Department, Lexington, Ky.[2] (6-30-76)" to read:
Kentucky, University of, Division of Regulatory Services, Lexington, Ky.
Change "Langford & Meredith Laboratories, New Orleans, La." to read:
Langford & Meredith Laboratories, Div. of The Analysts, Inc., The Analysts, Inc., New Orleans, La.
Change "Larutan Corp., Anaheim, Calif.[2] (6-30-77)" to read:
Stabilization Chemicals, Anaheim, Calif.[2] (6-30-77)" to read:
Change "Maine State Highway Commission, Bangor, Me.[2] (6-30-73)" to read:
Maine State Highway Commission, Bangor, Maine.
Change "Merck & Co., Inc., Rahway, N.J." to read:
Merck & Co., Inc., Agri Chemical Development, Rahway, N.J.
Change "Memphis State University, Memphis, Tenn." to read:
Memphis State University, Department of Biology, Memphis, Tenn.
Change "Parke, Davis & Co., (Joseph Campau at the River), Detroit, Mich.[2] (6-30-73)" to read:
Parke, Davis & Co., (Joseph Campau at the River), Detroit, Mich.
Change "Pickett, Ray, and Van Silver, St. Charles, Mo." to read:
Pickett, Ray, and Silver, St. Charles, Mo.
Change "Pittsburgh Testing Laboratory, Pittsburgh, Pa." to read:
Pittsburgh Testing Laboratory, Pittsburgh, Pa.[1]
Change "Princeton University, Department of Geology, Princeton, N.J.[2] (6-30-76)" to read:
Princeton University, Department of Geological & Geophysical Sciences, Princeton, N.J.[2] (6-30-76).
Change "Shannon & Wilson, Co., Seattle, Wash.[2] (6-30-75)" to read:
Shannon & Wilson, Co., Seattle, Wash.[2] (6-30-75).
Change "Tennessee, University of, Nashville, Tenn." to read:
Tennessee, University of, Soil Testing Laboratory, Nashville, Tenn.
Change "Tetco Engineering Testing, Corpus Christi, Tex." to read:
Tetco, Trinity Engineering Testing Corp., Corpus Christi, Tex.
Change "Texas A. & M. University, Soil Testing Laboratory, Agricultural Extension Service, College Station, Tex.[2] (6-30-75)" to read:
Texas A. & M. University, Soil Testing Laboratory, Agricultural Extension Service and Experiment Station, College Station, Tex.[2] (6-30-75).
Change "Texas Soil Laboratory, McAllen, Tex." to read:

See footnotes at end of document.

Texas Soil Laboratory, McAllen, Tex.[2] (6-30-78).
Change "Trapelo-West, Division of LFE Corp., Richmond, Calif." to read:
LFE Environmental Analysis Laboratory, Richmond, Calif.
Change "Utah State University, College of Engineering, Agriculture and Irrigation Engineering, Logan, Utah[2] (6-30-73)" to read:
Utah State University, College of Engineering, Agriculture and Irrigation Engineering, Logan, Utah.
Change "U.S. Department of Agriculture, ARS, U.S. Fruit, Vegetable, Soil, and Water Laboratory, Nematology Investigation, Weslaco, Tex.[2] (6-30-77)" to read:
U.S. Department of Agriculture, CARD, ARS, U.S. Fruit, Vegetable, Soil, and Water Laboratory, Nematology Investigation, Weslaco, Tex.[2] (6-30-77).
Change U.S. Department of Health, Education, and Welfare, National Communicable Disease Center, Atlanta, Ga.[2] (6-30-73)" to read:
U.S. Department of Health, Education, and Welfare, National Communicable Disease Center, Atlanta, Ga.
Change "U.S. Department of the Interior, Geological Survey, Albuquerque, N. Mex.[2] (6-30-73)" to read:
U.S. Department of the Interior, Geological Survey, Albuquerque, N. Mex.
Change "Wharton County Junior College, Soil Testing Laboratory, Wharton, Tex.[2] (6-30-73)" to read:
Wharton County Junior College, Soil Testing Laboratory, Wharton, Tex.
Change "Woodson-Tenent Laboratories, Memphis, Tenn." to read:
Woodson-Tenent Laboratories, Memphis, Tenn.[2] (6-30-74).
Change "Yeshiva University, New York, N.Y.[2] (6-30-73)" to read:
Yeshiva University, New York, N.Y.

The import permits for the following organizations have been extended as indicated:

California State Polytechnic College, Department of Biological Sciences, Pomona, Calif.[2] (6-30-75) changed from (5-20-73).
Dames & Moore, Park Ridge, Ill.[2] (6-30-78) changed from (6-30-73).
EFCO Laboratories, Tucson, Ariz.[2] (6-30-78) changed from (6-30-73).
Georgia, University of, Department of Agronomy, Athens, Ga.[2] (6-30-78) changed from (6-30-73).
Hoffman-LaRoche Inc., Nutley, N.J.[2] (6-30-78) changed from (6-30-73).
Illinois, University of, at Chicago Circle, Department of Geography, Chicago, Ill.[2] (6-30-78) changed from (6-30-73).
Michigan Department of Public Health, Bureau of Laboratories, Division of Antibiotics and Fermentation, Lansing, Mich.[2] (6-30-78) changed from (6-30-73).
Missouri University of, Department of Food Sciences and Nutrition, Columbia, Mo.[2] (6-30-75) changed from (6-30-73).
Monsanto Co., Agricultural Division, St. Louis, Mo.[2] (6-30-78) changed from (6-30-73).
North Carolina, University of, Department of Botany, Chapel Hill, N.C.[2] (6-30-75) changed from (6-30-73). (Dr. R. Malcom Brown) changed to (Dr. Edward G. Barry).
Pfizer Foundation, Inc., Threefold Farm, Spring Valley, N.Y.[2] (6-30-78) changed from (6-30-73).
Purdue University, Department of Agronomy, West Lafayette, Ind.[2] (6-30-74) changed from (6-30-73).
U.S. Department of Defense, U.S. Army, South Pacific Corps of Engineers, Engineering Division Laboratory, Sausalito, Calif.[2] (6-30-78) changed from (6-30-73).
U.S. Department of Defense, U.S. Army Engineer Power Group, Engineering Division, Pollution Control Laboratory, Fort Belvoir, Va.[2] (6-30-74) changed from (6-30-73).
Yale University, Department of Geology & Geophysics, New Haven, Conn.[2] (6-30-76) changed from (6-30-73).

NOTE.—A date after a name indicates when the import permit expires.

(Secs. 8 and 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33; 7 U.S.C. 161, 162, 150ee; 29 FR 16210, as amended, 37 FR 28464, 28477, 38 FR 19140; 7 CFR 301.48, 301.72, 301.80, 301.81, and 301.85.)

*Effective date.*—This amendment to the list of approved laboratories, PPQ 639, shall become effective September 25, 1973.

Under the provisions of the regulations supplemental to the notices of quarantine cited herein, soil samples for processing, testing, or analysis may be moved interstate from any regulated area specified in the regulations to laboratories approved by the Deputy Administrator and so listed by him. A laboratory may be approved if a compliance agreement is signed; samples are packaged to prevent spillage of soil; and soil residues, hazardous water residues, and shipping containers are treated in accordance with specified procedures.

The Deputy Administrator of Plant Protection and Quarantine Programs has approved the above-listed additions to the list of laboratories as establishments which meet the qualifications required under the regulations. These laboratories listed as additions are, therefore, authorized to receive soil samples from the regulated areas specified in the regulations without certificates or permits attached.

With respect to the establishments added to the list of approved laboratories, this amendment relieves certain restrictions presently imposed and should be made effective promptly in order to be of maximum benefit to persons subject to the restrictions that are being relieved. The deletion of laboratories from such list imposes certain restrictions that are necessary to prevent the spread of the above-named pests and should be made effective promptly to prevent the interstate spread of such dangerous pests. The corrections of previously listed establishments are nonsubstantive in nature and notice and other public procedure with respect thereto would serve no useful purpose. Accordingly, it is found upon good cause under the administrative procedure provisions of 5 U.S.C. 553, that notice and other public procedure

[1] National Compliance Agreement—applies to all branch laboratories in conterminous United States.
[2] Authorized to receive unsterilized foreign samples only.
[3] Authorized to receive unsterilized foreign samples also.



V 38 I 185 SEP 25 73 XUM

with respect to this amendment are impracticable and contrary to the public interest, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 19th day of September 1973.

T. G. DARLING,
*Acting Deputy Administrator, Plant Protection and Quarantine Programs.*

[FR Doc.73-20347 Filed 9-24-73;8:45 am]

## Forest Service

### FOREST RESEARCH ADVISORY COMMITTEE, ORONO, MAINE

#### Notice of Meeting

The Forest Research Advisory Committee, Orono, Maine will meet at 10 a.m.–12 noon, October 15, 1973, at 205 Main Street, Woodland, Maine.

The purpose of this meeting is to describe and discuss the current research program of the NEFES Orono Work Unit.

The meeting will be open to the public. Persons who wish to attend should notify Barton M. Blum, U.S. Forest Service, Northeastern Forest Experiment Station, USDA Building, University of Maine, Orono, Maine 04473, Telephone 866–4140.

B. F. DUFFY,
*Acting Director.*

SEPTEMBER 18, 1973.

[FR Doc.73-20349 Filed 9-24-73;8:45 am]

### MULTIPLE USE ADVISORY COMMITTEE

#### Notice of Meeting

The Ottawa National Forest Multiple Use Advisory Committee will meet at 1 p.m. thru 5 p.m., c.d.t., October 18, 1973, and at 8:30 a.m. thru 12 noon, c.d.t., October 19, 1973, in the conference room of the Ontonagon Village Senior Housing Project, 100 Cane Court, Ontonagon, Michigan.

The purpose of the meeting is to discuss forest management.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor, Ottawa National Forest, Ironwood, Michigan 49938, phone number: 906–932–1330. Written statements may be filed with the committee before or after the meeting.

The committee has established the following rules for public participation: Public participation will be limited to a period designated for open discussion. To the extent time permits, interested persons may be permitted by the committee chairman to present oral statements at the meeting.

JOSEPH H. HARN,
*Forest Supervisor.*

SEPTEMBER 17, 1973.

[FR Doc.73-20344 Filed 9-24-73;8:45 am]

## Office of Plant and Operations

### FEE SCHEDULE

On June 21, 1973 (38 FR 16253), the Department of Agriculture published a revision to its Fee Schedule which was subsequently rescinded on July 6, 1973 (38 FR 18051), to comply with Phase III of the Cost of Living Council Economic Stabilization Regulations. As Phase III has expired and as Phase IV permits units of government to make certain price adjustments (38 FR 21601) and as it is necessary to raise certain prices to recover the cost of making reproductions, therefore, pursuant to the authority delegated to the Director, Office of Plant and Operations, in Title 7, Code of Federal Regulations, § 1.2(b), there is published the following:

SECTION 1. *General.* This notice sets forth the policy on providing copies of records, including photographic reproductions, microfilm, maps and mosaics, related services, and the fees therefor. The agencies of the Department will be guided by these procedures in making copies available to the public, and in the collection of appropriate fees.

SEC. 2. *Facilities.* Records and related services are available at the locations specified by the agencies in their statements or organization and services. Each agency establishes procedures to facilitate public inspection and copying of records. Any materials offered for sale by the Government Printing Office should be purchased from that source. Departmental agencies will not stock such materials for public sale.

Agencies do not stock copies of forms and publications or maintain records at any facility which does not of itself require these materials in its operations.

SEC. 3. *Fees for materials and services.* All agencies of the Department shall be guided by the fees set forth herein. Any changes or additions to this fee schedule shall be made by amendment to or revision of this schedule. Agencies may set their own fees on specialized materials, such as printouts, magnetic tapes, directives, handbooks, building plans, and other material unique to any one agency. Where a fee has not been established in this schedule, an appropriate fee will be set by the individual agency.

SEC. 4. *Circumstances Governing Exceptions to the Charging of Fees for Records and Related Services.* (For photographic reproductions, see Sec. 12.)

A. *Waiver of fees for records and related services.* Fees may be waived under the following conditions:

1. Where individual collections are $1.00 or less.

2. Where individual collections are more than $1.00 and the total cost of collecting the fees would be an unduly large part of the receipts.

3. Where the furnishing of the service without charge is an appropriate courtesy to a foreign country or international organization; or comparable fees are set on a reciprocal basis with a foreign country.

4. Where the recipient is engaged in a nonprofit activity designed for the public safety, health, or welfare.

5. Where payment of the full fee by a State, local government, or nonprofit group would not be in the interest of the program involved, all or part of the fee may be waived.

B. *Fees not to be charged for records and related services.* Fees shall not be charged under the following conditions:

1. When the furnishing of records and related service benefits the public.

2. When filling requests from other Departments or Government agencies for official use, provided quantities requested are reasonable in number.

3. When members of the public provide their own copying equipment, in which case no copying fee will be charged.

4. When any notices, decisions, orders or other material are required by law to be served on a party in any proceedings or matter before any Department agency.

SEC. 5. *Limitations of copies.* Agencies may restrict numbers of photocopies and directives furnished the public to one copy of each page. Copies of forms provided the public shall also be held to the minimum practical. Persons requiring any large quantities should be encouraged to take single copies to commercial sources for further appropriate reproduction.

When transcripts are requested which have been provided the Department under a reporting service contract which requires that copies of transcripts be sold only by the contractor, the public may be shown a copy of the transcript. However, the agency shall refer the public to the contractor for purchase of copies.

SEC. 6. *Searches and deletions.* Because of the nature of the Department's business and records, the normal location of a document in a file or other facility will not be considered a search. This would be the same as quickly locating a piece of material for purposes of answering a letter or telephone inquiry, and is based on the Department's obligation to respond to requests furnishing reasonably specific description of the record.

Where a requested record is not discovered by normal location efforts, or where deletion of part of a record is necessary, the office will notify the requestor of that fact and require payment of the estimated search or deletion charge as prescribed in the fee schedule in advance before further efforts are undertaken to locate the requested record. Such searches shall be limited by availability of time and staff to perform them and to locations where the record would reasonably be expected to be found.

SEC. 7. *Payments of fees and charges.* Payments will be made to the fullest extent possible in advance or at the time of the transaction. Except as otherwise stipulated by agency procedures, payment shall be made by check, draft or money order made payable to Treasurer of the United States, but small amounts may be paid in cash, particularly where services are performed in response to a visit to a Department office.

SEC. 8. *Fees for records and related services.*

| Class of service | Unit | Price | Minimum |
|---|---|---|---|
| Photocopies 8½ × 14" or smaller. | Each | $0.10, first copy | No minimum. |
| | Each | .05 additional copies. | |
| Certifications | Each | 1.00 additional to any other charge. | $1.00. |
| Authentications under Department Seal (excluding aerial photographs). | Each | 2.00, additional to any other charge. | $2.00. |
| Searches and deletions. | Each | 1.00 each 15 minutes or fraction thereof. | $4.00. |

An additional handling charge of $.50 for each order may be imposed when a request must be sent to another office for filling, or request is handled by mail.

SEC. 9. *Photographic reproduction, microfilm, mosaic and maps.* Reproduction of such aerial or other photographic microfilm, mosaic and maps as have been obtained in connection with the authorized work of the Department may be sold at the estimated cost of furnishing such reproductions as prescribed in this schedule.

SEC. 10. *Agencies which furnish photographic reproductions.*—a. *Aerial photographic reproductions.* The following agencies of the Department furnish aerial photographic reproductions:

Agricultural Stabilization and Conservation Service (ASCS).
Forest Service (FS).
Soil Consevation Service (SCS).

b. *Other photographic reproductions.* Other types of photographic reproductions may be obtained from the following agencies of the Department:

Agricultural Stabilization and Conservation Service.
Forest Service.
Office of Communication.
Soil Conservation Service.
National Agricultural Library.

SEC. 11. *Photographic Sales Committee.* The Photographic Sales Committee consists of representatives designated by Department agencies principally concerned with the sale of photographic reproductions. The Committee recommends prices at which photographic and mosaic reproductions, except library material, shall be sold, and other matters related to photographic reproductions.

SEC. 12. *Circumstances under which photographic reproductions may be provided free.* Reproductions may be furnished free at the discretion of the agencies of the Department to:

a. Press, radio, television, and newsreel representatives for dissemination to the general public.





b. Agencies of State and local governments which are carrying on a function related to that of the Department when furnishing the service will help to accomplish an objective of the Department.

c. Cooperators and others in furthering agricultural programs. As a general rule, only one print of each photograph should be provided free. Care should be exercised in approving requests for free prints to determine that such action is in the public interest.

SEC. 13. *Loans.* Aerial photographic film negatives or reproductions may not be loaned to the general public.

SEC. 14. *Sales of positive prints under Government contracts.* The annual contract for furnishing single and double frame slide film negatives and positive prints to agencies of the Department, County Extension Agents, and other agencies cooperating with the Department carries a stipulation that the successful bidder must agree to furnish slide film positive prints to such persons, organizations, and associations as may be authorized by the Department to purchase them.

SEC. 15. *Procedure for handling orders.* In order to expedite handling, all orders shall contain adequate identifying information. Agencies furnishing aerial photographic reproductions require that all such orders identify the photographs. Each agency has its own procedure and order forms.

SEC. 16. *Photographic reproduction prices.* The prices for photographic reproduction listed here are for the most generally requested items.

a. *National Agricultural Library.* The following prices are applicable to National Agricultural Library items only:

Microfilm—$1.00 for each 30 pages or fraction thereof.
Photoreproduction—$1.00 for each 10 pages or fraction thereof.

b. *General photographic reproductions.* Minimum charge $1.00 per order. All sizes are approximate. An extra charge may be necessary for excessive laboratory time caused by any special instructions from the purchaser.

| Class of work | Unit | Price |
|---|---|---|
| 1. Black and white copy negatives and film positives: | | |
| 4 x 5 | Each | $3.30 |
| 5 x 7 | Each | 3.55 |
| 8 x 10 | Each | 4.20 |
| 11 x 14 | Each | 6.80 |
| 2. Black and white enlargements: | | |
| Up to 8 x 10 | Each | 2.40 |
| 11 x 14 | Each | 4.20 |
| Over 11 x 14 | Per square foot. | 3.30 |
| 3. Reductions (from any size negative). | | 3.00 |
| 4. Mounting | Per square foot. | 2.10 |
| 5. Slides: Black and white (from copy negative): | | |
| 2 x 2 cardboard mounted | Each | 2.40 |
| 3¼ x 3¼ | Each | 3.60 |
| Original Color (from flat copy). | Each | 1.80 |
| Duplicate Color (2 x2 cardboard mounted). (Duplicate color slides are slides copied from 35 MM color slides only). | Each | .30 |
| Slide made from black and white material, or from transparencies larger or smaller than 35 MM, will be charged at the same rates shown for black and white and original color slides. | | |
| 6. Color transparencies (4 x 5) | Each | 8.00 |
| 7. Color prints | | By quotation |
| 8. Current USDA slide sets in stock: | | |
| 1–50 frames | | 13.00 |
| 51–60 frames | | 14.00 |
| 61–75 frames | | 15.50 |
| 76–95 frames | | 17.50 |
| 96–105 frames | | 18.50 |
| 106–130 frames | | 21.00 |
| (Prices include printed narrative guide.) | | |
| The following can be purchased for the corresponding slide sets above: | | |
| Cassettes | | 3.00 |
| Records | | 3.00 |
| Audio-tape | | 1.50 |
| 9. Milk Sedimentation Standards (5 x 7 Black and White photograph). | Each | 1.25 |
| 10. Seeds and Seedlings (any size). | Each | 2.10 |

c. *Aerial photographic reproductions.* No minimum charge on aerial photographic reproductions.

Single or double weight paper not ferrotyped (double weight, semimatte furnished, unless otherwise specified). All contact prints and enlargements unmounted and untrimmed.

1. *Contact prints.* The prices for contact prints are set forth below. The size refers to the approximate size of the contact print.

*Size 9" x 9" on commercial grade paper*

| Quantity | Price each |
|---|---|
| 1–25 | $1.75 |
| Excess over 25 | 1.25 |

For polyester base paper, add $.75 for contact print (Available from ASCS only).

*Size 70mm contact prints*

| | |
|---|---|
| 1–25 | 1.25 |
| Excess over 25 | 1.00 |

2. Enlargements (projection prints).

The prices for enlargements of various sizes are set forth below. The size in each case refers to the approximate size of paper required to produce the enlargement ordered. For "scale accuracy" add $.50 per print.

*Size 9 x 9 inches (from 70mm)*

| Quantity | Price each |
|---|---|
| 1–25 | $1.75 |
| Excess over 25 | 1.25 |

*Size 17 x 17 inches*

| | |
|---|---|
| 1–25 | 3.00 |
| Excess over 25 | 2.50 |

*Size 17 x 17 inches*

| | |
|---|---|
| 1–25 | 3.50 |
| Excess over 25 | 3.00 |



V 38 185 SEP 25 73 XUM

*Size 24 x 24 inches*

| | |
|---|---|
| 1-25 | 4.50 |
| Excess over 25 | 3.50 |

*Size 38 x 38 inches*

| | |
|---|---|
| 1-25 | 9.00 |
| Excess over 25 | 8.00 |

For larger size reproductions, add $2.00 for each additional 12" or fraction thereof, linear measurement.

3. *Aerial photo-index sheets.*

*Size 20 x 24 inches*

| Quantity | Price each |
|---|---|
| Any quantity | $3.00 |

4. *Film positives*—Contact printed from aerial negatives, size 9 x 9 inches.

| Quantity | Price each |
|---|---|
| Any quantity | $3.00 |

5. *Copy negatives*—On film, aerial exposures, size 9 x 9 inches.

*One-step method (direct duplicating film)*

| Quantity | Price each |
|---|---|
| 1-25 | $3.25 |
| Excess over 25 | 2.75 |

*Two-step method*

| Quantity | Price each |
|---|---|
| Any quantity | $6.00 |

6. *Diapositives.*

Prints on glass, size 9 x 9 inches, thickness .06 inch.

| | |
|---|---|
| 1-25 | $6.50 |
| Excess over 25 | $6.00 |

7. *Aperture Cards and Printouts*

| | 1st unit | Each additional unit |
|---|---|---|
| Duplicate of an aperture card | $1.00 | $0.10 |
| Aperture card from photo-index sheet | 1.00 | .25 |
| Printout from aperture card | 1.00 | .50 |

8. *Color Photography.* Furnished only by the Regional Forest Service Aerial Photography Laboratories at Ogden, Utah and San Francisco, California and the Agricultural Stabilization and Conservation Service Aerial Photography Laboratory in Salt Lake City, Utah.

*Positive contact print made from negative*

| Quantity | Price each |
|---|---|
| First print | $7.00 |
| Each additional print | 3.00 |

*Enlargements 9 x 9 inches (from 70mm)*

| | |
|---|---|
| First print | 7.00 |
| Each additional print | 3.00 |

*Enlargements 17 x 17 inches*

| | |
|---|---|
| First print | 15.00 |
| Each additional print | 9.00 |

*Enlargements 24 x 24 inches*

| | |
|---|---|
| First print | 20.00 |
| Each additional print | 14.00 |

*Enlargements 38 x 38 inches*

| | |
|---|---|
| First print | 25.00 |
| Each additional print | 20.00 |

*Color film transparencies* (Positives or Negatives)

*Contacts 70mm*

| | |
|---|---|
| First print | 4.00 |
| Each additional print | 2.50 |

*Contacts 9 x 9 inches*

| | |
|---|---|
| First print | 10.00 |
| Each additional print | 8.00 |

*Enlargements 9 x 9 inches (from 70mm)*

| | |
|---|---|
| First print | 10.00 |
| Each additional print | 8.00 |

*Enlargements 17 x 17 inches*

| | |
|---|---|
| First print | 20.00 |
| Each additional print | 15.00 |

*Enlargements 24 x 24 inches*

| | |
|---|---|
| First print | 30.00 |
| Each additional print | 25.00 |

*Enlargements 38 x 38 inches*

| | |
|---|---|
| First print | 60.00 |
| Each additional print | 55.00 |

9. *Special Needs.* For special needs not covered above, persons desiring aerial photographic reproductions should contact the agencies listed in Section 10a, or the Coordinator, Aerial Photographic Work of the Department of Agriculture, ASCS, 2511 Parley's Way, Salt Lake City, Utah 84109.

SEC. 17. The fee schedule published in the FEDERAL REGISTER on October 14, 1972 (37 FR 21859), is superseded by this fee schedule.

SEC. 18. *Effective Date.*—The fee schedule and related procedures shall become effective upon publication in the FEDERAL REGISTER.

T. M. BALDAUF,
*Director,*
*Office of Plant and Operations.*

[FR Doc.73-20344 Filed 9-24-73;8:45 am]

## Office of the Secretary

### CHAIRMAN, COMMODITY EXCHANGE COMMISSION

### Notice of Designation

Pursuant to the provisions of sec. 2(a) of the Commodity Exchange Act, as amended (7 U.S.C. 2), I hereby designate Ervin L. Peterson, Administrator, Agricultural Marketing Service, United States Department of Agriculture, to serve in my stead as Chairman of the Commodity Exchange Commission, effective immediately.

Done at Washington, D.C., this 18th day of September 1973.

EARL L. BUTZ,
*Secretary of Agriculture.*

[FR Doc.73-20315 Filed 9-24-73;8:45 am]

## DEPARTMENT OF COMMERCE

### Domestic and International Business Administration

### CORNELL UNIVERSITY, ET AL.

### Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before October 15, 1973.

Amended regulations issued under cited Act, as published in the February 24, 1972, issue of the FEDERAL REGISTER, prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C.

Docket Number: 74-00075-33-46040. Applicant: Cornell University, Section of Genetics, Development and Physiology, New York State College of Agriculture and Life Sciences, Plant Science Building, Ithaca, New York 14850. Article: Electron Microscope, Model EM 201. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended Use of Article: The foreign article is intended to be used in research on various aspects of ultrastructural studies in different organisms. The main areas of research will be the following: (1) Fine structure of cytoplasmic microfilaments in elogating plants cells, and of P-protein in the sieve elements of phloem; (2) fate of DNA in a differentiating and mature sieve elements; (3) alterations in chloroplast membranes during cold acclimation of spinach plants; and (4) comparative ultrastructural studies of the ascospore in the wild type and mutant strains of the fungus *Neurospora crassa.*

The article is also intended to be used to train undergraduates, graduates, post doctoral fellows, and technicians in three courses in electron microscopy. Application received by Commissioner of Customs: August 20, 1973.

Docket Number: 74-00076-33-43420. Applicant: The University of Oklahoma, Purchasing Department, 660 Parrington Oval, Room 321, Norman, Oklahoma 73069. Article: Micromanipulator, Type MZ-10 and accessories. Manufacturer: Narishige Scientific Instrument Laboratory, Japan. Intended Use of Article: The foreign article is intended to be used in research on the large paired Retzius Cells in segmental ganglia of the leech. The program will examine the synaptic interactions between Retzius Cells, large fiber units in the connective, which mediate shortening, and the large lateral motor neurons. Retzius Cells will also be examined to measure their presynaptic effects upon the tension and potentials of the muscles during the reflexive shortening. The article will also be used





to teach a course entitled "Electrophysiological Techniques." Application received by Commissioner of Customs: August 20, 1973.

Docket Number: 74-00078-33-46070. Applicant: Virginia Commonwealth University, Medical Health Sciences Center, Medical College of Virginia, 1200 East Broad, Richmond, Virginia 23219. Article: Scanning Electron Microscope, Model JSM-S1. Manufacturer: JEOL, Ltd., Japan. Intended use of article: The article is intended to be used for studies of ocular tissue, normal and pathological, derived from human and animal eyes and their adnexa. Experiments to be conducted include:

(a) Investigations of normal and abnormal development of the eye primarily based on teratogenic agents interfering with normal ocular development.

(b) Comparison of the morphological configuration of normal and glaucomatous outflow channels and structures from embryonic and postnatal stages of the eye.

(c) Studies to detect differences of normal and glaucomatous corneal epithelium and their causes.

(d) Study of effects of intense bright light on the receptor organs of the retina and the retinal pigment epithelium and to compare those changes with macular degeneration in man, a not infrequent cause of reduced vision primarily with age.

The article will also be used for training of post-graduate fellows in Research Ophthalmology with main emphasis on ocular fine structure and pathology and for four year NIH traineeship in ophthalmology leading to a career in academic medicine. Application received by Commissioner of Customs: August 17, 1973.

Docket Number: 74-00079-33-46040. Applicant: DHEW/PHS, Food and Drug Administration, National Center for Toxicological Research, Jefferson, Arkansas 72079. Article: Electron Microscope, Model EM 201. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended Use of Article: The foreign article is intended to be used in research on biological, mainly mammalian tissues derived from experimental animals, and exhibit both normal and pathologic structure. Specifically, the experiments will be (1) transmission electron microscopy (TEM) of myocardial necrosis in adult female mice given 2,4,5-T; (2) transmission and scanning electron microscopy (TEM and SEM) in conjunction with elemental x-ray analysis of crystalline material present in the lungs of mice associated with carcinogenesis; (3) TEM and SEM in conjunction with elemental x-ray analysis of transitional epithelium of the urinary bladder of mice which have received 2-AAF, a carcinogenic compound; (4) TEM and SEM study of intracytoplasmic hyaline bodies in epithelial cells of urinary bladder from mice treated with 2-AAF; (5) SEM of teratologic defects in mice fetuses from maternal animals which have received 2,4,5-T; (6) an electron microscope study to define subcellular deviations which occur within neoplastic transitional epithelial cells of the urinary bladder of mice and (7) an electron microscopic study of liver and kidney of mice treated with 2-AAF. Application received by Commissioner of Customs: August 20, 1973.

Docket Number: 74-00080-33-46040. Applicant: DHEW/PHS, Food and Drug Administration, National Center for Toxicological Research, Jefferson, Arkansas 72079. Article: Electron Microscope, Model EM 301. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended Use of Article: The foreign article is intended to be used in research on biological, mainly mammalian tissues derived from experimental animals, and exhibit both normal and pathologic structure. Specifically, the experiments will be (1) transmission electron microscopy (TEM) of myocardial necrosis in adult female mice given 2,4,5-T; (2) transmission and scanning electron microscopy (TEM and SEM) in conjunction with elemental x-ray analysis of crystalline material present in the lungs of mice associated with carcinogenesis; (3) TEM and SEM in conjunction with elemental x-ray analysis of transitional epithelium of the urinary bladder of mice which have received 2-AAF, a carcinogenic compound; (4) TEM and SEM study of intracytoplasmic hyaline bodies in epithelial cells of urinary bladder from mice treated with 2-AAF; (5) SEM of teratologic defects in mice fetuses from maternal animals which have received 2,4,5-T; (6) an electron microscope study to define subcellular deviations which occur within neoplastic transitional epithelial cells of the urinary bladder of mice; and (7) An electron microscopic study of liver and kidney of mice treated with 2-AAF. Application received by Commissioner of Customs: August 20, 1973.

Docket Number: 74-00081-33-46500. Applicant: University of Nebraska Medical Center, Department of Dermatology, Conkling Hall, Room 406, 42nd and Dewey Avenue, Omaha, Nebraska 68105. Article: Ultramicrotome, Model LKB 8800A, 7800B Knifemaker, and 4806A Ultrotome Table. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The foreign article is intended to be used in research on biological, exclusively mammalian tissues derived from human skin and from experimental animals, which exhibit both normal and pathologic structure. Specifically, the experiments to be conducted include sequential biopsies during the development of the various forms of dermatitis (eczema) and during the resolution of various skin diseases using different clinical therapeutic modalities. Application received by Commissioner of Customs: August 21, 1973.

Docket Number: 74-00082-33-37100. Applicant: University of Pennsylvania, Department of Microbiology, School of Dental Medicine, 4001 Spruce Street, Philadelphia, Pennsylvania 19174. Article: Yeda Press. Manufacturer: Yeda Research & Development Co., Ltd., Israel. Intended Use of Article: The foreign article is intended to be used in research on virus infected KB living cells. Specifically, the virus-infected cells will be factionated and virus antigens located in order to document membrane alterations. Application received by Commissioner of Customs: August 22, 1973.

Docket Number: 74-00083-33-46500. Applicant: William Paterson College of New Jersey, 300 Pompton Road, Wayne, New Jersey 07407. Article: Ultramicrotome, Model LKB 8800A and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended Use of Article: The foreign article is intended to be used in teaching a course entitled "Electron microscopy" to seniors in the Biology major program. In addition, a second course entitled Cell Ultrastructure is planned for Spring 1974. Application received by Commissioner of Customs: August 21, 1973.

Docket Number: 74-00084-33-46500. Applicant: Wayne State University, Department of Dermatology, Research Medical Building, 550 East Canfield, Detroit, Michigan 48201. Article: Ultramacrotome, Model LKB 8800A and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended Use of Article: The foreign article is intended to be used to study biological, mainly mammalian tissues derived from human and experimental animals which exhibit both normal and pathologic structure. Specifically, experiments will be conducted on the normal, physiological behavior of cells and tissues in regard to the transport and ingestion of macromolecules. Variations in the behavior of cells and tissues under experimental pathological conditions will also be studied. Application received by Commissioner of Customs: August 21, 1973.

Docket Number: 74-00085-01-77040. Applicant: California State University, Los Angeles, 5151 State University Drive, Los Angeles, California 90032. Article: Mass Spectrometer, Model CH-5. and accessories. Manufacturer: Varian MAT-GMBH, West Germany. Intended Use of Article: The article is intended to be used for the application of negative ion mass spectrometry in the following research projects:

I. Negative Ion Mass Spectrometric Sequencing of Amino Acids in Peptides.

II. Negative Ion Mass Spectral Studies of Carboranes and Boron Hydrides.

III. Gas Phase Non-Benzenoid Aromatic Systems studies.

The article will also be used in various chemistry courses for the teaching of instrumental techniques. Application received by Commissioner of Customs: August 21, 1973.

Docket Number: 74-00086-33-46040. Applicant: University of Rochester, Medical Center, 260 Crittenden Boulevard, Rochester, New York 14642. Article: Electron Microscope, Model EM 201 and accessories. Manufacturer: Philips Electronic Instruments NVD, The Netherlands. Intended Use of Article: The



V 38-185 SEP 25 73 XUM

article is intended to be used for the examination by electron microscopy of the fine structural features of brain tumor cells in culture with particular attention given to a search for viral particles, and for cellular features which correlate with tumor malignancy and invasiveness. In addition, morphologic characteristics will be correlated with metabolic properties determined by physiological and biochemical methods. An important aspect of these studies will be an assessment of the influence of chemical substances (or physical conditions such as irradiation) which might therefore, have applicability in the treatment of patients with brain tumors. Application received by Commissioner of Customs: August 20, 1973.

A. H. STUART,
*Director, Special Import Programs Division.*

[FR Doc.73-20306 Filed 9-24-73;8:45 am]

## CORNELL UNIVERSITY

### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 73-00561-90-73610. Applicant: Cornell University, NYS Agricultural Experiment Station, Department of Plant Pathology, Geneva, New York 14456. Article: Recording Volumetric Spore Trap. Manufacturer: Burkard Manufacturing Co. Ltd., United Kingdom. Intended use of Article: The article is intended to be used in studies of fungus spores to determine the type and quantity of spores in the air in relation to weather conditions.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is designed to continuously sample airborne particles for periods up to 7 days and provide a record of the type and quantity of particles collected at a given time. The Department of Health, Education, and Welfare (HEW) in its memorandum dated Augsut 30, 1973 advised that the ability to record such data for 7 days is pertinent to the applicant's research purposes. HEW further advised that it knows of no domestic instrument of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

A. H. STUART,
*Director, Special Import Programs Division.*

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

[FR Doc.73-20382 Filed 9-24-73;8:45 am]

## SAN FRANCISCO STATE UNIVERSITY

### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 73-00497-33-46040. Applicant: San Francisco State University, Division of Biology, 1600 Holloway, San Francisco, Calif. 94132. Article: Electron microscope, EM 10. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in the study of sperm cell activation in opistobranch mollusks to understand the mechanisms of sperm cell maturation; how mature sperm cells are transferred from one individual to another; how viable sperm cells can be stored up to one month in the seminal receptacle while remaining inactive; and how they are activated at the precise time of egg-laying so they are fertilized just prior to being shed. The article will be used to take low magnification orientation pictures and to take high-magnification, high-resolution pictures in order to observe the finest structural details in the developing sperm cells, the fine details of the lining cells of the seminal receptacle, and minute differences between activated and inactive sperm cells. In addition, the article will be used in the course, Electron Microscopy, to prepare students to work independently in electron microscopy, whether it be as electron microscope technicians or using the instrument in original research for a higher degree.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States. Reasons: The foreign article has a specified resolving capability of 3.5 Angstroms. The most closely comparable domestic instrument is the Model EMU-4C electron microscope manufactured by the Forgflo Corporation. The Model EMU-4C has a specified resolving capability of 5 Angstroms. (The lower the numerical rating in terms of Angstrom units, the better the resolving capability.) We are advised by the Department of Health, Education, and Welfare (HEW) in its memorandum dated August 30, 1973 that the additional resolving capability of the foreign article is pertinent to the purposes for which the foreign article is intended to be used. We, therefore, find that the Model EMU-4C is not of equivalent scientific value to the foreign article for such purposes as the article is intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

A. H. STUART,
*Director, Special Import Programs Division.*

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

[FR Doc.73-20383 Filed 9-24-73;8:45 am]

## UNIVERSITY OF RHODE ISLAND

### Notice of Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq.).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 73-00550-33-01710. Applicant: University of Rhode Island, Kingston, R.I. 02881. Article: Voltage-Clamp Amplifier. Manufacturer: Hugo Sachs Elektronik K.G., West Germany. Intended Use of Article: The article is intended to be used in studies of smooth and cardiac muscle wherein membrane potential difference will be clamped at a value corresponding to deplorization by acetylcholine, while the muscle is treated with 5-hydroxtryamine to determine whether current oscillations and rhythmicity will be established. COMMENTS: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The applicant's use is in a very specialized study of membrane potentials in smooth and cardiac muscle requiring very specialized apparatus. In addition the applicant requires a device to satisfy the articles capabilities and be compatible with a particular microelectrode amplifier. The Department of Health, Education, and Welfare (HEW) advised in its memorandum dated August 30, 1973 that the specific design of the foreign article is pertinent to the purposes described above. HEW also advised that it knows of no domestic instrument of equivalent scientific value to the foreign article for the purposes for which the article is intended to be used.

The Department of Commerce knows no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

A. H. STUART,
*Director, Special Import Programs Division.*

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

[FR Doc.73-20381 Filed 9-24-73;8:45 am]

## NORTH TEXAS STATE UNIVERSITY AND UNIVERSITY OF ILLINOIS

### Notice of Consolidated Decision on Applications for Duty-Free Entry of Accessories for Foreign Instruments

The following is a consolidated decision on applications for duty-free entry of accessories for foreign instruments pursuant to section 6(c) of the Educational Scientific and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (37 FR 3892 et seq). (see especially § 701.11 (e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 73-00540-00-77030. Applicant: North Texas State University, Denton, Tex. 76203. Article: ¹D internal field frequency lock system. Manufacturer: JOEL Ltd., Japan. Intended Use of Article: The article is an accessory to be used with a nuclear magnetic resonance spectrometer being used in studies of the structures of and of the bonding within various chemical (mainly organic) compounds. The objectives pursued in the course of these investigations include:

(a) The training of graduate students for futures in the chemical industry and academia,

(b) Basic Research for a better understanding of synthetic chemistry, and

(c) New applications of nuclear magnetic resonance to study of reaction products and molecular structures.

In addition the article is to be used for educational purposes in various Chemistry courses to train students in the most modern methods of chemistry including nmr spectroscopy. Application received by Commission of Customs: May 30, 1973. Advice submitted by Department of Health, Education, and Welfare on: August 30, 1973.

Docket Number: 73-00557-00-77040. Applicant: University of Illinois-Urbana-Champaign, Purchasing Division, 223 Administration Building, Urbana, Illinois 61801. Article: Combination Field Desorption-Field Ionization-Electron Impact Ion Source Device. Manufacturer: Varian MAT GmBH, West Germany. Intended use of article: The articles are accessories to an existing mass spectrometer to be used for studies of organic compounds and mixtures of interest in biology and medicine to determine their molecular weights and molecular formulas. The article will also be used for educational purposes in various Chemistry courses. Application received by Commissioner of Customs: May 25, 1973. Advice submitted by Department of Health, Education, and Welfare on: August 30, 1973.

Comments: No comments have been received with respect to any of the foregoing applications. Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, is being manufactured in the United States.

Reasons: The applications relate to compatible accessories for instruments that have been previously imported for the use of the applicant institutions. The articles are being manufactured by the manufacturers which produced the instruments with which they are intended to be used. We are advised by the Department of Health, Education, and Welfare in the respectively cited memoranda that the accessories are pertinent to the applicants' intended uses and that it knows of no comparable domestic articles.

The Department of Commerce knows of no similar accessories manufactured in the United States which are interchangeable with or can be readily adapted to the instruments with which the foreign articles are intended to be used.

A. H. STUART,
*Director Special Import Programs Division.*

[FR Doc.73-20307 Filed 9-24-73;8:45 am]

## Maritime Administration

## EXXON CORP.

### Application for Construction of DWT Tankers

Notice is hereby given that Exxon Corp. has filed an application dated September 6, 1973, pursuant to Title V of the Merchant Marine Act, 1936, as amended for construction-differential subsidy to aid in the construction of two 400,000 DWT tankers of approximately 15.4 knots speed proposed for operation in worldwide tanker trades.

Interested parties may inspect this application in the office of the Secretary, Room 3099-B, Maritime Administration, Commerce Department Building Fourteenth & E Streets NW., Washington, D.C. 20235.

Dated September 19, 1973.

By Order of the Maritime Subsidy Board, Maritime Administration.

JAMES S. DAWSON, JR.,
*Secretary.*

[FR Doc.73-20434 Filed 9-24-73;8:45 am]

## WATERMAN MARINE CORP.

### Application for Construction of DWT Ore/Bulk/Oil Type Vessels

Notice is hereby given that Waterman Marine Corp. has filed an application dated September 7, 1973, pursuant to Title V of the Merchant Marine Act, 1936, as amended for construction-differential subsidy to aid in the construction of four 80,000 DWT OBO's of approximately 16.5 knots speed proposed for operation in worldwide tanker trades.

Interested parties may inspect this application in the office of the Secretary, Room 3099-B, Maritime Administration, Commerce Department Building, Fourteenth and E Streets NW., Washington, D.C. 20235.

Dated September 19, 1973.

By Order of the Maritime Subsidy Board Maritime Administration.

JAMES S. DAWSON, JR.,
*Secretary.*

[FR Doc.73-20435 Filed 9-24-73;8:45 am]

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Food and Drug Administration

[FAP 4B2945]

## AMERICAN CYANAMID CO.

### Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 4B2945) has been filed by American Cyanamid Company, Wayne NJ 07470, proposing that § 121.2571 *Components of paper and paperboard in contact with dry food* (21 CFR 121.2571) be amended in paragraph (b)(2) to provide for the safe use of the antimicrobial agents dodecylguanidine acetate and dodecylguanadine hydrochloride in paper and paperboard in contact with dry foods.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the







V 38 185 SEP 25 73 XUM

additive will not have a significant environmental impact. Copies of the environmental impact analysis report are available in the Office of the Assistant Commissioner for Public Affairs, Rm. 15B–42 or the Office of the Hearing Clerk, Food and Drug Administration, Rm. 6–86, 5600 Fishers Lane, Rockville, MD 20852.

Dated September 12, 1973.

VIRGIL O. WODICKA,
*Director, Bureau of Foods.*

[FR Doc.73-20299 Filed 9-24-73;8:45 am]

---

[DESI 5378; Docket No. FDC–D–582; NDA 11–522]

## CERTAIN COMBINATION ANORECTIC DRUGS

### Final Order on Objections and Request for a Hearing Regarding Withdrawal of Approval of New Drug Applications

In the FEDERAL REGISTER of August 8, 1970 (35 FR 12652) the Commissioner of Food and Drugs published a statement of policy (21 CFR 130.46) concerning amphetamines for human use. The statement contained the findings of the Food and Drug Administration based upon reports received from the National Academy of Sciences-National Research Council (NAS–NRC) Drug Efficacy Study Group. Also published in the FEDERAL REGISTER of August 8, 1970 (35 FR 12678) was a notice (DESI 5378) on drugs containing amphetamines and their salts, stating that the drugs were regarded as possibly effective for their claimed anorectic effect and lacked substantial evidence of effectiveness for their other labeled indications. The statement of policy also contained the findings of the Commissioner that because of the extensive use of the drugs in the treatment of obesity, and their stimulant effect on the nervous system, they have a potential for misuse and actual abuse, and production data indicated that amphetamines are produced and prescribed in quantities greatly in excess of demonstrated medical needs. As a condition for continued marketing of amphetamines, the statement of policy required relabeling as specified and the submission of a new drug application (NDA) within one year for all such drugs not then the subject of NDA approval. Holders of approved NDAs were required to submit additional evidence of safety and substantial evidence of efficacy in the form of adequate and well-controlled clinical investigations.

On February 12, 1973, the Commissioner published in the FEDERAL REGISTER (38 FR 4249) a final order stating that there was a lack of substantial evidence of effectiveness for, and a recognized potential for the abuse of, fixed combination drugs for anorectic use which contained, among other ingredients, amphetamine, methamphetamine, or dextroamphetamine. In addition, the Commissioner found that alternative therapeutic measures which are safe and effective are available for use. The Commissioner also stated in the final order that a mixture of dextroamphetamine and amphetamine is ordinarily regarded as a single drug entity. A similar conclusion as to a mixture of dextroamphetamine and methamphetamine, and/or amphetamine and methamphetamine, was not made. In § 3.86 (21 CFR 3.86) the Food and Drug Administration set forth a policy on fixed-combination drugs for prescription use requiring that each drug in a fixed-combination drug contribute to the claimed effect of the drug; section IV, infra. Therefore, drugs containing combinations of amphetamine and methamphetamine and/or dextroamphetamine and methamphetamine, are fixed combination drugs. The final order also stated that a proposal to withdraw approval of such combination drugs for anorectic use was published elsewhere in the same issue of the FEDERAL REGISTER.

In a notice in the FEDERAL REGISTER of February 12, 1973 (38 FR 4279), the Commissioner announced an opportunity for hearing on his proposal to withdraw approval of new drug applications for the combination amphetamine or other anorectic drugs. This notice was based on evaluation of data submitted pursuant to the FEDERAL REGISTER notice of August 8, 1970 (35 FR 12678). This data was found, after review, not to provide substantial evidence that the drugs named in the FEDERAL REGISTER notice of February 12, 1973, were effective as fixed combination for their claimed anorectic uses. Based on this lack of substantial evidence of effectiveness of the drugs as fixed combinations, the recognized potential for abuse of these combination drugs, and the availability of alternative therapeutic measures which are safe and effective, the named drugs were also found to be lacking in proof of safety. The Commissioner further found that the data submitted in response to the FEDERAL REGISTER notice of August 8, 1970, did not support a contention that the combination products decrease the incidence or severity of side effects associated with the abuse potential of the single entity anorectic drug. Notice was therefore given to holders of the named new drug applications and all other interested persons, including those marketing similar, identical or related drugs (§ 130.40 (21 CFR 130.40)) that the Commissioner proposed to withdraw approval of these new drug applications based on a lack of substantial evidence of effectiveness and a lack of proof of safety. All holders of the NDA's and persons marketing similar, identical or related drugs, and other interested persons were invited to request a hearing on the proposed withdrawals and to submit with such request a well organized and full-factual analysis of the clinical and other investigational data they were prepared to prove in support of their opposition to the withdrawal of the named NDA's and any such similar, identical or related drugs. The notice stated that if substantial evidence of effectiveness and evidence of safety was received for any of the named drugs, or for similar, identical and related drugs, the notice would be rescinded as to such drugs.

In response to the notice in the FEDERAL REGISTER of February 12, 1973, requests for a hearing were received from four persons for five drugs. The persons and the drugs were named in the FEDERAL REGISTER notice of March 30, 1973 (38 FR 8290). The subject final order concerns only two of those persons requesting hearings.

Rexar Pharmacal Co., 396 Rockaway Ave., Valley Stream, NY 11582, requested a hearing for the drugs Obetrol-10 and Obetrol-20 Tablets (NDA 11–522). These drugs are the subject of an NDA which was made conditionally effective on July 24, 1959, and fully effective on February 23, 1960. The Obetrol drugs had been reviewed by the NAS–NRC and found to be possibly effective as an adjunct in the management of some forms of obesity in which an appetite depressant is indicated. The NAS–NRC finding was incorporated into the August 8, 1970 FEDERAL REGISTER notice discussed above (35 FR 12678).

Delco Chemical Co., 7 McQuesten Parkway North, Mount Vernon, NY 10550, requested a hearing for the drugs Delcobese Sustained Release Tablets and Capsules and Delcobese Tablets and Capsules. Pursuant to the August 8, 1970 FEDERAL REGISTER order, the Commissioner received from Barrows Pharmacal Inc., 300 Prospect St., Inwood, NY 11696, four new drug applications on the following dates for the following drugs: March 15, 1971, NDA 17–162, Delcobese Tablets, 5 mg., 10 mg., 15 mg., and 20 mg.; March 15, 1971, NDA 17–161, Delcobese Capsules, 5 mg., 10 mg., 15 mg., and 20 mg.; March 26, 1971, NDA 17–160, Delcobese Sustained Release Capsules, 5 mg., 10 mg., 15 mg., and 20 mg.; and June 24, 1971, NDA 17–159, Delcobese Sustained Release Double-Layer Tablets, 5 mg., 10 mg., 15 mg., and 20 mg. All four of the drugs consist of a combination of amphetamines and methamphetamines. No data was submitted in support of the efficacy of these combination drugs; the sponsor merely paraphrased the conclusions stated in the August 8, 1970 FEDERAL REGISTER notice in support of the safety and efficacy of the drugs for use as anorectics and in treating narcolepsy and minimal brain dysfunction in children.

Due to the large number of new drug applications received pursuant to the August 8, 1970 FEDERAL REGISTER order, a review and evaluation of the new drug applications submitted by Barrows was delayed. Barrows was notified of this delay by a letter from the Food and Drug Administration on February 25, 1972. On January 15, 1973, a letter was sent to Barrows from J. Richard Crout, M.D., Acting Director, Office of Scientific Evaluation, Bureau of Drugs, stating the conclusion of the Food and Drug Administration that the four new drug applications submitted by Barrows could not be approved because the submissions





failed to demonstrate that each component of the drug makes a contribution to the claimed effect and that the dosage of each component is such that the combination is safe and effective for a significant patient population requiring such concurrent therapy as defined in the labeling for the drug (21 CFR 3.86). In response to this letter, Delco Chemical Co., Inc., 7 McQuesten Parkway North, Mount Vernon, NY 10550, notified the Food and Drug Administration that it was reformulating the products subject to the submitted new drug applications into "single entity amphetamine preparations." No further communication has taken place.

The other drugs named in the FEDERAL REGISTER notice of March 30, 1973, will be the subject of orders ruling on the requests for hearings to be published in the FEDERAL REGISTER at a future date.

I. *The Drugs* a. Obetrol 10 and Obetrol 20 Tablets, respectively contain 2.5 mg. each or 5 mg. each of methamphetamine saccharate, methamphetamine hydrochloride, amphetamine sulfate, and dextroamphetamine sulfate per tablet.

b. The four Delcobese drugs are combinations of dextroamphetamine sulfate, methamphetamine hydrochloride, methamphetamine adipate and amphetamine sulfate.

II. *Recommended Uses* a. Obetrol 10 and Obetrol 20 Tablets are recommended in exogenous obesity as a short-term (a few weeks) adjunct to a regimen of weight reduction based on caloric restriction.

b. The Delcobese drugs are recommended in exogenous obesity, as a short-term (a few weeks) adjunct in a regimen of weight reduction based on caloric restriction, and in the treatment of narcolepsy and minimal brain dysfunction in children.

III. *The Data to Support Claims of Effectiveness* A. *Obetrol 10 and Obetrol 20 Tablets* 1. *Published Studies.* Rexar has submitted five literature reprints which it contends support the efficacy of Obetrol Tablets. For the following reasons, these studies are not substantial evidence of the effectiveness of Obetrol Tablets since they are not adequate and well-controlled clinical investigations.

a. *Modern Management of Obesity—The "Social Diet"*, Milton Plotz, M.D., *J.A.M.A.*, July 25, 1959, Vol. 170, pp. 1513–1515. This report is substantially a discourse on the causes of obesity and the various methods of treating the condition. It merely reports that the author feels that some investigators, including himself, have established a genuine therapeutic action with certain drugs in promoting weight reduction. There is no actual clinical data presented, no discussion of the investigations as to size of the studies, no controls or statistical methods, and no reference to the composition of the drugs that were employed in the investigations, as required by § 130.12(a)(5) (21 CFR 130.12). The author mentions that Obetrol was used in "this" study, but the reference to which study is unclear. The criteria for establishing that a study is adequate and well-controlled, set forth at § 130.12(a)(5), have not been met.

The study is, on its face, insufficient to support any claim of effectiveness for the Obetrol Products. The Commissioner finds that this article is not substantial evidence of the efficacy of Obetrol Tablets.

b. *The Treatment of Obesity in Patients With Cardiovascular Disease*, Franklin Simon, M.D. and Arthur Bernstein, M.D., *Angiology*, Vol. 12 No. 1, January, 1961, 32–37. This is a report of the obesity problem in the United States and a study conducted with Obetrol.

The study reported consisted of 100 patients who were seen by the investigators for "varying" periods of time. The authors stated the test was conducted for two months, an "appropriate" period of time. Why the two months was "appropriate" is not stated. The standard for determining "overweight" was given as "overweight by any standard used." Both Obetrol 10 and Obetrol 20 were administered, with dosage and time of administration altered to conform to individual requirements.

No attempt was made to use any controls in the study. The investigators reported that a placebo substitute was attempted with twenty-five patients after four weeks of treatment, but this type of placebo employment is not a placebo control contemplated by § 130.12(a)(5)(ii)(*a*)(*4*)(*ii*), since the regulation requires that the test drug be compared with the results of a patient group to whom a placebo, in all respects physically identical to the test drug, has been administered throughout the study. The subject study did not comply with the regulation.

The patient population was made up of patients some of whom had some sort of cardiovascular disease with or without diabetes, some with diabetes alone, and some with no other disease conditions. There is no information as to suitability of the patients to be included in a study to determine the effectiveness of an anorectic, and no assurance of comparability of the test group with a control group, since a control group was not employed (§ 130.12(a)(5)(ii)(*a*)(*2*)(*i*) and (*iii*)). Because of the great variations in the physical conditions of the patients and the other medications they were taking, and the variations of dosage and duration of administration reported by the authors, any specific finding by the investigators related to the effectiveness of Obetrol is of questionable value.

Section 130.12(a)(5)(ii)(*a*)(*5*) requires that "a summary of the methods of analysis and an evaluation of the data derived from the study, including any appropriate statistical methods" be submitted. No such data is presented in this study. Therefore, it is not possible to evaluate the analytical and statistical methods employed in order to determine the validity of the results and the investigator's conclusions.

The results of the study were stated in general terms of the total number of pounds lost, with an average being assigned to each patient. No actual patient results were stated. The investigators state that the range of weight loss varied from "almost nothing" to 25 pounds. The authors admit that their results are "made up of combining the good with the bad, the effective with the ineffective weight reducer." Thus, it is impossible to draw any meaningful conclusions as to the efficacy of Obetrol from the study because full reports of patient data obtained from the study are not presented as required by § 130.12(a)(5)(ii)(*a*)(*5*).

In addition, since Obetrol is a combination drug within the meaning of § 3.86, the investigators must show that both the amphetamine and methamphetamine components of the drug contribute to the drug's purposed effect. No such showing was made in this study.

The Commissioner finds that this study is not substantial evidence of the effectiveness of Obetrol Tablets.

c. *Treatment of Obese Diabetics and Arteriosclerotics*, Arthur Bernstein, M.D. and Franklin Simon, M.D., Reprint from *Clinical Medicine*, May, 1961, pp. 1–6. This is another report of the study discussed in b, above. It contains no more patient information or data than does the other report, and no statistical analysis. For the reasons stated above, the Commissioner finds this study is not substantial evidence of the effectiveness of Obetrol Tablets.

d. *Use of an Amphetamine-Combination Drug in an Anti-Obesity Clinic*, Merrill Berman, M.D. and Ian Anderson, M.D., *Md. St. Med. J.*, Jan., 1965, pp. 22–31. This is a report of study conducted with Obetrol–10 Tablets. The patient population numbered 43; the only medical problem of the group was obesity. The drug was tested in 25 patients and compared with 18 patients to whom no medication was administered. The authors stated that "the final outcome of this study will await its ultimate re-evaluation when the patients are reviewed one year from the time they entered the clinic program."

The patients were selected at random, and randomly placed on either the drug or no treatment. Both test and control patients were weighed each week, given nutritional counseling and participated in the same group discussions. The results obtained showed that the group to whom the drug had been administered lost an average of 20.2 pounds over a ten week period, while the control group lost an average of 9.61 pounds over the ten week period. The actual weight loss for each patient is tabulated. The authors concluded that "the group on the amphetamine preparation was able to lose twice as much, on the average, as the control group."

The study is deficient in several respects. First, the degree of overweight of the patients is not specified. Second, the method of randomizing the selection of the patients is not stated, nor is a table of random numbers presented (§ 130.12(a)(5)). Data is not presented as to the number of entrants in the study and the



V 38 185 SEP 25 73 XUM

number of dropouts. This data is necessary both in order to demonstrate that equal numbers of patients were placed in each group and to follow up on these patients to ascertain why they dropped out. Finally, the analytical technique for evaluating the results is not described making it impossible to establish the significance of the differences of treatment of the two groups (§ 130.12(a)(5)(ii)(*a*)(*4*)).

In adition to the above deficiencies, the study is not adequate and well-controlled to establish the efficacy of Obetrol for the following reasons. As pointed out by the investigators in this and the other studies submitted by Rexar, one of the major factors contributing to obesity, and crucial in its treatment, is the psychological condition of the patient. In order to conduct an adequately controlled test with an obesity drug, it is imperative that placebo controls as set forth in § 130.12(a)(5)(ii)(*a*)(*4*)(*ii*) be employed so that all patients think that they are receiving some medication in order to adequately compare the test and control groups. No treatment controls are insufficient in this type of study since a placebo has a definite and significant effect in obesity studies (§ 130.12(a)(5)(ii)(*a*)(*4*)(*i*)). As with all placebo studies, true double blinding is required. Thus, a third party must package both the active drugs and the placebos in containers which are indistinguishable and which can only be identified by code numbers known only to the third party. The placebos and drugs must be physically indistinguishable to both the physician and the patient. Only in this manner will the study result in neither the physician nor the patient being aware, at the time of treatment, which patient is receiving the drug or the placebo. This is required so that physician and patient expectations do not bias the study. Double blinding was not done in this study.

Finally, the study was not conducted in such a manner that the investigators demonstrated that both the amphetamine and the methamphetamine constituents of Obetrol contributed to its anorectic effect. Such a showing is required to establish the efficacy of a fixed combination drug such as Obetrol. In order to show the contribution of each ingredient it is necessary to have four test groups—one on the combination drug, one each on each of the active ingredients, and one on a placebo. This was not done (§ 3.66).

The Commissioner finds that this study is not substantial evidence of the efficacy of Obetrol Tablets.

e. *Comparison of Weight Losses With Their Reducing Regimens-Diet Therapy, Phenmetrazine, and . . . Obetrol*, Merrill Berman, M.D. and Ian Anderson, M.D., *J. Am. Geriatric Soc'y*, Vol. 14 No. 6, pp. 623–630.

In this study, 88 overweight female outpatients in the Anti-Calory Clinic were randomly divided into three groups, unequal in size: 18 to whom no medication was administered; 41 to whom phenmetrazine hydrochloride was administered; and 29 to whom Obetrol was administered. There is no explanation given for the variation in the number of subjects in each group. The no treatment group had an obesity duration of 10 years or longer in all cases; the other two groups had a long obesity duration. There is no reason given why the 10 years for the no-treatment group is significant or why the lack of specific duration of obesity for the other two groups is significant.

The results of the study showed an average loss of 2.0 pounds in two weeks, 4.2 pounds in four weeks, 6.4 pounds in six weeks, 8.6 pounds in eight weeks and 10.3 pounds in 10 weeks for the controls. For the phenmetrazine group, the average weight loss was 3.6 pounds in two weeks, 6.8 pounds in four weeks, 9.7 pounds in six weeks, 11.9 pounds in eight weeks and 13.8 pounds in 10 weeks. Finally, the Obetrol group averaged a weight loss of 5.0 pounds in two weeks, 9.5 pounds in four weeks, 13.8 pounds in six weeks, 18.3 pounds in eight weeks and 22.6 pounds in 10 weeks.

The results are not meaningful since there are no data relevant to the amount and frequency of medication. The degree of overweight of the patients is not given so that an objective comparison of the test subjects' weight loss is not possible. There is no method of randomizing the selection of the subjects stated, nor is a table of random numbers presented. The analytical technique for evaluating the results is not described so that the significance of the differences of treatment of the various groups cannot be established (§ 130.12(a)(5)(ii)(*a*)(*4*), and (a)(5)(ii)(*a*)(*4*)(i), (ii), *and* (iii)).

As with the study discussed in paragraph d. above, the necessary placebo is not present. The "active drug" control is insufficient because the administration of a placebo would not be contrary to the interest of the patient (§ 130.12(a)(5)(ii)(*a*)(*4*)(*iii*)). Furthermore, the follow-up study, in which only Obetrol was used, and then, only as needed, has no significance for purposes of demonstrating the efficacy of Obetrol. The study is not adequately double blinded for the reasons set forth in d above. Finally, there are no data to show that both the amphetamine and methamphetamine constituents of Obetrol contributed to the efficacy of the drug (§ 3.86).

The Commissioner finds that this study is not substantial evidence of the efficacy of Obetrol Tablets.

2. *Unpublished Studies*. a. *The Leberco studies*. Rexar also submitted two studies conducted by Leberco Laboratories in 1952. The studies are apparently acute toxicity studies. The first was conducted with Dexedrine. The purpose of this uncontrolled study is not stated. The target population ostensibly consisted of "normal, healthy albino rats", although the criteria for determining the condition of the rats is not stated (§ 130.12(a)(5)(ii)(*a*)(*2*)(*i*)). The animals were fed 10 milligrams of Dexedrine per cc of a suspension substance for an unspecified period of time, possibly only once, although this is not clear. The investigator concluded that "when the above results were calculated according to the method of Behrens, the $LD_{50}$ was established to be 112 milligrams per kilogram of rat. This is equivalent to 5,730 milligrams in a 60 kilogram human being."

The second study was conducted with 500 tablets of "Oby-Rex #1", composition not stated. The purpose of this uncontrolled study is not stated. In this study, the target population ostensibly consisted of "normal, healthy albino rats", although the criteria for determining the condition of the rats is not stated (§ 130.12(a)(5)(ii)(*a*)(*2*)(*i*)). The test animals were fed 40 milligrams of Oby-Rex #1 per cc of a suspension substance for an unspecified period of time, possibly only once, although this is not clear. The investigator concluded that "when the above results were calculated according to Behrens, it was found that the $LD_{50}$ of the test material is 283 milligrams per kilogram of rat. This is analogous in the human to 16,890 milligrams".

Rexar states that these two studies were comparative, but fails to state what was being compared, and the results of any such a comparison are nowhere stated. Furthermore, the results are not confirmed by clinical data since they are only acute data. The results of such animal studies cannot be extrapolated to man. Therefore, these studies do not prove the safety of Obetrol Tablets in human beings.

The two studies do not establish either the effectiveness or safety of Obetrol. Indeed, whether or not the "Oby-Rex #1" is of the same composition as Obetrol is not stated. The Commissioner finds that these studies do not constitute evidence of safety or substantial evidence of the efficacy of Obetrol Tablets for its intended use.

b. *The Nedelman study*. In a letter dated September 21, 1971, Rexar was advised by the Food and Drug Administration that a proposed clinical protocol for a double-blind efficacy study of Obetrol was deficient in several respects; several requirements for the study to be adequate and well-controlled were provided to Rexar. One of these requirements was that Rexar "should provide for acquiring data on the contributions of the individual constituents to the total claimed effect for the drug." Rexar submitted with its request for a hearing, a copy of a protocol of a study to be conducted with Obetrol for Rexar by Medical and Technical Research Associates, Medford, MA, dated January 20, 1972. There is no mention in the protocol of acquiring data on the contribution of the individual constituents to the total claimed effect for the drug. The protocol only provided for two test groups: one to whom Obetrol would be administered, and one to whom placebo medication would be administered. Rexar submitted the results of this study, which was conducted by Philip B. Nedelman, M.D. In the foreword to the study,





Rexar stated that pursuant to the September 21, 1971 Food and Drug Administration letter, it was incorporating new requirements for the study, and set them out. These revised requirements did not include a provision for acquiring data on the contribution of the individual constituents to the total claimed effect of the drug. Thus, at the threshold, the study is not adequate since Rexar failed to comply with the requirements for the study to be considered adequate and well-controlled.

In addition, the study itself is deficient in several respects. There are no data provided on patient selection, condition, randomization, comparability of test and control groups, or steps taken to minimize bias (§ 130.12(a)(5)(ii)(*a*)(*2*) and (*4*)). There are no data presented to show that an adequate placebo control was employed since the data presented do not state whether a certain number of patients received only the drug and a certain number received only the placebo. The investigator states that the groups were designated X and Y, but states both X and Y groups received Obetrol. Furthermore, the investigator states that both groups received a known placebo during the last one week of the study. Therefore, a comparison of the test and control groups is not possible (§ 130.12(a)(5)(ii)(*a*)(*4*)(*ii*)).

The Commissioner finds that the Nedelman study is not substantial evidence of the efficacy of Obetrol Tablets.

B. *Delcobese*. As stated above, no data from clinical investigations were submitted with the nonapproval new drug applications for the Delcobese drugs. In Delco's request for a hearing, no investigations, including adequate and well-controlled clinical investigations were submitted. All that Delco has presented is 47 physicians' reports from a survey conducted by Delco from 1964 to 1968. Most of the physicians used the drug for treating obesity, although some did not state for what purpose they used the drug. Only one physician stated he used the drug to treat narcolepsy, and none stated they used the drug to treat minimal brain dysfunction in children. There are also no data presented on whether capsules or tablets were administered or whether the medication was of the sustained release type. The material, five to ten years old, was not submitted with the NDAs.

The physician reports are testimonials at best. There are no actual patient data in any report. None of these "investigations" were controlled. Furthermore, there are no data that demonstrate that the constituent ingredients in the Delcobese drugs contribute to the total claimed effects for the drugs. The Commissioner finds that these testimonials are not substantial evidence of the efficacy of the Delcobese drugs.

IV. *General Objections*. Both Rexar and Delco object to the Commissioner's finding in the February 12, 1973 FEDERAL REGISTER final order (38 FR 4249), that while a mixture of dextroamphetamine and amphetamine is ordinarily regarded as a single drug entity, a mixture of amphetamine and methamphetamine, or a mixture of dextroamphetamine and methamphetamine is not regarded as a single drug entity. The Commissioner's finding is sound from a pharmacological and chemical standpoint, and no evidence was submitted to refute it.

Dextroamphetamine is one of the two optical isomers which constitute the racemic mixture known as amphetamine; its chemical formula is identical with that of amphetamine. Methamphetamine, however, is a distinct chemical entity with a formula different from amphetamine or dextroamphetamine. Methamphetamine is one of many different sympathomimetic amines, such as ephedrine or phenylpropanolamine. While methamphetamine and amphetamine are at times lumped together due to their similar pharmacological action, namely central nervous system stimulation, the differences in pharmacological actions and chemistry make a mixture of amphetamine and methamphetamine a combination drug subject to § 3.86 (Goodman and Gilman, *The Pharmacological Basis of Therapeutics*, 1970, pp. 501–506, 293–296).

The fixed combination prescription drug policy, set forth at § 3.86, provides that where two or more drugs are combined into a single dosage form, each drug must make a contribution to the claimed effect. In addition, the dosage of each drug in the combination must be safe and effective for a significant patient population requiring concurrent therapy as defined in the drug's labeling. Exceptions to this general rule are where a component is added to enhance the safety or effectiveness of the principal active component or to minimize the potential for abuse of the principal active component.

Since the Obetrol and Delcobese drugs are fixed combination drugs because they consist of two separate drug entities, amphetamines and dextroamphetamines as one drug entity and methamphetamines as a second drug entity, these drugs are subject to the fixed combination prescription drug policy. Neither of the two special cases applies here, since no data were submitted to show that one drug entity enhanced the safety or effectiveness of the other; the drugs consist of equal parts of the two drug entities. Second, the abuse potential of both amphetamine and dextroamphetamine, and methamphetamine is well known throughout both the medical and lay communities. Therefore, addition of one drug entity to the other does not minimize the potential for abuse for one or the other. The fixed combination policy thus applies to Obetrol and Delcobese.

Rexar and Delco, to establish the safety and efficiacy of Obetrol and Delcobese, would have had to submit studies in which four test groups were used: one to whom the combination drug was administered; one to whom the amphetamine and dextroamphetamine drug entity was administered; one to whom the methamphetamine drug entity was administered; and one to whom a placebo was administered. As pointed out above, none of the submitted studies were carried out in this manner. Thus, the effectiveness of these fixed-combination prescription drugs has not been proven by either Rexar or Delco.

V. *Legal Objections*. No legal objections to the withdrawal of approval of NDA 11–522 were raised by either Rexar or Delco. Delco admitted in its request for a hearing that the Delcobese drugs are similar to the Obetrol drugs. The Delcobese drugs are thus subject to the conclusions of the Commissioner reached with respect to the Obetrol drugs and their NDA (§ 130.40).

VI. *Findings*. The Commissioner, based on the review of the medical documentation offered to support the claims of safety and efficacy for Obetrol Tablets as a short term adjunct to a regimen of weight reduction based on caloric restriction in exogenous obesity, and Delcobese tablets and capsules and Delcobese sustained release tablets and capsules as a short term adjunct to a regimen of weight reduction based on caloric restriction in exogenous obesity and in the treatment of narcolepsy and minimal brain dysfunction in children, finds that Rexar Pharmacal Corp. and Delco Chemical Co. have failed to present substantial evidence of effectiveness for these products. No data was submitted on these fixed-combination drugs for prescription use that establishes that each of the drug components make a contribution to the claimed effect of the drug (§ 3.86).

Neither Rexar or Delco presented any data to establish that there is no potential for abuse of the Obetrol and Delcobese drugs. In addition, there is nothing in the record to show that there are not safer and effective drugs available for use for the conditions for which Obetrol and Delcobese are intended. The only safety data submitted were the apparent acute toxicity studies conducted with a drug "Oby-Rex #1", the results of which were not confirmed with clinical data. Therefore, no evidence has been submitted which challenges the Commissioner's finding as to the lack of proof of safety or which, in fact, proves the safety of Obetrol and Delcobese, and a hearing is not necessary on this issue. Nevertheless, the safety issue, for the purposes of this order, becomes moot since no substantial evidence of the effectiveness of Obetrol or Delcobese has been submitted. Therefore, the drugs would be withdrawn from the market even if they could be proven safe.

The Commissioner further finds that the approval of the New Drug Application heretofore approved for Obetrol-10 and Obetrol-20 Tablets (NDA 11–522) should be withdrawn on the basis of a lack of substantial evidence of effectiveness and lack of proof of safety. This finding applies with full force to the Delcobese drugs (§ 130.40).

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 701, 52 Stat. 1052–1053, 1055–1056, as amended; (21 U.S.C. 355,



V 38 185 SEP 25 73 XUM

371)), and under authority delegated to the Commissioner (21 CFR 2.120), notice is given that the approval of the New Drug Application for Obetrol-10 and Obetrol-20 Tablets (NDA 11-522) is withdrawn, effective October 5, 1973. This order applies with full force and effect to the Delcobese drugs (§ 130.40).

(Sec. 505, 701, 52 Stat. 1052-1053, 1055-1056, as amended; (21 U.S.C. 355, 371).)

Dated September 17, 1973.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[FR Doc.73-20295 Filed 9-24-73;8:45 am]

[DESI 9418]

[Docket No. FDC-D-602; NDA No. 9-418 etc.]

## CERTAIN DRUGS CONTAINING PENTAERYTHRITOL TETRANITRATE IN COMBINATION WITH RAUWOLFIA ALKALOIDS

### Notice of Withdrawal of Approval of New Drug Applications

A notice was published in the FEDERAL REGISTER of March 6, 1973 (38 FR 6090), extending to the holders of the new drug applications listed below, and to any interested person who may be adversely affected, an opportunity for hearing on the proposal of the Commissioner of Food and Drugs to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act, withdrawing approval of the listed applications and all amendments and supplements thereto. The basis of the proposed action was the lack of substantial evidence that the drugs are effective for their labeled indications.

| NDA No. | Drug | NDA holder |
|---|---|---|
| 9-418... | Pentoxylon Tablets, containing pentaerythritol tetranitrate and alseroxylon. | Riker Laboratories, Inc., Subsidiary o. 3M Co., 1021 Nordhoff St., Northridge, Calif. 91325. |
| 10-084.. | Nitralox Tablets, containing pentaerythritol tetranitrate and alseroxylon. | Dorsey Laboratories, Division of Sandoz-Wander, Inc., Northeast U.S. 6-A Interstate 80, Lincoln, Nebr. 68501. |
| 10-245.. | Pentaserpine Tablets and Pentaserpine "20" Tablets, containing pentaerythritol tetranitrate and reserpine. | USV Pharmaceutical Corp., 1 Scarsdale Rd., Tuckahoe, N.Y. 10707 (NDA formerly held by Nysco Laboratories, Inc.). |
| 11-129.. | Respot Tablets, containing pentaerythritol tetranitrate and reserpine. | Westerfield Laboratories, Inc., 2911 Bretherton Rd., Cincinnati, Ohio 45206. |

Both Riker Laboratories and USV Pharmaceutical Corp. (formerly Nysco Laboratories, Inc.) had previously discontinued their products and elected not to request a hearing. Neither Dorsey Laboratories, Inc. nor Westerfield Laboratories, Inc. filed a written appearance of election as provided by said notice. The failure to file such an appearance constitutes election not to avail themselves of an opportunity for hearing.

In addition to those listed above, three other new drug applications were included in the notice of March 6, 1973. Pfizer Pharmaceuticals, Inc., holder of NDA 10-998 for Cartrax 10 and Cartrax 20 Tablets (pentaerythritol tetranitrate and hydroxyzine hydrochloride), American Home Products Corp., holder of NDA 11-423 for Equanitrate 10 and Equanitrate 20 Tablets (pentaerythritol tetranitrate and meprobamate), and Carter-Wallace, Inc., holder of NDA 11-502 for Miltrate Tablets (pentaerythritol tetranitrate and meprobamate), elected to avail themselves of the opportunity for a hearing on their drugs. Their requests for a hearing are under review and will be the subject of a future publication in the FEDERAL REGISTER.

All identical, related, or similar products, not the subject of an approved new drug application, are covered by the new drug applications reviewed and are subject to this notice. See 21 CFR 130.40 (37 FR 23185, October 31, 1972). Any person who wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (BD-300), 5600 Fishers Lane, Rockville, MD 20852.

The Commissioner of Food and Drugs pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1053, as amended; 21 U.S.C. 355), and the Administrative Procedure Act (5 U.S.C. 554), and under authority delegated to him (21 CFR 2.120), finds that on the basis of new information before him with regard to the drugs, evaluated together with the evidence available to him when the applications were approved, there is a lack of substantial evidence that the drugs will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof.

Therefore, pursuant to the foregoing finding, approval of new drug applications Nos. 9-418, 10-084, 10-245, and 11-129 and all amendments and suppplements thereto is withdrawn.

Shipment in interstate commerce of the above-listed drug products or of any identical, related, or similar product, not the subject of an approved new drug application, is henceforth unlawful.

*Effective date.*—This order shall become effective on October 5, 1973.

Dated September 19, 1973.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[FR Doc.73-20298 Filed 9-24-73;8:45 am]

[FAP 3B2856]

## SANDOZ COLORS & CHEMICALS

### Notice of Filing of Petition for Food Additive

Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3B7856) has been filed by Sandoz Colors & Chemicals, East Hanover, NJ 07936, proposing that § 121.2426 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 121.2526) be amended in paragraph (a)(5) to provide for the safe use of polyamide-epichlorohydrin water-soluble thermosetting resins prepared by reacting adipic acid with diethylenetriamine to form a basic polyamide and further reacting the polyamide with an epichlorohydrin and dimethylamine mixture for use in the manufacture of paper and paperboard intended for use in contact with food.

Dated September 11, 1973.

VIRGIL O. WODICKA,
*Director, Bureau of Foods.*

[FR Doc.73-20300 Filed 9-24-73;8:45 am]

[DESI 11073]

[Docket No. FDC-D-541; NDA 11-073]

## WAMPOLE LABORATORIES

### Notice of Withdrawal of Approval of New Drug Application

On January 12, 1973, there was published in the FEDERAL REGISTER (38 FR 1404) a notice of opportunity for hearing (DESI 11073) in which the Commissioner of Food and Drugs proposed to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of new drug application 11-073 for Vastran Forte Capsules containing niacin (375 mg.) with ascorbic acid, riboflavin, thiamine mononitrate, cyanocobalamin, pyridoxine hydrochloride, and calcium pantothenate; Wampole Laboratories, 35 Commerce Road, Stamford, CT 06904. The basis of the proposed withdrawal of approval was the lack of substantial evidence that this fixed combination drug, offered for hypercholesteremia, will have the effects that it purports or is represented to have under the conditions of use prescribed, recommended or suggested in the labeling.

All identical, related, or similar products, not the subject of an approved new drug application, are covered by the new drug application reviewed and are subject to this notice. See 21 CFR 130.40 (37 FR 23185, Oct. 31, 1972). Any person who wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (BD-300), 5600 Fishers Lane, Rockville, MD 20852.

Pursuant to the notice, Wampole Laboratories has reformulated Vastran Forte Capsules into a new product named Wampocap Capsules containing 500 mg. niacin. In the FEDERAL REGISTER of April 15, 1972 (37 FR 7535) and an amendment on March 19, 1973 (38 FR 7270) (DESI 9760), niacin as a single active ingredient was evaluated as effective for hypercholesterolemia and hyperbetalipoproteinemia. The amendment of March 19, 1973 stated the following indications:

As adjunctive therapy in addition to diet and other measures in the treatment of hypercholesterolemia and hyperbetalipoproteinemia.

It also required that the following statement follow the "Indications" section either enclosed in a block or in italics:

Notice: It has not been established whether drug-induced lowering of serum cholesterol or other lipid levels has a detrimental, a beneficial, or no effect on the morbidity due to atherosclerosis or coronary heart disease. Several years will be required before current investigations can yield an answer to this question.

No data were submitted, pursuant to the notice of January 12, 1973, in support of the effectiveness of the combination product, nor has any person filed a written appearance of election as provided by said notice. The failure to file such an appearance constitutes an election by such persons not to avail themselves of the opportunity for a hearing.

The Commissioner of Food and Drugs, pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1053, as amended (21 U.S.C. 355)), and the Administrative Procedure Act (5 U.S.C. 554), and under authority delegated to him 21 CFR 2.120), finds that on the basis of new information before him with respect to the drug, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling thereof.

Therefore pursuant to the foregoing finding, approval of that part of NDA 11-073 pertaining to Vastran Forte Capsules and all amendments and supplements applying thereto is withdrawn effective on October 5, 1973.

Shipment in interstate commerce of the above-listed drug product or of any identical, related, or similar product, not the subject of an approved new drug application, will then be unlawful.

Dated September 19, 1973.

SAM D. FINE,
*Associate Commissioner for Compliance.*

[FR Doc.73-20297 Filed 9-24-73;8:45 am]

## Health Services Administration

## NATIONAL ADVISORY COMMITTEES

### Notice of Meetings

The Administrator, Health Services Administration, announces the meeting dates and other required information for the following National Advisory bodies scheduled to assemble the month of October 1973:

| Committee name | Date, time, and place | Type of meeting and/or contact person |
|---|---|---|
| National Migrant Health Advisory Committee. | 10/1-3, 9 a.m., Conference Room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. | Open, contact Billy M. Sandlin, Room 7-20, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md., code 301-443-1150. |
| Maternal and Child Health Services Research Grants Review Committee. | 10/18-19, 9 a.m., Conference Room L, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. | Closed, contact Gloria Wackernah, Room 12A-11, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md., code 301-443-2190. |

*Purpose.* The Committee is charged with the review of all research grant applications in the program areas of maternal and child health administered by the Bureau of Community Health Services.

*Agenda.* The Committee will be performing review of grant applications for Federal assistance and will not be open to the public, in accordance with the determination by the Administrator, Health Services Administration, pursuant to Public Law 92-463, section 10(d).

| Committee name | Date, time, and place | Type of meeting and/or contact person |
|---|---|---|
| National Advisory Council on Health Manpower Shortage Areas. | 10/19-20, 9 a.m., Howard Johnson's Motor Lodge, University Blvd. and Viers Mill Rd., Wheaton, Md. | Open, contact Howard Hilton, Room 6-05, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md., code 301-443-4337. |

*Purpose.* The Council is charged with establishing guidelines and regulations to improve the delivery of health care services; assigning Public Health Service personnel to areas where medical manpower and facilities are inadequate to meet the health needs of persons living in such areas; and on a nationwide basis recommending the criteria and personnel on which selection of areas are based.

*Agenda.* Agenda items include progress made in the designation process, results of review and evaluation visits, and open discussion with Acting Office Directors, Bureau of Community Health Service.

Agenda items are subject to change as priorities dictate.

A roster of members and other relevant information regarding the open/closed sessions may be obtained from the contact persons listed above.

Dated September 19, 1973.

ISABELLE G. GOLDBERG,
*Acting Associate Administrator for Management Health Services Administration.*

[FR Doc.73-20301 Filed 9-24-73;8:45 am]





## National Institutes of Health

## AD HOC TOXICOLOGY COMMITTEE

### Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Ad Hoc Toxicology Committee, National Cancer Institute, September 27 and 28, 1973, 9:00 a.m. to 5:00 p.m., National Institutes of Health, Building 31, Conference Room 2. This meeting will be closed to the public to review 3 contract proposals in the field of toxicology, in accordance with the provisions set forth in Section 552(b) 4 of Title 5 U.S. Code and 10(d) of P.L. 92-463.

Mr. Frank Karel, Associate Director for Public Affairs, NCI, Building 31, Room 10A31, National Institutes of Health, Bethesda, Maryland 20014, 301-496-1911, will furnish summaries of the closed meeting and roster of committee members.

Dr. J. A. R. Mead, Executive Secretary, Building 37, Room 5A05, National Institutes of Health, Bethesda, Maryland 20014, 301-496-4386, will provide substantive program information.

Dated September 13, 1973.

JOHN F. SHERMAN,
*Deputy Director, National Institutes of Health.*

[FR Doc.73-20323 Filed 9-24-73;8:45 am]

## CANCER CONTROL ADVISORY COMMITTEE

### Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Cancer Control Advisory Committee, National Cancer Institute, October 4, 1973, at 9:00 a.m., National Institutes of Health, Building 31, Conference Room 9. This meeting will be open to the public from 9:00 a.m. to 5:00 p.m. for the Committee to discuss and advise the National Cancer Institute on: (1) The development of program plans for cancer control, including the recommendations from the cancer control planning conference; (2) the most effective methods and procedures for the implementation of the recommendations from the planning conference. Attendance by the public will be limited to space available.

Mr. Frank Karel, Associate Director for Public Affairs, NCI, Building 31, Room 10A31, National Institutes of Health, Bethesda, Maryland 20014, 301-496-1911, will furnish summaries of the open meeting and a roster of committee members.

Dr. Robert L. Woolridge, Executive Secretary, Building 31, Room 10A19, National Institutes of Health, Bethesda, Maryland 20014, 301-496-1946, will provide substantive program information.

Dated September 14, 1973.

JOHN F. SHERMAN,
*Deputy Director, National Institutes of Health.*

[FR Doc.73-20317 Filed 9-24-73;8:45 am]

V 38 185 SEP 25 73 XUM

### PERIODONTAL DISEASES ADVISORY COMMITTEE

#### Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Periodontal Diseases Advisory Committee, National Institute of Dental Research, October 16-17, 1973, National Institutes of Health, Building 31-C, Conference Room 8. This meeting will be open to the public from 2:00 p.m. to 5:00 p.m. on October 16 and from 9:00 a.m. to 5:00 p.m. on October 17 to discuss research progress and research plans for the remainder of FY 1974. Attendance by the public will be limited to space available. The Executive Secretary from whom substantive program information may be obtained is: Dr. Anthony A. Rizzo, Scientist-Administrator, Extramural Programs, National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 521, Bethesda, Maryland 20014.

Dated September 14, 1973.

JOHN F. SHERMAN,
*Deputy Director,*
*National Institutes of Health.*

(Catalog of Federal Domestic Assistance Program No. 13.325 and 13.827 National Institutes of Health.)

[FR Doc.73-20318 Filed 9-24-73;8:45 am]

### NATIONAL ADVISORY COMMISSION ON MULTIPLE SCLEROSIS

#### Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the National Advisory Commission on Multiple Sclerosis on October 3, 1973, at the National Institutes of Health, Building 31A, Room 8A03A. This meeting will be open to the public from 10 a.m. to 4 p.m. and will continue the investigation into the most promising avenues for research leading to causes of and preventives and treatments for multiple sclerosis. Attendance by the public will be limited to space available.

1. The Institute Information Officer who will furnish summaries of the meeting and rosters of committee members is: Mrs. Ruth Dudley, Building 31, Room 8A03, phone: 496-5751.

2. The Executive Director from whom substantive program information may be obtained is: Dr. Harry M. Weaver, Room 8A11, Building 31A, NIH, phone: 496-3523.

Dated September 14, 1973.

JOHN F. SHERMAN,
*Deputy Director,*
*National Institutes of Health.*

[FR Doc.73-20321 Filed 9-24-73;8:45 am]

### HYPERTENSION INFORMATION AND EDUCATION ADVISORY COMMITTEE

#### Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Hypertension Information and Education Advisory Committee, National Heart and Lung Institute, October 23, 1973, 9:00 a.m., National Institutes of Health, Building 31, Conference Room 6. This meeting will be open to the public from 9:00 a.m. to 5:00 p.m., October 23, 1973. The agenda will include progress reports on various aspects of the National High Blood Pressure Education Program. Attendance by the public will be limited to space available.

Mr. Hugh Jackson, Information Officer, NHLI, NIH Landow Building, Room C918, phone 496-4236, will furnish summaries of the meeting and rosters of the committee members. Substantive information may also be obtained from the Executive Secretary, Dr. John B. Stokes III, NHLI, NIH Building 31, Room 5A27, phone 496-6331.

Dated September 14, 1973.

JOHN F. SHERMAN,
*Deputy Director,*
*National Institutes of Health.*

[FR Doc.73-20322 Filed 9-24-73;8:45 am]

### DENTAL CARIES PROGRAM ADVISORY COMMITTEE

#### Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Dental Caries Program Advisory Committee, National Institute of Dental Research, October 15-16, 1973, National Institutes of Health, Building 31-C, Conference Room 8. This meeting will be open to the public from 9:00 a.m. to 5:00 p.m. on October 15 and from 9:00 a.m. to 1:30 p.m. on October 16 to discuss research progress and research plans for the remainder of FY 1974. Attendance by the public will be limited to space available. The Executive Secretary from whom substantive program information may be obtained is: Dr. James P. Carlos, Associate Director, National Caries Program, National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 528, Bethesda, Maryland 20014.

(Catalog of Federal Domestic Assistance Program No. 13.325 and 13.827 National Institutes of Health.)

Dated September 14, 1973.

JOHN F. SHERMAN,
*Deputy Director,*
*National Institutes of Health.*

[FR Doc.73-20319 Filed 9-24-73;8:45 am]

### NATIONAL RESEARCH AND DEMONSTRATION CENTERS FOR HEART, BLOOD VESSEL, LUNG AND BLOOD DISEASES AND BLOOD RESOURCES

#### Request for Letters of Intent

The National Heart and Lung Institute announces its intent to establish a limited number of National Research and Demonstration Centers under authority of Part B of Title IV of the Public Health Service Act as amended by the National Heart, Blood Vessel, Lung and Blood Act of 1972 (P.L. 92-423) (42 U.S.C. 287 et seq.)

A National Research and Demonstration Center is defined as a national resource attached to a major medical complex and dedicated to working in close collaboration with the National Heart and Lung Institute to further the goals of the National Heart, Blood Vessel, Lung and Blood Program through a multidisciplined, coordinated, yet flexible, approach to research, education (public and professional) and demonstration of the applicability of the results of research. It is the inclusion of education and demonstrations and the coordination of these programs with the research and training efforts that sets a National Research and Demonstration Center apart from other types of programs.

Centers will be funded by the grant mechanism, but under conditions that will require close coordination with the National Heart and Lung Institute.

Proposals should be submitted on Form NIH-398, the application form for traditional research project grants. The format for presentation of a proposal should be as outlined in the "Program Announcement and Guidelines: National Research and Demonstration Centers for Heart, Blood Vessel, Lung and Blood Diseases and Blood Resources" dated August 20, 1973. Awards will be based on national competition. Only a limited number of awards will be made at the start of the program; additional Centers may be established later.

To describe the program in more detail and to enable potential applicants to ask questions, the National Heart and Lung Institute plans to hold a meeting of representatives of interested institutions on or about October 2, 1973. The Institute asks for letters of intent, which will not be binding, by November 1, 1973 in order to start planning for review of proposals. The deadline for receipt of formal applications is January 15, 1974.

Additional information may be obtained from:

Jerome G. Green, M.D.
Director, Division of Extramural Affairs
National Heart and Lung Institute
National Institutes of Health
Westwood Building, Room 5A18
Bethesda, Maryland 20014

Dated September 12, 1973.

ROBERT S. STONE,
*Director,*
*National Institutes of Health.*

[FR Doc.73-20316 Filed 9-24-73;8:45 am]

### PULMONARY DISEASE ADVISORY COMMITTEE

#### Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Pulmonary Diseases Advisory Committee, National Heart and Lung Institute, October 8 and 9, 1973, 8:30 a.m., at the Holiday Inn of Bethesda (conference room to be assigned), Bethesda, Maryland. This meeting will be open to the public from 8:30 a.m., October 8, until its adjournment on October 9. The main focus of the meeting will be on reports by subcommittees of the Advisory Committee and discussion of the Pulmonary Specialized Centers of Research Program. Attendance by the public will be limited to space available.

Mr. Hugh Jackson, Information Officer, NHLI, NIH Landow Building, Room C918, phone 496-4236, will furnish summaries of the meeting and rosters of the committee members. Substantive information may also be obtained from the Executive Secretary, Dr. Malvina Schweizer, NHLI, NIH Building 31, Room 5A10, phone 496-1613.

Dated September 14, 1973.

JOHN F. SHERMAN,
*Deputy Director,*
*National Institutes of Health.*

(Catalog of Federal Domestic Assistance Program No. 13.374, National Institutes of Health.)

[FR Doc.73-20320 Filed 9-24-73;8:45 am]





## ATOMIC ENERGY COMMISSION

### ADVISORY COMMITTEE ON REACTOR SAFEGUARDS SUBCOMMITTEE ON D. C. COOK NUCLEAR PLANT, UNITS 1 & 2

#### Notice of Meeting

SEPTEMBER 21, 1973.

In accordance with the purposes of section 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards Subcommittee on the D.C. Cook project will hold a meeting on October 5, 1973, in Room 1046, at 1717 H Street, NW., Washington, D.C. The purpose of this meeting will be to continue the Committee's formal Operating License review of the Donald C. Cook Nuclear Plant, Units 1 & 2. This facility is located in Lake Township near Benton Harbor, Michigan.

The following constitutes that portion of the Subcommittee's agenda for the above meeting which will be open to the public:

*Friday, October 5, 1973, 9:30 a.m.-3:30 p.m.*

The Subcommittee will hear presentations by Regulatory Staff and representatives of Indiana Michigan Electric Co. and their representatives and hold discussions with these groups pertinent to issuance of an Operating License for Donald C. Cook Nuclear Plant, Units 1 & 2.

In connection with the above agenda item, the Subcommittee will hold an executive session beginning at 8:30 a.m. which will involve a discussion of its preliminary views, and an executive session at the end of the day, consisting of an exchange of opinions of the Subcommittee members present and internal deliberations for the purpose of formulation of recommendations to the ACRS. In addition, prior to the executive session at the end of the day, the Subcommittee may hold a closed session with the Regulatory Staff and Applicant to discuss privileged information relating to plant security and fuel design, if necessary.

I have determined, in accordance with subsection 10(d) of Public Law 92-463, that the executive session at the beginning and end of the meeting will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b) and that a closed session may be held, if necessary, to discuss certain information relating to plant security and fuel design, which is privileged and falls within exemption (4) of 5 U.S.C. 552(b). It is essential to close such portions of the meeting to protect such privileged information and protect the free interchange of internal views and to avoid undue interference with agency or Committee operation.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business. With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda items may do so by mailing 25 copies thereof, postmarked no later than October 1, 1973, to the Executive Secretary, Advisory Committee on Reactor Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Such comments shall be based upon the Final Safety Analysis Report for this facility and related documents on file and available for public inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20545, and the St. Joseph Public Library, 500 Market Street, St. Joseph, Michigan 49085.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statements and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of not more than 30 minutes at an appropriate time, chosen by the Chairman of the Subcommittee, between the hours of 1:30 p.m. and 3 p.m. on the day of the meeting.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee, who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled and in regard to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on October 4, 1973, to the Office of the Executive Secretary of the Committee (telephone: 301-973-5651) between 8:30 a.m. and 5:15 p.m. e.d.t.

(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) A copy of the transcript of the open portions of the meeting will be available for inspection during the following workday at the Atomic Energy Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20545, and within approximately nine days at the St. Joseph Public Library, 500 Market Street, St. Joseph, Michigan 49085. On request, copies of the minutes of the meeting will be made available for inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20545, on or after December 5, 1973. Copies may be obtained upon payment of appropriate charges.

JOHN C. RYAN,
*Advisory Committee*
*Management Officer.*

[FR Doc.73-20493 Filed 9-24-73;8:45 am]

[Docket Nos. 50-413; 50-414]

### DUKE POWER CO. (CATAWBA NUCLEAR STATION, UNITS 1 AND 2)

#### Assignment of Members of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787 (a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for these proceedings:

Alan S. Rosenthal, Chairman
Michael C. Farrar, Member
Dr. Lawrence R. Quarles, Member

Dated September 19, 1973.

MARGARET E. DU FLO,
*Secretary to the Appeal Board.*

[FR Doc.73-20415 Filed 9-24-73;8:45 am]

[Docket No. 50-346(OL)]

### TOLEDO EDISON CO. AND CLEVELAND ELECTRIC ILLUMINATING CO.

#### Notice and Order for Special Prehearing Conference

Pursuant to notice and order of this Board, dated August 13, 1973, and in accordance with the Commission's rules of practice, notice is hereby given that a special prehearing conference will be held in this proceeding on October 12, 1973, at 10 am, local time, at the Lucas County Courthouse, Court of Appeals (Forth Floor), Adams and Erie Streets, Toledo, Ohio.

All members of the public are invited to attend this special prehearing conference as well as the evidentiary hearing to be scheduled and held at a later date. However, no evidence will be received at this Conference; nor will there be opportunity for presentation of limited appearance statements. Such statements will be received on the initial day of the evidentiary hearing.

This special prehearing conference will be conducted in accordance with § 2.751 (a) of the Commission's rules of practice, and will deal with the following matters:

a. The identification and simplification of the issues.

b. The obtaining of stipulations and admissions of fact.

c. The need for discovery and time required for such discovery, and



V 38 185
SEP 25 73
XUM

d. Such other matters which will aid in the orderly disposition of the case.

It is so ordered.

Issued at Washington, D.C., this 19th day of September 1973.

ATOMIC SAFETY AND LICENSING BOARD,

JOHN B. FARMAKIDES,
*Chairman.*

[FR Doc.73-20303 Filed 9-24-73;8:45 am]

[Docket No. 70-371]

## UNITED NUCLEAR CORP.

### Notice of Availability of Applicant's Environmental Report

Pursuant to the National Environmental Policy Act of 1969 and the Atomic Energy Commission's regulations, notice is hereby given that a copy of a revised environmental report received May 3, 1973, and revised data received June 11 and July 24, 1973, submitted by United Nuclear Corporation, are available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Raymond Hill Library, Raymond Hill Road, Oakdale, Connecticut. The report and revisions are also being made available to the public at the State Clearinghouse, Office of State Planning, Department of Finance and Control, 340 Capitol Avenue, Hartford, Connecticut 06115 and at the Southeastern Connecticut Regional Planning Agency, 139 Boswell Avenue, Norwich, Connecticut 06360.

The report and revisions discuss environmental considerations related to the production and assembly of unirradiated enriched uranium fuel elements and other components for naval reactor cores at United Nuclear Corporation's Naval Products Division Montville Plant located in the town of Montville, New London County, Connecticut.

After the report and revisions have been analyzed by the Commission's Director of Regulation or his designee, a draft environmental statement related to the proposed action will be prepared. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a notice of its availability. The notice will request comments from interested persons on the proposed action and on the draft environmental statement. The notice will also contain a statement to the effect that the comments of Federal agencies and State and local officials and interested persons thereon will be available when received.

Dated at Bethesda, Maryland, this eighteenth day of September, 1973.

For the Atomic Energy Commission.

R. B. CHITWOOD,
*Chief, Technical Support Branch, Directorate of Licensing.*

[FR Doc.73-20414 Filed 9-24-73;8:45 am]

## CIVIL AERONAUTICS BOARD

[Docket No. 25826; Order No. 73-9-75]

### SEABOARD WORLD AIRLINES, INC.

### Order To Show Cause Regarding Flag-Stop Service at Bangor, Maine

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 19th day of September 1973.

By petition filed August 23, 1973, Seaboard World Airlines, Inc. (Seaboard) requests the Board to issue an order to show cause amending its certificates for routes 119 and 119-A [1] to authorize all-cargo flag-stop service at Bangor, Maine. The petition was filed in response to Press Release CAB 73-106, issued June 19, 1973, in which the Board invited, inter alia, U.S.-flag carriers to apply for flag-stop or permissive authority to enplane and deplane cargo at Bangor International Airport.

In support of its petition, Seaboard states that the authorization of flag-stop all-cargo service at Bangor will enable Maine area shippers and consignees to receive their first direct North Atlantic cargo service; that no carrier will be adversely affected by such authorization; and that, since Seaboard regularly serves Bangor International Airport as a technical stop, it will not incur any additional direct expenses in providing flag-stop service at Bangor.

The State of Maine and the Bangor Parties [2] filed answers in support of Seaboard's application. No answers in opposition to the petition have been received.

Upon consideration of the pleadings and all the relevant facts, we have decided to issue an order to show cause which proposes to add Bangor, Maine, as a temporary point on Seaboard's routes 119 and 119-A.[3] The authority to serve Bangor will be limited to all-cargo flag-stop service, for a period of three years. We tentatively find and conclude that the public convenience and necessity require the amendment of Seaboard's certificates as outlined above.[4] The facts and circumstances which we have tentatively found to support our proposed ultimate conclusion appear below.

In the Board's Press Release CAB 73-106, dated June 19, 1973, we invited U.S.-flag and foreign-flag airlines operating between the United States and Europe or the Orient to apply for the right to enplane and deplane cargo at Bangor International Airport in Maine on a "flag-stop" or permissive basis, without passenger traffic rights. We found that the airport is uncongested, offers carriers excellent facilities, and is on or close to the great circle route between much of the United States and Europe. Furthermore, we pointed out that Bangor flag-stop authority could facilitate the handling of international air cargo by alleviating the burden on existing cargo facilities, promoting the export of goods such as seafoods, and helping attract light manufacturing industries to the State of Maine, which is currently suffering relatively high rates of unemployment. Finally, we contemplated that the privileges would be granted on a temporary, experimental basis for a period of three years.

Seaboard is an all-cargo U.S.-flag carrier operating between the United States and Europe, and the carrier already utilizes Bangor International Airport as a technical stop. Thus, we tentatively find that Seaboard is in an excellent position to use Bangor on a flag-stop basis and to provide the benefits accruing from Bangor flag-stop service which we set out in Press Release CAB 73-106. Moreover, we note that the State of Maine and the Bangor Parties support Seaboard's proposal, and no answers in opposition to the applications have been received. Further, we tentatively find that the same reasons which prompted the Board to authorize Seaboard to engage in restricted interstate commerce apply equally to the addition of Bango as a temporary flag-stop point on route 119-A. Thus, under these circumstances and in view of these tentative findings, we tentatively conclude that amendment of Seaboard's certificates to authorize flag-stop all-cargo service at Bangor, Maine, for an experimental period of three years is in the public interest.

Interested persons will be given twenty days following service of this order to show cause why the tentative findings and conclusions set forth herein should not be made final. We expect such persons to support their objections, if any, with detailed answers, specifically setting forth the tentative findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If an evidentiary hearing is requested, the objector should state in detail why such a hearing is considered necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.

[1] Route 119 includes the U.S. coterminal points Los Angeles/San Francisco/Chicago/Detroit/Cleveland/Philadelphia/New York/Boston and points throughout Western and Northern Europe. Route 119-A authorizes interstate air transportation of cargo on flights serving Europe between U.S. coterminals, except New York.

[2] The City of Bangor, Maine, and the Greater Bangor Area Chamber of Commerce.

[3] The authority to serve Bangor as a flag-stop on route 119-A would permit Seaboard to collect and disperse cargo to and from Bangor originating at or destined for other U.S. coterminals, provided the flights also serve Europe.

[4] We also tentatively find that Seaboard is fit, willing, and able properly to perform the air transportation authorized by the certificates proposed to be issued herein and to conform to the provisions of the Act and the Board's rules, regulations, and requirements thereunder.





*Accordingly, It Is Ordered,* That:

1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated herein, and amending the certificates of public convenience and necessity of Seaboard World Airlines, Inc. for routes 119 and 119-A so as to add Bangor, Maine, as a temporary point thereto, subject to the condition that the authority to serve Bangor will be limited to all-cargo flag-stop service, for a period of three years;

2. Any interested persons having objection to the issuance of an order making final any of the proposed findings, conclusions, or certificate amendments set forth herein shall, within 20 days after service of a copy of this order, file with the Board and serve upon all persons listed in paragraph 5 a statement of objections together with a summary of testimony, statistical data, and other evidence expected to be relied upon to support the stated objections; [5]

3. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board;

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth herein; and

5. A copy of this order shall be served upon Seaboard World Airlines, Inc.; Delta Air Lines, Inc.; Governor, State of Maine; City Manager of Bangor; the Maine Department of Aeronautics; Flying Tiger Line Inc.; Pan American World Airways, Inc.; Trans World Airlines, Inc.; National Airlines, Inc.; Northwest Airlines, Inc.; American Airlines, Inc.; and the Postmaster General (attention: Assistant General Counsel for Transportation), U.S. Postal Service.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.73-20425 Filed 9-24-73;8:45 am]

[5] All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further such motions, requests, or petitions for reconsideration of this order will be entertained.

## CONSUMER PRODUCT SAFETY COMMISSION

### STANDARD FOR THE FLAMMABILITY OF MATTRESSES

### Notice of Approval of Alternate Sampling Plan for Mattresses and Mattress Pads

In the FEDERAL REGISTER of June 7, 1972 (37 FR 11362), the Secretary of Commerce published the Flammability Standard for Mattresses (DOC FF 4-72) pursuant to provisions of the Flammable Fabrics Act.

Effective May 14, 1973, section .30(b) of the Consumer Product Safety Act (Public Law 92-573, 86 Stat. 1231; 15 U.S.C. 2079(b)) transferred all functions under the Flammable Fabrics Act to the Consumer Product Safety Commission.

Subsequently, the Consumer Product Safety Commission amended and reissued the standard (as the Standard for the Flammability of Mattresses (FF 4-72)) in the FEDERAL REGISTER of June 8, 1973 (38 FR 15095), effective June 7, 1973. As a result of a judicially imposed temporary stay, the standard as amended became effective June 22, 1973.

The standard contains a sampling plan for the selection and testing of mattresses and mattress pads. A provision (.4(b)(1)) of the standard allows alternate sampling plans to be used provided they are approved by the Consumer Product Safety Commission. Such plans must provide at least the equivalent level of fire safety to the consumer as that provided by the standard's sampling plan.

The alternate sampling plan for mattresses and mattress pads set forth below was submitted for approval in accordance with .4(b)(1) of the standard. It has been reviewed and determined to offer an equivalent level of fire safety to the consumer and to meet all technical requirements of the standard. It has operating characteristics such that the probability of unit acceptance at any percentage defective does not exceed the corresponding probability of unit acceptance of the basic sampling plan in the region of the operating characteristic curve that lies between 5 and 95 percent acceptance probability. The Commission hereby approves the plan.

Use of this alternate sampling plan, which may be cited as Alternate Sampling Plan No. 6 to FF 4-72, is applicable to mattresses and mattress pads. The plan is not restricted to the party submitting it but may be used by any mattress or mattress pad manufacturer.

Records of the use of this plan shall be maintained by the manufacturer in accordance with regulations established by the Consumer Product Safety Commission (see proposed 16 CFR 302.20 in the FEDERAL REGISTER of June 11, 1973; 38 FR 15373).

All provisions of the Standard for the Flammability of Mattresses (FF 4-72, as amended) are applicable under this alternate sampling plan except as specified below.

Dated September 20, 1973.

SADYE E. DUNN,
*Secretary, Consumer Product Safety Commission.*

ALTERNATE SAMPLING PLAN NUMBER 6 TO FF 4-72 MATTRESSES AND MATTRESS PADS

The following substitutes for .4(b) *Specimen and sampling* of FF 4-72:

.4 *Test procedure.*

* * * * *

(b) *Specimen and sampling.*—(1) *General.*—(i) The test criterion of .3(b) of FF 4-72 shall be used in conjunction with this Alternate Sampling Plan No. 6 (ASP No. 6). This ASP No. 6 may be used in conjunction with ASP No. 4 to FF 4-72 (mattress ticking) if desired. (ASP No. 4 was published in the FEDERAL REGISTER of June 19, 1973; 38 FR 15990). When ASP No. 4 is so used, the provisions of this ASP No. 6 shall apply with respect to production testing of mattresses or mattress pads.

(ii) Differing options or sampling plans may be employed with respect to differing mattress types and/or production units; however, any sampling plan employed with respect to a specific production unit shall be so employed in its entirety. (Note: Throughout this ASP No. 6 (except for (A), (B), and (C) of .4(b)(1)(iii)), "mattress(es)" means "mattress(es) or mattress pad(s).")

(iii) For purposes of this ASP No. 6, "initial production quantity" means a quantity of mattresses equalling or exceeding a specified fraction of the quantity to be contained in the production unit to be accepted upon successful completion of the sampling requirements. Each prototype to be included in the production unit shall be represented in the initial production quantity. For each production unit, one of the following four options shall be selected:

(A) *Option 1.*—The specified fraction shall be one-thirtieth. The quantity limit shall be 800 mattresses or 5,500 mattress pads for normal sampling (.4(b)(2)(i)(B)(*1*)) and 1,700 mattresses or 11,000 mattress pads for reduced sampling (.4(b)(2)(i)(B)(*2*)) unless a smaller limit is imposed under the provisions of .4(b)(2)(i).

(B) *Option 2.*—The specified fraction shall be one-twentieth. The quantity limit shall be 950 mattresses or 6,600 mattress pads for normal sampling and 2,000 mattresses or 13,000 mattress pads for reduced sampling unless a smaller limit is imposed under the provisions of .4(b)(2)(i).

(C) *Option 3.*—The specified fraction shall be one-tenth. The quantity limit shall be 2,000 mattresses for normal sampling and 4,650 mattresses for reduced sampling unless a smaller limit is imposed under the provisions of .4(b)(2)(i). The quantity limit shall be 13,450 mattress pads for normal sampling unless a smaller limit is imposed under the provisions of .4(b)(2)(i). The quantity limit for mattress pads for reduced sampling shall be that imposed under the provisions of .4(b)(2)(i).

(D) *Option 4.*—The specified fraction shall be one-fifth. The quantity limit shall be that imposed under the provisions of .4(b)(2)(i).

(2) *Mattress sampling.*—The basic mattress sampling plan is made up of two parts: Prototype qualification (.4(b)(2)(i)(A)) and production testing (.4(b)(2)(i)(B)). In addition, a batch sampling plan (.4(b)(2)(ii)) is given that may be used for small production quantities, when shipping requirements prohibit the use of the basic plan or for other reasons at the discretion of the manufacturer.

(i) *Basic sampling plan.*—A production unit in the basic sampling plan shall consist of not more than 250 mattresses



V 38 I 185 SEP 25 73 XUM

of a mattress type in normal sampling (.4(b)(2)(i)(B)(1)) nor more than 500 mattresses of a mattress type in reduced sampling (.4(b)(2)(i)(B)(2)) or the quantity produced in 1½ consecutive calendar months, whichever is smaller in either case. This production unit size may be increased to the quantity produced in 1½ consecutive calendar months or less: *Provided*, That it is either documented that each of the materials contributing to the cigarette ignition characteristics of all the mattresses in the production unit and the preceding or the following production unit came from a single manufacturing lot of such material, or 50 consecutive production units (at least 20,000 mattresses) have all been accepted in production testing as set forth in .4(b)(2)(i)(B). In no event shall the production unit size exceed quantity limits imposed by the option selected.

(A) *Protoype qualification.*—(*1*) For prototype qualification, the term "manufacturer" shall mean (*i*) with respect to a company having one manufacturing facility, that company; (*ii*) with respect to a company having two or more manufacturing facilities, either that company or one or more of its manufacturing facilities as it elects; or (*iii*) with respect to a company that is part of a group of companies that have elected to share in a prototype design, either that group of companies or a portion of that group or (*i*) or (*ii*) above, as that company elects.

(*2*) Each "manufacturer" shall select enough of each mattress prototype from preproduction or current production to provide six surfaces for test (three mattresses if both sides can be tested or six mattresses if only one side can be tested). Test each of the six surfaces according to .4(d) *Testing* of FF 4–72. If all the cigarette test locations on all six surfaces satisfy the test criterion of .3(b) of FF 4–72, accept the mattress prototype. If one or more of the cigarette test locations on the six surfaces fail the test criterion of .3(b), reject the mattress prototype.

(*3*) If it has been elected to include more than one company and/or more than one manufacturing facility in the term "manufacturer" for purposes of prototype qualification, each such company and each such manufacturing facility shall select enough additional prototype mattresses from its own preproduction or current production to provide two surfaces for test. Test each of the two surfaces according to .4(d) of FF 4–72. If all the cigarette test locations on both surfaces satisfy the test criterion of .3(b) of FF 4–72, accept the mattress prototype for that company or manufacturing facility. If one or more of the cigarette test locations on the two surfaces fail the test criterion of .3(b), reject the mattress prototype for that company or manufacturing facility.

(*4*) Mattress prototype qualification may be repeated after the manufacturer has taken action to improve the resistance of the mattress prototype to ignition by cigarettes through mattress design, production, or materials selection. When mattress prototype qualification is repeated as a reslit of prototype rejection by the "manufacturer," such qualification shall be conducted as if it were an original qualification. When the mattress prototype qualification is repeated as a result of prototype rejection under the provisions of the proceding (3) or as a result of production unit rejection, such qualification shall be performed as if the producer of the failing mattress were a company having one manufacturing facility.

(5) Each mattress prototype must be accepted in prototype qualification prior to shipping any mattresses to customers and prior to producing significant quantities of mattresses. If the "manufacturer" is one manufacturing facility, the first production unit manufactured immediately after successful prototype qualification or the production unit from which the mattresses were selected for the successful prototype qualification (not to exceed 500 mattresses in either case) may be accepted and shipped to customers without further testing if all mattresses in the production unit are the same as the prototype except for size.

(B) *Production testing.*—For production testing, the term "manufacturer" shall mean each manufacturing facility. Random selection for production testing shall be accomplished by use of random number tables or equivalent means as determined by the Consumer Product Safety Commission. If it is desired to use only mattresses of a specified size (for example, twin) for testing, the drawing may be repeated until sufficient mattresses of that size have been selected. A production unit, except for the first production unit following successful prototype qualification as specified in .4(b)(2)(i)(A), is either accepted or rejected according to the following plan:

(*1*) *Normal sampling.*—(*i*) From the initial production quantity (.4(b)(1)(iii)), randomly select enough mattresses to provide four surfaces for test (two mattresses if both sides can be tested or four mattresses if only one side can be tested). Test each of the four surfaces according to .4(d) of FF 4–72. If all the cigarette test locations on all four surfaces meet the test criterion of .3(b) of FF 4–72, accept the production unit. If one or more of the cigarette test locations on the four surfaces fail the test criterion of .3(b), reject the production unit.

(*ii*) From the initial production quantity (.4(b)(1)(iii)), randomly select enough mattresses to provide four surfaces for test. Test each of the four surfaces according to .4(d) of FF 4–72. If all the cigarette test locations on the four surfaces meet the test criterion of .3(b) of FF 4–72, accept the production unit. If two or more individual cigarette test locations fail the test criterion of .3(b), reject the production unit. If only one individual cigarette test location fails the test criterion of .3(b), accept the production unit.

(*iii*) Production unit rejection shall include all mattresses in the particular production unit under test. Such rejection also results in the loss of prototype qualification (.4(b)(2)(i)(A)) for all prototypes included in the production unit under test.

(*2*) *Reduced sampling.*— (*i*) The level of sampling required for mattress production acceptance may be reduced provided the preceding 15 consecutive production units of mattresses (at least 500 mattresses) have all been accepted using the normal sampling plan of this ASP No. 6 (.4(b)(2)(i)(B)(*1*)) or that of FF 4–72. The production quantity for reduced sampling under this ASP No. 6 shall consist of one production unit as defined in .4(b)(2)(i).

(*ii*) From the initial production quantity (.4(b)(1)(iii)), randomly select enough mattresses to provide four surfaces for test. Test each of the four surfaces according to .4(d) of FF 4–72. If all the cigarette test locations on the four surfaces meet the test criterion of .3(b) of FF 4–72, accept the production unit. If two or more individual cigarette test locations fail the test criterion of .3(b), reject the production unit. If only one individual cigarette test location fails the test criterion of .3(b), accept the production unit.

(*iii*) Production unit rejection shall include all mattresses in the particular production unit under test. Such rejection also results in the loss of prototype qualification (.4(b)(2)(i)(A)) for all prototypes included in the production unit under test.

(ii) *Batch sampling plan.*—For the batch sampling plan, the term "manufacturer" shall mean each manufacturing facility. A production unit in the batch sampling plan shall consist of not more than 250 mattresses or the quantity produced in one period of 30 consecutive calendar days, whichever is smaller.

(A) *Batch unit qualification and acceptance.*—(*1*) Select enough mattresses from the inital production of the production unit to provide four surfaces for test (two mattresses if both sides can be tested or four mattresses if only one side can be tested). Test each of the four surfaces according to .4(d) of FF 4–72. If all the cigarette test locations on the four surfaces meet the test criterion of .3(b) of FF 4–72, accept the production unit. If one or more of the cigarette test locations on the four surfaces fail the test criterion of .3(b), reject the production unit.

(*2*) After rejection, production unit qualification and acceptance under this batch sampling plan may be repeated after the resistance of the mattress to ignition by cigarettes is improved by the manufacturer taking corrective action in mattress design, production, or materials selection.

(*3*) Acceptance of any production unit under this batch sampling plan shall not have any effect on prototype qualification (.4(b)(2)(i)(A)) or production unit acceptance of any other production unit.

(*3*) *Disposition of rejected units.*—Rejected production units shall not be retested, offered for sale, sold, or promoted for use as mattresses as defined in .1(a) of FF 4–72 except after reworking to improve the resistance to ignition by cigarettes and subsequent retesting in accordance with the procedures set forth in the basic sampling plan (.4(b)(2)(i)).

(*4*) *Records.*—Records of all production unit sizes, test results, and the disposition of rejected production units shall be maintained by the manufacturer in accordance with regulations established by the Consumer Product Safety Commission (see proposed 16 CFR 302.20 in the FEDERAL REGISTER of June 11, 1973; 38 FR 15373).

(*5*) *Preparation of mattress samples.*—The mattress surface shall be divided laterally into two sections (see figure 1 of FF 4–72); one section for the bare mattress tests and the other for the two-sheet tests.

(*6*) *Sheet selection.*—The sheets shall be white, 100-percent combed cotton percale, not treated with a chemical finish which imparts a characteristic such as permanent press or flame resistance, and shall have 170–200 threads per square inch and fabric weight of 115±14 grams per square meter (3.4±0.4 ounces per square yard), or shall be of another type approved by the Consumer Product Safety Commission. Size of sheet shall be appropriate for the mattress being tested.

(*7*) *Sheet preparation.*—The sheet shall be laundered once before use (in an automatic home washer using the hot water setting and longest normal cycle with the manufacturer's recommended quantity of a commercial detergent) and dried in an automatic home tumble dryer. The sheet shall be cut across the width into two equal parts after washing.

(*8*) *Cigarettes.*—Unopened packages of cigarettes shall be selected for each series of tests.

(*9*) *Compliance marketing sampling plans.*—(i) Sampling plans for use in market testing of items covered by the standard (FF 4–72) may be issued by the Consumer Product Safety Commission. Such plans shall define noncompliance of a production unit to exist only when it is shown, with a high level of statistical confidence, that those production units represented by tested items which fail such plans will in fact fail the standard.

(ii) Production units found to be noncomplying under these provisions shall be deemed not to conform to the standard (FF 4–72).

(iii) The Consumer Product Safety Commission will propose such plans in the FEDERAL REGISTER for public comment prior to their promulgation.

(*10*) *Postponement of production testing.*—Temporary suspension of production testing may be granted on a case-by-case basis by the Consumer Product Safety Commission in those instances where an individual manufacturer proves, under rules prescribed by the Commission, that he cannot acquire access to either in-house or independent testing facilities for production testing. In the event of such a suspension, the manufacturer would still be obligated to produce a mattress that meets all other requirements of the standard (FF 4–72).



[FR Doc.73-20423 Filed 9-24-73;8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

[FIFRA Docket No. 294]

### CALCIUM CYANIDE, STRYCHNINE, SODIUM MONOFLUOROACETATE (1080) AND SODIUM CYANIDE USED IN CERTAIN RODENTICIDES

#### Order Fixing Parties

By notice dated June 19, 1973, and published in the FEDERAL REGISTER on June 26, 1973, 38 FR 16796, the Acting Administrator, Environmental Protection Agency, under authority of section 6(b) of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, gave notice of his intention to hold a hearing to determine whether or not the use of the above products as rodenticides in field, human or urban areas, should be canceled or amended. Under said notice any person who wished to become a party to the hearing was required to file by July 26, 1973, a response to the statement of issues which accompanied the notice and which was published therewith.

The undersigned has been designated as the Administrative Law Judge to be in charge of and to preside at these proceedings.

Pursuant to § 164.8 of the rules of practice for the conduct of these hearings (38 FR 19371, July 20, 1973), notice is hereby given that it has been determined that the following persons, firms, associations, and governmental units have filed responses, in accordance with § 164.24 of said rules, to the notice of June 19, 1973. Accordingly, *It is hereby ordered*, That the following are parties to the proceedings:

1. United States Environmental Protection Agency
   Anson M. Keller, Esquire
   Office of General Counsel
   401 M Street SW.
   Washington, D.C. 20460
2. B & G Company
   L. P. Quattrochi
   General Manager
   P.O. Box 20372
   Dallas, Texas 75220
3. Defenders of Wildlife
   Mary Hazell Harris
   Executive Director and Editor
   2000 N Street NW., Suite 201
   Washington, D.C. 20036
4. Environmental Defense Fund
   William A. Butler, Esquire
   1525 18th Street NW.
   Washington, D.C. 20036
5. Fund for Animals, Inc., The
   Lewis Regenstein
   Executive Vice President
   1765 P Street NW.
   Washington, D.C. 20036
6. Humane Society of the United States, The
   Murdaugh S. Madden, Esquire
   General Counsel
   910 17th Street NW.
   Washington, D.C. 20006
7. Izaak Walton League of America, Inc., The
   Maitland S. Sharpe
   Environmental Affairs Director
   1800 North Kent Street, Suite 806
   Arlington, Virginia 22209
8. National Audubon Society
   Cynthia E. Wilson
   Washington Representative
   1511 K Street NW.
   Washington, D.C. 20005
9. National Forest Products Association
   Robert S. Bassman, Esquire
   1619 Massachusetts Avenue NW.
   Washington, D.C. 20036
10. National Parks & Conservation Association
    John W. Grandy, IV, Ph.D.
    Administrative Assistant
    Parks and Wildlife
    1701 18th Street NW.
    Washington, D.C. 20009
11. National Pest Control Association
    Philip J. Spear, Ph.D.
    Senior Director, Research
    C. D. Mampe, Ph.D.
    Director, Technical Services
    250 West Jersey Street
    Elizabeth, New Jersey 07207
12. National Resources Defense Council, Inc.
    Hamilton P. Kean
    15 West 44th Street
    New York, New York 10036
13. Sebesta Bait Mixing Plant
    O. L. Sebesta
    P.O. Box 306
    Mitchell, South Dakota 57301
14. Sierra Club
    William A. Butler, Esquire
    1525 18th Street NW.
    Washington, D.C. 20036
15. United States Department of Agriculture
    Alfred R. Nolting, Esquire
    Raymond W. Fullerton, Esquire
    Office of the General Counsel
    14th & Independence Avenue SW.
    Washington, D.C. 20250
16. United States Department of Defense
    Lt. Col. Harland W. Fowler, Jr.
    Executive Secretary
    Armed Forces Pest Control Board
    Forest Glen Section, WRAMC
    Washington, D.C. 20012
17. Wilderness Society, The
    Stewart M. Brandborg
    Executive Director
    1901 Pennsylvania Avenue NW.
    Washington, D.C. 20006

Certain firms, associations, and governmental units have indicated their desire to become parties but have filed incomplete responses and it has been determined that they are not parties.

Any person, firm, association, or governmental unit not included in the above list of parties may show cause before me, in writing, not later than October 4, 1973, why he or it should not be added as a party to these proceedings. For those who wish to intervene in this hearing attention is called to § 164.31 of the above-mentioned Rules of Practice.

Notice of public hearing will be published in the FEDERAL REGISTER as required by § 164.8 of the Rules of Practice.

Due notice of prehearing conference will be given to all party-participants.

BERNARD D. LEVINSON,
*Administrative Law Judge.*

SEPTEMBER 20, 1973.

[FR Doc.73-20440 Filed 9-24-73;8:45 am]





V 38 I 185 SEP 25 73 XUM

## MOTOR VEHICLE POLLUTION CONTROL

### California State Standards; Notice of Public Hearing

Whereas, the Clean Air Act, as amended, section 209(a) 42 U.S.C. 1857f-6a(a) 81 Stat. 501 (Public Law 91-604) provides, "No State or any political subdivision thereof shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this part, * * * [or] * * * shall require certification, inspection, or any other approval relating to the control of emissions from any new motor vehicle or new motor vehicle engine as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment";

Whereas, section 209(b) of said Act directs the Administrator of the Environmental Protection Agency, after notice and opportunity for public hearing, to waive application of the prohibitions of said section 209 to any State which had adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, unless he finds that such State does not require standards more stringent than applicable Federal standards to meet compelling and extraordinary conditions or that such State standards and accompanying enforcement procedures are not consistent with section 202(a) of the Clean Air Act;

Whereas, the State of California had, prior to March 30, 1966, adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines;

Whereas, by letter dated September 29, 1971, California submitted a request for waiver of preemption with respect to model years 1973 through 1976 gasoline powered motor vehicles (including both passenger vehicles and light duty trucks) under 6,001 pounds gross vehicle weight;

Whereas, on April 19, 1972, and by notice published in the FEDERAL REGISTER, on April 25, 1972 (37 FR 8128), after holding a public hearing February 8, 1972, on California's request for waiver and after California withdrew the model year 1976 portion of the request, the Administrator, pursuant to section 209(b), granted the model year 1973 and 1974 portions of the request, but held in abeyance the model year 1975 portion of the request pending development of further information;

Whereas, on April 11, 1973, and by notice published in the FEDERAL REGISTER, on April 26, 1973 (38 FR 10317), the Administrator, pursuant to section 202(b)(5)(D) of the Act, granted the requests of five automobile manufacturers to suspend for one year the effective date of the statutory standards for model year 1975 light duty vehicles (hydrocarbons, 41 grams/mile; carbon monoxide, 3.4 grams/mile; oxides of nitrogen, 3.1 grams/mile) and established interim standards (hydrocarbons, 1.5 grams/mile for the nation, carbon monoxide, 15 grams/mile for the nation other than California, and 9 grams/mile for California; and oxides of nitrogen, 3.1 grams/mile for the nation);

Whereas, on April 11, 1973, the Administrator pursuant to section 209(b) of the Act, also acted on California's request for waiver of preemption with respect to model year 1975 light duty (passenger) motor vehicles and granted such request to California with respect to hydrocarbons (.9 grams/mile), extended to the model year 1975 the previously granted waiver for model year 1974 with respect to oxides of nitrogen (2.0 grams/mile), but denied the request with respect to carbon monoxide (17 grams/mile);

Whereas, as a consequence of the decision rendered in International Harvester v. Ruckelshaus by the U.S. Court of Appeals for the District of Columbia, February 10, 1973 (378 F.2d 615), holding that light duty vehicles and light weight trucks are separate classes, the Administrator has established (38 FR 21362 et seq., August 7, 1973) standards for light duty (weight) trucks (hydrocarbon, 2 grams/mile; carbon monoxide, 20 grams/mile; oxides of nitrogen, 3.1 grams/mile) with the result that the standards adopted by California for light duty trucks are more stringent than applicable Federal standards;

Whereas, by letter dated August 17, 1973, California has renewed its request for waiver of Federal preemption in order to enable California to enforce its standards of .9 grams/mile for hydrocarbons, 17 grams/mile for carbon monoxide, and 1.5 grams/mile for oxides of nitrogen for gasoline-powered light duty trucks;

Therefore, I hereby give notice that (i) California has renewed its request for waiver of the application of the prohibitions of section 209(a) with respect to the above described model year 1975 emission standards for which waiver has not yet been granted, that (ii) information obtained from the February 8, 1972 public hearing on this issue as well as other pertinent information appears to require the granting of California's request, and that (iii) a public hearing on the request is to be held in San Francisco, California, at the Environmental Protection Agency Conference Room, 100 California Street, on Tuesday, October 2, 1973, commencing at 10 a.m., P.s.t.

Although it is EPA policy in most circumstances to give at least thirty days FEDERAL REGISTER notice of hearings, the notice time has been abridged here for the following reasons:

(i) Manufacturers are presently at an advanced planning and design stage for their 1975 model light weight trucks, and it is imperative that administrative procedures be completed and a final California standard set as soon as possible, and

(ii) California sent copies of its letter dated August 12, 1973 renewing its waiver application to all affected manufacturers and actual notice of this hearing was given to all affected motor vehicle manufacturers and to the State of California on or before September 12, 1973.

Dr. Norman D. Shutler of the Environmental Protection Agency is hereby designated as Presiding Officer to conduct the hearing. Any person desiring to make a statement at the hearing or to submit material for the record of the hearing should file a notice of such intention and, if practicable, five copies of his proposed statement (and other revelant material) with the Director, Mobile Source Enforcement Division, Environmental Protection Agency, Room 3220, 401 M Street SW., Washington, D.C. 20460, not later than September 28, 1973.

The pertinent standards, requirements, conditions, and test procedures for gasoline-powered 1975 model year light duty trucks are contained in the following identified publications:

FEDERAL

40 CFR Part 85, Subpart C, Emission Regulations for New Gasoline—Fueled Light Duty Trucks (38 FR 21362, August 7, 1973).

CALIFORNIA

Section 1955, Title 13, California Administrative Code, as amended June 26, 1973, and California Exhaust Emission Standards and Test Procedures for 1975 and Subsequent Model Gasoline-Powered Motor Vehicles 6,000 pounds Gross Vehicle Weight or Less, dated June 21, 1973, and California Assembly Line Test Procedures for 1974 Model Light Duty Gasoline-Powered Vehicles, dated June 20, 1973.

A copy of the above-described material is available for public inspection during normal working hours (8:00 a.m. to 4:30 p.m.) at the Office of Public Affairs, Room 232, Waterside Mall—West Tower, 401 M Street SW., Washington, D.C. 20460. Copies of the Federal regulations will be provided upon request to that office. Copies of the California standards and test procedures are available upon request from the California Air Resources Board, 1025 P Street, Sacramento, California 95814.

*Procedures.* Since the public hearing is designed to give interested persons an opportunity to participate in this proceeding by the presentation of data, views, arguments, or other pertinent information concerning the Administrator's proposed action, there are no adversary parties as such. Statements by the participants will not be made under oath and the participants will not be subject to cross-examination.

Presentations by the participants should be limited to the following considerations with particular attention to (ii):

(i) Whether the standards adopted by California for hydrocarbons, carbon monoxide, and oxides by nitrogen, and related test procedures and enforcement procedures applicable to new model year 1975 light duty trucks are required to meet compelling and extraordinary conditions in California; and

(ii) Whether such standards are consistent with section 202(a) of the Act, in particular with respect to their technological feasibility in the lead time remaining.

In order to assure full opportunity for the presentation of data, views, and arguments by participants, the Presiding Officer will, upon request of the participants, allow a reasonable time after the close of the hearing for the submission of written data, views, arguments or other pertinent information to be included as part of the record of the public hearing.

A verbatim record of the proceeding will be made and a copy of the transcript will be made available on request at the expense of the person so requesting.

The determination of the Administrator regarding the action to be taken under section 209(b) of the Clean Air Act with respect to the waiver of the application of the prohibition of section 209(a) to the State of California is not required to be made solely on the record of the public hearing. Other scientific, engineering, and related pertinent information, not included in the transcript of the public hearing, may also be considered.

Dated September 19, 1973.

ALAN G. KIRK II,
*Acting Assistant Administrator for Enforcement and General Counsel.*

[FR Doc.73-20439 Filed 9-24-73;8:45 am]





## FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19419; FCC 73-924]

### AMERICAN TELEPHONE AND TELEGRAPH COMPANY

### Memorandum Opinion and Order Clarifying Issues

In the matter of American Telephone and Telegraph Company Long Lines Department (A.T. & T.), Revisions of Wide Area Telephone Service (WATS) Tariff F.C.C. No. 259, Private Line Service (PLS) Taaiff F.C.C. No. 260, and The Western Union Telegraph Company (Western Union) revisions of Tariff F.C.C. No. 254.

1. The Commission has before it for consideration an Order of Certification in Docket No. 19419, issued by Administrative Law Judge Denniston on April 12, 1973. (FCC 73M-457). Basically, we are requested to clarify the issues in this proceeding and determine whether the technical necessity for the Automatic Data Access Arrangement (ADAA) is at issue herein. A petition for leave to file Comments and Comments regarding the order of Certification were filed on April 27, 1973, by the American Telephone and Telegraph Company and the Associated Bell System Companies (A.T. & T.). A petition for leave to file Comments and Comments concerning the Order of Certification were also filed on May 11, 1973, by The Independent Data Communications Manufacturers Association Inc. (IDCMA). On June 5, 1973, the National Association of Regulatory Utility Commissioners (NARUC) filed a letter with the Commission commenting on the Order of Certification.

2. By *Memorandum Opinion and Order* released February 7, 1972, 33 FCC 2d 518, we suspended and instituted an investigation into the lawfulness of certain tariff revisions in A.T. & T.'s Wide Area Telephone (WATS) Tariff F.C.C. No. 259 and Private Line Service (PLS) Tariff F.C.C. No. 260. As originally filed, these tariffs included (a) substantial reductions in existing interstate charges for A.T. & T.-provided "Dataphone" data sets that are offered for the modulation and demodulation of data signals; (b) establishment of new interstate charges for an A.T. & T.-provided "automatic data access arrangement" that is required for customers who wish to connect their own data facilities, including modems, to the switched network through private line service; (c) changes in existing interstate tariff regulations to permit more flexible use of A.T. & T.-provided "multi-channel data station equipment" offered to customers who wish to use such channel-deriving equipment in combination with voice-grade data channels obtained from the telephone company; and (d) establishment of new interstate rates for an additional category of "Dataphone" sets suitable for combined sending and receiving and for handling data at higher speeds. Subsequently, modified tariffs were filed by A.T. & T., the hearing held in abeyance, and matching tariffs were filed by The Western Union Telegraph Company. (36 FCC 2d 498). The subsequent filings were designated for hearing and investigation in this proceeding. 39 FCC 2d 637 (1973).

3. By an information request dated March 2, 1973, the Chief of the Common Carrier Bureau (Bureau) directed a series of questions to A.T. & T. relating to the ADAA, which were designated to elicit information to establish the technical necessity for the arrangement in conjunction with the specific rates for equipment designated in the tariffs under investigation. A.T. & T. refused to supply this information on the grounds that the questions went beyond the issues specified by the Commission. The Administrative Law Judge was requested to clarify this question and after hearing arguments on the record took the matter under advisement. Subsequently, the Administrative Law Judge issued the Order of Certification currently under consideration, nonetheless expressing the view that "full exploration of the questions of need and technical performance characteristics of the items in issue, as well as of marketing practices, is required for an adequate determination of whether anti-competitive or monopolistic forces are embodied in these rate schedules."

4. We have considered the record in this matter and the Comments filed by A.T. & T., IDCMA, and NARUC. A.T. & T. basically contends that the issues in this proceeding inquire only into the lawfulness of the rates for the ADAA and that this is a rate investigation. It states that the order instituting this investigation noted IDCMA's allegations with respect to the ADAA, but failed to specify an issue as to the technical need for, and performance of, the ADAA. A.T. & T. states that further orders in this proceeding also did not contain such an issue. Therefore, A.T. & T. concludes that its general regulations requiring protection of the network were not affected by the filing in question and were not designated for investigation in this proceeding. Moreover, A.T. & T. maintains there is no need to consider the need of the ADAA, since this is presently at issue in other Commission proceedings, particularly Docket No. 19528 *In re Interstate and Foreign MTS and WATS* 35 FCC 2d 539 (1972). In Docket No. 19528, the Commission initiated "an inquiry into whether and under what conditions the telephone companies subject to our jurisdiction should provide new or revised classes of interstate and foreign MTS and WATS service whereby customers would have the option of furnishing "Network Control Signalling Units * * * and any needed 'Connecting Arrangements' * * * (or the functional equivalent thereof) that are presently furnished only by the telephone company * * *." (35 FCC 2d at 539) A.T. & T. maintains that to litigate in Docket No. 19419 the lawfulness of the present requirements for the ADAA and possible alternative means for achieving such protection would result in the wholesale fragmentation of, and duplication of, the proceedings in Docket No. 19528, which would be neither appropriate nor conducive to an expeditious resolution of the interconnection issue. A.T. & T. also contends that an investigation of the interconnection issue in Docket No. 19419 would appear to usurp the functions of The Federal-State Joint Board in Docket No. 19528.[1] Similarly, NARUC, in its letter urges the Commission to defer determination on the need and technical performance of connecting arrangements, whether in Docket No. 19419 or other proceedings, until a determination on such issues is made by the Joint Board in Docket No. 19528 or, in the alternative, to consolidate any such proceeding in which the issues are raised in Docket No. 19528. If such issues are considered in a separate proceeding, NARUC requests that determination on such issues be made only upon consultation with the Joint Board. NARUC contends that the integrity of the Joint Board proceeding in Docket No. 19528 requires that issues before it not be prejudiced by prior determination in separate proceedings.

[1] A.T. & T. also requests that we issue the instant order absent advice from the Common Carrier Bureau. We have stated previously our views concerning the Bureau's role herein and adhere to that view now. See, *Memorandum Opinion and Order*, released May 4, 1973. FCC 73-446.



V 38 185 SEP 25 73 XUM

5. IDCMA contends that it is not merely the ratemaking policies of A.T. & T. which are under investigation in this proceeding, but that the rates for these devices must be tested in relationship to each other and must be viewed in light of the technical and marketing restrictions A.T. & T. applies. IDCMA urges that the requirement of the ADAA and the imposition of a charge only on customers not wanting to use A.T. & T. data sets are unreasonably discriminatory, either standing alone or when viewed in light of the alternatives available to reduce the cost. Moreover, IDCMA contends that to the extent A.T. & T. can impose a higher rate for the ADAA, or cause additional costs to the customer, or affect the customers' service, A.T. & T. can aid their own data equipment sales. In summary, IDCMA submits that it is essential to consider the total impact of the ADAA and its rate in relationship to its need in order to understand its anti-competitive impact and lawfulness. In particular, IDCMA urges that the proceeding in Docket No. 19419 affords the Commission an opportunity to consider the need for and the design and performance characteristics for the ADAA in view of the charges for the device and to evaluate the alleged anti-competitive practices within the confines of a definite and precise factual situation, an undertaking which would not interfere with or duplicate Docket No. 19528.

DISCUSSION

6. The specific question before us is whether the issues we have designated for resolution in this proceeding are sufficiently broad to encompass the subissue raised as to the need for and technical performance characteristics of the telephone company-provided ADAA.

7. We framed the issues herein in the broad terms of the relevant statutory provisions, as follows:

(1) Whether the charges, classifications, practices, and regulations published in the aforesaid tariffs are or will be unjust and unreasonable within the meaning of Section 201(b) of the Act;

(2) Whether such charges, classifications, practices, and regulations will, or could be applied to, subject any person or class of persons to unjust or unreasonable discrimination or give any undue or unreasonable preference or prejudice to any person, class of persons, or locality, within the meaning of Section 202(a) of the Act;

(3) Whether the aforesaid tariffs conform to the requirements of Section 203 of the Act and Part 61 (47 CFR Part 61) of our Rules implementing that Section;

(4) If any of such charges, classifications, practices, and regulations are found to be unlawful, whether the Commission should prescribe charges, classifications, practices, and regulations for the service governed by the tariffs, and if so, what should be prescribed. 33 FCC 2d 518 (1972)

Under these issues, any competent and material evidence is admissible that is relevant to whether and to what extent the ADAA charges and the regulations, classification and practices to the carriers with respect thereto are just, reasonable, and free of undue discrimination. For reasons to be stated, we believe that the questions relating to the need for the ADAA and its performance characteristics are matters that are clearly relevant to the issues herein.

8. Under the applicable tariff provisions, whenever a customer wishes to provide his own modem (modulating/demodulating unit) to condition data signals for transmission and reception over a carrier's voice-grade private line, the customer must have his modem connected to the telephone network through a "connecting arrangement" (CA) provided only by the telephone company. The ADAA is one of several CA's that are provided by the carrier for such purpose. A.T. & T. claims that all carrier-provided CA's, including the ADAA, contain certain protective features that prevent harm to the carrier's network and services that could or would be caused if noncarrier modems are connected directly to the network without such CA's. Thus, customers desiring to obtain modems from an independent, competitive supplier that are functionally the same as the carrier's modems must pay the telephone company for such CA's. The ADAA, for example, costs the customer $15.00 to $20.00 for installation and $3.50–$4.75 a month rental. However, if the subscriber obtains a modem from the telephone company, he does not have to obtain or pay for any CA even if the carrier-provided modem is of the same make, characteristics and quality as that provided by a noncarrier source.

9. Clearly, the tariff requirement is anti-competitive in effect insofar as it provides that only those customers who do not use carrier-provided modems must use and pay for carrier-provided CA's, including the ADAA. This is because a customer obtaining modems from a competitor of the carrier, must pay not only the purchase price for such modems but he must also pay the installation and rental charges for the ADAA. Such tariff would appear to be unjust, unreasonable and unduly discriminatory *unless* the requirements thereof which have these anti-competitive effects can be justified by an over-riding public interest. *Comu-trol Corp.* v. *GTE* 97 PUR 113 (1973) (Calif.). Moreover, even if the carrier were to make no anti-competitive charges for the ADAA when used with customer-provided modems, if the ADAA operates to degrade such interconnected service in contrast to the service furnished through a carrier-provided modem, this too would be anti-competitive in effect. Accordingly, in order to determine whether there is any over-riding public interest consideration that would warrant the anti-competitive charges for the ADAA, it is pertinent to determine to what extent the ADAA is reasonably necessary to perform the function of protecting carrier facilities from the type of harm that we would consider to be contrary to the public interest. We are concerned particularly with the three types of harm that the National Academy of Sciences has advised us can degrade the service to the public generally, i.e. (a) excessive voltages or signal levels (b) improper network signalling and (c) line imbalance. If it is shown by the evidence herein that the ADAA is needed for such purposes, there would remain the question of whether and to what extent the ADAA may be over-designed or over-built in relation to such needs and thus whether the charges therefor are unnecessarily high. In addition, it is important to determine, apart from justification for the anti-competitive charges for the ADAA, whether and to what extent the ADAA may cause any degradation of service to the subscriber that is not present when carrier-modems are used. If such degradation may reasonably be expected to occur, it will become necessary to determine whether there is any over-riding public interest to warrant any such degradation. All of these questions are pertinent to the lawfulness of the tariffs in issue herein and should be considered in this evidentiary proceeding.

10. As is characteristic of common carrier proceedings, there are areas of overlap among the questions under consideration in most, if not all of the various cases now pending before us. This is true to a certain extent with respect to the proceedings in this case and the Joint Board proceedings in Docket 19528. However, as we recently stated, the Joint Board proceedings are not concerned with the question of lawfulness of any existing interstate tariffs. It is rather an inquiry and rule-making proceeding which seeks to determine what additional options, if any, shall be given to the customer whereby the customer may provide CA's and network control signalling units that are currently provided only by the carrier. We are not concerned in this case with the possibility of such options but only with questions of lawfulness of tariffs requiring a specific type of CA. The Joint Board will not be concerned with determining whether the ADAA equipment and the charges therefor are lawful or what the lawful charges, if any, should be for the ADAA. In setting up the Joint Board, we specifically stated that we were concerned in such joint proceedings with whether and under what terms and conditions customers should be given the option of providing any *needed* CA in lieu of carrier-provided CA's. 35 FCC 2d 539; page 542 (1972). Thus, in the instant case we must determine whether there is a need for the ADAA and if we find on the basis of the evidence herein, that ADAA's serve a need in the public interest, and we approve or prescribe appropriate charges therefor for interestate private line service, then the Joint Board will be concerned with whether and under what terms customers should be allowed to provide such ADAA's or the functional equivalent thereof, from sources of supply other than the carrier. If we should find that there is no overriding public interest warranting the use of the ADAA, this would moot any question before the Joint Board as to any options for customers to provide such unneeded device.





11. Our treatment of the question before us is consistent with recent actions by A.T. & T. revising the interstate tariffs with respect to certain other carrier-provided CA's. Thus, A.T. & T. has recently changed its interstate tariffs generally to eliminate the requirement for carrier-provided CA's for customer-provided headsets and nonpowered conferencing devices. Neither we nor A.T. & T. considered this action by A.T. & T. of making its carrier-provided CA's unneeded for such usages as impinging upon the Joint Board issues in Docket 19528; such action merely made it unnecessary for the Joint Board to consider whether customers using such headsets and conferencing devices should have the option of providing CA's or the functional equivalent thereof for such customer devices. For the same reasons, our determination herein of the ADAA questions discussed above will not, in our judgment, affect the Joint Board's deliberations in Docket 19528.

12. We should make it clear that we agree with NARUC that no decision should be made in this, or in any other case pending before us concerning the lawfulness of interstate tariffs, that would infringe in any way upon the determinations of the Joint Board with regard to the issues before it. Accordingly, the Presiding Judge should not admit evidence in this case that may be offered for the purpose of showing that customers should be allowed the option of providing any needed ADAA or any other CA or the functional equivalent thereof. These are matters that are in issue in Docket 19528 and we agree that they should be left for determination by the Joint Board. We recognize that there may be technical evidence adduced on the record herein with respect to the types of network harm that the ADAA is designed to prevent that may be of interest to the Joint Board and which it may wish to give some consideration to in resolving the questions before it. To the extent that this occurs, we will, of course, make such evidence available to the Board for its use in the proceedings in Docket 19528. Furthermore, in view of the aforementioned mutual objectives of NARUC and the Commission, we would welcome the participation by NARUC as a party in this proceeding.

13. In view of the foregoing, we agree with the conclusions of the Presiding Judge that, in order to determine whether the ADAA tariff provisions are just, reasonable and nondiscriminatory within the meaning of sections 201(b) and 202(a) of the Act, it is necessary to investigate herein the questions raised concerning the need for and technical performance of, the ADAA, including the marketing practices of the carriers with respect thereto. In this latter connection, we the deleting the footnote from our initial hearing order herein, 33 FCC 2d, at page 520, which excluded, at that time, consideration of marketing practices relating to carrier-provided modems, namely the 201A and 201B data sets. We believe that the marketing practices of the carriers with respect to all of these carrier-provided devices are pertinent to the anti-competitive issues in this case.

14. *It is ordered*, That the issues herein are clarified and defined as set forth above and that the Presiding Judge shall proceed accordingly.

Adopted September 6, 1973.

Released September 13, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[1]

[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

[FR Doc.73-20377 Filed 9-24-73;8:45 am]

[Docket Nos. 19820–19822; File Nos. BRED–49, BRED–109, 1–359; FCC 73–940]

## BOARD OF EDUCATION, UNION SCHOOL DISTRICT #46 AND COLLEGE OF DUPAGE, DISTRICT 502

### Order Designating Applications for Consolidated Hearing

In re applications of Board of Education, Union School District #46 Noncommercial educational FM station WEPS, Elgin, Illinois, for renewal of license; College of Dupage, District 502, Glen Ellyn, Illinois, requests 90.9 MHz., #215; 5 kW (H&V), 293 feet; Board of Education, Union School District #46, Noncommercial educational FM station WEPS, Elgin, Illinois has 90.9 MHz, #215; 364 watts; 24 feet and requests 90.9 MHz, #215; 4.7 kW; 100 feet for construction permits.

1. The Commission has before it (a) the captioned applications which are mutually exclusive and thus must be designated for comparative hearing; and (b) a "Petition To Add A New Educational FM Station" filed by the College of DuPage (DuPage) on September 4, 1970.

2. In its petition, DuPage stated that it had determined that there were no vacant noncommercial educational FM broadcast channels available for its use. However, its study revealed that if the edauctional station operated by the Board of Education, Union School District #46 (School District), were to shift the frequency on which it operates from channel 215 (90.9 MHz) to channel 205 (88.9 MHz), then DuPage could operate on channel 215 (90.9 MHz). It also asserted that it was willing to reimburse the School District for any reasonable expenses it might incur in changing frequency. Nevertheless, despite attempts on the part of DuPage to negotiate this change in the frequency utilized by the School District, the School District was unwilling to make the switch. Therefore, DuPage requested us to issue an order against the School District's application for renewal of its license to show cause why it should not have its license modified to specify operation on channel 205 (88.9 MHz). In addition, DuPage filed an application against the School District's renewal application, within the period prescribed by our rules, which requested authority to utilize channel 215, the frequency on which the School District is currently licensed to operate. Subsequently, on December 30, 1971, the School District submitted an application to increase its effective radiated power and antenna height. If the School District's application for increased facilities were granted, the School District could not operate on channel 205 (88.9 MHz), the frequency to which DuPage requested it to move, without causing prohibited interference to the 1 mV/m contour of station WONC, Naperville, Illinois. However, if the School District were to maintain its present effective radiated power and antenna height, it could operate on channel 205 (88.9 MHz) and no prohibited interference would result.

3. Accordingly, if the Administrative Law Judge finds DuPage basically qualified to be a broadcast licensee, evidence must be adduced to determine whether the public interest, convenience and necessity would best be served by granting the School District's application for renewal of its license with a modification specifying operation on channel 205 (88.9 MHz), denying its application for increased facilities, and granting DuPage's application; or whether a share-time arrangement between the applicants would result in the most efficient use of channel 215 (90.9 MHz) and thus best serve the public interest, convenience and necessity (see paragraph 4); or whether a choice between the applicants should be made pursuant to section 307(b) of the Communications Act of 1934, as amended (see paragraph 5).

4. Although DuPage has attempted to negotiate a share-time arrangement with the School District on channel 215 (90.9 MHz), the School District has not been amenable to such an agreement. Therefore, an issue will be specified to determine whether a share-time arrangement between the applicants would be the most effective use of the frequency and thus best serve the public interest. In the event that this issue is resolved in the affirmative, an issue will also be specified to determine the nature of such an arrangement. It should be noted that our action specifying a "share-time issue" is not intended to preclude the applicants, either before the commencement of the hearing or at any time during the course of the hearing, from participating in negotiations with a view toward establishing a share-time agreement between themselves.

5. It appears that there will be a significant disparity in the areas and populations served by the applicants. Consequently, we shall include issues to determine whether a choice between the two applicants should be made pursuant to section 307(b) of the Communications Act of 1934, as amended, and if so, which of the proposals would better provide a fair, efficient and equitable distribution of radio service. Inasmuch as this proceeding involves competing applicants for noncommercial educational facilities, the standard 307(b) issue shall be modified in accordance with our prior action

[1] Commissioner Reid dissenting.



V38I185 SEP 25 73 XUM

in *New York University*, 10 RR 2d 215 (1967). Such a determination requires that we consider the areas and populations to be served by the applicants, as well as the number of other aural educational services available in the proposed service area of both applicants.

6. DuPage's application indicates that it will require $82,369 to construct and operate its proposed station for one year, itemized as follows: equipment costs, $50,869; building expenses, $3,000; miscellaneous expenses, $1,500; and first-year operating expenses, $27,000. To meet these expenses, the applicant initially relied on its "existing operating budget," but its application was unclear as to whether funds had been earmarked for its FM station or whether funds could be obtained from a particular budget account. Accordingly, by staff letter of December 15, 1972, DuPage was requested to submit a current budget showing the availability of funds for its proposed FM station, together with a statement from an appropriate member of the Board of Education asserting that funds had been earmarked for the proposed radio station. Subsequently, DuPage submitted another budget and statement indicating that it might be able to obtain funds for its FM station from the U.S. Office of Education and the Illinois Junior College Board. DuPage did not explain, however, whether it had earmarked the necessary funds, nor did it specify any particular account in its budget from which these funds could be derived. In addition, DuPage does not appear to have allocated sufficient funds to cover its costs in the imminent comparative hearing. Accordingly, appropriate financial issues will be specified.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. However, because the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

8. *Accordingly, it is ordered*, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are Designated for Hearing in a Consolidated Proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to the application of the College of DuPage, District 502 (College of DuPage):

(a) The applicant's estimated expenses for the comparative hearing;

(b) In light of the foregoing issue, whether the applicant has accurately estimated its total costs for procuring its construction permit, building its station, and operating it for one year;

(c) Whether sufficient funds will be available to meet the applicant's total estimated costs; and

(d) Whether, in light of the evidence adduced pursuant to the foregoing issues, the applicant is financially qualified.

2. To determine whether the public interest, convenience and necessity would best be served by renewing the license of the Board of Education, Union School District #46 (School District), with a modification specifying operation on channel 205 (88.9 MHz), denying the School District's application for increased facilities, and granting the College of DuPage's application.

3. To determine whether a share-time arrangement between the applicants would result in the most effective use of channel 215 (90.9 MHz) and thus best serve the public interest, convenience and necessity.

4. If issue 3 is decided in the affirmative, to determine the terms of a share-time agreement.

5. To determine whether a choice between the two applicants should be made pursuant to section 307(b) of the Communications Act of 1934, as amended, to ascertain which of the applicants would better provide a fair, efficient, and equitable distribution of radio service. Evidence shall be adduced under this alternative, as follows:

(a) To determine the areas and populations which would receive FM service of 1 mV/m or greater intensity from the respective proposals;

(b) To determine the number of other aural educational services available (primary for AM, 1 mV/m or better for FM) in the proposed service area of both applicants, and the areas and populations served thereby;

(c) To determine the extent to which each of the proposed operations will be integrated into the overall educational operation and objectives of the respective applicants; or whether other factors in the record demonstrate that one applicant will provide a superior educational FM broadcast service; and

(d) To determine, in light of the evidence adduced pursuant to the foregoing issues 5(a) through 5(c), which of the proposals would better serve the public interest, and therefore, which application should be granted.

9. *It is further ordered*, That the burden of proceeding with the introduction of evidence and the burden of proof with respect to the foregoing issues (1) and (2) shall be upon the College of DuPage, District 502.

10. *It is further ordered*, That the applicants shall file a written appearance stating an intention to appear and present evidence on the specified issues within the time and in the manner specified by § 1.221(c) of the rules.

11. *It is further ordered*, That the applicants shall give notice of the hearing within the time and in the manner specified in § 1.594 of the rules, and shall seasonably file the statement required by § 1.594(g).

Adopted September 11, 1973.

Released September 18, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[1]
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

[FR Doc.73-20379 Filed 9-24-73;8:45 am]

[1] Commissioner Robert E. Lee absent; Commissioner Reid not participating; Commissioner Hooks concurring in the result.

[FCC 73-904]

## BOSTON BROADCASTERS, INC.

### Declaratory Ruling Re "Significant Viewing"

1. Boston Broadcasters, Inc., is the permittee of Station WCVB–TV, Channel 5, Boston, Massachusetts. Until March 19, 1972, Station WHDH–TV operated on Channel 5 in Boston. Thereafter, WCVB–TV commenced operation with technical facilities substantially the same as those previously licensed to WHDH–TV. Boston Broadcasters, Inc., requests a ruling that it is to be considered significantly viewed for purposes of cable television system carriage in those counties where WHDH–TV would have been significantly viewed pursuant to § 76.54(a) of the rules.[1] Issuance of the following declaratory ruling is requested:

"Significant viewing" attributed to a particular station in Appendix B to the February 2, 1972 Report and Order in Docket No. 18397 shall be attributed to any subsequently authorized station utilizing the same channel in the same city, and operating with substantially the same technical facilities as the listed station.

2. In support of the requested ruling, it is urged that WCVB–TV's position is not materially different from that of an existing station that made an insignificant change in its technical facilities or that of an existing television station that acquired its authorization by assignment after Appendix B to the *Cable Television Report and Order*[2] was adopted.

3. We agree with Boston Broadcasters, Inc.'s interpretation of the rules and that such a ruling is in conformity with the objectives and policy enunciated in the *Cable Television Report and Order*, paragraphs 85–86, and in the rule itself. We will, therefore, grant the requested ruling and adopt the language as proposed by Boston Broadcasters, Inc. (paragraph 1, above).[3]

Adopted September 6, 1973.

Released September 13, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[4]
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

[FR Doc.73-20376 Filed 9-24-73;8:45 am]

[1] Section 76.54(a) states:

"(a) Signals that are significantly viewed in a county (and thus are deemed to be significantly viewed within all communities within the county) are those that are listed in Appendix B of the *Memorandum Opinion and Order on Reconsideration of the Cable Television Report and Order* (Docket 18397 et al.), FCC 72-530."

Stations are entitled to request carriage on cable television systems in those areas where they are found to be significantly viewed.

[2] 36 FCC 2d 141 (1972). Appendix B was modified in some respects not here relevant on reconsideration of the *Cable Television Report and Order*, 36 FCC 2d 326 (1972).

[3] Subsequent to the filing of this declaratory ruling petition, the same issue was put in question in connection with several certificate of compliance applications. In connection with CAC's 1133–1137 for Norwich, Lisbon, Franklin, Sprague, and Bozrah, Connecticut; Boston Broadcasters incorporated by reference its petition and urged that the requested certificate not be granted until its carriage rights had been resolved. Cable Video, Inc., the applicant in these communities had not proposed carriage of WCVB–TV. In CAC–656, International Telemeter of New Bedford, New Bedford, Massachusetts, proposed carriage of WCVB–TV as a significantly viewed signal. The request was opposed by WGAL Television, licensee of Television Station WTEV, New Bedford, which argued as follows: "ITNB is incorrect in asserting * * * that WHDH–TV is 'now WCVB–TV.' WCVB–TV is not operating under any sort of continuation of WHDH–TV's license, and there was no mere change of call signs. WCVB–TV is a totally new station, with a network affiliation different from that of WHDH–TV and with its own new non-network programming. WCVB–TV cannot, therefore, be carried on a New Bedford CATV system (footnote omitted)." We have reviewed the arguments raised in these certificate of compliance proceedings but are not persuaded that the WCVB–TV's position is incorrect. We see no reason why changes in a station's ownership should change the availability of the station's signal for cable television carriage purposes, so long as the technical facilities involved remain substantially the same.

[4] Commissioner Robert E. Lee absent; Commissioner Reid concurring in the result.





[Docket No. 19684]

## ITT WORLD COMMUNICATIONS INC.

### Order Extending Time

In the Matter of ITT World Communications Inc. petition under section 201(a) of the Communications Act of 1934 for connection with RCA Global Communications, Inc., to enable ITT World Communications Inc., to provide telex and message telegraph services to Guam.

1. By telex dated September 11, 1973, Western Union International, Inc. (WUI), requests a two-week extension of time within which written briefs on the application of the International Formula to Guam may be filed in this proceeding.

2. WUI represents that the requested extension is necessary because of WUI's current staffing problem and the absence of supervisory counsel from the office. WUI also represents that it has informed RCA Global Communications, Inc. and ITT World Communications Inc. of the subject request and no objections have been raised.

3. We find that good cause has been shown for the requested extension of time.

Accordingly, *It Is Ordered*, Pursuant to § 0.303(c) of the Commission's rules pertaining to delegations of authority that the request of WUI is granted; and

(A) the time in which to file written briefs pursuant to the Commission's Memorandum Opinion and Order released July 31, 1973, and the Commission's order released August 14, 1973, extending the time for filing until September 15, 1973 [38 FR 22431] is extended until October 1, 1973; and

(B) the time in which to file reply briefs is extended until five days thereafter.

Adopted September 14, 1973.

Released September 17, 1973.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] CHARLES COWAN,
*Acting Chief, Common Carrier Bureau.*

[FR Doc.73-20378 Filed 9-24-73;8:45 am]

## COST OF LIVING COUNCIL

### FOOD INDUSTRY WAGE AND SALARY COMMITTEE

### Notice of Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770) notice is hereby given that the Food Industry Wage and Salary Committee, established under the authority of sec. 212(f)(iv) of Executive Order 11695, and Cost of Living Council Order No. 14, will meet at 10 A.M., Thursday, September 27, 1973, at 2025 M Street, NW., Washington, D.C.

The agenda will consist of discussions leading to recommendations on specific Phase II and Phase III wage cases in the food area, and future wage policy.

Since the above stated meeting will consist of discussions of future food wage policy and Phase II and III cases for decision, pursuant to authority granted me by Cost of Living Council Order 25, I have determined that the meeting would fall within exemption (5) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with the operation of the Committee.

Issued in Washington, D.C., on September 24, 1973.

HENRY H. PERRITT, Jr.,
*Executive Secretary, Cost of Living Council.*

[FR Doc.73-20608 Filed 9-24-73;12:11 pm]

### LABOR-MANAGEMENT ADVISORY COMMITTEE

### Determination To Close Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770) notice is hereby given that a meeting of the Labor-Management Advisory Committee created by Section 8 of Executive Order 11695 will be held on October 2, 1973, in the Secretary's Conference Room, Main Treasury Building, Washington, D.C., from 10 a.m. to 12:30 p.m.

The purpose of the meeting is to discuss policy matters relating to the future of the Stabilization Program and to industrial relations will be considered.

Pursuant to authority granted me by Cost of Living Council Order 25, I have determined that the meeting of the Labor-Management Advisory Committee will consist of exchanges of opinions, that the discussions, if written, would fall within exemption (5) of 5 U.S.C. 552(b) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with the operation of the Committee.

Issued in Washington, D.C. on September 24, 1973.

HENRY H. PERRITT, Jr.,
*Executive Secretary, Cost of Living Council.*

[FR Doc.73-20609 Filed 9-24-73;12:12 pm]

## FEDERAL POWER COMMISSION

[Docket Nos. RI74-35, *et al.*]

### AMOCO PRODUCTION COMPANY, ET AL.

### Order Providing for Hearing on and Suspension of Proposed Changes in Rates, and Allowing Rate Changes To Become Effective Subject to Refund [1]

SEPTEMBER 14, 1973.

Respondents have filed proposed changes in rates and charges for jurisdictional sales of natural gas, as set forth in Appendix A below.

The proposed changed rates and charges may be unjust, unreasonable, unduly discriminatory, or preferential, or otherwise unlawful.

*The Commission finds*

It is in the public interest and consistent with the Natural Gas Act that the Commission enter upon hearings regarding the lawfulness of the proposed changes, and that the supplements herein be suspended and their use be deferred as ordered below.

*The Commission orders*

(A) Under the Natural Gas Act, particularly sections 4 and 15, the regulations pertaining thereto (18 CFR Ch. I), and the Commission's rules of practice and procedure, public hearings shall be held concerning the lawfulness of the proposed changes.

(B) Pending hearings and decisions thereon, the rate supplements herein are suspended and their use deferred until date shown in the "Date Suspended Until" column. Each of these supple-

[1] Does not consolidate for hearing or dispose of the several matters herein.



V 38 185 SEP 25 73 XUM

ments shall become effective, subject to refund, as of the expiration of the suspension period without any further action by the Respondent or by the Commission. Each Respondent shall comply with the refunding procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder.

(C) Unless otherwise ordered by the Commission, neither the suspended supplements, nor the rate schedules sought to be altered, shall be changed until disposition of these proceedings or expiration of the suspension period, whichever is earlier.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

APPENDIX "A"

| Docket No. | Respondent | Rate schedule No. | Supplement No. | Purchaser and producing area | Amount of annual increase | Date filing tendered | Effective date unless suspended | Date suspended until— | Cents per Mcf* | | Rate in effect subject to refund in dockets Nos. |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | Rate in effect | Proposed increased rate | |
| RI74-35... | Amoco Production Co..... | 594 | 1 | El Paso Natural Gas Co. (Basin Dakota Field, San Juan and Rio Arriba Counties, N. Mex., San Juan Basin). | $13,200 | 8-17-73 | | 2-17-74 | ¹ 26.4 | ¹ 30.5 | |
| RI74-36... | Atlantic Richfield Co..... | 606 | 1 | El Paso Natural Gas Company (Ignacio Blanco Field, La Plata County, Colo., San Juan Basin). | 2,960 | 8-20-73 | | 2-20-74 | ¹ 24.0 | ¹ 28.0 | |

* Unless otherwise stated, the pressure base is 15.025 psia.
¹ Includes upward Btu adjustment for 1,100 Btu from a base of 1,000 Btu per cubic foot.
² Subject to Btu adjustment from a base of 1,000 Btu per cubic foot.

The proposed rate increases are suspended for five months since they exceed the applicable ceiling rate established in Order No. 435.

[FR Doc.73-20262 Filed 9-24-73;8:45 am]

[Docket No. CP74-14]

## EL PASO NATURAL GAS CO.

### Notice of Amendment to Application

SEPTEMBER 19, 1973.

Take notice that on August 20, 1973, El Paso Natural Gas Co. (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP74-14 an amendment to its application filed in said docket pursuant to section 7(b) of the Natural Gas Act by documenting certain additional information and data respecting the abandonment authorization sought therein through divestiture to Northeast Pipeline Corporation (Northwest) and by requesting pursuant to section 7(c) of the Natural Gas Act a certificate of public convenience and necessity authorizing certain gathering and exchange arrangements to implement said divestiture, all as more fully set forth in the application, as amended, which is on file with the Commission and open to public inspection.

El Paso filed its initial application in this proceeding for authorization to abandon certain facilities as a result of the mandate of the United States Supreme Court in *United States* v. *El Paso Natural Gas Co., et al.*, 376 U.S. 651 (1964), as implemented by the Orders and Opinion of the United States District Court for the District of Colorado (District Court) entered on June 16, 1972, in *United States* v. *El Paso Natural Gas Co.*, Civil Action No. C-2626, aff'd *sub nom. California-Pacific Utilities Co., et al.* v. *United States*, U.S. ---- (1973), requiring divestiture by El Paso to Northwest of the facilities and properties acquired by Applicant in 1959 from Pacific Northwest Pipeline Corporation (Pacific Northwest) together with additional properties and facilities.

El Paso states that at the time it made its initial filing in the subject docket, it was in the process of negotiating an agreement with the APCO group pertaining to the price to be paid for twenty percent of Northwest's common stock and other matters related to implementation of the divestiture. El Paso further states that it has now reached such an agreement and that it and Northwest have filed Implementing Documents with the District Court, as required by the court's order of July 25, 1973. El Paso requests that these Implementing Documents be made part of its application in the subject proceeding by incorporation by reference to Northwest's Exhibit Z-4 in the application pending in Docket No. CP73-331.

El Paso also requests certificate authorization pursuant to one of the Implementing Documents, a San Juan Gathering Agreement, for the mutual gathering and exchange of natural gas in the San Juan Basin after divesture in order to utilize existing facilities and to avoid duplication of facilities. Said agreement provides that if the quantities of gas gathered by each party for the other party are not equal, deliveries of balancing gas possessing equivalent heating value shall be made to the deficient party on a reasonably concurrent basis. The party receiving balancing deliveries is required to pay the other party 6.61 cents per Mcf for all gas so received. El Paso states that two existing interconnecting points in Rio Arriba County, New Mexico, and La Plata County, Colorado, and related measuring and regulating stations thereat will be utilized to effectuate such exchange.

Any person desiring to be heard or to make any protest with reference to said amendment to application should on or before October 9, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. Persons who have heretofore filed petitions to intervene in this proceeding need not file again.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-20410 Filed 9-24-73;8:45 am]

[Project No. 401]

## MICHIGAN POWER CO.

### Notice of Issuance of Annual License

SEPTEMBER 18, 1973.

On December 30, 1970, and supplemented February 1, 1971, February 23, 1973, and August 15, 1973, Michigan Power Co., Licensee for Mottville Project No. 401, located on the St. Joseph River in St. Joseph County, Michigan, filed an application for a new license under section 15 of the Federal Power Act and Commission regulations thereunder (§§ 16.1–16.6).

The license for Mottville Project No. 401 was issued effective September 19, 1923, for a period ending September 18, 1973. In order to authorize the continued operation of the project pursuant to Section 15 of the Act pending completion of Licensee's application and Commission action thereon it is appropriate and in the public interest to issue an annual license to Michigan Power Co. for continued operation and maintenance of Project No. 401.

Take notice that an annual license is issued to Michigan Power Co. (Licensee) under section 15 of the Federal Power Act for the period September 19, 1973, to September 18, 1974, or until Federal takeover, or the issuance of a new license





for the Project, whichever comes first, for the continued operation and maintenance of the Mottville Project No. 401 subject to the terms and conditions of its license.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-20407 Filed 9-24-73;8:45 am]

[Docket No. RP72-149]

## MISSISSIPPI RIVER TRANSMISSION CORP.

### Notice of Proposed Changes in Rates and Charges

SEPTEMBER 18, 1973.

Take notice that Mississippi River Transmission Corporation (Mississippi) on August 20, 1973, tendered for filing Substitute Twelfth Revised Sheet No. 3A to its FPC Gas Tariff, First Revised Volume No. 1 to become effective October 1, 1973.

The instant filing was made pursuant to the purchased gas cost adjustment provisions of Mississippi's tariff to recct: (1) Rate changes applicable to Mississippi by Natural Gas Pipeline Company of America (Natural), pursuant to the provisions of Natural's Amended Stipulation and Agreement at Docket No. RP72-132, approved by the Commission by order issued July 18, 1973; (2) a rate change applicable to Mississippi by Trunkline Gas Company, effective August 1, 1973; and (3) a change in the Deferred Cost Adjustment pursuant to Mississippi's tariff effective October 1, 1973.

Mississippi states that on June 22, 1973, it submitted for filing Twelfth Revised Sheet No. 3A to its FPC Gas Tariff but that the Commission rejected the filing without prejudice to its refiling with certain changes.

Copies of the filing were served on Mississippi's jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). However, parties previously permitted to intervene need not file such a petition. All such petitions or protests should be filed on or before September 25, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of the filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-20399 Filed 9-24-73;8:45 am]

[Docket No. E-8391]

## MT. CARMEL PUBLIC UTILITY CO.

### Notice of Changes In Wholesale Rate

SEPTEMBER 18, 1973.

Take notice that on August 28, 1973, Mt. Carmel Public Utility Co. (Mt. Carmel) tendered for filing changes in its wholesale rate for Resale Schedule (FPC No. 1) and a new fuel adjustment clause rider.

Mt. Carmel states that the revised rates are proposed to go into effect October 1, 1973. According to Mt. Carmel, the purpose of the change in the rate is to remove an ambiguity in language that had resulted in exempting the Village of Allendale, Allendale, Illinois (Allendale) from fuel adjustment charges.

Mt. Carmel further states that the purpose of the revised fuel adjustment charge is to reduce the amount by factoring in the lower unit cost of purchased energy that prevails since Mt. Carmel has converted from coal-firing to oil-firing. Mt. Carmel also states that the total revenue from Allendale is less than $30,000 annually and that this filing will result in a change of $8,936 annually.

Any person desiring to be heard or to protest should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 8, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-20406 Filed 9-24-73;8:45 am]

[Dockets Nos. CI72-233, CP73-15; CI72-677, CI73-231]

## NATURAL GAS PIPELINE COMPANY OF AMERICA AND TEXACO INC.

### Order Permitting Deferral of Hearing

SEPTEMBER 12, 1973.

On August 8, 1973, Michel Levant, the Presiding Administrative Law Judge in the above-entitled proceedings, certified to the Commission a request by the parties for deferral of hearing and a record of a prehearing conference held on August 7, 1973. On July 13, 1973, we ordered that a prehearing conference be held on August 7 in these proceedings to narrow the issues and to find which issues may usefully be considered in a hearing while deferring the policy questions with respect to the transportation of gas until a determination is made in *Tennessee Gas Pipeline Co.*, Docket No. CP72-6, *et al.* At the prehearing conference counsel for Texaco, Natural Gas Pipeline, Northern Illinois Gas Co., the New York Public Service Commission, Associated Gas Distributors and the Staff representing all parties appearing agreed that no useful purpose would be accomplished by proceeding with the hearing and the Judge so ruled. We note that there was also a discussion on the record of the possibility of a settlement.

Texaco and Natural made an oral motion on the record that the Commission defer the hearing, pending the determination in the *Tennessee* case. Staff counsel asked that they should bear the responsibility for filing an appropriate motion with the Commission asking that the case be reactivated at such time as they desire to go forward. We agree that Texaco, Natural, or any other party can file such a motion.

*The Commission orders*

The hearing in the above-entitled proceedings is deferred pending determination in *Tennessee, supra*, and may be reconvened upon appropriate motion or upon the Commission's initiative.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-20411 Filed 9-24-73;8:45 am]

[Docket No. RP71-119]

## PANHANDLE EASTERN PIPELINE CO.

### Notice of Motion for Extraordinary Relief

SEPTEMBER 18, 1973.

On September 7, 1973, DeKalb AgResearch Inc. (DeKalb) filed a petition for extraordinary relief with the Commission pursuant to § 1.7 of the Commission's rules of practice and procedure requesting that its Crawfordsville, Indiana seed-drying plant be exempted from the provisions of Panhandle Easter Pipeline Company's (Panhandle) presently effective curtailment plan and/or any other curtailment plans of that company that may subsequently become effective.

DeKalb, in its petition, alleges that it purchases natural gas on an interruptible basis from Indiana Gas Company Inc. (Indiana Gas), which in turn is supplied by Panhandle. This gas is used by DeKalb's Crawfordsville Plant for corn seed drying. Approximately 45,000 Mcf of natural gas is required to meet the plant's requirements during the critical 60 day period prior to November 15 of each year when the corn seed must be dried.

DeKalb in its petition notes that its Crawfordsville Plant provides farmers with hybrid seed corn for planting. It stresses that seed corn is an essential element in a food production and that seed is a basic element in the food chain. It contends that interruption in natural gas deliveries to its Crawfordsville Plant commencing on October 1, 1973, would reduce annual production by at least 65 percent and require the plant to lay off a number of employees. It contends that such reduced seed production could conceivably result in a shortfall of nearly 40 million bushels of high-quality corn next summer. DeKalb notes that the problem is further compounded by the fact that seed corn is presently in short supply because of the relatively poor season experienced last year and that most of the stock that they normally maintain has been depleted.



V 38 185 SEP 25 73 XUM

DeKalb contends that its Crawfordsville Plant is confronted by an immediate emergency, because it lacks a presently installed alternate fuel capability. It further contends that up until August 20, 1973, it had acted under an assurance from Indiana Gas, its distributor supplier, that it would be provided with sufficient gas to meet its 1973 fall drying season requirements.

DeKalb, therefore, requests that the Commission grant its petition for extraordinary relief filed pursuant to § 1.7 of the Commission's rules of practice and procedure, in order to avert the damages hereinbefore set forth.

It appears reasonable and consistent with the public interest in this proceeding to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to protest said application, should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10) on or before September 25, 1973. The notices and petitions for intervention previously filed in this proceeding will not operate to make those parties interveners or protestants with respect to the instant filing. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Commission's rules. This filing which was made with the Commission is available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20397 Filed 9-24-73;8:45 am]

[Project No. 135]

## PORTLAND GENERAL ELECTRIC CO.

### Notice of Issuance of Annual License

SEPTEMBER 19, 1973.

On February 19, 1970, Portland General Electric Co., Licensee for Project No. 135, located in Clackamas County, Oregon, on the Clackamas River, filed an application for a new license under section 15 of the Federal Power Act and Commission regulation thereunder (§§ 16.1–16.6).

The license for Project No. 135 was issued effective September 27, 1922, for a period ending September 26, 1972. In order to authorize the continued operation of the project pursuant to section 15 of the Act, pending completion of Commission action thereon, it is appropriate and in the public interest to issue an annual license to Portland General Electric Co. for continued operation and maintenance of Project No. 135.

Take notice that an annual license is issued to Portland General Electric Co. (Licensee) under section 15 of the Federal Power Act for the period September 27, 1973, to September 26, 1974, or until Federal takeover or the issuance of of a new license for the project, whichever comes first, for the continued operation and maintenance of Project No. 135, subject to the terms and conditions of its present license.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20408 Filed 9-24-73;8:45 am]

[Docket No. E-7723]

## POTOMAC EDISON CO.

### Order Granting Motion for Approval of Settlement Offer

SEPTEMBER 14, 1973.

On March 29, 1972, the Potomac Edison Company (Edison) tendered for filing proposed changes in its Electric Tariff, Volume No. 2 (Original Sheet Nos. 4b, 5b, and 6b, First Revised Sheet Nos. 4, 4a, 5, 5a, 6 and 6a, and Third Revised Sheet No. 8) and on March 30, 1972, Edison tendered for filing Amendment No. 3 to its FPC Rate Schedule No. 30. Notice of Edison's tendered filing was issued on April 18, 1972, with comments due on April 26, 1972. No protests or petions to intervene were received. By Commission order issued July 11, 1972, Edison's proposed changes were accepted for filing and the use thereof suspended until December 11, 1972, and hearing procedures were established.

On February 1, 1973, as supplemented on February 20, 1973, The Potomac Edison Company (Edison) filed a motion for approval of a Settlement Offer which is intended to resolve all issues in this proceeding. Edison requests the Commission approve the proposed Settlement Offer and permit the proposed rates to become effective December 11, 1972, the date on which the rates originally proposed became effective subject to refund. Edison also requested on March 19, 1973, that the Commission further extend the procedural dates established by notice issued February 23, 1973, until 60 days after the Commission has acted upon the proposed Settlement Offer. By notice issued March 22, 1973, dates for filing of evidence and hearing procedures were deferred pending disposition of the offer of settlement.

Public notice of Edison's motion was issued on February 23, 1973, providing for receipt of comments by March 9, 1973. On March 9, 1973, the Commission Staff filed comments wherein the staff recommended that on the basis of its review of the proposed settlement and cost of service support thereof the Settlement Offer as filed be approved.

In support of its offer of settlement, Edison states that the proposed rates are not objected to by its customers to be served thereunder. Edison further asserts that the revision of some of the originally proposed increases are in settlement of differences between Edison and the Commission Staff which were made known in discussions with the staff.

The Settlement Offer consists in principal part of the following:

(1) A reduction in revenues from the originally proposed increases of $239,000 to $216,000 based on calendar year 1970 and excluding the additional revenue effect of the proposed fuel clause.

(2) Normalization of the cost of service to reflect the substantial load changes of Hagerstown and of a high load factor industrial retail customer.

(3) The rates of return are:

Wholesale for Resale Rate Groups

| WS-HV (percent) | WS-LV (percent) | WS-DV (percent) | Total (percent) |
|---|---|---|---|
| 6.64 | 7.08 | 5.86 | 6.39 |

(4) The originally proposed fuel adjustment clause has been modified to recognize the fuel cost of energy generated by Edison and in energy purchased by Edison from other companies in the Allegheny Power System (APS) and will not apply to energy purchased from companies other than those which are members of APS. Also the base cost of fuel was revised to include the base fuel component of energy purchases.

The settlement offer is based on the cost of service for the test period (1970) submitted by Edison and set forth in Appendix A below. In addition, the computation of Edison's capitalization set forth in Appendix A below shows the yield on common equity at a 6.39 percent overall return.

Based upon our review of the terms and conditions of the proposed Settlement Offer and the cost of service attached thereto (Appendix A below), we conclude that the proposed settlement offer provides a reasonable and appropriate resolution of the issues herein and that the public interest will be served by our approval of the settlement offer.

*The Commission finds*

Approval of the settlement of these proceedings on the basis of the Settlement Offer filed by Edison on February 1, 1973, as supplemented on February 20, 1973, is reasonable and proper and in the public interest in carrying out the provisions of the Federal Power Act, and should be approved and made effective.

*The Commission orders*

(A) The Settlement Offer as described above is incorporated herein by reference, and is approved and made effective on December 11, 1973.

(B) Edison shall fully comply with each of the provisions of the Settlement Offer and the terms of this order.

(C) Edison shall file with the Commission revised tariff and rate schedules to conform with the Offer of Settlement filed February 1, 1973, within 30 days of the date of issuance of this order.

(D) This order is without prejudice to any finding or orders which have been made or may hereinafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its Staff, Edison, or any other party or person affected by this order.

(E) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB,
*Secretary.*

APPENDIX A

SOUTHERN TEXAS NATURAL GAS GATHERING COMPANY, DOCKET NOS. RP73-7 AND RP73-57, SUMMARY COST OF SERVICE AND GATHERING COST YEAR ENDED, JUNE 31, 1972, AS ADJUSTED

[In Dollars]

| Line No. | Particulars | Company | Adjustments | As adjusted |
|---|---|---|---|---|
| 1 | Operating expenses | $18,376 | [1] ($678) | $17,698 |
| 2 | Depreciation expense | 829 | [2] (219) | 610 |
| 3 | Taxes other than income | 150 | — | 150 |
| 4 | Federal income taxes | 1,077 | 67 | 1,144 |
| 5 | Return (company—8 percent, staff 8.75 percent) | 1,306 | 84 | 1,390 |
| 6 | Other Operating Revenue—Cr | (360) | — | (360) |
| 7 | Total cost of service | 21,378 | (746) | 20,632 |
| 8 | Cost other than purchased: Gas cost | 5,208 | [3] ($89) | 5,119 |
| 9 | Sales volumes (Mcf) | 74,949,000 | | 72,333,000 |
| 10 | Gathering cost per Mcf line 8÷line 9 (cents) | 6.95 | | 7.08 |
| 11 | Gathering charge proposed (cents) | 6.22 | | 6.22 |

[1] Reflects reduction in staff's sales volumes.
[2] To eliminate depreciation expense on general plant transferred to affiliated companies.
[3] Net adjustments to cost other than purchased gas cost.

[FR Doc.73-20263 Filed 9-24-73;8:45 am]

[Docket Nos. RP73-7, RP73-57]

## SOUTH TEXAS NATURAL GAS GATHERING CO.

### Order Terminating Proceeding and Allowing Rate Increase To Become Effective Without Further Refund Obligation

SEPTEMBER 14, 1973.

On July 31, 1972, South Texas Natural Gas Gathering Company (South Texas) tendered for filing proposed changes in its rates to Transcontinental Gas Pipe Line Corporation (Transco) under South Texas' FPC Gas Rate Schedule No. 2 and to Natural Gas Pipeline Company of America (Natural) under South Texas' FPC Rate Schedule No. 1. South Texas stated that the proposed rates were in accord with the prices provided in its producer type sales contracts and were based on a test year ended March 31, 1972. The proposed changes would increase South Texas' annual revenues by $1,240,251 with respect to Transco and by $96,406 with respect to Natural or a total of $1,336,657. These totals were based on an increase in its rates from 19.58 cents per Mcf to 22.05 cents per Mcf for Transco and from 19.50 cents per Mcf to 21.55 cents per Mcf for Natural. South Texas alleged that such rate increases would yield a negative 7.53 percent return, because of a contract which limits South Texas' rate of return. The rates were proposed to become effective September 1, 1972.

On August 31, 1972, we accepted and suspended the proposed changes for one day, set hearing dates and permitted interventions.[1]

On October 17, 1972, South Texas tendered for filing a proposed Purchased Gas Adjustment Clause (PGA) and an additional increase of $2.8 million annually for its sales to Transco, under South Texas' FPC Gas Rate Schedule No. 2, based on an overall rate of return of 10%, increased purchased gas costs, and decreased annual sales, among other things.

South Texas had requested that the Commission waive its notice requirements to permit this filed increase to become effective on a date to coincide with the Commission approval of the conditional settlement in the Docket No. RI72-240, or November 15, 1972, whichever was earlier.[2]

On November 16, 1972, we rejected the proposed PGA clause, accepted and suspended the proposed increase for the statutory five months, established dates for service of evidence and hearing, and permitted the interventions.[3]

On December 4, 1972, South Texas submitted a revised PGA clause and requested that it be accepted and permitted to become effective immediately or no later than the effective date of approval of the settlement in the producers rate case, RI72-240, and the abandonment proceeding, Docket No. CP67-349.

On January 10, 1973, we issued an order that dealt with four South Texas cases pending before the Commission including Docket Nos. RP73-7 and RP73-57. In Docket Nos. RI72-240 and CP67-349, et al. we approved proposed settlements. In RP73-57 we approved the revised PGA clause filed on December 4, 1972, terminated the suspension period ordered on November 16, 1972, and permitted the rates in Docket No. RP73-57 to go into effect at the settlement rate in CP67-349, et al., subject to refund. We also consolidated Docket Nos. RP73-7 and RP73-57 for disposition and approved the change or rate charged to Transco, but left the issue of the precise rate level for determination in the instant consolidated docket.[4]

At the prehearing conference on June 19, 1973, Staff placed into the record its direct testimony and exhibits which included a cost of service analysis which would support a 28.70 cents per Mcf rate based upon a purchased gas cost of 21.62 cents per Mcf and a gathering charge of 7.08 cents per Mcf. Also at this prehearing conference South Texas moved to terminate the proceeding and to terminate the refund provisions in the instant dockets. All of the parties represented at that conference either supported the filed rates or expressed no opposition to them. On July 2, 1973, Judge Litt certified South Texas' motion to the Commission, and such certification was noticed on July 20, 1973, with comments due on or before August 3, 1973. No comments were received.

We note that staff cost of service supports a rate higher than South Texas' proposed producer—type rates of 21.55 cents per Mcf to Natural and 22.05 cents per Mcf to Transco in Docket No. RP73-7 and its proposed 27.87 cents per Mcf rate to Transco in Docket No. RP73-57 based on purchased gas costs of 21.65 cents per Mcf and a gathering charge of 6.22 cents per Mcf. The cost of service presentations in support of the filings in both dockets are basically for the same test period and the Staff as a basis for testing the rates in both dockets utilized a test period of the twelve months ending June 30, 1972, as adjusted. Staff recommended an overall rate of return of 8.75 percent with an allowance of 10.74 percent on equity. (For the summary cost of service, see Appendix A to this order).

Our review of the record in these proceedings which includes South Texas' rate increase filing, testimony and exhibits as well as the testimony and exhibits of the Staff, and the aforementioned history of the case reveals that the settlement rates are not excessive. Accordingly, good cause exists to grant South Texas' motion to terminate the refund provisions in these proceedings and approve the proposed settlement.

*The Commission finds*

Approval of the proposed settlement in these dockets and granting of South Texas' motion to terminate refunds on

[1] Transco, Philadelphia Gas Works Division of UGI Corporation (PGW), Natural, and Public Service Electric and Gas Company (Public Service).

[2] The Settlement in Docket No. RI72-240 was approved by an order issued January 10, 1973.

[3] Natural, Consolidated Edison Company of New York, Inc. (Consolidated), Transco, Public Service Commission for the State of New York.

[4] On March 19, 1973, we issued an order permitting Philadelphia Gas Works Division of UGI Corporation (PGW) & Associated Gas Distributors (AGD) to intervene in the consolidated dockets.







V 38 I 185 SEP 25 73 XUM

the basis set forth above is just and reasonable and in the public interest in carrying out the provisions of the Natural Gas Act.

*The Commission orders*

(A) For the reasons stated herein the settlement of these dockets is accepted, the settlement rates in Docket Nos. RP73–7 and RP73–57 shall be made effective as of September 2, 1972, and January 10, 1973, respectively, without further refund obligation, and this proceeding is terminated.

(B) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

APPENDIX A

DOCKET NO. E-7723, SETTLEMENT COST OF SERVICE—WHOLESALE CUSTOMERS[1] (TEST YEAR 1970)

| | |
|---|---|
| Expenses: | |
| Production—Capacity component | $640,151 |
| Production—Energy component | 651,933 |
| Production—Plant component | 188,941 |
| Transmission | 128,231 |
| Distribution | 153,408 |
| Customer accounting | 968 |
| Sales | 4,033 |
| Administrative and general | 110,379 |
| Total | 1,877,349 |
| Taxes other than F.I.T. and payroll | 156,810 |
| Federal income tax | (16,422) |
| Return | 532,061 |
| Total cost of service | 2,549,798 |

| | Capitalization—June 30, 1973 | | | |
|---|---|---|---|---|
| | Amount | Percent | Cost factors (percent) | Weighted totals (percent) |
| Long-term debt | $164,481 | 51.24 | 6.08 | 3.12 |
| Preferred stock | 43,348 | 13.52 | 6.84 | .92 |
| Common equity | 112,911 | 35.20 | 6.68 | 2.35 |
| | $320,740 | 100.00 | 19.60 | 6.39 |

[1] After normalization adjustments.

[FR Doc.73-20261 Filed 9-24-73;8:45 am]

[Docket No. CP70-7 (Phase II)]

## SOUTHERN NATURAL GAS CO.

### Notice of Petition To Amend

SEPTEMBER 19, 1973.

Take notice that on August 29, 1973, Southern Natural Gas Co. (Petitioner), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP70-7 (Phase II) a petition to amend the Commission's order issued October 29, 1969 (42 FPC 944), in the subject docket pursuant to section 7(c) of the Natural Gas Act by authorizing certain changes and reallocations in the contract quantities of natural gas to be delivered to Atlanta Gas Light Co. (Atlanta) among individual delivery points, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

By the Commission's order of October 20, 1969, Petitioner was authorized, inter alia to sell and deliver to Atlanta at certain specified delivery points a contract demand of 737,500 Mcf of gas per day. On November 30, 1972, Petitioner tendered for filing under Section 4 of the Natural Gas Act a ninth revised Exhibit A to its presently effective firm service agreement with Atlanta. By order issued March 20, 1973, in Docket No. RP73-73, the Commission rejected this filing because it was inconsistent with the outstanding certificate authorization in the subject docket.

Petitioner seeks authorization herein to make changes and reallocations in the contract quantities delivered to Atlanta among individual delivery points, pursuant to its rejected ninth revised Exhibit A. In an affidavit filed with the petition to amend, the president of Atlanta states that these changes and reallocations are needed to:

(1) Efficiently operate its gas distribution system, particularly occasioned by the recent construction of its Riverdale LNG storage facility in the Atlanta area;

(2) Shift approximately 40,000 Mcf of contract demand quantity out of the Atlanta area in order to cover the estimated firm design day requirements in other areas on its system; and

(3) Alleviate a measure of hardship caused for some of its customers under Southern Natural's curtailment program which, if not corrected, could cause the curtailment of high priority uses such as process and possible feedstock gas and at the same time cause these curtailed volumes to become available as excess "AO" or direct interruptible gas at other delivery points and to other delivery points and to other customers of Southern Natural for lower priority uses.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 9, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-20400 Filed 9-24-73;8:45 am]

[Docket No. RP72-121]

## SOUTHWEST GAS CORP.

### Notice of Proposed PGA Rate Adjustment

SEPTEMBER 18, 1973.

Take notice that Southwest Gas Corporation (Southwest) on August 23, 1973, tendered for filing proposed changes in its FPC Gas Tariff, Original Volume No. 1. Concurrently with the filing, Southwest requests that its filing made by letter dated August 17, 1973, be withdrawn. The proposed rate change is described in the company's transmittal letter as follows:

El Paso Natural Gas Company, the sole supplier of gas to the Company's Northern Nevada Division, has filed pursuant to its PGA Clause for an increase of .315 cents per therm to become effective October 1, 1973. El Paso also proposes an alternate tariff sheet which would increase its rates by .149 cents per therm to become effective October 1, 1973. Southwest is unable to anticipate which El Paso increase the Commission will finally authorize, therefore, Southwest has included under Tab A, attached hereto, its Substitute Second Revised Sheet No. 3A containing the .315 cents per therm and under Tab B, also attached hereto, the identical Sheet No. 3A containing the .149 cents per therm increase. It is respectfully requested that the Commission select for approval Southwest's tariff sheet that has the identical increase proposed therein as the El Paso tariff sheet which the Commission makes effective October 1, 1973.

Southwest respectfully requests that the appropriate enclosed tariff sheet herewith submitted for filing become effective October 1, 1973, concurrent with El Paso's increase.

Southwest states that copies of the filing were sent to its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 27, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-20400 Filed 9-24-73;8:45 am]

[Docket No. E-8379]

## UTAH POWER AND LIGHT CO.

### Notice of Proposed Changes in Rates and Charges

SEPTEMBER 18, 1973.

Take notice that on August 27, 1973 Utah Power and Light Company (Utah) tendered for filing proposed changes in its FPC Electric Tariff, Original Volume No. 1, Resale Service Rates. Each of the changes reflect the addition of Resale Service Schedule RS-3 and/or the Resale Electric Service Agreement between Provo City and Utah.

Utah states that its system is presently interconnected with the electrical system of Provo City and has for several years delivered Colorado River Storage Project power to Provo City under an agreement with the federal government. That agreement is on file with the FPC and designated Utah Rate Schedule FPC No. 98. As a result, Utah claims that no new facilities have been installed or modified in order to supply service under proposed Resale Service Schedule RS-3. Utah currently has, it says, no other rates for similar wholesale or resale services.

According to Utah, the service agreement with Provo contains a clause exempting the company from providing firm power, if and only if any of its planned facilities are delayed or prevented from entering service for reasons beyond the company's control. Utah states such a clause is necessary because of unrealistic and unduly restrictive environmental protection requirements, delaying governmental approval of new plants.

While service to Provo is not contemplated until 1974–1975, Utah states that Provo wishes to have call on the power for unforeseen developments in the interim. Therefore, Utah requests waiver of the notice requirements of the Commission's Rules and Regulations so that October 1, 1973 might be the effective date. Because of the uncertainties about power supplied over the coming year, Utah claims that estimates of revenues for that period are impossible.

Any person desiring to be heard or to protest should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 in accordance with Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before September 27, 1973. Protests will be considered by the Commission in determining the appropriate action but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-20398 Filed 9-24-73;8:45 am]

[Docket No. E-8388]

## WESTERN MASSACHUSETTS ELECTRIC CO.

### Notice of Cancellation

SEPTEMBER 18, 1973.

Take notice that on September 5, 1973, Western Massachusetts Electric Co. of West Springfield, Massachusetts (Company), tendered for filing notice of cancellation of its Rate Schedules FPC Nos. 22, 24, 25, 33, 45 and 67. The Company states that such cancellation is made pursuant to the terms of the rate schedule and the notice given thereunder. The effective date of cancellation for each Rate Schedule is September 30, 1973, except for Rate Schedule F.P.C. No. 67 which has an effective cancellation date of August 31, 1973.

In its letter of transmittal, the Company states that it intends to offer customers affected by these cancellations new long-term contracts. Pending completion of the development of proposals for such contracts, the Company is offering to continue service to the affected wholesale customers on a month-to-month basis following the cancellation date if such customers wish to receive service following that date.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 9, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-20405 Filed 9-24-73;8:45 am]

## NATIONAL GAS SURVEY

### Order Designating Survey Coordinating Representative and Secretary

SEPTEMBER 14, 1973.

The Federal Power Commission by Order issued December 21, 1971, established the Technical Advisory and Coordinating Committee Task Forces of the National Gas Survey.

1. FPC Survey Coordinating Representative and Secretary. A new FPC Survey Coordinating Representatives and Secretary to the Supply-Technical Advisory Task Forces on Natural Gas Supply, Reformer Gas, Liquefied Natural Gas (LNG), Natural Gas Technology, Synthetic Gas-Coal, and Regulation and Legislation, as selected by the Chairman of the Commission with the approval of the Commission, is as follows:

Frederick W. Lawrence, Technical Director, National Gas Survey, Bureau of Natural Gas, Federal Power Commission.

Mr. Lawrence has resigned his membership on the Supply-Technical Advisory Task Force-Natural Gas Supply as a representative of the Environmental Protection Agency. He is to fill the positions on the Supply-Technical Advisory Task Forces vacated by the resignation of Dr. Paul J. Root, Federal Power Commission, from these Task Forces.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-20401 Filed 9-24-73;8:45 am]

## NATIONAL GAS SURVEY TECHNICAL ADVISORY COMMITTEE-SUPPLY

### Order Designating Survey Coordinating Representative and Secretary

SEPTEMBER 14, 1973.

The Federal Power Commission by Orders issued April 6, 1971, and February 23, 1973, respectively, the Commission established and renewed the Technical Advisory Committees of the National Gas Survey.

1. FPC Survey Coordinating Representative and Secretary. The new FPC Survey Coordinating Representative and Secretary to the Technical Advisory Committee-Supply, as selected by the Chairman of the Commission with the approval of the Commission, is as follows:

Frederick W. Lawrence, Technical Director, National Gas Survey, Bureau of Natural Gas, Federal Power Commission.

Mr. Lawrence has resigned his membership on the Technical Advisory Committee-Supply as a representative of the Environmental Protection Agency. He will fill the position vacated by the resignation of Dr. Paul J. Root, Federal Power Commission, from this Committee.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-20402 Filed 9-24-73;8:45 am]

## NATIONAL GAS SURVEY COORDINATING COMMITTEE

### Order Designating Member

SEPTEMBER 14, 1973.

The Federal Power Commission by Orders issued May 10, 1971, and April 16, 1973, respectively, the Commission established and renewed a Coordinating Committee of the National Gas Survey.

1. Membership. A new member to the Coordinating Committee, as selected by the Chairman of the Commission with the approval of the Commission, is as follows:

Frederick W. Lawrence, Technical Director, National Gas Survey, Bureau of Natural Gas, Federal Power Commission.

Mr. Lawrence is to fill the position vacated by the resignation of Dr. Paul J. Root, Federal Power Commission, from this Committee.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-20403 Filed 9-24-73;8:45 am]

## NATIONAL GAS SURVEY COORDINATING TASK FORCE

### Order Designating Alternate Survey Coordinating Representative and Secretary

SEPTEMBER 14, 1973.

The Federal Power Commission by Order issued December 21, 1971, established the Technical Advisory and Coordinating Committee Task Forces of the National Gas Survey.





V 38-185 SEP 25 73 XUM

1. Alternate FPC Survey Coordinating Representative and Secretary. The new Alternate FPC Survey Coordinating Representative and Secretary to the Coordinating Task Force, as selected by the Chairman of the Commission with the approval of the Commission, is as follows:

Frederick W. Lawrence, Technical Director, National Gas Survey, Bureau of Natural Gas, Federal Power Commission.

Mr. Lawrence is to fill the position vacated by the resignation of Dr. Paul J. Root, Federal Power Commission, from this Task Force.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-20404 Filed 9-24-73;8:45 am]

## FEDERAL RESERVE SYSTEM

### CHASE MANHATTAN CORP.

#### Acquisition of Bank

The Chase Manhattan Corp., New York, New York, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to The First National Bank of Canton, Canton, New York. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The Chase Manhattan Corp. is also engaged in the following nonbank activities: Mortgage servicing and servicing the Shapiro Factors Division of the Chase Manhattan Bank. In addition to the factors considered under section 3 of the Act (banking factors), the Board will consider the proposal in the light of the company's nonbanking activities and the provisions and prohibitions in section 4 of the Act (12 U.S.C. 1843).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 2, 1973.

Board of Governors of the Federal Reserve System, September 17, 1973.

[SEAL] THEODORE E. ALLISON, *Assistant Secretary of the Board.*

[FR Doc.73-20309 Filed 9-24-73;8:45 am]

### COMBANKS CORP.

#### Acquisition of Bank

Combanks Corp., Winter Park, Florida, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 98.8 percent of the voting shares of Combank/Longwood, Longwood, Florida, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank, to be received not later than October 1, 1973.

Board of Governors of the Federal Reserve System, September 17, 1973.

[SEAL] THEODORE E. ALLISON, *Assistant Secretary of the Board.*

[FR Doc.73-20310 Filed 9-24-73;8:45 am]

### FBT BANK

#### Order Approving Application for Consolidation of Banks

FBT Bank, Fremont, Michigan, a proposed State member bank of the Federal Reserve System, has applied for the Board's approval pursuant to the Bank Merger Act (12 U.S.C. 1828(c)), of the consolidation of that bank with Fremont Bank and Trust Company, Fremont, Michigan, under the name of Fremont Bank and Trust Co.

As required by the Act, notice of the proposed transaction, in form approved by the Board, has been published, and reports on competitive factors have been requested from the Attorney General, the Comptroller of the Currency, and the Federal Deposit Insurance Corp. This Reserve Bank has considered the application in light of the factors set forth in the Act.

On the basis of the record, the application is approved for the reasons summarized in the Order of this date by the Federal Reserve Bank of Chicago, relating to the application of Old Kent Financial Corp. for acquisition of 100 percent of the voting shares of the successor by consolidation with Fremont Bank and Trust Co., provided that said transaction shall not be consummated (a) before the thirtieth calendar day following the date of this Order or (b) later than three months after the date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago, pursuant to delegated authority.

By order of the Federal Reserve Bank of Chicago acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System effective September 12, 1973.

[SEAL] ROBERT P. MAYO, *President.*

[FR Doc.73-20311 Filed 9-24-73;8:45 am]

### OLD KENT FINANCIAL CORP.

#### Order Approving Acquisition of Fremont Bank and Trust Co., Fremont, Michigan

Old Kent Financial Corp., Grand Rapids, Michigan, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of the successor by consolidation to Fremont Bank and Trust Co., Fremont, Mich. (Bank). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired and this Reserve Bank has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls two banks with deposits of $696.3 million, representing 2.7 percent of the total deposits in commercial banks in Michigan, and is the seventh largest banking organization in the State.[1] Consummation of the proposed acquisition of Bank, with deposits of $14.4 million, would not significantly increase Applicant's share of commercial bank deposits in Michigan and result in only a nominal increase in the concentration of banking resources in that section of the State approximated by the adjacent Grand Rapids and Fremont banking markets.

Bank is the smaller of two banks in Fremont. Bank's sole office is located approximately 45 Road miles northwest of Applicant's largest and closest subsidiary, Old Kent Bank and Trust Co. (deposits $680.8 million) in Grand Rapids, Michigan. There is no meaningful competition between Bank and Applicant's present subsidiary banks in either Cadillac or Grand Rapids, Michigan, nor does there seem to be any serious competition between Bank and Applicant's proposed subsidiary in Holland, Michigan.[2] Therefore, the proposed acquisition of Bank would foreclose no substantial present competition in any relevant market and have no undue adverse effect on competing banks. However, the Fremont market is adjacent to, if it does not adjoin, the Grand Rapids market, where Applicant is the dominant banking organization. In addition, Applicant has the managerial and financial expertise to enter the Fremont market de novo. The effect of the proposed transaction on potential competition is thought to be only slightly adverse, however, since Applicant is acquiring the smaller of the two banks located in Fremont and because there is no evidence that the city of Fremont, with a population of 3,465,[3] is attractive for de novo entry.

[1] Banking data are as of December 31, 1972, adjusted to reflect holding company formations and acquisitions approved through August 1, 1973.

[2] Applicant has a pending application before the Board to acquire Peoples State Bank of Holland, Holland, Michigan.

[3] Population data is based on 1970 census.





The financial and managerial resources of Applicant, its subsidiary banks and Bank are satisfactory and support approval of the application, particularly in view of Applicant's injection of $120,000 of equity capital of Bank through the consolidation. Applicant also proposes to assist Bank in providing new or improved services with respect to such areas as Mortgages, Farm Loans, Installment lending, and trust services. Considerations relating to the convenience and needs of the communities involved are thus regarded as lending some weight toward approval and as outweighing any slight anticompetitive effects which may result from the proximities of Applicant's lead bank and Bank. It is this Reserve Bank's judgment that the proposed transaction is on balance, in the public interest and should be consummated.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Chicago pursuant to delegated authority.

By order of the Federal Reserve Bank of Chicago acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, effective September 12, 1973.

[SEAL] ROBERT P. MAYO, *President.*

[FR Doc.73-20312 Filed 9-24-73;8:45 am]

### WEST FLORIDA BANK HOLDING CO., INC.

#### Acquisition of Bank

West Florida Bank Holding Co., Inc., Panama City, Florida, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of Panama City National Bank, Panama City, Florida. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank, to be received not later than September 24, 1973.

[SEAL] THEODORE E. ALLISON, *Assistant Secretary of the Board.*

[FR Doc.73-20313 Filed 9-24-73;8:45 am]

## GENERAL SERVICES ADMINISTRATION

### NATIONAL HEALTH RESOURCES ADVISORY COMMITTEE

#### Notice of Meeting

Notice is hereby given, pursuant to the Federal Advisory Committee Act, P.L. 92-463, that the next meeting of the Presidentially-appointed National Health Resources Advisory Committee will be held October 11–12, 1973, at the O'Hare Inn, 6600 North Mannheim Road, Rosemont, IL 60018.

The subject of the meeting will be Airport/Community Emergency Medical Preparedness. It will review the current status nationwide of joint airport/community planning designed to ensure an adequate emergency medical response to the needs created by emergencies at airports and in their environs and will evaluate the progress made since Federal Air Regulation 139.

Officials of Federal, State, and local governments will participate in the meeting as well as representatives of major related agencies and associations in the private sector.

The meeting will be open to the public from 9 a.m. to 3 p.m. on October 11, 1973, and from 9 a.m. to 12 Noon on October 12, 1973.

Due to airport restrictions and space limitations, a demonstration at O'Hare Airport from 3 p.m. to 5 p.m. on October 11, 1973, cannot be open to the public. Executive Session from 1 p.m. to 3 p.m. on October 12, 1973, will not be open to the public.

In order to assure adequate seating arrangements for the portions of the meeting which are open to the public, persons planning to attend are asked to notify Frederick J. Haase, Staff Director, telephone 202/395-3100 as soon as possible.

EDWARD R. SAUNDERS, JR., *Acting Director, Office of Preparedness, General Services Administration.*

SEPTEMBER 13, 1973.

[FR Doc.73-20416 Filed 9-24-73;8:45 am]

[GSA Bulletin FPMR E-121]

### CONSERVATION OF PAPER PRODUCTS

#### Recommended Procedures and Solicitation of Cooperation

SEPTEMBER 24, 1973.

1. *Purpose.* This bulletin solicits the cooperation of Federal agencies in reducing paper product usage and furnishes information on actions being taken by GSA to maintain essential levels of supply in light of current critical shortages.

2. *Expiration date.* This bulletin contains information of a continuing nature and remains in effect until canceled.

3. *Background.* Paper shortages are having a serious effect on the GSA supply system and difficulty is being experienced in obtaining various types of paper used by Federal agencies. Indications are that this situation will prevail for at least two years and the current results of our product solicitations indicate a potential fluctuation in the availability of various types of paper for different uses. For example, uncoated offset book paper (FSC 9310) is in critically short supply, whereas current requirements for bond and other writing paper (FSC 7530) are being met. As a means of reducing requirements, and thereby effecting conservation of paper products, there are a number of actions which should be taken by Federal agencies. The following actions, in concert with those steps being taken by GSA in the procurement and supply of paper products, will materially assist in alleviating this shortage.

4. *Recommended agency action.* a. Publicize the need for conservation of paper products and encourage employees to reduce the usage of paper to the maximum extent.

b. Assure that adequate safeguards and controls are established in conformance with the requirements for proper use of consumable or low cost items as provided in § 101–25.107. Further, all requisitions should be screened so that only essential requirements are ordered, thereby avoiding accumulation of obsolete or unneeded items.

c. Institute strict conservation practices in the generation and distribution of copies of documents, especially where the internal reproduction of copies is involved.

d. Select the least expensive stock available commensurate with maintaining a suitable level of quality.

e. Use both sides of the sheet of writing paper when drafting material.

f. Print and duplicate on both sides of paper whenever possible.

g. Give extensive consideration to the feasibility of substituting bond or other writing paper (FSC 7530) where such use may be appropriate because of the severe shortage of uncoated offset book paper (FSC 9310) referred to in paragraph 3.

h. Examine ways and means to ease existing specifications for packaging requirements, such as the use of polyurethane foam cushioning instead of cellulose material.

5. *GSA action.* a. Deviations from Federal specifications are being authorized in the procurement of paper when the product does not differ substantially from the specification item and will serve the intended purpose.

b. Substitute items which serve the same functional purpose are being procured. As a case in point, there is currently a critical shortage of lightweight manila file folders. GSA is procuring kraft folders as an alternative item. Legal size (8½'' x 14'') pads are being procured both in yellow and white because of the severity in the shortage of yellow paper. Agencies may receive either color against requisitions for this item.

c. Allocation of shipments to agencies is not contemplated at this time; however, it may become necessary to make incremental deliveries on large volume orders.

M. J. TIMBERS, *Commissioner, Federal Supply Service.*

[FR Doc.73-20586 Filed 9-24-73;11:35 am]



V 38 185 SEP 25 73 XUM

## NATIONAL SCIENCE FOUNDATION

### ADVISORY PANEL FOR ASTRONOMY

#### Notice of Public Meeting

Pursuant to the Federal Advisory Committee Act (P.L. 92-463), notice is hereby given that a meeting of the Advisory Panel for Astronomy will be held at 9 a.m. on October 15 and 16, 1973, in Room 338 at 1800 G Street, NW., Washington, D.C. 20550. The purpose of this Panel is to provide advice and recommendations concerning support for research and research-related activities in astronomy.

The agenda for this meeting shall include discussions of the following topics:

1. Astronomical Research presently supported by the National Science Foundation.
2. Balloon and Rocket Payload support for infrared and X-ray Astronomy.
3. Development of Budgets at NSF.
4. Research review at the National Observatories.

The meeting shall be open to the public. Individuals who plan to attend should notify Mrs. Marvis M. Rush, Secretary to the Astronomy Section, by telephone (202-632-4196) or by mail (Room 305, 1800 G Street, NW., Washington, D.C. 20550) not later than close of business on October 12, 1973.

Persons who require further information concerning this Panel may contact Dr. Robert Fleisher, Head, Astronomy Section, Room 305, 1800 G Street, NW., Washington, D.C. 20550. Summary minutes of this meeting may be obtained from the Management Analysis Office, Room K-720, 1800 G Street, NW., Washington, D.C. 20550.

T. E. JENKINS,
*Assistant Director for Administration.*

SEPTEMBER 14, 1973.

[FR Doc.73-20393 Filed 9-24-73;8:45 am]

### ADVISORY PANEL FOR ATMOSPHERIC SCIENCES

#### Notice of Meeting

Pursuant to the Federal Advisory Committee Act (P.L. 92-463), notice is hereby given that a meeting of the Advisory Panel for Atmospheric Sciences will be held at 9 a.m. on October 10 and 11, 1973, in Room 511 at 1800 G Street, NW., Washington, D.C. 20550. The purpose of this Panel is to advise the Foundation of the impact of its research support program on the scientific community in atmospheric sciences.

The agenda for this meeting shall include:

OCTOBER 10

MORNING

9:00—Introductory Remarks, Head, Atmospheric Sciences Section.
9:15—NSF Highlights, Division Director, Division of Environmental Sciences.
9:45—Review of NSF Atmospheric Sciences Activities since last Panel meeting (May 8 and 9, 1973), Head, Atmospheric Sciences Section.
10:15—Discussion of Proposal Review Process, Atmospheric Sciences Section staff and Panel members.
12:00—Recess for lunch.

AFTERNOON

1:00—Presentation of the Past, Present, and Future of Weather Modification—A Suggested Role for NSF, Panel members.

OCTOBER 11

MORNING

9:00—Discussions of issues concerning Upper and Lower Atmospheric Research Support:
Discussion of topics pertaining to Lower Atmosphere, Appropriate Panel members and Section staff (to be held in Room 511).
Discussion of topics pertaining to Upper Atmosphere, Appropriate Panel members and Section staff (to be held in Room 650).
12:00—Recess for lunch.

AFTERNOON

1:00—Reassembly of full Panel (Room 511); Panel Summary and Recommendations.
3:00—Adjournment.

The meeting shall be open to the public. Individuals who wish to attend this meeting should notify Dr. Fred D. White, Head, Atmospheric Sciences Section, by telephone (202-632-4198) or by mail (Room 312, 1800 G Street, NW., Washington, D.C. 20550) not later than close of business on October 10, 1973.

Persons who require further information concerning this Panel may contact Dr. Fred D. White, Head, Atmospheric Sciences Section, Room 312, 1800 G Street, NW., Washington, D.C. 20550. Summary minutes may be obtained from the Management Analysis Office, Room K-720, 1800 G Street, NW., Washington, D.C. 20550.

T. E. JENKINS,
*Assistant Director for Administration.*

SEPTEMBER 13, 1973.

[FR Doc.73-20395 Filed 9-24-73;8:45 am]

### ADVISORY PANEL FOR EXPERIMENTAL R&D INCENTIVES, PUBLIC SECTOR SUBCOMMITTEE

#### Notice of Meeting

Pursuant to the Federal Advisory Committe Act (P.L. 92-463), notice is hereby given that a meeting of the Public Sector Subcommittee of the Advisory Panel for Experimental R&D Incentives will be held at 9 a.m. on October 9, 1973, in Room 550 at 1800 G Street, NW., Washington, D.C. 20550. The purpose of this Subcommittee is to review and evaluate program plans of the Public Sector Office, Office of Experimental R&D Incentives. The agenda for this meeting shall include:

MORNING

9:00—Introduction, Subcommittee Chairman.
9:30—Comments of Advisory Panel for Experimental R&D Incentives on FY 1973 Activities, Panel member:
1. Background and Definition studies.
2. Experiments.
10:45—Coffee break.
11:00—Review of Proposed FY 1974 Activities, Subcommittee Chairman.
11:45—Recess for lunch.

AFTERNOON

1:30—Comments of Advisory Panel for Experimental R&D Incentives on Proposed FY 1974 Activities, Panel member:
1. Proposed Target Areas for Experimental Activity.
2. Proposed Target Areas for Exploratory Study.
3:30—Coffee break.
3:45—Summary and Recommendations, Subcommittee Chairman.
4:30—Public Questions and Comments.
5:00—Adjournment.

The meeting shall be open to the public. Individuals who wish to attend this meeting should notify Mr. Elisha C. Freedman, Head, Public Sector Office, Office of Experimental R&D Incentives, by telephone (202-632-5778) or by mail (Room 549, 1800 G Street, NW., Washington, D.C. 20550) not later than close of business on October 4, 1973.

Persons who require further information concerning this Subcommittee may contact Mr. Elisha C. Freedman, Head, Public Sector Office, Office of Experimental R&D Incentives, Room 549, 1800 G Street, NW., Washington, D.C. 20550. Summary minutes of this meeting may be obtained from the Management Analysis Office, Room K-720, 1800 G Street, NW., Washington, D.C. 20550.

T. E. JENKINS,
*Assistant Director for Administration.*

SEPTEMBER 13, 1973.

[FR Doc.73-20394 Filed 9-24-73;8:45 am]

### ADVISORY PANELS FOR REGULATORY AND SYSTEMATIC BIOLOGY

#### Notice of Meetings

Pursuant to the Federal Advisory Committee Act (P.L. 92-463), notice is hereby given of meetings of the following advisory panels including the individuals to contact for further information respecting each panel. The purpose of each of these advisory bodies is to provide advice and recommendations as part of the review and evaluation process for specific proposals and projects.

ADVISORY PANEL FOR REGULATORY BIOLOGY

Date and Time of Meeting: October 11 and 12, 1973; 9 a.m.

Location of Meeting: Room 321, 1800 G Street, NW., Washington, D.C. 20550

Agenda: The agenda will be devoted to the review and evaluation of research proposals.

For Further Information, Contact: Dr. John W. Mehl, Deputy Division Director, Division of Biological and Medical Sciences, Room 325, 1800 G Street, NW., Washington, D.C. 20550

ADVISORY PANEL FOR SYSTEMATIC BIOLOGY

Date and Time of Meeting: October 12 and 13, 1973; 9 a.m.

Location of Meeting: Room 338, 1800 G Street, NW., Washington, D.C. 20550

Agenda: The agenda will be devoted to the review and evaluation of research proposals.

For Further Information, Contact: Mr. William E. Sievers, Associate Program Director, Systematic Biology Program, Room 331, 1800 G Street, NW., Washington, D.C. 20550





These meetings are concerned with matters which are within the exemptions of the Freedom of Information Act, 5 U.S.C. 552(b) and will not be open to the public in accordance with the determination by the Director of the National Science Foundation dated January 15, 1973, pursuant to the provisions of Section 10(d) of the Federal Advisory Committee Act.

T. E. JENKINS,
*Assistant Director for Administration.*

SEPTEMBER 13, 1973.

[FR Doc.73-20396 Filed 9-24-73;8:45 am]

## CANAL ZONE POSTAL SERVICE

### CERTAIN POSTAGE RATES

#### Notice of Change

The Canal Zone Government hereby gives notice of certain changes in postage rates as set out in the schedule below. These rates will govern until such time as the permanent postage rates which have been prescribed by the U.S. Postal Service, effective September 9, 1973 (38 FR 24002. September 5, 1973; 37 FR 13148-50, July 1, 1972) are modified, superseded, revoked, or incorporated in Title 39 Code of Federal Regulations. The purpose of this notice is to advise of administrative action that will retain the established relationship between United States and Canal Zone postage rates.

SCHEDULE OF POSTAGE RATES

I. Domestic Postage Rates:

| Second class | Zones 1 and 2[1] (Cents) | Zone 8[2] (Cents) |
|---|---|---|
| Regular rate publications: | | |
| Nonadvertising portion (per pound) | 4.9 | 4.9 |
| Advertising portion (per pound) | 6.8 | 17.8 |
| Minimum-per-piece: | | |
| 5,000 copies per issue or more | 1.3 | 1.3 |
| Less than 5,000 copies per issue | 0.8 | 0.8 |
| Per-piece charge: (In addition to foregoing) 5,000 copies per issue or more | 0.6 | 0.6 |
| Less than 5,000 copies | 0.2 | 0.2 |
| Publication of authorized nonprofit organizations: | | |
| Nonadvertising portion (per pound) | 2.7 | 2.7 |
| Advertising portion (per pound) | 4.8 | 10.4 |
| Minimum-per-piece | 0.2 | 0.2 |
| Per-piece charge (in addition to foregoing) | 0.3 | 0.3 |
| Classroom publications: | | |
| Nonadvertising portion (per pound) | 2.6 | 2.6 |
| Advertising portion (per pound) | 4.1 | 11.7 |
| Minimum-per-piece | 0.8 | 0.8 |
| Per-piece charge (in addition to foregoing) | 0.3 | 0.3 |

[1] Zones 1 and 2 are applicable to second class mail destined to the Canal Zone.
[2] Zone 8 rates are applicable to second class mail destined to the United States, its territories and possessions and the Commonwealth of Puerto Rico.
NOTE.—The second class transient rate remains unchanged.

| | Cents |
|---|---|
| Controlled circulation: | |
| Per pound | 15.0 |
| Minimum-per-piece | 4.3 |
| Third class: | |
| Non-profit bulk: | |
| Ordinary matter—per pound | 11.0 |
| Minimum-per-piece | 1.7 |
| Books, catalogs, etc.—per pound | 9.0 |
| Minimum-per-piece | 1.7 |

NOTE.—No change with respect to regular rate third-class mail rates.

| | |
|---|---|
| Fourth class: | |
| Special rate (educational): | |
| First pound | 16.0 |
| Each additional pound | 8.0 |
| Library rate: | |
| First pound | 6.0 |
| Each additional pound | 3.0 |

II. International Postage Rates:
*Surface rates: Books and Sheet music.*
To PUAS countries except Spain and Spanish possessions:

| Pounds: | Rate |
|---|---|
| 1 | $0.17 |
| 2 | .24 |
| 4 | .36 |
| 6 | .54 |
| 8 | .72 |
| 10 | .90 |
| 11 | 1.08[3] |
| 12 | 1.08 |
| Each additional 2 pounds or fraction | 0.18[4] |

To all other countries including Spain and Spanish possessions:

| Pounds: | Rate |
|---|---|
| 1 | $0.17 |
| 2 | .28 |
| 4 | .48 |
| 6 | .72 |
| 8 | .96 |
| 10 | 1.20[5] |
| 11 | 1.44 |

[3] Eleven pounds is maximum weight limit to Canada.
[4] The provisions of 39 CFR relating to weight limits are applicable in the Canal Zone.
[5] Charge 24 cents for each additional 2 pounds or fraction on packages weighing over 10 and up to 22 pounds, destined for Spain and Spanish possessions.

Effective date.—The changes in postage rates referred to in this notice became effective at 12:01 a.m. September 9, 1973. (2 C.Z.C. sections 1131-1133, 76A Stat. 38-39)

[SEAL] DAVID S. PARKER,
*Governor of the Canal Zone.*

[FR Doc.73-20207 Filed 9-24-73;8:45 am]

## SECURITIES AND EXCHANGE COMMISSION

[811-2029]

### CNA ASSOCIATION MEMBERS FUND, INC.

#### Notice of Filing of Application for Order Declaring Company Has Ceased To Be an Investment Company

SEPTEMBER 18, 1973.

Notice is hereby given that CNA Association Members Fund, Inc., 245 Park Ave., New York, New York 10017 (Applicant), an open-end, diversified management investment company registered under the Investment Company Act of 1940 (the Act), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment Company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant was organized as a Delaware corporation on February 13, 1970, and registered under the Act by filing a Form N-8A Notification of Registration on February 20, 1970.

Applicant represents that it never made a public offering of its shares, has no intention of making a public offering in the future, and at present has no shareholders. Applicant's registration statement under the Securities Act of 1933 was withdrawn on August 2, 1973, by order of the Commission.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than October 12, 1973 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon the Applicant at the address stated above. Proof of such service (by affidavit, or in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in said application, unless an order for a hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-20337 Filed 9-24-73;8:45 am]

[File No. 1-7167]

### CHICAGO BOARD OPTIONS EXCHANGE, INC. AND CHICAGO BOARD OPTIONS EXCHANGE CLEARING CORP.

#### Notice of Application and Opportunity for Hearing

SEPTEMBER 17, 1973.

Notice is hereby given that Chicago Board Options Exchange, Incorporated (Exchange) and Chicago Board Options Exchange Clearing Corporation (Clearing Corp.), (both referred to as Applicant) have filed an application pursuant



V 38-185 SEP 25 73 XUM

to section 12(h) of the Securities Exchange Act of 1934, as amended, ("the Act"), for an order exempting them from the provisions of sections 13(a), 13(d), 13(e), 14(d), 15(d), and 16 of the Act.

Section 12(h) empowers the Commission to exempt, in whole or in part, any issuer or class of issuers from the registration, periodic reporting and proxy solicitation sections of the Act, if the Commission finds by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, or otherwise, that such exemption is not inconsistent with the public interest or the protection of investors.

The application of the Exchange and the Clearing Corp. states in part:

Chicago Board Options Exchange Clearing Corp. is a wholly owned subsidiary of the Chicago Board Options Exchange, Incorporated. The Exchange is a registered national securities exchange under the Securities Exchange Act of 1934. The Clearing Corp. has registered under the Securities Act of 1933, call option contracts to be purchased or sold in transactions on the Exchange. The Clearing Corp. has also registered these option contracts under section 12(b) of the Securities Exchange Act of 1934.

Applicant points out that since securities that will be the subject of the call option contracts will be issued by persons other than and not affiliated with the Exchange or the Clearing Corporation and the underlying stocks will themselves all be registered under the provisions of Section 12 of this Act:

1. Those sections of the Act that require information on the financial condition and business of the Clearing Corporation as issuer do not furnish necessary information to the investor in the Options since the value of the Options does not depend upon the business of the Clearing Corporation but instead reflects the value of the underlying stock;

2. Those sections of the Act which provide full disclosure in connection with cash tender offers and other acquisitions of registered equity securities for the purpose of obtaining control of the issuer should not be applicable to the Chicago Board Options because these Options do not represent any possibility of control over the issuer thereof, the Clearing Corporation; and

3. The section of the Acts designed to prevent the improper use by an insider of nonpublic information should not be applicable since the holder of a Chicago Board Option cannot benefit from any inside information concerning the Clearing Corporation because the value of the option depends on the value of the underlying stock, not on the business of the Clearing Corporation.

For a more detailed statement of the information, all persons are referred to said application which is on file in the offices of the Commission at 500 North Capitol Street NW., Washington, D.C.

Notice is further given that any interested persons not later than October 17, 1973, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-20338 Filed 9-24-73;8:45 am]

---

[File No. 500-1]

## HOME-STAKE PRODUCTION CO.

### Order Suspending Trading

SEPTEMBER 17, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $2.50 par value, and all other securities of Home-Stake Production Company being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

*It is ordered*, Pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 17, 1973, through September 26, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-20339 Filed 9-24-73;8:45 am]

---

[70-5389]

## MISSISSIPPI POWER CO.

### Notice of Proposed Agreement With State Authority for Construction of Pollution Control Facilities Financed by Sale of Revenue Bonds

SEPTEMBER 17, 1973.

Notice is hereby given that Mississippi Power Company, 2992 West Beach, Gulfport, Mississippi 39501 (Mississippi), an electric utility subsidiary company of The Southern Company, a registered holding company, has filed a declaration with this Commission designating sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 (Act) and Rule 50(a)(4) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

Mississippi is engaged in building a steam electric generating plant (Plant) on or near the Pascagoula River in Jackson County, Mississippi. The Plant will initially consist of two 500 megawatt steam generating units which will require a significant supply of water for cooling and other purposes. Current thermal water pollution control requirements of the Mississippi Air and Water Pollution Control Commission prescribe maximum temperature limits for cooling water effluent, and would prohibit discharge into the Pascagoula River or any natural waterway of cooling water used in the Plan on a "once through" basis. In order to comply with the thermal discharge criteria, Mississippi has entered into a "Water Pollution Control Agreement", dated April 5, 1973, and an amendment thereto, dated August 28, 1973 (Agreement), with the Jackson County Port Authority, an agency of the State of Mississippi, and the Board of Supervisors of Jackson County, Mississippi (herein collectively called the "County").

Pursuant to the Agreement it is proposed, among other things, that the County will construct, operate and maintain thermal water pollution control facilities and a system (herein collectively referred to as the "Facilities") for the supply to Mississippi of cooling water for said units of the generating plant.

The total cost of these Facilities is estimated at approximately $17,250,000, which is to be financed from the proceeds of the issuance and sale by the County of its Water Pollution Control Revenue Bonds (Bonds), in an aggregate principal amount not exceeding $17,250,000. The Bond proceeds will be initially deposited with a trustee (Trustee) designated by the County in a resolution authorizing and creating the Bonds (the form of which will be filed by amendment); and may be withdrawn as needed for construction of the Facilities and the expenses of issuance.

The duration of the primary term of the Agreement (which will correspond to the term of the Bonds) will be supplied herein by amendment. During said primary term Mississippi will be obligated to pay monthly for water service rendered by the County in amounts sufficient (i) to pay the County's operating and maintenance costs of the Facilities, (ii) for the payment of principal and interest on the Bonds and the fees and expenses of the Trustee, (iii) to establish a reserve fund not to exceed $500,000 for maintenance, operation and repairs, and (iv) to provide a margin to the County in an amount equal to 3% of the County's operation and maintenance costs. The Agreement provides that under certain circumstances the County may provide service to third parties from the Facilities and that in any such event provision is made for reimbursement to Mississippi of a fair allocated portion of the amounts under (i) and (ii) above. The Agreement provides for up to two five-year renewal terms, each at Mississippi's option, and for payment during such terms of the County's operation and maintenance costs, plus 3 percent thereof as a margin and a reserve fund to be agreed upon.





It is stated that the Bonds will not constitute general obligations of the County, but will be revenue bonds, the principal of and interest on which will be payable solely out of funds paid by Mississippi pursuant to the Agreement. The Agreement may be pledged by the County as security for the payment of the Bonds; in addition, payment of principal and interest on the Bonds will be guaranteed by Mississippi under terms of a Guaranty Agreement among Mississippi, the County, and the Pascagoula-Moss Point Bank of Pascagoula, Mississippi, as trustee.

It is contemplated that, in accordance with its usual practice, the County will sell the Bonds at competitive bidding, and in this connection the County has engaged the services of Smith, Barney & Co. Incorporated, investment bankers, as its financial advisor. In accordance with the laws of the State of Mississippi, the interest rate or rates to be borne by the Bonds will be fixed by the Board of Supervisors of the County. While Mississippi will not be party to the underwriting arrangements for the Bonds, the Agreement provides that terms of the offering shall be satisfactory to Mississippi. It is stated that the Internal Revenue Service has ruled that interest on the Bonds will be exempt from Federal income taxation. Mississippi has been advised that the annual interest rates on obligations, interest on which is so tax exempt, historically have been, and can be expected at the time of the issue of the Bonds to be, 1½ percent to 2½ percent lower than the rates on obligations of like tenor and comparable quality, interest on which is fully subject to Federal income taxation.

Mississippi expects the proposed transactions to be consummated prior to December 31, 1973. For accounting and financial reporting purposes the proposed transactions will be capitalized by Mississippi.

It is stated that none of the proposed transactions are subject to the jurisdiction of any State commission or any Federal commission other than this Commission. A statement of the fees and expenses to be incurred in connection with the proposed transactions will be filed by amendment.

Notice is further given that any interested person may, not later than October 11, 1973, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from its rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-20340 Filed 9-24-73;8:45 am]

---

## SMALL BUSINESS ADMINISTRATION

[License No. 04/05-0011]

### VICKSBURG SMALL BUSINESS INVESTMENT COMPANY

#### Filing of Application for Approval of Conflict of Interest Transaction

Notice is hereby given that Vicksburg Small Business Investment Company (Vicksburg), 302 First National Bank Building, Vicksburg, Mississippi 39180, a Federal licensee under the Small Business Investment Act of 1958, as amended (Act), has filed an application with the Small Business Administration (SBA), pursuant to sec. 312 of the Act and covered by § 107.1004 of the SBA rules and regulations governing Small Business Investment Companies (13 CFR Part 107.1004(1973)), for approval of a conflict of interest transaction falling within the scope of the above section of the Act and regulations.

Subject to such approval, Vicksburg proposes to provide financing to River Barges, Inc. (River). River is an operator of river-going barges.

The proposed financing is brought within the purview of sec. 107.1004 of the Regulations since Raymond B. May (Raymond) is the brother of David May, a director and treasurer and owner of less than 10 percent of Vicksburg's stock. Raymond also owns approximately 25 percent of River's stock; is the owner of less than 10 percent of Vicksburg stock. The financing is no more favorable in regard to its terms and conditions than other financings provided by Vicksburg to other small concerns.

Notice is hereby given that interested persons may, not later than October 10, 1973, submit to SBA in writing, relevant comments on the proposed transaction. Any such communication should be addressed to the Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416. After expiration of the fifteen days, SBA may dispose of this application on the basis of the information contained in the application, the comments (if any) which are received, and other relevant data.

Dated September 17, 1973.

JAMES THOMAS PHELAN, *Deputy Associate Administrator for Investment.*

[FR Doc.73-20350 Filed 9-24-73;8:45 am]

---

## TARIFF COMMISSION

[332-70]

### CONVERSION OF TARIFF SCHEDULES OF THE UNITED STATES INTO FORMAT OF BRUSSELS TARIFF NOMENCLATURE

#### Notice of Change in Deadline

On August 4, 1972, in response to a request by the President of the United States, the U.S. Tariff Commission instituted a study, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), for the preparation of a draft conversion of the Tariff Schedules of the United States (TSUS) to conform to the Brussels Tariff Nomenclature (BTN). The President has notified the Commission that the date for submission of the revised draft of the Tariff Schedules and a report on the probable economic effect on U.S. industries and trade if such revision were to be adopted has been extended from September 30, 1973, to September 30, 1974.

In due course the Commission will schedule public hearings in connection with the study. Appropriate public notice will be issued with respect to such hearings.

By order of the Commission.

Issued September 19, 1973.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.73-20389 Filed 9-24-73;8:45 am]

---

[TEA-W-212]

### FORANN CORP.

#### Workers' Petition for a Determination: Notice of Investigation

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the former workers of the Forann Corporation, Brooklyn, New York, a subsidiary of Herbert Levine, Inc., New York, New York, the United States Taraff Commission, on September 19, 1973, instituted an investigation under section 301(c)(2) of the Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with footwear for women (of the types provided for in items 700.20, 700.45 and 700.55 of the Tariff Schedules of the United States) produced by said firm are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision thereof.



V 38 185 SEP 25 73 XUM

The optional public hearing afforded by law has not been requested by the petitioners. Any other party showing a proper interest in the subject matter of the investigation may request a hearing, provided such request is filed on or before October 5, 1973.

The petition filed in this case is available for inspection at the Office of the Secretary, United States Tariff Commission, 8th and E. Streets NW., Washington, D.C., and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

By order of the Commission.

Issued: September 19, 1973.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.73-20391 Filed 9-24-73;8:45 am]

[TEA-W-211]

### M. LAUER, INC.

**Workers' Petition for a Determination: Notice of Investigation**

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the former workers of M. Lauer, Inc., Long Island City, New York, the United States Tariff Commission, on September 18, 1973, instituted an investigation under section 301(c)(2) of the Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with footwear for women (of the types provided for in items 700.20, 700.45, 700.55, and 700.68 of the Tariff Schedules of the United States) produced by said firm are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision thereof.

The optional public hearing afforded by law has not been requested by the petitioners. Any other party showing a proper interest in the subject matter of the investigation may request a hearing, provided such request is filed on or before October 5, 1973.

The petition filed in this case is available for inspection at the Office of the Secretary, United States Tariff Commission, 8th and E Streets NW., Washington, D.C., and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

By order of the Commission.

Issued September 19, 1973.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.73-20390 Filed 9-24-73;8:45 am]

[TEA-W-213]

### MATHER CO.

**Workers' Petition for a Determination: Notice of Investigation**

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962, on behalf of the former workers of Plant No. One, Toledo, Ohio, of the Mather Company, Sylvania, Ohio, the United States Tariff Commission, on September 20, 1973, instituted an investigation under section 301(c)(2) of the Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with springs and leaves for springs, of base metal, suitable for motor vehicle suspension (of the types provided for in items 652.84 and 652.85 of the Tariff Schedules of the United States) produced by said firm are being imported into the United States in such increased quantities as to cause, or threaten to cause, the unemployment or underemployment of a significant number or proportion of the workers of such firm or an appropriate subdivision thereof.

The optional public hearing afforded by law has not been requested by the petitioners. Any other party showing a proper interest in the subject matter of the investigation may request a hearing, provided such request is filed on or before October 5, 1973.

The petition filed in this case is available for inspection at the Office of the Secretary, United States Tariff Commission, 8th and E Streets NW., Washington, D.C., and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

By order of the Committee.

Issued September 20, 1973.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.73-20431 Filed 9-24-73;8:45 am]

[TEA-F-55]

### MOXEES SHOE CORP.

**Notice of Investigation and Hearing**

On the basis of a petition filed under section 301(a)(2) of the Trade Expansion Act of 1962 by the Moxees Shoe Corp., Auburn, Maine, a wholly owned subsidiary of Multivisions Corporation, Bellows Falls, Vt., the United States Tariff Commission, on September 17, 1973, instituted an investigation under section 301(c)(1) of the said Act to determine whether, as a result in major part of concessions granted under trade agreements, articles like or directly competitive with footwear for women and children (of the types provided for in items 700.20, 700.43, 700.45 and 700.55 of the Tariff Schedules of the United States) produced by the aforementioned firm or firms, are being imported into the United States in such increased quantities as to cause, or threaten to cause, serious injury to such firm.

A public hearing in connection with this investigation will be held beginning at 10 a.m., e.d.t., on Tuesday, October 9, 1973, in the Hearing Room, U.S. Tariff Commission Building, Eighth and E Streets NW., Washington, D.C. Requests for appearances at the hearing should be received by the Secretary of the Tariff Commission, in writing, at his office in Washington, D.C., not later than noon, Thursday, October 4, 1973.

The petition filed in this case is available for inspection at the Office of the Secretary, United States Tariff Commission, 8th and E Streets NW., Washington, D.C., and at the New York City office of the Tariff Commission located in Room 437 of the Customhouse.

By order of the Commission.

Issued: September 20, 1973.

[SEAL] KENNETH R. MASON, *Secretary.*

[FR Doc.73-20430 Filed 9-24-73;8:45 am]

## DEPARTMENT OF LABOR

**Occupational Safety and Health Administration**

### BURD & FLETCHER CO.

**Variance Application; Interim Order**

I. *Notice of application.* Notice is hereby given that Burd & Fletcher Company, 321 W. Seventh Street, Kansas City, Missouri 64105, has made application pursuant to Section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596), and 29 CFR 1905.11 for a variance, and interim order pending a decision on the application for a variance, from the standards prescribed in 29 CFR 1910.-213(c)(1) concerning guards for circular hand-fed ripsaws.

The address of the place of employment that will be affected by the application is as follows:

Burd & Fletcher Company
321 West Seventh Street
Kansas City, Missouri 64105

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative, and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that it is providing a place of employment as safe as that required by 29 CFR 1910.213(c)(1) which sets the standard for the guarding of circular hand-fed ripsaws.

The applicant states that a manually adjustable clear plastic guard is used when cutting pieces 1 inch or larger. The blade is guarded on 2 sides and the top, rather than completely surrounded by the guard as required by 29 CFR 1910.-213(c)(1). With the guard in place, it is impossible to cut pieces less than 1 inch in width, so the guard is removed while making these cuts, and the piece is held in place with a pick.

A copy of the application will be made available for inspection and copying upon request at the Office of Standards, U.S. Department of Labor, Railway Labor Building, 400 First Street NW., Room 508, Washington, D.C. 20210, and at the following Regional and Area Offices:

*Regional Office*

U.S. Department of Labor
Occupational Safety and
Health Administration
823 Walnut Street
Waltower Bldg.—Rm. 300
Kansas City, Missouri 64106

*Area Office*

U.S. Department of Labor
Occupational Safety and
Health Administration
1627 Main Street—Rm. 1100
Kansas City, Missouri 64108

Interested persons, including affected employers and employees, are invited to submit written data, views, and arguments regarding the application for a variance, not later than October 25, 1973.

In addition, employers and employees who believe they would be affected by a grant or denial of the variance may request a hearing on the application for a variance not later than October 25, 1973, in conformity with the requirements of 29 CFR 1905.15. Submission of written comments and requests for a hearing shall be in quadruplicate, and shall be addressed to the Office of Standards, Room 504.

II. *Interim order.* Burd and Fletcher Company has requested an interim order to be effective pending a decision on the variance.

A. *Grant of interim order.* It appears from the application for a variance and interim order that an interim order is necessary to prevent undue hardship to the applicant pending a decision on the variance, by permitting the use of its present system in certain situations. Therefore, it is ordered, pursuant to authority in Section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 and 29 CFR 1905.11(c) that Burd and Fletcher Company be, and is hereby authorized to use its present system, including the manually adjustable guard described in its application, when making cuts on material 1 inch or greater in width. Burd and Fletcher Company shall give notice of the interim order to employees affected thereby, by the same means required to be used to inform them of the application for a variance.

*Effective date.* This interim order shall be effective as of September 25, 1973, and shall remain in effect until a decision is rendered on the application for variance by Burd and Fletcher Company.

B. *Denial of interim order.* It has been determined that the applicant has not shown that the method it uses to make cuts on material less than 1 inch in width, utilizing a pick to hold the material, is as safe as that required by 29 CFR 1910.213(c)(1).

Therefore, the applicant's request for an interim order is hereby denied for this situation, without prejudice to its application for a variance.

Signed at Washington, D.C., this 18th day of September 1973.

JOHN H. STENDER, *Assistant Secretary of Labor.*

[FR Doc.73-20371 Filed 9-24-73;8:45 am]





### FISHER SCIENTIFIC CO.

**Notice of Application for Variance and Interim Order; Grant of Interim Order**

I. *Notice of application.* Notice is hereby given that Fisher Scientific Company, 711 Forbes Avenue, Pittsburgh, Pennsylvania 15219, has made application pursuant to Section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596), and 29 CFR 1905.11, for a permanent variance and for an interim order pending a decision on the applications, from the Occupational Safety and Health Standards prescribed in 29 CFR 1910.106(d)(5)(v), storage inside buildings.

The addresses of the places of employment affected by these applications are as follows.

Regional Distribution Center
Post Office Box 3400
Somerville, New Jersey 08876

Medford Distribution Branch
461 Riverside Avenue
Medford, Massachusetts 02155

Cincinnati Distribution Branch
5481 Creek Road
Cincinnati, Ohio 45242

Atlanta Distribution Branch
690 Miami Circle
Atlanta, Georgia 30324

Cleveland Distribution Branch
26401 Miles Avenue
Warrensville Heights
Cleveland, Ohio 44128

Pittsburgh Distribution Branch
585 Alpha Drive
Pittsburgh, Pennsylvania 15238

Raleigh Distribution Branch
3315 Winton Road
Raleigh, North Carolina 27604

Washington Distribution Branch
7722 Fenton Street
Silver Spring, Maryland 20910

Rochester Distribution Branch
15 Jetview Drive
Rochester, New York 14624

Houston Distribution Branch
4102 Greenbriar Drive
Houston, Texas 77001

King of Prussia Distribution Branch
191 S. Gulph Road
King of Prussia, Pennsylvania 19406

Springfield Distribution Branch
52 Fadem Road
Springfield, New Jersey 07081

St. Louis Distribution Branch
1241 Ambassador Boulevard
St. Louis, Missouri 63132

Chicago Distribution Branch
1458 North Lamon Avenue
Chicago, Illinois 60651

The applicant certifies that their employees have been informed of the application by giving a copy to the authorized representatives, posting a copy of the application at places where notices to employees are normally posted, and at employee meetings where they were informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that it is providing a place of employment as safe as that required by 29 CFR 1910.106(d)(5)(v) which limits the storage of flammable and combustible liquids.

The applicant requests a variance for each of the facility locations listed above to permit the storage of flammable liquids is accordance with their present procedures, which exceeds the requirements of 29 CFR 1910.106(d)(5)(v) Table H-14. For each facility, the applicant has provided information on the following items: Type and size of storage spaces; class of liquids involved; storage patterns within storage areas; construction characteristics of the building, storage vaults, roofs, walls, doors, sprinklers, electrical fixtures, drainage, ventilation; firefighting capabilities; material handling equipment; and architectural and structural considerations (rules, codes, and regulations).

The applicant states that their facilities are in conformity with the standards or code authorities referenced in the application and have provided employees safe working facilities, operating methods, and procedures.

The applicant further stated that no flammable liquid related accidents or fires of any type have occurred at any of the facilities listed in the application.

The applicant contends that the storage conditions, practices, methods and operations provide employment and places of employment to employees which are as safe and healthful as the requirements of 29 CFR 1910.106(d)(5)(v) from which a variance is sought.

A copy of the application will be made available for inspection and copying upon request at the Office of Standards, U.S. Department of Labor, Railway Labor Building, 400 First Street, NW., Room 504, Washington, D.C. 20210, and at the following Regional and Area Offices:

*Regional Offices*

U.S. Department of Labor
Occupational Safety and Health Administration
1515 Broadway (1 Astor Plaza)
New York, New York 10036

U.S. Department of Labor
Occupational Safety and Health Administration
Gateway Plaza Building
3535 Market Street, Rm. 15220
Philadelphia, Pa. 19104

U.S. Department of Labor
Occupational Safety and Health Administration
300 South Wacker Drive
Room 1201
Chicago, Illinois 60606

U.S. Department of Labor
Occupational Safety and Health Administration
823 Walnut Street
Waltower Building—Room 300
Kansas City, Missouri 64106

U.S. Department of Labor
Occupational Safety and Health Administration
Fourth Floor, 18 Oliver Street
Boston, Massachusetts 02110



V 38-185 SEP 25 73 XUM

U.S. Department of Labor
Occupational Safety and Health Administration
1375 Peachtree Street NE.
Suite 587
Atlanta, Georgia 30309
U.S. Department of Labor
Occupational Safety and Health Administration
7th Floor—Texaco Building
1512 Commerce Street
Dallas, Texas 75201

*Area Offices*

U.S. Department of Labor
Occupational Safety and Health Administration
Custom House Building, State Street
Boston, Massachusetts 02109
U.S. Department of Labor
Occupational Safety and Health Administration
Federal Office Building
970 Broad Street—Rm. 635
Newark, New Jersey
U.S. Department of Labor
Occupational Safety and Health Administration
31 Hopkins Plaza—Charles Center
Baltimore, Maryland 21201
U.S. Department of Labor
Occupational Safety and Health Administration
1361 East Morehead Street
Charlotte, North Carolina 28204
U.S. Department of Labor
Occupational Safety and Health Administration
847 Federal Office Building
1240 East Ninth Street
Cleveland, Ohio 44199
U.S. Department of Labor
Occupational Safety and Health Administration
307 Central National Bank Bldg.
Houston, Texas 77002
U.S. Department of Labor
Occupational Safety and Health Administration
Room 203—Midtown Plaza
700 East Water Street
Syracuse, New York 13210
U.S. Department of Labor
Occupational Safety and Health Administration
1317 Filbert Street—Suite 1010
Philadelphia, Pennsylvania 19107
U.S. Department of Labor
Occupational Safety and Health Administration
1371 Peachtree Street, N.E., Rm. 723
Atlanta, Georgia 30309
U.S. Department of Labor
Occupational Safety and Health Administration
300 South Wacker Drive, Rm. 1200
Chicago, Illinois 60606
U.S. Department of Labor
Occupational Safety and Health Administration
Room 5522 Federal Office Bldg.
550 Main Street
Cincinnati, Ohio 45202
U.S. Department of Labor
Occupational Safety and Health Administration
210 North 12th Boulevard, Room 554
St. Louis, Missouri 63101

Interested persons, including affected employers and employees, are invited to submit written data, views, and arguments regarding the application for a variance not later than October 25, 1973.

In addition, employers and employees who believe they would be affected by a grant or denial of the variance may request a hearing on the application for a variance not later than October 25, 1973, in conformity with the requirements of 29 CFR 1905.15. Submissions of written comments and requests for a hearing shall be in quadruplicate, and shall be addressed to the Office of Standards at the above address.

II. *Interim order.* It appears from the application for a variance and interim order; and supporting data that an interim order is necessary to avoid undue hardships pending the decision on the merits of the application. Therefore, it is ordered, pursuant to authority in Section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970, and 29 CFR 1905.11(c) that Fisher Scientific Company be, and is hereby authorized to continue the storage of flammable liquids in accordance with their present procedures at their facilities listed above.

Fisher Scientific Company shall give notice of this interim order to employees affected thereby, by the same means required to be used to inform them of the application for a variance.

*Effective date.* This interim order shall be effective as of September 25, 1973, and shall remain in effect until a decision is rendered on the application for variance by Fisher Scientific Company.

Signed at Washington, D.C., this 18th day of September 1973.

JOHN H. STENDER,
*Assistant Secretary.*

[FR Doc.73-20325 Filed 9-24-73;8:45 am]

## NEW MEXICO DEVELOPMENTAL PLAN

### Submission of Plan and Availability for Public Comment

1. *Submission and description of plan.* Pursuant to section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) and § 1902.11 of Title 29, CFR, notice is hereby given that an Occupational Safety and Health Plan for the State of New Mexico has been submitted to the Assistant Secretary of Labor for Occupational Safety and Health for approval. A preliminary examination of the plan raises serious questions involving its enforcement and penalty provisions that put in issue not only the approval but possible disapproval of the plan. The questions are discussed below in this numbered paragraph. In order to insure that the public has an opportunity to discuss these issues and to identify and discuss any additional issues, interested persons are hereby invited to submit in writing data, views, and arguments on the Plan within the time provided under paragraph no. 3 of this notice.

The Plan designates the Environmental Improvement Agency of the State Health and Social Services Department as the agency responsible for administering and enforcing the Plan throughout the State. It defines the occupational safety and health issues as defined in 29 CFR 1902.2(c)(1).

Although New Mexico has enacted enabling legislation, the New Mexico Occupational Health and Safety Act, N.M.S.A. 59-14-1 et seq., the plan is still developmental. Steps remain which are intended to make the Plan as effective as the Federal program. The Plan contains a developmental schedule which anticipates full operation 30 months after approval. The Plan is accompanied by a statement of the Governor's support and an opinion by the Attorney General that the proposed Plan is consistent with the Constitution and laws of the State of New Mexico.

A preliminary examination of the New Mexico State Plan reveals several areas where its provisions differ substantially from the Federal Act. The Plan provides mandatory sanctions only in imminent danger situations, and not for other situations involving serious violations, the procedure for enforcement of civil penalties is different, and the limits on penalties themselves are in lesser amounts than those of the Federal Act. Public comments are particularly invited on these matters.

2. *Location of Plan for Inspection and Copying.* A copy of the Plan may be inspected and copied during normal business hours at the following locations: Office of Federal and State Operations, Occupational Safety and Health Administration, Room 305, 400 First Street, NW., Washington, D.C. 20210; Assistant Regional Director, Occupational Safety and Health Administration, Suite 600, Texaco Building, 1512 Commerce Street, Dallas, Texas 75201 and the Occupational Health and Safety Section, Environmental Improvement Agency, P.O. Box 2348, Santa Fe, New Mexico 87501.

3. *Public Participation.* Interested persons are hereby given until October 25, 1973, to submit to the Assistant Secretary written data, views, and arguments concerning the Plan. The submissions are to be addressed to the Director, Office of Federal and State Operations, Room 305, 400 First Street, NW., Washington, D.C. 20210. The written comments will be available for public inspection and copying at the above address.

Any interested person(s) may request an informal hearing concerning the proposed Plan, or any part thereof, whenever particularized written objections thereto are filed by October 25, 1973. If the Assistant Secretary finds that substantial objections are filed, he shall hold a formal or informal hearing on the subjects and issues involved.

The Assistant Secretary for Occupational Safety and Health shall thereafter consider all relevant comments and arguments presented and issue his decision as to approval or disapproval of the Plan.

Signed at Washington, D.C., this 18th day of September 1973.

JOHN H. STENDER,
*Assistant Secretary of Labor.*

[FR Doc.73-20413 Filed 9-24-73;8:45 am]





## ROLLINS COLLEGE

### Notice of Application for Variance

*Notice of application.* Notice is hereby given that Rollins College, Winter Park, Florida, 32789 has made application pursuant to section 6(d) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1596) and 29 CFR 1905.11 for a variance from the standards prescribed in 29 CFR 1910.37(i) concerning means of egress.

The address of the place of employment that will be affected by the application is as follows:

Eleven dormitories (Rollins, Hooker, Lyman, Gale, Pugsley, Mayflower, Cross, Strong, Corrin, Fox, Rex Beach) at Rollins College, Winter Park, Florida 32789.

The applicant certifies that employees who would be affected by the variance have been notified of the application by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant contends that it is providing a place of employment as safe as that required by 29 CFR 1910.37(i) which sets the minimum ceiling height for means of egress at 7'6".

The applicant proposes to install acoustical ceilings in the corridors at a height of 7½". This ceiling will provide a cover for air conditioning pipes and a base for lighting and fire detectors. The clearance requirement of 6'8" for obstructions will be maintained. The corridors have a maximum travel distance to protected stairs or exists of 30 feet, with a maximum of 13 rooms opening onto a corridor. All functioning rooms have outside windows for alternate means of egress. The buildings are equipped with an automatic fire alarm system which has ionization detectors for very early warning. The system automatically relays alarms to the city fire department located within ½ mile of the buildings.

A copy of the application will be made available for inspection and copying upon request at the Office of Standards, U.S. Department of Labor, Railway Labor Building, 400 First Street NW., Room 508, Washington, D.C. 20210, and at the following Regional and Area Offices:

*Regional Office*

U.S. Department of Labor
Occupational Safety and Health Administration
1375 Peachtree Street, NE.
Suite 587
Atlanta, Georgia 30309

*Area Office*

U.S. Department of Labor
Occupational Safety and Health Administration
2809 Art Museum Drive
Suite 4
Jacksonville, Florida 32202

Interested persons, including affected employers and employees, are invited to submit written data, views, and arguments regarding the application for a variance, not later than October 25, 1973.

In addition, employers and employees who believe they would be affected by a grant or denial of the variance may request a hearing on the application for a variance not later than October 25, 1973, in conformity with the requirements of 29 CFR 1905.15. Submission of written comments and requests for a hearing shall be in quadruplicate, and shall be addressed to the Office of Standards, Room 504.

Signed at Washington, D.C., this 18th day of September 1973.

JOHN H. STENDER,
*Assistant Secretary of Labor.*

[FR Doc.73-20372 Filed 9-24-73;8:45 am]

## SPRAGUE

### Notice of Application for Variance and Interim Order; Grant of Interim Order

I. *Notice of application.* Notice is hereby given that Sprague, L.P.G. Division, P.O. Box 327, Cedartown, Georgia 30125 has made application pursuant to Section 6(b)(6)(A) of the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1594), and 29 CFR 1905.10 for a variance, and interim order pending a decision on the application for a variance, from the standards prescribed in 29 CFR 1910.107(c)(6), (7) concerning spray finishing using flammable and combustible materials.

The address of the place of employment that will be affected by the application is as follows:

Sprague
L.P.G. Division
811 West Avenue
Cedartown, Georgia 30125

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative, and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant states that a time extension until May 1, 1974 is needed to come into compliance with 29 CFR 1910.107(c)(6), (7) which sets standards for wiring motors and lamps within 20 feet of a spray finishing area.

The applicant states that it has electrical motors, wiring, and other equipment outside of, but within 20 feet of, the spraying area. Since this equipment cannot be moved, the applicant states that it is presently in compliance by using a water soluble paint. However, it is impossible to produce a satisfactory product with this type of paint. The applicant, therefore, requests a temporary variance to permit the use of flammable paints and enamels while a new facility is under construction.

The applicant states that plans have been drawn for a new building which will house all spraying operations in compliance with 29 CFR 1910.107. Construction of the new building will begin soon after September 15, 1973 and be completed by February 1, 1974. The new building will be fully operational by May 1, 1974.

In order to protect employees in the interim, the applicant states that all flammable liquids have been removed from the spraying area except what is actually involved in a spraying operation. The flammable liquids used in the spray booth will be placed in approved safety containers.

A copy of the application will be made available for inspection and copying upon request at the Office of Standards, U.S. Department of Labor, Railway Labor Building, 400 First Street, N.W., Room 504, Washington, D.C. 20210, and at the following Regional and Area Offices:

*Regional Office*

U.S. Department of Labor
Occupational Safety and Health Administration
1375 Peachtree Street, N.E.
Suite 587
Atlanta, Georgia 30309

*Area Office*

U.S. Department of Labor
Occupational Safety and Health Administration
1371 Peachtree Street, N.E.
Room 723
Atlanta, Georgia 30309

Interested persons, including affected employers and employees, are invited to submit written data, views, and arguments regarding the application for a variance, not later than October 25, 1973. In addition, employers and employees who believe they would be affected by a grant or denial of the variance may request a hearing on the application for a variance not later than October 25, 1973, in conformity with the requirements of 29 CFR 1905.15. Submission of written comments and requests for a hearing shall be in quadruplicate, and shall be addressed to the Office of Standards at the above address.

II. *Interim order.* It appears from the application for a variance and interim order, that an interim order is necessary to prevent undue hardship pending a decision on the variance application. Therefore it is ordered, pursuant to authority in Section 6(b)(6)(A) of the Williams-Steiger Occupational Safety and Health Act of 1970, and 29 CFR 1905.10(c) that Sprague be, and is hereby authorized to use paints and enamels in its spraying operations in the manner described in its application.

Sprague shall give notice of this interim order to employees affected thereby, by the same means required to be used to inform them of the application for a variance.

*Effective date.*—This interim order shall be effective as of September 25, 1973, and shall remain in effect until a decision is redered on the application for variance by Sprague.

Signed at Washington, D.C., this 18th day of September 1973.

JOHN H. STENDER,
*Assistant Secretary of Labor.*

[FR Doc.73-20373 Filed 9-24-73;8:45 am]



V 38-185 SEP 25 73 XUM

## INTERSTATE COMMERCE COMMISSION

[Notice No. 348]

### ASSIGNMENT OF HEARINGS

SEPTEMBER 20, 1973.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

Finance Docket No. 27438, National Railroad Passenger Corporation, Discontinuance of Trains Nos. 98 and 99 Between Norfolk/Newport News and Richmond, Virginia, now assigned October 24, 1973, at Newport News, Virginia, will be held in U.S. Post Office and Courthouse Bldg., Judge Hoffman's Courtroom, 101 25th Street; now assigned October 26, 1973, at Richmond, Virginia, will be held in Room 1035, 400 N. 8th Street.

No. 35863, Montana Intrastate Rail Freight Rates and Charges, 1973, now being assigned hearing November 28, 1973 (3 days), at Billings, Mont., in a hearing room to be later designated.

MC 128527 Sub 38, May Trucking Co., now being assigned hearing December 3, 1973 (1 week), at Boise, Idaho, in a hearing room to be later designated.

MC–F–11918, Lynden Transport, Inc.—Purchase—Alaska Transfer, Inc., now being assigned December 10, 1973 (2 days), at Seattle, Wash., in a hearing room to be later designated.

MC 114416 Sub 6, Elkins Transport Service, Inc., now being assigned hearing December 14, 1973 (3 days), at Seattle, Wash., in a hearing room to be later designated.

I&S No. 8863, Switching and Minimum Carload Charges, Houston, Texas, is continued to October 1, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 138237, Metro Heavy Hauling, Inc., now assigned October 1, 1973, at Olympia, Washington, is postponed indefinitely.

MC 263 Sub 204, Garrett Freightlines, Inc., now being assigned hearing November 26, 1973 (2 weeks), at Salt Lake City, Utah, in a hearing room to be later designated.

MC–29886 Sub 272, Dallas & Mavis Forwarding Co., application is dismissed.

MC–F–11851, Smith Transfer Corporation—Control—Brady Motorfrate, Inc., MC–F–11853, Lee Way Motor Freight, Inc.—Purchase (Portion)—Brady Motorfrate, Inc., MC–F–11876, Burgmeyer Bros., Inc.—Purchase (Portion)—Brady Motorfrate, Inc., now being assigned hearing November 26, 1973 (2 weeks), at Kansas City, Mo., in a hearing room to be later designated.

MC 97310 Subs 11 and 12, Bell Transfer Company, Inc., continued to October 29, 1973, will be held in the East Courtroom, U.S. Court of Appeals, 600 Camp Street, New Orleans, Louisiana.

MC 128944 Sub 10, Reliable Truck Lines, Inc., is continued to November 5, 1973, at Nashville, Tenn., Sheraton-Nashville Hotel, State Room, 920 Broadway.

MC 124692 Sub 108, Sammons Trucking, now being assigned hearing October 29, 1973 (2 weeks), at Portland, Oregon, will be held in Room 401, 450 Multnomah Bldg., 319 SW. Pine Street.

MC 113495 Sub 56, Gregory Heavy Haulers, Inc., now assigned October 4, 1973, at Chicago, Ill., is cancelled and application dismissed.

MC 71459 (Sub-No. 31), O. N. C. Freight Systems, now assigned continued hearing October 9, 1973, at Salt Lake City, Utah, is postponed to November 5, 1973, at Salt Lake City, Utah, in a hearing room to be later designated.

MC 128944 Sub 11, Reliable Truck Lines, Inc., MC 136678, Alabama-Tennessee Express, Inc., continued to December 3, 1973, at the Read House & Motor Inn, Broad and 9th Sts., Chattanooga, Tenn.

MC 111878 Sub 6, Babbitt Bros., Inc., Extension Stanley, Wis.; now assigned September 24, 1973, will be held in Court Room No. 3, Federal Building, 316 N. Robert St., St. Paul, Minn.

FD–24679, Spokane, Portland & Seattle Railway Company and Union Pacific Railroad Co.—Control—Peninsula Terminal Co., FD–24890, Southern Pacific Co.—Common Use of Terminal Facilities Peninsula Terminal Co., FD–24891 Southern Pacific Co.—Common Use of Certain Terminal Facilities—Union Pacific Railroad Co., now assigned October 9, 1973, will be held in Room 401, Multnomah Bldg., 319 SW. Pine Street, Portland, Oreg.

MC–124692 Sub 96, Sammons Trucking, now assigned October 1, 1973, will be held in Room 401, Multnomah Bldg., 319 SW. Pine Street, Portland, Oreg.

MC 82841 Sub 118, Hunt Transportation, Inc., now being assigned hearing November 5, 1973 (1 week), at Chicago, Ill., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-20426 Filed 9-24-73;8:45 am]

[Notice No. 356]

### MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's Special Rules of Practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before October 15, 1973. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC–FC–74277. By order entered September 17, 1973, the Motor Carrier Board approved the transfer to Anthony P. Sparacino and Ralph Sparacino, a partnership, doing business as Sparacino Brothers, of the operating rights set forth in Certificates Nos. MC–7585 (Sub-No. 2), and MC–7585 (Sub-No. 4), issued by the Commission December 19, 1957, and April 22, 1971, respectively, to Anthony Sparacino, John Sparacino, and Ralph Sparacino, a partnership, doing business as Sparacino Bros., Scranton, Pa., authorizing the transportation of household goods, as defined by the Commission, between Scranton, Pa., and points within 25 miles of Scranton, on the one hand, and, on the other, points in New York, New Jersey, Connecticut, and Maryland; and used household goods, between specified counties in Pennsylvania, with certain restrictions—James J. Powell III, 700 Mears Building, Scranton, Pa. 18503, attorney for applicants.

No. MC–FC–74278. By order entered September 17, 1973, the Motor Carrier Board approved the transfer to Anthony P. Sparacino and Ralph Sparacino, a partnership, doing business as Sparacino Brothers, Scranton, Pa., of the operating rights set forth in Certificate No. MC–136104, issued by the Commission May 1, 1972, to Thomas J. Cerep, doing business as Richie Moving & Storage Co., Scranton, Pa., authorizing the transportation of household goods, between Ashland, Pa., and points within 25 miles of Ashland, on the one hand, and, on the other, points in Pennsylvania, Ohio, West Virginia, Virginia, New Jersey, New York, Maryland, Delaware, and the District of Columbia—James J. Powell III, 700 Mears Building, Scranton, Pa. 18503, attorney for applicants.

No. MC–FC–74566. By order of September 18, 1973, the Motor Carrier Board approved the transfer to Seco Trucking, Inc., Memphis, Tenn., of Certificate No. MC–133936 issued November 19, 1970, to Lesco, Inc., Memphis, Tenn., authorizing the transportation of: (1) New Furniture, (2) premiums, prizes, and (3) agricultural commodities otherwise exempt under Section 203(b)(6) of the Interstate Commerce Act when moving in mixed loads with commodities set forth in (1) and (2) above, from Camden, Ark., and Athens, Tenn., to Memphis, Tenn.; and from Memphis, Tenn., to points in Arkansas, Missouri, Mississippi, Kentucky, Tennessee, Louisiana, Alabama, and Georgia—Mr. Robert L. White, Suite 1031, 100 N. Main Building, Memphis, Tenn. 38103.

No. MC–FC–74577. By order of September 18, 1973, the Motor Carrier Board approved the transfer to Spears Trucking Co., Inc., Owens Cross Roads, Ala., of Permit Nos. MC–128581 and MC–128581 (Sub-No. 1), issued October 1, 1969, and December 22, 1969, respectively, to John E. Spears Trucking Co., Owens Cross Roads, Ala., authorizing the transportation of cinder blocks, concrete blocks, and bricks, from Huntsville, Ala., to points in Georgia, Kentucky, Mississippi, North Carolina, and Tennessee and from points in Georgia, Kentucky, Mississippi, North Carolina, and Tennessee, to Huntsville, Ala.—John Z. Higgs Jr., 401 Franklin Street, SE. Huntsville, Alabama 35801.





No. MC–FC–74642. By order of September 14, 1973, the Motor Carrier Board approved the transfer to Freeport Transport, Incorporated, Clearfield, Utah, of Permits Nos. MC–133065 (Sub-No. 8) and (Sub-No. 17) issued March 8, 1971, and April 10, 1973, respectively, to Eckley Trucking and Leasing, Inc., Mead, Nebr., authorizing the transportation of salvage rail track, salvage switches, salvage plates, salvage ties, salvage spikes, and related salvage materials between points in the United States (except Alaska and Hawaii)—Miss Irene Warr, Attorney at Law, 430 Judge Building, Salt Lake City, Utah 84111.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-20427 Filed 9-24-73;8:45 am]

## CUMULATIVE LISTS OF PARTS AFFECTED—SEPTEMBER

**The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during September.**

**1 CFR** — Page

CFR checklist ... 23771

**3 CFR**

PROCLAMATIONS:
4239 ... 24191
4240 ... 24193
4241 ... 24881
4242 ... 26099
4243 ... 26101
4244 ... 26179
4245 ... 26351
4246 ... 26441

EXECUTIVE ORDERS:
11359 (superseded by 11737) ... 24883
11602 (superseded by E.O. 11737) ... 25161
11635 (superseded by 11737) ... 24883
11659 (amended by 11737) ... 24883
11737 ... 24883
11738 ... 25161

Presidential Documents other than Proclamations and Executive Orders:
Memorandum of August 17, 1973 ... 25903

**4 CFR**

400 ... 24195
405 ... 24195

PROPOSED RULES:
331 ... 23971
351 ... 23971, 26072
400 ... 23971
401 ... 23971
402 ... 23971
403 ... 23971
404 ... 23971

**5 CFR**

213 ... 2344, 24885, 25165, 25907, 26181, 26353, 26443, 26675
335 ... 26601
430 ... 26601
451 ... 26601
630 ... 26601
715 ... 26601

**6 CFR**

102 ... 25427
150 ... 24213
140 ... 24214
150 ... 23794, 23931, 24214, 24885, 25427, 25686, 26181, 26611
152 ... 23794, 24214
155 ... 24885

PROPOSED RULES:
Ch. I ... 24917
152 ... 23806, 24219, 24867

**7 CFR** — Page

2 ... 24633
51 ... 23931
52 ... 24344, 25165
201 ... 25661
250 ... 24633
301 ... 25664
354 ... 23934
401 ... 25907
725 ... 23935
777 ... 25665
864 ... 25427
891 ... 26706
905 ... 25665
908 ... 24215, 25431, 25907, 26353, 26601
910 ... 24345, 24890, 25908, 26443
928 ... 24345
930 ... 24890
932 ... 24215
944 ... 26108
948 ... 25667
981 ... 25668, 26181
991 ... 23771
1001 ... 24216
1002 ... 24216
1004 ... 24216
1006 ... 24216
1007 ... 24216
1011 ... 24216
1012 ... 24216
1013 ... 24216
1015 ... 24216
1030 ... 24216
1033 ... 24216
1036 ... 24216
1040 ... 24216
1044 ... 24216
1046 ... 24216
1049 ... 24216
1050 ... 24216, 26182
1060 ... 24216
1061 ... 24216
1062 ... 24216
1063 ... 24216
1064 ... 24216
1065 ... 24216
1068 ... 24216
1069 ... 24216
1070 ... 24216
1071 ... 24216
1073 ... 24216, 26707
1075 ... 24216
1076 ... 24216
1078 ... 24216
1079 ... 24216
1090 ... 24216
1094 ... 24216
1096 ... 24216
1097 ... 24216
1098 ... 24216
1101 ... 24216
1102 ... 24216

**7 CFR—Continued** — Page

1106 ... 24216
1108 ... 24216
1120 ... 24216
1121 ... 24216
1124 ... 24216
1125 ... 24216
1126 ... 24216
1127 ... 24216
1128 ... 24216
1129 ... 24216, 26709
1130 ... 24216
1131 ... 24216
1132 ... 24216
1133 ... 24216
1134 ... 24216
1136 ... 24216
1137 ... 24216
1138 ... 24216
1139 ... 24216
1207 ... 26354
1421 ... 23935, 24634, 25668, 26006, 26182
1430 ... 23939
1866 ... 24346

PROPOSED RULES:
20 ... 25690
26 ... 23955, 25186
46 ... 26207
52 ... 24654, 24904, 24907, 24910
722 ... 24911
905 ... 26454
906 ... 26384, 26614, 26615
927 ... 26615
932 ... 24910
945 ... 26384
981 ... 24911
989 ... 26729
1007 ... 25024
1030 ... 22796, 25448, 25756
1032 ... 25756
1046 ... 25756
1049 ... 25756
1050 ... 25186, 25756
1060 ... 25222
1061 ... 25222
1062 ... 25756
1063 ... 25222
1064 ... 25222
1065 ... 25222
1068 ... 252222
1069 ... 25222
1070 ... 25222
1071 ... 25024
1073 ... 24654, 25024
1076 ... 25222
1078 ... 25222
1079 ... 25222
1090 ... 25024
1094 ... 25024
1096 ... 25024, 29180
1097 ... 25024
1098 ... 25024



V 38 - 185 SEP 25 73 XUM

7 CFR—Continued

PROPOSED RULES—Continued

1099 25756
1102 25024
1104 25282
1106 25282
1108 25024
1120 25282
1126 25282
1127 25282
1128 25282
1129 25282
1130 25282
1131 25282
1132 25282
1135 25282
1140 26729
1701 24660

8 CFR

214 24891, 26354
238 24891

9 CFR

73 24346
82 23940
94 24891, 25669
97 23940
319 24640

PROPOSED RULES:

94 24219
102 23957
104 23957
113 26118
381 24374, 26454, 26455

10 CFR

50 26354
55 26354
110 23953

PROPOSED RULES:

70 26735

12 CFR

201 23772
204 25985
217 26109
329 25432, 26355
506 26355
506a 26355
525 26357
526 23940, 25433
545 24200, 26709
546 24201
561 26110, 26711
563 24202, 26110, 26357, 26711
566 26112
570 26112

PROPOSED RULES:

204 25703
217 26468
220 26009
266 26469
329 26391
526 26736
545 24228, 26133
702 26216

13 CFR

PROPOSED RULES:

107 24028

14 CFR

Ch. I 26444
39 23941, 24347, 24349, 24640, 24641, 25170, 25669, 25670, 25905, 26358, 26713
71 23941, 23942, 24204, 24350, 24641, 24892, 25171, 25433, 25905–25907, 26112, 26444, 26445, 26714
73 26445, 26714
75 24204, 25171, 26715
91 24893
95 24893
97 24350, 26446, 26715
103 26446
208 24642
240 26601
241 24351, 26461
288 23772
302 24894
389 24895, 26113
399 23777, 24642

PROPOSED RULES:

37 25450
39 23962
61 23962
71 23804, 23969, 24222, 24914, 25195, 25451, 25452, 25696, 26007, 26389, 26730–26734
73 26732
75 23804, 26735
121 23962
139 26389
Ch. II 24660
221 23804
241 24223, 24661
298 23805, 24662, 26616
372a 24664
389 24662
399 25453

15 CFR

8 23777
256 25908
376 23777, 25446
377 25184, 26206
1000 25909, 26676
1020 26697
1025 26699
1030 26699
1035 26703
1040 26704
1050 26705

16 CFR

13 24352, 24353, 24634, 25434–25436, 26602

PROPOSED RULES:

1700 25195

17 CFR

210 26182
211 24635
231 24635
241 24635, 26358, 26716
251 24635
271 24635

PROPOSED RULES:

230 24668
270 26133

18 CFR

2 26603
157 26603

19 CFR

Ch. I 25171
1 24354, 25171
4 24354

19 CFR—Continued

PROPOSED RULES:

1 24374, 25185
10 25995
11 25995
12 25995
19 25995
24 23954
25 25995
113 25995
114 25995
141 23954
142 25995
151 25448
172 25995

20 CFR

405 26718
725 26042

PROPOSED RULES:

405 23802, 25448, 26132, 26616
725 26069

21 CFR

Ch. II 26609
8 24643
9 24203
26 25985
45 25671
121 24354, 24643, 25437, 26447
135 23942
135b 24355, 24643, 24895, 25673, 26183
135c 24355, 24644, 25673, 26183
135e 25674, 25676
141 25674
144 25437
146 25674
149b 25674, 26183
149d 25675
308 26447
1308 26610
1401 26611

PROPOSED RULES:

10 25195
27 26384
121 24374, 14375, 25694
130 24220
135 25694
141e 26006
273 26130
278 26007

23 CFR

PROPOSED RULES:

770 23969
772 25696

24 CFR

42 25172, 26113
200 25993
201 25676
203 24637
205 24637, 24896
207 24637
213 24637
220 24637
221 24637
232 24637
234 24637
235 24638
236 24638
241 24638
242 24638
244 24638, 24896
1700 23866
1710 23866





24 CFR—Continued

1715 23873
1720 23874
1914 23943–23945, 24355–24357, 25677, 25678, 25994, 26113, 26114, 26367
1915 24358, 24360, 26368

PROPOSED RULES:

20 24222
201 23803
205 26132
242 26132
244 26132

25 CFR

141 24638
251 25987
252 25988
256 23945

PROPOSED RULES:

221 23954, 23955, 26729
243 26118

26 CFR

1 24206, 26184

28 CFR

2 26652
17 26448

29 CFR

201 26449
202 26449
203 26449
204 26449
205 26449
206 26449
610 25988
612 25989
614 25989
723 26718
1602 26719
1907 25150
1952 24896, 25172, 26449
1953 24361

PROPOSED RULES:

1910 24300, 24375, 26207, 26459

30 CFR

57 23781

PROPOSED RULES:

504 24024

31 CFR

91 94897
315 24762, 26189
605 24898

32 CFR

166 25990
301 26720
802 26190
806 26190
809 23945
1285 24206
1453 24210

PROPOSED RULES:

1604 25704
1623 26392
1625 26392
1628 26392
1631 26392
1632 26392
1641 26392

32A CFR

Ch. IV:
BP Notice 1 25175
Ch. X:
Reg. 1
Ch. XI
OIAB Rules and Procedures 26103
Ch. XIII:
EPO Reg. 3 23977

PROPOSED RULES:

Ch. X 26005

33 CFR

117 25433, 26115
127 24898
207 25176
401 24210

PROPOSED RULES:

117 24912–24914, 25455
127 23804

35 CFR

5 25438
51 26722

36 CFR

50 24218
221 23948
295 26723

PROPOSED RULES:

7 23796, 24912, 25185

38 CFR

1 24364
2 24366
17 24366, 26190
21 23948
36 25678

PROPOSED RULES:

17 26393

39 CFR

235 26193
3000 24898
3001 24898

40 CFR

35 24639, 26358
50 25678
52 24333, 26324
80 26449
113 25439
120 26358
126 25681
129 24342
162 26360
168 26360
180 23781, 25440, 26450
51 25697
52 23805, 26390, 26462
120 26209, 26463
180 23806, 24667, 24918, 25455
411 24462
412 24466
422 24470

41 CFR

1–1 24210
1–9 23782
1–18 23791
3–16 24644
8–4 26368
8–16 26369
8–95 26369
101–25 26604
105–64 26604

41 CFR—Continued

114–43 26370
114–50 24649

42 CFR

21 25683
51 26194
51a 26195
51b 26196
52 26196
53 26196
54 26197
55 26197
56 26197
57 26198
59 26198
59a 26199
87 26199
91 26200
205 26201
206 26201
208 26201

PROPOSED RULES:

50 26459
81 26730

43 CFR

4 23948
3830 24650
4710 24650

PUBLIC LAND ORDERS:

5169 (Amended by PLO 5396) 26376
5170 (Amended by PLO 5395) 26375
5171 (Amended by PLO 5389) 26371
5172 (Amended by PLO 5392) 26373
5173 (Amended by PLO 5391) 26372
5175 (Amended by PLO 5394) 26375
5176 (Amended by PLO 5393) 26373
5177 (Amended by PLO 5397) 26377
5179 (Amended by PLO 5389, 5393, 5395, 5396, 5397) 26370–26377
5180 (Amended by PLO 5388, 5393, 5394, 5396, 5397) 26370–26377
5181 (Amended by PLO 5388, 5394) 26370–26377
5186 (Amended by PLO 5393) 26373
5191 (See PLO 5391, 5392, 5394, 5396, 5397) 26370–26377
5192 (See PLO 5389, 5393, 5395, 5396, 5397) 26370–26377
5193 (See PLO 5393, 5394, 5395, 5396, 5397) 26370–26377
5194 (See PLO 5388, 5394) 26370–26377
5213 (See 5391) 26372
5250 (See PLO 5389, 5393, 5395, 5396, 5397) 26370–26377
5251 (See PLO 5393, 5394, 5395, 5396, 5397) 26370–26377
5252 (See PLO 5391) 26372
5253 (See PLO 5389) 26371
5254 (See PLO 5393) 26373
5253 (See PLO 5396) 26376
5321 (See PLO 5391) 26372
5383 25684
5387 26370
5388 26370
5389 26371
5390 26372
5391 26372
5392 26373
5393 26373
5394 26375
5395 26375
5396 26376
5397 26377



V 38 185 SEP 25 73 XUM

45 CFR

| | Page |
|---|---|
| 74 | 26274 |
| 201 | 26320 |
| 205 | 26378 |
| 220 | 26320 |
| 233 | 26379, 26608 |
| 234 | 26380 |
| 401 | 26320 |
| 403 | 26320 |
| 404 | 26320 |
| 405 | 26320 |
| 406 | 26320 |
| 408 | 26320 |
| 416 | 26320 |
| 901 | 26201 |
| 903 | 26201 |
| 904 | 26201 |
| 905 | 26201 |
| 909 | 24900, 26201 |

PROPOSED RULES:

| | |
|---|---|
| 83 | 26384 |
| 167 | 26788 |
| 190 | 26660 |
| 221 | 24872 |
| 233 | 23802 |
| 249 | 26460 |
| 250 | 25450 |
| 903 | 23912 |

46 CFR

PROPOSED RULES:

| | |
|---|---|
| 146 | 23959 |
| 542 | 23979 |
| 538 | 24228 |

47 CFR

| | Page |
|---|---|
| 0 | 24900, 26724 |
| 1 | 26202 |
| 2 | 24901, 25180, 25991 |
| 13 | 25684 |
| 23 | 24901 |
| 73 | 24367, 25991, 26203, 26204, 26380, 26451, 26453 |
| 74 | 25991, 25992, 26381 |
| 81 | 24211, 25180, 25991 |
| 83 | 24368, 25180, 25992 |
| 87 | 25684 |
| 89 | 24901 |
| 91 | 25182, 26381 |
| 93 | 24901 |
| 97 | 24211 |

PROPOSED RULES:

| | |
|---|---|
| 61 | 24920 |
| 73 | 25703, 26008, 26211, 26212, 26380, 26463–26465 |

49 CFR

| | |
|---|---|
| 1 | 24901, 24902 |
| 170 | 23791 |
| 171 | 23792 |
| 172 | 23792 |
| 177 | 23792 |
| 178 | 23792 |
| 393 | 25182 |
| 570 | 23949, 25685 |
| 1003 | 26205 |

49 CFR—Continued

| | Page |
|---|---|
| 1033 | 23792, 23793, 23952, 24212, 24902, 25183, 25685, 26205 |
| 1048 | 24368 |
| 1056 | 26608 |
| 1115 | 23953, 24903, 25686, 26609 |
| 1121 | 24902, 26726 |
| 1134 | 26205 |
| 1140 | 26205 |
| 1322 | 26726 |

PROPOSED RULES:

| | |
|---|---|
| 172 | 24915 |
| 173 | 24915 |
| 393 | 24223, 25452, 25696, 26461 |
| 542 | 23979 |
| 571 | 23804 |
| 1057 | 24228 |
| 1131 | 23979 |

50 CFR

| | |
|---|---|
| 20 | 23793, 26609 |
| 32 | 23793, 23794, 24212, 24369–24373, 24650–24652, 25183, 25441–25445, 25686, 25992, 26115, 26116, 26205, 26381–26383, 26727 |
| 33 | 25445 |
| 253 | 26116 |

PROPOSED RULES:

| | |
|---|---|
| 21 | 23796 |
| 32 | 25693 |

## FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

| Pages | Date |
|---|---|
| 23765–23922 | Sept. 4 |
| 23923–24184 | 5 |
| 24185–24326 | 6 |
| 24327–24625 | 7 |
| 24627–24874 | 10 |
| 24875–25154 | 11 |
| 25155–25420 | 12 |
| 25421–25654 | 13 |
| 25655–25895 | 14 |
| 25897–26091 | 17 |
| 26093–26171 | 18 |
| 26173–26344 | 19 |
| 26345–26433 | 20 |
| 26435–26593 | 21 |
| 26595–26668 | 24 |
| 26669–26790 | 25 |



federal register

TUESDAY, SEPTEMBER 25, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 185

PART II

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## Office of Education

■

## SPECIAL PROJECTS AND TEACHER TRAINING IN ADULT EDUCATION



V 38-185 SEP 25 73 XUM

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Office of Education

[ 45 CFR Part 167 ]

### SPECIAL PROJECTS AND TEACHER TRAINING IN ADULT EDUCATION

### Proposed Priorities for Fiscal Year 1974

Pursuant to the authority contained in the Adult Education Act (84 Stat. 159–164, 20 U.S.C. 1201–1211), notice is hereby given that the Commissioner of Education, with the approval of the Secretary of Health, Education, and Welfare, proposes to amend Part 167 of Title 45 of the Code of Federal Regulations by adding thereto an Appendix A. Appendix A of Part 167 would read as set forth below.

The proposed Appendix to Part 167 would contain the priorities for fiscal year 1974 preapplications and applications for special experimental demonstration projects and for teacher training.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed priorities to the Division of Adult Education, U.S. Office of Education, 7th and D Streets SW., Room 5056–ROB, Washington, D.C. 20202. Comments received in response to this notice will be available for public inspection at the above office on Mondays through Fridays between 8:30 a.m. and 4:30 p.m.

All relevant material received not later than October 25, 1973, will be considered.

Dated August 10, 1973.

JOHN OTTINA,
*U.S. Commissioner of Education.*

Approved September 21, 1973.

CASPAR W. WEINBERGER,
*Secretary of Health, Education, and Welfare.*

(Catalog of Federal Domestic Assistance No. 13.401, Adult Education—Special Projects and No. 13.402, Adult Education—Teacher Education.)

APPENDIX A

PRIORITIES FOR FISCAL YEAR 1974

This Appendix contains priorities for preapplications and applications only for fiscal year 1974. The priorities for future fiscal years will be published in the FEDERAL REGISTER and thereafter may be obtained from the Division of Adult Education, U.S. Office of Education, Washington, D.C. 20202. Projects proposed in accordance with these priorities are subject to applicable statutes, regulations and guidelines, including the Adult Education Act, the regulations contained in 45 CFR 167, and the appropriate guidelines. Preapplications and applications should indicate the priority and the special emphasis being addressed within the priority.

(a) *Special experimental demonstration projects.* Section 309(b) of the Adult Education Act authorizes the Commissioner to make grants for certain special experimental demonstration projects.

(1) *Appropriate adult population.* The Adult Education Act authorizes education services for adults with less than a high school education or the equivalent. This group encompasses a population of 66,500,000 adults 16 years or older. However, past experience and program evaluations and reports have indicated that the needs of the following groups should be more adequately addressed in fiscal year 1974:

(i) Those with a fourth grade or less capability in reading, writing, computational and communication skills;

(ii) Welfare recipients; and

(iii) Rurally situated adults.

(2) *Program component needs.* In relation to the above populations, past experience and program evaluations also indicate remaining needs in two component areas:

(i) Recruitment and retention of participants in programs; and

(ii) Instruction, including

(*a*) prescribing learning activities to meet individual needs;

(*b*) fostering student participation in setting objectives and evaluating learning activities;

(*c*) evaluating the overall instructional program;

(*d*) diagnosing student learning needs;

(*e*) using adult basic education teachers to counsel adults; and

(*f*) using small group instruction.

It is hoped that preapplications and applications for fiscal year 1974 will, when appropriate, specifically address the above groups and components.

(3) *Program priorities.* For fiscal year 1974, the Commissioner will accept preapplications and applications for special experimental demonstration projects in the following areas: adult career education; adult right to read effort; and improving State-administered adult education services. These program priorities are detailed below. Projects initiated under the program priorities of fiscal year 1973 may also be renewed, under circumstances which will be described below.

(i) *Adult career education.* Career education, in general, provides for the sequential development of occupational awareness, orientation, exploration, and specialization. Career education for educationally disadvantaged adults, particularly as distinguished from career education for children and youth, is in need of definition, development, and placement in the adult education program. Furthermore, adult career education programs offer a unique opportunity to combine adult education experimental and demonstration activities with vocational and technical and manpower development and training programs. Therefore, preapplications and applications addressing one or more of the following career education-related areas will be accepted:

(*a*) Demonstration projects involving approximately five employers, each of which would experiment with introducing models which have a common adult education component. Such models must involve 60 or more employees each, and be designed in concert with concerned employers and unions. The models must provide for modifications of the work and learning environments in specific ways to determine the effect of these changes on adult learning, job satisfaction, and, where appropriate, cost effectiveness;

(*b*) Demonstration projects which are jointly administered by a State-administered adult education program and another State agency or projects which are jointly administered by a local adult educational agency (funded under a State-administered adult education program) and an appropriate municipal agency. These projects must develop model career education programs for educationally disadvantaged public service employees or potential employees by bringing together appropriate career education components including the development of career ladders within the participating agencies. An instructional materials package must be developed and validated. Competency-based instruction, utilizing specific objective performance standards, may be incorporated into the package. Current relevant materials should be analyzed prior to the development of the project, including ERIC materials and the career education materials developed under Parts D and I of the Vocational Education Act. An example of the latter type of materials is "Dissemination of Career Education Materials for Summer of 1973." A plan for national distribution of the project design and materials should also be developed. Linkages with appropriate national, State, and local organizations should be established;

(*c*) Demonstration projects which experiment with supplementing a local adult education program which is funded under the State-administered adult education program with a model for adult career development. Such projects must provide needs assessment services and information on available careers, advice on educational and learning opportunities available, and placement assistance in new careers. The project may also link with skill centers, business, industry, unions, and community organizations and advise them on structuring new careers and sequential career-ladders and collaborate with them in developing educational opportunities designed to assure career opportunities and progression;

(*d*) A study of practices in industry which treat the employment structure itself as a part of an adult learning system. Such a project must survey and analyze a limited number of good examples in which the work environment and personnel policies and procedures have been structured to facilitate a program of adult learning and development. Criteria used by the applicant in evaluating such praactices must be specified. A state-of-the-art report of effective structures and practices might be the project outcome. Procedures and methodologies which were used and those which were abandoned by the applicant should be identified and analyzed in the final report on the project;

(*e*) Studies which analyze existing models of cooperative industry and State-administered adult education programs. These studies must identify four or five of the most successful joint programs. Each such program must be analyzed in depth and a comparative analysis would highlight common characteristics and differences and strengths and weaknesses. Emphasis should be placed on dissemination of the studies in order to encourage similar cooperative programs; and

(*f*) Studies which analyze several current industry- and labor-sponsored adult basic education programs which do not receive State or Federal assistance. Large amounts of money are spent by industry and unions on adult basic education. Public school adult education personnel need to know the current policies and practices of business and industry regarding adult education for employees with less than a high school education or its equivalent. After identifying and analyzing current practices, projects must be designed to create collaborative career education programs utilizing the adult education expertise of public education programs and the skills, instruction, and job training capabilities of industry and unions.

(ii) *Adult right to read effort.* (*a*) The experience of the past eight years of adult basic education, together with information compiled from surveys of State and local adult education directors, the analysis of various program reports, and evaluations of State-administered adult education programs lead to the following conclusions:

(*1*) State-administered adult education programs have not adequately addressed the needs of the hard-to-reach adult who either has not completed at least four years of formal schooling or who is not functioning at the fourth-year level;

(*2*) Curricula for this hard-to-reach group either have not been developed or, if developed, have failed to sustain the interest of this group;

(*3*) Reading materials in these curricula have failed to be of a level suitable for use with this group; and

(*4*) Males have been more difficult to recruit for State-administered adult education programs, especially those young males in large cities and those located in isolated rural areas.

(*b*) The emphasis of the adult basic education program is on the most severely impoverished, the most severely undereducated, the unemployed, and the underemployed. The development of programs to serve the needs of these persons remains one of the primary national objectives.

(*c*) To address this national objective and the above conclusions, the U.S. Office of Education will accept preapplications and applications for adult right to read programs which design and demonstrate adult basic education models which should include a majority of the following characteristics:

(*1*) Grade level structure 0–4;

(*2*) Motivation and recruitment provisions, including but not limited to the mass media, for attracting the young males and others of the target group;

(*3*) Curricula developed or to be tested which include reading, computational, communication, and social living skills. Emphasis should be on curricula for reading at the grade level 0–4 which has a high-interest level and is compatible with providing a remedial reading approach for grade level 0–4;

(*4*) Special program provisions for retaining the hard to reach once they enter the program. These provisions may involve special pre-service and in-service education programs designed specifically for teachers of the grade level 0–4 group;

(*5*) Special counseling programs designed to meet the particular needs of young males, minorities, and adults functioning at grade level 0–4;

(*6*) Coordination with other Federal, State, and local programs, particularly those seeking to reach the same target group;

(*7*) Coordination and cooperation with public library programs in reassessing the availability of appropriate reading materials for grade level 0–4 adults;

(*8*) Survey of the grade level 0–4 adult population in the area where the project is to be conducted;

(*9*) Controlled and non-controlled classes of the grade level 0–4 adult population;

(*10*) Pre- and post-testing of the target population with emphasis on informal, less structured testing methods and procedures;

(*11*) Formative and summative evaluation plans. Formative evaluation should provide information on a monthly basis for project modification, while summative evaluation data should provide evidence for determining the extent to which project goals or objectives have been accomplished; and

(*12*) Third-party evaluations to assess the overall planning and management of the program model.

Knowledge of the current activities and projected ten-year plan for the national right to read effort is essential.

(iii) *Improving State-administered adult education services.* Adult education services must be broadened in size and scope and made responsive to the needs and interests of adults as they perceive them. Furthermore, the advances in this direction made by State-administered adult education programs should be further disseminated, expanded, and coordinated with compatible efforts by agencies outside of the State and local educational agencies.

To address this national need, preapplications and applications for the following projects will be accepted:

(*a*) Projects which experiment with adding to a local program funded under a State-administered adult education program new supportive capabilities in assessing adult needs and in designing educational experiences to meet these needs. An example of such a project would be the creation of a community adult educational services unit. This unit would monitor the community to identify major problem areas (for example, specific types of crimes, unemployment, health, and inadequate community services), analyze how adult education and other community resources can contribute to solutions of the problem areas, and design adult learning experiences accordingly. Such a project would also demonstrate new delivery systems which foster access of adults to these learning experiences. It may also experiment with allowing recipient groups to actually operate educational programs for their peers, calling upon professional help as necessary.

(*b*) Projects which experiment with adding to a local project operated pursuant to a State-administered adult education program new capabilities to link the project with business and industry. The primary objective of these projects must be to link the local adult educational program, business, industry, unions, employees, and other related community groups in a planned and targeted adult education program. Such a project might, for example, create business and industry liaison and planning units which will seek to utilize the predictable and unpredictable periods of idleness in industry. Lay-offs occasioned by model change-overs, plant remodeling, and supply shortages present periods of opportunity for targeted and relevant adult education. Such industry liaison and planning units might survey industry to ascertain planned and possible periods of idleness, industry's assessment of employee training needs, and the workers' and their families' learning interests. The units might design special learning programs for workers and their families during such periods of idleness. Since business and industry facilities are usually available during such periods of idleness, industry and union contributions to these learning efforts might be solicited.

(*c*) Projects which systematically exchange public school adult education administrators and practitioners with personnel from community agencies, industry, unions, and other identified organizations. The primary objective of such projects would be to provide adult educators with broadened experience of adult learner needs. A secondary objective would be to provide avenues of communication and community contact normally outside the organization experience of the public education system. Objectives for the community exchange personnel would be to give them experience with the public education system and its possible uses as a community resource in meeting adult needs. Such experience would correspondingly open to the exchange personnel new avenues of communication with the public education system.

(iv) *Renewals.* Preapplications and applications under section 309(b) of the Act will also be accepted in accordance with those fiscal year 1973 priorities (as described in the "Open Letter" announcing the fiscal year 1973 priorities) which have not been continued for fiscal year 1974. However, such preapplications and applications will only be accepted from those applicants who received grants under such discontinued priorities in fiscal year 1973 and will be reviewed on a competitive basis with all other applications under section 309(b) of the Act.

(20 U.S.C. 1208(b); 45 CFR 167.4(a), 167.7 (b).)

(b) *Teacher training programs.* Section 309(c) of the Act authorizes the Commissioner to make grants to provide training for persons engaged, or preparing to engage, as personnel in adult education programs designed to carry out the purposes of the Act.

(1) *National adult education staff development program.* It is anticipated that approximately nine national adult education staff development programs (which were started in fiscal year 1972 and continued in fiscal year 1973) will be continued in fiscal year 1974. The purpose of the programs is to establish a more effective means of providing quality in-service education for adult education personnel while at the same time developing more effective systems of preservice education. To continue this effort, the U.S. Office of Education will award grants for the conduct of the third year of the national adult education staff development programs. Applications are requested for the continuation of such programs.

(2) *Adult education program for cultural and ethnic understanding.* (i) Preapplications and applications will be accepted for adult education programs for cultural and ethnic understanding. The purposes of the programs will be to provide leadership development for representatives of minority groups and to sensitize teachers and administrators to the needs and values of culturally and ethnically different adults. A problem frequently encountered in the preparation of teachers and counselors for adult education programs is that of developing staff awareness of the unique problems encountered by the adult student. A specific problem is the social distance that exists between the adult students of varied ethnic and cultural backgrounds and many public school teachers. To work effectively with adult students with different social and cultural perspectives, teachers must have understanding and appreciation of the point of view of the adult student. Minorities must also be adequately represented in leadership positions in adult education.

(ii) To address this national need, preapplications and applications are requested for programs which are designed to accomplish one or more of the following:

(*a*) Identify leaders and potential leaders who are engaged in or preparing to become engaged in leadership roles in the growing variety of adult education programs. Leaders should be representative of all segments of the minority population, including women and racial, ethnic, cultural, and social diversification within the adult education population;

(*b*) Provide effective cross-cultural training for teachers and administrators;

(*c*) Include the involvement and participation of the diverse minority groups represented in the adult education population in career development programs, along with majority group representation;

(*d*) Provide linkages with the national staff development programs as a direct strategy for incorporating programs for minority leadership development. This would serve as a first step in bringing minority leadership into State and local adult education systems. Emphasis should be placed on the involvement of teacher educators as strategic personnel in responding to the needs of minority groups;

(*e*) Provide linkages with other related special project activity to serve as a source







V 38 185 SEP 25 73 XUM

of information of minority leaders and leadership development techniques, and to provide ideas for other projects; and

(*j*) Include the development and dissemination of such publications as are needed to incorporate ethnic and cultural understanding concepts into ongoing adult education programs.

(3) *Support programs for the national adult education staff development program.* The U.S. Office of Education will also accept preapplications and applications for programs that would provide direct support to the national adult education staff development program. Preapplications and applications must be written in cooperation with projects funded under the above regional staff development effort, and needs should be jointly identified. Identified needs must be national or multi-regional in nature, and programs must be designed to provide services that cannot feasibly be implemented by the individual regional staff development projects. Such support programs could, for example, identify national resources, disseminate relevant adult education personnel training information, or provide specialized training activities on a multi-regional or national basis.

(20 U.S.C. 1208(c); 45 CFR 167.4(b), 167.7(c).)

[FR Doc.73-20500 Filed 9-24-73;8:45 am]



V 38-185 SEP 25 73 XUM

# Would you like to know WHAT CHANGES HAVE BEEN MADE IN CERTAIN TITLES OF THE CODE OF FEDERAL REGULATIONS without reading the Federal Register every day? If so, you may wish to subscribe to the "List of CFR Sections Affected."

## List of CFR Sections Affected — $5.00 per year

The "List of CFR Sections Affected" is designed to lead users of the Code of Federal Regulations to amendatory actions published in the Federal Register, and is issued monthly in cumulative form. Entries indicate the nature of the changes.

*Also available on a subscription basis . . .*

## The Federal Register Subject Index — $3.00 per year

Subject Indexes covering the contents of the daily Federal Register are issued monthly, quarterly, and annually. Entries are carried primarily under the names of the issuing agencies, with the most significant subjects additionally carried in appropriate alphabetical position.

A finding aid is included at the end of each publication which lists Federal Register page numbers with the date of publication in the Federal Register.

Order from: Superintendent of Documents
U.S. Government Printing Office
Washington, D.C. 20402

**Note to FR Subscribers:** FR Subject Indexes and the "List of CFR Sections Affected" will continue to be mailed free of charge to regular FR subscribers.


V 38-185 SEP 25 73 XUM

186

federal register

September 26, 1973—Pages 26791–26883

WEDNESDAY, SEPTEMBER 26, 1973

WASHINGTON, D.C.

Volume 38 ■ Number 186

Pages 26791–26883

PART I




## HIGHLIGHTS OF THIS ISSUE

**This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.**

**DIETHYLSTILBESTROL (DES)**—
FDA proposal concerning use as an oral postcoital contraceptive; comments by 11–26–73 ..... 26809
FDA notices on usage of certain strengths (2 documents) ..... 26824, 26825

**CARBON-14**—AEC proposed license for certain uses by physicians, clinical laboratories, and hospitals; comments by 11–12–73 ..... 26813

**SUPPLEMENTAL SECURITY INCOME**—VA amends regulations; effective 1–1–74 ..... 26804

**PUBLIC ASSISTANCE**—HEW requires submittal of cost allocation plans upon request; effective 11–26–73 ..... 26804

**FINANCIAL ASSISTANCE**—HEW establishes date for fiscal year 1974 comparability determinations ..... 26827

**EMPLOYEE BENEFITS**—HEW amends requirements regarding submission of evidence in support of claims; effective 9–24–73 ..... 26806

**STUDENT EMPLOYMENT**—Labor Department list of certain employers exempt from paying minimum wages 26838

**EGG GRADING STANDARDS**—USDA amends regulations; effective 10–29–73 ..... 26797

**FRUIT IMPORTS**—USDA proposed minimum grade and size requirements for oranges and grapefruit (2 documents); comments by 10–1 and 10–2–73, respectively ..... 26807

**CITRUS BLACKFLY**—USDA proposes establishment of quarantine regulations; comments by 10–29–73; hearing 10–30–73 ..... 26808

**NUCLEAR REACTORS**—AEC proposed export license application requirements; comments by 11–25–73 ..... 26814

(Continued inside)

**PART II:**
**LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT**—Labor Department revised regulations; effective 9–26–73 ..... 26859

**PART III:**
**WATER POLLUTION CONTROL**—EPA regulations on State and local reimbursement grants; effective 9–26–73 ..... 26881



V 38-186
SEP 26 73
XUM

**VARIABLE LIFE INSURANCE CONTRACTS**—SEC proposed amendments; comments by 10–23–73 ..... 26816

**TEXTILE IMPORTS**—CITA announces import limitations on certain cotton, wool and man-made fiber products from Korea..... 26830

**MEETINGS**—
State Department: Advisory Commission on International Educational and Cultural Affairs, 10–5–73.... 26818
HEW: National Advisory Council on Indian Education (Search Committee), 10–5 and 10–6–73..... 26827
National Advisory Council on Indian Education, 10–23 and 10–24–73..... 26826
Treasury Department: Comptroller of the Currency's Regional Advisory Committee on Banking Policies and Practices, 10–5–73..... 26820
U.S. Commission on Civil Rights: Florida State Advisory Committee, 9–28–73 ..... 26830
NASA: Research and Technology Advisory Council, Committee on Research, 10–31 and 11–1–73..... 26835
USDA: Modoc National Forest Grazing Advisory Board, 10–16–73 ..... 26821
Animal and Plant Health Inspection Service, 10–9–73 26808
CSC: Federal Prevailing Rate Advisory Committee, 10–4, 10–18, and 10–25–73..... 26830
DOD: National Committee for Employer Support of the Guard and Reserve, 10–3–73..... 26821
Industry Advisory Group on Aircraft Structural Integrity Program, 10–23 and 10–24–73..... 26820
Army Scientific Advisory Panel, 10–10 to 10–12–73 . 26821
Commerce Department: Computer Systems Technical Advisory Committee, 10–5–73 ..... 26822

federal register

Area Code 202 Phone 523–5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by the Executive Branch of the Federal Government. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $2.50 per month or $25 per year, payable in advance. The charge for individual copies is 20 cents for each issue, or 20 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.



# Contents

**AGRICULTURAL MARKETING SERVICE**
Rules and Regulations
Certified seed; agency standards and procedures to assure genetic purity; correction ..... 26800
Shell eggs; voluntary grading standards, grades, and weight classes ..... 26797
Proposed Rules
Fruits; import regulations:
Grapefruit ..... 26807
Oranges ..... 26807

**AGRICULTURE DEPARTMENT**
*See* Agricultural Marketing Service; Animal and Plant Health Inspection Service; Forest Service.

**AIR FORCE DEPARTMENT**
Rules and Regulations
Legal assistance program..... 26801
Military justice..... 26802
Notices
Aircraft Structural Integrity Program; meeting..... 26820

**ANIMAL AND PLANT HEALTH INSPECTION SERVICE**
Proposed Rules
Citrus blackfly quarantine; proposal and notice of hearing..... 26808
Commercial bird import quarantine facilities; meeting..... 26808

**ARMY DEPARTMENT**
Notices
Army Scientic Advisory Panel; meeting ..... 26821

**ATOMIC ENERGY COMMISSION**
Proposed Rules
Production and utilization facilities; export license applications ..... 26814
Use of Carbon-14 for in vitro clinical or laboratory testing; general license..... 26813

**CIVIL AERONAUTICS BOARD**
Notices
*Hearings, etc.:*
All Air Transport, Inc., et al... 26827
Texas International Airlines Inc ..... 26829

**CIVIL RIGHTS COMMISSION**
Notices
Florida State Advisory Committee; agenda and meeting..... 26830

**CIVIL SERVICE COMMISSION**
Rules and Regulations
Excepted service:
General Services Administration ..... 26797
National Labor Relations Board ..... 26797
Notices
Federal Prevailing Rate Advisory Committee; meeting..... 26830

**COMMERCE DEPARTMENT**
*See* Domestic and International Business Administration; Maritime Administration; National Bureau of Standards.

**COMMITTEE FOR IMPLEMENTATION OF TEXTILE AGREEMENTS**
Notices
Cotton, wool, and manmade textile products from Korea; entry or withdrawal from warehouse for consumption..... 26830

**COMPTROLLER OF THE CURRENCY**
Notices
Regional Advisory Committee on Banking Policies and Practices of the Fourth National Bank Region; closed meeting..... 26820

**CUSTOMS SERVICE**
Notices
Foreign currencies; certification of rates..... 26820

**DEFENSE DEPARTMENT**
*See also* Air Force Department; Army Department.
Notices
National Committee for Employer Support of the Guard and Reserve; meeting..... 26821

**DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION**
Notices
Computer Systems Technical Advisory Committee; meeting.... 26822

**EDUCATION OFFICE**
Notices
National Advisory Council on Indian Education; meetings (2 documents) ..... 26826, 26827
Projects for educationally deprived children; comparability of services data; FY 1974 deadline.... 26827

**EMPLOYMENT STANDARDS ADMINISTRATION**
Rules and Regulations
Longshoremen's and harbor workers' compensation..... 26860

**ENVIRONMENTAL PROTECTION AGENCY**
Rules and Regulations
Water pollution control projects; reimbursement grants..... 26882

**FEDERAL AVIATION ADMINISTRATION**
Rules and Regulations
Airworthiness directives:
DeHavilland aircraft..... 26800
Hiller helicopters..... 26800
Transition area; designation..... 26801
Proposed Rules
Airworthiness directives; AiResearch engines..... 26811
Air transportation of handicapped persons; hearing; correction... 26811
Transition areas and VOR Federal airways; alteration (3 documents) ..... 26812, 26813

**FEDERAL MARITIME COMMISSION**
Notices
Agreements filed:
Farrell Lines Inc. and Barber Lines A.S..... 26831
Lavino Shipping Co. et al..... 26831
Matson Navigation Co. et al... 26832
United States Atlantic Coast/Brazil Southbound Pooling Agreement ..... 26832
Independent ocean freight forwarder license; applicants.... 26831
Kambara Kisen Co., Ltd.; certificates of financial responsibility (2 documents) ..... 26831

**FEDERAL RESERVE SYSTEM**
Notices
Acquisitions and proposed acquisitions:
Chase Manhattan Corp..... 26832
F & M National Corp..... 26833
First International Bancshares Inc ..... 26833
Landmark Banking Corp. of Florida ..... 26834
Nortrust Corp..... 26835
U.S. Bancorp..... 26835

**FOOD AND DRUG ADMINISTRATION**
Proposed Rules
Diethylstillbestrol; use as postcoital contraceptive; patient labeling ..... 26809
Notices
Certain estrogens for oral or parenteral use (2 documents).... 26824, 26825

**FOREST SERVICE**
Notices
Flathead Wild and Scenic River Proposal; availability of draft environmental statement..... 26821
Modoc National Forest Grazing Advisory Board; meeting..... 26821

**GEOLOGICAL SURVEY**
Proposed Rules
Geothermal resources; extension of comment period..... 26807

*(Continued on next page)*

26793



V 38-186 SEP 26 73 XUM

**HEALTH, EDUCATION, AND WELFARE DEPARTMENT**
*See* Education Office; Food and Drug Administration; Social and Rehabilitation Service; Social Security Administration.

**INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)**
**Notices**
Consolidation Coal Co.; application for renewal permit; opportunity for hearing ..... 26835

**INTERIOR DEPARTMENT**
*See* Geological Survey.

**INTERNAL REVENUE SERVICE**
**Notices**
Implementation of economic stabilization program; revocation of authority delegation ..... 26818

**INTERSTATE COMMERCE COMMISSION**
**Rules and Regulations**
Car service; demurrage and free time:
Freight cars ..... 26805
Ports ..... 26805
C.O.D. and freight-collect shipments; limitations of carrier service; correction ..... 26805
**Notices**
Assignment of hearings (2 documents) ..... 26839
Fourth section application for relief ..... 26839
Motor carriers:
Alternate route deviation notices (2 documents) .. 26840, 26841
Applications and certain other proceedings (2 documents) .. 26842, 26844
Filing of intrastate applications ..... 26851
Temporary authority applications (3 documents) ... 26845–26849

**LABOR DEPARTMENT**
*See* Employment Standards Administration; Occupational Safety and Health Administration; Wage and Hour Division.

**MARITIME ADMINISTRATION**
**Notices**
List of free world and Polish flag vessels arriving in Cuba ..... 26820

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**
**Notices**
NASA Research and Technology Advisory Council Committee on Research; meeting ..... 26835

**NATIONAL BUREAU OF STANDARDS**
**Notices**
Expanded vinyl fabrics for apparel use; withdrawal of commercial standard ..... 26822

**OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION**
**Notices**
Indiana; modifications to developmental plan ..... 26837

**SECURITIES AND EXCHANGE COMMISSION**
**Proposed Rules**
Exemptions for certain insurance company accounts and advisers ..... 26816
**Notices**
Metropolitan Edison Co.; proposed issue and sale of cumulative preferred stock ..... 26836

**SMALL BUSINESS ADMINISTRATION**
**Notices**
Frankford Grocery Small Business Investment Co.; notice of license surrender ..... 26837

**SOCIAL AND REHABILITATION SERVICE**
**Rules and Regulations**
Public assistance programs; submittal of cost allocation plans ... 26804

**SOCIAL SECURITY ADMINISTRATION**
**Rules and Regulations**
Federal old-age, survivors, and disability insurance; certification of evidence ..... 26806

**STATE DEPARTMENT**
**Notices**
U.S. Advisory Commission on International Educational and Cultural Affairs; meeting ..... 26818

**TARIFF COMMISSION**
**Notices**
Committee for Statistical Annotation of Tariff Schedules; collection of F.O.B. and C.I.F. data on imports; miscellaneous amendment ..... 26837

**TRANSPORTATION DEPARTMENT**
*See also* Federal Aviation Administration.
**Rules and Regulations**
Federal Highway Administrator; delegation of authority ..... 26805

**TREASURY DEPARTMENT**
*See* Comptroller of the Currency; Customs Service; Internal Revenue Service.

**VETERANS ADMINISTRATION**
**Rules and Regulations**
Annual income; supplemental security income ..... 26804

**WAGE AND HOUR DIVISION**
**Notices**
Full time students; certificates authorizing employment at special minimum wages ..... 26838






# List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month. In the last issue of the month the cumulative list will appear at the end of the issue.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1973, and specifies how they are affected.

**5 CFR**
213 (2 documents) ..... 26797

**7 CFR**
56 ..... 26797
201 ..... 26800
PROPOSED RULES:
301 ..... 26808
944 (2 documents) ..... 26807

**9 CFR**
PROPOSED RULES:
92 ..... 26808

**10 CFR**
PROPOSED RULES:
31 ..... 26813
32 ..... 26813
50 ..... 26814

**14 CFR**
39 (2 documents) ..... 26800
71 ..... 26801
PROPOSED RULES:
25 ..... 26811
39 ..... 26811
71 (3 documents) ..... 26812, 26813
121 ..... 26811
135 ..... 26811

**17 CFR**
PROPOSED RULES:
270 ..... 26816
275 ..... 26816

**20 CFR**
404 ..... 26806
701 ..... 26860
702 ..... 26861
703 ..... 26873
704 ..... 26877

**21 CFR**
PROPOSED RULES:
130 ..... 26809

**30 CFR**
PROPOSED RULES:
270 ..... 26807
271 ..... 26807

**32 CFR**
818b ..... 26801
883 ..... 26802

**38 CFR**
3 ..... 26804

**40 CFR**
35 ..... 26882

**45 CFR**
205 ..... 26804

**49 CFR**
1 ..... 26805
1033 (2 documents) ..... 26805
1304 ..... 26805
1307 ..... 26805
1309 ..... 26806



V 38-186 SEP 26 73 XUM

# REMINDERS

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

### Rules Going Into Effect Today

page no. and date

NOTE: There were no items published after October 1, 1972, that are eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

### Next Week's Deadlines for Comments on Proposed Rules

**OCTOBER 1**

AEC—Special packaging form for shipping plutonium 20482; 8–1–73
AMS—Plant sanitation requirements for certain processed fruits and vegetables 13490; 5–22–73
—First published at 7466; 3–22–73
—Standards for grades of frozen concentrated apple juice; notice of proposed rulemaking 22406; 8–20–73
ANIMAL AND PLANT HEALTH INSPECTION SERVICE—Jar closures for meat and poultry food product; requirement for prevention of filth and insect accumulation 19690; 7–23–73
—Xanthan gum; approval for and restrictions on use in various products 19690; 7–23–73
FAA—Designation of Federal airways, area low routes, controlled airspace, and reporting points 23419, 8–30–73; 23536, 8–31–73
FCC—Antenna monitors in standard broadcast stations with directional antennas 18688; 7–13–73
—Ascertainment of community problems by broadcast applicants. 20275; 7–27–73
—Petroleum radio service; expanded use of tone and impulse signaling. 20278; 7–27–73
FDA—Filled milk products; common or usual names 20748; 8–2–73
—Restructured foods; establishment of common or unusual names. 20746; 8–2–73
—Sour cream and related products; establishment of definitions, and standards of identity 20627; 8–2–73
FMC—Port of New York; uniform rules and regulations governing free time on import containerized cargo. 23540; 8–31–73
FWS—Marine mammals 22143; 8–16–73
NOAA—Financial aid program procedures; statement of policy and intent 20338; 7–31–73
—Marine mammals; taking and importing 22133; 8–16–73
OSHA—Public disclosure of information; monitoring of certain hazards. 23413; 8–30–73
SBA—Disclosure of information. 23422; 8–30–73
—Retail mobile home dealers; small business size standards 23541; 8–31–73
USDA—Specifications for rural telephone facilities; equipment for automatic number identification and direct distance dialing 23413; 8–30–73
VA—Reports by schools; requirements. 32541; 8–31–73

**OCTOBER 3**

EPA—Advertised construction contracts; procurement forms 20267; 7–27–73

**OCTOBER 5**

AMS—Labeling policy for cured products 21648; 8–10–73
CIVIL AERONAUTICS BOARD—Classification and exemption of air taxi operators; reporting of certain data by commuter air carriers and other air taxi operators 22494; 8–21–73
COST ACCOUNTING STANDARDS BOARD—Cost accounting period; selection 21276; 8–7–73
DoT—Dangerous cargo regulations; marking of packages 23535; 8–31–73
FCC—Communications Satellite Co.; financial rules 20275; 7–27–73
NHTSA—Uniform tire quality grading. 21939; 8–14–73

### Next Week's Hearings

**OCTOBER 1**

COMMISSION ON REVISION OF THE FEDERAL COURT APPELLATE SYSTEM—Realinement of Federal judicial circuits, to be held in New York City, N.Y 25467; 9–13–73

**OCTOBER 2**

EPA—Consideration of home pesticide use of calcium cyanide, strychnine, sodium monofluoroacetate, and sodium cyanide 23010; 8–28–73
—Farm worker protection; occupational safety requirements for pesticides, to be held in Chicago, Ill 20362; 7–31–73
—Occupational safety requirements for pesticides 23557; 8–31–73
FAA—Air transportation of handicapped persons 23352; 8–29–73
HEW—Financial assistance for demonstration projects for reducing school dropouts 21788; 8–13–73

**OCTOBER 3**

CEQ—Atlantic Outer Continental Shelf and Gulf of Alaska oil and gas development; held at Mineola, N.Y. 24398; 9–7–73

**OCTOBER 4**

CEQ—Atlantic Outer Continental Shelf and Gulf of Alaska oil and gas development; held at Mineola, N.Y. 24398; 9–7–73
FAA—Air transportation of handicapped persons 23352; 8–29–73

**OCTOBER 6**

FISH AND WILDLIFE SERVICE—Desirability of including a portion of the National Elk Refuge within the National Wilderness Preservation System, to be held in Wyoming. 21506; 8–9–73

### Weekly List of Public Laws

This is a listing of public bills enacted by Congress and approved by the President, together with the law number, the date of approval, and the U.S. Statutes citation. Subsequent lists will appear every Wednesday in the FEDERAL REGISTER. Copies of the laws may be obtained from the U.S. Government Printing Office.

H.J. Res. 695 Pub. Law 93–108
Johnny Horizon '76 Clean Up America Month, designation (Sept. 19, 1973; 87 Stat. 351)
S. 1165 Pub. Law 93–109
Little Cigar Act of 1973 (Sept. 21, 1973; 87 Stat. 352)
H.R. 6912 Pub. Law 93–110
To amend the Par Value Modification Act, and for other purposes (Sept. 21, 1973; 87 Stat. 352)
S. 1385 Pub. Law 93–111
Trust Territory of the Pacific Islands, continuance of civil government, provision (Sept. 21, 1973; 87 Stat. 354)

The President vetoed S. 1672, Small Business Act amendments. Message dated Sept. 22, 1973; Weekly Compilation of Presidential Documents, Vol. 9. No. 38.





# Rules and Regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER Issue of each month.

## Title 5—Administrative Personnel

### CHAPTER I—CIVIL SERVICE COMMISSION

### PART 213—EXCEPTED SERVICE

#### General Services Administration

Section 213.3337 is amended to show that one additional position of Confidential Assistant to the Commissioner, Federal Supply Service, is excepted under Schedule C.

Effective on September 26, 1973, § 213.3337(c)(2) is amended as set out below.

**§ 213.3337 General Services Administration.**

• • • • • •

(c) *Federal Supply Service.*

• • • • •

(2) Two Confidential Assistants to the Commissioner.

• • • • • •

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73-20437 Filed 9-21-73;8:45 am]

### PART 213—EXCEPTED SERVICE

#### National Labor Relations Board

Section 213.3341 is amended to show that one additional position of Confidential Assistant to the General Counsel is excepted under Schedule C.

Effective on September 26, 1973, § 213.3341(d) is amended as set out below.

**§ 213.3341 National Labor Relations Board.**

• • • • • •

(d) Two Confidential Assistants to the General Counsel.

• • • • • •

(5 U.S.C. secs. 3301, 3302; E.O. 10577, 3 CFR 1954–58 Comp. p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
[SEAL] JAMES C. SPRY,
*Executive Assistant to the Commissioners.*

[FR Doc.73-20658 Filed 9-25-73;8:45 am]

## Title 7—Agriculture

### CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTIONS, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

### PART 56—VOLUNTARY GRADING OF SHELL EGGS AND U.S. STANDARDS, GRADES, AND WEIGHT CLASSES FOR SHELL EGGS

#### Miscellaneous Amendments

Under authority contained in the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621–1627) the U.S. Department of Agriculture hereby amends the Regulations Governing the Grading of Shell Eggs and U.S. Standards, Grades, and Weight Classes for Shell Eggs (7 CFR Part 56).

STATEMENT OF CONSIDERATIONS

On August 3, 1973, a rulemaking proposal was published in the FEDERAL REGISTER (38 FR 20896) which would eliminate air cell movement as a quality factor in shell egg grading, provide a definition for "Nest run eggs," make some adjustments in the tolerances in the consumer and procurement grades, and require equipment to reduce excessive iron content in water used to wash eggs.

Thirty-six letters were received by the Hearing Clerk on the proposal. Thirty-two comments favored the proposal and only four comments were in opposition. One comment opposed all of the adjustments in tolerances as confusing and a lowering of the grade standards, while another cited the slight increase in the tolerance for checks as a health hazard. It is impossible to market eggs without tolerances. The Department has found that due to mechanization and rapid handling of eggs after lay, some adjustments are now necessary. For example, the more rapid handling of higher quality eggs makes 100 percent detection of some types of spots impossible at time of initial grading. Consequently, a slight change is being made to overcome this situation. The slight increase in checks in the procurement grades is consistent with a long-standing tolerance in the consumer grades which has caused no problems over the years.

Another comment opposed deletion of air cell movement on the basis that this indicates eggs had been handled roughly and that such movement may be caused by disease. Disease in flocks is reflected in factors other than the air cell, such as weak albumen and shell deformities, which would automatically downgrade the eggs. The Department is not aware of any disease that only affects the air cell. As mentioned in the proposed rulemaking, studies have shown that air cell movement is not indicative of quality.

Another comment opposed the definition of "Nest run eggs" based upon the belief that certain types of undergrade eggs, such as soft shells, could not be removed from the pack. This was a misunderstanding. The definition of "Nest run eggs" does permit the removal of obvious undergrade eggs at time of gathering.

There were other letters which supported the proposed changes and also asked for additional changes to be made in the regulations. These additional changes will not be considered at this time because they were not included as proposed rulemaking. However, the Department will make use of such recommendations in future rulemaking considerations.

In view of the widespread support for and the desirability of the amendments, the Department has decided to promulgate them as proposed, with the exception that wording is added to § 56.76(e)(8) to provide that the frequency of testing for water potability and iron content shall be at the discretion of the Administrator, and new testing is required when there is a change in the water source. This provision was suggested in several of the comments received by the Hearing Clerk.

The amendments are as follows:

1. In § 56.1, immediately following the definition for "National supervisor," a new definition for "Nest run eggs" is inserted to read:

**§ 56.1 Meaning of words and terms defined.**

• • • • • •

"Nest run eggs" means eggs which are packed as they come from the production facilities without having been washed, sized and/or candled for quality, with the exception that some Checks, Dirties, or other obvious undergrades may have been removed at the time of gathering.

• • • • • •

2. In § 56.3, the present text is designated paragraph (a) and a new paragraph (b) is added to read:



V 38 I 186 SEP 26 73 XUM

§ 56.3 Administration.

. . . . .

(b) The conduct of all services and the licensing of graders under these regulations shall be accomplished without discrimination as to race, color, religion, sex, or national origin.

3. In § 56.42, paragraph (b)(10) is amended to read:

§ 56.42 Requirements for eggs packaged under Fresh Fancy Quality grade mark or AA grade mark as shown in figures 4 and 5 of § 56.36.

. . . . .

(b) Minimum requirements at packaging plant.

. . . . .

(10) Graders shall examine samples of packaged product in accordance with the provisions of § 56.4 or as determined by the National supervisor. A tolerance of 15 percent is permitted in eggs that are of B quality with respect to shell. Within the 15 percent tolerance, 5 percent in any combination may be C quality due to shell, or meat or blood spots and Checks. In addition, 0.30 percent may be Leakers and Loss (due to meat or blood spots) in any combination. No Dirties or Loss other than as specified are permitted.

4. In § 56.43, paragraph (e) is amended to read:

§ 56.43 Requirements for eggs packaged under the U.S. grade A mark as shown in Figure 7 of § 56.36.

. . . . .

(e) A tolerance of 5 percent is permitted in any combination for C quality with respect to shell, meat or blood spots, and Checks. In addition, 0.30 percent may be Leakers and Loss (due to meat or blood spots) in any combination. No Dirties or Loss other than as specified are permitted.

5. In § 56.76, paragraph (e)(8) is amended to read:

§ 56.76 Minimum facility and operating requirements for shell egg grading and packing plants.

. . . . .

(e) *Shell egg cleaning operations.* . . .

(8) Only potable water may be used to wash eggs and each official plant shall submit certification to the National Office stating that their water supply is potable. An analysis of the iron content of the water supply, stated in parts per million, is also required and when the iron content exceeds 2 parts per million, equipment shall be provided to correct the excess iron content. Frequency of testing shall be determined by the Administrator, and when the water source is changed, new tests are required.

. . . . .

6. Section 56.201 is amended to read:

§ 56.201 AA Quality.

The shell must be clean, unbroken, and practically normal. The air cell must not exceed ⅛ inch in depth, may show unlimited movement, and may be free or bubbly. The white must be clear and firm so that the yolk is only slightly defined when the egg is twirled before the candling light. The yolk must be practically free from apparent defects.

7. Section 56.202 is amended to read:

§ 56.202 A Quality.

The shell must be clean, unbroken, and practically normal. The air cell must not exceed $^{3}/_{16}$ inch in depth, may show unlimited movement, and may be free or bubbly. The white must be clear and at least reasonably firm so that the yolk outline is only fairly well defined when the egg is twirled before the candling light. The yolk must be practically free from apparent defects.

8. Section 56.204 is amended to read:

§ 56.204 C Quality.

The shell must be unbroken, may be abnormal and may have slightly stained areas. Moderately stained areas are permitted if they do not cover more than ¼ of the shell surface. Eggs having shells with prominent stains or adhering dirt are not permitted. The air cell may be over ⅜ inch in depth, may show unlimited movement and may be free or bubbly. The white may be weak and watery so that the yolk outline is plainly visible when the egg is twirled before the candling light. The yolk may appear dark, enlarged, and flattened, and may show clearly visible germ development but no blood due to such development. It may show other serious defects that do not render the egg inedible. Small blood clots or spots (aggregating not more than ⅛ inch in diameter) may be present.

9. Section 56.209 is amended to read:

§ 56.209 Terms descriptive of the air cell.

(a) *Depth of air cell (air space between shell membranes, normally in the large end of the egg).* The depth of the air cell is the distance from its top to its bottom when the egg is held air cell upward.

(b) *Free air cell.* An air cell that moves freely toward the uppermost point in the egg as the egg is rotated slowly.

(c) *Bubbly air cell.* A ruptured air cell resulting in one or more small separate air bubbles usually floating beneath the main air cell.

10. In § 56.216, paragraphs (b), (c), and (d) are amended to read:

§ 56.216 Grades.

. . . . .

(b) *U.S. Grade AA.* (1) U.S. Consumer Grade AA (at origin) shall consist of eggs which are 85 percent AA quality. The maximum tolerance of 15 percent which may be below AA quality may consist of A or B quality in any combination, with not more than 5 percent C quality or Checks in any combination and not more than 0.50 percent Leakers or Loss (due to meat or blood spots) in any combination. No Dirties or Loss other than as specified are permitted. This grade is also applicable when the lot consists of eggs meeting the requirements set forth in § 56.42.

(2) U.S. Consumer Grade AA (destination) shall consist of eggs which are 80 percent AA quality. The maximum tolerance of 20 percent which may be below AA quality may consist of A or B quality in any combination with not more than 5 percent C quality or Checks in any combination and not more than 0.50 percent Leakers, Dirties, or Loss (due to meat or blood spots) in any combination, except that such Loss may not exceed 0.30 percent. Other types of Loss are not permitted. This grade is also applicable when the lot consists of eggs meeting the requirements set forth in § 56.42.

(c) *U.S. Grade A.* (1) U.S. Consumer Grade A (at origin) shall consist of eggs which are 85 percent A quality or better. Within the maximum tolerance of 15 percent which may be below A quality, not more than 5 percent may be C quality or Checks in any combination, and not more than 0.30 percent Leakers or Loss (due to meat or blood spots) in any combination. No Dirties or Loss other than as specified are permitted. This grade is also applicable when the lot consists of eggs meeting the requirements set forth in § 56.43.

(2) U.S. Consumer Grade A (destination) shall consist of eggs which are 80 percent A quality or better. Within the maximum tolerance of 20 percent which may be below A quality, not more than 5 percent may be C quality or Checks in any combination, and not more than 0.50 percent Leakers, Dirties, or Loss (due to meat or blood spots) in any combination, except that such Loss may not exceed 0.30 percent. Other types of Loss are not permitted. This grade is also applicable when the lot consists of eggs meeting the requirements set forth in § 56.43.

(d) *U.S. Grade B.* (1) U.S. Consumer Grade B (at origin) shall consist of eggs which are 85 percent B quality or better. Within the maximum tolerance of 15 percent which may be below B quality, not more than 10 percent may be Checks and not more than 0.30 percent Leakers or Loss (due to meat or blood spots) in any combination. No Dirties or Loss other than as specified are permitted.

(2) U.S. Consumer Grade B (destination) shall consist of eggs which are 80 percent B quality or better. Within the maximum tolerance of 20 percent which may be below B quality, not more than 10 percent may be Checks and not more than 0.50 percent Leakers, Dirties, or Loss (due to meat or blood spots) in any combination, except that such Loss may not exceed 0.30 percent. Other types of Loss are not permitted.

. . . . .

11. In § 56.217, Table I is amended to read:

§ 56.217 Summary of grades.

. . . . .





TABLE I.—*Summary of Consumer Grades for Shell Eggs*

| U.S. Consumer grade (origin) | Quality required [1] | Tolerance permitted [2] | |
|---|---|---|---|
| | | Percent | Quality |
| Grade AA or Fresh Fancy Quality | 85 percent AA | Up to 15 | A or B. |
| | | Not over 5 | C or Check. |
| Grade A | 85 percent A or better | Up to 15 | B. |
| | | Not over 5 | C or Check. |
| Grade B | 85 percent B or better | Up to 15 | C. |
| | | Not over 10 | Checks. |

| U.S. Consumer grade (destination) | Quality required [1] | Tolerance permitted [3] | |
|---|---|---|---|
| | | Percent | Quality |
| Grade AA or Fresh Fancy Quality | 80 percent AA | Up to 20 | A or B. |
| | | Not over 5 | C or Check. |
| Grade A | 80 percent A or better | Up to 20 | B. |
| | | Not over 5 | C or Check. |
| Grade B | 80 percent or better | Up to 20 | C. |
| | | Not over 10 | Checks. |

[1] In lots of two or more cases or cartons, see Table II of this section for tolerances for an individual case or carton within a lot.
[2] For the U.S. Consumer grades (at origin), a tolerance of 0.30 percent Leakers or Loss (due to meat or blood spots) in any combination is permitted. No Dirties or other type Loss are permitted.
[3] For the U.S. Consumer grades (destination), a tolerance of 0.50 percent Leakers, Dirties, or Loss (due to meat or blood spots) in any combination is permitted, except that such Loss may not exceed 0.30 percent. Other types of Loss are not permitted.

12. In § 56.221, paragraphs (a) and (b) are amended to read:

§ 56.221 Grades.

(a) *U.S. Procurement Grade I.* (1) U.S. Procurement Grade I (at origin) shall consist of eggs which are 85 percent A quality or better. Within the maximum tolerance of 15 percent which may be below A quality, not more than 5 percent may be C quality or Checks in any combination and not more than 0.30 percent may be Dirties, Leakers, and Loss combined. Loss, other than meat or blood spots, shall not exceed 0.15 percent.

(2) U.S. Procurement Grade I (destination) shall consist of eggs which are 80 percent A quality or better. Within the maximum of 20 percent which may be below A quality not more than 5 percent may be C quality or Checks, in any combination and not more than 0.50 percent may be Dirties, Leakers, and Loss combined. Loss, other than meat and blood spots shall not exceed 0.20 percent.

(b) *U.S. Procurement Grade II.* (1) U.S. Procurement Grade II (at origin) shall consist of eggs which are 65 percent A quality or better. Within the maximum tolerance of 35 percent which may be below A quality, not more than 10 percent may be C quality or Checks in any combination, except that Checks may not exceed 5 percent and not more than 0.30 percent may be Dirties, Leakers, and Loss combined. Loss, other than meat and blood spots shall not exceed 0.15 percent.

(2) U.S. Procurement Grade II (destination) shall consist of eggs which are 60 percent A quality or better. Within the maximum tolerance of 40 percent which may be below A quality, not more than 10 percent may be C quality or Checks, in any combination, except that Checks may not exceed 5 percent and not more than 0.50 percent may be Dirties, Leakers, and Loss combined. Loss, other than meat and blood spots, shall not exceed 0.20 percent.

. . . . .

13. In § 56.522, Table I is amended to read:

§ 56.522 Summary of grades.

. . . . .

TABLE I.—*Summary of U.S. Procurement Grades for Shell Eggs*

| U.S. procurement grade (origin) | A quality or better (lot average) at least [1] (percent) | Maximum tolerance permitted (lot average) [2] | |
|---|---|---|---|
| | | Percent | Quality |
| I | 85 | Up to 15 | B. |
| | | Not over 5 | C, Check. |
| II | 65 | Up to 35 | B. |
| | | Not over 10 | C, Check. |

| U.S. procurement grade (destination) | A quality or better (lot average) at least [1] (percent) | Maximum tolerance permitted (lot average) [3] | |
|---|---|---|---|
| | | Percent | Quality |
| I | 80 | Up to 20 | B. |
| | | Not over 5 | C, Check. |
| II | 60 | Up to 40 | B. |
| | | Not over 10 | C, Check. |

[1] Individual cases may not exceed 10 percent less A quality eggs than permitted for the lot average.
[2] For U.S. Procurement Grades (at origin), a maximum of 5 percent Checks is permitted and not more than 0.30 percent may be Dirties, Leakers, and Loss combined. Loss other than meat and blood spots shall not exceed 0.15 percent.
[3] For U.S. Procurement Grades (destination), a maximum of 5 percent Checks is permitted and not more than 0.50 percent may be Dirties, Leakers, and Loss combined. Loss, other than meat and blood spots, shall not exceed 0.20 percent.



V 38 1186 SEP 26 73 XUM

Done at Washington, D.C., this 20th day of September 1973.

To become effective October 29, 1973.

JOHN C. BLUM,
*Acting Administrator.*

[FR Doc.73-20432 Filed 9-25-73;8:45 am]

## PART 201—FEDERAL SEED ACT REGULATIONS

### Certifying Agency Standards and Procedures To Assure Genetic Purity and Identity of Certified Seed

*Correction*

In FR Doc. 73-19355 appearing at page 25661 of the issue for Friday, September 14, 1973, make the following changes:

1. The last line of § 201.2(ii) reading "cross, a three-way, inbred lines." should read "cross, a three-way, or a top cross."

2. In the title of § 201.70, the word "certified" should be "Certified".

3. In the second line of § 201.75(a) insert "of" between the words "classes" and "certified".

4. In Table 5 of § 201.76 make the following changes:

a. The entry for "Clover (all kinds)" under "Registered Land", reading "3", should be preceded by footnotes 1 and 9.

b. The entry for "Flax" under "Foundation Land", reading "1", should be preceded by a footnote 7.

c. The following entry should be inserted between "Lespedeza" and "Millet":

| Crop kind | Foundation | | | | Registered | | | | Certified | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Land | Isolation | Field | Seed | Land | Isolation | Field | Seed | Land | Isolation | Field | Seed |
| Milk vetch | 1.5 | [4] (60) | 2,000 | 0.05 | [3] | [4] 300 | 1,000 | 0.1 | [2] | [4] 165 | 200 | 0.5 |

d. The entries for "Millet" under "Foundation isolation", "Registered isolation", and "Certified Isolation", reading 1,320, 1,320, and 660, respectively, should each be preceded by a footnote 41.

5. On page 25664, the following changes should be made to the footnotes to table 5:

a. In the first line of footnote 29, the parenthesis preceding "genetically" should be deleted.

b. The second line of footnote 32, now reading "pollinator rows in inter-planted blocks.", should read "pollinator plants in inter-planted blocks."

c. The word "seeds" at the end of the first sentence of footnote 38 should be "seed".

## Title 14—Aeronautics and Space

## CHAPTER I—FEDERAL AVIATION ADMINISTRATION

## DEPARTMENT OF TRANSPORTATION

[Docket No. 73-EA-73; Amdt. 39-1725]

## PART 39—AIRWORTHINESS DIRECTIVE

### DeHavilland Aircraft

The Federal Aviation Administration is amending § 39.13 of Part 39 of the Federal Aviation Regulations so as to issue an airworthiness directive applicable to deHavilland DHC-6 type floatplane class airplane.

There has been a report of a failure of a float to fuselage attachment bolt on the subject airplane which is believed to result from improper torquing. Since this deficiency can exist or develop on other airplanes of similar type and class design, an airworthiness directive is being issued which will require a replacement of the attachment bolts.

Since this deficiency poses a hazard to air safety requiring expeditious adoption of the amendment, notice and public procedure hereon are impractical and good cause exists for making the amendment effective in less than 30 days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator, 14 CFR 11.89 (31 FR 13697) § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new Airworthiness Directive:

DEHAVILLAND MODEL DHC-6: applies to deHavilland Model DHC-6 Twin Otter Floatplanes, all Series, certificated in all categories, equipped with Canadian Aircraft Products Model 12000A or 12000B Floats installed prior to Float Serial No. 71.

1. Compliance is required within the next ten hours in service from the effective date of this Airworthiness Directive, unless already accomplished.

To prevent loosening and subsequent pull-out failure of certain float to fuselage bolts, comply with accomplishment instruction of deHavilland Service Bulletin 6/296, Revision A, dated May 11, 1973, or an equivalent alteration approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421 and 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

This amendment is effective October 3, 1973.

Issued in Jamaica, N.Y., on September 18, 1973.

LOUIS J. CARDINALI,
*Acting Director, Eastern Region.*

[FR Doc.73-20462 Filed 9-25-73;8:45 am]

[Airworthiness Docket No. 73-WE-17-AD; Amdt. 39-1724]

## PART 39—AIRWORTHINESS DIRECTIVES

### Hiller Model UH-12 and 12A, B, C, D, and E Helicopters

There have been cracks and failures of the main rotor hub on Hiller Model UH-12B, C, D, and E Helicopters that could result in separation of the main rotor from the helicopter. Since this condition is likely to exist or develop on other helicopters of the same type designs, an airworthiness directive was adopted by telegram on September 5, 1973, and made effective immediately by airmail letter, dated September 6, 1973, as to all known operators of Hiller Model UH-12B, C, D, and E Helicopters. This directive requires initial and repetitive dye penetrant inspection of the main rotor hub and replacement if necessary.

Since it was found that immediate action was required, notice and public procedure thereon was impracticable and contrary to public interest and good cause existed for making the airworthiness directive effective immediately as to all known U.S. operators of Hiller Model UH-12B, C, D, and E Helicopters by individual airmail letter dated September 6, 1973. Subsequent to the issuance of the telegraphic AD, the agency has determined that Models 12 and 12A should be added to the applicability of the AD; that additional dash numbers identifying the hub are in service; and that the inspection required may be limited to the inside of the main rotor hub. The AD, as published in the FEDERAL REGISTER, reflects these substantive changes.

The conditions which necessitated issuance of the telegraphic AD still exist and pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following airworthiness directive to make it effective to all persons.

HILLER AVIATION. Applies to Hiller Model UH-12, UH-12A, UH-12B, UH-12C, UH-12D, and UH-12E Helicopters certificated in all categories.

Compliance required within the next 5 hours time in service after the effective date of this AD, unless already accomplished on receipt of the telegraphic AD dated September 6, 1973, and thereafter at intervals not to exceed 50 hours time in service from the last inspection.

To detect cracks in the main rotor hub P/N's 51437, 51437-6, 51437-7, 51437-8, 51437-9, 51437-11, 51437-901, and 51437-11-911, accomplish the following: Conduct dye penetrant inspection of the main rotor hubs P/N's 51437, 51437-6, 51437-7, 51437-8, 51437-9, 51437-11, 51437-901, 51437-11-911, inside the hub in the area opposite the control rotor trunnion attachments. If cracks are found, replace with a new part before further flight and continue the 50 hour interval dye penetrant inspections. Report cracks found, model and serial number, and total time in service on the main rotor hub, to Chief, Aircraft Engineering Division, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. (Reporting approved by the Bureau of the Budget under B.O.B. No. 04-R0174).

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, 49 U.S.C. 1354(a), 1421, 1423; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c).)

This amendment is effective on October 30, 1973.

Issued in Los Angeles, California on September 18, 1973.

ARVIN O. BASNIGHT,
*Director, FAA Western Region.*

[FR Doc.73-20461 Filed 9-25-73;8:45 am]

[Airspace Docket No. 73-GL-30]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES CONTROLLED AIRSPACE, AND REPORTING POINTS

### Designation of Transition Area

On pages 18470 and 18471 of the FEDERAL REGISTER dated July 11, 1973, the Federal Aviation Administration published a notice of proposed rulemaking which would amend § 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Wilmington, Ohio.

Interested persons were given 30 days to submit written comments, suggestions or objections regarding the proposed amendment.

No objections have been received and the proposed amendment is hereby adopted without change and is set forth below.

This amendment shall be effective 0901 G.m.t., November 8, 1973.

(Sec. 307(a), Federal Aviation Act of 1958, 49 U.S.C. 1348; sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Des Plaines, Illinois, on September 5, 1973.

LYLE K. BROWN,
*Director, Great Lakes Region.*

In § 71.181 (38 FR 435), the following transition area is added:

WILMINGTON, OHIO

That airspace extending upward from 700 feet above the surface within a 10 mile radius of the Wilmington Industrial Airport (latitude 30°25'45" N., longitude 83°48'00" W.).

[FR Doc.73-20463 Filed 9-25-73;8:45 am]





## Title 32—National Defense

## CHAPTER VII—DEPARTMENT OF THE AIR FORCE

## SUBCHAPTER B—SALES AND SERVICES

## PART 818b—LEGAL ASSISTANCE PROGRAM

### Provision of Services

Subchapter B of Chapter VII of Title 32 of the Code of Federal Regulations is amended by adding a new Part 818b. This part describes services provided by the Air Force legal assistance program and specifies who is entitled to them. Part 818b is added to read as follows:

Sec.
818b.0 Purpose.
818b.1 Program responsibilities.
818b.2 Persons entitled to legal assistance.
818b.3 Legal assistance services provided.
818b.4 Limitation on services.

AUTHORITY: 10 U.S.C. 8012.

### § 818b.0 Purpose.

(a) This part prescribes an Air Force-wide legal assistance program whereby all military personnel, their dependents, and certain civilian personnel may obtain competent advice and assistance in resolving personal civil legal problems.

(b) Part 806 of this chapter states that basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

### § 818b.1 Program responsibilities.

(a) Responsibility for the efficient and proper functioning of the legal assistance program within the Air Force extends to all commands.

(b) Under the Chief of Staff, United States Air Force, staff supervision of the legal assistance program is assigned to The Judge Advocate General of the Air Force. He maintains liaison with the American Bar Association and other civilian bar organizations that he deems advisable.

### § 818b.2 Persons entitled to legal assistance.

(a) Services provided for in this part are given to the following personnel and their dependents:

(1) All members (including those confined in foreign penal institutions) on active duty with the Armed Forces of the United States, including the United States Coast Guard.

(2) Members of Allied Armed Forces serving in the United States, or its possessions. (The Judge Advocates General of the United States and the Canadian Forces have informally agreed that personnel of their respective establishments will render legal assistance to the members of the other's forces while such members are performing military duties in their country.)

(b) To the extent personnel and facilities are available, extend legal assistance to:

(1) Retired Regular and retired Career Reserve personnel of the United States forces and their dependents.

(2) Dependent survivors of military personnel, including those retired.

(3) Civilian employees of United States Armed Forces at an isolated installation or an installation in a foreign area.

### § 818b.3 Legal assistance services provided.

Personnel rendering legal assistance under the program will do the following:

(a) After proper consultation with their client, they will give advice, assistance, and counsel on all person civil legal problems.

(b) Normally, they will refer cases involving specialized areas of law—such as trusts, deeds, complicated wills, estate planning, mortgages, etc.—as provided in paragraph (d) of this section. Such cases will only be handled by legal assistance personnel when the staff judge advocate determines that workload and experience level permit.

(c) Due to the severe difficulty in locating witnesses to wills, all wills executed should have the name of the witness printed or typed below his signature, along with his social security number and the most permanent mailing address possible.

(d) When proper, a client seeking legal assistance on legal matters beyond the scope and availability of activities of the legal assistance program will be referred to a lawyer of the client's choice, or to such bar organizations as may be available and appropriate, for advice and action.

(1) Insofar as practicable, the client will be advised to consult his usual civilian attorney.

(i) If, for any reason, this is impracticable or not desired by the client, he may be referred to a cooperating bar organization for assistance in retaining competent counsel.

(ii) As a temporary measure in the absence of an organized local bar, or upon failure of the local bar association to set up a committee or designate an individual to accept referrals, the legal assistance officer will prepare a list to be used for referral of local attorneys who have evidenced through their previous handling of servicemen's cases a willingness to give prompt and careful attention to such cases. Except under the most unusual circumstances, and then only with advance permission of his staff judge advocate, will a legal assistance officer refer clients to a list of less than three civilian attorneys or to a named civilian attorney.

(iii) In overseas commands, the senior staff judge advocate serving in a foreign country, if deemed appropriate after consultation with appropriate consular officials and any cooperating local or national bar association or similar agency, will prepare a list of local civilian attorneys which may be used as set out in this section.

(2) Indigent clients needing civilian counsel are referred to the appropriate legal aid organization or representative of the local bar designated to handle such referrals.



V 38 I 186
SEP 26 73
XUM

NOTE.—Once a civilian attorney has been retained, the legal assistance officer, as required by professional ethics, will refrain from advising the client on that particular matter.

(e) In domestic relations cases, the problem should be fully explored, with the objective of preventing separation and divorce. With the knowledge and consent of both parties, both parties may be consulted without impropriety and advised of their legal rights and obligations to each other, their children, and society.

(f) On complaints of discrimination, complainant should be advised concerning:

(1) Application of the Civil Rights Act of 1964;

(2) Procedures as set forth in pertinent Air Force regulations for processing such complaints; and

(3) Rights of individuals to pursue remedies through civilian channels without recourse to procedures prescribed in Air Force regulations.

**§ 818b.4 Limitation on services.**

Legal assistance is limited to services furnished to the client, such as advice, preparation of documents, etc. Legal assistance personnel, in such capacity, will not:

(a) Appear in person or by pleadings before domestic or foreign civil courts, tribunals, or Government agencies, unless authorized pursuant to AFR 110–3 (Taxation, Legal and Administrative Actions, and Legal Process) or by the Office of The Judge Advocate General, nor before courts-martial or military board proceedings.

(b) Sign letters on his client's behalf without the express permission of the client concerned and the staff judge advocate.

(c) Receive confidences in any case in which the person requesting assistance is or probably will be the subject of civilian criminal action (except minor traffic violations), nor offer him any assistance regarding such case other than to advise him that:

(1) As the legal assistance program is limited to civil (as distinguished from criminal) legal problems, legal assistance personnel (as such) may not receive confidences relating to such matters.

(2) He has a right to consult civilian counsel.

(3) He will follow § 818b.3(d) of this part, in the event referral assistance is requested.

(e) Receive confidences in any case in which the person requesting assistance is or probably will be the subject to court-martial investigation or charges, other disciplinary action, or administrative board proceedings, unless the staff judge advocate has determined that the legal assistance officer is available to enter into an attorney-client relationship with and to serve as military counsel for the individual seeking assistance. As soon as a legal assistance officer ascertains that the request for assistance involves a matter within the scope of this section, he advises the individual in accordance with § 818b.3(d)(1) through (d)(3) of this part and, further, that he may receive advice as to his rights to military counsel from the staff judge advocate. With the concurrence of the staff judge advocate, the legal assistance officer himself may furnish the individual with the appropriate advice concerning his rights to military counsel. An individual who is entitled to military counsel and who requests that such counsel be appointed for him will be assisted in establishing contact with a lawyer whom the staff judge advocate determines is available to serve as counsel.

(f) Receive confidences nor assist in regard to official or military problems since they are not within the scope of the Legal Assistance Program. Such problems are generally within the jurisdiction of other staff offices or Federal agencies, and the individual will be referred to the appropriate staff office or agency, or given such information or advice as the staff judge advocate determines appropriate as a staff function.

(g) Make available, on matters arising from or connected with business endeavors or outside employment, any legal assistance services other than advice on relief afforded by the Soldiers' and Sailors' Civil Relief Act and referral to a civilian attorney, as provided herein.

(h) Act as a collection agency or lend aid to defeat the fair collection of any just debt or obligation. However, he may advise clients as to their legal liability for a debt or legal remedies for the collection of a debt, or refer them to civilian counsel for such advice. If appropriate, he should also counsel clients as to the Air Force's policy with regard to private indebtedness (Part 818 of this chapter) and the conditions under which the Air Force may extend assistance to creditors in the collection of debts from its members. All official correspondence is handled outside the legal assistance program as a command function in accordance with prescribed Air Force directives.

NOTE.—With express consent of the client, complaints of unfair business practices which appear to be valid will be referred to the local commander for processing.

By order of the Secretary of the Air Force.

JOHN W. FAHRNEY,
*Colonel, USAF, Chief, Legislative Division, Office of The Judge Advocate General.*

[FR Doc.73-20445 Filed 9-25-73;8:45 am]

---

SUBCHAPTER I—MILITARY PERSONNEL

## PART 883—MILITARY JUSTICE

### Court Martial Manual; Partial Implementation

Subchapter I, Chapter VII of Title 32 of the Code of Federal Regulations is amended by adding a new Part 883. This part implements a portion of the Manual for Courts-Martial, 1969 (Revised Edition) within the Department of the Air Force. Part 883 is added to read as follows:

Sec.
883.1 Purpose.
883.2 Suspension of counsel.
883.3 Application of relief under Article 69.
883.4 Petitions for new trial.

AUTHORITY: 10 U.S.C. 836, 869, 940, 8012; E.O. 11476, 3 CFR, 1966–1967 Comp., p. 787; paragraphs 43 and 110A, MCM US 1969 (Rev.).

**§ 883.1 Purpose.**

(a) This part contains Department of the Air Force implementation of a portion of the Manual for Courts-Martial, 1969 (Revised Edition). NOTE.—The complete text of the "Manual for Courts-Martial, United States, 1969 (Revised Edition)" appears at 34 FR 10503, June 28, 1969. The Manual was also published by the Department of Defense and may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(b) Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the Air Force directives referenced herein.

**§ 883.2 Suspension of counsel.**

(a) *General.* This section implements the provisions of paragraph 43, Manual for Courts-Martial (MCM), 1969 (Rev.). When a person, military or civilian, has, pursuant to paragraph 43, MCM, 1969 (Rev.), and this section, has been suspended from acting as counsel before Air Force courts-martial and the Air Force Court of Military Review, he shall not, during the period of the suspension, be eligible to so act. Such suspension is separate and distinct from any matter involving contempt, discussed in paragraphs 10 and 118, MCM, 1969 (Rev.), and from withdrawal of certification made pursuant to Articles 26 and 27, Uniform Code of Military Justice (UCMJ) (10 U.S.C. 826, 827).

(b) *Grounds for suspension.* Suspension action may be initiated when a person has demonstrated by his personal or professional conduct that he is so lacking in competency, integrity, or ethical or moral character as to be unacceptable as counsel before an Air Force court-martial or the Air Force Court of Military Review. Specific grounds for suspension include, but are not limited to:

(1) Demonstrated incompetence while acting as counsel during pretrial, trial, or post-trial stages of a court-martial;

(2) Preventing or obstructing justice, including the deliberate use of frivolous or unwarranted dilatory tactics;

(3) Using, at trial, any papers or evidence which are known to be fabrications, or otherwise practicing fraud upon an Air Force court-martial or the Air Force Court of Military Review;

(4) Tampering with a witness or court member;

(5) Abusive conduct toward the court-martial, the Court of Military Review, the military judge, or opposing counsel;





(6) Flagrant or repeated violations of any specific rules of conduct prescribed for counsel (see paragraphs 42, 44, 46, and 48, MCM 1969 (Rev.));

(7) Conviction of an offense involving moral turpitude or conviction of a violation of Article 48, UCMJ; or

(8) Mental incompetency as declared by appropriate authorities.

(c) *Automatic suspension.* When a person has been disbarred by a Federal or State court, or suspended from acting as counsel before courts-martial and Courts of Military Review by another service, The Judge Advocate General, United States Air Force, may, upon receipt of evidence of such disbarment or suspension, take suspension action by notifying the disbarred or suspended person, in writing, that he is ineligible to act before courts-martial or administrative boards in the Air Force, or before the Air Force Court of Military Review during the period of the disbarment or suspension. Under this procedure the disbarred or suspended person is not entitled to a hearing as hereinafter prescribed.

(d) *Standards of professional ethics.* Action to suspend should not be initiated because of personal prejudice or hostility toward counsel, nor should such action be initiated because counsel has presented an aggressive, zealous, or novel defense, or when his conduct stems from inexperience in the performance of legal duties. The Code of Professional Responsibility of the American Bar Association is considered to be generally applicable as the criterion of professional conduct for persons acting as counsel before Air Force courts-martial and the Air Force Court of Military Review.

(e) *Action to suspend.*—(1) *General.* Action to suspend a person from acting as counsel before Air Force courts-martial and the Air Force Court of Military Review will be initiated only when other remedial measures, including punitive action, have failed to induce proper behavior or are inappropriate. Full consideration will be given at each stage of the proceedings toward the effectiveness and appropriateness of other measures such as warnings, admonition instructions, proceedings in contempt or other punitive action, before suspension action is processed.

(2) *Report of grounds of suspension.* When information as to the occurrence or existence of any ground for suspension comes to the attention of a member of an Air Force court-martial, a military judge, staff judge advocate, appointed counsel, a commander, or member of the Air Force Court of Military Review, such information shall be reported, together with supporting information, to the officer exercising general court-martial jurisdiction over the command of such reporting officer. Upon receipt of such report, the officer exercising general court-martial jurisdiction will refer it to his staff judge advocate for review and recommended action. He will then forward the report with his recommendation through the major commander, if any, to The Judge Advocate General. The major commander will likewise refer the matter to his staff judge advocate for review and recommendations before forwarding it with his recommendations. If the alleged disqualifying conduct occurs during trial of a particular case and involves counsel for the accused, action may be deferred pending completion of the trial.

(3) *Hearing.* If The Judge Advocate General is of the opinion that there is probable cause to believe that a ground for suspension exists, and that other remedial measures are not appropriate or will not be effective, he shall appoint a Board of Officers consisting of not less than three Air Force officers who are designated as military judge or certified counsel (competent to act before general courts-martial pursuant to Article 26 or 27, UCMJ), and who are, if practical, senior in grade to the person being considered for suspension if that person is a member of the military. He shall also appoint a judge advocate as a non-voting recorder. The Board shall cause notice to be given to the lawyer involved, informing him of the misconduct or other disqualifying matters alleged and affording him the opportunity to appear before it for a hearing. The lawyer involved may be represented by counsel. If the lawyer involved is a member of the Air Force, he may have military counsel appointed for him or he may obtain civilian counsel at his own expense. If the lawyer involved is not a member of the Air Force, military counsel will not be provided him; however, he may obtain other civilian counsel at his own expense. The lawyer involved shall be permitted at least 5 days subsequent to notice to prepare for the hearing. Failure to appear on a set date subsequent to notice will constitute a waiver of appearance. Upon ascertaining the facts relevant to the alleged disqualifying measures, after notice and hearing, the Board will report its findings and recommendations based thereon to The Judge Advocate General. If the Board recommends suspension, it will also recommend whether the suspension will be indefinite or temporary. The procedures of Part 866 will be used as a guide in the conduct of hearings for suspension of counsel.

(4) *Action by The Judge Advocate General.* Upon receipt of the report of a Board, The Judge Advocate General shall determine whether the person involved shall be suspended as counsel and whether such suspension shall be for a stated term or indefinite, and he shall issue an appropriate order implementing such determination, a copy of which will be furnished the person involved. The Judge Advocate General may, upon petition of the person who has been suspended, and upon good cause shown, or upon his own motion, modify or revoke any prior order of suspension.

(5) *Effect upon other action.* Notwithstanding this part, The Judge Advocate General may in his discretion withdraw any certification of qualification to act as military judge or as counsel before general courts-martial made pursuant to Article 26 or 27, UCMJ.

**§ 883.3 Application for relief under Article 69.**

(a) Article 69 of the UCMJ (10 U.S.C. 869) permits The Judge Advocate General to vacate of to modify, in whole or in part, the findings or sentence or both in a court-martial case which has been finally reviewed, but has not been reviewed by the Court of Military Review (see MCM, 1969 (Rev.), paragraph 110A). An application for action under Article 69 will be made in writing, will be under oath or affirmation, and will be signed by the accused or his legal representative. The application will contain:

(1) The name, social security account number, and present mailing address of the accused.

(2) The date and place of trial and kind of court.

(3) The sentence of the court of approved or affirmed and any subsequent reduction by clemency or otherwise.

(4) A statement of the specific grounds on which relief is requested and the specific relief requested.

(5) Any documentary or other evidence which the applicant believes pertinent to the facts asserted under the specific grounds alleged, including copies of court-martial orders, if available.

(b) Applications will be submitted to the general court-martial authority when the case was tried by summary court-martial or by a special court-martial where the approved sentence did not include a bad conduct discharge and the applicant is still in the command in which the case was tried. All other applications will be forwarded directly to HQ USAF/JAJ. When an application is received by an officer exercising general court-martial jurisdiction, he will forward the application, together with the original record of trial and copies of all relevant orders and other documents, to HQ USAF/JAJ. In forwarding an application, neither the officer exercising general court-martial jurisdiction nor his staff judge advocate is required to make any recommendation as to the disposition of the case; however, either is permitted to include such comments or recommendations as may be appropriate in the particular case.

**§ 883.4 Petitions for new trial.**

Petitions for new trial will be prepared and processed in accordance with MCM, 1969 (Rev.), paragraph 109. A petition for new trial may be submitted on the grounds of newly discovered evidence or fraud on the court in any kind of court-martial (general, special, or summary) within 2 years after approval of the sentence by the convening authority.

By order of the Secretary of the Air Force.

JOHN W. FAHRNEY.
*Colonel, USAF Chief, Legislative Division, Office of The Judge Advocate General.*

[FR Doc.73-20446 Filed 9-25-73;8:45 am]



V 38 I 186 SEP 26 73 XUM

## Title 38—Pensions, Bonuses, and Veterans' Relief

### CHAPTER I—VETERANS ADMINISTRATION

### PART 3—ADJUDICATION

### Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

ANNUAL INCOME; SUPPLEMENTAL SECURITY INCOME

On page 21188 of the FEDERAL REGISTER of August 6, 1973, there was published a notice of proposed regulatory development to amend §§ 3.261 and 3.262 to exclude the new supplemental security income benefit in the computation of income for determining entitlement to benefits under programs administered by the Veterans Administration. Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations.

No written objections have been received and the proposed regulations are hereby adopted without change and are set forth below.

*Effective date.* These VA regulations are effective January 1, 1974.

Approved September 20, 1973.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
*Deputy Administrator.*

1. In § 3.261(a), subparagraph (17) is amended to read as follows:

**§ 3.261 Character of income; exclusions and estates.**

* * * * *

| | Dependency (parents) | Dependency and indemnity compensation (parents) | Pension; protected (veterans, widows and children) | Pension; Public Law 86-211 (veterans, widows and children) | See |
|---|---|---|---|---|---|
| (a) *Income:* | | | | | |
| * * * | * * * | * * * | * * * | * * * | |
| (17) Social security benefits: Old age and survivors, and disability insurance. | Included | Included | Included | Included | § 3.262(f). |
| Charitable programs | Excluded | Excluded | do | Excluded | |
| Lump sum death payments | Included | do | do | do | |
| Supplemental security income | Excluded | Excluded | do | do | |
| * * * | * * * | * * * | * * * | * * * | |

2. In § 3.262, paragraph (f) is amended to read as follows:

**§ 3.262 Evaluation of income.**

* * * * *

(f) *Social security benefits.* Old age and survivor's insurance and disability insurance under title II of the Social Security Act will be considered income as a retirement benefit under the rules contained in paragraph (e) of this section. Benefits received under noncontributory programs, such as old age assistance, aid to dependent children, and supplemental security income are subject to the rules contained in paragraph (d) of this section applicable to charitable donations. The lumpsum death payment under title II of the Social Security Act will be considered as income except in claims for dependency and indemnity compensation and for pension under Public Law 86-211 (73 Stat. 432).

* * * * *

[FR Doc.73-20473 Filed 9-25-73;8:45 am]

## Title 45—Public Welfare

### CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### PART 205—GENERAL ADMINISTRATION—PUBLIC ASSISTANCE PROGRAMS

### Cost Allocation Plans

Notice of proposed regulations was published in the FEDERAL REGISTER on June 15, 1973 (38 FR 15738), for the programs administered under Titles I, IV-A, X, XIV, XVI and XIX of the Social Security Act with respect to required submittal of cost allocation plans whenever requested by the Regional offices, Social and Rehabilitation Service, and submittal of cost data and other information necessary for evaluation of allocation methods. Title IV-B, omitted in error, is now included. Both IV-A as well as IV-B are included in a State's cost allocation plan.

The major concerns expressed in public comments were the delegation of authority to the Regional Commissioners to approve the effective date of the cost allocation plans, 3 months requirement to submit cost allocation plans, use of estimated costs to determine the validity of allocation methods and cost allocation plan requirements are too detailed.

The authority of the Regional Commissioner to request, approve and determine the effective date of a cost allocation plan relieves the State of an undue burden of an annual submission. The availability of technical assistance from the Regional Office will help States prepare their cost allocation plans within the specified period. The use of estimated costs in evaluating methods of allocating indirect cost pools or elements allows the use of an allocation method which departs from strict equity where dollar impact is not significant.

The purpose of a cost allocation plan is to describe a method of allocating costs of administering various State programs or activities among those programs or activities on an equitable basis. The detail required is necessary to determine the validity of the allocation methods used by the State.

Section 205.150 of Part 205, Chapter II, Title 45, of the Code of Federal Regulations is revised to read as set forth below:

**§ 205.150 Cost allocation.**

(a) *State plan requirements.* A State plan under title I, IV-A, IV-B, X, XIV, XVI, or XIX of the Social Security Act must provide that the single State agency will establish and maintain methods and procedures for properly charging the costs of administration, services (excluding those purchased), and training activities under the plan in accordance with Federal requirements (Office of Management and Budget Circular No. A-87 and Department and Social and Rehabilitation Service regulations and instructions). Such methods and procedures must include those for:

(1) Allocating all such administrative costs of the State department in which the State agency is located between Federal and non-Federal programs;

(2) Identifying, of the costs applicable to more than one of the Federal programs, those applicable to each of the separate programs, in accordance with program classifications specified by the Secretary; and

(3) Segregating costs in paragraph (a)(2) of this section by service and income maintenance functions, where applicable, and by such other classifications as are found necessary by the Secretary.

(b) *Federal financial participation.* As a condition for receipt of Federal financial Participation, a State must submit for approval a revised cost allocation plan within 3 months after being requested by the SRS Regional Commissioner. These requests will be made by the Regional Commissioner when it has been determined that the existing cost allocation plan is outdated due to significant organizational changes within the State agency, changes in Federal regulations, and other similar factors.

(1) The cost allocation plan shall include descriptions of the methods referred to in paragraph (a) of this section; the functions and activities by organizational units; estimated costs for the fiscal year by organizational unit (unless specifically waived by the Regional Commissioner); the basis used for allocating the various pools of costs to programs or activities (with justification for each); and such other information as may be necessary to document the validity of the cost allocation method. The estimated costs are included solely to permit evaluation of the methods of allocation. Approval of the cost allocation plan shall not be considered as approval of these estimated costs for use in calculating claims for FFP.

(2) Where a revised cost allocation plan is received within the 3 month period the State will continue to receive Federal financial participation under the old plan subject to any adjustments based on the revised cost allocation plan using the effective date designated by the SRS Regional Commissioner. Adjustments will be made when the revised plan is approved by the SRS Regional Commissioner.





(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302)) (Catalog of Federal Domestic Assistance Program Nos. 13.707, Child Welfare Services; 13.714, Medical Assistance Program; 13.724, Public Assistance—State and Local Training; 13.748, Work Incentive Program—Child Care; 13.754, Public Assistance—Social Services; 13.761, Public Assistance—Maintenance Assistance (State Aid))

*Effective date.* This regulation is effective on November 26, 1973.

Dated August 21, 1973.

JAMES S. DWIGHT, Jr.,
*Administrator, Social and Rehabilitation Service.*

Approved: September 21, 1973.

CASPAR W. WEINBERGER,
*Secretary.*

[FR Doc.73-20498 Filed 9-25-73;8:45 am]

## Title 49—Transportation

### SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket No. 1; Amdt. 1-79]

### PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

### Miscellaneous Amendment

The purpose of this amendment is to delete from 49 CFR 1.48(b)(1) reference to Chapter 5 of 23 U.S.C., since Chapter 5, Highway Relocation Assistance, was repealed January 2, 1971, Public Law 91-646, § 220(a)(10), 84 Stat. 1903. The subject matter of Chapter 5 is now covered by Chapter 61 of Title 42, The Public Health and Welfare (42 U.S.C. 4601 et seq.).

Since this amendment relates to Departmental management, practices, and procedures, notice and public procedure thereon are unnecessary and it may be made effective in fewer than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, subparagraph (1) of paragraph (b) of section 1.48 of Part 1 of Title 49, Code of Federal Regulations, is revised to read as follows:

**§ 1.48 Delegations to Federal Highway Administrator.**

* * * * *

(b) * * *

(1) Chapters 1 (except sections 134 (b) and 138), 2 and 3 of Title 23, United States Code, including the apportionment of funds for Federal-Aid Highways once Congress approves estimates submitted by the Secretary.

(Section 9(e), Department of Transportation Act, 49 U.S.C. 1657(e); sec. 1.59(m), Regulations of the Office of the Secretary of Transportation, 49 CFR 1.59(m).)

*Effective date.* This amendment is effective September 26, 1973.

Issued in Washington, D.C., on September 21, 1973.

J. THOMAS TIDD,
*Acting General Counsel.*

[FR Doc.73-20501 Filed 9-25-73;8:45 am]

## CHAPTER X—INTERSTATE COMMERCE COMMISSION

### SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Corrected 3rd Revised S.O. 1121; Amdt. 1]

### PART 1033—CAR SERVICE

### Demurrage and Free Time at Ports

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 18th day of September 1973.

Upon further consideration of Corrected Third Revised Service Order No. 1121 (38 FR 18660), and good cause appearing therefor:

*It is ordered,* That: § 1033.1121 *Service Order No. 1121* (Demurrage and free time at ports) corrected Third Revised Service Order No. 1121 be, and it is hereby, amended by substituting the following paragraph (d) for paragraph (d) thereof:

(d) *Expiration date.* The provisions of this order shall expire at 6:59 a.m., April 1, 1974, unless otherwise modified, changed, or suspended by order of this Commission.

*Effective date.* This amendment shall become effective at 6:59 a.m., October 1, 1973.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended (49 U.S.C. 1, 12, 15, and 17(2)); Interprets or applies secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911 (49 U.S.C. 1(10-17), 15(4), and 17(2)))

*It is further ordered,* That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-20520 Filed 9-25-73;8:45 am]

[2nd Rev. S.O. 1124; Amdt. 1]

### PART 1033—CAR SERVICE

### Demurrage and Free Time on Freight Cars

At a session of the Interstate Commerce Commission, Division 3, held in Washington, D.C., on the 19th day of September 1973.

Upon further consideration of Second Revised Service Order No. 1124 (38 FR 18251), and good cause appearing therefor:

*It is ordered,* That: § 1033.1124 *Service Order No. 1124,* (Demurrage and free time on freight cars).

Second Revised Service Order No. 1124 be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) *Expiration date.* This order shall expire at 6:59 a.m., April 1, 1974, unless otherwise modified, changed, or suspended by order of this Commission.

*Effective date.* This amendment shall become effective at 6:59 a.m., October 1, 1973.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended (49 U.S.C. 1, 12, 15, and 17(2)); Interprets or applies secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911 (49 U.S.C. 1(10-17), 15(4), and 17(2).))

*It is further ordered,* That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Division 3.

[SEAL] ROBERT L. OSWALD,
*Secrctary.*

[FR Doc.73-20521 Filed 9-25-73;8:45 am]

### SUBCHAPTER D—TARIFFS AND SCHEDULES

[Ex Parte 272]

### C.O.D. AND FREIGHT-COLLECT SHIPMENTS

### Limitations of Carrier Service; Correction

In a report and order (reported at 343 I.C.C. 692), decided July 16, 1973, and served August 9, 1973, the Interstate Commerce Commission prescribed certain regulations to become effective at a later date. Notice of the Commission's order appeared in the FEDERAL REGISTER on August 14, 1973 (38 FR 21931-21933). It has come to the Commission's attention that certain inadvertent errors appear in its report at pages 784, 891, and 892. Consequently, appropriate corrections should be made on those pages of its report and in the references to the Code of Federal Regulations which appear on page 21933 of the FEDERAL REGISTER:

### PART 1304—EXPRESS COMPANIES SCHEDULES AND CLASSIFICATIONS

### PART 1307—FREIGHT RATE TARIFFS, SCHEDULES, AND CLASSIFICATIONS OF MOTOR CARRIERS

(1) The last sentence in the paragraph designated § 1304.4(k)(3), which sentence reads "Such service includes service on c.o.d., freight-collect, and order-notify shipments, including such services on shipments transported under combinations of rates," should be deleted. That same sentence should be in-



V 38 186 SEP 26 73 XUM

serted at the end of the paragraph designated § 1307.27(k)(3) on that same page; and

**PART 1309—TARIFFS AND CLASSIFICATIONS OF FREIGHT FORWARDERS**

(2) The three paragraphs designated §§ 1309.6(k) (1), (2), and (3) should be modified by deleting the words "(k) *Operating authority.*" and redesignating those paragraphs §§ 1309.6 (a), (b), and (c), respectively. The reference in paragraph (2) to "§ 1309.6(k)(1)" should be corrected to read "§ 1309.6(a)."

ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-20522 Filed 9-25-73;8:45 am]

## Title 20—Employees' Benefits

**CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE**

[Reg. No. 4, further amended]

**PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE (1950-.....)**

**Subpart H—Evidence**

**Certification of Evidence**

The amendment to Regulations No. 4 of the Social Security Administration set forth below provides that a copy of a record, document, or other evidence, or an excerpt of information therefrom will be accepted as evidence in lieu of the original if certified as a true and exact copy or excerpt by an authorized employee of the Department of State where the original records of such evidence originates from outside the United States. The purpose of the amendments is to facilitate the submission of evidence in support of claims under title II of the Social Security Act (42 U.S.C. 401 et seq.).

In as much as this revision is merely technical in nature and further relieves individuals from hardships resulting from permanent surrender of original records or documents in support of claims, it should be made effective promptly to accomplish its purpose in the public interest. Accordingly, under the rulemaking provisions of the Administrative Procedure Act, 5 U.S.C. 553, notice and other public proceedings with respect to this revision are unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

(Catalog of Federal Domestic Assistance Program Nos. 13.802, Social Security—Disability Insurance; 13.803, Social security—Retirement Insurance; 13.804, Social Security—Special Benefits for Persons Aged 72 and Over; 13.805, Social Security—Survivors Insurance.)

Dated September 6, 1973.

ARTHUR E. HESS,
*Acting Commissioner of Social Security.*

Approved: September 21, 1973.

CASPAR W. WEINBERGER,
*Secretary of Health, Education, and Welfare.*

Subparagraph (g)(4) of § 404.701 is revised to read as follows:

**§ 404.701 Evidence as to right to receive monthly benefits and lump-sum death payments, and to establishment of period of disability.**

* * * * *

(g) *Certification of evidence by authorized individual.* In cases where a copy of a record, document, or other evidence, or an excerpt of information therefrom, is acceptable as evidence in lieu of the original, such copy or excerpt shall, except as may otherwise clearly be indicated, be certified as a true and exact copy or excerpt by:

* * * * *

(4) A U.S. Consular Officer or authorized employee of the Department of State where such evidence originates from outside the United States.

(Secs. 205 and 1102 of the Social Security Act, as amended, 53 Stat. 1368, as amended, 49 Stat. 647, as amended; 67 Stat. 18, 631; 42 U.S.C. 405 and 1302.)

*Effective date.* This amendment shall become effective September 26, 1973.

[FR Doc.73-20499 Filed 9-25-73;8:45 am]





# Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

## DEPARTMENT OF THE INTERIOR

**Geological Survey**

**[ 30 CFR Parts 270, 271 ]**

**GEOTHERMAL RESOURCES**

**Operations on Public, Acquired and Withdrawn Lands and Unit Plan Regulations; Extension of Comment Period**

The purpose of this notice is to extend the time for public comment on proposed geothermal regulations published on pages 19765-19779 of the July 23, 1973 FEDERAL REGISTER.

The period for submitting written comments, suggestions, or objections, is hereby extended to a date 24 days after the final environmental impact statement regarding the development of the geothermal resource is filed with the Council on Environmental Quality in accordance with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). Notice of the availability of the statement and final date for receipt of comments on the proposed regulations will be published in the FEDERAL REGISTER. It is anticipated that the statement will become available in early October.

Interested parties may submit written comments, suggestions, or objections with respect to the proposed regulations to the Geothermal Coordinator, Department of the Interior, Washington, D.C. 20240.

LAURENCE E. LYNN, JR.,
*Assistant Secretary of the Interior.*

SEPTEMBER 21, 1973.

[FR Doc.73-20524 Filed 9-25-73;8:45 am]

## DEPARTMENT OF AGRICULTURE

**Agricultural Marketing Service**

**[ 7 CFR Part 944 ]**

**GRAPEFRUIT IMPORT REGULATIONS**

**Notice of Proposed Rule Making**

This proposal would continue, after October 14, 1973, current grade and size restrictions applicable to imported grapefruit as follows: imported seeded grapefruit—U.S. No. 1: $3^{14}/_{16}$ inches in diameter; seedless grapefruit—Improved No. 2: $3^{9}/_{16}$ inches in diameter. The requirements are the same as those applicable to grapefruit produced in Florida and regulated pursuant to Marketing Order No. 905.

Notice is hereby given that the Department is considering a proposal, as hereinafter set forth, which would limit the importation of any grapefruit into the United States, pursuant to Part 944—Fruits, Import Regulations (7 CFR Part 944).

The proposal is as follows:

*Order.* In § 944.110 (Grapefruit Regulation 14; 38 FR 26108) the provisions of paragraph (a) preceding subparagraph (1) thereof are amended to read as follows: (The provisions of paragraph (a)(1) and (a)(2) are included for purposes of clarity.)

**§ 944.110 Grapefruit Regulation 14.**

(a) On and after October 15, 1973, the importation into the United States of any grapefruit is prohibited unless such grapefruit is inspected and meets the following requirements:

(1) Seeded grapefruit shall grade at least U.S. No. 1 and be of a size not smaller than $3^{14}/_{16}$ inches in diameter, except that a tolerance for seeded grapefruit smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in § 51.761 of the United States Standards for Florida Grapefruit; and

(2) Seedless grapefruit shall grade at least Improved No. 2 and be of a size not smaller than $3^{9}/_{16}$ inches in diameter, except that a tolerance for seedless grapefruit smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerances, specified in § 51.761 of the United States Standards for Florida Grapefruit. ("Improved No. 2" shall mean grapefruit grading at least U.S. No. 2 and also meeting the requirements of the U.S. No. 1 grade as to shape (form) and color.)

* * * * *

All persons who desire to submit written data, views, or arguments in connection with the proposal should file the same with the Hearing Clerk, Room 112A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than October 2, 1973. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

Dated: September 19, 1973.

CHARLES R. BRADER,
*Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.73-20505 Filed 9-25-73;8:45 am]

**[ 7 CFR Part 944 ]**

**ORANGE IMPORT REGULATIONS**

**Notice of Proposed Rule Making**

This notice proposes the issuance of an import regulation for oranges on October 16, 1973, similar to the one currently in effect. It would require imported oranges to grade U.S. No. 2 or better, and be $2^{6}/_{16}$ inches in diameter or larger. The proposed requirements are the same as those proposed for oranges grown in Texas.

The proposed regulation would be issued pursuant to section 8e of the Agricultural Marketing Agreement Act, as amended (7 U.S.C. 601-674). The act requires that whenever specified commodities, including oranges, are regulated under a Federal Marketing Order the imports of that commodity must meet the same or comparable requirements as those in effect for the domestically produced commodity. This proposed import regulation is the same as the proposed domestic grade and size regulation for oranges, issued pursuant to the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906) regulating the handling of oranges and grapefruit grown in Texas.

All persons who desire to submit written data, views, or arguments in connection with the proposal should file the same with the Hearing Clerk, Room 112A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than October 1, 1973. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)). Such proposal reads as follows:

**§ 944.308 Orange Regulation 9.**

(a) On and after October 16, 1973, the importation into the United States of any oranges is prohibited unless such oranges are inspected and grade U.S. Fancy, U.S. No. 1, U.S. No. 1 Bright, U.S. No. 1 Bronze, U.S. Combination with not less than 60 percent, by count, of the oranges in any lot thereof grading at least U.S. No. 1 grade; or U.S. No. 2; and be of a size not smaller than $2^{6}/_{16}$ inches in diameter, except that a tolerance for oranges smaller than such minimum size shall be permitted, which tolerance shall be applied in accordance with the provisions of § 51.689 *Tolerances* of the United States Standards for Grades of Oranges (Texas and States other than Florida, California, and Arizona).

(b) The Federal or Federal-State Inspection Service, Fruit and Vegetable Di-



V 38-186 SEP 26 73 XUM

vision, Agricultural Marketing Service, United States Department of Agriculture, is hereby designated as the governmental inspection service for the purpose of certifying the grade, size, quality, and maturity of oranges that are imported into the United States. Inspection by the Federal or Federal-State Service with appropriate evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of oranges, is required on all imports of oranges. Such inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51) but, since inspectors are not located in the immediate vicinity of some of the small ports of entry, such as those in southern California, importers of oranges should make arrangements for inspection, through the applicable one of the following offices, at least the specified number of days prior to the time when the oranges will be imported:

| Ports | Office | Advance Notice |
|---|---|---|
| All Texas points. | L. M. Denbo, 506 S. Nebraska St., San Juan, Tex. 78589 (Phone—512-787-4091) | 1 day. |
| | or Charles E. Farragon, Room 516, U.S. Courthouse, El Paso, Tex. 79901 (Phone—915-543-7723). | Do. |
| All New York points. | Frank J. McNeal, Room 28A Hunts Point Market, Bronx, N.Y. 10474 (Phone—212-991-7668 and 7669) | Do. |
| | or Charles D. Renick, 176 Niagara Frontier Food Terminal, Room 8, Buffalo, N.Y. 14206 (Phone—716-824-1585). | Do. |
| All Arizona points. | B. O. Morgan, 225 Terrace Ave., Nogales, Ariz. 85621 (Phone—602-287-2902). | Do. |
| All Florida points. | Lloyd W. Boney, 1350 Northwest 12th Ave., Room 438, Miami, Fla. 33136 (Phone—305-371-2517) | Do. |
| | or Hubert S. Flynt, 775 Warner Lane, Orlando, Fla. 32814 (Phone—305-894-9511) | Do. |
| | or Johnnie E. Corbitt, Unit 46, 3335 North Edgewood Ave., Jacksonville, Fla. 32205 (Phone—904-351-5983). | Do. |
| All California points. | Daniel P. Thompson, 784 South Central Ave., 206 Wholesale Terminal Bldg., Los Angeles, Calif. 90021 (Phone—213-622-8756). | 3 days. |
| All Louisiana points. | Pascal J. Lamarca, 5027 Federal Office Bldg., 701 Loyola Ave., New Orleans, La. 70113 (Phone—504-527-6741 and 6742). | 1 day. |
| All other points. | D. S. Matheson, Fruit and Vegetable Division, AMS—U.S. Department of Agriculture, Washington, D.C. 20250 (Phone—202-447-5870). | 3 days. |

(c) Inspection certificates shall cover only the quantity of oranges that is being imported at a particular port of entry by a particular importer.

(d) The inspection performed, and certificates issued, by the Federal or Federal-State Inspection Service shall be in accordance with the rules and regulations of the Department governing the inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51). The cost of any inspection and certification shall be borne by the applicant therefor.

(e) Each inspection certificate issued with respect to any oranges to be imported into the United States shall set forth, among other things:

(1) The date and place of inspection;

(2) The name of the shipper, or applicant;

(3) The commodity inspected;

(4) The quantity of the commodity covered by the certificate;

(5) The principal identifying marks on the container;

(6) The railroad car initials and number, the truck and the trailer license number, the name of the vessel, or other identification of the shipment; and

(7) The following statement if the facts warrant: Meets U.S. import requirements under section 8e of the Agricultural Marketing Agreement Act of 1937, as amended.

(f) Notwithstanding any other provision of this regulation, any importation of oranges which, in the aggregate does not exceed five 1⅗ bushel boxes, or equivalent quantity, may be imported without regard to the restrictions specified herein.

(g) It is hereby determined that imports of oranges, during the effective time of this regulation, are in most direct competition with oranges grown in the State of Texas. The requirements set forth in this section are the same as those being made effective for oranges grown in Texas.

(h) No provisions of this section shall supersede the restrictions or prohibitions on oranges under the Plant Quarantine Act of 1912.

(i) Nothing contained in this regulation shall be deemed to preclude any importer from reconditioning prior to importation any shipment of oranges for the purpose of making it eligible for importation.

(j) The terms used herein relating to grade and diameter shall have the same meaning as when used in the United States Standards for Oranges (Texas and States other than Florida, California and Arizona) (7 CFR 51.680–51.714). Importation means release from custody of the United States Bureau of Customs.

(k) Orange Regulation 8 (§ 944.307) is hereby terminated at the effective time hereof.

Dated: September 20, 1973.

CHARLES R. BRADER,
*Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.73-20506 Filed 9-25-73;8:45 am]

## Animal and Plant Health Inspection Service

### [ 9 CFR Part 92 ]

### COMMERCIAL BIRD IMPORT QUARANTINE FACILITIES

#### Notice of Meeting

A meeting to further consider the Department's proposals of January 26, 1973 (38 FR 2463–2464) and March 2, 1973 (38 FR 5641–5642) with respect to the construction of quarantine facilities and the circumstances under which they will be used by the commercial bird importing industry will be held October 9, 1973, in Room 218–A, Administration Building, United States Department of Agriculture, from 10 a.m. to 2 p.m.

Persons wishing to present oral views should notify the Administrator, United States Department of Agriculture, Animal and Plant Health Inspection Service, Washington, D.C. 20250 by c.o.b. October 5, 1973.

Dated September 24, 1973.

H. C. MUSSMAN,
*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc.73-20665 Filed 9-25-73;11:03 am]

### [ 7 CFR Part 301 ]

### CITRUS BLACKFLY

#### Notice of Hearing and Proposed Federal Quarantine

Under the administrative procedure provisions of 5 U.S.C. 553, sections 8 and 9 of the Plant Quarantine Act of 1912, as amended, and section 106 of the Federal Plant Pest Act (7 U.S.C. 161, 162, 150ee), notice is hereby given of a public hearing and proposed rulemaking proceeding to determine whether to establish a Federal quarantine on account of the citrus blackfly. The Administrator of the Animal and Plant Health Inspection Service has information that dangerous infestations of the citrus blackfly, *Aleurocanthus woglumi* Ashby, an insect, not widely prevalent or distributed within and throughout the United States, have been found in portions of Hidalgo and Cameron Counties, Texas. The citrus blackfly inflicts serious damage on citrus trees causing nonproductivity. An infestation was discovered in a limited portion of Brownsville, Texas, on April 7, 1971. It became necessary to adopt emergency plant pest regulations (7 CFR 331.2), effective April 21, 1971, governing interstate movement of certain products and articles in an effort to prevent the spread of the infestation to noninfested areas. It is now proposed to quarantine the State of Texas and to establish regulations to prevent the spread of the citrus blackfly infestation. The proposed quarantine and regulations would be applied to the interstate movement of the following products, articles, or means of conveyance from areas regulated within the State of Texas:

(1) Leaves, attached or unattached, of citrus, mango, persimmon, Japanese persimmon, pear, quince, coffee, myrtle, cherimoya, black sapote, and sweet-sop;

(2) Any other products, articles, or means of conveyance, of any character whatsoever, not covered by paragraph (1) above, when it is determined by an inspector that they present a hazard of spread of the citrus blackfly infestation and the person in possession thereof has been so notified.

If it is decided that a Federal quarantine and regulations should be established, it is further proposed that, with the exceptions noted below, restrictions would apply to the regulated articles from regulated areas only if they would be shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, transported, moved, or allowed to be moved by any means, interstate. Regulated areas would be restricted to portions of the State in which infestations have been found or in which there is reason to believe that infestations are present or which it is deemed necessary to regulate because of their proximity to infestation. Less than the entire State would be designated as a regulated area only if the State is undertaking sufficient quarantine action to prevent the intrastate spread of the citrus blackfly infestation and if the regulation of less than the entire State would otherwise be sufficient to prevent the interstate spread of the pest. Effective and practical treatments or other procedures have been developed to allow the interstate movement of regulated articles from regulated areas. The only restriction which would apply to the interstate movement of regulated articles from nonregulated portions of the quarantined State would relate to proof of origin of the regulated articles and to safeguarding the articles from infestation if they traverse a regulated area.

In the event it is determined in the best interest of the public to establish a Federal quarantine, the emergency regulations would be terminated.

The public hearing to consider the above proposal will be held before a representative of the Animal and Plant Health Inspection Service on October 30, 1973, at 10 a.m. in Room 591, San Antonio Federal Building, 615 East Houston Street, San Antonio, Texas. Any interested person may appear and be heard either in person or by attorney.

Any interested person who desires to submit written data, views, or arguments on the proposal may do so by filing the same with the Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Federal Center Building, Hyattsville, Maryland 20782, on or before October 29, 1973, or with the presiding officer at the hearing. All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business, unless the person making the submission requests that it be held confidential and the Administrator determines that there is a basis for such confidential treatment under the provisions in 7 CFR 1.27(c). If such a determination is made, the material will be held confidential; otherwise, notice will be given of denial of such a request and an opportunity afforded for withdrawal of the submission. Requests for confidential treatment will be held confidential as provided in 7 CFR 1.27(c).

After consideration of all information presented at the hearing or otherwise available to the Department, a determination will be made as to whether to establish a citrus blackfly quarantine.

Done at Washington, D.C., this 21st day of September 1973.

F. J. MULHERN,
*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc.73-20507 Filed 9-25-73;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

### [ 21 CFR Part 130 ]

### DIETHYLSTILBESTROL

#### Use as Postcoital Contraceptive; Patient Labeling

The Commissioner of Food and Drugs has concluded that the information now available supports the effectiveness of diethylstilbestrol for use as a postcoital contraceptive. The agency considers this use of the drug to be safe as an emergency treatment only, and not as a routine method of birth control. Repeated courses of therapy are to be avoided. Because of the nature of the circumstances surrounding such use, the possible adverse effects on the fetus should the patient be pregnant, possible side effects of the drug, and alternative measures available and their hazards, the physician is the proper person to fully discuss such aspects with the patient so that she may participate in an informed way in the decision to use the drug. To further assure that the patient is fully informed, it is concluded that each package of the drug should contain only the number of tablets required for that one occasion, and should contain a printed leaflet, directed to the patient, describing specifically how to use the drug, limitations on its use, precautions, contraindications, and possible adverse effects.

Diethylstilbestrol intended for this use is regarded as a new drug requiring an approved new drug application for marketing. At present there are no approved new drug applications for this use. The Food and Drug Administration will entertain new drug applications under the conditions described in the proposal below.

Diethylstilbestrol for this indication was not reviewed in the Drug Efficacy Study. Appearing elsewhere in this issue of the FEDERAL REGISTER are notices concerning the indications for diethylstilbestrol and other estrogen preparations which were reviewed in the Drug Efficacy Study and for which the initial Drug Efficacy Study Implementation announcement was published in the FEDERAL REGISTER of November 10, 1971 (36 FR 21537).

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 502 (a) and (f), 505, 701(a), 52 Stat. 1050–1053, as amended, 1055, as amended; 21 U.S.C. 352 (a) and (f), 355, 371(a)) and under authority delegated to him (21 CFR 2.120), the Commissioner of Food and Drugs proposes to amend Part 130 in § 130.45 by revising the section heading; redesignating paragraph (a) as subparagraph (1) and adding a new paragraph heading for paragraph (a); redesignating paragraph (b) as subparagraph (2) and adding a new paragraph (b); and redesignating the remainder of the existing paragraphs, subparagraphs, and subdivisions with no change in the existing text. Section 130.45 is revised to read as follows:

§ 130.45 Preparations for contraception; labeling directed to the patient.

(a) *Oral contraceptives.* (1) The Food and Drug Administration is charged with assuring both physicians and patients that drugs are safe and effective for their intended uses. The full disclosure of information to physicians concerning such things as the effectiveness, contraindications, warnings, precautions and adverse reactions is an important element in the discharge of this responsibility. In view of this, the Administration has reviewed the oral contraceptive products, taking into account the following factors: The products contain potent steroid hormones which affect many organ systems; they are used for long periods of time by large numbers of women who, for the most part, are healthy and take them as a matter of choice for prophylaxis against pregnancy, in full knowledge of other means of contraception; and there is no present assurance that persons for whom the drugs are prescibed or dispensed are uniformly being provided the necessary information for safe and effective use of the drugs.

(2) In view of the foregoing, it is deemed in the public interest to present to users of the oral contraceptives a brief notice of the nature of the drugs, the fact that continued medical supervision is needed for safe and effective use, that the drugs may cause side effects and are contraindicated in some cases, that the most important complication is abnormal blood clotting which can have a fatal outcome, that the physician recognizes an obligation to discuss the potential hazards of taking the drugs with the patient, that he has available for the patient written material discussing the effectiveness and the hazards of the drugs, and that users of the oral contraceptives should notify their physicians if they notice any unusual physical disturbance or discomfort.

(3) The Commissioner agrees that the physician is the proper person for providing use information to his patients,







V 38-186
SEP 26 73
XUM

and these regulations will provide him a balanced discussion of the effectiveness and the risks attendant upon the use of oral contraceptives for his use in discussing the drugs with his patients.

(4) The oral contraceptives are restricted to prescription sale, and their labeling is required to bear information under which practitioners licensed to administer the drugs can use them safely and for the purpose for which they are intended. In addition, in the case of oral contraceptive drugs, the Commissioner conclude that it is necessary in the best interests of users that the following printed information for patients be included in or with the package dispensed to the patient:

(Patient Package Information)

ORAL CONTRACEPTIVES

(Birth Control Pills)

Do Not Take This Drug Without Your Doctor's Continued Supervision

The oral contraceptives are powerful and effective drugs which can cause side effects in some users and should not be used at all by some women. The most serious known side effect is abnormal blood clotting which can be fatal.

Safe use of this drug requires a careful discussion with your doctor. To assist him in providing you with the necessary information, ---------- has prepared a booklet (or other form) written in a style understandable to you as the drug user. This provides information on the effectiveness and known hazards of the drug including warnings, side effects and who should not use it. Your doctor will give you this booklet (or other form) if you ask for it and he can answer any questions you may have about the use of this drug.

(Firm name)

Notify your doctor if you notice any unusual physical disturbance or discomfort.

(5) Providing the patient package information to users may be accomplished by including it in each package of the type intended for the user as follows:

(i) If such package includes additional printed materials for the patient (e.g., dosage schedules), the text of the information in subparagraph (4) of this paragraph shall be an integral part of the printed material and be in boldface type set out in a box, preceding all other printed text.

(ii) If such package does not include other printed material for the patient, the text of the information in subparagraph (1) of this paragraph shall be provided as a printed leaflet in boldface type.

(iii) Include in each bulk package intended for multiple dispensing, a sufficient number of the patient package information leaflet, with instructions to the pharmacist to include one with each prescription dispensed.

(6) Written, printed, or graphic materials on the use of a drug that are disseminated by or on behalf of the manufacturer, packager, or distributor and are intended to be made available to the patient, are regarded as labeling. The commissioner also concludes that it is necessary that information in lay language, concerning effectiveness, contraindications, warnings, precautions, and adverse reactions be incorporated prominently in the beginning of any such materials, and that such labeling must be made available to physicians for all patients who may request it. Such labeling shall be substantially as follows, based on the approved package insert for prescribers of the oral contraceptives, and shall include the following points:

(i) A statement that the drug should be taken only under continued supervision of a physician.

(ii) A statement regarding the effectiveness of the product.

(iii) A warning regarding the serious side effects with special attention to thromboembolic disorders and stating the estimated morbidity and mortality in users vs nonusers. Other serious side effects to be mentioned include mental depression, edema, rash, and jaundice. The possibility of infertility following discontinuation of the drug should be mentioned.

(iv) A statement of contraindications.

(v) A statement of the need for special supervision of some patients including those with heart or kidney disease, asthma, high blood pressure, diabetes, epilepsy, fibroids of the uterus, migraine, mental depression or history thereof.

(vi) A statement of the most frequently encountered side effects such as spotting, breast changes, weight changes, skin changes, and nausea and vomiting.

(vii) A statement of the side effects frequently reported in association with the use of oral contraceptives, but not proved to be directly related such as nervousness, dizziness, changes in appetite, loss of scalp hair, increase in body hair, and increased or decreased libido.

(viii) A statement regarding metabolic effects such as on blood sugar and cholesterol setting forth our current lack of knowledge regarding the long term significance of these effects.

(ix) Instructions in the event of missed menstrual periods.

(x) A statement cautioning the patient to consult her physician before resuming the use of the drug after childbirth, especially if she intends to breastfeed the baby, pointing out that the hormones in the drug are known to appear in the milk and may decrease the flow.

(xi) A statement regarding production of cancer in certain animals. This may be coupled with a statement that there is no proof of such effect in human beings.

(xii) A reminder to the patient to report promptly to her physician any unusual change in her general physical condition and to have regular examinations.

Optionally, the booklet may also contain factual information on family planning, the usefulness and hazards of other available methods of contraception, and the hazards of pregnancy. This material shall be neither false nor misleading in any particular and shall follow the material presented above.

(7) The marketing of oral contraceptives may be continued if all the following conditions are met within 90 days of the date of publication of this section in the FEDERAL REGISTER.

(i) The labeling of such preparations shipped within the jurisdiction of the Act is in accord with paragraphs (a) (4) and (5), and (6) of this section.

(ii) The holder of an approved new-drug application for such preparation submits a supplement to his new-drug application under the provisions of § 130.9(d) to provide for labeling as described in paragraphs (a) (5) and (6) of this section. Such labeling may be put into use without advance approval of the Food and Drug Administration.

(iii) Existing stocks may be shipped without the package insert for a period of 90 days, provided the labeling booklet is prepared and disseminated as promptly as possible.

(b) *Oral postcoital contraceptives.* (1) Diethylstilbestrol orally for postcoital contraception. Studies conducted with this drug have shown its effectiveness in contraception when administered under restricted conditions. The Commissioner, having considered comments by members of the Food and Drug Administration's Obstetrics and Gynecology Advisory Committee, concludes that the drug is safe and effective as an emergency treatment only, and not as a routine method of birth control. Repeated courses of therapy are to be avoided. The effectiveness of diethylstilbestrol in preventing pregnancy depends upon the time lapse after coitus and administration of the drug. The recommended dosage is one 25 milligram tablet twice a day, for 5 consecutive days beginning, preferably, within 24 hours and not later than 72 hours after exposure. When this dosage is given within the specified time interval, the drug is highly effective in preventing conception. Its use, however, will not terminate pregnancy.

(2) There is at present no positive evidence that the restricted use of diethylstilbestrol for postcoital contraception carries a significant carcinogenic risk either to the mother or the fetus. However, because existing data support the possibility of delayed appearance of carcinoma in females whose mothers have been given diethylstilbestrol later in pregnancy, and because teratogenic and other adverse effects on the fetus with the very early administration recommended are not well understood, failure of postcoital treatment with the drug deserves serious consideration of voluntary termination of pregnancy. For these reasons, as well as possible adverse effects in the patient, the drug should not be used as a routine method of birth control. A pregnancy test should be performed prior to use of the drug as a postcoital contraceptive. If the test is positive, the drug should not be used.

(3) Because of the nature of the conditions surrounding this use of diethylstilbestrol, the Commissioner concludes that it is in the best interests of the patient that, in addition to receiving specific instructions from her physician, she also receives with her package of the drug a printed leaflet describing how to use the drug, limitations on its use, its potential for serious effects on the fetus in the event she is pregnant, and possible adverse effects, contraindications and precautions.

(4) Diethylstilbestrol for use as a postcoital contraceptive shall be packaged in containers of 10 tablets, each tablet to contain 25 milligrams diethylstilbestrol. Each drug package of ten tablets shall contain, in addition to information under which the practitioner licensed to administer the drug can use it safely and for the purpose for which it is intended, a brief leaflet for the user to read as follows:

(Patient package information)

Your doctor has prescribed these tablets which contain estrogen (female hormone) as an emergency measure to prevent pregnancy. To be effective the treatment must be started within three days of sexual intercourse and preferably within one day. Also, you must take the full course of tablets (one twice a day for five days) even if some nausea and vomiting occurs. These symptoms are common in patients receiving this medicine.

You should use this drug only under the direction of your physician. This treatment is not recommended for routine or frequent use as a method of contraception because there is no evidence of safety for this relatively large amount of estrogen taken repeatedly. Before prescribing this drug, your physician will determine whether or not you may be pregnant.

This treatment is highly effective in preventing pregnancy if used as described above. However, this drug will not cause an abortion if you are already pregnant. An important reason for not taking the drug if you are already pregnant is that such usage exposes the fetus to an unnecessary hazard. There is some evidence that, if the growing fetus is a female and the mother is given this drug during pregnancy, the child may have an increased risk of developing cancer of the vagina or cervix later in life. If this drug is not successful in preventing pregnancy, it is recommended that you consult with your physician regarding continuation of the pregnancy. There is no evidence that the mother herself (you) will have an increased risk of developing cancer from this treatment.

These tablets which contain estrogen may cause certain side effects, most of which are not serious. The most common side effects are nausea, vomiting, breast tenderness and swelling. The most serious side effect of estrogens, which is rare but can at times be fatal, is abnormal blood clotting, the symptoms of which may be severe leg or chest pain, coughing up of blood, difficulty in breathing, sudden severe headaches, dizziness or fainting, disturbances in vision or speech or weakness or numbness of an arm or leg. If any of these occur, you should stop taking the tablets and notify your doctor as soon as possible.

Women who have or have had blood clotting disorders, serious liver conditions, cancer of the breast or womb, or undiagnosed vaginal bleeding in the past should not take these tablets. Furthermore, you should inform your physician if you have or have had a special health problem, such as migraine, mental depression, fibroids of the uterus, heart or kidney disease, asthma, high blood pressure, diabetes or epilepsy. He may wish to make sure that it is suitable for you to take these tablets.

(5) Diethylstilbestrol for use as a postcoital contraceptive may be marketed only on the basis of an approved new drug application (abbreviated applications, § 130.4(f), will be acceptable), except that full information described under items 7 and 8 (composition and methods, facilities, and controls) of the new drug application Form FD-356H (§ 130.4(c)) is required. Guidelines for labeling directed to the physician are available from the Food and Drug Administration, Bureau of Drugs, Division of Metabolic and Endocrine Drug Products (BD-130), 5600 Fishers Lane, Rockville, MD 20852.

Interested persons may, on or before November 26, 1973, file with the Hearing Clerk, Food and Drug Administration, Rm 6-86, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding this proposal. Comments may be accompanied by a memorandum or brief in support thereof. Received comments may be seen in the above office during working hours Monday through Friday.

Dated: September 12, 1973.

A. M. SCHMIDT,
*Commissioner of Food and Drugs.*

[FR Doc.73-20441 Filed 9-21-73;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### [ 14 CFR Parts 25, 121, 135 ]

[Docket No. 12881; Reference Notice No. 73-16]

### AIR TRANSPORTATION OF HANDICAPPED PERSONS

### Notice of Public Hearing; Correction

In the August 29, 1973, issue of the FEDERAL REGISTER (38 FR 23352), the Federal Aviation Administration published a notice of public hearings announcing that it would hold a series of six public hearings in order to receive the views of all interested persons regarding the safety aspects of the air carriage of handicapped persons and, in particular, concerning Advance Notice of Proposed Rulemaking No. 73-16 (39 FR 14757; June 5, 1973), which concerns the air carriage of handicapped persons.

The notice included a schedule of dates and locations at which the hearings would be conducted.

This document corrects that schedule with respect to the place of the public hearing to be conducted in the areas of Washington, D.C., and Chicago, Illinois, as follows:

(1) The hearing scheduled for Rosemont, Illinois will be conducted on October 10, 1973, at the O'Hare Non-Commissioned Officers Club, SSE, O'Hare International Airport, Chicago, Illinois 60666.

(2) The hearing scheduled for Washington, D.C., will be conducted on October 18, 1973, at the Department of Transportation, Buzzards Point Building, 2100 2d Street SW., Washington, D.C. 20590.

The hearings will begin at 9:00 in the morning. In all other respects, the August 29, 1973, notice of public hearing remains the same.

Issued in Washington, D.C., on September 19, 1973.

C. R. MELUGIN, Jr.,
*Acting Director,*
*Flight Standards Service.*

[FR Doc.73-20460 Filed 9-25-73;8:45 am]

### [ 14 CFR Part 39 ]

[Docket No. 73-WE-18-AD]

### AIRESEARCH MODEL TPE331 AND TSE331 SERIES ENGINES

### Proposed Air Worthiness Directives

The Federal Aviation Administration is considering amending Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to AiResearch Model TPE331 and TSE331 Series engines. There have been failures of the fuel pump drive on the Model TPE331 and TSE331 Series engines that result in the complete loss of engine power.

Since this condition is likely to exist or develop in other engines of the same type design, the proposed airworthiness directive would impose a recurring inspection and lubrication procedure on the fuel pump drive of the Model TPE331 and TSE331 Series engines.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Office of the Regional Counsel, Attention: Rules Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009. All communications received on or before October 31, 1973 will be considered by the Administrator before taking action upon the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

In consideration of the foregoing, it is proposed to amend § 39.13 of Part 39 of the Federal Aviation Regulations by adding the following new airworthiness directive:

*AiResearch Manufacturing Company of Arizona.* Applies to Model TPE331-1, -2, -3, -5, -6, -25, -29, -43, -45, -47, -51, -55, -57, -61 and TSE331-3 Series engines certificated in all categories.

Compliance required as indicated.

To detect abnormal wear of the fuel pump shaft internal drive splines and coupling shaft external splines, accomplish the following after the effective date of this AD:

(a) Clean, visually inspect, and lubricate the pump and coupling shaft drive splines of all engines with more than 200 hours time







V 38 186 SEP 26 73 XUM

in service, within the next 25 hours additional time in service, unless previously accomplished within the last 375 hours, and at intervals not to exceed 400 hours time in service thereafter, per the instructions and procedures described in AiResearch Service Bulletin TPE331–72–0027, Revision 2, dated August 31, 1973, or later FAA-approved revisions. If the extent of wear is observed to exceed .003 inch, either replace the shaft with a new P/N 869911–3, or perform the additional dimensional inspection described in the Service Bulletin. If the latter inspection indicates wear beyond .005 inch, the shaft must be replaced prior to further flight. (Note: Drive Couplings, P/N 869911–1 or –2 and 895216–1, found in a serviceable condition, may be continued in service).

(b) For engines with less than 200 hours time in service since new or overhaul, clean, visually inspect and lubricate the engines by the procedures described in (a), above, within 25 hours time in service after the effective date of this AD or, prior to exceeding 200 hours time in service, whichever occurs later, and at intervals not to exceed 400 hours time in service. Replace shafts as required by the inspections.

(c) If either the fuel pump, oil pump, or couplings defined in (a) above are replaced for any reason, a serviceable Drive Coupling, P/N 869911–3, must be installed.

(d) Equivalent procedures may be approved by the Chief, Aircraft Engineering Division, Western Region, upon submission of adequate substantiating data.

Issued in Los Angeles, California, on September 17, 1973.

ARVIN O. BASNIGHT,
*Director, FAA Western Region.*

[FR Doc.73-20464 Filed 9-25-73;8:45 am]

---

**[ 14 CFR Part 71 ]**

[Airspace Docket No. 73–GL–39]

**TRANSITION AREA**

**Proposed Alteration**

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to alter the transition area at Hayward and Cable, Wisconsin.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before October 26, 1973 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

Two new approach procedures have been developed to the Hayward Municipal Airport, Hayward, Wisconsin. In addition, the criteria for designation of transition areas have been changed. Accordingly, it is necessary to alter the Hayward and Cable transition area to adequately protect the aircraft executing the new approach procedures.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (38 FR 435), the following transition area is amended to read:

HAYWARD AND CABLE, WISCONSIN

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Hayward Municipal Airport (latitude 46°01'00" N., longitude 91°27'00" W.) and within 8-mile radius of Cable Union Airport (latitude 46°11'30" W., longitude 91°15'00" W.), and within 4½ miles each side of the 206° bearing from the Hayward Airport extending from the 7-mile radius to 11 miles southwest of the airport and within 4½ miles east and 9½ miles west of the 023° bearing from the Hayward Airport extending from the 7-mile radius to 18½ miles northeast of the airport; and that airspace extending upward from 1,200 feet above the surface within 9½ miles northeast and 6 miles southeast of the 026° bearing from the Hayward Airport, extending from 3 miles northeast to 27½ miles northeast of the airport; and within 9½ miles southeast and 4½ miles northwest of the 228° bearing from Cable Union Airport, extending from 5 miles southwest to 27½ miles southwest of the airport; and within 4½ miles southeast and 9½ miles northwest of the 206° bearing from the Hayward Airport extending from the airport to 18½ miles southwest of the airport.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)].

Issued in Des Plaines, Illinois, on August 21, 1973.

R. O. ZIEGLER,
*Acting Director,*
*Great Lakes Region.*

[FR Doc.73-20465 Filed 9-25-73;8:45 am]

---

**[ 14 CFR Part 71 ]**

[Airspace Docket No. 73–SW–53]

**VOR FEDERAL AIRWAYS**

**Proposed Alteration**

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter VOR Federal Airways Nos. 13, 17, 20 and 163 in the vicinity of Brownsville, Tex., Harlingen, Tex., McAllen, Tex., and Corpus Christi, Tex.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before October 26, 1973 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

It is proposed to amend Part 71 of the Federal Aviation Regulations as follows:

1. V–13 would be extended south of Corpus Christi from McAllen via Harlingen; INT of Harlingen 032° T (023° M) and Corpus Christi 177° T (168° M) radials; to Corpus Christi, including a west alternate from Harlingen via INT of Harlingen 008° T (359° M) and Corpus Christi 192° T (183° M) radials to Corpus Christi. Between Corpus Christi and a point 37 miles south, the main airway would be reduced to a width of 7 miles—3 miles on the east and 4 miles on the west side of centerline. Between Corpus Christi and a point 37 miles south, the alternate airway would be reduced to a width of 7 miles—3 miles on the west side and 4 miles on the east side of centerline.

2. V–17 would be extended east of McAllen from Brownsville via Harlingen to McAllen.

3. V–20 between McAllen and Corpus Christi would be realigned from McAllen via INT of McAllen 038° T (029° M) and Corpus Christi 177° T (168° M) radials; to Corpus Christi. Between Corpus Christi and a point 37 miles south, this airway would be reduced to a width of 7 miles—3 miles on the east and 4 miles on the west side of centerline.

4. V–163 between Brownsville and Corpus Christi would be realigned from Brownsville via INT of Brownsville 358° T (349° M) and Corpus Christi 177° T (168° M) radials; to Corpus Christi, including a west alternate from Brownsville via INT of Brownsville 340° T (331° M) and Harlingen 008° T (359° M) radials; INT of Harlingen 008° T (359° M) and Corpus Christi 192° T (183° M) radials; to Corpus Christi. Between Corpus Christi and a point 37 miles south, the main airway would be reduced to a width of 7 miles—3 miles on the east and 4 miles on the west side of the centerline. Between Corpus Christi and a point 37 miles south, the alternate airway would be reduced to a width of 7 miles—3 miles on the west side and 4 miles on the east side of centerline.

The proposed amendment would provide a bypass routing for aircraft operating between Corpus Christi and Harlingen/McAllen/Brownsville, and would eliminate air traffic control problems of opposite bound aircraft climbing and descending on a single airway. Delays caused by the existing airway alignment would be reduced, and the additional flexibility permitted in assigning requested altitudes would be of economic value to users.

This amendment is proposed under the authority of sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on September 17, 1973.

H. B. HELSTROM,
*Chief, Airspace and Air*
*Traffic Rules Division.*

[FR Doc.73-20467 Filed 9-25-73;8:45 am]

---

**[ 14 CFR Part 71 ]**

[Airspace Docket No. 73–GL–41]

**TRANSITION AREA**

**Proposed Designation**

The Federal Aviation Administration is considering amending Part 71 of the Federal Aviation Regulations so as to designate a transition area at Staples, Minnesota.

Interested persons may participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before October 26, 1973 will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Administration officials may be made by contacting the Regional Air Traffic Division Chief. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A new public use instrument approach procedure has been developed for the Staples Municipal Airport, Staples, Minnesota. Consequently, it is necessary to provide controlled airspace protection for aircraft executing this new approach procedures by designating a transition area at Staples, Minnesota. The new procedure will become effective concurrently with the designation of the transition area.

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations as hereinafter set forth:

In § 71.181 (38 FR 435), the following transition area is added:

STAPLES, MINN.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Staples Municipal Airport (latitude 46°22'48" N., longitude 94°48'08" W.), and within 3 miles each side of the 311° bearing from Staples Municipal Airport, extending from the 5-mile radius to eight miles northwest of the 311° bearing from the airport, tending upward from 1200 feet above the surface within 4½ miles east and 9½ miles west of the 311° bearing from the airport, extending to 18½ miles northwest of the airport, excluding that portion south of latitude 46°30'00" N.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348), and of section 6(c) of the Department of Transportation Act [49 U.S.C. 1655(c)].

Issued in Des Plaines, Illinois, on August 21, 1973.

LYLE K. BROWN,
*Director, Great Lakes Region.*

[FR Doc.73-20466 Filed 9-25-73;8:45 am]

---

## ATOMIC ENERGY COMMISSION

**[ 10 CFR Parts 31, 32 ]**

**CARBON-14 IN VITRO CLINICAL OR LABORATORY TESTING**

**Proposed General License for Use**

By letter dated January 24, 1973, Johnston Laboratories, Inc. of Cockeysville, MD, filed a petition for rule making (PRM 32–1) with the Atomic Energy Commission requesting amendment of § 32.19 of the Commission's regulation, 10 CFR Part 32, "Specific Licenses to Manufacture, Distribute, or Import Exempted and Generally Licensed Items Containing Byproduct Material." Section 32.19 includes a number of conditions applicable to specific licenses issued under § 32.18 which authorize the licensee to manufacture, process, produce, package, repackage, import, or transfer quantities of byproduct material for commercial distribution to persons exempt from specific licensing requirements under the provisions of § 30.18 of the Commission's regulation, 10 CFR Part 30, "Rules of General Applicability to Licensing of Byproduct Material," or exempt under equivalent regulations of an Agreement State.

In § 32.19(a), each license issued under § 32.18 is subject to the condition that no more than 10 exempt quantities of byproduct material set forth in § 30.71, Schedule B, shall be sold or transferred in any single transaction. The Commission considers a purchase order or standing order to be a single transaction. Thus, there is a limit of 10 times an exempt quantity that a commercial supplier may sell or transfer against any one purchase order or standing order.

Johnston Laboratories' petition requested that the words "or shipment" be added at the end of the first sentence of § 32.19(a) so that it would read: "No more than 10 exempt quantities set forth in § 30.71 Schedule B of this chapter shall be sold or transferred in any single transaction or shipment." This amendment of § 32.19(a) was requested to permit hospitals exempted from licensing requirements pursuant to § 30.18 to issue a purchase order on a standing basis for an annual supply of exempt quantities of carbon-14 to be delivered by a commercial supplier at a rate not exceeding 10 exempt quantities set forth in § 30.71, Schedule B, per shipment. Hospitals use vials containing 1.5 microcuries of carbon-14 (a fraction of an exempt quantity) in large numbers when operating an automated system for detecting bacteria in blood and other fluids.

The Commission has given careful consideration to the petition and is proposing, instead of the amendment of § 32.19(a) requested by Johnston Laboratories, amendments of the general license in § 31.11[1] of the Commission's regulation, 10 CFR Part 31, "General Licenses for Byproduct Material." As amended, the general license would authorize any physician, clinical laboratory, or hospital to use carbon-14 in units not exceeding 10 microcuries each, in in vitro clinical or laboratory tests, subject to the conditions set out in § 31.11(b), (c), (d), (e), and (f). Under the provisions of the general license, the general licensee could issue a purchase order on a standing basis for a supply of carbon-14 in prepackaged units to be delivered at any rate of shipment.

The general license as amended would in no way affect transactions involving exempt quantities subject to § 32.19, nor would it relax any radiological safety controls over the use of carbon-14 in in vitro clinical or laboratory tests.

The general licensee would be required to register with the Commission and receive an acknowledgement of his registration and a registration number before receiving carbon-14 pursuant to the general license. The objectives of the registration requirement are to (1) provide a means of identifying the general licensee, (2) provide assurance that the general licensee is aware of the terms and conditions of the general license prior to receipt of carbon-14 for use under the general license, and (3) facilitate communication with the general licensee.

Section 32.71, which is intended to assure that general licensees receive properly packaged products which are labeled to identify the radioactive contents and to specify that use is restricted to in vitro clinical or laboratory tests, would be amended to include requirements for issuance of specific licenses to manufacture or distribute carbon-14 for use under the general license in § 31.11.

Pursuant to the Atomic Energy Act of 1954, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR

[1] By letter dated May 25, 1973, Johnston Laboratories withdrew its request for amendment of § 32.19(a).





V 38 186 SEP 26 73 XUM

Parts 31 and 32 is contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendments should send them to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, by Nov. 12, 1973. Copies of comments on the proposed amendments may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

## PART 31—GENERAL LICENSES FOR BYPRODUCT MATERIAL

1. In 10 CFR Part 31, § 31.11 is amended by amending the title of the section, adding a new paragraph (a)(3), and amending paragraph (d)(1) to read as follows:

**§ 31.11 General license for use of byproduct materials for certain in vitro clinical or laboratory testing.**

(a) A general license is hereby issued to any physician, clinical laboratory or hospital to receive, acquire, possess, transfer, or use, for any of the following stated tests, in accordance with the provisions of paragraphs (b), (c), (d), (e), and (f) of this section, the following byproduct materials in prepackaged units:

. . . . . .

(3) Carbon-14, in units not exceeding 10 microcuries each for use in in vitro clinical or laboratory tests not involving internal or external administration of byproduct material, or the radiation therefrom, to human beings or animals.

. . . . . .

(d) The general licensee shall not receive, acquire, possess, or use byproduct material pursuant to paragraph (a) of this section:

(1) Except as prepackaged units which are labeled in accordance with the provisions of a specific license issued under the provisions of § 32.71 of this chapter or in accordance with the provisions of a specific license issued by an Agreement State, which authorizes manufacture and distribution of iodine-125, iodine-131, or carbon-14 for distribution to persons generally licensed by the Agreement State.

. . . . . .

## PART 32—SPECIFIC LICENSES TO MANUFACTURE, DISTRIBUTE, OR IMPORT EXEMPTED AND GENERALLY LICENSED ITEMS CONTAINING BYPRODUCT MATERIAL

2. In 10 CFR Part 32, § 32.71 is amended by adding a new paragraph (b)(3) to read as follows:

**§ 32.71 Manufacture and distribution of byproduct materials for certain in vitro clinical or laboratory testing under general license.**

An application for a specific license to manufacture or distribute byproduct material for use under the general license of § 31.11 of this chapter will be approved if:

. . . . . .

(b) The byproduct material is to be prepared for distribution in prepackaged units of:

. . . . . .

(3) Carbon-14 in units not exceeding 10 microcuries each.

(Secs. 81, 161, Pub. Law 83-703, 68 Stat. 935, 948 (42 U.S.C. 2111, 2201))

Dated at Washington, D.C., this 20th day of September 1973.

For the Atomic Energy Commission.

PAUL C. BENDER,
*Secretary of the Commission.*

[FR Doc.73-20588 Filed 9-25-73;8:45 am]

## [ 10 CFR Part 50 ]

## LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

### Export of Production and Utilization Facilities

The Atomic Energy Commission is considering the adoption of amendments to its regulation, "Licensing of Production and Utilization Facilities," 10 CFR Part 50, which would specify the contents of applications for licenses to export utilization facilities such as power, test, and research reactors and critical facilities, and would also indicate the conditions under which reexport, resale, or other disposal or disposition of items exported under such licenses would be permitted. The proposed amendments would also provide general guidance pertaining to the submission of applications for licenses to export production facilities. The amendments would not, however, contain detailed information concerning the contents of applications for production facility export licenses.

Although, under the provisions of the Atomic Energy Act of 1954, as amended, an AEC license is required for the export of production and utilization facilities, including nuclear reactors,[1] the Commission regulations do not presently specify the contents of applications for licenses authorizing export only of production or utilization facilities, the standards for issuing such licenses, and the conditions of such licenses. The Commission is now considering incorporating such provisions in Part 50.

[1] This license requirement is unaffected by the fact that export of the facility may be made in multiple shipments or that some of the facility parts may be supplied by foreign sources.

Byproduct material, source material and special nuclear material are not included in any facility export licenses issued by the AEC. Separate applications should be made to the AEC for authority to export these radioactive materials. Exports of technical data are also not included in the facility export license. Questions related to the export of technical data should be directed to the Director, Division of International Security Affairs, USAEC.

The proposed amendments would facilitate preparation of an application for a license to export a utilization facility by permitting the applicant to identify items proposed for export by appropriate category titles in lieu of an item-by-item list if the specific items to be exported fall within categories of structures, systems and components which the proposed amendments would identify as those normally associated with the construction, maintenance and operation of a utilization facility. The applicant would only be required to itemize in his application those structures, systems and components of the utilization facility proposed for export which do not fall within one of the recognized categories. Under the proposed amendments, this item-by-item list would be set out in a special section of the application entitled "Other structures, systems and components." The AEC would review all the items listed in this section of the application, would determine for each item whether it is or is not associated with the construction, maintenance or operation of the utilization facility, and would exclude from the AEC export license those items which it determines are not associated with the construction, maintenance or operation of the utilization facility. Applicants would apply directly to the Department of Commerce for export licenses for the excluded items.

No reexports, resale, retransfer or other such disposal or disposition could be made of items exported to specified ultimate consignee under an AEC facility export license unless such reexport, resale, retransfer or other such disposal or disposition was included in the application and approved by the AEC in its issuance of the export facility license, or unless specific written authorization were received from the AEC subsequent to the issuance of the export license.

The AEC recognizes that certain equipment or tools are related to startup, testing, and repair of a facility and are not intended by the applicant to be left with the facility. Authority to reexport such equipment and tools could also be requested in the initial export license application. The application should specify which items in the category of Equipment or Tools are intended to be reexported, the name and address of the ultimate consignees of the reexport, and the end use of equipment and tools. These items could not be otherwise retransferred or disposed of without written authorization of the AEC but must be returned to the United States upon conclusion of the use, or in any event before expiration of the term of the facility export license under which they were originally exported.

Pursuant to the Atomic Energy Act of 1954, as amended, and section 553 of Title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Part 50 is contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendments should send them to the Secretary of the Commission, United States Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff by November 25, 1973. Copies of comments received may be examined in the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C.





§ 50.30 [Amended]

1. Paragraph (c)(1) of § 50.30 is amended by substituting a period for the semicolon at the end of subdivision (iii) and by deleting subdivision (iv).

§ 50.44 [Removed]

2. Section 50.44 is deleted.

3. An undesignated center head "Export Licenses" and a new § 50.65 are added to 10 CFR Part 50 following § 50.60 to read as follows:

### EXPORT LICENSES

**§ 50.65 Export of production and utilization facilities.[2]**

(a) *Filing of application.* (1) Each application for a license to export a production or utilization facility, or amendment thereof, should be filed with the Director of Licensing, U.S. Atomic Energy Commission, Washington, D.C. 20545. Communications, reports, and applications may be delivered in person at the Commission's offices at 1717 H Street, NW., Washington, D.C.; at 7920 Norfolk Avenue, Bethesda, Maryland; or at Germantown, Maryland.

(2) Each application for a license to export a production or utilization facility, or amendment thereof, should be executed in three signed originals by the applicant or duly authorized officer thereof, under oath or affirmation.

(3) Each filing of an application for a license to export a production or utilization facility, or amendment thereof, should include three copies in addition to the three signed originals.

(b) *Contents of applications: general information.* Each application for a license to export a production or utilization facility shall state:

(1) Name of applicant;

(2) Address of applicant;

(3) Description of business or occupation of applicant;

(4)(i) If applicant is an individual, state citizenship;

(ii) If applicant is a partnership, state name, citizenship and address of each partner and the principal location where the partnership does business;

(iii) If applicant is a corporation or an unincorporated association, state (A) the State where it is incorporated or organized and the principal location where it does business; and (B) whether it is owned, controlled, or dominated by an alien, a foreign corporation, or foreign government, and if so, give details;

(iv) If the applicant is acting as agent or representative of another person in filing the application, identify the principal and furnish information required under this paragraph with respect to such principal;

(5) Name and address of persons or organizations who are arranging for export, if different from the applicant;

(6) Name and address of ultimate consignee;

(7) Name and address of intermediate consignee(s) or parties to export;

(8) Date of proposed first shipment;

(9) Date of proposed completion of shipment;

(10) Proposed criticality date or date of start of operation;

(11) Proposed expiration date of export license;

(12) Total value of all items to be exported from the United States under the license being applied for.

(c) *Contents of application; additional information for utilization facilities.* Each application for a license to export a utilization facility shall contain the following:

(1) General information:

(i) Type of facility,

(ii) Design power level, if a nuclear reactor, in terms of thermal and (where appropriate) electrical watts or kilowatts,

(iii) Name by which the facility is or will be known.

(iv) Location where the facility is to be installed or built.

(2) A list of items proposed to be exported which are associated with the construction, maintenance and operation of a utilization facility by the following categories:

(i) Reactor coolant pressure boundary—Those structures, systems, and components of a nuclear reactor located within or forming a part of the reactor coolant pressure boundary as defined in § 50.2(v).

(ii) Instrumentation—Instrumentation systems for indication, control, and protection of a nuclear reactor, including their associated equipment, which are directly associated with structures, systems, and components located within or forming part of the reactor coolant pressure boundary and which are normally required for routine startup, power operation, or shutdown of the reactor, or for periodic testing. Portions of other instrumentation systems of the facility mounted in a common panel with the covered systems are included in this category.

(iii) Fuel handling equipment—Fuel handling equipment used to load new or recycled fuel into a reactor core, to unload fuel from a reactor core, or to transfer fuel within a reactor facility and place it into a facility provided for onsite storage or into fuel shipping equipment.

(iv) Experimental facilities—Experimental facilities whose primary purpose is the irradiation or activation of material by radiation from a nuclear reactor, or which are used with a reactor to provide a source of nuclear radiation for tests or experiments.

(v) Spare or replacement components—Spare or replacement components or parts for items in categories (i) through (iv), which are furnished during duration of the export license as part of the initial purchase or under a warranty from the vendor.

(vi) Equipment or tools—Special equipment or tools needed to service, maintain, or replace items in categories (i) through (v). Equipment or tools falling under this category which are not intended by the applicant to remain with the facility being exported but are intended to be reexported, resold, retransferred, disposed of, or returned to the United States shall be identified and their proposed disposal or retransfer described. Complete names and addresses of parties outside of the United States other than the ultimate consignee named in the application, to whom resale, reexport, retransfer, or other such disposal or disposition of equipment and tools exported in connection with the proposed facility export license is intended, shall be included. The end use and uses of such equipment or tools by each consignee shall be described.

(3) A list of other structures, systems or components associated with the utilization facility for which the export license application is made which are not included in the categories listed in paragraph (c)(2) of this section. The itemized list should reflect the commodity control list numbers set forth in the regulations of the Office of Export Control, U.S. Department of Commerce (see 15 CFR Part 399). The Commission will determine, for each listed item, whether its export should be licensed by the Commission.

(d) *Standards for licenses authorizing export only.* A license authorizing the export of production or utilization facilities may be issued by the Commission upon determining that:

(1) The issuance of the license to the applicant for export of the facility involved is within the scope of and consistent with the terms of an agreement for cooperation with the nation to which the facility is to exported, and the export would not be inconsistent with U.S. obligations under any treaty or other international agreement.

(2) The application complies with the requirements of the Atomic Energy Act, as amended, and AEC regulations set forth in this chapter.

(e) *Conditions of licenses.* The following shall be deemed to be conditions in each facility export license:

(1) No authority to export special nuclear material, by product material, or source material shall be conferred by the license.

(2) Neither the license, nor any right thereunder, shall be transferred, assigned, or disposed of in any manner, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Commission shall, after securing full information, find that the transfer is in accordance with the pro-

[2] For other provisions of Part 50 relating to requirements for export licenses, ineligibility of certain applicants for export licenses and jurisdictional limitations see §§ 50.10, 50.21, 50.22, 50.38, and 50.53.



V 381186 SEP 26 73 XUM

visions of the Act and gives its consent in writing.

(3) The license shall be subject to revocation, suspension, modification, or amendment for cause as provided in the Act and Commission regulations, in accordance with procedures provided by the Act and the regulations in this chapter.

(4) The license shall be subject to the provisions of the Act now or hereafter in effect and to all rules, regulations, and orders of the Commission. The terms and conditions of the license shall be subject to amendment, revision, or modification, by reason of amendments of the Act or by reason of rules, regulations, and orders issued in accordance with the terms of the Act.

(5) No items shall be exported under the license unless specifically required for the facility licensed for export.

(6) No items exported under the license shall be reexported or otherwise disposed of by the licensee or used by the licensee for any purpose other than that stated in the application, unless the Commission approves in writing of the disposition or use.

* * * * *

(Sec. 101, 103, 161, 68 Stat. 936, 948, 84 Stat. 1472; 42 U.S.C. 2131, 2133, 2201.)

Dated at Washington, D.C. this 20th day of September 1973.

For the Atomic Energy Commission.

PAUL C. BENDER,
*Secretary of the Commission.*

[FR Doc.73-20468 Filed 9-25-73;8:45 am]

## SECURITIES AND EXCHANGE COMMISSION

**[ 17 CFR Parts 270, 275 ]**

[Release Nos. IA-391, IC-8000, File No. 4-149]

### EXEMPTIONS FOR CERTAIN INSURANCE COMPANY ACCOUNTS AND ADVISERS

**Notice of Proposed Rulemaking**

Notice of proposal to amend rule 3c-4 under the Investment Company Act of 1940 and rule 202-1 under the Investment Advisers Act of 1940 to condition the exemptions afforded by those rules for insurance company separate accounts issuing variable life insurance contracts and their advisers on a determination by the Commission that applicable State laws or regulations provide protections substantially equivalent to relevant protections afforded by the Investment Company Act and the Investment Advisers Act.

Notice is hereby given that the Securities and Exchange Commission has under consideration the adoption of amendments to Rule 3c-4 [17 CFR 270.3c-4] under the Investment Company Act of 1940 and Rule 202-1 [17 CFR 275.202-1] under the Investment Advisers Act of 1940 (hereinafter together referred to as the "Rules"). The proposed amendments are designed to condition further the exemptions afforded through the Rules to variable life insurance separate accounts and their advisers. The proposed amendments to the Rules would be adopted pursuant to the authority granted to the Commission in sections 6(c) and 38(a) of the Investment Company Act [15 U.S.C. 80a-6(c), 80a-37(a)] and in sections 202(a)(11), 206A and 211(a) of the Investment Advisers Act [15 U.S.C. 80b-2(a)(11), 80b-6a, 80b-11].

On January 31, 1973,[1] in response to a petition for exemptive rules with respect to specified types of variable life insurance contracts from the federal securities laws, the Commission determined that:

1. A public offering of variable life insurance contracts in the form proposed in the Petition would involve an offering of securities required to be registered under the Securities Act.

2. Persons selling such variable life contracts would generally be required to register as broker-dealers under the Securities Exchange Act.

3. A company, including a separate account of an insurance company, primarily engaged in issuing and selling such variable life insurance contracts would be an investment company required to be registered under the Investment Company Act.

4. An insurance company or other person rendering investment advice to a separate account issuing and funding such variable life insurance contracts would be required to register as an investment adviser under the Investment Advisers Act.

The Commission did not adopt proposed rules which would have exempted variable life insurance contracts having certain specified characteristics from the registration requirements of the Securities Act of 1933 and which would have exempted such contracts and persons selling them from certain provisions of the Securities Exchange Act of 1934. The Commission did adopt Rule 3c-4 under the Investment Company Act of 1940 and Rule 202-1 under the Investment Advisers Act of 1940 to exempt from those statutes separate accounts used for the offer and sale of such contracts and advisers to such separate accounts [38 FR 4317].

In connection with the adoption of Rule 3c-4 under the Investment Company Act, the Commission stated that while some of the protections of the Act would be relevant to variable life insurance, variable life insurance separate accounts should be exempted from the Act "[i]n deference * * * to the established Congressional policy of preserving state regulation of insurance." Indeed, as a condition to such exemption, Rule 3c-4 requires in subparagraph (b)(4) that the "variable life insurance policy" issued by an exempt separate account:

* * * in its entirety is a life insurance contract subject to regulation under the insurance laws of any State in which such policy is offered, including all required approvals by the insurance commissioner of such State.

In determining to provide this exemption, the Commission recognized the difficulty of reconciling the Act with state regulation of insurance. Further, the Commission stated:

* * * application of the Investment Company Act to variable life insurance would create complex administrative problems, since substantial exemptions from the Act would be required in order to make the operation of a separate account to fund variable life insurance contracts feasible.

Noting the active participation by the National Association of Insurance Commissioners (N.A.I.C.) in the proceeding which led to adoption of the Rules, and emphasizing the need for the states to adopt regulations appropriate to the operation of variable life insurance separate accounts, the Commission also stated:

Consistent with the representations made by the National Association of Insurance Commissioners, we expect the states to move expeditiously to develop, refine and adopt regulations with respect to variable life insurance. Further, we expect that such regulations will provide material protections to purchasers substantially equivalent to the relevant protections that would be available under the Investment Company Act. In particular, we believe it important that the regulations provide for the valuation of portfolio securities in a uniform manner; that they assure that contractholders be furnished annual statements containing information similar in nature to the information that would be provided by a registered investment company through annual reports and proxy statements; that they provide protection against unauthorized or improper changes in investment policies and against excessive management, administrative and sales charges; and that transactions with affiliates be restricted in a manner similar to section 17 (15 U.S.C. 80a-17) of the Investment Company Act and the rules thereunder. The Commission will closely monitor the development of state law in this area to assure its adequacy in providing these protections and, if in the future it appears that substantial deficiencies exist and are not likely to be remedied, the Commission will then consider whether it is necessary or appropriate to modify or rescind Rule 3c-4.

With respect to Rule 202-1 under the Investment Advisers Act, the Commission also noted its expectation that the states would provide adequate protection and its intention to monitor closely developments under state law.

On August 2, 1973,[2] the Commission noted that, because of the absence of legislation or regulation, variable life insurance contracts could not be approved in some states. The Commission stated that a Securities Act registration statement with respect to variable life insurance would not be accepted for filing unless the variable life policy had been approved for sale in a state in which it is intended to be sold.[3] A few states have already approved policies for sale and adopted enabling legislation. At the present time, eleven registration statements have been filed for contracts issued by variable life insurance separate accounts, although none has yet become effective.[4]

Since the adoption of the exemptive rules, some states have taken steps to develop regulations applicable to variable life insurance contracts. The N.A.I.C. Variable Annuities and Other Contracts (C4) Subcommittee, which was authorized to prepare regulations for adoption by the states, has met several times in this capacity.[5] Although the Subcommittee has made commendable progress, we understand that a proposed draft of model regulations will not be submitted to the full N.A.I.C. for approval until December of this year at the earliest. Assuming such approval, individual states might then adopt the proposal in whole or in part, or reject it and develop their own scheme of regulation.

In light of these developments, the Commission is concerned that variable life insurance contracts, for which Securities Act registration statements have already been and may in the future be filed, might be sold to the public prior to the development of appropriate state regulation. After giving further consideration to the Rules and the comments received in the earlier comment period, we believe that this situation should be avoided. Accordingly, the Commission proposes that the exemptions afforded in Rules 3c-4 and 202-1 be specifically conditioned upon a Commission determination that the state laws or regulations affecting the operations of such separate accounts provide investor protections substantially equivalent to the relevant protections of the Investment Company Act and the Investment Advisers Act. The Commission believes that this modified approach will assure investors that they will be protected against the possibility that variable life insurance contracts will be sold prior to the time the states have adopted regulations consistent with the relevant protections of these statutes.

The proposed amendments are consistent with the conclusions expressed in the Commission's earlier release announcing the adoption of Rules 3c-4 and 202-1. As indicated by that release, it is the Commission's view that insurance companies occupy an unusual, if not unique, position in relation to federal law. Their activities extend over many states, they play a substantial role in the national economy, and yet they have been regulated almost exclusively by the states. In its enactment of the McCarran-Ferguson Act[6] and section 12(g)(2)(G) of the Securities Exchange Act,[7] Congress has demonstrated a desire to preserve this long tradition of state regulation relating to insurance. The enactment of section 12(d)(2)(G) is particularly pertinent to the instant situation because there, just as here, certain investor-related activities of insurance companies were exempted from the federal securities laws in favor of state regulation. The proposed amendments adhere to this Congressional policy of deference to state regulation of insurance.

In our earlier release, we also referred to the difficulty of reconciling the Investment Company Act with state insurance regulation and, in addition, noted that the policy of deferring to state regulation was buttressed here by the fact that application of the Act to variable life insurance would have created complex administrative problems because of the difficulties that would have been encountered in fashioning appropriate exemptions from the Act to make the operation of variable life insurance feasible. Although the Commission's experience in providing exemptions from the Act for variable annuities would have been of some aid in fashioning exemptions here, variable life insurance would have presented exemptive problems different from those of variable annuities.

A feature present in variable life insurance, but not in variable annuities, is the guaranteed minimum death benefit, which results in a different combination of investment and insurance elements than that found in variable annuities. Because of the different mix of these elements, and because of the obligations incurred by the insurance company under the death benefit provision, various exemptive approaches followed with respect to variable annuities would have had to be reconsidered to determine their feasibility and appropriateness in the case of variable life insurance. In instances where those approaches would have been found unacceptable for variable life insurance, new exemptive techniques would have had to be devised; and, as new forms of variable life insurance were developed, still further study and analysis would have been required and additional exemptive solutions would have had to be considered. This could have been particularly burdensome because of the anticipated greater activity with respect to variable life insurance. While the proceeds in 1971 from the sale of variable annuities—a product which has been sold for about a decade—were less than 3 percent of the amount of life insurance premiums collected in 1971, it has been estimated that within ten years variable life insurance will account for 20–40 percent of all insurance sales.[8] Accordingly, difficulties and problems would likely have occurred on a much broader scale in the case of variable life insurance than they have in the case of variable annuities.

An example of the kind of exemptive problem which would have arisen in attempting to accommodate variable life insurance to the Investment Company Act involves the redeemability requirement in section 27(c)(1) of the Act [15 U.S.C. 80a-27(c)(1)]. With respect to the feasibility and appropriateness of redeemability, variable life insurance involves complexities not present in either the pay-in or the pay-out periods of variable annuities, since variable life insurance provides a combination of a cash value benefit together with a death benefit which is many times greater than the premiums paid in the early years of the contract. Accordingly, although the Commission has adopted exemptive rules concerning redeemability with respect to variable annuities,[9] the approach taken in those rules would not necessarily have been suitable for variable life insurance.

Difficult exemptive problems would also have arisen with respect to sales charges. The report on variable life insurance by our Division of Investment Management Regulation discusses the kinds of problems that occur in this area.[10] These problems probably would have made some form of exemptive action appropriate. Although we have adopted exemptive rules in this area for variable annuity separate accounts, the contracts issued by those accounts and the problems they present differ from the variable life insurance contracts because of the death benefit.

Still another area which could have raised difficult exemptive problems is the valuation of assets. Section 2(a)(41) of the Act prescribes the manner in which the assets of a separate account must be

---

[1] Securities Act Release No. 5360, issued also as Investment Company Act Release No. 7644, 38 FR 4316.

[2] As we stated in that release:

* * * In the Commission's view, section 6(a) of the Securities Act [15 U.S.C. 77f(a)] generally contemplates that at the time of the filing of a registration statement the registrant must have a present intention to commence selling when the registration statement is ordered effective; and section 5(b) of that Act [15 U.S.C. 77e(b)] contemplates that at the time of filing there must be a reasonable certainty that the securities being offered can be legally sold upon effectiveness. It is the Commission's opinion that such reasonable certainty does not exist if the absence of enabling legislation, regulations or the approval of a policy by sate insurance authorities would prevent the sale of a policy in the jurisdiction in which it is intended to be sold. Accordingly, a registration statement covering the offer and sale of a policy which cannot be sold because of the above limitations will not be accepted for filing under the Securities Act.

[3] Securities Act Release No. 5413, 38 FR 22121.

[4] The first such registration statement was filed on May 25, 1973.

[5] A member of the staff of our Division of Investment Management Regulation has been designated to provide liaison between the Commission and the N.A.I.C. and has attended meetings of the Subcommittee with other staff members of that Division and our Division of Corporation Finance.

[6] 15 U.S.C. 1011–1015.

[7] Section 12(g)(2)(G) (15 U.S.C. 78 *l*(g)(2)(G), Public Law No. 88-467, 78 Stat. 565) grants exemption from the registration, reporting, proxy and insider trading requirements of the Securities Exchange Act with respect to any security issued by an insurance company meeting specified conditions, including the conditions that such insurance company be subject to certain state regulation and, in part, that such regulation conform to that prescribed by the N.A.I.C.

[8] See Report of the Division of Investment Management Regulation, "Variable Life Insurance and The Petition for the Issuance and Amendment of Exemptive Rules," January 1973 (Division Report), pp. 56–57.

[9] Rules 22e-1 and 27c-1 [17 CFR 270.22e-1, 270.27c-1].

[10] Division Report at pages 134–154.







V 38 186 SEP 26 73 XUM

valued. A state insurance commissioner, however, might exercise authority to value the assets of a separate account in a manner different from that provided in section 2(a)(41) of the Act.

It would also have been difficult, for example, to apply certain provisions of the Act relating to shareholder voting. If the assets of the variable life insurance separate account become inadequate to support the minimum death benefit, state insurance regulation might require the deficiency to be made up from the insurance company's general account. Accordingly, there is a question whether an insurance company would be willing to maintain a separate account for variable life insurance if, because of contract-holder voting, the insurance company could not be certain it would continue to supervise and manage the account's activities.

The proposed modification to Rule 202-1, which exempts the investment adviser to the variable life insurance separate account from the Investment Advisers Act, is also consistent with the policy of deference to state regulation. Insofar as the Advisers Act applies to advisers to investment companies, it, just as the Investment Company Act, provides a regulatory structure relating to the operations and management of investment companies. The Investment Company Act and the Investment Advisers Act differ in this respect from the Securities Act and the Securities Exchange Act—from which the Commission did not exempt variable life insurance—for these other statutes deal primarily with the securities distribution process. Under the proposed modification to the rule under the Advisers Act, once the appropriate state laws or regulations exist, the relevant protections afforded by the regulatory structure of that Act with respect to those insurance companies which act as investment advisers to variable life separate accounts, would be administered by the states.

The Commission hopes that the procedure contemplated by the proposed amendments will enable it to reach a single determination with respect to the adequacy of protections afforded by state insurance law. The model variable life insurance regulations now being developed by the N.A.I.C., if adequate, could form the basis of a Commission determination pursuant to the amended Rules. As indicated in the proposed Rule amendments, the standard will not be whether a model law and regulations are identical to the relevant provisions of the Investment Company Act and the Investment Advisers Act, but whether they provide protections substantially equivalent to those provisions. A model law and regulations would be desirable from a practical standpoint. Following a Commission determination with respect to such law and regulations, the contracts could be sold in any state which adopts provisions identical to the model. It is contemplated that the Commission would initially reach such a determination with respect to a comprehensive regulatory system to be proposed by the N.A.I.C. containing minimum protections which could be adopted by all states in which variable life insurance contracts are sold. Of course, individual states would be free to adopt legislation or regulations which differ from those contained in the model. Under such circumstances, the Commission would stand ready to consider applications or petitions filed by interested persons, setting forth information and reasons in support of a further Commission determination that such other law or regulations provide for protections substantially equivalent to the relevant protections of the Investment Company Act and the Investment Advisers Act.

As noted, paragraph (b)(4) of the present Rule 3c-4 provides in part that a "variable life insurance policy" must be "subject to regulation under the insurance laws of any State in which such policy is offered." It is proposed that Rule 3c-4 be amended by adding a new paragraph (c) to the Rule.

In addition to the enumerated provisions of the proposed amendment to Rule 3c-4, which are the areas of investor protection specifically discussed in our earlier release of January 31, 1973, the Commission is considering whether the Rule should require as a condition for exemption that applicable state law or regulations include provision for other areas of concern under the Investment Company Act, which would also be set forth in Rule 3c-4. Accordingly, the Commission particularly requests comments as to the appropriateness and relevance of requirements with respect to state law in other areas, including the following: (1) Protection against unfair contract provisions with respect to redemption of contractholder interests; (2) protections relating to insider trading with respect to portfolio securities; (3) protections against improper lending of the separate account's assets to controlling persons or persons under common control with the separate account; (4) prohibitions against breaches of fiduciary duty involving personal misconduct and against larceny and embezzlement; (5) provision for written advisory contracts; (6) prohibitions against persons serving as employees of such insurance companies in connection with the operation of the separate account who have been convicted of certain crimes or who have willfully violated the federal securities laws; (7) provision for custodianship of cash and portfolio securities of the separate account and bonding of persons with access to such cash and securities; (8) provisions relating to the capacity of the separate account to invest in investment companies, insurance companies, broker-dealers, underwriters and investment advisers; (9) provision for independent review of the operations of the separate account, by a state insurance commissioner or otherwise, similar to that provided by directors of a registered investment company; (10) provision for review of the financial statements of the separate account by independent certified public accountants; and (11) private rights of action with respect to such investor protection provisions for contractholders.

In addition to the proposed amendment to Rule 202-1 under the Investment Advisers Act, the Commission is considering whether that rule should require, as a condition for exemption, that applicable state law or regulations include provision for specified areas of concern which would be expressly set forth in Rule 202-1. Accordingly, the Commission also particularly requests comment as to the appropriateness and relevance of requirements with respect to state law in such areas under the Investment Advisers Act as the following: (1) prohibitions against persons who have committed certain crimes or violations of the federal securities laws from acting as investment advisers of variable life insurance separate accounts or as associated persons of such advisers; (2) prohibitions against the payment of unfair or inequitable advisory fees; (3) provisions for adequate recordkeeping; (4) prohibitions against fraudulent and improper conduct; and (5) private rights of action with respect to such investor protection provisions for contract holders.

*Commission Action.* The Securities and Exchange Commission, pursuant to authority granted to it in sections 6(c) and 38(a) of the Investment Company Act of 1940 and sections 202(a)(11), 206A and 211(a) of the Investment Advisers Act, proposes to amend Parts 270 and 275 of Chapter II of Title 17 of the Code of Federal Regulations as indicated below:

## PART 270—RULES AND REGULATIONS UNDER THE INVESTMENT COMPANY ACT OF 1940

Section 270.3c-4 is proposed to be amended by adding a new paragraph (c) reading as follows:

**§ 270.3c-4 Definition of "Insurance Company" for purposes of section 3(c)(3) of the Act.**

* * * * *

(c) For the purpose of paragraph (b)(4) of this section "regulation under the insurance laws of any State" shall mean laws, rules or regulations which the Commission shall have determined, by rule or order, provide for investor protections substantially equivalent to those which are provided by the Investment Company Act of 1940, with respect to (1) the valuation of portfolio securities in a uniform manner; (2) the annual reporting to contract holders of information similar in nature to the information that would be provided by a registered investment company to its shareholders through annual reports and proxy statements; (3) prohibitions against unauthorized or improper changes in investment policies; (4) protection against excessive management fees, administrative fees and sales charges; and (5) protections similar to those afforded by section 17 of the Act relating to transactions with affiliates.





## PART 275—RULES AND REGULATIONS UNDER THE INVESTMENT ADVISERS ACT OF 1940

As proposed to be amended, revised § 275.202-1 would read as follows:

**§ 275.202-1 Exclusion of issuers of variable life insurance policies and of interests or participations thereunder.**

The term "investment adviser," in section 202(a)(11) of the Act, shall not include an insurance company, or any affiliated company thereof as defined in section 2(a)(2) of the Investment Company Act of 1940, to the extent that performance of advisory services is incidental to the conduct of the business of issuing any variable life insurance policy, as defined in section 270.3c-4 of this Chapter under the Investment Company Act of 1940, or of issuing any interest or participation in a separate account, as referred to in said section, issued in connection with such a policy, provided that the laws, rules or regulations of each State in which such policies or interests are offered shall provide investor protections which the Commission shall have determined, by rule or order, are substantially equivalent to relevant protections provided by the Investment Advisers Act.

After consideration of all of the comments received on both rule proposals, the Commission may include in the rules, as amended, requirements in the listed areas of concern as well as other areas that may be suggested.

All interested persons are invited to submit their written views and comments on the proposed rule amendments to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549 on or before 5:30 P.M. Tuesday, October 23, 1973. All communications in this regard should refer to File No. 4-149, and will be available for public inspection.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

SEPTEMBER 20, 1973.

[FR Doc.73-20660 Filed 9-25-73;8:45 am]



V 38 186 SEP 26 73 XUM

# Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF STATE

[Public Notice CM-69]

### U.S. ADVISORY COMMISSION ON INTERNATIONAL EDUCATIONAL AND CULTURAL AFFAIRS

#### Notice of Meeting

The United States Advisory Commission on International Educational and Cultural Affairs will meet in open session on Friday, October 5, 1973, at the Department of State, Room 1408, from 2 p.m. to 3 p.m. The agenda will include a presentation of the content and design of the Commission's quarterly publication, Exchange. For purposes of fulfilling building security requirements, anyone wishing to attend the open session must advise the Staff Director by telephone in advance of the meeting. Telephone: 632-2764.

From 9 a.m. to 12 noon the Advisory Commission will meet in closed session, as provided for by 5 U.S.C. 552(b)(1).

Dated September 19, 1973.

MARGARET G. TWYMAN,
*Staff Director,*
*Commission Secretariat.*

[FR Doc.73-20453 Filed 9-25-73;8:45 am]

## DEPARTMENT OF THE TREASURY

### Comptroller of the Currency

### REGIONAL ADVISORY COMMITTEE ON BANKING POLICIES AND PRACTICES OF THE FOURTH NATIONAL BANK REGION

#### Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a closed meeting of the Comptroller of the Currency's Regional Advisory Committee on Banking Policies and Practices of the Fourth National Bank Region will be held at 9:00 a.m. on October 5, 1973, at the French Lick—Sheraton Hotel in French Lick, Indiana.

The purpose of this meeting is to assist the Regional Administrator and Comptroller of the Currency in a continuing review of bank regulations and policies. The meeting will also apprise agency officials of current conditions and problems banks are experiencing in the Fourth National Bank Region.

It is hereby determined pursuant to section 19(d) of Public Law 92-463 that the meeting is concerned with matters listed in section 552(b) of Title 5 of the United States Code and particularly with exceptions (3), (4) and (8) thereof, and is therefore exempt from the provisions of section 10(a)(1) and (a)(3) of the Act (Public Law 92-463) relating to open meetings and public participation therein.

Dated September 20, 1973.

[SEAL] JAMES E. SMITH,
*Comptroller of the Currency.*

[FR Doc 73-20479 Filed 9-25-73;8:45 am]

### Internal Revenue Service

[Order 117]

### ASSISTANT COMMISSIONER (STABILIZATION) ET AL.

#### Stabilization of Prices, Rents, Wages, and Salaries; Revocation of Authority Delegation

Delegation Order No. 117, based on Office of Emergency Preparedness Economic Stabilization Order No. 1 and Treasury Department Order No. 150-75, delegated authority and responsibility for establishment, operation and maintenance of local service and compliance centers.

Since the same authority has been granted to the Commissioner of Internal Revenue by Cost of Living Council Order No. 15 (redelegated in Delegation Order Nos. 128 and 138 and now incorporated into Delegation Order No. 141), Delegation Order No. 117, issued August 20, 1971, is hereby revoked.

Dated September 17, 1973.

Effective September 17, 1973.

[SEAL] DONALD C. ALEXANDER,
*Commissioner.*

[FR Doc 73-20478 Filed 9-25-73;8:45 am]

### United States Customs Service

[T.D. 73-268]

### FOREIGN CURRENCIES

#### Certification of Exchange Rates

SEPTEMBER 18, 1973.

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified the following rates of exchange which varied by 5 per centum or more from the quarterly rate published in Treasury Decision 73-190 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following daily rates:

India rupee:

| | |
|---|---|
| September 12, 1973 | $0.1290 |
| September 13, 1973 | .1285 |
| September 14, 1973 | .1285 |

Ireland pound:

| | |
|---|---|
| September 4, 1973 | $2.4410 |
| September 5, 1973 | 2.4220 |
| September 6, 1973 | 2.4220 |
| September 7, 1973 | 2.4185 |
| September 10, 1973 | 2.4125 |
| September 11, 1973 | 2.4085 |
| September 12, 1973 | 2.4065 |
| September 13, 1973 | 2.4135 |
| September 14, 1973 | 2.4115 |

New Zealand dollar:

| | |
|---|---|
| September 10, 1973 | $1.4815 |
| September 11, 1973 | 1.4825 |
| September 12, 1973 | 1.4800 |
| September 13, 1973 | 1.4750 |
| September 14, 1973 | 1.4750 |

Norway krone:

| | |
|---|---|
| September 4, 1973 | $0.1789 |
| September 5, 1973 | .1803 |
| September 6, 1973 | .1801 |
| September 7, 1973 | .1799 |
| September 10, 1973 | .1805 |
| September 11, 1973 | .1798 |
| September 12, 1973 | .1795 |
| September 13, 1973 | .1791 |
| September 14, 1973 | .1793 |

Sweden krona:

| | |
|---|---|
| September 13, 1973 | $0.2361 |

United Kingdom pound:

| | |
|---|---|
| September 4, 1973 | $2.4410 |
| September 5, 1973 | 2.4220 |
| September 6, 1973 | 2.4220 |
| September 7, 1973 | 2.4185 |
| September 10, 1973 | 2.4125 |
| September 11, 1973 | 2.4085 |
| September 12, 1973 | 2.4065 |
| September 13, 1973 | 2.4135 |
| September 14, 1973 | 2.4115 |

[SEAL] JAMES D. COLEMAN,
*Acting Director, Appraisement and Collections Division.*

[FR Doc.73-20494 Filed 9-25-73;8:45 am]

## DEPARTMENT OF DEFENSE

### Department of the Air Force

### AERONAUTICAL SYSTEMS DIVISION, INDUSTRY ADVISORY GROUP ON AIRCRAFT STRUCTURAL INTEGRITY PROGRAM

#### Notice of Meeting

SEPTEMBER 20, 1973.

A meeting of the Aeronautical Systems Division (ASD), Aircraft Structural Integrity Program, Industry Advisory Group will be held at Wright-Patterson Air Force Base, Ohio on October 23 and 24, 1973.

This Advisory Group is established to advise the ASD Commander on all matters incident to the development and refinement of (1) service life prediction techniques for aircraft structures and (2) design criteria to obtain programmed service life.

This meeting is for the purpose of providing advice to the ASD Commander regarding formulation of requirements, determination of procedures and discussion of current industry activities in assuring structural integrity of current and future Air Force systems.

Under the authority of Secretary of the Air Force memorandum of March 22, 1973, the ASD Commander has determined that portions of this meeting will involve matters which fall within section 552(b) (1) and (4) of title 5, United States Code. Accordingly, with the exception of the afternoon session on October 24, 1973, the meeting will be closed to the public. Advisory Group Chairman is Mr. W. B. Miller, ASD/ENF, Wright-Patterson Air Force Base, Ohio 45433 (513-255-5312).

JOHN W. FAHRNEY,
*Colonel, USAF, Chief, Legislative Division, Office of The Judge Advocate General.*

[FR Doc.73-20447 Filed 9-25-73;8:45 am]



### Office of the Secretary

### NATIONAL COMMITTEE FOR EMPLOYER SUPPORT OF THE GUARD AND RESERVE

#### Notice of Meeting

Pursuant to the provisions of section 10, Public Law 92-463, effective January 5, 1973, notice is hereby given that a meeting of the National Committee for Employer Support of the Guard and Reserve Executive Committee will be held on October 3, 1973, at the Key Bridge Marriott Motor Hotel, Arlington, Virginia.

The purpose of the meeting is to increase the knowledge and understanding of the members of the Executive Committee on matters relative to enlisting Employer Support for the Guard and Reserve.

A transcript of the meeting will be available to anyone desiring information about the meeting.

Additional information concerning these meetings may be obtained by contacting the Assistant to the National Chairman, National Committee for Employer Support of the Guard and Reserve, Room 3A29, 400 Army-Navy Drive, Arlington, Virginia 22202.

MAURICE W. ROCHE,
*Director, Correspondence and Directive OASD(C).*

SEPTEMBER 21, 1973.

[FR Doc.73-20472 Filed 9-25-73;8:45 am]

### Department of the Army

### ARMY SCIENTIFIC ADVISORY PANEL

#### Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463), announcement is made of the following Committee meeting:

Name of Committee: Army Scientific Advisory Panel.
Date: October 10-12, 1973.
Place: Heidelberg, Germany (USAREUR).
Time: 0900-1650 hours, October 10; 0800-1700 hours, October 11; 0800-1000 hours, October 12.
Agenda: Attached.

This meeting is closed to the public due to the security classification of the materiel to be discussed.

Any additional information concerning the meeting may be obtained from Dr. Marvin E. Lasser, Chief Scientist, Department of the Army, Executive Director, Army Scientific Advisory Panel, Washington, D.C. (202) 695-7487.

R. B. BELNAP,
*Special Advisor to TAG.*

MARCH 17, 1973.

TENTATIVE AGENDA

WEDNESDAY, OCTOBER 10, 1973

| | | |
|---|---|---|
| 0900-0905 | Opening Remarks | Chairman, ASAP. |
| 0905-0910 | Welcome | CINCUSAREUR. |
| 0910-1030 | Command Briefing | Briefer to be announced. |
| 1030-1130 | Priorities for Combat Development. | Do. |
| 1130-1210 | Tactical Communications. | Do. |
| 1210-1310 | Lunch | Do. |
| 1310-1350 | Surveillance and Target Acquisition. | Do. |
| 1350-1430 | Air Defense | Do. |
| 1430-1510 | Airmobile Concepts | Do. |
| 1510-1530 | Coffee Break | Do. |
| 1530-1610 | Tank/Antitank | Do. |
| 1610-1650 | EW/SIG-INT | Do. |

THURSDAY, OCTOBER 11, 1973

| | | |
|---|---|---|
| 0800-1700 | Visit Selected Field Units. | |

FRIDAY, OCTOBER 12, 1973

| | | |
|---|---|---|
| 0800-0840 | Drugs | Briefer to be announced |
| 0840-0920 | Race Relations | Do. |
| 0920-1000 | Job Satisfaction | Do. |

[FR Doc.73-20503 Filed 9-25-73;8:45 am]

## DEPARTMENT OF AGRICULTURE

### Forest Service

### FLATHEAD WILD AND SCENIC RIVER PROPOSAL

#### Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Flathead Wild and Scenic River Proposal, Report Number USDA-FS-DES(Leg) 74-30.

The environmental statement concerns a proposal to include 219 miles of the Flathead River in the National Wild and Scenic Rivers System. The river flows through Flathead and Powell Counties, Montana. The proposal provides the means to preserve and enhance the river in its free-flowing status and to minimize adverse environmental effects to the river and adjacent lands. The impacts of development and increased recreation use will be controlled on the basis of the capability of the river and its environment to support these uses and activities rather than on projected trends and demands.

This draft environmental statement was filed with CEQ on September 20, 1973.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3230, 12th St. and Independence Ave, SW., Washington, D.C. 20250.
USDA, Forest Service, Region 1, Northern Region, 200 East Broadway, Missoula, Montana 59801.
USDA, Forest Service, Flathead National Forest, 290 North Main, Kalispell, Montana 59901.

Copies are also available at the six ranger districts on the Flathead National Forest.

A limited number of single copies are available upon request to Edsel L. Corpe, Forest Supervisor, Flathead National Forest, 290 North Main, Kalispell, Montana 59901.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please refer to the name and number of the environmental statement above when ordering.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

Comments are invited from the public and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Edsel L. Corpe, Forest Supervisor, Flathead National Forest, 290 North Main, Kalispell, Montana 59901. Comments must be received by Nov. 29, 1973, in order to be considered in the preparation of the final environmental statement.

PHILIP L. THORNTON,
*Deputy Chief, Forest Service.*

[FR Doc.73-20508 Filed 9-25-73;8:45 am]

[Region 5]

### MODOC NATIONAL FOREST GRAZING ADVISORY BOARD

#### Notice of Meeting

The Modoc National Forest Grazing Advisory Board will meet at 10 a.m., October 16, 1973, in the Forest Supervisors Office, 441 N. Main, Alturas, California.

The purpose of this meeting is to discuss grazing matters and other resource management problems which affect grazing on the Modoc National Forest.

The meeting will be open to the public. Persons who wish to attend should notify Don Bolander, Box 611, Alturas, California 96101, Telephone 916-233-3521. Written statements may be filed with the committee before or after the meeting.

The committee has established the following rules for public participation: Public members may speak up at meeting after the regular board meeting is completed.

DONALD H. BOLANDER,
*Acting Forest Supervisor.*

SEPTEMBER 18, 1973.

[FR Doc.73-20451 Filed 9-25-73;8:45 am]



V 38 186 SEP 26 73 XUM

## DEPARTMENT OF COMMERCE

### Domestic and International Business Administration

### COMPUTER SYSTEMS TECHNICAL ADVISORY COMMITTEE

### Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a meeting of the Safeguards Subgroup of the Computer Systems Technical Advisory Committee will be held Friday, October 5, 1973, at 9:30 a.m., in Conference Room C, Main Commerce Building, 14th and Constitution Avenue, Washington, D.C.

Members advise the Office of Export Control, Bureau of East-West Trade, with respect to questions involving technical matters, worldwide availability and actual utilization of production and technology, and licensing procedures which may affect the level of export controls applicable to computer systems, including technical data related thereto, and including those whose export is subject to multilateral (COCOM) controls.

Agenda items are as follows:

1. Opening remarks and review of purpose of subgroup by Robert D. Klages, Chairman.
2. Presentation of papers or comments by the public.
3. Discussion and modification of report on safeguards prepared by members of the subgroup.
4. Executive session: Continuation of discussion and modification of report prepared by members of the subgroup.
5. Adjournment.

The public will be permitted to attend the discussion of agenda items 1-3, and a limited number of seats will be available to the public for these agenda items. To the extent time permits, members of the public may present oral statements to the subgroup. Interested persons are also invited to file written statements with the subgroup.

With respect to agenda item 4, "Executive Session," the Assistant Secretary of Commerce for Administration, on July 17, 1973, determined, pursuant to section 10(d) of Public Law 92-463, that this agenda item should be exempt from the provisions of sections 10(a)(1) and (a)(3), relating to open meetings and public participation therein, because the meeting will be concerned with matters listed in 5 USC 552(b)(1).

Further information may be obtained from Robert D. Klages, Chairman of the subgroup, Univac, 1019 19th Street NW., Washington, D.C. 20036 (A/C 202—293-7720).

Minutes of those portions of the meeting which are open to the public will be available 30 days from the date of the meeting upon written request addressed to: Central Reference and Records Inspection Facility, U.S. Department of Commerce, Washington, D.C. 20230.

Dated September 21, 1973.

JOHN T. CONNOR, JR.,
*Acting Director,*
*Bureau of East-West Trade.*

[FR Doc.73-20523 Filed 9-25-73;8:45 am]

## Maritime Administration

[Report No. 123]

### LIST OF FREE WORLD AND POLISH FLAG VESSELS ARRIVING IN CUBA SINCE JANUARY 1, 1963

SECTION 1. The Maritime Administration is making available to the appropriate Departments the following list of vessels which have arrived in Cuba since January 1, 1963, based on information received through August 31, 1973, exclusive of those vessels that called at Cuba on U.S. Government-approved noncommercial voyages and those listed in section 2. Pursuant to established U.S. Government policy, the listed vessels are ineligible to carry U.S. Government-financed cargoes from the United States.

FLAG OF REGISTRY AND NAME OF SHIP

| | *Gross tonnage* |
|---|---|
| Total, all flags (174 ships) | 1,334,756 |
| Cypriot (84 ships) | 703,397 |
| **Aegis Banner** | 9,024 |
| ***Aegis Care** | 7,803 |
| ***Aegis Courage** | 8,961 |
| Aegis Eternity | 8,814 |
| Aegis Fame | 9,241 |
| Aegis Hope (previous trips to Cuba as the Huntamore—British) | 5,678 |
| **Aegis Legend (previous trip to Cuba—Greece) | 8,925 |
| Aegis Loyal | 10,405 |
| Aegis Strength | 9,439 |
| Aftadelfos | 8,136 |
| Aghios Ermolaos | 7,208 |
| *Aghios Georgios | 8,377 |
| *Akrotiri | 7,168 |
| Alamar | 12,299 |
| Alda | 7,292 |
| Alexandros Skoutaris | 8,280 |
| Alma | 9,097 |
| Alpa | 9,159 |
| Amarilis | 8,959 |
| Anemone | 7,168 |
| Annunciation Day | 8,047 |
| Antigoni | 3,174 |
| Areti | 8,560 |
| Arion | 5,245 |
| Aris (previous trips to Cuba as the Aris II) | 9,561 |
| Armar | 9,559 |
| Artigas | 5,841 |
| *Athenian Democracy (tanker) | 8,675 |
| Barsoca | 9,242 |
| Begonia | 6,576 |
| Byron (tanker) | 8,720 |
| Camelia | 8,111 |
| Castalia | 7,641 |
| Cleopatra | 8,150 |
| Degedo | 9,000 |
| Dorine Papalios (previous trips to Cuba as the Formentor—British) | 8,424 |
| E. D. Papalios | 9,431 |
| Elpid | 8,296 |
| **Efthyia (trips to Cuba—Greek) | 10,347 |
| *Enarxis | 8,961 |
| George N. Papalios | 9,071 |
| Georgios C. (previous trips to Cuba as the Huntsfield—British and Cypriot | 9,483 |
| Georgios T | 9,646 |
| Goodluck | 7,307 |
| Happy Land | 9,080 |
| Herodemos | 7,366 |
| Hymettus (tanker) | 11,771 |
| Ilena (previous trips to Cuba—Lebanese) | 5,925 |
| Iris | 8,479 |
| June | 9,357 |
| Kentavros | 10,173 |
| Kiki (previous trips to Cuba as the Gardenia) | 9,744 |
| Kitsa | 9,519 |
| Magnolia | 7,249 |
| *Margaret H | 8,378 |
| *Mariner | 7,916 |
| Master George | 7,334 |
| May | 8,853 |
| Mimis N. Papalios | 9,069 |
| Mimosa | 8,782 |
| Miss Papalios | 9,241 |
| *Mitera Assimina | 7,731 |
| Nea Hellas | 8,241 |
| Nedi 2 | 7,879 |
| **New Heath (trips to Cuba—British) | 7,643 |
| Nike | 9,505 |
| Noelle (previous trips to Cuba—Lebanese) | 7,251 |
| Pantazis Calas | 9,618 |
| Petunia | 7,843 |
| Protoapostolos | 8,130 |
| Protoklitos | 6,154 |
| *Protomachos | 9,218 |
| Ravens | 8,036 |
| Reifens | 8,071 |
| Rothens | 8,106 |
| Salvia | 8,522 |
| Silver Coast | 7,473 |
| Silver Hope | 5,313 |
| *Skipper | 8,786 |
| Successor | 11,471 |
| Theoskepasti | 6,618 |
| Torenia | 8,077 |
| Venturer | 9,070 |
| Zinnia | 7,114 |
| Somali (25 ships) | 201,295 |
| *Amber Islands | 8,947 |
| **Atlas (trip to Cuba—Finnish) | 3,916 |
| Ber Sea | 8,269 |
| *Coral Islands | 8,673 |
| Felhang | 8,924 |
| Felta | 8,903 |
| **Fortune Enterprise (trips to Cuba—British) | 7,696 |
| Hemisphere (previous trips to Cuba—British) | 8,718 |
| Jade Islands | 10,270 |
| **Kinross (previous trips to Cuba—British) | 5,388 |
| Marbella | 8,409 |
| *Marble Islands | 8,797 |
| *Mindanao Sea | 8,871 |
| *Minfung | 5,980 |
| *Mingwei | 8,390 |
| *Molucca Sea | 8,871 |
| Nebula (previous trips to Cuba—British) | 8,773 |
| **New East Sea (previous trips to Cuba—British) | 9,679 |
| Onyx Islands | 8,618 |
| **Oriental (trips to Cuba as the Oceantramp—British) | 5,986 |
| Eastglory (previous trips to Cuba—British) | 8,995 |
| **Jollity (trips to Cuba—British) | 8,819 |
| **Seasage (previous trips to Cuba—British) | 3,794 |
| *Topaz Islands | 8,998 |
| **Venice (trips to Cuba—British) | 8,611 |
| Polish (16 ships) | 114,203 |
| Baltyk | 6,984 |
| Bytom | 5,967 |
| Chopin | 9,231 |
| Chorzow | 7,237 |
| Energetyk | 10,654 |
| Grodziec | 3,379 |
| Huta Labedy | 7,221 |
| Huta Ostrowiec | 7,179 |
| Huta Zgoda | 6,840 |
| Hutnik | 10,847 |
| Kopalnia Cziadz | 7,252 |
| Kopalnia Siemianowice | 7,165 |
| Kopalnia Wujek | 7,033 |
| Piast | 3,184 |
| Rejowiec | 3,401 |
| Transportowiec | 10,629 |
| British (15 ships) | 127,042 |
| Arctic Ocean | 8,701 |
| Cheung Chau | 8,566 |
| Coral Islands | 8,673 |
| Golden Bridge | 7,897 |
| Ho Fung | 7,121 |
| Ivory Islands | 9,718 |
| *Mystic | 6,656 |
| *Rowanmore | 8,274 |
| Sea Amber | 10,421 |
| Sea Coral | 10,421 |
| **Empress (trips to Cuba as the Sea Empress) | 9,841 |
| Sea Moon | 9,085 |
| **Shun Wah (trips to Cuba as the Vercharmian—British) | 7,265 |
| Steed | 8,989 |
| Yunglutation | 5,414 |
| Yugoslav (8 ships) | 56,016 |
| Agrum | 2,449 |
| Bar | 8,699 |
| Cetinje | 8,120 |
| Niksic | 9,916 |
| Piva | 7,519 |
| Plod | 3,657 |
| Ulcinj | 8,215 |
| Tara | 7,441 |
| French (5 ships) | 10,966 |
| **Atlanta (trip to Cuba as the Enee—French) | 1,232 |
| Circe | 2,874 |
| Danae | 3,486 |
| **Urdazuri II (trips to Cuba as the Melke—Netherlands) | 500 |
| *Nelee | 2,874 |
| Greek (5 ships) | 34,282 |
| Andromachi (previous trips to Cuba as the Penelope—Greek) | 6,712 |
| **Anna Maria (trips to Cuba as the Helka—British) | 2,111 |
| Ariadne | 6,487 |
| **Triaena (trips to Cuba as the Lambros M. Fatsis and the Lahortensia—British) | 9,486 |
| **Pothiti (trips to Cuba as the Huntsville—British) | 9,486 |
| Netherlands (4 ships) | 3,882 |
| Markab II | 790 |
| Megrez (previous trips to Cuba as the Gerda) | 1,190 |
| Rochab | 787 |
| Tempo | 1,115 |
| Italian (3 ships) | 35,987 |
| Alderamine (tanker) | 12,505 |
| Elia (tanker) | 11,021 |
| San Nicola | 12,461 |
| Moroccan (2 ships) | 4,739 |
| El Mansour Bi Llah | 1,525 |
| Marrakech | 3,214 |
| Singapore (2 ships) | 15,611 |
| **Hwa Chu (trips to Cuba—British) | 9,091 |
| Tong Hoe | 6,520 |
| Guatemalan (1 ship) | 2,239 |
| **Peten (previous trips to Cuba as the Magister—British) | 2,239 |
| Guinean (1 ship) | 852 |
| **Drame Oumar (trip to Cuba as the Neve—French) | 852 |
| Lebanese (1 ship) | 6,259 |
| Antonis | 6,259 |
| Pakistani (1 ship) | 8,708 |
| **Maulabaksh (trips to Cuba as the Phoenician Dawn and East Breeze—British) | 8,708 |
| Panama (1 ship) | 9,278 |
| **Kika (trips to Cuba as the Santa Lucia—Italian) | 9,278 |

* Added to Report No. 122 appearing in the FEDERAL REGISTER issue of March 26, 1973.

** Ships appearing on the list which have made no trips to Cuba under their present registry.

NOTE.—The French flag ship Nelle has been removed from this list since it is the same ship as the Nelee, the name having been misspelled.

SEC. 2. In accordance with approved procedures, the following vessels listed in this section which called at Cuba after January 1, 1963, have reacquired eligibility to carry U.S. Government-financed cargoes from the United States by virtue of the persons who control the vessels having given satisfactory certification and assurance:

(a) That such vessels will not, thenceforth, be employed in the Cuban trade so long as it remains the policy of the U.S. Government to discourage such trade; and

(b) That no other vessels under their control will thenceforth be employed in the Cuban trade, except as provided in paragraph (c); and

(c) That vessels under their control which are covered by contractual obligations, including charters, entered into prior to December 16, 1963, requiring their employment in the Cuban trade shall be withdrawn from such trade at the earliest opportunity consistent with such contractual obligations.

FLAG OF REGISTRY AND NAME OF SHIP

| | *Gross tonnage* |
|---|---|
| a. Since last report: | |
| Dimitrakis (Somali) | 7,829 |
| Stavros T. (Cypriot) | 10,407 |
| Telenikis (Cypriot) | 12,303 |



b. Previous reports:

| Flag of registry: | *Number of ships* |
|---|---|
| British | 49 |
| Cypriot | 10 |
| Danish | 1 |
| Finnish | 4 |
| French | 4 |
| Germany (West) | 1 |
| Greek | 51 |
| Israeli | 1 |
| Italian | 15 |
| Japanese | 1 |
| Kuwaiti | 1 |
| Lebanese | 9 |
| Liberia | 1 |
| Moroccan | 2 |
| Norwegian | 5 |
| Singapore | 1 |
| Somali | 1 |
| Spanish | 5 |
| Sweden | 1 |
| Yugoslav | 2 |
| Total | 146 |

SEC. 3. The following number of vessels have been removed from this list since they have been broken up, sunk or wrecked.

| | *Gross tonnage* |
|---|---|
| a. Since last report: | |
| Aghios Nicolaos (Cypriot) | 7,264 |
| Alfa (Cypriot) | 7,388 |
| Athelmonarch (British) | 11,162 |
| Cleo II (Cypriot) | 7,599 |
| Free Trader (Cypriot) | 7,061 |
| George (Cypriot) | 7,378 |
| Giannis (Cypriot) | 7,490 |
| San Francisco (Italian) | 9,284 |
| Timios Stavros (Maltese) | 5,333 |

| b. Previous reports: Flag of registry: | *Broken up, sunk, or wrecked* |
|---|---|
| British | 34 |
| Cypriot | 77 |
| Finnish | 6 |
| French | 1 |
| Greek | 19 |
| Italian | 4 |
| Japanese | 1 |
| Lebanese | 37 |
| Maltese | 2 |
| Polish | 5 |
| Monaco | 1 |
| Moroccan | 1 |
| Norwegian | 1 |
| Pakistani | 1 |
| Panamanian | 9 |
| Singapore | 1 |
| Somali | 1 |
| South Africa | 2 |
| Swedish | 1 |
| Yugoslav | 7 |
| Total | 211 |

SEC. 4. The Ships listed in sections 1 and 2 have made the following number of trips to Cuba since January 1, 1963, based on information received through August 31, 1973.







V 38-186 SEP 26 73 XUM

| Flag of registry | 1963 | 1964 | 1965 | 1966 | 1967 | 1968 | 1969 | 1970 | 1971 | 1972 | 1973 Jan.-Jun. | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| British | 133 | 180 | 126 | 101 | 78 | 62 | 45 | 53 | 18 | 10 | 4 | 810 |
| Cypriot | | 1 | 17 | 27 | 42 | 68 | 115 | 199 | 173 | 86 | 56 | 784 |
| Lebanese | 64 | 91 | 58 | 25 | 16 | 16 | 4 | 1 | | | | 275 |
| Greek | 99 | 27 | 23 | 27 | 29 | 7 | | | 1 | 1 | | 214 |
| Italian | 16 | 20 | 24 | 11 | 11 | 10 | 15 | 13 | 9 | | | 129 |
| Yugoslav | 12 | 11 | 15 | 10 | 14 | 9 | 6 | 7 | 9 | 5 | 5 | 103 |
| French | 8 | 9 | 9 | 10 | 10 | 4 | 2 | 5 | 2 | 2 | | 61 |
| Danish | 1 | 4 | 5 | 11 | 12 | 8 | 2 | 1 | | | | 44 |
| Spanish | 9 | 17 | | | | | | | | | | 26 |
| Norwegian | 14 | 10 | | | | | | | | | | 24 |
| Moroccan | 9 | 13 | 1 | | | | | | | 1 | | 24 |
| Maltese | | 2 | 6 | 1 | 4 | 8 | 1 | 3 | | | | 24 |
| Somali | | | | | 2 | 11 | 7 | 4 | 6 | 6 | 12 | 48 |
| Netherlands | | 1 | 2 | | | | | | | 8 | 7 | 21 |
| Swedish | 3 | 3 | | | | | | | | | | 6 |
| Kuwaiti | | 2 | 1 | | | | | | | | | 3 |
| Israeli | | | 2 | | | | | | | | | 2 |
| Japanese | 1 | | | | | 1 | | | | | | 2 |
| Danish | 1 | | | | | | | | | | | 1 |
| German (West) | 1 | | | | | | | | | | | 1 |
| Haitian | | | | 1 | | | | | | | | 1 |
| Monaco | | | | | 1 | | | | | | | 1 |
| Singapore | | | | | | | | | 1 | | | 1 |
| Subtotal | 371 | 394 | 299 | 224 | 218 | 204 | 197 | 285 | 219 | 119 | 84 | 2,605 |
| Polish | 18 | 16 | 12 | 10 | 11 | 7 | 2 | 3 | 4 | | | 83 |
| Grand total | 389 | 410 | 302 | 234 | 229 | 211 | 199 | 288 | 223 | 119 | 84 | 2,688 |

NOTE.—Trip totals in section 1 exceed ship totals in sections 1 and 2 because some of the ships made more than one trip to Cuba. Monthly totals subject to revision as additional data becomes available.

By order of the Assistant Secretary of Commerce for Maritime Affairs.

Dated September 10, 1973.

JAMES S. DAWSON, Jr.,
*Secretary.*

[FR Doc 73-20436 Filed 9-25-73;8:45 am]

## National Bureau of Standards

### EXPANDED VINYL FABRICS FOR APPAREL USE

#### Withdrawal of Commercial Standard

In accordance with § 10.12 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10, as revised; 35 FR 8349 dated May 28, 1970), notice is hereby given of the withdrawal of Commercial Standard CS 258-63, "Expanded Vinyl Fabrics for Apparel Use."

This action is taken in furtherance of the Department's announced intentions as set forth in the public notice appearing in the FEDERAL REGISTER of July 2, 1973 (38 FR 17520), to withdraw this standard.

The effective date for the withdrawal of this standard will be November 26, 1973. This withdrawal action terminates the authority to refer to this standard as a voluntary standard developed under the Department of Commerce Procedures.

Dated September 19, 1973.

RICHARD W. ROBERTS,
*Director.*

[FR Doc.73-20475 Filed 9-25-73;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

[DESI 740; Docket No. FDC-D-664; NDA 4-038, etc.]

### CERTAIN ESTROGENS FOR ORAL OR PARENTERAL USE

#### Drugs for Human Use; Drug Efficacy Study Implementation; Follow-Up Notice

In a notice published in the FEDERAL REGISTER of November 10, 1971 (36 FR 21537), the Commissioner of Foods and Drugs announced his conclusions pursuant to evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group on the following drugs:

1. *Preparations containing dienestrol.* a. Restrol tablets; The Central Pharmacal Co., 116-128 East Third Street, Seymour, IN 47274 (NDA 6-428). (Two reports.)

b. Synestrol tablets; White Laboratories, Inc., Kenilworth, N.J. 07033 (NDA 5-991).

2. *Preparations containing diethylstilbestrol.* a. Diethylstilbestrol Enseals and Tablets; Eli Lilly and Co., Post Office Box 618, Indianapolis, IN 46204 (NDA 4-039 and 4-041 (previously stated to be 4-040)). (Three reports.)

b. Diethylstilbestrol tablets; Vale Chemical Co., Inc., 1201 Liberty Street, Allentown, PA 18102 (NDA 4-638).

c. Diethylstilbestrol (Stilbestrol) Tablets; Rexall Drug Co., 3901 North Kingshighway Boulevard, St. Louis, MO 63115 (NDA 6-603).

d. Diethylstilbestrol tablets; S. F. Durst and Co., Inc., 5317 North Third Street, Philadelphia, PA 19120 (NDA 4-297).

e. Stilbestrol tablets; High Chemical Co., 1760 North Howard Street, Philadelphia, PA 19122 (NDA 5-233).

f. Stilbetin tablets and enteric coated tablets; E. R. Squibb and Sons, Inc., Georges Road, New Brunswick, N.J. 08903 (NDA 4-056).

g. Diethylstilbestrol Perles; The Upjohn Co., 7171 Portage Road, Kalamazoo, MI 49002 (NDA 4-073).

h. Diethylstilbestrol in oil injections; Eli Lilly and Co. (NDA 4-038 (previously stated to be 1-221)).

i. Diethylstilbestrol in ethyl oleate injection; Eli Lilly and Co. (NDA 7-844).

3. *Preparations containing other diethylstilbestrol derivatives.* a. D.S.D. tablets and enteric coated tables, containing diethylstilbestrol dipropionate; The Blue Line Chemical Co., 302 South Broadway, St. Louis, MO 63102 (NDA 5-159).

b. Stilphostrol ampoules and tablets, containing diethylstilbestrol diphosphate; Dome Laboratories, Division of Miles Laboratories, Inc., 400 Morgan Lane, West Haven, CT 06516 (NDA 10-010).

4. *Preparation containing promethestrol dipropionate.* a. Meprane Dipropionate tablets; Reed and Carnrick Pharmaceuticals, 30 Boright Avenue, Kenilworth, N.J. 07033 (NDA 6-042).

The notice stated that these drugs were regarded as effective, probably effective, possibly effective, and lacking substantial evidence of effectiveness for their various indications.

No data were submitted in support of any of the less than effective indications and the drugs are now regarded to either lack substantial evidence of effectiveness or are not shown to be safe for those indications.

Accordingly, with respect to these products, the revised effectiveness classification and marketing status are as follows:

A. *Effectiveness classification.* The Food and Drug Administration has considered the Academy's reports, as well as other available evidence, and concludes that, except for oral dosage forms containing 25 milligrams or more of diethylstilbestrol per tablet and parenteral dosage forms containing 25 milligrams or more of diethylstilbestrol per milliliter, the drugs are effective for those indications described as effective in the notice of November 10, 1971. Dosage forms containing 25 milligrams or more of diethylstilbestrol per tablet or milliliter are either regarded as contraindicated or inappropriate dosages for the indications claimed in the labeling and raise a question of safety. Appearing elsewhere in this issue of the FEDERAL REGISTER is a notice of opportunity for hearing on the proposal to withdraw approval of those parts of new drug applications providing for such dosage form strengths.

The drugs lack substantial evidence of effectiveness for all of their other labeled indications.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under the conditions described herein.

1. *Form of drug.* These preparations are in tablet, enteric coated tablet, or capsule form suitable for oral administration; or are sterile preparations in a form suitable for parenteral administration.

2. *Labeling conditions.* The labeling conditions are the same as those described in the notice of November 10, 1971, except that the probably effective and possibly effective indications are no longer allowable. Complete labeling guidelines are available upon request.

3. *Marketing status.* Marketing of such drugs may be continued under the conditions described in the notice entitled "Conditions for Marketing New Drugs Evaluated in Drug Efficacy Study," published in the FEDERAL REGISTER July 14, 1970 (35 FR 11273), as follows:





a. For holders of "deemed approved" new drug applications (i.e., an application which became effective on the basis of safety prior to October 10, 1962), the submission of a supplement for revised labeling and an abbreviated supplement for updating information as described in paragraphs (a)(1)(i) and (iii) of the notice of July 14, 1970.

b. For any person who does not hold an approved or effective new drug application, the submission of an abbreviated new drug application as described in paragraph (a)(3)(i) of that notice.

c. For any distributor of the drug, the use of labeling in accord with this announcement for any such drug shipped within the jurisdiction of the Act as described in paragraph (b) of that notice.

C. *Notice of opportunity for a hearing.* Notice is given to the holder(s) of the new drug application(s) and to any other interested person that the Commissioner proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) withdrawing approval of the listed new drug application(s) and all amendments and supplements thereto providing for indications lacking substantial evidence of effectiveness referred to in paragraph A of this notice on the grounds that new information before him with respect to the drug(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug(s) will have all the effects purported or represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application(s) supplemented, in accord with this notice, to delete the claim(s) lacking substantial evidence of effectiveness.

Any manufacturer or distributor of such an identical, related, or similar product is an interested person who may in response to this notice submit data and information, request that the new drug application(s) not be withdrawn, request a hearing, and participate as a party in any hearing.

In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner hereby gives the applicant(s) and any other interested person an opportunity for a hearing to show why approval of the new drug application(s) providing for the claim(s) involved should not be withdrawn.

On or before October 26, 1973, the applicant(s) and any other interested person may file with the Hearing Clerk, Food and Drug Administration, Room 6-86, 5600 Fishers Lane, Rockville, Maryland 20852, a written appearance electing whether or not to avail himself of the opportunity for a hearing. Failure of an applicant or any other interested person to file a written appearance of election within the specified time will constitute an election by him not to avail himself of the opportunity for a hearing. No extension of time may be granted.

If no person elects to avail himself of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing approval of the application(s) which have not been supplemented to delete the indication(s) lacking substantial evidence of effectiveness.

If an applicant or any other interested person elects to avail himself of the opportunity for a hearing, he must file, on or before October 26, 1973, a written appearance requesting the hearing, giving the reasons why approval of the new drug application(s) should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data he is prepared to prove in support of his opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific acts showing that a genuine and substantial issue of fact requires a hearing (21 CFR 130.14(b)).

If review of the data submitted by an applicant or any other interested person warrants the conclusion that there exists substantial evidence demonstrating the effectiveness of the product(s) for the labeling claim(s) involved, the Commissioner will rescind this notice of opportunity for hearing.

If review of the data in the application(s) and data submitted by the applicant(s) or any other interested person in a request for a hearing, together with the reasoning and factual analysis in a request for a hearing, warrants the conclusion that no genuine and substantial issue of fact precludes the withdrawal of approval of the application(s), the Commissioner will enter an order making findings and conclusions on such data and withdrawing approval of application(s) not supplemented to delete the claim(s) involved.

If, upon the request of the new drug applicant(s) or any other interested person, a hearing is justified, the issues will be defined, a hearing examiner will be named, and he shall issue, as soon as practicable after October 26, 1973, a written notice of the time and place at which the hearing will commence. All persons interested in identical, related, or similar products covered by the new drug application(s) will be afforded an opportunity to appear at the hearing, file briefs, present evidence, cross-examine witnesses, submit suggested findings of fact, and otherwise participate as a party. The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

Communications forwarded in response to this notice should be identified with the reference number DESI 740, directed to the attention of the appropriate office listed below, and addressed to the Food and Drug Administration, 600 Fishers Lane, Rockville, MD 20852.

Supplements (identify with NDA number): Office of Scientific Evaluation (BD-100), Bureau of Drugs.

Original abbreviated new drug applications (identify as such): Generic Drug Staff (BD-69), Office of Scientific Evaluation, Bureau of Drugs.

Request for Hearing (identify with Docket number): Hearing Clerk (CC-20), Room 6-86, Parklawn Building.

Requests for Academy's report: Drug Efficacy Study Information Control (BD-65), Bureau of Drugs.

All other communications regarding this announcement: Drug Efficacy Study Implementation Project Manager (BD-101), Bureau of Drugs.

Received requests for a hearing may be seen in the Office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-53, as amended; 21 U.S.C. 352, 355), and the Administrative Procedure Act (5 U.S.C. 554), and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 2.120).

Dated September 12, 1973.

A. M. SCHMIDT,
*Commissioner of Food and Drugs.*

[FR Doc.73-20442 Filed 9-21-73;8:45 am]

[DESI 740; Docket No. FDC-D-660; NDA 4-039, etc.]

### CERTAIN ESTROGENS FOR ORAL OR PARENTERAL USE

#### Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Applications

In a notice (DESI 740) published in the FEDERAL REGISTER of November 10, 1971 (36 FR 21537), the Commissioner of Foods and Drugs announced his conclusions pursuant to evaluation of reports received from the National Academy of Sciences-National Research Council, Drug Efficacy Study Group concerning certain orally and parenterally administered estrogens. Appearing elsewhere in this issue of the FEDERAL REGISTER is a followup notice describing the conditions under which certain of those products are regarded to be effective:

The following new drug applications referenced in the notice provide for oral dosage forms containing 25 mg. or more of diethylstilbestrol and a parenteral dosage form (1 ml. ampule) containing 25 mg. of diethylstilbestrol. Such large single dosages of diethylstilbestrol are regarded as either contraindicated (e.g., for accidents of pregnancy), and/or are in excess of the amounts recognized as appropriate for the indications claimed in the labeling reviewed by the Academy, thus raising a question of safety for use for the indications claimed.

NDAs 4-039 and 4-041: Those parts of the NDA's providing for Diethylstilbestrol Tablets and Enseals containing 25 mg. diethylstilbestrol; Eli Lilly and Co., Post Office Box 618, Indianapolis, IN 46206.

NDA 6-603: Those parts of the NDA providing for a tablet containing 25 mg.



V 38 186 SEP 26 73 XUM

diethylstilbestrol; Rexall Drug Company, 3901 North Kingshighway, St. Louis, MO 63115.

NDA 4-056: Those parts of the NDA providing for tablets containing 25 and 100 mg. diethylstilbestrol; E. R. Squibb and Sons, Lawrenceville-Princeton Road, Post Office Box 4000, Princeton, N.J. 08540.

NDA 7-844: Diethylstilbestrol Ampoules (1 ml.), containing 25 mg. diethylstilbestrol in ethyl oleate; Eli Lilly and Co. This dosage form had been labeled only for use in certain types of accidents of pregnancy. Lilly discontinued this product in 1966 and approval of the NDA was withdrawn February 8, 1972 (37 FR 2851), on grounds that the applicant had failed to make reports under section 505(j) of the Act (21 U.S.C. 355(j)) and § 130.13 or § 130.35(e) and (f) of the new drug regulations (21 CFR 130.13 and 130.35). In view of that, this product is included in this notice only for the purpose of informing interested persons of the conclusions reached in the Drug Efficacy Study concerning it.

Therefore, notice is given to the holder(s) of the new drug application(s) and to any other interested person that the Commissioner proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355 (e)) withdrawing approval of pertinent parts of the listed new drug application(s) and all amendments and supplements thereto on the grounds that new information before him with respect to the drug(s), evaluated together with the evidence available to him at the time of approval of the application(s) shows that the drugs are not shown to be safe for use under the conditions of use prescribed, recommended, or suggested in the labeling.

All identical, related, or similar products, not the subject of an approved new drug application, are covered by the new drug application(s) reviewed. See 21 CFR 130.40 (37 F.R. 23185, October 31, 1972). Any manufacturer or distributor of such an identical, related, or similar product is an interested person who may in response to this notice submit data and information, request that the new drug application(s) not be withdrawn, request a hearing, and participate as a party in any hearing. Any person who wishes to determine whether a specific product is covered by this notice should write to the Food and Drug Administration, Bureau of Drugs, Office of Compliance (BD-300), 5600 Fishers Lane, Rockville, Maryland 20852.

In accordance with the provisions of section 505 of the Act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Part 130), the Commissioner hereby gives the applicant(s) and any other interested person an opportunity for a hearing to show why approval of the new drug application(s) should not be withdrawn.

On or before October 26, 1973, the applicant(s) and any other interested person is required to file with the Hearing Clerk, Food and Drug Administration, Room 6-86, 5600 Fishers Lane, Rockville, Maryland 20852, a written appearance electing whether or not to avail himself of the opportunity for a hearing. Failure of an applicant or any other interested person to file a written appearance of election within the specified time will constitute an election by him not to avail himself of the opportunity for a hearing. No extension of time may be granted.

If no person elects to avail himself of the opportunity for a hearing, the Commissioner without further notice will enter a final order withdrawing approval of pertinent parts of the application(s).

If an applicant or any other interested person elects to avail himself of the opportunity for a hearing, he must file, on or before October 26, 1973, a written appearance requesting the hearing, giving the reasons why approval of the new drug application(s) should not be withdrawn, together with a well-organized and full-factual analysis of the clinical and other investigational data he is prepared to prove in support of his opposition. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that a genuine and substantial issue of fact requires a hearing (21 CFR 130.14 (b)).

If review of the data submitted by an applicant or any other interested person warrants the conclusion that the drugs are safe for use for the labeling claims involved, the Commissioner will rescind this notice of opportunity for hearing.

If review of the data in the application(s) and data submitted by the applicant(s) or any other interested person in a request for a hearing, together with the reasoning and factual analysis in a request for a hearing, warrants the conclusion that no genuine and substantial issue of fact precludes the withdrawal of approval of the application(s), the Commissioner will enter an order of withdrawal making findings and conclusions on such data.

If, upon the request of the new drug applicant(s) or any other interested person, a hearing is justified, the issues will be defined, a hearing examiner will be named, and he shall issue, as soon as practicable after October 26, 1973, a written notice of the time and place at which the hearing will commence. All persons interested in identical, related, or similar products covered by the new drug application(s) will be afforded an opportunity to appear at the hearing, file briefs, present evidence, cross-examine witnesses, submit suggested findings of fact, and otherwise participate as a party. The hearing contemplated by this notice will be open to the public except that any portion of the hearing that concerns a method or process the Commissioner finds entitled to protection as a trade secret will not be open to the public, unless the respondent specifies otherwise in his appearance.

Requests for a hearing and/or elections not to request a hearing may be seen in the Office of the Hearing Clerk (address given above) during regular business hours, Monday through Friday.

This notice is issued pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-53, as amended; 21 U.S.C. 355) and the Administrative Procedure Act (5 U.S.C. 554), and under authority delegated to the Commissioner (21 CFR 2.120).

Dated September 12, 1973.

A. M. SCHMIDT,
*Commissioner of Food and Drugs.*

[FR Doc.73-20443 Filed 9-21-73;8:45 am]

---

### Office of Education

### NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION

#### Notice of Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463), that the next meeting of the National Advisory Council on Indian Education will be held on October 23-24, 1973, from 9:00 a.m. to 5:00 p.m., at the Northern Hotel, Billings, Montana.

The National Advisory Council on Indian Education is established under section 401 of the Indian Education Act (P.L. 92-318, Title IV). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 318 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering Indian Education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other general laws relating to Indian Education activities and services). The President shall transmit each such report to the Congress together with its comments and recommendations.

The meeting of the Council, under the authority of Section 10(b) of the Federal Advisory Committee Act (P.L. 92-463) and section 552(b) of Title 5 of the United States Code, will be partially closed to the public during the selection of nominees for the position of Deputy Commissioner of Indian Education. The proposed agenda includes:

Executive Director's Report.
Committee Reports.
Selection of nominees for Deputy Commissioner of Indian Education.
Review of Title IV Indian Education.
Indian Education Inter-Change.

Records shall be kept of all Council proceedings (and shall be available for public inspection at the Office of the National Advisory Council on Indian Education located at 425 13th Street, NW., Pennsylvania Bldg., Washington, D.C. 20004).





Signed at Washington, D.C., on September 20, 1973.

DWIGHT A. BILLEDEAUX,
*Executive Director, National Advisory Council on Indian Education.*

[FR Doc.73-20450 Filed 9-25-73;8:45 am]

---

### NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION (SEARCH COMMITTEE)

#### Notice of Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463), that the next meeting of the National Advisory Council on Indian Education (Search Committee) will be held on October 5-6, 1973, from 9:00 a.m. to 5 p.m., at the Wort Hotel, Jackson Hole, Wyoming.

The National Advisory Council on Indian Education is established under section 401 of the Indian Education Act (P.L. 92-318, Title IV). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 318 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering Indian Education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to Indian Education activities and services). The President shall transmit each such report to the Congress together with its comments and recommendations.

The meeting of the Council shall be closed to the public, under the authority of section 10(d) of the Federal Advisory Committee Act (P.L. 92-463) and section 552(b) of Title 5 of the United States Code. The proposed agenda includes:

Viewing new applications for the position of Deputy Commissioner of Indian Education.
Reviewing previous applications for the Deputy Commissioner's position.
Preparing a report for the full Council meeting in Billings, Montana on October 23 and 24. This report will include the recommendation for the nominees for Deputy Commissioner.

Records shall be kept of all Council proceedings (and shall be available for public inspection at the Office of the National Advisory Council on Indian Education located at 425 13th Street, NW., Pennsylvania Bldg., Washington, D.C. 20004).

Signed at Washington, D.C. on September 20, 1973.

DWIGHT A. BILLEDEAUX,
*Executive Director, National Advisory Council on Indian Education.*

[FR Doc.73-20449 Filed 9-25-73;8:45 am]

---

### PROJECTS FOR EDUCATIONALLY DEPRIVED CHILDREN

#### Comparability of Services Data; FY 1974 Deadline

Section 141(a)(3)(C) of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 241e(a)(3)(C)), requires that a State educational agency approve a project application only upon its determination that the services the applicant local educational agency is providing in project areas with State and local funds are at least comparable to the services that agency is providing in areas not designated for projects under Title I. Regulations governing such determinations are provided at 45 CFR 116.26 as revised and published in the FEDERAL REGISTER on June 28, 1973.

The data required for such determinations of comparability are set forth in paragraph (b) of § 116.26. The same paragraph also provides that for fiscal year 1974 and succeeding fiscal years the Commissioner of Education will specify the date, not later than November 1, as of which such data must be secured. Accordingly, I hereby designate October 1 as the date for this purpose for fiscal year 1974.

(Catalog of Federal Domestic Assistance Program No. 13.428, Educationally Deprived Children-Local Educational Agencies (Title I, ESEA))

Dated September 21, 1973.

JOHN OTTINA,
*U.S. Commissioner of Education.*

[FR Doc.73-20659 Filed 9-25-73;8:45 am]

---

## CIVIL AERONAUTICS BOARD

[Docket No. 23755; Order 73-9-74]

### ALL AIR TRANSPORT INC. ET AL.

#### Order Deferring Action

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 19th day of September, 1973. In the matter of joint application of All Air Transport, Inc. and Air Overseas, et al. for disclaimer of jurisdiction or other relief under section 408 and for approval under section 412 of the Federal Aviation Act of 1958, as amended, pertaining to the formation of a joint-load corporation.

Application has been filed pursuant to section 408 of the Federal Aviation Act of 1958, as amended, (the Act) for approval of the common control by All Air Transport, Inc., and 18 other air freight forwarders [1] of Air Services Corporation (ASCO), which is to be owned by, and operated on behalf of, the several applicants. An agreement has also been filed pursuant to section 412 of the Act, providing for an international joint-load arrangement among the applicants, with ASCO as the principal vehicle for coordinating and carrying out such operations.

In general terms, ASCO would do the following: (a) act as a clearing house for information regarding traffic available for joint loading, (b) establish joint loads on the basis of such information and designate an individual forwarder to act as master loader for each joint load,[2] (c) prepare documentation and receive, route[3] and expedite delivery of freight to appropriate terminals for joint loading, (d) pay the direct air carrier (as agent for the master loader), (e) bill each participant for his share of the shipment cost,[4] and (f) establish an escrow fund or bonding arrangement to assure payment by members. To carry out these functions, ASCO would maintain such staff and facilities as might be necessary.[5]

Each applicant will contribute $1,000 to the initial capital of ASCO, and will receive one share of the corporation's stock, entitling it to one vote at shareholders' meetings and to one representative on ASCO's Board of Directors. Three-quarters of the total membership shall constitute a quorum to transact business, and a three-quarters vote of those present shall be required to carry a resolution. Membership shall be open to all air freight forwarders willing to abide by the rules of the corporation. To withdraw, a member need only notify ASCO and the Board in writing, whereupon it will receive its initial capital contribution plus or minus any profits, losses or amounts due for services provided.

In addition to the initial capital contribution, members agree to a "special assessment" which will be utilized from time to time to provide necessary capital on the basis of the prior quarter's par-

[1] Other air forwarders are Air Overseas Corporation; Associated Air Freight, Inc.; Air-Sea Forwarders, Inc.; Bruce Duncan Co., Inc., d/b/a Bruce Duncan Cargo; Berklay Air Services Corp. (Bernard Klainberg d/b/a); Cal-Air Forwarders, Inc.; Globe Shipping Co., Inc.; Hemisphere Air Freight, Inc.; Hensel, Bruckmann & Lorbacher, Inc.; Imperial Air Freight Service, Inc.; Karr, Ellis & Co., Inc.; Mark IV Air Freight, Inc.; H. G. Ollendorff, Inc.; Panalpina Airfreight, Inc., d/b/a Panalpina Airfreight System; Randy International Ltd.; WITS, Inc., d/b/a WITS Air Cargo Service; Petry & Co.'s Foreign Express; and Intra-Mar Shipping Corporation.

[2] The participating forwarder contributing the greatest weight to the joint load on any given consolidation will be usually designated as the master loader; however, every participant shall be designated master loader over a period of every six months approximately in the same ratio as the volume of weight tendered by it bears to the total over the same period.

[3] Upon notification of each routing selection, the master loader may approve the routing chosen by ASCO or itself select another routing. Where there will be no substantial delay in the movement of freight and the services are otherwise equal, U.S.-flag carriers will be preferred.

[4] The charges shall contain (1) a flat charge per shipment covering and reasonably related to the cost of handling, and (2) a remaining charge based on the weight and or cube of traffic tendered by each. Failure to pay amounts billed within the time specified above shall be grounds for expulsion as a party to this agreement.

[5] Applicants anticipate a staff of probably three people including a working manager and at least one secretary. Space rented would include a small office equipped with typewriters, phones, paper, and bookkeeping supplies.



V 38 I 186 SEP 26 73 XUM

ticipation of each member.[6] Also, ASCO may establish a bonding procedure or escrow fund to insure the payment by members for services obtained through ASCO.

Although it is initially anticipated that operations will be restricted to the conduct of joint-load shipments of international air freight, the application requests that ASCO not be precluded from domestic joint-load activities or chartering of aircraft should the circumstances warrant.

No requests for a hearing have been received.

ASCO will act solely as agent for its member/participants in conducting operations exclusively related to the transportation of air freight. We therefore conclude that it is a person engaged in a phase of aeronautics within the meaning of section 408 of the Act,[7] and that its acquisition and control by several air freight forwarders requires prior Board approval pursuant to section 408(a)(6). Based upon our understanding that ASCO will act in no capacity other than as agent for member/participant air freight forwarders, and that membership is open to all air freight forwarders who wish to participate,[8] we tentatively find that the parties to the agreement should be relieved from section 408 of the Act, pursuant to section 101(3) thereof, and that the agreement should be approved pursuant to section 412 of the Act.

Turning first to the concept itself, the common ownership of ASCO by the air freight fowarders served is in many respects similar to the arrangement approved in Order E–1086, All American Aviation, Inc., et al., December 31, 1947; Air Cargo, Inc., Agreement, Petitions, 9 CAB 468 (1948), wherein various direct air carriers utilized a commonly owned corporation (Air Cargo, Inc.) in the performance of certain ground terminal operations in connection with air transportation of air cargo.[9] However, Air Cargo, Inc. provides services incidental to the direct carriage of freight by air, whereas the instant arrangement would provide services of far greater consequence relative to the class of air carriers it serves. Our proposed authorization of this arrangement is based on the belief that it should enable smaller forwarders to better compete with the larger ones and that ASCO's services, properly operated, would serve, at least partially, to meet a growing demand by air freight forwarders for a more economical means of procuring direct air transportation.

Our authorization of this proposal should have no detrimental impact on direct air carriers or on the shipping public.[10] More efficient consolidation of freight should simply increase the benefits now available to applicants and other participating forwarders through joint-load agreements less efficiently operated. Savings achieved through aggregated purchase potential are largely those gained through the preloading of smaller freight shipments into more easily handleable containers. Furthermore, more efficient joint-load operations, and the resultant cost reductions, should enable pass reduced shipping costs on to customers.

Although we believe the basic proposal embodied in ASCO, properly limited, would be consistent with the public interest, ASCO's basic operational structure appears to require some refinement. Specifically, we question the arrangements for the transfer of stock, the repurchase of stock from retiring members, the raising of funds by special assessment, the distribution of dividends, and the establishment of an escrow fund or bonding procedure. In the absence of a further showing of justification for these provisions, the Board considers that the public interest would require the revisions indicated below.

ASCO's proposed By-Laws provide for the distribution of dividends based on the number of shares outstanding. Irrespective of whether such dividends will actually be declared, it is apparent that any distribution of excess profits on a pro rata basis (each member will hold only one share, regardless of the extent of his participation in the joint load activities of ASCO) will provide a member a return on his investment through[11] an ownership interest in the activities of other forwarders, rather than on individual participation. This is particularly so in light of the "special assessment" method of capital contribution. We believe the disbursement of cash dividends disproportionate to participation is undesirable, and we intend to so condition our final action herein. Applicants should address an alternative method of dividend distribution in their response to this order.

Looking to the prohibition expressed in the joint-load agreement to the effect that a member/participant may hold no more than one share of ASCO's capital stock, we note as a preliminary matter that this prohibition is not reflected in ASCO's By-Laws. This provision is fundamental to equitable participation and influence of individual forwarders, and both the By-Laws and the Articles of Incorporation should specifically provide for this limitation. Specific treatment will be so required as a requisite to final action.

Of somewhat greater concern is the provision in the By-Laws allowing for a transfer of stock from a member/participant to another air freight forwarder.[12] The redemption value of each share of stock is contingent upon the good standing of the particular holder,[13] and therefore may under certain circumstances have no worth and possess no participation rights. We do not believe individual members should be able to negotiate the sale or transfer of shares which may have no practical value. Eliminating transfer rights of members should prevent abuses and confusion. The sale or redemption of shares by ASCO itself should adequately serve members' needs, as well as serving Board supervision of the "open-access" aspect of the ASCO arrangement.

Before final action is taken herein, we will expect applicants to submit a clarification of certain questions raised with respect to the "special assessment" to be used to supplement the paid-in capital as may be necessary from time to time. This "special assessment," based on the proportionate share of traffic jointly loaded by each member during the preceding quarter, may be invoked to cover the costs of rebuying the shares of retiring members, or to cover deficit operational costs during a particular period. However, it presents potential for inequitable financial participation by individual members, based on a floating membership, and raises a question as to whether the initial members will be inclined to require a new member to share in the initial start-up costs raised through "special assessment" contributions by the original members. If so, the manner in which they attempt to prorate those initial costs may indirectly affect the ability or incentive of other air freight forwarders to join ASCO. If subsequent members are not required to share in initial start-up costs raised through "special assessment," still other questions are presented. Is there any limit to the nature of items for which "special assessment" can be invoked? In this connection, is it intended that any monies raised through special assessment have no limit as to amount which may in toto be assessed other than as may be determined by a three-quarters vote of those present at a meeting of the Board of Directors? Applicants should resolve these questions in their responses hereto.

A reserve of original paid-in capital, to be supplemented if necessary by invocation of the special assessment, is to be maintained to buy out those forwarders who wish to terminate their participation in the arrangement. The "either/or" designation of source of funds, the obvious need in any corporation for initial start-up capital, plus the somewhat precarious merits of the special assessment, as discussed above, appear to require a more definitive plan for the establishment and maintenance of this fund. This appears necessary for the protection of individual member/participants as well as for the viable operational ability of ASCO. Applicants should address this problem in their response.

Furthermore, the need for a bonding procedure or escrow fund is not clear in light of the stated intention of the applicants to use a portion of the initial capital contribution of each member as security against nonpayment. Applicants have stated that ASCO will normally receive monies due individual members on collect shipments, and that such monies can be used as a credit against obligations due ASCO. Thus, while the establishment of a bonding procedure or escrow arrangement is not in itself objectionable, applicants should clarify the purposes and interrelations of the various capital projects.[14]

A different question is posed with respect to the officers of ASCO who need not be officers or directors of a member/participant. To allow the Board to properly monitor ASCO's activities, its officers will be required to file reports conforming to the substantive requirements and filing dates as are otherwise set forth in Part 245 A of the Board's regulations (14 CFR 245 A) and to delineate additionally any relationships between persons so reporting and any carrier not otherwise specifically within the scope of the Regulation.

As the use of ASCO will shift a certain degree of managerial decision-making away from each member/participant, we will also require that ASCO keep such records and documents as are required to be kept by individual air freight forwarders pursuant to Subpart B of Part 249 of the Board's Regulations. These records must be opened to Board inspection upon request.

It is also recognized that the addition of new members to ASCO will create new control relationships which have not been specifically set forth herein. However, the nature of the proposal is similar to that involved in the Air Cargo case, wherein we concluded that since the participating group of carriers is well defined, no new or significant issues are raised by the addition of new participants. Therefore, the action contemplated herein will permit greater or fewer participants, subject to a provision that additions to ASCO's membership shall be reported to the Board within 10 days after admittance.

Based on the foregoing and subject to the receipt of comments, as provided for below, we have tentatively concluded that Agreement CAB 22661 is not adverse to the public interest or in violation of the Act and should therefore be approved under section 412 of the Act. We have further concluded tentatively that it is in the public interest to exempt the applicants' control of ASCO from section 408(a)(6) of the Act pursuant to section 101(3) thereof.[15] As indicated above, we contemplate that any final approval herein will be subject to at least the following conditions:

1. Jurisdiction in this proceeding shall be generally retained for the purposes of reexamining the relationships herein involved and for imposing such further terms and conditions as from time to time may be in the public interest;

2. ASCO shall file, pursuant to the provisions of section 412, all agreements between itself and any air carrier, foreign air carrier, or other carrier;

3. ASCO shall file with the Board in Docket 23755, upon commencement of operations, a description of the physical facilities utilized, and shall not without prior Board approval expand the scope or nature of services provided to encompass procurement and utilization of separate dock facilities, provision of pick-up and delivery services, establishment of branch offices, domestic joint load operations, chartering of aircraft, warehousing operations, investment activities or other expansions of services beyond those initially approved herein;

4. Officers of ASCO shall file reports conforming to the substantive requirements and filing dates as are otherwise set forth in Subpart A of Part 245 of the Board's Economic regulations, (14 CFR 245 A), and setting forth additionally any positions or stock interests held in any "carrier";

5. ASCO shall keep such records and documents as are required to be kept by air freight forwarders pursuant to Subpart B of Part 249 of the Board's regulations (14 CFR 249 B);

6. The Board shall at all times have access to all lands, buildings, and equipment of ASCO and to all accounts, records, and memoranda, including all documents, papers, and correspondence, now or hereafter existing, and kept or required to be kept by subparagraph (5) above;

7. ASCO shall report to the Board the names of new members within 10 days of acceptance; additionally, ASCO shall file with the Board, contemporaneously with the reports to be submitted pursuant to condition 9, infra, a report describing the refusal, termination, or suspension of membership with respect to any air freight forwarder, setting forth additionally any justification for such action;

8. ASCO's membership shall be open to the participation of all U.S. air freight forwarders, as a matter of right; and

9. ASCO shall submit, within 45 days after the end of each second and fourth calendar quarter of each year, a report in the form set forth in the appendix to this order[16] describing, by point of origin, (1) the number of joint-load consolidations achieved, (2) the number of times each member served as master loader, and (3) the number of shipments and the total tonnage of shipments contributed by each member/participant over the preceding half-year.

*Accordingly, it is ordered,* That:

1. Action on Agreement CAB 22661 be and it hereby is deferred; provided that the air carrier-parties and other interested persons are hereby afforded a period of 30 days from the date of service of this order within which to file the statements indicated above and other comments on the actions contemplated herein;[17] and

2. A copy of this order be furnished upon All Air Transport, Inc., all persons listed in footnote 1, supra, and the Attorney General of the United States.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.73-20496 Filed 9-25-73;8:45 am]

[Docket No. 25252]

## TEXAS INTERNATIONAL AIRLINES, INC.

### Postponement of Prehearing Conference

In the matter of application for deletion of Lufkin, Tex.

The applicant, Texas International Airlines, Inc., by letter dated Septem-

[6] The parties agree to advance on an equal basis for the first quarter, subject to an apportionment of actual expenses based on actual tonnages joint loaded, such amounts as may be necessary to cover all necessary expenses of ASCO.

After the first quarter, such advances as may be necessary shall be made on the basis of the parties' proportionate share of traffic joint loaded in the preceding quarter, subject to the apportionment of actual expenses as in the first quarter.

[7] See International Relationships, Patterson, et al., 3 CAB 711 (1942).

[8] To this end, exemption will be conditioned upon a requirement that ASCO file a report detailing the circumstances attending the refusal to admit into membership any air freight forwarder.

[9] In our reconsideration order we noted that cooperative efforts of air carriers to reduce cargo handling costs were to be encouraged, but only in a manner consistent with anti-trust principles. In the latter respect, the Board imposed a specific condition that all certificated carriers be authorized to participate, i.e., all members of the same class of carrier.

[10] Flying Tiger Line Inc., has submitted a letter indicating concern over the possible scope of ASCO's services, particularly relating to the chartering of aircraft. However, our proposed authorization would require prior Board approval of any expanded activities by ASCO, including the chartering of aircraft, and the issue need not be considered at this time.

[11] Article V, section 3 of the proposed By-Laws provides, in part, "Upon surrender to the corporation or the transfer agent of the corporation of a certificate for shares duly endorsed or accompanied by proper evidence of succession, assignment or authority to transfer, it shall be the duty of the corporation to issue a new certificate to the person entitled thereto, and to cancel the old certificate * * *."

[12] Failure by a participant member to pay his obligations within one week would result in its immediate suspension from participation in ASCO's activities, the immediate offsetting of its capital investment on the books of the corporation to that extent and, if the capital account is not sufficient to cover the amount, the immediate expulsion of such member from the corporation.

[12] Our final action will be conditioned to require proper inclusion in ASCO's Articles of Incorporation and By-Laws of a provision restricting the scope of permissible operational and investment activities to those "performed solely on behalf of, and as agent for, its member/participants." Also, we will require prior Board approval of any expansion of activity, including domestic joint loading and chartering of aircraft. Furthermore, because we view ASCO's activities as essentially reflecting joint activity among the several air freight forwarder owners, we find that ASCO is an air carrier for purposes of section 412, and we will require that any agreements between ASCO and any air carrier, foreign air carrier, or other carriers be filed in this docket pursuant to the provisions of section 412.

[14] Upon exemption of the control of ASCO by the several air freight forwarders, any interlocking relationships arising by virtue of the representation of such forwarders on the Board of Directors of ASCO would fall within the exemption from section 409 of the Act afforded by § 287.2 of the Board's regulations.

[15] Filed as part of the original document.

[16] Comments so filed shall conform to the requirements of the Board's Rules of Practice (14 CFR 302).







V 38 I 186 SEP 26 73 XUM

ber 19, 1973, has requested that the prehearing conference scheduled for September 26, 1973, be postponed indefinitely. It reported that the postponement was required to enable the carrier to conduct a six-month service experiment in a further effort by the carrier to test Lufkin's ability to generate sufficient traffic to justify the continuation of service. The proposed experiment is to commence after the opening of the new airport at Dallas, Texas, and the transfer of the applicant's service at that point from Love Field to the new facility.

The applicant reports that its request is supported by the Lufkin parties. BOR advised by telephone that it has no objections.

Notice is hereby given that the conference in the above-entitled proceeding set for September 26, 1973, is postponed indefinitely to permit the test of the service proposed and the evaluation thereof by the parties.

Dated at Washington, D.C., September 20, 1973.

[SEAL] FRANK M. WHITING,
*Administrative Law Judge.*

[FR Doc.73-20495 Filed 9-25-73;8:45 am]

## CIVIL SERVICE COMMISSION

### FEDERAL PREVAILING RATE ADVISORY COMMITTEE

#### Notice of Meetings

Pursuant to the provisions of section 10 of Public Law 92-463, effective January 5, 1973, notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, October 4, 1973.
Thursday, October 18, 1973.
Thursday, October 25, 1973.

The meetings will convene at 10:00 a.m. and will be held in Room 5A06A, Civil Service Commission Building, 1900 E Street NW., Washington, D.C.

The committee's primary responsibility is to study the prevailing rate system and from time to time advise the Civil Service Commission thereon.

At these scheduled meetings, the committee will consider proposed plans for implementation of Public Law 92-392, which law establishes pay systems for Federal prevailing rate employees.

The meetings will be closed to the public under a determination to do so, made under the provision of section 10(d) of Public Law 92-463.

However, members of the public who wish to do so, are invited to submit material in writing to the Chairman concerning matters felt to be deserving of the committee's attention. Additional information concerning these meetings may be obtained by contacting the Chairman, Federal Prevailing Rate Advisory Committee, Room 5451, 1900 E Street NW., Washington, D.C.

DAVID T. ROADLEY,
*Chairman, Federal Prevailing Rate Advisory Committee.*

SEPTEMBER 21, 1973.

[FR Doc.73-20471 Filed 9-25-73;8:45 am]

## COMMISSION ON CIVIL RIGHTS

### FLORIDA STATE ADVISORY COMMITTEE

#### Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Florida State Advisory Committee will convene at 7:30 p.m. on September 28, 1973, at the Jacksonville Hilton Hotel, 565 South Main Street, Jacksonville, Florida 32207.

Persons wishing to attend this meeting should contact the Committee Chairman, or the South..rn Regional Office of the Commission, Room 362, Citizens Trust Bank Building, 75 Piedmont Avenue, North East, Atlanta, Georgia 30303.

The purpose of this meeting shall be to discuss and develop plans for a open meeting on Minority Police Community Relations in Jacksonville, Florida.

This meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 20, 1973.

ISAIAH T. CRESWELL, Jr.,
*Advisory Committee Management Officer.*

[FR Doc.73-20430 Filed 9-25-73; 8:45 am]

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### CERTAIN COTTON, WOOL AND MAN-MADE FIBER TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE REPUBLIC OF KOREA

#### Entry or Withdrawal From Warehouse for Consumption

SEPTEMBER 24, 1973.

On May 25, 1972, there was published in the FEDERAL REGISTER (37 FR 10605) a letter of May 19, 1972 from the Chairman, Committee for the Implementation of Textile Agreements, to the Commissioner of Customs, prohibiting entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products produced or manufactured in the Republic of Korea and exported from the Republic of Korea thirty (30) days following publication for which the Republic of Korea had not issued a visa. One of the requirements of the administrative mechanism specifies that the category classification of the goods must appear on the visa.

The purpose of this notice is to announce that, effective as soon as possible and until further notice, this requirement will be waived for Judo and/or Karate suits of cotton, wool and man-made fiber textiles produced or manufactured in the Republic of Korea.

Accordingly, there is published below a letter of September 24, 1973, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs further amending the administrative mechanism.

SETH M. BODNER,
*Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.*

COMMISSIONER OF CUSTOMS,
*Department of the Treasury, Washington, D.C. 20229.*

SEPTEMBER 24, 1973.

DEAR MR. COMMISSIONER: This letter further amends, but does not cancel, the directive of May 19, 1972 from the Chairman, Committee for the Implementation of Textile Agreements, that directed you to prohibit, effective 30 days after publication of notice in the FEDERAL REGISTER, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 1-64; wool textile products in Categories 101-126, 128, and 131-132; and man-made fiber textile products in Categories 200-243, produced or manufactured in the Republic of Korea for which the Republic of Korea had not issued a visa. The directive of May 19, 1972, was previously amended on December 21, 1972; July 17, 1973; July 18, 1973; and August 8, 1973.

Under the provisions of the Bilateral Cotton Textile Agreement of December 30, 1971 and the Bilateral Wool and Man-Made Fiber Textile Agreement of January 4, 1972, between the Governments of the United States and the Republic of Korea, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, the directive of May 19, 1972 is further amended, effective as soon as possible and until further notice, to waive the requirement that a category classification be shown on visas accompanying shipments of Judo and/or Karate suits of cotton, wool and man-made fiber textiles from the Republic of Korea.

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of cotton, wool and man-made fiber textiles from the Republic of Korea have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553.





This letter will be published in the FEDERAL REGISTER.

Sincerely,

SETH M. BODNER,
*Chairman, Committee for the Implementation of Textile Agreements and Deputy Assistant Secretary for Resources and Trade Assistance.*

[FR Doc.73-20684 Filed 9-25-73;8:45 am]

## FEDERAL MARITIME COMMISSION

### FARRELL LINES INC., AND BARBER LINES A.S.

#### Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before October 16, 1973. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Hans Unterwiener, Manager, Freight Documentation and Inward Freight, Farrell Lines Incorporated, One Whitehall Street, New York, New York 10004.

Agreement No. 10088, between Farrell Lines Incorporated and Barber Lines A.S., establishes a through billing arrangement for the transportation of all cargo moving in the trade between the Liberian ports of Buchanan, Sinoe and Lofa River and United States Atlantic ports with transshipment at Monrovia, Liberia, under terms and conditions set forth in the agreement. Agreement No. 10088 will, upon approval, cancel and supersede Agreement No. 9530, as amended.

By order of the Federal Maritime Commission.

Dated September 21, 1973.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.73-20485 Filed 9-25-73;8:45 am]

### INDEPENDENT OCEAN FREIGHT FORWARDER LICENSE

#### List of Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to Section 44(a) of the Shipping Act, 1916 (75 Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Coast Alaska Pacific, Ltd., 810 3d Avenue, Seattle, Washington 98104.

OFFICERS AND DIRECTORS

C. W. Otto, President/Director.
George G. Winters, Secretary-Treasurer/Director.
John D. Blankinship, Director.

Antonio S. Jimmy d/b/a Globe Export Transfer and Moving, 1412 New York Avenue, Washington, D.C. 20005.

Kennelly & Sisman Co., 563 Lycaste Avenue, Detroit, Michigan 48214.

OFFICERS AND DIRECTORS

Florence E. Sisman, President/Treasurer/Director.
Maxine K. Clement, Vice President.
John H. Doyle, Secretary.
Robert G. Surridge, Assistant Secretary.
Emil Wulz, Director.
Gary L. Clement, Director.

Omar Montiel, 127 North Dearborn Street, Chicago, Illinois 60602.

E.M.P. Ocean Freight Forwarding Co., 149 California Street, San Francisco, California 94111.

PARTNERSHIP

H. E. Morrison.
H. V. Petersen.

By the Federal Maritime Commission.

Dated September 20, 1973.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.73-20490 Filed 9-25-73;8:45 am]

### KAMBARA KISEN CO., LTD.

#### Issuance of Certificate of Financial Responsibility (Casualty)

Notice is hereby given that the following have been issued a Cerificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Public Law 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR 540):

KAMBARA KISEN CO., LTD., 8-15, 3-CHOME KAIGAN, MINATO-KU, TOKYO, JAPAN.

Dated September 20, 1973.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.73-20488 Filed 9-25-73;8:45 am]

### KAMBARA KISEN CO., LTD.

#### Issuance of Certificate of Financial Responsibility (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Kambara Kisen Co., Ltd., 8-15, 3-Chome Kaigan, Minato-Ku, Tokyo, Japan.

Dated September 20, 1973.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.73-20489 Filed 9-25-73;8:45 am]

### LAVINO SHIPPING CO. ET AL.

#### Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before October 9, 1973. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Lavino Shipping Company
and
Japan Line, Ltd.
Kawasaki Kisen Kaisha, Ltd.
Mitsui O.S.K. Lines, Ltd.
Nippon Yusen Kaisha
Yamashita-Shinnthon Steamship Co., Ltd.

Notice of agreement filed by:

Francis A. Scanlan, Esq., Kelly, Deasey & Scanlan, 926 Four Penn Center Plaza, Philadelphia, Pennsylvania 19103.

Agreement No. T-2695-1, between Lavino Shipping Company (Lavino) and Japan Line, Ltd., Kawasaki Kisen Kaisha, Ltd., Mitsui O.S.K. Lines, Ltd.,



V 38 N 186 SEP 26 73 XUM

Nippon Yusen Kaisha, and Yamashita-Shinnihon Steamship Co., Ltd. (the Lines) modifies the basic agreement between the parties under which Lavino furnishes the Lines comprehensive container stevedoring, terminal, and LCL services at its Packer Avenue Marine Terminal, located in Philadelphia, Pennsylvania. The purpose of the modification is to extend the term of the agreement to October 24, 1974.

By order of the Federal Maritime Commission.

Dated September 20, 1973.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.73-20487 Filed 9-25-73;8:45 am]

## MATSON NAVIGATION CO. ET AL.

### Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif.

By order served April 20, 1973, in Docket No. 73-21 the Commission instituted an investigation to determine whether Agreement No. DC-57, an agreement among Matson Navigation Company, Seatrain Lines, California, and United States Lines, Inc., authorizing the signatories to confer with one another with respect to any and all matters contained in the individual FMC tariffs of the parties in the Hawaii trade, should be approved, disapproved, or modified pursuant to section 15 of the Shipping Act, 1916. Agreement No. DC-57-1, the subject agreement, will also be included in Docket No. 73-21. Persons who desire to become parties to this proceeding and to participate herein, shall promptly file a petition to intervene with the Secretary, Federal Maritime Commission, Washington, D.C. 20573.

Matson Navigation Company
Seatrain Lines, California
and
United States Lines, Inc.

Notice of agreement filed by:

David F. Anderson, Esq., General Counsel, Matson Navigation Company, 100 Mission Street, San Francisco, California 94105.

Agreement No. DC-57-1 amends the basic agreement among the parties by adding language providing that the parties are not authorized under the agreement to either agree upon rates, charges, classifications, rules, practices, or other tariff matters with respect to cargo moving under contracts with Military Sealift Command or exchange any cost data or other information concerning the carriage of cargo under such Military Sealift Command contracts.

By order of the Federal Maritime Commission.

Dated September 21, 1973.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.73-20484 Filed 9-25-73; 8:45 am]

## UNITED STATES ATLANTIC COAST/BRAZIL SOUTHBOUND POOLING AGREEMENT

### Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street, NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before October 16, 1973. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

J. D. Straton, Manager
Rates and Conferences
Moore-McCormack Lines, Incorporated
2 Broadway
New York, New York 10004

Agreement No. 9847-2, among Moore-McCormack Lines, Incorporated; Companhia de Navegacao Lloyd Brasileiro; and Companhia de Navegacao Maritima Netumar S/A, modifies the approved basic pooling and sailing agreement covering southbound cargo from the United States Atlantic Coast ports to ports in Brazil within the Fortaleza/Porto Alegre range, both inclusive, by amending: (1) Article 1 to provide that Companhia de Navegacao Lloyd Brasileiro and Companhia de Navegacao Maritima Netumar S/A will participate and operate as individual carriers thereunder, rather than as a single party as at present; (2) Article 5 to increase the minimum number of sailings of Moore-McCormack Lines, Incorporated from sixteen to eighteen per pool period of six months, and to increase the minimum number of sailings of Companhia de Navegacao Lloyd Brasileiro and Companhia de Navegacao Maritima Netumar S/A from sixteen jointly to nine each per pool period of six months; (3) Article 7 to set the "Carrying rate" at fifty percent, rather than sixty percent; and (4) Article 17 to extend the term of the agreement for four years from January 1, 1974.

In addition thereto, certain other articles are being amended to conform to the foregoing amendments, and to amend, for example, such other articles as those pertaining to sailing deficiencies (Article 6); calculation of revenues from pooled cargo (Article 7); and pool accounting and settlement (Article 9).

By order of the Federal Maritime Commission.

Dated September 21, 1973.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.73-20486 Filed 9-25-73;8:45 am]

# FEDERAL RESERVE SYSTEM

## CHASE MANHATTAN CORP.

### Proposed Acquisition of Dial Financial Corp.

The Chase Manhattan Corporation, New York, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire voting shares of Dial Financial Corporation, ("DFC"), Des Moines, Iowa. Notice of the application was published on various dates in newspapers circulated in the communities in which the approximately 436 offices of subsidiaries of DFC are located. Those offices are located in every State other than Alaska, Arkansas, Delaware, Georgia, Illinois, Maryland, Michigan, Montana, New Jersey, New York, North Dakota, South Dakota, Vermont, Virginia, West Virginia, and Wyoming.

Applicant states that the proposed subsidiary would engage through its subsidiaries in the activities of making direct consumer installment loans, secured and unsecured, to individuals in most instances, by direct customer contact, in some instances, by mail; selling credit life, and credit health and accident insurance policies to those individuals; underwriting (in Missouri only) or reinsurance of such insurance to those individuals on items (other than automobiles) in which a subsidiary of DFC has a security interest; purchasing installment sales finance contracts from retailers; providing data processing services, including computerized general accounting services, computerized billing services, and computerized deliquent list preparation, and the use of computer time, to its subsidiaries and other consumer credit companies. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b). Consumer loan, insurance sales, and sales finance operations are conducted by DFC subsidiaries operating under the names, Dial Finance Company, Dial Financial Corporation, Inc., Dial Loan and Investment Company, Dial Industrial Finance Company, Dial Credit Company, Dial Consumer Discount Company, Dial Finance Acceptance Company, Dial Industrial Loan Company, and variations thereof. The insurance underwriting and reinsurance activities of DFC are conducted by its wholly owned subsidiary Consumers Life Insurance Company from DFC's home office in Des Moines, Iowa. The data processing service operations are conducted by DFC from its home office in Des Moines, Iowa.

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 14, 1973.

Board of Governors of the Federal Reserve System, September 18, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-20458 Filed 9-25-73;8:45 am]

## FIRST INTERNATIONAL BANCSHARES, INC.

### Order Approving Acquisition of Bank

First International Bancshares, Inc., Dallas, Texas, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent (less directors' qualifying shares) of the voting shares of the successor by merger to Citizens National Bank in Abilene, Abilene, Texas ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and none has been timely received. The Board has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the largest banking organization in Texas, presently controls 12 banks[1] with aggregate deposits approximating $2.6 billion,[2] representing 7.4 per cent of the total commercial bank deposits in the State. Acquisition of Bank would increase Applicant's share of State deposits by 0.25 per cent and would not result in a significant increase in the concentration of banking resources in the State.

Bank (approximately $87 million in deposits) is the second largest of 15 banks in the Abilene banking market (approximated by the Abilene SMSA) and controls 26.4 per cent of the deposits in commercial banks in the market. Applicant's subsidiary closest to Bank is located in Dallas, 178 miles away, and no meaningful present competition exists between any of Applicant's subsidiary banks and Bank. Moreover, there appears to be little likelihood for the development of any significant amount of future competition between these institutions in view of the distances involved and Texas' restrictive branching law. The market appears relatively unattractive for de novo entry due to the recent decline in the population of the Abilene SMSA and the market's below-average population to banking offices ratio. Thus, the proposed acquisition would not appear to have a significant adverse effect on potential competition. The Board concludes that competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Bank, and of Applicant and its present subsidiary banks, are regarded as satisfactory. Considerations relating to the banking factors are consistent with approval of the application. Although there is no evidence in the record to indicate that the banking needs of the residents of the Abilene banking market are not currently being met, the proposed affiliation is likely to result in expansion of the range of services presently offered by Bank. In addition, affiliation with Applicant would give Bank access to considerable financial resources which will enable it to provide an increased lending capacity. Considerations relating to the convenience and needs of the community to be served are consistent with approval of the application. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

[1] In addition to its 12 subsidiary banks, Applicant indirectly controls interests of less than 25 per cent in five banks, with aggregate deposits of $67.2 million (as of December 31, 1972).

[2] All banking data are as of December 31, 1972, and reflect holding company formations and acquisitions approved through August 31, 1973.





subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b). Consumer loan, insurance sales, and sales finance operations are conducted by DFC subsidiaries operating under the names, Dial Finance Company, Dial Financial Corporation, Inc., Dial Loan and Investment Company, Dial Industrial Finance Company, Dial Credit Company, Dial Consumer Discount Company, Dial Finance Acceptance Company, Dial Industrial Loan Company, and variations thereof. The insurance underwriting and reinsurance activities of DFC are conducted by its wholly owned subsidiary Consumers Life Insurance Company from DFC's home office in Des Moines, Iowa. The data processing service operations are conducted by DFC from its home office in Des Moines, Iowa.

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 14, 1973.

Board of Governors of the Federal Reserve System, September 18, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-20458 Filed 9-25-73;8:45 am]

## FIRST INTERNATIONAL BANCSHARES, INC.

### Order Approving Acquisition of Bank

First International Bancshares, Inc., Dallas, Texas, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent (less directors' qualifying shares) of the voting shares of the successor by merger to Citizens National Bank in Abilene, Abilene, Texas ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and none has been timely received. The Board has considered the application in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the largest banking organization in Texas, presently controls 12 banks[1] with aggregate deposits approximating $2.6 billion,[2] representing 7.4 per cent of the total commercial bank deposits in the State. Acquisition of Bank would increase Applicant's share of State deposits by 0.25 per cent and would not result in a significant increase in the concentration of banking resources in the State.

Bank (approximately $87 million in deposits) is the second largest of 15 banks in the Abilene banking market (approximated by the Abilene SMSA) and controls 26.4 per cent of the deposits in commercial banks in the market. Applicant's subsidiary closest to Bank is located in Dallas, 178 miles away, and no meaningful present competition exists between any of Applicant's subsidiary banks and Bank. Moreover, there appears to be little likelihood for the development of any significant amount of future competition between these institutions in view of the distances involved and Texas' restrictive branching law. The market appears relatively unattractive for de novo entry due to the recent decline in the population of the Abilene SMSA and the market's below-average population to banking offices ratio. Thus, the proposed acquisition would not appear to have a significant adverse effect on potential competition. The Board concludes that competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of Bank, and of Applicant and its present subsidiary banks, are regarded as satisfactory. Considerations relating to the banking factors are consistent with approval of the application. Although there is no evidence in the record to indicate that the banking needs of the residents of the Abilene banking market are not currently being met, the proposed affiliation is likely to result in expansion of the range of services presently offered by Bank. In addition, affiliation with Applicant would give Bank access to considerable financial resources which will enable it to provide an increased lending capacity. Considerations relating to the convenience and needs of the community to be served are consistent with approval of the application. It is the Board's judgment that the proposed acquisition would be in the public interest and that the application should be approved.

[1] In addition to its 12 subsidiary banks, Applicant indirectly controls interests of less than 25 per cent in five banks, with aggregate deposits of $67.2 million (as of December 31, 1972).

[2] All banking data are as of December 31, 1972, and reflect holding company formations and acquisitions approved through August 31, 1973.



V 38 186 SEP 26 73 XUM

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Dallas pursuant to delegated authority.

By order of the Board of Governors,[1] effective September 17, 1973.

[SEAL] CHESTER B. FELDBERG,
*Secretary of the Board.*

[FR Doc.73-20454 Filed 9-25-73;8:45 am]

## LANDMARK BANKING CORP. OF FLORIDA

### Order Approving Acquisition of Banks and Acquisition of Mortgage Banking Business

Landmark Banking Corporation of Florida, Fort Lauderdale, Florida (formerly Consolidated Bankshares of Florida, Inc.), a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under sections 3(a)(3) and 4(c)(8) of the Act (12 U.S.C. 1842 (a)(3) and 1843(c)(8)) to acquire 80 per cent or more of the voting shares of North American Mortgage Corporation, St. Petersburg, Florida ("North American"), a registered bank holding company, and to acquire as an incident thereto 98 per cent of the voting shares of The American Bank, St. Petersburg, Florida, and 87 per cent of the voting shares of American National Bank of Clearwater, Clearwater, Florida. Applicant would also acquire the mortgage banking business of North American, an activity that has been determined by the Board to be closely related to banking (12 CFR 225.4(a)(1)).

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with sections 3 and 4 of the Act (38 FR 10675 and 23437). The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842 (c)), and the considerations specified in section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)).

Applicant, the eighth largest multi-bank organization in Florida, controls nine banks with aggregate deposits of $534 million, representing approximately 2.7 per cent of the total commercial bank deposits in Florida. (All banking data are as of December 31, 1972, unless otherwise indicated, and reflect holding company acquisitions approved through August 15, 1973.) North American, the 31st largest multi-bank organization in the State, controls two banks with deposits of $18.7 million, representing 0.1 per cent of the commercial bank deposits in Florida. Consummation of the proposed acquisition would increase Applicant's control of Statewide deposits to approximately 2.8 per cent, which is regarded as no significant increase in the concentration of banking resources in Florida, and would not change Applicant's ranking among Florida multi-bank organizations.

In addition to controlling a banking subsidiary in St. Petersburg and one in Clearwater, North American (total assets of $3.8 million) engages primarily in mortgage banking activities. Through offices located in Pinellas, Sarasota, and Orange Counties, North American originated $10 million in residential mortgage loans in 1972 and at the end of December, 1972, was servicing a mortgage loan portfolio of $120 million.

Applicant's only subsidiary bank in the South Pinellas County banking market is located in St. Petersburg and is the second largest of the 28 banks (18 banking organizations) there, controlling (as of June 30, 1972) 16 per cent of the market deposits. North American's St. Petersburg banking subsidiary (deposits of $3 million) is one of five new banks which opened in the South Pinellas market since June 1972, and is located in a suburban area somewhat removed from the downtown location of Applicant's subsidiary. The South Pinellas market is not highly concentrated with the five largest organizations controlling only 65 per cent of the total market deposits. There has been considerable new entry into the market recently, and several de novo applications have been filed. In light of these factors, the elimination of the slight degree of competition that exists between Applicant's and North American's banking subsidiaries would cause no significant adverse effects.

Applicant's St. Petersburg bank is also a minor competitor of North American for mortgages on one-to-four-unit residences in Pinellas County. In 1972 Applicant originated 0.3 per cent of such loans in that market while North American (through offices in Clearwater and St. Petersburg) originated 3.5 per cent. Since there are at least 23 mortgage companies and 10 savings and loan associations in addition to 25 banking organizations in Pinellas County and since Applicant and North American have such a small combined share of the residential mortgage loan market, removal of competition between the two will not be significant. Likewise, although Applicant possesses the resources to enter the mortgage banking business in Pinellas County by establishing a mortgage banking company or to expand the mortgage lending activities of its St. Petersburg subsidiary bank, foreclosure of Applicant as a de novo entrant is unlikely to have significant adverse competitive effects in this attractive, competitive market which has been marked by rapid growth and ease of entry.

The likelihood of North American's expansion of its mortgage banking operations into markets served by Applicant's banking subsidiaries is small. Although these markets are attractive, North American's resources do not appear to be sufficient for extensive geographic expansion.

There are no other markets in which Applicant's subsidiary banks presently compete with any office of North American or any of North American's banking subsidiaries. Since Applicant's nearest subsidiary bank is 26 miles away, there is no competition between any of Applicant's subsidiary banks and North American's Clearwater bank. Nor does Applicant have a subsidiary located in the Sarasota market where North American has a branch office engaging in mortgage banking. Although Applicant has recently received approval to acquire a subsidiary bank in Orange County (Orlando), this new subsidiary does not compete with North American's mortgage banking office in Orange County because the latter's office is a collection office only and does not originate loans. The Board concludes that the acquisition would have no significant adverse effects on the competitive situation or the concentration of banking resources in any relevant area.

The financial and managerial aspects and future prospects of Applicant and its subsidiary banks and North American and its subsidiary banks are generally satisfactory and consistent with approval of the application. Applicant has recently provided additional capital for several of its subsidiary banks and has made a commitment of a capital injection into its only banking subsidiary where the equity capital base is somewhat low.

There is no evidence in the record that the primary banking needs of the markets in which North American banking subsidiaries operate are not being adequately served by existing banks, but North American's banking subsidiaries will have access to larger lending limits and expertise in several banking fields through affiliation with Applicant. Moreover, North American's mortgage banking business will have better access to capital which will permit it to expand and to compete more effectively. This increased capability is a positive factor in terms of public needs and convenience. Considerations relating to the convenience and needs of the communities involved lend some weight for approval of the applications. There is no evidence in the record indicating that consummation of the proposed acquisitions would result in undue concentration of resources, unfair competition, conflicts of interest, unsound banking practices, or other adverse effects.

Applicant has indicated that it does not seek to acquire North American's insurance business, North American Insurance Agency, Inc., which engages in the sale of casualty, fire, life, health and accident insurance policies. This business will remain in the hands of North American's present stockholders. This spin-off or separation of the insurance agency from the parent North American Mortgage Corporation will occur prior to consummation of the acquisition. It is the Board's judgment that the balance of public interest factors the Board is required to consider under section 4(c)(8) is favorable and the proposed acquisition (not including insurance activities) should be approved.

[1] Voting for this action: Vice Chairman Mitchell and Governors Daane, Bucher, and Holland. Absent and not voting: Chairman Burns and Governors Brimmer and Sheehan.





On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to authority delegated herewith.

This determination is additionally subject to the conditions set forth in § 225.4 (c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,[1] effective September 18, 1973.

[SEAL] CHESTER B. FELDBERG,
*Secretary of the Board.*

[FR Doc.73-20455 Filed 9-25-73;8:45 am]

## NORTRUST CORP.

### Proposed Acquisition of Nortrust Datacorp, Inc.

Nortrust Corporation, Chicago, Illinois, has applied, pursuant to section 4 (c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4 (b)(2) of the Board's Regulation Y, for permission to acquire voting shares of Nortrust Datacorp, Inc., Chicago, Illinois. Notice of the application was published on July 21, 1973 in Chicago Tribune a newspaper circulated in Chicago, Illinois.

Applicant states that the proposed subsidiary would engage in the activities of providing bookkeeping and data processing services for the internal operations of Nortrust Corporation and its subsidiaries, and storing and processing other banking, financial, or related economic data, such as performing payroll, accounts receivable or payable, or billing services for customers, and particularly the providing of computer output microfilm services. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 1, 1973.

Board of Governors of the Federal Reserve System, September 17, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-20456 Filed 9-25-73;8:45 am]

## U.S. BANCORP

### Proposed Acquisition of Nortrust Datacorp, Inc.

U.S. Bancorp, Portland, Oregon, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, for permission to acquire nonvoting shares of Nortrust Datacorp, Inc., Chicago, Illinois. The acquisition of voting shares of Nortrust Datacorp, Inc., are the subject of the 4(c)(8) application of Nortrust Corporation, Chicago, Illinois, a separate application. Notice of the application was published on July 21, 1973 in The Chicago Tribune, a newspaper circulated in Chicago, Illinois.

Applicant states that the proposed subsidiary would engage in the activities of providing bookkeeping and data processing services for the internal operations of Nortrust Corporation, Chicago, Illinois (and its subsidiaries) and storing and processing other banking, financial or related economic data. Applicant alleges that all proposed activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 14, 1973.

Board of Governors of the Federal Reserve System, September 18, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-20457 Filed 9-25-73;8:45 am]

## INTERIM COMPLIANCE PANEL (COAL MINE HEALTH AND SAFETY)

### CONSOLIDATION COAL CO.

#### Application for Renewal Permit; Opportunity for Hearing

Application for Renewal Permit for Noncompliance with the Interim Mandatory Dust Standard (2.0 mg/m³) has been received as follows:

ICP Docket No. 20051, CONSOLIDATION COAL COMPANY, Hillsboro Mine, MINE ID NO. 1100605 0, COFFEEN, ILLINOIS 62017.
- Section ID No. 003 (2nd N.E. off Main East),
- Section ID No. 006 (1st S.E. off Main East),
- Section ID No. 015 (3rd R.T. off 1st North East),
- Section ID No. 016 (9th L.T. off 2nd North East),
- Section ID No. 017 (9th L.T. off 2nd North East),
- Section ID No. 018 (1st R.T. off 1st South),
- Section ID No. 019 (2nd R.T. off 1st South).

In accordance with the provisions of section 202(b)(4) (30 U.S.C. 842(b)(4)) of the Federal Coal Mine Health and Safety Act of 1969 (83 Stat. 742, et seq., Public Law 91-173), notice is hereby given that requests for public hearing as to an application for renewal may be filed within 15 days after publication of this notice. Requests for public hearing must be filed in accordance with 30 CFR Part 505 (35 Fed. Reg. 11296, July 15, 1970), as amended, copies of which may be obtained from the Panel on request.

A copy of the application is available for inspection and requests for public hearing may be filed in the office of the Correspondence Control Officer, Interim Compliance Panel, Room 800, 1730 K Street, N.W., Washington, D.C. 20006.

GEORGE A. HORNBECK,
*Chairman,*
*Interim Compliance Panel.*

SEPTEMBER 20, 1973.

[FR Doc.73-20483 Filed 9-25-73;8:45 am]

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 73-74]

### NASA RESEARCH AND TECHNOLOGY ADVISORY COUNCIL COMMITTEE ON RESEARCH

#### Notice of Meeting

The NASA Research and Technology Advisory Council, Committee on Research will meet on October 31 and Novem-

[1] Voting for this action: Chairman Burns and Governors Mitchell, Daane, Sheehan, Bucher, and Holland. Absent and not voting: Governor Brimmer.



V 38 I 186 SEP 26 73 XUM

ber 1, 1973, at the Headquarters of the National Aeronautics and Space Administration, Washington, D.C. 20546. The meeting will be held in Room 625, in Federal Office Building 10B, 600 Independence Avenue SW., Washington, D.C. 20546. Members of the public will be admitted to the meeting beginning at 8:30 a.m. on both days and on a first-come first-served basis up to the seating capacity of the room, which is about 40 persons.

The NASA Research and Technology Advisory Council, Committee on Research serves in an advisory capacity only. In this capacity, the Committee is concerned with program goals, trends, content, scope and technical balance for OAST basic research in the physical, mathematical and life sciences as related to OAST aeronautics, space and nuclear missions. The current Chairman is Professor Abraham Hertzberg. There are 12 members. The following sets forth the approved agenda and schedule for the October 31 and November 1, 1973, meeting of the Research Committee. For further information, please contact Dr. H. H. Kurzweg: Area code 202, 755-2306.

OCTOBER 31, 1973

| Time | Topic |
|---|---|
| 8:30 a.m.–5:00 p.m. | Technical Presentation and Discussion "Review of NASA Basic Research in Energetics and Lasers"<br>(Purpose: To assess the quality and the adequacy of our basic research program in energetics and lasers.)<br>The following presentations will be made by speakers from NASA's Headquarters and Ames, Langley and Lewis Research Centers, from the Jet Propulsion Laboratory and from the Universities of Florida, Maryland and Washington:<br>1. Overview Presentations on High Energy Laser and Energetics Research.<br>2. Fundamental Photonics.<br>a. Electron Impact Spectroscopy.<br>b. Molecular Interactions, Ion Cyclotron Resonance.<br>c. Superfluid He UV-Laser.<br>d. Flowing Afterglow Ion Laser.<br>e. Nuclear Zeeman Laser.<br>f. Space Gas Release Experiment.<br>g. Uranium Plasma Focus.<br>h. Uranium Plasma Research on Nuclear Pumped Lasers (Univ. of Fla., Univ. of Ill., N.C. State Univ.).<br>i. Uranium Plasma Stability.<br>j. Laser Power Conversion, and Laser Fusion Research.<br>3. Plasmadynamics.<br>a. High Temperature Plasma Research—Superconducting Magnetic Mirror Apparatus (SUMMA) — Bumpy Torus.<br>b. Magnetohydrodynamics 3. |
| | 4. Magnetics and Cryophysics<br>a. Superconductive and Cryogenic Magnets<br>b. Superconductivity Research<br>c. Magnetic Refrigeration<br>5. Five Year Prospects<br>a. Report on Uranium Plasma Colloquium<br>b. Photonics - Applications and Research Needs |

NOVEMBER 1, 1973

| | |
|---|---|
| 8:30 a.m.–10:00 a.m. | Chairman's report on the results of the latest Research and Technology Advisory Council Meeting of August 16 and 17, 1973, to obtain Committee views and recommendations on the issues and actions considered. |
| 10:00 a.m.–2:00 p.m. | Committee discussion of NASA's basic research in energetics and lasers to assess the quality and the adequacy of the current program and to provide recommendations for future research directions. |
| 2:00 p.m.–2:30 p.m. | Executive Secretary's report summarizing the activities of the OAST Research Council for the Committee's consideration and recommendations. |
| 2:30 p.m.–3:30 p.m. | Preparation for the Spring 1974 Committee Meeting.<br>The Committee will discuss prospective NASA basic research topics for review and evaluation and will select an appropriate subject for the next meeting. |

HOMER E. NEWELL,
*Associate Administrator, National Aeronautics and Space Administration.*

SEPTEMBER 20, 1973.

[FR Doc.73-20482 Filed 9-25-73;8:45 am]

## SECURITIES AND EXCHANGE COMMISSION

[70-5386]

### METROPOLITAN EDISON CO.

#### Proposed Issue and Sale of Cumulative Preferred Stock

SEPTEMBER 12, 1973.

Notice is hereby given that Metropolitan Edison Company ("Met-Ed"), 2800 Pottsville Pike, Mulhenberg Township, Berks County, Pennsylvania 19605, an electric utility subsidiary company of General Public Utilities Corporation, a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Met-Ed proposes to issue and sell for cash, subject to the competitive bidding requirements of Rule 50 under the Act, 150,000 additional shares of its cumulative preferred stock (the "New Preferred Stock"). The New Preferred Stock will constitute a further series of Met-Ed's cumulative preferred stock of which there are outstanding 1,243,912 shares issued in nine series. The dividend rate and redemption prices of the New Preferred Stock will be determined by competitive bidding. In all other respects the New Preferred Stock will be similar to the outstanding series. The bidding procedures which Met-Ed will use with respect to the New Preferred Stock will require that (1) the price per share specified in the bids shall not be not less than $100 (the par value of the New Preferred Stock) or more than $102.75 and (2) the dividend rate for the New Preferred Stock, which shall be specified in such bids, shall be a multiple of 1/25th of 1 percent. Prior to October 1, 1978, none of the shares of the New Preferred Stock may be redeemed at the option of Met-Ed if the moneys for such redemption are obtained by Met-Ed directly or indirectly from or in anticipation of borrowings by or for the account of Met-Ed or the proceeds of any issue of any stock ranking prior to or on a parity with the New Preferred Stock at an interest or dividend cost less than the dividend cost of this issue, subject to certain exceptions.

The proceeds ($15,000,000, exclusive of premium and accrued dividends, if any) from the sale of the New Preferred Stock will be used for the payment of all or a portion of Met-Ed's short-term bank loans expected to be outstanding at the time of sale of the New Preferred Stock or for construction purposes or to reimburse Met-Ed's treasury for funds previously expended therefrom for construction purposes. The presently estimated cost of Met-Ed's 1973 construction program is approximately $145,000,000 (including allowance for funds used during construction).

The fees and expenses to be paid by Met-Ed in connection with the issue and sale of the New Preferred Stock are estimated to total $100,000, including legal fees of $26,500. The fees and expenses of counsel for the underwriters, to be paid by the successful bidders, will be supplied by amendment. It is stated that the Pennsylvania Public Utility Commission has jurisdiction over the proposed issuance and sale of the New Preferred Stock by Met-Ed and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than October 5, 1973, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon the applicant at





the above-stated address, and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-20452 Filed 9-25-73;8:45 am]

## SMALL BUSINESS ADMINISTRATION

[License No. 03/03-0001]

### FRANKFORD GROCERY SMALL BUSINESS INVESTMENT CO.

#### Notice of License Surrender

Notice is hereby given that Frankford Grocery Small Business Investment Company (Frankford), G Street and Erie Avenue, Philadelphia, Pennsylvania 19124, has surrendered its license to operate as a small business investment company pursuant to Section 107.105 of the Small Business Administration's Rules and Regulations governing small business investment companies (13 CFR § 107.105 (1973).

Frankford was licensed as a small business investment company on December 23, 1959, to operate solely under the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. 661 et seq.), and the Regulations promulgated thereunder.

Under the authority vested by the Act and pursuant to the cited Regulation, the surrender of the license is hereby accepted and rights, privileges and franchises therefrom are cancelled.

Dated: September 18, 1973.

JAMES THOMAS PHELAN,
*Deputy Associate Administrator for Investment.*

[FR Doc.73-20448 Filed 9-25-73;8:45 am]

## TARIFF COMMISSION

### COMMITTEE FOR STATISTICAL ANNOTATION OF TARIFF SCHEDULES

#### Collection of F.O.B. and C.I.F. Data on Imports

Recision of amendment to general statistical headnote 1 of the Tariff Schedules of the United States Annotated (TSUSA) and of provision for its interim application.

Notice is hereby given that the amendment of general statistical headnote 1 of the TSUSA published in the FEDERAL REGISTER of August 7, 1973 (38 FR 21323), and the provision for interim application of the amended headnote published in the FEDERAL REGISTER of September 17, 1973 (38 FR 26030), are rescinded. General statistical headnote 1 of the TSUSA therefore reads as it did before the amendment published in the FEDERAL REGISTER of August 7, 1973.

Issued September 25, 1973.

For the Committee.

[SEAL] A. F. PARKS,
*Chairman.*

[FR Doc.73-20683 Filed 9-25-73;8:45 am]

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

### INDIANA

#### Modifications to Developmental Plan

1. *Submission of modifications.* Pursuant to section 18(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) and § 1902.12 of Title 29, Code of Federal Regulations, notice is hereby given that modifications to the Occupational Safety and Health Plan for the State of Indiana have been submitted to the Assistant Secretary of Labor for Occupational Safety and Health. The State made these modifications in response to public comments received pursuant to the notice of submission of the Indiana Plan and its availability for public comment which appeared at 38 FR 10049.

The public comments from groups representing employers and workers included requests for a hearing on the plan on the basis of particularized objections to certain recordkeeping and reporting requirements, right of entry and subpoena power of the Commissioner of Labor, employee sanctions, toxic substances, coverage of public employees, and penalties for violation of posting requirements, among others. The clarifications and modifications submitted by the State seem to cure the alleged inadequacies of the Plan, and accordingly there appears to be no outstanding objection which warrants a hearing. Consequently, the several requests for a hearing are hereby denied. However, it is appropriate to afford under § 1902.12 of Title 29, Code of Federal Regulations, an additional opportunity for public comment on the modifications of the Plan.

The modifications to which comments should be addressed include the following: revised provisions for the adoption of temporary emergency standards; the application, in the legislation, of penalties only to employees; additions to and clarification of certain recordkeeping requirements and regulations; hearing notification time limit; procedures for judicial review; right of the Commissioner of Labor to enter "without delay"; provision for subpoena power; provisions for on-site consultations; clarification of the State's legal notice requirement; job descriptions for safety education consultants; revision of certain personnel budgets; a letter of legal opinion stating that the proposed legislation is consistent with the State's Constitution and that it meets the requirements of the Occupational Safety and Health Act of 1970; and a letter from the governor reaffirming his support of the Plan as modified. Comments submitted on the modifications will be considered in the Assistant Secretary's decision on the Plan.

Included in the modifications are also proposals for the following amendments to the State's legislation: amendment of the definition of the term "employment" to cover all services; an addition to the general duty clause requiring employers to comply with all safety and health standards, rules and regulations; provision that the Federal standards shall be adopted by the State 60 days following the effective date of the Federal standards; requirement that standards subsequent to promulgation be published in a newspaper of general circulation; provision that standards developed shall not unduly burden interstate commerce; requirement that temporary emergency standards be effective until publication of a permanent standard; provision for employee notification of exposure to toxic substances at certain levels; provision for the issuance of interim orders; provision for entry without delay for inspection purposes; provision that violation of posting requirements will incur mandatory penalties; provision that civil penalties may be collected through use of the court system; elimination of the employee sanctions in the legislation and inclusion of a penalty for willful violations of the Act not covered by other penalty clauses; and provision that the Federal recordkeeping and reporting requirements may be used.

2. *Location of plan for inspection.* A copy of the plan with modifications, may be inspected and copied during normal business hours at the following locations: Office of Federal and State Operations, Occupational Safety and Health Administration, Railway Labor Building, Room 305, 400 First Street NW., U.S. Department of Labor, Washington, D.C. 20210; Regional Administration, Department of Labor, 300 S. Wacker Drive, Room 1201, Chicago, Illinois 60606; and State of Indiana Department of Labor, Room 1013, State Office Building, Indianapolis, Indiana 46202.

3. *Public participation.* Interested persons are hereby given until October 26, 1973, to submit to the Assistant Secretary written data, views, and arguments concerning the modifications of the Plan. The submissions are to be addressed to the Director, Office of Federal and State Operations, Occupational Safety and Health Administration, Railway Labor Building, Room 305, 400 First Street, NW., Washington, D.C. 20210. The written comments will be available for public inspection and copying at the above address.

After consideration has been given to all material submitted, a final decision



V 38 I 186 SEP 26 73 XUM

as to approval or disapproval of the modified Plan will be issued.

Signed at Washington, D.C., this 20th day of September 1973.

JOHN H. STENDER,
*Assistant Secretary of Labor.*

[FR Doc.73-20491 Filed 9-25-73;8:45 am]

## Wage and Hour Division

## FULL-TIME STUDENTS

### Certificates Authorizing Employment at Special Minimum Wages

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), the regulation on employment of full-time students (29 CFR, Part 519), and Administrative Order No. 621 (36 F.R. 12819), the establishments listed in this notice have been issued special certificates authorizing the employment of full-time students working outside of school hours at hourly rates lower than the minimum wage rates otherwise applicable under section 6 of the Act. While effective and expiration dates are shown for those certificates issued for less than a year, only the expiration dates are shown for certificates issued for a year. The minimum certificate rates are not less than 85 percent of the applicable statutory minimum.

The following certificates were issued to variety-department stores and provide for an allowance not to exceed the proportion of the total hours worked by full-time students at rates below $1 an hour to the total number of hours worked by all employees in the establishment during the base period in occupations of the same general classes in which the establishment employed full-time students at wages below $1 an hour in the base year; or provide the same standards authorized in certificates previously issued to the establishment.

Ben Franklin Store, 607 Main Street, Jasper, IN; 8-1-74.

Braselton Brothers, Inc., Braselton, GA; 9-8-74.

Britts Dept. Store, No. 6549, Bricktown, NJ; 9-2-74.

Bur-Lers Variety Stores, 12819 East Seven Mile Road, Detroit, MI; 8-1-74.

Clarys 5 & 10, 127-133 Front Street Sylvester GA; 8 -12-74.

Draper & Darwin Store, 334 Main Street, Franklin, TN; 7-28-74.

Duckwall Stores Co.: No. 29, Lyons, KS, 8-14-74; No. 35, Phillipsburg, KS, 8-2-74; No. 61, Wichita, KS, 7-30-74; No. 99, Pampa, TX, 8-7-74.

Edward's, Inc., Highway 17, Myrtle Beach, SC; 8-12-74.

W. T. Grant Co.: No. 647, Jacksonville, FL, 9-11-74; No. 849, Jacksonville, FL, 9-2-74; No. 70, Atlanta, GA, 9-2-74; No. 599, Mableton, GA, 9-13-74; No. 494, Leominster, MA, 6-15-74; No. 724, Parsippany, NJ, 8-31-74; No. 173, Paterson, NJ, 9-2-74; No. 393, Roselle, NJ, 8-31-74; No. 675, Asheville, NC, 9-2-74.

S. S. Kresge Co., 7-31-74, except as otherwise indicated: No. 4086, Birmingham, AL (7-26-74); No. 4184, Mobile, AL (8-1-74); No. 4311, Brandon, FL (7-19-73 to 6-30-74); No. 4286, Jacksonville, FL (7-30-74); No. 4420, Ocala, FL (8-12-74); No. 4358, Orlando, FL (7-29-74); No. 4070, Atlanta, GA; No. 4586, Alton, IL (7-24-74); No. 4100, Lombard, IL (8-6-74); No. 93, Ottumwa, IA (8-5-74); No. 4077, Lexington, KY (7-30-74); No. 235, Louisville, KY (8-3-74); No. 582, Detroit, MI (8-12-74); No. 659, Detroit, MI (7-23-74); No. 4488, Rochester, MI (8-14-74); No. 4192, Southfield, MI (8-13-74); No. 4393, Taylor, MI; No. 4204, Warren, MI (7-27-74); No. 578, Hazelwood, MO (7-27-74); No. 73, St. Louis, MO (8-1-74); No. 4280, Springfield, MO (7-20-74); No. 4619, Springfield, MO; No. 4120, Lincoln, NE; No. 4476, Greensboro, NC; No. 199, Dayton, OH (8-18-74); No. 4194, Wyoming, OH (8-13-74); No. 4244, Knoxville, TN (8-1-74); No. 4103, Nashville, TN (8-5-74); No. 704, Dallas, TX (8-15-74); No. 4139, Dallas, TX; No. 782, Houston, TX (9-17-74); No. 4299, Houston, TX (8-3-74); Nos. 715, 4017, and 4425, Houston, TX; No. 780, Midland, TX; No. 4346, White Settlement, TX.

McCrory-McLellan-Green Store: No. 444, Bessemer, AL, 8-19-74; Nos. 1106, and 1128, Birmingham, AL, 8-2-74; No. 7503, Decatur, AL, 8-15-74; No. 442, Gadsden, AL, 8-9-74; No. 1109, Montgomery, AL, 8-2-74; No. 3501, Northport, AL, 8-19-74; No. 256, Clearwater, FL, 8-6-74; No. 172, Fort Walton Beach, FL, 8-6-73 to 8-2-74; No. 318, Hialeah, FL, 8-18-74; No. 361, New Smyrna Beach, FL, 8-2-74; No. 396, Punta Gorda, FL, 7-16-73 to 7-12-74; No. 232, Wauchula, FL, 7-31-74; No. 423, Dublin, GA, 8-31-74; No. 229, New Orleans, LA, 8-6-74; No. 231, Lansing, MI, 8-9-74; No. 616, Columbia, MS, 8-10-74; No. 575, Columbus, MS, 8-2-74; No. 302, Gulfport, MS, 8-3-74; No. 275, McComb, MS, 8-6-74; No. 156, Tupelo, MS, 7-31-74; No. 247, Omaha, NE, 7-31-74; No. 1032, Asbury Park, NJ, 7-29-74; No. 91, Burlington, NJ, 8-1-73 to 7-30-74; No. 1025, Elizabeth, NJ, 7-31-74; No. 251, Newark, NJ, 7-29-74; No. 240, Orange, NJ, 7-29-74; No. 1006, Plainfield, NJ, 8-27-74; No. 301, Union, NJ, 7-29-74; No. 485, Hobbs, NM, 9-9-74; No. 494, Salisbury, NC, 8-2-74; No. 633, Pryor, OK, 9-13-74; No. 134, Rock Hill, SC, 8-6-73 to 8-2-74; No. 146, Hurst, TX, 7-31-74.

Meyer Brothers, 181 Main Street, Paterson, NJ; 8-31-74.

M. E. Moses Co.: No. 19, Dallas, TX, 8-16-74; No. 36, Hurst, TX, 8-6-74.

G. C. Murphy Co.: No. 259, North Palm Beach, FL, 8-31-74; No. 335, Pensacola, FL, 8-31-74; No. 250, Rome, GA, 9-2-74; No. 102, Tifton, GA, 9-2-74; No. 310, Jackson, OH, 8-5-74; No. 429, Wapakoneta, OH, 7-31-74; No. 288, Abilene, TX, 9-2-74; No. 173, Austin, TX, 9-4-74; No. 219, Fort Worth, TX, 9-2-74; No. 294, Odessa, TX, 9-2-74; No. 5430, San Antonio, TX, 9-4-74; No. 283, Texarkana, TX, 9-2-74.

Neisner Brothers, Inc., 9-2-74: No. 192, Avon Park, FL; No. 188, Brandon, FL; No. 183, Dade City, FL; No. 99, Gainesville, FL; No. 175, Key West, FL; No. 21, Miama, FL; No. 187, New Port Richey, FL; No. 184, Palmetto, FL; No. 40, Pompano Beach, FL; No. 127, East Paterson, NJ; No. 149, Middletown, NJ; No. 142, Trenton, NJ; No. 131, Brownsville, TX; No. 180, Del Rio, TX; Nos. 120 and 141, San Antonio, TX.

Ravlass Department Store, 232 South Elm Street, Greensboro, NC; 8-14-74.

Ridgewood Variety, Inc., 623 42d Avenue, East Moline, IL; 7-30-74.

Rose's Stores, Inc.: No. 184, Lexington, NC, 7-13-74; No. 10, Rockingham, NC, 8-18-74; No. 97, Lebanon, TN, 8-14-74.

Rozier Mercantile Co., Two East Ste. Maries Street, Perryville, MO; 8-15-74.

Ruffin's Department Store, Inc., Andrews, SC; 7-26-74.

Spurgeon's, 7-31-74: 130 North Main Street, Paris, IL; 118 East Main Street, Streator, IL.

Sterling Stores Co., 208-212 Main Street, Russellville, AR; 8-2-74.

T. G. & Y. Stores Co.: No. 248, Pine Bluff, AR, 9-1-74; No. 1405, Lawrence, KS, 7-31-74; No. 481, Grandview, MO, 8-14-74; No. 478, Liberty, MO, 7-31-74; No. 288, Espanola, NM, 8-27-74; No. 13, Anadarko, OK, 9-2-74; No. 31, Bartlesville, OK, 9-2-74; No. 81, Enid, OK, 7-31-74; No. 30, Midwest City, OK, 9-2-74; No. 57, Muskogee, OK, 9-2-74; No. 1017, Oklahoma City, OK, 8-31-74; No. 1007, Sapulpa, OK, 7-29-74; No. 53, Shawnee, OK, 9-2-74; No. 34, Tulsa, OK, 8-11-74; No. 405, Tulsa, OK, 7-31-74; No. 444, Tulsa, OK, 9-10-74; No. 445, Tulsa, OK, 7-31-74; No. 1701, Lake City, SC, 8-11-74; No. 844, Houston, TX, 9-11-74; No. 843, League City, TX, 8-13-74; No. 804, Odessa, TX, 8-13-74; No. 824, Pearland, TX, 8-31-74; No. 809, Texas City, TX, 8-27-74.

Wood's 5 & 10¢ Stores, Inc.: E-Town Shopping Center, Elizabethtown, NC, 7-16-73 to 7-13-74; Rockingham, NC, 9-4-73 to 7-14-74; Bi-Lo Plaza Shopping Center, Cheraw, SC, 8-14-74.

Younker Brothers, Inc., 7-31-74: North Grand Shopping Center, Ames, IA; 2500 South Center, Marshalltown, IA.

The following certificates issued to variety-department stores permitted to rely on the base-year employment experience of others were either the first full-time student certificates issued to the establishment, or provide standards different from those previously authorized. The certificates permit the employment of full-time students at rates of not less than 85 percent of the applicable statutory minimum in the classes of occupations listed, and provide for the indicated monthly limitations on the percentage of full-time student hours of employment at rates below the applicable statutory minimum to total hours of employment of all employees.

Ben Franklin Store, U.S. Highway 16 East and Ferguson Hill Road, Burnsville, NC; salesclerk, stock clerk; 10 to 45 percent; 7-17-74.

S. S. Kresge Co., for the occupations of salesclerk, checker, 11 to 22 percent, except as otherwise indicated: No. 3082, Dothan, AL, 7-24-74; No. 3140, Clearwater, FL, 7-22-74 (salesclerk, 7 to 10 percent); Nos. 3081 and 3090, Jackson, MS, 7-22-74; No. 4237, Durham, NC, 7-26-74 (salesclerk); No. 3128, Enid, OK, 7-31-74 (salesclerk, 7 to 27 percent); No. 7012, Clute, TX, 8-15-74 (salesclerk, stock clerk, office clerk, cashier, customer service, maintenance, 7 to 27 percent).

G. McNew Store, No. 23, Belle Glade, FL; salesclerk, stock clerk, office clerk, porter; 11 to 32 percent; 7-16-74.

Rose's Stores, Inc., No. 240, Raleigh, NC; salesclerk; 7 to 13 percent; 7-29-74.

Each certificate has been issued upon the representations of the employer which, among other things, were that employment of full-time students at special minimum rates is necessary to prevent curtailment of opportunities for employment, and the hiring of full-time students at special minimum rates will not create a substantial probability of reducing the full-time employment opportunities of persons other than those employed under a certificate. The certificate may be annuled or withdrawn, as indicated therein, in the manner provided in Part 528 of Title 29 of the Code of Federal Regulations. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof on or before October 26, 1973.





Signed at Washington, D.C., this 20th day of September 1973.

DONALD T. CRUMBACK,
*Authorized Representative of the Administrator.*

[FR Doc.73-20492 Filed 9-25-73;8:45 am]

## INTERSTATE COMMERCE COMMISSION

[Notice 349]

### ASSIGNMENT OF HEARINGS

SEPTEMBER 20, 1973.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC-114273 Sub 139, Cedar Rapids Steel Transportation, Inc., now being assigned hearing November 7, 1973 (1 day), at Chicago, Ill., in a hearing room to be later designated.

MC-118989 Sub 90, Container Transit, Inc., is continued to November 5, 1973 (1 day), at Chicago, Ill., in a hearing room to be later designated.

MC-123048 Sub 253, Diamond Transportation System, Inc., now being assigned hearing November 6, 1973 (1 day), at Chicago, Ill., in a hearing room to be later designated.

MC-126428 Sub 5, Zibert Transport Co., Extension-Marseilles, Ill., now being assigned hearing November 8, 1973 (2 days), at Chicago, Ill., in a hearing room to be later designated.

MC 125820 Sub-7, Elk Valley Freight Line, Inc., now being assigned hearing October 29, 1973, at Montgomery, Ala., in a hearing room to be later designated.

MCC-8089, Cloquet Transfer Company *v.* Century Motor Freight, Inc., et al., now being assigned hearing November 5, 1973 (2 days), at St. Paul, Minn., in a hearing room to be later designated.

MC 97699 Sub 36, Barber Transportation Company, now being assigned hearing (1 week), November 5, 1973, at Rapid City, S. Dak., in a hearing room to be later designated.

W-522 Sub 15, American Commercial Barge Line Co., & W-654 Sub 8, Warrior & Gulf Navigation Co., Extension-Tug & Barge, now assigned October 29, 1973, at New Orleans, La., is postponed to December 3, 1973, at New Orleans, La., in a hearing room to be later designated.

MC 9325 Sub 66, K Lines, Inc., now being assigned hearing November 5, 1973 (1 week), at Olympia, Washington, in a hearing room to be later designated.

MC 63792 Sub 16, Tom Hicks Transfer Company, Inc., application dismissed.

FF-397, Japan Line, Ltd., now being assigned November 5, 1973 (1 week), at Chicago, Ill., in a hearing room to be later designated.

MC-C-8101, Belknap Van & Storage of San Antonio, Inc., Belknap Warehouse Corp., Burnham Van Service, Inc., and U.S. Van Lines, Inc.—Investigation of Operations, now assigned October 23, 1973, MC 83835 Sub 99, Wales Transportation, Inc., now assigned October 24, 1973, FF-C-52, Darrell J. Sekin & Company, Inc. and Regional International Services, Inc.—Investigation of Operations, now assigned October 25, 1973, and MC 138378, Dale's Enterprises, Inc., Dba Southwest Mobile Homes, now assigned October 29, 1973, at Dallas, Tex., will be held in Room 5A15-17, Federal Office Bldg., 1100 Commerce Street.

MC-F-11893, Overnite Transportation Company—Purchase—Spade Continental Express, Inc., now being assigned hearing November 5, 1973 (1 week), at Columbus, Ohio, in Room 228, Federal Bldg., 85 Marconi Blvd.

MC-263 Sub 205, Garrett Freightlines, Inc., now assigned October 1, 1973, Denver, Colo., will be held in Radisson Denver Hotel, 1790 Grant Street, instead of Room B-230, New Custom House, 19th and Stout Street.

MC-C-8105, Leavitts Freight Service, Inc. *v.* Contract Carrier Service, Inc., now assigned October 4, 1973, at Portland, Oreg., is postponed indefinitely.

W-1266, Marine Exploration Company, Inc., now assigned November 5, 1973, at Miami, Fla., will be held in Room 208, Federal Bldg., 51 S.W. First Avenue.

MC-F-11896, Crouse Cartage Company—Purchase—Marc Truck Lines, Inc., and MC 123389 Sub 15, Crouse Cartage Company, now being assigned hearing November 5, 1973 (1 week), at Chicago, Ill., in a hearing room to be later designated.

MC-C-8093, Phillip Transit Lines, Inc. *v.* Daniel Hamm Drayage Company, now being assigned November 6, 1973 (1 day), at Jefferson City, Mo., in a hearing room to be later designated.

MC 29642 Sub 9, Five Transportation Company, now being assigned hearing November 26, 1973 (1 week), at Atlanta, Ga., in a hearing room to be later designated.

MC 138565, Transportes Monterrey Cadereyta Reynosa S.A. de C.V., now being assigned November 27, 1973 (3 days), at Brownsville, Tex., in a hearing room to be later designated.

MC 117565 Sub 86, Motor Service Company, Inc., now being assigned hearing November 26, 1973 (1 day), at Columbus, Ohio, in a hearing room to be later designated.

MC-C-8088, Point Express, Inc.—Investigation and revocation of Certificates—now being assigned hearing November 27, 1973 (2 days), at Columbus, Ohio, in a hearing room to be later designated.

MC 119789 Sub 155, Caravan Refrigerated Cargo, Inc., now being assigned hearing November 29, 1973 (2 days), at Columbus, Ohio, in a hearing room to be later designated.

MC-F-11778, T.I.M.E.-DC, Inc.—Control and Merger—Husman Express Co., MC 35320 Sub 135, T.I.M.E.-DC, Inc. now being assigned hearing December 3, 1973 (1 week), at Columbus, Ohio, in a hearing room to be later designated.

MC-28478 Sub 41, Great Lakes Express Co., now being assigned hearing November 28, 1973 (1 week), will be held in Room No. 1, Public Utilities Commission of Ohio, 111 North High Street, Columbus, Ohio.

MC 97699 Sub 35, Barber Transportation Co., now being assigned hearing November 26, 1973 (2 weeks), at Cheyenne, Wyo., in a hearing room to be later designated.

MC-113459 Sub 77, H. J. Jeffries Truck Line, Inc., now being assigned hearing November 26, 1973 (2 weeks); at Chicago, Ill., in a hearing room to be later designated.

MC 101186 Sub 13, Arledge Transfer, Inc., now being assigned November 27, 1973 (3 days), at Des Moines, Iowa, in a hearing room to be later designated.

MC 59856 Subs 49 and 51, Salt Creek Freightways, now being assigned hearing November 26, 1973 (1 week), at Helena, Mont., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-20509 Filed 9-25-73;8:45 am]

### FOURTH SECTION APPLICATION FOR RELIEF

SEPTEMBER 21, 1973.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the general rules of practice (49 CFR 1100.40) and filed on or before October 11, 1973. FSA No. 42749—*Returned shipments of newsprint paper winding cores to Sheldon, Tex.* Filed by Southwestern Freight Bureau Agent (No. B-431), for interested rail carriers. Rates on cores, newsprint paper winding, returned, in carloads, as described in the application, from points in Illinois Freight Association and western trunkline territories, to Sheldon, Tex.

Grounds for relief—Carrier competition.

Tariff—Supplement 60 to Southwestern Freight Bureau, Agent, tariff 306-E, ICC 4965. Rates are published to become effective on October 20, 1973.

By the Commission.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-20510 Filed 9-25-73;8:45 am]

[No. 35863]

### MONTANA INTRASTATE RAIL FREIGHT RATES AND CHARGES, 1973

#### Assignment for Hearing and Directing Special Procedure

*It appearing*, That by order dated July 16, 1973, the Commission, Division 2, instituted the above-entitled investigation;

*It is ordered*, That the above-entitled proceeding be, and it is hereby, referred to an Administrative Law Judge for hearing and for an initial decision.

*It is further ordered*, That on or before October 9, 1973, the respondents and any persons in support thereof shall file with the Commission three copies of the verified statements of their witnesses, in writing, together with any studies to be offered at the hearing, with a statement where the underlying work papers to such studies will be available for inspection by parties to the proceeding and at the same time, serve a copy of such prepared material upon all parties listed in Appendix A attached hereto and any additional persons who make known their desire to actively participate in the proceeding on or before October 3, 1973.



V 38 I 186 S
SEP 26 73
XUM

*It is further ordered*, That on or before November 9, 1973, protestants shall file with the Commission, three copies of reply verified statements of their witnesses, in writing, and at the same time, serve a copy of such prepared material upon all persons listed in Appendix A hereto and any additional persons who make known their desire to actively participate on or before October 3, 1973. Attached hereto as Appendix A is a list of all known persons who have indicated their desire to actively participate in the proceeding. Any additional persons who desire to actively participate and receive copies of the prepared material to be served shall notify the Commission, in writing, on or before October 3, 1973, as well as all persons listed in Appendix A attached hereto. Otherwise, any interested persons desiring to participate in this proceeding may make his appearance at the hearing.

*It is further ordered*, That parties desiring to cross-examine witnesses who have submitted verified statements shall give notice to that effect, in writing, to the affiant and his counsel, if any, on or before November 19, 1973, a copy of such notice to be filed simultaneously with the Commission, together with a request for any underlying data that the witnesses will be expected to have available for immediate reference at the hearing. All verified statements and attachments as to which no cross-examination is requested will be considered as offered in evidence and received unless challenged for good cause. Any witness who has been requested to appear for cross-examination but fails to do so, subjects his verified statement to a motion to strike.

*It is further ordered*, That a hearing will be held commencing on November 28, 1973, at 9:30 a.m. United States Standard Time, at Billings, Montana, in a hearing room to be later designated, for the purpose of hearing cross-examination of witnesses so requested; to afford opportunity to present evidence in opposition to the cross-examination; and such other pertinent evidence which the Judge deems necessary to complete the record.

*And it is further ordered*, That a copy of this order be served upon the respondents and protestants; that the State of Montana be notified of this proceeding by sending a copy of this order by certified mail to the Governor of Montana, Helena, Mont., and a copy to the Public Service Commission of Montana, Helena, Mont.; and that further notice of this proceeding be given to the public by depositing a copy of this order in the office of the Secretary of this Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, Washington, D.C., for publication in the FEDERAL REGISTER.

Dated at Washington, D.C., this 19th day of September 1973.

By the Commission, Commissioner Brown.

[SEAL] ROBERT L. OSWALD, *Secretary.*

APPENDIX A

Mr. John Brummer,
President,
Northern Montana Beet Growers Association,
Chinook, MT 59523.

Mr. J. J. Burchell,
General Attorney,
Union Pacific Railroad Co.,
1416 Dodge Street,
Omaha, NE 68102.

Mr. Howard N. Bull,
Director of Transportation,
Holly Sugar Corporation,
P.O. Box 1052,
Colorado Springs, CO 80901.

Mr. Gene J. Carroll,
Transportation Specialist,
State of Montana,
Department of Agriculture,
Capitol Annex Building,
Helena, MT 59601.

Mr. Charles H. Dickman,
Counsel for the Commission,
Public Service Commission,
1227 11th Avenue,
Helena, MT 59601.

Miss Sandra Giannini,
Traffic Analyst
Champion International Corporation,
Knightsbridge Drive,
Hamilton, OH 45020.

Mr. William V. Guffey,
President,
Upper Missouri Beet Growers Association,
Townsend, MT 59644.

Mr. Barry McGrath,
Assistant General Solicitor,
Burlington Northern, Inc.,
176 East Fifth Street,
St. Paul, MN 55101.

Mr. Dal W. Nelson,
Transportation Manager,
Mill and Consumer Packaging,
Hoerner Waldorf Corporation,
3350 Wabash Avenue,
P.O. Box 3260.
St. Paul, MN 55165.

Mr. William E. O'Leary,
Risken & O'Leary,
Power Block, P.O. Box 225,
Helena, MT 59601.
Representing: Montana Consumer Counsel.

Mr. Ogden D. Olson,
Traffic Manager,
ConAgra-Montana, Inc.,
Traffic Department,
Box 2548,
Great Falls, MT 59403.

Mr. G. T. Patterson,
Regional Distribution Director,
Phillips Petroleum Company,
Supply & Distribution Department,
7801 East Belleview Avenue,
Englewood, CO 80110.

Mr. J. B. Phillips,
Great Western Sugar Company,
P.O. Box 5308, Terminal Annex,
Denver, CO 80217.

Mr. J. Fred Simpson,
General Attorney,
Chicago, Milwaukee, St. Paul and Pacific Railroad Company,
1318 Fourth Avenue,
Seattle, WA 98101.

[FR Doc.73-20511 Filed 9-25-73;8:45 am]

[Notice 22]

## MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

SEPTEMBER 21, 1973.

The following letter-notices of proposals to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Passengers, 1969 (49 CFR 1042.2(c)(9)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.2(c)(9)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.2(c)(9)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PASSENGERS

No. MC-1515 (Deviation No. 664) (Cancels Deviation No. 552), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, Ohio 44113, filed September 7, 1973. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express, and newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) From the junction of the Ohio Turnpike and Interstate Highway 80 at Interchange No. 15 over Interstate Highway 80 to junction of Interstate Highways 80 and 280 and U.S. Highway 46 near Pine Brook, N.J., thence over Interstate Highway 280 to junction New Jersey County Highway 508 near Newark, thence over New Jersey County Highway 508 to junction New Jersey Turnpike (Exit 15W), and (2) from the junction of the Ohio Turnpike and Interstate Highway 80 at Interchange No. 15 over Interstate Highway 80 to junction Interstate Highway 95, thence over Interstate Highway 95 to junction New Jersey Highway 3 (Lincoln Tunnel Interchange), with the following access routes: (a) from the junction of U.S. Highway 46 and New Jersey Highway 23 near Singac, N.J., over New Jersey Highway 23 to junction Interstate Highway 80, and (b) from Youngstown, Ohio, over Ohio Highway 193 to junction Interstate Highway 80, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over pertinent service routes as follows: (1) From the junction of Interstate Highway 80 and the Ohio Turnpike at Exit 15 over the Ohio Turnpike to junction the Pennsylvania Turnpike at the Ohio-Pennsylvania State line, thence over the Pennsylvania Turnpike to junction the New Jersey Turnpike at Interchange No. 6, thence over the New Jersey Turnpike to junction New Jersey County Highway 508, near Newark, N.J. (Exit 15W), and (2) from the Lincoln Tunnel Interchange of the New Jersey Turnpike over the New Jersey Turnpike to the Delaware Memorial Bridge Interchange, and return over the same routes.

No. MC-1515 (Deviation No. 665) (Cancels Deviation No. 612), GREYHOUND LINES, INC. (Eastern Division), 1400 West Third Street, Cleveland, Ohio 44113, filed September 7, 1973. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, over deviation routes as follows: (1) From the junction of the New Jersey Turnpike and New Jersey County Highway 508 (Exit 15W), over New Jersey County Highway 508 to junction Interstate Highway 280, at Newark, N.J., thence over Interstate Highway 280 to junction U.S. Highway 46 and Interstate Highway 80 west of Pine Brook, N.J., thence over Interstate Highway 80 to junction Interstate Highway 380, thence over Interstate Highway 380 to junction Pennsylvania Highway 307 near Scranton, Pa., and (2) from the junction of New Jersey Highway 3 and the New Jersey Turnpike (Interchange No. 17) near New York, N.Y., over the New Jersey Turnpike to junction Interstate Highway 95, thence over Interstate Highway 95 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction U.S. Highway 46 and Interstate Highway 280 west of Pine Brook, N.J., thence over Interstate Highway 80 to junction Interstate Highway 380, thence over Interstate Highway 380 to junction Pennsylvania Highway 307 near Scranton, Pa., with the following access routes: (a) From the junction of U.S. Highway 46 and New Jersey Highway 23 near Singac, N.J., over New Jersey Highway 23 to junction Interstate Highway 80, (b) from Dover, N.J., over New Jersey Highway 15 to junction Interstate Highway 80, (c) from the junction of U.S. Highway 46 and New Jersey County Highway 517 near Hackettstown, N.J., over New Jersey County Highway 517 to junction Interstate Highway 80, (d) from Stroudsburg, Pa., over U.S. Highway 611 to junction Interstate Highway 80, (e) from Scotrun, Pa., via unnumbered access highway to junction Interstate Highway 80, (f) from Tobyhanna, Pa., over Pennsylvania Highway 423 to junction Interstate Highway 380, and (g) from the junction of U.S. Highway 611 and Pennsylvania Highway 507 over Pennsylvania Highway 507 to junction Interstate Highway 380, and return over the same routes, for operating convenience only. The notice indicates that the carrier is presently authorized to transport passengers and the same property over pertinent service routes as follows: (1) from New York, N.Y., via the Lincoln Tunnel to junction New Jersey Highway 3, thence over New Jersey Highway 3 to junction U.S. Highway 46, thence over U.S. Highway 46 to junction U.S. Highway 611 near Columbia, N.J., thence over U.S. Highway 611 to junction Pennsylvania Highway 307, thence over Pennsylvania Highway 307 to Scranton, Pa., and (2) from the Lincoln Tunnel Interchange of the New Jersey Turnpike, over the New Jersey Turnpike to the Delaware Memorial Bridge Interchange, and return over the same routes.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-20513 Filed 9-25-73;8:45 am]





[Notice 31]

## MOTOR CARRIER ALTERNATE ROUTE DEVIATION NOTICES

SEPTEMBER 21, 1973.

The following letter-notices of proposals (except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application), to operate over deviation routes for operating convenience only have been filed with the Interstate Commerce Commission under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969 (49 CFR 1042.4(c)(11)) and notice thereof to all interested persons is hereby given as provided in such rules (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Interstate Commerce Commission in the manner and form provided in such rules (49 CFR 1042.4(c)(12)) at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of publication.

Successively filed letter-notices of the same carrier under the Commission's Revised Deviation Rules-Motor Carriers of Property, 1969, will be numbered consecutively for convenience in identification and protests, if any, should refer to such letter-notices by number.

MOTOR CARRIERS OF PROPERTY

No. MC-75320 (Deviation No. 39), CAMPBELL "66" EXPRESS, INC., P.O. Box 807, Springfield, Mo. 65801, filed September 12, 1973. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Kansas City, Mo., over U.S. Highway 60 to junction Interstate Highway 35, thence over Interstate Highway 35 to junction Interstate Highway 35E, thence over Interstate Highway 35E to Dallas, Tex., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Vinita, Okla., over U.S. Highway 66 to Tulsa, Okla., thence over Interstate Highway 44 to junction Oklahoma Highway 18, thence over Oklahoma Highway 18 to junction U.S. Highway 177, thence over U.S. Highway 177 to junction U.S. Highway 70, thence over U.S. Highway 70 to junction Oklahoma Highway 79, thence over Oklahoma Highway 79 to the Oklahoma-Texas State line, thence over Texas Highway 79 to Wichita Falls, Tex., thence over U.S. Highway 281 to junction U.S. Highway 180 at or near Mineral Wells, Tex., thence over U.S. Highway 180 to Fort Worth, Tex., thence over Texas Highway 183 to Dallas, Tex. (also from Fort Worth, Tex., over the Dallas-Fort Worth Turnpike to Dallas, Tex., and return), and return over the same route.

No. MC-75320 (Deviation No. 40), CAMPBELL "66" EXPRESS, INC., P.O. Box 807, Springfield, Mo. 65801, filed September 12, 1973. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Kansas City, Mo., over Interstate Highway 35 (U.S. Highway 50 where Interstate Highway 35 is not completed) to junction U.S. Highway 82, thence over U.S. Highway 82 to junction U.S. Highway 75, thence over U.S. Highway 75 to Dallas, Tex., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Kansas City, Mo., over U.S. Highway 50 to junction U.S. Highway 69, thence over U.S. Highway 69 to junction Kansas Highway 26 (formerly Kansas Highway 96), thence over Kansas Highway 26 to junction U.S. Highway 66, thence over U.S. Highway 66 to junction Interstate Highway 44, thence over Interstate Highway 44 to junction Oklahoma Highway 18, thence over Oklahoma Highway 18 to junction U.S. Highway 177, thence over U.S. Highway 177 to junction U.S. Highway 70, thence over U.S. Highway 70 to junction Oklahoma Highway 79, thence over Oklahoma Highway 79 to the Oklahoma-Texas State line, thence over Texas Highway 79 to Wichita Falls, Tex., thence over U.S. Highway 281 to junction U.S. Highway 180 at or near Mineral Wells, Tex., thence over U.S. Highway 180 to Fort Worth, Tex., thence over Texas Highway 183 to Dallas, Tex. (also from Fort Worth, Tex., over the Dallas-Fort Worth Turnpike to Dallas, Tex., and return) and return over the same route.

No. MC-75320 (Deviation No. 41), CAMPBELL "66" EXPRESS, INC., P.O. Box 807, Springfield, Mo. 65801, filed September 12, 1973. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Kansas City, Mo., over Interstate Highway 70 to junction Interstate Highway 35, thence over Interstate Highway 35 to junction Interstate Highway 35W, thence over Interstate Highway 35W to Fort Worth, Tex., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized



V 38-186 SEP 26 73 XUM

to transport the same commodities over a pertinent service route as follows: From Kansas City, Mo., over U.S. Highway 50 to junction U.S. Highway 69, thence over U.S. Highway 69 to junction Kansas Highway 26 (formerly Kansas Highway 96), thence over Kansas Highway 26 to junction U.S. Highway 66, thence over U.S. Highway 66 to junction Interstate Highway 44, thence over Interstate Highway 44 to junction Oklahoma Highway 18, thence over Oklahoma Highway 18 to junction U.S. Highway 177, thence over U.S. Highway 177 to junction U.S. Highway 70, thence over U.S. Highway 70 to junction Oklahoma Highway 79, thence over Oklahoma Highway 79 to the Oklahoma-Texas State line, thence over Texas Highway 79 to Wichita Falls, Tex., thence over U.S. Highway 281 to junction U.S. Highway 180 at or near Mineral Wells, Tex., thence over U.S. Highway 180 to Fort Worth, Tex., and return over the same route.

No. MC–59583 (Deviation No. 45), THE MASON AND DIXON LINES, INC., P.O. Box 969, Kingsport, Tenn. 37662, filed September 10, 1973. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Shamokin Dam, Pa., over U.S. Highway 15 to Rochester, N.Y., and return over the same route, for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) From Bristol, Tenn., over U.S. Highway 11 to Harrisburg, Pa., thence over U.S. Highway 22 to junction New Jersey Highway 28, thence over New Jersey Highway 28 to junction New Jersey Highway 439, thence over New Jersey Highway 439 to New York, N.Y., serving all intermediate points and the off-route points of Gate City, Glasgow, Shenandoah, and Fort Royal, Va., High Bridge, N.J., and points in Hudson, Essex, Bergen, Passaic, Union, and Middlesex Counties, N.J., and points in the New York, N.Y., commercial zone, (2) from Harrisburg, Pa., over Pennsylvania Highway 147 to Clarks Ferry, Pa., thence across the Susquehanna River to Juniata Bridge, thence over U.S. Highway 11 to Scranton, Pa., thence over U.S. Highway 611 to Philadelphia, Pa., serving all intermediate points, (3) from Binghamton, N.Y., over U.S. Highway 11 via Clarks Summit and West Pittston, Pa., to Kingston, Pa., thence over Pennsylvania Highway 115 to Wilkes-Barre, Pa., serving the intermediate and off-route points of Hop Bottom, Nicholson, Clarks Summit, Scranton, Pittston, Kingston, Tunkannack, Plymouth, Old Forge, Luzerne, Nanticoke, and Dunmore, Pa., and those in Dickinson and Fenton Townships, Broome County, N.Y., and (4) from Buffalo, N.Y., over New York Highway 33 to Rochester, N.Y., thence over New York Highway 96 to junction New York Highway 332, thence over New York Highway 332 to Canandiagua, N.Y., thence over U.S. Highway 20 to Geneva, N.Y., thence over New York Highway 96A to Ovid, N.Y., thence over New York Highway 96 to Oswego, N.Y., thence over New York Highway 17 to Binghamton, N.Y., serving the intermediate and off-route points of Elmira, Oswego, Batavia, Rochester, Canandiagua, Geneva, Ithaca, Niagara Falls, Tonawanda, North Tonawanda, and North Collins, N.Y., those in Dickinson and Fenton Townships, Broome County, N.Y., and all intermediate points between Ithaca and Binghamton, N.Y., and return over the same routes.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73–20514 Filed 9–25–73;8:45 am]

[Notice 75]

## MOTOR CARRIER APPLICATIONS AND CERTAIN OTHER PROCEEDINGS

SEPTEMBER 21, 1973.

The following publications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by the new special rule 1100.247 of the Commission's rules of practice, published in the FEDERAL REGISTER, issue of December 3, 1963, which became effective January 1, 1964.

The publications hereinafter set forth reflect the scope of the applications as filed by applicant, and may include descriptions, restrictions, or limitations which are not in a form acceptable to the Commission. Authority which ultimately may be granted as a result of the applications here noticed will not necessarily reflect the phraseology set forth in the application as filed, but also will eliminate any restrictions which are not acceptable by the Commission.

### MOTOR CARRIERS OF PROPERTY

No. MC 116092 (sub-No. 5) (Notice of filing of petition for Modification of certificate), filed September 7, 1973. Petitioner: E. J. PERSONS TRANSPORT, LTD., 785 Main Street, Cowansville, Province of Quebec, Canada. Petitioner's representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, N.J. 08904. Petitioner presently holds a motor *common carrier* certificate in No. MC–116092 (sub-No. 5) issued December 12, 1972, authorizing transportation, by motor vehicle, over irregular routes, of *rough lumber*, between ports of entry on the United States-Canada Boundary line at or near Champlain and Ogdensburg, N.Y., and Norton Mills, Derby Line, and Richford, Vt., on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, and Pennsylvania, restricted against transportation of traffic originating at points in Maine. By the instant petition, petitioner seeks to transport all types of lumber, in lieu of the single commodity rough lumber. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

No. MC 124554 (sub-No. 5) (Notice of Filing Petition for Territorial Expansion), filed September 7, 1973. Petitioner: LANG CARTAGE CORP., 338 South 17th Street, Milwaukee, Wis. 53233. Petitioner's representative: Richard C. Alexander, 710 North Plankinton Ave., Milwaukee, Wis. 53203. Petitioner presently holds a motor *contract carrier* permit in No. MC 124554 (sub-No. 5) issued August 5, 1964, authorizing transportation, over irregular routes, of *general commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, from Milwaukee, Wis., to dealers of Stanley Home Products, Inc., located at points in Door, Oconto, Shawano, Brown, Dodge, Racine, Outagamie, Winnegago, Manitowoc, Calumet, Waukesha, Kawaunee, Fond du Lac, Sheboygan, Washington, Ozaukee, Milwaukee, Waupaca, Kenosha, Jefferson, Walworth, Rock, Marquette, Waushara, Portage, Columbia, Green Lake, Menomonie, Marathon, and Langlade Counties, Wis., with no transportation for compensation on return except as otherwise authorized, restricted to a transportation service to be performed, under a continuing contract, or contracts, with Stanley Home Products, Inc., of Westfield, Mass. By the instant petition, petitioner seeks to modify its territorial description to include Dane, Green and Sauk Counties, Wis., as destinations points. Any interested person or persons desiring to participate may file an original and six copies of his written representations, views, or arguments in support of or against the petition within 30 days from the date of publication in the FEDERAL REGISTER.

### APPLICATIONS UNDER SECTIONS 5 AND 210a(b)

The following applications are governed by the Interstate Commerce Commission's special rules governing notice of filing of applications by motor carriers of property or passengers under sections 5(a) and 210a(b) of the Interstate Commerce Act and certain other proceedings with respect thereto (49 CFR 1.240).

### MOTOR CARRIERS OF PROPERTY

No. MC–F–11986. Authority sought for purchase by LIGON SPECIALIZED HAULER, INC., P.O. Box L, Madisonville, Ky. 42431, of a portion of the operating rights of WEBB TRANSFER LINE, INC., JOHN C. RYAN, Trustee, 403 West Main St., Frankfort, Ky. 40601, and for acquisition by HERBERT ARNOLD LIGON, JR., also of Madisonville, Ky. 42431, of control of such rights through the purchase. Applicants' attorneys: Robert M. Pearce, P.O. Box E, Bowling Green, Ky. 42101, and Robert H. Kinker, P.O. Box 464, Frankfort, Ky. 40601. Operating rights sought to be transferred: *Household goods* as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, as a common carrier, over irregular routes, between points in Shelby County, Ky., on the one hand, and, on the other, points in Kentucky, Illinois, Indiana, Ohio, West Virginia, Virginia, Tennessee, and Georgia, traversing Maryland for operating convenience only; *commodities*, which because of size or weight require the use of special equipment, between Middletown, Ohio, on the one hand, and, on the other, Fort Knox, Ky., Fort Benjamin Harrison, Ind., and sites of Civilian Conservation Corps Camps in Indiana and Kentucky; livestock, from Shelbyville, Ky., to Cincinnati, Ohio, service is authorized from points in Shelby County, Ky., restricted to pick-up only; emigrant movables, as defined in *Herb Malchow Extension of Operations-Special Commodities*, 47 M.C.C. 299, between points in Shelby County, Ky., on the one hand, and, on the other, points in Kentucky, Illinois, Indiana, Ohio, West Virginia, Virginia, Tennessee, and Georgia, traversing Maryland for operating convenience only; *building materials and supplies* (except commodities in bulk), from the plantsite of Tech-Panel Corp. at or near Springfield, Ky., to points in the United States (except Alaska and Hawaii); *hardboard*, from New Orleans, La., and Wilmington, N.C., to the plantsite of Tech-Panel Corporation at or near Springfield, Ky., with restriction. Vendee is authorized to operate as a *common carrier* in all of the States in the United States (except Alaska and Hawaii). Application has been filed for temporary authority under section 210a(b).

No. MC–F–11987. Authority sought for purchase by OLIVER TRUCKING COMPANY, INC., P.O. Box 53 (Lexington Road), Winchester, Ky. 40391, of a portion of the operating rights of WEBB TRANSFER LINE, INC., JOHN C. RYAN, Trustee, 403 West Main St., Frankfort, Ky. 40601, and for acquisition by RALPH OLIVER, also of Winchester, Ky. 40391, of control of such rights through the purchase. Applicants' attorneys: Louis J. Amato, P.O. Box 53, Winchester, Ky. 40391, and Robert H. Kinker, P.O. Box 464, Frankfort, Ky. 40601. Operating rights sought to be transferred: *Homogenized, reconstituted, or reconstructed tobacco*, as a *common carrier* over irregular routes, from Spottswood, N.J., and Ancram, N.Y., to Louisville, and Lexington, Ky., between Louisville and Lexington, Ky., on the one hand, and, on the other, Danville and Richmond, Va., and Greensboro, Durham, and Reidsville, N.C.; *plywood*, from the plantsite of General Plywood Corp., at New Albany, Ind., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Kentucky, Louisiana, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee (except Nashville and points in its commercial zone as defined by the Commission), Virginia, Vermont, West Virginia, and the District of Columbia, with restriction. Vendee is authorized to operate as a *common carrier* in Kentucky, Pennsylvania, West Virginia, Tennessee, North Carolina, Georgia, Alabama, Mississippi, Illinois, Indiana, Michigan, Missouri, Ohio, South Carolina, Virginia, Wisconsin, Arkansas, Delaware, Florida, Iowa, Louisiana, Maryland, Minnesota, New Jersey, New York, Connecticut, Maine, Massachusetts, New Hampshire, Oklahoma, Rhode Island, Texas, Vermont, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11988. Authority sought for purchase by O'NAN TRANSPORTATION COMPANY, INCORPORATED, P.O. Box 308, Carrollton, Ky. 41008, of a portion of the operating rights of WEBB TRANSFER LINE, INC., JOHN C. RYAN, Trustee, 403 West Main St., Frankfort, Ky. 40601, and for acquisition by ROBERT O'NAN, also of Carrollton, Ky. 41008, of control of such rights through the purchase. Applicants' attorney: Robert M. Pearce, P.O. Box E, Bowling Green, Ky. 42101. Operating rights sought to be transferred: *Such materials, supplies, and equipment* as are necessary to the maintenance and operation of Civilian Conservation Corps camps, as a *common carrier* over regular routes, between Fort Benjamin Harrison, Ind., and Fort Knox, Ky., between Jeffersonville, Ind., and Fort Knox, Ky., service is not authorized to or from intermediate points, with restriction; *materials, supplies, and equipment*, used in the operation and maintenance of Civilian Conservation Corps camps, over irregular routes between Fort Benjamin Harrison, Ind., and Civilian Conservation Corps camps in Kentucky; *general commodities*, except commodities which because of size or weight require the use of special equipment, between Middletown, Ohio, on the one hand, and, on the other, Fort Knox, Ky., Fort Benjamin Harrison, Ind., and sites of Civilian Conservation Corps camps in Indana and Kentucky. Vendee is authorized to operate as a common carrier in Kentucky, Indiana, Ohio, and Tennessee. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11989. Authority sought for purchase by CECIL O'NAN, doing business as O'NAN TRANSFER CO., Defoe, Ky. 40017, of a portion of the operating rights of WEBB TRANSFER LINE, INC., JOHN C. RYAN, Trustee, 403 West Main Street, Frankfort, Ky. 40601, and for acquisition by CECIL O'NAN, also of Defoe, Ky. 40017, of control of such rights through the purchase. Applicants' attorney: Robert M. Pearce, P.O. Box E, Bowling Green, Ky. 42101. Operating rights sought to be transferred: *Redried tobacco*, in containers other than hogsheads, as a *common carrier* over irregular routes, between points in Kentucky, Florida, Indiana, Ohio, Tennessee, West Virginia, and Missouri, on the one hand, and, on the other, points in Georgia, North Carolina, South Carolina, and Virginia; *empty tobacco containers*, knocked down or assembled, and *tobacco handling and testing equipment*, between points in Kentucky, Florida, Indiana, Ohio, Tennessee, West Virginia, Missouri, Georgia, North Carolina, South Carolina, and Virginia except between Lake City and Live Oak, Fla., on the one hand, and, on the other, points in North Carolina and Virginia; *general commodities*, with certain exceptions, as a *contract carrier* over irregular routes, from U.S. Government installations in Alabama, Arkansas, Delaware, Georgia, Indiana, Kentucky, Maryland, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, Florida and the District of Columbia, from points in these States with certain exceptions from U.S. Government installations and holding agencies for U.S. Government property in Arizona, California, Colorado, Connecticut, Delaware, Florida, Idaho, Iowa, Kansas, Louisiana, Maine, Massachusetts, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Dakota, Oklahoma, Oregon, Rhode Island, South Dakota, Texas, Utah, Vermont, Washington, Wisconsin, and Wyoming, to points in Kentucky, with restrictions. Vendee holds no authority from this Commission. However, he is affiliated with CECIL O'NAN, doing business as TRI-STATE EXPRESS, Defoe, Ky. 40017 (MC–14624), which is authorized to operate as a *common carrier* in Indiana, Kentucky, and Ohio. Application has been filed for temporary authority under section 210a(b).

No. MC–F–11990. Authority sought for control by LIGON SPECIALIZED HAULER, INC., Highway 85 East, P.O. Drawer L, Madison, Ky. 42431, of LUMBER TRANSPORT, INC., P.O. Box 6181 South Station, Fort Smith, Ark. 72901, and for acquisition by HERBERT A. LIGON, JR., also of Madisonville, Ky. 42431, of control of LUMBER TRANSPORT, INC., through the acquisition by LIGON SPECIALIZED HAULER, INC. Applicants' attorney: Ronald E. Butler, of Madisonville, Ky. 42431. Operating rights sought to be controlled: *Lumber and lumber mill products*, as a *common carrier* over irregular routes, from points in New Mexico to points in Oklahoma; *salvaged used pipe*, from certain specified points in Illinois, to points in Kansas, Oklahoma, New Mexico, Texas, Louisiana, and Arkansas; clay pipe, from the plantsites of United Clay Pipe Co., at or near Seminole, Okla., to points in Arkansas, Colorado, Kansas, Missouri, New Mexico, and Texas; *composition board*, from Miami, Okla., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Colorado, and New Mexico; *wood chips and wood waste*, from points in Texas, Louisiana, Arkansas, Missouri (except







V 38 186 SEP 26 73 XUM

Belle and Ellis Spur, near Bland), Kansas, Mississippi, and Tennessee, to Miami, Okla.; *clay products*, from points in Seminole County, Okla., to points in Alabama, Arizona, Illinois, Kentucky, Louisiana, Mississippi, Nebraska, Tennessee, Utah, and Wyoming; *charcoal* (except commodities in bulk), from Paris, Ark., to points in the United States (except Alaska, Arkansas, Hawaii, and Oklahoma). LIGON SPECIALIZED HAULER, INC., is authorized to operate as a *common carrier* in all of the States in the United States (except Alaska and Hawaii). Application has been filed for temporary authority under section 210a(b).

No. MC-F-11991. Authority sought for purchase by ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, Akron, Ohio 44309, of a portion of the operating rights of ENGLAND TRANSPORTATION COMPANY, INC., P.O. Box 47054, Dallas, Tex. 75247, and for acquisition by GALEN J. ROUSH, also of Akron, Ohio 44309, of control of such rights through the purchase. Applicants' attorneys and representative: William O. Turney, 2001 Massachusetts Avenue NW., Washington, D.C. 20036, Douglas W. Faris, P.O. Box 471, Akron, Ohio 44309, and Drew L. Carraway, 618 Perpetual Building, Washington, D.C. 20004. Operating rights sought to be purchased: *General commodities*, with certain exceptions, as a *common carrier* over irregular routes, between New Orleans, La., and points within 10 miles of the corporate limits of New Orleans, on the one hand, and, on the other, to certain specified points in Louisiana. Vendee is authorized to operate as a *common carrier* in Ohio, Texas, Oklahoma, Connecticut, Michigan, Missouri, Indiana, Massachusetts, Pennsylvania, Kansas, Illinois, Kentucky, Rhode Island, Alabama, Georgia, North Carolina, Tennessee, South Carolina, New Jersey, New York, Virginia, Delaware, Maryland, West Virginia, Wisconsin, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-11992. Authority sought for purchase by YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Shawnee Mission, Kans. 66207, of the operating rights of SHANE TRUCK LINE, INC., P.O. Box 267, Clovis, Calif. 93612, and for acquisition by GEORGE E. POWELL, JR., 1040 West 57th Street, Kansas City, Mo. 64113, of control of such rights through the purchase. Applicants' attorney: Allan C. Zuckerman, 39 South La Salle Street, Chicago, Ill. 60603. Operating rights sought to be transferred: Under a certificate of registration, in Docket No. MC-120859 (Sub-No. 1), covering the transportation of general commodities, as a common carrier, in interstate commerce, within the State of California. Vendee is authorized to operate as a *common carrier* in Illinois, Kansas, Oklahoma, Texas, Missouri, Indiana, Kentucky, Michigan, Ohio, Nebraska, Georgia, Arizona, New Mexico, Minnesota, South Carolina, Colorado, California, Tennessee, Wyoming, South Dakota, Utah, Pennsylvania, Maryland, Virginia, Alabama, Delaware, New Jersey, New York, and Massachusetts. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC-112713 (Sub-No. 155), is a directly related matter.

TRANSFER APPLICATION TO BE ASSIGNED FOR ORAL HEARING

No. MC-FC-35454. (Republication.) Authority sought by lessee, MIDDLE & WESTERN FARMS COOPERATIVE ASSOCIATION, 513 Waverly Court, Deerfield, Ill. 60015, to lease the operating rights of lessor, B. J. McADAMS, Inc., Route 6, Box 15, North Little Rock, Ark. 72118. Applicants' representative: L. C. Cypert, Route 6, Box 15, North Little Rock, Ark. 72118. Operating rights in certificates Nos. MC-134922, MC-134922 (sub-No. 1), MC-134922 (sub-No. 6), MC-134922 (sub-No. 10), MC-134922 (sub-No. 11), MC-134922 (sub-No. 13), MC-134922 (sub-No. 19), and MC-134922 (sub-No. 22) sought to be leased: *Edible meats, canned goods, gelatins, tails, vegetable oils, and vegetable oil shortenings* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Eau Claire, Wis., Worthington, Minn., and points in the Minneapolis-St. Paul, Minn., commercial zone as defined by the Commission, including Minneapolis and St. Paul, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia; *dairy products* (except in bulk), in vehicles equipped with mechanical refrigeration, from points in the Minneapolis-St. Paul, Minn., commercial zone as defined by the Commission, including Minneapolis and St. Paul, and from St. Cloud, Worthington, St. Charles, Albert Bea, Fairbault, and Twin Lakes, Minn., and Portage, Marshfield, and Monroe, Wis., to points in the above-named states; *foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from Fairmont, Minn., to points in the above-named states; *frozen foods*, from the facilities of Kitchens of Sara Lee, Inc., located at or near Deerfield and Chicago, Ill., to points in Pennsylvania, New York, New Jersey, Delaware, Maryland, Virginia, West Virginia, Connecticut, and the District of Columbia; *meats, meat products and meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), from the plantsite of Armour & Co., at Huron, S. Dak., to points in Georgia, Florida, North Carolina, South Carolina, and Tennessee; *nonfrozen milk food products*, from Mitchell, S. Dak., to points in New Mexico, Arizona, Colorado, Nevada, California, Utah, Washington, Oregon, Idaho, and Montana; *charcoal briquettes*, in bags, from Cotter, Ark., to points in Oklahoma, Tennessee (except Memphis, Tenn., and points in its commercial zone), Illinois (except East St. Louis, Ill., and points in its commercial zone), Missouri (except Kansas City, Springfield, and St. Louis, Mo., and points in their respective commercial zones), Kansas, Nebraska, Iowa, Colorado, Arizona, Mississippi, Louisiana, Texas, and California; *yarn*, from Rome, Ga., to points in Texas; *frozen foods*, from the facilities of Kitchens of Sara Lee, Inc., at New Hampton, Iowa, to points in Washington, Oregon, Wyoming, Utah, Montana, Idaho, Nevada, North Carolina, South Carolina, Tennessee, Kentucky, Louisiana, Mississippi, Georgia, Florida, and Alabama; and *frozen bakery products and frozen milk and cream substitutes*, from Appleton, Wis., to points in Oklahoma, Texas, and Arkansas.

Pursuant to an order of the Commission, Division 3, dated June 7, 1973, the above-described lease application under section 212(b) of the Interstate Commerce Act is to be assigned for hearing at a time and place to be fixed, for the purpose of determining, among other things, whether lessee under section 1132.3 of the rules and regulations governing transfers of operating rights is fit to acquire the rights proposed for lease. Interested parties have 30 days from the date of this republication in which to file petitions for leave to intervene. Such petitions should state the reason or reasons for the sought intervention, the place where the petitioner wishes the hearing to be held, the number of witnesses to be presented, and the estimated time required for presentation of its evidence. The Bureau of Enforcement has been directed to participate as a party in the proceeding for the purpose of introducing evidence and otherwise developing the record.

NOTE.—The purposes of this republication are to describe with particularity the scope of operating rights involved in the transaction and to indicate that the decision to assign the proceeding for hearing was made by Division 3. The prior publication was made in the FEDERAL REGISTER issue of June 20, 1973.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-20515 Filed 9-25-73;8:45 am]

[Notice 357]

## MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR, Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before October 16, 1973. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.





No. MC-FC-74452. By order of September 17, 1973, the Motor Carrier Board on reconsideration approved the transfer to Metropolitan Van Lines, Inc., New London, Conn., of the operating rights in certificates Nos. MC-133272 and MC-133272 (sub-No. 1) issued July 17, 1970, and September 4, 1969, respectively, to Whaling City Trucking, Inc., New London, Conn., authorizing the transportation of used household goods, from New London and Bridgeport, Conn., to points in Connecticut and Massachusetts, restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized and restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, or decontainerization of such traffic; new furniture, from Providence, R.I., to points in Massachusetts and those in that part of Connecticut on and east of a line beginning at New London and extending along Connecticut Highway 32 to Norwich, thence along Connecticut Highway 169 to the Connecticut-Massachusetts State line; household goods, as defined by the Commission, between points in Rhode Island, on the one hand, and, on the other, points in Massachusetts and Connecticut, and household goods, between points in Rhode Island, on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, New York, New Jersey, and Pennsylvania. John E. Fay, 630 Oakwood Avenue, West Hartford, Conn. 06110, attorney for applicants.

No. MC-FC-74658. By order of September 19, 1973, the Motor Carrier Board approved the transfer to R. & S. Transfer, Inc., Forest, Ohio, of the operating rights in Permit No. MC-134353 (sub-No. 2) issued July 14, 1972, to Pfeifer Transfer Co., a corporation, Upper Sandusky, Ohio, authorizing the transportation of fabricated structural steel and iron, from the plant site of Carter Steel and Fabricating Company at Bellefontaine, Ohio, to points in Ohio, Indiana, Illinois, Kentucky, West Virginia, Virginia, Pennsylvania, Tennessee, Maryland, New York, Wisconsin, and Michigan, and from points in that part of Michigan south of Michigan Highway 21 and from points in each of the above-indicated states to the plantsite of Carter Steel and Fabricating Co., Bellefontaine, Ohio. Edward R. Kirk, Suite 1660, 88 East Broad Street, Columbus, Ohio 43215, attorney for applicants.

No. MC-FC-74692. By order of September 18, 1973, Motor Carrier Board approved the transfer to Silver Fleet Motor Express, Inc., Los Angeles, Calif., of the certificate of registration in No. MC-98890 (sub-No. 3), issued April 14, 1964, to Culy Transportation Co., Inc., doing business as Cal-Canadian Motor Express, Los Angeles, Calif., authorizing transportation corresponding in scope to common carrier certificate No. 62224, dated June 30, 1961, issued by the Public Utilities Commission of California. Donald Murchison, Esq., 9454 Wilshire Blvd., Beverly Hills, Calif. 90212, attorney for applicants.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-20519 Filed 9-25-73;8:45 am]

[Notice 127]

## MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 18, 1973.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 35807 (sub-No. 41 TA), filed August 13, 1973. Applicant: WELLS FARGO ARMORED SERVICE CORPORATION, P.O. Box 4313 (Box Zip 30302), 210 Baker Street NW., Atlanta, Ga. 30313. Applicant's representative: Melvin E. Ballet (same address as above). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *United States bonds*, between points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper: General Services Administration, Federal Supply Service, Building 4, Crystal Mall, Washington, D.C. 20406. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 50307 (sub-No. 65 TA), filed September 5, 1973. Applicant: INTERSTATE DRESS CARRIERS, INC., 247 West 35th Street, New York, N.Y. 10001. Applicant's representative: Arthur Liberstein, One World Trade Center, New York, N.Y. 10048. Authority sought to operate at a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel and materials, supplies, and equipment* used in the manufacture thereof, between Kutztown, Pa., on the one hand, and, on the other, Phillipsburg and Alpha, N.J., for 150 days. Supporting shipper: Katos Sportswear, Inc., 240 Broad Street, Kutztown, Pa. Send protests to: Paul W. Assenza, Interstate Commerce Commission, Bureau of Operations, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 67234 (sub-No. 15 TA), filed September 10, 1973. Applicant: UNITED VAN LINES, INC., No. 1 United Drive, Fenton, Mo. 63026. Applicant's representative: John H. Bradford (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commercial and institutional fixtures and laboratory equipment*, from Albuquerque, N. Mex., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Mississippi, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia, for 180 days. Supporting shipper: Envirco, Subsidiary of Bio Dynamics, Inc., 67-1 Jefferson NE. P.O. Box 6468, Albuquerque, N. Mex. 87107. Send protests to: District Supervisor J. P. Werthmann, Bureau of Operations, Interstate Commerce Commission, Room 1465, 210 North 12th Street, St. Louis, Mo. 63101.

No. MC 99004 (sub-No. 2 TA), filed September 5, 1973. Applicant: WILLIAM E. WATSON AND VIVIANNE WATSON, doing business as BILL WATSON FREIGHT LINE, P.O. Box 1558, Estes Park, Colo. 80517. Applicant's representative: John P. Thompson, 450 Capitol Life Center, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except commodities in bulk, household goods as defined by the Commission, classes A and B explosives and commodities requiring special equipment), between Denver, Colo., and its commercial zone and Estes Park, Colo., and its commercial zone over Interstate Highway 25, from Denver, Colo., to junction Colorado Highway 66, thence over Colorado Highway 66 to junction Colorado Highway 36, thence over Colorado Highway 36 to Estes Park and return over same route; serving as intermediate points, those points located on Colorado Highway 36 commencing at Lyons, Colo., and ending



V 38 186 SEP 26 73 XUM

at Estes Park, Colo., and serving as off-route points Big Elk Meadows and those points located on Colorado Highway 7, for 180 days. Supporting shippers: There are approximately 11 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor Roger L. Buchanan, Interstate Commerce Commission, Bureau of Operations, 2022 Federal Building, Denver, Colo. 80202.

No. MC 106644 (sub-No. 158 TA), filed August 14, 1973. Applicant: SUPERIOR TRUCKING COMPANY, INC., 2770 Peyton Road NW., P.O. Box 916, Atlanta, Ga. 30318. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 West Peachtree Street NW., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron or plastic pipe, pipe fittings, watermain fittings, watermeter boxes, valve boxes, manhole covers, frames, including parts and accessories* to all the above, from points in Smith County, Tex., to points in Oregon and Washington, for 180 days. Supporting shipper: Western Foundry, Division The Mead Co., Box 899, Tyler, Tex. 75701. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1252 West Peachtree Street NW., Room 309, Atlanta, Ga. 30309.

No. MC 107295 (sub-No. 668 TA), filed September 7, 1973. Applicant: PRE-FAB TRANSIT CO., 100 South Main Street, P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Bruce J. Kinnee (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Junction boxes, wireways, fabricated metal panels, and component parts thereof*, from the facilities of B-Line Systems, Inc., located at Troy, Ill., to Jacksonville, Fla., for 180 days. Supporting shipper: Thomas R. Gold, President, B-Line Systems, Inc., 509 West Monroe Street, Highland, Ill. 62249. Send protests to: Harold C. Joliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Leland Office Building, 527 East Capitol Avenue, Room 414, Springfield, Ill. 62701.

No. MC 107496 (sub-No. 908 TA), filed August 28, 1973. Applicant: RUAN TRANSPORT CORP., Third and Keosauqua Way, P.O. Box 855 (Box ZIP 50304), Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Resins*, in bulk, in tank vehicles, from Virginia, Minn., to points in Wisconsin, for 150 days. Supporting shipper: Minnesota Resins, Inc., Star Route, Virginia, Minn. 55792. Send protests to: Herbert W. Allen, transportation specialist, Interstate Commerce Commission, Bureau of Operations, 875 Federal Building, Des Moines, Iowa 50309.

No. MC 112822 (sub-No. 288 TA), filed August 30, 1973. Applicant: BRAY LINES INC., P.O. Box 1191, 1401 N. Little Street, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses*, from Wagner, S. Dak., to points in Arizona, California, Colorado, Iowa, Kansas, Missouri, Nevada, Oregon, Utah, and Washington, for 180 days. Supporting shipper: Samuel Rubenstein, GTM, Yankton Sioux Industries, 301 North Fifth Street, Minneapolis, Minn. 55403. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240—Old P.O. Bldg., 215 Northwest Third, Oklahoma City, Okla. 73102.

No. MC 119917 (sub-No. 37 TA), filed August 7, 1973. Applicant: DUDLEY TRUCKING COMPANY, INC., 717 Memorial Drive SE., Atlanta, Ga. 30316. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs*, from the distribution facility of Heinz U.S.A. at Greenville, S.C., to points in Alabama, Georgia, Mississippi, and the New Orleans, La. commercial zone, restricted to traffic originating at and destined to the points and territories shown, for 180 days. Supporting shipper: Heinz U.S.A., division of H. J. Heinz Co., P.O. Box 57, Pittsburgh, Pa. 15230. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1252 West Peachtree Street, NW., room 309, Atlanta, Ga. 30309.

No. MC 124839 (sub-No. 22 TA), filed September 10, 1973. Applicant: BUILDERS TRANSPORT, INC., 4800 Augusta Road, P.O. Box 7057, Savannah, Ga. 31408. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and materials and supplies* necessary for the installation thereof, from the plantsite of Johns-Manville Products Corp., in Butner, N.C., to points in South Carolina, Georgia, Alabama, Florida, Tennessee, Virginia, West Virginia, Maryland, the District of Columbia, and Kentucky, for 180 days. Supporting shipper: Johns-Manville Corp., Greenwood Plaza, Denver, Colo. 80217. Send protests to: District Supervisor, G. H. Fauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 129080 (sub-No. 4 TA), filed September 7, 1973. Applicant: CHARLES CORBISHLEY, doing business as QUICKWAY, 24 West Airmount Road, Mahwah, N.J. 07430, and Mail: P.O. Box 602, Glen Rock, N.J. 07452. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dresses on hangers and such commodities* as are dealt in or used by chain grocery or department stores, from Fairfield, N.J., to points in Albany, Clinton, Broome, Chemung, Cortland, Dutchess, Onelda, Orange, and Rockland Counties, N.Y.; Fairfield, Hartford, and New Haven Counties, Conn.; Chester and Northumberland Counties, Pa.; and Chittenden County, Vt.; and (2) *surplus and damaged merchandise*, from the above-named destination points, to Fairfield, N.J., for 180 days. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts with Grand Union Co., E. Paterson, N.J. Supporting shipper: The Grand Union Co., 640 Winters Avenue, Paramus, N.J. 07652. Send protests to: District Supervisor Joel Morrows, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Newark, N.J. 07102.

No. MC 12970 (sub-No. 13 TA), filed September 6, 1973. Applicant: GAS INC., 95 East Merrimack Street, Lowell, Mass. 01853. Applicant's representative: Herbert A. Dubin, 1819 H Street NW., Washington, D.C. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied natural gas*, from Philadelphia, Pa., to Milford, Conn., for 180 days. Supporting shipper: Southern Connecticut Gas Co., 880 Broad Street, Bridgeport, Conn. Send protests to: Darrell W. Hammons, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 150 Causeway Street, Boston, Mass. 02114.

No. MC 133119 (sub-No. 27 TA), filed September 10, 1973. Applicant: HEYL TRUCK LINES, INC., 235 Mill Street, P.O. Box 206, Akron, Iowa 51001. Applicant's representative: Roger Heyl (same address as above) and A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, and meat products*, from Sioux City, Iowa to points of entry located on the international boundary line between the United States and Canada located in the State of New York, for 180 days. Supporting shipper: Flavorland Industries, Inc., 1911 Cunningham Drive, Jerry DeLoss, Traffic Manager, Sioux City, Iowa. Send protests to: Carroll Russell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 711 Federal Office Building, Omaha, Nebr. 68102.

No. MC 134838 (sub-No. 4 TA), filed August 14, 1973. Applicant: SOUTHEASTERN TRANSFER & STORAGE CO., INC., 2561 Plant Atkinson Road NW., P.O. Box 2 Bolton Station, Smyrna, Ga. 30080. Applicant's representative: Walter S. Wallace (Same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pre-cut buildings, component parts, and equipment and materials* incidental to the





erection and completion of such buildings, from Atlanta, Ga., to points in Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia, for 180 days. Supporting shipper: Lindal Cedar Homes, Inc., 22B5—6640 Akers Mills Road, Atlanta, Ga. 30339. Send protests to: William L. Scroggs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 309, Atlanta, Ga. 30309.

No. MC 135276 (sub-No. 5 TA), filed September 7, 1973. Applicant: GENE ROMSBURG ENTERPRISES, INC., South Walter Street, Frederick, Md. 21701. Applicant's representative: Francis J. Ortman, 1100 17th Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Stone*, in bulk, from Halltown, W. Va., to Frederick, Md., for 180 days. Supporting shipper: M. J. Grove Lime Co., Division of Flintkote Co., P.O. Box 665, Frederick, Md. 21701. Send protests to: Robert D. Caldwell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 12th Street & Constitution Avenue NW., Washington, D.C. 20423.

No. MC 135797 (sub-No. 12 TA), filed August 14, 1973. Applicant: J. B. HUNT TRANSPORT, INC., 833 Warner Street SW., Atlanta, Ga. 30310. Applicant's representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, Ga. 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed, feed supplements and additives*, from the plantsite and warehouse facilities of Rachelle Laboratories, Inc., at Long Beach, Calif., to points in Arkansas (Springdale only), Colorado (on and east of U.S. Highway 85), Delaware (Shelbyville only), Georgia (Canton only), Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin, for 180 days. Supporting shipper: Rachelle Laboratories, Inc., subsidiary of International Rectifier Corp., 700 Henry Ford Avenue, P.O. Box 2029, Long Beach, Calif. 90801. Send protests to: William L. Scroggs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 309, Atlanta, Ga. 30309.

No. MC 138415 (sub-No. 6 TA), filed September 7, 1973. Applicant: TRAILER EXPRESS, INC., Box 321, Topeka, Ind. 46571. Applicant's representative: Michael M. Yoder, 115 South Detroit, LaGrange, Ind. 46761. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Mini-motor homes and camping trailers*, from the plantsite of Rockwood, Inc., Topeka, Ind., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin, under a continuing contract or contracts with Rockwood, Inc., for 180 days. Supporting shipper: Rockwood, Inc., Topeka, Ind. 46571. Send protests to: District Supervisor J. H. Gray, Bureau of Operations, Interstate Commerce Commission, 345 West Wayne Street, Room 204, Ft. Wayne, Ind. 46802.

No. MC 138643 (sub-No. 2 TA), filed September 10, 1973. Applicant: MAKOVSKY BROTHERS, INC., Spring Mill Road, Whitehall, Pa. 18052. Applicant's representative: James W. Patterson, 2107 The Fidelity Bldg., Philadelphia, Pa. 19109. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement clinkers*, in bulk, in dump vehicles, from Greenport, N.Y., to the plant of Universal Atlas Cement Division of U.S. Steel Corp. at or near Northampton, Pa., for 180 days. Supporting shipper: J. T. Curtis, Jr., manager, Non-Ferrous Traffic and Transportation, United States Steel Corp., 600 Grant Street, Pittsburgh, Pa. 15230. Send protests to: F. W. Doyle, District Supervisor, Interstate Commerce Commission, Bureau of Operations, William J. Green, Jr., Federal Building, 600 Arch Street, room 3238, Philadelphia, Pa. 19106.

No. MC 139062 TA, filed September 5, 1973. Applicant: PHILLIP D. BLOCH, P.O. Box 614, Missoula, Mont. 59801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building stone*, from points in Fergus, Petroleum, Golden Valley, and Musselshell Counties, Mont., to points in Idaho, Washington, Oregon, Utah, Nevada, California, Arizona, New Mexico, Colorado, Wyoming, North Dakota, South Dakota, Minnesota, Wisconsin, and Montana, for 180 days. Supporting shipper: Hammercraft Stone & Masonry, 2321 Lewis Avenue, Billings, Mont. 59102. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, room 222, U.S. Post Office Building, Billings, Mont. 59101.

No. MC 139063 TA, filed September 6, 1973. Applicant: TILLMAN SYSTEMS, INC., 666 Northwest 20th Street, Miami, Fla. 33142. Applicant's representative: Richard B. Austin, 8675 Northwest 53d Street, Suite 123, Miami, Fla. 33166. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers or containers*, with or without wheels, loaded or empty, having prior or subsequent movement by water, between points in Dade, Broward, and Palm Beach Counties, Fla., for 180 days. Supporting shippers: (1) Canadian Gulf Line of Florida, Inc., P.O. Box 4301, Miami, Fla. 33101, and (2) Kirk Line, 154 Northeast 9th Street, Miami, Fla. 33132. Send protests to: District Supervisor Joseph B. Teichert, Interstate Commerce Commission, Bureau of Operations, 5720 Southwest 17th Street, Room 105, Miami, Fla. 33155.

No. MC 139065 TA filed September 10, 1973. Applicant: DON LEWIS, doing business as D & L LUMBER CO., P.O. Box 592, Buckhannon, W. Va. 26201. Applicant's representative: David R. Rexroad, 41 West Main Street, Buckhannon, W. Va. 26201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood fencing materials, wooden post, rails, and sawed posts and boards*, from points in Unionville, Pa., and Barbour, Braxton, Cabell, Harrison, Lewis, Randolph and Webster Counties, W. Va., to Winchester, Charlottesville, Bassett, and Roanoke, and points in Floyd, Henry, Franklin, Patrick, Pittsylvania, Roanoke, Albemarle, Frederick, and Clarke Counties, Va.; Baltimore and Cumberland, and points in Garrett, Allegany, Washington, Howard, Baltimore, Anne Arundel, Prince Georges, and Prince William Counties, Md.; Hartford and Waterbury, and points in New Haven, Litchfield, and Hartford Counties, Conn.; Dover and Wilmington, and points in New Castle, Kent, and Sussex Counties, Del.; New York, Newburgh, Mineola, Brentwood, Riverhead, Montauk, Bridgehampton (Long Island), and points in Suffolk, Nassau, Rockland, and Westchester Counties, N.Y.; Pittsburgh, Gibsonia, Philadelphia, Unionville, Coatesville, and points in Allegheny, Westmoreland, Washington, Greene, Fayette, Beaver, Chester, Lancaster, Delaware, Montgomery, and Bucks Counties, Pa.; Cleveland, Youngstown, Fowler, Akron, Middlefield, and Medina, and points in Cuyahoga, Lorain, Geauga, Summit, Medina, Trumbull, Orange, Mahoning, and Columbiana Counties, Ohio; Trenton, Paterson, Jersey City, West Milford, and points in Bergen, Burlington, Camden, Essex, Gloucester, Hudson, Hunterdon, Mercer, Middlesex, Morris, Passaic, Somerset, Sussex, Union, and Warren Counties, N.J.; Charlotte, Raleigh, Durham, Burlington, Lexington, and points in Alamance, Caswell, Chatham, Cumberland, Duplin, Durham, Wake, Johnston, Harnett, Orange, Franklin, Nash, Granville, Rockingham, Stokes, Randolph, Stanley, Cabarrus, Union, Gaston, Mecklenburg, Lincoln, and Rowan Counties, N.C., for 180 days. Supporting shipper: Maple Springs Farm, Unionville, Pa. 19375. Send protests to: H. R. White, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 3108 Federal Office Building, 500 Quarrier St., Charleston, W. Va. 25301.

No. MC 139066 TA, filed September 10, 1973. Applicant: VAN BUS DELIVERY COMPANY, doing business as UNITED VAN BUS DELIVERY, 2601 32d Avenue South, Minneapolis, Minn. 55406. Applicant's representative: Warren A. Goff, 2008 Clark Tower, Memphis, Tenn. 38137. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities*



V 38 I 186
SEP 26 73
XUM

as are dealt in by mail order houses and retail stores and in connection therewith, *such equipment, material, and supplies* as are used in the conduct of such business between points in Minnesota, Wisconsin, and Iowa, Fargo and Grand Forks, N. Dak. and Sioux Falls, S. Dak., for 180 days. (This is a nonradial authority.) Supporting shipper: Sears, Roebuck & Co., 5437 West 26th Street, Cicero, Ill. 60650. Send protests to: A. N. Spath; District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minn. 55401.

No. MC 139067 TA, filed September 6, 1973. Applicant: MADISON LINES, INC., P.O. Box 847, Madison, Nebr. 68748. Applicant's representative: Richard A. Peterson, Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses* (except hides and commodities in bulk, in tank vehicles), from the plantsite and storage facilities of Madison Foods, Inc., at or near Madison, Nebr., to points in the United States (except Nebraska, Alaska, and Hawaii). Supporting shipper. Donald A. Chute, Manager, Transportation and Distribution, Fresh Meats Division, Armour and Co., Greyhound Tower, Phoenix, Ariz. 85077. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 711 Federal Building, Omaha, Nebr. 68102.

No. MC 139061 TA, filed September 5, 1973. Applicant: B & V CARTAGE, INC., 4102 Elmhurst Drive, Toledo, Ohio 43612. Applicant's representative: Edward R. Kirk, Suite 1660, 88 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Toys, games, models, childrens' novelties, hobby kits, and hobby supplies*, from the warehouse of The Elmex Corp. at Cincinnati, Ohio, to points in Michigan and those in Indiana on and north of U.S. Highway 6, and (2) *return of rejected shipments*, from the destination area described in (1) above, to the warehouse of The Elmex Corp. at Cincinnati, Ohio, for 180 days. Supporting shipper: Elmex Corp., 9901 Princeton Road, Cincinnati, Ohio 45214. Send protests to: District Supervisor Keith D. Warner, Interstate Commerce Commission, Bureau of Operations, 313 Federal Office Building, 234 Summit Street, Toledo, Ohio 43604.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-20516 Filed 9-25-73;8:45 am]

[Notice 128]

## MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 19, 1973.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of assigned original and six copies.

A copy of the application is on file, and can be examined at the office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 106644 (sub-No. 159 TA), filed August 30, 1973. Applicant: SUPERIOR TRUCKING COMPANY, INC., 2770 Peyton Road NW., P.O. Box 916 (Box Zip 30301), Atlanta, Ga. 30321. Applicant's representative: W. Randall Tye, 1500 Candler Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Heating, cooling, humidifying, and dehumidifying machinery and equipment* along with *parts, attachments, and accessories*, for use in the installation and operation of the above named commodities, with the commodities and accessories having a combined weight in excess of 15,000 pounds, from the plantsite of Temperature Control, Inc., at or near Norcross, Ga., to the plantsite of Pepperidge Farms, Inc., at or near Richmond, Utah, for 180 days. Supporting shipper: Temperature Control, Inc., 2409 Warren Place, Norcross, Ga. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 111545 (sub-No. 189 TA), filed September 4, 1973. Applicant: HOME TRANSPORTATION COMPANY, INC., 1425 Franklin Road SE., P.O. Box 6426, Marietta, Ga. 30060. Applicant's representative: Gilbert T. Jones (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boat docks, ramps, materials, supplies, fixtures, and accessories* incidental to completion, erection and installation thereof, from Galesburg, Ill., to points in and east of Montana, Wyoming, Colorado, and New Mexico, for 180 days. Supporting shipper: Koppers Co., Inc., Pittsburgh, Pa. 15219. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 125162 (sub-No. 6 TA), filed September 11, 1973. Applicant: CROWN TRUCK LINE, INC., 3811 Broadway, Macon, Ga. 31206. Applicant's representative: Paul M. Daniell, Suite 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bricks, blocks, tile, and masonry products, and materials and supplies* used in the manufacture and installation thereof, between the plantsites and warehouse facilities of Certain-Teed Products Corp. near Lithonia, De Kalb County, Ga., and near Lake Park, Lowndes County, Ga., on the one hand, and, on the other, points in Alabama, Florida, North Carolina, South Carolina, and Tennessee, restricted to traffic originating at or destined to the plantsites and warehouse facilities of Certain-Teed Products Corp., for 180 days. Supporting shipper: Certain-Teed Products Corp. Shelter Materials Group, P.O. Box 860, Valley Forge, Pa. 19482. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 107515 (sub-No. 871 TA), filed August 24, 1973. Applicant: REFRIGERATED TRANSPORT CO., INC., 3901 Jonesboro Road SE., P.O. Box 308, Forest Park, Ga., 30050. Applicant's representative: Paul Daniell, Suite 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts and packinghouse products* (except commodities in bulk and hides), as described in section A of appendix I, to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Madison, Nebr., to points in Arkansas, Louisiana, Alabama, Mississippi, Tennessee, Kentucky, Indiana, Michigan, Ohio, Florida, Georgia, South Carolina, North Carolina, Virginia, West Virginia, Maryland, the District of Columbia, Delaware, Pennsylvania, New York, Vermont, Connecticut, Massachusetts, New Hampshire, and Maine, for 180 days. Supporting shipper: Armour and Co., Fresh Meats Division, Greyhound Tower, Phoenix, Ariz. 85077. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.





No. MC 107515 (sub-No. 872 TA), filed August 24, 1973. Applicant: REFRIGERATED TRANSPORT CO., INC., 3901 Jonesboro Road SE., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Paul Daniell, Suite 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods*, from Aspers, Pa.; Hamlin and Williamson, N.Y., to points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee, for 180 days. Supporting shipper: Duffy-Mott Co., Inc., 370 Lexington Avenue, New York, N.Y. 10071. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 107515 (sub-No. 873 TA), filed September 7, 1973. Applicant: REFRIGERATED TRANSPORT CO., INC., 3901 Jonesboro Road SE., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Paul Daniell, Suite 1600 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic carpet yarn*, from Rome and Aragon, Ga., to Louisa, Ky., for 180 days. Supporting shipper: Integrated Products, Inc., P.O. Box 1548, Rome, Ga. 30161. Send protests to: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 139064 TA, filed September 6, 1973. Applicant: BRADBERRY FARMS, INC., 192 East Main Street, Piggott, Ark. 72454. Applicant's representative: Lance L. Hanshaw, 1433 Donaghey Building, Little Rock, Ark. 72201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meal, feather meal, meat and bone meal, fish meal, urea, gluten products, soybean meal, rice and rice byproducts, and dried bakery waste, and products*, (1) from Memphis, Tenn.; Clarksdale, Miss.; and Evadale, Ark., to Peoria, Lincoln, Mendota, Rock Falls, Ipava, Pittsfield, Fairbury, Greenfield, Effingham, Springfield, Beardstown, Danville, Monmouth, and Vandalia, Ill.; Ottumwa, West Branch, Clinton, Olin, and Iowa City, Iowa; New Paris, Plymouth, Indianapolis, and Napanee, Ind.; Jamesville and Madison, Wis.; and Dexter, Mo.; (2) from Gulfport, Pascagoula, Moss Point, Greenwood, Greenville, Clarksdale, Minter City, Jonestown, and Marks, Miss.; Osceola, Helena, West Memphis, Little Rock, Siloam Springs, Springdale and Nashville, Ark.; Kennett, Springfield, and Joplin, Mo.; Memphis, Tenn.; Empire and Cammeron, La.; and Decatur, Ill., to Montgomery, Ala.; Nashville, Ark.; Athens and Tifton, Ga.; Gibson City, Ill.; Decatur, Ind.; Belmond, Des Moines, and Muscatine, Iowa; Abilene and Hutchinson, Kans.; Portland, Mich.; Kansas City, Moberly, and Springfield, Mo.; Hastings, Nebr.; Monroe and Wilson, N.C.; Marion and Ravenna, Ohio; Orangeburg, S.C.; Chattanooga and Memphis, Tenn.; and Madison, Wis., and (3) from Chicago, Ill., to points in Arkansas, for 180 days. Supporting shippers: Wilbur-Ellis Co., 47th Street at Second Avenue, New York, N.Y. 10017; I. H. French & Co., P.O. Box 249, Champaign, Ill. 61820; and Central Soya, Fort Wayne, Ind. 46802. Send protests to: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 139068 TA, filed August 17, 1973. Applicant: ROADRUNNER TRANSPORTATION, INC., 1024 Topaz Lane, Villa Rica, Ga. 30180. Applicant's representative: Virgil H. Smith, 1587 Phoenix Boulevard, Suite 12, Atlanta, Ga. 30329. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electric aluminum cable, cable clamps or joints, circuit breakers or switches or parts, transformers and transformer parts, pulley blocks, capstans, winches, or windlasses, pole line construction material, and plastic products*, (A) from the plantsite of Western Power Products, Inc., at Portland, Oreg., to the plantsite of Western Power Products, Inc., at Villa Rica, Ga. and (B) from the plantsite of Western Power Products, Inc. at Villa Rica, Ga., to points in the United States on and east of U.S. Highway 85 including all points in the States of New Mexico, North Dakota, and South Dakota, for 180 days. Restriction: The authority granted herein will not apply on articles requiring heavy or specialized equipment. Supporting shipper: Western Power Products, Inc., Atlanta Division, P.O. Box 605, Villa Rica, Ga. 30180. Send Protests to: William L. Scroggs, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 309, 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-20517 Filed 9-25-73;8:45 am]

[Notice 129]

## MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 20, 1973.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR 1131), published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its atuhorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 730 (sub-No. 353 TA), filed September 10, 1973. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., 1417 Clay Street, P.O. Box 958, Oakland, Calif. 94612. Applicant's representative: R. N. Cooledge (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sulphuric acid*, in bulk, in tank vehicles, from points in Arizona, to points in California located on and south of Interstate Route 80, for 180 days. Supporting shipper: Allied Chemical Corp., P.O. Box 1139R District, Columbia Road and Park Avenue, Morristown, N.J. 07960. Send protests to: A. J. Rodriguez, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 3018 (sub-No. 28 TA), filed June 6, 1973. Applicant: McKEOWN TRANSPORTATION COMPANY, 10448 South Western Avenue, Chicago, Ill. 60643. Applicant's representative: Gregory J. Scheurich, 111 West Wahington Street, Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied hydrogen*, in shipper-owned containers, from McCook, Ill., to points in Alabama, Florida, and Texas, for 180 days. Supporting shipper: Ralph K. Brechter, Traffic Assistant, Union Carbide Corp., 270 Park Avenue, New York, N.Y. 10017. Send protests to: Robert Anderson, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 219 South Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 20841 (sub-No. 9 TA), filed September 12, 1973. Applicant: MARATHON FREIGHT LINES, INC., 2400 83d Street, North Bergen, N.J. 07047. Appli-



V 38 186 SEP 26 73 XUM

cant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are used by, or sold in, grocery, discount, department, drug stores, candy and tobacco jobbers (except commodities in bulk and furniture), between the plantsite of Atlantic Distribution Center, Inc., Jersey City, N.J., on the one hand, and, on the other, points in New York, N.Y.; Connecticut, New Jersey; Rockland, Orange, Westchester, Nassau, and Suffolk Counties, N.Y., for 180 days. Supporting shipper: Atlantic Distribution Center, Inc., 200 Industrial Drive, Jersey City, N.J. Send protests to: District Supervisor Robert E. Johnston, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Newark, N.J. 07102.

No. MC 29910 (sub-No. 133 TA), filed September 10, 1973. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, Ark. 72901. Applicant's representative: Gary D. Bronson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials, composition shingles, rolled roofing, roofing compounds, and accessories*, from the plantsite of the Elk Roofing Co., located at Stephens, Ark., to points in Alabama, Georgia, Illinois, Indiana, Kentucky, Louisiana, Mississippi, Missouri, Oklahoma, Tennessee, and Texas, for 180 days.

NOTE.—Applicant does intend to tack with MC 29910 and subs thereto. Supporting shipper: Elk Roofing Co., Stephens, Ark. 71764. Send protests to: District Supervisor William H. Land, Jr., Interstate Commerce Commission, Bureau of Operations, 2519 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 84444 (sub-No. 7 TA), September 10, 1973. Applicant: McCORMICK'S EXPRESS, Third and Winslow Streets, Camden, N.J. 08104. Applicant's representative: Alan Kahn, Two Penn Center Plaza, Suite 1920, Philadelphia, Pa. 19102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paperboard, wallboard, fire extinguishing materials, waste paper, licorice root, licorice mass, powdered licorice, syrup, and woodpulp* (except liquids in tank vehicles), from Camden, N.J., to points in Delaware, those in Maryland in and east of Frederick County, and those in Pennsylvania in and east of Bradford, Sullivan, Columbia, Montour, Northumberland, Dauphin, and York Counties, Pa.; and (2) *waste paper and such supplies and equipment* as are used by a licorice and paperboard manufacturer (except liquids in tank vehicles), from the destination points described above, to Camden, N.J., and (3) *paperboard, wallboard, fire extinguishing materials, waste paper, licorice root, licorice mass, powdered licorice, syrup, woodpulp, micronutrients, and supplies and equipment* used in the manufacture of licorice (except commodities in bulk, in tank vehicles), between Camden, N.J., on the one hand, and, on the other, points in Suffolk, Nassau, Orange, Westchester, and Putnam Counties, N.Y., and points in Fairfield County and Weston, Conn., for 90 days. Restriction: The operations authorized above are limited to a transportation service to be performed, under a continuing contract, or contracts, with MacAndrews & Forbes Co., Camden, N.J., and Kaiser Gypsum Co., Inc., Oakland, Calif.

NOTE.—This application has been filed for the purpose of adding shipper Kaiser Gypsum Co., Inc., of Oakland, Calif., to applicant's existing authority. Supporting shipper: Kaiser Gypsum Co., Inc., 300 Lakeside Drive, Oakland, Calif. 94606. Send protests to: Richard M. Regan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 428 East State Street, Room 204, Trenton, N.J. 08608.

No. MC 99780 (sub-No. 28 TA), filed Septmeber 5, 1973. Applicant: CHIPPER CARTAGE COMPANY, INC., 1327 Northeast Bond Street, Mailing: P.O. Box 1341 (Box Zip 61601), Peoria, Ill. 61603. Applicant's representative: John R. Zang (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Garment hangers, dry cleaners, and laundry supplies, fly swatters, springs and miscellaneous wire products*, from the plantsite of Laidlaw Corp. at Monticello, Wis., to points in Minnesota, Iowa, Illinois, Indiana, Ohio, Michigan, and Wisconsin and from the plantsite of Laidlaw Corp. at Peoria, Ill., to the plantsite of Laidlaw Corp. at Monticello, Wis., for 180 days. Supporting shipper: James G. Lester, Traffic Manager, Laidlaw Corp., 217 Industrial Street, Peoria, Ill. 61607. Send protests to: District Supervisor Richard K. Shullaw, Bureau of Operations, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1086, Chicago, Ill. 60604.

No. MC 100300 (sub-No. 9 TA), filed September 10, 1973. Applicant: H. B. NELSON AND SONS, INC., 2510 Broadway, P.O. Box 241, Alexandria, Minn. 56308. Applicant's representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising materials*, with *empties* on return, from La Crosse, Wis., to Grand Forks, N. Dak., for 180 days. Supporting shipper: Nodak Sales Co., 715 Lewis Boulevard, Grand Forks, N. Dak. 58201. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minn. 55401.

No. MC 108884 (sub-No. 26 TA), filed September 12, 1973. Applicant: ROGERS TRANSFER, INC., Route 46, P.O. Box 175, Great Meadows, N.J. 07838. Applicants' representative: Bert Collins, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen onion rings*, in mixed shipments with exempt commodities, from Boston, Mass., to New York, N.Y.; points in Nassau, Suffolk, Orange, Westchester, Rockland, and Broome Counties, N.Y.; points in Bergen, Essex, Hudson, Union, Morris, Warren, Passaic, Middlesex, Somerset, Monmouth, Ocean, Mercer, and Atlantic Counties, N.J.; and points in that part of Pennsylvania on and east of U.S. Highway 15; and *returned and damaged shipments* of the above-specified commodities, for 180 days. Supporting shipper: Boston Bonnie, Inc., Trilling Way, Boston, Mass. 02210. Send protests to: District Supervisor Joel Morrows, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Newark, N.J. 07102.

No. MC 110541 (sub-No. 10 TA), filed September 12, 1973. Applicant: MARK E. YODER, INC., 41 Parkway, Schuylkill Haven, Pa. 17972. Applicant's representative: Christian V. Graf, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum coke*, from the refinery of Getty Oil Co. at Delaware City, Del., to the plantsite of Pennsylvania Power & Light Co. at Holtwood, Lancaster County, Pa., for 90 days. Supporting shipper: Hecla Machinery & Equipment Co., R.D. #1, New Ringgold, Pa. 17960. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 309 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 112822 (sub-No. 290 TA), filed September 10, 1973. Applicant: BRAY LINES, INC., 1401 North Little Street, P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the plantsite and warehouse facilities of Kraft Foods at or near Springfield, Mo., to points in California, Colorado, and New Mexico, restricted to points named as origins and destined to points in named destinations, for 180 days. Supporting shipper: Kraft Foods Div. of Kraftco Corp., J. N. Boren, Regional T.M., 2340 Forest Lane, Garland, Tex. 75040. Send protests to: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, room 240—Old P.O. Building, 215 Northwest Third, Oklahoma City, Okla. 73102.

No. MC 114055 (sub-No. 4 TA), filed September 12, 1973. Applicant: RAY KOLNIK, doing business as RAY KOLNIK TRUCKING, Prairie View Road, Walworth, Wis. 53184. Applicant's representative: F. W. Liegois, 925 South Third Street, LaCrosse, Wis. 54601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and incidental advertising material* when shipped in connection with malt beverages, from LaCrosse and Sheboygan, Wis., to James P. Paulus Co., Skokie, Ill., for 180 days. Supporting shipper: James P. Paulus Co., 8230 Lincoln Avenue, Skokie, Ill. 60076 (J. P. Paulus, president). Send protests to: John E. Ryden, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street—room 807, Milwaukee, Wis. 53203.





No. MC 114492 (Sub-No. 13 TA), filed September 7, 1973. Applicant: TRANSPORT TRUCKING CO. OF TEXAS, 1400 Wheeler Avenue, Texico, N. Mex. 88135. Applicant's representative: Wilmer B. Hill, 805 McLachlen Bank Building, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passenger automobiles and trucks* (three-quarter or less), in secondary movements, in truckaway service, between points in Texas, on and west of U.S. Highway 83, on the one hand, and, on the other, points in Colorado, for 180 days. Restriction: Restricted against the transportation of used automobiles and used trucks (three-quarter ton or less), from Amarillo and Lubbock, Tex., to points in Colorado. Supporting shippers: There are approximately 10 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copie thereof which may be examined at the field office named below. Send protests to: William R. Murdoch, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1106 Federal Office Building, 517 Gold Avenue SW., Albuquerque, N. Mex. 87101.

No. MC 119340 (sub-No. 3 TA), filed September 11, 1973. Applicant: CENTRAL COAST TRUCK SERVICE, INC., P.O. Box A. D., Watsonville, Calif. 95076. Applicant's representative: Roland R. Schmidt (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and other commodities*, other than in bulk, manufactured and/or owned by Amstar Corporation, between points in California, Oregon, and Washington, for 180 days. Supporting shipper: Amstar Corp., 50 California St., San Francisco, Calif. 94111. Send protests to: District Supervisor Claud W. Reeves, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Ave., Box 36004, San Francisco, Calif. 94102.

No. MC 126276 (sub-No. 84 TA), filed September 11, 1973. Applicant: FAST MOTOR SERVICE, INC., 12855 Ponderosa Drive, Palos Heights, Ill. 60463. Applicant's representative: James C. Harman, 127 North Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic knives, forks and spoons*, from Federalsburg, Md., to Three Rivers, Mich., for 180 days. Supporting shipper: David G. Kelly, Continental Can Co., Inc., 150 South Wacker Dr., Chicago, Ill. Send protests to: Robert Anderson, transportation specialist, Interstate Commerce Commission, Bureau of Operations, 219 South Dearborn Street, room 1086, Chicago, Ill. 60604.

No. MC 134477 (sub-No. 40 TA), filed September 11, 1973. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, Minn. 55118. Applicant's representative: Thomas Fischbach (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potatoes and frozen potato products*, from Caribou and Presque Isle, Maine, to points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Missouri, Nebraska, Minnesota, New York, Ohio, Oklahoma, Pennsylvania, South Dakota, Texas, West Virginia, and Wisconsin, for 180 days. Supporting shipper: Potato Service, Inc., P.O. Box 809, Presque Isle, Maine 04769. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building and U.S. Court House, 110 South Fourth Street, Minneapolis, Minn. 55401.

No. MC 134599 (sub-No. 89 TA), filed September 5, 1973. Applicant: INTERSTATE CONTRACT CARRIER CORP., Mail: P.O. Box 748 (Box ZIP 84110) Office: 265 West 2700 South, Salt Lake City, Utah 84115. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Aquariums and aquarium accessories, household pet cages, supplies and equipment, and brine shrimp*, dried, (1) from points in Los Angeles County, Calif.; Menlo Park and Mountain View, Calif., to points in Colorado, Washington, Oregon, Arizona, New Mexico, Utah, Idaho, Wyoming, Montana, Texas, Oklahoma, Louisiana, Missouri, Kansas, Illinois, Minnesota, Wisconsin, and Iowa and (2) between points in Los Angeles County, Calif.; Menlo Park and Mountain View, Calif., on the one hand, and, on the other, East Paterson, Maywood, and Lodi, N.J., under continuing contract with Mattel, Inc., for 180 days. Supporting shipper: Mattel, Inc., 5150 Rosecrans Avenue, Hawthorne, Calif. 90250. Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5239 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 134631 (sub-No. 17 TA) (correction), filed August 15, 1973, published in the FEDERAL REGISTER issue of September 5, 1973, and republished as corrected this issue. Applicant: SCHULTZ TRANSIT, INC., 323 East Bridge Street, P.O. Box 406, Winona, Minn. 55987. Applicant's representative: Eugene A. Schultz (same address as above).

NOTE.—The purpose of this partial republication is to indicate the origin points as Red Wing and Winona, Minn., in lieu of Red Wing and Minona, Minn., which was published in the FEDERAL REGISTER in error The rest of the application remains the same

No. MC 135610 (sub-No. 2 TA), filed September 10, 1973. Applicant: JEAN CHARLES VOYER, Riviere a Pierre, County of Portneuf, Quebec, Canada. Applicant's representative: Robert Therrien (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Granite*, from Riviere a Pierre, Co. Portneuf, Province of Quebec, Canada, to points in New York, Vermont, New Hampshire, and Massachusetts, via Port of Entry on the International Boundary Line between the United States and Canada at or near Alexandria Bay and Rooseveltown, N.Y., and Beecher Falls, Vt., for 180 days. Supporting shipper: Dumas & Voyer, Riviere a Pierre, County of Portneuf, Province of Quebec, Canada. Send protests to: Paul D. Collins, District Supervisor, Interstate Commerce Commission, Federal Building, Post Office and Courthouse, 87 State Street, Montpelier, Vt. 05602.

No. MC 136786 (sub-No. 30 TA), filed September 11, 1973. Applicant: ROBCO TRANSPORTATION, INC., 3033 Excelsior Boulevard, Room 205, Minneapolis, Minn. 55416. Applicant's representative: K. O. Petrick (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potatoes* and potato products from Grand Forks, N. Dak., to points in Arkansas, Tennessee, Kentucky, West Virginia, Virginia, North Carolina, South Carolina, Georgia and Florida, for 150 days. Supporting shipper: Western Potato Service, Inc., P.O. Box 1391, Grand Forks, N. Dak. Send protests to: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building & U.S. Courthouse, 110 South Fourth Street, Minneapolis, Minn. 55401.

By The Commission.

[SEAL] ROBERT L. OSWALD, *Secretary*.

[FR Doc.73-20518 Filed 9-25-73;8:45 am]

## NOTICE OF FILING OF MOTOR CARRIER INTRASTATE APPLICATIONS

SEPTEMBER 21, 1973.

The following applications for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a) (6) of the Interstate Commerce Act, as amended October 15, 1962. These applications are governed by Special Rule 1.245 of the Commission's rules of practice, published in the FED-



V 38 186 SEP 26 73 XUM

ERAL REGISTER, issue of April 11, 1963, page 3533, which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

California Docket No. A 53972, filed August 31, 1973. Applicant: AIR CARTAGE ASSOCIATES, INC., 1332 Marsden Road, Burlingame, Calif. 94040. Applicant's representative: Philip J. Bovero, 1181 Old Oakland Road, San Jose, Calif. 95112. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities*, except as hereinafter provided, between all points and places in and within 5 miles of points in the San Francisco territory, which is described as follows: San Francisco territory includes all the city of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County boundary line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U.S. Highway 101; southerly along an imaginary line 1 mile west of and paralleling U.S. Highway 101 to its intersection with Southern Pacific Co. right-of-way at Arastradero Road; southeasterly along the Southern Pacific Co. right-of-way to Pollard Road, including industries served by the Southern Pacific Co. spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to West Parr Avenue; easterly along West Parr Avenue to Capri Drive; southerly along Capri Drive to East Parr Avenue; easterly along East Parr Avenue to the Southern Pacific Co. right-of-way; southerly along the Southern Pacific Co. right-of-way to the Campbell-Los Gatos city limits; easterly along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to U.S. Highway 101; northwesterly along U.S. Highway 101 to Tully Road; northeasterly along Tully Road to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 17 (Oakland Road); northerly along State Highway 17 to Warm Springs; northerly along the unnumbered highway via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive, Harbor Drive, and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Oakland-Berkeley boundary line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U.S. Highway 40 (San Pablo Avenue); northerly along U.S. Highway 40 to and including the city of Richmond; southwesterly along the highway extending from the city of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco Waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning. Except that applicant shall not transport any shipments of: (1) Used household goods and personal effects not packed in accordance with the crated property requirements set forth in paragraph (d) of Item No. 10–C of Minimum Rate Tariff No. 4–A; (2) Automobiles, trucks, and buses, viz.: New and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses, and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis; (3) Livestock, viz.: Bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags, or swine; (4) Liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers, or a combination of such highway vehicles; (5) Commodities when transported in bulk in dump trucks or in hopper-type trucks; (6) Commodities when transported in motor vehicles equipped for mechanical mixing in transit; (7) Cement; (8) Logs; (9) Trailer coaches and campers, including integral parts and contents are within the trailer coach or camper; (10) Dangerous articles; (11) Shipments, in vehicles equipped with mechanical refrigeration systems, requiring temperature control service; and (12) Commodities of unusual or extraordinary value.

*HEARING.*—Date, time, and place not shown. Requests for procedural information should be addressed to the California Public Utilities Commission, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102, and should not be directed to the Interstate Commerce Commission.

California Docket No. 54298, filed September 4, 1973. Applicant: CABS UNLIMITED INC., 997 West Dana Street, Mountain View, Calif. 94042. Applicant's representative: Philip J. Bovero, 1181 Old Oakland Road, San Jose, Calif. 95112. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *general commodities*, except as hereinafter provided, between all points and places in and within 5 miles of points in the San Francisco territory, which is described as follows: San Francisco territory includes all the city of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County boundary line meets the Pacific Ocean; thence easterly along said boundary line to a point 1 mile west of U.S. Highway 101; southerly along an imaginary line 1 mile west of and paralleling U.S. Highway 101 to its intersection with Southern Pacific Co. right-of-way at Arastradero Road; southeasterly along the Southern Pacific Co. right-of-way to Pollard Road, including industries served by the Southern Pacific Co. spur line extending approximately 2 miles southwest from Simla to Permanente; easterly along Pollard Road to West Parr Avenue; easterly along West Parr Avenue to Capri Drive; southerly along Capri Drive to East Parr Avenue; easterly along East Parr Avenue to the Southern Pacific Co. right-of-way; southerly along the Southern Pacific Co. right-of-way to the Campbell-Los Gatos city limits; easterly along said limits and the prolongation thereof to the San Jose-Los Gatos Road; northeasterly along San Jose-Los Gatos Road to Foxworthy Avenue; easterly along Foxworthy Avenue to Almaden Road; southerly along Almaden Road to Hillsdale Avenue; easterly along Hillsdale Avenue to U.S. Highway 101; northwesterly along U.S. Highway 101 to Tully Road; northeasterly along Tully Road to White Road; northwesterly along White Road to McKee Road; southwesterly along McKee Road to Capitol Avenue; northwesterly along Capitol Avenue to State Highway 17 (Oakland Road); northerly along State Highway 17 to Warm Springs; northerly along the unnumbered highway via Mission San Jose and Niles to Hayward; northerly along Foothill Boulevard to Seminary Avenue; easterly along Seminary Avenue to Mountain Boulevard; northerly along Mountain Boulevard and Moraga Avenue to Estates Drive; westerly along Estates Drive, Harbor Drive and Broadway Terrace to College Avenue; northerly along College Avenue to Dwight Way; easterly along Dwight Way to the Oakland-Berkeley boundary line; northerly along said boundary line to the campus boundary of the University of California; northerly and westerly along the campus boundary of the University of California to Euclid Avenue; northerly along Euclid Avenue to Marin Avenue; westerly along Marin Avenue to Arlington Avenue; northerly along Arlington Avenue to U.S. Highway 40 (San Pablo Avenue); northerly along U.S. Highway 40 to and including the city of Richmond; southwesterly along the highway extending from the city of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco waterfront at the foot of Market Street; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning. Except that applicant shall not transport any shipments of: (1) Used household goods and personal effects not packed in accordance with the crated property requirements set forth in paragraph (d) of Item No. 10–C of Minimum Rate Tariff No. 4–A; (2) Automobiles, trucks and buses, viz.: New and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses, and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis; (3) Livestock, viz.: Bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags, or swine; (4) Liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers, or a combination of such highway vehicles; (5) Commodities when transported in bulk in dump trucks or in hopper-type trucks; (6) Commodities when transported in motor vehicles equipped for mechanical mixing in transit; (7) Cement; (8) Logs; (9) Trailer coaches and campers, including integral parts and contents are within the trailer coach or camper; (10) Dangerous articles; (11) Shipments, in vehicles equipped with mechanical refrigeration systems, requiring temperature control service; and (12) Commodities of unusual or extraordinary value.

*HEARING.*—Date, time, and place not shown. Requests for procedural information should be addressed to the California Public Utilities Commission, State Building, Civic Center, 455 Golden Gate Avenue, San Francisco, Calif. 94102, and should not be directed to the Interstate Commerce Commission.





Michigan Docket No. C–239, filed May 30, 1973. Applicant: INTER-CITY TRUCKING SERVICE, INC., 14333 Goddard Street, Detroit, Mich. 48212. Applicant's representative: E. W. Klein, 14333 Goddard Street, Detroit, Mich. 48212. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *empty equipment*, over the following routes: I. Between Flint and Lansing via M–78; II. Between Lansing and Jackson via U.S. 127; and III. Between junction of I–96 and M–59 (near Howell), and junction of M–59 with U.S. 23, via M–59.

Hearing: October 17, 1973, at the Michigan Public Service Commission, Transportation Division, Suite 15, 1000 Long Commerce Park, Lansing, Mich., at 9:30 a.m. Requests for procedural information should be addressed to the Michigan Public Service Commission, Transportation Division, Suite 15, 1000 Long Commerce Park, Lansing, Mich. 48913, and should not be directed to the Interstate Commerce Commission.

Michigan Docket No. L–15147, filed May 15, 1973. Applicant: LIPIN-ROBINSON WAREHOUSE, INC., 22150 Trolley Industrial Drive, Taylor, Mich. 48180. Applicant's representative: Frank J. Kerwin, Jr., 1961 Guardian Building, Detroit, Mich. 48226. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of *hospital supplies and such commodities* as are dealt in by retail department stores, from Detroit, Mich., and it's commercial zone to various Michigan points with return of refused, damaged or overstocked merchandise, restricted to movement to or from the Lipin-Robinson Warehouse at or near Taylor, Mich., over irregular routes.

*HEARING.*—October 3, 1973, at the Michigan Public Service Commission, Transportation Division, Suite 1000 Long Commerce Park, Lansing, Mich., at 9:30 a.m. Requests for procedural information should be addressed to Michigan Public Service Commission, Transportation Division, Suite 1000 Long Commerce Park, Lansing, Mich. 48913, and should not be directed to the Interstate Commerce Commission. By the Commission

Oklahoma Docket No. MC 29362 (sub-No. 2), filed September 6, 1973. Applicant: WESTERN MOTOR FREIGHT, INC., 1430 West Sheridan, Oklahoma City, Okla. 73106. Applicant's representative: Rufus H. Lawson, 2400 Northwest 23d Street, P.O. Box 75124, Oklahoma City, Okla. 73107. Certificate of public convenience and necessity sought to operate a freight service as follows: Transportation of General Commodities (except classes A and B explosives), between Oklahoma City, Okla., and Snyder, Okla., serving the intermediate points of Cache and Indiahoma, Okla.; from Oklahoma City, Okla. via U.S. 62 and H. E. Bailey Turnpike to Lawton, Okla., thence U.S. 62 to Snyder, Okla., and return over the same route; between Oklahoma City, Okla., and Frederick, Okla., serving the intermediate points of Faxon and Chattanooga, Okla., and the off-route points of Grandfield, Follister, Manitou, Tipton, and Davidson, Okla.; from Oklahoma City, Okla. via U.S. 62 and H. E. Bailey Turnpike to its intersection with S. H. 36, thence via S. H. 36 to its intersection with S. H. 5, thence via S. H. 5 to Frederick, Okla., and return over the same route; between Oklahoma City, Okla., and Hobart, Okla., serving the intermediate points of Fort Cobb, Carnegie, Mountain View, and Gotebo, Okla., and the off-route point of Cooperton, Okla.; from Oklahoma City, Okla., via U.S. 62 and H. E. Bailey Turnpike to Chickasha, Okla., thence via S. H. 9 and S. H. 9–A to Hobart, Okla., and return over the same route.

*HEARING.*—October 22, 1973, at 300 Jim Thorpe Office Building, Oklahoma City, Okla., at 9 a.m. Requests for procedural information including the time for filing protests concerning this application should be addressed to the Oklahoma Corporation Commission, 300 Jim Thorpe Office Building, Oklahoma City, Okla. 73105, and should not be directed to the Interstate Commerce Commission.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary*

[FR Doc.73-20512 Filed 9-25-73;8:45 am]



V 38-186
SEP 26 73
XUM

## CUMULATIVE LISTS OF PARTS AFFECTED—SEPTEMBER

**The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during September.**

### 1 CFR

Page

CFR checklist ..... 23771

### 3 CFR

PROCLAMATIONS:

4239 ..... 24191
4240 ..... 24193
4241 ..... 24881
4242 ..... 26099
4243 ..... 26101
4244 ..... 26179
4245 ..... 26351
4246 ..... 26441

EXECUTIVE ORDERS:

11359 (superseded by 11737) ..... 24883
11602 (superseded by E.O. 11738) ..... 25161
11635 (superseded by 11737) ..... 24883
11659 (amended by 11737) ..... 24883
11737 ..... 24883
11738 ..... 25161

Presidential Documents other than Proclamations and Executive Orders:

Memorandum of August 17, 1973 ..... 25903

### 4 CFR

400 ..... 24195
405 ..... 24195

PROPOSED RULES:

331 ..... 23971
351 ..... 23971, 26072
400 ..... 23971
401 ..... 23971
402 ..... 23971
403 ..... 23971
404 ..... 23971

### 5 CFR

213 ..... 2344, 24885, 25165, 25907, 26181, 26353, 26443, 26675, 26797
335 ..... 26601
430 ..... 26601
451 ..... 26601
630 ..... 26601
715 ..... 26601

### 6 CFR

102 ..... 25427
150 ..... 24213
140 ..... 24214
150 ..... 23794, 23931, 24214, 24885, 25427, 25686, 26181, 26611
152 ..... 23794, 24214
155 ..... 24885

PROPOSED RULES:

Ch. I ..... 24917
152 ..... 23806, 24219, 24667

### 7 CFR

Page

2 ..... 24633
51 ..... 23931
52 ..... 24344, 25165
56 ..... 26797
201 ..... 25661, 26800
250 ..... 24633
301 ..... 25664

### 7 CFR—Continued

Page

354 ..... 23934
401 ..... 25907
725 ..... 23935
777 ..... 25665
864 ..... 25427
891 ..... 26706
905 ..... 25665
908 ..... 24215, 25431, 25907, 26353, 26601
910 ..... 24345, 24890, 25908, 26443
928 ..... 24345
930 ..... 24890
932 ..... 24215
944 ..... 26108
948 ..... 25667
981 ..... 25668, 26181
991 ..... 23771
1001 ..... 24216
1002 ..... 24216
1004 ..... 24216
1006 ..... 24216
1007 ..... 24216
1011 ..... 24216
1012 ..... 24216
1013 ..... 24213
1015 ..... 24216
1030 ..... 24216
1033 ..... 24216
1036 ..... 24216
1040 ..... 24216
1044 ..... 24216
1046 ..... 24216
1049 ..... 24216
1050 ..... 24216, 26182
1060 ..... 24216
1061 ..... 24216
1062 ..... 24216
1063 ..... 24216
1064 ..... 24216
1065 ..... 24216
1068 ..... 24216
1069 ..... 24216
1070 ..... 24216
1071 ..... 24216
1073 ..... 24216, 26707
1075 ..... 24216
1076 ..... 24216
1078 ..... 24216
1079 ..... 24216
1090 ..... 24216
1094 ..... 24216
1096 ..... 24216
1097 ..... 24216
1098 ..... 24216
1099 ..... 24216
1101 ..... 24216
1102 ..... 24216
1106 ..... 24216
1108 ..... 24216
1120 ..... 24216
1121 ..... 24216
1124 ..... 24216
1125 ..... 24216
1126 ..... 24216
1127 ..... 24216
1128 ..... 24216
1129 ..... 24216, 26709
1130 ..... 24216
1131 ..... 24216
1132 ..... 24216
1133 ..... 24216
1134 ..... 24216

### 7 CFR—Continued

Page

1136 ..... 24216
1137 ..... 24216
1138 ..... 24216
1139 ..... 24216
1207 ..... 26354
1421 ..... 23935, 24634, 25668, 26006, 26182
1430 ..... 23939
1866 ..... 24346

PROPOSED RULES:

20 ..... 25690
26 ..... 23955, 25186
46 ..... 26207
52 ..... 24654, 24904, 24907, 24910
301 ..... 26808
722 ..... 24911
905 ..... 26454
906 ..... 26384, 26614, 26615
927 ..... 26615
932 ..... 24910
944 ..... 26807
945 ..... 26384
981 ..... 24911
989 ..... 26729
1007 ..... 25024
1030 ..... 22796, 25448, 25756
1032 ..... 25756
1046 ..... 25756
1049 ..... 25756
1050 ..... 25186, 25756
1060 ..... 25222
1061 ..... 25222
1062 ..... 25756
1063 ..... 25222
1064 ..... 25222
1065 ..... 25222
1068 ..... 252222
1069 ..... 25222
1070 ..... 25222
1071 ..... 25024
1073 ..... 24654, 25024
1076 ..... 25222
1078 ..... 25222
1079 ..... 25222
1090 ..... 25024
1094 ..... 25024
1096 ..... 25024, 29190
1097 ..... 25024
1098 ..... 25024
1099 ..... 25756
1102 ..... 25024
1104 ..... 25282
1106 ..... 25282
1108 ..... 25024
1120 ..... 25282
1126 ..... 25282
1127 ..... 25282
1128 ..... 25282
1129 ..... 25282
1130 ..... 25282
1131 ..... 25282
1132 ..... 25282
1136 ..... 25282
1140 ..... 26729
1701 ..... 24660

### 8 CFR

214 ..... 24881, 26354
238 ..... 24891





### 9 CFR

Page

73 ..... 24346
82 ..... 23940
94 ..... 24891, 25669
97 ..... 23940
319 ..... 24640

PROPOSED RULES:

92 ..... 26808
94 ..... 24219
102 ..... 23957
104 ..... 23957
113 ..... 26118
381 ..... 24374, 26454, 26455

### 10 CFR

50 ..... 26354
55 ..... 26354
110 ..... 23953

PROPOSED RULES:

31 ..... 26813
32 ..... 26813
50 ..... 26814
70 ..... 26735

### 12 CFR

201 ..... 23772
204 ..... 25985
217 ..... 26109
329 ..... 25432, 26355
506 ..... 26355
506a ..... 26355
525 ..... 26357
526 ..... 23940, 25433
545 ..... 24200, 26709, 26710
546 ..... 24201
561 ..... 26110, 26711
563 ..... 24202, 26110, 26357, 26711, 26712
566 ..... 26112
570 ..... 26112

PROPOSED RULES:

204 ..... 25703
217 ..... 26468
220 ..... 26009
266 ..... 26469
329 ..... 26391
526 ..... 26736
545 ..... 24228, 26133
702 ..... 26216

### 13 CFR

PROPOSED RULES:

107 ..... 24028

### 14 CFR

Ch. I ..... 26444
39 ..... 23941, 24347, 24349, 24640, 24641, 25170, 25669, 25670, 25905, 26358, 26713, 26800
71 ..... 23941, 23942, 24204, 24350, 24641, 24892, 25171, 25433, 25905–25907, 26112, 26444, 26445, 26714, 26801
73 ..... 26445, 26714
75 ..... 24204, 25171, 26715
91 ..... 24893
95 ..... 24893
97 ..... 24350, 26446, 26715
103 ..... 26446
208 ..... 24642
240 ..... 26601
241 ..... 24351, 26461
288 ..... 23772
302 ..... 24894
389 ..... 24895, 26113
399 ..... 23777, 24642

### 14 CFR—Continued

Page

PROPOSED RULES:

25 ..... 26811
37 ..... 25450
39 ..... 23962, 26811
61 ..... 23962
71 ..... 23804, 23969, 24222, 24914, 25195, 25451, 25452, 25696, 26007, 26389, 26730–26734, 26812, 26813
73 ..... 26732
75 ..... 23804, 26735
121 ..... 23962, 26811
135 ..... 26811
139 ..... 26389
Ch. II ..... 24660
221 ..... 23804
241 ..... 24223, 24661
298 ..... 23805, 24662, 26616
372a ..... 24664
389 ..... 24662
399 ..... 25453

### 15 CFR

8 ..... 23777
256 ..... 25908
376 ..... 23777, 25446
377 ..... 25184, 26206
1000 ..... 25909, 26676
1020 ..... 26697
1025 ..... 26699
1030 ..... 26699
1035 ..... 26703
1040 ..... 26704
1050 ..... 26705

### 16 CFR

13 ..... 24352, 24353, 24634, 25434–25436, 26602

PROPOSED RULES:

1700 ..... 25195

### 17 CFR

210 ..... 26182
211 ..... 24635
231 ..... 24635
241 ..... 24635, 26358, 26716
251 ..... 24635
271 ..... 24635

PROPOSED RULES:

230 ..... 24668
270 ..... 26133, 26816
275 ..... 26816

### 18 CFR

2 ..... 26603
157 ..... 26603

### 19 CFR

Ch. I ..... 25171
1 ..... 24354, 25171
4 ..... 24354

PROPOSED RULES:

1 ..... 24374, 25185
10 ..... 25995
11 ..... 25995
12 ..... 25995
19 ..... 25995
24 ..... 23954
25 ..... 25995
113 ..... 25995
114 ..... 25995
141 ..... 23954
142 ..... 25995
151 ..... 25448
172 ..... 25995

### 20 CFR

Page

404 ..... 26806
405 ..... 26718
701 ..... 26860
702 ..... 26861
703 ..... 26873
704 ..... 26877
725 ..... 26042

PROPOSED RULES:

405 ..... 23802, 25448, 26132, 26616
725 ..... 26069

### 21 CFR

Ch. II ..... 26609
8 ..... 24643
9 ..... 24203
26 ..... 25985
45 ..... 25671
121 ..... 24354, 24643, 25437, 26447
135 ..... 23942
135b ..... 24355, 24643, 24895, 25673, 26183
135c ..... 24355, 24644, 25673, 26183
135e ..... 25674, 25676
141 ..... 25674
144 ..... 25437
146 ..... 25674
149b ..... 25674, 26183
149d ..... 25675
308 ..... 26447
1308 ..... 26610
1401 ..... 26611

PROPOSED RULES:

10 ..... 25195
27 ..... 26384
121 ..... 24374, 14375, 25694
130 ..... 24220, 26809
135 ..... 25694
141e ..... 26006
273 ..... 26130
278 ..... 26007

### 23 CFR

PROPOSED RULES:

770 ..... 23969
772 ..... 25696

### 24 CFR

42 ..... 25172, 26113
200 ..... 25993
201 ..... 25676
203 ..... 24637
205 ..... 24637, 24896
207 ..... 24637
213 ..... 24637
220 ..... 24637
221 ..... 24637
232 ..... 24637
234 ..... 24637
235 ..... 24638
236 ..... 24638
241 ..... 24638
242 ..... 24638
244 ..... 24638, 24896
1700 ..... 23866
1710 ..... 23866
1715 ..... 23873
1720 ..... 23874
1914 ..... 23943–23945, 24355–24357, 25677, 25678, 25994, 26113, 26114, 26367
1915 ..... 24358, 24360, 26368

PROPOSED RULES:

20 ..... 24222
201 ..... 23803
205 ..... 26132
242 ..... 26132
244 ..... 26132



V 38-186 SEP 26 73 XUM

25 CFR — Page
141 — 24638
251 — 25987
252 — 25988
256 — 23945
PROPOSED RULES:
221 — 23954, 23955, 26729
243 — 26118

26 CFR
1 — 24206, 26184

28 CFR
2 — 26652
17 — 26448

29 CFR
201 — 26449
202 — 26449
203 — 26449
204 — 26449
205 — 26449
206 — 26449
610 — 25988
612 — 25989
614 — 25989
723 — 26718
1602 — 26719
1907 — 25150
1952 — 24896, 25172, 26449
1953 — 24361
PROPOSED RULES:
1910 — 24300, 24375, 26207, 26459

30 CFR
57 — 23781
PROPOSED RULES:
270 — 26807
271 — 26807
504 — 24024

31 CFR
91 — 94897
315 — 24762, 26189
605 — 24898

32 CFR
166 — 25990
301 — 26720
802 — 26190
806 — 26190
809 — 23945
818b — 26801
883 — 26802
1285 — 24206
1453 — 24210
PROPOSED RULES:
1604 — 25704
1623 — 26392
1625 — 26392
1628 — 26392
1631 — 26392
1632 — 26392
1641 — 26392

32A CFR
Ch. IV:
BP Notice 1 — 25175
Ch. X:
Reg. 1
Ch. XI
OIAB Rules and Procedures — 26103
Ch. XIII:
EPO Reg. 3 — 23977
PROPOSED RULES:
Ch. X — 26005

33 CFR — Page
117 — 25433, 26115
127 — 24898
207 — 25176
401 — 24210
PROPOSED RULES:
117 — 24912–24914, 25455
127 — 23804

35 CFR
5 — 25438
51 — 26722

36 CFR
50 — 24218
221 — 23948
295 — 26723
PROPOSED RULES:
7 — 23796, 24912, 25185

38 CFR
1 — 24364
2 — 24366
3 — 26804
17 — 24366, 26190
21 — 23948
36 — 25678
PROPOSED RULES:
17 — 26393

39 CFR
235 — 26193
3000 — 24898
3001 — 24898

40 CFR
35 — 24639, 26358, 26882
50 — 25678
52 — 24333, 26324
80 — 26449
113 — 25439
120 — 26358
126 — 25681
129 — 24342
162 — 26360
168 — 26360
180 — 23781, 25440, 26450
51 — 25697
52 — 23805, 26390, 26462
120 — 26209, 26463
180 — 23806, 24667, 24918, 25455
411 — 24462
412 — 24466
422 — 24470

41 CFR
1–1 — 24210
1–9 — 23782
1–18 — 23791
3–16 — 24644
8–4 — 26368
8–16 — 26369
8–95 — 26369
101–25 — 26604
105–64 — 26604
114–43 — 26370
114–50 — 24649

42 CFR
21 — 25683
51 — 26194
51a — 26195
51b — 26196
52 — 26196
53 — 26196
54 — 26197

42 CFR—Continued — Page
55 — 26197
56 — 26197
57 — 26198
59 — 26198
59a — 26199
87 — 26199
91 — 26200
205 — 26201
206 — 26201
208 — 26201
PROPOSED RULES:
50 — 26459
81 — 26730

43 CFR
4 — 23948
3830 — 24650
4710 — 24650
PUBLIC LAND ORDERS:
5169 (Amended by PLO 5396) — 26376
5170 (Amended by PLO 5395) — 26375
5171 (Amended by PLO 5389) — 23371
5172 (Amended by PLO 5392) — 26373
5173 (Amended by PLO 5391) — 26372
5175 (Amended by PLO 5394) — 26375
5176 (Amended by PLO 5393) — 26373
5177 (Amended by PLO 5397) — 26377
5179 (Amended by PLO 5389, 5393, 5395, 5396, 5397) — 26370–26377
5180 (Amended by PLO 5388, 5393, 5394, 5396, 5397) — 26370–26377
5181 (Amended by PLO 5388, 5394) — 26370–26377
5186 (Amended by PLO 5393) — 26373
5191 (See PLO 5391, 5392, 5394, 5396, 5397) — 26370–26377
5192 (See PLO 5389, 5393, 5395, 5396, 5397) — 26370–26377
5193 (See PLO 5393, 5394, 5395, 5396, 5397) — 26370–26377
5194 (See PLO 5388, 5394) — 26370–26377
5213 (See 5391) — 26372
5250 (See PLO 5389, 5393, 5395, 5396, 5397) — 26370–26377
5251 (See PLO 5393, 5394, 5395, 5396, 5397) — 26370–26377
5252 (See PLO 5391) — 26372
5253 (See PLO 5389) — 26371
5254 (See PLO 5393) — 26373
5255 (See PLO 5396) — 26376
5321 (See PLO 5391) — 26372
5383 — 25684
5387 — 26370
5388 — 26370
5389 — 26371
5390 — 26372
5391 — 26372
5392 — 26373
5393 — 26373
5394 — 26375
5395 — 26375
5396 — 26376
5397 — 26377

45 CFR
74 — 26274
201 — 26320
205 — 26378, 26804
220 — 26320
233 — 26379, 26608
234 — 26380
401 — 26320
403 — 26320





45 CFR—Continued — Page
404 — 26320
405 — 26320
406 — 26320
408 — 26320
416 — 26320
901 — 26201
903 — 26201
904 — 26201
905 — 26201
909 — 24900, 26201
PROPOSED RULES:
83 — 26384
167 — 26788
190 — 26660
221 — 24872
233 — 23802
249 — 26460
250 — 25450
903 — 23912

46 CFR
PROPOSED RULES:
146 — 23959
542 — 23979
538 — 24228

47 CFR
0 — 24900, 26724
1 — 26202
2 — 24901, 25180, 25991
13 — 25684

47 CFR—Continued — Page
23 — 24901
73 — 24367, 25991, 26203, 26204, 26380, 26451, 26453
74 — 25991, 25992, 26381
81 — 24211, 25180, 25991
83 — 24368, 25180, 25992
87 — 25684
89 — 24901
91 — 25182, 26381
93 — 24901
97 — 24211
PROPOSED RULES:
61 — 24920
73 — 25703, 26008, 26211, 26212, 26380, 26463–26465

49 CFR
1 — 24901, 24902, 26805
170 — 23791
171 — 23792
172 — 23792
177 — 23792
178 — 23792
393 — 25182
570 — 23949, 25685
1003 — 26205
1033 — 23792, 23793, 23952, 24212, 24902, 25183, 25685, 26205, 26805

49 CFR—Continued — Page
1048 — 24368
1056 — 26608
1115 — 23953, 24903, 25686, 26609
1121 — 24902, 26726
1134 — 26205
1140 — 26205
1304 — 26805
1307 — 26805
1309 — 26806
1322 — 26726
PROPOSED RULES:
172 — 24915
173 — 24915
393 — 24223, 25452, 25696, 26461
542 — 23979
571 — 23804
1057 — 24228
1131 — 23979

50 CFR
20 — 23793, 26609
32 — 23793, 23794, 24212, 24369–24373, 24650–24652, 25183, 25441–25445, 25686, 25992, 26115, 26116, 26205, 26381–26383, 26727, 26728
33 — 25445
253 — 26116
PROPOSED RULES:
21 — 23796
32 — 25693

## FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

| Pages | Date |
|---|---|
| 23765–23922 | Sept. 4 |
| 23923–24184 | 5 |
| 24185–24326 | 6 |
| 24327–24625 | 7 |
| 24627–24874 | 10 |
| 24875–25154 | 11 |
| 25155–25420 | 12 |
| 25421–25654 | 13 |
| 25655–25895 | 14 |
| 25897–26091 | 17 |
| 26093–26171 | 18 |
| 26173–26344 | 19 |
| 26345–23433 | 20 |
| 26435–26593 | 21 |
| 26595–26668 | 24 |
| 26669–26790 | 25 |
| 26791–26883 | 26 |



V 38 I 186
SEP 26 73
XUM

federal register

WEDNESDAY, SEPTEMBER 26, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 186

PART II

# DEPARTMENT OF LABOR

## Employment Standards Administration

■

## LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT AND RELATED STATUTES

No. 186—Pt. II——1

V 38-186 SEP 26 73 XUM

Title 20—Employees' Benefits

## CHAPTER VI—EMPLOYMENT STANDARDS ADMINISTRATION, DEPARTMENT OF LABOR

### SUBCHAPTER A—LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT AND RELATED STATUTES

On January 26, 1973, at 38 FR 2650 et seq., the Secretary of Labor promulgated as Subchapter A of 20 CFR Ch. VI his regulations governing the administration of the Longshoremen's and Harbor Workers' Compensation Act, 33 U.S.C. 901 et seq., as amended by Public Law 92-576, 86 Stat. 1261. For the reasons set forth at 38 FR 2650, the regulations were published in final form, the provisions of 5 U.S.C. 553 for notice, public procedure and delayed effective date being found inapplicable.

Notwithstanding such publication in final form, comments, arguments, and suggestions were invited. In response thereto, many comments and suggestions were received. After careful consideration, it was determined that a number of changes were desirable. Subchapter A of Chapter VI of Title 20, Code of Federal Regulations, is accordingly revised as set forth below.

The most significant change is in §§ 702.301 through 702.319, governing adjudication of claims by the deputy commissioners. As changed, the procedure is much more informal, and is in keeping with the manner in which such problems have actually been handled over the years. Several other sections were changed to conform technically to that change. Another change of significance is that with respect to appeals, § 702.391 et seq. Since the initial publication of these regulations, new regulations of the Benefits Review Board were published in Part 802 of this title. Section 702.391 et seq., are changed to conform thereto. Otherwise, typographical errors were corrected, definitions of certain terms were added, and minor editorial changes were made.

These amendments shall be effective September 26, 1973.

As revised, Subchapter A of Chapter VI, 20 CFR, reads as follows:

## PART 701—GENERAL; ADMINISTERING AGENCY; DEFINITIONS AND USE OF TERMS

RULES IN THIS SUBCHAPTER


Sec
701.101 Scope of this subchapter and Subchapter B.
701.102 Organization of this subchapter.

OFFICE OF WORKMEN'S COMPENSATION PROGRAMS

701.201 Establishment of Office of Workmen's Compensation Programs.
701.202 Transfer of functions.
701.203 Historical background.

TERMS USED IN THIS SUBCHAPTER

701.301 Definitions and use of terms.


AUTHORITY: 5 U.S.C. 301; Reorganization plan No. 6 of 1950, 15 FR 3174, 64 Stat. 1263; 33 U.S.C. 939; 36 D.C. Code 501; 42 U.S.C. 1651; 43 U.S.C. 1331; 5 U.S.C. 8171; Secretary's Order No. 13-71, 36 FR 8755.

RULES IN THIS SUBCHAPTER

### § 701.101 Scope of this subchapter and Subchapter B.

This subchapter contains the regulations governing the administration of the Longshoremen's and Harbor Workers' Compensation Act (LHWCA) and its direct extensions, the Defense Base Act (DBA), the District of Columbia Workmen's Compensation Act (DCCA), the Outer Continental Shelf Lands Act (OCSLA), and the Nonappropriated Fund Instrumentalities Act (NFIA), and such other amendments and extensions as may hereinafter be enacted. The regulations governing administration of the Black Lung Benefits Program are in Subchapter B of this chapter.

### § 701.102 Organization of this subchapter.

This Part 701 is intended to provide a general description of the regulations in this subchapter, information as to the persons and agencies within the Department of Labor authorized by the Secretary of Labor to administer the Longshoremen's and Harbor Workers' Compensation Act and its extensions and the regulations in this subchapter, and guidance as to the meaning and use of specific terms in the several parts of this subchapter. Part 702 of this subchapter contains the general administrative regulations governing claims filed under the LHWCA, and Part 703 of this subchapter contains the regulations governing authorization of insurance carriers, authorization of self-insurers, and issuance of certificates of compliance with said insurance regulations, as required by sections 32 and 37 of the LHWCA, 33 U.S.C. 932, 937. Inasmuch as the extensions of the LHWCA (see § 701.101) incorporate by reference nearly all of the provisions of the LHWCA, such that the regulations governing the latter apply to the extensions with very few exceptions, it has been determined that no useful purpose would be served by repeating the same provisions for each of the extensions. Accordingly, the regulations in Parts 702 and 703 shall apply to the administration of the extensions (DBA, DCCA, OCSLA, and NFIA), unless otherwise noted. The exceptions to the general applicability of Parts 702 and 703 are set forth in succeeding parts in this subchapter. Part 704 contains the exceptions for the DBA, the DCCA, the OCSLA, and the NFIA.

OFFICE OF WORKMEN'S COMPENSATION PROGRAMS

### § 701.201 Establishment of Office of Workmen's Compensation Programs.

The Assistant Secretary of Labor for Employment Standards, by authority vested in him by the Secretary of Labor in Secretary's Order No. 13-71, 36 FR 8755, has established in the Employment Standards Administration (ESA) an Office of Workmen's Compensation Programs (OWCP). The Assistant Secretary has further designated as the head thereof a Director who, under the general supervision of the Deputy Assistant Secretary for Employment Standards/Wage-Hour Administrator and the Deputy Administrator, shall administer the programs assigned to that office by the Assistant Secretary.

### § 701.202 Transfer of functions.

Pursuant to the authority vested in him by the Secretary of Labor, the Assistant Secretary for Employment Standards has transferred from the Bureau of Employees' Compensation to the Office of Workmen's Compensation Programs all functions of the Department of Labor with respect to the administration of benefits programs under the following statutes:

(a) The Longshoremen's and Harbor Workers' Compensation Act, as amended and extended, 33 U.S.C. 901 et seq.;

(b) Defense Base Act, 42 U.S.C. 1651 et sq.;

(c) District of Columbia Workmen's Compensation Act, 36 D.C. Code 501 et seq.;

(d) Outer Continental Shelf Lands Act, 43 U.S.C. 1331;

(e) Nonappropriated Fund Instrumentalities Act, 5 U.S.C. 8171 et seq.;

(f) Title IV of the Federal Coal Mine Health and Safety Act, 83 Stat. 742, as amended by the Black Lung Benefits Act of 1972, 86 Stat. 150.

### § 701.203 Historical background.

Administration of the Longshoremen's and Harbor Workers' Compensation Act (and the Federal Employees' Compensation Act, formerly known as the U.S. Employees' Compensation Act), was initially vested in an independent establishment known as the U.S. Employees' Compensation Commission. By Reorganization Plan No. 2 of 1946 (3 CFR 1943-1949 Comp., p. 1064; 60 Stat. 1095, effective July 16, 1946), the Commission was abolished and its functions were transferred to the Federal Security Agency to be performed by a newly created Bureau of Employees' Compensation within such Agency. By Reorganization Plan No. 19 of 1950 (15 FR 3178, 64 Stat. 1263) said Bureau was transferred to the Department of Labor, and the authority formerly vested in the Administrator, Federal Security Agency, was vested in the Secretary of Labor. By Reorganization Plan No. 6 of 1950 (15 FR 3174, 64 Stat. 1263), the Secretary of Labor was authorized to make from time to time such provisions as he shall deem appropriate, authorizing the performance of any of his functions by any other officer, agency or employee of the Department of Labor.

TERMS USED IN THIS SUBCHAPTER

### § 701.301 Definitions and use of terms.

(a) As used in this subchapter, except where the context clearly indicates otherwise:

(1) "Act" means the Longshoremen's and Harbor Workers' Compensation Act, as amended (33 U.S.C. 901 et seq.), also referred to in this subchapter as LHWCA,





and includes the provisions of any statutory extension of such Act (see § 701.101) pursuant to which compensation on account of an injury is sought.

(2) "Secretary" means the Secretary of Labor, United States Department of Labor, or his authorized representative.

(3) "Employment Standards Administration" means the Employment Standards Administration in the United States Department of Labor, headed by the Assistant Secretary of Labor for Employment Standards.

(4) "Administrator" means the Deputy Assistant Secretary for Employment Standards in the Employment Standards Administration who also is Administrator of the Wage and Hour Division, and includes the Deputy Administrator for Wage and Compensation Programs.

(5) "Office of Workmen's Compensation Programs", or "OWCP", or "the Office", means the Office of Workmen's Compensation Programs in the Department of Labor, described in § 701.201 of this part.

(6) "Director" means the Director, OWCP, or his authorized representative.

(7) "Deputy Commissioner" means a person appointed as provided in sections 39 and 40 of the LHWCA or his designee, authorized by the Director to perform functions with respect to the processing and determination of claims for compensation under such Act and its extensions as provided therein and in this subchapter.

(8) "Administrative Law Judge" means an administrative law judge appointed as provided in 5 U.S.C. 3105 and Subpart B of 5 CFR Part 930 (see 37 FR 16737), who is qualified to preside at hearings under 5 U.S.C. 557 and is empowered by the Secretary to conduct formal hearings whenever necessary in respect of any claim for compensation arising under the LHWCA and its extensions.

(9) "Chief Administrative Law Judge" means the Chief Judge of the Office of Administrative Law Judges, United States Department of Labor.

(10) "Board" or "Benefits Review Board" means the Benefits Review Board established by section 21 of the LHWCA (33 U.S.C. 921) as amended and constituted and functioning pursuant to the provisions of Chapter VII of this Title 20 and Secretary of Labor's Order No. 38-72 (38 FR 90).

(11) "Department" means the United States Department of Labor.

(12) "Employee" includes any employee to whom an injury, as defined in section 2(3) of the LHWCA, may be the basis for a compensation claim under the LHWCA as amended, or any of its extensions.

(13) "Employer" includes any employer who may be obligated as an employer under the provisions of the LHWCA as amended or any of its extensions to pay and secure compensation as provided therein.

(14) "Carrier" means an insurance carrier or self-insurer meeting the requirements of section 32 of the LHWCA as amended and of this subchapter with respect to authorization to provide insurance fulfilling the obligation of an employer to secure the payment of compensation due his employees under the LHWCA as amended or a statutory extension thereof.

(15) The terms "wages", "national average weekly wage", "injury", "disability", "death", and "compensation" shall have the meanings set forth in section 2 of the LHWCA.

(16) "Claimant" includes any person claiming compensation or benefits under the provisions of the LHWCA as amended or a statutory extension thereof on account of the injury or death of an employee.

(b) The definitions contained in paragraph (a) of this section shall not be considered to derogate from any definitions or delimitations of terms in the LHWCA as amended or any of its statutory extensions in any case where such statutory definitions or delimitations would be applicable.

(c) As used in this subchapter, the singular includes plural and the masculine includes the feminine.

## PART 702—ADMINISTRATION AND PROCEDURES

### Subpart A—General Provisions

ADMINISTRATION


Sec.
702.101 Establishment of compensation districts.
702.102 Establishment of suboffices and jurisdictional areas.
702.103 Effect of establishment of suboffices and jurisdictional areas.
702.104 Transfer of individual cases.

RECORDS

702.111 Employer's records.
702.112 Records of the OWCP.
702.113 Inspection of records of the OWCP.
702.114 Copying of records of OWCP.

FORMS

702.121 Forms.

REPRESENTATION

702.131 Representation of parties in interest.
702.132 Fee for services.
702.133 Unapproved fees; solicitation of claimants; penalties.
702.134 Payment of claimant's attorney's fees in disputed claims.
702.135 Payment of claimant's witness fees and mileage in disputed claims.

INFORMATION AND ASSISTANCE FOR CLAIMANTS

702.136 Requests for information and assistance.

COMMUTATION OF PAYMENTS AND SPECIAL FUND

702.141 Commutation of payments; generally.
702.142 Commutation of payments; aliens not residents or about to become nonresidents.
702.143 Establishment of special fund.
702.144 Purpose of the special fund.
702.145 Use of the special fund.
702.146 Sources of the special fund.
702.147 Enforcement of special fund provisions.
702.148 Insurance carriers' and self-insured employers' responsibility.

LIENS ON COMPENSATION

702.161 Liens on compensation authorized under special circumstances.


### Subpart B—Claims Procedures

EMPLOYER'S REPORTS


Sec.
702.201 Reports from employers of employee's injury or death.
702.202 Employer's report; form and contents.
702.203 Employer's report; how given.
702.204 Employer's report; penalty for failure to furnish.
702.205 Employer's report; effect of failure to report upon time limitations.

NOTICE

702.206 Notice of employee's injury or death.
702.207 Notice; when given.
702.208 Notice; by whom given.
702.209 Notice; form and contents.
702.210 Notice; how given.
702.211 Effect of failure to give notice.

CLAIMS

702.212 Claims for compensation; time limitations.
702.213 Claims; time limitations; exceptions.
702.214 Claims; time limitations; time to object.
702.215 Claims; notification of employer of filing by employee.
702.216 Withdrawal of a claim.

NONCONTROVERTED CLAIMS

702.231 Noncontroverted claims; payment of compensation without an award.
702.232 Payments without an award; when; how paid.
702.233 Penalty for failure to pay without an award.
702.234 Report by employer of commencement and suspension of payments.
702.235 Report by employer of termination of payments.
702.236 Penalty for failure to report termination of payments.

AGREED SETTLEMENTS

702.241 Agreed settlements; monetary benefits.
702.242 Agreed settlements; medical benefits.

CONTROVERTED CLAIMS

702.251 Employer's controversion of the right to compensation.
702.252 Action by deputy commissioner upon receipt of notice of controversion.

CONTESTED CLAIMS

702.261 Claimant's contest of actions taken by employer or carrier with respect to the claim.
702.262 Action by deputy commissioner upon receipt of notice of contest.


### Subpart C—Adjudication Procedures

GENERAL


702.301 Scope of this subpart.

ACTION BY DEPUTY COMMISSIONERS

702.311 Handling of claims matters by deputy commissioners; informal conferences.
702.312 Informal conferences; called by and held before whom.
702.213 Informal conferences; how called; when called.
702.314 Informal conferences; how conducted; where held.
702.315 Conclusion of conference; agreement on all matters with respect to the claim.
702.316 Conclusion of conference; no agreement on all matters with respect to the claim.




V 38 186 SEP 26 73 XUM

Sec.
702.317 Preparation and transfer of the case for hearing.
702.318 The record; what constitutes; non-transferability of the administrative file.
702.319 Obtaining documents from the administrative file for reintroduction at formal hearings.

FORMAL HEARINGS

702.331 Formal hearings; procedure initiating.
702.332 Formal hearings; how conducted.
702.333 Formal hearings; parties.
702.334 Formal hearings; representative of parties.
702.335 Formal hearings; notice.
702.336 Formal hearings; new issues.
702.337 Formal hearings; change of time or place for hearings; postponements.
702.338 Formal hearings; general procedures.
702.339 Formal hearings; evidence.
702.340 Formal hearings; witnesses.
702.341 Formal hearings; depositions; interrogatories.
702.342 Formal hearings; witness fees.
702.343 Formal hearings; oral argument and written allegations.
702.344 Formal hearings; record of hearing.
702.345 Formal hearings; consolidated issues; consolidated cases.
702.346 Formal hearings; waiver of right to appear.
702.347 Formal hearings; termination.
702.348 Formal hearings; preparation of final decision and order; content.
702.349 Formal hearings; filing and mailing of compensation orders; disposition of transcripts.
702.350 Finality of compensation orders.
702.351 Withdrawal of controversion of issues set for formal hearing; effect.

INTERLOCUTORY MATTERS, SUPPLEMENTARY ORDERS, AND MODIFICATIONS

702.371 Interlocutory matters.
702.372 Supplementary compensation orders.
702.373 Modification of awards.

APPEALS

702.391 Appeals; where.
702.392 Appeals; what may be appealed.
702.393 Appeals; time limitations.
702.394 Appeals; procedure.

**Subpart D—Medical Care and Supervision**

702.401 Medical care defined.
702.402 Employer's duty to furnish; duration.
702.403 Employee's right to choose physician; limitation.
702.404 Physician defined.
702.405 Selection of physician; emergencies.
702.406 Change of physicians; non-emergencies.
702.407 Supervision of medical care.
702.408 Evaluation of medical questions; impartial specialists.
702.409 Evaluation of medical questions; results disputed.
702.410 Duties of employees with respect to special examinations.
702.411 Special examinations; nature of impartiality of specialists.
702.412 Special examinations; costs chargeable to employer or carrier.
702.413 Fees for medical services; prevailing community charges.
702.414 Fees for medical services; unresolved disputes on prevailing charges.
702.415 Fees for medical services; unresolved disputes on charges; procedure.
702.416 Fees for medical services; disputes; hearings; necessary parties.
702.417 Fees for medical services; disputes; effect of adverse decision.

MEDICAL PROCEDURES

702.418 Procedure for requesting medical care; employee's duty to notify employer.
702.419 Action by employer upon acquiring knowledge or being given notice of injury.
702.420 Issuance of authorization; binding effect upon insurance carrier.
702.421 Effect of failure to obtain initial authorization.
702.422 Effect of failure to report on medical care after initial authorization.

**Subpart E—Vocational Rehabilitation**

702.501 Vocational rehabilitation; objective.
702.502 Vocational rehabilitation; action by deputy commissioners.
702.503 Vocational rehabilitation; action by adviser.
702.504 Vocational rehabilitation; referrals to State Employment Agencies.
702.505 Vocational rehabilitation; referrals to other public and private agencies.
702.506 Vocational rehabilitation; training.
702.507 Vocational rehabilitation; maintenance allowance.
702.508 Vocational rehabilitation; confidentiality of information.

AUTHORITY: 5 U.S.C. 301; Reorganization Plan No. 6 of 1950, 15 FR 3174, 64 Stat. 1263; 33 U.S.C. 939; 42 U.S.C. 1651 et seq.; 36 D.C. Code 501 et seq.; 43 U.S.C. 1331; 5 U.S.C. 8171 et seq.; Secretary of Labor's Order No. 13-71, 36 FR 8755.

## Subpart A—General Provisions

ADMINISTRATION

### § 702.101 Establishment of compensation districts.

Pursuant to section 39(b) of the Longshoremen's and Harbor Workers' Compensation Act, the following compensation districts have been established:

District No. 1. Comprises the States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut; with headquarters at Boston, Massachusetts.
District No. 2. Comprises the States of New York and New Jersey; with headquarters at New York, N.Y.
District No. 3. Comprises the States of Pennsylvania, Delaware, and West Virginia; with headquarters at Philadelphia, Pennsylvania.
District No. 4. Comprises the State of Maryland and the District of Columbia; with headquarters at Baltimore, Maryland.
District No. 5. Comprises the State of Virginia; with headquarters at Norfolk, Virginia.
District No. 6. Comprises the States of North Carolina, Kentucky, Tennessee, South Carolina, Georgia, Florida; Alabama, except that part of the State south of 31° north latitude; and Mississippi, except that part of the State south of 31° north latitude; with headquarters at Jacksonville, Florida.
District No. 7. Comprises the States of Arkansas, Louisiana, that part of the State of Alabama south of 31° north latitude, and that part of the State of Mississippi south of 31° north latitude; with headquarters at New Orleans, Louisiana.
District No. 8. Comprises the States of Texas, Oklahoma, and New Mexico; with headquarters at Galveston, Tex.
District No. 9. Comprises the States of Ohio, Indiana, and Michigan; with headquaters at Cleveland, Ohio.
District No. 10. Comprises the States of Illinois, Missouri, Kansas, Nebraska, Iowa, Minnesota, and Wisconsin; with headquarters at Chicago, Ill.
District No. 13. Comprises the States of California, Arizona, and Nevada; with headquarters at San Francisco, Calif.
District No. 14. Comprises the States of Washington, Oregon, Alaska, Idaho, Montana, Wyoming, Utah, Colorado, North Dakota, and South Dakota; with headquarters at Seattle, Wash.
District No. 15. Comprises the State of Hawaii; with headquarters at Honolulu, Hawaii.

### § 702.102 Establishment of suboffices and jurisdictional areas.

(a) As administrative exigencies from time to time may require, the Director may, by administrative order, establish special areas outside the continental United States, Alaska, and Hawaii, or change or modify any areas so established, notwithstanding their inclusion within an established compensation district. Such areas shall be designated "jurisdictional areas." The Director shall also designate which of his deputy commissioners shall be in charge thereof.

(b) To further aid in the efficient administration of the OWCP, the Director may from time to time establish suboffices within compensation districts or jurisdictional areas, and shall designate a person to be in charge thereof.

### § 702.103 Effect of establishment of suboffices and jurisdictional areas.

Whenever the Director establishes a suboffice or jurisdictional area, those reports, records, or other documents with respect to processing of claims that are required to be filed with the deputy commissioner of the compensation district in which the injury or death occurred, may instead be required to be filed at the suboffice, or office established for the jurisdictional area.

### § 702.104 Transfer of individual cases.

At any time after a claim is filed, the deputy commissioner having jurisdiction thereof may, with the prior or subsequent approval of the Director, transfer such case to the deputy commissioner in another compensation district for the purpose of taking such action as may be necessary or appropriate to further develop the claim. The deputy commissioner making the transfer may by letter to the deputy commissioner to whom the case is transferred give advice, comments, suggestions, or directions if appropriate to the particular case. The transfer of cases shall be by registered or certified mail.

RECORDS

### § 702.111 Employer's records.

Every employer shall maintain adequate records of injury sustained by employees while in his employ, and which shall also contain information of disease, other impairments or disabilities, or death relating to said injury. Such records shall be available for inspection by the OWCP or by any State authority.





### § 702.112 Records of the OWCP.

All reports, records, or other documents filed with the OWCP with respect to claims are the records of the OWCP. The Director shall be the official custodian of those records maintained by the OWCP at its national office, and the deputy commissioner shall be the official custodian of those records maintained at the headquarters office in each compensation district.

### § 702.113 Inspection of records of the OWCP.

Any party in interest may be permitted to examine the record of the case in which he is interested. The official custodian of the record sought to be inspected shall permit or deny inspection in accordance with the Department of Labor's regulations pertaining thereto (see 29 CFR Part 70). The original record in any such case shall not be removed from the office of the custodian for such inspection. The custodian may, in his discretion, deny inspection of any record or part thereof which is of a character specified in 5 U.S.C. 552(b) if in his opinion such inspection may result in damage, harm, or harassment to the beneficiary or to any other person. For special provisions concerning release of information regarding injured employees undergoing vocational rehabilitation, see § 702.508.

### § 702.114 Copying of records of OWCP.

Any party in interest may request copies of records he has been permitted to inspect. Such requests shall be addressed to the official custodian of the records sought to be copied. The official custodian shall provide the requested copies under the terms and conditions specified in the Department of Labor's regulations relating thereto (see 29 CFR Part 70).

FORMS

### § 702.121 Forms.

The Director may from time to time prescribe, and require the use of, forms for the reporting of any information required to be reported by the regulations in this subchapter, or by the Act or any of its extensions.

REPRESENTATION

### § 702.131 Representation of parties in interest.

Claimants, employers and insurance carriers may be represented in any proceeding under the Act by an attorney or other person previously authorized in writing by such claimant, employer or carrier to so act.

### § 702.132 Fees for services.

An attorney or other representative seeking a fee for services performed on behalf of a claimant with respect to claims filed under the Act shall make application thereof to the persons, administrative body, or court before whom the services were performed (see 33 U.S.C. 928(c)). The application shall be supported by a complete statement of the extent and character of the necessary work done. Any fee approved shall be reasonably commensurate with the actual necessary work performed, and shall take into account the capacity in which the representative has appeared, the amount of benefits involved and the financial circumstances of the claimant. No contract for a stipulated fee or for a fee on a contingent basis shall be recognized.

### § 702.133 Unapproved fees; solicitation of claimants; penalties.

Under the provisions of section 28(e) of the Act, 33 U.S.C. 928(e), any person who receives any fees, other consideration, or any gratuity on account of services rendered as a representative of a claimant, unless such consideration or gratuity is approved under § 702.132, or who makes it a business to solicit employment for an attorney, or for himself in respect of any claim under the Act, shall upon conviction thereof, for each offense be punished by a fine of not more than $1,000 or by imprisonment for not more than 1 year, or by both fine and imprisonment.

### § 702.134 Payment of claimant's attorney's fees in disputed claims.

(a) If the employer or carrier declines to pay any compensation on or before the 30th day after receiving written notice from the deputy commissioner of a claim for compensation having been filed, on the ground that there is no liability for compensation within the provisions of this Act, and the person seeking benefits shall thereafter have utilized the services of an attorney at law in the successful prosecution of his claim, there shall be awarded, in addition to the award of compensation, in a compensation order, a reasonable attorney's fee against the employer or carrier in an amount approved by the person, administrative body or court before whom the service was performed, which shall be paid directly by the employer or carrier to the attorney for the claimant in a lump sum after the compensation order becomes final (Act, section 28(a)).

(b) If the employer or carrier pays or tenders payment of compensation without an award pursuant to § 702.231 and section 14 (a) and (b) of this Act, and thereafter a controversy develops over the amount of additional compensation, if any, to which the employee may be entitled, the deputy commissioner, administrative law judge, or Board shall set the matter for an informal conference and following such conference the deputy commissioner, administrative law judge, or Board shall recommend in writing a disposition of the controversy. If the employer or carrier refuses to accept such written recommendation, within 14 days after its receipt by them, they shall pay or tender to the employee in writing the additional compensation, if any, to which they believe the employee is entitled. If the employee refuses to accept such payment or tender of compensation, and thereafter utilizes the services of an attorney at law, and if the compensation thereafter awarded is greater than the amount paid or tendered by the employer or carrier, a reasonable attorney's fee based solely upon the difference between the amount awarded and the amount tendered or paid shall be awarded in addition to the amount of compensation. The foregoing sentence shall not apply if the controversy relates to degree or length of disability, and if the employer or carrier offers to submit the case for evaluation by physicians employed or selected by the deputy commissioner, as authorized by section 7(e) of the Act and § 702.408, and offers to tender an amount of compensation based upon the degree or length of disability found by the independent medical report at such time as an evaluation of disability can be made. If the claimant is successful in review proceedings before the Board or court in any such case an award may be made in favor of the claimant and against the employer or carrier for a reasonable attorney's fee for claimant's counsel in accord with the above provisions. In all other cases any claim for legal services shall not be assessed against the employer or carrier (see Act, section 28(b)).

### § 702.135 Payment of claimant's witness fees and mileage in disputed claims.

In cases where an attorney's fee is awarded against an employer or carrier there may be further assessed against such employer or carrier as costs, fees and mileage for necessary witnesses attending the hearing at the instance of claimant. Both the necessity for the witness and the reasonableness of the fees of expert witnesses must be approved by the hearing officer, the Board, or the court, as the case may be. The amounts awarded against an employer or carrier as attorney's fees, costs, fees and mileage for witnesses shall not in any respect affect or diminish the compensation payable under this Act (see Act, section 28(d)).

INFORMATION AND ASSISTANCE FOR CLAIMANTS

### § 702.136 Requests for information and assistance.

(a) *General assistance.* The Director shall, upon request, provide persons covered by the Act with information and assistance relating to the Act's coverage and compensation and the procedures for obtaining such compensation including assistance in processing a claim.

(b) *Legal assistance to claimants.* The Secretary may, upon request, provide a claimant with legal assistance in processing a claim under the Act. Such assistance may be made available to a claimant in the discretion of the Solicitor of Labor or his designee at any time prior to or during which the claim is being processed and shall be furnished without charge to the claimant. Legal representation of the claimant in adjudicatory proceedings may be furnished in cases in which the Secretary's interest in the case is not adverse to that of the claimant.



V 38 I 186 SEP 26 73 XUM

(c) *Other assistance.* The deputy commissioners and their staff, as designees of the Director, shall promptly and fully comply with the request of a claimant receiving compensation for information about, and assistance in obtaining, medical, manpower, and vocational rehabilitation services (see also Subparts D and E of this part).

COMMUTATION OF PAYMENTS AND SPECIAL FUND

**§ 702.141 Commutation of payments; generally.**

(a) Pursuant to section 14(j) of the Act, 33 U.S.C. 914(j), the deputy commissioner may determine that, in the interest of justice, the liability of the employer for compensation, or any part thereof, may be discharged by the payment of a lump sum equal to the present value of future payments commuted, computed at 4 per centum true discount compounded annually.

(b) Applications for commutation of future benefits shall be made to the deputy commissioner, on a form prescribed by the Director, OWCP, for that purpose. Applications shall be supported with a statement of the reasons for such application, together with such pertinent data as may lend support thereto.

(c) Applications for commutation of payments in disability cases will be accepted only when a compensation order has been filed in which the quality of the disability is found to be permanent and the duration of such disability is fixed by said order. Applications for commutation of payments in death cases will be approved only when it is shown that the rights of all probable and potential beneficiaries have been determined and after a compensation order has been filed fixing the rights of the beneficiary making the application or on whose behalf such commutation is sought.

(d) Commutations of payments shall be considered by the deputy commissioner, but no final action shall be taken in any case without the prior approval of the Director, OWCP.

(e) The probability of the happening of any contingency of any nature whatsoever affecting the amount of duration of compensation to be commuted shall not be considered excepting:

(1) The probability of the death of the injured employee or other person entitled to compensation before the expiration of the period during which he is entitled to compensation shall be determined in accordance with the American Experience Table of Mortality; and

(2) The probability of the remarriage of the surviving wife shall be determined in accordance with the remarriage tables of the Dutch Royal Insurance Institution.

**§ 702.142 Commutation of payments; aliens not residents or about to become nonresidents.**

(a) Pursuant to section 9(g) of the Act, 33 U.S.C. 909(g), compensation paid to aliens not residents, or about to become nonresidents, of the United States or Canada shall be in the same amount as provided for residents except that dependents in any foreign country shall be limited to surviving wife and child or children, or if there be no surviving wife or child or children, to surviving father or mother whom the employee has supported, either wholly or in part, for the period of 1 year prior to the date of injury, and except that the Director, OWCP, may, at his option, or upon the application of the insurance carrier he shall, commute all future installments of compensation to be paid to such aliens by paying or causing to be paid to them one-half of the commuted amount of such future installments of compensation as determined by the Director.

(b) Applications for commutation under this section shall be made in writing to the deputy commissioner having jurisdiction, and forwarded by the deputy commissioner to the Director, for final action.

(c) Applications for commutations shall be made effective, if approved by the Director, on the date received by the deputy commissioner, or on a later date if shown to be appropriate on the application.

(d) Commutations shall not be made with respect to a person journeying abroad for a visit who has previously declared an intention to return and has stated a time for returning, nor shall any commutation be made except upon the basis of a compensation order fixing the right of the beneficiary to compensation.

**§ 702.143 Establishment of special fund.**

Congress, by section 44 of the Act, 33 U.S.C. 944, established in the U.S. Treasury a special fund, to be administered by the Secretary. The Treasurer of the United States is the custodian of such fund, and all monies and securities in such fund shall be held in trust by the Treasurer and shall not be money or property of the United States. The Treasurer shall make disbursements from such funds only upon the order of the Director, OWCP, as delegee of the Secretary. The Act requires that the Treasurer give bond, in an amount to be fixed and with securities to be approved by the Secretary of the Treasury and the Comptroller General of the United States, conditioned upon the faithful performance of his duty as custodian of such fund.

**§ 702.144 Purpose of the special fund.**

This special fund was established to give effect to a congressional policy determination that, under certain circumstances, the employer of a particular employee should not be required to bear the entire burden of paying for the compensation benefits due that employee under the Act. Instead, a substantial portion of such burden should be borne by the industry generally. Section 702.145 describes this special circumstance under which the particular employer is relieved of some of his burden. Section 702.146 describes the manner and circumstances of the input into the fund.

**§ 702.145 Use of the special fund.**

(a) *Under section 10 of the Act.* This section provides for initial and subsequent annual adjustments in compensation and continuing payments to beneficiaries in cases of permanent total disability or death which commenced or occurred prior to enactment of the 1972 Amendments to this Act (Public Law 92-576, approved Oct. 27, 1972). At the discretion of the Director, such payments may be paid directly by him to eligible beneficiaries as the obligation accrues, one-half from the special fund and one-half from appropriations, or he may require insurance carriers or self-insured employers already making payments to such beneficiaries to pay such additional compensation as the amended Act requires. In the latter case such carriers and self-insurers shall be reimbursed by the Director for such additional amounts paid, in the proportion of one-half the amount from the special fund and one-half the amount from appropriations. To obtain reimbursement, the carriers and self-insurers shall submit claims for payments made by them during previous periods at intervals of not less than 6 months. A form has been prescribed for such purpose and shall be used. No administrative claims service expense incurred by the carrier or self-insurer shall be included in the claim and no such expense shall be allowed. The amounts reimbursed to such carrier or self-insurer shall be limited to amounts actually due and previously paid to beneficiaries.

(b) *Under section 8(f) of the Act (Second Injuries).* In any case in which an employee having an existing permanent partial disability suffers injury, the employer shall provide compensation for such disability as is found to be attributable to that injury, based upon the average weekly wages of the employee at the time of injury. If, following an injury falling within the provisions of section 8(c)(1)-(20), the employee with the preexisting permanent partial disability becomes permanently and totally disabled after the second injury, but such total disability is found not to be due solely to his second injury, the employer (or carrier) shall be liable for compensation as provided by the provisions of section 8(c)(1)-(20) of the Act, 33 U.S.C. 908(c)(1)-(20), or for 104 weeks, whichever is greater. In all other cases of a second injury causing permanent total disability (or death), wherein it is found that such disability (or death) is not due solely to the second injury, and wherein the employee had a preexisting permanent partial disability, the employer (or carrier) shall first pay compensation under section 8 (b) or (e) of the Act, 33 U.S.C. 908 (b) or (e), if any is payable thereunder, and shall then pay 104 weeks compensation for such total disability or death, and none otherwise. If the second injury results in permanent partial disability, and if such disability is compensable under section 8(c)(1)-(20) of the Act, 33 U.S.C. 908(c)(1)-(20), but the disability so compensable did not result solely from such second injury, and the disability so compensable is materially and substantially greater than that which would have resulted from the second injury alone, then the employer (or carrier) shall only be liable for the amount of compensation provided for in section 8(c)(1)-(20) that is attributable to such second injury, or for 104 weeks, whichever is greater. In all other cases wherein the employee is permanently and partially disabled following a second injury, and wherein such disability is not attributable solely to that second injury, and wherein such disability is materially and substantially greater than that which would have resulted from the second injury alone, and wherein such disability following the second injury is not compensable under section 8(c)(1)-(20) of the Act, then the employer (or carrier) shall be liable for such compensation as may be appropriate under section 8 (b) or (e) of the Act, 33 U.S.C. 908 (b) or (e), if any, to be followed by a payment of compensation for 104 weeks, and none other. The term "compensation" herein means money benefits only, and does not include medical benefits. The procedure for determining the extent of the employer's (or carrier's) liability under this paragraph shall be as provided for in the adjudication of claims in Subpart C of this Part 702. Thereafter, upon cessation of payments which the employer is required to make under this paragraph, if any additional compensation is payable in the case, the deputy commissioner shall forward such case to the Director for consideration of an award to the person or persons entitled thereto out of the special fund. Any such award from the special fund shall be by order of the Director or Acting Director.

(c) *Under sections 8(g) and 39(c)(2) of the Act.* These sections, 33 U.S.C. 908(g) and 939(c)(2), respectively, provide for vocational rehabilitation of disabled employees, and authorize, under appropriate circumstances, a maintenance allowance for the employee (not to exceed $25 a week) in additional to other compensation benefits otherwise payable for his injury-related disability. Awards under these sections are made from the special fund upon order of the Director or his designee. The deputy commissioners may be required to make investigations with respect to any case and forward to the Director their recommendations as to the propriety and need for such maintenance.

(d) *Under section 39(c)(2) of the Act.* In addition to the maintenance allowance for the employee discussed in paragraph (c), the Director is further authorized to use the fund in such amounts as may be necessary to procure the vocational training services.

(e) *Under section 7(e) of the Act.* This provision, 33 U.S.C. 907(e), authorizes payment by the Director from the special fund for special medical examinations, i.e., those obtained from impartial specialists to resolve disputes, when such special examinations are deemed necessary under that statutory provision. The Director has the discretionary power, however, to charge the cost of such examination to the insurance carrier or self-insured employer.

(f) *Under section 18(b) of the Act.* This section, 33 U.S.C. 918(b), provides a source for payment of compensation benefits in cases where the employer is insolvent, or other circumstances preclude the payment of benefits due in any case. In such situations, the deputy commissioner shall forward the case to the Director for consideration of an award from the special fund, together with evidence with respect to the employer's insolvency or other reasons for nonpayment of benefits due. Benefits, as herein used, means medical care or supplies within the meaning of section 7 of the Act, 33 U.S.C. 907, and Subpart D of Part 702 of these regulations, as well as monetary benefits. Upon receipt of the case, the Director shall promptly determine whether an award from the special fund is appropriate and advisable in the case, having due regard for all other current commitments from the special fund. If such an award is made, the employer shall be liable for the repayment into the fund of the amounts paid therefrom, as provided in 33 U.S.C. 918(b).

**§ 702.146 Sources of the special fund.**

(a) All amounts collected as fines and penalties under the several provisions of the Act shall be paid into the special fund (Act, section 44(c)(3)). Civil penalties provided for in the Act shall be collected by civil suits brought by, and in the name of, the Secretary of Labor.

(b) Whenever an employee dies under circumstances creating a liability on an employer to pay death benefits to the employee's beneficiaries, and whenever there are no such beneficiaries entitled to such payments, the employer shall pay $5,000 into the special fund (Act, section 44(c)(1)). In such cases, the compensation order entered in the case shall specifically find that there is such liability and that there are no beneficiaries entitled to death benefits, and shall order payment by the employer into the fund. Compensation orders shall be made and filed in accordance with the regulations in Subpart C of this Part 702, except that for this purpose the deputy commissioner settling the case under § 702.315 shall formalize the memorandum of conference in a compensation order, and shall file such order as provided for in § 702.349.

(c) The Director annually shall assess an amount against insurance carriers and self-insured employers authorized under the Act and Part 703 of this subchapter to replenish the fund. The total amount to be charged all carriers and self-insurers to be assessed shall be based upon his estimate of the probable expenses of the fund during the calendar year. The assessment against each carrier and self-insurer shall be based upon the amount each paid during the prior calendar year, for compensation and medical benefits, in relation to the amount all such authorized carriers or self-insurers paid during that period for compensation and medical benefits. If no amount was paid during the prior year, no assessment shall be made. The resulting percentage each paid out for such benefits the prior year shall be the percentage each shall pay into the fund under the current assessment (see Act, section 44(c)(2).) The Director may, in his discretion, condition renewal of authorization under Part 703 of this subchapter upon prompt payment of the assessment. However, no action suspending or revoking such authorization shall be taken without affording such carrier or self-insurer a hearing before the Director or his designee.

**§ 702.147 Enforcement of special fund provisions.**

(a) As provided in section 44(d)(1) of the Act, 33 U.S.C. 944(d)(1), for the purpose of making rules, regulations, and determinations under the special fund provisions in section 44 and for providing enforcement thereof, the Director may investigate and gather appropriate data from each carrier and self-insured employer, and may enter and inspect such places and records (and make such transcriptions of records), question such employees, and investigate such facts, conditions, practices, or other matters as he may deem necessary or appropriate.

(b) Pursuant to section 44(d)(3) of the Act, 33 U.S.C. 944(d)(3), for the purpose of any hearing or investigation related to determinations or the enforcement of the provisions of section 44 with respect to the special fund, the provisions of 15 U.S.C. 49 and 50 as amended (the Federal Trade Commission Act provisions relating to attendance of witnesses and the production of books, papers, and documents) are made applicable to the jurisdiction, powers, and duties of the Director, OWCP, as the Secretary's delegatee.

**§ 702.148 Insurance carriers' and self-insured employers' responsibility.**

Each carrier and self-insured employer shall make, keep, and preserve such records, and make such reports and provide such additional information as the Director prescribes or orders, which he considers necessary or appropriate to effectively carry out his responsibilities.

LIENS ON COMPENSATION

**§ 702.161 Liens on compensation authorized under special circumstances.**

Pursuant to section 17(b) of the Act, 33 U.S.C. 917(b), where a trust fund which complies with section 302(c) of the Labor-Management Relations Act of 1947 (29 U.S.C. 186(c)) established pursuant to a collective bargaining agreement in effect between an employer and an employee entitled to compensation under this Act has paid disability benefits to an employee which the employee is legally obligated to repay by reasons of his entitlement to compensation under this Act, the Director or his designee may authorize a lien on such compensation in favor of the trust fund for the amount of such payments.







V 38 I 186 SEP 26 73 XUM

## Subpart B—Claims Procedures

### Employer's Reports

**§ 702.201 Reports from employers of employee's injury or death.**

Within 10 days from the date of an employee's injury or death, or 10 days from the date an employer has knowledge of an employee's injury or death, including any disease or death proximately caused by the employment, the employer shall furnish a report thereof to the deputy commissioner for the compensation district in which the injury or death occurred, and shall thereafter furnish such additional or supplemental reports as the deputy commissioner may request.

**§ 702.202 Employer's report: form and contents.**

The employer's report of an employee's injury or death shall be in writing and on a form prescribed by the Director for this purpose, and shall contain:

(a) The name, address, and business of the employer;

(b) The name, address, and occupation of the employee;

(c) The cause, nature, and other relevant circumstances of the injury or death;

(d) The year, month, day, and hour when, and the particular locality where, the injury or death occurred;

(e) Such other information as the Director may require.

**§ 702.203 Employer's report; how given.**

The employer's report, an original and one copy, may be furnished by delivering it to the appropriate office of the deputy commissioner, or by mailing it to said office.

**§ 702.204 Employer's report; penalty for failure to furnish.**

Any employer who fails or refuses to furnish any report required by § 702.201 shall be subject to a civil penalty not to exceed $500 for each such failure or refusal, 33 U.S.C. 930(e).

**§ 702.205 Employer's report; effect of failure to report upon time limitations.**

Where the employer, or agent in charge of the business, or carrier has been given notice or has knowledge of an employee's injury or death, and fails, neglects, or refuses to file a report thereof as required by § 702.201, the time limitations provisions with respect to the filing of claims for compensation for disability or death (33 U.S.C. 913(a), and see § 702.212) shall not begin to run until such report shall have been furnished as required herein.

### Notice

**§ 702.206 Notice of employee's injury or death.**

Every person claiming compensation under this Act shall first notify the deputy commissioner for the compensation district in which the injury or death occurred, and the injured or deceased employee's employer, of the fact of such injury or death. If the employer is a partnership, notice may be given to any partner, or if a corporation, to any authorized agent or officer thereof, or to the person in charge of the business at the place where the injury occurred.

**§ 702.207 Notice; when given.**

Notice shall be given within 30 days after the date of the injury or death, or within 30 days after the date the employee or beneficiary is aware, or in the exercise of reasonable diligence should have been aware, of a relationship between the injury or death and the employee's employment.

**§ 702.208 Notice; by whom given.**

Notice shall be given by the injured employee or someone on his behalf, or in the case of death, by the deceased employee's beneficiary or someone on his behalf.

**§ 702.209 Notice; form and contents.**

Notice shall be in writing on a form prescribed by the Director for this purpose; such form shall be made available to the employee or beneficiary by the employer. The notice shall be signed by the person authorized to give notice, and shall contain the name and address of the employee and a statement of the time, place, nature and cause of the injury or death.

**§ 702.210 Notice; how given.**

Notice shall be given by delivering it to the deputy commissioner and the employer, or by sending it by mail.

**§ 702.211 Effect of failure to give notice.**

Failure to give timely notice shall not bar any claim for compensation if: (a) The employer or carrier had knowledge of the injury or death and the deputy commissioner determines that the employer or carrier was not prejudiced thereby; or (b) the deputy commissioner excuses such failure on the ground that for some satisfactory reason such notice could not be given. The employer or carrier may not raise as a defense to a claim the failure to file a timely notice unless such defense is raised at the first hearing held on the claim.

### Claims

**§ 702.212 Claims for compensation; time limitations.**

Claims for compensation for disability or death shall be in writing and shall be filed with the deputy commissioner in the compensation district in which the injury or death occurred. Such claims may be filed anytime after the first 7 days of disability following an injury, or at anytime after death. However, the right to such compensation shall be barred unless a claim therefor is filed within 1 year of such injury or death.

**§ 702.213 Claims; time limitations; exceptions.**

(a) Where the claim is founded on a causal relationship between the disease or death and the employment, the 1-year time limitation specified in § 702.212 shall not begin to run until the employee or beneficiary is aware, or in the exercise of reasonable diligence should have been aware, of such relationship.

(b) Where payments of compensation have been made without an award on account of such injury or death, a claim shall be timely if filed within 1 year after the date of the last payment.

(c) Where a person entitled to compensation under the Act is mentally incompetent or a minor, the time limitation provision of § 702.212 shall not apply to a mentally incompetent person so long as such person has no guardian or other authorized representative, but § 702.212 shall be applicable from the date of appointment of such guardian or other representative. In the case of a minor who has no guardian before he becomes of age, time begins to run from the date he becomes of age.

(d) Where a person brings a suit at law or in admiralty to recover damages in respect of an injury or death, and recovery is denied plaintiff because he was an employee and defendant was an employer within the meaning of the Act, and such employer had secured compensation to such employee under the Act, the 1-year time limitation in § 702.212 shall not begin to run until the date of termination of such suit.

**§ 702.214 Claims; time limitations; time to object.**

Notwithstanding the requirements of § 702.212, failure to file a claim within the period prescribed in such section shall not be a bar to such right unless objection to such failure is made at the first hearing of such claim in which all parties in interest are given reasonable notice and opportunity to be heard.

**§ 702.215 Claims; notification of employer of filing by employee.**

Within 10 days after the filing of a claim for compensation for injury or death under the Act, the deputy commissioner shall give written notice thereof to the employer or carrier, served personally or by certified mail.

**§ 702.216 Withdrawal of a claim.**

(a) *Before adjudication of claim.* A claimant (or an individual who is authorized to execute a claim on his behalf) may withdraw his previously filed claim provided that:

(1) He files with the deputy commissioner with whom the claim was filed a written request stating the reasons for withdrawal;

(2) The claimant is alive at the time his request for withdrawal is filed;

(3) The deputy commissioner approves the request for withdrawal as being for a proper purpose and in the claimant's best interest; and

(4) The request for withdrawal is filed on or before the date the OWCP makes a determination on the claim.

(b) *After adjudication of claim.* A claim for benefits may be withdrawn by a written request filed after the date the OWCP makes a determination on the claim, provided that:





(1) The conditions enumerated in paragraph (a) (1) through (3) of this section are met; and

(2) There is repayment of the amount of benefits previously paid because of the claim that is being withdrawn or it can be established to the satisfaction of the Office that repayment of any such amount is assured.

(c) *Effect of withdrawal of claim.* Where a request for withdrawal of a claim is filed and such request for withdrawal is approved, such withdrawal shall be without prejudice to the filing of another claim, subject to the time limitation provisions of section 13 of the Act and of the regulations in this part.

### Noncontroverted Claims

**§ 702.231 Noncontroverted claims; payment of compensation without an award.**

Unless the employer controverts his liability to pay compensation under the Act, he shall pay periodically, promptly, and directly to the person entitled thereto the benefits prescribed by the Act.

**§ 702.232 Payments without an award; when; how paid.**

The first installment of compensation shall become due on the 14th day after the employer has knowledge of the injury or death, on which date all compensation then due shall be paid. Compensation shall thereafter be paid in semimonthly installments, unless the deputy commissioner determines otherwise.

**§ 702.233 Penalty for failure to pay without an award.**

If any installment of compensation payable without an award is not paid within 14 days after it becomes due, there shall be added to such unpaid installment an amount equal to 10 per centum thereof which shall be paid at the same time as, but in addition to, such installment unless the employer files notice of controversion in accordance with § 702.261, or unless such nonpayment is excused by the deputy commissioner after a showing by the employer that owing to conditions over which he had no control such installment could not be paid within the period prescribed for the payment.

**§ 702.234 Report by employer of commencement and suspension of payments.**

Immediately upon making the first payment of compensation, and upon the suspension of payments once begun, the employer shall notify the deputy commissioner having jurisdiction over the place where the injury or death occurred of the commencement or suspension of payments, as the case may be.

**§ 702.235 Report by employer of termination of payments.**

Within 16 days after the final payment of compensation has been made, the employer shall notify the deputy commissioner in writing thereof, stating that such final payment has been made, the total amount of compensation paid, the name and address of the person to whom payments were made, the date of the injury or death and the name of the injured or deceased employee, and the dates during which compensation was paid.

**§ 702.236 Penalty for failure to report termination of payments.**

Any employer failing to notify the deputy commissioner of termination of payments in accordance with § 702.235 shall be assessed a civil penalty in the amount of $100.

### Agreed Settlements

**§ 702.241 Agreed settlements; monetary benefits.**

(a) Whenever the deputy commissioner determines that it is for the best interests of an injured employee entitled to compensation he may approve agreed settlements of the interested parties discharging the liability of the employer for such compensation notwithstanding the provisions of section 15(b) and section 16 of the Act, 33 U.S.C. 915(b) and 916. If the employee should die from causes other than the injury after the deputy commissioner has approved an agreed settlement, the sum so approved shall be payable in the manner herein prescribed, to and for the benefit of the persons enumerated in section 8(d) of the Act, 33 U.S.C. 908(d).

(b) Application for approval of an agreed settlement under section 8(i) of the Act, 33 U.S.C. 908(i), shall be made in writing to the deputy commissioner by the parties in interest. The application shall set forth fully all facts necessary to disclose the status of the case and the reason for seeking approval of an agreed settlement under said section of the Act as well as the specific terms of such agreed settlement, and shall be accompanied by a medical report of examination of the employee, if a recent report is not of record in the office of the deputy commissioner.

(c) If the deputy commissioner determines that the injured employee is entitled to compensation and that the proposed agreed settlement according to such application is for the best interests of such employee, he shall file a compensation order making necessary findings of fact relative to the character and quality of disability and the effect of same with respect to the employee's wage-earning capacity prior to approving such settlement and discharging the employer's liability for compensation payments. If such course is not practical the deputy commissioner shall determine the probable character and quality of disability according to the most recent evidence received. With such determination the deputy commissioner shall consider such other information as he may have upon the advisability of approving the agreed settlement and thereupon make his decision.

(d) This section is not intended to furnish generally a basis for the settlement of claims or as a mere convenience in disposing of cases.

**§ 702.242 Agreed settlements; medical benefits.**

(a) Whenever the Director or his designee determines that it is for the best interests of an injured employee entitled to medical benefits he may approve agreed settlements of the interested parties discharging the liability of the employer for such medical benefits, notwithstanding the provisions of section 16 of the Act, 33 U.S.C. 916. If the employee should die from causes other than the injury after an agreed settlement has been approved, the sum so approved shall be payable in the manner herein prescribed to, and for the benefit of, the persons enumerated in section 8(d) of the Act, 33 U.S.C. 908(d).

(b) Applications for approval of an agreed settlement with respect to medical benefits shall be made in writing and shall be submitted to the deputy commissioner by the parties in interest. The application shall set forth fully all facts necessary to disclose the status of the case and the reason for seeking approval of an agreed settlement, as well as the specific terms of the agreed settlement. Such application shall be accompanied by a report of a recent medical examination pertaining to the employee's condition and to his future need for medical attention relating to the injury. Applications, including all supporting papers, shall be submitted in duplicate.

(c) Upon receipt of such application, the deputy commissioner, after appropriate consultation with the interested parties, shall forward such application, together with his comments and recommendations, as to the character and quality of disability and such other information as may be pertinent to the appropriateness of approving the agreed settlement, to the Director, OWCP, for such action as the Director considers appropriate including the entry of a compensation order if it is deemed to be in the best interest of the injured employee.

### Controverted Claims

**§ 702.251 Employer's controversion of the right to compensation.**

Where the employer controverts the right to compensation after notice or knowledge of the injury or death, or after receipt of a written claim, he shall give notice thereof, stating the reasons for controverting the right to compensation, using the form prescribed by the Director. Such notice, or answer to the claim, shall be filed with the deputy commissioner within 14 days from the date the employer receives notice or has knowledge of the injury or death. The original notice shall be sent to the deputy commissioner having jurisdiction, and a copy thereof shall be given or mailed to the claimant.

**§ 702.252 Action by deputy commissioner upon receipt of notice of controversion.**

Upon receiving the employer's notice of controversion, the deputy commissioner shall forthwith commence proceedings for the adjudication of the



V 38-186 SEP 26 73 XUM

claim in accordance with the procedures set forth in Subpart C of this part.

CONTESTED CLAIMS

**§ 702.261 Claimant's contest of actions taken by employer or carrier with respect to the claim.**

Where the claimant contests an action by the employer or carrier reducing, suspending, or terminating benefits, including medical care, he should immediately notify the office of the deputy commissioner having jurisdiction, in person or in writing, and set forth the facts pertinent to his complaint.

**§ 702.262 Action by deputy commissioner upon receipt of notice of contest.**

Upon receipt of the claimant's notice of contest, the deputy commissioner shall forthwith commence proceedings for adjudication of the claim in accordance with the procedures set forth in Subpart C of this part.

## Subpart C—Adjudication Procedures

GENERAL

**§ 702.301 Scope of this subpart.**

The regulations in this subpart govern the adjudication of claims in which the employer has filed a notice of controversion under § 702.251, or the employee has filed notice of contest under § 702.261. In the vast majority of cases, the problem giving rise to the controversy results from misunderstandings, clerical or mechanical errors, or mistakes of fact or law. Such problems seldom require resolution through formal hearings, with the attendant production of expert witnesses. Accordingly, by § 702.311 et seq., the deputy commissioners are empowered to amicably and promptly resolve such problems by informal procedures. Where there is a genuine dispute of fact or law which cannot be so disposed of informally, resort must be had to the formal hearing procedures as set forth beginning at § 702.331. Supplementary compensation orders, modifications, and interlocutory matters are governed by regulations beginning with § 702.371. Thereafter, appeals from compensation orders are discussed beginning with § 702.391 (the regulations of the Benefits Review Board are set forth in full in Part 802 of this title).

ACTION BY DEPUTY COMMISSIONERS

**§ 702.311 Handling of claims matters by deputy commissioners; informal conferences.**

The deputy commissioner is empowered to resolve disputes with respect to claims in a manner designed to protect the rights of the parties and also to resolve such disputes at the earliest practicable date. This will generally be accomplished by informal discussions by telephone or by conferences at the deputy commissioner's office. Some cases will be handled by written correspondence. The regulations governing informal conferences at the deputy commissioner's office with all parties present are set forth below. When handling claims by telephone, or at the office with only one of the parties, the deputy commissioner and his staff shall make certain that a full written record be made of the matters discussed and that such record be placed in the administrative file. When claims are handled by correspondence, copies of all communications shall constitute the administrative file.

**§ 702.312 Informal conferences; called by and held before whom.**

Informal conferences shall be called by the deputy commissioner or his designee assigned or reassigned the case and held before that same person, unless such person is absent or unavailable. When so assigned, the designee shall perform the duties set forth below assigned to the deputy commissioner.

**§ 702.313 Informal conferences; how called; when called.**

Informal conferences may be called upon not less than 10 days' notice to the parties, unless the parties agree to meet at an earlier date. The notice may be given by telephone, but shall be confirmed by use of a written notice on a form prescribed by the Director. The notice shall indicate the date, time and place of the conference, and shall also specify the matters to be discussed. For good cause shown conferences may be rescheduled. A copy of such notice shall be placed in the administrative file.

**§ 702.314 Informal conferences; how conducted; where held.**

(a) No stenographic report shall be taken at informal conferences and no witnesses shall be called. The deputy commissioner shall guide the discussion toward the achievement of the purpose of such conference, recommending courses of action where there are disputed issues, and giving the parties the benefit of his experience and specialized knowledge in the field of workmen's compensation.

(b) Conferences generally shall be held at the deputy commissioner's office. However, such conferences may be held at any place which, in the opinion of the deputy commissioner, will be of greater convenience to the parties or to their representatives.

**§ 702.315 Conclusion of conference; agreement on all matters with respect to the claim.**

(a) Following an informal conference at which agreement is reached on all issues, the deputy commissioner shall embody the agreement in a formal compensation order, to be filed and mailed in accordance with § 702.349. Where the problem was of such nature that it was resolved by discussion by telephone or by exchange of written correspondence, the parties shall be notified by the same means that agreement was reached and then the deputy commissioner shall proceed to prepare, file and mail the formal compensation order. In either instance, when the employer or carrier has agreed to pay, reinstate or increase monetary compensation benefits, or to restore or appropriately change medical care benefits, such action shall be commenced immediately upon becoming aware of the agreement, and without regard to the receipt of the formal compensation order.

(b) Where there are several conferences or discussions, the provisions of paragraph (a) of this section do not apply until the last conference. The deputy commissioner shall, however, prepare and place in his administrative file a short, succinct memorandum of each preceding conference or discussion.

**§ 702.316 Conclusion of conference; no agreement on all matters with respect to the claim.**

When it becomes apparent during the course of the informal conference that agreement on all issues cannot be reached, the deputy commissioner shall bring the conference to a close and afterward prepare a memorandum of conference setting forth only the issue or issues in dispute, such pertinent background as may be appropriate thereto, and his recommendations for resolution of the dispute. Copies of this memorandum shall then be sent by certified mail to each of the parties or their representatives, who shall then have 14 days in which to signify in writing to the deputy commissioner whether they agree or disagree with his recommendations. If they agree, the deputy commissioner shall proceed as in § 702.315(a). If they disagree (Caution: See § 702.134(b)), then the deputy commissioner may schedule such further conference or conferences as, in his opinion, may bring about agreement or, if he is satisfied that any further conference would be unproductive or if any party has requested a hearing, he shall prepare the case for transfer to the Office of the Chief Administrative Law Judge (see § 702.331 et seq.).

**§ 702.317 Preparation and transfer of the case for hearing.**

The case is prepared for transfer by the preparation by the deputy commissioner of a separate memorandum in which he shall set forth those facts pertinent to the claim that are not in dispute, those issues upon which the parties agree, and then those facts, if any, in dispute as well as the issue or issues of law in dispute. The deputy commissioner shall briefly restate the position of the parties with respect to the matters in dispute, but he shall not in this transmittal indicate or suggest his opinions or recommendations previously offered with respect thereto. This memorandum shall then be forwarded to the Office of the Chief Administrative Law Judge.

**§ 702.318 The record; what constitutes; nontransferability of the administrative file.**

For the purpose of any further proceedings under the Act, the formal record of proceedings shall consist of the hearing record made before the administrative law judge (see § 702.344). When transferring the case for hearing pursuant to § 702.317, the deputy commissioner shall not transfer the administrative file under any circumstances.





**§ 702.319 Obtaining documents from the administrative file for reintroduction at formal hearings.**

Whenever any party considers any document in the administrative file essential to any further proceedings under the Act, it is the responsibility of such party to obtain such document from the deputy commissioner and reintroduce it for the record before the administrative law judge. The type of document that may be obtained shall be limited to documents previously submitted to the deputy commissioner, including documents or forms with respect to notices, claims, controversions, contests, progress reports, medical services or supplies, etc. The work products of the deputy commissioner or his staff shall not be subject to retrieval. The procedure for obtaining documents shall be for the requesting party to inform the deputy commissioner in writing of the documents he wishes to obtain, specifying them with particularity. Upon receipt, the deputy commissioner shall cause copies of the requested documents to be made and then: (1) Place the copies in the file together with the letter of request, and (2) promptly forward the originals to the requesting party. The handling of multiple requests for the same document shall be within the discretion of the deputy commissioner and with the cooperation of the requesting parties.

FORMAL HEARINGS

**§ 702.331 Formal hearings; procedure initiating.**

Formal hearings are initiated by transmitting to the Office of the Chief Administrative Law Judge the memorandum from the deputy commissioner as provided for in § 702.317.

**§ 702.332 Formal hearings; how conducted.**

Formal hearings shall be conducted by the administrative law judge assigned the case by the Office of the Chief Administrative Law Judge in accordance with the provisions of the Administrative Procedure Act, 5 U.S.C. 554 et seq. All hearings shall be transcribed.

**§ 702.333 Formal hearings; parties.**

(a) The necessary parties for a formal hearing are the claimant and the employer or insurance carrier, and the administrative law judge assigned the case.

(b) The Solicitor of Labor or his designee may appear and participate in any formal hearing held pursuant to these regulations on behalf of the Director as an interested party.

**§ 702.334 Formal hearings; representatives of parties.**

The claimant and the employer or carrier may be represented by persons of their choice.

**§ 702.335 Formal hearings; notice.**

The Office of the Chief Administrative Law Judge shall notify, on a form prescribed for this purpose, the parties (see § 702.333) of the scheduling of a formal hearing not less than 10 days in advance thereof. The notice shall specify the time and place at which the hearing is to be conducted. Attached thereto shall be a copy of the deputy commissioner's memorandum listing the issues to be resolved.

**§ 702.336 Formal hearings; new issues.**

(a) If, during the course of the formal hearing, the evidence presented warrants consideration of an issue not previously considered, the hearing shall be expanded to include such new issue. The parties shall, however, be given a reasonable time in which to prepare for such new issue.

(b) At any time prior to the filing of the compensation order in the case, the administrative law judge may in his discretion, upon the application of a party or upon his own motion, give notice that he will consider any new issue. The parties shall be given not less than 10 days' notice of the hearing on such new issue. The parties may stipulate that the issue may be heard at an earlier time and shall proceed to a hearing on the new issue in the same manner as on an issue initially considered.

**§ 702.337 Formal hearings; change of time or place for hearings; postponements.**

The Chief Administrative Law Judge or the administrative law judge assigned the case may change the time and place for the hearings, or postpone or temporarily adjourn a hearing, on his own motion or for good cause shown by a party. The parties shall be given not less than 10 days' notice of the new time and place of the hearing, unless the parties agree to such change without such notice. The Chief Administrative Law Judge may also reassign a case to another administrative law judge by reason of changes of time and place for the hearing, or by reason of postponements, or for other good cause.

**§ 702.338 Formal hearings; general procedures.**

All hearings shall be attended by the parties or their representatives and such other persons as the administrative law judge deems necessary and proper. The administrative law judge shall inquire fully into the matters at issue and shall receive in evidence the testimony of witnesses and any documents which are relevant and material to such matters. If the administrative law judge believes that there is relevant and material evidence available which has not been presented at the hearing, he may adjourn the hearing or, at any time, prior to the filing of the compensation order, reopen the hearing for the receipt of such evidence. The order in which evidence and allegations shall be presented and the procedures at the hearing generally, except as these regulations otherwise expressly provide, shall be in the discretion of the administrative law judge and of such nature as to afford the parties a reasonable opportunity for a fair hearing.

**§ 702.339 Formal hearings; evidence.**

In making an investigation or inquiry, or conducting a hearing, the administrative law judge shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure, except as provided by 5 U.S.C. 554 and these regulations; but may make such investigation or inquiry or conduct such hearing in such a manner as to best ascertain the rights of the parties.

**§ 702.340 Formal hearings; witnesses.**

(a) Witnesses at the hearing shall testify under oath or affirmation. The administrative law judge may examine the witnesses and shall allow the parties or their representatives to do so.

(b) No person shall be required to attend as a witness in any proceeding before an administrative law judge at a place more than 100 miles from his place of residence, unless his lawful mileage and fees for one day's attendance shall be paid or tendered to him in advance of the hearing date.

**§ 702.341 Formal hearings; depositions; interrogatories.**

The testimony of any witness may be taken by deposition or interrogatory according to the rules of practice of the Federal District Court for the judicial district in which the case is pending.

**§ 702.342 Formal hearings; witness fees.**

Witnesses summoned in a formal hearing before an administrative law judge or whose depositions are taken shall receive the same fees and mileage as witnesses in courts of the United States (33 U.S.C. 925).

**§ 702.343 Formal hearings; oral argument and written allegations.**

The parties, upon their request, shall be allowed a reasonable time for the presentation of oral argument or for the filing of briefs or other written statements of allegations as to facts or law. Copies of any brief or other written statement shall be filed with the administrative law judge and served on all parties in interest by the party submitting the statement.

**§ 702.344 Formal hearings; record of hearing.**

All formal hearings shall be open to the public and shall be stenographically reported. All evidence upon which the administrative law judge relies for his final decision shall be contained in the transcript of testimony either directly or by appropriate reference. All medical reports, exhibits, and any other pertinent document or record, in whole or in material part, shall be incorporated into the record either by reference or as an appendix.

**§ 702.345 Formal hearings; consolidated issues; consolidated cases.**

(a) When one or more additional issues are raised by the administrative law judge pursuant to § 702.336, such issues may, in the discretion of the administrative law judge, be consolidated for hear-



V 38 186 SEP 26 73 XUM

ing and decision with other issues pending before him.

(b) When two or more cases are transferred for formal hearings and have common questions of law or which arose out of a common accident, the Chief Administrative Law Judge may consolidate such cases for hearing.

**§ 702.346 Formal hearings; waiver of right to appear.**

If all parties waive their right to appear before the administrative law judge or to present evidence or argument personally or by representative, it shall not be necessary for the administrative law judge to give notice of and conduct an oral hearing. A waiver of the right to appear and present evidence and allegations as to facts and law shall be made in writing and filed with the Chief Administrative Law Judge or the administrative law judge. Where such a waiver has been filed by all parties, and they do not appear before the administrative law judge personally or by representative, the administrative law judge shall make a record of the relevant written evidence submitted by the parties, together with any pleadings they may submit with respect to the issues in the case. Such documents shall be considered as all of the evidence in the case and the decision shall be based on them.

**§ 702.347 Formal hearings; termination.**

Formal hearings are officially terminated when all the evidence has been received, witnesses heard, pleadings and briefs submitted to the administrative law judge, and the transcript of the proceedings has been printed and delivered to the administrative law judge.

**§ 702.348 Formal hearings; preparation of final decision and order; content.**

Within 20 days after the official termination of the hearing as defined by § 702.347, the administrative law judge shall have prepared a final decision and order, in the form of a compensation order, with respect to the claim, making an award to the claimant or rejecting the claim. The compensation order shall contain appropriate findings of facts and conclusions of law with respect thereto, and shall be concluded with one or more paragraphs containing the order of the administrative law judge, his signature, and the date of issuance.

**§ 702.349 Formal hearings; filing and mailing of compensation orders; disposition of transcripts.**

The administrative law judge shall, within 20 days after the official termination of the hearing, deliver by mail, or otherwise, to the office of the deputy commissioner having original jurisdiction, the transcript of the hearing, other documents or pleadings filed with him with respect to the claim, together with his signed compensation order. Upon receipt thereof, the deputy commissioner, being the official custodian of all records with respect to such claims within his jurisdiction, shall formally date and file the transcript, pleadings, and compensation order (original) in his office. Such filing shall be accomplished by the close of business on the next succeeding working day, and the deputy commissioner shall, on the same day as the filing was accomplished, send by certified mail a copy of the compensation order to the parties and to representatives of the parties, if any. Appended to each such copy shall be a paragraph entitled "proof of service" containing the certification of the deputy commissioner that the copies were mailed on the date stated, to each of the parties and their representatives, as shown in such paragraph.

**§ 702.350 Finality of compensation order.**

Compensation orders shall become effective when filed in the office of the deputy commissioner, and unless proceedings for suspension or setting aside of such orders are instituted within 30 days of such filing, shall become final at the expiration of the 30th day after such filing, as provided in section 21 of the Act 33 U.S.C. 921. If any compensation payable under the terms of such order is not paid within 10 days after it becomes due, section 14(f) of the Act requires that there be added to such unpaid compensation an amount equal to 20 percent thereof which shall be paid at the same time as, but in addition to, such compensation unless review of the compensation order is had as provided in such section 21 and an order staying payment has been issued by the Benefits Review Board or the reviewing court.

**§ 702.351 Withdrawal of controversion of issues set for formal hearing; effect.**

Whenever a party withdraws his controversion of the issues set for a formal hearing, the administrative law judge shall halt the proceedings upon receipt from said party of a signed statement to that effect and forthwith notify the deputy commissioner who shall then proceed to dispose of the case as provided for in § 702.315.

INTERLOCUTORY MATTERS, SUPPLEMENTARY ORDERS, AND MODIFICATIONS

**§ 702.371 Interlocutory matters.**

Compensation orders shall not be made or filed with respect to interlocutory matters of a procedural nature arising during the pendency of a compensation case.

**§ 702.372 Supplementary compensation orders.**

(a) In any case in which the employer or insurance carrier is in default in the payment of compensation due under any award of compensation, for a period of 30 days after the compensation is due and payable, the person to whom such compensation is payable may, within 1 year after such default, apply in writing to the deputy commissioner for a supplementary compensation order declaring the amount of the default. Upon receipt of such application, the deputy commissioner shall institute proceedings with respect to such application as if such application were an original claim for compensation, and the matter shall be disposed of as provided for in § 702.315, or if agreement on the issue is not reached, then as in § 702.316 et seq.

(b) If, after disposition of the application as provided for in paragraph (a) of this section, a supplementary compensation order is entered declaring the amount of the default, which amount may be the whole of the award notwithstanding that only one or more installments is in default, a copy of such supplementary order shall be forthwith sent by certified mail to each of the parties and their representatives. Thereafter, the applicant may obtain and file with the clerk of the Federal district court for the judicial district where the injury occurred or the district in which the employed has his principal place of business or maintains an office, a certified copy of said order and may seek enforcement thereof as provided for by section 18 of the Act, 33 U.S.C. 918.

**§ 702.373 Modification of awards.**

(a) Upon his own initiative, or upon application of any party in interest, the deputy commissioner may review any compensation case in accordance with the procedure in Subpart C of this part, and after such review of the case under § 702.315, or review at formal hearings under the regulations governing formal hearings in Subpart C of this part, file a new compensation order terminating, continuing, reinstating, increasing or decreasing such compensation, or awarding compensation. Such new order shall not affect any compensation previously paid, except that an award increasing the compensation rate may be made retroactive from the date of injury, and if any part of the compensation due or to become due is unpaid, an award decreasing the compensation rate may be made effective from the date of the injury, and any payment made prior thereto in excess of such decreased rate shall be deducted from any unpaid compensation, in such manner and by such method as may be determined by the deputy commissioner or the administrative law judge.

(b) Review of a compensation case under this section may be made at any time prior to 1 year after the date of the last payment of compensation, whether or not a compensation order has been issued, or at any time prior to 1 year after the rejection of a claim.

(c) Review of a compensation case may be had only for the reason that there is a change in conditions or that there was a mistake in the determination of facts.

APPEALS

**§ 702.391 Appeals; where.**

Appeals may be taken to the Benefits Review Board, U.S. Department of Labor, Washington, D.C. 20210, by filing a notice of appeals with the office of the deputy commissioner for the compensation district in which the decision or order appealed from was filed and by submitting to the Board a petition for review of such decision or order, in accordance with the provisions of Part 802 of this Title 20.





**§ 702.392 Appeals; what may be appealed.**

An appeal raising a substantial question of law or fact may be taken from a decision with respect to a claim under the Act. Such appeals may be taken from compensation orders when they have been filed as provided for in § 702.349.

**§ 702.393 Appeals; time limitations.**

The notice of appeal (see § 702.391) shall be filed with the deputy commissioner within 30 days of the filing of the decision or order complained of, as defined and described in § 802.205 and § 802.206 of this title. A petition for review of the decision or order is required to be filed within 30 days after receipt of the Board's acknowledgment of the notice of appeal, as provided in 20 CFR 802.210.

**§ 702.394 Appeals; procedure.**

The procedure for appeals to the Benefits Review Board shall be as provided by the Board in its Rules of Practice and Procedure, set forth in Part 802 of this title.

**Subpart D—Medical Care and Supervision**

**§ 702.401 Medical care defined.**

Medical care shall include medical, surgical, and other attendance or treatment, nursing and hospital services, laboratory, X-ray and other technical services, medicines, crutches, or other apparatus and prosthetic devices, and any other medical service or supply, including the reasonable and necessary cost of travel incident thereto, which is recognized as appropriate by the medical profession for the care and treatment of the injury or disease.

**§ 702.402 Employer's duty to furnish; duration.**

It is the duty of the employer to furnish appropriate medical care for the employee's injury, and for such period as the nature of the injury or the process of recovery may require.

**§ 702.403 Employee's right to choose physician; limitation.**

The employee shall have the right to choose his attending physician from among those authorized by the Director, OWCP, to furnish such care and treatment. However, unless authorized by the deputy commissioner having jurisdiction, the employee's choice shall be limited to those physicians having offices within 25 miles of the employee's home or principal place of work. This exception shall not apply when the employee is hospitalized and the physician is on the staff of, or has privileges at, such hospital.

**§ 702.404 Physician defined.**

The term physician shall mean all duly qualified physicians, to include surgeons and osteopaths within the scope of their practice as defined by State law. Chiropractors, naturopaths, podiatrists (chiropodists), psychologists, optometrists, faith healers, and other practitioners of the healing arts are not recognized as physicians as that term is used in this part.

**§ 702.405 Selection of physician; emergencies.**

Whenever the nature of the injury is such that immediate medical care is required and the injured employee is unable to select a physician, the employer shall select a physician. Thereafter the employee may change physicians when he is able to make a selection. Such changes shall be made upon obtaining written authorization from the employer or, if consent is withheld, from the deputy commissioner.

**§ 702.406 Change of physicians; nonemergencies.**

Whenever the employee has made his initial, free choice of an attending physician, he may not thereafter change physicians without the prior written consent of the employer (or carrier) or the deputy commissioner. Such consent shall be given in cases where an employee's initial choice was not of a specialist whose services are necessary for, and appropriate to, the proper care and treatment of the compensable injury or disease. In all other cases, consent may be given upon a showing of good cause for change.

**§ 702.407 Supervision of medical care.**

The Director, OWCP, through the deputy commissioners and their designees, shall actively supervise the medical care of an injured employee covered by the Act. Such supervision shall include:

(a) The requirement that periodic reports on the medical care being rendered be filed in the office of the deputy commissioner, the frequency thereof being determined by order of the deputy commissioner or sound judgment of the attending physician as the nature of the injury may dictate;

(b) The determination of the necessity, character and sufficiency of any medical care furnished or to be furnished the employee;

(c) The determination of whether a change of physicians, hospitals or other persons or locales providing treatment should be made or is necessary;

(d) The further evaluation of medical questions arising in any case under the Act, with respect to the nature and extent of the covered injury, and the medical care required therefor.

**§ 702.408 Evaluation of medical questions; impartial specialists.**

In any case in which medical questions arise with respect to the appropriate diagnosis, extent, effect of, appropriate treatment, and the duration of any such care or treatment, for an injury covered by the Act, the Director, OWCP, through the deputy commissioners having jurisdiction, shall have the power to evaluate such questions by appointing one or more especially qualified physicians to examine the employee, or in the case of death to make such inquiry as may be appropriate to the facts and circumstances of the case. The physician or physicians, including appropriate consultants, should report their findings with respect to the questions raised as expeditiously as possible. Upon receipt of such report, action appropriate therewith shall be taken.

**§ 702.409 Evaluation of medical questions; results disputed.**

Any party who is dissatified with such report may request a review or reexamination of the employee by one or more different physicians employed by or selected by the Director, and such review or reexamination shall be granted unless it is found that it is clearly unwarranted. Such review shall be completed within 2 weeks from the date ordered unless it is impossible to complete the review and render a report thereon within such time period. Upon receipt of the report of this additional review and reexamination, such action as may be appropriate shall forthwith be taken.

**§ 702.410 Duties of employees with respect to special examinations.**

For any special examination required of an employee by §§ 702.408 and 702.409, the employee shall submit to such examination at such place as is designated in the order to report, but the place so selected shall be reasonably convenient for the employee. Failure to submit to such lawfully ordered examinations shall result in the suspension of proceedings, and no compensation otherwise payable shall be paid for any period during which the employee may refuse to submit to such examination.

**§ 702.411 Special examinations; nature of impartiality of specialists.**

(a) The special examinations required by § 702.408 shall be accomplished in a manner designed to preclude prejudgment by the impartial examiner. No physician previously connected with the case shall be present, nor may any other physician selected by the employer, carrier, or employee be present. The impartial examiner shall not have been made aware, by any party or by the OWCP, of the opinions, reports, or conclusions of any prior examining physician with respect to the nature and extent of the impairment, its cause, or its effect upon the wage-earning capacity of the injured employee, unless the deputy commissioner determines that, for good cause, such opinions, reports, or conclusions should be made available. In the event the latter exception is invoked, the name of the examining physician, and any material in the text which could identify the examining physician offering such opinion, report, or conclusion, shall first be removed.

(b) The impartiality of the specialists shall not be considered to have been compromised if the deputy commissioner deems it advisable to, and does, apprise the specialist by memorandum of those



V 38 186 SEP 26 73 XUM

undisputed facts pertaining to the nature of the employee's employment, of the nature of the injury, of the post-injury employment activity, if any, and of any other facts which are not disputed and are deemed pertinent to the type of injury and/or the type of examination being conducted.

(c) No physician selected to perform impartial examinations shall be, or shall have been for a period of 2 years prior to the examination, an employee of an insurance carrier or self-insured employer, or who has accepted or participated in any fee from an insurance carrier or self-insured employer, unless the parties in interest agree thereto.

**§ 702.412 Special examinations; costs chargeable to employer or carrier.**

The Director or his designee ordering the special examination shall have the power, in the exercise of his discretion, to charge the cost of the examination or review to the employer, to the insurance carrier, or to the special fund established by section 44 of the Act, 33 U.S.C. 944.

**§ 702.413 Fees for medical services; prevailing community charges.**

All fees charged by physicians for the care of persons covered by this Act, or any other charges for medical treatment or supplies within the purview of this Act, shall be limited to such charges for similar treatment, services or supplies as prevail in the community in which the physician, medical facility or supplier is located.

**§ 702.414 Fees for medical services; unresolved disputes on prevailing charges.**

The Director or his designee may, or upon the written complaint of an employer or carrier shall, investigate any fee for medical treatment, services or supplies that appears to be not in line with prevailing community charges for similar treatment, services or supplies. If, upon appropriate investigation, the Director or his designee determines that the fee or cost of service or supplies does not conform to prevailing community charges, the person claiming the fee or cost charge shall be informed of the discrepancy and given the opportunity to adjust the fee or cost charge within permissible limits.

**§ 702.415 Fees for medical services; unresolved disputes on charges; procedure.**

If, after investigation and ascertainment under § 702.414 that a fee or charge is not in accordance with prevailing community charges and the person claiming the fee or cost charge refuses to make the necessary adjustment, the matter shall then be referred by the Director to the Office of the Chief Administrative Law Judge for formal hearing in accordance with the procedures in Subpart C of this part.

**§ 702.416 Fees for medical services; disputes; hearings; necessary parties.**

At formal hearings held pursuant to § 702.415, the necessary parties shall be the person whose fee or cost charge is in question and the Director, or their representatives. The employer or carrier may also be represented, and other parties, or associations having an interest in the proceedings, may be heard, in the discretion of the administrative law judge.

**§ 702.417 Fees for medical services; disputes; effect of adverse decision.**

If the final decision and order upholds the finding of the Director that the fee or charge in dispute was not in accordance with prevailing community charges, the person claiming such fee or cost charge shall be given 30 days after filing of such decision and order to make the necessary adjustment. If such person still refuses to make the required readjustment, such person shall not be authorized to conduct any further treatments or examinations (if a physician) or to provide any other services or supplies (if by other than a physician). Any fee or cost charge subsequently incurred for services performed or supplies furnished shall not be a reimbursable medical expense under this subpart. This prohibition shall apply notwithstanding the fact that the services performed or supplies furnished were in all other respects necessary and appropriate within the provision of these regulations. Further, this prohibition shall extend to all other cases arising under this Act and shall not be limited to the case which gave rise to the adverse decision. Such debarred person shall remain debarred until such time as there is demonstrated to the satisfaction of the Director that fees will be charged in accordance with the prevailing community standards.

MEDICAL PROCEDURES

**§ 702.418 Procedure for requesting medical care; employee's duty to notify employer.**

As soon as practicable, but within 30 days after occurrence of an injury covered by the Act, or within 30 days after an employee becomes aware, or in the exercise of reasonable diligence should be aware, of the relationship between an injury or disease and his employment, the injured employee or someone on his behalf shall give written notice thereof to the deputy commissioner having jurisdiction over the place where the injury occurred and to the employer. If a form has been prescribed for such purpose it shall be used, if available and practicable under the circumstances. Notices filed under Subpart B of this part, if on the form prescribed by the Director for such purpose, satisfy the written notice requirements of this subpart.

**§ 702.419 Action by employer upon acquiring knowledge or being given notice of injury.**

Whenever an employer acquires knowledge of an employee's injury, through receipt of a written notice or otherwise, said employer shall forthwith authorize, in writing, appropriate medical care. If a form is prescribed for this purpose it shall be used whenever practicable.

**§ 702.420 Issuance of authorization; binding effect upon insurance carrier.**

The issuance of an authorization for treatment by the employer shall bind his insurance carrier to furnish and pay for such care and services.

**§ 702.421 Effect of failure to obtain initial authorization.**

An employee shall not be entitled to recover for medical services and supplies unless he shall have first requested authorization from his employer therefor. This prohibition shall not apply in emergency situations, nor shall it apply in cases where the employer (including the superintendent, foreman, or other person having charge of the work and having knowledge of the injury) refuses or neglects to authorize such care when requested by the employee.

**§ 702.422 Effect of failure to report on medical care after initial authorization.**

(a) Notwithstanding that medical care is properly obtained in accordance with these regulations, the employer and his insurance carrier shall not be liable for the expense thereof unless the physician rendering such initial care or services furnishes a report thereon to the employer and to the deputy commissioner having jurisdiction. The report required by this section shall be furnished within 10 days following the date of first treatment. The report shall be upon a form prescribed by the Director for such purpose.

(b) For good cause shown, the deputy commissioner or administrative law judge may excuse the failure to file the report within 10 days, and further, may make an award for the reasonable value of such medical care.

## Subpart E—Vocational Rehabilitation

**§ 702.501 Vocational rehabilitation; objective.**

The objective of vocational rehabilitation is the return of permanently disabled persons to gainful employment commensurate with their physical or mental impairments, or both, through a program of reevaluation or redirection of their abilities, or retraining in another occupation, or selective job placement assistance.

**§ 702.502 Vocational rehabilitation; action by deputy commissioners.**

All injury cases which are likely to result in, or have resulted in, permanent disability, and which are of a character likely to require review by a vocational rehabilitation adviser on the staff of the Director, shall promptly be referred to such adviser by the deputy commissioner or his designee having charge of the case. A form has been prescribed for such purpose and shall be used. Medical data and other pertinent information shall accompany the referral.

**§ 702.503 Vocational rehabilitation; action by adviser.**

The vocational rehabilitation adviser, upon receipt of the referral, shall promptly consider the feasibility of a vocational referral or request for cooperative services from available resources or facilities, to include counseling, vocational survey, selective job placement assistance, and retraining. Public or private agencies may be utilized in arranging necessary vocational rehabilitation services under the Federal Vocational Rehabilitation Act, 29 U.S.C. 31 et seq.





**§ 702.504 Vocational rehabilitation; referrals to State Employment Agencies.**

Vocational rehabilitation advisers will arrange referral procedures with State Employment Service units within their assigned geographical districts for the purpose of securing employment counseling, job classification, and selective placement assistance. Referrals shall be made to State Employment Offices based upon the following:

(a) Vocational rehabilitation advisers will screen cases so as to refer only those disabled employees who are considered to have employment potential;

(b) Only employees will be referred who have permanent, compensable disabilities resulting in a significant vocational handicap and loss of wage earning capacity;

(c) Disabled employees, whose initial referral to former private employers did not result in a job reassignment or in a job retention, shall be referred for employment counseling and/or selective placement unless retraining services consideration is requested;

(d) The vocational rehabilitation advisers shall arrange for employees' referrals if it is ascertained that they may benefit from registering with the State Employment Service;

(e) Referrals will be made to appropriate State Employment Offices by letter, including all necessary information and a request for a report on the services provided the employee when he registers;

(f) The injured employee shall be advised of available job counseling services and informed that he is being referred for employment and selective placement;

(g) A followup shall be made within 60 days on all referrals to assure uniform reporting by State agencies on cases referred for a vocational survey.

**§ 702.505 Vocational rehabilitation; referrals to other public and private agencies.**

Referrals to such other public and private agencies providing assistance to disabled persons such as public welfare agencies, Public Health Services facilities, social services units of the Veterans Administration, the Social Security Administration, and other such agencies, shall be made by the vocational rehabilitation adviser, where appropriate, on an individual basis when requested by disabled employees. Such referrals do not provide for a service cost reimbursement by the Department of Labor.

**§ 702.506 Vocational rehabilitation; training.**

Vocational rehabilitation training shall be planned in anticipation of a short, realistic, attainable vocational objective terminating in remunerable employment, and in restoring wage-earning capacity or increasing it materially. The following procedures shall apply in arranging for or providing training:

(a) The vocational rehabilitation adviser shall arrange for and develop all vocational training programs;

(b) Training programs shall be developed to meet the varying needs of eligible beneficiaries, and may include courses at colleges, technical schools, training at rehabilitation centers, on-the-job training, or tutorial courses. The course shall be pertinent to the occupation for which the employee is being trained.

(c) Training may be terminated if the injured employee fails to cooperate with the Department of Labor or with the agency supervising his course of training. The employee shall be counseled before training is terminated.

(d) Reports shall be required at periodic intervals on all persons in approved training programs.

**§ 702.507 Vocational rehabilitation; maintenance allowance.**

(a) An injured employee who, as a result of injury, is or may be expected to be totally or partially incapacitated for a remunerative occupation and who, under the direction of the Director is being rendered fit to engage in a remunerative occupation, shall be paid additional compensation necessary for this maintenance, not exceeding $25 a week. The expense shall be paid out of the special fund established in section 44 of the Act, 33 U.S.C. 944. The maximum maintenance allowance shall not be provided on an automatic basis, but shall be based on the recommendation of a State agency that a claimant is unable to meet additional costs by reason of being in training.

(b) When required by reason of personal illness or hardship, limited periods of absence from training may be allowed without terminating the maintenance allowance. A maintenance allowance shall be terminated when it is shown to the satisfaction of the Director that a trainee is not complying reasonably with the terms of the training plan or is absenting himself without good cause from training so as to materially interfere with the accomplishment of the training objective.

**§ 702.508 Vocational rehabilitation; confidentiality of information.**

The following safeguards will be observed to protect the confidential character of information released regarding an individual undergoing rehabilitation:

(a) Information will be released to other agencies from which an injured employee has requested services only if such agencies have established regulations assuring that such information will be considered confidential and will be used only for the purpose for which it is provided;

(b) Interested persons and agencies have been advised that any information concerning rehabilitation program employees is to be held confidential;

(c) A rehabilitation employee's written consent is secured for release of information regarding disability to a person, agency, or establishment seeking the information for purposes other than the approved rehabilitation planning with such employee.

## PART 703—INSURANCE REGULATIONS

Sec.
703.001 Scope of part.
703.002 Forms.

AUTHORIZATION OF INSURANCE CARRIERS

703.101 Types of companies which may be authorized by the OWCP.
703.102 Applications for authority to write insurance; how filed; evidence to be submitted; other requirements.
703.103 Stock companies holding Treasury certificates of authority.
703.104 Applicants currently authorized to write insurance under the extensions of the LHWCA.
703.105 Copies of forms of policies to be submitted with application.
703.106 Certificate of authority to write insurance.
703.107 Period of certificate of authority.
703.108 Applications for reauthorization.
703.109 Longshoremen's endorsement; see succeeding parts for endorsements for extensions.
703.110 Other forms of endorsements and policies.
703.111 Submission of new forms of policies for approval; other endorsements.
703.112 Terms of policies.
703.113 Marine insurance contracts.
703.114 Notice of cancellation.
703.115 Discharge by the carrier of obligations and duties of employer.
703.116 Report by carrier of issuance of policy or endorsement.
703.117 Report; by whom sent.
703.118 Agreement to be bound by report.
703.119 Report by employer operating temporarily in another compensation district.
703.120 Name of one employer only shall be given in each report.

AUTHORIZATION OF SELF-INSURERS

703.301 Employers who may be authorized as self-insurers.
703.302 Application for authority to become a self-insurer; how filed; information to be submitted; other requirements.
703.303 Decision upon application of employer; deposit of negotiable securities or indemnity bond.
703.304 Filing of agreement and undertaking.
703.305 Decision upon application of employer; furnishing of indemnity bond or deposit of negotiable securities required.
703.306 Kinds of negotiable securities which may be deposited; conditions of deposit; acceptance of deposits.
703.307 Deposits of negotiable securities with Federal Reserve banks or the Treasurer of the United States; authority to sell such securities; interest thereon.
703.308 Substitution and withdrawal of negotiable securities.
703.309 Increase or reduction in the amount of indemnity bond or negotiable securities.
703.310 Reports required of self-insurers; examination of accounts of self-insurer.
703.311 Period of authorization as self-insurer; renewals.



V 38-186 SEP 26 73 XUM

Sec.
703.312 Revocation of privilege of self-insurance.

ISSUANCE OF CERTIFICATES OF COMPLIANCE

703.501 Issuance of certificates of compliance.
703.502 Same; employer operating temporarily in another compensation district.
703.503 Return of certificates of compliance.

AUTHORITY: 5 U.S.C. 301; Reorganization Plan No. 6 of 1950, 15 FR 3174, 64 Stat. 1263; 33 U.S.C. 932, 937, 939; 42 U.S.C. 1651 et seq.; 36 D.C. Code 501 et seq.; 43 U.S.C. 1331; 5 U.S.C. 8171 et seq.; Secretary of Labor's Order No. 13-71, 36 FR 8755.

### § 703.001 Scope of part.

This Part 703 contains the regulations of the OWCP governing the authorization of insurance carriers, the authorization of self-insurers, and the issuance of certificates of compliance. Such provisions are required by the LHWCA, but in almost every instance apply, and hereby are applied, to the extensions of the LHWCA. In those few instances where a separate provision is required, tailored to meet the specific requirements of one of the extended acts, such separate provisions are placed in the succeeding parts of this subchapter.

### § 703.002 Forms.

Any information required by the regulations in this part to be submitted to the OWCP shall be submitted on such forms as the Director may deem appropriate and may authorize from time to time for such purpose.

AUTHORIZATION OF INSURANCE CARRIERS

### § 703.101 Types of companies which may be authorized by the OWCP.

The OWCP will consider for the granting of authority to write insurance under the Longshoremen's and Harbor Workers' Compensation Act and its extensions the application of any stock company, mutual company or association, or any other person or fund, while authorized under the laws of the United States or of any State to insure workmen's compensation. The term "carrier" as used in this part means any person or fund duly authorized to insure workmen's compensation benefits under said Act, or its extensions.

### § 703.102 Applications for authority to write insurance; how filed; evidence to be submitted; other requirements.

An application for authority to write insurance under this Act shall be made in writing, signed by an officer of the applicant duly authorized to make such application, and transmitted to the Office of Workmen's Compensation Programs, U.S. Department of Labor, Washington, D.C. 20211. Such application shall be accompanied by full and complete information regarding the history and experience of such applicant in the writing of workmen's compensation insurance, together with evidence that it has authority in its charter or form of organization to write such insurance, and evidence that the applicant is currently authorized to insure workmen's compensation liability under the laws of the United States or of any State. The statements of fact in each application and in the supporting evidence shall be verified by the oath of the officer of the applicant who signs such application. Each applicant shall state in its application the area or areas in which it intends to do business. In connection with any such application the following shall be submitted, the Office reserving the right to call for such additional information as it may deem necessary in any particular case:

(a) A copy of the last annual report made by the applicant to the insurance department or other authority of the State in which it is incorporated, or the State in which its principal business is done.

(b) A certified copy from the proper State authorities of the paper purporting to show the action taken upon such report, or such other evidence as the applicant desires to submit in respect of such report, which may obviate delay caused by an inquiry of the OWCP of the State authorities relative to the standing and responsibility of the applicant.

(c) A full and complete statement of its financial condition, if not otherwise shown, and, if a stock company, shall show specifically its capital stock and surplus.

(d) A copy of its charter or other formal outline of its organization, its rules, its bylaws, and other documents, writings, or agreements by and under which it does business, and such other evidence as it may deem proper to make a full exposition of its affairs and financial condition.

### § 703.103 Stock companies holding Treasury certificates of authority.

A stock company furnishing evidence that it is authorized to write workmen's compensation insurance under the laws of the United States or of any State, which holds a certificate of authority from the Secretary of the Treasury as an acceptable surety on Federal bonds, unless requested to do so, need not transmit to the Office with its application copies of such financial reports as are on file in the Department of the Treasury. The acceptance by that Department of such a company will be considered by the Office in conjunction with the application of such company, provided there has been compliance with the other requirements of the regulations in this part.

### § 703.104 Applicants currently authorized to write insurance under the extensions of the LHWCA.

Any applicant currently authorized by the Office to write insurance under any extension of the LHWCA need not support its application under the LHWCA or any other LHWCA extension with the evidence required by the regulations in this part, except the form of policy and endorsement which it proposes to use, unless specifically requested by the Office, but instead its application may refer to the fact that it has been so authorized.

### § 703.105 Copies of forms of policies to be submitted with application.

With each application for authority to write insurance there shall be submitted for the approval of the Office copies of the forms of policies which the applicant proposes to issue in writing insurance under the LHWCA, or its extensions, to which shall be attached the appropriate endorsement to be used in connection therewith.

### § 703.106 Certificate of authority to write insurance.

No corporation, company, association, person, or fund shall write insurance under this Act without first having received from the OWCP a certificate of authority to write such insurance. Any such certificate issued by the Office, after application therefor in accordance with these regulations, may authorize the applicant to write such insurance in a limited territory as determined by the Office. Any such certificate may be suspended or revoked by the Office prior to its expiration for good cause shown, but no suspension or revocation shall affect the liability of any carrier already incurred. Good cause shall include, without limitation, the failure to maintain in such limited territory a regular business office with full authority to act on all matters falling within the Act, and the failure to promptly and properly perform the carrier's responsibilities under the Act and these regulations, with special emphasis upon lack of promptness in making payments when due, upon failure to furnish appropriate medical care, and upon attempts to offer to, or urge upon, claimants inequitable settlements. A hearing may be requested by the aggrieved party and shall be held before the Director or his representative prior to the taking of any adverse action under this section.

### § 703.107 Period of certificate of authority.

No certificate of authority to write insurance under said Act and the regulations in this part shall be issued by the Office for a period in excess of 18 months. The expiration date which shall be stated in the certificate of authority, shall fall on the 30th day of June.

### § 703.108 Applications for reauthorization.

Any carrier holding an unexpired certificate of authority and desiring reauthorization to write insurance for the period of a year from the expiration of such certificate shall apply to the OWCP by letter over the signature of an authorized officer for such a certificate of authority. No evidence of the financial condition of such carrier need be furnished unless requested by the Office after the application is received. The Office may require such carrier to submit, for Office consideration in connection with such reauthorization, evidence or explanation relating to the experience and practice of such carrier in the conduct of its affairs with respect to the said Act, or with reference to the fidelity and punctuality





of the performance by such carrier of its past or current obligations under the law. Such application, to avoid a break in the period of authorization of the carrier to write such insurance, should be filed with the Office not later than June 1 of each year.

### § 703.109 Longshoremen's endorsement; see succeeding parts for endorsements for extensions.

(a) The following form of endorsement applicable to the standard workmen's compensation and employer's liability policy, shall be used, if required by the OWCP, with the form of policy approved by the Office for use by an authorized carrier:

For attachment to Policy No. ------.

The obligations of the policy include the Longshoremen's and Harbor Workers' Compensation Act, 33 U.S.C. 901 et seq., and all laws amendatory thereof or supplementary thereto which may be or become effective while this policy is in force.

The company will be subject to the provisions of 33 U.S.C. 935. Insolvency or bankruptcy of the employer and/or discharge therein shall not relieve the company from payment of compensation and other benefits lawfully due for disability or death sustained by an employee during the life of the policy.

The company agrees to abide by all the provisions of this Act, and all lawful rules, regulations, orders, and decisions of the Office of Workmen's Compensation Programs, U.S. Department of Labor, unless and until set aside, modified, or reversed by appropriate appellate authority as provided for by said Act.

This endorsement shall not be cancelled prior to the date specified in this policy for its expiration until at least 30 days have elapsed after a notice of cancellation has been sent to the Deputy Commissioner and to this employer.

All terms, conditions, requirements, and obligations, expressed in this policy or in any other endorsement attached thereto which are not inconsistent with or inapplicable to the provisions of this endorsement are hereby made a part of this endorsement as fully and completely as if wholly written herein.

### § 703.110 Other forms of endorsements and policies.

Where the form of endorsement prescribed by § 703.109 is not appropriate when used in conjunction with a form of policy approved for use by the Office no modification thereof shall be used unless specifically approved by the Office. Where the form of policy is designed to include therein the obligations of the insurer under said Act without the use of the appropriate endorsements, the policy shall contain the provisions required to be included in any of the endorsements. Such a policy, however, shall not be used until expressly approved by the Office.

### § 703.111 Submission of new forms of policies for approval; other endorsements.

No new forms of policies or modification of existing forms of policies shall be used by an insurer authorized by the Office under the regulations in this part to write insurance under said Act except after submission to and approval by the Office. No endorsement altering any provisions of a policy approved by the Office shall be used except after submission to and approval by the Office.

### § 703.112 Terms of policies.

A policy or contract of insurance shall be issued for the term of not less than 1 year from the date that it becomes effective, but if such insurance be not needed except for a particular contract or operation, the term of the policy may be limited to the period of such contract or operation.

### § 703.113 Marine insurance contracts.

A longshoremen's policy, or the longshoremen's endorsement provided for by § 703.109 for attachment to a marine policy, may specify the particular vessel or vessels in respect of which the policy applies and the address of the employer at the home port thereof. The report of the issuance of a policy or endorsement required by § 703.116 to be made by the carrier shall be made to the deputy commissioner for the compensation district in which the home port of such vessel or vessels is located, and such report shall show the name and address of the owner as well as the name or names of such vessel or vessels.

### § 703.114 Notice of cancellation.

Cancellation of a contract or policy of insurance issued under authority of said Act shall not become effective otherwise than as provided by 33 U.S.C. 936(b); and notice of a proposed cancellation shall be given to the deputy commissioner and to the employer in accordance with the provisions of 33 U.S.C. 912(c), 30 days before such cancellation is intended to be effective.

### § 703.115 Discharge by the carrier of obligations and duties of employer.

Every obligation and duty in respect of payment of compensation, the providing of medical and other treatment and care, the payment or furnishing of any other benefit required by said Act and in respect of the carrying out of the administrative procedure required or imposed by said Act or the regulations in this part upon an employer shall be discharged and carried out by the carrier except that the prescribed report of injury or death shall be sent by the employer to the deputy commissioner and to the insurance carrier as required by 33 U.S.C. 930. Such carrier shall be jointly responsible with the employer for the submission of all reports, notices, forms, and other administrative papers required by the deputy commissioner or the Office in the administration of said Act to be submitted by the employer, but any form or paper so submitted where required therein shall contain in addition to the name and address of the carrier, the full name and address of the employer on whose behalf it is submitted. Notice to or knowledge of an employer of the occurrence of the injury or death shall be notice to or knowledge of such carrier. Jurisdiction of the employer by a deputy commissioner, the Office, or appropriate appellate authority under said Act shall be jurisdiction of such carrier. Any requirement under any compensation order, finding, or decision shall be binding upon such carrier in the same manner and to the same extent as upon the employer.

### § 703.116 Report by carrier of issuance of policy or endorsement.

Each carrier shall report to the deputy commissioner assigned to a compensation district each policy and endorsement issued by it to an employer who carries on operations in such compensation district. The report shall be made in such manner and on such form as the district or the Office may require.

### § 703.117 Report; by whom sent.

The report of issuance of a policy and endorsement provided for in § 703.116 shall be sent by the home office of the carrier, except that any carrier may authorize its agency or agencies in any compensation district to make such reports to the deputy commissioner, provided the carrier shall notify the deputy commissioner in such district of the agencies so duly authorized.

### § 703.118 Agreement to be bound by report.

Every applicant for authority to write insurance under the provisions of this Act, or for the renewal of that authority, shall be deemed to have included in its application an agreement that the acceptance by the deputy commissioner of a report of the issuance of a policy of insurance, as provided for by § 703.116, shall bind the carrier to full liability for the obligations under this Act of the employer named in said report, and every certificate of authority to write insurance under this Act shall be deemed to have been issued by the Office upon consideration of the carrier's agreement to become so bound. It shall be no defense to this agreement that the carrier failed or delayed to issue the policy to the employer covered by this report.

### § 703.119 Report by employer operating temporarily in another compensation district.

Where an employer having operations in one compensation district contemplates engaging in work subject to the Act in another compensation district, his carrier may submit to the deputy commissioner of such latter district a report pursuant to § 703.116 containing the address of the employer in the first mentioned district with the additional notation "No present address in ------ compensation district. Certificate requested when address given."

### § 703.120 Name of one employer only shall be given in each report.

A separate report of the issuance of a policy and endorsement, provided for by § 703.116, shall be made for each employer covered by a policy. If a policy is issued insuring more than one employer, a separate report for each employer so covered shall be sent to the deputy com-



V 38 1186 SEP 26 73 XUM

missioner concerned, with the name of only one employer on each such report.

AUTHORIZATION OF SELF-INSURERS

**§ 703.301 Employers who may be authorized as self-insurers.**

The Office will consider for the granting of authority to secure by self-insurance the payment of compensation under the Longshoremen's and Harbor Workers' Compensation Act, or its extensions, any employer who, pursuant to the regulations in this part, furnishes to the Office satisfactory proof of such employer's ability to pay compensation directly. The succeeding regulations relating to self-insurers require the deposit of security in the form either of an indemnity bond or negotiable securities (at the option of the employer) of a kind and in an amount determined by the Office, and prescribe the conditions under which such deposit shall be made. The term "self-insurer" as used in these regulations means any employer securing compensation in accordance with the provisions of 33 U.S.C. 932(a)(2) and with these regulations.

**§ 703.302 Application for authority to become a self-insurer; how filed; information to be submitted; other requirements.**

Application for authority to become a self-insurer may be made by any employer desiring such privilege and shall be addressed to the OWCP and be made on a form provided by the Office. Such application shall contain: (a) A statement of the employer's payroll report for the preceding 12 months; (b) a statement of the average number of employees engaged in employment within the purview of the LHWCA or any of its extensions for the preceding 12 months; (c) a statement of the number of injuries to such employees resulting in disability of more than 7 days' duration, or in death, during each of 3 years next preceding the date of the application; (d) an itemized statement of the assets and liabilities of the employer; (e) a description of the facilities maintained or the arrangements made for the medical and hospital care of injured employees; and (f) a statement describing the provisions and maximum amount of any excess or catastrophic insurance. The Office may in its discretion require the applicant to submit such further information or such evidence as the Office may deem necessary to have in order to enable it to give adequate consideration to such application. Such application shall be signed by the applicant over his typewritten name and if the applicant is not an individual, by an officer of the applicant duly authorized to make such application over his typewritten name and official designation and shall be sworn to by him. If the applicant is a corporation, the corporate seal shall be affixed. The application shall be filed with the OWCP national office in Washington, D.C. The regulations in this part shall be binding upon each applicant hereunder and the applicant's consent to be bound by all requirements of the said regulations shall be deemed to be included in and a part of the application, as fully as though written therein.

**§ 703.303 Decision upon application of employer; deposit of negotiable securities or indemnity bond.**

The decision of the Office to grant an application of an employer for authority to pay compensation under said Act as a self-insurer will be transmitted to the applicant on a form prescribed by the Office. Such grant shall be conditioned upon a deposit of security in the form of an indemnity bond or of negotiable securities in an amount fixed by the Office, and the execution and filing of an agreement and undertaking in the form prescribed by the Office, as required by § 703.304.

**§ 703.304 Filing of agreement and undertaking.**

The applicant for the privilege of self-insurance shall as a condition precedent to receiving authorization to act as a self-insurer, execute and file with the Office an agreement and undertaking in a form prescribed and provided by the Office in which the applicant shall agree: (a) To pay when due, as required by the provisions of said Act, all compensation payable on account of injury or death of any of its employees injured within the purview of said Act; (b) in such cases to furnish medical, surgical, hospital, and other attendance, treatment and care as required by the provisions of said Act; (c) to deposit with the Office an indemnity bond in the amount which the Office shall fix, or to deposit negotiable securities as provided for by the regulations in this part in the amount which the Office shall fix, accordingly as elected in the application; (d) to authorize the Office to sell such negotiable securities so deposited or any part thereof and from the proceeds thereof to pay such compensation, medical, and other expenses and any accrued penalties imposed by law as it may find to be due and payable; and (e) to obtain and maintain, if required by the Office, excess or catastrophic insurance, in amounts to be determined by the Office.

**§ 703.305 Decision upon application of employer; furnishing of indemnity bond or deposit of negotiable securities required.**

The applicant for the privilege of self-insurance, as a condition precedent to receiving authorization to act as a self-insurer, shall give security for the payment of compensation and the discharge of all other obligations under the said Act, in the amount fixed by the Office, which may be in the form of an indemnity bond with sureties satisfactory to the Office, or of a deposit of negotiable securities as provided in the regulations in this part. The amount of such security so to be fixed and required by the Office shall be such as the Office shall deem to be necessary and sufficient to secure the performance by the applicant of all obligations imposed upon him as an employer by the Act. In fixing the amount of such security the Office will take into account the financial standing of the employer, the nature of the work in which he is engaged, the hazard of the work in which the employees are employed, the payroll exposure, and the accident experience as shown in the application and the Office's records, and any other facts which the Office may deem pertinent. Additional security may be required at any time in the discretion of the Office. The indemnity bond which is required by these regulations shall be in such form, and shall contain such provisions, as the Office may prescribe: *Provided*, That only surety companies approved by the United States Treasury Department under the laws of the United States and the rules and regulations governing bonding companies may act as sureties on such indemnity bonds.

**§ 703.306 Kinds of negotiable securities which may be deposited; conditions of deposit; acceptance of deposits.**

An applicant for the privilege of self-insurance electing to deposit negotiable securities to secure his obligations under said Act in the amount fixed by the Office under the regulations in this part shall deposit any negotiable securities acceptable as security for the deposit of public monies of the United States under regulations issued by the Secretary of the Treasury. (See 31 CFR 203.7 and 203.8.) The approval, valuation, acceptance, and custody of such securities is hereby committed to the several Federal Reserve Banks and the Treasurer of the United States when authorized under the regulations in this part to receive deposits of such securities.

**§ 703.307 Deposits of negotiable securities with Federal Reserve banks or the Treasurer of the United States; authority to sell such securities; interest thereon.**

Deposits of securities provided for by the regulations in this part shall be made with any Federal Reserve bank or any branch of a Federal Reserve bank designated by the Office, or the Treasurer of the United States, and shall be held subject to the order of the Office with power in the Office, in its discretion in the event of default by the said self-insurer, to collect the interest and the principal as they may become due, to sell the securities or any of them as may be required to discharge the obligations of the self-insurer under said Act and to apply the proceeds to the payment of any compensation or medical expense for which the self-insurer may be liable. The Office may, however, whenever it deems it unnecessary to resort to such securities for the payment of compensation, authorize the self-insurer to collect interest on the securities deposited by him.

**§ 703.308 Substitution and withdrawal of negotiable securities.**

No substitution or withdrawal of negotiable securities deposited by a self-insurer shall be made except upon authorization by the Office. A self-insurer





discontinuing business, or discontinuing operations within the purview of said Act, or providing security for the payment of compensation by insurance under the provisions of said Act may apply to the Office for the withdrawal of securities deposited under the regulations in this part. With such application shall be filed a sworn statement setting forth: (a) A list of all outstanding cases in each compensation district in which compensation is being paid, with the names of the employees and other beneficiaries, giving a description of causes of injury or death, and a statement of the amount of compensation paid; (b) a similar list of all pending cases in which no compensation has as yet been paid; and (c) a similar list of all cases in which injury or death has occurred within 1 year prior to such application or in which the last payment of compensation was made within 1 year prior to such application. In such cases withdrawals may be authorized by the Office of such securities as in the opinion of the Office may not be necessary to provide adequate security for the payment of outstanding and potential liabilities of such self-insurer under said Act.

**§ 703.309 Increase or reduction in the amount of indemnity bond or negotiable securities.**

Whenever in the opinion of the Office the principal sum of the indemnity bond filed or the amount of negotiable securities deposited by a self-insurer is insufficient to afford adequate security for the payment of compensation and medical expenses under said Act, the self-insurer shall, upon demand by the Office, file such additional indemnity bond or deposit under the regulations in this part such additional amount of negotiable securities as the Office may require. At any time upon application of a self-insurer, or on the initiative of the Office, when in its opinion the facts warrant, the principal sum of an indemnity bond required to be given or the amount of negotiable securities required to be deposited may be reduced. A self-insurer seeking such reduction shall furnish such information as the Office may request relative to his current affairs, the nature and hazard of the work of his employees, the amount of the payroll of his employees engaged in maritime employment within the purview of the said Act, his financial condition, his accident experience, and such other evidence as may be deemed material, including a record of payments of compensation made by him.

**§ 703.310 Reports required of self-insurers; examination of accounts of self-insurer.**

At such times as the Office may require or prescribe, each self-insurer shall submit such of the following reports as may be requested:

(a) A sworn itemized statement of the self-insurer's assets and liabilities, or a balance sheet.

(b) A sworn statement showing by classifications the payroll of employees of the self-insurer who are engaged in employment within the purview of the LHWCA or any of its extensions.

(c) A sworn statement covering the 6 months' period preceding the date of such report, listing by compensation districts all death and injury cases which have occurred during such period, together with a report of the status of all outstanding claims, showing the particulars of each case.

Whenever it deems it to be necessary, the Office may inspect or examine the books of account, records, and other papers of a self-insurer for the purpose of verifying any financial statement submitted to the Office by self-insurer or verifying any information furnished to the Office in any report required by this section, or any other section of the regulations in this part, and such self-insurer shall permit the Office or its duly authorized representative to make such an inspecton or examination as the Office shall require. In lieu of this requirement the Office may in its discretion accept an adequate report of a certified public accountant.

**§ 703.311 Period of authorization as self-insurer; renewals.**

No initial authorization as a self-insurer shall be granted for a period in excess of 18 months, and the expiration date thereof shall fall on the 30th day of June. A self-insurer who has made an adequate deposit of negotiable securities as required by the Office under the regulations in this part will be reauthorized for the ensuing fiscal year without additional security if the Office finds that his experience as a self-insurer warrants such action. A self-insurer who currently has on file an indemnity bond, will receive from the Office on or about May 10 of each year a bond form for execution in contemplation of reauthorization, and the submission of such bond duly executed in the amount indicated by the Office will be deemed and treated as such self-insurer's application for reauthorization for the ensuing fiscal year; the privilege of such self-insurer will, however, terminate with the termination of his current authorization unless such duly executed indemnity bond be submitted not later than June 30.

**§ 703.312 Revocation of privilege of self-insurance.**

The Office may for good cause shown suspend or revoke the authorization of any self-insurer. Failure by a self-insurer to comply with any provision or requirement of law or of the regulations in this part, or with any lawful order or communication of the Office, or the failure or insolvency of the surety on his indemnity bond, or impairment of financial responsibility of such self-insurer, shall be deemed good cause for such suspension or revocation.

ISSUANCE OF CERTIFICATES OF COMPLIANCE

**§ 703.501 Issuance of certificates of compliance.**

Every employer who has secured the payment of compensation as required by 33 U.S.C. 932 and by the regulations in this part may request a certificate from the deputy commissioner in the compensation district in which he has operations, and for which a certificate is required by 33 U.S.C. 937, showing that such employer has secured the payment of compensation. Only one such certificate will be issued to an employer in a compensation district, and it will be valid only during the period for which such employer has secured such payment. An employer so desiring may have photocopies of such a certificate made for use in different places within the compensation district. Two forms of such certificates have been provided by the Office, one form for use where the employer has obtained insurance generally under these regulations, and one for use where the employer has been authorized as a self-insurer.

**§ 703.502 Same; employer operating temporarily in another compensation district.**

A deputy commissioner receiving a report of the issuance of a policy of insurance with the notation authorized by § 703.119, will file such report until he receives from the insured employer named therein a request for certificate of compliance, giving the address of the employer within the compensation district of such deputy commissioner. Upon receipt of such a request the deputy commissioner will send the proper certificate of compliance to such employer at such address.

**§ 703.503 Return of certificates of compliance.**

Upon the termination by expiration, cancellation or otherwise, of a policy of insurance issued under the provisions of law and these regulations, or the revocation or termination of the privilege of self-insurance granted by the Office, all certificates of compliance issued on the basis of such insurance or self-insurance shall be void and shall be returned by the employer to the deputy commissioner issuing them with a statement of the reason for such return. An employer holding certificate of compliance under an insurance policy which has expired, pending renewal of such insurance need not return such certificate of compliance if such expired insurance is promptly replaced. An employer who has secured renewal of insurance upon the expiration of policy under said Act or whose self-insurance thereunder is reauthorized without a break in the continuity thereof need not return an expired certificate of compliance.

## PART 704—SPECIAL PROVISIONS FOR LHWCA EXTENSIONS

Sec.

704.001 Extensions covered by this part.
704.002 Scope of part.

DEFENSE BASE ACT

704.101 Administration; compensation districts.
704.102 Commutation of payments to aliens and nonresidents.
704.103 Removal of certain minimums when computing or paying compensation.
704.151 DBA endorsement.



V 38-186 SEP 26 73 XUM

DISTRICT OF COLUMBIA WORKMEN'S COMPENSATION ACT

Sec.
704.201 Administration; compensation districts.
704.251 DCCA endorsement.

OUTER CONTINENTAL SHELF LANDS ACT

704.301 Administration; compensation districts.
704.351 OCSLA endorsement.

NONAPPROPRIATED FUND INSTRUMENTALITIES ACT

704.401 Administration; compensation districts.
704.451 NFIA endorsement.

AUTHORITY: 5 U.S.C. 301; Reorganization Plan No. 6 of 1950, 15 FR 3174, 64 Stat. 1263; 33 U.S.C. 939; 42 U.S.C. 1651 et seq; 36 District of Columbia Code 501 et seq.; 43 U.S.C. 1331; 5 U.S.C. 8171 et seq.; Secretary of Labor's Order No. 13-71, 36 FR 8755.

**§ 704.001 Extensions covered by this part.**

(a) Defense Base Act (DBA).

(b) District of Columbia Workmen's Compensation Act (DCCA).

(c) Outer Continental Shelf Lands Act (OCSLA).

(d) Nonappropriated Fund Instrumentalities Act (NFIA).

**§ 704.002 Scope of part.**

The regulations governing the administration of the LHWCA as set forth in Parts 702 and 703 of this subchapter govern the administration of the LHWCA extensions (see § 704.001) in nearly every respect, and are not repeated in this Part 704. Such special provisions as are necessary to the proper administration of each of the extensions are set forth in this Part 704. To the extent of any inconsistency between regulations in Parts 702 and 703 of this subchapter and those in this Part 704, the latter supersedes those in Part 702 and 703 of this subchapter.

DEFENSE BASE ACT

**§ 704.101 Administration; compensation districts.**

For the purpose of administration of this Act areas assigned to the compensation districts established for administration of the Longshoremen's and Harbor Workers' Compensation Act as set forth in Part 702 of this subchapter shall be extended in the following manner to include:

(a) Canada, east of the 75th degree west longitude, Newfoundland, and Greenland are assigned to District No. 1.

(b) Canada, west of the 75th degree and east of the 110th degree west longitude, is assigned to District No. 10.

(c) Canada, west of the 110th degree west longitude, and all areas in the Pacific Ocean north of the 45th degree north latitude are assigned to District No. 14.

(d) All areas west of the continents of North and South America (except coastal islands) to the 60th degree east longitude, except for Iran, are assigned to District No. 15.

(e) Mexico, Central and South America (including coastal islands); areas east of the continents of North and South America to the 60th degree east longitude, including Iran, and any other areas or locations not covered under any other district office, are assigned to District No. 2.

**§ 704.102 Commutation of payments to aliens and nonresidents.**

Authority to commute payments to aliens and nonnationals who are not residents of the United States and Canada, section 2(b) of the Defense Base Act, 42 U.S.C. 1652(b), though separately stated in this Act, is identical in language to section 9(g) of the Longshoremen's Act. Thus, except for the different statutory citation, the LHWCA regulation at § 702.142 of this subchapter shall apply.

**§ 704.103 Removal of certain minimums when computing or paying compensation.**

The minimum limitation on weekly compensation for disability established by section 6 of the LHWCA, 33 U.S.C. 906, and the minimum limit on the average weekly wages on which death benefits are to be computed under section 9 of the LHWCA, 33 U.S.C. 909, shall not apply in computing compensation and death benefits under this Act; section 2(a), 42 U.S.C. 1652(a).

**§ 704.151 DBA endorsement.**

The following form of endorsement applicable to the standard workmen's compensation and employers' liability policy shall be used, if required by the OWCP, with the form of policy approved by the Office for use by an authorized carrier:

For attachment to Policy No. ------,

The obligations of the policy include the Longshoremen's and Harbor Workers' Compensation Act, as extended by the provisions of the Defense Base Act, and all laws amendatory thereof or supplementary thereto which may be or become effective while this policy is in force.

The Company will be subject to the provisions of 33 U.S.C. 935. Insolvency or bankruptcy of the employer and/or discharge therein shall not relieve the Company from payment of compensation and other benefits lawfully due for disability or death sustained by an employee during the life of the policy.

The Company agrees to abide by all the provisions of said Acts and all lawful rules, regulations, orders, and decisions of the Office of Workmen's Compensation Programs, Department of Labor, unless and until set aside, modified, or reversed by appropriate appellate authority as provided for by said Acts.

This endorsement shall not be canceled prior to the date specified in this policy for its expiration until at least 30 days have elapsed after a notice of cancellation has been sent to the Deputy Commissioner and to this employer.

All terms, conditions, requirements, and obligations expressed in this policy or in any other endorsement attached thereto which are not inconsistent with or inapplicable to the provisions of this endorsement are hereby made a part of this endorsement as fully and completely as if wholly written herein.

DISTRICT OF COLUMBIA WORKMEN'S COMPENSATION ACT

**§ 704.201 Administration; compensation districts.**

For the purpose of administration of this Act, the District of Columbia shall be the compensation district and is designated as District No. 40.

**§ 704.251 DCCA endorsement.**

The following form of endorsement applicable to the standard workmen's compensation and employer's liability policy shall be used, if required by the OWCP, with the form of policy approved by the Office for use by an authorized carrier:

For attachment to Policy No. ------,

The obligations of the policy include the District of Columbia Workmen's Compensation Act, and the applicable provisions of the Longshoremen's and Harbor Workers' Compensation Act, and all laws amendatory of either of said Acts or supplementary thereto which may be or become effective while this policy is in force.

The company will be subject to the provisions of 33 U.S.C. 935. Insolvency or bankruptcy of the employer and/or discharge therein shall not relieve the company from payment of compensation and other benefits lawfully due for disability or death sustained by an employee during the life of the policy.

The company agrees to abide by all the provisions of said District of Columbia Workmen's Compensation Act and all lawful rules, regulations, orders, and decisions of the Office of Workmen's Compensation Programs, Department of Labor, unless and until set aside, modified, or reversed by appropriate appellate authority as provided for by said Act.

This endorsement shall not be canceled prior to the date specified in this policy for its expiration until at least 30 days have elapsed after a notice of cancellation has been sent to the Deputy Commissioner for the District of Columbia and to this employer.

All terms, conditions, requirements, and obligations expressed in this policy or in any other endorsement attached thereto which are not inconsistent with or inapplicable to the provisions of this endorsement are hereby made a part of this endorsement as fully and completely as if wholly written herein.

OUTER CONTINENTAL SHELF LANDS ACT

**§ 704.301 Administration; compensation districts.**

For the purpose of administration of this Act, the compensation districts established under the Longshoremen's and Harbor Workers' Compensation Act as set forth in Part 702 of this subchapter shall administer this Act, and their jurisdiction for this purpose is extended, where appropriate, to include those parts of the Outer Continental Shelf adjacent to the State or States in such districts having adjacent shelf areas.

**§ 704.351 OCSLA endorsement.**

The following form of endorsement applicable to the standard workmen's compensation and employer's liability policy shall be used, if required by the OWCP, with the form of policy approved by the Office for use by an authorized carrier:

For attachment to Policy No. ------,

The obligations of the policy include the Longshoremen's and Harbor Workers' Compensation Act, as extended by the Outer Continental Shelf Lands Act, and all the laws amendatory thereof or supplementary thereto which may be or become effective while this policy is in force.

The company will be subject to the provisions of 33 U.S.C. 935. Insolvency or bankruptcy of the employer and/or discharge therein shall not relieve the company from payment of compensation and other benefits lawfully due for disability or death sustained by an employee during the life of the policy.

The company agrees to abide by all the provisions of said laws and all the lawful rules, regulations, orders and decisions of the Office of Workmen's Compensation Programs, Department of Labor, until set aside, modified, or reversed by appropriate appellate authority as provided for by said Acts.

This endorsement shall not be canceled prior to the date specified in this policy for its expiration until at least 30 days have elapsed after a notice of cancellation has been sent to the Deputy Commissioner and to his employer.

All terms, conditions, requirements, and obligations expressed in this policy or in any other endorsement attached thereto which are not inconsistent with or inapplicable to the provisions of this endorsement are hereby made a part of this endorsement as fully and completely as if wholly written herein.

NONAPPROPRIATED FUND INSTRUMENTALITIES ACT

**§ 704.401 Administration; compensation districts.**

For the purpose of administration of this Act within the continental United States, Hawaii, and Alaska, the compensation districts established for administration of the Longshoremen's and Harbor Workers' Compensation Act as set forth in Part 702 are established as the administrative districts under this Act. For the purpose of administration of this Act outside the continental United States, Alaska, and Hawaii, the compensation districts established for such overseas administration of the Defense Base Act as set forth in § 704.101 are established as the administrative districts under this Act.

**§ 704.451 NFIA endorsement.**

The following form of endorsement applicable to the standard workmen's compensation and employer's liability policy shall be used, if required by the OWCP, with the form of policy approved by the Office for use by an authorized carrier:

For attachment to Policy No. ------,

The obligations of the policy include the Longshoremen's and Harbor Workers' Compensation Act, as extended by the Nonappropriated Fund Instrumentalities Act, and all the laws amendatory thereof or supplementary thereto which may be or become effective while this policy is in force.

The company will be subject to the provisions of 33 U.S.C. 935. Insolvency or bankruptcy of the employer and/or discharge therein shall not relieve the company from payment of compensation and other benefits lawfully due for disability or death sustained by an employee during the life of the policy.

The company agrees to abide by all the provisions of said Acts and all the lawful rules, regulations, orders, and decisions of the Office of Workmen's Compensation Programs, Department of Labor, unless and until set aside, modified, or reversed by appropriate appellate authority as provided for by said Acts.

This endorsement shall not be canceled prior to the date specified in this policy for its expiration until at least 30 days have elapsed after a notice of cancellation has been sent to the Deputy Commissioner and to the within named employer.

All terms, conditions, requirements, and obligations expressed in this policy or in any other endorsement attached thereto which are not inconsistent with or inapplicable to the provisions of this endorsement are hereby made a part of this endorsement as fully and completely as if wholly written herein.

Signed at Washington, D.C. this 19th day of September 1973.

BERNARD E. DELURY,
*Assistant Secretary for Employment Standards.*

[FR Doc.73-20375 Filed 9-25-73;8:45 am]







V 38-186 SEP 26 73 XUM

federal register

WEDNESDAY, SEPTEMBER 26, 1973

WASHINGTON, D.C.

Volume 38 ■ Number 186

PART III

# ENVIRONMENTAL PROTECTION AGENCY

■

## Water Pollution Control

## REIMBURSEMENT GRANTS

No. 186—Pt. III——1

V 38 186 SEP 26 73 XUM

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER D—GRANTS

PART 35—STATE AND LOCAL ASSISTANCE

## Reimbursement Grants; Eligibility Requirements

Notice is hereby given that the Environmental Protection Agency is amending Part 35 of Title 40 to include regulations for reimbursement grants, pursuant to section 206 (a) through (e) of the Federal Water Pollution Control Act Amendments of 1972.

The regulations require that eligibility for reimbursement be limited to those State approved public sewage treatment works projects on which construction was initiated after June 30, 1956 but before July 1, 1972, provided further that such projects are found to meet the requirements of section 8 of Public Law 84–660, as amended.

Application for reimbursement of eligible costs shall be made in writing and must be received by the appropriate Regional Administrator prior to October 18, 1973.

The regulations give priority for initial allocations from funds available under Public Law 92–399 to those projects on which construction was initiated between July 1, 1966 and June 30, 1972 and which (1) were certified or endorsed by appropriate State agencies; (2) were approved for reimbursement under Public Law 84–660; and (3) did not receive the full amount for which they were eligible under Public Law 84–660. Funds remaining after the first allocation will be made available to those State approved projects which received, prior to October 18, 1972, a qualifying State matching grant, retroactive from the federally approved effective date of the State's matching grant program. Funds remaining after a second allocation will be made available for other projects under construction during the 1966–72 period and receiving less than 50 55 percent Federal grants. Should funds remain after the third allocation, a fourth allocation is provided for projects under construction during the 1956–66 period which received less than 30 percent Federal grants.

The reimbursement grant shall not exceed the difference between the amount actually received and the amount for which the project was eligible, as validated as of September 30, 1973, under Public Law 84–660 (as amended). In addition, for those projects on which construction was initiated during the 1966–72 period, reimbursement from all Federal grant sources may not exceed 80 percent of the eligible project cost.

Allocations from funds available under Public Law 92–399 will be made after October 18, 1973. Initial payments will be based upon the amount earned (construction-in-place) as of September 30, 1973.

On June 26, 1973, notice of this proposed rulemaking was published in the FEDERAL REGISTER (40 CFR Part 35). Written comments were invited and received from interested parties and are on file with the Environmental Protection Agency. The Agency has carefully considered all submitted comments. Certain of these comments have been adopted or substantially satisfied by editorial changes in, or additions to, the regulations. The major comments received and principal changes made in the regulations are discussed below.

The largest number of comments (21)—out of a total of 68—were concerned with § 35.855 (Project Eligibility). These respondents were generally concerned with the fact that no provision was made for projects falling within the purview of section 206(b) which allows reimbursement for projects initiated between June 30, 1956 and June 30, 1966. The second largest number of comments (14) dealt with § 35.875 (Priority for Funds appropriated by P.L. 92–399). The comments expressed, in the main, opposition to the establishment of priority system for fund allocation.

Other comments were, for the most part, either of a general nature or specific to a point aimed at changing certain wordings in the regulation which would enable projects, of interest to the respondent, to be eligible for first priority funding.

Essentially, two changes were made in the regulations proposed. One was the inclusion of projects, on which construction was initiated during the 1956–66 period, as eligible for reimbursement after projects in the 1966–72 period have been reimbursed. The other was the designating of September 30, 1973, as the cutoff date for establishing project costs used in determining reimbursement allocations from the $1.9 billion appropriation.

Since nearly 5000 copies of the regulation were formally distributed by E.P.A., and a mere 38 responses were received—including eleven States—this Agency concludes that the proposed regulation was considered as satisfactorily interpreting the intent of section 206 of P.L. 92–500. This conclusion is further supported by the fact that, prior to the publication of the proposed regulation, intensive and widespread interest had been expressed regarding the disposition of the regulations on reimbursable projects.

In view of the above, and since the reimbursement provisions were incorporated in P.L. 92–500 primarily to indemnify the Federal governments' liability to specific projects—i.e., those on which construction was initiated under P.L. 84–660 as amended, with a less-than-eligible grant and with the understanding that, as soon as additional appropriations became available, they would be reimbursed with the balance of the Federal share—EPA is confident that the regulations provide just and equitable implementing guidelines which are in keeping with the intent of the laws.

Because of statutory provisions permitting designated categories of sewage treatment projects to receive reimbursement funds to bring their existing Federal assistance to certain legislated levels of grant support, and because funds have been appropriated to carry out these provisions, the Administrator finds good cause to declare these regulations effective September 26, 1973.

RUSSELL E. TRAIN,
*Administrator.*

SEPTEMBER 18, 1973.

A new subpart D is herewith added to 40 CFR, part 35 to read as set forth below.

### SUBPART D—REIMBURSEMENT GRANTS

Sec.
35.850 Purpose
35.855 Project eligibility
35.860 Eligible costs
35.865 Applications
35.870 Allocations generally
35.875 Priority for funds appropriated by Public Law 92–399
35.880 Grant amount
35.885 Obligation and payment schedule
35.890 Initiation of construction
35.895 Disputes

AUTHORITY.—Sec. 206, Federal Water Pollution Control Act Amendments of 1972.

### § 35.850 Purpose.

This subpart governs all grants pursuant to section 206 (a) through (e) of the Federal Water Pollution Control Act as amended by Public Law 92–500, Oct. 18, 1972) for reimbursement of State or local funds used for publicly owned sewage treatment works.

### § 35.855 Project eligibility.

(a) Grants may be made for reimbursement of State or local funds used for public sewage treatment works projects on which construction was initiated after June 30, 1966, but before July 1, 1972, *Provided*, That construction of such project was approved by the State Water Pollution Control Agency and provided further that the Administrator finds that such project met the requirements of section 8 of the Federal Water Pollution Control Act (Public Law 84–660, as amended) in effect at the time of initiation of construction of the project.

(b) Grants may be made for reimbursement of State or local funds used for public sewage treatment works projects on which construction was initiated between June 30, 1956, and June 30, 1966, *Provided*, That construction of such project was approved by the State Water Pollution Control Agency and provided further that the Administrator finds that such project met the requirements of section 8 of the Federal Water Pollution Control Act (Public Law 84–660, as amended) in effect prior to enactment of the Federal Water Pollution Control Act Amendments of 1972 (Public Law 92–500).

### § 35.860 Eligible costs.

Eligible cost of construction shall include costs of preliminary planning to determine the economic and engineering feasibility of treatment works, the engineering, architectural, legal, fiscal, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other action necessary to the construction of





treatment works; and the erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works; and the inspection and supervision of the construction of treatment works.

### § 35.865 Applications.

(a) No grant under this section shall be made for any project unless an application for such grant is received by the appropriate Regional Administrator prior to October 18, 1973. Applications for reimbursement shall be made in writing (if mailed, a return receipt should be requested) and shall contain the following information:

(1) Brief description of project.

(2) Total eligible cost of project.

(3) Total amount of any Federal assistance received to date.

(4) Amount of additional Federal financial assistance requested under this section.

(5) The dates (actual or estimated) of initiation and completion of construction.

(6) Date of approval by State agency. The applicant must furnish such other information as may be required for determination of entitlement or quantum under this Subpart.

### § 35.870 Allocation generally.

Except as otherwise provided in § 35.875, funds available from appropriations for reimbursement grants for projects eligible under § 35.855 will be allocated in fiscal year 1974, subsequent to October 18, 1973, to each project in an amount which bears the same ratio to the unpaid balance of the reimbursement due such project (not to exceed 100 percent) as the total of such funds for such year bears to the total unpaid balance of reimbursement due all such projects on the date of enactment of such appropriation.

### § 35.875 Priority for funds appropriated by Public Law 93–399.

(a) Initial allocations from funds available under Public Law 92–399 (August 22, 1972) will be made to those projects which meet the requirements of § 35.855(a) of this subpart, and which (1) were endorsed or certified for reimbursement by the respective State agencies; (2) were approved for reimbursement pursuant to section 8(c) of Public Law 84–660 (as amended), and (3) did not receive the full amount for which they were eligible under section 8(c) of Public Law 84–660, as amended. Such projects will be due reimbursement from funds appropriated under Public Law 92–399 in an amount not to exceed their eligibility under Public Law 84–660, as amended.

(b) Funds remaining after the allocation described in paragraph (a) of this section will be available for allocation among all projects which (1) were endorsed or certified for reimbursement by the respective State agencies; and (2) received, prior to October 18, 1972, a State matching grant, retroactive from the federally approved effective date of the State's matching grant program, in an amount sufficient to qualify the project for increased Federal assistance.

(c) Funds remaining after the allocation described in paragraph (b) of this section will be available for allocation among all other projects eligible under § 35.855(a) of this subpart.

(d) Funds remaining after the allocation described in paragraph (c) of this section will be available for allocation among all projects eligible under § 35.855 (b) of this subpart.

### § 35.880 Grant amount.

(a) For projects described in § 35.855 (a) of this subpart, the grant amount shall not exceed a total amount equal to the difference between the amount of Federal financial assistance, if any, received under Public Law 84–660 (as amended) for such project, and, where eligible, 50 percent of the allowable costs of such project (or 55 percent of such costs where the Administrator determines that project construction was undertaken in conformity with a comprehensive metropolitan treatment plan); provided, that reimbursement for project costs from all Federal grant sources may not exceed 80 percent of the costs of the project. No project described in §35.875(a) of this subpart, shall receive a grant in an amount greater than the difference between the grant amount received and the amount for which the project was eligible under section 8(c) of Public Law 84–660 (as amended).

(b) For projects described in § 35.855 (b) of this subpart, the grant amount shall not exceed a total amount equal to the difference between the amount of Federal financial assistance, if any, received under Public Law 84–660 (as amended) for such project and 30 percent of the allowable costs of such project.

(c) The eligible project cost, upon which the eligible grant amount is computed, will be based on project costs as they are validated as of September 30, 1973.

(d) A reimbursement grant will be rounded downward to the nearest hundred dollars. Reimbursement grants will not be awarded to projects entitled to reimbursement of less than $1,000.

### § 35.885 Obligation and payment schedule.

(a) Allocations from the funds available under Public Law 92–399 will be made in accordance with §§ 35.870, 35.875, and 35.880. The obligation of reimbursable grant awards to the eligible projects will commence thereafter.

(b) The initial payment request from recipients of reimbursement grant awards will be based on the amount earned (construction-in-place) on each individual project as of September 30, 1973.

### § 35.890 Initiation of construction.

The phrase "initiation of construction," as used in this subpart, means the issuance to a construction contractor of a notice to proceed, or, if no such notice is required, the execution of a construction contract.

### § 35.895 Disputes.

Final determinations by the Regional Administrator concerning applicant eligibility, the amount to which an applicant is entitled, or allowability of costs shall be conclusive unless appealed within 30 days in accordance with the "Disputes" article (Article 7) of the EPA General Grant Conditions (Appendix A, Subchapter B of this title).

[FR Doc.73-20183 Filed 9-24-73;11:21 am]



V 38-186
SEP 26 73
XUM

*Current White House Releases*

## WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS

This unique service makes available transcripts of the President's news conferences; messages to Congress; public speeches, remarks, and statements; and other Presidential materials released by the White House.

The Weekly Compilation carries a Monday dateline and covers materials released during the preceding week. It includes an Index of Contents and a system of cumulative indexes. Other finding aids include lists of laws approved by the President and of nominations submitted to the Senate, a checklist of White House releases, and a digest of other White House announcements.

This systematic publication of Presidential items provides users with up-to-date information and a permanent reference source concerning Presidential policies and pronouncements.

**Subscription Price: $9.00 per year**

Compiled by Office of the Federal Register, National Archives and Records Service, General Services Administration

**Order from: Superintendent of Documents**
**U.S. Government Printing Office,**
**Washington, D.C. 20402**

V 38-186
SEP 26 73
XUM

federal register

September 27, 1973—Pages 26885–27038

THURSDAY, SEPTEMBER 27, 1973

WASHINGTON, D.C.

Volume 38 ■ Number 187

Pages 26885–27038

PART I

## HIGHLIGHTS OF THIS ISSUE

**This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.**

**INCOME TAX**—
IRS proposes medical expense deduction for operation and maintenance of capital assets; comments by 10–29–73 ..... 26918
IRS adopts regulations regarding "widow's allowance" or "family allowance" paid by a decedent's estate.... 26912
IRS lengthens time for filing application for change of a taxpayer's annual accounting period ..... 26911

**SECURITIES**—FRS amends regulation regarding "Single Credit Rule" for stock option and stock purchase plans; effective 10–29–73 ..... 26905

**VETERANS BENEFITS**—VA proposes provisions for payments for independent study programs; comments by 10–26–73 ..... 26944

**LIFESAVING EQUIPMENT**—Coast Guard proposes to amend specifications for inflatable liferafts; comments by 10–31–73 ..... 26938

**LABOR-MANAGEMENT RELATIONS**—Labor Department proposes to grant official time status for representatives to elections and hearings; comments by 10–12–73 26919

**MEDICAID**—
HEW proposal for decreasing disability waiting period requirements; comments by 10–29–73 ..... 26921
HEW proposal on fraud; comments by 10–29–73 ..... 26920

**PUBLIC ASSISTANCE**—HEW amendments regarding age and school attendance in AFDC program; effective 11–28–73 ..... 26916

**MOTOR VEHICLE SAFETY STANDARDS**—DOT proposes requirements for location, identification, and illumination of certain foot-operated controls and displays; comments by 11–26–73 ..... 26940

**BROKERS, DEALERS, AND INVESTMENT ADVISERS**—SEC proposes special procedures regarding transactions in options; comments by 10–19–73 ..... 26943

(Continued inside)

**PART II:**

**FEDERAL HAZARDOUS SUBSTANCES ACT**—Consumer Product Safety Commission revises and transfers regulations ..... 27011



V 38-187 SEP 27 73 XUM

187

# REMINDERS

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

**SEPTEMBER 27**

FDA—Child protection packaging standards for certain liquid kindling and/or illuminating preparations containing petroleum distillates.... 2757; 1–30–73

FAA—Standard Instrument approach procedures; miscellaneous amendments ..... 22121; 8–16–73, 23398, 8–30–73

federal register

Area Code 202 Phone 523–5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by the Executive Branch of the Federal Government. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $2.50 per month or $25 per year, payable in advance. The charge for individual copies is 20 cents for each issue, or 20 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.





**NEW ANIMAL DRUGS**—FDA approves use of certain drugs 4 documents); effective 9–27–73 ..... **26909, 26910**

**LATE CONTRACT BIDS AND PROPOSALS**—GSA policies and procedures regarding receipt and consideration for award; effective 10–25–73 ..... **26913**

**RELOCATION PAYMENTS AND ASSISTANCE**—HUD proposes revisions in guidelines; comments by 10–29–73.... **26923**

**COTTON TEXTILES**—CITA announces new import levels for products from Brazil; effective 10–1–73 .... **26959**

**AGRICULTURAL COMMODITIES**—Commerce Department announces discontinuance of short supply controls; effective 10–1–73 ..... **26908**

**MEETINGS—**

Justice Department: Guards and Investigation Committee of the Private Security Advisory Council, 10–9–73 26947

VA: Voluntary Service National Advisory Committee, 10–25–73 ..... 26983

HEW: NIH meetings (17 documents), 10–1–73–10–26–73 ..... 26950–26953

National Advisory Council on the Education of Disadvantaged Children, 10–24 and 10–25–73 ..... 26979

AEC: Advisory Committee on Reactor Safeguards, (3 documents), 10–9, 10–10, 10–11 to 10–13–73 26953–26955

Defense Department: USAF Scientific Advisory Board Ad Hoc Committee on B–1 Aerodynamics, 10–1 and 10–2–73 ..... 26947

Interior Department: Committee on Energy Conservation National Petroleum Council, 10–1–73..... 26984

# Contents

**AGRICULTURAL MARKETING SERVICE**

Rules and Regulations

Processed fruits and vegetables; inspection and certification; correction ..... 26903

Valencia oranges grown in Arizona and California; limitation of handling ..... 26903

Notices

Peanuts, 1973 crop; outgoing quality regulations and indemnification amendment ..... 26949

**AGRICULTURE DEPARTMENT**

*See* Agricultural Marketing Service; Animal and Plant Health Inspection Service; Commodity Credit Corporation; Forest Service; Rural Electrification Administration; Soil Conservation Service.

**AIR FORCE DEPARTMENT**

Rules and Regulations

Military personnel; appointment in commissioned grades ..... 26891

Notices

USAF Scientific Advisory Board; meeting ..... 26947

**ANIMAL AND PLANT HEALTH INSPECTION SERVICE**

Rules and Regulations

Exotic newcastle disease and psittacosis in poultry; areas released from quarantine ..... 26904

Scables in cattle; area released from quarantine ..... 26904

**ASSISTANT SECRETARY FOR LABOR-MANAGEMENT RELATIONS**

Proposed Rules

Granting official time for elections and hearings ..... 26919

**ATOMIC ENERGY COMMISSION**

Notices

Commonwealth Edison Co.; issuance of amendment to facility operating license ..... 26054

Meetings of the Advisory Committee on Reactor Safeguards: 162nd ACRS ..... 26953

Subcommittee on Reliability and Accident Probabilities ..... 26955

Working Group on Peaking Factors ..... 26954

**CIVIL AERONAUTICS BOARD**

Rules and Regulations

Price Stabilization Program; special provisions; repeal ..... 26908

Notices

*Hearings, etc.:*

Dallas-Fort Worth Regional Airport Investigation ..... 26955

International Air Transport Association (3 documents) ..... 26956

Ronson Corp. and Ronson Helicopters, Inc ..... 26959

Transatlantic Route Proceedings, et al ..... 26957

**COAST GUARD**

Proposed Rules

Inflatable liferafts; inspections and tests ..... 26938

Navigible waters across Louisiana; drawbridge regulations ..... 26938

**COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS**

Notices

Certain cotton textiles and cotton textile products produced in the Federative Republic of Brazil ..... 26959

**COMMODITY CREDIT CORPORATION**

Rules and Regulations

Corn; 1973 crop loan and purchase program; correction ..... 26904

**CONSUMER PRODUCT SAFETY COMMISSION**

Rules and Regulations

Federal Hazardous Substances Act regulations; revision and transfer ..... 27012

**COST OF LIVING COUNCIL**

Rules and Regulations

Construction operations; Phase IV price regulations ..... 26917

**DEFENSE DEPARTMENT**

*See* Air Force Department.

**DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION**

Rules and Regulations

Discontinuance of short supply controls on agricultural commodities ..... 26908

**ENVIRONMENTAL PROTECTION AGENCY**

Rules and Regulations

Certain pesticides; tolerances and exceptions in or on raw agricultural commodities ..... 26913

**ENVIRONMENTAL QUALITY COUNCIL**

Notices

Environmental impact statements; availability to public ..... 26960

**FEDERAL AVIATION ADMINISTRATION**

Rules and Regulations

Alteration of control zone and terminal control area at Chicago, Ill ..... 26905

Alteration of jet routes ..... 26907

Alteration of VOR Federal airways; correction ..... 26906

Beech Model 18 Series Airplanes; airworthiness directive; correction ..... 26905

Designation of restricted area and alteration of continental control area ..... 26906

Standard instrument approach procedures; miscellaneous amendments ..... 26907

Proposed Rules

Pilot compartment security, large turbojet powered passenger-carrying airplanes; withdrawal of proposal ..... 26939

Sitka, Alaska, control zone and transition area; alteration ..... 26940

**FEDERAL COMMUNICATIONS COMMISSION**

Proposed Rules

Citizens Radio Service; creation of new class and reallocation of frequencies; extension of time for filing comments ..... 26942

*(Continued on next page)*



V 38 I 187 SEP 27 73 XUM

Notices
Bisbee Broadcasters, Inc. and Wrye Associates; hearing 26962
Canada-U.S.A. TV Agreement of 1952; amendment of table A 26963
Canadian television stations; list of additions, changes, deletions, and corrections 26964
Panel Chairman and Steering Committee of the Cable Television Technical Advisory Committee; joint open meeting 26963

FEDERAL INSURANCE ADMINISTRATION
Rules and Regulations
Areas eligible for sale of insurance; status of participating communities 26911

FEDERAL MARITIME COMMISSION
Proposed Rules
Intermodal Container Transport Services; petition for rulemaking 26943

Notices
Bradbury Technical Co., and Brady-Hamilton Stevedore Co.; agreement filed 26964
Sea-Land Service, Inc.; order of investigation and hearing 26964
Statement of organization, and function 26965
Thaddeus W. Wyatt and T. W. Wyatt Co.; order of revocation 26970
United States Lines, Inc.; order to show cause 26971

FEDERAL POWER COMMISSION
Notices
*Hearings, etc.:*
Bracken Oil Properties, Inc 26971
Colorado Interstate Gas Co 26975
Douglas B. Marshall, et al 26971
Interstate Power Co 26972
McCulloch Oil Corp 26972
Metropolitan Edison Co 26972
Michigan Wisconsin Pipe Line Co. (3 documents) 26973
Mountain Fuel Supply Co 26973
Northern Natural Gas Co. (2 documents) 26974
R. DeWitt Mallory 26974
Valley Gas Transmission, Inc 26974
Meetings:
Technical Advisory Committee on Fuels 26972
Technical Advisory Committee on Conservation of Energy (2 documents) 26972

FEDERAL RESERVE SYSTEM
Rules and Regulations
Stock option and purchase plans; deletion of "single credit rule" 26905

Notices
Bank acquisition approvals:
First Commercial Banks, Inc 26975
First Tennessee National Corp 26976
Multibank Financial Corp 26977
Southern Bancorporation, Inc 26977
Hancock Group, Inc.; formation of bank holding company 26976
Mercantile Bankshares Corp.; acquisition of banks 26979

FISH AND WILDLIFE SERVICE
Rules and Regulations
Migratory bird hunting:
Bear River Migratory Bird Refuge, Utah 26917
Salt Plains National Wildlife Refuge, Okla 26917

FOOD AND DRUG ADMINISTRATION
Rules and Regulations
Hazardous substances; revision and transfer of regulations 26910
New animal drugs:
Chlortetracycline, sulfamethazine and penicillin 26909
Dimethyl sulfoxide gel; veterinary 26909
Neostigmine methylsulfate 26910
Phenylvutazone 26910

FOREST SERVICE
Notices
Cloud Peak Primative Area; notice of public hearing 26949

GENERAL SERVICES ADMINISTRATION
Rules and Regulations
Late bids and proposals; revision, new policies and procedures 26913
Small business concerns; certificate of competency programs 26913

Notices
Attorney General; delegation of authority 26979

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
*See* Food and Drug Administration; National Institutes of Health; Social and Rehabilitation Service; Social Security Administration.

HEARINGS AND APPEALS OFFICE
Notices
Mountain Drive Coal Co.; petition for modification of application of mandatory safety standard 26948

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
*See also* Federal Insurance Administration.
Proposed Rules
Relocation payments and assistance and real property acquisition 26923

INTERIOR DEPARTMENT
*See* Fish and Wildlife Service; Hearings and Appeals Office; Land Management Bureau; National Park Service; Oil and Gas Office.

INTERNAL REVENUE SERVICE
Rules and Regulations
Income tax:
Deductibility and inclusion in gross income of family allowances 26912
Time for filing application for change of annual accounting period 26911
Proposed Rules
Income tax; medical expense deduction for operation and maintenance of capital asset 26918

INTERSTATE COMMERCE COMMISSION
Notices
Assignment of hearings 26984
Fourth section application for relief 26984
Freight rates and charges of Long Island Rail Road Co.; increases 26984
Motor Carrier Board transfer proceedings 26985
Motor carrier, broker, water and freight forwarder applications 26985

JUSTICE DEPARTMENT
*See also* Law Enforcement Assistance Administration.
Rules and Regulations
Civil rights issues affecting American Indians; assignments 26910

LABOR DEPARTMENT
*See* Assistant Secretary for Labor-Management Relations.

LAND MANAGEMENT BUREAU
Proposed Rules
Geothermal resources; leasing on public, acquired and withdrawn lands; extension of time for filing comments 26918
Notices
National Forest lands; New Mexico; opening to public 26947
Utah; notices of proposed exchange and classification 26947

LAW ENFORCEMENT ASSISTANCE ADMINISTRATION
Notices
Guards and Investigations Committee of the Private Security Advisory Council; meeting 26947

NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN
Notices
Program Development Subcommittee; meeting 26979

NATIONAL CREDIT UNION ADMINISTRATION
Notices
Increase of maximum permissible dividends rate; correction 26979

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION
Proposed Rules
Controls and displays; motor vehicle safety standards 26940







NATIONAL INSTITUTES OF HEALTH
Notices
Meetings:
Ad Hoc Committee for Review of Special Virus Cancer Program 26950
Adult Development and Aging Research Committee 26950
Animal Resources Advisory Committee 26950
Biomedical Library Review Committee 26951
Board of Scientific Counselors (2 documents) 26951
Diagnostic Radiology Committee 26953
Epidemiology of the Multiple Sclerosis Scientific Advisory Committee 26951
General Clinical Research Centers Committee 26951
Immunology - Epidemiology Working Group 26951
Infectious Disease Committee 26952
Mental Retardation Research Committee 26952
National Cancer Advisory Board 26952
Pharmacology-Toxicology Program Committee 26952
Population Research Committee 26953
Therapeutic Evaluations Committee 26953
Working Group on Pathophysiology of the Multiple Sclerosis ad hoc Scientific Advisory Committee 26952

NATIONAL PARK SERVICE
Notices
Intention to issue concession permits:
Amistad Recreation Area 26948
Glen Canyon National Recreation Area 26948
Lake Meredith Recreation Area 26948
Park Manager, Bent's Old National Historic Site, Colorado; delegation of authority regarding purchasing authority 26948

OIL AND GAS OFFICE
Notices
Committee on Energy Conservation; meeting 26984

RURAL ELECTRIFICATION ADMINISTRATION
Proposed Rules
REA specifications for rural telephone facilities; system construction contract, labor, materials and associated specifications and drawings 26919

SECURITIES AND EXCHANGE COMMISSION
Proposed Rules
Exchange transactions in options; request for comments on Chicago Board Options Exchange, Inc. plan 26943

Notices
*Hearings, etc.:*
Aberle Industries, Inc 26979
Applied Fluidics, Inc 26979
Aztec Products, Inc 26979
BBI, Inc 26980
Beneficial Laboratories, Inc 26980
Co-Build Co., Inc 26980
Diversified Earth Science, Inc 26980
Equity Funding Corp. of America 26980
First Leisure Corp 26980
Fluid Power Pump Co 26980
Giant Stores Corp 26981
IDS Life Variable Annuity Fund B, and IDS Life Insurance Co 26982
Industries International, Inc 26981
R. S. Hershey Fund, Inc 26981
Royal Properties, Inc 26981
Triex International Corp 26981
Trionics Engineering Corp 26981
U.S. Financial, Inc 26982

SMALL BUSINESS ADMINISTRATION
Notices
First Venture Capital Corp.; application for license as small business investment company 26983
Montana; declaration of disaster loan area 26983
Pennsylvania; disaster relief loan availability 26983

SOCIAL AND REHABILITATION SERVICE
Rules and Regulations
Coverage and condition of eligibility in financial assistance program; age and school attendance in AFDC 26916
Proposed Rules
Fraud in the medical assistance program 26920

SOCIAL SECURITY ADMINISTRATION
Proposed Rules
Federal old-age survivors and disability insurance; waiting period requirement 26921

SOIL CONSERVATION SERVICE
Notices
Leona River watershed project, Texas; availability of draft environmental statement 26950

TRANSPORTATION DEPARTMENT
*See* Coast Guard; Federal Aviation Administration; National Highway Traffic Safety Administration.

TREASURY DEPARTMENT
*See* Internal Revenue Service.

VETERANS ADMINISTRATION
Proposed Rules
Independent study program; payments 26944
Notices
Voluntary Service National Advisory Committee; meeting 26983




V 38-187 SEP 27 73 XUM

# List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month. In the last issue of the month the cumulative list will appear at the end of the issue.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1973, and specifies how they are affected.


**6 CFR**
150 ..... 26917

**7 CFR**
52 ..... 26903
908 ..... 26903
1421 ..... 26904
PROPOSED RULES:
1701 ..... 26919

**9 CFR**
73 ..... 26904
82 ..... 26904

**12 CFR**
207 ..... 26905

**14 CFR**
39 ..... 26905
71 (3 documents) ..... 26905, 26906
73 ..... 26906
75 ..... 26907
97 ..... 26907
229 ..... 26908
PROPOSED RULES:
25 ..... 26939
71 ..... 26940
121 ..... 26939

**15 CFR**
377 ..... 26908
399 ..... 26908

**16 CFR**
1500 ..... 27012
1505 ..... 27012

**17 CFR**
PROPOSED RULES:
240 ..... 26943

**20 CFR**
PROPOSED RULES:
404 ..... 26921

**21 CFR**
121 ..... 26909
135a ..... 26909
135b ..... 26910
135c ..... 26910
135e ..... 26910
191 ..... 26910
191b ..... 26910

**24 CFR**
1914 ..... 26911
PROPOSED RULES:
42 ..... 26923

**26 CFR**
1 (2 documents) ..... 26911, 26912
PROPOSED RULES:
1 ..... 26918

**28 CFR**
0 ..... 26910

**29 CFR**
PROPOSED RULES:
202 ..... 26919
206 ..... 26919

**32 CFR**
881 ..... 26891

**33 CFR**
PROPOSED RULES:
117 ..... 26938

**38 CFR**
PROPOSED RULES:
21 ..... 26944

**40 CFR**
180 ..... 26913

**41 CFR**
1-1 ..... 26913
1-2 ..... 26913
1-3 ..... 26914
1-7 ..... 26916
1-16 ..... 26916

**43 CFR**
PROPOSED RULES:
3000 ..... 26918
3200 ..... 26918

**45 CFR**
233 ..... 26916
PROPOSED RULES:
250 ..... 26920

**46 CFR**
PROPOSED RULES:
Ch. IV ..... 26943
160 ..... 26938

**47 CFR**
97 ..... 26942

**49 CFR**
PROPOSED RULES:
571 ..... 26940

**50 CFR**
32 (2 documents) ..... 26917






# Rules and Regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER Issue of each month.

## Title 32—National Defense

## CHAPTER VII—DEPARTMENT OF THE AIR FORCE

### SUBCHAPTER I—MILITARY PERSONNEL

### PART 881—APPOINTMENT IN COMMISSIONED GRADES—RESERVE OF THE AIR FORCE AND UNITED STATES AIR FORCE (TEMPORARY)

This revision provides for waiver of retirement eligibility provisions for appointment of chaplains and certain categories of medical service personnel when a critical requirement exists; revises military service obligation, age, and education requirements for appointment of nonextended active duty Reserve airmen; stipulates that Department of State Form FS-240 is acceptable as proof of citizenship for persons born abroad of American parents; restates basic educational requirements; clarifies the maximum amount of constructive service credit awardable upon appointment in grade of second lieutenant; adds AF Form 2061, to the list of forms comprising the application; provides for the commissioning of medical service personnel for assignment to Ready Reserve units of the United States Air Force Reserve and Air National Guard of the United States prior to completion of a National Agency Check; revises the certificate containing conditions for retention of commission which must be signed by chaplain candidate applicants; updates Air Force Specialty Codes for officers appointed to undergo training in various health fields; defines the types of internships required for appointment as a dietitian; updates criteria for commissioning under the Dietetic Training Program; updates the educational requirements for appointment as a medical entomologist or clinical psychologist; updates the educational and experience requirements for appointment as a biomedical laboratory officer or a social worker; changes biomedical "therapist" to biomedical "specialist"; and updates references and terminology throughout the part.

Part 881, Subchapter I of Chapter VII of Title 32 of the Code of Federal Regulations is revised to read as follows:


Subpart A—General Information

Sec.
881.1 Purpose.
881.2 Statutory authority.
881.3 Duration of appointment.
881.4 Temporary appointments.
881.5 Procurement objectives.

Subpart B—Eligibility Requirements

881.10 Persons eligible for appointment.
881.11 Persons ineligible for appointment.
881.12 Former officers of the Regular Air Force.
881.13 Former officers of any of the services.
881.14 Reserve officers of other Armed Forces of the United States.
881.15 Former rated officers.
881.16 School of Military Sciences, Officer (SMSO), and AFROTC graduates.
881.17 Appointment as a ResAF officer for assignment to the Retired Reserve and placement of name on the U.S. Air Force Reserve Retired List.
881.18 Appointment as a ResAF upon removal from the Temporary Disability Retired List (TDRL) (10 U.S.C. 1211).
881.19 Posthumous appointments.
881.20 Appointment of USAFR airmen not on extended active duty.
881.21 Appointment for entry on active duty.
881.22 Eligibility requirements.
881.23 Awards of constructive service.
881.24 U.S. Air Force (Temporary) appointments.

Subpart C—Application and Processing Procedures

881.30 How to apply.
881.31 Examining boards.
881.32 Processing and testing.
881.33 Selection of applicants.
881.34 Personnel security investigations.
881.35 Appointment and notification.
881.36 Validity of oaths of office and acceptances.

Subpart D—Appointment of Judge Advocate Officers

881.40 Submitting applications.
881.41 Professional qualifications.
881.42 Appointment and reappointment.

Subpart E—Appointment of Chaplains

881.50 Application for the Air Force chaplaincy.
881.51 Compensatory professional considerations.
881.52 Ecclesiastical endorsement.
881.53 The Chaplain Candidate Program.

Subpart F—Appointments of Physicians (Includes Osteopath), Dentists, Veterinarians, and Nurses

881.60 How to apply.
881.61 Submission of DD Form 62, Statement of Acceptability.
881.62 General qualifications for appointment.
881.63 Doctors of medicine (MD).
881.64 Doctors of osteopathy (DO).
881.65 Doctors of dentistry (DDS and DDM).
881.66 Doctors of veterinary medicine (DVM).
881.67 Appointment of nurses.

Subpart G—Appointment of Officers in the Medical Service Corps

881.70 Application, processing and selection.
881.71 Health services administrator (AFSC 9021).
881.72 Other applicants.

Subpart H—Appointment of Officers in the Biomedical Science Corps

881.80 Application, processing and selection.
881.81 Dietitian (AFSC 9216A).
881.82 Occupational therapist (AFSC 9226).
881.83 Physical therapist (AFSC 9236).
881.84 Appointment for training.
881.85 Pharmacy officer (AFSC 9241).
881.86 Optometry officer (AFSC 9251).
881.87 Bioenvironment engineer (AFSC 9121).
881.88 Medical entomologist (AFSC 9131).
881.89 Biomedical laboratory officer (AFSC 9151).
881.90 Aerospace physiologist (AFSC 9161).
881.91 Health physicist (AFSC 9171).
881.92 Clinical psychologist (AFSC 9181).
881.93 Social worker (AFSC 9191).
881.94 Biomedical specialist (AFSC 9261).


AUTHORITY.—10 U.S.C. 591, 1211, 8012, 8067, 8353, 8359, and 9411 and chapter 103.

### Subpart A—General Information

**§ 881.1 Purpose.**

(a) This part states the policies and procedures governing the direct appointment of commissioned officers as Reserves of the United States Air Force or as commissioned officers in the United States Air Force. It explains the method of application, eligibility requirements, and where to apply for appointment.

(b) Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

**§ 881.2 Statutory authority.**

The statutory authority for appointments tendered according to this part is contained in 10 U.S.C., sections 591, 593, 1211, 8067, 8353, 8358, 8359, 8444, and 9411 and chapter 103.

**§ 881.3 Duration of appointment.**

All Reserve of the Air Force (ResAF) appointments are for an indefinite term. All U.S. Air Force (Temporary) appointments effected during a war or National Emergency will continue for the duration of such war and for six months thereafter, unless sooner terminated.

**§ 881.4 Temporary appointments.**

(a) Appointments in the U.S. Air Force without component (Temporary) will be made only according to special instructions issued by Headquarters U.S. Air Force, except as stated in paragraph (b) of this section.

(b) Physicians and dentists who are resident aliens or conscientious objectors normally do not qualify for Reserve appointments; however, such persons who have a liability for training and service under the Military Selective Service Act may be appointed, if otherwise qualified, as follows:

(1) Applicants who are 26 years of age or over at time of appointment will be



V 38 I 187 SEP 27 73 XUM

tendered temporary appointments in the grades specified. Temporary appointments made under this authority terminate upon appointee's release from active duty.

(2) Applicants, including participants in the Armed Forces Physicians' Appointment and Residency Consideration Program (Berry Plan), who must be appointed on a date that will require acceptance of commission before age 26 will be initially tendered Reserve appointments. The provisions of §§ 881.11 (f) and 881.22(b) are waived in this instance.

(3) Noncitizen applicants must possess a valid Immigration and Naturalization Service (INS) Alien Registration Receipt Card (which may be obtained from the local Immigration and Naturalization Office), as evidence of lawful entry into the United States for permanent residence. Since reproduction of this form is prohibited, the applicant must submit the following statement signed by an officer, notary public or other person authorized to administer oaths:

I certify that I have this date seen INS Form I-151 issued to ---------- (name of applicant) indicating lawful entry into the United States for permanent residence on ---------- (date)

---------- (Signature) ---------- (Date)

(c) Nondeclarant aliens who are appointed to commissioned status may place their present citizenship in jeopardy by executing the Oath of Office (Military Personnel). If a nondeclarant alien indicates, while being processed for a commission, that he does not desire to take the oath of allegiance prescribed by Air Force Regulation 36-39, he may be administered the following oath of service and obedience in the same manner as the Oath of Office (Military Personnel).

I ----------, a citizen of (typed printed name) ----------, and without intention of surrendering such citizenship, having been appointed a ---------- do solemnly swear (or affirm) that I will serve the United States against all its enemies whomsoever, and that I will honestly and faithfully discharge the duties of the office upon which I am about to enter, So Help Me God.

(d) Noncitizen physicians and dentists who receive temporary appointments may be tendered Reserve appointments upon request and submission of proof of citizenship as outlined in this part.

### § 881.5 Procurement objectives.

(a) Appointments will be made by grade and category in numbers required and authorized by Headquarters U.S. Air Force. Appointments will be made only to meet procurement objectives in the categories for which appointments are currently authorized and within the grade ceilings established by law. Reserve and temporary appointments above the grade of major are made at the direction of the President, by and with the advice and consent of the Senate.

(b) Persons selected for appointment must be fully qualified according to criteria in this part and/or other Air Force directives. Appointment is not assured merely by reason of meeting the established requirements. Only persons who are best qualified will be appointed.

(c) Appointments normally will be made to fill authorized Ready Reserve position vacancies or active duty requirements.

(d) Outstanding persons in business, scientific, professional, or technical fields who do not meet eligibility criteria, but who have demonstrated through their civilian occupation that they are outstanding in their field, may be appointed upon approval of the Secretary of the Air Force. Generally, they must have attained such prominence in their field or specialty as to be nationally known.

## Subpart B—Eligibility Requirements

### § 881.10 Persons eligible for appointment.

A person with or without prior military service may apply unless he is ineligible under § 881.11. This authorization includes airmen and warrant officers who are Reserves of the Air Force or members of the Regular Air Force or the United States Air Force (Temporary).

### § 881.11 Persons ineligible for appointment.

(a) A commissioned officer of the Armed Forces serving on active duty, except as provided by this part. However, the Air Force does have provisions for interservice transfer of officers on active duty.

(b) An enlisted member or warrant officer of the Army, Navy, Marine Corps, or Coast Guard serving in the active service of the United States.

(c) An officer, warrant officer, or enlisted member in the Reserve Forces of the U.S. Army, Navy, Marine Corps, Coast Guard, National Oceanic and Atmospheric Administration, and Health Services and Mental Health Administration, unless he has obtained a conditional release from his appointment or enlistment and is not on active duty or under orders to report for active duty.

(d) A person who has previously applied for appointment under this part, but was not selected, or who was selected and declined appointment is ineligible to apply for six months from the date of notification of previous rejection or declination.

(e) A person disenrolled or eliminated from a training program leading to a commission as an officer for the following reasons unless prior approval is obtained from Headquarters U.S. Air Force:

(1) Resignation or dismissal from an officer training program of the Army, Navy, Air Force, Coast Guard, or Merchant Marine, because of military inaptitude, indifference, undesirable traits of character, disciplinary reasons, evasion of a contractual agreement, or declination of a proffered commission. Superintendents of military academies and commanders of officer training programs may recommend waivers only in exceptional cases worthy of consideration.

(2) Elimination from an officer training program of the Army, Navy, Air Force, Coast Guard, or Merchant Marine for lack of academic progress or breaches of the honor code.

(3) Elimination from a civilian operated military institution by the educational authorities because of violations of the institution's honor code.

NOTE.—Requests for determination of the eligibility of applicants disenrolled or eliminated for any of the reasons stated above will be made only in rare cases of sufficient merit to justify consideration. The applications, together with the record of disenrollment from officer candidate type training will be reviewed by the Air Force Military Personnel Center before appointment. If approved, normally an individual will not be appointed until after the date of graduation of the class from which eliminated.

(f) A conscientious objector.

(g) A person who admits or whose records show that he has at any time engaged in any of the activities in Air Force Regulation 35-62 (Security Program) or who is reasonably believed to have done so.

(h) A person who intentionally fails or refuses to accomplish the Armed Forces Security Questionnaire, in its entirety. If a medical or dental applicant for appointment is subject to induction and intentionally fails or refuses to accomplish this questionnaire, he will not be appointed; his induction will be handled by the Selective Service System.

(i) A person with a record of conviction (for other than minor traffic violation) by any type of military or civil court. However, he may request the appointing authority to grant a waiver for other minor violations that are nonrecurrent and are not considered prejudicial to peformance of duty as an officer. The applicant must include a request for waiver with his application, stating fully the circumstances of the case. Each request for waiver will be considered on its own merit and evaluated in connection with the National Agency Check (NAC) or other appropriate security investigation.

(j) A former officer, warrant officer, or enlisted member of any of the Armed Forces who has been or is being released from active duty or discharged from the service for one of the following reasons:

(1) Conditions other than honorable.

(2) Unsatisfactory service or failure to meet standards of performance prescribed by the Secretary concerned.

(3) Resignation in lieu of court-martial, reclassification, elimination, or any form of corrective or disciplinary action.

(4) Court-martial or board action initiated because of his inefficiency or misconduct, or for security reasons.

(5) Failure of selection for promotion.

(6) Dropped from the rolls of the service concerned because of confinement to a State or Federal penitentiary or correctional institution, or absence without authority for a period of three months.

(7) Failure to meet minimum Reserve participation requirements.

(8) Failure to respond to official correspondence.

NOTE.—Waivers may be granted for subparagraphs (7) and (8) of this paragraph on an individual basis for former rated officers applying under § 881.15 and for former line officers applying under Subpart F of this part.

(9) Elimination from the Inactive Status List Reserve Section (ISLRS).

(10) Physical disability.

(11) Any condition for which severance pay is received.

(12) Hardship or national health, safety, or interest reasons.

(13) Any other reason, when appointment would not be in the best interest of the service.

(k) A person on the retired roll of any of the Armed Forces, Health Service and Mental Health Administration, Coast Guard, or National Oceanic and Atmospheric Administration.

(l) A cadet of any of the service academies, including the Coast Guard and Merchant Marine, and persons enrolled in a course of training or instruction leading to a commission in any of the Armed Forces.

(m) An officer who is a deferred officer as defined in 10 U.S.C. 8368 or who has had his name removed from the recommended list under 10 U.S.C. 8377.

(n) A person who will not be available for active duty within 30 days:

(1) From date of acceptance of appointment, when appointment depends upon immediate entry on active duty.

(2) From date of issuance of the order calling him to active duty in time of war or National Emergency hereafter declared by the President or by Congress, or when otherwise authorized by law, if appointment is based upon Air Force Reserve requirements and not upon immediate entry on active duty.

(3) Because he is principally engaged or employed in a key position in an essential civilian or government activity related to the defense effort.

(4) Because he is undergoing apprenticeship training in a critical civilian occupation.

(o) A person who has been ordered to report for preinduction medical examination or other appropriate processing usually conducted immediately preceding induction under the Military Selective Service Act or who is classified 1-A unless he obtains statement from his Selective Service Board that he is not scheduled for induction within the following 120 days. A person who has applied and is later classified 1-A may remain eligible for consideration until the date he is notified to report for induction, at which time he becomes ineligible for further consideration or appointment.

(p) A person who cannot qualify for retirement under 10 U.S.C. 8911 (active duty retirement) or 10 U.S.C. 1331 (Reserve retirement), before or upon removal from an active status unless he acknowledges in writing that retention for retirement is not possible.

NOTE.—Current laws require the termination of active status of Reserve officers who reach age 60 and those in grades of lieutenant colonel and below who are not on a recommended list for promotion to colonel upon completion of 28 total years of service computed from total years service date (TYSD). Current laws also allow the Secretary of the Air Force to approve, on an individual basis, the retention of certain medical service officers and chaplains until age 60 regardless of total years of service.

### § 881.12 Former officers of the Regular Air Force.

(a) An officer of the Regular Air Force (RegAF) who is honorably separated by reason of unqualified resignation and has a remaining military service obligation (MSO) or unfulfilled contractual agreement may be separated contingent upon his acceptance of a Reserve appointment in the grade to which entitled.

(b) A former officer of the RegAF who has no MSO or unfulfilled contractual agreement and is honorably separated by reason of unqualified resignation may, at the time he renders his resignation, request an appointment as a ResAF officer. Appointment as a ResAF will be made by a letter of appointment, and acceptance must be accomplished after discharge from the RegAF.

(c) A RegAF officer who does not request a Reserve appointment at the time of his resignation may apply direct to AFMPC/DPMAJB1, Randolph Air Force Base, Texas 78148, and be considered up to one year from the date of his discharge.

(d) Appointment may be made in the permanent or temporary grade in which serving at time of discharge. Constructive service appropriate for the grade will be awarded based on length of active Federal commissioned service and education, where applicable. Constructive service will also be awarded for prior service in an active status as a Reserve officer not on extended active duty for the years in which minimum participation requirements for retention and retirement were satisfied.

(e) Air Force policy is to appoint as ResAF officers only individuals who normally may be expected to participate in Reserve activities and who will be available for immediate active service. Under current laws, an individual who is preparing for the ministry in a recognized theological or divinity school may not be required to serve on active duty or to participate in active duty training service, active duty for training, or inactive duty training. Accordingly, an officer of the RegAF who resigns to enter seminary training is not eligible for appointment as a ResAF officer. He may, however, apply for appointment as a Chaplain upon meeting specified requirements as issued in pertinent Air Force regulations.

(f) In addition to other requirements, a former chaplain of the RegAF must submit a current ecclesiastical endorsement for appointment as a ResAF. A former chaplain may not be appointed in any other category.

### § 881.13 Former officers of any of the services.

Except for those who are ineligible under § 881.11, former officers of any of the services may be appointed for duty in any specialty for which they are qualified and for which there is a procurement quota. Former officers may not be tendered appointments based solely on prior service, except as prescribed by Air Force directives.

### § 881.14 Reserve officers of other Armed Forces of the United States.

A Reserve officer of another Armed Service of the United States not on active duty may be appointed as a ResAF in any grade (or equivalent permanent grade) held as a Reserve of the Armed Forces concerned, without appearing before an examining board.

Exception: Appointment may be made in a lower or higher grade only when the Reserve commission held in the other Armed Force is in other than a professional category (medical, dental, legal, etc.) and the applicant desires and qualifies for appointment in a professional category in the Air Force for which a procurement authorization exists. He will be awarded a permanent Reserve grade and date of rank as determined by the appointment laws in effect for the U.S. Air Force.

### § 881.15 Former rated officers.

Former rated officers of any of the services (including RegAF officers who did not apply for a Reserve commission within one year after resignation) may be appointed in a grade held at time of discharge, not above O-4, to fill rated positions in the Ready Reserve.

### § 881.16 School of Military Sciences, Officer (SMSO), and AFROTC graduates.

(a) *SMSO graduates.* Applicants must have successfully completed the prescribed course and be recommended for appointment by a faculty board.

(b) *AFROTC graduates.* Applicants must have successfully completed the prescribed academic military training requirements.

### § 881.17 Appointment as a ResAF officer for assignment to the Retired Reserve and placement of name on the U.S. Air Force Reserve Retired List.

An individual who qualifies for membership in the Retired Reserve and does not hold a Reserve commission may be appointed under this section for the sole purpose of assignment to the Retired Reserve. Appointment will be made in the highest grade he has satisfactorily held or is eligible for by law. Former members separated for reasons involving









V 38 187 SEP 27 73 XUM

moral or professional dereliction normally will not be tendered an appointment. Eligibility for appointment under this section is not governed by the other conditions outlined in this part.

**§ 881.18 Appointment as a ResAF upon removal from the Temporary Disability Retired List (TDRL) (10 U.S.C. 1211).**

If a member is removed from the TDRL following a finding that he is physically fit, he will be appointed the day following discharge from the TDRL. Reappointment will normally be in the Reserve grade with promotion service date held at the time he was placed on the TDRL.

**§ 881.19 Posthumous appointments.**

A posthumous appointment as a ResAF may be issued in the name of a member of the Air Force who was selected for appointment or had successfully completed an officer training school and been recommended for appointment by the school's commander, but was unable to accept appointment because of death in the line of duty. (AFROTC cadets are ineligible for posthumous appointments.)

(a) No financial benefits will accrue as a result of a posthumous appointment.

(b) Authority: 10 U.S.C., chapter 77.

**§ 881.20 Appointment of USAFR airmen not on extended active duty.**

Direct appointment of qualified and deserving airmen not on extended active duty to officer status and a concurrent Ready Reserve assignment may be made under the quotas and criteria as prescribed by the U.S. Air Force.

**§ 881.21 Appointment for entry on active duty.**

Persons who are eligible and who meet recall criteria may be appointed for immediate recall to active duty. Appointments in grades above captain will be made only when vacancies exist. Appointments may be made under this authority only in skills listed on current recall requirements listings.

**§ 881.22 Eligibility requirements.**

(a) *Moral requirements.* Applicant must possess high moral character and personal qualifications.

(b) *Citizenship requirements.* A person appointed as a Reserve of the Air Force under this part must at the time of appointment be a citizen of the United States. An individual who is not a citizen by birth must submit the statement in subparagraph (1) of this paragraph, signed by an officer, notary public, or other person authorized by law to administer oaths. In no circumstances will facsimiles or copies (photographic or otherwise) of naturalization certificates, declarations of intention, certificates of citizenship, or alien registration receipt cards be made. Title 18 U.S.C. 1426(h) provides that "whoever, without lawful authority, prints, photographs, makes or executes a print or impression in the likeness of a certificate of arrival, declaration of intention to become a citizen, or certificate of naturalization or citizenship, or any part thereof, shall be fined not more than $5,000 or imprisoned not more than 5 years, or both." Submission of the document in subparagraph (2) of this paragraph is acceptable as proof of citizenship for persons born of American parent(s) outside the United States.

(1) For persons who are not citizens by birth:

I certify that I have this date seen the original certificate of citizenship No. ---------- (or certified copy of the court order establishing citizenship) stating that ---------- ---------- was admitted to United States citizenship by the court of at ----------
(District or county)
---------- on ----------
(City and State) (Date)

---------- ----------
(Signature) (Date)

(2) For persons born of American parent(s) outside the United States. Authenticated copy of Department of State Form FS-240, Report of Birth Abroad of a Citizen of the United States of America. This form is referred to as the Consular Report of Birth and may be obtained from the Authentication Officer, Department of State, Washington, D.C. 20520.

NOTE.—Burden of proof is upon the applicant.

(c) *Medical requirements.* All applicants must be medically qualified, or medically acceptable with waiver for Air Force commission. A report of medical examination will be accomplished not more than 90 days before the date of application. Except for women applicants, medical examinations will be without expense to the Government. Women applicants for commission may be examined by qualified civilian physicians where no military examining capability exists. Funds provided for the operation of the U.S. Air Force Recruiting Service will be used for this purpose. Travel performed in connection with medical examination will be without expense to the Government.

(d) *Age, education, experience, and grade requirements*—(1) *Age.* By law, no person under the age of 18 years will be appointed as a Reserve of the Air Force. Age criteria for commissioning through AFROTC and SMSO are contained in directives relating to such programs.

(2) *Education.* Only education above high school level gained at accredited institutions will be acceptable for the purposes of this part. Institutions recognized for credit must have national or regional accreditation as listed in the current issue of the Education Directory, Higher Education, published by the Office of Education, Department of Health, Education, and Welfare, or from a college or university not so accredited but listed in the directory. An applicant whose credits are from a school which is neither accredited nor listed in the education directory must present a statement or transcript indicating that his credits are acceptable for unconditional admission into the graduate school of, or for full transfer to, a nationally or regionally accredited college or university, except as otherwise provided by Air Force directives.

(3) *Experience.* (i) Only experience gained through full-time employment in a responsible position directly related to the specialty of appointment is acceptable for making grade determination and the award of constructive service credit. Any additional education or training in a field allied to nursing (includes anesthesia training) attained after graduation from a school of nursing will be credited as experience. Normally an applicant must have completed at least 12 months of employment before his experience is acceptable. If an applicant's record of experience is questionable, a statement must be obtained from his employer.

(ii) Unless otherwise provided, only experience gained after applicant attained the appropriate degree is creditable as service in an active status for appointment to duty in one of the applicable specialties.

(5) *Grade.* Grade is determined by the combined education and experience constructive credits the applicant possesses. If on date of his application an applicant possesses experience pertinent to his specialty that is in excess of that required for appointment as second lieutenant, it will be converted to constructive service credits by year, month, and day on a day-to-day basis.

**§ 881.23 Award of constructive service.**

The award of constructive service to reflect an applicant's combined years of education and experience was originally authorized by Section 201 of the Reserve Officer Personnel Act of 1954 (ROPA), now codified as 10 U.S.C. 8353. ROPA became effective on July 1, 1955, and contains no retroactive provisions. Accordingly, persons appointed before the effective date of the law (July 1, 1955) are not eligible for any constructive service credit.

(a) The constructive service credit possessed by an applicant is the amount of education and experience credited for grade determination. Constructive credit in excess of that required for the next higher grade, will be awarded as promotion service in grade.

(b) The award of constructive service credit will be limited to the minimum amount required for appointment in the determined grade.

(c) The amount of constructive service awarded for education will be as specified by the U.S. Air Force regardless of the actual time spent in acquiring the degree. At time of appointment, the following conditions must be met:

(1) The degree must have been conferred; or

(2) An authorized official of the educational institution awarding the degree must certify that the applicant has completed all of the requirements for the degree which will be conferred at a later specified date; and





(3) The degree must relate to the specialty in which appointment is being made.

(d) Persons who earn a degree for which constructive service is allowable, but who do so while in a commissioned status may, upon an authorized reappointment, be credited with either constructive service or their commissioned time for total years service date, but not both.

(e) Persons commissioned during a portion of the time spent in earning a degree may, upon an authorized reappointment, be awarded constructive service credit for education for the time not duplicated by commissioned service.

**§ 881.24 U.S. Air Force (Temporary) appointments.**

Total year service date and promotion service date will not be computed for officers holding only U.S. Air Force (Temporary) appointments.

**Subpart C—Application and Processing Procedures**

**§ 881.30 How to apply.**

(a) Except for procedures that apply only to SMSO and AFROTC, the documents in subparagraphs (1) through (22) of this paragraph, properly completed, constitute the application. Documents required by subparagraphs (3) through (6), (9), (11), (12), (14), and (16) of this paragraph are not required for officers on extended active duty applying for reappointment as judge advocates under Subpart D. Officers already designated as judge advocates or assignment to the Judge Advocate General's Department who apply for reappointment under Subpart D need not submit documents previously submitted if they are still current. Line of the Air Force officers desiring reappointment to the Medical Service Corps or the Biomedical Science Corps should submit application by letter. Airmen on active duty need not submit documents required by subparagraphs (4) through (6) of this paragraph if a personnel security investigation has been completed.

(1) AF Form 24, Application for Appointment as Reserves of the Air Force or USAF Without Component.

(2) Original or photostat of honorable discharge certificate or certificate of service, a copy of the order effecting discharge, and statement of service, when applicable. Applicants with prior active military service will submit a photostatic copy of DD Form 214, Report of Separation from Active Duty. For judge advocate appointees, a copy of the individual's certificate of graduation from an accredited law school and a copy of his certificate of admission to the bar of a Federal court or the highest court of a State, as applicable, will be submitted.

(3) Standard Form SF 88, Report of Medical Examination, and SF 93, Report of Medical History.

(4) DD Form 398, Statement of Personal History.

(5) DD Form 98, Armed Forces Security Questionnaire.

(6) FD Form 258, FBI Fingerprint Card.

(7) Transcripts of college work as evidence of educational level. Graduates of recognized colleges of dentistry, medicine, optometry, pharmacy, and veterinary medicine, and applicants for appointment in the Medical Service Corps may submit a photostatic copy of college diploma in lieu of a transcript.

(8) Conditional release from another Armed Force or component in which appointment is currently held, if applicable.

(9) A certificate similar to the following, except for women and chaplain applicants:

I certify that I have not been ordered to report for induction under the Military Selective Service Act. After submitting application for appointment as a Reserve of the Air Force, I understand that any appointment, enlistment, or order to active military service in a branch of the service other than the Air Force automatically renders me ineligible to accept an appointment as a Reserve of the Air Force.

---------- ----------
(Signature) (Date)

(10) Any other documents or information the applicant may desire to submit as evidence of his qualifications for appointment.

(11) For a civilian employee of the Federal Government, a "Certificate of Availability of Federal Employee."

(12) DD Form 1644, Ready Reserve Service Agreement, for persons whose appointment is contingent upon assignment to a Ready Reserve unit or mobilization augmentation position.

(13) Persons applying under Subparts, D, E, F, G, or H of this part must submit the additional documents listed in those subparts.

(14) Men applicants, other than chaplains, physicians, dentists, and veterinarians, who have not attained their 26th birthday and who have had no prior military status must submit the following statement:

If I am tendered an appointment as a Reserve of the Air Force, I understand that upon acceptance of appointment I am required by law to serve on active duty and in a Reserve component for a total of 6 years unless sooner discharged in accordance with regulations and standards prescribed by the Secretary of Defense. I understand that although the appointment is tendered and accepted for an indefinite term, my obligated service will be for a period of 6 years. I understand that I may qualify for transfer to the Standby Reserve on completion of a combination of active duty and satisfactory Ready Reserve participation totaling at least 5 years or upon completion of a combination of my military service obligation, whichever is earlier. I further understand that if my appointment is contingent upon concurrent Ready Reserve assignment, I will be required to meet the participation requirements of the unit to which assigned. I understand that while I am serving in a draft-deferred status, I am subject to mandatory assignment. I have been counseled and understand that I will become subject to involuntary order to active duty for up to 24 months if I fail to satisfactorily perform training requirements.

---------- ----------
(Signature)

(15) Men physicians, dentists, and veterinarians, including those who have reached age 26 or over, whose appointments are contingent upon concurrent assignment to a Ready Reserve position must sign the following statement and have it witnessed:

If I am tendered an appointment as a Reserve of the Air Force, I understand and agree to accept Ready Reserve status for a period of 5 years, or until age 35, whichever occurs first, effective on the date of my appointment. Provided that I satisfactorily participate as a member of a Ready Reserve unit, I will not be liable, as provided under 50 U.S.C.A. App. 454(1) (1) for active military service as the result of special draft calls.

I understand that I must participate in 48 inactive duty training periods or assemblies and up to 15 days' active duty training annually, or 30 days of active duty training annually or as required by my Reserve assignment, unless excused therefrom by proper authority.

I understand that if I fail or refuse to participate satisfactorily as determined by the Secretary of the Air Force I may be discharged or referred to the appropriate Selective Service Board for induction, as appropriate.

Witnessed by:

---
(Signature of unit commander or authorized representative)

---
(Date)

---
(Signature of applicant)

---
(Date)

(16) For persons whose appointments are for inactive duty, AF Form 1288, Application for Reserve Assignment, and a statement from the commander of the Ready Reserve unit that a vacancy exists within the unit and the appointment of the applicant is requested to fill the vacancy.

(17) For an applicant who has been eliminated from a course of training leading to a commission, the commander or activity responsible for the preliminary processing of the application will obtain and attach DD Form 785, Record of Disenrollment from Officer Candidate Type Training.

(18) Appropriate certificate required by § 881.22(b), when applicable.

(19) For airmen applicants on extended active duty, the servicing Consolidated Base Personnel Office (CBPO) will furnish an AF Form 47, Certificate of Eligibility and Record of Personnel Security Clearance, as evidence of completed security investigation.

(20) For those seeking appointment as a judge advocate, a report of interview by an active duty career judge advocate, prepared according to separate instructions issued by the Judge Advocate General, USAF.

(21) AF Form 2061, USAF Drug Abuse Certificate (Appointment/Officer Training Applicants Only), an AF Form 2031,



V 38-187
SEP 27 73
XUM

Drug Abuse Circumstances (when applicant requests an individual evaluation on AF Form 2061).

(22) All applicants for commission in the medical services for assignment to USAFR Ready Reserve units or mobilization autmentee positions must sign the following statement and have it witnessed:

I agree to attend Medical Service Officers Orientation Course, MOBMO 104–1, as soon as possible but not later than 1 year after I receive my commission as an officer of the Medical Service.

Witnessed by:

---

(Signature of unit commander or authorized representative)

---

(Date)

---

(Signature of applicant)

---

(Date)

(b) Physicians and allied medical specialists allocated to the Air Force under special draft calls will be processed as follows:

(1) DD Form 1548, Preinduction Processing and Commissioning Date—Medical, Dental, and Allied Specialists Categories constitutes the application for appointment and active duty.

(2) Standard Forms 88 and 93, Report of Medical Examination and Report of Medical History will be submitted with the DD Form 1548. Reports of medical examinations are acceptable for 2 years from date of examination.

(3) Graduates of foreign medical schools must furnish evidence of permanent certification by the Educational Council for Foreign Medical Graduates.

### § 881.31 Examining boards.

(a) Examining boards will be appointed to make recommendations for individuals who have not held an appointment and are being considered above the grade of major under 10 U.S.C. 594.

(b) Examining boards will be composed of an uneven number of officers totaling not less than three, the majority of whom are Reserve and all of whom are in a grade equal to or higher than the grades for which applicants are being considered. When a woman applicant is being considered, one of the board members will be a woman officer. Reserve officers appointed to these boards may or may not be on active duty.

(c) Any person who receives a notice of induction under the Military Selective Service Act and is allocated to the Air Force, and is otherwise qualified for appointment as a physician or dentist in a grade higher than major, will be appointed in such grade without referral to a board of officers.

### § 881.32 Processing and testing.

(a) Within 15 workdays after the application has been received from the major command, the applicant will be notified of the time and place he must appear for processing and testing. Applicants not in the active military service must provide for travel, quarters, and meals at their own expense. Applicants will be scheduled so that, as far as practical, they will not have to spend more than 2 days at the place of processing. If an applicant fails to report for processing on the scheduled date, every reasonable attempt will be made to determine reasons for failure to report. A new reporting date will be established, if the applicant desires it.

(b) Testing. (1) Unless exempt, each applicant will be administered the Air Force Officer Qualifying Test (AFOQT). No minimum qualifying scores are established. The test will be conducted according to current and appropriate instructions for administering and scoring the AFOQT battery to derive the following:

(i) Officer quality.
(ii) Verbal aptitude.
(iii) Quantitative aptitude.

(2) The following categories are exempt: (i) Former Officers.

(ii) Officers of any of the services except those applying for entry into pilot or navigator training who must meet the established requirements.

(iii) Individuals applying under Subparts E, F, G of this part (§ 881.72), and Subpart H of this part.

(3) Testing requirements for AFROTC students and individuals enrolled in the School of Military Sciences, Officer, are outlined in directives relating to those programs.

(4) The AFOQT will be administered by a test control officer or authorized personnel of the Recruiting Service.

(c) Medical examination. Each applicant will be given a medical examination, if applicable.

(d) Fingerprinting. Examining centers will fingerprint each applicant. FD Form 258, FBI Fingerprint Card will be used.

### § 881.33 Selection of applicants.

Applicants will be selected through the use of a quality-oriented system including, but not limited to factors such as education, experience, test scores, potential and motivation.

### § 881.34 Personnel security investigations.

| Rule | A<br>If an applicant— | B<br>Then he may not be tendered an appointment until (note 1)— |
|---|---|---|
| 1 | Is an immigrant alien physician or dentist | A report of a background investigation (BI) under AFR 205-32, USAF Personnel Security Program, has been completed and a favorable report rendered. |
| 2 | Has a father, mother, sisters, brothers, spouse, or children residing in one of the countries listed in AFR 205-32, atch 6. | |
| 3 | Is a U.S. citizen and has resided or traveled in a country listed in AFR 205-32, atch 6, for 30 or more continuous days after dates indicated (note 2). | |
| 4 | Made entries on DD Form 98 that provide reasons for belief that the appointment may not be clearly consistent with the interest of National security. | |
| 5 | Is not listed in rules 1–4 | A National Agency Check (NAC) has been completed and a favorable decision rendered. |
| 6 | Is an Air Force member under consideration for appointment with a Limited National Agency Check (LNAC). | A NAC has been completed and a favorable decision rendered if the break in service or employment exceeds 1 year. |
| 7 | Has a break in service or employment after a prior investigation under AFR 205-32. | |

NOTE–1. Individuals applying for appointment in any of the corps of the medical services for assignment to Ready Reserve units (USAFR and ANG (US) may be appointed prior to completion of the appropriate personnel security investigation provided the following Certificate of Understanding is submitted with the application.

I understand that my appointment as a commissioned officer in the Reserve of the Air Force is being accomplished prior to completion of the required security investigation. I further understand that if as a result of completion of the postcommissioning investigative procedures I am determined unacceptable for appointment as a commissioned officer, I will be discharged from the United States Air Force and that I will receive an Honorable Discharge Certificate.

2. Travel or residence in these countries under the auspices of the U.S. Government will not be considered.

### § 881.35 Appointment and notification.

(a) Appointments will be made by letter or administrative orders.

(1) The Air Force Specialty Code (AFSC) reflecting the appointee's education and experience which were considered in making the appointment will be shown in all appointment letters (except those for graduates of the AFROTC program).

(2) Graduates of the School of Military Sciences, Officer, will be notified by administrative orders instead of letters of appointment.

(3) Each applicant will be notified of his appointment or nonselection.

(b) Appointments will be issued as of current date and will be effective from the date of acceptance.

(c) When an appointee fails to accept an appointment, the appointing authority will cancel the appointment by reason of nonacceptance and notify the appointee.

### § 881.36 Validity of oaths of office and acceptances.

(a) When an individual is elected or appointed to an office of honor or trust under the Government of the United States, he is required, before entering upon the duties of the office, to take and subscribe to an oath of office or an oath of service and obedience under specified conditions without reservations or modifications. Appointment of any individual who does not desire to execute the oath of office or the oath of service and obedience without reservation will





be canceled. In the situations described in paragraphs (b) and (c) of this section, when an acceptance is established by other means, submission of a properly executed oath of office is a prerequisite for entitlement to full pay and allowances.

(b) Execution and return of the oath of office constitute a formal acceptance of appointment. No other evidence is needed or required. An acceptance may be "expressed," as by formal acceptance in writing, or "implied," as by entering upon the performance of the duties of the office pursuant to an order of competent authority. If an appointee enters on active duty before execution of the oath of office, the date of entry on active duty will be recorded as the implied or constructive date of acceptance. An oath of office is still required, however, and will be obtained as soon as possible. Such oath will be executed as of current date and when received by the appointing authority will be annotated as follows:

Date of entry on duty on ---------- pursuant to Special Order ---------- HQ ----------, dated ----------, constitutes constructive acceptance of appointment. Acceptance officially recorded as of

---

(Date of extended active duty).

(c) An oath of office properly dated and signed by an appointee but not administered by an authorized offical, or one taken before a person believed authorized but actually not authorized to adminster oaths, is ineffective. However, it is valid as an acceptance and will be recorded as such. In such instances, a valid oath of office will be obtained and will be dated as of the date actually executed.

## Subpart D—Appointment of Judge Advocate Officers

### § 881.40 Submitting applications.

Applicants for appointment as ResAF, Judge Advocate General's Department must submit in adition to the documents required by § 881.30(a):

(a) A certificate from the proper court clerk indicating original date of admission and present standing at the bar of a Federal court or of the highest court of a State.

(b) An affidavit from the applicant containing a chronological statement of his full legal experience. Legal experience may include governmental, judicial, teaching (in accredited law schools), and military experience and private practice.

(c) For officers applying for reappointment as judge advocates, a statement that the applicant understands that:

(1) Upon reappointment his current Reserve commission will be vacated;

(2) His service credit will be subject to recomputation;

(3) His total years service date and promotion service date will be adjusted accordingly; and

(4) The additional constructive service credit awarded counts toward mandatory transfer to the Retired Reserve under 10 U.S.C., chapter 863, as well as for appointment and promotion purposes under 10 U.S.C., chapter 837.

### § 881.41 Professional qualifications.

Applicants possessing the professional qualifications listed in this section for the grade concerned and who are otherwise qualified may apply for appointment as a ResAF, Judge Advocate General's Department.

(a) *First lieutenant.* For appointment as first lieutenant, the applicant must meet the age for grade requirements established by Air Force regulations and be a graduate of an accredited law school and a member of the bar of a Federal court or of the highest court of a State. A graduate of an accredited law school may apply for appointment before admission to the bar, provided appointment will not be tendered until he submits documentary evidence of admission to the bar. A senior attending an accredited law school may apply for appointment on the basis of his current transcript but not more than 90 days before his scheduled date of graduation. Final transcript must be submitted as soon as possible. In no event will he be tendered an appointment until he graduates from law school and submits both his final transcript and evidence of admission to the bar.

(b) *Grade above first lieutenant.* For appointment in grades above first lieutenant, applicant must possess all the qualifications specified in paragraph (a) of this section and meet the age and legal experience requirements. Normally, appointments will not be made in field grades. Exception: When the applicant has had the type of legal experience that, in the opinion of the Judge Advocate General, qualifies him to satisfactorily perform judge advocate duties in the grade sought and in a legal specialty critically required by the Air Force.

### § 881.42 Appointment and reappointment.

(a) *Appointment.* Original appointments in this specialty are contingent upon the applicants' consent to immediately enter extended active duty for 4 years, except for Air National Guard (ANG) applicants.

(b) *Reappointment.* Subject to the applicable provisions of the Air Force, ResAF officers who are not in a deferred status under 10 U.S.C. 8368 may apply for reappointment as judge advocates under the following conditions:

(1) Reappointment is limited to officers below the permanent or temporary grade of major who qualify for appointment as judge advocates but are not designated as judge advocates or assigned to the Judge Advocate General's Department.

(2) Officers reappointed under provisions of this section will be credited with constructive service under 10 U.S.C. 8353. This service counts for appointment and promotion and toward mandatory transfer to the Retired Reserve under 10 U.S.C., chapter 863.

(3) If not in Career Reserve status, applicants on extended active duty must obtain approved dates of separation that are at least 4 years from date of designation as judge advocates.

(4) Reappointment of nonextended active duty USAFR applicants who have not served on extended active duty as commissioned officers is authorized to fill extended active duty requirements. Applicants complete AF Form 125, Application for Extended Active Duty with the USAF. Selection to enter active duty is made on a competitive basis within authorized recall quotas for judge advocates.

(5) Officers, except second lieutenants, holding Reserve grades lower than those to which they would be entitled by virtue of the additional constructive service credit are not eligible for reappointment.

## Subpart E—Appointment of Chaplains

### § 881.50 Application for the Air Force chaplaincy.

(a) *General.* Applicants will be considered for appointment only when military and denominational authorizations exist within the Reserve quotas allocated.

(b) *Application procedures.* Applications must include all applicable documents listed in this subpart, plus the following:

(1) Ecclesiastical endorsement.
(2) Certified scholastic transcripts.

(c) *Qualification and requirements.* (1) Age and grade: 34 years for first lieutenant, and less than 40 years for captain.

(ii) In time of National emergency or war, or when a continuing serious shortage of Air Force chaplains exist, age waivers may be granted not to exceed the maxmum age of appointment by more than 3 years.

(2) Minimal education requirements: (1) Applicant must possess 120 semester hours of undergraduate credit from an accredited college or university.

(ii) Applicant must possess 90 semester hours of credit or an appropriate graduate degree from a theological seminary or from a graduate school of theology that is a component part of a university. The seminary or school of theology must be accepted as an accredited or associate member of the American Association of Theological Schools or meet the established criteria.

(3) Appointment in the grade of first lieutenant. Applicants may be initially appointed in the grade of first lieutenant if they are less than 34 years of age; have completed 3 years of graduate study or have a graduate theological degree from an accredited or recognized theological seminary; have attained full ecclesiastical ordination status; and have the professional experience required by their denomination.

(4) Appointment in the grade of captain. Applicants may be initially appointed in the grade of captain if they are less than 40 years of age and can qualify under one of the following constructive service credit categories:



V 38-187 SEP 27 73 XUM

(i) Have completed 3 years of graduate study in an accredited or recognized theological seminary; have attained full ecclesiastical ordination status; and have had a minimum of 4 years of full-time active professional experience as a minister, priest, or rabbi, following completion of undergraduate study.

(ii) Have completed an additional year of graduate study in an accredited or recognized theological seminary beyond the regular seminary course or first seminary degree; have attained full ecclesiastical ordination status; and have had a minimum of 3 years of full-time active professional experience as a minister, priest, or rabbi, following completion of undergraduate study.

**§ 881.51 Compensatory professional considerations.**

Applicants from religious denominations that do not operate accredited or recognized theological seminaries may be considered if they:

(a) Meet the requirements of § 881.50 (c)(2)(i).

(b) Have earned a minimum of 90 semester hours of graduate credit in the social sciences, the humanities, or theology (or a combination of all three) at an accredited or recognized institution of learning.

(c) Have attained full ordination status as required by their particular denomination.

(d) Are actively engaged full-time in their religious vocation at the time of appointment and have had the professional experience required by their denomination.

**§ 881.52 Ecclesiastical endorsement.**

Applicants must request an endorsement from their ecclesiastical endorsing agency. When the endorsement has been received by the appropriate agency, application forms with instructions will be forwarded to the applicant provided there is a quota vacancy for his denomination.

(a) The ecclesiastical endorsement will be considered valid only if it has been issued by a religious endorsing agency that has been formally recognized by the Armed Forces Chaplain's Board of the Department of Defense. The appropriate endorsing agency must certify in the endorsement that the applicant:

(1) Is a fully ordained minister, priest, or rabbi of the denomination the agency is legitimately authorized to represent, giving day, month, year, and place of applicant's ordination.

(2) Is professional qualified and authorized to be appointed as a Reserve of the Air Force with the specialty of chaplain.

(3) Is authorized to enter on extended active duty in the active establishment of the Air Force or to fill a Ready Reserve, Catagory A, or mobilization augmentee position.

(4) Is engaged in the full-time pursuit of his religious vocation.

(5) Is best qualified intellectually, emotionally, and psychologically for the Air Force chaplaincy.

**§ 881.53 The Chaplain Candidate Program.**

(a) *Eligibility criteria.* In addition to being otherwise qualified, applicants seekng appointment as chaplain candidates must:

(1) Meet the educational requirements as outlined in § 881.50(c)(2)(i).

(2) Apply after completing the first semester of the first year but before the beginning of the last semester of the final year of study while enrolled as a full-time student in an accredited or recognized theological seminary or school of religion as outlined in § 881.50(c)(2)(ii).

(3) Possess the potential professional qualifications required for chaplains in § 881.50.

(4) Obtain ecclesiastical approval to enter the Chaplain Candidate Program from the endorsing agency of the denomination under whose auspices he will qualify himself as a fully ordained minister, priest, or rabbi.

(5) Be less than 30 years of age at the time of appointment.

(b) *Procedure.* The application must include a statement of ecclesiastical approval signed by the applicant's ecclesiastical endorsing agent.

(c) *Appointment.* Appointment is contingent upon a military authorization and a denominational quota vacancy.

(1) Approved applicants will be commissioned in the grade of second lieutenant. At the time of appointment each applicant will sign the following certificate, which will become part of his permanent record:

I understand that to retain my commission as a Reserve of the Air Force I must earn a minimum of 90 semester hours of graduate credit or an appropriate theological degree from a theological school accepted as a member of the American Association of Theological Schools, or from a graduate school of religion which is a component part of a university accredited by an appropriate regional accrediting agency. I further understand that failure to complete this theological training satisfactorily will result in the termination of my commission as a Reserve of the Air Force (Authority: **AFM 35-3**, chapter 31). Upon meeting the qualifications outlined in AFR 36-15, paragraph 5-1c(3), I must submit an application for appointment as an Air Force chaplain and agree to attend the Chaplain Orientation Course at the USAF Chaplain School as soon as possible but not later than 1 year after I receive my commission as a chaplain. I agree to participate actively and satisfactorily in the Ready Reserve for a minimum of 3 years and accept a Category A or Mobilization Augmentation position when one is available; otherwise, I agree to accept an assignment to the Chaplain Area Representative Program (CHAPAR).

_____ _____
(Signature) (Date)

(2) On or before November 1 of each year the chaplain candidate must submit a certification by the registrar of the theological institution he is attending that he is a current student in good standing and has been accepted for enrollment for the ensuing academic year. The certification must include the estimated date of graduation.

(d) *Reappointment as chaplain.* A chaplain candidate applies for appointment as chaplain, first lieutenant, after he graduates from theological seminary and is fully ordained. An applicant will be approved for appointment if he is endorsed by this ecclesiastical endorsing agency and meets all requirements. He will be required to actively participate in the Ready Reserve for a minimum of 3 years unless selected by his endorsing agency to fill an active duty quota vacancy. If appointed as chaplain, he must agree to apply for the Chaplain Orientation Course as soon as possible, but no later than 1 year after date of reappointment. If no vacancy exists in a Category A Reserve unit or mobilization augmentation position, he will be assigned to CHAPAR.

(e) *Title of chaplain candidate.* A chaplain candidate, when in military status, will be addressed as "lieutenant." A chaplain candidate will not wear the chaplain insignia.

(f) *Termination of chaplain candidate status.* (1) The status of a chaplain candidate will be in force until his theological training has been completed, ordination rites have been conferred, and the candidate fully meets the requirements for appointment as an Air Force chaplain.

(2) A chaplain candidate's commission will be terminated if:

(i) He fails to complete the required theological studies;

(ii) He does not qualify as a chaplain according to § 881.50(c)(3);

(iii) He is not appointed as chaplain in the ResAF;

(iv) His ecclesiastical approval is withdrawn; or

(v) He fails to apply for reappointment as chaplain, first lieutenant, upon completion of the last semester of the final year of study and full ordination.

## Subpart F—Appointments of Physicians (Includes Osteopath), Dentists, Veterinarians, and Nurses

**§ 881.60 How to apply.**

In addition to the documents required by § 881.30(a), applicant must submit:

(a) Two photostats of license to practice, except when waivers are permitted. Nurses must have current registration in at least one State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States. Nurse anesthetists must submit documentary evidence of current certification by the American Association of Nurse Anesthetists.

(b) Nurses must submit one official copy of transcript of grades from all schools of nursing, colleges, or universities and of any postgraduate training, such as anesthesia.

**§ 881.61 Submission of DD Form 62, Statement of Acceptability.**

(This section applies only to physician applicants who are allocated to the Air Force under the Armed Forces Physicians' Appointment and Residence Consideration Program (Berry Plan).) DD Form 62, will be prepared for each physician only upon his being found medically qualified or medically acceptable with waiver of active military service. This form will be forwarded to the appropriate State Director, Selective Service System.

**§ 881.62 General qualifiecrtions for appointment.**

(a) Appointments will be based on criteria established for each specialty. Waiver of the maximum age requirement may be granted for persons concurrently requesting extended active duty.

(b) A Reserve first lieutenant or captain of the Medical or Dental Corps entering on active duty will be appointed to the grade of captain (temporary) effective the date of entry on active duty with the date of rank as of date of graduation from medical or dental school, as appropriate. Temporary appointment to the grade of captain is contingent upon the person's entry on active duty.

(c) Appointments may be tendered to draft-liable physicians for assignment to a Reserve unit, including the ANGUS except during the period a special physicians' draft call is being filled by the Selective Service System. Processing of appointees must be completed, except for security clearance, before the date Selective Service requisitioning begins.

**§ 881.63 Doctors of medicine (MD).**

(a) *Appointment as first lieutenant.* (1) For appointment as first lieutenant, the applicant must:

(i) Be a graduate of a medical school approved by the Surgeon General, or of a foreign medical school and furnish evidence of permanent certification by the Educational Council for Foreign Medical Graduates, or permanent and unrestricted licensure of a State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States.

(ii) Have completed 1 year of postgraduate study and be engaged in the ethical practice of medicine.

(iii) Possess a license to practice medicine in a State or in the District of Columbia, or possess a diploma from the National Board of Medical Examiners.

(2) License and actual engagement in practice may be waived for graduates of approved medical schools and for those who have attained permanent certification by the Educational Council for Foreign Medical Graduates. Application for appointment must be made within 1 year after the completion of internship and residency training, provided formal postgraduate medical training has been continuous and uninterrupted since receipt of medical degree.

(b) *Reappointment as first lieutenant.* Regardless of the provisions of paragraphs (a)(1)(ii) and (iii) of this section, reappointment as first lieutenant will be tendered to persons who are participants in the Senior Medical Student Program, Early Commissioning Program, Medical Education Program, or Armed Forces Health Professions Scholarship Program upon receipt of the MD or Doctor of Osteopathy (DO) degree.

(c) *Appointment in higher grades.* Applicants must possess all of the qualifications specified in paragraph (a) of this section and must have had the minimum additional professional experience, including internship, residency, fellowship, or other graduate study at a hospital, public health agency, school of public health, research institute, laboratory, medical college, recognized teaching center, or similar institution.

**§ 881.64 Doctors of osteopathy (DO).**

(a) *Appointment as first lieutenant.* (1) For appointment as first lieutenant, applicant must have completed:

(i) Three years of college work before entering a college of osteopathy.

(ii) A 4-year course and been awarded a degree of Doctor of Osteopathy from a school of osteopathy (approved by the Surgeon General) whose graduates are eligible for licensure to practice medicine or surgery in a majority of the States and be licensed to practice medicine, surgery, or osteopathy in a State or Territory of the United States or in the District of Columbia.

(iii) One year of postgraduate study and be engaged in the ethical practice of osteopathy.

(2) License and actual engagement in practice may be waived for graduates of approved schools of osteopathy provided application for appointment is made within 1 year after completion of internship or residency training. Formal postgraduate training must be continuous and uninterrupted since receipt of degree in osteopathy.

(b) *Appointment in higher grades.* Applicants must possess all of the qualifications specified in paragraph (a) of this section and have the minimum additional professional experience, including internship, residency, fellowship, or other graduate study at a hospital, public health agency, school of public health, research institute, laboratory, medical college, recognized teaching center, or similar institution.

**§ 881.65 Doctors of dentistry (DDS and DDM).**

(a) *Appointment as first lieutenant.* (1) For appointment as first lieutenant, applicant must:

(i) Possess a degree of doctor of dental surgery (DDS) or doctor of dental medicine (DDM) from a school or dentistry acceptable to the Surgeon General, USAF.

(ii) Possess a license to practice dentistry in a State or in the District of Columbia.

(iii) Actually be engaged in the ethical practice of dentistry.

(2) Waiver of license and actual engagement in practice may be made for graduates of approved dental schools, if application for appointment is made within 1 year after graduation or while undergoing appropriate postgraduate instruction or engaged in a dental internship.

(3) Applications from dental students may be accepted and processed before receipt of the qualifying degree. The applicant must furnish a statement from the institution indicating he has completed all of the degree requirements or is expected to do so within 7 months. If otherwise qualified, the applicant will be tendered an appointment generally between 150 to 180 days before graduation. After appointment and following graduation, the officer must furnish evidence that the degree has been conferred and all other applicable requirements have been met. Officers so appointed who do not successfully complete their educational requirements or who fail to receive the qualifying degree will be discharged. At the time of application, each student must sign the following certificate which will become a part of his permanent file:

I understand that if appointed, continuation in the appointment is contingent upon my completing the requirements of the appropriate degree and that failure to receive my graduate degree on _____ will result in the termination of my appointment as a Reserve of the Air Force (Authority: AFM 35-3, chapter 31). Upon meeting the qualifications for appointment, I agree to serve a minimum of 2 full years on extended active duty unless sooner relieved by proper authority.

_____ _____
(Signature) (Date)

(b) *Reappointment as first lieutenant.* Regardless of the provisions of paragraphs (a)(1)(ii) and (iii) of this section, reappointment as first lieutenant will be tendered to persons who are participants in the Senior Dental Student Education Program, Early Commissioning Program, Dental Education Program, or Armed Forces Health Professions Scholarship Program upon receipt of the DDS or DDM degree.

(c) *Appointment in higher grades.* Applicants must possess all of the qualifications specified in paragraph (a) of this section for appointment to first lieutenant and must have the additional minimum experience or training in environments normally associated with high professional standards for the applicable grade.

(d) *Substituting graduate study for professional experience.* Graduate study, not to exceed 3 years, may be substituted for professional experience on a year-for-year basis.

**§ 881.66 Doctors of veterinary medicine (DVM).**

(a) *Appointment as first lieutenant.* (1) For appointment as first lieutenant applicant must:

(i) Be a graduate of a school of veterinary medicine or veterinary surgery approved by the Surgeon General, USAF.

(ii) Be licensed to practice veterinary mericine in a State or in the District of Columbia.

(iii) Be engaged in the ethical practice of veterinary medicine.

(2) Lieense and actual engagement in practice may be waived for graduates of







V 38 187 SEP 27 73 XUM

approved schools of veterinary medicine or surgery who are commissioned immediately upon graduation.

(3) Appointment of veterinary students before graduation may be made as prescribed for dental students in § 881.65(a)(3).

(b) *Reappointment as first lieutenant.* Regardless of the provisions of paragraph (a)(1)(ii) and (iii) of this section, reappointment as first lieutenant will be tendered to persons who are participants in the Early Commissioning Program, Veterinary Education Program, or Armed Forces Health Professions Scholarship Program upon receipt of the DVM degree.

(c) *Appointment in other grades.* Applicants must qualify under paragraph (a)(1) of this section and be qualified by minimum periods of acceptable professional experience as follows:

(1) *Captain.* (i) Be engaged in practice of veterinary medicine, with a major portion of the practice being in environments normally associated with high professional standards.

(ii) Have 4 years of actual experience.

(2) *Major.* (i) Give evidence of sufficient independent experience to indicate mature judgment and ability to function in the specialty without professional supervision.

(ii) Ordinarily must have been certified by an American Veterinary Specialty Board.

(iii) Have 11 years of actual experience.

(3) *Lieutenant colonel.* (i) Give evidence of having achieved an unequivocal prominence that makes him an authority in his particular field. (For example, a person who is an outstanding contributor to scientific research; an administrator and contributor to development of the specialty under consideration.)

(ii) Have 18 years of actual experience.

(4) *Colonel.* (i) Have achieved the type of background described in subparagraph (3)(i) of this paragraph.

(ii) Have 20 years of actual experience.

**§ 881.67 Appointment of nurses.**

(a) *Appointment as second lieutenant.* (1) Applicant must:

(i) Be a graduate of a school of nursing that is accredited by the national professional agency recognized by the National Commission on Accrediting and acceptable to the Surgeon General, USAF.

(ii) Have successfully passed the State Board Test Pool Examination in Nursing and possess current registration in at least one State, the District of Columbia, the Commonwealth of Puerto Rico, or a territory of the United States.

(iii) Be engaged in the ethical practice of nursing.

(2) An applicant who has a baccalaureate degree in nursing or an allied field may be granted 1 year of constructive service. However, if a year of constructive service is awarded for the degree, the same period of time may not be counted again as constructive experience.

(b) *Appointment in other grades.* Applicant must qualify under paragraph (a) of this section and be qualified by the indicated minimum number of years of professional experience and education requirements outlined in this paragraph. Constructive service in the amount of 1 year may be awarded to an applicant who has a baccalaureate degree; an additional year may be awarded for a master's degree. The period for which constructive service is granted for education may not again be counted toward meeting experience requirements. The period during which an applicant concurrently earns a degree and acquires experience may be counted as constructive service either for education or experience but not for both.

(1) *First lieutenant.* Must have constructive education and experience totaling 3 years in one of the following combinations:

(i) Three years' appropriate professional experience, of which at least 6 months were spent either in active nursing or pursuing additional education in a field allied to nursing within the 12-month period prior to appointment.

(ii) Two years' appropriate professional experience and a baccalaureate degree in nursing or a field allied to nursing.

(iii) One year's appropriate professional experience and a master's degree in nursing, a nursing specialty, or a field allied to nursing.

(iv) Two year's appropriate professional experience and at least 1 year of anesthesia training and subsequent qualification by examination as a nurse anesthetist by the American Association of Nurse Anesthetists (AANA).

(v) One year's appropriate professional experience, a baccalaureate degree in nursing or a nursing specialty, and at least 1 year of anesthesia training and subsequent qualification by examination as a nurse anesthetist by the AANA.

NOTE.—Applicants with more than 3 years of applicable experience who do not meet the qualifications for appointment in grade of captain will be given constructive service credit to which entitled under this part, except that in no case will the applicant be credited with more than 6 years.

(2) *Captain.* Must have constructive education and experience totaling 7 years in one of the following combinations:

(i) Six years' appropriate professional experience in addition to a baccalaureate degree in nursing or a field allied to nursing. (A minimum of 2 years of the required 6 years' professional experience must have been spent in public health, teaching, or an appropriate administrative position.)

(ii) Five years' appropriate professional experience plus a master's degree in nursing, a nursing specialty, or a field allied to nursing. Two years of the required 5 years' professional experience must have been spent teaching or in an appropriate administrative position.

(iii) Six years' appropriate professional experience and at least 1 year's anesthesia training and subsequent qualification by examination as a nurse anesthetist by the AANA. Applicant must have had at least 12 months' experience administering anesthetics within the 2-year period immediately prior to appointment.

(iv) Five years' appropriate professional experience, a baccalaureate degree in nursing or a nursing specialty, and at least 1 year's anesthesia training and subsequent qualification by examination as a nurse anesthetist by the AANA. Applicant must have at least 12 months' experience in administering anesthetics within the 2-year period immediately prior to appointment.

NOTE.—The maximum amount of constructive service that may be awarded upon appointment in grade of captain is 7 years.

(3) *Major and lieutenant colonel.* Appointees must possess outstanding qualifications for special positions determined by the Surgeon General, USAF, as requirements necessitate.

(c) *Appointment for training.* Applicants who meet appointment criteria may be appointed in the grade for which qualified and ordered to active duty for completion of final 12 months of educational requirements. After appointment and following graduation, the officer must furnish evidence that all applicable requirements have been met. Officers so appointed who do not successfully complete their educational requirements or who fail to receive the qualifying degree or certificate will, if eligible, be reassigned to an Air Force medical facility to fulfill the obligation incurred as a participant in the program. At the time of application, each student must sign the following statement which will be filed in the applicant's records as a permanent document:

I agree to remain on active duty for a minimum of 3 years after completion of training as evidenced by the degree or certificate. I have made no commitment which will prevent me from serving on active duty upon completion of my training. I assume full responsibility for payment of my tuition, fees, and other related training costs. I will not accept any monetary stipend paid to students receiving training in civilian institutions. Further I will not accept, without charge, quarters or meals from the training institution or its affiliates. I understand that if I fail to meet the standards of proficiency required and am eliminated from the course of training, I will be assigned to an Air Force medical facility to fulfill the obligation I incurred as a participant in this program.

---------- ----------
(Signature) (Date)

## Subpart G—Appointment of Officers in the Medical Service Corps

**§ 881.70 Application, processing and selection.**

(a) In addition to documents required by § 881.30(a), each applicant must submit results of the AFOQT under § 881.32(b).

(b) Qualifying experience may include both active military and full-time civilian experience that is directly related to the specialty for which application is made. For appointment in grades higher than second lieutenant, the experience must have been gained after the qualifying degree was attained.

**§ 881.71 Health service administrator (AFSC 9021).**

(a) *Grade.* Appointments for duty in this specialty may be made in grades of second lieutenant through lieutenant colonel as determined under § 881.22.

(b) *Education.* The minimum educational requirement for qualification in this specialty is a baccalaureate degree in business administration, management, or a related or included field of administration or management. A master's degree in hospital administration or a related field is desirable.

(c) *Area of experience.* Qualifying experience must have been gained in administrative or management positions, including planning, organizing, and directing such activities as hospital administration, medical resignation, personnel, finance, evacuation and debarkation of patients, recreation, welfare, and installation maintenance.

**§ 881.72 Other applicants.**

Reserve appointment, reappointment, or promotion list transfer to the Medical Service Corps with AFSC indicated:

(a) Will be made for the following:

(1) Students pursuing courses of study as physicians, osteopaths, dentists, veterinarians, or optometrists who apply and are selected for commissioning under Part 906 of this chapter (AFSC 9021).

(2) Students selected for participation in the following programs with primary and duty AFSC indicated:

(i) The Senior Medical Student Program (AFSC 0101).

(ii) The Senior Optometry School Program (AFSC 0102).

(iii) The Senior Dental Student Program (AFSC 0102).

(iv) Other health or health related fields (AFSC 0102).

(3) Persons selected for advanced training in medicine, dentistry, or veterinary medicine under Part 908 of this chapter. Award primary and duty AFSCs of 0103, 0104, and 0105, respectively.

(4) Persons participating in the Armed Forces Health Professions Scholarship Program under AFR 36-17 (Air Force Health Professions Scholarship Program) (AFSC 9021).

(b) May be made under paragraph (a)(1) of this section only in the grade of second lieutenant and under paragraph (a)(2), and (3) of this section in grades not to exceed captain. Qualification for a grade higher than second lieutenant is based on prior commissioned service.

## Subpart H—Appointment of Officers in the Biomedical Science Corps

**§ 881.80 Application, processing, and selection.**

(a) In addition to documents required by § 881.30(a) each applicant must submit:

(1) One official copy of transcript of grades from college or university, plus one copy of certification in specialty, if applying for appointment as a dietitian, occupational therapist, or physical therapist.

(2) One photostat of license to practice if applying for appointment for duty in specialties requiring licensure, such as optometrists and pharmacists.

(b) Grades in which selected applicants are to be appointed will be determined according to the specific section that deals with the specialty and § 881.22.

(c) Qualifying experience may include both active military and full-time civilian experience that is directly related to the specialty for which application is made. For appointment in grades higher than second lieutenant, the experience must have been gained after the qualifying degree was attained.

(d) Biomedical specialist (podiatrist) and optometry officers who are not otherwise eligible for a higher grade shall be appointed in the temporary grade of first lieutenant effective on the date of entry on active duty.

**§ 881.81 Dietitian (AFSC 9216A).**

(a) *Appointment as second lieutenant.* Applicant must:

(1) Possess a bachelor's degree from an approved school, college, or university and have completed a hospital dietetic internship with equal emphasis on hospital food service administration and clinical dietetics, acceptable to the Surgeon General, USAF; or

(2) Have completed a coordinated degree/hospital dietetic internship program, acceptable to the Surgeon General, USAF, in which the intership is comparable to a hospital dietetic internship with equal emphasis on hospital food service administration and clinical dietetics.

(3) Current registration in the American Dietetic Association is desirable.

(b) *Appointment in higher grades.* Applicants must qualify under paragraph (a) of this section and be qualified by acceptable professional experience and training as follows:

(1) *First lieutenant.* At least 2 years' experience, exclusive of internship, one of which has been as dietitian in a hospital of 100 or more beds. Applicants with more than 3 years of applicable experience who do not meet the qualifications for appointment in grade of captain will be given constructive service credit to which entitled under this part, except that in no case will applicant be credited with more than 6 years of service.

(2) *Captain.* At least 6 years' experience, exclusive of internship, including 3 years in administration of a dietetic department of a hospital of 100 or more beds. The maximum amount of constructive service that may be awarded upon appointment to captain is 7 years.

(3) *Major and lieutenant colonel.* Appointees must possess outstanding qualifications for special positions determined by the Surgeon General USAF, as requirements necessitate.

**§ 881.82 Occupational therapist (AFSC 9226).**

(a) *Appointment as second lieutenant.* Applicant must:

(1) Possess a bachelor's degree from an approved school, college, or university and have completed an occupational therapy course acceptable to the Surgeon General, USAF; or

(2) Possess a bachelor's degree in occupational therapy from an approved school, college, or university.

(b) *Appointment in higher grades.* Applicant must possess all the qualifications in paragraph (a) of this section and be further qualified by acceptable professional experience and training as follows:

(1) *First lieutenant.* At least 2 years' professional experience in medical institutions following certification. Applicants with more than 3 years' applicable experience who do not meet the qualifications for appointment in the grade of captain will be given constructive service credit to which entitled under this part, except that in no case will the applicant be credited with more than 6 years' service.

(2) *Captain.* At least 6 years' professional experience in medical institutions following certification, 3 of which must have been in a supervisory or administrative capacity. The maximum amount of constructive service that may be awarded upon appointment as captain is 7 years.

(3) *Major or lieutenant colonel.* Appointees must possess outstanding qualifications for special positions determined by the Surgeon General, USAF, as requirements necessitate.

**§ 881.84 Appointment for training.**

Applicants who are not 28 years of age may be appointed as second lieutenants and ordered to active duty to complete training in one of the following courses:

(a) *Dietetic training.* (1) Applicant for the USAF Hospital Dietetic Internship must possess or be enrolled in the final year of a course leading to a baccalaureate degree from an accredited college or university, with a course emphasis which meets the academic requirements for entrance to a hospital/general dietetics internship approved by the American Dietetic Association. Through central screening procedures employed by the American Dietetic Association, the application must include evidence that the transcript of credits has been given this evaluation by the American Dietetic Association.

(2) Applicant for USAF-sponsored civilian hospital dietetic internship must possess or be enrolled in the final year of a coordinated degree/hospital dietetic internship program acceptable to the Surgeon General, USAF.

(3) At the time of application, each student must furnish the following signed certification, which will be filed in his Unit Personnel Record Group as a permanent document:

I understand that, if appointed, continuation in the appointment is contingent upon





V 38 I 187 SEP 27 73 XUM

my completing the requirements for (a baccalaureate degree and the USAF Hospital Dietetic Internship) (a baccalaureate degree and an approved hospital dietetic internship) (an approved coordinated degree/hospital dietetic internship program). Failure to complete requirements will result in the termination of my appointment as a Reserve of the Air Force (Authority: AFR 36-12). Upon being ordered to active duty, I agree to serve a minimum of 3 full years after completion of training unless sooner relieved by proper authority.

---------- ----------
(Signature) (Date)

(4) For the USAF-sponsored civilian hospital dietetic internship, the following signed certificate must be obtained from the civilian institution:

(Name of dietetic intern), who is an applicant for USAF sponsorship, has been accepted in our internship program. We understand that, to meet Air Force needs, USAF sponsorship of dietetic interns is limited to programs categorized as hospital dietetic internships with equal emphasis on hospital food service administration and clinical dietetics, or to coordinated degree/hospital dietetic internship programs with this equal emphasis. The program which will be given the intern cited above is of such category.

---------- ----------
(Official's signature) (Date)

(b) *Occupational therapy training.* Applicant must be enrolled in the final year of an approved course leading to a bachelor's degree in occupational therapy or possess a bachelor's degree and have completed all but the final year of an approved certificate course in occupational therapy.

(c) *Physical therapy training.* Applicant must possess a bachelor's degree and have been accepted for an approved certificate course in physical therapy or be enrolled in the final year of an approved course leading to a bachelor's degree in physical therapy.

(d) *Qualifying evidence.* After appointment and following graduation, each officer who has been appointed under paragraphs (b) and (c) of this section must furnish evidence that the applicable degree has been conferred and all other applicable requirements have been met. Officers so appointed who do not successfully complete their educational requirements, or who fail to receive the qualifying degree, will be discharged under AFR 36-12 (Administrative Separation of Commissioned Officers and Warrant Officers of the Air Force). At the time of application, each student must sign the following certificate, which will be filed in his records as a permanent document:

I understand that, if appointed, continuation in the appointment is contingent upon my completing the requirements for certification in (physical/occupational) therapy. Failure to meet certification requirements will result in the termination of my appointment as a Reserve of the Air Force (Authority: AFR 36-12). Upon being ordered to active duty, I agree to serve a minimum of 3 full years after completion of training unless sooner relieved by proper authority.

---------- ----------
(Signature) (Date)

**§ 881.85 Pharmacy officer (AFSC 9241).**

(a) *Grade.* Appointments may be made in grades of second lieutenant through colonel as determined under § 881.22.

(b) *Education.* The minimum educational requirement is a baccalaureate degree in pharmacy.

(c) *Area of experience.* Qualifying experience must have been gained in pharmacy positions, including conducting laboratory tests, manufacturing medications, and directing pharmacy personnel. A current license to practice pharmacy is mandatory except that licensure may be waived for individuals appointed within 1 year after date of graduation to fill an active duty requirement.

**§ 881.86 Optometry officer (AFSC 9251).**

(a) *Grade.* Appointment may be made in grades of second lieutenant through colonel as determined under § 881.22. Students may be appointed before they attain the qualifying degree in the same way that dental students are under § 881.65(a)(3).

(b) *Education.* The minimum educational requirement is a degree in optometry from an accredited school of optometry.

(c) *Area of experience.* Qualifying experience must have been gained in optometry positions, including conducting examinations of the eye to determine the presence of visual defects; prescribing lenses and orthoptic therapy to correct, conserve, or improve vision; and examining and testing lenses for workmanship and conformance to prescriptions. Must possess a current license to practice optometry in a State or the District of Columbia or certification of the successful passing of all parts of the examination of the National Board of Examiners in optometry except that licensure may be waived for individuals appointed within 1 year after date of graduation to fill an active duty requirement.

**§ 881.87 Bioenvironmental engineer (AFSC 9121).**

(a) *Grade.* Appointments may be made in grades of second lieutenant through major as determined under § 881.22.

(b) *Education.* The minimum educational requirement is a baccalaureate degree in civil, chemical, sanitary, electrical, mechanical, or industrial hygiene engineering.

(c) *Area of experience.* Qualifying experience must have been gained in a professional capacity, including design, management, investigation, or construction of works or program for water supply, treatment, and disposal of community wastes (that is, sanitary sewage, industrial wastes, and refuse including salvage and reclamation of useful components of such wastes); the control of pollution of surface waterways and ground waters, and of surface and subsurface soils, milk, and food facilities, housing, hospital, and institutional facilities; insect and vermin control or eradication; rural, camp, and recreation place facilities; the control of atmospheric pollution and air quality, and of light, noise, vibration, and toxic materials, including application to work spaces in industrial establishments; the prevention of radiation exposure; professional research and development work; and responsible teaching positions in engineering subjects in educational institutions of recognized standing.

**§ 881.88 Medical entomologist. (AFSC 9131).**

(a) *Grade.* Appointments may be made in grades of second lieutenant through colonel as determined in § 881.22.

(b) *Education.* The minimum educational requirement for qualification in this specialty is a master's degree in entomology.

(c) *Area of experience.* Qualifying experience must have been gained in medical entomology positions, including formulating policies and procedures, directing personnel engaged in medical entomological activities, and conducting field and laboratory studies on development, testing, and application of insect control measures.

**§ 881.89 Biomedical laboratory officer (AFSC 9151).**

(a) *Grade.* Appointments may be made in grades of second lieutenant through colonel as determined under § 881.22.

(b) *Education.* The minimum educational requirement for qualification in this specialty is a baccalaureate degree in medical technology or one of the following recognized field related to clinical laboratory work: chemistry, bacteriology, hematology, virology, toxicology, histology, parasitology, or pharmacology.

(c) *Area of experience.* Experience must be that gained in clinical laboratory positions, including analysis, development, and application of procedures in chemistry, bacteriology, hematology, virology, serology, and tissue pathology.

**§ 881.90 Aerospace physiologist (AFSC 9161).**

(a) *Grade.* Appointments may be made in grades of second lieutenant through colonel as determined under § 881.22.

(b) *Education.* The minimum educational requirement is a baccalaureate degree in physiology, biophysics, biochemistry, or zoology. A master's degree with a major study in one of the referenced fields is desirable.

(c) *Area of experience.* Qualifying experience must have been gained in aviation physiological or related positions. Experience in physiological research and development of physiological aids for aircrew personnel is desrable.

**§ 881.91 Health physicist (AFSC 9171).**

(a) *Grade.* Appointments may be made in grades of second lieutenant through colonel as determined under § 881.22.





(b) *Education.* The minimum educational requirement is a master's degree in health physics, nuclear physics, radiobiology, radiological physics, or biophysics.

(c) *Area of experience.* Qualifying experience must have been gained in controlling, shipping, and disposing of radiological materials; conducting radiological protection surveys; monitoring the treatment and disposal of radioactive wastes; calibrating instruments; instructing in health physics, and supervising and directing health physics programs.

**§ 881.92 Clinical psychologist (AFSC 9181).**

(a) *Grade.* Appointments may be made in grades of second lieutenant through colonel as determined under § 881.22.

(b) *Education.* An applicant may qualify in either of two ways:

(1) A doctoral degree in psychology from an accredited university acceptable to the Surgeon General, USAF, and completion of a clinical internship.

(2) Persons with master's degree in clinical psychology who are doctoral candidates within 2 years of completing academic requirements toward the doctoral degree may be offered an appointment and sponsorship under the Air Force Institute of Technology (AFIT) program to complete requirements for the doctoral degree. Each person appointed under this program will be required to sign the following statement:

I understand that, if appointed, continuation in the appointment is contingent upon my completing the requirements for a doctorate degree and/or 1 year internship. Failure to complete these requirements may result in the termination of my participation in the program and may result in my being utilized in another career field to meet the Air Force requirements. (Authority: AFR 36-12). Upon being ordered to active duty, I will be required to serve 3 years following any Air Force-sponsored internship, or 2 months for each month of academic training, whichever is greater.

---------- ----------
(Signature) (Date)

(c) *Area of experience.* Qualifying experience must have been gained in clinically-oriented psychological positions and academic practice; administering, scoring and interpreting psychological procedures; counseling and guidance procedures; counseling and guidance; rehabilitation; or psychological research.

**§ 881.93 Social worker (AFSC 9191).**

(a) *Grade.* Appointments may be made in grades of second lieutenant through colonel as determined under § 881.22.

(b) *Education.* The minimum educational requirement for qualification in this specialty is a master's degree from an approved school of social work.

(c) *Area of experience.* Qualifying experience must be that gained in professional social work programs.

**§ 881.94 Biomedical specialist (AFSC 9261).**

(a) *Grade.* Appointments may be made in grades of second lieutenant through colonel as determined under § 881.22.

(b) *Education.* For podiatrists (AFSC 9261A), the minimum educational requirement is a Doctor of Podiatry degree from a school or college of podiatry. For all other subspecialties (AFSC 9261B, Audiologist; AFSC 9261C, Speech Therapist; and AFSC 9261D, Special), the minimum educational requirement is a master's degree in the appropriate specialty. All degrees must be from accredited institutions of higher learning acceptable to the Surgeon General, USAF.

(c) *Area of experience.* Qualifying experience must have been gained in full-time positions as a podiatrist, audiologist, speech pathologist, rehabilitation therapist (including providing care and treatment for human ailments) or planning, directing, and conducting research in the pertinent professional area of practice. License to practice in the pertinent specialty, when appropriate, or registration or certification by the special national accreditation body is mandatory except that licensure, registration, or certification may be waived for individuals appointed within 1 year after date of graduation.

By order of the Secretary of the Air Force.

JOHN W. FAHRNEY,
*Colonel, USAF, Chief, Legislative Division, Office of The Judge Advocate General.*

[FR Doc.73-20444 Filed 9-26-73;8:45 am]

## Title 7—Agriculture

### CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTION, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

### PART 52—PROCESSED FRUITS AND VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

#### Inspection and Certification

*Correction*

In FR Doc. 73-19178 appearing at page 25165 in the issue for Wednesday, September 12, 1973, make the following changes:

1. In § 52.2, the reference to "Pack certification" in the first line of the second paragraph of column 2, should be enclosed in quotation marks.

2. In § 52.38, In Table II, the first lot size for Group 2 reading "1,201-4,802" should read "1,201-4,800".

3. The second paragraph in § 52.52, currently undesignated, should be designated paragraph (b).

4. In § 52.52(c)(1) the item reading "Inspector(s) in charge—$9.65 per hour", should be deleted, and "Inspectors aide—$5.30 per hour" put in its place.

### CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Regulation 451]

### PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

#### Limitation of Handling

This regulation fixes the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period Sept. 28-Oct. 4, 1973. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 908. The quantity of Valencia oranges so fixed was arrived at after consideration of the total available supply of Valencia oranges, the quantity of Valencia oranges currently available for market, the fresh market demand for Valencia oranges, Valencia orange prices, and the relationship of season average returns to the parity price for Valencia oranges.

**§ 908.751 Valencia Orange Regulation 451.**

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Valencia Orange Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such Valencia oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this section to limit the respective quantities of Valencia oranges that may be marketed from District 1, District 2, and District 3 during the ensuing week stems from the production and marketing situation confronting the Valencia orange industry.

(i) The committee has submitted its recommendation with respect to the quantities of Valencia oranges that should be marketed during the next succeeding week. Such recommendation, designed to provide equity of marketing opportunity to handlers in all districts, resulted from consideration of the factors enumerated in the order. The committee further reports that the fresh market demand for Valencia oranges continues to improve. Prices f.o.b. averaged $3.72 per carton on a sales volume of 576 carlots during the week ended September 20, 1973, compared with $3.52 per carton on sales of 510 carlots a week earlier. Track and rolling supplies at 299 cars were up 41 cars from last week.



V 38 I 187 SEP 27 73 XUM

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the respective quantities of Valencia oranges which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for Valencia oranges and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such Valencia oranges; it is necessary, in order to effectuate the declared policy of the act, to make this section effective during the period herein specified; and compliance with this section will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on September 25, 1973.

(b) *Order.* (1) The respective quantities of Valencia oranges grown in Arizona and designated part of California which may be handled during the period September 28, 1973, through October 4, 1973, are hereby fixed as follows:

(i) District 1: Unlimited;

(ii) District 2: 700,000 cartons;

(iii) District 3: Unlimited.

(2) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" have the same meaning as when used in said amended marketing agreement and order.

(Secs. 1–19, 48 Stat. 31, as amended (7 U.S.C. 601–674).)

Dated September 25, 1973.

CHARLES R. BRADER,
*Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.73–20771 Filed 9–26–73;11:23 am]

## CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

[CCC Grain Price Support Regulations, 1973 Crop Corn Supplement]

## PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

### Subpart—1973 Crop Loan and Purchase Program

*Correction*

A correction to FR Doc. 73–18516 appearing at page 23935 for the issue of Wednesday, September 5, 1973, was made at page 26182 for the issue of Wednesday, September 19, 1973. In the correction document in the sixth line of paragraph 2, the entry for "Ellis" county Kansas reading "1.107" should read "1.07."

## Title 9—Animals and Animal Products

## CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

### SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS; EXTRAORDINARY EMERGENCY REGULATION OF INTRASTATE ACTIVITIES

## PART 73—SCABIES IN CATTLE

### Area Released From Quarantine

This amendment releases Torrance County in New Mexico from the areas quarantined because of cattle scabies. Therefore, the restrictions pertaining to the interstate movement of cattle from quarantined areas contained in 9 CFR Part 73, as amended, do not apply to the excluded area, but will continue to apply to the quarantined areas described in § 73.1a. Further, the restrictions pertaining to the interstate movement of cattle from nonquarantined areas contained in said Part 73 apply to the excluded area.

Pursuant to provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, the Act of March 3, 1905, as amended, and the Act of July 2, 1962 (21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, 134f), Part 73, Title 9, Code of Federal Regulations, restricting the interstate movement of cattle because of scabies, is hereby amended as follows:

In § 73.1a paragraph (c) relating to the State of New Mexico is amended to read:

**§ 73.1a Notice of quarantine.**

* * * * *

(c) Notice is hereby given that cattle in certain portions of the State of New Mexico are affected with scabies, a contagious, infectious, and communicable disease; and therefore, the following areas in such State are hereby quarantined because of said disease:

*New Mexico*

(1) Curry County.

(2) Roosevelt County.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, 134f); 37 FR 28464, 28477; 38 FR 19141.)

*Effective date.* The foregoing amendment shall become effective September 21, 1973.

The amendment relieves restrictions no longer deemed necessary to prevent the spread of cattle scabies, and should be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making the amendment effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 21st day of September 1973.

F. J. MULHERN,
*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc.73–20600 Filed 9–26–73;8:45 am]

## PART 82—EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS OR ORNITHOSIS IN POULTRY

### Areas Released From Quarantine

This amendments excludes portions of San Diego and Riverside Counties in California from the areas quarantined because of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles from quarantined areas, as contained in 9 CFR Part 82, as amended, will not apply to the excluded areas.

Pursuant to the provisions of sections 1, 2, 3, and 4 of the Act of March 3, 1905, as amended, sections 1 and 2 of the Act of February 2, 1903, as amended, sections 4, 5, 6, and 7 of the Act of May 29, 1884, as amended, and sections 3 and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 112, 113, 115, 117, 120, 123, 124, 125, 126, 134b, 134f), Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respects:

In § 82.3, in paragraph (a) (1) relating to the State of California, subdivisions (ix) relating to San Diego County and (x) relating to Riverside County are deleted.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132 (21 U.S.C. 111–113, 115, 117, 120, 123–126, 134b, 134f), 37 FR 28464, 28477; 38 FR 19141)

*Effective date.* The foregoing amendment shall become effective September 21, 1973.

The amendment relieves certain restrictions presently imposed but no longer deemed necessary to prevent the spread of exotic Newcastle disease, and must be made effective immediately to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making it effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 21st day of September 1973.

F. J. MULHERN,
*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc.73–20601 Filed 9–26–73;8:45 am]

## Title 12—Banks and Banking

## CHAPTER II—FEDERAL RESERVE SYSTEM

### SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. G]

## PART 207—SECURITIES CREDIT BY PERSONS OTHER THAN BANKS, BROKERS, OR DEALERS

### "Single Credit Rule" in Stock Option and Stock Purchase Plans

Pursuant to section 7 of the Securities Exchange Act of 1934 (15 U.S.C. 78g), the Board is issuing the following amendment to Part 207 by revising § 207.4(a)(2)(i). The change deletes the "single credit rule" in § 207.4(a)(2)(i) and substitutes the provision that each extension of credit pursuant to that section may be treated separately. This clarifies that withdrawal of collateral may be made after proper repayments have been made for at least three years and the deficiency as defined in § 207.4(a)(2)(ii) has been repaid with respect to each extension of credit. The revised § 207.4(a)(2)(i) is set forth below.

**§ 207.4 Miscellaneous provisions.**

(a) *Stock option and employee stock purchase plans.*

* * * * *

(2) * * *

(i) Each such credit extended to any officer or employee pursuant to this subparagraph (2) in connection with the exercise of rights under one or more plans or with the periodic exercise of rights under a single plan, when such credits shall be outstanding at the same time, may be treated separately from any other credit extended pursuant to this subparagraph (2) and shall be treated separately from any other credit extended pursuant to §§ 207.1 (c), (d) and (g) of this part: *Provided*, That the collateral with respect to each individual credit extended pursuant to such plan or plans shall be identified with, and shall have loan value only with respect to, such individual credit.

The requirement of section 553(b) of Title 5, United States Code, with respect to public participation was not followed in connection with this amendment since it relieves a restriction.

This amendment shall become effective October 29, 1973.

By order of the Board of Governors, September 14, 1973.

[SEAL] CHESTER B. FELDBERG,
*Secretary of the Board.*

[FR Doc.73–20536 Filed 9–26–73;8:45 am]

## Title 14—Aeronautics and Space

## CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 73–CE–12–AD; Amdt. 39–1708]

## PART 39—AIRWORTHINESS DIRECTIVES

### Beech Model 18 Series Airplanes; Correction

In FR Doc. 73–18793, appearing on Pages 24347, 24348, and 24349, in the issue of Friday, September 7, 1973, P/N 414–181200 and (Branson Model 103) specified in paragraph A(2) on page 24347 are incorrect and should be deleted and P/N 404–181000 and (Branson Model 104) substituted therefor.

Issued in Kansas City, Mo., on September 18, 1973.

A. L. COULTER,
*Director, Central Region.*

[FR Doc.73–20591 Filed 9–26–73;8:45 am]

[Airspace Docket No. 72–WA–31]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

### Alteration of Control Zone and Terminal Control Area at Chicago, Illinois

On January 5, 1973, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (38 FR 890) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Chicago, Illinois, terminal control area (TCA) by expanding the area from 20 to 25 miles; eliminating Area D in the vicinity of Meigs Airport; reducing the size of Area D in the vicinity of Northbrook VORTAC; and redefining certain TCA boundaries by the use of VORTAC radials and DME arcs. Subsequent to the publication of the proposal, problems in distribution of the notice arose. Therefore, on February 2, 1973, the public comment period was extended to February 26, 1973, in order to insure ample opportunity for all interested persons to participate in the rulemaking.

Because of comments received in response to this notice, an alternate proposal was formulated, by an appointed working group made up of FAA and user representatives, that differed from the airspace configuration specified in the original NPRM.

On June 29, 1973, a Supplemental NPRM which reflected the planning carried out by the working group, was published in the FEDERAL REGISTER (38 FR 17251) with the revised airspace configuration that proposed to alter the Chicago, Illinois, TCA by redefining certain TCA boundaries by use of VORTAC radials and DME arcs; extending the TCA from a 20-mile to a 25-mile radius of the Chicago-O'Hare VORTAC in an area extending from the north-northeast to the south-southeast, and two "SPUR" extensions, one southwest and the other northwest of Chicago-O'Hare; adjusting the boundaries between Areas C and D north of Chicago-O'Hare; and lowering the TCA floor over the Meigs Airport to 3,000 feet.

Interested persons were afforded an opportunity to participate in the rulemaking through the submission of comments. Forty comments were received in response to the Supplemental NPRM. Favorable comments were received from the U.S. Navy and the Air Transport Association. A total of thirty eight objections were received, thirty of which were from members of Sky Soaring, Inc., a glider club that operates out of AAVANG airport, which is located three miles east of Huntley, Illinois. On September 2, 1973, the FAA held a meeting with representatives of Sky Soaring, Inc., to resolve the club's objections to the addition of the northwest "SPUR" extension between 20–25 miles from the Chicago-O'Hare VORTAC. A compromise solution was reached, and the dimensions agreed upon at that meeting are reflected in this document.

Statements were made that noise, air pollution, and wake turbulence would result from jet aircraft using the northwest "SPUR" area. This "SPUR", and the other Area C and D additions, are necessary because present arrival patterns cannot be contained within the present TCA during heavy traffic periods. This action will contain the existing traffic flows, not introduce new ones. Therefore, there will be no significant changes in the existing environment.

Objections were made to the altitudes being used in the Crystal Lake area for Chicago-O'Hare Runway 14 arrivals, especially as they relate to the FAA's "KEEP-EM-HIGH" policy, and also to aircraft being vectored outside and below the outermost boundaries. The ATC procedures required for conducting simultaneous parallel ILS approaches require the use of the floor altitudes as proposed in the notice. This expansion of the existing TCA will contain these vector patterns and altitudes, thus reducing the possibility of arrivals having to exist the TCA. This was the primary objective of this rulemaking action.

Seven comments suggested raising the existing floor of the TCA airspace from 1,900 feet to 2,500 feet MSL in the vicinity of Schaumburg Airport. The existing airspace has been in effect since 1970 and experience gained during this period indicates that this airspace is necessary to accommodate departure and arrival operations at the Chicago-O'Hare airport.

Subsequent to the issuing of these notices, the Chicago O'Hare International







V 38 1187 SEP 27 73 XUM

Airport geographical position, from which a portion of the control zone is centered, has been recomputed. Accordingly, action is taken herein to amend the control zone to reflect the revised geographical position coordinates.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., November 8, 1973, as hereinafter set forth.

1. In § 71.171 (38 FR 351), the Chicago, Ill., (O'Hare International Airport) control zone is amended by deleting the coordinates "latitude 41°59'10" N., longitude 87°54'30" W." and substituting therefor the coordinates "latitude 41°58'57" N., longitude 87°54'25" W."

2. In § 71.401(a) (38 FR 622), the Chicago, Ill., terminal control area is amended as follows:

CHICAGO, ILL., TERMINAL CONTROL AREA

*A. PRIMARY AIRPORT*

Chicago-O'Hare International Airport (Lat. 41°58'57" N., Long. 87°54'25" W.)
Chicago-O'Hare VORTAC (Lat. 41°59'16" N., Long. 87°54'17" W.)

*b. Boundaries*—(1) *Area A.* That airspace extending upward from the surface to and including 7,000 feet MSL within the Chicago, Ill. (O'Hare International Airport), control zone and including that airspace within 2 statute miles northwest of the centerline extended of Runway 4L, and 2 statute miles southeast of the centerline extended of Runway 4R, extending from the 5-statute mile radius control zone to 2 statute miles southwest of the Pine Outer Marker.

(2) *Area B.* That airspace extending upward from 1,900 feet MSL to and including 7,000 feet MSL within a 10.5-mile radius of Chicago O'Hare VORTAC, excluding Area A previously described and that area bounded on the southeast by a line 2 miles northwest and parallel to the centerline extended of Runway 22R, on the south and southwest by the southwest boundary of Glenview, Ill., control zone, on the north by a 10.5-mile radius arc of the Chicago-O'Hare VORTAC, and excluding Area E described hereinafter.

(3) *Area C.* That airspace extending upward from 3,000 feet MSL to and including 7,000 feet MSL, within a 25-mile radius of Chicago-O'Hare VORTAC excluding Areas A and B, previously described, Areas D and E described hereinafter, and excluding those areas between the 20 and 25-mile radii of Chicago-O'Hare VORTAC from a line 7 miles southwest of and parallel to the extended centerline of Runway 32L, clockwise to a line 7 miles southeast of and parallel to the extended centerline of Runway 4R and from a line 7 miles northwest of and parallel to the extended centerline of Runway 4L, clockwise to a line beginning at a point 7 miles southwest of the Runway 14R extended centerline on the 20-mile radius arc of the Chicago-O'Hare VORTAC, extending to a point 6 miles southwest of the Runway 14R extended centerline on the 25-mile radius of the Chicago-O'Hare VORTAC.

4. *Area D.* That airspace extending upward from 4,000 feet MSL to and including 7,000 feet MSL north of Chicago bounded on the west by the Chicago-O'Hare VORTAC 321° radial, on the south by the Northbrook VORTAC 269° and 094° radials, on the east by the Chicago-O'Hare VORTAC 018° radial and on the north by a 25-mile radius arc of the Chicago-O'Hare VORTAC and an area southwest of Chicago bounded on the northwest by a line 2 miles southeast of and parallel to the extended centerline of Runway 4L, on the southwest by a 25-mile radius arc of Chicago-O'Hare VORTAC, on the southeast by a line 7 miles southeast of and parallel to the extended centerline of Runway 4R, on the northeast by a 20-mile radius arc of Chicago-O'Hare VORTAC and that portion of a 15-mile radius arc of Clow Airport which is north of a 20-mile radius arc of Chicago-O'Hare VORTAC.

(5) *Area E.* That airspace northeast of Chicago extending upward from 2,500 feet MSL to and including 7,000 feet MSL bounded on the northeast by a 10.5-mile radius arc of Chicago-O'Hare VORTAC, on the south by the extended centerline of Runway 9/27 at NAS Glenview and on the northwest by a line 2 miles northwest of and parallel to the extended centerline of Runway 22R at Chicago-O'Hare International Airport.

(Sec. 307(a) Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c).))

Issued in Washington, D.C., on September 20, 1973.

H. B. HELSTROM,
*Chief, Airspace and Air Traffic Rules Division.*

[FR Doc.73-20594 Filed 9-26-73;8:45 am]

[Airspace Docket No. 73-SW-19]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

### Alteration of VOR Federal Airways; Correction

On July 10, 1973, FR Doc. 73-13875 was published in the FEDERAL REGISTER (38 FR 18363) which amends Part 71 of the Federal Aviation Regulations, effective 0901 G.m.t., November 8, 1973, by realigning several VOR Federal Airways in the vicinity of Monroe, La., simultaneously with the relocation of the Monroe VORTAC. However, the date for commissioning the relocated facility has been delayed and action is taken herein to amend the effective date for the realignment of the airways utilizing the VORTAC.

Since amending the effective date for the realignment of these airways is a minor editorial change on which the public would have no particular reason to comment, notice and public procedure thereon are unnecessary.

In consideration of the foregoing, effective 30 days after publication, FEDERAL REGISTER document 73-13875 (38 FR 18363) is amended, as hereinafter set forth.

"Effective 0901 G.m.t., November 8, 1973," is deleted and "effective 0901 G.m.t., February 28, 1974," is substituted therefor.

(Sec. 307(a) Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on September 19, 1973.

CHARLES H. NEWPOL,
*Acting Chief, Airspace and Air Traffic Rules Division.*

[FR Doc.73-20592 Filed 9-26-73;8:45 am]

[Airspace Docket No. 73-RM-21]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

## PART 73—SPECIAL USE AIRSPACE

### Designation of Restricted Area and Alteration of Continental Control Area

On July 27, 1973, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (38 FR 20097) stating that the Federal Aviation Administration (FAA) was considering amendments to Parts 71 and 73 of the Federal Aviation Regulations that would designate a joint-use restricted area, R-6413, at Green River, Utah, and include it in the continental control area.

The NPRM stated that the missile impacts at the White Sands Missile Range (WSMR), N. Mex., would occur in Restricted Areas R-5107B and R-5103. These impact areas have subsequently been changed and they are included in the existing restricted areas at WSMR.

Interested persons were afforded an opportunity to participate in the proposed rulemaking through the submission of comments. No objections to the NPRM were received.

Since a situation exists wherein military operations require immediate adoption of these amendments, it is found that good cause exists for making these amendments effective in less than 30 days notice.

In consideration of the foregoing, Parts 71 and 73 of the Federal Aviation Regulations are amended, effective September 27, 1973, as hereinafter set forth.

In § 73.64 (38 FR 670), the Green River, Utah, Restricted Area, R-6413 is added:

R-6413, GREEN RIVER, UTAH

*Boundaries.*
Beginning at Lat. 38°57'00"N., Long. 110°09'40"W.; thence to Lat. 38°46'03"N., Long. 110°06'00"W.; to Lat. 38°31'30"N., Long. 109°57'00"W.; to Lat. 38°31'30"N., Long. 109°51'00"W.; to Lat. 38°33'27"N., Long. 109°46'00"W.; to Lat. 38°49'15"N., Long. 109°57'02"W.; to Lat. 38°58'02"N., Long. 110°05'33"W.; thence to point of beginning.

*Designated altitudes.* Surface to unlimited.

*Time of designation.* As published by NOTAM issued 48 hours in advance of area activation.

*Controlling agency.* Federal Aviation Administration, Denver ARTC Center.

*Using agency.* Air Force Special Weapons Center, Air Force Systems Command, Kirtland AFB, New Mexico.

In § 71.151 (38 FR 341), R-6413, Green River, Utah, is added.

(Sec. 307(a) Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c).)

Issued in Washington, D.C., on September 19, 1973.

H. B. HELSTROM,
*Chief, Airspace and Air Traffic Rules Division.*

[FR Doc.73-20593 Filed 9-26-73;8:45 am]





[Airspace Docket No. 73-SW-29A]

## PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

### Alteration of Jet Routes

The purpose of this amendment to Part 75 of the Federal Aviation Regulations is to realign Jet Route No. 29 south of Brownsville, Tex., realign Jet Route No. 22 west of Laredo, Tex., and to change the numbered identifier of the jet route south of Tucson, Ariz., from J-11 to J-92.

At the request of the Mexican Government, minor changes are made herein to three jet routes which, effective October 11, 1973, will extend from navigational aids in the United States to the United States/Mexican border. Effective October 11, 1973, J-11 will extend from Tucson, Ariz., via the Tucson 185° radial to the United States/Mexican border. The numbered identifier of this route is changed herein from J-11 to J-92. Effective October 11, 1973, J-22 will extend from Laredo, Tex., to the United States/Mexican border via the direct routing between Laredo, Tex., and Monterrey, Mexico. The alignment of J-22 is changed herein to extend from Laredo, Tex., to the United States/Mexican border via the direct routing between Laredo, Tex., and Nuevo Laredo, Mexico. Effective October 11, 1973, J-29 will be aligned from Brownsville, Tex., to the United States/Mexican border via the direct routing between Brownsville and Tampico, Mexico. This portion of J-29 is changed herein to extend from Brownsville via the 187° radial to the United States/Mexican border.

Since this amendment is minor in nature and in response to a request from the Government of Mexico, notice and public procedure thereon are unnecessary. However, in order to allow sufficient time for these changes to be depicted on appropriate aeronautical charts, this amendment will become effective more than 30 days after publication in the FEDERAL REGISTER.

In consideration of the foregoing, Part 75 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., November 8, 1973, as hereinafter set forth.

Section 75.100 (38 FR 681, 24107, 19962) is amended as follows:

a. In J-11 "From the INT of the United States/Mexican border and the Tucson, Ariz., 185° radial via Tucson;" is deleted and "From Tucson, Ariz., via" is substituted therefor.

b. In J-22 "From Monterrey, Mexico," is deleted and "From Nuevo Laredo, Mexico," is substituted therefor.

c. In J-29 "From Tampico, Mexico, via Brownsville, Tex.;" is deleted and "From the INT of the United States/Mexican Border and the Brownsville, Tex., 187° radial via Brownsville;" is substituted therefor.

d. In J-92 "INT of Casa Grande 145° and Tucson 298° radials to Tucson, Ariz." is deleted and "INT of Casa Grande 145° and Tucson, Ariz., 298° radials; Tucson; to the INT of the Tucson 185° radial and the United States/Mexican border." is substituted therefor.

(Sec. 307(a) Federal Aviation Act of 1958, 49 U.S.C. 1348(a); sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c))

Issued in Washington, D.C., on September 20, 1973.

CHARLES H. NEWPOL,
*Chief, Airspace and Air Traffic Rules Division.*

[FR Doc.73-20595 Filed 9-26-73;8:45 am]

[Docket No. 13210; Amdt. No. 883]

## PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

### Miscellaneous Amendments

This amendment to Part 97 of the Federal Aviation Regulations incorporates by reference therein changes and additions to the Standard Instrument Approach Procedures (SIAP's) that were recently adopted by the Administrator to promote safety at the airports concerned.

The complete SIAP's for the changes and additions covered by this amendment are described in FAA Forms 3139, 8260-3, 8260-4, or 8260-5 and made a part of the public rule making dockets of the FAA in accordance with the procedures set forth in Amendment No. 97-696 (35 FR 5609).

SIAP's are available for examination at the Rules Docket and at the National Flight Data Center, Federal Aviation Administration, 800 Independence Avenue SW, Washington, D.C. 20591. Copies of SIAP's adopted in a particular region are also available for examination at the headquarters of that region. Individual copies of SIAP's may be purchased from the FAA Public Document Inspection Facility, HQ-405, 800 Independence Avenue SW., Washington, D.C. 20591 or from the applicable FAA regional office in accordance with the fee schedule prescribed in 49 CFR 7.85. This fee is payable in advance and may be paid by check, draft or postal money order payable to the Treasurer of the United States. A weekly transmittal of all SIAP changes and additions may be obtained by subscription at an annual rate of $150.00 per annum from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Additional copies mailed to the same address may be ordered for $30.00 each.

Since a situation exists that requires immediate adoption of this amendment, I find that further notice and public procedure hereon is impracticable and good cause exists for making it effective in less than 30 days.

In consideration of the foregoing, Part 97 of the Federal Aviation Regulations is amended as follows, effective on the dates specified:

1. Section 97.21 is amended by originating, amending, or canceling the following L/MF SIAP's, effective November 8, 1973.

Anchorage, Alas.—Anchorage International Airport, LFR-A, Amdt. 12, canceled.
Anchorage, Alas.—Merrill Field, LFR-A, Amdt. 17, canceled.
Farewell, Alas.—Farewell Airport, LFR-A, Amdt. 17, canceled.
Skwentna, Alas.—Skwentna Airport, LFR-1, Original, canceled.

2. Section 97.23 is amended by originating, amending, or canceling the following VOR-VOR/DME SIAP's, effective November 8, 1973.

Bellingham, Wash.—Bellingham International Airport, VOR/DME A, Amdt. 2, canceled.
Bellingham, Wash.—Bellingham International Airport, VOR 1 Runway 16, Amdt. 3.
Bellingham, Wash.—Bellingham International Airport, VOR 2 Runway 16, Amdt. 3.
Bloomington, Ind.—Monroe County Airport, VOR Runway 6, Amdt. 9.
Bloomington, Ind.—Monroe County Airport, VOR Runway 17, Amdt. 4.
Bloomington, Ind.—Monroe County Airport, VOR Runway 24, Amdt. 2.
Bloomington, Ind.—Monroe County Airport, VOR Runway 35, Amdt. 4.
Burley, Ida.—Burley Municipal Airport, VOR-A, Amdt. 1.
Burley, Ida.—Burley Municipal Airport, VOR/DME A, Original, canceled.
Burley, Ida.—Burley Municipal Airport, VOR/DME B, Original.
Hartford, Wis.—Hartford Municipal Airport, VOR-A, Original.
International Falls, Minn.—Falls International Airport, VOR Runway 13, Amdt. 8.
International Falls, Minn.—Falls International Airport, VOR Runway 31, Amdt. 9.
Jacksonville, Fla.—Craig Municipal Airport, VOR-A, Amdt. 6.
Jacksonville, Fla.—Craig Municipal Airport, VOR Runway 31, Amdt. 1.
Kansas City, Mo.—Kansas City International Airport, VOR Runway 9, Amdt. 4.
Kansas City, Mo.—Kansas City International Airport, VOR Runway 27, Amdt. 3.
Kansas City, Mo.—Municipal Airport, VOR Runway 18, Amdt. 11.
Port Isabel, Tex.—Port Isabel—Cameron County Airport, VORTAC-A, Original.
Rio Vista, Cal.—Rio Vista Municipal Airport, VOR-1, Amdt. 1, canceled.
Rio Vista, Cal.—Rio Vista Municipal Airport, VOR-A, Original.
St. Petersburg-Clearwater, Fla.—St. Petersburg-Clearwater International Airport, VOR Runway 17, Amdt. 5.
Talladega, Ala.—Talladega Municipal Airport, VOR-A, Amdt. 5.
Talladega, Ala.—Talladega Municipal Airport, VOR/DME Runway 3, Amdt. 3.

• • • effective October 4, 1973:

Ewa, Hawaii—NAS Barbers Point, VOR-1, Original, canceled.
Marshalltown, Iowa—Marshalltown Municipal Airport, VOR/DME-A, Original, canceled.
Marshalltown, Iowa—Marshalltown Municipal Airport, VOR Runway 30, Original.

• • • effective September 27, 1973:

McAllen, Tex.—Miller International Airport, VOR-A, Amdt. 8.

• • • effective September 14, 1973:

Livermore, Cal.—Livermore Municipal Airport, VOR/DME-A, Amdt. 1.

3. Section 97.25 is amended by originating, amending, or canceling the following SDF-LOC-LDA SIAPs, effective November 8, 1973:

International Falls, Minn.—Falls International Airport, LOC/DME (BC) Runway 13, Amdt. 1.



V 38 I 187 SEP 27 73 XUM

Kansas City, Mo.—Kansas City International Airport, LOC (BC) Runway 19, Amdt. 2, Canceled.
Kansas City, Mo.—Kansas City International Airport, LOC (BC) Runway 27, Amdt. 3.

• • • effective October 4, 1973:

Oshkosh, Wis.—Wittman Field, LOC/DME (BC) Runway 18, Original.
Somerset, Pa.—Somerset County Airport, LOC Runway 24, Amdt. 1.

• • • effective September 13, 1973:

St. Paul, Minn.—St. Paul Downtown Holman Field, LOC Runway 30, Amdt. 3.

4. Section 97.27 is amended by originating, amending, or canceling the following NDB/ADF SIAPs, effective November 8, 1973:

Anchorage, Alas.—Anchorage International Airport, NDB–A, Original.
Anchorage, Alas.—Merrill Field, NDB–B, Original.
Farewell, Alas.—Farewell Airport, NDB Runway 8, Original.
International Falls, Minn.—Falls International Airport, NDB Runway 31, Amdt. 2.
Juneau, Wis.—Dodge County Airport, NDB Runway 2, Amdt. 4.
Juneau, Wis.—Dodge County Airport, NDB Runway 20, Amdt. 2.
Kansas City, Mo.—Kansas City International Airport, NDB Runway 1, Amdt. 9.
Kansas City, Mo.—Kansas City International Airport, NDB Runway 9, Amdt. 3.
Latrobe, Pa.—Latrobe Airport, NDB Runway 23, Amdt. 5.
Sebring, Fla.—Sebring Air Terminal, NDB Runway 36, Original.
Sedalia, Mo.—Sedalia Memorial Airport, NDB Runway 23, Amdt. 2.
Skwentna, Alas.—Skwentna Airport, NDB–A, Original.
Trenton, Mo.—Trenton Municipal Airport, NDB Runway 17, Original.

• • • effective October 4, 1973:

Guam, Marianas Is.—Andersen AFB, ADF–1, Amdt. 3, Canceled.
Ogallala, Neb.—Searle Field, NDB Runway 8, Original.
Oshkosh, Wis.—Wittman Field, NDB Runway 36, Original.
Somerset, Pa.—Somerset County Airport, NDB Runway 24, Amdt. 1.

5. Section 97.29 is amended by originating, amending, or canceling the following ILS SIAPs, effective November 8, 1973:

International Falls, Minn.—Falls International Airport, ILS Runway 31, Amdt. 2.
Kailua-Kona, Hawaii—Ke-ahole Airport, ILS/DME Runway 17, Amdt. 1.
Kansas City, Mo.—Kansas City International Airport, ILS Runway 1, Amdt. 2.
Kansas City, Mo.—Kansas City International Airport, ILS Runway 9, Amdt. 4.
Kansas City, Mo.—Kansas City International Airport, ILS (BC) Runway 19, Original.
Latrobe, Pa.—Latrobe Airport, ILS Runway 23, Amdt. 5.
Lebanon, N.H.—Lebanon Regional Airport, ILS Runway 7, Amdt. 2.
North Bend, Ore.—North Bend Municipal Airport, ILS Runway 4, Amdt. 1.

effective October 18, 1973:

Atlanta, Ga.—The William B. Hartsfield Atlanta International Airport, ILS Runway 9R, Amdt. 3.

effective October 4, 1973:

New York, N.Y.—John F. Kennedy International Airport, ILS Runway 4L, Amdt. 1.
Oshkosh, Wis.—Wittman Field, ILS Runway 36, Original.

• • • effective September 18, 1973:

Atlanta, Ga.—Fulton County Airport, ILS Runway 8R, Amdt. 2.

6. Section 97.31 is amended by originating, amending, or canceling the following RADAR SIAPs, effective October 4, 1973:

Guam, Mariana Is.—Andersen AFB, RADAR–1, Amdt. 5, Canceled.

7. Section 97.33 is amended by originating, amending, or canceling the following RNAV SIAPs, effective November 8, 1973:

Burley, Ida.—Burley Municipal Airport, RNAV, Runway 20, Original.
Cleveland, Ohio—Cleveland-Hopkins International Airport, RNAV Runway 10L, Amdt. 3.
Cleveland, Ohio—Cleveland-Hopkins International Airport, RNAV Runway 18R, Amdt. 3.
Cleveland, Ohio—Cleveland-Hopkins International Airport, RNAV Runway 36L, Amdt. 3.
East Stroudsburg, Pa.—Stroudsburg-Pocono Airpark, RNAV Runway 26, Amdt. 1.
Jacksonville, Fla.—Craig Municipal Airport, RNAV Runway 31, Amdt. 2.
Kansas City, Mo.—Kansas City International Airport, RNAV Runway 1, Amdt. 1.
Pekin, Ill.—Pekin Municipal Airport, RNAV Runway 9, Original.
Springfield, Mo.—Springfield Municipal Airport, RNAV Runway 13, Amdt. 1.

(Secs. 307, 313, 601, 1110, Federal Aviation Act of 1948 (49 U.S.C. 1438, 1354, 1421, 1510); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)) (5 U.S.C. 552(a)(1).)

Issued in Washington, D.C., on September 20, 1973.

JAMES M. VINES,
*Chief, Aircraft Programs Division.*

NOTE.—Incorporation by reference provisions in §§ 97.10 and 97.20 (35 FR 5610) approved by the Director of the FEDERAL REGISTER on May 12, 1969.

[FR Doc.73-20590 Filed 9-26-73;8:45 am]

## CHAPTER II—CIVIL AERONAUTICS BOARD

### SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-823]

### PART 229—SPECIAL PROVISIONS UNDER PRICE STABILIZATION PROGRAM

#### Repeal of Part

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on September 21, 1973.

Part 229 of the Board's Economic Regulations has contained criteria for the Board's use in assessing increases in rates, fares, and charges for certain services subject to its jurisdiction during Phases II and III of the Economic Stabilization Program. The special provisions prescribed by Part 229, as amended, were imposed in compliance with Cost of Living Council and Price Commission directives. However, since § 150.56 of the Cost of Living Council's Phase IV Regulations (38 FR 21592), which are now in effect, exempts public utilities, including the air transportation industry, from coverage, the special provisions of Part 229 of our Economic Regulations are no longer necessary. The general provisions set forth in our § 221.165 will continue to be applicable to such rate changes. In the Board's judgment, these provisions, together with the ratemaking criteria established in such cases as the Domestic Passenger-Fare Investigation, Docket 21866, will ensure that the objectives of the price stabilization program are being met in the air transportation industry.

Since repeal of Part 229 reflects the exemption of the air transportation industry from the Economic Stabilization Program, which had necessitated the adoption and continuance of the special provisions set forth in the part, and such repeal imposes no burden on any one, the Board finds that notice and public procedure hereon are not necessary and the within repeal may be made effective immediately.

Accordingly, the Civil Aeronautics Board hereby repeals Part 229 of the Economic Regulations (14 CFR Part 229), effective September 21, 1973.

(Sec. 204 of the Federal Aviation Act of 1958, as amended 72 Stat. 743; (49 U.S.C. 1324).)

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.73-20651 Filed 9-26-73;8:45 am]

## Title 15—Commerce and Foreign Trade

## CHAPTER III—DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION, DEPARTMENT OF COMMERCE

### SUBCHAPTER B—EXPORT REGULATIONS

[13th Gen. Rev., Export Regs., Amdt.]

### PART 377—SHORT SUPPLY CONTROLS

### PART 399—COMMODITY CONTROL LIST AND RELATED MATTERS

#### Discontinuance of Short Supply Controls on Agricultural Commodities

The FEDERAL REGISTER issuances of June 27 and July 5, 1973 imposed validated license controls on exports of certain agricultural commodities to all foreign destinations, including Canada. These controls were imposed to assure adequate domestic availability of soybeans, cottonseed, and their oilcake and meals, as well as oils, protein feeds, and animal fats substitutable for those commodities. The availability of new crop soybeans in sufficient quantities for anticipated needs, both domestic and foreign, has made continuation of these controls unnecessary.

The purpose of this document is to announce discontinuance of short supply controls on all agricultural commodities as of October 1, 1973. The agricultural commodities listed below will no longer require a validated license for export to Canada and Country Groups Q, T, V, W, and Y. Effective 12:01 a.m., October 1, 1973, these commodities may be exported to the above named destinations under the provisions of General License G–DEST.





0(1a) Oil-cake and meal, the following only: cottonseed, soybean, linseed, sunflower, safflower, and peanut, classified under Schedule B Nos. 081.3020, 081.3030, 081.3040 and 081.3050.
0(1b) Corn gluten feed classified under Schedule B No. 081.2015.
0(1c) Meatmeal and tankage, and fish meal, inedible, classified under Schedule B Nos. 081.4020 and 081.4040.
0(1d) Animal feeds, prepared, the following only: feather meal classified under Schedule B No. 081.9910; poultry feeds classified under Schedule B No. 081.9920; dairy cattle feeds classified under Schedule B No. 081.9930; livestock feeds classified under Schedule B No. 081.9940; and alfalfa meals classified under Schedule B Nos. 081.9960 and 081.9970.
0(1a) Lard and grease classified under Schedule B Nos. 091.3010 and 091.3020.
22(1a) Safflower seed; sunflower seed; peanuts, shelled and unshelled, green; and cottonseed; classified under Schedule B Nos. 221.0510, 221.0520, 221.1010, 221.1020, and 221.6000.
22(1b) Soybeans and flaxseed (Linseed) classified under Schedule B Nos. 221.4000 and 221.5000.
29(1a) Bone meal classified under Schedule B No. 291.0075.
29(1b) Blood flour and blood meal, classified under Schedule B No. 291.0090.
4(1a) Vegetable oils and mixtures thereof, the following only: soybean oils classified under Schedule B Nos. 421.2010, 421.2020, and 431.2010; cottonseed oils classified under Schedule B Nos. 421.3010, 421.3020, 421.3030 and 431.2020; cottonseed and soybean oil mixtures classified under Schedule B No. 431.2030; peanut oils classified under Schedule B Nos. 421.4010 and 421.4020; sunflower seed oils classified under Schedule B Nos. 421.8010, 421.8020, and 421.8040; linseed oils classified under Schedule B Nos. 422.1000 and 431.1010; corn oils classified under Schedule B Nos. 422.9020 and 431.2030; safflower seed oil classified under Schedule B No. 422.9030; and fish oil, maize oil and peanut oil classified under Schedule B No. 431.2030.
4(1b) Tallow, edible and inedible, classified under Schedule B Nos. 411.3210 and 411.3220.
512(22a) Vegetable lecithin, soybean, classified under Schedule B No. 512.0965.

Accordingly, § 377.3 and the "Agricultural Commodities" portion of Supplement No. 1 to Part 377 of the Export Control Regulations are deleted, and the Commodity Control List (§ 399.1 of the Export Control Regulations) is revised to delete the above listed entries and to delete the word "other" from entries 0(1f), 22(1c), 29(1c), and 4(1c). Replacement pages for the Export Control Regulations will be published in a forthcoming Export Control Bulletin.

This action in no way modifies or affects the reporting requirements set forth in Part 376, which remain in full force and effect.

Effective date of action: 12:01 a.m. October 1, 1973.

RAUER H. MEYER,
*Director, Office of Export Control.*

[FR Doc.73-20742 Filed 9-26-73;8:45 am]

## Title 21—Food and Drugs

## CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### SUBCHAPTER B—FOOD AND FOOD PRODUCTS

### PART 121—FOOD ADDITIVES

### Subpart C—Food Additives Permitted in the Feed and Drinking Water of Animals or for the Treatment of Food-Producing Animals

### SUBCHAPTER C—DRUGS

### PART 135e—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

#### Chlortetracycline, Sulfamethazine, and Penicillin

The Commissioner of Food and Drugs has evaluated a new animal drug application (91-668V) filed by Rachelle Labs., Inc., 700 Henry Ford Avenue, P.O. Box 2029, Long Beach, CA 90801, proposing the safe and effective use of chlortetracycline, sulfamethazine and penicillin in swine feed. The application is approved.

The provision for use of the product in swine feed in Part 121 of the food additive regulations is being deleted as part of this order and recodified in Part 135e.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 2.120), Parts 121 and 135e are amended as follows:

§ 121.203 [Amended]

1. Part 121 is amended in § 121.208(d) by deleting item 2. "chlortetracycline combined with penicillin, sulfamethazine" in Table 2 and reserving the item for future use.

2. Part 135e is amended by adding thereto a new section to read as follows:

§ 135e.61 Chlortetracycline, procaine penicillin, and sulfamethazine.

(a) *Specifications.* (1) Chlortetracycline is the antibiotic substance produced by growth of *Streptomyces aureofaciens* or the same antibiotic substance produced by any other means and, for the purpose of this section, refers to chlortetracycline or feed grade chlortetracycline as the specified salt.

(2) Procaine penicillin is the procaine salt of the antibiotic substance produced by the growth of *Pennicillium notatum* or *Penicillium chrysogenum* or the same antibiotic substance produced by any other means and, for the purposes of this section, refers to procaine penicillin or feed grade procaine penicillin.

(3) Sulfamethazine is the chemical N¹-(4,6-Dimethyl-2-pyrimidinyl) sulfanilamide.

(4) The antibiotic activities authorized are expressed in this section in terms of the weight of the appropriate antibiotic standards.

(5) Finished feed contains in each ton, 100 grams of chlortetracycline, 50 grams of penicillin as procaine penicillin, and 100 grams of sulfamethazine.

(b) *Approvals.* Premix level of 20 grams of chlortetracycline per pound, 4.4 percent of sulfamethazine, and procaine penicillin equivalent in activity to 10 grams of penicillin per pound has been granted; for sponsor see Code Nos. 004 and 071 in § 135.501(c) of this chapter.

(c) *Assay limits.* Finished feed must contain not less than 70 percent nor more than 130 percent of labeled amount of chlortetracycline and procaine penicillin and not less than 80 percent nor more than 120 percent of labeled amount of sulfamethazine.

(d) *Special considerations.* Finished feeds conforming to the requirements of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

(e) *Related tolerances.* See §§ 135g.8, 135g.12, and 135g.27 of this chapter.

(f) *Conditions of use.* (1) It is administered to swine in a complete feed for reduction of the incidence of cervical abscesses; treatment of bacterial swine enteritis (salmonellosis or necrotic enteritis caused by *Salmonella choleraesuis* and vibrionic dysentery); prevention of these diseases during times of stress; maintenance of weight gains in the presence of atrophic rhinitis; growth promotion and increased feed efficiency in swine weighing up to 75 pounds.

(2) Withdraw 7 days prior to slaughter.

*Effective date.* This order shall be effective on September 27, 1973.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated September 20, 1973.

C. D. VAN HOUWELING,
*Director, Bureau of Veterinary Medicine.*

[FR Doc.73-20636 Filed 9-26-73;8:45 am]

### PART 135a—NEW ANIMAL DRUGS FOR OPHTHALMIC AND TOPICAL USE

#### Dimethyl Sulfoxide Gel, Veterinary

The Commissioner of Food and Drugs has evaluated a new animal drug application (47-925V) filed by Syntex Laboratories, Inc., Stanford Industrial Park, Palo Alto, CA 94304 proposing the safe and effective use of dimethyl sulfoxide gel, veterinary for the treatment of horses. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135a is amended by adding a new section as follows:

§ 135a.49 Dimethyl sulfoxide gel, veterinary.

(a) *Specifications.* Dimethyl sulfoxide gel, veterinary contains 90 percent dimethyl sulfoxide in an aqueous gel.

(b) *Sponsor.* See code No. 036 in § 135.501(c) of this chapter.



V 38 N 187 SEP 27 73 XUM

(c) *Conditions of use.* (1) It is recommended for use on horses as a topical application to reduce acute swelling due to trauma.

(2) It is administered topically to the skin over the affected area. Liberal application should be administered 2 to 3 times daily. Total daily dosage should not exceed 100 grams. Total duration of therapy should not exceed 30 days.

(3) Not to be administered to horses that are to be slaughtered for food or intended for breeding purposes. For topical application only. Do not administer by any other route. No other medications should be present on the skin prior to application of the drug.

(4) Federal law restricts this drug to used by or on the order of a licensed veterinarian.

*Effective date.*—This order shall be effective on September 27, 1973.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated September 20, 1973.

C. D. VAN HOUWELING,
*Director,*
*Bureau of Veterinary Medicine.*

[FR Doc.73-20635 Filed 9-26-73;8:45 am]

## PART 135b—NEW ANIMAL DRUGS FOR IMPLANTATION OR INJECTION

### Neostigmine Methylsulfate

The Commissioner of Food and Drugs has evaluated a supplemental new animal drug application (8-097V) filed by Pitman-Moore, Inc., Washington Crossing, NJ 08560, proposing the safe and effective use of neostigmine methylsulfate for the treatment of cattle, horses, sheep and swine. The supplemental application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135b is amended by adding a new section as follows:

**§ 135b.97 Neostigmine methylsulfate injection, veterinary.**

(a) *Specifications.* Neostigmine methylsulfate injection, veterinary contains two milligrams of neostigmine methylsulfate in each milliliter of sterile aqueous solution.

(b) *Sponsor.* See code No. 066 in § 135.501(c) of this chapter.

(c) *Conditions of use.* (1) The drug is intended for use for treating rumen atony; initiating peristalsis which causes evacuation of the bowel; emptying the urinary bladder; and stimulating skeletal muscle contractions. It is a curare antagonist.

(2) It is administered to cattle and horses at a dosage level of 1 milligram per 100 pounds of body weight subcutaneously. It is administered to sheep at a dosage level of 1 to 1½ milligrams per 100 pounds body weight subcutaneously. It is administered to swine at a dosage level of 2 to 3 milligrams per 100 pounds body weight intramuscularly. These doses may be repeated as indicated.

(3) The drug is contraindicated in mechanical, intestinal or urinary obstruction, late pregnancy, and in animals treated with other cholinesterase inhibitors.

(4) Not for use in animals producing milk, since this use will result in contamination of the milk.

(5) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

*Effective date.*—This order shall be effective on September 27, 1973.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated August 31, 1973.

FRED J. KINGMA,
*Acting Director,*
*Bureau of Veterinary Medicine.*

[FR Doc.73-20634 Filed 9-26-73;8:45 am]

## PART 135c—NEW ANIMAL DRUGS IN ORAL DOSAGE FORMS

### Phenylbutazone

The Commissioner of Food and Drugs has evaluated a new animal drug application (91-939V) filed by Norden Laboratories, Inc., Lincoln, NE 68501, proposing the safe and effective use of phenylbutazone tablets for the treatment of dogs. The application is approved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 2.120), Part 135c is amended in § 135c.57 by adding a new paragraph (h) as follows:

**§ 135c.57 Phenylbutazone tablets and boluses.**

* * * * *

(h)(1) *Specifications.* The drug is in tablet form with each tablet containing 100 milligrams of phenylbutazone.

(2) *Sponsor.* See code No. 026 in § 135.501(c) of this chapter.

(3) *Conditions of use.* (i) It is used for the relief of inflammatory conditions associated with the musculoskeletal system in dogs.

(ii) It is administered orally to dogs at a dosage level of 20 milligrams per pound of body weight in three divided doses daily given at 8 hour intervals with a maximum dosage level of 800 milligrams per day regardless of body weight.

(iii) Federal law restricts this drug to use by or on the order of a licensed veterinarian.

*Effective date.*—This order shall become effective on September 27, 1973.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated August 31, 1973.

FRED J. KINGMA,
*Acting Director,*
*Bureau of Veterinary Medicine.*

[FR Doc.73-20633 Filed 9-26-73;8:45 am]

### SUBPART E—HAZARDOUS SUBSTANCES

## PART 191—HAZARDOUS SUBSTANCES: DEFINITIONS AND PROCEDURAL AND INTERPRETATIVE REGULATIONS

## PART 191b—REQUIREMENTS FOR ELECTRICALLY OPERATED TOYS OR OTHER ELECTRICALLY OPERATED ARTICLES INTENDED FOR USE BY CHILDREN

### Revision and Transfer

Appearing elsewhere in this issue of the FEDERAL REGISTER is a document deleting 21 CFR Parts 191 and 191b and revising and reissuing the material, for reasons given, as Parts 1500 and 1505, respectively, of Title 16, Chapter II, Subchaper C.

Dated September 20, 1973.

SADYE E. DUNN,
*Secretary, Consumer Product Safety Commission.*

[FR Doc.73-20424 Filed 9-26-73;8:45 am]

### Title 28—Judicial Administration

### CHAPTER I—DEPARTMENT OF JUSTICE

[Order 540-73]

## PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

### Civil Rights Issues Affecting American Indians

This order clarifies the assignment of matters regarding civil rights issues affecting American Indians. Matters arising under Title II of the Civil Rights Act of 1968, 82 Stat. 77; 25 U.S.C. 1301 et seq. (the Indian Bill of Rights) are assigned to the Civil Rights Division, and other Indian-related matters primarily involving natural resources issues will continue to be handled by the Land and Natural Resources Division.

By virtue of the authority vested in me by 28 U.S.C. 509, 510 and 5 U.S.C. 301, Chapter I of Part 0 of Title 28, Code of Federal Regulations, is amended as follows:

**§ 0.50 [Amended]**

1. Paragraph (a) of § 0.50 of Subpart J is amended by deleting the word "and" immediately before the word "housing" and by adding immediately after the word "housing," the phrase "and the constitutional and civil rights of Indians arising under 25 U.S.C. 1301 et seq."

**§ 0.65 [Amended]**

2. Paragraph (b) of § 0.65 of Subpart M is amended by adding at the end thereof: "(except matters involving the constitutional and civil rights of Indians assigned to the Civil Rights Division by Subpart J of this part)."

Dated September 19, 1973.

ELLIOT RICHARDSON,
*Attorney General.*

[FR Doc.73-20543 Filed 9-26-73;8:45 am]





### Title 24—Housing and Urban Development

### CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-214]

## PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

### Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

**§ 1914.4 Status of participating communities.**

* * * * * * *

| State | County | Location | Map No. | State map repository | Local map repository | Effective date of authorization of sale of flood insurance for area |
|---|---|---|---|---|---|---|
| Texas | Harris | Houston, City of | | | | Sept. 14, 1973, Emergency. |

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Pub. L. 91-152, Dec. 24, 1969) (42 U.S.C. 4001-4127); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969.)

Issued September 14, 1973.

GEORGE K. BERNSTEIN,
*Federal Insurance Administrator.*

[FR Doc.73-20477 Filed 9-26-73;8:45 am]

### Title 26—Internal Revenue

### CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

### SUBCHAPTER A—INCOME TAX

[INCOME TAX REGULATIONS]

[T.D. 7286]

## PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

### Time for Filing Application for Change of Annual Accounting Period

This document contains an amendment to the Income Tax Regulations (26 CFR Part 1) under sections 442 and 706 of the Internal Revenue Code of 1954. The amendment is designed to change the due date for filing an application for a change of a taxpayer's annual accounting period.

Section 442 of the Code provides that a taxpayer may change his annual accounting period ("taxable year") only if the permission of the Secretary of the Treasury or his delegate is obtained. Present regulations provide that a request for such permission must be filed not later than the last day of the month following the close of the short taxable period which would be created by the change of taxable year. In response to comments from the public, the regulations lengthen the period for filing the application to the 15th day of the second month following the close of the short taxable period. The change is effective for changes involving short periods ending after December 31, 1973.

A conforming change is made to the regulations under Code section 706, relating to application for change of taxable year of a partnership.

*Amendments to the regulations.* In order to lengthen the time for filing an application for change of annual accounting period the Income Tax Regulations (26 CFR Part 1) are amended as follows:

PARAGRAPH 1. Paragraph (b)(1) of § 1.442-1 is amended to read as follows:

**§ 1.442-1 Change of annual accounting period.**

* * * * *

(b) *Prior approval of the Commissioner*—(1) *In general.* In order to secure prior approval of a change of a taxpayer's annual accounting period, the taxpayer must file an application on Form 1128 with the Commissioner of Internal Revenue, Washington, D.C. 20224, to effect the change of accounting period. If the short period involved in the change ends after December 31, 1973, such form shall be filed on or before the 15th day of the second calendar month following the close of such short period; if such short period ends before January 1, 1974, such form shall be filed on or before the last day of the first calendar month following the close of such short period. Approval will not be granted unless the taxpayer and the Commissioner agree to the terms, conditions, and adjustments under which the change will be effected. In general, a change of annual accounting period will be approved where the taxpayer establishes a substantial business purpose for making the change. In determining whether a taxpayer has established a substantial business purpose for making the change, consideration will be given to all the facts and circumstances relating to the change, including the tax consequences resulting therefrom. Among the nontax factors that will be considered in determing whether a substantial business purpose has been established is the effect of the change on the taxpayer's annual cycle of business activity. The agreement between the taxpayer and the Commissioner under which the change will be effected shall, in appropriate cases, provide terms, conditions, and adjustments necessary to prevent a substantial distortion of income which otherwise would result from the change. The following are examples of effects of the change which would substantially distort income: (i) Deferral of a substantial portion of the taxpayer's income, or shifting of a substantial portion of deductions, from one year to another so as to reduce substantially the taxpayer's tax liability; (ii) causing a similar deferral or shifting in the case of any other person, such as a partner, a beneficiary, or a shareholder in an electing small business corporation as defined in section 1371 (b); or (iii) creating a short period in which there is either (*a*) a substantial net operating loss, or (*b*) in the case of an electing small business corporation, a substantial portion of amounts treated as long-term capital gain. Even though a substantial business purpose is not established, the Commissioner in appropriate cases may permit a husband or wife to change his or her taxable year in order to secure the benefits of section 1(a) (relating to tax in case of a joint return). See paragraph (e) of this section for special rule for newly married couples.

* * * * *

PAR. 2. Paragraph (b)(4)(i) of § 1.706-1 is amended to read as follows:



V 38 I 187 SEP 27 73 XUM

§ 1.706–1 **Taxable years of partner and partnership.**

. . . . . .

(b) *Adoption or change in taxable year.* . . .

(4) *Application for approval*—(i) *Change.* Application for a change in a taxable year shall be filed on Form 1128 with the Commissioner of Internal Revenue, Washington, D.C. 20224. If the short period involved in the change ends after December 31, 1973, such form shall be filed on or before the 15th day of the second calendar month following the close of such short period; if such short period ends before January 1, 1974, such form shall be filed on or before the last day of the first calendar month following the close of such short period.

. . . . . .

Because this Treasury decision merely lengthens the time period within which an application for change of annual accounting period may be filed, it is found unnecessary to issue it with notice and public procedure thereon under subsection (b) of section 553 of Title 5 of the United States Code.

(Section 7805 of the Internal Revenue Code of 1954 68A Stat. 917; (26 U.S.C. 7805).)

DONALD C. ALEXANDER,
*Commissioner of Internal Revenue.*

Approved September 20, 1973.

FREDERICK W. HICKMAN,
*Assistant Secretary of the Treasury.*

[FR Doc.73-20662 Filed 9-26-73;8:45 am]

---

[Income Tax Regulations]

[T.D. 7287]

## PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

### Deductibility and Inclusion in Gross Income of Family Allowances

By a notice of proposed rule making appearing in the FEDERAL REGISTER for Friday, December 22, 1972 (37 FR 28302), amendments to the Income Tax Regulations (26 CFR Part 1) under sections 661 and 662 of the Internal Revenue Code of 1954 were proposed in order to conform the Income Tax Regulations to the decision of the Tax Court in *Estate of Laurence R. McCoy*, 50 T.C. 562 (1968). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendment of the regulations as proposed are adopted by this document without change.

Under the regulations adopted by this document, an amount paid, or required to be paid, by a decedent's estate as an allowance or award for the support of a beneficiary, who is the decedent's widow or dependent, is deductible by the estate in computing its taxable income and includible in the gross income of the beneficiary to the extent of the beneficiary's share of the estate's distributable net income. This treatment would apply to such amounts, commonly called a "widow's allowance" or "family allowance," paid by the estate from either income or corpus. The revised regulations apply to taxable years beginning after December 31, 1953 and ending after August 16, 1954.

Heretofore, the regulations provided that any such allowance was deductible by the estate, and includible in the gross income of the widow or other dependent, only to the extent payable out of and chargeable to income under the applicable order, decree, or local law providing for such allowance. Many comments by interested persons objected to the retroactive application of the proposed regulations. Accordingly, the Internal Revenue Service has set forth in a Revenue Procedure the circumstances under which the treatment of such allowances, in a manner consistent with the regulations prior to the amendment made by this document, will not be disturbed. (Rev. Proc. 73–4, 1973 Int. Rev. Bull. No. 6, at 32.) Generally, with respect to returns heretofore filed for taxable years ending before the date of approval of this document, such consistent treatment will not be disturbed unless the estate files a claim for refund based on a distribution deduction for a "widow's" or "family" allowance. However, if the estate has filed a claim for refund and does not withdraw it, the Internal Revenue Service will require the widow or other dependent to include such allowance in gross income.

Several comments were received indicating some possible confusion as to whether the regulations would apply to certain distributions which, in light of local law, would not be considered distributions of the estate. Because it is implicit in the regulations that their application is limited only to estate distributions, no amendment to the regulations was made as a result of the comments.

*Adoption of amendments to the regulations.* On Friday, December 22, 1972, notice of proposed rule making with respect to the amendments of the Income Tax Regulations (26 CFR Part 1) under sections 661 and 662 of the Internal Revenue Code of 1954 in order to provide revised rules for the treatment of an amount paid, or required to be paid, by a decedent's estate as an allowance or award for the support of the decedent's widow or other dependent during the administration of the estate, was published in the FEDERAL REGISTER (37 FR 28302). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the amendments of the regulations as proposed are hereby adopted effective for returns with respect to taxable years beginning after December 31, 1953, and ending after August 16, 1954.

(Section 7805 of the Internal Revenue Code of 1954 68A Stat. 917; (26 U.S.C. 7805).)

[SEAL] DONALD C. ALEXANDER,
*Commissioner of Internal Revenue.*

Approved September 21, 1973.

JOHN H. HALL,
*Deputy Assistant Secretary of the Treasury.*

In order to provide revised rules for the treatment of an amount paid, or required to be paid, by a decedent's estate as an allowance or award for the support of the decedent's widow or other dependent during the administration of the estate, the Income Tax Regulations (26 CFR Part 1) under sections 661 and 662 of the Internal Revenue Code of 1954 are amended to read as follows. These amendments are applicable to taxable years beginning after December 31, 1953, and ending after August 16, 1954.

PARAGRAPH 1. Section 1.661(a)–2 is amended by revising paragraph (e) to read as follows:

§ 1.661(a)–2 **Deduction for distributions to beneficiaries.**

. . . . . .

(e) The terms "income required to be distributed currently" and "any other amounts properly paid or credited or required to be distributed" include amounts paid, or required to be paid, during the taxable year pursuant to a court order or decree or under local law, by a decedent's estate as an allowance or award for the support of the decedent's widow or other dependent for a limited period during the administration of the estate. The term "any other amounts properly paid or credited or required to be distributed" does not include the value of any interest in real estate owned by a decedent, title to which under local law passes directly from the decedent to his heirs or devisees.

. . . . . .

PAR. 2. Section 1.662(a)–2 is amended by revising paragraph (c) to read as follows:

§ 1.662(a)–2 **Currently distributable income.**

. . . . . .

(c) The phrase "the amount of income for the taxable year required to be distributed currently" includes any amount required to be paid out of income or corpus to the extent the amount is satisfied out of income for the taxable year. Thus, an annuity required to be paid in all events (either out of income or corpus) would qualify as income required to be distributed currently to the extent there is income (as defined in section 643(b)) not paid, credited, or required to be distributed to other beneficiaries for the taxable year. If an annuity or a portion of an annuity is deemed under this paragraph to be income required to be distributed currently, it is treated in all respects in the same manner as an amount of income actually required to be distributed currently. The phrase "the amount of income for the taxable year required to be distributed currently" also includes any amount required to be paid during the taxable year in all events (either out of income or corpus) pursuant to a court order or decree or under local law, by a decedent's estate as an allowance or award for the support of the decedent's widow or other dependent for a limited period during the administration of the estate to the extent there is income (as defined in section 643(b)) of the estate for the taxable year not paid, credited, or required to be distributed to other beneficiaries.

. . . . . .

PAR. 3. Section 1.662(a)–3 is amended by revising paragraph (b) to read as follows:

§ 1.662(a)–3 **Other amounts distributed.**

. . . . . .

(b) Some of the payments to be included under paragraph (a) of this section are: (1) A distribution made to a beneficiary in the discretion of the fiduciary; (2) a distribution required by the terms of the governing instrument upon the happening of a specified event; (3) an annuity which is required to be paid in all events but which is payable only out of corpus; (4) a distribution of property in kind (see paragraph (f) of § 1.661(a)–2); (5) an amount applied or distributed for the support of a dependent of a grantor or a trustee or cotrustee under the circumstances specified in section 677(b) or section 678(c) out of corpus or out of other than income for the taxable year; and (6) an amount required to be paid during the taxable year pursuant to a court order or decree or under local law, by a decedent's estate as an allowance or award for the support of the decedent's widow or other dependent for a limited period during the administration of the estate which is payable only out of corpus of the estate under the order or decree or local law.

. . . . . .

[FR Doc.73-20663 Filed 9-26-73;8:45 am]

---

### Title 40—Protection of Environment

### CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

### SUBCHAPTER E—PESTICIDE PROGRAMS

### PART 180—TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

### O,O-Diethyl O-(2-Isopropyl-6-Methyl-4-Pyrimidinyl) Phosphorothioate

*Correction*

In FR Doc. 73–18626 appearing at page 23781 in the issue of Tuesday, September 4, 1973, in § 180.153, in the first line following the five stars, the word "mission" should read "million".

---

### Title 41—Public Contracts and Property Management

### CHAPTER 1—FEDERAL PROCUREMENT REGULATIONS

[FPR Amdt. 119]

### PART 1–1—GENERAL

### Subpart 1–1.7—Small Business Concerns

CERTIFICATE OF COMPETENCY PROGRAM

This amendment clarifies in Subpart 1–1.7, Small Business Concerns, the procedures for (1) resolving disagreements between contracting officers and the Small Business Administration (SBA) regional offices over the issuance of certificates of competency, (2) processing appeals by an agency to the SBA Central Office, and (3) conforming the procedures in the FPR to the actual practices followed by SBA.

1. Section 1–1.708–2 is amended by revising paragraph (d) and adding a new paragraph (e). As amended, the section reads as follows:

§ 1–1.708–2 **Applicability and procedure.**

. . . . . .

(d) After a contracting officer refers a negative finding regarding the capacity or credit of a small business concern to the SBA regional office, the SBA office shall notify the contracting officer if it plans to issue a certificate of competency or to refer the application to the SBA Central Office, Washington, D.C. The contracting officer shall also be informed of any new or additional facts in the case which have been developed. If these facts warrant, the contracting officer should consider a reversal of his negative finding. Every effort should be made to resolve the differences between SBA and the contracting agency through a complete exchange of preaward information.

(e) If agreement cannot be reached between the SBA regional office and the contracting officer, the contracting officer shall request the SBA regional office to suspend action and to forward the case to the SBA Central Office, Washington, D.C., for review. The SBA Central Office may decline to issue a certificate of competency and inform the contracting officer of this decision, or it may inform the contracting officer and higher authority within the procuring agency of the reasons for SBA's proposed affirmative action. The procuring agency shall notify the SBA Central Office within 10 workdays after receipt of written notification of SBA's proposed affirmative action whether a formal appeal will be made at the Central Office level. The appeal shall be presented within 10 workdays after the SBA Central Office is notified that an appeal will be made or at such later date as may be agreed upon by SBA and the procuring agency. Following the appeal, the SBA Associate Administrator shall make a determination relative to the certificate of competency action and his determination will be considered final.

2. Section 1–1.708–3 is revised to delete the last two sentences. As revised, the paragraph reads as follows:

§ 1–1.708–3 **Conclusiveness of certificate of competency.**

As provided in the Small Business Act (15 U.S.C. 637(b)(7)), procurement agencies are required to accept SBA certificates of competency as conclusive of a prospective contractor's responsibility as to capacity and credit.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)).)

*Effective date.*—These regulations are effective on September 27, 1973.

Dated September 20, 1973.

ARTHUR F. SAMPSON,
*Administrator of General Services.*

[FR Doc.73-20649 Filed 9-26-73;8:45 am]

---

### LATE BIDS AND PROPOSALS

This amendment of the Federal Procurement Regulations prescribes revised and new policies and procedures pertaining to the receipt and consideration for award of bids and proposals that have been received after the exact time set for opening or receipt in the solicitation document. In the future, bids will be considered timely if mailed by registered or certified mail 5 or more days before the time set for the opening of bids. In the case of negotiated procurement two procedures for handling late proposals are prescribed. The general procedure requires that late proposals shall be treated in essentially the same manner as late bids. An alternate procedure has been prescribed which allows for the consideration of late proposals if they are received prior to a determination of the competitive range and offer significant cost or technical advantages to the Government. This alternate procedure may be used only when the head of the agency, or his designee, determines that it is applicable to certain classes of procurements conducted by his agency.

### PART 1–2—PROCUREMENT BY FORMAL ADVERTISING

### Subpart 1–2.2—Solicitation of Bids

[FPR Amdt. 118]

Section 1–2.201 is amended to add a new paragraph (a)(31), as follows:

§ 1–2.201 **Preparation of invitations for bids.**

(a) . . .

(31) The following provision regarding the receipt and consideration of bids for award that are received after the exact time set for opening in the invitation for bids shall be placed in each solicitation:

LATE BIDS, MODIFICATIONS OF BIDS, OR WITHDRAWAL OF BIDS

(a) Any bid received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made and either:

(1) It was sent by registered or certified mail not later than the fifth calendar day prior to the date specified for the receipt of bids (e.g., a bid submitted in response to a solicitation requiring receipt of bids by the 20th of the month must have been mailed by the 15th or earlier); or

(2) It was sent by mail (or telegram if authorized) and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation.

(b) Any modification or withdrawal of a bid is subject to the same conditions as in (a), above. A bid may also be withdrawn in







V 38 1187 SEP 27 73 XUM

person by a bidder or his authorized representative, provided his identity is made known and he signs a receipt for the bid, but only if the withdrawal is made prior to the exact time set for receipt of bids.

(c) The only acceptable evidence to establish:

(1) The date of mailing of a late bid, modification, or withdrawal sent either by registered or certified mail is the U.S. Postal Service postmark on the wrapper or on the original receipt from the U.S. Postal Service. If neither postmark shows a legible date, the bid, modification, or withdrawal shall be deemed to have been mailed late. (The term "postmark" means a printed, stamped, or otherwise placed impression that is readily identifiable without further action as having been supplied and affixed on the date of mailing by employees of the U.S. Postal Service.)

(2) The time of receipt at the Government installation is the time-date stamp of such installation on the bid wrapper or other documentary evidence of receipt maintained by the installation.

(d) Notwithstanding (a) and (b) of this provision, a late modification of an otherwise successful bid which makes its terms more favorable to the Government will be considered at any time it is received and may be accepted.

* * * * *

### Subpart 1–2.3—Submission of Bids

1. Section 1–2.303–3 is revised to read as follows:

**§ 1–2.303–3 Mailed bids.**

A late bid, modification of bid, or withdrawal of bid shall be considered only if the circumstances set forth in the provision in § 1–2.201(a)(31) are applicable.

2. Section 1–2.303–4 is revised to read as follows:

**§ 1–2.303–4 Telegraphic bids.**

A late telegraphic bid received before award shall not be considered for award, regardless of the cause of the late receipt, including delays caused by the telegraph company, except for delays due to mishandling on the part of the Government in its transmittal to the office designated in the invitation for bids for the receipt of bids, as provided for bids submitted by mail (see § 1–2.303–3).

3. Section 1–2.303–6 is revised to read as follows:

**§ 1–2.303–6 Notification to late bidders.**

(a) When a late bid is received and it is clear from available information that under § 1–2.303–2 such late bid cannot be considered for award, the contracting officer, or his authorized representative, shall promptly notify the bidder that it was received late and will not be considered (see also § 1–2.303–7). However, when a late bid is transmitted by registered or certified mail and is received before award but it is not clear from available information whether it can be considered, the bidder shall be promptly notified substantially as follows:

Your bid in response to Invitation for Bids Number ------, dated ----------, was received after the time for opening specified in the Invitation. Accordingly, your bid will not be opened or considered for award unless there is received from you by ----------
(date)
the original post office receipt for registered or certified mail showing a date of mailing not later than the fifth calendar day prior to the date specified for opening (e.g., a bid submitted in response to a solicitation requiring receipt of bids by the 20th of the month must have been mailed by the 15th or earlier).

(b) When a late telegraphic bid is received and it is clear from available information that under § 1–2.303–2 such late bid cannot be considered, the contracting officer, or his authorized representative, shall promptly notify the bidder that his bid was received late and will not be considered (see also § 1–2.303–7).

---

## PART 1–3—PROCUREMENT BY NEGOTIATION

The table of contents for Part 1–3 is amended to include new entries in Subpart 1–3.8, as follows:

Sec.
1–3.802–1 Consideration of late proposals.
1–3.802–2 Alternate procedures for consideration of late proposals.

### Subpart 1–3.8—Price Negotiation Policies and Techniques

1. Section 1–3.802 is amended by revising paragraph (c). As revised, paragraph (c) reads as follows:

**§ 1–3.802 Preparation for negotiation.**

* * * * *

(c) *Requests for proposals.* Requests for proposals shall contain the information necessary to enable a prospective offeror to properly prepare a quotation or proposal. The request for proposals shall be as complete as possible with respect to: Item description or statement of work; specifications; Government-furnished property, if any; required delivery schedule; special provisions; cost or pricing data requirements (see § 1–3.807–3); and contract clauses. Requests for proposals shall specify a date and time for submission of proposals. Any extension of time granted to one prospective offeror shall be granted uniformly to all. Each request for proposals shall be released to all prospective offerors at the same time and no offeror shall be given the advantage of advance knowledge that proposals are to be requested. Requests for proposals shall be in writing except in those cases where the urgency of the procurement is such that there is not sufficient time to prepare a written request. In such cases oral requests are authorized.

2. Section 1–3.802 is amended to add new §§ 1–3.802–1 and 1–3.802–2, as follows:

**§ 1–3.802–1 Consideration of late proposals.**

(a) Except as provided in § 1–3.802–2, the following provision regarding the receipt and consideration of proposals for award that are received after the exact time set for receipt in the request for proposals shall be placed in each solicitation:

LATE PROPOSALS, MODIFICATIONS OF PROPOSALS, AND WITHDRAWALS OF PROPOSALS

(a) Any proposal received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made, and:

(1) It was sent by registered or certified mail not later than the fifth calendar day prior to the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th of the month must have been mailed by the 15th or earlier);

(2) It was sent by mail (or telegram if authorized) and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation; or

(3) It is the only proposal received.

(b) Any modification of a proposal, except a modification resulting from the Contracting Officer's request for "best and final" offer, is subject to the same conditions as in (a)(1) and (a)(2) of this provision.

(c) A modification resulting from the Contracting Officer's request for "best and final" offer received after the time and date specified in the request will not be considered unless received before award and the late receipt is due solely to mishandling by the Government after receipt at the Government installation.

(d) The only acceptable evidence to establish:

(1) The date of mailing of a late proposal or modification sent either by registered or certified mail is the U.S. Postal Service postmark on the wrapper or on the original receipt from the U.S. Postal Service. If neither postmark shows a legible date, the proposal or modification shall be deemed to have been mailed late. (The term "postmark" means a printed, stamped, or otherwise placed impression that is readily identifiable without further action as having been supplied and affixed on the date of mailing by employees of the U.S. Postal Service.)

(2) The time of receipt at the Government installation is the time-date stamp of such installation on the proposal wrapper or other documentary evidence of receipt maintained by the installation.

(e) Notwithstanding (a), (b), and (c), of this provision, a late modification of an otherwise successful proposal which makes its terms more favorable to the Government will be considered at any time it is received and may be accepted.

(f) Proposals may be withdrawn by written or telegraphic notice received at any time prior to award. Proposals may be withdrawn in person by an offeror or his authorized representative, provided his identity is made known and he signs a receipt for the proposal prior to award.

(b) Proposals and modifications of proposals received in the office designated in the request for proposals after the exact time specified are late proposals and shall be considered for award only if the circumstances set forth in the provision in § 1–3.802–1(a), above, are applicable. When a late proposal or modification of proposal is received and it is clear from available information that it cannot be considered for award (e.g., when the postmark clearly shows that the proposal was mailed later than





the fifth day prior to the date specified), the contracting officer, or his authorized representative, shall promptly notify the offeror that it was received late and will not be considered for award. However, when a late proposal or modification of proposal is transmitted by registered or certified mail and it is received before award but it is not clear from the available information whether it can be considered, the offeror shall be promptly notified substantially in accordance with the notice in § 1–2.303–6, appropriately modified to relate to proposals. Disposition of late proposals that cannot be considered for award shall be in accordance with agency procedures.

(c) Where only one proposal is involved and it is received after the time specified, it may be evaluated and considered for award in accordance with agency procedures. As used in this section the term "only proposal received" means a proposal which is one submitted by (1) the only offeror responding to the request for proposals, (2) a sole source, or (3) an offeror who is offering proprietary items in response to a request for proposals which specifies that awards will be made on the basis of proprietary items identified by the offeror by brand name, model, type, or other identification. With respect to (3) of this paragraph (c), the term does not mean an offer which is based on a performance specification or a brand name product which is specifically identified in the request for proposals.

(d) The normal revisions of proposals by offerors selected for discussion during the usual conduct of negotiations with such offerors are not to be considered as late proposals or later modifications to proposals but shall be handled in accordance with § 1–3.805.

**§ 1–3.802–2 Alternate procedures for consideration of late proposals.**

(a) When the head of the agency, or his designee, determines that the procedures set forth in § 1–3.802–1 are not applicable to certain classes of negotiated procurement conducted by his agency, he may authorize the adoption of the following procedures for consideration of late proposals and modifications (except where the procurement of general purpose automated data processing equipment is involved unless use of the procedures set forth in this § 1–3.802–2 is expressly authorized by the Commissioner, Automated Data and Telecommunications Service, GSA).

(b) Requests for proposals that fall within a class of negotiated procurement for which it has been determined, in accordance with § 1–3.802–2(a), that the requirements of § 1–3.802–1 are not applicable shall contain the following provision:

LATE PROPOSALS, MODIFICATIONS OF PROPOSALS, AND WITHDRAWALS OF PROPOSALS

(a) Any proposal received at the office designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made, and:

(1) It was sent by registered or certified mail not later than the fifth calendar day prior to the date specified for receipt of offers (e.g., an offer submitted in response to a solicitation requiring receipt of offers by the 20th day of the month must have been mailed by the 15th or earlier);

(2) It was sent by mail (or telegram if authorized) and it is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the Government installation;

(3) It is the only proposal received; or

(4) It offers significant cost or technical advantages to the Government, and it is received before a determination of the competitive range has been made.

(b) Any modification of a proposal is subject to the same conditions as in (a) of this provision.

(c) The only acceptable evidence to establish:

(1) The date of mailing of a late proposal or modification sent either by registered mail or certified mail is the U.S. Postal Service postmark on the wrapper or on the original receipt from the U.S. Postal Service. If neither postmark shows a legible date, the proposal or modification of proposal shall be deemed to have been mailed late. (The term "postmark" means a printed, stamped, or otherwise placed impression that is readily identifiable without further action as having been supplied and affixed on the date of mailing by employees of the U.S. Postal Service.)

(2) The time of receipt at the Government installation is the time-date stamp of such installation on the proposal wrapper or other documentary evidence of receipt maintained by the installation.

(d) Notwithstanding (a) and (b) of this provision, a late modification of an otherwise successful proposal which makes its terms more favorable to the Government will be considered at any time it is received and may be accepted.

(e) Proposals may be withdrawn by written or telegraphic notice received at any time prior to award. Proposals may be withdrawn in person by an offeror or his authorized representative, provided his identity is made known and he signs a receipt for the proposal prior to award.

(c) Proposals that are received in the office designated in the request for proposals before the time specified for their receipt shall be evaluated to determine which proposals are within the competitive range established for the procurement action. There may be cases where lateness due solely to a delay in the mails or mishandling after receipt at the Government installation results in a proposal being received by the contracting officer after the competitive range has been determined. In such cases the late proposal shall be evaluated, and, if found to be within the competitive range, shall be given the same consideration as other proposals within the competitive range.

(d) A late proposal that is delayed due to circumstances other than those set forth in the provision contaned in § 1–3.802–2(b) which offers significant cost or technical advantages to the Government shall be evaluated provided it is received before a determination of the competitive range has been made. Where the evaluation results in a determination that the proposal is within the competitive range, the proposal shall be given the same consideration as other proposals within the competitive range. However, where only one proposal is involved and it is received after the time specified, a determination of the competitive range is not to be made and the proposal may be evaluated and considered for award provided that the receipt of the proposal is prior to a decision made by the contracting officer to resolicit. See § 1–3.802–1(c) for the meaning of the term "only proposal received."

(e) Late proposals that are delayed under circumstances other than delays in the mails or mishandling at the Government installation which are received after a determination of the competitive range shall not be evaluated or considered for award. Also, where the request for proposals provides that award may be made without discussions with offerors, a late proposal shall not be evaluated or considered if it is received after the successful offeror has been selected and the contract has been awarded.

(f) Generally, contracting officers, assisted by audit or pricing personnel, will be able to make a determination of the significance of any reduction in cost to the Government offered by a late proposal. Determinations regarding significant technical advantages shall be made in accordance with agency procedures.

(g) Determination of the competitive range shall be made in accordance with agency procedures. All offerors shall be notified at the same time whether or not their proposals are within the competitive range, and the date of such notification shall be considered to be the date of the determination. Debriefings of unsuccessful offerors shall be conducted in accordance with agency procedures; however, debriefings should be conducted only after award has been made.

(h) An offeror who has submitted a late proposal that has not been accepted for consideration shall be notified in writing that the proposal was received late and will not be considered. The notification shall set forth the reason why the late proposal was not considered; e.g., did not offer significant cost or technical advantage, received after a determination of the competitive range, received after award.

(i) Modifications of proposals are categorized on the basis of time of receipt as: (1) Receipt prior to a determination of the competitive range, (2) receipt from offerors within the competitive range during negotiations, and (3) receipt at any time from an otherwise successful offeror. Modifications received prior to a determination of the competitive range shall be considered in the evaluation of the proposals which they modify. Modifications received after a determination of the competitive range shall be considered only if they modify proposals which are within the competitive range and are received prior to the date for completion of negotiations established by the contracting officer. All offerors within the competitive range shall be notified in writing of the date for completion of negotiations. Modifications received af-



V 38 I 187 SEP 27 73 XUM

ter the date set shall not be considered. However, a modification received from an otherwise successful offeror which is advantageous to the Government shall be considered at any time.

## PART 1–7—CONTRACT CLAUSES

### Subpart 1–7.1—Fixed-Price Supply Contracts

Section 1–7.103–23 is revised to read as follows:

**§ 1–7.103–23 Late offers and modifications or withdrawals.**

(a) Insert the provision set forth in § 1–2.201(a)(31) in all formally advertised solicitations.

(b) The provision set forth in § 1–3.802–1(b) shall be used in all negotiated solicitations except as provided by § 1–3.802–2(a).

(c) The provision set forth in § 1–3.802–2(b) may be used in negotiated solicitations under the conditions prescribed in § 1–3.802–2(a).

### Subpart 1–7.6—Fixed-Price Construction Contracts

Section 1–7.602–1 is revised to read as follows:

**§ 1–7.602–1 Late bids and modifications or withdrawals.**

(a) Insert the provision set forth in § 1–2.201(a)(31) in all formally advertised solicitations.

(b) The provision set forth in § 1–3.802–1(b) shall be used in all negotiated solicitations except as provided by § 1–3.802–2(a) (see also § 1–18.306).

(c) The provision set forth in § 1–3.802–2(b) may be used in negotiated solicitations under the conditions prescribed in § 1–3.802–2(a) (see also § 1–18.306).

## PART 1–16—PROCUREMENT FORMS

### Subpart 1–16.1—Forms for Advertised Supply Contracts

Section 1–16.101 is amended by revising paragraph (b). As revised, paragraph (b) reads as follows:

**§ 1–16.101 Contract forms.**

* * * * *

(b) Solicitation Instructions and Conditions (Standard Form 33A, March 1969 edition). Pending the publication of a new edition of the form, the Late Bids, Modifications of Bids, or Withdrawal of Bids provision prescribed by § 1–2.201(a)(31) shall be substituted for provision 8 entitled Late Offers and Modifications or Withdrawals whenever the form is used in the procurement of supplies or services by formal advertising, and the Late Proposals, Modifications of Proposals, and Withdrawals of Proposals provision prescribed by § 1–3.802–1(a) or the Late Proposals, Modifications of Proposals, and Withdrawals of Proposals prescribed by § 1–3.802–2(b) (when authorized by the head of the agency) shall be substituted for provision 8 entitled Late Offers and Modifications or Withdrawals whenever the form is used in procurement by negotiation.

* * * * *

### Subpart 1–16.4—Forms for Advertised Construction Contracts

Section 1–16.401 is amended by revising paragraph (f). As revised, paragraph (f) reads as follows:

**§ 1–16.401 Forms prescribed.**

* * * * *

(f) Instructions to Bidders (Construction Contract) (Standard Form 22, October 1969 edition). Pending the publication of a new edition of the form, the Late Bids, Modifications of Bids, or Withdrawal of Bids provision prescribed by § 1–2.201(a)(31) shall be substituted for provision 7 entitled Late Bids and Modifications or Withdrawals whenever the form is used in the procurement of construction by formal advertising; and the Late Proposals, Modifications of Proposals, and Withdrawals of Proposals provision prescribed by § 1–3.802–1(a) or the Late Proposals, Modifications of Proposals, and Withdrawals of Proposals prescribed by § 1–3.802–2(b) (when authorized by the head of the agency) shall be substituted for provision 7 entitled Late Bids and Modifications or Withdrawals whenever the form is used in procurement by negotiation.

* * * * *

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c)).)

*Effective date.*—This amendment is effective with respect to invitations for bids and requests for proposals issued on and after October 25, 1973, but may be observed earlier.

Dated September 20, 1973.

ARTHUR F. SAMPSON,
*Administrator of General Services.*

[FR Doc.73–20648 Filed 9–26–73;8:45 am]

## Title 45—Public Welfare

## CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

## PART 233—COVERAGE AND CONDITIONS OF ELIGIBILITY IN FINANCIAL ASSISTANCE PROGRAMS

### Age and School Attendance in AFDC

Notice of proposed rulemaking for the program of Aid to Families with Dependent Children (AFDC) was published in the FEDERAL REGISTER on December 19, 1972 (37 FR 27637). The Notice included proposed regulations related to age and school attendance, in response to the Supreme Court decision in Townsend v. Swank.

There were no objections to the age and school attendance requirements, but one State asked for an additional requirement that children age 18 or over who are in school or training must be achieving passing grades or making satisfactory progress.

After consideration of the comments, the provisions regarding age and school attendance are adopted with clarifying changes in the provisions regarding Federal financial participation (§ 233.90(c)(1)(vi)).

Section 233.90, Part 233, Chapter II, Title 45 of the Code of Federal Regulations is amended by adding subparagraphs (2) and (3) to paragraph (b) and by revising paragraph (c)(1)(vi) as set forth below:

**§ 233.90 Factors specific to AFDC.**

* * * * *

(b) *Condition for plan approval.* (1) A child may not be denied AFDC either initially or subsequently "because of the conditions of the home in which the child resides", or because the home is considered "unsuitable", unless "provision is otherwise made pursuant to a State statute for adequate care and assistance with respect to such child". (Section 404(b) of the Social Security Act.)

(2) An otherwise eligible child who is under the age of 18 years may not be denied AFDC, regardless of whether he attends school or makes satisfactory grades.

(3) If a State elects to include in its AFDC program children 18 and over, it must include all children 18 years of age and under 21 who are students regularly attending a school, college, or university, or a course of vocational or technical training designed to fit them for gainful employment.

(c) *Federal financial participation.*

(1) * * *

(vi) *"Student regularly attending a school, college, or university, or regularly attending a course of vocational or technical training designed to fit him for gainful employment."* A child may be considered a student regularly attending a school or a training course:

(A) If he is enrolled in and physically attending a full-time (as certified by the school or institute attended) program of study or training leading to a certificate, diploma or degree; or

(B) If he is enrolled in and physically attending at least half-time (as certified by the school or institute attended) a program of study or training leading to a certificate, diploma or degree and is regularly employed in or available for and actively seeking part-time employment; or

(C) If he is enrolled in and physically attending at least half-time (as certified by the school or institute attended) a program of study or training leading to a certificate, diploma or degree and is precluded from full-time attendance or part-time employment because of a verified physical handicap.

Under this interpretation;

(D) Full-time and half-time attendance are defined, as set forth in Veterans Administration requirements:

(*1*) In a trade or technical school, in a program involving shop practice, full-time is 30 clock hours per week and half-time is 15 clock hours; in a program without shop practice, full-time is 25 clock hours and half-time is 12 clock hours;





(2) In a college or university, full-time is 12 semester or quarter hours and half-time is 8 semester or quarter hours;

(3) In a secondary school, full-time is 25 clock hours per week or 4 Carnegie units per year and half-time is 12 clock hours or 2 Carnegie units;

(4) In a secondary education program of cooperative training or in apprenticeship training, full-time attendance is as defined by State regulation or policy; and

(E) A child shall be considered in regular attendance in months in which he is not attending because of official school or training program vacation, illness, convalescence, or family emergency, and for the month in which he completes or discontinues his school or training program.

(Sec. 1102, Stat. 647 (U.S.C. 1302)).

*Effective date.*—These regulations in this section shall become effective on November 26, 1973.

Dated August 20, 1973.

JAMES S. DWIGHT, Jr.,
*Administrator, Social and Rehabilitation Service.*

Approved September 21, 1973.

CASPAR W. WEINBERGER,
*Secretary.*

[FR Doc.73–20603 Filed 9–26–73;8:45 am]

## Title 50—Wildlife and Fisheries

## CHAPTER I—BUREAU OF SPORT FISHERIES AND WILDLIFE, FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

## PART 32—HUNTING

### Bear River Migratory Bird Refuge, Utah

The following special regulation is issued and is effective September 27, 1973.

**§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.**

UTAH

BEAR RIVER MIGRATORY BIRD REFUGE

Public hunting of pheasants on the Bear River Migratory Bird Refuge, Utah, is permitted from November 10 through December 9, 1973, inclusive, but only on the area designated by signs as open to hunting. This open area, comprising 9,495 acres, is delineated on maps and shown as "Area A" which are available at refuge headquarters, Brigham City, Utah, and from the Regional Director, Bureau of Sport Fisheries and Wildlife, 10597 West 6th Avenue, Denver, Colo. 80215. Hunting shall be in accordance with all applicable State regulations governing the hunting of pheasants subject to the following special conditions:

(1) IRON SHOT. The exclusive use of 12 gage iron shot in Area A will be required on odd numbered days beginning November 11, 1973 and continue through the balance of the hunting season or until the refuge supply of iron shot is exhausted if this occurs first.

(2) ROADS. No hunting is permitted from roadways or within 100 yards of roadways.

(3) HUNTER CHECK STATION. Each hunter who enters Area A is required to register at the checking station and check out before leaving the refuge.

(4) PARKING. Hunters may park cars only at designated areas within the refuge.

(5) ROUTES OF TRAVEL. To reach open hunting area, travel is permitted on foot or bicycle from refuge checking station over roads between Units 1 and 2 and Units 2 and 3.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through December 9, 1973.

LLOYD F. GUNTHER,
*Refuge Manager, Bear River Migratory Bird Refuge, Brigham City, Utah.*

SEPTEMBER 18, 1973.

[FR Doc.73–20534 Filed 9–26–73;8:45 am]

## PART 32—HUNTING

### Salt Plains National Wildlife Refuge, Okla.

The following special regulation is issued and is effective September 27, 1973.

**§ 32.32 Special regulations; big game; for individual wildlife refuge areas.**

OKLAHOMA

SALT PLAINS NATIONAL WILDLIFE REFUGE

Public hunting of deer is permitted on the Salt Plains National Wildlife Refuge, Oklahoma, but only on the area designated by signs as open to hunting. This open area, comprising 2,347 acres, is delineated on maps available at refuge headquarters, Jet, Oklahoma, and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, P.O. Box 1306, Albuquerque, N. Mex. 87103. Participants are to be selected on the basis of a special drawing, and applications are to be submitted to the Oklahoma Department of Wildlife Conservation, 1801 North Lincoln, Oklahoma City, Okla. 73105. Application may be made by letter, and must contain the Applicant's name, address, and Oklahoma deer hunting license number. Application for bow hunting may be made between September 1 and September 30, 1973. Application for gun hunting may be made between September 15 and October 15, 1973. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer subject to the following special conditions:

(1) The bow hunting season is October 27, 28 and November 3, 4, 10 and 11, 1973.

(2) The gun hunting season is November 17, 18, 20, 21, 24 and 25, 1973.

(3) Hunters must check in at the refuge office prior to entering the assigned hunting area and must check out at the refuge office before leaving the area.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 25, 1973.

RONALD S. SULLIVAN,
*Refuge Manager, Salt Plains National Wildlife Refuge, Jct, Oklahoma.*

SEPTEMBER 15, 1973.

[FR Doc.73–20535 Filed 9–26–73;8:45 am]

## Title 6—Economic Stabilization

## CHAPTER I—COST OF LIVING COUNCIL

## PART 150—COST OF LIVING COUNCIL; PHASE IV PRICE REGULATIONS

### Correction

In FR Doc. 73–20469 appearing at page 26611 for the issue of Monday, September 24, 1973, change the third paragraph of the preamble to read as follows:

"The present small business exemption in § 150.60 does not apply to firms engaged in construction operations. That section is being amended to exempt from the operation of Phase IV price regulations those small firms which are engaged in construction operations but have annual sales and revenues from construction operations of no more than $1 million."

Issued in Washington, D.C. on September 25, 1973.

WILLIAM N. WALKER,
*General Counsel,*
*Cost of Living Council.*

[FR Doc.73–20751 Filed 9–26–73;10:27 am]



V 38 I 187 SEP 27 73 XUM

# Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

[ 26 CFR Part 1 ]

### INCOME TAX

### Medical Expense Deduction for Operation and Maintenance of Capital Assets

Notice is hereby given that the regulations set forth in tentative form in the attached appendix below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by October 29, 1973. Written comments or suggestions which are not exempt from disclosure by the Internal Revenue Service may be inspected by any person upon compliance with 26 CFR 601.702(d)(9). The provisions of 26 CFR 601.601(b) shall apply with respect to the designation of portions of comments or suggestions as exempt from disclosure. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Commissioner by October 29, 1973. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the Federal Register, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917 (26 U.S.C. 7805)).

[SEAL] DONALD C. ALEXANDER,
*Commissioner of Internal Revenue.*

This document contains a proposed amendment to paragraph (e)(1)(iii) of § 1.213–1 of the Income Tax Regulations (26 CFR Part 1) to clarify the deduction for medical expenditures. Although capital expenditures do not generally qualify as deductible medical expenses, such expenditures are, however, deductible if their primary purpose is the medical care of the taxpayer, his spouse, or his dependent. If such expenditure does not result in the permanent improvement or betterment of property, the expenditure is fully deductible when paid. On the other hand, if such expenditure results in the betterment of property (such as an elevator or air conditioner in the taxpayer's home) and otherwise qualifies as a deductible medical expense, such expenditure is deductible as a medical expense only to the extent the expenditure exceeds the increase in the value of the related property. The amendment to the present regulations is to make clear that expenditures for the operation and maintenance of a capital asset are deductible medical expenses when such expenditures have as their primary purpose the medical care of the taxpayer, his spouse, or his dependent.

*Proposed amendments to the regulations.* In order to clarify the deduction for medical expenses, paragraph (e)(1)(iii) of § 1.213–1 of the Income Tax Regulations (26 CFR Part 1) is amended to read as follows:

§ 1.213–1 Medical, dental, etc. expenses.

* * * * *

(e) *Definitions*—(1) *General.* * * *

(iii) Capital expenditures are generally not deductible for Federal income tax purposes. See section 263 and the regulations thereunder. However, an expenditure which otherwise qualifies as a medical expense under section 213 shall not be disqualified merely because it is a capital expenditure. For purposes of section 213 and this paragraph, a capital expenditure made by the taxpayer may qualify as a medical expense, if it has as its primary purpose the medical care (as defined in subdivisions (i) and (ii) of this subparagraph) of the taxpayer, his spouse, or his dependent. Thus, a capital expenditure which is related only to the sick person and is not related to permanent improvement or betterment of property, if it otherwise qualifies as an expenditure for medical care, shall be deductible; for example, an expenditure for eye glasses, a seeing eye dog, artificial teeth and limbs, a wheel chair, crutches, an inclinator or an air conditioner which is detachable from the property and purchased only for the use of a sick person, etc. Moreover, a capital expenditure for permanent improvement or betterment of property which would not ordinarily be for the purpose of medical care (within the meaning of this paragraph) may, nevertheless, qualify as a medical expense to the extent that the expenditure exceeds the increase in the value of the related property, if the particular expenditure is related directly to medical care. Such a situation could arise, for example, where a taxpayer is advised by a physician to install an elevator in his residence so that the taxpayer's wife who is afflicted with heart disease will not be required to climb stairs. If the cost of installing the elevator is $1,000 and the increase in the value of the residence is determined to be only $700, the difference of $300, which is the amount in excess of the value enhancement, is deductible as a medical expense. If, however, by reason of this expenditure, it is determined that the value of the residence has not been increased, the entire cost of installing the elevator would qualify as a medical expense. Expenditures made for the operation or maintenance of a capital asset are likewise deductible medical expenses if they have as their primary purpose the medical care (as defined in subdivisions (i) and (ii) of this subparagraph) of the taxpayer, his spouse, or his dependent. Normally, if a capital expenditure qualifies as a medical expense, expenditures for the operation or maintenance of the capital asset would also qualify provided that the medical reason for the capital expenditure still exists. The entire amount of such operation and maintenance expenditures qualifies, even if none or only a portion of the original cost of the capital asset itself qualified.

* * * * *

[FR Doc.73–20661 Filed 9–26–73;8:45 am]

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[ 43 CFR Parts 3000, 3200 ]

### GEOTHERMAL RESOURCES

### Leasing on Public, Acquired and Withdrawn Lands; Extension of Time for Public Comment

The purpose of this notice is to extend the time for public comment on proposed geothermal regulations published on pages 19748–19765 of the July 23, 1973, FEDERAL REGISTER and amended by a notice published August 8, 1973 on page 21416.

The period for submitting written comments, suggestions, or objections, is hereby extended to a date 24 days after the final environmental impact statement regarding the development of geothermal resources is filed with the Council on Environmental Quality in accordance with section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). Notice of the availability of the statement and final date for receipt of comments on the proposed regulations will be published in the FEDERAL REGISTER. It is anticipated that the statement will become available in early October.

Interested parties may submit written comments, suggestions, or objections with respect to the proposed regulations to the Geothermal Coordinator, Department of the Interior, Washington, D.C. 20240.

LAURENCE E. LYNN JR.,
*Secretary of the Interior.*

SEPTEMBER 21, 1973.

[FR Doc.73–20525 Filed 9–26–73;8:45 am]

## DEPARTMENT OF LABOR

### Office of the Assistant Secretary for Labor-Management Relations

[ 29 CFR Parts 202, 206 ]

### GRANTING OFFICIAL TIME FOR ELECTIONS & HEARINGS

### Notice of Proposed Rulemaking

Notice is hereby given that pursuant to section 6(d) and 18(d) of Executive Order 11491 (34 FR 17605) as amended by Executive Order 11616 (36 FR 17319), the Assistant Secretary of Labor for Labor-Management Relations proposes to amend Parts 202 and 206 of Chapter II, Subtitle B, of Title 29 of the Code of Federal Regulations as set forth below.

These proposed amendments would authorize the granting of official time status to authorized representation election observers and to necessary employees participating in hearings held pursuant to the Assistant Secretary's authority under section 6(a) of Executive Order 11491 as amended.

Interested persons are invited to submit written comments, suggestions, or objections regarding this proposal to the Assistant Secretary of Labor for Labor-Management Relations, Attn: Office of Federal Labor-Management Relations, U.S. Department of Labor, Washington, D.C. 20216 not later than October 12, 1973.

All written materials or suggestions submitted in response to this notice of proposed rulemaking will be available for inspection at the Office of Federal Labor-Management Relations, U.S. Department of Labor, Room 418, 8757 Georgia Avenue, Silver Spring, Maryland during regular business hours.

Chapter II, Subtitle B, of Title 29 is proposed to be amended as follows:

1. Paragraph (f) of § 202.17 is proposed to be amended to read as follows:

**§ 202.17 Election procedure.**

* * * * *

(f) Any party may be represented at the polling place(s) by observers of its own selection, subject to such limitations as the Area Administrator may prescribe. Necessary employees in active duty status who are requested to serve as authorized representation election observers pursuant to an approved "Request for Appearance of Authorized Representation Election Observers" shall be on official time, which shall include the payment of any necessary transportation and per diem expenses by the employing agency or activity.

2. The title and text of § 206.7 is proposed to be amended as follows:

**§ 206.7 Requests for appearance of witnesses and production of documents at hearing and requests for authorized representation election observers.**

(a) Assistant Regional Directors for Labor-Management Services, Hearing Officers, or Administrative Law Judges, as appropriate, upon their own motion or upon the motion of any party to a proceeding, may issue a "Request for Appearance of Witnesses" or a "Request for Production of Documents" at a hearing or a "Request for Authorized Representation Election Observers" at a representation election supervised by a representative of the Assistant Secretary, pursuant to Parts 202, 203, 204, and 205 of this chapter.

(b) A party's motion to an Assistant Regional Director for Labor-Management Services shall be in writing and filed with the Assistant Regional Director for Labor-Management Services not less than ten (10) days prior to the opening of a hearing or the supervising of a representation election by a representative of the Assistant Secretary, pursuant to Parts 202, 203, 204, and 205 of this chapter. After the opening of a hearing, such motions shall be made to the Hearing Officer or Administrative Law Judge. All such motions shall name and identify the witnesses, documents, or authorized representation election observers sought, and state the reasons therefor. Copies shall be served on the other parties simultaneously with the filing of the motion with the Assistant Regional Director for Labor-Management Services, and a written statement certifying service shall also be filed with the Assistant Regional Director for Labor-Management Services.

* * * * *

(e) A motion shall be granted by the Assistant Regional Director for Labor-Management Services, Hearing Officer, or Administrative Law Judge after careful consideration of any objections and upon the determination (1) that the testimony, documents, or the presence of authorized representation election observers appears to be necessary to the matters involved and (2) that the motion describes with sufficient particularity the documents sought. Service of an approved "Request for Appearance of Witnesses", "Request for Authorized Representation Election Observers", or "Request for Production of Documents" is the responsibility of the requesting party. If any party, officer, or official of any party fails to comply with such a request or obstructs service of a request, the Assistant Regional Director for Labor-Management Services, Hearing Officer, Administrative Law Judge, or the Assistant Secretary may disregard all related evidence offered by the party failing to comply or to take such other action as may be appropriate.

* * * * *

(g) Necessary employees in active duty status, requested to attend a hearing as witnesses pursuant to an approved "Request for Appearance of Witnesses" in any case under Parts 202, 203, 204, or 205 of this chapter, shall be on official time, which shall include the payment of any necessary transportation and per diem expenses by the employing agency or activity.

Signed at Washington, D.C., this 21st day of September 1973.

PAUL J. FASSER, JR.,
*Assistant Secretary of Labor for Labor-Management Relations.*

[FR Doc.73–20589 Filed 9–26–73;8:45 am]

## DEPARTMENT OF AGRICULTURE

### Rural Electrification Administration

[ 7 CFR Part 1701 ]

### REA SPECIFICATIONS FOR RURAL TELEPHONE FACILITIES

### Proposed Revision of Telephone System Construction Contract, Labor and Materials and Associated Specifications and Drawings

Notice is hereby given that, pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), including the amendment thereto enacted by Pub. L. 93–32, REA proposes to issue REA Bulletin 381–2 to announce a revision of REA Forms 511, 511a, 511c, and 511d, as well as the introduction of new REA Forms 511f and 511g. REA Form 511 is entitled "Telephone System Construction Contract, Labor and Materials," while REA Forms 511a through 511g cover specifications and drawings for different classes of telephone plant construction. On issuance of REA Bulletin 381–2, Appendix A to Part 1701 will be modified accordingly.

Persons interested in the revision of REA Forms 511 and 511a through 511g may submit written data, views or comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than October 29, 1973. All written submissions made pursuant to this notice will be available for public inspection at the Office of the Director, Telephone Operations and Standards Division during regular business hours.

A copy of the revision of each of the above mentioned REA Forms may be secured in person or by written request from the Director, Telephone Operations and Standards Division.

The text of REA Bulletin 381–2 announcing the revision of these forms is as follows:

REA BULLETIN 381–2

TELEPHONE SYSTEM CONSTRUCTION CONTRACT, LABOR AND MATERIALS REA FORM 511

I. *Purpose.* To announce a general revision of the Telephone System Construction Contract, Labor and Materials, REA Form 511; changes in REA Forms 511a, 511c, and 511d;







V 38 1187
SEP 27 73
XUM

and the introduction of new REA Forms 511f and 511g.

II. *General.* A. While references will be made in this bulletin to some of the changes, it is important that those who work with this document obtain a copy and become familiar with its contents. The revised REA Form 511 is available from the Superintendent of Documents, Public Documents Distribution Center, Pueblo Industrial Park, Pueblo, Colorado 81008. Orders for the purchase of REA Form 511 should be prepared on REA Form 33. Copies of Form 33 are available from REA upon request.

B. REA Forms 511a through 511g are set up to provide specifications and drawings for the different classes of construction. Each of these forms is available at no charge from REA upon request.

C. Borrowers' engineers are to use the newly revised REA Form 511 on all plans and specifications prepared for projects to be bid after January 1, 1974. This is not intended to restrict its use before January 1, 1974.

III. *Principal Changes in the Construction Contract.*—A. *REA Form 511 (10–73).* 1. Section 6 in the Notice and Instructions to Bidders and Section 14 in the Contractor's Proposal have been reworded to include reference to taxes on services or labor of installation of materials, supplies and equipment. The unit prices for assembly units include the cost of such taxes, if applicable.

2. The listing of REA Forms on page 9 has been revised by deleting the reference to REA Form 511b and by including additional references to REA Forms 511f and 511g. The title of REA Form 511a has also been changed. The reference to REA Splicing Standard PC–1 has also been deleted.

3. Provisions have been included for the engineer to specify salt type wood preservatives (CCA or ACA) for pole units in Section 1 of the Contractor's Proposal.

4. A provision on environmental protection, Article II, Section 1, (e), has been added relating to the contractor's responsibilities in performance of work under the contract.

B. *REA Form 511a (10–73).* 1. The title of this form has been changed from "Specifications and Drawings for Construction of Pole Lines, Aerial Cables and Wires, Buried Cables and Wires, and Station Installations," to read "Specifications and Drawings for Construction of Buried Cables and Wires."

2. The BW assembly units associated with the use of nonfilled buried distribution wire have been deleted.

3. New BWF assembly units covering one-pair, two-pair, and three-pair sizes of filled buried wire have been added.

4. New assembly units BDF, BGF, HBF and HCF have been added for the purpose of providing for compensation when working with filled cables and wires.

5. Provisions have been included for the use of the vibratory type of plow.

6. Provisions were included for the use of a rodent repellent applied in the soil during the burial of the cable and wire. Assembly unit BM74 has been established for this purpose.

C. *REA Form 511b (10–73).* 1. This form entitled "Specifications and Drawings for Open Wire Construction" will no longer be available from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. This type of construction is extremely limited. However, if a copy is desired in the future, it will be available at no charge from REA upon request.

D. *REA Form 511c (10–73).* 1. Minor changes in the description of the UD assembly unit have been made. This form entitled "Specifications and Drawings for Conduit and Manhole Construction" will bear a new date and be available at no charge from REA upon request.

E. *REA Form 511d (10–73).* 1. New assembly units UF and HUF have been included in this document to provide for compensation when working with filled cables. This form entitled "Specifications and Drawings for Underground Cable Installation" will bear a new date and be available at no charge from REA upon request.

2. New assembly units HCF for filled buried cable splicing, as well as UGF for filled cable plant loading coils, building out capacitors, and junction impedance compensators have also been included.

F. *REA Form 511e (11–70).* 1. This particular document has not been revised and bears its original issue date. This form entitled "Specifications and Drawings for Station Carrier Equipment Installation" will be available at no charge from REA upon request.

G. *REA Form 511f (10–73).* 1. This new document entitled "Specifications and Drawings for Construction of Pole Lines and Aerial Cable and Wires." Its contents were formerly in REA Form 511a. Copies will be available at no charge from REA upon request.

2. The CF assembly units covering the installation of Figure 8 cables were deleted.

3. Restrictions on the number of pairs and size of support wire messenger have been imposed under the DW assembly units.

4. All details relating to the installation of paper-insulated, lead-sheathed cables and the accessory items such as cable terminals, have been deleted.

H. *REA Form 511g (10–73).* 1. This is a new document entitled "Specifications and Drawings for Station Installations." Its contents were formerly in REA Form 511a. Copies will be available at no charge from REA upon request.

2. New BKBF assembly units were also added to provide for the use of filled buried wire for services.

Questions concerning the revised Contract and Specifications may be referred to the Chief, Outside Plant Branch, Telephone Operations and Standards Division, Rural Electrification Administration, United States Department of Agriculture, Washington, D.C. 20250, Area Code 202–447–2837.

Dated September 21, 1973.

C. R. BALLARD,
*Assistant Administrator, Telephone.*

[FR Doc.73–20599 Filed 9–26–73;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Social and Rehabilitation Service

### [ 45 CFR Part 250 ]

### FRAUD IN MEDICAL ASSISTANCE PROGRAM

### Notice of Proposed Rulemaking

Notice is hereby given that the regulations set forth in tentative form below are proposed by the Administrator, Social and Rehabilitation Service, with the approval of the Secretary of Health, Education, and Welfare. The proposed regulations implement sections 229(c), 235, and 242(c), of Pub. L. 92–603, Social Security Amendments of 1972, which relate to the medical assistance program administered under title XIX of the Social Security Act. The regulations prohibit Federal financial participation in Medicaid payments to providers who may not receive payments under Medicare because of a determination by the Secretary relating to false or excessive claims; require that Federally-matched mechanized claims processing and information retrieval systems include provision for notice to recipients of services furnished; and require States to notify providers and recipients of the Federal penalties for fraudulent acts and false reporting.

Prior to the adoption of the proposed regulations, consideration will be given to any comments, suggestions, or objections thereto which are submitted in writing to the Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare, 330 Independence Avenue, SW., Washington, D.C. 20201 on or before October 29, 1973. Comments received will be available for public inspection in Room 5121 of the Department's offices at 301 C Street, SW., Washington, D.C. on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (area code 202–963–7361).

(Sec. 1102, 49 Stat. 647 (42 U.S.C. 1302).)

Dated July 26, 1973.

JAMES S. DWIGHT, JR.,
*Administrator, Social and Rehabilitation Service.*

Approved September 19, 1973.

CASPER W. WEINBERGER,
*Secretary.*

Section 250.80 of Part 250, Chapter II, Title 45 of the Code of Federal Regulations is revised to read as set forth below:

**§ 250.80 Fraud in the medical assistance program.**

(a) *State plan requirements.* A State plan for medical assistance under title XIX of the Social Security Act must:

(1) Provide that the State agency will establish and maintain (i) methods and criteria for identifying situations in which a question of fraud in the program may exist, and (ii) procedures developed in cooperation with State legal authorities for referring to law enforcement officials situations in which there is valid reason to suspect that fraud has been practiced. The definition of fraud for purposes of this section will be determined in accordance with State law.

(2) Provide for methods of investigation of situations in which there is a question of fraud that do not infringe on the legal rights of persons involved and are consistent with principles recognized as affording due process of law.

(3) Provide that the State agency will designate positions that are responsible for referring situations involving suspected fraud to the proper authorities.

(4) Provide that the State agency will establish and maintain procedures for reporting promptly to the Social and Rehabilitation Service (i) by a numbering system which does not disclose identity of the provider (unless the Social and Rehabilitation Service specifically requests such disclosure) each case of suspected fraud by a provider which has been referred by the State or local agency to law enforcement officials for appropriate action and subsequently (ii) the disposition thereof by such law enforcement officials.

(5) (i) Provide for the following statements (or alternate wording approved by the Social and Rehabilitation Service Regional Commissioner) to be imprinted in boldface type on all provider claims forms above the claimant's signature:

(A) "This is to certify that the foregoing information is true, accurate, and complete."

(B) "I understand that payment and satisfaction of this claim will be from Federal and State funds, and that any false claims, statements, or documents, or concealment of a material fact, may be prosecuted under applicable Federal or State laws"; or alternatively,

(ii) Provide for the following wording to appear on the reverse of checks (or warrants) payable to all providers above the claimant's endorsement:

I understand that endorsement hereon or deposit to the accounts of the within named payee is done with the understanding that payment will be from Federal and State funds and that any false claims, statements, or documents, or concealment of a material fact, may be prosecuted under applicable Federal or State laws.

(6) Provide for establishing a basis for verifying with recipients whether services billed by providers were actually received. Such basis may be by random sample of patients for each provider who is paid significant amounts under the program and for groups of providers, none of whom receive a significant amount, except that a State which under section 1903(a)(3)(B) of the Act receives Federal matching of expenditures for operation of a mechanized claims processing and information retrieval system must include in that system provision for prompt written notice to each individual who is furnished services covered by the State plan of the specific services so covered, the name of the provider furnishing the services, the date or dates on which the services were furnished, and the amount of the payment or payments made under the plan on account of the services.

(7) Provide for a method of notification to providers and recipients of medical care of the contents of section 1909 of the Social Security Act which provides Federal penalties for fraudulent acts and false reporting.

(b) *Federal financial participation.* There shall be no Federal financial participation in payment for services furnished under the State plan after December 31, 1972, by a provider or other person during any period with respect to which payments may not be made under title XVIII of the Social Security Act because of a determination by the Secretary pursuant to section 1862(d)(1) or section 1866(b)(2)(D), (E) or (F) of the Act (relating to false or excessive claims). The Social and Rehabilitation Service and the Social Security Administration will establish joint procedures for the prompt notification to the State agency of such providers or persons with respect to whose services payments may not be made under title XVIII of the Social Security Act.

[FR Doc.73–20604 Filed 9–26–73;8:45 am]

## Social Security Administration

### [ 20 CFR Part 404 ]

### [Reg. No. 4]

### FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

### Disability Waiting Period Requirement

Notice is hereby given pursuant to the Administrative Procedure Act (5 U.S.C. 553) that the amendments to the regulations set forth in tentative form below are proposed by the Acting Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare. The proposed amendments reflect changes effected by section 116 of Pub. L. 92–603, which lowers the waiting period an individual must serve in order to receive benefits under title II of the Act on the basis of his disability and/or to establish a period of disability. The amendment is effective for benefits payable after December 1972 based on applications filed in or after October 1972, or applications filed prior to October 1972 on which notice of a final decision had not been given the applicant or a decision in a civil action commenced pursuant to section 205(g) of the Act had not become final before October 1972.

Prior to final adoption of the proposed amendments consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in triplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare, Fourth and Independence Avenue SW., Washington, D.C. 20201, on or before October 29, 1973.

Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Public Affairs, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 4146, 330 Independence Avenue SW., Washington, D.C. 20201.

The proposed amendments are to be issued under the authority contained in sections 205, 1102, 53 Stat. 1368, as amended, 49 Stat. 647, as amended; (42 U.S.C. 405, and 1302).

(Catalog of Federal Domestic Assistance Program No. 13.802 Social Security—Disability Insurance.)

Dated August 24, 1973.

ARTHUR E. HESS,
*Acting Commissioner of Social Security.*

Approved September 21, 1973.

CASPAR W. WEINBERGER,
*Secretary of Health, Education, and Welfare.*

Regulations No. 4 of the Social Security Administration, as amended (20 CFR 404.1 et seq.), are further amended to read as follows:

1. Section 404.308 is amended by revising paragraph (a), redesignating paragraphs (b) and (c) as (c) and (d), respectively, and adding thereto a new paragraph (b), as follows:

**§ 404.308 Disability insurance benefits: waiting period.**

(a) *Benefits payable for months prior to January 1973.* An individual's waiting period for benefits payable prior to January 1973 is the earliest period of 6 full consecutive calendar months throughout which the individual has been under a disability (as defined in section 223(c) of the Act); however, an individual's "waiting period" can begin no earlier than the later of:

(1) The first month such individual is insured for disability insurance benefits (see § 404.116);

(2) The 18th month before the month in which such individual's application for disability insurance benefits is filed; or

(3) January 1, 1957.

For purposes of this paragraph, where the individual's disability begins on the first day of the month and continues through the last day of the month, such month is considered as a full calendar month.

(b) *Benefits payable for months after December 1972.* An individual's waiting period for benefits payable after December 1972 is the earliest period of 5 full consecutive calendar months throughout which he has been under a disability (as defined in section 223(c) of the Act); provided that:

(1) The application is filed:

(i) After September 1972; or

(ii) Before October 1972, and

(A) Notice of the final decision of the Secretary was not given to the applicant before October 1972; or

(B) Notice of the final decision of the Secretary was given to the applicant before October 1972 but a civil action with respect to such final decision is commenced under section 205(g) of the Act (whether before, in, or after October 1972) and the decision in such civil action did not become final before October 1972; however

(2) An individual's "waiting period" can begin no earlier than the later of:

(i) The first month such individual is insured for disability insurance benefits (see § 404.116); or

(ii) The 17th month before the month in which such individual's application for disability insurance benefits is filed.

For purposes of this paragraph, where the individual's disability begins on the first day of the month and continues through the last day of the month, such month is considered as a full calendar month.

• • • • •



V 38-187 SEP 27 73 XUM

§ 404.309 [Amended]

2. Paragraph (a) of § 404.309 is amended by adding "and (b)" to the parenthetical reference "(see § 404.308(a))" and by changing the parenthetical reference "(see § 404.308(c))" to "(see § 404.308(d))."

3. Paragraph (a)(4) of § 404.310 is revised to read as follows:

**§ 404.310 Period of disability; conditions of entitlement.**

(a) *General.* An individual is entitled to the establishment of a period of disability (beginning as described in § 404.311 and ending as described in § 404.311a) if:

* * * * *

(4) Except as provided in paragraph (d) of this section.

(i) Not less than 6 full consecutive calendar months have elapsed from the date on which a period of disability could begin (as determine under § 404.311) for such individual and before the date on which such period of disability could end (as determined under § 404.311a); or

(ii) Not less than 5 full consecutive calendar months have elapsed from the date on which a period of disability could begin (as determined under § 404.311) for such individual and before the date on which such period of disability could end (as determined under § 404.311a), provided an application is filed:

(A) After September 1972; or

(B) Before October 1972, and

(*1*) Notice of the final decision of the Secretary was not given to the applicant before October 1972; or

(*2*) Notice of the final decision of the Secretary was given to the applicant before October 1972 but a civil action with respect to such final decision is commenced under section 205(g) of the Act (whether before, in, or after October 1972) and the decision in such civil action did not become final before October 1972.

For purposes of this subparagraph (4) where the beginning date of the period of disability is the first day of a month and the disability continues through the last day of the month, such month is considered a full calendar month.

* * * * * *

4. Paragraph (e)(2) of § 404.328 is revised to read as follows:

**§ 404.328 Widow's insurance benefits; conditions of entitlement.**

* * * * *

(e) *Widow's entitlement based on disability.* * * *

(2) *"Waiting period" defined—(i) Benefits payable for months prior to January 1973.* The "waiting period," for purposes of entitlement of a widow or surviving divorced wife by virtue of a disability to benefits payable for months prior to January 1973, is the earliest period of 6 full consecutive calendar months throughout which she was under a disability and which began no earlier than the later of:

(A) The first day of the 18th month before the month in which she files application for widow's insurance benefits, or

(B) The first day of the sixth month before the month in which the period described in subparagraph (1) of this paragraph began.

(ii) *Benefits payable for months after December 1972.* (A) The "waiting period," for purposes of entitlement of a widow or surviving divorced wife by virtue of a disability to benefits payable for months after December 1972, is the earliest period of 5 full consecutive calendar months throughout which she was under a disability, provided the application is filed:

(*1*) After September 1972; or

(*2*) Before October 1972, and

(*i*) Notice of the final decision of the Secretary was not given to the applicant before October 1972; or

(*ii*) Notice of the final decision of the Secretary was given to the applicant before October 1972 but a civil action with respect to such final decision is commenced under section 205(g) of the Act (whether before, in, or after October 1972) and the decision in such civil action did not become final before October 1972.

(B) However, the waiting period can begin no earlier than the later of:

(*1*) The first day of the 17th month before the month in which she files application for widow's insurance benefits, or

(*2*) The first day of the fifth month before the month in which the period described in subparagraph (1) of this paragraph began. Months in which a widow was disabled before the month of the wage earner's death, and such months before the months of termination of entitlement to mother's insurance benefits may be counted as months in the waiting period if they otherwise meet the requirements of subdivisions (i)(A), (i)(B), or (ii)(B) of this subparagraph (2) as applicable. If the widow was previously entitled to a widow's insurance benefit based on disability, entitlement to which benefit terminated prior to the month in which she again becomes disabled, a waiting period is not required if she again becomes disabled and meets all other requirements for entitlement. For purposes of this subparagraph (2) where the widow's disability begins on the first day of the month and continues through the last day of the month, such month is considered as a full calendar month.

* * * * * *

5. Paragraph (c)(2) of § 404.331 is revised to read as follows:

**§ 404.331 Widower's insurance benefits; conditions of entitlement.**

* * * * *

(c) *Widower's entitlement based on disability.* * * *

(2) *"Waiting period" defined—(i) Benefits payable for months prior to January 1973.* The "waiting period," for the purposes of entitlement to a widow by virtue of a disability to benefits payable for months prior to January 1973, is the earliest period of 6 full consecutive calendar months throughout which he was under a disability and which began no earlier than the later of:

(A) The first day of the 18th month before the month in which he files application for widower's insurance benefits, or

(B) The first day of the sixth month before the month in which the period described in subparagraph (1) of this paragraph began.

(ii) *Benefits payable for months after December 1972.* (A) The "waiting period," for purposes of entitlement of a widower by virtue of a disability to benefits payable for months after December 1972, is the earliest period of 5 full consecutive calendar months throughout which he was under a disability, provided the application is filed

(*1*) After September 1972; or

(*2*) Before October 1972; and

(*i*) Notice of the final decision of the Secretary was not given to the applicant before October 1972; or

(*ii*) Notice of the final decision of the Secretary was given to the applicant before October 1972 but a civil action with respect to such final decision is commenced under section 205(g) of the Act (whether before, in, or after October 1972) and the decision in such civil action did not become final before October 1972.

(B) However, the waiting period can begin no earlier than the later of:

(*1*) The first day of the 17th month before the month in which he files application for widower's insurance benefits, or

(*2*) The first day of the fifth month before the month in which the period described in subparagraph (1) of this paragraph began. Months in which a widower was disabled before the month of the wage earner's death may be counted as months in the waiting period if they otherwise meet the requirements of subdivision (i)(A), (i)(B), or (ii)(B) of this subparagraph (2) as applicable. If the widower was previously entitled to a widower's insurance benefit based on disability, entitlement to which benefit terminated prior to the month in which he again becomes disabled, a waiting period is not required if he again becomes disabled and meets all other requirements for entitlement. For purposes of this subparagraph, where the widower's disability begins on the first day of the month and continues through the last day of the month, such month is considered a full calendar month.

[FR Doc.73-20605 Filed 9-26-73;8:45 am]





## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of the Secretary

### [ 24 CFR Part 42 ]

[Docket No. R-73-241]

## RELOCATION PAYMENTS AND ASSISTANCE AND REAL PROPERTY ACQUISITION UNDER THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

### Notice of Proposed Rulemaking

Pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1894 (42 U.S.C. 4601)), the Department proposes to amend Title 24, Part 42 of the Code of Federal Regulations to incorporate revisions in the Guidelines for Issuance of Regulations and Procedures Implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Office of Management and Budget Circular No. A-103) published on May 1, 1972. In addition, amendments are proposed to simplify and consolidate certain provisions and correct an error occurring in § 42.95(c)(2).

Principal provisions of the newly proposed amendments to Part 42 are summarized below:

Section 42.20 has been revised to incorporate changes in the definitions of "comparable replacement dwelling", "dwelling" and "person" and to include a definition of the term "family"; this section now also includes an expanded definition of the term "initiation of negotiations" as this relates to the low-rent housing program.

Section 42.25 has been expanded to include a statement of the applicability of these regulations to the low-rent housing program.

Section 42.55(b) has been redesignated § 42.55(d). Actual acquisition as a basis of eligibility for relocation benefits has been deleted. This requirement has been rewritten to include new qualifications on eligibility. Section 42.55 has also been expanded to include the eligibility requirements relating to the low-rent public housing program.

Section 42.65 has been extensively rewritten to incorporate new provisions dealing with the relocation payments for moving expenses in cases of improvements or alterations to structures or premises, self-moves, and temporary moves by displaced persons.

Section 42.70, dealing with actual direct losses of tangible personal property, has been revised in conformity with OMB Circular No. A-103.

Section 42.85(b)(3), relating to a requirement that businesses seeking a payment in lieu of moving and related expenses must contribute materially to the income of a displacee, has been deleted in conformity with OMB Circular A-103. Section 42.85 has been reviewed to include new eligibility requirements, and for greater clarity, as well.

Section 42.90 has been revised to cover cases of displacement by code enforcement activities in which substandard dwellings are not immediately demolished, and has been extensively rewritten to clarify the computation of the interest differential payment and the payment for incidental expenses. This section has also been expanded to include requirements relating to the low-rent public housing program.

Section 42.95 has been similarly revised and has been amended to include new subparagraphs (d) and (e) in accordance with OMB Circular No. A-103, and to include eligibility requirements for the low-rent public housing program. This section also included a revised concept "base monthly rental" and "ability to pay".

Section 42.120(c) has been redesignated as § 42.120(b). Section 42.120(c) has been amended to include requirements for temporary moves by displaced business concerns. Section 42.120(b)(4) has been revised to conform to the amendments to § 42.65(c)(2) relating to temporary moves.

Section 42.135 has been extensively rewritten to reflect the Department's policy on acquisition practices in greater detail.

Section 42.136 has been added to include the contents of the notice of land acquisition procedures.

Section 42.137 has been added to include the contents of the notice of the State agency's determination not to acquire.

Section 42.165 has been amended in conformity with OMB Circular No. A-103, and has been otherwise revised to indicate that the use of schedules for the computation of the replacement housing payment for homeowners and the replacement housing payment for tenants and certain others shall take place only in those cases in which a State agency is required to use such schedules by HUD.

A new section 42.166, dealing with the manner of notifying persons of impending displacement, has been added.

Section 42.180 has been amended in conformity with OMB Circular A-103.

The former § 42.185, relating to HUD approval of payment claims, has been deleted and the former § 42.190 has been deleted pending incorporation of the Department's proposed grievance procedures and the subsequent sections have been renumbered to reflect these deletions.

Interested persons are invited to participate in the making of the proposed rules by submitting written data, views, or statements. Communications should identify the proposed rule by above docket number and title, and should be filed in triplicate with the Rules Docket Clerk, Office of General Counsel, Room 10256, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. All relevant material received on or before October 29, 1973, will be considered before adoption of final rules. Copies of comments submitted will be available for examination during business hours at the above address.

Issued at Washington, D.C., September 21, 1973.

JAMES T. LYNN,
*Secretary of Housing and Urban Development.*

* * * * *

## PART 42—RELOCATION PAYMENTS AND ASSISTANCE AND REAL PROPERTY ACQUISITION UNDER THE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

### Subpart A—General


Sec.
42.1 Purpose.
42.5 Supersedure.
42.10 Statement of policy.
42.15 Statement of applicable law.
42.20 Definitions.
42.25 Applicability of regulations.
42.30 Assurances.
42.35 Federal share of costs of relocation payments and assistance.
42.40 Payments in condemnation proceedings and negotiated purchases.


### Subpart B—Relocation Payments


42.45 Purpose.
42.50 Relocation payments by State agency.
42.55 Basic eligibility conditions.
42.60 Filing of claims.
42.65 Actual reasonable moving expenses.
42.70 Actual direct losses of tangible personal property.
42.75 Actual reasonable expenses in searching for a replacement business or farm.
42.80 Alternate payments—individuals and families.
42.85 Alternate payments—businesses and farm operations.
42.90 Replacement housing payments for homeowners.
42.95 Replacement housing payments for tenants and certain others.


### Subpart C—Relocation Assistance Advisory Program and Assurance of Adequate Replacement Housing


42.100 Purpose.
42.105 Relocation assistance advisory program.
42.110 Eligibility for services.
42.115 Minimum requirements of relocation assistance advisory program.
42.120 Requirement of adequate replacement housing prior to displacement.
42.125 Coordination of relocation activities.


### Subpart D—Real Property Acquisition


42.130 Purpose.
42.135 Real property acquisition practices.
42.136 Notice of land acquisition procedures.
42.137 Notice of State agency's determination not to acquire.
42.140 Payments—expenses incidental to transfer of title.
42.145 Payments—litigation expenses.
42.150 Effect upon property acquisition.


### Subpart E—Administration


42.155 Purpose.
42.160 Schedules of comparable replacement dwellings.
42.165 Notice to persons in project area.
42.166 Manner of notice.
42.170 Review of claims.
42.175 Prompt payment.
42.180 Agency setoff against claim.
42.185 Accounts and records.
42.190 Payments not to be considered as income.




V 38 187 SEP 27 73 XUM

Sec.
42.195 Displacement in connection with more than one project.
42.200 Policies and requirements of HUD.
42.205 Waivers.

## Subpart A—General

### § 42.1 Purpose.

The purpose of this subpart is to set forth provisions of general applicability with respect to the regulations in this part. Such provisions relate to (a) the effect of the regulations in this part on previously issued regulations pertaining to relocation payments, (b) statements of applicable policy and law, (c) definitions of pertinent terms, (d) a description of the dates, and the entities or persons, on or to which the regulations in this part are applicable, and the assurances required in connection with such applicability, (e) the extent of Federal participation in the costs of relocation payments and assistance, and (f) the effect on payments provided under the regulations in this part of duplicate payments made in condemnation proceedings and negotiated purchases.

### § 42.5 Supersedure.

The regulations in this part supersede those appearing at Part 41 of this subtitle (35 FR 14307–14, effective September 10, 1970) to the extent that the regulations issued hereunder are, under § 42.25, applicable. The regulations in this part also supersede those appearing at Part 42 of this subtitle (36 FR 8785–98) effective May 13, 1971, as amended (37 FR 16603 effective August 17, 1972).

### § 42.10 Statement of policy.

The purpose of the regulations in this part is to carry out the following policies of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601); 84 Stat. 1899; Pub. L. 91–646) (hereinafter referred to as the "Act"):

(a) To insure that uniform, fair and equitable treatment be afforded persons displaced as a result of federally assisted projects in order that such persons shall not suffer disproportionate injuries as a result of programs designed for the benefit of the public as a whole, and

(b) In the acquisition of real property for a federally assisted project, to encourage and expedite acquisition by agreements with owners of such property, to avoid litigation and relieve congestion in courts, to assure consistent treatment for owners of real property to be so acquired, and to promote public confidence in Federal land acquisition.

### § 42.15 Statement of applicable law.

(a) Section 210 of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (84 Stat. 1899; Pub. L. 91–646) requires satisfactory assurances from a State agency that specified relocation payments and relocation assistance will be provided, and replacement dwellings will be available to displaced persons as a condition to Federal approval of any grant or loan to, or contract or agreement with, such State agency under which Federal financial assistance will be made available to pay all or part of the cost of any program or project which will result in the displacement of any person on or after the effective date of the Act.

(b) Section 305 of the Act requires satisfactory assurances from a State agency that in acquiring real property it will be guided, to the greatest extent practicable under State law, by specified land acquisition policies, and that specified payments will be made to property owners, as a condition to Federal approval of any grant or loan to, or contract or agreement with, any State agency under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the acquisition of real property on and after the effective date of the Act.

(c) Section 211(c) of the Act provides that any grant to, or contract or agreement with, a State agency executed before the effective date of the Act under which Federal financial assistance will be available to pay all or part of the cost of any program or project which will result in the displacement of any person on or after such date, shall be amended to include the cost of providing payments and services under the Act.

(d) Section 211(a) of the Act provides that the cost to a State agency of providing such payments and assistance shall be included as part of the cost of a program or project for which Federal financial assistance is available to such State agency. Section 211(a) also provides that where the Federal financial assistance is by grant or contribution, the Federal Government shall pay the full amount of the first $25,000 of the cost of such payments and assistance so provided by the State agency to a displaced person on account of any acquisition or displacement occurring prior to July 1, 1972, and where such Federal financial assistance is by loan, the Federal agency shall loan the State agency the first $25,000 of such costs.

(e) Subject to section 221(c) of the Act, section 220(a) repealed the following provisions of law: Section 114 of the Housing Act of 1949 (42 U.S.C. 1465); paragraphs (7)(b)(iii) and (8) of section 15 of the United States Housing Act of 1937 (42 U.S.C. 1415, 1415(8)), except the first sentence of paragraph (8); section 404 of the Housing and Urban Development Act of 1965 (42 U.S.C. 3074); section 107 (b) and (c) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3307). Subject to section 221(c) of the Act, section 306 repealed sections 401, 402, and 403 of the Housing and Urban Development Act of 1965 (42 U.S.C. 3071–3073). Sections 220(b) and 306 of the Act provide that any rights or liabilities existing under prior Acts shall not be affected by such repeals.

(f) Section 221 of the Act provides that the Act shall take effect on the date of its enactment (January 2, 1971) except that with regard to acquisitions or displacements occurring prior to July 1, 1972, sections 210 and 305 of said Act with respect to assurances required of State agencies shall be held applicable to a State only to the extent that such State was able under its laws to comply with these sections, and that certain repeals (specified in paragraph (e) of this section) made by sections 220(a) and 306 of the Act do not apply to any State so long as sections 210 and 305 were not applicable in such State prior to July 1, 1972.

### § 42.20 Definitions.

For the purpose of the regulations in this part, the following terms shall mean:

(a) *Business.* Any lawful activity, excepting a farm operation, conducted primarily: (1) For the purchase, sale, lease, and rental of personal and real property, and the manufacture, processing, or marketing of products, commodities, or any other personal property; (2) for the sale of services to the public; (3) by a nonprofit organization; or (4) solely for the purposes of payments under §§ 42.65, 42.70 and 42.75, for assisting in the purchase, sale, resale, manufacture, processing, or marketing of products, commodities, personal property, or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted.

(b) *Comparable replacement dwelling.* A dwelling which is (1) decent, safe and sanitary, and comparable to the acquired dwelling with respect to number of rooms, but in any event adequate to accommodate the displaced person; (2) in an area not subjected to unreasonable adverse environmental conditions from either natural or manmade sources, and not generally less desirable than the acquired dwelling with respect to public utilities, public and commercial facilities and reasonably accessible to the displaced person's present or potential place of employment; (3) available on the private market to the displaced person and available to all persons regardless of race, color, religion, or national origin in a manner consistent with title VIII of the Civil Rights Act of 1968; and which is available to all persons regardless of sex; (4) to the extent practicable; and where consistent with subparagraph (1) of this paragraph, functionally equivalent and substantially the same as the acquired dwelling, but not excluding newly constructed housing; and (5) within the financial means of the displaced person, provided that this subparagraph (5) shall be construed only in accordance with the intent to put such person in an equal or better position: *Provided*, That if housing meeting the requirements of this subparagraph (b) is not available, the State agency may, upon proper finding of the need therefor, consider available housing exceeding these basic criteria.





(c) *Decent, safe and sanitary housing.* Housing in sound, clean and weathertight condition, in conformance with local housing codes (or in the absence of local housing codes, or where the standards contained in any such code are determined by HUD to be inadequate, in conformance with standards established by HUD) and which meets the following minimum standards:

(1) Each housekeeping unit shall include a kitchen with a fully usable sink, a stove or connection for a stove, a separate and complete bathroom, hot and cold running water in both bathroom and kitchen, an adequate and safe wiring system for lighting and other electrical services, and heating as required by climatic conditions and local codes.

(2) Each nonhousekeeping unit shall be in conformance with local code standards for boarding houses, hotels and other dwellings for congregate living. If such local codes do not include requirements relating to space and sanitary facilities in this connection, standards shall be subject to the approval of HUD.

(3) Occupancy standards shall be in conformance with local codes or HUD-approved requirements, whichever of these is higher.

(d) *Displaced person.*

(1) A person as defined in § 42.20(1) who meets the basic eligibility requirements specified in § 42.55, and (except for the low-rent public housing program) as set out in general terms below:

(i) Such person moves from real property within the project area or moves his personal property from such real property on or after the applicable date specified in § 42.55 and either,

(ii) Such person is displaced as a result of (*a*) acquisition of such real property in whole or in part for a project, (*b*) the receipt of a written order from the acquiring agency to vacate such property for a project or (*c*) the receipt of a written notice from the acquiring agency of its intent to acquire such property for a project, or

(iii) Such person is displaced as a result of code enforcement, voluntary rehabilitation, improvement of private property, or demolition, as provided in paragraphs (c), (d), and (e) of § 42.55, or

(2) Solely for the purpose of qualifying for the payments specified in paragraph (a)(3) of § 42.55, a person who moves from real property, or who moves his personal property from real property on or after the applicable date specified in paragraph (a)(1) of § 42.55 as a result of such acquisition of or displacement from other real property on which such person conducts a business or farm operation.

(e) *Dwelling.* The place of permanent or customary and usual abode of a person, including a single-family dwelling, a single-family unit in a two-family, multifamily or multipurpose dwelling, a unit of a condominium or cooperative housing project; or any other residential unit, including a mobile home which is either considered to be real property under State law or which cannot be moved without substantial damage or unreasonable cost.

(f) *Family.* Two or more individuals who by blood, marriage, adoption, or mutual consent live together as a family unit.

(g) *Farm operation.* Any activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities.

(h) *Federal financial assistance.* A grant, loan, or contribution (except any Federal guarantee or insurance) made by HUD, including a grant, loan or contribution specified below:

(1) A loan, a grant, or a loan and grant, for an urban renewal project under title I of the Housing Act of 1949 (63 Stat. 413, 414, (42 U.S.C. 1450));

(2) A grant for concentrated code enforcement and public improvements under section 117 of the Housing Act of 1949 (79 Stat. 478 (42 U.S.C. 1468));

(3) A grant for the demolition of unsafe structures under section 116 of the Housing Act of 1949 (79 Stat. 477 (42 U.S.C. 1467));

(4) A grant for interim assistance to slums or blighted areas under section 118 of the Housing and Urban Development Act of 1949 (82 Stat. 525 (42 U.S.C. 1468a));

(5) A loan or annual contribution, made in connection with low-rent public housing projects under the U.S. Housing Act of 1937 (50 Stat. 888 (42 U.S.C. 1401 et seq.));

(6) A grant for open-space use or for a historic preservation or urban beautification project under title VII of the Housing Act of 1961 (75 Stat. 183 (42 U.S.C. 1500) as amended);

(7) A grant for a neighborhood facilities program under title VII of the Housing and Urban Development Act of 1965 (79 Stat. 489 (42 U.S.C. 3101));

(8) A public facility loan under title II of the Housing Amendments of 1955 (69 Stat. 642 (42 U.S.C. 1491));

(9) A water and sewer facilities grant under title VII of the Housing and Urban Development Act of 1965 (79 Stat. 489 (42 U.S.C. 3101));

(10) A grant for advance acquisition of land under title VII of the Housing and Urban Development Act of 1965 (79 Stat. 489 (42 U.S.C. 3101));

(11) A grant for the purpose of carrying out a comprehensive city demonstration program under title I of the Demonstration Cities and Metropolitan Development Act of 1966 (80 Stat. 1255 (42 U.S.C. 3301));

(12) Loans or grants to assist educational institutions in construction of housing and other educational facilities under title I of the Housing Act of 1950 (64 Stat. 48, 77 (12 U.S.C. 1749)) where such payments are made to a State agency;

(13) Loans for housing for the elderly or handicapped under section 202 of the Housing Act of 1959 (73 Stat. 654, 667 (12 U.S.C. 1701q)) where such loans are made to a State agency;

(14) Where contributions are made to a State agency and the performance by such State agency, or by a private body acting on behalf of such State agency and of undertakings necessary to enable it to receive such contributions will be the direct cause of displacement, the payment of contributions specified below.

(i) Assistance payments under section 235 and interest reduction payments under section 236 of the National Housing Act (48 Stat. 1246 (12 U.S.C. 1715z and 1715z–1)),

(ii) Below market interest rates provided under section 221(d)(3) of the National Housing Act (12 U.S.C. 1715–1),

(iii) Rent supplement payments under section 101 of the Housing and Urban Development Act of 1965 (79 Stat. 451 (12 U.S.C. 1701s)),

(iv) Grants under section 713(a) and loans under section 714(a) of title VII of the Housing and Urban Development Act of 1970 (Pub. L. 91–609, 84 Stat. 1791) to assist in financing new community development programs.

(i) *HUD.* The Secretary of Housing and Urban Development or an officer or employee duly authorized to perform the functions of the Secretary.

(j) *Initiation of negotiations.* Except as provided in § 42.90(b)(3) and § 42.95(b)(5), the initial written offer made by the acquiring agency to the owner of real property to be acquired for a project of the amount established as just compensation for such property in accordance with § 42.135.

(k) *Mortgage.* Such classes of liens as are commonly given to secure advances on, or the unpaid purchase price of, real property, under the laws of the State in which the real property is located, together with the credit instruments, if any, secured thereby.

(l) *Person.* Any individual, family, partnership, corporation, or association. For purposes of an alternate payment under § 42.80 and a replacement housing payment under §§ 42.90 and 42.95, two or more individuals (regardless of whether they are family members or not) living together in, and displaced from, a single dwelling, shall be regarded as one person.

(m) *Personal property (tangible personal property).* (1) Tangible property which is situated on the real property vacated or to be vacated by a displaced person and which is considered personal property and is noncompensable (other than for moving expenses) under the State law of eminent domain, and (2) in the case of a tenant, fixtures and equipment, and other property which may be characterized as real property under State or local law, but which the tenant may lawfully, and at his election determines to, move and for which the tenant is not compensated in the real property acquisition. In the case of an owner of real property, the determination as to whether an item of property is personal or real shall depend upon how it is identified in the acquisition appraisals and the closing or settlement statement with



V 38-187 SEP 27 73 XUM

respect to the real property acquisitions: *Provided*, That no item of property which is compensable under State and local law to the owner of real property in the real property acquisition may be treated as tangible personal property in computing actual direct losses of tangible personal property under § 42.70.

(n) *Plan.* (1) A duly approved formal plan, as exists from time to time, for any project as defined in this part and any action program implementing such plan, or (2) in the case of a project for which no formal plan is required, the application by the State agency as approved by HUD and modified from time to time.

(o) *Project.* Any undertaking which receives Federal financial assistance and to which the Act is applicable pursuant to § 42.25.

(p) *Project area.* An area which HUD has approved for the carrying out of project activities.

(q) *Relocation payment.* A payment specified under §§ 42.65 through 42.95.

(r) *State.* Any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any Territory or possession of the United States, the Trust Territory of the Pacific Islands, and any political subdivision thereof.

(s) *State agency.* The National Capital Housing Authority, the District of Columbia Redevelopment Land Agency, and any department, agency, or instrumentality of a State or of a political subdivision of a State or any department, agency, or instrumentality of two or more States or of two or more political subdivisions of a State or States. Unless otherwise indicated in the context of a specific provision of these regulations, the term "State agency" as used in these regulations shall mean the particular State agency to which Federal financial assistance is made available for a specific project.

(t) *Voluntary rehabilitation.* Structural or other substantial repairs to, or alterations to, or demolition of, any building or other improvement on land within a project area, undertaken by an owner in order to conform to the property rehabilitation standards or other applicable provisions set forth in the applicable Plan.

### § 42.25 Applicability of regulations.

(a) *Applicability of the regulations in this part.* (1) Except as provided in subparagraph (2), these regulations are applicable to all acquisition and displacements occurring on or after January 2, 1971, and prior to July 1, 1972, to the extent that a State agency has furnished the Department of Housing and Urban Development with satisfactory assurances under § 42.30 of these regulations with respect to the federally assisted activity under which such acquisition or displacement takes place. The regulations in this part are fully applicable to all acquisition or displacements occurring on or after July 1, 1972.

(2) For the low-rent public housing program under the U.S. Housing Act of 1937, Subpart D of these Regulations (implementing Title III of the Act) is applicable to all acquisitions of real property by the State agency except: (i) Acquisitions by the turnkey method; (ii) acquisitions in connection with construction for leasing projects (i.e., leases or agreements to lease) where such acquisitions result from proposals submitted in response to public invitation; and (iii) leasing or acquisition of existing structures after rehabilitation where such leasing or acquisition results from proposals submitted in response to public invitation. For the purposes of this subparagraph (2), a lease is considered to be an "acquisition of real property" where the term, including options for extension, is for more than ten years.

(b) *Applicability of previously published regulations.* The regulations covering Relocation Payments appearing at Part 41 of this subtitle and at 35 FR 14307–14 (effective Sept. 10, 1970) shall apply to (1) displacement occurring on or after September 10, 1970, and prior to January 2, 1971, and (2) displacement occurring on or after January 2, 1971, and prior to July 1, 1972, to the extent that the regulations issued hereunder do not, pursuant to paragraph (a) of this section, apply.

(c) *Continuation of rights and liabilities.* Nothing in paragraph (a) or (b) of this section shall be deemed to affect any rights or liabilities in existence as of January 2, 1971, under any laws repealed by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

### § 42.30 Assurances.

(a) *Displacement.* As a condition to any grant, contract, or agreement approved by HUD on or after January 2, 1971, under which Federal financial assistance will be available to pay all or part of the cost of any undertaking which will result in the displacement of any person on or after such date, a State agency shall submit assurances (either separately or by contract) satisfactory to HUD that with respect to such displacement—

(1) Relocation payments shall be provided to displaced persons in accordance with §§ 42.65 through 42.95;

(2) Relocation assistance programs offering the services described in Subpart C shall be provided to such displaced persons;

(3) Within a reasonable period of time prior to displacement, decent, safe and sanitary replacement dwellings will be available to displaced persons in accordance with § 42.120;

(4) Affected persons will be adequately informed of the benefits, policies and procedures provided in these regulations; and

(5) The relocation process will be carried out in such a manner as to provide displaced persons with uniform and consistent services, and replacement housing under § 42.120 will be available and the same range of choices with respect to such housing will be offered to all displaced persons regardless of race, color, religion or national origin pursuant to title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d), title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3501 et seq.) and Executive Order 11063 (27 FR 11527) and which is available to all persons regardless of sex.

(b) *Acquisition.* As a condition to any grant, contract, or agreement approved by HUD on or after January 2, 1971, under which Federal financial assistance will be available to pay all or a part of the cost of any undertaking which will result in the acquisition of real property on or after such date the State agency shall, to the extent it is authorized under State law, submit assurances (either separately or by contract) satisfactory to HUD that with respect to such acquisition:

(1) It will, to the greatest extent practicable under State law, be guided by the land acquisition policies and provisions in § 42.135;

(2) Property owners will be paid or reimbursed for necessary expenses specified in §§ 42.140 and 42.145; and

(3) Affected persons will be adequately informed of the benefits, policies and procedures provided in the regulations in this part.

### § 42.35 Federal share of costs of relocation payments and assistance.

Payments made and assistance provided in accordance with Subparts B and C of this part and §§ 42.140 and 42.145, and pursuant to a grant, loan, contract, or agreement for Federal financial assistance for a project, shall be included as a part of the cost of such project and shared in the same manner and to the same extent as other program or project costs: *Provided*, That where such Federal financial assistance is by loan, HUD shall loan the full amount of the first $25,000 of the cost to the State agency for providing such payments and assistance to an eligible displaced person or a person from whom property is acquired, and where such Federal financial assistance is by grant or contribution HUD shall pay the first $25,000 of such costs with respect to an eligible displaced person or a person from whom property is acquired on account of displacement or acquisition occurring prior to July 1, 1972.

### § 42.40 Payments in condemnation proceedings and negotiated purchases.

No payment shall be made under the regulations in this part which would duplicate a payment received by a displaced person or owner under the State law of eminent domain, and which is included in an award in eminent domain or in the purchase price for any property acquired by negotiation, if such payment so received is determined by HUD to have the same purpose or effect as a payment under this part.

## Subpart B—Relocation Payments

### § 42.45 Purpose.

The purpose of this subpart is to set forth the types of, and specific eligibility criteria for, relocation payments to displaced persons.





### § 42.50 Relocation payments by State agency.

The State agency shall make relocation payments to or on behalf of eligible displaced persons in accordance with and to the full extent permitted by §§ 42.65 through 42.95.

### § 42.55 Basic eligibility conditions.

(a) *General.* The rules set forth in this paragraph shall apply to all displaced persons except those who move from real property or move personal property from real property as the result of activities undertaken pursuant to the low-rent housing or model cities programs. A person qualifies as a displaced person for purposes of establishing basic eligibility for a relocation payment if:

(1) Such person moves from real property within the project area or moves his personal property from such real property (i) on or after the date of the pertinent contract for Federal financial assistance for a project, or (ii) on or after the date of HUD approval of a budget for project execution activities resulting in displacement, provided that the contract for Federal financial assistance for the contemplated project is thereafter executed, and

(2) Such person is displaced as a result of (i) the acquisition of such real property, in whole or in part, for a project as further provided in paragraph (d) of this section, (ii) code enforcement, voluntary rehabilitation, improvement of private property, or demolition as provided in paragraphs (e), (f), and (g) of this section.

(b) *Model cities program.* A person qualifies as a displaced person for purposes of establishing basic eligibility for a relocation payment under the model cities program if:

(1) Such person moves from real property within the project area or moves his personal property from such real property (i) on or after the date of the pertinent contract for Federal financial assistance for a project or (ii) if the displacement occurs prior to the approval of the contract for Federal financial assistance, on or after the date approved by HUD for a specific undertaking upon the request of the State agency: *Provided*, That a contract of Federal financial assistance is thereafter executed: *And provided further*, That the comprehensive city demonstration program thereafter identifies the undertaking as one being carried out in connection with such program, and

(2) Such person is displaced as a result of (i) the acquisition of such real property, in whole or in part, for a project as further provided in paragraph (d) of this section, or (ii) code enforcement, voluntary rehabilitation, or demolition as provided in paragraphs (e), (f), and (g) of this section.

(c) *Low-Rent Public Housing Program.* A person qualifies as a displaced person for purposes of establishing basic eligibility for a relocation payment if such person moves, including a move of personal property, under the following circumstances:

(1) *Conventional bid, or acquisition of existing housing other than under paragraph (2) below.* If (i) such person moves from the project site on or after the date of the annual contributions contract, or the date of tentative site approval by HUD, if it is later, and (ii) the move is a displacement by acquisition as provided in paragraph (d) of this section: *Provided*, That an option agreement shall not be considered as a notice of intent to acquire or a firm offer to acquire as provided in paragraph (d)(3).

(2) *Turnkey new construction or rehabilitation.* If such person (i) moves from the project site, other than for cause, on or after the date of the Contract of Sale, or (ii) moves from the project site on or after the date of the annual contributions contract and prior to the date of the Contract of Sale, but in such case only if the move is the result of an order to vacate not based upon cause. "Cause", as used herein and in paragraph (3) below, means nonpayment of rent or other breach of an obligation of the tenancy.

(3) *Leasing.* If (i) such person moves from a dwelling on or after the date of an agreement to lease or lease of such dwelling to the State agency, and (ii) the move is not the result of: (a) Voluntary decision of occupant, (b) action by landlord for cause, or (c) other action by landlord clearly unrelated to leasing of the unit to the State agency.[1]

(d) *Displacement by acquisition.* Displacement as a result of the acquisition of real property includes displacement which is a result of:

(1) The obtaining by the acquiring agency of title to or the right to possession of such real property for a project;

(2) The written order of the acquiring agency to vacate such property for a project; or

(3) The issuance by the acquiring agency of a written notice to the owner of its intent to acquire the real property for such project; or, if no other written notice of intent to acquire the real property is issued, the issuance by the acquiring agency to the owner of a firm offer to acquire: *Provided*, That no person moving from real property after the State agency has served upon him the notice described in § 42.137 of this part shall be deemed eligible for any of the relocation assistance or relocation payments described in this part.

Displacement as a result of acquisition of real property in the urban renewal, neighborhood development, and model cities programs shall include displacement which is a result of the acquisition of real property by a State agency other than the State agency receiving Federal financial assistance as defined in § 42.20(h), to the extent that the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 is not applicable to such other State agency in connection with such displacement, and if the acquisition is undertaken in accordance with the plan for the project, or, in the case of the model cities program, if the comprehensive city demonstration program identifies the acquisition as being carried out in connection with such program.

(e) *Displacement by code enforcement and voluntary rehabilitation.*—(1) *Urban renewal, neighborhood development, and code enforcement programs.* A person shall be deemed displaced by code enforcement or voluntary rehabilitation under the urban renewal, neighborhood development, and code enforcement programs if the vacation of the real property is the result of code enforcement, as further specified in paragraph (e)(3) of this section, or of voluntary rehabilitation, as further specified in paragraph (e)(4) of this section with respect to the property occupied and if such activities are undertaken in accordance with the plan.

(2) *Model cities program.* A person shall be deemed displaced by code enforcement or voluntary rehabilitation under the model cities program if the vacation of the real property is the result of code enforcement, as specified in paragraph (e)(3) of this section, or of voluntary rehabilitation activities, as further specified in paragraph (e)(4) of this section, with respect to the property occupied and if such activities are undertaken in accordance with the comprehensive city demonstration program which identifies the undertaking as being carried out in connection with such program.

(3) *Code enforcement*—(i) Tenants. A tenant shall be deemed to be displaced as a result of code enforcement if the vacating of real property occurs on or after:

(*a*) The receipt of a notice to vacate from the owner on the ground that code enforcement activities will be undertaken; or

(*b*) The commencement of code enforcement activities: *Provided*, That the State agency shall have concluded, in accordance with HUD policies and requirements, either:

(*1*) That the owner has increased the rent or has notified the tenant of an increase in rent amounting to not less than 25 percent in the case of a business concern and not less than 10 percent in the case of an individual or family: *Provided*, That in the case of an individual or family the increase shall also result in a rent exceeding the standards established by the State agency for the persons' ability to pay, or

(*2*) That the code enforcement could not reasonably be undertaken without the vacation of the real property by the tenant; or

(*c*) A notice from the owner or the State agency that code enforcement activities will be required: *Provided*, That the State agency shall have concluded, in accordance with HUD policies and

[1] See FR Doc. 73-13850 appearing at page 18262 in the issue for July 9, 1973.



V 38 I 187 SEP 27 73 XUM

requirements, that such tenant has moved in reasonable anticipation of such code enforcement activities and has made either of the findings required under paragraph (e)(3)(i) (b)(1) or (2) of this section.

(ii) Owners. An owner of real property shall be deemed displaced as a result of code enforcement if the vacating of the real property occurs on or after the receipt of notice from the State agency that code enforcement will be required and the State agency concludes, in accordance with HUD policies and requirements, that the code enforcement could not reasonably have been undertaken without the vacation of the real property by the owner.

(4) Voluntary rehabilitation—(i) Tenants. A tenant shall be deemed to be displaced as a result of voluntary rehabilitation if the vacating of real property occurs on or after:

(*a*) The receipt of a notice to vacate from the owner on the ground that voluntary rehabilitation will be undertaken; or

(*b*) The commencement of voluntary rehabilitation: *Provided*, That the State agency shall have concluded in accordance with HUD policies and requirements either:

(*1*) That the owner has increased the rent or has notified the tenant of an increase in rent amounting to not less than 25 percent in the case of a business concern and not less than 10 percent in the case of an individual or family: *Provided*, That the increase shall also result in a rent exceeding the standards established by the State agency for the person's ability to pay, or

(*2*) That the voluntary rehabilitation could not have reasonably been undertaken without the vacation of the real property by the tenant; or

(*c*) The receipt of a notice from the owner or the State agency that voluntary rehabilitation will be required: *Provided*, That the State agency shall have concluded, in accordance with HUD policies and requirements, that such tenant has moved in reasonable anticipation of such voluntary rehabilitation and has made either of the findings required under paragraph (e)(3)(i)(*b*) (*1*) or (*2*) of this section.

(ii) Owners. An owner of real property shall be deemed displaced as a result of voluntary rehabilitation if the vacating of the real property occurs on or after the commencement of voluntary rehabilitation and the State agency concludes, in accordance with HUD policies and requirements, that the voluntary rehabilitation could not reasonably have been undertaken without the vacation of the real property by the owner.

(f) *Displacement by improvement of private properties in the interim assistance program.* A person shall be deemed displaced by the improvement of private property under the interim assistance program if the vacating of the real property is the result of:

(1) Improvement with respect to the property occupied and undertaken in accordance with the plan; and

(2) Where the displaced person is a tenant, the vacating of real property occurs on or after:

(i) The receipt of a notice to vacate from the owner on the ground that such improvement will be undertaken, or

(ii) The commencement of such improvement: *Provided*, That the State agency shall have concluded, in accordance with HUD policies and requirements, either (*a*) that the owner has increased the rent or has notified the tenant of an increase in rent amounting to not less than 25 percent in the case of a business concern and not less than 10 percent in the case of an individual or family: *Provided*, That in the case of an individual or family the increase shall also result in a rent exceeding the standards established by the State agency for the person's ability to pay, or (*b*) that such improvement could not have reasonably been undertaken without the vacation of the real property by the tenant, or

(iii) A notice from the owner or the State agency that the improvement will be required: *Provided*, That the State agency shall have concluded, in accordance with HUD policies and requirements that such tenant has moved in reasonable anticipation of such improvement and has made the finding required under paragraph (f)(2)(ii) of this section, or

(3) Where the displaced person is an owner if the vacating of the real property occurs on or after the commencement of such improvement and the State agency concluded, in accordance with HUD policies and requirements, that the improvement could not reasonably have been undertaken without the vacation of the real property by the owner.

(g) *Displacement by demolition.* A person shall be deemed displaced as a result of demolition if the vacating of real property is the result of demolition undertaken in accordance with the plan for a project, and occurs on or after the date on which the State agency has ordered the real property to be vacated and demolished under State and local law on the ground that it is structurally unsound or unfit for human habitation.

(h) *Moves from dwellings as a result of displacement from a business or farm operation.* Notwithstanding any other provision of this Subpart, any person who moves from real property or moves his personal property from real property on or after the applicable date specified in paragraphs (a), (b), or (c) of this section as a result of displacement (as specified in paragraphs (a), (b), or (c) of this section) from other real property on which such person conducts a business or farm operation shall qualify as a displaced person for the purposes of establishing basic eligibility for the following payments and assistance: (1) Actual reasonable moving expenses under § 42.65, (2) actual direct losses of personal property under § 42.70, (3) actual reasonable expenses in searching for a replacement business or farm under § 42.75, (4) an alternate payment for individuals and families under § 42.80, and (5) relocation advisory assistance under Subpart C of this part.

### § 42.56 Displacement resulting from activities later included in the model cities program.

In all cases in which a comprehensive city demonstration program is amended to incorporate any of the activities specified in § 42.55 of this subpart which were carried out prior to the date of such amendment, and to recognize the eligibility of persons displaced by reason of any of such activities, a person so displaced shall qualify as a displaced person for purposes of establishing basic eligibility for a relocation payment: *Provided*, That the date of displacement for such person shall be deemed to be the date on which the comprehensive city demonstration program was amended to include the activity bringing about displacement: *And provided further*, That the regulations in effect at the time of such amendment shall be fully applicable to each such displacement.

### § 42.60 Filing of claims.

(a) *General.* All claims shall be submitted to the State agency on the appropriate HUD form, supported by such documentation as may be required by the specific provisions of the regulations in this part applicable to the payment claimed, and by such other documentation as may be required by the State agency.

(b) *Time for filing claims.* Any claim for a payment (other than a claim for a replacement housing payment for homeowners under § 42.90 or for an amount necessary to enable a displaced person to make a downpayment on a replacement dwelling under § 42.95(a)(2) of this part) shall be submitted to the State agency within a period of 6 months after displacement of a claimant. Any claim under § 42.90 or § 42.95(a)(2) shall be submitted to the State agency within a period of 18 months after the displacement of the claimant.

### § 42.65 Actual reasonable moving expenses.

(a) *General.* A State agency shall make a payment to a displaced person who satisfies the pertinent eligibility requirements of § 42.55 and the requirements of paragraph (b) of this section, for actual reasonable expenses specified below and subject to the limitations set forth in paragraph (c) of this section for moving himself, his family, business, farm operation or other personal property. In all cases the amount of a payment shall not exceed the cost of the least expensive feasible method of accomplishing the activity in connection with which a claim has been filed, as determined by the State agency. The moving and related expenses for which claims may be filed shall include:

(1) Transportation not to exceed a distance of 50 miles from the site from which displaced, except where the State agency determines in accordance with HUD policies and requirements that relocation beyond such distance of 50 miles is justified;





(2) Packing, crating, unpacking and uncrating personal property;

(3) Obtaining (including advertising for) bids or estimates for such transportation, packing, crating, unpacking and uncrating;

(4) Such storage of personal property, for a period generally not to exceed 12 months, as the State agency determines to be necessary in connection with relocation;

(5) Insurance of personal property while in storage or transit;

(6) Disconnecting, dismantling, removing, reassembling, reconnecting and reinstalling machinery, equipment or other personal property (including goods and inventory kept for sale) not acquired by the State agency;

(7) The cost, subject to the limitations imposed by this paragraph, of any addition, improvement, alteration or other physical change in or to any structure or its premises, whether in connection with the reassembling, reconnection, or reinstallation of machinery, equipment or other personal property or otherwise required, to render such structure or premises suitable for a displaced business. Claims for payment under this paragraph shall be subject to the following limitations:

(i) Reimbuseable costs shall be limited to 10 percent of a displaced person's entitlement pursuant to subparagraphs (1), (2), (3), (5), and (6) of this paragraph or $10,000, whichever is the greater amount;

(ii) The cost shall be found by the State agency to be required by law or ordnance or to be otherwise necessary to the reestablishment of a displaced business operation;

(iii) In any case in which costs exceed $1,000, the State agency shall obtain the concurrence of HUD before making payment;

(iv) The State agency shall determine that there is no suitable structure or premises available for the relocation of the displaced business concern which would not require such addition, improvement, alteration, or other physical change; and

(v) Under no circumstance shall this subparagraph be construed to authorize the inclusion in a claim for a relocation payment of the cost of substantial construction, completion, or rehabilitation of a replacement facility for any displaced business concern.

(8) The reasonable replacement value of property lost, stolen or damaged (not through the fault or negligence of the displaced person, his agent, or employee) in the process of moving, where insurance covering such loss, theft or damage is not reasonably available; and

(9) Where an item of personal property which is used in connection with any business or farm operation is not moved but is replaced with a comparable item, reimbursement in an amount not to exceed (i) the replacement cost, minus any proceeds received from the sale, or (ii) the estimated cost of moving, whichever is less.

(b) *Requirements—Moving a business or farm operation.* Except as provided in this paragraph, no payment for actual reasonable moving expenses shall be made to a displaced person for moving his business or farm operation unless:

(1) The State agency has received, at least 30 days (or such earlier date as the State agency may determine necessary, but not earlier than 90 days) prior to the moving date, written notice from such displaced person of his intention to move or dispose of personal property used in connection with such business or farm operation (which property shall be described generally in the notice), and the date of such intended move or disposition; and

(2) The displaced person has permitted, at all reasonable times, the inspection by or on behalf of the State agency of such property at the site from which the business or farm operation is displaced. For the purpose of this subsection, "moving date" shall mean the date on which the first item of such property is intended to be moved or disposed of. The State agency may make a relocation payment notwithstanding nonreceipt of such timely notice only if the agency has determined that there was reasonable cause for the failure of the displaced person to give such notice, and the agency has adequately verified the facts pertaining to the move or disposition and the requested relocation payment.

(c) *Special requirements and limitations.*

(1) *Temporary moves—individuals, families, and business concerns.* A displaced person (as defined in § 42.20(d) of this subpart) who moves into temporary housing or into a temporary business location (as defined in § 42.120(b) and (c) of this part) with HUD concurrence may be compensated for (i) the actual cost of moving to the temporary housing or business location; and (ii) in the case of a displaced person who rents the dwelling or business location from which he is being displaced the actual difference, if any, between the rental paid at such location and the rental paid at the temporary housing or temporary business location or; (iii) in the case of a displaced owner of a home or business the actual cost of the rental of such temporary location, including reasonable utility charges. Compensation for such expenses (which, in the case of displaced business concerns may also include claims for actual direct losses of personal property, as defined in § 42.70 of this subpart and for expenses in searching for a temporary replacement business or farm, as defined in § 42.75 of this subpart) shall be a part of the cost of the program but shall not be considered to be a relocation payment as defined in § 42.20(q) of this part. A person who is displaced after the applicable date of the regulations in this part as set forth in § 42.25 who moves into temporary housing or a temporary business location is eligible for full relocation payments and assistance under this part upon his subsequent move from such temporary location to a permanent location.

(2) *Businesses and farm operations—general limitation on moving expenses.* Except as provided in paragraph (c)(3) of this section, relating to business self-moves, payment to a displaced person for moving expenses in connection with moving a business or farm operation shall not exceed the amount of the low bid submitted in accordance with paragraph (d)(2) of this section.

(3) *Business and farm operations—self-moves.* A displaced person electing to self-move a business or farm operation may do so, unless the State agency concludes that such self-move is not warranted. In any case in which the claim for moving expenses in connection with a self-move is in an amount not exceeding the lowest of the bids obtained in accordance with paragraph (d)(2) of this section (or if no such bids can be obtained) no documentation of actual moving expenses shall be required by the State agency, which shall determine the amount of the payment on the basis of such factors as (i) the manner in which the move is accomplished, (ii) the relationship of the proposed move to the scope of work covered by the lowest received bid or estimate, if any (iii) the labor and the supervisory costs associated with the move and (iv) the cost of the use of equipment employed in the move. In all cases in which the amount claimed for moving expenses in connection with a self-move exceeds the amount of the lowest of the bids obtained in accordance with paragraph (d)(2) of this section, full documentation of such expenses shall be required.

(4) *Personal property of low value and high bulk—Business or farm operation.* Where, in the judgment of the State agency, the cost of moving any item of personal property of low value and high bulk which is used in connection with any business or farm operation would be disproportionate in relation to its value, the allowable reimbursement for the expense of moving such property shall not exceed the difference between the cost of replacing the same with a comparable item available on the market and the amount which would have been received for such property on liquidation. This subparagraph shall apply to such situations as the moving of junkyards, stockpiles, sand, gravel, minerals, and metals.

(d) *Documentation in support of a claim—*(1) *All claimants.* A claim for a payment under paragraph (a) of this section shall be supported by a bill or other evidence of expenses incurred. By prearrangement between the State agency, the site occupant, and the mover, evidenced in writing, the claimant or the mover may present an unpaid moving bill to the State agency, and the agency may pay the mover directly.

(2) *Businesses and farm operations.* Except in those situations in which the provisions of § 42.65(c)(3) are applicable and/or no such bids can be obtained, each claim in excess of $500 for the costs incurred by a displaced person for moving his business or farm operation shall be supported by bids submitted to the



V 38 I 187 SEP 27 73 XUM

State agency at least 15 days prior to the commencement of the move from three reputable firms covering the moving costs involved. Whenever it is not feasible to obtain three bids for any category of work, a lesser number of bids shall be submitted, together with a written justification by the displaced person; and no relocation payment shall be allowed in such cases unless the State agency has approved the justification. Where such bid requirement cannot be compiled with under State law, or where estimates in an amount of less than $500 were obtained in good faith by the displaced person, such claim shall be supported by estimates in lieu of bids.

**§ 42.70 Actual direct losses of tangible personal property.**

(a) *General.* A State agency shall make a payment to a displaced person who satisfies the eligibility requirements of § 42.65, and this section, for actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, in an amount determined by the State agency in accordance with the provisions of this section.

(b) *Determining actual direct loss of property.* Subject to the limitations provided in this section, the amount of actual direct loss shall be determined as follows:

(1) The fair market value of the property for continued use at its location prior to the displacement shall be ascertained by an appraisal either secured by the claimant and concurred in by the State agency, or secured by the State agency and concurred in by the claimant.

(2) If the value of the property is such as not to warrant the expense of an appraisal, its fair market value shall be computed by multiplying the original cost of the item to the claimant (exclusive of installation), by the figure obtained by dividing the period of the remaining useful life of the property at the date of displacement by the period of the normal useful life of the property at the date of its acquisition by the claimant.

(3) Wherever possible, the property shall be disposed of by a bona fide sale at the highest price offered after reasonable efforts have been made over a reasonable period of time to interested prospective purchasers. The displaced person shall be reimbursed for the reasonable costs incurred in arranging for such sale.

(4) If the amount realized from the sale, minus the reasonable expenses of the sale, is less than the fair market value for continued use of the property at its location, the difference between the net amount realized and the fair market value is the amount of actual direct loss.

(5) A trade-in of property may be considered a sale, and the trade-in allowance, exclusive of any amount of discount that would be allowed on the property being acquired in the absence of the trade-in, shall be the amount realized upon the sale.

(6) If a bona fide sale is not effected because no offer is received for the property, after reasonable efforts have been made over a reasonable period of time to sell it, its fair market value for continued use prior to displacement, ascertained as provided in this section, is the amount of actual direct loss of the property.

(c) *Limitations.* (1) When a business or farm operation is discontinued, the displaced person is entitled to the difference between the fair market value of the property for continued use at its location prior to displacement, and the sale proceeds, or the estimated costs of moving 50 miles, whichever is less.

(2) When a displaced person does not move his personal property, he shall be required to make a bona fide effort to sell it.

(3) When the property is abandoned after reasonable efforts to effect a bona fide sale, the displaced person is entitled to payment for the fair market value of the property for continued use at its location prior to displacement, or the estimated costs of moving 50 miles, whichever is less.

(4) In no case shall the payment for actual direct loss of any property exceed the amount as provided for herein, or the estimated amount that would have been required to relocate such property, whichever is less.

(5) No payment shall be made for any item of property sold or traded in and replaced with a substitute item, except as provided for in § 42.65 (a) (9).

(6) The cost of an initial appraisal to determine actual loss of property shall, notwithstanding § 42.35, be included as a project cost to the same extent as other project costs. No payment shall be made to a displaced person for the cost of an appraisal subsequent to the initial appraisal.

(d) *Documentation to support claim.* A claim for payment hereunder shall be supported by written evidence of loss which may include appraisals, certified prices, bills of sale, receipts, cancelled checks, copies of advertisements, offers to sell, auction records, and other records appropriate to support the claim.

**§ 42.75 Actual reasonable expenses in searching for a replacement business or farm.**

A displaced person who satisfies the pertinent eligibility requirements of § 42.65 with respect to actual reasonable moving expenses, is eligible for actual reasonable expenses, in an amount not to exceed $500 unless the State agency determines that a greater amount is justified, in searching for a replacement business or farm, including expenses incurred for: (a) Transportation; (b) meals and lodging away from home; (c) time spent in searching, based on the hourly wage rate of the salary or earnings of the displaced person or his representative, but not to exceed $10 per hour; and (d) fees paid to a real estate agent or broker to locate a replacement business or farm.

**§ 42.80 Alternate payments—individuals and families.**

(a) *General.* A person or family, who is displaced from a dwelling who is eligible for a payment for actual reasonable moving expenses under § 42.65, may elect to receive and shall be paid, in lieu of such payment: (1) A moving expense allowance not to exceed $300 and determined in accordance with approved Federal Highway Administration schedules established by the State in which the displacement occurred, and (2) a dislocation allowance of $200.

(b) *Limitations—joint occupants of single-family dwellings.* If individuals (regardless of whether they are family members, or not) who are joint occupants of a single-family dwelling submit more than one claim, an eligible claimant for a payment under paragraph (a) of this section may be paid only his reasonable prorated share (as determined by the State agency) of the total payment applicable to a single individual, and the total of alternate payments made to all such claimants moving from such dwelling shall not exceed the total fixed payment applicable to a single individual.

**§ 42.85 Alternate payments—businesses and farm operations.**

(a) *General.* A displaced person who is displaced from his place of business or farm operation and is eligible for payments under § 42.65, § 42.70, or § 42.75 and complies with the requirements set out in paragraph (b) of this section may elect to receive and shall be paid, in lieu of such payments, a payment equal to the average annual net earnings of the business or farm operation (but not including a business as defined in § 42.20(a)(4) of this part) as determined in accordance with paragraph (b) of this section, except that such payment shall be not less than $2,500 nor more than $10,000. For purposes of this section, the dollar limitation specified in the preceding sentence shall apply to a single business, regardless of whether it is carried on under one or more legal entities.

(b) *Requirements—businesses and farm operations.* No payment shall be made under this section unless the State agency determines that (1) the business cannot be relocated without a substantial loss of its existing patronage, based on a consideration of all pertinent circumstances including such factors as the type of business conducted, the nature of the clientele, and the relative importance to the displaced business of its present and proposed location; (2) the business is not part of a commercial enterprise having another establishment which is not being acquired for a project and which is engaged in the same or similar business; and (3) the displaced business or farm operation (i) had average annual gross receipts of at least $2,000 during the two taxable years prior to displacement; or (ii) the displaced business or farm operation had average annual net earnings of at least $1,000 during the two taxable years prior to displacement; or (iii) the displaced business or farm operation contributed at least 33⅓ percent of the total income of the owner(s) during each of the two taxable years prior to displacement: *Provided*, That if in any case the State agency determines that the two year period prior to displacement is not representative of average receipts, earnings or income, it may make use of a more representative period.

(c) *Determination of number of "businesses".* In determining whether one or more legal entites constitute a single business, the following factors, among others, shall be considered:

(1) The extent to which the same premises and equipment are shared;

(2) The extent to which substantially identical or intimately interrelated business functions are pursued and business and financial affairs are commingled;

(3) The extent to which such entities are held out to the public, and to those customarily dealing with such entities, as one business; and

(4) The extent to which the same person or closely related persons own, control or manage the affairs of the entities.

(d) *Requirements—farms.* In the case of a farm operation, no payment shall be made under this section unless the State agency determines that (1) the farm met the definition of a farm operation prior to its acquisition; and (2) if the displacement is limited to only part of the farm operation, the property remaining after the acquisition can no longer meet the definition of a farm operation.

(e) *Requirements—nonprofit organizations.* In the case of a nonprofit organization, no payment shall be made under this section unless the State agency determines that (1) the nonprofit organization cannot be relocated without a substantial loss of its existing patronage. (The term "existing patronage" as used in connection with a nonprofit organization includes the membership, persons, community, or clientele served or affected by the activities of the nonprofit organization); and (2) the nonprofit organization is not part of a commercial enterprise having at least one other establishment not being acquired which is engaged in the same or similar activity.

(f) *Net earnings.* The term "average annual net earnings" as used in this section means one-half of any net earnings of the business or farm operation, before Federal, State, and local income taxes, during the two taxable years immediately preceding the taxable year in which the business or farm operation moves from the real property acquired for such project, or during such other period as the head of the State agency determines to be more equitable for establishing such earnings, and includes any compensation paid by the business or farm operation to the owner, his spouse or his dependents during such period.

(g) *Determination of ownership.* The term "owner" as used in this section includes the sole proprietor in a sole proprietorship, the principal partners in a partnership, and the principal stockholders of a corporation, as determined by the State agency. For purposes of determining a principal stockholder, stock held by a husband, his wife and their dependent children shall be treated as one unit.

(h) *Documentation in support of a claim.* A claim for payment under paragraph (a) of this section shall be supported by such reasonable evidence of earnings as may be approved by HUD. If no other evidence is available, such claim shall be supported by copies of Federal income tax returns.

**§ 42.90 Replacement housing payments for homeowners.**

(a) *General.* A state agency shall make to a displaced person except those temporarily displaced within the meaning of § 42.65(c)(1) who is displaced from a dwelling and who satisfies the pertinent eligibility requirements of § 42.55 and the conditions of paragraph (b) of this section, a payment not to exceed a combined total of $15,000 for:

(1) The amount, if any, which when added to the acquisition cost of the dwelling acquired for the project equals the reasonable cost (as determined in accordance with paragraph (c)(1) of this section) of a comparable replacement dwelling: *Provided*, That such amount shall not exceed the difference between the acquisition price of the acquired dwelling and the actual purchase price of the replacement dwelling.

(2) The amount, if any, to compensate the displaced person for any increased interest costs, as determined in accordance with paragraph (c)(2) of this section, which such displaced person is required to pay for financing the acquisition of a replacement dwelling: *Provided*, That no such payment shall be made unless the dwelling acquired by the State agency was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than 180 days prior to the initiation of negotiations for acquisition of such dwelling.

(3) Reasonable expenses, determined in accordance with paragraph (c)(3) of this section, incurred by the displaced person incident to the purchase of the replacement dwelling, but not including prepaid expenses.

(b) *Eligibility conditions.* (1) A displaced person is eligible for the payments specified in paragraph (a) of this section if such displaced person (i) is displaced from a dwelling that (*a*) is acquired for a project, or (*b*) in connection with a project and in accordance with local code, is demolished, is declared unfit for human habitation, or requires vacation for any other reason, such as overcrowding; (ii) has actually owned and occupied such dwelling for not less than 180 days prior to the initiation of negotiations for its acquisition; (iii) purchases and occupies a replacement dwelling which is decent, safe, and sanitary, within 1 year subsequent to the date on which he received final payment from the State agency of all costs of the acquired dwelling or the date on which he moves from the acquired dwelling, whichever is later.

(2) For the purpose of this paragraph (b), a person has "owned" a dwelling if he (i) held fee title, a life estate, a 99-year lease, or a lease with not less than 50 years to run from date of acquisition of the property for the project; (ii) held an interest in a cooperative housing project which includes the rights of occupancy of a dwelling unit therein, (iii) is the contract purchaser of any of the foregoing estates or interest, or (iv) has a leasehold interest with an option to purchase.

(3) The term "initiation of negotiations" shall mean, for the purposes of this paragraph (b), the following:

(i) In the case of code enforcement, voluntary rehabilitation, improvement of private property, or demolition in connection with a project, the date such person vacates the dwelling.

(ii) In the case of a low-rent public housing project carried out by means of the turnkey method (new construction or rehabilitation), the date of the letter from the State agency notifying a developer of his tentative selection in connection with such project, except: (*a*) For turnkey new construction cases where the State agency obtains control of the site prior to tentative selection of the developer, the date of the initial written offer to the owner by or on behalf of the State agency of the amount established as just compensation in accordance with § 42.135, and (*b*) for turnkey rehabilitation cases where the State agency enters into an agreement with a developer for unidentified properties, the date of the initial written offer for each property by the developer to the owner or the date of the contract between the developer and the State agency, whichever is later.

(4) The term "Purchases", for the purpose of this paragraph (b), includes the acquisition, construction or rehabilitation of a dwelling, the purchase and rehabilitation of a substandard dwelling, the relocation or relocation and rehabilitation of an existing dwelling, or the entering into a contract to purchase, or for the construction of, a dwelling to be constructed on a site to be provided by a builder or developer or on a site which the displaced person owns or acquires for such purpose. Where completion of construction, rehabilitation, or relocation of a replacement dwelling is delayed, for reasons beyond control of the displaced person, beyond the date by which occupancy is required under this paragraph (b), the State agency may determine the date of occupancy to be the date the displaced person enters into a contract for such construction, rehabilitation, or relocation or for the purchase, upon completion, of a dwelling to be constructed or rehabilitated, if, in fact, the displaced person occupies the replacement dwelling when the construction or rehabilitation is completed.

(5) Where, for reasons of hardship and beyond the control of the displaced person, such person is unable to occupy the replacement dwelling by the date by







V 38 I 187 SEP 27 73 XUM

which occupancy is required under this paragraph (b), the State agency may determine the date of occupancy to be the date on which the displaced person became entitled to possession of such dwelling: *Provided*, That the displaced person occupies the replacement dwelling within such reasonable period of time as shall be determined by HUD.

(c) *Computation of replacement housing payment.*—(1) *Cost of comparable replacement dwelling.* The cost of a comparable replacement dwelling for purposes of paragraph (a)(1) of this section, shall be determined by the method specified in paragraph (c)(1)(i) except as provided in paragraph (c)(1)(ii) or (iii);

(i) *Comparative method.* On a case-by-case basis by determining the sales price of one or more dwellings which have been selected by the State agency or by the displaced person with the approval of the State agency, and which are most representative of the acquired dwelling unit and meet the definition of "comparable replacement housing" set out in § 42.20(b);

(ii) *Schedule method.* In accordance with a schedule as specified in § 42.160 and only under the circumstances described therein;

(iii) *Alternative method.* Where the State agency determines that neither the schedule nor comparative method is feasible in a given situation, by the use of such other method as may be approved by HUD.

(2) *Interest payments.* Interest payments shall be equal to the difference between (i) the aggregate interest and other debt service cost of the amount of the principal of the mortgage on the acquired dwelling over its remaining term at the time of acquisition, and (ii) the aggregate interest and other debt service costs paid on the mortgage on the replacement dwelling: *Provided*, That the term and amount of the mortgage on the replacement dwelling for purposes of this paragraph shall be the lesser of (iii) the remaining term and amount of the mortgage on the acquired dwelling, or (iv) the actual term and amount of the mortgage on the replacement dwelling: *And provided further*, That the amount of the debt service cost with respect to the replacement dwelling shall be the lesser of (v) the debt service cost based on the amount of the mortgage remaining on the acquired dwelling, or (vi) the debt service cost based on the actual amount of the mortgage on the replacement dwelling: *And provided further*, That such differential shall be reduced to discounted present value. In making such computation, the aggregate interest and other debt service costs with respect to the replacement dwelling shall not exceed the prevailing interest rate currently charged by the mortgage lending institutions in the general area in which the replacement dwelling is located. The discount rate for computing the present worth of future payments of increased interest shall be computed at the prevailing interest rate paid on savings deposited by commercial banks in the general area in which the replacement dwelling is located. (An example of computation of payment for increased interest cost is set forth below in the Appendix to this part.)

(3) *Expenses incident to the purchase of the replacement dwelling.* Such payments shall be the amount necessary to reimburse the displaced person for actual costs incurred by him incident to the purchase of the replacement dwelling, including (i) legal, closing, and related costs including title search, preparing conveyance contracts, notary fees, surveys, preparing drawings or plats, and charges paid incident to recordation, (ii) Lender, FHA or VA appraisal, (iii) FHA or VA application fee, (iv) Certification of structural soundness, (v) Credit report, (vi) Owner's and mortgagee's evidence or assurance of title, (vii) Escrow agent's fee, (viii) Sales or transfer taxes: *Provided*, That no payment for any such expenses shall exceed the amount attributable to the purchase of a comparable dwelling, as defined by § 42.20(b) and selected in accordance with this section.

No reimbursement shall be made for any fee, cost, charge, or expense which is determined to be a part of the debt service or finance charge under Title I of the Truth in Lending Act (Pub. L. 90-321), and Regulation Z issued pursuant thereto by the Board of Governors of the Federal Reserve System.

(d) *Limitation-joint owner-occupants of single-family dwellings.* The total amount of payment under this section to individuals who were joint owner-occupants of a single-family dwelling acquired as a result of the project shall be subject to the limitation of § 42.80(b).

(e) *Descent and distribution of replacement housing payments.* A replacement housing payment computed in accordance with this section or with § 42.95 shall be personal to the displaced person claiming such payment, and shall not be paid to his heirs or assigns to the extent to which such payment, or any portion thereof, has not been disbursed prior to the death of such displaced person (except as to the amount attributable to such displaced person's actual period of occupancy of comparable replacement housing): *Provided*, That such payment shall be fully disbursed in any case in which the displaced person was a member of a family living with him in the dwelling or dwelling unit from which he was displaced, which continues to occupy together the comparable dwelling selected in accordance with the regulations in this part: *And provided further*, That so much of a replacement housing payment as will satisfy the legal obligation of an estate in connection with the selection of a comparable dwelling by or on behalf of a deceased displaced person shall be disbursed to the estate.

### § 42.95 Replacement housing payments for tenants and certain others.

(a) *General.* A state agency shall make to a displaced person except those temporarily displaced within the meaning of § 42.65(c)(1) who satisfies the eligibility requirements of § 42.55 and the conditions of paragraph (b) of this section, a payment not to exceed $4,000 for either:

(1) An amount, computed in accordance with paragraph (c)(1) of this section, necessary to enable such displaced person to lease or rent a comparable replacement dwelling for a period not to exceed 4 years; or

(2) An amount, computed in accordance with paragraph (c)(2) of this section, necessary to enable such displaced persons to make a downpayment (including incidental expenses described in § 42.90(a)(3)) on the purchase of a comparable dwelling: *Provided*, That if such amount exceeds $2,000, such displaced person shall equally match any such amount in excess of $2,000 in making the downpayment.

(b) *Eligibility conditions.* A displaced person is eligible for the payments specified in paragraph (a) of this section if such displaced person:

(1) Has actually and lawfully occupied the dwelling from which he is displaced for a period of not less than 90 days prior to the initiation of negotiation for acquisition of such dwelling; and

(2) Is not eligible to receive a replacement housing payment for homeowners under § 42.90; and

(3) Where such displaced person was the owner of the dwelling, such dwelling is (i) acquired for a project or (ii) in connection with a project and in accordance with local code, is demolished, is declared unfit for human habitation, or requires vacation for any other reason, such as over-crowding; and

(4) In cases in which a payment specified in paragraph (a)(2) of this section is sought such displaced person shall within one year from the date of displacement purchase a replacement dwelling. For purposes of this paragraph, the term "purchase" shall be defined in accordance with § 42.90(b)(4).

(5) The term "initiation of negotiations" shall mean, for the purposes of this paragraph (b), the following:

(i) In the case of code enforcement, voluntary rehabilitation, improvement of private property, or demolition in connection with a project, the date such person vacates the dwelling.

(ii) In the case of a low-rent public housing project carried out by means of the turnkey method (new construction or rehabilitation), the date of the letter from the State agency notifying a developer of his tentative selection in connection with such project, except: (*a*) For turnkey new construction cases where the State agency obtains control of the site prior to tentative selection of the developer, the date of the initial written offer to the owner by or on behalf of the State agency of the amount established as just compensation in accordance with § 42.135, and (*b*) for turnkey rehabilitation cases where the State agency enters into an agreement with a developer for unidentfied properties, the date of the





initial written offer for each property by the developer to the owner or the date of the contract between the developer and the State agency, which ever is later.

(c) *Computation of payment.*

(1) *Rentals.* The amount of payment necessary to lease or rent a comparable replacement dwelling, as specified under paragraph (a)(1) of this section, shall be computed by subtracting 48 times the base monthly rental of the displaced person (as determined in accordance with paragraph (c)(1)(i) of this section), from 48 times the comparable monthly rental for a replacement dwelling (as determined in accordance with paragraph (c)(1)(ii) of this section): *Provided*, That in no case may such amount exceed the difference between 48 times the base monthly rental as determined in accordance with this paragraph and 48 times the monthly rental actually required for the comparable dwelling occupied by the displaced person.

(i) *Base monthly rental.* The base monthly rental shall be the average monthly rental paid by the displaced person for the 3-month period prior to initiation of negotiations: *Provided*, That the base monthly rental shall be the average monthly rental during such 3-month period for similar dwellings in an area not generally less desirable than that of the dwelling from which such person was displaced (hereinafter referred to as the economic rent) the displaced person was the owner of the dwelling from which he was displaced; *And provided further*, That where necessary to satisfy the definition under § 42.20(b)(5) of comparable replacement housing as being within the financial means of the displaced person, the amount of such base monthly rental shall not exceed 25 percent of such person's monthly income.

(ii) *Comparable monthly rental.* The comparable monthly rental shall be the amount of rental determined by the State agency by the method specified in paragraph (a), except as provided in paragraph (b) or (c);

(*a*) *Comparative method.* On a case by case basis by determining the average month's rent for one or more dwellings which have been selected by the State agency or by the displaced person with the approval of the State agency, and which are most representative of the acquired dwelling and meet the definition of "comparable replacement dwelling" set out in § 42.20(b);

(*b*) *Schedule method.* In accordance with a schedule as specified in § 42.160, and only under the circumstances described therein;

(*c*) *Alternative method.* Where the State agency determines that neither the schedule nor comparative method is feasible in a given situation, by the use of such other method as may be approved by HUD.

(2) *Downpayment.* The downpayment for which a payment specified under paragraph (a)(2) of this section may be made, together with any matching share which may be required, shall not exceed (i) the amount ordinarily required for a downpayment for the purchase of a comparable dwelling where such purchase is financed by a conventional loan, and (ii) expenses incident to the purchase of a replacement dwelling computed in accordance with § 42.90(c)(3): *Provided*, That if the amount actually required of the displaced person as a downpayment for the purchase of a comparable dwelling is more than the amount specified in paragraph (c)(2)(i) of this section, such amount shall be the amount which the State agency determines to be necessary for such downpayment. The full amount of a downpayment under this section shall be applied to the purchase price of the replacement dwelling and shall be shown on the closing statement.

(d) *Limitation on payments and disbursement of payments.*—(1) *Joint occupants of single-family dwellings.* The total amount of payment under this section to individuals who were joint occupants of a single-family dwelling acquired for the project shall be subject to the limitation of § 42.80(b).

(2) *Rental replacement housing for displaced owner-occupant.* A displaced person who is not eligible for a replacement housing payment under § 42.90 because he elects to rent rather than purchase a replacement dwelling, and who meets the eligibility conditions specified in paragraph (b) of this section, is eligible for the payment specified in paragraph (a)(1) of this section.

(3) *Rental replacement housing payments for dependents.* Notwithstanding the provisions of paragraph (c) of this section, the amount of payments necessary to lease or rent a comparable replacement dwelling, as specified under paragraph (a)(1) of this section, shall, in the case of displaced persons designated dependents in accordance with this subparagraph, be limited to the difference between 48 times the rental actually paid for the unit previously occupied by the displaced person and 48 times the monthly rental actually required for the comparable dwelling presently occupied or to be occupied by the displaced person. For purposes of this subparagraph, a "dependent" shall be any person who derives fifty-one percent or more of his income in the form of gifts from another private person or from any academic scholarship or stipend. Full-time students and persons residing in hospitals, sanitariums and similar institutions shall be presumed to be dependents: *Provided*, That any displaced person presumed to be a dependent may rebut this presumption by demonstrating that fifty percent or more of his income is derived from sources other than gifts from another private person or academic scholarships or stipends.

(e) *Disbursement.* The Secretary shall have the authority to prescribe the manner for the disbursement of payments under this section and may from time to time establish procedures governing such disbursements.

## Subpart C—Relocation Assistance Advisory Program and Assurance of Adequate Replacement Housing

### § 42.100 Purpose.

The purpose of this subpart is to set forth requirements with respect to the development and implementation of a relocation assistance advisory program for the provision of specified services, and to prescribe the obligation of the State agency not to displace, or cause the displacement of any person from his dwelling without adequate notice and unless adequate replacement housing is available.

### § 42.105 Relocation assistance advisory program.

State agencies shall develop and implement a relocation assistance advisory program which satisfies the requirements of § 42.115 and of Title VI of the Civil Rights Act of 1964 and Title VIII of the Civil Rights Act of 1968. Such program shall be administered so as to provide advisory services which offer maximum assistance, to minimize the hardship of displacement, and to assure that (a) all persons displaced from their dwellings are relocated into housing meeting the criteria described in § 42.120, and (b) all persons displaced from their places of business or farm operations are assisted in reestablishing with a minimum of delay and loss of earnings.

### § 42.110 Eligibility for services.

Relocation assistance advisory services shall be available to:

(a) Any person who occupies property from which he will be displaced for a project or whose personal property will be so displaced;

(b) Any person who occupies property immediately adjacent to the project and who is determined by the State agency to be caused substantial economic injury or substantial injury or threat to his health or personal safety of the project; and

(c) Any person who moves from real property or moves his personal property from real property, because he is displaced from other real property on which he conducts a business or farm operation.

For purposes of § 42.110, any person or persons described in paragraphs (a) through (c) of this section shall be an "eligible person."

### § 42.115 Minimum requirements of relocation assistance advisory program.

Each relocation assistance advisory program undertaken pursuant to § 42.105 shall include, at a minimum, such measures, facilities or services as may be necessary or appropriate in order to:

(a) Fully inform eligible persons under this subpart at the earliest possible date as to the availability of relocation payments and assistance and the eligibility requirements therefor, as well as the procedures for obtaining such payments and assistance;



V 38 187 SEP 27 73 XUM

(b) Through direct personal interview, determine the extent of the need of each such eligible person for relocation assistance;

(c) Provide current and continuing information on the availability, prices and rentals of comparable sales and rental housing, and of comparable commercial properties and locations;

(d) Assure that, within a reasonable period of time prior to displacement, there will be available adequate replacement housing meeting the criteria described in § 42.120 equal in number to the number of, and available to, such eligible persons who will be displaced;

(e) Assist any such eligible person displaced from his business or farm operation in obtaining and becoming established in a suitable replacement location;

(f) Supply to such eligible persons information concerning Federal and State housing programs, disaster loan and other programs administered by The Small Business Administration, and other Federal or State programs, offering assistance to displaced persons;

(g) Provide other advisory services to such eligible persons, such as counselling and referrals with regard to housing financing, employment, training, health, welfare, and other assistance, in order to minimize hardships to such persons;

(h) Assist each such eligible person in completing any required applications and forms;

(i) Inform all persons who are expected to be displaced by acquisition as to the eviction policies to be pursued in carrying out the project;

(j) Insure adequate inspection of all relocation housing resources utilized by displaced persons prior to and subsequent to occupancy by such persons; and

(k) Provide any services required to insure that the relocation process does not result in different or separate treatment on account of race, color, religion, national origin, sex or source of income.

**§ 42.120 Requirement of adequate replacement housing prior to displacement; temporary moves; notices to displacees.**

(a) *Availability.* No person shall be required to move from his dwelling on account of a project unless within a reasonable period of time prior to displacement there are available to such person replacement dwellings which are:

(1) Decent, safe and sanitary;

(2) Demonstrated to be open to all persons regardless of race, color, religion, or national origin in a manner consistent with Title VIII of the Civil Rights Act of 1968, and available without discrimination based on sex or source of income;

(3) In an area not subjected to unreasonable adverse environmental conditions from either natural or manmade sources, and in an area not generally less desirable nor less accessible with regard to public utilities and services, schools, churches, recreation, transportation, and other public and commercial facilities; and

(4) Reasonably accessible to the displaced person's place of employment or potential employment;

(5) Adequate in size, facilities and amenities to accommodate the needs of the displaced person and his family; and

(6) Available on the market at a rental or price within the financial means of the displaced person, but not exceeding a rental equal to 25 percent of his income or a purchase price of 2 to 2½ times his annual income.

(b) *Use of temporary housing.* Subject to the prior approval of HUD, a person to be displaced from a dwelling for a project may be provided temporary housing (1) in cases of emergency or where such person is subject to economic hardship or conditions hazardous to his health or safety, or (2) in extraordinary situations where in the absence of such temporary move, the progress of the project would be substantially delayed, or (3) in cases in which the HUD-approved project plan anticipates moves back into permanent accommodations in the project or program area, or (4) where the displacement is caused by code enforcement activities which do not necessitate the permanent relocation of the business or non-profit organization.

(d) *Continuing obligations of State agency.* The State agency shall continue to furnish to all persons provided temporary housing or facilities under this section all relocation assistance provided for under this Subpart C.

(e) *Preservation of eligibility.* The eligibility of any person for a payment specified under any section of the regulations in this part shall not be affected by a move to temporary housing or facilities under this section.

(f) *Notice.* No person lawfully occupying real property shall be required to move from a dwelling or to move his business or farm operation, without at least 90 days' written notice from the State agency acquiring the real property or ordering its demolition: *Provided,* That a shorter period of notice may be given when the State agency determines, with HUD concurrence, that a 90-day period is impracticable. In addition, State agencies shall simultaneously notify each individual tenant to be displaced as well as each owner. Where persons are expected to be displaced by code enforcement, voluntary rehabilitation or the improvement of private properties as defined in § 42.55 (e) and (f), the State agency shall take all reasonable steps to urge and assure that owners of real property give tenants to be displaced at least 90 days' written notice that the activities will take place or that the premises must be vacated (except where the continued occupancy of the dwelling constitutes a substantial danger to the health or safety of the occupants). This policy shall be included by the State agency in all notices served on property owners requiring that code enforcement work be done.

(g) *Waiver.* The requirement in paragraph (a) of this section may be waived only by the Secretary of Housing and Urban Development under the following circumstances:

(1) When displacement is necessitated by a major disaster as defined in section 102(1) of the "Disaster Relief Act of 1970" (84 Stat. 1745, Pub. L. 91-606); or

(2) During periods of Presidentially declared national emergencies; or

(3) Such other extraordinary or emergency situations where immediate possession of real property is of crucial importance.

**§ 42.125 Coordination of relocation activities.**

State agencies shall contact other Federal, State, and local governmental

(iii) The State agency has determined that within 12 months of the date of the temporary move or such longer period as HUD may approve, replacement housing meeting the criteria specified in paragraph (a) of this section will be available for occupancy by such persons.

(iv) Prior to the temporary move, such person shall be given a written assurance that (*a*) replacement housing meeting the criteria specified in paragraph (a) of this section will be available at the earliest possible time, but in any event not later than the date provided under section (b)(4)(*a*)(2) of this paragraph; (*b*) to the extent practicable, such replacement housing will be made available to such person on a priority basis; and (*c*) such person may, notwithstanding the provisions of paragraph (b)(2) of this section and without prejudicing any rights under paragraph (b)(1) of this section with respect to available replacement housing, reject offers of replacement housing in the expectation of the availability of replacement housing by the time such person would have ordinarily been displaced in accordance with the construction or development schedule of the project.

(c) *Use of temporary facilities by business concerns and nonprofit organizations.* Subject to the prior approval of HUD, a person to be displaced from a business or nonprofit organization may be provided a temporary facility (1) in cases of emergency or where such person is subject to economic hardship or conditions hazardous to his health or safety, or (2) in extraordinary situations where in the absence of such temporary move, the progress of the project would be substantially delayed, or (3) in cases in which the HUD-approved project plan anticipates moves back into permanent accommodations in the project or program area, or (4) where the displacement is caused by code enforcement activities which do not necessitate the permanent relocation of the business or non-profit organization.





agencies to determine the extent of present and proposed governmental actions in or affecting the locality (or localities) which may affect the carrying out of their relocation assistance program and the availability of housing resources. State agencies shall be required to stage the project activities in a manner which assures the availability of a sufficient supply of adequate replacement housing meeting requirements of § 42.120(a), giving consideration to the relocation needs of other programs being carried out in a locality and the progress of construction or rehabilitation of replacement dwellings or other relocation accommodations. In addition, State agencies should cooperate with other displacing agencies to insure that relocation assistance and relocation payments will be administered in a manner consistent with the promotion of uniform treatment of displacees from all such programs.

## Subpart D—Real Property Acquisition

**§ 42.130 Purpose.**

The purpose of this subpart is to set forth the practices to be followed with respect to acquisition of real property for a project, and to provide for payments to property owners for expenses incidental to transfer of title and, in limited situations, payments for litigation expenses (see § 42.25(a)(2) for applicability of this Subpart to the lowrent public housing program).

**§ 42.135 Real property acquisition practices.**

In order to carry out the purpose of the regulations in this Part, as set out in § 42.10(b) with respect to the acquisition of real property, the State agency shall, to the greatest extent practicable under State law, be guided by the following policies in acquiring real property for any project:

(a) The State agency shall make every reasonable effort to acquire such real property expeditiously by negotiation.

(b) Real property shall be appraised before the initiation of negotiations, and the owner or his representative designated in writing shall be given an opportunity, by reasonable advance written notice or otherwise, to accompany the appraiser during his inspection of the property. The Secretary of HUD shall designate the minimum required number of appraisals to be so obtained.

(c) Before the initiation of negotiations for the acquisition of such real property, the State agency shall establish an amount it believes to be just compensation therefor. Such amount shall be (1) the State agency's review appraiser's determination of the fair market value of the property, or (2) if HUD concurrence is required, the fair market value as concurred in by HUD, or (3) if required by specific HUD program regulations, the amount determined by HUD to be just compensation. The date of valuation ordinarily will be the date of the appraisal review.

(d) Promptly after the amount of just compensation is established in accordance with this section, the State agency shall offer to acquire the property for the full amount so established, and shall provide the owner with a written Statement of the Basis for Determination of Just Compensation (the Statement), and summary of the basis for such amount. The Statement shall include, as a minimum, the following:

(1) An accurate legal description and location identification of the real property and the interest thereon to be acquired.

(2) An inventory identifying the buildings, structures, fixtures, and other improvements, including appurtenant removable building equipment, which are considered to be part of the real property for which the offer of just compensation is made, and an identification of the owner of each item of the inventory not owned by the owner of the land.

(3) A recital of the amount of the offer and a statement that such amount:

(i) Is the full amount believed by the State agency to be just compensation for the property;

(ii) Is not less than the approved appraisal of the fair market value of the property;

(iii) Is based on the State agency's inspection of the property and its consideration of a stated number of appraisals of the property made independently by competent professional appraisers, or is based on the amount determined by HUD to be just compensation.

(iv) Disregards any decrease or increase in the fair market value caused by the project for which the property is to be acquired, or by the likelihood that the property would be acquired for such project, other than that due to physical deterioration within the reasonable control of the owner;

(v) Does not reflect any consideration of or allowance for any relocation assistance and payments which the owner is entitled to receive under Title II of the Act or for the State agency's agreement to pay certain settlement costs.

(e) If only a portion of the property of an owner is to be acquired, the Statement shall also set forth the basis for the determination of just compensation, i.e., the amount by which the fair market value of the property in its entirety belonging to the owner exceeds the fair market value of the remainder. The recognized definition of the term "fair market value" shall be set forth by the State agency in the Statement.

(f) If only a portion of the property is to be acquired, an additional statement must be provided the property owner, to be identified as being for information purposes only and not constituting the basis for the determination of just compensation, which shall allocate the total estimated just compensation for the partial taking to: (1) an amount representing estimated just compensation for the real property to be acquired, which compensation shall be the amount considered to be the fair market value of the part or interest to be acquired as part of the whole property, and (2) an amount representing any net damages or benefits to the remaining property.

(g) If there are separately held interests in the real property to be acquired, the Statement shall include an apportionment of the total just compensation for each such interest to be acquired.

(h) If any buildings, structures, fixtures, or other improvements, comprising part of the real property, have been identified as being the property of a tenant notwithstanding the right or obligation to remove them at the expiration of his term, the total just compensation for the real property, including the property of such tenant, shall be apportioned to the land owner and to the tenant so that the amount apportioned to the tenant's improvements to the real propery will be the greater of:

(1) The amount which the tenant's improvements contribute to the fair market value of the real property to be acquired; or

(2) The fair market value of the tenant's improvements for removal from the real property.

An explanation of such apportionment shall be included in the statement.

(i) If the State agency acquires any interest in real property, it shall acquire at least an equal interest in all buildings, structures, fixtures, or other improvements located thereon and which it requires to be removed from the real property or which it determines will be adversely affected by the use to which the real property will be put.

(j) Payment under this section shall not result in duplication of any payments otherwise authorized by law. No such payment shall be made unless the owner of the real property involved disclaims all interest in the improvements of the tenant and the tenant assigns, transfers, and releases to the State agency all his right, title, and interest in and to such improvements. Nothing in this section shall deprive the tenant of the right to reject payment thereunder and to obtain payment of just compensation for his property interest as otherwise provided for by applicable law.

(k) An owner, or his written designee, shall be afforded an opportunity to accompany each appraiser during the inspection of the property.

(l) If the acquisition of any part of the property would leave an owner with an uneconomic remnant, the State agency shall offer to acquire the entire property.

(m) Construction or development of a project shall be so scheduled that no person lawfully occupying real property shall be required to move from a dwelling (assuming a replacement dwelling as required by § 42.120(a) will be available) or to move his business or farm operation, without at least 90 days' written notice from the State agency of the date by which such move is required: *Provided,* That shorter notice may be given



V 38 I 187 SEP 27 73 XUM

where HUD determines that such 90-day notice is impracticable.

(n) If arrangements are made to rent the property to the owner, or his tenant, for a short term, or for a period subject to termination by the State agency on short notice, the rental shall not exceed the lesser of:

(1) The fair rental value of the property to a short-term occupier;

(2) The pro rata portion of the fair rental value for a typical rental period; or

(3) If the owner or his tenant is an occupant of the property as a dwelling, twenty-five (25) percent of his income.

(o) The State agency shall make every reasonable effort to discuss with the owner its offer to purchase his real property, including all relevant terms and conditions. The owner shall be given reasonable opportunity to present material which he believes to be relevant as to the question of value and to suggest modification in the proposed terms and conditions of the purchase, and the State agency shall carefully consider the owner's presentation.

(p) If the evidence presented by an owner or a material change in the character on condition of the property indicates the need for new appraisal evidence, or if a significant delay has occurred since the time of an appraisal, the Agency shall have the appraisal updated or obtain a new appraisal. If a modification in the Agency's determination of just compensation is warranted, an appropriate price adjustment shall be made and the new amount determined to be just compensation shall be promptly offered in writing to the owner.

(q) No owner shall be required to surrender possession of real property before the State agency pays the agreed purchase price, or deposits with the court in which the State agency has instituted a condemnation proceeding for such property, for the benefit of the owner, an amount not less than the fair market value of such property, determined in accordance with paragraph (c) of this section, or the amount of the award of compensation in the condemnation proceeding for such property.

(r) In no event shall the State agency either advance the time of condemnation or defer negotiations or condemnation and the deposit of funds in court for the use of the owner, or take any other action which is coercive or misleading in nature (including the offer of payments under the regulations in this part) in order to compel or induce an agreement on the price to be paid for the property.

(s) If any interest in real property is to be acquired by exercise of the power of eminent domain, the State agency shall institute formal condemnation proceedings. No State agency shall intentionally make it necessary for an owner to institute legal proceedings to prove the fact of the taking of his real property.

(t) In any case in which a notice is served by the State agency of its intention to acquire real property, initiation of negotiations shall occur within 90 days of the service of such notice of intention.

### § 42.136 Notice of land acquisition procedures.

(a) At the time the State agency notifies an owner of its intention to acquire the real property, it shall furnish him a written Notice of Land Acquisition Procedures, describing, in nontechnical terms, the State agency's acquisition procedures and the principal rights and options available to such owner.

(b) Such Notice shall include the following:

(1) A description of the basic objectives of the State agency's land acquisition program and a reference to the availability of the State agency's statement covering relocation benefits for which an owner-occupant may be eligible;

(2) A statement that the owner or his representative designated in writing shall be given the opportunity to accompany each appraiser during his inspection of the property;

(3) A statement that if the acquisition of any part of his real property would leave him with an uneconomic remnant, the agency will offer to acquire the entire property;

(4) A statement that if the owner is not satisfied with the State agency's offer of just compensation, he may refuse to accept it and that if he can provide evidence concerning value or damage that warrants a change in the State agency's determination of just compensation, the price will be adjusted accordingly, and that if a voluntary agreement cannot be reached, the State agency will institute a formal condemnation proceeding against the property, depositing in the court the full amount of the State agency's estimate of just compensation;

(5) A statement identifying settlement and related costs that will be paid by the State agency;

(6) A statement that construction or development of a project shall be so scheduled that no person lawfully occupying real property shall be required to move from a dwelling (assuming a replacement dwelling as required by § 42.120(a) will be available) or to move his business or farm operation, without at least 90 days' written notice from the State agency of the date by which such move is required: *Provided*, That shorter notice may be given where HUD determines that such 90-day notice is impracticable.

(7) A statement that if arrangements are made to rent the property to an owner or his tenant for a short term or for a period subject to temination by the Agency on short notice, the rental will not exceed the lesser of:

(i) The fair rental value of the property to a short-term occupier;

(ii) The prorata portion of the fair rental value for a typical rental period; or

(iii) If the owner or his tenant is an occupant of the property as a dwelling, twenty-five (25) percent of his income.

### § 42.137 Notice of State agency's determination not to acquire.

Whenever a State agency which has issued a written notice of its intent to acquire or a firm offer to acquire subsequently determines not to acquire said acquire or a firm offer to acquire said property, the State agency shall serve a written notice on the owner, all persons occupying the property and any other person potentially eligible for relocation payments and assistance. This notice shall state that the State agency has determined not to acquire the property and that any person moving from the premises thereafter will not be eligible for relocation payments and assistance. This notice shall be served no later than 10 days from the date of the State agency's determination not to acquire.

### § 42.140 Payments—expenses incidental to transfer of title.

(a) *General.* The State agency, as soon as practicable after the date of payment of the purchase price or the date of deposit in court of funds to satisfy the award of compensation in a condemnation proceeding to acquire real property, whichever is earlier, shall reimburse the owner, to the extent the State agency deems fair and reasonable, for expenses such owner necessarily incurred for:

(1) Recording fees, transfer taxes, and similar expenses incidental to conveying such real property to the State agency;

(2) Penalty costs for prepayment of any preexisting recorded mortgage entered into in good faith encumbering such real property; and

(3) The pro rata portion of real property taxes paid which are allocable to a period subsequent to the date of vesting of title in the State agency, or the effective date of possession of such real property by the State agency, whichever is earlier.

(b) *Documentation in support of a claim.* If real property is acquired by condemnation, a claim for payment under paragraph (a) of this section shall be submitted to the State agency and supported by such documentation as my be required by the State agency. If the real property is acquired by purchase, payment shall be made at settlemay be required by the State agency. If ment of the acquisition and accounted for in the settlement statement, on the basis of such documentation as may be required by the State agency.

(c) *Time for filing claims.* Each such claim shall be submitted to the State agency within a period of six months after the acquisition of the property, the publication of the regulations in this part, or the filing of assurances in accordance with § 42.30, whichever is later.

### § 42.145 Payments—litigation expenses.

(a) *General.* The State agency shall reimburse the owner of any real proprety for the owner's reasonable costs, disbursements, and expenses of litigation, including attorney, appraisal, and





engineering fees, actually incurred because of condemnation proceedings, if:

(1) In a condemnation proceeding instituted by the State agency to acquire such real property for a project, the final judgment of the court having jurisdiction over such proceeding is that the State agency cannot acquire the real property by condemnation; or

(2) Such proceeding is abandoned by the State agency other than pursuant to an agreed-upon settlement of the proposed acquisition of the property by direct purchase; or

(3) A court of competent jurisdiction renders a judgment in favor of the owner as plaintiff in an inverse condemnation proceeding or the State agency effects a settlement of such proceeding.

(b) *Limitations.* No payment under paragraph (a) of this section shall be made unless HUD is satisfied that the costs involved are reasonable and directly and necessarily related to such condemnation proceedings.

(c) *Documentation in support of a claim.* A claim for a payment under paragraph (a) of this section shall be submitted to the State agency and HUD.

(d) *Time for filing claims.* Each claim shall be submitted to the State agency within a period of six months after final judgment in accordance with paragraph (a)(1) or (3) of this section, or the abandonment of a condemnation proceeding by a State agency, whichever is applicable.

### § 42.150 Effect upon property acquisition.

(a) The provisions of this Subpart D create no rights or liabilities and shall not affect the validity of any property acquisitions by purchase or condemnation.

(b) Nothing in these regulations shall be construed as creating in any condemnation proceedings brought under the power of eminent domain any element of value or of damage not in existence immediately prior to January 2, 1971, the date of enactment of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

## Subpart E—Administration

### § 42.155 Purpose.

The purpose of this subpart is to set forth the provisions relating to the overall administration of the regulations in this part.

### § 42.160 Schedules of prices of comparable replacement dwellings.

In order to promote the uniform administration of relocation payments where several federally-assisted projects or programs are causing displacement in a single locality, or in cases in which a State agency otherwise determines that the use of a schedule is desirable, it may, with HUD concurrence, make use of schedules of representative price ranges of comparable replacement dwellings in the locality. Such schedules shall be used for determining the amount of replacement housing payments under §§ 42.90 (a)(1) and (c)(1) and 42.95 (a)(2) and (c)(2) and a separate schedule for determining the amount of payments under §§ 42.95 (a)(1) and (c)(1) of this Part. In all cases in which the State agency is required to do so, it shall submit its schedules for HUD approval. The schedules shall be consistent with the regulations in Subpart C of this Part; shall be kept current; shall, to the maximum extent possible, reflect the costs set forth in schedules used by other State agencies in the locality; and shall be available in written form to all persons in the office of the State agency. If there is an insufficient supply of comparable replacement housing meeting the definition of § 42.20(b), new, rehabilitated or more recently constructed housing, including publicly assisted housing, shall be used in developing the schedules.

### § 42.165 Notice to persons in project area.

The State agency shall furnish, at the earliest possible date, to all persons who own or occupy property within a project area (or the area of the federally-assisted activities) and who are anticipated to be displaced, a notice or information statement advising them of (a) the availability of payments under these regulations to eligible persons, (b) the office where the conditions under which such payments will be made are available for inspection, and (c) the earliest date on which such persons may move and still qualify as a displaced person. The State agency shall take reasonable steps to publicize this information in language(s) and in a fashion most likely to be understood by the persons to be affected, such as by using the local media, posters in public places and other forms of public communication, and (d) such other information as may be prescribed by HUD.

### § 42.166 Manner of Notice.

Any notice required by this Part shall be personally served or sent by certified or registered first-class mail (return receipt requested).

### § 42.170 Review of claims.

The State agency is initially responsible for determining the eligibility of a claim for, and the amount of, any payment under the regulations in this part and shall maintain in its files complete and proper documentation supporting the determination. The determination on each claim shall be made or approved either by the governing body of the agency or by the principal executive officer of the agency or his duly authorized designee.

### § 42.175 Prompt payment.

A payment shall be made by the State agency as promptly as possible after a person's eligibility has been determined in accordance with the regulations in this part.

### § 42.180 Agency setoff against claim.

The State agency may set off against the claim of an otherwise eligible person any financial claim the agency may have against the person arising out of the use of the real property, subject to the qualification set forth below. Before taking any setoff action, the State agency shall notify the displaced person of its intention to setoff the claim and shall advise the person that he may within 30 days file a statement denying or disputing the claim. If such statement is filed by the person, the State agency may tentatively set off the claim if it institutes within 30 days and diligently prosecutes a judicial action to obtain a judgment for the claim. Once the State agency obtains a judgment for the claim, the setoff will be deemed final. If judicial proceedings are instituted and the State agency is denied a judgment or if the State agency does not institute and prosecute proceedings as set forth above, the State agency shall pay the full amount of the relocation claim if otherwise eligible. The cost of removal of personal property shall not be considered as an offsetting charge against the claim of an otherwise eligible person.

### § 42.185 Accounts and records.

Accounts and records shall be subject to inspection or audit at all reasonable times by HUD. Records pertaining to eligibility for payments, including all claims, receipted bills, or other documentation in support of a claim, and records pertaining to action on a claim, shall be retained by the State agency for not less than 3 years after the completion of the project. Timely and complete reports shall be submitted in accordance with HUD requirements.

### § 42.190 Payments not to be considered as income.

No payment received under these regulations by a displaced person shall be considered as income for the purposes of the Internal Revenue Code of 1954; or for the purposes of determining the eligibility or the extent of eligibility of any person for assistance under the Social Security Act or any other Federal law.

### § 42.195 Displacement in connection with more than one project.

No person shall be entitled to more than one payment under each of §§ 42.65–42.95 and §§ 42.140 and 42.145 on account of a single displacement or a single acquisition, notwithstanding that the displacement or acquisition is in connection with more than one Federal or federally assisted project.

### § 42.200 Policies and requirements of HUD.

All determinations or other actions by the State agency provided for under the regulations in this part shall be undertaken in accordance with the policies and requirements of HUD as issued from time to time.

### § 42.205 Waivers.

A waiver of any section of these regulations not required by law, may be



V 38 187 SEP 27 73 XUM

authorized only with respect to a particular claim and by the Secretary of Housing and Urban Development or his authorized designee after such claim has been reviewed by HUD: *Provided*, That the limitations provided in § 42.60 with respect to the time of filing of claims may be waived by the State agency for good cause.

APPENDIX A.—*Example of computation of payment for increased interest cost under § 42.90(c)(2)*[3]

| | |
|---|---|
| Dwelling to be acquired: | |
| Acquisition price | $12,000.00 |
| Existing mortgage: | |
| Interest rate (percent) | 6 |
| Remaining term (years) | 10 |
| Remaining principal balance | $7,295.93 |
| Monthly principal and interest payment | $81.02 |
| Owner's equity | $4,704.07 |
| Available comparable decent, safe, and sanitary dwelling: | |
| Price | $15,000.00 |
| Prevailing interest rate (percent) | 8 |
| Supplemental payment for replacement housing cost differential | $3,000.00 |
| Payment for increased interest cost | $700.00 |
| Computation of payment for increased interest cost: | |
| Monthly principal and interest cost for new mortgage of $7,295.93 for 10 years at 8 percent interest | $88.57 |
| Monthly principal and interest cost for existing mortgage of $7,295.93—for 10 years at 6 percent interest | $81.02 |
| Monthly interest difference | $7.55 |
| Present worth of $7.55 monthly interest difference for 10 years, discounted at the assumed interest rate paid on savings deposits, at 5 percent | $700.00 |
| Increased interest cost payment due property owner | $700.00 |

[3] The example of computation of payment for increased interest cost set out above appears on p. 10 of H. Rept. No. 91-1656, 91st Cong., 2d sess. (Report of the Committee on Public Works, House of Representatives accompanying S. 1, the proposed Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970).

[FR Doc.73-20607 Filed 9-26-73;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### [ 33 CFR Part 117 ]

[CGD 73-214P]

### DRAWBRIDGES ACROSS NAVIGABLE WATERS IN LOUISIANA

### Notice of Proposed Rulemaking

The Coast Guard is considering amending the regulations for 31 highway drawbridges in Louisiana to allow closed periods from 9 p.m. to 5 a.m., however, the draws would open during this period if at least 12 hours notice is given. This is being considered because of limited openings during this period. All of these bridges are presently required to open on signal.

Interested persons may participate in this proposed rulemaking by submitting written data, views, or arguments to the Commander (oan), Eighth Coast Guard District, Customhouse, New Orleans, Louisiana, 70130. Each person submitting comments should include his name and address, identify the bridge, and give reasons for any recommended change in the proposal. Copies of all written communications received will be available for examination by interested persons to the office of the Commander, Eighth Coast Guard District.

The Commander, Eighth Coast Guard District, will forward any comments received before October 30, 1973, with his recommendations to the Chief, Office of Marine Environment and Systems, who will evaluate all communications received and take final action on this proposal. The proposed regulations may be changed in the light of comments received.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations, be amended by adding a new § 117.545 immediately after § 117.540 to read as follows:

**§ 117.545 Bridges in Louisiana where constant attendance is not required.**

(a) The following bridges shall open on signal from 5 a.m. to 9 p.m.

U.S. 90 drawbridge, West Penn River, mile 7.9.
S-433 drawbridge, Liberty Bayou, mile 2.0.
S-433 drawbridge, Bonfouca Bayou, mile 7.0.
S-22 drawbridge, Amite River, mile 6.0.
U.S. 90 drawbridge, Houma Canal, mile 1.7.
S-631 drawbridge, Des Allemands Bayou mile 13.9.
S-58 drawbridge, Little (Petit) Caillou Bayou, mile 25.7.
S-24 drawbridge, Little (Petit) Caillou Bayou, mile 33.7.
S-3087 drawbridge, Terrebonne Bayou, mile 33.9.
U.S. 90 drawbridge, Lafourche Bayou, mile 58.2.
S-829-18 drawbridge, Vermilion River, mile 22.4.
S-14 drawbridge, Vermilion River, mile 25.4.
S-14 drawbridge, Vermilion River, mile 26.0.
S-92 drawbridge, Vermilion River, mile 37.6.
S-733 drawbridge, Vermilion River, mile 41.6.
S 3073 drawbridge, Vermilion River, mile 44.9.
S-3069 drawbridge, Teche Bayou, mile 1.72.
S-322 drawbridge, Teche Bayou, mile 19.8.
S-323 drawbridge, Teche Bayou, mile 22.3.
S-324 drawbridge, Teche Bayou, mile 32.5.
S-670 drawbridge, Teche Bayou, mile 37.0.
S-671 drawbridge, Teche Bayou, mile 41.8.
S-320 drawbridge, Teche Bayou, mile 48.7.
S-344 drawbridge, Teche Bayou, mile 62.5.
S-86 drawbridge, Teche Bayou, mile 69.0.
S-96 drawbridge, Teche Bayou, mile 75.2.
S-350 drawbridge, Teche Bayou, mile 82.0.
S-330 drawbridge, Tigre Bayou, mile 2.3.
S-82 drawbridge, Superior Oil Co. Canal.
S-83 drawbridge, Patout Bayou, mile 0.4.

(b) From 9 p.m. to 5 a.m. the draws of the bridges listed in paragraph (a) shall open on signal if at least 12 hours notice is given, however, constant attendance is not required from 9 p.m. to 5 a.m.

(c) In all other respects, the regulations contained in § 117.240 of this part shall govern the operation of these bridges.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937 (33 U.S.C. 499, 49 U.S.C. 1655(g)(2)) 49(c)(5), 33 CFR.)

Dated September 19, 1973.

W. M. BENKERT,
*Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.*

[FR Doc.73-20584 Filed 9-26-73;8:45 am]

### [ 46 CFR Part 160 ]

[CGD 73-160P]

### INFLATABLE LIFERAFTS

### Notice of Proposed Rulemaking

The Coast Guard is considering amending the specifications for inflatable liferafts by outlining more explicitly the conditions under which they are tested to verify their inflation capability after exposure to various temperatures.

Interested persons may submit written data, views, or arguments concerning this notice to the Commandant (G-CMC/82), U.S. Coast Guard, Washington, D.C. 20590. Written comments should include the docket number of this notice (CGD 73-160), the name and address of the person submitting the comments, the section number of the proposal to which the comment is addressed, any specific wording recommended, and the reason for any recommended change.

Comments received on or before October 31, 1973, will be fully considered and evaluated before final action is taken on this proposal. Copies of all written communications received will be available for examination in Room 8234, Commandant (G-CMC/82), U.S. Coast Guard, Washington, D.C. both before and after the closing date for the receipt of comments. The proposal contained in this document may be changed in the light of the comments received. However, it is anticipated that the effective date of the final rule will be 1 July 1974.

For the past three years, the Coast Guard has been investigating the performance of marine liferafts at low temperatures. The investigation was initiated as part of a review of the in-service performance of liferafts and other lifesaving appliances. In anticipation of more service in cold regions together with consideration of proposals under study by the Intergovernmental Maritime Consultative Organization and several vessel operators and designers to fit only liferafts on vessels as primary lifesaving appliances, performance of the rafts at low temperatures was simulated in laboratory climatic chambers. These tests also were used to measure performance against the results of SOLAS 1960 for inflation at −22°F.

The first series of tests conducted by the Coast Guard in December 1970 offerred the following conclusions:





1. The effect of low temperature on the inflation of a $CO_2$ raft begins at a level between 15°F and 0°F.

2. The rafts presently approved will have to be altered if they are to fully comply with the intent of SOLAS 1960 or be used in polar regions.

A second series of tests conducted by the Coast Guard in March 1973 supplemented the above as follows:

1. For the rafts tested, the present inflation cylinder gas quantities and ratios are inadequate to achieve a satisfactory inflation at −22°F.

2. It is technically and economically feasible to achieve raft design shape in a period of 3 minutes by modifying existing installed raft cylinders.

3. The present accepted 24-hour period for the low temperature exposure of a raft is not sufficient in all cases. Either this period should be extended or thermocouples employed to achieve at the interior of a raft the −22°F temperature required in the SOLAS convention.

In view of the intended usage of liferafts and the results of the tests conducted by the U.S. Coast Guard, it is proposed to amend Subchapter Q, specifications, of Title 46, Code of Federal Regulations as follows:

1. Section 160.051-5(c)(4) is amended by revising the sixth sentence which follows the sentence ending with the words "required to be fully erect" and § 160.051-5 is amended by revising subparagraph (e)(11) to read as follows:

**§ 160.051-5 Inspections and tests.**

* * * * * * *

(c) * * *

(4) *Inflation Test.* * * * required to be fully erect. The specimen shall reach its designed working pressure with the canopy fully erect in not more than 1 minute 30 seconds after the first carbon dioxide inflation valve is operated, * * *

* * * * * * *

(e) * * *

(11) *Temperature Exposure.* (i) *General.* The packed raft must be exposed in a test chamber to a temperature of −22° F, inflated and then repacked and exposed to a temperature of 150° F and inflated.

(ii) *Procedure.* (*a*) Thermocouples or similar instrumentation must be located at the inflation cylinders and at the center of the packed raft. (*b*) The packed raft must remain exposed in the chamber until the test temperature has been reached. (*c*) Inflation must take place in the test chamber. However, for elevated temperature test, raft may be removed from chamber if inflation begins within one minute of its removal.

(iii) *Results.* (*a*) The raft must achieve design shape with its canopy erect within three minutes after exposure to the low temperature. (*b*) The raft fabric may not show signs of cracking, tackiness, or slipping seams and must be in all respects ready for use after exposure to the elevated temperature.

* * * * * * *

(46 U.S.C. 375, 416, 49 U.S.C. 1655(b)); 49 CFR 1.4(b) and 1.46(b).)

D. H. CLIFTON,
*Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.*

SEPTEMBER 21, 1973.

[FR Doc.73-20585 Filed 9-26-73;8:45 am]

## Federal Aviation Administration

### [ 14 CFR Parts 25, 121 ]

[Docket No. 10460; Reference Notice 72-7]

### PILOT COMPARTMENT SECURITY: LARGE TURBOJET POWERED PASSENGER-CARRYING AIRPLANES

### Withdrawal of Notice of Proposed Rule Making

The purpose of this notice is to withdraw Notice 72-7, published in the FEDERAL REGISTER on March 17, 1972 (37 FR 5638), in which the FAA solicited comments on proposed amendments of Parts 25 and 121 of the Federal Aviation Regulations that would prescribe requirements to improve the security of the pilot compartment on all large turbojet powered passenger-carrying airplanes operated under Part 121. The FAA received nine comments favoring adoption of the proposed regulations and 20 comments in opposition to the proposal.

A number of the commentators supporting the proposals did so simply for the reason that they believe anything should be done that might possibly stop hijacking. Several airline captains indicated that they would like the added protection offered by the proposed regulations.

The Air Line Pilots Association (ALPA) stated that the proposals, with minor changes, would completely satisfy its requirements. The ALPA contended that, if the crew were able to communicate with a hijacker from a secure position, it might be able to dissuade him from completing the crime, but if it were unable to do so, it could comply with the hijacker's transportation demands more safely without him in the cockpit. It also expressed the view that the bulletproofing of the crew compartment would offer protection from the possibility of gunfire in the passenger cabin.

In general, the comments in opposition to the proposals asserted that the proposed changes in the crew compartment would not have prevented past aircraft hijackings, and, therefore, will not prevent or deter hijacking in the future. Most of these commentators were of the opinion that the only way to prevent aircraft hijacking is to keep the hijacker and his weapon off the airplane.

The Air Transport Association (ATA) in its comment asserted that the proposed requirements would not result in any improvement in inflight security, since hostages could continue to be used to gain entry to the crew compartment. The ATA expressed the view that any slight miscalculation on the part of the flight crew in attempting negotiation from a secured position could trigger violence; and that the risk of a hijacker firing into an unsecured crew compartment is minimal, since the hijacker needs the pilots to fly him to his destination. In the opinion of the ATA and other commentators, the proposed improvements in the physical security of the crew compartment would lead to more extensive use of explosives to threaten the crew. The ATA also believes that it would naturally tend to discourage desirable face-to-face negotiation between the flight crew and the hijacker.

A physician who commented on the proposed requirements expressed the view of several commentators that setting up obstacles in the path of a mentally incompetent individual, who is obsessed with a need to commit an act such as hijacking, may only make him modify his approach and increase his desperation, and that turning the crew compartment into a fortress may only serve as a challenge to certain mentally unbalanced individuals.

In light of the comments received and considering the various hijacking schemes used to date, it does not appear that a bulletproof crew compartment would make it possible to force a hijacker to remain in the passenger compartment while he is negotiating with the flight crew. Furthermore, the FAA believes that the possibility of injury or death to a hostage will cause most flight crewmembers to admit the hijacker to the crew compartment.

The FAA agrees with those commentators who believe that the greatest effort should be concentrated on apprehending any person intent on interfering with the operation of an airplane before he boards that airplane. Since the issuance of Notice 72-7, the FAA has amended the security programs of all Part 121 certificate holders subject to § 121.538 to provide that no such certificate holder may permit any passenger to board its aircraft unless all carry-on baggage items are inspected to detect weapons, explosives, or other dangerous objects, and each passenger is cleared by a detection device without indication of unaccounted-for metal on his person, or, in the absence of a detector, each passenger has submitted to a consent search prior to boarding. In addition, the FAA has amended Part 107 of the Federal Aviation Regulations to require that each airport operator subject to Part 107 amend its master security plan to provide for the presence of at least one law enforcement officer at the point of, and prior to and throughout, the final passenger screening process prior to boarding, for each flight conducted by a certificate holder required to have a security program under § 121.538 and by each foreign carrier that requests such law enforcement support.

By reason of the foregoing, the FAA has determined that further rule-making action on the proposed amendments is not appropriate at the present time, and that Notice 72-7 should be withdrawn. The withdrawal of this notice, however,



V 38-187 SEP 27 73 XUM

does not preclude the FAA from issuing similar notices in the future or commit the FAA to any course of action.

In consideration of the foregoing, the notice of proposed rulemaking published in the FEDERAL REGISTER on March 17, 1972 (37 FR 5638) and circulated as Notice 72-7, entitled "Pilot Compartment Security: Large Turbojet Powered Passenger-Carrying Airplanes" is hereby withdrawn.

(Sections 313(a), 601, 603, 604, and 605 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, 1423, 1424, and 1425,) sec. 6(c). Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on September 13, 1973.

JAMES F. RANDOLPH,
*Director,*
*Flight Standards Service.*

[FR Doc.73-20596 Filed 9-26-73;8:45 am]

## [ 14 CFR Part 71 ]

[Airspace Docket No. 73-AL-10]

## SITKA, ALASKA CONTROL ZONE AND TRANSITION AREA

### Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter the Sitka, Alaska, Control Zone and Transition Area to comply with U.S. Standard for Terminal Instrument Procedures (TERPs) and revised criteria for establishment of terminal controlled airspace.

The proposed alteration would increase the length of the control zone northwest extension from 10 miles to 14 miles and the width from two miles to 2.5 miles each side of the localizer northwest course. The 700-foot transition area northwest extension would be redefined as within 2.5 miles each side of the localizer northwest course, extending from 14 miles to 22 miles northwest of the localizer. Additionally redefined coordinates of the Airport Reference Point (ARP) and minor editorial changes are contained in this docket.

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Alaskan Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 632 Sixth Avenue, Anchorage, Alaska 99501. All communications received on or before October 29, 1973, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue, SW, Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the ICAO International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertain to the establishment of air navigation facilities and services necessary to promoting the safe, orderly and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting State, derived from ICAO, wherein air traffic services are provided and also whenever a contracting State accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting State accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting State, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

In consideration of the foregoing, it is proposed that Part 71 of the Federal Aviation Regulations be amended as hereinafter set forth:

1. In § 71.171 (38 FR 351) the Sitka, Alaska, Control Zone would be amended to read as follows:

SITKA, ALASKA

Within a 5-mile radius of the Sitka Airport (Lat. 57°02'55" N., Long. 135°21'45" W.); within 2 miles each side of the Biorka Island VORTAC 029°T (001°M) and 209°T (181°M) radials, extending from the 5-mile radius zone to 2 miles southwest of the VORTAC; within 2 miles each side of the Sitka RBN 027°T (359°M) and 207°T (179°M) bearings, extending from the 5-mile radius zone to 2 miles southwest of the RBN; and within 2.5 miles each side of the localizer northwest course, extending from the 5-mile radius zone to 14 miles northwest of the localizer.

2. In § 71.181 (38 FR 435) the Sitka, Alaska, 700-foot transition area would be amended to read as follows:

SITKA, ALASKA

That airspace extending upward from 700 feet above the surface within 3 miles northwest and 2 miles southeast of the Sitka RBN 207°T (179°M) bearing, extending from the RBN to 8 miles southwest of the RBN; within 2 miles each side of the Biorka Island VORTAC 148°T (120°M) radial, extending from the VORTAC to 8 miles southeast of the VORTAC; within 2 miles each side of the Sitka RBN 147°T (119°M) bearing, extending from the RBN to 8 miles southeast of the RBN; and within 2.5 miles each side of the localizer northwest course, extending from 14 miles northwest to 22 miles northwest of the localizer.

The 1,200-foot portion of the transition area would remain unchanged.

(Sec. 307(a), 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1510), Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on September 19, 1973.

CHARLES H. NEWPOL,
*Acting Chief, Airspace and Air Traffic Rules Division.*

[FR Doc.73-20597 Filed 9-26-73;8:45 am]

## National Highway Traffic Safety Administration

## [ 49 CFR Part 571 ]

[Docket No. 1-18; Notice 10]

## CONTROLS AND DISPLAYS

### Motor Vehicle Safety Standards

This notice proposes an amendment of Motor Vehicle Safety Standard No. 101 that would add certain foot-operated controls to those presently required to be operable by a restrained driver, and requirements for location, identification, and illumination of certain motor vehicle displays. The proposed effective date is September 1, 1975.

Properly located, effectively identified, and correctly illuminated controls and displays can reduce the amount of time a driver must divert his attention from the road, and increase his effectiveness as a safe vehicle operator. Standard No. 101 currently requires a number of hand-operated controls, if provided, to be operable by a driver restrained by belts provided in accordance with Standard No. 208. The NHTSA has tentatively decided that foot-operated controls should be added to this location requirement. They are: service brake, accelerator, clutch pedal, high beam switch, and windshield washer control.

Certain displays, if provided, should also be observable by a restrained driver, and not obscured by the steering wheel. They are: speedometer, odometer, turn signal indicator, gear position indicator, brake failure warning indicator, coolant temperature indicator, oil pressure indicator, high beam indicator, and electrical charge indicator. All these displays (except the turn signal indicator and high beam indicator, whose function is evident) should be identified in a consistent, simple manner, and the notice proposes such identification.

Displays should also be illuminated, and the NHTSA is proposing green for inside-mounted turn signal indicators and blue for high beam indicators. If lights are used instead of gauges, the color red would be used for any light indicating a hazard requiring immediate corrective action, such as a brake failure warning. The color yellow would be used for any light indicating a possible need for future corrective action, such as the initial warning of a low fuel level, if an early warning feature is incorporated in the system. Finally, green would be used for any light indicating information unrelated to any need for corrective action, such as the gear position indicator. If illumination of controls and displays not listed in the standard is provided, it should be variable in intensity in the same manner as that required by the standard.

The permissible symbols for headlamps and taillamps, and windshield wiping system would be modified slightly, to conform to those adopted by the International Standards Organization. Two new ISO symbols would also be adopted, those for a combination wipe-wash system and for the heating and air conditioning system fan control.

The proposed standard also incorporates interpretations previously published in a preamble to amendments, relating to appearance of identification to the driver, and color coding of heating and air conditioning controls (36 FR 8296).

In consideration of the foregoing, it is proposed that 49 CFR 571.101, Motor Vehicle Safety Standard No. 101 be amended as set forth below.

Interested persons are invited to submit written data, views, and arguments on this proposal. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5221, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that 10 copies be submitted. All comments received on or before the closing date indicated below will be considered and will be available in room 5221 for examination both before and after the closing date. To the extent possible comments filed after the closing date will be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The National Highway Traffic Safety Administration will continue to file relevant material, as it becomes available, in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new materials.

Comment closing date: November 26, 1973.

Proposed effective date: September 1, 1975.

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718, (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 501.8 and 1.51.)

Issued on September 20, 1973.

ROBERT L. CARTER,
*Associate Administrator,*
*Motor Vehicle Programs.*

### § 571.101 Standard No. 101: controls and displays. (Effective September 1, 1974).

S1. *Scope.* This standard specifies requirements for the location, identification, and illumination of motor vehicle controls and displays.

S2. *Purpose.* The purpose of this standard is to insure the accessibility of motor vehicle controls and displays and to facilitate their selection under daylight and nighttime conditions, in order to reduce the safety hazards caused by the diversion of the driver's attention from the driving task.

S3. *Application.* This standard applies to passenger cars, multipurpose passenger vehicles, trucks, and buses.

S4. *Requirements.* Each passenger car, multipurpose passenger vehicle, truck, and bus manufactured with any control listed in S4.1 or Column 1 of Table 1, or any display listed in S4.1 or Column 1 of Table 2, shall meet the requirements of this standard for the location, identification, and illumination of such control or display.

S4.1 *Location of controls and displays.* Each of the following hand-operated and foot-operated controls shall be operable, and each of the following displays shall be visible, under the conditions of S5, by the driver:

HAND-OPERATED CONTROLS

(a) Steering wheel.
(b) Horn control.
(c) Transmission shift lever, except transfer case.
(d) Ignition switch.
(e) Headlamp switch.
(f) Turn signal control.
(g) Illumination intensity control.
(h) Windshield wiper control.
(i) Windshield washer control.
(j) Manual choke.
(k) Driver's sun visor.

FOOT-OPERATED CONTROLS

(a) Service brake.
(b) Accelerator.
(c) Clutch pedal.
(d) High beam switch.
(e) Windshield washer control.

DISPLAYS

(a) Speedometer.
(b) Odometer.
(c) Turn signal indicator.
(d) Gear position indicator.
(e) Brake failure warning indicator.
(f) Fuel level indicator.
(g) Coolant temperature indicator.
(h) Oil pressure indicator.
(i) High beam indicator.
(j) Electrical charge indicator.

S4.2 *Identification of controls and displays.*

S4.2.1 If any control listed in Column 1 of Table 1 is hand-operated, the control shall be identified as a minimum by the word or abbreviation specified in Column 2. A control may, in addition, be identified by a symbol, but only a symbol shown in Column 3 shall be used. However, if the word "None" appears in Column 3, no symbol shall be provided. Identification shall be placed on or adjacent to the control, visible to the driver and shall appear to the driver in a perceptually upright position.

S4.2.2 Identification shall be provided for each function of any automatic vehicle speed system control and any heating and air conditioning system control, and for the extreme positions of any such control that regulates a function over a quantitative range. Color coding may be used as an aid to identification, e.g., red for hot, blue for cold.

*Example 1.* A slide level controls the temperature of the air in the vehicle heating system over a continuous range, from no heat to maximum heat. Since the control regulates a single function over a quantitative range, only the extreme positions require identification.

*Example 2.* A switch has three positions, for heat, defrost, and air conditioning. Since each position regulates a different function, each position must be identified.

S4.2.3 Any display listed in Column 1 of Table 2 shall be identified, as a minimum, by the word or abbreviation specified in Column 2. However, if the word "None" appears in Column 2, no word or abbreviation shall be provided. Identification shall be placed on or adjacent to the display, visible to the driver and shall appear perceptually upright.

S4.3 *Illumination of controls and displays.*

S4.3.1 Except for foot-operated controls or hand-operated controls mounted upon the floor, the steering column, or in the windshield header area, the identification of any control listed in Column 1 of Table 1, and accompanied by the word "Yes" in the corresponding space in Column 4, and any display listed in Column 1 of Table 2 shall be illuminated whenever the headlamps are activiated. The illumination color shall be green for an inside-mounted turn signal indicator, and blue for the high beam indicator. Control and display identification need not be illuminated when the headlamps are being flashed. Control identification for a heating and air-conditioning system need not be illuminated if the system does not direct air directly upon the windshield.

S4.3.2 If a light is provided instead of a gauge to indicate whether a vehicle system is functioning or malfunctioning, the color red shall be used for any light indicating a hazard requiring immediate corrective action, the color yellow for any light indicating a possible need for future corrective action, and the color green for any light, other than a high beam indicator, indicating information unrelated to any need for corrective action.

S4.3.3 A control shall be provided to adjust the intensity of control and display illumination continuously variable from a position at which either there is









V 38 I 187 SEP 27 73 XUM

no light emitted or the light emitted is barely discernible to a driver who has adapted to dark ambient roadway conditions, to a position providing illumination sufficient for the driver to identify the control or display readily under all daytime and nighttime conditions. If illumination of controls and displays not listed in paragraph S4.1 is provided, its intensity shall be variable in a manner that complies with this paragraph. The light intensity of the turn signal indicator, high beam indicator, and warning or caution lights shall not be variable.

S5. *Conditions.*

S5.1 Except as provided in S5.2, the driver is restrained by a nonextending Type 1 seat belt assembly fastened so that there is no slack between the belt and the pelvis.

S5.2 The driver of a passenger car (except for a convertible passenger car), or of any multipurpose passenger vehicle, truck, or bus required by Motor Vehicle Safety Standard No. 208 to have a Type 2 seat belt assembly installed at the driver's seating position, is restrained by a nonextending Type 2 seat belt assembly fastened so that the upper torso restraint can be moved 4 inches away from the sternum and there is no slack between the lap belt and the pelvis.

TABLE 1.—*Identification and illumination of hand operated controls*

| Column 1 | Column 2 | Column 3 | Column 4 |
|---|---|---|---|
| Motor vehicle equipment control | Word or abbreviation | Permissible symbol. | Illumination. |
| Engine start | Engine start [1] | None | |
| Engine stop | Engine stop [1] | None | Yes.[1] |
| Manual choke | Choke | None | |
| Hand throttle | Throttle | None | |
| Automatic vehicle speed control | (Mfr. option) | None | Yes. |
| Headlamps and taillamps | Lights [2] |  [4] | |
| Vehicular hazard warning signal | Hazard |  [4] | Yes. |
| Clearance lamps | Clearance lamps [3] or CL LPS |  | Yes. |
| Identification lamps | Identification lamps or ID LPS | None | Yes. |
| Windshield wiping system | Wiper or wipe |  | Yes. |
| Windshield washing system | Washer or Wash |  | Yes. |
| Windshield washing and wiping combined | Wash-Wipe |  | Yes. |
| Windshield defrosting and defogging system | Defrost or DEF | None | Yes. |
| Heating and air conditioning system | (Mfr. option) | None | Yes. |
| Heating and/or air conditioning fan | Fan |  | Yes. |

[1] Use when engine control is separate from the key locking system.
[2] Use also when clearance, identification, parking and/or side marker lamps are controlled with the headlamp switch.
[3] Use also when clearance lamps, identification lamps and/or side marker lamps are controlled with one switch other than the headlamp switch.
[4] Framed areas may be filled.

TABLE 2.—*Display identification*

| *Column 1.—Motor vehicle display* | *Column 2.—Word or abbreviation* |
|---|---|
| Speedometer | MPH. |
| Odometer | Miles. |
| Turn signal indicator | (None). |
| Automatic gear position indicator | PRND (+ numerals to indicate additional forward gear points, e.g. 2, 1). |
| Brake failure warning light | Brake. |
| Fuel level indicator | Fuel. |
| Coolant temperature indicator | Temp. |
| Oil pressure indicator | Oil. |
| High beam indicator | (None). |
| Electrical charge indicator | Amp. |

[FR Doc.73-20476 Filed 9-26-73;8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

[ 47 CFR Part 97 ]

[Docket No. 19759]

### CITIZENS RADIO SERVICE

**Proposed Creation of New Class and Reallocation of Frequencies; Extension of Time for Filing Comments**

In the matter of the creation of a new class of Citizens Radio Service and the reallocation of frequencies between 224 MHz and 225 MHz in the band 220–225 MHz now allocated for shared use by stations in the Amateur Radio Service and Government Radiolocation Stations for that purpose, Docket No. 19759, RM-1633, RM-1656, RM-1747, RM-1761, RM-1793, RM-1841.[1]

1. The Acting Chief, Safety and Special Radio Services Bureau on his own motion has under consideration a 30 day extension of the time in which to file comments and reply comments in Docket 19759.

2. The Commission on September 19, 1973, denied the American Radio Relay Leagues (ARRL) application for review filed in response to our denial of their petition for an extension of time in which to file comments. While we still find that a five month extension is unreasonable, we believe that a 30 day extension has become appropriate for the convenience of the parties who may wish to file comments. We note in this regard the inordinate delay in the release of the Order denying the EIA petition for an extension of time. Further, we note in regard to reply comments, that renovation of the Commission's public reference room potentially may create some difficulties for interested parties desiring to obtain and study the comments filed in this Docket. The date set for reply comments herein should alleviate any possible problem if interested parties promptly begin to examine the comments already on file in this Docket. Accordingly, we are ordering a 30 day extension for the filing of both original and reply comments.

3. *It is therefore ordered*, Pursuant to § 0.331(b)(4) of the Commission's rules, that the time for filing comments and reply comments in the above captioned proceeding is extended to October 19, 1973, and to November 23, 1973, respectively.

Adopted: September 19, 1973.

Released: September 20, 1973.

[SEAL] CHARLES A. HIGGINBOTHAM,
*Acting Chief, Safety and Special Radio Services Bureau.*

[FR Doc.73-20646 Filed 9-26-73;8:45 am]

[1] Published at 38 FR 15854, June 18, 1973.





## FEDERAL MARITIME COMMISSION

[ 46 CFR Ch. IV ]

### INTERMODAL CONTAINER TRANSPORT SERVICES

**Notice of Petition for Rulemaking**

On September 12, 1973, American Mail Line Ltd. and American President Lines, Ltd. petitioned the Commission for institution of a proposed rulemaking proceeding "in respect of intermodal service and tariffs." The petition was served on a large number of counsel for varying interested parties.

The Commission has determined to receive replies to the petition. Accordingly, replies may be filed on or before October 8, 1973.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.73-20669 Filed 9-26-73;8:45 am]

## SECURITIES AND EXCHANGE COMMISSION

[ 17 CFR Part 240 ]

[Release No. 34-10397; File No. S7-473]

### EXCHANGE TRANSACTIONS IN OPTIONS

**Request for Comments on the Chicago Board Options Exchange, Inc. Plan**

The Securities and Exchange Commission announced today the republication for comment of proposed Rule 9b-1 (17 CFR 240.9b-1) under the Securities Exchange Act of 1934 (the Act). As revised, the proposed rule would prohibit exchange transactions in puts, calls, straddles, and other options or privileges of buying or selling a security except in accordance with a plan established by the exchange that the Commission had declared to be effective as being necessary or appropriate in the public interest or for the protection of investors.

Proposed Rule 9b-1 (17 CFR 240.9b-1), in its original form, was released for public comment on January 9, 1973.[1] In view of the comments received by the Commission, the rule has been revised, primarily for purposes of simplicity and clarity. Following is a description of the revised proposal.

Rule 9b-1 (17 CFR 240.9b-1) would make it unlawful for an exchange to effect any transactions in options or to permit its facilities to be used to effect such transactions except in accordance with a plan regulating option trading declared effective by the Commission after consideration of such a plan in light of the statutory standards: The public interest and the protection of investors. The proposed rule also provides that the Commission, in order to implement these statutory standards, may require the exchanges to make changes in their plans. Pursuant to the rule, exchanges proposing to use their facilities for trading options would be required to file with the Commission copies of any amendments to the plan. The Commission would review and, if appropriate, disapprove such amendments prior to their becoming effective. In each of these situations—original approval of the plan and modification at the initiation of either the exchange or the Commission—interested persons, in accordance with the explicit rulemaking procedures of the Administrative Procedure Act, as codified, 5 U.S.C. 553, would be given notice of the proposal and have an opportunity to submit written data, views or arguments. Plans filed by exchanges pursuant to Rule 9b-1 would be required to include all rules, regulations, by-laws and other requirements of the exchange that relate solely or significantly to transactions in options, and would have to contain specific provisions relating to:

(1) The effectuation of transactions in options on the exchange by members thereof for their own account and the accounts of customers;

(2) The clearance and settlement of transactions in options;

(3) The endorsement and guarantee of performance of options;

(4) The reporting of transactions in options; and

(5) The listing and delisting of and the admission to and removal of trading privileges on the exchange for options.

As orignally proposed, Rule 9b-1 would have regulated the rules of an exchange relating to options indirectly by making it unlawful for members to trade on the exchange if the exchange had failed to comply with the provisions of the Rule. Rule 9b-1 as now proposed, would be applicable to exchanges, which would have to comply with specific requirements of the rule, as well as to the exchange's members. Rule 9b-1, as originally proposed, did not distinguish between exchange provisions of general applicability and provisions relating particularly to option trading. Rule 9b-1 as now proposed, would limit the scope of the plan exchanges must file with the Commission and have declared effective to those provisions of exchange rules that relate solely or significantly to transactions in options and lists various specific categories of exchange provisions to be included in a plan.

By proposing revised Rule 9b-1, the Commission does not wish to imply that it has made any definitive determination with respect to option trading on exchanges or that the rule, if adopted, will ultimately be found to be necessarily the best way to promote the public interest or to assure the protection of investors in connection with trading of options on exchanges. Nor has the Commission made any final decision with respect to the trading of options simultaneously on more than one exchange or on exchanges that also trade other forms of securities. The operation of the Chicago Board Options Exchange (CBOE) is presently on a pilot basis [2] and further evaluation will be required before these and other policy questions can be decided more definitively.

The Commission considers that the constitution and rules of the CBOE and its clearing corporation would constitute the CBOE's plan pursuant to Rule 9b-1, if adopted. In connection with the registration of the CBOE as a national securities exchange the Commission sought and obtained public comment on substantially the same constitution and rules as are now in effect and gave careful consideration to those comments before concluding that the rules of the exchange are just and adequate to insure fair dealing and to protect investors under section 6(d) of the Act, 15 U.S.C. 78f(d).[3] And the amendments adopted since that time have also been given close scrutiny. Accordingly, the Commission expects to be able to determine that the constitution and rules of the CBOE are necessary or appropriate in the public interest or for the protection of investors, as required by proposed Rule 9b-1 if adopted. If the Commission were to adopt Rule 9b-1, it would hope to be able to declare CBOE's plan effective simultaneously with the effectiveness of the rule, so as not to interrupt the operation of CBOE's experimental project. Interested persons are invited to submit their views and comments on whether this determination should be made.

*Statutory basis.* The Securities and Exchange Commission acting pursuant to the provisions of the Securities Exchange Act of 1934, and particularly sections 9(b), 9(c), and 23(a) thereof, and deeming it necessary and appropriate in the public interest and for the protection of investors proposes hereby to amend Part 240 of Chapter II of Title 17 of the Code of Federal Regulations by adopting § 240.9b-1 as set forth below.

**§ 240.9b-1 Prohibition of exchange transactions in options except pursuant to an effective plan.**

(a) It shall be unlawful for a national securities exchange, or for any member

[1] *See* Commission Rel. No. 34-9930 (January 9, 1973) and FEDERAL REGISTER for January 17, 1973, at 38 FR 1646, entitled "Proposal to Adopt Rule 9b-1 Specifying Special Procedures in Connection With Exchange Rules Concerning Acts or Transactions in Options," which also includes a description of the background leading to the proposal of Rule 9b-1.

[2] *In the Matter of the Application of the Chicago Board Options Exchange, Inc. for Registration as a National Securities Exchange*, Securities Exchange Act Release No. 34-9985 (February 1, 1973).

[3] *Ibid.*



V 38-187 SEP 27 73 XUM

thereof, to effect any transaction in an option, or to permit any transaction in an option to be effected, by the use of the facilities of the exchange, except in accordance with a plan regulating transactions in options on the exchange that is declared effective by the Commission pursuant to this rule.

(1) Before an exchange or a member may effect any transaction in options or permit any transaction in options to be effected by use of the facilities of the exchange, the exchange shall propose and file with the Commission a plan regulating transactions in options on the exchange. After appropriate notice and opportunity for interested persons to submit written data, views or arguments, the Commission shall declare the plan effective if it finds the plan to be necessary or appropriate in the public interest or for the protection of investors.

(2) The Commission shall give prompt notice of any proposal filed by an exchange to alter, amend, supplement, or rescind a plan in effect pursuant to paragraph (a)(1) of this section, and the proposed change shall become effective upon the 30th day after notice has been given by the Commission, or upon such earlier date as the Commission may allow, unless the Commission shall disapprove the change in whole or in part as being inconsistent with the public interest or the protection of investors. Interested persons may submit to the Commission written data, views or arguments with respect to any proposed change either before or after it has become effective.

(3) After appropriate notice and opportunity for submission by interested persons of written data, views or arguments, the Commission may require that an exchange alter, amend, supplement, or rescind its plan in the manner and to the extent that the Commission finds to be necessary or appropriate in the public interest or for the protection of investors.

(4) The Commission may take action under any provision of this paragraph (a) without notice and opportunity for interested persons to submit written data, views or arguments when the Commission, for good cause, finds that notice and public procedure thereon are impractical, unnecessary or contrary to the public interest; but in any such case, the Commission shall incorporate its finds and a brief statement of reasons therefor in a public announcement of the action taken.

(b) Plans filed pursuant to this rule contain those provisions of the regulations, rules, by-laws, constitutional provisions and other requirements of the exchange that relate solely or significantly to transactions in options on the exchange, and shall include provisions relating to:

(1) Effecting transactions in options on the exchange by members thereof for their own account and the accounts of customers;

(2) The clearance or settlement of transactions in options;

(3) The endorsement and guarantee of performance of options;

(4) The reporting of transactions in options; and

(5) The listing and delisting of, and the admission to and removal of trading privileges on the exchange for options.

(c) For purposes of this rule, the term "option" shall include any put or call, straddle or other option or privilege of buying or selling a security without being bound to do so, but shall not include any registered warrant, right or convertible security.

(d) An exchange shall file with the Commission three copies of any plan or any alternation, amendment, supplementation, or rescission of any plan submitted to the Commission pursuant to this rule, and may incorporate by reference material filed with the Commission.

All interested persons are invited to submit their views and comments on the proposed rule and CBOE's plan. Written statements of views and comments should be addressed to Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, on or before October 19, 1973. Reference should be made to file number S7-473. All such comments will be available for public inspection.

(Secs. 9(b), 9(c), 23(a); 48 Stat. 889, 901; as amended 49 Stat. 1379, (15 U.S.C. 78i(b), 78i(c), 78w(a)))

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

SEPTEMBER 21, 1973.

[FR Doc.73-20547 Filed 9-26-73;8:45 am]

## VETERANS ADMINISTRATION

### [ 38 CFR Part 21 ]

### INDEPENDENT STUDY PROGRAM

### Payments

It is proposed to amend Part 21 to set forth provisions for payments to veterans and eligible persons who are enrolled in independent study programs leading to a standard college degree which may include an external degree awarded by an accredited college or university.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (27H), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420. All relevant material received before October 26, 1973, will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays), during the mentioned 30-day period and for 10 days thereafter. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Assistance Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Notice is also given that it is proposed to make any regulations that are adopted effective the date of final approval.

1. In § 21.201, paragraph (j) is added to read as follows:

**§ 21.201 Types of courses.**

* * * * *

(j) *Independent study course leading to a degree.* A course pursued by independent study under the following conditions:

(1) The course is offered by an accredited college or university.

(2) The course leads to or is fully creditable toward a standard college degree which may include external degree programs given by accredited colleges and universities.

(3) The college or university evaluates the course in semester or quarter hours, or the equivalent, and prescribes a period for completion.

(4) Subsistence allowance is payable at the institutional rates prescribed in § 21.133. (If independent study subjects and subjects requiring class attendance are pursued concurrently and both are measured on a credit hour basis, the allowable rate shall be determined on the basis of the combined training load.)

2. In § 21.226(a), subparagraph (1) is amended to read as follows:

**§ 21.226 Training while a patient in a Veterans Administration hospital.**

(a) Subject to the provisions of other applicable Veterans Administration regulations, an eligible veteran may be entered or reentered into training prior to release from a Veterans Administration hospital when all the following conditions are met:

(1) The Veterans Administration hospital has determined that the proposed training will not materially interfere with the veteran's regime of medical treatment nor delay hospital discharge and that the disabled veteran will be able to spend a significant part of the day away from the hospital at the proposed training facility or in a program of independent study.

* * * * *

3. In § 21.261(b), subparagraph (4) is added to read as follows:

**§ 21.261 Ordinary leave.**

* * * * *

(b) *Charging of ordinary leave.* * * *

(4) For veterans in programs of independent study which are not on a semester or quarter basis, leave between designated periods of study may be authorized and will be charged on same basis as leave between terms.

4. In § 21.4131, paragraph (b) is amended to read as follows:

**§ 21.4131 Commencing dates.**

* * * * *

(b) *Certification by school; course leads to standard college degree.* (1) The date of registration, or the date of reporting where the student is required by





§ 21.1253 Accredited courses.

* * * * *

(e) *College level.* Under the provisions of paragraph (a)(1) of this section, any course at college level approved by the State approving agency as an accredited course will be accepted by the VA as an accredited course when all of the following conditions are met:

* * * * *

(3) Credit for the course is awarded in terms of standard semester or quarter hours or by recognition at completion by the granting of a standard college degree.

* * * * *

9. In § 21.4270, paragraphs (c) and (d) are amended to read as follows:

**§ 21.4270 Measurement of courses.**

Clock hours and class sessions mentioned in this table mean clock hours and class sessions per week.

| Kind of school | Kind of course | Full time | ¾ time | ½ time | Less than ½ but more than ¼ | ¼ time or less |
|---|---|---|---|---|---|---|
| | * | * | * | * | * | * |
| (c) Collegiate undergraduate. | Standard collegiate courses including cooperative and external degree programs. | 14 semester hours or equivalent.[3] | 10 thru 13 semester hours or equivalent. | 7 thru 9 semester hours or equivalent. | 4 thru 6 semester hours or equivalent. | 1 thru 3 semester hours or equivalent. |
| (d) Collegiate graduate. | Standard collegiate courses including law and external degree programs. | As in paragraph (c) of this section or certified by resident school official of school. | As in paragraph (c) of this section or certified by resident school official of school. | As in paragraph (c) of this section or certified by resident school official of school. | As in paragraph (c) of this section or certified by resident school official of school. | As in paragraph (c) of this section or certified by resident school official of school. |

10. Section 21.4280 is added to read as follows:

**§ 21.4280 Independent study leading to a standard college degree.**

(a) An eligible veteran or person may receive an educational assistance allowance for pursuit of an independent study course under the following conditions:

(1) The course is offered by an accredited college or university and is approved by the State approving agency; and

(2) The course leads to or is fully creditable toward a standard college degree which may include external degree programs given by accredited colleges and universities.

(b) The independent study program shall be measured as follows:

(1) If the college or university evaluates the course in semester or quarter-hours of credit and prescribes a period for completion, the course shall be measured in credit hours under § 21.4270 (c) or (d) with equivalency computed under § 21.4272(d) as appropriate; or

(e) Where the veteran or eligible person is enrolling for independent study leading to a standard college degree, the school's certification will include enrollment date, established charges for tuition and fees, and the ending date for completion of the study being certified. If the school has no prescribed maximum time for completion, the certification must include an ending date based on the school's estimate of the time for completion.

* * * * *

8. In § 21.4253(e), subparagraph (3) is amended to read as follows:

| Kind of school | Kind of course | Full time | ¾ time | ½ time | Less than ½ but more than ¼ | ¼ time or less |
|---|---|---|---|---|---|---|
| | * | * | * | * | * | * |
| (c) Collegiate undergraduate. | Standard collegiate courses including cooperative and external degree programs. | 14 semester hours or equivalent.[3] | 10 thru 13 semester hours or equivalent. | 7 thru 9 semester hours or equivalent. | 4 thru 6 semester hours or equivalent. | 1 thru 3 semester hours or equivalent. |
| (d) Collegiate graduate. | Standard collegiate courses including law and external degree programs. | As in paragraph (c) of this section or certified by resident school official of school. | As in paragraph (c) of this section or certified by resident school official of school. | As in paragraph (c) of this section or certified by resident school official of school. | As in paragraph (c) of this section or certified by resident school official of school. | As in paragraph (c) of this section or certified by resident school official of school. |

5. In § 21.4136, paragraph (a) is amended to read as follows:

**§ 21.4136 Rates; educational assistance allowance; 38 U.S.C. Ch. 34.**

(a) *Rates.* Educational assistance allowance is payable at the following monthly rates:

| Type of courses | Monthly rate | | | |
|---|---|---|---|---|
| | No dependent | One dependent | Two dependents | Additional for each additional dependent |
| Institutional: | | | | |
| Full time | $220 | $261 | $298 | $18 |
| ¾ time | 165 | 196 | 224 | 14 |
| ½ time | 110 | 131 | 149 | 9 |
| Less than ½ but more than ¼ time[1] | [2] 55 | | | |
| Cooperative, other than farm cooperative (full time only) | 177 | 208 | 260 | 14 |
| Apprentice or job (full time only but see footnote 4 below) | | | | |
| Payment designated training assistance allowance: | | | | |
| First 6 months | 160 | 179 | 196 | 5 |
| Second 6 months | 120 | 127 | 156 | 5 |
| Third 6 months | 80 | 99 | 110 | 5 |
| Fourth 6 months and succeeding periods | 40 | 60 | 70 | 5 |
| Correspondence | 90 per centum of the established charge for tuition and fees applicable to such course when completed by veteran and serviced by school.[4]—Allowance paid quarterly. | | | |
| Flight training | 90 per centum of the established charge for number of lessons completed by veteran and serviced by school.[4]—Allowance paid monthly based on actual flight training received. | | | |
| Farm Cooperative: | | | | |
| Full time | 177 | 208 | 260 | 14 |
| ¾ time | 133 | 156 | 177 | 11 |
| ½ time | 89 | 104 | 118 | 7 |

[1] If a veteran under chapter 34 or an eligible person under chapter 35 receiving benefits under § 21.4280(b)(2) completes his program before the designated completion time, his award will be recomputed to permit payment of tuition and fees not to exceed $110 per month if the maximum allowance was not initially authorized.

[2] See paragraph (b) of this section.

[3] See footnote 6 to § 21.4270(c) for measurement of full time and paragraph (b) of this section for proportionate reduction for less than full time.

[4] Established charge means the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency. The amount payable for the eligible veteran whichever is the lesser. Emolluments under 14 the lesser. Emolluments under January 1, 1974, will receive 100 percent of the established charge.

(38 U.S.C. 1677, 1682, 1780, 1787.)

* * * * *

6. In § 21.4200, paragraph (d) is amended to read as follows:

**§ 21.4200 Definitions.**

* * * * *

(d) *External degree.* This term means a standard college degree given by an accredited college or university based on satisfactory completion of a prescribed program of independent study. The program may require occasional attendance for a workshop or seminar and may include some regular residence course work.

7. In § 21.4203(b), subparagraph (4) is added to read as follows:

**§ 21.4203 Reports by school; requirements.**

* * * * *

(b) *Entrance or reentrance.* The certification must clearly specify the program objective. Upon receipt of a certification of enrollment, an official



V 38 1187 S
SEP 27 73
XUM

(2) If the college or university does not evaluate the course in standard semester or quarter-hours or the equivalent, the course shall be measured as less than one-half time training.

(c) An eligible veteran or person who is pursuing an independent study program shall be paid an educational assistance allowance at the institutional rate prescribed in § 21.4136(a). If independent study subjects and subjects requiring class attendance are pursued concurrently and both are measured on a credit hour basis, the allowable rate shall be determined on the basis of the combined training load. When measurement is different (i.e., class attendance on credit hour basis and independent study under paragraph (b)(2) of this section), the appropriate rate for each part shall be determined and the combined rates paid, but not to exceed the full time institutional allowance rate.

Approved September 20, 1973.

By direction of the Administrator.

[SEAL] FRED B. RHODES,
*Deputy Administrator.*

[FR Doc.73-20474 Filed 9-26-73;8:45 am]





# Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF DEFENSE

### Department of the Air Force

### USAF SCIENTIFIC ADVISORY BOARD

### Notice of Meeting

SEPTEMBER 25, 1973.

The USAF Scientific Advisory Board Ad Hoc Committee on B-1 Aerodynamics will hold a closed meeting on October 1 and 2, 1973, from 8:00 a.m. until 5:00 p.m., at the Management Information Conference Room, Rockwell International Plant, Los Angeles, CA.

The committee will receive classified briefings on the status and projected plans of the B-1 program.

STANLEY L. ROBERTS,
*Colonel, USAF, Acting Chief, Legislative Division, Office of The Judge Advocate General.*

[FR Doc.73-20712 Filed 9-26-73;8:45 am]

## DEPARTMENT OF JUSTICE

### Law Enforcement Assistance Administration

### GUARDS AND INVESTIGATIONS COMMITTEE OF THE PRIVATE SECURITY ADVISORY COUNCIL

### Notice of Meeting

Notice is hereby given that the Guards and Investigations Committee of the Private Security Advisory Council to the Law Enforcement Assistance Administration will meet on Tuesday, October 9, 1973, from 9:30 a.m. to 4:00 p.m. The place of the meeting will be the Fontebleau Motor Hotel, 4040 Tulane Avenue, New Orleans, Louisiana.

The meeting will be open to the public. Any interested person may file a written statement with the council for its consideration.

Statements may be sent to or information requested from Robert Macy, Law Enforcement Assistance Administration, U.S. Department of Justice, 633 Indiana Avenue NW., Washington, D.C. 20530.

JACK A. NADOL,
*Advisory Committee Management Officer, Office of General Counsel.*

[FR Doc.73-20598 Filed 9-26-73;8:45 am]

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[N. Mex. 12964]

### NEW MEXICO

### Order Providing for Opening of National Forest Lands

SEPTEMBER 21, 1973.

By published notice (38 FR 10825-10826, May 2, 1973), the U.S. Geological Survey cancelled Power Site Classification No. 371 of October 31, 1944 as to the lands described below.

The purpose of this order is to restore to the operation of applicable public land laws the national forest lands involved in that notice.

1. The following described lands are hereby restored to such forms of disposition as may by law be made of national forest lands:

NEW MEXICO PRINCIPAL MERIDIAN

T. 24 N., R. 4 E.,
Sec. 11, lot 8 (formerly a portion of lot 4).

The land described aggregates 3.31 acres in Rio Arriba County.

B. BUFFINGTON,
*Acting State Director.*

[FR Doc.73-20531 Filed 9-26-73;8:45 am]

[U-17864, U-18018, U-21328]

### UTAH

### Notice of Proposed Exchange and Notice of Proposed Classification

Notice is hereby given that:

(1) Title to the national resource lands described below is proposed to be transferred to the State of Utah by exchange under the regulations in 43 CFR, Part 2200, and

(2) Those lands so designated in paragraphs (b) and (c) below are proposed to be classified for disposal through exchange under the regulations in 43 CFR 2200.0-8.

National resources lands which have been identified for selection by the State of Utah are situated in Castle Valley, approximately 18 miles northeast of Moab, Grand County, Utah, and are described as:

(a) Lands proposed for exchange under section 8(c) of the Taylor Grazing Act of June 28, 1934 (48 Stat. 1272; 43 U.S.C. 315g), for the benefit of the Corps of Engineers of the Department of the Army and the Bureau of Land Management of the Department of the Interior. The lands the State proposes to transfer to the United States through this exchange are located in the Green River Missile Base and in the Monticello BLM District. Under the terms of this act and the regulations in 43 CFR 2211.0-3(b)(2) classification action is not involved in the transfer of these lands.—Serial No. U-17864:

T. 25 S., R. 23 E., SLM, Utah
Sec. 9, SW¼NE¼;
Sec. 10, SW¼, W½SE¼, SE¼SE¼;
Sec. 13, SW¼SW¼;
Sec. 23, SW¼, W½SE¼;
Sec. 25, N½NE¼NE¼, SW¼NE¼NE¼, E½NW¼NE¼, N½SW¼NW¼NE¼, W½NE¼SW¼NE¼, W½SW¼NE¼, SE¼SW¼NE¼, W½, SE¼;
Sec. 26, all;
Sec. 27, all;
Sec. 34, lots 1, 2, NW¼NE¼, NE¼NW¼;
Sec. 35, lots 1, 2, 4, N½, N½SE¼, SW¼SE¼.
T. 25 S., R. 24 E., SLM, Utah
Sec. 19, lot 4, SE¼SW¼;
Sec. 29, E½SW¼, SE¼;
Sec. 30, lots 1, 4, NE¼NW¼.
Containing 3,536.08 acres.

(b) Lands proposed for classification for exchange under the Canyonlands National Park Act of September 12, 1964 (78 Stat. 934), as amended by the Act of November 12, 1971 (85 Stat. 421), for the benefit of the National Park Service of the Department of the Interior. The lands the State proposes to transfer to the United States in this exchange are located in the extension to Canyonlands National Park.—Serial No. U-18018:

T. 25 S., R. 23 E., SLM, Utah
Sec. 6, N½SE¼, SE¼SE¼;
Sec. 9, E½NW¼, NW¼NW¼, S½;
Sec. 15, all;
Sec. 16, all;
Sec. 21, lots 1, 2, 3, 4, N½, E½SE¼;
Sec. 22, all;
Sec. 28, lots 1, 2, 3, 5, 6, SW¼NE¼.
Containing 3,247.32 acres.

(c) Lands proposed for classification for exchange under the Act of July 15, 1968 (16 U.S.C. 460L-22), for the benefit of the National Park Service of the Department of the Interior. The lands the State proposes to transfer to the United States in this exchange are located in Capitol Reef National Park and Natural Bridges National Monument.—Serial No. U-21328:

T. 25 S., R. 23 E., SLM, Utah
Sec. 14, NW¼, S½;
Sec. 23, N½, E½SE¼;
Sec. 24, W½, SE¼.
Containing 1,360.00 acres.
Total 8,143.40 acres.

All mineral rights are to be exchanged.

Maps showing these lands and files containing reports on the lands are available for review in the Utah State Office, Bureau of Land Management, Room 8339, Federal Building, 125 South State Street, P.O. Box 11505, Salt Lake City, Utah 84111, for use by all persons who wish to submit comments, suggestions, or objections to the undersigned officer at the above address in connection with this proposed classification on or before November 26, 1973.

A detailed environmental assessment has been prepared on these exchange



V 38-187
SEP 27 73
XUM

proposals. Copies are available in this office, and in the Monticello District Office, 284 S. 1st W., P.O. Box 1327, Monticello, Utah 84535, and our Moab Area Office, 446 S. Main St., Moab, Utah 84532, for review, or for sale to all persons and organizations who may request them at a cost of $2 per copy. If upon analysis of the comments received it is concluded that this is a major Federal action which would have a significant impact on the human environment, an environmental impact statement as required by section 102(2)(C) of the National Environmental Policy Act of 1969 (83 Stat. 853) will be prepared.

I certify this to be a true copy of the original.

WILLIAM G. LEAVELL,
*Acting State Director.*

[FR Doc.73-20566 Filed 9-26-73;8:45 am]

### Office of Hearings and Appeals

[Docket No. M 74-15]

### MOUNTAIN DRIVE COAL CO.

#### Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Mountain Drive Coal Co. has filed a petition to modify the application of 30 CFR 77.1605(k) to its Mine No. 1 located at Middlesboro, Kentucky.

30 CFR 77.1605(k) reads as follows:

(k) Berms or guards shall be provided on the outer bank of elevated roadways.

In support of its petition, petitioner states that the addition of berms or guardrails would make it impossible to maintain proper drainage and would hamper snow removal. The road would ice over during winter months and the grader now used for maintenance could no longer be used. Petitioner also states that additional man-hours and equipment would be needed for road maintenance which would result in an increased accident potential during snow and ice conditions.

As an alternative method petitioner wishes to continue maintaining its roads by its currently existing methods. Petitioner states that by using its current methods of maintenance, its roads are as safe as possible.

Petitioner contends that the application of the mandatory standard will result in a diminution of safety to miners in the affected area. Petitioner contends that berms and guardrails would create a drainage hazard by creating improper drainage which would cause washouts and hazardous conditions in wet weather. The road is too narrow to build berms, therefore, solid rock would have to be blasted, resulting in a highwall which would be a new hazard.

Persons interested in this petition may request a hearing on the petition or furnish comments by October 29, 1973. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

GILBERT O. LOCKWOOD,
*Acting Director,*
*Office of Hearings and Appeals.*

[FR Doc.73-20530 Filed 9-26-73;8:45 am]

### National Park Service

[Order No. 4]

### PARK MANAGER, BENT'S OLD FORT NATIONAL HISTORIC SITE, COLORADO

#### Delegation of Authority Regarding Purchasing Authority

SECTION 1. *Park Manager.* The Park Manager may issue purchase orders not in excess of $300 for supplies or equipment in conformity with applicable regulations and statutory authority and subject to availability of allotted funds.

SEC. 2. *Revocation.* This order supersedes Order No. 3, Bent's Old Fort National Historic Site, dated June 5, 1972, and published Wednesday, June 28, 1972. (37 FR 12737).

(National Park Service Order No. 77 (38 FR 7478), as amended. Midwest Region Order No. 5, 37 FR 6324 and 6875, as amended.)

Dated September 14, 1973.

MERRILL D. BEAL,
*Acting Director, Midwest Region.*

[FR Doc.73-20637 Filed 9-26-73;8:45 am]

### AMISTAD RECREATION AREA

#### Notice of Intention To Issue a Concession Permit

Pursuant to the provision of section 5, of the Act of October 9, 1965, (79 Stat. 969 (16 U.S.C. 20)) public notice is hereby given that on or before October 29, 1973, the Department of the Interior, through the Superintendent, Amistad Recreation Area, proposes to renew the present concessions permit in the name of Ronald Lambert, Odessa, Texas, authorizing him to provide fishing guide service for the public at Amistad Recreation Area for the period Sept. 1, 1973 through August 31, 1977.

The foregoing concessioner has performed his obligations under the existing permit to the satisfaction of the National Park Service and, therefore, pursuant to the Act cited above, is entitled to be given preference for the renewal of the permit. However, under the Act cited above, the National Park Service is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before October 29, 1973.

Interested parties should contact the Superintendent, Amistad Recreation Area, Post Office Box 1463, Del Rio, Texas 78840, for information as to the requirements of the proposed permit.

Dated: July 31, 1973.

COLEMAN L. NEWMAN,
*Superintendent,*
*Amistad Recreation Area.*

[FR Doc.73-20640 Filed 9-26-73;8:45 am]

### GLEN CANYON NATIONAL RECREATION AREA

#### Notice of Intention To Issue a Concession Permit

Pursuant to the provisions of Section 5. of the Act of October 9, 1965 (79 Stat. 969 (15 U.S.C. 20)), public notice is hereby given that on or before October 29, 1973, the Department of the Interior, through the Superintendent, Glen Canyon National Recreation Area, proposes to issue a concession permit to Hite Marina, Inc., authorizing them to provide concession facilities and services for the public at Glen Canyon National Recreation Area for a period of five (5) years from January 1, 1974 through December 31, 1978.

The foregoing concessioner has performed his obligations under a prior permit to the satisfaction of the National Park Service and, therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit. However, under the Act cited above, the National Park Service is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before October 29, 1973.

Interested parties should contact the Superintendent, Glen Canyon National Recreation Area, PO. Box 1507, Page, Arizona 86040, for information as to the requirements of the proposed permit.

Dated July 31, 1973.

C. E. JOHNSON,
*Superintendent, Glen Canyon*
*National Recreation Area.*

[FR Doc.73-20639 Filed 9-26-73;8:45 am]

### LAKE MEREDITH RECREATION AREA

#### Notice of Intention To Issue a Concession Permit

Pursuant to the provisions of Section 5. of the Act of October 9, 1965 (79 Stat. 969 (16 U.S.C. 20)) public notice is hereby given that on or before October 29, 1973, the Department of the Interior, through the Superintendent, Lake Meredith Recreation Area, proposes to issue a concession permit to Goodie Truck, a partnership, authorizing it to provide concession facilities and services for the public at Lake Meredith Recreation Area for a period of 5 years from January 1, 1974 through December 31, 1978. The foregoing concessioner has performed its obligations under a prior permit to the satisfaction of the National Park Service, and, therefore, pursuant to the Act cited above, is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit. However, under the Act cited above, the National Park Service is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before October 29, 1973.

Interested parties should contact the Superintendent, Lake Meredith Recreation Area, PO. Box 325, Sanford, TX 79078, for information as to the requirements of the proposed permit.

Dated June 4, 1973.

JAMES M. THOMSON,
*Superintendent, Lake Meredith*
*Recreation Area.*

[FR Doc.73-20638 Filed 9-26-73;8:45 am]

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

[Marketing Agreement 146]

### PEANUTS; 1973 CROP

#### Outgoing Quality Regulation and Indemnification Amendment

Pursuant to the provisions of sections 32, 34, and 36 of the marketing agreement regulating the quality of domestically produced peanuts heretofore entered into between the Secretary of Agriculture and various handlers of peanuts (30 FR 9402) and upon recommendation of the Peanut Administrative Committee established pursuant to such agreement and other information, it is hereby found that the amendments hereinafter set forth to the Outgoing Quality Regulation and Terms and Conditions of Indemnification Applicable to 1973 Crop Peanuts (38 FR 19054) will tend to effectuate the objectives of the Agricultural Marketing Agreement Act of 1937, as amended, and of such agreement.

Amendment of paragraph (a) of the Outgoing Quality Regulation is necessary to change the requirements on percentage of whole kernels allowed in fall through on Runner and Virginia "with splits" so that such percentage will be the same as on U.S. Number One grade peanuts for those types of peanuts. Such change would increase from 2 percent to 3 percent the percentage of whole kernels allowed in such fall through. Likewise, amendment of the definition of Runner and Virginia "with splits" in the same paragraph is necessary to reflect the increase in the percentage of whole kernels allowed in the fall through for these grades and to change the screen size on Runner "with splits" from a $^{15}/_{64}$ x $^{3}/_{4}$ slot to a $^{16}/_{64}$ x $^{3}/_{4}$ slot to conform with Committee determinations.

Amendment of paragraph 7 of the Terms and Conditions of Indemnification is necessary to bring the provisions for paying indemnification into conformity with determinations of the Committee by eliminating the 4 percent penalty on unsuccessfully remilled peanuts that were to be custom blanched. Continued application of such penalty would restrict the use of custom blanching as a means of making peanuts wholesome and in turn increase indemnification costs. Amendment of the last paragraph of the Terms and Conditions of Indemnification is also necessary to bring the provisions from paying indemnification on Runners and Virginias "with splits" into conformity with changes being made in the Outgoing Quality Regulation by changing the allowable percentage of whole kernels from 2 percent to 3 percent on both categories and to add a provision prohibiting indemnification of peanuts which after failing to meet the Outgoing Quality Regulation are sold to another handler.

Therefore, the second sentence of paragraph (a) of the Outgoing Quality Regulation (38 FR 19054) is deleted and replaced by the following:

Fall through in such peanuts shall not exceed 4 percent except that fall through consisting of either split and broken kernels or whole kernels shall not exceed 3 percent and fall through of whole kernels in Runners or Virginias "with splits" shall not exceed 3 percent or 2 percent on Spanish "with splits".

In the same paragraph of the Outgoing Quality Regulation (38 FR 19054), the last sentence (which is in parentheses) is deleted and replaced by the following:

(Runners, Spanish or Virginias "with splits" means shelled peanuts which do not contain more than (a) 15 percent splits, (b) for Spanish 2.00 percent whole kernels which will pass through a $^{15}/_{64}$ x $^{3}/_{4}$ inch slot screen; for Runners 3.00 percent whole kernels which will pass through a $^{15}/_{64}$ x $^{3}/_{4}$ inch slot screen; and for Virginias 3.00 percent whole kernels which will pass through a $^{15}/_{64}$ x 1 inch slot screen, and (c) otherwise meet the specifications of U.S. No. 1 grade.)

In the seventh paragraph of the Terms and Conditions of Indemnification (38 FR 19054), the fourth and fifth sentences are deleted and replaced by the following:

On lots on which the remilling is not successful in making the lots wholesome as to aflatoxin and such lots of peanuts are declared for custom blanching, after remilling, the indemnification payment shall be the blanching costs, plus any temporary storage, the transportation costs from origin (whether handler or buyer premises) to point of blanching and on unsold lots from point of blanching to handlers premises and the indemnification value of the weight of reject peanuts removed from the lot.

Likewise, in the last paragraph of the Terms and Conditions of Indemnification, delete the entire last category Shelled peanuts "with splits" and the last sentence and replace with the following:

*Shelled peanuts "with splits"*—

(1) Runners with splits which do not contain more than 15 percent splits or 3 percent whole kernels which will pass through a $^{15}/_{64}$ x $^{3}/_{4}$ inch slot screen, 24 cents per pound.

(2) Spanish with splits which do not contain more than 15 percent splits or 2 percent whole kernels which will pass through a $^{15}/_{64}$ x $^{3}/_{4}$ inch slot screen, 24 cents per pound.

(3) Virginias with splits which do not contain more than 15 percent splits or 3 percent whole kernels which will pass through a $^{15}/_{64}$ x 1 inch slot screen, 24 cents per pound.

However, peanuts in any of the above categories shall not be eligible for indemnification if such peanuts: (1) Were milled from seed peanut residuals as referred to in the last sentence of paragraph (e) of the Incoming Quality Regulation and paragraph (i) of the Outgoing Quality Regulation for 1973 Crop Peanuts; (2) failed the Outgoing Quality Regulation for 1973 Crop Peanuts due to excessive damage and minor defects and such peanuts were subsequently blanched to remove such excess damage and minor defects pursuant to paragraph (h) of such regulation; (3) when shipped for human consumption outlets contained more than a total of 1.25 percent unshelled peanuts and damaged kernels or a total of 2.00 percent unshelled peanuts, damaged kernels and minor defect; and (4) were received or acquired from another handler pursuant to paragraph (i) of the Incoming Quality Regulation and were milled to meet requirements of the Outgoing Quality Regulation pursuant to paragraph (h) of such regulation.

The Peanut Administrative Committee has recommended that these amendments be issued as soon as possible so as to implement and effectuate the provisions of the marketing agreement dealing with the Outgoing Quality Regulation and Terms and Conditions of Indemnification. Marketing of the 1973 peanut crop is underway and such regulations and terms and conditions for actual operations under the agreement should therefore be modified and made effective as soon as possible, i.e., on the effective date specified herein. Handlers of peanuts who will be affected by such amendments have signed the marketing agreement authorizing the issuance of such regulations and terms and conditions, they are represented on the Committee which recommended such amendments and time does not permit prior notice of the proposed amendments to such handler.

The foregoing amendments of the Outgoing Quality Regulation and Terms and Conditions of Indemnification are hereby approved.

Dated September 24, 1973.

CHARLES R. BRADER,
*Deputy Director,*
*Fruit and Vegetable Division.*

[FR Doc.73-20672 Filed 9-26-73;8:45 am]

### Forest Service

### CLOUD PEAK PRIMITIVE AREA HEARING ANNOUNCEMENT

#### Notice of Public Hearing

Notice is hereby given in accordance with provisions of the Wilderness Act of September 3, 1964 (78 Stat. 890, 892 (16 U.S.C. 1131, 1132)) that a public hearing will be held beginning at 9 a.m. on Thursday, November 8, 1973, at the WYO Theater, 46 North Main, Sheridan.









V 38-187 SEP 27 73 XUM

Wyoming, on proposed management alternatives for the Cloud Peak Primitive Area relative to recommendations by the President of the United States to the Congress concerning the Cloud Peak Primitive Area.

The Cloud Peak Primitive Area is located within the Bighorn National Forest, in Bighorn, Johnson, and Sheridan Counties, State of Wyoming.

A brochure and Environmental Statement containing maps and information about the area and the management alternatives under consideration may be obtained, after October 1, 1973, from the Forest Supervisor, Bighorn National Forest, Columbus Building, P.O. Box 2046, Sheridan, Wyoming 82801, or the Regional Forester, Building 85, Denver Federal Center, Denver, Colorado 80225.

Individuals or organizations may express their views by appearing at the hearing, or they may submit written comments for inclusion in the official record to the Regional Forester at the above address by December 10, 1973.

Dated September 19, 1973.

JOHN R. MCGUIRE,
*Chief, Forest Service.*

[FR Doc.73-20664 Filed 9-26-73;8:45 am]

---

Soil Conservation Service

## LEONA RIVER WATERSHED PROJECT, TEXAS

### Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Soil Conservation Service, U.S. Department of Agriculture, has prepared a draft environmental statement for the Leona River Watershed Project, Uvalde County, Texas, USDA-SCS ES-WS-(ADM)-74-13(D).

The environmental statement concerns a plan for watershed protection and flood prevention. The planned works of improvement include conservation land treatment measures on about 39,180 acres of rangeland, cropland, and pastureland, supplemented by four floodwater retarding structures and approximately 3.47 miles of channel work.

Copies are available during regular working hours at the following locations:

Soil Conservation Service, USDA, South Agriculture Building, Room 5227, 14th and Independence Avenue, SW., Washington, D.C. 20250.

Soil Conservation Service, USDA, First National Bank Building, P.O. Box 648, Temple, Texas 76501.

Copies are also available from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please use name and number of statement when ordering. The estimated cost is $3.75.

Copies of the draft environmental statement have been sent for comment to various federal, state, and local agencies as outlined in the Council on Environmental Quality Guidelines. Comments are also invited from others having knowledge of or special expertise on environmental impacts.

Comments must be received on or before December 4, 1973 to be considered in the preparation of the final statement.

Dated September 20, 1973.

(Catalog of Federal Domestic Assistance Program No. 10.904, National Archives Reference Services.)

WILLIAM B. DAVEY,
*Deputy Administrator for Water Resources, Soil Conservation Service.*

[FR Doc.73-20602 Filed 9-26-73;8:45 am]

---

# DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

## AD HOC COMMITTEE FOR REVIEW OF THE SPECIAL VIRUS CANCER PROGRAM

### Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Ad Hoc Committee for Review of the Special Virus Cancer Program, National Cancer Institute, October 3, 1973, 9:00 a.m., The Sloan-Kettering Institute for Cancer Research, Howard Building, Room 1302, 410 East 68th Street, New York, New York. This meeting will be open to the public from 9:00 a.m. to 9:30 a.m., to discuss the scheduling of events leading to culmination of committee activities in presentation of committee report to the National Cancer Advisory Board on November 26-28, 1973. Attendance by the public will be limited to space available. The meeting will be closed to the public from 9:30 a.m. to adjournment, for discussion and review of 37 contracts in the field of Viral Oncology, in accordance with the provisions set forth in section 552(b)4 of Title 5 U.S. Code, and section 10(d) of Pub. L. 92-463.

Mr. Frank Karel, Associate Director for Public Affairs, NCI, Building 31, Room 10A31, National Institutes of Health, Bethesda, Maryland 20014 (301/496-1911) will furnish summaries of the open/closed meeting and roster of committee members.

Dr. Maurice L. Guss, Executive Secretary, Building 37, Room 1B12, National Institutes of Health, Bethesda, Maryland 20014 (301/496-3323) will provide substantive program information.

Dated September 17, 1973.

JOHN F. SHERMAN,
*Deputy Director, National Institutes of Health.*

[FR Doc.73-20571 Filed 9-26-73;8:45 am]

---

## ADULT DEVELOPMENT AND AGING RESEARCH COMMITTEE

### Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Adult Development and Aging Research Committee, National Institute of Child Health and Human Development, October 4-5, 1973, at 9:00 a.m., National Institutes of Health, Building 31-C, Conference Room 7. This meeting will be open to the public from 9:00 a.m. to 10:00 a.m., October 4, to discuss reviewing policy. The meeting will be closed to the public from 10:00 a.m. to 5:00 p.m., October 4, and 9:00 a.m. to 4:00 p.m., October 5, to review grants in accordance with the provisions set forth in section 552(b)4 of Title 5 U.S. Code and 10(d) of Pub. L. 92-463. Attendance by the public will be limited to space available.

Ms. Patricia Newman, Information Officer, NICHD, Landow Building, Room A-804B, National Institutes of Health, 496-5133, will furnish summaries of the meeting and rosters of the committee members. Substantive information may also be obtained from Dr. Walter Spieth, Executive Secretary of the Committee, Room A-710, Landow Building, National Institutes of Health, 496-1033.

(Catalog of Federal Domestic Assistance Program No. 13.317, National Institutes of Health.)

Dated September 17, 1973.

JOHN F. SHERMAN,
*Deputy Director, National Institutes of Health.*

[FR Doc.73-20575 Filed 9-26-73;8:45 am]

---

## ANIMAL RESOURCES ADVISORY COMMITTEE

### Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Animal Resources Advisory Committee, Division of Research Resources, October 11-12, 1973, at 9:00 a.m., Room 2036, Department of Pathology, Bowman Gray School of Medicine, Winston-Salem, North Carolina. The meeting will be open to the public on October 11 from 9:00 a.m. to 12:30 p.m., for a scientific presentation of the Arteriosclerosis Center at Bowman Gray. At 2:00 p.m. the meeting will reconvene in the Board Room of the North Carolina Baptist Hospital. The meeting will be open to the public until 3:00 p.m., for a brief staff presentation on the current status of the animal resources program. The Committee will select future meeting dates. The meeting will be closed to the public from 3:30 p.m. to 5:00 p.m., October 11 and from 9:00 a.m. to 5:00 p.m., October 12 to review, discuss and evaluate and/or rank grant applications in accordance with provisions set forth in section 552(b)4 of Title 5 U.S. Code for grants and 10(d) of Pub. L. 92-463. Attendance by the public will be limited to space available.

The Information Officer who will furnish summaries of the meetings and roster of Committee members is Mr. James Augustine, Division of Research Resources, Building 31, Room 5B39, Bethesda, Maryland 20014, 496-5545.

The Executive Secretary from whom substantive program information may be obtained is Dr. John Holman, Building 31, Room 5B35, Bethesda, Maryland 20014, 496-5507.





(Catalog of Federal Domestic Assistance Program No. 13.306, National Institutes of Health.)

Dated September 17, 1973.

JOHN F. SHERMAN,
*Deputy Director, National Institutes of Health.*

[FR Doc.73-20580 Filed 9-26-73;8:45 am]

---

## BIOMEDICAL LIBRARY REVIEW COMMITTEE

### Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Biomedical Library Review Committee, National Library of Medicine, October 17-18, 1973, 8:30 a.m. to 5:00 p.m. each day, in the Board Room of the National Library of Medicine. This meeting will be open to the public from 8:30 a.m. to 11:00 a.m. on October 17, to discuss administrative reports, and closed to the public from 11:00 a.m. to 5:00 p.m. on October 17, and all day October 18, to review grant applications, in accordance with the provisions set forth in Section 552(b)4 of Title 5 U.S. Code and section 10(d) of Pub. L. 92-463. Attendance by the public will be limited to space available.

The Executive Secretary, who will furnish summaries of both the open and closed meeting portions, a roster of committee members, and substantive program information is: Dr. Roger W. Dahlen, Chief, Division of Biomedical Information Support, Extramural Programs, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20014, Telephone No.: 301-496-4191.

(Catalog of Federal Domestic Assistance Program Nos. 13.351, 13.350, 13.348—National Institutes of Health.)

Dated September 17, 1973.

JOHN F. SHERMAN,
*Deputy Director, National Institutes of Health.*

[FR Doc.73-20578 Filed 9-26-73;8:45 am]

---

## BOARD OF SCIENTIFIC COUNSELORS

### Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Mental Health, October 26 and 27, 1973, at 9:30 a.m., in Building 31, Conference Room 7, C Wing, 9000 Rockville Pike, Bethesda, Maryland 20014. This meeting will be open to the public from 9:30 to 10:00 a.m. on October 26, for announcements and reports of recent administrative, legislative, and program developments and closed to the public from 10:00 a.m. on October 26 through October 27, 1973, for the critique and evaluation of the National Institute of Mental Health Intramural Research Program in accordance with the provisions set forth in section 552(b) 6 of Title 5 United States Code and 10(d) of Pub. L. 92-463.

Attendance by the public during the open portion will be limited to space available.

The NIMH Information Officer who will furnish summaries of the meeting and rosters of committee members is Mr. Ronald E. McMillen, Acting Director, Office of Communications, National Institute of Mental Health, Room 15-105 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, telephone 443-3600.

The Executive Secretary from whom substantive program information may be obtained is John C. Eberhart, Ph.D., Director of Intramural Research, National Institute of Mental Health, 9000 Rockville Pike, Bethesda, Maryland 20014, telephone 496-3501.

Dated September 17, 1973.

JOHN F. SHERMAN,
*Deputy Director, National Institutes of Health.*

[FR Doc.73-20569 Filed 9-26-73;8:45 am]

---

## BOARD OF SCIENTIFIC COUNSELORS

### Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Arthritis, Metabolism, and Digestive Diseases, October 19-20, 1973, 9 a.m., National Institutes of Health, Building 4, Room 336. This meeting will be open to the public from 9 a.m. to 10 a.m. on October 19, 1973, to discuss the general trend in research as regards arthritis, metabolism, and digestive diseases, and closed to the public from 10 a.m. to 5 p.m., on October 19, 1973, and from 9 a.m. to adjournment on October 20, 1973, for the critique and evaluation of the NIAMDD intramural program in accordance with the provisions set forth in section 552(b) 6 of Title 5 U.S. Code and 10(d) of Pub. L. 92-463. Attendance by the public will be limited to space available.

Name of the person from whom rosters of committee members, summary of the meeting, and other information pertaining to the meeting may be obtained: Mr. Victor Wartofsky, Information Officer, NIAMDD, National Institutes of Health, Building 31, Room 9A04, Bethesda, Maryland (301) 496-3583.

Dated September 17, 1973.

JOHN F. SHERMAN,
*Deputy Director, National Institutes of Health.*

[FR Doc.73-20568 Filed 9-26-73;8:45 am]

---

## EPIDEMIOLOY OF THE MULTIPLE SCLEROSIS SCIENTIFIC ADVISORY COMMITTEE

### Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Working Group on Epidemiology of the Multiple Sclerosis ad hoc Scientific Advisory Committee, October 1 and 2, 1973, at 9:00 a.m., in Room 8A03, Building 31A, National Institutes of Health, Bethesda, Maryland. This meeting will be closed to the public to review, discuss and evaluate and/or rank research proposals on Multiple Sclerosis in accordance with the provisions set forth in section 552(b)4 of Title V, U.S. Code and section 10(d) of Pub. L. 92-463.

1. The Institute Information Officer who will furnish summaries of the meeting and rosters of committee members is: Mrs. Ruth Dudley, Building 31, Room 8A03, phone: 496-5751.

2. The Executive Director from whom substantive program information may be obtained is: Dr. Harry M. Weaver, Room 8A11, Building 31A, NIH, phone: 496-3523.

Dated September 17, 1973.

JOHN F. SHERMAN,
*Deputy Director, National Institutes of Health.*

[FR Doc.73-20573 Filed 9-26-73;8:45 am]

---

## GENERAL CLINICAL RESEARCH CENTERS COMMITTEE

### Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the General Clinical Research Centers Committee, Division of Research Resources, October 1-2, 1973, commencing at 9:00 a.m. on October 1, 1973, National Institutes of Health, Building 31, Conference Room 9. This meeting will be open to the public from 9:00 a.m. to 9:30 a.m. on October 1 for general announcements and closed to the public from 9:30 a.m. to 5:00 p.m. on October 1 and from 9:00 a.m. to adjournment on October 2 to review, discuss, and evaluate and/or rank grant applications in accordance with provisions set forth in section 552(b) 4 of Title 5 U.S. Code for grants and 10 (d) of Pub. L. 92-463. Attendance by the public is limited to space available.

The Information Officer who will furnish summaries of the meeting and roster of the Committee members is Mr. James Augustine, Division of Research Resources, Building 31, Room 5B39, Bethesda, Maryland 20014, 496-5545.

The Executive Secretary from whom substantive information may be obtained is Dr. William DeCesare, Building 31, Room 4B13, Bethesda, Maryland 20014. 496-6595.

(Catalog of Federal Domestic Assistance Program No. 13.333, National Institutes of Health.)

Dated September 17, 1973.

JOHN F. SHERMAN,
*Deputy Director, National Institutes of Health.*

[FR Doc.73-20581 Filed 9-26-73;8:45 am]

---

## IMMUNOLOGY-EPIDEMIOLOGY WORKING GROUP

### Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Immunology-Epidemiology Working Group, National Cancer Institute, October 9, 1973, from 9:00 a.m. to 4:00 p.m., University of California, Los Angeles, Faculty Center, Buenos Aires Room. This meeting will be open to the public from



V 38-187 SEP 27 73 XUM

9:00 a.m. to 10:00 a.m., October 9, 1973, to discuss future plans of the Immunology-Epidemiology Working Group and to review the current status of EBV research in human cancer, and closed to the public from 10:00 a.m. to 4:00 p.m., October 9, 1973, to review two contracts in accordance with the provisions set forth in section 552(b)4 of Title 5 U.S. Code and section 10(d) of Pub. L. 92–463. Attendance by the public will be limited to space available.

Mr. Frank Karel, Associate Director for Public Affairs, NCI, Building 31, Room 10A31, National Institutes of Health, Bethesda, Maryland 20014 (301/496–1911) will furnish summaries of the open/closed meeting and roster of committee members.

Dr. Clarice Gaylord, Executive Secretary, Landow Building, Room C309, National Institutes of Health, Bethesda, Maryland 20014 (301/496–6086) will provide substantive program information.

Dated September 19, 1973.

JOHN F. SHERMAN,
*Deputy Director,*
*National Institutes of Health.*

[FR Doc.73–20582 Filed 9–26–73;8:45 am]

## INFECTIOUS DISEASES COMMITTEE

### Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Infectious Disease Committee, National Institute of Allergy and Infectious Diseases, October 18 and 19, 1973, 9:00 a.m. to 5:00 p.m., National Institutes of Health, Building 31, Conference Room 8. This meeting will be open to the public from 9:00 a.m. to 10:00 a.m., October 18, 1973 to review published data on the incidence of *Mycoplasma pneumoniae;* and closed to the public from 10:00 a.m. to 5:00 p.m. on October 18, 1973, and 9:00 a.m. to 5:00 p.m. on October 19, 1973, to review contracts in accordance with the provisions set forth in section 552(b)4 of Title 5 U.S. Code and 10(d) of Pub. L. 92–463. Attendance by the public will be limited to space available.

Mr. Robert Schreiber, Information Officer, National Institute of Allergy and Infectious Diseases, National Institutes of Health, Building 31, Room 7A–34, phone 496–5717, will furnish summaries of the meeting and rosters of committee members.

Mrs. Martha J. Mattheis, Executive Secretary of the Infectious Disease Committee, National Institute of Allergy and Infectious Diseases, National Institutes of Health, Building 31, Room 7A–10, phone 496–5105, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13–301, National Institutes of Health.)

Dated September 17, 1973.

JOHN F. SHERMAN,
*Deputy Director,*
*National Institutes of Health.*

[FR Doc.73–20574 Filed 9–26–73;8:45 am]

## MENTAL RETARDATION RESEARCH COMMITTEE

### Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Mental Retardation Research Committee, National Institute of Child Health and Human Development, October 7–9, 1973, at 8:00 p.m., National Institutes of Health, Building 31, Conference Room 7. This meeting will be open to the public from 8:00 p.m. to 10:00 p.m., October 7, to discuss items relative to the committee's activities including announcements by the Associate Director for NICHD, the Head of the Mental Retardation Branch, and the Executive Secretary of the Committee. The meeting will be closed to the public from 8:30 a.m. to 5:00 p.m., October 8 and 8:30 a.m. to 5:00 p.m., October 9, to review grants in accordance with the provisions set forth in section 552(b)4 of Title 5 U.S. Code and 10(d) of Pub. L. 92–463. Attendance by the public will be limited to space available.

Ms. Patricia Newman, Information Officer, NICHD, Landow Building, Room A–804B, National Institutes of Health, 496–5133, will furnish summaries of the meeting and rosters of the committee members. Substantive information may also be obtained from Dr. Lyle Lloyd, Executive Secretary of the Committee, Room C–704A, Landow Building, National Institutes of Health, 496–1383.

(Catalog of Federal Domestic Assistance Program No. 13.317, National Institutes of Health.)

Dated September 17, 1973.

JOHN F. SHERMAN,
*Deputy Director,*
*National Institutes of Health.*

[FR Doc.73–20577 Filed 9–26–73;8:45 am]

## NATIONAL CANCER ADVISORY BOARD

### Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Cancer Advisory Board, National Cancer Institute, October 1–3, 1973, 9:00 a.m., National Institutes of Health, Building 31, Conference Room 6. This meeting will be open to the public from 9:00 a.m., to 5:00 p.m., October 1; 9:00 a.m., to 5:00 p.m., October 2; and 10:00 a.m., to 12:30 p.m., October 3, to review scientific research concerned with cancer biology; diagnosis; treatment; and special programs in the National Cancer Program. On the morning of October 3, there will be a discussion on the reduction of cancer risk in smokers; opportunities for early diagnosis; and projections in therapy, during a presentation on the lung cancer program. The meeting will be closed to the public from 9:00 a.m., to 10:00 a.m., October 3, to discuss the fiscal year 1975 budget in accordance with the provisions set forth in section 552(b)5 of Title 5 U.S. Code and 10(d) of Pub. L. 92–463. Attendance by the public will be limited to space available.

Mr. Frank Karel, Associate Director for Public Affairs, NCI, Building 31, Room 10A31, National Institutes of Health, Bethesda, Maryland 20014 (301–496–1911) will furnish summaries of the open/closed meeting and roster of committee members.

Dr. Richard A. Tjalma, Assistant Director for Board and Panel Affairs, NCI, Building 31, Room 11A44, National Institutes of Health, Bethesda, Maryland 20014 (301–496–5854) will provide substantive program information.

Dated September 17, 1973.

JOHN F. SHERMAN,
*Deputy Director,*
*National Institutes of Health.*

[FR Doc.73–20570 Filed 9–26–73;8:45 am]

## PHARMACOLOGY-TOXICOLOGY PROGRAM COMMITTEE

### Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Pharmacology-Toxicology Program Committee, National Institute of General Medical Sciences, October 1–2, 1973, 9 a.m., National Institutes of Health, Building 31C, Conference Room 8. This meeting will be open to the public from 8:30 a.m. to 3:00 p.m., October 1, 1973, for opening remarks and general discussion on objectives of the program, and closed to the public from 3:00 p.m. to 5:00 p.m., October 1, and from 8:30 a.m. to 5:00 p.m., October 2, 1973, to review, discuss, evaluate, and rank contract proposals in accordance with the provisions set forth in section 552(b) 4 of Title 5 U.S. Code for grants and contracts and 10(d) of Pub. L. 92–463. Attendance by the public will be limited to space available.

Mr. Paul Deming, Information Officer, NIGMS, Building 31, Room 4A46, Bethesda, Maryland 20014. Telephone: 301, 496–5676, will furnish a summary of the meeting and a roster of committee members.

Substantive program information may be obtained from Dr. George J. Cosmides, Executive Secretary, Westwood Building, Room 9A03, Telephone: 301, 496–7707.

(Catalog of Federal Domestic Assistance Program No. 13.335, General Medical Sciences-Research Grants.)

Dated September 17, 1973.

JOHN F. SHERMAN,
*Deputy Director,*
*National Institutes of Health.*

[FR Doc.73–20567 Filed 9–26–73;8:45 am]

## WORKING GROUP ON PATHOPHYSIOLOGY OF THE MULTIPLE SCLEROSIS AD HOC SCIENTIFIC ADVISORY COMMITTEE

### Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Working Group on Pathophysiology of the Multiple Sclerosis ad hoc Scientific Advisory Committee, October 5, 1973, at 9:00 a.m., in Room 8A03, Building 31A, National Institutes of Health, Bethesda, Maryland. This meeting will be closed to the public to review, discuss and evaluate and/or rank research proposals on Multiple Sclerosis in accordance with the provisions set forth in section 552(b)4 of Title V, U.S. Code and section 10(d) of Pub. L. 92–463.

1. The Institute Information Officer who will furnish summaries of the meeting and rosters of committee members is: Mrs. Ruth Dudley, Building 31, Room 8A03, phone: 496–5751.

2. The Executive Director from who substantive program information may be obtained is: Dr. Harry M. Weaver, Room 8A11, Building 31A, NIH, phone: 496–3523.

Dated September 17, 1973.

JOHN F. SHERMAN,
*Deputy Director,*
*National Institutes of Health.*

[FR Doc.73–20572 Filed 9–26–73;8:45 am]





## THERAPEUTIC EVALUATIONS COMMITTEE

### Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Therapeutic Evaluations Committee, National Heart and Lung Institute, October 3 and 4, 1973, 9:00 a.m., National Institutes of Health, Building 31, Conference Room 8. This meeting will be open to the public from 9:00 a.m. to 11:00 a.m., October 3, 1973, to discuss the minutes of the April 23–24 meeting and subsequent Council actions on Committee recommendations, an administrative report, interim report and committee activities. The balance of the meeting will be closed to the public from 11:00 a.m., October 3, until the adjournment on October 4 to review grants, in accordance with the provisions set forth in section 552(b) 4 of Title 5 U.S. Code and 10(d) of Pub. L. 92–463. Attendance by the public will be limited to space available.

Mr. Hugh Jackson, Information Officer, NHLI, NIH Landow Building, Room C918, phone 496–4236, will furnish summaries of the meeting and rosters of the committee members. Substantive information may also be obtained from the Executive Secretary, Dr. Eleanor M. K. Darby, NHLI, NIH Westwood Building, Room 554, phone 496–7445.

(Catalog of Federal Domestic Assistance Program No. 13.346, National Institutes of Health.)

Dated September 17, 1973.

JOHN F. SHERMAN,
*Deputy Director,*
*National Institutes of Health.*

[FR Doc.73–20579 Filed 9–26–73;8:45 am]

## DIAGNOSTIC RADIOLOGY COMMITTEE

### Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Diagnostic Radiology Committee, National Cancer Institute, October 10–11, 1973, at Airlie House, Warrenton, Virginia. This meeting will be open to the public from 9:00 a.m. to 5:00 p.m. and 7:00 p.m. to 9:00 p.m., October 10, 1973 and 9:00 a.m. to 12:00 p.m., October 11, 1973, to discuss radiological methods in the diagnosis of cancer. Attendance by the public will be limited to space available.

Mr. Frank Karel, Associate Director for Public Affairs, NCI, Building 31, Room 10A31, National Institutes of Health, Bethesda, Md. 20014 (301/496–1911) will furnish summaries of the open meeting and roster of committee members.

Dr. Kenneth B. Olson, Executive Secretary, Building 31, Room 3A06, National Institutes of Health, Bethesda, Md. 20014 (301/496–1591) will provide substantive program information.

Dated September 21, 1973.

JOHN F. SHERMAN,
*Deputy Director,*
*National Institutes of Health.*

[FR Doc.73–20533 Filed 9–26–73;8:45 am]

## POPULATION RESEARCH COMMITTEE

### Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Population Research Committee of the National Institute of Child Health and Human Development, October 19, 1973, at 9:00 a.m., National Institutes of Health, Building 31, Conference Room 6. This meeting will be open to the public from 9:00 a.m. to 10:30 a.m., October 19, to discuss program status and projections for Population Research Centers and Program Projects. The meeting will be closed to the public from 10:30 a.m. to 5:00 p.m., October 19 to review grants in accordance with the provisions set forth in section 552(b)4 of Title 5 U.S. Code and 10(d) of Pub. L. 92–463. Attendance by the public will be limited to space available.

Ms. Patricia Newman, Information Officer, NICHD, Landow Buillding, Room A–804B, National Institutes of Health, 496–5133, will furnish summaries of the meeting and rosters of the committee members. Substantive information may also be obtained from Dr. Bengt Liljeroot, Executive Secretary of the Committee, Room C–729, Landow Building, National Institutes of Health, 496–6515.

(Catalog of Federal Domestic Assistance Program No. 13.317, National Institutes of Health.)

Dated September 17, 1973.

JOHN F. SHERMAN,
*Deputy Director,*
*National Institutes of Health.*

[FR Doc.73–20576 Filed 9–26–73;8:45 am]

# ATOMIC ENERGY COMMISSION

## ADVISORY COMMITTEE ON REACTOR SAFEGUARDS 162ND ACRS MEETING

### Notice of Meeting

SEPTEMBER 24, 1973.

In accordance with the purposes of sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards will hold a meeting on October 11–13, 1973, in Room 1046, 1717 H Street NW., Washington, D.C.

The following constitutes that portion of the Committee's agenda for the above meeting which will be open to the public:

(1) *Thursday, October 11, 1973:* 10:15 a.m.–12:30 p.m. and 1:30 p.m.–3:00 p.m.—*Donald C. Cook Nuclear Plant* (located in Lake Township near Benton Harbor, Michigan)—Review application for an operating license. The Committee will hear presentations by representatives and consultants of the AEC Regulatory Staff and the Indiana and Michigan Electric Company and will hold discussions with these groups.

The Committee will hold closed sessions during this period, if required, to discuss security plans for this facility and privileged information related to steam generator water chemistry control; fuel element design, fabrication, performance; and loss of coolant accident analysis.

It should be noted that, in addition to the agenda item noted above, the Committee will hold Executive Sessions not open to the public under the authority of section 10(d) of Pub. L. 92–463 (the Federal Advisory Committee Act), to consider the above applications and other matters. I have determined that it is necessary to close such portions of the meeting to protect such privileged information and protect the free interchange of internal views and to avoid undue interference with agency or Committee operation.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Committee is empowered to conduct the meeting in a manner that in his judgment will facilitate the orderly conduct of business.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda item may do so by mailing 25 copies thereof, postmarked no later than October 4, 1973, to the Executive Secretary, Advisory Committee on Reactor Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Such written comments shall be based on materials related to the above agenda item, which materials are contained in the application for an operating license and related documents, on file and available for public inspection in the Atomic Energy Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20545, and the St. Joseph Public Library, 500 Market Street, St. Joseph, Michigan 49085.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Committee. To the extent that the time available for the meeting permits, the Committee will receive



V 38 I 187 SEP 27 73 XUM

oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Committee.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Committee, who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled and in regard to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on October 10, 1973, to the Office of the Executive Secretary of the Committee (telephone: 301-973-5651) between 8:30 a.m. and 5:15 p.m. e.d.t.

(e) Questions may be propounded only by members of the Committee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) A copy of the transcript of the open portions of the meeting will be available for inspection during the following workday at the Atomic Energy Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. On request, copies of the minutes of the meeting will be made available for inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., on or after December 12, 1973. Copies may be obtained upon payment of appropriate charges.

JOHN C. RYAN,
*Advisory Committee Management Officer.*

[FR Doc.73-20681 Filed 9-26-73;8:45 am]

## ADVISORY COMMITTEE ON REACTOR SAFEGUARDS WORKING GROUP ON PEAKING FACTORS

### Notice of Meeting

SEPTEMBER 24, 1973.

In accordance with the purposes of section 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards Working Group on Peaking Factors will hold a meeting on October 10, 1973, in Room 112, at 1717 H Street NW., Washington, D.C. The purpose of this meeting will be to discuss calculational techniques and plant operating conditions related to peaking factors, with reference to nuclear reactors designed by Westinghouse Electric Corporation.

The following constitutes that portion of the Subcommittee's agenda for the above meeting which will be open to the public:

*Wednesday, October 10, 1973, 2:30-5:30 p.m.* Discussion with the AEC Regulatory Staff and Westinghouse.

In connection with the above agenda item, the Subcommittee will hold an executive session at approximately 5:30 p.m. to exchange opinions and formulate recommendations to the ACRS.

I have determined, in accordance with subsection 10(d) of Public Law 92-463, that the executive session at the end of the meeting will consist of an exchange of opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b). It is essential to close this portion of the meeting to protect the free interchange of internal views and to avoid undue interference with Committee operation.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda item may do so by mailing 25 copies thereof, postmarked no later than October 3, 1973, to the Executive Secretary, Advisory Committee on Reactor Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Such comments shall be based upon Westinghouse topical reports and various other related documents on file and available for public inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Subcommittee, between the hours of 3:00 p.m. and 5:30 p.m. on the day of the meeting.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee, who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled, and in regard to the Chairman's ruling on requests for the opportunity to present oral statements, and the time alloted, can be obtained by a prepaid telephone call on October 9, 1973, to the Office of the Executive Secretary of the Committee (telephone: 301-973-5651) between 8:30 a.m. and 5:15 p.m., e.d.t.

(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) The use of still, movie, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(h) A copy of the transcript of the open portions of the meeting will be available for inspection during the following workday at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545. On request, copies of the minutes of the meeting will be made available for inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545, on or after December 10, 1973. Copies may be obtained upon payment of appropriate charges.

JOHN C. RYAN,
*Advisory Committee Management Officer.*

[FR Doc.73-20680 Filed 9-26-73;8:45 am]

[Docket No. 50-295]

## COMMONWEALTH EDISON CO.

### Notice of Issuance of Amendment to Facility Operating License

Notice is hereby given that, pursuant to an Order by the Atomic Safety and Licensing Board, dated September 20, 1973, the Atomic Energy Commission (the Commission) has issued Amendment No. 2 to Facility Operating License No. DPR-39 to Commonwealth Edison Company (Commonwealth Edison) for Zion Nuclear Power Station, Unit 1 (the facility). The facility is a pressurized, light water moderated and cooled reactor located at Commonwealth Edison's 250 acre site on the west shore of Lake Michigan in Zion, Lake County, Illinois. The facility is designed for operation at approximately 3,250 megawatts thermal.

The amended license authorizes Commonwealth Edison to perform operations at core power levels up to 1,700 megawatts thermal (about 52 percent of rated power), in accordance with the Technical Specifications issued on August 9, 1973.

The Director of Regulation has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Ch. I, which are set forth in the license. The application for the license complies with the requirements of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR Ch. I.

The amended license is effective as of the date of issuance and shall expire eighteen (18) months from said date unless extended for good cause shown or upon earlier issuance of a superseding licensing action. However, the authority to operate the facility as specified in Item 3.A. of the amended license is subpect to further orders of the Atomic Safety and Licensing Board designated to conduct a hearing on Commonwealth Edison Company's applications for full power licenses for Zion Units 1 and 2. In the event that the Atomic Safety and Licensing Board issues any further order





prohibiting further operation of Zion Unit 1 or limiting such operation to power levels below those authorized in the amended license Commonwealth Edison Company shall comply with such limitations as rapidly as compliance can be achieved in an orderly fashion, subject to any orders staying such decision which may be entered by the Atomic Safety and Licensing Appeal Board, the Atomic Energy Commission or a court of competent jurisdiction.

Copies of (1) the Board's Order dated September 20, 1973, (2) Amendment No. 2 to Facility Operating License No. DPR-39, and other relevant documents are available for public inspection in the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C., and at the Waukegan Public Library, 128 N. County Street, Waukegan, Illinois. Copies of the amended license may be obtained upon request addressed to the Atomic Energy Commission, Washington, D.C. 20545, Attention: Deputy Director for Reactor Projects, Directorate of Licensing.

Dated at Bethesda, Maryland, this 21st day of September 1973.

For the Atomic Energy Commission.

KARL R. GOLLER,
*Chief, Pressurized Water Reactors, Branch No. 3, Directorate of Licensing.*

[FR Doc.73-20587 Filed 9-26-73;8:45 am]

## ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON RELIABILITY AND ACCIDENT PROBABILITIES

### Notice of Meeting

SEPTEMBER 26, 1973.

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards' Subcommittee on Reliability and Accident Probabilities will hold a meeting on October 9, 1973, in Room 1062, at 1717 H Street NW., Washington, D.C. The subject scheduled for discussion is the background and tentative views regarding the AEC's Reactor Safety Study.

The following constitutes that portion of the Subcommittee's agenda for the above meeting which will be open to the public:

*Tuesday, October 9, 1973, 1:00 pm-2:0[illegible] pm*

Discussion of background of Reactor Safety Study with Safety Study Representatives.

In connection with the above agenda item, the Subcommittee will hold a closed session at approximately 2:00 p.m. to discuss preliminary opinions and internal views of the AEC and its consultants, and an executive session at approximately 4:30 p.m. to exchange opinions and formulate recommendations to the ACRS.

I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that the closed sssion beginning at approximately 2:00 p.m. and the executive session at the end of the meeting will consist of an exchange of preliminary opinions and formulation of recommendations, the discussion of which, if written, would fall within exemption (5) of 5 U.S.C. 552(b). It is essential to close these portions of the meeting to protect the free interchange of internal views and to avoid undue interference with agency and Committee operation.

Practical considerations may dictate alterations in the above agenda or schedule.

The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda item may do so by mailing 25 copies thereof, postmarked no later than October 4, 1973 to the Executive Secretary, Advisory Committee on Reactor Safeguards, U.S. Atomic Energy Commission, Washington, D.C. 20545. Written statements shall be based on a prepared statement of the Director of the Reactor Safety Study, dated September 25, 1973 which is on file and available for public inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545.

(b) Those persons submitting a written statement in accordance with paragraph (a) above may request an opportunity to make oral statements concerning the written statement. Such requests shall accompany the written statement and shall set forth reasons justifying the need for such oral statement and its usefulness to the Subcommittee. To the extent that the time available for the meeting permits, the Subcommittee will receive oral statements during a period of no more than 30 minutes at an appropriate time, chosen by the Chairman of the Subcommittee, between the hours of 1:00 p.m. and 4:30 p.m. on the day of the meeting.

(c) Requests for the opportunity to make oral statements shall be ruled on by the Chairman of the Subcommittee, who is empowered to apportion the time available among those selected by him to make oral statements.

(d) Information as to whether the meeting has been cancelled or rescheduled, and in regard to the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted, can be obtained by a prepaid telephone call on October 9, 1973, to the Office of the Executive Secretary of the Committee (telephone: 301-973-5651) between 8:30 am and 12:00 noon eastern daylight time.

(e) Questions may be propounded only by members of the Subcommittee and its consultants.

(f) Seating for the public will be available on a first-come, first-served basis.

(g) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the course of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will not, however, be allowed while the meeting is in session.

(h) A copy of the transcript of the open portions of the meeting will be available for inspection during the following workday at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545. On request, copies of the minutes of the meeting will be made available for inspection at the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545 on or after December 9, 1973. Copies may be obtained upon payment of appropriate charges.

JOHN C. RYAN,
*Advisory Committee Management Officer.*

[FR Doc.73-20741 Filed 9-26-73;8:45 am]

## CIVIL AERONAUTICS BOARD

[Docket No. 13959; Order 73-9-82]

### DALLAS-FORT WORTH REGIONAL AIRPORT INVESTIGATION

### Order Terminating Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 21st day of September 1973.

This investigation was instituted by the Board on August 20, 1962 (Order E-18719, amended on December 19, 1962 by Order E-19117), to determine whether the public convenience and necessity require the alteration, amendment, or modification of the certificate or certificates of (1) all air carriers, (2) the local service carriers, (3) the trunkline carriers, or (4) any individual air carrier or air carriers authorized to serve either or both Dallas and Fort Worth, Texas, in such manner as to require that Dallas and Fort Worth be served through a single airport to be designated in this proceeding.

After due notice a public hearing was held before Administrative Law Judge Ross I. Newmann, who thereafter issued his initial decision on April 7, 1964, in which he concluded that it would not be in the public interest to designate either GSIA or Love Field as a regional airport to serve the Dallas-Fort Worth area. Judge Newmann recognized, however, that both cities would benefit if a fair and equitable solution to their problems could be worked out. As a possible solution, he suggested the creation of an Airport Authority which would assume full responsibility for the planning, development, and operation of all airports in the Dallas-Fort Worth area.

On September 30, 1964, the Board issued an order (E-21341) stating it was unanimously of the opinion that service to Dallas and Fort Worth should be required through a single airport which meets, without limitation, the present and future requirements for transcontinental passenger and cargo services. The order gave the two cities a period of 180 days within which to arrive at a voluntary agreement concerning the location of the airport to be used for the consolidated service and to submit such agreement to the Board.

When the two cities failed to reach an agreement, the Board issued Order E-22028 on April 13, 1965, stating that it was firmly of the view that a voluntary agreement on the part of both cities is the best solution to their airport problem and that the Board was prepared to



V 38-187 SEP 27 73 XUM

assist them in reaching such an agreement. The Board therefore remanded the case to the Administrative Law Judge with full authority to assist the parties in their efforts to reach a definitive agreement.

Following our order of remand, the Administrative Law Judge held a series of meetings with respresentatives of both cities in Washington, D.C., Fort Worth, and Dallas. As a result, the Dallas/Fort Worth Regional Airport Board was established on September 27, 1965, under Texas Revised Civil Statutes, and was given permanent status by the City Councils of Dallas and Fort Worth. On April 15, 1968, the cities signed a contract creating provisions for the construction and operation of the Dallas-Fort Worth Airport. Under the contract, the airport will be owned and operated by or on behalf of and under the control of the cities. The Board was authorized to plan, acquire, establish, develop, construct, operate, regulate, and police the airport, and was charged with the responsibility of exercising on behalf of the cities the powers of each with respect thereto.

In its ultimate development the Dallas-Fort Worth Airport will have six primary instrument runways capable of three simultaneous operations, and a ground capacity of 230 passenger-aircraft gates and 200 all-cargo gates. Under Phase I, which is to be opened this fall, the Dallas-Fort Worth Airport will provide a three-runway layout capable of simultaneous aircraft operations, with a total of 66 passenger gates and 12 cargo gates. Phase I cost is estimated at approximately $700 million.

In view of the foregoing, we find that the new Dallas-Fort Worth Airport will provide an adequate facility to accommodate the air transportation needs of Dallas and Fort Worth and the surrounding counties that constitute their tributary market-base region. We further find that the primary purpose and objective of this investigation has been accomplished.

*Accordingly, it is ordered,* That:

The investigation in Docket 13959 be and it hereby is terminated.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.73-20655 Filed 9-26-73;8:45 am]

---

[Docket No. 23333; Order 73-9-77]

## INTERNATIONAL AIR TRANSPORT ASSOCIATION

### Order Regarding Specific Commodity Rates

Issued under delegated authority September 20, 1973.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA) and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement names six additional specific commodity rates as set forth in the attachment hereto,[1] reflecting reductions from general cargo rates; and was adopted pursuant to unprotested notices to the carriers and promulgated in an IATA letter dated September 6, 1973.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act: *Provided,* That approval is subject to the conditions hereinafter ordered.

*Accordingly, it is ordered,* That:

1. Agreement C.A.B. 23926, R–1 through R–6 be and hereby is approved, provided that approval shall not constitute approval of the specific commodity descriptions contained herein for purposes of tariff publication: *Provided further,* That tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing; and

2. The findings and approval herein shall not be deemed to modify the findings and Order of the Board in its decision in Agreements Adopted by IATA Relating to North Atlantic Cargo Rates, Order 73–2–24 of February 6, 1973, as amended and finalized by Order 73–7–9 of July 5, 1973, and are subject to all provisions of such order.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.73-20652 Filed 9-26-73;8:45 am]

---

[Docket No. 23333; Order 73-9-76 [1]]

## INTERNATIONAL AIR TRANSPORT ASSOCIATION

### Order Regarding Specific Commodity Rates

Issued under delegated authority September 19, 1973.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA) and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement names three additional specific commodity rates as set forth in the attachment hereto,[2] reflecting reductions from general cargo rates; and was adopted pursuant to unprotested notices to the carriers and promulgated in an IATA letter dated August 24, 1973.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act: *Provided,* That approval is subject to the conditions hereinafter ordered.

*Accordingly, it is ordered,* That:

1. Agreement C.A.B. 23910, R–1 through R–3 be and hereby is approved, provided that approval shall not constitute approval of the specific commodity descriptions contained herein for purposes of tariff publication: *Provided further,* That tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing; and

2. The findings and approval herein shall not be deemed to modify the findings and Order of the Board in its decision in Agreements Adopted by IATA Relating to North Atlantic Cargo Rates, Order 73–2–24 of February 6, 1973, as amended and finalized by Order 73–7–9 of July 5, 1973, and are subject to all provisions of such order.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc. 73-20653 Filed 9-26-73;8:45 am]

---

[Docket No. 23333; Order 73-9-78]

## INTERNATIONAL AIR TRANSPORT ASSOCIATION

### Order Regarding Specific Commodity Rates

Issued under delegated authority September 20, 1973.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations, between various air carriers, foreign air carriers, and other carriers, embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA) and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement names two additional specific commodity rates as set forth in the attachment hereto,[1] reflecting reductions from general cargo rates; and was adopted pursuant to unprotested notices to the carriers and promulgated in an IATA letter dated September 6, 1973.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the subject agreement is adverse to the public interest or in violation of the Act: *Provided,* That approval is subject to the conditions hereinafter ordered.

*Accordingly, it is ordered,* That:

1. Agreement C.A.B. 23927, R–1 and R–2 be and hereby is approved, provided that approval shall not constitute approval of the specific commodity descriptions contained herein for purposes of tariff publication: *Provided further,* That tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing; and

2. The findings and approval herein shall not be deemed to modify the findings and Order of the Board in its decision in Agreements Adopted by IATA Relating to North Atlantic Cargo Rates, Order 73–2–24 of February 6, 1973, as amended and finalized by Order 73–7–9 of July 5, 1973, and are subject to all provisions of such order.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.73-20654 Filed 9-26-73;8:45 am]

---

[Docket No. 25908, etc.; Order 73-9-83]

## TRANSATLANTIC ROUTE PROCEEDING, ET AL.

### Order Regarding Certificate of Public Convenience and Necessity

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 21st day of September 1973.

Transatlantic Route Proceeding, Docket 25908; application of Pan American World Airways, Inc., for renewal of temporary authority in its certificates of public convenience and necessity for routes 132 and 133, Docket 24818; application of Trans World Airlines, Inc., for renewal of its certificate of public convenience and necessity for route 147, Docket 24816; application of Seaboard World Airlines, Inc., for renewal of temporary authority in its certificate of public convenience and necessity for route 119, Docket 24825; East Coast Points-Europe Service Investigation, Docket 19255.

Pan American World Airways, Inc., Trans World Airlines, Inc., and Seaboard World Airlines, Inc., hold substantial temporary transatlantic authority including numerous points in Western and Eastern Europe, the Near and Middle East, North Africa and points in the Far East.[3] By timely filed applications, Pan American,[4] TWA,[5] and Seaboard [6] have requested permanent renewal of their temporary transatlantic certificate authority,[6] invoking 5 U.S.C. 558(c), formerly section 9(b) of the Administrative Procedure Act, pursuant to which their respective temporary authorities have been automatically extended until final Board decision on their renewal applications.

In addition, six supplemental air carriers [8] have recently received renewed certificates of public convenience and necessity authorizing them to provide transatlantic supplemental air transportation between any point in any State of the United States or the District of Columbia, on the one hand, and points in Greenland, Iceland, the Azores, Europe, Africa, and Asia, as far east as (and including) India, on the other hand. By their terms these certificates expire on July 5, 1975.[7]

Upon cnsideration of the foregoing and other pertinent matters, we have determined to institute a proceeding, as discussed in detail below, to consider the renewal of the scheduled and supplemental carriers' temporary transatlantic authorities,[9] the possible certification of additional U.S. coterminal points, and the authorization of supplemental transatlantic cargo authority. Accordingly, we are consolidating for hearing in this proceeding the applications of Pan American, TWA, and Seaboard, in Dockets 24818, 24816, and 24825, respectively, insofar as those applications conform to the scope of the proceeding herein instituted.

In view of the increased congestion at many of the existing East Coast gateways, and the continued increase in transatlantic traffic, we believe it desirable that the issues in this proceeding embrace consideration of additional U.S. points for certification as scheduled U.S. coterminals.[10] However, in order to avoid expanding the case to unmanageable proportions, and to prevent delay in considering the renewal of the existing carriers' temporary authorities, it is our desire to limit the number of U.S. cities to be considered as possible U.S. coterminal points. Consequently, we have selected 16 additional cities for consideration as U.S. coterminals for transatlantic passenger and/or cargo service. Our selection was accomplished in a manner which gives due regard to the traffic-generating capability and geographical location of all cities which might be considered as possible domestic coterminals points.[10] Thus, with one exception—Hartford, Conn.—the cities we have selected rank in the top 25 U.S. cities in terms of domestic revenue passenger miles generated for the 12 months

---

[1] Filed as part of the original document.

[1] Order 73-8-70 dated August 14, 1973 and issued September 11, 1973 was incorrectly numbered and dated. It is now being reissued bearing a current date and number.

[2] Filed as part of the original document.

[1] Filed as part of the original document.

[1] With the exception of Pan American's authority at San Juan, the carrier's U.S. coterminal points are authorized on a permanent basis.

[2] Pan American's application for renewal of routes 132 and 133 was filed in Docket 24818. In addition to renewal of its temporary authority on routes 132 and 133, Pan American requests authority to allow stopover privileges at any coterminal point named in its certificate to any person traveling between any other coterminal, on the one hand, and any foreign point named in the certificate, on the other hand.

[3] TWA's application, as amended, for renewal of route 147, was filed in Docket 24816.

[4] Seaboard's application for renewal of its authority to carry property and mail only over route 119 was filed in Docket 24825.

[5] Appendix A contains a list of each carrier's temporary authority.

[6] Capitol International Airways, Inc., Overseas National Airways, Inc., Saturn Airways, Inc., Trans International Airlines, Inc., and World Airways, Inc. Universal Airlines, Inc. initially received transatlantic charter authority by Order 71–5–132, which authority was suspended by Order 72–8–129. Although this authority was renewed along with other supplementals by Order 72–5–9, the Board subsequently stayed the effectiveness of the renewed certificate (Order 72–6–144).

[7] Order 72–5–9, served May 4, 1972.

[8] We shall not include in this investigation the renewal of TWA's temporary authority to serve the People's Republic of China. In view of the unique circumstances involved, we believe that consideration of the question of service to the People's Republic of China would unnecessarily delay and complicate the rest of this investigation and should not be considered at this time. TWA's existing authority will continue in effect pursuant to 5 U.S.C. 558(c).

[9] The following is a list of the existing domestic coterminal points:

Baltimore—Pan American, TWA, Seaboard (hyphenated with Washington)
Boston—Pan American, TWA, Seaboard
Chicago—Pan American, TWA, Seaboard
Cleveland—Seaboard
Detroit—Pan American, TWA, Seaboard
Los Angeles—Pan American, TWA, Seaboard
New York—Pan American, TWA, Seaboard
Philadelphia—Pan American, TWA, Seaboard
Portland—Pan American
San Francisco—Pan American, TWA, Seaboard
San Juan, P.R.—Pan American (temporary)
Seattle—Pan American
Washington, D.C.—Pan American, TWA, Seaboard (to be served through Dulles and hyphenated with Baltimore)

[10] The additional points to be considered for U.S. coterminal authority are as follows: Atlanta, Cleveland, Dallas/Ft. Worth, Denver, Hartford, Houston, Kansas City, Las Vegas, Miami, Minneapolis/St. Paul, New Orleans, Phoenix, Pittsburgh, St. Louis, San Diego, and Tampa.









V 38-187 SEP 27 73 XUM

ended December 31, 1971.[11] Similar criteria have proved workable in the past in enabling the Board to determine a manageable number of coterminal points to consider in a case of this sort.[12]

In addition, the issues in this proceeding will embrace consideration of transatlantic cargo charter authority. This is consistent with our previous expressions of intent to consider transatlantic supplemental cargo authority contemporaneously with our review of the renewal of the temporary transatlantic authority held by the scheduled carriers.[13]

We have determined that final Board action in this proceeding may constitute a major Federal action which might significantly affect the quality of the human environment within the meaning of section 102 of the National Environmental Policy Act of 1969. Accordingly, this proceeding will be conducted in accordance with the standards and procedures set forth in § 399.110 of the Board's Policy Statements.[14] In addition, we are directing the Director, Bureau of Operating Rights, to prepare and circulate a draft environmental impact statement prior to the hearing for consideration and comment by the parties, other environmentally concerned Federal agencies, and other interested persons.

Since a primary focus of this proceeding will be directed to the consideration of the renewal of the temporary scheduled and supplemental authority, we will not look with favor upon any requests to expand the scope of this proceeding to include consideration of (1) additional foreign points, or (2) requests for domestic "fill-up rights" between U.S. coterminal points. Consideration of these issues would unnecessarily complicate and delay this proceeding.[15]

We are herewith terminating the East Coast Points-Europe Service Investigation, Docket 19255, and dismissing all other pending applications for transatlantic authority, without prejudice to a full consideration of requests that new applications which conform to the scope of the instant proceeding be consolidated with the herein instituted transatlantic case.[16] The East Coast Points case was instituted in 1967 [17] to consider the authorization of transatlantic service from new East Coast gateways to relieve congestion at existing gateways—principally New York. In view of the changes in economic conditions since that time, and in view of the staleness of the pleadings in the East Coast Points case, we will terminate that case and invite consolidation of appropriate applications into this proceeding.

Finally, with the scope of the proceeding established by this order, it is our intention that this investigation will proceed expeditiously. Accordingly, we contemplate that the instant proceeding will be set promptly for prehearing conference, and that the Administrative Law Judge assigned will establish the most expeditious procedural schedule possible with due regard to the rights of the parties and the development of an adequate record, to which procedural schedule the parties will strictly adhere.

*Accordingly, it is ordered,* That:

1. A proceeding, to be known as the Transatlantic Route Proceeding, Docket 25908, be and it hereby is instituted and shall be set down for expeditious hearing before an Administrative Law Judge of the Board at a time and place hereafter designated;

2. The proceeding instituted by paragraph 1 above shall include consideration of:

(a) Whether the public convenience and necessity require the renewal of the temporary transatlantic certificate authority held by Pan American World Airways, Inc., in routes 132 and 133, Trans World Airlines, Inc., in route 147 (except at Canton and Shanghai), and Seaboard World Airlines, Inc., in route 119;

(b) Whether the public convenience and necessity require the certification of authority to provide transatlantic passenger, cargo (combination or all-cargo) and mail service, either on a temporary or permanent basis, to the foreign points considered in paragraph 2(a) above from the following U.S. points:

Atlanta, Ga., Baltimore, Md., Boston, Mass., Chicago, Ill., Cleveland, Ohio, Dallas/Ft. Worth, Tex., Denver, Colo., Detroit, Mich., Hartford, Conn., Houston, Tex., Kansas City, Mo., Las Vegas, Nev., Los Angeles, Calif., Miami, Fla., Minneapolis/St. Paul, Minn., New Orleans, La., New York, N.Y., Philadelphia, Pa., Phoenix, Ariz., Pittsburgh, Pa., Portland, Oreg., St. Louis, Mo., San Diego, Calif., San Francisco, Calif., San Juan, P.R., Seattle, Wash., Tampa, Fla., and Washington, D.C.;

(c) Whether the public convenience and necessity require the grant of stopover privileges at the domestic coterminal points in issue;

(d) Whether the public convenience and necessity require the renewal of the certificates of public convenience and necessity held by Capitol International Airways, Inc., Overseas National Airways, Inc., Saturn Airways, Inc., Trans International Airlines, Inc., Universal Airlines, Inc., and World Airways, Inc., authorizing transatlantic supplemental air transportation;

(e) Whether the public convenience and necessity require the certification of transatlantic supplemental cargo authority on a temporary or permanent basis; and

(f) What will be the impact on the human environment of final Board action in this proceeding.

3. Insofar as they conform to the scope of this proceeding, as set forth in paragraph 2 above, the applications of Pan American World Airways, Inc., Docket 24818, Trans World Airlines, Inc., Docket 24816, and Seaboard World Airlines, Inc., Docket 24825, be and they hereby are consolidated with the proceeding instituted by paragraph 1 above; to the extent not consolidated, the foregoing applications be and they hereby are dismissed without prejudice;

4. The East Coast Points-Europe Service Investigation, in Docket 19255, be and it hereby is terminated;

5. The applications listed in Appendix B below, be and they hereby are dismissed without prejudice;

6. Petitions for reconsideration of this order and motions to consolidate appropriate applications shall be filed 20 days from the service date of this order and answers thereto shall be filed 10 days thereafter; and

7. A copy of this order shall be served on each certificated air carrier; the cities listed in Appendix B below; each city listed in paragraph 2(b) above; the Governor of each state listed in Appendix C below, the Governor of Puerto Rico, and the Mayor-Commissioner of the District of Columbia; the state environmental protection agencies listed in Appendix C below; each party to the East Coast Points-European Service Investigation; the Departments of Commerce, Health, Education, and Welfare, Interior, State, and Transportation; the Environmental Protection Agency; the Council on Environmental Quality; and the National Aeronautics and Space Administration.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

APPENDIX A

LIST OF TEMPORARY POINTS

PAA

*1. Route 133*

| | |
|---|---|
| Casablanca, Morocco | Madrid |

*2. Route 132*

| | |
|---|---|
| Austria | Leningrad, USSR |
| Afghanistan | Lisbon |
| Azores | Lithuania |
| Barcelona | Madrid |
| Belgium | Moscow |
| Bulgaria | Netherlands |
| Czechoslovakia | Nice |
| Denmark | Norway |
| Estonia | Pakistan |
| Finland | Paris |
| Germany | Poland |
| Hungary | Rumania |
| Iceland | Rome |
| India | San Juan |
| Iran | Sweden |
| Iraq | Syria |
| Ireland—except Dublin | Turkey |
| Latvia | UK (Northern Ireland) |
| Lebanon | Yugoslavia |

[11] While Hartford is not one of the top 25 cities, it ranks 29th in RPM's generated and, in addition, the city's proximity to the Atlantic makes its choice for consideration as a U.S. coterminal desirable.

[12] See Transpacific Route Investigation, Order E-23740, May 25, 1966.

[13] See Orders 71-10-126, n. 4, and 72-6-139, p. 3.

[14] "Implementation of the National Environmental Policy Act of 1969."

[15] We will, however, consider requests for "stopover privileges" because, as an evidentiary matter, they will not unduly expand this proceeding.

[16] We are dismissing these applications in order to give the applicants an opportunity to reappraise the authority they seek in light of the scope of the proceeding herein instituted.

[17] Order E-25991, November 17, 1967.





TWA

*Route 147*

| | |
|---|---|
| Algeria | Italy (except Rome which is permanent) |
| Azores | Jordan |
| Bangkok | Kuwait |
| Burma | Libya |
| Calcutta | London |
| Canton | Mandalay |
| Ceylon | Manila |
| Egypt | Oman |
| France (except Marseilles, Nice or Paris) | Portugal |
| Frankfurt | Saudi Arabia |
| Greece | Shanghai |
| Hanoi | Southern India |
| Hong Kong | Spain (except Barcelona) |
| India | Switzerland |
| Iraq | Tunisia |
| Israel | Yemen |

SEABOARD

*Route 119 (Cargo only)*

| | |
|---|---|
| Newfoundland, Canada | Denmark |
| Ireland (except Dublin) | Norway |
| Belgium | Sweden |
| The Netherlands | Switzerland |
| | Italy |

APPENDIX B

The following applications are dismissed without prejudice:

| | |
|---|---|
| Airlift International | Docket 21199. |
| American Airlines | Dockets 19418, 21185, 24979. |
| Braniff Airways | Dockets 19428, 20292, 24921. |
| Capitol International | Docket 21199. |
| Dallas/Fort Worth | Dockets 21530, 24910. |
| Delta Air Lines | Dockets 19409, 19417, 24592. |
| Department of Transportation | Docket 21321. |
| Eastern Air Lines | Docket 19405. |
| The Flying Tiger Line | Docket 20521. |
| Louisville | Docket 21199. |
| Memphis | Docket 21354. |
| Nashville | Docket 21340. |
| National Airlines | Dockets 19425, 19483, 24666, 24803. |
| Northwest Airlines | Docket 19415. |
| Overseas National Airlines | Docket 19435. |
| Pan American | Dockets 19424, 20815, 24819, 24820. |
| Seaboard World Airlines | Dockets 17814, 19430, 20869. |
| Standard Airways | Docket 19420. |
| Trans International Airlines | Docket 19370. |
| Trans World Airlines | Dockets 14882, 19419. |
| United Air Lines | Docket 19410. |
| Western Airlines | Docket 19414. |
| World Airways | Docket 19403. |

APPENDIX C

The following State agencies concerned with protecting the environment will be served with a copy of this order:

California
The Resources Agency
1416 Ninth Street
Sacramento, Calif. 95814

Colorado
Department of Natural Resources
1845 Sherman
Denver, Colo. 80203

Connecticut
Department of Environmental Protection
539 State Office Bldg.
Hartford, Conn. 06115

District of Columbia
Department of Environmental Services
1875 Connecticut Ave., NW.
Washington, D.C. 20009

Florida
Department of Natural Resources
Larson Building
Gaines St. at Monroe
Tallahassee, Fla. 32304

Georgia
Natural Areas Council
544 Agriculture Bldg.
7 Hunter St. S.W.
Atlanta, Ga. 30303

Illinois
Environmental Protection Agency
535 W. Jefferson St.
Springfield, Mo. 62704

Louisiana
State Department of Conservation
P.O. Box 44275
Capital Station
Baton Rouge, La. 70804

Maryland
Department of Natural Resources
State Office Bldg.
Annapolis, Md. 21401

Massachusetts
Department of Natural Resources
Leverett Saltonstall Bldg.
100 Cambridge St.
Boston, Mass. 02202

Michigan
Department of Natural Resources
Mason Building
Lansing, Mich. 48926

Minnesota
Pollution Control Agency
717 Delaware Street, S.E.
Minneapolis, Minn. 55440

Missouri
Department of Conservation
P.O. Box 180
Jefferson City, Mo. 65101

Nevada
Environmental Protection Commission
State Health Division
201 S. Fall St.
Carson City, Nevada 89701

New York
Bureau of Environmental Protection
State of New York
80 Center Street
New York, N.Y. 10013

Ohio
Department of Natural Resources
907 Ohio Departments Bldg.
Columbus, Ohio 43215

Oregon
Department of Environmental Quality
1234 S.W. Morrison
Portland, Oregon 97205

Pennsylvania
Department of Environmental Resources
Public Relations
Rm. 522, South Office Bldg.
Harrisburg, Penna. 17120

Puerto Rico
Department of Health
P.O. Box 9342
Santurce, P.R. 00908

Texas
Air Control Board
8520 Shoal Creek Blvd.
Austin, Texas 78758

Washington
Department of Ecology
Box 829
Olympia, Wash. 98504

[FR Doc.73-20657 Filed 9-26-73;8:45 am]

[Dockets Nos. 25583 and 25603]

## RONSON CORPORATION AND RONSON HELICOPTERS, INC.

### Notice of Hearing Regarding Acquisition of Control by Liquigas, S.p.A. et al.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on December 17, 1973, at 10:00 a.m. (local time) in Room 726, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned.

Dated at Washington, D.C., September 21, 1973.

[SEAL] JOSEPH L. FITZMAURICE,
*Administrative Law Judge.*

[FR Doc.73-20656 Filed 9-26-73;8:45 am]

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### CERTAIN COTTON TEXTILES AND COTTON TEXTILE PRODUCTS PRODUCED OR MANUFACTURED IN THE FEDERATIVE REPUBLIC OF BRAZIL

### Entry or Withdrawal From Warehouse for Consumption

SEPTEMBER 24, 1973.

On October 23, 1970, the United States Government, in furtherance of the objectives of, and under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, concluded a comprehensive bilateral cotton textile agreement with the Government of the Federative Republic of Brazil concerning exports of cotton textiles and cotton textile products from the Federative Republic of Brazil to the United States over a five-year period beginning on October 1, 1970, and extending through September 30, 1975. On May 9, 1972, the bilateral agreement was amended and extended through September 30, 1977. Among the provisions of the agreement, as amended, are those establishing an aggregate limit for the 64 categories, group limits, and within the group limits specific limits on Categories 1-4, 9, 18/19 and part of 26 (printcloth), 22/23, part of 26/27 (duck), part of 26/27 (other than printcloth and duck), part of 30/31, 50, 51, 55, and part of 64 for the fourth agreement year beginning October 1, 1973.

Accordingly, there is published below a letter of September 24, 1973, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, directing that the amounts of cotton textiles and cotton textile products in Categories 1-4, 9, 18/19 and part of 26 (printcloth), 22/23, part of 26/27 (duck), part of 26/27 (other than printcloth and duck), part of 30/31, 50, 51, 55, and part of 64, produced or manufactured in the Federative Republic of Brazil, which may be entered or



V 38-187 SEP 27 73 XUM

withdrawn from warehouse for consumption in the United States for the twelve-month period beginning October 1, 1973, and extending through September 30, 1974, be limited to the designated levels. The letter published below and the actions pursuant thereto are not designed to implement all of the provisions of the bilateral agreement, as amended, but are designed to assist only in the implementation of certain of its provisions.

SETH M. BODNER,
*Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.*

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
*Department of the Treasury,*
*Washington, D.C. 20229.*

SEPTEMBER 24, 1973.

DEAR MR. COMMISSIONER: Under the terms of the Long-Term Arrangement Regarding International Trade in Cotton Textiles done at Geneva on February 9, 1962, pursuant to the bilateral cotton textile agreement of October 23, 1970, as amended, between the Governments of the United States and the Federative Republic of Brazil, and in accordance with the procedures of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective October 1, 1973, and for the twelve-month period extending through September 30, 1974, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 1-4, 9, 18/19 and part of 26 (printcloth), 22/23, part of 26/27 (duck), part of 26/27 (other than printcloth and duck), part of 30/31, 50, 51, 55, and part of 64, produced or manufactured in the Federative Republic of Brazil, in excess of the following levels of restraint:

| Category: | *12-month levels of restraint* |
|---|---|
| 1-4 ---------- pounds-- | 7,549,728 |
| 9 ---------- square yards-- | 13,891,200 |
| 18/19 and part of 26 | |
| 18/19 and part of 26 do---- (printcloth).[1] | 12,154,800 |
| 22/23 ---------- do---- | 5,209,200 |
| Part of 26/27 (duck)[2] do---- | 2,894,000 |
| Part of 26/27 (other do---- than print cloth and duck)[1, 2] | 7,524,562 |
| Part of 30/31[3] --------pieces-- | 6,652,874 |
| 50 ---------- dozen-- | 45,531 |
| 51 ---------- do---- | 39,027 |
| 55 ---------- do---- | 15,889 |
| Part of 64 (only pounds-- T.S.U.S.A. Nos.: 366.6500 and 386.2500). | 251,652 |

[1] In Category 26, the T.S.U.S.A. numbers for printcloth are:

[2] The T.S.U.S.A. Nos. for duck are:

320.--01 through 04, 06, 08
321.--01 through 04, 06, 08
322.--01 through 04, 06, 08
326.--01 through 04, 06, 08
327.--01 through 04, 06, 08
328.--01 through 04, 06, 08

[3] All of Categories 30 and 31 except T.S.U.S.A. No. 366.2740.

| | | |
|---|---|---|
| 320.--34 | 322.--34 | 327.--34 |
| 321.--34 | 326.--34 | 328.--34 |

In carrying out this directive, entries of cotton textiles and cotton textile products in the above categories, produced or manufactured in the Federative Republic of Brazil, which have been exported to the United States from the Federative Republic of Brazil prior to October 1, 1973, shall, to the extent of any unfilled balances, be charged against the levels of restraint established for such goods during the period October 1, 1972 through September 30, 1973. In the event that the above levels of restraint for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The levels of restraint set forth above are subject to adjustment pursuant to the provisions of the bilateral agreement of October 23, 1970, as amended, betweeen the Governments of the United States and the Federative Republic of Brazil which provide, in part, that within the aggregate limit and group limits, the limitations on specific categories may be exceeded by not more than 5 percent; for the limited carryover of shortfalls in certain categories to the next agreement year; and for administrative arrangements. Any appropriate adjustments pursuant to the provisions of the bilateral agreement referred to above, will be made to you by further letter.

A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on April 29, 1972 (37 FR 8802), as amended on February 14, 1973 (38 FR 4436).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The actions taken with respect to the Government of the Federative Republic of Brazil and with respect to imports of cotton textiles and cotton textile products from the Federative Republic of Brazil have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

SETH M. BODNER,
*Chairman, Committee for the Implementation of Textile Agreements, and Deputy Assistant Secretary for Resources and Trade Assistance.*

[FR Doc.73-20685 Filed 9-26-73;8:45 am]

## COUNCIL ON ENVIRONMENTAL QUALITY

### ENVIRONMENTAL IMPACT STATEMENTS

#### Notice of Public Availability

Environmental impact statements received by the Council on Environmental Quality from September 17 through September 21, 1973.

DEPARTMENT OF AGRICULTURE

Contact: Dr. Fred H. Tschirley, Acting Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 331-E, Administration Building, Washington, D.C. 20250, 202-447-3965.

FOREST SERVICE

*Draft*

Recreation Cabins, Ketchikan Area, Tongass N.F., Alaska, September 19: Proposed is the construction and operation of seven recreation cabins on salt water access in roadless areas of the Ketchikan Area, Revillagigedo Island, Tongass National Forest. The cabins will primarily serve the boating public, providing shelter for both normal and emergency boating conditions. Impact will include the clearing of one-sixteenth acre of ground for each cabin, and pollution from cabin use (15 pages). (ELR Order No. 31525) (NTIS Order No. EIS 73 1525-D.)

Timber Sales, Sierra National Forest, Fresno County, Calif., September 13: Proposed is the continued preparation of the Home Camp, Line Creek, Billy Creek, and Bear Creek Timber Sales, to be advertised and awarded to the highest bidder. The 8,115 acre Study Area is located within the 23,020 acre Kaiser inventoried roadless area of the Sierra National Forest. There will be soil erosion, water sedimentation, noise and air pollution from logging activities. There is potential for stimulation of development of private property in Line Creek Basin (90 pages). (ELR Order No. 31499) (NTIS Order No. EIS 73 1499-D.)

*Final*

Vegetation Control, several counties in New Mexico, September 12: Proposed is the use of mechanical equipment and fire to control spreading Pinyon-Juniper and Sagebrush on lands of Apache, Gila, and Santa Fe National Forests, in Centron, Grant, Sandoval, Rio Arriba, and San Miguel Counties. There will be temporary adverse impact to air, soil, water and aesthetic qualities, and to wildlife, (140 pages). Comments made by: EPA, DOI, state and local agencies, and concerned citizens. (ELR Order No. 31495) (NTIS Order No. EIS 73 1495-F.)

SOIL CONSERVATION SERVICE

*Final*

Big Running Water Ditch Watershed, Lawrence and Randolph Counties, Ark., September 14: The proposed project involves protection of the 43,952 acre watershed. Project measures include land treatment and 82 miles of channel improvement. Five hundred acres of woodland will be committed to the action, with adverse effects to local wildlife populations (77 pages). Comments made by: USA, HEW, DOI, EPA, and state agencies. (ELR Order No. 31501) (NTIS Order No. EIS 73 1501-F.)

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Mr. Francis X. Kelly, Director, Office of Public Affairs, Attn: DAEN-PAP, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-7168.

*Draft*

Cave Run Lake, Licking River Basin, several counties in Kentucky, September 19: The statement refers to the proposed construction of the Cave Run Dam and related project works on the Licking River, for purposes of flood control, general recreation, water quality, and fish and wildlife recreation. Thirty-one thousand acres, 14,870 of which will be inundated, will be converted to public ownership as a result of the project. Fifty miles of free flowing stream with 21 miles of tributaries will be converted to slack water impoundment. An influx of visitors will affect the tranquility which presently prevails. (Louisville District) (33 pages). (ELR Order No. 31526) (NTIS Order No. EIS 73 1526-D.)

Flood Protection, Pottstown (2), Pa., September 18: The statement, a revised draft, refers to a flood control project which involves two miles of channel work on the Schuylkill River, and the removal of a constriction in Manatawny Creek. River bottom ecology will be disrupted by channel modification (Philadelphia District) (72 pages). (ELR Order No. 31515) (NTIS Order No. EIS 73 1515-D.)





Galveston Harbor and Channel, Tex., September 14: Proposed is the deepening of Galveston Channel from its previous authorized depth of 36 feet to its new authorized depth of 40 feet. Spoil will be deposited in leveed areas on Pelican and Galveston Islands. Dredging activities will have adverse impact to marine biota. (Galveston District) (21 pages). (ELR Order No. 31503) (NTIS Order No. EIS 73 1503-D.)

*Final*

Bushley Bayou Flood Control Project, Louisiana, September 20: The statement considers the advisability of providing backwater flood protection to the Bushley Bayou area by means of a loop levee, gravity floodgate, internal drainage canal and a 1,500 cubic-foot-per-second pumping station. Three thousand acres of suitable wildlife lands and water supply and control facilities will be acquired to mitigate project induced fish and wildlife losses. Adverse effects of the action are loss of 5,900 acres of bottomland hardwood forests, loss of fish and wildlife habitat and possible damage to Indian mounds of archeological value (Vicksburg District). Comments made by: USDA, EPA, DOI, DOT, HEW, and state agencies. (ELR Order No. 31528) (NTIS Order No. EIS 73 1528-F.)

South Fork Zumbro River, Olmstead County, Minn., September 19: The statement refers to the proposed modification of 10 miles of channel on the Zumbro, Bear Creek, and Cascade Creek, along with supplementary levee and pump station construction. The purpose of the action is that of flood control. There will be a disruption of greenbelt corridors and a loss of natural riparian habitat. The area provides an overwintering habitat for Canada geese and giant Canada geese which is of national importance; it would be adversely affected. Two residences and eight businesses would be displaced (St. Paul District) (87 pages). Comments made by: USDA, DOT, HEW, DOI, EPA, state agencies, and concerned citizens. (ELR Order No. 31524) (NTIS Order No. EIS 73 1524-F.)

NAVY

Contact: Mr. Joseph A. Grimes, Jr., Special Civilian Assistant to the Secretary of the Navy, Washington, D.C. 20350, 202-697-0892.

*Draft*

Navy Family Housing Construction, Orange County, Fla., September 14: Proposed is the construction of 600 family housing units to accommodate servicemen and dependents from the Naval Training Center near Orlando. The project site is on the eastern portion of McCoy Air Force Base. Approximately 120 acres of unimproved, non-productive land will be converted into a residential community (31 pages). (ELR Order No. 31502) (NTIS Order No. EIS 73 1507-D.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Sheldon Meyers, Director, Office of Federal Activities, Room 3630, Waterside Mall, Washington, D.C. 20460, 202-755-0940.

*Draft*

Village Creek Facility, Fort Worth, Tex., September 17: The statement refers to the proposed construction of additional wastewater treatment facilities at the Village Creek Wastewater Treatment Facility, Fort Worth. Work includes the 51 MGD expansion of the existing 45 MGD facility. The proposed project is expected to increase water quality of the Trinity River and aid in the orderly development of member communities. There will be construction disruption, and increased odor and noise from the new project. (ELR Order No. 31505) (NTIS Order No. EIS 73 1505-D.)

FEDERAL POWER COMMISSION

Contact: Dr. Richard F. Hill, Acting Advisor on Environmental Quality, 441 G Street NW., Washington, D.C. 20426, 202-386-6084.

*Draft*

Parr Hydroelectric Project No. 1894, Fairfield and Newberry Counties, S.C., September 14: The proposed action is the approval of an application by the South Carolina Electric and Gas Co. for a new major license for its constructed Project No. 1894. Additionally, the applicant is seeking authorization for the construction of a new pumped storage project. The upper pool would then be used for cooling the Virgil C. Summer Nuclear Station's two 900 MW units, and possibly a third 900 MW unit. Adverse impact of the new project would include the inundation of 9,350 acres, with the elimination of farm land, timber crops, and wildlife habitat, and the displacement of 25 homes. (ELR Order No. 31500) (NTIS Order No. EIS 73 1500-D).

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Quality, 400 7th Street SW., Washington, D.C. 20590, 202-426-4357.

FEDERAL HIGHWAY ADMINISTRATION

*Draft*

Doolittle Drive (Route 61), Alameda County, Calif., September 17: The proposed project consists of widening a mile long portion of Route 61, Doolittle Drive, from two lanes to four lanes with parking. Increases in the peak noise level will occur (50 pages). (ELR Order No. 31506) (NTIS Order No. EIS 73 1506-D.)

U.S. 40, Routt County, Colo., September 17: The proposed project is the re-construction of a 10-mile segment of U.S. 40. The project will require an unspecified amount of land and will displace 2 or 3 families. A section 4(f) review will be filled to obtain one acre of land from Soda Spring. The facility will traverse a river causing an increase in siltation, and erosion. Increases in air pollution will occur (168 pages). (ELR Order No. 31507) (NTIS Order No. EIS 73 1507-D.)

US 54 and K-96, Butler County, Kans., September 19: The project involves the improvement of 13 miles of US-54 and K-96; to meet freeway standards. The facility will be a 4-lane highway with controlled access. Depending upon the alternate chosen, the project will require from 338 to 622 acres of land for right-of-way and displace 0 to 42 homes, 0 to 5 farms, 0 to 10 businesses and 1 nonprofit organization. Four to 14 land severances will occur. Adverse impacts are: loss of agricultural land, loss of wildlife, alterations or destruction of terraces, waterways and ponds resulting in erosion, and water pollution. Increases in noise pollution levels will occur (92 pages). (ELR Order 31522) (NTIS Order No. EIS 73 1522-D.)

*Final*

Perry Hill Road, Montgomery County, Ala., September 11: The project consists of improving a present 2-lane facility to a 4-lane facility. Length is 2.26 miles. An unspecified amount of land will be taken for right-of-way (36 pages). Comments made by: USDA, COE, DOC, DOI, EPA, HUD, HEW, and state agencies. (ELR Order No. 31484) (NTIS Order No. EIS 73 1484-F.)

Coosa River Bridge, Etowah County, Ala., September 19: The statement considers the proposed construction of a bridge across the Coosa River between Southside and Rainbow City. The project provides an additional bridge for southbound traffic and retains the existing bridge for northbound traffic. Approximately 32 acres of land are required for right-of-way will be displaced (47 pages). Comments made by: USDA, DOI, EPA, HEW, HUD, state, regional, and local agencies. (ELR Order No. 31517) (NTIS Order No. EIS 73 1517-F.)

State Route 86; Riverside County, Calif., September 11: Proposed is the construction of 22 miles of four lane freeway between the Imperial County line and near Indio to replace portions of existing 2 lane conventional State Routes 86 and 111. The project will traverse the Southern Coachella Valley. Twenty-four families will be displaced. Adverse effects to air basin and local air quality; changes in the ambient noise levels; and potential water pollution and erosion will occur (68 pages). Comments made by: COE, EPA, HEW, DOI, DOT, state, and local agencies. (ELR Order No. 31494) (NTIS Order No. EIS 73 1494-F.)

Mount Carmel Connector, Connecticut, September 18: The statement considers the proposed construction of a 1.8 mile section of new highway (relocation of Route 10) from Whitney Avenue to State Street and Dixwell Avenue. A strip of land approximately 350 feet wide will be required for right-of-way; a bridge will be constructed across the Mill River. Seven businesses will be displaced. A4(f) statement will be filed as a historic site would be affected (116 pages). Comments made by: USDA, DOC, HEW, HUD, DOI, OEO, state, and regional agencies. (ELR Order No. 31514) (NTIS Order No. EIS 73 1514-F.)

F.A.P. 406, Logan and Tazewell Counties, Ill., September 19: The proposed freeway is a four-lane, fully access controlled facility extending from north of Lincoln to Morton. Approximately 800 acres of agricultural land will be committed to the project, several residences will be displaced and some local land access patterns revised. Air, noise and water pollution will increase (155 pages). Comments made by: USDA, COE, DOI, DOT, EPA, HUD, state, and private agencies. (ELR Order No. 31519) (NTIS Order No. EIS 73 1519-F.)

US Highway 30, Hall County, Nebr., September 19: The statement refers to the proposed improvement and/or relocation of a segment of existing US 30 and the extension of First Street in Grand Island. The purpose of the project is to provide a highway facility which will extend the present one-way system and merge the traffic on the one-way system through the Central Business District of Grand Island back into the two-directional traffic on US 30. Adverse effects include acquisition of right-of-way and relocation impacts on wildlife (37 pages). Comments made by: USDA, COE, DOI, DOT, EPA, HUD, and state agencies. (ELR Order No. 31518) (NTIS Order No. EIS 73 1518-F.)

Forest Highway Route 12, Sandoval, Los Alamos, and Santa Fe Counties, Santa Fe, New Mexico, September 18: The project is the proposed reconstruction of 26 miles of Forest Highway Route 12 (State Route 126) from Fenton Lake to the abandoned community of Senorita, within the Santa Fe National Forest. (The draft statement filed by the Forest Service November 23, 1971, PB-204 377-D for a 15 mile segment of this route has been incorporated in this statement.) Adverse effects include stream pollution during construction and the crossing of a major elk migratory route (118 pages). Comments made by: USDA, DOT, HUD, FPC, HEW, DOC, AEC, DOI, state agencies, and Concerned citizens. (ELR Order No. 31510) (NTIS Order No. EIS 73 1510-F.)

SR 1215 and SR 1201, Cartaret County, N.C., September 19: The project consists of improving the existing secondary road of



V 38-187 SEP 27 73 XUM

Bogue Banks which connects Atlantic Beach and the New Bouge Sound Bridge. The facility is initially a two-lane road which will be expanded to a five lane facility. Project length is 17.3 miles. The project will displace 20 families and commit 53 acres of property to the facility. Soil erosion and increases in noise levels exceeding FHWA standards will occur (82 pages). Comments made by: USDA, COE, GSA, HEW, HUD, state, and regional agencies. (ELR Order No. 31520) (NTIS Order No. EIS 73 1520–F.)

I–95 Fayetteville Bypass, Cumberland County, N.C., September 19: The document, a revised draft, refers to the proposed construction of a 17 mile segment of I–95 to bypass the City of Fayetteville. Approximately 1600 acres of rural land which is suitable for wildlife habitat will be committed to the project. Thirty-five residences will be displaced. Minor stream siltation and construction disruption will occur. (The original statement, ELR Order No. 1603; NTIS Order No. PB–205 583–D, was filed January 12, 1972.) (300 pages.) Comments made by: USDA, COE, DOC, DOI, EPA, FPC, GSA, HEW, HUD, OEO, AHP, and state, and local agencies. (ELR Order No. 31527) (NTIS Order No. EIS 73 1527–F.)

LR 1022 (Traffic Route 219), Cambria County, Pa., September 18: Proposed is the relocation of approximately 15 miles of four-lane Traffic Route 219. Approximately 160 acres of farmland and 240 acres of woodland will be acquired for right-of-way. Eighteen residences, 2 businesses, one apartment building, and six barns will be displaced; 61 mobile homes will be affected (90 pages). Comments made by: USDA, EPA, DOI, and state agencies. (ELR Order No. 31509) (NTIS Order No. EIS 73 1509–F.)

Legislative Route 16034, Clarion County, Pa., September 18: Proposed is the construction of 2.7 miles of new four-lane roadway parallel to existing L.R. 16043 and L.R. 409. The project also includes reconstruction of 0.96 mile of U.S. Route 322 (L.R. Route 65) and the construction of an interchange with Route 322. The 50 acres of land required for right-of-way has already been purchased (78 pages). Comments made by: USDA, EPA, DOI, DOT, and state agencies. (ELR Order No. 31512) (NTIS Order No. EIS 73 1512–F.)

U.S. Highway 87, Hale and Lubbock Counties, Tex., September 11: The proposed project is the improvement of U.S. Highway 87 to interstate standards. The project is 25 miles in length. The facility will displace 10 families and 1 business, and require an unspecified amount of right-of-way. Utility adjustments will be required for 18 miles of power lines, 3 miles of telephone lines, 11 miles of underground telephone cable, 3 miles of natural gas line, 155 feet of high pressure oil lines and 675 feet of water lines. Increases in noise pollution will occur (35 pages). Comments made by: USDA, COE, DOI, EPA, HEW, state, and regional agencies. (ELR Order No. 31486) (NTIS Order No. EIS 73 1486–F.)

West Virginia Route 56, Jackson County, W. Va., September 19: The proposed project consists of the construction of approximately 2.7 miles of four-lane expressway connecting WVA Route 2 and I–77. The number of displacements and the amount of right-of-way required will depend upon the route selected. Temporary construction-related effects to the environment will occur (95 pages). Comments made by FPC, GSA, OEO, EPA, USDA, DOI, COE, HEW, and AHP. (ELR Order No. 31521) (NTIS Order No. EIS 73 1521–F.)

P.A.S. Route 145, Washington County, Wis., September 18: The project consists of the reconstruction of 3.1 miles of P.A.S. Route 145, C.T.H. "G". Twenty-three acres of land will be acquired for right-of-way; a 4(F) review will be filed to obtain 6 acres from the Jackson Marsh Wildlife Area. Cedar Creek will be traversed by the facility, causing erosion and siltation. Increases in air pollution levels will occur (42 pages). Comments made by: EPA, DOI, DOT, and state agencies. (ELR Order No. 31513) (NTIS Order No. EIS 73 1513–F.)

URBAN MASS TRANSPORTATION ADMINISTRATION

*Draft*

Archer Avenue Line, Queens, N.Y., September 19: The New York City Transit Authority has filed an application for Federal capital grant assistance to construct a rapid rail transit extension 2.5 miles in length on the Archer Avenue Line. The whole structure will be underground except for 0.2 mile. Displacements include 12 families and 11 businesses (200 employees). Increases in noise will occur (110 pages). (ELR Order No. 31523) (NTIS Order No. EIS 73 1523–D.)

Philadelphia Airport High Speed Rail Line, Pennsylvania, September 14: The action involves the filing of an application for Federal capital grant assistance to construct a rapid rail system between Suburban Station Penn Center, Philadelphia and the passenger terminal at the Philadelphia International Airport. The line will be 9 miles long. Aerial portion of the line will have severe visual and acoustical impact on the Tinicum Wildlife Preserve. One scrap metal establishment will be displaced, and portions of a playground and P.E. Company will be acquired. Adverse impacts will occur to fish and wildlife habitat in the Tinicum Wildlife Reserve (88 pages). (ELR Order No. 31504) (NTIS Order No. EIS 73 1504–D.)

The following statement was inadvertently deleted from its appropriate Federal Register Listing. It was received by the Council on August 10, 1973.

Tijeras Canyon Projects (I–40), Bernalillo County, N. Mex., August 10: Four projects to complete the remaining link of I–40 through Tijeras Canyon are encompassed in this statement. Total project length is 11.8 miles; 460 acres are required for new right-of-way. Twenty acres of Section 4(f) land will be taken from Cibola National Forest. Eighty-eight families and 11 businesses will be displaced. The water quality in the Canyon may be degraded (123 pages). Comments made by: USDA, COE, DOI, DOT, EPA, HUD, state, and local agencies. (ELR Order No. 31321) (NTIS Order No. EIS 73 1321–F.)

TIMOTHY ATKINSON,
*General Counsel.*

[FR Doc.73–20650 Filed 9–26–73;8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 19754–19755; FCC 73R–331]

### BISBEE BROADCASTERS, INC. AND WRYE ASSOCIATES

#### Memorandum Opinion and Order Enlarging Issues

In regard to applications of Bisbee Broadcasters, Inc., Bisbee, Arizona, Docket No. 19754, File No. BPH–7873; William F. Wrye & Rose D. Wrye, d/b as Wrye Associates, Bisbee, Arizona, Docket No. 19755, File No. BPH–7944; for construction permits.

1. This proceeding involves the mutually exclusive applications of Bisbee Broadcasters, Inc. (BBI) and Wrye Associates (Wrye) for authorization to construct a new FM broadcast station to operate on 92.1 MHz in Bisbee, Arizona, and published at 38 FR 15380. Now before the Review Board is a petition to enlarge issues, filed July 12, 1973, by Wrye, requesting the addition of various issues against BBI.[1]

2. Wrye requests, first, that issues should be added against BBI for lack of candor and "to show cause why its application should not be rejected because of faulty engineering" because, petitioner alleges, its owner and general manager, Howard Waterhouse, falsely stated[2] that there were no other radio stations or transmitter antenna sites in the vicinity of its proposed tower locations. In fact, Wrye alleges, there are "approximately seven" other towers within 300 feet of BBI's proposed site, which raises the possibility of interference with other services and degradation of BBI's own signal. Wrye alleges that BBI used six-year old engineering data in its application, and that "a simple thirty minute drive" would have disclosed the existence of these other towers. Wrye also requests that a Rule 1.65 issue and a second candor issue be added since Waterhouse stated in the application that BBI is applying for an FM permit largely because it has not been allowed to raise the power of standard broadcast Station KSUN, licensed to BBI, to 1,000 watts.[3] According to Wrye, KSUN is in fact broadcasting at 1,000 watts during the day. Wrye asks acceptance of its petition despite its untimeliness, arguing that prompt filing was impossible because of business commitments and because the Commission failed, despite repeated requests, to send pertinent correspondence to Wrye's proper address.

3. In opposition, BBI argues that Wrye has not shown good cause for the untimeliness of its petition; has failed to provide a supporting affidavit and to make a showing of competence with respect to engineering matters, as required by § 1.229(c) of the Commission's rules; and has failed to serve the petition by air mail as required by § 1.47(f) of the Rules. In a supplement to its petition, Wyre submits an affidavit of William F. Wrye, its owner and general manager, verifying the petition and stating that he visited the BBI proposed site on two occasions and observed the towers mentioned in the petition.

4. In opposition, the Broadcast Bureau declares that Wrye's petition, despite its procedural deficiencies, raises a serious question as to whether BBI falsely answered questions on its application form regarding the presence of

[1] Also before the Board are the following related pleadings: (a) Oppositon, filed July 18, 1973, by BBI; (b) supplement to petition, filed July 19, 1973, by Wrye; (c) opposition, filed July 23, 1973, by the Broadcast Bureau; (d) reply to BBI's opposition, filed July 24, 1973, by Wrye; (e) letter, filed August 7, 1973, by BBI; (f) comments on letter of August 7, 1973, filed August 16, 1973, by the Broadcast Bureau; and (g) reply to comments, filed August 23, 1973, by BBI.

[2] Wrye cites BBI's application, Form 301, Section V–B paragraphs 10 and 16(a), and Section V–G, paragraph 6.

[3] Wrye cites nothing specific in BBI's application. References to KSUN's operating power appear therein at: Form 301, Section II, p. 5; Exhibit 1A, p. 1; Exhibit 1C, p. 1; Exhibit E–1, pp. 1–2; amendment of September 5, 1972, pp. 10, 12.





other towers or antennae in the vicinity of its proposed tower site, which, absent a satisfactory explanation, would warrant exploration at hearing. However, the Bureau urges the Board not to add an engineering issue to determine the effects of the towers' proximity, since, in its view, Wrye's allegations lack specificity and are unsupported by a showing of engineering competence. The Bureau also opposes the addition of issues relating to KSUN's operating power; it argues that BBI did not misrepresent the facts in this regard since "any reference to 250 watts in the FM application apparently refers to the nighttime power of the AM station."

5. Replying to BBI, Wrye asserts that the competence of William Wrye in engineering matters is set forth in Exhibit E–1 of Wrye's application, and requests official notice of these qualifications, including his "experience . . . as Chief Radio Measurements Engineer for the U.S. Air Force Atlantic Missile Range." With respect to § 1.47, Wrye contends that service of its initial petition was effected by air mail, but inadvertently not noted, and amends its certificate of service to reflect this.

6. In a letter dated August 7, 1973, BBI calls the Board's attention to an amendment to its application, tendered August 6, 1973, along with a petition for leave to amend. This amendment, according to BBI, contains the "required information" and explains that its absence from the subject FM application was the inadvertent result of copying information from an application submitted by a previous owner of BBI. Commenting upon this, the Broadcast Bureau points out that BBI apparently submitted the engineering information from the old application subsequent to the time of the erection of the other towers. Although it has no objection to the correction of BBI's application in this regard, the Bureau states that "numerous problems" are raised by BBI's letter. Specifically, the Bureau notes that BBI's explanation is actually contained in the petition for leave to amend, not in the amendment, and that the explanation is not supported by affidavit. Finally, the Bureau notes that the Commission has indicated its disapproval of the use of letters rather than pleadings in disputed matters. In reply to the above, BBI apologizes for its use of the letter form and states that it did not submit an affidavit with its amendment or "explanation" because it was referring to information already on file with the Commission. That is, BBI contends, its application apprised the Commission that its engineering derived from a previous application.

7. The Review Board is of the opinion that the procedural infirmities in Wrye's petition are not dispositive. Although good cause has not been shown for the lateness of the petition, certain questions raised therein are serious enough to warrant a decision on the merits. See The Edgefield-Saluda Radio Co. (WJES), 5 FCC 2d 143, 8 RR 2d 611 (1966). Wrye's other procedural failures have either been corrected or are de minimis. BBI's letter of August 7 is subject to more serious objections. The Board has made plain its intention not to accept supplemental pleadings unless clearly justified. In re Filing of Supplemental Pleadings Before the Review Board, 40 FCC 2d 1026 (1973). Therefore, we will not consider BBI's letter in deciding the questions before us. However, since the amendment to BBI's application has been accepted by the Administrative Law Judge without objection from Wrye, it would serve no purpose to exclude the material contained therein, and in BBI's petition for leave to amend, from our deliberation. In the amendment, BBI concedes the presence of eleven other towers (including public safety, and utility operations) in the vicinity of its antenna site. We will therefore add an issue to determine the adverse effects, if any, which may result from the proximity of applicant's proposed tower and antenna system to other towers and antenna systems. We will not, however, add a lack of candor issue. While the information before us clearly indicates poor judgment and carelessness on Waterhouse's part in submitting information contained in a previous application without ascertaining its current accuracy, it does not demonstrate any intention or motive to conceal the existence of the towers from the Commission. Cf. Media, Inc., 27 FCC 2d 228, 20 RR 2d 1153 (1971). We also decline to add issues relating to KSUN's operating power. Although Waterhouse's statements in this regard are confusing, he does seem to have been particularly concerned with KSUN's nighttime power, which was and still is 250 watts. There is no indication that he intended to misrepresent either the authorized power of the AM station or his motives for wishing to acquire an FM construction permit, or that he failed to report significant information as required by § 1.65.

8. *Accordingly, it is ordered,* That the petition to enlarge issues, filed July 12, 1973, by Wrye Associates, is granted to the extent indicated below, and is denied in all other respects; and

9. *It is further ordered,* That the issues in this proceeding are enlarged to include the following issue:

To determine, with respect to the application of Bisbee Broadcasters, Inc., whether the proximity of applicant's proposed tower and antenna system to other towers and antenna systems will result in adverse effects either affecting applicant's qualifications or warranting the imposition of a condition on any grant to Bisbee Broadcasters, Inc.

10. *It is further ordered,* That the burden of proceeding with the introduction of evidence and the burden of proof under the issue specified shall be upon Bisbee Broadcasters, Inc.

Adopted: September 17, 1973.

Released: September 19, 1973.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

[FR Doc.73–20642 Filed 9–26–73;8:45 am]

## PANEL CHAIRMEN AND STEERING COMMITTEE OF THE CABLE TELEVISION TECHNICAL ADVISORY COMMITTEE

### Notice of Meeting

SEPTEMBER 19, 1973.

The Panel Chairmen and the Steering Committee of the Cable Television Technical Advisory Committee will hold an open meeting on Wednesday, October 3, 1973, at 10 a.m. The meeting will be held at the FCC Annex, 1229 20th Street, Washington, D.C., in Room A110. The agenda of the meeting will include:

(1) Report by Executive Committee.
(2) Report of New Executive Secretary.
(3) Review of Solicitation Progress.
(4) Report by Panel Chairmen.
(5) Coordination of Reporting Procedures.
(6) Setting of Meeting Dates.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
*Acting Secretary.*

[FR Doc.73–20643 Filed 9–26–73;8:45 am]

## CANADA-U.S.A. TV AGREEMENT OF 1952

### Amendment of Table A

SEPTEMBER 20, 1973.

Amendment of table A of the Canada-U.S.A. TV Agreement of 1952 (TIAS–2594). Supplement No. 3 (to the table of Canadian Television channel allocations within 250 miles of the Canada-U.S.A. border, dated March 21, 1973, as revised to January 20, 1973).

Pursuant to exchange of correspondence between the Department of Communications of Canada and the Federal Communications Commission, Table A of the Canadian-U.S.A. Television Agreement has been amended as follows:

| City and Province | Channel No. | |
|---|---|---|
| | Delete | Add |
| Brandon, Manitoba | [1]2 | [2]2 |

[1] Brandon site to be located no less than 170 miles from co-channel allocation at Grand Forks, N. Dak.
[2] Brandon site to be located no less than 170 miles from co-channel assignment at Grand Forks, N. Dak., with site coordinates 48° 08' 24" N., 97° 59' 38" W., and limited to 100 kilowatts maximum ERP and 1,000 feet EHAAT, or the equivalent, in the general direction of Grand Forks, N. Dak.

Further amendments to Table A will be issued as public notices in the form of numbered supplements or recapitulated lists.

Copies of the basic Table of Allocations may be obtained from Information Planning Associates, Inc., 310 Maple Drive, Rockville, Maryland 20850 (telephone 340–0250, area code 301).

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
*Chief, Broadcast Bureau.*

[FR Doc.73–20644 Filed 9–26–73;8:45 am]



V 38 I 187 SEP 27 73 XUM

## CANADIAN TELEVISION STATIONS

### Lists of Changes, Additions, Deletions and Corrections

Supplementary list of changes, additions, deletions and corrections as of September 1, 1973, to the list of Canadian television stations within 250 miles of the border issued by the Commission dated April 1, 1973.

LIST NO. 1, SEPTEMBER 21, 1973

| Call sign | Licensee | Location | Radiated power (kW) | Antenna: Directivity | Above ground | Above MSL | Above terrain | Offset |
|---|---|---|---|---|---|---|---|---|
| *Channel 4 (66-72 MHz)* | | | | | | | | |
| CHFD-TV | | Thunder Bay, Ontario, N. 48°26'30", W. 89°14'03" | 320.00 V<br>104.00 A | Om | 800 | 1,049 | 180 | (−) |
| *Channel 8 (180-186 MHz)* | | | | | | | | |
| CFRN-TV-6 | | Red Deer, Alberta, N. 52°17'57", W. 113°41'47" | 24.00 V<br>4.80 A | D.A | 630 | 3,880 | 882 | (+) |
| CKCW-TV-1 | | Charlottetown, Prince Edward Island, N. 46°16'05", W. 63°20'30" | 14.50 V<br>1.45 A | D.A | 290 | 665 | 489 | (+) |
| *Channel 13 (210-216 MHz)* | | | | | | | | |
| CBCT | Canadian Broadcasting Corp. | Charlottetown, Prince Edward Island, N. 46°12'40", W. 63°20'25" | 62.00 V<br>12.40 A | D.A | 720 | 1,073 | 918 | (+) |

[SEAL]

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
*Chief, Broadcast Bureau.*

[FR Doc.73-20645 Filed 9-26-73;8:45 am]

## FEDERAL MARITIME COMMISSION

### BRADBURY TECHNICAL CO. AND BRADY-HAMILTON STEVEDORE CO.

#### Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763 (46 U.S.C. 814)).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1405 I Street NW., Room 1015; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before October 17, 1973. Any person desiring a hearing o nthe proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Steven R. Schell, Esq., Black, Heterline, Beck, & Rappleyer, 12th Floor, The Bank of California Tower, Portland, Oreg. 97205.

Agreement No. T-2854, between Bradbury Terminal Company (Bradbury) and Brady-Hamilton Stevedore Co. (B.H.S.) is a 1-year arrangement (with renewal options) whereby B.H.S. will provide stevedoring and terminal services at Bradbury's Port Westward, Oregon terminal facility. As compensation B.H.S. will be reimbursed for its operating expenses plus ten percent of its operating expenses to cover overhead for services performed in accordance with Bradbury's Port Westward Tariff No. 1, Bradbury shall provide and collect for the use of all port facilities and shall collect for all services described in its tariff.

Dated September 24, 1973.

By Order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.73-20666 Filed 9-26-73;8:45 am]

[Docket No. 73-57]

### SEA-LAND SERVICE, INC.

#### Order of Investigation and Hearing Regarding Possible Violations in Connection With Rates on Military Cargo

Sea-Land Service, Inc. (Sea-Land) is a common carrier by water operating inter alia between the East Coast of the United States and the United Kingdom and Europe. Sea-Land submits bids for the carriage of military cargo pursuant to the negotiated competitive procurement system administered by Military Sealift Command (MSC).

In response to the latest Request for Proposal (RFP)-800, First Cycle, issued by MSC, Sea-Land submitted a bid of $11.49 per measurement ton for the carriage of Cargo N.O.S. from U.S. East Coast ports to the United Kingdom and Europe on MSC Route Index 4 and 5, to be effective during the period July 1, 1973-December 31, 1973. For the previous RFP, Sea-Land had bid $13.00 per measurement ton for the carriage of Cargo N.O.S. on the same Routes.

Sea-Land's previous bid, along with the bids of other United States-flag carriers on those routes had been the subject of a Commission investigation in Docket No. 72-64, a docket which is being held in abeyance pending a Commission decision on Docket No. 72-65 a docket dealing with military rates on the Trans-Pacific routes (see Commission Order served September 7, 1973).

The examination of data submitted by Sea-Land as justification for its rates bid for RFP-800, 1st Cycle, revealed numerous areas which required additional analysis by the Commission's staff in order to determine whether Sea-Land was in compliance with the provisions of General Order 29 (46 CFR Part 549). Accordingly, the Commission's staff informed Sea-Land that the staff intended to conduct a field review to take place at Sea-Land's offices at Elizabeth, New Jersey. The review commenced on July 9, 1973.

The staff accountants examined data supplied by Sea-Land covering the following areas of cost information: Operating statistics, vessel expense, port and cargo expenses, administrative and general expense, vessel depreciation, inactive vessel expense, container overhead and indirect container costs, and container and chassis depreciation and lease expense. On the basis of the results of the field review, which are set out in a report by the staff accountants to the Director, Sealift Procurement Studies, the staff is of the opinion that Sea-Land's rate bid for the carriage of Cargo N.O.S. pursuant to RFP-800, 1st Cycle, on MSC Route Indexes 4 and 5 may be below the fully distributed cost of carrying that class of cargo on those routes, in violation of the provisions of General Order 29 (46 CFR Part 549) and section 18(b)(5) of the Shipping Act, 1916. Therefore, the Commission is of the opinion that an investigation should be undertaken in order to determine whether such rate bid is in fact so unreasonably low as to be detrimental to the commerce of the United States, hence warranting disapproval by the Commission. Since the subject rate is





in effect for only a six month period, and because the Commission wants the issue seasonably resolved, we are directing expedition of the proceeding as ordered below.

*Now, therefore it is ordered,* That, pursuant to section 22 of the Shipping Act, 1916, as amended, an investigation and hearing is hereby instituted to determine the lawfulness of Sea-Land's RFP-800 First Cycle bid rate for carriage of Cargo N.O.S. under section 18(b)(5) of the Act:

*And it is further ordered,* That Sea-Land be made respondent in this proceeding:

*And it is further ordered,* That this proceeding be referred for public hearing before an administrative law judge of the Commission's Office of Administrative Law Judges with directions that the proceeding be expedited to the fullest extent possible, and that upon completion of the hearing the record developed therein be certified to the Commission; and that the hearing be held at a date and place to be determined and announced by the Presiding Administrative Law Judge:

*And it is further ordered,* That the Commission's Bureau of Hearing Counsel shall serve upon respondent Sea-Land a copy of the above-mentioned report of field review, as soon as practicable after service of this order; and

*It is further ordered,* That the provisions of Rule 12 of the Commission's rules of practice and procedure which require leave of the Commission to take testimony by deposition or by written interrogatory if notice thereof is served within 20 days of the commencement of the proceeding, are hereby waived for this proceeding inasmuch as the expeditious conduct of business so requires. The provision of Rule 12(h) which requires leave of the Commission to request admissions of fact and genuineness of documents if notice thereof is served within 10 days of commencement of the proceeding, is similarly waived; and

*It is further ordered,* That notice of this Order be published in the FEDERAL REGISTER and a copy thereof and notice of hearing be served upon respondent; and upon the Commanding Officer, Military Sealift Command; and

*It is further ordered,* That any person, other than respondent who desires to become a party to this proceeding and to participate therein shall file a petition to intervene with the Secretary, Federal Maritime Commission, Washington, D.C. 20573, promptly with copies to parties; and

*Finally, it is further ordered,* That all future notices issued by or on behalf of the Commission in this proceeding, including notice of time and place of hearing or prehearing conference, shall be mailed directly to all parties of record.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.73-20670 Filed 9-26-73;8:45 am]

[Commission Order No. 1 (Revised)]

### STATEMENTS OF ORGANIZATION AND FUNCTIONS

SEPTEMBER 15, 1973.

SEC. 1. *Purpose.*

1.01 The purpose of this Order is to describe the organization and functions of the Federal Maritime Commission.

SEC. 2. *Organization of the Federal Maritime Commission.*

2.01 *Establishment and Composition of the Commission*—The Federal Maritime Commission was established as an independent agency by Reorganization Plan No. 7 of 1961, effective August 12, 1961. The Federal Maritime Commission is composed of five members, appointed by the President, by and with the consent of the Senate. The President designates one of such members to be the Chairman.

2.02 *Quorum*—Any three members in office constitute a quorum for the transaction of the business of the Federal Maritime Commission. The affirmative vote of any three Commissioners shall be sufficient for the disposition of any matters which may come before the Commission.

2.03 *Organizational Components*—The Federal Maritime Commission has the following major organizational components:

1. Office of the Chairman of the Federal Maritime Commission.
2. Offices of the Members of the Federal Maritime Commission.
3. Managing Director.
(1) Bureau of Compliance.
a. Office of Agreements.
b. Office of Tariffs and Intermodalism.
c. Office of Domestic Commerce.
(2) Bureau of Industry Economics.
a. Office of Economic Analysis.
b. Office of Financial Analysis.
c. Office of Sealift Procurement Studies.
(3) Bureau of Certification and Licensing.
a. Office of Water Pollution Responsibility.
b. Office of Freight Forwarders.
c. Office of Passenger Vessel Certification.
(4) Bureau of Hearing Counsel.
(5) Office of Personnel.
(6) Office of Budget and Finance.
(7) Division of Office Services.
(8) District Offices.
4. Office of the Secretary.
5. Office of the General Counsel.
6. Office of Administrative Law Judges.

SEC. 3. *Lines of responsibility.*

3.01 The *Managing Director* shall be responsible to and report to, the Chairman, Federal Maritime Commission.

3.02 The Bureau of Compliance, Bureau of Industry Economics, Bureau of Certification and Licensing, Bureau of Hearing Counsel, Office of Personnel, Office of Budget and Finance, Division of Office Services, and the District Offices shall be responsible to, and report to the Managing Director.

3.03 The *Office of the Secretary* and *the Office of the General Counsel* shall report to the Chairman, subject to the managerial direction and coordination of the Managing Director. The Managing Director shall, with respect to the activities of such offices, (1) coordinate the development and execution of major programs, policies, plans, and projects to accomplish the objectives established by the Chairman and/or the Commission; (2) determine work priorities and schedule the flow of work to meet such priorities; (3) review program and activity progress and otherwise maintain surveillance to assure the accomplishment of programs and projects of major importance.

3.04 The *Office of Administrative Law Judges* shall report to the Chairman, and coordination of the Managing subject to the administrative direction Director.

SEC. 4. *General functions.*

4.01 The Federal Maritime Commission is responsible for administering the statutory functions and programs for the regulation of common carriers by water in the foreign and domestic offshore commerce of the United States and of other persons, under provisions of the Shipping Act, 1916, as amended; Merchant Marine Act, 1920, as amended; the Intercoastal Shipping Act, 1933, as amended; and other applicable statutes.

SEC. 5. *Specific functions of the organizational components of the Federal Maritime Commission.*

5.01 The *Office of the Chairman of the Federal Maritime Commission* executes and administers the activities of the Federal Maritime Commission; serves as the excutive head of the Commission; presides at meetings of the Commission; and administers the policies of the Commission to its responsible officials, and through conferences with and reports from such officials assures the efficient discharge of their responsibility.

5.02 The *Offices of the Members of the Federal Maritime Commission* are responsible, with the Chairman, for establishing the policies of the Commission; making decisions and determinations in the disposition of docketed cases and other matters within the jurisdiction of the Commission; and performing other duties as may be assigned under the provisions of Reorganization Plan No. 7 of 1961.

5.03 The Managing Director directs and administers the organizations and activities as enumerated in subsections 5.031 through 5.038 below; provides managerial administrative direction to, and effects work coordination with the Office of the General Counsel and the Office of the Secretary; provides administrative direction and coordination to the Office of Administrative Law Judges; assists, advises, and consults with the Chairman and/or the Federal Maritime Commission in the performance of major executive functions; and directs general administrative activities.

1. The *Bureau of Compliance* is responsible for program development, administration, and activities in connection with the operations of common car-



V 38 I 187 SEP 27 73 XUM

riers by water in the foreign and domestic offshore commerce of the United States, conferences of such carriers, terminal operators, and other persons subject to the regulatory jurisdiction of the Federal Maritime Commission, to the extent that such operations fall within the program activities of the several offices which comprise the Bureau of Compliance, and administers the activities of such offices.

The Bureau develops long-range programs, new or revised policies and standards, and rules and regulations, with respect to the program activities of the Bureau.

The program activities of the Bureau of Compliance are carried out by the Office of Agreements, the Office of Tariffs and Intermodalism, and the Office of Domestic Commerce, as outlined below:

a. The *Office of Agreements* (1) examines agreements and modifications thereto filed by common carriers by water in the foreign commerce of the United States, conferences of such carriers, and other persons subject to the regulatory jurisdiction of the Federal Maritime Commission for approval under statutory requirements; conducts negotiations with parties to such agreements for the purpose of obtaining information and compliance with applicable statutes, rules, and regulations; prepares for publication in the FEDERAL REGISTER notices of filings of agreements; prepares recommendations for approval, disapproval, or modification, or for formal investigation or hearing with respect thereto (these agreements include conference agreements, transshipment agreements, joint service agreements, pooling agreements, sailing agreements, container interchange agreements, and other cooperative working arrangements); (2) examines and recommends appropriate action on requests for permission to use contract rate systems; (3) reviews annual and special reports submitted by common carriers by water in the foreign commerce of the United States, conferences of such carriers, and other persons subject to the regulatory jurisdiction of the Federal Maritime Commission, including minutes of conference meetings, shippers' requests and complaints reports, reports of self-policing, and pooling statements, and makes appropriate recommendations with respect to any such reports or activities which indicate possible violations of applicable statutes or Commission regulations; (4) prepares recommendations, collaborating with the Managing Director and the Bureau of Hearing Counsel, for formal action and proceedings by the Commission; and (5) conducts studies and surveys for the development of new or revised policy and standards, and rules and regulations with respect to the program activities of the Office of Agreements.

b. The *Office of Tariffs ad Intermodalism* (1) reviews the rates and practices of common carriers by water in the foreign commerce of the United States, conferences of such carriers, and other persons subject to the regulatory jurisdiction of the Federal Maritime Commission in accordance with the requirements of law and the rules, orders, and regulations of the Commission; makes appropriate recommendations with respect to possible violations of applicable statutes and/or Commission regulations; and makes appropriate recommendations with respect to applications for special permission to file tariffs on less than statutory notice, or for waiver of tariff filing rules and regulations; (2) recommends appropriate action with respect to the rejection of improper or incorrectly filed tariffs; (3) prepares recommendations, collaborating with the Managing Director and the Bureau of Hearing Counsel for formal action and proceedings by the Commission; (4) supervises the public reference room which provides assistance to the public in the inspection of agreements, tariffs, and other public records, documents, and publications which are on file with or prepared by the Bureau of Compliance, and assists in obtaining copies of such documents for the public; (5) promulgates and implements policy, guidelines, and regulations to effectively regulate the activities of intermodal common carriers in the commerce of the United States; (6) insures that changes and developments due to new technologies and intermodal services are accomplished in an orderly manner; (7) oversees the regulatory aspects of a developing modern and efficient international transport system which provides movement of cargoes on a coordinated basis between the various transportation modes; (8) works closely with other regulatory agencies (Interstate Commerce Commission for surface transportation within the United States and the Civil Aeronautics Board for air transportation) in the development of multiagency regulations for the movement of cargoes; and (9) conducts studies and surveys for the development of new or revised policy and standards, rules, and regulations with respect to the program activities of the Office of Tariffs and Intermodalism.

c. The *Office of Domestic Commerce* (1) examines agreements and amendments thereto filed by terminal operators to determine whether they require approval under Section 15 of the Shipping Act, 1916; (2) makes appropriate recommendations with respect to applications for special permission to file tariffs on less than statutory notice, or for waiver of tariff filing rules and regulations; (3) obtains complete information and supporting data in order to determine the effect of agreements upon the public interest; (4) prepares recommendations to the Commission for approval, disapproval, modification, or formal hearing with respect to the agreement; (5) examines tariffs of domestic offshore carriers and terminal operators and conferences for compliance with sections 15, 16, and 17 of the Shipping Act, 1916, and provides advice relative to tariffs filed; (6) recommends appropriate action with respect to the prescription of reasonable maximum and minimum rates of common carriers by water engaged in the domestic offshore commerce of the United States and conferences of such carriers; (7) assists Bureau of Hearing Counsel with respect to domestic offshore and terminal matters involved in proceedings before the Commission; (8) reviews informal complaints or protests against the practices, methods, and operations of persons subject to the regulatory jurisdiction of the Federal Maritime Commission; (9) takes appropriate action relative thereto by (a) resolution through voluntary agreement of the parties, or (b) recommendation that the complaint or protest be rejected as not violative of the shipping statutes or rules or orders of the Commission, or (c) referral to the Managing Director for field inquiry, or (d) in collaboration with the Bureau of Compliance and the Bureau of Hearing Counsel, recommendation for formal action and proceedings by the Commission; (10) reviews minutes of domestic and terminal conference meetings to determine whether the parties may be acting outside the scope of their conference agreements; and (11) conducts studies and surveys for the development of new or revised policy and standards, and rules and regulations with respect to the program activities of the Office of Domestic Commerce.

2. The *Bureau of Industry Economics* is responsible for program development, administration, and activities in connection with the procurement, compilation, interpretation, and analysis of all essential data to establish with validity the economic implication and significance of the Commission's actions in administering its functions and regulatory authorities.

The Bureau develops long-range programs, new or revised policies and standards, and rules and regulations, with respect to the program activities of the Bureau.

The Program activities of the Bureau of Industry Economics are carried out by the Office of Economic Analysis, the Office of Financial Analysis, and the Office of Sealift Procurement Studies, as outlined below:

a. The *Office of Economic Analysis* (1) conducts research and economic studies necessary to the Commission in the fulfillment of its regulatory responsibilities, and compiles, interprets, and analyzes economic data essential to the study of freight rate structures and levels; (2) conducts studies leading to determinations as to the reasonableness of specific cargo rates in the ocean trades of the United States; (3) studies the economic implications of shipping practices; (4) studies the economic implications of trends of commodity movement, worldwide; (5) analyzes costs attributable to the movement of cargoes in the oceanborne foreign and domestic offshore commerce of the United States; and (6) conducts related studies and analyzes requisite to rendering by the Commission of sound economic judgments and decisions.

b. The *Office of Financial Analysis* (1) makes recommendations with respect to annual and special financial reports to be submitted by common carriers and other persons subject to the Act to bring about accurate, uniform, and comprehensive disclosure of financial data to the Commission; (2) recommends accounting and reporting instructions; (3) conducts examinations of the accounts, records, reports, and financial statements of such carriers to obtain and ascertain compliance with commission regulations; (4) analyzes justification for increased or lowered rates of common carriers and other persons subject to the Act; (5) develops and administers a continuing program for the audit of financial accounts and records of common carriers and other persons subject to the Commission's regulatory authorities; (6) develops cost formulas and related financial reporting requirements for application to the movement of waterborne commerce in the domestic and foreign commerce of the United States; (7) prepares reports and appears in rate proceedings and/or proceedings where rates and/or costs are a paramount issue; (8) conducts studies, as appropriate, for the purpose of determining classes of depreciable property, depreciation percentages, replacement costs, reasonable overhead, etc.; (9) analyzes, summarizes, and prepares studies and analytical reports of the financial statements filed with the Commission by common carriers and other persons subject to the Act; and (10) conducts special studies, audits, and analyses of a financial nature for other branches of the Commission.

c. The *Office of Sealift Procurement Studies* (1) develops and administers a continuing program for the audit of the financial accounts and records of common carriers involved in carrying military cargoes; (2) promulgates and revises the accounting regulations of the Commission prescribing uniform systems of accounting for common carriers carrying military cargo; (3) plans and develops cost formulas for application to the movement of waterborne military cargo; (4) develops cost for use in cases or proceedings to determine whether particular rates on military cargo may be detrimental to commerce; (5) renders interpretations of accounting regulations and effects the correction or adjustment of deviations; (6) makes continuing studies to determine classes of depreciable property, depreciation percentages, and reasonable allocation procedures of non-direct costs; (7) develops annual and special financial reports to be submitted by common carriers carrying military cargo; and (8) prepares analytical reports for consideration of the Commission and the staff related to the review and analysis of the costs and rate structures of carriers participating in the carriage of military cargo.

3. The *Bureau of Certification and Licensing* is responsible for program development administration and activities in connection with the certification of vessel owners and operators as to their financial responsibility to satisfy liability which may be incurred as a result of water pollution under the provisions of the Federal Water Pollution Control Act, as amended; the licensing of ocean freight forwarders under the provisions of the Shipping Act, 1916; and the certification of owners and operators of passenger vessels as to their financial responsibility to satisfy liability incurred by nonperformance of voyages or resulting from injury or death under Public Law 89–777.

The Bureau develops long-range programs, new or revised policies and standards, and rules and regulations with respect to the program activities of the Bureau.

The program activities of the Bureau of Certification and Licensing are carried out by the Office of Water Pollution Responsibility, the Office of Freight Forwarders, and the Office of Passenger Vessel Certification, as outlined below:

a. The *Office of Water Pollution Responsibility* (1) administers the provisions of Pub. L. 92–500 with respect to evidence of financial responsibility by owners and operators of vessels which may be subjected to liability to the United States for the cost of removal of oil or hazardous substances from the navigable waters of the United States, adjoining shorelines, or waters of the contiguous zone; (2) receives and processes applications for Certificates of Financial Responsibility (Pollution) from vessel owners and operators who wish to evidence their financial responsibility by means of self-insurance, surety bonds, certificates of insurance, guaranties, insurance policies, or other methods acceptable to the Commission; (3) reviews and makes appropriate recommendations on the adequacy of such evidence; (4) receives and reviews prescribed periodic accounting reports from certificants who have qualified as self-insurers to assure that such certificants remain financially stable; (5) recommends issuance, denial, revocation, modification, or suspension of such certificates; (6) notifies certificants whose evidence of financial responsibility is being cancelled or due to expire, and make appropriate recommendations in connection therewith; (7) makes appropriate recommendations with respect to violations of enabling statutes or regulations promulgated thereunder; (8) maintains records, files, and listings of applicants, certificants, vessels, and underwriters for use internally and by other Government agencies; (9) recommends acceptance or denial of persons or firms wishing to qualify with the Commission as acceptable underwriters; and (10) conducts studies and surveys for the development of new or revised policy and standards, and rules and regulations with respect to the program activities of the Office of Water Pollution Responsibility.

b. The *Office of Freight Forwarders* (1) reviews applications for the licensing of freight forwarders and makes appropriate recommendations as to the granting or denying of such applications, in accordance with the requirements of law and the rules, orders, and regulations of the Commission; (2) reviews the practices of licensed freight forwarders and makes appropriate recommendations with respect to any activities which indicate possible violations of applicable statutes or Commission regulations; (3) makes appropriate recommendations, collaborating with the Managing Director and the Bureau of Hearing Counsel, for formal action and proceedings by the Commission; and (4) conducts studies and surveys for the development of new or revised policy and standards, and rules and regulations with respect to the program activities of the Office of Freight Forwarders.

c. The *Office of Passenger Vessel Certification* (1) administers the provisions of Pub. L. 89–777 with respect to the financial responsibility of operators of passenger vessels to meet liability for nonperformance of voyages and claims for injury or death aboard ships; (2) makes appropriate recommendations with respect to the financial responsibility of said operators of passenger vessels; and (3) conducts studies and surveys for the development of new or revised policy and standards, and rules and regulations with respect to the program activities of the Office of Passenger Vessel Certification.

4. The *Bureau of Hearing Counsel* acts as Hearing Counsel in all formal investigations, nonadjudicatory investigations, rulemaking proceedings, and any other proceedings initiated by the Federal Maritime Commission under the Shipping Act, 1916, and other applicable shipping acts; examines and cross-examines witnesses, prepares and files briefs, motions, exceptions, and other legal documents, and participates in oral arguments before the Administrative Law Judges and the Federal Maritime Commission; acts as Hearing Counsel, where intervention is permitted, in formal complaint proceedings initiated under section 22 of the Shipping Act; reviews and concurs in all recommendations of other bureaus recommending the institution of formal proceedings; prepares all orders, notices, and other documents which institute formal or informal Commission proceedings; furnishes consultative and advisory services, and otherwise assists other bureaus in formulating procedures to be followed in connection with investigations and/or formal Commission proceedings; serves, with the concurrence of the Managing Director, as requested by the General Counsel and under his direction in matters of court litigation by or against the Commission rising out of violations previously adjudicated by the Commission.

5. The *Office of Personnel* plans and administers personnel management activities of the Commission in compliance with Federal laws and regulations; serves as staff advisor on personnel matters to executive management, supervisors, and individual employees; and initiates and implements programs designed to insure a progressive personnel program within the Commission.

6. The *Office of Budget and Finance* formulates recommendations and interprets budgetary policies and programs; develops and presents budget requests







V 38 I 187 SEP 27 73 XUM

and justifications; develops and administers fiscal plans and systems of internal control which provide accountability for public funds; and is responsible for financial management policies, procedures, and planning.

7. The *Division of Office Services* provides office services for the Commission and its District Offices, including communication services, printing, binding, reproduction, mail services, procurement of supplies and equipment, space management, building services, safety programs, and records storage and retrieval; and formulates guides, regulations, methods, and procedures governing the use of office services and facilities.

8. The *District Offices* represent the Federal Maritime Commission within their respective geographic areas; provide liaison between the industry and the shipping public and FMC headquarters, conveying pertinent information, highlighting regulatory problem areas, and recommending courses of action and solutions; furnish information, advice, counsel, and access to Commission public documents to the various segments of the regulated shipping industry and other evincing interest and concern in the Commission's work; receive informal complaints involving shippers and the regulated industry and take appropriate action thereon; provide advisory, consultative, and investigative services in support of substantive programs within the cognizance of the various bureaus of the Commission; plan and conduct investigations of alleged violations of the Shipping Acts, investigations of freight forwarders, compliance checks, background surveys, field audits, and other studies; and recommend policies to strengthen enforcement of the shipping laws.

5.04 The *Office of the Secretary* is responsible for preparing agenda and dockets of matters subject to action by the Federal Maritime Commission and the preparation of minutes with respect to such actions; receiving and processing formal complaints and staff recommendations for investigation and hearing involving violations of the Shipping Act, 1916, as amended, and other applicable laws, including the (a) reviewing of complaints for sufficiency and compliance with the Commission's Rules of Practice and Procedure; (b) assigning official docket numbers to such complaints and orders of investigation and hearings; (c) serving copies of such complaints and orders upon the respondent(s); and (d) subsequent to Administrative Law Judges' decisions or other disposition of cases by Administrative Law Judges, ruling upon requests for enlargement of time for the filing of exceptions to decisions and replies thereto, including ruling upon late filings of exceptions or replies, and processing all other motions and petitions to the Commission for action; issuing orders and notices of actions of the Commission; receiving formal communications, petitions, notices, documents, and other instruments directed to the Chairman and/or the Commission and maintaining official files and records with respect thereto; authenticating instruments or documents or documents of the Commission; administering oaths; issuing subpoenas at the direction of the Commission; disseminating complete, accurate, and necessary information on the activities, functions, and responsibilities of the Federal Maritime Commission to the maritime industry, news media, the general public, and other agencies of the Government; and providing copies of initial decisions of the Administrative Law Judges, reports of the Commission, publications, and miscellaneous documents submitted in proceedings before the Commission.

5.05 The *Office of the General Counsel* serves as the law office of the Commission and provides legal counsel to the Commission and its staff; reviews and approves as to legality and/or prepares proposed Commission rules, regulations, and orders; prepares drafts of proposed legislation and reports to Congressional committees; and represents the Commission in all matters before the courts.

5.06 The *Office of Administrative Law Judges* holds hearings and renders decisions therein in formal rulemaking and adjudicatory proceedings as provided in the Shipping Act, 1916, as amended, and other applicable laws and other matters assigned by the Commission, all in accordance with the Administrative Procedure Act and the Commission's Rules of Practice and Procedure. Administrative Law Judges are exempt from all direction, supervision, or control except for administrative purposes.

SEC. 6. *Delegation of authorities.*

6.01 Pursuant to Section 105 of Reorganization Plan No. 7 of 1961, effective August 12, 1961, the Federal Maritime Commission hereby delegates the authorities set forth in sections 7, 8, and 9 of this order to the officials designated therein, subject to the limitations prescribed in sections 6.02, 6.03, 6.04, and 6.05 of this Order.

6.02 The delegatees shall exercise the authorities delegated herein in a manner consistent with the established policy of the Federal Maritime Commission.

6.03 The authorities delegated herein, except those delegated to the Chief Administrative Law Judge, may not be exercised unless resolution of all legal questions and approval of the form of all legal documents have been obtained either concurrently or previously, from the General Counsel, or his designee.

6.04 The delegatees may in their discretion redelegate their authorities, unless otherwise restricted herein, to subordinate personnel under their direction, provided that such redelegation does not grant the recipient the authority to subsequent redelegation. The delegatees retain full responsibility for actions taken by their subordinates under any authority redelegated by them.

6.05 Notwithstanding the delegations contained herein, the Commission retains its discretionary right of review as provided in Section 105(b) of Reorganization Plan No. 7 of 1961.

SEC. 7. *Specific authorities delegated to the Managing Director.*

7.01 Authority to accept or reject tariff filings of domestic offshore carriers or common carriers in the foreign commerce of the United States, or conferences of such carriers for failure to meet the requirements of statute or the Commission's requirements, or for lack of completeness and clarity of the rules and regulations governing the tariff, or noncompliance with Special Permission or other Order of the Commission.

7.02 Authority to approve Special Permission applications submitted by domestic offshore carriers or carriers in the foreign commerce of the United States, or conferences of such carriers for relief from statutory and/or Commission tariff requirements.

7.03 Authority to review and determine the validity of alleged or suspected violations, exclusive of formal complaints, of the shipping statutes and rules and regulations of the Commission by common carriers by water in the domestic offshore or the foreign commerce of the United States, terminal operators, freight forwarders, and other persons subject to the provisions of the shipping statutes; authority to determine corrective action necessary with respect to violations and conduct negotiations and obtain compliance by the violating parties, except where violations involve major questions of policy or major interpretations of statutes, or orders, rules, and regulations of the Commission, or acts having material effect upon the commerce of the United States; authority to determine, with respect to the foregoing, whether alleged or suspected violations should or should not be referred to the Department of Justice for prosecution.

7.04 Authority to (a) approve, within the framework of prescribed Commission policy and criteria, applications for licenses and to issue or reissue or transfer licenses to persons, partnerships, corporations, or associations desiring to engage in the business of ocean freight forwarding; (b) issue a letter stating that the Commission intends to deny an application unless within 20 days applicant requests a hearing to show that denial of the application is unwarranted or unless within 30 days required security has been filed; (c) deny any application for freight forwarder license where applicant has received a letter of intent to deny and, within notice period, has not requested a hearing or has not furnished the required security; (d) rescind letters of intent to deny or grant extensions of the time specified in such letters; (e) revoke the grandfather rights of applicants who have requested withdrawal of the application, moved from their last known address and reasonable efforts to locate their present whereabouts have failed, or been denied a license in accordance with subsection (c) of this section; (f) revoke the license of a freight forwarder upon the request of the licensee; (g) upon receipt of notice of cancellation of any bond, to notify the licensee in writing that his license will automatically be suspended or revoked, effective on the bond cancellation date, unless a new or reinstated bond is submitted to and approved by the Commission prior to such date, and subsequently to order such suspension or revocation for failure to maintain a bond; (h) approve extension or extensions of time to licensed freight forwarders, in which to furnish the Commission the name(s) and ocean freight forwarding experience of the managing partner(s) or officer(s) who will replace the qualified partner or officer upon whose qualifications the original licensing was approved.





7.05 Authority to develop, prescribe, and administer programs to assure compliance with the provisions of the shipping statutes of all persons subject thereto, including without limitation those programs for: (a) The submission of regular and special reports, information, and data; (b) the conduct of a plan for the field audit of activities and practices of common carriers by water in the domestic offshore trade and the foreign commerce of the United States, conferences of such carriers, terminal operators, freight forwarders, and other persons subject to the shipping statutes; and (c) the conduct of rate studies.

7.06 Authority to approve, pursuant to Section 15, Shipping Act, 1916, as amended, unprotested, cooperative working arrangements between independent ocean freight forwarders eligible to carry on the business of forwarding pursuant to Section 44, Shipping Act, 1916, as amended.

7.07 Authority to approve, pursuant to Section 15, Shipping Act, 1916, as amended, unprotested modifications to terminal conference agreements and unprotested terminal leases, licenses, assignments, or other agreements of a similar character for the use of terminal property or facilities between persons subject to the Shipping Act, 1916, as amended.

7.08 Authority to determine whether terminal leases, licenses, assignments, or other agreements of a similar character for the use of terminal property or facilities between persons subject to the Shipping Act, 1916, as amended, are within the purview of Section 15.

7.09 Authority to approve unprotested transshipment agreements covering transportation of cargo in the foreign commerce of the United States which are not unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, detrimental to the commerce of the United States, contrary to the public interest, or violative of the Shipping Act, 1916, as amended; such agreements should include the:

1. Complete name of the parties entering into the arangement and specifically setting forth the portion of the trade that each party will cover, including; ports or areas of origin and destination; cargo to be carried; and ports or ranges of ports at which cargo will be transshipped;

2. Responsibility of parties for establishing and filing the applicable through rates, rules, regulations, and other tariff matters;

3. Provisions for the apportionment of the through revenue and transshipment expenses stated in percentages, or specific dollar amounts;

4. When applicable, provisions for application and apportionment of other expenses such as wharfage, special handling, lighterage, tonnage dues, surcharges, and other such charges assessed by a governmental authority;

5. When desired by the parties, provisions for indemnification between the parties for liabilities incurred from loss, damage, delay, or misdelivery of goods;

6. Provision for the termination of the agreement within a stated notice period; and

7. Provisions for the submission to the Federal Maritime Commission for approval of any modification or addition to the agreement.

7.10 The authority to approve or disapprove applications as specified in General Order 11, "Reports of Rate Base and Income Account by Vessel Operating Common Carriers in the Domestic Offshore Trades," Sections: 512.3(c)(1)—extensions for time of filing; 512.3(c)(2)—alternate data; and 512.3(c)(3)—waiver of filing.

7.11 Authority to (1) approve modifications to Section 15 agreements when such modifications are filed in accordance with the requirement of Commission rule or general order and are clearly in compliance with the criteria and/or intent of such rule or general order, and (2) require modification of the filed amendment to the extent necessary to conform to the requirements of such rule or general order.

7.12 Authority to approve the termination of Section 15 (Shipping Act, 1916, as amended) agreements between common carriers by water and conferences of such carriers engaged in the foreign and domestic commerce of the United States, and between other persons subject to the Act, after publication of notice of intent to terminate in the Federal Register, when such terminations are (1) requested by the parties to the agreements or, (2) deemed to have occurred when it is determined that the parties are no longer engaged in concerted activities requiring Section 15 approval and official inquiries and correspondence cannot be delivered to the parties.

7.13 Authority to approve unprotested modifications to approved Section 15 agreements which are filed to (1) reflect changes in the name of a country or port, or (2) increase or decrease the trade areas within the general geographic scope of the approved existing agreements, provided that such increases or decreases do not involve foreign-to-foreign trade, or (3) reflect non-substantive changes in language, procedures, or administration.

7.14 Authority to approve, pursuant to Section 15, Shipping Act, 1916, as amended, unprotested passenger agency agreements and container interchange agreements between ocean common carriers.

7.15 Authority to issue notices of intent to cancel inactive tariffs of carriers in the domestic offshore trades, after a diligent effort has been made to locate the carrier without success, or if the carrier has advised the Commission that it no longer offers a domestic common carrier service but refuses to cancel its tariff upon written request; and to cancel such tariff if within 30 days after publication, the carrier does not furnish reasons why such tariff should not be cancelled.

7.16 Authority to accept financial and operating data alternative to that required by Sections 511.2 and 511.3 of General Order 5, upon application and a showing of good cause that it is unnecessary to require full compliance to enable the Commission to carry out its regulatory function.

7.17 Authority to waive the requirements of Section 511.2 and 511.3 of General Order 5, for carriers with less than $25,000 gross revenue, upon application and showing that the gross revenue earned did not exceed such amount as provided by the Order.

7.18 Authority to grant or deny, in accordance with the provisions of General Order 5, Amendment 5, extensions of time limits prescribed for the filing of financial reports by common carriers who are subject to the provisions of General Order 5, 46 CFR, Part 511.

7.19 Authority to (a) approve applications for Certificates of Financial Responsibility (Pollution) and to issue or reissue or transfer such Certificates; (b) issue a letter stating that the Commission intends to deny an application, indicating the reasons therefor, unless within 20 days applicant requests a hearing to show that denial of the application is unwarranted; (c) deny any application for a Certificate where applicant has received a letter of intent to deny and, within the notice period, has not requested a hearing; (d) rescind letters of intent to deny or grant extensions of the time specified in such letters; (e) revoke a Certificate upon request of the certificant; (f) upon receipt of notice of termination of evidence of financial responsibility to notify the certificant in writing that his Certificate will automatically be suspended or revoked, effective on the termination date, unless new or reinstated evidence of financial responsibility is submitted to and approved by the Commission prior to such date, and subsequently to order such suspension or revocation for failure to maintain adequate evidence of financial responsibility; and (g) exercise the various grants, waivers, and requests relating to the filing of financial data by self-insurers and guarantors pursuant to the provisions of section 542.5(a) of General Order 27.

SEC. 8. *Specific authorities delegated to the Secretary.*

8.01 Authority to approve applications for permission to practice before



V 38 I 187 SEP 27 73 XUM

the Federal Maritime Commission and to issue admission certificates to approved applicants.

8.02 Authority to prescribe a time limit less than 20 days from date published in the FEDERAL REGISTER for the submission of written comments with reference to agreements filed pursuant to Section 15 of the Shipping Act, 1916, as amended.

8.03 Authority to assign informal small claims dockets under Subpart S of the Commission's Rules of Practice and Procedure to those Commission employees designated as "settlement officers."

SEC. 9. *General authority delegated to the Managing Director, Secretary, General Counsel, and Chief Administrative Law Judge.*

9.01 Authority to exercise all functions and take all actions necessary to direct and carry out the duties and responsibilities assigned to the Managing Director, Office of the Secretary, Office of the General Counsel, and Office of Administrative Law Judges, in accordance with their functional assignments as heretofore prescribed in this Order.

SEC. 10. *Public requests for information and decisions.*

10.01 *General.* 1. 5 U.S.C. 552(a)(1)(A) requires that every agency shall separately state and currently publish in the FEDERAL REGISTER for the guidance of the public, descriptions of its central and field organizations and the established places at which, the officers from whom, and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions.

2. Section 5 of this Order complies with that portion of the above requirement with respect to stating and publication of the descriptions of the Federal Maritime Commission's central and field organizations.

3. Accordingly, there is hereby stated and published for the guidance of the public the established places at which, the officers from whom, and the methods whereby, the public may secure information, make submittals or requests, or obtain decisions. For this purpose, the officials hereinafter designated may be contacted by telephone, in writing, or in person, at the Federal Maritime Commission, 1405 I Street, NW., Washington, D.C. 20573.

10.02 The *Director, Bureau of Compliance,* will provide information and decisions, and will accept and respond to requests, relating to the program activities of the Bureau of Compliance. Any document, report, or other submission required to be filed with the Federal Maritime Commission by statute or the Commission's rules and regulations relating to the specific functions of the Bureau of Compliance as set forth in Section 5.031 of this Order shall be filed with or submitted to the Director, Bureau of Compliance.

10.03 The *Director, Bureau of Industry Economics,* will provide information and decisions, and will accept and respond to requests, relating to the program activities of the Bureau of Industry Economics. Any document, report, or other submission required to be filed with the Federal Maritime Commission by statute or the Commission's rules and regulations relating to the specific functions of the Bureau of Industry Economics as set forth in Section 5.032 of this Order shall be filed with or submitted to the Director, Bureau of Industry Economics.

10.04 The *Director, Bureau of Certification and Licensing,* will provide information and decisions, and will accept and respond to requests, relating to the program activities of the Bureau of Certification and Licensing. Any document, report, or other submission required to be filed with the Federal Maritime Commission by statute or the Commission's rules and regulations relating to the specific functions of the Bureau of Certification and Licensing as set forth in Section 5.033 of this Order shall be filed with or submitted to the Director, Bureau of Certification and Licensing.

10.05 The *Director, Bureau of Hearing Counsel,* will provide information and decisions, and will accept and respond to requests, relating to the program activities of the Bureau of Hearing Counsel, provided, however, that the dissemination of such information or decisions is not prohibited by the Administrative Procedure Act or the Commission's Rules of Practice and Procedure. Any document, report, or other submission required to be filed with the Federal Maritime Commission by statute or the Commission's rules and regulations relating to the specific functions of the Bureau of Hearing Counsel as set forth in Section 5.034 of this Order shall be filed with or submitted to the Director, Bureau of Hearing Counsel.

10.06 The *Director, Office of Personnel,* will provide information and decisions, and will accept and respond to requests, relating to the program activities of the Office of Personnel as set forth in Section 5.035 of this Order.

10.07 The *Director, Office of Budget and Finance,* will provide information and decisions, and will accept and respond to requests, relating to the program activities of the Office of Budget and Finance as set forth in Section 5.036 of this Order.

10.08 The *Directors of the Atlantic, Gulf, and Pacific Districts,* and the *Puerto Rico Area Representative* will provide information and decisions to the public within their geographic areas, or will expedite the obtaining of information and decisions from headquarters, relating to the program activities of the District Offices as set forth in Section 5.038 of this Order. The addresses of these offices are as follows:

Director, Atlantic District
Federal Maritime Commission
26 Federal Plaza, Room 4012
New York, New York 10007

Director, Gulf District
Federal Maritime Commission
P.O. Box 30550
610 South Street, Room 1035
New Orleans, Louisiana 70190

Director, Pacific District
Federal Maritime Commission
681 Market Street, Room 618
San Francisco, California 94105

Area Representative, Puerto Rico
Federal Maritime Commission
Old San Juan Post Office Bldg., Room 108A
Commercio and Tanca Streets
San Juan, Puerto Rico

Mailing Address:
P.O. Box 3168
Old San Juan Station
San Juan, Puerto Rico 00904

10.09 The *Secretary* will provide information and decisions, and will accept and respond to requests, relating to the program activities of the Office of the Secretary. Any document, report, or other submission required to be filed with the Federal Maritime Commission by statute or the Commission's rules and regulations relating to the specific functions of the Office of the Secretary as set forth in Section 5.04 of this Order shall be filed with or submitted to the Secretary.

10.10 The *General Counsel* will provide information and decisions, and will accept and respond to requests, relating to the program activities of the Office of the General Counsel. Any document, report, or other submission required to be filed with the Federal Maritime Commission by statute or the Commission's rules and regulations relating to the specific functions of the Office of the General Counsel as set forth in Section 5.05 of this Order shall be filed with or submitted to the General Counsel.

10.11 The *Chief Administrative Law Judge* will provide information and decisions and will accept and respond to requests, relating to the program activities of the Office of Administrative Law Judges. Any document, report, or other submission required to be filed with the Federal Maritime Commission by statute or the Commission's rules and regulations relating to the specific functions of the Office of Administrative Law Judges as set forth in Section 5.06 of this Order shall be filed with or submitted to the Chief Administrative Law Judge.

10.12 The public may inspect or obtain copies of agreements, tariffs, and other public records or documents which are on file with or prepared by the Bureau of Compliance from the Public Reference Room, Bureau of Compliance, 1405 I Street NW., Washington, D.C. 20573.

SEC. *11. Effect on Other Orders.*

11.01 This Order supersedes Commission Order Number 1 (Revised) dated May 1, 1972, and all amendments and supplements published subsequent thereto.

HELEN DELICH BENTLEY,
*Chairman.*

[FR Doc.73-20667 Filed 9-26-73;8:45 am]

[Independent Ocean Freight Forwarder License No. 36]

## THADDEUS W. WYATT, AND T. W. WYATT CO.

### Order of Revocation

By letter dated August 1, 1973, T. W. Wyatt Co., 405 Montgomery Street, San Francisco, California 94104 was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 36 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before August 30, 1973.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

Thaddeus W. Wyatt, d/b/a T. W. Wyatt Co. has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (revised) § 7.04(g) (dated May 1, 1972);

*It is ordered,* That Independent Ocean Freight Forwarder License No. 36 of Thaddeus W. Wyatt, d/b/a T. W. Wyatt Co. be returned to the Commission for cancellation.

*It is further ordered,* That Independent Ocean Freight Forwarder License No. 36 be and is hereby revoked effective August 30, 1973.

*It is further ordered,* That a copy of this Order be published in the FEDERAL REGISTER and served upon Thaddeus W. Wyatt, d/b/a T. W. Wyatt Co.

WM. JARREL SMITH, JR.,
*Deputy Managing Director.*

[FR Doc.73-20671 Filed 9-26-73;8:45 am]

[Docket No. 73-58]

## UNITED STATES LINES, INC.

### Order To Show Cause

United States Lines, Inc. (USL) is a common carrier by water operating inter alia, between the East Coast of the United States and the United Kingdom and Europe. USL submits bids for the carriage of military cargo pursuant to the negotiated competitive procurement system administered by the Military Sealift Command (MSC).

In response to the latest Request for Proposal (RFP)–800, First Cycle, issued by MSC, USL submitted bids of $11.72 per measurement ton for carriage of Cargo N.O.S. $21.32 per measurement ton for carriage of refrigerated cargo and $24.20 per measurement ton for carriage of vehicles from U.S. East Coast ports to the United Kingdom and Europe on MSC Route Index 4 and 5, to be effective during the period July 1, 1973–December 31, 1973.

Pursuant to § 549.4(a) of General Order 29 (46 CFR 549.4(a)) USL submitted a certification that its rate bid for RFP–800 First Cycle complied with the requirements of General Order 29. In justifying these rates, USL reduced its costs by deducting a credit for "Military Inland Profit", which USL defines as that pool of revenue in excess of cost associated with moving a container of military cargo from point of origin to ocean port or from ocean port to final inland destination. (This does not include cost or time spent while the containers are on the vessel while in the port or at sea.)

By using the credit for "Military Inland Profit",[1] USL reduced its ocean carriage costs to a level where its rates bid cover its fully distributed costs as required by General Order 29. If the ocean carriage cost is not reduced for the credit for "Military Inland Profit", the rates bid for carriage of Cargo N.O.S. and refrigerated cargo would not cover fully distributed cost and would thus be in violation of section 18(b)(5) of the Shipping Act, 1916.

The Commission is seriously concerned that carriers may be tempted to avoid the standards of General Order 29 by seeking to offset costs attributable to the ocean carriage of military cargo by claiming profits on inland carriage of that cargo, as USL has sought to do here. Such a tactic is not sanctioned by General Order 29, since General Order 29 requires that the legality vel non of the rate for ocean carriage of military cargo must be determined with regard to the costs and revenues associated with such ocean carriage.

The Commission is of the opinion that unless USL can justify its use of profits on inland carriage of military cargo to offset costs attributable to the ocean carriage of that cargo, USL's rates bid for the carriage of Cargo N.O.S. and refrigerated cargo for RFP–800 First Cycle on MSC Routes 4 and 5 must be found to be in violation of General Order 29 and section 18(b)(5) of the Shipping Act, 1916, and be stricken from USL's tariff on file with the Commission.

*Now, therefore, it is ordered,* That pursuant to Section 22 of the Shipping Act, 1916 United States Lines be named respondent in this proceeding and that it be ordered to show cause why its rates bid for the carriage of Cargo N.O.S. and refrigerated cargo for RFP–800 First Cycle on MSC Route Index 4 and 5 should not be stricken from its tariff for failure to comply with 46 CFR Part 549, and section 18(b)(5) of the Shipping Act, 1916.

*It is further ordered,* That this proceeding shall be limited to the submission of affidavits and memoranda of law, replies, and oral argument. Should any party feel that an evidentiary hearing be required, that party must accompany any request for such hearing with a statement setting forth in detail the facts to be proven, their relevance to the issues in this proceeding, and why such proof cannot be submitted through affidavit. Requests for hearing shall be filed on or before October 15, 1973. Affidavits of fact and memorandum of law shall be filed by respondent and served upon all parties no later than the close of business October 15, 1973. Reply affidavits and memoranda shall be filed by the Commission's Bureau of Hearing Counsel and intervenors if any, no later than close of business October 25, 1973.

Time and date of oral argument if requested and/or deemed necessary by the Commission will be announced at a later date.

*It is further ordered,* That a notice of this order be published in the FEDERAL REGISTER and that a copy thereof be served upon respondent, and upon the Commanding Officer, Military Sealift Command, and

*It is further ordered,* That persons other than those already party to this proceeding who desire to become parties to this proceeding and to participate therein shall file a petition to intervene pursuant to Rule 5(1) of the Commission's rules of practice and procedure (46 CFR 502.72) no later than the close of business October 5, 1973.

*It is further ordered,* That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, in an original and 15 copies as well as being mailed directly to all parties of record.

By the Commission.

[SEAL] FRANCIS C. HURNEY,
*Secretary.*

[FR Doc.73-20668 Filed 9-26-73;8:45 am]

[1] Although for purposes of this Order we are assuming that the actual amount claimed as "Military Inland Profit" by USL is accurate, we are issuing a section 21 Order to USL in order to determine the accuracy of the figure claimed.

## FEDERAL POWER COMMISSION

[Docket Nos. CI73-863, CI73-864, & CI73-865]

### BRACKEN OIL PROPERTIES, INC.

#### Notice Cancelling Hearing

SEPTEMBER 21, 1973.

On August 31, 1973, an order was issued fixing a hearing in the above-designated matters. On September 10, 1973, Hoover & Bracken Oil Properties, Inc. filed an application to withdraw the applications filed in the above matters.

Upon consideration, notice is hereby given that the hearing scheduled for September 27, 1973, in the above matters is cancelled.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20614 Filed 9-26-73;8:45 am]

[Docket No. CI73-903]

### DOUGLAS B. MARSHALL, ET AL.

#### Notice Changing Date of Hearing

SEPTEMBER 19, 1973.

On August 31, 1973, an order was issued setting the above matters for hearing, prescribing procedures and fixing the date of hearing.

Upon consideration, notice is hereby given that the date of the hearing is changed to October 4, 1973.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20626 Filed 9-26-73;8:45 am]





V 38 187 SEP 27 73 XUM

## NATIONAL POWER SURVEY; TECHNICAL ADVISORY COMMITTEE ON FUELS

### Cancellation of Meeting

The meeting of the Technical Advisory Committee On Fuels previously announced for October 3, 1973, has been cancelled.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20621 Filed 9-26-73;8:45 am]

## NATIONAL POWER SURVEY; TECHNICAL ADVISORY COMMITTEE ON CONSERVATION OF ENERGY

### Agenda for Meeting

Agenda for meeting of the Technical Advisory Committee on Conservation of Energy, to be held at the Federal Power Commission Offices, 825 North Capitol Street NE., Washington, D.C., at 9:30 a.m., October 15 and 16, 1973, Room 5200.

1. Meeting called to order by FPC Staff Representative.
2. Objectives and purposes of meeting.
   A. Review of recommendations of Task Force on Technical Aspects.
   B. Review of recommendations of Task Force on Practices and Standards.
   C. Review of recommendations of Task Force on Environmental Aspects.
   D. Other business.
3. Adjournment.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or, if oral, at the time and in the manner permitted by the committee.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20622 Filed 9-26-73;8:45 am]

## NATIONAL POWER SURVEY; TECHNICAL ADVISORY COMMITTEE ON CONSERVATION OF ENERGY

### Agenda for Meeting

Agenda for a meeting of Technical Advisory Committee on Conservation of Energy, to be held at the Federal Power Commission Offices, 825 North Capitol Street NE., Washington, D.C., at 9:30 a.m., October 2, 1973, Room 5200.

1. Meeting called to order by FPC Staff Representative.
2. Objectives and purposes of meeting.
   A. Review of Revised Draft of Report of Task Force on Technical Aspects.
   B. Review of reports of Task Force on Environmental Aspects.
   C. Other business.
3. Adjournment.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee—which statements, if in written form, may be filed before or after the meeting, or, if oral, at the time and in the manner permitted by the committee.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc. 73-20623 Filed 9-26-73;8:45 am]

[Project No. 2340]

## INTERSTATE POWER CO.

### Filing of a Notice of Destruction, Unfitness for Use, and Retirement of Essential Project Property of the Dehli Generating Station

SEPTEMBER 20, 1973.

Public notice is hereby given that the Interstate Power Company of Dubuque, Iowa, Licensee for the Dehli Hydro-Electric Project No. 2340, filed on August 29, 1973, a "Notice of Destruction, Unfitness For Use, And Retirement Of Essential Project Property of Dehli Hydro-Electric Generating Station As Minor Project Having Installed Capacity of 2,000 Horsepower Or Less." The project is located on the Moquoketa River in Delaware County, Iowa.

Licensee indicated that because of the failure of the Dehli Generator Unit No. 1 on September 1, 1968, the project was reduced to one generating unit. On June 16, 1973, the remaining Unit No. 2 was struck by lightning causing its failure and resulting in the discontinuance of operation, and that complete rewinding of this generator and replacement of the station service supply cables would be necessary to again commence service.

Licensee contends that there is no economic justification for these repairs. It had previously stated in its Application for Surrender of this project that continued operation did not effectively contribute significant support to its system operation, reliability, or economy.

Licensee proposes to dispose of all of its right, title, and interest in certain of the real estate and remaining facilities thereon formerly constituting the project works and used in connection with the generating station which have ceased to be electric facilities, by selling and conveying the same to L. J. Schlitz after the expiration of 90 days from the date of its Notice.

Any person desiring to be heard or to make protest with reference to the Notice filed by Interstate Power Company in Project No. 2340, should on or before October 29, 1973, file with the Federal Power Commission, Washington, D.C. 20426, protests or petitions to intervene in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceedings. Persons wishing to become parties to the proceeding or to participate as a party in this proceeding must file petitions to intervene in accordance with the Commission's rules. The Company's Notice is on file with this Commission and available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20627 Filed 9-26-73;8:45 am]

[Docket No. CI73-521]

## McCULLOCH OIL CORP.

### Extension of Time

SEPTEMBER 19, 1973.

On September 17, 1973, McCulloch Oil Corporation filed a request for an extension of the procedural dates fixed by order issued September 7, 1973, in the above-designated matter. The letter states that Northern Natural Gas Company supports the request.

Upon consideration, notice is hereby given that the procedural dates are modified as follows:

Direct Testimony by Applicant and Interveners, supporting Applicant, September 24, 1973.
Direct Testimony and Evidence by Staff and all Interveners opposing Application, October 1, 1973.
Rebuttal testimony, October 9, 1973.
Hearing (unchanged), October 16, 1973 (10 a.m., e.d.t.).

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20630 Filed 9-26-73;8:45 am]

[Docket No. E-8380]

## METROPOLITAN EDISON CO.

### Proposed Changes in Rates and Charges

SEPTEMBER 19, 1973.

Take notice that Metropolitan Edison Company (Met-Ed) on August 29, 1973, tendered for filing a POWER CONTRACT dated July 11, 1973, applicable to wholesale electric service to the Borough of Kutztown, Pennsylvania, effective as of the date upon which Kutztown's new 69 kv step-down substation commences service. The proposed contract contains Met-Ed's Resale Power Service Rate RP-Revision 2 which became effective July 1, 1971. The charges billed under Resale Power Service Rate RP-Revision 2 will result in an annual reduction in billing of $69,725, as compared to the present rate for the twelve month period beginning July 1, 1973.

A copy of the rate filing has been mailed to Borough of Kutztown.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 28, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20617 Filed 9-26-73;8:45 am]





[Docket No. RP72-118]

## MICHIGAN WISCONSIN PIPE LINE CO.

### Proposed Changes in Rates

SEPTEMBER 21, 1973.

Take notice that on August 31, 1973, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) endered for filing Third Substitute Fourth Revised Sheet No. 27F to its F.P.C. Gas Tariff, Second Revised Volume No. 1. This filing was subsequently revised and refiled on September 10, 1973. So as to permit this substitute filing to be made and to become effective as of October 1, 1973, Michigan Wisconsin requests waiver of the Commission's regulations.

Michigan Wisconsin states that the above revised tariff sheet reflects the effect of a net increase in advance payments to producers and is filed pursuant to its Settlement Agreement in Docket No. RP72-118.

Michigan Wisconsin further states that copies of the filing have been mailed to its customers and all interested parties in Docket No. RP72-118.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before September 28, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.72-20615 Filed 9-26-73;8:45 am]

[Docket No. RP72-118]

## MICHIGAN WISCONSIN PIPE LINE CO.

### Proposed Changes in Rates and Charges

SEPTEMBER 21, 1973.

Take notice that on August 31, 1973, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) tendered Third Substitute Fourth Revised Sheet No. 27 to its FPC Gas Tariff, Second Revised Volume No. 1, proposing to increase the commodity component of its two part rates and the total of its single part rates by 1.50¢ per Mcf, effective as of October 1, 1973. The company states that the change relates to advance payments for gas as of October 1, 1973 and is made pursuant to Articles IV and V of the Stipulation and Agreement approved by Commission order issued July 24, 1973, in this proceeding.

Copies of the filing have been mailed to Michigan Wisconsin's customers and interested state commissions.

Any persons desiring to be heard or to protest said application should file a petition to intervene with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426 in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure. (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before September 27, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding must file a petition to intervene. However, parties previously permitted to intervene in this proceeding need not file a further petition to intervene. Copies of this application are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20616 Filed 9-26-73;8:45 am]

[Docket No. RP73-102]

## MICHIGAN WISCONSIN PIPELINE CO.

### Extension of Time and Postponement of Prehearing Conference and Hearing

SEPTEMBER 19, 1973.

On August 20, 1973, Michigan Wisconsin Pipeline Company filed a motion for a postponement of the prehearing conference. On August 30, 1973, Staff Counsel filed a motion for an extension of the procedural dates fixed by the order issued May 30, 1973, in the above-designated matter. The motion states that there were no objections to the proposed dates.

Upon consideration, notice is hereby given that the procedural dates in the above matter are modified as follows:

Service of Staff testimony, October 16, 1973.
Prehearing Conference, November 6, 1973 (10 a.m., e.d.t.).
Service of Intervener's Testimony, November 15, 1973.
Service of Company rebuttal, November 26, 1973.
Hearing, December 11, 1973 (10 a.m., e.s.t.).

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20628 Filed 9-26-73;8:45 am]

[Docket No. CP74-64]

## MOUNTAIN FUEL SUPPLY CO.

### Application or in the Alternative Request for Disclaimer of Jurisdiction

SEPTEMBER 21, 1973.

Take notice that on September 6, 1973, Mountain Fuel Supply Company (Applicant), 180 East First South Street, Salt Lake City, Utah 84111, filed in Docket No. CP74-64, an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of natural gas to, and the exchange of natural gas with Colorado Interstate Gas Company, a division of Colorado Interstate Corporation (CIG), and for a disclaimer of jurisdiction as to the construction and operation of certain facilities for use therewith, or, in the alternative, authorization therefor, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it has encountered mechanical problems downhole at its Spearhead Ranch Well No. 1, formerly known as Anadarko Well No. 1, in Converse County, Wyoming, as a result of which the well could not be shut and natural gas was being flared. Applicant further states it, therefore, has proceeded on an emergency basis to construct certain facilities necessary to collect this gas and prevent further waste. Applicant seeks authorization to exchange and sell this natural gas with CIG. Under the proposal, gas produced by Spearhead Ranch Well No. 1 will be delivered to McCullogh Gas Transmission Company (McCullough) for CIG's account for transportation through existing facilities to the northern terminus of CIG's existing Powder River Lateral in Converse County. Contemporaneously therewith, CIG will deliver gas equivalent to 75 percent of the Spearhead Ranch No. 1's volume to Applicant at an existing point of interconnection near Green River, Wyoming, and CIG will retain and purchase an amount equivalent to 25 percent of the volume. As stated in the application CIG is required to reimburse Applicant for the costs of treating the gas for removal of impurities and transporting the gas purchased by CIG from the source of supply to the point of delivery to McCullough for CIG's account at four cents per Mcf, while Applicant is to reimburse CIG for the portion of McCullough's transportation charges attributable to the volumes of gas retained by Applicant. Total volumes involved are estimated to average initially 8,000 Mcf per day. Under the provisions of the agreement between Applicant and CIG dated July 5, 1973, providing for the subject exchange, filed concurrently by CIG, certificate Applicant in Docket No. CP74-62, the price for the first year shall be as follows:

| | Price (cents per Mcf) |
|---|---|
| Depth of well: | |
| 0 to 15,000 feet | 40 |
| 15,000 to 19,000 feet | 45 |
| Below 19,000 feet | 50 |

For each successive twelve-month period the price shall increase one cent per Mcf above the applicable price listed above for the life of the agreement. The term of the contract is stated as five years from the month following initial delivery and from year-to-year thereafter unless terminated by either party upon six months written notice.

Applicant states that due to the geographically removed nature of Spearhead Ranch Well No. 1 from Applicant's transmission and distribution facilities it has had to construct certain facilities in order to effect the proposed exchange and sale. The application details these facilities as 13 miles of 10-inch pipeline and appurtenant facilities from the Spearhead Ranch Well No. 1 to the point of interconnection with McCullough's 16-inch transmission line. Applicant maintains these facilities, which are all within Converse County and used to deliver gas



V 38 I 187 SEP 27 73 XUM

to a point of interconnection with McCullough within the same county, perform solely a gathering function incident to the production of natural gas, and as such, are facilities which Section 1(b) of the Natural Gas Act exempts from the Commission's certificate jurisdiction. Applicant requests the Commission to disclaim jurisdiction over such facilities, or in the alternative, issue a certificate authorization for the same.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 15, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules or practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20629 Filed 9-26-73;8:45 am]

[Docket No. RP74-12]

## NORTHERN NATURAL GAS CO.

### Proposed Change in Rates

SEPTEMBER 19, 1973.

Take notice that on August 31, 1973, Northern Natural Gas Company (Northern) filed for an increase in its wholesale rates as a part of its Gas Tariff, Original Volume No. 4, described as:

First Revised Sheet No. 3a

The proposed effective date for the submitted tariff sheet is October 16, 1973.

Northern states that the revised tariff sheet provides for a rate increase of 5.43¢ per Mcf in the GS-1, IS-1 and I-1 rates, which are the three wholesale schedules contained in Volume No. 4. Northern further states that the basis for the filing of the increased rates is to recover increased gas costs for purchases from the Colorado Interstate Gas Company, the source of gas for the sales under these tariffs. Finally, Northern states that such increased costs relate to charges incurred prior to the implementation of the purchased gas adjustment clause now a part of Tariff Volume No. 4.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 5, 1973. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20631 Filed 9-26-73;8:45 am]

[Docket No. RP72-127]

## NORTHERN NATURAL GAS CO.

### Notice Deferring Procedural Dates

SEPTEMBER 19, 1973.

On September 13, 1973, Staff Counsel filed a motion for an extension of the procedural dates fixed by notice issued July 6, 1973, pending disposition of the proposed Stipulation and Agreement filed in this proceeding and Docket No. RP71-107 (Phase II) on January 11, 1973.

Upon consideration, notice is hereby given that the procedural dates in the above-designated matter are deferred pending further order of the Commission.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20632 Filed 9-26-73;8:45 am]

[Docket No. ID-1707]

## R. DEWITT MALLARY

### Notice of Application

SEPTEMBER 19, 1973.

Take notice that on August 2, 1973, R. DeWitt Mallary (Applicant), filed an initial application pursuant to Section 305(b) of the Federal Power Act, seeking authority to hold the positions of Director of Central Vermont Public Service Corporation and Vermont Electric Power Company, Inc.

The principal business of *Central Vermont Public Service Corporation* is the generation and purchase of electric energy and its transmission, distribution and sale for light, power, heat and other purposes to about 83,400 customers in Middlebury, Randolph, Rutland, Springfield, Windsor, Bradford, Bennington, Brattleboro, St. Johnsbury, St. Albans, Woodstock and 163 other towns and villages in Vermont. *Vermont Electric Power Company, Inc.* engages in the operation of a transmission system which interconnects the electric utilities in the State of Vermont. It is also engaged in the business of purchasing bulk power for resale to Central Vermont Public Service Corporation and the other electric utilities in the State.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 3, 1973, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to the proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20625 Filed 9-26-73;8:45 am]

[Docket No. RP73-94]

## VALLEY GAS TRANSMISSION, INC.

### Submission of Settlement Agreement

SEPTEMBER 19, 1973.

On September 10, 1973, Valley Gas Transmission, Inc. (Valley) submitted to the Presiding Administrative Law Judge for certification, at a prehearing conference convened in this matter pursuant to a notice issued by the Secretary on August 31, 1973, a "Motion to Terminate Proceeding" and an accompanying "Stipulation and Agreement."

In the Motion, Valley states that the parties have reached agreement, as reflected in the "Stipulation and Agreement," and that Valley's rates as filed are supported by Valley's cost of service and are therefore just and reasonable. Valley requests that the proceeding in this docket be terminated and that Valley's rates as filed be approved.

Any person desiring to comment upon said application should file comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such comments should be filed on or before September 28, 1973. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of the settlement agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20618 Filed 9-26-73;8:45 am]





[Docket No. CP74-62]

## COLORADO INTERSTATE GAS CO.

### Notice of Application

SEPTEMBER 20, 1973.

Take notice that on September 4, 1973, Colorado Interstate Gas Company, a division of Colorado Interstate Corporation (Applicant), P. O. Box 1087, Colorado Spring, Colorado 80944, filed in Docket No. CP74-62, an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of natural gas with the Mountain Fuel Supply Company (Mountain Fuel) and the construction and operation of a purchase and exchange meter station in the Anadarko Fox Area in Converse County, Wyoming, for use therewith, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that on or about August 27, 1973, pursuant to § 157.22 of the regulations under the Natural Gas Act (18 CFR 157.22), Applicant entered into emergency operations in conjunction with Mountain Fuel and McCulloch Interstate Gas Corporation (McCulloch) to prevent the continued waste of natural gas as a result of difficulties Mountain Fuel was encountering with its Anadarko Fox Well No. 1 located in the Powder River Basin in Converse County. Applicant states that Mountain Fuel is presently producing about 1,200 barrels of oil per day and flaring about 4,000 Mcf of gas per day from this well and that the proposed exchange is necessary to prevent further flaring and wastage of gas.

Under the proposal gas produced by the Anadarko Fox Well No. 1 will be delivered to McCulloch for Applicant's account for transportation through existing facilities to the northern terminus of Applicant's existing Powder River Lateral in Converse County. Contemporaneously therewith, Applicant will deliver gas equivalent to 75 percent of the Anadarko Fox volume to Mountain Fuel at an existing point of interconnection near Green River, Wyoming, and will retain and purchase an amount equivalent to 25 percent of the volume delivered by McCulloch. McCulloch will charge Applicant for the transportation of the total volume with reimbursement to Applicant by Mountain Fuel for that portion of the transportation charge attributable to the exchange volumes. Total volumes involved are expected to average initially 8,000 Mcf per day. The agreement between Applicant and Mountain Fuel dated July 5, 1973, providing for the subject exchange as stated in the application, provides that the price for the first year is as follows:

| Depth of well: | Price (cents per Mcf) |
|---|---|
| 0 to 15,000 feet | 40 |
| 15,000 to 19,000 feet | 45 |
| Below 19,000 feet | 50 |

The term of this agreement is stated as five years from the month following initial delivery and from year-to-year thereafter unless terminated by either party upon six months written notice.

Applicant further requests authorization for the operation of a temporary meter station constructed at the interconnection of Mountain Fuel and McCulloch's pipelines to measure exchange and purchase volumes. The estimated cost of the facility is $33,048, which will be financed by Applicant from current working funds on hand.

Applicant states that the instant proposal is necessary to enable it to meet the need for additional gas supplies to serve existing customers.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 15, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20624 Filed 9-26-73;8:45 am]

## FEDERAL RESERVE SYSTEM

### FIRST COMMERCIAL BANKS, INC.

### Order Approving Acquisition of Bank

First Commercial Banks, Inc., Albany, N.Y., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares (less directors' qualifying shares) of the successor by merger to The Homer National Bank, Homer, New York ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and none were received. The application has been considered in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls three banks, with aggregate deposits of $1.4 billion, representing 1.3 percent of total deposits in commercial banks in New York, and is the fourteenth largest banking organization in the State.[1] Acquisition of Bank (deposits of $16.7 million) would increase Applicant's share of Statewide deposits by only 0.02 of one percentage point and would not alter Applicant's ranking among the State's banking organizations and bank holding companies. The proposed acquisition represents Applicant's initial move into the Seventh Banking District.

Bank is the second largest of three banks competing in the market consisting of Cortland County and holds about 22.3 percent of the total commercial bank deposits therein. Bank has one branch office in Cortland.

The nearest office of a subsidiary of Applicant, the De Ruyter branch of First Trust and Deposit Co., is 19.2 miles from an office of Bank and is in a different Banking District. There is no meaningful competition between these offices or between Bank and any other of Applicant's subsidiary offices. Moreover, it is unlikely that any substantial amount of competition would develop in the future. Applicant's subsidiaries are precluded from branching into the Seventh Banking District until January 1, 1976, by State restrictions on branching. In addition, it appears unlikely that Applicant would establish a new bank in Cortland County, since the area is not characterized by rapid growth and the ratio of population to banking offices in the county is significantly lower than that in the State. Although approval of this application might tend to raise some slight barriers to entry, since only one independent bank would remain in the market, it would remove home office protection from the town of Homer and other banks in the Seventh Banking District could then branch into Homer.[2] Furthermore, consummation of the proposed acquisition could have a procompetitive effect, since Bank would be better able to compete with the two other commercial banks in

[1] Deposit and market data are as of December 31, 1972, and June 30, 1972, respectively.

[2] Under State law, a bank is prohibited from opening a branch in a city or village with a population of seventy-five thousand or less in which is located the principal office of another bank other than a bank holding company or a banking subsidiary thereof.



V 38 187 SEP 27 73 XUM

the market, one a holding company subsidiary and the other a substantially larger independent bank. Accordingly, it is concluded that consummation of the proposed acquisition would not have any significant adverse effect on existing or potential competition in any relevant area.

The financial and managerial resources and future prospects of Applicant, its subsidiary banks, and Bank are satisfactory and consistent with approval of the application. Considerations relating to the convenience and needs of the community to be served lend weight toward approval. Affiliation with Applicant will permit Bank to offer additional services including credit card, investment advisory, and trust services. It is the judgment of the Federal Reserve Bank of New York that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of New York pursuant to delegated authority.

By order of the Federal Reserve Bank of New York, acting for the Board of Governors of the Federal Reserve System pursuant to delegated authority, effective September 17, 1973.

[SEAL] THOMAS M. TIMLEN, Jr.,
*Senior Vice President,*
*Federal Reserve Bank of New York.*

[FR Doc.73-20537 Filed 9-26-73;8:45 am]

## FIRST TENNESSEE NATIONAL CORP.

### Order Approving Acquisition of Bank

First Tennessee National Corp., Memphis, Tenn., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under § 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares of the successor by merger to the Jackson State Bank, Jackson, Tenn. ("Bank"). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant controls eight banks with aggregate deposits of approximately $1.2 billion, representing 11.5 percent of the total commercial bank deposits in the State, and is the largest banking organization in Tennessee. (Banking data are as of December 31, 1972, adjusted to reflect holding company formations and acquisitions approved by the Board through May 31, 1973.) The acquisition of Bank ($15 million in deposits) would increase Applicant's share of the total State deposits by only 0.1 percent and would not result in any significant increase in the concentration of banking resources in Tenessee.

Bank, the smallest of four banks in the relevant market (approximated by Madison County), holds 8.6 per cent of total market deposits. The three largest banks each control approximately 36, 29 and 26 per cent, respectively. The Board concludes that acquisition of Bank would not have significantly adverse effects on any competing bank.

Applicant's banking subsidiary nearest to Bank is approximately 50 miles away. The distances between Bank and Applicant's subsidiaries preclude significant present competition between them. Furthermore, due to the distances involved and Tennessee's restrictive branching laws, there is little probability of substantial future competition developing between any of Applicant's subsidiaries and Bank. The Board concludes that competitive factors are consistent with approval.

Considerations relating to the financial and managerial resources and future prospectus of Applicant, its subsidiary banks, and Bank are satisfactory and consistent with approval of the application. There is no evidence that basic banking needs of the area are currently not being satisfied by existing banks. Applicant proposes to make available to Bank the services of its specialized personnel in the fields of mortgage lending, international banking, and accounts receivable financing. Considerations relating to the convenience and needs of the community to be served are consistent with approval of the application. It is the Board's judgment that consummation of the proposed acquisition would be in the public interest and that the application should be approved.[1]

Applicant controls two nonbanking subsidiaries, Norlen Life Insurance Co., Phoenix, Arizona, and Investors Mortgage Service, Inc., Memphis, Tennessee, which were acquired on October 21, 1969, and on January 17, 1969, respectively. Norlen Life Insurance Company reinsures underwriters of credit life insurance, and Investors Mortgage Service, Inc., is a mortgage broker which manages real estate for others and develops real estate. Investors Mortgage Service, Inc., owns two subsidiaries, Griffen Mortgage Co., a mortgage broker acquired on December 4, 1969, and Investors Service, Inc., a real estate developer acquired on January 8, 1970.

In approving this application, the Board finds that the combination of an additional subsidiary bank with Applicant's existing nonbanking subsidiaries is unlikely to have an adverse effect upon the public interest at the present time. However, Applicant's banking and nonbanking activities remain subject to Board review and the Board retains the authority to require Applicant to modify or terminate its nonbanking activities or holdings if the Board at any time determines that the combination of Applicant's banking and nonbanking activities is likely to have adverse effects on the public interest.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of St. Louis pursuant to delegated authority.

By order of the Board of Governors,[2] effective September 18, 1973.

[SEAL] CHESTER B. FELDBERG,
*Secretary of the Board.*

[FR Doc.73-20538 Filed 9-26-73;8:45 am]

## HANCOCK GROUP, INC.

### Formation of Bank Holding Co.

The Hancock Group, Inc., Quincy, Mass., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company through acquisition of 100 percent of the voting shares of Hancock Bank and Trust Co., Quincy, Mass. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank, to be received not later than October 8, 1973.

Board of Governors of the Federal Reserve System, September 19, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-20539 Filed 9-26-73;8:45 am]

## MULTIBANK FINANCIAL CORP.

### Order Approving Acquisition of Bank

Multibank Financial Corp., Boston, Massachusetts, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of the Northampton National Bank, Northampton, Massachusetts ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired and none has been received. The Federal Reserve Bank of Boston has considered the application in the light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant has five subsidiary banks[3] and is the sixth largest banking organization and bank holding company in Massachusetts, with aggregate deposits of $464.8 million representing 3.64 percent of total deposits of commercial banks in the state.[4] Acquisition of Bank (deposits of approximately $16.9 million) will have a nominal effect on state-wide concentration, and would increase Applicant's share of commercial bank deposits in Massachusetts by .13 percent. Applicant's ranking would be unchanged as there is a considerable disparity in size between Applicant and the five larger, Boston-based bank holding companies, each of which controls deposits in excess of $1 billion. The proposed acquisition is part of an aggressive statewide expansion program by Applicant, which has acquired four banks in less than two years.[5]

Bank is the second largest of six commercial banks located in Hampshire County, in western Massachusetts. Bank currently operates two offices in the City of Northampton, with a population of approximately 30,000. Northampton is located on the northern periphery of the Springfield-Chicopee-Holyoke SMSA, in which Bank ranks seventh of thirteen commercial banks and controls 2.5% of total market deposits (data as of December 31, 1972).

Applicant's banking office closest to Bank is located 36 miles away in Berkshire County. All of Applicant's subsidiary banks operate in markets separate and distinct from the Springfield SMSA. Further, it is unlikely that competition would develop between Applicant and Bank in the future. Because Massachusetts law restricts branch banking to the home office county, Applicant's existing subsidiaries cannot establish de novo branches in Hampshire County. Moreover, the Northampton area is not particularly attractive for entry via establishment of a de novo bank because of its static economy and population. Approval of the proposed transaction will have no adverse competitive effects.

The financial and managerial resources and prospects of Applicant and its existing subsidiary banks are satisfactory, particularly in view of Applicant's commitment to inject equity capital into several subsidiary banks and to strengthen management at the holding company level. The financial and managerial resources of Bank are considered to be satisfactory. Although Bank's future prospects are considered good, recent bank holding company affiliations in the area have served to intensify competition. Affiliation with Applicant will provide Bank with additional management depth and greater financial resources which should improve Bank's prospects. It is the Reserve Bank's judgment that banking factors are consistent with, and lend some weight in support of, approval of the application.

There is no evidence in the record to indicate that the convenience and needs of the community are not being adequately served by existing institutions. However, Applicant has stated its intention to provide or improve Bank's services in areas of equipment leasing, accounts receivable financing and real estate financing. The convenience and needs factors are consistent with, and lend some weight toward, approval of the application.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be consummated (a) before the thirtieth calendar day following the date of this Order or (b) later than three months after the date of this Order, unless such period is extended for good cause by the Board or by this Federal Reserve Bank pursuant to delegated authority.

By order of the Federal Reserve Bank of Boston, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System, effective September 18, 1973.

[SEAL] FRANK E. MORRIS,
*President.*

[FR Doc.73-20541 Filed 9-26-73;8:45 am]

## SOUTHERN BANCORPORATION, INC.

### Order Approving Formation of Bank Holding Co. and Acquisition of World Acceptance Corp., Piedmont Premium Service, Inc., and SBT Real Estate, Inc.

Southern Bancorporation, Inc., Greenville, S.C., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)), for the formation of a bank holding company through acquisition of 100 percent of the voting shares of Crescent Bank and Trust Company, Greenville, S.C., the successor by merger to Southern Bank and Trust Company, Greenville, South Carolina (Bank). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

At the same time, Applicant has applied in separate applications for the Board's approval, under section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y, to acquire all of the voting shares of: (1) Taylor Acceptance Corporation, the successor by merger to World Acceptance Corp. (World Acceptance); (2) Paramount Premium Service, Inc., the successor by merger to Piedmont Premium Service, Inc. (Piedmont Premium); and (2) Sobanco Properties, Inc., the successor by merger to SBT Real Estate, Inc. (SBT); all located in Greenville, S.C. World Acceptance engages in the activities of making consumer finance loans and, in the States of Georgia and South Carolina, also acting as agent for the sale of credit related life, accident and disability insurance, and credit related property and casualty insurance issued in connection with extensions of credit by World Acceptance's consumer finance offices. Piedmont Premium provides loan financing for the payment of casualty insurance premiums under premium service agreements. SBT, through its ownership of all the outstanding stock of Sunland Life Insurance Company, Phoenix, Arizona (Sunland Life), acts as reinsurer for credit life, accident and health insurance directly related to extensions of credit. Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a)(1), (9), and (10)).

Notice of receipt of the applications has been given in accordance with sections 3 and 4 of the Act, and the time for filing comments and views has expired. The Board has considered the applications and all comments received in the light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)), and the considerations specified in section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)).

Applicant is a nonoperating corporation formed for the purpose of becoming a bank holding company. Bank is the sixth largest banking organization in South Carolina, with deposits of approximately $118 million, and upon Board

[1] Objections to the application were received from a competing bank and an individual shareholder of Bank ("Protestants"). Protestants' primary contention appears to be that Applicant's acquisition will result in the local market being glutted with facilities and services not presently required by the community and that the independent local banks will find it increasingly unprofitable to meet such competition. The Board finds this argument highly conjectural and believes it does not support a finding that consummation of the proposal would have a significant adverse effect on competing banks; indeed, Protestants concede that the competing banks are well-established, aggressive, and growing. The objection appears essentially to reflect a preference for nonaffiliation of independent banks with bank holding companies. One of the Protestants also contends that the acquisition would result in a centralization of economic strength into Memphis, where Applicant's lead bank is located, and that local funds would be drained away from this community. The Board regards the ability of a bank holding company system to marshal resources and supply them where needed as a benefit of the holding company structure. Protestants' argument that Applicant would channel the funds in a manner detrimental to the Jackson community is speculative and seems unpersuasive, particularly in the view of the fact that Applicant will retain local management responsive to the needs of the community. Furthermore, the Board has no evidence that in the past Applicant has caused its subsidiaries to channel to its lead bank funds needed in the local community.

[2] Voting for this action: Chairman Burns and Governors Mitchell, Daane, Sheehan, Bucher, and Holland. Absent and not voting: Governor Brimmer.

[3] On August 31, 1973, Applicant received approval by the Board to acquire B. M. C. Durfee Trust Company, Fall River, Massachusetts (deposits of $63 million).

[4] All banking data are as of June 30, 1973.

[5] Applicant has also announced plans to acquire Security National Bank of Springfield (deposits of $26.4 million).







V 38 I 187 SEP 27 73 XUM

approval would become the fourth largest bank holding company in the State, controlling 3.7 percent of total commercial bank deposits in South Carolina.[1] Consummation of the proposal herein would neither alter existing banking competition nor significantly affect potential competition and would not result in an increase in the concentration of banking resources in any relevant area.

Considerations relating to the financial and managerial resources and future prospects of Applicant and Bank appear to be satisfactory and consistent with approval. Considerations relating to the convenience and needs of the communities involved, with respect to the acquisition of Bank, are consistent with approval. It is the Board's judgment that consummation of the transaction would be in the public interest and that the acquisition of Bank should be approved.

World Acceptance has total assets of $6 million, and net loan receivables of $5.6 million, as of December 31, 1972. It operates 49 consumer finance offices, 19 of which are in South Carolina, 17 in Georgia,[2] and 13 in Texas. Applicant's banking subsidiary has eight offices located in the relevant market area, which is the Greenville-Pickens SMSA. In that market, World Acceptance operates five consumer finance offices. However, World Acceptance is not a large factor in the small personal loan market as its market share is less than 1 percent, represented by outstandings of $800,000, as of December 31, 1972. Competing in the same market are 58 consumer finance companies with 76 offices and 11 other commercial banks with 63 offices. Neither Bank nor World Acceptance is dominant in the relevant market. Considering the large number of lending alternatives, the Board is of the opinion that Applicant's acquisition of World Acceptance would not have a significant effect on existing or potential competition in the small consumer installment loan market. World Acceptance also acts as an agent for the sale of credit insurance related to loans it originates. Due to the limited nature of this activity, Applicant's acquisition of World Acceptance would not appear to have a significantly adverse effect on competition in this product line. Similarly, with respect to the acquisition of Piedmont Premium, it appears that in view of the limited nature of its activity, the acquisition of Piedmont by Applicant would not have any significant adverse competitive consequences.

SBT was organized in 1966 for the principal purpose of purchasing banking facilities utilized by Bank and leasing such facilities to Bank. In 1967, SBT acquired all the shares of Sunland Life, an Arizona chartered company which engages solely in acting as reinsurer for certain credit life, accident and health insurance directly related to extensions of credit by Bank. The ownership of shares of a company engaged in holding or operating properties used wholly or substantially by any banking subsidiary of a bank holding company is permissible under section 4(c)(1)(A) of the Act without the need for prior Board approval. Accordingly, this Order considers only the proposed insurance underwriting activities of SBT. As of December 31, 1972, SBT had total assets of $845,000, of which $145,000 represented investment in the underlying equity of its insurance subsidiary and for the year ending that same date, SBT received gross premiums of $530,000. Approval of Applicant's proposed acquisition does not appear to eliminate any competition in the underwriting of credit life and disability insurance.

In adding credit life underwriting to the list of permissible activities for bank holding companies, the Board stated that, "To assure that engaging in the underwriting of credit life and credit accident and health insurance can reasonably be expected to be in the public interest, the Board will only approve applications in which an Applicant demonstrates that approval will benefit the consumer or result in other public benefits. Normally such a showing would be made by a projected reduction in rates or increase in policy benefits due to bank holding company performance of this service." Applicant has committed itself, within 30 days following consummation of the proposed acquisition, to reduce the rates charged by Sunland Life to its policy holders by 15 percent on all credit life insurance policies, and by 5 percent on all credit accident and health insurance policies written by it in all States in which it would offer such policies (Georgia and South Carolina). It is the Board's judgment that these benefits to the public outweigh any possible adverse effects.

In its consideration of this application, the Board has examined covenants not to compete contained in employment agreements with the principal executives of World Acceptance and Piedmont. The Board finds that the provisions of these covenants (limited to three years and to localities where Southern Bancorporation would be engaged in the licensed consumer finance business and the licensed insurance premium service business) are reasonable in scope, duration, and geographic area and are consistent with the public interest. As the United States District Court for the Southern District of New York has stated in Syntex Laboratories, Inc. v. Norwich Pharmacal Co.:[3]

> While agreements not to compete have at times been used for the unlawful purpose of monopolizing a part of trade or commerce • • • it is hornbook law that a covenant not to compete ancillary to the sale of a business (or a part of a business), when reasonably limited as to time and territory, does not fall within the prohibitions of the Sherman Act. The question in every case is whether the restraint is reasonably calculated to protect the legitimate interest of the purchaser in what he has purchased, or whether it goes so far beyond what is necessary as to provide a basis for the inference that its real purpose is the fostering of monopoly.

There is no evidence in the record indicating that consummation of the proposal would result in any undue concentration of resources, unfair competition, conflicts of interest, or unsound banking practices.

Approval of the applications would give World Acceptance access to Applicant's financial resources and enhance World Acceptance's competitive effectiveness. Based upon the foregoing and other considerations reflected in the record, the Board has determined that the considerations affecting the competitive factors under section 3(c) of the Act and the balance of the public interest factors the Board must consider under section 4(c)(8) are favorable and that consummation of these proposals would be in the public interest.

Accordingly, the applications are approved for the reasons summarized above. The acquisition of Bank shall not be consummated (a) before the thirtieth calendar day following the effective date of this Order, or (b) later than three months after the effective date of this Order; and the acquisitions of World Acceptance, Piedmont Premium, and SBT shall be consummated not later than three months after the effective date of this Order, unless such three month periods are extended for good cause by the Board or by the Federal Reserve Bank of Richmond pursuant to delegated authority. The determinations as to the activities of World Acceptance, Piedmont Premium, and SBT is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors, effective September 19, 1973.[4]

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-20542 Filed 9-26-73;8:45 am]

[1] All banking data are as of December 31, 1972, and reflect bank holding company formations and acquisitions approved by the Board through July 31, 1973.

[2] World Finance Corporation of Dawson, Dawson, Georgia, is a shell corporation. All of its assets were sold on August 1, 1972, to Kentucky Finance Corporation, Inc.

[3] 315 F. Supp. 45, at 56 (1970).

[4] Approval of acquisition of Southern Bank and Trust Company and SBT Real Estate. Voting for this action: Vice Chairman Mitchell and Governors Brimmer, Sheehan, Bucher, and Holland. Absent and not voting: Chairman Burns and Governor Daane.

Approval of acquisition of World Acceptance Corporation and Piedmont Premium Service. Voting for this action: Governors Sheehan, Bucher, and Holland. Voting against this action: Vice Chairman Mitchell and Governor Brimmer. Absent and not voting: Chairman Burns and Governor Daane.

Dissenting Statement of Governor Brimmer filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Richmond.





## MERCANTILE BANKSHARES CORP.

### Acquisition of Bank

Mercantile Bankshares Corp., Baltimore, Md., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Co. Act (12 U.S.C. 1842(a)(3)) to acquire not less than 80 percent or more of the voting shares of The Commerce Bank and Trust Company of Maryland, Bethesda, Maryland, a proposed new bank. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Richmond. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank, to be received not later than October 10, 1973.

Board of Governors of the Federal Reserve System, September 19, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-20540 Filed 9-26-73;8:45 am]

## GENERAL SERVICES ADMINISTRATION

[Federal Property Management Regulations, Temporary Reg. D-27; Supplement 2]

### ATTORNEY GENERAL

### Delegation of Authority

1. *Purpose.* This supplement continues in effect the provisions of FPMR Temporary Regulation D-27, January 29, 1971, which delegated authority to the Attorney General of the United States to perform all functions in connection with the leasing of various improved properties in the Maryland and northern Virginia suburbs of Washington, DC.

2. *Effective date.* This regulation is effective July 1, 1973.

3. *Expiration date.* This regulation expires on June 30, 1974.

SEPTEMBER 21, 1973.

ARTHUR F. SAMPSON,
*Administrator of General Services.*

[FR Doc.73-20647 Filed 9-26-73;8:45 am]

## NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN

### SUBCOMMITTEE ON PROGRAM DEVELOPMENT

### Meeting

Notice of public meeting of the National Advisory Council on the Education of Disadvantaged Children.

Notice is hereby given, Pub. L. 92-463, that the next meeting of the subcommittee on Program Development of the National Advisory Council on the Education of Disadvantaged Children will be held at 2:30 p.m.-4:30 p.m., October 24, 1973 and from 9:00 a.m.-2:00 p.m., October 25, 1973, located at the Copley Plaza Hotel in Boston, Mass.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Education Act (20 U.S.C. 2411) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of Disadvantaged Children.

The meeting is called to develop a cohesive relationship to exchange ideas in helping to meet the educational services to disadvantaged children.

Because of limited space for the public meeting of October 24 and 25 all persons wishing to attend should call for reservations at Area Code 202/382-6945 by October 10, 1973.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on the Education of Disadvantaged Children, located in Room 1012, 425 13th Street, NW., Washington, D.C. 20004.

Signed at Washington, D.C., on September 19, 1973.

ROBERTA LOVENHEIM,
*Executive Director.*

[FR Doc.73-20544 Filed 9-26-73;8:45 am]

## NATIONAL CREDIT UNION ADMINISTRATION

### FEDERAL CREDIT UNION BYLAWS

### Increase of Maximum Permissible Dividend Rate; Correction

On page 26408 of the FEDERAL REGISTER of September 20, 1973, there was published a notice of an authorized amendment to Article XIV, section 2, of the Federal Credit Union Bylaws. The purpose of this notice is to make a technical correction as set forth below:

Notice is hereby given that as of September 13, 1973, the Administrator of the National Credit Union Administration, with the concurrence of the National Credit Union Board, pursuant to the authority conferred by section 108, 73 Stat. 631, 12 U.S.C. 1758, and section 120, 73 Stat. 635, 12 U.S.C. 1766, has authorized an amendment to Article XIV, section 2, of the Federal Credit Union Bylaws, to increase the maximum permissible dividend rate from 6 percent per annum to 7 percent per annum.

This correction is effective immediately.

HERMAN NICKERSON, JR.,
*Administrator.*

[FR Doc.73-20532 Filed 9-26-73;8:45 am]

## SECURITIES AND EXCHANGE COMMISSION

[File 500-1]

### ABERLE INDUSTRIES, INC.

### Order Suspending Trading

SEPTEMBER 19, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.01 par value, and all other securities of Aberle Industries, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 2:30 p.m. (e.d.t.) September 19, 1973 through September 28, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-20548 Filed 9-26-73;8:45 am]

[File No. 500-1]

### APPLIED FLUIDICS, INC.

### Order Suspending Trading

SEPTEMBER 19, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.04 par value, and all other securities of Applied Fluidics, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 2:30 p.m. (e.d.t.) September 19, 1973 through September 28, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-20549 Filed 9-26-73;8:45 am]

[File No. 500-1]

### AZTEC PRODUCTS, INC.

### Order Suspending Trading

SEPTEMBER 20, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.05 par value, and all other securities of Aztec Products, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to section 15(c)(5) of the Securties Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 21, 1973 through September 30, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-20550 Filed 9-26-73;8:45 am]



V 38-187
SEP 27 73
XUM

[File 500-1]

### BBI, INC.

**Order Suspending Trading**

SEPTEMBER 20, 1973.

The common stock, $0.10 par value, of BBI, Inc. being traded on the American Stock Exchange and the PBW Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of BBI, Inc. being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 21, 1973 through September 30, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-20551 Filed 9-26-73;8:45 am]

[File No. 500-1]

### BENEFICIAL LABORATORIES, INC.

**Order Suspending Trading**

SEPTEMBER 20, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, warrants, units and all other securities of Beneficial Laboratories, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 21, 1973 through September 30, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-20552 Filed 9-26-73;8:45 am]

[File 500-1]

### CO-BUILD CO., INC.

**Order Suspending Trading**

SEPTEMBER 18, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.10 par value, and all other securities of Co-Build Companys, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 1:45 p.m. (e.d.t.) September 18, 1973 through September 27, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-20553 Filed 9-26-73;8:45 am]

[File 500-1]

### DIVERSIFIED EARTH SCIENCES, INC.

**Order Suspending Trading**

SEPTEMBER 21, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.80 par value, and all other securities of Diversified Earth Sciences, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 22, 1973 through October 1, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-20554 Filed 9-26-73;8:45 am]

[File No. 500-1]

### EQUITY FUNDING CORP. OF AMERICA

**Order Suspending Trading**

SEPTEMBER 21, 1973.

The common stock, $.30 par value, of Equity Funding Corporation of America being traded on the New York Stock Exchange, the Midwest Stock Exchange, the Pacific-Coast Stock Exchange, the Philadelphia-Baltimore-Washington Stock Exchange, the Boston Stock Exchange; warrants to purchase the $.30 par value common stock being traded on the American Stock Exchange and the Philadelphia-Baltimore-Washington Stock Exchange; 9½ percent debentures due 1990 being traded on the New York Stock Exchange; and 5½ percent convertible subordinated debentures due 1991 being traded on the New York Stock Exchange pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Equity Funding Corporation of America being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchanges and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to sections 19(a)(4) and 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchanges and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 24, 1973 through October 3, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-20555 Filed 9-26-73;8:45 am]

[File No. 500-1]

### FIRST LEISURE CORP.

**Order Suspending Trading**

SEPTEMBER 21, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.10 par value and all other securities of First Leisure Corporation, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 23, 1973 through October 2, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-20556 Filed 9-26-73;8:45 am]

[File 500-1]

### FLUID POWER PUMP CO.

**Order Suspending Trading**

SEPTEMBER 19, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $1 par value, and all other securities of Fluid Power Pump Company being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from 2:30 p.m. (e.d.t.) September 19, 1973 through September 28, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-20557 Filed 9-26-73;8:45 am]





[File No. 500-1]

### GIANT STORES CORP.

**Order Suspending Trading**

SEPTEMBER 21, 1973.

The common stock, $.10 par value, of Giant Stores Corp. being traded on the American Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of Giant Stores Corp. being traded otherwise than on a national securities; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to sections 15(c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 24, 1973 through October 3, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-20558 Filed 9-26-73;8:45 am]

[File No. 500-1]

### INDUSTRIES INTERNATIONAL, INC.

**Order Suspending Trading**

SEPTEMBER 21, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, and all other securities of Industries International, Inc. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 24, 1973 through October 3, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-20559 Filed 9-26-73;8:45 am]

[File No. 500-1]

### ROYAL PROPERTIES INC.

**Order Suspending Trading**

SEPTEMBER 19, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $5. par value and all other securities of Royal Properties Incorporated, being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 29, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-20560 Filed 9-26-73;8:45 am]

[File No. 500-1]

### TRIONICS ENGINEERING CORP.

**Order Suspending Trading**

SEPTEMBER 21, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, and all other securities of Trionics Engineering Corp., being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to section 15(c)(5) of the Securities Exchange of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 24, 1973 through October 3, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-20561 Filed 9-26-73;8:45 am]

[File No. 500-1]

### TRIEX INTERNATIONAL CORP.

**Order Suspending Trading**

SEPTEMBER 20, 1973.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the common stock, $.01 par value, of Triex International Corp. being traded otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to section 15(c)(5) of the Securities Exchange Act of 1934, that trading in such securities otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 21, 1973 through September 30, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS, *Secretary.*

[FR Doc.73-20562 Filed 9-26-73;8:45 am]

[811-1851]

### R. S. HERSHEY FUND, INC.

**Notice of Application for an Order Declaring That Applicant Has Ceased To Be an Investment Company**

SEPTEMBER 20, 1973.

Notice is hereby given that R. S. Hershey Fund, Inc. ("Applicant"), 875 North Michigan Avenue, Chicago, Illinois 60611, a diversified, open-end management investment company registered under the Investment Company Act of 1940 (the "Act"), has filed an application pursuant to section 8(f) of the Act for an order of the Commission declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

On February 14, 1973, Applicant's board of directors voted to submit a proposal for Applicant's dissolution to its shareholders, and, at a meeting held for that purpose on April 5, 1973, such shareholders duly authorized the dissolution of Applicant and the distribution of its assets. Subsequently, Applicant's portfolio was liquidated, and its total net assets of $81,964.15 were distributed on a pro rata basis to Applicant's shareholders as of June 1, 1973.

Applicant states that it has no assets and no liabilities and that its corporate existence was terminated by virtue of the forfeiture of its corporate charter. For these reasons, Applicant requests that the Commission issue an order declaring that Applicant has ceased to be an investment company.

Section 8(f) of the Act provides, in pertinent part, that whenever the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the taking effect of such order the registration of such company shall cease to be in effect.

Notice is hereby given that any interested person may, not later than October 15, 1973, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air mail if the person being served is located more than 500 miles from the point of mailing) upon Applicant at the address stated above. Proof of such service (by affidavit, or in case of attorney at law, by certificate) shall be filed contemporaneously with the re-



V 38 I 187 SEP 27 73 XUM

quest. At any time after said date, as provided by Rule 0–5 of the Rules nad Regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in such application, unless an order for a hearing upon said application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive notice of further developments in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-20563 Filed 9-26-73;8:45 am]

[File No. 500–1]

## U. S. FINANCIAL INC.

### Order Suspending Trading

SEPTEMBER 20, 1973.

The common stock, $2.50 par value, of U.S. Financial Incorporated being traded on the New York Stock Exchange, pursuant to provisions of the Securities Exchange Act of 1934 and all other securities of U.S. Financial Incorporated being traded otherwise than on a national securities exchange; and

It appearing to the Securities and Exchange Commission that the summary suspension of trading in such securities on such exchange and otherwise than on a national securities exchange is required in the public interest and for the protection of investors;

It is ordered, pursuant to sections 15 (c)(5) and 19(a)(4) of the Securities Exchange Act of 1934, that trading in such securities on the above mentioned exchange and otherwise than on a national securities exchange be summarily suspended, this order to be effective for the period from September 21, 1973 through September 30, 1973.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-20564 Filed 9-26-73;8:45 am]

[812–3509]

## IDS LIFE VARIABLE ANNUITY FUND B AND IDS LIFE INSURANCE CO.

### Notice of Application for Exemption

SEPTEMBER 20, 1973.

Notice is hereby given that IDS Life Variable Annuity Fund B ("Fund B"), and IDS Life Insurance Company ("IDS Life") (herein collectively referred to as "Applicants"), IDS Tower, Minneapolis, Minnesota, have filed an application pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), for an order exempting Applicants from the provisions of section 22(d) of the Act to the extent described below. Fund B is an open-end diversified management investment company registered under the Act. IDS Life established Fund B on June 10, 1968, under Minnesota Law as a separate account through which it will set aside and invest payments accruing from the sale of tax deferred variable annuity contracts offered by IDS Life. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that they propose to offer a Group Variable Annuity Contract, containing combination features which would allow payments under the contract to be allocated to a variable account, or fixed account, or both, and which would provide transfer provisions between the two accounts and group experience rating credit provisions.

In connection with the sale of the Group Variable Annuity Contract, charges are deducted from payments to pay sales and administrative expenses. Applicants state that the deduction for sales and administrative charges is 5¾ percent of the first $10,000 of payments received, 4 percent of the next $40,000 of payments, and 2 percent of all payments in excess of $50,000. Applicants request exemption from section 22(d) of the Act to the extent necessary to permit the following.

1. Applicants request the elimination of charges for sales and administrative expenses when the values under a participant's fixed account are transferred to a participant's variable account, both during the accumulation period and upon the commencement of the annuity pay-out period. Applicants state that the sales and administrative charges on payments allocated to the fixed account are identical to the sales and administrative charges which would have been paid had the participant initially allocated that amount toward the variable account. Applicants assert that since the deduction from payments with respect to the fixed and variable accounts are identical, to require an investor to incur duplicate loading charges would be unjust and inconsistent with the protection of investors. Applicants state that the transfer of accumulated amounts from the fixed to the variable account will be limited to one transfer each year per participant.

2. Applicants request exemption to permit the usual decreasing sales and administrative charges to apply regardless of whether prior payments under the contract were allocated to the variable account or the fixed account. Applicants state that in order to treat participants in a uniform and equitable manner, it is necessary to consider the sales and administrative charges deducted from payments allocated to the fixed account, which are identical to those made upon the payments to the variable account, as if they had been paid upon the purchase of variable annuities, since the contract provides for decreasing sales and administrative charges. The applicants represent, by way of example, that an investor under the group contract for whom annual payments of $2,000 are being made, and who allocates $1,000 to the variable account of the contract and $1,000 to the fixed account for each of the first five years, and who again allocates sixth-year payments equally between the variable and fixed accounts, should be required to pay only a 4 percent charge on such sixth-year payments, even though the amount theretofore allocated to the variable account is only $5,000.

3. Applicants request exemption to permit the beneficiary of a participant to elect to have the proceeds payable upon the death of the participant, including those not derived from the separate account, applied to a variable annuity in lieu of a lump sum payment without deduction of a sales or administrative charge. Applicants represent that since in all cases a sales and administrative charge would have been paid by the participant, this exemption,, if granted, would avoid any cumulating of sales charge.

4. Applicants request an exemption to permit experience rating on a non-discriminatory basis under the group contract. IDS Life will annually determine the actual cost applicable to each group contract and compare this amount with the amount deducted for sales and administrative expenses. IDS Life in its sole discretion may allocate all, a portion, or none of any excess of deductions over costs as an experience rating credit. Application of the credit would be effected by (a) a reduction in the amount deducted from subsequent payments, or (b) by the crediting of a number of additional accumulation units or annuity units, as applicable, equal in value to the amount of credit due. Such additional units would be credited without the deductions imposed on contributions.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company shall sell any redeemable security issued by it to any person except at a current public offering price described in the prospectus. Because the above described securities may be sold at a load which varies from that described in the prospectus, the exemptions are requested.

Section 6(c) of the Act provides that the Commission may, by order upon application, conditionally or unconditionally exempt any persons from any provision of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act.

Notice is further given that any interested person may, not later than October 15, 1973, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues of fact or law proposed to be controverted, or he may request that he be





notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (air-mail if the person being served is located more than 500 miles from the point of mailing) upon Applicants at the address set forth above. Proof of such service (by affidavit or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. At any time after said date, as provided by Rule 0–5 of the Rules and Regulations under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the information stated in the application, unless an order for hearing upon the application shall be issued upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter including the date of hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management Regulation, pursuant to delegated authority.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

[FR Doc.73-20505 Filed 9-26-73;8:45 am]

## SMALL BUSINESS ADMINISTRATION

[License Application 08/08–5033]

## FIRST VENTURE CAPITAL CORP.

### Notice of Application for License as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended (15 U.S.C. 461 et seq.), has been filed by First Venture Capital Corporation (applicant) with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1973).

The officers and directors of the applicant are as follows:

Wallace L. Iverson, President, General Manager, Director, 1492 South 2400 East, Salt Lake City, Utah 84108.

Stephen R. Gilliland, Vice President, Director, 46 South 700 East, Salt Lake City, Utah 84102.

Harald E. Singer, Secretary-Treasurer, Director, 820 Hillcrest Avenue, Logan, Utah 84321.

The applicant, a Utah corporation with its principal place of business located at 46 South 700 East, Salt Lake City, Utah 84102, will begin operations with $302,000 of paid-in capital and paid-in surplus, derived from the sale of 302,000 shares of common stock to Mr. Dallas J. Elder, 800 East Center, Logan, Utah 84321.

As a small business investment company under section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Small Business Investment Act of 1958, as amended from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general business reputation and character of the proposed owner and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and SBA rules and regulations.

Any person may, not later than October 12, 1973, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Salt Lake City, Utah.

Dated September 21, 1973.

JAMES THOMAS PHELAN,
*Deputy Associate Administrator for Investment.*

[FR Doc.73-20529 Filed 9-26-73;8:45 am]

[Notice of Disaster Loan Area 1005]

## PENNSYLVANIA

### Notice of Disaster Relief Loan Availability; Amendment 2

As a result of the President's declaration of the State of Pennsylvania as a major disaster area following severe storms and flooding beginning on or about June 27, 1973, applications for disaster relief loans will be accepted by the Small Business Administration from flood victims in the adjacent affected areas to those counties previously declared major disaster areas. (See 38 FR 20510 and 38 FR 21541).

Applications may be filed at the:

Small Business Administration
Regional Office
1 Decker Square—East Lobby Suite 400
Bala Cynwyd, Pa. 19004

and at such temporary offices as are established. Such addresses will be announced locally. Applications will be processed under the provisions of Pub. L. 93–24.

Applications for disaster loans under this announcement must be filed not later than September 17, 1973.

Dated August 2, 1973.

THOMAS S. KLEPPE,
*Administrator.*

[FR Doc.73-20528 Filed 9-28-73;8:45 am]

[Declaration of Disaster Loan Area 1013]

## MONTANA

### Declaration of Disaster Loan Area

Whereas, it has been reported that during the month of July 1973, because of the effects of a certain disaster, damage resulted to business property located in the State of Montana;

Whereas, the Small Business Administration has investigated and received reports of other investigations of conditions in the areas affected;

Whereas, after reading and evaluating reports of such conditions, I find that the conditions in such areas constitute a catastrophe within the purview of the Small Business Act, as amended;

Now, therefore, as Administrator of the Small Business Administration, I hereby determine that:

1. Applications for disaster loans under the provisions of section 7(b)(1) of the Small Business Act, as amended, may be received and considered by the office below indicated from persons or firms whose property situated in Butte, Silver Bow County, Montana, suffered damage or destruction resulting from a fire of undetermined origin on July 28, 1973. Applications will be processed under the provisions of Pub. L. 93–24.

Office:
Small Business Administration
District Office
Corner Main and Sixth Avenue
Helena, Montana 59601

2. Applications for disaster loans under the authority of this declaration will not be accepted subsequent to November 19, 1973.

Dated September 18, 1973.

THOMAS S. KLEPPE,
*Administrator.*

[FR Doc.73-20527 Filed 9-26-73;8:45 am]

## VETERANS ADMINISTRATION

### VOLUNTARY SERVICE NATIONAL ADVISORY COMMITTEE

### Notice of Meeting

The Veterans Administration gives notice that the annual meeting of the Veterans Administration Voluntary Service National Advisory Committee, composed of representatives of 46 national voluntary organizations, will be held at the Sheraton-Park Hotel, Washington, D.C., October 25–26, 1973.

The meeting will convene at 9 a.m., October 25th, in the Sheraton Ball Room. The purpose of the meeting is to constructively plan with the committee, which serves in an advisory role to the Chief Medical Director, for the further promotion and development of volunteer participation in the care and treatment of veteran patients in the agency's nationwide medical program.

Dated September 21, 1973.

By direction of the Administrator.

[SEAL] RUFUS H. WILSON,
*Associate Deputy Administrator.*

[FR Doc.73-20606 Filed 9-26-73;8:45 am]



V 38 I 187 SEP 27 73 XUM

## OIL AND GAS OFFICE

### COMMITTEE ON ENERGY CONSERVATION; NATIONAL PETROLEUM COUNCIL

### Notice of Meeting

Pursuant to Executive Order 11686, notice is hereby given of the following meeting:

The Committee on Energy Conservation of the National Petroleum Council will meet at 1:30 p.m. on October 1, 1973, in the Michigan Room of the Statler Hilton Hotel in Washington, D.C. The agenda will include discussion of an outline, the organizational structure and a work schedule to carry out the energy conservation study requested by the Secretary of the Interior on July 23, 1973.

The purpose of the National Petroleum Council is solely to advise, inform and make recommendations to the Secretary of the Interior on any matter relating to petroleum or the petroleum industry.

The meeting is open to the public to the extent that facilities permit.

Dated: September 26, 1973.

J. ROY GOODEARLE,
*Associate Director.*

[FR Doc.73-20752 Filed 9-26-73;10:35 am]

## INTERSTATE COMMERCE COMMISSION

[Notice No. 350]

### ASSIGNMENT OF HEARINGS

SEPTEMBER 24, 1973.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after the date of this publication.

MC 124783 sub 15, Kato Express, Inc., now being assigned hearing November 27, 1973 (3 days), at Nashville, Tenn., in a hearing room to be later designated.

MC-121142 sub 11, J. & G. Express, Inc., now being assigned hearing December 3, 1973 (1 week), at Jackson, Miss., in a hearing room to be later designated.

MC-F-11869, Crouse Cartage Co.—Purchase—(B) Heartland Express, Inc., and (BB) Lawson Truck Line, Inc., now being assigned hearing November 26, 1973 (2 weeks), at Omaha, Nebr., in a hearing room to be later designated.

MC 120981 sub 15, Bestway Express, Inc., now being assigned hearing December 3, 1973 (2 weeks), at Frankfort, Ky., in a hearing room to be later designated.

MC 129068 sub 14, Griffin Transportation, Inc., Extension Oklahoma, now being assigned hearing December 5, 1973 (2 days), at Oklahoma City, Okla., in a hearing room to be later designated.

MC-C-3116, L. C. Waller, d.b.a. L. C. W. Trucking Co., Glenn Elliott, Harvey W. Jones, Summersgill Enterprises, Inc., and Nola Forwarding Co., Inc.—Investigation of Operations—now being assigned hearing December 4, 1973 (2 days), at Baton Rouge, La., in a hearing room to be later designated.

MC 136384 sub 2, Palmer Motor Express, Inc., now being assigned hearing December 10, 1973 (2 weeks), at Atlanta, Ga., in a hearing room to be later designated.

MC 135754 sub 1, Robert E. Williamson, Jr., Common Carrier application, now being assigned December 6, 1973, at Columbia, S.C. (2 days), in a hearing room to be later designated.

MCC-8087, Larsen Motor Lines, Inc.—Investigation and Revocation of Certificate—now being assigned hearing December 11, 1973 (1 day), at New Orleans, La., in a hearing room to be later designated.

MC-97904 sub 13, Knoxville-Maryville Motor Express, Inc., now being assigned hearing December 11, 1973 (3 days), at Nashville, Tenn., in a hearing room to be later designated.

MC 112422 sub 5, Sam Vam Galder, Inc., now being assigned hearing December 4, 1973 (1 day), at Madison, Wis., in a hearing room to be later designated.

MC 115841 sub 441, Colonial Refrigeration Transportation, Inc., now being assigned continued hearing November 26, 1973 (2 weeks), at Atlanta, Ga., in a hearing room to be later designated.

MC-100666 sub 246, Melton Truck Lines, Inc., now being assigned hearing December 3, 1973 (2 days), at Louisville, Ky., in a hearing room to be later designated.

MC-133095 sub 44, Texas-Continental Express, Inc., now being assigned hearing December 5, 1973 (3 days), at Louisville, Ky., in a hearing room to be later designated.

MC-138279, Conalco Contract Carrier, Inc., now being assigned hearing December 10, 1973 (1 week), at Louisville, Ky., in a hearing room to be later designated.

MC 138168, Load & Go Truck Line, now being assigned hearing November 26, 1973 (3 days), at Phoenix, Ariz., and November 29, 1973 (2 days), at Grand Junction, Colo., in hearing rooms to be later designated.

MC 134358 sub 3, Central Dispatch, Inc., Extension-Lawson, Mo., now being assigned hearing December 4, 1973 (2 days), at Jefferson City, Mo., in a hearing room to be later designated.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-20675 Filed 9-26-73;8:45 am]

### FOURTH SECTION APPLICATION FOR RELIEF

SEPTEMBER 24, 1973.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 1100.40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before October 12, 1973.

FSA No. 42750—*Joint water-rail container rates—Showa Shipping Co., Ltd.* Filed by Showa Shipping Co., Ltd., (No. 6), for itself and interested rail carriers. Rates on general commodities, between ports in Japan, Korea, Hong Kong, and Taiwan, on the one hand, and rail stations on the U.S. Atlantic and Gulf Seaboard, on the other.

Grounds for relief—Water competition.

By the Commission.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-20674 Filed 9-26-73;8:45 am]

[Ex Parte No. 299 and 299 (Sub-No. 1)][1]

### INCREASES IN FREIGHT RATES AND CHARGES OF THE LONG ISLAND RAIL ROAD COMPANY TO OFFSET RETIREMENT TAX INCREASES—1973

SEPTEMBER 13, 1973.

ICC report and order permitting establishment of interim freight rate increases for most of the Nation's railroads, and rejecting proposed terminal surcharges of Long Island Rail Road Company, to offset retirement tax increases to become effective on October 1, 1973, and January 1, 1974.

1. Petition of railroads, except The Long Island Rail Road Company, for permission to file a tariff establishing certain interim increases in freight rates and charges to offset increases in retirement taxes, granted in part.

2. Petition of The Long Island Rail Road Company for permission to file a surcharge for the same purpose, denied without prejudice.

Andrew C. Armstrong, Harry N. Babcock, Curtis H. Berg, R. W. Bridges, John J. Burchell, J. T. Clark, John A. Daily, Harry L. De Lung, Jr., Louis T. Duerinck, R. S. M. Emrich III, J. D. Feeney, Stuart F. Gassner, Rene J. Gunning, Louis Harris, James L. Howe III, Charlie H. Johns, Edward A. Kaier, Richard W. Kienle, George H. Kleinberger, Richard D. Lalanne, Harry B. Latourette, Charles N. Marshall, John P. McCall, Don McDevitt, Thormund A. Miller, Robert F. Munsell, Richard J. Murphy, J. J. Nagle, William J. O'Brien, Jr., Joseph M. O'Malley, C. Harold Peterson, Chas. C. Rettberg, Jr., Albert B. Russ, Jr., Scott W. Scully, John M. Simms, John F. Smith, James L. Tapley, Wm. A. Thie, Thomas E. Tisza, D. M. Tolmie, Walter G. Treanor, Donal L. Turkal, John S. Walker, Sidney Weinberg, and Robert E. Zimmerman for the railroads in Ex Parte No. 299.

George M. Onken, Richard H. Stokes, and Walter J. Myskowski for the Long Island Rail Road Company in Ex Parte No. 299 (Sub-No. 1).

*It is ordered,* That the petition in Ex Parte No. 299 be, and it is hereby, granted to the extent indicated in the report[1] and it is denied in all other respects; that the petitioners therein be, and they are hereby, permitted to establish an interim increase in their rates and charges of 1.9 percent to become effective on October 1, 1973, and an interim increase of 2.6 percent to become effective, in lieu of the 1.9-percent increase, on January 1, 1974, upon not less than 15 days' notice to the general public and to this Commission,





subject to the refund rule in the proposed tariff.

*It is further ordered,* That in the hearing to be hereafter held herein in Ex Parte No. 299, in accordance with section 15a(4)(c) of the Interstate Commerce Act, the carrier petitioners shall submit for the record any productivity gains experienced in the third quarter of 1973, and the effect on the 1974 projections, including evidence to substantiate those projections, as required by the statute and Ex Parte No. 298.

*It is further ordered,* That at the subsequent hearing in Ex Parte No. 299, the railroads shall submit for the record an explanation of why the excepted rates and charges shall not be increased without awaiting renewal of individual arrangements, and of the amount of the additional revenue which would be obtained therefrom.

*It is further ordered,* That in the hearing to be hereafter held herein in Ex Parte No. 299, the carriers shall submit for the record a plan to correct the variations among individual railroads in the amount of increased retirement taxes offset by the additional revenues, as exemplified in the report.

*It is further ordered,* That any person interested in this proceeding, in Ex Parte No. 299, shall notify this Commission, by filing with the Interstate Commerce Commission, Office of Proceedings, Room 5354, Washington, D.C. 20423, on or before October 10, 1973, the original and one copy of a statement of his interest. Inasmuch as the Commission desires wherever possible (a) to conserve time, (b) to avoid unnecessary expense to the public, and (c) the service of pleadings by parties in proceedings of the type only upon those who intend to take an active part in the proceeding, the statement of intention to participate shall include a specification of the extent of such person's interest, including (1) whether such interest extends merely to receiving Commission releases in this proceeding, (2) whether he genuinely wishes to participate in the formal proceeding, (3) if he so desires to participate as described in (2), whether he will consolidate or is capable of consolidating his interests with those of other interested parties by filing joint statements in order to limit the number of copies of pleadings that need be served, such consolidation of interest being strongly urged by the Commission, and (4) any other pertinent information which will aid in limiting the service list to be used in this proceeding; and that this Commission shall then prepare and make available to all such persons a list containing the names and addresses of all parties desiring to participate in this proceeding, and shall designate the nature of further proceeding.

*It is further ordered,* That the petition in Ex Parte No. 299 (Sub-No. 1) be, and it is hereby, denied, without prejudice to refiling in conformity with the statute and with the requirements of Ex Parte No. 298.

*It is further ordered,* That notice of the entry of this report and order shall be given to the general public by depositing a copy in the office of the Secretary of the Commission, and by filing a copy with the Director, Office of the Federal Register, for publication therein.

By the Commission.[2]

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-20673 Filed 9-26-73;8:45 am]

[Notice 358]

### MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sections 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before October 17, 1973. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-74386. By order of September 21, 1973, the Motor Carrier Board approved the transfer to Otis C. Johnson, doing business as McCook Feed & Supply, 212 East "A" Street, McCook, Nebr. 69001, of the operating rights in Permit No. MC-2825 (sub-No. 1), issued October 6, 1970, to Darryl W. Peterson and Bonnie L. Peterson, a partnership, doing business as Peterson Trucking, P.O. Box 1141, 2140 Buena Vista Drive, Greeley, Colo. 80631, authorizing the transportation of animal and poultry feeds, from St. Joseph, Mo., to points in Colorado, Nebraska, Kansas, and Wyoming. The operations authorized above are limited to a transportation service to be performed under a continuing contract with Schreiber Mills, Inc., and no shipments of molasses for use as feeds, in bulk, in tank vehicles, may be transported under the above authority.

No. MC-FC-74514. By order of September 20, 1973, the Motor Carrier Board, on reconsideration, approved the transfer to Joel C. Hanson, doing business as Joel C. Hanson Trucking Service, Hammond, St. Croix County, Wis., of Certificate No. MC-90924 issued August 17, 1959, to Albert Hines, Hammond, St. Croix County, Wis., authorizing the transportation of livestock, feed, seed, and related commodities; supplies for farms, and manufactured fertilizers, from, to, and between specified points in Minnesota and Wisconsin.

No. MC-FC-74651. By order of September 21, 1973, the Motor Carrier Board approved the transfer to Conrad Berg, doing business as C. Berg Co., Saginaw, Minn., of Corrected Permit No. 135688 issued March 23, 1973, to Halco Supply Co., division of Hallett Dock Co., West Duluth, Minn., authorizing the transportation of bentonite clay from Burnett and Duluth, Minn., to points in Wisconsin, Michigan, Illinois, Iowa, and North Dakota. Dual operations were approved. Mr. Val M. Higgins, attorney at law, 1000 First National Bank Building, Minneapolis, Minn. 55402.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-20676 Filed 9-26-73;8:45 am]

[Notice 76]

### MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER APPLICATIONS

SEPTEMBER 21, 1973.

The following applications (except as otherwise specifically noted, each applicant (on applications filed after March 27, 1972) states that there will be no significant effect on the quality of the human environment resulting from approval of its application), are governed by § 1100.247[1] of the Commission's general rules of practice (49 CFR, as amended), published in the FEDERAL REGISTER issue of April 20, 1966, effective May 20, 1966. These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after date of notice of filing of the application is published in the FEDERAL REGISTER. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in

[1] Corrected Report and Order of the Commission filed as part of the original Document.

[2] The opinions of Commissioner Hardin, concurring in part, and Commissioner O'Neal, dissenting, are filed as part of the original document. Chairman Brewer did not participate.

[1] Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.



V 38 I 187 SEP 27 73 XUM

reasonable compliance with the requirements of the rules may be rejected. The original and one (1) copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) of the Commission's rules of practice further provides that each applicant shall, if protests to its application have been filed, and on or before November 26, 1973, notify the Commission in writing (1) that it is ready to proceed and prosecute the application, or (2) that it wishes to withdraw the application, failure in which the application will be dismissed by the Commission.

Further processing steps (whether modified procedure, oral hearing, or other procedures) will be determined generally in accordance with the Commission's general policy statement concerning motor carrier licensing procedures, published in the FEDERAL REGISTER issue of May 3, 1966. This assignment will be by Commission order which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the* FEDERAL REGISTER *of a notice that the proceeding has been assigned for oral hearing.*

No. MC 1824 (Sub-No. 62), filed July 9, 1973. Applicant: PRESTON TRUCKING COMPANY, INC., 151 Easton Blvd., Preston, Maryland 21655. Applicant's representative: Frank V. Klein (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), serving Sidman, Pa., as an off-route point in connection with applicant's regular route operations between Baltimore, Md., and Pittsburgh, Pa.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 2253 (Sub-No. 63), filed August 20, 1973. Applicant: CAROLINA FREIGHT CARRIERS CORPORATION, N.C. Highway 150 East, Cherryville, N.C. 28021. Applicant's representative: J. S. McCallie, P.O. Box 697, Cherryville, N.C. 28021. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic plastic granules*, in bulk, from Celriver (York County), S.C., to Amcelle (Allegany County), Md.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at either Charlotte, N.C., Greenville, S.C., or Washington, D.C.

No. MC 2392 (Sub-No. 87), filed July 26, 1973. Applicant: WHEELER TRANSPORT SERVICE INC., P.O. Box 14248, West Omaha Station, Omaha, Nebr. 68114. Applicant's representative: Keith D. Wheeler (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid feed*, in bulk, in tank vehicles, from the warehouse site of Gooch Milling and Elevator Company, located in Lincoln, Nebr., to points in Colorado, Iowa, Kansas, Missouri, South Dakota, and Wyoming.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha or Lincoln, Nebr.

No. MC 2421 (Sub-No. 12), filed July 16, 1973. Applicant: NEWTON TRANSPORTATION COMPANY, INC., Louis Ave. and Greer St., P.O. Box 673, Lenoir, N.C. 28645. Applicant's representative: Charles Ephraim, 1250 Conn. Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *New furniture*, from the plantsite and storage facilities of Bernhardt Furniture Company located at or near Statesville and Troutman, N.C., to points in Kentucky, Ohio, and West Virginia; and (2) *damaged shipments of new furniture*, from the above-specified destination points to the above-specified origins.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C., or Washington, D.C.

No. MC 3094 (Sub-No. 21), filed August 16, 1973. Applicant: SERVICE MOTOR FREIGHT, INC., 133 East Atlantic Avenue, Lawnside, N.J. 08045. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper and paper products*, from Whippany, N.J., to points in Connecticut, Maryland, Massachusetts, New Hampshire, New York, Pennsylvania, and Rhode Island; (2) *materials and supplies* used in the manufacture of paper and paper products, from points in Connecticut, Maryland, Massachusetts, New Hampshire, New York, Pennsylvania, and Rhode Island, to Whippany, N.J.; restricted to service performed under continuing contract or contracts with International Paper Company.

NOTE.—Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio, or Washington, D.C.

No. MC 4405 (Sub-No. 506), filed August 16, 1973. Applicant: DEALERS TRANSIT, INC., 2200 East 170th Street, P.O. Box 361, Lansing, Ill. 60438. Applicant's representative: Robert E. Joyner, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, Tenn. 38137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Asphalt mix storage tanks, bins, conveyors, baghouses, evaporative coolers, together with parts, attachments, and accessories* moving therewith, (1) from Glasgow, Mo., and Leavenworth, Kans. (except commodities named above when trailer mounted) and (2) from Kansas City, Mo. (including commodities named above when trailer mounted and moving in towaway service), to points in the United States (except Alaska and Hawaii), restricted to traffic originating at the above named origin points.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City or St. Louis, Mo.

No. MC 19945 (Sub-No. 38), filed August 13, 1973. Applicant: BEHNKEN TRUCK SERVICE, INC., Route 13, New Athens, Ill. 62264. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, Mo. 63101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flue dust*, in bulk, in dump vehicles, from the plant site of Laclede Steel Co., at Alton, Ill., to Frit Industries, Incorporated, at or near Walnut Ridge, Ark.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Chicago, Ill.

No. MC 29452 (Sub-No. 4), filed June 21, 1973. Applicant: B.O.W. EXPRESS, INC., 1251 Taney Road, North Kansas City, Mo. 64116. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment) (1) Between Burlington, Kans., and Caney, Kans., serving the intermediate and off-route points of Fall River Reservoir, Eureka, and Moline, and Toronto Reservoir; from Burlington, Kans., over U.S. Highway 75 to junction Kansas Highway 57 (3 miles west of LeRoy), thence over Kansas Highway 57 to junction Kansas Highway 99 (at Madison, Kans.), thence south over Kansas Highway 99 to junction U.S. Highway 166 (at Sedan, Kans.), thence east over U.S. Highway 166 to junction U.S. Highway 75 (3 miles north of Caney, Kans.), thence over U.S. Highway 75 to Caney, Kans., and return over the same route; (2) Between Yates Center, Kans., and Elk City, Kans., serving the intermediate and off-route points of New Albany, Buxton, Altoona, Neodesha, Longton, Elk City Reservoir, Sycamore, and Westphalia; from Yates Center, Kans., over U.S.





Highway 75 to junction Kansas Highway 39 (near Buffalo, Kans.) thence over Kansas Highway 39 to Elk City, Kans., and return over the same route; (3) Between Osage City, Kans., and Burlingame, Kans.; from Osage City, Kans., over U.S. Highway 56 to Burlingame, and return over the same route; (4) Between Ottawa, Kans., and Osage City, Kans., serving the intermediate and off-route points of Pomona Reservoir and Quenemo; from Ottawa, Kans., over Kansas Highway 268 to Osage City, Kans., and return over the same route; (5) Between Caney, Kans., and Elk City, Kans., as an alternate route for operating convenience in connection with applicant's regular-route operations; from Caney, Kans., over U.S. Highway 75 to junction U.S. Highway 160, thence over U.S. Highway 160 to Elk City, Kans.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 29886 (Sub-No. 297), filed July 27, 1973. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printing equipment, parts, and attachments*, from the plant site and warehouse facilities of Goss Division of MGD Graphic Systems, Rockwell International, located at Cedar Rapids, Iowa, Chicago, Cicero, and Rockford, Ill., to points in Alabama, Florida, Georgia, Kentucky, North Carolina, South Carolina, Tennessee, West Virginia, Virginia, and Maryland.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 29886 (Sub-No. 298), filed August 20, 1973. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4000 West Sample Street, South Bend, Ind. 46627. Applicant's representative: Charles Pieroni (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tractors*, (2) *self-propelled construction, excavation, and industrial equipment*, (3) *portable concrete pumps*, (4) *attachments* for the commodities described above in (1), (2), and (3) above, (5) *cabs* for the commodities described in (1) and (2) above, (6) *internal combustion engines*, and (7) *parts and accessories* for the commodities described above in (1) through (6) when moving in mixed loads therewith, from the plant and warehouse sites of J. I. Case Co., located at or near Terre Haute, Ind., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, Vermont, Virginia, and the District of Columbia.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 33641 (Sub-No. 104), filed August 6, 1973. Applicant: IML FREIGHT, INC., 2175 South 3270 West, Salt Lake City, Utah 80217. Applicant's representative: Carl L. Steiner, 39 South La Salle St., Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, other than grain and livestock feed, and commodities requiring special equipment), (1) Between Kansas City, Mo., and Omaha, Nebr.: From Kansas City, Mo., over Interstate Highway 29 (U.S. Highway 71) to junction U.S. Highway 59, thence over U.S. Highway 59 to junction U.S. Highway 136, thence over U.S. Highway 136 to junction Interstate Highway 29 (U.S. Highway 71), thence over Interstate 29 (U.S. Highway 71) to Council Bluffs, Iowa, and return over the same routes; and (2) Between Omaha, Nebr., and Kansas City, Mo.: From Omaha, Nebr., over U.S. Highway 75 to junction U.S. Highway 36, thence over U.S. Highway 36 to St. Joseph, Mo., thence over Interstate Highway 29 (U.S. Highway 71) to Kansas City, Mo., and return over the same routes; as alternate routes for operating convenience only, serving Kansas City, Mo., Omaha, Nebr., and Council Bluffs, Iowa, for purposes of joinder only.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah, or Omaha, Nebr.

No. MC 33919 (Sub-No. 9), filed August 16, 1973. Applicant: FAIRCHILD GENERAL FREIGHT, INC., P.O. Box 1649, Yakima, Wash. 98907. Applicant's representative: George H. Hart, 1100 IBM Bldg., Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from the plantsite of the Georgia Pacific Corporation at Bellingham, Wash., to points in Oregon.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. Applicant holds contract carrier authority in MC 127361 and Subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash., or Portland, Oreg.

No. MC 33919 (Sub-No. 10), filed August 16, 1973. Applicant: FAIRCHILD GENERAL FREIGHT, INC., P.O. Box 1649, Yakima, Wash. 98907. Applicant's representative: George H. Hart, 1100 IBM Bldg., Seattle, Wash. 98901. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from Yakima, Wash., to ports of entry on the International Boundary line between the United States and Canada at or near Oroville, Wash.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority in MC 127361 and Subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash., or Portland, Oreg.

No. MC 42487 (Sub-No. 811), filed July 16, 1973. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, Calif. 94025. Applicant's representative: V. R. Oldenburg, P.O. Box 5138, Chicago, Ill. 60680. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) Between Atlanta, Ga., and Chambersburg, Pa.: From Atlanta, Ga., over Interstate Highway 85 to Lexington, N.C., thence over U.S. Highway 52 to junction Interstate Highway 40 at Winston-Salem, N.C., thence over Interstate Highway 40 to junction U.S. Highway 158 at or near Winston-Salem, thence over U.S. Highway 158 to junction U.S. Highway 220, thence over U.S. Highway 220 to Roanoke, Va., thence over U.S. Highway 220 (Interstate Highway 581) to junction Interstate Highway 81, thence over Interstate Highway 81 to Chambersburg, and return over the same route, as an alternate route for operating convenience only in connection with applicant's regular-route operations; (2) Between Winston-Salem, N.C., and Chambersburg, Pa.: From Winston-Salem, N.C., over Interstate Highway 40 to junction U.S. Highway 158 at or near Winston-Salem, thence over U.S. Highway 158 to junction U.S. Highway 220, thence over U.S. Highway 220 to Roanoke, Va., thence over U.S. Highway 220 (Interstate Highway 581) to junction Interstate Highway 81, thence over Interstate Highway 81 to Chambersburg, Pa., and return over the same route, as an alternate route for operating convenience only in connection with applicant's regular-route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 52460 (Sub-No. 126), filed August 20, 1973. Applicant: HUGH BREEDING, INC., 1420 W. 35th St., P.O. Box 9637, Tulsa, Okla. 74107. Applicant's representative: Steve B. McCommas (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal tar products*, from Stroud, Okla., to points in the United States (except Alaska and Hawaii).

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary,



V 38 I 187 SEP 27 73 XUM

applicant requests it be held at either Oklahoma City or Tulsa, Okla., Kansas City, Mo., or Dallas, Tex.

No. MC 52460 (Sub-No. 127), filed August 21, 1973. Applicant: HUGH BREEDING, INC., 1420 W. 35th St., P.O. Box 9637, Tulsa, Okla. 74107. Applicant's representative: Steve B. McCommas (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products* in containers, from Kansas City, Kans., and its Commercial Zone, to points in Alabama, Arkansas, Arizona, Colorado, Florida, Georgia, Louisiana, Mississippi, Montana, North Carolina, South Carolina, Tennessee, Utah, and Wyoming.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Oklahoma City, Okla.

No. MC 55896 (Sub-No. 42), filed August 9, 1973. Applicant: R-W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, Mich. 48180. Applicant's representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood products and display racks*, from Alpena, Mich., to points in Illinois, Indiana, Ohio, and Wisconsin; Ashland, Lexington, Louisville, Owensboro, and Paducah, Ky.; Cape Girardeau, Hannibal, and St. Louis, Mo.; and Charleston, Huntington, Parkersburg, and Wheeling, W. Va.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 56167 (Sub-No. 9), filed August 16, 1973. Applicant: DAVID K. HERSHEY, R.D. #5, Hanover, Pa. 17331. Applicant's representative: John M. Musselman, P.O. Box 1146, 410 North Third Street, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Limestone and limestone products*, from the plantsite of The J. E. Baker Company located at Manchester Township (York County), Pa., and the sales origins of the J. E. Baker Company in Earl, Paradise, and Salisbury Townships (Lancaster County), Pa., to points in Delaware, Maryland, New Jersey, New York, Virginia, West Virginia, and the District of Columbia.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa., or Washington, D.C.

No. MC 76032 (Sub-No. 273) (AMENDMENT), filed January 6, 1971, published in the FEDERAL REGISTER issue of January 28, 1971, and republished as amended, this issue. Applicant: NAVAJO FREIGHT LINES, INC., 1205 South Platte River Drive, Denver, Colo. 80223. Applicant's representative: John T. Coon (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wire handling machine, parts and supplies, machinery and machine parts, generators or motors, or generators and motors combined or parts*, between Ventura, Calif., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). Restricted to traffic originating at or destined to the plantsite facilities of the Whitacre Corporation located at or near Ventura, Calif.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. The purpose of this republication is to amend the application to reflect service from the new facility of the supporting shipper which has been relocated at Ventura, Calif., and to restrict the movement of traffic between the points named above. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Los Angeles, Calif.

No. MC 77972 (Sub-No. 21), filed July 24, 1973. Applicant: MERCHANTS TRUCK LINE, INC., P.O. Box 908, New Albany, Miss. 38652. Applicant's representative: Donald B. Morrison, 717 Deposit Guaranty National Bank Bldg., P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except commodities in bulk, livestock, Classes A and B explosives, and commodities which because of size and weight require the use of special equipment), serving the plant site and/or warehouse facilities of Futorian Corporation, Decorian Division, located at or near Guntown, Miss., as off-route points in connection with applicant's regular-route operations to and from Tupelo, Miss. and Memphis, Tenn.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Memphis, Tenn., or Jackson, Miss.

No. MC 78228 (Sub-No. 43), filed July 20, 1973. Applicant: J MILLER EXPRESS, INC., 152 Wabash Street, Pittsburgh, Pa. 15220. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Foundry sand additives*, from Wadsworth, Ohio, to points in Maryland, Virginia, Delaware, Rhode Island, New Hampshire, Vermont, and Maine; (2) *foundry sand additives*, in bulk, from Wadsworth, Ohio, to points in Connecticut, Massachusetts, and New Jersey; and (3) *foundry sand additives* (except in bulk), from Wadsworth, Ohio, to points in Michigan, those in Indiana on and north of U.S. Highway 30, those in New York on and west of New York Highway 12, and points in West Virginia (except those in Brooke and Hancock Counties south of U.S. Highway 60).

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 82492 (Sub-No. 86), filed August 9, 1973. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., P.O. Box 2853, 2109 Olmstead Road, Kalamazoo, Mich. 49003. Applicant's representative: William C. Harris (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except frozen foods and commodities in bulk), from Decatur, Ind., to points in Illinois, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 87720 (Sub-No. 149), filed August 16, 1973. Applicant: BASS TRANSPORTATION CO., INC., P.O. Box 391, Flemington, N.J. 08822. Applicant's representative: Bert Collins, Suite 6193, 5 World Trade Ctr., New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cleaning compounds, pot scourers, and steel wool* (except in bulk), from the plant sites and facilities of Purex Corporation, Ltd., located at London, Ohio, to points in Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, North Carolina, South Carolina, Virginia, Kentucky, Tennessee, Mississippi, Ohio, Indiana, Illinois, Missouri, Arkansas, Texas, Georgia, Florida, West Virginia, Louisiana, and Alabama, and (2) *materials, supplies, and equipment* (except in bulk), from the above named destination states to London, Ohio, under contract with Purex Corporation, Ltd.

NOTE.—Dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 88161 (Sub-No. 87), filed July 23, 1973. Applicant: INLAND TRANSPORTATION CO., INC., 6737 Corson Avenue South, Seattle, Wash. 98108. Applicant's representative: Stephen A. Cole (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid resins*, in bulk, and *resin catalysts*, in drums or bags, on the same vehicle in combination for the same shipper, (1) from Kent and Tacoma, Wash., to points in Idaho, Montana, Oregon, and Utah, and (2) from Eugene, Springfield, and Portland, Oreg., to points in Idaho, Montana, Utah, and Washington.

NOTE.—Applicant also holds contract carrier authority in MC 128203 (Sub-No. 1), therefore, dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash., or Portland, Oreg.

No. MC 97699 (sub-No. 40), filed August 8, 1973. Applicant: BARBER TRANSPORTATION CO., a corporation, Deadwood Avenue, Rapid City, S. Dak. 57701. Applicant's representative: Leslie R. Kehl, Suite 1600 Lincoln Center, 1660 Lincoln Street, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities which because of size or weight require special equipment), Between Sioux Falls, S. Dak., and Omaha, Nebr.: From Sioux Falls, S. Dak., over Interstate Highway 29 to Omaha, Nebr., and return over the same route; as an alternate route for operating convenience only in connection with carrier's present regular route operations, serving no intermediate points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr., or Sioux Falls, S. Dak.





No. MC 103051 (sub-No. 284), filed August 6, 1973. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Avenue North, Nashville, Tenn. 37209. Applicant's representative: Russell E. Stone (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn syrup*, in bulk, in tank vehicles, from Lebanon, Tenn., to points in Alabama, Arkansas, Georgia, Kentucky, Mississippi, Missouri, North Carolina, Tennessee, and Virginia.

NOTE.—Common control and dual operations may be involved. Applicant states that the requested authority can be tacked at: (1) Atlanta, Ga., to serve points in Florida and South Carolina, (2) Birmingham, Ala., to serve points in Louisiana, and (3) points in Kentucky to provide a through service from Winter Haven, Fla., to points in Tennessee. If a hearing is deemed necessary, applicate requests it be held at Nashville, Tenn., or Atlanta, Ga.

No. MC 103498 (sub-No. 36), filed August 16, 1973. Applicant: W. D. SMITH TRUCK LINE, INC., P.O. Drawer C, DeQueen, Ark. 71832. Applicant's representative: Donald T. Jack, Jr., 1550 Tower Building, Little Rock, Ark. 72201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from the plantsite of Georgia-Pacific Corp., at or near El Dorado, Ark., to points in Alabama.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark.

No. MC 104683 (Sub-No. 33), filed July 13, 1973. Applicant: TRANSPORT, INC., 1008–B Street, P.O. Box 1696, Meridian, Miss. 39301. Applicant's representative: W. Guy McKenzie, Jr., P.O. Box 1200, Tallahassee, Fla. 32302. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pulp mill liquid and crude call oil*, in bulk, in tank vehicles, from the plantsite of St. Regis Paper Co. located at Ferguson, Miss., to points in Alabama, Florida, and Louisiana.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New Orleans, La.

No. MC 105159 (Sub-No. 29) (amendment), filed July 5, 1973, published in the FEDERAL REGISTER issue of September 7, 1973, and republished, as amended, this issue. Applicant: KNUDSEN TRUCKING, INC., 1320 West Main Street, Red Wing, Minn. 55066. Applicant's representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cheese and cheese products*, from points in Wisconsin (except Marshfield and Brown County), and Bongard and Dalbo, Minn., to Philadelphia, Pa., Richmond and Norfolk, Va., North Carolina, Columbia, S.C., Baltimore, Md., and Boston, Mass., restricted to traffic originating at the storage and production facilities serving Wildstein, a division of Brooke Bond Foods, Inc., and destined to the above-named points; (2) *cheese and cheese products*, from the plantsite and warehouse facility of Wildstein, a division of Brooke Bond Foods, Inc., at Philadelphia, Pa., to Richmond and Norfolk, Va., North Carolina, Columbia, S.C., and Baltimore, Md.; (3) *empty steel drum containers*, used for transporting cheese and cheese products, from the plantsite and warehouse facilities of Wildstein, a division of Brooke Bond Foods, Inc., at Philadelphia, Pa., to points in Wisconsin and Bongard and Dalbo, Minn.; and (4) *inedible cheese and inedible cheese products*, from the plantsite and warehouse facilities of Wildstein, a division of Brooke Bond Foods, Inc., located at or near Hainesport, N.J., to points in Everson, Pa. and Peoria, Ill.

NOTE.—The purpose of this republication is to indicate in part (4) applicant substitutes Hainesport, N.J., in lieu of Philadelphia, Pa., as an origin point and adds Everson, Pa., as a destination point. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 105566 (Sub-No. 93), filed August 6, 1973. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1119, Cape Girardeau, Mo. 63701. Applicant's representative: Thomas F. Kilroy, P.O. Box 624, Springfield, Va. 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pulpboard*, not corrugated, from Indianapolis, Ind., to points in Montana, Wyoming, Colorado, New Mexico, Idaho, Utah, Arizona, Nevada, California, Oregon, and Washington.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C. or Indianapolis, Ind.

No. MC 105566 (Sub-No. 94), filed August 6, 1973. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1119, Cape Girardeau, Mo. 63701. Applicant's representative: Thomas F. Kilroy, P.O. Box 624, Springfield, Va. 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Automobile parts*, from Fairfield, Ill., and Marked Tree, Ark., to points in Arizona, Nevada, California, and Dallas, Tex., and (2) *automobile parts and materials and supplies* used in the manufacture of automobile parts, from points in California, to Fairfield, Ill. and Marked Tree, Ark.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or St. Louis, Mo.

No. MC 105566 (Sub-No. 95), filed August 6, 1973. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1119, Cape Girardeau, Mo. 63701. Applicant's representative: Thomas F. Kilroy, P.O. Box 624, Springfield, Va. 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Drapery hardware*, from the plantsite and facilities of Scotscraft, Inc., at or near Scottsville, Ky., to points in Colorado, Nevada, Utah, Arizona, California, Idaho, Oregon and Washington.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Washington, D.C.

No. MC 105566 (Sub-No. 97), filed August 6, 1973. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 119, Cape Girardeau, Mo. 65701. Applicant's representative: Thomas F. Kilroy, P.O. Box 624, Springfield, Va. 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods and canned goods in mixed shipments* with commodities exempt under the provisions of section 203(b) of the act, from points in Yakima County, Wash., to points in Nebraska, Kansas, Oklahoma, Texas, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Mississippi, Alabama, Georgia, South Carolina, North Carolina, Tennessee, Kentucky, Virginia, West Virginia, Illinois, Indiana, Ohio, Michigan, Wisconsin, New York, and Pennsylvania.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 105813 (Sub-No. 191), filed August 6, 1973. Applicant: BELFORD TRUCKING CO., INC., 3500 Northwest 79th Avenue, Miami, Fla. 33148. Applicant's representative: Arnold L. Burke, 127 North Dearborn Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery*, from Naugatuck, Conn., to points in Florida.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority.



V 381187 SEP 2773 XUM

If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 106127 (Sub-No. 10), filed August 2, 1973. Applicant: PETROLEUM TANK LINES, INC., Sheffield Road, Sheffield, Mass. 01257. Applicant's representative: David M. Marshall, 135 State Street, Suite 200, Springfield, Mass. 01103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, wood products and forest products*, between points in Berkshire County, Mass., on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, New Jersey, Delaware, and Maryland.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at either Albany, N.Y., Hartford, Conn., or Boston, Mass.

No. MC 106398 (Sub-No. 683), filed August 6, 1973. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Tulsa, Okla. 74151. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles in initial movements, from points in Iron County, Wis., to points in the United States (except Alaska and Hawaii).

NOTE.—Dual operations and common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Duluth, Minn.

No. MC 106603 (Sub-No. 130), filed August 8, 1973. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street SW., Grand Rapids, Mich. 49508. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products and materials and supplies* (except in bulk), used in the agricultural, water, treatment, food processing, wholesale grocery, and institutional supply industries, in mixed loads with salt and salt products, from St. Clair, Mich., to points in Ohio.

NOTE.—Applicant also holds contract carrier authority in MC 46240 and subs thereunder, therefore dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Chicago, Ill.

No. MC 106647 (Sub-No. 41), filed August 1, 1973. Applicant: CLARK TRANSPORT COMPANY, INC., P.O. Box 395, Chicago Heights, Ill. 60411. Applicant's representative: Charles W. Singer, 327 South LaSalle Street, Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles* (in secondary movements, in truckaway service), between points in Minnesota, Montana, North Dakota, and South Dakota.

NOTE.—Applicant states that the requested authority can be tacked at: (a) points in the lower half of Minnesota to serve the additional points of Iowa; Detroit, Mich.; Omaha, Nebr.; and Toledo, Ohio; (b) points in Minnesota, to provide a through service from Milwaukee, Wis., to points in Montana; (c) points in Iowa (tacked to (a) above) to serve points in Illinois, Indiana, Maryland, Ohio, Pennsylvania, and the District of Columbia; and (d) Minneapolis and St. Paul, Minn., to serve points in Douglas, Bayfield, Ashland, Burnett, Washburn, Sawyer, Polk, Barron, Rusk, Price, Taylor, St. Croix, Dunn, Chippewa, Clark, Pierce, Pepin, Eau Claire, Buffalo, Jackson, Trempealeau, and La Crosse Counties, Wis. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn., or Chicago, Ill.

No. MC 106839 (Sub-No. 5), filed July 5, 1973. Applicant: LARSEN MOTOR LINES, INC., 440 Erato Street, New Orleans, La. 70120. Applicant's representative: Henry O'Connor, Jr., 1440 Oil and Gas Building, New Orleans, La. 70112. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Refrigerants and such merchandise as is dealt in by retail hardware and appliance stores*, between New Orleans, La., and its commercial zone and Pascagoula, Miss.: From New Orleans, La., over U.S. Highway 90 and/or Interstate Highway 10 to Pascagoula, Miss., serving all intermediate points and serving off-route points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New Orleans, La.

No. MC 107012 (Sub-No. 182) (correction), filed June 7, 1973, published in the FEDERAL REGISTER issue of August 2, 1973, and republished, as corrected this issue. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Lincoln Highway East & Meyer Road, Fort Wayne, Ind. 46801. Applicant's representative: Terry G. Fewell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, new household furnishings, fixtures, appliances, and equipment, and new commercial and institutional furnishings, fixtures, and equipment*, all uncrated, from points in Washington and Oregon, to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, and Wyoming, restricted against the transportation of commodities which because of size or weight require the use of special equipment.

NOTE.—The purpose of this republication is to indicate that applicant seeks to transport uncrated commodities in lieu of crated commodities which was inadvertently previously published in error. Common control and dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash., or San Francisco, Calif.

No. MC 107295 (Sub-No. 661), filed August 3, 1973. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Floating boat docks, ramps, materials, supplies, and fixtures and accessories* incidental to completion, erection, and installation thereof, from Galesburg, Ill., to points in the United States in and east of Montana, Wyoming, Colorado, and New Mexico.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Pittsburgh, Pa.

No. MC 107295 (Sub-No. 663), filed August 10, 1973. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Urethane products*, (1) from Linden, N.J., to points in North Carolina, South Carolina, Virginia, and Georgia, and (2) from Belvidere, Ill., to points in the United States (except Alaska and Hawaii).

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or New York, N.Y.

No. MC 107295 (Sub-No. 664), filed August 16, 1973. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum and gypsum products, composition board, insulating materials, roofing and roofing materials, urethane and urethane products, building and construction materials, and related materials, supplies, and accessories incidental thereto* (except commodities in bulk), between the plantsite and warehousing facilities of the Celotex Corp., located at points in Marion County, S.C., and points in Arkansas, Illinois, Indiana, Iowa, Kentucky, Michigan, Missouri, Ohio, Tennessee, and Wisconsin; restricted to the transportation of shipments originating at or destined to points in the above-named states.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at either Chicago, or St. Louis, Ill., or Washington, D.C.

No. MC 107295 (Sub-No. 665), filed August 9, 1973. Applicant: PRE-FAB TRANSIT CO., a corporation, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Mack Stephenson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum pipe and tubing, aluminum billets, aluminum dross, aluminum fittings and unfinished aluminum shapes*, from Ellenville, N.Y., to points in the United States (except Alaska, Hawaii, Minnesota, Iowa, Nebraska, Kansas, Missouri, Oklahoma, and Texas).

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.





No. MC 107515 (Sub-No. 870), filed August 22, 1973. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except frozen foods and commodities in bulk), from Decatur, Ind., to points in Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, Wisconsin and the District of Columbia.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind.

No. MC 108375 (Sub-No. 33), filed August 6, 1973. Applicant: LEROY L. WADE & SON, INC., 10550 I Street, P.O. Box 27053, Omaha, Nebr. 68127. Applicant's representative: Donald L. Stern, 530 Univac Building (7100 West Center Road), Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used automobiles*, from Omaha, Nebr., to points in Minnesota, Kansas, and South Dakota (except Lawrence, Custer, Meade, Pennington, Butte, and Fall River Counties, S. Dak.); restricted against traffic having had an immediate prior movement from the plantsites of the Chrysler Motor Corp.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 110420 (Sub-No. 687), filed July 30, 1973. Applicant: QUALITY CARRIERS, INC., Bristol, Wis. (P.O. Box 186), Pleasant Prairie, Wis. 53158. Applicant's representative: Fred H. Figge (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lignin sulfonate, liquid and dry*, in bulk, in tank vehicles, from points in Wisconsin, to points in Illinois, Iowa, Minnesota, Missouri, Nebraska, North Dakota, and South Dakota.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 110525 (Sub-No. 1068), filed August 20, 1973. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cement dust*, in bulk, in tank vehicles, from points in Berks, Northampton, and Lehigh Counties, Pa., to points in Delaware, Maryland, New York, and New Jersey; and (2) *aqueous sulfuric acid*, in bulk, in tank vehicles, from Rockville, Conn., to Adams, Mass.

NOTE.—Applicant states that the requested authority can be tacked in part (1) only at Fort Lee, N.J., to serve points in Massachusetts, Rhode Island, and Connecticut. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 111045 (sub-No. 107), filed August 10, 1973. Applicant: REDWING CARRIERS, INC., P.O. Box 426, Tampa, Fla. 33601. Applicant's representative: J. V. McCoy (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paint removing compounds*, in bulk, in tank vehicles, from Montgomery, Ala., to Wichita, Kans.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., or Philadelphia, Pa.

No. MC 112304 (sub-No. 70), filed July 5, 1973. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock Street, Cincinnati, Ohio 45223. Applicant's representative: A. Charles Tell, 100 East Broad Street, Cincinnati, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Refractories and refractory products* (except commodities in bulk) from points in Greenup County, Ky., to points in Delaware, Illinois, Indiana, Iowa, Maryland, Michigan, Minnesota, Missouri, New Jersey, New York, Ohio, Pennsylvania, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE.—Applicant states that the requested authority can be tacked at points in Greenup County, Ky., to serve points east or south of Greenup, Ky., within the territorial scope of the authority sought herein, but applicant has no present intention to tack. If a hearing is deemed necessary, applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 112822 Sub-No. 284), filed July 26, 1973. Applicant: BRAY LINES INC., P.O. Box 1191, 1401 North Little Street, Cushing, Okla. 74023. Applicant's representative: Jim R. Gardner (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Camping equipment* (except vehicular) *and equipment and supplies* used in the manufacture and packaging of camping equipment, from (1) St. George, Utah, to points in Washington and California, and (2) points in Missouri, to points in California, Idaho, Nevada, Oregon, Utah, and Washington.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Kansas City, Mo.

No. MC 112822 (Sub-No. 286), filed August 20, 1973. Applicant: BRAY LINES INC., P.O. Box 1191, 1401 North Little Street, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wine, in mixed shipments with canned goods*, from the plant and storage facilities of Seneca Foods Corp. at Prosser, Wash., to points in Arizona, Arkansas, Colorado, Iowa, Kansas, Missouri, Nebraska, New Mexico, Oklahoma, Texas, Wyoming, South Dakota, North Dakota, Minnesota, Wisconsin, Illinois, Idaho, Utah, and Indiana; and (2) *canned goods*, from the plant and storage facilities of Seneca Foods Corp. at Prosser, Wash., to points in South Dakota, Minnesota, Wisconsin, and Illinois.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg., or Seattle, Wash.

No. MC 112822 (sub-No. 287), filed August 21, 1973. Applicant: BRAY LINES INC., P.O. Box 1191, 1401 North Little Street, Cushing, Okla. 74023. Applicant's representative: Robert A. Stone (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared foodstuffs*, in vehicles equipped with mechanical refrigeration, from Seelyville, Ind., to points in Arkansas, Missouri, Iowa, Minnesota, Wisconsin, Texas, Oklahoma, Kansas, Nebraska, South Dakota, North Dakota, Montana, Wyoming, Colorado, New Mexico, Idaho, Washington, Oregon, California, Nevada, Utah, and Arizona.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn. or Chicago, Ill.

No. MC 113545 (sub-No. 12), filed August 21, 1973. Applicant: CORMETT FORWARDING CO., INC., P.O. Box 3057, Weehawken Branch, Union City, N.J. 07087. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Radiopharmaceu-*



V 38 I 187 SEP 27 73 XUM

*ticals and medical isotopes*, from Carlstadt, N.J., to New York, N.Y.; points in Nassau, Suffolk, Westchester, Putnam, Dutchess, Rockland, Orange, Ulster, and Sullivan Counties, N.Y.; and Fairfield, New Haven, and Hartford Counties, Conn., under contract with Mallinckrodt Nuclear.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 113678 (sub-No. 508), filed August 3, 1973. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, Denver, Colo. 80022. Applicant's representative: Richard A. Peterson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpet or rugs, and carpet or rug padding and material and supplies* used in the installation thereof, from the plantsite and warehouse facilities of General Felt Industries located at City of Commerce and Pico Rivera, Calif., to points in Idaho, Oregon, Washington, Arizona, New Mexico, Utah, Colorado, and Nevada.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Omaha, Nebr.

No. MC 114457 (sub-No. 162), filed August 16, 1973. Applicant: DART TRANSIT CO., a corporation, 780 North Prior Avenue, St. Paul, Minn. 55104. Applicant's representative: Michael P. Zell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Urethane products*, from Newton, Kans., to points in Arkansas, Missouri, Oklahoma, and Texas.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn., or Omaha, Nebr.

No. MC 114890 (sub-No. 67), filed July 20, 1973. Applicant: C. E. REYNOLDS TRANSPORT, INC., P.O. Box A, Joplin, Mo. 64801. Applicant's representative: Max G. Morgan, 600 Leininger Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid fertilizer solutions*, in bulk, in tank vehicles, from Doniphan, Nebr., and Kansas City, Mo., to points in Kansas.

NOTE.—Applicant states that the requested authority can be tacked under its lead certificate at Military, Kans., to serve points in Missouri, Oklahoma, Arkansas, and Texas; under sub-No. 33, at a plantsite at or near Dodge City, Kans., to provide for service to points in Colorado, Wyoming, Texas, Oklahoma, Missouri, Nebraska, and Iowa; and with sub-No. 44, at Atchison, Kans., to serve points in Iowa, Missouri, and Nebraska. If a hearing is deemed necessary, applicant requests it be held at either Tulsa, Oklahoma City, Okla., or Kansas City, Mo.

No. MC 115162 (Sub-No. 278), filed August 6, 1973. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe, couplings*, thereof, from the plantsites of the Clow Corp., located at or near Bensenville, Ill., and Coshocton, Ohio, to points in Iowa, Kansas, Missouri, and Wisconsin.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Birmingham, Ala.

No. MC 115162 (Sub-No. 279), filed August 16, 1973. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick*, from points in Elmore and Montgomery Counties, Ala., to points in Escambia County, Fla.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at either Mobile or Montgomery, Ala.

No. MC 115331 (Sub-No. 348), filed August 16, 1973. Applicant: TRUCK TRANSPORT, INC., 1931 North Geyer Road, St. Louis, Mo. 63131. Applicant's representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, Ill. 62201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Trailers, trailer chassis* (except those designed to be drawn by passenger automobiles), *trailer converter dollies, tractors, bodies and containers*, in secondary truckaway and driveaway service, and (2) *materials, supplies and parts* used in the manufacture, assembly or servicing of the commodities described in (1) above, when moving in mixed loads with such commodities, between points in North Dakota, South Dakota, Nebraska, Colorado, Kansas, Oklahoma, Texas, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Mississippi, Tennessee, Illinois, Wisconsin, Michigan, Indiana, Kentucky, Alabama, Ohio, West Virginia, New York, Pennsylvania, New Jersey, Delaware, Maryland, Virginia, North Carolina, South Carolina, Georgia, and Florida.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at St. Louis, Mo., or Washington, D.C.

No. MC 115496 (Sub-No. 18) filed August 23, 1973. Applicant: LUMBER TRANSPORT, INC., 306 First Street, Cochran, Ga. 31014. Applicant's representative: James L. Flemister, 1220 First Federal Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from the plant and warehouse sites of Conwall, Inc., located in Richmond and Wilkes Counties, Ga., to points in Virginia, South Carolina, and North Carolina.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 115826 (Sub-No. 253), filed August 6, 1973. Applicant: W. J. DIGBY, INC., 1960–31st Street, Denver, Colo. 80217. Applicant's representative: Charles J. Kimball, 2310 Colorado National Bank Building, 1600 Broadway, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat poducts, meat byproducts, and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Dakota City, Nebr., and Emporia, Kans., to points in Colorado and Wyoming.

NOTE.—Applicant states that the requested authority can be tacked with its sub-28 at Denver, Colo., to provide a through service to points in California, but further indicates that it has no present intention to tack. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo., or Cheyenne, Wyo.

No. MC 116045 (Sub-No. 39), filed July 26, 1973. Applicant: NEUMAN TRANSIT CO., INC., P.O. Box 38, Rawlins, Wyo. 82301. Applicant's representative: Leslie R. Kehl, 1600 Lincoln Center Building, 1660 Lincoln Street, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid sulphur*, in bulk, in tank vehicles, from the plantsite of Farmers Union Central Exchange, located in Laurel, Mont., to the plantsite of Western Nuclear, Inc., located at or near Riverton, Wyo.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 116474 (Sub-No. 28), filed August 17, 1973. Applicant: LEAVITTS FREIGHT SERVICE, INC., 3855 Marcola Road, Springfield, Oreg. 97477. Applicant's representative: David C. White, 2400 Southwest Fourth Avenue, Portland, Oreg. 97201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Treated poles and pilings*, from Eugene, Oreg., to points in Washington and California (except Butte, Del Norte, El Dorado, Humboldt, Lassen, Modoc, Nevada, Placer, Plumas, Shasta, Sierra, Siskiyou, Sutter, Tehama, Trinity, and Yuba Counties), under a continuing contract with L. D. McFarland Co., located at Eugene, Oreg.; and (2) *treated poles and pilings*, (a) from Arlington, Wash., to points in Oregon and Nevada, and (b) from Eugene, Oreg., to points in Washington, Clark, Esmeralda, Lincoln, Mineral and Nye Counties, Nev., and points in California (except Del Norte, Siskiyou, Modoc, Trinity, Tehama, Plumas, Sierra, Sutter, Nevada, Yuba, Butte, Lassen, Shasta, Placer and Humboldt Counties), under a continuing contract with





J. H. Baxter & Co., located at San Mateo, Calif.

NOTE.—Dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg.

No. MC 117610 (Sub-No. 11), filed August 16, 1973. Applicant: DERRICO TRUCKING CORP., 907 East 141st Street, Bronx, N.Y. 10454. Applicant's representative: Bert Collins, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paperboard, box board, kraft board, corrugated and paper containers, cartons, boxes, waste paper, rags and materials and supplies* used in the manufacture and distribution thereof (except in bulk), between Whippany and Clifton, N.J., and Riegelsville, Pa., on the one hand, and, on the other, points in Nassau, Suffolk, Westchester, Orange, Rockland Counties, N.Y., and New York, N.Y., under contract with Whippany Paper Board Co., Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 117848 (Sub-No. 7), filed August 22, 1973. Applicant: FRED CARPENTIER, 1415 Luzerne Street, Scranton, Pa. 18504. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Baltimore, Md., to Scranton, Pa.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Newark, N.J.

No. MC 118039 (Sub-No. 20), filed August 3, 1973. Applicant: MUSTANG TRANSPORTATION, INC., 833 Warner Street, SW., Atlanta, Ga. 30310. Applicant's representative: Virgil H. Smith, 1587 Phoenix Boulevard, Suite 12, Atlanta, Ga. 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Screen woven cloth, wrought iron and steel pipe and plastic film or sheeting*, from the plantsite of X. S. Smith, Inc., located at Eatontown, N.J., to points in the United States (except Alaska, Hawaii, and New Jersey).

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 118142 (Sub-No. 52), filed August 21, 1973. Applicant: M. BRUENGER & CO., INC., 6330 North Broadway, Wichita, Kans. 67219. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Emporia, Kans., to points in Arizona, California, Nevada, Oregon, Utah, and Washington, restricted to traffic originating at the plantsite of Iowa Beef Processors, Inc., located at Emporia, Kans., and destined to the above-named States.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo.

No. MC 118202 (Sub-No. 14), filed July 19, 1973. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge Street, Winona, Minn. 55987. Applicant's representative: Eugene A. Schultz (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Agricultural fermentation compounds and ingredients*, (2) *fertilizers and ingredients*, (3) *animal minerals and vitamins*, (4) *supplies, signs and materials* used in the sale of (1), (2), and (3) above, and (5) *commodities*, the transportation of which is partially exempt under section 203(B)(6) of the Interstate Commerce Act when moving with the above commodities (except commodities in bulk, in tank vehicles), from Carson City, Nev., to points in the United States (except Alaska and Hawaii).

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn. or Washington, D.C.

No. MC 118341 (Sub-No. 2), filed July 24, 1973. Applicant: VALLEY TRUCKING CO., INC., P.O. Box 2298, (F.M. 802 and Central Avenue), Brownsville, Tex. 78520. Applicant's representative: Joe T. Lanham, 1102 Perry-Brooks Building, Austin, Tex. 78701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods and commodities* which are partially exempt under section 203(b)(6) of the act, when moving in the same vehicles and at the same time, from Alamo, Laredo, McAllen, Monte Alto, Edinburg, Brownsville, Corpus Christi, San Antonio, and Harlingen, Tex., to Providence, R.I., Albuquerque, N. Mex., and points in Iowa, Louisiana, Maine, Massachusetts, Kansas, Michigan, Kentucky, Maryland, Minnesota, Mississippi, Alabama, California, Delaware, Illinois, New Hampshire, Missouri, Arizona, Colorado, Florida, Indiana, New Jersey, Nebraska, Arkansas, Connecticut, Georgia, New York, Oklahoma, Tennessee, West Virginia, North Carolina, South Carolina, Pennsylvania, Wisconsin, Ohio, Vermont, and Virginia.

NOTE.—Applicant states that the requested authority cannot or will not be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at either Brownsville, San Antonio, or Houston, Tex.

No. MC 119118 (sub-No. 36), filed July 16, 1973. Applicant: McCURDY TRUCKING, INC., P.O. Box 388, Latrobe, Pa. 15650. Applicant's representative: Paul F. Sullivan, 711 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, and *related advertising material* moving therewith, from Frankenmuth, Mich., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Jersey, Rhode Island, Vermont, Virginia, and the District of Columbia, and *empty malt beverage containers* on return.

NOTE.—Applicant holds a permit in MC 116564 and sub 22, therefore dual operations may be involved. Applicant further states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Boston, Mass.

No. MC 119522 (sub-No. 25), filed July 27, 1973. Applicant: McLAIN TRUCKING, INC., 2425 Walton Street, Anderson, Ind. 46011. Applicant's representative: Donald W. Smith, 900 Circle Tower, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Antifreeze, engine coolant, heat transfer and de-icing preparations*, from Alsip, Ill., on the one hand, and, on the other, points in Indiana and Missouri (except St. Louis and Kansas City, Mo.).

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. Applicant also holds contract carrier authority in MC 3465 sub-No. 39, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at either New York, N.Y., Washington, D.C., or Indianapolis, Ind.

No. MC 119789 (Sub-No. 174) (amendment), filed July 26, 1973, published in the FEDERAL REGISTER issue, August 30, 1973 and republished, as amended, this issue. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, 1612 East Irving Boulevard, Dallas, Tex. 75222. Applicant's representative: Ralph W. Pulley, Jr., 4555 First National Bank Building, Dallas, Tex. 75202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except frozen foods, commodities in bulk, meats, meat products, meat byproducts, and articles distributed by meat packinghouses), as described in sections A and C of appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766, from Pittsburgh, Leetsdale, and Chambersburg, Pa., Salem, N.J., Fremont, Toledo and Bowling Green, Ohio, to points in Texas, Oklahoma, Arkansas, Louisiana, Mississippi, and Missouri.

NOTE.—The purpose of this republication is to add Toledo, Ohio as a point of origin. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.



V 38 I 187 SEP 27 73 XUM

No. MC 119789 (Sub-No. 178), filed July 27, 1973. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, 1612 East Irving Boulevard, Dallas, Tex. 75222. Applicant's representative: Ralph W. Pulley, Jr., 4555 First National Bank Building, Dallas, Tex. 75202. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Synthetic fabric and synthetic yarn*, from Waynesboro, Va., to points in Arizona, California, Oklahoma, and Libertyville, Ill., and Milwaukee, Wis.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 120841 (sub-No. 5), filed August 15, 1973. Applicant: WALTER J. DUNLAP AND W. A. BIRCKBICHLER, a partnership, doing business as BLACK & WHITE EXPRESS, 217 American Avenue, Butler, Pa. 16001. Applicant's representative: John A. Vuono, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, dairy products, and articles distributed by meat packinghouses*, as described in sections A, B, and C of appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, in refrigerated vehicles, from points in Westmoreland County, Pa., to points in Pennsylvania on and west of U.S. Highway 15.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 123765 (sub-No. 3), filed August 22, 1973. Applicant: BARRY TRANSFER AND STORAGE CO., INC., 120 East National Avenue, Milwaukee, Wis. 53204. Applicant's representative: Richard C. Alexander, 710 N. Plankinton Avenue, Milwaukee, Wis. 53203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by retail department stores*, between the retail outlets, storage facilities, and distribution centers of H. C. Prange Co., located at Green Bay, Wis., on the one hand, and, on the other, the retail outlets and storage facilities of H. C. Prange Co., at or near Rockford, Ill., restricted to traffic originating at or destined to the said retail outlets, storage facilities and distribution centers of H. C. Prange Co.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. Applicant also holds contract carrier authority in MC 6031 sub 34, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Milwaukee, Wis., or Chicago, Ill.

No. MC 124073 (Sub-No. 7), filed August 2, 1973. Applicant: ROY S. SARGEANT, INC., P.O. Box 95, Vienna, N.J. 07880. Applicant's representative: Edward P. Bowes, 744 Broad Street, Newark, N.J. 07102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen meats, frozen meat products, frozen poultry, and frozen poultry products*, from Moosic, Pa., to Manassas, Winchester, and Norfolk, Va., and Charleston and Mt. Clare, W. Va., restricted to a transportation service to be performed under continuing contract or contracts with Polarized Products Division of Ten-Da Brand Frozen Foods, Inc., located at Scranton, Pa.; and (2) *frozen seafood*, when moving in the same vehicle with the commodities described in part (1) above, from Exeter, Pa., to Baltimore, Md., Alexandria, Manassas, Winchester, Norfolk, Roanoke, and Richmond, Va., and the District of Columbia, restricted to a transportation service to be performed under continuing contract or contracts with Phillips Seafood Kitchens, Inc., located at Exeter, Pa.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., or Scranton, Pa.

No. MC 124078 (Sub-No. 558), filed June 29, 1973. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28 Street, Milwaukee, Wis. 53246. Applicant's representative: James R. Ziperski (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sodium sulfate*, in bulk, from Danville, Ill., to points in Illinois, Indiana, Kentucky, Michigan, Missouri, Ohio, and Wisconsin.

NOTE.—Common control may be involved. Applicant states that the requested authority can be tacked at La Salle, Ill., on chemicals, in bulk (except petroleum products and fertilizers), to serve points in Alabama, Arkansas, Colorado, Georgia, Illinois, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Nebraska, North Dakota, Oklahoma, Pennsylvania, South Dakota, and part of Tennessee. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 124111 (Sub-No. 44), filed August 13, 1973. Applicant: OHIO EASTERN EXPRESS, INC., P.O. Box 2297, 300 West Perkins Avenue, Sandusky, Ohio 44870. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except frozen foods and commodities in bulk), from Decatur, Ind., to points in Connecticut, Delaware, Maryland, Maine, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, North Carolina, and South Carolina.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 124505 (Sub-No. 15) (amendment), filed May 7, 1973, published in the FEDERAL REGISTER issue June 28, 1973, and republished as amended, this issue. Applicant: EUGENE TRIPP, 4624 South Avenue West, Missoula, Mont. 59801. Applicant's representative: Jeremy G. Thane, Savings Center Building, Missoula, Mont. 59801. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and advertising matter* when moving in the same vehicle, from Seattle and Tacoma, Wash., to points in California, and *empty containers* for recycling, from points in California to Seattle, Wash., under contract with Carling Brewing Co., and Rainier Brewing Co., Inc., Seattle, Wash.

NOTE.—The purpose of this republication is to include Tacoma, Wash. as a point of origin. If a hearing is deemed necessary, applicant requests it be held at Seattle or Tacoma, Wash. By order of the Commission, dated August 22, 1973, said matter was directed for handling under modified procedure, and is now vacated and set aside. By the Commission, Commissioner Murphy, September 14, 1973.

No. MC 124656 (Sub-No. 6) annotation), filed August 6, 1973, published in the FEDERAL REGISTER issue of September 13, 1973, and republished as corrected, in part, this issue. Applicant: JOHN LONG TRUCKING, INC., 1030 Denton Street, Sapulpa, Okla. 74066. Applicant's representative: Wilburn L. Williamson, 280 National Life Building, 3535 Northwest 58th Street, Oklahoma City, Okla. 73112.

NOTE.—The purpose of this partial republication is to indicate the correct Docket No. as MC 124656 (sub-No. 6) in lieu of MC 124565 (sub-No. 6) as previously published. The rest of the notice remains as originally published.

No. MC 124711 (Sub-No. 21), filed August 17, 1973. Applicant: BECKER AND SONS, INC., P.O. Box 1050, El Dorado, Kans. 67042. Applicant's representative: T. M. BROWN, 600 Leininger Building, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, in tank vehicles, from the nitrogen plant of Farmland Industries, located at Enid, Okla., to points in Kansas, Colorado, Texas, Missouri, Arkansas, and Louisiana, restricted to shipments originating at the above named plantsite.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Topeka, Kans.

No. MC 124774 (Sub-No. 86) (annotation), filed May 7, 1973, published in the FEDERAL REGISTER issue July 8, 1973, and republished as annotated, this issue. Applicant: MIDWEST REFRIGERATED EXPRESS, INC., 4440 Buckingham Street, P.O. Box 7344, Omaha, Nebr. 68106. Applicant's representative: Marshall D. Becker, 530 Univac Building, Omaha, Nebr. 68106.

NOTE.—The purpose of this partial republication is to indicate the correct docket number as MC 124774 (sub-No. 86) in lieu of MC 134744 (sub-No. 86), previously published in





error. The rest of the notice remains as originally published.

No. MC 125358 (Sub-No. 14), filed August 13, 1973. Applicant: MID-WEST TRUCK LINES, LTD., 1216 Fife Street, Winnipeg, Manitoba, Canada. Applicant's representative: William S. Rosen, 630 Osborn Building, St. Paul, Minn. 55102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Parts, equipment, materials and supplies* used in the manufacture of tractors, combines, swathers and other farm equipment, from Chicago and Havana, Ill.; Hutchison and McPherson, Kans.; Henderson, Ky.; Joplin, Mo.; Lebanon and Cookville, Tenn.; Dallas, Tex.; and Milwaukee and Racine, Wis., to the ports of entry on the international boundary line between the United States and Canada, at or near Pembina, N. Dak., Noyes and International Falls, Minn., and Detroit, Mich., under contract with Versatile Manufacturing, Ltd.

NOTE.—Dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn. or Chicago, Ill.

No. MC 125708 (Sub-No. 133), filed August 17, 1973. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., Highway 32 East, Crawfordsville, Ind. 47933. Applicant's representative: Donald W. Smith, 900 Circle Tower Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, plastic conduit, plastic or iron fittings and connections, valves, hydrants and gaskets* (except oil field commodities as defined in *Mercer-Ext. Oil Field Commodities*, 74 M.C.C. 459), from Columbia, Mo., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas, restricted to traffic originating at the plantsite and storage facilities of the Clow Corp., located at Columbia, Mo.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 126346 (Sub-No. 13), filed July 30, 1973. Applicant: HAUPT CONTRACT CARRIERS, INC., P.O. Box 842, Wausau, Wis. 54401. Applicant's representative: Charles W. Singer, 2440 E. Commercial Boulevard, Fort Lauderdale, Fla. 33308. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Transmissions and power pumps*, (b) *parts and accessories* for transmissions and power pumps, and (c) *materials, equipment and supplies* used in the manufacture and distribution of transmissions and power pumps (except commodities in bulk), between Ames, Iowa, Denver, Colo., and La Salle and Rockford, Ill., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); (2)(a) *machines and machine tools*, (b) *parts and accessories* for machines and machine tools, and (c) *materials, equipment and supplies* used in the manufacture and distribution of machines and machine tools (except commodities in bulk), between Belvidere, Ill., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under a continuing contract, or contracts with Sundstrand Corp., located at Rockford, Ill.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 127705 (Sub-No. 40), filed August 3, 1973. Applicant: KREVDA BROS. EXPRESS, INC., P.O. Box 68, Gas City, Ind. 46933. Applicant's representative: Donald W. Smith, 900 Circle Tower Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass containers and closures* therefor, (a) from Freehold, N.J., to points in Ohio and Michigan and (b) from Lapel, Ind., to points in Pennsylvania, West Virginia, New Jersey, Delaware, New York, and (2) *returned glass containers and glass cullet*, (a) from points in Ohio and Michigan to Freehold, N.J., and (b) from points in Delaware, West Virginia, Pennsylvania, New Jersey, and New York, to Lapel, Ind.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 128375 (Sub-No. 101), filed August 21, 1973. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, Nebr. 68501. Applicant's representative: Duane W. Acklie, P.O. Box 81228, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Rejected, returned, replacement, recalled and obsolete motor vehicle parts, accessories and related items*, from points in the United States (except Alaska and Hawaii), to the facilities of the Maremont Corp., located at or near Loudon, Pulaski, and Nashville, Tenn., under contract with Maremont Corp.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Lincoln, Nebr., or Chicago, Ill.

No. MC 128616 (sub-No. 13), filed August 20, 1973. Applicant: BANKERS DISPATCH CORP., 4970 South Archer Avenue, Chicago, Ill. 60632. Applicant's representative: Warren W. Wallin, 330 South Jefferson Street, Chicago, Ill. 60606. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, and written instruments* (except coins, currency, and negotiable securities), as are used in the conduct and operation of banks and banking institutions, between Chicago, Ill., on the one hand, and, on the other, points in Door, Langlade, and Menominee Counties, Wis., under contract with the Federal Reserve Bank of Chicago.

NOTE.—Applicant also holds common carrier authority in MC 114533 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Milwaukee, Wis.

No. MC 129410 (sub-No. 4), filed August 20, 1973. Applicant: ROBERT BONCOSKY, INC., 4811 Tile Line Road, Crystal Lake, Ill. 60014. Applicant's representative: Irving Stillerman, 29 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products* (except in bulk), in shipper-owned trailers, from the plant and warehouse facilities of Dean Foods Co., at or near Chemung, Ill., to the plant and warehouse facilities of Dean Foods Co., at or near Racine, Wis., under contract with Dean Foods Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 129516 (Sub-No. 24), filed August 1, 1973. Applicant: PATTON'S INC., 2300 Canyon Road, Ellensburg, Wash. 98926. Applicant's representative: James T. Johnson, 1601 IBN Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fruit juices and fruit drinks*, from points in Orange County, Calif., to ports of entry on the international boundary line between the United States and Canada, located at Idaho, Montana, and North Dakota.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash., or Portland, Oreg.

No. MC 129828 (Sub-No. 2), filed July 26, 1973. Applicant: GLENN DAVIS AND DON R. DAVIS, a partnership, doing business as DAVIS BROS., P.O. Box 962, Missoula, Mont. 59801. Applicant's representative: Joe Gerbase, 100 Transwestern Building, Billings, Mont. 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Forest products, lumber, lumber products, particle board, and chip board*, from points in Washington and Oregon, to points in North Dakota, South Dakota, Minnesota, Wisconsin, and Iowa.

NOTE.—Applicant holds contract carrier authority in MC 127349 (sub-No. 2 and 4) therefore, dual operations may be involved. Common control may also be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Portland, Oreg., or Spokane, Wash.

No. MC 133203 (Sub-No. 3), filed July 16, 1963. Applicant: COURIER EXPRESS CORP., 440 Domino Court, Charlotte, N.C. 28201. Applicant's representative: William F. King, 301 Tavern Square, 421 King Street, Alexandria, Va. 22314. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Audit and accounting media and other business records and documents used in processing such media, and commercial papers, documents, and written instruments* (except cash let-



V 38 I 187 SEP 27 73 XUM

ters), between Richmond, Va., on the one hand, and, on the other, the District of Columbia; Baltimore, Md.; and points in Montgomery and Prince Georges Counties, Md.

NOTE.—Applicant holds contract carrier authority in MC 133207, therefore dual operations may be involved. Common control may also be involved. Further, applicant states that the requested authority can be tacked with its existing authority in its lead certificate MC 133203 at Richmond, Va., to provide through service between points in North Carolina, on the one hand, and, on the other, the District of Columbia, and points in Maryland and Virginia. If a hearing is deemed necessary, applicant requests it be held at either Richmond, Va.; Charlotte, N.C.; or Washington, D.C.

No. MC 134291 (Sub-No. 3), filed August 9, 1973. Applicant: JOSEPH R. ST. HILAIRE, doing business as ST. HILAIRES DELIVERY SERVICE, 285 Emmett Street, Bristol, Conn. 06010. Applicant's representative: J. Aiden Connors, 145 East 49th Street, New York, N.Y. 10017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Manuscripts, proofs, page proofs, art work, film magazines, printed matter*, (except in bulk or tank vehicles), between the plantsite of American Can Co., Bristol Printing Division, at Bristol, Conn., and points in Nassau and Suffolk Counties, N.Y., New York, N.Y. commercial zone, Philadelphia, Pa. commercial zone, Newark, N.J., Wilmington, Del., Baltimore, Md., and Trenton, N.J., under contract with American Can Co., Bristol Printing Division.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Hartford, Conn., or New York, N.Y.

No. MC 134734 (Sub-No. 13), filed July 31, 1973. Applicant: NATIONAL TRANSPORTATION, INC., Box 31, Norfolk, Nebr. 68701. Applicant's representative: Lanny N. Fause, P.O. Box 37096, Omaha, Nebr. 68137. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cranberries and cranberry products*, from Kenosha, Wis., to points in Arkansas and points in Missouri west of U.S. Highway 65, including Springfield, under contract with National Foods, Inc., and Ocean Spray Cranberries, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Milwaukee, Wis.

No. MC 134783 (Sub-No. 6), filed June 21, 1973. Applicant: DIRECT SERVICE, INC., P.O. Box 786, Plainview, Tex. 79072. Applicant's representative: Charles J. Kimball, 2310 Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of appendix I to the *Report in Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from plantsite and storage facilities of Peyton Packing Co. (division of John Morrell & Co.), at or near points in El Paso County, Tex., to points in Alabama, Arkansas, Colorado, Connecticut, Florida, Georgia, Maryland, Massachusetts, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee (except Memphis), Virginia, and West Virginia.

NOTE.—Common control may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or El Paso, Tex.

No. MC 134922 (Sub-No. 48), filed July 23, 1973. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: L. C. Cypert (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sporting goods and recreational equipment*, between Old Forge, Pa., and Bossier City, La.

NOTE.—Applicant states that the requested authority could be tacked at Bossier City, La., to provide through service on westbound traffic only under its pending docket in MC 134922 (sub-No. 24), but it has no present intention to tack. If a hearing is deemed necessary, applicant requests it be held at Scranton, Pa., or Little Rock, Ark.

No. MC 134922 (Sub-No. 49), filed July 30, 1973. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: L. C. Cypert (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Common ground clay and ground soapstone*, from Gonzales, Houston, Palestine, and Zavalla, Tex., and Morgan City, La., to Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, and Tennessee.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Little Rock, Ark., or Houston, Tex.

No. MC 135185 (Sub-No. 15), filed August 15, 1973. Applicant: COLUMBINE CARRIERS, INC., 2149 South Clermont Street, Englewood, Colo. 80110. Applicant's representative: Charles J. Kimball, 2310 Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cameras, camera outfits, camera cases, projectors, photographic material, and self developing film packs*, from Cambridge, Needham Heights, Norwood, and Waltham, Mass., to Dallas, Tex., under contract with Polaroid Corp., located at Needham Heights, Mass.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 135280 (Sub-No. 9), filed July 5, 1973. Applicant: PEP LINES TRUCKING CO., a corporation, 15120 Third Avenue, Highland Park, Mich. 48203. Applicant's representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, Ohio 44114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale and retail general mercantile establishments and in connection therein, *materials and supplies* used in the conduct of such business (except commodities in bulk), between Chicago, Ill., on the one hand, and, on the other, points in LaPorte, Newton, and Jasper Counties, Ind., under continuing contract or contracts with Montgomery Ward & Co., Inc.

NOTE.—Dual operations and common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 135660 (Sub-No. 8), filed July 31, 1973. Applicant: BROWNSBERGER ENTERPRISES, INC., RFD No. 1, P.O. Box 243, Butler, Mo. 64730. Applicant's representative: John E. Jandera, 641 Harrison Street, Topeka, Kans. 66603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, plastic tubing, plastic conduit, plastic molding, valves, fittings, compounds, joint sealers, bonding cement, thinner, vinyl and accessories* used in the installation of such products, from Linn Creek, Mo., to points in North Dakota, South Dakota, Montana, Wyoming, Idaho, Utah, Nevada, Arizona, California, Oregon, and Washington, under contract with Central Missouri Pipe Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held as Kansas City, Mo.

No. MC 135813 (Sub-No.) filed August 1, 1973. Applicant: PARR TRUCKING SERVICE, INC., 829 Alsop Lane, P.O. Box 1308, Owensboro, Ky. 42301. Applicant's representative: George M. Catlett, 703–706 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum and aluminum products*, between points in Hancock County, Ky., on the one hand, and, on the other, Davenport, Iowa.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Owensboro, Ky.

No. MC 136384 (Sub-No. 5), filed August 8, 1973. Applicant: PALMER MOTOR EXPRESS, INC., P.O. Box 103, Savannah, Ga. 31405. Applicant's representative: Frank D. Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Nails, screws, and fasteners*, from Savannah, Ga., to points in Georgia, Florida, North Carolina, South Carolina, Virginia, Tennessee, Alabama, Kentucky, and West Virginia.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.





No. MC 136640 (Sub-No. 4) (correction), filed June 19, 1973, published in the FEDERAL REGISTER issue of August 9, 1973, republished in part as amended, in the FEDERAL REGISTER issue of August 23, 1973 and corrected in third publication this issue. Applicant: ROBERT L. ALLEN, doing business as R. ALLEN TRANSPORT, P.O. Box 321, Pocomoke City, Md. 21851. Applicant's representative: S. Michael Richards, 44 North Avenue, Webster, N.Y. 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen onion rings*, made from diced, fresh onions, when moving in mixed shipments with agricultural commodities otherwise exempt from economic regulations under section 203(b)(6) of the act, from Boston, Mass., to points in Alabama, Arkansas, Delaware, Florida, Georgia, Indiana, Kentucky, Louisiana, Maryland, Michigan, North Carolina, New York, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, Illinois, Mississippi, Missouri, and New Jersey, and (2) *canned foods*, from Hallwood, Va., to points in California, Montana, Oregon, and Washington, under contract with Boston Bonnie, Inc., and John W. Taylor Packing Co., Inc.

NOTE.—The purpose of this republication is to include the destination States of Illinois, Mississippi, Missouri, and New Jersey in part (1) above omitted in the previous notice. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass., or Washington, D.C.

No. MC 138157 (Sub-No. 9), filed July 29, 1973. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., doing business as, SOUTHWEST MOTOR FREIGHT, P.O. Box 3561, 15006 Nelson Avenue, City of Industry, Calif. 91744. Applicant's representative: Patrick E. Quinn, P.O. Box 82028, 605 South 14th Street, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood products, plastic products, toothpick dispensers, sporting goods, and sporting goods accessories*, from the plantsite of Forster Manufacturing Co., Inc., at or near Wilton, Maine, to Denver, Colo.; Jacksonville and Miami, Fla.; San Francisco and Los Angeles, Calif.; and Seattle, Wash.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 138481, filed June 29, 1973. Applicant: TENNESSEE TRANSPORT, INC., 1822 Parkway Towers, Nashville, Tenn. 37219. Applicant's representative: Walter Harwood (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boats and parts, components and accessories* when moving with boats, and *related accessories and items* used incidental to the service and operation of such boats, from points in Davidson, Rutherford, Wilson, and Hamilton Counties, Tenn., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Nashville, Tenn.

No. MC 138635 (Sub-No. 7), filed August 8, 1973. Applicant: CALIFORNIA WESTERN EXPRESS, INC., 650 Eastwood Drive, Gastonia, N.C. 28052. Applicant's representative: John R. Sims, Jr., Suite 600 1707 H Street, NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cotton knit underwear*, from Clio (Marlboro County), S.C., and points in Mullins and Marion Counties, S.C., to Los Angeles, National City, and Oakland, Calif.

NOTE.—Dual operations may be involved. Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Charlotte, N.C.

No. MC 138821 (Sub-No. 2), filed August 8, 1973. Applicant: WHEELBERG CO., a corporation, 8707 East Quarry Street, Manassas, Va. 22110. Applicant's representative: Francis J. Ortman, 1100 17th Street NW., Suite 613, Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Reinforced concrete products and materials* used in the installation thereof, from the plantsite of Earley Studio, Inc., at or near Manassas, Va., to points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Virginia, West Virginia, and the District of Columbia, under contract with Earley Studio, Inc.

NOTE.—If a hearing is deemed necessary, applicant does not specify a location.

No. MC 138949 (Sub-No. 1), filed July 30, 1973. Applicant: RITE-WAY DISTRIBUTORS, INC., 2606 Cartwright Street, Dallas, Tex. 75212. Applicant's representative: Billy R. Reid, 6108 Sharon Road, Fort Worth, Tex. 76116. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dairy products and Dairy byproducts*, in cartons, bottles, and jugs, from Tulsa, Okla., to Dallas, Tex.; (2) *ice cream and novelties, in cartons, and empty plastic containers, in straight or mixed shipments*, from Houston, Tex., to Tulsa, Okla.; and (3) *cardboard dairy products containers*, from Fort Worth and Waco, Tex., to Tulsa, Okla., under continuing contract or contracts with Carnation Co., located at Tulsa, Okla., restricted from, to or between the facilities of Carnation Co., and to the above-named commodities transported in shipper owned or controlled trailers.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex., or Tulsa, Okla.

No. MC 138952, filed July 9, 1973. Applicant: CENTRAL CITY EXPRESS, INC., 1822 Parkway Towers, Nashville, Tenn. 37219. Applicant's representative: Walter Harwood (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment), between Nashville, Tenn., and Central City, Ky.: (1) From Nashville over U.S. Highway 431, to Central City, and return over same route; and (2) From Nashville over U.S. Highway 41 to Springfield, Tenn., to junction U.S. Highway 431, thence over U.S. Highway 431 to Central City, and return over the same route, serving all intermediate points between Russellville and Central City (except Russellville) in (1) and (2) above, and serving Paradise, (Muhlenberg County), Ky., as an off-route point in (2) above.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Central City or Bowling Green, Ky., or Nashville, Tenn.

No. MC 138953, filed July 16, 1973. Applicant: GROWN MOVING AND STORAGE CO., a corporation, 180 Quint Street, San Francisco, Calif. 94124. Applicant's representative: Daniel W. Baker, 100 Pine Street, Suite 2550, San Francisco, Calif. 94111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points in Marin, San Francisco, San Mateo, Santa Clara, Alameda, Contra Costa, and Solano Counties, Calif., restricted to transportation of traffic having a prior or subsequent movement in containers beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating and containerization or unpacking, uncrating and decontainerization of such traffic.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 138973, filed July 26, 1973. Applicant: EL DORADO MOVING AND SHIPPING CORP., 437 Concord Avenue, New York, New York 10455. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, in foreign commerce, between points in that part of New York, N.Y., commercial zone, as defined in the fifth supplemental report in *Commercial Zones and Terminal Areas*, 53 M.C.C. 451, within which local operations may be conducted pursuant to the partial exemption of section 203(b)(8) of the Interstate Commerce Act (the "exempt" zone), restricted to (1) traffic moving on ocean bills of lading issued by a water carrier not subject to part III of the act and (2) traffic having a prior or subsequent movement, by water, in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery services in connection with packing, crating and contain-



V 38 187 SEP 27 73 XUM

erization or unpacking, uncrating, and decontainerization of such traffic.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 138998 (Sub-No. 1), filed August 20, 1973. Applicant: BEE CEE BOAT MOVERS, LTD., 771 Forsman Avenue, North Vancouver, British Columbia, Canada. Applicant's representative: George R. LaBissoniere, Suite 101, 130 Andover Park East, Seattle, Wash. 98188. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Boats*, on especially constructed trailers, between points in Washington west of the Cascade Mountain Range, and the international boundary line between the United States and Canada at or near Blaine, Lynden, and Sumas, Washington.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 139006, filed July 16, 1973. Applicant: RAPIER SMITH, 103 East Forrest Avenue, Bardstown, Ky. 40004. Applicant's representative: Robert H. Kinker, 711 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment). Between Chaplin and Bardstown, Ky., serving all intermediate points: From Chaplin over U.S. Highway 62 to Bardstown, and return over the same route.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky.

No. MC 139037 filed July 19, 1973. Applicant: RALPH STOOPS, Boggstown, Ind. 46110. Applicant's representative: Donald W. Smith, 900 Circle Tower Building, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel pipe*, from Youngstown, Ohio, to the plantsite of Culligan Fyrprotexion, Inc., located at Indianapolis, Ind., under continuing contract with Culligan Fyrprotexion, Inc., and (2) *highway guard rail*, from Girard, Ohio, to Boggstown, Ind., under continuing contract with Beaty Construction Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind.

No. MC 139041, filed July 27, 1973. Applicant: FRED MASSAT, 3955 West 135th Street, Crestwood, Ill. 60445. Applicant's representative: Paul J. Maton, 10 South LaSalle Street, Suite 1620, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials* used in construction of building, and *brick, stone, sand, cinders and steel*, between points in St. Joseph, Elkhart, Allen, Grant, Marshall, Delaware, Madison, Marion, Howard, Kosciusko, Tippecanoe, Vigo, Montgomery, White, Boone, Hamilton, Monroe, Shelby, Bartholomew, Wayne, and Fayette Counties, Ind., and Chicago, Ill.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 139055, filed August 16, 1973. Applicant: HUNT'S TRUCKING, INC., 112 Sunset Drive, Gallatin, Tenn. 37066. Applicant's representative: Robert L. Baker, 300 James Robertson Parkway, Nashville, Tenn. 37201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic fabric*, woven from synthetic fibers and synthetic yarn, from Waynesboro, Va., to points in North Carolina, South Carolina, and Georgia, under contract with Thiokol Fibers Division of Thiokol Chemical Corp., located at Waynesboro, Va.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C., or Nashville, Tenn.

MOTOR CARRIER OF PASSENGER

No. MC 138700 (Sub-No. 2), filed August 2, 1973. Applicant: REDCLIFF BUS LINES LTD., Box 304, Redcliff, Alberta, Canada. Applicant's representative: Ken Van Wert (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in charter operations, beginning and ending at ports of entry in Montana on the international boundary line betwen the United States and Canada, and extending to Great Falls, and Kalispell, Mont.; restricted to passengers moving in foreign commerce.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Billings, Mont., field office.

APPLICATIONS FOR FILING BROKERAGE LICENSES (PROPERTY)

No. MC 130207, filed August 6, 1973. Applicant: JAMES W. PIERCE, 4015 Camelot Dr., A-2, Raleigh, N.C. 27609. Applicant's representative: James W. Pierce (same address as applicant). Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Raliegh, N.C., to sell or offer to sell to common and contract, motor, rail, water, and air carriers, the transportation of *general commodities*, beginning and ending at points in North Carolina and extending to points in the United States (excluding Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Raleigh or Charlotte, N.C.

APPLICATIONS FOR FILING BROKERAGE LICENSES (PASSENGER)

No. MC 130208, filed August 23, 1973. Applicant: EMMA WALDECK, HOWARD SRYGLER, AND ROBERT SRYGLER, a partnership, doing business as WORLD WIDE CHRISTIAN TOURS, 114 West Dixie, U.O. Box 506, Elizabeth, Ky. 42701. Applicant's representative: Emma Waldeck (same address as applicant). Authority sought to engage in operation, in interstate or foreign commerce, as a *broker* at Elizabeth, Ky. to sell or offer to sell the transportation of *passengers and their baggage* in sightseeing and/or vacationing tours, between Elizabethtown, Ky., and points in Florida, Michigan, Virginia, North Carolina, South Carolina, Pennsylvania, Ohio, Maryland, the District of Columbia, Delaware, New Jersey, New York, Rhode Island, Connecticut, Massachusetts, New Hampshire, Vermont, and Maine.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Louisville, Bowling Green, Frankfurt, or Lexington, Ky.

FREIGHT FORWARDER APPLICATIONS

No. FF 439 (amendment), filed May 24, 1973, published in the FEDERAL REGISTER issue of June 21, 1973, and republished, as amended, this issue. Applicant: EDCO EXHIBIT DRAYAGE CO., a corporation, 444 Treat Avenue, San Francisco, Calif. 94110. Applicant's representative: Daniel W. Baker, 405 Montgomery Street, Suite 1400, San Francisco, Calif. 94104. Authority sought to engage in operation, in interstate commerce, as a *freight forwarder*, through use of the facilities of common carriers by railroad, express, water, air, and motor vehicle, in the transportation of *exhibits, displays, and exhibit and display materials, supplies, equipment and booths*, (1) from points in San Francisco, Los Angeles, Alameda, and Orange Counties, Calif., to points in the United States (except Alaska and Hawaii), and (2) between points in San Francisco County, Calif., and points in Oahu County, Hawaii.

NOTE.—The purpose of this republication is: (a) To indicate applicant's correct name; and (b) to add the origin point of Orange County, Calif., to the request for authority in (1) above. If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. FF-444, filed September 13, 1973. Applicant: CONTAINER MOVING INTERNATIONAL, INC., 4600 Eisenhower Avenue, Alexandria, Va. 22304. Applicant's representative: Alan F. Wohlstetter, 1700 K Street, NW., Washington, D.C. 20006. Authority sought to engage in operation, in interstate commerce, as a *freight forwarder*, through use of the facilities of common carriers by railroad, motor vehicle, water, and express, in the transportation of *used household goods, unaccompanied baggage and used automobiles*, between points in the United States (including Hawaii but excluding Alaska), restricted to the transportation of import-export traffic only.

NOTE.—Common control may be involved. Applicant requests processing under modified procedure, however, if a hearing is deemed necessary applicant requests it be held at Washington, D. C.





APPLICATIONS(S) IN WHICH HANDLING WITHOUT ORAL HEARING HAS BEEN REQUESTED

No. MC 139038, filed August 7, 1973. Applicant: LEON R. GOLDSMITH, doing business as TERMINAL MOTOR EXPRESS, 1711 East 15th Street, Los Angeles, Calif. 90021. Applicant's representative: Jerry Solomon Berger, 9454 Wilshire Boulevard — Penthouse, Beverly Hills, Calif. 90212. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Specialty commodities*, manufactured, dealt in, and marketed by manufacturing chemists for the graphic arts industry, in containers, and, *materials and supplies* used in the manufacture of said commodities (except commodities in bulk); and (2) *commodities* otherwise exempt under section 203(b)(6) of the act when transported in mixed shipments with those commodities named in (1) above, between points in Alabama, Arizona, Arkansas, California, Colorado, Georgia, Indiana, Kansas, Illinois, Louisiana, Massachusetts, Michigan, Mississippi, Missouri, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, Texas, Utah, Vermont, and Washington, under contract with Anchor Chemical Co., Inc.

NOTE.—Applicant states that the requested authority cannot be tacked with its existing authority. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73-20504 Filed 9-26-73;8:45 am]



V 38 I 187 SEP 27 73 XUM

## CUMULATIVE LISTS OF PARTS AFFECTED—SEPTEMBER

**The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during September.**

### 1 CFR

Page

CFR checklist ... 23771

### 3 CFR

PROCLAMATIONS:

4239 ... 24191
4240 ... 24193
4241 ... 24881
4242 ... 26099
4243 ... 26101
4244 ... 26179
4245 ... 26351
4246 ... 26441

EXECUTIVE ORDERS:

11359 (superseded by 11737) ... 24883
11602 (superseded by E.O. 11738) ... 25161
11635 (superseded by 11737) ... 24883
11659 (amended by 11737) ... 24883
11737 ... 24883
11738 ... 25161

Presidential Documents other than Proclamations and Executive Orders:

Memorandum of August 17, 1973 ... 25903

### 4 CFR

400 ... 24195
405 ... 24195

PROPOSED RULES:

331 ... 23971
351 ... 23971, 26072
400 ... 23971
401 ... 23971
402 ... 23971
403 ... 23971
404 ... 23971

### 5 CFR

213 ... 2344, 24885, 25165, 25907, 26181, 26353, 26443, 26675, 26797
335 ... 26601
430 ... 26601
451 ... 26601
630 ... 26601
715 ... 26601

### 6 CFR

102 ... 25427
150 ... 24213
140 ... 24214
150 ... 23794, 23931, 24214, 24885, 25427, 25686, 26181, 26611, 26917
152 ... 23794, 24214
155 ... 24885

PROPOSED RULES:

Ch. I ... 24917
152 ... 23806, 24219, 24667

### 7 CFR

Page

2 ... 24633
51 ... 23931
52 ... 24344, 25165, 26903
56 ... 26797
201 ... 25661, 26800
250 ... 24633
301 ... 25664
354 ... 23934
401 ... 25907
725 ... 23935
777 ... 25665
864 ... 25427
891 ... 26706
905 ... 25665
908 ... 24215, 25431, 25907, 26353, 26601, 26903
910 ... 24345, 24890, 25908, 26443
928 ... 24345
930 ... 24890
932 ... 24215
944 ... 26108
948 ... 25667
981 ... 25668, 26181
991 ... 23771
1001 ... 24216
1002 ... 24216
1004 ... 24216
1006 ... 24216
1007 ... 24216
1011 ... 24216
1012 ... 24216
1013 ... 24216
1015 ... 24216
1030 ... 24216
1033 ... 24216
1036 ... 24216
1040 ... 24216
1044 ... 24216
1046 ... 24216
1049 ... 24216
1050 ... 24216, 26182
1060 ... 24216
1061 ... 24216
1062 ... 24216
1063 ... 24216
1064 ... 24216
1065 ... 24216
1068 ... 24216
1069 ... 24216
1070 ... 24216
1071 ... 24216
1073 ... 24216, 26707
1075 ... 24216
1076 ... 24216
1078 ... 24216
1079 ... 24216
1090 ... 24216
1094 ... 24216
1096 ... 24216
1097 ... 24216
1098 ... 24216
1099 ... 24216
1101 ... 24216
1102 ... 24216
1106 ... 24216
1108 ... 24216
1120 ... 24216
1121 ... 24216
1124 ... 24216
1125 ... 24216
1126 ... 24216
1127 ... 24216
1128 ... 24216
1129 ... 24216, 26709
1130 ... 24216
1131 ... 24216
1132 ... 24216
1133 ... 24216
1134 ... 24216
1136 ... 24216
1137 ... 24216
1138 ... 24216
1139 ... 24216
1207 ... 26354
1421 ... 23935, 24634, 25668, 26006, 26182, 26904
1430 ... 23939
1866 ... 24346

PROPOSED RULES:

20 ... 25690
26 ... 23955, 25186
46 ... 26207
52 ... 24654, 24904, 24907, 24910
301 ... 26808
722 ... 24911
905 ... 26454
906 ... 26384, 26614, 26615
927 ... 26615
932 ... 24910
944 ... 26807
945 ... 26384
981 ... 24911
989 ... 26729
1007 ... 25024
1030 ... 23796, 25448, 25756
1032 ... 25756
1046 ... 25756
1049 ... 25756
1050 ... 25186, 25756
1060 ... 25222
1061 ... 25222
1062 ... 25756
1063 ... 25222
1064 ... 25222
1065 ... 25222
1068 ... 252222
1069 ... 25222
1070 ... 25222
1071 ... 25024
1073 ... 24654, 25024
1076 ... 25222
1078 ... 25222
1079 ... 25222
1090 ... 25024
1094 ... 25024
1096 ... 25024, 29190
1097 ... 25024
1098 ... 25024
1099 ... 25756
1102 ... 25024
1104 ... 25282
1106 ... 25282
1108 ... 25024
1120 ... 25282
1126 ... 25282
1127 ... 25282
1128 ... 25282
1129 ... 25282
1130 ... 25282
1131 ... 25282
1132 ... 25282
1135 ... 25282
1140 ... 26729
1701 ... 24660, 26919

### 8 CFR

214 ... 24881, 26354
238 ... 24891





### 9 CFR

Page

73 ... 24346, 26904
82 ... 23940, 26904
94 ... 24891, 25669
97 ... 23940
319 ... 24640

PROPOSED RULES:

92 ... 26808
94 ... 24219
102 ... 23957
104 ... 23957
113 ... 26118
381 ... 24374, 26454, 26455

### 10 CFR

50 ... 26354
55 ... 26354
110 ... 23953

PROPOSED RULES:

31 ... 26813
32 ... 26813
50 ... 26814
70 ... 26735

### 12 CFR

201 ... 23772
204 ... 25985
207 ... 26905
217 ... 26109
329 ... 25432, 26355
506 ... 26355
506a ... 26355
525 ... 26357
526 ... 23940, 25433
545 ... 24200, 26709, 26710
546 ... 24201
561 ... 26110, 26711
563 ... 24202, 26110, 26357, 26711, 26712
566 ... 26112
570 ... 26112

PROPOSED RULES:

204 ... 25703
217 ... 26468
220 ... 26009
266 ... 26469
329 ... 26391
526 ... 26736
545 ... 24228, 26133
702 ... 26216

### 13 CFR

PROPOSED RULES:

107 ... 24028

### 14 CFR

Ch. I ... 26444
39 ... 23941, 24347, 24349, 24640, 24641, 25170, 25669, 25670, 25905, 26358, 26713, 26800, 26905
71 ... 23941, 23942, 24204, 24350, 24641, 24892, 25171, 25433, 25905–25907, 26112, 26444, 26445, 26714, 26801, 26905, 26906
73 ... 26445, 26714, 26906
75 ... 24204, 25171, 26715, 26907
91 ... 24893
95 ... 24893
97 ... 24350, 26446, 26715, 26907
103 ... 26446
208 ... 24642
229 ... 26908
240 ... 26601
241 ... 24351, 26461
288 ... 23772

### 14 CFR—Continued

Page

302 ... 24894
389 ... 24895, 26113
399 ... 23777, 24642

PROPOSED RULES:

25 ... 26811, 26939
37 ... 25450
39 ... 23962, 26811
61 ... 23962
71 ... 23804, 23969, 24222, 24914, 25195, 25451, 25452, 25696, 26007, 26389, 26730–26734, 26812, 26813, 26940
73 ... 26732
75 ... 23804, 26735
121 ... 23962, 26811, 26939
135 ... 26811
139 ... 26389
Ch. II ... 24660
221 ... 23804
241 ... 24223, 24661
298 ... 23805, 24662, 26616
372a ... 24664
389 ... 24662
399 ... 25453

### 15 CFR

8 ... 23777
256 ... 25908
376 ... 23777, 25446
377 ... 25184, 26206, 26908
399 ... 26908
1000 ... 25909, 26676
1020 ... 26697
1025 ... 26699
1030 ... 26699
1035 ... 26703
1040 ... 26704
1050 ... 26705

### 16 CFR

13 ... 24352, 24353, 24634, 25434–25436, 26602
1500 ... 27012
1505 ... 27012

PROPOSED RULES:

1700 ... 25195

### 17 CFR

210 ... 26182
211 ... 24635
231 ... 24635
241 ... 24635, 26358, 26716
251 ... 24635
271 ... 24635

PROPOSED RULES:

230 ... 24668
240 ... 26943
270 ... 26133, 26816
275 ... 26816

### 18 CFR

2 ... 26603
157 ... 26603

### 19 CFR

Ch. I ... 25171
1 ... 24354, 25171
4 ... 24354

PROPOSED RULES:

1 ... 24374, 25185
10 ... 25995
11 ... 25995
12 ... 25995
19 ... 25995
24 ... 23954
25 ... 25995

### 19 CFR—Continued

Page

PROPOSED RULES—Continued

113 ... 25995
114 ... 25995
141 ... 23954
142 ... 25995
151 ... 25448
172 ... 25995

### 20 CFR

Page

404 ... 26806, 26921
405 ... 26718
701 ... 26860
702 ... 26861
703 ... 26873
704 ... 26877
725 ... 26042

PROPOSED RULES:

405 ... 23802, 25448, 26132, 26616
725 ... 26069

### 21 CFR

Ch. II ... 26609
8 ... 24643
9 ... 24203
26 ... 25985
45 ... 25671
121 ... 24354, 24643, 25437, 26447, 26909
135 ... 23942
135a ... 26910
135b ... 24355, 24643, 24895, 25673, 26183, 26910
135c ... 24355, 24644, 25673, 26183, 26910
135e ... 25674, 25676, 26910
141 ... 25674
144 ... 25437
146 ... 25674
149b ... 25674, 26183
149d ... 25675
191 ... 26910
191b ... 26910
308 ... 26447
1308 ... 26610
1401 ... 26611

PROPOSED RULES:

10 ... 25195
27 ... 26384
121 ... 24374, 14375, 25694
130 ... 24220, 26809
135 ... 25694
141e ... 26006
273 ... 26130
278 ... 26007

### 23 CFR

PROPOSED RULES:

770 ... 23969
772 ... 25696

### 24 CFR

42 ... 25172, 26113
200 ... 25993
201 ... 25676
203 ... 24637
205 ... 24637, 24896
207 ... 24637
213 ... 24637
220 ... 24637
221 ... 24637
232 ... 24637
234 ... 24637
235 ... 24638
236 ... 24638
241 ... 24638
242 ... 24638
244 ... 24638, 24896
1700 ... 23866



V 38 I 187 SEP 27 73 XUM

**24 CFR—Continued** Page

1710 23866
1715 23873
1720 23874
1914 23943–23945, 24355–24357, 25677, 25678, 25994, 26113, 26114, 26367, 26911
1915 24358, 24360, 26368

PROPOSED RULES:

20 24222
42 26923
201 23803
205 26132
242 26132
244 26132

**25 CFR**

141 24638
251 25987
252 25988
256 23945

PROPOSED RULES:

221 23954, 23955, 26729
243 26118

**26 CFR**

1 24206, 26184, 26911, 26912

PROPOSED RULES:

1 26918

**28 CFR**

0 26910
2 26652
17 26448

**29 CFR**

201 26449
202 26449
203 26449
204 26449
205 26449
206 26449
610 25988
612 25989
614 25989
723 26718
1602 26719
1907 25150
1952 24896, 25172, 26449
1953 24361

PROPOSED RULES:

202 26919
206 26919
1910 24300, 24375, 26207, 26459

**30 CFR**

57 23781

PROPOSED RULES:

270 26807
271 26807
504 24024

**31 CFR**

91 94897
315 24762, 26189
605 24898

**32 CFR**

166 25990
301 26720
802 26190
806 26190
809 23945
818b 26801
881 26891

**32 CFR—Continued** Page

883 26802
1285 24206
1453 24210

PROPOSED RULES:

1604 25704
1623 26392
1626 26392
1628 26392
1631 26392
1632 26392
1641 26392

**32A CFR**

Ch. IV:
BP Notice 1 25175
Ch. X:
Reg. 1
Ch. XI
OIAB Rules and Procedures 26103
Ch. XIII:
EPO Reg. 3 23977

PROPOSED RULES:

Ch. X 26005

**33 CFR**

117 25433, 26115
127 24898
207 25176
401 24210

PROPOSED RULES:

117 24912–24914, 25455, 26938
127 23804

**35 CFR**

5 25438
51 26722

**36 CFR**

50 24218
221 23948
295 26723

PROPOSED RULES:

7 23796, 24912, 25185

**38 CFR**

1 24364
2 24366
3 26804
17 24366, 26190
21 23948
36 25678

PROPOSED RULES:

17 26393
21 26944

**39 CFR**

235 26193
3000 24898
3001 24898

**40 CFR**

35 24639, 26358, 26882
50 25678
52 24333, 26324
80 26449
113 25439
120 26358
126 25681
129 24342
162 26360
168 26360
180 23781, 25440, 26450, 26913

PROPOSED RULES:

51 25697
52 23805, 26390, 26462
120 26209, 26463

**40 CFR—Continued** Page

PROPOSED RULES—Continued

180 23806, 24667, 24918, 25455
411 24462
412 24466
422 24470

**41 CFR**

1–1 24210, 26913
1–2 26913
1–3 26914
1–7 26916
1–9 23782
1–16 26916
1–18 23791
3–16 24644
8–4 26368
8–16 26369
8–95 26369
101–25 26604
105–64 26604
114–43 26370
114–50 24649

**42 CFR**

21 25683
51 26194
51a 26195
51b 26196
52 26196
53 26196
54 26197
55 26197
56 26197
57 26198
59 26198
59a 26199
87 26199
91 26200
205 26201
206 26201
208 26201

PROPOSED RULES:

50 26459
81 26730

**43 CFR**

4 23948
3830 24650
4710 24650

PUBLIC LAND ORDERS:

5169 (Amended by PLO 5396) 26376
5170 (Amended by PLO 5395) 26375
5171 (Amended by PLO 5389) 26371
5172 (Amended by PLO 5392) 26373
5173 (Amended by PLO 5391) 26372
5175 (Amended by PLO 5394) 26375
5176 (Amended by PLO 5393) 26373
5177 (Amended by PLO 5397) 26377
5179 (Amended by PLO 5389, 5393, 5395, 5396, 5397) 26370–26377
5180 (Amended by PLO 5388, 5393, 5394, 5396, 5397) 26370–26377
5181 (Amended by PLO 5388, 5394) 26370–26377
5186 (Amended by PLO 5393) 26373
5191 (See PLO 5391, 5392, 5394, 5396, 5397) 26370–26377
5192 (See PLO 5389, 5393, 5395, 5396, 5397) 26370–26377
5193 (See PLO 5393, 5394, 5395, 5396, 5397) 26370–26377
5194 (See PLO 5388, 5394) 26370–26377
5213 (See 5391) 26372







**43 CFR—Continued** Page

PUBLIC LAND ORDERS—Continued

5250 (See PLO 5389, 5393, 5395, 5396, 5397) 26370–26377
5251 (See PLO 5393, 5394, 5395, 5396, 5397) 26370–26377
5252 (See PLO 5391) 26372
5253 (See PLO 5389) 26371
5254 (See PLO 5393) 26373
5253 (See PLO 5396) 26376
5321 (See PLO 5391) 26372
5383 25684
5387 26370
5388 26370
5389 26371
5390 26372
5391 26372
5392 26373
5393 26373
5394 26375
5395 26375
5396 26376
5397 26377

PROPOSED RULES:

3000 26918
3200 26918

**45 CFR**

74 26274
201 26320
205 26378, 26804
220 26320
233 26379, 26608
234 26380
401 26320
403 26320
404 26320
405 26320
406 26320
408 26320
416 26320
901 26201
903 26201
904 26201

**45 CFR—Continued** Page

905 26201
909 24900, 26201

PROPOSED RULES:

83 26384
167 26788
190 26660
221 24872
233 23802
249 26460
250 25450, 26920
903 23912

**46 CFR**

PROPOSED RULES:

146 23959
160 26938
Ch. IV 26943
542 23979
538 24228

**47 CFR**

0 24900, 26724
1 26202
2 24901, 25180, 25991
13 25684
23 24901
73 24367, 25991, 26203, 26204, 26380, 26451, 26453
74 25991, 25992, 26381
81 24211, 25180, 25991
83 24368, 25180, 25992
87 25684
89 24901
91 25182, 26381
93 24901
97 24211

PROPOSED RULES:

61 24920
73 25703, 26008, 26211, 26212, 26380, 26463–26465
97 26942

**49 CFR**

1 24901, 24902, 26805
170 23791
171 23792
172 23792
177 23792
178 23792
393 25182
570 23949, 25685
1003 26205
1033 23792, 23793, 23952, 24212, 24902, 25183, 25685, 26205, 26805
1048 24368
1056 26608
1115 23953, 24903, 25686, 26609
1121 24902, 26726
1134 26205
1140 26205
1304 26805
1307 26805
1309 26806
1322 26726

PROPOSED RULES:

172 24915
173 24915
393 24223, 25452, 25696, 26461
542 23979
571 23804, 26940
1057 24228
1131 23979

**50 CFR**

20 23793, 26609
32 23793, 23794, 24212, 24369–24373, 24650–24652, 25183, 25441–25445, 25686, 25992, 26115, 26116, 26205, 26381–26383, 26727, 26728
33 25445
253 26116

PROPOSED RULES:

21 23796
32 25693


## FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

| *Pages* | *Date* |
|---|---|
| 23765–23922 | Sept. 4 |
| 23923–24184 | 5 |
| 24185–24326 | 6 |
| 24327–24625 | 7 |
| 24627–24874 | 10 |
| 24875–25154 | 11 |
| 25155–25420 | 12 |
| 25421–25654 | 13 |
| 25655–25895 | 14 |
| 25897–26091 | 17 |
| 26093–26171 | 18 |
| 26173–26344 | 19 |
| 26345–23433 | 20 |
| 26435–26593 | 21 |
| 26595–26668 | 24 |
| 26669–26790 | 25 |
| 26791–26883 | 26 |
| 26885–27038 | 27 |



V 38 I 187 SEP 27 73 XUM

federal register

THURSDAY, SEPTEMBER 27, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 187

PART II

# CONSUMER PRODUCT SAFETY COMMISSION

■

## FEDERAL HAZARDOUS SUBSTANCES ACT REGULATIONS

Revision and Transfer

No. 187—Pt. II——1

V 38 - 187 SEP 27 73 XUM

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

SUBCHAPTER C—FEDERAL HAZARDOUS SUBSTANCES ACT REGULATIONS

PART 1500—HAZARDOUS SUBSTANCES AND ARTICLES; ADMINISTRATION AND ENFORCEMENT REGULATIONS

PART 1505—REQUIREMENTS FOR ELECTRICALLY OPERATED TOYS OR OTHER ELECTRICALLY OPERATED ARTICLES INTENDED FOR USE BY CHILDREN

Revision and Transfer

Effective May 14, 1973, sec. 30(a) of the Consumer Product Safety Act (Pub. L. 92-573, 86 Stat. 1231 (15 U.S.C. 2079 (a))), among other things, transferred from the Secretary of Health, Education, and Welfare to the Consumer Product Safety Commission functions under the Federal Hazardous Substances Act.

Before May 14, 1973, the Commissioner of Food and Drugs under delegated authority, promulgated regulations under the Federal Hazardous Substances Act which appear in the Code of Federal Regulations as 21 CFR Parts 191 and 191b. The purpose of this document is to revise and transfer those regulations.

Accordingly, pursuant to sec 30(a) of the Consumer Product Safety Act, the Consumer Product Safety Commission hereby (1) deletes Parts 191 and 191b from Title 21, Chapter I, and (2) revises and reissues the regulations under the Federal Hazardous Substances Act as Parts 1500 and 1505, respectively, of Title 16, Chapter II, Subchapter C, as set forth below.

Any provisions of 21 CFR Parts 191 and 191b having delayed effective dates shall have the same delayed effective date in 16 CFR Parts 1500 and 1505, and these are noted.

The material is revised to update names, titles, cross-references, etc., and to add and clarify certain definitions. The statutory definitions appearing in sec. 2 of the Federal Hazardous Substances Act (15 U.S.C. 1261) have been added to the regulations for convenience and are set forth in 16 CFR 1500.3(b). The definitions that previously appeared in 21 CFR 191.1 have been clarified as to their relationship to the statutory definitions and those that involve the latter are set forth in 16 CFR 1500.3(c).

Since no new requirements are added by this revision, notice and public procedure are not prerequisites to this issuance.

Parts 1500 and 1505 of Title 16, Chapter II, Subchapter C, read as follows:

## PART 1500—HAZARDOUS SUBSTANCES AND ARTICLES; ADMINISTRATION AND ENFORCEMENT REGULATIONS

Sec.


1500.1 Scope of subchapter.
1500.2 Authority.
1500.3 Definitions.
1500.4 Human experience with hazardous substances.
1500.5 Hazardous mixtures.
1500.7 Federal preemption of State and local labeling requirements.
1500.12 Products declared to be hazardous substances under section 3(a) of the act.
1500.13 Listing of "strong sensitizer" substances.
1500.14 Products requiring special labeling under section 3(b) of the act.
1500.15 Labeling of fire extinguishers.
1500.17 Banned hazardous substances.
1500.18 Banned toys and other banned articles intended for use by children.
1500.40 Method of testing toxic substances.
1500.41 Method of testing primary irritant substances.
1500.42 Test for eye irritants.
1500.43 Method of test for flashpoint of volatile flammable materials by Tagliabue open-cup apparatus.
1500.44 Method for determining extremely flammable and flammable solids.
1500.45 Method for determining extremely flammable and flammable contents of self-pressurized containers.
1500.46 Method for determining flashpoint of extremely flammable contents of self-pressurized containers.
1500.47 Method for determining the sound pressure level produced by toy caps.
1500.81 Exemptions for food, drugs, cosmetics, and fuels.
1500.82 Exemption from full labeling and other requirements.
1500.83 Exemptions for small packages, minor hazards, and special circumstances.
1500.84 Exemption for unlabeled containers.
1500.85 Exemptions from classification as banned hazardous substances.
1500.86 Exemptions from classification as a banned toy or other banned article for use by children.
1500.121 Labeling requirements; placement, conspicuousness, and contrast.
1500.122 Deceptive use of disclaimers.
1500.123 Condensation of label information.
1500.125 Labeling requirements for accompanying literature.
1500.126 Substances determined to be "special hazards."
1500.127 Substances with multiple hazards.
1500.128 Label comment.
1500.129 Substances named in the Federal Caustic Poison Act.
1500.130 Self-pressurized containers; labeling.
1500.131 Methyl alcohol-base radiator antifreeze; labeling.
1500.132 Ethylene glycol-base radiator antifreeze; labeling.
1500.133 Extremely flammable contact adhesives; labeling.
1500.201 Procedure for the issuance, amendment, or repeal of regulations declaring particular substances to be hazardous substances or banned hazardous substances.
1500.210 Responsibility.
1500.211 Guaranty.
1500.212 Definition of guaranty; suggested forms.
1500.213 Presentation of views under section 7 of the act.
1500.214 Examinations and investigations; samples.


IMPORTS


1500.265 Imports; definitions.
1500.266 Notice of sampling.
1500.267 Payment for samples.
1500.268 Hearing.
1500.269 Application for authorization.
1500.270 Granting of authorization.
1500.271 Bonds.
1500.272 Costs chargeable in connection with relabeling and reconditioning inadmissible imports.


AUTHORITY.—Secs. 2-5, 10, 14, 74 Stat. 372-76, 378-79, as amended, 80 Stat. 1303-05, 83 Stat. 187-89, 84 Stat. 1673 (15 U.S.C. 1261 and note, 1262-64, 1269, 1273) unless otherwise noted.

### § 1500.1 Scope of subchapter.

Set forth in this Subchapter C are the regulations of the Consumer Product Safety Commission issued pursuant to and for the implementation of the Federal Hazardous Substances Act as amended (see § 1500.3(a)(1)).

### § 1500.2 Authority.

Authority under the Federal Hazardous Substances Act is vested in the Consumer Product Safety Commission by section 30(a) of the Consumer Product Safety Act (15 U.S.C. 2079(a)).

### § 1500.3 Definitions.

(a) *Certain terms used in this part.* As used in this part:

(1) "Act" means the Federal Hazardous Substances Act (Pub. L. 86-613, 74 Stat. 372-81 (15 U.S.C. 1261-74)) as amended by:

(i) The Child Protection Act of 1966 (Pub. L. 89-756, 80 Stat. 1303-05).

(ii) The Child Protection and Toy Safety Act of 1969 (Pub. L. 91-113, 83 Stat. 187-90).

(iii) The Poison Prevention Packaging Act of 1970 (Pub. L. 91-601, 84 Stat. 1670-74).

(2) "Commission" means the Consumer Product Safety Commission established May 14, 1973, pursuant to provisions of the Consumer Product Safety Act (Pub. L. 92-573, 86 Stat. 1207-33 (15 U.S.C. 2051-81)).

(b) *Statutory definitions.* Except for the definitions given in section 2 (c) and (d) of the act, which are obsolete, the definitions set forth in section 2 of the act are applicable to this part and are repeated for convenience as follows (some of these statutory definitions are interpreted, supplemented, or provided with alternatives in paragraph (c) of this section):

(1) "Territory" means any territory or possession of the United States, including the District of Columbia and the Commonwealth of Puerto Rico but excluding the Canal Zone.

(2) "Interstate commerce" means (i) commerce between any State or territory and any place outside thereof and (ii) commerce within the District of Columbia or within any territory not organized with a legislative body.

(3) "Person" includes an individual, partnership, corporation, and association.

(4) (i) "Hazardous substance" means:

(A) Any substance or mixture of substances which is toxic, corrosive, an irritant, a strong sensitizer, flammable or combustible, or generates pressure through decomposition, heat, or other means, if such substance or mixture of substances may cause substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children.

(B) Any substance which the Commission by regulation finds, pursuant to the provisions of section 3(a) of the act, meet the requirements of section 2(f)(1)(A) of the act (restated in (A) above).

(C) Any radioactive substance if, with respect to such substance as used in a particular class of article or as packaged, the Commission determines by regulation that the substance is sufficiently hazardous to require labeling in accordance with the act in order to protect the public health.

(D) Any toy or other article intended for use by children which the Commission by regulation determines, in accordance with section 3(e) of the act, presents an electrical, mechanical, or thermal hazard.

(ii) "Hazardous substance" shall not apply to pesticides subject to the Federal Insecticide, Fungicide, and Rodenticide Act, to foods, drugs, and cosmetics subject to the Federal Food, Drug, and Cosmetic Act, nor to substances intended for use as fuels when stored in containers and used in the heating, cooking, or refrigeration system of a house. "Hazardous substance" shall apply, however, to any article which is not itself a pesticide within the meaning of the Federal Insecticide, Fungicide, and Rodenticide Act but which is a hazardous substance within the meaning of section 2(f)(1) of the Federal Hazardous Substances Act (restated in paragraph (b)(4)(i) of this section) by reason of bearing or containing such a pesticide.

(iii) "Hazardous substance" shall not include any source material, special nuclear material, or byproduct material as defined in the Atomic Energy Act of 1954, as amended, and regulations issued pursuant thereto by the Atomic Energy Commission.

(5) "Toxic" shall apply to any substance (other than a radioactive substance) which has the capacity to produce personal injury or illness to man through ingestion, inhalation, or absorption through any body surface.

(6) (i) "Highly toxic" means any substance which falls within any of the following categories:

(A) Produces death within 14 days in half or more than half of a group of 10 or more laboratory white rats each weighing between 200 and 300 grams, at a single dose of 50 milligrams or less per kilogram of body weight, when orally administered; or

(B) Produces death within 14 days in half or more than half of a group of 10 or more laboratory white rats each weighing between 200 and 300 grams, when inhaled continuously for a period of 1 hour or less at an atmospheric concentration of 200 parts per million by volume or less of gas or vapor or 2 milligrams per liter by volume or less of mist or dust, provided such concentration is likely to be encountered by man when the substance is used in any reasonably foreseeable manner; or





(C) Produces death within 14 days in half or more than half of a group of 10 or more rabbits tested in a dosage of 200 milligrams or less per kilogram of body weight, when administered by continuous contact with the bare skin for 24 hours or less.

(ii) If the Commission finds that available data on human experience with any substance indicate results different from those obtained on animals in the dosages and concentrations specified in paragraph (b)(6)(i) of this section, the human data shall take precedence.

(7) "Corrosive" means any substance which in contact with living tissue will cause destruction of tissue by chemical action, but shall not refer to action on inanimate surfaces.

(8) "Irritant" means any substance not corrosive within the meaning of section 2(i) of the act (restated in paragraph (b)(7) of this section) which on immediate, prolonged, or repeated contact with normal living tissue will induce a local inflammatory reaction.

(9) "Strong sensitizer" means a substance which will cause on normal living tissue through an allergic or photodynamic process a hypersensitivity which becomes evident on reapplication of the same substance and which is designated as such by the Commission. Before designating any substance as a strong sensitizer, the Commission, upon consideration of the frequency of occurrence and severity of the reaction, shall find that the substance has a significant potential for causing hypersensitivity.

(10) "Extremely flammable" shall apply to any substance which has a flashpoint at or below 20° F. as determined by the Tagliabue Open Cup Tester; "flammable" shall apply to any substance which has a flashpoint of above 20° F., to and including 80° F., as determined as determined by the Tagliabue Open Cup Tester; and "combustible" shall apply to any substance which has a flashmined by the Tagliabue Open Cup Tester; and "combustible" shall apply to any substance which has a flashpoint above 80° F. to and including 150° F., as determined by the Tagliabue Open Cup Tester; except that the flammability or combustibility of solids and of the contents of self-pressurized containers shall be determined by methods found by the Commission to be generally applicable to such materials or containers, respectively, and established by regulations issued by the Commission, which regulations shall also define the terms "flammable," "combustible," and "extremely flammable" in accord with such methods.

(11) "Radioactive substance" means a substance which emits ionizing radiation.

(12) "Label" means a display of written, printed, or graphic matter upon the immediate container of any substance or, in the cases of an article which is unpackaged or is not packaged in an immediate container intended or suitable for delivery to the ultimate consumer, a display of such matter directly upon the article involved or upon a tag or other suitable material affixed thereto. A requirement made by or under authority of the act that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears (i) on the outside container or wrapper, if any there be, unless it is easily legible through the outside container or wrapper and (ii) on all accompanying literature where there are directions for use, written or otherwise.

(13) "Immediate container" does not include package liners.

(14) "Misbranded hazardous substance" means a hazardous substance (including a toy, or other article intended for use by children, which is a hazardous substance, or which bears or contains a hazardous substance in such manner as to be susceptible of access by a child to whom such toy or other article is entrusted) intended, or packaged in a form suitable, for use in the household or by children, if the packaging or labeling of such substance is in violation of an applicable regulation issued pursuant to section 3 or 4 of the Poison Prevention Packaging Act of 1970 or if such substance, except as otherwise provided by or pursuant to section 3 of the act (Federal Hazardous Substances Act), fails to bear a label:

(i) Which states conspicuously:

(A) The name and place of business of the manufacturer, packer, distributor, or seller;

(B) The common or usual name or the chemical name (if there be no common or usual name) of the hazardous substance or of each component which contributes substantially to its hazard, unless the Commission by regulation permits or requires the use of a recognized generic name;

(C) The signal word "DANGER" on substances which are extremely flammable, corrosive, or highly toxic;

(D) The signal word "WARNING" or "CAUTION" on all other hazardous substances;

(E) An affirmative statement of the principal hazard or hazards, such as "Flammable," "Combustible," "Vapor Harmful," "Causes Burns," "Absorbed Through Skin," or similar wording descriptive of the hazard;

(F) Precautionary measures describing the action to be followed or avoided, except when modified by regulation of the Commission pursuant to section 3 of the act;

(G) Instruction, when necessary or appropriate, for first-aid treatment;

(H) The word "Poison" for any hazardous substance which is defined as "highly toxic" by section 2(h) of the act (restated in paragraph (b)(6) of this section);

(I) Instructions for handling and storage of packages which require special care in handling or storage; and

(J) The statement (*1*) "Keep out of the reach of children" or its practical equivalent, or, (*2*) if the article is intended for use by children and is not a banned hazardous substance, adequate directions for the protection of children from the hazard; and



V 38 I 187 SEP 27 73 XUM

(ii) On which any statements required under section 2(p)(1) of the act (restated in paragraph (b)(15)(i) of this section) are located prominently and are in the English language in conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the label.

"Misbranded hazardous substance" also means a household substance as defined in section 2(2)(D) of the Poison Prevention Packaging Act of 1970 if it is a substance described in section 2(f)(1) of the Federal Hazardous Substances Act (restated in paragraph (b)(4)(i)(A) of this section) and its packaging or labeling is in violation of an applicable regulation issued pursuant to section 3 or 4 of the Poison Prevention Packaging Act of 1970.

(15)(i) "Banned hazardous substance" means:

(A) Any toy, or other article intended for use by children, which is a hazardous substance, or which bears or contains a hazardous substance in such manner as to be susceptible of access by a child to whom such toy or other article is entrusted; or

(B) Any hazardous substance intended, or packaged in a form suitable, for use in the household, which the Commission by regulation classifies as a "banned hazardous substance" on the basis of a finding that, notwithstanding such cautionary labeling as is or may be required under the act for that substance, the degree or nature of the hazard involved in the presence or use of such substance in households is such that the objective of the protection of the public health and safety can be adequately served only by keeping such substance, when so intended or packaged, out of the channels of interstate commerce: *Provided*, That the Commission by regulation (*1*) shall exempt from section 2(q)(1)(A) of the act (restated in paragraph (b)(15)(i)(A) of this section) articles, such as chemistry sets, which by reason of their functional purpose require the inclusion of the hazardous substance involved, or necessarily present an electrical, mechanical, or thermal hazard, and which bear labeling giving adequate directions and warnings for safe use and are intended for use by children who have attained sufficient maturity, and may reasonably be expected, to read and heed such directions and warnings, and (*2*) shall exempt from section 2(q)(1)(A) of the act (restated in paragraph (b)(15)(i)(A) of this section), and provide for the labeling of, common fireworks (including toy paper caps, cone fountains, cylinder fountains, whistles without report, and sparklers) to the extent that the Commission determines that such articles can be adequately labeled to protect the purchasers and users thereof.

(ii) Proceedings for the issuance, amendment, or repeal of regulations pursuant to section 2(q)(1)(B) of the act (restated in paragraph (b)(15)(i)(B) of this section) shall be governed by the provisions of section 701 (e), (f), and (g) of the Federal Food, Drug, and Cosmetic Act: *Provided*, That if the Commission finds that the distribution for household use of the hazardous substance involved presents an imminent hazard to the public health, the Commission may by order published in the FEDERAL REGISTER give notice of such finding, and thereupon such substance when intended or offered for household use, or when so packaged as to be suitable for such use, shall be deemed to be a "banned hazardous substance" pending the completion of proceedings relating to the issuance of such regulations.

(16) "Electrical hazard"—an article may be determined to present an electrical hazard if, in normal use or when subjected to reasonably foreseeable damage or abuse, its design or manufacture may cause personal injury or illness by electric shock.

(17) "Mechanical hazard"—an article may be determined to present a mechanical hazard if, in normal use or when subjected to reasonably foreseeable damage or abuse, its design or manufacture presents an unreasonable risk of personal injury or illness:

(i) From fracture, fragmentation, or disassembly of the article;

(ii) From propulsion of the article (or any part or accessory thereof);

(iii) From points or other protrusions, surfaces, edges, openings, or closures;

(iv) From moving parts;

(v) From lack or insufficiency of controls to reduce or stop motion;

(vi) As a result of self-adhering characteristics of the article;

(vii) Because the article (or any part or accessory thereof) may be aspirated or ingested;

(viii) Because of instability; or

(ix) Because of any other aspect of the article's design or manufacture.

(18) "Thermal hazard"—an article may be determined to present a thermal hazard if, in normal use or when subjected to reasonably foreseeable damage or abuse, its design or manufacture presents an unreasonable risk of personal injury or illness because of heat as from heated parts, substances, or surfaces.

(c) *Certain statutory definitions interpreted, supplemented, or provided with alternatives.* The following items interpret, supplement, or provide alternatives to definitions set forth in section 2 of the act (and restated in paragraph (b) of this section):

(1) To provide flexibility as to the number of animals tested, the following is an alternative to the definition of "highly toxic" in section 2(h) of the act (and paragraph (b)(6) of this section): "Highly toxic" means:

(i) A substance determined by the Commission to be highly toxic on the basis of human experience; and/or

(ii) A substance that produces death within 14 days in half or more than half of a group of:

(A) White rats (each weighing between 200 and 300 grams) when a single dose of 50 milligrams or less per kilogram of body weight is administered orally;

(B) White rats (each weighing between 200 and 300 grams) when a concentration of 200 parts per million by volume or less of gas or vapor, or 2 milligrams per liter by volume or less of mist or dust, is inhaled continuously for 1 hour or less, if such concentration is likely to be encountered by man when the substance is used in any reasonably foreseeable manner; and/or

(C) Rabbits (each weighing between 2.3 and 3.0 kilograms) when a dosage of 200 milligrams or less per kilogram of body weight is administered by continuous contact with the bare skin for 24 hours or less by the method described in § 1500.40.

The number of animals tested shall be sufficient to give a statistically significant result and shall be in conformity with good pharmacological practices.

(2) To give specificity to the definition of "toxic" in section 2(g) of the act (and restated in paragraph (b)(5) of this section), the following supplements that definition: "Toxic" means any substance that produces death within 14 days in half or more than half of a group of:

(i) White rats (each weighing between 200 and 300 grams) when a single dose of from 50 milligrams to 5 grams per kilogram of body weight is administered orally. Substances falling in the toxicity range between 500 milligrams and 5 grams per kilogram of body weight will be considered for exemption from some or all of the labeling requirements of the act, under §1500.82, upon a showing that such labeling is not needed because of the physical form of the substances (solid, a thick plastic, emulsion, etc.), the size or closure of the container, human experience with the article, or any other relevant factors;

(ii) White rats (each weighing between 200 and 300 grams) when an atmospheric concentration of more than 200 parts per million but not more than 20,000 parts per million by volume of gas or vapor, or more than 2 but not more than 200 milligrams per liter by volume of mist or dust, is inhaled continuously for 1 hour or less, if such concentration is likely to be encountered by man when the substance is used in any reasonably foreseeable manner; and/or

(iii) Rabbits (each weighing between 2.3 and 3.0 kilograms) when a dosage of more than 200 milligrams but not more than 2 grams per kilogram of body weight is administered by continuous contact with the bare skin for 24 hours by the method described in § 1500.40.

The number of animals tested shall be sufficient to give a statistically significant result and shall be in conformity with good pharmacological practices. "Toxic" also applies to any substance that is "toxic" (but not "highly toxic") on the basis of human experience.

(3) The definition of "corrosive" in section 2(i) of the act (restated in paragraph (b)(7) of this section) is interpreted to also mean the following: "Corrosive" means a substance that causes visible destruction or irreversible alterations in the tissue at the site of contact. A test for a corrosive substance is whether, by human experience, such tissue destruction occurs at the site of application. A substance would be considered corrosive to the skin if, when tested on the intact skin of the albino rabbit by the technique described in § 1500.41, the structure of the tissue at the site or contact is destroyed or changed irreversibly in 24 hours or less. Other appropriate tests should be applied when contact of the substance with other than skin tissue is being considered.

(4) The definition of "irritant" in section 2(j) of the act (restated in paragraph (b)(8) of this section) is supplemented by the following: "Irritant" includes "primary irritant to the skin" as well as substances irritant to the eye or to mucous membrances. "Primary irritant" means a substance that is not corrosive and that human experience data indicate is a primary irritant and/or means a substance that results in an empirical score of five or more when tested by the method described in § 1500.41. "Eye irritant" means a substance that human experience data indicate is an irritant to the eye and/or means a substance for which a positive test is obtained when tested by the method described in § 1500.42.

(5) The definition of "strong sensitizer" in section 2(k) of the act (restated in paragraph (b)(9) of this section) is supplemented by the following: A "strong allergic sensitizer" is a substance that produces an allergenic sensitization in a substantial number of persons who come into contact with it. An allergic sensitization develops by means of an "antibody mechanism" in contradistinction to a primary irritant reaction which does not arise because of the participation of an "antibody mechanism." An allergic reaction ordinarily does not develop on first contact because of necessity of prior exposure to the substance in question. The sensitized tissue exhibits a greatly increased capacity to react to subsequent exposures of the offending agent. Subsequent exposures may therefore produce severe reactions with little correlation to the amounts of excitant involved. A "photodynamic sensitizer" is a substance that causes an alteration in the skin or mucous membranes in general or to the skin or mucous membrane at the site of contact so that when these areas are subsequently exposed to ordinary sunlight (or equivalent radiant energy) an inflammatory reaction will develop.

(6) The following definitions are supplementary to the definitions of "extremely flammable" and "flammable" in section 2(1) of the act or are in response to certain provisions of section 2(1) regarding the flammability of solids and of the contents of self-pressurized containers (section 2(1) is restated in paragraph (b)(10) of this section):

(i) "Extremely flammable" means any substance that has a flashpoint at or below 20° F. as determined by the method described in § 1500.43.

(ii) "Flammable" means any substance that has a flashpoint of above 20° F., to and including 80° F., as determined by the method described in § 1500.43.

(iii) "Extremely flammable solid" means a solid substance that ignites and burns at an ambient temperature of 80° F. or less when subjected to friction, percussion, or electrical spark.

(iv) "Flammable solid" means a solid substance that, when tested by the method described in § 1500.44, ignites and burns with a self-sustained flame at a rate greater than one-tenth of an inch per second along its major axis.

(v) "Extremely flammable contents of self-pressurized container" means contents of a self-pressurized container that, when tested by the method described in § 1500.45, a flashback (a flame extending back to the dispenser) is obtained at any degree of valve opening and the flashpoint, when tested by the method described in § 1500.46, is less than 20° F.

(vi) "Flammable contents of self-pressurized container" means contents of a self-pressurized container that, when tested by the method described in § 1500.45, a flame projection exceeding 18 inches is obtained at full valve opening or a flashback (a flame extending back to the dispenser) is obtained at any degree of valve opening.

(7) The definition of "hazardous substance" in section 2(f)(1)(A) of the act (restated in paragraph (b)(4)(i)A) of this section is supplemented by the following definitions or interpretations of terms used therein:

(i) A substance or mixture of substances that "generates pressure through decomposition, heat, or other means" is a hazardous substance:

(A) If it explodes when subjected to an electrical spark, percussion, or the flame of a burning paraffin candle for 5 seconds or less.

(B) If it expels the closure of its container, or bursts its container, when held at or below 130° F. for 2 days or less.

(C) If it erupts from its opened container at a temperature of 130° F. or less after having been held in the closed container at 130° F. for 2 days.

(D) If it comprises the contents of a self-pressurized container.

(ii) "Substantial personal injury or illness" means any injury or illness of a significant nature. It need not be severe or serious. What is excluded by the word "substantial" is a wholly insignificant or negligible injury or illness.

(iii) "Proximate result" means a result that follows in the course of events without an unforeseeable, intervening, independent cause.

(iv) "Reasonably foreseeable handling or use" includes the reasonably foreseeable accidental handling or use, not only by the purchaser or intended user of the product, but by all others in a household, especially children.

(8) The definition of "radioactive substance" in section 2(m) of the act (restated in paragraph (b)(11) of this section) is supplemented by the following: "Radioactive substance" means a substance which, because of nuclear instability, emits electromagnetic and/or particulate radiation capable of producing ions in its passage through matter. Source materials, special nuclear material, and byproduct materials described in section 2(f)(3) of the act are exempt.

(9) In the definition of "label" in section 2(n) of the act (restated in paragraph (b)(12) of this section), a provision stipulates that words, statements, or other information required to be on the label must also appear on all accompanying literature where there are directions for use, written or otherwise. To make this provision more specific, "accompanying literature" is interpreted to mean any placard, pamphlet, booklet, book, sign, or other written, printed, or graphic matter or visual device that provides directions for use, written or otherwise, and that is used in connection with the display, sale, demonstration, or merchandising of a hazardous substance intended for or packaged in a form suitable for use in the household or by children.

(10) The definition of "misbranded hazardous substance" in section 2(p) of the act (restated in paragraph (b)(14) of this section) is supplemented by the following definitions or interpretations of terms used therein:

(i) "Hazardous substances intended, or packaged in a form suitable, for use in the household" means any hazardous substance, whether or not packaged, that under any customary or reasonably foreseeable condition of purchase, storage, or use may be brought into or around a house, apartment, or other place where people dwell, or in or around any related building or shed including, but not limited to, a garage, carport, barn, or storage shed. The term includes articles, such as polishes or cleaners, designed primarily for professional use but which are available in retail stores, such as hobby shops, for nonprofessional use. Also included are items, such as antifreeze and radiator cleaners, that although principally for car use may be stored in or around dwelling places. The term does not include industrial supplies that might be taken into a home by a serviceman. An article labeled as, and marketed solely for, industrial use does not become subject to this act because of the possibility that an industrial worker may take a supply for his own use. Size of unit or container is not the only index of whether the article is suitable for use in or around the household; the test shall be whether under any reasonably foreseeable condition of purchase, storage, or use the article may be found in or around a dwelling.

(ii) "Conspicuously" in section 2(p)(1) of the act and "prominently" and "conspicuous" in section 2(p)(2) of the act mean that, under customary conditions of purchase, storage, and use, the required information shall be visible, noticeable, and in clear and legible English. Some factors affecting a warning's prominence and conspicuousness are: Location, size of type, and contrast of printing against background. Also bearing on the effectiveness of a warning might be the effect of the package contents if spilled on the label.

**§ 1500.4 Human experience with hazardous substances.**

(a) Reliable data on human experience with any substance should be taken into







V 38 I 187 SEP 27 73 XUM

account in determining whether an article is a "hazardous substance" within the meaning of the act. When such data give reliable results different from results with animal data, the human experience takes precedence.

(b) Experience may show that an article is more or less toxic, irritant, or corrosive to man than to test animals. It may show other factors that are important in determining the degree of hazard to humans represented by the substance. For example, experience shows that radiator antifreeze is likely to be stored in the household or garage and likely to be ingested in significant quantites by some persons. It also shows that a particular substance in liquid form is more likely to be ingested than the same substance in a paste or a solid and that an aerosol is more likely to get into the eyes and the nasal passages than a liquid.

**§ 1500.5 Hazardous mixtures.**

For a mixture of substances, the determination of whether the mixture is a "hazardous substance" as defined by section 2(f) of the act (repeated in § 1500.3(b)(4)) should be based on the physical, chemical, and pharmacological characteristics of the mixture. A mixture of substances may therefore be less hazardous or more hazardous than its components because of synergistic or antagonistic reactions. It may not be possible to reach a fully satisfactory decision concerning the toxic, irritant, corrosive, flammable, sensitizing, or pressure-generating properties of a substance from what is known about its components or ingredients. The mixture itself should be tested.

**§ 1500.7 Federal preemption of State and local labeling requirements.**

(a) Section 18(b) of the act provides that any law, regulation, or ordinance of the States and political subdivisions thereof purporting to establish a precautionary labeling requirement for any substance or article intended or suitable for household use which differs from the requirements or exemptions of the act or the regulations or interpretations promulgated pursuant thereto shall be null and void. The legislative history reveals that Congress intended by this provision to prevent a proliferation of differing labeling requirements for household products.

(b) Federal preemption applies (1) to household substances and articles required to be labeled in accordance with the act and (2) to household substances and articles not required to be labeled in accordance with the act because they (i) are not "hazardous substances" as defined by section 2(f) of the act (repeated in § 1500.3(b)(4)) or (ii) are exempt from labeling under a regulation promulgated by the Commission. Federal preemption applies to any nonuniform labeling requirement, regardless of whether it conflicts with or is incompatible with the Federal requirement.

(c) Federal preemption applies to any labeling requirement intended to serve as or be a part of, or that is in the nature of, precautionary labeling. Precautionary labeling includes such information as warnings, registration or identification numbers, disclosure of hazards, antidote information, ingredient statements, and other similar labeling requirements.

(d) Federal preemption does not apply to a State or local ban on a household product.

(e) Whenever a State or local jurisdiction has reason to believe that additional or different precautionary labeling should be required for household substances and articles, it should petition the Commission to promulgate an appropriate nationwide regulation. Such petitions should be submitted to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. The Commission will expedite consideration of any such petition.

**§ 1500.12 Products declared to be hazardous substances under section 3(a) of the act.**

(a) The Commission finds that the following articles are hazardous substances within the meaning of the act because they are capable of causing substantial personal injury or substantial illness during or as a proximate result of any customary or reasonably foreseeable handling or use:

(1) Charcoal briquettes and other forms of charcoal in containers for retail sale and intended for cooking or heating.

**§ 1500.13 Listing of "strong sensitizer" substances.**

On the basis of frequency of occurrence and severity of reaction information, the Commission finds that the following substances have a significant potential for causing hypersensitivity and therefore meet the definition for "strong sensitizer" in section 2(k) of the act (repeated in § 1500.3(b)(9)):

(a) Paraphenylenediamine and products containing it.

(b) Powdered orris root and products containing it.

(c) Epoxy resins systems containing in any concentration ethylenediamine, diethylenetriamine, and diglycidyl ethers of molecular weight of less than 200.

(d) Formaldehyde and products containing 1 percent or more of formaldehyde.

(e) Oil of bergamot and products containing 2 percent or more of oil of bergamot.

**§ 1500.14 Products requiring special labeling under section 3(b) of the act.**

(a) Human experience, as reported in the scientific literature and to the Poison Control Centers and the National Clearing House for Poison Control Centers, and opinions of informed medical experts establish that the following substances are hazardous:

(1) Diethylene glycol and mixtures containing 10 percent or more by weight of diethylene glycol.

(2) Ethylene glycol and mixtures containing 10 percent or more by weight of ethylene glycol.

(3) Products containing 5 percent or more by weight of benzene (also known as benzol) and products containing 10 percent or more by weight of toluene (also known as toluol), xylene (also known as xylol), or petroleum distillates such as kerosene, mineral seal oil, naphtha, gasoline, mineral spirits, stoddard solvent, and related petroleum distillates.

(4) Methyl alcohol (methanol) and mixtures containing 4 percent or more by weight of methyl alcohol (methanol).

(5) Turpentine (including gum turpentine, gum spirits of turpentine, steam-distilled wood turpentine, sulfate wood turpentine, and destructively distilled wood turpentine) and mixtures containing 10 percent or more by weight of such turpentine.

(b) The Commission finds that the following substances present special hazards and that, for these substances, the labeling required by section 2(p)(1) of the act is not adequate for the protection of the public health. Under section 3(b) of the act, the following specific label statements are deemed necessary to supplement the labeling required by section 2(p)(1) of the act:

(1) *Diethylene glycol.* Because diethylene glycol and mixtures containing 10 percent or more by weight of diethylene glycol are commonly marketed, stored, and used in a manner increasing the possibility of accidental ingestion, such products shall be labeled with the signal word "warning" and the statement "Harmful if swallowed."

(2) *Ethylene glycol.* Because ethylene glycol and mixtures containing 10 percent or more by weight of ethylene glycol are commonly marketed, stored, and used in a manner increasing the possibility of accidential ingestion, such products shall be labeled with the signal word "warning" and the statement "Harmful or fatal if swallowed."

(3) *Benzene, toluene, xylene, petroleum distillates.* (i) Because inhalation of the vapors of products containing 5 percent or more by weight of benzene may cause blood dyscrasias, such products shall be labeled with the signal word "danger," the statement of hazard "Vapor harmful," the word "poison," and the skull and crossbones symbol. If the product contains 10 percent or more by weight of benzene, it shall bear the additional statement of hazard "Harmful or fatal if swallowed" and the additional statements "If swallowed, do not induce vomiting. Call physician immediately."

(ii) Because products containing 10 percent or more by weight of toluene, xylene, or any of the other substances listed in paragraph (a)(3) of this section may be aspirated into the lungs, with resulting chemical pneumonitis, pneumonia, and pulmonary edema, such products shall be labeled with the signal word "danger," the statement of hazard "Harmful or fatal if swallowed," and the statements "If swallowed, do not induce vomiting. Call physician immediately."

(iii) Because inhalation of the vapor of products containing 10 percent or more by weight of toluene or xylene may cause systemic injury, such products shall bear the statement of hazard "Vapor harmful" in addition to the statements prescribed in paragraph (b)(3)(ii) of this section.





(4) *Methyl alcohol (methanol).* Because death and blindness can result from the ingestion of methyl alcohol, the label for this substance and for mixtures containing 4 percent or more by weight of this substance shall include the signal word "danger," the additional word "poison," and the skull and crossbones symbol. The statement of hazard shall include "Vapor harmful" and "May be fatal or cause blindness if swallowed." The label shall also bear the statement "Cannot be made nonpoisonous."

(5) *Turpentine.* Because turpentine (including gum turpentine, gum spirits of turpentine, steam-distilled wood turpentine, sulfate wood turpentine, and destructively distilled wood turpentine) and products containing 10 percent or more by weight of such turpentine, in addition to oral toxicity resulting in systemic poisoning, may be aspirated into the lungs with resulting chemical pneumonitis, pneumonia, and pulmonary edema, such products shall be labeled with the signal word "danger" and the statement of hazard "Harmful or fatal if swallowed."

(6) *Charcoal.* Charcoal briquettes and other forms of charcoal in containers for retail sale and intended for cooking or heating.

(i) Because inhalation of the carbon monoxide produced by burning charcoal indoors or in confined areas may cause serious injury or death, containers of such products shall bear the following borderlined statement:

> WARNING: Do Not Use for Indoor Heating or Cooking Unless Ventilation Is Provided for Exhausting Fumes to Outside. Toxic Fumes May Accumulate and Cause Death.

(ii) For bags of charcoal the statement specified in subdivision (i) of this subparagraph shall appear within a heavy borderline in a color sharply contrasting to that of the background, on both front and back panels in the upper 25 percent of the panels of the bag at least 2 inches below the seam, and at least 1 inch above any reading material or design elements in type size as follows: The signal word "WARNING" shall appear in capital letters at least three-eighths inch in height; the remaining text of the warning statement shall be printed in letters at least three-sixteenths inch in height.

**§ 1500.15 Labeling of fire extinguishers.**

When a substance or mixture of substances labeled for use in or as a fire extinguisher produces substances that are toxic within the meaning of § 1500.3(c)(1) and (2) when used according to label directions to extinguish a fire, the containers for such substances shall bear the following labeling:

(a) When substances are produced that meet the definition of highly toxic in §1500.3(c)(1), the signal word "Danger" and the statement of hazard "Poisonous gases formed when used to extinguish flame or on contact with heat" are required labeling.

(b) When substances are produced that meet the definition of toxic in § 1500.3(c)(2), the signal word "Caution" or "Warning" and the statement of hazard "Dangerous gas formed when used to extinguish flame or on contact with heat" are required labeling.

(c) Regardless of whether paragraph (a) or (b) of this section applies, any substance or mixture of substances labeled for use as a fire extinguisher that, if applied to an electrical fire, would subject the user to the likelihood of electrical shock shall be conspicuously labeled "Caution: Do not use on electrical wires."

(d) The statements specified in paragraphs (a), (b), and (c) of this section shall be in addition to any other that may be required under the act. All such substances or mixtures of substances shall also bear the additional statements "Use in an enclosed place may be fatal" and "Do not enter area until well ventilated and all odor of chemical has disappeared."

**§ 1500.17 Banned hazardous substances.**

(a) Under the authority of section 2(q)(1)(B) of the act, the Commission declares as banned hazardous substances the following articles because they possess such a degree or nature of hazard that adequate cautionary labeling cannot be written and the public health and safety can be served only by keeping such articles out of interstate commerce:

(1) Mixtures that are intended primarily for application to interior masonry walls, floors, etc., as a water repellant treatment and that are "extremely flammable" within the meaning of section 2(l) of the act (repeated in § 1500.3(b)(10)).

(2) Carbon tetrachloride and mixtures containing it (including carbon tetrachloride and mixtures containing it used in fire extinguishers), excluding unavoidable manufacturing residues of carbon tetrachloride in other chemicals that under reasonably foreseeable conditions of use do not result in an atmospheric concentration of carbon tetrachloride greater than 10 parts per million.

(3) Fireworks devices intended to produce audible effects (including but not limited to cherry bombs, M–80 salutes, silver salutes, and other large firecrackers, aerial bombs, and other fireworks designed to produce audible effects, and including kits and components intended to produce such fireworks) if the audible effect is produced by a charge of more than 2 grains of pyrotechnic composition; except that this provision shall not apply to such fireworks devices if all of the following conditions are met:

(i) Such fireworks devices are distributed to farmers, ranchers, or growers through a wildlife management program administered by the U.S. Department of the Interior (or by equivalent State or local government agencies); and

(ii) Such distribution is in response to a written application describing the wildlife management problem that requires use of such devices, is of a quantity no greater than required to control the problem described, and is where other means of control are unavailable or inadequate.

(4) Liquid drain cleaners containing 10 percent or more by weight of sodium and/or potassium hydroxide; except that this subparagraph shall not apply to such liquid drain cleaners if packaged in accordance with a standard for special packaging of such articles promulgated under the Poison Prevention Packaging Act of 1970 (Pub. L. 91–601, 84 Stat. 1670–74 (15 U.S.C. 1471–76)).

(5) Products containing soluble cyanide salts, excluding unavoidable manufacturing residues of cyanide salts in other chemicals that under reasonable and foreseeable conditions of use will not result in a concentration of cyanide greater than 25 parts per million.

(6)(i) Any paint or other similar surface-coating material intended, or packaged in a form suitable, for use in or around the household that:

(A) Is shipped in interstate commerce after December 31, 1973, and contains lead compounds of which the lead content (calculated as the metal) is in excess of 0.06 percent of the total weight of the contained solids or dried paint film; or

(B) Is shipped in interstate commerce between December 31, 1972, and December 31, 1973, and contains lead compounds of which the lead content (calculated as the metal) is in excess of 0.5 percent of the total weight of the contained solids or dried paint film.

(ii) Any toy or other article intended for use by children that:

(A) Is shipped in interstate commerce after December 31, 1973, and bears any paint or other similar surface-coating material containing lead compounds of which the lead content (calculated as the metal) is in excess of 0.06 percent of the total weight of the contained solids or dried paint film; or

(B) Is shipped in interstate commerce between December 31, 1972, and December 31, 1973, and bears any paint or other similar surface-coating material containing lead compounds of which the lead content (calculated as the metal) is in excess of 0.5 percent of the total weight of the contained solids or dried paint film.

NOTE.—The effective date of paragraphs (a)(6)(i)(A) and (a)(6)(ii)(A) were stayed by an order published in the FEDERAL REGISTER of August 10, 1972 (37 FR 16078).

(7) General-use garments containing asbestos (other than garments having a bona fide application for personal protection against thermal injury and so constructed that the asbestos fibers will not become airborne under reasonably foreseeable conditions of use).

(Sec. 701 (e), (f), (g), 52 Stat. 1055, as amended (21 U.S.C. 371 (e), (f), (g)).)

**§ 1500.18 Banned toys and other banned articles intended for use by children.**

(a) *Toys and other children's articles presenting mechanical hazards.* Under the authority of section 2(f)(1)(D) of the act and pursuant to provisions of section 3(e) of the act, the Commission has



V 38 I 187
SEP 27 73
XUM

determined that the following types of toys or other articles intended for use by children present a mechanical hazard within the meaning of section 2(s) of the act because in normal use, or when subjected to reasonably foreseeable damage or abuse, the design or manufacture presents an unreasonable risk of personal injury or illness:

(1) Any toy rattle containing, either internally or externally, rigid wires, sharp protrusions, or loose small objects that have the potential for causing lacerations, puncture wound injury, aspiration, ingestion, or other injury.

(2) Any toy having noisemaking components or attachments capable of being dislodged by the operating features of the toy or capable of being deliberately removed by a child, which toy has the potential for causing laceration, puncture wound injury, aspiration, ingestion, or other injury.

(3) Any doll, stuffed animal, or other similar toy having internal or external components that have the potential for causing laceration, puncture wound injury, or similar injury.

(4) Lawn darts and other similar sharp-pointed toys usually intended for outdoor use and having the potential for causing puncture wound injury.

(5) Caps (paper or plastic) intended for use with toy guns and toy guns not intended for use with caps if such caps when so used or such toy guns produce impulse-type sound at a peak pressure leved at or above 138 decibels, referred to 0.0002 dyne per square centimeter, when measured in an anechoic chamber at a distance of 25 centimeters (or the distance at which the sound source ordinarily would be from the ear of the child using it if such distance is less than 25 centimeters) in any direction from the source of the sound. This subparagraph is an interim regulation pending further investigation to determine whether prevention of damage to the hearing of children requires revision hereof.

(6) Any article known as a "baby-bouncer," "walker-jumper," or "baby-walker" and any other similar article (referred to in this subparagraph as "article(s)") which is intended to support very young children while sitting, walking, bouncing, jumping, and/or reclining, and which because of its design has any exposed parts capable of causing amputation, crushing, lacerations, fractures, hematomas, bruises, or other injuries to fingers, toes, or other parts of the anatomy of young children. Included among, but not limited to, the design features of such articles which classify the articles as banned hazardous substances are:

(i) The areas about the point on each side of the article where the frame components are joined together to form an "X" shape capable of producing a scissoring, shearing, or pinching effect.

(ii) Other areas where two or more parts are joined in such a manner as to permit a rotational movement capable of exerting a scissoring, shearing, or pinching effect.

(iii) Exposed coil springs which may expand sufficiently to allow an infant's finger, toe, or any other part of the anatomy to be inserted, in whole or in part, and injured by being caught between the coils of the spring or between the spring and another part of the article.

(iv) Holes in plates or tubes which provide the possibility of insertion, in whole or in part, of a finger, toe, or any part of the anatomy that could then be injured by the movement of another part of the article.

(v) Design and construction that permits accidental collapse while in use.

(7) Toys usually known as clacker balls and consisting of two balls of plastic or another material connected by a length of line or cord or similar connector (referred to as "cord" in § 1500.86(a)(5)), intended to be operated in a rhythmic manner by an upward and downward motion of the hand so that the two balls will meet forcefully at the top and bottom of two semicircles thus causing a "clacking" sound, which toys present a mechanical hazard because their design or manufacture presents an unreasonable risk of personal injury from fracture, fragmentations, or disassembly of the toy and from propulsion of the toy or its part(s).

(b) *Electrically operated toys and other electrical operated children's articles presenting electrical, thermal, and/or certain mechanical hazards.* Under the authority of section 2(f)(1)(D) of the act and pursuant to provisions of section 3(e) of the act, the Commission has determined that the following types of electrically operated toys or other electrically operated articles intended for use by children present electrical, thermal, and/or certain mechanical hazards within the meaning of section 2(r), (s), and/or (t) of the act because in normal use or when subjected to reasonably foreseeable damage or abuse, the design or manufacture may cause personal injury or illness by electric shock and/or presents an unreasonable risk of personal injury or illness because of heat as from heated parts, substances, or surfaces, or because of certain mechanical hazards:

(1) Any electrically operated toy or other electrically operated article intended for use by children (as defined in § 1505.1(a)(1)) that is introduced into interstate commerce and which does not comply with the requirements of Part 1505 of this chapter.

NOTE.—Paragraph (b)(1) was originally promulgated as 21 CFR 191.9a(b)(1) with an effective date of September 3, 1973 (38 FR 6138).

### § 1500.40 Method of testing toxic substances.

The method of testing the toxic substances referred to in § 1500.3(c)(1)(ii)(C) and (2)(iii) is as follows:

(a) *Acute dermal toxicity (single exposure).* In the acute exposures, the agent is held in contact with the skin by means of a sleeve for periods varying up to 24 hours. The sleeve, made of rubber dam or other impervious material, is so constructed that the ends are reinforced with additional strips and should fit snugly around the trunk of the animal. The ends of the sleeve are tucked, permitting the central portion to "balloon" and furnish a reservoir for the dose. The reservoir must have sufficient capacity to contain the dose without pressure. In the following table are given the dimensions of sleeves and the approximate body surface exposed to the test substance. The sleeves may vary in size to accommodate smaller or larger subjects. In the testing of unctuous materials that adhere readily to the skin, mesh wire screen may be employed instead of the sleeve. The screen is padded and raised approximately 2 centimeters from the exposed skin. In the case of dry powder preparations, the skin and substance are moistened with physiological saline prior to exposure. The sleeve or screen is then slipped over the gauze that holds the dose applied to the skin. In the case of finely divided powders, the measured dose is evenly distributed on cotton gauze which is then secured to the area of exposure.

DIMENSIONS OF SLEEVES FOR ACUTE DERMAL TOXICITY TEST

[Test animal—Rabbits]

| Measurements in centimeters | | Range of weight of animals (grams) | Average area of exposure (square centimeters) | Average percentage of total body surface |
|---|---|---|---|---|
| Diameter at ends | Overall length | | | |
| 7.0 | 12.5 | 2,500-3,500 | 240 | 10.7 |

(b) *Preparation of test animal.* The animals are prepared by clipping the skin of the trunk free of hair. Approximately one-half of the animals are further prepared by making epidermal abrasions every 2 or 3 centimeters longitudinally over the area of exposure. The abrasions are sufficiently deep to penetrate the stratum corneum (horny layer of the epidermis) but not to disturb the derma; that is, not to obtain bleeding.

(c) *Procedures for testing.* The sleeve is slipped onto the animal which is then placed in a comfortable but immobilized position in a multiple animal holder. Selected doses of liquids and solutions are introduced under the sleeve. If there is slight leakage from the sleeve, which may occur during the first few hours of exposure, it is collected and reapplied. Dosage levels are adjusted in subsequent exposures (if necessary) to enable a calculation of a dose that would be fatal to 50 percent of the animals. This can be determined from mortality ratios obtained at various doses employed. At the end of 24 hours the sleeves or screens are removed, the volume of unabsorbed material (if any) is measured, and the skin reactions are noted. The subjects are cleaned by thorough wiping, observed for gross symptoms of poisoning, and then observed for 2 weeks.





### § 1500.41 Method of testing primary irritant substances.

Primary irritation to the skin is measured by a patch-test technique on the abraded and intact skin of the albino rabbit, clipped free of hair. A minimum of six subjects are used in abraded and intact skin tests. Introduce under a square patch, such as surgical gauze measuring 1 inch by 1 inch and two single layers thick, 0.5 milliliter (in the case of liquids) or 0.5 gram (in the case of solids and semisolids) of the test substance. Dissolve solids in an appropriate solvent and apply the solution as for liquids. The animals are immobilized with patches secured in place by adhesive tape. The entire trunk of the animal is then wrapped with an impervious material, such as rubberized cloth, for the 24-hour period of exposure. This material aids in maintaining the test patches in position and retards the evaporation of volatile substances. After 24 hours of exposure, the patches are removed and the resulting reactions are evaluated on the basis of the designated values in the following table:

| Skin reaction | Value [1] |
|---|---|
| Erythema and eschar formation: | |
| No erythema | 0 |
| Very slight erythema (barely perceptible) | 1 |
| Well-defined erythema | 2 |
| Moderate to severe erythema | 3 |
| Severe erythema (beet redness) to slight eschar formations (injuries in depth) | 4 |
| Edema formation: | |
| No edema | 0 |
| Very slight edema (barely perceptible | 1 |
| Slight edema (edges of area well defined by definite raising) | 2 |
| Moderate edema (raised approximately 1 millimeter) | 3 |
| Severe edema (raised more than 1 milliheter and extending beyond the area of exposure) | 4 |

[1] The "value" recorded for each reading is the average value of the six or more animals subject to the test.

Readings are again made at the end of a total of 72 hours (48 hours after the first reading). An equal number of exposures are made on areas of skin that have been previously abraded. The abrasions are minor incisions through the stratum corneum, but not sufficiently deep to disturb the derma or to produce bleeding. Evaluate the reactions of the abraded skin at 24 hours and 72 hours, as described in this paragraph. Add the values for erythema and eschar formation at 24 hours and at 72 hours for intact skin to the values on abraded skin at 24 hours and at 72 hours (four values). Similarly, add the values for edema formation at 24 hours and at 72 hours for intact and abraded skin (four values). The total of the eight values is divided by four to give the primary irritation score; for example:

| Skin reaction | Exposure time (hours) | Evaluation value |
|---|---|---|
| Erythema and eschar formation: | | |
| Intact skin | 24 | 2 |
| Do | 72 | 1 |
| Abraded skin | 24 | 3 |
| Do | 72 | 2 |
| Subtotal | | 8 |
| Edema formation: | | |
| Intact skin | 24 | 0 |
| Do | 72 | 1 |
| Abraded skin | 24 | 1 |
| Do | 72 | 2 |
| Subtotal | | 4 |
| Total | | 12 |

Thus, the primary irritation score is 12÷4=3.

### § 1500.42 Test for eye irritants.

(a)(1) Six albino rabbits are used for each test substance. Animal facilities for such procedures shall be so designed and maintained as to exclude sawdust, wood chips, or other extraneous materials that might produce eye irritation. Both eyes of each animal in the test group shall be examined before testing, and only those animals without eye defects or irritation shall be used. The animal is held firmly but gently until quiet. The test material is placed in one eye of each animal by gently pulling the lower lid away from the eyeball to form a cup into which the test substance is dropped. The lids are then gently held together for one second and the animal is released. The other eye, remaining untreated, serves as a control. For testing liquids, 0.1 milliliter is used. For solids or pastes, 100 milligrams of the test substance is used, except that for substances in flake, granule, powder, or other particulate form the amount that has a volume of 0.1 milliliter (after compacting as much as possible without crushing or altering the individual particles, such as by tapping the measuring container) shall be used whenever this volume weighs less than 100 milligrams. In such a case, the weight of the 0.1 milliliter test dose should be recorded. The eyes are not washed following instillation of test material except as noted below.

(2) The eyes are examined and the grade of ocular reaction is recorded at 24, 48, and 72 hours. Reading of reactions is facilitated by use of a binocular loupe, hand silt-lamp, or other expert means. After the recording of observations at 24 hours, any or all eyes may be further examined after applying fluorescein. For this optional test, one drop of fluorescein sodium ophthalmic solution U.S.P. or equivalent is dropped directly on the cornea. After flushing out the excess flourescein with sodium chloride solution U.S.P. or equivalent, injured areas of the cornea appear yellow; this is best visualized in a darkened room under ultraviolet illumination. Any or all eyes may be washed with sodium chloride solution U.S.P. or equivalent after the 24-hour reading.

(b)(1) An animal shall be considered as exhibiting a positive reaction if the test substance produces at any of the readings ulceration of the cornea (other than a fine stippling), or opacity of the cornea (other than a slight dulling of the normal luster), or inflamation of the iris (other than a slight deepening of the folds (or rugae) or a slight circumcorneal injection of the blood vessels), or if such substance produces in the conjunctivae (excluding the cornea and iris) an obvious swelling with partial eversion of the lids or a diffuse crimson-red with individual vessels not easily discernible.

(2) The test shall be considered positive if four or more of the animals in the test group exhibit a positive reaction. If only one animal exhibits a positive reaction, the test shall be regarded as negative. If two or three animals exhibit a positive reaction, the test is repeated using a different group of six animals. The second test shall be considered positive if three or more of the animals exhibit a positive reaction. If only one or two animals in the second test exhibit a positive reaction, the test shall be repeated with a different group of six animals. Should a third test be needed, the substance will be regarded as an irritant if any animal exhibits a positive response.

(c) To assist testing laboratories and other interested persons in interpreting the results obtained when a substance is tested in accordance with the method described in paragraph (a) of this section, an "Illustrated Guide for Grading Eye Irritation by Hazardous Substances" will be sold by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The guide will contain color plates depicting responses of varying intensity to specific test solutions. The grade of response and the substance used to produce the response will be indicated.

### § 1500.43 Method of test for flashpoint of volatile flammable materials by Tagliabue open-cup apparatus.

SCOPE

1. (a) This method describes a test procedure for the determination of open-cup flashpoints of volatile flammable materials having flashpoints below 175° F.

(b) This method, when applied to paints and resin solutions which tend to skin over or which are very viscous, gives less reproducible results than when applied to solvents.

OUTLINE OF METHOD

2. The sample is placed in the cup of a Tag Open Tester, and heated at a slow but constant rate. A small test flame is passed at a uniform rate across the cup at specified intervals. The flashpoint is taken as the lowest temperature at which application of the test flame causes the vapor at the surface of the liquid to flash, that is, ignite but not continue to burn.



V 38 I 187 SEP 27 73 XUM

APPARATUS

3. The Tag open-cup tester is illustrated in Fig. 1. It consists of the following parts, which must conform to the dimensions shown, and have the additional characteristics as noted:

(a) *Copper bath*, preferably equipped with a constant level overflow so placed as to maintain the bath liquid level ⅛ inch below the rim of the glass cup.

(b) *Thermometer holder*. Support firmly with ringstand and clamp.

(c) *Thermometer*. For flashpoints above 40° F., use the ASTM Tag Closed Tester Thermometer, range of +20 to +230° F., in 1° F. divisions, and conforming to thermometer 9F. of ASTM Standard E 1. For flashpoints from 20° F. to 40° F., use ASTM Tag Closed Tester, Low Range, Thermometer 57F. For flashpoints below 20° F., use ASTM Thermometer 33F. The original Tag Open-Cup (Paper Scale) Thermometer will be a permissible alternate until January 1, 1962. It is calibrated to —20° F.

(d) *Glass test cup*. Glass test cup (Fig. 2), of molded clear glass, annealed, heat-resistant, and free from surface defects.

(e) *Leveling device*. Leveling device or guide, for proper adjustment of the liquid level in the cup (Fig. 3). This shall be made of No. 18-gage polished aluminum, with a projection for adjusting the liquid level when the sample is added to exactly ⅛-inch below the level of the edge or rim of the cup.

(f) "Micro," or small gas burner of suitable dimensions for heating the bath. A screw clamp may be used to help regulate the gas. A small electric heater may be used.

(g) Ignition taper, which is a small straight, blow-pipe type gas burner. The test flame torch prescribed in the method of test for flash and fire points by Cleveland Open Cup (ASTM designation: D 92) is satisfactory.

(h) Alternative methods for maintaining the ignition taper in a fixed horizontal plane above the liquid may be used, as follows:

(1) Guide wire, $\frac{3}{32}$-inch in diameter and 3½ inches in length, with a right-angle bend ½-inch from each end. This wire is placed snugly in holes drilled in the rim of the bath, so that the guide wire is $\frac{5}{16}$-inch from the center of the cup and resting on the rim of the cup.

(2) Swivel-type taper holder, such as is used in ASTM METHOD D 92. The height and position of the taper are fixed by adjusting the holder on a suitable ringstand support adjacent to the flash cup.

(i) Draft shield, consisting of two rectangular sheets of noncombustible material, 24 inches x 28 inches, are fastened together along the 28-inch side, preferably by hinges. A triangular sheet, 24 inches x 24 inches x 34 inches is fastened by hinges to one of the lateral sheets (to form a top when shield is open). The interior of the draft shield shall be painted a flat black.

PROCEDURE

4. (a) Place the tester on a solid table free of vibration, in a location free of perceptible draft, and in a dim light.

(b) Run water, brine, or water-glycol solution into the bath to a predetermined level, which will fill the bath to ⅛-inch below the top when the cup is in place. An overflow is permissible for water-level control.

(c) Firmly support the thermometer vertically halfway between the center and edge of the cup on a diameter at right angles to the guide wire, or on a diameter passing through the center of the cup and the pivot of the taper. Place so that the bottom of the bulb is ¼-inch from the inner bottom surface of the cup. If the old Tagliabue thermometer is used, immerse to well cover the mercury bulb, but not the wide body of the thermometer.

(d) Fill the glass cup with the sample liquid to a depth just ⅛-inch below the edge, as determined by the leveling device.

(e) Place the guide wire or swivel device in position, and set the draft shield around the tester so that the sides form right angles with each other and the tester is well toward the back of the shield.

(f) If a guide wire is used, the taper, when passed, should rest lightly on the wire, with the end of the jet burner just clear of the edge of the guide wire. If the swivel-type holder is used, the horizontal and vertical positions of the jet are so adjusted that the jet passes on the circumference of a circle, having a radius of at least 6 inches, across the center of the cup at right angles to the diameter passing through the thermometer, and in a plane ⅛-inch above the upper edge of the cup. The taper should be kept in the "off" position, at one end or the other of the swing, except when the flame is applied.

(g) Light the ignition flame and adjust it to form a flame of spherical form matching in size the $\frac{5}{32}$-inch sphere on the apparatus.

(h) Adjust heater source under bath so that the temperature of the sample increases at a rate of 2 ±0.5° F. per minute. With viscous materials this rate of heating cannot always be obtained.

INITIAL TEST

5. Determine an approximate flashpoint by passing the taper flame across the sample at intervals of 2° F. Each pass must be in one direction only. The time required to pass the ignition flame across the surface of the sample should be 1 second. Remove bubbles from the surface of the sample liquid before starting a determination. Meticulous attention to all details relating to the taper, size of taper flame, and rate of passing the taper is necessary for good results. When determining the flashpoint of viscous liquids and those liquids that tend to form a film of polymer, etc., on the surface, the surface film should be disturbed mechanically each time before the taper flame is passed.

RECORDED TESTS

6. Repeat the procedure by cooling a fresh portion of the sample, the glass cup, the bath solution, and the thermometer at least 20° F. below the approximate flashpoint. Resume heating, and pass the taper flame across the sample at two intervals of 5° F. and then at intervals of 2° F. until the flashpoint occurs.

REPORTING DATA

7. The average of not less than three recorded tests, other than the initial test, shall be used in determining the flashpoint and flammability of the substance.

STANDARDIZATION

8. (a) Make determinations in triplicate on the flashpoint of standard paraxylene and

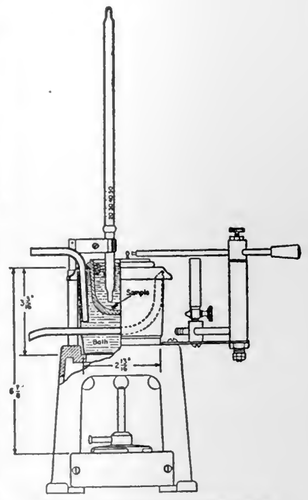



FIGURE 1—*Tag open-cup flash tester.*

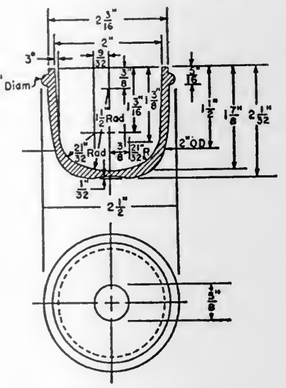



FIGURE 2—*Glass test cup.*

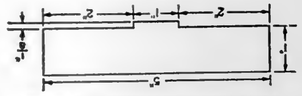



FIGURE 3—*Leveling device for adjusting liquid level in test cup.*





of standard isopropy alcohol which meet the following specifications:

(1) *Specifications for p-xylene, flashpoint check grade.* p-Xylene shall conform to the following requirements:

Specific gravity: 15.56° C./15.56° C., 0.860 minimum, 0.866 maximum.

Boiling range: 2° C. maximum from start to dry point when tested in accordance with the method of test for distillation of industrial aromatic hydrocarbons (ASTM designation: D 850), or the method of test for distillation range of lacquer solvents and diluents (ASTM designation: D 1078). The range shall include the boiling point of pure p-xylene, which is 138.35° C. (281.03° F.).

Purity: 95 percent minimum, calculated in accordance with the method of test for determination of purity from freezing points of high-purity compounds (ASTM designation: D 1016), from the experimentally determined freezing point, measured by the method of test for measurement of freezing points of high-purity compounds for evaluation of purity (ASTM designation: D 1015).

(ii) *Specifications for isopropanol, flashpoint check grade.* Isopropanol shall conform to the following requirements:

Specific gravity: 0.8175 to 0.8185 at 20° C./20° C. as determined by means of a calibrated pycnometer.

Distillation range: Shall entirely distill within a 1.0° C. range which shall include the temperature 80.4° C. as determined by ASTM method D 1078.

Average these values for each compound. If the difference between the values for these two compounds is less than 15° F. (8.5° C.) or more than 27° F. (16° C.), repeat the determinations or obtain fresh standards

(b) Calculate a correction factor as follows:

$$X = 92 - A$$
$$Y = 71 - B$$
$$\text{Correction} = \frac{X+Y}{2},$$

Where:
A = Observed flash of p-xylene, and
B = Observed flash of isopropyl alcohol.

Apply this correction of all determinations. Half units in correction shall be discarded.

PRECISION

9. (a) For hydrocarbon solvents having flashpoints between 60° F. and 110° F., repeatability is ±2° F. and the reproducibility is ±5° F.

(b) If results from two tests differ by more than 10° F., they shall be considered uncertain and should be checked. The calibration procedure provided in this method will cancel out the effect of barometric pressure if calibration and tests are run at the same pressure. Data supporting the precision are given in Appendix III of the 1956 Report of Committee D-1 on Paint, Varnish, Lacquers and Related Products, Proceedings, Am. Soc. Testing Mats., Vol. 56 (1956).

**§ 1500.44 Method for determining extremely flammable and flammable solids.**

(a) *Preparation of samples*—(1) *Granules, powders, and pastes.* Pack the sample into a flat, rectangular metal boat with inner dimensions 6 inches long x 1 inch wide x one-fourth inch deep.

(2) *Rigid and pliable solids.* Measure the dimensions of the sample and support it by means of metal ringstands, clamps, rings, or other suitable devices as needed, so that the major axis is oriented horizontally and the maximum surface is freely exposed to the atmosphere.

(b) *Procedure.* Place the prepared sample in a draft-free area that can be ventilated and cleared after each test. The temperature of the sample at the time of testing shall be between 68° F. and 86° F. Hold a burning paraffin candle whose diameter is at least 1 inch, so that the flame is in contact with the surface of the sample at the end of the major axis for 5 seconds or until the sample ignites, whichever is less. Remove the candle. By means of a stopwatch, determine the time of combustion with self-sustained flame. Do not exceed 60 seconds. Extinguish flame with a $CO_2$ or similar nondestructive type extinguisher. Measure the dimensions of the burnt area and calculate the rate of burning along the major axis of the sample.

**§ 1500.45 Method for determining extremely flammable and flammable contents of self-pressurized containers.**

(a) *Equipment required.* The test equipment consists of a base 8 inches wide, 2 feet long, marked in 6-inch intervals. A rule 2 feet long and marked in inches is supported horizontally on the side of the base and about 6 inches above it. A paraffin candle 1 inch or more in diameter, and of such height that the top third of the flame is at the height of the horizontal rule, is placed at the zero point in the base.

(b) *Procedure.* The test is conducted in a draft-free area that can be ventilated and cleared after each test. Place the self-pressurized container at a distance of 6 inches from the flame source. Spray for periods of 15 seconds to 20 seconds (one observer noting the extension of the flame and the other operating the container) through the top third of the flame and at a right angle to the flame. The height of the flame should be approximately 2 inches. Take three readings for each test, and average. As a precaution do not spray large quantities in a small, confined space. Free space of previously discharged material.

**§ 1500.46 Method for determining flashpoint of extremely flammable contents of self-pressurized containers.**

The apparatus used in the Tagliabue Open-Cup Flashpoint Apparatus as described in § 1500.43. Some means such as dry ice in an open container is used to chill the pressurized container. The container, the flash cup, and the bath solution of the apparatus (brine of glycol may be used) are chilled to a temperature of about 25° F. below zero. The chilled container is punctured to exhaust the propellant. The chilled formulation is transferred to the test apparatus and tested in accordance with the method described in § 1500.43.

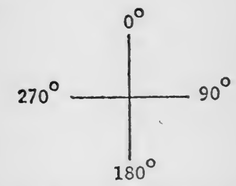
**§ 1500.47 Method for determining the sound pressure level produced by toy caps.**

(a) *Equipment required.* The equipment for the test includes a microphone, a preamplifier (if required), and an oscilloscope.

(1) The microphone-preamplifier system shall have a free-field response uniform to within ±2 decibels from 50 hertz to 70 kilohertz or beyond and a dynamic range covering the interval 70 to 160 decibels relative to 20 micronewtons per square meter. Depending on the model, the microphone shall be used at normal or at grazing incidence, whichever gives the most uniform free-field response. The microphone shall be calibrated both before and after the test of a model of cap. The calibration shall be accurate to within ±1 decibel. If the calibration is of the pressure type or of the piston-phone plus electrostatic actuator type, it shall be corrected to free-field conditions in accordance with the manufacturer's instructions.

(2) The oscilloscope shall be the storage type or one equipped with a camera. It shall have a response uniform to within ±1 decibel from 50 hertz to 250 kilohertz or higher. It shall be calibrated to within ±1 decibel against an external voltage source periodically during the tests.

(b) *Procedure.* (1) Use the type pistol that would ordinarily be used with the caps being tested. Place the pistol and testing equipment so that neither the pistol nor the microphone is closer than 1 meter from any wall, floor, ceiling, or other large obstruction. Locate the pistol and the microphone in the same horizontal plane with a distance of 25 centimeters between the diaphragm of the microphone and the position of the explosive. Measure the peak sound pressure level at each of the six designated orientations of the pistol with respect to the measuring microphone. The 0° orientation corresponds to the muzzle of the pistol pointing at the microphone. The 90°, 180°, and 270° orientations are measured in a clockwise direction when looking down on the pistol with its barrel horizontal, as illustrated by the following figure:




(2) The hammer and trigger orientations are obtained by rotating the pistol about the axis of the barrel, when the pistol is in the 90° or 270° orientation, so that the hammer and the trigger are each respectively closest to and in the same horizontal plane with the microphone.



V 38 187 SEP 27 73 XUM

(3) Fire 10 shots at each of the six orientations, obtaining readings on the oscilloscope of the maximum peak voltage for each shot. Average the results of the 10 firings for each of the six orientations.

(4) Using the orientation that yields the highest average value, convert the value to sound pressure levels in decibels relative to 20 micronewtons per square meter using the response to the calibrated measuring microphone.

**§ 1500.81 Exemptions for food, drugs, cosmetics, and fuels.**

(a) *Food, drugs, and cosmetics.* Substances subject to the Federal Food, Drug, and Cosmetic Act are exempted by section 2(f)(2) of the act; but where a food, drug, or cosmetic offers a substantial risk of injury or illness from any handling or use that is customary or usual it may be regarded as misbranded under the Federal Food, Drug, and Cosmetic Act because its label fails to reveal material facts with respect to consequences that may result from use of the article (21 U.S.C. 321(n)) when its label fails to bear information to alert the householder to this hazard.

(b) *Fuels.* A substance intended to be used as a fuel is exempt from the requirements of the act when in containers that are intended to be or are installed as part of the heating, cooling, or refrigeration system of a house. A portable container used for delivery or temporary or additional storage, and containing a substances that is a hazardous substance as defined in section 2(f) of the act, is not exempt from the labeling prescribed in section 2(p) of the act, even though it contains a fuel to be used in the heating, cooking, or refrigeration system of a house.

**§ 1500.82 Exemption from full labeling and other requirements.**

(a) Any person who believes a particular hazardous substance intended or packaged in a form suitable for use in the household or by children should be exempted from full label compliance otherwise applicable under the act, because of the size of the package or because of the minor hazard presented by the substance, or for other good and sufficient reason, may submit to the Commission a request for exemption under section 3(c) of the act, presenting facts in support of the view that full compliance is impracticable or is not necessary for the protection of the public health. The Commission shall determine on the basis of the facts submitted and all other available information whether the requested exemption is consistent with adequate protection of the public health and safety. If the Commission so finds, it shall detail the exemption granted and the reasons therefor by an appropriate order published in the FEDERAL REGISTER.

(b) The Commission may on its own initiative determine on the basis of facts available to it that a particular hazardous substance intended or packaged in a form suitable for use in the household or by children should be exempted from full labeling compliance otherwise applicable under the act because of the size of the package or because of the minor hazard presented by the substance or for other good and sufficient reason. If the Commission so finds, it shall detail the exemption granted and the reasons therefor by an appropriate order in the FEDERAL REGISTER.

(c) Any person who believes a particular article should be exempted from being classified as a "banned hazardous substance" as defined by section 2(q)(1)(A) of the act (repeated in § 1500.3(b)(15)(i)(A)), because its functional purpose requires inclusion of a hazardous substance, it bears labeling giving adequate directions and warnings for safe use, and it is intended for use by children who have attained sufficient maturity, and may reasonably be expected, to read and heed such directions and warnings, may submit to the Commission a request for exemption under section 2(q)(1)(B)(i) of the act (repeated in proviso (*1*) under § 1500.3(b)(15)(i)), presenting facts in support of his contention. The Commission shall determine on the basis of the facts submitted, and all other available information, whether the requested exemption is consistent with the purposes of the act. If the Commission so finds, it shall detail the exemption granted and the reasons therefor by an appropriate order in the FEDERAL REGISTER.

(d) On its own initiative, the Commission may determine on the basis of available facts that a particular banned hazardous substance should be exempted from section 2(q)(1)(A) of the act (repeated in § 1500.3(b)(15)(i)(A)), because its functional purpose requires inclusion of a hazardous substance, it bears labeling giving adequate directions and warnings for safe use, and it is intended for use by children who have obtained sufficient maturity, and may reasonably be expected, to read and heed such directions and warnings. It the Commission so finds, it shall detail the exemption granted and teh reasons therefor by an appropriate order in the FEDERAL REGISTER.

**§ 1500.83 Exemptions for small packages, minor hazards, and special circumstances.**

(a) The following exemptions are granted for the labeling of hazardous substances under the provisions of § 1500.82:

(1) When the sole hazard from a substance in a self-pressurized container is that it generates pressure or when the sole hazard from a substance is that it is flammable or extremely flammable, the name of the component which contributes the hazardous need not be stated.

(2) Common matches, including book matches, wooden matches, and so-called "safety" matches are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)) insofar as they apply to the product being considered hazardous because of being "flammable" or "extremely flammable" as defined in § 1500.3(c)(6)(iii) and (iv).

(3) Paper items such as newspapers, wrapping papers, toilet and cleansing tissues, and paper writing supplies are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)) insofar as they apply to the products being considered hazardous because of being "flammable" or "extremely flammable" as defined in § 1500.3(c)(6)(iii) and (iv).

(4) Thread, string, twine, rope, cord, and similar materials are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)) insofar as they apply to the products being considered hazardous because of being "flammable" or "extremely flammable" as defined in § 1500.3(c)(6)(iii) and (iv).

(5) Laboratory chemicals intended only for research or investigational and other laboratory uses (except those in home chemistry sets) are exempt from the requirements of placement provided in § 1500.121 if all information required by that section and the act appears with the required prominence on the label panel adjacent to the main panel.

(6) Small-arms ammunition packaged in retail containers is exempt from the labeling requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)) if such containers' labels bear the following:

(i) The common or usual name of the ammunition in the container;

(ii) The statement "Warning—Keep out of the reach of children," or its practical equivalent; and

(iii) The name and place of business of the manufacturer, packer, seller, or distributor.

The term "ammunition" as used in this subparagraph includes small-arms ammunition and loads for powder-actuated tools in a form ready for use in a pistol, revolver, rifle, shotgun, or powder-actuated tool, including blank cartridges and shells.

(7) Rigid or semirigid ballpoint ink cartridges are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)), insofar as such requirements would be necessary because the ink contained therein is a "toxic" substance as defined in § 1500.3(c)(2)(i), if:

(i) The ballpoint ink cartridge is of such construction that the ink will, under any reasonably foreseeable conditions of manipulation or use, emerge only from the ballpoint end;

(ii) When tested by the method described in § 1500.3(c)(2)(i), the ink does not have an LD–50 single oral dose of less than 500 milligrams per kilogram of body weight of the test animal); and

(iii) The cartridge does not have a capacity of more than 2 grams of ink.

(8) Containers of paste shoe waxes, paste auto waxes, and paste furniture and floor waxes containing toluene (also known as toluol), xylene (also known as xylol), petroleum distillates, and/or turpentine in the concentrations described in § 1500.14(a)(3) and (5) are exempt from the labeling requirements of § 1500.14(b)(3)(ii) and (5) if the viscosity of such products is sufficiently high so that they will not flow from their opened containers when inverted for 5 minutes at a temperature of 80° F., and are exempt from bearing a flammability warning statement if the flammability of such waxes is due solely to the presence of solvents that have flashpoints above 80° F., when tested by the method described in § 1500.43.

(9) Porous-tip ink-marking devices are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)) and from the labeling requirements of § 1500.14(b)(1), (2), and (3)(ii) and (iii) insofar as such requirements would be necessary because the ink contained therein is a toxic substance as defined in § 1500.3(c)(2)(i), and/or because the ink contains 10 percent or more by weight of toluene (also known as toluol), xylene (also known as xylol), or petroleum distillates as defined in § 1500.14(a)(3), and/or because the ink contains 10 percent or more by weight of ethylene glycol; provided that:

(i) The porous-tip ink-marking devices are of such construction that:

(A) The ink is held within the device by an absorbent material so that no free liquid is within the device; and

(B) Under any reasonably foreseeable conditions of manipulation and use, including reasonably foreseeable abuse by children, the ink will emerge only through the porous writing nib of the device; and

(ii)(A) The device has a capacity of not more than 10 grams of ink and the ink, when tested by methods described in § 1500.3(c)(2)(i), has an LD–50 single oral dose of not less than 2.5 grams per kilogram of body weight of the test animal; or

(B) The device has a capacity of not more than 12 grams of ink and the ink, when tested by methods described in § 1500.3(c)(2)(i), has an LD–50 single oral dose of not less than 3.0 grams per kilogram of body weight of the test animal.

(10) Viscous nitrocellulose-base adhesives containing more than 4 percent methyl alcohol by weight are exempt from the label statement "Cannot be be made nonpoisonous" required by § 1500.14(b)(4) if:

(i) The total amount of methyl alcohol by weight in the product does not exceed 15 percent; and

(ii) The contents of any container does not exceed 2 fluid ounces.

(11) Packages containing polishing or cleaning products which consist of a carrier of solid particulate or fibrous composition and which contain toluene (also known as toluol), xylene (also known as xylol), or petroleum distillates in the concentrations described in § 1500.14(a)(1) and (2) are exempt from the labeling requirements of § 1500.14(b)(3)(ii) if such toluene, xylene, or petroleum distillate is fully absorbed by the solid, semisolid, or fibrous carrier and cannot be expressed therefrom with any reasonably foreseeable conditions of manipulation.

(12) Containers of dry ink intended to be used as a liquid ink after the addition of water are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)) and from the labeling requirements of § 1500.14(b)(1) and (2) insofar as such requirements would be necessary because the dried ink contained therein is a toxic substance as defined in § 1500.3(c)(2)(i) and/or because the ink contains 10 percent or more of ethylene glycol as defined in § 1500.14(a)(2); provided that:

(i) When tested by the method described in § 1500.3(c)(2)(i), the dry ink concentrate does not have an LD–50 (lethal dose, median; lethal for 50 percent or more of test group) single oral dose of less than 1 gram per kilogram of body weight of the test animal.

(ii) The dry ink concentrate enclosed in a single container does not weigh more than 75 milligrams.

(iii) The dry ink concentrate does not contain over 15 percent by weight of ethylene glycol.

(13) Containers of liquid and semisolid substances such as viscous-type paints, varnishes, lacquers, roof coatings, rubber vulcanizing preparations, floor covering adhesives, glazing compounds, and other viscous products containing toluene (also known as toluol), xylene (also known as xylol), or petroleum distillates in concentrations described in § 1500.14(a)(3) are exempt from the labeling requirements of § 1500.14(b)(3)(ii) insofar as that subdivision applies to such toluene, xylene, or petroleum distillates, provided that the viscosity of the substance or of any liquid that may separate or be present in the container is not less than 100 Saybolt universal seconds at 100° F.

(14) Customer-owned portable containers that are filled by retail vendors with gasoline, kerosene (kerosine), or other petroleum distillates are exempt from the provision of section 2(p)(1)(A) of the act (which requires that the name and place of business of the manufacturer, distributor, packer, or seller appear on the label of such containers) provided that all the other label statements required by section 2(p)(1) of the act and §1500.14(b)(3) appear on the labels of containers of the substances named in this subparagraph.

(15) Cellulose sponges are exempt from the labeling requirements of section 2(p)(1) of the act and § 1500.14(b)(1) insofar as such requirements would be necessary because they contain 10 percent or more of diethylene glycol as defined in § 1500.14(a)(1), provided that:

(i) The cellulose sponge does not contain over 15 percent by weight of diethylene glycol; and

(ii) The diethylene glycol content is completely held by the absorbent cellulose material so that no free liquid is within the sponge as marketed.

(16) Containers of substances which include salt (sodium chloride) as a component are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)) insofar as such requirements would be necessary because the salt contained therein is present in a quantity sufficient to render the article "toxic" as defined in § 1500.3(3)(2)(i), provided that the labels of such containers bear a conspicuous statement that the product contains salt.

(17) The labeling of substances containing 10 percent or more of ferrous oxalate is exempt from the requirement of § 1500.129(f) that it bear the word "poison" which would be required for such concentration of a salt of oxalic acid.

(18) Packages containing articles intended as single-use spot removers, and which consist of a cotton pad or other absorbent material saturated with a mixture of drycleaning solvents, are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)) insofar as they apply to the "flammable" hazard as defined in § 1500.3(c)(6)(iv), provided that:

(i) The article is packaged in a sealed foil envelope;

(ii) The total amount of solvent in each package does not exceed 4.5 milliliters; and

(iii) The article will ignite only when in contact with an open flame, and when so ignited, the article burns with a sooty flame.

(19) Packages containing articles intended as single-use spot removers, and which consist of a cotton pad or other absorbent material containing methyl alcohol, are exempt from the labeling requirements of § 1500.14(b)(4), if:

(i) The total amount of cleaning solvent in each package does not exceed 4.5 milliliters of which not more than 25 percent is methyl alcohol; and

(ii) The liquid is completely held by the absorbent materials so that no free liquid is within the packages marketed.

(20) Cigarette lighters containing petroleum distillate fuel are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)) and § 1500.14(b)(3) insofar as such requirements would be necessary because the petroleum distillate contained therein is flammable and because the substance is named in § 1500.14(a)(3) as requiring special labeling, provided that:

(i) Such lighters contain not more than 10 cubic centimeters of fuel at the time of sale; and

(ii) Such fuel is contained in a sealed compartment that cannot be opened without the deliberate removal of the flush-set, screw-type refill plug of the lighter.

(21) Containers of dry granular fertilizers and dry granular plant foods are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)) insofar as such requirements would be necessary because the fertilizer or plant food contained therein is a toxic substance as defined in § 1500.3(c)(2)(i), provided that:

(i) When tested by the method described in § 1500.3(c)(2)(i), the product has a single dose LD–50 of not less than







V 38 I 187 SEP 27 73 XUM

3.0 grams per kilogram of body weight of the test animal;

(ii) The label of any such exempt dry granular fertilizers discloses the identity of each of the hazardous ingredients;

(iii) The label bears the name and address of the manufacturer, packer, distributor, or seller; and

(iv) The label bears the statement "Keep out of the reach of children" or its practical equivalent.

(22) Small plastic capsules containing a paste composed of powdered metal solder mixed with a liquid flux are exempt from the requirements of section 2(p)(1) of the act (repeated in § 1500.3-(b)(14)(i)), if:

(i) The capsule holds not more than one-half milliliter of the solder mixture;

(ii) The capsule is sold only as a component of a kit; and

(iii) Adequate caution statements appear on the carton of the kit and on any accompanying labeling which bears directions for use.

(23) Chemistry sets and other science education sets intended primarily for use by juveniles, and replacement containers of chemicals for such sets, are exempt from the requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)), if:

(i) The immediate container of each chemical that is hazardous as defined in the act and regulations thereunder bears on its main panel the name of such chemical, the appropriate signal word for that chemical, and the additional statement "Read back panel before using" (or "Read side panel before using," if appropriate) and bears on the back (or side) panel of the immediate container the remainder of the appropriate cautionary statement for the specific chemical in the container;

(ii) The experiment manual or other instruction book or booklet accompanying such set bears on the front page thereof, as a preface to any written matter in it (or on the cover, if any there be), the following caution statement within the borders of a rectangle and in the type size specified in § 1500.121:

> WARNING—This set contains chemicals that may be harmful if misused. Read cautions on individual containers carefully. Not to be used by children except under adult supervision.

; and

(iii) The outer carton of such set bears on the main display panel within the borders of a rectangle, and in the type size specified in § 1500.121, the caution statement specified in paragraph (a)(23)(ii) of this section.

(24) Fire extinguishers containing fire extinguishing agents which are stored under pressure or which develop pressure under normal conditions of use are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)) insofar as such requirements apply to the pressure hazard as defined in § 1500.3(c)(7)(i), provided that:

(i) If the container is under pressure both during storage and under conditions of use, it shall be designed to withstand a pressure of at least 6 times the charging pressure at 70° F., except that carbon dioxide extinguishers shall be constructed and tested in accordance with applicable Interstate Commerce Commission specifications; or

(ii) If the container is under pressure only during conditions of use, it shall be designed to withstand a pressure of not less than 5 times the maximum pressure developed under closed nozzle conditions at 70° F. or 1½ times the maximum pressure developed under closed nozzle conditions at 120° F., whichever is greater.

(25) Cleaning and spot removing kits intended for use in cleaning carpets, furniture, and other household objects; kits intended for use in coating, painting, antiquing, and similarly processing furniture, furnishings, equipment, sidings, and various other surfaces; and kits intended for use in photographic color processing are exempt from the requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)) and from the requirements of § 1500.14, provided that:

(i) The immediate container of each hazardous substance in the kit is fully labeled and in conformance with the requirements of the act and regulations thereunder; and

(ii) The carton of the kit bears on the main display panel (or panels) within a borderline, and in the type size specified in § 1500.121, the caution statement "(Insert proper signal word as specified in paragraph (a)(25)(iii) of this section). This kit contains the following chemicals that may be harmful if misused: (List hazardous chemical components by name.) Read cautions on individual containers carefully. Keep out of the reach of children."

(iii) If either the word "POISON" or "DANGER" is required on the container of any component of the kit, the same word shall be required to appear as part of the caution statement on the kit carton. If both "POISON" and "DANGER" are required in the labeling of any component or components in the kit, the word "POISON" shall be used. In all other cases the word "WARNING" or "CAUTION" shall be used.

(26) Packages containing articles intended as single-use spot removers and containing methyl alcohol are exempt from the labeling specified in § 1500.14(b)(4), if:

(i) The total amount of cleaning solvent in each unit does not exceed 1 milliliter, of which not more than 40 percent is methyl alcohol;

(ii) The liquid is contained in a sealed glass ampoule enclosed in a plastic container with a firmly attached absorbent wick at one end through which the liquid from the crushed ampoule must pass, under the contemplated conditions of use; and

(iii) The labeling of each package of the cleaner bears the statement "WARNING—Keep out of the reach of children," or its practical equivalent, and the name and place of business of the manufacturer, packer, distributor, or seller.

(27) Packaged fireworks assortments intended for retail distribution are exempt from section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)), if:

(i) The package contains only fireworks devices suitable for use by the public and designed primarily to produce visible effects by combustion, except that small devices designed to produce audible effects may also be included if the audible effect is produced by a charge of not more than 2 grains of pyrotechnic composition;

(ii) Each individual article in the assortment is fully labeled and in conformance with the requirements of the act and regulations thereunder; and

(iii) The outer package bears on the main display panel (or panels), within the borders of a rectangle and in the type size specified in § 1500.121, the caution statement "WARNING—This assortment contains items that may be hazardous if misused and should be used only under adult supervision. IMPORTANT—Read cautions on individual items carefully."

(28) Packages containing felt pads impregnated with ethylene glycol are exempt from the labeling requirements of § 1500.14(b)(1), if:

(i) The total amount of ethylene glycol in each pad does not exceed 1 gram; and

(ii) The liquid is held by the felt pad so that no free ethylene glycol is within the package.

(29) Cigarette lighters containing butane and/or isobutane fuel are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)) insofar as such requirements would otherwise be necessary because the fuel therein is extremely flammable and under pressure, provided that:

(i) The lighters contain not more than 12 grams of fuel at the time of sale; and

(ii) The fuel reservoir is designed to withstand a pressure of at least 1½ times the maximum pressure which will be developed in the container at 120° F.

(30) The outer retail containers of solder kits each consisting of a small tube of flux partially surrounded by a winding of wire-type cadmium-free silver solder are exempt from the labeling requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)), if:

(i) The metal solder contains no cadmium and is not otherwise hazardous under the provisions of the act;

(ii) The tube of flux in the kit is fully labeled and in conformance with the act and regulations thereunder, and any accompanying literature that bears directions for use also bears all the information required by section 2(p) of the act; and

(iii) The main panel of the outer container bears in type size specified in § 1500.121 the following: (A) the signal word; (B) a statement of principal hazard or hazards; (C) the statement "Keep out of the reach of children," or its practical equivalent; and (D) instructions





to read other cautionary instructions on the tube of flux within.

(31) Visual novelty devices consisting of sealed units, each of which unit is a steel and glass cell containing perchloroethylene (among other things), are exempt from the requirements of § 1500.121(a) that would otherwise require a portion of the warning statement to appear on the glass face of the device, provided that:

(i) The device contains not more than 105 milliliters of perchloroethylene and contains no other component that contributes substantially to the hazard; and

(ii) The following cautionary statement appears on the device (other than on the bottom) in the type size specified in § 1500.121(c) and (d):

> CAUTION—IF BROKEN, RESULTANT VAPORS MAY BE HARMFUL
>
> Contains perchloroethylene. Do not expose to extreme heat. If broken indoors, open windows and doors until all odor of chemical is gone.
>
> Keep out of the reach of children.

A practical equivalent may be substituted for the statement "Keep out of the reach of children."

(32) Hollow plastic toys containing mineral oil are exempt from the labeling specified in § 1500.14(b)(3)(ii), if:

(i) The article contains no other ingredient that would cause it to possess the aspiration hazard specified in § 1500.14(b)(3)(ii);

(ii) The article contains not more than 6 fluid ounces of mineral oil;

(iii) The mineral oil has a viscosity of at least 70 Saybolt universal seconds at 100° F.;

(iv) The mineral oil meets the specifications in the N.F. for light liquid petrolatum; and

(v) The container bears the statement "CAUTION—Contains light liquid petrolatum N.F. Discard if broken or leak develops."

(33) Containers of mineral oil having a capacity of not more than 1 fluid ounce and intended for use in producing a smoke effect for toy trains are exempt from the labeling specified in § 1500.14-(b)(3)(ii), if:

(i) The mineral oil meets the specifications in the N.F. for light liquid petrolatum;

(ii) The mineral oil has a viscosity of at least 130 Saybolt universal seconds at 100° F.;

(iii) The article contains no other ingredient that contributes to the hazard; and

(iv) The label declares the presence light liquid petrolatum and the name and place of business of the manufacturer, packer, distributor, or seller.

(34) Viscous products containing more than 4 percent by weight of methyl alcohol, such as adhesives, asphalt-base roof and tank coatings, and similar products, are exempt from bearing the special labeling required by § 1500.14(b)(3)(ii), if:

(i) The product contains not more than 15 percent by weight of methyl alcohol;

(ii) The methyl alcohol does not separate from the other ingredients upon standing or through any foreseeable use or manipulation;

(iii) The viscosity of the product is not less than 7,000 centipoises at 77° F., unless the product is packaged in a pressurized container and is dispensed as a liquid unsuitable for drinking; and

(iv) The labeling bears the statement "Contains methyl alcohol. Use only in well-ventilated area. Keep out of the reach of children."

(35) Individual blasting caps are exempt from bearing the statement "Keep out of the reach of children," or its practical equivalent, if:

(i) Each cap bears conspicuously in the largest type size practicable the statement "DANGEROUS—BLASTING CAPS—EXPLOSIVE"; and

(ii) The outer carton and any accompanying printed matter bear appropriate, complete cautionary labeling.

(36) Individual toy rocket propellant devices and separate delay train and/or recovery system activation devices intended for use with premanufactured model rocket engines are exempt from bearing the full labeling required by section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)) insofar as such requirements would be necessary because the articles are flammable or generate pressure, provided that:

(i) The devices are designed and constructed in accordance with the specifications in § 1500.85(a)(8) or (9);

(ii) Each individual device or retail package of devices bears the following:

(A) The statement "WARNING—FLAMMABLE: Read instructions before use";

(B) The common or usual name of the article;

(C) A statement of the type of engine and use classification;

(D) Instructions for safe disposal; and

(E) Name and place of business of manufacturer or distributor; and

(iii) Each individual rocket engine or retail package of rocket engines distributed to users is accompanied by an instruction sheet bearing complete cautionary labeling and instructions for safe use and handling of the individual rocket engines.

### § 1500.84 Exemption for unlabeled containers.

(a) Except as provided by paragraphs (b) and (c) of this section, a shipment or other delivery of a hazardous substance that, in accordance with the practice of the trade, is to be labeled in substantial quantity at an establishment other than that where originally manufactured or packed shall be exempt during the time of introduction into and movement in interstate commerce and during the time of holding in that establishment from compliance with the labeling requirements of section 2(p) of the act (repeated in § 1500.3(b)(14)) if:

(1) The person who introduced the shipment or delivery into interstate commerce is the operator of the establishment or delivery into interstate is to be received and labeled; or

(2) The person who introduced the shipment or delivery is not the operator, and the shipment or delivery is made to the establishment under a written agreement, signed by and containing the post office address of the person and the operator, and containing whatever specifications for the labeling of the hazardous substance that are necessary to insure, if such specifications are followed, that the hazardous substance will not be misbranded within the meaning of the act upon completion of the labeling. The person and the operator shall each keep a copy of the agreement until 2 years after the final shipment or delivery under the agreement has been completed and shall make copies of the agreement available for inspection upon request of any properly authorized officer or employee of the Commission.

(b) An exemption of a shipment or delivery of a hazardous substance under paragraph (a)(1) of this section shall, at the beginning of the act of removing the shipment or delivery or any part thereof from the establishment, become void ab initio if the hazardous substance comprising the shipment, delivery, or part is misbranded within the meaning of the act when so removed.

(c) An exemption of a shipment or delivery of a hazardous substance under paragraph (a)(2) of this section shall become void ab initio with respect to the person who introduced the shipment or delivery into interstate commerce upon refusal by that person to make available for inspection a copy of the agreement as required by paragraph (a)(2) of this section.

(d) An exemption of a shipment or other delivery of a hazardous substance under paragraph (a)(2) of this section shall expire:

(1) At the beginning of the act of removing the shipment or delivery, or any part thereof, from the establishment if the hazardous substance comprising the shipment, delivery, or part is misbranded within the meaning of the act when so removed; or

(2) Upon refusal by the operator of the establishment where the hazardous substance is to be labeled, to make available for inspection a copy of the agreement required by paragraph (a)(2) of this section.

### § 1500.85 Exemptions from classification as banned hazardous substances.

(a) The term "banned hazardous substances" as used in section 2(q)(1)(A) of the act shall not apply to the following articles provided that these articles bear labeling giving adequate directions and warnings for safe use:

(1) Chemistry sets and other science education sets intended primarily for juveniles, and replacement components for such sets, when labeled in accordance with § 1500.83(a)(23).

(2) Common fireworks devices suitable for use by the public (such as toy paper caps, cone fountains, cylinder fountains, whistles without report, and sparklers, but not including fireworks devices that may be confused with candy or other food, such as "dragon eggs" and



V 38 1187 SEP 27 73 XUM

"crackerballs," also known as "ball-type caps"), if such devices are:

(i) Designed to produce only visible effects by combustion; or are

(ii) Designed to produce audible effects, if the audible effect is produced by a charge of not more than 2 grains of pyrotechnic composition.

(3) [Reserved]

(4) Educational materials such as art materials, preserved biological specimens, laboratory chemicals, and other articles intended and used for educational purposes.

(5) Liquid fuels containing more than 4 percent by weight of methyl alcohol that are intended and used for operation of miniature engines for model airplanes, boats, cars, etc.

(6) Novelties consisting of a mixture of polyvinyl acetate, U.S. Certified Colors, and not more than 25 percent by weight of acetone, and intended for blowing plastic balloons.

(7) Games containing, as the sole hazardous component, a self-pressurized container of soap solution or similar foam-generating mixture provided that the foam-generating component has no hazards other than being in a self-pressurized container.

(8) Model rocket propellant devices designed for use in light-weight, recoverable, and refiyable model rockets, provided such devices:

(i) Are designed to be ignited by electrical means.

(ii) Contain no more than 62.5 grams (2.2 ounces) of propellant material and produce less than 80 newton-seconds (17.92 pound seconds) of total impulse with thrust duration not less than 0.050 second.

(iii) Are constructed such that all the chemical ingredients are preloaded into a cylindrical paper or similarly constructed nonmetallic tube that will not fragment into sharp, hard pieces.

(iv) Are designed so that they will not burst under normal conditions of use, are incapable of spontaneous ignition, and do not contain any type of explosive or pyrotechnic warhead other than a small parachute or recovery-system activation charge.

(9) Separate delay train and/or recovery system activation devices intended for use with premanufactured model rocket engines wherein all of the chemical ingredients are preloaded so the user does not handle any chemical ingredient and are so designed that the main casing or container does not rupture during operation.

(10) Solid fuel pellets intended for use in miniature jet engines for propelling model jet airplanes, speed boats, racing cars, and similar models, provided such solid fuel pellets:

(i) Weigh not more than 11.5 grams each.

(ii) Are coated with a protective resinous film.

(iii) Contain not more than 35 percent potassium dichromate.

(iv) Produce a maximum thrust of not more than 7½ ounces when used as directed.

(v) Burn not longer than 12 seconds each when used as directed.

(11) Fuses intended for igniting fuel pellets exempt under subparagraph (10) of this paragraph.

(12) Kits intended for construction of model rockets and jet propelled model airplanes requiring the use of difluorodichloromethane as a propellant, provided the outer carton bears on the main panel in conspicuous type size the statement "WARNING—Carefully read instructions and cautions before use."

(13) Flammable wire materials intended for electro-mechanical actuation and release devices for model kits described in subparagraph (12) of this paragraph, provided each wire does not exceed 15 milligrams in weight.

**§ 1500.86 Exemptions from classification as a banned toy or other banned article for use by children.**

(a) The term "banned hazardous substance" as used in section 2(q)(1)(A) of the act (repeated in § 1500.3(b)(15)(i)(A)) of the act shall not apply to the following articles:

(1) Toy rattles described in § 1500.18(a)(1) in which the rigid wires, sharp protrusions, or loose small objects are internal and provided that such rattles are constructed so that they will not break or deform to expose or release the contents either in normal use or when subjected to reasonably foreseeable damage or abuse.

(2) Dolls and stuffed animals and other similar toys described in § 1500.18(a)(3) in which the components that have the potential for causing laceration, puncture wound injury, or other similar injury are internal, provided such dolls, stuffed animals, and other similar toys are constructed so that they will not break or deform to expose such components either in normal use or when subjected to reasonably foreseeable damage or abuse.

(3) Lawn darts and similar sharp-pointed articles not intended for toy use and marketed solely as a game of skill for adults, provided such articles:

(i) Bear the following statement on the front of the panel of the carton and on any accompanying literature:

> WARNING: Not a toy for use by children. May cause serious or fatal injury. Read instructions carefully. Keep out of reach of children.

Such statement shall be printed in sharply contrasting color within a borderline and in letters at least one-quarter inch high on the main panel of the container and at least one-eighth inch high on all accompanying literature.

(ii) Include in the instructions and rules clear and adequate directions and warnings for safe use including a warning against use when any person or animal is in the vicinity of the intended plan or target area.

(iii) Are not sold by toy stores or store departments dealing predominantly in toys and other children's articles.

(4) Any article known as a "baby-bouncer," "walker-jumper," or "baby-walker" and any other similar article (referred to in this subparagraph as "article(s)") described in § 1500.18(a)(6) provided:

(i) The frames are designed and constructed in a manner to prevent injury from any scissoring, shearing, or pinching when the members of the frame or other components rotate about a common axis or fastening point or otherwise move relative to one another; and

(ii) Any coil springs which expand when the article is subjected to a force that will extend the spring to its maximum distance so that a space between successive coils is greater than one-eighth inch (0.125 inch) are covered or otherwise designed to prevent injuries; and

(iii) All holes larger than one-eighth inch (0.125 inch) in diameter and slots, cracks, or hinged components in any portion of the article through which a child could insert, in whole or in part, a finger, toe, or any other part of the anatomy are guarded or otherwise designed to prevent injuries; and

(iv) the articles are designed and constructed to prevent accidental collapse while in use; and

(v) The articles are designed and constructed in a manner that elliminates from any portion of the article the possibility of presenting a mechanical hazard through pinching, bruising, lacerating, crushing, breaking, amputating, or otherwise injuring portions of the human body when in normal use or when subjected to reasonably foreseeable damage or abuse; and

(vi) Any article which is introduced into interstate commerce after the effective date of this subparagraph is labeled:

(A) With a conspicuous statement of the name and address of the manufacturer, packer, distributor, or seller; and

(B) With a code mark on the article itself and on the package containing the article or on the shipping container, in addition to the invoice(s) or shipping document(s), which code mark will permit future identification by the manufacturer of any given model (the manufacturer shall change the model number whenever the article undergoes a significant structural or design modification); and

(vii) The manufacturer or importer of the article shall make, keep, and maintain for 3 years records of sale, distribution, and results of inspections and tests conducted in accordance with this subparagraph and shall make such records available at all reasonable hours upon request by ny officer or employee of the Consumer Product Safety Commission and shall permit such officer or employee to inspect and copy such records, to make such stock inventories as he deems necessary, and to otherwise check the correctness of such records.

(5) Clacker balls described in § 1500.18(a)(7) that have been designed, manufactured, assembled, labeled, and tested in accordance with the following requirements, and when tested at the point of production or while in interstate commerce or while held for sale after shipment in interstate commerce do not exceed the failure rate requirements of the table in paragraph (a)(5)(vi) of this section:

(i) The toy shall be so designed and fabricated that:

(A) Each ball: Weighs less than 50 grams; will not shatter, crack, or chip; is free of cracks, flash (ridges due to imperfect molding), and crazing (tiny surface cracks); and is free of rough or sharp edges around any hole where the cord enters or over any surface with which the cord may make contact. Each ball is free of internal voids (holes, cavities, or air bubbles) if the balls are made of materials other than those materials (such as ABS (acrylonitrile butadiene styrene), nylon, and high-impact polystyrene) that are injection-molded and possess high-impact characteristics.

(B) The cord: Is of high tensile strength, synthetic fibers that are braided or woven, having a breaking strength in excess of 100 pounds; is free of fraying or any other defect that might tend to reduce its strength in use; is not molded in balls made of casting resins which tend to wick up or run up on the outside of the cord; and is affixed to a ball at the center of the horizontal plane of the ball when it is suspended by the cord.

(C) When the cord is attached to the ball by means of a knot, the end beneath the knot is chemically fused or otherwise treated to prevent the knot from slipping out or untying in use.

(ii) The toy shall be tested at the time of production:

(A) By using the sampling procedure described in the table in subdivision (vi) of this subparagraph to determine the number of units to be tested.

(B) By subjecting each ball tested to 10 drops of a 5-pound steel impact rod or weight (2¼-inch diameter with a flat head) dropped 48 inches in a vented steel or aluminum tube (2⅜-inch inside diameter) when the ball is placed on a steel or cast iron mount. Any ball showing any chipping, cracking, or shattering shall be counted as a failure within the meaning of the third column of the table in paragraph (a)(5)(vi) of this section.

(C) By inspecting each ball tested for smoothness of finish on any surface of the ball which may come in contact with the cord during use. A cotton swab shall be rubbed vigorously over each such surface or area of the ball; if any cotton fibers are removed, the ball shall be counted as a failure within the meaning of the fourth column of the table in subdivision (vi) of this subparagraph. The toy shall also be checked to ascertain that there is no visibly perceptible "wicking up" or "running up" of the casting resins on the outside of the cord in the vicinity where the ball is attached.

(D) By fully assembling the toy and testing the cord in such a manner as to test both the strength of the cord and the adequacy with which the cord is attached to the ball and any holding device such as a tab or ring included in the assembly. The fully assembled article shall be vertically suspended by one ball and a 100-pound test applied to the bottom ball. Any breaking, fraying, or unraveling of the cord or any sign of slipping, loosening, or unfastening shall be counted as a failure within the meaning of the fourth column of the table in paragraph (a)(5)(vi) of this section.

(E) By additionally subjecting any ring or other holding device to a 50-pound test load applied to both cords; the holding device is to be securely fixed horizontally in a suitable clamp in such a manner as to support 50 percent of the area of such holding device and the balls are suspended freely. Any breaking, cracking, or crazing of the ring or other holding device shall be counted as a failure within the meaning of the fourth column of the table in paragraph (a)(5)(vi) of this section.

(F) By cutting each ball tested in half and then cutting each half perpendicularly to the first cut into three or more pieces of approximately equal thickness. Each portion is to be inspected before and after cutting, and any ball showing any flash, crack, crazing, or internal voids on such inspection is to be counted as a failure within the meaning of the fourth column of the table in paragraph (a)(5)(vi) of this section. Balls that are injection-molded and possess high-impact characteristics (such as injection-molded balls made of ABS, nylon, or high-impact polystyrene) though exempt from the requirements that there be no internal voids, must be tested to determine the presence of any flash, crack or grazing. A transparent ball shall be subjected to the same requirements except that it may be visually inspected without cutting.

(iii) The toy shall be fully assembled for use at time of sale, including the proper attachments of balls, cords, knots, loops, or other holding devices.

(iv) The toy shall be labeled:

(A) With a conspicuous statement of the name and address of the manufacturer, packer, distributor, or seller.

(B) To bear on the toy itself and/or the package containing the toy and/or the shipping container, in addition to the invoice(s) and shipping document(s), a code or mark in a form and manner that will permit future identification of any given batch, lot, or shipment by the manufacturer.

(C) To bear a conspicuous warning statement on the main panel of the retail container and display carton and on any accompanying literature: That if cracks develop in a ball or if the cord becomes frayed or loose or unfastened, use of the toy should be discontinued; and if a ring or loop or other holding device is present, the statement "In use, the ring or loop must be placed around the middle finger and the two cords positioned over the forefinger and held securely between the thumb and forefinger," or words to that effect which will provide adequate instructions and warnings to prevent the holding device from accidentally slipping out of the hand. Such statements shall be printed in sharply contrasting color within a borderline and in letters at least one-quarter inch high on the main panel of the container and at least one-eighth inch high on all accompanying literature.

(v) The manufacturer of the toy shall make, keep, and maintain for 3 years records of sale, distribution, and results of inspections and tests conducted in accordance with this subparagraph and shall make such records available upon request at all reasonable hours by any officer or employee of the Consumer Product Safety Commission, and shall permit such officer or employee to inspect and copy such records and to make such inventories of stock as he deems necessary and otherwise to check the correctness of such records.

(vi) The lot size, sample size, and failure rate for testing clacker balls are as follows:

| Number of units in batch, shipment, delivery, lot, or rental stock | Number of units in random sample | Failure rate constituting rejection when testing per § 1500.86(a)(5)(ii)(B) | Failure rate constituting rejection when testing per §1500.86(a)(5)(ii)(C), (D), (E), and (F) |
|---|---|---|---|
| 50 or less | 8 | 1 | 1 |
| 51 to 90 | 13 | 1 | 1 |
| 91 to 150 | 20 | 1 | 1 |
| 151 to 280 | 32 | 1 | 2 |
| 281 to 500 | 50 | 1 | 2 |
| 501 to 1,200 | 80 | 2 | 4 |
| 1,201 to 3,200 | 125 | 2 | 6 |
| 3,201 to 10,000 | 200 | 3 | 10 |
| 10,001 to 35,000 | 315 | 4 | 16 |
| 35,001 to 150,000 | 500 | 6 | 25 |
| 150,001 to 500,000 | 800 | 8 | 40 |
| 500,001 and over | 1,250 | 11 | 62 |

(vii) Applicability of the exemption provided by this subparagraph shall be determined through use of the table in paragraph (a)(5)(vi) of this section. A random sample of the number of articles as specified in the second column of the table shall be selected according to the number of articles in a particular batch, shipment, delivery, lot, or retail stock per the first column. A failure rate as shown in either the third or fourth column shall indicate that the entire batch, shipment, delivery, lot, or retail stock has failed and thus is not exempted under this subparagraph from classification as a banned hazardous substance.

(6) Caps (paper or plastic) described in § 1500.18(a)(5), provided:

(i) Such articles do not produce peak sound pressure levels greater than 158 decibels when tested in accordance with § 1500.47, and provided any such articles producing peak sound pressure levels greater than 138 decibels but not greater than 158 decibels when tested in accord-







V 38 I 187 SEP 27 73 XUM

ance with § 1500.47 shall bear the following statement on the carton and in the accompanying literature in accordance with § 1500.121: "WARNING—Do not fire closer than 1 foot to the ear. Do not use indoors."

(ii) Any person who elects to distribute toy caps in accordance with paragraph (a)(6)(i) of this section shall promptly notify the Consumer Product Safety Commission, Bureau of Compliance, Washington, D.C. 20207, of their intention and shall conduct or participate in a program to develop caps that produce a sound pressure level of not more than 138 decibels when tested in accordance with § 1500.47.

(iii) Any person who elects to distribute caps in accordance with paragraph (a)(6)(i) of this section shall, after notification of his intentions to the Commission in accordance with paragraph (a)(6)(ii) of this section, submit to the Consumer Product Safety Commission, Bureau of Compliance, Washington, D.C. 20207, a progress report not less frequently than once every 3 months concerning the status of his program to develop caps that produce a sound level of not more than 138 decibels when tested in accordance with § 1500.47.

### § 1500.121 Labeling requirements; placement, conspicuousness, and contrast.

(a) The signal word, the statement of the principal hazard or hazards, and instructions to read carefully any cautionary information that may be placed elsewhere on the label shall appear together on the main panel of the label. Such information shall be placed together and distinctively apart from other wording or designs. The necessary prominence shall be achieved by placement within the borders of a square or rectangle with or without a borderline, and by use of suitable contrasts with the background achieved by distinctive typography or color, and by both color and typography when needed.

(b) If the product is "highly toxic" as defined in § 1500.3(c)(1), the labeling shall also include in conjunction with the word "poison" the skull and crossbones symbol. The word "poison" is not considered a signal word as that term is used in paragraph (a) of this section or when required by § 1500.14.

(c) The signal word and statement of hazard shall be in capital letters. The signal word (and the word "poison" if required) shall be of a size bearing a reasonable relationship to the other type on the main panel, but shall not be less than 18 point type, and the size of the statement of hazard shall not be less than 12 point type, unless the label space on the container is too small to accommodate such type size. When the size of the label space requires a reduction in type size, the reduction shall be made to a size no smaller than necessary and in no event to a size smaller than 6 point type.

(d) All the items of label information required by section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)), or by regulations prescribing additional information under section 3(b) of the act, may appear on the main panel; but if they do not, all such items not required by paragraph (a) of this section to appear on the main panel shall be placed together in a distinctive place elsewhere on the label with adequate contrast achieved by typography, color, or layout, except that the name and place of business of the manufacturer, packer, distributor, or seller may appear separately on the same or on a different panel. The type size used shall bear a reasonable relationship to the printing on the panel involved and shall be no smaller than 10 point unless the available label space requires reductions, in which event it shall be reduced no smaller than 6 point type unless because of small label space an exemption has been granted under section 3(c) of the act and § 1500.83.

(e) Collapsible metal tubes containing hazardous substances shall be labeled so that all items of label information required by section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)), or by regulations prescribing additional information, shall appear as close to the dispensing end of the container as possible. The size, placement, and conspicuousness of these statements shall conform with paragraphs (a), (c), and (d) of this section.

(f) Unpackaged hazardous substances intended or in a form suitable for use in or around a household or by children shall be labeled so that all items of information required by the act or by regulations in this part shall appear upon the article itself. In instances where such labeling is impracticable because of the size or nature of the article, the required cautionary labeling must be displayed by means of a tag or other suitable material that is securely affixed to the article so that the labeling will remain attached throughout conditions of merchandising and distribution to the ultimate consumer. The size, placement, and conspicuousness of these statements shall conform with paragraphs (a), (c), and (d) of this section.

### § 1500.122 Deceptive use of disclaimers.

A hazardous substance shall not be deemed to have met the requirements of section 2(p)(1) and (2) of the act (repeated in § 1500.3(b)(14)(i) and (ii)) if there appears in or on the label (or in any accompanying literature; words, statements, designs, or other graphic material that in any manner negates or disclaims any of the label statements required by the act; for example, the statement "Harmless" or "Safe around pets" on a toxic or irritant substance.

### § 1500.123 Condensation of label information.

Whenever the statement of the principal hazard or hazards itself provides the precautionary measures to be followed or avoided, a clear statement of the principal hazard will satisfy the requirements of section 2(p)(1)(E) and (F) of the act (repeated in § 1500.3(b)(14)(i)(E) and (F)). When the statement of precautionary measures in effect provides instruction for first-aid treatment, the statement of the precautionary measures will satisfy the requirements of section 2(p)(1)(F) and (G) of the act (repeated in § 1500.3(b)(14)(i)(F) and (G)).

### § 1500.125 Labeling requirements for accompanying literature.

When any accompanying literature includes or bears any directions for use (by printed word, picture, design, or combination thereof), such placard, pamphlet, booklet, book, sign, or other graphic or visual device shall bear all the information required by section 2(p) of the act (repeated in § 1500.3(b)(14)).

### § 1500.126 Substances determined to be "special hazards."

Whenever the Commission determines that for a particular hazardous substance intended or packaged in a form suitable for use in the household or by children, the requirements of section 2(p) of the act (repeated in § 1500.3(b)(14)) are not adequate for the protection of the public health and safety because of some special hazard, the Commission, by an appropriate order in the FEDERAL REGISTER, shall specify such reasonable variations or additional label requirements that it finds are necessary for the protection of the public health and safety. Such order shall specify a date that is not less than 90 days after the order is published (unless emergency conditions stated in the order specify an earlier date) after which any such hazardous substance intended, or packaged in a form suitable, for use in the household or by children that fails to bear a label in accordance with such order shall be deemed to be a misbranded hazardous substance.

### § 1500.127 Substances with multiple hazards.

(a) Any article that presents more than one type of hazard (for example, if the article is both toxic and flammable) must be labeled with: An affirmative statement of each such hazard; the precautionary measures describing the action to be followed or avoided for each such hazard; instructions, when necessary or appropriate, for first-aid treatment of persons suffering from the ill effects that may result from each such hazard; instructions for handling and storage of articles that require special care in handling and storage because of more than one type of hazard presented by the article; and the common or usual name (or the chemical name if there is no common or usual name for each hazardous component present in the article.

(b) Label information referring to the possibility of one hazard may be combined with parallel information concerning any additional hazards presented by the article if the resulting condensed statement contains all of the information needed for dealing with each type of hazard presented by the article.

### § 1500.128 Label comment.

The Commission will offer informal comment on any proposed label and accompanying literature involving a hazardous substance if furnished with:





(a) Complete labeling or proposed labeling, which may be in draft form.

(b) Complete quantitative formula.

(c) Adequate clinical pharmacological, toxicological, physical, and chemical data applicable to the possible hazard of the substance.

(d) Any other information available that would facilitate preparation of a suitable label, such as complaints of injuries resulting from the product's use or other evidence that would furnish human-experience data.

### § 1500.129 Substances named in the Federal Caustic Poison Act.

The Commission finds that for those substances covered by the Federal Caustic Poison Act (44 Stat. 1406), the requirements of section 2(p)(1) of the Federal Hazardous Substances Act (repeated in § 1500.3(b)(14)(i)) are not adequate for the protection of the public health. Labeling for those substances, in the concentrations listed in the Federal Caustic Poison Act, were required to bear the signal word "poison." The Commission concludes that the lack of the designation "poison" would indicate to the consumer a lesser hazard and that such would not be in the interest of the public health. Under the authority granted in section 3(b) of the act, the Commission therefore finds that for the following substances, and at the following concentrations, the word "poison" is necessary instead of any signal word:

(a) Hydrochloric acid and any preparation containing free or chemically unneutralized hydrochloric acid (HCl) in a concentration of 10 percent or more.

(b) Sulfuric acid and any preparation containing free or chemically unneutralized sulfuric acid ($H_2SO_4$) in a concentration of 10 percent or more.

(c) Nitric acid or any preparation containing free or chemically unneutralized nitric acid ($HNO_3$) in a concentration of 5 percent or more.

(d) Carbolic acid ($C_6H_5OH$), also known as phenol, and any preparation containing carbolic acid in a concentration of 5 percent or more.

(e) Oxalic acid and any preparation containing free or chemically unneutralized oxalic acid ($H_2C_2O_4$) in a concentration of 10 percent or more.

(f) Any salt of oxalic acid and any preparation containing any such salt in a concentration of 10 percent or more.

(g) Acetic acid or any preparation containing free or chemically unneutralized acetic acid ($HC_2H_3O_2$) in a concentration of 20 percent or more.

(h) Hypochlorous acid, either free or combined, and any preparation containing the same in a concentration that will yield 10 percent or more by weight of available chlorine.

(i) Potassium hydroxide and any preparation containing free or chemically unneutralized potassium hydroxide (KOH), including caustic potash and vienna paste (vienna caustic), in a concentration of 10 percent or more.

(j) Sodium hydroxide and any preparation containing free or chemically unneutralized sodium hydroxide (NaOH), including caustic soda and lye in a concentration of 10 percent or more.

(k) Silver nitrate, sometimes known as lunar caustic, and any preparation containing silver nitrate ($AgNO_3$) in a concentration of 5 percent or more.

(l) Ammonia water and any preparation containing free or chemically uncombined ammonia ($NH_3$), including ammonium hydroxide and "hartshorn," in a concentration of 5 percent or more.

### § 1500.130 Self-pressurized containers; labeling.

(a) Self-pressurized containers that fail to bear a warning statement adequate for the protection of the public health and safety may be misbranded under the act, except as otherwise provided pursuant to section 3 of the act.

(b) The following warning statement will be considered as meeting the requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)) if the only hazard associated with an article is that the contents are under pressure:

WARNING—CONTENTS UNDER PRESSURE

Do not puncture or incinerate container. Do not expose to heat or store at temperatures above 120° F. Keep out of the reach of children.

The word "CAUTION" may be substituted for the word "WARNING". A practical equivalent may be substituted for the statement "Keep out of the reach of children."

(c) That portion of the warning statement set forth in paragraph (b) of this section in capital letters should be printed on the main (front) panel of the container in capital letters of the type size specified in § 1500.121(c). The balance of the cautionary statements may appear together on another panel if the front panel also bears a statement such as "Read carefully other cautions on ---------- panel."

(d) If an article has additional hazards, such as skin or eye irritancy, toxicity, or flammability, appropriate additional front and rear panel precautionary labeling is required.

### § 1500.131 Methyl alcohol-base radiator antifreeze; labeling.

(a) Methyl alcohol-base (methanol-base) radiator antifreeze distributed in containers intended or suitable for household use may be misbranded under the act if the containers fail to bear a warning statement adequate for the protection of the public health and safety, except as otherwise provided pursuant to section 3 of the act.

(b) The following warning statement will be considered as meeting the requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)) and § 1500.14(b)(4) with respect to methyl alcohol-base radiator antifreeze when the only hazard foreseeable is that caused by the methyl alcohol content and when the article has a flashpoint in the "flammable" range as that term is defined in section 2(l) of the act (repeated in § 1500.3(b)(10)):

DANGER—POISON

(SKULL AND CROSSBONES SYMBOL)

MAY BE FATAL OR CAUSE BLINDNESS IF SWALLOWED

FLAMMABLE—VAPOR HARMFUL

Contains methyl alcohol (methanol). Cannot be made nonpoisonous. Avoid contact with eyes. Use only in a well-ventilated area. Keep away from heat and open flame. Do not store in open or unlabeled containers.

First aid: In case of contact with eyes flush thoroughly with water. If swallowed, induce vomiting (give a tablespoonful of salt in a glass of warm water). Repeat until vomit fluid is clear. Call a physician immediately.

Keep out of the reach of children.

(c) The words that are in capital letters in the warning statement set forth in paragraph (b) of this section should be printed on the main (front) panel or panels of the container in capital letters of the type size specified in § 1500.121(c), except that the word "Poison" and the skull and crossbones symbol may appear on another panel with the balance of the cautionary information. The balance of the cautionary statements may appear together on another panel provided the front panel bears a statement such as "Read carefully other cautions on ---------- panel."

### § 1500.132 Ethylene glycol-base radiator antifreeze; labeling.

(a) Ethylene glycol-base radiator antifreeze distributed in containers intended or suitable for household use may be misbranded under the act if the containers fail to bear a warning statement adequate for the protection of the public health and safety, except as otherwise provided pursuant to section 3 of the act.

(b) The following warning statements will be considered as meeting the requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)) and § 1500.14(b)(1) with respect to ethylene glycol-base radiator antifreeze, with and without added sodium arsenite of over 0.01 percent by weight, when the only hazard foreseeable is that caused by the ethylene glycol and (if present) the added sodium arsenite:

(1) Ethylene glycol antifreeze containing less than 0.01 percent by weight of sodium arsenite.

WARNING—HARMFUL OR FATAL IF SWALLOWED

Do not drink antifreeze or solution. If swallowed, induce vomiting immediately. Call a physician. Ethylene glycol base. Do not store in open or unlabeled containers. Keep out of the reach of children.

(2) Ethylene glycol antifreeze containing 0.01 percent but no more than 1 percent by weight of sodium arsenite.

WARNING—HARMFUL OR FATAL IF SWALLOWED

Do not drink antifreeze or solution. If swallowed, induce vomiting immediately. Call a physician. Ethylene glycol base containing sodium arsenite (less than 1%).

Antidote for sodium arsenite: Dimercaprol (BAL) to be administered only by a physician.

Do not store in open or unlabeled containers. Keep out of the reach of children.

(c) The words that are in capital letters in the warning statements set forth



V 38 1187 SEP 27 73 XUM

in paragraph (b) of this section should be printed on the main (front) panel or panels of the container or capital letters of the type size specified in § 1500.121(c). The balance of the cautionary statements may appear together on another panel provided the front panel bears a statement such as "Read carefully other cautions on ---------- panel."

**§ 1500.133 Extremely flammable contact adhesives; labeling.**

(a) Extremely flammable contact adhesives, also known as contact bonding cements, when distributed in containers intended or suitable for household use may be misbranded under the act if the containers fail to bear a warning statement adequate for the protection of the public health and safety.

(b) The following warning statement is considered as the minimum cautionary labeling adequate to meet the requirements of section 2(p)(1) of the act (repeated in § 1500.3(b)(14)(i)) with respect to containers of more than one-half pint of contact adhesive and similar liquid or semiliquid articles having a flash-point at or below 20° F. as determined by the method in § 1500.43, when the only hazard foreseeable is that caused by the extreme flammability of the mixture:

DANGER

EXTREMELY FLAMMABLE

VAPORS MAY CAUSE FLASH FIRE

Vapors may ignite explosively.
Prevent buildup of vapors—open all windows and doors—use only with cross-ventilation.
Keep away from heat, sparks, and open flame.
Do not smoke, extinguish all flames and pilot lights, and turn off stoves, heaters, electric motors, and other sources of ignition during use and until all vapors are gone.
Close container after use.
Keep out of the reach of children.

(c) The words that are in capital letters in the warning statement set forth in paragraph (b) of this section should be printed on the main (front) panel or panels of the container in capital letters of the type size specified in § 1500.121(c). The balance of the cautionary information may appear together on another panel provided the front panel bears a statement such as "Read carefully other cautions on ------ panel," the blank being filled in with the identification of the specific label panel bearing the balance of the cautionary labeling. It is recommended that a borderline be used in conjunction with the cautionary labeling.

(d) If an article has additional hazards, or contains ingredients listed in § 1500.14 as requiring special labeling, appropriate additional front and rear panel precautionary labeling is required.

**§ 1500.201 Procedure for the issuance, amendment, or repeal of regulations declaring particular substances to be hazardous substances or banned hazardous substances.**

(a) The Commission may, upon its own initiative or upon the petition of any interested person, showing reasonable grounds therefor, propose the issuance, amendment, or repeal of any regulation provided for in section 3(a) or 2(q) of the act, declaring particular substances to be hazardous substances or banned hazardous substances. The proposal shall be published in the FEDERAL REGISTER, with an invitation for written comments. As soon as practicable after the comments have been received, the Commission shall by order act upon such proposal to declare the substance to be a hazardous substance or banned hazardous substance for purposes of the act, or to amend or repeal any regulation previously issued.

(b) Within 30 days after publication of such order, any person who will be adversely affected thereby, if placed in effect, may file objections and a request for a public hearing. The objections shall not be accepted for filing if they fail to establish that the objector will be adversely affected by the regulation, if the objections do not specify with particularity the provisions of the regulation to which objection is taken, or if the objections do not state reasonable grounds. Reasonable grounds are grounds from which it is reasonable to conclude that facts can be established by reliable evidence at the hearing which will call for changing the provisions specified in the objections. Whenever legally valid objections have been filed, a public hearing on the objections will be held.

(c) As soon as practicable after the time for filing objections has expired, the Commission shall publish a notice in the FEDERAL REGISTER specifying the parts of the order that have been stayed by proper objections, or, if no objections have been filed, stating that fact.

(d) [Reserved]

(e) If the Commission finds that the distribution of a hazardous substance presents an imminent hazard to the public health, the Commission, by order in the FEDERAL REGISTER, will give notice of such finding and, pursuant to section 2(q)(2) of the act, declare such substance, when intended or offered for household use or when so packaged as to be suitable for such use, to be a "banned hazardous substance" pending completion of statutory proceedings relating to the issuance of such regulations.

(f) The General Counsel of the Commission is the designated officer upon whom a copy of any petition for judicial review shall be served. Said officer is responsible for filing in court the record on which the order of the Commission is based in accordance with 28 U.S.C. 2112.

**§ 1500.210 Responsibility.**

The provisions of these regulations (16 CFR, Subchapter C of Chapter II) with respect to the doing of any act shall be applicable also to the causing of such act to be done.

**§ 1500.211 Guaranty.**

In the case of the giving of a guaranty or undertaking referred to in section 5(b)(2) of the act, each person signing such guaranty or undertaking, or causing it to be signed, shall be considered to have given it. Each person causing a guaranty or undertaking to be false is chargeable with violations of section 4(d) of the act.

**§ 1500.212 Definition of guaranty; suggested forms.**

(a) A guaranty or undertaking referred to in section 5(b)(2) of the act may be:

(1) Limited to a specific shipment or other delivery of an article, in which case it may be a part of or attached to the invoice or bill of sale covering such shipment or delivery; or

(2) General and continuing, in which case, in its application to any shipment or other delivery of an article, it shall be considered to have been given at the date such article was shipped or delivered, or caused to be shipped or delivered, by the person who gives the guaranty or undertaking.

(b) The following are suggested forms of guaranty or undertaking referred to in section 5(b)(2) of the act.

(1) *Limited form for use on invoice or bill of sale.*

---------- (Name of person giving the guaranty or undertaking)

hereby guarantees that no article listed herein is misbranded within the meaning of the Federal Hazardous Substances Act.

---------- (Signature and post-office address of person giving the guaranty or undertaking)

(2) *General and continuing forms.*

The article comprising each shipment or other delivery hereafter made by ----------

---------- (Name of person giving the guaranty or undertaking)

to, or on the order of ----------

---------- (Name and post-office address of person to whom the guaranty or undertaking is given) is hereby guaranteed, as of the date of such shipment or delivery, to be, on such date, not misbranded within the meaning of the Federal Hazardous Substances Act.

---------- (Signature and post-office address of person giving the guaranty or undertaking)

(c) The application of a guaranty or undertaking referred to in section 5(b)(2) of the act to any shipment or other delivery of an article shall expire when such article, after shipment or delivery by the person who gave such guaranty or undertaking, becomes misbranded within the meaning of the act.

**§ 1500.213 Presentation of views under section 7 of the act.**

(a) Presentation of views under section 7 of the act shall be private and informal. The views presented shall be confined to matters relevant to the contemplated proceeding. Such views may be presented by letter or in person by the person to whom the notice was given, or by his representative. In case such person holds a guaranty or undertaking referred to in section 5(b)(2) of the act applicable to the article on which such notice was based, such guaranty or undertaking, or a verified copy thereof, shall be made a part of such presentation of views.

(b) Upon request, reasonably made, by the person to whom a notice appointing a time and place for the presentation of views under section 7 of the act has been given, or by his representative, such time or place, or both such time and place, may be changed if the request states reasonable grounds therefor. Such request shall be addressed to the office of the Consumer Product Safety Commission that issued the notice.

**§ 1500.214 Examinations and investigations; samples.**

When any officer or employee of the Commission collects a sample of a hazardous substance for analysis under the act, the sample shall be designated as an official sample if records or other evidence is obtained by him or any other officer or employee of the Commission indicating that the shipment or other lot of the article from which such sample was collected was introduced or delivered for introduction into interstate commerce, or was in or was received in interstate commerce, or was manufactured within a Territory not organized with a legislative body. Only samples so designated by an officer or employee of the Commission shall be considered to be official samples

(a) For the purpose of determining whether or not a sample is collected for analysis, the term "analysis" includes examinations and tests.

(b) The owner of a hazardous substance of which an official sample is collected is the person who owns the shipment or other lot of the article from which the sample is collected.

IMPORTS

**§ 1500.265 Imports; definitions.**

For the purposes of the regulations prescribed under section 14 of the act:

(a) The term "owner or consignee" means the person who has the rights of a consignee under the provisions of the Tariff Act of 1930 (secs. 483, 484, 485, 46 Stat. 721 as amended; 19 U.S.C. 1483, 1484, 1485).

(b) The term "area office director" means the director of the area office of the Consumer Product Safety Commission having jurisdiction over the port of entry through which a hazardous substance is imported or offered for import, or such officer of the area office as he may designate to act in his behalf in administering and enforcing the provisions of section 14 of the act.

**§ 1500.266 Notice of sampling.**

When a sample of a hazardous substance offered for import has been requested by the director of the area office, the collector of customs having jurisdiction over the hazardous substance shall give to the owner or consignee prompt notice of delivery of, or intention to deliver, such sample. Upon receipt of the notice, the owner or consignee shall hold such hazardous substance and not distribute it until further notice from the area office director or the collector of customs of the results of examination of the sample.

**§ 1500.267 Payment for samples.**

The Consumer Product Saftey Commission will pay for all import samples that are found to be in compliance with the requirements of the act. Billing for reimbursement should be made by the owner or consignee to the Commission area office headquarters in the territory of which the shipment was offered for import. Payment for samples will not be made if the hazardous substance is found to be in violation of the act, even though subsequently brought into compliance under the terms of an authorization to bring the article into compliance.

**§ 1500.268 Hearing.**

(a) If it appears that the hazardous substance may be subject to refusal of admission, the area office director shall give the owner or consignee a written notice to that effect, stating the reasons therefor. The notice shall specify a place and a period of time during which the owner or consignee shall have an opportunity to introduce testimony. Upon timely request, giving reasonable grounds therefor, such time and place may be changed. Such testimony shall be confined to matters relevant to the admissibility of the hazardous substance, and may be introduced orally or in writing.

(b) If such owner or consignee submits or indicates his intention to submit an application for authorization to relabel or perform other action to bring the hazardous substance into compliance with the act, such testimony shall include evidence in support of such application. If such application is not submitted at or prior to the hearing, the area office director shall specify a time limit, reasonable in the light of the circumstances, for filing such application.

**§ 1500.269 Application for authorization.**

Application for atuhorization to relabel or perform other action to bring the hazardous substance into compliance with the act may be filed only by the owner or consignee and shall:

(a) Contain detailed proposals for bringing the article into compliance with the act.

(b) Specify the time and place where such operations will be carried out and the approximate time for their completion.

**§ 1500.270 Granting of authorization.**

(a) When authorization contemplated by § 1500.269 is granted, the area office director shall notify the applicant in writing, specifying:

(1) The procedure to be followed:

(2) That the operations are to be carried out under the supervision of an officer of the Consumer Product Safety Commission or the Bureau of Customs, as the case may be;

(3) A time limit, reasonable in the light of the circumstances, for completion of the operations; and

(4) Such other conditions as are necessary to maintain adequate supervision and control over the article.

(b) Upon receipt of a written request for extension of time to complete such operations, containing reasonable grounds therefor, the area office director may grant such additional time as he deems necessary.

(c) An authorization may be amended upon a showing of reasonable grounds therefor and the filing of an amended application for authorization with the area office director.

(d) If ownership of a hazardous substance covered by an authorization changes before the operations specified in the authorization have been completed, the original owner will be held responsible, unless the new owner has executed a bond and obtained a new authorization. Any authorization granted under this section shall supersede and nullify any previously granted authorization with respect to the article.

**§ 1500.271 Bonds.**

(a) The bonds required under section 14(b) of the act may be executed by the owner or consignee on the appropriate form of a customs single-entry or term bond, containing a condition for the redelivery of the merchandise or any part thereof upon demand of the collector of customs and containing a provision for the performance of conditions as may legally be imposed for the relabeling or other action necessary to bring the hazardous substance into compliance with the act in such manner as is prescribed for such bond in the customs regulations in force on the date of request for authorization. The bond shall be filed with the collector of customs.

(b) The collector of customs may cancel the liability for liquidated damages incurred under the above-mentioned provisions of such a bond, if he receives an application for relief therefrom, upon the payment of a lesser amount or upon such other terms and conditions as shall be deemed appropriate under the law and in view of the circumstances, but the collector shall not act under this regulation in any case unless the area office director is in full agreement with the action.

**§ 1500.272 Costs chargeable in connection with relabeling and reconditioning inadmissible imports.**

The cost of supervising the relabeling or other action necessary in connection with an import of a hazardous substance that fails to comply with the act shall be paid by the owner or consignee who files an application requesting such action and executes a bond, pursuant to section 14(b) of the act. The cost of such supervision shall include, but not be restricted to, the following:

(a) Travel expenses of the supervising officer.

(b) Per diem in lieu of subsistence of the supervising officer when away from his home station as provided by law.







V 38 187 SEP 27 73 XUM

(c) Services of the supervising officer, to be calculated at a flat rate of $8 per hour (which shall include administrative expense), except that such services performed by a customs officer and subject to the provisions of the Act of February 13, 1911, as amended (sec. 5, 36 Stat. 901 as amended; 19 U.S.C. 267), shall be calculated as provided in that act.

(d) Services of analyst, to be calculated at a flat rate of $10 per hour (which shall include the use of the chemical laboratories and equipment of the Consumer Product Safety Commission.

(e) The minimum charge for services of supervising officers and of analysts shall be not less than the charge for 1 hour, and time after the first hour shall be computed in multiples of 1 hour, disregarding fractional parts less than one-half hour.

## PART 1505—REQUIREMENTS FOR ELECTRICALLY OPERATED TOYS OR OTHER ELECTRICALLY OPERATED ARTICLES INTENDED FOR USE BY CHILDREN

Sec.


1505.1 Definitions.
1505.2 Scope of part.
1505.3 Labeling.
1505.4 Manufacturing requirements.
1505.5 Electrical design and construction.
1505.6 Performance.
1505.7 Maximum acceptable surface temperatures.
1505.8 Maximum acceptable material temperatures.


AUTHORITY.—Secs. 2(f)(1)(D), (r), (s), (t), 3(e)(1), 74 Stat. 372, 374, 375, as amended 83 Stat. 187-89 (15 U.S.C. 1261, 1262).

NOTE.—This Part 1505 was originally promulgated as 21 CFR Part 191b in the FEDERAL REGISTER of March 7, 1973 (38 FR 6138), with an effective date of September 3, 1973.

### § 1505.1 Definitions.

(a) The following definitions apply to this Part 1505:

(1) The term "electrically operated toy or other electrically operated article intended for use by children" means any toy, game, or other article designed, labeled, advertised, or otherwise intended for use by children which is intended to be powered by electrical current from nominal 120 volt (110–125 v.) branch circuits. Such articles are referred to in this part in various contexts as "toy" or "electrically operated toy." If the package (including packing materials) of the toy or other article is intended to be used with the product, it is considered to be part of the toy or other article. This definition does not include components which are powered by circuits of 30 volts r.m.s. (42.4 volts peak) or less, or articles designed primarily for use by adults which may be used incidentally by children.

### § 1505.2 Scope of part.

This part sets forth the requirements whereby electrically operated toys and other electrically operated articles intended for use by children (as defined in § 1505.1(a)(1)) are not banned toys or banned articles under § 1500.18(b)(1) of this chapter.

### § 1505.3 Labeling.

(a) *General.* Electrically operated toys, and the instruction sheets and outer packaging thereof, shall be labeled in accordance with the requirements of this section and any other applicable requirements of the Federal Hazardous Substances Act and regulations promulgated thereunder. All labeling shall be prominently and conspicuously displayed under customary conditions of purchase, storage, and use. All required information shall be readily visible, noticeable, clear, and, except where coding is permitted, shall be in legible English (other languages may also be included as appropriate). Such factors governing labeling as location, type size, and contrast against background may be based on necessary condensations to provide a reasonable display.

(b) *Specific items.* (1) The toy shall be marked in accordance with the provisions of paragraph (d) of this section to indicate:

(i) The electrical ratings required by paragraph (c) of this section.

(ii) Any precautionary statements required by paragraph (e) of this section.

(2) The shelf pack or package of the toy shall be labeled in accordance with the provisions of paragraph (d) of this section to indicate:

(i) The date (month and year) of manufacture (or appropriate codes).

(ii) The electrical ratings required by paragraph (c) of this section.

(iii) Any precautionary statements required by paragraph (e) of this section.

(3) Each toy shall be provided with adequate instructions that are easily understood by children of those ages for which the toy is intended. The instructions shall describe the applicable installation, assembly, use, cleaning, maintenance (including lubrication), and other functions as appropriate. Applicable precautions shall be included as well as the information required by paragraphs (b)(1) and (2) of this section. The instructions shall also contain a statement addressed to parents recommending that the toy be periodically examined for potential hazards and that any potentially hazardous parts be repaired or replaced.

(4) If a toy is produced or assembled at more than one establishment, the toy and its shelf pack or package shall have a distinctive mark (which may be in code) identifying the toy as the product of a particular establishment.

(c) *Rating.* (1) A toy shall be marked to indicate its rating in volts and also in amperes and/or watts.

(2) If a toy utilizes a single motor as its only electric energy consuming component, the electrical rating may be marked on a motor nameplate and need not be marked elsewhere on the toy if the nameplate is readily visible after the motor has been installed in the toy.

(3) A toy shall be rated for alternating current only, direct current only, or both alternating and direct current.

(4) The alternating current rating shall include the frequency or frequency range requirement, if necessary because of a special component.

(d) *Markings.* (1) The markings required on the toy by paragraph (b) of this section shall be of a permanent nature, such as paint-stenciled, die-stamped, molded, or indelibly stamped. The markings shall not be permanently obliterable by spillage of any material intended for use with the toy and shall not be readily removable by cleaning with ordinary household cleaning substances. All markings on the toy and labeling of the shelf pack or package required by paragraph (b) of this section shall contrast sharply with the background (whether by color, projection, or indentation) and shall be readily visible and legible. Such markings and labeling shall appear in lettering of a height not less than that specified in paragraph (d)(2) of this section, except that those words shown in capital letters in paragraph (e) of this section shall appear in capital lettering of a height not less than twice that specified in paragraph (d)(2) of this section.

(2) Minimum lettering heights shall be as follows:

SURFACE AREA DISPLAYING MARKING, MINIMUM HEIGHT OF LETTERING

| *Square inches* | *Inches* |
|---|---|
| Under 5 | 1/16 |
| 5 or more and under 25 | 1/8 |
| 25 or more and under 100 | 3/16 |
| 100 or more and under 400 | 1/4 |
| 400 or more | 1/2 |

(e) *Precautionary statements*—(1) *General.* Electrically operated toys shall bear the statement: "CAUTION—ELECTRIC TOY." The shelf pack or package and the instructions of such toys shall bear the statement in the upper right-hand quarter of the principal display panel: "CAUTION—ELECTRIC TOY: Not recommended for children under ____ years of age. As with all electric products, precautions should be observed during handling and use to prevent electric shock." The blank in the preceding statement shall be filled in by the manufacturer, but in no instance shall the manufacturer indicate that the article is recommended for children under 8 years of age if it contains a heating element. In the case of other electrically operated products which may not be considered to be "toys" but are intended for use by children, the term "ELECTRICALLY OPERATED PRODUCT" may be substituted for the term "ELECTRIC TOY."

(2) *Thermal hazards.* (i) Toys having Type C or Type D surfaces (described in § 1505.6(g)(2)) which reach temperatures greater than those shown in paragraph (e)(2)(ii) of this section shall be defined as hot and shall be marked where readily noticeable when the hot surface is in view with the statement: "HOT—Do Not Touch." When the marking is on other than the hot surface, the word "HOT" shall be followed by appropriate descriptive words such as "Molten Material," "Sole Plate," or "Heating Element," and the statement "Do Not Touch." An alternative statement for a surface intended to be handheld as a functional part of the toy shall be "HOT _____— Handle Carefully," the blank being filled in by the manufacturer with a description of the potential hazard such as "Curler" or "Cooking Surface."

(ii) Surfaces requiring precautionary statements of thermal hazards are those exceeding the following temperatures when measured by the test described in § 1505.6(g)(4):

| Surface type (see § 1505.6 (g)(2)) | Thermal inertia (type [1] | Temperature | |
|---|---|---|---|
| | | Degrees C. | Degrees F. |
| C | 1 | 65 | 149 |
| C | 2 | 75 | 167 |
| C | 3 | 85 | 185 |
| C | 4 | 95 | 203 |
| D | 1 | 55 | 131 |
| D | 2 | 70 | 158 |
| D | 3 | 80 | 176 |
| D | 4 | 90 | 194 |

[1] Thermal inertia types are defined in terms of lambda as follows:

Type 1: Greater than 0.0045 (e.g., most metals).
Type 2: More than 0.0005 but not more than 0.0045 (e.g., glass).
Type 3: More than 0.0001 but not more than 0.0005 (e.g., most plastics).
Type 4: 0.0001 or less (e.g., future polymeric materials).
The thermal inertia of a material can be obtained by multiplying the thermal conductivity (cal./cm./sec./degrees C.) by the density (gm./cm.³) by the specific heat (cal./gm./degrees C.)

(3) *Lamp hazards*—(i) *Replaceable incandescent lamps.* A toy with one or more replaceable incandescent lamps, having a potential difference of more than 30 volts r.m.s. (42.4 volts peak) between any of its electrodes or lampholder contacts and any other part or ground, shall be marked inside the lamp compartment where readily noticeable during lamp replacement with the statement: "WARNING—Do not use light bulbs larger than —— watts", the blank being filled in by the manufacturer with a number specifying the wattage rating of the lamp. Such toys shall bear the statement: "WARNING—Shock Hazard. Pull plug before changing light bulb" on the outside of the lamp compartment where it will be readily noticed before gaining access to the lamp compartment.

(ii) *Nonreplacement incandescent lamps.* A toy which utilizes one or more nonreplaceable incandescent lamps (other than pilot or indicator lamps) shall be marked where clearly visible with the statement: "SEALED UNIT—Do not attempt to change light bulb" or equivalent.

(4) *Water.* If not suitable for immersion in water, a toy cooking appliance (such as a corn popper, skillet, or candymaker) or other article which may conceivably be immersed in water shall be marked with the statement: "DANGER—To prevent electric shock, do not immerse in water; wipe clean with damp cloth" or equivalent.

### § 1505.4 Manufacturing requirements.

(a) *General.* (1) Only materials safe and suitable for the particular use for which the electrically operated toy is intended shall be employed.

(2) Toys shall be produced in accordance with detailed material specifications, production specifications, and quality assurance programs. Quality assurance programs shall be established and maintained by each manufacturer to assure compliance with all requirements of this part.

(3) The manufacturer or importer shall keep and maintain for 3 years after production or importation of each lot of toys (i) the material and production specifications and the description of the quality assurance program required by paragraph (a)(2) of this section, (ii) the results of all inspections and tests conducted, and (iii) records of sale and distribution. These records shall be made available upon request at reasonable times to any officer or employee of the Consumer Product Safety Commission. The manufacturer or importer shall permit such officer or employee to inspect and copy such records, to make such inventories of stock as he deems necessary, and to otherwise verify the accuracy of such records.

(4) Toys shall be constructed and finished with a high degree of uniformity and as fine a grade of workmanship as is practicable in a well-equipped manufacturing establishment. Each component of a toy shall comply with the requirements of this part.

(b) [Reserved]

(c) *Protective coatings.* Iron and steel parts shall be suitably protected against corrosion if the lack of a protective coating would likely produce a hazardous condition in normal use or when the toy is subjected to reasonably foreseeable damage or abuse.

(d) *Mechanical assembly*—(1) *General.* A toy shall be designed and constructed to have the strength and rigidity necessary to withstand reasonably foreseeable damage and abuse without producing or increasing a shock, fire, or other accident hazard. An increase in hazards may be due to total or partial structural collapse of the toy resulting in a reduction of critical spacings, loosening or displacement of one or more components, or other serious defects.

(2) *Mounting.* Each switch, lampholder, motor, automatic control, transformer, and similar component shall be securely mounted and shall be prevented from turning, unless the turning of such component is part of the design of the toy and produces no additional hazard such as reduced spacings below acceptable levels or stress on the connection. Friction between tight-fitting surfaces shall not be considered sufficient for preventing the turning of components. The proper use of a suitable lockwasher or a keyed and notched insert plus a suitable lockwasher for singe-hole mountings shall be acceptable. Each toy shall be designed and constructed so that vibrations occurring during normal operation and after reasonably foreseeable damage or abuse will not affect it adversely. Brush caps shall be tightly threaded or otherwise designed to prevent loosening.

(3) *Structural integrity.* Heating elements shall be supported in a substantial and reliable manner and shall be structurally prevented from making contacts inside or outside of the toy which may produce shock hazards. The current-carrying component(s) of the heating element shall be enclosed, and the enclosure shall be designed or insulated to prevent the development of a shock or fire hazard that may result from element failure. A toy operating with a gas or liquid under pressure, such as an electrically operated steam engine, shall be tested with respect to its explosion hazard and shall be provided with a pressure relief device that will discharge in the safest possible direction; that is, avoiding direct human contact and avoiding the wetting of electrical contacts.

(e) *Insulating material.* (1) Material to be used for mounting uninsulated live electrical elements shall be generally accepted as suitable for the specific application, particularly with regard to electrical insulation (voltage breakdown) and good aging characteristics (no significant change in insulating characteristics over the expected lifetime of the toy).

(2) Material used to insulate a heating element from neighboring parts shall be suitable for the purpose. If plain asbestos in a glass braid is used to so insulate the heating element, it shall be tightly packed and totally enclosed by the braid, and the overall thickness, including the braid, shall not be less than one-sixteenth inch. Hard fiber may be used for electrically insulating bushings, washers, separators, and barriers, but is not sufficient as the sole support of uninsulated live metal parts.

(f) *Enclosures*—(1) *General.* Each toy shall have an enclosure constructed of protective material suitable for the particular application, for the express purpose of housing all electrical parts that may present a fire, shock, or other accident hazard under any conditions of normal use or reasonably foreseeable damage or abuse. Enclosures shall meet the performance requirements prescribed by § 1505.6(b).

(2) *Accessibility.* An enclosure containing a wire, splice, brush cap, connection, electrical component, or uninsulated live part or parts at a potential of more than 30 volts r.m.s. (42.4 volts peak) to any other part or to ground:

(i) Shall be sealed by welding, riveting, adhesive bonding, and/or by special screws or other fasteners not removable with a common household tool (screwdriver, pliers, or other similar household tool) used as intended; and

(ii) Shall have no opening permitting entry of a 0.010-inch-diameter music wire that could contact a live part. Cross-notch-head screws, spring clips, bent tabs, and similar fasteners shall not be considered suitable sealing devices for enclosures since they are easy to remove with common household tools. Bent tabs shall be acceptable if, due to metal thickness or other factors, they successfully resist forceful attempts to dislodge them with ordinary tools.

(3) *Nonapplication.* The requirements of this paragraph are not applicable to an insulating husk enclosure or equivalent that covers the electrodes of a replaceable incandescent lamp and its lampholder contacts. The primary function of an enclosure containing a lamp shall be to protect it from breakage during normal use or reasonably foreseeable damage or abuse.







V 38 187 SEP 27 73 XUM

(g) *Spacings.* The distance, through air or across the surface of an insulator, between uninsulated live metal parts and a metallic enclosure and between uninsulated live metal parts and all other metal parts shall be suitable for the specific application as determined by the dielectric strength requirements prescribed by § 1505.6(e)(2). Electrical insulating linings on barriers shall be held securely in place.

(h) *Special safety features*—(1) *Moving parts.* If the normal use of a toy involves accident hazards, suitable protection shall be provided for the reduction of such hazards to an acceptable minimum. For example, rotors, pulleys, belting, gearing, and other moving parts shall be enclosed or guarded to prevent accidental contact during normal use or when subjected to reasonably foreseeable damage or abuse. Such enclosure or guard shall not contain openings that permit entrance of a ¼-inch-diameter rod and present a hazardous condition.

(2) *Switch marking.* Any toy having one or more moving parts which perform an inherent function of the toy and which may cause personal injury shall have a switch that can deenergize the toy by a simple movement to a plainly marked "OFF" position. Momentary contact switches which are normally in the "OFF" position need not be so marked.

(3) *Electrically operated sewing machines.* Electrically operated toy sewing machines shall be designed and constructed to eliminate the possibility of a child's finger(s) being pierced by a needle. For the purpose of this subparagraph, a clearance of not more than five thirty-seconds of an inch below the point of the needle when in its uppermost position or below the presser foot, if provided, shall be considered satisfactory.

(4) *Pressure relief valves.* A pressurized enclosure shall have an automatic pressure relief device and shall be capable of withstanding hydrostatic pressure equal to at least five times the relief pressure.

(5) *Containers for heated materials.* Containers intended for holding molten compounds and hot liquids shall be designed and constructed to minimize accidental spillage. A pot or pan having a lip and one or more properly located pouring spouts and an adequately thermally insulated handle may provide satisfactory protection. Containers intended solely for baking need not be designed and constructed to minimize accidental spillage. Containers shall be of such material and construction that they will not deform or melt when subjected to the maximum operating temperature occurring during normal use or after reasonably foreseeable damage or abuse.

(6) *Water.* Electrically operated toys (such as toy irons) shall not be designed or manufactured to be used with water except for toy steam engines or other devices in which the electrical components are separate from the water reservoir and are completely contained in a sealed chamber. Toys requiring occasional or repeated cleaning with a wet cloth shall be constructed to prevent seepage of water into any electrically active area that may produce a hazardous condition.

**§ 1505.5 Electrical design and construction.**

(a) *Switches.* (1) Switches and other control devices of electrically operated toys shall be suitable for the application and shall have a rating not less than that of the load they control (see § 1505.6(e)(5)(ii) regarding electrical switch overload). A switch that controls a replaceable incandescent lamp, electrode, or lampholder contact which is at a potential of more than 30 volts r.m.s. (42.4 volts peak) to any other part or to ground shall open both sides of the circuit and shall have a marked "OFF" position. A switch that may reasonably be expected to be subjected to temperatures higher than 50° C. (122° F.) shall be constructed of materials which are suitable for use at such temperatures.

(2) Switches shall be located and protected so that they are not subject to mechanical damage that would produce a hazard in normal use or from reasonably foreseeable damage or abuse (see § 1505.6(b)).

(b) *Lamps.* (1) A replaceable incandescent lamp having a voltage of more than 30 volts r.m.s. (42.4 volts peak) between any of its electrodes or lampholder contacts and any other part or ground shall be in an enclosure that has at least one door or cover permitting access to the lamp. Such door(s) or cover(s) of the enclosure shall be so designed and constructed that they cannot be opened manually or with a flat bladed screwdriver or pliers.

(2) With all access doors and covers closed, the lamp enclosure shall have no opening that will permit entry of a straight rod 6 inches long and one-fourth inch in diameter if such entry would present an electrical hazard. The lamp shall be located no less than one-half inch from any ¼-inch-diameter opening in the enclosure.

(3) A toy having one or more lampholders shall be designed and constructed so that no live parts other than the contacts of the lampholders are exposed to contact by persons removing or replacing lamps. The shells of all lampholders for incandescent lamps shall be at the same potential.

(4) If the potential between the contacts of a lampholder for a replaceable incandescent lamp and any other part or ground is greater than 30 volts r.m.s. (42.4 volts peak), the contacts shall be located in an insulating husk or equivalent.

(c) *Transformers.* Transformers that are integral parts of toys shall be of the 2-coil insulated type.

(d) *Automatic controls.* Automatic controls for temperature regulation shall have the necessary capacity and reliability for their particular application.

(e) *Power supply connections (cords and plugs).* (1) A toy shall be provided with a suitable means for attachment to the power supply circuit.

(2) A toy requiring a power cord shall have a flexible cord that is permanently attached to the toy.

(3) The perimeter of the face of the attachment-plug cap shall be not less than five-sixteenths of an inch from any point on either blade of the plug.

(4) The body of the attachment-plug cap shall decrease in cross section from the face but shall have an expansion of the body, after a suitable distance from the face, sufficient to provide an effective finger grip.

(5) A flexible electrical power cord provided on a toy shall be type SP-2 (as defined in the "National Electrical Code," Chapter 4, article 400, pages 184–194 (1971),[2] published by the National Fire Protection Association), or its equivalent, or a heavier general-use type, and shall be not less than 5 feet nor more than 10 feet in length when measured as the overall length of the attached cord outside the enclosure of the toy, including fittings, up to the face of the attachment-plug cap.

(6) A flexible cord and plug shall have a current-carrying capacity of not less than the ampere rating of the toy.

(7) Cords on toys which are intended to come in direct contact with water or other liquids during use shall be of a jacketed type. Cords on toys with which water or other liquids are to be indirectly used (such as for cooling a mold) shall be plastic covered.

(8) Transformers in which the primary coil connects directly to the branch circuit outlet shall not be subject to the requirements of paragraphs (e)(2), (4), and (5) of this section.

(f) *Bushings.* (1) At the point where a power supply cord passes through an opening in a wall, barrier, or the overall enclosure of a toy, a suitable and substantial bushing, insulating bushing, or equivalent shall be reliably secured in place and shall have smooth surfaces and well-rounded edges against which the cord may bear.

(2) If a cord hole is in wood, porcelain, phenolic composition, or other suitable insulating material, the surface of the hole is acceptable without a bushing if the edges of the hole are smooth and well-rounded. Where a separate insulating bushing is required, a bushing made of ceramic material or a suitable molded composition is acceptable if its edges are smooth and well-rounded.

(3) In no instance shall a separate bushing of wood, rubber, or any of the hot-molded shellac-and-tar compositions be considered acceptable.

(g) *Wiring.* (1) The internal wiring of a toy shall consist of suitable insulated conductors having adequate mechanical strength, dielectric properties, and electrical capacity for the particular application.

(2) Wireways shall be smooth and entirely free of sharp edges, burrs, fins, and moving parts that may abrade conductor insulation. Each splice and connection

[2] Copies may be obtained from: National Fire Protection Association, 60 Batterymarch Street, Boston, MA 02110.





shall be mechanically secure, shall provide adequate and reliable electrical contact, and shall be provided with insulation at least equivalent to that of the wire involved unless adequate spacing between the splice and all other metal parts is permanently assured.

(3) A wire connector for making a splice in a toy shall be a type that is applied by a tool and for which the application force of the tool is independent of the force applied by the operator.

(4) Soldered connections shall be made mechanically secure before soldering.

(5) Current-carrying parts shall be made of silver, copper, a copper alloy, or other electrically conductive material suitable for the particular application.

(h) *Strain relief.* (1) A means of strain relief shall be provided to prevent mechanical stress on a flexible cord from being transmitted to terminals, splices, or interior wiring.

(2) If suitable auxiliary insulation is provided under a clamp for mechanical protection, clamps of any material are acceptable for use on Type SP-2 (as defined in the "National Electrical Code," chapter 4, article 400, pages 184–194 (1971),[3] published by the National Fire Protection Association), or equivalent rubber-insulated cord. For heavier types of thermoplastic-insulated cord, clamps may be without auxiliary insulation unless the clamp may damage the cord insulation.

(3) A flexible cord shall be prevented from being pushed into the toy through the cord-entry hole if such displacement would result in a hazardous condition.

(4) A knot in the cord shall not be considered an acceptable means of strain relief, but a knot associated with a loop around a smooth, fixed structural component shall be considered acceptable.

(i) *Additional requirements.* Except for the electrodes of a replaceable incandescent lamp and its lampholder contacts, a potential of more than 30 volts r.m.s. (42.4 volts peak) shall not exist between any exposed live part in a toy and any other part or ground.

**§ 1505.6 Performance.**

(a) *General.* Electrically operated toys and components thereof shall be tested by the appropriate methods described in this section and shall pass the tests in such a manner as to provide the necessary assurance that normal use and reasonably foreseeable damage or abuse will not produce a hazard or a potentially hazardous condition. The toy shall be capable of passing all applicable tests with any door, cover, handle, operable part, or accessory placed in any normal position. A toy shall not present a fire, casualty, or shock hazard when operated continuously for 6 hours under conditions of normal use and reasonably foreseeable damage or abuse, including the most hazardous position in which the toy can be left.

(b) *Enclosures.* For purposes of this section, the term "enclosure" means any surface or surrounding structure which prevents access to a real or potential hazard. An enclosure shall withstand impact, compression, and pressure tests (see paragraphs (b)(1), (2), and (3) of this section) without developing any openings above those specified, reduction of electrical spacings below those specified, or other fire, casualty, or shock hazards, including the loosening or displacement of components but excluding breakage of a lamp. After completion of each test, the toy shall comply with the requirements of the dielectric strength test described in paragraph (e)(2) of this section and, upon visual examination, shall not evidence the development of any hazards. Rupture of a fuse shall be considered a test failure.

(1) *Impact test.* A toy weighing 10 pounds or less shall be dropped four times from a height of 3 feet onto a 2½ inch thick concrete slab covered with 0.125 inch nominal thickness vinyl tile. The impact area shall be at least 3 square feet. The test shall be conducted while the toy is energized and operating and with all dead metal of the toy that may be energized connected together electrically and grounded through a 3-ampere plug fuse. The toy shall be dropped in random orientation. After each drop the test sample shall be allowed to come to rest and examined and evaluated before continuing.

(2) *Compression test.* Any area on the surface of the enclosure that is accessible to a child and inaccessible to flat-surface contact during the impact test shall be subjected to a direct force of 20 pounds for 1 minute. The force shall be applied over a period of 5 seconds through the axis of a ½-inch-diameter metal rod having a flat end with the edge rounded to a radius of one thirty-second of an inch to eliminate sharp edges. The axis of the rod shall be perpendicular to the surface being tested. During the test the toy shall rest on a flat, hard surface in any test-convenient position.

(3) *Pressure test.* If any portion of the top of a toy has a flat surface measuring 24 square inches or more and a minor dimension of at least 3 inches, that surface shall be subjected to a direct vertical pressure increasing to 50 pounds over a period of 5 seconds and maintained for 1 minute. The force shall be applied through a steel ball 2 inches in diameter. During the test the toy shall be in an upright position on a flat, horizontal solid surface.

(c) *Handles and knobs*—(1) *General.* For the purposes of tests in this paragraph, the parts of a lifting handle on a toy that are within seven-sixteenths of an inch of the surface to which the handle is attached, or the parts of a lifting knob that are within one-fourth inch of the surface to which the knob is attached, are considered to be for support purposes, and the remainder of the handle or knob is considered to be generally functional in nature. A handle or knob shall withstand crushing and lifting tests (see paragraphs (c)(2) and (3) of this section) without fracture of the handle or knob, development of an opening that may pinch the hand, or breakage of the means used to fasten the handle or knob in place.

(2) *Crushing test.* The functional portion of a handle or knob shall be subjected to a crushing force increasing to 20 pounds over a period of 5 seconds and maintained for 1 minute. The force shall be applied through two flat and parallel hardwood blocks, each at least 2½ inches thick and each having dimensions slightly exceeding those of the handle or knob being tested. The crushing force between the blocks shall be exerted in any direction perpendicular to the major axis of the handle or knob.

(3) *Lifting test.* The support portion of a handle or knob shall be subjected to a force equal to four times the weight of the object it is intended to support. The direction of the lifting force shall be as intended by the design of the toy and shall be applied through a ½-inch-wide strap through or around a handle or by fingers or the equivalent on a knob. The force shall be applied over a period of 5 seconds through the center of gravity of the toy and maintained for 1 minute.

(d) *Stability.* A toy shall not overturn while resting in an upright position on a flat surface inclined 15° from horizontal. No spillage of molten material or hot liquids from containers shall occur while the toy is operating in this position under normal conditions of use. During this test, casters, if any, shall be in the position most likely to result in tipping, but shall not be artificially held in one position to prevent a natural rotation to another position.

(e) *Electrical*—(1) *Power input.* The actual current flow in a toy without a heating element shall not exceed 110 percent of the rated value, and shall not exceed 5.5 amperes, at rated voltage. The power input to a toy with a heating element shall not exceed 105 percent of the rated value at rated voltage. The power input rating of a toy employing one or more incandescent lamps as the only power-consuming components shall be considered to be the total rated wattage of such lamps. The rated voltage shall be considered to be the mean value of a marked voltage range.

(2) *Dielectric strength.* (i) A toy shall be capable of withstanding without breakdown for 1 minute a 60-cycle-per-second (60 Hertz) essentially sinusoidal potential of 1,000 volts applied between live parts and any dead metal parts.

(ii) If a toy employs a low-voltage secondary winding (either in the form of a conventional transformer or as an insulated coil of a motor), the toy shall also be capable of withstanding without breakdown for 1 minute a sinusoidal test potential applied between the high-voltage and low-voltage windings. The test potential shall be applied at the rated frequency of the toy and shall have a value of 1,000 volts plus twice the rated voltage of the high-voltage winding. The test potential shall be supplied from a suitable capacity-testing transformer, the output voltage of which can be regulated. The waveform of the test voltage shall approximate a sine wave as closely as possible.

[3] Copies may be obtained from: National Fire Protection Association, 60 Batterymarch Street, Boston, MA 02110.



V 38 187 SEP 27 73 XUM

(iii) The applied test potential shall be increased rapidly and uniformly from zero until the required test value is reached and shall be held at that value for 1 minute. Unless otherwise specified, the toy shall be at the maximum operating temperature reached in normal use prior to conducting the tests.

(iv) The dielectric strength requirements of this subparagraph may also be determined by subjecting the toy to a 60-cycle-per-second (60 Hertz) essentially sinusoidal potential of 1,200 volts for 1 second. If the dielectric strength is determined by this method, the toy need not be in a heated condition.

(3) *Leakage current and repeated dielectric withstand tests.* (i) Both before and after being conditioned, a toy intended to operate from a source exceeding 42.4 volts peak shall:

(*a*) Not have a leakage current exceeding 0.5 milliampere, except that during the interval beginning 5 seconds and terminating 10 minutes after the toy is first energized, the leakage current of toys with heating elements other than lamps shall not exceed 2.5 milliamperes; and

(*b*) Comply with the requirements of a repeated dielectric withstand test both with and without preheating.

(ii) All accessible parts of a toy shall be tested for leakage current. If an insulating material is used for the enclosure or part of the enclosure, the leakage current shall be measured using a metal foil with an area not exceeding 10 by 20 centimeters in contact with accessible surfaces of such insulating material. Where the accessible surface of insulating material is less than 10 by 20 centimeters, the metal foil shall be the same size as the surface. The metal foil shall be so applied that it will not affect the temperature of the toy. The accessible parts shall be tested individually, collectively, and from one part to another.

(iii) Following the initial leakage current test, the toy shall be cooled down or heated up to 32° C. (90° F.). The toy shall then be conditioned for 48 hours in air at a temperature of 32°±2° C. (89.6°±3.6° F.) and with a relative humidity of 90–95 percent. The specified relative humidity shall be maintained inside a closed compartment in which a saturated solution of potassium sulphate is kept in a suitable container. Leakage current measurements shall be made, as specified in paragraph (e)(3)(ii) of this section and before the toy is energized, while the toy is in the humidity compartment.

(iv) With the connections intended for the source of supply connected thereto and then connected to the ungrounded side of a power supply circuit having a voltage equal to 110 percent of the rated voltage of the toy, the leakage current through a noninductive 1,500-ohm resistor connected between the grounded side of the supply circuit and each dead metal part (accessible and inaccessible) shall, when stable, be measured in accordance with the test provisions established in ANSI Standard C 101.1–1971, "American National Standard for Leakage Current for Appliances," approved November 17, 1970,[4] published by American National Standards Institute.

The toy shall then be removed from the humidity chamber, energized, and tested again after attaining its normal operating temperature. From these measurements, a leakage current with no resistance shall be calculated and used to determine compliance.

(v) For a toy whose outer enclosure consists wholly or partly of insulating material, the term "dead metal part" means metal foil tightly wrapped around the exterior of the enclosure in a manner that covers, but does not enter into, any enclosure openings.

(4) *Motor operation.* (i) A motor provided as part of a toy shall be capable of driving its maximum normal load in the toy without introducing any potentially hazardous condition. The performance of the toy shall be considered unacceptable if, during the test, temperatures in excess of those specified in § 1505.7 for Type D surfaces are attained on any accessible surface. The performance of the toy shall also be considered unacceptable if the rise in temperature during the test causes melting, scorching, embrittlement, or other evidence of thermal damage to the insulating material used to prevent exposure of live metal parts.

(ii) A motor-operated toy shall be tested with the motor stalled if the construction of the toy is such that any person can touch moving parts associated with the motor from outside the toy. The performance of the toy shall be considered unacceptable if, during the test, temperatures higher than those specified in § 1505.8 are attained or if temperatures higher than those specified for Type C surfaces in § 1505.7 are attained on any accessible surface of the motor.

(5) *Overload*—(i) *Motor.* A motor-control switch that is a part of a toy shall be horsepower-rated to cover the load or shall be capable of performing acceptably when subjected to an overload test consisting of 50 cycles of operation by making and breaking the stalled-rotor current of the toy at maximum rated voltage. There shall be no electrical or mechanical failure nor any visible burning or pitting of the switch contacts as a result of this test.

(ii) *Switch.* To determine if a motor-control switch is capable of performing acceptably when subjected to overload conditions, the toy shall be connected to a grounded supply circuit of rated frequency and maximum rated voltage with the rotor of the motor locked into position. During the test, exposed dead metal parts of the toy shall be connected to ground through a 3-ampere plug fuse such that any single pole, current-rupturing device will be located in the ungrounded conductor of the supply circuit. If the toy is intended for use on direct current, or on direct current as well as alternating current, the exposed dead metal parts of the toy shall be so connected as to be positive with respect to a single pole, current-rupturing device. The switch shall be operated at a rate of not more than 10 cycles per minute. The performance of the toy shall be considered unacceptable if the fuse in the grounding connection is blown during the test.

(f) *Hydrokinetic*—(1) *General.* Electrically operated toy steam engines shall be capable of performing acceptably when subjected to the tests described in this paragraph.

(2) *Preliminary test.* The ultimate strength of the boiler assembly shall first be determined by applying a hydrostatic pressure to the boiler with all openings blocked (the pressure-relief valve, steam exhausts, and any whistle or other accessory shall be removed and the resulting openings sealed); however, a water or other type of gage shall be left in place. The hydrostatic pressure shall be applied slowly and the ultimate value which is attained shall be recorded.

(3) *Pressure-relief test.* A pressure gage shall be connected to the boiler assembly which shall then be operated normally. The pressure at which the pressure-relief valve functions shall be noted while the engine is shut off (if a shutoff valve is provided) and with the whistle, if any, turned off. The test shall be discontinued and shall be considered a failure if the observed pressure exceeds one-fifth the value attained in the preliminary test described in paragraph (f)(2) of this section.

(4) *Operating pressure test.* If the boiler is still intact and no failure has occurred, the pressure-relief valve shall then be rendered inoperable and all other valves (such as a whistle and exhaust from the assembly) shall be tightly closed. Operations shall be continued until the pressure becomes constant. This test shall be discontinued and shall be considered a failure if the observed pressure exceeds one-third the value attained in the preliminary test described in paragraph (f)(2) of this section. During this test, all valves, gaskets, joints, and similar components shall be sufficiently tightened to prevent leakage. Rupture of the boiler or of any other fittings supplied with the engine shall be considered a failure.

(5) *Hydrostatic test.* If there has been no failure, two previous untested toys shall withstand for 1 minute a hydrostatic pressure of 5 times the pressure at which the safety valve operated or 3 times the constant pressure observed with the presure-relief valve inoperable, whichever is greater. During this test, all openings shall be blocked (the pressure-relief valve, steam exhaust from the assembly, and any whistle or other outlet); however, a water or other type of gage shall remain in place. Rupture of the boiler or of a gage shall be considered a failure.

(g) *Thermal*—(1), *General.* The normal operation of a toy includes performance in normal use and after being subjected to reasonably foreseeable damage or abuse likely to produce the highest temperatures or, in the case of motor-operated toys, the load that most closely approximates the severest conditions of normal use or reasonably foreseeable damage or abuse.

(2) *Classification.* Parts or surfaces of a toy are classified according to their use or function as follows (for the purposes of paragraph (g)(2)(v), (vi), and (vii) of this section, accessibility shall be defined as the ability to reach a heated surface with a ¼-inch-diameter rod 3 inches long):

(i) *Type A.* A part or surface of a toy (such as a handle) likely to be grasped by the hand or fingers for the purpose of carrying the toy or lifting a separable lid.

(ii) *Type B.* A part or surface of a toy that is (*a*) part of a handle, knob, or similar component, as in Type A (described in paragraph (g)(2)(i) of this section), but which is not normally grasped or contacted by the hand or fingers for carrying (including parts of a handle within seven-sixteenths of an inch of the surface to which the handle is attached and parts of a finger knob within ¼ inch of the surface to which the knob is attached, if the remainder of the knob is large enough to be grasped), or (*b*) a handle, knob, or part that may be touched but which need not be grasped for carrying the toy or lifting a lid, door, or cover (e.g., support part of a handle or knob).

(iii) *Type C.* A part or surface of a toy that can be touched by casual contact or that can be touched without employing the aid of a common household tool (screwdriver, pliers, or other similar household tool) and that is either (*a*) a surface that performs an intended heating function (e.g., the soleplate of a flatiron, a cooking surface, or a heating element surface), or (*b*) a material heated by the element and intended to be used as the product of the toy, excluding pans, dishes, or other containers used to hold the material to be cooked or baked if a common utensil or other device is supplied with the toy and specific instructions are established for using such a device to remove the container from the heated area.

(iv) *Type C marked.* A Type C surface which has been marked with a precautionary statement of thermal hazards in accordance with § 1505.3(e)(2).

(v) *Type D.* An accessible part or surface of a toy other than Types A, B, C, or E (see paragraphs (g)(i), (ii), (iii) and (vii) of this paragraph).

(vi) *Type D marked.* A Type D surface which has been marked with a precautionary statement of thermal hazards in accordance with § 1505.3(e)(2).

(vii) *Type E.* A heated surface in an oven or other article that is inaccessible or protected by an electrical-thermal safety interlock. Such interlocks shall prohibit the operation of a heating device whenever such surfaces are accessible and shall not allow accessibility to such surfaces until the temperatures of those surfaces have been reduced to levels below those established for Type D surfaces (paragraph (g)(2)(v) of this section).

(3) *Requirements.* When tested under the conditions described in paragraph (g)(4) of this section, a toy shall not attain a temperature at any point sufficiently high to constitute a fire hazard or to adversely affect any materials employed and shall not show a maximum temperature higher than those established by §§ 1505.7 and 1505.8. These maximum surface temperature requirements are not applicable to educational- or hobby-type products such as lead-casting sets and wood-burning tools which are appropriately labeled on the shelf pack or package as being intended only for children over 12 years of age provided that the maximum surface temperature of any such toy does not exceed that reasonably required to accomplish the intended technical effect. Such toys shall be provided with specific instructions and the warning statements required by and in accordance with § 1505.3(d) and (e), and shall be appropriately identified as educational or hobby-type products.

(4) *Test conditions*—(i) *General.* Tests shall be conducted while the toy is connected to a circuit of 60-cycle-per-second (60 Hertz) current using the materials supplied with the toy or using materials otherwise intended to be used with the toy. Following such tests, the toy shall be energized for a 6-hour period to determine that no hazardous conditions would result from unattended use of the toy.

(ii) *Temperature.* Normally, tests shall be performed at an ambient (room) temperature of 25° C. (77° F.); however, a test may be conducted at any ambient temperature within the range of 21° to 30° C. (69.8° to 86° F.).

(iii) *Voltage.* The toy shall be tested at the voltage indicated in the manufacturer's rating or at 120 volts, whichever is greater.

(5) *Temperature measurements*—(i) *General.* Temperatures shall be measured by means of instruments utilizing thermocouples of No. 30 AWG (American Wire Gage) wire (either copper and constantan or iron and constantan) and potentiometer-type instruments that are accurate and are calibrated in accordance with current good laboratory practices. The thermocouple wire shall conform with the requirements for "special" thermocouples as listed in the table of limits of error of thermocouples (Table VIII) in "American Standard for Temperature Measurement Thermocouples, C96.1–1964,"[5] approved June 9, 1964, by American National Standards Institute, Inc. The Standard was sponsored and published by the Instrument Society of America.

(ii) *Test procedures.* The thermocouple junction and adjacent thermocouple lead wire shall be securely held in good thermal contact with the surface of the material whose temperature is being measured. In most cases, good thermal contact will result from securely taping or cementing the thermocouple in place. If a metal surface is involved, brazing or soldering the thermocouple to the metal may be necessary. The surface temperatures of a toy shall be measured with the toy operating in any unattended condition (e.g., with and without opening and closing doors or covers) for a sufficient period of time to allow temperatures to become constant, or, in the case of a toy with a thermostatically controlled heating element, for a sufficient period of time to determine the maximum surface temperature attained. A temperature shall be considered to be constant when three successive readings taken at 15-minute intervals indicate no change.

(iii) *Heating devices.* Toy ovens, casting toys, popcorn and candymakers, and other toys requiring the insertion of any materials or substances shall be additionally tested by feeding crumpled strips of newspaper and tissue paper into or onto the toy in place of the intended materials or substances. The test strips shall be conditioned for at least 48 hours in air at a temperature of 25°±4° C. (77°±7° F.) and a relative humidity of 50 percent ±5 percent. The test strips shall be 2 inches wide by 8 inches long before crumpling. The crumpled paper shall occupy not more than 25 percent of the accessible volume. The performance of the toy shall be considered unacceptable if flaming occurs within a 60-minute period following the attainment of normal operating temperatures. If a light bulb is used for heating purposes, the test shall be conducted using the largest wattage bulb that can be easily inserted into the socket.

(h) *Strain-relief test.* (1) The strain-relief means provided on the flexible power cord of a toy shall be capable of withstanding a direct pull of 35 pounds applied to the cord for 2 minutes without displacement of the strain-relief unit or a deformation of the anchoring surface that would produce a stress which would result in a potentially hazardous condition. A 35-pound weight shall be attached to the cord and supported by the toy in such a manner that the strain-relief means is stressed from any angle that the construction of the toy permits. The test shall be conducted with the electrical connection within the toy disconnected.

(2) The initial 2-minute test shall be conducted with the force vector parallel to the longitudinal axis of the cord and perpendicular to the anchoring surface of the strain-relief unit. Each test at other angles of stress shall be conducted for periods of 1 minute. The strain-relief means is not acceptable if, at the point of disconnection of the cord, there is any movement of the cord to indicate that stress would have resulted on the connections.

(3) Except for toys weighing more than 10 pounds, the strain-relief unit and its support base shall be designed and constructed in such a manner that

[4] Copies may be obtained from: American National Standards Institute, 1430 Broadway, New York, NY 10018.

[5] Copies may be obtained from: Instrument Society of America, 530 William Penn Place, Pittsburgh, PA 15219.







V 38 187 SEP 27 73 XUM

no indication of stress would result which would produce a hazard when the cord is held firmly in place 3 feet from the strain-relief unit and the toy is dropped the 3 feet at any angle.

**§ 1505.7 Maximum acceptable surface temperatures.**

The maximum acceptable surface temperatures for electrically operated toys shall be as follows:

| Surface type (as described in § 1505.6 (g) (2)) | Thermal inertia type [1] | Temperatures ° C. | Temperatures ° F. |
|---|---|---|---|
| A | 1 | 50 | 122 |
| A | 2 | 55 | 131 |
| A | 3 | 60 | 140 |
| B | 1 | 55 | 131 |
| B | 2 | 65 | 149 |
| B | 3 | 75 | 167 |
| C (unmarked) | 1 | 65 | 149 |
| C (unmarked) | 2 | 75 | 167 |
| C (unmarked) | 3 | 85 | 185 |
| C (unmarked) | 4 | 95 | 203 |
| C marked | 1 | 70 | 158 |
| C marked | 2 | 80 | 176 |
| C marked | 3 | 110 | 230 |
| C marked | 4 | 130 | 266 |
| D (unmarked) | 1 | 55 | 131 |
| D (unmarked) | 2 | 70 | 158 |
| D (unmarked) | 3 | 80 | 176 |
| D (unmarked) | 4 | 90 | 194 |
| D marked | 1 | 60 | 140 |
| D marked | 2 | 75 | 167 |
| D marked | 3 | 100 | 212 |
| D marked | 4 | 125 | 257 |
| E | [2] | [3] | [3] |

[1] Thermal inertia types are defined in terms of lambda as follows:

Type 1: Greater than 0.0045 (e.g., most metals).
Type 2: More than 0.0005 but not more than 0.0045 (e.g., glass).
Type 3: More than 0.0001 but not more than 0.0005 (e.g., most plastics).
Type 4: 0.0001 or less (e.g., future polymeric materials).
The thermal inertia of a material can be obtained by multiplying the thermal conductivity (cal./cm./sec./degrees C.) by the density (gm./cm.$^3$) by the specific heat (cal./gm./degrees C.).

[2] All types.
[3] No limit.

**§ 1505.8 Maximum acceptable material temperatures.**

The maximum acceptable material temperatures for electrically operated toys shall be as follows (Classes 105, 130, A, and B are from "Motors and Generators," Standard MG–1–1967[6] published by the National Electrical Manufacturers Association):

| Material | Degrees C. | Degrees F. |
|---|---|---|
| Capacitors | (1) | (1) |
| Class 105 insulation on windings or relays, solenoids, etc.: | | |
| Thermocouple method[2] | 90 | 194 |
| Resistance method | 110 | 230 |
| Class 130 insulation system | 110 | 230 |
| Insulation: | | |
| Varnished-cloth insulation | 85 | 185 |
| Fiber used as electrical insulation | 90 | 194 |

| | Class A | Class B | Class A | Class B |
|---|---|---|---|---|
| Insulation on coil windings of a.c. motors (not including universal motors) and on vibrator coils: | | | | |
| In open motors and on vibrator coils—thermocouple or resistance method[2] | 100 | 120 | 212 | 248 |
| In totally enclosed motors—thermocouple or resistance method[2] | 105 | 125 | 221 | 257 |
| Insulation on coil windings of d.c. motors and of universal motors: | | | | |
| In open motors: | | | | |
| Thermocouple method[2] | 90 | 110 | 194 | 230 |
| Resistance method | 100 | 120 | 212 | 248 |
| In totally enclosed motors: | | | | |
| Thermocouple method[2] | 95 | 115 | 203 | 239 |
| Resistance method | 105 | 125 | 221 | 257 |
| Phenolic composition[3] | | 150 | 302 | |
| Rubber- or thermoplastic-insulated wires and cords[3] | | 60 | 140 | |
| Sealing compound | (4) | | (5) | |
| Supporting surface while the toy is operating normally | | 90 | 194 | |
| Wood and other similar combustible material | | 90 | 194 | |

[1] If the capacitor has no marked temperature limit, the maximum acceptable temperature will be assumed to be 65° C. (149° F.) for an electrolytic type and 90° C. (194° F.) for other than an electrolytic type.
[2] The temperature indicated refers to the hottest spot on the outside surface of the coil measured by the thermocouple method.
[3] The limitations on rubber- and thermoplastic-insulated wires and cords and on phenolic composition do not apply if the insulation or the phenolic has been investigated and found to have special heat-resistant properties, or if the insulation meets the thermal requirements.
[4] 40 less than melting point.
[5] 104 less than melting point.

Dated September 20, 1973.

SADYE E. DUNN,
*Secretary, Consumer Product Safety Commission.*

[FR Doc.73-20429 Filed 9-26-73;8:45 am]

[6] Copies may be obtained from: National Electrical Manufacturers Association, 155 East 44th Street, New York, NY 10017.



V 38 187 SEP 27 73 XUM

*30-year Reference Volumes*
*Consolidated Indexes and Tables*

## Presidential Proclamations and Executive Orders

Consolidated subject indexes and tabular finding aids to Presidential proclamations, Executive orders, and certain other Presidential documents promulgated during a 30-year period (1936–1965) are now available in two separately bound volumes, published under Title 3 of the Code of Federal Regulations, priced as follows:

Title 3, 1936–1965 Consolidated Indexes ..... $3.50
Title 3, 1936–1965 Consolidated Tables ..... $5.25

Compiled by Office of the Federal Register, National Archives and Records Service, General Services Administration

Order from Superintendent of Documents, U.S. Government Printing Office
Washington, D.C. 20402

V 38-187
SEP 27 73
XUM

188

September 28, 1973—Pages 27039–27203

# federal register

FRIDAY, SEPTEMBER 28, 1973

WASHINGTON, D.C.

Volume 38 ■ Number 188

Pages 27039–27203

PART I

## HIGHLIGHTS OF THIS ISSUE

**This listing does not affect the legal status of any document published in this issue. Detailed table of contents appears inside.**

**SAFETY AND HEALTH PROGRAMS FOR FEDERAL AGENCIES**—Labor Department proposals; comments by 10–18–73 ..... 27070

**FLAMMABLE AND COMBUSTIBLE LIQUIDS**—OSHA revises definitions ..... 27047

**ASBESTOS PARTICLES**—FDA proposal on adulteration of food and drugs; comments by 12–27–73 ..... 27076

**FARM LOANS**—USDA amends regulations ..... 27055

**RICE**—USDA announces determinations for 1974 crop; comments by 10–15–73 ..... 27068

**MEAT AND POULTRY**—USDA proposes sanitation requirements for conveyances used for transportation; comments by 12–7–73 ..... 27069

**FOOD ADDITIVES**—FDA permits residues of benzene hexachloride in imported paprika ..... 27046

**DRIVER'S LOG**—DOT revises form ..... 27049

**PNEUMATIC TIRES**—DOT revises performance requirements; effective 3–29–74 ..... 27050

**IDENTIFICATION REQUIREMENTS**—FCC amends rules for ships and survival craft engaged in public correspondence ..... 27052

**CIVIL WORKS PROJECTS**—Department of the Army notice on responsibility for costs in highway and housing relocations ..... 27098

**SECURITIES ACCOUNTING**—
SEC proposals on disclosure of income tax expense; comments by 10–31–73 ..... 27088
SEC proposals relating to life insurance companies; comments by 11–1–73 ..... 27090

**SITUATION INFORMATION ON ENTRIES, WITHDRAWALS, AND INVOICES**—Treasury Department proposes to amend customs regulations; comments by 10–29–73 27094

**MEETINGS**—
FDA: Advisory committee meetings for October ..... 27102
SEC: Broker-Dealer Model Compliance Program Advisory Committee, 10–5–73 ..... 27115
HEW: National advisory committees, October meetings .. 27105

**PART II:**

**MINIMUM WAGE**—Labor Department determinations and monthly index for federally assisted construction ..... 27141



V38-188 SEP 28 73 XUM

# REMINDERS

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

## Rules Going Into Effect Today

NOTE: There were no items published after October 1, 1972, that are eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

page no. and date

**September 29**

INTERIOR DEPARTMENT—Migratory bird hunting; open seasons, bag limits, and possession of certain migratory game birds ..... 23524; 8–31–73

DOT—Shipment of hazardous materials.

**September 30**

20083; 7–27–73

—Shipping container regulations. 21989; 8–15–73

—Hazardous materials; editorial changes ..... 23791; 9–30–73


federal register

Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The FEDERAL REGISTER provides a uniform system for making available to the public regulations and legal notices issued by the Executive Branch of the Federal Government. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $2.50 per month or $25 per year, payable in advance. The charge for individual copies is 20 cents for each issue, or 20 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER.




# Contents


**AGRICULTURAL MARKETING SERVICE**

Rules and Regulations

Lemons grown in California and Arizona; limitation of handling.. 27052

Milk in the Central Illinois Marketing area; order amending order ..... 27053

Olives grown in California; expenses, rate of assessment, and carryover of unexpended funds.. 27053

Proposed Rules

Standards for grades of canned apricots and canned solid-pack apricots; correction..... 27068

Grapefruit grown in Arizona and designated part of California; limitation of handling..... 27068

**AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE**

Proposed Rules

Rice; determinations to be made regarding marketing quotas, National, State, and county acreage allotments, etc..... 27068

Notices

Sugarbeet producing area; hearings on wages and prices, and designation of presiding officers.. 27100

**AGRICULTURE DEPARTMENT**

*See* Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Animal and Plant Health Inspection Service; Farmers Home Administration; Soil Conservation Service.

**ANIMAL AND PLANT HEALTH INSPECTION SERVICE**

Proposed Rules

Meat and poultry inspection; added assurance against adulteration ..... 27069

**ARMY DEPARTMENT**

*See* Engineers Corps.

**ATOMIC ENERGY COMMISSION**

Proposed Rules

Public records; changes for processing request..... 27096

Notices

Duke Power Co.; order extending completion date..... 27106

Florida Power & Light Co.; receipt of application for construction permit and availability of environmental report..... 27106

**CIVIL AERONAUTICS BOARD**

Notices

*Hearings, etc.:*

Alaska Airlines, Inc..... 27107

Interstate and Intrastate fares in California and Texas as markets ..... 27107

**COMMERCE DEPARTMENT**

*See also* Social and Economic Statistics Administration.

Notices

Tariff schedules, general statistical headnote 1; collection of F.O.B. and C.I.F. data on imports ..... 27101

**COMMITTEE FOR PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY HANDICAPPED**

Notices

Procurement List 1973:

Addition ..... 27107

Proposed additions..... 27107

**CUSTOMS SERVICE**

Proposed Rules

Statistical headnote to tariff schedules; statistical information on entries, withdrawals, and invoices..... 27094

**DEFENSE DEPARTMENT**

*See* Engineers Corps.

**EMPLOYMENT STANDARDS ADMINISTRATION**

Notices

Minimum wages for Federal and federally assisted construction; general wage determination decisions and supersedeas decisions ..... 27141

**ENGINEERS CORPS**

Notices

Highway and housing relocations; responsibility for costs of improved standards..... 27098

**ENVIRONMENTAL PROTECTION AGENCY**

Notices

State of Washington; public hearing and request for approval of State program..... 27107

**FARMERS HOME ADMINISTRATION**

Rules and Regulations

Farm purchases and developmental loans to individuals; farm ownership loan policies, procedures, and authorizations..... 27055

**FEDERAL AVIATION ADMINISTRATION**

Rules and Regulations

Additional control area; designation ..... 27046

Airworthiness directives:

Beech models 19, 23, and 24 series airplanes..... 27045

Bell model 206 series helicopters ..... 27045

Cessna model RI72E aircraft... 27045

Restricted area, continental control area, transition area, and control zone; alteration..... 27046

Proposed Rules

Area high route; alteration..... 27081

VOR Federal airways; alteration.. 27081

**FEDERAL COMMUNICATIONS COMMISSION**

Rules and Regulations

Stations on shipboard in the maritime services; deferral of identification requirement for ships and survival craft..... 27052

Proposed Rules

Ascertainment of community problems by broadcast applicants; order extending time to file reply comments..... 27087

FM broadcast stations; table of assignments ..... 27086

Land mobile service; incorporation of additional material and extension of time for comments.. 27082

Notices

Common carrier services information; domestic public radio services applications accepted for filing ..... 27108

International Record Carriers; memorandum opinion and order regarding oral argument en banc ..... 27110

**FEDERAL HIGHWAY ADMINISTRATION**

Rules and Regulations

Hours of service of drivers; revision of specimen driver's log.. 27049

**FEDERAL POWER COMMISSION**

Notices

*Hearings, etc.:*

Kansas Power & Light Co..... 27111

Michigan Wisconsin Pipe Line Co ..... 27113

Texas Gas Transmission Corp. and Gibson County Utility District ..... 27113

**FEDERAL RESERVE SYSTEM**

Notices

Acquisitions of banks:

First at Orlando Corp..... 27114

Indian Head Banks, Inc..... 27114

Southeast Banking Corp..... 27115

Wyoming Bancorporation..... 27115

Northwest Bancorporation; order denying acquisition of bank... 27114

**FISH AND WILDLIFE SERVICE**

Rules and Regulations

Hunting; Columbian White-Tailed Deer National Wildlife Refuge, Washington ..... 27052

**FOOD AND DRUG ADMINISTRATION**

Rules and Regulations

Food additives; benzene hexachloride ..... 27046

Proposed Rules

Asbestos particles in food and drugs; prohibition of adulteration ..... 27076


*(Continued on next page)*



V 38-188 SEP 28 73 XUM

**Notices**
Advisory committees; meetings 27102
Agreement with EPA; matters of mutual responsibility; amendment; correction 27102

**HEALTH, EDUCATION, AND WELFARE DEPARTMENT**
*See* Food and Drug Administration; Health Resources Administration; Social and Rehabilitation Service; National Institutes of Health.

**HEALTH RESOURCES ADMINISTRATION**
**Notices**
National advisory bodies; meetings 27105

**INTERIOR DEPARTMENT**
**Notices**
Hungry Horse Cloud Seeding Program; availability of draft environmental statement 27099
Tulalip Indian Reservation, Washington; ordinance legalizing the introduction, sale, or possession of intoxicants 27099

**INTERNAL REVENUE SERVICE**
**Rules and Regulations**
Procedure and administration; CFR correction 27047

**INTERSTATE COMMERCE COMMISSION**
**Notices**
Assignment of hearings 27121
Fourth section applications for relief 27122
Motor Carrier Board transfer proceedings 27122
Motor carrier temporary authority applications 27123

**LABOR DEPARTMENT**
*See* Employment Standards Administration; Occupational Safety and Health Administration.

**LAND MANAGEMENT BUREAU**
**Notices**
Chief, Division of Technical Services and Chief, Branch of Cadastral Survey; redelegation of authority 27099
Pacific Outer Continental Shelf Office; opening and designation 27099

**LIBRARY OF CONGRESS**
**Rules and Regulations**
Procedures and services; conduct on Library premises; transfer of regulations 27049

**NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION**
**Rules and Regulations**
Motor vehicle safety standards; new pneumatic tires; revised performance requirements 27050
**Notices**
Auto Sport Importers; denial of petition for temporary exemption from motor vehicle safety standards 27106

**NATIONAL INSTITUTES OF HEALTH**
**Notices**
Heart and Lung Program—Project Committee; renewal 27105

**NATIONAL MEDIATION BOARD**
**Proposed Rules**
Administrative fees; deferral of imposition 27088

**OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION**
**Rules and Regulations**
Occupational safety and health standards; definitions of "flammable liquid" and "combustible liquid"; determination of flashpoints 27047
**Proposed Rules**
Safety and health provisions for Federal employees; programs for Federal agencies 27070

**SECURITIES AND EXCHANGE COMMISSION**
**Proposed Rules**
Financial statements of life insurance companies; requirements as to form and content 27090
Financial statements; improved disclosure requirements 27088
**Notices**
Broker-Dealer Model Compliance Program Advisory Committee; public meeting 27115

**SELECTIVE SERVICE SYSTEM**
**Notices**
Registrants Processing Manual 27115

**SOCIAL AND ECONOMIC STATISTICS ADMINISTRATION**
**Notices**
Annual surveys in manufacturing area; consideration 27101

**SOCIAL AND REHABILITATION SERVICE**
**Proposed Rules**
Service programs for families, and children, aged, blind, or disabled individuals; correction 27081

**SOIL CONSERVATION SERVICE**
**Notices**
Red Boiling Springs Watershed Project, Tennessee; availability of environmental statement 27100

**STATE DEPARTMENT**
**Rules and Regulations**
Disposal of surplus; property located in foreign areas; cross reference 27047, 27049

**TARIFF COMMISSION**
**Notices**
Tariff schedule, general statistical headnote 1; collection of F.O.B. and C.I.F. data on imports 27100

**TRANSPORTATION DEPARTMENT**
*See* Federal Aviation Administration; Federal Highway Administration; National Highway Traffic Safety Administration.

**TREASURY DEPARTMENT**
*See also* Customs Service; Internal Revenue Service.
**Notices**
Tariff schedule, general statistical headnote 1; collection of F.O.B. and C.I.F. data on imports 27098






# List of CFR Parts Affected

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears following the Notices section of each issue beginning with the second issue of the month. In the last issue of the month the cumulative list will appear at the end of the issue.

A cumulative guide is published separately at the end of each month. The guide lists the parts and sections affected by documents published since January 1, 1973, and specifies how they are affected.

**7 CFR**
910 27052
932 27053
1050 27053
1821 27055
PROPOSED RULES:
52 27068
730 27068
909 27068

**9 CFR**
PROPOSED RULES:
308 27069
325 27069
381 27069

**10 CFR**
PROPOSED RULES:
9 27096

**14 CFR**
39 (3 documents) 27045
71 (2 documents) 27046
73 27046
PROPOSED RULES:
71 27081
75 27081

**17 CFR**
PROPOSED RULES:
210 (2 documents) 27088, 27090
249 27090

**19 CFR**
PROPOSED RULES:
4 27094
10 27094
19 27094
25 27094
141 27094
143 27094
144 27094
145 27094

**21 CFR**
121 27046
PROPOSED RULES:
121 27076
128 27076
133 27076

**22 CFR**
133 27047

**26 CFR**
301 27047

**29 CFR**
1910 27047
PROPOSED RULES:
1201 27088
1203 27088
1207 27088
1960 27070

**36 CFR**
Title heading changed 27049
701 27049
702 27049

**44 CFR**
Title vacated 27049
308 27049
501 27049
502 27049

**45 CFR**
PROPOSED RULES:
221 27081

**47 CFR**
83 27052
PROPOSED RULES:
2 27082
18 27082
21 27082
73 (3 documents) 27082, 27086, 27087
74 27082
89 27082
91 27082
93 27082

**49 CFR**
395 27049
571 27050

**50 CFR**
32 27052



V 38 I 188 SEP 28 73 XUM

# Rules and Regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

## Title 14—Aeronautics and Space

### CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 73-CE-13-AD; Amdt. 39-1728]

### PART 39—AIRWORTHINESS DIRECTIVES

#### Beech Models 19, 23 and 24 Series Airplanes

There have been reports of cracked or fractured brackets or frames of the fuselage structure at the forward wing attachment point on Beech Models 19, 23 and 24 series airplanes. This condition is due to overload, possibly initiated by hard landings, contact with ground objects, or other operational overloads, and could endanger wing integrity. Since the condition described herein exists and could develop in other airplanes of the same type design, an Airworthiness Directive (AD) is being issued requiring repetitive inspections of the forward wing attach brackets on Beech Models 19, 23 and 24 series airplanes for cracks or damage and the repair thereof where necessary in accordance with Beechcraft Service Instructions 0042-031.

Since a situation exists which requires expeditious adoption of the amendment, notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than thirty (30) days. In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator 14 CFR 11.89 (31 FR 13697), § 39.13 of the Federal Aviation Regulations is amended by adding the following new AD.

BEECH. Applies to all Models 19, 23, 24 and 24R series airplanes.

Compliance: Required as indicated.

To detect cracks or other structural damage to the forward wing attach point brackets (P/N 169-400013-3 and -5(LH) and 169-400013-4 and -6 (RH)), within the next 25 hours' time in service after the effective date of this AD unless previously accomplished on airplanes having more than 100 hours' time in service and thereafter at each normal annual, progressive or 100 hour inspection interval as required by FAR 91.[illegible], accomplish the following:

(A) Remove the seats and sidepanels and the forward wing attach bolt and visually inspect the forward wing attach brackets, P/N 169-400013-3 and -5(LH) and 169-400013-4 and -6 (RH), to determine if cracks or other structural damage exists in the area around the attach bolt hole. This inspection is to be performed in accordance with Beech Service Instruction 0042-031.

(B) If as a result of any inspection required herein cracks or other structural damage is discovered, prior to further flight repair the forward wing attach brackets in accordance with Beechcraft Service Instructions 0042-031, or later FAA-approved revisions, or any other repair approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region. To accomplish the repair required herein the aircraft may be flown in accordance with FAR 21.197 to a base where the repair may be performed.

(C) The inspection intervals required in this AD may be adjusted 15 ± hours where required to fit users maintenance cycles if authorized by an FAA flight Standards Inspector.

This amendment becomes effective October 5, 1973.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Kansas City, Missouri, on September 21, 1973.

A. L. COULTER,
*Director, Central Region.*

[FR Doc.73-20699 Filed 9-27-73;8:45 am]

---

[Airworthiness Docket No. 73-SW-39; Amdt. 39-1727]

### PART 39—AIRWORTHINESS DIRECTIVES

#### Bell Model 206 Series Helicopters

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring a daily inspection for cracks in certain tail rotor blades on Bell Model 206 Series and 47 Series helicopters was published in 38 FR 20097.

Interested persons have been afforded an opportunity to participate in the making of the amendment. One letter was received that objected to the proposed inspection on the Model 47 tail rotor blades since the tail rotor blade, P/N 47-642-117, has not been subject to skin cracks. After reviewing the design features of such blades and finding no reports of cracks occurring in the skin of this type blade, the agency has determined that the proposed inspections for the tail rotor blade, P/N 47-642-117, is not a mandatory requirement. Therefore, the applicability statement has been revised to delete the Model 47 Series helicopter tail rotor blades, P/N 47-642-117.

However, the agency desires to emphasize the importance of continuing the voluntary daily inspections specified in Bell Helicopter Company Technical Bulletin No. 206-08-73-2, 47-05-73-1 dated May 3, 1973 and in the pertinent Model Maintenance and Overhaul Information Manual for the Model 47 tail rotor blades.

The manufacturer advised the agency that Model 206 tail rotor blade, P/N 206-010-750, serial numbers TKL5000 and subsequent and TLL8000 and subsequent have new design features. The FAA believes these features should preclude the occurrence of skin cracks in these tail rotor blades; however, in the interest of safety the adopted rule has not been changed to exclude these particular Model 206 tail rotor blades.

In consideration of the foregoing, the adopted rule is published with the noted changes that impose no additional burden on any person. Notice and public procedure hereon of these changes are unnecessary and the amendment may be made effective on October 29, 1973.

Pursuant to the authority delegated to me by the Administrator (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new airworthiness directive:

BELL. Applies to Model 206 Series helicopters, certificated in all categories, equipped with rotor blades, P/N 206-010-750.

Compliance required as indicated.

To prevent failure of tail rotor blades due to fatigue cracks, accomplish the following:

(a) Before the first flight of each day after the effective date of this A.D., visually check for cracks in the tail rotor blade in an area approximately seven inches outboard from the butt end of the blade and approximately 1.5 inches aft of the leading edge, using a three-power or higher magnifying glass.

(b) If a crack is found, remove and replace the tail rotor blade before further flight.

(c) If no cracks are found, continue the repetitive inspections specified above.

(d) The check in (a) may be performed by a pilot.

NOTE.—For requirements regarding listing of compliance and method of compliance with this A.D. in the aircraft permanent maintenance record, see § 91.173, Federal Aviation Regualtions.

(Bell Helicopter Company Technical Bulletin No. 206-05-73-2, 47-05-73-1, dated May 3, 1973, pertains to this subject.)

This amendment becomes effective November 4, 1973.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Fort Worth, Texas, on September 19, 1973.

HENRY L. NEWMAN,
*Director, Southwest Region.*

[FR Doc.73-20698 Filed 9-27-73;8:45 am]

---

[Docket No. 73-CE-14-AD; Amdt. 39-1726]

### PART 39—AIRWORTHINESS DIRECTIVES

#### Cessna Model R172E Aircraft

A recent accident involving a Cessna Model R172E civil aircraft (a military surplus T-41B), which was caused by



V38-188 SEP 28 73 XUM

engine power loss that occurred when the electric fuel boost pump was placed in the "High" position, and flight test findings by the manufacturer indicate that improper use of the fuel boost pump can result in total engine power loss. Although manufacturer's instructions contained in flight handbooks supplied with R172E (T-41B) aircraft caution against the improper use of the fuel boost pump, pilots are not following these instructions. Therefore, the manufacturer has issued Service Letter No. SE72-24 and Service Kit No. SK172-43 pertaining to modification of the engine fuel boost pump electrical circuit and installation of a switch and placard containing instructions for the operation of the system. Since the condition described herein is likely to exist or develop in other airplanes of the same type design, an Airworthiness Directive (AD) is being issued making compliance with the aforementioned Service Letter and Service Kit mandatory. Since all civil model R172E aircraft are surplus military T-41B aircraft, this AD is applicable to all R172E aircraft.

Since a situation exists which requires expeditious adoption of the amendment, notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than thirty (30) days.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator 14 CFR 11.89 (31 FR 13697), § 39.13 of Part 39 of the Federal Aviation Regulations is amended by adding the following new AD.

CESSNA. Applies to Model R172E (T-41B) (Serial Numbers R172-0001 through R172-0256) airplanes.

Compliance: Within 50 hours' time in service after the effective date of this AD, unless already accomplished.

To prevent complete loss of engine power when using the fuel boost pump, accomplish the following:

Modify the fuel boost pump electrical circuit by installing a new boost pump switch, electrical resistors, and placard in accordance with Cessna Service Letter No. SE73-24, dated August 24, 1973, and Service Kit SK172-43, or later FAA-approved revisions, or any equivalent method approved by the Chief, Engineering and Manufacturing Branch, FAA, Central Region.

This amendment becomes effective October 3, 1973.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Kansas City, Missouri, on September 18, 1973.

A. L. COULTER,
*Director, Central Region.*

[FR Doc 73-20701 Filed 9-27-73;8:45 am]

[Airspace Docket No. 72-WE-21]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

### Designation of Additional Control Area

On July 2, 1973, a notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER (38 FR 17510) stating that the Federal Aviation Administration (FAA) was considering an amendment to Part 71 of the Federal Aviation Regulations that would designate a new additional control area within part of the offshore airspace adjacent to the state of California.

Interested persons were afforded an opportunity to participate in the proposed rule making through the submission of comments. All comments received were favorable.

In consideration of the foregoing, Part 71 of the Federal Aviation Regulations is amended, effective 0901 G.m.t., December 6, 1973, as hereinafter set forth.

In § 71.163 (38 FR 344) the following additional control area is added:

SAN FRANCISCO, CALIFORNIA

That airspace extending upward from 5,000 feet MSL bounded on the north by the Seattle ARTCC flight advisory area, on the east by the west edge of V-27W and V-199 to a point 3 nautical miles offshore, then via a line 3 nautical miles west of and parallel to the shoreline, on the south by the Santa Barbara Control Area and on the west by the Oakland Oceanic CTA/FIR boundary.

(Sec. 307(a) and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C. on September 21, 1973.

CHARLES H. NEWPOL,
*Acting Chief, Airspace and Air Traffic Rules Division.*

[FR Doc.73-20702 Filed 9-27-73;8:45 am]

[Airspace Docket No. 73-EA-85]

## PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

## PART 73—SPECIAL USE AIRSPACE

### Alteration of Restricted Area, Continental Control Area, Transition Area, and Control Zone

The purpose of these amendments to Parts 71 and 73 of the Federal Aviation Regulations is to alter Restricted Area R-6606, Pendleton, Va., by assigning it a controlling agency, changing its time of designation and modifying the title of its designated using agency. The amendments will also add R-6606 to the continental control area and delete the current exclusion of R-6606 from both the Virginia Transition Area and the Oceana, Va., Control Zone.

These amendments are in response to a Department of the Navy request. They allow R-6606 to be made available for public use when it is not required by the using agency and they provide better identification of the designated using agency. They also reduce the time of designation for R-6606 by eliminating the "continuous" designation currently assigned to part of the restricted area from the surface to 1,000 feet MSL.

These amendments reduce a restriction upon the public and they are minor amendments upon which the public would have no particular reason to comment. Therefore, notice and public procedure thereon are deemed unnecessary. However, since it is necessary that sufficient time be allowed to permit appropriate changes to be made on aeronautical charts, these amendments will become effective more than 30 days after publication.

In consideration of the foregoing, Parts 71 and 73 of the Federal Aviation Regulations are amended, effective 0901 G.m.t., December 6, 1973, as hereinafter set forth.

1. In § 71.151 (38 FR 341) the following restricted area is added: R-6606 Pendleton, Va.

2. In § 71.171 (38 FR 351) the Oceana, Va., Control Zone is amended by deleting the words "of ALF Fentress excluding the portion within R-6606," and substituting "of ALF Fentress," therefor.

3. In § 71.181 (38 FR 435) the Virginia Transition Area is amended by deleting the words "excluding that airspace within Control 1149, W-50, R-6602 and R-6606." and substituting "excluding that airspace within Control 1149, W-50 and R-6602." therefor.

4. In § 73.66 (38 FR 673) the description of Restricted Area R-6606 Pendleton, Va., is amended to read as follows:

R-6606 PENDLETON, VA.

Boundaries. Beginning at Lat. 36°50'41" N., Long. 75°54'40" W.; thence 3 nautical miles from and parallel to the shoreline to Lat. 36°34'33" N., Long. 75°48'40" W.; to Lat. 36°45'03" N., Long. 75°56'12" W.; to Lat. 36°44'45" N., Long. 75°57'05" W.; to Lat. 36°44'39" N., Long. 75°58'00" W.; to Lat. 36°47'00" N., Long. 75°58'45" W.; to Lat. 36°47'18" N., Long. 75°56'54" W.; to the point of beginning.

Designated altitudes. Surface to and including 51,000 feet MSL.

Time of designation. 0800-1700 hours local time, Monday through Friday. Other times by NOTAM issued 48 hours in advance.

Controlling agency. Federal Aviation Administration, Washington ARTC Center.

Using agency. Virginia Capes Operating Area Coordinator (VCOAC) COMNAVAIR LANT, NAS Oceana, Virginia Beach, Va.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

Issued in Washington, D.C., on September 19, 1973.

CHARLES H. NEWPOL,
*Acting Chief, Airspace and Air Traffic Rules Division.*

[FR Doc.73-20700 Filed 9-27-73;8:45 am]

## Title 21—Food and Drugs

## CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### SUBCHAPTER B—FOOD AND FOOD PRODUCTS

## PART 121—FOOD ADDITIVES

### Subpart D—Food Additives Permitted in Food for Human Consumption

BENZENE HEXACHLORIDE

A petition (FAP 4H5042) was filed by American Spice Trade Association, 580 Sylvan Avenue, Englewood Cliffs, NJ 07632, in accordance with Provisions of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348), proposing establishment of an interim food additive tolerance (21 CFR Part 121) of 7 parts per million for residues of the insecticide BHC (benzene hexachloride) in imported paprika.

The interim tolerance is requested to cover residues of BHC in imported paprika being detained by the Food and Drug Administration and in expected imports of the production from the 1973 crop year.

The Reorganization Plan No. 3 of 1970, published in the FEDERAL REGISTER of October 6, 1970 (35 FR 15623), transferred (effective December 2, 1970) to the Administrator of the Environmental Protection Agency the functions vested in the Secretary of Health, Education, and Welfare for establishing tolerances for pesticide chemicals under sections 406, 408, and 409 of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 346, 346a, and 348).

Having evaluated the data submitted in the petition and other relevant material, it is concluded that the interim tolerance should be established.

Therefore, pursuant to provisions of the act (sec. 409(c)(1), (4), 72 Stat. 1787; 21 U.S.C. 348(c)(1)(4)), the authority transferred to the Administrator of the Environmental Protection Agency (35 FR 15623), and the authority delegated by the Administrator to the Deputy Assistant Administrator for Pesticides Programs (36 FR 9038), Part 121 is amended by adding the following new section to Subpart D:

§ 121.1255 BHC.

An interim tolerance of 7 parts per million is established for residues of the insecticide BHC (benzene hexachloride) in imported paprika. This interim tolerance expires December 31, 1974.

Any person who will be adversely affected by the foregoing order may by October 29, 1973, file with the Hearing Clerk, Environmental Protection Agency, Room 1019E, 4th & M Streets SW., Waterside Mall, Washington, D.C. 20460, written obections thereto in quintuplicate. Objections shall show wherein the person filing will be adversely affected by the order and specify with particularity the provisions of the order deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought. Objections may be accompanied by a memorandum or brief in support thereof.

*Effective date.*—This order shall become effective on its date of publication in the FEDERAL REGISTER.

(Sec. 409(c) (1), (4), 72 Stat. 1786; 21 U.S.C. 348(c) (1), (4).)

Dated September 24, 1973.

HENRY J. KORP,
*Deputy Assistant Administrator for Pesticide Programs.*

[FR Doc.73-20739 Filed 9-27-73;8:45 am]



## Title 22—Foreign Relations

## CHAPTER I—DEPARTMENT OF STATE

### SUBCHAPTER N—MISCELLANEOUS

## PART 133—DISPOSAL OF SURPLUS

### Property Located in Foreign Areas

CROSS REFERENCE: For transfer of Part 308 of Chapter II of Title 44 to this Title see the editorial note to Title 44 on page 27049 of this issue.

## Title 26—Internal Revenue

## CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

## PART 301—PROCEDURE AND ADMINISTRATION

### CFR Correction

In the April 1, 1973, edition of 26 CFR Parts 300-499, the following should be added to § 301.6103(a)-1 immediately after paragraph (a)(3)(i):

(ii) *Other terms.* Any word or term used in this section, other than the word "return", which is defined in any chapter of the Code shall be given the definition contained in the chapter which is applicable to the particular return made.

## Title 29—Labor

## CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

## PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

### Definitions of "Flammable Liquid" and "Combustible Liquid;" Determination of Flashpoints

On June 15, 1972, a notice was published in the FEDERAL REGISTER (37 FR 11901) of proposed amendments regarding the definitions of "flammable liquid" and "combustible liquid," and the procedure for determining flashpoints in 29 CFR 1910.106. The other proposed amendments to §§ 1910.106 and 1910.108 concerned conforming changes to preserve the requirements of the existing standards.

After the receipt of several comments and a request for a hearing, a notice of informal hearing was published in the FEDERAL REGISTER on August 15, 1972 (37 FR 16507) with a list of the following issues:

(1) Whether the procedure described in proposed § 1910.106(a)(14)(i) is reliable and suitable for determining the flashpoints of the liquids defined therein;

(2) Whether the procedure described in proposed § 1910.106(a)(14(ii) is (a) reliable and suitable for any of the liquids defined therein, and (b) is reliable and suitable for all the liquids defined therein;

(3) Whether the procedure described in proposed § 1910.106(a)(14)(iii) is reliable and suitable for determining the flashpoint of the mixtures of compounds defined therein;

(4) Whether proposed paragraph (a)(18) and (19) of § 1910.106, would, if adopted, cause, a significant change in present requirements; whether such changes are reasonably necessary or appropriate to assure a safe place of employment; and whether the proposed "99 percent" provision is adequate; and

(5) Any other issue closely related to the objections raised, and within the scope of the proposal.

An informal legislative hearing was held on November 8, 1972, before Administrative Law Judge Samuel A. Chaitovitz, for the purpose of receiving oral data, views, and arguments concerning the issues. The certified record includes the prehearing written comments, the transcript of the oral presentations made at the hearing, exhibits received during the course of the hearing, and further comments received before the close of the record on December 5, 1972.

The primary contentions concern the procedures specified in the Standard Method of Test for Flashpoint by Tag Closed Tester (ASTM D 56-70) and the Standard Method of Test for Flashpoint by Pensky-Martens Closed Tester (ASTM D 93-71).

The objections relate to a controversy concerning the comparative reliability, suitability, and reproducibility of the "open" and the "closed" test procedures.

It is to be noted that the proposed amendments related solely to an up-dating of the closed test procedures already required, and not to a change from an "open" procedure to a "closed" procedure. Even so, it is worthwhile to state that the closed-cup method has been accepted, due to its greater reliability, by the National Fire Protection Association, the National Academy of Sciences, the United Nations Intergovernmental Maritime Consultative Organization (IMCO), and many western european industrial countries, including Great Britain, France, West Germany, Sweden, and the Netherlands. See 37 FR 11899.

The essential changes concerning test procedures for determining flashpoints were (1) in § 1910.106(a)(14)(i), from the Standard Method of Test for Flashpoint by the Tag Closed Tester, ASTM D-56-69, to the updated version of the same method, ASTM D-56-70, and (2) in § 1910.106(a)(14)(ii), from the Standard Method of Test for Flashpoint by the Pensky-Martens Closed Tester, ASTM D-93-69, to the updated version of the same method, ASTM D-93-71.

The argument was presented during the proceeding that a class of material does not lend itself to flashpoint testing, and that, in fact, such testing might cause an explosion even before a flashpoint could be determined. The comments have been assimilated, and provision for organic peroxides, which undergo autoaccelerating thermal decomposition, has been made in § 1910.106(a)(14)(iv) by excluding such substances from any of the flashpoint determination methods.

The point was raised during the proceeding that a special note is made in ASTM D-93-71, Standard Method of Test for Flashpoint by Pensky-Martens Closed Tester (Note 1), providing for different test methods for the determination of the flashpoint of drying oils, solvent-type liquid waxes, and cut-back asphalts or bitumens. The amended § 1910.106a(14)(ii) provides for the use



V 38-188 SEP 28 73 XUM

of such alternate test methods as specified in Note 1 of ASTM D–93–71.

A possible limitation of the exclusive utilization of the closed-cup testing procedures was presented in the written comments and at the oral hearing. This pertains to the reliability of the flashpoint value obtained when the substance is a mixture of compounds of differing volatilities. In recognition of the inherent problems with such mixtures, a second test, in addition to those specified in paragraph (a)(14) (i) and (ii), is provided for in the new paragraph (a)(14)(iii). The second test allows for a partial evaporation before testing and thus is similar to an open-cup procedure. The lower of the two values obtained by the separate tests is considered the flashpoint of the substance. Therefore, if the two values are within the same class range, there is no difference as to the applicable requirements. If the values fall within different class ranges, the lower figure must be taken as the value for the substance, because the more conservative value will insure greater safety.

The proposed changes in § 1910.106(a)(18) and (19) are not substantive, but concern the definitions of "combustible liquid" and "flammable liquid."

The issues discussed above are believed to be the major issues raised in this rulemaking proceeding.

Accordingly, after consideration of all the materials and data presented and pursuant to section 6(b) of the Williams-Steiger Occupational Safety and Health Act of 1970 (29 U.S.C. 655), Secretary of Labor's Order No. 12–71 (36 FR 8754) and 29 CFR 1910.4, 29 CFR 1910.106 and 1910.108 are amended as follows:

1. Paragraph (a) of § 1910.106 is amended by revising subparagraphs (14), (18), and (19), and by adding new subparagraphs (37) and (38) to read as follows:

**§ 1910.106 Flammable and combustible liquids.**

(a) *Definitions.* • • •

(14) "Flashpoint" means the minimum temperature at which a liquid gives off vapor within a test vessel in sufficient concentration to form an ignitable mixture with air near the surface of the liquid, and shall be determined as follows:

(i) For a liquid which has a viscosity of less than 45 SUS at 100°F. (37.8°C), does not contain suspended solids, and does not have a tendency to form a surface film while under test, the procedure specified in the Standard Method of Test for Flashpoint by Tag Closed Tester (ASTM D–56–70) shall be used.

(ii) For a liquid which has a viscosity of 45 SUS or more at 100°F. (37.8°C.), or contains suspended solids, or has a tendency to form a surface film while under test, the Standard Method of Test for Flashpoint by Pensky-Martens Closed Tester (ASTM D–93–71) shall be used, except that the methods specified in Note 1 to section 1.1 of ASTM D–93–71 may be used for the respective materials specified in the Note.

(iii) For a liquid that is a mixture of compounds that have different volatilities and flashpoints, its flashpoint shall be determined by using the procedure specified in paragraph (a)(19) (i) or (ii) of this section on the liquid in the form it is shipped. If the flashpoint, as determined by this test, is 100°F. (37.8°C.) or higher, an additional flashpoint determination shall be run on a sample of the liquid evaporated to 90 percent of its original volume, and the lower value of the two tests shall be considered the flashpoint of the material.

(iv) Organic peroxides, which undergo autoaccelerating thermal decomposition, are excluded from any of the flashpoint determination methods specified in this subparagraph.

• • • • • •

(18) "Combustible liquid" means any liquid having a flashpoint at or above 100°F. (37.8°C.). Combustible liquids shall be divided into two classes as follows:

(i) "Class II liquids" shall include those with flashpoints at or above 100°F. (37.8°C.) and below 140°F. (60°C.), except any mixture having components with flashpoints of 200°F. (93.3°C.) or higher, the volume of which make up 99 percent or more of the total volume of the mixture.

(ii) "Class III liquids" shall include those with flashpoints at or above 140°F. (60°C.). Class III liquids are subdivided into two subclasses:

(*a*) "Class IIIA liquids" shall include those with flashpoints at or above 140°F. (60°C.) and below 200°F. (93.3°C.), except any mixture having components with flashpoints of 200°F. (93.3°C.), or higher, the total volume of which make up 99 percent or more of the total volume of the mixture.

(*b*) "Class IIIB liquids" shall include those with flashpoints at or above 200°F. (93.3°C.). This section does not cover Class IIIB liquids. Where the term "Class III liquids" is used in this section, it shall mean only Class IIIA liquids.

(iii) When a combustible liquid is heated for use to within 30°F. (16.7°C.) of its flashpoint, it shall be handled in accordance with the requirements for the next lower class of liquids.

(19) "Flammable liquid" means any liquid having a flashpoint below 100°F. (37.8°C.), except any mixture having components with flashpoints of 100°F. (37.8°C.) or higher, the total of which make up 99 percent or more of the total volume of the mixture. Flammable liquids shall be known as Class I liquids. Class I liquids are divided into three classes as follows:

(i) Class IA shall include liquids having flashpoints below 73°F. (22.8°C.) and having a boiling point below 100°F. (37.8°C.)

(ii) Class IB shall include liquids having flashpoints below 73°F. (22.8°C.) and having a boiling point at or above 100°F. (37.8°C.).

(iii) Class IC shall include liquids having flashpoints at or above 73°F. (22.8°C.) and below 100°F. (37.8°C.).

• • • • • •

(37) "SUS" means Saybolt Universal Seconds as determined by the Standard Method of Test for Saybolt Viscosity (ASTM D–88–56), and may be determined by use of the SUS conversion tables specified in ASTM Method D2161–66 following determination of viscosity in accordance with the procedures specified in the Standard Method of Test for Viscosity of Transparent and Opaque Liquids (ASTM D445–65).

(38) "Viscous" means a viscosity of 45 SUS or more.

• • • • • •

2. In Table H–12—Maximum Allowable Size of Containers and Portable Tanks, in § 1910.106, the heading "Flammable liquids" is amended so as to cover only "Class IA," "Class IB," and "Class IC," and the heading "Combustible liquids" is amended so as to cover both "Class II" and "Class III."

3. In Table H–14—Indoor Container Storage and Table H–15—Indoor Portable Tank Storage, in § 1910.106, the columns under the headings "Class liquid" are amended by striking "Combustible" and inserting in lieu thereof "III."

4. In Table H–16—Outdoor Container Storage and Table H–17—Outdoor Portable Tank Storage, in § 1010.106, the columns under the headings "Class" are amended by striking "Combustible" and inserting in lieu thereof "III."

5. Paragraph (d) of § 1910.106 is amended by revising subparagraphs (1)(ii), (3)(i), (5)(iv)(*b*), and (7), to read as follows:

**§ 1910.106 Flammable and combustible liquids.**

• • • • • •

(d) *Container and portable tank storage.* • • •

(1) *Scope* • • •

(ii) *Exceptions.* This paragraph shall not apply to the following:

(*a*) Storage of containers in bulk plants, service stations, refineries, chemical plants, and distilleries;

(*b*) Class I or Class II liquids in the fuel tanks of a motor vehicle, aircraft, boat, or portable or stationary engine;

(*c*) Flammable or combustible paints, oils, varnishes, and similar mixtures used for painting or maintenance when not kept for a period in excess of 30 days;

(*d*) Beverages when packaged in individual containers not exceeding 1 gallon in size.

• • • • • •

(3) *Design, construction, and capacity of storage cabinets*—(i) *Maximum capacity.* Not more than 60 gallons of Class I or Class II liquids, nor more than 120 gallons of Class III liquids may be stored in a storage cabinet.

• • • • • •

(5) *Storage inside buildings.* • • •

(iv) *Mercantile occupancies and other retail stores.* • • •





(*b*) Where the aggregate quantity of additional stock exceeds 60 gallons of Class IA, or 120 gallons of Class IB, or 180 gallons of Class IC, or 240 gallons of Class II, or 500 gallons of Class III liquids, or any combination of Class I and Class II liquids exceeding 240 gallons, it shall be stored in a room or portion of the building that complies with the construction provisions for an inside storage room as prescribed in subparagraph (4) of this paragraph. For water miscible liquids, these quantities may be doubled.

• • • • • •

(7) *Fire control*—(i) *Extinguishers.* Suitable fire control devices, such as small hose or portable fire extinguishers, shall be available at locations where flammable or combustible liquids are stored.

(*a*) At least one portable fire extinguisher having a rating of not less than 12–B units shall be located outside of, but not more than 10 feet from, the door opening into any room used for storage.

(*b*) At least one portable fire extinguisher having a rating of not less than 12–B units must be located not less than 10 feet, nor more than 25 feet, from any Class I or Class II liquid storage area located outside of a storage room but inside a building.

(ii) *Sprinklers.* When sprinklers are provided, they shall be installed in an approved manner.

(iii) *Open flames and smoking.* Open flames and smoking shall not be permitted in flammable or combustible liquid storage areas.

(iv) *Water reactive materials.* Materials which will react with water shall not be stored in the same room with flammable or combustible liquids.

• • • • • •

6. Section 1910.108 is amended by revising paragraph (h)(4)(i) to read as follows:

**§ 1910.108 Dip tanks containing flammable or combustible liquids.**

• • • • • •

(h) *Special dip tank applications.* • • •

(4) *Roll coating.* (i) The processes of roll coating, spreading, and impregnating, in which fabrics, paper, or other materials are passed directly through a tank or through containing flammable or combustible liquids, or over the surface of a roller that revolves partially submerged in a Class I or Class II liquid, as these terms are defined in §1910.106(a), shall conform to the applicable requirements of paragraphs (a) through (g) of this section, and in addition shall conform to subdivision (ii) of this subparagraph.

• • • • • •

(Sec. 6, 84 Stat. 1593 (29 U.S.C. 655); Secretary of Labor's Order No. 12–71, 36 FR 8754.)

Signed at Washington, D.C., this 24th day of September 1973.

JOHN H. STENDER,
*Assistant Secretary of Labor.*

[FR Doc.73–20706 Filed 9–27–73;8:45 am]

## Title 36—Parks, Forests, and Public Property

### CHANGE IN TITLE HEADING

EDITORIAL NOTE: As of September 28, 1973, Title 36, Code of Federal Regulations, is retitled to read as set forth above.

### CHAPTER VII—LIBRARY OF CONGRESS

### PART 701—PROCEDURES AND SERVICES

### PART 702—CONDUCT ON LIBRARY PREMISES

#### Transfer of Regulations

Chapter VII, Library of Congress, is added to Title 36 of the Code of Federal Regulations. The regulations formerly codified as Parts 501 and 502 of 44 CFR, Chapter V, are redesignated as Parts 701 and 792 of 36 CFR, Chapter VII. All references within the test to former Parts 501 and 502 are renumbered 701 and 702, respectively.

This transfer of regulations is effected on request of the Director of the Office of the Federal Register pursuant to his authority to assure orderly development of the Code of Federal Regulations (1 CFR 8.2).

Because this document involves only a redesignation of existing regulations, it is effective on September 29, 1973.

[SEAL] L. QUINCY MUMFORD,
*Librarian of Congress.*

[FR Doc.73–20745 Filed 9–27–73;8:45 am]

## Title 44—Public Property and Works

### VACATION OF TITLE

EDITORIAL NOTE: Title 44 of the Code of Federal Regulations is vacated by transferring existing regulations as follows:

1. Chapter III, Department of State, consisting of Part 308, Disposal of Surplus Property located in Foreign Areas, is transferred to Title 22 CFR Chapter I, Department of State, as Part 133.

2. Chapter V, Library of Congress, consisting of Part 501, Procedures and Services, and Part 502, Conduct on Library Premises, is transferred to Title 36, Chapter VII by FR Doc. 73–20745 published on page 27049 of this issue.

This transfer of regulations is made pursuant to 1 CFR 8.2 which authorizes the Director of the Federal Register to rearrange existing assignments in the Code of Federal Regulations in order to provide for its orderly development.

## Title 49—Transportation

### CHAPTER III—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

### SUBCHAPTER B—MOTOR CARRIER SAFETY REGULATIONS

[Notice No. 73–25]

### PART 395—HOURS OF SERVICE OF DRIVERS

#### Revision of Specimen Driver's Log

The Director of the Bureau of Motor Carrier Safety is revising the specimen driver's daily log immediately preceding the note following § 395.8 of the Motor Carrier Safety Regulations. This is not a change in the form of driver's daily log. It is a change in the sample, filled-in version of the log that appears in the Regulations for the purpose of showing drivers, motor carriers, and other interested persons how a properly-prepared log should look.

In the present version of the specimen, the hypothetical driver has noted both an accident and a breakdown in the "Remarks" section. It is proper to do so, but notations of those incidents are not mandatory. Some persons, seeing the specimen, have concluded that a notation of this type must appear on the log when it is properly completed. That is not the case, and the specimen is being changed to eliminate this source of confusion.

In consideration of the foregoing, the specimen daily completed log form preceding the note to § 395.8 of the Motor Carrier Safety Regulations (Subchapter B of Chapter III in Title 49, CFR) is revised to read as set forth below.

Since the specimen daily log is included in the Regulations for interpretive purposes and the substantive rules in § 395.8 are not being amended, notice and public procedure are unnecessary with respect to this amendment, and it is effective upon the date of issue set forth below.

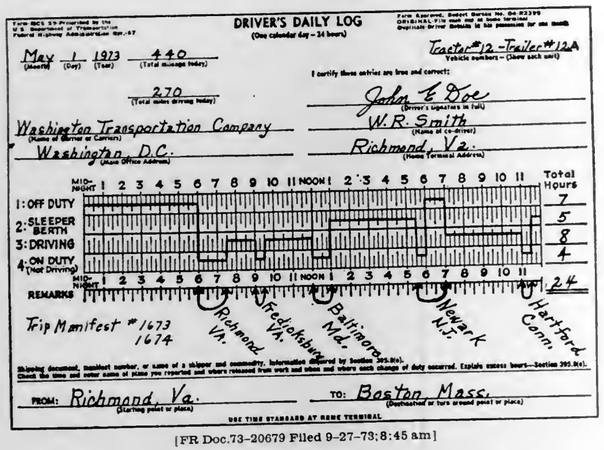
(Sec. 204, Interstate Commerce Act, as amended, 49 U.S.C. 304; sec. 6, Department of Transportation Act, 49 U.S.C. 1655; delegations of authority by the Secretary of Transportation and the Federal Highway Administrator at 49 CFR 1.48 and 389.4.)

Issued on September 21, 1973.

ROBERT A. KAYE,
*Director, Bureau of Motor Carrier Safety.*



V 38-188 SEP 28 73 XUM


DRIVER'S DAILY LOG
(One calendar day — 24 hours)

May 1 1973 440
(Month) (Day) (Year) (Total mileage today)

270
(Total miles driving today)

Tractor #12 - Trailer #12A
Vehicle numbers — (Show each unit)

I certify these entries are true and correct:
John E. Doe
(Driver's signature in full)

Washington Transportation Company
(Name of carrier or carriers)

W. R. Smith
(Name of co-driver)

Washington, D.C.
(Main office address)

Richmond, Va.
(Home terminal address)

Midnight 1 2 3 4 5 6 7 8 9 10 11 Noon 1 2 3 4 5 6 7 8 9 10 11 Midnight — Total Hours

1: OFF DUTY — 7
2: SLEEPER BERTH — 5
3: DRIVING — 8
4: ON DUTY (Not Driving) — 4

24

REMARKS

Richmond Va. — Fredericksburg Va. — Baltimore Md. — Newark N.J. — Hartford Conn.

Trip Manifest #1673
1674

Shipping document, manifest number, or name of a shipper and commodity, information required by Section 395.8(e).
Check the time and enter name of place you reported and where released from work and when and where each change of duty occurred. Explain excess hours—Section 395.8(e).

FROM: Richmond, Va. (Starting point or place)

TO: Boston, Mass. (Destination or turn around point or place)

USE TIME STANDARD AT HOME TERMINAL

[FR Doc.73-20679 Filed 9-27-73;8:45 am]

## CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 71-10; Notice 3]

## PART 571—MOTOR VEHICLE SAFETY STANDARDS

### New Pneumatic Tires; Revised Performance Requirements

This notice amends the requirements for high speed performance and endurance applicable to passenger car tires in Motor Vehicle Safety Standard No. 109, "New Pneumatic Tires", by adding additional criteria to the description of tire failure. A notice of proposed rulemaking on which this amendment is based was published September 20, 1972 (37 FR 19381). That notice proposed to modify the criteria for tire failure in both Standard No. 109 and Standard No. 117, "Retreaded Pneumatic Tires". As the tests for high speed performance and endurance have been revoked in Standard No. 117, this amendment affects only the requirements of Standard No. 109.

The proposal of September 20, 1972, was designed to expand the description of tire failure to include certain characteristics which had appeared in tires tested by NHTSA, and which were considered to be evidence of potential in-service tire failure, but which were not specifically prohibited by the existing language of the standard. These conditions included tread-groove cracking, deep sidewall separations, and damage to areas such as the tire innerliner. Standard No. 109 presently prohibits tires tested to the high speed performance and endurance tests of the standard from exhibiting "tread, ply, cord, or bead separation, chunking, or broken cords". The proposal would have prohibited, as a result of either of the two tests, the displacement of any tire component from its design position, including partial or complete separation of any component from any other component, but would not have prohibited exposure of chafer fabric and surface cracking that did not expose ply cord or belt cord. Any crack in a tread groove that exceeded three-sixteenths of an inch in length would, however, have also been prohibited. The proposal also contained an "air-loss" test, which would have required the tire to retain at least 95 percent of its initial inflation pressure when measured immediately after each performance test.

Numerous comments were received in response to the proposal. While most were in agreement with its general purpose, to provide a more inclusive definition of tire failure, almost all disagreed with the method proposed. The principal objection, raised by the Rubber Manufacturers' Association and major tire companies, was that the proposed language was too broad: That it included within the concept of tire failure many conditions that were in no way detrimental to tire performance. It was pointed out that many such conditions might exist in tires before laboratory wheel tests had been conducted and were considered by industry to be no more than inconsequential manufacturing imperfections. The comments argued that such conditions included cracking at an innerliner splice, innerliner blisters, innerliner folds, mold off-register, sidewall blisters, light tread, tearing or chipping of tread element, cord impression in the bead area, light bead, and bead cracks at the toe. The comments suggested as an alternative to the proposed language that the requirements be revised to specifically include the problem conditions that NHTSA testing had produced, and provided possible definitions to describe these conditions.

The NHTSA has determined that this suggested approach will satisfy the purpose of the proposal, and adopts it essentially as suggested by the domestic tire industry. Prohibitions against sidewall and innerliner separation, cracking, and open splices will be added to the standard. New definitions, for "innerliner" and "innerliner separation", "cracking", "open splice", and "sidewall separation" are added to the standard. These definitions are essentially as suggested by the Rubber Manufacturers' Association, with the exception of "innerliner separation". The suggested definition would have limited tire failures involving innerliner separation to those demonstrating air loss. The NHTSA has not adopted this air-loss restriction for the following reasons. First, the NHTSA is of the opinion that innerliner separation exhibited on a "hot tire", one having just completed either of the laboratory wheel tests, is evidence of potential in-service tire failure, irrespective of whether actual air loss has occurred at that point. Second, the air-loss test adopted for the standard, and discussed in greater detail below, measures only a gross, or substantial air loss occurring during the test, and not the type of lesser air-loss that might result from an innerliner separation.

The standard is presently silent with respect to the method for determining whether the prohibited tire conditions exist. Several comments proposed that the failure modes be determined "visually". One comment suggested that touch, or X-rays, be specified. As amended, the standard specifies that prohibited conditions will, consistently with the larger body of opinion, be determined visually. This method is that used by NHTSA in past testing, and it has proven satisfactory. It is specifically included in the standard for purposes of clarification, but is not intended to preclude the use of simple hand magnification.

The standard is likewise silent on the issue of a given tire's condition before the running of the two laboratory wheel tests. The position taken by NHTSA in its enforcement of this standard up to now is that the specified laboratory tests are not required to be performed in order for a tire to be considered a failure, when the tire evidences any of the prohibited conditions before it is subjected to either test. The Rubber Manufacturers' Association submission to this docket implicitly reflects this point of view. The substance of that submission was that the proposed language would have categorized as failures certain conditions which appear in untested, newly manufactured tires. The NHTSA is specifically amending Standard No. 109 in this issuance to reflect past agency interpretation and enforcement practice, by adding to the general requirements language prohibiting any tire before test from exhibiting those characteristics prohibited after either of the laboratory wheel tests.





One comment requested that a minor loss of tread resulting from the microsiping process should not be considered a failure, despite the fact that this condition arguably comes within the prohibitory language. The position of the NHTSA is that microsiping should be treated similarly to any other manufacturing process. Consequently, the removal of very small tread section during microsiping, which is part of the manufacturing process, will not be considered a nonconformity. However, where the chunking of tread occurs as a result of the specified laboratory wheel tests, it will be considered a failure regardless of its amount.

One comment argued that the proposed test procedure, calling for a test rim that undergoes no permanent deformation, was not reflective of actual conditions. It argued that such a rim would have to be of massive construction, and suggested alternatively the continued use of existing test rims. The comment misunderstands the purpose of the procedure. The condition precluding any permanent deformation of the rim is intended only to ensure, together with the other language regarding air loss, that any air leaks will result necessarily from the tire, and not the test device. In other words, the provision is inserted to ensure that the tire will not be "blamed" for any air loss due to rim deformation. The condition that the rim undergo no permanent deformation is not intended to require the manufacture of a new genre of test rims; in practice, test rims currently in use do not deform significantly during the laboratory wheel test procedures, and the amended regulation will not prevent their continued use.

Many comments objected to the proposed air loss test, requiring the tire to have at least 95 percent of its original cold inflation pressure when tested immediately after both the high speed and endurance tests. The comments argued that conducting an air-pressure reading immediately after the running of the tests was potentially hazardous to persons conducting the test. In addition, certain comments argued that the 95 percent air-retention requirement was inadequate, in that the test called for the measurement to be made on a "hot" tire, and the pressure would be significantly less if the tire were first allowed to cool.

The NHTSA has retained in the amendment both an air-loss test, and the requirements that the measurement be made, as proposed, immediately after both the high speed and endurance tests are completed. The NHTSA believes that inspection of the tire to determine if any prohibited conditions exist should be made when the tire is still at the higher temperatures created during the laboratory tests. As tires do increase in temperature during actual use, the inspection of tested tires at higher temperatures provides a more realistic environment for the discovery of conditions that can result in failure. Thus, it becomes mandatory to conduct the air-loss test immediately after the tire has been subjected to the laboratory wheel tests in order that the inside of the tire can be examined for failure modes while the tire is still at higher temperatures.

The NHTSA does not consider an objection to a test requirement on the basis that it may present a hazard to testing personnel to have merit. Test laboratories are places where products are subjected to extreme, often destructive, processes under controlled conditions by trained technicians using whatever equipment and safeguards are necessary, in order to assure the safety of the public that must use those products under uncontrolled conditions without comparable training or safeguards. The NHTSA is not indifferent to the safety of test technicians. On the contrary, it urges those in charge of test laboratories to take all necessary steps to assure the safety and health of their employees. But if a particular method of running a regulatory test such as the one in question here is found hazardous to test personnel, the proper remedy is not to change the regulation, but to devise methods and equipment to perform the test process safely. The NHTSA is confident that modern technology and the testing profession are equal to the task.

The argument that the proposed test allowed a significant air loss to occur is meritorious. The NHTSA has modified the proposal by restricting the allowable air loss to not less than the tire's inflation pressure at the beginning of the tests. Admittedly, this modification is not fully responsive to the comments, for this requirement permits as well a rather significant air loss. However, the air loss test is designed to prevent only gross, exaggerated air loss, and not instances of slow air leaks. Moreover, while tire inflation pressure will increase under test, it appears that the amount of increase may vary greatly from test to test. Variables such as tire expansion may also affect any increase in inflation pressure. Consequently, it is difficult to establish a value, in excess of the original pressure, that can accurately indicate a condition of air loss. The NHTSA has determined, therefore, to require only that the tire, when hot, have at least its initial cold inflation pressure. This lowers the amount of permissible air loss from that proposed, prohibits the exaggerated air loss which is NHTSA's primary concern, and still takes into account the variations in inflation pressure increase that may occur.

In light of the above, Motor Vehicle Safety Standard No. 109, "New Pneumatic Tires," appearing at 49 CFR 571.109, is amended as set forth below.

1. Paragraph S3., *Definitions*, is amended by revising the defintion of "chunking", and adding new definitions for "cracking", "innerliner", "innerliner separation", "open splice", and "sidewall separation", as follows:

"Chunking" means the breaking away of pieces of the tread or sidewall.

"Cracking" means any parting within the tread sidewall, or innerliner of the tire extending to cord material.

"Innerliner" means the layer forming the inside surface of a tubeless tire that contains the inflating medium within the tire.

"Innerliner separation" means the parting of the innerliner from the carcass.

"Open splice" means any parting at any junction of tread, sidewall, or innerliner that extends to cord material.

"Sidewall separation" means the parting of the rubber compound from the cord material in the sidewall.

2. A new subparagraph (e) is added to paragraph S4.2.1, to read as follows:

(e) It shall, before being subjected to either the endurance test procedure specified in S5.4 or the high speed performance procedure specified in S5.5, exhibit no visual evidence of tread, sidewall, ply, cord, innerliner, or bead separation, chunking, broken cords, cracking, or open splices.

3. Paragraph S4.2.2.5, *Tire endurance*, and S4.2.2.6, *High speed performance* are amended to read:

S4.2.2.5 *Tire endurance.* When the tire has been subjected to the laboratory endurance test specified in S5.4, using a test rim that undergoes no permanent deformation and allows no loss of air through the portion that it comprises of the tire-rim pressure chamber:

(a) There shall be no visual evidence of tread, sidewall, ply, cord, innerliner, or bead separation, chunking, broken cords, cracking, or open splices.

(b) The tire pressure at the end of the test shall be not less than the initial pressure specified in S5.4.1.1.

S4.2.2.6 *High speed performance.* When the tire has been subjected to the laboratory high speed performance test specified in S5.5, using a test rim that undergoes no permanent deformation and allows no loss of air through the portion that it comprises of the tire-rim pressure chamber, the tire shall meet the requirements set forth in S4.2.2.5(a) and (b).

4. Two identical paragraphs, S5.4 2.4 and S5.5.5, are added to read:

Immediately after running the tire the required time, measure the inflation pressure. Remove the tire from the test rim, and inspect the tire.

*Effective date.*—March 29, 1974.

(Secs. 103, 119, 201, and 202 Public Law 89-563, 80 Stat. 718, 15 U.S.C. 1392, 1407, 1421, and 1422; delegation of authority at 49 CFR 1.51.)

Issued on September 24, 1973.

JAMES B. GREGORY,
*Administrator.*

[FR Doc.73-20677 Filed 9-27-73;8:45 am]



V 38-188 SEP 28 73 XUM

Title 50—Wildlife and Fisheries

CHAPTER I—BUREAU OF SPORT FISHERIES AND WILDLIFE, FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Columbian White-Tailed Deer National Wildlife Refuge, Washington

The following special regulation is issued and is effective on September 28, 1973.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

WASHINGTON

COLUMBIAN WHITE-TAILED DEER NATIONAL WILDLIFE REFUGE

Migratory game birds, except doves and pigeons, may be hunted on the refuge.

*General conditions:* Hunting shall be in accordance with applicable State regulations. Portions of refuge which are open to hunting are designated by signs and/or delineated on maps. No vehicle travel is permitted except on maintained roads and trails. Special conditions applying to this refuge are listed on the reverse side of map available at refuge headquarters, Route 1, Box 376C, Cathlamet, Washington 98612, and from the office of the Regional Director, Bureau of Sport Fisheries and Wildlife, P.O. Box 3737, 1500 Northeast Irving Street, Portland, Oregon 97208.

L. EDWARD PERRY,
*Acting Regional Director, Bureau of Sport Fisheries and Wildlife.*

SEPTEMBER 21, 1973.

[FR Doc.73-20695 Filed 9-27-73;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 19776; F.C.C. 73-970]

PART 83—STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Deferral of Identification Requirement for Ships and Survival Craft

*Report and order.* In the matter of amendment of §§ 83.326(a) and 83.364(a)(3) to allow ships and survival craft engaged in public correspondence to defer the 15-minute identification requirement until the end of a message or the end of a telephone conversation; Docket No. 19776.

1. On July 2, 1973, we released a Notice of Proposed Rulemaking in this docket to amend the rules as indicated in the caption above. That notice was published on July 9, 1973, in the FEDERAL REGISTER (38 FR 18256) and provided for the filing of comments and reply comments on August 13, 1973, and August 22, 1973, respectively. The time for filing comments and reply comments has expired, and only one comment was filed. That comment was by the American Institute of Merchant Shipping and supported the proposed rule changes. We conclude, therefore, that the rules should be changed as proposed.

2. *Accordingly, it is ordered,* That Part 83 of the rules is amended as indicated below, effective November 2, 1973. Authority for the promulgation of these rules is contained in section 4(i) and section 303(e), (f) and (r) of the Communications Act of 1934, as amended.

3. *It is further ordered,* That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Adopted September 19, 1973.

Released September 24, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[1]

VINCENT J. MULLINS,
*Acting Secretary.*

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 83.326(a) is amended to read as follows:

§ 83.326 Identification of stations.

(a) All radiotelegraph emissions of a ship station or a survival craft station shall be clearly identified by transmission therefrom of the official call letters assigned to that station for telegraphy by the Commission. These call letters shall be transmitted by telegraphy in accordance with § 83.325 and the procedure set forth in the International Radio Regulations and by means of the class of emission normally used by the station for telegraphy: Provided, That they shall be transmitted at intervals not exceeding 15 minutes whenever transmission is sustained for a period exceeding 15 minutes, except when a ship station is engaged in transmitting public correspondence communications the identification may be deferred until completion of each communication with any other station.

* * * * * *

2. Section 83.364(a)(3) is amended to read as follows:

§ 83.364 Identification of station.

(a) * * *

(3) At intervals not exceeding 15 minutes whenever transmission is sustained for a period exceeding 15 minutes, except when a ship station is engaged in transmitting public correspondence communications in which case the identification may be deferred until completion of each communication with any other station.

* * * * * *

[FR Doc.73-20714 Filed 9-27-73;8:45 am]

[1] Commissioner Robert E. Lee absent.

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Regulation 606]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

PREAMBLE

This regulation fixes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period September 30-October 6, 1973. It is issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and Marketing Order No. 910. The quantity of lemons so fixed was arrived at after consideration of the total available supply of lemons, the quantity of lemons currently available for market, the fresh market demand for lemons, lemon prices, and the relationship of season average returns to the parity price for lemons.

§ 910.906 Lemon Regulation 606.

(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under the said amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of handling of such lemons, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of lemons that may be marketed during the ensuing week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation with respect to the quantity of lemons it deems advisable to be handled during the ensuing week. Such recommendation resulted from consideration of the factors enumerated in the order. The committee further reports the demand for lemons has eased because of start of cool Fall weather, except in the South, and competition from Florida lemons. Sales volume is expected to drop about 17 percent and average f.o.b. price about 62 cents per carton this week. Average f.o.b. price was $7.62 per carton the week ended September 22, 1973, compared to $8.06 per carton the previous week. Track and rolling supplies at 102 cars were down 22 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be fixed as hereinafter set forth.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication hereof in the FEDERAL REGISTER (5 U.S.C. 553) because the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient, and a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective as hereinafter set forth. The committee held an open meeting during the current week, after giving due notice thereof, to consider supply and market conditions for lemons and the need for regulation; interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were promptly submitted to the Department after such meeting was held; the provisions of this regulation, including its effective time, are identical with the aforesaid recommendation of the committee, and information concerning such provisions and effective time has been disseminated among handlers of such lemons; it is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period herein specified; and compliance with this regulation will not require any special preparation on the part of persons subject hereto which cannot be completed on or before the effective date hereof. Such committee meeting was held on September 25, 1973.

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period September 30, 1973, through October 6, 1973, is hereby fixed at 215,000 cartons.

(2) As used in this section, "handled", and "carton(s)" have the same meaning as when used in the said amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated September 26, 1973.

CHARLES R. BRADER,
*Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.73-20819 Filed 9-27-73;8:45 am]

PART 932—OLIVES GROWN IN CALIFORNIA

Expenses, Rate of Assessment, and Carryover of Unexpended Funds

This document authorizes $825,000 of Olive Administrative Committee expenses, under Marketing Order No. 932, for the 1973-74 fiscal year and fixes the rate of assessment at $15.00 per ton of regulated olives to be paid to the committee by each first handler as his pro rata share of such expenses. It also authorizes the carryover, as a committee reserve, of unexpended assessment income from fiscal 1972-73 and prior years.

On September 11, 1973, notice of rule making was published in the FEDERAL REGISTER (38 FR 24910) regarding proposed expenses and the related rate of assessment for the fiscal year ending August 31, 1974, pursuant to the marketing agreement, as amended, and Order No. 932, as amended (7 CFR Part 932), which regulate the handling of olives grown in California, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This notice allowed interested persons 9 days during which they could submit written data, views, or arguments pertaining to the proposal. None were submitted. After consideration of all relevant matter presented, including the proposals set forth in such notice which were submitted by the Olive Administrative Committee established pursuant to said marketing agreement and order, it is hereby found and determined that:

§ 932.210 Expenses, rate of assessment, and carryover of unexpended funds.

(a) *Expenses.* Expenses that are reasonable and likely to be incurred by the Olive Administrative Committee during the period September 1, 1973, through August 31, 1974, will amount to $825,000.

(b) *Rate of assessment.* The rate of assessment for said period, payable by each first handler in accordance with § 932.39, is fixed at $15.00 per ton of olives.

(c) *Reserve.* Unexpended assessment funds in excess of expenses incurred during the fiscal year ended August 31, 1973, and prior years shall be carried over as a reserve in accordance with the applicable provisions of § 932.40.

(d) *Terms.* Terms used in the amended marketing agreement and order shall, when used herein, have the same meaning as is given to the respective term in said amended marketing agreement and order.

It is hereby further found that good cause exists for not postponing the effective date hereof October 29, 1973 (5 U.S.C. 553) in that (1) the relevant provisions of said marketing agreement and this part require that the rate of assessment fixed for a particular fiscal year shall be applicable to all assessable olives from the beginning of such year; and (2) such year began on September 1, 1973, and the rate of assessment herein fixed will automatically apply to all assessable olives beginning with such date.

Dated September 25, 1973.

CHARLES R. BRADER,
*Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.73-20708 Filed 9-27-73;8:45 am]

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK), DEPARTMENT OF AGRICULTURE

[Milk Order No. 50; Docket No. AO 355-A13]

PART 1050—MILK IN THE CENTRAL ILLINOIS MARKETING AREA

Order Amending Order

*Findings and determinations.* The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of





V 38-188 SEP 28 73 XUM

milk in the Central Illinois marketing area.

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in sec. 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

ORDER RELATIVE TO HANDLING

*It is therefore ordered*, That on and after the effective date hereof, the handling of milk in the Central Illinois marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended, as follows:

1. Paragraphs (c) and (d) of § 1050.9 are revised.

2. Paragraph (d) of § 1050.14 is revised.

1. Section 1050.7 is revised to read as follows:

**§ 1050.7 Producer.**

"Producer" means any person, other than a producer-handler as defined in any order (including this part) issued pursuant to the Act, who produces milk in compliance with Grade A inspection requirements of a duly constituted health authority, and whose milk is (a) received at a pool plant, (b) diverted as producer milk pursuant to § 1050.14, or (c) accounted for by a cooperative association pursuant to § 1050.14(b).

2. In § 1050.9, paragraphs (c) and (d) are revised to read as follows:

**§ 1050.9 Handler.**

* * * * * *

(c) Any cooperative association with respect to milk of producers it diverts from a pool plant to a nonpool plant pursuant to § 1050.14;

(d) Any cooperative association with respect to milk it receives for its account from the farm of a producer in a tank truck owned and operated by, or under the control of, such association, for delivery to a pool plant(s);

* * * * * *

3. In § 1050.12, paragraph (a) (1) and (2) is revised to read as follows:

**§ 1050.12 Pool plant.**

* * * * * *

(a) * * *

(1) Disposition of fluid milk products, except filled milk, in the marketing area on routes is 10 percent or more of its Grade A receipts from dairy farmers, handlers described in § 1050.9(d), and other pool plants, such receipts to be exclusive of fluid milk products (except filled milk) transferred without specific Class II designation to other pool plants described in this paragraph, or from which an average of not less than 7,000 pounds per day of fluid milk products, except filled milk, is distributed on routes in the marketing area; and

(2) Total disposition of fluid milk products, except filled milk, on routes is 50 percent or more of its Grade A receipts from dairy farmers, handlers described in § 1050.9(d), and other pool plants, such receipts to be exclusive of fluid milk products (except filled milk) transferred without specific Class II designation to other pool plants described in this paragraph, during the months of August through February and 40 percent during all other months;

* * * * * *

4. Section 1050.14 is revised to read as follows:

**§ 1050.14 Producer milk.**

Except for milk received at a pool plant by diversion from a plant at which such milk is fully subject to the pricing and pooling provisions of this or any other order issued pursuant to the Act, "producer milk" means all skim milk and butterfat contained in milk from producers that is:

(a) Received at a pool plant from producers or from a handler described in § 1050.9(d);

(b) Represented by the difference between the quantity of milk received by a handler described in § 1050.9(d) at producers' farms and the quantity of such milk delivered to pool plants. For the purposes of §§ 1050.53 and 1050.81, such milk shall be deemed to have been received by such handler at the pool plant to which all other producer milk in the same tank truck was delivered;

(c) Diverted by a handler from a pool plant for the account of the plant operator to another pool plant(s) for not more days of production of such producer's milk than is physically received at a pool plant(s) from which diverted. For pricing purposes such diverted milk shall be deemed to be received by the diverting handler at the location of the plant to which diverted;

(d) Diverted from a pool plant to a nonpool plant that is not an other order plant or a producer-handler plant, or to a nonpool plant that is an other order plant if diverted as Class II milk, subject to the conditions of this paragraph. For pricing purposes, milk so diverted shall be deemed to be received at the plant from which diverted, unless the plant to which the milk is diverted is located more than 110 miles from the city hall in Peoria, Ill. (by shortest highway distance as determined by the market administrator) in which case the milk shall be deemed to be received by the diverting handler at the location of the plant to which diverted:

(1) During May, June and July the operator of a pool plant or a cooperative association may divert the milk production of a producer on any number of days;

(2) Subject to the conditions set forth in paragraph (d) (4) of this section, during the months of August through April the operator of a pool plant may divert the milk of a producer for not more days of production of such producer's milk than it is physically received at the pool plant from which diverted: *Provided*, That the total quantity of producer milk diverted does not exceed 35 percent of the physical receipts of producer milk at the handler's pool plant during the month, exclusive of milk of producers who are members of a cooperative association that is diverting milk and the milk of other producers that is diverted pursuant to paragraph (d) (3) of this section;

(3) Subject to the conditions set forth in paragraph (d) (4) of this section, during the months of August through April a cooperative association may divert the milk of producers for not more days of production of each producer's milk than is physically received at a pool plant: *Provided*, That the total quantity of producer milk does not exceed 35 percent of (i) its member milk physically received at pool plants during such month and (ii) other producer milk for which the cooperative association is the handler pursuant to § 1050.9(d) during such month;

(4) In the case where a cooperative association has notified the market administrator and the handler in writing prior to the first day of the month that milk of specified member producers will not be diverted by the cooperative and is not to be included in computing the cooperative association's diversion percentage for the month, milk of such producers shall be deducted from the cooperative's total receipts of member milk for the purposes specified in paragraph (d) (3) of this section and added to the total milk receipts included in computing the diversions of the pool plant handler who receives their milk for the purposes specified in paragraph (d) (2) of this section;

(5) When milk is diverted in excess of the limits specified in paragraph (d) (2) and (3) of this section, eligibility as producer milk under this section shall be forfeited on the excess quantity. In such event the diverting handler shall specify the dairy farmers whose milk is ineligible as producer milk. If a handler fails to designate such dairy farmers whose milk is ineligible, producer milk status shall be forfeited with respect to all milk diverted to nonpool plants by such handler; and

(6) Milk diverted to an other order plant under the conditions specified in this section shall be producer milk pursuant to this section only if it is not producer milk under such other order.

5. In § 1050.41, paragraph (b) (7) (iii) and (vi) is revised to read as follows:

**§ 1050.41 Classes of utilization.**

* * * * * *

(b) * * *

(7) * * *

(iii) One and one-half percent of milk received in bulk from handlers described in § 1050.9(d); plus

* * * * * *

(vi) One and one-half percent of bulk transfers of milk to a pool plant of another handler; less

* * * * * *

6. In § 1050.80, paragraphs (b) and (d) are revised to read as follows:

**§ 1050.80 Time and method of payment for producer milk.**

* * * * * *

(b) Payments required in paragraph (a) of this section for milk caused to be delivered to such handler by a cooperative association qualified under § 1050.5 shall be made to such association, or its duly authorized agent, which the market administrator determines is authorized by such producers to collect payment for their milk and which has so requested the handler in writing. Such handler shall, on or before the 18th day of the following month, pay the cooperative association for milk received during the month from producers at the direction of such association as determined by the market administrator an amount equal to not less than the amounts due such producers as determined pursuant to paragraph (a) of this section, less any deductions authorized in writing by such association: *Provided*, That the association has provided the handler with a written promise to reimburse the handler the amount of any actual loss incurred by such handler because of any improper claim on the part of the cooperative association;

* * * * * *

(d) On or before the 18th day of the following month, each handler, in his capacity as the operator of a pool plant, who receives milk for which a cooperative association is the handler pursuant to § 1050.9(d), including the milk of producers who are not members of such association, and who the market administrator determines have authorized such cooperative association to collect payment for their milk, shall pay such cooperative for such milk at the uniform price adjusted by applicable butterfat and location adjustments.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

*Effective date.*—November 1, 1973.

Signed at Washington, D.C., on September 25, 1973.

JAMES H. LAKE,
*Deputy Assistant Secretary.*

[FR Doc.73-20733 Filed 9-27-73;8:45 am]

---

## CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

### SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FHA Instruction 443.1]

### PART 1821—FARM PURCHASE AND DEVELOPMENT LOANS TO INDIVIDUALS

#### Subpart A—Farm Ownership Loan Policies, Procedures and Authorizations

Subpart A of Part 1821, Title 7, Code of Federal Regulations (37 FR 7482) currently in effect under §§ 1821.1 to 1821.26, is amended to update and clarify initial and subsequent Farm Ownership loan processing and loan making procedures and to implement portions of the Rural Development Act of 1972 (Public Law 92–419) and the Agriculture and Consumer Protection Act of 1973 (Public Law 93–86). The major changes as set forth below are being published in accordance with 5 U.S.C. 553. However, the amendments are being published without proposed rulemaking, which is unnecessary since existing Farm Ownership loan policies and procedures and authorizations now in effect are similar to the new amended policies and procedures which contain editorial clarification and changes and new authorizations from the Rural Development Act of 1972 and the Agriculture and Consumer Protection Act of 1973. These amendments are effective on date of publication. Nevertheless, it is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment. Interested parties may submit written comments, suggestions, data, or arguments to the Office of the Deputy Administrator Comptroller, Farmers Home Administration, U.S. Department of Agriculture, Room 5007, South Building, Washington, D.C. 20250, on or before October 29, 1973. Material thus submitted will be evaluated and acted upon in the same manner as if this document were a proposal. However, this subpart shall remain effective until it is amended, in order to permit the public business to proceed expeditiously.

1. Section 1821.6(d) has been amended to require that the applicant must rely on farm income in order to have a reasonable standard of living, as determined by the County Committee.

2. Section 1821.7(i) has been amended to provide for authority to include in the loan the payment of the first year's premium for required insurance.

3. Section 1821.8(b)(4) has been amended to provide that debts known at the time of writing the farm and home plan including those for construction work started should be considered for refinancing under § 1821.11(e) at the time the plan is developed.

4. A new § 1821.10(b)(4) has been added to provide for making FO loans of $5,000 or less without title clearance or legal services provided a real estate mortgage can be given and the loan is not being made simultaneously with that of another lender or other existing FHA liens would cause the total to be more than $5,000.

5. Section 1821.11(a) has been amended to provide that suitable rented buildings will not meet the requirements for an FO loan unless the applicant has a long-term lease on them or they are owned by relatives and he will eventually inherit them or be permitted to purchase them, and the buildings are adjacent to or near the farm. Mobile homes are not considered adequate dwellings for FO farms.

6. A new subparagraph has been added under § 1821.13(b) to provide that an appraisal for loans of $5,000 or less normally will not be necessary. However, the County Supervisor will indicate his estimate of market value of the real estate security on a separate sheet of paper.

7. Section 1821.20 (a) and (b) have been amended to show that the loan approval authority applies to FHA liens against the security, but does not consider other lender liens as long as the total debts against the security do not exceed $225,000 or the market value, whichever is less.

8. Section 1821.22(a) has been amended to provide that the County Supervisor or his delegate may request the loan check at the time of loan approval if he receives adequate assurance, verbally or in writing that satisfactory title evidence can be provided.

As amended, Subpart A of Part 1821 reads as follows:

Sec.
1821.1 General.
1821.2 Objectives.
1821.3 Supervisory assistance.
1821.4 Definitions.
1821.5 Preference.
1821.6 Eligibility requirements.
1821.7 Loan purposes.
1821.8 Loan limitations.
1821.9 Terms of loans.
1821.10 Security requirements.
1821.11 Special requirements.
1821.12 Suitability of farm for the FO program.
1821.13 Technical and legal services.
1821.14 Mineral rights.
1821.15 Optioning of land.
1821.16 Deferred payments.





V 38 I 188 SEP 28 73 XUM

Sec.
1821.17 Junior mortgage loan.
1821.18 Certification by County Committee.
1821.19 Preparation and distribution of loan docket.
1821.20 Loan approval.
1821.21 Requesting title service and accepting option.
1821.22 Actions subsequent to loan approval.
1821.23 Loan closing actions.
1821.24 Subsquent FO loans.
1821.25 Reamortization of existing FHA debt(s).
1821.26 Nondiscrimination poster.

AUTHORITY.—7 U.S.C. 1989, 42 U.S.C. 1480, delegation of authority by the Sec. of Agri., 38 FR 14944, 14948, 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 38 FR 14944, 14952, 7 CFR 2.70.

## Subpart A—Farm Ownership Loan Policies, Procedures, and Authorizations

### § 1821.1 General.

This subpart outlines the policies, procedures, and authorizations for making initial and subsequent Farm Ownership (FO) loans on family farms, under the Consolidated Farm and Rural Development Act of 1972. This subpart is supplemented by parts 1816, 1890c, 1890d, 1890f, 1890p, and 1890r of this chapter. Loans to eligible homestead and desertland entrymen on public lands and on reclamation projects will be handled in accordance with guidelines available in all FHA offices.

(a) *Loan funds.* Each State Director is responsible for assuring that loans approved in his State do not exceed the amount of loan funds distributed to his State.

(b) *Insured loans.* The credit needs of an applicant will be met with an insured loan.

### § 1821.2 Objectives.

The basic objectives of the Farmers Home Administration (FHA) in making FO loans are to assist eligible farmers and ranchers to become owner-operators of family farms, to make efficient use of their land, labor, and other resources, to carry on sound and successful operations on the farm, and to afford the family an opportunity to have a reasonable standard of living. The operations include establishment or enlargement of nonfarm enterprises to supplement the farm income. These objectives will be accomplished through the extension of credit and supervisory assistance.

### § 1821.3 Supervisory assistance.

Supervision will be provided borrowers to the extent necessary to achieve the objectives of the loan and to protect the interests of the Government in accordance with subpart A of part 1802 of this chapter. Such assistance consists of farm, home, and nonfarm planning, recordkeeping, analyzing the farm and any nonfarm business, and giving management advice.

### § 1821.4 Definitions.

(a) *Farm.* The term "farm" includes a tract or tracts of land, improvements, and other appurtenances considered to be farm property and owned or to be acquired by the applicant, used or to be used in the production of crops or livestock including the production of fish under controlled conditions. The term "farm" also includes any such land and improvements and facilities used in a nonfarm enterprise.

(b) *Family farm.* A family farm is defined as one that will produce agricultural commodities for sale in sufficient quantities so that it is recognized as a farm rather than a rural residence; one that will provide substantial income by itself and which together with any other dependable income will enable the family to pay necessary family and other operating expenses, including maintenance of essential chattel and real property and pay debts; and one for which the operator and his immediate family provide the management and are actively engaged in the operation by providing a major amount of the farm and any nonfarm enterprise labor. A reasonable amount of hired labor may be used during seasonal peakload periods. This is not intended to prohibit the financing of an established family farm operation within FHA loan limits where there are sufficient children at home to perform the work even though the family labor is beyond the equivalent of two full-time workers.

(c) *Mortgage.* The term "mortgage" includes any form of real estate security, interest, or lien upon any rights or interests in real property of any kind.

(d) *Security.* The term "security" includes any rights or interests in property of any kind subject to a real or personal property lien.

(e) *Insured loan.* The term "insured loan" means a loan made from funds furnished by lenders and insured by the Government at the time of loan closing, or a loan made from the Agricultural Credit Insurance Fund (ACIF). The term "private lender" means any source of insured funds other than the ACIF.

(f) *Nonfarm enterprise (FO–NFE).* This is any business enterprise which supplements farm income. It must provide goods or services for which there is a need and a reasonably reliable market. A nonfarm enterprise includes recreation items for which FO funds may be used.

### § 1821.5 Preference.

Preference will be given to: (a) Veterans, as defined in subpart A of part 1801 of this chapter. The applications on hand from veterans will be given preference over applications of nonveterans on file at the same time.

(b) Applicants who are:

(1) Married or have dependent families.

(2) Owners of livestock and farm implements necessary to successfully carry on farming operations.

(3) Able to make downpayments.

### § 1821.6 Eligibility requirements.

To be eligible for an FO loan each applicant must:

(a) Be a citizen of the United States.

(b) Possess legal capacity to incur the obligations of the loan.

(c) Be an individual who has:

(1) Farm experience or farm training sufficient to assure reasonable prospects of success in the proposed farming operation, and

(2) Other training or experience when nonfarm enterprises are involved to assure success with such proposed operation.

(d) Be an individual who must rely on farm income in order to have a reasonable standard of living, as determined by the County Committee. The County Committee will consider in making this determination the amount of farm income in relation to the off-farm income, the level of income obtained by reasonably successful family farmers and rural residents in the community and the size of the family. This is not intended to prevent making of an FO loan under the following conditions:

(1) When the County Supervisor and the County Committee are reasonably certain an applicant will not engage in other employment after the planned farm operation is fully developed except to the extent necessary for his family to have sufficient income for a reasonable standard of living.

(2) When an applicant is a farm tenant, sharecropper or farm laborer and is otherwise eligible and the loan is to establish him as a farmowner.

(e) Possess the character, ability, and industry necessary to carry out the proposed operation and honestly endeavor to carry out the undertakings and obligations required of him in connection with the loan.

(f) Be unable with his own resources, or be unable to obtain sufficient credit elsewhere, to finance his actual needs at rates and terms he could reasonably expect to fulfill, taking into consideration prevailing private and cooperative rates and terms in the community in or near which he resides for loans for similar purposes and periods of time.

(g) After the loan is made, be the owner-operator of a family farm which will produce not less than a substantial portion of his total income.

### § 1821.7 Loan purposes.

Loans that are consistent with environmental quality requirements as set forth in § 1821.11(m)(2).

(a) Purchase or enlarge a farm, including any land for recreation or other nonfarm enterprise, which is or will not be larger than a family farm. This may include:

(1) An applicant's portion of the cost of a large tract of land which is being subdivided.

(2) Downpayments on the purchase of land under the following conditions:

(i) A deed is obtained by the borrower secured by a note and prior mortgage or a purchase contract or similar instrument is used.

(ii) Terms are adequate and long enough for the applicant and the FHA to have reasonable assurance that the borrower's obligations can be met under such terms.

(iii) The conditions and the requirements of prior mortgage or contract meet the FO security requirements for taking a junior lien.

(iv) The purchaser under a purchase contract which obligates him to pay the purchase price, gives him the rights of present possession, control, and beneficial use of the property, and entitles him to a deed upon paying all or a specific part of the purchase price.

(b) Construct or improve buildings and facilities on the applicant's farm, including:

(1) The construction of essential but modest farm dwelling and service buildings, including facilities and structures for nonfarm enterprise uses or fish farming such as docks, fish hatcheries, shooting blinds, refreshment or marketing stands, processing or assembly plants, sales buildings, repair shops, lodging facilities, trailer parks, picnic areas, target ranges, tennis courts, shuffleboard courts, golf driving ranges, campsites, and modest rental housing.

(2) The improvement, alteration, repair, replacement, relocation, or purchase and transfer of such essential dwellings and service buildings, facilities, and structures.

(3) The purchase and/or installation of domestic water and sewage systems, other equipment or facilities necessary to the effective operation of a farm including nonfarm enterprises, provided the items upon installation become part of the real estate or customarily pass with the farm when it is sold.

NOTE.—In order to conserve FO insured funds when major building development is planned, Rural Housing (RH) loans will be processed simultaneously with the FO docket in accordance with Subpart A of Part 1822 of this Chapter for RH authorized purposes and conditions for making RH loans on farms. An FO loans can be made simultaneously with a long-term farm real estate loan from a private lender.

(c) Provide land and water development, acquisition of water supplies, rights, use and conservation essential to the operation of the farm, and any nonfarm enterprise facilities. This includes fencing, land clearing, forestry purposes, establishment of approved forestry practices, establishment and improvement of permanent hay or pasture, drainage and irrigation facilities, basic application of lime and fertilizer, fish ponds, trails, and lakes. The funds for land and water development may include the costs of machinery and equipment for doing the development when the total cost of the development and machinery or equipment would not exceed the cost if the same amount of development was contracted. Also loan funds may be used to pay that part of the cost of facilities, improvements and practices which is to be earned by participation in the Agricultural Conservation or Great Plains programs only when such costs cannot be covered by purchase orders or assignments to material suppliers or contractors. If loan funds are advanced and the portion of the payment for which the funds were advanced likely will exceed $500, the applicant will assign the payment to the FHA.

(d) Refinance secured and unsecured debts as provided in § 1821.11(e).

(e) Pay expenses incident to obtaining plans and making the loan such as fees for legal, architectural, and other technical services, which are required to be paid by the borrower and which he cannot pay from other funds. Loan funds also may be used to pay the borrower's share of Social Security taxes for labor hired by the borrower in connection with making the planned building improvements.

(f) Pay costs incident to land and water development, use and conservation essential to the borrower's farm or nonfarm enterprise operation on land not owned by him or on land with defective title as defined in § 1821.10(b)(1), provided the amount loaned for such improvements does not exceed $2,500.

(g) Finance a nonfarm enterprise when it will provide another source of necessary income even though the owned or purchased acreage for such enterprise is not usually considered to be a part of the farm.

(h) An eligible applicant for any purpose authorized in this Subpart to enable a dependent in his immediate family to initiate, develop, or carry on a farm or nonfarm enterprise in connection with his or her participation in youth organizations such as Future Farmers of America, Future Homemakers, 4–H Club, or approved vocational training course.

(i) Pay when the borrower cannot pay from personal funds interest on insured loans for the initial installment or any approved deferment period, and the first year premium for insurance required in accordance with § 1821.23(h) of this subpart.

### § 1821.8 Loan limitations.

(a) An FO loan will not be approved if:

(1) The borrower's unpaid principal balance plus any past due interest against his farm or other security or both plus the amount of the loan will exceed $225,000 or the unpaid principal balance on FO, Soil and Water, Recreation, or Land Conservation and Development loans, or any combination thereof, plus the amount of the FO loan exceeds $100,000. The total indebtedness includes all FHA and other lender principal and past due interest on existing and proposed security.

(2) The amount of the loan and the unpaid principal balance plus any past-due interest on other liens against the farm will exceed the market value of the farm and, when applicable, the market value of any other security, as determined by the loan approval official, or the loan exceeds the amount certified by the County Committee.

(3) The noncontiguous character of a farm containing two or more tracts is such that an efficient farming operation and nonfarm enterprise cannot be conducted due to the distance or inadequate rights-of-way or public roads between the tracts.

(b) Loan funds may not be used for the following purposes:

(1) To purchase items not considered to be a part of the farm such as farm machinery and equipment, appliances, livestock, construction and maintenance tools, automobiles, trucks, boats, and nonfarm enterprise equipment that would not be considered real estate except as authorized in § 1821.7(c).

(2) To acquire land or develop a farm which is in an area designated for retirement from agriculture by Federal, State or local agencies.

(3) To refinance any FHA debts owed by the applicant without prior consent of the National Office. Ordinarly, FHA debts will not be refinanced even though the borrower is delinquent. Consent will be granted in an exceptional case only when it is not possible to service the loan or otherwise accomplish the objectives of the loan on a sound basis without refinancing the existing debt(s). In each such case the narrative justification and the case file will be sent to the National Office prior to development of the loan docket.

(4) To pay debts incurred prior to the closing of an FO loan, except fees for legal, architectural, and other technical services and except as authorized in § 1821.11(e). However, debts known at the time of writing the farm and home plan including those for any development work started should be considered for refinancing in accordance with § 1821.17(e) or this subpart at the time the plan is developed. The County Supervisor, not later than the time of planning farm or nonfarm improvements will advise each applicant that development work must not be started and that debts for such work or materials must not be incurred before the loan is closed. If, nevertheless, the applicant incurs debts for development before the loan is closed, the County Supervisor, or the Assistant County Supervisor in connection with loans for which he had delegated authority to approve, may authorize the use of FO funds to pay such debts only upon documentation of the facts in the case and when he finds that all of the following conditions exist (in a questionable case the County Supervisor will submit the complete facts to the State Office for advice before taking action):

(i) The debts were incurred after approval of the loan, except that in the case of a subsequent loan to complete improvements previously planned, the debts were incurred after the initial loan was closed.

(ii) The applicant is unable to pay such debts from his own resources or to obtain credit from other sources and failure to authorize the use of FO funds to pay such debts would impair the applicant's financial position.







V 38 1188 SEP 28 73 XUM

(iii) The debts were incurred for authorized FO loan purposes.

(iv) The construction or repair work conforms to that shown on Form FHA 424-1, "Development Plan."

(5) To acquire land when a major part of the cropland on the farm will be in the Agricultural Stabilization and Conservation Service (ASCS) program or other type of crop adjustment program for two or more full crop years after the date of loan approval, unless the State Director determines that the applicant will be able to conduct at least a farming operation on the land not included in such program which will produce not less than a substantial part of the total income.

**§ 1821.9 Terms of loans.**

(a) *Amortization period.* Each loan will be scheduled for repayment over a period not to exceed 40 years from the date of the note or such shorter period as may be necessary to assure that the loan will be adequately secured, taking into account the probable depreciation of the security, except that a loan of $2,500 or less not secured by a real estate mortgage will be scheduled for payment over a period not to exceed 10 years from the date of the note.

(b) *Interest, annual charge, and repurchase agreement.* The interest rate to the borrower will be 5 percent per year on the unpaid balance of the loan. For insured loans, the terms to the insured lender will be governed by subpart A of part 1810 of this chapter.

(c) *Interest credits.* Interest credits provided in § 1822.7 of this chapter may be applicable when an RH loan is made along with an FO loan to the same borrower but only to the RH portion.

**§ 1821.10 Security requirements.**

(a) *General.* Each FO loan will be adequately secured to protect the interest of the Government.

(1) Any loan of more than $2,500 and any loan to be paid in more than 10 years from the date of the note will be secured by a mortgage on the applicant's entire farm, except as provided in paragraph (b)(1) of this section. Usually loans of more than $2,500 will be secured only by real estate. When necessary to supplement the applicant's equity in the farm or to facilitate servicing the loan, a lien also may be taken on nonfarm real estate or on personal property owned by the applicant. However, nonreal estate may not be relied on for more than $2,500 of a loan; except that in the State of Texas, because of unusual homestead and lien laws, upon prior National Office approval of a State regulation, the nonreal estate portion of the loan may exceed $2,500.

(2) A loan of not more than $2,500 to be paid in not more than 10 years from the date of the note may be secured by one or a combination of:

(i) Real estate or equipment and livestock, or

(ii) Other security that cannot be converted to cash without jeopardizing the borrower's farming operations or means of livelihood. Examples of other security are: Cash value of life insurance policies, cooperative memberships, income-producing leases, or water stocks which are transferable and have security value.

(3) Whenever both real estate and personal property are taken as security for an FO loan and the payment period of the loan will exceed the maximum period for which the personal property lien may be valid under State law, the loan approval official will determine whether the real estate security will be adequate to secure the scheduled unpaid balance of the loan when the personal property lien expires.

(b) *Real estate.* (1) When the loan is to be secured by real estate, a mortgage on the entire farm (including any necessary assignments) owned by the applicant will be obtained, except as provided in paragraph (b)(1) and (b)(1)(i) of this section. If the applicant's title to any part of the farm is defective (either in the sense that it is not "good title marketable in fact," as defined in Part 1807 of this Chapter or that the State law will not recognize a mortgage upon it or will not permit such a mortgage to be recorded) and cannot be cured at reasonable cost, the loan may nevertheless be made if the part of the applicant's farm to which title is not defective is large enough to qualify as a family farm, and the value of such part of the farm and the value of necessary and available additional security is adequate to secure the loan.

(i) Any part of the farm to which title is defective may be omitted from the mortgage if the loan approval official with the advice of the Office of the General Counsel (OGC) determines that the applicant's interest is of such a nature that it is not mortgageable or that to include it would unduly complicate loan servicing or liquidation.

(ii) The part of the farm to which title is defective will be excluded from consideration in the appraisal of the farm. If the appraisal report was prepared before discovery of the title defect, the farm will be reappraised to show the value of the part of the farm to which title is not defective, and the appraisal report and other loan papers will be revised accordingly.

(2) A junior mortgage may be taken as security for a loan, provided: (i) The prior mortgage(s) or lien(s) do not contain provisions for future advances, summary forfeiture or cancellation or other provisions that may jeopardize the Government's security position or the borrower's ability to pay the FO loan, such as payment schedules involving installments that the borrower cannot pay in an orderly manner, for example, a payment schedule with a balloon payment payable in less than 20 years; or

(ii) Such provisions of the prior mortgage(s) or lien(s) are satisfactorily limited, modified, waived, or subordinated; or

(iii) The provisions of § 1821.11(d)(2) are met in the case of simultaneous loans with other lenders.

(3) When a life estate is involved, a loan may be made to the life estate holder and the remaindermen jointly where both have a legal right to occupy, operate, and share in the profits, and both are otherwise eligible and join in executing the note and mortgage. However, where a remainderman or life estate holder is a minor or otherwise legally incompetent, if the loan approval official determines, with the advice of the OGC, that a sound and proper FO loan could be made to the other party and the necessary security obtained, narrative justification may be sent to the National Office prior to the development of the loan docket. The National Office will decide whether to authorize the making of the loan.

(4) A loan of $5,000 or less will be secured by the best real estate lien obtainable without the title clearance or legal services required in part 1807 of this chapter provided the County Supervisor believes from a search of the county records that the applicant can give a mortgage on his farm. Any equipment, personal property or fixtures purchased with loan funds will be included in security instruments for the loan regardless of the amount. Exceptions to the above regarding real estate security are:

(i) When the loan is being made simultaneously with that of another lender.

(ii) When land is to be purchased.

(c) *Personal property security.* When authorized by paragraph (a) of this section, a lien may be taken on selected items of personal property if such a lien will not interfere with the applicant's obtaining needed operating credit.

(1) Whenever a lien is taken on personal property as security for a loan, it ordinarily will be a first lien. In an exceptional case, a lien subject to the lien held by another creditor or the FHA may be taken on personal property provided the applicant clearly has sufficient equity in the personal property to provide the necessary security.

(2) When the loan includes funds for items of equipment upon which a security agreement or equivalent is necessary to adequately secure the loan, a severance or subordination agreement will be obtained, when appropriate.

(3) When a lien on equipment, other personal property, or fixtures is necessary to adequately secure the loan, it will be taken and kept effective as notice to a third party in accordance with subpart B of part 1831 of this chapter and related State issuances.

(d) *Miscellaneous security items.* Ordinarily, the applicant's farm is considered to include the land, buildings, fences, water, water stock, water facilities, and any other improvements and easements, rights-of-way or other appurtenances which by custom pass with farms in the change of ownership. However, in some instances certain improvement items or facilities which usually pass with the farm in a change of ownership are considered personal property and would not be conveyed to the purchaser. In other instances, items not generally considered to be a part of the real estate pass with the farm in a change of ownership. When the loan approval official determines the items involved in either case are a part of the farm and necessary for its efficient operation, funds may be included in the FO loan to purchase such items. The County Supervisor, with the advice of the designated attorney, title insurance company, or the OGC, will ascertain that such items are free from any liens or encumbrances and are specifically included in the proper security instruments.





**§ 1821.11 Special requirements.**

(a) *Dwellings and other essential buildings.* Buildings adequate for the planned operation of the farm including any nonfarm enterprise must be available. The necessary buildings will be located on the applicant's farm. However, if the applicant owns suitable buildings which are not considered a part of his farm and ordinarily would not pass with the farm in a change of ownership, duplicate buildings on the farm need not be required if the State Director authorizes retention of such buildings under paragraph (j) of this section. The buildings must be of such type and condition and so located that the applicant could operate his farm successfully. When an applicant depends on owned buildings not considered to be a part of the farm, it must be determined that those buildings will be available under ownership for the period of the loan. To assure this, the best lien obtainable without requiring a legal title search should be taken on such buildings and site. In an unusual case an exception to this requirement may be made when the applicant has a long-term lease on acceptable rented buildings that are adjacent to or near the farm or the applicant occupies suitable buildings of relatives that he will eventually inherit or be permitted to purchase. Mobile homes are not considered adequate dwellings for FO farms.

(b) *Land and facility development.* Adequate development to place the farm and any nonfarm enterprise in condition for a successful operation will be provided at the outset in connection with each loan. To the extent practicable, recommendations of representatives of the Forest Service, Soil Conservation Service, State Agricultural Extension Service and State Planning and Development Agency or local planning groups should be included in the development plan as well as the farm and home plan. In planning such development with the applicant, the County Supervisor will encourage him to use any cost-sharing assistance consistent with his plans that may be available to him through any source including the Agricultural Stabilization and Conservation Service (ASCS) programs.

(c) *Planning and performing farm development.* The development work will be planned and completed in accordance with subpart A of part 1804 of this chapter. The provisions of parts 1890p and 1816 of this chapter will be met in connection with FO loans involving recreational enterprises and the construction of buildings.

(d) *Relationships with other lenders.* Maximum use will be made of other credit when a workable arrangement is possible. County Supervisors will keep real estate lenders and building suppliers currently informed concerning FHA policies with respect to loan making, security requirements, supervision and servicing, distribution of income available for debt payments, and graduation of borrowers. FHA employees may not guarantee personally or on behalf of FHA, repayment of advances from other credit sources. However, they may assure that lien priorities will be respected and releases will be made in accordance with the current Form FHA 431-2, "Farm and Home Plan," as agreed with the borrower.

(1) *Determining eligibility.* In determining the eligibility of an applicant if it appears that he may be able to obtain part or all the credit from other sources to meet his needs, the County Supervisor will require him to make a diligent effort to obtain such other credit.

(i) Applicants will be expected to seek credit from lenders who extend long-term credit in the area.

(ii) Applicants should be advised to request lenders to indicate the amount and terms of credit they might be willing to extend.

(iii) The County Supervisor should check on any evidence presented by an applicant that he cannot obtain other credit.

(iv) Letters or other evidence indicating credit is not available from other sources serving the area will be included in the loan docket.

(v) In no case will a loan be made to an applicant that could obtain the credit he needs elsewhere on terms he can reasonably be expected to pay.

(2) *FHA loans simultaneous with other lenders.* A "Memorandum of Understanding Between the Farmers Home Administration and the Farm Credit Administration," will serve as a guide in processing FO loans to be made simultaneously with loans by Federal Land Banks to common applicants. The State Director may work out agreements for simultaneous loans by long-term lenders other than Federal Land Banks for eligible FO purposes. Such an agreement should prohibit future advances by the first mortgage holder except for taxes, property insurance, reasonable maintenance expenditures, and reasonable foreclosure costs, but should not prohibit subsequent FHA loans. It should also cover items such as appraisal methods, title clearance, loan closing, the disbursement of funds, and where appropriate, advance notices of foreclosure. It may also cover other items considered necessary or advisable for a sound FHA second mortgage loan. See Appendix I, "Memorandum of Understanding," of this subpart which is used as a guide in processing FO loans to be made simultaneously with loans by Fedreal Land Banks to common applicants.

(i) The County Supervisor and the local representative of another lender should maintain a close relationship in processing loans to mutual applicants or borrowers. A realistic determination must be made on the extent to which the FHA and the other lender can assist the applicant or borrower before either lender makes a firm commitment on the assistance that can be given. The following determinations must be made before the County Supervisor and representative of the other lender are able to determine the amount of each loan: Eligibility, applicant's total real estate needs, market value of the property, and the applicant's ability to pay his total obligations.

(ii) When an initial FO loan is made at the same time as a loan from another lender, that lender's lien will have priority over the FHA lien unless otherwise agreed upon. The lender's priority of lien can cover in addition to principal and interest, the following: Advances for payment of taxes, property insurance, reasonable maintenance to protect his interest, and reasonable foreclosure costs including attorney's fees.

(3) *Evidence not required.* In any case in which a County Supervisor determines there is no possibility of a feasible arrangement to obtain part or all of the applicant's needs from an uninsured other lender, he will not require evidence from that applicant. The County Supervisor will record his conclusion and the basis for it in the loan docket.

(e) *Refinancing of debts.* (1) When an applicant's request includes the use of loan funds for the refinancing of debts, it must be determined before a loan is made that his present creditors will not give him rates and terms on the existing debts that he reasonably could be expected to meet, before refinancing any debt, the County Supervisor will:

(i) Discuss with the applicant the possibility of obtaining the needed credit from the applicant's present creditors or other sources. He will request the applicant to contact his present creditors to explain his credit needs and to determine if the creditor will renew, extend, change, or reduce the present debts as appropriate. He will also advise the applicant of other credit sources available in the area which might assist him with his credit needs and request that he contact such credit sources. If the applicant is unsuccessful in his efforts to obtain credit or to get a revision of the rates and terms of his indebtedness, the County Supervisor will obtain from the applicant the reasons given by the present creditors and other sources for not assisting the applicant and document such information in the running record.

(ii) If the County Supervisor is notified by the applicant that his negotiations with the present creditors or other sources were unsuccessful, he will determine, on the basis of the applicant's financial statement, planned income and expenses, estimated amount available for debt payment and any additional factors presented by the applicant, whether it



V 38-188 SEP 28 73 XUM

appears necessary to refinance the debt(s) or any portion of the debt(s) or obtain a change in the rates and terms. When it is determined that refinancing may be necessary, the County Supervisor will contact in person, when practicable, each secured creditor and each unsecured creditor to whom substantial debts are owed for the purposes of verifying the necessity for refinancing. If the loan is to be processed, a statement of each secured account showing the final due date, interest rate, annual installment, amount of principal and interest delinquent, unpaid principal, and accrued interest will be obtained. If all, or a portion of the accounts are to be refinanced, the appropriate amount necessary to settle the account in full or to bring the account current will be obtained. In any case in which a mortgage is to be taken junior to another creditor's lien, such as the Federal Land Bank or an insurance company, the County Supervisor will obtain early in the loan processing the creditor's determination with respect to furnishing the applicant the additional credit that he needs.

(2) Debts secured by real estate liens will not be refinanced if a part of the are against the farm on which a mortgage will be taken under § 1821.10(b)(1).

(3) Ordinarily, loans will not be made to refinance long-term real estate loans of the type generally made by lenders such as the Federal Land Banks or insurance companies. When it is necessary to refinance such debts, the total debt will not be refinanced if a part of the debt can be refinanced on a sound basis with the lender's agreement. The part of the debt to be refinanced will not include more than existing delinquencies plus the next installment to become due that the borrower will be unable to pay.

(4) When nonreal estate debts are being refinanced, preference will be given to paying those that will be most helpful to the applicant in carrying on farm and home operations. Ordinarily, in the case of old unsecured debts or inadequately secured debts, the applicant will be requested to contact his creditor(s) and attempt to obtain a substantial reduction of such debts.

(f) *Income from other than the owned acreage.* In any case in which the soundness of the loan depends on income from the farm and other sources, the County Supervisor must determine that income from other sources, in addition to the income from the land the applicant owns will likely be available to him on a continuing basis.

(1) When the applicant must depend on income from land in addition to that which he owns, the County Supervisor will determine that such land or other land of similar quantity and quality likely will be available during the period of the loan or if other land should not be available there is a likelihood that off-farm employment is available to provide the income needed.

(2) When the applicant must depend on income from off-farm employment it must be determined that the off-farm income will probably materialize and continue in the amount anticipated, taking into consideration the nature of the proposed employment and, where possible, the actual employment for the past 2 or 3 years, and the time required for the off-farm work, together with that required for the farm, is possible of accomplishment by the applicant and his immediate family, taking into consideration hired labor for seasonable peak-load periods.

(g) *Income from nonfarm enterprises.* Income from nonfarm enterprises, is considered to be "other income" rather than farm income. The farm and home plan will have sufficient information attached to determine the feasibility and soundness of the applicant's request for FHA assistance in conducting nonfarm enterprise in conjunction with his farming operation. Such information will indicate whether the enterprise provides sufficient income to meet its operating expenses, depreciation, proportionate share of the debt, and make reasonable contribution to the family's income.

(h) *Supplementary payment agreement.* Form FHA 440–9, "Supplementary Payment Agreement," should be used for each applicant who regularly (such as weekly, monthly, or quarterly,) receives substantial income from an off-farm source, a nonfarm enterprise, or from farming. It also should be used for other applicants when needed to facilitate servicing of the account.

(i) *Farm or residence situated in different counties.* If a farm is situated in more than one state, parish, locality, or county, the loan will be processed and serviced in the state, county, parish, or locality in which the borrower's residence on the farm is located. However, if the borrower's residence is not part of his farm, the FO loan will be serviced by the County Office serving the county in which the farm or a major portion of the farm is located unless otherwise approved by the State Office because of transportation difficulties for FHA employees.

(j) *Other real estate.* The State Director may permit an applicant to retain real estate that will not be a part of the farm provided such real estate furnishes the applicant employment or income which together with farm income is essential to his success, it provides the residence for the applicant, or a sale of property would not materially reduce the applicant's need for a real estate loan or for operating credit; and provided further that the retention of such real estate will not cause a borrower to operate larger than a family farm or to own a farm for rental for agricultural purposes in addition to the farm he operates. Otherwise, a loan may be made to an applicant who owns real estate which will not be a part of the farm only if he disposes of the property before or simultaneously with the closing of the loan, or if this is not feasible, agrees to dispose of it as promptly as possible, but in no instance later than two years after the date of loan closing. The applicant must use the net proceeds to pay essential farm and home expenses, to make necessary capital purchases, or to reduce his debts. The applicant's agreement for disposal of the real estate and use of the proceeds will be obtained through the use of Form FHA 443–17, "Agreement to Sell Nonessential Real Estate." This form will be executed by the applicant and his wife at the time of loan closing. The security instrument taken in connection with the loan will not include real estate to be sold.

(k) *Joint ownership and joint farming operations.* (1) Whenever it is not feasible to divide the land into family farms with individual ownership, a loan may be made to two applicants constituting a family group that owns or will own a farm jointly and conduct a joint operation if each of the applicants is individually eligible and the family group likewise meets all eligibility requirements, provided that the total operation will not be larger than a family farming operation. A family group would consist of relationships such as father-son, mother-son, or grandfather-grandson in which the younger member of the group would take over the operation as the older member becomes less active in conducting the farming operations. It is anticipated that this transition period would take place and be completed within a few years after the loan is made. The participation of a member of such family in the operation without an ownership interest in the farm is not prohibited, but in such case, the responsibility of management must be in the owner or owners. In any case, it must be determined that because of previous experience in working together, such a family group likely will succeed in the proposed joint farming operation. All joint owners of the land will execute the application, payment authorization, if any, note and mortgage, as well as other loan docket forms.

(2) *Separate ownership of the farm and joint operations.* A loan may be made to an eligible applicant who will own a farm which is not larger than a family farm and will conduct a joint operation with another individual or individuals provided:

(i) Not more than three individuals are interested in the operation;

(ii) That, because of previous experience in working together as farmers, they will likely succeed in the proposed joint operation; and

(iii) The joint operation will not be larger than the equivalent of a family operation for each full-time operator involved. However, such operation will not exceed a single family farm operation, whenever the individual who has an interest in the applicant's operation does not personally perform labor in an amount at least equal to his respective interest in the operation.

(l) *Debt-settlement cases.* A loan will not be made to an applicant whose debts have been settled pursuant to part 1864 of this chapter, as reflected by the





County Office records, or where settlement under such regulations is contemplated, unless the applicant's failure to pay his loan indebtedness was the result of circumstances beyond his control, the conditions which necessitated the debt settlement or release, other than weather hazards, disasters, or price fluctuations, have been or will be removed by the making of the loan, and the borrower's operations will be sound and afford him a reasonable prospect of repaying the loan and meeting his other obligations. Before requesting an appraisal or causing the applicant to incur any expense in connection with the loan, the County Supervisor, if he determines that the applicant should be considered for a loan, should complete Form FHA 431–2 and send it, together with the application, any available case folders, and his recommendation to the State Office for a determination as to whether to proceed with development of the loan docket.

(m) *Compliance with special laws and regulations.* (1) Applicants will be required to comply with Federal, State, and local laws and regulations governing diverting, appropriating, and using water including use for domestic or nonfarm enterprise purposes, installing facilities for draining land, and making changes in the use of land affected by zoning regulations. The applicant should also comply with any such laws, special licenses, and regulations pertaining to nonfarm or fish farming enterprises. Requirements set forth by the State Director will be issued to advise County Supervisors as to the action to be taken by applicants in order to comply with this policy. In any State where there are no special laws or regulations to comply with, special regulations may be needed to advise how to make sound loans under such conditions. For example, evidence may be needed to determine the effect that diverting water from a stream might have on other users or their legal rights as well as the manner in which other users or their legal rights affect the borrower's use of the water. Furthermore, even though there are no specific requirements to be met, it may be possible to file with the appropriate State authority the facts concerning the borrower's use of water from a stream in order that he might have some priority rights in case laws or regulations are made that will affect the use of water.

(2) For any reasonably large scale animal, fish or poultry feedlots or holding facilities which are likely to have an effect on the environment for which an FO or FO–NFE loan is being developed, the County Supervisor will complete Form FHA 440–46, "Environmental Impact Assessment." Additionally, Form FHA 440–46 will need to be completed on a smaller scale operation involving feedlots and holding facilities in a densely populated rural or urban area. The completed form, a copy of the application, and any additional comments the County Supervisor believes relevant to environmental considerations, will be forwarded by the County Supervisor to the State Director. Based on this submittal and any additional material the State Director may have concerning the proposed operations, the State Director will determine whether an environmental impact statement should be prepared. In making this determination and proceeding with subsequent steps, the State Director will follow the provisions of part 1824 of this chapter to the extent applicable to loans being made under this instruction.

(n) *Area determinations.* It will be the responsibility of the State Director to determine if there are any areas in the State where the development of ground water for irrigation purposes or the drainage of farmland is not recommended. The State Director will make this determination with the advice of the State Conservationist for the Soil Conservation Service, and the State Geologist or Engineer, or officials of the U.S. Geological Survey, School of Mines, or any State Water Board, State Agency, or person having official functions relating to use of water or drainage of farmland. Requirements set forth by the State Director will be issued specifying the area in which available information indicates that the further development of ground water or darinage is not advisable without a further analysis of pertinent economic and physical data.

(1) If such areas exist, the State requirement will limit the making of FO loans within the areas to the repair or rehabilitation of existing irrigation facilities which will not result in the development of additional ground water in excess of the amount previously used, or contain such other restrictions as the State Director determines to be necessary.

(2) If such areas do not exist, there will be included in the State requirement the determination that there are no areas in the State where the development of ground water for irrigation purposes or the drainage of farmland is not recommended. In any event, the State Director may require a test well prior to the time the applicant incurs costs for drilling a well.

(o) *Liens junior to the FHA lien.* A loan will not approved if a lien junior to the FHA lien likely will be taken simultaneously with or immediately subsequent to the closing of the loan to secure any debt the borrower may have at the time of loan closing or any indebtedness he may incur in connection with the FO loan, such as for a portion of the purchase price of the farm or money borrowed from others for payments on debts against the farm, unless the total debt against the security would be within the $225,000 debt limit or the market value of the security, whichever is less.

(p) *Public liability and property damage insurance.* Applicants receiving loans for nonfarm enterprises will be advised of the possibilities of incurring liability and encouraged to obtain public liability and property damage insurance.

(q) *Subdivision of large tracts of farmland into family farm units.* County Supervisors should investigate any large tract that is offered for sale to determine the feasibility of making FO loans to several applicants to acquire the tract. In considering the feasibility of a tract for subdivision into family farms, the following are some of the factors that must be considered.

(1) Productivity of the land and its suitability for operation as a family farm;

(2) Cost of the land and improvements included or necessary;

(3) Accessibility to roads, markets, schools, and other services;

(4) Disposition or omission of any portion of the tract that is not suitable; and

(5) The number of eligible applicants in the area.

(r) *Refinancing of FO loan.* If, at any time, it appears that the borrower may be able to obtain a loan from a cooperative or private credit source at reasonable rates and terms for loans for similar purposes and periods of time prevailing in the areas, to refinance his loan, the borrower will, upon request, apply for and accept such refinancing.

### § 1821.12 Suitability of farm for the FO program.

(a) *Responsibility for determining suitability of farms.* The County Supervisor is responsible for making a preliminary determination as to whether a loan can be made on the farm. This determination will be based on a personal inspection of the farm and the consideration of such factors as productivity of the land; location, condition, and adequacy of the buildings; approximate value of the farm; approximate amount of funds required for land purchase; boundaries of the farm; roads, schools, markets, or other community facilities; tax rates; and adequacy of the water supply. He also will determine the suitability of the farm for a nonfarm enterprise facility or fish farming.

(b) *Development of loan docket and plans.* Farm and home plans will be prepared in accordance with subpart B of part 1802 of this chapter. Plans for a nonfarm enterprise will be developed on Form FHA 431–4, "Business Analysis—Nonagricultural Enterprises." In accordance with acceptable business practices for the enterprise. If there is a State Planning and Development Agency or other recognized competent planning and development source that will assist in such plans, its services will be used to the extent feasible. The farm development plan will be prepared in accordance with subpart A of part 1804 of this chapter. When the farm and home plan including any plans for a nonfarm enterprise, and the farm development plan have been prepared and real estate is to be taken as security for the loan, and the appraisal is to be made by other than authorized personnel in that County Office, the services of an appraiser will be requested. In any case, if it appears that



V 38-188 SEP 28 73 XUM

a loan cannot be made, the County Supervisor will promptly notify the applicant of the specific reasons for the decision. If the applicant is dissatisfied with the decision and requests further consideration, the County Supervisor may ask the County Committee or the State Office for an opinion.

**§ 1821.13 Technical and legal services.**

(a) *Technical assistance.* Applicants are responsible for obtaining technical assistance necessary to plan, construct, or establish the improvement or facility to be financed with the loan or other technical service required in connection with the loan.

(b) *Appraisal.*

(1) When real estate will be taken as security for the loan, the real estate will be appraised by an FHA employee authorized to appraise farms in accordance with subpart A of part 1809 of this chapter and paragraph (b) (2) of this section.

(2) For a loan not exceeding $5,000 an appraisal of the farm to be given as security will not be made unless the County Supervisor or loan approval official is uncertain as to the adequacy of the security. If in such a case an appraisal is not made, the County Supervisor will indicate on a separate sheet his estimate of the market value of the real estate to be given as security.

(3) When nonreal estate items will be taken as security for a loan, a list of such items will be made on Form FHA 440–21, "Appraisal of Chattel Property," or State form, if such a form has been developed, with an estimate of the market value of the security. In determining the market value of personal property security, the County Supervisor will take into consideration the length of time the property will serve as security and the useful life of such security. In the case of other security, the County Supervisor will include a supporting statement with his estimated value of such security. Such a statement will include a narrative description of the security, its current cash value, the relative stability of the value of the security, and how the property is to be given as security.

(c) *Title clearance and legal services.*

(1) When real estate is taken as security, title clearance and legal services for making and closing the loan will be provided in accordance with part 1807 of this chapter. The applicant will be requested to furnish title evidence as soon as the County Supervisor determines the loan probably will be made. If the County Supervisor is doubtful whether the loan will be approved, he will not require the applicant to furnish title evidence until after the loan approval.

(2) When no real estate is taken as security, the applicant will be required to submit the original or a certified or photostatic copy of his deed, purchase contract, or other instrument evidencing ownership. Whenever the County Supervisor is uncertain as to whether or not the applicant is the owner of a family farm, the County Supervisor will take such actions as he considers necessary, such as requiring the applicant to furnish additional information or obtaining the opinion of the OGC as to the evidence of ownership of the farm and his advice as to any further information or action that may be needed.

(3) When personal property is taken as security, a lien search will be obtained in accordance with subpart B of part 1831 of this chapter.

**§ 1821.14 Mineral rights.**

Borrowers should obtain to the extent practicable all the mineral rights in any land being acquired. When mineral reservations appear to make it questionable whether a sound loan can be made on property with all or part of the mineral rights held by a third party, the County Supervisor will obtain the advice of the State Director before proceeding with development of the loan.

**§ 1821.15 Optioning of land.**

When land is to be purchased, the applicant will be responsible for selecting the land he intends to purchase and for obtaining an option on such land. The County Supervisor should, if possible, prior to the applicant's selection of the land to be purchased, advise him with respect to the approximate size and quality of farms which are generally considered suitable for the FO program. Also, the County Supervisor will advise the applicant that the farm must be located on a public road or have a right-of-way or easement for a useable access road to a public road. Such advice, together with the consideration of the applicant's eligibility before the land is selected, will save the applicant's time in looking for farms and will reduce the number of options taken on farms which are obviously too small, too large, or too unproductive to qualify for the FO program. A determination should be made that a loan can likely be processed before the applicant is requested to obtain an option. Form FHA 440–34, "Option to purchase Real Property," will be given to the applicant with an explanation of the provisions of the Form and how it will be completed. Generally, Form FHA 440–34 should be used; however, other option forms may be used if their provisions are acceptable.

(a) The County Supervisor is responsible for examining each completed option to determine if it is acceptable. When the County Supervisor is doubtful as to whether the option is acceptable due to questions, such as the effect of mineral or other reservations on the applicant's or the Government's interest, or unusual conditions or alterations of Form FHA 440–34 or other option form, if used, he will forward the option to the State Office with a memorandum indicating the extent to which the exceptions are or may be objectionable and request the advice of the State Director. The State Director will contact the OGC when legal advice is needed.

(b) The County Supervisor will also determine that:

(1) At least one dollar is actually paid to the seller by the applicant and the receipt for this amount is acknowledged in the option.

(2) The option is recorded, if necessary. Recordation fees will be paid by the applicant.

(c) When a tract of land is to be optioned and subdivided, the applicant in whose name the option is to be taken must be advised by the County Supervisor that the applicant will not receive any remuneration for assigning interest in the option to other applicants. The County Supervisor is responsible for explaining to the seller and the applicant in whose name the option is taken, the terms and conditions of the option including the provision that the seller will provide an accurate survey, if required by the Government.

(1) The County Supervisor will discuss any proposed subdivision with the County Committee and the District Supervisor before any definite commitments are made to the prospective seller with respect to utilizing a tract for subdivision purposes. He will also obtain the assistance of the employee authorized to appraise farms in making a thorough study of the tract and in plotting the units to show whether it is practicable to subdivide the tract into adequate farms.

(2) If the tract is determined to be suitable, an option will be taken on Form FHA 443–2, "Option for Purchase of Farmland to be Subdivided." The tract will be subdivided into units, each unit will be surveyed, and the applicant, in whose name the tract is optioned, with guidance of the County Supervisor, will execute Form FHA 443–3, "Assignment of Interest in Option (Land to be Subdivided)," with each applicant who is to receive one of the units. If it becomes necessary for the State Director to designate an applicant as assignee of an interest in the option, Form FHA 443–4, "Designation of Assignee of Interest in Option (Land to be Subdivided)," will be used.

**§ 1821.16 Deferred payments.**

The principal payments may be deferred until the end of the second full crop year from the date of the loan. Such payments may be deferred only when the farm and home plan covering the first full crop year indicates that there will be insufficient income to meet a regular annual installment on the loan after operating, family living, and other essential expenses are paid during the first or first and second full crop years. Further, in the judgment of the loan approval official, there must be adequate evidence that income in subsequent years will be sufficient to meet the requirements of the loan. Deferred payments should not be used to permit the accelerated repayment of other debts or to purchase an unusually large amount of capital goods. Deferment will be justified only when adequate returns will be delayed one or two full crop years and:





(a) A substantial reorganization of the farming system and any nonfarm enterprise is being made; or

(b) A new system of farming or nonfarm enterprise is being established that will require substantial improvements, such as land clearing, draining, leveling, irrigating, basic fertilizing, seeding, or other land development, soil improvement, and extensive nonfarm facilities.

**§ 1821.17 Junior mortgage loan.**

When a loan is to be secured by a junior mortgage, the following items will apply:

(a) *Agreements with prior lienholders.* Agreements with prior lienholders regarding enforcement of objectionable provisions of their liens or giving notice of forcloseure or assignment of their liens, or both, will be obtained in accordance with § 1807.2(f)(5) of this chapter, except as modified by the Memorandum of Understanding with the Farm Credit Administration set forth in Appendix I.

(b) *Items for docket.* The applicant will be required to furnish the County Supervisor before the docket is assembled, a copy of each mortgage held by the prior lienholder(s) and, if available, a copy of the note or other obligation so that a proper determination can be made as to whether it should be refinanced. In addition, the County Supervisor will be furnished a current statement from the mortgage showing the amount of unpaid principal secured by the mortgage(s), the amount of any accrued interest, whether the account(s) is current or the amount of any delinquency with principal and interest shown separately, and if a copy of the note(s) is not provided, its maturity date, repayment schedule, interest rate, and a summary of any other provisions of the note. This information will be included in the docket for the information of the loan approval official. Any cost incidental to obtaining the information will be paid by the applicant.

**§ 1821.18 Certification by County Committee.**

Before an FO loan is approved, the County Committee will make its certifications with respect to the eligibility of the applicant and the maximum amount of the loan on Form FHA 440–2, "County Committee Certification or Recommendation." The amount certified by the County Committee may be greater but not less than the amount of the loan. Since this is an administrative determination, the applicant will not be notified of the certified amount. Members of the County Committee may interview the applicant and/or see the farm before making their recommendations.

(a) The loan docket may be developed and submitted to the County Committee for certification, if the County Supervisor during his investigation of the application finds no information which would likely cause the County Committee to take unfavorable action on the applicant's eligibility. The amount of the loan certified by the County Committee will be based on the completed docket. It may also be certified from a reasonably accurate estimate of the amount needed, supported by the appraisal report and appropriate plans and complete information about the applicant.

(b) If the County Supervisor has any question concerning the applicant's eligibility, he will have the application considered by the County Committee prior to developing a loan docket. If favorable action is given by the County Committee, the docket will be completed and returned to the Committee for its final certification.

(c) If the County Committee rejects the application, reasons for unfavorable action will be given in the space provided on Form FHA 440–2 above their signature.

(d) When a loan cannot be processed promptly, a decision will be made on the eligibility of the applicant in accordance with subpart A of part 1801 of this chapter. He must be notified in writing of the initial action taken by the County Committee; and then a loan docket should be processed and submitted to the Committee for disposition. Ordinarily, the amount of the loan plus any other debts against the security will not be in excess of the recommended market value of the security as shown on the appraisal report(s). A loan docket will not be developed when a loan plus any other debts against the security will be significantly in excess of the recommended market value of the security. In an unusual case when the amount of a loan needed for success plus other debts that will be against the security is slightly above the recommended market value of the security and the County Committee and the County Supervisor believe that the loan should be made, Form FHA 440–2 may be completed. In such a case, the completed loan docket will be submitted to the State Office for a determination as to whether it is feasible to establish the market value of the security above the appraiser's recommended market value. If the loan approval official determines that the market value is in excess of the appraiser's recommended market value, he will record his determination of the market value of the security on Form FHA 440–3, "Record of Actions." Federal Land Bank Association stock required to be purchased by Federal Land Bank Association borrowers is usually not assignable but it does have security value. Therefore, when FHA and Federal Land Bank simultaneous loans are being made, the loan approval official may find the market value of the total security to be equal to the market value of the real estate plus the value of the FLB Association stock. He will record his determination of the market value of the security in such a case on Form FHA 440–3.

**§ 1821.19 Preparation and distribution of loan docket.**

(a) *Checking docket forms.* When the loan docket forms have been completed, they will be checked thoroughly to determine that the proposed loan conforms to the applicable loan limits, each form is prepared correctly, and items such as names, addresses, and the amount of the loan are the same on all forms in which such items appear. Any loans that require State Office approval will be submitted to that office as soon as the docket is completed.

(b) *Verification for veterans' preference.* If the applicant has checked the veteran block, the County Supervisor, or other County Office employee will review the applicant's evidence of discharge or release to determine whether the applicant is entitled to veterans' preference.

(c) *Information on the availability of other credit.* The County Supervisor will record in the Running Case Record the pertinent information concerning the negotiations made by the applicant and the discussions by the FHA Personnel with the applicant's creditors and other lenders.

(1) Documentation of the investigation of other credit required by § 1821.11 (e) must be sufficiently clear and adequate to establish that other credit is not available.

(2) Any letters from lenders or other evidence which may have been obtained indicating that the applicant is unable to obtain satisfactory terms with present creditors or credit elsewhere will be included in the loan docket.

(d) *Distribution of docket forms.* The loan docket will include the forms and documents listed in regulations available in all FHA Offices.

**§ 1821.20 Loan approval.**

(a) *Application of authority.* The State Director's authority to approve FO loans as outlined in subpart B of part 1810 of this chapter, permits approval of initial or subsequent FO loans when the amount of the loan plus unpaid principal balance and any past-due interest on debts against the security for the loan will not exceed $225,000, or the market value of the security whichever is less. Debts against nonessential real estate an applicant owns or against real estate in which he has an undivided interest are not included in the $225,000 debt limitation unless the property will be security for the loan. The dollar amount of loan approval authority granted in a State Requirement by the State Director to a qualified State Office employee includes the amount of the FO, SW, RL, or Land Conservation and Development (LCD) indebtedness but does not include any other principal balance and any past-due interest on debts to remain against the security. Loans may not be approved by such delegate if the total indebtedness against the property is in excess of the $225,000 or the market value, whichever is less.

(1) An employee is not authorized to approve an FO loan made in connection with the property he has appraised.

(2) An Assistant County Supervisor may not approve a loan on property appraised by the County Supervisor in the same County Office unit.



V 38 I 188 SEP 28 73 XUM

(b) *Limitations.* The authority granted to District, County, and Assistant County Supervisors as shown in subpart B of part 1810 of this chapter is limited to cases in which:

(1) The proposed loan will not exceed the loan limitation specified for the respective supervisor in subpart B of part 1810 of this chapter and the proposed loan plus the total unpaid principal balance and any past-due interest on debts against the security will not exceed $100,000 for a County or Assistant County Supervisor and $160,000 for a District Supervisor, or the market value of the property, whichever is less.

(2) No significant changes have been made in the development plan considered by the appraiser when real estate will be taken as security.

(c) *Loan approval action.*

(1) *Examination of loan.* The loan approval official is responsible for reviewing the docket to determine that the proposed loan complies with established policies and all pertinent regulations and insured or direct loan funds are available for the loan. When reviewing the docket the loan approval official will determine that the Committee certification has been properly completed and signed by at least two Committeemen; the applicant is eligible; funds are requested for authorized purposes only; the proposed loan is sound; the security is adequate; necessary supervision is planned, and all other pertinent requirements are met or will be met before loan closing.

(2) *Approval or disapproval of a loan.* When a loan is approved, the loan approval official will:

(i) Indicate on all copies of Form FHA 440–3 any conditions not required by FHA instructions that must be met before the loan is closed and specify the special requirements, such as conditions under which a prior lien may remain outstanding, the kind of additional security required, and so forth. If title evidence is required in accordance with part 1807 of this chapter or in accordance with any special requirements for the loan but is not included in the docket, the loan may be approved subject to the applicant's furnishing the required title evidence. When the applicant furnishes satisfactory title evidence, the County Supervisor will proceed with processing the loan except that in those cases in which the title evidence does not comply with the conditions specified by the approval official, the docket will be reconsidered by the loan approval official.

(ii) Sign the approval certification on the original of Form FHA 440–3 and insert his title in the space provided.

(iii) Sign the original and one copy of Form FHA 440–1 for an insured loan from the ACIF.

(iv) If the loan is disapproved after the loan docket is developed, the loan approval official will explain on Form FHA 440–3 the reasons therefore and initial and date the original. The County Supervisor will notify the applicant, giving the reasons for the disapproval of the loan. If the notice was not in writing the County Supervisor will record in the running record a brief summary of discussion with the applicant. He should also advise the County Committee of the action taken on the loan.

(d) *Distribution of docket forms and loan approval.* The applicable docket forms will be distributed as outlined below by the loan approval official after the loan is approved.

(1) *To the Finance Office.* Form FHA 440–3 (original and copy). After Form FHA 440–3 is processed in the Finance Office a conformed copy will be returned to the County Office.

Form FHA 443–12 (original)
Form FHA 440–1 for an insured loan made from the ACIF.
Form FHA 492–19 (original) when required.

(2) *To the County Office.* One conformed copy of Form FHA 440–3 and the remainder of the loan docket. In the case of an insured loan to be made by a private lender, the lender's name and complete mailing address will be inserted on Form FHA 440–3; also a copy of Form FHA 492–19 when required.

(3) *To the State Office.* If a loan is approved in the State Office, a copy of Form FHA 440–3 and a copy of Form FHA 443–12 will be retained. If the loan is approved in the County Office, a conformed copy of Form FHA 40–3 and a copy of Form FHA 443–12 will be sent to the State Office for retention; also copy of Form FHA 492–19 when required.

(4) *To the borrower.* A signed copy of Form FHA 440–1 will be sent to borrower on the date of loan approval.

### § 1821.21 Requesting title service and accepting option.

When the loan is approved, the County Supervisor will see that title is requested in accordance with part 1807 of this chapter, if this has not already been done, and where land is being acquired also see that Form FHA 440–35, "Acceptance of Option," is completed, signed, and mailed to the seller, however, in connection with acceptance of option on a subdivision, Form FHA 443–10, "Acceptance of Option by Assignee (Land to be Subdivided)," and Form FHA 443–11, "Acceptance of Option by Buyer (Land to be Subdivided)," will be used, as appropriate. When the acceptance of option letter has been mailed to the seller, the borrower will arrange with the seller, in consultation with the County Supervisor to occupy and operate the farm as soon as practicable. Agreements will be in writing and cover such subjects as disposition of growing crops, rentals, payment of maintenance cost, and other pertinent points. The following forms will be used for this purpose, as appropriate:

Form FHA 443–5, "Short-Term Lease of Optioned Land."
Form FHA 443–6, "Short-Term Lease (Between Purchaser and Seller)."
Form FHA 443–7, "Temporary Cropping License."
Form FHA 443–8, "Agreement (Between Seller, Purchaser, and Tenant)."

### § 1821.22 Actions subsequent to loan approval.

(a) *Requesting check.* When the loan has been approved, approval conditions can be met, necessary curative actions have been taken to provide a satisfactory title to any real estate security, and a date has been set for loan closing, the County Supervisor or his delegate in writing will order the loan check. However, the check may be requested at the time of loan approval if real estate will not be taken as security or, if real estate is taken as security and the designated attorney or title insurance company assures the County Supervisor, verbally or in writing prior to loan approval, that satisfactory title evidence can be provided.

(1) For an insured loan from the ACIF if the check is to be ordered at the time of loan approval, the County Supervisor will check the block on the original in Form FHA 440–3 for issuance of the check and sign and date the portion of the form to request the check. If the check is not ordered at the time of loan approval, a copy of Form FHA 440–3 will be completed after loan approval to request the check in sufficient time to obtain the check prior to the loan closing date.

(2) For an insured loan by a private lender, the County Supervisor will request the check in accordance with part 1812 of this chapter.

(b) *Handling loan checks.* (1) If the loan check is to be deposited in a supervised bank account, this will be done on the date of loan closing in accordance with part 1803 of this chapter, after it has been determined that the loan can be closed, but in no case later than the first banking day following date of loan closing.

(2) When a private lender issues a loan check payable jointly to the borrower(s) and the Farmers Home Administration as a precaution against loss of funds, the County Supervsor is authorized to endorse the check on behalf of the Farmers Home Administration at the time of loan closing as follows:

Endorsed without recourse:
Farmers Home Administration
By ----------
Title ----------

The State Director also is authorized to endorse such a check in the same manner. Authority to endorse such checks in no way relates to or modifies the regulations contained in part 1862 of this chapter regarding collection items or the endorsement of such items.

(3) If a loan check other than a check from a private lender is received and the loan cannot be closed within a reasonable amount of time, no more than 30 days from the date of the check, the County Supervisor will return the check by Memorandum to the Disbursing Center, U.S. Treasury Department, Post Office Box 2509, Kansas City, Missouri 64142.

(4) For an insured loan made by a private lender, if the loan cannot be closed on the date planned as indicated to the lender, and the loan is to be closed, the lender will be notified immediately of the reasons for the delay. If it is determined that an insured loan cannot be closed, the check will be returned immediately to the lender with a request for cancellation. In no case may a lender's check be retained more than 21 days from the date of the check. When a loan check is lost, mutilated, or destroyed, the County Supervisor will immediately notify the lender and, if the borrower still desires to close the loan, the lender will be requested to issue a new check. When a check is returned and the loan will be closed at a subsequent date, another check will be requested in the usual manner.

(c) *Cancellation of loan.* Loans may be canceled before loan closing as follows:

(1) The County Supervisor will notify the State Office and Finance Office of a loan cancellation by use of Form FHA 440–10, "Cancellation of Loan or Grant Check and/or Obligation." The County Office will send a copy of Form FHA 440–10 to the Designated Attorney, Regional Attorney, or the title insurance company representative providing loan closing instructions to indicate that the loan has been canceled.

(i) For an insured loan from the ACIF, if a check is received in the County Office, the County Supervisor will return it to the Disbursing Center, U.S. Treasury Department, Post Office Box 2509, Kansas City, Missouri 64142, with a copy of Form FHA 440–10.

(ii) For an insured loan by a private lender, any check advanced will be returned promptly to the lender with an explanatory letter.

(2) Interested parties will be notified of the cancellation as provided in part 1807 of this chapter.

(d) *Increase or decrease in amount of loan.* If it becomes necessary that the amount of the loan be increased or decreased prior to loan closing, the County Supervisor will request that all distributed docket forms be returned to the County Office and reprocessed unless the change is minor and replacement forms can readily be completed and submitted. In the latter case, a memorandum to that effect will be attached to the revised forms for referral to the Finance Office. A new Committee certification will not be necessary unless the revised loan amount is higher than the original certification.

### § 1821.23 Loan closing actions.

When a loan closing date has been agreed upon, the County Supervisor will notify the borrower and seller, if any, of the loan closing date. The following appropriate actions will be taken in connection with and after loan closing:

(a) *Real estate mortgage loans.* When a loan is to be secured by a real estate mortgage, it will be closed in accordance with the applicable provisions of part 1807 of this chapter except as modified for loans of $5,000 or less in § 1821.10(b)(4).

(b) *Loans involving chattel or other non-real estate security.* Form FHA 440–15 (State), "Security Agreement (Insured Loans to Individuals)," or appropriate chattel mortgage for Louisiana, will be used for insured loans. The instrument will be obtained and handled in accordance with the applicable parts of subpart B of part 1831 of this chapter. If for any reason Form FHA 440–15 cannot be used as developed in any State other than Louisiana, the State Director will advise the National Office of the reasons it cannot be used and recommend any necessary changes to comply with State law. If modification of the form is approved in the National Office, a State form will be used in lieu of Form FHA–440–15.

(c) *Applicant's financial condition.* The County Supervisor will review with the applicant the financial statement which was prepared at the time the docket was developed. If there have been significant changes in his financial conditions, the financial statement will be revised and initialed by the borrower and the County Supervisor. When an applicant's financial condition has changed to the extent that it appears that the loan would be unsound or improper the loan will not be closed. If a revised loan docket can be developed and if the County Supervisor is not authorized to approve the loan, it will be submitted to the loan approval official for reconsideration.

(d) *Loan approval conditions.* If there are any loan approval conditions which the applicant must meet before the loan is closed, the County Supervisor will call these conditions to the applicant's attention at the time he notifies him of the loan closing date. If an applicant will not comply with the loan approval conditions, the loan cannot be closed.

(e) *Change in use of funds planned for refinancing.* (1) In cases where funds are included in the loan to refinance debts, the County Supervisor is authorized to transfer funds planned for refinancing between debts, provided all debts for which loan funds were planned are paid and the amount of loan funds to be used for refinancing does not exceed the amount planned for such purpose; except that the County Supervisor is authorized to use funds planned for other purposes to pay small deficiencies in estimates of the amount needed for refinancing, if he determines that sufficient funds will remain available to complete the planned farm development or land purchase.

(2) When the total amount of debts planned to be paid have increased so that they cannot be met within the authorities in the above paragraph or the applicant desires to transfer funds to pay debts for which loan funds were not planned, a revised loan docket will be developed and, if the County Supervisor is not authorized to approve the loan, it will be submitted to the loan approval official for reconsideration. If Form FHA 443–12 has been revised and the loan is approved, the loan approval official will send a copy of the revised form to the Finance Office. If the total amount of the loan will be increased, the docket will be processed in accordance with § 1821.22 (d) of this chapter.

(f) *Assignment of income from real estate to be mortgaged.* Unless otherwise authorized by the State Director in an individual case, income to be received by the borrower from royalties, leases, or other existing agreements under which the value of the real estate security will be depreciated will be assigned and disposed of in accordance with subpart A of part 1872 of this chapter, including provisions for written consent of any prior lienholder. Authorization may be given by the State Director to refrain from taking an assignment of such income in cases in which the security is otherwise adequate, payment of the loan is reasonably assured from other sources, and the income has already been committed for other purposes or must be relied on by the applicant for essential living or operating expenses. When the County Supervisor deems it advisable, assignments also may be taken on all or a portion of income to be derived from nondepleting transactions such as income from bonus payments or annual delay rentals which will be assigned and disposed of in accordance with subpart A of part 1872 of this chapter.

(1) For assignment of income, Form FHA 443–16, "Assignment of Income from Real Estate Security," will be used, except that if the form is legally inadequate in a particular State it may be adapted with the approval of the OGC.

(2) The County Supervisors, upon the advice of the designated attorney, title insurance company, or OGC, as appropriate, may require acknowledgment and recordation of the assignment. Any cost incident thereto will be paid by the borrower.

(3) At the time Form FHA 443–16 is executed, appropriate notations will be made on Form FHA 405–1, "Management System Card—Individual," to insure that the proceeds, or the specified portion of the proceeds assigned to the FHA from the transactions are remitted at the proper time.

(g) *Preparation and endorsement of note.* Form FHA 440–16, "Promissory Note (Insured Loan)," for insured loans will be prepared and completed at the time of loan closing. If insured RH funds are advanced simultaneously the RH loan will be evidenced by a separate insured note on the proper form as provided in subpart A of part 1822 of this chapter; however, both the insured FO note and the insured RH note will be described in the same mortgage. In addition, when an insured SW loan is being made at the same time as an FO loan, both insured notes will be described in the same mortgage. Care will be taken to assure that the borrower's name, case number, address when living on the farm securing the loan, and all other entries are typed in correctly on the note.







V 38-188 SEP 28 73 XUM

(1) When determining the amount of the first installment, the County Supervisor will consider the borrower's financial circumstances and the extent to which he will receive income from the farm or other source during the calendar year in which the loan is closed. The amount of the first installment may be less but not more than a regular annual installment. The amount of the first installment may not be less than the amount equal to interest on the loan from the date of loan closing to February 1 of the next calendar year, unless the lender has agreed to a lesser amount.

(2) The regular amortized installment will be determined in accordance with the instructions for the preparation of the note. The amount of such installment will be the amount of principal and interest which, if paid annually, will retire the full amount of the note plus interest within the amortization period of the loan.

(3) When a loan is closed between December 1 and January 1, the first installment will be collected at the time of loan closing unless deferment is approved. Also, funds included in the loan for payment of interest will be collected on date of loan closing. The receipt should indicate "For deferred installment interest."

(4) The promissory note will be signed by the borrower and his or her spouse, if married, unless under the provisions of part 1807 of this chapter the spouse's signature is unnecessary.

(5) For insured loans, other than those made from the ACIF, the promissory note will be assigned to the lender in accordance with part 1812 of this chapter.

(6) Each County Supervisor and each State Director is authorized to sign the endorsement on the reverse of the note and to execute Form 440–30, "Insurance Endorsement (Insured Loan)." The insurance endorsement constitutes the Government's contract of insurance of the loan.

(h) *Obtaining insurance.* Buildings on the property which are to be taken as security for the FO loan will be insured in accordance with part 1806 of this chapter. When a loan is secured by chattels, and the loss of such chattels jeopardize the interests of the Government, the County Supervisor may require the borrower to insure the chattels against hazards customarily covered by insurance in the area. Borrowers eligible for insurance under the National Flood Insurance Act of 1968 will be advised of its availability.

(i) *Loan closing.* (1) Before closing the loan, the County Supervisor will determine that the corresponding entries on the note and mortgage are identical.

(2) Immediately after loan closing, for an insured loan by a private lender, the original Forms FHA 440–30 and FHA 440–16 will be sent to the lender and conformed copies will be sent to the Finance Office; and from the ACIF, the original and a conformed copy of Form FHA 440–16 will be sent to the Finance Office.

(3) In case of an insured loan by a private lender, if it is not possible for the same County Supervisor who signed Form FHA 440–7, "Request for Check," to endorse the note and sign the insurance endorsement, the original of the completed note and insurance endorsement will be sent to the State Office instead of directly to the lender. In such case, the State Director or other authorized State Office official, will attest on Form FHA 440–30 the signature of the different County Supervisor before sending the note and insurance endorsement to the lender. This will not be necessary when a local lender has no objection to a different signature on the endorsement of the note and on the insurance endorsement than that which appeared on Form FHA 440–7.

(4) When the mortgage is returned by the recording official, the original mortgage will be retained in the borrower's case folder unless the original is retained by the recording official for the County records. If the original is retained by the recording official a conformed copy including the recording date showing the date and place or recordation and the book and page number will be prepared and filed in the borrower's case folder. A conformed copy of the mortgage will be sent to a prior lienholder if a substantial interest is held by that lienholder or it is a working agreement provision with that lender.

(5) The original deed of conveyance, if any, and a copy of the mortgage will be delivered to the borrower.

(6) If the borrower secures an owner's policy of title insurance and it is sent to the County Office it will be delivered to the borrower as soon as it is received from the title insurance company.

(j) *Effective time of loan closing.* An FO loan is considered closed when the mortgage is filed for record.

(k) *Water stock certificates or similar collateral.* When water stock certificates or similar collateral is a part of the security, it will be retained in the County Office. A notation will be made on Form FHA 405–1 showing that such security has been retained.

(l) *Abstracts of title.* Any abstract of title will be delivered to the borrower for safekeeping except when an abstract is obtained from a third party with the understanding it will be returned, such abstract will be sent directly to the third party. When the abstract is delivered to the borrower, Form FHA 140–4, "Transmittal of Documents," will be prepared and a receipt obtained. When the abstract is delivered to a third party, a memorandum receipt will be obtained.

### § 1821.24 Subsequent FO loans.

A subsequent FO loan is a loan made to a borrower who currently owes an FO debt.

(a) A subsequent loan may be made for the same purposes and under the same conditions as an initial loan.

(b) The subsequent loan will be processed in the same manner as an initial loan except that a new appraisal of real estate will be required only when real estate is taken as security and one or more of the following exists:

(1) Subsequent loan funds will be used to purchase land or the mortgage will include additional land that is not presently covered by the FHA real estate mortgage.

(2) The County Supervisor or loan approval official requests a new appraisal report.

(3) The latest appraisal report on the farm is over two years old.

(4) The physical characteristics of the farm have changed significantly.

(5) The subsequent loan will be over $5,000.

### § 1821.25 Reamortization of existing FHA debt(s).

In connection with making or insuring an FO loan to a borrower currently indebted for an FO, RH, or SW loan, such existing loans may be reamortized with the prior approval of the District Supervisor for loans approved by the County Supervisor or by the loan approval official when the loan is approved in the State Office. In any such case, the reamortization of each existing loan may be made only within the remaining period of that loan. Authority to reamortize an account will be granted in those cases in which the District Supervisor determines that the borrower cannot reasonably be expected to meet installments due unless the account is reamortized. When a loan is reamortized, it will be processed in accordance with subpart A of part 1861 of this chapter.

### § 1821.26 Nondiscrimination poster.

Recipients of FO loans to improve or install recreational facilities which are subject to Title VI of the Civil Rights Act of 1964 must display the nondiscrimination poster, "And Justice for All."

Appendix I (Referred to in FHA Offices as Exhibit A of FHA Instruction 443.1)

MEMORANDUM OF UNDERSTANDING BETWEEN THE FARMERS HOME ADMINISTRATION AND THE FARM CREDIT ADMINISTRATION

I. *Introduction.* The capital requirements in agriculture in the future necessitate finding every means possible to provide adequate credit for farmers—particularly young farmers—many of whom are now unable to obtain long-term real estate loans. The Farmers Home Administration over the years has broadened its farm ownership loan policies so that private or cooperative lenders and the Farmers Home Administration can make loans to the same borrower on the same security. The experience of the Farmers Home Administration (FHA) and the Federal Land Bank (FLB) has been favorable when FHA farm ownership loans have been made to farmers and ranchers on liens junior to long-term real estate loans held by the FLBs. A thorough understanding by all the principals involved of the lending policies and objectives of the FHA, FLB and Federal Land Bank Association (FLBA) is essential to better serve farmers and ranchers who seek agricultural credit. Many farm families are unable to obtain adequate credit because of the general tightening of availability of long-term real estate loans. The demand for long-term, low equity loans far exceeds the supply of funds available.

The Farmers Home Administration and the Farm Credit Administration hereby agree that FLBs and FHA State Directors may enter into memorandums of understanding concerning the simultaneous processing of initial farm ownership loans by the FHA and





long-term real estate loans by the FLB to a mutual borrower. It is further agreed that the FLB will make first lien loans on farm real estate which it considers sound to farmers who are or will be FHA borrowers. The FHA will subordinate its mortgage to the FLB lien when the FLB loan is made for purposes which are authorized for FHA real estate loans. It is agreed that in such cases of loans by each lender, neither lender will make future advances to the borrower without the consent of the other lender, except that advances may be made by the FLB as are necessary for the payment of taxes, insurance, neecssary repairs to the secured property, and reasonable foreclosure costs including attorney's fees. If such advances are made, the FHA will not assert the priority of its lien over such advances on the ground that the FHA mortgage was definite and fixed before the additional advance or advances were made by the land bank. Each lender, of course, will make only those loans which are within its existing laws and regulations.

II. *Policies.* The basic policies of each lender will continue to apply when processing each individual loan except as modified in paragraph I. When these policies preclude making individual loans simultaneously to a mutual borrower, the appropriate lender will provide the financing needed when practical.

(a) *Eligibility determination must be made by each lender.* (1) Applications filed with FHA will be analyzed to determine whether there is a possibility of participating with the FLB and other lenders. The County Supervisor will review with the local FLBA manager or other private lender any application that might appear to be suitable for participation.

(2) Applications filed with the FLBA will by analyzed by the manager for possible FHA assistance when it is agreeable with the applicant.

(b) *Loan processing.* (1) An FHA representative will make the appraisals for FHA farm ownership loans.

(2) An appraiser designated by the FLB will make the appraisals for land bank loans.

(3) Each lender will determine the applicant's ability to repay his total indebtedness as part of its loan approval.

(4) The borrower will be required to meet the minimum legal and regulatory requirements of each lender. This includes stock ownership and membership in the FLBA, property insurance, etc.

(c) *Loan closing.* (1) The FHA and the FLB will agree on the method and the period to be covered by the title search. If there are any deviations from either lender's regulations, such deviations must be approved by the appropriate supervisory officials.

(2) The FHA and FLB representatives will mutually approve any land and building development plans when the improvements are to be projected in loan values. Each will supervise the disbursement of its share of funds for these items.

(3) The representative(s) to be present for loan closing will be by mutual agreement.

(4) The standard loan mortgage forms used by the FHA and the FLB will be exchanged by the local representatives. Any additional covenants or deviations in individual cases will be called to the attention of the local representatives before the loan is closed.

(d) *Supervision.* FHA's policy of supervision and counseling will be carried out in accordance with current policy.

(1) The loan(s) made by each lender will be serviced in the usual manner by its respective representative unless special problems develop that require consideration by both representatives.

(2) A spirit of mutual cooperation will be followed in servicing each loan in the interests of the borrower, the FLB and the Government.

(e) *Graduation.* It will be the policy to continue to emphasize the graduation policy of the FHA to encourage borrowers to use non-FHA credit as soon as possible.

III. *Administration.* (a) Special initial sessions will be held by State FHA and FLB regional representatives with FHA field staffs and FLBA personnel concerning this program to clearly outline the objectives of joint participation in making loans.

(b) Subsequently periodic meetings will be held to assure uniformity of policy and practices.

(c) *Other considerations:*

(1) Informal visits between field personnel to discuss problems, applications, servicing of loans and graduation should be made periodically.

(2) Occasional joint field visits to borrower's farms would establish a basis for observing the practical application of policies and practices of each lender.

(3) Each lender should advise the other of basic policy changes to guide FHA County Supervisors and FLBA managers in reviewing applications.

(4) County Supervisors and FLBA managers should exchange the names of FHA County Committeemen and FLBA Directors for their respective areas as sources for references for applications being considered.

(5) Whenever there is a substantial adverse change in the credit position of the mutual borrower, the FHA County Supervisor and FLBA manager will need to discuss the new developments to determine the effect on both loans.

(6) The acceptibility of property insurance policies will be in accordance with each lender's requirements and mutually agreed upon by representatives of both lenders. The use of any loss proceeds will be in accordance with lien priorities and requirements of each agency for essential buildings. If any buildings are not to be replaced or repaired and the proceeds are not required to be applied on the FLB lien, FHA will have the responsibility for determining the use of the loss proceeds from essential or non-essential buildings.

(7) Each leader will notify the other in ample time if it becomes necessary to foreclose its mortgage. This notification will replace the individual requirement of signing the notice of foreclosure agreement when the loans are closed.

(8) Each applicant is privileged to select the long-term private lender he prefers to have join with FHA in making his real estate loan when his need exceeds the amount a private lender (FLB or other) will make.

Dated September 21, 1973.

J. R. HANSON,
*Acting Administrator,*
*Farmers Home Administration.*

[FR Doc.73-20737 Filed 9-27-73;8:45 am]



V 38 I 188 SEP 28 73 XUM

# Proposed Rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rulemaking prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

**[ 7 CFR Part 52 ]**

### STANDARDS FOR GRADES OF CANNED APRICOTS AND CANNED SOLID-PACK APRICOTS

**Second Notice of Proposed Rulemaking**

*Correction*

In FR Doc. 73-17373 appearing at page 22654 in the issue of Thursday, August 23, 1973, make the following change: In the table to § 52.2647 between the 8th and 9th lines under "Whole unpeeled—fill weight values" add a new center heading reading "Whole peeled—Fill weight values".

---

**[ 7 CFR Part 909 ]**

### GRAPEFRUIT GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

**Proposed Limitation of Handling**

This notice provides interested persons an opportunity to comment upon a proposal submitted by the Grapefruit Administrative Committee. The proposal is that the Department issue a regulation which during the period October 14, 1973, through August 31, 1973, would limit the handling of fresh grapefruit to those grading a modified U.S. No. 2 grade, and sizing not less than 3⅜ inches in diameter (size 48's) when shipped to points in the States of California, Arizona, Florida, Texas, Washington, Oregon, Montana, Idaho, Wyoming, Nevada, and Utah. There would be no minimum size requirement for grapefruit shipped to all other States and to export markets.

Consideration is being given to the following proposal submitted by the Administrative Committee, established pursuant to Marketing Order No. 909, as amended (7 CFR Part 909), regulating the handling of fresh grapefruit grown in Arizona and designated part of California. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

All persons who desire to submit written data, views, or arguments in connection with the proposal should file the same in quadruplicate with the Hearing Clerk, Room 112A, U.S. Department of Agriculture, Washington, D.C. 20250, not later than October 5, 1973. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The Administrative Committee on September 13, 1973, held a meeting to consider the need for regulation during the current season. The recommendations of the committee reflect its appraisal of the crop and current and prospective market conditions. Seasonal shipments of grapefruit from the production area in volume are expected to begin in early November 1973. Grapefruit is reported to be of good quality this year, and sizes are smaller than last year. The committee believes regulation is desirable during the period October 14, 1973, through August 31, 1974, to prevent the handling on and after October 14, 1973, of any grapefruit of lower grades and smaller sizes than those herein specified, so as to provide consumers with fruit of acceptable quality, consistent with (1) the overall quality of the crop, and (2) improve returns to producers pursuant to the declared policy of the act.

Such proposal reads as follows:

**§ 909.339 Grapefruit Regulation 39.**

(a) *Order.* (1) Except as otherwise provided in subparagraph (2) of this paragraph, during the period October 14, 1973, through August 31, 1974, no handler shall handle from the State of California or the State of Arizona to any point outside thereof except Mexico:

(i) Any grapefruit which do not meet the requirements for the U.S. No. 2 grade which for purpose of this section shall include the requirement that the grapefruit be fairly well colored, instead of slightly colored, and incuding as a part of the fairly well formed requirement, the requirement that the fruit be free from peel that is more than 1 inch in thickness at the stem end (measured from the flesh to the highest point of the peel): *Provided,* That in lieu of the tolerances provided for the U.S. No. 2 grade, the following tolerances, by count, shall be allowed for the defects listed:

(*a*) 10 percent for fruit which is not at least fairly well colored;

(*b*) 10 percent for defects other than color, but not more than one-twentieth of this amount, or one-half of 1 percent shall be allowed for decay and not more than one-half, or 5 percent, shall be allowed for any single defect caused by broken skins, sunburn, scars, or peel that is more than 1 inch in thickness at the stem end; or

(ii) Any grapefruit which measure less than 3$^{6}/_{16}$ inches in diameter, except that a tolerance of 5 percent, by count, for grapefruit smaller than 3$^{6}/_{16}$ inches shall be permitted, which tolerance shall be applied in accordance with the provisions for the application of tolerance specified in the revised United States Standards for Grapefruit (California and Arizona), 7 CFR 51.925–51.955: *Provided,* That in determining the percentage of grapefruit in any lot which are smaller than 3$^{6}/_{16}$ inches in diameter, such percentage shall be based only on the grapefruit in such lot which are of a size 3$^{13}/_{16}$ inches in diameter and smaller.

(2) Subject to the requirements of subparagraph (1) (i) of this paragraph, any handler may, but only as the initial handler thereof, handle grapefruit smaller than 3$^{6}/_{16}$ inches in diameter directly to a destination in Zone 5 or Zone 6.

(b) As used herein, "handler", "grapefruit", "handle", "Zone 5", and "Zone 6" shall have the same meaning as when used in said amended marketing order; the terms "U.S. No. 2", "fairly well colored", "slightly colored", and "fairly well formed" shall have the same meaning as when used in the aforesaid revised United States Standards for Grapefruit; and "diameter" shall mean the greatest dimension measured at right angles to a line from the stem to the blossom end of the fruit.

Dated September 25, 1973.

CHARLES R. BRADER,
*Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.*

[FR Doc.73-20709 Filed 9-27-73;8:45 am]

---

### Agricultural Stabilization and Conservation Service

**[ 7 CFR Part 730 ]**

### RICE

**Notice of Determinations To Be Made With Respect to Marketing Quotas, National, State, and County Acreage Allotments, County Normal Yields, and a Period for Conducting a Referendum on Marketing Quotas for the 1974 Crop**

Pursuant to the authority contained in applicable provisions of the Agricultural Adjustment Act of 1938, as amended, (7 U.S.C. 1301, 1352, 1353, and 1354), the Secretary of Agriculture is preparing to determine whether marketing quotas are required to be proclaimed for the 1974 crop of rice; to determine and proclaim the national acreage allotment for the 1974 crop of rice; to apportion among States and counties the national acreage allotment for the 1974 crop of rice; to establish county normal yields for the 1974 crop of rice; and to establish a period for conducting a referendum on marketing quotas in the event quotas are proclaimed for the 1974 crop of rice.





Section 354 of the act provides that whenever in the calendar year 1973 the Secretary determines that the total supply of rice for the 1973–74 marketing year will exceed the normal supply for such marketing year, the Secretary shall, not later than December 31, 1973, proclaim such fact and marketing quotas shall be in effect for the crop of rice produced in 1974. Within 30 days after the issuance of such proclamation, the Secretary shall conduct a referendum by secret ballot of farmers engaged in the production of the immediately preceding crop of rice to determine whether farmers are in favor of or opposed to such quotas.

Section 352 of the act, as amended, provides that the national acreage allotment of rice for 1974 shall be that acreage which the Secretary determines will, on the basis of the national average yield of rice for the 5 calendar years 1969 through 1973, produce an amount of rice adequate, together with the estimated carryover from the 1973–74 marketing year, to make available a supply for the 1974–75 marketing year not less than the normal supply. The Secretary is required under this section of the act to proclaim such national acreage allotment not later than December 31, 1973.

Section 353(c)(6) of the act, as amended, provides that the national acreage allotment of rice for 1974 shall be not less than the national acreage allotment for 1956, including the 13,512 acres apportioned to States pursuant to paragraph (5) of section 353(c) of the act. Under this provision, the national acreage allotment of rice for 1974 will be not less than 1,652,596 acres.

As defined in section 301 of the act, for purposes of these determinations, "total supply" for any marketing year is the carryover of rice for such marketing year, plus the estimated production of rice in the United States during the calendar year in which such marketing year begins and the estimated imports of rice into the United States during such marketing year; "normal supply" for any marketing year is the estimated domestic consumption of rice for the marketing year ending immediately prior to the marketing year for which normal supply is being determined, plus the estimated exports of rice for the marketing year for which normal supply is being determined, plus 10 per centum of such consumption and exports, with adjustments for current trends in consumption and for unusual conditions as deemed necessary; and "marketing year" for rice is the period August 1–July 31.

Sections 353 (a) and (c)(6) of the act requires that the national acreage allotment of rice for the 1974 crop, less a reserve of not to exceed 1 per centum thereof for apportionment to farms receiving inadequate allotments because of insufficient State or county allotments or because rice was not planted on the farm during all the years of the base period, be apportioned among the several States in which rice is produced in the same proportion that they shared in the total acreage allotted to States in 1956 (State acreage allotments, plus the additional acreage allocated to States under Section 353(c)(5) of the act as amended).

The State acreage allotment of rice for the 1974 crop would be apportioned to producers in "producer States" and to farmers in "farm States" in accordance with the Regulations for Determination of Acreage Allotments for 1969 and Subsequent Crops of Rice (§§ 730.61 to 730.87; 33 FR 14520, 17764; 34 FR 3733, 5629; 35 FR 5995, 11454; 36 FR 1465, 3253, 11849).

Section 301(b)(13)(D) of the act provides that the "normal yield" of rice for 1974 for any county shall be the average yield per acre of rice for the county during the 5 calendar years 1969 through 1973 adjusted for abnormal weather conditions and trends in yields. Provision is made therein that if for any such year data are not available, or there is no actual yield, an appraised yield for such year, determined in accordance with regulations of the Secretary, taking into consideration the yields obtained in surrounding counties during such year and the yield in years for which data are available, shall be used as the actual yield for such year.

Section 301(b)(13)(F) of the act provides that if on account of drought, flood, insect pests, plant disease, or other uncontrollable natural cause, the yield for any county for any year during the years 1969 through 1973 is less than 75 per centum of the average, 75 per centum of such average shall be substituted therefor in calculating the normal yield per acre; and if on account of abnormally favorable weather conditions, the yield for any county for any year during the years 1969 through 1973 is in excess of 125 per centum of the average, 125 per centum of such average shall be substituted therefor in calculating the normal yield per acre.

Prior to making any of the foregoing determinations with respect to marketing quotas and national, State, and county acreage allotments, and county normal yields for the 1974 crop of rice, including national, State and county reserves, and announcing the period of the referendum, if marketing quotas are required, consideration will be given to data, views, and recommendations pertaining thereto which are submitted in writing to the Director, Cotton, Rice, and Oilseeds Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, Washington, D.C. 20250. All written submissions must be postmarked not later than October 15, 1973, to be sure of consideration. All written submissions made pursuant to this notice will be made available for public inspection at such times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Signed at Washington, D.C., on September 25, 1973.

GLENN A. WEIR,
*Acting Administrator, Agricultural Stabilization and Conservation Service.*

[FR Doc.73-20736 Filed 9-27-73;8:45 am]

---

### Animal and Plant Health Inspection Service

**[ 9 CFR Parts 308, 325, 381 ]**

### MEAT AND POULTRY INSPECTION

**Proposal Regarding Added Assurance Against the Adulteration**

*Statement of considerations.* Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553 that the Animal and Plant Health Inspection Service of this Department is considering amending Parts 308 and 325 of the meat inspection regulations (9 CFR 308.12, 325.1) and Part 381 of the poultry products inspection regulations (9 CFR 381.190), pursuant to the authority contained in sections 21 and 24 of the Federal Meat Inspection Act, as amended (21 U.S.C. 621, 624), and in section 14 of the Poultry Products Inspection Act, as amended (21 U.S.C. 463), to provide added assurance against possible adulteration of otherwise wholesome meat, meat food products and poultry products as a result of transportation in unsanitary or otherwise unsuitable trucks or other means of conveyance. Federal inspectors have always rejected vehicles that were improperly cleaned or had some potential for adulterating meat or poultry. There is ample authority in the Federal meat and poultry inspection laws to support this action; however, the regulations are not clear in this respect. The proposed amendments would clarify this matter and place the regulated industry on notice of its responsibility to prevent adulteration of meat, meat food products and poultry products during transportation of such products from official establishments. Therefore, Parts 308 and 325 of the meat inspection regulations and Part 381, Subpart S, of the poultry products inspection regulations would be amended as set forth below.

1. The Table of Contents of Part 325 would be amended to reflect a new heading for § 325.1, and § 325.1 would be amended by adding a new paragraph (c) as follows:

**§ 325.1 Transactions in commerce prohibited without official inspection legend or certificate; exceptions; and vehicle sanitation requirements.**

* * * * *

(c) No person, engaged in the business of buying, selling, freezing, storing, or transporting, in or for commerce, meat or meat food products capable of use as human food, or importing such articles, shall transport, offer for transportation, or receive for transportation, in commerce or in any State designated under § 331.2 of this subchapter, any product which is capable of use as human food unless the railroad car, truck, or other means of conveyance in which the product is contained or transported is adequately closed, so constructed and in such condition as to prevent entry of outside air or dust while in transit, reasonably free of foreign matter (such as dust, dirt, rust, or other articles or residues), and free of chemical residues, so that product



V 38-188
SEP 28 73
XUM

placed therein will not become adulterated. Any cleaning compound, lye, soda solution, or other chemical used in cleaning the means of conveyance must be thoroughly removed. Such means of conveyance at official establishments shall be subject to inspection by an inspector prior to or during loading. The type and extent of such inspection shall be at the Program's discretion and shall be adequate to determine that product moved in such conveyance will not become adulterated. Any means of conveyance found upon such inspection to be in such condition that product placed therein would become adulterated shall not be used. Product placed in any means of conveyance that is found by the inspector to be in such condition that the product may have become adulterated shall be removed from the means of conveyance and handled in accordance with § 318.2 (d) of this subchapter.

§ 308.12 [Amended]

2. The Table of Contents would be amended to reflect the new section heading for § 308.12 to read as follows: § 308.12 *Second-hand tubs, barrels, and other containers.*

3. Paragraph (b) of § 308.12 would be revoked, and the "(a)" designation would be deleted from the present paragraph (a).

4. The Table of Contents of Part 381, Subpart S, would be amended to reflect a new heading for § 381.190, and § 381.190 would be amended by adding a new paragraph (c) as follows:

**§ 381.190 Transactions in slaughtered poultry and other poultry products restricted; vehicle sanitation requirements.**

* * * * *

(c) No person, engaged in the business of buying, selling, freezing, storing, or transporting, in or for commerce, poultry products capable of use as human food, or importing such articles, shall transport, offer for transportation, or receive for transportation in commerce or in any State designated under § 381.221 of this Part, any poultry product which is capable of use as human food unless the railroad car, truck, or other means of conveyance in which the product is contained or transported is adequately closed, so constructed and in such condition as to prevent entry of outside air or dust while in transit, reasonably free of foreign matter (such as dust, dirt, rust, or other articles or residue), and free of chemical residues, so that poultry product placed therein will not become adulterated. Any cleaning compound, lye, soda solution, or other chemical used in cleaning the means of conveyance must be thoroughly removed. Such means of conveyance at official establishments shall be subject to inspection by an inspector prior to or during loading. The type and extent of such inspection shall be at the Inspection Service's discretion and shall be adequate to determine that poultry product moved in such conveyance will not become adulterated. Any means of conveyance found upon such inspection to be in such condition that poultry product placed therein would become adulterated shall not be used. Poultry product placed in any means of conveyance that is found by the inspector to be in such condition that the poultry product may have become adulterated shall be removed from the means of conveyance and handled in accordance with § 381.145(b) of this Part.

* * * * *

Any person wishing to submit written data, views, or arguments concerning the proposed amendments may do so by filing them in duplicate with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, by December 7, 1973.

Any person desiring opportunity for oral presentation of views should address such requests to the Inspection Standards and Regulations Staff, Scientific and Technical Services, Meat and Poultry Inspection Program, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Washington, D.C. 20250, so that arrangements may be made for such views to be presented prior to the date specified in the preceding paragraph. A record will be made of all views orally presented.

All written submissions and records of oral views made pursuant to this notice will be made available for public inspection in the Office of the Hearing Clerk during regular hours of business, unless the person makes the submission to the Staff identified in the preceding paragraph and requests that it be held confidential. A determination will be made whether a proper showing in support of the request has been made on grounds that its disclosure could adversely affect such person by disclosing information in the nature of trade secrets or commercial or financial information obtained from any person and privileged or confidential. If it is determined that a proper showing has been made in support of the request, the material will be held confidential; otherwise, notice will be given of denial of such request and an opportunity afforded for withdrawal of the submission. Requests for confidential treatment will be held confidential (7 CFR 1.27(c)).

Comments on the proposal should bear a reference to the date and page number of this issue of the FEDERAL REGISTER.

Done at Washington, D.C., on September 21, 1973.

F. J. MULHERN,
*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc.73-20734 Filed 9-27-73;8:45 am]

## DEPARTMENT OF LABOR

### Occupational Safety and Health Administration

### [ 29 CFR Part 1960 ]

### SAFETY AND HEALTH PROVISIONS FOR FEDERAL EMPLOYEES

### Proposed Rules for Safety and Health Programs for Federal Agencies

Pursuant to section 33 of the Federal Employees' Compensation Act, as amended (39 Stat. 749; 5 U.S.C. 7902(b)–(e)); sections 8(g)(2) and 19 of the Occupational Safety and Health Act of 1970 (84 Stat. 1600, 1609; 29 U.S.C. 657(g)(2), 668); section 2(a) of Executive Order No. 11612 (36 FR 13891); and Secretary of Labor's Order No. 12–71 (36 FR 8754), it is proposed to promulgate (1) recordkeeping and reporting regulations for all Federal agencies similar to the recordkeeping and reporting procedures required of other employers under 29 CFR Part 1904; and (2) regulatory guidelines for Federal agency internal evaluation, inspection, and processing of complaints by Federal employees. The following proposed rules are intended to implement sections 19(a) and 24(a) of the Occupational Safety and Health Act of 1970, section 7902 (b), (d), and (e) of the Federal Employees' Compensation Act, and section 2(a) (1) and (3) of Executive Order No. 11612.

Interested persons are invited to submit in writing comments, suggestions or objections on the proposed rules no later than October 18, 1973. Comments should be directed to the Office of Federal Agency Safety Programs, Occupational Safety and Health Administration, Room 409, 400 First Street NW., Washington, D.C 20210. Copies of the comments which are received will be available for public inspection at this address. Changes may be made in the proposed rules in light of any comments received.

It is proposed that the new part 1960 shall read as follows:

## PART 1960—FEDERAL EMPLOYEES

### Subpart A—General


Sec.
1960.1 Purpose and scope of this part.
1960.2 Definitions.


### Subpart B—Recording and Reporting Federal Occupational Injuries, Illnesses and Accidents


1960.3 Purpose and scope.
1960.4 Record or log of Federal occupational injuries and illnesses.
1960.5 Supplementary record.
1960.6 Quarterly and annual summaries.
1960.7 Quarterly and annual summaries of Federal occupational accidents.
1960.8 Period covered.
1960.9 Retention of records.
1960.10 Access to records.
1960.11 Reporting of serious accidents.
1960.12 Plan of action.


### Subpart C—Agency Organization and Standard Setting


1960.13 Purpose and scope.
1960.14 Designation of safety and health official.
1960.15 Safety and health committees.
1960.16 Posting of notice; availability of Act, regulations, description of the agency safety and health program and applicable standards.
1960.17 Duties of heads of agencies and employees.
1960.18 OSHA standards and special standards.


### Subpart D—Procedures for Inspections and Employee Complaints


1960.19 Safety and health inspectors; frequency of inspection.
1960.20 Conduct of inspections.
1960.21 Advance notice of inspections.
1960.22 Representatives of officials in charge and representatives of employees.
1960.23 Consultation with employees.
1960.24 Complaints by employees.
1960.25 Imminent danger.
1960.26 Notices of hazards.
1960.27 Correction of hazards.


### Subpart E—Federal Agency Internal Evaluation


1960.28 Duties of Federal agencies.


AUTHORITY: Sec. 33(c), 39 Stat. 749, as amended; (5 U.S.C. 7902(b)–(e)) and secs. 8(g)(2), 19, 84 Stat. 1600, 1609; (29 U.S.C. 657(g)(2), 668).

### Subpart A—General

**§ 1960.1 Purpose and scope of this part.**

(a) The purpose of this part is to implement the provisions of section 33 of the Federal Employees Compensation Act, 5 U.S.C. 7902, section 19 of the Occupational Safety and Health Act of 1970, 29 U.S.C. 668, and Executive Order No. 11612 (36 FR 13891).

(b) The purpose of subpart B of this part is to implement the recordkeeping and reporting requirements of the applicable statutory provisions and the Executive Order.

(1) The Compensation Act requires that each agency keep a record of occupational injuries, illnesses and accidents to its employees, and also requires that each agency "shall * * * make such statistical or other reports on such forms as the Secretary of Labor may prescribe by regulations." See 5 U.S.C. 7902(e).

(2) Section 19 of the Occupational Safety and Health Act of 1970 requires the head of each agency to keep adequate records of all occupational accidents and illnesses, to consult with the Secretary of Labor on the form and content of such records, and to provide the Secretary of Labor access to such records. It also provides that the head of each agency shall make an annual report to the Secretary of Labor with respect to occupational accidents and injuries.

(3) Executive Order No. 11612 requires the head of each agency to cooperate with and assist the Secretary of Labor in the performance of his duties, and to submit to him an annual report containing any report required under the Compensation Act and such other information as may be requested by the Secretary.

(4) The provisions of subpart B of this part prescribe a uniform recordkeeping and reporting system for Federal agencies, and the Secretary of Labor has determined that the requirements of the provisions of Subpart B are necessary to the performance of his occupaional safety and health duties in the federal sector. These provisions provide for a recordkeeping and reporting system compatible with that required of employers in the private sector under part 1904 of this chapter, and these provisions also take into account the reporting procedures developed prior to the promulgation of this part.

(c) The purposes of subparts C, D and E of this part are to provide guidance to the heads of agencies to assist them in fulfilling their occupational safety and health responsibilities.



(1) The Compensation Act requires that: "The head of each agency shall develop and support organized safety promotional programs to reduce accidents and injuries among employees of his agency, encourage safe practices and eliminate work hazards and health risks" (5 U.S.C. 7902(d)).

(2) Section 19 of the Occupational Safety and Health Act of 1970 states: "It shall be the responsibility of the head of each Federal agency to establish and maintain an effective and comprehensive occupational safety and health program which is consistent with the standards promulgated under section 6 (of this Act)" (29 U.S.C. 668). Section 19 also requires that the head of each agency shall consult with the representatives of the employees thereof in the establishment and operation of such program, and that he shall make an annual report to the Secretary of Labor with respect to the agency's occupational safety and health program.

(3) Executive Order No. 11612 provides that the head of each agency shall establish an occupational safety and health program in compliance with the requirements of these statutes; that he shall designate a qualified official to be responsible for the management of the program within his agency; that he shall provide an organization and a set of procedures to implement the program; that he shall provide for periodic inspections of workplaces to ensure compliance with standards, and that he shall correct conditions that do not meet safety and health standards. It also provides that the head of each agency shall establish plans and procedures for evaluating the effectiveness of the occupational safety and health program within his agency.

(4) Executive Order No. 11612 requires the Secretary of Labor to issue regulations to provide guidance to the heads of agencies in fulfilling their safety and health responsibilities. The purposes of subparts C, D and E of this Part are to provide guidelines both to enable each agency head to carry out his safety and health responsibilities and to provide for as much consistency as is possible considering the different safety and health needs of the many and varied Federal agencies.

(5) The regulatory guidelines of subparts C, D and E are as similar to the regulations set forth in this Chapter (for the establishment of standards and their enforcement in the private sector) as the applicable statutory provisions permit, and each section of these regulatory guidelines is considered necessary by the Secretary of Labor in carrying out the requirements of the applicable statutes and the Executive Order. However since section 19 of the Occupational Safety and Health Act of 1970 places the final responsibility for the establishment and operation of the agency safety and health program upon the agency head, the procedures set forth in these regulatory guidelines may be modified in specific circumstances where the head of the agency or his designee determines that an alternative means would be at least as effective as that provided by the provisions of this Part, provided that the requirements of the applicable statutory provisions and the Executive Order are observed, and provided that the Secretary of Labor is informed of the procedures adopted. Furthermore, these regulatory guidelines do not affect in any way any collective bargaining agreement in effect prior to the promulgation of this part, nor do they affect in any way the authority of the agency and its employees to engage in collective bargaining as to safety and health matters, provided that the requirements set forth in the applicable statutory provisions and the Executive Order are observed.

(d) The Secretary of Labor may at any time waive any of the provisions of this part if he determines that such waiver will promote the purposes of this part. Prior to issuing such a waiver, the Secretary will publish notification of his intent in the FEDERAL REGISTER, and will request comments in writing to be submitted within 20 days.

(e) The Secretary of Labor shall to the extent feasible provide consultation services to the agencies to assist them in implementing safety and health programs.

(f) Any agency which is reorganized may consult with the Secretary of Labor in making the necessary adjustments to its safety and health program.

(g) As stated more fully in § 1975.3 of this Chapter, the purpose of the Occupational Safety and Health Act of 1970 is to require every employer to provide safe and healthful working conditions for his employees. Federal contractors are directly subject to the provisions of the Act, since they do not fall within the coverage of section 19. Therefore, this part applies only to employees employed by the Federal agencies and does not apply to employees of Federal contractors, except as provided in § 1960.11 for reporting of serious accidents.

**§ 1960.2 Definitions.**

(a) "Act" means the Williams-Steiger Occupational Safety and Health Act of 1970 (84 Stat. 1590 et seq. (29 U.S.C. 651 et seq.)).

(b) The term "Agency" for the purposes of this Part means any employing unit or authority of the government of the United States.

(c) The term "employee" as used in this Part means any person employed by an "agency" as the latter term is defined in § 1960.2(b) unless excluded by the Secretary of Labor by regulation, decision or otherwise.

(d) The term "establishment" means a single physical location where business is conducted or where services or operations are performed. (For example: installation, building, facility, warehouse, cafeteria, building maitenance areas.) Where distinctly separate activities are performed at a single physical location, each activity shall be treated as a separate establishment.



V 38-188 SEP 28 73 XUM

(e) The term "reporting unit" means an establishment, except as otherwise agreed between the agency and the Office of Federal Agency Safety Programs. Any such agreement in effect prior to the promulgation of this part shall remain in effect unless either party desires modification.

(f) The term "designated safety and health official" means the individual who is responsible for the management of the safety and health program within his agency and is designated or appointed by the head of the agency under § 1960.14 of subpart C.

(g) The term "safety and health professional" means a person or persons who meet the Civil Service standards for Safety Manager/Specialist GS–018, Safety Engineer GS–803, Fire Protection Engineer GS–804, Industrial Hygienist GS–690, Fire Protection Specialist/Marshall GS–081, Health Hygienist GS–1306, or the military equivalent.

(h) The term "safety and health inspector" means a safety and health professional or other person authorized pursuant to § 1960.19 of this part to carry out inspections for the purposes of subpart D of this part.

(i) The term "working days" means Mondays through Fridays (excluding Federal holidays) or other appropriate authorized shift.

(j) "Recordable occupational injuries or illnesses" are any occupational injuries or illnesses which result in:

(1) Fatalities, regardless of the time between the injury and death, or the length of the illness; or

(2) Lost workday cases, other than fatalities, that result in lost workdays; or

(3) Nonfatal cases without lost workdays which result in transfer to another job or termination of employment, or require medical treatment (other than first aid), or involve loss of consciousness or restriction of work or motion. This category also includes any diagnosed occupational illnesses which are reported to the employer but are not classified as fatalities or lost workday cases.

(k) "Medical treatment" includes treatment administered by a physician or by registered professional personnel under the standing orders of a physician. Medical treatment does not include first-aid treatment even though provided by a physician or registered professional personnel.

(l) "First Aid" is any one-time treatment, and any followup visit for the purpose of observation, of minor scratches, cuts, burns, splinters, and so forth, which do not ordinarily require medical care. Such one-time treatment, and followup visit for the purpose of observation, is considered first aid even though provided by a physician or registered professional personnel.

(m) "Lost workdays:" The number of days the employee would have worked but could not because of occupational injury or illness. The number of lost workdays should not include the day of injury. The number of days includes all days (consecutive or not) on which, because of the injury or illness:

(1) The employee would have worked but could not, or

(2) The employee was assigned to a temporary job, or

(3) The employee worked at a permanent job less than full time, or

(4) The employee worked at a permanently assigned job but could not perform all duties normally assigned to it.

For employees not having a regularly scheduled shift, i.e., certain truck drivers, construction workers, part-time employees, etc., it may be necessary to estimate the number of lost workdays. Estimates of lost workdays shall be based on prior work history of the employee and days worked by employees, not ill or injured, working in the agency and/or occupation of the ill or injured employee.

## Subpart B—Recording and Reporting Federal Occupational Injuries, Illnesses and Accidents

### § 1960.3 Purpose and scope.

(a) The purposes of this subpart B are set forth in § 1960.1(b) of this part.

(b) Section 24(a) of the Occupational Safety and Health Act of 1970 requires that: "In order to further the purposes of this Act, the Secretary * * * shall develop and maintain an effective program of collection, compilation, and analysis of occupational safety and health statistics." This program encompasses federal employment; and, as in the private sector, the statistical program is based upon the records kept of occupational accidents, illnesses and injuries. The recordkeeping provisions of this subpart must therefore be comprehensive so that the Secretary of Labor can effectively carry out his duties pursuant to section 24 of the Act.

(c) The records and reports required by this subpart may be used by the Secretary of Labor in the preparation of reports which he is required to submit to the President and to the Congress. The reports will also be used in the development of information regarding the prevention of occupational injuries, illnesses and accidents.

(d) (1) For agencies engaged in activities such as agriculture, construction, transportation, communications, and electric, gas and sanitary services, which may be physically dispersed, records required to be maintained by this subpart at each establishment may be maintained at a place to which employees report each day.

(2) Records for personnel who do not primarily report or work at a single establishment, and who are generally not supervised in their daily work, such as traveling employees, technicians, engineers, etc., shall be maintained at the location from which they are paid or the base from which personnel operate to carry out their activities.

(e) Information required to be submitted to the Occupational Safety and Health Administration (OSHA) by this subpart may be submitted on media processable by electronic data processing equipment provided that such media comply with the requirements of the Bureau of Labor Statistics, Office of Data Collection and Survey Operations, U.S. Department of Labor.

### § 1960.4 Record or log of Federal occupational injuries and illnesses.

(a) Each Federal agency shall maintain a record or log of all recordable occupational injuries and illnesses at each establishment. For reasons of efficient administration or practicality, the records or log may be maintained at a location other than the establishment. Where both civilian and military employees are employed at a single establishment, separate records or logs shall be maintained for each category.

(b) Within 6 working days after receiving information of a recordable occupational injury or illness, appropriate information concerning such injury or illness shall be entered on the record or log. For this purpose, OSHA Form No. 100F, or its equivalent, shall be used and shall be completed in the detail required by that form and the instructions contained therein.

### § 1960.5 Supplementary record.

In addition to the record or log of Federal occupational injuries and illnesses provided for under § 1960.3, each Federal agency shall maintain at each establishment a supplementary record of occupational injuries and illnesses. The record shall be completed within 6 working days after the receipt of information that a recordable injury or illness has occurred. For this purpose, OSHA Form No. 101F, Bureau of Employees' Compensation Forms or other equivalent forms may be used. OSHA Form No. 101F, or its equivalent, shall be completed in the detail required by the form and the instructions contained therein.

### § 1960.6 Quarterly and annual summaries.

(a) Each Federal agency shall compile an annual summary of occupational injuries and illnesses for each establishment, and shall compile both a quarterly and annual summary of occupational injuries and illnesses for each reporting unit. The summaries shall be based on the record or log of Federal occupational injuries and illnesses maintained pursuant to § 1960.3. OSHA Form No. 102F shall be used for these purposes and shall be completed in the form and detail required by that form and the instructions contained therein.

(b) Each establishment will post a copy of its annual summary no later than 45 calendar days after the close of the calendar year. Copies of the summary required to be posted under this section will be posted for a minimum of 30 consecutive days in a conspicuous place or places in the establishment where notices to employees are customarily posted. Where establishment activities are physically dispersed, the notice may be posted at the location to which





employees report each day. Where employees do not primarily work at or report to a single location, the notice may be posted at the location from which the employees operate to carry out their activities. Each Federal agency will take any necessary steps to insure that such summary is not altered, defaced, or covered by other material.

(c) Each agency shall furnish OSHA with a copy of its quarterly and annual summaries compiled on the basis of reporting units. Each quarterly summary shall be completed and forwarded to OSHA no later than 45 calendar days after the end of each calendar quarter. The annual summary shall be completed and forwarded to OSHA no later than 45 calendar days after the close of the calendar year.

### § 1960.7 Quarterly and annual summaries of Federal occupational accidents.

(a) Each Federal agency shall compile quarterly summaries of Federal occupational accidents and an annual summary of Federal occupational accidents. OSHA Form No. 102FF shall be used for this purpose and shall be completed in the form and in the detail required by that form and the instructions contained therein.

(b) Each quarterly summary and the annual summary of Federal occupational accidents should be completed and forwarded to OSHA no later than 45 calendar days after the close of the applicable reporting period.

### § 1960.8 Period covered.

All records, reports and summaries required by §§ 1960.3 through 1960.7 shall be established on a calendar year basis.

### § 1960.9 Retention of records.

Records required to be maintained under the provisions of this subpart shall be retained by each Federal agency for 5 years following the end of the calendar year to which they relate.

### § 1960.10 Access to records.

(a) The records required to be maintained under the provisions of this subpart shall be available and made accessible to the Secretary of Labor or his authorized representative unless such records are specifically required by Executive Order to be kept secret in the interest of national defense or foreign policy, in which case the Secretary shall have access to such information as will not jeopardize national defense or foreign policy. The Secretary of Labor or his authorized representative will request access to such records from the head of the agency prior to examination.

(b) Information concerning injuries, illnesses or accidents which in the interest of national defense or foreign policy must be kept secret, shall be recorded on separate forms pursuant to the requirements of this subpart. Such records shall not be submitted to the U.S. Department of Labor, but shall be used by the appropriate Federal agency in evaluating the agency's program to reduce occupational injuries, illnesses and accidents.

(c) Each employee shall have access to his injury, illness or accident records in accordance with Civil Service rules, and representatives of employees shall have access to such records with the permission of affected employees.

### § 1960.11 Reporting of serious accidents.

Within two working days after the occurrence of an employment accident which is fatal to one or more employees, which results in the hospitalization of five or more employees, or which involves property damage of $100,000 or more, or within two working days after the occurrence of a death which is the result of an employment accident, the head of the Federal agency shall report the accident either by telephone or by telegraph to the Office of Federal Agency Safety Programs, OSHA, U.S. Department of Labor. The report shall relate the circumstances of the accident, any actions taken by the agency regarding the accident, the number of fatalities, and the extent of any injuries. The agency head shall also report any employment accident involving both Federal and non-Federal employees which results in a fatality or the hospitalization of five or more such employees, notwithstanding the provision in § 1960.1 making this part applicable only to Federal employees and inapplicable to employees of Federal contractors. The Director of the Office of Federal Agency Safety Programs may require such additional reports, in writing or otherwise, as he deems necessary.

### § 1960.12 Plan of action.

If it has not already done so by the effective date of this part, each Federal agency now in existence shall submit the following information to OSHA no later than November 30, 1973, and at such other times as changes occur:

(a) A list of the names and addresses of each Federal reporting unit which will be covered in the records and reports required by this subpart.

(b) The average number of full-time and part-time personnel employed in each reporting unit for which separate records and reports will be maintained.

(c) A brief description of any differences between an agency's internal recording and reporting system and the recording and reporting system provided by this subpart.

Any Federal agency created or reorganized after the effective date of this part shall submit an appropriate plan within three months of commencement of operations as a new entity.

## Subpart C—Agency Organization and Standards Setting

### § 1960.13 Purpose and scope.

The purpose of subpart C, generally set forth in § 1960.1(c), is to provide guidelines for the establishment of an organizational structure within each Federal agency for the conduct of its safety and health program to set forth the respective duties of agency and employee in the successful implementation of such a program and to provide for the promulgation of specific safety and health standards appropriate to the working conditions of each agency. As stated in § 1960.1(c) in more detail, the provisions of this subpart do not affect collective bargaining practices and arrangements.

### § 1960.14 Designation of safety and health officials.

The head of each Federal agency shall designate an official who shall be responsible for the management of the safety and health program within the agency and to whom safety and health professionals will report directly. The official shall be of the rank of Assistant Secretary, or of equivalent rank or equivalent degree of responsibility. Such official will have sufficient professional staff to carry out his functions under this part.

### § 1960.15 Safety and health committees.

The head of each agency will provide for the establishment of agency safety and health committees, composed of representatives of management and representatives of the employees, at the headquarters level, at the regional or comparable level, and at the establishment level, for the purpose of advising the agency with respect to its responsibilities under this part. For the purposes of this section, the term "establishment level" means an establishment, as defined in § 1960.2(d), and, except as otherwise agreed between an agency and the Office of Federal Agency Safety Programs, where 10 or more employees report to work. This limitation is not intended in any way to preclude the employees of any size establishment from advising the agency as to safety and health hazards present in such establishments, or from utilizing other procedures provided by this part.

### § 1960.16 Posting of notice; availability of Act, regulations, description of the agency safety and health program and applicable standards.

(a) Each Federal agency will post and keep posted a notice or notices informing employees of the protections and obligations provided for in the Act. The Office of Federal Agency Safety Programs will furnish a uniform poster to those agencies who wish to use it. Each agency will add to this uniform poster, or include in its notice or notices, the details of the agency's complaint procedures and the location where employees will be able to obtain information about the agency's safety program, including specific safety and health standards. Such notice or notices will be posted by the agency in each establishment in a conspicuous place or places where notices to employees are customarily posted. Each agency will take steps to insure that such notices are not altered, defaced, or covered by other material.



V 38-188 SEP 28 73 XUM

(b) Copies of the Act, Executive Order, regulations published in the part, details of the agency-safety program and applicable safety and health standards, or summaries of any of the foregoing items, will be made available upon request to employees or their authorized representative for review in the establishment where the employees are employed as soon as practicable and at a time mutually convenient to the employees or their authorized representative and the agency.

**§ 1960.17 Duties of heads of agencies and employees.**

(a) The head of each Federal agency shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees and shall comply with occupational safety and health standards and supplementary standards adopted pursuant to § 1960.18 of this part.

(b) Each Federal employee who exercises any supervisory functions will comply with occupational safety and health standards and special standards and all rules, regulations, and orders issued pursuant to this part.

(c) Each Federal employee will comply with occupational safety and health standards and special standards and all rules, regulations, and orders issued pursuant to this part which are applicable to his own actions and conduct.

(d) The head of each agency will ensure that each official in charge of the establishment, supervisor, or employee is recognized for excellent performance in carrying out his or her safety and health program responsibilities and conversely is disciplined in accordance with agency rules which are consistent with Civil Service rules where there is a culpable failure to carry out his or her safety and health program responsibilities.

**§ 1960.18 OSHA standards and special standards.**

(a) The head of each Federal agency shall adopt occupational safety and health standards promulgated by the Secretary of Labor pursuant to section 6 of the Occupational Safety and Health Act to the extent that such standards are in the judgment of the agency head, and after consultation with the Secretary of Labor, applicable to the working conditions of the particular agency. The head of each agency may, after consultation with the Secretary of Labor, adopt any different or supplementary occupational safety and health standards consistent with section 6 standards as special standards for specialized application to particular working conditions and other related needs of the agency. For the purposes of adopting any standards, the head of each agency shall establish procedures under which all interested and affected employees or their representatives shall be afforded the opportunity to submit written data, views and comments prior to the adoption of the standards. In such procedures the head of each agency may provide for a hearing if requested by any representative of employees. To the extent deemed appropriate by the head of the agency, the labor-management safety and health committees established under § 1960.15 of this part will be utilized as the forum for procedures relating to the adoption of any standards or the modification of or revocation of any special standards.

(b) The head of each agency may revise, modify, or revoke any special standard, provided that the procedures in paragraph (a) of this section are invoked for such purposes.

(c) Copies of all standards adopted for the agency safety and health program shall be made accessible to the Secretary of Labor. Copies of any revision, modification, or revocation of any adopted special standard shall also be made accessible to the Secretary of Labor. Each agency shall notify the Secretary of Labor of the final adoption, revision, modification, or revocation of any special standard within 30 days following such final action.

(d) Where any incorporation by reference is involved in promulgating, revising or modifying any special standard pursuant to this section, each agency shall follow the rules set forth in 1 CFR 51.6, 51.7 and 51.8, unless the Secretary of Labor waives such rules for a particular agency. In considering a request for a waiver under this subsection, the Secretary of Labor shall consult with the Director of the Federal Register.

## Subpart D—Procedures for Inspections and Employee Complaints

**§ 1960.19 Safety and health inspectors; frequency of inspection.**

(a) Each agency will utilize safety health inspectors to conduct inspections of workplaces. For establishments where particularly hazardous work is performed, such as chemical or machine processes or material-handling or loading operations, inspections will be made by a safety and health professional. For less hazardous establishments the designated safety and health official may utilize as inspectors persons who do not meet the specific qualifications as set forth in § 1960.02 of this part defining the term "safety and health professional."

(b) As authorized by the designated safety and health official, safety and health inspectors may utilize the services of additional technical and professional personnel to aid them to evaluate safety and health hazards while conducting an inspection. Furthermore, all safety and health inspectors will be provided with technical test equipment where appropriate.

(c) Each agency which has areas containing information classified in the interest of national security will provide access to safety and health inspectors who have obtained the appropriate security clearance.

(d) All establishments, including offices, will be inspected at least once annually. For all establishments where particularly hazardous work is performed, inspections will be conducted more frequently, as determined by the designated safety and health official based upon degree of risk and extent of hazard involved.

(e) Pursuant to Executive Order 11612, the Secretary of Labor shall seek the consent of agencies to conduct such investigations as he deems necessary.

**§ 1960.20 Conduct of inspection.**

(a) For the purpose of assuring safe and healthful working conditions for employees of agencies, safety and health inspectors will be authorized to enter without delay and at reasonable times any building, installation, facility, construction site, or other area, workplace or environment where work is performed by employees of the agency; to inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, any such place of employment, and all pertinent conditions, structures, machines, apparatus, devices, equipment and materials therein; and to question privately any employee or any official in charge of an establishment, or both. Subject to these provisions, and to the provisions of § 1960.19, inspections will take place at such times and in such establishments as the designated safety and health official of the agency directs.

(b) Safety and health inspectors will have authority to take environmental samples, to take or obtain photographs related to the purpose of the inspection, and to employ other reasonable techniques of inspection.

(c) Safety and health inspectors of the agencies will comply with all safety and health rules and practices at the establishment being inspected, and they will wear and use appropriate protective clothing and equipment.

(d) The conduct of inspections will be such as to preclude unreasonable disruption of the operations of the establishment.

(e) At the conclusion of an inspection, the safety and health inspector will confer with the official in charge of the establishment or his representative and informally advise him of any apparent safety or health hazards disclosed by the inspection. During such conference, the official in charge of the establishment will be afforded an opportunity to bring to the attention of the safety and health inspector any pertinent information regarding conditions in the workplace.

**§ 1960.21 Advance notice of inspections.**

(a) Advance notice of inspections will not be given to the official in charge of an establishment, except in the following situations: (1) In case of apparent imminent danger, to enable the official in charge of an establishment to abate the danger as quickly as possible; (2) in circumstances where the inspection can most effectively be conducted after regular business hours or where special preparations are necessary for an inspection;





and (3) where necessary to assure the presence of representatives of the official in charge of the establishment and employees or the appropriate personnel needed to aid in the inspection.

(b) In the situations described in paragraph (a) of this section, advance notice of inspections will be given only if authorized by the designated safety and health official, except that in cases of apparent imminent danger, advance notice may be given by the safety and health inspector without such authorization if the designated safety and health official is not immediately available. When advance notice is given, it will be the responsibility of the official in charge of the establishment to notify promptly the authorized representative of employees of the inspection, if the identity of such representative is known to the official in charge. (See § 1960.22(b) as to the situations where there is no authorized representative of employees of the inspection.) Advance notice in any of the situations described in paragraph (a) of this section should not be given more than 24 hours before the inspection is scheduled to be conducted, except in apparent imminent danger situations and in other unusual circumstances.

**§ 1960.22 Representatives of officials in charge and representatives of employees.**

(a) Safety and health inspectors will be in charge of inspections and questioning of persons. A representative of the official in charge of an establishment and a representative authorized by employees under his supervision will be given an opportunity to accompany the safety and health inspector during the physical inspection of any workplace for the purpose of aiding such inspection. A safety and health inspector will permit additional representatives of the official in charge and additional representatives authorized by employees to accompany him where he determines that such additional representatives will further aid the inspection. A different representative of the official in charge and a different representative authorized by employees may accompany the safety and health inspector during each different phase of an inspection. In establishments where inspections are made on a high frequency basis, such as daily or weekly, the designated safety and health official of the agency may determine that accompanying representatives would unduly restrict the inspections. In such cases the right of accompaniment on physical inspection of the workplace may be withheld.

(b) Safety and health inspectors will be authorized to deny the right of accompaniment under this section to any person whose participation interferes with a fair and orderly inspection. With regard to information classified in the interest of national security, only persons authorized to have access to such information will accompany a safety and health inspector in areas containing such information.

**§ 1960.23 Consultation with employees.**

Safety and health inspectors will consult with employees concerning matters of occupational safety and health to the extent the inspectors deem necessary for the conduct of an effective and thorough inspection. During the course of an inspection, any employee will be afforded an opportunity to bring any hazard which he has reason to believe exists in the workplace to the attention of the safety and health inspector.

**§ 1960.24 Complaints by employees.**

(a) Any employee or representative of employees who believes that a safety or health hazard exists in any workplace where such employee is employed may request an inspection of such workplace by giving notice of the hazard to the designated safety and health official within that agency. Any such notice will be reduced to writing; will set forth with reasonable particularity the grounds for the notice; and may be signed by the employee or representative of employees. Upon the request of the person giving such notice, his name and the names of individual employees referred to therein shall not be disclosed to anyone other than the designated safety and health official and authorized representatives of the Secretary of Labor, except as provided in paragraph (b) of this section.

(b) The designated safety and health official will consider the complaint and determine within 5 working days whether there are reasonable grounds to believe that the alleged safety or health hazard exists. If he does so determine, he will cause an inspection to be made to determine if such alleged hazard exists. If the inspector is unable to locate the alleged hazard without the assistance of the complainant, the designated safety and health official may give the inspector the name of the employee notwithstanding the provisions of paragraph (a) of this section, provided that the inspector respect the request of the complainant that his name and the name of individual employees referred to in the complaint not be disclosed. In the event the employee complaint describes a hazard presenting imminent danger to the safety or health of employees, the designated safety and health official will make an immediate determination as to whether there are reasonable grounds to believe that the alleged hazard exists. If he does so determine, he will cause an immediate inspection to be made. Employee complaints alleging imminent danger situations will be made first by telephone or telegraph and reduced to writing as soon as practicable thereafter.

(c) Inspections initiated pursuant to this section will not be limited to matters referred to in the complaint. Furthermore, prior to or during any inspection of a workplace initiated pursuant to this section, any employee employed in such workplace or representative of employees, will be permitted to notify the safety and health inspector of any hazard which he has reason to believe exists in such workplace.

(d) If the designated safety and health official determines that there are no reasonable grounds to believe a hazard exists or if an inspection is made on the basis of a complaint but no hazard is determined to exist, the employee or representative of employees who filed the complaint will be entitled to an informal review of such determination and a written statement by the designated safety and health official of the reasons for the final disposition of the complaint.

(e) The agency may use a board of investigation procedure or investigational hearing in lieu of the procedures described in this section, provided that the substituted procedure will to the extent applicable include the essential elements of employee and employee representative involvement in the complaint procedures set forth in this section.

(f) If the employee or representative of employees who filed the complaint is dissatisfied with the final disposition, such person may contact, in writing, the Office of Federal Agency Safety Programs, describing in detail the entire processing of the complaint. The Office of Federal Agency Safety Programs may request the agency head to submit a report on its investigation, or the Office of Federal Agency Safety Programs may itself investigate the entire proceeding. Pursuant to negotiation between the Secretary and the agency head under § 1960.19(d), such investigation may include inspection of the alleged hazard. Each agency shall maintain its complaint files intact for five years after the closing of an investigation.

(g) Section 11(c)(1) of the Occupational Safety and Health Act provides: "No person shall discharge or in any manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act or has testified or is about to testify in any such proceeding or because of the exercise by such employee on behalf of himself or others of any right afforded by this Act." The head of the agency will include in the agency safety and health program needed safeguards to insure that no employee is discriminated against in violation of the provisions of section 11(c)(1) of the Occupational Safety and Health Act. These safeguards will, to the extent applicable, be consistent with any regulations of the Civil Service Commission and with those of the agency involved, dealing with employee discrimination.

**§ 1960.25 Imminent danger.**

Whenever and as soon as a designated safety and health official concludes on the basis of an inspection that conditions or practices exist in any place of employment which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through



V 38-188 SEP 28 73 XUM

the enforcement procedures otherwise provided, he shall inform the affected employees and official in charge of the establishment of the danger and require immediate abatement, including withdrawal of employees from the dangerous circumstances.

**§ 1960.26 Notices of hazards.**

(a) Each agency will establish a procedure for issuing notices of hazards discovered upon inspection. Notices will describe with particularity the nature of the hazard, including a reference to the standard or other requirement involved. The notice will also fix a reasonable time for the abatement of the hazard. A copy of the notice will be sent to the official in charge of the establishment.

(b) If a notice of hazard is issued as a result of a request for inspection under § 1960.24(a) or a notification of hazard under § 1960.24(c), a copy of the notice of hazard will also be sent to the employee or representative of employees who made such request or notification.

(c) Upon receipt of any notice of hazard, the official in charge of an establishment will immediately post such notice, or a copy thereof, unedited, at or near each place a hazard referred to in the notice occurred, except as provided below. Where, because of the nature of the establishment operations, it is not practicable to post the notice at or near each place of hazard, such notice will be posted, unedited, in a prominent place where it will be readily observable by all affected employees. For example, where establishment activities are physically dispersed, the notice may be posted at the location to which employees report each day. Where employees do not primarily work at or report to a single location, the notice may be posted at the location from which the employees operate to carry out their activities. The official in charge of an establishment will take steps to ensure that the notice is not altered, defaced, or covered by other material.

(d) Each notice of hazard, or a copy thereof, will remain posted until the hazard has been abated, or for 3 working days, whichever is later.

**§ 1960.27 Correction of hazards.**

(a) The procedures for correcting hazards will include reinspection by the office of the designated safety and health official to determine whether the correction was made. If upon reinspection the correction was not made, the designated safety and health official shall make this fact known to the head of the agency for appropriate action.

(b) If in the judgment of the designated safety and health official abatement of a safety or health hazard will not be possible within 30 working days, the official in charge of the establishment will submit an abatement plan to the designated safety and health official with a copy thereof to the head of the agency and to the Secretary of Labor. Such plan will contain an explanation of the circumstances of the delay in abatement, a proposed timetable for the abatement, and a summary of steps being taken in the interim to protect employees from being injured by the hazard. A copy of the plan will be sent to the safety and health committee of the agency for appropriate comment. The head of each agency will inform the Secretary of Labor at regular intervals to be determined by the Secretary as to the progress made in carrying out the abatement plan. Any changes in the abatement plan will require the submission of a new plan in accordance with the provisions of this section.

**Subpart E—Federal Agency Internal Evaluation**

**§ 1960.28 Duties of Federal agencies.**

Each agency shall conduct an annual detailed internal evaluation of its occupational safety and health program. Basic guidelines for this evaluation will be issued periodically by the Office of Federal Agency Safety Programs. These internal evaluations shall be utilized by each agency for the purposes set forth in the applicable statutes and Executive Order No. 11612, as described in § 1960.1, and shall be maintained and made available by each agency for review by the Office of Federal Agency Safety Programs.

Signed at Washington, D.C., this 24th day of September 1973.

JOHN H. STENDER,
*Assistant Secretary of Labor.*

[FR Doc.73-20707 Filed 9-27-73;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

**[ 21 CFR Parts 121, 128, 133 ]**

## ASBESTOS PARTICLES IN FOOD AND DRUGS

### Notice of Proposed Rulemaking

The Commissioner of Food and Drugs has received a petition from the Center for Science in the Public Interest, 1779 Church Street NW., Washington, D.C. 20036, and the Environmental Defense Fund, 1525 18th Street NW., Washington, D.C. 20036, requesting promulgation of regulations under the Federal Food, Drug, and Cosmetic Act to prohibit the adulteration of food and drugs with asbestos. Petitioners request that the Commissioner publish in the FEDERAL REGISTER "immediately (within 30 days)" the following proposed regulations:

1. Subpart F of Part 121 is amended by adding the following section:

**§ 121.---- Filters containing asbestos.**

"Foods that have come into contact with filters made wholly or partially of asbestos may reasonably be expected to become contaminated with asbestos particles which may be injurious to health when ingested. Accordingly, any food or food additive produced, manufactured, processed or prepared using a filter made wholly or partially of asbestos shall be deemed to be adulterated in violation of section 402(a) of the Act.

2. Part 133 is amended by adding the following sections:

**§ 133.---- Filters containing asbestos.**

Drugs passed through filters made wholly or partially of asbestos may reasonably be expected to become contaminated with asbestos particles which may be injurious to health when injected or ingested. Accordingly, any drug or drug component produced, manufactured, processed or prepared using a filter made wholly or partially of asbestos shall be deemed to be adulterated in violation of section 401(a) of the Act.

**§ 133.---- Talc containing asbestos.**

Talc is a naturally occurring hydrous magnesium silicate which may reasonably be expected to be contaminated with asbestos particles. Asbestos particles may be injurious to health when ingested or injected. Accordingly, it is not considered good manufacturing practice to add talc, directly or indirectly, as a component in the production, manufacture, processing or preparation of any drug, unless the manufacturer or processor of the drug first demonstrates by appropriate tests that the talc so used is free of asbestos particles. Any drug or drug component containing talc which has not been demonstrated to be free of asbestos particles shall be deemed to be adulterated in violation of section 501(a) of the Act.

Petitioners also request that the Commissioner "immediately (within 30 days from the receipt of this petition)" promulgate as a final regulation a zero tolerance for asbestos particles in talc intended for use as a food additive, pursuant to the proposal published in the FEDERAL REGISTER of August 12, 1972 (37 FR 16407), and take whatever other action the Commissioner deems necessary to eliminate contamination of food and drugs with asbestos.

A complete copy of the petition and its attachments may be reviewed at the office of the Hearing Clerk, Food and Drug Administration, Rm. 6-86, 5600 Fishers Lane, Rockville, MD 20852, during working hours, Monday through Friday.

The Commissioner has carefully reviewed the petition, its attachments, and other available information, and has reached the following conclusions. Each conclusion indicates the source reference upon which the conclusion is based and copies of all referenced material are available from the office of the Hearing Clerk.

"Asbestos" is a generic term for a number of hydrated silicates that, when crushed or processed, separate into flexible fibers made up of fibrils. Although there are many asbestos minerals, only six are of commercial importance. Chrysotile, a tubular serpentine mineral, accounts for 95 percent of the world's production. The others, all amphiboles (crystals with 3 groups of metal ions), are amosite, crocidolite, anthophyllite, tremolite and actinolite. These asbestos minerals differ in their metallic elemental content, range of fiber diameters, flexibility, harshness, tensile strength, surface properties, and other attributes that determine their industrial uses and which may affect their respirability, deposition, retention, translocation and biologic reactivity (Ref. 1).

Many products such as cement, flooring, shingles, pipes, filters, textiles, etc., contain asbestos of one kind or another.





There are great variations among such products with respect to the chances of fiber release during the use of the product. The likelihood of such fiber release depends predominantly on the ease with which the fibers can be dislodged and on the degree to which the use of the product destroys the fibers. Almost all asbestos fiber used in the United States for manufacturing products becomes tightly bound within the products and usually undergoes little actual abrasion or wear before being discarded. Asbestos cement products (accounting for most of the asbestos used in the United States), shingles and floor tiles are in this category. Some asbestos-containing products, such as brake linings, are subjected to great friction; their rate of wear is considerable, and at times they are almost completely worn away. In the case of brake linings, the application of force is so intense and the heat created so great that most chrysotile fibers are destroyed by being converted into another substance which is non-fibrous. Nevertheless, an appreciable percentage (1 to 3 percent) remains as fibrous asbestos, and fiber release from products such as asbestos cloth, paper and sprayed fireproofing materials is a serious source of emission. This usually occurs in densely populated areas. Most of the pipes delivering drinking water are of a mixture of cement and asbestos.

Solid wastes produced during manufacture of asbestos-containing products, use of such products, and demolition can be emission sources. These waste materials are usually disposed of without regard to their potential as emission sources. Alternate methods of disposal often result in commingling of asbestos-containing wastes with municipal wastes in open dumps and thus create a long-term emission source.

Asbestos fibers thus are ubiquitous in air, water and a large percentage of the earth's crust. The amount of this material which additionally is added to the environment and to food and drugs by the use of asbestos filters is not known. Therefore it is obvious that the presence of asbestos in these products is only one small source of exposure.

Asbestos inhalation has been known to be an occupational hazard in workers in asbestos mines. The asbestos is inhaled and lodges in the lungs causing the development of a fibrotic disease known as "asbestosis." Asbestosis, or abestotic pneumonoconiosis, was the first clearly demonstrated adverse effect of asbestos in man. It is characterized by a pattern of roentgenographic changes in the lung consistent with diffuse interstitial fibrosis of variable degree and at times with fibrosis and calcification of the pleura; clinical changes that include fine rales, finger clubbing and shortness of breath, each of which may be absent in an individual case; and physiologic changes consistent with a restrictive lung disorder (Refs. 2 through 8).

In these workers in asbestos mines, malignancies of the lung and of the body lining tissues, namely lung cancer and mesothelioma, occur at rates greater than in persons not so occupationally exposed. There is a 5 to 7 fold increase in lung cancer in asbestos workers which is noted as early as 10 to 14 years after onset of exposure and is significant at 20 years (Refs. 9 through 15). Seven percent of deaths in asbestos workers are caused by pleural and peritoneal mesothelioma (Refs. 16 through 33). This is a marked increase since this tumor is extremely rare in the general population. There is suggestive evidence concerning an increase in the rate of gastrointestinal malignancies in asbestos workers (Ref. 34).

There is considerable evidence that most human lungs harbor thousands or millions of asbestos fibers although most people do not have asbestosis (Refs. 35 through 37). This is due to the ubiquity of the substance. Some of these fibers are chrysotile asbestos, and amphiboles are probably present also. This number of fibers is relatively small in most persons not occupationally exposed to asbestos compared with the numbers found in the occupationally exposed. The systematic application of quantitative techniques, measuring both coated and uncoated fibers, is needed to define a gradient of accumulated fibers for correction with incidence of disease, on the one hand, and history of environmental exposure, on the other.

The methodology for quantification of asbestos fibers of varying sizes is such that the results obtained in one laboratory may vary substantially from those in another. An inter-agency governmental task force together with other scientists working in this field is currently attempting to develop standard technology which can be applied to the identification and qualification of asbestos fibers. The Environmental Protection Agency is currently investigating four separate techniques in order to establish the best method for identification, quantification, sizing and typing of asbestos particles and fibers. At present, the National Institute for Occupational Safety and Health (NIOSH) recommends, as a technique for sampling of air, a method based on counting fibers greater than 5 microns in length using phase contrast illumination at 430x magnification with a 4 millimeter objective (Refs. 38 and 39). This technique is currently recommended for liquid materials until more accurate and sensitive practical methods are developed. However, as indicated below, another method is proposed for analysis of asbestos fibers in a material such as talc.

The evidence concerning the possible hazard from ingestion of asbestos particles is contradictory and inconclusive:

In an unpublished study by L. M. Swinburn (Ref. 40), asbestos particles were fed once a week to SPF Wistar rats for 16 and 18 weeks. The material was administered in butter. Although the particles were of the size range known to produce tumors by other modes of administration, no tumorgenic effect was noted. With a single large dose, the fibers were totally cleared by the gastrointestinal tract in 48 hours and no asbestos was detected in the animal tissues at the end of 1 week. The gastroinstestinal tract of the rat seemed to provide an effective barrier to penetration.

In a published study by W. E. Smith, *et al.* (Ref .41), hamsters maintained on a diet of 1 percent chrysotile or amosite through life had no gastrointestinal tumors.

A report by Westlake, Spjut and Smith (Ref. 42) indicates that the rat colonic mucosa is penetrated by chrysotile after feeding a diet containing 5 percent asbestos for 3 months.

Cunningham and Pontefract (Ref. 43 and 44) injected chrysotile fibers (9.4 and 94 x 10⁹) directly into stomachs of rats. Fibers were found in blood and other organs, 2–4 days after treatment. Control rats, although having no asbestos in blood, also had high levels of asbestos in tissues.

These workers found that, whereas the tap water in Ottawa (having a filter plant) contained about 2 million fibers per liter, the quality of fibers in soft drinks and alcoholic beverages purchased in the Ottawa area ranged from 1 to 12 million fibers per liter. Even with the technical problems of methodology, this seems to indicate that in some beverages the asbestos content may be about the same as in water, whereas, in others, it may be increased. Thus, it is reasonable to conclude that water and many other beverages for human consumption contain substantial amounts of asbestos fibers.

There is some evidence that asbestos filters may remove some asbestos material. In a preliminary experiment performed by the Food and Drug Administration, asbestos was added to distilled water and dispersed evenly by the action of an ultrasonic generator. Electron microscopy of this material clearly showed large numbers of asbestos fibers. This material was then filtered through an asbestos filter, and electron microscopic examination of the filtered material showed a reduction in the number of asbestos fibers.

Nicholson and his colleagues (Ref. 45) investigated a number of samples of parenteral drugs and found asbestos fibers. Based on their report a study was undertaken by the Food and Drug Administration concerning contamination of parenteral drugs with asbestos. Although the data are still preliminary, the following observations are pertinent. Parenteral drug samples were collected from a number of firms. Based on phase contrast microscopy, 11 of 13 samples had clear-cut evidence of the presence of asbestos, one sample was questionably positive, and one was negative. The number of fibers ranged from 2 to 27 in the positive specimens of variable sample size. Using electron microscopy, 12 of the 12 samples examined were positive. Quantitation is not yet complete.

In this survey, seven of 13 manufacturers of parenteral drugs do not use asbestos filters; four firms use such filters



V 3 8 1 1 8 8 SEP 28 73 XUM

followed by final membrane type filters (one of these uses asbestos filters for its rinse water without final filtration of such water); and two firms use asbestos filters only for their rinse water, without final filtration.

The preliminary report of these studies is on display at the Office of the Hearing Clerk. Any other scientific data in this regard should be submitted to the Hearing Clerk.

Certain parenteral drugs, such as blood fractionation products, may be filtered several times through asbestos filters. Thus far, it is not known with certainty whether the more viscous products could be successfully processed through terminal membrane filters without compromising safety, identity, strength, quality or purity. The precise effect of asbestos pad filtration on removal of pyrogens (Ref. 46 and 47) is not completely known at the present time. Currently the Food and Drug Administration is surveying the industry for information concerning the use of asbestos filters. Results of this survey will be incorporated in the public record.

Although the major experimental studies of asbestos have involved inhalation of fibers so as to simulate occupational exposure, several studies have been performed to investigate the effect of parenteral inoculation of asbestos fibers. In 1958, Schmähl (Ref. 48) reported that implantation of asbestos fibers and crumbs in either the subcutaneous tissue or in the peritoneum lead to the development of malignant tumors (sarcomas) in 11 of 30 rats which survived longer than 15 months after such implantation. Roe and his colleagues (Ref. 49, 50, 51) have performed a number of studies in which asbestos fibers were injected subcutaneously (Ref. 49) into the flanks of mice. In the first experiments, crocidolite, amosite and chrysotile asbestos fibers were used and each animal was injected twice subcutaneously in both flanks with 10 milligrams of fibers in saline with an interval of five weeks between the injections. Seven of seventy-one mice which survived 40 weeks or more developed injection site tumors. In addition, one mouse developed a mesothelioma of the peritoneum underlying the injection site. The injection site sarcomas were produced by all three types of fibers. In addition, Roe *et al* (Ref. 49) showed that the asbestos fibers were widely disseminated from the local injection sites being deposited rather selectively on the serosal surfaces of the abdominal organs and the retroperitoneal structures as well as on the pericardium, diaphragm, pleura and adjacent parts of the lungs and heart. These serosal surfaces reacted vigorously to the presence of the asbestos fibers and in 10 of 71 mice, malignant mesotheliomas of the thorax and/or abdomen developed. In a later study (Ref. 51) Kanazawa *et al* showed that, after subcutaneous injection of asbestos fibers in mice, fibers could be found to have disseminated to regional and distant lymph nodes, spleen, kidneys and occasionally to brain tissue suggesting that some asbestos may enter the circulation.

Thus, there is experimental evidence that parenteral administration of asbestos fibers may lead to wide dissemination of such fibers in animals and to the development of local malignant tumors as well as malignant mesotheliomas of the pleura and peritoneum similar to those that occur after inhalation of asbestos fibers.

The problem of asbestos in the total environment, to which the worldwide scientific community is addressing itself, is very complex. The Environmental Protection Agency has published in the FEDERAL REGISTER of April 6, 1973 (38 FR 8820) national emission standards for asbestos milling and manufacturing based on the determination that asbestos is a hazardous air pollutant. This standard has been developed despite the fact the EPA also recognizes that a "standardized reference method has not been developed to quantitatively determine the content of asbestos in a material."

The present status of this problem is summarized by the report of a committee prepared subsequent to a meeting sponsored by the International Agency for Research on Cancer (Ref. 52). The Food and Drug Administration's review of this report indicates the following areas of further research are necessary:

(1) Further epidemiology, particularly with respect to past exposure to asbestos and cancer of sites other than lung, pleura, and peritoneum.

(a) Assessment of excess cancer risks following exposure to only one type of fiber.

(b) Investigation of whether reduction of asbestos exposure in lungs below those causing asbestosis abolishes excess risk of carcinoma.

(c) Investigation of evidence of an increased risk of cancer resulting from asbestos in water, beverages, food, or liquids used for the administration of drugs.

(2) Development of methods of quantitative assessment, size analysis and characterization of particles and fibers.

REFERENCES


1. "Asbestos, the need and feasibility of air pollution controls," Report of the Committee on Biologic Effects of Atmospheric Pollutants, National Academy of Sciences, 1971.
2. Cooke, W. E., "Fibrosis of the Lungs due to the Inhalation of Asbestos Dust," *Brit. Med. J.*, 2:147, 1924.
3. Cooke, W. E., "Pulmonary Asbestosis," *Brit. Med. J.*, 2:1024–1025, 1927.
4. Dreessen, W. C., J. M. Dallavalle, T. L. Edwards, J. W. Miller, and R. R. Sayers, "A Study of Asbestos in the Asbestos Textile Industry," *Public Health Bull.*, 241, Washington, U.S. Government Printing Office, 1938, 126 pp.
5. McDonald, S., "History of Pulmonary Asbestosis," *Brit. Med. J.*, 2:1025–1026, 1927.
6. Merewether, E. R. A., "The Occurrence of Pulmonary Fibrosis and Other Pulmonary Affections in Asbestos Workers," *J. Ind. Hyg.*, 12:198–222 and 12:239–257, 1930.
7. Mills, R. G., "Pulmonary Asbestosis: Report of a case," *Minn. Med.*, 13:495–499, 1930.
8. Soper, W. B., "Pulmonary Asbestosis: A report of a case and a review," *Am. Rev. Tuberc.*, 22:571–584, 1930.
9. Lynch, K. M., and W. A. Smith, "Pulmonary Asbestosis III: Carcinoma of lung in asbesto-silicosis," *Am. J. Cancer*, 24:56–64, 1935.
10. Doll, R., "Mortality from Lung Cancer in Asbestos Workers," *Brit. J. Industr. Med.*, 12:81–86, 1955.
11. Buchanan, W. D., "Asbestosis and Primary Intrathoracic Neoplasms," *Ann. N.Y. Acad. Sci.*, 132:507–518, 1965.
12. Cordova, J. F., H. Tesluk and R. P. Knudtson, "Asbestosis and Carcinomas of the Lung," *Cancer*, 15:1181–1187, 1962.
13. Gross, P., R. T. P. deTreville, E. B. Toker, M. Kaschak and M. A. Babyak, "Experimental Asbestosis. The development of lung cancer in rats with pulmonary deposits of chrysotile asbestos dust," *Arch. Environ. Health*, 15:343–355, 1967.
14. Selikoff, I. J., J. Churg and E. C. Hammond, "Asbestos Exposure and Neoplasia," *JAMA*, 188:23–26, 1964.
15. Borow, M., A. Conston, L. L. Livornese and N. Schalet, "Mesothelioma and Its Association with Asbestos," *JAMA*, 201:587–591, 1967.
16. Elmes, P. C., W. T. E. McCaughey and O. L. Wade, "Diffuse Mesothelioma of the Pleura and Asbestos," *Brit. Med. J.*, 1:350–353, 1965.
17. Elmes, P. C. and O. L. Wade, "Relationship Between Exposure to Asbestos and Pleura Malignancy in Belfast," *Ann. N.Y. Acad. Sci.*, 132:549–557, 1965.
18. Enticknap, J. B. and W. N. Smither, "Peritoneal Tumor in Asbestosis," *Brit. J. Ind. Med.*, 21:20–31, 1964.
19. Fowler, P. B. S., J. C. Sloper and E. C. Warner, "Exposure to Asbestos and Mesothelioma of the Pleura," *Brit. Med. J.*, 2:211–213, 1964.
20. Hammond, E. C., I. J. Selikoff and J. Churg, "Neoplasia Among Insulation Workers in the United States with Special Reference to Intraabdominal Neoplasia," *Ann. N.Y. Acad. Sci.*, 132:519–525, 1965.
21. Hourihane, D. O'B., "The Pathology of Mesothelioma and an Analysis of Their Association with Asbestos Exposure," *Thorax*, 19:268–278, 1964.
22. Lieben, J. and H. Pistawka, "Mesothelioma and Asbestos Exposure," *Arch. Environ. Health*, 14:559–563, 1967.
23. Mann, R. H., J. L. Grosb and W. M. O'Donnell, "Mesothelioma Associated with Asbestosis," *Cancer*, 19:521–526, 1966.
24. McCaughey, W. T. E., O. L. Wade and P. C. Elmes, "Exposure to Asbestos Dust and Diffuse Pleural Mesotheliomas," *Brit. Med. J.*, 2:1397, 1962.
25. McDonald, A. D., A. Harper, O. A. Elattar and J. C. McDonald, "Epidemiology of Primary Malignant Mesothelial Tumors in Canada," *Cancer*, 26:914–919, 1970.
26. Newhouse, M. L. and H. Thompson, "Epidemiology of Mesothelial Tumors in the London Area," *N.Y. Acad. Sci.*, 132:579–588, 1965.
27. Owen, W. G., "Mesothelial Tumors and Exposure to Asbestos Dust," *Ann. N.Y. Acad. Sci.*, 132:674–679, 1965.
28. Selikoff, I. J., J. Churg and E. C. Hammond, "Relation Between Exposure to Asbestos and Mesothelioma," *New Eng. J. Med.*, 272:560–565, 1965.
29. Wright, G. W., "Asbestos and Health in 1969," *Am. Rev. Resp. Dis.*, 100:467–479, 1969.
30. Selikoff, L. J., E. C. Hammond and J. Churg, "Asbestos Exposure, Smoking, and Neoplasia," *JAMA*, 204:106–112, 1968.
31. Wagner, J. C., C. A. Sleggs and P. Marchand, "Diffuse Pleural Mesothelioma and Asbestos Exposure in the North Western Cape Province," *Brit. J. Ind. Med.*, 17:260–271, 1960.
32. Champion, P., "Two Cases of Malignant Mesothelioma after Exposure to Asbestos," *Am. Rev. Resp. Dis.*, 103:821–826, 1971.
33. Selikoff, L. J. and E. C. Hammond, "Environmental Epidemiology, III. Community Effects of Nonoccupational Environmental Asbestos Exposure," *Am. J. Pub. Health*, 58:1658–1666, 1968.
34. Wagner, J. C., "Epidemiology of Diffuse Mesothelial Tumors: Evidence of an Association from Studies in South Africa and the United Kingdom," *Ann. N.Y. Acad. Sci.*, 132:575–578, 1965.
35. Churg, J., E. C. Hammond, A. M. Langes, W. J. Nicholson, L. J. Selikoff and Y. Suzuki, "Biological Effects of Asbestos," presented at the National Institutes of Health, Feb. 1, 1973.
36. Anvilvel, L. and W. M. Thurlbeck, "The Incidence of Asbestos Bodies in the Lungs at Random Necrospsies in Montreal," *Can. Med. Assoc. J.*, 95:1179–1182, 1966.
37. Cauna, D., R. S. Totten and P. Gross, "Asbestos Bodies in Human Lungs at Autopsy," *JAMA*, 192: 371–373, 1965.
38. "Criteria for a Recommended Standard—Occupational Exposure to Asbestos," Report of Review Committee, National Institute for Occupational Safety and Health, Publication No. HSM 72–10267 (1972).
39. Lynch, J. R. and H. E. Ayer, "Measurement of Asbestos Exposure," *J. Occup. Med.*, 10: 21–24, 1968.
40. Swinburne, L. M., "The ingestion of asbestos by rats (unpublished data)," personal communication to Bureau of Foods, FDA.
41. Smith, W. E., L. Miller, R. E. Elsasser and D. D. Hubert, "Tests for Carcinogenicity of Asbestos," *Ann. N.Y. Acad. Sci.*, 132:456–488, 1965.
42. Westlake, G. E., H. J. Spjut and M. N. Smith, "Penetration of Colonic Mucosa by Asbestos Particles. An Electron Microscopic Study in Rats Fed Asbestos Dust," *Lab. Invest.*, 14:2029–2033, 1965.
43. Cunningham, H. M. and R. Pontefract: (a) "Asbestos Fibers in Beverages and Drinking Water," *Nature*, 232:332–333, 1971. (b) "Symposium on Industrial Chemicals as Food Contaminants," *Journal of the AOAC*, 56:976–981, 1973.
44. Pontefract, R. and H. M. Cunningham: "Penetration of Asbestos through the Digestive Tract of Rats," *Nature*, 243:352–353, 1973.
45. Nicholson, W. J., C. J. Maggiare and I. J. Selikoff, "Asbestos Contamination of Parenteral Drugs, *Science*, 177:171–173, 1972.
46. Tui, C. and A. M. Wright, "The Penetration of Non-Pyrogen Infusion and Other Intravenous Fluids by Absorptive Filtration," *Annals Surg.*, 116:412–425, 1942.
47. *Remington's Pharmaceutical Sciences*, "Parenteral Preparations, Pyrogens," Chapter 82, 14th Ed. (pg. 1524), 1970.
48. Schmähl, D., "Cancerogene Wirkung von Asbest bei Implantation von Ratten," *Zeitschrift für Krebsforschung*, 62:561–567, 1958.
49. Harington, J. S. and F. J. C. Roe, "Studies of Carcinogenesis of Asbestos Fibers and their Natural Fibers," *Annals of the N.Y. Academy of Sciences*, 132:439–450, 1965.
50. Roe, F. J. C., R. L. Carter, M. A. Walters and J. S. Harington, "The Pathological Effects of Subcutaneous Injections of Asbestos Fibers in Mice: Migration of Fibers to Submesothelial Tissues and Induction of Mesothelomata," *Int. J. of Cancer*, 2:628–638, 1967.
51. Kanazawa, K., M. S. C. Birbeck, R. L. Carter and F. J. C. Roe, "Migration of Asbestos Fibres from Subcutaneous Injection Sites in Mice," *British Journal of Cancer*, 24:96–106, 1970.






52. "Report of the Advisory Committee on Asbestos Cancers to the Director of the International Agency for Research on Cancer," *Brit. J. Industr. Med.*, 30:180–186, 1973.

The Commissioner recognizes that it is not possible to eliminate all sources of asbestos contact with food and drugs. Asbestos is used in virtually all pipes carrying drinking water, in buildings in which food and drugs are manufactured, and in many filtering systems used in the manufacture of food and drugs, and is found in some substances, notably water and talc, used in the manufacture and processing of food and drugs. Nevertheless, the Commissioner also recognizes that asbestos fibers perform no functional purpose in talc and are an unnecessary contaminant. It is therefore reasonable to require precautions to be taken in the manufacure of food and drugs, as part of good manufacturing practices, to assure that the amount of asbestos fibers in any food or drug is reduced to the minimum feasible level. Accordingly, the Commissioner has concluded to take the following action:

1. In view of the demonstrated hazard in animals from injection of asbestos fibers, the Commissioner is proposing that the good manufacturing practice (GMP) regulations for drugs be amended to require that filtration procedures for parental drugs shall utilize either a nonasbestos-containing or non-fiber-releasing filter such as a membrane filter or, if an asbestos-containing filter is necessary, shall also utilize an additional nonasbestos-containing or non-fiber-releasing filter such as a membrane filter to reduce asbestos fiber content to the minimum level feasible unless such a subsequent filter will compromise the safety, identity, strength, quality or purity of the product.

2. The Commissioner intends to promulgate a final regulation for talc under § 121.2006 as soon as a method for determining asbestos fibers in food-grade talc is validated. Such a method is proposed below, as part of a republication of the earlier proposal in which no methodology was specified. The Commissioner concludes that a final regulation for talc under Part 121 cannot be promulgated until a reproducible and accurate method can be specified for compliance purposes.

3. The Commissioner is also proposing that any talc used in the manufacture or processing of drugs meet the specifications for this substance that will be imposed by § 121.2006.

4. The Commissioner realizes that the issues raised in this notice are complex and have widespread ramifications. Comment is requested on all aspects of the public health significance of ingestion and injection of asbestos fibers. Since adoption of any new filtration requirements may require use of additional equipment, comment on the availability of appropriate equipment, the need for use of asbestos-containing filters as contrasted with filters which contain no asbestos, and the time needed to obtain and begin using non-asbestos-containing final filters such as membrane filters, is also requested. Finally, comment on methods of quantitative assessment, size analysis, and characterization of particles and fibers, is essential in order to develop final methods on which accurate and fair compliance can be based.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (secs. 402, 502, 701, 52 Stat. 1046–1047, as amended, 1050–1051, as amended, 1055–1056, as amended; 21 U.S.C. 342, 352, 371) and under authority delegated to him (21 CFR 2.120), the Commissioner of Food and Drugs proposes to amend Title 21 of the Code of Federal Regulations as follows:

1. In Part 121 by amending § 121.101 (d)(8) by alphabetically adding to the table a new item and in paragraphs (h) and (i) by revising the entry for "talc"; to read as follows:

**§ 121.101 Substances that are generally recognized as safe.**

• • • • • •

(d) • • •

| Product | Tolerance | Limitations or restrictions |
|---|---|---|
| • • • | • • • | • • • |
| (8) Miscellaneous and/or general purpose food additives. | ---------- | |
| • • • | • • • | • • • |
| Talc (free of asbestos fibers as determined in § 121.2006). | ---------- | In chewing gum base and as an antisticking agent in forms used in molding food shapes. |
| • • • | • • • | • • • |

(h) • • •

Talc (free of asbestos fibers as determined in § 121.2006).

• • • • • •

(i) • • •

Talc (free of asbestos fibers as determined in § 121.2006).

• • • • • •

2. In Part 121 by amending Subpart E by adding the following new section:

**§ 121.2006 Talc.**

(a) Talc is a naturally occurring hydrous magnesium silicate subject to a prior sanction for use in coating polished rice. It is found in natural deposits that may be contaminated with asbestos fibers.

(b) Good manufacturing practice requires that talc be free from asbestos fibers to the maximum extent practicable. Accordingly, any food or food-packaging material containing talc that is not free from asbestos fibers as determined by the method set out in paragraph (c) shall be deemed to be adulterated in violation of section 402(a)(1) of the act.

(c) The following method shall be used to determine compliance with this section:



V 38-188 SEP 28 73 XUM

(1) The various kinds of asbestos are distinguished from talc and from each other by their refractive indices, other optical crystallographic properties, and morphology as determined with a polarizing microscope (Methods of the Association of Official Analytical Chemists, 11th Ed., 1970, Sections 36.541–36.543, p. 717–721).[1] Talc occurs mainly in the form of thin plates, which may appear fibrous when seen edgewise in microscopic view. Beta and gamma indices of talc vary from about 1.575 to 1.590, beta being very close to gamma. All of the principal refractive indices of chrysotile are less than 1.590. Chrysotile asbestos is therefore distinguishable from fibrous looking talc particles in a 1.574 refractive index liquid and the other five amphibole types of fibrous asbestos from talc in a 1.590 refractive index liquid. The table of optical crystallographic properties for talc and the asbestos minerals in subparagraph (3) shows refractive indices which are usually encountered in these minerals, but occasional samples may have indices which are somewhat higher or lower. For practical measurement of optical properties shown in the table, particles identified by this method should be at least 5 $\mu$m or longer.

(2) Weigh out 1 milligram of a representative portion of talc on each of two microscope slides. Mix the talc with a needle to spread evenly over the suitable area on one slide with a drop of 1.574 refractive index liquid, and then the other with 1.590 liquid, and place on each a square or rectangular cover glass sufficiently large so that the liquid will not run out from the edge (ca. 18 mm. square) and will provide a uniform particle distribution. Fibers counted by this method should meet the following criteria: (i) Length to width ratio of 3 or greater (ii) length of 5 $\mu$m or greater, (iii) width of 5 $\mu$m or less. Count and record the number of asbestos fibers found in each 1 milligram as determined from a scan of both slides with a polarizing microscope at a magnification of approximately 400 X. In the 1.574 refractive index liquid, chrysotile fibers with indices less than 1.574 in both extinction positions may be present; in the 1.590 refractive index liquid, the other five amphibole types of asbestos fibers with indices exceeding 1.590 in both extinction positions may be present. Check the extinction and sign of elongation for tentative identification. For specific identification of asbestos fibers, make additional mounts in appropriate refractive index liquids, and refer to the optical crystallographic data in the table. A count of not more than 1000 amphibole types of asbestos fibers and not more than 100 chrysotile asbestos fibers per milligram-slide constitutes the maximum limit for the presence of these asbestos fibers in talc. These limits assure a purity of talc at least 99.9 percent free of amphibole types of asbestos fibers and at least 99.99 percent free of chrysotile asbestos fibers.

(3) Optical crystallographic characteristics of asbestos minerals and talc:

EXAMPLES OF REFRACTIVE INDICES (n)

| Substance | nα | nβ | nγ | Extinction | Elongation |
|---|---|---|---|---|---|
| Actinolite | 1.614 | 1.630 | 1.641 | Inclined | Positive. |
| | 1.615–1.655 | 1.625–1.665 | 1.64–1.68 | | |
| | [1] 1.663 | | 1.680 | | |
| Amosite | [1] 1.675 | | 1.702 | | |
| Anthophyllite | 1.598 | 1.623 | | Parallel | Positive. |
| | 1.598 | | 1.623 | | |
| | 1.598–1.674 | 1.606–1.685 | 1.615–1.697 | | |
| | 1.608 | | 1.631 | | |
| | 1.619 | 1.630 | 1.640 | | |
| | 1.619–1.633 | 1.630–1.642 | 1.640–1.657 | | |
| | 1.629 | 1.635 | 1.640 | | |
| | 1.633 | 1.638 | 1.652 | | |
| Chrysotile | 1.493 | 1.504 | 1.517 | Parallel | Positive. |
| | 1.508 | 1.512 | 1.522 | | |
| | 1.529–1.559 | 1.530–1.564 | 1.537–1.567 | | |
| | 1.53 –1.54 | | 1.54 –1.55 | | |
| | 1.542 | | 1.555 | | |
| | 1.542 | 1.543 (calc.) | 1.555 | | |
| | 1.546 | 1.550 | 1.557 | | |
| | 1.546 | 1.557 | 1.557 | | |
| | 1.548 | 1.560 | 1.560 | | |
| | | 1.695 | | Parallel | Negative. |
| Crocidolite | | 1.695 | 1.607 | | |
| | 1.693 | 1.700 | 1.703 | | |
| | 1.697 | | 1.675–1.690 | Parallel or 2° or 3° | Positive. |
| Talc | [1] 1.538–1.545 | | 1.589 | | |
| | 1.539 | 1.589 | 1.589 | | |
| | 1.539 | 1.589 | 1.589 | | |
| | 1.539 | 1.589 | 1.589 | | |
| | 1.540 | nearly=n | 1.575 | | |
| | 1.541 | 1.585 | 1.585 | | |
| | 1.544 | 1.592 | 1.592 | | |
| | | 1.594 | 1.594 | | |
| | 1.545 | 1.584 | 1.584 | | |
| Tremolite | 1.599 | 1.613 | 1.625 | Inclined | Positive. |
| | 1.599 | 1.613 | 1.625 | | |
| | 1.599–1.612 | 1.613–1.626 | 1.625–1.637 | | |
| | 1.600 | 1.616 | 1.627 | | |
| | 1.602 | 1.614 | 1.635 | | |
| | 1.602 | 1.618 | 1.631 | | |
| | 1.602–1.623 | 1.613–1.638 | 1.624–1.650 | | |
| | 1.604 | 1.612 | 1.628 | | |
| | 1.604 | 1.617 | 1.630 | | |
| | 1.609 | 1.622 | 1.636 | | |
| | 1.609 | 1.623 | 1.636 | | |
| | 1.613 | 1.621 | 1.634 | | |

[1] $\frac{n+n.}{2}$

3. In Part 133 by adding the following new paragraph (i) to § 133.6 to read as follows:

**§ 133.6 Components.**

• • • • •

(i) Talc is a naturally occurring hydrous magnesium silicate which may reasonably be expected to contain asbestos fibers which may be injurious to health. Current methodology cannot assure the absence of asbestos in talc. Accordingly, any drug, drug ingredient, or drug packaging material containing talc that fails to meet the specifications of paragraph (c) of § 121.2006 of this chapter as determined by the method set out in that paragraph shall be deemed to be adulterated in violation of section 501(a) of the Act.

4. By adding the following new paragraph (j) to § 133.8 to read as follows:

**§ 133.8 Production and control procedures.**

• • • • •

(j) Use of asbestos-containing filters: Filters used in the manufacture of a parenteral drug or parenteral drug ingredient shall not release fibers into such products. No asbestos-containing or fiber-releasing filter may be used in the manufacture of a parenteral drug or parenteral drug ingredient unless it is not possible to manufacture that drug or drug ingredient without the use of such a filter. If use of such a filter is required, an additional non-asbestos-containing or non-fiber-releasing filter such as a membrane filter shall subsequently be used to reduce the content of any asbestos-form particles in the drug or drug ingredient. Evidence for reduction shall be based on the use of the methods described in "Criteria for a Recommended Standard—Occupational Exposure to Asbestos," Report of Review Committee, National Institute for Occupational Safety and Health, Publication No. HSM 72–10267 (1972).[2] Use of an asbestos-containing filter without subsequent use of an additional non-asbestos-containing membrane filter is permissible only upon submission of proof to the Food and Drug Administration that use of a non-asbestos-containing membrane filter will, or is likely to, compromise the safety or effectiveness of the drug.

Interested persons may, on or before December 27, 1973, file with the Hearing Clerk, Food and Drug Administration, Rm. 6–86, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate) regarding the petition and the Commissioner's proposal. Comments may be accompanied by a memorandum or brief in support thereof. The petition, background information referred to in this proposal, and comments received may be seen in the above office during working hours, Monday through Friday.

Dated September 24, 1973.

A. M. SCHMIDT,
*Commissioner of Food and Drugs.*

[FR Doc.73–20711 Filed 9–27–73;8:45 am]

[1] Copies may be obtained from:
Association of Official Analytical Chemists
P.O. Box 540, Benjamin Franklin Station
Washington, DC 20044

[2] Copies may be obtained from:
Superintendent of Documents
U.S. Government Printing Office
Washington, DC 20402





## Social and Rehabilitation Service

### [ 45 CFR Part 221 ]

### FAMILIES, CHILDREN, AGED, BLIND, OR DISABLED INDIVIDUALS

#### Service Programs; Correction

FR Doc. 73–19242, published at page 24872 in the issue dated Monday, September 10, 1973, is corrected by changing:

1. The number "233" in item number two of the preamble, fifth line, to "233⅓";

2. The code designation "221.6(a)(3)(i)" in item number two of the preamble, seventh line, to "221.6(c)(3)(i)";

3. The code designation "211.6(a)(3)(iii)" in item number three of the preamble, fourth line, to "221.6(c)(3)(iii)";

4. The code designation "211.6(a)(3)(vii)" in item number four of the preamble, fourth line, to "221.6(c)(3)(vii)";

5. The code designation "211.7(b)" in item number five of the preamble, fourth line, to "221.7(b)";

6. The code designation "211.9(b)(3)" in item number seven of the preamble, sixth line, to "221.9(b)(3)";

7. The code designation "221.6(a)(3)" in the words of issuance, number three, first line; and in § 221.6(a)(3) itself, first line, to "221.6(c)(3)";

8. The number "8" in § 221.6(a)(4), (now corrected to § 221.6(c)(4)), fourth line, to "6"; and

9. The word "secured" in § 221.9(b)(5), fourth line, to "secure".

Approved September 24, 1973.

THOMAS S. MCFEE,
*Deputy Assistant Secretary for Management Planning and Technology.*

[FR Doc.73–20726 Filed 9–27–73;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### [ 14 CFR Part 71 ]

[Airspace Docket No. 73–GL–44]

### VOR FEDERAL AIRWAYS

#### Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 71 of the Federal Aviation Regulations that would alter several VOR Federal Airways in the vicinity of Chicago, Ill., due to the planned decommissioning of the Naperville, Ill., VOR.

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon, Des Plaines, Ill. 60018. All communications received on or before October 29, 1973, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The proposed amendment would:

1. Realign V–6 from Cordova, Ill., via INT Cordova 087°T(083°M) and DuPage, Ill., 255°T(253°M radials to DuPage. From the INT of Chicago Heights, Ill., 358°T(356°M) and South Bend, Ind., 271°T(271°M) radials to South Bend.

2. Realign V–8 from Cordova, Ill., via INT Cordova 087°T(083°M) and Joliet, Ill., 291°T(289°M) radials to Joliet.

3. Realign V–9 from Joliet, Ill., via INT Joliet 329°T(327°M) and Milwaukee, Wis., 209°T(207°M) radials to Milwaukee.

4. Designate new VOR Federal Airway V–9 west alternate from Pontiac, Ill., via INT Pontiac 345°T(343°M) and Milwaukee, Wis., 209°T(207°M) radials to Milwaukee.

5. a. Realign V–10 from Plano, Ill., intersection direct to Chicago, O'Hare, Ill.

b. Delete that portion of V–10 which lies between Plano intersection and Niles, Ill., intersection.

6. Delete that portion of V–10N which lies from Naperville via Neptune, Ind., intersection to South Bend.

7. Delete V–97 from Chicago Heights, Ill., via Joliet, Ill., to Woodstock, Ill., intersection.

8. Realign V–97 from Northbrook, Ill., direct to Janesville, Wis.

9. Realign V–100 from Rockford, Ill., to Northbrook, Ill., via INT Rockford 080°T(077°M) and Northbrooks 292°T(290°M) radials.

10. Delete V–116 from Joliet, Ill., to Neptune, Mich., intersection.

11. Delete V–116S from Naperville, Ill., via Grand Beach, Ind., to Keeler, Ind.

12. Realign V–177 from DuPage, Ill., direct to Janesville, Wis.

13. Delete V–218 from Rockford, Ill., to Keeler, Mich.

14. Realign V–227 from Pontiac, Ill., direct to Rockford, Ill.

15. Realign V–429 from Joliet, Ill., via INT Joliet 351°T(349°M) and DuPage, Ill., 185°T(183°M) radials, to DuPage, thence via INT DuPage 346°T(344°M) radials, and Oshkosh, Wis. 187°T(185°M) radials, to Oshkosh.

The Naperville VOR will be decommissioned about June of 1974 due to the increased cost of lease renewal of the Naperville site, and the future detrimental effect that buildings planned for the vicinity would have on the NAVAID. The DuPage VOR will be frequency protected so that it can serve in the airway structure. Some of the airways in this vicinity would be realigned via DuPage in lieu of Naperville.

This amendment is proposed under the authority of Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on September 20, 1973.

CHARLES H. NEWPOL,
*Acting Chief, Airspace and Air Traffic Rules Division.*

[FR Doc.73–20703 Filed 9–27–73;8:45 am]

### [ 14 CFR Part 75 ]

[Airspace Docket No. 73–WE–10]

### AREA HIGH ROUTE

#### Proposed Alteration

The Federal Aviation Administration (FAA) is considering an amendment to Part 75 of the Federal Aviation Regulations that would realign a segment of J–938R from Reno, Nev., to Maple, Calif.

Interested persons may paticipate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 1500 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received on or before October 29, 1973, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the ICAO International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertain to the establishment of air navigation facilities and services necessary to promoting the



V 38-188 SEP 28 73 XUM

safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting State, derived from ICAO, wherein air traffic services are provided and also whenever a contracting State accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting State accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting State, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

The airspace action proposed in this docket would realign J-938R, in part, from Reno, Nev., via Napa, Calif., and Palisades, Calif. (to be renamed Palis December 6, 1973), to Maple, Calif. (to be renamed Leafs December 6, 1973). The proposed action would provide a route bypass for Warning Area W-260 which could be used during the time W-260 is in use for its established purpose.

This amendment is proposed under the authority of section 307(a) and 1110 of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1510), Executive Order 10854 (24 FR 9565) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C., on September 20, 1973.

CHARLES H. NEWPOL,
*Acting Chief, Airspace and Air Traffic Rules Division.*

[FR Doc.73-20704 Filed 9-27-73;8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

**[ 47 CFR Parts 2, 18, 21, 73, 74, 89, 91 & 93 ]**

[Docket No. 18262; FCC 73-993]

### LAND MOBILE SERVICE

**Incorporation of Additional Material; Extension of Time for Comments**

*Memorandum opinion and order.* In the matter of an inquiry relative to the future use of the frequency band 806–960 MHz; and amendment of Parts 2, 18, 21, 73, 74, 89, 91 and 93 of the Rules relative to operations in the land mobile service between 806 and 960 MHz, Docket No. 18262.

1. On August 17, 1973, (1) the United States Department of Justice (DOJ)—through its Assistant Attorney General in charge of the Antitrust Division, and (2) the Office of Telecommunications Policy—(OTP)—by its Director, submitted in letters addressed to the Chairman of this Commission, views and comments which are highly relevant to the very important policy matters that are under consideration in this proceeding.

2. It is the opinion of the Commission that the views expressed by the Department of Justice and the Office of Telecommunications Policy should, in the public interest, be considered in this proceeding,[1] and that the public should be afforded an opportunity to reply or respond to the views expressed.

3. In view of the foregoing and pursuant to the authority contained in section 4(i) and section 301 of the Communications Act of 1934, as amended, *It is ordered*, That the above-referenced letters from the U.S. Department of Justice and the Office of Telecommunications Policy (copies of which are attached hereto) are accepted and incorporated into the official records of this proceeding; and that interested persons may file replies directed to the matters contained in the above-referenced letters no later than October 19, 1973.

4. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 14 copies of all replies shall be furnished the Commission.

Adopted September 19, 1973.

Released September 26, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[2]
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

ATTACHMENT A

OFFICE OF TELECOMMUNICATIONS POLICY
AUGUST 17, 1973.

Hon. DEAN BURCH,
*Chairman,*
*Federal Communications Commission,*
*Washington, D.C. 20554.*

DEAR DEAN: The allocation of additional frequencies for the mobile radio services which is under consideration in Docket No. 18262 presents the Commission with a unique opportunity to expand the availability of improved mobile communication services. The Commission has available, for the first time in many years, sufficient additional spectrum to enable the adoption of new and improved procedures for allocating and using the radio spectrum to assure the continued development of mobile communications.

Naturally, this new allocation poses major policy issues whose resolution is extremely important to the public. The Office of Telecommunications Policy has undertaken analyses of these issues and has reviewed the comments of the various parties to this proceeding in the light of fundamental goals and objectives of national communications policy. On the basis of this analysis; we have arrived at certain conclusions which are set forth in the enclosed statement.

This proceeding affords the Commission with an excellent opportunity to make mobile communications widely available to large numbers of businesses and consumers alike, and to significantly enhance both the quantity and the quality of mobile radio services. We believe that the policy which we propose achieves those objectives.

The need for a policy commitment to a nationwide, standardized mobile telephone system has not been demonstrated at this time. Indeed, such a commitment could unduly restrict technological and marketing innovation. The Commission should, however, require a capability for interconnection of all mobile telephone systems with the landline telephone network and with each other so that local or regional systems can evolve into a nationwide system if justified by future demand.

We recommend a regulatory approach to mobile communications services that relies as much as possible on competition in meeting customers' needs for mobile communications services. In general, all technically and financially qualified entities should be permitted to offer any mobile communications services. This policy should result in more diverse service offerings at competitive prices and vigorous technological innovation to improve and expand those services.

The frequency allocation and assignment process should be as flexible as possible to accommodate future needs, while at the same time providing incentives to make efficient use of the spectrum. We believe that these objectives can best be achieved by holding a substantial portion of the spectrum in reserve to be made available as required in the future. The remaining available spectrum should be allocated for the provision of (1) mobile telephone service by wireline common carriers and (2) all mobile radio services by any qualified entity on a competitive basis, with no further detailed suballocations within these blocks. This will not deter financial commitments on the part of potential entrants, and will afford maximum flexibility within each allocation for new or expanded service offerings.

Finally, we believe that the availability of the 900 MHz band for mobile radio services offers an opportunity for experimentation with procedures which would permit market mechanisms to augment the regulatory process in the area of spectrum efficiency. Such methods might include pro forma transferability of licenses between mobile users and the adoption of license fee schedules reflecting spectrum value.

We believe that this policy will enable the widest possible flexibility for serving the mobile communications needs of the public. It will also lead to more efficient use of spectrum resources, provide incentives for technological innovation by means of competition and permit the benefits of such innovation to flow directly to consumers of mobile services.

Sincerely,

CLAY T. WHITEHEAD.

[FCC Docket No. 18262]

CONCLUSIONS AND RECOMMENDATIONS OF THE OFFICE OF TELECOMMUNICATIONS POLICY REGARDING LAND MOBILE RADIO SERVICE IN THE 900 MHz BAND

I. *Introduction.* In the past, the availability of mobile radio services has been largely restricted to commercial and business users, as well as state and local governmental agencies. The general public has benefited greatly by the use of mobile radio by these private and public entities, but only indirectly. There is a need to make low-cost mobile communications services available directly to the consumer and to allow for the expansion of mobile radio use by entities providing goods and services to the consumer. In this regard the allocation of additional frequencies in the 900 MHz band provides an excellent opportunity for the Commission to foster the development of new service concepts and new technologies so that the benefits of mobile communications can be brought to all members of the public.

A major issue posed in this proceeding is whether the increased availability of mobile communications services is best achieved by a regulatory commitment to a monopoly system premised upon a particular technology or by the creation of a diverse competitive environment. OTP believes that the needs of mobile communications users can best be met by an approach which enables customers themselves to determine, through market mechanisms, the most efficient and cost-effective use of the spectrum resource.

II. *Nationwide standardized mobile telephone system.* Although a nationwide, standardized mobile telephone system, dependent upon a particular technology, might well come to supplement the nationwide public message telephone system, no need has been adequately demonstrated for immediate commitment to or implementation of such a system. The mobile telephone service market does not appear to exhibit strong natural monopoly features, and there is no conclusive information as to whether there are economies of scale sufficiently substantial to justify a policy commitment to a single system or a particular technology. In a period of rapid technological change, there are significant risks attendant to a commitment of a substantial portion of spectrum to a particular technology (however innovative it may presently appear) for the provision of mobile telephone service on a nationwide basis. Such a commitment could unduly inhibit further technological development and impede the growth of mobile telephone services.

Moreover, the propagation characteristics of the 900 MHz band make it most suitable for use in the top 25 to 30 major markets where high capacity systems may be required, whereas remaining areas of the country might be better served by smaller systems operating at lower frequencies.

Despite the lack of justification for a regulatory commitment to a single nationwide mobile telephone system, there is, nevertheless, a need to create an environment for mobile communications that would not preclude the development of a nationwide service in the future if justified by consumer demand. Such an environment can be created by the adoption of a spectrum allocation and assignment policy which will be responsive to future changes in demand.

III. *Frequency allocation and assignment.* The Commission's allocation and assignment policies should facilitate the availability of new services as rapidly as possible. However, in view of the many technical and market issues which are as yet unresolved, the Commission should preserve flexibility with respect to future spectrum needs in the 900 MHz band. OTP recommends that the total 115 MHz available be allocated initially into "blocks" of sufficient size to motivate industry to undertake the necessary investments for product and market development. These allocations, however, should not exhaust at the outset the total available spectrum so as to result in overcommitment in any particular service category. Such a course could inhibit or distort growth in other service categories as consumer demand shifts in the future.

To this end, approximately 14 MHz of the available 115 MHz should be allocated for the exclusive use of wireline common carriers for the provision of tariffed mobile telephone services and ancillary dispatch services. Based on current market projections available to the FCC, it appears that this amount will be sufficient to accommodate present and near term mobile telephone service needs in the major markets.

Approximately 40 MHz of the available spectrum should be allocated for any mobile service to be offered on a non-rate regulated competitive basis (e.g., mobile telephone, dispatch, paging, etc.).

The balance of approximately 61 MHz should be held in reserve so that the Commission can expand or modify its initial allocations if warranted by demand. This will afford both common carrier and competitive entities a reasonable expectation that additional frequencies adjacent to their respective initial allocations will be available if and when warranted.

It is recognized that the new, so-called cellular technology which has been proposed for mobile telephone service might eventually require systems of relatively high channel capacity. However, this technology has not yet been proven and, as stated earlier, the demand for mobile telephone service has not been sufficiently demonstrated to justify a present allocation of a substantial portion of the spectrum to this service, either to wireline carriers or to others who might wish to introduce this technology.

Nevertheless, the development of cellular technology should not be discouraged—it should be permitted to develop in steps keyed to technological progress and growth in consumer demand. In order to avoid the need for subsequent re-engineering of equipment if the use of high capacity cellular technology proves justified by demand, parties proposing the use of this technology may wish to incorporate into their initial equipment design the capability for eventual high capacity operation. The Commission should, therefore, identify specific frequencies within the initial allocations where possible, or within the reserve, if necessary, which could be incorporated into the initial equipment design for these systems in addition to those frequencies already allocated. These frequencies could not be assigned or used for other types of services until after the present uncertainties surrounding market demand have been resolved and technical results for high capacity mobile telephone service have been satisfactorily evaluated. Further, these additional frequencies would be assigned for mobile telephone service only as necessary to provide sufficient capacity to meet substantiated customer demands.

In this manner, parties would be permitted to design cellular systems with the assurance that, if warranted by demand and system performance, specific additional frequencies eventually will be allocated for this type of service. Conversely, if the expected demand for a high capacity mobile telephone service does not materialize within a reasonable, pre-established period of time, these frequencies would become available for allocation to other mobile services as needed.

Beyond the allocation of frequencies for common carrier and competitive services, there should be no further initial suballocation within the band to particular user categories such as public safety, transportation, industrial, etc. These user groups should be permitted to take full advantage of the availability of multi-user trunked systems, private single or multi-channel arrangements, or private trunked systems, depending on their needs. This should afford the opportunity for all private and governmental entities to use high quality and efficient systems which will conserve spectrum and which may avert future reliance on exclusive suballocations.

Naturally, the advantage of mobile communications must be readily available to local government and public safety institutions which are significantly dependent upon such services. In this regard, local government entities should be encouraged to accommodate, where possible, all their mobile service functions on a single shared trunked system, either private or multi-user. Similarly, adjacent municipalities may wish to combine their services on such a single system. While there may be a need at some future time to reassess the need for exclusive suballocations in view of the unique characteristics of public safety functions, we believe that, for the present, all users including local governments should attempt to make maximum use of the emerging high quality and spectrum-efficient systems.

IV. *Competition in mobile services.* Mobile communications services heretofore have been provided on a common carrier basis or by private systems. In the course of its deliberations in Docket No. 18262, the Commission has been presented with numerous innovative proposals including new technologies and new service concepts. For example, several parties have proposed to offer multi-user, multi-channel (trunked) dispatch services for hire. Such services would provide the mobile communications customer with an alternative to privately-owned systems and to the services offered by tariffed mobile telephone systems. In addition, this service concept should afford more efficient use of the spectrum than a proliferation of private systems.

The history of the mobile communications industry has been characterized by competitive free enterprise which has stimulated growth even in the face of spectrum limitations. Further policies should foster and expand this competitive environment. OTP recommends a policy which will permit existing and new services to be made available in a timely manner and at competitive prices in response to consumer demand. Such a policy is consistent with the Commission's recent approach to domestic satellite communications and specialized common carriers. There is every indication that a competitive policy will be even more fruitful here, since it is capable of benefiting the consumer directly.

The Commission's allocation of frequencies in the 900 MHz band should allow the provision of all types of service (mobile telephone, dispatch, paging, etc.) on a competitive basis by all potential entrants. All mobile communications services, with the exception of those provided by wireline common carriers as discussed below, must be permitted to develop without the encumbrances of rate regulation. By creating an environment which will accommodate numerous, competitive suppliers, the need for rate regulation is obviated; the multiplicity of competing systems (and the potential for new entrants) will assure competitive pricing. Accordingly, the Commission should authorize systems upon a showing of minimum technical and financial qualifications and, in accordance with the minimum spectrum efficiency standards it establishes. There should be no necessity for a showing of continued economic viability.

[1] Order for oral presentations published at 38 FR 7340 (March 15, 1973); order scheduling oral presentations published at 38 FR 9833 (April 20, 1973); order extending time to file supplementary material published at 38 FR 14762 (June 5, 1973).

[2] Commissioner Robert E. Lee absent.







V 38-188
SEP 28 73
XUM

Questions have been raised in the course of the Commission's deliberations in Docket No. 18262 concerning the participation of wireline common carriers, mobile radio equipment manufacturers and radio common carriers in the mobile communications services market.

A. *Wireline carriers.* Because of the local monopoly advantages enjoyed by wireline common carriers in the provision of switched telephone service and the consequent potential for interservice cross-subsidy, telephone carriers should not be permitted to participate in the non-regulated portion of the mobile communications market in their own telephone service area. In any event, it would appear that the largest such carrier, AT&T, would necessarily be limited by the terms of the Western Electric consent decree from participating in a non-regulated activity. However, wireline common carriers should be permitted to provide rate regulated mobile telephone service, whether by means of cellular or other technology, as an extension of their regulated public switched telephone service. These carriers could also offer dispatch services on a rate regulated basis only as an adjunct to their mobile telephone services.

B. *Radio common carriers.* Unlike wireline common carriers, radio common carriers need not operate on a local monopoly basis. Hence, there is no justification for precluding them from offering licensed but otherwise non-regulated mobile services (mobile telephone, dispatch or other) on a competitive basis. However, it is central to OTP's policy that the non-regulated environment essential to competitive market activity be preserved. There may, therefore, be a need for federal preemption regarding all licensed competitive services in order to assure that radio common carriers (or their subsidiaries) and others providing multi-user services would not be subject to rate regulation by other jurisdictions.

C. *Radio equipment manufacturers and suppliers.* We see no justification for excluding mobile radio equipment manufacturers and suppliers from the operation of mobile communications systems, whether multi-user systems for hire or otherwise. However, in order to provide mobile service customers adequate flexibility in the choice of equipment and to assure full and fair competition in both the mobile radio service and equipment supply markets, interoperability of all mobile equipment with any base station and terminal equipment should be required by the Commission. The actual development of specific interoperability standards to implement this requirement should, however, be left to the industry. In addition, the Commission might require as a condition to any license that the licensee place its customer on notice that mobile equipment from any manufacturer may be used with the system.

In order to allow full competition among and between mobile communications services, all land mobile radio systems should be guaranteed access to the public switched telephone network on a non-discriminatory basis. This access might be by manual or automatic dial capability by private or multi-user dispatch systems.

D. *Fair competition.* While it is expected that the policy we have proposed will permit full and fair competition in the market for mobile communications services, we believe that there will be a continuing need for FCC and Department of Justice oversight as the industry develops. Both the public message telephone industry and the mobile radio manufacturing industry are characterized by companies with substantial economic power. Therefore, both the Commission and the Department of Justice should closely scrutinize the use of large financial and marketing resources by these companies in the emerging mobile communications markets and should take appropriate action to correct abuses if and when they occur. Particularly, the FCC should safeguard against the anticompetitive dangers presented by cross-subsidization between the landline public message telephone service and mobile communications services on the part of the wireline carriers.

V. *Technical and economic efficiency in the use of the spectrum.* For all of the mobile communications services we have discussed, the Commission should impose at the outset enforceable, minimum standards of spectrum efficiency for the allocation, assignment and use of the 900 MHz frequencies. We expect that the FCC's Spectrum Management Task Force, as well as the Interdepartmental Radio Advisory Committee, will continue to make significant progress in the area of spectrum efficiency standards.

It is important that the Commission continue to encourage industry experimentation in areas such as channel spacing, through experimental assignments and other means, in order to further improve spectrum efficiency, particularly with regard to cellular technology. If past technical innovation through such experimentation is any guide, even the most optimistic projections of market demand for mobile communications may be accommodated in less spectrum than has been specified in some of the cellular system proposals submitted to the Commission.

Furthermore, in order to foster greater economic efficiency in the use of mobile radio frequencies, the Commission should permit the transferability of operating rights for licensed services on a relatively *pro forma* basis to allow market mechanisms to provide added flexibility in spectrum utilization by mobile users.

But on a long term basis, it would be appropriate to introduce stronger economic incentives for efficient spectrum use. One possibility would be to adopt a schedule of license fees reflecting in part the scarcity value of the spectrum being used. In this manner, inefficient systems would be discouraged in those areas where spectrum or channel congestion is a major problem. The feasibility of a plan to assess such fees in the government bands for which OTP has responsibility is now under consideration, and we urge the Commission in the same direction.

ATTACHMENT B

DEPARTMENT OF JUSTICE

HON. DEAN BURCH,
*Chairman,*
*Federal Communications Commission,*
*Washington, D.C. 20554.*

DEAR CHAIRMAN BURCH: In Docket No. 18262 the Commission has been considering the need to allocate additional spectrum to meet the demands for land mobile communications services and the best method of allocating such additional spectrum among the various parties desiring to provide such services. In 1968 the Commission concluded that the demands for land mobile services could be met on a long-term basis only by the allocation to such services of additional spectrum. The Commission initially determined to allocate an additional 115 MHz to the land mobile service, *Notice of Inquiry and Notice of Proposed Rule Making,* Docket No. 18262, 14 FCC 2d 311 (1968).

The Department of Justice is the executive agency charged with the responsibility of enforcing the federal antitrust laws and promoting competition generally throughout the economy. The Department has followed the developments in Docket No. 18262 with considerable interest since it appeared that the economic characteristics of land mobile communications services marked the industry as one in which competition is not only feasible but also highly desirable. Indeed, in 1970 when the Commission indicated that it contemplated allocating 75 of the additional 115 MHz exclusively to wireline common carriers for the development of a high capacity common carrier mobile system (including both mobile telephone and dispatch services), *First Report and Order and Second Notice of Inquiry,* Docket No. 18262, 19 R.R. 2d 1663 (1970), the Department felt compelled to offer its views to the Commission.

The Department of Justice submitted on August 7, 1970, a *Memorandum* urging the Commission to reconsider that part of its Order which restricted development and future use of the 806–881 MHz band exclusively to wireline telephone carriers. In its *Memorandum* the Department suggested that it would be premature to foreclose the use of that band to radio common carriers ("RCCs") in advance of the development of technology to utilize it fully. We suggested that such a restriction would be undesirable at that time since it would seriously dilute the incentives of RCCs and equipment suppliers to commit resources to solve the problem of how best to serve the public interest in the effective use of the new spectrum allocated to land mobile services. In view of the potential impact of exclusion from use of the 806–881 MHz band upon the ultimate viability of the RCCs, we urged the Commission to refrain from any action that might prematurely lessen competition and reduce incentives for technological development.

The Commission subsequently deleted its restriction limiting development of the 806–881 MHz band to wireline telephone companies. Instead, the Commission encouraged all intrested parties to submit and offer proposals for an effective and efficient use of the spectrum for both public and private services. *Second Memorandum Opinion and Order,* Docket No. 18262, 31 FCC 2d 50 (1971).

Subsequent to that decision numerous interested parties have submitted data and proposals to the Commission with respect to how the additional 115 MHz should be allocated among potential providers of land mobile communication services. The Commission is presently considering these submissions with a view toward reaching a final decision which will provide the means of meeting this nation's increasing needs for land mobile communication services in an efficient and flexible manner. The Department of Justice offers the following comments in an effort to assist the Commission in its efforts.

In recent years the courts have repeatedly recognized that competition can promote the public interest even in regulated industries and that regulatory agencies must consider the promotion of competition as an important component in their statutory public interest considerations. See *e.g., Gulf States Utility Co.* v. *FPC,* 41 U.S.L.W. 4637 (May 14, 1973); *FMC* v. *Svenska Amerika Linien,* 390 U.S. 238 (1968); *United States* v. *RCA,* 358 U.S. 334 (1959). Of course, the Commission has repeatedly recognized the value of promoting competition in communications services. It has established policies of promoting competitive entry in a number of communications services in recognition that competition provides a means of stimulating rapid technological innovation. The Commission has also recognized that competition can spur common carrier response to user demand for service innovation and provide incentives to control costs in order to maintain attractive user rates. See *e.g., In the Matter of Allocation of Microwave Frequencies Above 890* Mes, Docket No. 11866, 27 FCC 359 (1959), 29 FCC 825 (1960); *Computer*





*Services Inquiry,* Docket No. 16979, 28 FCC 2d 291 (1970), *Specialized Common Carrier Decision,* Docket No. 18920, 29 FCC 2d 870 (1971); and *Domestic Satellite Decision,* Docket No. 1649, 24 RR 2d 1942 (1972). In our opinion, the development of land mobile services at 900 MHz provides the Commission with still another opportunity to foster competition as a means of effectively meeting the nation's communication needs.

A number of the proposals and comments filed in Docket No. 18262 raised competitive issues of considerable significance. AT&T has proposed that the Commission allocate the entire 75 MHz presently designated by the Commission for common carrier services for use by wireline telephone carriers. In our opinion, the effect of granting this entire block of spectrum for the exclusive use of the wireline telephone carriers would be to seriously damage the ability of RCCs to participate in a meaningful fashion in the growth of the land mobile service envisioned by the Commission. The filings in this proceeding indicate that the demand for land mobile services will be highest in the nation's largest urban areas. User demand in such markets is expected to greatly exceed the relatively limited amount of spectrum currently available to RCCs. Precluding RCC access to the 900 MHz band, therefore, would be expected to seriously inhibit the RCCs' potential for sustained growth as well as their ability to add new and attractive services in response to user demands. In addition, depriving the RCCs of the opportunity to participate in this spectrum band might prevent them from obtaining even limited economies of scale which would enable them to better compete with the wireline carriers and private systems.

Even if the Commission allowed the RCCs to utilize a portion of the 40 MHz which the Commission has presently designated for private system use, allocation of an entire 75 MHz band exclusively to the wireline carriers would have a pronounced anticompetitive effect. In such an event, private systems, RCCs and multiple-user systems would find themselves at a competitive disadvantage against the wireline carriers in meeting increased future demands and obtaining limited economies of scale. Absent clear evidence indicating the foreseeable need for wireline carrier mobile systems approaching the magnitude of 75 MHz, a grant of that size to the wireline carriers would not be in the public interest in view of its likely adverse competitive impact on pricing and technological diversity.

In the past land mobile service users have been provided with a diversity of offerings in competition with the services of the wireline carriers. Therefore, it is our opinion that Commission action granting AT&T's request, which would at least seriously impair the future competitive viability of RCCs, multiple-user and private systems, could only be justified upon certain clear findings that approval of AT&T's request was necessary to serve the public interest.

To be specific, we do not believe that the Commission should allocate to AT&T the 75 MHz that it has requested unless the Commission finds, on the basis of clear evidence that (a) there is a clearly foreseeable near-term demand for wireline carrier mobile systems utilizing 75 MHz, and (b) that superior technical efficiencies afforded by a 75 MHz wireline carrier mobile system with attendant near-term savings to users would clearly outweigh the long-term benefits which would be expected to be achieved from technological and economic competition.

In our opinion, the information available to the Commission in this proceeding does not indicate that either of these conditions could be met. From the proposals of the various parties it appears that foreseeable demands for wireline carrier mobile systems will not require quantities of spectrum approaching the magnitude of that requested by AT&T, except perhaps in the largest cities. The Commission apparently has reached the same conclusion. *Second Memorandum Opinion and Order,* Docket No. 18262, 31 FCC 2d at 51–2.

Moreover, the filings before the Commission do not indicate anything approaching a consensus to the effect that authorization of wireline common carrier systems of 75 MHz would be necessary to provide significant technological or economic efficiencies. On the contrary, a number of the parties have asserted that the development of such a large system, particularly in advance of sufficient customer demand, would be both technologically and economically inefficient. See *e.g., Comments of the Land Mobile Section of the Communications and Industrial Electronics Division of the Electronic Industries Association,* July 7, 1972, pp. 12–16; and, *Further Comments of the Mobile Radio Department, General Electric Co.,* July 20, 1972, pp. 10–14.

If the Commission should conclude either that near-term demand for wireline carrier mobile communications systems would not require an exclusive nationwide grant of 75 MHz to such systems, or that the existing evidence does not clearly indicate that authorizing systems of that magnitude is necessary to avoid serious technological or economic inefficiency, it should not grant AT&T's request. For in such an event we do not believe there would be any public policy justification for authorizing such a large grant to the wireline carriers when such a grant could seriously impair the competitive viability of other potential providers of land mobile services, thereby depriving the public of the service and innovation benefits which the resultant competition would normally engender.

As indicated above, our review of the filings in this proceeding leads us to believe that foreseeable demand and economies of scale would not justify the authorization of an exclusive grant of 75 MHz to the wireline carriers. Rather, we suggest that the Commission should adopt an allocation plan which would make available significant amounts of spectrum for potential use by wireline common carriers, RCCs, multiple-user systems and private systems, with a significant amount of spectrum placed in reserve. Such an allocation plan would provide incentives designed to promote competitive entry into the land mobile field. In addition, it would avoid a premature commitment of spectrum at a time when rapid technological development is taking place. Holding some of the spectrum in reserve would have an additional public benefit. It would provide an incentive for the various types of land mobile systems to *demonstrate* that they can make the most efficient use of the spectrum held in reserve. The adoption of such an allocation plan which promotes competition and creates incentives for rapid technological development would be most in keeping with the Commission's duty to promote the effective utilization of this nation's communications resources.

AT&T has applied for authorization to supply dispatch service together with mobile telephone service in a single system. Whether wireline telephone carriers should be allowed to enter the previously competitive dispatch business presents a number of competitive issues. Dispatch service has traditionally been provided in a very competitive environment and from all indications such should continue to be the case. Consequently, exclusion of the wireline carriers from the dispatch market would not deprive dispatch customers of the benefits of competition. The advantages adherent in the telephone service monopoly enjoyed by the wireline carriers vis-a-vis potential competitors in other communications services are competitively significant. The need to avoid cross-subsidization which would burden the customers of the monopoly service and disadvantage competitors is a concern with which the Commission is all too familiar. The same is true with respect to interconnection, or access, problems. Moreover, the competitive concern with allowing wireline telephone companies to enter into the previously competitive dispatch market is exacerbated in the present case because it appears that the foreseeable near-term demand for dispatch service will far exceed the demand for mobile telephone service. Thus, there is a justifiable concern that the wireline carriers, if authorized to provide a dual system, would concentrate upon dispatch rather than the mobile telephone service which is more closely related to the monopoly telephone service.

In view of the above, the Commission could conclude that (a) denying the wireline carriers access to the dispatch market would not deprive dispatch customers of the benefits of competition, and (b) allowing wireline carriers to provide dispatch service would raise serious anticompetitive dangers, the mitigation of which could only be assured by a considerable expenditure of Commission resources. Such findings would justify a Commission conclusion that the public interest would be best served by excluding the wireline carriers from the dispatch business.

Generally, we believe that competition is best served by exclusion of the wireline carriers from markets where others are capable of providing service on a competitive basis. It therefore follows that entry by such carriers, with attendant regulation, should be permitted only upon the clearest showing that allowing wireline carriers to provide mobile telephone and ancillary dispatch service in a single, unitary system would provide significant economies not achievable by other means and could be expected to foster price and technological competition in the dispatch business. Only if such a showing is made should the Commission approve such a system. In adopting such a decision, however, the Commission should indicate that it intends to apply harsh sanctions to any wireline carrier it finds engaging in anticompetitive practices.

Irrespective of whether the Commission authorizes wireline carriers to provide dispatch services, the Commission should insure that other providers of land mobile services are allowed to interconnect with the fixed telephone plant on a reasonable and nondiscriminatory basis. It is a basic tenet of antitrust law that a monopolist may not refuse to deal with other parties where the effect of such refusal may be to expand or preserve the monopolist's power. *Otter Tail Power Co.* v. *United States,* 410 U.S. 366 (1973); *Eastman Kodak Co.* v. *Southern Photo Materials Co.,* 273 U.S. 359 (1927). The Commission has recognized the desirability of insuring reasonable interconnection to the telephone network in other situations in which the wireline carriers may be viewed as competitors of parties which need to interconnect in order to compete. *Domestic Satellite Decision, supra,* at p. 1955; and *Allocation of Frequencies in the 150.8–162 Mc/s Band,* Docket No. 16778, 12 FCC 2d 841 (1968). *Cf., Carterfone,* 13 FCC 2d 420 (1968).

In addition to adopting a policy which would stimulate competition in the efficient



V 38 I 188 SEP 28 73 XUM

utilization of land mobile resources, the Commission should also seek to preserve the opportunity for competition in mobile equipment manufacturing and equipment related markets. Competition in the equipment markets would provide system operators and individual users the substantial benefits (in terms of rapid equipment innovation, more responsive services and lower prices) generally resulting from competition.

We note that AT&T has indicated its intent to provide only the shared equipment portion of its proposed systems and to depend on general trade sources for development and manufacture of mobile units. (*AT&T Comments*, December 20, 1971, p. 3). If the Commission authorizes wireline carriers *General Telephone Company of Southwest v. United States*, 449 F.2d 846, at 860–861 (5th Cir. 1971).

Certain of the RCCs have expressed concern over having to rely upon supplier equipment manufacturers which are competing with the RCCs in providing mobile services. The RCCs have indicated concern over possible discrimination with respect to obtaining needed equipment and other types of anticompetitive practices. Attempts by equipment manufacturers which are providing land mobile services to impede the competitive efforts of other providers of service through discrimination in equipment supply would raise serious antitrust questions. As a result, we believe that the Commission should make it clear that evidence of discrimination in equipment supply or other types of anticompetitive activity by equipment manufacturers operating systems will be subject to severe Commission sanctions including license revocation.

We hope that these comments will assist the Commission in developing an efficient and competitive mobile land communications system and request that this letter be made part of the public record in this proceeding.

Sincerely yours,

THOMAS E. KAUPER,
*Assistant Attorney General,*
*Antitrust Division.*

[FR Doc.73-20718 Filed 9-27-73;8:45 am]

## [ 47 CFR Part 73 ]

[Docket No. 19827; FCC 73-980]

## FM BROADCAST STATIONS

### Proposed Table of Assignments, Certain Cities in South Carolina

*Notice of proposed rulemaking and order to show cause.* In the matter of Amendment of § 73.202(b), *Table of assignments*, FM Broadcast Stations. (Lake City, Mullins, and Kingstree, South Carolina), Docket No. 19827, RM-2065.

1. Notice of proposed rulemaking is hereby given concerning proposed amendment of the FM Table of Assignments (§ 73.202(b) of the Commission's rules and regulations) with respect to the petition of Coastline Broadcasting Company (Coastline), licensee of AM Station WJOT (daytime-only), Lake City, South Carolina, proposing the assignment of either Channel 296A or 261A as a first FM assignment to that community.

2. Lake City (population 6,247) is located in Florence County (population 89,438).[1] All other aural service in the county is at the county seat, the city of Florence (population 25,997); this consists of AM Stations WYNN (daytime-only), WOLS, and WJMX, and FM Station WSTN.

3. In support of the petition, Coastline asserts that Lake City and its environs merit a first local nighttime service. Coastline specifically mentions lack of local nighttime radio service to the Lake City and Scranton Divisions with a total population of 11,762 which "adjoin" Lake City; the former has a total population of 8,479 (which includes Lake City), and the population of the latter is 3,283. Petitoner states that the population increase of Lake City and Florence County over 1960 (as contrasted to losses generally in the Sixth Congressional District) is due to the transition from an agricultural to an industrial economy. We are told that during recent years Wentworth Manufacturing Company, Talon, Inc., and A. B. Dick have commenced manufacturing operations in or near Lake City.

4. Coastline proposes two alternatives to assign an FM channel to Lake City. One would substitute Channel 252A for 261A at Kingstree, which is occupied by Station WDKD-FM, licensed to Santee Broadcasting Co., Inc. (Santee), and assign Channel 261A to Lake City. The other calls for the deletion of Channel 296A, the only channel assignment at Mullins, population 6,006, located in Marion County, population 30,270, and reassignment of that channel to Lake City; apparently there is no substitute channel available for Mullins. Objections have been filed to both proposals. Mullins & Marion Broadcasting Co. (MMB), licensee of daytime AM Station WJAY at Mullins, filed informal comments objecting to the Channel 296A proposal on the ground that there is need for an FM station at Mullins and that it could provide diversification in programming in a growing area. MMB stated it had been considering applying for the channel to provide nighttime aural service at Mullins; since then, it has filed an application for it (see BPH-8340). Santee, also the licensee of daytime-only AM Station WDKD at Kingstree, filed comments addressed primarily to the issue of reimbursement. It also contended that it should not be required to change its channel absent a compelling public interest determination.

5. The geographical relationship of the cities to each other is relevant. Also pertinent is information about the aural broadcasting service. Florence County is located in the east central portion of South Carolina. Lake City is in the south central portion of the county and is about 23 miles south of the city of Florence.[2] Lake City is also about 15 miles north of Kingstree (in Williamsburg County), and 36 miles southwest of Mullins (in Marion County). Mullins is roughly 29 miles east of Florence. Williamsburg County (population 34,243) has three aural broadcast stations—daytime AM Station WKYB at Hemingway (population 1,026) and Santee's AM-FM operation at Kingstree (population 3,381). In Marion County (population 30,270) in addition to Station WJAY at Mullins, Stations WATP (daytime-only) and WATP-FM are licensed to the city of Marion (population 7,435) which is about 9 miles west of Mullins and 20 miles east of Florence. Coastline's engineering consultant contends that if WDKD-FM at Kingstree and WATP-FM at Marion operated at full facilities Lake City would be completely within the 1 mV/m contour of WDKD-FM and Mullins would receive community grade service from WATP-FM; at present, it is claimed that WDKD-FM covers one-third of the Lake City urbanized area with a 1 mV/m or better service and WATP-FM provides a community grade signal to a small part of Mullins and the remainder with a signal of 2.25 mV/m or better.

6. As already noted, Santee's comments were limited to the issue of reimbursement. Coastline filed a reply to Santee's comments. Santee, relying on *Kenton and Bellefontaine*, 3 F.C.C. 2d 598, 605 (1966), and *Ashland and Roanoke*, 26 F.C.C. 2d 448, 451 (1970), urges that reimbursement is not limited to strictly engineering items, and in this vein it lists various amounts for promotional and advertising costs for the new channel to achieve identification comparable with that attained by seven years of operation on Channel 261A, and for legal costs for participating in this proceeding and for preparation of a modification application. It estimates that the total cost for changing its channel assignment, including new equipment, would be not less than $25,000, based on 1972 prices, and states that therefore the Commission "should explicity set • • • a minimum of $25,000 • • • as a condition precedent to the grant of the construction permit" on Channel 261A at Lake City. Coastline argues that Santee's proposal in this respect is "novel", that many of the monetary claims are defective because based on an unsupported statement of an attorney and otherwise lacking in merit, that the engineering estimates do not consider trade-in value and are otherwise deficient, that the amounts are "puffed", and that Santee's contentions in this respect are antithetical to the very decisions Santee relies on.

7. An adequate showing has been made to consider the possible assignment of a first FM channel to Lake City, South Carolina. In this respect, we must exclude from consideration Coastline's proposal to assign Channel 296A to Lake City because it would deprive Mullins of its only FM channel and the opportunity for a first nighttime aural service of its own. The Channel 261A alternative appears feasible from both technical and policy viewpoints; the assignments of Channel 261A to Lake City and Channel 252A to Kingstree, respectively, comport with mileage requirements, and there is no preclusion.[3]

8. As mentioned above, the Kingstree proposal involves reimbursement to an existing station to change its channel assignment. Indeed, the licensee, Santee, is primarily concerned with that issue. It is well-settled Commission policy that when a change in the FM Table of Assignments is made which requires an operating station to change frequency, the licensee is entitled to reimbursement. It is equally clear that the right to reimbursement is circumscribed. See, e.g., *Elizabethtown*, 26 F.C.C. 2d 162, 166 (1970); *Greensburg, Burnside, and Jamestown, and Oak Ridge*, 32 F.C.C. 2d 937, 939, 942–3 (1972), and decisions cited. The principles are well stated in the *Ashland and Roanoke* decision cited by Santee. Reimbursement is to be made by the successful permittee of the Lake City channel should we decide the public interest, convenience, and necessity would be served by substituting Channel 252A for Channel 261A at Kingstree and assigning Channel 261A to Lake City. In the circumstances, as stated in that decision, it is premature to consider the issue at this juncture. We also pertinently there stated that

> we are leaving the matter of determining the appropriate costs to the *good faith judgment* of the interested parties subject to Commission approval in the event of disagreement." (Emphasis in original; 26 F.C.C. 2d at 451).

We have discussed reimbursement at some length in order to put Santee on notice that the right to reimbursement is a restricted one, and that, if there is a change of the channel assignment at Kingstree, it is expected that Santee and any permittee for Channel 261A at Lake City will deal with each other in good faith in this respect. For the moment, it suffices to say that Santee's claim for promotional and advertising costs, and legal and engineering consulting fees, seems overstated; see *Circleville*, 8 F.C.C. 2d 159, 163–4 (1967).

9. In view of the foregoing, and pursuant to authority found in sections 4(i), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, it is proposed to amend § 73.202(b) of the Commission's rules and regulations, the FM Table of Assignments, as concerns possible assignment of a channel to Lake City, South Carolina, as follows:

| City | Channel No. | |
|---|---|---|
| | Present | Proposed |
| Kingstree, S.C. | 261A | 252A |
| Lake City, S.C. | | 261A |

10. *It is ordered*, That the petition of Coastline Broadcasting Company in all other respects is denied.

11. *It is further ordered*, That, pursuant to Section 316 of the Communications Act of 1934, as amended, and with the understanding that it will receive reasonable reimbursement of expenses incurred in changing the channel on which it operates, the following licensee shall SHOW CAUSE why its license SHOULD NOT BE MODIFIED to specify operation on Channel 252A, as proposed herein, instead of Channel 261A:

| Station | Location | Licensee |
|---|---|---|
| WDKD-FM | Kingstree, S.C. | Santee Broadcasting Co. |

Pursuant to § 1.87(b) of the Commission's rules and regulations, the licensee of Station WDKD-FM may, not later than November 2, 1973, request that a hearing be held on the proposed modification. Pursuant to § 1.87(f), if the right to request a hearing is waived, Santee may, not later than [same date as above], 1973, file a written statement showing with particularity why its license should not be modified or not so modified as proposed in the Order to Show Cause. In this case, the Commission may call on Santee to furnish additional information, designate the matter for hearing, or issue without further proceeding an order modifying the license as proposed in the Order to Show Cause. If the right to request a hearing is waived and no written statement is filed by the date referred to above, Santee will be deemed to consent to the modification as proposed in the Order, to Show Cause and a final order will be issued by the Commission.

12. *Showings required.* Comments are invited upon the proposal referred to above. Petitioner should also affirm its intention to apply for the channel if assigned and to promptly build on it if the application is granted. Failure of the petitioner to file comments or address the issues raised may result in dismissal.

13. *Cut-off procedure.* The following procedures will govern:

(a) Counterproposals advance in this proceeding itself will be considered if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments.

(b) With respect to petitions for rule making which conflict with the proposal in this Notice, they will be considered as comments in this proceeding, and Public Notice to that effect will be given, as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision herein.

14. Pursuant to applicable procedures set out in Section 1.415 of the Commission's rules and regulations, interested parties may file comments on or before November 2, 1973, and reply comments on or before November 12, 1973. All submissions by parties to this proceeding or persons acting on behalf of such parties, shall be made in written comments, reply comments, or other appropriate pleadings.

15. In accordance with the provisions of Section 1.419 of the Commission's Rules and Regulations, an original and 14 copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its Headquarters, 1919 M Street, N.W., Washington, D.C.

Adopted September 19, 1973.

Released September 24, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[4]
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

[FR Doc.73-20715 Filed 9-27-73;8:45 am]

[Docket No. 19715]

## [ 47 CFR Part 73 ]

## ASCERTAINMENT OF COMMUNITY PROBLEMS BY BROADCAST APPLICANTS

### Order Extending Time To File Reply Comments

In the matter of ascertainment of community problems by broadcast applicants; Part 1, Sections IV-A and IV-B, of broadcast application forms, and Primer thereon; Docket No. 19715.

1. Comments in this proceeding were due on September 4, 1973; and reply comments are due on October 1, 1973.[1]

2. A number of comments were submitted after September 4th. Moreover, Action for a Better Community, Inc. was granted permission to file its comments no later than September 14, 1973. Thus, the time in which to reply to those particular comments has been eroded.

3. The Commission believes that the fair and equitable course under the circumstances is to extend the time for filing reply comments in this proceeding and that such extension would serve the public interest.

4. *Accordingly, it is ordered*, On the Commission's own motion, that the time for filing reply comments in this proceeding is extended to, and including, October 19, 1973.

5. This action is taken pursuant to authority contained in sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and §§ 1.45(e),

[1] All population information is from the 1970 Census.

[2] As noted in para. 2 above, four aural stations are in operation there (three AM and one FM).

[3] Coastline's engineer points out that whatever preclusion would occur by assigning Channel 261A to Lake City already exists by virtue of its assignment to Kingstree.

[4] Commissioner Robert E. Lee absent; Commissioner Reid concurring in the result.

[1] Notice of inquiry in this matter was published at 38 FR 8190 (March 29, 1973); Extensions of Time for Filing Comments and Reply Comments were published at 38 FR 14709 (June 4, 1973) and 38 FR 20275 (July 30, 1973).







V 38 N 188 SEP 28 73 XUM

1.46 and 0.281(d)(8) of the Commission's rules and regulations.

Adopted September —, 1973.

Released September —, 1973.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] WALLACE E. JOHNSON,
*Chief, Broadcast Bureau.*

[FR Doc.73-20717 Filed 9-27-73;8:45 am]

## NATIONAL MEDIATION BOARD

**[ 29 CFR Parts 1201, 1203, 1207 ]**

### ADMINISTRATIVE FEES

**Deferral of Proposed Imposition**

On August 6, 1973 (38 FR 21186) the National Mediation Board (pursuant to 45 U.S.C. 151-163, 13 FR 8740 and 36 FR 12451) published in the FEDERAL REGISTER proposed rules regarding the imposition of an administrative fee for the appointment of neutrals pursuant to the provisions of section 3 of the Railway Labor Act.

These proposed rules made provision for the receipt of comments, suggestions or objections which were to be received by September 6, 1973. At the present time, all comments received have unanimously opposed the imposition of the proposed administrative fee.

After further review, the National Mediation Board defers indefinitely the proposal to impose administrative fees for the appointment of neutrals pursuant to the provisions of section 3 of the Railway Labor Act.

ROWLAND K. QUINN, JR.,
*Executive Secretary.*

[FR Doc.73-20725 Filed 9-27-73;8:45 am]

## SECURITIES AND EXCHANGE COMMISSION

**[ 17 CFR Part 210 ]**

[Release Nos. 33-5421, 34-10382, 35-18090, 40-7989]

### FORM AND CONTENT OF FINANCIAL STATEMENTS

**Improved Disclosure of Income Tax Expense; Extension of Time for Comments**

On December 18, 1972, the Commission published in Securities Act Release No. 5344 (Securities Exchange Act Release No. 9915, Public Utility Holding Company Act Release No. 17818, Investment Company Act Release No. 7468 [38 FR 1748]) proposed amendments to Rule 3-16(o) [17 CFR 210.3-16(o)], Income tax expense, of Regulation S-X [17 CFR 210].

A large number of helpful comments on the proposal were received which have been carefully considered. On the basis of the comments and further consideration of the matters involved, the Commission has effected a number of substantive revisions in the proposed amendment and is therefore publishing the revised proposal for comment by interested persons. In view of the length of time the proposal has been under consideration and the extensive consideration it has received, the Commission believes that a limited period of time should be adequate for the submission of additional comments.

The revised proposal specifies requirements for more detailed disclosure of the components of income tax expense and for improved disclosure of the reasons why Federal income tax expense differs from the amount calculated by multiplying the Federal statutory income tax rate applicable to the reporting person by the income before taxes.

The previous proposal called for disclosure of the extent to which new deferrals are offset by the reversal of prior deferrals. Comments received indicated that this requirement would not achieve the stated objective of enabling users of financial statements to ascertain the current and prospective cash drain associated with payment of income taxes. In addition, it was pointed out that many companies determined the deferred tax provision on a net basis and the separate identification of deferrals and reversals would be difficult. Accordingly, the Commission has determined to eliminate the requirement that new deferrals and reversals of prior deferrals be shown separately. In its place, to accomplish the objective stated, the Commission hereby proposes to require that disclosure be made of the extent to which the net deferral on the year-end balance sheet is estimated to flow into income tax expense in each of the following five years on the basis of the facts recorded at the balance sheet date. This calculation should be made without assuming the purchase of new assets which might give rise to new deferrals but should include new deferrals that would arise from the excess of tax over book depreciation in subsequent years in connection with assets owned at the balance sheet date.

In addition, the proposed rule calls for the presentation of a reconciliation between the amount of total income tax expense and the amount computed by multiplying income before tax by the applicable statutory Federal income tax rate, showing the dollar amount of each significant underlying cause of the difference. Such a difference might arise from income which is nontaxable or taxed at capital gains rates, investment tax credits, favorable domestic or foreign tax rates, percentage depletion or other causes. This disclosure is designed to enable users of financial statements to distinguish between one-time and continuing tax advantages enjoyed by a company and to appraise the significance of changing effective tax rates.

Comments on the original proposal pointed out that the proposed requirement might call for excessively detailed disclosure and mentioned a number of other technical problems. Accordingly, the revised proposal calls for disclosure of individual reconciling items only if such an item exceeds five percent of the amount computed by multiplying the income tax rate by income before tax and indicates that a reconciliation will be required only if individual amounts are included which exceed five percent or if the aggregate difference to be reconciled is greater than five percent of the computed amount or if the reconciliation is significant in appraising the trend of earnings. The detailed quantitative tests relating to trend have been eliminated.

The proposal also permits the presentation of a reconciliation in percentage terms instead of dollar terms and the use of foreign income tax rates for foreign reporting persons.

Inasmuch as certain of the requirements under this rule relate also to Rule 5-02-35 [17 CFR 210.5-02-35], *Deferred credits*, that rule would be amended to include a cross-reference.

In order to clarify the proposed rule, an example of the disclosure required is attached as an exhibit to this release.

*Commission action.* The Commission hereby proposes to amend the following sections of Part 210 of Chapter II of Title 17 of the Code of Federal Regulations, and as so amended they read as follows:

It is therefore proposed to revise § 210.3-16(o) to read as follows:

**§ 210.3-16 General notes to financial statements.**

* * * * *

(o) *Income tax expense.* Disclosure shall be made, in the income statement or a note thereto, of the components of income tax expense, including: (1) Taxes currently payable; (2) the net tax effects, as applicable, of (i) timing differences (indicate separately the amount of the tax effects of each of the various types of timing differences, such as depreciation, research and development expense, warranty costs, etc.; items amounting to less than 15 percent of the deferred tax amount in the income statement may be combined for this purpose with an explanation of the nature of the items aggregated; in addition, indicate the amount of the net timing differences shown on the balance sheet for the most recent fiscal year end which is currently expected to be reflected as a component of tax expense reported in the income statements for each year of the following five years) and (ii) operating losses; and (3) the net deferred investment tax credits. Amounts applicable to United States Federal income taxes, to foreign income taxes and to other income taxes shall be stated separately for each component, unless the amounts applicable to foreign and other income taxes do not exceed five percent of the total for the component and a statement to that effect is made. In addition, provide a reconciliation between the amount of reported total income tax expense and the amount computed by multiplying the income before tax by the applicable statutory Federal income tax rate, showing the dollar amount of each of the underlying causes for the difference. If no individual reconciling item amounts to more than five percent of the amount computed by multiplying the income before tax by the





applicable statutory Federal income tax rate, and the aggregate difference to be reconciled is less than five percent of such computed amount, no reconciliation need be provided unless it would be significant in appraising the trend of earnings. Individual items less than five percent of the computed amount may be aggregated in the reconciliation with an explanation of the nature of the items contained in the aggregate amount. The reconciliation may be prepared in tax rate percentages rather than in dollar amounts. Where the reporting person is a foreign entity, the income tax rate in that person's country of domicile should normally be used in making the above computation, but different rates should not be used for subsidiaries or other segments of a reporting entity. If the rate used by a reporting person is other than the United States Federal corporate income tax rate, the rate used and the basis for using such rate shall be disclosed.

It is proposed to amend § 210.5-02 as follows:

* * * * *

**§ 210.5-02 Balance sheets.**

* * * * *

OTHER LIABILITIES AND DEFERRED CREDITS

* * * * *

35. *Deferred credits.*—State separately amounts for (a) deferred income taxes, (b) deferred tax credits, and (c) material items of deferred income. The current portion of deferred income taxes shall be included under § 210.5-02-35 (see Accounting Series Release No. 102 [30 FR 15240]). (See also § 210.3-16(o).)

* * * * *

The foregoing proposed amendments would be adopted pursuant to sections 6, 7, 8, 10 and 19(a) of the Securities Act of 1933; sections 13, 15(d) and 23(a) of the Securities Exchange Act of 1934; sections 5(b), 14 and 20(a) of the Public Utility Holding Company Act of 1935; and sections 8, 30, 31(c) and 38(a) of the Investment Company Act of 1940.

All interested persons are invited to submit their views and comments on the foregoing proposals to amend Rule 3-16(o) of Regulation S-X in writing to Secretary, Securities and Exchange Commission, Washington, D.C. 20549, on or before October 31, 1973. Such communications should refer to File S7-495. All such communications will be available for public inspection.

By the Commission.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

SEPTEMBER 12, 1973.

EXHIBIT

The following example of the disclosure required under proposed Rule 3-16(o) is provided to assist registrants in appraising the proposal and in complying with it.

I. The following facts apply to a hypothetical business corporation for the calendar year 1973 (all figures in thousands):

Income before tax—$15,000.

(1) Assets purchased at the beginning of 1973 at a cost of $10,000, eight year life, double declining balance depreciation for tax purposes, straight line on books, eligible for investment credit.

(2) Research costs of $3,000 deducted on tax return but amortized over following two years for book purposes.

(3) Warranty reserve of $1,400 provided for book purposes is not deductible for tax purposes until warranty costs are incurred. The warranty period covers the next two years; $400 of warranty cost is expected to be incurred next year and $1,000 in the following year.

(4) Income before taxes includes $2,000 related to construction-type contracts still in process which are accounted for on the percentage of completion method for book purposes and on the completed contract method for tax purposes. It is expected that such contracts will be completed next year.

(5) Amortization of goodwill of $800 is not deductible for tax purposes.

(6) Income before taxes includes $1,800 which represents the net income of a wholly owned foreign subsidiary in a country with no income tax that is expected to indefinitely invest its undistributed earnings.

(7) Investments sold during the year resulted in a gain of $1,000, which is taxed at capital gain rates.

(8) Included in income is $1,500 of interest on tax exempt municipal bonds.

(9) State income taxes amounted to $400.

II. *Illustrative note.*

NOTE.—Income tax expense (all data in thousands).

Income tax expense is made up of the following components:

| | U.S. Federal | State income tax | Total |
|---|---|---|---|
| Taxes currently payable | $2,600 | $400 | $3,000 |
| Deferred tax expense | 2,328 | 0 | 2,328 |
| Total | 4,928 | 400 | 5,328 |

Deferred tax expense results from timing differences in the recognition of revenue and expense for tax and financial statement purposes. The sources of these differences in 1973 and the tax effect of each were as follows:

| | |
|---|---|
| Excess of tax over book depreciation | $600 |
| Research and development costs expensed on tax return and deferred on books | 1,440 |
| Revenue recognized on completed contract basis on tax return and on percentage of completion basis on books | 960 |
| Warranty cost charged to expense on books but not deductible until paid | (672) |
| | 2,328 |

At December 31, 1973, deferred taxes on the balance sheet amounted to $2,328[1]. This amount will be reflected as a component of tax expense in subsequent years as timing differences are reversed. The estimated amount to be reflected in each of the next five years is as follows: 1974—$1,188; 1975—$165; 1976—$94; 1977—$220; 1978—$315. In the absence of new deferrals in these years, the cash outflow for taxes will exceed tax expense by such amounts.

Total tax expense amounted to $5,328 (an effective rate of 35.5%), a total less than the amount of $7,200 computed by applying the U.S. Federal income tax rate of 48% to income before tax. The reasons for this difference are as follows:

[1] For purposes of this example, it was assumed that there were no prior year timing differences which existed at December 31, 1972. If prior differences existed, the balance sheet amount would naturally not agree with the current year's deferred tax expense figure.

| | Amount | Percent of pretax income |
|---|---|---|
| Computed "expected" tax expense | $7,200 | 48.0 |
| Increases (reductions) in taxes resulting from: | | |
| Foreign income not subject to foreign income tax and not expected to be subject to U.S. tax in foreseeable future | (864) | (5.8) |
| Tax exempt municipal bond income | (720) | (4.8) |
| Investment tax credit on assets purchases in 1973 | (700) | (4.6) |
| Goodwill amortization not deductible for tax purposes | 384 | 2.5 |
| State income taxes, net of Federal income tax benefit (2) | 208 | 1.4 |
| Benefit from income taxed at capital gains rate (3) | (180) | (1.2) |
| Actual tax expense | 5,328 | 35.5 |

III. *Computational guide.* (Furnished only to enable interested parties to determine source of numbers shown in above illustrative note; not to be required of registrants in filings.)

*A. Tax computations*

| | |
|---|---|
| Book income before tax | $15,000 |
| State income tax | (400) |
| Permanent differences: | |
| Goodwill amortization | 800 |
| Municipal bond income | (1,500) |
| Foreign income, no income tax | (1,800) |
| Capital gain | (1,000) |
| Income for calculating tax expense | 11,100 |
| Timing differences: | |
| Excess depreciation | (1,250) |
| R. & D. deducted on tax return | (3,000) |
| Warranty cost not deductible until paid | 1,400 |
| Percentage of completion income | (2,000) |
| Taxable income (excluding capital gain) | 6,250 |
| Tax to be paid .48×6,250 | 3,000 |
| Plus capital gain tax .30×1,000 | 300 |
| Less investment credit | (700) |
| Actual tax paid | 2,600 |
| Tax expense .48×11,100 | 5,328 |
| Plus capital gain tax | 300 |
| Less investment credit | (700) |
| Tax expense—Federal | 4,928 |
| State income tax | 400 |

[3] Since these amounts are less than 5 percent of the computed "expected" tax expense, they could be combined with any other items less than $360 into an aggregate total with an explanation of the items contained in the aggregate amount. If no single item had exceeded $360 in this case and the aggregate net difference of all items was also less than $360, this reconciliation would not have been required.

*B. Computations of disclosure limits per Rule 3-16(o)*

Computed amount 15,000×.48=7,200
5 percent of computed amount .05×7,200=360
15 percent of deferred tax .15×2,328=349



V 38-188 SEP 28 73 XUM

*C. Calculations of reversal of deferred tax on year-end balance sheet*

| | 1974 | 1975 | 1976 | 1977 | 1978 |
|---|---|---|---|---|---|
| Depreciation: | | | | | |
| Book | 1,250 | 1,250 | 1,250 | 1,250 | 1,250 |
| Tax | 1,875 | 1,406 | 1,055 | 791 | 593 |
| | 625 | 156 | (196) | (459) | (657) |
| R & D: | | | | | |
| Book | 1,500 | 1,500 | | | |
| Tax | 0 | 0 | | | |
| | (1,500) | (1,500) | | | |
| Warranty: | | | | | |
| Book | 0 | 0 | | | |
| Tax | 400 | 1,000 | | | |
| | 400 | 1,000 | | | |
| Percentage of completion: | | | | | |
| Book | 0 | | | | |
| Tax | 2,000 | | | | |
| | (2,000) | | | | |
| Total reversal | (2,475) | (344) | (195) | (459) | (657) |
| × .48 | 1,188 | 165 | 94 | 220 | 315 |

[FR Doc.73-20545 Filed 9-27-73;8:45 am]

## [ 17 CFR Parts 210, 249 ]

[Release Nos. 33-5420, 34-10381, 35-18089, 40-7988]

## FINANCIAL STATEMENTS OF LIFE INSURANCE COMPANIES

### Form and Content and Certification

Notice is hereby given that the Securities and Exchange Commission has under consideration a general revision of the requirements of its Regulation S-X (17 CFR Part 210) concerning form and content of financial statements of life insurance companies and removal of the exemption from certification of financial statements of these companies presently provided in Forms 10 (17 CFR 249.210) and 10-K (17 CFR 249.310) under the Securities Exchange Act of 1934 (1934 Act).[1]

The proposed revision to the accounting requirements for life insurance companies is effected by a complete revision of Article 7A (17 CFR 210.7A-01—7A-06)[2] and related schedules in Article 12 (17 CFR 210.12-01—12-43) of Regulation S-X. The proposed revision reflects developments in accounting practice during the past 10 years, including the recent publication of an Audit Guide for life insurance companies by the American Institute of Certified Public Accountants. The Audit Guide establishes guidelines for the preparation of life insurance company financial statements which are in accordance with generally accepted accounting principles (GAAP). The proposed revision represents a significant departure from the present Article 7A which specifies that life insurance company financials generally follow the statutory accounting requirements prescribed for the Annual Statements filed by these companies with state insurance commissions.

The most significant change in the proposed revision is the requirement that the financial statements be prepared in accordance with generally accepted accounting principles (7A-02-1). Provision is made that a company may follow statutory accounting requirements only if the statutes of its state of domicile prohibit publication of its primary financial statements on a basis other than in accordance with such requirements; however, in such event the statutory financial statements shall be accompanied by supplemental GAAP statements (7A-02-2). Under either of the foregoing alternatves the financial statements must be accompanied by supplemental reconciliations of material differences between statutory accounting requirements and GAAP (7A-02-3).

Wherever appropriate, captions and instructions have been brought into conformance with corresponding captions of Article 5 of Regulation S-X (17 CFR 210.5-01—5-04) which applies to commercial and industrial companies. It is also made clear that, to the extent they are pertinent, the general rules in Articles 1, 2, 3, and 4 of Regulation S-X (17 CFR 210.1-01—1-02, 210.2-01—2-05, 210.3-01—3-16, 210.4-01—4-09) are applicable to life insurance financial statements (7A-02-1). In addition, the proposed revision should also be considered in connection with preparation of financial statements of life insurance holding companies (7A-01).

The following are additional requirements which are more specific in nature:

1. The name of any person in which the investment exceeds one percent of total investments (7A-03-6).

2. Information as to policy, nature and changes in deferred policy acquisition costs (7A-03-6, 7A-04-7, 7A-05-1 and Schedule IV).

3. Reporting of aggregate amounts in separate accounts as single items of assets and liabilities (7A-03-9 and 19).

4. Disclosure of unappropriated retained earnings in excess of statutorily determined retained earnings in the stockholders' equity section of the balance sheet [7A-03-22(d)].

5. A statement as to accounting principles (7A-05-1).

6. Details of restrictions on stockholders' equity (7A-05-2).

7. Revision of requirement relating to income tax disclosure (7A-05-3).

8. An analysis of investment gains for the period consisting of a statement comparing realized and unrealized gains or losses on investments in bonds and stocks and notes (7A-05-4).

9. Detailed schedules of bonds, stocks, mortgage loans and real estate, and a summary of realized gains or losses on sale of investments will no longer be required. The schedules requiring a summary of investments (12-27) and details of future policy benefits and insurance in force (12-31) have been completely revised. A schedule has been added to provide details of deferred policy acquisition costs (12-31A).

In a release issue on May 17, 1971,[3] the Commission proposed amendment of certain rules and forms to delete the then existing exemptions from certification applicable to financial statements of banks and life insurance companies.[4] Subsequently, in July 1971 the exemption for banks was deleted with regard to financial statements dated subsequent to November 30, 1971. The exemption for life insurance companies was retained so that the accounting profession, in collaboration with the industry, could complete work then under way towards developing and promulgating accounting guidelines for life insurance companies which would enable their financial statements to be certified in accordance with generally accepted accounting principles. With the issuance of the Audit Guide, it is now proposed to amend Instructions 13 and 7 of Instructions as to Financial Statements in Forms 10 and 10-K, respectively, to indicate that statements filed for life insurance companies are to be exempt from certification only as to periods ending on or before November 30, 1973.

These amendments to Regulation S-X are proposed to be made pursuant to authority conferred on the Securities and Exchange Commission by the Securities Act of 1933, particularly sections 6, 7, 8, 10 and 19(a) thereof; the Securities Exchange Act of 1934, particularly sections 12, 13, 15(d) and 23(a) thereof; the Public Utility Holding Company Act of 1935, particularly sections 5(b), 14 and 20(a) thereof; and the Investment Company

[1] Regulation S-X prescribes the form and content of financial statements filed with the Commission; Form 10 is a general form for registration of securities pursuant to Section 12 of the 1934 Act; Form 10-K is a general form for annual reports filed pursuant to Section 13 or 15(d) of the 1934 Act.

[2] Article 7A was issued for public comment on August 20, 1962 [27 FR 8553], and adopted on October 6, 1964 [29 FR 14720].

[3] Securities Act Release No. 5149, Securities Exchange Act Release No. 9175 [36 FR 9668].

[4] An exemption for fire and casualty insurance companies had been removed in October 1970.





Act of 1940, particularly sections 8, 30, 31(c) and 38(a).

*Commission action:* The Commission hereby proposes to change an instruction in §§ 249.210 and 249.310, revise §§ 210.-7A-01—7A-06, 210.12-27 and 210.12-31, and add a new § 210.12-31A of Title 17 of the Code of Federal Regulations and as so amended they would read as shown in the attached text of the proposed amendments.

All interested persons are invited to submit comments on the proposals in writing to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, on or before November 2, 1973. Such communications should refer to Rule No. S7-494. All such comments will be considered available for public inspection.

By the Commission.

GEORGE A. FITZSIMMONS,
*Secretary.*

SEPTEMBER 12, 1973.

## PART 210—FORM AND CONTENT OF FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, AND INVESTMENT COMPANY ACT OF 1940

*Part 210 of this chapter (Regulation S-X).* Sections 210.7A01—7A-06, 210.12-17 and 12-31 would be revised, § 210.12-31A would be added to read as follows:

### § 210.7A-01 Application of §§ 210.7A-01—7A-06.

(a) This article shall be applicable to financial statements filed for life insurance companies.

(b) If consolidated financial statements are prepared for an insurance holding company whose consolidated subsidiaries are primarily life insurance companies, consideration shall be given to utilization of the format of the financial statements, notes and schedules prescribed in this article.

### § 210.7A-02 General requirement.

(a) Financial statements filed for a person to which this article is applicable shall be prepared in accordance with generally accepted accounting principles except as otherwise provided in this article. The general rules in §§ 210.1-01—1-02, 210.2-01—2-05, 210.3-01—3-16 and 210.4-01—4-09 shall be applicable except where they differ from those prescribed in the special rules comprising this article.

(b) A person subject to this article may follow the rules and instructions governing the definition and computation of items in Annual Statements to the regulatory authority of its state of domicile (statutory accounting requirements) only if the statutes of that state prohibit the presentation of financial statements other than in accordance with such requirements. A person who is required to follow statutory accounting requirements may make reasonable condensations as appropriate, but the amounts to be reported for net income and total stockholders' equity shall be the same as those reported for net gain from operations and total capital and surplus on the corresponding Annual Statement. Financial statements which follow statutory accounting requirements shall be accompanied by corresponding financial statements prepared in accordance with generally accepted accounting principles.

(c) All financial statements prepared for persons to which this article is applicable shall include supplemental statements reconciling material differences between (1) total capital and surplus as reported on the corresponding Annual Statement and total stockholders' equity as determined in accordance with generally accepted accounting principles and (2) net gain from operations as reported on the corresponding Annual Statement and net income or loss as determined in accordance with generally accepted accounting principles. The supplemental statements shall be in tabular form and shall contain appropriate explanations in a note or otherwise.

### § 210.7A-03 Balance sheets.

(a) Balance sheets filed for life insurance companies shall comply with the following provisions:

ASSETS AND OTHER DEBITS

1. *Investments—other than investments in affiliates.*
   (a) *Bonds and notes.*
   (b) *Preferred stocks.*
   (c) *Common stocks.*
   (d) *Mortgage loans on real estate.*
   (e) *Real estate.*
   (f) *Policy loans.*
   (g) *Other loans and investments.*
   (h) *Invested cash.*
   (i) *Total investments.*

NOTES

(1) State the basis of determining the amounts shown in the balance sheet.

(2) State parenthetically for bonds and preferred and common stocks either aggregate cost or the aggregate value based on market quotations at the balance sheet date, whichever is the alternate to the amounts at which shown in the balance sheet.

(3) State parenthetically accumulated depreciation and amortization and amount of any encumbrances deducted from investment real estate.

(4) Include under subcaption (h) share accounts in savings and loan associations, savings accounts, time deposits and other cash accounts and cash equivalents earning interest.

(5) State separately any class of investments included in subcaption (g) exceeding five percent of total assets, however, if an amount to be reported under subcaption (f), (g) or (h) is less than five percent of total assets it may be included under subcaption (g).

(6) State in a note the name of any person in which the total investment in the person and its affiliates included in the above subcaptions exceeds one percent of total investments. Indicate the amount included in each subcaption. Investments in bonds and notes of the United States Government and government agencies and authorities need not be reported.

(7) State in a note any amounts included under subcaptions (d) through (h) which have been nonincome producing for the six months preceding the balance sheet date.

2. *Cash and cash items.* State separately (a) cash on hand and demand deposits; (b) funds subject to repayment on call or immediately after the date of the balance sheet required to be filed; and (c) other funds, the amounts of which are known to be subject to withdrawal or usage restrictions, e.g., as compensating balances or special purpose funds (see § 210.5-02-1).

3. *Investments and indebtedness of affiliates and other persons.*

(a) *Investments.* State separately amounts representing investments in affiliates and investments in other persons which are accounted for by the equity method, and state the basis of determining these amounts. State separately in the registrant's balance sheet the amounts which in the related consolidated balance sheet are (1) eliminated and (2) not eliminated.

(b) *Indebtedness.* Include under this caption amounts representing indebtedness of affiliates and indebtedness of other persons the investments in which are accounted for by the equity method. State separately in the registrant's balance sheet the amounts which in the related consolidated balance sheet are (1) eliminated and (2) not eliminated.

4. *Accounts receivable.* Include under this caption (a) amounts receivable from agents, (b) uncollected premiums, and (c) other receivables stating separately any category which is in excess of five percent of total assets. State separately the balance of the allowance for doubtful accounts which was deducted. Deferred premiums shall be deducted from future policy benefits.

5. *Accrued investment income.*

6. *Deferred policy acquisition costs.* See §§ 210.7A-04-7 and 210.7A-05-1.

7. *Property and equipment.* Include under this caption the cost of real estate, furniture, fixtures and equipment used in the conduct of the insurance business and not considered as an investment. State parenthetically the accumulated depreciation and amortization deducted. The amount of any encumbrances shall be shown separately as a liability.

8. *Other assets.* State separately any other item not properly classed in one of the preceding asset captions which is in excess of five percent of total assets.

9. *Assets held in separate accounts.* Include under this caption the aggregate amount of assets funding the liabilities related to variable annuities, pension funds and similar activities. The corresponding aggregate liability shall be included under § 210.7A-03-19.

10. *Total assets and, when appropriate, other debits.*

FUTURE POLICY BENEFITS, LIABILITIES AND OTHER CREDITS

11. *Future policy benefits.* State separately liabilities for (a) life insurance; (b) accident and health insurance; (c) supplementary contracts without life contingencies; and (d) policyholders' dividend accumulations.

12. *Policy and contract claims.*

13. *Other policyholders' funds.* Include premiums paid in advance, premium deposit funds, and dividends to policyholders declared and unpaid and amounts estimated for payment in the following year. State separately any material amounts.

14. *Notes payable.* State here or in a note the information required under § 210.5-02-29. Show separately any amount owed to affiliates.

15. *Indebtedness to affiliates and other persons.* Include under this caption amounts representing indebtedness to affiliates and indebtedness to other persons the investments



V 38-188
SEP 28 73
XUM

in which are accounted for by the equity method. State separately in the registrant's balance sheet the amounts which in the related consolidated balance sheet are (a) eliminated and (b) not eliminated.

16. *Accrued income taxes.* State separately the amount of (a) income taxes payable and (b) deferred income taxes.

17. *Other liabilities.* State separately any other item not properly classed in one of the preceding liability captions which is in excess of five percent of total liabilities.

18. *Undistributed earnings on participating business.* State the amount of earnings which are required to be allocated to policyholders. Exclude dividends included above under caption 13.

19. *Liabilities related to separate accounts.*

20. *Commitments and contingent liabilities.* See §§ 210.3-16(l) and 210.7A-05-6.

STOCKHOLDERS' EQUITY

21. *Capital shares.* State for each class of shares the title of issue, the number of shares authorized, the number of shares issued or outstanding, as appropriate (see §§ 210.3-14 and 210.3-15), and the dollar amount thereof, and, if convertible, the basis of conversion [see also § 210.3-16(f)(3)]. Show also the dollar amount, if any, of capital shares subscribed but unissued, and show the deduction of subscriptions receivable therefrom. Show here, or in a note or statement referred to herein, the changes in each class of capital shares for each period for which an income statement is required to be filed.

22. *Other stockholders' equity.* (a) Separate captions shall be shown for:

(1) Paid-in additional capital.

(2) Other additional capital.

(3) Unrealized appreciation or depreciation of investments.

(4) Retained earnings.

(i) Appropriated.

(ii) Unappropriated.

(b) If undistributed earnings of unconsolidated subsidiaries and 50 percent or less owned persons are included, state the amount in each category parenthetically or in a note referred to herein.

(c) Include in subcaption (a)(4)(i) above or in a note, the purpose for which retained earnings have been appropriated.

(d) State parenthetically at caption (a)(4)(ii) the amount, if any, by which unappropriated retained earnings exceeds retained earnings determined in accordance with statutory accounting requirements.

(e) For a period of at least 10 years subsequet to the effective date of a quasi-reorganization, any description of retained earnings shall indicate the point in time from which the new retained earnings dates and for a period of at least three years shall indicate the total amount of the deficit eliminated.

(f) A summary of each account under this caption setting forth the information prescribed in § 210.11-02 shall be given for each period for which an income statement or summary of operations is being filed.

23. *Total future policy benefits, liabilities, other credits and stockholders' equity.*

### § 210.7A-04 Income statements.

Income statements filed for life insurance companies shall comply with the following provisions:

PREMIUMS AND OTHER REVENUE

1. *Premiums.* State separately the amount arising from (a) life insurance; (b) accident and health insurance; and (c) considerations for supplementary contracts.

2. *Investment income.*

(a) *Investment income.*

(1) *Interest on bonds.*

(2) *Dividends.* State separately dividends from (i) preferred stocks, (ii) common stocks and (iii) stocks of affiliates. Exclude from this caption dividends from investments in both affiliates and persons which are accounted for by the equity method.

(3) *Interest on mortgage loans.*

(4) *Real estate income.*

(5) *Other investment income.* State separately any material amounts.

(6) *Total investment income.*

(b) *Investment expense.* Include taxes, depreciation and other expenses on investment real estate. State separately any item of expense which is in excess of five percent of total investment income.

(c) *Net investment income.*

3. *Other income.* State sepraely any material amounts indicating clearly the nature of the transactions out of which the items arose.

BENEFITS AND EXPENSES

4. *Death and other benefits.* State separately benefits for (a) life insurance; (b) accident and health insurance; and (c) other contracts.

5. *Increase in future policy benefits.* State separately provision for liabilities for (a) life insurance; (b) accident and health insurance; and (c) other contracts.

6. *Provisions for policyholers' share of earnings on participating policies.*

7. *Amortization of deferred policy acquisition costs.* (a) Include under this caption only the amount of deferred policy acquisition costs amortized to income during the period.

(b) State in tabular form in a note for (1) life insurance and (2) accident and health insurance, the nature of the costs deferred, the method and term of amortization and the amounts of (i) acquisition costs deferred, (ii) amortization charged to income, (iii) first year premiums written, and (iv) renewal premiums. State separately any amount which is in excess of 15 percent of the total amount deferred during each period covered by an income statement indicating the nature of the amount, e.g., commissions, salesmen's salaries, direct mail selling expenses and issue expenses (see § 210.7A-05-1).

8. *Other operating costs and expenses.* Include all selling, general and administrative expenses not deferred as policy acquisition costs. State separately any material amounts. Do not include income taxes under this caption.

9. *Income or loss before income tax expense and appropriate items below.*

10. *Income tax expense.* Include under this caption only taxes based on income. Taxes applicable to profits or losses on securities and extraordinary items shall not be included under this caption (see § 210.3-16(o)).

11. *Equity in earnings of unconsolidated subsidiaries and 50 percent or less owned persons.* The amount reported under this caption shall be stated net of any applicable tax provisions and shall exclude profits or losses on investments. State parenthetically or in a note referred to herein the amount of dividends received from such persons.

12. *Minority interest in income of consolidated subsidiaries.*

13. *Income or loss before profits or losses on investments and extraordinary items.*

14. *Profits or losses on investments, less applicable tax.* State separately (a) net investment profits or losses of the insurance company and (b) equity in net investment profits or losses of (1) unconsolidated subsidiaries and (2) 50 percent or less owned persons for which the equity in earnings was reported under caption 11 disclosing parenthetically or otherwise the tax applicable to such amounts. No profits or losses on the insurance company's own equity securities, or equity in profits or losses of its affiliates on their own equity securities, shall be included under this caption. State, here or in a note referred to herein, the method followed in determining the cost of investments sold by the insurance company, e.g., "average cost," "first-in, first-out," or "identified certificate." Consideration should be given to reporting transactions of the insurance company under caption 16, when appropriate. (See § 210.7A-05-4.)

15. *Income or loss before extraordinary items.*

16. *Extraordinary items, less applicable tax.* State separately (a) extraordinary items of the person and (b) equity in extraordinary items of (1) unconsolidated subsidiaries and (2) 50 percent or less owned persons for which the equity in earnings was reported under caption 11, disclosing parenthetically or otherwise the tax applicable to such amounts.

17. *Net income or loss.* See § 210.7A-03-22(f).

18. *Earnings per share data.* Refer to the pertinent requirements in the appropriate filing form. No per share figures shall be based on net income or loss determined in accordance with statutory accounting requirements. (See § 210.7A-02-2.)

### § 210.7A-05 Special notes to financial statements.

1. *Accounting principles and practices.* Information shall be given in a note as to accounting principles and practices reflected in the financial statements concerning the following matters. (See also § 210.3-08.)

(a) Consolidation of subsidiaries.

(b) Valuation of investments and recognition and reporting of unrealized appreciation or depreciation and profits or losses on investments.

(c) Recognition of premium revenue and related expenses.

(d) The nature of deferred policy acquisition costs and the method and period of amortization.

(e) The range of interest rates, mortality and withdrawal assumptions and the methods employed in calculating policy reserves.

2. *Restrictions on stockholders' equity.* (a) The nature of the restriction of retained earnings created by the excess or deficiency of unappropriated retained earnings as against unassigned surplus as determined in accordance with statutory accounting requirements shall be explained in a note. See also § 210.3-16(h).

(b) State in a note details of any deficiency in the statutory requirements for capital and surplus.

3. *Income taxes.* Information and appropriate explanations shall be given on the general nature of the provisions of the Internal Revenue Code applicable to life insurance companies. In addition to the general requirements of § 210.3-16(o), the following specific information shall be furnished.

(a) The bases and assumptions upon which current and deferred income taxes have been or have not been provided. Disclose in a note the amount of income upon which neither current nor deferred taxes have been provided for each period for which an income statement is filed and the accumulated amount as of the date of the related balance sheet.

(b) The nature of "policyholders' surplus" as defined in the Internal Revenue Code, the additions to "policyholders' surplus" for each period for which an income statement is filed, and the accumulated amount as of the date of the related balance sheet.





(c) The amount of accumulated net operating loss carryforwards, if any, at the date of the latest balance sheet and the years in which such carryforwards will expire.

4. *Analysis of investment gain.* State in tabular form in a note or otherwise for each period for which an income statement is filed (a) the portion of the profits or losses on investments, less applicable tax, included in § 210.7A-04-14 which relates to investments in bonds and notes and stocks, (b) the change during the reporting period in the difference between value based on market quotations and cost for investments in bonds and notes and stocks (after appropriate allowance for income taxes), and (c) the total or net balance of (a) and (b) as appropriate.

5. *Participating insurance.* State in a note the relative significance of participating insurance expressed as percentages of insurance in force, number of policies in force and premium income; and the method by which earnings and dividends allocable to such insurance is determined. If amounts allocable to participating policies in excess of dividends paid or declared payable are reported on the balance sheet or income statement other than as prescribed in this article, the reason for and effect of such variation shall be stated.

6. *Reinsurance.* State the amount of reinsurance risks assumed and ceded and the nature and general terms of material reinsurance or coinsurance contracts for assumption or cession of insurance. Material amounts of income and expense related to reinsurance or coinsurance shall be shown separately on the income statement.

### § 210.7A-06 What schedules are to be filed.

(a) Except as expressly provided otherwise in the applicable form—

(1) The schedules specified below in this rule as Schedules I, VII, IX, X, XI and XII shall be filed as of the dates of the most recent audited balance sheet and any subsequent unaudited balance sheet being filed for each person or group, provided that any such schedule (other than Schedules I and IX may be omitted if both of the following conditions exist:

(i) The financial statements are being filed as part of an annual or other periodic report; and

(ii) The information that would be shown in the respective columns of such schedule would reflect no changes in any issue of securities of the registrant of any significant subsidiary in excess of five percent of the outstanding securities of such issue as shown in the most recently filed annual report containing the schedule.

(2) Schedule IX, Capital Shares, may also be omitted if the above two conditions exist and any information required by column G of the schedule is shown in the related balance sheet or in a note thereto.

(3) All other schedules specified below in this rule as Schedules II, III, IV, V, VI and VIII shall be filed for each period for which an income statement is required to be filed for each person or group.

(b) When information is required in schedules for both the registrant and the registrant and its consolidated subsidiaries it may be presented in the form of a single schedule, provided that items pertaining to the registrant are separately shown and that such single schedule affords a properly summarized presentation of the facts. If the information required by any schedule (including the notes thereto) may be shown in the related financial statement or in a note thereto without making such statement unclear or confusing, that procedure may be followed and the schedule omitted.

(c) Reference to the schedules shall be made in the appropriate captions of the financial statements. Where, pursuant to the applicable instructions, the supporting schedules do not accompany the financial statements, references to such schedules shall not be made.

(d) The schedules shall be examined by the independent accountant if the related financial statements are so examined.

*Schedule I—Summary of Investments—other than investments in affiliates.* The schedule prescribed by § 210.12-27 shall be filed in support of caption 1 of each balance sheet.

*Schedule II—Investments in, equity in earnings of, and dividends received from affiliates and other persons.* The schedule prescribed by § 210.12-04 shall be filed in support of caption 3(a) of each balance sheet. This schedule may be omitted if neither the sum of captions 3(a) and 3(b) in the related balance sheet nor the amount of caption 15 in such balance sheet exceeds five percent of total assets as shown by the related balance sheet at either the beginning or end of the period.

*Schedule III—Indebtedness of affiliates and other persons.* The schedule prescribed by § 210.12-05 shall be filed in support of caption 3(b) of each balance sheet; however, the required information may be presented separately on Schedule II or Schedule IX. This schedule may be omitted if neither the sum of captions 3(a) and 3(b) in the related balance sheet nor the amount of caption 15 in such balance sheet exceeds five percent of total assets as shown by the related balance sheet at either the beginning or end of the period.

*Schedule IV—Deferred policy acquisition costs.* The schedule prescribed by § 210.12-31A shall be filed in support of caption 6 of each balance sheet provided that this schedule may be omitted if the total shown by caption 6 does not exceed five percent of total assets as shown by the related balance sheet at both the beginning and end of the period and if neither the additions nor the deductions during the period exceeded five percent of total assets as shown by the related balance sheet at either the beginning or end of the period.

*Schedule V—Amounts receivable from underwriters, promoters, directors, officers, employees, and principal holders (other than affiliates) of equity securities of the person and its affiliates.* The schedule prescribed by § 210.12-03 shall be filed with respect to each person among the underwriters, promoters, directors, officers, employees, and principal holders (other than affiliates) of equity securities of the person and its affiliates from whom an aggregate indebtedness of more than $20,000 or one percent of total assets, whichever is less, is owed or, at any time during the period for which related income statements are required to be filed, was owed. For the purposes of this schedule exclude in the determination of the amount of indebtedness all amounts receivable from such persons for purchases subject to usual trade terms, for ordinary travel and expense advances, and for other such items arising in the ordinary course of business.

*Schedule VI—Valuation and qualifying accounts and reserves.* The schedule prescribed by § 210.12-13 shall be filed in support of asset valuation and qualifying accounts and reserves included in each balance sheet (see § 210.3-02).

*Schedule VII—Future policy benefits and insurance in force.* The schedule prescribed by § 210.12-31 shall be filed in support of caption II of each balance sheet. The schedule prescribed by § 210.12-29 shall be used insofar as it may more appropriately present the reserves of accident and health business at caption 12(b) which are based on unearned premiums.

*Schedule VIII—Indebtedness to affiliates and other persons.* The schedule prescribes by § 210.12-11 shall be filed in support of caption 15 of each balance sheet; however, the required information may be presented separately on Schedule II or Schedule III. This schedule may be omitted if neither the sum of captions 3(a) and 3(b) in the related balance sheet nor the amount of caption 15 in such balance sheet exceeds five percent of total assets as shown by the related balance sheet at either the beginning or end of the period.

*Schedule IX—Capital shares.* The schedule prescribed by § 210.12-14 shall be filed in support of caption 21 of a balance sheet.

*Schedule X—Warrants or rights.* The schedule prescribed by § 210.12-15 shall be filed with respect to warrants or rights granted by the person for which the statement is being filed to subscribe to or purchase securities to be issued by such person.

*Schedule XI—Guarantees of securities of other issuers.* The schedule prescribed by § 210.12-12 shall be filed with respect to any guarantees of securities of other issuers by the person for which the statement is being filed.

*Schedule XII—Other securities.* If there are any classes of securities not included in Schedules IX, X and XI, set forth in this schedule information concerning such securities corresponding to that required for the securities included in such schedules. Information need not be set forth, however, as to notes, drafts, bills of exchange, or bankers' acceptances, having a maturity at the time of issuance of not exceeding one year.



V 38-188
SEP 28 73
XUM

### § 210.12-27 Summary of investments—other than investments in affiliates.

(FOR INSURANCE COMPANIES)

| Column A<br>Type of investment[1] | Column B<br>Cost[2] | Column C<br>Value based on market quotations at balance sheet date | Column D<br>Amount at which shown in the balance sheet[3] |
|---|---|---|---|
| Bonds and notes: | | | |
| United States Government and government agencies and authorities | | | |
| States, municipalities and political subdivisions | | | |
| Foreign government | | | |
| Public utilities | | | |
| Convertibles and bonds with warrants attached | | | |
| All other corporate | | | |
| Total bonds and notes | | | |
| Preferred stocks | | | |
| Common stocks: | | | |
| Public utilities | | | |
| Banks, trust and insurance companies | | | |
| Industrial, miscellaneous and all other | | | |
| Total common stocks | | | |
| Total bonds and notes and stocks | | | |
| Mortgage loans on real estate | | XXXXXX | |
| Real estate: | | | |
| Investment properties | | XXXXXX | |
| Acquired in satisfaction of debt | | XXXXXX | |
| Occupied by the registrant | | XXXXXX | |
| Total real estate | | XXXXXX | |
| Policy loans | | XXXXXX | |
| Other loans and investments | | XXXXXX | |
| Invested cash | | XXXXXX | |
| Total investments | | XXXXXX | |

[1] Do not include investments in affiliates and investments in other persons which are accounted for by the equity method.

[2] Original cost of stocks, and, as to debt obligations, original cost reduced by repayments and adjusted for amortization of premiums or accrual of discounts.

[3] If the amount at which shown in the balance sheet is different from the amount shown in either column B or C, state the reason for such difference.

### § 210.12-31 Future policy benefits and insurance in force.

(FOR INSURANCE COMPANIES)

| Column A | Column B | Column C | Column D | Column E<br>Bases of assumptions | | |
|---|---|---|---|---|---|---|
| Line of business[1] | Life insurance in force. | Amount of policy reserves. | Years of issue. | (1)<br>Interest rates. | (2)<br>Mortality. | (3)<br>Withdrawals. |

The required information shall be given for each of the following lines of business: Industrial life insurance, ordinary life insurance, group life insurance, individual annuities, group annuities, group accident and health, individual accident and health, and all other.

### § 210.12-31A Deferred policy acquisition costs.

(FOR INSURANCE COMPANIES)

| Column A | Column B | Column C | Column D<br>Deductions | | Column E | Column F | Column G |
|---|---|---|---|---|---|---|---|
| | | | (1) | (2) | | | |
| Line of business[1] | Balance at beginning of period. | Additions. | Charged to costs and expenses. | Charged to other accounts—describe. | Balance at close of period. | First year premiums written. | Renewal premiums written. |

[1] The required information shall be given for each of the following lines of business: Industrial life insurance, ordinary life insurance, group life insurance, individual annuities, group annuities, group accident and health, individual accident and health, and all other.

## PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

I. Section 249.210 [Form 10]. Instruction 13 of Instructions as to Financial Statements would be amended to read as follows:

### § 249.210 Form 10, general form for registration of securities pursuant to section 12 (b) or (g) of the Securities Exchange Act of 1934.

* * * * * * *

13. *Statements of banks and insurance companies.* Notwithstanding the requirements of the foregoing instructions, financial statements filed for banks for periods ending on or before November 30, 1971 and for life insurance companies for periods ending on or before November 30, 1973 need not be certified.

II. Section 249.310 [Form 10-K]. Instruction 7 of Instructions as to Financial Statements would be amended to as follows:

### § 249.310 Form 10-K, annual report pursuant to section 13 or 15d of the Securities Exchange Act of 1934.

* * * * * * *

7. *Statements of banks and insurance companies.* Notwithstanding the requirements of the foregoing instructions, financial statements filed for banks for periods ending on or before November 30, 1971 and for life insurance companies for periods ending on or before November 30, 1973 need not be certified.

[FR Doc.73-20546 Filed 9-27-73;8:45 am]

## DEPARTMENT OF THE TREASURY

### Customs Service

**[ 19 CFR Parts 4, 10, 19, 25, 141, 143, 144, and 145 ]**

### STATISTICAL INFORMATION ON ENTRIES, WITHDRAWALS AND INVOICES

**Statistical Information on Entries, Withdrawals and Invoices To Conform With General Statistical Headnotes of the Tariff Schedules of the United States Annotated**

Notice is hereby given that under the authority of Revised Statute 251, as amended (19 U.S.C. 66), section 484, 46 Stat. 722, as amended (19 U.S.C. 1484), and section 624, 46 Stat. 759 (19 U.S.C. 1624), it is proposed to amend sections 4.14(b), 10.60(a), 19.14(a), 25.18(a), 141.61(e), 141.86(a)(8), 143.12, 144.11(a), 144.36(d)(6), 144.37(a), 144.38(a), 144.41(b), 144.42(b)(1), and 145.12(a)(4) of the Customs Regulations.

A proposed amendment to the General Statistical Headnotes of the Tariff Schedules of the United States Annotated would require the importer to furnish additional information on all imported merchandise concerning its purchase price (i.e., its actual transaction value) or the equivalent thereof for merchandise not acquired by purchase, and separately itemize the aggregate costs incurred in bringing merchandise from the port of exportation in the country of exportation to the first port of entry in the United States. In order to conform the Customs Regulations to the proposed amendment to the General Statistical Headnotes of the Tariff Schedules of the United States Annotated, it is necessary to amend § 25.18(a) of the Customs Regulations which provides for an extension of time for bonds and stipulations for the production of documents, section 141.61(e) of the Customs Regulations which contains a list of statistical information needed on entries, and § 141.86(a)(8) which lists the charges to be itemized by name on invoices. Sections 4.14(b), 10.60(a), 19.14(a), 143.12, 144.11(a), 144.36(d)(6), 144.37(a), 144.38(a), 144.41(b), 144.42(b)(1), and 145.12(a)(4) of the Customs Regulations provide for the preparation of entries or withdrawals in various Customs situations.

Accordingly, it is proposed to amend the Customs Regulations to read as follows:





## PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

It is proposed to amend the first sentence of paragraph (b) of § 4.14 to read as follows:

### § 4.14 Equipment and repairs to American vessels.

* * * * *

(b) Entry on Customs Form 7535 (Vessel/Aircraft Foreign Repair or Equipment Purchase Entry) shall be made for such equipment or repairs and shall contain all of the statistical information as provided in § 141.61(e) of this chapter. * * *.

* * * * *

## PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

It is proposed to amend the first two sentences of paragraph (a) of § 10.60 to read as follows:

### § 10.60 Forms of withdrawals; bonds.

(a) Withdrawals from warehouse shall be made on Customs Form 7506 (Warehouse Withdrawal Conditionally Free of Duty). Each withdrawal shall contain the statement prescribed for withdrawals in § 144.32 of this chapter and all of the statistical information as provided in § 141.61(e) of this chapter. * * *.

* * * * *

## PART 19—CUSTOM WAREHOUSES, CONTAINER STATIONS, AND CONTROL OF MERCHANDISE THEREIN

It is proposed to amend the second sentence of paragraph (a) of § 19.14 to read as follows:

### § 19.14 Materials for use in manufacturing warehouse.

(a) * * *. Such form shall be prepared in 5 copies and shall contain all of the statistical information as provided in § 141.61(e) of this chapter. * * *.

* * * * *

## PART 25—CUSTOMS BONDS

It is proposed to amend paragraph (a) of § 25.18 to read as follows:

### § 25.18 Extensions of periods for compliance with requirements of bonds and stipulations.

(a) If a document (other than an invoice or document which must be produced within 2 months as provided in § 141.61(e) of this chapter) referred to in § 25.16(c) is not produced within 6 months from the date of the transaction in connection with which the bond or stipulation was given, the district director, upon written application of the importer, in his discretion, may extend the period for one further period of 2 months.

* * * * *

## PART 141—ENTRY OF MERCHANDISE

It is proposed to amend paragraph (e) of § 141.61 to read as follows:

### § 141.61 Completion of entry papers.

* * * * *

(e) *Statistical information.*

(1) *Information required.* Each invoice shall be listed separately on the entry o rwithdrawal form, and for each class of merchandise within each invoice subject to a separate statistical reporting number the following shall be shown:

(i) The information required by the General Statistical Headnotes of the Tariff Schedules of the United States Annotated where applicable;

(ii) Description in terms of the Tariff Schedules of the United States Annotated or in more specific terms that will clearly identify the merchandise and its entered classification;

(iii) The aggregate entered value for such classification, except in the case of entry by appraisement;

(iv) The entered rate of duty and internal revenue tax; and

(v) A notation identifying the transaction as arm's-length or not arm's-length. An arm's-length transaction shall be a transaction between a buyer and seller independent of each other, i.e., persons who are not related in any respect specified in section 402(g)(2) of the Tariff Act of 1930, as amended (19 U.S.C. 1401a(g)(2)).

(2) *Responsibility.* The responsibility for obtaining and providing the data rests with the person making the entry or withdrawal. The district director may, at his discretion, require further documentation to substantiate the itemized charges. The importer shall give an appropriate bond for the production of the required documents within 2 months after the date of entry unless a reasonable extension of time has been granted by the district director upon good cause shown.

(3) *Preparation of form.* In addition to the information required by subparagraph (1) of this paragraph, statistical information for which spaces are not provided on the appropriate entry or follows: trnal$(Tin--pro withdrawal forms shall be shown as follows:

(i) The name or code of the country of registry of the vessel (flag) expressed in terms of Annex B of the Tariff Schedules of the United States Annotated shall be placed in the importing vessel or carrier block on the entry document.

(ii) On Customs Forms 7501, 7502, 7505, 7506, and 7521 the appropriate notations "arm's-length" or "not arm's-length" shall be placed in the body of the form at the top of columns 3, 4, and 5.

(iii) On Customs Forms 7500, 7512, 7519, and 7535 the appropriate notation "arm's-length" or "not arm's-length" shall be placed in the top right hand portion of the body of the form.

(iv) The transaction value, charges, and equivalent value shall be listed on Customs Forms 7501, 7502, 7505, 7506, and 7521 in column 4 immediately below the Tariff Schedules of the United States Annotated reporting number. They shall be identified by placing (in the same order as follows) PEXT (PEX transaction value), CHGS (aggregate cost of freight, insurance and all other charges), and EPEX (PEX equivalent value) in column 3 immediately below the entered value and to the left of each statistical value and charge.

(v) On Customs Form 7500, the value and charges shall be listed in the Tariff Schedules of the United States Annotated reporting number column with the descriptions (PEXT, CHGS, EPEX) immediately to the left of the value and charges.

(vi) On Customs Forms 7512 and 7519, the value and charges shall be listed in the rate column with the descriptions (PEXT, CHGS, EPEX) immediately to the left of the value and charges.

(vii) On Customs Form 7535, the value and charges shall be placed in column 14 with the descriptions (PEXT, CHGS, EPEX) immediately to the left of the value and charges.

* * * * * *

It is proposed to amend paragraph (a)(8) of § 141.86 to read as follows:

### § 141.86 Contents of invoices and general requirements.

(a) *General information required by Tariff Act.* * * *

* * * * * *

(8) All charges upon the merchandise, itemized by name and amount when known to the seller or shipper; or all charges by name (including commissions, insurance, freight, cases, containers, coverings, and cost of packing) included in the invoice prices as provided in § 141.61(e). Where the required information does not appear on the invoice as originally prepared, it shall be shown on an attachment to the invoice; and

* * * * * *

## PART 143—CONSUMPTION, APPRAISEMENT, AND INFORMAL ENTRIES

It is proposed to amend § 143.12 to read as follows:

### § 143.12 Form of entry.

Application for an entry by appraisement shall be made in triplicate on Customs Form 7500 (Appraisement Entry) and shall contain all of the known and available statistical information as provided in § 141.61(e) of this chapter.

## PART 144—WAREHOUSE AND REWAREHOUSE ENTRIES AND WITHDRAWALS

It is proposed to amend the first sentence of paragraph (a) of § 144.11 to read as follows:



V 38-188 SEP 28 73 XUM

§ 144.11 Form of entry.

(a) *CF 7502.* Entry for warehouse shall be executed in duplicate on Customs Form 7502 (Warehouse or Rewarehouse Entry) and shall contain all of the statistical information as provided in § 141.61(e) of this chapter * * *.

* * * * * *

It is proposed to amend (4) and (5) of paragraph (d) of § 144.36, and add subparagraph (6) to read as follows:

§ 144.36 Withdrawal for transportation.

* * * * * *

(d) Information required. * * *:

* * * * *

(4) The entered value of the merchandise;

(5) The estimated duty; and

(6) All of the statistical information as provided in § 141.61(e) of this chapter.

* * * * * *

It is proposed to amend paragraph (a) of § 144.37 to read as follows:

§ 144.37 Withdrawal for exportation.

(a) *Form.* A withdrawal for either direct or indirect exportation shall be filed on Customs Form 7512 (Transportation Entry and Manifest of Goods Subject to Customs Inspection and Permit) in 5 copies or on Customs Form 7506 (Warehouse Withdrawal Conditionally Free of Duty, and Permit) in 3 copies for merchandise being exported under cover of a TIR carnet, accompanied by Customs Form 7512-C (Transportation Entry and Manifest of Goods) in duplicate. Customs Form 7512 or Customs Form 7506 shall contain all of the statistical information as provided in § 141.61(e) of this chapter. The district director may require an extra copy or copies of Customs Form 7512 or 7506 for use in connection with the delivery of merchandise to the carrier.

* * * * * *

It is proposed to amend paragraph (a) of § 144.38 to read as follows:

§ 144.38 Withdrawal for consumption.

(a) *Form.* Withdrawals for consumption of merchandise in bonded warehouses shall be filed on Customs Form 7505 (Warehouse Withdrawal for Consumption-Duty Paid), in triplicate, and shall contain all of the statistical information as provided in § 141.61(e) of this chapter.

* * * * * *

It is proposed to amend the first sentence of paragraph (b) of § 144.41 to read as follows:

§ 144.41 Entry for rewarehouse.

* * * * * *

(b) *Form of entry.* An entry for rewarehouse shall be made in duplicate on Customs Form 7502 (Warehouse or Rewarehouse Entry) and shall contain all of the statistical information as provided in § 141.61(e) of this chapter.* * *

* * * * * *

It is proposed to amend the first sentence of paragraph (b)(1) of § 144.42 to read as follows:

§ 144.42 Combined entry for rewarehouse and withdrawal for consumption.

* * * * * *

(b) *Procedure for entry.* * * *:

(1) *Form of entry.* A combined entry for rewarehouse and withdrawal for consumption shall be made on Customs Form 7519 (Combined Rewarehouse Entry and Withdrawal for Consumption, and Permit), in 4 copies, and shall contain all of the statistical information as provided in § 141.61(e) of this chapter, one copy to be used as the permit. * * *;

* * * * * *

## PART 145—MAIL IMPORTATIONS

It is proposed to amend paragraph (a)(4) of § 145.12 by adding a last sentence to read as follows:

§ 145.12 Entry of merchandise.

(a) *Formal entries.*

* * * * * *

(4) *Notice of formal entry requirement.* * * *. When a formal entry is filed, it shall contain all the statistical information as provided in § 141.61(e) of this chapter.

* * * * * *

Prior to the adoption of the proposed amendments, consideration will be given to any relevant data, views, or arguments which are submitted to the Commissioner of Customs, Attention: Regulations Division, Washington, D.C. 20229, and received not later than October 29, 1973.

Written material or suggestions submitted will be available for public inspection in accordance with § 103.3(b) of the Customs Regulations (19 CFR 103.3(b)) at the Regulations Division, Headquarters, United States Customs Service, Washington, D.C., during regular business hours.

Dated September 25, 1973.

[SEAL] VERNON D. ACREE,
*Commissioner of Customs.*

[FR Doc.73-20825 Filed 9-27-73;9:58 am]

## UNITED STATES ATOMIC ENERGY COMMISSION

### [10 CFR Part 9]

### PUBLIC RECORDS

### Revised Charges for Provision of Records

The Atomic Energy Commission has under consideration amendments to its regulations in 10 CFR Part 9, "Public Records." The proposed amendments would revise the charges specified in § 9.9 for processing requests for AEC records and for reproducing copies of AEC records, including transcripts of agency proceedings.

Pursuant to the Atomic Energy Act of 1954, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Part 9 is contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendments should send them to the Secretary of the Commission, U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Public Proceedings Staff, by November 12, 1973. Copies of the comments received on the proposed amendments may be examined at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Section 9.9 of 10 CFR Part 9 is amended to read as follows:

§ 9.9 Charges for provision of records.

(a) A self-service, coin-operated office copying machine, located in the Reading Room adjacent to the Public Document Room, is available for the reproduction of records up to 8½ x 14 inches in size at a charge of $0.05 per page copy. In addition, there is available at the Public Document Room, for a charge of $0.50 per hour of use or any fraction thereof, a self-service copying machine for the use of those persons who choose to provide their own paper for the reproduction of records. Where such copying machines are available for public use in major AEC field offices, similar arrangements will be made.

(b) For copies of records to be reproduced and furnished by the AEC, the following reproduction charges will be made:

(1) Sizes up to 8½ x 14 inches made on office copying machines—$0.10 per page copy. Larger sizes—$0.10 for each 8½ x 14 inch unit or fraction thereof per page copy.

(2) No charge will be made for the reproduction of 10 pages or less of requested records reproduced and furnished by the AEC.

(3) Photostat copies—$0.40 each up to 9 x 12 inches. Copies larger than 9 x 12 inches, $0.40 for each 9 x 12 inch unit or fraction thereof.

(4) The charge for reproducing other records will be computed on the AEC full cost recovery basis.

(5) Material which has been copyrighted will not be reproduced in violation of the copyright laws.

(c) If a request is for records not located in the Public Document Room, a search charge of $6.00 per hour will be made. As necessary, a charge based on the actual hourly rates of the professional employee involved will be made for the screening of records exclude information that is exempt under the Freedom of Information Act (5 U.S.C. 552). Fractional parts of an hour will be charged on a pro rata basis for the search and screening functions. No charge will be made for these functions if one hour or less is required to fulfill a request.

(d) A deposit or surety bond equal to the estimated cost of searching, screening, and reproducing the number of requested copies will be required in advance from any person requesting copies of records from the AEC. Refunds of unused deposits or additional billings will be





made to adjust the charge to the actual cost.

(e) In compliance with the Federal Advisory Committee Act transcripts of testimony in AEC proceedings, which are transcribed by a reporting firm under contract with the AEC, shall be purchased directly from the reporting firm or AEC at the cost of reproduction as provided for in the AEC contract with the reporting firm.

(f) No charge will be made for locating records which are on file in the AEC Public Document Room.

(g) The General Manager or the Director of Regulation, or either's designee, may waive all or part of the fee for searching, screening or reproducing if he determines such action to be in the public interest.

(Sec. 161, Pub. Law 83-703, 68 Stat. 948, (42 U.S.C. 2201); sec. 501, Pub. Law 82-137, 65 Stat. 290, (31 U.S.C. 483a); sec. 11, Pub. Law 92-463, 86 Stat. 775 (5 U.S.C. 552).)

Dated at Washington, D.C., this 25th day of September 1973.

For the Atomic Energy Commission.

PAUL C. BENDER,
*Secretary of the Commission.*

[FR Doc.73-20836 Filed 9-27-73;11:11 am]



V 38-188 SEP 28 73 XUM

# Notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF THE TREASURY

### Office of the Secretary

### COLLECTION OF F.O.B. AND C.I.F. DATA ON IMPORTS

### Proposed Amendment of General Statistical Headnote 1 of the Tariff Schedules of the United States Annotated (TSUSA)

CROSS REFERENCE: For a document pertaining to the collection of F.O.B. and C.I.F. data on imports, issued jointly by the Department of Commerce, Department of the Treasury, and the Tariff Commission, see FR Doc. 73-20824, infra.

## DEPARTMENT OF DEFENSE

### Corps of Engineers, Department of the Army

[ER 1165-2-117]

### Highway and Housing Relocations

### Responsibility for Costs of Improved Standards

*Summary.* 1. This Engineer Notice summarizes policy and procedures for identifying the costs of meeting improved standards when highways and housing are relocated due to construction of civil works projects. It will be applied by all elements of the Corps of Engineers in preparing preauthorization reports, and in planning authorized projects for which funds have not been appropriated for construction or contracts made with non-Federal interests for sharing or reimbursement of project costs.

2. The Notice provides guidance on the acceptable manner of presenting such costs in economic evaluation, cost allocation, and cost-sharing computations. It is issued in recognition that the added costs and benefits of such improved standards may appreciably affect evaluation and cost sharing of specific projects, although experience to date indicates that the increased costs approximate only 1 percent of overall project costs. It is consistent with section 208(c) of the Flood Control Act of 1960, as amended by Public Law 87-874 and the Uniform Relocation Assistance and Real Property Policies Act of 1970 (Public Law 91-646).

3. The Notice is published in final form at this time, without preliminary publication for public comment, since notices of proposed rule in the FEDERAL REGISTER are not required for rules of agency procedure.

For the Chief of Engineers.

RUSSELL J. LAMP,
*Colonel, Corps of Engineers Executive.*

[Regulation No. 1165-2-117]

WATER RESOURCES POLICIES AND AUTHORITIES

RESPONSIBILITY FOR COSTS OF IMPROVED STANDARDS IN HIGHWAY AND HOUSING RELOCATIONS

SEPTEMBER 24, 1973.

1. *Purpose.* This notice summarizes policy and procedures for identifying the costs of meeting improved standards when highways and housing are relocated due to construction of civil works projects. It provides guidance on the acceptable manner of presenting such costs in economic evaluation, cost allocation, and cost-sharing computations.

2. *Applicability.* These policies and procedures will be applied by all elements of the Corps of Engineers having civil works responsibilities in preparing preauthorization reports, and in planning authorized projects for which funds have not been appropriated for construction, or contracts made with non-Federal interests for sharing or reimbursement of project costs.

3. *References.* a. Section 207(b) of the Flood Control Act of 1960 (P.L. 86-645, 74 Stat. 500) as amended by Section 208 of the Flood Control Act of 1962 (P.L. 87-874, 76 Stat. 1196, 33 U.S.C. 701r-1).

b. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646, 84 Stat. 1894, 42 U.S.C. 4601, et seq.)

c. ER 405-1-663, Regulations for Implementation of the Uniform Relocation Assistance and Land Acquisition Policies Act of 1970 (38 FR 14239, May 31, 1973).

d. ER 1140-2-3, Provision of Betterments in Highways, Bureau of Public Roads Participation.

e. ER 1105-2-105, Guidelines for Assessment of Economic, Social and Environmental Effects of Civil Works projects.

4. *General policy.*—a. *Highway betterments.* Section 208(c) of P.L. 87-874 provides that substitute roads necessitated by the taking of existing public roads by the Federal Government will be constructed at project cost. Design standards are to be comparable to those of the State, or of the political subdivision in which the road is located, for roads of the same classification as determined by the traffic existing at the time of taking. Traffic projections will not be used in determining design standards (Comptroller General B-169174, March 25, 1971). At the request of the State or political subdivision, the substitute road may also be constructed to even higher standards if the State or political subdivision pays the additional costs due to such higher standards prior to commencement of construction. The 1962 amendment specified that the costs of betterments to meet current standards for existing traffic would be a non-reimbursable Federal project cost. These acts insured that highway replacements, which the Federal Government is obligated to undertake, would meet prevailing realistic standards, which are generally higher than those for replacement in kind.

b. *Improved housing standards.* Section 201 of P.L. 91-646 establishes a uniform policy for the fair and equitable treatment of persons displaced as a result of Federal programs, in order to offset disproportionate injuries to a few from programs designed for the benefit of the public as a whole. However, in addition to the constitutional requirement of just compensation for taking of property for public use, section 203(a)(1)A of the law also permits additional payments, as appropriate, so that displaced persons who occupied substandard housing may acquire decent, safe, and sanitary housing if replacement in kind would be substandard.

5. *Policy and procedures.*—a. *Definitions.* For the purpose of specifying appropriations required for construction, estimates shall include any additional costs resulting (1) from the provision of highway betterments to meet current standards for existing traffic, exclusive of any additional betterments desired and paid for by the owner; and (2) from the additional payments required of the Federal Government to provide decent, safe, and sanitary dwellings for relocated homeowners and tenants who previously occupied substandard housing. These costs of improved standards, limited as defined, shall include proper proportionate shares of engineering, acquisition and settlement charges.

b. *Project evaluation.* The highway betterments and housing improvements permitted under these Acts produce benefits to other persons than the direct beneficiaries of water projects. Given the present state of evaluation techniques and tools, such benefits can be quantified only on the basis of judgmental values. It is considered that the social and other benefits of highway betterments and housing improvements at least equal the incremental costs. The costs of such betterments and improvements are considered financial and not economic costs. They are, therefore, not included in project formulation or the benefit-cost analysis. Thus, computation of the benefit-cost ratio of civil works projects will omit the costs and benefits of the betterments and improvements, as defined in subparagraph 5a. Discussion of the matter should be in accordance with references 3c and 3e.

c. *Cost allocation and cost sharing.* P.L. 87-874 specifies that project-induced costs for highway betterments are to be entirely Federal and nonreimbursable. Such cost thus will not be allocated to reimbursable project purposes, but will be carried as a separate line item or footnote in cost allocation computations, and assumed as Federal costs. P.L. 91-646 is silent on these matters with reference to relocation of persons. Improved housing standards are considered to produce social benefits sought by Congress, the added costs of which should also be shown as a separate line item or footnote in cost allocation computations, and not distributed to project purposes. They will be assigned to the non-Federal entities cooperating in the project in accordance with paragraph 6.

6. *Effect on local cooperation.* Whenever local interests are required to provide lands, easements, and rights-of-way in connection with local cooperation projects, or rights-of-way are acquired by railroad, highway, or utility owners for changes required by a Federal water resource project, relocations of persons, businesses, or farms are a part of normal local cost sharing. Section 207 of P.L. 91-646 requires that the costs of real property acquired by a State agency or political subdivision thereof and furnished as local cooperation in a Federal project shall include the payments and other assistance required by this Act. Thus, non-Federal entities must assume the costs of improved housing standards, including more expensive sites involved, for relocated persons previously in substandard housing.

7. *Relationship to section 9, P.L. 89-72.* Section 9 of P.L. 89-72 provides that the Act does not "authorize or sanction the construction of any project under any River and Harbor or Flood Control Act in which the sum of the allocations to recreation and fish and wildlife enhancement exceeds the sum of the allocations to irrigation, hydroelectric power, municipal, domestic, and industrial water supply, navigation, and flood control . . ." Highway betterment and housing improvement costs will not serve to increase the sum of the allocations to project purposes specified in this Act and will thus leave unaffected the amounts eligible for allocation to recreation and fish and wildlife enhancement. The procedures herein are, therefore, in accord with Congressional intent in P.L. 89-72 to limit project costs allocated to recreation to not more than the sum of the costs allocated to other water resources purposes.

8. *Effect on flood plain management.* Relocations and permanent evacuations may be effective in adjusting land use to the flood hazard. For projects which contemplate such measures, the costs of improved standards for housing and for highway betterments will be included in total project costs to be financed, but will be omitted from benefit-cost comparisons as justified by unquantifiable social benefits. Reporting officers considering relocation-evacuation solutions should request consultation with HQDA (DAEN-CWR) WASH DC 20314, prior to report completion, as there is yet no definitive position on Federal cost sharing in such flood plain management alternatives.

For the Chief of Engineers.

RUSSELL J. LAMP,
*Colonel, Corps of Engineers Executive.*

[FR Doc.73-20692 Filed 9-27-73;8:45 am]

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

### CHIEF, DIVISION OF TECHNICAL SERVICES AND CHIEF, BRANCH OF CADASTRAL SURVEY

### Redelegation of Authority

SEPTEMBER 7, 1973.

Pursuant to the authority contained in section 1.1, Bureau Order No. 701 (29 FR 10526, July 29, 1964), as Amended, the following officials of the Colorado State Office are hereby redelegated authority to act for the State Director on sections of above order as follows:

1. Chief, Division of Technical Services, or Chief, Branch of Cadastral Survery, authority to take action for the State Director in matters listed under section 1.4a(1) through 1.4a(3).

*Effective date.*—This redelegation will become effective September 12, 1973.

DALE R. ANDRUS,
*State Director.*

Approved:
GEORGE L. TURCOTT,
*Associate Director.*

[FR Doc.73-20696 Filed 9-27-73;8:45 am]

### PACIFIC OUTER CONTINENTAL SHELF OFFICE

### Notice of Designation and Opening

SEPTEMBER 24, 1973.

Notice is hereby given that the Bureau of Land Management has opened an Outer Continental Shelf office at Los Angeles, California on September 10, 1973. This office is officially designated as the "Pacific Outer Continental Shelf office." The address is:

Pacific Outer Continental Shelf Office
Bureau of Land Management
7663 Federal Building
300 North Los Angeles Street
Los Angeles, California 90012

The hours of business are 7:30 a.m. until 4:00 p.m. Pacific standard time.

This office is responsible for developing environmental studies and analyses related to the possibility of mineral leasing and development, and for mineral leasing on the Pacific Outer Continental Shelf, from the international boundary between the United States and Mexico north to the international boundary between the United States and Canada, and offshore Hawaii.

CURT BERKLUND,
*Director, Bureau of Land Management.*

[FR Doc. 73-20691 Filed 9-27-73;8:45 am]

### Office of the Secretary

[INT DES 73-57]

### HUNGRY HORSE CLOUD SEEDING PROGRAM

### Notice of Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Bonneville Power Administration has prepared a draft environmental statement which discusses environmental considerations of BPA's proposed Hungry Horse Cloud Seeding Program. The program is intended to enhance snowpack in the Flathead River Basin in Flathead County, Montana and would run from November 15, 1973, to April 15, 1974.

Written comments on the environmental statement are invited and will be accepted on or before October 14, 1973.

Copies of the draft environmental statement are available from, or for inspection at, the following locations:

Bonneville Power Administration
1002 Northeast Holladay Street
Portland, Oregon 97208

Bonneville Power Administration
Kalispell District Office
Box 758
Kalispell, Montana 59901

Dated September 21, 1973.

JOHN M. SEIDL,
*Deputy Assistant Secretary.*

[FR Doc.73-20694 Filed 9-27-73;8:45]

### TULALIP INDIAN RESERVATION, WASHINGTON

### Ordinance Legalizing the Introduction, Sale, or Possession of Intoxicants

In accordance with authority delegated by the Secretary of the Interior to the Assistant to the Secretary for Indian Affairs in Amendment 2 to Secretary Order 2950, and in accordance with the act of August 15, 1953, Public Law 277, 83d Congress, 1st Session (67 Stat. 586), I certify that the following ordinance relating to the application of the Federal Indian Liquor Laws on the Tulalip Indian Reservation, Washington was adopted on May 12, 1973, by the Tulalip Board of Directors, which has jurisdiction over the area of Indian Country included in the ordinance, reading as follows:

Whereas, pursuant to the Act of August 15, 1953 (Public Law 277, 83d Congress, 1st Session), the Federal Indian Liquor Laws were by Ordinance No. 26 of the Tulalip Tribes of Washington superseded by the laws of the State of Washington and the introduction, sale or possession of intoxicating liquor onto the Tulalip Indian Reservation was declared lawful provided such was in conformity with the laws of the State of Washington; now, therefore,

SECTION 1. Be it enacted that Ordinance No. 26 of the Tulalip Tribes of Washington be and the same is hereby repealed and is hereby declared to be of no further force and effect whatsoever;

SEC. 2. Be and it is further enacted that the introduction, consumption, sale or possession of intoxicating beverages shall be lawful within the exterior boundaries of the Tulalip Indian Reservation, Snohomish County, Washington, provided, that such introduction, consumption, sale or possession is in conformity with the laws of the State of Washington and the rules and regulations of the Washington State Liquor Control Board and the ordinances, rules, and regulations of the Tulalip Tribes of Washington, both now or hereafter enacted;

SEC. 3. Be and it is further enacted that no intoxicating beverage shall be manufactured or sold within the exterior boundaries of the Tulalip Indian Reservation of Washington unless and until the person, party or corporation so manufacturing or selling said intoxicating beverage has a valid and existing permit so to do regularly and duly issued by the Washington State Liquor Control Board







V 38-188
SEP 28 73
XUM

and subsequently applies for and receives from the Board of Directors of the Tulalip Tribes of Washington, after due hearing by it and evaluation of all pertinent facts and circumstances, including, but not limited to, the record and findings of the Washington State Liquor Control Board, a tribal license at the same fee rate and payable to the Tulalip Tribes of Washington to do and conduct the business of manufacture or sale of intoxicating beverages within the Tulalip Indian Reservation.

WILLIAM L. ROGERS,
*Deputy Assistant Secretary of the Interior.*

SEPTEMBER 24, 1973.

[FR Doc.73-20690 Filed 9-27-73;8:45 am]

## DEPARTMENT OF AGRICULTURE

### Agricultural Stabilization and Conservation Service

[Docket No. SH-321]

### SUGARBEET PRODUCING AREA

#### Notice of Hearings on Sugarbeet Wages and Prices, and Designation of Presiding Officers

Pursuant to the authority contained in sections 301(c)(1) and 301(c)(2) of the Sugar Act of 1948, as amended (61 Stat. 929; 7 U.S.C. 1131), and in accordance with the rules of practice and procedure applicable to wage and price proceedings (7 CFR 802.1 et seq.), notice is hereby given that public hearings will be held as follows:

At Ann Arbor, Michigan, on October 10, 1973 at Weber's Inn, 3050 Jackson Road, beginning at 9:30 a.m.;

At San Benito, Texas, on October 12, 1973 in the Community Building, 210 East Heywood, beginning at 9:30 a.m.;

At Denver, Colorado, on October 15, 1973 in Room 1430 of the Federal Building, 1961 Stout Street, beginning at 9:30 a.m.;

At San Francisco, California, on October 17, 1973 in Room 1329 of the Appraisers Building, 630 Sansome Street, beginning at 9:30 a.m.

The purpose of these hearings is to receive evidence likely to be of assistance to the Secretary of Agriculture in determining, (1) pursuant to the provisions of section 301(c)(1) of the act, whether the wage rates established for sugarbeet fieldworkers in the wage determination which became effective April 9, 1973 (38 FR 8164), continue to be fair and reasonable under existing circumstances, or whether such determination should be amended; and (2) pursuant to the provisions of section 301(c)(2) of the act, fair and reasonable prices for the 1974 crop of sugarbeets to be paid, under either purchase or toll agreements, by producers who process sugarbeets grown by other producers and who apply for payments under the act on their own sugarbeet production.

In the interest of obtaining the best possible information, all interested persons are requested to appear at one of the hearings to express their views and present appropriate data in regard to wages and prices.

All written submissions made pursuant to this notice will be available for public inspection in the Office of the Hearing Clerk, Room 112-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. (7 CFR 1.27(b)).

The hearings, after being called to order at the times and places mentioned herein, may be continued from day to day within the discretion of the presiding officers and may be adjourned to a later day or to a different place without notice other than the announcement thereof at the hearings by the presiding officers.

Arthur B. Calcagnini, Leo L. Sommerville, James E. Agnew, Jr., William H. Ragsdale, and Thomas M. Popp are hereby designated as presiding officers to conduct either jointly or severally the foregoing hearings.

Signed at Washington, D.C. on September 24, 1973.

KENNETH E. FRICK,
*Administrator, Agricultural Stabilization and Conservation Service.*

[FR Doc.73-20735 Filed 9-27-73;8:45 am]

### Soil Conservation Service

### RED BOILING SPRINGS WATERSHED PROJECT, TENNESSEE

#### Notice of Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Soil Conservation Service, U.S. Department of Agriculture, has prepared a final environmental statement for the Red Boiling Springs Watershed Project, Macon and Clay Counties, Tennessee, USDA-SCS-ES-WS(ADM)-73-21-(F).

The environmental statement concerns a plan for watershed protection and flood prevention. The planned works of improvement include conservation land treatment throughout the watershed, supplemented by five single-purpose floodwater retarding structures.

The final environmental statement was transmitted to CEQ on September 21, 1973.

Copies are available for inspection during regular working hours at the following locations:

Soil Conservation Service, USDA, South Agriculture Building, Room 5227, 14th and Independence Avenue SW., Washington, D.C. 20250.
Soil Conservation Service, USDA, 561 U.S. Courthouse, Nashville, Tennessee 37203.

Copies are available for purchase from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151. Please order by name and number of statement.

The estimated cost is $4.30.

Dated September 21, 1973.

WILLIAM B. DAVEY,
*Deputy Administrator for Water Resources, Soil Conservation Service.*

[FR Doc.73-20697 Filed 9-27-73;8:45 am]

## U.S. TARIFF COMMISSION

### COLLECTION OF F.O.B. AND C.I.F. DATA ON IMPORTS

#### Proposed Amendment of General Statistical Headnote 1 of the Tariff Schedules of the United States Annotated (TSUSA)

It is proposed, pursuant to sec. 484(e) of the Tariff Act of 1930 (19 U.S.C. 1484 (e)), that general statistical headnote 1 of the TSUSA be amended to read as set forth below.

The primary purpose of amendments to the headnote provisions is to provide for the collection and reporting of additional information on all imported merchandise, as follows:

(1) Its purchase price (i.e., its actual transaction value) adjusted, when necessary, to obtain its so-called f.o.b. value at the port of exportation (or the equivalent thereof for merchandise not acquired by purchase).

(2) In the case of merchandise not acquired in an arm's-length transaction, the equivalent of the arm's-length value therefor to be derived, to the extent practicable, from customs values, as generally determined under section 402 and 402a, Tariff Act of 1930, as amended.

(3) Separately, the aggregated costs incurred in bringing the merchandise from the port of exportation in the country of exportation to the first port of entry in the United States.

The responsibility for obtaining and providing the data required by the statistical annotations of the TSUSA rests with the person making entry or withdrawal of articles imported into the customs territory of the United States. Entries or withdrawals not complying with statistical requirements will be cause for rejection by customs officers.

Interested persons may participate in the proposed rule making by submitting written comments, views, or data concerning the proposed amendment of the general statistical headnote in triplicate. Such written comments, views or data should be submitted to the Chairman, Committee for Statistical Annotation of Tariff Schedules, United States Tariff Commission, Washington, D.C. 20436. To be considered, such written comments, views, or data should be received not later than October 29, 1973. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Secretary, United States Tariff Commission, during regular business hours.

*General statistical headnotes: 1. Statistical requirements for imported articles.* (a) Persons making customs entry or withdrawal of articles imported into the customs territory of the United States shall complete the entry or withdrawal forms, as provided herein and in regulations issued pursuant to law, to provide for statistical purposes information as follows:

(i) The number of the Customs district and of the port where the articles are being entered for consumption or warehouse, as shown in Statistical Annex A of these schedules;

(ii) The name and flag of the vessel or the name of the airline, or in the case of shipment by other than vessel or air, the means of transportation by which the articles first arrived in the United States;

(iii) The foreign port of lading;





(iv) The United States port of unlading for vessel and air shipments;

(v) The date of importation;

(vi) The country of origin of the articles expressed in terms of the designation therefor in Statistical Annex B of these schedules;

(vii) The country of exportation expressed in terms of the designation therefor in Statistical Annex B of these schedules;

(viii) The date of exportation;

(ix) A description of the articles in sufficient detail to permit the classification thereof under the proper statistical reporting number in these schedules;

(x) The statistical reporting number under which the articles are classifiable;

(xi) Gross weight in pounds for the articles covered by each reporting number when imported in vessels or aircraft;

(xii) The net quantity in the units specified herein for the classification involved;

(xiii) The U.S. dollar value in accordance with the definition of section 402 or 402a of the Tariff Act of 1930, as amended, for all merchandise including that free of duty or dutiable at specific rates;

(xiv) The purchase price (i.e., the actual transaction value), in U.S. dollars, of imported merchandise plus, when not included in such price, all charges, costs, and expenses incurred in placing such merchandise alongside the carrier at the port of exportation in the country of exportation (or, in the case of merchandise not acquired by purchase, e.g., acquired on consignment, lease, or as gifts, the equivalent of such price, charges, costs, and expenses);

(xv) In addition to the value required under subparagraph (xiv), if the merchandise was not acquired in an arm's-length transaction, the equivalent of the arm's-length value therefor, in U.S. dollars, plus, when not included in such value, all charges, costs, and expenses incurred in placing such merchandise alongside the carrier at the port of exportation in the country of exportation;

(xvi) The aggregate cost (not including U.S. import duty, if any), in U.S. dollars, of freight, insurance, and all other charges, costs, and expenses (each of which charges, costs, and expenses shall be separately itemized on or attached to the related invoice) incurred in bringing the merchandise from alongside the carrier at the port of exportation in the country of exportation and placing it alongside the carrier at the first U.S. port of entry (in the case of overland shipments originating in Canada or Mexico, such cost, if any, shall not be reported); and

(xvii) Such other information with respect to the imported articles as is provided for elsewhere in these schedules.

(b) For the purpose of paragraph (a), the following definitions shall govern. (i) The country of exportation shall be the country of origin, except when the merchandise while located in a third country is the subject of a new purchase in which event the third country shall be regarded and reported as the country of exportation, and the date of exportation from the third country shall be regarded and reported as the date of exportation.

(ii) The value of imported merchandise contemplated by subparagraph (xv) shall be, to the extent practicable, a value derived from the value of such merchandise as generally determined under section 402 or 402a of the Tariff Act, as the case may be.

(iii) An arm's-length transaction shall be a transaction between a buyer and seller independent of each other, i.e., persons who are not related in any respect specified in section 402(g)(2) of the Tariff Act of 1930, as amended.

Issued: September 26, 1973.

[SEAL] CATHERINE BEDELL,
*Chairman—U.S. Tariff Commission.*

SIDNEY L. JONES,
*Assistant Secretary of Commerce for Economic Affairs.*

EDWARD L. MORGAN,
*Assistant Secretary of the Treasury.*

[FR Doc.73-20824 Filed 9-27-73;8:45 am]

## DEPARTMENT OF COMMERCE

### Office of the Secretary

### COLLECTION OF F.O.B. AND C.I.F. DATA ON IMPORTS

#### Proposed Amendment of General Statistical Headnote 1 of the Tariff Schedules of the United States Annotated (TSUSA)

CROSS REFERENCE: For a document pertaining to the collection of F.O.B. and C.I.F. data on imports, issued jointly by the Department of Commerce, Department of Treasury, and the Tariff Commission, see FR Doc. 73-20824, infra.

### Social and Economic Statistics Administration

### ANNUAL SURVEYS IN MANUFACTURING AREA

#### Notice of Consideration

Notice is hereby given that the Bureau of the Census is considering a proposal to continue or initiate the annual surveys listed below for the year 1973 and for each year thereafter, under the authority of Title 13, United States Code, sections 181, 224, and 225. These surveys, most of which have been conducted for many years, are significant in the manufacturing area and on the basis of information and recommendations received by the Bureau of the Census the data have significant application to the needs of the public and industry and are not available from nongovernmental or other governmental sources.

The establishments covered by these surveys directly account for the bulk of all manufacturing employment. The information to be developed from these surveys is necessary for an adequate measurement of total industrial production. Government agencies need data on the output of these industries. Manufacturers in the industries involved, as well as their suppliers and customers and the general public, have all requested such data in the interest of business efficiency and stability.

Such surveys, if conducted, shall begin on or after October 29, 1973.

Report forms in most instances furnishing data on shipments and/or production and in some instances on stocks, unfilled orders, orders booked, consumption, etc., will be required of all or a sample of establishments engaged in the production of the items covered by the following list of surveys.

The surveys have been arranged under major group headings shown in the Standard Industrial Classification Manual (1972 edition) promulgated by the Office of Management and Budget for the use of Federal statistical agencies.

MAJOR GROUP 22—TEXTILE MILL PRODUCTS

Broadwoven goods finished.
Narrow production.
Yarn production.
Knit cloth.

MAJOR GROUP 23—APPAREL AND OTHER FINISHED PRODUCTS MADE FROM FABRICS AND SIMILAR MATERIALS

Gloves and mittens.
Apparel.
Brassieres, corsets, and allied garments.
Sheets, pillowcases, and towels.

MAJOR GROUP 24—LUMBER AND WOOD PRODUCTS, EXCEPT FURNITURE

Hardwood plywood.
Softwood plywood.
Lumber.

MAJOR GROUP 26—PAPER AND ALLIED PRODUCTS

Pulp, and detailed grades of paper and board.

MAJOR GROUP 28—CHEMICALS AND ALLIED PRODUCTS

Sulfuric acid.
Industrial gases.
Inorganic chemicals.
Pharmaceutical preparations, except biologicals.

MAJOR GROUP 29—PETROLEUM REFINING AND RELATED INDUSTRIES

Asphalt and tar roofing and siding products.

MAJOR GROUP 30—RUBBER AND MISCELLANEOUS PLASTICS PRODUCTS

Rubber.
Plastics products.

MAJOR GROUP 31—LEATHER AND LEATHER PRODUCTS

Shoes and slippers (by method of construction).

MAJOR GROUP 32—STONE, CLAY, AND GLASS

Consumer, scientific, technical, and industrial glassware.
Fibrous glass.

MAJOR GROUP 33—PRIMARY METAL INDUSTRIES

Steel mill products.
Insulated wire and cable.
Magnesium mill products.

MAJOR GROUP 34—FABRICATED METAL PRODUCTS EXCEPT ORDNANCE, MACHINERY, AND TRANSPORTATION EQUIPMENT

Commercial steel forgings.
Steel power boilers.
Heating and cooking equipment.

MAJOR GROUP 35—MACHINERY, EXCEPT ELECTRICAL

Internal combustion engines.
Tractors.
Farm machines and equipment.
Mining machinery and equipment.
Air-conditioning and refrigeration equipment.
Office, computing, and accounting machines.
Pumps and compressors.
Selected air pollution control equipment.
Construction Machinery.

MAJOR GROUP 36—ELECTRICAL MACHINERY, EQUIPMENT, AND SUPPLIES

Radios, television, and phonographs.
Motors and generators.



V 38-188
SEP 28 73
XUM

Wiring devices and supplies.
Switchgear, switchboard apparatus, relays, and industrial controls.
Selected electronic and associated products.
Electric housewares and fans.
Electric lighting fixtures.
Major household appliances.

MAJOR GROUP 37—TRANSPORTATION EQUIPMENT

Aircraft propellers.

MAJOR GROUP 38—PROFESSIONAL, SCIENTIFIC, AND CONTROLLING INSTRUMENTS: PHOTOGRAPHIC AND OPTICAL GOODS; WATCHES AND CLOCKS

Selected instruments and related products.
Atomic energy products and services.

The following list of surveys represents annual supplements of monthly and quarterly surveys and will cover the same establishments canvassed in the monthly or quarterly survey. There will be no duplication of reporting however, since the type of data collected on the annual supplement will be different from that collected on the more frequent survey.

MAJOR GROUP 32—STONE, CLAY, AND GLASS

Glass containers.

MAJOR GROUP 34—FABRICATED METAL PRODUCTS EXCEPT ORDNANCE, MACHINERY, AND TRANSPORTATION EQUIPMENT

Closures for containers.
Steel shipping barrels, drums, and pails.

The following list of surveys represents annual counterparts of monthly and quarterly surveys and will cover only those establishments which are not canvassed or do not report in the more frequent survey. Accordingly, there will be no duplication in reporting. The content of these annual reports will be identical with that of the monthly and quarterly reports.

MAJOR GROUP 20—FOOD AND KINDRED PRODUCTS

Flour milling products.
Margarine Manufacturers'—packaging operations.

MAJOR GROUP 22—TEXTILE MILL PRODUCTS

Man-made fiber, silk, woolen, and worsted fabrics.
Finishing plant report—broad woven fabrics.
Piece goods inventories and orders.
Broad woven goods (cotton, wool, silk, and synthetic).
Consumption of wool and other fibers, and production of tops and noils.
Rugs, carpets and carpeting.

MAJOR GROUP 25—FURNITURE AND FIXTURES

Mattresses and bedsprings.

MAJOR GROUP 26—PAPER AND ALLIED PRODUCTS

Converted flexible packaging products.

MAJOR GROUP 28—CHEMICALS AND ALLIED PRODUCTS

Superphosphates.
Paint, varnish, and lacquer.

MAJOR GROUP 30—RUBBER AND MISCELLANEOUS PLASTICS PRODUCTS

Thermoplastics pipe, tube, and fittings.

MAJOR GROUP 32—STONE, CLAY, AND GLASS

Flat glass.
Glass containers.
Refractories.
Clay construction products.

MAJOR GROUP 33—PRIMARY METAL INDUSTRIES

Nonferrous castings.
Iron and steel foundries.
Steel mill shapes and forms. (Consumers and Producers Report)
Copper-base mill products.

MAJOR GROUP 34—FABRICATED METAL PRODUCTS, EXCEPT ORDNANCE, MACHINERY, AND TRANSPORTATION EQUIPMENT

Plumbing fixtures.
Metal cans.

MAJOR GROUP 35—MACHINERY, EXCEPT ELECTRICAL

Construction machinery.

MAJOR GROUP 36—ELECTRICAL MACHINERY, EQUIPMENT, AND SUPPLIES

Electric lamps.
Fluorescent lamp ballasts.

MAJOR GROUP 37—TRANSPORTATION EQUIPMENT

Aircraft engines.
Complete aircraft.
Backlog of orders for aircraft, space vehicles, missiles, engines and selected parts.
Truck trailers.

The Annual Survey of Manufactures will be conducted and will call for general statistical data such as employment, payroll, man-hours, capital expenditures, cost of materials consumed, gross book value of fixed assets, rental payments, supplemental labor costs, etc., in addition to information on value of products shipped and quantity data for selected classes of products and quantity and cost of selected fuels used. This survey, while conducted on a sample basis, will cover all manufacturing industries. Data on employment, payrolls, and inventories for auxiliary establishments of manufacturing companies such as central administrative offices, manufacturers' sales branches, warehouses, etc., will be included, as well as data on plants under construction but not in operation.

A survey of research and development costs will be conducted also. The data to be obtained will be limited to total research and development costs of work performed by the company, total cost of research and development work performed for the Federal Government, and, for comparative purposes, total net sales and receipts, and total employment of the company.

In addition, a survey on shipments to, or receipts for work done for, Federal Government agencies and their contractors and suppliers is planned. This survey has been conducted annually since 1966. It is designed to provide information on the impact of Federal procurement on selected industries and on the economy of States, standard metropolitan statistical areas, and geographic regions.

Copies of the proposed forms are available on request to the Director, Bureau of Census, Washington, D.C. 20233.

Any suggestions or recommendations concerning the subject matter of these proposed surveys should be submitted in writing to the Director of the Census Bureau within 30 days after the date of this publication in order to receive consideration.

Dated September 25, 1973.

EDWARD D. FAILOR,
*Administrator, Social and Economic Statistics Administration.*

[FR Doc.73-20713 Filed 9-27-73;8:45 am]

## DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

### Food and Drug Administration

### AGREEMENT BETWEEN DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE AND ENVIRONMENTAL PROTECTION AGENCY

### Notice Regarding Matters of Mutual Responsibility; Amendment

*Correction*

In FR Doc. 73-18799 appearing at page 24233 in the issue of Thursday, September 6, 1973, in column 3, second line of paragraph k(vi), the word "produc", should read "product".

### Food and Drug Administration

### ADVISORY COMMITTEES

### Notice of Meetings

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Public Law 92-463, 86 Stat. 770-776; 5 U.S.C. App.), the Food and Drug Administration announces the following public advisory committee meetings and other required information in accordance with provisions set forth in section 10(a) (1) and (2) of the act:

| Committee name | Date, time, place | Type of meeting and contact person |
|---|---|---|
| 1. Radioactive Pharmaceuticals Advisory Committee. | Oct. 1 and 2, 9 a.m., Conference Room L, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. | Open Oct. 1, 9 a.m. to 10 a.m. Closed Oct. 1 after 10 a.m., closed Oct. 2. Earl L. Meyers, Ph. D., Room 11B-20, 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4250. |

*Purpose.* Advises the Commissioner of Food and Drugs regarding safety and efficacy of drugs employed in nuclear medicine.

*Agenda.* Proposed FEDERAL REGISTER document lifting AEC/FDA Agreement of January 8, 1963, forwarding certain IND information to AEC and the States; Labeling of Bleomycin $^{111}$ in Bleomycin; Status of $^{123}$ I 19-Iodo-cholesteral; use of $^{111}$ in DTPA in cisternography; Clinical Guidelines for Radiopharmaceuticals.

| Committee name | Date, time, place | Type of meeting and contact person |
|---|---|---|
| 2. Panel on Review of Hemorrhoidal Drug Products. | Oct. 7 and 8, 9 a.m., Conference Room A, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. | Closed Oct. 7, open Oct. 8, 9 a.m. 10 a.m., closed Oct. 8 after 10 a.m. Thomas De Cillis, Room 10B-05, 5600 Fishers Lane, Rockville, Md., 20852, 301-443-4060. |

*Purpose.* Reviews and evaluates available information concerning safety and effectiveness of active ingredients of currently marketed nonprescription drug products for hemorrhoidal application.

*Agenda.* Continuing review of over-the-counter drug products under investigation.

| Committee name | Date, time, place | Type of meeting and contact person |
|---|---|---|
| 3. Panel on Review of Cardiovascular Devices. | Oct. 9, 9:30 a.m., Room 1813, 200 C St. SW., Washington, D.C. | Open 9:30 a.m. to noon closed afternoon. Glenn A. Rahmoeller (CM-120), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-2376. |

*Purpose.* Reviews and evaluates available data concerning safety, effectiveness, and reliability of cardiovascular devices currently in use.

*Agenda.* Panel will discuss and recommend specific detailed suggestions for implantable pacemaker standards development.

| Committee name | Date, time, place | Type of meeting and contact person |
|---|---|---|
| 4. Skeletal Muscle Relaxant Subcommittee of Neuropharmacology Advisory Committee. | Oct. 10, 9:30 a.m., Conference Room H, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. | Open 9:30 a.m. to 10:30 a.m., closed after 10:30 a.m. Frederick Jordan, Room 10B-30, 5600 Fishers Lane, Rockville, Md. 20852, 301-443-3870. |

*Purpose.* Advises the Commissioner of Food and Drugs regarding safety and efficacy of drugs employed in neuropharmacology.

*Agenda.* Discussion of NAS/NRC evaluation of certain skeletal muscle relaxants as less than effective; review of data submitted by manufacturers; discussion regarding suitable protocols for evaluating safety and efficacy.

| Committee name | Date, time, place | Type of meeting and contact person |
|---|---|---|
| 5. Panel on Review of Dentifrices and Dental Care Agents. | Oct. 10 and 11, 9 a.m., Conference Room B, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. | Open Oct. 10, 9 a.m. to 10 a.m., closed Oct. 10 after 10 a.m., closed Oct. 11. Michael D. Kennedy, Room 10B-05, 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4960. |

*Purpose.* Reviews and evaluates available information concerning safety and effectiveness of active ingredients of currently marketed nonprescription drug products containing dentifrices and dental care agents.

*Agenda.* Continuing review of over-the-counter drug products under investigation.





| Committee name | Date, time, place | Type of meeting and contact person |
|---|---|---|
| 6. Panel on Review of Anesthesiology Devices. | Oct. 10, 2 p.m., Room 322, Civic Auditorium, San Francisco, Calif. Oct. 11, 1 p.m., Shasta Room, Hilton Hotel, San Francisco, Calif. | Open Oct. 10, 2 p.m. to 4 p.m. closed Oct. 11. Isadore C. Kremen, M.D. (CM-120), 5600 Fishers Lane, Rockville, Md. 20852, 301-443-3550. |

*Purpose.* Reviews and evaluates available data concerning safety, effectiveness, and reliability of anesthesiology devices currently in use.

*Agenda.* The public session, held in connection with the annual meeting of the American Society of Anesthesiologists, is to describe the classification system and the process used by the panel to classify such devices. Closed meeting: Continuing review of additional categories of anesthesiology devices and consideration of input from the October 10 open meeting.

| Committee name | Date, time, place | Type of meeting and contact person |
|---|---|---|
| 7. Biometric and Epidemiological Methodology Advisory Committee. | Oct. 11, 9 a.m., Conference Room K, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. | Open, Charles Anello, D. Sc., Room 15B-17, 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4594. |

*Purpose.* Advises the Commissioner of Food and Drugs concerning extramural and intramural research in the area of epidemiological and biometrical methodology.

*Agenda.* Use of data obtained from retrospective or case-control studies, introduction to the concept of "Phase IV" studies, and the importance of stopping rules in clinical studies.

| Committee name | Date, time, place | Type of meeting and contact person |
|---|---|---|
| 8. National Advisory Drug Committee. | Oct. 11, 1 p.m. Oct. 12, 9 a.m. Conference Room M, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. | Open, John Jennings, M.D., Room 14-82, 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4124. |

*Purpose.* Reviews and evaluates agency programs and provides advice and guidance to the Commissioner of Food and Drugs on policy matters of national significance relating to FDA's statutory mission in the area of drugs.

*Agenda.* Ethical considerations in human experimentation and communications with medical profession and patients concerning drug information.

| Committee name | Date, time, place | Type of meeting and contact person |
|---|---|---|
| 9. Diagnostic Products Advisory Committee. | Oct. 11 and 12, 9 a.m., Conference Room M, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. | Open Oct. 11, 9 a.m. to 2 p.m., closed Oct. 11 after 2 p.m., closed Oct. 12. Eloise Eavenson, Room 16B-33, 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4590. |

*Purpose.* Reviews and evaluates information pertaining to performance standards for selected diagnostic products, evaluates and recommends appropriate reference methodologies and standards of precision and accuracy for measuring such products, and recommends priorities on presently marketed products for standard setting by FDA.

*Agenda.* Discussion of recommended top ten priorities for product class standards, report of SAMA meeting, report of actions taken on previous committee recommendations, compliance actions, and report on FDA/CDC agreement on division of responsibilities and role of subcommittees. Closed session: Discussion of interim reports on developing product class standards, and discussion of "custom-made" products.

| Committee name | Date, time, place | Type of meeting and contact person |
|---|---|---|
| 10. Dental Drug Products Advisory Committee. | Oct. 12, 9 a.m., Conference Room K, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. | Open 9 a.m. to 10 a.m., closed after 10 a.m., Clarence C. Gilkes, D.D.S., Room 12H-06, 5600 Fishers Lane, Rockville, Md. 20852, 301-443-3560. |

*Purpose.* Advises the Commissioner of Food and Drugs concerning safety and efficacy of drugs employed in the practice of dentistry.

*Agenda.* Review and evaluation of data submitted by manufacturers of topical fluoride solutions, pastes, and gels; recommendations regarding safety and efficacy.

| Committee name | Date, time, place | Type of meeting and contact person |
|---|---|---|
| 11. Obstetrics and Gynecology Advisory Committee. | Oct. 12, 9 a.m., Conference Room L, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. | Open 9 a.m. to noon, closed after noon. Ridgley C. Bennett, Jr., M.D., Room 14B-19, 5600 Fishers Lane, Rockville, Md. 20852, 301-443-3520. |

*Purpose.* Advises the Commissioner of Food and Drugs regarding the safety and efficacy of drugs employed in the practice of obstetrics and gynecology.

*Agenda.* Prophylactic use of antibiotics in obstetric and gynecologic surgery, the selection of an oral contraceptive, and efficacy of 17α-hydroxyprogesterone [hexanoate] (Delalutin) in the prevention of premature labor. Closed session: Copper-bearing intrauterine contraceptive devices, proposed revision of oral



V 38 I 188 SEP 28 73 XUM

contraceptive labeling, and breast nodules in Rhesus monkeys treated with P-1496, an estrogenic compound obtained from mold on corn.

| Committee name | Date, time, place | Type of meeting and contact person |
|---|---|---|
| 12. Endocrinology and Metabolism Advisory Committee. | Oct. 16, 9 a.m., Conference Room M, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. | Open 9 a.m. to 10 a.m., closed after 10 a.m. Martha M. Freeman, M.D., Room 14B-19, 5600 Fishers Lane, Rockville, Md. 20852, 301-443-3520. |

*Purpose.* Advises the Commissioner of Food and Drugs regarding safety and efficacy of drugs employed in treatment of endocrine and metabolic disorders.

*Agenda.* Open session: Discussion of antilipemic agent—Clofibrate. Closed session: Presentation by sponsors and discussion of safety and efficacy data for Cholestipol and Halofenate.

| Committee name | Date, time, place | Type of meeting and contact person |
|---|---|---|
| 13. Panel on Review of Contraceptives and Other Vaginal Drug Products. | Oct. 19 and 20, 9 a.m., Conference Room K, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. | Open Oct. 19, 9 a.m. to 10 a.m., closed Oct. 19 after 10 a.m., closed Oct. 20. Armond Welch, Room 10B-05, 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4960. |

*Purpose.* Reviews and evaluates available information concerning safety and effectiveness of active ingredients of currently marketed nonprescription drug products containing contraceptives and other vaginal drug products.

*Agenda.* Continuing review of over-the-counter drug products under investigation.

| Committee name | Date, time, place | Type of meeting and contact person |
|---|---|---|
| 14 Surgical Drugs Advisory Committee. | Oct. 24 and 25, 9 a.m., Conference Room K, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. | Open Oct. 24, 9 a.m. to 10 a.m., closed Oct. 24 after 10 a.m. closed Oct. 25. Samuel J. Sunnenblick, M.D., Room 12B-25, 5600 Fishers Lane, Rockville, Md. 20852, 301-443 3562. |

*Purpose.* Advises the Commissioner of Food and Drugs regarding safety and efficacy of drugs employed in surgery.

*Agenda.* Open session: Report on FDA Workshop on Large Volume Parenterals. Closed session: Report on Abbott proposal for phase 4 studies with large volume parenterals; projected protocol and immunological problems for Kiel Bone; status of Discase and presentation of submitted protocol.

| Committee name | Date, time, place | Type of meeting and contact person |
|---|---|---|
| 15. Anti-Infective Agents Advisory Committee. | Oct. 25 and 26, 9 a.m., Conference Room G, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. | Open Oct. 25, 9 a.m. to noon, closed Oct. 25 after noon, closed Oct. 26. Merle L. Gibson, M.D., Room 12B-45, 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4310. |

*Purpose.* Advises the Commissioner of Food and Drugs regarding safety and efficacy of drugs employed in the treatment of infectious diseases.

*Agenda.* Minocycline disc for susceptibility testing. Closed session: Cephazolin disc for susceptibility testing, and proposed labeling to permit penicilloylpolylysine use as an adjunct in penicillin sensitivity testing.

| Committee name | Date, time, place | Type of meeting and contact person |
|---|---|---|
| 16. Panel on Review of Topical Analgesics. | Oct. 25 and 26, 9 a.m, Conference Room C, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. | Open Oct. 25, 9 a.m. to 10 a.m. closed Oct. 25 after 10 a.m., closed Oct. 26. Lee Gelsmar, Room 10B-05, 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4960. |

*Purpose.* Reviews and evaluates available information concerning safety and effectiveness of active ingredients of currently marketed nonprescription drug products containing contraceptives and other vaginal drug products.

*Agenda.* Continuing review of over-the-counter drug products under investigation.

| Committee name | Date, time, place | Type of meeting and contact person |
|---|---|---|
| 17. Panel on Review of Antimicrobial Agents. | Oct 25–27, 9 a.m., Conference Room B, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. | Open Oct. 25, 9 a.m. to 10 a.m., closed Oct. 25 after 10 a.m., closed Oct. 26 and 27. Michael D. Kennedy, Room 10B-05, 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4960. |

*Purpose.* Reviews and evaluates available information concerning safety and effectiveness of active ingredients of currently marketed nonprescription drug products containing antimicrobial agents.

*Agenda.* Continuing review of over-the-counter drug products under investigation.

| Committee name | Date, time, place | Type of meeting and contact person |
|---|---|---|
| 18. Panel on Review of Ophthalmic Drugs. | Oct. 26 and 27, 9 a.m., Conference Room K, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. | Open Oct. 26, 9 a.m., to 10 a.m., closed Oct. 26 after 10 a.m.,, closed Oct. 27. John T. McElroy, Room 10B-06, 5600 Fishers Lane, Rockville, Md. 20852, 301-443-4960. |

*Purpose.* Reviews and evaluates available information concerning safety and effectiveness of active ingredients of currently marketed nonprescription drug products containing ophthalmic drugs.

*Agenda.* Continuing review of over-the-counter drug products under investigation.

| Committee name | Date, time, place | Type of meeting and contact person |
|---|---|---|
| 19. Panel on Review of Viral Vaccines and Rickettsial Vaccines. | Oct. 29 and 30, 9 a.m., Room 121, Bldg. 29, National Institute of Health, 9000 Rockville Pike, Bethesda, Md. | Open Oct. 29, 9 a.m. to 11 a.m., closed Oct. 29 after 11 a.m., closed Oct. 30. Jack Gerizog (B1-5), 5600 Fishers Lane, Rockville, Md. 20852, 301-496-1676. |

*Purpose.* Advises the Commissioner of Food and Drugs on the safety and effectiveness of viral vaccines and rickettsial vaccines.

*Agenda.* Continuing review of viral vaccines and rickettsial vaccines under investigation.

Agenda items are subject to change as priorities dictate.

During the open sessions shown above, interested persons may present relevant information or views orally to any committee for its consideration. Information or views submitted to any committee in writing before or during a meeting shall also be considered by the committee.

A list of committee members and summary minutes of meetings may be obtained from the contact person for the committee both for meetings open to the public and those meetings closed to the public in accordance with section 10(d) of the Federal Advisory Committee Act.

Most Food and Drug Administration advisory committees are created to advise the Commissioner of Food and Drugs on pending regulatory matters. Recommendations made by the committees on these matters are intended to result in action under the Federal Food, Drug, and Cosmetic Act, and these committees thus necessarily participate with the Commissioner in exercising his law enforcement responsibilities.

The Freedom of Information Act recognized that the premature disclosure of regulatory plans, or indeed internal discussions of alternative regulatory approaches to a specific problem, could have adverse effects upon both public and private interests. Congress recognized that such plans, even when finalized, may not be made fully available in advance of the effective date without damage to such interests, and therefore provided that this type of discussion would remain confidential. Thus, law enforcement activities have long been recognized as a legitimate subject for confidential consideration.

These committees often must consider trade secrets and other confidential information submitted by particular manufacturers which the Food and Drug Administration by law may not disclose, and which Congress has included within





the exemptions from the Freedom of Information Act. Such information includes safety and effectiveness information, product formulation, and manufacturing methods and procedures, all of which are of substantial competitive importance.

In addition, to operate most effectively, the evaluation of specific drug or device products requires that members of committees considering such regulatory matters be free to engage in full and frank discussion. Members of committees have frequently agreed to serve and to provide their most candid advice on the understanding that the discussion would be private in nature. Many experts would be unwilling to engage in candid public discussion advocating regulatory action against a specific product. If the committees were not to engage in the deliberative portions of their work on a confidential basis, the consequent loss of frank and full discussion among committee members would severely hamper the value of these committees.

The Food and Drug Administration is relying heavily on the use of outside experts to assist in regulatory decisions. The Agency's regulatory actions uniquely affect the health and safety of every citizen, and it is imperative that the best advice be made available to it on a continuing basis in order that it may most effectively carry out its mission.

A determination to close part of an advisory committee meeting does not mean that the public should not have ready access to these advisory committees considering regulatory issues. A determination to close the meeting is subject to the following conditions: First, any interested person may submit written data or information to any committee, for its consideration. This information will be accepted and will be considered by the committee. Second, a portion of every committee meeting will be open to the public, so that interested persons may present any relevant information or views orally to the committee. The period for open discussion will be designated in any announcement of a committee meeting. Third, only the deliberative portion of a committee meeting, and the portion dealing with trade secret and confidential information, will be closed to the public. The portion of any meeting during which nonconfidential information is made available to the committee will be open for public participation. Fourth, after the committee makes its recommendations and the Commissioner either accepts or rejects them, the public and the individuals affected by the regulatory decision involved will have an opportunity to express their views on the decision. If the decision results in promulgation of a regulation, for example, the proposed regulation will be published for public comment. Closing a committee meeting for deliberations on regulatory matters will therefore in no way preclude public access to the committee itself or full public comment with respect to the decisions made based upon the committee's recommendation.

The Commissioner has been delegated the authority under section 10(d) of the Federal Advisory Committee Act to issue a determination in writing, containing the reasons therefor, that any advisory committee meeting is concerned with matters listed in 5 U.S.C. 552(b), which contains the exemptions from the public disclosure requirements of the Freedom of Information Act. Pursuant to this authority, the Commissioner hereby determines, for the reasons set out above, that the portions of the advisory committee meetings designated in this notice as closed to the public involve discussion of existing documents falling within one of the exemptions set forth in 5 U.S.C. 552(b), or matters that, if in writing, would fall within 5 U.S.C. 552(b), and that it is essential to close such portions of such meetings to protect the free exchange of internal views and to avoid undue interference with Agency and committee operations. This determination shall apply only to the designated portions of such meetings which relate to trade secrets and confidential information or to committee deliberations.

Dated September 25, 1973.

A. M. SCHMIDT,
*Commissioner of Food and Drugs.*

[FR Doc.73-20710 Filed 9-27-73;8:45 am]

## Health Resources Administration

## NATIONAL ADVISORY COMMITTEES

### Notice of Public Meeting

The Administrator, Health Resources Administration, announces the meeting dates and other required information for the following National Advisory bodies scheduled to assemble the month of October 1973:

| Committee name | Date, time, place | Type of meeting and contact person |
|---|---|---|
| Nurse Training Act Project Grants Review Committee. | Oct. 1–5, 9 a.m., Conference Room 6, Bldg. 31, National Institutes of Health, Bethesda, Md. | Open—9–10 10 a.m. on Oct. 1. Closed remainder of meeting. Contact Dr. Hazel Ashakson, Federal Bldg., Room 616, 9000 Rockville Pike, Bethesda, Md., 301-496-4977. |

Purpose: Performs initial review of applications for special project grants designed to plan or develop programs of nursing education; to strengthen, improve, or expand programs to teach and train nurses; and start-up grants for schools of nursing and recruitment of grants and contracts. Makes recommendations to the National Advisory Council on Nurse Training.

Agenda: During the open session of the meeting, there will be a general discussion of program responsibilities. During the closed session, the committee will conduct a review of grant applications for Federal assistance during which time the meeting will be closed to the public in accordance with the determination by the Administrator, HRA, pursuant to the provisions of Public Law 92-463, Section 10(d).

| Committee name | Date, time, place | Type of meeting and contact person |
|---|---|---|
| Public Health Conference on Records and Statistics—Standing Committee. | Oct. 29-30, 9:30 a.m., Conference Room M, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md. | Open. Contact Mary Lou Dundon, Room 9A-19, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md., 301-443-1470. |

Purpose: Advises, consults with and makes recommendations on the Public Health Conference on Records and Statistics, a planned study program of the Public Health Service administered by the National Center for Health Statistics, which fosters the development of improved techniques and concepts in vital records and health statistics in the United States. This program is carried out through biennial national meetings and small technical studies to investigate current and future problems and develop recommendations for practical solutions, with a view to improved services to health programs, to the public in general, and to the nation.

Agenda: Items will cover Report of the Director, NCHS, which will include the reorganization; recent developments in the Cooperative Federal-State-Local Health Statistics System; Plans for the formation of a new Cooperative Health Statistics System Advisory Committee; report on the progress of the 1974–75–76 National Meetings of the Public Health Conference on Records and Statistics and reports on technical studies of the Model State Vital Statistics Act and Regulations and Revision of Standard Certificates.

Agenda items are subject to change as priorities dictate.

A roster of members and other relevant information regarding the open/closed sessions may be obtained from the contact persons listed above.

Dated September 25, 1973.

KENNETH M. ENDICOTT,
*Administrator,*
*Health Resources Administration.*

[FR Doc.73-20769 Filed 9-27-73;8:45 am]

## National Institutes of Health

## HEART AND LUNG PROGRAM—PROJECT COMMITTEE

### Notice of Renewal

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Public Law 92-463, 86 Stat. 770-776), the National Institutes of Health announces the following action by the Secretary, DHEW:

Extending the life of the following advisory committee on June 30, 1973: Heart and Lung Program-Project Committee, National Heart and Lung Institute. The function of this committee is to review applications for grants-in-aid for support of programs of multidisciplinary basic and medical research, and provides



V 38 I 188 SEP 28 73 XUM

technical advice to the National Heart and Lung Advisory Council and to the Director, National Heart and Lung Institute.

The authority for this committee will expire June 30, 1975 unless the Secretary, DHEW, formally determines that continuance is in the public interest.

Dated September 22, 1973.

ROBERT S. STONE, M.D.,
*Director,*
*National Institutes of Health.*

[FR Doc.73-20817 Filed 9-27-73;8:45 am]

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. EX73-6; Notice 2]

### AUTO SPORT IMPORTERS

### Motor Vehicle Safety Standards; Denial of Petition for Temporary Exemption

The National Highway Traffic Safety Administration has decided to deny Edward Felbin T/A Auto Sport Importers an exemption of its Squire SS 100 model from four Federal motor vehicle safety standards.

Notice of petition for the exemption was published in the FEDERAL REGISTER on July 13, 1973 (38 FR 18703), and an opportunity afforded for comment. Auto Sport petitioned on grounds of substantial economic hardship to be excused from the wiped area requirements of Standard No. 104, the headform impact requirements of Standard No. 201, and the standards on windshield mounting (No. 212) and fuel system integrity (No. 301).

In support of its petition Auto Sport stated its opinion that it does meet Standards Nos. 201 and 301, based upon "use of materials that are currently being used by manufacturers who have done tests and certified compliance" and its "contemporary construction and installation methods that are at least equal to other manufacturers who have tested and certified compliance." Similar contentions support its belief of compliance ith Standard No. 212. The Squire's windshield is "mounted in a detachable frame assembled in a manner similar to other windshield installations that have been certified." Problems of compliance with Standard No. 104 were said to be caused by the vehicle's design, by which the percentage of area viewed by the driver is greater than the actual area of glass, and "even if a wiper could be designed to wipe 100 percent of the glass, this section of the standard would still not be met."

Only one valid comment was received, from Bayerische Motoren Werke of Munich, which supported the petition. An anonymous comment was received which was not considered pursuant to NHTSA regulations requiring identification of commenters (49 CFR § 551.35).

Section 555.6(a)(1) of Title 49 requires a petitioner to provide "Engineering and financial information demonstrating in detail how compliance * * * would cause substantial economic hardship." Petitioner submitted no analysis of what it would cost to test to verify compliance with Standards Nos. 201, 212, and 301. Further, petitioner provided no detailed information which would support its belief in its compliance with these standards. With respect to Standard No. 104, petitioner may have misunderstood the intent of Standard No. 104. The standard does not specify windshield configuration, but only the wiping of a certain percentage of the area within a 1-inch boundary from the daylight opening. There would be no need to redesign, enlarge, or relocate the windshield as suggested. However, the data submitted by the petitioner is so sparse that the NHTSA is unable to determine whether petitioner has in fact a problem with wiped area percentage.

For these reasons, the NHTSA finds that insufficient justification has been presented for an exemption from the standards, and the Auto Sport petition is accordingly denied.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159, 15 U.S.C. 1410; delegation of authority at 49 CFR 1.51.)

Issued on September 21, 1973.

JAMES B. GREGORY,
*Administrator.*

[FR Doc.73-20678 Filed 9-26-73;8:45 am]

## ATOMIC ENERGY COMMISSION

[Docket No. 50-270]

### DUKE POWER CO.

### Order Extending Completion Date

Duke Power Company is the holder of Provisional Construction Permit No. CPPR-34 issued by the Commission on November 6, 1967, for the construction of the Oconee Nuclear Station, Unit 2, a 2568 megawatt (thermal) pressurized water nuclear reactor presently under construction at the Company's site in Oconee County, South Carolina, approximately eight miles northeast of Seneca, South Carolina.

On August 29, 1973, the Company requested an extension of the completion date because construction of Unit 2 has been delayed due to (1) diversion of construction forces from Unit 2 to Unit 1 to solve problems occasioned by the lateness of Unit 1, (2) delay in delivery of major reactor coolant components, and (3) modifications required to the reactor vessel internals for Unit 2. The Director of Regulation having determined that this action involves no significant hazards consideration, and good cause having been shown, the bases for which are set forth in a memorandum dated September 21, 1973, from R. C. DeYoung to A. Giambusso:

*It is hereby ordered,* That the latest completion date for CPPR-34 (Unit 2) is extended from October 1, 1973, to November 4, 1973.

For the Atomic Energy Commission.

Date of issuance September 24, 1973.

A. GIAMBUSSO,
*Deputy Director for Reactor Projects Directorate of Licensing.*

[FR Doc.73-20682 Filed 9-27-73;8:45 am]

[Docket No. 50-389]

### FLORIDA POWER AND LIGHT CO.

### Receipt of Application for Construction Permit and Facility License; Availability of Applicant's Environmental Report; Time for Submission of Views on Antitrust Matter

The Florida Power and Light Company (the applicant), pursuant to Section 103 of the Atomic Energy Act of 1954, as amended, has filed an application dated May 14, 1973, which was docketed September 4, 1973, for authorization to construct and operate a pressurized water nuclear reactor. The application was initially tendered on April 19, 1973. Following a preliminary review for completeness, the Preliminary Safety Analysis Report was found to be acceptable for docketing; however, the Environmental Report was rejected for lack of sufficient information. The applicant submitted additional environmental information on August 8, 1973, and the application was found acceptable for docketing. Docket No. 50-389 has been assigned to this application and should be referenced in any correspondence relating to it.

The proposed nuclear facility, designated by the applicant as the St. Lucie Plant, Unit 2, is to be located at the applicant's site on Hutchinson Island in St. Lucie County, Florida, between the Cities of Ft. Pierce and Stuart on the East Coast of Florida. The facility is to be designed for initial operation at approximately 2570 megawatts thermal, with a net electrical output of approximately 810 megawatts.

A Notice of Hearing with opportunity for public participation is being published separately.

Any person who wishes to have his views on the antitrust aspects of the application presented to the Attorney General for consideration shall submit such views to the U.S. Atomic Energy Commission, Washington, D.C. 20545, Attention: Chief, Office of Antitrust and Indemnity, Directorate of Licensing, on or before November 20, 1973. The submittal should reference Docket No. 50-389-A.

A copy of the application is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20545, and at the Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida 33450.

The applicant had also filed, pursuant to the National Environmental Policy Act of 1969 and the regulations of the





Commission in Appendix D to 10 CFR Part 50, an Environmental Report. This report, which discusses environmental considerations related to the proposed construction of the St. Lucie Plant, Unit 2, is available for public inspection at the aforementioned locations, and is also being made available at the Department of Administration, State Planning and Development Clearinghouse, 725 South Bronough Street, Tallahassee, Florida 32304.

After the Environmental Report has been analyzed by the Commission's Director of Regulation or his designee, a draft environmental statement will be prepared by the Commission. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement, requesting comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of Federal agencies and State and local officials thereon will be made available when received.

Dated at Bethesda, Maryland, this 12th day of September 1973.

For the Atomic Energy Commission.

KARL R. GOLLER,
*Chief, Pressurized Water Reactors Branch No. 3, Directorate of Licensing.*

[FR Doc.73-20038 Filed 9-20-73;8:45 am]

## CIVIL AERONAUTICS BOARD

### ALASKA AIRLINES, INC.

### Notice of Meeting

Notice is hereby given that a meeting with Alaska Airlines will be held on October 2, 1973, at 2:45 p.m. (local time) in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., to discuss the carrier's status of operations.

Dated at Washington, D.C., September 25, 1973.

[SEAL] EDWIN Z. HOLLAND,
*Secretary.*

[FR Doc.73-20728 Filed 9-27-73;8:45 am]

[Docket 2779]

### INTERSTATE AND INTRASTATE FARES IN CALIFORNIA AND TEXAS MARKETS

### Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on October 16, 1973, at 10 a.m. (local time) in Room 911, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., before the undersigned Administrative Law Judge.

For details of the issues involved in this proceeding, interested persons are referred to the Prehearing Conference Report, served on May 7, 1973, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., September 24, 1973.

[SEAL] WILLIAM H. DAPPER,
*Administrative Law Judge.*

[FR Doc.73-20727 Filed 9-27-73;8:45 am]

## COMMITTEE FOR PURCHASE OF PRODUCTS AND SERVICES OF THE BLIND AND OTHER SEVERELY HANDICAPPED

### PROCUREMENT LIST 1973

### Addition to Procurement List 1973

Notice of proposal addition to Procurement List 1973, March 12, 1973 (38 FR 6742) was published in the FEDERAL REGISTER on April 23, 1973 (38 FR 10037).

Pursuant to the above notice the following commodity is added to Procurement List 1973.

| Commodity | Price (each) |
|---|---|
| *Class 8470* | |
| Strap, Chin, Soldier's Steel Helmet, M-1 8470-030-8003 | $0.71 |

By the Committee.

CHARLES W. FLETCHER,
*Executive Director.*

[FR Doc.73 20721 Filed 9-27-73;8:45 am]

### PROCUREMENT LIST 1973

### Notice of Proposed Additions

Notice is hereby given pursuant to section 2(a)(2) of Public Law 92-28; 85 Stat. 79, of the proposed additions of the following commodities to Procurement List 1973, March 12, 1973 (38 FR 6742).

COMMODITIES

*CLASS 1005*

Sling, Adjustable, Small Arms
1005-167-4336

*CLASS 6515*

Shaving Kit, Surgical Preparation
6515-676-7372

*CLASS 6530*

Surgical Pack, Disposable, Pre-Operative
6530-103-6659

*CLASS 7210*

Pillowcase:
7210-259-8897
7210-259-9004
7210-259-9005
7210-259-9006

Comments and views regarding these proposed additions may be filed with the Committee not later than 30 days after the date of this FEDERAL REGISTER. Communications should be addressed to the Executive Director, Committee for Purchase of Products and Services of the Blind and Other Severely Handicapped, 2009 Fourteenth Street North, Suite 610, Arlington, Virginia 22201.

By the Committee.

CHARLES W. FLETCHER,
*Executive Director.*

[FR Doc.73-20720 Filed 9-27-73;8:45 am]

## ENVIRONMENTAL PROTECTION AGENCY

### STATE OF WASHINGTON

### Public Hearing and Request for Approval of State Program

SEPTEMBER 24, 1973.

A public hearing to consider the request of the State of Washington for State Program Approval to participate in the National Pollutant Discharge Elimination System (NPDES) permit program for the control and abatement of discharges into waters of the State in compliance with the 1972 Amendments to the Federal Water Pollution Control Act, 33 U.S.C.A. §§ 1251-1376 (Supp. 1973) (hereinafter, the "Act"), will be held on:

November 2, 1973
9:30 a.m.
Alki Room, Seattle Center
Seattle, Washington

Section 402(b) of the Act provides that the Governor of a State desiring to administer the NPDES permit program to control discharges into waters within its jurisdiction may submit to the Administrator of the United States Environmental Protection Agency (EPA) a full and complete description of the program the State intends to administer, including a statement from the State Attorney General that the laws of the State provide adequate authority to carry out the described program. The Administrator is required to approve each such submitted program unless the program does not meet the requirements of section 402(b) and EPA's guidelines. Among other authorities, the State must have: (1) adequate authority to issue permits which comply with all pertinent requirements of the Act, and (2) adequate authority, including civil and criminal penalties, to abate violations of the Permit, and (3) authority to insure that the Administrator, the public, or any other affected State, and other affected agencies, are given notice of each application and are given the opportunity for a public hearing before acting on each permit application. EPA's Guidelines establishing State Program Elements Necessary for Participation in the NPDES were published in Volume 37 of the FEDERAL REGISTER, December 22, 1972 (40 CFR 124), beginning at page 28390.

The State of Washington proposes that the Department of Ecology, State of Washington, P.O. Box 829, Olympia, Washington 98504, and the Washington State Thermal Power Plant Site Evaluation Council, 820 Fifth Avenue, Olympia, Washington 98601, operate the NPDES program.

Governor Evans' request and the program description may be inspected at the offices of the State Department of Ecology and the Thermal Power Plant Site Evaluation Council at the above addresses, or at the Regional Office of the United States Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101 (206) 442-1213.



V38-188
SEP 28 73
XUM

The public hearing panel will consist of the Administrator or his representative who will serve as the Presiding Officer, the Director of the Department of Ecology or his representative, the Chairman, Thermal Power Plant Site Evaluation Council or his representative, and the Regional Administrator, Region X, EPA, or his representative.

All interested persons wishing to attend, to comment upon, or to object to this State request are invited to attend the public hearing. Written comments may be presented at the hearing or submitted by November 7, 1973, either in person or by mail to the Regional Office of the United States Environmental Protection Agency at the above address.

Oral statements will be received and considered, but for accuracy of the record, all testimony should be submitted in writing. Statements should summarize extensive written material so that there will be time for all interested persons to be heard. Persons submitting written statements are encouraged to bring additional copies for the use of the hearing panel and other interested persons.

All comments or objections received by November 7, 1973, or presented at the public hearing will be considered by EPA before taking final action on the Washington Request for State Program Approval.

ALAN G. KIRK, II.
*Acting Assistant Administrator for Enforcement and General Counsel.*

SEPTEMBER 24, 1973.

[FR Doc.73-20740 Filed 9-27-73;8:45 am]

## FEDERAL COMMUNICATIONS COMMISSION

[Report No. 667]

### COMMON CARRIER SERVICES INFORMATION [1]

### Domestic Public Radio Services Applications Accepted for Filing [2]

SEPTEMBER 24, 1973.

Pursuant to §§ 1.227(b)(3) and 21.30(b) of the Commission's rules, an application, in order to be considered with any domestic public radio services application appearing on the list below, must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business 1 business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which subsequent applications are in conflict) as having been accepted for filing. An application which is subsequently amended by a major change will be considered to be a newly filed application. It is to be noted that the cutoff dates are set forth in the alternative—applications will be entitled to consideration with those listed below if filed by the end of the 60-day period, only if the Commission has not acted upon the application by that time pursuant to the first alternative earlier date. The mutual exclusivity rights of a new application are governed by the earliest action with respect to any one of the earlier filed conflicting applications.

The attention of any party in interest desiring to file pleadings pursuant to section 309 of the Communications Act of 1934, as amended, concerning any domestic public radio services application accepted for filing, is directed to § 21.27 of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

5424-C2-ML-73, Delta Valley Radiotelephone Co., Inc. (KMA743). Modification of License to delete standby designation operating on 152.21 MHz at Loc. #1: 3502 Kroy Way, Sacramento, California.

20265-C2-P-74, Morgan City Mobilephone (NEW). C.P. for a new 1-way station to operate on 152.24 MHz to be located at 9¼ mile N. Highway 90 on River Road, Berwick, Louisiana.

20266-C2-P-74, Inland Telephone Company (NEW). C.P. for a new 2-way station to operate on 152.750 MHz to be located on Bald Butte, 2 miles East of Johnson, Washington.

20267-C2-P-74, Ohio Bell Telephone Company (KQA655). C.P. for additional facilities to operate on 152.81 MHz; replace transmitters operating on 152.51 and 152.63 MHz, and change antenna system and replace test transmitters operating on 157.77 and 157.89 MHz located at 111 North Fourth Street, Columbus, Ohio.

20268-C2-P-74, Anserphone of Goldsboro, Inc. (NEW). C.P. for a new station to operate on 152.24 MHz with base and standby facilities to be located at 412 East Ash Street, Goldsboro, North Carolina.

20269-C2-P-74, Continental Telephone Company of California (KMM598). C.P. for additional facilities to operate on 152.75 MHz; replace transmitter and change antenna system and delete standby on 152.63 MHz located on Black Metal Mountain, 2.0 miles NW of Parker Dam, California.

20270-C2-P-74, Mobilfone (KLB562). C.P. to change antenna location and replace transmitter operating on 152.12 MHz located one mile West of Andrews, Texas.

20271-C2-P-74, Douglas Radio (KRM967). C.P. to change antenna system and location operating on 152.09 MHz located 2.8 miles West of Douglas, Georgia.

20272-C2-P-74, Susquenna Mobile Communications, Inc. (KGC599). C.P. for additional facilities to operate on 152.21 MHz to be located at a new site described as Loc. #2: 240 North Third Street, Harrisburg, Pennsylvania.

20273-C2-P-74, Sierra Communications (KFL891). C.P. to change antenna system and location for control facilities operating on 454.10 MHz to a new location #2 at 408 N. Bullard Street, Silver City, New Mexico.

20274-C2-P-(3)-74, Autophone of Laredo, Inc. (KLF536). C.P. for additional base facilities to operate on 152.12 MHz and repeater facilities to operate on 459.025 MHz to be located at a new site described as Loc. #2: 19 Miles North of Laredo, Texas; and control facilities to operate on 454.025 MHz to be located at a new site described as Loc. #3: 2201 Locust Street, Laredo, Texas.

20275-C2-P-74, Autophone of Laredo, Inc. (NEW). C.P. for a new 1-way station to operate on 152.24 MHz to be located at West of State Hwy #35, N. edge of Laredo, Texas.

20276-C2-P-(3)-74, Autophone of Laredo, Inc. (NEW). C.P. for a new 2-way station to operate on 152.21 MHz and repeater facilities to operate on 459.350 MHz to be located approx. 4 miles north of Zapata, Texas; and control facilities to operate on 454.350 MHz to be located West of St. Hwy #35, North Edge of Laredo, Texas.

20278-C2-P-(2)-74, General Telephone Company of the Southwest (KWA659), C.P. for additional facilities to operate on 152.78 MHz; and to change antenna system and replace transmitter operating on 152.66 MHz located 9 miles SW of Carta Valley, Texas.

20279-C2-P-74, Curry County Communications (KOP249). C.P. to change antenna system and replace transmitter operating on 152.09 MHz at Loc. #1: 6.75 miles East of Gold Beach, Oregon.

20280-C2-P-74, Clarksdale Mobile Telephone, Inc. (KTS215). C.P. for additional facilities to operate on 152.15 MHz at 1107 Desota Avenue, Extended south of State Street, Clarksdale, Mississippi.

20281-C2-P-74, Mid State Telephone Company (NEW). C.P. for a new 1-way paging station to operate on 158.10 MHz to be located at Highway 23, 0.57 miles north of Spicer, Minnesota.

20282-C2-P-(3)-74, Valcom, Inc. (KUC842). C.P. to change antenna system and location and to replace transmitter operating on 152.18 MHz and to add repeater facilities to operate on 459.350 MHz located at Mr. Ascutney, 4 miles SW of Windsor, Vermont; and to add control facilities to operate on 454.350 MHz to be located at 31 Lyme Road, Hanover, New Hampshire.

20283-C2-P-(2)-74, Valcom, Inc. (NEW). C.P. for a new 1-way station to operate on 152.24 MHz to be located at Mr. Ascutney, 4 miles SW, Windsor, Vermont and control facilities to operate on 454.025 MHz to be located at 31 Lyme Rd., Hanover, New Hampshire.

Renewal of Licenses expiring July 1, 1973 term: July 1, 1973, to July 1, 1978

*Licensee*

Heins Telephone Company
Kerrville Telephone Company

*Call Sign*

KIG289
KFJ892 (This application was timely filed)

20289-C2-AP/AL-(2)-74, Mobilradio Telephone Service Consent to Assignment of License from Mobilradio Telephone Service, ASSIGNOR to Instant Communications, Inc., ASSIGNEE. Stations: KUC872, Dayton, Ohio and KQC576, Dayton Ohio.

*INFORMATIVE:*

It appears that the following application may be mutually exclusive and subject to the Commission's Rules regarding ex parte presentations, by reasons of potential electrical interference.

*NEW MEXICO*

Associated Telephone Answering Service (KKI452) 3008-C2-P-(3)-71
Vernon H. Johnson (KKT397) 4467-C2-P-(3)-71

POINT TO POINT MICROWAVE RADIO SERVICE

798-C1-P-74, Michigan Bell Telephone Company (KQI80): 1365 Cass Avenue, Detroit, Michigan. Lat. 42°19'57" N., Long. 83°03'14" W. C.P. to change antenna system, add alarm center and add freqs. 4010H, 3930H, 3850H, 3770H MHz toward new point of communication at Pontiac, Mich., on azimuth 330°21'.

799-C1-P-74, same (KVU86): 54 North Mill Street, Pontiac, Michigan. Lat. 42°38'20" N., Long. 83°17'25" W. C.P. to change antenna system, add alarm center and add freqs. 3970H, 3890H, 3810H, 3730H MHz toward Detroit, Mich., on azimuth 150°11'; freqs. 3970H, 3890H, 3810H, 3730H MHz foward Ortonville, Mich., on azimuth 310°-04'.

800-C1-P-74, same (KQM33): On McGinnis Road, 3.4 miles SW of Ortonville, Michigan. Lat. 42°49'08" N., Long. 83°30'09" W. C.P. to change antenna system, correct coordinates, azimuth, path length, add alarm center and add freqs. 4010H, 3930H, 3850H, 3770H MHz toward Pontiac, Mich., on azimuth 138°56'; freqs. 4010V, 3930V, 3850V, 3770V MHz toward Flint, Mich., on azimuth 324°34'.

801-C1-P-74, same (KOG59): 502 Beach Street, Flint, Michigan. Lat. 43°00'53" N., Long. 83°41'33" W. C.P. to add freqs. 3970V, 3890V, 3810V, 3730V MHz toward Ortonville, Mich., on azimuth 144°33'; freqs. 4050V, 3970V, 3890V, 3810V, 3730V MHz toward Morrice, Mich., on azimuth 252°31'.

802-C1-P-74, same (KQM36): 221 North Washington Street, Lansing, Michigan. Lat. 42°44'08" N., Long. 84°33'09" W. C.P. to add alarm center, correct coordinates, change antenna system and add freqs. 3730V, 3810V, 3890V, 3970V, 4050V MHz toward Morrice, Mich., on azimuth 59°24'.

803-C1-P-74, same (New): 4.4 Miles NNE of Morrice, Michigan. Lat. 42°54'20" N., Long. 84°09'36" W. C.P. for a new station on freqs. 3770V, 3850V, 3930V, 4010V, 4090V MHz toward Flint, Mich., on azimuth 72°12'; freqs. 3770V, 3850V, 3930V, 4010V, 4090V MHz toward Lansing, Mich., on azimuth 239°40'.

804-C1-P-74, Northwestern Bell Telephone Company (KBD58): 125 South Dakota Avenue, Sioux Falls, South Dakota. Lat. 43°32'48" N., Long. 96°43'48" W. C.P. to add freq. 6197.2V MHz toward Humboldt, S. Dak., on azimuth 306°22'.

805-C1-P-74, same (KBD59): Approx. 6.0 Miles North of Humboldt, South Dakota. Lat. 43°43'59" N., Long. 97°04'48" W. C.P. to add freq. 6063.8V MHz toward Howard, S. Dak., on azimuth 308°19'; freq. 5945.2V MHz toward Sioux Falls, S. Dak., on azimuth 126°07'.

806-C1-P-74, same (KBD60): 1.5 Miles South of Howard, South Dakota. Lat. 43°59'12" N., Long. 97°31'22" W. C.P. to change antenna system and add freq. 6315.9V MHz toward Humboldt, S. Dak., on azimuth 128°01'; freq. 6197.2V MHz toward Forestburg, S. Dak., on azimuth 279°12'.

807-C1-P-74, Northeastern Bell Telephone Company (KBD61): Approx. 2.2 Miles North of Forestburg, South Dakota. Lat. 44°03'12" N., Long. 98°06'33" W. C.P. to add freq. 5945.2V MHz toward Howard, S. Dak., on azimuth 98°47'; freq. 6063.8V MHz toward Huron, S. Dak., on azimuth 346°02'.

808-C1-P-74, same (KBD62): 154 3d Street SW., Huron, South Dakota. Lat. 44°21'46" N., Long. 98°12'59" W. C.P. to change antenna system and add freq. 6315.9V MHz toward Forestburg, S. Dak., on azimuth 165°40'; freq. 6345.5V MHz toward Danforth, S. Dak., on azimuth 250°35'.

809-C1-P-74, same (KBD63): Approx. 4.1 Miles SE of Danforth, South Dakota. Lat. 44°12'09" N., Long. 98°50'28" W. C.P. to change antenna system and add freq. 6063.8V MHz toward Huron, S. Dak., on azimuth 70°09'; freq. 5974.8V MHz toward Stephan, S. Dak., on azimuth 278°00'.

810-C1-P-74, same (KBK83): Approx. 8 Miles WNW of Stephan, South Dakota. Lat. 44°16'56" N., Long. 99°36'04" W. C.P. to change antenna system and add freq. 6345.9V MHz toward Pierre, S. Dak., on azimuth 285°00'; freq. 6226.9V MHz toward Danforth, S. Dak., on azimuth 98°00'.

811-C1-P-74, same (KAU60): Approx. 3.0 Miles North of Pierre, South Dakota. Lat. 44°25'18" N., Long. 100°20'55" W. C.P. to change antenna system, correct coordinates and add freq. 6063.8V MHz toward Stephan, S. Dak., on azimuth 105°08'.

812-C1-P-74, same (WBO87): 7.1 Miles SW of Hartford, South Dakota. Lat. 43°32'26" N., Long. 97°01'42" W. C.P. to change freq. from 5945.2H MHz to 6123.1H MHz toward Sioux Falls, S. Dak., on azimuth 88°17'.

813-C1-P-74, American Telephone and Telegraph Company (KGH33): 3.5 Miles NW of Jennerstown, Pennsylvania. Lat. 40°10'-48" N., Long. 79°07'49" W. Mod. of License to change freq. from 4030 MHz to 4050V MHz toward Connelsville, Pa.

814-C1-P-74, Southern Pacific Communications Company (New): Southern Pacific Depot, Sacramento, California. Lat. 38°35'-04" N., Long. 121°30'00" W. C.P. for a new station on freq. 6034.2V MHz toward Roseville, Calif., on azimuth 45°13'. (Informative: The frequency and point of communication have been deleted from pending application 4531-C1-P-70 to allow for separate consideration of the two proposals.)

815-C1-P-74, same (New): Abernathy, 3.5 Miles SW of Ryderwood, Washington. Lat. 46°20'31" N., Long. 123°05'54" W. C.P. for a new station on freq. 6123.8V MHz toward Chehalis, Wash. on azimuth 17°55'; freq. 5945.2V MHz toward Mt. Scott, Oreg., on azimuth 156°27'.

816-C1-P-74, Mountain Microwave Corp. (KCO93): 8 Miles SSW of Glenwood Springs, Colorado. Lat. 39°25'32" N., Long. 107°22'44" W. C.P. to change receive location to Aspen, Colorado (Lat. 39°13'09" N., Long. 106°51'34" W.); change transmitting antenna azimuth to 115°15' (INFORMATIVE: Radio path will now go thru passive repeater located at Lat. 39°13'36" N., Long. 106°50'24" W.)

817-C1-P-74, Pioneer Telephone Company (New): Main Street between First & Second Streets, LaCrosse, Washington. Lat. 46°48'51" N., Long. 117°52'46" W. C.P. for a new station on freq. 2164H MHz toward Kamiak Butte via Passive Repeater.

818-C1-P-74, South Central Bell Telephone Company (KLU69): 3951 Erato Street, New Orleans, Louisiana. Lat. 29°57'14" N., Long. 90°05'54" W. C.P. to add freq. 6226.9V MHz toward Laplace, La., on azimuth 286°57'.

819-C1-P-74, same (KRW70): 2 Miles SE of Laplace, Louisiana. Lat. 30°02'50" N., Long. 90°27'07" W. C.P. to add freq. 5974.8V MHz toward Sorrento, La., on azimuth 293°22'.

820-C1-P-74, same (KRW69): 2.25 Miles SE of Gonzales, Louisiana. Lat. 30°12'36" N., Long. 90°53'15" W. C.P. to add freq. 6226.9V MHz toward Baton Rouge, La., on azimuth 312°58'.

821-C1-P-74, GTE Satellite Corporation (New): 3.8 Miles West of Andersonville, Indiana. Lat. 39°29'48" N., Long. 85°21'22" W. C.P. for a new station on freqs. 2217.2V, 11305H, 11385H, 11545H, 11625H MHz toward Metamora, Ind., and 2122.0H, 3770.0V, 3930.0V MHz toward Sugar Creek, Ind.

822-C1-P-74, same (New): 0.7 Mile East of Sugar Creek, Indiana. Lat. 39°38'33" N., Long. 85°54'08" W. C.P. for a new station on freqs. 2172.0H, 3730.0V, 3890.0V MHz toward Andersonville, Ind., and 3810.0H, 3970.0H MHz toward Pendleton, Ind., and 2162.4H MHz toward Indianapolis, Ind.

823-C1-P-74, same (New): 2.5 Miles NNE of Ingalls, Indiana. Lat. 39°59'29" N., Long. 85°47'11" W. C.P. for a new station on freqs. 3850.0H, 4010.0H MHz toward Sugar Creek, Ind., and 3770.0H, 3930.0H MHz toward Windfall, Ind.

824-C1-P-74, same (New): 3 Miles ENE of Windfall, Indiana. Lat. 40°22'22" N., Long. 85°53'56" W. C.P. for a new station on freqs. 3730.0H, 3890.0H toward Pendleton, Ind., and 3810.0V, 3970.0V MHz toward Wabash, Ind.

825-C1-P-74, same (New): 3.6 Miles North of Somerset, Indiana. Lat. 40°43'28" N., Long. 85°49'44" W. C.P. for a new station on freqs. 3750.0H MHz toward Roanoke, Ind.; 3850.0V, 4010.0V MHz toward Windfall, Ind., and 3770.0H MHz toward Lucerne, Ind.

826-C1-P-74, GTE Satellite Corporation (New): 2.0 Miles NNW of Roanoke, Indiana. Lat. 40°59'22" N., Long. 85°23'41" W. C.P. for a new station on freqs. 3710.0H MHz toward Wabash, Ind., and 3790.0H MHz toward Woodburn, Ind.

827-C1-P-74, same (New): 4.3 Miles SSE of Harlan, Indiana. Lat. 41°08'17" N., Long. 84°53'14" W. C.P. for a new station on freq. 3830.0V MHz toward Roanoke, Ind., and 3810.0H MHz toward Edgerton, Ohio.

828-C1-P-74, same (New): 1.2 Miles WNW of Edgerton, Ohio, Lat. 41°27'21" N., Long. 84°46'31" W. C.P. for a new station on freqs. 3850.0H MHz toward Woodburn, Ind.; 3710.0V MHz toward Defiance, Ohio, and 3930.0H MHz toward Prattville, Mich.

829-C1-P-74, same (New): 0.5 Mile South of Prattville, Michigan. Lat. 41°46'28" N., Long. 84°23'58" W. C.P. for a new station on freqs. 3890.0H MHz toward Edgerton, Ohio, and 3750.0V MHz toward Adrian, Mich.

830-C1-P-74, same (New): 7 Miles North of Adrian, Michigan. Lat. 41°59'46" N., Long. 84°03'53" W. C.P. for a new station on freqs. 3710.0V MHz toward Prattville, Mich., and 3850.0H MHz toward Dixboro, Mich.

831-C1-P-74, same (New): 1.8 Miles SSE of Dixboro, Michigan. Lat. 42°17'23" N., Long. 83°38'37" W. C.P. for a new station on freqs. 3810.0H MHz toward Adrian, Mich., and 10815V, 11055V MHz toward Plymouth Jct., Mich.

832-C1-P-74, same (New): 0.75 Mile SE of Lucerne, Indiana. Lat. 40°51'32" N., Long. 86°23'34" W. C.P. for a new station on freqs. 3730.0H MHz toward Wabash, Ind., and 3970.0V MHz toward Reynolds, Ind.

833-C1-P-74, same (New): 1.3 Miles SW of Reynolds, Indiana. Lat. 40°44'13" N., Long. 86°53'41" W. C.P. for a new station on freqs. 4010.0V MHz toward Lucerne, Ind., and 3710.0H MHz toward Rensselaer, Ind.

834-C1-P-74, same (New): 4.7 Miles NW of Rensselaer, Indiana. Lat. 40°58'13" N., Long. 87°14'25" W. C.P. for a new station on freqs. 3750.0H MHz toward Reynolds, Ind., and 3890.0H MHz toward St. Anne, Ill.

835-C1-P-74, same (New): 0.7 Mile NNW of St. Anne, Illinois. Lat. 41°02'05" N., Long. 87°43'35" W. C.P. for a new station on freqs. 3930.0H MHz toward Rensselaer, Ind., and 10855V, 11015V MHz toward Grant Park, Ill.

[1] All applications listed below are subject to further consideration and review and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

[2] The above alternative cutoff rules apply to those applications listed below as having been accepted in Domestic Public Land Mobile Radio, Rural Radio, Point-to-Point Microwave Radio and Local Television Transmission Services (part 21 of the rules).







V38-188 SEP 28 73 XUM

836–C1–P–74, same (New): 1.5 Miles WSW of Sunman, Indiana. Lat. 39°13'58" N., Long. 85°07'21" W. C.P. for a new station on freqs. 11305V, 11625V MHz toward Lawrenceburg, Ill., and 11265V, 11425V MHz toward Peppertown, Ind.

838–C1–P/L–74, CPI Microwave, Inc. (New): Within the operating territory of applicant. C.P. and License for a new temporary fixed station on frequencies within the bands 5925–6425 and 10700–11700.

*Major Amendments*

4502–C1–P–70, Southern Pacific Communications Company (New): Smith Tower, 506 2nd Avenue, Seattle, Washington. C.P. to delete freq. 6034.2V, change freq. 6152.8V to 6152.8H and change transmit power to 10.0 watts on corrected azimuth 113°21' toward Tiger Mountain.

4503–C1–P–70, same (New): Tiger Mountain, 3 Miles South of Preston, Washington. C.P. to delete freq. 6226.9V and change transmit power to 10.0 watts on corrected azimuth 293°38' toward Seattle. Change transmit power to 10.0 watts on corrected azimuth 221°07' toward Mt. Crawford. Delete freq. 6286.2V and correct transmit power to 3.0 watts on corrected azimuth 231°49' toward Tacoma.

4504–C1–P–70, same (New): ---------- Wright Street, Tacoma, Washington. C.P. to delete freq. 5974.8V and correct transmit power to 3.0 watts on corrected azimuth 51°28' toward Tiger Mountain.

4505–C1–P–70, same (New): Mt. Crawford, 4.5 Miles East of Tenino, Washington. C.P. to change transmit power to 10.0 watts on corrected azimuth 40°31' toward Tiger Mountain. Delete freq. 6093.5V and change transmit power to 10.0 watts on corrected azimuth 214°59' toward Chehalis.

4506–C1–P–70, same (New): 1 Mile East of Chehalis, Washington. C.P. to delete freq. 6404.8V and change transmit power to 10.0 watts on corrected azimuth 34°50' toward Mt. Crawford. Delete freqs. 6286.2V and 6345.5V on azimuth 169°24' toward Green Mountain. Delete Green Mountain as a point of communication. Add freq. 6375.2V with transmit power 10.0 watts on azimuth 198°02' toward new point of communication at Abernathy.

5491–C1–P–73, same (New): Mt. Scott, 8 Miles SE of Portland, Oregon. C.P. to delete freq. 6197.2V on azimuth 344°23' toward Green Mountain. Delete Green Mountain as a point of communication. Add freq. 6197.2V with transmit power to 10.0 watts on azimuth 336°51' toward new point of communication at Abernathy.

5271–C1–P–71, RCA Alaska Communications, Inc. (WGF60): C.P. to add freq. 11325V MHz toward Lena Point, Alaska.

5217–C1–P–71, same (WBP70): C.P. to add freq. 10965H MHz toward Juneau, Alaska. (All other particulars same as reported in Public Notice #539, dated April 12, 1971.)

3444–C1–P–71, GTE Satellite Corporation (New): C.P. for a new station to be located 2.6 Miles West of Peppertown, Indiana. Lat. 39°23'57" W., Long. 85°13'26" W. Freqs. 10735V 10895V MHz toward Sunman, Indiana, and 2167.2V 10775H 10855H 11015H 11095H MHz toward Andersonville, Ind. Delete all other particulars reported in Public Notice #526, dated 1–11–71.

*CORRECTION*

595–C1–P–74, East Texas Transmission Company (New): Correct to Read: C.P. for a new station on freqs. 6226.9H 6345.5H MHz toward Gladewater, Tex. (All other particulars remain as reported in Public Notice #664, dated September 4, 1973.)

[FR Doc.73–20641 Filed 9–27–73;8:45 am]

[Docket No. 19660; FCC 73–974]

## INTERNATIONAL RECORD CARRIERS

### Memorandum Opinion and Order Re Oral Argument En Banc

In the matter of international record carriers' scope of operations in the continental United States, including possible revisions to the formula prescribed under section 222 of the Communications Act, Docket No. 19660, RM–960.

1. The Commissioner has before it (a) Petition for Reconsideration and Clarification and (b) Request for Extension of Time, both filed September 10, 1973, by Western Union International, Inc. (WUI), and (c) Motion to Dismiss and (d) Opposition to Request for Extension of Time, both filed September 12, 1973, by The Western Union Telegraph Company (WU).

2. WUI's petition and request for extension of time are directed at the Commission's Memorandum Opinion and Order (Order) released August 31, 1973 (FCC 73–887; published at 38 FR 24399), which scheduled oral argument before the Commission en banc for September 25, 1973, on the following question:

> Under what circumstances, if any, may the Commission grant the request of Western Union, in whole or in part, for an interim increase in landline charges for outbound and inbound international messages?

In addition, written briefs on this question were directed to be filed by specifically named parties to the argument, including WUI, on or before September 17, 1973.

3. Basically, in its petition WUI contends that oral argument on the above question would be "an empty, burdensome and useless exercise" because the Communications Act and the Administrative Procedures Act "absolutely forbid" the Commission from taking action on WU's request for an interim increase in landline charges for outbound and inbound international messages pending completion of a definitive proceeding on its underlying request for a permanent increase. WUI insists that the "mere exchange of pleadings and oral argument do not constitute the full evidentiary hearing" mandated by section 556(d) of Administrative Procedure Act before the Commission may act on WU's request under section 210(a) and 222(e)(3) of the Communications Act. Accordingly, WUI requests that the Commission reconsider its Order and cancel the oral argument.

4. Alternatively, WUI requests that the Commission clarify its Order by explicitly stating that the scheduled oral argument shall not be construed as constituting a full evidentiary hearing and reject any argumentation either in written briefs or orally which extends beyond the narrow legal issue in question, such as pleas of poverty by WU and facts, costs and theories relating to message handling practices. WUI also requested that, pending this clarification, the briefing and oral argument dates be postponed.[1]

5. In the event the Commission denies the Petition for Reconsideration and Clarification, WUI requests that the time for filing briefs be extended from September 17 to October 23, 1973, and that oral argument be rescheduled from September 25 to October 30, 1973. WUI notes that it has been authorized to state that the other interested parties (except WU) to this proceeding concur in the request for extension of time. In support, WUI alludes to a number of proceedings and conferences both here and abroad on matters before the Commission which it says will occupy the time and attention of its legal counsel for the next several weeks and thereby seriously restrict its capacity to prepare and file a brief by September 17 and present an oral argument by September 25, 1973. It also urges that the argument be deferred to permit Commissioner Robert E. Lee, who is attending an international conference in Spain until October 26, to be present, in view of his previous experience in matters relating to the domestic handling of international messages. Finally, WUI maintains that the Commission's Order of August 31 can only become effective, under the provisions of Section 408 of the Communications Act, "not less than thirty days after service of the Order," so that the September 17 briefing date and the September 25 oral argument date cannot be imposed by the August 31 Order.

#### WESTERN UNION OPPOSITION

6. WU contends that WUI's petition and motion are delaying tactics without merit which should be summarily dismissed or ignored. It maintains that the Commission's Order of August 31 is an interlocutory action against which petitions for reconsideration are prohibited by the Commission's Rules and Regulations, Section 1.106(a). With respect to the request for additional time, WU points out that the delay attending grant of such request could result in a loss of revenues to it; that the questions to be briefed and argued have already been researched and briefed by WUI and the other international record carriers in connection with their oppositions to WU's Amended Complaint and Petition and Motion for Interim Relief; that WUI itself argues in its petition that it has already made a filing with the Commission demonstrating that an evidentiary hearing is necessary, so that little further need be done by WUI in the way of preparation; and that Section 408 is not intended to apply to procedural orders such as this.

[1] Acting under delegated authority, the Chief, Common Carrier Bureau, by Order of September 14, 1973, extended the time for filing briefs herein from September 17 to September 19.





#### WUI REPLY

7. In reply, WUI asserts that WU ignores the substantive aspects of its petition, i.e., that the Commission is prohibited by law from granting the relief sought by WU, and that clarification of the Order is required to assure that the en banc proceeding will not be construed as constituting a full evidentiary hearing. WUI further argues that petitions for reconsideration of interlocutory orders may be considered in exceptional circumstances. It believes that such circumstances arise through the Commission scheduling argument, without opportunity for WUI to first comment on a matter "clearly" prohibited by law. In any event, WUI believes its procedural rights would be jeopardized if its request for clarification of the Order is denied. Insofar as its petition for postponement is concerned WUI argues that the allegations of WU's financial hardship should not be permitted to prompt precipitous action by the Commission, and that a grant of WU's request should not be made without careful examination of all the underlying issues. It also repeats the other arguments made in its request, and urges that a month of delay is not a significant one to WU.

#### DISCUSSION

8. As we indicated in our Order of August 31, we carefully reviewed the points and authorities advanced by the parties on the question of whether the Commission is empowered to grant an interim increase in landline charges in view of the hearing requirements of section 222(e)(3) of the Communications Act. Such review convinced us that the question was sufficiently important to warrant a full briefing and en banc oral argument. Nothing in WUI's petition has persuaded us to the contrary. We cannot accept, without a full airing of this question, WUI's contention that interim action of the nature requested in this proceeding is flatly prohibited by statute. Indeed, WUI, in its request for additional time, asserts that "great care and careful preparation will be required" to comply with our Order.

9. As regards WUI's request for clarification, no specific contention is made that the question specified in our August 31 Order is unclear. Obviously the scheduled oral argument will not be an evidentiary hearing; the purpose of the argument is to determine the nature of any hearing, evidentiary or otherwise, that may be required by law. Although WUI indicates that some uncertainty may exist in its mind, or in the minds of other parties, the question at issue is clear on its face, and we see no need to provide further guidelines to the parties in the preparation of their briefs. Should a party to the oral argument digress from the question at issue, we shall take such action as appears appropriate.[2]

10. Finally, it is the settled policy of the Commission that petitions for reconsideration of an interlocutory ruling or order will not be entertained (Commission's rules and regulations, §§ 1.102(b), 1.106(a) and 1.291(c)(3)). While it is true that extraordinary or unusual circumstances may cause the Commission to waive the requirements of its rules, no such circumstances appear in this case. WUI misconstrues the intent of the oral argument and its contention that it should have been consulted prior to such scheduling is without merit.

11. By reason of the foregoing, we shall dismiss WUI's Petition for Reconsideration and Clarification. Additionally, WUI has not made a persuasive showing that it requires the considerable extension of time it requests for the filing of a brief and preparation for oral argument.[3] However, in the interest of insuring that we have given ample opportunity for preparation, we shall grant, to the extent hereinafter specified, a short extension of time to all parties in this proceeding, of the currently scheduled dates specified in our Order of August 31.

*Accordingly, it is ordered*, That the Petition of Western Union International, Inc. is hereby dismissed;

*It is further ordered*, That the motion of Western Union International, Inc. for an extension of time is granted, to the extent that briefs by all parties shall be filed on or before September 25, 1973 and that oral argument is hereby scheduled to be heard before the Commission *en banc* at its offices in Washington, D.C. on October 1, 1973 at 2 p.m.; and

*It is further ordered*, That, in all other respects, our order of August 31, 1973 shall remain unchanged.

Adopted September 19, 1973.

Released September 20, 1973.

FEDERAL COMMUNICATIONS COMMISSION,[4]
[SEAL] VINCENT J. MULLINS,
*Acting Secretary.*

[FR Doc.73–20716 Filed 9–27–73;8:45 am]

[2] As regards the effectiveness of our Order to require the filing of briefs and oral argument as scheduled, such order is procedural in character and not subject to the 30-day requirement of section 408 of the Communications Act.

[3] We note that, although other international record carriers apparently authorized WUI to state that they joined in its request, the major argument made by WUI was its own staffing problem.

[4] Commissioner Robert E. Lee absent.

[5] See attached Appendix A for a list of the Narrow fabrics.

## FEDERAL POWER COMMISSION

[Docket No. E–8125]

### KANSAS POWER AND LIGHT CO.

### Order Accepting Settlement and Revised Fuel Clause

SEPTEMBER 19, 1973.

On April 13, 1973, the Kansas Power and Light Company (KPL) filed with the Commission a Rate Schedule to supersede the present FPC designated rate schedules for service to seventeen cooperative customers (Coops).[1] This filing was supplemented on May 9, 1973, with the filing by KPL of copies of the form of contract for each of the Coops and the tariff schedule, *Wholesale Service—Rural Electric Cooperative* RCW–73 applicable to this class of service. According to KPL's filing, the rate level reflected in the rate schedule was arrived at through negotiations between KPL and the Coops and will increase revenues from this class of service by $675,997 based on sales for the test year 1972. An effective date of May 15, 1973, was requested. The filing was noticed on April 25, 1973, with protests and petitions to intervene due on or before May 7, 1973.

By order of May 31, 1973, the Commission granted the only petition to intervene, filed by all seventeen of the Coops, wherein the Coops protested various provisions of the proposed rate schedule. These objections were outlined in the May 31 order. The petitioners requested that the proposed contract and Schedule RCW–73 be modified pursuant to their objections before acceptance by the Commission. Since these objections were not as to rate level, the Commission waived its notice requirements to permit the proposed rates to become effective, subject to refund, on May 16, 1973, one day after the proposed effective date, and set the matter for hearing. The Commission also directed that KPL file a revised fuel clause in conformance with *New England Power Company*, Docket No. E–7541, Opinion No. 633.

On July 30, 1973, KPL filed a revised fuel clause pursuant to the Commission's May 31 order. According to the Company, the fuel clause has the effect of recovering (with respect to the fuel cost component of purchased power) the seller's cost of the fuel which is consumed to generate such power as distinguished from the Company's cost of fuel which might be attributed to such power. Our review of the fuel clause indicates that it is in substantial compliance with Opinion No. 633.[2]

On July 30, 1973, KPL and the Coops filed a proposed Settlement Agreement (Agreement), dated June 29, 1973, and a petition which requests a waiver of the established hearing dates and further urges the issuance of an order placing the rates into effect and terminating the proceeding. By notice of August 2, 1973, the procedural dates were deferred pending further order by the Commission. The Agreement purports to settle all issues which were raised by the previously discussed petition to intervene filed by the Coops.[3] The Agreement is conditioned upon the Commission's granting waiver of its Regulations to the extent necessary to permit an effective date of May 16, 1973. The filing of the proposed Agreement and revised fuel clause was noticed on August 3, 1973, with comments or protests due on or before August 15, 1973. On September 4, 1973, Staff filed a motion to file late comments which included Staff's view of the capitalization and a summary cost of service comparing the Company study and that of Staff (See Appendix C).

[1] See Appendix A for designations.

[2] See Appendix B for proposed amendments to the form of contract and the tariff schedule.



V 38 I 188 SEP 28 73 XUM

Our review of the Settlement Agreement and cost of service and capitalization as shown in Staff's comments (See Appendix C) indicates that the Agreement satisfactorily resolves all oustanding issues in this docket and the terms and conditions contained therein are in the public interest. We shall therefore accept the proposed Settlement Agreement as it would amend KPL's Rate Schedule to be effective as of May 16, 1973, upon proper filing by KPL of such contract and tariff amendments as are required pursuant to the Settlement Agreement.

*The Commission finds*

(1) Approval, as hereinafter ordered, of the settlement proposed in this docket on the basis of the Agreement filed on July 30, 1973, is just and reasonable and in the public interest in carrying out the provisions of the Federal Power Act.

(2) Good cause exists to waive the Commission's notice requirements to permit an effective date of May 16, 1973, for the amendments proposed for KPL's Rate Schedule pursuant to the Settlement Agreement.

(3) KPL's revised fuel clause filed July 30, 1973, should be accepted.

*The Commission orders*

(A) KPL's Settlement Agreement filed on July 30, 1973, is incorporated herein by reference and is approved and made effective as of May 16, 1973, as ordered herein.

(B) Within 30 days KPL shall file with the Commission such contract and tariff amendments to its Rate Schedule as are required pursuant to the terms of the Settlement Agreement.

(C) The revised fuel clause filed by KPL on July 30, 1973, pursuant to the Commission's order of May 31, 1973, is hereby accepted to be effective as of May 16, 1973.

(D) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

[SEAL] KENNETH F. PLUMB, *Secretary.*

[FR Doc 73-20619 Filed 9-27-73;8:45 am]

APPENDIX A

RATE SCHEDULE DESIGNATIONS

The Kansas Power and Light Company
Instrument: Revised Fuel Clause
Dated: July 25, 1973
Filed: July 30, 19773
Effective: May 16, 1973

The above instrument is designated as Supplement No. 1 to the following Rate Schedules:

Rate Schedule:

| FPC No.: | *Other party*[1] |
|---|---|
| 130 | Ark Valley ECA, Inc. |
| 131 | Brown-Atchison ECA, Inc. |
| 132 | Butler Rural ECA, Inc. |
| 133 | The C & W ECA, Inc. |
| 134 | Coffey County Rural ECA, Inc. |
| 135 | D. S. & O. Rural ECA, Inc. |
| 136 | Doniphan ECA, Inc. |
| 137 | Flint Hills Rural ECA, Inc. |
| 138 | The Kaw Valley ECC, Inc. |
| 139 | Leavenworth-Jefferson EC, Inc. |
| 140 | Lyon County EC, Inc. |
| 141 | Nemaha-Marshall ECA, Inc. |
| 142 | Ninnescah ECA, Inc. |
| 143 | P. R. & W. ECA, Inc. |
| 144 | The Smoky Hill ECA, Inc. |
| 145 | The Smoky Valley ECA, Inc. |
| 146 | The Twin Valley EC, Inc. |

[1] EC—Electric Cooperative.
ECA—Electric Cooperative Association.
ECC—Electric Cooperative Company.

APPENDIX B

SETTLEMENT AGREEMENT AMENDMENTS TO THE FORM OF CONTRACT AND TARIFF SCHEDULE

The Kansas Power and Light Company.

I. *Form of Contract.*

1.1 The second "Whereas" on page 1 shall be amended to read as follows:

Whereas, Cooperative desires to procure a supply of electric energy, and Company desires to sell and deliver to Cooperative such requirement.

1.2 Paragraph 1(b) of Article I shall be amended by adding the words "attempt to" after the word "shall" in line 4 thereof so that the said paragraph 1(b) reads as follows:

(b) It is agreed that in the event Cooperative requires a point of delivery in an area other than that for which the Company has authority to serve and service for such does not conflict with an existing agreement the Cooperative has with another company having authority to serve, the Company shall attempt to supply such power, provided it is granted authority from the Kansas Corporation Commission and Cooperative shall purchase its such requirements from the Company. Within thirty (30) days of written notice from the Cooperative of its needs, including voltage and capacity, and the proposed point of delivery, the Company shall notify Cooperative whether it is willing to supply such power for the point of delivery. In the event the Company is willing to do so, it shall promptly file and prosecute an appropriate application to obtain service authority. In event Company does not advise Cooperative of its willingness to provide the facilities to supply such additional requirements within said 30 day period, Cooperative may obtain its requirements for such extension from another power system, subject to approval of the State Corporation Commission of Kansas.

APPENDIX B

1.3 Paragraph 3 of Article I of the Form of Contract filed herein shall be deleted.

1.4 Article II shall be modified by (a) in line 5 substituting the words "maximum capacity" for the words "estimated demand," (b) in line 7 substituting the word "capacity" for the word "demand," and (c) in the heading on the right hand side of the Schedule of Points of Delivery the words "Maximum Capacity" shall be substituted for the words "Estimated Maximum Demand." Article II as modified reads as follows:

ARTICLE II

*Points of Delivery*

The points of delivery for electric energy under this Contract shall be at or immediately adjacent to lines or facilities of the Company as now or as may be hereafter located and shall be at the connection of the facilities of Company and Cooperative there. Initially, they shall be at the following points and at the phase, approximate voltage, and maximum capacity designated for each point of delivery. Changes in said points of delivery and other and additional points, including phase, voltage and capacity may be established in accordance with this contract and shall be agreed upon in writing, and approved by the State Corporation Commission of Kansas.

| Point of delivery | Phase | Delivery voltage | Maximum capacity |
|---|---|---|---|
| | | | |
| | | | |
| | | | |
| | | | |

1.5 Paragraph 2 of Article III shall be amended to read as follows:

2. The rate schedules and any terms or conditions provided therein are subject to changes or substitutions, either in whole or in part, made from time to time by a legally effective filing of the Company with, or by order of, the regulatory authority having jurisdiction, and the Company reserves the right to seek changes or substitutions, in accordance with law, from such regulatory authority. Company agrees to notify the Cooperative of the Company's intent to seek said changes or substitutions not less than 30 days prior to filing therefor with the regulatory authority having jurisdiction, and at that time to disclose its tentative proposed changes and preliminary data directly pertinent to said changes. The Company further agrees to review and to discuss such data and proposed changes at a time mutually agreeable during said 30 day period upon request of Cooperative. It is agreed, however, that such procedure shall in no way limit or delay any filing which the Company may wish to make with the appropriate regulatory authority. It is further understood that the Company may alter or change from time to time the preliminary proposal and data prior, at or subsequent to actual filing, without again making these procedures effective. Established legal and regulatory procedures of the regulatory authority shall be applicable without regard to these provisions for notice and discussion.

1.6 Article IX shall be modified by substituting the following sentence for the second sentence of the first paragraph thereof:

It shall become effective and be applicable to all deliveries of power and energy by the Company to the Cooperative on and after May 16, 1973, or as otherwise ordered by regulatory bodies having jurisdiction.

II. *Tariff Schedule*

2.1 The "APPLICABLE" paragraph set forth on page 1 of 4 of Tariff Schedule RCW-73 shall be amended to read as follows:

To any Rural Electric Cooperative organized to operate without profit under the laws of the State of Kansas, which is subject to regulation by the State Corporation Commission of Kansas. This Schedule is not applicable for breakdown, standby, or supplemental electric service.





APPENDIX C.—*Capitalization—Dec. 31, 1974—The Kansas Power & Light Co.*

[Dollars in thousands]

| | Amount | Ratio | Cost factor | Weighted total |
|---|---|---|---|---|
| | | *Percent* | *Percent* | *Percent* |
| Long-term debt | $117,331 | 44.74 | 4.93 | 2.21 |
| Preferred stock | 24,858 | 9.48 | 4.57 | .43 |
| Common equity | 118,748 | 45.27 | 10.50 | 4.75 |
| Accelerated amortization | 1,347 | .51 | | |
| Total | 262,284 | 100.00 | | 7.39 |

SUMMARY COST OF SERVICE—CALENDAR YEAR 1973

| | Company study | Staff study |
|---|---|---|
| Proposed sales revenue | 4,706,875 | 4,379,094 |
| Operating expenses | 3,408,427 | 3,238,461 |
| Income taxes | 486,162 | 281,185 |
| Net available for return | 812,286 | 789,448 |
| Rate base | 13,226,394 | 13,916,869 |
| Realized rate of return (percent) | 6.14 | 5.46 |
| Staff rate of return recommendation (percent) | | 7.39 |

[FR Doc.73-20619 Filed 9-27-73;8:45 am]

[Docket No. CP73-114]

## MICHIGAN WISCONSIN PIPE LINE CO.

### Petition To Amend

SEPTEMBER 21, 1973.

Take notice that on August 31, 1973, Michigan Wisconsin Pipe Line Company (Petitioner), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP73-114 a petition to amend the order of the Commission issued in said docket on July 25, 1973, pursuant to Section 7(c) of the Natural Gas Act so as to modify the Maximum Daily Quantity (MDQ) to be furnished to five of its customers and approve a change in service by rate schedule for seven of its customers from that authorized by said order, all as more fully set forth in the petition to amend which is on file with the Commission.

By the order issued July 25, 1973, Petitioner was authorized to construct and operate certain facilities in order to increase its system capacity by approximately 75,000 Mcf daily to meet additional natural gas requirements and to sell additional volumes of natural gas to its existing customers. Petitioner states that the customers listed below have reviewed their requirements and have informed the petitioner of the changes in MDQ required to meet their customers' daily requirements and the desired changes in service by rate schedule permitted under the provisions of Section 8 of Petitioner's tariff.

The requested modifications are as follows:

| Customer | Rate schedule | Authorized | Revised | Increase or (decrease) |
|---|---|---|---|---|
| Albany, Mo., city of | SGS-1 | 1,460 | 1,935 | 475 |
| | ACQ-1 | 2,306 | | (2,306) |
| | MDQ-1 | 59 | | (59) |
| | SGS-1 | | 2,365 | 2,365 |
| Bethany, Mo., city of | ACQ-1 | 2,356 | | (2,356) |
| | ACQ-2 | 44 | | (44) |
| | SGS-1 | | 2,400 | 2,400 |
| Bloomfield, Iowa, city of | SGS-1 | 700 | | (700) |
| | ACQ-1 | | 700 | 700 |
| Central Indiana Gas Co., Inc. | SGS-1 | 16,000 | | (16,000) |
| | ACQ-1 | | 16,000 | 16,000 |
| Illinois Power Co. | SGS-1 | 1,500 | 2,500 | 1,000 |
| Indiana Natural Gas Corp. | ACQ-1 | 14,364 | 10,276 | (4,088) |
| Keokuk Gas Service Co. | MDQ-1 | 136 | 2,354 | 2,218 |
| | SGS-1 | 900 | 1,500 | 600 |
| Lyons Gas Co., Inc. | ACQ-1 | 35,191 | 17,691 | (17,500) |
| Michigan Gas Utilities Co. | ACQ-2 | 96,809 | 109,309 | 12,500 |
| | MDQ-1 | 15,000 | | (15,000) |
| | MDQ-2 | | 20,000 | 20,000 |
| Stanberry, Mo., city of | ACQ-1 | 775 | | (775) |
| | ACQ-2 | 147 | | (147) |
| | SGS-1 | | 922 | 922 |
| West Ohio Gas Co. | SGS-1 | 5,000 | 5,500 | 500 |
| Wisconsin Fuel & Light Co. | ACQ-1 | 62,740 | 35,650 | (27,090) |
| | ACQ-2 | | 19,350 | 19,350 |
| | MDQ-1 | 2,360 | 10,000 | 7,740 |

Petitioner states that because of the *de minimis* nature of these changes, it can provide the requested service with existing facilities, including those heretofore authorized in the instant docket Petitioner further states that the revised MDQ's for Central Indiana, Illinois Power, Keokuk Gas, Michigan Gas Utilities and Wisconsin Fuel & Light result in no increase in annual entitlements and the annual requirements of City of Albany, City of Bethany, City of Bloomfield, Indiana Natural, Lyons Gas, City of Stanberry and West Ohio are essentially the same as those heretofore authorized in the instant docket. Petitioner estimates the proposed aggregate net increase in peak day requirements at 615 Mcf.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 15, 1973, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB, *Secretary.*

[FR Doc.73-20620 Filed 9-27-73;8:45 am]

[Docket No. RP72-64]

## TEXAS GAS TRANSMISSION CORP. AND GIBSON COUNTY UTILITY DISTRICT

### Petition for Extraordinary Relief

SEPTEMBER 24, 1973.

Take notice that on September 14, 1973, Gibson County Utility District (Petitioner) filed a petition for extraordinary relief, on a one-time basis, from the volumetric limitation and the overrun penalty provisions of Texas Gas Transmission Corporation's tariff.

In support of its petition, Petitioner asserts that it receives its gas supply from Texas Gas under Texas Gas' FPC Gas Tariff, Third Revised Volume No. 1, which contains a seasonal volumetric limitation and a penalty provision for any overrun gas taken in excess of that limitation. Petitioner requests that its summer volumetric limitation be increased and its winter limitation be decreased by approximately 50,000 Mcf to counter its projected summer overrun that resulted from below normal temperatures in the months of April and May, 1973. Petitioner states that the result of its request will permit it to use no more than its total 12-month gas entitlement and that its request, if granted, will have no effect upon the quantity entitlements of the other customers of Texas Gas during the 1973 summer season and the 1973-74 winter season.

Texas Gas has advised Petitioner and its other customers that Texas Gas does not contemplate curtailing present Quantity Entitlements prior to the end of the 1973-74 winter season.

It appears reasonable and consistent with the public interest in this proceeding to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to protest said application, should file a petition to intervene or protest with the Federal



V 38-1188 SEP 28 73 XUM

Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10) on or before September 28, 1973. The notices and petitions for intervention previously filed in this proceeding will not operate to make those parties interveners or protestants with respect to the instant filing. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene in accordance with the Commission's rules. This filing which was made with the Commission is available for public inspection.

KENNETH F. PLUMB,
*Secretary.*

[FR Doc.73-20779 Filed 9-27-73;8:45 am]

## FEDERAL RESERVE SYSTEM

### FIRST AT ORLANDO CORP.

#### Acquisition of Banks

First at Orlando Corporation, Orlando, Florida, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Wilton Manors National Bank, Ft. Lauderdale, Florida, and 80 percent or more of the voting shares of Lauderdale Beach Bank, Ft. Lauderdale, Florida. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The applications may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the applications should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 16, 1973.

Board of Governors of the Federal Reserve System, September 20, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-20689 Filed 9-27-73;8:45 am]

### INDIAN HEAD BANKS INC.

#### Acquisition of Bank

Indian Head Banks Inc., Nashua, New Hampshire, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of The Keene National Bank, Keene, New Hampshire. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Boston. Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 16, 1973.

Board of Governors of the Federal Reserve System, September 20, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-20687 Filed 9-27-73;8:45 am]

### NORTHWEST BANCORPORATION

#### Order Denying Acquisition of Bank

Northwest Bancorporation, Minneapolis, Minnesota, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 90 percent or more of the voting shares of The First National Bank of Dubuque, Dubuque, Iowa (Bank).

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and all those received have been considered in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)). Among the comments and objections was a request for a hearing. The Board decided to proceed on the basis of written submissions and denied the request for a hearing.[1]

Applicant controls 79 banks located variously in Iowa, Minnesota, Montana, Nebraska, North Dakota, South Dakota, and Wisconsin. Within Iowa, Northwest Bancorporation controls four banks with aggregate deposits of $485 million, representing 5.8 percent of the total commercial bank deposits in that State.[2] Upon consummation of the acquisition of Bettendorf Bank and Trust Company ($28.7 million in deposits) and Security State Bank ($14.3 million in deposits), Northwest Bancorporation would control nearly $528 million in deposits and 6.3 percent of the total commercial bank deposits in Iowa. Applicant is the largest banking organization and bank holding company in Iowa and acquisition of Bank ($74.6 million in deposits), the tenth largest banking organization in Iowa, would increase Applicant's share of Statewide deposits by nearly one percentage point.

There is no significant existing competition between Bank and Applicant's existing and prospective banking subsidiaries. Applicant's closest banking subsidiary to Bank will be located about 78 miles south, in Bettendorf. Accordingly, the Board concludes that no significant existing competition would be eliminated between Bank and Applicant's banking subsidiaries upon consummation of this proposal.

In the Board's opinion, however, approval of this application would have significantly adverse effects on potential competition with respect to the Dubuque SMSA, the relevant banking market. Bank is the second largest banking organization in the relevant market, controlling over 26 percent of market deposits. Bank has the largest market share of IPC deposits of under $100,000, over 28 percent (as of June 30, 1972). In the Dubuque banking market the three largest banks together control about 80 percent of market deposits. Acquisition of Bank by Applicant would seem to solidify this market structure and lessen the likelihood of the emergence of new competitive forces in that market.

De novo entry into the Dubuque market is a reasonable alternative in view of the fact that Dubuque is a regional center for the tri-State area (eastern Iowa, northwestern Illinois, and southwestern Wisconsin), and its future prospects appear to be favorable in view of the facts of record, including the following: Population growth in the market; renovation of the central business district; completion of an expansive new shopping center; and establishment of two industrial parks, a 215-acre park near the Mississippi River and a second park of about 400 acres eight miles west of the city. In light of Applicant's market extension interests and capabilities for entry, and the prospects of the Dubuque SMSA, the Board is of the view that Applicant can be viewed as one of the more likely de novo entrants. Furthermore, there are, in fact, foothold means of entry into the market which are less anticompetitive than is this proposal. Given the character of the Dubuque banking market, the probability of Applicant as a potential entrant into such market and the opportunities for de novo or "foothold" entry, the Board is of the view that approval of this proposal would have a significantly adverse effect on potential competition.

Another factor arguing against approval of this application is the fact that acquisition of Bank by Applicant would eliminate the possibility that Bank would develop into the lead bank of a regional bank holding company. It certainly would appear to have the managerial and financial resources to so develop since it is the tenth largest banking organization in the State. At present, there is no multibank holding company representation in the entire northeast section of Iowa.

The Department of Justice has commented on this application and recommended that it be denied due to the elimination of existing competition as between Applicant's mortgage banking subsidiary, Iowa Securities Company, with an office in Dubuque, and Bank. In response, Applicant contends that the residential real estate mortgage business of Bank and Iowa Securities Company in the Dubuque area does not constitute a substantial volume of business; and, furthermore, Bank and Iowa Securities Company "are not in the same residential mortgage loan market." However, it is the Board's view that approval could, given the structural changes taking place in mortgage lending, eliminate significant competition in the 1–4 family mortgage origination market in the Dubuque SMSA. Accordingly, the Board concludes that the competitive factors of this application weigh against approval.

The financial condition and managerial resources and future prospects of Applicant, its existing subsidiary banks, and Bank are satisfactory and consistent with approval of the application. However, these factors do not outweigh the anticompetitive effects flowing from this proposal. There is no indication in the record that the banking needs of the relevant market are not being met. Accordingly, although considerations relating to the convenience and needs of the communities to be served are consistent with approval they do not outweigh the adverse competitive effects of the proposal. It is the Board's judgment that consummation of the proposed acquisition would not be in the public interest and that the application should be denied.

On the basis of the record,[3] the application is denied for the reasons summarized above.

By order of the Board of Governors,[4] effective September 19, 1973.

[SEAL] CHESTER B. FELDBERG,
*Secretary of the Board.*

[FR Doc.73-20693 Filed 9-27-73;8:45 am]

[1] The principal arguments raised in the request for a hearing and in the subsequent written submissions have been previously considered by the Board in its Order effective August 2, 1973 (38 FR 21530), approving the applications of Northwest Bancorporation to acquire two Iowa banks, Bettendorf Bank and Trust Company, and Security State Bank.

[2] All banking data, unless otherwise indicated, are as of December 31, 1972, and reflect bank holding company formations and acquisitions approved by the Board through July 31, 1973.

[3] Concurring Statement of Governors Mitchell and Sheehan filed as part of the original document. Copies available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Minneapolis.

[4] Voting for this action: Vice-Chairman Mitchell and Governors Sheehan, Bucher, and Holland. Absent and not voting: Chairman Burns and Governors Daane and Brimmer.





Any person wishing to comment on the application should submit his views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 16, 1973.

Board of Governors of the Federal Reserve System, September 20, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-20688 Filed 9-27-73;8:45 am]

### WYOMING BANCORPORATION

#### Acquisition of Bank

Wyoming Bancorporation, Cheyenne, Wyoming, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 95 percent of the voting shares of Bank of Wyoming, N.A., Sheridan, Wyoming. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit his views in writing to the Reserve Bank, to be received not later than October 16, 1973.

Board of Governors of the Federal Reserve System, September 20, 1973.

[SEAL] THEODORE E. ALLISON,
*Assistant Secretary of the Board.*

[FR Doc.73-20686 Filed 9-27-73;8:45 am]

## SECURITIES AND EXCHANGE COMMISSION

### BROKER-DEALER MODEL COMPLIANCE PROGRAM ADVISORY COMMITTEE

#### Notice of Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, Public Law 92-463, 86 Stat. 770, the Securities and Exchange Commission announces the following public advisory committee meetings.

The Commission's Advisory Committee on a Model Compliance Program for Broker-Dealers, established on October 25, 1972 (Securities Exchange Act Release No. 9835), will hold meetings October 5, 1973, at the Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. The meetings will commence at 9 a.m., local time.

This Advisory Committee was formed to assist the Commission in developing a model compliance program to serve as an industry guide for the broker-dealer community. Assisted by this Committee's work, the Commission plans to publish a guide to broker-dealer compliance under the securities acts in order to advise broker-dealers of the standards to which they should adhere if investor confidence in the fairness of the market place is to be warranted and sustained. The Committee's recommendations are not intended to result in the expansion of Commission rules governing broker-dealers, but to inform broker-dealers as to the existing requirements and how they may comply with them.

The Committee's scheduled meeting will be for the purpose of reviewing drafts and proposals concerning the Committee's proposed report to the Commission on these compliance guidelines for broker-dealers.

This meeting is open to the public. Any interested person may attend and appear before or file statements with the Advisory Committee—which statements, if in written form, may be filed before or after the meeting or, if oral, at the time and in the manner and extent permitted by the Advisory Committee.

[SEAL] GEORGE A. FITZSIMMONS,
*Secretary.*

SEPTEMBER 24, 1973.

[FR Doc.73-20719 Filed 9-27-73;8:45 am]

### SOUTHEAST BANKING CORP.

#### Acquisition of Bank

Southeast Banking Corporation, Miami, Florida, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Southeast Bank of Westland, Hialeah, Florida, a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the office of the Board of Governors or at the Federal Reserve Bank of Atlanta.

## SELECTIVE SERVICE SYSTEM

### REGISTRANTS PROCESSING MANUAL

The Registrants Processing Manual is an internal manual of the Selective Service System. The following portions of that Manual are considered to be of sufficient interest to warrant publication in the FEDERAL REGISTER. Therefore these materials are set forth in full as follows:

CHAPTER 622—CLASSIFICATION RULES AND PRINCIPLES

INDEX


Sec.
622.1 General Principles of Classification
622.2 Classes
622.10 Class 1-A, Available for Military Service
622.11 Class 1-AM, Medical Specialist Available for Military Service
622.12 Class 1-A-O, Conscientious Objector Available for Noncombatant Military Service Only
622.13 Class 1-A-OM, Conscientious Objector Medical Specialist Available for Noncombatant Military Service Only
622.14 Class 1-C, Member of the Armed Forces of the United States, the National Oceanic and Atmospheric Administration, or the Public Health Service
622.15 Class 1-D, Member of Reserve Component or Student Taking Military Training
622.16 Class 1-O, Conscientious Objector Available for Alternate Service
622.17 Class 1-OM, Conscientious Objector Medical Specialist Available for Alternate Service
622.18 Class 1-W, Conscientious Objector Performing Alternate Service in Lieu of Induction
622.19 Class 1-H, Registrant Not Currently Subject to Processing for Induction or Alternate Service
622.20 General Rules for Classification in Class 2
622.21 Length of Deferments in Class 2
622.22 Class 2-AM: Medical Specialist Registrant Deferred Because of Community Service
622.25 Class 2-S: Registrant Deferred Because of Activity in Degree Study




V 38-188 SEP 28 73 XUM

Sec.
622.26 Class 2–M: Registrant Deferred Because of Study Preparing for a Specified Medical Specialty
622.27 Class 2–D: Registrant Deferred Because of Study Preparing for the Ministry
622.30 Class 3–A: Registrant Deferred Because of Dependency of Others
622.40 Class 4–A: Registrant Who Has Completed Military Service
622.41 Class 4–B: Official Deferred by Law
622.42 Class 4–C: Aliens
622.43 Class 4–D: Minister of Religion
622.44 Class 4–F: Registrant not Qualified for Military Service
622.45 Class 4–G: Surviving Son Registrant Exempted from Service During Peace
622.46 Class 4–W: Conscientious Objector Registrant Who Has Completed Alternate Service in Lieu of Induction

Attachment
622–1 U.S. Medical Schools Offering Combined Premed and M.D. Programs in Less than 8 Years

CHAPTER 622—CLASSIFICATION RULES AND PRINCIPLES

*Section 622.1 General principles of classification.* 1. It is the local board's responsibility to decide, subject to appeal, the class in which each registrant shall be placed. Each registrant will be considered as available for military service until his eligibility for deferment or exemption from military service is clearly established to the satisfaction of the local board. The local board will receive and consider, at the appropriate time, all information presented to it pertinent to the classification of the registrant.

2. The mailing by the local board of any selective service form, questionnaire, or letter, requesting information on which to base a registrant's classification, to the latest address furnished by a registrant, shall be notice to the registrant that unless information which will justify his deferment or exemption from military service is presented to the local board by the date specified, if any, or within a reasonable time if no date is specified, the registrant will be classified on the basis of the information in his file, and the applicable rules and regulations.

3. In classifying a registrant there shall be no discrimination for or against him because of his race, creed, or color, or because of his membership or activity in any labor, political, religious, or other organization. Each registrant shall receive equal consideration.

Section 622.2 *Classes.* Each registrant shall be classified in one of the following classes:

CLASS 1

Class 1–A: Available for military service.
Class 1–AM: Medical specialist available for military service.
Class 1–A–O: Conscientious objector available for noncombatant military service only.
Class 1–A–OM: Conscientious objector medical specialist available for noncombatant military service only.
Class 1–C: Member of the Armed Forces of the United States, the National Oceanic and Atmospheric Administration, or the Public Health Service.
Class 1–D: Member of reserve component or student taking military training.
Class 1–H: Registrant not currently subject to processing for induction or alternate service.
Class 1–O: Conscientious objector available for alternate service.
Class 1–OM: Conscientious objector medical specialist available for alternate service.
Class 1–W: Conscientious objector performing alternate service in lieu of induction.

CLASS 2

Class 2–AM: Medical Specialist registrant deferred because of community service.
Class 2–D: Registrant deferred because of study preparing for the ministry.
Class 2–M: Registrant deferred because of study preparing for a specified medical specialty.
Class 2–S: Registrant deferred because of activity in degree study.

CLASS 3

Class 3–A: Registrant deferred because of dependency of others.

CLASS 4

Class 4–A: Registrant who has completed military service.
Class 4–B: Official deferred by law.
Class 4–C: Aliens.
Class 4–D: Minister of religion.
Class 4–F: Registrant not qualified for military service.
Class 4–G: Surviving son registrant exempted from service during peace.
Class 4–W: Conscientious objector registrant who has completed alternate service in lieu of induction.

Section 622.10 *Class 1–A: Available for Military Service.* In Class 1–A shall be placed every registrant who has not established to the satisfaction of the local board, subject to appeal, that he is eligible for classification in another class.

Section 622.11 *Class 1–AM: Medical Specialist Available for Military Service.* 1. In Class 1–AM shall be placed every registrant who is or becomes a medical specialist.

2. For the purposes of this section a medical specialist is a registrant who has received the degree of:

Doctor of Medicine
Doctor of Osteopathy
Doctor of Dental Surgery
Doctor of Dental Medicine
Doctor of Optometry
Doctor of Podiatry
Doctor of Veterinary Medicine,

or who has been licensed as a

Registered Nurse.

When information is received indicating that a registrant has received training equivalent to that evidenced by any of these degrees, the local board shall request a determination from the State Director as to whether or not the registrant qualifies for the medical specialist classification.

3. Each registrant who is classified in Class 1–AM shall be identified as follows: Class 1–AMM for doctor of medicine; Class 1–AMD for dentist; Class 1–AME for doctor of optometry; Class 1–AMO for doctor of osteopathy; Class 1–AMP for doctor of podiatry; Class 1–AMV for veterinarian; Class 1–AMN for registered nurse.

Section 622.12 Class1–A–O: *Conscientious Objector Available for Noncombatant Military Service Only.* In Class 1–A–O shall be placed every registrant who would have been classified in Class 1–A but for the fact that he has been found, by reason of religious, ethical, or moral belief, to be conscientiously opposed to participation in combatant training and service in the armed forces. (See Chapter 661.)

Section 622.13 *Class 1–A–OM: Conscientious Objector Medical Specialist Available for Noncombatant Military Service Only.* 1. In Class 1–A–OM shall be placed every registrant who would have been classified in Class 1–AM but for the fact that he has been found, by reason of religious, ethical, or moral belief, to be conscientiously opposed to participation in combatant training and service in the armed forces.

2. Identification of 1–A–OM registrants by medical specialty will be accomplished in the same manner and by use of the same identifier symbol immediately following the classification 1–A–OM as is outlined in Section 622.11 for the 1–AM medical specialist registrants.

Section 622.14 *Class 1–C: Member of the Armed Forces of the United States, the National Oceanic and Atmospheric Administration, or the Public Health Service.*

In class 1–C shall be placed: 1. Every registrant who is, or who by enlistment, induction, or appointment becomes, a commissioned officer, a warrant officer, an enlisted man or an aviation cadet of the Army, the Navy, the Air Force, the Marine Corps, the Coast Guard, or the National Oceanic and Atmospheric Administration, or a commissioned officer of the regular Public Health Service,

2. Every registrant who is a cadet, United States Military Academy, United States Air Force Academy, or United States Coast Guard Academy; or a midshipman, United States Naval Academy, or

3. Except for periods of active duty for training only, every registrant who is a member of a Reserve component of the armed forces and is on active duty.

4. Except for periods of active duty for training only, every Reserve officer of the Public Health Service on active duty and assigned to staff the various offices and bureaus of the Public Health Service including the National Institutes of Health, or the Coast Guard, the Bureau of Prisons of the Department of Justice, the Environmental Protection Agency, or the National Oceanic and Atmospheric Administration.

Section 622.15 *Class 1–D: Member of Reserve Component or Student Taking Military Training.* 1. In Class 1–D shall be placed (1) any registrant for whom an Armed Forces of the United States Report of Transfer or Discharge (DD Form 214) has been received showing that he has been transferred into a Reserve component of the Army, Navy, Air Force, Marine Corps, or Coast Guard or (2) any registrant other than a registrant referred to in paragraph 2 of this section for whom a Record of Military Status of Registrant (DD Form 44) has been received showing that he has been enlisted or appointed in one of the above-mentioned components and the date of such enlistment or appointment was (a) prior to the issuance of orders for him to report for induction, or (b) after the issuance of such orders, but at least 10 days prior to his scheduled reporting date for induction. No registrant shall have his induction postponed for the purpose of permitting him to qualify under (b) above.

2. In Class 1–D shall be placed any registrant who (a) has been selected for enrollment or continuance in the Senior Division (entire college level) of the Army Reserve Officers' Training Corps, the Air Force Reserve Officers' Training Corps, or the Naval Reserve Officers' Training Corps; the Naval and Marine Corps officer candidate program of the Navy; the platoon leader's class of the Marine Corps; the officer procurement programs of the Coast Guard and the Coast Guard Reserve; or who is appointed an Ensign in the United States Naval Reserve while he is undergoing professional training; (b) has signed an agreement to accept a commission, if tendered, and to serve subject to order of the Secretary of the military department having jurisdiction over him (or the Secretary of Transportation with respect to the United States Coast Guard), not less than two years on active duty after receipt of a commission; and (c) has signed an agreement to remain a member of a regular or Reserve component until the sixth anniversary of his receipt of a commission. A registrant may qualify for a 1–D classification if a DD Form 44 is received by the local board verifying his status as a member of the ROTC program at any time prior to his induction date. Such registrant shall remain eligible for Class 1–D until completion or termination of the course of instruction and so long thereafter as he continues in a Reserve status upon being commissioned, except during any period he is eligible for Class 1–C.

3. To assist local boards in continuing a uniform procedure in classifying registrants who are satisfactorily participating in an ROTC program, the following programs set forth the Selective Service System understanding with the Department of Defense:

a. *Four-year program.* Upon enrollment into an ROTC program and after completion of an "ROTC Deferment Agreement" the responsible Professor of Military Science, Professor of Naval Science, or Professor of Aerospace Studies will submit a DD Form 44 to the enrollee's selective service local board. Upon receipt of a DD Form 44 the registrant's local board shall place him in Class 1–D, and retain him in this classification until reason for a change in his classification is a matter of record in his selective service file.

b. *Two-year program.* The local board shall postpone the induction of a registrant providing the Professor of Military Science or Professor of Aerospace Studies furnishes a form letter during the spring term confirming the registrant's acceptance for training in an ROTC Basic Camp that following summer. If he is under an order to report for induction and an enrollment letter is received, he shall be issued a Postponement of Induction (SSS Form 264) and the reporting date postponed until October 31 of that year. If he is accepted for the summer basic camp and is later reached for induction, his local board will issue an Order to Report for Induction (SSS Form 252) and postpone his date of induction until October 31, providing the appropriate form letter is in his selective service file.

If the registrant enters an Advanced ROTC Program that fall, the Professor of Military Science or Professor of Aerospace Studies will issue a DD Form 44 and upon its receipt, the registrant will be considered for Class 1–D. If a DD Form 44 is not received by October 31, if the registrant drops from the basic camp, or if he fails to enroll in the fall course, his postponement shall be terminated at that time and he shall be placed on the local board's next induction call.

c. ROTC Scholarship Program—Registrants who have been awarded ROTC scholarships but who have not yet enrolled in the ROTC Program will be issued their orders to report for induction, when reached, and then postponed until October 31 of that year. If a registrant is under an outstanding order to report for induction, he shall be postponed until October 31 of that year.

If the registrant enrolls in college and enters the ROTC Program on an ROTC Scholarship and a DD Form 44 is received, he will be considered for Class 1–D. If a DD Form 44 is not received by October 31, his postponement shall be terminated at that time and he shall be placed on the local board's induction call when again reached.

4. In Class 1–D shall be placed any registrant who is a fully qualified and accepted aviation cadet applicant of the Army, Navy, or Air Force, and who has signed an agreement of service. Such registrant shall be retained in Class 1–D during the period covered by such agreement but in no case in excess of four months.

5. In Class 1–D shall be placed any registrant who is a student enrolled in an officer procurement program in one of the following colleges, the curriculum of which has been approved by the Secretary of Defense:

a. The Citadel, Charleston, South Carolina
b. Norwich University, Northfield, Vermont
c. Virginia Military Institute, Lexington, Virginia
d. North Georgia College, Dahlonega, Georgia.

Section 622.16 *Class 1–O: Conscientious Objector Available for Alternate Service.* In Class 1–O shall be placed every registrant who would have been classified in Class 1–A but for the fact that he has been found, by reason of religious, ethical, or moral beliefs, to be conscientiously opposed to participation in war in any form and to be conscientiously opposed to participation in both combatant and noncombatant training and service in the armed forces. (See Chapter 661).

Section 622.17 *Class 1–OM: Conscientious Objector Medical Specialist Available for Alternate Service.* 1. In Class 1–OM shall be placed every registrant who would have been classified in Class 1–AM but for the fact that he has been found by reason of religious, ethical, or moral belief, to be conscientiously opposed to participation in war in any form and to be conscientiously opposed to participation in both combatant and noncombatant training and service in the armed forces.

2. Identification of 1–OM registrants by medical specialty will be accomplished in the same manner and by use of the same identifier symbol immediately following the classification 1–OM as is outlined in Section 622.11 for the 1–AM medical specialist registrants.

Section 622.18 *Class 1–W: Conscientious Objector Performing Alternate Service in Lieu of Induction.* In Class 1–W shall be placed any registrant who has entered upon and is performing alternate service contributing to the maintenance of the national health, safety or interest, in accordance with an order issued by the local board upon the instructions of the Director or State Director.

Section 622.19 *Class 1–H: Registrant Not Currently Subject to Processing for Induction or Alternate Service.* 1. A 1–H classification by *board action* can be granted only to registrants subject to a *regular* call.

2. Registrants subject to a regular call are eligible for Class 1–H unless eligible for a lower class if they are:

a. Members of the first priority selection group (FPSG) whose random sequence number (RSN) is above the administration processing number (APN) which will be designated by the Director from time to time;

b. Members of the second or lower priority selection groups;

c. Registrants, in the year of their 19th birthday, whose random sequence number is above the APN designated by the Director for the following year's FPSG;

d. Registrants, in the year of their 19th birthday, who have been assigned RSN's but for whom no APN has yet been set;

e. Registrants who have not yet been assigned a random sequence number.

3. The following registrants are specifically *ineligible* for classification into Class 1–H by *board action:*

a. Volunteers,

b. Registrants in the extended priority selection group (EPSG),

c. Registrants in the first priority selection group (FPSG) whose RSN is at or below the APN,

d. Registrants, in the year of their 19th birthday, whose RSN is at or below the APN designated for the following year's FPSG,

e. Any registrant who qualifies for Class 1–C, 1–D, 1–W, 4–A, 4–C, 4–D, 4–F, 4–G or 4–W,

f. Medical specialists, or

g. Any registrant who is satisfactorily pursuing a full-time course of study leading to a professional degree as a doctor of medicine, doctor of osteopathy, dentist, optometrist, podiatrist, or veterinarian, or licensure as a registered nurse.

4. Every registrant is administratively assigned to Class 1–H as of the time of registration. Any 1–H classification after this initial administrative assignment must be made by local board or appeal board action. Any new registrant who qualifies for a class lower than 1–H will be classified out of 1–H and into that lower class by the local board as soon as practicable.

5. The APN for each year's first priority selection group will be designated by the Director at the time of the lottery drawing for that age group. The progressive raising of a temporary processing RSN, below the established APN, will facilitate uniform processing of registrants. All registrants who attained the age of 20 during a previous year, and who are consequently eligible for a lower priority selection group, shall be classified into Class 1–H unless specifically ineligible for Class 1–H, in accordance with paragraph 3 of this section.

6. The designation of an APN by the Director for the next year's first priority selection group is a basis for reopening the classification of those registrants in Class 1–H who have RSN's equal to or below the APN and who will attain the age of 20 in the following year. Unless information in their file indicates these registrants are eligible for another class, they will be reclassified into Class 1–A.

Section 622.20 *General Rules for Classification in Class 2.* 1. The local board has primary responsibility, under applicable rules and instructions in this Chapter, for determining which men should be deferred because of their civilian activities. Civilian activities which are contributing to the national health, safety or interest should be disrupted as little as possible, consistent with the fundamental purpose of the Military Selective Service Act.

2. No deferment from training and service shall be granted in the case of any registrant except upon the basis of his individual status, as reflected in his selective service file.

3. The local board may avail itself of the assistance of all federal, state, or local agencies to obtain information which will help it to determine whether a claim for deferment should be granted. However, no information shall be considered in classifying the registrant into a class available for military or alternate service unless that document was supplied by the registrant or a copy of it or a fair resume of its contents has been furnished to him by the Selective Service System.

Section 622.21 *Length of Deferments in Class 2.* 1. Class 2 deferments shall be for a period of one year or less. If there is a change in the registrant's status during the period of deferment which would affect his eligibility for Class 2, his classification shall be reopened and considered anew.







V 38-188
SEP 28 73
XUM

2. After the expiration of the period of a registrant's deferment in Class 2, his classification shall be reopened and he shall be classified anew based upon the information in his selective service file, and applicable rules and regulations. The registrant may be continued in Class 2 for a further period of one year or less if such classification is considered warranted by the classifying board. The same procedure shall apply when classifying a registrant at the end of each successive period for which he has been classified in Class 2.

3. Nothing in this section is intended to require or permit the local board to retain in Class 2 any registrant when the reason for his classification has ceased to exist.

Section 622.22 *Class 2–AM: Medical Specialist Registrant Deferred Because of Community Service.* In Class 2–AM shall be placed every medical specialist (doctor of medicine, doctor of osteopathy, dentist, veterinarian, optometrist, podiatrist, or registered nurse) who has completed his year in the First Priority Selection Group-Medical, and whose occupation has been found to represent an especially critical community service in which the specialist is directly involved in patient care. (See Chapter 680).

Section 622.25 *Class 2–S: Registrant Deferred Because of Activity in Degree Study.* 1. In Class 2–S shall be placed any registrant who requests such classification, who was satisfactorily pursuing a full-time course of instruction leading to a baccalaureate degree at a college, university, or similar institution of learning during the 1970–71 regular academic school year and who is satisfactorily pursuing such course; such classification to continue until the registrant completes the requirements for his baccalaureate degree, fails to pursue satisfactorily a full-time course of instruction, or attains the twenty-fourth anniversary of the date of his birth, whichever occurs first.

2. A registrant will be deemed to be satisfactorily pursuing a full-time course of instruction when he is making proportionate progress toward his degree. For example, if the registrant is enrolled in a four-year course of instruction, the registrant should complete approximately one-fourth of the total requirements by the end of the first academic year, approximately one-half by the end of the second academic year, approximately three-fourths by the end of the third academic year, and should graduate by the end of the fourth academic year. If the registrant is in a course of instruction for which the curriculum has been prescribed in the official college catalog as requiring five or more years duration, he must make similar proportionate progress, such as completing one-fifth of the requirements in each year of a five-year course. If, for reasons beyond the registrant's control, such as illness or accident, he fails to maintain normal progress, the local board may, at its discretion, grant the registrant further deferment for so long as he continues to maintain satisfactory progress from the time of reentry in full-time student status. The registrant's academic year, for the purpose of this section, shall terminate on the anniversary of his entrance into the course of study. If the registrant is scheduled to complete his graduation requirements prior to such anniversary, the scheduled graduation date will be shown as the termination date of the 2–S classification. The deferment expiration date shall subsequently be extended to a date *not later than* such anniversary, *only* if the local board is satisfied that the additional time is needed in order for the registrant to complete his graduation requirements prior to such anniversary.

3. When a registrant, who was satisfactorily pursuing a full-time course of instruction leading to a baccalaureate degree during the 1970–71 regular academic school year, transfers from a junior college or community college to a baccalaureate degree granting institution, even though approximately 25% or less of his credits for satisfactorily completed courses are not accepted through no fault of his own, he shall be eligible for continued deferment so long as he remains a full-time student and maintains satisfactory progress from the status in which he was accepted for transfer.

4. It shall be the registrant's duty to provide the local board each academic year with verification from a college, university, or similar institution of learning that he is satisfactorily pursuing a full-time course of instruction at that institution of learning.

Section 622.26 *Class 2–M: Registrant Deferred Because of Study Preparing for a Specified Medical Specialty.* 1. In Class 2–M shall be placed any registrant who is satisfactorily pursuing a full-time course of study leading to a professional degree as a doctor of medicine, doctor of osteopathy, dentist, optometrist, podiatrist, or veterinarian, or licensure as a registered nurse. This does not include registrants pursuing a course (such as a pre-med course) leading to admission to a professional course of study. It shall be the registrant's duty to provide the local board each academic year with verification from a college, university, or similar institution of learning that he is satisfactorily pursuing a full-time course of instruction in one of these fields of study at such institution of learning. Any registrant who is ordered to report for induction or alternate service, and who has or receives a firm acceptance into the next beginning class in such course of study, shall have his reporting date for induction or alternate service postponed until the beginning of such course of study, citing this section as authority. Upon entry into such course of study, his classification shall be reopened.

2. A registrant who is pursuing a full-time joint program of less than eight years duration combining both undergraduate and professional courses leading to the M.D. degree shall be considered a full-time medical student. The program must be approved and supervised by the medical school. Such a program exists at the medical schools listed on Attachment 622–1. Not all students at these schools are enrolled in the joint program; therefore, an individual determination must be made in each case.

Section 622.27 *Class 2–D: Registrant Deferred Because of Study Preparing for the Ministry.* 1. In Class 2–D shall be placed any registrant who requests such deferment, who is preparing for the ministry under the direction of a recognized church or religious organization, and who:

a. Is satisfactorily pursuing a full-time course of instruction in a recognized theological or divinity school, or

b. Is satisfactorily pursuing a full-time post-high school course of instruction required for his entrance into a recognized theological or divinity school in which he has been pre-enrolled, or

c. Having completed theological or divinity school, is a student in a full-time graduate program or is a full-time intern.

2. It shall be the duty of the registrant who is a theological or divinity student to provide the local board each year with evidence that:

a. He is a student preparing for the ministry under the direction of a recognized church or religious organization, and

b. He is satisfactorily pursuing a full-time course of instruction in a recognized theological or divinity school.

3. It shall be the duty of any registrant who is a pretheological student to provide the local board each year with evidence that:

a. He is a student preparing for the ministry under the direction of a recognized church or religious organization, and

b. He is satisfactorily pursuing a full-time college-level course of instruction required for entrance into a recognized theological or divinity school in which he has been pre-enrolled, and is making proportionate progress toward completing the academic program established as a preentry requirement in accordance with paragraph 2 of Section 622.25.

4. It shall be the duty of any registrant who is a student in a full-time program preparing for the ministry to provide the local board each year with evidence that:

a. He is a student preparing for the ministry under the direction of a recognized church or religious organization;

b. His studies relate to and lead toward entry into service as a regular or duly ordained minister of religion as defined in Section 622.43 of this Chapter; and

c. He is making proportionate progress toward completion of the program of preparation for the ministry in accordance with paragraph 2 of Section 622.25.

5. The local board or appeal board may require from the church, religious organization, or school detailed information in order to determine whether or not the theological or divinity school is in fact recognized and whether or not the church or religious organization which is sponsoring the registrant is recognized.

6. A school, to be recognized as a theological or divinity school, should enjoy a good reputation among theological academic institutions of general academic acceptance and its graduates should be acceptable by the church sponsoring the registrant for ministerial duties, either as an ordained or regular minister.

7. A church or religious organization should be able to show that it was established on the basis of a community of faith and belief, doctrines and practices of a religious character, and that it engages primarily in religious activities.

8. If the local board or appeal board considers the information it has received to be insufficient for the purpose of making a determination, it should request assistance or additional information from the State Director of Selective Service. When the church or religious organization of the theological or divinity school is located in another state, the State Director may contact the appropriate State Director for advice and recommendation, or may request advice from the Director of Selective Service. In any case, the advice of the State Director or the Director of Selective Service shall not be binding upon the local board.

Section 622.30 *Class 3–A: Registrant Deferred Because of Dependency of Others.* 1. In Class 3–A shall be placed any registrant,

a. Whose deferment is found by the local board or appeal board to be advisable because a person or persons (other than his wife alone, except in case of extreme hardship) are dependent upon him for support; or

b. The term "child" shall include only military service by reason of dependency or hardship.

2. The local board shall reopen and consider anew the classification of each registrant in Class 3–A not later than 365 days after he was last classified in Class 3–A.

3. As used in this section,

a. The term "dependent" shall include only the wife, child, parent, grandparent, brother, or sister of the registrant;





b. The term "child" shall include only a person under 18 years of age who is a legitimate or an illegitimate child of the registrant from the date of its conception, his stepchild, his foster child, or his legally adopted child;

c. The term "parent" shall include any person who has stood in the place of a parent to the registrant for at least five years preceding the eighteenth anniversary of the registrant's date of birth.

d. The term "support" indicates the reliance of a person or persons on the registrant which may include, but is not limited to, financial assistance.

4. A registrant may file a written claim for dependency deferment at any time. The claim may be by letter or other writing, such as Dependency Questionnaire (SSS Form 118), which indicates that such deferment is desired.

5. After the issuance of an order to report for induction or alternate service, a request for, or submission of, a Dependency Questionnaire does not constitute a basis for delay of a registrant's processing for induction or alternate service. Such delay will not be permitted, unless information is presented which, if true, would be a basis for reopening a registrant's classification, and the late submission of the information is due to reasons beyond the registrant's control.

6. *Preclassification action.* a. Prior to a local board classifying or reclassifying a registrant who has claimed dependency, the local board shall furnish the registrant a Dependency Questionnaire and request the registrant to furnish such additional information to support his claim for deferment as he may desire. The registrant shall be informed of the preclassification personal appearance option as set forth in Chapter 624.

b. In the event the registrant fails to return the Dependency Questionnaire within a reasonable time, the local board shall consider the registrant's claim without the benefit of the information on the form. The local board shall not postpone a registrant's induction or alternate service to allow the filing of the form.

c. Classification need not be based solely upon the information contained in the questionnaire. When the local board determines that the information in the file is inadequate, it may request further information from the registrant, his dependents, or other government or private agencies.

7. *Claimed dependency based on financial hardship.* a. Information to be considered:

(1) Financial needs of the claimed dependent.

(2) Reasonableness of such claims.

(3) Earnings of the claimed dependent if employed and/or other income.

(4) Income of other members of the registrant's family and their responsibility for and ability to contribute to the claimed dependent.

(5) Financial effect of entry into military service including all pay and allowances, and the Soldiers' and Sailors' Civil Relief Act.

b. For the purpose of determining whether or not the induction of a registrant would result in hardship to his dependent(s), of a degree sufficient to justify deferment, the local board must consider the pay, along with clothing allowances, lodging and food, which the registrant would receive as a member of the armed forces, the free medical care for the member and his dependents, as well as the allowances which are payable by the United States to persons serving in the armed forces who have dependents. However, the fact that such pay and allowances are payable shall not be deemed conclusively to remove the grounds for deferment except in those situations where dependency is based solely upon financial considerations and where the local board may reasonably find that such pay and allowances are an adequate substitute for the financial loss occasioned to claimed dependents, and shall not be deemed to remove the grounds for deferment when the dependency is based upon other than financial considerations and cannot be eliminated by financial assistance to the dependents.

c. The following table sets forth, according to pay grade, the amount of pay and allowance for quarters, paid to an enlisted man with less than two years' service:

| Pay grade | Monthly pay | Allowance for quarters—1 or more dependents | Total pay and allowance |
|---|---|---|---|
| E–1 | $307.20 | $105.00 | $412.20 |
| E–2 | 342.30 | 105.00 | 447.30 |
| E–3 | 355.80 | 105.00 | 460.80 |
| E–4 | 369.90 | 121.00 | 491.40 |

8. Claimed Dependency Based on Physical or Mental Hardship.

a. Medical documentation of the dependent should be evaluated as to degree of disability, the length of time the medical condition has been in existence and the prognosis as to the continuation of the medical condition. The dependent's ability to care for himself, or be cared for without the aid of the registrant, shall be considered.

b. A doctor's statement must verify any claimed disability of dependents. It must be determined that the registrant alone is responsible for the care of the dependent. The normal anxiety attributable to one whose son or husband enters the armed forces should not be a basis for deferment. The prognosis for the registrant's dependent must also be considered to determine if this is a short or long-term condition.

9. All 3–A classifications shall be reopened annually at the local board meeting nearest the anniversary of the last classification, but before 365 days have elapsed, and at any other time information indicates a registrant might no longer be entitled to Class 3–A. Not less than 30 days prior to the review, the local board shall request current information by mailing a Dependency Questionnaire to the registrant. He shall also be informed of the preclassification personal appearance option as set forth in Chapter 624.

Section 622.40 *Class 4–A: Registrant Who Has Completed Military Service.* 1. In Class 4–A shall be placed any registrant other than a registrant eligible for classification in Class 1–C or 1–D who is within any of the following categories:

a. A registrant separated from the Armed Forces of the United States, with an honorable discharge or a discharge under honorable conditions, after having served for a period of not less than six months of active duty other than active duty for training, in the Army, the Air Force, the Navy, the Marine Corps, or the Coast Guard, and who is not a member of a Reserve component.

b. A registrant who has served on active duty for a period of not less than 24 months as a commissioned officer in the National Oceanic and Atmospheric Administration or in the Public Health Service, provided that such period of active duty in the Public Health Service as a commissioned Reserve officer commencing after June 30, 1967, shall have been performed by the registrant while assigned to the Coast Guard, or the Bureau of Prisons of the Department of Justice, Environmental Protection Agency, or the National Oceanic and Atmospheric Administration.

c. A registrant who while an alien has served on active duty for a period of not less than 12 months in the armed forces of any of the following nations which are certified by the Department of State to be nations with which the United States is associated in mutual defense activities:

| | |
|---|---|
| Argentina | Jamaica |
| Australia | Japan |
| Barbados | Korea, Republic of (South) |
| Belgium | Luxembourg |
| Bolivia | Mexico |
| Brazil | Netherlands |
| Canada | New Zealand |
| Chile | Nicaragua |
| China, Republic of (Nationalist) | Norway |
| Colombia | Pakistan |
| Costa Rica | Panama |
| Denmark | Paraguay |
| Dominican Republic | Peru |
| Ecuador | Philippines, Republic of |
| El Salvador | Portugal |
| France | Spain |
| Germany, Federal Republic of (West) | Thailand |
| Greece | Trinidad and Tobago |
| Guatemala | Turkey |
| Haiti | United Kingdom |
| Honduras | Uruguay |
| Iceland | Venezuela |
| Iran | Vietnam, Republic of (South) |
| Italy | |

When an alien believes he qualifies for exemption from training and service under the provisions of this paragraph, he must request a certificate verifying his military service from his country's diplomatic mission in Washington, D.C., or from the nearest consular office of his country. The mission or the consular office, after verification of the alien's service, will provide a certificate written in English evidencing such service direct to the local board of record.

d. A registrant who has completed six years of satisfactory service as a member of one or more of the armed forces, including the Reserve component thereof, and is no longer a member of any active or Reserve component of the armed forces.

2. For the purpose of computation of periods of active duty referred to in subparagraph a or b of paragraph 1 of this section, no credit shall be allowed for:

a. Periods of active duty for training performed as a member of a Reserve component pursuant to an order or call to active duty solely for training purposes;

b. Periods of active duty in which the service consisted solely of training under a college training program under the jurisdiction of the Army, Air Force, Navy, Marine Corps, or Coast Guard;

c. Periods of active duty as a cadet at the United States Military Academy, United States Air Force Academy, or United States Coast Guard Academy; or as a midshipman at the United States Naval Academy; or in a preparatory school for admission to any such academies;

d. Periods of active duty in any of the armed forces between the time a registrant enlists for the specific purpose of attending a preparatory school, and the time he enters the academy or is transferred to a regular military assignment instead of entering the academy;

e. Periods of active duty performed by medical, dental, or allied specialists in student programs prior to receipt of the appropriate professional degree or in intern training; or

f. Periods of active duty for members of the Reserve of the Public Health Service other than when assigned to staff any of the various offices and bureaus of the Public Health Service (including the National Institutes of Health), the Coast Guard, the Bureau of Prisons of the Department of Justice, Environmental Protection Agency or



V 38 I 188 SEP 28 73 XUM

the National Oceanic and Atmospheric Administration.

Section 622.41 *Class 4–B: Official Deferred by Law.* In Class 4–B shall be placed any registrant who is the governor of a state, territory or possession,; a member of a legislative body of the United States or of a state, territory or possession; a judge of a court of record of the United States or of a state, territory or possession, or the District of Columbia.

Section 622.42 *Class 4–C: Aliens.* 1. In Class 4–C shall be placed any registrant who is an alien, and who has not resided in the United States for one year, including any period before his registration. When such a registrant has been within the United States for two or more periods and the total of such periods equals one year, he shall be deemed to have resided in the United States for one year. In computing the length of such periods, any portion of one day shall be counted as one full day. When any such registrant has resided in the United States for one year, he shall be classified as available for military service unless he is found to be eligible for a lower classification.

2. In Class 4–C shall be placed any registrant who is an alien who furnishes documentation establishing that he is a national of one of the following countries ("treaty alien") and who has made application on Request for Relief From Training and Service in the Armed Forces of the United States (SSS Form 130) to be exempted from liability for training and service in the Armed Forces of the United States:

| | |
|---|---|
| Argentina | Italy |
| Austria | Latvia |
| China, Republic of (Nationalist) | Liberia |
| Costa Rica | Norway |
| Estonia | Paraguay |
| Honduras | Spain |
| Ireland | Switzerland |
| | Yugoslavia |

3. In Class 4–C shall be placed any registrant who is an alien who has departed from the United States. If any registrant so classified under this paragraph returns to the United States, his classification shall be reopened and he shall be classified anew. If the registrant has failed to comply with an order to report for induction or alternate service, the reopening of his classification by the local board for the purpose of placing him in or removing him from Class 4–C shall not cancel the order with which he has failed to comply.

4. In Class 4–C shall be placed any alien admitted for permanent or temporary residence who has registered at a time when he was required by the selective service law to register and thereafter has acquired status within one of the groups of persons exempt from registration.

5. In Class 4–C shall be placed any registrant who is an alien who by reason of occupational status (such as employment at the World Bank or United Nations) is subject to adjustment to nonimmigrant status, but who executes a waiver of all rights, privileges, exemptions, and immunities which would otherwise accrue to him as a result of that occupational status. A registrant placed in Class 4–C under the authority of this paragraph shall be retained in Class 4–C only for so long as such occupational status continues.

6. Treaties between the United States and the countries listed below, relating to military obligations in certain cases of dual nationality, provide that a person possessing two or more nationalities who habitually resides in one of the countries whose nationality he possesses, and who is in fact closely connected with that country, shall be exempt from all military obligation in the other countries:

| | |
|---|---|
| Australia | Mauritius |
| Austria | Netherlands |
| Belgium | Niger |
| Brazil | Nigeria |
| Burma | South Africa |
| Columbia | Swaziland |
| Cuba | Sweden |
| Cyprus | United Kingdom of Great Britain and Northern Ireland, and the remainder of the British Empire except Canada and New Zealand |
| El Salvador | |
| Finland | |
| India | |
| Indonesia | |
| Malawi | |
| Malta | |
| Mauritania | |

A registrant who is a national of both the United States and any of the above listed countries, and who habitually resides in and is closely connected with that country, as evidenced by information submitted on Special Form for Alien or Dual National (SSS Form 131) and documentation of his claim, shall be classified in Class 4–C.

7. Agreements between the United States and Switzerland, and between the United States and Norway, provide that a person born in Switzerland or Norway of parents who are nationals of the United States, and who, himself, is a national of both the United States and the other country, and who habitually resides in the other country, is exempt from liability for military service in the United States. A registrant who qualifies for exemption under this provisions as evidenced by information submitted on SSS Form 131 and documentation of his claim, shall be classified in Class 4–C.

Section 622.43 *Class 4–D: Minister of Religion.* 1. In Class 4–D shall be placed any registrant who is a regular or duly ordained minister of religion.

2. The term "duly ordained minister of religion" means a person who has been ordained, in accordance with the ceremonial ritual or discipline of a church, religious sect, or organization established on the basis of a community of faith and belief, doctrines and practices of a religious character, to preach and to teach the doctrines of such church, sect, or organization and to administer the rites and ceremonies in public worship, and who as his regular customary vocation preaches and teaches the principles of religion and administers the ordinances of public worship as embodied in the creed or principles of such church, sect, or organization.

3. The term "regular minister of religion" means one who as his regular customary vocation preaches and teaches the principles of religion of a church, religious sect, or organization of which he is a member, without having been formally ordained as a minister of religion, and who is recognized by such church, sect, or organization as a regular minister.

4. The terms regular or duly ordained minister of religion do not include a person who irregularly or incidentally preaches and teaches the principles of religion of a church, religious sect, or organization and do not include any person who may have been duly ordained a minister in accordance with the ceremonial rite or discipline of a church, religious sect, or organization, but who does not regularly, as a bona fide vocation, teach and preach the principles of religion and administer the ordinances of public worship, as embodied in the creed or principles of his church, sect, or organization.

5. If the local board or appeal board considers the information it has received to be insufficient for the purpose of making a determination, it should request assistance or additional information from the State Director of Selective Service. When the church or religious organization is located in another state, the State Director may contact the appropriate State Director for advice and recommendation, or may request advice from the Director of Selective Service. In any case, the advice of the State Director or Director of Selective Service shall not be binding upon the local board.

Section 622.44 *Class 4–F: Registrant Not Qualified For Military Service.* 1. In Class 4–F shall be placed any registrant who is found by an Armed Forces Examining and Entrance Station, (AFEES) upon examination under applicable physical, mental, or administrative standards, to be not qualified for service in the armed forces; except that no such registrant whose further examination or reexamination is determined by AFEES to be justified shall be placed in Class 4–F until further examination has been accomplished and such registrant continues to be found not qualified for military service.

2. In Class 4–F shall be placed any registrant who has been found by AFEES without examination to be not qualified based on an obviously disqualifying physical condition, as specified in the Surgeon General of the Army's list, which is an attachment to Chapter 628.

3. In Class 4–F shall be placed any registrant who is a medical specialist and who has been found by AFEES to be not acceptable because of a *permanent* professional disqualification. (See Chapter 680)

4. In Class 4–F shall be placed any registrant for whom AFEES has made a finding of not acceptable based upon the submission of documentation evidencing his confinement in a jail, penitentiary, or similar institution, with such 4–F classification to continue for as long as the registrant remains confined, provided that his confinement is expected to continue for one year or longer.

5. In Class 4–F shall be placed any registrant for whom AFEES has made a finding of not acceptable based upon the submission of documentation evidencing that he is an inmate or patient in a mental institution or recognized drug rehabilitation center, for as long as the registrant continues in this status, provided that his confinement or commitment is expected to continue for one year or longer.

6. In Class 4–F shall be placed any registrant for whom AFEES has made a finding of not acceptable based upon the submission of documentation evidencing that he is currently under active supervision of a parole officer, probation officer, or other supervision of a court, including the courses of treatment prescribed by an order of commitment for as long as he remains under such supervision provided that the registrant's supervision or requirement for reporting to a supervisor or agency is expected to continue for one year or longer.

7. When the local board receives information indicating a registrant is confined in a jail, penitentiary, mental institution, drug rehabilitation center or similar institution, the executive secretary, or other authorized personnel, shall document the registrant's file with verification, in writing, from the clerk of the Court, or other authorized official of the Court or institution concerned. If the vertification indicates the registrant's sentence, or order of confinement or commitment in such institution will result in his continued confinement for one year or longer, the executive secretary or other local board personnel shall submit the documentation to AFEES for a determination as to his acceptability; and, if AFEES finds the registrant not acceptable, the local board shall classify the registrant in Class 4–F. The registrant shall remain in Class 4–F for as long as he remains confined in such institution.

8. When a registrant has been classified into Class 4–F under the provisions of paragraph 2 of this section, the "Z" symbol shall





be shown for the first element of his acceptability symbol on his Registrant File Folder (SSS Form 101). When a registrant has been classified into Class 4–F under the provisions of paragraph 3, 4, 5, 6, or 7 of this section, the "Y" symbol shall be shown for the third element of his acceptability symbol. Other elements of the acceptability symbol will be shown as zeros (i.e., 0–0–Y) for a registrant who has not been found acceptable as a result of an armed forces examination, and as X's (i.e., X–X–Y) for a registrant who has been previously found acceptable as a result of an armed forces examination.

9. Executive secretaries will make appropriate entries in the local board suspense file of the date when registrants will conclude confinement, commitment, detention, etc., to insure proper local board action.

10. Whenever a local board receives an Armed Forces of the United States Report of Transfer or Discharge (DD Form 214) or similar form evidencing that one of its registrants has been separated from the armed forces, including the Reserve components, because of physical, mental or moral disqualification, such registrant shall be placed in Class 4–F, unless he is qualified for Class 4–A.

Section 622.45 *Class 4–G: Surviving Son Registrant Exempted From Service During Peace.* 1. In Class 4–G shall be placed any registrant who qualifies as a surviving son or a sole surviving son, as defined below.

a. Surviving son means one or more surviving sons of any family in which the father or a brother or a sister (1) was killed in action or died in line of duty while serving in the Armed Forces of the United States after December 31, 1959, or (2) died after that date due to injuries received or disease incurred in line of duty during such service, or (3) entered a captured or missing in action status after that date, and still remains in that status. No registrant may be exempted under this provision during a period of war or national emergency declared by the Congress. The term "brother" or "sister" means "brother" or "sister" of the whole blood.

b. Sole surviving son means the only remaining son of any family in which the father or one or more sons or daughters were killed in action before January 1, 1960, while serving in the Armed Forces of the United States, or died after that date due to injuries received or disease incurred in line of duty during such service before January 1, 1960. No registrant may be exempted under this provision during a period of war or national emergency declared by the Congress.

2. The death of an individual as a result of his military service will be considered "in line of duty", unless information from the service concerned or from the Veterans Administration indicates otherwise. The status of the registrant's father, brother or sister who was killed or who died or who is captured or missing shall be verified by contacting the armed force concerned or the Veterans Administration.

3. The following examples may be of assistance to local boards in considering claims for exemption under this section:

a. The father of John Smith, an only child, served in the Navy from 1943 until 1945 when he was discharged because of multiple wounds. He died in 1950 from those injuries. John is eligible for exemption as a sole surviving son.

b. Same as above, except John's father died in 1964 from wounds sustained in 1945. John qualifies for exemption as a sole surviving son.

c. Same as above, except the father's death was due to an automobile accident in 1961. John does not qualify for exemption as the death was not from a service connected cause.

d. John's father and mother were divorced in 1946. His mother, who gained custody of John, remarried and bore a son by her second husband. John's father died in 1950 from wartime wounds. John qualifies for exemption, even though he has a half-brother, because he was the only son of a man who died from wounds sustained while in the Navy. (John's half-brother would not qualify as he was not a son of John's father).

e. William Miller's half-brother joined the Army and was killed in 1969 in Vietnam. William would not be eligible for exemption as the deceased was not a brother of the whole blood.

f. James Nelson had four brothers of the whole blood. Tom, the second oldest, joined the Marines and was killed in a training exercise on January 4, 1963. All three remaining brothers qualify for exemption from service as surviving sons.

g. Edward Kolski's mother, a Reserve officer in the WAC, was killed in a plane crash during her annual two week tour of active duty. Edward would not qualify for exemption since there is no provision for exemption based on the death of a mother.

h. Robert Duran's father died in 1961 from World War II injuries. Robert has two brothers who are still living. None of the sons qualify for exemption because there is no sole surviving son.

Section 622.46 *Class 4–W: Conscientious Objector Registrant Who Has Completed Alternate Service in Lieu of Induction.* In Class 4–W shall be placed any registrant who subsequent to being ordered by the local board to perform alternate service in lieu of induction has been released from such service by the local board after satisfactorily performing the work for a period of 24 consecutive months or has been released from such service by the Director or State Director.

U.S. MEDICAL SCHOOLS OFFERING COMBINED PREMED AND M.D. PROGRAMS IN LESS THAN 8 YEARS

| NAME AND LOCATION OF SCHOOL | |
|---|---|
| Albany Medical College | Albany, New York |
| Boston U. School of Medicine | Boston, Massachusetts |
| Dartmouth Medical School | Hanover, New Hampshire |
| George Washington U. School of Medicine | Washington, D.C. |
| Hahnemann Medical College | Philadelphia, Pennsylvania |
| Howard U. College of Medicine | Washington, D.C. |
| Indiana U. School of Medicine | Indianapolis, Indiana |
| Jefferson Medical College | Philadelphia, Pennsylvania |
| Loma Linda U. School of Medicine | Loma Linda, California |
| Louisiana State U. Medical Center | Shreveport, Louisiana |
| U. of Michigan Medical School | Ann Arbor, Michigan |
| U. of Missouri School of Medicine | Kansas City, Missouri |
| U. of Nevada School of Medical Sciences | Reno, Nevada |
| State U. of New York—Upstate Medical Center | Syracuse, New York |
| Northwestern U. Medical School | Chicago, Illinois |
| Ohio State U. College of Medicine | Columbus, Ohio |
| U. of Puerto Rico School of Medicine | San Juan, Puerto Rico |
| Rush Medical College | Chicago, Illinois |
| Medical U. of South Carolina | Charleston, South Carolina |
| U. of Tennessee College of Medicine | Memphis, Tennessee |
| Texas Tech U. School of Medicine | Lubbock, Texas |

BYRON V. PEPITONE,
*Director.*

SEPTEMBER 25, 1973.

[FR Doc.73-20738 Filed 9-27-73;8:45 am]

## INTERSTATE COMMERCE COMMISSION

[Notice No. 351]

### ASSIGNMENT OF HEARINGS

SEPTEMBER 25, 1973.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested. No amendments will be entertained after September 28, 1973.

MC 13250 Sub 109, J. H. Rose Truck Line, Inc., application dismissed.

MC 52110 (Sub-No. 137), Brady Motorfrate, Inc., now being assigned November 26, 1973 (2 weeks), at Kansas City, Mo., in a hearing room to be later designated.

MC–C–8100, Western Express, Inc.—Investigation and Revocation of Certificate—now assigned October 3, 1973, at Washington, D.C., is postponed to October 24, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 107515 Sub 847, Refrigerated Transport Co., Inc., now assigned October 23, 1973, at Washington, D.C., postponed indefinitely.

No. 35832, Aluminum Company of America v. Davenport, Rock Island and Northwestern Railway Company, pre-hearing conference is continued to November 27, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC–108341 Sub 32, Moss Trucking Company, Inc., now being assigned November 5, 1973 (1 week), at Charlotte, North Carolina, in a hearing room to be later designated.

MC–118722 Sub 2 and 3, Frigid Express, Inc., now assigned October 15, 1973, at New York, N.Y., is cancelled and the application is dismissed.



V 38 I 188 SEP 28 73 XUM

Ex Parte No. 295, Increased Freight Rates and Charges, 1973, Nationwide, continued to October 1, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 82063 Sunb 43, Klipsch Hauling Co.; MC 106400 Sub 92, Kaw Transport Company; MC 107496 Sub 873, Ruan Transport Corporation; MC 111401 Sub 376, Groendyke Transport, Inc.; MC 115331 Sub 336, Truck Transport, Inc., is continued to November 12, 1973, at the Offices of the Interstate Commerce Commission, Washington, D.C.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-20731 Filed 9-27-73;8:45 am]

## FOURTH SECTION APPLICATION FOR RELIEF

SEPTEMBER 25, 1973.

An application, as summarized below, has been filed requested relief from the requirements of sec. 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with rule 40 of the general rules of practice (49 CFR 1100.40) and filed by October 15, 1973.

FSA No. 42751—*Wrought Iron or Steel Oil Country Tubular Goods and Line Pipe to Points in Oklahoma.* Filed by Southwestern Freight Bureau, Agent (No. B-432), for interested rail carriers. Rates on wrought iron or steel oil country tubular goods and line pipe, in carloads, as described in the application, from Newport, Kentucky and Cincinnati, Ohio, to specified points in Oklahoma.

Grounds for relief—Barge-truck and market competition.

Tariff—Supplement 17 to Southwestern Freight Bureau, Agent, tariff 259-F, I.C.C. No. 5080. Rates are published to become effective on November 5, 1973.

By the Commission.

[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-20729 Filed 9-27-73;8:45 am]

[Notice No. 359]

## MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

Synopses of orders entered by the Motor Carrier Board of the Commission pursuant to sec. 212(b), 206(a), 211, 312 (b), and 410(g) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 1132), appear below:

Each application (except as otherwise specifically noted) filed after March 27, 1972, contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application. As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings on or before October 18, 1973. Pursuant to sec. 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC-74364. By order of September 19, 1973, the Motor Carrier Board approved the transfer to Carl Warner, Galen Warner and Darell Warner, a partnership, doing business as Warner's Transfer, Franklin, W. Va., of Certificate No. MC-101898 (Sub-No. 3) issued January 17, 1968, to Allen Eye and Stanley Lewis Craig, doing business as Eye and Craig Transfer, Franklin, W. Va., authorizing the transportation of poultry feeds, livestock feeds, in bulk, from Harrisonburg, Va., to points in Pendleton, Hardy and Grant Counties, West Virginia—Carl Warner, Route No. 4, Box 24, Franklin, West Virginia 26807, for applicants.

No. MC-FC-74597. By order of September 20, 1973, the Motor Carrier Board, on reconsideration, approved the transfer to Chief Truck Lines, Inc., Hinsdale, Ill., of Certificate No. MC-83403 issued August 16, 1971, to Richard Payne Trucking Company, Hinsdale, Ill., authorizing the transportation of general commodities, with the usual exceptions, between Sorento, Ill., and St. Louis, Mo.—Hardman, Burke, Kerwin & Towle, Attorneys at Law, 127 North Dearborn Street, Chicago, Ill. 60602.

No. MC-FC-74640. By order of September 19, 1973, the Motor Carrier Board approved the transfer to Henry H. R. Coe, Jr., and Martha S. Coe, d.b.a. Cody Bus Line, Cody, Wyo., of Corrected Certificate No. MC-127790 (Sub-No. 1) issued November 7, 1966, to John Wagner and Maybelle Wagner, a partnership, d.b.a. as Cody Bus Line, Deaver, Wyo., authorizing the transportation of passengers and their baggage and express in the same vehicle with passengers, between Cody, Wyo., and Deaver, Wyo., and between Garland, Wyo., and Deaver, Wyo.—Robert D. Olson, Goppert, Fitzstephens, Day & Olson, P.O. Box 871, Cody, Wyoming 82414, attorney for applicants.

No. MC-FC-74661. By order of September 20, 1973, the Motor Carrier Board approved the transfer to H. A. Hastings Company, Inc., Hebron, Md., of Permits Nos. MC-129764 Sub-Nos. 1 and 3, issued May 14, 1969, and November 16, 1971, to Henry Allen Hastings, d.b.a. H. A. Hastings, Hebron, Md., authorizing the transportation of wood chips from, to and between points in Wicomico County, Md., and points in Pennsylvania—Chester A. Zyblut, 1522 K Street NW., Washington, D.C. 20005, attorney for applicants.

No. MC-FC-74663. By order of September 19, 1973, the Motor Carrier Board approved the transfer to Bennett Truck Line, Inc., Paragould, Ark., of the operating rights in Certificate No. MC-79434 issued June 4, 1940, to T. N. Bennett, doing business as Bennett Truck Line, Paragould, Ark., authorizing the transportation of general commodities, over regular routes, between Paragould, Ark, and Lake City, Ark., between Paragould, and Memphis, Tenn., between Blytheville, Ark., and Turrell, Ark., between Paragould and Little Rock, Ark., and between Paragould and Corning, Ark.—Ray A. Goodwin, P.O. Box 726, 206 West Emerson Street, Paragould, Ark. 72450, attorney for applicants.

No. MC-FC-74694. By order of September 19, 1973, the Motor Carrier Board approved the transfer to Reno Armored Transport, Inc., Los Angeles, Calif., of the operating rights in Permit No. MC-117072 (Sub-No. 3) issued November 21, 1972, to Armored Transport, Inc., Los Angeles, Calif., authorizing the transportation of (1) such commercial papers, documents, written instructions, and business records (except currency and negotiable securities) as are used in the business of banks and banking institutions, and (2) audit media and business records, between Reno, Nev., and Tahoe City, South Lake Tahoe, Kings Beach, and Tahoe Vista, Calif., restricted to transportation under continuing contract with Central California Federal Savings and Loan Association, of Auburn, Calif., Crocker Citizens National Bank, of San Francisco, Calif., First National Bank of Nevada, of Reno, Nev., Sears-Roebuck & Co., of Chicago, Ill., Sierra Pacific Power Co., of Reno, Nev., Tahoe National Bank of South Lake Tahoe, Nev., and Bank of California, Tahoe City, Calif.—R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, Calif. 90017, attorney for applicants.

No. MC-FC-74699. By order entered September 20, 1973, the Motor Carrier Board approved the transfer to Southwest Supply, Inc., Bluefield, W. Va., of the operating rights set forth in Certificate No. MC-119798, issued by the Commission September 27, 1972, to Elliott, Incorporated, Bluefield, West Virginia, authorizing the transportation of packinghouse products and by-products, lubricating oils and greases, such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, equipment, materials, and supplies used in the conduct of such business, alcoholic liquors and incidental store supplies, and catalogs, between points and places in Virginia and West Virginia—Sidney J. Kwass, P.O. Box 1459, Bluefield, W. Va. 24701, attorney for applicants.

No. MC-FC-74707. By order entered September 20, 1973, the Motor Carrier Board approved the transfer to Wallington Motor Lines, Inc., Clifton, N.J., of the operating rights set forth in Certificate Nos. MC-93711 and MC-93711 (Sub-No. 1), both issued April 29, 1970, to George C. Openhym, Jr., and Margaret T. Openhym, doing business as Wallington Motor Lines, Clifton, N.J., authorizing the transportation of foodstuffs and paper, between points in Passaic, Bergen, Essex, Hudson, and Union Counties, N.J., on the one hand, and, on the other, New York, N.Y.; and general commodities, with the usual exceptions, between points in Morris County, N.J., on the one hand, and, on the other, New York, N.Y.—Robert B. Pepper, 168 Woodbridge Ave., Highland Park, N.J. 08904, practitioner for applicants.





[SEAL] ROBERT L. OSWALD,
*Secretary.*

[FR Doc.73-20732 Filed 9-27-73;8:45 am]

[Notice No. 130]

## MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 21, 1973.

The following are notices of filing of application, except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application, for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the new rules of Ex Parte No. MC-67 (49 CFR 1131) published in the FEDERAL REGISTER, issue of April 27, 1965, effective July 1, 1965. These rules provide that protests to the granting of an application must be filed with the field official named in the FEDERAL REGISTER publication, within 15 calendar days after the date of notice of the filing of the application is published in the FEDERAL REGISTER. One copy of such protests must be served on the applicant, or its authorized representative, if any, and the protests must certify that such service has been made. The protests must be specific as to the service which such protestant can and will offer, and must consist of a signed original and six (6) copies.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in field office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 3252 (Sub-No. 88 TA), filed September 14, 1973. Applicant: MERRILL TRANSPORT CO., 1037 Forest Avenue, Portland, Maine 04103. Applicant's representative: Francis E. Barrett, Jr., 10 Industrial Park Rd., Hingham, Mass. 02043. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated buildings and building and construction materials*, restricted to traffic having a prior movement by rail, piggyback service, from Burlington and White River Jct., Vt., and Berlin, N.H., to points in Vermont and New Hampshire, for 180 days. SUPPORTING SHIPPER: Yankee Builders, Inc., 213 Railroad Street, St. Johnsbury, Vt. 05819. SEND PROTESTS TO: Donald G. Weiler, District Supervisor, Interstate Commerce Commission, Bureau of Operations, P.O. Box 167, PSS, 76 Pearl Street, Portland, Maine 04112.

No. MC 30837 (Sub-No. 460 TA), filed September 14, 1973. Applicant: KENOSHA AUTO TRANSPORT CORPORATION, 4200—39th Avenue, Mlg: P.O. Box 160 (Box zip 53141), Kenosha, Wis. 53140. Applicant's representative: Albert P. Barber (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Engine blocks, tools, dies, frames, and parts* for assembly of automobiles, from the International Boundary line, between the United States and Mexico at or near Laredo, Tex., to Cleveland, Ohio; Chicago, Ill.; and Buffalo, N.Y., in foreign commerce, for 180 days. SUPPORTING SHIPPER: Ford Motor Company, S.A., Mexico 1, D.F. (Mexico) (Hugo Briones, Traffic Manager). SEND ROTESTS TO: John E. Ryden, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 135 West Wells Street, Room 807, Milwaukee, Wis. 53203.

No. MC 97310 (Sub-No. 16 TA), filed September 12, 1973. Applicant: SHARRON MOTOR LINES, INC., 1600 B Street, Box 5636, Meridian, Miss. 39301. Applicant's representative: Paul O. Miller III, P.O. Box 2366, Jackson, Miss. 39201. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, requiring special equipment or of unusual value or requiring mechanically refrigerated equipment), from Birmingham, Ala., to Cuba, Ala., over U.S. Highway 11 and Interstate Highway 59 and return over the same route, serving the intermediate points of York, Livingston, and Eutaw, Ala., and their commercial zones only, for 180 days. Service between Birmingham, Ala., and Cuba, Ala. over U.S. Highway 11 and Interstate Highway 59 was granted in Docket No. MC 97310 (Sub 6) serving no intermediate points.

NOTE.—Applicant intends to tack and join at all service points presently authorized in MC 97310 and Subs thereto and to interline at all terminal sites.

SUPPORTING SHIPPERS: There are approximately 14 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 212, 145 East Amite Building, Jackson, Miss. 39201.

No. MC 99780 (Sub-No. 29 TA), filed September 11, 1973. Applicant: CHIPPER CARTAGE COMPANY, INC., 1327 NE. Bond Street, Mlg: P.O. Box 1345 (Box zip 61601), Peoria, Ill. 61603. Applicant's representative: John R. Zang (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen prepared meals, bakery goods, trays, eating utensils, freezers, ovens, and other items* in the preparation and serving of school lunches (except commodities in bulk), from the plantsite and/or storage facilities of Mass Feeding Corporation at Elk Grove Village, Ill., and Chicago, Ill., to points in Missouri, Ohio, Michigan, Indiana, and Illinois, for 180 days. RESTRICTION: The authority granted herein is restricted to the transportation of traffic originating at the above named origin and destined to the above-named destination. SUPPORTING SHIPPER: Robert S. Wright, Mass Feeding Corporation, 2241 Pratt Boulevard, Elk Grove Village, Ill. 60007. SEND PROTESTS TO: Richard Shullaw, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 219 South Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 106398 (Sub-No. 685 TA), filed September 11, 1973. Applicant: NATIONAL TRAILER CONVOY, INC., 1925 National Plaza, Box 51096, Dawson Station, Tulsa, Okla. 74151. Applicant's representative: Irvin Tuff (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers*, designed to be drawn by passenger automobiles, in initial movements, and *buildings*, in sections, mounted on wheeled undercarriages, from points of manufacture, from Fort Lupton, Colo. (Weld County), to points in the United States (except Alaska and Hawaii), for 180 days. SUPPORTING SHIPPER: Liberty Homes, Inc., Douglas A. Schmahl, P.O. Box 35, Goshen, Ind., 46526. SEND PROTESTS TO: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Rm. 240, Old P.O. Bldg., 215 NW. Third, Oklahoma City, Okla. 73102.

No. MC 107295 (Sub-No. 669 TA), filed September 12, 1973. Applicant: PRE-FAB TRANSIT COMPANY, 100 South Main Street, P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Bruce J. Kinnee (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Polyvinyl chlorine (PVC) pipe, tubing, couplings, fittings, and accessories and other extruded plastic products*, from Phelps County, Mo., to points in Arkansas, Delaware, District of Columbia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, Virginia, West Virginia, and Wisconsin, for 180 days. SUPPORTING SHIPPER: Gary L. Walker, Production Manager, Some Industries, Inc., P.O. Box 1235, Rolla, Mo. 65401, SEND PROTESTS TO: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Leland Office Building, 527 East Capitol Avenue, Room 414, Springfield, Ill. 62701.



V 38-188 SEP 28 73 XUM

No. MC 107295 (Sub-No. 670 TA), filed September 13, 1973. Applicant: PRE-FAB TRANSIT COMPANY, 100 South Main Street, P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Bruce J. Kinnee (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Skylights, plastic, with or without metal frames; ventilators, hatches, aluminum; and plastic sheets and accessories* used in the installation thereof, from the plantsite and warehouse facilities of Naturalite Inc., at Garland Tex., to points in Florida, California, Colorado, Alabama, Georgia, Illinois, Indiana, Maryland, Massachusetts, Michigan, Missouri, North Carolina, Ohio, New York, Pennsylvania, Tennessee, Wisconsin, Kentucky, and Virginia, for 180 days. SUPPORTING SHIPPER: Dennis S. McElroy, Production and Traffic Manager, Naturalite, Inc., 3233 West Kingsley Road, Garland, Tex. 75040. SEND PROTESTS TO: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Leland Office Building, 527 East Capitol Avenue, Room 414, Springfield, Ill. 62701.

No. MC 107295 (Sub-No. 671 TA), filed September 13, 1973. Applicant: PRE-FAB TRANSIT CO., 100 South Main Street, P.O. Box 146, Farmer City, Ill. 61842. Applicant's representative: Bruce J. Kinnee (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Extruded plastic splines and/or strips*, from Council Grove, Kans., to International Falls, Minn., for 180 days. SUPPORTING SHIPPER: Merton Ephraim, General Sales Manager, Industrial Plastics Corporation, P.O. Box 2516, Elkhart, Ind. 46514. SEND PROTESTS TO: Harold C. Jolliff, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Leland Office Building, 527 East Capitol Avenue, Room 414, Springfield, Ill. 62701.

No. MC 109533 (Sub-No. 56 TA), filed September 13, 1973. Applicant: OVERNITE TRANSPORTATION COMPANY, 1100 Commerce Road, P.O. Box 1216, Richmond, Va. 23224. Applicant's representative: Eugene T. Liipfert, Suite 1100, 1660 L Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between Corbin, Ky., and Knoxville, Tenn., serving no intermediate points but serving points in the commercial zones of the termini, (1) from Corbin, Ky., over U.S. Highway 25E to Tazewell, Tenn., thence over Tennessee Highway 33 to Knoxville, Tenn., and return over the same route, and (B) from Corbin, Ky., over U.S. Highway 25W to Knoxville, Tenn., and return over the same route, for 180 days.

NOTE.—Applicant intends to tack the above authority with its presently held authority in Docket No. MC 109533 (Lead) and Sub-No. 22 among other Subs, and interline with other carriers is proposed thru all existing gateways and thru Corbin, Ky.

SUPPORTING SHIPPERS: There are approximately 20 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: District Supervisor Robert W. Waldron, Interstate Commerce Commission, Bureau of Operations, 10-502 Federal Building, Richmond, Va.

No. MC 114265 (Sub-No. 27 TA), filed September 14, 1973. Applicant: SHOEMAKER TRUCKING CO., 8624 Franklin Road, Boise, Idaho 83705. Applicant's representative: F. L. Sigloh, P.O. Box 7651, Boise, Idaho 83707. Authority sought to operate as a *common carrier*, by motor vehicle, over irrgular routes, transporting: *Composition board*, from points in Oregon, on and west of U.S. Highway 97 and points in Washington, on and west of U.S. Highway 99, to points in Idaho south of the southern boundary of Idaho County, for 180 days. SUPPORTING SHIPPER: Kaiser Gypsum Corp., 300 Lakeside Drive, Oakland, Calif. 94604. SEND PROTESTS TO: C. W. Campbell, District Supervisor, Interstate Commerce Commission, Buerau of Operations, 550 West Fort Street, Box 07, Boise, Idaho 83724.

No. MC 115092 (Sub-No. 28 TA), filed September 14, 1973. Applicant: WEISS TRUCKING, INC., P.O. Box O, Vernal, Utah 84078. Applicant's representative: E. L. Kier (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cheese*, from the plantsite of L. D. Schreiber Cheese Co., Inc., at Logan, Utah, to points in California, Idaho, Nevada, Oregon, and Washington, and Montana, for 180 days. SUPPORTING SHIPPER: L. D. Schreiber Cheese Co., Inc., 1607 Main Street, Green Bay, Wis. 54305. SEND PROTESTS TO: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5239 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 116935 (Sub-No. 14 TA), filed September 13, 1973. Applicant: COMMERCIAL FURNITURE DISTRIBUTORS, INC., 222 Middlesex Street, Harrison, N.J. 07029. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, in containers, from facilities of Commercial Furniture Distributors, Inc., at Elizabeth, N.J., to points in the New York, N.Y., Commerical Zone, as defined in the fifth supplemental report in "Commercial Zones and Terminal Areas," 53 M.C.C. 451, points in Nassau, Suffolk, Westchester, Orange, Rockland, and Putnam Counties, N.Y., and points in New Jersey, for 180 days. RESTRICTION: Restricted to shipments having a prior movement by rail or motor carrier. SUPPORTING SHIPPERS: (1) Cole, Division of Litton Industries, Inc., 626 Loucks Mill Road, York, Pa. 17405; (2) Tab Services Corp., 605 Fourth Street, Mayville, Wis. 53050; (3) InterRoyal Corporation, 1 Park Avenue, New York, N.Y. 10016; (4) Ethan Allen, Inc., Ethan Allen Drive, Danbury, Conn. 06810; and (5) Connor Forest, Inc., Laona, Wis. SEND PROTESTS TO: District Supervisor Robert E. Johnston, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Newark, N.J. 07102.

No. MC 118202 (Sub-No. 17 TA), filed September 13, 1973. Applicant: SCHULTZ TRANSIT, INC., 323 East Bridge Street, P.O. Box 406, Winona, Minn. 55987. Applicant's representative: Eugene A. Schultz (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen potatoes and potato products* (except bulk commodities shipped in tank vehicles), from Grand Forks, N. Dak., restricted to the plantsite and storage facilities utilized by Western Potato Service, Incorporated, at Grand Forks, to points in Alabama, Arkansas, Colorado, Florida, Georgia, Kentucky, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia, and West Virginia, for 180 days. SUPPORTING SHIPPER: Western Potato Service, Incorporated, Post Office Box 1391, Grand Forks, N. Dak. 58201. SEND PROTESTS TO: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 118202 (Sub-No. 18 TA), filed September 13, 1973. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 East Bridge Street, Winona, Minn. 55987. Applicant's representative: Eugene A. Schultz (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in "Descriptions in Motor Carrier Certificates," 61 M.C.C. 209 and 766 (except commodities in bulk and hides), from the plantsite and warehouse facilities utilized by Yankton Sioux Industries at Wagner, S. Dak., to points in Washington, Oregon, California, Idaho, Nevada, Utah, Arizona, Montana, Wyoming, New Mexico, and Colorado, for 180 days. SUPPORTING SHIPPER: Yankton Sioux Industries, 301 North Fifth Street, Minneapolis, Minn. 55403. SEND PROTESTS TO: A. N. Spath, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 448 Federal Building & U.S. Court House, 110 S. 4th Street, Minneapolis, Minn. 55401.





No. MC 119634 (Sub-No. 8 TA), filed September 10, 1973. Applicant: DICK IRVIN, INC., 218 12th Ave. North, P.O. Box F, Shelby, Mont. 59474. Applicant's representative: Charles R. Irvin (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bleached kraft sulphate wood pulp*, from the Port of Entry located on the International Boundary line at Sweetgrass, Mont., to Shelby, Mont., for 180 days. SUPPORTING SHIPPER: North Western Pulp & Power, Ltd., Hinton, Alberta, Canada. SEND PROTESTS TO: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 222 U.S. Post Office Bldg., Billings, Mont. 59101.

No. MC 119634 (Sub-No. 8 TA), filed September 10, 1973. Applicant: DICK IRVIN, INC., 218 12th Ave. North, P.O. Box F, Shelby, Mont. 59474. Applicant's representative: Charles R. Irvin (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bleached kraft sulphate wood pulp*, from the Port of Entry located on the International Boundary line at Sweetgrass, Mont., to Shelby, Mont., for 180 days. SUPPORTING SHIPPER: North Western Pulp & Power, Ltd., Hinton, Alberta, Canada. SEND PROTESTS TO: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 222 U.S. Post Office Bldg., Billings, Mont. 59101.

No. MC 121567 (Sub-No. 3 TA), filed September 13, 1973. Applicant: WICHITA AIR CARGO DELIVERY, INC., Wichita Municipal Airport, Wichita, Kans. 67209. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Wichita, Kans., on the one hand, and, on the other, Kansas City, Mo., and points in Kansas, Oklahoma, Arkansas, Texas, and points in Louisiana on and west of U.S. Highway 171 and Louisiana State Highway 27, for 180 days. RESTRICTION: The operations authorized herein are restricted to traffic having an immediately prior or immediately subsequent movement by air. SUPPORTING SHIPPERS: Kansas Refined Helium Co., Vickers KSB & T Bldg., Wichita, Kans.; Continental Air Lines, Inc., Terminal Bldg., Mid Continent Airport, Wichita, Kans. 67209; Trans World Airlines, Inc., Terminal Building, Mid Continent Airport, Wichita, Kans. 67209; Braniff International, Terminal Bldg., Mid Continent Airport, Wichita, Kans. 67209; AEI Wings and Wheels Express, Inc., 10201 A. No. West Everton, Kansas City, Mo. 64153; and National Cash Register, 650 East Gilbert, Wichita, Kans. SEND PROTESTS TO: M. E. Taylor, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 501 Petroleum Bldg., Wichita, Kans. 67202.

No. MC 124078 (Sub-No. 563 TA), filed September 13, 1973. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, Wis. 53215. Applicant's representative: James R. Ziperski (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sand*, in bulk, from Camden and Lipe, Tenn., to Pontotoc, Miss., for 180 days. SUPPORTING SHIPPER: Hardy Sand Company, 507 SE. 2nd St., P.O. Box 629, Evansville, Ind. 47704 (Harry P. Hardy, Partner). SEND PROTESTS TO: District Supervisor John E. Ryden, Interstate Commerce Commission, Bureau of Operations, 135 West Wells St., Room 807, Milwaukee, Wis. 53203.

No. MC 124692 (Sub-No. 119 TA), filed September 11, 1973. Applicant: SAMMONS TRUCKING, P.O. Box 1447, Missoula, Mont. 59801. Applicant's representative: Gene P. Johnson, 425 Gate City Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood fiberboard, faced or finished with decorative or protective material and accessories and supplies*, from the plantsite and facilities of Masonite Corporation at Bloomington, Minn., to points in North Dakota and South Dakota, for 180 days. SUPPORTING SHIPPER: Masonite Corporation, 29 N. Wacker Drive, Chicago, Ill. 60606. SEND PROTESTS TO: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 222 U.S. Post Office Bldg., Billings, Mont. 59101.

No. MC 125162 (Sub-No. 7 TA), filed September 14, 1973. Applicant: CROWN TRUCK LINE, INC., 3811 Broadway, Macon, Ga. 31206. Applicant's representative: Paul M. Daniell, 1600 First Federal Bldg., Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick*, in vehicles equipped with mechanical unloaders, from Atlanta, Ga., to points in Abbeville, Anderson, Greenwood, Oconee, and Saluda Counties, S.C., for 180 days. SUPPORTING SHIPPER: Chattahoochee Brick Company, P.O. Box 39158, Bolton Station, Atlanta, Ga. 30318. SEND PROTESTS TO: William L. Scroggs, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 309 1252 West Peachtree Street NW., Atlanta, Ga. 30309.

No. MC 129193 (Sub-No. 1 TA), filed September 14, 1973. Applicant: HARRISON TRANSPORT, INC., Off: 3520 Adams Drive, Mlg: P.O. Box 5895, Tampa, Fla. 33605. Applicant's representative: Richard B. Austin, 8675 NW. 53 Street, Suite 123, Miami, Fla. 33166. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers* loaded or empty, between points in Duval, Orange, and Hillsborough Counties, Fla., having prior or subsequent handling by freight forwarders, for 180 days. SUPPORTING SHIPPER: Florida-Texas Freight, Inc., Post Office Box 206, Miami, Fla. 33148. SEND PROTESTS TO: District Supervisor Joseph B. Teicher, Bureau of Operations, Interstate Commerce Commission, 5720 SW. 17th Street, Room 105, Miami, Fla. 33155.

No. MC 129350 (Sub-No. 30 TA), filed September 7, 1973. Applicant: CHARLES E. WOLFE, doing business as EVERGREEN EXPRESS, P.O. Box 212, 410 N. 10th Street (Box zip 59103), Billings, Mont. 59101. Applicant's representative: J. F. Meglen, P.O. Box 1581, Billings, Mont. 59103. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (a) between Sidney, Mont., and Billings, Mont.: from Sidney over Montana Highway 16 to junction U.S. Highway 10, to Billings, Mont., and return over the same routes, serving all intermediate points and the off-route point of Horton, Mont.; (b) between Billings, Mont., and Wyola, Mont.: from Billings over U.S. Highway 87 to Wyola, Mont., and return over the same route, serving all intermediate points; and (c) Property over regular routes: Between Glendive and Brockway, Mont., over Montana Highway 200 and 200S, and return over the same route serving to and from all intermediate points, for 180 days. SUPPORTING SHIPPERS: There are approximately 9 statements of support attached to the application, which may be examined here at the Interstate Commerce Commission, in Washington D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 222 U.S. Post Office Building, Billings, Mont. 59101.

NOTE.—Applicant at present has no intention to tack but may wish to do so in the future with other authority in its Docket No. MC 129350.

No. MC 135007 (Sub-No. 34 TA), filed September 13, 1973. Applicant: AMERICAN TRANSPORT, INC., Off: 7850 F Street, Omaha, Nebr. 68127, and P.O. Box 37406, Millard, Nebr. 68137. Applicant's representative: Frederick J. Coffman, 512 South 14th Street, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Floor covering, floor tile, carpet padding, carpet lining, and material, equipment, and supplies* necessary for the installation thereof, from, to or between Milwaukee, Wis.; Libertyville, Waukegan, and Kankakee, Ill., to points in Iowa, Kansas, Minnesota, Missouri, Nebraska, and South Dakota, under continuing contract with Wm. Volker & Company, for 180 days. SUPPORTING SHIPPER: William Volker & Company, W. P. Tarter, Vice Pres., Transportation, P.O. Box 529, Burlingame, Calif. 94010. SEND PROTESTS TO: District Supervisor Carroll



V 38-188 SEP 28 73 XUM

Russell, Interstate Commerce Commission, Bureau of Operations, 711 Federal Office Building, Omaha, Nebr. 68102.

No. MC 135364 (Sub-No. 8 TA), filed September 13, 1973. Applicant: MORWALL TRUCKING, INC., R.D. #3, Box 76-C, Moscow, Pa. 18444. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, Pa. 18517. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic material*, from Middlebury, Vt., to Elizabeth, N.J., and Moosic, Pa.; (2) *wire*, from Fostoria, Ohio, to Elizabeth, N.J., and Moosic, Pa.; (3) *tree stands*, from Luding, Mich., to Elizabeth, N.J., and Moosic, Pa.; and (4) *Christmas trees*, from Elizabeth, N.J., and Moosic, Pa.; to Bridgeport, Hartford, New Britain, New Haven, Norwalk, Stamford, and Waterbury, Conn.; Clearwater, Daytona Beach, Fort Lauderdale, Fort Meyers, Hialeah, Hollywood, Jacksonville, Lakeland, Miami, Orlando, Pensacola, St. Petersburg, Sarasota, Tallahassee, Tampa, and West Palm Beach, Fla.; Wilmington, Del.; Atlanta, Augusta, Columbus, Decatur, Macon, Savannah, and Forest Park (J. C. Penney Catalog House), Ga.; Arlington Heights, Aurora, Belleville, Chicago, Decatur, Des Plaines, East St. Louis, Evanston, Joliet, Peoria, Rockford, and Springfield, Ill.; Annapolis, Baltimore, Hyattsville, Rockville, and Silver Spring, Md.; Anderson, Evansville, Fort Wayne, Gary, Hammond, Indianapolis, Lafayette, Muncie, South Bend, and Terre Haute, Ind.; District of Columbia; Boston, Brockton, Chicopee, Fall River, Lowell, Lynn, New Bedford, Plymouth, Springfield, and Worcester, Mass.; Ann Arbor, Battle Creek, Birmingham, Dearborn, Detroit, Flint, Grand Rapids, Jackson, Kalamazoo, Lansing, Muskegon, Pontiac, Saginaw, and Warren, Mich.; Camden, Clifton, East Orange, Elizabeth, Englewood, Hackensack, Jersey City, Montclair, Newark, New Brunswick, Orange, Paterson, Perth Amboy, Plainfield, Rahway, Ridgewood, Rutherford, Trenton, and Westfield, N.J.; Albany, Babylon, Binghamton, Bronx, Brooklyn, Buffalo, Elmira, Far Rockaway, Flushing, Hempstead, Hicksville, Jamaica, Long Island City, New York, Niagara Falls, Poughkeepsie, Rochester, Schenectady, Syracuse, Troy, Utica, White Plains, and Yonkers, N.Y.; Ashville, Charlotte, Durham, Fayetteville, Greensboro, Raleigh, and Winston-Salem, N.C.; Akron, Canton, Cincinnati, Cleveland, Columbus, Cuyahoga Falls, Dayton, Elyria, Hamilton, Lima, Mansfield, Springfield, Toledo, Warren, and Youngstown, Ohio; Pawtucket, Providence, Wakefield, and Warwick, R.I.; Allentown, Altoona, Bethlehem, Chester, Erie, Harrisburg, Johnstown, Lancaster, McKeesport, Media, Norristown, Philadelphia, Pittsburgh, Reading, Scranton, Wilkes-Barre, and York, Pa.; Chattanooga, Kingsport, Knoxville, Memphis, and Nashville, Tenn.; Alexandria, Arlington, Charlottesville, Chesapeake, Hampton, Lynchburg, Newport News, Norfolk, Portsmouth, Richmond, Roanoke, Springfield, and Virginia Beach, Va.; Charleston and Huntington, W. Va., for 150 days. SUPPORTING SHIPPERS: Puleo's Novelty Company, 435 Division Street, Elizabeth, N.J. 07201. Glenwood Products, Inc., 24 Salina Street, Moosic, Pa. 18507. SEND PROTESTS TO: Paul J. Kenworthy, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 309 U.S. Post Office Bldg., Scranton, Pa. 18503.

No. MC 136376 (Sub-No. 4 TA), filed September 7, 1973. Applicant: MONT R. LYNCH, doing business as LYNCH TRUCKING, 1505 Bitterrott Dr., Billings, Mont. 59101. Applicant's representative: J. F. Meglen, P.O. Box 1581, Billings, Mont. 59103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Mineral pigment* (titanium), from Baltimore, Md., and the Commercial Zone thereof, and Laurel, Md., to Auburn, Kirkland, and Seattle, Wash., and points within 10 miles thereof; and (2) *Polyester resin*, from Chicago, Ill., and the Commercial Zone thereof including Calumet City, Ill., to Auburn, Kirkland, and Seattle, Wash., and points within 10 miles thereof, for 180 days.

NOTE.—Applicant presently has no plans to tack but may wish to do so in the future with existing authority in applicant's MC 136376.

SUPPORTING SHIPPER: Durkin Chemicals, Inc., P.O. Box 655, Kirkland, Wash. 98033. SEND PROTESTS TO: Paul J. Labane, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 222 U.S. Post Office Building, Billings, Mont. 59101.

No. MC 136899 (Sub-No. 10 TA), filed September 14, 1973. Applicant: HIGGINS TRANSPORTATION LTD., 824 Valley View Drive, Richland Center, Wis. 53581. Applicant's representative: Michael J. Wyngaard, 329 West Wilson Street, Madison, Wis. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *New furniture and swings*, from Baraboo, Wis., to all points in the United States (except Alaska, Arizona, California, Hawaii, Nevada, Oregon, and Washington), and (2) *Aluminium frames* for furniture and swings, from Vernon, Calif., to Baraboo, Wisc., for 180 days. SUPPORTING SHIPPER: Almet, Inc., 902 Sauk Avenue, Baraboo, Wis. 53913. SEND PROTESTS TO: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 139 W. Wilson Street, Room 202, Madison, Wis. 53703.

No. MC 138398 (Sub-No. 3 TA), filed September 11, 1973. Applicant: CHARTER EXPRESS, INC., 1959 East Turner, P.O. Box 3772, Springfield, Mo. 65804. Applicant's representative: Warren Sapp, Suite 910 Fairfax Bldg., 101 West 11th Street, Kansas City, Mo. 64105. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Earthenware*, from Aspers, Pa., to Hannibal, Kansas City, Sedalia, and Sweet Springs, Mo.; and (2) *Glassware*, from Columbus and East Lancaster, Ohio, to Hannibal, Kansas City, Sedalia, and Sweet Springs, Mo., under a continuing contract or contracts with Rival Manufacturing Company of Kansas City, Mo., for 180 days. SUPPORTING SHIPPER: Rival Manufacturing Company, 3600 Bennington, Kansas City, Mo. 64129. SEND PROTESTS TO: John V. Barry, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 600 Federal Office Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 138510 (Sub-No. 2 TA), filed September 12, 1973. Applicant: RICCI TRANSPORTATION CO., INC., Odessa Avenue at Aloe Street, Pomona, N.J. 08240. Applicant's representative: Kenneth R. Davis, 999 Union Street, Taylor, Pa. 18517. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Laminated furniture and laminated furniture parts*, uncrated, from Pleasantville, N.J., to points in Florida, Texas, and New York, for the account of International Wood Products, Inc., for 150 days. SUPPORTING SHIPPER: International Wood Products, Inc., P.O. Box 142, Cologne, N.J. 08213. SEND PROTESTS TO: Richard M. Regan, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 428 East State Street, Room 204, Trenton, N.J. 08608.

No. MC 138741 (Sub-No. 3 TA), filed September 12, 1973. Applicant: E. K. MOTOR SERVICE, INC., 2005 N. Broadway, Joliet, Ill. 60435. Applicant's representative: Tom B. Kretsinger, 101 West 11th Street, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum wallboard, gypsum lath, joint cement, and tape*, from the plantsite and warehouse facilities of the Celotex Corp., at or near Ft. Dodge, Iowa, to points in Illinois, Indiana, Kansas, Kentucky, Minnesota, Missouri, Nebraska, and Wisconsin, for 180 days. SUPPORTING SHIPPER: David H. Wetzel, The Celotex Corporation, 1500 N. Dale Mabry, Tampa, Fla. 33607. SEND PROTESTS TO: Robert G. Anderson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1086, Chicago, Ill. 60604.

No. MC 139026 (Sub-No. 1 TA), filed September 12, 1973. Applicant: RALPH W. KING, doing business as R. W. KING TRUCKING, 9842 East Belmont Avenue, Sanger, Calif. 93657. Applicant's representative: William H. Kessler, 638 Divisadero Street, Fresno, Calif. 93721. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fence palings, shingles, shakes, and ridge*, from points in Callam, Clark, Cowlitz, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Mason, Pacific, Pierce, San Juan, Skagit, Skamania, Snohomish, Thurston, Wahkiakum, and Whatcom Counties,





Wash., and from points in Benton, Clackamas, Clatsop, Columbia, Coos, Curry, Douglas, Jackson, Josephine, Lane, Lincoln, Linn, Marion, Multnomah, Polk, Tillamook, Washington, and Yamhill Counties, Oreg., to points in Shasta, Tehama, Sutter, Yuba, Sacramento, Yolo, San Joaquin, Contra Costa, Alameda, San Francisco, San Mateo, Santa Clara, Stanislaus, Merced, Madera, Fresno, Kings, Tulare, Kern, Santa Barbara, Ventura, Los Angeles, Orange, San Bernardino, Riverside, San Diego, and Imperial Counties, Calif. for 180 days. SUPPORTING SHIPPERS: Altamont Cedar Shake & Shingle Co., 1950 East Tyler Avenue, Fresno, Calif. 93701. Long's Building Supply, 2380 North Clovis Avenue, Clovis, Calif. 93612. Zumwalt Roofing Co., 4683 Hammond Avenue, Fresno, Calif. 93726. SEND PROTESTS TO: District Supervisor Claud W. Reeves, Interstate Commerce Commission, Bureau of Operations, 450 Golden Gate Avenue, Box 36004, San Francisco, Calif. 94102.

No. MC 139070 TA, filed September 6, 1973. Applicant: J & J ENTERPRISES, 230 West 1700 South, Salt Lake City, Utah 84115. Applicant's representative: Shelton R. Jackson (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cabinets*, from North Carolina to Utah, Idaho, Montana, and Wyoming; and (2) *carpet* from Georgia to Utah for 180 days. SUPPORTING SHIPPER: Continental Kitchens, 230 West 1700 South, Salt Lake City, Utah 84115 (K. Clare Wardle, Manager). SEND PROTESTS TO: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5239 Federal Bldg., 125 South State Street, Salt Lake City, Utah 84138.

No. MC 139071 TA, filed September 11, 1973. Applicant: SENTRY TRANSPORT, INC., 5525 East 51st Street, Tulsa, Oklahoma 74135. Applicant's representative: James Hampton (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Mobile homes*, from Elmira, N.Y., and Wilkes-Barre, Pa., to Atlanta, Ga.; Bastrop, Texas, Greenville, Miss., and Lexington, Ky., under United States Government Bill of Lading for 180 days. SUPPORTING SHIPPER: Douglas C. Dillard, Director, Disaster Preparedness, Dept. of Housing and Urban Development, Washington, D.C. SEND PROTESTS TO: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Bldg., 215 NW. Third Street, Oklahoma City, Okla. 73102.

No. MC 139072 TA, filed September 11, 1973. Applicant: DONALD R. BAJEMA, ELMER B. BAJEMA, and WILMER B. BAJEMA, doing business as RIVERVIEW DAIRY FARMS, 2777 Hillside Drive NW., Grand Rapids, Mich. 49504. Applicant's representative: Karl L. Gotting, 1200 Bank of Lansing Bldg., Lansing, Mich. 48933. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products* (except in bulk), in vehicles equipped with mechanical refrigeration from the plantsite of the Sealtest Foods Division of Kraftco Corp., at Huntington, Ind., to points in Michigan for 180 days. SUPPORTING SHIPPER: Sealtest Foods Division of Kraftco Corp., 2224 W. Willow, Lansing, Mich. 48917. SEND PROTESTS TO: C. R. Flemming, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 225 Federal Bldg., Lansing, Mich. 48933.

No. MC 139073 TA, filed September 11, 1973. Applicant: FRANK VINCENT, doing business as VINCENT TRUCKING, Box 172, Eakly, Okla. 73033. Applicant's representative: Same as above. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* handled by a Cooperative for resale to farmers and ranchers from points in Kansas, Colorado, Arkansas, Missouri, Texas, New Mexico, Mississippi to Eakly, Okla., for 180 days. SUPPORTING SHIPPER: Gerald Kenedy, Manager, Farmers Cooperative Gin, Box 249, Eakly, Okla. 73033. SEND PROTESTS TO: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 240, Old Post Office Bldg., 215 NW. Third Street, Oklahoma City, Okla. 73102.

No. MC 139074 TA, filed September 12, 1973. Applicant: JERRY INMAN TRUCKING, 10600 S. Union, Tulsa, Okla. 74037. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen pies and frozen bakery ingredients*, between the plantsite of Bama Pie, Inc., Tulsa, Okla., and points in Texas, New Mexico, Arizona, Nevada, California, Oregon, Washington, Utah, and Idaho, for 180 days. SUPPORTING SHIPPER: Bama Pie, Inc., John W. Marshall, Exec. V.P., 2745 East 11th Street, Tulsa, Okla. 74103. SEND PROTESTS TO: C. L. Phillips, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Rm. 240, Old P.O. Bldg., 215 NW. Third, Oklahoma City, Okla. 73102.

No. MC 139075 TA, filed September 12, 1973. Applicant: IMMEDIATE CARRIERS, INC., 240 Williamson Avenue, Hillside, N.J. 07205. Applicant's representative: Richard M. Glassner, 60 Park Place, Newark, N.J. 07205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages (beer) and related advertising material moving therewith*, from the Jos. Schlitz, Winston-Salem, N.C., brewery, to Atlantic City, Landisville, Little Silver, Newark, North Branch, North Wildwood, Paterson, Toms River, Vineland, and Wharton, N.J., and *Malt beverages*, from Winston-Salem, N.C., to the above points in New Jersey, and *return of empty containers*, from above points to said brewery in Winston-Salem, N.C., for 180 days. SUPPORTING SHIPPERS: (1) The W. H. Cawley Company, 80 Readington Rd., No. Branch, N.J., P.O. Box C, Somerville, N.J. 08876; (2) Thomas Fornataro, Inc., Landisville, N.J.; (3) Kohler Distributing Co., 44 Mt. Ridge Dr., Wayne, N.J.; (4) Peerless Beverage Company, 1000 Morris Avenue, Union, N.J.; and (5) Shore Points Distributing Co., Inc., Box 157, Little Silver, N.J. 07739. SEND PROTESTS TO: District Supervisor Robert E. Johnston, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Newark, N.J. 07102.

No. MC 139076 (Sub-No. 1 TA), filed September 12, 1973. Applicant: IDEAL TRANSPORT CO., INC., P.O. Box 308, Quinter, Kansas 67552. Applicant's representative: Clyde N. Christey, 641 Harrison, Topeka, Kansas 66603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Stubble-mulch plows, off-set disks, roto-mulch harrows, rod weeders, and anhydrous ammonia spreading equipment*, from points and places in Gove County, Kansas, to points and places in Nebraska, Colorado, Oklahoma, Texas, New Mexico, South Dakota, North Dakota, Iowa, and Montana, under contract with Ideal Industries, Inc., and Midwest Products, Inc.; and (2) *materials and supplies* used in the manufacture of (1) above, from Middletown, Ohio; Pueblo, Colo.; Chicago and Quincy, Ill.; Bentonville, Ark.; Stratton, Nebr.; Los Angeles, Calif.; and Nobleford, Alberta, Canada, to points and places in Gove County, Kans., under contract with Ideal Industries, Inc., and Midwest Products, Inc., for 180 days. SUPPORTING SHIPPERS: Ideal Industries, Inc., P.O. Box 308, Quinter, Kans. 67552, Midwest Products, Inc., P.O. Box 268, Quinter, Kans. 67552. SEND PROTESTS TO: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 234 Federal Bldg., Topeka, Kans. 66603.

MOTOR CARRIERS OF PASSENGERS

No. MC 138942 (Sub-No. 1 TA), filed September 10, 1973. Applicant: JOHN H. WOLFF, doing business as AURORA EDUCATIONAL TOURS, 731 South Highland, Aurora, Ill. 60507. Applicant's representative: Patrick H. Smyth, 327 South La Salle St., Chicago, Ill. 60604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, from points in Kane County, Ill., to points in Illinois, Indiana, Ohio, Michigan, Minnesota, Missouri, and Wisconsin, and return, for 180 days. SUPPORTING SHIPPERS: A. C. Flint, Tucker Freight Lines, Inc., 3000 W. 36th Street, Chicago, Ill. 60632; Mrs. Emery Youngman, Pres., St. Elizabeth Society, 219 Jefferson Ave., Aurora, Ill.; Dennis R. Miller, V. P., Aurora Lamplighter Chorus, 77 Stolp,



V 38 I 188 SEP 28 73 XUM

Aurora, Ill.; Marian D. Tomell, Pres., Lutheran Child & Family Services Aux., 538 Bangs St., Aurora, Ill.; Mr. James Evans, Irish Fellowship Club, Florida Ave. & Highland, Aurora, Ill.; Leigh M. Tracy, Director, Aurora College, 427 E. Gladstone Ave., Aurora, Ill.; Frank Alsip, Pres,. Arthur Murray Dance Studio, 44½ W. Downer St., Aurora, Ill.; and Christine B. Dolen, YWCA, 31 W. Downer Pl., Aurora, Ill. SEND PROTESTS TO: William J. Gray, Jr., Transportation Specialist, Interstate Commerce Commission, 219 South Dearborn St., Room 1086, Chicago, Ill. 60604.

By the Commission.

[SEAL] ROBERT L. OSWALD, *Secretary.*

[FR Doc.73–20730 Filed 9–27–73;8:45 am]



V 38-188 SEP 28 73 XUM

federal register

FRIDAY, SEPTEMBER 28, 1973
WASHINGTON, D.C.

Volume 38 ■ Number 188

PART II




# DEPARTMENT OF LABOR

## Employment Standards Administration

■

## Minimum Wages for Federal and Federally Assisted Construction

General Wage Determination Decisions, and Modifications and Supersedeas Decisions to General Wage Determination Decisions

No. 188—Pt. II——1

V 38-188
SEP 28 73
XUM

## DEPARTMENT OF LABOR

### Employment Standards Administration

### MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

### General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determinations by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138), and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determinations frequently and in large volume causes these procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR, Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

#### MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following the Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138), and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR, Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

#### MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications to General Wage Determination Decisions for the following States (the numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State):

| | |
|---|---|
| Arizona: | |
| AQ–1004 | July 27, 1973. |
| AQ–1005; AQ–1006 | July 20, 1973. |
| AQ–1025 | Sept. 7, 1973. |
| AQ–1026; AQ–1027 | Sept. 14, 1973. |
| Delaware: | |
| AQ–2002 | July 27, 1973. |
| Florida: | |
| AP–196 | June 8, 1973. |
| Georgia: | |
| AQ–4000; AQ–4001 | July 20, 1973. |
| Kansas: | |
| AP–532 | May 25, 1973. |
| Kentucky: | |
| AP–141 | Dec. 1, 1972. |
| Louisiana: | |
| AQ–4 | July 20, 1973. |
| Mississippi: | |
| AP–158; AP–159 | Feb. 16, 1973. |
| Nebraska: | |
| AQ–26 | Sept. 7, 1973. |
| New Mexico: | |
| AP–740 | July 6, 1973. |
| North Dakota: | |
| AQ–1011 | Aug. 10, 1973. |
| Oklahoma: | |
| AQ–22; AQ–23 | Aug. 31, 1973. |
| Pennsylvania: | |
| AQ–2012; AQ–2013; AQ–2014; AQ–2015 | Aug. 17, 1973. |
| Texas: | |
| AP–521; AP–729 | Apr. 27, 1973. |
| Virginia: | |
| AP–499 | Mar. 30, 1973. |
| AP–833 | May 25, 1973. |

#### SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Supersedeas Decisions to General Wage Determination Decisions for the following States (the numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State; Supersedeas Decision numbers are in parentheses following the numbers of the decision being superseded):

| | |
|---|---|
| Kansas: | |
| AM–6717(AQ–32) | Apr. 14, 1972. |
| AP–501(AQ–33) | Aug. 11, 1972. |
| Kentucky: | |
| AP–168(AQ–4013) | Mar. 30, 1973. |
| Montana: | |
| AP–914(AQ–1042) | June 29, 1973. |
| Texas: | |
| AP–722(AQ–29); AP–724(AQ–28); AP–726(AQ–30); AP–728(AQ–31) | Apr. 27, 1973. |

#### REPRINTS

Pages #35 and #41 to Decision #AQ–1,021 (38 FR 24549—September 7, 1973) are being reprinted because they were illegible as printed in most copies of the September 7, 1973 issue.

Signed at Washington, D.C., this 21st day of September 1973.

RAY J. DOLAN,
*Assistant Administrator,*
*Wage & Hour Division.*





MODIFICATIONS P. 2

DECISION #AQ-1004 (Cont'd)

| | Basic Hourly Rates | Fringe Benefits Payments: H&W | Pensions | Vacation | App. Tr. | Oth |
|---|---|---|---|---|---|---|
| LABORERS: (cont'd) | | | | | | |
| GROUP V | | | | | | |
| AIR AND WATER WASH-OUT NOZZLEMAN; Asphalt rakers and ironers; Driller; Grade setter (pipeline); Hand guided trencher and similar operated equipment; Jackhammer and/or pavement breakers; Pipe layer (including but not limited to non-metallic, transite and plastic pipe, water pipe, sewer pipe, drain pipe, underground tile and conduit); Sack trimmer; Scaler (using bo'sns chair or safety belt); Tampers (mechanical-all types); Precast manhole erector | $6.33 | .50 | .60 | | .06 | |
| GROUP VI | | | | | | |
| CONCRETE CUTTING TORCH; CONCRETE SAW (Hand guided); Driller (Core, Diamond, Wagon or Air Track); Drill doctor and/or air tool repairman; Guman and mixerman (Gunite); Sandblaster (nozzleman) | 6.655 | .50 | .60 | | .06 | |
| GROUP VII | | | | | | |
| CONCRETE ROAD FORM SETTER; Gunite Nozzleman (Gunite); Joy Nozzleman; Screedman (Gunite-Denver, Hydraulic Powered Gunite Machine (drillers); Welders and/or pipe layers installing process piping | 7.205 | .50 | .60 | | .06 | |
| MASON TENDERS | 6.505 | .50 | .60 | | .06 | |
| PLASTERERS' TENDERS | 6.85 | .50 | .60 | | .06 | |

MODIFICATIONS P. 1

DECISION #AQ-1004 - Mod. #2
(38 FR 20107 - July 27, 1973)
Statewide Arizona

Change:

| | Basic Hourly Rates | Fringe Benefits Payments: H&W | Pensions | Vacation | App. Tr. | Oth |
|---|---|---|---|---|---|---|
| LABORERS: (Central & Southern Areas) | | | | | | |
| GROUP I | | | | | | |
| ALL HELPERS NOT HEREIN SEPARATELY CLASSIFIED; Cesspool diggers and Installers; Chat box man; Checker, tool dispatcher; Concrete dump manbelt, pipe and/or hoseman; Dumpman and/or spotter; Fence builder, guard rail builder Hwy.; Form strippers; Labor, general or construction; Landscape gardener and nurseryman; Packing rod steel and pans; Rip rap stoneman; Astro turf layer | $5.86 | .50 | .60 | | .06 | |
| GROUP II | | | | | | |
| CEMENT FINISHER TENDER; Concrete curor (impervious membrane); Cutting torch operator; Fine grader (highway, engineering and sewer work only); Ketleman - Taman; Power type concrete buggy; Lazer beam operator | 5.97 | .50 | .60 | | .06 | |
| GROUP III | | | | | | |
| MANDER; CHUCKTENDER (except tunnel); Creosote tieman; Guinea chaser; Powderman helper; Rip-rap stone paver; Sandblaster (pot tender); Spikers and Wrenchers | 6.09 | .50 | .60 | | .06 | |
| GROUP IV | | | | | | |
| CEMENT DUMPERS (Skip-type mixer or handing bulk cement); Chain saw machines (on clearing and grubbing); Concrete vibrating machines; Cribber and shorer (except tunnel); Floor sanders - concrete; Hydraulic jacks, and similar mechanical tools not separately herein classified; Operators and tenders of pneumatic and electric tools; Pipe caulker and/or backfill man (pipeline); Pipe wrapper; Pneumatic (gopher; Riggers/signalman (pipeline) | 6.18 | .50 | .60 | | .06 | |



V 38 I 188
SEP 28 73
XUM

DECISION #AQ-1004 (Cont'd) MODIFICATIONS P. 3

| LABORERS (cont'd) TUNNEL AND SHAFT WORKERS | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| GROUP I<br>BULL GANG, MUCKERS, TRACKMAN; DUMPMEN; Concrete crew (includes rodders and spreaders); Grout crew; Swamper (brakeman and switchmen on tunnel work) | $6.065 | .50 | .60 | | .06 | |
| GROUP II<br>NIPPER; CHUCKTENDER, CABLETENDER; Vibratorman, Jackhammer, Pneumatic tools (except driller) | 6.21 | .50 | .60 | | .06 | |
| GROUP III<br>GROUT GUNMAN | 6.32 | .50 | .60 | | .06 | |
| GROUP IV<br>TIMBERMAN, RETIMBERMAN - wood or steel blaster, driller powderman; Cherry pickerman; Powderman - primer house; Steel form raiser and setter; Kemper and other pneumatic concrete placer operator; Miner - finisher | 6.43 | .50 | .60 | | .06 | |
| GROUP IV - A<br>MINERS - Tunnel (hand or machine) | 6.64 | .50 | .60 | | .06 | |
| GROUP V<br>DIAMOND DRILL | 6.785 | .50 | .60 | | .06 | |
| GROUP V-A<br>SHAFT AND RAISE MINER WELDER | 7.005 | .50 | .60 | | .06 | |

DECISION #AQ-1004 (Cont'd) MODIFICATIONS P. 4

(Central & Southern Areas)

| TRUCK DRIVERS | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| GROUP I<br>PICKUP; Station wagon; Teamsters | $6.01 | .50 | .60 | | .03 | |
| GROUP II<br>BUGGYMOBILE, 1 C. Y. OR LESS; Bulk cement spreader (2 or 3 axle); Bus driver; Dump (2 or 3 axle); Flatrack (2 or 3 axle); Water (under 2500 gal.) | 6.12 | .50 | .60 | | .03 | |
| GROUP III<br>BULK CEMENT SPREADER (4 AXLE); Dump (4 axle); Dumptor or dumpster, less than 7 c.y.; Flatrack (4 axle); Water (2500 gal. but less than 4000 gal.) | 6.30 | .50 | .60 | | .03 | |
| GROUP IV<br>BULK CEMENT SPREADER (5 AXLE); Dump (5 axle); Dumptor or dumpster, 7 c.y. but less than 16 c.y.; Flaherty spreader or similar type equipment or leverman; Flatrack (5 axle); Slurry type equipment or leverman; Transit mix, 8 c.y., or less mixer capacity | 6.61 | .50 | .60 | | .03 | |
| GROUP V<br>BULK CEMENT SPREADER (6 axle); Dump (6 axle); Flatrack (6 axle); Rock truck (Dart, Euclid and other similar type end dumps, single unit) less than 16 c.y. | 6.75 | .50 | .60 | | .03 | |
| GROUP V - A<br>OIL TANKER OR SPREADER TRUCK DRIVER and/or bootman, retortman or leverman | 6.90 | .50 | .60 | | .03 | |







DECISION #AQ-1004 (Cont'd) MODIFICATIONS P. 5

| TRUCK DRIVERS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| GROUP VI<br>BULK CEMENT SPREADER (7 AXLE); Concrete pump truck driver, (when integral part of transit mix truck); Dump (7 axle); Flatrack (7 axle); Hydro lift, Swedish crane, Iowa 300 and similar types; Ross carrier fork lift or lift truck; Transit mix, over 10.5 c.y. but less than 14 c.y. mixer | 7.02 | .50 | .60 | | .03 | |
| GROUP VII<br>BULK CEMENT SPREADER (8 AXLE); Dump (8 axle); Flatrack (8 axle) | 7.38 | .50 | .60 | | .03 | |
| GROUP VIII<br>OFF-HIGHWAY EQUIPMENT DRIVER (2 or 4 wheel power unit, i.e. Cat Dw series, Euclid, International, and similar type equipment, transporting material when top loaded or by external means, including pulling water tanks, fuel tank, or other teamsters classifications; Bulk cement spreader (9 axle); Dump (9 axle); Dumptor or dumpster, 16 c.y. and over; Eject-alls; Flatrack (9 axle); Rock truck (dart, euclid, or other similar end dump types) 16 c.y. and over | 7.825 | .50 | .60 | | .03 | |
| HEAVY DUTY MECHANIC/WELDER | 8.66 | .50 | .60 | | .03 | |
| HEAVY DUTY MECHANIC/WELDER HELPER | 6.70 | .50 | .60 | | .03 | |
| FIELD EQUIPMENT SERVICEMAN or FUEL Truck Driver | 8.39 | .50 | .60 | | .03 | |

DECISION #AQ-1004 (Cont'd) MODIFICATIONS P. 6

| LABORERS: (Northern Area) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| GROUP I<br>ALL HELPERS NOT HEREIN SEPARATELY CLASSIFIED; Cesspool diggers and installers; Chat box man; Checker, tool dispatcher; Concrete dump manbelt, pipe end/or hoseman; Dumpman and/or spotter; Fence builder, guard rail builder Hwy.; Form strippers; Labor, general or construction; Landscape gardener and nurseryman; Packing rod steel and pans; Rip rap stone man; Astro turf layer | $7.485 | .50 | .60 | | .06 | |
| GROUP II<br>CEMENT FINISHER TENDER; Concrete curer (impervious membrane); Cutting torch operator; Fine grader (highway, engineering and sewer work only); Kettleman - Tarman; Power type concrete buggy; Lazer beam operator | 7.595 | .50 | .60 | | .06 | |
| GROUP III<br>RANDER; CHUCKTENDER (except tunnel); Creosote tieman; Guinea chaser; Powderman Helper; Rip-rap stone paver; Sandblaster (pot tender); Spikers and wrenchers | 7.715 | .50 | .60 | | .06 | |
| GROUP IV<br>CEMENT DUMPERS (Skip-type mixer or handling bulk cement); Chain saw machines (on clearing and grubbing); Concrete vibrating machines; Cribber and shorer (except tunnel); Floor sanders - Concrete; Hydraulic jacks, and similar mechanical tools not separately herein classified; Operators and tenders of pneumatic and electric tools; Pipe caulker and/or backup men (pipeline); Pipe wrapper; Pneumatic gopher; Rigger/signalman (pipeline) | 7.805 | .50 | .60 | | .06 | |



MUX 3782 SMS 8881883V

DECISION #AQ-1004 (Cont'd) MODIFICATIONS P. 7

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| **LABORERS: (cont'd)** | | | | | | |
| GROUP V<br>AIR AND WATER WASH-OUT NOZZLEMAN; Asphalt rakers and ironers; Driller; Grade setter (pipeline); Hand guided trencher and similar operated equipment; Jackhammer and/or pavement breakers; Pipe layer (including but not limited to non-metallic, transite and plastic pipe, water pipe, sewer pipe, drain pipe, underground tile and conduit); Rock slinger; Scaler (using Bos'ns chair or Safety belt); Tampers (mechanical - all types); Precast manhole erector | $7.955 | .50 | .60 | | .06 | |
| GROUP VI<br>CONCRETE CUTTING TORCH: CONCRETE SAW (hand guided); Driller (Core, Diamond, Wagon or Air Track); Drill doctor and/or air tool repairman; Gunman and mixerman (gunnite); Sandblaster (nozzleman) | 8.28 | .50 | .60 | | .06 | |
| GROUP VII<br>CONCRETE ROAD FORM SETTER; Gunnite nozzleman or rodman; Drillers, Joy Mustang, PR 143, 2200 Gardner-Denver, Hydrasonic; Powder man; Scaler (drillers); Welders and/or pipe layers installing process piping | 8.83 | .50 | .60 | | .06 | |

DECISION #AQ-1004 (Cont'd) MODIFICATIONS P. 8

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| **LABORERS: (cont'd)** | | | | | | |
| **TUNNEL AND SHAFT WORKERS** | | | | | | |
| GROUP I<br>BULL GANG, MUCKERS, TRACKMAN; DUMPMEN; Concrete crew (includes rodders and spreaders); Grout crew; Swamper (brakeman and switchmen on tunnel work) | $7.69 | .50 | .60 | | .06 | |
| GROUP II<br>NIPPER; CHUCKTENDER, CABLETENDER; Vibratorman, jackhammer, pneumatic tools (except driller) | 7.835 | .50 | .60 | | .06 | |
| GROUP III<br>GROUT GUNMAN | 7.945 | .50 | .60 | | .06 | |
| GROUP IV<br>TIMBERMAN, RETIMBERMAN - wood or steel blaster, driller powderman; Cherry pickerman; Powderman - primer house; Steel form raiser and setter; Kemper and other pneumatic concrete placer operator; Miner - Finisher | 8.055 | .50 | .60 | | .06 | |
| GROUP IV - A<br>MINERS - Tunnel (hand or machine) | 8.265 | .50 | .60 | | .06 | |
| GROUP V<br>DIAMOND DRILL | 8.41 | .50 | .60 | | .06 | |
| GROUP V - A<br>SHAFT AND RAISE MINER WELDER | 8.63 | .50 | .60 | | .06 | |





DECISION #AQ-1004 (Cont'd) MODIFICATIONS P. 9

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| (Northern Area)<br>**TRUCK DRIVERS** | | | | | | |
| GROUP I<br>PICKUP; STATION WAGON; TEAMSTERS | $7.635 | .50 | .60 | | .03 | |
| GROUP II<br>BUGGYMOBILE, 1 C.Y. OR LESS; Bulk cement spreaker (2 or 3 axles); Bus driver; Dump (2 or 3 axle); Flatrack (2 or 3 axle); Water (under 2500 gal.) | 7.745 | .50 | .60 | | .03 | |
| GROUP III<br>BULK CEMENT SPREADER (4 AXLE); Dump (4 axle); Dumptor or dumpster, less than 7 c.y.; Flatrack (4 axle); Water (2500 gal. but less than 4000 gal.) | 7.925 | .50 | .60 | | .03 | |
| GROUP IV<br>BULK CEMENT SPREADER (5 AXLE); Dump (5 axle); Dumptor or dumpster, 7 c.y. but less than 16 c.y.; Flaherty spreader or similar type equipment or leverman; Flatrack (5 axle); Slurry-type equipment or leverman; Transit mix, 8 c.y. or less mixer capacity | 8.235 | .50 | .60 | | .03 | |
| GROUP V<br>BULK CEMENT SPREADER (6 AXLE); Dump (6 axle); Flatrack (6 axle); Rock truck (Dart, Euclid, and other similar type end dumps, single unit) less than 16 c.y. | 8.375 | .50 | .60 | | .03 | |
| GROUP V - A<br>OIL TANKER OR SPREADER TRUCK DRIVER and/or bootman, retortman or leverman | 8.525 | .50 | .60 | | .03 | |
| GROUP VI<br>BULK CEMENT SPREADER (7 AXLE); Concrete pump truck driver, (when integral part of transit mix truck); Dump (7 axle); Flatrack (7 axle);Hydro lift, Swedish crane, Iowa 300 and similar types; Ross carrier fork lift or lift truck; Transit mix, over 10.5 c.y. but less than 14 c.y. mixer capacity | 8.645 | .50 | .60 | | .03 | |

DECISION #AQ-1004 (Cont'd) MODIFICATIONS P. 10

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| **TRUCK DRIVERS (cont'd)** | | | | | | |
| GROUP VII<br>BULK CEMENT SPREADER (8 AXLE); Dump (8 axle); Flatrack (8 axle) | $9.005 | .50 | .60 | | .03 | |
| GROUP VIII<br>OFF-HIGHWAY EQUIPMENT DRIVER (2 or 4 wheel power unit, i.e. Cat DW series. Euclid, International and similar type equipment, transporting material when top loaded or by external means, including pulling water tanks, fuel tanks, or other Teamsters Classifications; Bulk cement spreader (9 axle); Dump (9 axle); Dumptor or dumpster, (16 c.y. and over; Eject-alls; Flatrack (9 axle); Rock truck (Dart, Euclid, or other similar end dump types) 16 c.y. and over | 9.45 | .50 | .60 | | .03 | |
| HEAVY DUTY MECHANIC/WELDER | 10.285 | .50 | .60 | | .03 | |
| HEAVY DUTY MECHANIC/WELDER HELPER | 8.325 | .50 | .60 | | .03 | |
| FIELD EQUIPMENT SERVICEMAN or Fuel truck driver | 10.015 | .50 | .60 | | .03 | |





XUM

DECISION #AQ-1005 - Mod. #3 MODIFICATIONS P. 11

(38 FR 19617 - July 20, 1973)
Maricopa (Phoenix-Glendale-Mesa-Scottsdale, Tempe, Luke AFB and Williams AFB) County, Arizona

Change:

| LABORERS | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. |
|---|---|---|---|---|---|
| GROUP I<br>ALL HELPERS NOT HEREIN SEPARATELY CLASSIFIED; Cesspool diggers and installers; Chat box man; Checker, tool dispatcher; Concrete dump manbelt, pipe and/or hoseman; Dumpman and/or spotter; Fence builder, guard rail builder Hwy.; Form strippers; Labor, general or construction; Landscape gardener and nurseryman; Packing rod steel and pans; Rip rap stoneman; Astro turf layer | $5.86 | .50 | .60 | | .06 |
| GROUP II<br>CEMENT FINISHER TENDER; Concrete curer (impervious membrane); Cutting torch operator; Fine grader (highway, engineering and sewer work only); Kettleman - Tarman; Power type concrete buggy; Lazer beam operator | 5.97 | .50 | .60 | | .06 |
| GROUP III<br>BANDER; CHUCKTENDER (except tunnel); Creosote tieman; Guinea chaser; Powderman helper; Rip-rap stone paver; Sandblaster (Pot tender); Spikers and Wrenchers | 6.09 | .50 | .60 | | .06 |
| GROUP IV<br>CEMENT DUMPERS (Skip-type mixer or handling bulk cement); Chain saw machines (on clearing and grubbing); Concrete vibrating machines; Cribber and shorer (except tunnel); Floor sanders - concrete; Hydraulic jacks, and similar mechanical tools not separately herein classified; Operators and tenders of pneumatic and electric tools; Pipe caulker and/or backup man (pipeline); Pipe wrapper; Pneumatic gopher; Rigger/signalman (pipeline) | 6.18 | .50 | .60 | | .06 |

DECISION #AQ-1005 (Cont'd) MODIFICATIONS P. 12

| LABORERS: (cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | O- |
|---|---|---|---|---|---|---|
| GROUP V<br>AIR AND WATER WASH-OUT NOZZLEMAN; Asphalt rakers and ironers; Driller; Grade setter (pipeline); Hand guided trencher and similar operated equipment; Jackhammer and/or pavement breakers; Pipe layer (including but not limited to non-metallic, transite and plastic pipe, water pipe, sewer pipe, drain pipe, underground tile and conduit); Rock slinger; Scaler (using Bos'ns Chair of safety belt); Tampers (mechanical-all types); Precast manhole erector | $6.33 | .50 | .60 | | .06 | |
| GROUP VI<br>CONCRETE CUTTING TORCH; CONCRETE SAW (Hand guided); Driller (Core, Diamond, Wagon or Air Track); Drill doctor and/or air tool repairman; Gunman and mixerman (Gunite); Sandblaster (nozzleman) | 6.655 | .50 | .60 | | .06 | |
| GROUP VII<br>CONCRETE ROAD FORM SETTER; Gunite nozzleman or rodman; Drillers, Joy Mustang, PR 143, 2200 Gardner-Denver, Hydrasonic; Powder man; Scaler (drillers); Welders and/or pipe layers installing process piping | 7.205 | .50 | .60 | | .06 | |
| MASON TENDERS | 6.505 | .50 | .60 | | .06 | |
| PLASTERERS' TENDERS | 6.85 | .50 | .60 | | .06 | |



DECISION #AQ-1005 (Cont'd) MODIFICATIONS P. 13

| LABORERS (cont'd)<br>TUNNEL AND SHAFT WORKERS | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | C |
|---|---|---|---|---|---|---|
| GROUP I<br>BULL GANG, MUCKERS, TRACKMAN; DUMPMEN; Concrete crew (includes rodders and spreaders); Grout crew; Swamper (brakeman and switchmen on tunnel work) | $6.065 | .50 | .60 | | .06 | |
| GROUP II<br>NIPPER; CHUCKTENDER, CABLETENDER; Vibratorman, Jackhammer, Pneumatic tools (except driller) | 6.21 | .50 | .60 | | .06 | |
| GROUP III<br>GROUT GUNMAN | 6.32 | .50 | .60 | | .06 | |
| GROUP IV<br>TIMBERMAN, RETIMBERMAN - wood or steel blaster, driller powderman; Cherry pickerman; Powderman - primer house; Steel form raiser and setter; Kemper and other pneumatic concrete placer operator; Miner - finisher | 6.43 | .50 | .60 | | .06 | |
| GROUP IV - A<br>MINERS - Tunnel (hand or machine) | 6.64 | .50 | .60 | | .06 | |
| GROUP V<br>DIAMOND DRILL | 6.785 | .50 | .60 | | .06 | |
| GROUP V-A<br>SHAFT AND RAISE MINER WELDER | 7.005 | .50 | .60 | | .06 | |

DECISION #AQ-1005 (Cont'd) MODIFICATIONS P. 14

| TRUCK DRIVERS | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | C |
|---|---|---|---|---|---|---|
| GROUP I<br>PICKUP; Station wagon; Teamsters | $6.01 | .50 | .60 | | .03 | |
| GROUP II<br>BUGGYMOBILE, 1 C. Y. OR LESS; Bulk cement spreader (2 or 3 axle); Bus driver; Dump (2 or 3 axle); Flatrack (2 or 3 axle); Water (under 2500 gal.) | 6.12 | .50 | .60 | | .03 | |
| GROUP III<br>BULK CEMENT SPREADER (4 AXLE); Dump (4 axle); Dumptor or dumpster, less than 7 c.y.; Flatrack (4 axle); Water (2500 gal. but less than 4000 gal.) | 6.30 | .50 | .60 | | .03 | |
| GROUP IV<br>BULK CEMENT SPREADER (5 AXLE); Dump (5 axle); Dumptor or dumpster, 7 c.y. but less than 16 c.y.; Flaherty spreader or similar type equipment or leverman; Flatrack (5 axle); Slurry type equipment or leverman; Transit mix, 8 c.y., or less mixer capacity | 6.61 | .50 | .60 | | .03 | |
| GROUP V<br>BULK CEMENT SPREADER (6 axle); Dump (6 axle); Flatrack (6 axle); Rock truck (Dart, Euclid and other similar type end dumps, single unit) less than 16 c.y. | 6.75 | .50 | .60 | | .03 | |
| GROUP V - A<br>OIL TANKER OR SPREADER TRUCK DRIVER and/or bootman, retortman or leverman | 6.90 | .50 | .60 | | .03 | |







MUX 37 8 2 JMS 38-1-83 V

DECISION #AQ-1005 (Cont'd)

MODIFICATIONS P. 15

| TRUCK DRIVERS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| GROUP VI<br>BULK CEMENT SPREADER (7 AXLE); Concrete pump truck driver, (when integral part of transit mix truck); Dump (7 axle); Flatrack (7 axle); Hydro lift, Swedish crane, Iowa 300 and similar types; Ross carrier fork lift or lift truck; Transit mix, over 10.5 c.y. but less than 14 c.y. mixer | 7.02 | .50 | .60 | | .03 | |
| GROUP VII<br>BULK CEMENT SPREADER (8 AXLE); Dump (8 axle); Flatrack (8 axle) | 7.38 | .50 | .60 | | .03 | |
| GROUP VIII<br>OFF-HIGHWAY EQUIPMENT DRIVER (2 or 4 wheel power unit, i.e. Cat D6 series, Euclid, International, and similar type equipment, transporting material when top loaded or by external means, including pulling water tanks, fuel tank, or other teamsters classifications; Bulk cement spreader (9 axle); Dump (9 axle); Dumpcor or dumpster, 16 c.y. and over; Eject-alls; Flatrack (9 axle); Rock truck (dart, euclid, or other similar end dump types) 16 c.y. and over | 7.825 | .50 | .60 | | .03 | |
| HEAVY DUTY MECHANIC/WELDER | 8.66 | .50 | .60 | | .03 | |
| HEAVY DUTY MECHANIC/WELDER HELPER | 6.70 | .50 | .60 | | .03 | |
| FIELD EQUIPMENT SERVICEMAN or FUEL Truck Driver | 8.39 | .50 | .60 | | .03 | |

DECISION #AQ-1006 - Mod. #3
(38 FR 19623 - July 20, 1973)
Greenlee, Maricopa and Mohave Counties, Arizona

MODIFICATIONS P. 16

Changes

| LABORERS: | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. |
|---|---|---|---|---|---|
| GROUP I<br>ALL HELPERS NOT HEREIN SEPARATELY CLASSIFIED; Cesspool diggers and installers; Chat box man; Checker, tool dispatcher; Concrete dump manbelt, pipe and/or hoseman; Dumpman and/or spotter; Fence builder, guard rail builder Hwy.; Form strippers; Labor, general or construction; Landscape gardener and nurseryman; Packing rod steel and pans; Rip rap stoneman; Astro turf layer | $5.86 | .50 | .60 | | .06 |
| GROUP II<br>CEMENT FINISHER TENDER; Concrete curer (impervious membrane); Cutting torch operator; Fine grader (highway, engineering and sewer work only); Kettleman - Tarman; Power type concrete buggy; Lazer beam operator | 5.97 | .50 | .60 | | .06 |
| GROUP III<br>BANDER; CHUCKTENDER (except tunnel); Creosote tieman; Guinea chaser; Powderman helper; Rip-rap stone paver; Sandblaster (Pot tender); Spikers and Wrenchers | 6.09 | .50 | .60 | | .06 |
| GROUP IV<br>CEMENT DUMPERS (Skip-type mixer or handling bulk cement); Chain saw machines (on clearing and grubbing); Concrete vibrating machines; Cribber and shorer (except tunnel); Floor sanders - concrete; Hydraulic jacks, and similar mechanical tools not separately herein classified; Operators and tenders of pneumatic and electric tools; Pipe caulker and/or backup man (pipeline); Pipe wrapper; Pneumatic gopher; Rigger/signalman (pipeline) | 6.18 | .50 | .60 | | .06 |





DECISION #AQ-1006 (Cont'd)

MODIFICATIONS P. 17

| LABORERS: (cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| GROUP V<br>AIR AND WATER WASH-OUT NOZZLEMAN; Asphalt rakers and ironers; Driller; Grade setter (pipeline); Hand guided trencher and similar operated equipment; Jackhammer and/or pavement breakers; Pipe layer (including but not limited to non-metallic, transite and plastic pipe, water pipe, sewer pipe, drain pipe, underground tile and conduit); Rock slinger; Scaler (using Bos'ns Chair of safety belt); Tampers (mechanical-all types); Precast manhole erector | $6.33 | .50 | .60 | | .06 | |
| GROUP VI<br>CONCRETE CUTTING TORCH; CONCRETE SAW (Hand guided); Driller (Core, Diamond, Wagon or Air Track); Drill doctor and/or air tool repairman; Gunman and mixerman (Cunite); Sandblaster (nozzleman) | 6.655 | .50 | .60 | | .06 | |
| GROUP VII<br>CONCRETE ROAD FORM SETTER; Cunite nozzleman or rodman; Drillers, Joy Mustang, PR 143, 2200 Gardner-Denver, Hydrasonic; Powder man; Scaler (drillers); Welders and/or pipe layers installing process piping | 7.205 | .50 | .60 | | .06 | |
| MASON TENDERS | 6.505 | .50 | .60 | | .06 | |
| PLASTERERS' TENDERS | 6.85 | .50 | .60 | | .06 | |

DECISION #AQ-1006 (Cont'd)

MODIFICATIONS P. 18

| LABORERS (cont'd)<br>TUNNEL AND SHAFT WORKERS | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | O |
|---|---|---|---|---|---|---|
| GROUP I<br>BULL GANG, MUCKERS, TRACKMAN; DUMPMEN; Concrete crew (includes rodders and spreaders); Grout crew; Swamper (brakeman and switchmen on tunnel work) | $6.065 | .50 | .60 | | .06 | |
| GROUP II<br>NIPPER; CHUCKTENDER, CABLETENDER; Vibratorman, Jackhammer, Pneumatic tools (except driller) | 6.21 | .50 | .60 | | .06 | |
| GROUP III<br>GROUT GUNMAN | 6.32 | .50 | .60 | | .06 | |
| GROUP IV<br>TIMBERMAN, RETIMBERMAN - wood or steel blaster, driller powderman; Cherry pickerman; Powderman - primer house; Steel form raiser and setter; Kemper and other pneumatic concrete placer operator; Miner - finisher | 6.43 | .50 | .60 | | .06 | |
| GROUP IV - A<br>MINERS - Tunnel (hand or machine) | 6.64 | .50 | .60 | | .06 | |
| GROUP V<br>DIAMOND DRILL | 6.785 | .50 | .60 | | .06 | |
| GROUP V-A<br>SHAFT AND RAISE MINER WELDER | 7.005 | .50 | .60 | | .06 | |

DECISION #AQ-1006 (Cont'd)

MODIFICATIONS P. 19

| TRUCK DRIVERS | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | C |
|---|---|---|---|---|---|---|
| GROUP I<br>PICKUP; Station wagon; Teamsters | $6.01 | .50 | .60 | | .03 | |
| GROUP II<br>BUGGYMOBILE, 1 C. Y. OR LESS; Bulk cement spreader (2 or 3 axle); Bus driver; Dump (2 or 3 axle); Flatrack (2 or 3 axle); Water (under 2500 gal.) | 6.12 | .50 | .60 | | .03 | |
| GROUP III<br>BULK CEMENT SPREADER (4 AXLE); Dump (4 axle); Dumptor or dumpster, less than 7 c.y.; Flatrack (4 axle); Water (2500 gal. but less than 4000 gal.) | 6.30 | .50 | .60 | | .03 | |
| GROUP IV<br>BULK CEMENT SPREADER (5 AXLE); Dump (5 axle); Dumptor or dumpster, 7 c.y. but less than 16 c.y.; Flaherty spreader or similar type equipment or leverman; Flatrack (5 axle); Slurry type equipment or leverman; Transit mix, 8 c.y., or less mixer capacity | 6.61 | .50 | .60 | | .03 | |
| GROUP V<br>BULK CEMENT SPREADER (6 axle); Dump (6 axle); Flatrack (6 axle); Rock truck (Dart, Euclid and other similar type end dumps, single unit) less than 16 c.y. | 6.75 | .50 | .60 | | .03 | |
| GROUP V - A<br>OIL TANKER OR SPREADER TRUCK DRIVER and/or bootman, retortman or leverman | 6.90 | .50 | .60 | | .03 | |

DECISION #AQ-1006 (Cont'd)

MODIFICATIONS P. 20

| TRUCK DRIVERS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. |
|---|---|---|---|---|---|
| GROUP VI<br>BULK CEMENT SPREADER (7 AXLE); Concrete pump truck driver, (when integral part of transit mix truck); Dump (7 axle); Flatrack (7 axle); Hydro lift, Swedish crane, Iowa 300 and similar types; Ross carrier fork lift or lift truck; Transit mix, over 10.5 c.y. but less than 14 c.y. mixer | 7.02 | .50 | .60 | | .03 |
| GROUP VII<br>BULK CEMENT SPREADER (8 AXLE); Dump (8 axle); Flatrack (8 axle) | 7.38 | .50 | .60 | | .03 |
| GROUP VIII<br>OFF-HIGHWAY EQUIPMENT DRIVER (2 or 4 wheel power unit, i.e. Cat Dw series, Euclid, International, and similar type equipment, transporting material when top loaded or by external means, including pulling water tanks, fuel tank, or other teamsters classifications; Bulk cement spreader (9 axle); Dump (9 axle); Dumptor or dumpster, 16 c.y. and over; Eject-alls; Flatrack (9 axle); Rock truck (dart, euclid, or other similar end dump types) 16 c.y. and over | 7.825 | .50 | .60 | | .03 |
| HEAVY DUTY MECHANIC/WELDER | 8.66 | .50 | .60 | | .03 |
| HEAVY DUTY MECHANIC/WELDER HELPER | 6.70 | .50 | .60 | | .03 |
| FIELD EQUIPMENT SERVICEMAN or FUEL Truck Driver | 8.39 | .50 | .60 | | .03 |





DECISION #AQ-1025 - Mod. #2
(38 FR 24493 - September 7, 1973)
Pima County, Arizona

MODIFICATIONS P. 21

Change:

| LABORERS: | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. |
|---|---|---|---|---|---|
| GROUP I<br>ALL HELPERS NOT HEREIN SEPARATELY CLASSIFIED; Cesspool diggers and installers; Chat box man; Checker, tool dispatcher; Concrete dump manbelt, pipe and/or hoseman; Dumpman and/or spotter; Fence builder, guard rail builder Hwy.; Form strippers; Labor, general or construction; Landscape gardener and nurseryman; Packing rod steel and pans; Rip rap stoneman; Astro turf layer | $5.86 | .50 | .60 | | .06 |
| GROUP II<br>CEMENT FINISHER TENDER; Concrete curer (impervious membrane); Cutting torch operator; Fine grader (highway, engineering and sewer work only); Kettleman - Tarman; Power type concrete buggy; Lazer beam operator | 5.97 | .50 | .60 | | .06 |
| GROUP III<br>BANDER; CHUCKTENDER (except tunnel); Creosote tieman; Guinea chaser; Powderman helper; Rip-rap stone paver; Sandblaster (Pot tender); Spikers and Wrenchers | 6.09 | .50 | .60 | | .06 |
| GROUP IV<br>CEMENT DUMPERS (Skip-type mixer or handling bulk cement); Chain saw machines (on clearing and grubbing); Concrete vibrating machines; Cribber and shorer (except tunnel); Floor sanders - concrete; Hydraulic jacks, and similar mechanical tools not separately herein classified; Operators and tenders of pneumatic and electric tools; Pipe caulker and/or backup man (pipeline); Pipe wrapper; Pneumatic gopher; Rigger/signalman (pipeline) | 6.18 | .50 | .60 | | .06 |

DECISION #AQ-1025 (Cont'd)

MODIFICATIONS P. 22

| LABORERS: (cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | O |
|---|---|---|---|---|---|---|
| GROUP V<br>AIR AND WATER WASH-OUT NOZZLEMAN; Asphalt rakers and ironers; Driller; Grade setter (pipeline); Hand guided trencher and similar operated equipment; Jackhammer and/or pavement breakers; Pipe layer (including but not limited to non-metallic, transite and plastic pipe, water pipe, sewer pipe, drain pipe, underground tile and conduit); Rock slinger; Scaler (using Bos'ns Chair of safety belt); Tampers (mechanical-all types); Precast manhole erector | $6.33 | .50 | .60 | | .06 | |
| GROUP VI<br>CONCRETE CUTTING TORCH; CONCRETE SAW (Hand guided); Driller (Core, Diamond, Wagon or Air Track); Drill doctor and/or air tool repairman; Gunman and mixerman (Gunite); Sandblaster (nozzleman) | 6.655 | .50 | .60 | | .06 | |
| GROUP VII<br>CONCRETE ROAD FORM SETTER; Gunite nozzleman or rodman; Drillers, Joy Mustang, PR 143, 2200 Gardner-Denver, Hydrasonic; Powder man; Scaler (drillers); Welders and/or pipe layers installing process piping | 7.205 | .50 | .60 | | .06 | |
| MASON TENDERS | 6.505 | .50 | .60 | | .06 | |
| PLASTERERS' TENDERS | 6.85 | .50 | .60 | | .06 | |







XUM 38 FR 27152 8881-8831

DECISION #AQ-1025 (Cont'd) MODIFICATIONS P. 23

| LABORERS (cont'd) TUNNEL AND SHAFT WORKERS | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. |
|---|---|---|---|---|---|
| GROUP I<br>BULL GANG, MUCKERS, TRACKMAN; DUMPMEN; Concrete crew (includes rodders and spreaders); Grout crew; Swamper (brakeman and switchmen on tunnel work) | $6.065 | .50 | .60 | | .06 |
| GROUP II<br>NIPPER; CHUCKTENDER, CABLETENDER; Vibratorman, Jackhammer, Pneumatic tools (except driller) | 6.21 | .50 | .60 | | .06 |
| GROUP III<br>GROUT GUNMAN | 6.32 | .50 | .60 | | .06 |
| GROUP IV<br>TIMBERMAN, RETIMBERMAN - wood or steel blaster, driller powderman; Cherry pickerman; Powderman - primer house; Steel form raiser and setter; Kemper and other pneumatic concrete placer operator; Miner - finisher | 6.43 | .50 | .60 | | .06 |
| GROUP IV - A<br>MINERS - Tunnel (hand or machine) | 6.64 | .50 | .60 | | .06 |
| GROUP V<br>DIAMOND DRILL | 6.785 | .50 | .60 | | .06 |
| GROUP V-A<br>SHAFT AND RAISE MINER WELDER | 7.005 | .50 | .60 | | .06 |

DECISION #AQ-1025 (Cont'd) MODIFICATIONS P. 24

| TRUCK DRIVERS | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. |
|---|---|---|---|---|---|
| GROUP I<br>PICKUP; Station wagon; Teamsters | $6.01 | .50 | .60 | | .03 |
| GROUP II<br>BUGGYMOBILE, 1 C. Y. OR LESS; Bulk cement spreader (2 or 3 axle); Bus driver; Dump (2 or 3 axle); Flatrack (2 or 3 axle); Water (under 2500 gal.) | 6.12 | .50 | .60 | | .03 |
| GROUP III<br>BULK CEMENT SPREADER (4 AXLE); Dump (4 axle); Dumptor or dumpster, less than 7 c.y.; Flatrack (4 axle); Water (2500 gal. but less than 4000 gal.) | 6.30 | .50 | .60 | | .03 |
| GROUP IV<br>BULK CEMENT SPREADER (5 AXLE); Dump (5 axle); Dumptor or dumpster, 7 c.y. but less than 16 c.y.; Flaherty spreader or similar type equipment or leverman; Flatrack (5 axle); Slurry type equipment or leverman; Transit mix, 8 c.y., or less mixer capacity | 6.61 | .50 | .60 | | .03 |
| GROUP V<br>BULK CEMENT SPREADER (6 axle); Dump (6 axle); Flatrack (6 axle); Rock truck (Dart, Euclid and other similar type end dumps, single unit) less than 16 c.y. | 6.75 | .50 | .60 | | .03 |
| GROUP V - A<br>OIL TANKER OR SPREADER TRUCK DRIVER and/or bootman, retortman or leverman | 6.90 | .50 | .60 | | .03 |



DECISION #AQ-1025 (Cont'd) MODIFICATIONS P. 25

| TRUCK DRIVERS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. |
|---|---|---|---|---|---|
| GROUP VI<br>BULK CEMENT SPREADER (7 AXLE); Concrete pump truck driver, (when integral part of transit mix truck); Dump (7 axle); Flatrack (7 axle); Hydro lift, Swedish crane, Iowa 300 and similar types; Ross carrier fork lift or lift truck; Transit mix, over 10.5 c.y. but less than 14 c.y. mixer | 7.02 | .50 | .60 | | .03 |
| GROUP VII<br>BULK CEMENT SPREADER (8 AXLE); Dump (8 axle); Flatrack (8 axle) | 7.38 | .50 | .60 | | .03 |
| GROUP VIII<br>OFF-HIGHWAY EQUIPMENT DRIVER (2 or 4 wheel power unit, i.e. Cat Dw series, Euclid, International, and similar type equipment, transporting material when top loaded or by external means, including pulling water tanks, fuel tank, or other teamsters classifications; Bulk cement spreader (9 axle); Dump (9 axle); Dumptor or dumpster, 16 c.y. and over; Eject-alls; Flatrack (9 axle); Rock truck (dart, euclid, or other similar end dump types) 16 c.y. and over | 7.825 | .50 | .60 | | .03 |
| HEAVY DUTY MECHANIC/WELDER | 8.66 | .50 | .60 | | .03 |
| HEAVY DUTY MECHANIC/WELDER HELPER | 6.70 | .50 | .60 | | .03 |
| FIELD EQUIPMENT SERVICEMAN or FUEL Truck Driver | 8.39 | .50 | .60 | | .03 |

MODIFICATIONS P. 26

DECISION #AQ-1026 - Mod. #1
(38 FR 25856 - September 14, 1973)
Cochise, Graham, Pima, Pinal and Santa Cruz Counties, Arizona

Change:

| LABORERS: | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. |
|---|---|---|---|---|---|
| GROUP I<br>ALL HELPERS NOT HEREIN SEPARATELY CLASSIFIED; Cesspool diggers and installers; Chat box man; Checker, tool dispatcher; Concrete dump manbelt, pipe and/or hoseman; Dumpman and/or spotter; Fence builder, guard rail builder Hwy.; Form strippers; Labor, general or construction; Landscape gardener and nurseryman; Packing rod steel and pans; Rip rap stoneman; Astro turf layer | $5.86 | .50 | .60 | | .06 |
| GROUP II<br>CEMENT FINISHER TENDER; Concrete curer (impervious membrane); Cutting torch operator; Fine grader (highway, engineering and sewer work only); Kettleman - Tarman; Power type concrete buggy; Lazer beam operator | 5.97 | .50 | .60 | | .06 |
| GROUP III<br>BANDER; CHUCKTENDER (except tunnel); Creosote tieman; Guinea chaser; Powderman helper; Rip-rap stone paver; Sandblaster (Pot tender); Spikers and Wrenchers | 6.09 | .50 | .60 | | .06 |
| GROUP IV<br>CEMENT DUMPERS (Skip-type mixer or handling bulk cement); Chain saw machines (on clearing and grubbing); Concrete vibrating machines; Cribber and shorer (except tunnel); Floor sanders - concrete; Hydraulic jacks, and similar mechanical tools not separately herein classified; Operators and tenders of pneumatic and electric tools; Pipe caulker and/or backup man (pipeline); Pipe wrapper; Pneumatic gopher; Rigger/signalman (pipeline) | 6.18 | .50 | .60 | | .06 |







XUM 3 7 8 2 UMS 8 8 1 8 3 V

DECISION #AQ-1026 (Cont'd MODIFICATIONS P. 27

| LABORERS: (cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | O |
|---|---|---|---|---|---|---|
| GROUP V<br>AIR AND WATER WASH-OUT NOZZLEMAN; Asphalt rakers and ironers; Driller; Grade setter (pipeline); Hand guided trencher and similar operated equipment; Jackhammer and/or pavement breakers; Pipe layer (including but not limited to non-metallic, transite and plastic pipe, water pipe, sewer pipe, drain pipe, underground tile and conduit); Rock slinger; Scaler (using Bos'ns Chair of safety belt); Tampers (mechanical-all types); Precast manhole erector | $6.33 | .50 | .60 | | .06 | |
| GROUP VI<br>CONCRETE CUTTING TORCH; CONCRETE SAW (Hand guided); Driller (Core, Diamond, Wagon or Air Track); Drill doctor and/or air tool repairman; Gunman and mixerman (Gunite); Sandblaster (nozzleman) | 6.655 | .50 | .60 | | .06 | |
| GROUP VII<br>CONCRETE ROAD FORM SETTER; Gunite nozzleman or rodman; Drillers, Joy Mustang, PR 143, 2200 Gardner-Denver, Hydrasonic; Powder man; Scaler (drillers); Welders and/or pipe layers installing process piping | 7.205 | .50 | .60 | | .06 | |
| MASON TENDERS | 6.505 | .50 | .60 | | .06 | |
| PLASTERERS' TENDERS | 6.85 | .50 | .60 | | .06 | |

DECISION #AQ-1026 (Cont'd) MODIFICATIONS P. 28

| LABORERS (cont'd)<br>TUNNEL AND SHAFT WORKERS | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | C |
|---|---|---|---|---|---|---|
| GROUP I<br>BULL GANG, MUCKERS, TRACKMAN; DUMPMEN; Concrete crew (includes rodders and spreaders); Grout crew; Swamper (brakeman and switchmen on tunnel work) | $6.065 | .50 | .60 | | .06 | |
| GROUP II<br>NIPPER; CHUCKTENDER, CABLETENDER; Vibratorman, Jackhammer, Pneumatic tools (except driller) | 6.21 | .50 | .60 | | .06 | |
| GROUP III<br>GROUT GUNMAN | 6.32 | .50 | .60 | | .06 | |
| GROUP IV<br>TIMBERMAN, RETIMBERMAN - wood or steel blaster, driller powderman; Cherry pickerman; Powderman - primer house; Steel form raiser and setter; Kemper and other pneumatic concrete placer operator; Miner - finisher | 6.43 | .50 | .60 | | .06 | |
| GROUP IV - A<br>MINERS - Tunnel (hand or machine) | 6.64 | .50 | .60 | | .06 | |
| GROUP V<br>DIAMOND DRILL | 6.785 | .50 | .60 | | .06 | |
| GROUP V-A<br>SHAFT AND RAISE MINER WELDER | 7.005 | .50 | .60 | | .06 | |







DECISION #AQ-1026 (Cont'd) MODIFICATIONS P. 29

| TRUCK DRIVERS | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | C |
|---|---|---|---|---|---|---|
| GROUP I<br>PICKUP; Station wagon; Teamsters | $6.01 | .50 | .60 | | .03 | |
| GROUP II<br>BUGGYMOBILE, 1 C. Y. OR LESS; Bulk cement spreader (2 or 3 axle); Bus driver; Dump (2 or 3 axle); Flatrack (2 or 3 axle); Water (under 2500 gal.) | 6.12 | .50 | .60 | | .03 | |
| GROUP III<br>BULK CEMENT SPREADER (4 AXLE); Dump (4 axle); Dumptor or dumpster, less than 7 c.y.; Flatrack (4 axle); Water (2500 gal. but less than 4000 gal.) | 6.30 | .50 | .60 | | .03 | |
| GROUP IV<br>BULK CEMENT SPREADER (5 AXLE); Dump (5 axle); Dumptor or dumpster, 7 c.y. but less than 16 c.y.; Flaherty spreader or similar type equipment or leverman; Flatrack (5 axle); Slurry type equipment or leverman; Transit mix, 8 c.y., or less mixer capacity | 6.61 | .50 | .60 | | .03 | |
| GROUP V<br>BULK CEMENT SPREADER (6 axle); Dump (6 axle); Flatrack (6 axle); Rock truck (Dart, Euclid and other similar type end dumps, single unit) less than 16 c.y. | 6.75 | .50 | .60 | | .03 | |
| GROUP V - A<br>OIL TANKER OR SPREADER TRUCK DRIVER and/or bootman, retortman or leverman | 6.90 | .50 | .60 | | .03 | |

DECISION #AQ-1026 (Cont'd) MODIFICATIONS P. 30

| TRUCK DRIVERS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | O |
|---|---|---|---|---|---|---|
| GROUP VI<br>BULK CEMENT SPREADER (7 AXLE); Concrete pump truck driver, (when integral part of transit mix truck); Dump (7 axle); Flatrack (7 axle); Hydro lift, Swedish crane, Iowa 300 and similar types; Ross carrier fork lift or lift truck; Transit mix, over 10.5 c.y. but less than 14 c.y. mixer | 7.02 | .50 | .60 | | .03 | |
| GROUP VII<br>BULK CEMENT SPREADER (8 AXLE); Dump (8 axle); Flatrack (8 axle) | 7.38 | .50 | .60 | | .03 | |
| GROUP VIII<br>OFF-HIGHWAY EQUIPMENT DRIVER (2 or 4 wheel power unit, i.e. Cat Dw series, Euclid, International, and similar type equipment, transporting material when top loaded or by external means, including pulling water tanks, fuel tank, or other teamsters classifications; Bulk cement spreader (9 axle); Dump (9 axle); Dumptor or dumpster, 16 c.y. and over; Eject-alls; Flatrack (9 axle); Rock truck (dart, euclid, or other similar end dump types) 16 c.y. and over | 7.825 | .50 | .60 | | .03 | |
| HEAVY DUTY MECHANIC/WELDER | 8.66 | .50 | .60 | | .03 | |
| HEAVY DUTY MECHANIC/WELDER HELPER | 6.70 | .50 | .60 | | .03 | |
| FIELD EQUIPMENT SERVICEMAN or FUEL Truck Driver | 8.39 | .50 | .60 | | .03 | |



XLM

DECISION #AQ-1027 - Mod. #1 MODIFICATIONS P. 31
(38 FR 25864 - September 14, 1973)
Coconino County, Arizona

Change:

| LABORERS: (Northern Area) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. |
|---|---|---|---|---|---|
| GROUP I<br>ALL HELPERS NOT HEREIN SEPARATELY CLASSIFIED; Cesspool diggers and installers; Chat box man; Checker, tool dispatcher; Concrete dump manbelt, pipe and/or hoseman; Dumpman and/or spotter; Fence builder, guard rail builder Hwy.; Form strippers; Labor, general or construction; Landscape gardener and nurseryman; Packing rod steel and pans; Rip rap stone man; Astro turf layer | $7.485 | .50 | .60 | | .06 |
| GROUP II<br>CEMENT FINISHER TENDER; Concrete curer (impervious membrane); Cutting torch operator; Fine grader (highway, engineering and sewer work only); Kettleman - Tarman; Power type concrete buggy; Lazer beam operator | 7.595 | .50 | .60 | | .06 |
| GROUP III<br>BANDER; CHUCKTENDER (except tunnel); Creosote tfeman; Guinea chaser; Powderman Helper; Rip-rap stone paver; Sandblaster (pot tender); Spikers and wrenchers | 7.715 | .50 | .60 | | .06 |
| GROUP IV<br>CEMENT DUMPERS (Skip-type mixer or handling bulk cement); Chain saw machines (on clearing and grubbing); Concrete vibrating machines; Cribber and shorer (except tunnel); Floor sanders - Concrete; Hydraulic jacks, and similar mechanical tools not separately herein classified; Operators and tenders of pneumatic and electric tools; Pipe caulker and/or backup man (pipeline); Pipe wrapper; Pneumatic gopher; Rigger/signalman (pipeline) | 7.805 | .50 | .60 | | .06 |

DECISION #AQ-1027 (Cont'd) MODIFICATIONS P. 32

| LABORERS: (cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | C |
|---|---|---|---|---|---|---|
| GROUP V<br>AIR AND WATER WASH-OUT NOZZLEMAN; Asphalt rakers and ironers; Driller; Grade selter (pipeline); Hand guided trencher and similar operated equipment; Jackhammer and/or pavement breakers; Pipe layer (including but not limited to non-metallic, transite and plastic pipe, water pipe, sewer pipe, drain pipe, underground tile and conduit); Rock slinger; Scaler (using Bos'ns chair or Safety belt); Tampers (mechanical - all types); Precast manhole erector | $7.955 | .50 | .60 | | .06 | |
| GROUP VI<br>CONCRETE CUTTING TORCH: CONCRETE SAW (hand guided); Driller (Core, Diamond, Wagon or Air Track); Drill doctor and/or air tool repairman; Gunman and mixerman (gunnite); Sandblaster (nozzleman) | 8.28 | .50 | .60 | | .06 | |
| GROUP VII<br>CONCRETE ROAD FORM SETTER; Gunnite nozzleman or rodman; Drillers, Joy Mustang, PR 143, 2200 Gardner-Denver, Hydrasonic; Powder man; Scaler (drillers); Welders and/or pipe layers finstalling process piping | 8.83 | .50 | .60 | | .06 | |





DECISION #AQ-1027 (Cont'd) MODIFICATIONS P. 33

| LABORERS: (cont'd)<br>TUNNEL AND SHAFT WORKERS | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | C |
|---|---|---|---|---|---|---|
| GROUP I<br>BULL GANG, MUCKERS, TRACKMAN; DUMPMEN; Concrete crew (includes rodders and spreaders); Grout crew; Swamper (brakeman and switchman on tunnel work) | $7.69 | .50 | .60 | | .06 | |
| GROUP II<br>NIPPER; CHUCKTENDER, CABLETENDER; Vibratorman, jackhammer, pneumatic tools (except driller) | 7.835 | .50 | .60 | | .06 | |
| GROUP III<br>GROUT GUNMAN | 7.945 | .50 | .60 | | .06 | |
| GROUP IV<br>TIMBERMAN, RETIMBERMAN - wood or steel blaster, driller powderman; Cherry pickerman; Powderman - primer house; Steel form raiser and setter; Kemper and other pneumatic concrete placer operatnr; Miner - Finisher | 8.055 | .50 | .60 | | .06 | |
| GROUP IV - A<br>MINERS - Tunnel (hand or machine) | 8.265 | .50 | .60 | | .06 | |
| GROUP V<br>DIAMOND DRILL | 8.41 | .50 | .60 | | .06 | |
| GROUP V - A<br>SHAFT AND RAISE MINER WELDER | 8.63 | .50 | .60 | | .06 | |

DECISION #AQ-1027 (Cont'd) MODIFICATIONS P. 34

(Northern Area)

| TRUCK DRIVERS | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | C |
|---|---|---|---|---|---|---|
| GROUP I<br>PICKUP; STATION WAGON; TEAMSTERS | $7.635 | .50 | .60 | | .03 | |
| GROUP II<br>BUGGYMOBILE, 1 C.Y. OR LESS; Bulk cement spreaker (2 or 3 axles); Bus driver; Dump (2 or 3 axle); Flatrack (2 or 3 axle); Water (under 2500 gal.) | 7.745 | .50 | .60 | | .03 | |
| GROUP III<br>BULK CEMENT SPREADER (4 AXLE); Dump (4 axle); Dumptor or dumpster, less than 7 c.y.; Flatrack (4 axle); Water (2500 gal. but less than 4000 gal.) | 7.925 | .50 | .60 | | .03 | |
| GROUP IV<br>BULK CEMENT SPREADER (5 AXLE); Dump (5 axle); Dumptor or dumpster, 7 c.y. but less than 16 c.y.; Flaherty spreader or similar type equipment or leverman; Flatrack (5 axle); Slurry-type equipment or leverman; Transit mix, 8 c.y. or less mixer capacity | 8.235 | .50 | .60 | | .03 | |
| GROUP V<br>BULK CEMENT SPREADER (6 AXLE); Dump (6 axle); Flatrack (6 axle); Rock truck (Dart, Euclid, and other similar type end dumps, single unit) less than 16 c.y. | 8.375 | .50 | .60 | | .03 | |
| GROUP V - A<br>OIL TANKER OR SPREADER TRUCK DRIVER and/or bootman, retortman or leverman | 8.525 | .50 | .60 | | .03 | |
| GROUP VI<br>BULK CEMENT SPREADER (7 AXLE); Concrete pump truck driver, (when integral part of transit mix truck); Dump (7 axle); Flatrack (7 axle); Hydro lift, Swedish crane, Iowa 300 and similar types; Ross carrier fork lift or lift truck; Transit mix, over 10.5 c.y. but less than 14 c.y. mixer capacity | 8.645 | .50 | .60 | | .03 | |







XUM 3718283 UMS 88-1838

DECISION #AQ-1027 (Cont'd) MODIFICATIONS P. 35

| TRUCK DRIVERS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | O |
|---|---|---|---|---|---|---|
| GROUP VII<br>BULK CEMENT SPREADER (8 AXLE); Dump (8 axle); Flatrack (8 axle) | $9.005 | .50 | .60 | | .03 | |
| GROUP VIII<br>OFF-HIGHWAY EQUIPMENT DRIVER (2 or 4 wheel power unit, i.e. Cat DW series. Euclid, International and similar type equipment, transporting material when top loaded or by external means, including pulling water tanks, fuel tanks, or other Teamsters Classifications; Bulk cement spreader (9 axle); Dump (9 axle); Dumptor or dumpster, (16 c.y. and over; Eject-alls; Flatrack (9 axle); Rock truck (Dart, Euclid, or other similar end dump types) 16 c.y. and over | 9.45 | .50 | .60 | | .03 | |
| HEAVY DUTY MECHANIC/WELDER | 10.285 | .50 | .60 | | .03 | |
| HEAVY DUTY MECHANIC/WELDER HELPER | 8.325 | .50 | .60 | | .03 | |
| FIELD EQUIPMENT SERVICEMAN or Fuel truck driver | 10.015 | .50 | .60 | | .03 | |

DECISION #AQ-1027 (Cont'd) MODIFICATIONS P. 36

| LABORERS: (Central & Southern Areas) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | t |
|---|---|---|---|---|---|---|
| GROUP I<br>ALL HELPERS NOT HEREIN SEPARATELY CLASSIFIED; Cesspool diggers and installers; Chat box man; Checker, tool dispatcher; Concrete dump manbelt, pipe and/or boseman; Dumpman and/or spotter; Fence builder, guard rail builder Hwy.; Form strippers; Labor, general or construction; Landscape gardener and nurseryman; Packing rod steel and pans; Rip rap stoneman; Astro turf layer | $5.86 | .50 | .60 | | .06 | |
| GROUP II<br>CEMENT FINISHER TENDER; Concrete curer (impervious membrane); Cutting torch operator; Fine grader (highway, engineering and sewer work only); Kettleman - Tarman; Power type concrete buggy; Lazer beam operator | 5.97 | .50 | .60 | | .06 | |
| GROUP III<br>BANDER; CHUCKTENDER (except tunnel); Creosote tieman; Guinea chaser; Powderman helper; Rip-rap stone paver; Sandblaster (Pot tender); Spikers and Wrenchers | 6.09 | .50 | .60 | | .06 | |
| GROUP IV<br>CEMENT DUMPERS (Skip-type mixer or handling bulk cement); Chain saw machines (on clearing and grubbing); Concrete vibrating machines; Cribber and shorer (except tunnel); Floor sanders - concrete; Hydraulic jacks, and similar mechanical tools not separately herein classified; Operators and tenders of pneumatic and electric tools; Pipe caulker and/or backup man (pipeline); Pipe wrapper; Pneumatic gopher; Rigger/signalman (pipeline) | 6.18 | .50 | .60 | | .06 | |







DECISION #AQ-1027 (Cont'd) MODIFICATIONS P. 37

| LABORERS: (cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | O |
|---|---|---|---|---|---|---|
| GROUP V<br>AIR AND WATER WASH-OUT NOZZLEMAN; Asphalt rakers and ironers; Driller; Grade setter (pipeline); Hand guided trencher and similar operated equipment; Jackhammer and/or pavement breakers; Pipe layer (including but not limited to non-metallic, transite and plastic pipe, water pipe, sewer pipe, drain pipe, underground tile and conduit); Rock slinger; Scaler (using Bos'ns Chair of safety belt); Tampers (mechanical-all types); Precast manhole erector | $6.33 | .50 | .60 | | .06 | |
| GROUP VI<br>CONCRETE CUTTING TORCH; CONCRETE SAW (Hand guided); Driller (Core, Diamond, Wagon or Air Track); Drill doctor and/or air tool repairman; Gunman and mixerman (Gunite); Sandblaster (nozzleman) | 6.655 | .50 | .60 | | .06 | |
| GROUP VII<br>CONCRETE ROAD FORM SETTER; Gunite nozzleman or rodman; Drillers, Joy Mustang, PR 143, 2200 Gardner-Denver, Hydrasonic; Powder man; Scaler (drillers); Welders and/or pipe layers installing process piping | 7.205 | .50 | .60 | | .06 | |
| MASON TENDERS | 6.505 | .50 | .60 | | .06 | |
| PLASTERERS' TENDERS | 6.85 | .50 | .60 | | .06 | |

DECISION #AQ-1027 (Cont'd) MODIFICATIONS P. 38

| LABORERS (cont'd)<br>TUNNEL AND SHAFT WORKERS | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. |
|---|---|---|---|---|---|
| GROUP I<br>BULL GANG, MUCKERS, TRACKMAN; DUMPMEN; Concrete crew (includes rodders and spreaders); Grout crew; Swamper (brakeman and switchmen on tunnel work) | $6.065 | .50 | .60 | | .06 |
| GROUP II<br>NIPPER; CHUCKTENDER, CABLETENDER; Vibratorman, Jackhammer, Pneumatic tools (except driller) | 6.21 | .50 | .60 | | .06 |
| GROUP III<br>GROUT GUNMAN | 6.32 | .50 | .60 | | .06 |
| GROUP IV<br>TIMBERMAN, RETIMBERMAN - wood or steel blaster, driller powderman; Cherry pickerman; Powderman - primer house; Steel form raiser and setter; Kemper and other pneumatic concrete placer operator; Miner - finisher | 6.43 | .50 | .60 | | .06 |
| GROUP IV - A<br>MINERS - Tunnel (hand or machine) | 6.64 | .50 | .60 | | .06 |
| GROUP V<br>DIAMOND DRILL | 6.785 | .50 | .60 | | .06 |
| GROUP V-A<br>SHAFT AND RAISE MINER WELDER | 7.005 | .50 | .60 | | .06 |

DECISION #AQ-1027 (Cont'd)

MODIFICATIONS P. 39

| TRUCK DRIVERS: (Central & Southern Areas) | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. |
|---|---|---|---|---|---|
| GROUP I<br>PICKUP; Station wagon; Teamsters | $6.01 | .50 | .60 | | .03 |
| GROUP II<br>BUGGYMOBILE, 1 C. Y. OR LESS; Bulk cement spreader (2 or 3 axle); Bus driver; Dump (2 or 3 axle); Flatrack (2 or 3 axle); Water (under 2500 gal.) | 6.12 | .50 | .60 | | .03 |
| GROUP III<br>BULK CEMENT SPREADER (4 AXLE); Dump (4 axle); Dumptor or dumpster, less than 7 c.y.; Flatrack (4 axle); Water (2500 gal. but less than 4000 gal.) | 6.30 | .50 | .60 | | .03 |
| GROUP IV<br>BULK CEMENT SPREADER (5 AXLE); Dump (5 axle); Dumptor or dumpster, 7 c.y. but less than 16 c.y.; Flaherty spreader or similar type equipment or leverman; Flatrack (5 axle); Slurry type equipment or leverman; Transit mix, 8 c.y., or less mixer capacity | 6.61 | .50 | .60 | | .03 |
| GROUP V<br>BULK CEMENT SPREADER (6 axle); Dump (6 axle); Flatrack (6 axle); Rock truck (Dart, Euclid and other similar type end dumps, single unit) less than 16 c.y. | 6.75 | .50 | .60 | | .03 |
| GROUP V - A<br>OIL TANKER OR SPREADER TRUCK DRIVER and/or bootman, retortman or leverman | 6.90 | .50 | .60 | | .03 |

DECISION #AQ-1027 (Cont'd)

MODIFICATIONS P. 40

| TRUCK DRIVERS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. |
|---|---|---|---|---|---|
| GROUP VI<br>BULK CEMENT SPREADER (7 AXLE); Concrete pump truck driver, (when integral part of transit mix truck); Dump (7 axle); Flatrack (7 axle); Hydro lift, Swedish crane, Iowa 300 and similar types; Ross carrier fork lift or lift truck; Transit mix, over 10.5 c.y. but less than 14 c.y. mixer | 7.02 | .50 | .60 | | .03 |
| GROUP VII<br>BULK CEMENT SPREADER (8 AXLE); Dump (8 axle); Flatrack (8 axle) | 7.38 | .50 | .60 | | .03 |
| GROUP VIII<br>OFF-HIGHWAY EQUIPMENT DRIVER (2 or 4 wheel power unit, i.e. Cat Dw series, Euclid, International, and similar type equipment, transporting material when top loaded or by external means, including pulling water tanks, fuel tank, or other teamsters classifications; Bulk cement spreader (9 axle); Dump (9 axle); Dumptor or dumpster, 16 c.y. and over; Eject-alls; Flatrack (9 axle); Rock truck (dart, euclid, or other similar end dump types) 16 c.y. and over | 7.825 | .50 | .60 | | .03 |
| HEAVY DUTY MECHANIC/WELDER | 8.66 | .50 | .60 | | .03 |
| HEAVY DUTY MECHANIC/WELDER HELPER | 6.70 | .50 | .60 | | .03 |
| FIELD EQUIPMENT SERVICEMAN or FUEL Truck Driver | 8.39 | .50 | .60 | | .03 |

NOTICES



MODIFICATIONS P. 41

| | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| Decision # AQ-2002 - Mod. #3<br>( 38 FR 20200 - July 27, 1973)<br>Statewide Delaware | | | | | | |
| CHANGE: | | | | | | |
| Bricklayers | $8.60 | .60 | .85 | | | |
| Painters: | | | | | | |
| Brush | 7.31 | .50 | .20 | | .01 | |
| Tanks, sandblasting & spray | 7.81 | .50 | .20 | | .01 | |
| Roofers: | | | | | | |
| Composition, damp & waterproofing | 8.815 | 1.00 | .55 | e | | |
| DECISION #AP-196 - Mod. #1<br>(38 FR 15229 - June 8, 1973)<br>Bay County, Florida | | | | | | |
| Omit: | | | | | | |
| Plumbers & steamfitters: Commercial & Residential including Tyndall Air Force Base | $4.50 | .15 | .15 | | | |
| Plumbers & pipefitters (Industrial) | 7.35 | .35 | .40 | d | .02 | |
| Footnote: | | | | | | |
| d. 3 paid holidays: Labor Day Christmas Day & Thanksgiving Day. | | | | | | |
| Add: | | | | | | |
| Painters, brush | 4.50 | | | | | |
| Painters, spray | 4.50 | | | | | |
| Plumbers & pipefitters | 7.70 | .35 | .50 | d | .02 | |
| Footnote: | | | | | | |
| d. 5 paid holidays: Independence Day, Labor Day, Christmas Day, Christmas Eve, & Thanksgiving Day. | | | | | | |

MODIFICATIONS P. 42

| | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| DECISION #AQ-4000 - Mod. #2<br>(38 FR 19637 - July 20, 1973)<br>Fulton, Cobb & DeKalb Counties, Georgia | | | | | | |
| Change: | | | | | | |
| Building Construction | | | | | | |
| Electricians | $8.85 | 6% | 7% | | 4/10 of 1% | |
| Plumbers & Steamfitters | 8.20 | .35 | .50 | | .05 | |
| Power Equipment Operators: | | | | | | |
| Group A | 7.75 | .25 | .15 | | .07 | |
| Group B | 7.40 | .25 | .15 | | .07 | |
| Group C | 6.13 | .25 | .15 | | .07 | |
| Group D | 6.48 | .25 | .15 | | .07 | |
| Group E | 5.58 | .25 | .15 | | .07 | |
| Group F | 5.93 | .25 | .15 | | .07 | |
| Group G | 4.91 | .25 | .15 | | .07 | |
| DECISION #AQ-4001 - Mod. #2<br>(38 FR 19634 - July 20, 1973)<br>Chatham County, Georgia | | | | | | |
| Change: | | | | | | |
| Building Construction | | | | | | |
| Electricians: | | | | | | |
| Electricians | 7.00 | .30 | .20+ 1% | | .2% | |
| Cable splicers | 7.25 | .30 | .20+ 1% | | .2% | |
| DECISION #AR-532 - Mod. #2<br>(38 FR 13922 - May 25, 1973)<br>Sedgwick County, Kansas | | | | | | |
| Change: | | | | | | |
| Building Construction | | | | | | |
| Electricians | $7.95 | .35 | 1% | | 1% | |
| Glaziers | 6.85 | .35 | .27 | 6% | .01 | |
| Roofers: | | | | | | |
| Roofers; Kettlemen | 6.51 | .28 | .20 | | .02 | |
| DECISION #AP-141 - Mod. #1<br>(37 FR 25999 - December 1, 1972)<br>Boone, Campbell, Kenton, & Pendleton Counties, Kentucky | | | | | | |
| Add: | | | | | | |
| Pendleton County | | | | | | |

NOTICES





XUM 3 1 8 2 9 3 8 8 8 1 8 3 7

| | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| DECISION #AQ-4 - Mod. #2 (38 FR 19045 - July 20, 1973) Calcasieu Parish, Louisiana | | | | | | |
| Change: Carpenters: Piledrivermen | $6.955 | | | | .05 | |



| | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| DECISION #AP-158 - Mod. #3 (38 FR 4636 - February 16, 1973) Hinds County, Mississippi | | | | | | |
| Change: Building Construction: Carpenters: | | | | | | |
| Carpenters & soft floor layers | $6.00 | .25 | .10 | | .05 | |
| Millwrights | 6.35 | .25 | .10 | | .05 | |
| Piledrivermen | 6.35 | .25 | .10 | | .05 | |
| Electricians | 6.65 | | 1%+.50 | | 1/10of1% | |
| Cable splicers | 6.90 | | 1%+.50 | | 1/10of1% | |
| Line Construction: | | | | | | |
| Linemen | 7.06 | | 1% | c | | |
| Groundmen (over 1 year) | 4.29 | | 1% | c | | |
| Groundmen (less than a year) | 3.95 | | 1% | c | | |
| Cable splicers (Electric) | 7.36 | | 1% | c | | |
| DECISION #AP-159 - Mod. #3 (38 FR 4638 - February 16, 1973) Harrison & Pearl River Counties, Mississippi | | | | | | |
| Change: Electricians | | | | | | |
| Electricians | $7.30 | .25 | .20+1% | | 1/8 of 1% | |
| Cable splicers | 7.55 | .25 | .20+1% | | 1/8 of 1% | |
| Line Construction: | | | | | | |
| Linemen | 6.80 | .25 | .20+1% | | 1/8 of 1% | |
| Cable splicers | 7.05 | .25 | .20+1% | | 1/8 of 1% | |
| Groundmen: | | | | | | |
| 1st 6 months | 3.40 | .25 | .20+1% | | 1/8 of 1% | |
| Thereafter | 4.08 | .25 | .20+1% | | 1/8 of 1% | |
| Plumbers & steamfitters | 7.35 | .18 | .20 | | .01 | |







| | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| DECISION #AQ-26 - Mod. #2 (38 FR 24541 - September 7, 1973) Douglas and Sarpy Counties, Nebraska | | | | | | |
| Add: HEAVY & HIGHWAY CONSTRUCTION Ironworkers, Ornamental | $7.00 | .25 | .20 | .20 | | |
| DECISION #AP-740 - Mod. #4 (38 FR 16118 - July 6, 1973) Statewide, New Mexico | | | | | | |
| Change: Electricians (Eddy and Lea Counties) The following zones shall be designated from the main post office of Artesia, Carlsbad, Hobbs and Lovington: | | | | | | |
| Zone (a) 0 to 12 miles from main Post Office: | | | | | | |
| Electricians | $7.10 | .25 | 1% | | .01 | |
| Cable splicers | 7.15 | .25 | 1% | | .01 | |
| Zone (b) 12 to 22 miles from main Post Office: | | | | | | |
| Electricians | 7.45 | .25 | 1% | | .01 | |
| Cable splicers | 7.80 | .25 | 1% | | .01 | |
| Zone (c) 22 to 40 miles beyond main Post Office: | | | | | | |
| Electricians | 7.60 | .25 | 1% | | .01 | |
| Cable splicers | 7.95 | .25 | 1% | | .01 | |
| Zone (d) 40 miles and beyond main Post Office: | | | | | | |
| Electricians | 7.85 | .25 | 1% | | .01 | |
| Cable splicers | 8.20 | .25 | 1% | | .01 | |



| | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| DECISION #AQ-1011 - Mod. #2 (38 FR 21716 - August 10, 1973) Burleigh, Cass, Grand Forks, Morton, Richland, Steele, Walsh and Ward Counties, North Dakota | | | | | | |
| Change: Sheet Metal Workers Burleigh, Grand Forks, Morton, Steele and Ward Counties | $8.00 | | | | | |
| Laborers (Building Construction) | | | | | | |
| Grand Forks and Steele Counties | | | | | | |
| Laborers; Concrete dumpman | 5.12 | | | | | |
| All power tool operators (under the laborers' jurisdiction); Brick and plaster tenders; Cutting torch for demolition | 5.27 | | | | | |
| Hod carriers; Non-metallic pipelayers; Gas line wrapping or taping (distribution only) | 5.47 | | | | | |
| Burleigh and Morton Counties | | | | | | |
| Common laborers; Concrete bucket man; Brick and plaster tenders; All power tools (under the laborers' jurisdiction); Mortar mixers; Hod carriers; Non-Metallic pipelayers; Gas line wrapping or taping | 4.40 | | | | | |
| Cass and Richland Counties | | | | | | |
| Laborers; Concrete dumpman | 4.64 | | | | | |
| Jackhammer; Mortar mixer; Plasterers and brick tenders; Power tool operators | 4.79 | | | | | |
| Ward County | | | | | | |
| Laborers; Concrete bucket dumpman | 4.64 | | | | | |
| Mortar mixers; Plaster tenders; Cutting torch for demolition; All power tool operators (under laborers' jurisdiction) | 4.74 | | | | | |
| Non-metallic pipelayers; Gas line wrapping or taping (distribution only) | 4.89 | | | | | |
| Walsh County | 2.75 | | | | | |





XUM

MODIFICATIONS P. 47

DECISION #AQ-22 - Mod. #1
(38 FR 23735 - August 31, 1973)
Oklahoma, Cleveland, Canadian, Lincoln, and Pottawatomie Counties, Oklahoma

Change:
Line Construction schedule - See below

DECISION #AQ-23 - Mod. #2
(38 FR 23738 - August 31, 1973)
Tulsa County, Oklahoma

Change:
Line Construction schedule - See below

OKLAHOMA LINE CONSTRUCTION

| | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. |
| LINE CONSTRUCTION | | | | | |
| Lineman | $7.25 | | 1% | | ½% |
| Cable Splicer | 7.65 | | 1% | | ½% |
| Hole Digger Operator | 6.58 | | 1% | | ½% |
| Heavy Equipment Operator (or Pole Cat Equivalent) | 6.58 | | 1% | | ½% |
| Line Truck Driver (Winch Operator) | 5.95 | | 1% | | ½% |
| Jack Hammerman | 5.43 | | 1% | | ½% |
| Powderman | 6.58 | | 1% | | ½% |
| Groundman | 4.84 | | 1% | | ½% |
| Truck Driver (Flat Bed, ton and half and under) | 5.12 | | 1% | | ½% |

MODIFICATIONS P. 48

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| Decision #AQ-2012 - Mod. #1 (38 FR 22344 - August 17, 1973) Philadelphia County, Pennsylvania | | | | | | |
| CHANGE: | | | | | | |
| Cement Masons | $8.00 | .84 | .50 | | | |
| Electricians | 10.11 | 5% | 4% | | 2% | |
| Ironworkers: | | | | | | |
| Structural | 9.32 | .64 | 1.06 | | .04 | |
| Ornamental | 9.32 | .64 | 1.06 | | .04 | |
| Reinforcing | 9.32 | .64 | 1.06 | | .04 | |
| Piledrivermen | 9.42 | 1.23 | .55 | f | .07 | |
| Plasterers | 9.02 | .53 | | | .01 | |
| Roofers: | | | | | | |
| State tile and asbestos | 8.75 | 1.00 | .50 | | | |
| State, tile and asbestos helpers | 5.39 | 1.00 | .50 | | | |
| Asphalt shingle | 7.34 | 1.00 | .50 | | | |
| Asphalt shingle helper | 5.39 | 1.00 | .50 | | | |

FOOTNOTE:
f. Paid Holidays: Washington's Birthday, Good Friday, Memorial Day, Labor Day; Presidential Election Day, Veteran's Day and Thanksgiving Day.

| | | | | | | |
|---|---|---|---|---|---|---|
| Decision #AQ-2,013 - Mod. #1 (38 FR 22347 - August 17, 1973) Montgomery County, Pennsylvania | | | | | | |
| CHANGE: | | | | | | |
| Cement Masons: | | | | | | |
| Remainder of County | 8.00 | .84 | .50 | | | |
| Electricians: | | | | | | |
| Springfield, Glenside, Jenkingtown twp. | 10.11 | 5% | 4% | | 2% | |
| Ironworkers: | | | | | | |
| Structural | 9.32 | .64 | 1.06 | | .04 | |
| Ornamental | 9.32 | .64 | 1.06 | | .04 | |
| Reinforcing | 9.32 | .64 | 1.06 | | .04 | |
| Piledrivenmen | 9.42 | 1.23 | .55 | k | .07 | |
| Plasterers: | | | | | | |
| Remainder of County | 9.02 | .53 | | | .01 | |
| Roofers: | | | | | | |
| State, tile and asbestos | 8.75 | 1.00 | .50 | | | |
| State, tile and asbestos helpers | 5.39 | 1.00 | .50 | | | |
| Asphalt shingle | 7.34 | 1.00 | .50 | | | |
| Asphalt shingle helper | 5.39 | 1.00 | .50 | | | |

FOOTNOTE:
k. Paid Holidays: Washington Birthday, Good Friday, Memorial Day, Labor Day, Presidential Day, Election Day, Veteran's Day and Thansgiving Day.



MODIFICATIONS P. 49

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| Decision #AQ-2014 - Mod. #1 (38 FR 22350 - August 17, 1973) Delaware County, Pennsylvania | | | | | | |
| CHANGE: | | | | | | |
| Cement Masons | $8.00 | .84 | .50 | | | |
| Ironworkers: | | | | | | |
| Structural | 9.32 | .64 | 1.06 | | .04 | |
| Ornamental | 9.32 | .64 | 1.06 | | .04 | |
| Reinforcing | 9.32 | .64 | 1.06 | | .01 | |
| Piledrivermen | 9.42 | 1.23 | .55 | f | .07 | |
| Plasterers | 9.02 | .53 | | | .01 | |
| Roofers: | | | | | | |
| State, tile and asbestos | 8.75 | 1.00 | .50 | | | |
| State, tile and asbestos helpers | 5.39 | 1.00 | .50 | | | |
| Asphalt shingle | 7.34 | 1.00 | .50 | | | |
| Asphalt shingle helper | 5.39 | 1.00 | .50 | | | |

FOOTNOTE:
f. Paid Holidays: Washington Birthday, Good Friday, Memorial Day, Labor Day, Presidential Election Day, Veteran's Day and Thanksgiving Day.

| | | | | | | |
|---|---|---|---|---|---|---|
| Decision #AQ-2,015 - Mod. #1 (38 FR 22353 - August 17, 1973) Bucks, Chester, Delaware, Montgomery and Philadelphia Counties, Pennsylvania. | | | | | | |
| CHANGE: | | | | | | |
| Cement Masons | $8.00 | .84 | .50 | | | |
| Electricians | 10.00 | 5% | 4% | | 2% | |
| Ironworkers: | | | | | | |
| Structural | 9.32 | .64 | 1.06 | | .04 | |
| Ornamental | 9.32 | .64 | 1.06 | | .04 | |
| Reinforcing | 9.32 | .64 | 1.06 | | .01 | |
| Piledrivermen | 9.42 | 1.23 | .55 | f | .07 | |
| Plasterers | 9.02 | .53 | | | .01 | |
| Roofers: | | | | | | |
| State, tile and asbestos | 8.75 | 1.00 | .50 | | | |
| State, tile and asbestos helpers | 5.39 | 1.00 | .50 | | | |
| Asphalt shingle | 7.34 | 1.00 | .50 | | | |
| Asphalt shingle helper | 5.39 | 1.00 | .50 | | | |

FOOTNOTE:
f. Paid Holidays: Washington's Birthday, Good Friday, Memorial Day, Labor Day, Presidential Election Day, Veteran's Day, and Thanksgiving Day.

MODIFICATIONS P. 50

| | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| DECISION #AP-721 - Mod. #6 (38 FR 10585 - April 27, 1973) Bexar County, Texas | | | | | | |
| Omit: | | | | | | |
| Building Construction: | | | | | | |
| Truck drivers | $1.60 | | | | | |

| | | | | | | |
|---|---|---|---|---|---|---|
| DECISION #AP-729 - Mod. #6 (38 FR 10609 - April 27, 1973) Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Parker, Rockwall, Tarrant & Wise Counties, Texas | | | | | | |
| Change: | | | | | | |
| Building Construction: | | | | | | |
| Cement masons: | | | | | | |
| Denton, Hood, Johnson, Palo Pinto, Parker, Tarrant & Wise Counties | 7.125 | .25 | .45 | | | |
| Roofers: | | | | | | |
| Grayson, Collin, Dallas, Ellis, Hunt, Kaufman & Rockwall Counties: | | | | | | |
| Slate & tile | 7.145 | | | | | |
| Composition and built-up roofing, damp proofing & bituminous waterproofing | 6.995 | | | | | |
| Omit: | | | | | | |
| Building Construction: | | | | | | |
| Truck drivers: | | | | | | |
| Grayson County | 1.75 | | | | | |

| | | | | | | |
|---|---|---|---|---|---|---|
| DECISION #AQ-10 - Mod. #2 (38 FR 21082 - August 3, 1973) Travis County, Texas | | | | | | |
| Omit: | | | | | | |
| Building Construction: | | | | | | |
| Truck drivers | 1.60 | | | | | |
| Truck drivers winch | 1.60 | | | | | |

| | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| Decision #AP-499 - Mod. #6 (38 FR 8410 - March 30, 1973) Henrico County and the City of Richmond, Virginia | | | | | | |
| CHANGE: | | | | | | |
| Carpenters | $6.20 | .20 | .20 | | .01 | |
| Laborers: | | | | | | |
| Common | 3.90 | .10 | .10 | | .03 | |
| Tenders, concrete saw operator, air tool vibrator, nozzlemen (gunite & sand blasting), motorized buggy operator | 4.00 | .10 | .10 | | .03 | |
| Mortar mixers, hod carriers, pipelayers and/or caulkers | 4.15 | .10 | .10 | | .03 | |
| Burners on wrecking | 4.25 | .10 | .10 | | .03 | |
| Soft floor layers | 6.20 | .20 | .20 | | .01 | |
| Decision #AP-833 - Mod. #4 (38 FR 14078 - May 25, 1973) The Cities of Norfolk, Chesapeake, Portsmouth and Virginia Beach, Virginia. | | | | | | |
| CHANGE: | | | | | | |
| Ironworkers: | | | | | | |
| Structural, ornamental, machinery movers, riggers, fence erector & reinforcing | 6.75 | .45 | .30 | | .03 | |
| Carpenters | 6.20 | .20 | .20 | | .01 | |
| Soft floor layers | 6.20 | .20 | .20 | | .01 | |
| Laborers: | | | | | | |
| Common | 3.90 | .10 | .10 | | .03 | |
| Tenders, concrete saw operator, air tool vibrator, nozzlemen (gunite & sandblasting), motorized buggy operator | 4.00 | .10 | .10 | | .03 | |
| Mortar mixers, hod carriers, pipelayers and/or caulkers | 4.15 | .10 | .10 | | .03 | |
| Burners on wrecking | 4.25 | .10 | .10 | | .03 | |





SUPERSEDEAS DECISION

STATE: Kansas COUNTY: Shawnee
DECISION NO.: AQ-32 DATE: Date of Publication
Supersedes Decision No. AM-6,717, dated April 14, 1972, in 37 FR 7458.
DESCRIPTION OF WORK: Building construction, (excluding single family homes and garden type apartments up to and including 4 stories).

10-Kansas-1-q (1-2)

| BUILDING CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| ASBESTOS WORKERS | $8.40 | .30 | .30 | | .02 | |
| BOILERMAKERS | 8.25 | .30 | 1.00 | | .02 | |
| BRICKLAYERS; Stonemasons | 7.70 | .35 | .25 | | | |
| CARPENTERS: | | | | | | |
| Carpenters | 7.10 | .35 | .25 | | .05 | |
| Millwrights; Piledrivermen | 7.475 | .35 | .25 | | .05 | |
| CEMENT MASONS: | | | | | | |
| Cement masons | 7.05 | .35 | .25 | | | |
| Machine operators | 7.175 | .35 | .25 | | | |
| Composition color or chloride additives | 7.2 | .35 | .25 | | | |
| ELECTRICIANS: | | | | | | |
| Electricians | 8.35 | .25 | 1% + .30 | | 2/10% | |
| Cable splicers | 9.185 | .25 | 1% + .30 | | 2/10% | |
| ELEVATOR CONSTRUCTORS | 7.57 | .195 | .20 | 2%+a+b | | |
| ELEVATOR CONSTRUCTORS' HELPERS | 70%JR | .195 | .20 | 2%+a+b | | |
| ELEVATOR CONSTRUCTORS' HELPERS (PROB.) | 50%JR | | | | | |
| GLAZIERS | 6.49 | .35 | .20 | 5% + c | .01 | |
| IRONWORKERS: | | | | | | |
| Ornamental; Structural | 8.50 | .40 | .40 | .80 | .05 | |
| Reinforcing | 8.50 | .40 | .40 | .80 | .05 | |
| LABORERS: | | | | | | |
| General laborer | 6.00 | .35 | .25 | | | |
| Power tool operators; Compactors; Concrete breakers; Chipping tools; Drilling tools; Concrete saws, Mechanically operated Georgia buggy | 6.20 | .35 | .25 | | | |
| Mason tenders; Plaster tenders; Mortar mixers for masons and cement finishers; All stocking scaffold; Clean up for masons (building and wrecking) | 6.30 | .35 | .25 | | | |
| Sand and concrete gun nozzleman and powderman | 6.40 | .35 | .25 | | | |
| LATHERS | 6.675 | | .20 | .25 | | |
| PAINTERS: | | | | | | |
| Brush; Drywall; Sanding; Taping | 6.85 | .35 | | | .01 | |
| Painting of structures over 50' (all types) | 7.45 | .35 | | | .01 | |
| Spray | 7.75 | .35 | | | .01 | |
| PLASTERERS | 7.75 | | | | .01 | |
| PLUMBERS: Steamfitters | 8.75 | .15 | .20 | | .02 | |
| ROOFERS: | | | | | | |
| Flat, Slate & Tile; Damppfoofers and Waterproofers | 7.16 | .18 | .40 | | | |
| SHEET METAL WORKERS | 7.05 | .15 | .57 | .57 | .01 | |
| SOFT FLOOR LAYERS | 6.875 | .275 | .20 | 7% | .03 | |
| SPRINKLER FITTERS | 8.75 | .25 | .40 | | .05 | |

AQ-32 P. 2

10-Kansas-1-q (2-2)

| BUILDING CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| TILE SETTERS | 7.00 | | | | | |
| TILE SETTERS' HELPERS | 4.50 | | | | | |
| TRUCK DRIVERS: | | | | | | |
| Light, Pickups, Station wagons | 6.225 | .35 | .25 | | | |
| Medium flat beds & dumps, 5 tons or less; Warehousemen & partsmen | 6.325 | .35 | .25 | | | |
| Trucks over 5 tons & semi-trailers | 6.575 | .35 | .25 | | | |
| WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental. | | | | | | |
| PAID HOLIDAYS: | | | | | | |
| A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day. | | | | | | |
| FOOTNOTES: | | | | | | |
| a. 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rate. | | | | | | |
| b. Paid Holidays: A through F. | | | | | | |
| c. Paid Holidays: A through F, plus Friday after Thanksgiving Day. | | | | | | |
| LINE CONSTRUCTION: | | | | | | |
| Lineman | $7.06 | .35 | 1% | | 1/2% | |
| Cable splicers | 7.41 | .35 | 1% | | 1/2% | |
| Groundman, over 1 year | 4.41 | .35 | 1% | | 1/2% | |
| Groundman, 1st year | 3.37 | .35 | 1% | | 1/2% | |
| Powderman | 5.86 | .25 | 1% | | 1/2% | |
| Line truck & equipment operator: | | | | | | |
| 1st year | 4.52 | .35 | 1% | | 1/2% | |
| 2nd year | 5.39 | .35 | 1% | | 1/2% | |
| Over 2 years' experience | 5.86 | .35 | 1% | | 1/2% | |





XUM 37 8 2 JUS 88-1-83

AQ-32 P. 3

Kansas 2-PEO-1-K

| BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | C |
|---|---|---|---|---|---|---|
| GROUP I | | | | | | |
| Frankie-type pile driving machine; tower cranes and derricks; Boiler (2); boom cat, boring machine, ditching machine; concrete ready-mix plant; crane, truck crane, clamshell, dragline; dozer, scraper all types, patrol; firemen (when operating steam or air valve); gradall; hi-loaders; hoist, two drum; locomotive; mechanic or welder; mixermobile; paver, or any other machine with power swing; piledriver operator; power shovel; pump, concrete or other material | $ 7.70 | .25 | .25 | .50 | .05 | |
| GROUP II | | | | | | |
| A-frame truck; barber-greene loader or similar type; boiler (1); ditching machine, small; elevator operator; firemen; fork lift; greaser, equipment; hoist, one active drum; hydra hammer; jeep ditcher; mixer, other than paver; power broom; pump, 4" or larger; small machine engineer; welding machine (1) | 7.30 | .25 | .25 | .50 | .05 | |
| GROUP III | | | | | | |
| Farm tractor (without attachments); and oiler | 6.50 | .25 | .25 | .50 | .05 | |
| GROUP IV | | | | | | |
| Crane, truck crane, clamshell, dragline; piledriver operator & power shovel: | | | | | | |
| 100 feet of boom or over (including jib); or 2 yard capacity or over | 7.95 | .25 | .25 | .50 | .05 | |
| Booms 200 feet and over | 8.20 | .25 | .25 | .50 | .05 | |
| Motor crane oiler | 6.75 | .25 | .25 | .50 | .05 | |
| Farm tractor with attachments | 6.75 | .25 | .25 | .50 | .05 | |
| Hoist, each additional drum over two - an additional .25¢ | | | | | | |

AQ-32 P. 4

Kans 1-Lab-2-3-E

| SITE PREPARATION & GRADING | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| LABORERS: | | | | | | |
| Board mat weavers & cable tiers; georgia buggy (manually operated); Mixerman-no skip; lift; Nailers, Salamander Tenders; Track men; Tractor Swamper; Truck Dumper; Wire Mesh Setter; Water Pump up to 4 inch; & all other general laborer including flagman | $5.00 | .35 | .25 | | | |
| Air tool operators; Cement Handlers (Bulk); Chain Saw; Georgia Buggy (Mechanically operated); Grade Man; Hot Mastic Kettlemen; Crusher Feeder; Joint Man; Jute Man; Mason Tender; Material Batch Hopper & Scale man; Mixer Men; Pier Hole Man Working 10 feet deep; Pipelayer - Drainage (concrete and/or corrugated metal); Signal Man (Crane); Truck Dumper - Dry Batch; Vibrator Operator; Wagon and Churn Drill Operator | 5.15 | .35 | .25 | | | |
| Asphalt Raker, Barco Tamper; Concrete Saw; Creosote Material - Handling & Applying; Nozzle Burner (cutting torch) | 5.25 | .35 | .25 | | | |
| Conduit Pipe; Tile & Duct Line Setter; Form Setter & Liner on concrete paving; Powderman; Sandblasting & Gunite Nozzleman; Sanitary Sewer Pipe Layer | 5.40 | .35 | .25 | | | |
| Leadmen or Pusher | 5.50 | .35 | .25 | | | |







AQ-32 P. 5

Site Preparation & Grading

Kansas 1 PEO 2 J (1-2)

| POWER EQUIPMENT OPERATORS | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| Master Mechanic | $ 6.50 | .25 | .25 | .25 | .05 | |
| Group I | | | | | | |
| Asphalt Paver & Spreader; Back Hoe; Boring Machine; Clam Shell; Concrete Mixer Paver Operator; Concrete Central Plant Operator (Automatic); Crane, Truck Crane, Pitman Crane, Hydro Crane or any machine with power swing; Derrick or derrick trucks; Dragline Operator; Dredge Operator; Ditching Machine; Euclid Loader; Hoist - 2 active drums; Loader, all types; Mechanic or welder; Mixermobile; Multi-unit Scraper; Pile Driver Operator; Power Shovel Operator; Quad Track; Sideboom Cat - Cherry Picker; Skimmer Scoop Operator | 6.25 | .25 | .25 | .25 | .05 | |
| Group II | | | | | | |
| Asphalt Plant Operator; Elevating Grader Operator; Pushcat Operator | 6.00 | .25 | .25 | .25 | .05 | |
| Blades, all types; Dozer; Scoop Operator, all types | 6.25 | .25 | .25 | .25 | .05 | |
| Group III | | | | | | |
| A-Frame Truck; Asphalt Roller Operator; Asphalt Plant Boiler Fireman; Back Filler Operator; Barber-Green Loader; Boiler - other than asphalt; Bull Float Operator; Churn Drill Operator; Compressor Operator (1); Concrete Central Plant Operator; Concrete Mixer Operator Skip; Concrete Pump Operator; Crusher Operator; Distributor Operator; Finish Machine Operator - Concrete; Fireman other than asphalt; Flex Plane Operator; Fork Lift; Form Grader Operator; Greaser; Hoist - 1 drum; Jeep Ditching Machine; Pavement Breaker, self-propelled (of the Hydra Hammer or similar type); Pump Operator, 4" or over, two; Pump Operator, other than dredge; Screening & Wash Plant Operator; Small Machine Operator; Spreader Box Operator, self-propelled; Tractor Operator over 50 h.p. | 5.75 | .25 | .25 | .25 | .05 | |

AQ-32 P. 6

Kansas 1 PEO 2 J (2-2)

| SITE PREPARATION & GRADING POWER EQUIPMENT OPERATORS (CONT'D) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| Group III (Cont'd) | | | | | | |
| Self-propelled Roller Operator, other than asphalt; Siphone & Jets; Subgrading Machine Operator; Tank Car Heater Operator, combination booster & boiler; Towboat Operator; Vibrating Machine Operator, not hand | $ 5.75 | .25 | .25 | .25 | .05 | |
| Group IV | | | | | | |
| Concrete Gang Saw, self-propelled (concut); Conveyor Operator; Harrow, disc seeder; Oiler; Tractor Operator, 50 h.p. or less without attachments | 5.40 | .25 | .25 | .25 | .05 | |
| Group V | | | | | | |
| Oiler, motor crane | 5.50 | .25 | .25 | .25 | .05 | |

SITE PREPARATION & GRADING

| TRUCK DRIVERS: | | | | | | |
|---|---|---|---|---|---|---|
| Pickups, panel trucks, station wagons | $ 4.42 | .275 | .25 | | | |
| Flat beds, dump and batch trucks, single axle | 4.57 | .275 | .25 | | | |
| Tandem trucks | 4.62 | .275 | .25 | | | |
| Lowboys, semi-trailers, all transit mixer trucks (single or tandem axle) A-frame and winch trucks when used as such | 4.67 | .275 | .25 | | | |
| Euclid, end and bottom dump, tournarockers, athey, dumpsters and similar off-road equipment and mechanics on such equipment | 4.70 | .275 | .25 | | | |
| Warehousemen or partsmen, mechanic helper | 4.67 | .275 | .25 | | | |
| Servicemen | 4.67 | .275 | .25 | | | |



XUM

SUPERSEDEAS DECISION

STATE: Kansas
DECISION NO.: AQ-33
COUNTY: Shawnee
DATE: Date of Publication
Supersedes Decision No. AP-501, dated August 11, 1972, in 37 FR 16312.
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

10-Kansas-1-q (1-2)

| BUILDING CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| ASBESTOS WORKERS | $ 8.40 | .30 | .30 | | .02 | |
| BOILERMAKERS | 8.25 | .30 | 1.00 | | .02 | |
| BRICKLAYERS; Stonemasons | 7.70 | .35 | .25 | | | |
| CARPENTERS: | | | | | | |
| Carpenters | 7.10 | .35 | .25 | | .05 | |
| Millwrights; Piledrivermen | 7.475 | .35 | .25 | | .05 | |
| CEMENT MASONS: | | | | | | |
| Cement masons | 7.05 | .35 | .25 | | | |
| Machine operators | 7.175 | .35 | .25 | | | |
| Composition color or chloride additives | 7.2. | .35 | .25 | | | |
| ELECTRICIANS: | | | | | | |
| Electricians | 8.35 | .25 | 1% + .30 | | 2/10% | |
| Cable splicers | 9.185 | .25 | 1% + .30 | | 2/10% | |
| GLAZIERS | 6.49 | .35 | .20 | 5% + a | .01 | |
| IRONWORKERS: | | | | | | |
| Ornamental; Structural | 8.50 | .40 | .40 | .80 | .05 | |
| Reinforcing | 8.50 | .40 | .40 | .80 | .05 | |
| LABORERS: | | | | | | |
| General laborer | 6.00 | .35 | .25 | | | |
| Power tool operators; Compactors; Concrete breakers; Chipping tools; Drilling tools; Concrete saws, Mechanically operated Georgia buggy | 6.20 | .35 | .25 | | | |
| Mason tenders; Plaster tenders; Mortar mixers for masons and cement finishers; All stocking scaffold; Clean up for masons (building and wrecking) | 6.30 | .35 | .25 | | | |
| Sand and concrete gun nozzleman and powderman | 6.40 | .35 | .25 | | | |
| LATHERS | 6.675 | | .20 | .25 | | |
| PAINTERS: | | | | | | |
| Brush; Drywall; Sanding; Taping | 6.85 | .35 | | | .01 | |
| Painting of structures over 50' (all types) | 7.45 | .35 | | | .01 | |
| Spray | 7.75 | .35 | | | .01 | |
| PLASTERERS | 7.75 | | | | .01 | |
| PLUMBERS; Steamfitters | 8.75 | .15 | .20 | | .02 | |
| ROOFERS: | | | | | | |
| Flat, Slate & Tile; Dampproofers and Waterproofers | 7.16 | .18 | .40 | | | |
| SHEET METAL WORKERS | 7.05 | .15 | .57 | .57 | .01 | |
| SOFT FLOOR LAYERS | 6.875 | .275 | .20 | 7% | .03 | |
| SPRINKLER FITTERS | 8.75 | .25 | .40 | | .05 | |

AQ-33 P. 2

10-Kansas-1-q (2-2)

| BUILDING CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| TILE SETTERS | 7.00 | | | | | |
| TILE SETTERS' HELPERS | 4.50 | | | | | |
| TRUCK DRIVERS: | | | | | | |
| Light, Pickups, Station wagons | 6.225 | .35 | .25 | | | |
| Medium flat beds & dumps, 5 tons or less; Warehousemen & partsmen | 6.325 | .35 | .25 | | | |
| Trucks over 5 tons & semi-trailers | 6.575 | .35 | .25 | | | |

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Friday after Thanksgiving Day.

FOOTNOTES:

b. Paid Holidays: A through G.

LINE CONSTRUCTION:

| | | | | | |
|---|---|---|---|---|---|
| Lineman | $7.06 | .35 | 1% | | 1/2% |
| Cable splicers | 7.41 | .35 | 1% | | 1/2% |
| Groundman, over 1 year | 4.41 | .35 | 1% | | 1/2% |
| Groundman, 1st year | 3.37 | .35 | 1% | | 1/2% |
| Powderman | 5.86 | .25 | 1% | | 1/2% |
| Line truck & equipment operator: | | | | | |
| 1st year | 4.52 | .35 | 1% | | 1/2% |
| 2nd year | 5.39 | .35 | 1% | | 1/2% |
| Over 2 years' experience | 5.86 | .35 | 1% | | 1/2% |



AQ-33 P. 3

Kansas 2-1280-1-K

| BUILDING CONSTRUCTION POWER EQUIPMENT OPERATORS | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| GROUP I | | | | | | |
| Frankie-type pile driving machine; tower cranes and derricks; Boiler (2); boom cat, boring machine, ditching machine; concrete ready-mix plant; crane, truck crane, clamshell, dragline; dozer, scraper all types, patrol; firemen (when operating steam or air valve); gradall; hi-loaders; hoist, two drum; locomotive; mechanic or welder; mixermobile; paver, or any other machine with power swing; piledriver operator; power shovel; pump, concrete or other material | $ 7.70 | .25 | .25 | .50 | .05 | |
| GROUP II | | | | | | |
| A-frame truck; barber-greene loader or similar type; boiler (1); ditching machine, small; elevator operator; firemen; fork lift; greaser, equipment; hoist, one active drum; hydra hammer; jeep ditcher; mixer, other than paver; power broom; pump, 4" or larger; small machine engineer; welding machine (1) | 7.30 | .25 | .25 | .50 | .05 | |
| GROUP III | | | | | | |
| Farm tractor (without attachments); and oiler | 6.50 | .25 | .25 | .50 | .05 | |
| GROUP IV | | | | | | |
| Crane, truck crane, clamshell, dragline; piledriver operator & power shovel: | | | | | | |
| 100 feet of boom or over (including jib); or 2 yard capacity or over | 7.95 | .25 | .25 | .50 | .05 | |
| Booms 200 feet and over | 8.20 | .25 | .25 | .50 | .05 | |
| Motor crane oiler | 6.75 | .25 | .25 | .50 | .05 | |
| Farm tractor with attachments | 6.75 | .25 | .25 | .50 | .05 | |
| Hoist, each additional drum over two - an additional .25¢ | | | | | | |

AQ-33 P. 4

Kansas 1-Lab-2-3-E

| SITE PREPARATION & GRADING | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| LABORERS: | | | | | | |
| Board mat weavers & cable tiers; georgia buggy (manually operated); Mixerman-no skip; lift; Nailers, Salamander Tenders; Track men; Tractor Swamper; Truck Dumper; Wire Mesh Setter; Water Pump up to 4 inch; & all other general laborer including flagman | $5.00 | .35 | .25 | | | |
| Air tool operators; Cement Handlers (Bulk); Chain Saw; Georgia Buggy (Mechanically operated); Grade Man; Hot Mastic Kettlemen; Crusher Feeder; Joint Man; Jute Man; Mason Tender; Material Batch Hopper & Scale man; Mixer Man; Pier Hole Man Working 10 feet deep; Pipelayer - Drainage (concrete and/or corrugated metal); Signal Man (Crane); Truck Dumper - Dry Batch; Vibrator Operator; Wagon and Churn Drill Operator | 5.15 | .35 | .25 | | | |
| Asphalt Raker, Barco Tamper; Concrete Saw; Creosote Material - Handling & Applying; Nozzle Burner (cutting torch) | 5.25 | .35 | .25 | | | |
| Conduit Pipe; Tile & Duct Line Setter; Form Setter & Liner on concrete paving; Powderman; Sandblasting & Gunite Nozzleman; Sanitary Sewer Pipe Layer | 5.40 | .35 | .25 | | | |
| Leadmen or Pusher | 5.50 | .35 | .25 | | | |







XUM 3 1 8 2 3 M S 8 8 1 8 3 V

Site Preparation & Grading

Kansas 1 PEO 2 J (1-2)

| POWER EQUIPMENT OPERATORS | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| Master Mechanic | $ 6.50 | .25 | .25 | .25 | .05 | |
| Group 1 | | | | | | |
| Asphalt Paver & Spreader; Back Hoe; Boring Machine; Clam Shell; Concrete Mixer Paver Operator; Concrete Central Plant Operator (Automatic); Crane, Truck Crane, Pitman Crane, Hydro Crane or any machine with power swing; Derrick or derrick trucks; Dragline Operator; Dredge Operator; Ditching Machine; Euclid Loader; Hoist - 2 active drums; Loader, all types; Mechanic or welder; Mixermobile; Multi-unit Scraper; Pile Driver Operator; Power Shovel Operator; Quad Track; Sideboom Cat - Cherry Picker; Skimmer Scoop Operator | 6.25 | .25 | .25 | .25 | .05 | |
| Group II | | | | | | |
| Asphalt Plant Operator; Elevating Grader Operator; Pushcat Operator | 6.00 | .25 | .25 | .25 | .05 | |
| Blades, all types; Dozer; Scoop Operator, all types | 6.25 | .25 | .25 | .25 | .05 | |
| Group III | | | | | | |
| A-Frame Truck; Asphalt Roller Operator; Asphalt Plant Boiler Fireman; Back Filler Operator; Barber-Green Loader; Boiler - other than asphalt; Bull Float Operator; Churn Drill Operator; Compressor Operator (1); Concrete Central Plant Operator; Concrete Mixer Operator Skip; Concrete Pump Operator; Crusher Operator; Distributor Operator; Finish Machine Operator - Concrete; Fireman other than asphalt; Flex Plane Operator; Fork Lift; Form Grader Operator; Greaser; Hoist - 1 drum; Jeep Ditching Machine; Pavement Breaker, self-propelled (of the Hydra Hammer or similar type); Pump Operator, 4" or over, two; Pump Operator, other than dredge; Screening & Wash Plant Operator; Small Machine Operator; Spreader Box Operator, self-propelled; Tractor Operator over 50 h.p. | 5.75 | .25 | .25 | .25 | .05 | |



SITE PREPARATION & GRADING

Kansas 1 PEO 2 J (2-2)

| POWER EQUIPMENT OPERATORS (CONT'D) | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| Group III (Cont'd) | | | | | | |
| Self-propelled Roller Operator, other than asphalt; Siphone & Jets; Subgrading Machine Operator; Tank Car Heater Operator, combination booster & boiler; Towboat Operator; Vibrating Machine Operator, not hand | $ 5.75 | .25 | .25 | .25 | .05 | |
| Group IV | | | | | | |
| Concrete Gang Saw, self-propelled (concut); Conveyor Operator; Harrow, disc seeder; Oiler; Tractor Operator, 50 h.p. or less without attachments | 5.40 | .25 | .25 | .25 | .05 | |
| Group V | | | | | | |
| Oiler, motor crane | 5.50 | .25 | .25 | .25 | .05 | |

SITE PREPARATION & GRADING

| TRUCK DRIVERS: | | | | | | |
|---|---|---|---|---|---|---|
| Pickups, panel trucks, station wagons | $ 4.42 | .275 | .25 | | | |
| Flat beds, dump and batch trucks, single axle | 4.57 | .275 | .25 | | | |
| Tandem trucks | 4.62 | .275 | .25 | | | |
| Lowboys, semi-trailers, all transit mixer trucks (single or tandem axle) A-frame and winch trucks when used as such | 4.67 | .275 | .25 | | | |
| Euclid, end and bottom dump, tournarockers, athey's, dumpsters and similar off-road equipment and mechanics on such equipment | 4.70 | .275 | .25 | | | |
| Warehousemen or partsmen, mechanic helper | 4.67 | .275 | .25 | | | |
| Servicemen | 4.67 | .275 | .25 | | | |







SUPERSEDEAS DECISION

STATE: Kentucky
DECISION NUMBER: AQ-4013
Supersedes Decision No. AP-168 dated March 9, 1973 in 38 FR 6513.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

COUNTY: See Below*
DATE: Date of Publication

59-KY-1-G (1-2)

| *Counties: Boone, Campbell, Kenton & Pendleton. | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| Asbestos Workers | $9.21 | .30 | .85 | | .02 | |
| Boilermakers | 8.10 | .30 | .70 | .55 | .01 | |
| Boilermakers' Helpers | 7.85 | .30 | .70 | .55 | .01 | |
| Bricklayers | 9.745 | .45 | | | | |
| Carpenters: | | | | | | |
| Carpenters | 9.05 | .40 | .55 | | .025 | |
| Millwrights | 9.34 | .35 | .50 | | .05 | |
| Piledrivermen | 9.05 | .40 | .55 | | .025 | |
| Cement Masons | 9.045 | .35 | .50 | | .12 | |
| Electricians | 9.25 | .60 | 1% + .30 | | ½ of 1% | |
| Elevator Constructors | 8.53 | .195 | .20 | 2% +a&b | .005 | |
| Elevator Constructors' Helpers | 70%JR | .195 | .20 | 2% +a&b | .005 | |
| Elevator Constructors' Helpers (Prob.) | 50%JR | | | | | |
| Glaziers | 8.70 | | .35 | | .005 | |
| Ironworkers, Structural & Ornamental | 9.195 | .55 | .55 | | .03 | |
| Ironworkers, Reinforcing | 8.895 | .55 | .85 | | .015 | |
| Laborers: (Demolition) | | | | | | |
| Wrecking Laborers | 7.57 | .45 | .20 | | | |
| Jackhammer Operators | 7.72 | .45 | .20 | | | |
| Wallmen | 7.72 | .45 | .20 | | | |
| Burners | 7.72 | .45 | .20 | | | |
| Lathers | 9.845 | | | | .015 | |
| Lead Burners | 8.25 | .30 | | c | .01 | |
| Linemen | 9.25 | .60 | 1% + .30 | | .5% | |
| Marble Setters | 9.485 | .45 | | | | |
| Marble Setters' Helpers | 8.635 | | | | | |
| Painters, Brush: | | | | | | |
| Commercial | 8.80 | .35 | .15 | | | |
| Industrial | 8.95 | .35 | .15 | | | |
| Painters, spray: | | | | | | |
| Commercial | 9.05 | .35 | .15 | | | |
| Industrial | 9.20 | .35 | .15 | | | |
| Pipe Fitters | 9.20 | .60 | .775 | | .04 | |
| Plasterers | 9.445 | | .45 | | .01 | |
| Plumbers & Gas Fitters | 9.055 | .38 | .65 | | .05 | |
| Resilient Floor Layers | 7.80 | .40 | .40 | | .05 | |
| Roofers | 9.745 | | .30 | | | |
| Sheet Metal Workers | 8.995 | .40 | .70 | | .02 | |
| Sprinkler Fitters | 9.25 | .30 | .50 | | .05 | |
| Stone Masons | 9.485 | .45 | | | | |
| Terrazzo Workers: | | | | | | |
| Terrazzo Workers | 9.435 | .45 | | | | |
| Terrazzo Workers' Helpers & Grinders | 8.585 | | | | | |
| Terrazzo Base Grinder | 9.005 | | | | | |
| Tile Setters | 9.435 | .45 | | | | |
| Tile Setters' Helpers | 8.535 | | | | | |
| Tile Setters' Helpers (Prob.) | 75%JR | | | | | |



59-KY-1-G (2

PAID HOLIDAYS: (WHERE APPLICABLE)
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Six paid holidays; A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

c. Nine paid holidays: A through F plus Washington's Birthday, Good Friday and Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday.







XUM 3 7 8 2 UMS 8 8 1 8 3 V

| LABORERS: | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | O- |
|---|---|---|---|---|---|---|
| Common laborers, cement masons helpers, hand operated mechanical mule, mechanical sweeper, signal man | $7.85 | .45 | .20 | | | |
| Bottom man, pipe layers | 7.95 | .45 | .20 | | | |
| Burning torch operator, jack hammer, mechanical and air tamper operator, mechanical concrete buggies, power operated mechanical mule, concrete pump hose man, vibrator man | 8.00 | .45 | .20 | | | |
| Plasterers's tender, mason tender, stone mason tender, bottom jackhammer man | 8.05 | .45 | .20 | | | |
| Plaster mixer pump operator | 8.20 | .45 | .20 | | | |
| Tunnel laborer | 8.35 | .45 | .20 | | | |
| Gunnite nozzle operator | 8.60 | .45 | .20 | | | |



| POWER EQUIPMENT OPERATORS: | BASIC HOURLY RATES | FRINGE BENEFITS PAYMENTS H & W | PENSIONS | VACATION | APP. TR. | OTH |
|---|---|---|---|---|---|---|
| A-Frames, air compressor on steel erection, all rotary drills used on caisson work for foundations and substructure work, boiler operator or compressor operator when compressor or boiler is mounted on crane (piggy back operation), boom trucks (all types), cableways, cherry pickers, combination concrete mixer and tower, concrete pumps, cranes (all types), derricks (all types), draglines, elevating grader or euclid loader, floating equipment, gradalls, helicopter operator hoisting building materials, helicopter winch operator hoisting builders materials, hoes (all ypes), hoisting engines (two or more drums), lift slab or panel jack operators, locomotives (all types), maintenance engineer (mechanic or welder), mixer paving (multiple drum), mobile concrete pumps with boom, panelboard (all types on site), pile driver, power shovels, side booms, slip form pavers, straddle carriers (building construction on site), tower derricks, trench machines (over 24" wide) | $8.63 | .38 | .65 | | .09 | |
| Asphalt paver, bulldozer, CMI type equipment, endloaders, kohlman type loaders (dirt loading), mucking machines, power grader, power scoops, power scrapers, push cats | 8.56 | .38 | .65 | | .09 | |
| Air compressor (presurizing shafts or tunnels), all asphalt rollers, fork liifts, hoist (one drum), house elevators, man lift, power boilers (over 15 lbs., pressure), pump operator installing or operating well points or other type of dewatering system, pumps (4" & over discharge), submersible pumps (4" & over discharge), trenchers (24" and under) | 8.41 | .38 | .65 | | .09 | |







| POWER EQUIPMENT OPERATORS: | BASIC HOURLY RATES | FRINGE BENEFITS PAYMENTS H & W | PENSIONS | VACATION | APP. TR. | OTH |
|---|---|---|---|---|---|---|
| Compressors on building construction, conveyors (building material), gunite machines, mixers (capacity more than one bag), mixers (one bag capacity side loader), post driver, post driver, post hole digger, pavement breaker (hydraulic or cable), road widening trencher, rollers welder operator | 7.75 | .38 | .65 | | .09 | |
| Backfillers & tampers, batch plant, bar & joint installing machine, bull floats, burlap & curing machines, clefplanes, concrete spreading machines, crushers, drum fireman (asphalt), farm type tractor (pulling attachments), finishing machines form trenchers, high pressure pumps (over ½" discharge), hydro seeders, self propelled power spreaders, self propelled sub-grader, tire repairman, tractors pulling sheep foot roller or grader, vibratory compactors (with integral power) | 7.44 | .38 | .65 | | .09 | |
| Oiler, helper, signalman, light plant operator, power driven heaters (oil fired), power boilers (less than 15 lbs. pressure), pumps (under 4" discharge), submersible pumps (under 4" discharge) | 6.82 | .38 | .65 | | .09 | |



| TRUCK DRIVERS | BASIC HOURLY RATES | FRINGE BENEFITS PAYMENTS H & W | PENSIONS | VACATION | APP. TR. |
|---|---|---|---|---|---|
| 4-wheel service trucks, 4-wheel dump trucks | $5.41 | a $6.00 | | | |
| Batch trucks, oil distributors, asphalt distributors | 5.41 | a $6.00 | | | |
| Tandem trucks | 5.46 | a $6.00 | | | |
| Tractor-trailer combinations: Semitractor trucks, pole trailers, readymix trucks, fuel trucks | 5.51 | a $6.00 | | | |
| Asphalt-oil spray-bar man, when operated from cab | 5.71 | a $6.00 | | | |
| Euclid wagons, Euclid end-dumps, lowboys, heavy duty equipment over 12 cu. yds., capacity (irrespective of load carried) when used exclusively for transportation, truck mechanics | 5.88 | a $6.00 | | | |
| All trucks five axle and over | 5.61 | a $6.00 | | | |

FOOTNOTES:

a. Per week per employee.

SUPERSEDEAS DECISION

STATE: Montana
DECISION NUMBER: AQ-1,042
Supersedes Decision No. AP-914 dated June 29, 1973, in 38 FR 17396
DESCRIPTION OF WORK: Heavy and Highway Construction.

COUNTIES: Statewide
DATED: Date of Publication

| | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| CARPENTERS: | | | | | | |
| Carpenters | $6.36 | .30 | .45 | | .02 | |
| Piledrivermen; Sawfilers; Carpenters on charred and creosote wood | 6.51 | .30 | .45 | | .02 | |
| CEMENT MASONS (Eastern Counties): | | | | | | |
| Cement masons | 5.99 | .35 | .15 | | | |
| Grinder, bush hammer and clipping fan preparing finish surface; Epoxy | 6.14 | .35 | .15 | | | |
| CEMENT MASONS (Western Counties): | | | | | | |
| Cement masons | 6.24 | .35 | .15 | | | |
| Grinder, bush hammer and clipping fan preparing finished surface; Epoxy | 6.39 | .35 | .15 | | | |
| ELECTRICIANS: | | | | | | |
| Beaverhead, Jefferson, Madison and Silver Bow Counties | 7.10 | .30 | 1% | | 1/2% | |
| Deer Lodge, Granite and Powell Counties | 6.95 | | 1% | | 1/2% | |
| Gallatin County | 6.60 | .20 | 1% | | 1/2% | |
| Ravalli County | 7.00 | .20 | 1% | | 1/2% | |
| Broadwater, Lewis and Clark and Meagher Counties | | | | | | |
| Electricians | 7.00 | | 1% | | 1/2% | |
| Blaine, Hill Liberty and Phillips Cos. | | | | | | |
| Electricians | 6.80 | | 1% | | 1/2% | |
| Daniels, Sheridan and Valley Counties | | | | | | |
| Electricians | 6.40 | | 1% | | 1/2% | |
| Cascade, Chouteau, Glacier, Judith-Basin, Pondera, Teton and Toole Cos. | | | | | | |
| Electricians | 7.83 | .32 | 1% | | 1/2% | |
| Cable splicers | 8.08 | .32 | 1% | | 1/2% | |
| Flathead, Lake, Lincoln, Mineral, Missoula and Sanders | | | | | | |
| Electricians | 7.00 | .20 | 1% | | 1/2% | |
| Cable splicers | 7.40 | .20 | 1% | | 1/2% | |
| Big Horn, Carbon, Golden Valley, Musselshell, Powder River, Rosebud, Stillwater, Treasure and Yellowstone Counties | | | | | | |
| Electricians | 7.42 | .20 | 1% | | 1/2% | |
| Cable splicers | 7.87 | .20 | 1% | | 1/2% | |
| Fergus and Petroleum and Wheatland Cos. | | | | | | |
| (Electrical contracts less than $20,000) | 5.40 | | 1% | | 1/2% | |
| (Electricial contracts $20,000 or more) | 6.10 | | 1% | | 1/2% | |
| Park and Sweetgrass Counties | | | | | | |
| (Electrical contracts less than $25,000) | 6.05 | .20 | 1% | | 1/2% | |
| (Electrical contracts over $25,000) | 6.94 | .20 | 1% | | 1/2% | |



| ELECTRICIANS: (cont'd) | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| Carter, Daniels, Dawson, Fallon, McCone, Prairie, Richland, Roosevelt, Sheridan, Valley and Wibaux Counties | $6.40 | | 1% | | 1/2% | |
| Custer and Garfield Counties | 5.64 | | 1% | | 1/2% | |
| IRONWORKERS: | | | | | | |
| Beaverhead, Broadwater, Deer Lodge, Gallatin, Granite, Jefferson, Lewis & Clark, (Southern half including Wolf Creek), Madison, Park, Powell, Ravalli, and Silverbow Counties | 7.10 | .40 | .65 | | .05 | |
| Flathead, Glacier, Lake, Lincoln, Mineral, Missoula and Sander Counties | 7.56 | .48 | .65 | | .05 | |
| Remaining Counties | 7.03 | .40 | .65 | | .05 | |
| PAINTERS: | | | | | | |
| Beaverhead, Jefferson, Madison and Silverbow Counties: | | | | | | |
| Brush | 5.56 | | | | | |
| Roller, over 8 ft. | 6.06 | | | | | |
| Spray | 8.34 | | | | | |
| Big Horn, Carbon, Carter, Custer, Daniels, Dawson, Fallon, Garfield, Golden Valley, McCone, Musselshell, Petroleum, Phillips, Powder River, Prairie, Richland, Roosevelt, Rosebud, Sheridan, Stillwater, Treasure, Valley, Wilbaux and Yellowstone Counties | | | | | | |
| Brush | 5.84 | .25 | .20 | | | |
| Steel | 6.09 | .25 | .20 | | | |
| Spray | 6.82 | .25 | .20 | | | |
| Cascade, Chouteau, Fergus, Glacier, (excluding Glacier National Park), Judith Basin, Lewis & Clark Ny, Pondera, Teton and Toole Counties | | | | | | |
| Brush | 5.85 | .34 | .30 | | | |
| Brush on steel | 6.35 | .34 | .30 | | | |
| Spraying; Sandblasting | 8.10 | .34 | .30 | | | |
| Granite (Northern area, north limits of Phillipsburg), Lake (Southern area including City of Ronan), Mineral, Missoula, Powell (Northern area through south limits of Helmville), Ravalli and Sanders (Area south of Thompson Falls),Counties: | | | | | | |
| Brush; Spray; Sign painters | 6.56 | .30 | .15 | | | |
| Broadwater, Gallatin, Jefferson (N.E of the City of Boulder), Lewis & Clark (Southern area including the City of Craig), Madison (East of the west limits of the City of Harrison), Meagher, Park, Sweet-grass and Wheatland Counties | | | | | | |
| Brush | 6.11 | .25 | .20 | | | |
| Spray and steel | 7.11 | .25 | .20 | | | |
| Taping, hand | 6.86 | .25 | .20 | | | |





| PLUMBERS: | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| Flathead, Lake (Area north of the City of Ronan), Lincoln, and Sanders (Northern area including the City of Thomson Falls) Counties | $5.90 | .30 | .30 | | .02 | |
| Lake (Southern area incl. the City of Ronan), Mineral, Missoula and Sanders (Area south of Thompson Falls) Counties | 6.58 | .30 | .30 | | .05 | |
| Blaine, Cascade, Chouteau, Fergus, Glacier, Hill, Judith Basin, Liberty, McCone, Meagher, Phillips, Pondera, Roosevelt, Teton, Toole and Valley Cos. | 7.35 | .35 | .50 | | .04 | |
| Beaverhead, Broadwater, Deer Lodge, Gallatin, Granite, Jefferson, Lewis & Clark, Madison, Park, Powell, Silver-bow and Sweetgrass Counties | 7.50 | .25 | .35 | | .05 | |
| Big Horn, Carbon, Carter, Custer, Daniels, Dawson, Fallon, Garfield, Golden Valley, Musselshell, Petroleum, Powder River, Prairie, Richland, Rosebud, Sheridan, Stillwater, Treasure, Wheatland, Wibaux, and Yellowstone Counties | 7.30 | .40 | .40 | | 1½ | |
| SHEET METAL WORKERS: | | | | | | |
| Blaine, Cascade, Chouteau, Glacier, Hill, Judith Basin, Liberty, Pondera, Teton and Toole Counties | 6.18 | .32 | .10 | | .02 | |
| Gallatin County | 6.56 | .27 | .10 | | .02 | |
| Broadwater, Jefferson, (N½ incl. City of Boulder), Lewis and Clark and Meagher Counties | 6.88 | .22 | .10 | | | |
| Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli, and Sanders Counties | 6.88 | .22 | .10 | | .01 | |
| Big Horn, Carbon, Carter, Custer, Daniels, Dawson, Fallon, Fergus, Garfield, Golden Valley, McCone, Musselshell, Petroleum, Phillips, Powder River, Park, Prairie, Richland, Roosevelt, Rosebud, Sheridan, Still-water, Sweetgrass, Valley, Wheatland, Wibaux, Treasure and Yellowstone Cos. | 7.05 | .32 | .20 | | .02 | |
| Beaverhead, Deer Lodge, Granite, Jefferson (S½), Madison, Powell, and Silver bow Counties | 6.55 | .27 | .20 | | | |



MON-LAB-2-3-b

| LABORERS: | EASTERN COUNTIES / WESTERN COUNTIES Basic Hourly Rates | ALL COUNTIES Fringe Benefits Payments: H & W | Pensions | Vacation | App. |
|---|---|---|---|---|---|
| Asphalt Raker | $5.53 / $5.68 | .37 | .27 | | .03 |
| Axeman | 5.37 / 5.52 | .37 | .27 | | .03 |
| Car and Truck Loaders, Scissorman | 5.37 / 5.52 | .37 | .27 | | .03 |
| Caisson Workers (Free Air) | 5.53 / 5.68 | .37 | .27 | | .03 |
| Carpenter Tender | 5.37 / 5.52 | .37 | .27 | | .03 |
| Cement Handlers | 5.53 / 5.68 | .37 | .27 | | .03 |
| Cement Mason Tender | 5.53 / 5.68 | .37 | .27 | | .03 |
| Choker Setter | 5.53 / 5.68 | .37 | .27 | | .03 |
| Chuck Tender and Nipper (above ground) | 5.37 / 5.52 | .37 | .27 | | .03 |
| Concrete Laborers (wet or dry); Bucketman and Signalman | 5.53 / 5.68 | .37 | .27 | | .03 |
| Concrete or Asphalt Saw | 5.47 / 5.62 | .37 | .27 | | .03 |
| Concrete Vibrator (5" and over) | 5.58 / 5.73 | .37 | .27 | | .03 |
| Cosmolene applying and removing | 5.37 / 5.52 | .37 | .27 | | .03 |
| Core Drill | 5.97 / 6.12 | .37 | .27 | | .03 |
| Curb Machine | 5.47 / 5.62 | .37 | .27 | | .03 |
| Drills, Air-Tract, self-propelled, Cat or Truck mounted air operated | 5.63 / 5.78 | .37 | .27 | | .03 |
| Drills, Air-Tract, with Dual Masts | 5.73 / 5.88 | .37 | .27 | | .03 |
| Drills, Air-Tract, self-propelled, Mustang type or similar | 5.68 / 5.83 | .37 | .27 | | .03 |
| Dumpman (Spotter) | 5.37 / 5.52 | .37 | .27 | | .03 |
| Dumpman (Grademan) | 5.53 / 5.68 | .37 | .27 | | .03 |
| Fence Erector and Installer (Incl. installation and erection of fences, guard rails, median rails, reference posts, guide posts and right-of-way markers) | 5.37 / 5.52 | .37 | .27 | | .03 |
| Form Stripper | 5.37 / 5.52 | .37 | .27 | | .03 |
| Form Setter | 5.47 / 5.62 | .37 | .27 | | .03 |
| Grade Setter | 5.63 / 5.78 | .37 | .27 | | .03 |
| General Laborer | 5.37 / 5.52 | .37 | .27 | | .03 |
| Hand Faller | 5.45 / 5.60 | .37 | .27 | | .03 |
| High Scaler | 5.73 / 5.88 | .37 | .27 | | .03 |
| High Pressure Machine Nozzleman | 5.57 / 5.72 | .37 | .27 | | .03 |
| Heater Tender | 5.37 / 5.52 | .37 | .27 | | .03 |
| Jackhammer, Pavement Breaker, Wagon Drills, Concrete Vibrator, Mechanical Tamper, Vibrating Roller hand steered and other Air Tools | 5.53 / 5.68 | .37 | .27 | | .03 |
| Landscape Laborer | 5.37 / 5.52 | .37 | .27 | | .03 |
| Nozzleman-Air and Water, Gunite and Placo Machine | 5.47 / 5.62 | .37 | .27 | | .03 |
| Pipe Layer (all types) | 5.53 / 5.68 | .37 | .27 | | .03 |
| Pipe Wrapper | 5.53 / 5.68 | .37 | .27 | | .03 |
| Post Hole Digger (Power Auger) | 5.47 / 5.62 | .37 | .27 | | .03 |









XUM

AQ-1042 P. 5

MON-LAB-2-3-b

| | EASTERN COUNTIES | WESTERN COUNTIES | ALL COUNTIES | | | |
|---|---|---|---|---|---|---|
| | Basic Hourly Rates | Basic Hourly Rates | Fringe Benefits Payments | | | |
| | | | H & W | Pensions | Vacation | S-Ty |
| Power Saw, Bucking | $5.53 | $5.68 | .37 | .27 | | .03 |
| Power Saw, Falling | 5.63 | 5.78 | .37 | .27 | | .03 |
| Powderman Helper | 5.47 | 5.62 | .37 | .27 | | .03 |
| Powderman | 5.93 | 6.08 | .37 | .27 | | .03 |
| Power Driven Wheelbarrow | 5.47 | 5.62 | .37 | .27 | | .03 |
| Riprapper | 5.53 | 5.68 | .37 | .27 | | .03 |
| Riprap Helper | 5.37 | 5.52 | .37 | .27 | | .03 |
| Scaleman | 5.53 | 5.68 | .37 | .27 | | .03 |
| Sandblaster | 5.47 | 5.68 | .37 | .27 | | .03 |
| Sodcutter-Hand Operated | 5.37 | 5.52 | .37 | .27 | | .03 |
| Stake Jumper for Equipment | 5.37 | 5.52 | .37 | .27 | | .03 |
| Tar Pot | 5.47 | 5.62 | .37 | .27 | | .03 |
| Tool Checker, Toolhouseman | 5.37 | 5.52 | .37 | .27 | | .03 |

*Eastern Counties: Blaine-Carter-Custer-Daniels-Dawson-Fallon-Garfield-McCone-Petroleum-Phillips-Powder River-Prairie-Richland-Roosevelt-Sherdian-Valley and Wibaux

*Western Counties: Beaverhead-Big Horn-Broadwater-Carbon-Cascade-Chouteau-Deer Lodge-Fergus-Flathead-Gallatin-Glacier-Golden Valley-Granite-Hill-Jefferson-Judith Basin-Lake-Lewis & Clark-Liberty-Lincoln-Madison-Meagher-Mineral-Missoula-Musselshell-Park-Pondera-Powell-Ravalli-Rosebud-Sanders-Silverbow-Stillwater-Sweetgrass-Teton-Toole-Treasure-Wheatland and Yellowstone

AQ-1042 P. 6

MONT-1-PEO-2-3-b (1-4)

| POWER EQUIPMENT OPERATORS | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| A-Frame Truck Crane, Winch Truck and similar | $6.86 | .45 | .45 | | .03 | |
| Air Compressor, Single | 6.55 | .45 | .45 | | .03 | |
| Air Compressor, two or more | 6.72 | .45 | .45 | | .03 | |
| Air Doctor | 7.02 | .45 | .45 | | .03 | |
| Asphalt Paving Machine | 7.02 | .45 | .45 | | .03 | |
| Asphalt Paving Machine Screed | 7.02 | .45 | .45 | | .03 | |
| Automatic Finegrader, Gurries and other similar types | 7.15 | .45 | .45 | | .03 | |
| Belt Finish Machine | 6.72 | .45 | .45 | | .03 | |
| Bit Grinder | 7.02 | .45 | .45 | | .03 | |
| Bituminous Mixer Paving, Travel Plant | 7.02 | .45 | .45 | | .03 | |
| Boring Machine (small), jeep, pickup or farm tractor mounted | 6.61 | .45 | .45 | | .03 | |
| Boring Machine (large) | 7.02 | .45 | .45 | | .03 | |
| Broom, self-propelled | 6.69 | .45 | .45 | | .03 | |
| Cableway Highline | 7.53 | .45 | .45 | | .03 | |
| Cement Silo | 6.81 | .45 | .45 | | .03 | |
| Central Mixing Plants, Concrete dam & stationary | 7.27 | .45 | .45 | | .03 | |
| Chain Bucket Loader | 6.74 | .45 | .45 | | .03 | |
| Chip or Gravel Spreader, self-propelled | 6.74 | .45 | .45 | | .03 | |
| Concrete Batch Plant, one & two mixers | 7.02 | .45 | .45 | | .03 | |
| Concrete Batch Plant, three and four mixers | 7.22 | .45 | .45 | | .03 | |
| Concrete Batch Plant, five mixers & over | 7.42 | .45 | .45 | | .03 | |
| Concrete Batch Plant Oiler, up to & incl. two mixers | 6.54 | .45 | .45 | | .03 | |
| Concrete Batch Plant Oiler, three mixers and over | 6.85 | .45 | .45 | | .03 | |
| Concrete Bucket Dispatcher | 7.02 | .45 | .45 | | .03 | |
| Concrete Curing Machine | 7.02 | .45 | .45 | | .03 | |
| Concrete Finish Machine Paving | 7.02 | .45 | .45 | | .03 | |
| Concrete Float-Spreader | 7.02 | .45 | .45 | | .03 | |
| Concrete Mixer, three bags & under | 6.61 | .45 | .45 | | .03 | |
| Concrete Mixer, four bags and over | 6.78 | .45 | .45 | | .03 | |
| Concrete Power Saw, self-propelled | 7.02 | .45 | .45 | | .03 | |
| Concrete Travel Batcher | 7.02 | .45 | .45 | | .03 | |
| Conveyor Loader, up to & incl. 42" belt | 6.60 | .45 | .45 | | .03 | |
| Conveyor Loader, over 42 inch belt | 6.72 | .45 | .45 | | .03 | |
| Crane, to & incl. 80' boom with jib | 7.18 | .45 | .45 | | .03 | |
| Crane, 81' to 130' boom | 7.33 | .45 | .45 | | .03 | |



AQ-1042 P. 7

MONT-1-PEO-2-3-b (2-4)

| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| Crane, 131' to 150' boom | $7.38 | .45 | .45 | | .03 | |
| Crane, 151' boom & over | 7.43 | .45 | .45 | | .03 | |
| Crane Oiler | 6.59 | .45 | .45 | | .03 | |
| Crusher | 7.02 | .45 | .45 | | .03 | |
| Crusher Oiler & Helper | 6.51 | .45 | .45 | | .03 | |
| Crusher Conveyor, when required | 6.48 | .45 | .45 | | .03 | |
| Distributor | 7.02 | .45 | .45 | | .03 | |
| DW 10, 15, or 20 Tractor pulling roller | 6.74 | .45 | .45 | | .03 | |
| Electric Overhead Cranes | 7.20 | .45 | .45 | | .03 | |
| Elevating Grader | 7.02 | .45 | .45 | | .03 | |
| Farm Type Tractor, up to & incl. 50 HP Engine | 6.48 | .45 | .45 | | .03 | |
| Farm Type Tractor, over 50HP Engine | 6.56 | .45 | .45 | | .03 | |
| Field Equipment Serviceman | 6.94 | .45 | .45 | | .03 | |
| Field Equipment Serviceman Helper | 6.51 | .45 | .45 | | .03 | |
| Fireman | 6.61 | .45 | .45 | | .03 | |
| Forklift, on construction job site | 6.83 | .45 | .45 | | .03 | |
| Form Grader | 6.79 | .45 | .45 | | .03 | |
| Gradall | 7.02 | .45 | .45 | | .03 | |
| Grade Setter | 6.48 | .45 | .45 | | .03 | |
| Heavy Duty Drill, all types | 7.02 | .45 | .45 | | .03 | |
| Heavy Duty Driller Helper | 6.61 | .45 | .45 | | .03 | |
| Herman-Nelson Heaters & similar type | 6.56 | .45 | .45 | | .03 | |
| Hoist, Single drum | 6.79 | .45 | .45 | | .03 | |
| Hoist, two or more drums | 7.02 | .45 | .45 | | .03 | |
| Helicopter Hoist | 7.52 | .45 | .45 | | .03 | |
| Hot Plant | 7.02 | .45 | .45 | | .03 | |
| Hot Plant Fireman, when in Operation | 7.02 | .45 | .45 | | .03 | |
| Hot Plant Oiler, 100 ton per hour or over | 6.51 | .45 | .45 | | .03 | |
| Hydra lift and similar types | 6.92 | .45 | .45 | | .03 | |
| Industrial Locomotive all classes | 7.02 | .45 | .45 | | .03 | |
| Mechanic and/or Welder on job | 7.12 | .45 | .45 | | .03 | |
| Mechanic and/or Welder Helper on job | 6.51 | .45 | .45 | | .03 | |
| Mixermobile | 7.10 | .45 | .45 | | .03 | |
| Motor Patrol | 7.15 | .45 | .45 | | .03 | |
| Mountain Logger or smilar type | 7.02 | .45 | .45 | | .03 | |
| Mucking Machine | 7.02 | .45 | .45 | | .03 | |
| Oiler-Driver, Tubber Tired Cranes | 6.59 | .45 | .45 | | .03 | |
| Oilers, other than Shovels & Cranes | 6.51 | .45 | .45 | | .03 | |
| Oiler, hoist house, dams | 6.92 | .45 | .45 | | .03 | |
| Pavement Breaker, Emsco & similar | 7.02 | .45 | .45 | | .03 | |
| Paving & Mixing Machine | 7.15 | .45 | .45 | | .03 | |
| Power Auger, Large Truck or Tractor Mounted | 7.02 | .45 | .45 | | .03 | |
| Power Mixer, single or double drum | 7.02 | .45 | .45 | | .03 | |
| Power Saw, Multiple cut, self-propelled | 7.02 | .45 | .45 | | .03 | |
| Pumpcrete or Grout Machine | 7.02 | .45 | .45 | | .03 | |
| Pumpman | 6.55 | .45 | .45 | | .03 | |

AQ-1042 P. 8

MONT-1-PEO-2-3-b (3-4)

| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| Push Tractor | 7.02 | .45 | .45 | | .03 | |
| Quad Cat | 7.32 | .45 | .45 | | .03 | |
| Refrigerator Plant | 7.02 | .45 | .45 | | .03 | |
| Retort | 6.61 | .45 | .45 | | .03 | |
| Roller, on blade or hot mix oil paving | 7.02 | .45 | .45 | | .03 | |
| Roller, on other blade or hot mix paving | 6.72 | .45 | .45 | | .03 | |
| Roller, 25 ton or over | 7.02 | .45 | .45 | | .03 | |
| Ross & similar type carriers, on construction site | 7.02 | .45 | .45 | | .03 | |
| Rubber-tired Dozer | 7.02 | .45 | .45 | | .03 | |
| Rubber-tired Front End Loader, 1 yd. & under | 6.73 | .45 | .45 | | .03 | |
| Rubber-tired Front End Loader, 1 yd. to and incl. 3 yds. | 7.02 | .45 | .45 | | .03 | |
| Rubber-tired Front End Loader, over 3 yds. to and incl. 5 yds. | 7.14 | .45 | .45 | | .03 | |
| Rubber-tired Front End Loader, over 5 yds. to and incl. 10 yds. | 7.24 | .45 | .45 | | .03 | |
| Rubber-tired Front End Loader, over 10 yds. to and incl. 15 yds. | 7.34 | .45 | .45 | | .03 | |
| Rubber-tired Front End Loader, over 15 yds. | 7.44 | .45 | .45 | | .03 | |
| Scraper, DW 15, 20, 21 & similar type if power unit is not used | 7.02 | .45 | .45 | | .03 | |
| Scraper, single or twin engine pulling belly dump trailer | 7.40 | .45 | .45 | | .03 | |
| Scraper, single engine | 7.15 | .45 | .45 | | .03 | |
| Scraper, twin engine | 7.25 | .45 | .45 | | .03 | |
| Scraper, tandem engine | 7.51 | .45 | .45 | | .03 | |
| Self-propelled Sheepfoot and similar type | 7.02 | .45 | .45 | | .03 | |
| Shovels, incl. all attachments, under 1 cu. yd. | 7.02 | .45 | .45 | | .03 | |
| Shovels, incl. all attachments, 1 cu. yd. to & incl. 3 cu. yd. | 7.20 | .45 | .45 | | .03 | |
| Shovels, incl. all attachments, over 3 cu. yd. to & incl. 5 cu. yd. | 7.47 | .45 | .45 | | .03 | |
| Shovels, incl. all attachments, over 5 cu. yd. | 7.60 | .45 | .45 | | .03 | |
| Shovel Oiler, 3 yds. & under | 6.51 | .45 | .45 | | .03 | |
| Shovel Oiler, over 3 cu. yds. | 6.92 | .45 | .45 | | .03 | |
| Slip form paver | 7.15 | .45 | .45 | | .03 | |
| Stiff leg derrick & guy derrick | 7.47 | .45 | .45 | | .03 | |
| Track-type front end loaders; up to & incl. 5 cu. yds. | 7.02 | .45 | .45 | | .03 | |
| Track-type front end loaders; over 5 cu. yd. to & incl. 10 cu. yd. | 7.25 | .45 | .45 | | .03 | |
| Track-type front end loaders, over 10 cu. yd. to & incl. 15 cu. yd. | 7.35 | .45 | .45 | | .03 | |







XUM 38 2 JMS 8881-83V

AQ-1042 P. 9

MONT-1 PEO-2-3-b (4-4)

| POWER EQUIPMENT OPERATORS (cont'd) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| Track-type front end loaders, over 15 cu. yd. | $7.45 | .45 | .45 | | .03 | |
| Track-type tractor with or without attachments | 7.02 | .45 | .45 | | .03 | |
| Track-type tractor, on Euclid Loader | 7.20 | .45 | .45 | | .03 | |
| Trenching Machine | 7.02 | .45 | .45 | | .03 | |
| Turnhead Conveyor, or Head Tower on Batch Plant | 7.02 | .45 | .45 | | .03 | |
| Wagner Roller & similar type | 7.02 | .45 | .45 | | .03 | |
| Whirley Crane | 7.55 | .45 | .45 | | .03 | |
| Whirley Crane Oiler | 6.92 | .45 | .45 | | .03 | |
| Water Pull when used for compaction | 7.02 | .45 | .45 | | .03 | |
| Washing and Screening Plant | 7.02 | .45 | .45 | | .03 | |
| Washing and Screening Plant Oiler | 6.51 | .45 | .45 | | .03 | |

AQ-1042 P. 10

MONT-1 D-1-2-3-h (1-2)

| TRUCK DRIVERS | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| COMBINATION Truck; Concrete Mixer and Transit Mixer: | | | | | | |
| To and incl. 4 cu. yds. | $6.30 | .475 | .325 | | | |
| Over 4 cu. yds. to and incl. 6 cu. yds. | 6.38 | .475 | .325 | | | |
| Over 6 cu. yds. to and incl. 8 cu. yds. | 6.46 | .475 | .325 | | | |
| Over 8 cu. yds. to and incl. 10 cu. yds. | 6.54 | .475 | .325 | | | |
| Over 10 cu. yds. - additional $.08 per hour each additional 2 cu. yds. increment | | | | | | |
| DISTRIBUTOR DRIVER AND HELPER | 6.23 | .475 | .325 | | | |
| DRY BATCH TRUCKS: | | | | | | |
| 3 Batch or under | 6.05 | .475 | .325 | | | |
| Over 3 Batch to and incl. 5 Batch | 6.18 | .475 | .325 | | | |
| Over 5 Batch to and incl. 10 Batch | 6.34 | .475 | .325 | | | |
| Over 10 Batch to and incl. 15 Batch | 6.5[illegible] | .475 | .325 | | | |
| Over 15 Batch - additional $.15 per hour each additional 5 Batch increment | | | | | | |
| DUMPMAN, GRAVEL SPREADER BOX: Pickup Driver, Hauling Materials; Pilot Car Driver, Teamsters and Helpers; Warehousemen, Partsmen, Cardex men, Warehouse Expeditor | 6.05 | .475 | .325 | | | |
| DUMP TRUCKS AND SIMILAR EQUIPMENT WATER LEVEL CAPACITY, INCLUDING SIDEBOARDS: | | | | | | |
| 7 cu. yds. or less | 6.05 | .475 | .325 | | | |
| Over 7 cu. yds. to and incl. 10 cu. yds. | 6.18 | .475 | .325 | | | |
| Over 10 cu. yds. to and incl. 15 cu. yds. | 6.34 | .475 | .325 | | | |
| Over 15 cu. yds. to and incl. 20 cu. yds. | 6.48 | .475 | .325 | | | |
| Over 20 cu. yds. to and incl. 25 cu. yds. | 6.54 | .475 | .325 | | | |
| Over 25 cu. yds. to and incl. 30 cu. yds. | 6.60 | .475 | .325 | | | |
| Over 30 cu. yds. to and incl. 35 cu. yds. | 6.66 | .475 | .325 | | | |
| Over 35 cu. yds. to and incl. 40 cu. yds. | 6.72 | .475 | .325 | | | |
| Over 40 cu. yds. to and incl. 45 cu. yds. | 6.78 | .475 | .325 | | | |
| Over 45 cu. yds. - additional $.06 per hour each additional 5 cu. yds. increment | | | | | | |
| DUMPSTERS | 6.18 | .475 | .325 | | | |

FEDERAL REGISTER, VOL. 38, NO. 188—FRIDAY, SEPTEMBER 28, 1973



AQ-1042 P. 11

MONT-1- D-1-2-3-h (2-2)

| TRUCK DRIVERS | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| DW 20, DW 21, or EUCLID TRACTORS, PULLING P.R. 21 or SIMILAR DUMP WAGONS: | | | | | | |
| To and incl. 25 cu. yds. | $6.54 | .475 | .325 | | | |
| Over 25 cu. yds. to and incl. 30 cu. yds. | 6.60 | .475 | .325 | | | |
| Over 30 cu. yds. - additional $.06 per hour each additional 5 cu. yds. increment | | | | | | |
| SERVICEMEN | 6.79 | .475 | .325 | | | |
| POWDER TRUCK DRIVER (bulk unloader type) | 6.23 | .475 | .325 | | | |
| FLAT TRUCKS: | | | | | | |
| To and incl. 3 Tons | 6.05 | .475 | .325 | | | |
| Over 3 tons Factory rating | 6.40 | .475 | .325 | | | |
| FUEL TRUCK; SERVICE TIREMEN | 6.52 | .475 | .325 | | | |
| LOWBOYS, FOUR-WHEEL TRAILER, FLOAT SEMI-TRAILER | 6.40 | .475 | .325 | | | |
| LUMBER CARRIERS, LIFT TRUCKS; Power broom | 6.14 | .475 | .325 | | | |
| WATER TANK DRIVERS, PETROLEUM PRODUCTS DRIVERS: | | | | | | |
| 2,500 gals. and under | 6.05 | .475 | .325 | | | |
| Over 2,500 gals. to and incl. 4,500 gals. | 6.34 | .475 | .325 | | | |
| Over 4,500 gals. to and incl. 6,000 gals. | 6.54 | .475 | .325 | | | |
| Over 6,000 gals. to and incl. 8,000 gals. | 6.60 | .475 | .325 | | | |
| Over 8,000 gals. to and incl. 10,000 gals. | 6.68 | .475 | .325 | | | |
| Over 10,000 gals. - additional $.08 per hour each additional 2,000 gals. increment | | | | | | |
| WINCH, A-FRAME, SWEDISH CRANE, HYDRA-LIFT, GROUTCRETE, AND COMBINATION MULCHING, SEEDING AND FERTILIZING | 6.30 | .475 | .325 | | | |
| TRUCK MECHANIC | 6.79 | .475 | .325 | | | |

AQ-1042 P. 12

MONT-LINE CONSTRUCTION-2-3-c

| (Flathead-Lake-Lincoln Counties) | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | O[illegible] |
|---|---|---|---|---|---|---|
| LINE CONSTRUCTION | | | | | | |
| All construction of "H" fixture and Steel Tower Transmission Lines with capacity of 69 K.V. voltages & over, switch yard and substation rated at 5000 K.V.A. & all work not covered by Schedule "B". | | | | | | |
| SCHEDULE "A" | | | | | | |
| GROUNDMAN "B" | 4.61 | .25 | 1% | | 1% | |
| GROUNDMAN "A" (experienced) | 5.31 | .25 | 1% | | 1% | |
| HEAD GROUNDMAN; Powderman; Jackhammer-Compressorman | 5.65 | .25 | 1% | | 1% | |
| LINE EQUIPMENT OPERATOR | 6.50 | .25 | 1% | | 1% | |
| LINEMAN | 7.58 | .25 | 1% | | 1% | |
| CABLE SPLICER | 8.43 | .25 | 1% | | 1% | |
| SCHEDULE "B" | | | | | | |
| All work for Power Utilities & R.E.A's except work covered under Schedule "A" all Highway Lighting, Street Lighting & Motor Traffic Controlling. | | | | | | |
| JACKHAMMER-COMPRESSORMAN; Powderman; Head Groundman | 5.13 | .25 | 1% | | 1% | |
| LINE EQUIPMENT OPERATOR | 5.88 | .25 | 1% | | 1% | |
| LINEMEN; Pole Sprayer | 6.67 | .25 | 1% | | 1% | |
| CABLE SPLICER | 7.48 | .25 | 1% | | 1% | |





XUM

| REMAINING COUNTIES | Basic Hourly Rates | Fringe Benefits Payments | | | |
|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. |
| LINE CONSTRUCTION: (Jobs 69,000 volts or less) | | | | | |
| Cable splicer | $7.18 | .25 | 1% | | ½% |
| Linemen | 6.49 | .25 | 1% | | ½% |
| Line equipment operators; Powdermen | 6.38 | .25 | 1% | | ½% |
| Experienced groundmen (2 yrs.); Truck drivers | 5.05 | .25 | 1% | | ½% |
| Groundmen | 4.49 | .25 | 1% | | ½% |
| (Jobs over 69,000 volts) and/or (projects of $400,000 or over) Cable splicers | 7.36 | .25 | 1% | | ½% |
| Linemen; Pole sprayer | 6.99 | .25 | 1% | | ½% |
| Line equipment operators; Powdermen | 6.42 | .25 | 1% | | ½% |
| Groundmen | 5.31 | .25 | 1% | | ½% |





SUPERSEDEAS DECISION

STATE: Texas
DECISION NO.: AQ-28
Supersedes Decision No. AP-724, dated April 27, 1973, in 38 FR 10594.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

COUNTY: Galveston
DATE: Date of Publication



| BUILDING CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| ASBESTOS WORKERS | $7.02 | .50 | .495 | | .03 | |
| BOILERMAKERS | 6.80 | .30 | .50 | | .02 | |
| BRICKLAYERS | 7.45 | .275 | .30 | | .03 | |
| CARPENTERS: | | | | | | |
| Carpenters | 7.02 | .45 | .30 | | .05 | |
| Millwrights | 7.29 | .45 | .30 | | .05 | |
| Piledrivermen | 7.02 | .45 | .30 | | | |
| CEMENT MASONS | 6.60 | .44 | .37 | | | |
| ELECTRICIANS | 7.49 | .28 | 1%+.30 | | .03 | |
| ELEVATOR CONSTRUCTORS | 7.06 | .345 | .23 | 2%+a+b | .015 | |
| ELEVATOR CONSTRUCTORS' HELPERS | 70%JR | .345 | .23 | 2%+a+b | .015 | |
| ELEVATOR CONSTRUCTORS' HELPERS (PROB) | 50%JR | | | | | |
| GLAZIERS | 6.75 | .225 | .20 | | .01 | |
| IRONWORKERS: | | | | | | |
| Structural; Ornamental; Reinforcing | 7.145 | .40 | .50 | | .075 | |
| LABORERS: | | | | | | |
| Common | 4.90 | .28 | .20 | | .02 | |
| Air tool operator (jackhammer - vibrator) | 5.075 | .28 | .20 | | .02 | |
| Mason tenders | 5.075 | .28 | .20 | | .02 | |
| Pipelayers (concrete & clay) | 5.075 | .28 | .20 | | .02 | |
| Sandblasters | 5.075 | .28 | .20 | | .02 | |
| Power buggy operators | 5.075 | .28 | .20 | | .02 | |
| Lather tenders | 5.175 | .28 | .20 | | .02 | |
| Mortar mixers | 5.175 | .28 | .20 | | .02 | |
| Well driller | 5.45 | .28 | .20 | | .02 | |
| Well drillers' helpers | 5.025 | .28 | .20 | | .02 | |
| Blaster, powderman | 5.325 | .28 | .20 | | .02 | |
| Plasterer tender & hod carrier | 5.175 | .28 | .20 | | .02 | |
| MARBLE MASONS | 6.50 | | | | | |
| PAINTERS: | | | | | | |
| Painters | 5.675 | .55 | .45 | .665 | .02 | |
| Painters on swinging stage work or using materials injurious to the skin | 5.925 | .55 | .45 | .665 | .02 | |
| PIPEFITTERS: | | | | | | |
| East of the Trinity River: | | | | | | |
| Commercial work to $50,000 | 7.075 | .225 | .20 | | .02 | |
| Commercial work $50,000 & over | 7.485 | .225 | .20 | | .02 | |
| West of the Trinity River | 7.425 | .375 | .55 | | .045 | |
| PLASTERERS | 6.825 | .27 | .30 | | .05 | |
| PLUMBERS: | | | | | | |
| Commercial work up to $50,000 | 7.075 | .225 | .20 | | .02 | |
| Commercial work $50,000 & over | 7.485 | .225 | .20 | | .02 | |



| BUILDING CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Other |
| ROOFERS: | | | | | | |
| Roofers | $6.29 | .20 | .10 | .15 | .03 | |
| Kettleman | 5.35 | .20 | .10 | .15 | .03 | |
| Helpers | 4.13 | .20 | .10 | .15 | .03 | |
| SHEET METAL WORKERS | 5.72 | | .125 | | | |
| SOFT FLOOR LAYERS | 6.62 | .25 | .10 | | .05 | |
| SPRINKLER FITTERS | 8.35 | .30 | .50 | | .05 | |
| STONEMASONS | 7.45 | .275 | .30 | | .03 | |
| TERRAZZO WORKERS | 6.50 | | | | | |
| TILE SETTERS | 6.50 | | | | | |
| TRUCK DRIVERS: | | | | | | |
| Under 1½ tons; wash, grease, fireman, fuel pump operation when used on construction jobs | 5.05 | | | | | |
| 1½ thru 2½ tons; dump truck less than 7 yds. | 5.34 | | | | | |
| Over 2½ tons; farm tractor; fork lifts, floats | 5.50 | | | | | |
| Euclids (not self-loading) | 5.60 | | | | | |
| Warehousemen | 5.24 | | | | | |
| Material checkers; pick-up drivers | 6.01 | | | | | |
| WELDERS - receive rate prescribed for craft performing operation to which welding is incidental | | | | | | |

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2% over 5 yrs. - 4% of basic hourly rate.
b - Paid Holidays - A through F.

PAID HOLIDAYS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day





XUM

| BUILDING CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| POWER EQUIPMENT OPERATORS | | | | | | |
| HEAVY EQUIPMENT | | | | | | |
| Heavy Duty Mechanic; Blade Grader, Self-propelled; Bull Clam; Back Filler; Derrick-power operated (all types); Clam Shell; Draglines; Push Cat Operator; Bull Dozer & all types Cat Tractors; Cable-Way; Backhoe; Shovel, power operated; Crane, power operated (all types); Elevating Grader, Self-propelled; Hoist, Motor-Driven, Two Drums or more; Mix Mobile; Water Well Drilling Machines, Used on Construction; Building Elevator, used on Construction; Tug Boat Operator, Assigned to Construction; Winch Truck; Locomotive Crane; Concrete Mixer, 14 cu. ft. or more; Paving Mixer (all types); Pile Driver; Scraper, Heavy Type, over 3 cu. yds.; Trenching Machines (all sizes); Gradall; High-Lift; Foundation Boring Machine; Gasoline or Diesel-Driven Welding Machines, 7 or more; Pumprete Machine Operator; Turnapulls; DW-10 Caterpillar, S-18 Euclid and Similar Tractors; Asphalt Plant Mixer Operator on Job; Crusher Operator on job; Scoopmobiles; Forklift used on construction (not including warehousing); Well Point Pump; Concrete Batch Plant Operator; Pneumatic Rollers, Self-propelled; All other equipment of similar nature coming under the Heavy Equipment Class, when power operated | $6.95 | .30 | .40 | | .04 | |



| BUILDING CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| POWER EQUIPMENT OPERATORS | | | | | | |
| LIGHT EQUIPMENT | | | | | | |
| Air Compressors; Blade Grader, Towed; Flex Plane; Form Grader; Concrete Mixer, less than 14 cu. ft.; Pumps; Pulsometer; Truck crane Drivers; Gasoline or diesel Driven Welding Machines (on 3 or more, up to 6 machines); Hoist, Single Drum; Scraper, 3 cu. yds. or less; Wagon Drill Operator; Conveyor; Generator, Gasoline or diesel-driven, over 1500 watts; Rubber Tired Farm Tractor with attachments; A light Equipment Operator may run 1 or 2 105 cfm compressors; All other equipment of similar nature coming under the Light Equipment Class, when power operated | $6.27 | .30 | .40 | | .04 | |
| FIREMAN | 5.83 | .30 | .40 | | .04 | |
| OILER | 5.69 | .30 | .40 | | .04 | |
| LINE CONSTRUCTION: | | | | | | |
| Linemen | $8.035 | .28 | 1% | | 1/2% | |
| Groundmen | 5.50 | .28 | 1% | | 1/2% | |
| Groundmen (1st 6 mos.) | 4.02 | .28 | 1% | | 1/2% | |







| INCIDENTAL PAVING & UTILITIES (EXCLUDING GALVESTON ISLAND) | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| Air Tool Man | $2.90 | | | | | |
| Asphalt Raker | 3.10 | | | | | |
| Asphalt Shoveler | 2.50 | | | | | |
| Batching Plant Scaleman | 3.15 | | | | | |
| Carpenter | 4.00 | | | | | |
| Carpenter Helper | 3.00 | | | | | |
| Concrete Finisher (Paving) | 4.00 | | | | | |
| Concrete Finisher Helper (Paving) | 3.25 | | | | | |
| Concrete Finisher (Structures) | 3.65 | | | | | |
| Concrete Finisher Helper (Structures) | 3.00 | | | | | |
| Concrete Rubber | 3.15 | | | | | |
| Electrician | 5.70 | | | | | |
| Form Builder (Structures) | 3.75 | | | | | |
| Form Builder Helper (Structures) | 2.75 | | | | | |
| Form Liner (Paving and Curb) | 3.85 | | | | | |
| Form Setter (Paving and Curb) | 3.50 | | | | | |
| Form Setter Helper (Paving and Curb) | 2.75 | | | | | |
| Form Setter (Structures) | 3.75 | | | | | |
| Form Setter Helper (Structures) | 3.00 | | | | | |
| Laborer, Common | 2.25 | | | | | |
| Laborer, Utility Man | 2.75 | | | | | |
| Manhole Builder, Brick | 4.00 | | | | | |
| Mechanic | 4.00 | | | | | |
| Mechanic Helper | 3.35 | | | | | |
| Oiler | 3.15 | | | | | |
| Serviceman | 3.30 | | | | | |
| Painter (Structures) | 4.50 | | | | | |
| Painter Helper (Structures) | 3.00 | | | | | |
| Piledriverman | 4.00 | | | | | |
| Pipelayer | 3.50 | | | | | |
| Pipelayer Helper | 3.00 | | | | | |
| Reinforcing Steel Setter (Paving) | 3.50 | | | | | |
| Reinforcing Steel Setter (Structures) | 3.60 | | | | | |
| Reinforcing Steel Setter Helper | 2.85 | | | | | |
| Steel Worker (Structural) | 3.50 | | | | | |
| Steel Worker Helper (Structural) | 3.45 | | | | | |
| Sign Erector | 3.00 | | | | | |



| INCIDENTAL PAVING & UTILITIES (EXCLUDING GALVESTON ISLAND) | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| Power Equipment Operators: | | | | | | |
| Asphalt Distributor | $3.25 | | | | | |
| Asphalt Paving Machine | 3.50 | | | | | |
| Bulldozer, 150 HP and Less | 3.25 | | | | | |
| Bulldozer, over 150 HP | 3.70 | | | | | |
| Concrete Paving Curing Machine | 3.35 | | | | | |
| Concrete Paving Finishing Machine | 3.60 | | | | | |
| Concrete Paving Form Grader | 3.25 | | | | | |
| Concrete Paving Joint Machine | 3.25 | | | | | |
| Concrete Paving Mixer | 4.00 | | | | | |
| Concrete Paving Saw | 3.25 | | | | | |
| Concrete Paving Spreader | 3.90 | | | | | |
| Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY) | 3.75 | | | | | |
| Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over) | 4.00 | | | | | |
| Crusher or Screening Plant Operator | 3.25 | | | | | |
| Foundation Drill Operator (Crawler Mounted) | 4.35 | | | | | |
| Foundation Drill Operator (Truck Mounted) | 4.00 | | | | | |
| Front End Loader (2½ CY and Less) | 3.25 | | | | | |
| Front End Loader (Over 2½ CY) | 3.65 | | | | | |
| Mixer (16 CP and Less) | 3.25 | | | | | |
| Motor Grader Operator, Fine Grade | 4.00 | | | | | |
| Motor Grader Operator | 3.50 | | | | | |
| Roller, Steel Wheel (Plant-Mix Pavements) | 3.00 | | | | | |
| Roller, Steel Wheel (Other-Flat Wheel or Tamping) | 3.00 | | | | | |
| Roller, Pneumatic (Self-Propelled) | 2.75 | | | | | |
| Scrapers (17 CY and Less) | 3.00 | | | | | |
| Scrapers (Over 17 CY) | 3.25 | | | | | |
| Self-Propelled Hammer | 3.25 | | | | | |
| Tractor (Crawler Type) 150 HP and Less | 3.00 | | | | | |
| Tractor (Crawler Type) over 150 HP | 3.45 | | | | | |
| Tractor (Pneumatic) over 80 HP | 2.75 | | | | | |
| Trenching Machine, Light | 3.50 | | | | | |
| Truck Drivers: | | | | | | |
| Single Axle, Light | 2.50 | | | | | |
| Single Axle, Heavy | 2.75 | | | | | |
| Tandem Axle or Semitrailer | 2.75 | | | | | |
| Transit-Mix | 2.50 | | | | | |
| Winch | 3.15 | | | | | |
| Vibrator Man (Hand Type) | 2.50 | | | | | |
| Weighman (Truck Scales) | 2.50 | | | | | |
| Welder | 4.60 | | | | | |
| Welder Helper | 2.75 | | | | | |





XUM

SUPERSEDEAS DECISION

STATE: Texas
DECISION NO.: AQ-29
Supersedes Decision No. AP-722, dated April 27, 1973, in 38 FR 10588.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

COUNTY: Harris
DATE: Date of Publication

14 - Texas - 1 x (1 - 2)

| BUILDING CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| ASBESTOS WORKERS | $7.02 | .50 | .495 | | .03 | |
| BOILERMAKERS | 6.80 | .30 | .50 | | .02 | |
| BRICKLAYERS | 7.45 | .275 | .30 | | .03 | |
| CARPENTERS: | | | | | | |
| Carpenters | 7.02 | .45 | .30 | | .05 | |
| Millwrights | 7.29 | .45 | .30 | | .05 | |
| Piledrivermen | 7.02 | .45 | .30 | | | |
| CEMENT MASONS | 6.60 | .44 | .37 | | .05 | |
| ELECTRICIANS | 7.90 | .25 | 3% | | .04 | |
| ELEVATOR CONSTRUCTORS | 7.06 | .345 | .23 | 2%+a+b | .015 | |
| ELEVATOR CONSTRUCTORS' HELPERS | 70%JR | .345 | .23 | 2%+a+b | .015 | |
| ELEVATOR CONSTRUCTORS' HELPERS(PROB) | 50%JR | | | | | |
| GLAZIERS | 6.75 | .225 | .20 | | .01 | |
| IRONWORKERS: | | | | | | |
| Structural; Ornamental; Reinforcing | 7.145 | .40 | .50 | | .075 | |
| LABORERS: | | | | | | |
| Common | 4.90 | .28 | .20 | | .02 | |
| Air tool operator (jackhammer - vibrator) | 5.075 | .28 | .20 | | .02 | |
| Mason tenders | 5.075 | .28 | .20 | | .02 | |
| Pipelayers (concrete and clay) | 5.075 | .28 | .20 | | .02 | |
| Sandblasters | 5.075 | .28 | .20 | | .02 | |
| Power buggy operator | 5.075 | .28 | .20 | | .02 | |
| Lather tender | 5.175 | .28 | .20 | | .02 | |
| Mortar mixers | 5.175 | .28 | .20 | | .02 | |
| Well driller | 5.45 | .28 | .20 | | .02 | |
| Well driller helpers | 5.025 | .28 | .20 | | .02 | |
| Blaster, powdermen | 5.325 | .28 | .20 | | .02 | |
| Plaster tender & hod carrier | 5.175 | .28 | .20 | | .02 | |
| LATHERS | 7.25 | .20 | .15 | | .02 | |
| PAINTERS: | | | | | | |
| East Harris County: | | | | | | |
| All brush painting, hand roller | 7.08 | | | | | |
| All spray painting, sandblasting, waterblasting | 7.455 | | | | | |
| Steeple jack work, hot materials | 7.705 | | | | | |
| Remainder of County: | | | | | | |
| Brush | 6.285 | .275 | .30 | .40 | .03 | |
| Roller, steam cleaning, pneumatic tools | 6.285 | .275 | .30 | .40 | .03 | |
| Spray | 6.60 | .275 | .30 | .40 | .03 | |
| Sandblasting-waterblasting | 6.60 | .275 | .30 | .40 | .03 | |
| Steeple jack work, hot materials | 6.91 | .275 | .30 | .40 | .03 | |

AQ-29 P. 2

14 - Texas - 1 x (2 - 2)

| BUILDING CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| PIPEFITTERS | $7.625 | .375 | .55 | | .065 | |
| PLASTERERS | 7.03 | .27 | .30 | | .02 | |
| PLUMBERS | 7.08 | .32 | .42 | .50 | .06 | |
| ROOFERS: | | | | | | |
| Roofers | 6.29 | .20 | .10 | .15 | .03 | |
| Kettlemen | 5.35 | .20 | .10 | .15 | .03 | |
| Helpers | 4.13 | .20 | .10 | .15 | .03 | |
| SHEET METAL WORKERS | 7.285 | .225 | .375 | .20 | .025 | |
| SOFT FLOOR LAYERS | 6.62 | .25 | .10 | | .05 | |
| SPRINKLER FITTERS | 8.35 | .30 | .50 | | .05 | |
| TILE SETTERS, MARBLE MASONS, MOSAIC & TERRAZZO WORKERS | 5.09 | | | | | |
| TRUCK DRIVERS: | | | | | | |
| Under 1½ tons; wash, grease, tireman, fuel pump operation when used on construction jobs | 5.05 | | | | | |
| 1½ thru 2½ tons; dump truck less than 7 yds. | 5.34 | | | | | |
| Over 2½ tons; farm tractors; fork lifts, floats | 5.50 | | | | | |
| Euclids (not self-loading) | 5.60 | | | | | |
| Warehousemen | 5.24 | | | | | |
| Material checkers; pick-up drivers | 6.01 | | | | | |
| WELDERS - receive rate prescribed for craft performing operation to which welding is incidental. | | | | | | |

FOOTNOTES:
a - 1st 6 mos. - none; 6 mos. to 5 yrs. - 2%; over 5 yrs. - 4% of basic hourly rates.
b - Paid Holidays - A through F.

PAID HOLIDAYS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

NOTICES



AQ-29 P. 3

14 - Texas - PEO - 1 m (1 - 2)

| BUILDING CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| POWER EQUIPMENT OPERATORS | | | | | | |
| HEAVY EQUIPMENT | | | | | | |
| Heavy Duty Mechanic; Blade Grader, Self-propelled; Bull Clam; Back Piller; Derrick-power operated (all types); Clam Shell; Draglines; Push Cat Operator; Bull Dozer & all types Cat Tractors; Cable-Way; Backhoe; Shovel, power operated; Crane, power operated (all types); Elevating Grader, Self-propelled; Hoist, Motor-Driven, Two Drums or more; Mix Mobile; Water Well Drilling Machines, Used on Construction; Building Elevator, used on Construction; Tug Boat Operator, Assigned to Construction; Winch Truck; Locomotive Crane; Concrete Mixer, 14 cu. ft. or more; Paving Mixer (all types); Pile Driver; Scraper, Heavy Type, over 3 cu. yds.; Trenching Machines (all sizes); Gradall; High-Lift; Poundation Boring Machine; Gasoline or Diesel-Driven Welding Machines, 7 or more; Pumpcrete Nachine Operator; Turnapulls; DH-10 Caterpillar, S-18 Euclid and Similar Tractors; Asphalt Plant Mixer Operator on Job; Crusher Operator on job; Scoopmobiles; Forklift used on construction (not including warehousing); Well Point Pump; Concrete Batch Plant Operator; Pneumatic Rollers, Self-propelled; All other equipment of similar nature coming under the Heavy Equipment Class, when power operated | $6.95 | .30 | .40 | | .04 | |

AQ-29 P. 4

14 - Texas - PEO - 1 m (2 - 2)

| BUILDING CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| POWER EQUIPMENT OPERATORS | | | | | | |
| LIGHT EQUIPMENT | | | | | | |
| Air Compressors; Blade Grader, Towed; Plex Plane; Form Grader; Concrete Mixer, less than 14 cu. ft.; Pumps; Pulsometer; Truck crane Driver; Gasoline or diesel Driven Welding Machines (on 3 or more, up to 6 machines); Hoist, Single Drum; Scraper, 3 cu. yds. or less; Wagon Drill Operator; Conveyor; Generator, Gasoline or diesel-driven, over 1500 watts; Rubber Tired Farm Tractor with attachments; A Light Equipment Operator may run 1 or 2 105 cfm compressors; All other equipment of similar nature coming under the Light Equipment Class, when power operated | $6.27 | .30 | .40 | | .04 | |
| FIREMAN | 5.83 | .30 | .40 | | .04 | |
| OILER | 5.69 | .30 | .40 | | .04 | |
| LINE CONSTRUCTION: | | | | | | |
| Linemen | $8.035 | .28 | 1% | | 1/2% | |
| Groundmen | 5.50 | .28 | 1% | | 1/2% | |
| Groundmen (1st 6 mos.) | 4.02 | .28 | 1% | | 1/2% | |

NOTICES





XUM 38 FR 27188-27189

| INCIDENTAL PAVING & UTILITIES | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| Air Tool Man | $2.90 | | | | | |
| Asphalt Raker | 3.10 | | | | | |
| Asphalt Shoveler | 2.50 | | | | | |
| Batching Plant Scaleman | 3.15 | | | | | |
| Carpenter | 4.00 | | | | | |
| Carpenter Helper | 3.00 | | | | | |
| Concrete Finisher (Paving) | 4.00 | | | | | |
| Concrete Finisher Helper (Paving) | 3.25 | | | | | |
| Concrete Finisher (Structures) | 3.65 | | | | | |
| Concrete Finisher Helper (Structures) | 3.00 | | | | | |
| Concrete Rubber | 3.15 | | | | | |
| Electrician | 5.70 | | | | | |
| Form Builder (Structures) | 3.75 | | | | | |
| Form Builder Helper (Structures) | 2.75 | | | | | |
| Form Liner (Paving and Curb) | 3.85 | | | | | |
| Form Setter (Paving and Curb) | 3.50 | | | | | |
| Form Setter Helper (Paving and Curb) | 2.75 | | | | | |
| Form Setter (Structures) | 3.75 | | | | | |
| Form Setter Helper (Structures) | 3.00 | | | | | |
| Laborer, Common | 2.25 | | | | | |
| Laborer, Utility Man | 2.75 | | | | | |
| Manhole Builder, Brick | 4.00 | | | | | |
| Mechanic | 4.00 | | | | | |
| Mechanic Helper | 3.35 | | | | | |
| Oiler | 3.15 | | | | | |
| Serviceman | 3.30 | | | | | |
| Painter (Structures) | 4.50 | | | | | |
| Painter Helper (Structures) | 3.00 | | | | | |
| Piledriverman | 4.00 | | | | | |
| Pipelayer | 3.50 | | | | | |
| Pipelayer Helper | 3.00 | | | | | |
| Reinforcing Steel Setter (Paving) | 3.50 | | | | | |
| Reinforcing Steel Setter (Structures) | 3.60 | | | | | |
| Reinforcing Steel Setter Helper | 2.85 | | | | | |
| Steel Worker (Structural) | 3.50 | | | | | |
| Steel Worker Helper (Structural) | 3.45 | | | | | |
| Sign Erector | 3.00 | | | | | |



| INCIDENTAL PAVING & UTILITIES | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| Power Equipment Operators: | | | | | | |
| Asphalt Distributor | $3.25 | | | | | |
| Asphalt Paving Machine | 3.50 | | | | | |
| Bulldozer, 150 HP and Less | 3.25 | | | | | |
| Bulldozer, over 150 HP | 3.70 | | | | | |
| Concrete Paving Curing Machine | 3.35 | | | | | |
| Concrete Paving Finishing Machine | 3.60 | | | | | |
| Concrete Paving Form Grader | 3.25 | | | | | |
| Concrete Paving Joint Machine | 3.25 | | | | | |
| Concrete Paving Mixer | 4.00 | | | | | |
| Concrete Paving Saw | 3.25 | | | | | |
| Concrete Paving Spreader | 3.90 | | | | | |
| Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY) | 3.75 | | | | | |
| Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over) | 4.00 | | | | | |
| Crusher or Screening Plant Operator | 3.25 | | | | | |
| Foundation Drill Operator (Crawler Mounted) | 4.35 | | | | | |
| Foundation Drill Operator (Truck Mounted) | 4.00 | | | | | |
| Front End Loader (2½ CY and Less) | 3.25 | | | | | |
| Front End Loader (Over 2½ CY) | 3.65 | | | | | |
| Mixer (16 CF and Less) | 3.25 | | | | | |
| Motor Grader Operator, Fine Grade | 4.00 | | | | | |
| Motor Grader Operator | 3.50 | | | | | |
| Roller, Steel Wheel (Plant-Mix Pavements) | 3.00 | | | | | |
| Roller, Steel Wheel (Other-Flat Wheel or Tamping) | 3.00 | | | | | |
| Roller, Pneumatic (Self-Propelled) | 2.75 | | | | | |
| Scrapers (17 CY and Less) | 3.00 | | | | | |
| Scrapers (Over 17 CY) | 3.25 | | | | | |
| Self-Propelled Hammer | 3.25 | | | | | |
| Tractor (Crawler Type) 150 HP and Less | 3.00 | | | | | |
| Tractor (Crawler Type) over 150 HP | 3.45 | | | | | |
| Tractor (Pneumatic) over 80 HP | 2.75 | | | | | |
| Trenching Machine, Light | 3.50 | | | | | |
| Truck Drivers: | | | | | | |
| Single Axle, Light | 2.50 | | | | | |
| Single Axle, Heavy | 2.75 | | | | | |
| Tandem Axle or Semitrailer | 2.75 | | | | | |
| Transit-Mix | 2.50 | | | | | |
| Winch | 3.15 | | | | | |
| Vibrator Man (Hand Type) | 2.50 | | | | | |
| Weighman (Truck Scales) | 2.50 | | | | | |
| Welder | 4.60 | | | | | |
| Welder Helper | 2.75 | | | | | |





SUPERSEDEAS DECISION

STATE: Texas
DECISION NO.: AQ-30
Supersedes Decision No. AP-726, dated April 27, 1973, in 38 FR 10600.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

COUNTY: Lubbock
DATE: Date of Publication



| BUILDING CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| ASBESTOS WORKERS | $7.25 | .30 | .25 | | .02 | |
| BOILERMAKERS | 6.80 | .30 | .50 | | .02 | |
| BRICKLAYERS-STONEMASONS | 6.65 | | | | | |
| CARPENTERS | 6.05 | .25 | .30 | | .01 | |
| CEMENT MASONS | 5.25 | | | | | |
| ELECTRICIANS: | | | | | | |
| Electricians | 6.70 | .25 | 1% | | 1/10% | |
| Cable splicers | 6.95 | .25 | 1% | | 1/10% | |
| IRONWORKERS: | | | | | | |
| Structural; Ornamental; Reinforcing | 6.38 | .40 | .50 | | .10 | |
| All ironworkers on jobs (30) miles or more from the city of Lubbock | 6.505 | .40 | .50 | | .10 | |
| LABORERS: | | | | | | |
| Construction laborers, including excavation, pouring concrete, carpenter tenders, reinforcing, shoring, digging, loading and unloading materials, wrecking buildings and all structures and all construction laborers except those named below | 3.775 | .275 | | | .01 | |
| Air tool operator (jackhammer, vibrator, tamper, brush hammer, chipping hammer, air or electric), power buggy man, pipelayer (concrete and clay and all non-metallic pipe); hanling, laying and cleaning pumpcrete pipe | 4.05 | .275 | | | .01 | |
| Mortar mixers, mason tenders, plasterer tenders, cement finisher tenders, lather tenders | 3.975 | .275 | | | .01 | |
| Wagon drill | 4.125 | .275 | | | .01 | |
| Blasters and powder make-up men | 4.375 | .275 | | | .01 | |
| LATHERS | 6.625 | .20 | | | .01 | |
| PAINTERS: | | | | | | |
| Brush | 5.75 | | | | | |
| Spray | 6.40 | | | | | |



| BUILDING CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| PLASTERERS | $5.875 | | | | | |
| PLUMBERS - STEAMFITTERS | 6.60 | | .35 | | .02 | |
| SHEET METAL WORKERS | 7.52 | | | | | |
| SOFT FLOOR LAYERS | 5.75 | | | | | |
| SPRINKLER FITTERS | 8.35 | .30 | .50 | | .05 | |
| TRUCK DRIVERS | 3.00 | | | | | |
| WELDERS - receive rate prescribed for craft performing operation to which welding is incidental. | | | | | | |

AQ-30 P. 3 — 38 - Texas - PEO - 1 L

| BUILDING CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| POWER EQUIPMENT OPERATORS | | | | | | |
| HEAVY EQUIPMENT OPERATORS: Drilling machine (all types); Scoopmobile; Hoists, two drums or more; Winch truck; Six wheel truck, when used continuously for 5 days; Mixermobile; Locomotives; Mixers, 14 cubic feet or over; Blade graders, self-propelled; Cableways; Cranes - power operated to 100 feet; Pordson type backhoe; Derricks, power operated (all types); Gradall; Hy-ho; Hoe-to; Paving mixers (all types); Pile-drivers; Mobile concrete mixers, over 14 cubic feet; Bulldozers, loaders, tractovators; Scrapers and pulls; Welders; Trenching machines; Roller, ten tons or over; Air compressors, three; Air compressor & one pump; Pump, three or more; Air compressor & air tugger; Boilers, two or more fired by one man; Heavy duty mechanic | $6.00 | .30 | .50 | | .10 | |
| LIGHT EQUIPMENT OPERATORS: Air compressor (1); Pump (1); Pulsometer; Conveyor; Throttle valves; Wagon drill; Elevators building; Form graders; Hoist, single drum; Mixers, less than 14 cubic feet; Screening plants; Welding machines, gas & diesel (2 or more); Crushing plants; Fork lifts (short, under 25 feet); Concrete pumps (all types); Hobcat type equipment; Ford tractor or like with any attachment (except backhoe) | 5.60 | .30 | .50 | | .10 | |
| OILERS (ALL TYPES) | 4.70 | .30 | .50 | | .10 | |

AQ-30 P. 4 — 24 - Texas - 3 1 (1 - 2)

| INCIDENTAL PAVING & UTILITIES | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| Asphalt Heaterman | $2.70 | | | | | |
| Asphalt Raker | 3.00 | | | | | |
| Asphalt Shoveler | 2.35 | | | | | |
| Batching Plant Scaleman | 2.95 | | | | | |
| Carpenter | 3.75 | | | | | |
| Carpenter Helper | 3.25 | | | | | |
| Concrete Finisher (Paving) | 3.60 | | | | | |
| Concrete Finisher (Structures) | 3.25 | | | | | |
| Concrete Finisher Helper (Structures) | 2.80 | | | | | |
| Form Builder (Structures) | 3.25 | | | | | |
| Form Setter (Structures) | 3.50 | | | | | |
| Form Setter Helper (Structures) | 2.50 | | | | | |
| Laborer, Common | 2.00 | | | | | |
| Laborer, Utility Man | 2.50 | | | | | |
| Mechanic | 3.40 | | | | | |
| Mechanic Helper | 2.25 | | | | | |
| Oiler | 2.70 | | | | | |
| Serviceman | 3.00 | | | | | |
| Powderman | 3.25 | | | | | |
| Powderman Helper | 2.50 | | | | | |
| Sign Erector | 2.75 | | | | | |
| Sign Erector Helper | 2.25 | | | | | |
| Spreader Box Man | 2.75 | | | | | |
| Swamper | 2.55 | | | | | |
| Power Equipment Operators: | | | | | | |
| Asphalt Distributor | 3.00 | | | | | |
| Asphalt Paving Machine | 3.00 | | | | | |
| Broom or Sweeper Operator | 2.25 | | | | | |
| Bulldozer, 150 HP and Less | 3.25 | | | | | |
| Bulldozer, over 150 HP | 3.50 | | | | | |
| Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY) | 3.50 | | | | | |
| Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over) | 3.75 | | | | | |
| Crusher or Screening Plant Operator | 3.00 | | | | | |
| Foundation Drill Operator (Truck Mounted) | 3.65 | | | | | |
| Front End Loader (2½ CY and Less) | 3.00 | | | | | |
| Front End Loader (Over 2½ CY) | 3.35 | | | | | |



AQ-30 P. 5 — 24 - Texas - 3 1 (2 - 2)

| INCIDENTAL PAVING & UTILITIES | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Other |
|---|---|---|---|---|---|---|
| Power Equipment Operators (Cont'd): | | | | | | |
| Motor Grader Operator, Fine Grade | $4.10 | | | | | |
| Motor Grader Operator | 3.50 | | | | | |
| Roller, Steel Wheel (Plant-Mix Pavements) | 2.60 | | | | | |
| Roller, Steel Wheel (Other-Flat Wheel or Tamping) | 2.55 | | | | | |
| Roller, Pneumatic (Self-Propelled) | 2.45 | | | | | |
| Scrapers (17 CY and Less) | 3.00 | | | | | |
| Scrapers (Over 17 CY) | 3.50 | | | | | |
| Tractor (Crawler Type) 150 HP and Less | 2.50 | | | | | |
| Tractor (Crawler Type) over 150 HP | 3.00 | | | | | |
| Tractor (Pneumatic) 80 HP and Less | 2.50 | | | | | |
| Tractor (Pneumatic) over 80 HP | 3.00 | | | | | |
| Traveling Mixer | 3.15 | | | | | |
| Wagon Drill, Boring Machine or Post Hole Driller Operator | 3.00 | | | | | |
| Truck Drivers: | | | | | | |
| Single Axle, Light | 2.25 | | | | | |
| Single Axle, Heavy | 2.25 | | | | | |
| Tandem Axle or Semitrailer | 2.25 | | | | | |
| Transit-Mix | 3.10 | | | | | |
| Weighman (Truck Scales) | 2.35 | | | | | |
| Welder | 3.80 | | | | | |
| LINE CONSTRUCTION: | | | | | | |
| Lineman | $6.70 | .25 | 1% | | | |
| Operators | 5.36 | .25 | 1% | | | |
| Groundmen (more than 1 year experience) | 3.69 | .25 | 1% | | | |
| Groundmen (less than 1 year experience) | 3.35 | .25 | 1% | | | |
| Flat bed truck operator | 4.69 | .25 | 1% | | | |







MAX 3718283

SUPERSEDEAS DECISION

STATE: Texas
DECISION NO.: AQ-31
Supersedes Decision No. AP-728, dated April 27, 1973, in 38 FR 10606.
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

COUNTY: Nueces
DATE: Date of Publication

15 - Texas - 1 x (1 - 2)

| BUILDING CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| ASBESTOS WORKERS | $6.995 | .35 | .295 | | .02 | |
| BOILERMAKERS | 6.80 | .30 | .50 | | .02 | |
| BRICKLAYERS | 6.45 | .15 | | | | |
| CARPENTERS: | | | | | | |
| Carpenters | 5.88 | .21 | .07 | | .02 | |
| Millwrights | 6.33 | | | | 1% | |
| CEMENT MASONS | 6.00 | .15 | | | | |
| ELECTRICIANS: | | | | | | |
| Electricians | 7.50 | .35 | 1% | | 1/2% | |
| Cable splicers | 7.62 | .35 | 1% | | 1/2% | |
| GLAZIERS | 5.06 | | .20 | | | |
| IRONWORKERS: | | | | | | |
| Structural; Ornamental | 5.39 | .40 | .40 | | .04 | |
| Reinforcing | 5.265 | .40 | .40 | | .04 | |
| LABORERS: | | | | | | |
| General laborer (any work not specifically defined herein) | 3.55 | .15 | .10 | | | |
| Craft tenders: Bricklayers, plasterers, tile setters, concrete & mortar mixers, pipelayers, lathers, finish carpenters, slip form operators, scaffolding water proofers, cement finishers | 3.65 | .15 | .10 | | | |
| Power tool operators - Includes paving buscer, jackhammer, chipping gun, air tamper, barie tamper, electric vibrator, air or gasoline driven vibrator or drills, sump pumps and any and all power driven equipment operated by laborers | 3.65 | .15 | .10 | | | |
| Gunnite nozzlemen | 4.00 | .15 | .10 | | | |
| Pipe wrappers & dopers | 3.90 | .15 | .10 | | | |
| Powder man or blaster | 4.00 | .15 | .10 | | | |
| LATHERS | 5.70 | .20 | .10 | 1.00 | .01 | |
| MARBLE SETTERS | 5.88 | | | | .02 | |
| MARBLE SETTERS' HELPERS | 4.02 | | | | | |



15 - Texas - 1 x (1 - 2)

| BUILDING CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| PAINTERS: | | | | | | |
| Brush | $5.45 | .25 | .25 | | 2/10% | |
| Spray | 5.85 | .25 | .25 | | 2/10% | |
| Sign | 5.70 | .25 | .25 | | 2/10% | |
| PLASTERERS | 6.85 | | | | .01 | |
| PLUMBERS-STEAMFITTERS | 6.35 | .15 | .25 | | .035 | |
| ROOFERS: | | | | | | |
| Roofers | 5.125 | | .10 | | | |
| Kettlemen | 5.00 | | .10 | | | |
| Waterproofers | 5.125 | | .10 | | | |
| Deckmen | 5.125 | | .10 | | | |
| SHEET METAL WORKERS | 6.15 | | .25 | | .01 | |
| SOFT FLOOR LAYERS | 5.88 | .21 | .07 | | .02 | |
| SPRINKLER FITTERS | 6.35 | .30 | .50 | | .05 | |
| TERRAZZO WORKERS | 5.88 | | | | .02 | |
| TERRAZZO WORKERS' HELPERS: | | | | | | |
| Terrazzo helpers | 4.02 | | | | | |
| Floor machine operators | 4.22 | | | | | |
| Base machine operators | 4.37 | | | | | |
| TILE SETTERS | 5.88 | | | | .02 | |
| TILE SETTERS' HELPERS | 4.02 | | | | | |
| WELDERS - receive rate prescribed for craft performing operation to which welding is incidental. | | | | | | |

NOTICES





15 - Texas - PEO - 1 n

| BUILDING CONSTRUCTION | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| POWER EQUIPMENT OPERATORS | | | | | | |
| LIGHT EQUIPMENT | | | | | | |
| Air compressor (1); Blade grader (towed); Conveyor; Fireman; Form grader; Flexplane; Generator (gas or diesel over 1500 watts); Hoist (1 drum); Lubrication truck driver; Mixer (less than 14 cu. ft.); Pulsometer; Pump (1); Roller (towed); Tractor (wheel type); Truck crane driver-oiler; Wagon drill; Welding machines (3 to 6) other than electric; All other equipment of similar nature coming with light equipment class when power operated | $5.475 | .15 | .45 | | | |
| OILER | | | | | | |
| Oiler, first year | 4.875 | .15 | .45 | | | |
| Oiler, second year | 5.025 | .15 | .45 | | | |
| HEAVY EQUIPMENT | | | | | | |
| Air compressors (2); Asphalt plant mixer; Backfiller; Batch plant (concrete); Blade grader; Boring machine; Bull clam; Bulldozer; Cableway; Clamshell; Crane, power operated, all types; Crusher; Derrick, power operated, all types; Dragline; Elevator grader; Elevator building (used on construction); Euclids & similar type machines; Forklift; Grade-all; Hi-lift; Hoist (2 drums or more); Locomotive and switch engines; Mixer (paving); Mixer (concrete); Piledriver; Pumps (2); Pumpcrete machine; Push cat or pull cat; Roller (flatwheel); Scraper (all types); Shovel (power); Scoopmobile; Trench machine; Tugboat (on construction); Turnapulls and similar machines; Welding machines (7 to 13) other than electric; Well point; Winch truck; Mechanic; All other equipment of similar nature coming with heavy equipment class when power operated | 6.05 | .15 | .45 | | | |



15 - Texas - 3 1 (1 - 2)

| INCIDENTAL PAVING & UTILITIES | Basic Hourly Rates | Fringe Benefits Payments | | | | |
|---|---|---|---|---|---|---|
| | | H & W | Pensions | Vacation | App. Tr. | Others |
| Air Tool Man | $2.10 | | | | | |
| Asphalt Heaterman | 2.50 | | | | | |
| Asphalt Raker | 2.50 | | | | | |
| Asphalt Shoveler | 2.00 | | | | | |
| Batching Plant Scaleman | 2.90 | | | | | |
| Batterboard Setter | 2.60 | | | | | |
| Carpenter | 3.00 | | | | | |
| Carpenter Helper | 2.25 | | | | | |
| Concrete Finisher (Paving) | 3.25 | | | | | |
| Concrete Finisher (Structures) | 2.85 | | | | | |
| Concrete Finisher Helper (Structures) | 2.45 | | | | | |
| Electrician | 5.00 | | | | | |
| Electrician Helper | 4.13 | | | | | |
| Form Builder (Structures) | 3.50 | | | | | |
| Form Builder Helper (Structures) | 2.25 | | | | | |
| Form Setter (Paving and Curb) | 3.00 | | | | | |
| Form Setter Helper (Paving and Curb) | 2.00 | | | | | |
| Form Setter (Structures) | 2.70 | | | | | |
| Form Setter Helper (Structures) | 2.15 | | | | | |
| Laborer, Common | 2.00 | | | | | |
| Laborer, Utility Man | 2.40 | | | | | |
| Manhole Builder, Brick | 2.50 | | | | | |
| Mechanic | 3.35 | | | | | |
| Mechanic Helper | 2.50 | | | | | |
| Oiler | 2.50 | | | | | |
| Pipelayer | 2.20 | | | | | |
| Reinforcing Steel Setter (Structures) | 2.80 | | | | | |
| Reinforcing Steel Setter Helper | 2.25 | | | | | |
| Spreader Box Man | 2.75 | | | | | |
| Power Equipment Operators: | | | | | | |
| Asphalt Distributor | 2.85 | | | | | |
| Asphalt Paving Machine | 3.00 | | | | | |
| Bulldozer, 150 HP and Less | 3.00 | | | | | |
| Bulldozer, over 150 HP | 3.15 | | | | | |
| Concrete Paving Saw | 2.25 | | | | | |
| Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY) | 3.00 | | | | | |
| Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over) | 3.75 | | | | | |

NOTICES





XUM 3 1 8 2 UMS 8 8 1 1 8 3 V

AQ-31 P. 5

15 - Texas - 3 1 (2 - 2)

| INCIDENTAL PAVING & UTILITIES | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Others |
|---|---|---|---|---|---|---|
| Power Equipment Operators (Cont'd): | | | | | | |
| Front End Loader (2½ CY and Less) | $2.50 | | | | | |
| Front End Loader (Over 2½ CY) | 3.15 | | | | | |
| Motor Grader Operator, Fine Grade | 3.75 | | | | | |
| Motor Grader Operator | 3.00 | | | | | |
| Roller, Steel Wheel (Plant-Mix Pavements) | 2.65 | | | | | |
| Roller, Steel Wheel (Other-Flat Wheel or Tamping) | 2.05 | | | | | |
| Roller, Pneumatic (Self-Propelled) | 2.00 | | | | | |
| Scrapers (17 CY and Less) | 2.75 | | | | | |
| Scrapers (Over 17 CY) | 2.90 | | | | | |
| Tractor (Crawler Type) over 150 HP | 2.85 | | | | | |
| Tractor (Pneumatic) 80 HP and Less | 2.00 | | | | | |
| Tractor (Pneumatic) over 80 HP | 2.25 | | | | | |
| Traveling Mixer | 2.50 | | | | | |
| Wagon Drill, Boring Machine or Post Hole Driller Operator | 3.25 | | | | | |
| Truck Drivers: | | | | | | |
| Single Axle, Light | 2.00 | | | | | |
| Single Axle, Heavy | 2.25 | | | | | |
| Tandom Axle or Semitrailer | 2.50 | | | | | |
| Vibrator Man (Hand Type) | 2.00 | | | | | |
| Welder | 3.00 | | | | | |
| LINE CONSTRUCTION: | | | | | | |
| Lineman | $7.22 | .28 | 1% | | 1/2% | |
| Cable splicer | 7.345 | .28 | 1% | | 1/2% | |
| Groundman | 4.74 | .28 | 1% | | 1/2% | |

AQ-1,021 P. 35

1 - WAS - TD -1-2-3 (1-2)

| All Counties and parts of Counties East of the 120th Meridian<br>TRUCK DRIVERS | Basic Hourly Rates | Fringe Benefits Payments: H & W | Pensions | Vacation | App. Tr. | Oth |
|---|---|---|---|---|---|---|
| Group I<br>FLAT BED TRUCK, single rear axle; Escort Driver; Fish Truck; Fork Lift, 3,000 lbs. & under; Fuel Truck Driver (steam cleaner & washer); Helper & Swamper; Leverman Loading Trucks at Bunkers; Pickup Hauling Material; Stationary Fuel Op.; Team Driver; Tractor (small rubber tired pulling trailer or sim. equip.); Water Tank Truck 1,800 gallons | $6.70 | .62 | .50 | | | |
| Group II<br>BUS DRIVER OR MANHAUL DRIVER; Flat Bed Truck, dual rear axle; Fireman No. 1; Warehouseman | 6.75 | .62 | .50 | | | |
| Group III<br>BUGGY MOBILE & SIM.; Bulk Cement Tanker; Oil Tank Driver; Power Operated Sweeper; Semi-Trailer, low bed, truck & Trailer; Straddle Carrier (Ross, Hyster & sim.); Transit Mixers & Trucks Hauling Concrete (3 yds. & under); Trucks, side end and bottom dump (under 6 yds.); Water Tank Truck (1,801 - 4,000 gallons) | 6.80 | .62 | .50 | | | |
| Group IV<br>AUTO CRANE - 2000 lbs. capacity; Bulk Cement Spreader; Dumptor (6 yds. & under); Flaherty Spreader, box driver; Flat Bed Truck (using power take off); Fork Lift (over 3,000 lbs.) Oil Distributor Driver (road, bootman; leverman, helper); Rubber tired Tunnel Jumbo; Scissors Truck; Slurry Truck Driver; Transit Mixers & Trucks Hauling Concrete (over 3 yds. to 6 yds.) Trucks, side, end and bottom dump (over 6 yds. to 12 yds.); Water Tank Truck (4,001 - 6,000 gals.); Wrecker & Tow Trucks | 6.90 | .62 | .50 | | | |





AQ-1,021 P. 41

3-WAS-TD-1-2-3 (3-3)

| | BASIC HOURLY RATES | FRINGE BENEFITS PAYMENTS: H & W | PENSIONS | VACATION | APP. TR. | OTHERS |
|---|---|---|---|---|---|---|
| Dump trucks, side, end & bottom dump, including semi trucks & trains or combin. thereof: over 80 cu. yds. & incl. 90 cu. yds. | $7.30 | .40 | .45 | .25 | | |
| Dump trucks, side, end & bottom dump, incl. semi-trucks and trains or combin. thereof: over 90 cu. yds. & incl. 100 cu. yds. | 7.40 | .40 | .45 | .25 | | |

Drivers and Helpers (handling sacked cement add $.15 per hour).

Winch truck - takes classification of truck on which winch is mounted.

[FR Doc.73-20481 Filed 9-27-73;8:45 am]

## CUMULATIVE LISTS OF PARTS AFFECTED—SEPTEMBER

**The following numerical guide is a list of parts of each title of the Code of Federal Regulations affected by documents published to date during September.**

**1 CFR** Page
CFR checklist 23771

**3 CFR**
PROCLAMATIONS:
4239 24191
4240 24193
4241 24881
4242 26099
4243 26101
4244 26179
4245 26351
4246 26441
EXECUTIVE ORDERS:
11359 (superseded by 11737) 24883
11602 (superseded by E.O. 11738) 25161
11635 (superseded by 11737) 24883
11659 (amended by 11737) 24883
11737 24883
11738 25161
Presidential Documents other than Proclamations and Executive Orders:
Memorandum of August 17, 1973 25903

**4 CFR**
400 24195
405 24195
PROPOSED RULES:
331 23971
351 23971, 26072
400 23971
401 23971
402 23971
403 23971
404 23971

**5 CFR**
213 2344, 24885, 25165, 25907, 26181, 26353, 26443, 26675, 26797
335 26601
430 26601
451 26601
630 26601
715 26601

**6 CFR**
102 25427
130 24213
140 24214
150 23794, 23931, 24214, 24885, 25427, 25686, 26181, 26611, 26917
152 23794, 24214
155 24885
PROPOSED RULES:
Ch. I 24917
152 23806, 24219, 24667

**7 CFR**
2 24633
51 23931
52 24344, 25165, 26903
56 26797
201 25661, 26800
250 24633
301 25664
354 23934
401 25907
725 23935
777 25665
864 25427
891 26706
905 25665
908 24215, 25431, 25907, 26353, 26601, 26903
910 24345, 24890, 25908, 26443
928 24345
930 24890
932 24215, 27053
944 26108
948 25667
981 25668, 26181
991 23771
1001 24216
1002 24216
1004 24216
1006 24216
1007 24216
1011 24216
1012 24216
1013 24216
1015 24216
1030 24216
1033 24216
1036 24216
1040 24216
1044 24216
1046 24216
1049 24216
1050 24216, 26182, 27053
1060 24216
1061 24216
1062 24216
1063 24216
1064 24216
1065 24216
1068 24216
1069 24216
1070 24216
1071 24216
1073 24216, 26707
1075 24216
1076 24216
1078 24216
1079 24216
1090 24216
1094 24216
1096 24216
1097 24216
1098 24216
1099 24216
1101 24216
1102 24216
1106 24216
1108 24216
1120 24216
1121 24216
1124 24216
1125 24216
1126 24216
1127 24216
1128 24216
1129 24216, 26709
1130 24216
1131 24216
1132 24216
1133 24216
1134 24216
1136 24216
1138 24216
1137 24216
1139 24216
1207 26354
1421 23935, 24634, 25668, 26006, 26182, 26904
1430 23939
1821 27055
1866 24346
PROPOSED RULES:
20 25690
26 23955, 25186
46 26207
52 24654, 24904, 24907, 24910, 27068
301 26808
722 24911
730 27068
905 26454
906 26384, 26614, 26615
909 27068
927 26615
932 24910
944 26807
945 26384
981 24911
989 26729
1007 25024
1030 22796, 25448, 25756
1032 25756
1046 25756
1049 25756
1050 25186, 25756
1060 25222
1061 25222
1062 25756
1063 25222
1064 25222
1065 25222
1068 25222
1069 25222
1070 25222
1071 25024
1073 24654, 25024
1078 25222
1078 25222
1079 25222
1090 25024
1094 25024
1096 25024, 29190
1097 25024
1098 25024
1099 25756
1102 25024
1104 25282
1106 25282
1108 25024
1120 25282
1126 25282
1127 25282
1128 25282
1129 25282
1130 25282
1131 25282
1132 25282
1138 25282
1140 26729
1701 24660, 26919





**8 CFR** Page
214 24881, 26354
238 24891

**9 CFR**
73 24346, 26904
82 23940, 26904
94 24891, 25669
97 23940
319 24640
PROPOSED RULES:
92 26808
94 24219
102 23957
104 23957
113 26118
308 27069
325 27069
381 24374, 26454, 26455, 27069

**10 CFR**
50 26354
55 26354
110 23953
PROPOSED RULES:
9 27096
31 26813
32 26813
50 26814
70 26735

**12 CFR**
201 23772
204 25985
207 26905
217 26109
329 25432, 26355
506 26355
506a 26355
525 26357
526 23940, 25433
545 24200, 26709, 26710
546 24201
561 26110, 26711
563 24202, 26110, 26357, 26711, 26712
566 26112
570 26112
PROPOSED RULES:
204 25703
217 26468
220 26009
266 26469
329 26391
526 26736
545 24228, 26133
702 26216

**13 CFR**
PROPOSED RULES:
107 24028

**14 CFR**
Ch. I 26444
39 23941, 24347, 24349, 24640, 24641, 25170, 25669, 25670, 25905, 26358, 26713, 26800, 26905, 27045
71 23941, 23942, 24204, 24350, 24641, 24892, 25171, 25433, 25905–25907, 26112, 26444, 26445, 26714, 26801, 26905, 26906, 27046
73 26445, 26714, 26906, 27046
75 24204, 25171, 26715, 26907
91 24893
95 24893
97 24350, 26446, 26715, 26907
103 26446
208 24642
229 26908
240 26601
241 24351, 26461
288 23772
302 24894
389 24895, 26113
399 23777, 24642
PROPOSED RULES:
25 26811, 26939
37 25450
39 23962, 26811
61 23962
71 23804, 23969, 24222, 24914, 25195, 25451, 25452, 25696, 26007, 26389, 26730–26734, 26812, 26813, 26940, 27081
73 26732
75 23804, 26735, 27081
121 23962, 26811, 26939
135 26811
139 26389
Ch. II 24660
221 23804
241 24223, 24661
298 23805, 24662, 26616
372a 24664
389 24662
399 25453

**15 CFR**
8 23777
256 25908
376 23777, 25446
377 25184, 26206, 26908
399 26908
1000 25909, 26676
1020 26697
1025 26699
1030 26699
1035 26703
1040 26704
1050 26705

**16 CFR**
13 24352, 24353, 24634, 25434–25436, 26602
1500 27012
1505 27012
PROPOSED RULES:
1700 25195

**17 CFR**
210 26182
211 24635
231 24635
241 24635, 26358, 26716
251 24635
271 24635
PROPOSED RULES:
210 27088, 27090
230 24668
240 26943
249 27090
270 26133, 26816
275 26816

**18 CFR**
2 26603
157 26603

**19 CFR**
Ch. I 25171
1 24354, 25171
4 24354
PROPOSED RULES:
1 24374, 25185
4 27904
10 25995, 27904
11 25995
12 25995
19 25995, 27904
24 23954
25 25995, 27904
113 25995
114 25995
141 23954
142 25995
143 27904
144 27904
145 27904
151 25448
172 25995

**20 CFR**
404 26806
405 26718
701 26860
702 26861
703 26873
704 26877
725 26042
PROPOSED RULES:
404 26921
405 23802, 25448, 26132, 26616
725 26069

**21 CFR**
Ch. II 26609
8 24643
9 24203
26 25985
45 25671
121 24354, 24643, 25437, 26447, 26909, 20746
135 23942
135a 26909
135b 24355, 24643, 24895, 25673, 26183, 26910
135c 24355, 24644, 25673, 26183, 26910
135e 25674, 25676, 26909
141 25674
144 25437
146 25674
149b 25674, 26183
149d 25675
191 26910
191b 26910
308 26447
1308 26610
1401 26611
PROPOSED RULES:
10 25195
27 26384
121 24374, 24375, 25694, 27076
128 27076
130 24220, 26809
133 27076
135 25694
141e 26006
273 26130
278 26007

**22 CFR**
133 27047

**23 CFR**
PROPOSED RULES:
770 23969
772 25696



V 38-188 SEP 28 73 XUM

**24 CFR** — Page

42 — 25172, 26113
200 — 25993
201 — 25676
203 — 24637
205 — 24637, 24896
207 — 24637
213 — 24637
220 — 24637
221 — 24637
232 — 24637
234 — 24637
235 — 24638
236 — 24638
241 — 24638
242 — 24638
244 — 24638, 24896
1700 — 23866
1710 — 23866
1715 — 23873
1720 — 23874
1914 — 23943–23945, 24355–24357, 25677, 25678, 25994, 26113, 26114, 26367, 26911
1915 — 24358, 24360, 26368

PROPOSED RULES:

20 — 24222
42 — 26923
201 — 23803
205 — 26132
242 — 26132
244 — 26132

**25 CFR**

141 — 24638
251 — 25987
252 — 25988
256 — 23945

PROPOSED RULES:

221 — 23954, 23955, 26729
243 — 26118

**26 CFR**

1 — 24206, 26184, 26911, 26912
301 — 27047

PROPOSED RULES:

1 — 26918

**28 CFR**

0 — 26910
2 — 26652
17 — 26448

**29 CFR**

201 — 26449
202 — 26449
203 — 26449
204 — 26449
205 — 26449
206 — 26449
610 — 25988
612 — 25989
614 — 25989
723 — 26718
1602 — 26719
1907 — 25150
1910 — 27047
1952 — 24896, 25172, 26449
1953 — 24361

PROPOSED RULES:

202 — 26919
206 — 26919
1201 — 27088
1203 — 27088
1207 — 27088
1910 — 24300, 24375, 26207, 26459
1960 — 27070

**30 CFR** — Page

57 — 23781

PROPOSED RULES:

270 — 26807
271 — 26807
504 — 24024

**31 CFR**

91 — 94897
315 — 24762, 26189
605 — 24898

**32 CFR**

166 — 25990
301 — 26720
802 — 26190
806 — 26190
809 — 23945
818b — 26801
881 — 26891
883 — 26802
1285 — 24206
1453 — 24210

PROPOSED RULES:

1604 — 25704
1623 — 26392
1626 — 26392
1628 — 26392
1631 — 26392
1632 — 26392
1641 — 26392

**32A CFR**

Ch. IV:
BP Notice 1 — 25175
Ch. X:
Reg. 1
Ch. XI
OIAB Rules and Procedures — 26103
Ch. XIII:
EPO Reg. 3 — 23977

PROPOSED RULES:

Ch. X — 26005

**33 CFR**

117 — 25433, 26115
127 — 24898
207 — 25176
401 — 24210

PROPOSED RULES:

117 — 24912–24914, 25455, 26938
127 — 23804

**35 CFR**

5 — 25438
51 — 26722

**36 CFR**

Title Change
50 — 24218
221 — 23948
295 — 26723
701 — 27049
702 — 27049

PROPOSED RULES:

7 — 23796, 24912, 25185

**38 CFR**

1 — 24364
2 — 24366
3 — 26804
17 — 24366, 26190
21 — 23948
36 — 25678

PROPOSED RULES:

17 — 26393
21 — 26944

**39 CFR** — Page

235 — 26193
3000 — 24898
3001 — 24898

**40 CFR**

35 — 24639, 26358, 26882
50 — 25678
52 — 24333, 26324
80 — 26449
113 — 25439
120 — 26358
126 — 25681
129 — 24342
162 — 26360
168 — 26360
180 — 23781, 25440, 26450, 26913

PROPOSED RULES:

51 — 25697
52 — 23805, 26390, 26462
120 — 26209, 26463
180 — 23806, 24667, 24918, 25455
411 — 24462
412 — 24466
422 — 24470

**41 CFR**

1–1 — 24210, 26913
1–2 — 26913
1–3 — 26914
1–7 — 26916
1–9 — 23782
1–16 — 26916
1–18 — 23791
3–16 — 24644
8–4 — 26368
8–16 — 26369
8–95 — 26369
101–25 — 26604
105–64 — 26604
114–43 — 26370
114–50 — 24649

**42 CFR**

21 — 25683
51 — 26194
51a — 26195
51b — 26196
52 — 26196
53 — 26196
54 — 26197
55 — 26197
56 — 26197
57 — 26198
59 — 26198
59a — 26199
87 — 26199
91 — 26200
205 — 26201
206 — 26201
208 — 26201

PROPOSED RULES:

50 — 26459
81 — 26730

**43 CFR**

4 — 23948
3830 — 24650
4710 — 24650

PUBLIC LAND ORDERS:

5169 (Amended by PLO 5396) — 26376
5170 (Amended by PLO 5395) — 26375
5171 (Amended by PLO 5389) — 23371
5172 (Amended by PLO 5392) — 26373
5173 (Amended by PLO 5391) — 26372
5175 (Amended by PLO 5394) — 26375
5176 (Amended by PLO 5393) — 26373
5177 (Amended by PLO 5397) — 26377
5179 (Amended by PLO 5389, 5393, 5395, 5396, 5397) — 26370–26377
5180 (Amended by PLO 5388, 5393, 5394, 5396, 5397) — 26370–26377
5181 (Amended by PLO 5388, 5394) — 26370–26377
5186 (Amended by PLO 5393) — 26373
5191 (See PLO 5391, 5392, 5394, 5396, 5397) — 26370–26377
5192 (See PLO 5389, 5393, 5395, 5396, 5397) — 26370–26377
5193 (See PLO 5393, 5394, 5395, 5396, 5397) — 26370–26377
5194 (See PLO 5388, 5394) — 26370–26377
5213 (See 5391) — 26372
5250 (See PLO 5389, 5393, 5395, 5396, 5397) — 26370–26377
5251 (See PLO 5393, 5394, 5395, 5396, 5397) — 26370–26377
5252 (See PLO 5391) — 26372
5253 (See PLO 5389) — 26371
5254 (See PLO 5393) — 26373
5256 (See PLO 5396) — 26376
5321 (See PLO 5391) — 26372
5383 — 25684
5387 — 26370
5388 — 26370
5389 — 26371
5390 — 26372
5391 — 26372
5392 — 26373
5393 — 26373
5394 — 26375
5395 — 26375
5396 — 26376
5397 — 26377

PROPOSED RULES:

3000 — 26918
3200 — 26918

**44 CFR**

308 — 27049
501 — 27049
502 — 27049

**45 CFR**

74 — 26274
201 — 26320
205 — 26378, 26804
220 — 26320
233 — 26379, 26608, 26916







**45 CFR—Continued** — Page

234 — 26380
401 — 26320
403 — 26320
404 — 26320
405 — 26320
406 — 26320
408 — 26320
416 — 26320
901 — 26201
903 — 26201
904 — 26201
905 — 26201
909 — 24900, 26201

PROPOSED RULES:

83 — 26384
167 — 26768
190 — 26660
221 — 24872, 27081
233 — 23802
249 — 26460
250 — 25450, 26920
903 — 23912

**46 CFR**

PROPOSED RULES:

146 — 23959
160 — 26938
Ch. IV — 26943
542 — 23979
538 — 24228

**47 CFR**

0 — 24900, 26724
1 — 26202
2 — 24901, 25180, 25991
13 — 25684
23 — 24901
73 — 24367, 25991, 26203, 26204, 26380, 26451, 26453
74 — 25991, 25992, 26381
81 — 24211, 25180, 25991
83 — 24368, 25180, 25992, 27052
87 — 25684
89 — 24901
91 — 25182, 26381
93 — 24901
97 — 24211

PROPOSED RULES:

2 — 27082
18 — 27082
21 — 27082
61 — 24920

**47 CFR—Continued** — Page

PROPOSED RULES—Continued

73 — 25703, 26008, 26211, 26212, 26380, 26463–26465, 27082, 27086, 27087
74 — 27082
89 — 27082
91 — 27082
93 — 27082
97 — 26942

**49 CFR**

1 — 24901, 24902, 26805
170 — 23791
171 — 23792
172 — 23792
177 — 23792
178 — 23792
393 — 25182
395 — 27049
570 — 23949, 25685
571 — 27050
1003 — 26205
1033 — 23792, 23793, 23952, 24212, 24902, 25183, 25685, 26205, 26805
1048 — 24368
1056 — 26608
1115 — 23953, 24903, 25686, 26609
1121 — 24902, 26726
1134 — 26205
1140 — 26205
1304 — 26805
1307 — 26805
1309 — 26806
1322 — 26726

PROPOSED RULES:

172 — 24915
173 — 24915
393 — 24223, 25452, 25696, 26461
542 — 23979
571 — 23804, 26940
1057 — 24228
1131 — 23979

**50 CFR**

20 — 23793, 26609
32 — 23793, 23794, 24212, 24369–24373, 24650–24652, 25183, 25441–25445, 25686, 25992, 26115, 26116, 26205, 26381–26383, 26727, 26728, 26917, 27052
33 — 25445
253 — 26116

PROPOSED RULES:

21 — 23796
32 — 25693


## FEDERAL REGISTER PAGES AND DATES—SEPTEMBER

| *Pages* | *Date* | *Pages* | *Date* |
|---|---|---|---|
| 23765–23922 | Sept. 4 | 26093–26171 | 18 |
| 23923–24184 | 5 | 26173–26344 | 19 |
| 24185–24326 | 6 | 26345–26433 | 20 |
| 24327–24625 | 7 | 26435–26593 | 21 |
| 24627–24874 | 10 | 26595–26668 | 24 |
| 24875–25154 | 11 | 26669–26790 | 25 |
| 25155–25420 | 12 | 26791–26883 | 26 |
| 25421–25654 | 13 | 26885–27038 | 27 |
| 25655–25895 | 14 | 27039–27203 | 28 |
| 25897–26091 | 17 | | |



V 38 I 188 SEP 28 73 XUM

## AGENCIES WHICH PUBLISHED IN SEPTEMBER

**This is a list of agencies which published documents in the Federal Register during September 1973. This list appears in the final issue of each month.**


### THE PRESIDENT

EXECUTIVE ORDERS

| | | Date |
|---|---|---|
| 11737 | Upper Mississippi River Basin Commission | 11 |
| 11738 | Clean Air Act and Water Pollution Control | 12 |

PROCLAMATIONS

| | | |
|---|---|---|
| 4239 | National Highway Week, 1973 | 6 |
| 4240 | United Nations Day, 1973 | 6 |
| 4241 | National Hispanic Heritage | 11 |
| 4242 | National Hunting and Fishing Day | 18 |
| 4243 | Fire Prevention Week, 1973 | 18 |
| 4244 | Child Health Day, 1973 | 19 |
| 4245 | National Employ the Handicapped Week, 1973 | 20 |
| 4246 | Johnny Horizon '76 | 21 |

MEMORANDA

| | |
|---|---|
| Defense Grant to Turkey | 17 |

### EXECUTIVE AGENCIES

| | Date |
|---|---|
| Agriculture Department | 4, 5, 6, 7, 10, 11, 12, 13, 14, 17, 18, 19, 20, 21, 24, 25, 26, 27, 28 |
| Air Force Department | 4, 5, 6, 14, 17, 19, 26, 27 |
| Alcohol, Tobacco, and Firearms Bureau | 18 |
| American Revolution Bicentennial Commission | 5, 7 |
| Army Department | 13, 19, 24, 25, 26 |
| Atomic Energy Commission | 4, 5, 6, 7, 10, 11, 13, 14, 17, 18, 19, 20, 21, 24, 25, 26, 27, 28 |
| Blind and Other Severely Handicapped, Committee for Purchase of Products and Services of | 4, 10, 20, 28 |
| Bonneville Power Administration | 10, 14, 17 |
| Civil Aeronautics Board | 4, 5, 6, 7, 10, 11, 12, 13, 14, 17, 18, 19, 20, 21, 24, 25, 26, 27, 28 |
| Civil Rights Commission | 7, 10, 11, 21, 24, 26 |
| Civil Service Commission | 7, 11, 12, 17, 19, 20, 21, 24, 25, 26 |
| Coast Guard | 4, 5, 11, 13, 18, 21, 27 |
| Commerce Department | 4, 5, 6, 12, 21, 24 |
| Commodity Credit Corporation | 5, 10, 14, 17, 19, 27 |
| Comptroller of Currency | 4, 14, 26 |
| Consumer Product Safety Commission | 11, 12, 25, 27 |
| Cost Accounting Standards Board | 5, 6, 17 |
| Cost of Living Council | 4, 5, 6, 10, 11, 13, 14, 18, 19, 24, 25, 27 |
| Customs Service | 4, 5, 7, 12, 13, 17, 18, 24, 26 |
| Defense Department | 10, 17, 19, 21, 25, 26 |
| Defense Supply Agency | 6 |
| Delaware River Basin Commission | 20 |
| Disease Control, Center for | 10, 18, 19 |
| Domestic and International Business Administration | 4, 6, 12, 13, 19, 21, 25, 26, 27 |
| Drug Abuse Prevention Special Action Office | 24 |
| Drug Enforcement Administration | 12, 21, 24 |
| Economic Advisers, Council of | 4 |
| Education Office | 7, 11, 12, 13, 17, 24, 25, 26 |
| Employment Standards Administration | 7, 14, 17, 21, 26, 28 |
| Energy Policy Office | 5 |
| Engineers Corps | 12, 28 |
| Engraving and Printing Bureau | 11 |
| Environmental Protection Agency | 4, 5, 6, 7, 10, 11, 12, 13, 14, 18, 19, 20, 21, 25, 26, 27, 28 |
| Environmental Quality Citizens Advisory Committee | 6, 20 |
| Environmental Quality Council | 4, 7, 10, 17, 20, 27 |
| Equal Employment Opportunity Commission | 25 |
| Farmers Home Administration | 7, 13, 14, 28 |
| Federal Aviation Administration | 4, 5, 6, 7, 10, 11, 12, 13, 14, 17, 18, 20, 21, 25, 26, 28 |
| Federal Communications Commission | 4, 6, 7, 10, 11, 12, 14, 17, 19, 20, 21 25, 27, 28 |
| Federal Court Appellate System, Commission on Revision of | 13 |
| Federal Crop Insurance Corporation | 17 |
| Federal Deposit Insurance Corporation | 13, 20 |
| Federal Disaster Assistance Administration | 6, 19, 24 |
| Federal Highway Administration | 5, 6, 10, 12, 13, 14, 21, 28 |
| Federal Home Loan Bank Board | 5, 6, 13, 18, 20, 25 |
| Federal Housing Administration | 4, 6, 10, 11, 14, 17, 18 |
| Federal Insurance Administration | 5, 7, 14, 17, 18, 20, 27 |
| Federal Maritime Commission | 4, 5, 6, 10, 11, 12, 13, 14, 18, 20, 26, 27 |
| Federal Pay, Advisory Committee on | 10, 17 |
| Federal Power Commission | 4, 6, 7, 11, 12, 13, 14, 17, 19, 20, 21, 24, 25, 27, 28 |
| Federal Register | 4 |
| Federal Reserve System | 4, 5, 6, 7, 10, 11, 12, 14, 17, 18, 20, 21, 25, 26, 27, 28 |
| Federal Trade Commission | 7, 10, 13, 18, 24 |
| Fiscal Service | 10, 19 |
| Fish and Wildlife Service | 4, 6, 7, 10, 12, 13, 14, 17, 18, 19, 20, 24, 25, 27, 28 |
| Food and Drug Administration | 4, 5, 6, 7, 10, 11, 12, 13, 14, 17, 18, 19, 20, 21, 25, 26, 27, 28 |
| Food and Nutrition Service | 10 |
| Foreign Direct Investments Office | 17, 25 |
| Foreign Trade Zones Board | 14 |
| Forest Service | 4, 5, 7, 12, 13, 17, 19, 20, 24, 25, 26, 27 |
| General Services Administration | 4, 5, 6, 14, 24, 25, 27 |
| Geological Survey | 26 |
| Hazardous Materials Regulation Board | 4, 11 |
| Health, Education, and Welfare Department | 4, 5, 6, 10, 11, 14, 18, 19, 20, 21, 25 |
| Health Resources Administration | 13, 21, 28 |
| Health Services Administration | 25 |
| Hearings and Appeals Office | 20, 27 |
| Housing and Urban Development Department | 4, 5, 6, 12, 18, 27 |
| Immigration and Naturalization Service | 11, 20 |
| Indian Affairs Bureau | 5, 10, 17, 18, 19, 21, 25 |
| Interim Compliance Panel (Coal Mine Health and Safety) | 5, 6, 10, 26 |
| Interior Department | 5, 7, 10, 20, 21, 25, 28 |
| Internal Revenue Service | 6, 13, 19, 26, 27, 28 |
| Interstate Commerce Commission | 4, 5, 6, 7, 10, 11, 12, 13, 14, 17, 18, 19, 20, 21, 24, 25, 26, 27, 28 |
| Interstate Land Sales Registration Office | 4, 6, 7 |
| Justice Department | 7, 21, 27 |
| Labor Department | 7, 10, 13, 14, 17, 19, 21 |
| Labor-Management and Welfare-Pension Reports Office | 7 |
| Labor Statistics Bureau | 10, 11 |
| Land Management Bureau | 5, 7, 10, 12, 13, 14, 20, 21, 25, 27, 28 |
| Land and Natural Resources Division | 24 |
| Law Enforcement Assistance Administration | 19, 27 |
| Library of Congress | 28 |
| Management and Budget Office | 13 |
| Maritime Administration | 4, 7, 10, 11, 14, 19, 20, 24, 25, 26 |
| Mining Enforcement and Safety Administration | 4 |
| Monetary Office | 11 |
| National Advisory Council on Education of Disadvantaged Children | 5, 27 |
| National Aeronautics and Space Administration | 7, 10, 12, 14, 17, 18, 26 |
| National Bureau of Standards | 4, 10, 12, 17, 26 |
| National Credit Union Administration | 19, 20, 27 |
| National Foundation on Arts and Humanities | 4, 5, 10, 11, 12 |
| National Highway Traffic Safety Administration | 4, 5, 14, 17, 27, 28 |
| National Institutes of Health | 6, 7, 11, 14, 17, 18, 25, 27, 28 |
| National Mediation Board | 28 |
| National Oceanic and Atmospheric Administration | 4, 13, 14, 17, 18, 19, 24 |
| National Park Service | 4, 5, 6, 7, 10, 11, 12, 17, 21, 24, 25, 27 |
| National Science Foundation | 25 |
| National Technical Information Service | 5, 12, 19 |
| Navy Department | 13, 19, 25 |
| Occupational Safety and Health Administration | 6, 7, 11, 12, 19, 21, 25, 26, 28 |
| Oceans and Atmosphere, National Advisory Committee on | 18 |
| Oil and Gas Office | 13, 17, 27 |
| Oil Import Appeals Board | 18 |
| Packers and Stockyards Administration | 24 |
| Panama Canal | 13, 25 |
| Parole Board | 24 |
| Plant and Operations Office | 25 |
| Postal Rate Commission | 11 |
| Postal Service | 5, 19 |
| Public Buildings Service | 18 |
| Renegotiation Board | 6 |
| Rural Electrification Administration | 10, 27 |
| Saint Lawrence Seaway Development Corporation | 6 |
| Securities and Exchange Commission | 5, 7, 10, 12, 13, 17, 18, 19, 20, 21, 25, 26, 27, 28 |
| Selective Service System | 12, 14, 20, 28 |
| Small Business Administration | 5, 6, 11, 13, 20, 21, 25, 26, 27 |
| Social and Economic Statistics Administration | 6, 11, 14, 28 |
| Social and Rehabilitation Service | 4, 10, 13, 19, 20, 21, 24, 26, 27, 28 |
| Social Security Administration | 4, 6, 12, 13, 18, 24, 25, 26, 27 |
| Soil Conservation Service | 5, 6, 27, 28 |
| State Department | 4, 5, 14, 17, 21, 25, 26, 28 |
| Tariff Commission | 5, 10, 12, 14, 17, 19, 25, 28 |
| Textile Agreements Implementation Committee | 10, 12, 13, 21, 24, 26, 27 |
| Transportation Department | 10, 11, 18, 19, 26 |
| Treasury Department | 5, 10, 12, 13, 19, 20, 25 |
| United States Travel Service | 19 |
| Urban Mass Transportation Administration | 24 |
| Veterans Administration | 4, 5, 6, 7, 14, 19, 20, 25, 26, 27 |
| Wage and Hour Division | 5, 17, 25, 26 |
| Water Resources | 10 |








V 38 I 188 SEP 28 73 XUM

V 38-188

*Just Released*

## CODE OF FEDERAL REGULATIONS

(Revised as of July 10, 1973)

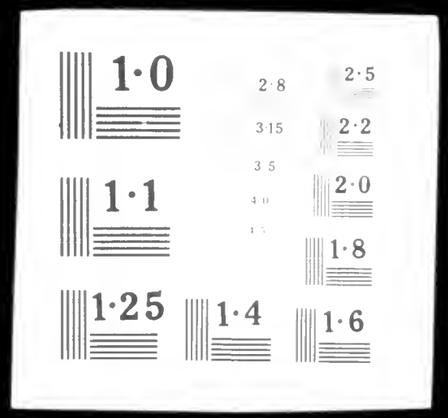
Title 28—Judicial Administration ---------- $1.70

*[A Cumulative checklist of CFR issuances for 1973 appears in the first issue of the Federal Register each month under Title 1]*

**Order from Superintendent of Documents,**
**United States Government Printing Office,**
**Washington, D.C. 20402**

SEP 28 73
XUM

# RESOLUTION CHART




100 MILLIMETERS

**INSTRUCTIONS** Resolution is expressed in terms of the lines per millimeter recorded by a particular film under specified conditions. Numerals in chart indicate the number of lines per millimeter in adjacent "I shaped" groupings.

In microfilming, it is necessary to determine the reduction ratio and multiply the number of lines in the object by this value to find the number of lines recorded by the film. As an aid in determining the reduction ratio, the line above is 100 millimeters in length. Measuring this line in the film image and dividing the length into 100 gives the reduction ratio. Example: the line is 20 mm. long in the film image, and 100 ÷ 20 = 5.

Examine "I shaped" line groupings in the film with microscope, and note the number adjacent to finest group recorded sharply and distinctly. Multiply this number by the reduction factor to obtain resolving power in lines per millimeter. Example: 7.9 group of lines is clearly recorded while lines in the 10.0 group are not distinctly separated. Reduction ratio is 5, and 7.9 x 5 = 39.5 lines per millimeter recorded satisfactorily. 10.0 x 5 = 50 lines per millimeter which are not recorded satisfactorily. Under the particular conditions, maximum resolution is between 39.5 and 50 lines per millimeter.

Resolution, as measured on the film, is a test of the entire photographic system, including lens, exposure, processing, and other factors. These rarely utilize maximum resolution of the film. Vibrations during exposure, lack of critical focus, and exposures yielding very dense negatives are to be avoided.